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Monday
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Title 3—

The President

Presidential Determination No. 93–19 of April 15, 1993

Determination Under Section 2(b)(2)(D) of the Export-Import Bank Act of 1945, as Amended: People's Republic of China

Memorandum for the Secretary of State

Pursuant to section 2(b)(2)(D) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(2)(D)), I determine that it is in the national interest for the Export-Import Bank of the United States to extend a loan in the amount of $78,232,982 to the People's Republic of China in connection with the purchase of U.S. equipment and services for Qidashan Iron Ore Mine and Benefication Plant in Liaoning Province.

You are authorized and directed to report this determination to the Congress and publish it in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
Washington, April 15, 1993.

[FR Doc. 93–9825
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1944

RIN 0575–AA18

Housing Preservation Grant Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) hereby amends its Housing Preservation Grant Regulations. This action is taken in order to provide repair and rehabilitation assistance to owner(s) of single-or multi-unit rental properties and cooperative housing projects. Further, this action brings the regulation into conformance with existing requirements of the authorizing legislation for the Housing Preservation Grant program, section 533 of the Housing Act of 1949.

EFFECTIVE DATE: May 26, 1993.

FOR FURTHER INFORMATION CONTACT: John Pentecost, Branch Chief, Special Authorities Branch, Multiple Housing Processing Division, FmHA, USDA, Washington, DC 20250, Telephone (202) 720–1606 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Classification

This final review has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined "non-major." It will not result in an annual effect on the economy of $100 million or more, or a major increase in costs or prices for consumers, individual industries, Federal, State or local Government Agencies, or geographic regions. Furthermore, there are no significant adverse effects on competition, employment investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the national Environmental Policy Act of 1969, Public Law 91–190, an environmental impact statement is not required.

Intergovernmental Review

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.433, Housing Preservation Grant, and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983).

General Information

This final rule incorporates the provisions of section 533 of the Housing Act of 1949, 42 U.S.C. 1490(m), allowing for Housing Preservation Grant assistance to repair and rehabilitate single- and multi-unit rental properties and cooperative housing units, in addition to existing single family housing units.

Discussion of Proposed Rule

A proposed rule was published in the January 15, 1992, issue of the **Federal Register** (57 FR 1678), providing for repair and rehabilitation assistance to owner(s) of single- or multi-unit rental properties and cooperative housing projects. Comments on the proposed rule were invited from the public until March 16, 1992.

Discussion of General Comments

Fifteen comments were received from the public which have been carefully considered. Six comments were received from FmHA employees, three from housing authorities, and six from non-profit entities or others.

1. Five respondents were specific in their opposition to providing repair and rehabilitation assistance to rental properties and co-ops. Such comments received were: "* * * eliminate [assistance] by whatever legal means necessary * * *"; "* * * strong objection to * * * include rental property * * *"; and "* * * Opening up [this program] to rental owners is opening FmHA up to a greater increased potential for fraud, waste, and abuse. * * *" Five respondents were specifically in favor of the proposed change to include rental properties and co-ops with such comments as: "* * * has been long awaited * * *"; "* * * exciting and good news * * *"; and "* * * a long, overdue one. * * *" The Agency considers it has little option but to proceed and attempt to protect the program from potential abuse by quality of applications and intensive monitoring. Therefore, it is proceeding with regulations to include single- or multi-unit rental properties and cooperative housing projects.

2. Two respondents noted the discrepancy in the numbering of sections. Section 1944.662 (Accountability) was added January 27, 1992. This section has been redesignated as § 1944.655. The proposed § 1944.663 (Eligibility of HPG assistance on rental properties or co-ops) has been redesignated as § 1944.662. And the proposed § 1944.669 (Ownership agreement between HPG grantee and rental property owner or co-op) has been redesignated as § 1944.663. These changes are being done to make the content of §§ 1944.662 and 1944.663 in succession since there is a correlation between the sections.

Discussion of Specific Comments

1. Section 1944.651(c). Two respondents questioned the line: "Any combination proposal will not be accepted." FmHA discussed this with previous grantees and felt it was needed to avoid confusion and to make the tracking of data easier. FmHA will not allow a preapplication where assistance is proposed both for homeowners and rental properties/co-ops. However, FmHA will allow an entity to submit two, separate preapplications for different proposals (one being for homeowner assistance and the other to assist rental properties/co-ops). However, FmHA must abide by the law limiting any entity to no more than 50% of the funds. After discussing this fact

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with the respondents, both were in favor of this approach.

2. Section 1944.652. One respondent asked if this program would apply to condominium owners. The program is not available to condominium owners. The same respondent suggested we revise our use of the term "individual housing" in that in conflicts with § 1944.661. § 1944.652 refers to the type of property involved, e.g., individual housing, rental properties, or co-ops, whereas § 1944.651 refers to the individual homeowners. Individual housing is that which is not used for rental purposes. However, a typical single-family home may be a rental property.

3. Section 1944.655. One respondent recommended we include the requirements of FmHA Instruction 1940–Q on lobbying in this regulation. This has been added as § 1944.657, "Restrictions on lobbying".

4. Section 1944.656. On respondent suggested the definition of rental properties and the definition of cooperative (co-op) be revised to conform to that for homeowners and meet the income requirements of § 1944.661. FmHA believes the definitions in the same section of very low-income and low-income along with the inclusion in § 1944.661 (a) for income (individual homeowners) and § 1944.662 (b)(1) (tenant eligibility) is sufficient. FmHA intends the public to differentiate between assistance to single family homeowners vs. assistance on rental properties and co-ops where the secondary beneficiary is the tenant (rental properties) or the owner of a co-op unit who is in the very low- or low-income categories.

5. Section 1944.656. Another respondent suggested we use the total number of habital rooms compared to the number of people inhabiting the unit in defining overcrowding. FmHA believes the latter is more appropriate. An example would be a 2 bedroom house with 4 other habital rooms. Their suggestion would allow 6 people under a "habital room" theory compared to 4 people using the "number of people" theory. In the former example with 6 people and only two bedrooms, this would average 3 people per bedroom or 2 in one bedroom and 4 in the second bedroom (or 3 and 3) compared to a maximum of 2 per bedroom. FmHA believes the latter is more appropriate in preventing overcrowding.

6. Section 1944.658 (e). FmHA had included in the proposed rule, subparagraph (1) and one commentator noted that this subparagraph would virtually eliminate applicants ineligible by virtue of an identity of interest. FmHA has removed this subparagraph. We did, however, leave in the subparagraph stating that an applicant for a grant would be ineligible if their proposal was based *solely* on an identity of interest.

7. Section 1944.660. Two FmHA employees commented that this section and related exhibits removed the State Office as the possible contact point and administrator of the HPG program. Due to recent changes within the Agency, we have revised this section and related areas, so that the State Director may designate which office(s) (State and/or District) is the initial point of contact and administrator of the HPG program for processing and servicing purposes. At the present time, the majority of the States utilize the District Offices for servicing the HPG grantees.

8. Section 1944.661. One FmHA employee suggested that FmHA should be stronger on the requirements of tenant certification of income to be sure that the people assisted are truly income qualified. FmHA has not noted this to be a problem over the past years with the HPG program. The grantee is already required to certify the incomes. FmHA is required to monitor the recipient files of the grantee to comply with the grantees' certification of income requirements. FmHA does not believe the use of an FmHA approved form would be consistent with the intent of the program which is basically to let the grantee use or establish its own procedures and forms to address requirements.

9. Section 1944.662. FmHA received one comment on this section. Basically, the regulation states that the rental property or co-op must be owned at the time of receiving assistance from the HPG grantee vs. the existing requirement where a homeowner must have owned and resided in the home for 1 year in order to receive assistance. The respondent believed this section to be ill-conceived and that the regulation would feed into an abuse of the program intent. FmHA believes that there is no need to change the existing regulation concerning the 1 year ownership requirement for homeowners. However, a 1 year ownership requirement for rental properties and co-ops would be a hindrance to existing tenants or future tenants in providing them a habital area to reside. Requiring the owner of a rental property to have owned the property for 1 year prior to receiving assistance would have a negative effect on tenants. Therefore, FmHA is not imposing this restriction on rental property owners or co-ops.

10. Section 1944.663. Numerous comments were received concerning the ownership agreement between the HPG grantee and rental property owners or co-ops from all parties. Each comment is referenced by subparagraph below.

(a) One respondent was not clear when the 5 year period started that is referenced in the first paragraph of this section. It was suggested that the 5 year period start at the date the rehabilitation work is complete. FmHA believes this would cause undue monitoring hardship on the grantee in that rehabilitation on units may be completed at different times. "Available for occupancy" indicated *when* a unit is available and the tenant may be occupying the unit while it is being rehabilitated and/or repaired. The rental property owner will need to notify the grantee of any new tenant during the minimum 5 year restrictive period. The specific requirements in this section are primarily for the benefit of the tenants. After reviewing the above comment, we have revised this paragraph to note that "* * * the following conditions are met by the rental property owner(s) or by the co-op during a minimum 5 year restrictive period beginning on the date agreed upon in the agreement between the grantee and the rental property owner(s) or co-op. * * *" FmHA feels that this will be easier for all to monitor and that there would be no question as to the date.

(b) One respondent commented that monitoring the lease conditions, tenant income verification, and occupancy availability would be difficult for the grantee to service when the grantee would have no rent approval authority. The grantee may require that the rental property owner submit a copy of the lease to be utilized for units that are or will be repaired or rehabilitated. The grantee may also spot-check the files of the rental property owner and/or visit with the tenants. As to occupancy availability, the grantee could require that the rental property owner notify the grantee when a unit where HPG assistance was provided is available for occupancy. FmHA does not believe that rent approval authority should be required to obtain these goals. As to rental approval authority for income verification of tenants, FmHA would need to establish a relationship with FmHA Instruction 1930–C (available in any FmHA Office). FmHA feels this would be overly burdensome to grantees and to FmHA. Therefore, FmHA is not considering rental approval authority by grantees as this time.

(c) Subparagraph (a)(1). One respondent's concern was that FmHA should require in the Ownership Agreement that the lease should not allow for increased rent due to

preservation work having been completed. This subparagraph has been revised to incorporate this comment. Another person was concerned that the monitoring of the pass-through savings to the tenants would be difficult and that the program could become "* * * a source of subsidy for slum landlords. * * *" FmHA agrees that the monitoring of the pass-through savings will be difficult. However, since use of HPG funds to repay existing debt on property assisted is not authorized, any other pass-through savings will have to be specifically identified and then it can be properly monitored.

(d) Subparagraph (a)(6). One respondent stated that this subparagraph on owner default sounded good in theory, but that it was not very realistic. They further questioned who would be responsible for monitoring to assure that the owner would comply with this condition. The grantee will be the primary one responsible for monitoring and FmHA will need to monitor the grantee for compliance with all areas of the regulations. This specific area was mandated by Congress and FmHA feels its regulation is sufficient at the present time. In the event the owner(s) fails to carry out the stated requirements, the Office of General Counsel will need to become involved.

(e) Subparagraph (b)(2). One respondent noted a discrepancy in paragraph references. This subparagraph has been revised to reference § 1944.662(b) and not § 1944.662(b)(2).

(f) Subparagraph (b)(3). This subparagraph along with § 1944.662(b)(3) (as noted in the proposed rule) prohibited owner(s) of rental properties or members of their immediate families who reside in the building to be repaired/rehabilitated to have their unit repaired or rehabilitated. One respondent noted that the intent of the law was obvious, but not supportable nor well served by the prohibition. Another respondent commented that allowing rehabilitation on a rental dwelling that houses an owner/family member opens the program up to potential abuse and that no properties where this exists be eligible for assistance. It was FmHA's intent to eliminate assistance on units (not properties) occupied by an owner/family member. An example would be a four-plex where three of four units were owned/occupied by an owner/family member. However, FmHA has revised these sections and will now allow units occupied by an owner or members of their immediate family units to be repaired, providing they meet other requirements, including the very low- or low-income categories. Grantees and FmHA will need to monitor closely to prevent abuse.

(11) Section 1944.667(a). No comments were received. However, the National Office noted that "permanent relocation" should be added to the term temporary relocation.

(12) Section 1944.672(a)(1). One respondent questioned whether the 25 unit threshold applied to total units in multi-unit dwellings or refers to a total of units in a complex (more than one building) or only within one building. The regulation will follow FmHA Instruction 1940–G (available in any FmHA office) and this section refers to a total of units (one or more buildings) within the same complex, project, etc., owned by the same entity or a co-op where there is one or more buildings.

(13) Section 1944.679 received numerous comments from all parties concerning the project selection criteria and each comment is referenced by the subparagraph.

(a) One respondent suggested that the awarding of points for leveraging be limited to non-federal sources of funds and that it would encourage some innovative funding opportunities involving state, public, and private participation in the HPG program. FmHA realizes that there have been applicants who have received other sources of funding (federal) whereas other applicants are not eligible for the same source of finding. An example would be Indian tribes who receive funds from the Bureau of Indian Affairs. FmHA does not believe that it would be in the best interest of the majority of the applicants to eliminate points for leveraged funds to federal sources.

(b) Subparagraph (b)(2). One FmHA employee suggested that the selection criteria would be more useful if they were tied to objective points that are either unchangeable or that could be controlled directly by the grantee and that subparagraphs (1), (3), (4), (5), and (6) would meet that test, but that subparagraph (2) would not meet the objectivity test. He recommended that § 1944.679(c) be then based only on subparagraph (b)(2). The intent of subparagraph (c) is to virtually eliminate FmHA's previous policy of using a "lottery system" to rank preapplications who had the same score. By introducing more elements to rank the preapplications and by § 1944.679(e), we believe the goal will be accomplished.

(c) Subparagraph (b)(3). One respondent felt that including the HPG experience factor with other related experience was good and that it would take away the preference given to the previous grantees.

(d) Subparagraph (b)(5). One respondent felt that the sliding scale of points for use of administrative funds was an improvement. However, it was recommended that subparagraph (b)(5)(i) should be reworded from "twenty-one percent or more" to "more than twenty percent". This would eliminate the question of "where does 20.6% fall?" This subparagraph has been changed to reflect the suggestion.

(e) Subparagraph (b)(6). One respondent felt the definition of overcrowding would be helpful, but questioned the wording "component for alleviating". FmHA is not expanding the regulation to explain the terminology "component for alleviating," as it would limit an applicant's approach. However, the applicant must explain in the preapplication (Statement of Activities) how they are going to ease or reduce the overcrowding.

(f) Subparagraph (b)(7). FmHA received a number of comments on this subparagraph (as noted in the proposed rule). All of them urged FmHA to remove this subparagraph. FmHA intended on awarding additional points for rental property or co-op proposals based on an owner extending the time period for occupancy availability to very low- and low-income tenants past the 5 year period, e.g., five points for 6–8 years, ten points for 9–10 years, and 15 points for 11 or more years. The intent was to extend the availability of such units past that which was required for rental properties and co-ops. However, due to the number of responses which were all opposed, FmHA has eliminated this subparagraph, but revised subparagraph (c) to comply with the law.

14. Section 1944.679(c). This paragraph revises FmHA's previous procedure noted in Administrative Notices over the years and virtually eliminates FmHA "lottery" in ranking applicants as a last resort. In addition, this subparagraph has been revised due to the elimination of subparagraph (b)(7) (published in the proposed rule). Basically, the revision now notes that when two (or more) applicants applying for a grant where the assistance is for rental properties or co-ops tie, part of the ranking will be based on the number of years the units are available for occupancy under the program. Ranking will be based from most to least number of years.

15. Section 1944.682. One respondent recommended that Exhibit G to this FmHA Instruction (which was not published in the proposed rule, but is available in any FmHA office) include a column indicating the estimated number of units. FmHA has done so.

§ 1944.656 Definitions.

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16. Section 1944.682(a). One FmHA employee questioned when the grant agreement could be signed by the applicant (grantee) and FmHA representative, i.e., based on approval date and/or obligation date. The grant agreement can be signed on or after the date of obligation. However, FmHA must notify the applicant (grantee) of the obligation date. FmHA can sign the grant agreement on the same day or after it is signed by the grantee. If the mail is used, obviously the above is not feasible for signing on the same date. The first line of the grant agreement includes the date of signature by the FmHA representative.

17. Section 1944.683(c). One respondent questioned if FmHA must meet with the grantee after submission of the quarterly report. The National Office recommends such meetings, if at all possible. However, FmHA *must* either contact or meet with the grantee in person when there are questions or problems noted in the quarterly report, depending on the severity. This subsection only states that the grantee should be prepared to meet with FmHA and has been unchanged.

List of Subjects for 7 CFR Part 1944

Grant programs—Housing and community development, Home improvement, Loan programs—Housing and community development, Nonprofit organization, Rural housing.

Therefore, part 1944 of chapter XVIII, title 7, Code of Federal Regulations, is amended as follows:

PART 1944—HOUSING

1. The authority citation for part 1944 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

2. Sections 1944.651 through 1944.700 of subpart N of part 1944 are revised to read as follows:

Subpart N—Housing Preservation Grants

§ 1944.651 General.

(a) This subpart sets forth the policies and procedures for making grants under section 533 of the Housing Act of 1949, 42 U.S.C. 1490(m), to provide funds to eligible applicants (hereafter also referred to as grantee(s)) to conduct housing preservation programs benefiting very low- and low-income rural residents. Program funds cover part or all of the grantee's cost of providing loans, grants, interest reduction payments or other assistance to eligible homeowners, owners of single or multiple unit rental properties or for the benefit of owners (as occupants) of consumer cooperative housing projects (hereafter also referred to as co-ops). Such assistance will be used to reduce the cost of repair and rehabilitation, to remove or correct health or safety hazards, to comply with applicable development standards or codes, or to make needed repairs to improve the general living conditions of the resident(s), including improved accessibility by handicapped persons.

(b) The Farmers Home Administration (FmHA) will provide Housing Preservation Grant (HPG) assistance to grantees who are responsible for providing assistance to eligible persons without discrimination because of race, color, religion, sex, national origin, age, familial status, or handicap if such person has capacity to contract.

(c) The preapplication must only address a proposal to finance repairs and rehabilitation activities to individual housing or rental properties or co-ops. Any combination proposal will not be accepted.

(d) Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to FmHA employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this chapter. Applicants for this assistance are required to identify any known relationship or association with an FmHA employee.

§ 1944.652 Policy.

(a) The policy of FmHA is to provide HPG's to grantees to operate a program which finances repair and rehabilitation activities to individual housing, rental properties, or co-ops for very low- and low-income persons. Grantees are expected to:

(1) Coordinate and leverage funding for repair and rehabilitation activities with housing and community development organizations and/or activities operating in the same geographic area; and

(2) Focus the program to rural areas and smaller communities so that it serves very low- and low-income persons.

(b) FmHA intends to permit grantees considerable latitude in program design and administration. The forms or types of assistance must provide the greatest long term benefit to the greatest number of persons residing in individual housing, rental properties, or co-ops needing repair and rehabilitation.

(c) Repairs and rehabilitation activities affecting properties on or eligible for listing on the National Register of Historic Places will be accomplished in a manner that supports national historic preservation objectives as specified in § 1944.673 of this subpart.

§ 1944.653 Objective.

The objective of the HPG program is to repair or rehabilitate individual housing, rental properties, or co-ops owned and/or occupied by very low- and low-income rural persons. Grantees will provide eligible homeowners, owners of rental properties, and owners of co-ops with financial assistance through loans, grants, interest reduction payments or other comparable financial assistance for necessary repairs and rehabilitation.

§ 1944.654 Debarment and suspension—drug-free workplace.

(a) For purposes of this subpart, Exhibit A of FmHA Instruction 1940–M (available in any FmHA office) requires all FmHA applicants for an HPG to sign and submit with their preapplication, Form AD–1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions," which basically states that the applicant has not been debarred or suspended from Government assistance. Further, all grantees after receiving a HPG must obtain a signed certification (Form AD–1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions") from all persons or entities (excluding homeowner recipients) that the grantee does business with as a result of the HPG. Grantees are responsible for informing these persons or entities of the provisions of Exhibit A of FmHA Instruction 1940–M (available in any FmHA Office) and of maintaining Form AD–1048 in the grantee's office.

(b) Grantees must also be made aware of the Drug-free Workplace Act of 1988 requirements found in Exhibit A of FmHA Instruction 1940–M (available in any FmHA office). For this subpart, a grantee is defined as any organization who applies for or receives a direct grant from FmHA. All preapplications must include a signed Form AD–1049, "Certification Regarding Drug-free Workplace Requirements (Grants) Alternative I—Grants Other Than Individuals."

§ 1944.655 Accountability.

Applicants should be made aware of the accountability requirements of persons paid to influence the making of an FmHA grant as described in subpart S of part 1940 of this chapter.

§ 1944.656 Definitions.

References in this subpart to District, State, National and Finance Offices, and to District Director, State Director, and Administrator refer to FmHA offices and officials and should be read as prefaced by FmHA. Terms used in this subpart have the following meanings:

Adjusted annual income. As defined in § 1944.6 of subpart A of part 1944 of this chapter.

Applicant or grantee. Any eligible organization which applies for or receives HPG funds under a grant agreement.

Cooperative (co-op). For the purposes of the HPG program, a cooperative (co-op) is one which:

(1) Is a corporation organized as a consumer cooperative;

(2) Will operate the housing on a nonprofit basis solely for the benefit of the occupants; and

(3) Is legally precluded from distributing, for a minimum period of 5 years from the date of HPG assistance from the grantee, any gains or profits from operation of the co-op. For this purpose, any patronage refunds to occupants of the co-op would not be considered gains or profits. A co-op may accept non-members as well as members for occupancy in the project.

Grant agreement. The contract between FmHA and the grantee which sets forth the terms and conditions under which HPG funds will be made available. (See Exhibit A of this subpart which is available in any FmHA office.)

Homeowner. For the purposes of the HPG program, a homeowner is one who can meet the conditions of income and ownership under § 1944.661 of this subpart.

Household. For the purposes of the HPG program, a household is defined as all persons living all or part of the next 12 months in a unit or dwelling assisted with HPG funds.

Housing preservation. The repair and rehabilitation activities that contribute to the health, safety, and well-being of the occupant, and contribute to the structural integrity or long-term preservation of the unit. As a result of these activities, the overall condition of the unit or dwelling must be raised to meet FmHA Thermal Standards for existing structures and applicable development standards for existing housing recognized by FmHA in subpart A of part 1924 of this chapter or standards contained in any of the voluntary national model codes acceptable upon review by FmHA. Properties included on or eligible for inclusion on the National Register of Historic Places are subject to the standards and conditions of § 1944.673 of this subpart.

Low income. An adjusted annual income that does not exceed the "lower" income limit according to size of household as established by the United States Department of Housing and Urban Development (HUD) for the county or Metropolitan Statistical Area (MSA) where the property is located. Maximum low-income limits are set forth in exhibit C of subpart A of this part (available in any FmHA office).

Organization. An organization is defined as one of the following:

(1) A State, commonwealth, trust territory, other political subdivision, or public nonprofit corporation authorized to receive and administer HPG funds;

(2) An American Indian tribe, band, group, nation, including Alaskan Indians, Aleuts, Eskimos and any Alaskan Native Village, of the United States which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law (Pub. L.) 93–638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512);

(3) A private nonprofit corporation that is owned and controlled by private persons or interests for purposes other than making gains or profits for the corporation, is legally precluded from distributing any gains or profits to its members, and is authorized to undertake housing development activities; or

(4) A consortium of units of government and/or private nonprofit organizations which is otherwise eligible to receive and administer HPG funds and which meets the following conditions:

(i) Be comprised of units of government and/or private nonprofit corporations that are close together, located in the same state, and serve areas eligible for FmHA housing assistance; and

(ii) Have executed an agreement among its members designating one participating unit of government or private nonprofit corporation as the applicant or designating a legal entity (such as a Council of Governments) to be the applicant.

Overcrowding. Overcrowding is defined as having more than the ideal number of persons residing in a unit, as indicated in the following table:

No. of bedrooms	Ideal No. of persons
0	2
1	2
2	4
3	6
4	8
5	10

Rental properties. Rental properties are defined as single-unit or multi-unit dwellings used for occupancy by tenants, owners, or members of an owner's immediate family.

Rural area. The definition in § 1944.10 of subpart A of part 1944 of this chapter applies.

Tenant. Any person who resides in a single- or multi-unit rental property.

Very low-income. An adjusted annual income that does not exceed the very low-income limit according to size of household as established by HUD for the county of MSA where the property is located. Maximum very low-income limits are set forth in exhibit C of subpart A of this part (available in any FmHA office).

§ 1944.657 Restrictions on lobbying.

All applicants must comply with FmHA Instruction 1940–Q (available in any FmHA office) which prohibits applicants of Federal grants from using appropriated funds for lobbying the Federal Government in connection with a specific grant.

§ 1944.658 Applicant eligibility.

(a) To be eligible to receive a grant, the applicant must:

(1) Be an organization as defined in § 1944.656 of this subpart;

(2) Have the necessary background and experience on the part of its staff or governing body with proven ability to perform responsibility in the field of low-income rural housing development, repair and rehabilitation, or have other business management or administrative experience which indicates an ability to operate a program providing repair and rehabilitation financial assistance;

(3) Legally obligate itself to administer HPG funds, provide an adequate accounting of the expenditure of such funds in compliance with the terms of this regulation, the grant agreement, and 7 CFR parts 3015 or 3016 (available in any FmHA office), as appropriate, and comply with the grant agreement and FmHA regulations; and

(4) If the applicant is engaged in or plans to become engaged in any other activities, provide sufficient evidence and documentation that they have adequate resources, including financial resources, to carry on any other programs or activities to which they are committed without jeopardizing the success and effectiveness of the HPG project.

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(b) An applicant will *not* be considered eligible if it is a nonprofit entity *and* its proposal is based *solely* on an identity of interest, as defined in § 1924.4(i) of subpart A of part 1924 of this chapter, between the applicant and the owner(s) of the proposed dwelling or co-op to be rehabilitated or repaired.

§ 1944.659 [Reserved]

§ 1944.660 Authorized representative of the HPG applicant and FmHA point of contact.

(a) FmHA will deal only with authorized representatives designated by the HPG applicant.

(b) The State Director will designate either the State Office and/or the District Office as the processing office and/or the servicing office for the HPG program. The State Director's selection may be based on staffing, total program size, number of preapplications anticipated, type of applicants, or similar criteria. The State Director must publish this designation each year at the time the **Federal Register** is published informing the public of the open period for acceptance of preapplications as outlined in § 1944.678 of this subpart.

§ 1944.661 Individual homeowners—eligibility for HPG assistance.

The individual homeowners assisted must have income that meets the very low- or low-income definitions, be the owner of an individual dwelling at least 1 year prior to the time of assistance, and be the intended occupant of the dwelling subsequent to the time of assistance. The dwelling must be located in a rural area and be in need of housing preservation assistance. Each homeowner is required to submit evidence of income and ownership for retention in the grantee's files.

(a) *Income.* Determination of income will be made in accordance with § 1944.8 of subpart A of this part. All members of the household, as defined in § 1944.656 of this subpart, must be included when determining income. Grantees must use certifications, may require additional information from the homeowner, and should seek advice from their attorney.

(b) *Ownership.* Evidence of ownership may be a photostatic copy of the instrument evidencing ownership. Methods for assuring the intention of the homeowner to continue to occupy the unit after assistance will be established by the grantee. Any of the following will satisfy or fulfill this requirement of ownership:

(1) Full marketable title.

(2) An undivided or divided interest in the property to be repaired or rehabilitated when not all of the owners are occupying the property. HPG assistance may be made in such cases when:

(i) The occupant has been living in the house for at least 1 year prior to the date of requesting assistance;

(ii) The grantee has no reason to believe the occupant's position of owner/occupant will be jeopardized as a result of the improvements to be made with HPG funds; and

(iii) In the case of a loan, and to the extent possible, the co-owner(s) should also sign the security instrument.

(3) A leasehold interest in the property to be repaired or rehabilitated. When the potential HPG recipient's "ownership" interest in the property is based on a leasehold interest, the lease must be in writing and a copy must be included in the grantee's file. The unexpired portion of the lease must not be less than 5 years and must permit the recipient to make modifications to the structure without increasing the recipient's lease cost.

(4) A life estate, with the right of present possession, control, and beneficial use of the property.

(5) Land assignments may be accepted as evidence of ownership only for American Indians living on a reservation, when historically the permits have been used by the tribe and have had the comparable effect of a life estate.

(c) *Other evidence of ownership.* The following items may be accepted as evidence of ownership if a recorded deed cannot be provided:

(1) Any legal instrument, whether or not recorded, which is commonly considered evidence of ownership.

(2) Evidence that the person(s) receiving assistance from the HPG grantee is listed as the owner of the property by the local taxing authority and is responsible for any real estate taxes.

(3) Affidavits by others in the community that the person(s) receiving assistance from the HPG grantee has occupied the property as the apparent owner for a period of not less than 10 years, and is generally believed to be the owner.

§ 1944.662 Eligibility of HPG assistance on rental properties or co-ops.

(a) *Ownership.* The owner(s) of rental properties or co-ops must own the dwelling at the time of receiving assistance from the HPG grantee. The dwelling must be located in a rural area and be in need of housing preservation assistance. Evidence of ownership may be a photostatic copy of the instrument evidencing ownership. Owners of rental properties and co-ops are required to submit evidence of ownership for retention in the grantee's files. Any of the following will satisfy or fulfill this requirement of ownership:

(1) Full marketable title.

(2) An undivided or divided interest in the property to be repaired or rehabilitated.

(3) A leasehold interest in the property to be repaired or rehabilitated. Ownership interest in the property is based on a leasehold interest. The lease must be in writing and a copy must be included in the grantee's file. The unexpired portion of the lease must not be less than 5 years and must permit the recipient to make modifications to the structure without increasing the recipient's lease cost.

(4) Land assignments may be accepted as evidence of ownership only for American Indians living on a reservation, when historically the permits have been used by the tribe and have had the comparable effect of a life estate.

(b) *Tenant eligibility.* The following requirements must be met in order for a unit within a rental property or co-op to be assisted with HPG funds:

(1) The tenant must have income that meets the very low- or low-income definition.

(2) The tenant must be the intended occupant of the unit, but is not required to have resided previously in the dwelling.

(3) Any owner(s) who receives assistance from an HPG grantee or a member of the immediate family of the owner(s), who also resides in the unit within the dwelling to be repaired or rehabilitated is eligible to have their unit repaired or rehabilitated, if they are income eligible and meet all other requirements.

(c) *Identity of interest.* When an identity of interest, as defined in § 1924.4(i) of subpart A of part 1924 of this chapter, exists between a nonprofit entity and the owner(s) of a dwelling, the property is not eligible for assistance.

§ 1944.663 Ownership agreement between HPG grantee and rental property owner or co-op.

HPG assistance may be provided by a grantee with respect to rental properties or co-ops only if the following conditions are met by the rental property owner(s) or by the co-op during a minimum 5 year restrictive period beginning on the date agreed upon in the agreement between the grantee and the rental property owner (or co-op). The HPG grantee is responsible for preparing, executing, and monitoring for compliance, the ownership agreement with the owner(s) of the rental property or the co-op. The rental property owner(s) or the co-ops are required to enter into an ownership agreement with the grantee to assure compliance with the requirements of this section.

(a) *Ownership agreement.* At a minimum, the ownership agreement must include the following clauses:

(1) The owner(s) agrees to make the units repaired or rehabilitated available for occupancy to very low- or low-income persons for a period of not less than 5 years, such restrictive period beginning on the date agreed upon in the agreement between the grantee and the rental property owner(s) or co-op.

(2) The owner(s) agrees to pass on to the tenants any reduction in the debt service payments resulting from the HPG assistance provided by the HPG grantee to the owner(s).

(3) The owner(s) of rental properties agrees not to convert the units to condominium ownership. In the case of co-ops, the owner(s) agrees not to convert the dwelling(s) to condominium ownership or any form of cooperative ownership not eligible under this section. This paragraph (a)(3) is subject to the restrictive period noted in paragraph (a)(1) of this section.

(4) The owner(s) agrees not to refuse to rent a unit to any person solely because the person is receiving or is eligible to receive assistance under any Federal, State, or local housing assistance program.

(5) The owner(s) agrees that the units repaired or rehabilitated will be occupied or available for occupancy by persons of very low- or low-income.

(6) The owner(s) agrees to enter into and abide by written leases with the tenants and that such leases shall provide that the tenants may be evicted only for good cause.

(7) The owner(s) agrees that, in the event the owner(s) or the owner's successors in interest fail to carry out the requirements of this section during the applicable period, they shall make a payment to FmHA in an amount that equals the total amount of assistance provided by the grantee plus interest thereon (without compounding) for each year and any fraction thereof that the assistance was outstanding. The interest rate shall be that as determined by FmHA at the time of infraction taking into account the average yield on outstanding marketable long-term obligations of the United States during the month preceding the date on which the assistance was initially made available.

(8) The owner(s) agrees that, notwithstanding any other provisions of law, the HPG assistance provided to the owner(s) shall constitute a debt which is payable in the case of any failure of this section and shall be secured by a security instrument provided by the owner(s) or co-op to the grantee, that provides for FmHA to take such action upon incapacity or dissolution of the grantee.

(9) The owner(s) agrees and certifies that the assistance is being made available in conformity with Public Law 88–352, the "Civil Rights Act of 1964," and Public Law 90–284, the "Civil Rights Act of 1968."

(b) *Responsibilities of the grantee.* The grantee is responsible for insuring through verification and monitoring that the areas listed below are in compliance:

(1) That HPG funds used for loans, grants, or interest reduction payments providing repair or rehabilitation assistance to owners of rental properties or co-ops are not in excess of 75 percent of the total cost of all repairs and rehabilitation activities eligible for HPG assistance.

(2) That the owner(s) is not repairing and/or rehabilitating any unit unless it meets the requirements of § 1944.662 (b)(3) of this subpart.

(3) That rental property units being repaired and/or rehabilitated and occupied by owners or members of the owner's immediate family meet all other requirements of this subpart.

(4) That, for multi-units not considered eligible as a result of paragraph (b)(2) or (b)(3) of this section, the grantee and owner(s) shall agree on a method, if any is needed, of determining the prorata share of repairs and rehabilitation activities to the dwelling, based on a percentage of the ineligible units to the total dwelling.

§ 1944.664 Housing preservation assistance.

(a) Grantees are responsible for providing loans, grants, or other comparable assistance to homeowners, owners of rental properties, or co-ops for housing preservation as described in § 1944.656 of this subpart.

(b) HPG funds used for loans, grants, or interest reduction payments to provide rental repair and/or rehabilitation assistance to owners of rental properties or co-ops shall not exceed the requirement noted in § 1944.663(b)(1) of this subpart.

(c) Authorized housing preservation assistance includes, but is not limited to, cost of labor and materials for:

(1) Installation and/or repair of sanitary water and waste disposal systems, together with related plumbing and fixtures, which will meet local health department requirements;

(2) Energy conservation measures such as:

(i) Insulation; and

(ii) Combination screen-storm windows and doors;

(3) Repair or replacement of the heating system including the installation of alternative systems such as woodburning stoves or space heaters, when appropriate and if local codes permit;

(4) Electrical wiring;

(5) Repair of, or provision for, structural supports and foundations;

(6) Repair or replacement of the roof;

(7) Replacement of severely deteriorated siding, porches or stoops;

(8) Alterations of the unit's interior or exterior to provide greater accessibility for any handicapped person;

(9) For properties listed on or eligible for the National Register of Historic Places, activities associated with conforming repair and rehabilitation activities to the standards and/or design comments resulting from the consultation process contained in § 1944.673 of this subpart;

(10) Necessary repairs to manufactured housing provided:

(i) For homeowners only, the recipient owns the home and the site on which the home is situated and the homeowner has occupied that home on that site for at least 1 year prior to receiving HPG assistance; and

(ii) For homeowners, owners of single- or multiple-unit rental properties, and co-ops, the manufactured housing is on a permanent foundation or will be put on a permanent foundation with HPG funds. Advice on the requirements for a permanent foundation is available from FmHA. Guidance may be found in § 1944.223(e) of subpart E of this part and in exhibit J of subpart A of part 1924 of this chapter;

(11) Additions to any dwelling (conventional or manufactured) only when it is clearly necessary to alleviate overcrowding or to remove health hazards to the occupants; or

(12) Relocation costs either permanent or temporary for assistance to rental properties or co-ops, as noted in § 1944.667 of this subpart.

(d) HPG funds may be used for payment of incidental expenses directly related to accomplishing authorized activities such as fees for connection of utilities (water, sewer, gas, electric), credit reports, surveys, title clearance, loan closing, inspections, and architectural or other technical services. All fees will be in accordance with local prevailing rates and so documented.

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(e) HPG funds may be used to make improvements that do not contribute to the health, safety and well being of the occupant or do not materially contribute to the structural integrity or long-term preservation of the unit. The percentage of the funds to be used for such purposes must not exceed 20 percent of the total funding for the unit(s) and/or dwelling, and such work must be combined with improvements listed as eligible under paragraph (c) of this section. These improvements may include, but are not limited to the following:

(1) Painting;

(2) Paneling;

(3) Floor covering, including carpeting;

(4) Improving clothes closets or shelving;

(5) Improving kitchen cabinets;

(6) Air conditioning; or

(7) Landscape plantings.

(f) Under the following conditions, HPG funds may be used to reimburse the grantee for authorized housing preservation activities performed by employees of the grantee where the grantee acts as a construction contractor and furnishes construction services:

(1) The grantee must demonstrate that such work performed by the grantee results in cost savings in terms of time and labor over cost for such work prevailing in the area;

(2) The grantee has established a process for third party review of all performance by a local government, building inspector or other independent party;

(3) The grantee has established or makes available a process that provides for consumer protection to the individual homeowner, owner of a rental property, or co-op assisted; and

(4) The grantee's accounting system provides a clear delineation between administrative costs and construction contractor (non-administrative) costs.

(g) HPG funds may *not* be used to:

(1) Assist in the construction or completion of an addition (excluding § 1944.664(c)(11)) or a new dwelling.

(2) Refinance any debt or obligation of the grantee, the individual homeowner, owners of a rental property, or co-ops' other than obligations incurred for eligible items covered by this section entered into after the date of agreement with the HPG grantee.

(3) Repair or rehabilitate any property located in the Coastal Barrier Resources System.

§ 1944.665 Supervision and inspection of rehabilitation and repair work.

Grantees are responsible for supervising all rehabilitation and repair work financed with HPG assistance. After all HPG work has been completed, a final inspection must be done by a disinterested third party, such as local building and code enforcement officials. If there are no such officials serving the area where HPG activities will be undertaken, or if the grantee would also normally make such inspections, the grantee must use qualified contract or fee inspectors.

§ 1944.666 Administrative activities and policies.

Grant funds are to be used primarily for housing repair and rehabilitation activities. Use of grant funds for direct and indirect administrative costs is a secondary purpose and must not exceed 20 percent of the HPG funds awarded to the grantee.

(a) Administrative expenses may include:

(1) payment of reasonable salaries or contracts for professional, technical, and clerical staff actively assisting in the delivery of the HPG project.

(2) Payment of necessary and reasonable office expenses such as office rental, supplies, utilities, telephone services, and equipment. (Any item of nonexpendable personal property having a unit value of $1,000 or more, acquired with HPG funds, will be specifically identified to FmHA in writing.)

(3) Payment of necessary and reasonable administrative costs such as workers' compensation, liability insurance, and the employer's share of Social Security and health benefits. Payments to private retirement funds are permitted if the grantee already has such a fund established and ongoing.

(4) Payment of reasonable fees for necessary training of grantee personnel.

(5) Payment of necessary and reasonable costs for an audit upon expiration of the grant agreement.

(6) Other reasonable travel and miscellaneous expenses necessary to accomplish the objectives of the specific HPG grant which were anticipated in the individual HPG grant proposal and which have been approved as eligible expenses at the time of grant approval.

(b) HPG administrative funds may *not* be used for:

(1) Preparing housing development plans and strategies except as necessary to accomplish the specific objectives of the HPG project.

(2) Substitution of any financial support previously provided or currently available from any other source.

(3) Reimbursing personnel to perform construction related to housing preservation assistance. (Non-administrative funds may be used if construction is for housing preservation assistance under the provisions of § 1944.64(f) of this subpart.

(4) Buying property of any kind from persons receiving assistance from the grantee under the terms of the HPG agreement.

(5) Paying for or reimbursing the grantee for any expense or debts incurred before FmHA executes the grant agreement.

(6) Paying any debts, expenses, or costs which should be the responsibility of the individual homeowner, owner, tenant or household member of a rental property, or owner (member) or non-member of a co-op receiving HPG assistance outside the costs of repair and rehabilitation.

(7) Any type of political activities prohibited by the Office of Management and Budget (OMB) Circular A–122.

(8) Other costs including contributions and donations, entertainment, fines and penalties, interest and other financial costs unrelated to the HPG assistance to be provided, legislative expenses, and any excess of cost from other grant agreements.

(9) Paying added salaries for employees paid by other sources, i.e., public agencies who pay employees to handle grants.

(c) Advice concerning ineligible costs may be obtained from FmHA as part of the HPG preapplication review or when a proposed cost appears ineligible.

(d) The grantee may not charge fees or accept any compensation or gratuities from HPG recipients for the grantee's technical or administrative services under this program. Where the grantee performs as a construction contractor, the grantee may be paid such compensation directly related to construction services provided and limited to authorized housing preservation activities.

(e) The policies, guidelines and requirements of 7 CFR parts 3015 and 3016 apply to the acceptance and use of HPG funds.

§ 1944.667 Relocation and displacement.

(a) *Relocation.* Public bodies and agencies must comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970. The grantee must provide assistance for permanent or temporary relocation of displaced persons for units repaired or rehabilitated with HPG assistance. HPG funds may be used to cover costs incurred in the relocation of displaced persons. The applicant shall include in its statement of activities, a statement concerning the temporary relocation of homeowners and/or tenants during the period of repairs and/or rehabilitation to the units or dwellings. Any contract or agreement between the homeowner and the grantee, as well as between the grantee and the owner(s) of rental properties and co-ops shall include a statement covering at a minimum;

(1) The period of relocation (if any);

(2) The name(s) of the party (or parties) who shall bear the cost of temporarily relocating; and

(3) The name(s) of the party (or parties) who shall bear the cost of permanent relocation; and

(4) If paragraphs (a) (2) or (3) of this section is the grantee, the maximum amount of temporary or permanent relocation costs proposed to be allowed.

(b) *Displacement.* The applicant shall include in its statement of activities, a statement as to how its proposed HPG financial assistance program shall keep to a minimum the displacement of homeowners and/or tenants.

§ 1944.668 Term of grant.

HPG projects may be funded under the terms of a grant agreement for a period of up to 2 years commencing on the date of execution of the grant agreement by the FmHA approval official. Term of the project will be based upon HPG resources available for the proposed project and the accomplishability of the applicant's proposal within 1 or 2 years. Applicants requesting a 2 year term may be asked to develop a feasible 1 year program if sufficient funds are not available for a 2 year program.

§ 1944.669 [Reserved]

§ 1944.670 Project income.

(a) Project income during the grant period from loans made to homeowners, owners of rental properties, and co-ops is governed by 7 CFR parts 3015 and 3016. All income during the grant period, including amounts recovered by the grantee due to breach of agreements between the grantee and the HPG recipient, must be used under (and in accordance with) the requirements of the HPG program.

(b) Grantees are encouraged to establish a program which reuses income from loans after the grant period for continuing repair and rehabilitation activities.

§ 1944.671 Equal opportunity requirements and outreach efforts.

The policies and regulations contained in subpart E of part 1901 of this chapter apply to grantees under this subpart.

(a) *Fair housing.* The Fair Housing Act prohibits any person or entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making loans, grants, or other financial assistance for a unit or dwelling, or which will be secured by a unit or dwelling, because of race, color, religion, sex, national origin, age, familial status, or handicap. Prohibited practices under this section include:

(1) Failing to provide any person in connection with a residential real estate-related transaction, information regarding the availability of loans, grants, or other financial assistance, or providing information that is inaccurate or different from that provided others; and

(2) The term "residential real estate-related transaction" includes the making or purchasing of loans, grants, or other financial assistance for purchasing, constructing, improving, repairing, or rehabilitating a unit or dwelling.

(b) *Outreach.* In addition, the HPG grantee is required to address an outreach effort in their program. The amount of outreach should sufficiently reach the entire service area. As a measure of compliance, the percentages of the individuals served by the HPG grantee should be in proportion to the percentages of the population of the service area by race/national origin. If the percentages are not proportional, then adequate justification is to be made. Exhibit E–1 of this subpart (available in any FmHA office) will be used to monitor these requirements. (Further explanation and guidance of Exhibit E–1 can be found in Exhibit E–2 of this subpart which is available in any FmHA office). A separate file will be maintained by the grantee that will include the following outreach activities:

(1) Community contacts to community organizations, community leaders, including minority leaders, by name, race, and date contacted;

(2) Copies of all advertising in local newspapers, and through other media. Any advertising must reach the entire service area. FmHA encourages the use of minority-owned radio stations and other types of media, if available, in the service area. The grantee's file shall also include the name of the media used, and the percentage of its patronage by race/national origin; and

(3) Copies of any other advertising or other printed material, including the application form used. The application form shall include the nondiscrimination slogan: "This is an equal opportunity program. Discrimination is prohibited by Federal Law."

(c) *Additional requirements.* In order to meet the Fair Housing requirements and the nondiscrimination requirements of Title VI of the Civil rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, the HPG grantee will need to adhere to the recommendations of exhibit H of this subpart (available in any FmHA office).

§ 1944.672 Environmental requirements.

Subpart G of part 1940 of this chapter will be followed regarding environmental requirements. The following is additional information on how to approach HPG projects under those requirements:

(a) The approval of an HPG grant for the repair or rehabilitation of dwellings shall be a Class I action. As part of their preapplication materials, applicants shall submit Form FmHA 1940–20, "Request for Environmental Information," for the geographical area(s) proposed to be served by the program. The applicant shall refer to Exhibit F–1 of this subpart (available in any FmHA office), when completing Form FmHA 1940–20. Further guidance on completing this form is available from the FmHA office servicing the program.

(b) The use of HPG funds by the grantee to repair or rehabilitate specific dwellings is generally exempt from an FmHA environmental review. However, if such dwellings are located in a floodplain, wetland, or the proposed work is not concurred in by the Advisory Council on Historic Preservation under the requirements of § 1944.673 of this subpart, an FmHA environmental review is required. Dwellings within the Coastal Barrier Resources System are not eligible for HPG assistance. Applicants must include in their preapplication a process for identifying dwellings that may receive housing preservation assistance that will require an environmental assessment. This may be accomplished by adoption of Exhibit F–2 of this subpart (available in any FmHA office) or another process supplying similar information acceptable to FmHA.

(c) If a specific dwelling is not located in a floodplain, wetland, or the proposed work is concurred in by the Advisory Council on Historic Preservation under the requirements of § 1944.673 of this subpart, no environmental review is required by FmHA. The grantee only needs to indicate its review and compliance with this subpart, indicating such in each

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recipient's file in accordance with paragraph (e) of this section.

(d) When a dwelling requiring an environmental assessment is proposed for HPG assistance, the grantee will immediately contact the FmHA office designated to service the HPG grant. Prior to approval/obligation of HPG assistance to the recipient by the grantee, FmHA will prepare the environmental assessment in accordance with subpart G of part 1940 of this chapter with the assistance of the grantee, as necessary. Paragraph VII of exhibit C of this subpart (available in any FmHA office) provides further guidance in this area.

(e) If FmHA is required to make an environmental assessment, the grantee will be provided with a copy of the assessment which will be made part of the recipient's file. The grantee must also include in each recipient's file:

(1) Documentation on how the process for historic preservation review under § 1944.673 of this subpart has been complied with, including all relevant reviews and correspondence; and

(2) Determination as to whether the unit is located in a 100-year floodplain or a wetland.

(3) *Documentation of this review.* Suggested language is: "We have considered this dwelling under FmHA's environmental and historic preservation requirements for a HPG (§§ 1944.672 and 1944.673 of this subpart) and an environmental assessment is not required. The review was completed in accordance with the process to identify properties requiring an FmHA environmental assessment approved with our statement of activities."

(f) Proposed use of funds by an applicant to use monies for additions under § 1944.664 (c)(11) of this subpart must be addressed in the statement of activities.

(g) Grantees must contact FmHA prior to actual usage of funds by the grantees under § 1944.664 (c)(11) of this subpart. FmHA must complete the appropriate level of environmental review in accordance with subpart G of part 1940 of this chapter.

§ 1944.673 Historic preservation requirements and procedures.

(a) FmHA has entered into a Programmatic Memorandum of Agreement (PMOA) with the National Conference of State Historic Preservation Officers (SHPO) and the Advisory Council on Historic Preservation in order to implement the specific requirements regarding historic preservation contained in section 533 of the Housing Act of 1949, 42 U.S.C. 1490(m) of the enabling legislation. The PMOA, with attachments, can be found in FmHA Instruction 2000–FF (available in any FmHA office). A copy of the PMOA will be provided to each applicant for a HPG as part of the preapplication package specified in paragraph II of exhibit C of this subpart (available in any FmHA office).

(b) Accordingly, each applicant for a HPG grant will provide, as part of its preapplication documentation submitted to FmHA, a description of its proposed process for assisting very low- and low-income persons owning historic properties needing rehabilitation or repair. "Historic properties" are defined as properties that are listed or eligible for listing on the National Register of Historic Places. Each HPG proposal shall comply with the provisions of Stipulation I, A–G of the PMOA (FmHA Instruction 2000–FF available in any FmHA office). Should FmHA be required to assume responsibility for compliance with 36 CFR part 800 in accordance with Stipulation III of the PMOA, the grantee will assist FmHA in preparing an environmental assessment. FmHA will work with the grantee to develop alternative actions and/or mitigation measures, as appropriate.

(c) Such assumption of responsibility by FmHA on a particular property shall not preclude the grantee from carrying out the requirements of 36 CFR part 800 on other properties as though it were a Federal agency, but no work may be commenced on any unit or dwelling in controversy until and unless so advised by FmHA.

§ 1944.674 Public participation and intergovernmental review.

(a) In preparing its statement of activities, the applicant is responsible for consulting with leaders from the county, parish and/or township governments of the area where HPG activities will take place for the purpose of assuring that the proposed HPO program is beneficial and does not duplicate current activities. American Indian nonprofit organization applicants should obtain the written concurrence of the tribal governing body in lieu of consulting with the county governments when the program is operated only on tribal land.

(b) The applicant must also make its statement of activities available to the public for comment. The applicant must announce the availability of its statement of activities for review in a newspaper of general circulation in the project area and allow at least 15 days for public comment. The start of this 15-day period must occur no later than 16 days prior to the last day for acceptance of preapplications by FmHA.

(c) The HPG program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. Under FmHA Instruction 1940–J (available in any FmHA office) prospective applicants for HPG grants must submit its statement of activities to the State single point of contact prior to submitting their preapplication to FmHA. Evidence of submittal of the statement of activities to the State single point of contact is to be submitted with a preapplication. Comments and recommendations made through the intergovernmental review process are for the purpose of assuring consideration of State and local government views. The name of the State single point of contact is available from any FmHA office. This section does not apply to American Indian tribes, bands, groups, etc., as noted in § 1944.656 of this subpart.

§ 1944.675 Allocation of HPG funds to States and unused HPG funds.

The allocation and distribution of HPG funds is found in § 1940.578 of subpart L of part 1940 of this chapter.

§ 1944.676 Preapplication procedures.

(a) All applicants will file an original and two copies of Standard Form (SF) 424.1, "Application For Federal Assistance (For Nonconstruction)," and supporting information with the appropriate FmHA office. A preapplication package, including SF–424.1, is available in any FmHA Office.

(b) All preapplications shall be accompanied by the following information which FmHA will use to determine the applicant's eligibility to undertake the HPG program and to evaluate the preapplication under the project selection criteria of § 1944.679 of this subpart.

(1) A statement of activities proposed by the applicant for its HPG program as appropriate to the type of assistance the applicant is proposing, including:

(i) A complete discussion of the type of and conditions for financial assistance for housing preservation, including whether the request for assistance is for a homeowner assistance program, a rental property assistance program, or a co-op assistance program;

(ii) The process for selecting recipients for HPG assistance, determining housing preservation needs of the dwelling, performing the necessary work, and monitoring/inspecting work performed;

(iii) A description of the process for identifying potential environmental impacts in accordance with § 1944.672 of this subpart, and the provisions for compliance with Stipulation I, A–G of the PMOA (FmHA Instruction 2000–FF available in any FmHA office) in accordance with § 1944.673 (b) of this subpart. With the exception of Stipulation I, D of the PMOA, this may be accomplished by adoption of Exhibit F–2 of this subpart (available in any FmHA office), or another process supplying similar information acceptable to FmHA;

(iv) The development standard(s) the applicant will use for the housing preservation work; and, if not the FmHA development standards for existing dwellings, the evidence of its acceptance by the jurisdiction where the grant will be implemented;

(v) The time schedule for completing the program;

(vi) The staffing required to complete the program;

(vii) The estimated number of very low- and low-income minority and nonminority persons the grantee will assist with HPG funds; and, if a rental property or co-op assistance program, the number of units and the term of restrictive covenants on their use for very low- and low-income;

(viii) The geographical area(s) to be served by the HPG program;

(ix) The annual estimated budget for the program period based on the financial needs to accomplish the objectives outlined in the proposal. The budget should include proposed direct and indirect administrative costs, such as personnel, fringe benefits, travel, equipment, supplies, contracts, and other cost categories, detailing those costs for which the grantee proposes to use the HPG grant separately from non-HPG resources, if any. The applicant budget should also include a schedule (with amounts) of how the applicant proposes to draw HPG grant funds, i.e., monthly, quarterly, lump sum for program activities, etc.;

(x) A copy of an indirect cost proposal as required in 7 CFR parts 3015 and 3016, when the applicant has another source of federal funding in addition to the FmHA HPG program;

(xi) A brief description of the accounting system to be used;

(xii) The method of evaluation to be used by the applicant to determine the effectiveness of its program which encompasses the requirements for quarterly reports to FmHA in accordance with § 1944.683(b) of this subpart and the monitoring plan for rental properties and co-ops (when applicable) according to § 1944.689 of this subpart;

(xiii) The source and estimated amount of other financial resources to be obtained and used by the applicant for both HPG activities and housing development and/or supporting activities;

(xiv) The use of program income, if any, and the tracking system used for monitoring same;

(xv) The applicant's plan for disposition of any security instruments held by them as a result of its HPG activities in the event of its loss of legal status;

(xvi) Any other information necessary to explain the proposed HPG program; and

(xvii) The outreach efforts outlined in § 1944.671(b) of this subpart.

(2) Complete information about the applicant's experience and capacity to carry out the objectives of the proposed HPG program.

(3) Evidence of the applicant's legal existence, including, in the case of a private nonprofit organization, a copy of, or an accurate reference to, the specific provisions of State law under which the applicant is organized; a certified copy of the applicant's Articles of Incorporation and Bylaws or other evidence of corporate existence; certificate of incorporation for other than public bodies; evidence of good standing from the State when the corporation has been in existence 1 year or more; and, the names and addresses of the applicant's members, directors and officers. If other organizations are members of the applicant-organization, or the applicant is a consortium, preapplications should be accompanied by the names, addresses, and principal purpose of the other organizations. If the applicant is a consortium, documentation showing compliance with § 1944.656 of this subpart will also be included.

(4) For a private nonprofit entity, the most recent audited statement and a current financial statement dated and signed by an authorized officer of the entity showing the amounts and specific nature of assets and liabilities together with information on the repayment schedule and status of any debt(s) owed by the applicant. If the applicant is an organization being assisted by another private nonprofit organization, the same type of financial statement should also be provided by that organization.

(5) A brief narrative statement which includes information about the area to be served and the need for improved housing (including both percentage and actual number of both low-income and low-income minority households and substandard housing), the need for the type of housing preservation assistance being proposed, the anticipated use of HPG resources for historic properties, the method of evaluation to be used by the applicant in determining the effectiveness of its efforts (according to paragraph (b)(1)(xii) of this section).

(6) A statement containing the component for alleviating overcrowding as defined by § 1944.656 of this subpart.

(7) A list of other activities the applicant is engaged in and expects to continue, a statement as to any other funding, and whether it will have sufficient funds to assure continued operation of the other activities for at least the period of the HPG grant agreement.

(8) Any other information necessary that specifically addresses the selection criteria in § 1944.679 of this subpart.

(c) The applicant must submit an original and one copy of Form FmHA 1940–20 prepared in accordance with Exhibit F–1 of this subpart (available in any FmHA office).

(d) The applicant must submit a description of its process for:

(1) Identifying and rehabilitating properties that are listed on or eligible for listing on the National Register of Historic Places.

(2) Identifying properties that are located in a floodplain or wetland.

(3) Identifying properties located within the Coastal Barrier Resources System.

(4) Coordinating with other public and private organizations and programs that provide assistance in the rehabilitation of historic properties (Stipulation I, D, of the PMOA, FmHA Instruction 2000–FF, available in any FmHA office).

(5) Paragraphs (d) (1), (2), and (3) of this section may be accomplished by adoption of Exhibit F–2 of this subpart (available in any FmHA office), or another process supplying similar information acceptable to FmHA.

(e) The applicant must submit evidence of SHPO concurrence in the proposal, or in the event of nonconcurrence, a copy of SHPO's comments together with evidence that the applicant has sought the Advisory Council on Historic Preservation's advice as to how the disagreement might be resolved, and a copy of any advice provided by the Council.

(f) The applicant must submit written statements and related correspondence reflecting compliance with § 1944.674 (a) and (c) of this subpart regarding consultation with local government leaders in the preparation of its program and the consultation with local and state government pursuant to the provisions of Executive Order 12372.

(2) Points are awarded based on the

as defined in § 1944.656 of this subpart;

will document its fin

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(g) The applicant is to make its statement of activities available to the public for comment prior to submission to FmHA pursuant to § 1944.674(b) of this subpart. The application must contain a description of how the comments (if any were received) were addressed.

(h) The applicant must submit an original and one copy of Form FmHA 400–1, "Equal Opportunity Agreement," and Form FmHA 400–4, "Assurance Agreement," in accordance with § 1944.674(c) of this subpart.

§ 1944.677 [Reserved]

§ 1944.678 Preapplication submission deadline.

Dates governing the invitation and review of HPG preapplications will be published annually in the Federal Register and may be obtained from FmHA offices processing HPG preapplications. Preapplications received after the date specified in the **Federal Register** will not be considered for funding in that fiscal year and will be returned.

§ 1944.679 Project selection criteria.

(a) Applicants must meet all of the following threshold criteria:

(1) Provide a financially feasible program of housing preservation assistance. "Financially feasible" is defined as proposed assistance which will be affordable to the intended recipient or result in affordable housing for very low- and low-income persons;

(2) Serve eligible rural areas with a concentration of substandard housing for households with very low- and low-income;

(3) Be an eligible applicant entity as defined in § 1944.658 of this subpart;

(4) Meet the requirements of consultation and public comment in accordance with § 1944.674 of this subpart; and

(5) Submit a complete preapplication as outlined in § 1944.676 of this subpart.

(b) For applicants meeting all of the requirements listed in paragraph (a) of this section, FmHA will use the weighted criteria in this paragraph (b) in the selection of grant recipients. Each preapplication and its accompanying statement of activities will be evaluated and, based solely on the information contained in the preapplication, the applicant's proposal will be numerically rated on each criteria within the range provided. The highest ranking applicant(s) will be selected based on allocation of funds available to the State. Exhibit D of this subpart (available in any FmHA office) will be used to document the rating.

(1) Points are awarded based on the percentage of very low-income persons that the applicant proposes to assist, using the following scale:

(i) More than 80%: 20 points.
(ii) 61% to 80%: 15 points.
(iii) 41% to 60%: 10 points.
(iv) 20% to 40%: 5 points.
(v) Less than 20%: 0 points.

(2) The applicant's proposal may be expected to result in the following percentage of HPG fund use (excluding administrative costs) to total cost of unit preservation. This percentage reflects maximum repair or rehabilitation with the least possible HPG funds due to leveraging, innovative financial assistance, owner's contribution or other specified approaches. Points are awarded based on the following percentage of HPG funds (excluding administrative costs) to total funds:

(i) 50% or less: 20 points.
(ii) 51% to 65%: 15 points.
(iii) 66% to 80%: 10 points.
(iv) 81% to 95%: 5 points.
(v) 96% to 100%: 0 points.

(3) The applicant has demonstrated its administrative capacity in assisting very low- and low-income persons to obtain adequate housing based on the following:

(i) The organization or a member of its staff has 2 or more years experience successfully managing and operating a rehabilitation or weatherization type program, including FmHA's HPG program: 10 points.

(ii) The organization or a member of its staff has 2 or more years experience successfully managing and operating a program assisting very low- and low-income persons obtain housing assistance: 10 points.

(iii) If the organization has administered grant programs, there are no outstanding or unresolved audit or investigative findings which might impair carrying out the proposal: 10 points.

(4) The proposed program will be undertaken entirely in rural areas outside MSAs identified by FmHA as having populations below 10,000 *or* in remote parts of other rural areas (i.e., rural areas contained in MSAs with less than 5,000 population) as defined in § 1944.656 of this subpart: 10 points.

(5) The program will use less than 20 percent of HPG funds for administration purposes:

(i) More than 20%: Not Eligible.
(ii) 20%: 0 points.
(iii) 19%: 1 point.
(iv) 18%: 2 points.
(v) 17%: 3 points.
(vi) 16% 4 points.
(vii) 15% or less: 5 points.

(6) The proposed program contains a component for alleviating overcrowding as defined in § 1944.656 of this subpart: 5 points.

(c) In the event more than one preapplication receives the same amount of points, those preapplications will then be ranked based on the actual percentage figure used for determining the points under paragraph (b)(1) of this section. Further, in the event that preapplications are still tied, then those preapplications still tied will be ranked based on the percentage figures used (low to high) in paragraph (b)(2) of this section. Further, for applications where assistance to rental properties or co-ops is proposed, those still tied will be further ranked based on the number of years the units are available for occupancy under the program (a minimum of 5 years is required). For this part, ranking will be based from most to least number of years. Finally, if there is still a tie, then a "lottery" System will be used.

§ 1944.680 Limitation on grantee selection.

After all preapplications have been reviewed under the selection criteria and if more than one preapplication has met the criteria of § 1944.679(a) of this subpart, the State Director or approval official may not approve more than 50 percent of the State's allocation to a single entity.

§ 1944.681 Application submission.

Applicants selected by FmHA will be advised to submit a full application in an original and two copies of SF 424.1, and are to include any condition or amendments that must be incorporated into the statement of activities prior to submitting a full application. Instructions on submission and timing will be provided by FmHA.

§ 1944.682 Preapplication/application review, grant approval, and requesting HPG funds.

The FmHA offices processing HPG preapplications/applications will review the preapplications and applications submitted. Further review and actions will be taken by FmHA personnel in accordance with exhibit C of this subpart (available in any FmHA office). Exhibit G of this subpart (available in any FmHA office) will be used by the State Office to notify the National Office of preapplications received, eligibility, ranking, number of proposed units, amount requested by applicants, and amount recommended by State Office. Preapplications determined not eligible and/or not meeting the selection criteria will be notified in the manner prescribed in exhibit C of this subpart (available in any FmHA office). In addition, FmHA will document its findings and advise the applicant of its review rights or appeal rights (if applicable) under subpart B of part 1900 of this chapter. Applications determined not eligible will be handled in the same manner. The preapplications or applications determined incomplete will be notified in the manner prescribed in exhibit C of this subpart (available in any FmHA office) and will not be given appeal rights. The State Director is authorized to approve an HPG in accordance with this subpart and subpart A of part 1901 of this chapter. The State Director may delegate this authority in writing to designated State Office personnel and District Directors. Further:

(a) Grant approval is the process by which FmHA determines that all applicable administrative and legal conditions for making a grant have been met, the grant agreement is signed, and funds have been obligated for the HPG project. If acceptable, the approval official will inform the applicant of approval, having the applicant sign Form FmHA 1940–1, "Request for Obligation of Funds," and exhibit A of this subpart (available in any FmHA office). The applicant will be sent a copy of the executed grant agreement and Form FmHA 1940–1. Should any conditions be attached to the grant agreement that must be satisfied prior to the applicant receiving any HPG funds, the grant agreement and the conditions will be returned to the applicant for acceptance and acknowledgement on the grant agreement prior to execution by the approval official.

(b) The application may be disapproved before execution of the grant agreement if the applicant is no longer eligible, the proposal is no longer feasible, or the applicant requests cancellation of its project. Except when the applicant requests cancellation, FmHA will document its findings and advise the applicant of its appeal rights under subpart B of part 1900 of this chapter.

(c) With the executed grant agreement and Form FmHA 1940–1, FmHA will send the approved applicant (now the "grantee") copies of SF–270, "Request for Advance or Reimbursement". The grantee must submit an original and two copies of SF–270 to the FmHA office servicing the project. In addition, the grantee must submit SF–272, "Federal Cash Transactions Report," each time an advance of funds is made. This report shall be used by FmHA to monitor cash advances made to the grantee. Advances or reimbursements must be in accordance with the grantee's budget and statement of activities, including any amendments, prior approved by FmHA. Requests for reimbursement or advances must be at least 30 calendar days apart.

(d) If the grantee fails to submit required reports pursuant to § 1944.683 of this subpart or is in violation of the grant agreement, FmHA may suspend HPG reimbursements and advances or terminate the grant in accordance with § 1944.688 of this subpart and the grant agreement.

§ 1944.683 Reporting requirements.

(a) SF–269, "Financial Status Report," is required of all grantees on a quarterly basis. Grantees shall submit an original and two copies of the report to the designated FmHA servicing office. When preparing the Financial Status Report, the total program outlays (Item 10, g, of SF–269) should be less any rebates, refunds, or other discounts. Reports must be submitted no later than 15 days after the end of each calendar quarter.

(b) Quarterly performance reports shall be submitted by grantees with SF–269, in an original and two copies (see Exhibit E–1 or this subpart which is available in any FmHA office.) The quarterly report should relate the activities during the report period to the project's objectives and analyze the effectiveness of the program. As part of the grantee's preapplication submission, as required by § 1944.676(b) of this subpart, the grantee establishes its objectives for the HPG program, including its method of evaluation to determine its effectiveness. Accordingly, the report must include, but need not be limited to, the following:

(1) Use of HPG funds for administration and housing preservation activities.

(2) The following specific information for each unit or dwelling assisted:

(i) Name(s), address, and income(s) of each homeowner assisted or the name and address of the owner(s) or co-op for each rental property (single or multi-unit) or co-op assisted;

(ii) Total cost of repair/rehabilitation, a list of major repairs made, amount financed by HPG, and amount financed from which other sources;

(iii) Type of assistance provided (interest subsidy, loan, grant, etc.); and

(iv) Results of implementing the environmental process contained in § 1944.672 of this subpart and the historic preservation process contained in § 1944.673 of this subpart.

(3) A comparison of actual accomplishments to the objectives set for that period, including:

(i) The number of very low- and low-income, minority and nonminority persons assisted in obtaining adequate housing by the HPG program through repair and rehabilitation; and

(ii) The average cost of assistance provided to each household.

(4) Reasons why, if established objectives are not met.

(5) Problems, delays, or adverse conditions which will materially affect attainment of the HPG grant objectives, prevent the meeting of time schedules or objectives, or preclude the attainment of program work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated and any Federal or other assistance needed to relieve the situation.

(6) Objectives established for the next reporting period, sufficiently detailed to identify the type of assistance to be provided, the number and type of households to be assisted, etc.

(7) A certification that the final building inspection reports for each rehabilitation or repair work financed with HPG funds for that quarter is on file.

(c) The grantee should be prepared to meet with the FmHA office servicing the project to discuss its quarterly report shortly after submission.

(d) If the reports are not submitted in a timely manner or if the reports indicate that the grantee has made unsatisfactory progress or the grantee is not meeting its established objectives, the FmHA official servicing the grant will recommend to the State Director appropriate action to resolve the indicated problem(s). If appropriate corrective action is not taken by the grantee, the State Director has the discretion to not authorize further advances by suspending the project in accordance with § 1944.688 of this subpart and the grant agreement.

§ 1944.684 Extending grant agreement and modifying the statement of activities.

(a) All requests extending the original grant agreement or modifying the HPG program's statement of activities must be in writing. Such requests will be processed through the designated FmHA office servicing the project. The approval official will respond to the applicant within 30 days of receipt of the request.

(b) A grantee may request an extension of the grant agreement prior to the end of the project term specified in the grant agreement if the grantee anticipates that there will be grant funds remaining and the grantee has demonstrated its ability to conduct its program in a manner satisfactory to

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FmHA. The approval official may approve an extension when:

(1) The grantee is likely to complete or exceed the goals outlined in the approved statement of activities; and

(2) The FmHA office responsible for servicing the grant recommends continuation of the grant until the grantee has expended all of the remaining grant funds.

(c) Modifications to the statement of activities, such as revising the processes the grantee follows in operating the HPG program, may be approved by the approval official when the modifications are for eligible purposes in accordance with §§ 1944.664 and 1944.666 of this subpart, meet any applicable review and process requirements of this subpart, and the program will continue to serve the geographic area originally approved. The grantee will submit its proposed revisions together with the necessary supporting information to FmHA prior to modifying its operation from the approved statement of activities.

(d) Exhibit B of this subpart (available in any FmHA office) will be used for all extensions on and modifications to the grant agreement.

§ 1944.685 [Reserved]

§ 1944.686 Additional grants.

An additional HPG grant may be made when the grantee has achieved or nearly achieved the goals established for the previous or existing grant. The grantee must file a preapplication for the current fiscal year which will be processed and compared under the project selection criteria to others submitted at that time.

§ 1944.687 [Reserved]

§ 1944.688 Grant evaluation, closeout, suspension and termination.

(a) Grant evaluation will be an on-going activity performed by both the grantee and FmHA. The grantee will perform self-evaluations by preparing quarterly performance reports in accordance with § 1944.683 of this subpart. FmHA will also review all reports prepared and submitted by the grantee in accordance with the grant agreement and this subpart.

(b) The grant can be suspended or terminated before the grant ending date for the causes specified in the grant agreement. No further grant funds will be advanced when grant suspension or termination procedures have been initiated in accordance with the grant agreement. Grantees may be reimbursed for eligible costs incurred prior to the effective date of the suspension or termination. Grantees are prohibited from incurring additional obligations of funds after notification, pending corrective action by the grantee. FmHA may allow necessary and proper costs that the grantee could not reasonably avoid during the period of suspension provided they are for eligible HPG purposes. In the event of termination, FmHA may allow necessary and reasonable costs for an audit.

(c) Grantees will have the opportunity to appeal a suspension or termination under FmHA's appeal procedures under subpart B of part 1900 of this chapter.

(d) The grantee will complete the closeout procedures as specified in the grant agreement.

(e) The grantee will have an audit performed upon termination or completion of the project in accordance with 7 CFR parts 3015 and 3016, as applicable. As part of its final report, the grantee will address and resolve all audit findings.

§ 1944.689 Long-term monitoring by grantee.

(a) The grantee is required to perform long-term monitoring on any housing preservation program involving rental properties and co-ops. This monitoring shall be at least on an annual basis and shall consist of, at a minimum, the following:

(1) All requirements noted in § 1944.663 of this subpart;

(2) All requirements of the "ownership agreement" executed between the grantee and the rental property owner or co-op; and

(3) All requirements noted in 7 CFR parts 3015 and 3016 during the effective period of the grant agreement.

(b) The grantee is required to make available to FmHA any such information as requested by FmHA concerning the above. The grantee shall submit to the FmHA servicing office an annual report every year while the ownership agreement is in effect. This report shall be submitted within 15 days after the anniversary date or end of the grant agreement. At a minimum, the report will consist of a statement that the grantee is in compliance with this subpart.

(c) All files pertaining to such rental property owner or co-op shall be kept separate and shall be maintained for a period of 3 years after the termination date of the ownership agreement.

§ 1944.690 Exception authority.

The Administrator of FmHA may, in individual cases, make an exception to any requirements of this subpart not required by the authorizing statute if the Administrator finds that application of such requirement would adversely affect the interest of the Government, or adversely affect the accomplishment of the purposes of the HPG program, or result in undue hardship by applying the requirement. The Administrator or the Assistant Administrator for Housing may exercise this exception authority at the request of the State Director. The request must be supported by information demonstrating the adverse impact, citing the particular requirement involved, recommending proper alternative course(s) of action, and outlining how the adverse impact could be mitigated. Exception to any requirement may also be initiated by the Assistant Administrator for Housing.

§§ 1944.691–1944.699 [Reserved]

§ 1944.700 OMB Control Number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575–0115. Public reporting burden for this collection of information is estimated to vary from 10 minutes to 8 hours per response, with an average of 0.96 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0575–0115), Washington, DC 20503.

Dated: April 15, 1993.

Robert Peters,

Acting Under Secretary, Small Community and Rural Development.

[FR Doc. 93–9658 Filed 4–23–93; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 52

RIN 3150—AD60

Training and Qualification of Nuclear Power Plant Personnel

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its

regulations to require each applicant for and each holder of a license to operate a nuclear power plant to establish, implement, and maintain a training program for nuclear power plant personnel based on a systems approach to training (SAT). The training program will provide qualified personnel to operate and maintain the nuclear power plant in a safe manner in all modes of operation. This action is being taken to meet the directives of section 306 of the Nuclear Waste Policy Act of 1982.

EFFECTIVE DATE: May 26, 1993.

ADDRESSES: Copies of all referenced NRC documents are available for public inspection and copying for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555. Copies of NUREG documents may be purchased from the Superintendent of Documents, U.S. Government Printing Office by calling (202) 275–2060, or by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

FOR FURTHER INFORMATION CONTACT: Dr. Rajender Auluck, P.E., Office of Nuclear Regulatory Research, telephone: (301) 492–3794 or Mary Ann Biamonte, Office of Nuclear Reactor Regulation, telephone: (301) 504–1073, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION:

Background

Nuclear Waste Policy Act of 1982

In section 306 of the Nuclear Waste Policy Act of 1982 (NWPA), Public Law 97–425, the NRC was "directed to promulgate regulations, or other appropriate Commission regulatory guidance for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians and other operating personnel. Such regulations or guidance shall establish * * * instructional requirements for civilian nuclear power plant licensee personnel training programs." In order to meet this directive, on March 20, 1985, the Commission published a Policy Statement on Training and Qualification of Nuclear Power Plant Personnel (50 FR 11147). The policy statement endorsed a training accreditation program managed by the Institute of Nuclear Power Operations (INPO). It encompassed the elements of effective performance-based training and provided the basis to ensure that personnel have qualifications commensurate with the performance requirements of their jobs.

In addition to endorsing the INPO-managed training accreditation program, the 1985 Policy Statement also recognized the INPO-managed accreditation of utility training programs for the following categories of nuclear power plant personnel:

(1) Non-licensed operator.
(2) Control room operator.
(3) Senior control room operator/shift supervisor.
(4) Shift technical advisor.
(5) Instrument and control technician.
(6) Electrical maintenance personnel.
(7) Mechanical maintenance personnel.
(8) Radiological protection technician.
(9) Chemistry technician.
(10) On-site technical staff and managers.

While issuing the policy statement, the Commission decided to defer rulemaking in this area for a minimum of 2 years in order to allow the industry to continue its initiatives to upgrade training programs through the INPO-managed training accreditation program. Following issuance of the policy statement, the NRC evaluated the INPO-managed training accreditation program over a 2-year period and concluded that it was an effective program. On November 18, 1988 (53 FR 466073), the NRC published an amended policy statement in order to:

(1) Provide additional information regarding the NRC's experience with industry accreditation,

(2) Change the policy regarding enforcement to eliminate discretion in inspection and enforcement in the areas covered by the 1985 Policy Statement, and

(3) Reflect current Commission and industry guidance.

The NRC continues to perform inspections at different utilities to ensure that these training programs remain effective.

U.S. Court of Appeals Decision

On April 17, 1990, the U.S. Court of Appeals for the District of Columbia Circuit concluded that the Commission's Policy Statement did not meet the intent of the Congressional directive to create mandatory requirements for personnel training programs at civilian nuclear power plants. The Court remanded the issue back to the NRC for action consistent with the Court's findings. See, *Public Citizen* v. *NRC*, 901 F.2d 147 (DC Cir. 1990). The Commission requested a rehearing of the decision by the full court, which was denied on June 19, 1990. On November 26, 1990, the Supreme Court denied certiorari on petition by the Nuclear Utility Management and Resource Council. See, *Nuclear Management and Resources Council, Inc.* v. *Public Citizen* 111 S. Ct. 536 (1990).

Actions Taken in Response to the Court Decision

In response to the court decision, the NRC developed the proposed rule that would amend 10 CFR parts 50 and 52, entitled "Training and Qualification of Nuclear Plant Personnel." The proposed rule was published in the **Federal Register** on January 7, 1992 (57 FR 537). The amendments would require that each applicant for and each holder of a license to operate a nuclear power plant establish, implement, and maintain a training program for nuclear power plant personnel that provides qualified personnel to operate and maintain the facility in a safe manner in all modes of operation. The proposed rule met the directives contained in section 306 of the Nuclear Waste Policy Act of 1982 (NWPA), Public Law 97–425, as interpreted by the U.S. Court of Appeals for the District of Columbia Circuit, that mandatory requirements be established for the training and qualification of personnel at civilian nuclear power plants.

The proposed rule would require training programs that are derived from a systematic analysis of job performance requirements that can include both site-specific and industry-wide experiences. Current industry training programs have been developed consistent with this approach. Based on monitoring industry training programs since the 1985 Policy Statement went into effect, the NRC has concluded that these programs have been generally effective in ensuring that personnel have qualifications commensurate with the performance requirements of their jobs.

Summary and Analysis of Public Comments

The comment period for the proposed rule expired March 9, 1992. Public comment letters received on the proposed rule are available for public inspection and copying for a fee at the Commission's Public Document Room. Comments were received from 30 individuals and corporate entities, virtually all of whom are directly involved in the nuclear power industry. Many of the letters contained similar comments and have been grouped together and addressed as a single issue. All comments have been grouped into eight broad issues. For each broad issue,

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the NRC has included a summary of the comments received and an analysis and response to those comments.

1. Responsibility for Training and Acceptability of Third-Party Training-Accreditation Programs

Comment. Several commenters indicated that the NRC should clarify who under the proposed requirements will have responsibility for training contractor personnel. Given the proposed rule's requirement that training programs be based on a systems approach to training, they indicated that the NRC should clarify its intention regarding the acceptability of licensees relying on third-party training programs other than INPO-managed training accreditation-certification programs in evaluating the training needs and qualifications of personnel. The Radiation Protection Association's program of registration-certification of Health Physics Technicians was cited as an example of an other than INPO-managed training accreditation-certification program that the Commission should explicitly endorse. Commenters also indicated that the NRC should clarify that if the evaluation of personnel does not indicate that additional training is needed (i.e., they are already qualified), then additional training is not required. Finally, commenters questioned whether the NRC has developed acceptance criteria for licensees to use in determining the acceptability of vendor-developed and other third-party training programs, and if the NRC anticipated deriving such criteria from NUREG–1220.

Response. The intent of the rule is to ensure that nuclear power plant personnel have the necessary knowledge, skills, and abilities to perform their assigned jobs competently; i.e., they are qualified to independently perform specific activities. Therefore, it is the responsibility of each licensee and applicant to ensure that personnel specified by the rule, regardless of whether they are employees or contractors, are qualified.

The requirement that each licensee or applicant develop, implement, and maintain a SAT-based training program is applicable only to licensee personnel, not contractors, and establishes a process that provides a high degree of assurance that personnel will be qualified to perform their assigned duties. This assurance arises from the five major elements of the SAT process: (1) Analysis of job performance requirements and training needs; (2) derivation of learning objectives; (3) design and implementation of the training programs; (4) trainee evaluation; and (5) program evaluation and revision. Training is only required when a comparison of job performance requirements for tasks being assigned and the skills and knowledge of a specific person indicate a training need. Third-party (including vendor-developed) training programs, although not specifically endorsed by the NRC, are acceptable provided that the licensee has evaluated the programs to ensure that they will result in proper qualification. Because the acceptability of vendor-developed programs will vary based on individual facility needs, the NRC is not providing specific acceptance criteria. Licensees should evaluate vendor-developed training programs against the facility's job and task analysis results to ensure that the vendor programs will meet the licensee's specific qualification requirements.

2. Appropriateness of SAT-Based Training

Comment. Numerous commenters questioned the appropriateness of requiring SAT-based training. At the most basic level was a concern that the NRC has not placed sufficient emphasis on the fact that the required SAT-based training is not intended to be a simple "cookbook" approach and that personnel should be encouraged to acquire additional knowledge, training, and academic instruction to give them a deeper understanding of the technical principles underlying their training. A more widely held concern was that the proposed rule could be construed as requiring additional rigorous job and task analysis, particularly since NRC Inspection Procedure 41500 is more restrictive in this area than the current requirements for INPO-managed training accreditation. These commenters noted that the job and task analysis is not necessarily appropriate or sufficient for all of the types of personnel covered by the rule. They requested that the NRC explicitly acknowledge that varying degrees of rigor in the performance of job and task analysis are appropriate for differing types of positions, as are analyses completed through cooperative generic industry efforts. Specifically, it was recommended that training programs affecting the Shift Supervisor, Shift Technical Advisor, and Technical Staff and Managers be allowed and encouraged to rely on additional bases for determining training needs and that Inspection Procedure 41500 and NUREG–1220, "Training Review Criteria and Procedures," be revised to make them fully consistent with current INPO guidance. Finally, one commenter noted that SAT-based training is inconsistent with the requirements in 10 CFR part 55 for licensed operators and requested that the NRC explain why it has determined that only SAT-based training is acceptable.

Response. The Commission shares the concern that SAT-based training not be treated in a "cookbook" manner. It is not the intent of the NRC that the industry simply approach the SAT-based program in a "cookbook" manner, since the NRC does not intend to discourage licensees from imposing additional requirements above those developed from the SAT-based training program. The decision to require SAT-based training programs reflects both the industry's success with this approach and the fact that the process has the advantage of incorporating ongoing review and revision of the program to reflect changing needs.

Additional rigorous job and task analysis will not be required for any of the positions listed in this rule. The NRC has monitored and evaluated the development and implementation of the current industry programs. The NRC believes that the job, task, and needs analyses underlying the currently accredited programs are adequate, as are the criteria that are used in determining the acceptability of programs for future accreditation. In order to clarify its position that additional job and task analyses are not being required, the NRC has revised Inspection Procedure 41500 and NUREG–1220 to make them consistent with this regulation.

The NRC recognizes that 10 CFR part 55, which only applies to licensed operators, allows non-SAT based approaches to training. This provision was necessary to accommodate existing industry programs for training licensed operators at the time part 55 was promulgated, because industry-wide implementation of SAT-based training was not complete. At this time, SAT-based training has been broadly implemented by the industry for both licensed operators and other plant personnel. Virtually all of the initial and requalification programs for licensed operators are SAT-based. The NRC believes that, based on SAT's success and its wide use by industry, that it is appropriate to incorporate SAT-based training as a requirement in this rule.

3. Definition of Personnel To Be Trained

Comment. A number of both general and specific comments were received that addressed the issue of the definition of the personnel that would be covered by the proposed rule. Some held the view that the specification of the personnel covered by the proposed rule was too narrow while others believed it was too broad. Some commenters recommended that the proposed rule cover all personnel who perform or oversee design, operation, or maintenance activities regardless of whether they are physically located on-site or off-site. At the same time, the commenters indicated that the proposed rule should explicitly exclude all personnel who, regardless of location, only perform support services. In addition, the commenters indicated that personnel working under direct supervision, such as short-term contractor personnel, should be excluded from these training requirements. More concretely, numerous commenters requested that the proposed rule be clarified in terms of personnel to be trained. For example:

Is a "Radwaste Operator" to be considered a "Non-Licensed Operator"? Does "Shift Supervisors" include "Assistant Shift Supervisors"? While the job title "I&C Technicians" is precise, "electrical personnel" and "mechanical personnel" appear to be broader than "electricians" and "mechanics." Which functions or personnel are included in on-site technical staff?

Finally, a number of commenters noted that to be consistent with INPO's current accreditation program, managers should not be included in the rule. This could be accomplished by amending § 50.120(b) so that the personnel designated as (9) "Technical Steff and Managers" be designated "Engineering Support Personnel." Almost all the commenters seeking clarification of the personnel to be trained recommended that the regulation explicitly state that it applies only to the training programs currently included in the INPO accreditation program.

Response. The scope of the list of personnel is consistent with and incorporates those positions that are currently covered by accreditation and existing industry practice. The NRC believes that the existing training programs for the personnel listed are satisfactory. For these reasons, the NRC does not believe it is appropriate to revise the scope of the regulation. The shift supervisor position is the only supervisory function included within the scope of the rule and does not include the assistent shift supervisor. However, the regulation has been revised to reflect a change from the title of the "on-site technical staff and managers" category to "engineering support personnel," which is now consistent with the name for the corresponding INPO eccredited training program. The scope of the personnel covered by that program to be trained in accordance with this regulation, however, is unchanged.

The NRC does not believe that a change to the rule is needed in order to clarify the applicability of this rule to short-term contractor personnel. Contractor personnel are not covered by this rule unless they occupy regular positions working independently within the licensee's organization. However, if short-term contractor personnel are assigned to work independently, they must be qualified to perform the assigned tasks. Finally, the issue of including off-site personnel in the final rule has been considered. The NRC has concluded that the requirements apply to job functions in the identified categories of personnel relating to on-site activities regardless of the location of the personnel.

4. Relationship Between Training and Qualification

Comment. One commenter expressed concern that the relationship between training and qualification has been blurred. The commenter indicated that while the proposed rule is entitled "Training and Qualification of Nuclear Power Plant Personnel," the requirements appear to relate to training only. It was recommended that the term qualification be eliminated, or, alternatively, that necessary qualifications be explicitly listed. The commenter also indicated that the NRC should clarify that successful completion of a training program is not in and of itself sufficient, in lieu of any specific qualifications imposed by other regulations, for a particular position.

Response. The NRC disagrees that the distinction between training and qualification has been blurred by the rule. As stated in the preamble for the proposed rule, qualification in the context of this rule means job task qualification. The proposed rule contained the requirement that licensees and applicants develop, implement, and maintain a SAT-based training program to ensure that nuclear power personnel are qualified to perform the tasks of their jobs. Because licensees and applicants must comply with all applicable regulations, there should be no ambiguity concerning the fact that successful completion of a training program does not obviate the need to comply with any other training or qualification requirements imposed by other regulations or license conditions. This means that nuclear power plant personnel must also meet the licensees' initial job qualification requirements imposed as part of initial employment. Therefore, no changes were made to the rule in response to this comment.

5. Applicability of the Rule

Comment. Several commenters expressed the opinion that the applicability of the rule was too broad with respect to licensees who are undergoing decommissioning or are part 52 applicants. Specifically, they recommended that the rule apply only to applicants for or licensees with an operating license. The commenters suggested that facilities engaged in decommissioning where all fuel has been permanently removed from the reactor vessel or those with a possession only license (POL) should not be subject to this rule. Additionally, they questioned why part 52 needed to be amended to include the requirements of § 50.120(b), since the provisions of part 52 already automatically incorporate all of the standards in part 50 that are technically relevant.

Response. The NRC believes that making the provisions of the rule applicable to all part 50 licensees and applicants is appropriate. The SAT-process ensures that as plant conditions change, training programs will be revised to reflect these changes. These revisions could include the development of new programs or the elimination of obsolete programs. However, the process also ensures that the modification of the program to reflect the changed environment is performed in an orderly fashion. If permanent changes in the condition of the plant (i.e., decommissioning or POL) make some or all existing training programs unnecessary, the licensee would obtain relief from these requirements by applying for an exemption eliminating or modifying the affected programs. Also, the reason that 10 CFR part 52 needs to be amended is to ensure that part 52 applicants have considered the requirements of 10 CFR 50.120(b) in their applications.

6. Implementation of the Rule

Both general and specific concerns were raised regarding implementation of the rule, the time periods allowed for implementation, and the means to be used by licensees to demonstrate compliance of a training program that is not accredited by the INPO-managed training accreditation program.

(a) General Concerns

Comment. Numerous commenters expressed concerns regarding the manner in which the NRC will monitor implementation of the rule to ensure that it is consistent with the Commission's intentions and that the

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guidance provided by the NRC and INPO is consistent. Specifically, it was recommended that the Commission carefully monitor the implementation of the final rule to ensure a consistent understanding of the regulatory goals as was identified in SECY–91–172, "Regulatory Impact Survey—Final." In addition it was suggested that the principles in the Staff Requirements Memorandum dated December 20, 1991, regarding the Systematic Assessment of Licensee Performance (SALP) program should be applied to this training rule. Commission monitoring of the training rule would ensure that there is intra- and inter-regional consistency in the requirements, evaluation criteria, and results, and would preclude the imposition of additional requirements based on rising expectations. Commenters indicated that the NRC should clarify the process that INPO and the NRC will use to avoid giving licensees conflicting guidance. Commenters indicated that the NRC should explicitly state that maintenance of an accredited training program will be construed as complete compliance with these training requirements. Other commenters indicated that NRC should consider delaying the effective date of the rule until it has completely reviewed implementing guidance (e.g., Reg. Guide 1.8, Rev. 2) and made it consistent with the final rule.

Response. The NRC believes that the requirements and implementation of this rule will be consistent with the accredited programs already developed and implemented by the industry. Therefore, the policy the Commission expects to follow in implementing the rule is that continued accreditation along with effective implementation of the accredited program is considered to be an acceptable means of demonstrating compliance. This conclusion is based on staff inspections which have found the accredited programs to be generally acceptable, and the NRC review of documents that provide the industry program objectives and criteria. An applicant or licensee could also comply with the requirements of this rule without being accredited. Inspection Procedure 41500 and NUREG–1220 have been revised to make them consistent with this regulation. This guidance will be used by the NRC staff when monitoring implementation of this rule or inspecting training programs and is intended to ensure consistent interpretation of training criteria by all NRC regions. The NRC, therefore, does not intend to revise Reg. Guide 1.8.

(b) Implementation Period

Comment. With regard to the specific time frames allowed for implementation, several commenters expressed the opinion that if the rule is truly consistent with established programs, that an implementation period of 180 days was reasonable. However, other commenters stated that additional time should be granted to accommodate the industry's implementation date of December 31, 1993, for the new "Engineering Support Personnel" accredited program and for the review and documentation activities that are believed by the commenters to be necessary to demonstrate compliance with the rule. Similarly, many believed that the requirement in § 50.120(b) that applicants must have established and implemented the required training program 18 months prior to fuel load is not reasonable, given that the accreditation process for training programs provides for verification and revision of training programs based on experience gained from operations. It was recommended by several commenters that applicants simply be required to have training programs established and ready for accreditation prior to initial fuel load. Finally, several commenters noted that linking the required program review and revision cycle to the industry's current 4-year schedule is unnecessarily prescriptive.

Response. The NRC has considered the issues raised by the commenters regarding the appropriate implementation time periods for both licensees and applicants. For licensees, the Commission believes that the 180-day implementation period is sufficient, because all licensees have developed, implemented, and are maintaining accredited programs. Implementation of the new "Engineering Support Personnel" program, which replaces the current "Technical Staff and Managers" program or other future accredited program changes, does not negate the fact that SAT-based training is continuing for the personnel covered by the rule, therefore, compliance with the regulation would be maintained.

The requirement that applicants establish and implement the training program 18 months prior to fuel load is also considered appropriate. The NRC realizes that an applicant would not have a training program accredited 18 months prior to fuel load, and this rule does not require accreditation. The rule only requires that a training program be established for those portions of the plant programs necessary to support ongoing activities covered under the rule. In addition, the NRC believes that having the SAT-based training program in place prior to fuel load allows significant benefits in terms of program review and revisions based upon experience gained prior to fuel loading.

The NRC concurs that linking the program review-revision cycle to existing practice (i.e., a 4-year accreditation-renewal cycle) is unnecessarily prescriptive, therefore reference to specific 4-year review cycle has been deleted from the supplementary information section of the final rulemaking notice.

(c) Review and Recordkeeping Requirements

Comment. Several commenters requested that the NRC clarify the requirements for recordkeeping and for program reviews and revisions. Specifically, the NRC was requested to clarify (1) what records need to be maintained in order to meet the requirements of § 50.120, (2) whether any special retention periods apply to these records, and (3) what "associated programs" must be readily auditable, or that this language be dropped from the discussion. They also requested that NRC clarify the rule so that it is clear that the periodic reviews of training programs are to be conducted by appropriate functional managers, not just training managers.

Response. The records the licensees will need to maintain to meet the requirements of § 50.120 are the same records currently being maintained by licensees for their existing training programs. The proposed rule does not impose any special retention periods for these records. The words "associated programs" will be deleted from the discussion related to being readily auditable. The final rule does not require clarification since the proposed rule notes "licensee management," which NRC takes to include functional line managers.

(d) Demonstration of Compliance

Comment. The NRC should clarify how compliance with the rule is to be demonstrated by facilities without an accredited program.

Response. An accredited program is considered to be an acceptable means of demonstrating compliance with the rule. Facilities that do not have an accredited program would demonstrate compliance with the final rule through the development of training programs using the systems approach to training as defined in 10 CFR 55.4. The NRC will conduct inspections of non-accredited facility programs to ensure that the requirements of the final rule are met.

7. Recommend That the Commission Try One More Time To Reverse the Court Decision

Comment. Most commenters expressed their strong opinion that the rule is unnecessary given the industry's initiatives in developing and implementing effective training programs, but accept the rule as necessary given the Court's decisions. However, one commenter requested that, given the President's January 28, 1992, directive that agencies are to "identify and accelerate action on initiatives which will eliminate any unnecessary regulatory burden," the Commission seek, through the Executive Branch, if necessary, a judicial review of the Court's ruling.

Response. The Commission believes that the President's directive does not supersede the Court's ruling and the NRC has exhausted all reasonable avenues of judicial review.

8. Reconsideration of Other Training Requirements in Light of This Rule

Comment. One commenter requested that the NRC review part 55 in its entirety to ensure that it is consistent with this rule, stating that it is possible that many of the prescriptive requirements in existing part 55 could be eliminated if it were amended to reflect existing industry practice for identifying the need for and developing training programs.

Response. Part 55 currently states that a SAT-based training program and a certified simulator is an acceptable alternative to the prescriptive requirements of part 55 and would meet the existing requirements for licensed operator training. In fact, most of the initial and requalification programs for licensed operators are based on SAT. Thus, part 55 is consistent with this rule. Furthermore, some programs retain elements of the prescriptive portion of 10 CFR part 55 and to eliminate these elements would create an unnecessary perturbation to these programs.

Discussion

The safety of nuclear power plant operations and the assurance of general public health and safety depend on personnel performing at adequate performance levels. The systematic determination of qualifications and the provision of effective initial training and periodic retraining will enhance confidence that workers can perform at adequate performance levels. Qualification in the context of this rule means that nuclear power plant personnel have completed the training program, or parts thereof, as evidenced by meeting the job performance requirements, and are permitted to independently perform specific activities. The Commission has taken an approach in this rule that would specify the process to be implemented by applicants and licensees through which job performance criteria and associated personnel training would be derived. This approach provides for flexibility and site-specific adaptations in the training programs. No additional cost is anticipated with this approach for licensees with accredited programs because the rule is believed to be consistent with existing industry practice for personnel training.

Summary of Final Rule

Each applicant for and each holder of an operating license for a nuclear power plant shall:

(1) Establish a training program for certain nuclear power plant personnel who perform operating, maintenance, and technical support activities;

(2) Use a systems approach to training;

(3) Incorporate instructional requirements to provide trained and qualified personnel who can safely operate the facility in all modes of operation;

(4) Periodically review, evaluate, and revise the training program; and

(5) Maintain sufficient records, available for NRC inspection, to verify the adequacy of the training program.

Although no written response is required, licensees are expected to review their license conditions and other commitments for consistency with this rule.

The Commission has also developed conforming amendments to 10 CFR parts 50 and 52 to accompany this rule. Part of these amendments to parts 50 and 52 are considered minor. The other change to part 52 is more substantive and has been developed to ensure that applicants for a combined license (construction and operation) will establish, implement, and maintain a training program in accordance with the requirements in 10 CFR 50.120. This rule is not intended to preclude vendor training programs developed in conjunction with standardization of design.

Discussion of Final Rule

A new § 50.120, has been added to 10 CFR part 50, entitled "Training and qualification of nuclear power plant personnel."

This section establishes the requirements for and the essential elements of the process to be used by applicants and licensees to:

(1) Determine training and qualification requirements for all appropriate personnel;

(2) Develop training programs to ensure that each licensee has trained and qualified personnel to operate and maintain the facility in a safe manner; and

(3) Implement and maintain these programs effectively on a continuing basis.

Paragraph (a), "Applicability," indicates that the rule applies to each applicant for and each holder of an operating license for a nuclear power plant.

Paragraph (b), "Requirements," requires that each applicant or licensee establish, implement, and maintain a program for training nuclear power plant personnel which addresses all modes of operation and is derived from a systems approach to training (SAT). The SAT process was selected because it has the following characteristics:

(1) Training design and content are derived from job performance requirements;

(2) Training is evaluated and revised in terms of job performance requirements and observed results on the job;

(3) Success in training can predict satisfactory on-the-job performance; and

(4) A training program can be audited because it involves clearly delineated process steps and documentation.

The SAT process contains five major elements and is intended to require a training system that will ensure successful performance on the job by trained individuals. The elements are:

(1) Analysis of job performance requirements and training needs;

(2) Derivation of learning objectives;

(3) Design and implementation of the training programs;

(4) Trainee evaluation;

(5) Program evaluation and revision.

The SAT process also provides a sequential method of generating the type of documentation needed for training review. Use of SAT will obviate the need for additional documentation for NRC review.

The SAT process is a generic process, and its application is not limited to a certain subject matter or to specific licensee personnel. Training programs based on job performance requirements have been successfully used by the military for over 20 years and by the nuclear industry for much of the past decade. Furthermore, the Commission has recognized the appropriateness of using this approach to training in its requirements for operator licensing prescribed in § 55.31(a)(4), and for operator requalification prescribed in § 55.59(c).

This rule would provide for the

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This rule would provide for the training and qualification of the following nuclear power plant personnel:

(1) Non-licensed operator.
(2) Shift supervisor.
(3) Shift technical advisor.
(4) Instrument and control technician.
(5) Electrical maintenance personnel.
(6) Mechanical maintenance personnel.
(7) Radiological protection technician.
(8) Chemistry technician.
(9) Engineering support personnel.

Licensed operators, such as control room operators and senior control room operators, are not covered by this rule. They will continue to be covered by 10 CFR part 55 for both initial and requalification training. Because some senior control room operators may also be shift supervisors, only those aspects of training related to their shift supervisor function would be covered by this rule.

This rule would require that training programs be periodically evaluated and revised as appropriate, and also be periodically reviewed by management for effectiveness. Current industry objectives in this regard involve the evaluation by management of individual training programs on a continuing or periodic basis to identify program strengths, weaknesses, and effectiveness. These evaluations are normally completed within a 3- to 6-month period following completion of training within the programs. The sum of these evaluations results in a comprehensive review. Periodic evaluations of the overall training programs are being performed by the industry as part of accreditation renewal. The Commission expects this practice to continue.

Determination of job performance requirements and training needs is part of the analysis in the SAT process and is reflected in qualification requirements. The facility applicant or licensee will be responsible for ensuring that all personnel within the scope of this rule have the training and resulting qualifications commensurate with job performance requirements for their assigned tasks. Initial and continuing training, as appropriate, is expected to be provided to job incumbents in positions covered by this rule.

Each applicant and licensee is required to maintain and keep available for NRC inspection the materials used to establish and implement required training programs for the affected personnel. Current industry practice in this regard involves retention of those records necessary to support management information needs and to provide required historical data. In general, these include records of program development, evaluation, and revision related to the existing training program. The NRC has found through inspections of training programs that sufficient records are being retained for periods that are adequate for regulatory purposes. The Commission believes that no additional guidance for recordkeeping is necessary.

No written response is required by this rule. However, applicants and licensees would be expected to compare their current training commitments and licensing bases with the requirements of this rule. Licensees should use the results of this comparison to evaluate and revise, as appropriate, existing technical specifications or previous commitments. This approach will ensure a common understanding between applicants, licensees, and the NRC staff of training commitments when future inspections are conducted.

Impact of This Rule on Existing Industry Training Programs

This rule would supersede the Policy Statement on Training and Qualification of Nuclear Power Plant Personnel. The Commission believes that this rule would not result in any change to accredited training programs. The NRC has found through inspections that the programs are generally acceptable. The Commission expects that training programs accredited and implemented consistent with the industry program objectives would be in compliance with the requirements of this regulation.

An existing Memorandum of Agreement between INPO and the Commission assures that the NRC will be made aware of any modifications or updates to the industry's program objectives and criteria. Having seen such modifications, the NRC will review to determine if they warrant any modification in the Commission's position expressed above. The NRC will continue to monitor the industry accreditation process by:

(a) Nominating individuals who are not on the NRC staff to serve as members of the National Nuclear Accrediting Board with full voting privileges;

(b) Having an NRC staff member attend and observe selected National Nuclear Accrediting Board meetings with the INPO staff or the utility representatives;

(c) Having NRC staff observe selected INPO accreditation team site visits;

(d) Reviewing any subsequent revisions to the program objectives and criteria as currently described in the National Academy for Nuclear Training document "The Objectives and Criteria for Accreditation of Training in the Nuclear Power Industry" (ACAD 91–015);[1] and

(e) Verifying licensee programs through the NRC inspection process.

As noted above, the NRC has the ability to verify compliance with this regulation through the inspection program and will do so as appropriate. In its inspections, the NRC staff will use Inspection Procedure 41500, "Training and Qualification Effectiveness," which references the guidance in NUREG–1220, Revision 1,[2] "Training Review Criteria and Procedures." Based on NRC inspections conducted to date, the Commission believes that the objectives developed by the industry provides sufficiently clear guidance to allow applicants and licensees to implement effective training programs in compliance with this rule. Therefore, the Commission does not believe it is necessary to issue a regulatory guide to provide additional guidance for complying with this rule.

Vendor-Developed Programs for Standardized Plants

In 10 CFR part 52, the Commission articulated the goal of safety through standardization of design. The Commission believes that the benefits of standardization could involve the standardization of some types of training associated with the 10 CFR part 52 design certification. Therefore, nothing in this rule is intended to preclude standard training programs being developed or implemented by a vendor. For example, the initial training for instrument and control technicians related to a particular standard design may be conducted by a vendor. As a result, there could be a pool of technicians trained by the vendor on the certified design available for hire at a nuclear power plant site. These personnel, however, would need to complete site-specific training related to the administrative and operating philosophy of the site as well as any other specific requirements of the licensee.

Thus, the requirements for personnel training programs prescribed by

[1] A copy of ACAD 91–015 is available for public inspection or copying at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

[2] Copies of NUREG–1220, Rev. 1 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for public inspection or copying at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

§ 50.120 do not prevent a vendor from training personnel or from developing a training process. However, it is important to note that vendor training programs are not governed by this rule and that the licensee is ultimately responsible for ensuring that personnel are qualified.

Applicants for a Combined License

Part 52 is being amended to require that applicants for combined licenses establish, implement, and maintain training programs in accordance with the requirements in 10 CFR 50.120.

Criminal Penalties

As a result of the addition of § 52.78 by this rulemaking, the criminal penalty provision, § 52.113, is being modified to add § 52.78 to the list of sections in subsection (b), since the new section is not identified as substantive, as that criterion is expressed in the **Federal Register** Notice: Clarification of Statutory Authority for Purposes of Criminal Enforcement, 57 FR 55062 (November 24, 1992). In addition, § 52.101 is deleted and § 52.103 is added to the list, to reflect changes made to part 52 in a previous rulemaking, 57 FR 60978 (December 23, 1992).

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. Numerous studies have shown that in complex man-machine systems, human error has often been the overriding contributor to actual or potential system failures that may be precursors to accidents. With this rulemaking, the NRC is emphasizing the need to ensure that industry personnel training programs are based upon job performance requirements. Personnel who are subjected to training based on job performance requirements should be able to perform their jobs more effectively, and with fewer errors. Therefore, the environmental effect of implementing this rule would, if anything, be positive because of the reduction in human error. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555. Single copies of the environmental assessment and finding of no significant impact are available from Rajender Auluck, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492–3794.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget approval numbers 3150–0011 and 3150–0151.

Public burden for update and maintenance of information is estimated to average 780 hours per utility per year, including the time for reviewing the present program, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0011), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

A regulatory analysis has been prepared for this final regulation. The analysis examines the values (benefits) and impacts (costs) of implementing the regulation for personnel training and qualification. This analysis is available for inspection in the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC 20555. Single copies of the analysis may be obtained from Rajender Auluck (see **ADDRESSES** heading).

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1989, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. This final rule primarily affects the companies that own and operate light-water nuclear power reactors and the vendors of those reactors. The companies that own and operate these reactors do not fall within the scope of the definition of "small entity" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR part 121.

Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule because these amendments are mandated by section 306 of the Nuclear Waste Policy Act of 1982, 42 U.S.C. 10226. Therefore, a backfit analysis is not required for this rule.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalty, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Nuclear Waste Policy Act of 1982, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 50 and 52 as follows:

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for 10 CFR part 50 is revised to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat, 936, 937, 938, 948, 953, 954, 955, 956, as amended; sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42

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U.S.C. 2235). Sections 50.33a, 50.55a, and appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 50.120 is also issued under section 306 of the NWPA of 1982, 42 U.S.C. 10226. Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 50.8, paragraph (b) is revised to read as follows:

§ 50.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 50.30, 50.33, 50.33a, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.63, 50.64, 50.71, 50.72, 50.80, 50.82, 50.90, 50.91, 50.120, and appendixes A, B, E, G, H, I, J, K, M, N, O, Q, and R.

* * * * *

3. Section 50.120 is added to read as follows:

§ 50.120 Training and qualification of nuclear power plant personnel.

(a) *Applicability.* The requirements of this section apply to each applicant for (applicant) and each holder of an operating license (licensee) for a nuclear power plant of the type specified in § 50.21(b) or § 50.22.

(b) *Requirements.* (1) Each nuclear power plant applicant, by [October 25, 1993, publication] or 18 months prior to fuel load, whichever is later, and each nuclear power plant licensee, by [October 25, 1993, publication] shall establish, implement, and maintain a training program derived from a systems approach to training as defined in 10 CFR 55.4. The training program must provide for the training and qualification of the following categories of nuclear power plant personnel:

(i) Non-licensed operator.

(ii) Shift supervisor.

(iii) Shift technical advisor.

(iv) Instrument and control technician.

(v) Electrical maintenance personnel.

(vi) Mechanical maintenance personnel.

(vii) Radiological protection technician.

(viii) Chemistry technician.

(ix) Engineering support personnel.

(2) The training program must incorporate the instructional requirements necessary to provide qualified personnel to operate and maintain the facility in a safe manner in all modes of operation. The training program must be developed so as to be in compliance with the facility license, including all technical specifications and applicable regulations. The training program must be periodically evaluated and revised as appropriate to reflect industry experience as well as changes to the facility, procedures, regulations, and quality assurance requirements. The training program must be periodically reviewed by licensee management for effectiveness. Sufficient records must be maintained by the licensee to maintain program integrity and kept available for NRC inspection to verify the adequacy of the program.

PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

4. The authority citation for 10 CFR part 52 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

5. In § 52.8, paragraph (b) is revised to read as follows:

§ 52.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 52.15, 52.17, 52.29, 52.45, 52.47, 52.57, 52.75, 52.77, 52.78, and 52.79.

6. Section 52.78 is added to read as follows:

§ 52.78 Contents of applications; training and qualification of nuclear power plant personnel.

(a) *Applicability.* The requirements of this section apply only to the personnel associated with the operating phase of the combined licenses.

(b) The application must demonstrate compliance with the requirements for training programs established in § 50.120 of this chapter.

7. In § 52.113, paragraph (b) is revised to read as follows:

§ 52.113 Criminal penalties.

* * * * *

(b) The regulations in part 52 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 52.1, 52.3, 52.5, 52.8, 52.11, 52.13, 52.15, 52.17, 52.18, 52.19, 52.21, 52.23, 52.24, 52.27, 52.29, 52.31, 52.33, 52.37, 52.39, 52.41, 52.43, 52.45, 52.47, 52.48, 52.49, 52.51, 52.53, 52.54, 52.55, 52.57, 52.59, 52.61, 52.71, 52.73, 52.75, 52.77, 52.78, 52.79, 52.81, 52.83, 52.85, 52.87, 52.89, 52.93, 52.97, 52.103, 52.111, and 52.113.

Dated at Rockville, MD, this 20th day of April 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–9651 Filed 4–23–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–37–AD; Amendment 39–8553; AD 93–08–06]

Airworthiness Directives; Pacific Scientific Company, HTL/Kin-Tech Division, Fire Extinguishers, as Installed on, but not Limited to, Airbus Industrie Model A300, A310, and A320 Series Airplanes; Boeing Model 757–200 Series Airplanes Equipped With Rolls Royce Engines; and McDonnell Douglas Model DC–9–80 (MD–80) and MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Pacific Scientific fire extinguishers. This action requires testing the low pressure indication circuits to monitor actuation of the pressure switch on certain Pacific Scientific fire extinguishers and replacement with a serviceable extinguisher, if necessary. This amendment is prompted by reports that the low pressure switch failed to indicate low pressure when the fire extinguisher container was discharged. The actions specified in this AD are intended to prevent failure of a fire extinguisher to discharge extinguishant in the event of a fire.

DATES: Effective May 11, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 11, 1993.

Comments for inclusion in the Rules Docket must be received on or before June 25, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–37–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Pacific Scientific Company, HTL/Kin-Tech Division, Attention: Product Support Department, 1800 Highland Avenue, Duarte, California 91010. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Raymond Vakili, Aerospace Engineer, Propulsion Branch, ANM–141L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5262; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: Recently, two operators have reported three incidents in which the low pressure switch on Pacific Scientific fire extinguishers for the auxiliary power unit (APU) compartment failed to indicate low pressure. Subsequent testing of 900 additional Pacific Scientific fire extinguishers revealed four additional failures of the low pressure switch, wherein the cockpit indication light failed to illuminate to indicate low pressure in the fire extinguisher. These fire extinguishers for the APU and engine compartments are known to be installed in Airbus Industrie Model A300, A310, and A320 series airplanes; Boeing Model B757–200 series airplanes, equipped with Rolls Royce engines; and McDonnell Douglas Model DC–9–80 (MD–80) and MD–11 series airplanes. This condition, if not corrected, could result in failure of a fire extinguisher to discharge extinguishant in the event of a fire.

The FAA has reviewed and approved Pacific Scientific Alert Service Bulletin 26A1106, dated March 10, 1993, that describes procedures for testing the low pressure indication circuit to monitor actuation of the pressure switch on the fire extinguisher and replacement with a serviceable fire extinguisher, if necessary.

Since an unsafe condition has been identified that is likely to exist or develop on other Pacific Scientific fire extinguishers, this AD is being issued to prevent failure of a fire extinguisher to discharge extinguishant in the event of a fire. This AD requires testing of the low pressure indication circuit to monitor actuation of the pressure switch on Pacific Scientific fire extinguishers and replacement with a serviceable fire extinguisher, if necessary. The actions are required to be accomplished in accordance with the service bulletin described previously. This AD also requires that findings of the test be submitted to the FAA.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–37–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93–08–06 Pacific Scientific Company, HTL/Kin-Tech Division: Amendment 39–8553. Docket 93–NM–37–AD.

Applicability: Fire extinguishers, as listed in Pacific Scientific Alert Service Bulletin 26A1106, dated March 10, 1993; as installed on, but not limited to, Airbus Industrie

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Model A300, A310, and A320 series airplanes, Boeing Model 757–200 series airplanes equipped with Rolls Royce engines, and McDonnell Douglas Model DC–9–80 (MD–80) and MD–11 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a fire extinguisher to discharge extinguishant in the event of a fire, accomplish the following:

(a) Prior to the accumulation of 500 hours time-in-service or within 60 days after the effective date of this AD, whichever occurs first, unless accomplished within the last 8 months prior to the effective date of this AD, perform a test of the low pressure indicating circuit to monitor actuation of the pressure switch on the fire extinguisher in accordance with the Accomplishment Instructions in Pacific Scientific Alert Service Bulletin 26A1106, dated March 10, 1993.

(1) If the switch passes the test, no further action is required by this AD.

(2) If the switch fails this test, prior to further flight, replace the fire extinguisher with a serviceable extinguisher. This replacement extinguisher must have been inspected previously in accordance with paragraph 3 of the Accomplishment Instructions in the service bulletin.

(b) As of the effective date of this AD, no person shall install, on any airplane, a Pacific Scientific fire extinguisher having a part number listed in Pacific Scientific Alert Service Bulletin 26A1106, dated March 10, 1993, that has not been inspected previously in accordance with paragraph 3 of the Accomplishment Instructions in Pacific Scientific Alert Service Bulletin 26A1106, dated March 10, 1993.

(c) For switches that fail to pass the test required by this AD: Within 30 days after the effective date of this AD, submit a report of the results of the test required by this AD to the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; or fax to (310) 988–5210. The report must include the following information:

(1) When was the inspection performed?

(2) What is the part number of the fire extinguisher?

(3) What is the airplane model and series from which the extinguisher was removed.

(4) Where was the extinguisher installed [e.g., Position/Location: left engine; right engine, auxiliary power unit (APU) compartment, etc.]?

(5) When was the last hydrostatic check performed on that extinguisher?

(6) Who performed the last hydrostatic check on that extinguisher?

(7) When was the last hex key check (low pressure indicating circuit test) performed on that extinguisher?

(8) Was the extinguisher guard tack welded, completely welded, or not welded to the switch housing?

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The testing and replacement shall be done in accordance with Pacific Scientific Alert Service Bulletin 26A1106, dated March 10, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pacific Scientific Company, HTL/Kin-Tech Division, Attention: Product Support Department, 1800 Highland Avenue, Duarte, California 91010. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on May 11, 1993.

Issued in Renton, Washington, on April 16, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–9612 Filed 4–23–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 92–NM–128–AD; Amendment 39–8540; AD 93–07–08]

Airworthiness Directives; Aerospatiale Model ATR42–300 and –320 and Model ATR72–100 and –200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–300 and –320 series airplanes and Model ATR72–100 and –200 series airplanes. This amendment requires removal of the cotter pins on the left and right elevator tab hinges; a recheck of the torque of the nuts; and installation of correct size cotter pins. This amendment is prompted by reports of missing cotter pins on the left elevator tab hinges and incorrect dimension of cotter pins on the right elevator tab hinges. The actions specified by this AD are intended to prevent reduced controllability of the airplane.

DATES: Effective on May 26, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 26, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gary Lium, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1112; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–300 and –320 series airplanes and Model ATR72–100 and –200 series airplanes was published in the **Federal Register** on August 31, 1992 (57 FR 39371). That action proposed to require removal of the cotter pins on the left and right elevator tab hinges; a recheck of the torque of the nuts; and installation of correct size cotter pins.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

Aerospatiale requests that the original issue and Revision 1 of Aerospatiale Service Bulletins ATR42–55–0005 and ATR72–55–1001 be listed as additional service bulletin references in proposed paragraph (a). The manufacturer states that the alterations found in Revision 2 of both service bulletins are minor in nature. The FAA concurs. Revision 2 of both service bulletins contains essentially the same material as was in the original issue and Revision 1. Therefore, the FAA has revised paragraph (a) of the final rule to cite the original issue and Revision 1 of both service bulletins as additional sources of information.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 76 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. The cost of parts is expected to be negligible. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,180, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93–07–08 Aerospatiale: Amendment 39–8540. Docket 92–NM–128–AD.

Applicability: Model ATR42–300 and –320 series airplanes and Model ATR72–100 and –200 series airplanes, as listed in Aerospatiale Service Bulletins ATR42–55–0005, Revision 2, dated October 28, 1991, and ATR72–55–1001, Revision 2, dated October 28, 1991; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, remove the cotter pins on the left and right elevator tab hinges; recheck the torque of the nuts; and install correct size cotter pins, in accordance with Aerospatiale Service Bulletin ATR42–55–0005, dated November 9, 1990, or Revision 1, dated May 28, 1991, or Revision 2, dated October 28, 1991 (for Model ATR42–300 and –320 series airplanes); or Aerospatiale Service Bulletin ATR72–55–1001, dated November 9, 1990, or Revision 1, dated April 10, 1991, or Revision 2, dated October 28, 1991 (for Model ATR72–100 and –200 series airplanes); as applicable.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The removal and installation shall be done in accordance with the following Aerospatiale service bulletins, as applicable, which contain the specified effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
ATR42–55–0005 Nov. 9, 1990	1–7	Original	Nov. 9, 1990.
ATR42–55–0005	1–3, 5, 7	1	May 28, 1991.
Revision 1, May 28, 1991	4, 6	Original	Nov. 9, 1990.
ATR42–55–0005	1–3,	2	Oct. 28, 1991.
Revision 2, Oct. 28, 1991	4, 6	Original	Nov. 9, 1990.
	5, 7	1	May 28, 1991.
ATR72–55–1001, Nov. 9, 1990	1–7	Original	Nov. 9, 1990.
ATR72–55–1001	1–2, 5, 7	1	Apr. 10, 1991.
Revision 1, Apr. 10, 1991	3–4, 6	Original	Nov. 9, 1990.
ATR7–55–1001	1–2	2	Oct. 28, 1991.
Revision 2, Oct. 28, 1991	3–4, 6	Original	Nov. 9, 1990.
	5, 7	1	Apr. 10, 1991.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 26, 1993.

Issued in Renton, Washington, on April 12, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–9611 Filed 4–23–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93-NM-25-AD; Amendment 39-8554; AD 93-08-07]

Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD-11 series airplanes. This action requires a one-time visual inspection to detect chafing or preload in the electrical power system control (EPSC) wire assemblies located in the center accessory compartment (CAC), and to verify the proper installation of clamps and spacers in the assemblies; and modification of discrepant wire assemblies. This amendment is prompted by a report of chafing and burning that occurred in an EPSC wiring assembly located in the CAC. The actions specified in this AD are intended to prevent chafing of the EPSC wire assemblies located in the CAC, which potentially could result in a fire.

DATES: Effective May 11, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 11, 1993.

Comments for inclusion in the Rules Docket must be received on or before June 25, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-25-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846-1771, Attention: Business Unit Manager, Technical Publications—Technical Administrative Support, C1-L5B. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office (ACO), 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett E. Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM-132L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (310) 988-5347; fax (310) 988-5210.

SUPPLEMENTARY INFORMATION: The FAA recently received a report of chafing and burning that occurred in an electrical power system control (EPSC) wiring assembly located in the forward cargo, aft bulkhead area of the center accessory compartment (CAC) of a McDonnell Douglas Model MD-11 series airplane.

During the reported incident, the subject airplane landed and, when thrust reversers were deployed, an electrical alert appeared on the engine and alert display. The synoptic display for the electrical system was partial, with no visible symbols. Airplane electrical power buses remained powered. The pilot taxied the airplane to the ramp and passengers departed normally from the airplane.

Subsequent investigation revealed that 27 charred wires were found in the CAC at the forward inboard side of the electrical equipment rack. Upon examining the affected airplane and other Model MD-11 series airplanes in production, a determination was made that the wiring installed is susceptible to chafing against a clip nut.

Further investigation by the manufacturer has revealed that the cause of the chafing and burning has been traced to wire assemblies that were preloaded against the structure on the electrical equipment rack. Also during investigation, other wire assemblies were found with chafing conditions. This condition, if not corrected, could result in chafing of the EPSC wire assemblies located in the CAC, which potentially could result in a fire that could spread quickly from one wire assembly to another.

The FAA has reviewed and approved McDonnell Douglas MD-11 Alert Service Bulletin A24-64, dated March 29, 1993, that describes procedures for a one-time visual inspection to detect chafing or preload in the EPSC wire assemblies located in the forward cargo, aft bulkhead area of the CAC, and to verify the proper installation of certain clamps and spacers in the assembly. The service bulletin also describes procedures for modification of discrepant wire assemblies. Modification entails rerouting wire assemblies to obtain additional clearance between wires, structure and/or attachments; repair of wire assemblies, if necessary; and/or installation of a clamp and spacer, if necessary. This one-time visual inspection and modification will prevent the possibility of chafing of the EPSC wire assemblies located in the CAC. This modification was installed during production on airplanes having manufacturer's fuselage number 533, 534, 536, and subsequent.

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD-11 series airplanes of the same type design, this AD is being issued to prevent chafing of the EPSC wire assemblies located in the CAC, which potentially could result in a fire. This AD requires a one-time visual inspection to detect chafing or preload in the EPSC wire assemblies located in the forward cargo, aft bulkhead area of the CAC, and to verify the proper installation of clamps and spacers in these assemblies. This AD also requires modification of discrepant wire assemblies. The actions are required to be accomplished in accordance with the service bulletin described previously. Additionally, operators would be required to submit a report to the FAA of the results of the one-time visual inspection of the EPSC wire assemblies.

The applicability of the AD excludes those airplanes on which the modification has been incorporated in production. Airplanes so modified are not subject to the unsafe condition addressed by this AD.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-NM-25-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-08-07 McDonnell Douglas: Amendment 39-8554. Docket 93-NM-25-AD.

Applicability: Model MD-11 series airplanes, manufacturer's fuselage numbers up to and including 532, and 535; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the electrical power system control (EPSC) wire assemblies located in the center accessory compartment (CAC), which potentially could result in a fire, accomplish the following:

(a) Within 60 days after the effective date of this AD, perform a one-time visual inspection to detect chafing or preload in the EPSC wire assemblies located in the forward cargo, aft bulkhead area of the CAC, and to determine if clamps and spacers are properly installed, in accordance with McDonnell Douglas Alert Service Bulletin A24-64, dated March 29, 1993.

(1) If no chafing or preload is detected, and a clamp and spacer are installed, no further action is required by this AD.

(2) If no chafing or preload is detected, but the clamp and/or spacer are missing, prior to further flight, modify the wire assembly in accordance with "Condition I" of the Accomplishment Instructions of the service bulletin.

(3) If chafing or preload is detected, and the clamp and spacer are installed, prior to further flight, modify the wire assembly in accordance with "Condition II" of the Accomplishment Instructions of the service bulletin.

(4) If chafing or preload is detected, and the clamp and/or spacer are missing, prior to further flight, modify the wire assembly in accordance with "Condition III" of the Accomplishment Instructions of the service bulletin.

(b) Within 30 days after accomplishing the one-time visual inspection required by paragraph (a) of this AD, submit a report of the results, both positive and negative, to the Manager, Los Angeles Aircraft Certification Office (ACO), ANM-100L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806-2425, or fax (310) 988-5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspection and modification shall be done in accordance with McDonnell Douglas Alert Service Bulletin A24-64, dated March 29, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846-1771, Attention: Business Unit Manager, Technical Publications—Technical Administrative Support, C1-L5B. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 11, 1993.

Issued in Renton, Washington, on April 16, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-9614 Filed 4-23-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 92-NM-174-AD; Amendment 39-8545; AD 93-07-13]

Airworthiness Directives; Garrett Model GTCP85 Series Auxiliary Power Units

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Garrett Model GTCP85 series auxiliary power units (APU), that requires removing the existing turbine wheel shroud and installing one constructed of Hastelloy "S" material. This amendment is prompted by an incident in which the one-piece cast turbine wheel separated and subsequently impacted the turbine wheel shroud, fragmenting the shroud. The actions specified by this AD are

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intended to prevent turbine shroud fragments from exiting the APU and puncturing the APU compartment, which could lead to reduced fire protection capability of the APU compartment.

DATES: Effective May 26, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 26, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Garrett Airlines Services Division, Technical Publications, Department 65–70, P.O. Box 52170, Phoenix, Arizona 85072–2170. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, Propulsion Branch, ANM–140L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5245; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Garrett Model GTCP85 series auxiliary power units (APU) was published in the **Federal Register** on November 6, 1992 (57 FR 53044). That action proposed to require removing the existing turbine wheel shroud and installing one constructed of Hastelloy "S" material.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Several commenters support the rule as proposed.

One commenter requests that the applicability of the proposal be revised to delete the reference indicating that the subject auxiliary power units (APU's) may be installed on Lockheed Model L–1011 and Lockheed Model L–100 series airplanes. This commenter states that it has verified through Garrett Auxiliary Power Division that no Garrett Model APU's are installed on Model L–1011 series airplanes. The FAA concurs. The applicability statement of the final rule has been revised to delete reference to Lockheed Model L–1011 and Lockheed Model L–100 series airplanes.

One commenter requests that the compliance time for removing the turbine wheel shroud on ground-only operable APU's be revised from the proposed 36 months to 4,000 hours of operation or at the next shop visit that requires maintenance to the affected area. The commenter cites the following reasons as justification for this request:

1. The commenter states that turbine wheels constructed of Mar-M material have a higher probability of failure than turbine wheels constructed of Inconel material. The Mar-M turbine wheel experiences low cycle fatigue in the saddle area of the wheel, which can lead to turbine wheel separation. Further, this commenter notes that its fleet of APU's have turbine wheels constructed of Inconel material with the exception of one, which has incorporated the procedures described in Garrett Service Bulletin GTCP85–49–5700.

2. The commenter claims that turbine wheel shrouds constructed of Inconel 718 material experience a reduction in ultimate strength with long-time exposure to higher temperatures in the operating range of the engine. The commenter's primary use of the APU's is electrical and pneumatics for engine starts. The commenter contends that such use does not expose the APU to high temperatures for long periods of time, and that pneumatics for pack operation is the culprit for high long term temperature operation of the APU. This commenter's operation in this mode is small as compared to operations in which passengers are carried, which requires pneumatics for pack operation/cabin cooling.

3. The commenter states that failure of the turbine wheel was caused by an inclusion found in the Mar-M material of the wheel. The commenter considers it unlikely that the same failure would occur in a turbine wheel constructed of Inconel material, since the problem lies in the processes used in manufacturing the Mar-M material.

4. The commenter states that the Garrett Model GTCP85 APU's installed on its fleet are limited to on-ground use only. The commenter contends that there is no danger to the crew or airplane during inflight conditions. In addition, this commenter notes that the APU's installed on its fleet have the containment augmentation ring installed as specified in Garrett Service Bulletin GTCP85–49–5689, dated July 27, 1987;

The FAA does not concur with the commenter's request to extend the compliance time. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of installing the required modification within a maximum interval of time allowable for all affected airplanes to continue to operate without compromising safety.

As for Item 1, the FAA considers that the addressed unsafe condition exists regardless of the type of material used in construction of the turbine wheel. It is the type of material used in construction of the turbine wheel shroud that influences the addressed unsafe condition. The FAA has determined that turbine wheel shrouds constructed of Inconel 718 material will not prevent turbine wheel fragments from exiting the APU, and that installation of a turbine wheel shroud constructed of Hastelloy "S" material will prevent occurrence of the addressed unsafe condition.

As for Item 2, the FAA has determined that turbine wheel shrouds constructed of Inconel 718 material may experience a reduction in ultimate strength as a result of either long-time or short-time exposure to higher temperatures in the operating range of the engine.

As for Item 3, the FAA does not concur that the problem lies only in the processes used in manufacture of the Mar-M material. Data support the fact that turbine wheels may fail due to causes other than an inclusion in the material.

As for Item 4, the FAA has determined that the addressed unsafe condition exists on all airplanes equipped with on-ground-only operable Garrett Model GTCP85 series APU's, regardless of airplane configuration. The FAA acknowledges that Garrett Service Bulletin GTCP85–49–5689, dated July 27, 1987, as specified in AD 87–24–11, Amendment 39–5781, (52 FR 45163, November 25, 1987), describes procedures for installation of the containment augmentation ring. However, since issuance of AD 87–24–11, there has been an incident in which the one-piece cast turbine wheel on a Garrett Model GTCP85 series APU separated and subsequently impacted the turbine wheel shroud, fragmenting the shroud into four segments. In this instance, the shroud was constructed of Inconel 718 material, and a containment augmentation ring had been installed in accordance with Garrett Service Bulletin GTCP85–49–5689, as specified in AD 87–24–11.

One commenter requests that the proposal be revised to include, as an alternative method of compliance, installation of a new, improved containment augmentation ring, instead of installation of a shroud constructed of Hastelloy "S" material. The commenter notes that Garrett Auxiliary Power Division has developed and successfully tested a new containment augmentation ring, and the commenter contends that this new ring will provide a level of safety comparable to the required shroud. Further, the containment augmentation ring is much simpler to install. The FAA concurs with the commenter's request. Since issuance of the proposal, the FAA has reviewed and approved Garrett Alert Service Bulletin GTCP85–49–A6706, dated December 7, 1992, which describes procedures for installing an improved containment augmentation ring that has been designed to provide additional containment capability to ensure containment in the event of a turbine wheel separation. Paragraphs (a) and (b) of the final rule have been revised to include an option to install this containment augmentation ring.

One commenter requests that operators of cargo airplanes, which are equipped with on-ground-only operable Garrett Model GTCP85 series APU's, be excluded from the requirements of the proposal. The commenter considers that there is a reduced risk of personal injury hazards in cargo airplanes because few, if any, passengers are carried aboard.

The FAA does not concur. The unsafe condition addressed in this AD is not necessarily only related to injury to passengers onboard an airplane. Should the containment capability of the turbine shroud fail on an airplane equipped with an on-ground-only operable APU, shroud fragments could puncture the APU compartment, thus reducing the fire protection capability of the APU compartment. Should a fire begin and spread while the airplane is on the ground, it could pose a hazard not only to the flight crew on board, but to maintenance personnel or fire fighters on the ground, as well. The FAA has determined that the addressed unsafe condition exists on all airplanes equipped with on-ground-only operable Garrett Model GTCP85 series APU's regardless of airplane operations (cargo or passenger configuration).

One commenter requests that installation of a containment augmentation ring in accordance with Garrett Service Bulletin GTCP85–49–5689, dated July 24, 1987, continue to be considered as an acceptable option to installation of the required shroud constructed of Hastelloy "S" material. As justification of this request, the commenter points out that Garrett Service Bulletin GTCP85–49–5700, which is referenced in the proposal, specifically states that installation of the Hastelloy "S" turbine wheel shroud is an option to installation of the containment augmentation ring. The FAA does not concur with the commenter's request. As discussed previously, since the issuance of AD 87–24–11, which references Garrett Service Bulletin GTCP85–49–5689, there has been an incident in which the turbine wheel separated on a Garrett Model GTCP85 series APU. Subsequently, fragments impacted the turbine wheel shroud and shroud fragments exited the APU. Investigation of this incident revealed that the shroud was constructed of Inconel 718 material, and that a containment augmentation ring had been installed in accordance with Garrett Service Bulletin GTCP85–49–5689. The circumstances of this incident indicate, therefore, that installation of those two components (the turbine wheel shroud made of Inconel 718, and the containment augmentation ring specified in Service Bulletin GTCP85–49–5689) does not positively address the subject unsafe condition. However, as discussed previously, the manufacturer has developed an improved containment augmentation ring (described in Garrett Alert Service Bulletin GTCP85–49–A6706.) This containment augmentation ring and the turbine wheel shroud constructed of Hastelloy "S" material have been designed to provide additional containment capability to ensure containment in the event of turbine wheel separation. The FAA has determined that installation of one or both of these components will positively address the subject unsafe condition. Paragraphs (a) and (b) of the final rule have been revised to provide for the installation of either of these components.

One commenter implies that the AD should be delayed until the FAA can ensure that turbine wheel shrouds constructed of Hastelloy "S" material meet or exceed their intended function. This commenter notes that it has installed numerous Hastelloy "S" shrouds on its APU fleet in accordance with Garrett Service Bulletin GTCP85–49–5700. The commenter further notes that one of its APU's, on which a Hastelloy "S" turbine wheel shroud was installed, sustained an uncontained failure that resulted in impact to and rupture of the aircraft auxiliary hydraulic tubes in the adjacent tail compartment area. Because of this incident, the commenter contends that the Hastelloy "S" turbine wheel shroud may not perform as specified. The FAA does not concur with the commenter's request to delay this AD. The failure mode and effect of the APU in the incident cited by the commenter are different from those that prompted this AD action, and did not result in the unsafe condition addressed by the requirements of this AD. In that incident, the turbine wheel exited the APU axially via the APU exhaust; however, no fragments exited the APU radially. In the incident that prompted this AD action, however, the turbine wheel separated and, subsequently, turbine wheel fragments impacted the turbine wheel shroud; shroud fragments then exited the APU radially and punctured the APU compartment firewall. The FAA has determined that installation of a shroud constructed of Hastelloy "S" material will positively address the unsafe condition that is presented by shroud fragments puncturing the APU compartment. However, the FAA may consider further rulemaking to address the conditions relevant to the incident referenced by the commenter.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 1,050 Garrett Model GTCP85 series APU's of the affected design in the worldwide fleet. The FAA estimates that 350 Garrett Model GTCP85 series APU's of the affected design are installed on airplanes of U.S. registry and will be affected by this AD, that it will take approximately 105 workhours per APU to accomplish the required actions, and that the average labor rate is $55 per workhour. Required parts will cost approximately $5,240 per APU. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,855,250, or $11,015 per APU. (Generally, there is one APU installed on each airplane.) This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does

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not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-07-13 Garrett Auxiliary Power Division: Amendment 39-8545. Docket 92-NM-174-AD.

Applicability: Garrett Model GTCP85 series auxiliary power units (APU), equipped with one-piece cast turbine wheels, part numbers 968095-X, 3604604-X, 3606982-1, or 3842072-1,-2,-3; as installed in, but not limited to, British Aerospace Model BAC 1-11 series airplanes, Boeing Model 707 series airplanes, Boeing Model 727 series airplanes, Boeing Model 737 series airplanes, Lockheed Model L382 series airplanes, McDonnell Douglas Model DC-8-70 series airplanes, McDonnell Douglas Model DC-9 series airplanes, and McDonnell Douglas Model MD-88 airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent turbine shroud fragments from exiting the APU and puncturing the APU compartment, which could lead to reduced fire protection capability of the APU compartment, accomplish the following:

(a) For in-flight operable Garrett Model GTCP85 series Auxiliary Power Units (APU): Within 24 months after the effective date of this AD, accomplish the requirements of either paragraph (a)(1) or (a)(2) of this AD.

(1) Remove the turbine wheel shrouds constructed of Inconel 718 material and install a shroud constructed of Hastelloy "S" material, part number 3611904-1, in accordance with Garrett Service Bulletin GTCP85-49-5700, dated July 20, 1987; Revision 1, dated October 6, 1988; or Revision 2, dated August 31, 1989.

(2) Install turbine shroud containment augmentation ring, part number 3616426-1, in accordance with Garrett Alert Service Bulletin GTCP85-49-A6706, dated December 7, 1992.

(b) For on-ground-only operable Garrett Model GTCP85 series APU's: Within 36 months after the effective date of this AD, accomplish the requirements of either paragraph (b)(1) or (b)(2) of this AD.

(1) Remove the turbine wheel shroud constructed of Inconel 718 meterial and install a shroud constructed of Hastelloy "S" material, part number 3611904-1, in accordance with Garrett Service Bulletin GTCP85-49-5700, dated July 20, 1987; Revision 1, dated October 6, 1988; or Revision 2, dated August 31, 1989.

(2) Install turbine shroud containment augmentation ring, part number 3616426-1, in accordance with Garrett Alert Service Bulletin GTCP85-49-A6706, dated December 7, 1992.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The removal and installations shall be done in accordance with the following Garrett service bulletins, which contain the specified effective pages:

Service bulletin reference and date	Page No.	Revision level shown on page	Date shown on page
GTCP85-49-5700 Original July 20, 1987	1-10	Original*	July 20, 1987.
GTCP85-49-5700	1-4, 7-10	1	Oct. 6, 1988.
Revision 1, Oct. 6, 1988	5-6	Original	July 20, 1987.
GTCP85-5700	1, 5-10	2	Aug. 31, 1989.
Revision 2, Aug. 31, 1989	2-4	1	Oct. 6, 1988.
GTCP85-49-A6706, Original, Dec. 7, 1992	1-10	Original	Dec. 7, 1992.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Garrett Airlines Services Division, Technical Publications, Department 65-70, P.O. Box 52170, Phoenix, Arizona 85072-2170. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 26, 1993.

Issued in Renton, Washington, on April 13, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-9610 Filed 4-23-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 93-CE-29-AD; Amendment 39-8557; AD 93-08-10]

Airworthiness Directives; British Aerospace, Regional Aircraft Limited, Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain British Aerospace (BAe), Regional Aircraft Limited, Jetstream Models 3101 and 3201 airplanes. This action requires incorporating certain procedures in the form of operational bulletins from the manufacturer into the airplane flight manual (AFM). These bulletins specify instructions for certain preflight main cabin door checks, and correction of any problem found. Several instances of main cabin door failures, including two in-flight door separations, prompted this action. The actions specified by this AD are intended to prevent main cabin door failure and separation of the door in flight, which could result in occupant decompression injuries, ejection of the occupant from the airplane, or loss of control of the airplane.

DATES: Effective May 14, 1993.

Comments for inclusion in the Rules Docket must be received on or before July 9, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 93-CE-29-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

The bulletins referenced in this AD may be obtained from Jetstream Aircraft, Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; Telephone (44-292) 79888; Facsimile (44-292) 79703; or Jetstream Aircraft, Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC 20041-6029; Telephone (703) 406-1161; Facsimile (703) 406-1469. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 93-CE-29-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond A. Stoer, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30 ext. 2710; Facsimile (322) 230.68.99; or Mr. John P. Dow, Sr., Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; Telephone (816) 426-6932; Facsimile (816) 426-2169.

SUPPLEMENTARY INFORMATION: The FAA has received reports of several instances of main cabin door failures on certain BAe, Regional Aircraft Limited, Jetstream Models 3101 and 3201 airplanes. This includes (1) two in-flight separations of the main cabin door; (2) one instance where the main cabin door opened during takeoff; and (3) several service difficulty reports describing main cabin door or door warning system malfunctions. If a main cabin door that is not properly closed and locked or is susceptible to failure is not identified and the problem corrected, the door could separate from the airplane in flight, resulting in occupant decompression injuries, ejection of the occupant from the airplane, or loss of control of the airplane.

Jetstream Aircraft Limited has issued advance amendment bulletins (AAB) that specify procedures for certain preflight main cabin door checks, and correction of any problem found. These bulletins include the following:

Model	AFM	AAB
Jetstream 3101	HP.4.10	8
Jetstream 3201	HP.4.16	5

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. The FAA has examined the circumstances and reviewed all available information related to the incidents described above, and has determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop in other BAe, Regional Aircraft Limited, Jetstream Models 3101 and 3201 airplanes of the same type design, this AD requires incorporating the applicable AAB described above into the appropriate sections of the AFM. These AAB's specify procedures for certain preflight main cabin door checks, and correction of any problem found.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 93-CE-29-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not

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required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-08-10—British Aerospace, Regional Aircraft Limited: Amendment 39-8557; Docket No. 93-CE-29-AD.

Applicability: Jetstream Models 3101 and 3201 airplanes (all serial numbers), certificated in any category.

Compliance: Required within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent main cabin door failure and separation of the door in flight, which could result in occupant decompression injuries, ejection of the occupant from the airplane, or loss of control of the airplane, accomplish the following:

(a) Incorporate whichever of the following Jetstream Aircraft Limited advance amendment bulletins (AAB) that applies into the appropriate sections of the applicable airplane flight manual (AFM):

Model	AFM	AAB
Jetstream 3101	HP.4.10	8
Jetstream 3201	HP.4.16	5

These AAB's specify procedures for certain preflight main cabin door checks, and correction of any problem found.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels Aircraft Certification Office.

(d) The documents referenced in this AD may be obtained from Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC 20041-6029. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment (39-8557) becomes effective on May 14, 1993.

Issued in Kansas City, Missouri, on April 19, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-9615 Filed 4-23-93; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 93-CE-28-AD; Amendment 39-8556; AD 93-08-09]

Airworthiness Directives; Fairchild Aircraft SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain SA227 series airplanes where the nose wheel steering system is modified in accordance with certain service information or where this modification was incorporated during production. This final rule action specifies certain limitations on utilizing the nose wheel steering system on the affected airplanes. Reports of nose wheel steering malfunctions on the airplanes that have the referenced nose wheel steering system modification prompted this action. The actions specified by this AD are intended to prevent loss of directional control of the airplane during takeoff or landing caused by nose wheel steering system malfunctions.

DATES: Effective May 14, 1993.

Comments for inclusion in the Rules Docket must be received on or before July 9, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 93-CE-28-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

The document referenced in this AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279-0490; Telephone (512) 824-9421. Information that relates to this AD may be examined at the FAA, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 4400 Blue Mound Road, Fort Worth, Texas 76193-0150; Telephone (817) 624-5163; Facsimile (817) 624-5029.

SUPPLEMENTARY INFORMATION: The FAA has received several reports of nose wheel steering system malfunctions on certain Fairchild Aircraft SA227 series airplanes where the nose wheel steering system is modified in accordance with Fairchild Service Bulletin (SB) 227-32-030, Issued: February 22, 1991, Revised: October 5, 1991. In addition, Fairchild Aircraft Model SA227-DC airplanes have this modification incorporated at production. If nose wheel steering system utilization is not limited, the condition referenced above could lead to loss of directional control of the airplane during takeoff or landing.

Fairchild Aircraft has issued a nose wheel steering revision for the Limitations Section of the Model SA227-DC airplane flight manual (AFM). Similar procedures are specified in this AD for the remaining affected model airplanes.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken in order to prevent this condition because of nose wheel steering system malfunction.

Since an unsafe condition has been identified that is likely to exist or develop in other Fairchild Aircraft SA227 series airplanes of the same type design that (1) have complied with Fairchild SB 227-32-030, Issued: February 22, 1991, Revised: October 5, 1991; or (2) have this nose wheel steering system modification incorporated during production (Model SA227-DC), this action requires nose wheel steering limitations. For the Model SA227-DC airplanes, this action is accomplished by incorporating FAA-Approved Model SA227-DC AFM Revision 8, dated April 2, 1993, into the Limitations Section of the AFM. This AFM revision specifies nose wheel steering limitations. For the other affected airplane models, this action is accomplished by placing a copy of the

AD into the Limitations Section of the applicable AFM.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 93-CE-28-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-08-09 Fairchild Aircraft: Amendment 39-8556; Docket No. 93-CE-28-AD.

Applicability: Models SA227-TT, SA227-AT, SA227-AC, and SA227-BC, airplanes (all serial numbers), certificated in any category that have the nose wheel steering system modified in accordance with Fairchild Service Bulletin (SB) 227-32-030, Issued: February 22, 1991, Revised: October 5, 1991; and Model SA227-DC airplanes (serial numbers 784 and 790 through 825), certificated in any category.

Compliance: Required within the next 25 hours time-in-service, unless already accomplished.

To prevent loss of directional control of the airplane during takeoff or landing caused by nose wheel steering malfunctions, accomplish the following:

(a) For the Models SA227-TT, SA227-AT, SA227-AC, and SA227-BC airplanes, place a copy of this AD into the Limitations Section of the Airplane Flight Manual (AFM) in order to incorporate the following nose wheel steering system limitations:

(1) Check the nose wheel steering prior to each takeoff using the procedures in the Normal Procedures section of the airplane flight manual.

(2) The use of nose wheel steering for takeoff and landing is prohibited. Prior to each takeoff, turn the nose wheel arm switch to "OFF", and do not turn to "ON" until after landing and the airplane has slowed to taxi speed.

(b) For the Model SA227-DC airplanes, incorporate FAA-Approved Model SA227-DC AFM Revision 8, dated April 2, 1993, into the Limitations Section of the AFM. This AFM revision specifies nose wheel steering limitations.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office, FAA, Fort Worth, Texas 76193-0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth Airplane Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth Airplane Certification Office.

(e) All persons affected by this directive may obtain a copy of the document referenced from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279-0490; or may examine information related to this AD at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) This amendment (39-8556) becomes effective on May 14, 1993.

Issued in Kansas City, Missouri, on April 19, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-9643 Filed 4-23-93; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 92-NM-144-AD; Amendment 39-8555; AD 93-08-08]

Airworthiness Directives; de Havilland, Inc., Model DHC-8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland Model DHC-8 series airplanes equipped with microwave landing system (MLS) provisions, that requires a general visual inspection to determine whether the

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vertical deviation wiring has been properly installed and/or connected to link the MLS with the ground proximity warning system (GPWS), and, if necessary, correction of the wiring and performance of a functional test. This amendment is prompted by reports that wiring in some airplanes has not been corrected to provide GPWS Mode 5 "Below Glideslope" warning when operating with the MLS. The actions specified by this AD are intended to prevent the airplane from landing short of the runway.

DATES: Effective May 26, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 26, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Cuneo, Electrical Engineer, Systems and Equipment Branch, ANE-173, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; telephone (516)791-6427; fax (516) 791-9024.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain de Havilland Model DHC-8 series airplanes equipped with microwave landing system (MLS) provisions was published in the **Federal Register** on August 26, 1992 (57 FR 38626). That action proposed to require a visual inspection to determine whether the vertical deviation wiring has been properly installed and/or connected to link the MLS with the ground proximity warning system (GPWS), and, if necessary, correction of the wiring and performance of a functional test.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter requests that the compliance time specified in paragraph (a) of the proposal be revised from the proposed 45 days to "prior to the next use of the MLS," in order to be consistent with the compliance time specified in the corresponding Canadian AD and to exclude airplanes that are not actually equipped with an MLS from being subject to the requirements of the proposal. The commenter notes that the proposed AD is applicable to Model DHC-8 series airplanes equipped with MLS provisions as listed in the referenced service bulletin; however, not all of the airplanes listed in that service bulletin are actually equipped with an MLS. Therefore, if the compliance time specified in paragraph (a) of the proposed rule is not revised, those airplanes that are listed in the service bulletin, but not actually equipped with an MLS, would be required to be inspected within 45 days after the effective date of the AD.

The FAA concurs partially with the commenter's request to revise the proposed compliance time. The FAA did not intend to require that the inspection proposed in paragraph (a) of this AD be accomplished on airplanes that are not actually equipped with an MLS. However, once an MLS has been installed, it would be impossible for the FAA to determine whether or when the MLS had been used. Therefore, use of the MLS is not an appropriate basis for establishing compliance time. Accordingly, the FAA has revised paragraph (a) of the final rule to require that this inspection be accomplished "prior to installation of an MLS, or within 45 days after the effective date of this AD, whichever occurs later."

A second commenter supports the proposed rule, but asks that the FAA disapprove any request for an extension of the proposed compliance time that may be submitted in accordance with the alternative methods of compliance provisions of paragraph (b) of the proposal unless affected airplanes are limited to "day visual meteorological condition (VMC)" operations. The commenter contends that if the addressed warning system were to fail during conditions other than "day VMC" operations, the consequences of that failure would be serious and an acceptable margin of safety for the flying public would not be maintained.

The FAA does not concur with the commenter's request to categorically limit the provisions for granting alternative methods of compliance with this AD. The FAA acknowledges that limitations other than that presented by the commenter may exist that would provide an acceptable level of safety. Therefore, under the provisions of paragraph (b) of the final rule, the FAA will evaluate each request for an adjustment of the compliance time on a case-by-case basis, and may approve such a request if data is submitted that substantiates that such an adjustment would provide an acceptable level of safety.

The FAA has revised paragraph (a) of the final rule to clarify that the level of visual inspection required is a "general" visual inspection.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 8 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,320, or $165 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-08-08 de Havilland, Inc.: Amendment 39-8555. Docket 92-NM-144-AD.

Applicability: Model DHC-8 series airplanes equipped with microwave landing system (MLS) provisions, as listed in de Havilland Service Bulletin S.B. 8-34-60, Revision 'C,' dated November 1, 1991; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the airplane from landing short of the runway, accomplish the following:

(a) Prior to installation of an MLS, or within 45 days after the effective date of this AD, whichever occurs later, perform a general visual inspection to determine whether the vertical deviation wiring has been properly installed and/or connected to link the MLS with the ground proximity warning system (GPWS), in accordance with de Havilland Service Bulletin S.B. 8-34-60, Revision 'C,' dated November 1, 1991.

(1) If any vertical deviation wiring has been found that has not been properly installed and/or connected to link the MLS with the GPWS, prior to further flight, correct the wiring and perform a functional test of the system in accordance with the service bulletin.

(2) If vertical deviation wiring has been found that has been properly installed and/or connected to link the MLS with the GPWS, no further action is necessary.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspection, wiring correction, and functional test shall be done in accordance with de Havilland Service Bulletin S.B. 8-34-60, Revision 'C,' dated November 1, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 26, 1993.

Issued in Renton, Washington, on April 16, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-9613 Filed 4-23-93; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 799

[Docket No. 920818-3006]

Revisions to the Commerce Control List: Equipment Related to the Production of Biological Weapons

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration maintains the Commerce Control List (CCL), which appears in the Export Administration Regulations (EAR). This rule amends the CCL by revising Export Control Classification Number (ECCN) 1B71E. This ECCN controls dual-use equipment that can be used in the production of biological weapons (BW). In addition, this rule removes ECCN 1C65E for complex media. These changes conform the list of U.S. controlled BW items to the Australia Group list.

DATES: This rule is effective April 26, 1993.

FOR FURTHER INFORMATION CONTACT: For questions on chemical and biological weapon foreign policy controls, call Toni Jackson, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 482-5286.

For questions of a technical nature on equipment that can be used to produce chemical and biological weapons agents, call James Seevaratnam, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 482-5696.

SUPPLEMENTARY INFORMATION:

Background

At the June, 1992, meeting of the Australia Group, the United States sought the agreement of all Australia Group governments to adopt comparable controls on dual-use biological equipment. The twenty-four member Australia Group, in which the United States participates, seeks to prevent the proliferation of chemical and biological weapons. The delegates agreed, subject to approval by their governments, to establish a common control list for exports of dual-use biological equipment.

On September 14, 1992, BXA published in the **Federal Register** (57 FR 41894) a proposed rule that described certain changes to the U.S. list that would conform the U.S. controls on biological equipment to the list being considered for adoption by the Australia Group.

Concurrent with the consideration of the Australia Group's proposed equipment list by member governments, the U.S. requested comments on the changes to conform the U.S. list to the proposed Australia Group list. Commerce was particularly interested in seeking specific comments related to:

(1) The threshold of 300 liters established as the control parameter for fermenters; and

(2) The scope of the control established for freeze-drying equipment in terms of its impact on civilian applications.

BXA received one comment on the September 14, 1992, proposed rule. While the commenter supported the adoption of a biological equipment list by the Australia Group, they suggested the following modifications to the equipment described in the proposed rule:

(1) Centrifuges: recommended the development of suitable parameters specific to the biotechnology area;

(2) Containment equipment: recommended that paragraph (g) be removed because it repeats controls described in paragraph (b)(2);

(3) Detection systems: recommended that BXA control only those detection systems that are "specifically designed"; and

(4) Freeze-drying equipment: recommended that BXA only control freeze-drying equipment in paragraph (f) that would be capable of in-situ steam sterilization in a closed state.

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Based upon discussions held at the December 1992 meeting of Australia Group countries, this final rule revises the Commerce Control List (CCL) by adopting the Australia Group's list of biological equipment, as follows:

a. Biohazard containment equipment as follows:

1. Complete containment facilities at P3 or P4 containment level; and

2. Equipment that incorporates or is contained in a P3 or P4 containment housing.

b. Fermenters capable of cultivation of pathogenic micro-organisms, viruses or for toxin production, without the propagation of aerosols, and having *all* the following characteristics:

1. A capacity equal to or greater than 300 liters;

2. Double or multiple sealing joints within the stream containment area;

3. Capable of in-situ sterilization in a closed state.

Note: Sub-groups of fermenters include bioreactors, chemostats, and continuous-flow systems.

c. Centrifugal separators capable of the continuous separation of pathogenic micro-organisms, without the propagation of aerosols, and having *all* of the following characteristics:

1. A flow rate greater than 100 liters per hour;

2. Components of polished stainless steel or titanium;

3. Double or multiple sealing joints within the stream containment area;

4. Capable of in-situ stream sterilization in a closed state.

Note: Centrifugal separators include decanters.

d. Cross-flow filtration equipment designed for continuous separation of pathogenic microorganisms, viruses, toxins, and cell cultures without the propagation of aerosols, having *all* of the following characteristics:

1. Equal to or greater than 5 square meters;

2. Capable of in-situ sterilization.

e. Steam sterilizable freeze-drying equipment with condensor capacity greater than 50 kgs. but less than 1,000 kgs. of ice in 24 hours.

f. Equipment that incorporates or is contained in P3 or P4 containment housing, as follows:

1. Independently ventilated protective full or half suits; and

2. Class III biological safety cabinets or isolators with similar performance standards.

g. Chambers designed for aerosol challenge testing with pathogenic micro-organisms, viruses, or toxins and having a capacity of 1 cubic meter or greater.

Exports and reexports of equipment that can be used in the production of biological weapons controlled by ECCN 1B71E will continue to require an individual validated license to Country Groups S and Z and to the regions and countries listed in Supplement No. 5 to part 778 of the Export Administration Regulations (EAR). In addition, the Secretary of Commerce submitted a report to Congress on December 4, 1992, describing these revised controls.

Savings Clause

Shipments of items removed from general license authorizations as a result of this regulatory action that were on dock for loading, on lighter, laden abroad an exporting carrier, or en route aboard carrier to a port of export pursuant to actual orders for export before May 10, 1993, may be exported under the previous general license provisions up to and including May 24, 1993. Any such items not actually exported before midnight May 24, 1993, require a validated export license in accordance with this regulation.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12861.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005 and 0694–0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are always welcome on a continuing basis. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 799

Exports, Reporting and recordkeeping requirements.

Accordingly, part 799 of the Export Administration Regulations (15 CFR parts 730–799) is amended as follows:

PART 799—[AMENDED]

1. The authority citation for 15 CFR part 799 is revised to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992).

Supplement No. 1 to § 799.1 [Amended]

2. In Supplement No. 1 to § 799.1, Category 1, ECCN 1B71E is amended by revising the List of Items Controlled to read as follows:

1B71E Equipment that can be used in the production of biological weapons.

* * * * *

List of Items Controlled

a. Biohazard containment equipment as follows:

a.1. Complete containment facilities at P3 or P4 containment level; and

a.2. Equipment that incorporates or is contained in a P3 or P4 containment housing.

b. Fermenters capable of cultivation of pathogenic micro-organisms, viruses or for toxin production, without the propagation of aerosols, and having *all* the following characteristics:

b.1. A capacity equal to or greater than 300 liters;

b.2. Double or multiple sealing joints within the stream containment area;

b.3. Capable of in-situ sterilization in a closed state.

Note: Sub-groups of fermenters include bioreactors, chemostats, and continuous-flow systems.

c. Centrifugal separators capable of the continuous separation of pathogenic micro-organisms, without the propagation of aerosols, and having *all* of the following characteristics:

c.1. A flow rate greater than 100 liters per hour;

c.2. Components of polished stainless steel or titanium;

c.3. Double or multiple sealing joints within the stream containment area;

c.4. Capable of in-situ stream sterilization in e closed state.

Note: Centrifugal separators include decanters.

d. Cross-flow filtration equipment designed for continuous separation of pathogenic microorganisms, viruses, toxins, and cell cultures without the propagation of aerosols, having *all* of the following characteristics:

d.1. Equal to or greater than 5 square meters;

d.2. Capable of in-situ sterilization.

e. Steam sterilizable freeze-drying equipment with condensor capacity greater than 50 kgs. but less than 1,000 kgs. of ice in 24 hours.

f. Equipment that incorporates or is contained in P3 or P4 containment housing, as follows:

f.1. Independently ventilated protective full or half suits; and

f.2. Class III biological safety cabinets or isolators with similar performance standards.

g. Chambers designed for aerosol challenge testing with pathogenic micro-organisms, viruses, or toxins and having a capacity of 1 cubic meter or greater.

3. In Supplement No. 1 to § 799.1, Category 1, ECCN 1C65E is removed.

Dated: April 20, 1993.

Iain S. Baird,

Acting Assistant Secretary for Export Administration.

[FR Doc. 93–9678 Filed 4–23–93; 8:45 am]

BILLING CODE 3510–DT–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 239, 270 and 274

[Release Nos. 33–6993; IC–19412; S7–1–90]

RIN 3235–AD81

Disclosure of Mutual Fund Performance and Portfolio Managers

AGENCY: Securities and Exchange Commission.

ACTION: Correction to final rules.

SUMMARY: This document contains a correction to the release adopting rule and form amendments under the Securities Act of 1933 and the Investment Company Act of 1940 that was published Monday, April 12, 1993 (58 FR 19050). As the Commission stated in that release, performance information contained in periodic reports to shareholders is exempt from the currentness requirements of rule 34b–1. The rule text setting forth this exemption was inadvertently omitted from the release.

EFFECTIVE DATE: July 1, 1993. This is the effective date for most but not all mutual funds. For the specific applicability of the effective date to individual funds, see Section I.E. of the release in which the rule and form amendments were adopted, published Monday, April 12, 1993 (58 FR 19050).

FOR FURTHER INFORMATION CONTACT: Martha H. Platt, Senior Attorney, or Robert E. Plaze, Assistant Director, (202) 272–2107, Office of Disclosure and Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: Accordingly, the publication on April 12, 1993 of the adopting release, which was the subject of FR Doc. 93–8454, is corrected as follows: On page 19056 in the first column, in the ninth line of § 270.34b–1(b)(2), remove the period following "the period covered by the report" and add the following before "Note * * *": "; nor shall the requirements of paragraphs (e)(3)(ii) and (f) of rule 482 [17 CFR 230.482(e)(3)(ii) and (f)] apply to any such periodic report containing any other performance date."

Dated: April 20, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–9608 Filed 4–25–93; 8:45 a.m.]

BILLING CODE 8010–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 82 and 200

Removal of Parts

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: The Department of Defense hereby removes obsolete parts concerning military standby air travel and industrial preparedness planning from title 32 of the Code of Federal Regulations. These parts have served the purpose for which they were intended and are no longer valid.

EFFECTIVE DATE: April 26, 1993.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, Correspondence and Directives Directorate, 1155 Defense Pentagon, Washington, DC 20301–1155.

SUPPLEMENTARY INFORMATION: The chart below identifies the cancellation document of the CFR part.

32 CFR part No.	Subject	Canceled by
82	Military Standby Authorization for Commercial Air Travel (DD Form 1580).	SD Form 106–1.
200	Industrial Preparedness Planning.	SD Form 106–1.

List of Subjects

32 CFR Part 82

Air carriers, Military personnel.

32 CFR Part 200

Business and industry, Government procurement, National defense.

PARTS 82 AND 200—[REMOVED]

Accordingly, by the authority of 10 U.S.C. 131, 32 CFR parts 82 and 200 are removed.

Dated: April 21, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–9648 Filed 4–23–93; 8:45 am]

BILLING CODE 5000–04–M

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 90-358; FCC 93-139]

Cellular Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: The Federal Communications Commission has revised certain rules governing the conduct of comparative renewal proceedings in the cellular radio service. The proposed revisions are necessary to define the standards that a renewal applicant must meet in order to obtain a renewal expectancy, which is the most significant preference awarded in a comparative renewal proceeding, and to streamline hearing procedures for such proceedings. The intent of these revisions is to promote efficiency in licensing of the cellular radio service and to provide excellent service to the public in an uncomplicated, timely, and courteous manner.

EFFECTIVE DATES: The rules are effective July 26, 1993, except that the effective date for the revision of § 22.942 of the Rules is stayed until the Memorandum Opinion and Order on Reconsideration is final and no longer subject to judicial review. The Commission will publish a document in the **Federal Register** announcing the effective date of the revision of § 22.942.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mobile Services Division, Common Carrier Bureau, (202) 632-6450.

SUPPLEMENTARY INFORMATION: The following is a summary of the Commission's *Memorandum Opinion and Order on Reconsideration*, adopted March 11, 1993, and released April 9, 1993. The full text of this Commission decision, which includes the Amended Final Regulatory Flexibility Analysis concerning that decision, is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 202-857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Paperwork Reduction

The total public reporting burden for the collections of information required by the Commission's Rules adopted in this docket is estimated to average 65 hours for each applicant who is subject to all of those collections. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, room 234, Paperwork Reduction Project (3060-0457), Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060-0457), Washington, DC 20503.

Summary of the Memorandum Opinion and Order on Reconsideration

1. This Order amends certain rules governing the conduct of comparative renewal proceedings in the Domestic Public Cellular Radio Telecommunications Service. Such proceedings are initiated when a cellular licensee seeks renewal of its license at the end of the 10-year license period and challengers file competing applications. The Report and Order, 57 FR 3027 (January 27, 1992), which first established standards for conducting cellular radio comparative renewal proceedings also created standards for awarding a renewal expectancy, which is a major comparative preference awarded to a licensee for its performance during its license term. A renewal expectancy would be more significant than any other preference awarded in a comparative renewal proceeding.

2. This Order adopts a new two-step procedure for cellular license renewal hearings and also modifies the renewal expectancy standards. It concludes that the public interest is served by ensuring that cellular licensees are not subject to competing applications once they have demonstrated substantial performance and earned a renewal expectancy. The two-step procedure also helps in achieving the same three objectives for which a renewal expectancy is awarded in the first place. These objectives are: (1) To encourage investment in cellular facilities; (2) to avoid the risk of replacing an acceptable service provider with an inferior one, based on unproven promises made by the challenging applicant; and (3) to avoid disruption of cellular radio service.

3. Under the two-step procedure, if the Presiding Judge determines in a threshold hearing that the renewal applicant deserves a renewal expectancy, the renewal application would be granted. If the renewal applicant does not receive a renewal expectancy in the threshold hearing, the Presiding Judge would then conduct a full hearing comparing the applicants pursuant to the evaluation criteria described in the Rules. Further, a challenging applicant which proposes to provide service which far exceeds that presently being provided by the incumbent licensee may request a waiver of step one of the two-step procedure.

4. With respect to the renewal expectancy standards, the item strengthens the first criterion to make clear that a licensee must have provided substantial service during its license term to earn a renewal expectancy. "Substantial" service is defined as service which is sound, favorable, and substantially above a level of mediocre service which might just minimally warrant renewal. The second criterion, which requires substantial compliance with applicable Commission rules, policies, and the Communications Act, is retained. The third criterion, which provided that a licensee must not have otherwise engaged in substantial relevant non-FCC misconduct, has been eliminated. A licensee can still be disqualified for engaging in relevant non-FCC misconduct. Nevertheless, if such misconduct does not raise disqualifying issues, it will not be considered in determining whether a cellular licensee deserves a renewal expectancy. Elimination of the third criterion is consistent with applicable case law and policies.

Ordering Clauses

Accordingly, *It is ordered* that the rule changes made herein will become effective ninety (90) days after publication in the **Federal Register**, except that the effective date for new § 22.942 of the Rules is stayed until this Memorandum Opinion and Order on Reconsideration is final and no longer subject to judicial review.

List of Subjects in 47 CFR Part 22

Communications common carriers, Communications equipment, Domestic public cellular radio telecommunications service, Radio, Reporting and recordkeeping requirements, Rural areas.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Part 22 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 22—PUBLIC MOBILE SERVICE

1. The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 22.941 is amended by removing "; and" at the end of paragraph (a)(2) and adding a period in its place, revising paragraphs (a)(1) and (d)(2), and removing paragraph (a)(3) to read as follows:

§ 22.941 Criteria for comparative cellular renewal proceedings.

(a) * * *

(1) Has provided "substantial" service during its past license term. "Substantial" service is defined as service which is sound, favorable, and substantially above a level of mediocre service which might just minimally warrant renewal; and

* * * * * *

(d) * * *

(2) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner in order to meet anticipated increasing demand for both local and roamer service;

* * * * * *

3. Section 22.942 is revised to read as follows:

§ 22.942 Procedures for comparative renewal proceedings.

The following hearing procedures shall apply to comparative renewal proceedings in the Domestic Public Cellular Radio Telecommunications Service:

(a) Within thirty (30) days of the issuance of the Public Notice announcing the filing of a renewal application and applications competing with that renewal application, the renewal applicant must file its renewal expectancy showing. An original and four copies of the renewal expectancy showing must be filed with the Commission and a copy served on each other party to the proceeding.

(b) Interested parties have thirty (30) days from the date that the renewal applicant submits its renewal expectancy showing to file petitions to deny any of the mutually exclusive applications. Applicants have fifteen (15) days to file replies; no further pleadings will be accepted.

(c) In most instances, the renewal application and any competing application(s) will be designated for a two-step hearing procedure. An Administrative Law Judge will conduct a threshold hearing, in which both the licensee and the competing applicants will be parties, to determine whether the renewal applicant deserves a renewal expectancy. If the order designating the applications for hearing specifies any basic qualifying issues against the licensee, those issues will be tried in this threshold (step one) hearing. If the Presiding Judge determines that the renewal applicant is basically qualified and due a renewal expectancy, the competing applicants will be found ineligible for further consideration and their applications will be denied. If the Presiding Judge determines that the renewal applicant does not merit a renewal expectancy but is otherwise qualified, then all the applications filed for that market will be considered in a comparative hearing (step two) which follows the expedited procedures described in §§ 22.916(b)(5) through (b)(8).

(d) Any competing applicant which demonstrates that its proposal so far exceeds the service presently being provided, that there would be no purpose in making a threshold determination as to whether the renewal applicant deserved a renewal expectancy vis-a-vis such a competing applicant, may request a waiver of the threshold hearing (step one) of the two-step procedure. The Commission, or the staff acting under specific delegated authority for an application, will act upon such a waiver request prior to designating the relevant applications for hearing.

(e) If the Presiding Judge issues a ruling in the step one hearing which denies the licensee a renewal expectancy, all the applicants involved in the proceeding will be allowed 90 days after the release of the Judge's ruling in step one to file their direct cases. Rebuttal cases must be filed within 30 days after the filing of the direct cases.

(f) The expedited hearing procedures delineated in §§ 22.916(b)(5) through (b)(8) shall be utilized in comparative cellular radio renewal proceedings.

[FR Doc. 93-9182 Filed 4-23-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 76

[MM Docket No. 92-266; FCC 93-185]

Cable TV Act of 1992

AGENCY: Federal Communications Commission.

ACTION: Interpretation; denial of stay petitions.

SUMMARY: The Commission has adopted an Order rejecting a stay pending judicial review of an order of April 1, 1993, temporarily freezing the rates for cable services, other than premium and pay-per-view service offerings, provided by cable systems subject to regulation under the Cable Act of 1992. This Order also interprets and clarifies the applicability of the Commission's order of April 1, 1993, temporarily freezing rates. This action is in response to petitions for stay pending appeal filed by Daniels Cablevision, Inc. and Time Warner Entertainment Co.

EFFECTIVE DATE: April 26, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer A. Manner, (202) 632-7500.

SUPPLEMENTARY INFORMATION: This is the text of the Commission's Order in MM Docket No. 92-266; FCC 93-185, adopted on April 8, 1993 and released on April 9, 1993.

Order

1. Daniels Cablevision, Inc. and Time Warner Entertainment Co. have filed requests for a stay pending judicial review of our order of April 1, 1993, in this proceeding freezing the rates for cable services, other than premium and pay-per-view service offerings, provided by cable systems subject to regulation under the Cable Act of 1992.[1] Freeze Order, 58 FR 17530 (Apr. 5, 1993). The Freeze Order became effective on April 5, 1993, upon publication in the **Federal Register** and extends for 120 days. The order was adopted at the same time as, and designed to support implementation of, a Report and Order in this proceeding (FCC 93-177) establishing rules to implement rate regulation of cable service as required under sections 3, 9 and 14 of the Cable Act of 1992, 47 U.S.C. 543, 532 and 542(c). That Report and Order has not yet been released. The purpose of the freeze is to prohibit cable systems from increasing their aggregate rates during the period between adoption of the rate regulation rules and the time when we expect that they can be effectively implemented by the FCC and local authorities. See Freeze Order at ¶¶ 3-4.

2. Daniels' motion relies almost exclusively on claims that the Freeze Order unlawfully burdens its First Amendment speech rights. Specifically, Daniels alleges that the Freeze Order is a "content-based restraint on 'press' and 'speech' activity," which bars "cable operators' exercise of editorial discretion in the selection and arrangement" of communications over their cable systems. Daniels Motion at 1-2, 3. As such, Daniels claims, the Freeze Order, "on its face, constitutes an

[1] Cable Television Consumer Protection and Competition Act, Public Law No. 102-385, 106 Stat. 1460 (1992).

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impermissible 'burden' and an unconstitutional prior restraint on communication and on communicative activity under the First Amendment." *Id.* at 2. Daniels asks the Commission to stay the Freeze Order "pending final administrative and judicial resolution of the substantial constitutional question raised by the agency's action." *Id.* at 4.

3. Like Daniels, Time Warner alleges that the freeze will impinge upon its First Amendment rights. See Time Warner Motion at 7–8. However, Time Warner also argues (Motion at 3) that the Freeze Order is arbitrary and capricious because it "will lead to anomalous results creating irreparable injury" in at least two particular situations—where an existing subscriber switches from a less expensive to a more expensive tier or regulated service and where the cable system "enhance[s] the value of existing regulated services by adding channels, either because of added channel capacity due to a rebuild or because of a new affiliation with a cable programming service."

4. We deny both motions for stay. Daniels' constitutional claim is based upon a mischaracterization of the nature of the Freeze Order and does not justify the extraordinary relief Daniels seeks. First, contrary to Daniels' misstatement, the Freeze Order, on its face, imposes no content-based restriction on speech or any burden on the exercise of editorial discretion. Rather, the order simply prohibits—for a short period of 120 days—aggregate increases above the rates that the cable companies, as previously unregulated entities, had voluntarily set for their services as of the date the freeze begins. This freeze applies without regard to the content of the cable services and, notably, does not preclude cable operators from repackaging the services they provide and restructuring their rate design as long as the "average monthly subscriber bill," calculated across all regulated services, does not increase. Freeze Order at ¶4 & n. 7.

5. In addition, the Commission committed to "consider lifting this freeze for a particular cable operator if it can show that the freeze would impose severe economic hardship." Freeze Order at n. 6. Neither Daniels nor Time Warner has made any attempt to invoke this procedure by making a particularized showing of economic hardship.[2] Given this waiver procedure, and the fact that the frozen rates were voluntarily established in a non-competitive environment, we find no basis for the claim that the freeze would have any impact on the exercise of First Amendment rights at all.

6. Finally, the purpose of the Freeze Order is unrelated to the suppression or promotion of a particular viewpoint. Rather the order simply helps to ensure, consistent with the Cable Act of 1992, that rates for cable services are reasonable. Freeze Order at ¶3 & n.10 (citing 47 U.S.C. 543(b)(1) & (h)). Thus, to the extent that the freeze implicates free speech concerns at all, it demonstrably is not content based,[3] but rather lawful content-neutral economic regulation of the type that consistently has been found to survive constitutional scrutiny.[4]

7. We do believe, however, that Time Warner's claim that the freeze will lead to anomalous results warrants clarification of the Freeze Order. Time Warner asserts that the cap on the "average monthly subscriber bill" set out in the Freeze Order will have the consequence of forcing cable operators to prohibit customers from upgrading from less expensive to more expensive services, or forcing the cable operators not to levy the increased charges that would otherwise be associated with such an upgrade. Time Warner Motion at 3. Otherwise, Time Warner asserts, the "average monthly subscriber bill" would increase, without any change in rate schedules, simply by virtue of the customers' voluntary decisions to purchase an existing, more expensive service package. *Id.* Time Warner also claims that the freeze will effectively prevent cable operators from offering additional channels beyond those available prior to the freeze, because even though the provision of those additional channels would increase the cable operators' costs, the cable operators would be prohibited from charging for those additional channels. Time Warner Motion at 3–4.

8. We did not intend in the Freeze Order to mandate these results. To the extent that it may be read in such a manner, we clarify the order as set forth below.[5] The purpose of the order was to "protect consumers" against rate increases while "permit[ting] cable operators to make reasonable changes in service offerings * * *." Freeze Order at ¶4. The average monthly bill limit was intended to permit changes in individual rate components while constraining increases in overall rate levels. Given that purpose, a cable operator that makes *no* changes in its rates or services after April 5, 1993 will not be found in violation of the freeze even if its "average monthly subscriber bill" increases as a result, for example, of Time Warner's hypothetical situation of voluntary subscriber upgrading. Thus, if the specific rates in question were "in effect"[6] on the effective date of the Freeze Order, changes in subscriber demand that alter the average bill will not be interpreted as conflicting with the Freeze Order. Further, as explicitly set forth in that order, we anticipate that there will be changes in rate structures during the freeze period. Indeed, one of the functions of the freeze is to permit rate structure changes to take place in an environment where rate increases are not also being implemented. In this respect, the freeze was designed so that, as the substantive rate regulation process commences, much of the restructuring process will have taken place and subscribers, local regulatory authorities, and the Commission may focus on regulating or rolling back rates to the correct rate level. We view these kinds of rate structure changes as not calculated or designed to increase the "average monthly subscriber bill," and they, accordingly, are not prohibited under the Freeze Order. Moreover, although overall increases in existing rate levels are precluded during the freeze period,

[2] Indeed, Daniels has not alleged that it would suffer any monetary loss as a result of the freeze. Even if Daniels has made such allegations, it is difficult to imagine that a showing could be made that any monetary loss occasioned by freezing for 120 days rates that previously had been unregulated would meet the standard for irreparable injury. Courts have held that mere monetary losses, unless they threaten the very existence of the movant's business, do not constitute irreparable injury for purpose of staying an agency order. See, e.g., *Wisconsin Gas Co.* v. *FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985).

[3] *See Ward* v. *Rock Against Racism*, 491 U.S. 781, 791 (1989) ("Government regulation of expressive activity is content neutral" where, as here, "it is justified without reference to the content of the regulated speech"); *Home Box Office, Inc.* v. *FCC*, 567 F.2d 9, 47 (D.C. Cir.), *cert. denied*, 434 U.S. 829 (1977) ("the important inquiry here * * * turns on the purpose for which government regulates").

[4] *See Associated Press* v. *United States*, 326 U.S. 1 (1945); *FCC* v. *National Citizens Committee for Broadcasting*, 436 U.S. 689, 800–02 (1979); *Storer Cable Communications* v. *City of Montgomery*, 806 F. Supp. 1518, 1557–62 (M.D. Ala. 1992).

[5] Time Warner acknowledged that "if the Commission were to issue a clarification avoiding the anomalous results set forth in the text, this would moot TWE's appeal to the extent that it attacks these aspects of the Freeze Order." Time Warner Motion at 5 n.2.

[6] Rates "in effect" include rates for all services being offered by a system and actually being charged subscribers prior to the effective date of the Freeze Order. Included are rates that are in effect with respect to some subscribers, even if they are subject to a staggered billing process, regardless of whether all subscribers had received bills on the effective date of the order. It is not intended that the freeze result in different rates being charged system subscribers for the same services based on billing cycles. Similarly, if portions of a system have been upgraded and higher rates are in effect for expanded service offerings, that upgrading process may continue with the rates in effect for this service being charged to subscribers as they convert to new levels of service.

contrary to Time Warner's assertion, the addition of new services is not foreclosed. New services may be added even if they increase subscriber demand for a higher priced service tier as long as the rate constraint is observed. Alternatively, a new service may be provided and charged for as an entirely new, optional service, unrelated to any existing service tier or existing rate.[7]

9. We do not agree with Time Warner's suggestion that the freeze on the "average monthly subscriber bill" will have the undesirable effect of either delaying new services or forcing a cable operator to accept significantly increased costs associated with those new services. This is particularly true in light of the limited duration of the Freeze Order. In this regard, we note that Time Warner's claim of irreparable injury is based exclusively on hypothetical possibilities and is completely unsupported by specific factual data. As discussed above, we have expressly provided for lifting the freeze in individual cases where "severe economic harm" is shown.

10. In the Freeze Order, we found that the 120-day freeze served the public interest by preventing cable operators from unfairly raising rates during the interim period until the Act could be fully implemented through a detailed regulatory structure that we have adopted but which has not yet taken effect. Freeze Order at ¶3. Neither Daniels nor Time Warner has provided any reason to reassess that public interest finding.

11. Accordingly, *it is ordered*, Pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), that the motions for stay filed by Daniels Cablevision, Inc. and Time Warner Entertainment Co. are denied.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–9642 Filed 4–23–93; 8:45 am]

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[7] The Freeze Order also does not impair the ability of cable operators to offer and charge for new "premium" services or other programming services offered on an *a la carte* basis.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 204, 611, and 678

[Docket No. 920409–3047]

RIN 0648–AD12

Fishery Conservation and Management; Foreign Fishing; Atlantic Sharks

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule and interim final rule with request for comments.

SUMMARY: NMFS issues this final rule and interim final rule to implement the Fishery Management Plan for Sharks of the Atlantic Ocean (FMP). These rules: (1) Divide the 39 shark species managed by the FMP into three groups for management and resource assessment purposes (2) require annual permits for commercial shark fishing vessels fishing in the U.S. exclusive economic zone (EEZ); (3) require data reports from owners/operators of permitted vessels and persons conducting shark fishing tournaments; (4) require permitted vessels to accommodate NMFS-approved observers upon request; (5) establish a fishing year of January 1 through December 31; (6) prohibit "finning," the practice of harvesting sharks for fins alone; (7) require sharks not retained by fishermen to be released in a manner ensuring maximum probability of survival; (8) establish recreational bag limits for sharks; (9) establish annual and semiannual quotas for commercial landings of the large coastal and pelagic species groups and provide for commercial fishery closures when the species group quotas are reached; (10) limit the sale of sharks harvested from the EEZ to those caught from permitted vessels; (11) authorize the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), to implement or adjust certain management measures in accordance with a specified framework regulatory adjustment procedure; and (12) reduce the total allowable level of foreign fishing in the EEZ for the managed shark species to zero.

The intended effects of these rules are to: (1) Prevent overfishing of shark resources; (2) encourage management of shark stocks throughout their ranges; (3) establish a shark resource data collection, research, and monitoring program; and (4) increase the benefits from shark resources to the Nation while preventing waste.

DATES: Effective May 26, 1993, except that §§ 678.1, 678.2, 678.3, 678.4(a)(2), (a)(4), (b) through (g), and (i) through (k), 678.7(a), (u) and (v), 678.8 678.9, 678.20, 678.23, 678.26, and 678.27 are effective April 26, 1993; §§ 678.4(a)(1), (a)(3), and (h), 678.5(a) and (b), 678.6, 678.7(b), (c), (e) through (j), and (n) through (s), 678.10, 678.22, 678.24, and 678.25(a) and (+b) are effective July 1, 1993; and §§ 678.7(w) and 678.28 are effective April 26, 1993, through June 30, 1993.

Comments: Written comments on the fishing year contained in § 678.20, on the bag limits contained in § 678.22, on the commercial quotas contained in § 678.23, on the permits condition in § 678.4 and potential changes involving the allocation of the large coastal species group between the commercial and recreational sectors, and mandatory dealer permitting and reporting must be received on or before June 25, 1993.

ADDRESSES: Comments should be sent to Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, NMFS, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Richard B. Stone, 301–713–2347.

SUPPLEMENTARY INFORMATION: The proposed and final FMP were prepared by NMFS under authority of section 304(f)(3) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The development and current status of the recreational and commercial shark fisheries, the status of the shark stocks, the history of FMP preparation, the proposed management measures, and the anticipated impacts of the proposed management measures were discussed in the preamble to the proposed rule (57 FR 24222, June 8, 1992) and are not repeated here.

Based on public comments and on the latest available scientific information, changes were made to the proposed fishing year, bag limits, commercial quotas, finning prohibition, and permit conditions. (See Changes from the Proposed Rule) These measures are published by interim final rule with a request for public comment. After consideration of the comments received, they will be published in final. All other provisions in this rule are published in final.

Contents of the Final FMP and Implementing Rules

The final FMP and implementing final rule and interim final rule contain the following fishery management measures:

(1) A fishery management unit containing 39 frequently caught species

of Atlantic sharks. These species are

(7) Limitation on the sale of sharks

and (4) information on the numbers of

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of Atlantic sharks. These species are separated into three groups for assessment and regulatory purposes: large coastal (22 species), small coastal (7 species), and pelagic species (10 species). Thirty-four additional species are included in the FMP for data collection purposes but are not part of the management unit—most of these species are small, deepwater sharks taken incidentally in directed swordfish and tuna longline fisheries. This group also includes dogfishes that are harvested in trawl fisheries in shallow water;

(2) A fishing year of January 1 through December 31;

(3) Annual commercial quotes based on a calendar year for the large coastal and pelagic species groups; each annual quota will be divided into equal semi-annual quotas that will apply to the fishing periods—January 1, through June 30 and July 1 through December 31. The 1993 annual quotas are 2,436 mt (dressed weight) for large coastal species group and 580 mt (dressed weight) for the pelagic species group;

(4) Closure of the commercial fishery for a species group for the remainder of the half year fishing period when the commercial semi-annual quota for that species group is reached or is projected to be reached. All sharks in the FMP management unit landed and sold in the U.S. by U.S. fishermen will be counted against any applicable commercial quota established by the FMP. After a fishery closure, permitted charter vessels and headboats will be allowed to fish for sharks under the permit conditions and under the bag limits, but landed sharks cannot be sold.

(5) Bag limits for the recreational fishery of four sharks per fishing vessel per trip for large coastal and pelagic species combined and five sharks per person per day for small coastal species;

(6) Requirement for annual permits for commercial fishing vessels catching sharks in the EEZ. A condition of the permit is that the recipient must agree to abide by Federal regulations for all sharks caught regardless of where the fishing occurs (state, Federal (EEZ), or international waters), unless the permitted vessel fishes only in state waters on a given fishing trip, in which case a state may apply its more restrictive requirements for that trip. To qualify for the commercial permit, the applicant must have derived, during any 1 of 3 preceding years, more than 50 percent of his or her earned income from commercial fishing (sale of catch) or from charter vessel or headboat operations, or have had at least $20,000 gross receipts from the sale of fish. Permits will be required by July 1, 1993;

(7) Limitation on the sale of sharks harvested in Federal waters to those sold by owners or operators of permitted vessels;

(8) Requirement that permitted vessels land fins in proportion to carcasses (a ratio of the weights of wet fins to dressed carcasses that does not exceed 5 percent);

(9) Requirement that sharks not retained and landed as part of the commercial quota or under the recreational bag limits be released in a manner ensuring maximum probability of survival;

(10) Requirement that all owners or operators of permitted vessels submit to NMFS copies of weighout slips (trip tickets or weighout slips); requirement for submission of logbook reports from selected owners, operators, and persons conducting shark fishing tournaments;

(11) Requirement that selected permitted vessels accommodate observers;

(12) Authorization for the Assistant Administrator to implement or adjust certain management measures in accordance with an established framework regulatory adjustment procedure;

(13) Reduction of the total allowable level of foreign fishing in U.S. waters for the managed species to zero; and

(14) Establishment of an FMP Operations Team (OT) composed of representatives from NMFS (management and scientific management personnel), the five Regional Fishery Management Councils (Councils) covering the east coast, Gulf of Mexico and Caribbean Sea (Council members, staff, and advisory panel or scientific committee members), and the ICCAT Advisory Committee. The OT will monitor the fishery and FMP and recommend regulatory adjustments for implementation by the Assistant Administrator.

Reevaluation of the Shark Resources and Fishery

During the public comment periods for the proposed FMP and the proposed rule, significant new fishery information was received from fishermen, dealers/processors, and several state fishery management agencies. This new information included: (1) Data showing higher fishery removals in recent years than those used as a basis for determining maximum sustainable yield (MSY) and stock conditions in NMFS 1990 stock assessment for Atlantic coast sharks (the assessment used as a basis for commercial quotas and recreational bag limits in the proposed FMP); (2) two additional years' landings data; (3) records on the sizes of landed sharks; and (4) information on the numbers of commercial fishing vessels targeting sharks. NMFS reviewed this new information and determined that it could result in significantly revised conclusions about the abundance, productivity, and condition of the managed shark species from those presented in the proposed FMP; the latter were based on the 1990 NMFS stock assessment of Atlantic coast sharks.

To ensure that all FMP management measures are based upon the best scientific information available, a revised assessment of the condition of the large coastal species group was completed by NMFS Southeast Fisheries Science Center, using the new or corrected information. The revised assessment was reviewed by a scientific peer committee consisting of both outside scientific experts and NMFS scientists (Review Committee). The Review Committee issued its final report on November 23, 1992 (Report of the Atlantic Coastal Shark Fishery Analysis Review, November 23, 1992).

The Review Committee reported evidence of overfishing for the large coastal species group during 1986 through 1992 (except for 1987 and 1990). The Review Committee recommended that the calendar year 1993 landings for the large coastal species group be reduced below the calendar year 1991 landings level of 4,319 mt dressed weight. The Committee Report identifies three options for the calendar year 1993 landings limit (recreational and commercial combined) for the large coastal species group. Each option provides a specific degree of conservation and economic benefits.

Under the Review Committee's first option for the level of 1993 calendar year total landings (3,520 mt dressed weight), the large coastal species group stock would remain overfished and the abundance would not rebuild to the MSY biomass level (estimated by NMFS to be 14,900 mt dressed weight). NMFS estimates MSY for the large coastal species group to be 3,800 mt dressed weight. To ensure that the large coastal species group stock is rebuilt to the MSY level, NMFS has selected the Review Committee's recommended second option (Option 2—see Table 4 of the Review Committee Report) that would establish 1993 total landings of 2,900 mt dressed weight (a 34 percent reduction from the 1991 landings; a 29 percent reduction from the 1986–91 annual average landings). Under this option, NMFS has determined that stock abundance will rebuild. NMFS's conclusions about stock rebuilding

differ from the Review Committee's rebuilding schedule, which shows that annual fishery yields would increase about 5 percent each year but would not equal MSY until 1999. Option 3 of the Review Committee Report requires a 1993 landings limit of 2,311 mt (a 50 percent reduction from the 1991 level; a 44-percent reduction from the 1986–91 annual average). This option achieves a 10 percent annual increase in stock abundance until the MSY level is reached. NMFS has determined that this option would cause unacceptable, short-term costs in lost fishery revenues, and is not necessary to achieve stock rebuilding within a reasonable time period.

While NMFS adopted the Review Committee's Option 2 for stock rebuilding and will implement the recommended calendar year total landings (and derived calendar year commercial quotas) from 1993 to 1995, NMFS believes that the large coastal species group will be rebuilt by 1995 (contrasted with the longer rebuilding schedule contained in the Review Committee Report). At that point, NMFS believes that the stock size should be sufficient to provide MSY on a continuing basis and, based on available information, that a modification of the Review Committee's rebuilding schedule is justified. Closure of the fishery for the large coastal species group immediately upon FMP implementation, as contemplated by the proposed FMP and proposed rule, will not be necessary if implementation occurs early in 1993.

The 1993 and 1994 calendar year commercial quotas for the large coastal species group were determined based on the historical commercial average annual share (percentage of average total annual landings) for the period 1986 through 1991; this average annual share is 84 percent. The same approach was used in the proposed FMP to determine commercial and recreational fishery shares. The recreational share of the total 1993 landings is also based on the historical average annual percentage share from 1986 through 1991; this value is 16 percent. Recreational fishery limits (a trip limit for the large coastal and pelagic species groups and a bag limit for the small coastal species group) have been charged to ensure that 1993 commercial and recreational landings are reduced by approximately the same percentage (29 percent) below their respective recent annual averages.

The commercial quota for the pelagic group is changed from the quota in the proposed FMP based on revised landings statistics and on several years' additional data; the 1993 calendar year commercial fishery quota is now established at 580 mt dressed weight. Combining this commercial quota with the estimated recreational fishery share (under the bag limits) of 980 mt dressed weight, the total 1993 landings for the pelagic group are established at 1,560 mt dressed weight. As in the proposed FMP, no quotas are established for the small coastal species group.

The estimates of MSY for the three species groups have been reevaluated. Based on the Review Committee Report, NMFS estimates that the MSY for the large coastal species group is 3,800 mt dressed weight. (The MSY stock biomass level is estimated to be about 14,900 mt dressed weight). Due to revised landings statistics, the MSY for the pelagic species group is changed from 2,800 mt whole weight (corrected to 3,000 mt whole weight or 2,158 mt dressed weight based on corrected data) in the proposed FMP to 1,560 mt dressed weight in the final FMP. This change was necessary since the pelagic species MSY is determined based on the average annual landings (recreational and commercial combined) during the period January 1, 1986, to January 1, 1992. These landings have been revised because significant landings of large coastal species were incorrectly included in the pelagic species group in the proposed FMP. The MSY estimate for the small coastal species group remains unchanged because NMFS did not have any new information.

Changes From the Proposed Rule

Based on public comments and new data and analyses concerning the condition of the shark resources and fishery, certain management measures in the final FMP were changed from those in the proposed FMP. These changes are reflected in this final rule and include the following:

1. Large coastal species group—optimum yield, total annual landings, commercial quota, MSY, and recreational fishery limits. See "Reevaluations of the Shark Resources and Fishery" for a description of these changes;

2. Pelagic species group—optimum yield, total annual landings, commercial quota, MSY, and recreational fishery limits. See "Reevaluations of the Shark Resources and Fishery" for a description of these changes;

3. The mako minimum size was reserved in the final FMP because of inadequate supporting biological information. There was no clear evidence that significant conservation benefits would accrue. NMFS's proposed application of the measure differently to the recreational and commercial fisheries raised many public objections that could not be overcome with demonstrable stock conservation benefits. NMFS will ask the OT to review this measure, as well as possible minimum sizes for other species, and provide NMFS with its recommendations regarding appropriate measures for implementation;

4. The proposed "fishing year" of July 1 through June 30 was changed to a calendar year (January 1 through December 31) for the large coastal and pelagic species groups. This was based on several considerations: adoption of the Review Committee's recommended rebuilding schedule which is based on calendar year; a revised NMFS stock assessment with all estimates of fishing mortality, stock abundance, and yield based on a calendar year; and a determination by NMFS that a calendar fishing year with semi-annual quotas will ensure equitable access to available harvests for all coastal areas while still being consistent with the Review Committee's stock rebuilding schedule. Also, NMFS believes that the retention of the proposed fishing year of July 1 through June 30 (with full fishing year commercial quotas) could (1) encourage rapid expansion of a new shark fishery in the previously unfished area off the northeastern states, and, as such, be potentially destructive to already overfished shark resources, and (2) damage the historic fishery off the southern states by allowing the new northern fishery to take an unfair share of the annual quota.

Each annual quota will be divided into two equal, semi-annual quotas that will apply to the two fishing periods—January 1 through June 30 and July 1 through December 31. A given semi-annual quota may be adjusted by the Assistant Administrator to reflect actual catches during the preceding semiannual period. Quota overruns or underages at the end of a semiannual period may be compensated for by adjustments in the quota for the following semiannual period. Such semiannual quota adjustments are intended to maintain actual annual commercial landings as close as possible to the applicable annual quota and to meet the conservation objectives of the FMP (e.g., stock rebuilding);

5. The provision intended to prohibit finning was changed from the proposed requirement to land no more than 5 fins per carcass to a final requirement that limits the ratio of the weights of wet fins to carcasses (dressed weight) to 5 percent or less. This measure was changed based on industry requests for a weight ratio as a more flexible and enforceable measure. A weight ratio was

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also adopted since it would prevent mixing large fins from big sharks with small shark carcasses (a potential loophole that could allow finning). The weight ratio is based on information on weights of fins and carcasses under commercial fishery conditions; the information was obtained by NMFS through experimental fishing activities. The change in the FMP's finning prohibition measure, from a ratio of numbers (5 fins per carcass) to a ratio of weights (total wet fins to total dressed weight of carcasses), requires that the fins be weighed (in conjunction with carcasses) and sold (traded or bartered) at the point of first landing. Fins may not be stored aboard a vessel after associated carcasses are sold. The proposed rule allowed vessels to retain fins aboard a vessel for up to 31 days after the date of a fishery closure in order to allow drying of fins. The revised finning prohibition measure will not allow this practice and the regulatory text of sections 678.24(a) and (b) has been changed to prohibit retention of fins aboard a vessel after the effective date of a fishery closure. This change is necessary to require that fins must be landed and weighed in conjunction with the associated carcasses at point of first landing; this requirement is necessary to ensure enforcement of the finning prohibition measures;

6. A definition of "weighout slip" has been added to section 678.2 of the regulations to clarify what this document is and when and how it is provided to the owner or operator of a permitted vessel by the party weighing the landed carcasses and fins. This clarification is necessary to ensure that the weighout slips submitted to NMFS by the owner or operator of a permitted vessel record the weights of shark carcasses, fins, and other parts at the vessel's point of first landing;

7. The proposed regulations would have required the owner or operator of a vessel who applies for a Federal permit to agree, as a permit condition, that the vessel's shark fishing, catch, and gear are subject to the requirements of the Federal regulations regardless of whether the fishing occurs in the EEZ, landward of the EEZ, or outside the EEZ and regardless of where the shark catch or gear are possessed, taken, or landed. Comments received from the Florida Marine Fisheries Commission and the North Carolina Department of Environment, Health, and Natural Resources (Division of Marine Fisheries) alleged significant conflicts between State regulations and the Federal regulations as proposed. Particular concerns were expressed that the permit condition regarding the scope of application of the Federal regulations conflicts with, and could potentially undermine, certain State regulations regarding recreational and commercial bag limits, season opening and closing dates, and prohibitions on finning.

NMFS reviewed the provisions of the FMP and regulations, and has made a change in section 678.4(a)(4) regarding the permit condition wherein the recipient of a Federal permit is to agree that the vessel's fishing, catch, and gear will be subject to Federal shark fishing regulations regardless of where the fishing occurs (e.g., in state, Federal, or international waters). To ensure that the FMP's management measures can be effectively implemented and enforced, as well as to avoid diminishing any state's management authority within its waters, § 678.4(a)(4) has been revised to require that a Federal permit recipient must agree that the vessel's fishing, catch, and gear will be subject to the Federal shark fishing regulations regardless of where the fishing occurs, with the exception that if a permitted vessel fishes only in state waters on a given trip, the vessel's fishing, catch, or gear may be subject to the more restrictive state requirements for that trip. Any state regulations limiting the landing or possession of sharks by commercial fishermen fishing legally in the waters of another state, in the EEZ, or outside the EEZ in a more restrictive manner than Federal requirements would frustrate the intent of the FMP to allow a commercial fishery in the EEZ;

8. In the preamble to the proposed rule, alternative earned income criteria for commercial vessel permits were discussed and comments on them were specifically requested. The discussion of alternatives included: (1) Adding $20,000 in gross sales of fish as an alternative to the 50 percent earned income from fishing requirement to qualify for a vessel permit; and (2) increasing the time frame for having met the required level of earned income/gross sales. These changes would ensure that an owner/operator was not unfairly excluded from renewing a vessel permit based on a poor year. Since the proposed rule was published, an earned income criterion has been developed and applied to nearly all the vessel permit applications processed by the Director, Southeast Region, NMFS. The final criterion, a variation of one discussed in the preamble to the proposed rule, requires that the applicant must have derived during 1 of the 3 years preceding the permit application, at least 50 percent of earned income from commercial, charter, or headboat fishing, or that gross sales of fish must have exceeded $20,000. This criterion is more liberal than that contained in the proposed rule and is contained in the regulatory text of this final rule.

While there was general public support for the commercial fishing income requirement for qualifying applicants for the commercial permit, NMFS received numerous comments objecting to the proposed income criterion as well as to the alternatives discussed in the proposed rule preamble. These objections included: (1) The criterion will eliminate many legitimate, part-time fishermen who need to supplement their overall income; (2) recreational fishermen should be able to sell their shark catch to defray the costs of a fishing trip; and (3) some owners or operators of charter vessels or party boat do not want to be bound by the recreational bag limits for sharks landed even though they understand that they can sell shark catches if they have a Federal commercial permit. As a result of these public comments, and because of NMFS's intention to adopt standardized commercial permit criteria across several fisheries for purposes of administrative efficiency in issuing many Federal permits each year (e.g., same criterion applies in FMP as applies for Gulf of Mexico reef fish and South Atlantic snapper/grouper), NMFS modified the final income criterion. Under the final measure, a vessel owner or operator may qualify in any 1 of the 3 previous years. Although this provision is being issued in final, NMFS is requesting additional public comment on this measure during the comment period on the interim final rule, and is particularly interested in any data showing significant economic harm to commercial fisherman not meeting the income criterion; and

9. Based on the revised stock assessment and an additional 2 years of landings data, there were changes to optimum yield (OY), domestic annual harvest (DAH), and total allowable level of foreign fishing (TALFF). Under the final FMP, the DAH for each of the management groups is equal to the OY, resulting in a TALFF of zero. Accordingly, the OY, DAH, and TALFF for sharks in the Atlantic and Gulf fisheries, as published on February 3, 1987 (52 FR 3249), are revised to read, in metric tons, dressed weight, as follows:

	OY	DAH	TALFF
Large coastal species	3,800	3,800	0

	OY	DAH	TALFF
Small coastal species	2,590	2,590	0
Pelagic species	1,560	1,560	0

10. Under the proposed regulations, as well as under these final regulations, fishermen are given several months after the regulations are promulgated to apply for and receive Federal shark fishing permits. Under the proposed regulations, any fishery closure for the large coastal or pelagic species groups occurring during the permitting period would not apply equally to permitted and unpermitted fishermen. In order that such closures apply equally to all commercial fishermen fishing for management unit species in the EEZ (those with permits and those yet to be permitted), and to ensure that semi-annual commercial quotas may be enforced during this period, regulatory text has been added. A new prohibition at § 678.7(w) and a new section at § 678.28 have been added. These added regulations provide that if a fishery closure occurs prior to July 1, 1993, all vessels, whether permitted or unpermitted, are restricted to a trip limit for the species group fishery that is closed. These added regulations will not result in any unexpected or unassessed regulatory or environmental impacts.

Other Matters

Three sport fishing organizations objected to NMFS basing the allocation of catch of the large coastal and pelagic species groups between the commercial and recreational sectors on historical landings during the years 1986–1991. They argue that NMFS should have used the entire range of recreational and commercial date from 1979 to 1991, which would include landings before the exponential growth in the commercial fishery and before there was overfishing. If this approach was taken, then the allocation would have been about 87 percent recreational and 13 percent commercial for the large coastal species group. Instead, the final FMP uses shares of 84 percent commercial and 16 percent recreational for the large coastal (contrast with 77 percent and 23 percent in the proposed FMP). The allocation for the pelagic species group in the final FMP is 62 percent recreational and 38 percent commercial. Given the divergence of public views on this issue, and a strong division of opinion between the recreational and commercial sectors, NMFS invites further public comment on this issue. NMFS will direct the OT to review all comments received to date as well as additional comments and recommend any necessary or appropriate FMP and regulatory changes for 1994.

Based on NMFS's review of the data base for the Atlantic Ocean shark fisheries, and past experience in collecting fishery information from fishermen, NMFS is considering implementing a mandatory dealer reporting and permitting system for sharks under Federal management. Such a system was proposed in the draft FMP of October 20, 1989, but was not included in the proposed and final FMP because it was not clear that the information gained would justify such a program. Based on the public comments received, and reconsideration of this matter by NMFS' scientists with stock assessment responsibility and by managers now charged with enforcing semi-annual quotas and fishery closures, NMFS may add this measure to the regulations. NMFS is investigating whether mandatory dealer permitting/reporting could be important to cross-checking fishermen-supplied data, ensuring general compliance with mandatory reporting requirements, reconciling landings data in different areas, and more accurately assessing total catches and mortality by species. NMFS invites public comment on this possible measure.

Impacts on Endangered and Threatened Species and Marine Mammals

NMFS initiated a formal section 7 consultation under the Endangered Species Act on the directed and incidental Atlantic shark fisheries to be managed under the FMP. This formal consultation resulted in a Biological Opinion (Opinion) that concluded, among other things, that there would be no jeopardy to any listed species under the Endangered Species Act and that neither the proposed management actions under the FMP, nor shark fishing that would be authorized by the FMP, are likely to jeopardize the continued existence of any listed species. Details of the Opinion and associated findings were included in the proposed rule and are not repeated here.

The Assistant Administrator has determined that this rule will have no adverse impact on marine mammals.

Effective Dates

A significant number of the management measures implemented by this final rule depend, for application and enforcement, on the presence or absence of a vessel permit. To ensure timely implementation of these measures, it is necessary to make the permitting procedural requirements effective as soon as possible. Sections 678.4 (a)(2) and (a)(4), (b) through (g), and (i) through (k) of this rule contain the permitting procedural requirements and § 678.7(a) contains the prohibitions applicable to applications for permits. Because delay in effectiveness of these measures is not in the public interest, the Assistant Administrator finds that good cause exists under section 553(d)(3) of the Administrative Procedure Act (APA) not to delay their implementation. Accordingly, they are effective April 26, 1993.

Other sections of the final rule are procedural or administrative in nature and have no significant or immediate effect on fishermen. Specifically, these include §§ 678.1, 678.2, 678.3, 678.8, 678.9, 678.20, 678.26, and 678.27. Accordingly, the Assistant Administrator finds that good cause exists under section 553(d)(3) of the APA not to delay their implementation. Accordingly, they are effective April 26, 1993.

Certain management measures that depend on the presence or absence of a vessel permit for application and enforcement are not effective until July 1, 1993. Specifically, these include the measures at §§ 678.4 (a)(1), (a)(3), and (h), 678.5 (a) and (b), 678.6, 678.10, 678.22, 678.24, and 678.25 (a) and (b), and their corresponding prohibitions in § 678.7. The delayed effectiveness of these measures and prohibitions will allow sufficient time for owners and operators in the fishery to obtain and submit applications for permits and for NMFS to process and issue permits. The requirement to make sharks available for inspection (§ 678.5(c)), measures regulating "finning" (§§ 678.21 and 678.25(c)), and related prohibitions in § 678.7 are effective May 26, 1993. The varying effective dates of the above measures notwithstanding, the commercial quotas for large coastal species and pelagic species, as specified in § 678.23(b)(1), apply for the semi-annual period that commenced January 1, 1993.

Those management measures establishing commercial quotas and provisions for fishery closures in §§ 678.23 and 678.28 and in the corresponding prohibitions in § 678.7 must be made effective as soon as possible to ensure that the first semi-annual quotas for the large coastal and pelagic species groups are not exceeded. Enforcement of these quotas is imperative to prevent overfishing of shark stocks and to begin the rebuilding of overfished stocks. Because delay in the effectiveness of these measures is not in the public interest, the Assistant Administrator finds that good cause exists under section 553(d)(3) of the APA not to delay their implementation.

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Accordingly, § 678.23 is effective April 26, 1993, and §§ 678.7 (u), (v), and (w) and 678.28 are effective April 26, 1993 through June 30, 1993.

Public Comments on the Proposed FMP and Regulations; Agency Responses

Background

During the comment periods, NMFS received written comments from 1,159 entities. Commenters included: (1) Numerous individuals with a variety of views (e.g., recreational and commercial fishermen, fish dealers or processors, charter vessel and headboat owners, and interested citizens); (2) many groups or organizations representing diverse fishery interests, including commercial and recreational sectors, fish processing or export-import businesses, environmental organizations, animal rights groups, and scientific research entities; (3) state and Federal agencies; and (4) five regional fishery management councils covering the east coast, Gulf of Mexico, and Caribbean areas.

NMFS has evaluated the public comments received and presents the following summary of the public concerns. In terms of number of comments, some 57 times (1,030 commenters) more commenters supported management of Atlantic Ocean sharks than (18 commenters) opposed it, and some four times more (765) commenters supported implementation of the FMP than opposed (175) it. Support for the FMP was from a broad cross section of constituents, including citizens, commercial and recreational fishermen, many coastal state agencies, and the five Councils. Opposition to the FMP came primarily from several commercial fishering associations, the State of North Carolina and certain North Carolina shark fishermen, and individual shark dealers/processors along the Atlantic and Gulf of Mexico coasts.

Summary of the Public Comments—Specific Issues and Concerns and NMFS Responses

Numerous issues and concerns regarding the FMP and proposed regulations were raised by the public comments. These issues and concerns, categorized by FMP objective or management measure, are summarized below with the following agency response.

1. *Objective:* Prevent overfishing of shark resources.

a. *Comment:* We support management of Atlantic Ocean shark resources.

Response: NMFS acknowledges this support.

b. *Comment:* We support implementation of proposed FMP.

Response: NMFS acknowledges this support.

c. *Comment:* We agree with the FMP's assessment of the fishery problem of overfishing.

Response: NMFS acknowledges this agreement and notes that the revised NMFS stock assessment altered somewhat the FMP's conclusions about the condition of large coastal species group. While this species group is still considered overfished, the time required for stock rebuilding to the MSY level should be less than indicated in the proposed FMP. See "Reevaluations of the Shark Resources and Fishery," above.

d. *Comment:* We agree with FMP's conclusion that the large coastal species group is overfished.

Response: See response to comment 1.c. above.

2. *Objective:* Encourage consistent management of shark resources throughout their oceanic ranges.

a. *Comment:* While domestic management of the shark fisheries is a good first step, it is imperative that consistent international management be undertaken. Otherwise, costs to U.S. fishermen from restrictive quotas will not be justified if there are no restraints on foreign harvest from the same resources. Both the economic costs and benefits of conserving oceanic shark resources should be shared by foreign fishermen using the same resources; this must involve bilateral or multilateral agreements among harvesting nations and might involve adding sharks to management under the International Convention for the Conservation of Atlantic Tunas (ICCAT).

Response: NMFS agrees that consistent international management is necessary to maximize the conservation benefits from the management of highly migratory (oceanic) shark species. Other nations have expressed interest in this FMP. As appropriate, NMFS and the United States will encourage other nations to adopt compatible conservation measures for the management of sharks, either independently or through ICCAT.

3. *Objective:* Establish a shark resource and fishery data collection, research, and monitoring program.

a. *Comment:* NMFS should require dealer/processor permits for those who purchase sharks and shark fins along with mandatory dealer/processor reporting. This information is critical to ensure reliable information on total fishing mortality by species required for stock assessments and to provide important economic information needed for economic impact analyses.

Response: NMFS believes that the reporting measures pertaining to fishermen and recreational tournament operators in this rule initially will provide adequate information to monitor and assess the fishery and shark resources, and to enforce quotas and bag limits. However, as discussed under the section "Other Matters," NMFS is considering adding a mandatory dealer permitting and reporting system that could significantly improve the reliability of fishery data on annual catches by species as well as total catches. Also, NMFS will direct the OT to review the benefits from this additional reporting system.

4. *Objective:* Increase the benefits from shark resources to the United States while reducing waste, consistent with the other management objectives.

a. *Comment:* Numerous commenters agreed with the FMP's assessment of the problems with finning.

Response: NMFS acknowledges this agreement.

5. *Measure:* Fishery management unit consisting of 39 species grouped by small coastal, large coastal, and pelagic species groups.

a. *Comment:* There were numerous objections to the grouping of 39 species into the proposed three resource categories; there were many suggestions for different groupings or different assignments of a given species to a different group. For example, it was recommended that bignose and silky sharks be moved from the large coastal species group to the small coastal species group. It is noted that the latter group does not have restrictive commercial quotas.

Response: NMFS acknowledges the suggestions for different species groupings but has decided to make no changes at this time. The three resource categories are not intended to represent ecologically distinct groups of species. Rather, the species groups are based on what species are caught predominately in which fisheries. Since a given species may occur in several fisheries (e.g., in both inshore and offshore fisheries), it could have been assigned to several species groups (e.g., to both large coastal and pelagic species groups). However, for management and assessment purposes, a given species is listed under only one species group. The OT will review the three species groups and the assignment of individual species, and may recommend changes. Such changes, if approved by NMFS, could be implemented through the framework regulatory adjustment procedure.

b. *Comment:* It will be difficult for many fishermen to distinguish species and, accordingly, to know what quotas or bag limits apply.

Response: NMFS will encourage fishermen to identify sharks. Field guides for identifying sharks are available in local stores. As appropriate, NMFS will supply information to interested fishermen.

c. *Comment:* The placement of the whale shark, basking sharks, and other similar species in the large coastal species group (which has a commercial quota) will not provide necessary protection for these species. NMFS should undertake an aggressive rebuilding program for the populations of these species.

Response: NMFS believes that the measures in this rule provide adequate protection. However, if new information indicates that these species need additional protection, the OT may consider recommending changes. NMFS is interested in reviewing any specific data bearing on the condition of these species.

d. *Comment:* Management units should be revised by establishing specific commercial quotas on individual shark species. NMFS should modify the large coastal and pelagic species groups to reflect what fishermen catch, and the different abundances in species.

Response: NMFS does not agree that sufficient information is available on the biology of individual shark species that would allow management through individual species commercial quotas. The OT may consider this management approach when the necessary information becomes available.

6. *Measure:* Fishing year from July 1 through June 30.

a. *Comment:* Some commenters supported the proposed fishing year of July 1 through June 30; others objected to it (see item 6.b.).

Response: NMFS acknowledges this support. However, the proposed fishing year was changed to a calendar year. This was based on several considerations: Adoption of the Review Committee's recommended rebuilding schedule which is based on calendar year; a revised NMFS stock assessment with all estimates of fishing mortality, stock abundance, and yield based on a calendar year; and a determination by NMFS that a calendar fishing year with semi-annual quotas will ensure equal access to available harvests for all coastal areas while still being consistent with the Review Committee's stock rebuilding schedule. Also, NMFS believes that the retention of the proposed fishing year of July 1 through June 30 (with full fishing year commercial quotas) could (1) encourage rapid expansion of a new shark fishery in the previously unfished area off the northeastern states, and, as such, be potentially destructive to already overfished shark resources, and (2) damage the historic fishery off the southern states by allowing the new northern fishery to take an unfair share of the annual quota.

For the above reasons, NMFS decided to establish calendar year commercial quotas for the large coastal and pelagic groups during the first several years of FMP implementation (1993 and 1994). Each calendar year quota is divided into halves, each half applying respectively to the fishing periods of January 1 through June 30 and July 1 through December 31. This approach to applying the commercial quotas should spread the fisheries in both southern and northern areas reasonably even throughout the year. Also, this approach should not eliminate the historic peak months of the established southern fisheries in the Gulf of Mexico and South Atlantic while still ensuring an open season and an unfished quota for the peak fishing months for the Northeast and Mid-Atlantic fisheries.

b. *Comment:* There were objections to the proposed fishing year based on alleged geographic discrimination regarding access to available commercial quotas. Alternative fishing years suggested including January 1 through December 31, November 1 through October 31, and April 1 through March 31.

Response: See response above to comment 6.a.

c. *Comment:* NMFS should start the fishing year on April 1 or September 1 to allow fishermen off North Carolina to harvest large coastal species during the two peak fishing periods of March–June and October–December. A July 1 start date would allow fishermen more to the south an unfair advantage in harvesting available quotas.

Response: NMFS was aware of North Carolina's concerns throughout the development of the FMP and has tried to ensure that the measures do not discriminate against the residents of any particular state(s). NMFS believes that the costs as well as benefits of the final FMP are distributed equally across all states and that no state bears an unfair burden of the conservation measures (reduced landings, fishery closures, etc.). In establishing season dates and commercial quotas in both the proposed and final FMPs, NMFS's objective is to provide equitable access to the allowable fishery harvest for all coastal states without adopting a more complicated system for geographic allocations. NMFS believes that the final FMP measures meet this objective.

NMFS adopted a calendar year (CY) for the fishing year based on the following considerations: (1) Data are collected on CY basis; (2) biological model used to assess the resource is based on data collected on a CY; (3) biological conclusions and the rebuilding schedule are based on CY data; (4) NMFS scientists indicate that the Review Committee's rebuilding schedule cannot be easily changed from a CY basis to a different basis; and (5) retaining the proposed fishing year beginning July 1 may, based on new information, encourage development of a new shark fishery in the northeast—this new fishery would be exploiting an overfished resource in a new area and could adversely affect the data base used by NMFS for assessing the condition of the large coastal species group.

NMFS decided on a split fishing year and semi-annual quotas (January–June and July–December) based on the following considerations: (1) The shark fishery occurs primarily in waters off the coastal states bordering the Gulf of Mexico and the Atlantic Ocean south of Virginia. The split fishing year and the semi-annual quotas should prevent the residents of those states from taking most of the annual quota; (2) the July–December season should enable the coastal states north of Virginia to obtain a fair share of the resource while yet retarding the development of new fisheries on the overfished large coastal species resource within this area; and (3) NMFS' review of the landings data in 1991, the latest year with reliable statistics, shows that while North Carolina has spring and fall season peaks for its fishery, so do other regions, particularly the Gulf of Mexico. While the semi-annual quotas, split season dates, and possible fishery closures may reduce North Caroline landings, it is not clear that North Carolina fishermen will suffer impacts greater than fishermen from any of the other states. NMFS concludes, at this time, that the split seasons and associated semi-annual quotas will serve to ensure that each coastal region receives a fair share of the available resource. In summation, NMFS believes that the calendar fishing year and the associated semi-annual commercial fishing quotas will provide equitable access to available quotas for all coastal fishermen.

7. *Measure:* Annual commercial fishing quotas.

a. *Comment:* The proposed estimates of MSY are too low and the commercial quotas, particularly the quota for the

large coastal species group, are

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large coastal species group, are unreasonably low and are not justified based on conservation grounds.

Response: The estimates of MSY, as well as the commercial quotas, were changed in the final FMP based on NMFS revised stock assessment and on the Review Committee Report. See "Reevaluations of the Shark Resources and Fishery" above.

b. *Comment:* Commercial fishing for sharks should be eliminated by Federal regulations.

Response: NMFS does not agree. One of the objectives of any FMP, as mandated by the Magnuson Act, is to obtain the optimum yield from the fishery. Optimum yield refers to a harvest of fish that will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities. All sectors of the commercial and recreational fishing interests are treated equally, sharing the shark resources landings based upon historical shares and fishing practices.

c. *Comment:* The FMP is a pro-commercial fishery management plan, favoring commercial fishing over recreational fishing and over conserving the shark resources.

Response: NMFS does not agree. See response to comment 7.b., above. Commercial quotas and recreational bag limits were adjusted so that both sectors' landings would be reduced annually over their recent historical average annual levels by about the same percentage (29 percent), and so that they would retain their relative recent historical shares (84 percent for commercial and 16 percent for recreational). The average annual commercial and recreational landings for the period 1986 through 1991 were used to determine recent historical levels and shares.

d. *Comment:* The fishery for the large coastal species should be closed immediately upon FMP implementation to protect this overfished species group.

Response: NMFS does not agree. See "Reevaluations of the Shark Resource and Fishery" above. The best available scientific information indicates that the large coastal species group is overfished, but that it can support commercial harvests while rebuilding to the MSY level by 1995.

e. *Comment:* The fishery for the large coastal species should not be closed immediately upon FMP implementation because these species are not overfished and such closure would be too disruptive for the fresh shark meat market.

Response: The subject fishery will not be closed immediately upon FMP implementation assuming that this FMP is implemented in early 1993. NMFS is establishing a restrictive annual commercial quota and bag limits that will prevent further overfishing and that should allow rebuilding the large coastal species group to the MSY level by 1995.

f. *Comment:* NMFS should review the quota for the pelagic species in view of the FMP's acknowledged problems with the data base. The quota for this species group is based directly on recent reported landing information that may not accurately reflect actual landings.

Response: NMFS quota for the pelagic species group was reviewed and changed based upon the latest available scientific information. These changes included adjustments for previous errors in landings statistics. See "Reevaluations of the Shark Resources and Fishery" above.

g. *Comment:* Separate quotas should be established for each of the three species groups for vessels in (1) the directed commercial shark fishery, (2) the incidental catch fishery, and (3) the charter/headboat fishery to ensure equitable allocation of available catches based on historical participation by these different user groups.

Response: NMFS does not believe sufficient, reliable fishery information currently exists to establish separate quotas for these fishery elements. The OT and NMFS will consider this proposal in the future when more data are available.

8. *Measure:* Recreational fishery bag limits.

a. *Comment:* NMFS should establish one bag limit for all recreational vessels (private and charter vessel/headboat alike) and for all species. For example, the bag limit could be two sharks per vessel per trip, irrespective of the type of vessel or species of shark. This approach would be easier to enforce and would not require fishermen to identify species and determine which bag limit applies.

Response: NMFS may consider this suggestion in the future when more data are available. The present recreational bag limits were determined based on the condition of the several species groups, achieving approximately equal landing reductions in both recreational and commercial fisheries, and general support from the fishing community. Also, it was assumed that recreational anglers know, or will be able to learn, how to differentiate between a small coastal species and the large coastal or pelagic species.

b. *Comment:* FMP is pro-recreational, favoring recreational fishing over legitimate commercial interests.

Response: NMFS does not agree. See response to comment 7.b., above.

c. *Comment:* The FMS should contain a specific recreational fishery quota for each of the three species groups just as is applied to the commercial fisheries.

Response: NMFS does not agree. Use of bag limits will control the fishery and prevent overfishing of the resource. As part of the standard procedure, the OT will review the effectiveness of the bag limits for controlling the recreational catch before recommending use of a quota.

d. *Comment:* The FMP should establish a recreational bag limit for mako sharks of two per trip for swordfish and tuna longline vessels to reduce incidental fishing mortality on this valuable and heavily exploited resource.

Response: The best available scientific information does not support this type of bag limit.

e. *Comment:* Commenters indicated general support for bag limits, but a number of alternatives were proposed. These included: (1) One shark per vessel per trip; (2) two sharks per vessel per day with exception for Atlantic sharpnose (5 per angler per day); (3) one shark from the large coastal species group per vessel per trip during April through June spawning season; (4) revised bag limits for headboats allowing anglers to catch and retain more large coastal or pelagic species; and (5) two sharks per vessel per trip for private recreational or charter vessels.

Response: NMFS and the OT may consider these alternative measures after more data are gathered. If the OT recommends any of these alternatives, NMFS could implement them through the framework regulatory adjustment procedure. This procedure provides an opportunity for public review and comment on proposed measures before they are implemented.

9. *Measure:* Prohibition on finning (proposed as five fins per carcass landed).

a. *Comment:* The FMP's anti-finning measure should be based on a ratio by weight of total fins to total carcasses landed because it would either allow landing more than 5 fins per carcass or be easier to measure (ratio of two total weight measurements) while still preventing finning. Several specific percentages were suggested including the 10 percent weight ratio used by Virginia and North Carolina (currently 7 percent) and the 6 percent ratio recommended by several dealers/processors. Some commenters objected to the proposed measure (5 fins per carcass landed) alleging that it would not adequately prevent finning since it would allow mixing large fins and small carcasses.

Response: NMFS has changed the finning measure to require that the total weight of wet fins not exceed 5 percent of the total weight of dressed carcasses at point of first landing. NMFS determined that the 5 percent by weight is appropriate and is supportable based on samples of sharks dressed at sea under commercial fishing conditions. NMFS believes that the fins-to-carcasses weight ratio will be easier to enforce and will better prevent finning. Also, see discussion under "changes from the Proposed Rule."

b. *Comment:* There was universal and strong support from the non-commercial fishing sectors for a prohibition on finning.

Response: NMFS believes that finning is wasteful of valuable shark resources and poses a threat to attaining the conservation objectives of fishery management under the Magnuson Act. The FMP should minimize the waste of shark resources while still allowing fishermen to sell fins from legally landed sharks.

c. *Comment:* Some commercial fishermen and fishermen's organizations and some dealers/processors opposed a finning prohibition, indicating an important need to land fins taken from dead sharks and from certain species with limited markets for the meat (e.g., hammerhead sharks).

Response: NMFS does not agree that finning should be allowed for dead sharks or for species with limited markets for the meat. Allowing this would create a loophole, making enforcement of the general finning prohibition very difficult.

10. *Measure:* Release sharks not retained by commercial fishermen under the quotas or by recreational fishermen under the caught bag limits in manner maximizing survival chances.

a. *Comment:* If a shark will not be landed by a commercial fisherman or consumed by a recreational angler, the fisherman should tag and release the shark without additional injury.

Response: NMFS agrees that sharks caught and not retained should be released in a manner that will ensure maximum probability of survival, but does not agree that all such released sharks must be tagged. A mandatory tag and release program would be expensive and difficult to enforce. NMFS will encourage a voluntary tagging program for both commercial and recreational fisheries.

11. *Measure:* Mako minimum size limit (66 inches).

a. *Comment:* Commenters from a wide cross section of constituent interests expressed general support for the mako minimum size measure, but some objected to the different application in the commercial and recreational fisheries.

Response: NMFS reevaluated this measure based on the public comment and on available biological data. The proposed minimum size limit is less than the smallest size at which shortfin mako become reproductively mature. Additionally, information for determining size at maturity does not exist for longfin mako sharks. Adequate scientific information is unavailable to assess the condition of mako stocks or to predict the stock conservation results of the proposed minimum size limit. Therefore, NMFS is reserving this measure until sufficient information is available to support this or other size limit measures.

b. *Comment:* The size limit measure was criticized for being unenforceable and having no legitimate biological basis.

Response: NMFS acknowledges these objections and decided, in part because of them, to reserve the mako size limit at this time.

c. *Comment:* There was general opposition to the proposed provision of the mako minimum size measure that allowed permitted commercial fishermen to retain and land dead, undersized makos, while recreational fishermen were prohibited from retaining dead, undersized makos. Arguments were made that all small mako sharks on the line would be considered dead and be retained; therefore, the conservation benefits would be lost. Arguments were made that the rationale of preventing waste (allowing small, dead sharks to be retained) is at the cost of favoritism for commercial fishermen. One state commented that the exception for commercial fishermen is inconsistent with the conservation objectives of its approved coastal zone management plan.

Response: NMFS acknowledges these criticisms of this measure, and has decided to reserve the mako minimum size limit at this time for lack of adequate supporting scientific information.

12. *Measure:* No sale of recreational catch; exception for permitted charter vessels and headboats allowing sale of their catch within applicable bag limits.

a. *Comment:* Many commenters objected to prohibiting the sale of recreational caught fish.

Response: The FMP clearly differentiates between recreational and commercial fishermen. Allowing recreational fishermen to sell their catch would undermine the commercial allocation and enforcement of the commercial quotas. It could also limit the achievement of the conservation objectives of the FMP, including preventing overfishing and rebuilding the overfished large coastal species group stock. Owners or operators of permitted charter vessels and headboats are allowed to sell their shark catch, subject to the cumulative bag limits applicable to the vessel, as long as the relevant commercial quotas are unfilled. Catches sold by these permitted vessels will be counted against the relevant commercial quotas. See also the response to 13.a.

13. *Measure:* Mandatory commercial fishing permits.

a. *Comment:* Commercial permits should be available to anyone if the applicant pays a flat fee; there should be no criteria limiting such commercial permits to those meeting some percentage of previously earned income from commercial fishing. The flat fee permit would allow the individual to fish commercially and sell his/her catch.

Response: NMFS does not agree. The life history of shark resources makes these fish particularly vulnerable to overfishing. The best available information indicates that certain Atlantic shark species are overfished. Accordingly, restrictive commercial quotas are required. The earned income requirement for a permit will exclude recreational and part-time commercial fishermen from participating in the commercial shark fishery and thereby lessen the impact of the restrictive commercial quotas on those who rely on fishing for their primary income.

b. *Comment:* There was wide support from diverse fishery interests for the FMP's proposed requirement that the sale of sharks be limited to commercial fishermen holding a Federal fishing permit. Some fishery interests opposed limiting the sale of sharks to those holding commercial permits and wanted to allow recreational fishermen to sell their catch, particularly to defray the costs of a fishing trip.

Response: No new information was provided to NMFS that would justify allowing the sale of recreational catches (other than by permitted charter vessels and headboats). See response to comment 13.a.

c. *Comment:* Commenters suggested different income criteria be used to qualify for a commercial permit such as the Gulf of Mexico Fishery Management Council's proposal that would allow qualifying on any 1 of 2 previous year's fishing income.

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Response: NMFS agrees that different income criteria should be used and has adopted revised criteria. See the discussion of alternative criteria for a vessel permit under "Changes from the Proposed Rule."

d. *Comment:* Commenters suggested different criteria be used to qualify for a commercial permit such as no qualifying income level or at least a level well below the proposed 50 percent level. These commenters alleged that the proposed criteria discriminate unreasonably against many legitimate part-time or seasonal shark fishermen (e.g., those earning something below 25 percent of their income from fishing).

Response: NMFS does not agree. See response to comment 13.a. above.

e. *Comment:* The FMP should contain a multi-tiered permit system providing separate permits (and separate harvesting quotas) for vessels in the directed commercial shark fishery, the incidental commercial fishery, and in the charter/headboat fishery. Separate permits and quotas would reduce user conflicts, simplify business planning, and ensure equitable allocation of available catches to these different groups.

Response: NMFS and the OT may consider this measure for future implementation.

f. *Comment:* The permit condition that the recipient agrees to abide by Federal measures regardless of where a vessel fishes for or catches sharks (inside or outside EEZ) preempts the states' authority to manage resources and fishermen in their waters.

Response: NMFS reviewed the provisions of the FMP and regulations, and has made a change in section 678.4(a)(4) regarding the permit condition wherein the recipient of a Federal permit must agree that the vessel's fishing, catch, and gear are subject to Federal shark fishing regulations regardless of where the fishing occurs (e.g., in state, Federal, or international waters). To ensure that the FMP's management measures can be effectively implemented and enforced as well as to avoid diminishing any state's management authority within its waters, § 678.4(a)(4) has been revised to require as a permit condition that the recipient agree that the vessel's fishing, catch, and gear are subject to the Federal shark fishing regulations regardless of where the fishing occurs, with the exception that if a permitted vessel fishes only in state waters on a given trip, the vessel's fishing, catch, or gear may be subject to the more restrictive state requirements for that trip. Any state regulations limiting the landing or possession of sharks by commercial fishermen fishing legally in the waters of another state, in the EEZ, or outside the EEZ in a more restrictive manner than Federal requirements would frustrate the intent of the FMP to allow a commercial fishery in the EEZ. Permitted fishermen who fish for sharks in state waters during a closure of the shark fishery in the EEZ would violate a condition of the permit, not state law. Neither the final FMP nor the Federal fishing permit conditions established by this final rule, preempt state management authority of shark resources or fishing by state residents solely in state waters. The subject Federal permit condition is considered by NMFS to be essential for effective implementation of the FMP, including enforcement of any fishery closure in the EEZ. State residents who are unwilling to accept the Federal permit condition may still fish for sharks solely in state waters subject to state regulations.

14. *Measure:* Commercial vessel owner and operator reporting requirements.

a. *Comment:* Much better catch and effort data are needed for the commercial fishery; particular emphasis should be given to fishing mortality by species by gear type. Also, attention should be given to improving the ability of pelagic longline fishermen targeting swordfish or tuna as well as bottom longline fishermen to identify shark species caught incidentally or directly as appropriate.

Response: NMFS agrees that effective management of the shark fishery requires the receipt of timely catch and effort data from participants in the fishery. NMFS considers these reports to be of such importance to effective management that an applicant's submission of all required reports is necessary for renewal of a permit. An applicant for renewal of a permit who is deficient in a required report will be given an opportunity to correct the deficiency.

15. *Measure:* Tournament reporting requirements.

a. *Comment:* Much better data on numbers and weights by species landed are needed in the recreational fisheries.

Response: NMFS agrees and will obtain catch and effort information from selected shark fishing tournaments.

b. *Comment:* Much better catch and effort data are needed for the recreational fishery (from private, tournament, charter vessel, and headboat fishermen). Particular emphasis should be given to catch and effort data by species by areas. Also, education is required to improve anglers' ability to differentiate between various species.

Response: NMFS agrees and has recently improved the quality of its recreational fisheries statistics program through increases in survey sample sizes; greater statistical confidence in survey results is expected. NMFS will continue to develop better sampling methodologies to improve the quality of the data collected.

16. *Measure:* No foreign fishing in EEZ (zero total allowable level of foreign fishing (TALFF)).

a. *Comment:* Commenters expressed strong support for prohibiting foreign shark fishing in U.S. waters.

Response: Since there is no surplus allowable catch over what domestic fishermen are able to harvest, the TALFF in the EEZ is zero.

17. *Measure:* Vessel observers required at the direction of NMFS Science and Research Director.

a. *Comment:* NMFS should pay for the costs of mandatory observers on fishing vessels that catch sharks either in a directed or incidental fishery.

Response: Under current agency policy, NMFS pays for salary and benefits for Federal Government employees. Vessel owners and operators must provide accommodations and food.

b. *Comment:* NMFS should resolve the issue of who is liable for injuries to observers while on duty.

Response: The vessel owner or operator is liable and should be insured accordingly.

18. *Measure:* Framework regulatory adjustment procedure.

Comment: None received except those bearing on the authority of the Assistant Administrator to make management adjustments (see item 19 below).

19. *Measure:* The OT and FMP monitoring and changes.

a. *Comment:* The Assistant Administrator for Fisheries has too much authority under the FMP to accept or reject the OT's recommendations and to make management adjustments (regulatory actions) independent of the OT.

Response: NMFS disagrees. Management actions of the Assistant Administrator are subject to the terms of the FMP and its implementing regulations and to the requirements of the Magnuson Act, E.O. 12291, and all other applicable Federal administrative and legal requirements. The Assistant Administrator does not have the authority to make regulatory changes without following such requirements. In addition, the framework regulatory adjustment procedure provides for notice and comment, which will provide an opportunity for public participation.

b. *Comment:* The scope of the OT's recommendations should be limited to measures in the current FMP and not additional measures (e.g., trip limits, size limits for other species) that should be incorporated only by FMP amendment process and not through a framework regulatory adjustment mechanism.

Response: NMFS does not agree. The OT, composed of representatives of NMFS, the five Councils (including Council members, staff, and advisory panel or scientific committee members), and the ICCAT Advisory Committee, is the primary group with responsibility to recommend regulatory improvements. The regulatory process for implementing the recommendations differs according to the significance of the type of change. Complex and contentious changes to the management regime will request FMP amendments while less complex changes will be made by the framework regulatory adjustment process outlined in the FMP.

c. *Comment:* The OT should include members from industry, environmental groups, or other constituent interests who are not already affiliated with the Regional Fishery Management Councils.

Response: While NMFS seeks information and recommendations from all those knowledgeable of and experienced with the Atlantic shark fisheries, NMFS is restricted by Federal law in its use of non-Federal or outside advisors. In part to avoid statutory limitations at this time, NMFS is establishing an OT that will utilize knowledgeable and experienced Council members, staff, and advisory panel or scientific and statistical committee members as members. Also, NMFS will include an ICCAT Advisory Committee member on the OT. NMFS will ensure that either the OT or NMFS consult with appropriate representatives of all major fishery interests including recreational and commercial fishermen, fish dealers and processors, scientific experts, and the environmental or natural resources conservation community. In amending the FMP, NMFS will follow the procedures set forth in its published final process for the management of Atlantic highly migratory species.

20. Supporting environmental impact statement (EIS) and regulatory impact review (RIR).

a. *Comment:* The EIS requires additional information regarding the fishery data collection process and need for baseline catch data, potential impacts of foreign fleets, shark finning, and exploitation of small coastal species. This information is required to explain adequately why certain adverse environmental impacts could not be avoided or reduced. The FMP does not assess a wide enough range of alternatives, including prohibiting commercial shark fishing.

Response: In developing an initial shark management program, NMFS considered and rejected numerous alternatives for addressing identified problems with the fishery and shark resources. These alternative measures are discussed in the FMP, EIS, and RIR. Prohibiting commercial fishing was not considered to be a reasonable or appropriate management alternative, considering historical fishing practices and the overall condition of the shark resources. The OT could review this alternative at a future date, if there is new information. In time, through international agreements and associated data collection programs, NMFS may be able to determine the impact of different nations' fishing activities on the shark resources that move across international boundaries.

b. *Comment:* The regulatory impact review (RIR) is deficient because it: (1) Is based on erroneous information about the true volume and velue of recent shark landings; (2) underestimates the magnitude of adverse economic impacts on fishermen and dealers/processors by the restrictive quotas and probable fishery closures, particularly over the long term; and (3) does not adequately evaluate regional impacts of initial closures and market disruptions.

Response: The proposed FMP (dated October 28, 1991) was based on the best available scientific information at the time of its preparation. The final FMP was prepared based on a revised stock assessment that reflects the best available information at the close of 1992. See the section titled "Reevaluations of the Shark Resources and Fishery." Consistent with the above changes, the RIR was modified to include the new fishery information.

21. Habitat.

a. *Comment:* NMFS should review all available habitat information and determine if specific actions should be undertaken to protect and/or enhance shark habitat. The section on habitat should reflect such considerations.

Response: As part of FMP development, NMFS included what it believed to be all relevant information on shark habitat including a discussion of certain possible habitat protection/enhancement measures, such as closing nursery areas to fishing. NMFS is not aware of any information that would lead to specific actions to protect and/or enhance shark habitat not already discussed in the FMP. NMFS will assess new habitat information as it becomes available.

22. FMP consistency with state coastal zone management plans.

a. *Comment:* New Jersey stated that the FMP was not consistent with its coastal zone management plan because of the proposed different application of the mako minimum size measure to the recreational and commercial fishery sectors conflicted with its plan.

Response: This issue is resolved since NMFS is not implementing the mako minimum size limit at this time.

b. *Comment:* Ten coastal states concluded that the proposed FMP measures were consistent with their respective coastal zone management plans.

Response: NMFS acknowledges the responses from these states.

23. Other.

a. *Comment:* Approval and implementation of the FMP conflicts with the Presidential Moratorium on New Regulations.

Response: NMFS does not agree. First, the Presidential Moratorium ended with the recent change in Administrations. Second, approval and implementation of the FMP would not have conflicted with the previous moratorium because the FMP will prevent overfishing and maintain the shark stocks at MSY levels. These management results should ensure continuation of viable recreational and commercial fisheries, create additional employment over the long term, and thus promote economic growth. Regulations promoting economic growth were exempt from the moratorium.

b. *Comment:* NMFS should delay implementation of the FMP until implementation of the agency's proposed public process for preparing and amending fishery management plans for Atlantic highly migratory species, as defined in the 1990 Fishery Conservation Amendments.

Response: NMFS does not agree. The FMP was developed with substantial public participation and as such is consistent with the principles for preparing fishery management plans for Atlantic highly migratory species as set forth in the agency's proposed process.

c. *Comment:* NMFS should develop and implement a fishery management plan for Pacific ocean sharks.

Response: NMFS has reviewed these comments and forwarded them to the three west coast fishery management Councils for their consideration. These Councils have responsibility under the Magnuson Act for preparing management plans for Pacific sharks.

d. *Comment:* The finning prohibition poses vessel safety problems because it requires that heavy carcasses be carried on board, which make vessels less

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seaworthy. Finning should be allowed to prevent these safety problems.

Response: NMFS does not agree. There are strong rationales to prohibit finning. It is up to each Master to ensure safe operation of his vessel while fishing within the law.

e. *Comment:* NMFS should adopt and implement an FMP with measures similar to those applied by North Carolina and Virginia including trip limits, year round fisheries with no closures, fins-to-carcass weight ratio of 10 percent with a 10-percent tolerance applied, etc.

Response: NMFS does not agree. The proposed Federal regulations are generally more conservative than those implemented by the above states. Therefore, overfishing is more likely to be prevented. NMFS will work with the states toward conforming regulations.

f. *Comment:* FMP should contain trip limits that would prevent fishery closures and dampen market fluctuations in supply.

Response: NMFS considered and rejected this type of measure for the initial shark management program as not supportable based on available fishery information and too difficult to enforce at this time. The OT may consider this measure for implementation at a later date.

g. *Comment:* FMP should contain specific provisions for a spawning season closure to protect pregnant females and pups from fishing mortality.

Response: The OT may consider this measure for implementation at a later date when more data are available.

h. *Comment:* FMP should consider a management alternative that would close all fisheries (recreational and commercial) that kill sharks.

Response: NMFS does not agree. This alternative was considered and rejected. Available scientific information does not support this alternative.

i. *Comment:* FMP should establish a control date to be used later as a basis for determining historical fishery participation if a limited entry or other limited access system is to be implemented.

Response: NMFS will consider establishing a control date.

j. *Comment:* FMP should be amended to establish an ITQ system.

Response: The OT may consider this measure for implementation at a later date. Amending the FMP at this point to establish any ITQ system would cause long delays. FMP implementation and significant conservation benefits, including rebuilding overfished resources, would be delayed or lost.

k. *Comment:* Species other than mako should be managed through use of minimum size limit.

Response: The OT may consider this measure for implementation at a later date.

l. *Comment:* NMFS should consider issuing commercial and recreational permits by lottery.

Response: NMFS does not agree. The Magnuson Act does not allow this as a sole means of allocating permits.

m. *Comment:* NMFS should consider limiting entrants by increased user fees.

Response: NMFS does not agree. The Magnuson Act limits fees to the administrative costs.

Classification

The Secretary of Commerce determined that the FMP is necessary for the conservation and management of sharks in the Atlantic Ocean and that it is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law.

The Assistant Administrator has determined that this final rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291.

The Assistant Administrator prepared a Regulatory Impact Review (RIR) that concludes this rule will have the following economic effects.

Establishment of the first fishing year commencing on January 1, 1993, and imposition of semi-annual commercial quotas, should result in economic losses to the fishery of about $1.3 million for 1993. Despite these expected losses, the commercial quotas should help to rebuild the large coastal species group to the MSY level by 1995, with the result of long-term economic gains over what would occur without the management program. The annual commercial quota for the large coastal species group should increase by 5 percent annually as the rebuilding process continues to 1995, and should reach 3,192 mt (84 percent of the MSY level of 3,800 mt) at that point. By year 2000, the annual landings without a rebuilding program are projected to be lower than the landings under management. By year 2002, the cumulative discounted value of the landings under regulation is projected to exceed the value without regulation by about $1.9 million. The recreational bag limits are expected to reduce annual recreational landings by 29 percent over the 1986–1991 average. These reduced landings will provide for the conservation of all three resource groups; particularly, they should help rebuild the overfished large coastal species group and prevent overfishing of the fully utilized small coastal and pelagic species groups. These conservation results will provide long-term, net positive economic benefits from sustained optimum yields from the fishery.

The requirement that sharks not retained by fishermen be released with a minimum of harm should have net positive economic benefits, but these are difficult to quantify. The framework regulatory adjustment procedure for changing specified management measures should have indirect but positive economic effects through minimizing the waste of fishery resources, improving estimates of MSY and acceptable levels of fishing mortality, and establishing annual quotas most consistent with stock conservation. Prohibition of finning will have both positive and negative economic effects over the short term; over the long term, this measure should result in significant net positive economic benefits to society through resource conservation. Prohibition of sale of recreationally caught sharks will have a small, negative economic impact on recreational fishermen and a small, positive economic impact on commercial fishermen.

The requirement for a vessel permit for the commercial fishery will increase slightly the cost of doing business for commercial fishermen, but is necessary to ensure effective implementation and enforcement of the FMP. The criterion for a Federal permit is expected to prevent part-time commercial and recreational fishermen from selling their catches and will have a negative impact on their incomes. Commercial fishermen who qualify for a permit could see positive economic results over the long term.

The increased costs to commercial fishermen and recreational tournament operators associated with the mandatory reporting requirements are expected to be less than the increased annual economic value of the shark fishery that will result from obtaining additional data needed for improved management decisions. The additional costs to commercial fishermen of having to accommodate a NMFS-approved observer should be balanced, in part, by the benefits to society of additional information on the biological condition of shark resources, the operation of the fishery, and the fishery effects on marine mammals and endangered species. The aggregate net economic benefit of the FMP measures and implementing regulations is expected to be strongly positive.

NMFS prepared a regulatory flexibility analysis as part of the RIR, which concludes that this rule will have significant effects on small entities as specified under the Regulatory Flexibility Act. Those small entities directly involved in the fishery and affected by this rule include commercial fishing vessels (approximately 800) and processors/dealers (about 850). The rule is likely to result in a reduction in annual gross revenues by about 5 percent for some, but not necessarily all, of these small entities.

The Assistant Administrator prepared a Draft Environmental Impact Statement (DEIS) that discussed the expected impacts on the human environment as a result of the FMP and the proposed rule. A notice of availability of and request for comments on the DEIS was published on January 17, 1992 (57 FR 2093). A Final Environmental Impact Statement (FEIS) was prepared and filed with the Environmental Protection Agency on December 11, 1992, in support of the FMP, as revised, and this final rule. A notice of availability of the FEIS was published on December 18, 1992 (57 FR 60199).

The Assistant Administrator determined that the management measures in this final rule that have not changed from the proposed FMP and proposed regulations will be implemented in a manner consistent to the maximum extent practicable with the coastal zone management programs of those Atlantic, Gulf of Mexico, and Caribbean coastal states that have approved coastal zone management programs (Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Florida, Alabama, Mississippi, Louisiana, Puerto Rico, and the U.S. Virgin Islands). This determination was submitted by NMFS to the responsible state agencies for their review under section 307 of the Coastal Zone Management Act. Connecticut, New York, Delaware, Pennsylvania, Virginia, North Carolina, South Carolina, Florida, Mississippi, and Puerto Rico egreed with the determination.

New Jersey did not agree with the determination because it determined that the mako minimum size measure was inconsistent with its coastal zone plan based on the different means of applying it in the commercial and recreational fisheries. This issue is resolved since this final rule contains no minimum size limit for mako sharks. The other states did not respond during the statutory time period; therefore, state agency agreement with the consistency determination is presumed.

Certain measures of the final FMP and final regulations changed from those proposed and will be implemented by an interim final rule. NMFS is inviting public comment on these changed measures for 60 days. After considering the public comment, NMFS will make any necessary changes in these measures and implement them on a permanent basis through a final rule. NMFS has determined that the interim final rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management programs of all the coastal states listed above. This determination is being submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This final rule contains four new, but previously approved, collection-of-information requirements subject to the Paperwork Reduction Act: (1) Applications for annual vessel permits; (2) submission of logbooks and copies of sales receipts/trip tickets by vessels off-loading sharks; (3) tournament operator reports; and (4) advance notification of shark fishing trips. These collections of information have been approved by OMB and OMB control numbers 0648–0205, 0648–0016, 0648–0031, and 0648–0016 apply. The public reporting burdens for these collections of information are estimated to average 15, 15, 30, and 10 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information.

This final rule involves three existing collection-of-information requirements that have already been approved by OMB:

(1) The requirement that foreign vessels submit quarterly reports (OMB Control No. 0648–0075) is restated for clarity; (2) copies of sales receipts/trip tickets by vessels off-loading sharks, if not submitted with the shark logbook forms, are to be submitted with existing vessel logbook forms (OMB Control No. 0648–0016); and (3) the requirement to make sharks available for inspection and to answer questions regarding catch and effort (OMB Control Nos. 0648–0013 and 0648–0229) would make a currently voluntary information program mandatory. The public reporting burdens for these existing collections of information are estimated to average 35, 6, and 10 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burdens, to Edward E. Burgess, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702; and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (Attn: Paperwork Reduction Act Project 0648–0016).

A federalism assessment was prepared that concludes that implementation of this final rule would be consistent with the principles, criteria, and requirements of E.O. 12612.

List of Subjects

50 CFR Part 204

Recordkeeping and reporting requirements.

50 CFR Part 611

Fisheries, Fishing, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 678

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 20, 1993.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR parts 204 and 611 are amended and a new part 678 is added as follows:

PART 204—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 204 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982).

§ 204.1 [Amended]

2. In § 204.1(b), the table is amended by adding in the left hand column, in numerical order, "678.4", "678.5(a)", "678.5(b)", "678.5(c)", and "678.10(a)" and adding in the right hand column, in the corresponding positions, "–0205", "–0016", "–0031", "–0013", and "–0016".

PART 611—FOREIGN FISHING

3. The authority citation for part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

4. In § 611.60, in paragraph (d), the phrase "Atlantic Ocean, Gulf of Mexico and Caribbean Sea" is revised to read

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"Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea"; and paragraph (a) is revised to read as follows:

§ 611.60 General provisions.

(a) *Purpose and scope.* (1) This subpart regulates:

(i) All foreign longline fishing conducted under a GIFA that involves catching, processing, or receipt of swordfish, billfish, sharks, or other fish in the EEZ in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea; and

(ii) All other foreign fishing conducted under a GIFA within the EEZ south of 35°00'N. latitude in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea.

(2) Regulations governing fishing by vessels of the United States for swordfish, billfish, or sharks off the Atlantic, Gulf of Mexico, and Caribbean coastal states are published at parts 630, 644, and 678 of this chapter.

(3) The terms *swordfish, billfish,* and *shark,* as used in this subpart, are defined at §§ 630.2, 644.2, and 678.2 of this chapter.

* * * * *

5. In § 611.61, paragraph (d) is removed and reserved; and the section heading, paragraphs (a), (b)(1), (b)(2) introductory text, (c)(3) and (e) are revised to read as follows:

§ 611.61 Atlantic swordfish, billfish, and shark incidental catch fishery.

(a) *Purpose.* This section regulates all foreign fishing conducted under a GIFA that involves the catching of swordfish, billfish, or sharks in the EEZ in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea.

(b) * * *

(1) Except as provided in paragraph (b)(2) of this section, foreign fishing under this section may be conducted throughout the year. Because there are no allocations for swordfish, billfish, or sharks, the closure provisions of § 611.13(a)(1) through (a)(3) do not apply to this section.

(2) From June 1 through November 30, foreign vessels fishing under this section, and longline gear deployed from such vessels, are prohibited in the area defined by the following coordinates in the order listed:

* * * * *

(c) * * *

(3) All swordfish, billfish, and sharks must be released at the surface of the water by cutting the line without removing the fish from the water.

* * * * *

(e) *Statistical reporting.* (1) A foreign vessel fishing under this section is exempt from the requirements of §§ 611.4(f)(2) and 611.9(d), but must provide the reports required by § 611.4(f)(3) and (f)(4), when applicable. In addition, each vessel must submit the following additional quarterly reports:

(i) Catch and effort data, summarized weekly by one degree squares, containing the following information:

(A) Number of hooks set.

(B) Number of prohibited species (by species code from appendix D to subpart A) caught and released.

(C) Number of prohibited species (by species code) released alive.

(ii) Summary of vessel activities containing the following information:

(A) Permit number of each vessel fishing.

(B) For each successive day of the reporting period, the vessel's noon-day location (within 0.1 degree of latitude and longitude).

(2) The quarterly reports required by paragraph (e)(1) of this section must be submitted not later than 60 days from the end of the quarter for which the report is being made to: Science and Research Director, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149, telephone 305–361–5761.

* * * * *

6. A new part 678 is added to read as follows:

PART 678—ATLANTIC SHARKS

Subpart A—General Provisions

Sec.

678.1 Purpose and scope.
678.2 Definitions.
678.3 Relation to other laws.
678.4 Permits and fees.
678.5 Recordkeeping and reporting.
678.6 Vessel identification.
678.7 Prohibitions.
678.8 Facilitation of enforcement.
678.9 Penalties.
678.10 At-sea observer coverage.

Subpart B—Management Measures

678.20 Fishing year.
678.21 Harvest limitations.
678.22 Bag limits.
678.23 Commercial quotas.
678.24 Closures.
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Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 678.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for Sharks of the Atlantic Ocean (FMP) prepared by the Secretary of Commerce.

(b) This part governs conservation and management of sharks in the management unit.

§ 678.2 Definitions.

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meaning:

Charter vessel means a vessel less than 100 gross tons (90.8 metric tons) that meets the requirements of the Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a permit issued under § 678.4 is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

Headboat means a vessel that holds a valid Certificate of Inspection issued by the Coast Guard to carry passengers for hire. A headboat with a permit issued under § 678.4 is considered to be operating as a headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

Landed or *landing* means to arrive at a dock, berth, beach, seawall, or ramp.

Large coastal species means any of the species, or a part thereof, listed in paragraph (1) of the definition of *management unit.*

Management unit means the following species in the Western North Atlantic Ocean including the Gulf of Mexico and the Caribbean Sea:

(1) Large coastal species:

Basking sharks—Cetorhinidae
  Basking shark, *Cetorhinus maximus*
Hammerhead sharks—Sphyrnidae
  Great hammerhead, *Sphyrna mokarran*
  Scalloped hammerhead, *Sphyrna lewini*
  Smooth hammerhead, *Sphyrna zygaena*
Mackerel sharks—Lamnidae
  White shark, *Carcharodon carcharias*
Nurse sharks—Ginglymostomatidae
  Nurse shark, *Ginglymostoma cirratum*
Requiem sharks—Carcharhinidae
  Bignose shark, *Carcharhinus altimus*
  Blacktip shark, *Carcharhinus limbatus*
  Bull shark, *Carcharhinus leucas*
  Caribbean reek shark, *Carcharhinus perezi*
  Dusky shark, *Carcharhinus obscurus*
  Galapagos shark, *Carcharhinus galapagensis*
  Lemon shark, *Negaprion brevirostris*
  Narrowtooth shark, *Carcharhinus brachyurus*
  Night shark, *Carcharhinus signatus*
  Sandbar shark, *Carcharhinus plumbeus*
  Silky shark, *Carcharhinus falciformis*
  Spinner shark, *Carcharhinus brevipinna*
  Tiger shark, *Galeocerdo cuvieri*
Sand tiger sharks—Odontaspididae
  Bigeye sand tiger, *Odontaspis noronhai*
  Sand tiger shark, *Odontaspis taurus*
Whale sharks—Rhincodontidae
  Whale shark, *Rhincodon typus*

(2) Small coastal species:

Angel sharks—Squatinidae
  Atlantic angel shark, *Squatina dumerili*
Hammerhead sharks—Sphyrnidae
  Bonnethead, *Sphyrna tiburo*
Requiem sharks—Carcharhinidae
  Atlantic sharpnose shark, *Rhizoprionodon terraenovae*
  Blacknose shark, *Carcharhinus acronotus*
  Caribbean sharpnose shark, *Rhizoprionodon porosus*
  Finetooth shark, *Carcharhinus isodon*
  Smalltail shark, *Carcharhinus porosus*

(3) Pelagic species:

Cow sharks—Hexanchidae
  Bigeye sixgill shark, *Hexanchus vitulus*
  Sevengill shark, *Heptranchias perlo*
  Sixgill shark, *Hexanchus griseus*
Mackerel sharks—Lamnidae
  Longfin mako, *Isurus paucus*
  Porbeagle shark, *Lamna nasus*
  Shortfin mako, *Isurus oxyrinchus*
Requiem sharks—Carcharhinidae
  Blue shark, *Prionace glauca*
  Oceanic whitetip shark, *Carcharhinus longimanus*
Thresher sharks—Alopiidae
  Bigeye thresher, *Alopias superciliosus*
  Thresher shark, *Alopias vulpinus*

Pelagic species means any of the species, or a part thereof, listed in paragraph (3) of the definition of *management unit.*

Regional Director means the Director, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702, telephone 813–893–3141, or a designee.

Science and Research Director means the Science and Research Director, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149, telephone 305–361–5761, or a designee.

Shark means any of these species listed in the definition of the management unit, or a part thereof.

Shark tournament means any fishing competition involving sharks in which participants must register or otherwise enter or in which a prize or award is offered for catching a shark.

Small coastal species means any of the species, or a part thereof, listed in paragraph (2) of the definition of *management unit.*

Trip means a fishing trip, regardless of number of days duration, that beings with departure from a dock, berth, beach, seawall, or ramp and that terminates with return to a dock, berth, beach, seawall, or ramp.

Weightout slip means the document provided by the person weighing the shark carcasses and fins to the owner or operator of a permitted vessel that records the weights of the shark carcasses and fins, prior to or as part of, a commercial transaction involving such shark carcasses and/or fins. Any document such as "tally slip," "trip ticket," or "sales receipt," that contains such information will be considered as a weighout slip.

§ 678.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 620.3 of this chapter and paragraphs (b) and (c) of this section.

(b) In accordance with regulations issued under the Marine Mammal Protection Act of 1972, as amended, it may be unlawful for a commercial fishing vessel, a vessel owner, or a master or operator of a vessel to engage in a longline or gillnet shark fishery in the Atlantic Ocean (including the Gulf of Mexico and Caribbean Sea) unless the vessel owner or authorized representative has complied with specified requirements including, but not limited to, registration, exemption certificates, decals, and reports, as contained in 50 CFR part 229.

(c) Regulations governing fishing in the EEZ by vessels other than vessels of the United States appear at 50 CFR part 611, subpart A, and §§ 611.60 and 611.61 of subpart D.

§ 678.4 Permits and fees.

(a) *Applicability.* (1) As a prerequisite for a person to sell a shark in or from the EEZ or to be eligible for an exemption from the bag limits specified in § 678.22(b) for a shark taken in the EEZ, an owner or operator of a fishing vessel must obtain an annual vessel permit.

(2) For a vessel owned by a corporation or partnership to be eligible for a vessel permit, the earned income qualification specified in paragraph (b)(2)(vi) of this section must be met by, and the statement required by that paragraph must be submitted by, an officer or shareholder of the corporation, a general partner of the partnership, or the vessel operator.

(3) A vessel permit issued upon the qualification of an operator is valid only when that person is the operator of the vessel.

(4) An owner or operator who applies for a permit under paragraph (b) of this section must agree, as a condition of such permit, that the vessel's shark fishing, catch, and gear are subject to the requirements of this part during the period of validity of the permit, without regard to whether such fishing occurs in the EEZ, landward of the EEZ, or outside the EEZ, and without regard to where such shark or gear are possessed, taken, or landed. However, if a vessel fishes on a trip solely in the waters of a single state and that state has more restrictive regulations on shark fishing, those more restrictive regulations may be applied by that state to fishing, catch, and gear on that trip.

(b) *Application for an annual vessel permit.* (1) An application for a vessel permit must be submitted and signed by the owner (in the case of a corporation, the qualifying officer or shareholder; in the case of a partnership, the qualifying general partner) or operator of the vessel. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(2) An applicant must provide the following information:

(i) A copy of the vessel's U.S. Coast Guard certificate of documentation or, if not documented, a copy of its state registration certificate.

(ii) The vessel's name and official number.

(iii) Name, mailing address including ZIP code, telephone number, and social security number, and date of birth of the owner (if the owner is a corporation/partnership, in lieu of the social security number, provide the employer identification number, if one has been assigned by the Internal Revenue Service (IRS), and, in lieu of the date of birth, provide the date the corporation/partnership was formed).

(iv) If the owner does not meet the earned income qualification specified in paragraph (b)(2)(vi) of this section and the operator does meet that qualification, the name, mailing address including ZIP code, telephone number, social security number, and date of birth of the operator.

(v) Information concerning vessel, gear used, fishing areas, and fisheries vessel is used in, as requested by the Regional Director and included on the application form.

(vi) A sworn statement by the applicant certifying that, during 1 of the 3 calendar years preceding the application,

(A) More than 50 percent of his or her earned income was derived from commercial fishing, that is, sale of the catch, or from charter or headboat operations; or

(B) His or her gross sales of fish were more than $20,000; or

(C) For a vessel owned by a corporation or partnership, the gross sales of fish of the corporation or partnership were more than $20,000.

(vii) Documentation supporting the statement of income, if required under paragraph (b)(3) of this section.

(viii) A sworn statement that the applicant agrees to the conditions

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specified in paragraph (a)(4) of this section.

(ix) Any other information that may be necessary for the issuance or administration of the permit, as requested by the Regional Director and included on the application form.

(3) The Regional Director may require the applicant to provide documentation supporting the sworn statement under paragraph (b)(2)(vi) of this section before a permit is issued or to substantiate why such permit should not be revoked or otherwise sanctioned under paragraph (i) of this section. Such required documentation may include copies of appropriate forms and schedules from the applicant's income tax return. Copies of income tax forms and schedules are treated as confidential.

(c) *Change in application information.* The owner or operator of a vessel with a permit must notify the Regional Director within 30 days after any change in the application information specified in paragraph (b) of this section. The permit is void if any change in the information is not reported within 30 days.

(d) *Fees.* A fee is charged for each permit application submitted under paragraph (b) of this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product of service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application.

(e) *Issuance.* (1) The Regional Director will issue a permit at any time to an applicant if the application is complete and the applicant meets the earned income requirement specified in paragraph (b)(2)(vi) of this section. An application is complete when all requested forms, information, and documentation have been received and the applicant has submitted all applicable reports specified at § 678.5(a).

(2) Upon receipt of an incomplete application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 90 days of the date of the Regional Director's letter of notification, the application will be considered abandoned.

(f) *Duration.* A permit remains valid for the period specified on it, and the conditions accepted upon its issuance remain in effect for that period, unless the vessel is sold or the permit is revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904.

(g) *Transfer.* A permit issued pursuant to this section is not transferable or assignable. A person purchasing a permitted vessel who desires to conduct activities for which a permit is required must apply for a permit in accordance with the provisions of paragraph (b) of this section. The application must be accompanied by a copy of a signed bill of sale.

(h) *Display.* A vessel permit issued pursuant to this section must be carried on board the vessel and such vessel must be identified as required by § 678.6. The operator of a vessel must present the permit for inspection upon the request of an authorized officer.

(i) *Sanctions and denials.* A permit issued pursuant to this section may be revoked, suspended, or modified, and a permit application may be denied, in accordance with the procedures governing enforcement-related permit sanctions and denials found at subpart D of 15 CFR part 904.

(j) *Alteration.* A permit that is altered, erased, or mutilated is valid.

(k) *Replacement.* A replacement permit may be issued. An application for a replacement permit will not be considered a new application. A fee, the amount of which is stated with the application form, must accompany each request for a replacement permit.

§ 678.5 Recordkeeping and reporting.

(a) *Vessel reports*—(1) *All permitted vessels.* An owner or operator of a vessel for which a permit has been issued pursuant to § 678.4 must submit copies of weighout slips that record the weights of fish sold from any trip from which a shark is off-loaded. Such weighout slips must be submitted as follows:

(i) The owner or operator of a vessel that has been selected by the Science and Research Director to maintain and submit the logbook forms described in paragraph (a)(2) of this section must submit the copies of the sales receipts attached to such logbook forms.

(ii) The owner or operator of a vessel that has not been selected to submit the logbook forms described in paragraph (a)(2) of this section but has been selected to maintain and submit logbook forms to the Science and Research Director in a fishery other than the shark fishery must attach the copies of the sales receipts to the logbook forms for that other fishery and submit them in the time frame required for those logbook forms.

(iii) The owner or operator of a vessel that has not been selected to submit logbook forms to the Science and Research Director in any fishery must submit the copies to the Science and Research Director postmarked not later than the third day after sale of the fish off-loaded from a trip.

(2) *Selected permitted vessels.* An owner or operator of a vessel for which a permit has been issued pursuant to § 678.4 and that is selected by the Science and Research Director must maintain and submit logbook forms for each trip on forms provided by the Science and Research Director. The logbook forms will provide a record of fishing location, time fished, fishing gear used, numbers of each species caught, and numbers of each species discarded. Logbook forms must be maintained and submitted for each trip, whether or not shark are caught on that trip. The logbook forms must be submitted to the Science and Research Director postmarked not later than the third day after sale of the fish off-loaded from a trip. If no fishing occurred during a month, a report so stating must be submitted in accordance with instructions provided with the forms.

(b) *Tournament operators.* A person conducting a shark tournament who is selected by the Science and Research Director must maintain and submit a record of catch and effort on forms available from the Science and Research Director. Completed forms must be submitted to the Science and Research Director postmarked not later than the seventh day after the conclusion of the tournament and must be accompanied by a copy of the tournament rules.

(c) *Additional data and inspection.* Additional data may be collected by authorized statistical reporting agents, as designees of the Science and Research Director, and by authorized officers. An owner or operator of a fishing vessel and a dealer are required to make sharks available for inspection by the Science and Research Director or an authorized officer and to provide data on catch and effort, as requested.

§ 678.6 Vessel identification.

(a) *Official number.* A vessel for which a permit has been issued pursuant to § 678.4 must display its official number—

(1) On the port and starboard sides of the deck house or hull and on an appropriate weather deck so as to be clearly visible from an enforcement vessel or aircraft;

(2) In block arabic numerals in contrasting color to the background;

(3) At least 18 inches (45.7 cm) in height for fishing vessels over 65 feet (19.8 meters) in length and at least 10 inches (25.4 cm) in height for all other vessels; and

(4) Permanently affixed to or painted on the vessel.

(b) *Duties of operator.* The operator of each fishing vessel must—

(1) Keep the official number clearly legible and in good repair; and

(2) Ensure that no part of the fishing vessel, its rigging, its fishing gear, or any other material aboard obstructs the view of the official number from an enforcement vessel or aircraft.

§ 678.7 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

(a) Falsify information required in § 678.4(b)(2) on an application for a permit.

(b) Fail to display a permit, as specified in § 678.4(h).

(c) Falsify or fail to provide information required to be maintained, submitted, or reported, as specified in § 678.5 (a) or (b).

(d) Fail to make a shark available for inspection or provide data on catch and effort, as required by § 678.5(c).

(e) Falsify or fail to display and maintain vessel identification, as required by § 678.6.

(f) Falsify or fail to provide requested information regarding a vessel's trip, as specified in § 678.10(a).

(g) Fail to embark an observer on a trip when selected, as specified in § 678.10(b).

(h) Assault, resist, oppose, impede, harass, intimidate, or interfere with an NMFS-approved observer aboard a vessel.

(i) Prohibit or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer from conducting his/her duties aboard a vessel.

(j) Fail to provide an observer with the required food, accommodations, access, and assistance, as specified in § 678.10(c).

(k) Remove the fins from a shark and discard the remainder, as specified in § 678.21(a)(1).

(l) Possess shark fins aboard or off-load shark fins from a fishing vessel, except as specified in § 678.21(a) (2) and (3).

(m) Fail to release a shark in the manner specified in § 678.21(b).

(n) Exceed the bag limits, as specified in § 678.22 (a) through (c).

(o) Operate a vessel with a shark aboard in excess of the bag limits, as specified in § 678.22(d).

(p) Transfer a shark at sea, as specified in § 678.22(e).

(q) During a closure for a shark species group, retain a shark of that species group aboard a vessel that has been issued a permit under § 678.4, except as provided in § 678.24(a)(2), or sell, purchase, trade, or barter or attempt to sell, purchase, trade, or barter a shark of that species group, as specified in § 678.24.

(r) Sell, trade, or barter or attempt to sell, trade, or barter a shark harvested in the EEZ except as an owner or operator of a vessel with a permit, as specified in § 678.25(a).

(s) Purchase, trade, or barter or attempt to purchase, trade, or barter shark meat or fins harvested from the EEZ from an owner or operator of a vessel that does not have a vessel permit, as specified in § 678.25(b).

(t) Sell, purchase, trade, or barter or attempt to sell, purchase, trade, or barter shark fins that are disproportionate to the number of carcasses landed, as specified in § 678.25(c).

(u) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.

(v) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, landing, purchase, sale, possession, or transfer of a shark.

(w) During a closure for a shark species group, as specified in § 678.28(a),

(1) Possess shark of that species group in excess of the vessel trip limit, as specified in § 678.28(b)(1);

(2) Sell, trade, barter, or attempt to sell, trade or barter a shark carcass or fin of the closed species group, as specified in § 678.28(b)(2);

(3) Operate a vessel that has shark of that species group aboard in excess of the vessel trip limit, as specified in § 678.28(d); or

(4) Transfer a shark of that species group at sea, as specified in § 678.28(e).

§ 678.8 Facilitation of enforcement.

See § 620.8 of this chapter.

§ 678.9 Penalties.

See § 620.9 of this chapter.

§ 678.10 At-sea observer coverage.

(a) When requested by the Science and Research Director, an owner or operator of a vessel for which a permit has been issued pursuant to § 678.4 must advise the Science and Research Director in writing not less than 10 days in advance of each trip of the following:

(1) Departure information (port, dock, date, and time); and

(2) Expected landing information (port, dock, and date).

(b) If a vessel's trip is selected by the Science and Research Director for observer coverage, the owner or operator of such vessel must accommodate an NMFS-approved observer.

(c) An owner or operator of a vessel on which an NMFS-approved observer is embarked must—

(1) Provide, at no cost to the observer or the United States government, accommodations and food that are equivalent to those provided to the crew;

(2) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties;

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position;

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish; and

(5) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and distribution of fish.

Subpart B—Management Measures

§ 678.20 Fishing year.

The fishing year is January 1 through December 31.

§ 678.21 Harvest limitations.

(a) *Finning.* (1) The practice of "finning," that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited in the EEZ or aboard a vessel that has been issued a permit pursuant to § 678.4.

(2) Shark fins that are possessed aboard or off-loaded from a fishing vessel must be in proper proportion to the weight of carcasses. That is, the weight of fins may not exceed five percent of the weight of the carcasses. All fins must be weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing and such weights of the fins landed must be recorded on the weighout slips submitted by the vessel owner or operator under § 678.5(a).

(3) Shark fins may not be possessed aboard a fishing vessel after the vessel's first point of landing.

(b) *Release.* A shark that is harvested in the EEZ or harvested by a vessel that has been issued a permit pursuant to § 678.4 that is not retained—

(1) Must be released in a manner that will ensure maximum probability of survival; and

(2) If caught by hook and line, must be released by cutting the line near the

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hook without removing the fish from the water.

§ 678.22 Bag limits.

(a) *Applicability.* The bag limits apply to a person who fishes in the EEZ or possesses a shark in or from the EEZ aboard a vessel—

(1) When the vessel does not have on board a permit issued under § 678.4; or

(2) When the vessel is operating as a charter vessel or headboat.

(b) *Bag limits.* Bag limits are as follows:

(1) Large coastal species and pelagic species, combined—4 per fishing vessel per trip; and

(2) Small coastal species—5 per person per day.

(c) *Combination of bag limits.* A person to whom the bag limits apply may not combine a bag limit specified in paragraph (b) of this section with a bag or possession limit applicable to state waters.

(d) *Responsibility for the bag limits.* The operator of a vessel for which the bag limits apply is responsible for the vessel trip limit applicable to large coastal species and pelagic species combined, and for the cumulative bag limit applicable to small coastal species based on the number of persons aboard.

(e) *Transfer of sharks.* A person for whom a bag limit specified in this section applies may not transfer at sea a shark—

(1) Taken in the EEZ, regardless of where such transfer takes place; or

(2) In the EEZ, regardless of where such shark was taken.

§ 678.23 Commercial quotas.

(a) *Applicability.* Persons fishing aboard vessels for which vessel permits have been issued under § 678.4, except for persons aboard vessels that are operating as charter vessels or headboats, are limited to the quotas specified in this section. Persons aboard vessels that are operating as charter vessels or headboats are limited to the bag limits, as specified in § 678.22(a)(2) and (b). Large coastal or pelagic species sharks that are sold are counted against the appropriate quota for their species group.

(b) *Semi-annual quotas.* The following commercial quotas apply:

(1) For the period January 1 through June 30, 1993:

(i) Large coastal species—1,218 metric tons, dressed weight.

(ii) Pelagic species—290 metric tons, dressed weight.

(2) For the period July 1 through December 31, 1993:

(i) Large coastal species—1,218 metric tons, dressed weight.

(ii) Pelagic species—290 metric tons, dressed weight.

(4) For the period January 1 through June 30, 1994:

(i) Large coastal species—1,285 metric tons, dressed weight.

(ii) Pelagic species—290 metric tons, dressed weight.

(2) For the period July 1 through December 31, 1994:

(i) Large coastal species—1,285 metric tons, dressed weight.

(ii) Pelagic species—290 metric tons, dressed weight.

(c) *Adjustments to quotas.* The Assistant Administrator may adjust a semi-annual quota to reflect actual catches during the preceding semi-annual period. That is, catch in excess of the semi-annual quota in the preceding period may be deducted from the current semi-annual quota and catch less than the semi-annual quota may be added. Such adjustments to semi-annual quotas will be published in the **Federal Register**. Quotas may also be adjusted under the framework procedure for adjustment of management measures, as specified in § 678.26.

§ 678.24 Closures.

(a) When a commercial quota specified in § 678.23(b) is reached, or is projected to be reached, the Assistant Administrator will publish a notice to that effect in the **Federal Register**. The effective date of such notice will be at least 5 days after the date such notice is filed with the Office of the Federal Register.

(1) On the effective date of such notice, for the remainder of the semi-annual period,

(i) A person aboard a vessel that has been issued a permit under § 678.4 may not retain shark of the species group for which the commercial quota has been reached, except as provided in paragraph (a)(2) of this section; and

(ii) The sale, purchase, trade, or barter or attempted sale, purchase, trade, or barter of a shark carcass or fin of that species group harvested by a person aboard a vessel that has been issued a permit under § 678.4 is prohibited.

(2) A person aboard a charter vessel or headboat that has been issued a permit under § 678.4 may retain, subject to the bag limits specified in § 678.22(b), shark of the species group for which the commercial quota has been reached, provided the vessel is operating as a charter vessel or headboat. However, the prohibition of paragraph (a)(1)(ii) and of this section regarding sale, purchase, trade, or barter, or attempted sale, purchase, trade, or barter, apply to such shark.

(b) The prohibition of paragraph (a)(1)(ii) of this section regarding sale, purchase, trade, or barter, or attempted sale, purchase, trade, or barter, by a dealer does not apply to trade in shark carcasses or fins that were harvested, off-loaded, and sold, traded, or bartered, prior to the effective date of the notice in the **Federal Register**, and were held in storage by a dealer or processor.

§ 678.25 Restrictions on sale upon landing.

Subject to the restrictions of § 678.24,

(a) Upon landing, meat or fins from a shark harvested in the EEZ may be sold, traded, or bartered or attempted to be sold, traded, or bartered only by an owner or operator of a vessel that has been issued a permit pursuant to § 678.4;

(b) Upon landing, meat or fins from a shark harvested in the EEZ may be purchased, traded, or bartered or attempted to be purchased, traded, or bartered only from the owner or operator of a vessel that has been issued a permit under § 678.4; and

(c) Fins from a shark harvested in the EEZ, or by a vessel that has been issued a permit under § 678.4, that are disproportionate to the weight of carcasses landed (see § 678.21(a)(2)) may not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

§ 678.26 Adjustment of management measures.

In accordance with the framework regulatory adjustment procedures specified in the FMP, the Assistant Administrator may establish or modify for species or species groups in the shark fishery the following: maximum sustainable yield, total allowable catch, quotas, trip limits, bag limits, size limits, the fishing year or fishing season, the species of sharks managed and the specification of the species groups to which they belong, and permitting and reporting requirements.

§ 678.27 Specifically authorized activities.

The Assistant Administrator may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

§ 678.28 Closures prior to July 1, 1993.

(a) Other provisions of this part 678 notwithstanding, when a commercial quota specified in § 678.23(b)(1) is reached, or is projected to be reached, the Assistant Administrator will publish a notice to that effect in the **Federal Register**. The effective date of such notice will be at least 5 days after the date such notice is filed with the Office of the Federal Register.

(b) On the effective date of such notice, through June 30, 1993,

(1) Possession of a shark of the closed species group in or from the EEZ is limited to 4 per fishing vessel per trip; and

(2) The sale, purchase, trade, or barter or attempted sale, purchase, trade, or barter of a shark carcass or fin of the closed species group in or from the EEZ is prohibited.

(c) An applicable possession limit of paragraph (b)(1) of this section may not be combined with a bag or possession limit applicable to state waters.

(d) The operator of a vessel for which a possession limit of paragraph (b)(1) of this section applies is responsible for the vessel trip limit for the closed species group.

(e) A person aboard a vessel subject to a possession limit specified in paragraph (b)(1) of this section may not transfer at sea a shark of the closed species group—

(1) Taken in the EEZ, regardless of where such transfer takes place; or

(2) In the EEZ, regardless of where such shark was taken.

(f) The prohibition of paragraph (b)(2) of this section regarding sale, purchase, trade, or barter, or attempted sale, purchase, trade, or barter, does not apply to trade in shark carcasses or fins of the closed species group that were harvested, off-loaded, and sold, traded, or bartered, prior to the effective date of the notice in the **Federal Register**, and were held in storage by a dealer or processor.

Appendix—Framework Procedures for Adjusting Management Measures as Specified in the Shark Fishery Management Plan for the Atlantic Ocean (FMP)

Note: This appendix will not appear in the Code of Federal Regulations.

(a) As provided for in 50 CFR 602.12(e), the Assistant Administrator annually will assure that: A stock assessment and fishery evaluation (SAFE) report for sharks is prepared, reviewed, and changed as necessary; current fishing mortality is estimated; other appropriate population parameters are estimated (e.g., revised MSY estimates); catch statistics on the fishery are analyzed; and relevant environmental, social, and economic data are evaluated.

(b) The Assistant Administrator will appoint an OT that includes representatives from the following: NMFS Northeast and Southeast Regional Offices and the Washington Office, the five affected Councils (including council members, staff, and advisory panel, and/or, scientific and statistical committee members), NMFS Fisheries Research Centers, ICCAT Advisory Panel, and others as necessary and appropriate. The OT will review the SAFE report and other relevant data annually and, based thereon, submit a written report of its findings to the Assistant Administrator. If the OT determines that adjusting the management measures is necessary, it will include in the report specified ranges of acceptable biological catch (ABC) for individual species, species groups, or all sharks. The ABC will be calculated so as to prevent overfishing or to prevent further declines of an overfished species, species groups, or all managed species of sharks.

Recommendations in the report may include implementing or changing the following: maximum sustainable yield; total allowable catch; commercial quotas; commercial trip limits; recreational bag limits; species size limits; the fishing year or fishing season; the species of sharks managed and the species groups to which they belong; and permitting and reporting requirements. The biological, environmental, social, and economic impacts of each recommendation will be included in the report. In formulating its recommendations, the OT will consult with the Assistant Administrator, Regional Directors of the NMFS Northeast and Southeast Regions, and any intercouncil shark committee. The OT may hold public hearings as appropriate.

(c) If the Assistant Administrator concurs with the OT's recommendations, he will prepare the regulatory package and file within 30 days a proposed rule and a request for public comment with the Office of the Federal Register. The regulatory package will include a discussion of the need for action; the proposed adjustments to the management measures; analyses as required by applicable law of the social, economic, and biological impacts of the proposed measures; and the proposed rule. From 15 to 30 days will be provided for public comment, consistent with the magnitude of the action.

(d) After reviewing public comments and additional information or data that may be available, the Assistant Administrator will, after consultation with the OT, if appropriate, make final determinations regarding consistency of the proposed conservation and management measures with the objectives of the FMP, the national standards, and other applicable law. Within 30 days of the close of the public comment period on the proposed rule, the Assistant Administrator will publish a final rule in the **Federal Register**.

(e) The Assistant Administrator may take action independent of the recommendations of the OT if he finds, based on the best available scientific information on the biological conditions of the shark resources or economic conditions of the fishery, that adjustments in the management measures are required. In this situation, the Assistant Administrator would follow the same procedure that the OT would follow in preparing recommendations for regulatory changes. The Assistant Administrator would consult with the OT, as necessary and appropriate.

(f) The Assistant Administrator will consult with and consider the comments and views of the affected Councils in developing proposed and final adjustments in management measures.

[FR Doc. 93–9641 Filed 4–23–93; 8:45 am]
BILLING CODE 3510–22–M

50 CFR Part 663

[Docket No. 921253–2353]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Adjustment to management measures and request for comments.

SUMMARY: NMFS announces reductions in vessel trip limits for yellowtail rockfish, thornyheads, and the deepwater complex (thornyheads, Dover sole, and trawl-caught sablefish) in the groundfish fishery off Washington, Oregon, and California. This action is authorized by the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP). The trip limits are designed to keep the catch within the 1993 harvest guidelines while extending these fisheries as long as possible during the year.

DATES: Effective from 0001 hours (local time) April 21, 1993, until modified, superseded, or rescinded. Comments will be accepted until May 11, 1993.

ADDRESSES: Submit comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700—Bldg. 1, Seattle, Washington 98115; or Gary Matlock, Operations Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., suite 4200, Long Beach, California 90802–4213. Information relevant to these actions has

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been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director or may be obtained from the Pacific Fishery Management Council (Council), by writing Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW. First Avenue, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Northwest Region, NMFS) 206–526–6140; or Rodney R. McInnis (Southwest Region, NMFS) 310–980–4040.

SUPPLEMENTARY INFORMATION: The FMP and its implementing regulations (58 FR 736, January 8, 1991) provide for rapid changes to specific management measures that have been designated as "routine." Trip limits for yellowtail rockfish, thornyheads, and the deepwater complex (thornyheads, Dover sole, and trawl-caught sablefish) are among those management measures that have been designated as routine at 50 CFR 663.23(c)(1). At its April 1993 meeting, the Pacific Fishery Management Council (Council) reviewed the progress of the groundfish fishery and recommended the following changes to the current trip limits to the Secretary of Commerce (Secretary). The current trip limits were announced in the **Federal Register** on January 7, 1993 (58 FR 2990) as "1993 Management Measures."

Yellowtail Rockfish

Yellowtail rockfish (also called "greenies") are a major component of the *Sebastes* complex of rockfish. The current coastwide trip limit for the *Sebastes* complex is 50,000 pounds in a 2-week period. Within that 50,000 pounds, no more than 8,000 pounds (3,629 kg) cumulative may be yellowtail rockfish caught north of Coos Bay, Oregon. If fishing takes place north of Coos Bay at any time during the 2-week period, the trip limit for yellowtail rockfish applies for the entire 2-week period.

The best available information presented at the April 1993 Council meeting indicated that the 4,400-mt harvest guideline for yellowtail rockfish in the Vancouver/Columbia subarea could be reached as early as late summer if landing rates were not further curtailed. Consequently, the Council recommended that the cumulative trip limit for yellowtail rockfish be reduced at the beginning of the next 2-week period (April 21) from 8,000 pounds to 6,000 pounds. Even at this rate, there is some risk that the harvest guideline will be reached before the end of the year. An even lower trip limit was not suggested at this time because it could result in increased discards. Without monitoring of discard rates, the Council's Groundfish Management Team recommends against a lower limit. The 50,000-pound coastwide cumulative trip limit for the *Sebastes* complex remains unchanged.

Thornyhead and the Deepwater Complex (Which Includes Thornyheads, Dover Sole, and Trawl-Caught, Sablefish)

Thornyheads, Dover sole, and sablefish are managed together because they are often caught together unavoidably in the trawl fishery. On January 1, 1993, the trip limit for the deepwater complex was 45,000 pounds cumulative in a 2-week period, of which no more than 20,000 pounds could be thornyheads. The trip limit for sablefish taken with trawl gear, which was applied to each trip rather than cumulatively over the 2-week period, was 25 percent of the deepwater complex if more than 1,000 pounds of sablefish was landed. In any landing, no more than 5,000 pounds could be sablefish smaller than 22-inches (total length).

The best available information presented at the April 1993 Council meeting indicated that the trawl allocation for sablefish of 3,886 mt would be exceeded between late September and late October. If catch rates are not significantly curtailed, the total catch is projected to exceed the allocation by 16–30 percent. Even though the catch of sablefish in 1993 is 86–95 percent of the rate in 1991–1992, this is not low enough to stay within the 1993 trawl allocation. The trawl allocation is 78 percent of the 1992 level as a result of the reduction in the 1993 harvest guideline. The catch rate for sablefish must decline from a projected average of about 450 mt per month to 300 mt per month from May–December 1993 to avoid exceeding the trawl allocation.

The Council's Groundfish Management Team does not advocate a reduction in the sablefish trawl trip limit from the current level of 25 percent of the deepwater complex. Many trips are at this level, and a discard rate of 20 percent is already incorporated in the catch projections. Further trip limit reductions will increase discards of sablefish. Reduction in the trip limit for the deepwater complex will slow the sablefish harvest, but will also require a reduction in the trip limit for thornyheads to prevent excessive discard of the lower-valued Dover sole. Neither Dover sole nor thornyheads are expected to reach their harvest guidelines before the end of the year.

By extending the cumulative trip limit period from 2 weeks to 4 weeks, a fishing vessel operator will have the opportunity to make at least one relatively large landing (of up to 60,000 pounds) in the 4-week period, rather than two smaller landings (of 30,000 pounds) that would result in higher operating costs and perhaps higher discards.

Therefore, the Council recommended that the cumulative limit for the deepwater complex be reduced from 45,000 pounds per 2-week period to 60,000 pounds per 4-week period, a 30 percent reduction, while maintaining the sablefish trip limit at 25 percent of the deepwater complex. This was considered to be the best way to reduce the catch of sablefish without increasing potential discards of sablefish or Dover sole. To avoid an increase in the rate of thornyhead landings, the thornyhead trip limit also is reduced, from 20,000 pounds cumulative per 2-week period, to 35,000 pounds cumulative per 4-week period.

The language at 58 FR 2990 (January 7, 1993) also is revised to clarify that the deepwater complex trip limits for thornyheads and Dover sole apply to all gear types, whereas the sablefish trip limit applies only to trawl-caught sablefish. The management measures for sablefish caught with nontrawl gear appear in paragraph E(5) of the 1993 Management Measures at 58 FR 2990.

Inseason Adjustments in 1993

Due to budget constraints, the Council canceled its July 1993 meeting. Consequently, the Council will not have an opportunity to review landings in the groundfish fishery until its next meeting in September. The Council previously had recommended implementation of a 3,000-pound trip limit for widow rockfish, a 10,000-pound trip limit for Pacific whiting, and a 250-pound daily trip limit for nontrawl-caught sablefish on the dates necessary to keep landings close to their respective harvest guidelines or allocations in 1993. At its April meeting, the Council also recommended that the Regional Director, NMFS, Northwest Region, make further adjustments to routine management measures before the September Council meeting, in consultation with the Council's Groundfish Management Team, if it appears that a harvest guideline will be reached by October 31, 1993.

Secretarial Action

The Secretary concurs with the Council's recommendations and announces the following changes to the 1993 cumulative trip limits announced at 58 FR 2990. The new trip limits will apply to the 2-week and 4-week periods beginning April 21, 1993.

Sebastes Complex (Including Yellowtail and Bocaccio Rockfish)

Coastwide, no more than 50,000 pounds (22,680 kg) cumulative of the *Seabastes* complex may be taken and retained, possessed or landed per vessel in a 2-week period. Of this 50,000 pounds (22,680 kg), no more than 6,000 pounds (22,722 kg) cumulative may be yellowtail rockfish taken and retained north of Coos Bay, and no more than 10,000 pounds (4,536 kg) cumulative may be bocaccio taken and retained south of Cape Mendocino. (This modifies paragraph (C)(2) of the 1993 Management Measures announced at 58 FR 2996, January 7, 1993.)

Trip and Size Limits for the Deepwater Complex (Thornyheads, Dover Sole, and Trawl-Caught Sablefish)

These provisions apply to thornyheads and Dover sole caught with any legal groundfish gear, and sablefish caught with legal trawl gear.

Coastwide, no more than 60,000 pounds (27,216 kg) cumulative of the deepwater complex may be taken and retained, possessed, or landed per vessel in a 4-week period. Within this 60,000 pounds (27,216 kg), no more than 35,000 (15,876 kg) cumulative may be thornyheads. In any landing of the deepwater complex, no more than 25 percent of the deepwater complex may be trawl-caught sablefish, unless less than 1,000 pounds (454 kg) of sablefish are landed, in which case the percentage does not apply. In any landing, no more than 5,000 pounds (2,268 kg) of trawl-caught sablefish may be smaller than 22 inches (56 cm) (total length). (This modifies paragraphs E(4) and E(4)(c) of the 1993 Management Measures announced at 58 FR 2997, January 7, 1993.)

Classification

These actions are taken under the authority of and in accordance with the regulations implementing the FMP at 50 CFR part 663.

An Environmental Impact Statement (EIS) was prepared for the FMP in 1982 and a Supplemental EIS was prepared for Amendment 4 in accordance with the National Environmental Policy Act (NEPA). The alternatives considered and environmental impacts of the actions contained in this notice are not significantly different than those considered in either the EIS or SEIS for the FMP. Therefore this action is categorically excluded from the NEPA requirements to prepare an environmental assessment in accordance with paragraph 6.02c3(f) of the NOAA Administrative Order 216–6 because the alternatives and their impacts have not changed significantly and this action falls within the scope of the EIS and SEIS.

This action is in compliance with Executive Order 12291 and the Regulatory Flexibility Act.

This action does not conain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

Since these measures were publicized and discussed publicly, with opportunity for public comment, at the April Council meeting, the Secretary finds good cause that publication of a general notice of proposed rulemaking would be unnecessary and contrary to the public interest under section 553(b)(B) of the Administrative Procedure Act (APA). The APA requires that the publication of an action be made not less than 30 days before its effective date unless the Secretary finds and publishes with the rule good cause for an earlier effective date. Good cause for waiving the delay in effectiveness is found if the delay is impracticable, unnecessary, or contrary to the public interest. If not implemented by April 21, 1993, the next 4-week period for the deepwater complex begins May 19, 1993. A delay in implementation could compromise the management strategies that are based on the projected landings from these trip limits and would result in the need for much more restrictive limits before the end of the year. Therefore, a delay in effectiveness is unnecessary and contrary to the public interest and these actions are effective on April 21, 1993.

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fisheries, Fishing, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 21, 1993.

David S. Crestin,

Acting Director, Office of Fishery Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–9638 Filed 4–21–93; 11:44 am]

BILLING CODE 3510–22–M

50 CFR Part 675

[Docket No. 921185–3021]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific ocean perch in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the Pacific ocean perch total allowable catch (TAC) in the AI.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), April 22, 1993, until 12 midnight, A.l.t., December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii) the Pacific ocean perch TAC for the AI was established by the final groundfish specifications (58 FR 8703, February 17, 1993) as 11,815 metric tons (mt).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the Pacific ocean perch TAC in the AI soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 10,815 mt, with consideration that 1,000 mt will be taken as incidental catch in directed fishing for other species in the AI. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the AI, effective from 12 noon, A.l.t., April 22, 1993, until 12 midnight, A.l.t., December 31, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

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Classification

This action is taken under § 675.20 and complies with E.O. 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 21, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93-9639 Filed 4-21-93; 11:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 58, No. 78
Monday, April 26, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 700, 701, and 722

Definitions; Organization and Operation of Federal Credit Unions; and Appraisals

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed amendments.

SUMMARY: The NCUA Board is issuing proposed amendments to reduce regulatory burden. The amendments: extend the maturity date of investments not considered risk assets from 3 to 5 years; increase the dollar value from $25,000 to $50,000 for determining when loans are subject to the business loan regulation; make the recordkeeping requirements for business loans consistent with the proposed definition of member business loans; and raise the de minimus amount for an appraisal performed by a state-certified or -licensed appraiser from $50,000 to $100,000.

DATES: Comments must be postmarked by May 26, 1993.

ADDRESSES: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street, NW., 20456.

FOR FURTHER INFORMATION CONTACT: D. Michael Riley, Director, Office of Examination and Insurance, at the above address or telephone: (202) 682-9640 or Michael J. McKenna, Office of General Counsel, at the above address or telephone: (202) 682-9630.

SUPPLEMENTARY INFORMATION: NCUA continually reviews its regulations to improve efficiency and reduce burdens on credit unions. NCUA's goal is to strike a proper balance between safety and soundness concerns and credit unions' need to compete in the marketplace. On July 28, 1992, the NCUA Board issued a request for comment on regulations affecting federally insured credit unions which impose unnecessary or excessive costs or burdens and what changes could be made to reduce those costs or burdens (*See* 57 Fed. Reg. 34090, 8/3/92). Although most of the comments addressed rules for which NCUA does not promulgate (e.g. IRS and FRB requirements), commenters did suggest changes in, among other things, the appraisal rule, member business loan rule and the risk asset rule. Some of the commenters' suggestions are being proposed and are discussed fully below. NCUA believes the proposed changes will decrease paperwork requirements and regulatory burden without any effect on safety and soundness.

Section 700.1(i)—Risk Assets

Section 116(a) of the Federal Credit Union Act (12 U.S.C. 1762(a) (the "Act") requires that federal credit unions set aside a certain percentage of gross income at the end of each accounting period as a Regular Reserve. According to Section 116(a) of the Act, the amount of reserve transfer is made according to a two-tiered formula, according to the size and age of the credit union. This formula is based on the ratio of reserves to risk assets. Section 700.1(i) of NCUA's Regulations (definition of risk assets) lists which assets are exempt from the reserve requirements. Section 741.9 of NCUA's Regulations states that federally insured state chartered credit unions must comply with the statutory reserve requirements.

Currently, NCUA's Regulations require that certain assets with maturities in excess of 3 years be treated as risk assets for reserving purposes. This requirement is not intended to restrict or limit investments in assets over the 3 year threshold, but to acknowledge that making longer term investments does create some interest rate risk, which should be reserved against. However, from a practical standpoint, the vast majority of credit unions today are not in a required reserve transfer position. Thus, this regulation has had only a minimal impact in the last few years.

Recognizing that longer term investments have and will continue to be a large part of credit union assets, NCUA is proposing to change the 3 year maturity requirement to 5 years. This change will provide credit unions with additional flexibility in this area. Although there is some additional interest rate risk between assets with maturities of 3 years versus those of 5 years, the additional risk is acceptable given the strong capital position of credit unions and thus should not affect safety and soundness.

This amendment will expand the number of assets which are exempt from the definition of risk assets. This will result in a corresponding increase in the reserves to risk asset ratio for many credit unions and will reduce the number of credit unions required to make transfers of gross income to regular reserves or reduce the amount of transfer for some credit unions. However, credit unions with assets that may be exempt from inclusion as risk assets must, as a minimum, adequately document and track them as required by full and fair disclosure requirements in Section 702.3 of NCUA's Regulations. At the time of each required reserve transfer, the credit union must document which assets are exempt.

Section 701.21(h)—Member Business Loans

As proposed, the member business loan rule would be changed in two ways—first, by raising the exclusion threshold for defining business loans to $50,000, and second, by requiring reporting of only those loans meeting that threshold.

Section 701.21(h)(1)(i) defines member business loans and sets forth five exclusions from the general definition. One of the exclusions is for loans of less than $25,000 (Section 701.21(h)(1)(i)(C)). In today's market, $25,000 is too low a threshold. A $25,000 increase in the threshold will not affect safety and soundness but will reduce paperwork and reporting requirements. Therefore, NCUA proposes to raise the threshold amount to $50,000 for determining when a business purpose loan is within the definition of the member business loan rule.

Section 701.21(h)(5) establishes recordkeeping requirements for business purpose loans. It provides that a loan which meets the general definition of a member business loan, regardless of exclusions or exemptions, must be identified as such in the records of the credit union and reported on the semiannual financial and statistical reports required by NCUA. This makes credit unions keep track of business purpose loans that are not defined as

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member business loans. This is a substantial burden for small credit unions that do not make member business loans subject to the other requirements of the regulation, but do grant small business purpose loans. Such double tracking of loans has proved confusing and difficult for many credit unions. Furthermore, NCUA's loss experience shows that major losses have not been caused by small business purpose loans. Accordingly, NCUA proposes to require only those loans which meet the general definition of a member business loans as set forth in Section 701.21(h)(1)(i) be identified as such and reported on the financial and statistical reports required by NCUA. This change will reduce paperwork requirements for credit unions without affecting safety and soundness.

Part 722—Appraisals

Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) directed NCUA and the other financial institution regulatory agencies to publish appraisal rules for federally related real estate transactions within the jurisdiction of each agency. Section 1121(4) of FIRREA defines a federally related transaction as a real estate-related financial transaction that, among other things, requires the services of an appraiser. NCUA recognized that not all real estate-related financial transactions would require an appraiser. Accordingly, NCUA adopted the current regulation which does not require a state-certified or -licensed appraiser for real estate-related financial transactions having a transaction value less than or equal to $50,000. (*See* 55 Fed. Reg. 30199, July 25, 1990.) Congress confirmed and clarified the authority of the financial institution regulatory agencies to set threshold levels below which the services of state certified or licensed appraisers are not required in connection with federally related transactions if the threshold does not represent a threat to the safety and soundness of financial institutions. *See* § 954 of the Housing and Community Development Act of 1992, 106 Stat. 3894.

NCUA believes the requirement of an appraisal in accordance with Part 722 can impose significant costs, both direct and indirect, on the credit union and the member without an equal benefit to federal financial or public policy interests. While in many cases an appraisal is a necessary part of a sound loan underwriting decision process, NCUA also recognizes that appraisals should not be required when they impose significant costs without promoting the safety and soundness of credit unions or furthering the purposes of FIRREA.

Since the establishment of the $50,000 threshold level in 1990, NCUA has not found any evidence indicating that there has been a significant increase in the defaults on real estate-related loans of $50,000 or less because the services of an appraiser have not been required. NCUA believes that the reason for this low loss experience is twofold. First, the majority of transactions falling below the $50,000 threshold are loans on 1-to-4 family residential properties. NCUA's experience shows that major credit losses have been primarily caused by loans secured by commercial buildings, condominiums, shopping centers, and agricultural and other commercial properties. Second, NCUA's requirement that a credit union obtain a valuation on property under $50,000 performed by an individual who is both qualified and experienced with the type of property being valued and has no direct or indirect interest in the property being valued, protects the credit union's interest throughout the term of the loan.

As a result of this loss experience, NCUA proposes to require appraisals only for those real estate-related financial transactions in which the transaction value exceeds $100,000. NCUA does not believe the proposed increase would represent a threat to the safety and soundness of credit unions but rather it will reduce unnecessary costs and paperwork requirements. Furthermore, NCUA does not believe that the proposed increase would represent a major qualitative change in the types of loans falling below the threshold level. Even though more 1-to-4 family residential loans would fall below the threshold level, NCUA does not believe these loans would pose a significantly greater risk to credit unions than similar loans below the current threshold. Furthermore, NCUA does not believe that a $100,000 threshold level would exclude from the appraisal requirement a significant number of real estate development and commercial loans that have caused major credit losses in the past, especially, in light of the restrictions on such loans contained in the member business loan rule. Finally, the requirement of a valuation for any loan less than $100,000 will continue to provide protection in the assessment of collateral for credit unions and the National Credit Union Share Insurance Fund, as well as mitigate any potential risk associated with an increase in the threshold.

Paperwork Reduction Act

The proposed amendments would reduce paperwork requirements. The paperwork reductions will be submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act. Written comments on this decrease in requirements should be forwarded directly to the OMB Desk Officer at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, D.C. 20530, Attn: Gary Waxman.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The proposed amendments reduce regulatory burden and are less restrictive than current requirements. The NCUA Board expects the changes to benefit credit unions by reducing paperwork and reporting requirements. Overall, the NCUA Board expects the changes to benefit members and federally-insured credit unions regardless of size by reducing costs without substantially increasing the risk of loss for federally insured credit unions. In addition, most small credit unions do not offer business and real estate loans, nor are they in a position to make a required reserve transfer. Accordingly, the Board determines and certifies that the proposed amendments do not have a significant economic impact on a substantial number of small credit unions and that a Regulatory Flexibility Analysis is not required.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The current member business loan regulation, appraisal regulation and the definition of risk assets apply to all federally insured credit unions, including state-chartered federally-insured credit unions. The proposed amendments would reduce regulatory requirements for all federally insured credit unions. The NCUA Board has determined that the proposed amendments would not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects

12 CFR Part 700

Credit unions, Reserve requirements, Risk assets.

12 CFR Part 701

Civil rights, Conflicts of interests, Credit, Credit unions, Fair housing, Insurance, Mortgages, Reporting and recordkeeping requirements, Signs and symbols, Surety bonds.

12 CFR Part 722

Appraisals, Credit unions, State-certified and State-licensed appraisers.

By the National Credit Union Administration Board on April 19, 1993.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR parts 700, 701 and 722 as follows:

PART 700—DEFINITIONS

1. The authority citation for part 700 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1757(6) and 1766.

2. It is proposed that section 700.1 be amended by revising paragraphs (i) (2) through (6), (i)(15) and (i)(16) introductory text and by amending (i)(7) introductory text as follows:

§ 700.1 Definitions.

* * * * *

(i) * * *

(1) * * *

(2) Deposits and/or shares in federally or state-insured banks, savings and loan associations, and credit unions that have a remaining maturity of 5 years or less.

(3) Assets that have a remaining maturity of 5 years or less and are insured by, fully guaranteed as to principal and interest by, or due from the U.S. Government, its agencies, the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or the Government National Mortgage Association. Collateralized mortgage obligations that are comprised of government guaranteed mortgage loans shall be included in this asset category.

(4) Loans to other credit unions that have a remaining maturity of 5 years or less.

(5) Student loans insured under the provisions of Title IV, Part B of the Higher Education Act of 1965 (20 U.S.C. 1071, et seq.) or similar state insurance programs that have a remaining maturity of 5 years or less.

(6) Loans that have a remaining maturity of 5 years or less and are fully insured or guaranteed by the Federal or a state government or any agency of either.

(7) Shares or deposits in a corporate credit union that have a remaining maturity of 5 years or less, other than Membership Capital Share Deposit accounts as defined in Part 704. * * *

* * * * *

(15) Assets included in numbered items 2, 3, 4, 5, 6, and 7 with maturities greater than 5 years are exempt from risk assets if the asset is being carried on the credit union's records at the lower of cost or market, or are being marked to market value monthly.

(16) Assets included in numbered items 2, 3, 4, 5, 6, and 7, with remaining maturities greater than 5 years are exempt from risk assets provided they meet the following criteria, irrespective of whether or not the asset is being carried on the credit union's records at the lower of cost or market, or are being marked to market value monthly: * * *

* * * * *

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

3. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787 and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717.

Section 701.31 is also authorized by 15 U.S.C. 1601 et seq., 42 U.S.C. 1861 and 42 U.S.C. 1861 and 42 U.S.C. 3601–3610.

4. It is proposed that Section 701.21 be amended by revising paragraphs (h)(1)(i)(C) and (h)(5) to read as follows:

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(h) * * *

(1) * * *

(i) * * *

(C) A loan meeting the general definition of member business loans under this paragraph (h)(1)(i), and, made to a borrower or an associated member (as defined in paragraph (h)(1)(iii) of this section), which when added to other such loans to the borrower or associated member, is less than $50,000.

* * * * *

(5) *Recordkeeping.* All loans, lines of credit, or letters of credit, that meet the definition of Section 701.21(h)(1)(i), shall be separately identified in the records of the credit union and reported as such in financial and statistical reports required by the National Credit Union Administration.

* * * * *

PART 722—APPRAISALS

5. The authority citation for Part 722 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789 and Pub. L. No. 101–73.

6. It is proposed that § 722.3 be amended by revising paragraphs (a)(1) and (d) as follows:

§ 722.3 Appraisals not required; transactions requiring a State-certified or -licensed appraiser.

(a) *Appraisals not required.* An appraisal performed by a state-certified or -licensed appraiser is not required for any real estate-related financial transaction in which:

(1) The transaction value is $100,000 or less;

* * * * *

(d) *Valuation requirement.* Secured transactions exempted from appraisal requirement pursuant to paragraph (a)(1) of this section (transactions of $100,000 or less) and not otherwise exempted from this regulation shall be supported by a written estimate of market value, as defined in this regulation, performed by an individual having no direct or indirect interest in the property, and qualified and experienced to perform such estimates of value for the type and amount of credit being considered.

[FR Doc. 93–9532 Filed 4–23–93; 8:45 am]
BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–23–AD]

Airworthiness Directives; British Aerospace Model BAe 146 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model BAe 146 series airplanes. This proposal would require inspection of the autopilot pitch servomotor mounting to ensure that foul pins and the corresponding foul pin holes are aligned properly, and corrective action, if necessary. This proposal is prompted by reports that incorrect autopilot pitch servomotor mountings and mounting brackets may have been installed on Model BAe 146 series airplanes. The actions specified by the proposed AD are intended to prevent adverse airplane

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flight characteristics during autopilot operation.

DATES: Comments must be received by June 21, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-23-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, Inc., Avro Division, 22070 Broderick Drive, Sterling, Virginia 20166. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-NM-23-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-23-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model BAe 146 series airplanes. The CAA advises that incorrect autopilot pitch servomotor mountings and mounting brackets may have been installed during production of certain British Aerospace Model BAe 146 series airplanes. Investigation into this problem revealed that the foul pin holes may have been positioned incorrectly on the mounting brackets. Consequently, the corresponding foul pins on the pitch servomotor mounting may have been reset to match the incorrect hole pattern in the mounting bracket. This condition, if not corrected, could result in adverse airplane flight characteristics during autopilot operation.

British Aerospace has issued BAe 146 Inspection Service Bulletin S.B. 27-135, dated April 23, 1992, that describes procedures for a visual inspection of certain autopilot pitch servomotor mountings and brackets to ensure that the foul pins and the corresponding foul pin holes are aligned properly. This service bulletin also describes procedures for a torque check of the autopilot pitch servomotor mounting, if the foul pins and the corresponding foul pin holes do not align properly. For certain other autopilot pitch servomotor mountings and brackets, this service bulletin describes procedures for removal, modification, and installation of a specific autopilot servomotor and mounting. The CAA classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require inspection of the autopilot pitch servomotor mounting to ensure that foul pins and the corresponding foul pin holes are aligned properly, and corrective action, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 1 airplane of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $55. This total cost figure assumes that the proposed requirements of this AD action have not yet been accomplished by the affected operator.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 93-NM-23-AD.

Applicability: Model BAe 146 airplanes, as listed in British Aerospace BAe 146 Inspection Service Bulletin S.B. 27-135, dated April 23, 1992, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent adverse airplane flight characteristics during autopilot operation, accomplish the following:

(a) Within 60 days after the effective date of this AD, perform a visual inspection of the autopilot pitch servomotor mounting to identify the part number on the dataplate in accordance with British Aerospace BAe 146 Inspection Service Bulletin S.B. 27-135, dated April 23, 1992.

(b) If the part number is 209RAA6-135CAF (for Model BAe 146-100A and -200A series airplanes) or 209RAA6-175ABC (for Model BAe 146-300A series airplanes), prior to further flight, perform a visual inspection of the position of the foul pin holes in the mounting bracket in accordance with British Aerospace BAe 146 Inspection Service Bulletin S.B. 27-135, dated April 23, 1992.

(1) If the foul pin holes align with foul pin hole positions "CAF" (for Model BAe 146-100A and -200A series airplanes) or "ABC" (for Model BAe 146-300A series airplanes) on the mounting bracket, no further action is required by this AD.

(2) If the foul pin holes do not align with foul pin hole positions "CAF" (for Model BAe 146-100A and -200A) or "ABC" (for Model BAe 146-300A series airplanes) on the mounting bracket, accomplish the requirements of paragraphs (b)(2)(i) and (b)(2)(ii) of this AD.

(i) Prior to further flight, perform a torque check of the autopilot pitch servomotor mounting in accordance with the service bulletin to ensure that the slip torque corresponds to the values specified in the service bulletin. If the autopilot pitch servomotor mounting slip torque does not correspond to the values specified in the service bulletin, prior to further flight, remove the autopilot pitch servomotor mounting and install a serviceable autopilot pitch servomotor mounting having the correct slip torque in accordance with the service bulletin.

(ii) Within 12 months after the effective date of this AD, modify the mounting bracket and reposition the foul pins on the servomotor mounting in accordance with the service bulletin.

(c) If the part number is not 209RAA6-135CAF (for Model BAe 146-100A and -200A series airplanes) or 209RAA6-175ABC (for Model BAe 146-300A series airplanes), prior to further flight, remove the autopilot pitch servomotor and servomotor mounting, modify the mounting bracket, and install an autopilot pitch servomotor and servomotor mounting having part number 209RAA6-135CAF (for Model BAe 146-100A and -200A series airplanes) or 209RAA6-175ABC (for Model BAe 146-300A series airplanes), in accordance with British Aerospace BAe 146 Inspection Service Bulletin S.B. 27-135, dated April 23, 1992.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 20, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-9617 Filed 4-23-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 92-CE-23-AD]

Airworthiness Directives; British Aerospace, Regional Aircraft Limited, Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); Reopening of comment period.

SUMMARY: This notice revises an earlier proposed airworthiness directive (AD), which would apply to certain British Aerospace (BAe), Regional Aircraft Limited, Jetstream Models 3101 and 3201 airplanes. The previous document proposed inspecting the locking mechanism for existence of a tapering pin, and installing a pin if nonexistent. Installation of a passenger door on one of the affected airplanes revealed that the tapering pin was missing. Since the initial proposal, the manufacturer has revised the service bulletin to correct the serial numbers of certain doors. This document incorporates these serial numbers into the proposed AD. The actions specified by this AD are intended to prevent the inability to open the passenger/crew door, which could result in passenger injury if emergency evacuation was needed.

DATES: Comments must be received on or before July 9, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-23-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Jetstream Aircraft, Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; Telephone (44-292) 79888; Facsimile (44-292) 79703; or Jetstream Aircraft, Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC 20041-6029; Telephone (703) 406-1161; Facsimile (703) 406-1469. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond A. Stoer, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30 ext. 2710; Facsimile (322) 230.68.99; or Mr. John P. Dow, Sr., Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; Telephone (816) 426-6932; Facsimile (816) 426-2169.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before

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and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket 92–CE–23–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–CE–23–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain BAe, Regional Aircraft Limited, Jetstream Models 3101 and 3201 airplanes. The CAA reported that a missing taper pin on the locking mechanism of a passenger/crew door on one of the affected airplanes was discovered during installation of the door. The absence of a locking mechanism taper pin could result in the inability to open the passenger/crew door and possible passenger injury if emergency evacuation was needed.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA kept the FAA informed of the situation described above. The FAA examined the findings of the CAA, reviewed all available information, and then determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

The FAA proposed to amend the Federal Aviation Regulations to include an AD that would apply to certain BAe, Regional Aircraft Limited, Jetstream Models 3101 and 3201 airplanes by publishing a notice of proposed rulemaking (NPRM) in the **Federal Register** on May 26, 1992 (57 FR 21911). The action proposed inspecting the locking mechanism for existence of a tapering pin, and installing a pin if nonexistent. The proposed actions would have been accomplished in accordance with BAe Service Bulletin (SB) 52–A–JA 911140, dated February 3, 1992.

Interested persons were afforded an opportunity to participate in the making of this amendment. No comments were received concerning the proposed rule or the FAA's determination of the cost to the public.

Since the issuance of the proposal, BAe has revised SB 52–A–JA 911140 twice to (1) correct the serial numbers of certain doors; and (2) remove the diagram that shows the locking dog in the unlocked position because it was incorrectly drawn, and delete unlocked position dimensions. These service bulletin revisions do not increase the scope of work or cost over that which was originally proposed; however, they do correct the applicability to include airplanes with different serial numbered passenger doors than that which was originally proposed.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that (1) the previously proposed AD action is still valid; (2) the serial numbers of the passenger doors should be corrected to reflect those in the revised service information; and (3) additional AD action should be proposed to prevent the inability to open the passenger/crew door, which could result in passenger injury if emergency evacuation was needed.

Since Revision 2 of BAe SB 52–A–JA 911140 specifies corrected serial numbers that were not originally included in the proposed AD, the notice has been revised accordingly and the comment period has been reopened to provide additional time for public comment.

The FAA estimates that 68 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 workhours per airplane to accomplish the proposed inspection, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $7,480.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

British Aerospace, Regional Aircraft Limited: Docket No. 92–CE–23–AD.

Applicability: Jetstream Models 3101 and 3201 airplanes (all serial numbers), certificated in any category, that have a main passenger/crew door installed with one of the following serial numbers: WIPL–SD–001 through WIPL–SD–006, WIPL–SD–008 through WIPL–SD–032, WIPL–SD–034 through WIPL–SD–038, WIPL–SD–0039 through WIPL–SD–0046, WIPL–SD–0049, WIPL–SD–0051 through WIPL–SD–0065, WIPL–SD–0067, WIPL–SD–0070, WIPL–SD–0071, SDJ10883, SDJ10884A, SDJ10884B, and SDJ10886 through SDJ10891.

Compliance: Required within the next 500 hours time-in-service after the effective date of this AD, unless already accomplished (see paragraph (c) of this AD).

To prevent the inability to open the passenger/crew door, which could result in passenger injury if emergency evacuation was needed, accomplish the following:

(a) Visually inspect the passenger/crew door locking mechanism in the area between the locking dog and indicator button assembly in accordance with Part 2 of the ACCOMPLISHMENT INSTRUCTIONS section of British Aerospace (BAe) Service Bulletin (SB) 52–A–JA 911140, Revision 2, dated October 6, 1992, to ensure that a taper pin (part number SP28E4) is installed.

(b) If a taper pin (part number SP28E4) is not installed, prior to further flight, accomplish Part 3 of the ACCOMPLISHMENT INSTRUCTIONS section of BAE SB 52–A–JA 911140, Revision 1, dated June 26, 1992.

(c) Accomplishing the actions specified in paragraphs (a) and (b) of this AD in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of BAe SB 52–A–JA 911140, dated February 3, 1992, or BAe SB 52–A–JA 911140, Revision 1, dated June 26, 1992, is considered equal to the "unless already accomplished" statement in the Compliance section of this AD.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office, Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels Aircraft Certification Office.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to British Aerospace, Regional Aircraft Limited, Manager Product Support, Airlines Division, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This document may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on April 19, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–9616 Filed 4–23–93; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 92–NM–218–AD]

Airworthiness Directives; Aerospatiale Model ATR72–100 and –200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR72–100 and –200 series airplanes. This proposal would require replacement of certain main landing gear (MLG) side braces. This proposal is prompted by reports of corrosion on the MLG side braces on Model ATR42 series airplanes. The actions specified by the proposed AD are intended to prevent collapse of the landing gear.

DATES: Comments must be received by June 21, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–218–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Gary Lium, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1112; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–218–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–218–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Aerospatiale Model ATR72–100 and –200 series airplanes. The French DGAC advises that corrosion previously was found on the connecting ball bearings of the main landing gear (MLG) side braces on certain Model ATR42 series airplanes. Further investigation into the cause of this corrosion indicated that the cadmium plating on the ball bearings was inadequate to inhibit the propagation of corrosion. The FAA previously issued AD 91–08–10, Amendment 39–6953 (56 FR 14462, April 10, 1991), to address corrosion on the MLG side braces on Model ATR42 series airplanes.

Since the landing gear side braces on the Model ATR72–100 and –200 series airplanes are similar in design to those installed on Model ATR42 series airplanes, corrosion may also occur on the side braces of these airplanes. (However, there have been no in-service reports of corrosion on side braces of Model ATR72 series airplanes.) Corrosion on MLG side braces, if not detected and corrected, could cause the side braces to fail, which could result in the collapse of the landing gear.

Aerospatiale has issued Service Bulletin ATR72–32–1011, dated August 7, 1992, that describes procedures for replacement of certain part-numbered MLG side braces (having unprotected ball bearings) with modified or repaired MLG side braces. The modification entails cadmium plating the ball cages of the MLG side braces and replacing one of the peripheral stakes with a machined lip. The repaired or modified side braces have been designated with a new part number. The French DGAC classified this service bulletin as mandatory and issued Airworthiness Directive 92–135–015(B), dated June 24,

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1992, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the French DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the French DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require replacement of the MLG side braces with repaired or modified MLG side braces. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 10 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be provided at no cost to the operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,200, or $220 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aerospatiale: Docket 92-NM-218-AD.

Applicability: Model ATR72-100 and -200 series airplanes, equipped with main landing gear (MLG) side braces having part number (P/N) D23207000 or D23207000-1, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent collapse of the landing gear, accomplish the following:

(a) Prior to the accumulation of 7,500 landings on the MLG side brace or within the next 100 landings after the effective date of this AD, whichever occurs later, replace any side brace having P/N D23207000 or D23207000-1 with a repaired or modified side brace having P/N D23207000-2, in accordance with Aerospatiale Service Bulletin ATR72-32-1011, dated August 7, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 20, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-9618 Filed 4-23-93; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 290 and 886

[Docket No. N-93-1585; FR-2158-N-05]

RIN 2502-AD43

Management and Disposition of HUD-Owned Multifamily Projects and Certain Multifamily Projects Subject to HUD-Held Mortgages—Preliminary Regulatory Impact Analysis

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of preliminary regulatory impact analysis.

SUMMARY: This document requests public comment on a Preliminary Regulatory Impact Analysis that the Department of Housing and Urban Development has prepared for its proposed rule amending the Department's current multifamily property disposition regulations, which was published on August 6, 1992 (57 FR 34834).

DATES: Comment due date: May 26, 1993.

ADDRESSES: Interested persons are invited to submit comments on the Preliminary Regulatory Impact Analysis of the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Comments should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Steven J. Hans, Office of Multifamily Property Disposition, Department of Housing and Urban Development, room 6282, 451 Seventh St. SW., Washington, DC 20410-8000. Telephone (202) 708-3343; TDD (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On August 6, 1992, HUD published a proposed rule

in the **Federal Register** (57 FR 34834) seeking public comment on a rule amending the Department's multifamily property disposition regulations at 24 CFR part 290. Part 290 implements HUD's statutory authority, contained in section 207(k) and (l) of the National Housing Act and in section 203 of the Housing and Community Development Amendments of 1978, to handle and dispose of such real property. The rule would incorporate several statutory amendments to section 203 that specify the type of assistance to be provided when the Department determines to preserve units as affordable low- and moderate-income housing, and include certain projects with HUD-held mortgages within the scope of section 203. In addition, the rule would also cover rental housing projects that are subject to HUD-held mortgages that are either delinquent, under workout agreement, or being foreclosed upon.

In the preamble to the proposed rule, HUD advised that it would prepare and publish a preliminary regulatory impact analysis on the economic impact of the rule, in accordance with Executive Order 12291. Under this order, a regulatory agency must determine whether a new regulation is a "major" rule and, if so, must conduct a regulatory impact analysis. A major rule is defined as one that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individuals, industries, Federal, State or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Today's notice publishes for public comment HUD's Preliminary Regulatory Impact Analysis on the economic impact of the proposed rule.

Dated: March 19, 1993.

James E. Schoenberger,

Associate General Deputy Assistant Secretary for Housing.

Regulatory Impact Analysis of Proposed Rule for the Management and Disposition of HUD-Owned Multifamily Projects and Certain Multifamily Projects Subject to HUD-Held Mortgages

I. Introduction

On August 6, 1992 (57 FR 34834), the Department of Housing and Urban Development published a proposed rule for the management and disposition of HUD-owned multifamily projects and certain multifamily projects subject to HUD-held mortgages. This analysis discusses the economic impact that may be expected to result from that rule. The discussion focuses on the economic impact resulting from (1) statutorily mandated changes and (2) primarily regulatory changes.

Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-1711), which is the main statutory basis for the proposed rule, was substantially revised by section 181 of the Housing and Community Development Act of 1987 (1987 Act), which was enacted on February 5, 1988. Two changes mandated by that amendment are the subject of this analysis: (1) The expansion of coverage of section 203 to include multifamily rental housing projects subject to a mortgage held by HUD that is either delinquent, under workout agreement, or being foreclosed upon by HUD; and (2) the requirement that units of local government and State housing finance agencies be given the right of first refusal to purchase a HUD-owned project on terms specified in the disposition program or on other items that will further preservation objectives.

The regulatory changes that may result in an economic impact are: (1) The limited circumstances in which HUD may appropriately determine to dispose of a HUD-owned rental housing project, or to foreclose a HUD-held mortgage on a rental housing project, without ensuring its continued availability as affordable rental or cooperative housing for low- and moderate-income families; (2) the requirement for development of foreclosure packages; and (3) the requirement for tenant notification of pending foreclosure of HUD-held mortgages.

II. Statutorily Mandated Changes

1. Extension of Section 203 requirements for management and disposal of HUD owned properties to multifamily housing projects that are subject to a mortgage held by HUD that is either delinquent, under workout agreement, or being foreclosed upon by HUD. The guidelines for providing financial assistance when units are to be preserved as affordable rental or cooperative housing for low- and moderate-income families are at 24 CFR 290.105(f) of the proposed rule.

The intent of the Congress in extending these requirements to projects in the HUD foreclosure process was to maintain the supply of low- and moderate-income housing as well as to prevent the displacement of low- and moderate-income families when the federal government becomes involved with the resolution of troubled, unsubsidized housing projects with low- and moderate-income tenants (families whose income is below 80 percent of area median income). For the purpose of maintaining the subsidized status of specific housing projects, project-based Section 8 subsidies are more effective than certificates or vouchers.

Before the legislative changes, HUD purchased subsidized projects at foreclosure [1] and re-sold them with 100 percent project based Section 8. When unsubsidized projects were sold to third parties at foreclosure sale, HUD gave 5-year certificates to very low-income tenants—families with incomes below 50 percent of area median income (AMI). Between 5 and 10 percent of tenants in these projects received Section 8 certificates, even though the number of tenants with income below 50 percent of AMI was probably higher. Some would have been unqualified for Section 8 (e.g., single-person households), and others would have failed to respond to the opportunity to receive it. A recent study found that about 22 percent of tenants in unsubsidized projects have very low incomes (see Draft Report, U.S. Department of Housing and Urban Development, Capital Needs Assessment: Multifamily Rental Housing with HUD- Insured (or Held) Mortgagees, 1992). Following the legislative changes, HUD gave 15-year project-based Section 8 assistance for all units in unsubsidized projects occupied by low- and moderate-income families (families with incomes below 80 percent of AMI). The study referenced above found that a total of 59 percent of tenants in unsubsidized housing projects have low and moderate incomes. Assuming that the proportion of those actually assisted remains the same, it is estimated that between 13 percent and 27 percent of tenants would receive project-based Section 8 assistance.

Benefits. The benefits of this provision are in the form of income transfers to the families living in distressed, unsubsidized projects who are provided rental assistance because of this program. The rental assistance will allow improvements in low- and moderate-income tenants' living conditions, due to rehabilitation of these newly-subsidized projects, without

[1] At foreclosure auction of subsidized projects, HUD would bid the level of outstanding debt which was virtually always the high bid.

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increases (and perhaps with decreases) in their monthly housing expenses.

Costs. The cost of this provision is in terms of the increased transfer payment outlays of HUD subsidies. Unit cost estimates are based on fiscal year 1993 budget projections. For estimation purposes, it is assumed that all start-of-year cases are taken to foreclosure and that 50 percent of projects taken to foreclosure are sold to third parties.

It is estimated that 95 unsubsidized projects containing a total of 15,295 units would be sold to third parties at foreclosure sales under these assumptions. Subsidy costs for project-based Section 8 and vouchers are estimated to be $6,508 per unit per year. Under former practice (before the legislative changes), 5 to 10 percent of households in these units would be given 5-year Section 8 vouchers resulting in a yearly expenditure of $5.0 million to $10.0 million for an undiscounted 5-year expenditure of $24.9 million to $49.8 million in budget authority. Under the amended statute and proposed rule, 13 to 27 percent of these units would be assisted. This increases yearly subsidy outlays to $12.9 to $26.9 million for a total 15-year undiscounted expenditure of $147.8 to $306.9 million. Therefore, the new law and rule is estimated to increase HUD outlays for these 95 projects by $7.9 to $16.9 million in contract authority and $122.9 to $257.1 million in budget authority.

2. Requirement to give units of local government and State housing finance agencies the right of first refusal to purchase a HUD-owned project on the terms specified in the disposition program, or on other terms that will further preservation objectives. The provisions implementing this requirement are at 24 CFR 290.109 of the proposed rule.

The intent of Congress in this change is to provide opportunities for State housing finance agencies (SHFAs) and local governments to acquire HUD-owned rental housing projects.

Benefits. The benefits of this provision are the larger numbers of low- and moderate-income units that SHFAs and local governments will be able to acquire and make available for low- and moderate-income use for longer periods than private buyers (e.g., 20 years vs. 15 years).

Costs. Costs of the right-of-first-refusal (RFR) provisions arise from three sources: (1) Lower prices received by HUD for properties sold under RFR; (2) delays caused by the RFR process, and (3) possible downward price bias when SHFAs and local governments reject HUD offers during the RFR process.

Based on FY 1992 experience, HUD lost $549,561 on RFR sales of 364 units, for an average of about $1,510 per unit, compared to selling the same units at the average competitive market price. The RFR process requires a 90-day waiting period after a SHFA or local government expresses interest in an RFR purchase. In FY 1992, this waiting period resulted in additional holding costs of $3.2 million.

As part of the RFR process, HUD is required to make public an estimated price offer to the SHFA or local government potentially purchasing under an RFR agreement. If the SHFA or local government rejects the RFR offer, the announced offer price serves as a benchmark for the eventual competitive bidding. This may cause downward biases in the competitive market bids. The losses due to this effect have not been quantified but could be considerable.

In FY 1992, 14 projects were sold for a total of $22,168,460 under competitive bid after being rejected by SHFAs or local governments under RFR and after HUD estimated values had been announced. If the announcement of the HUD price depressed market bids by just 5 percent, then HUD lost $1.1 million due to this aspect of the RFR requirements.

HUD would prefer to deal with SHFAs and local governments expressing interest in purchasing HUD-controlled distressed projects on a private-negotiation basis so that these biases are not introduced into the competitive bidding process. However, the open form of the RFR process is required by law.

III Regulatory Changes

1. The limited circumstances in which HUD may appropriately determine to dispose of a HUD-owned rental housing project, or to foreclose a HUD-held mortgage on a rental housing project, without ensuring its continued availability as affordable rental or cooperative housing for low- and moderate-income families. These circumstances are identified in 24 CFR 290.105(d) of the proposed rule.

This provision implements section 579(b) of the National Affordable Housing Act, which amended section 203. When sufficient low- and moderate-income housing is available in a market, HUD may deem it unnecessary to preserve affordable units involved in a disposition. Instead, qualified low- and moderate-income tenants would be given 5-year Section 8 vouchers.

Benefits. This provision generates benefits for tenants and for HUD. For FY 1993, it is estimated that non-preservation under this rule will save HUD $107 million in subsidy outlays by substituting 5-year vouchers or certificates for 15-year project-based Section 8 contracts in these cases. Further, competitive sales will bring higher prices when no affordability restrictions are placed on these projects.

Low- and moderate-income tenants will benefit from the wider array of housing choices they have under the certificate or voucher programs that would be unavailable to them under a preservation contract.

Costs. Primarily, the costs of this rule are in the form of risk, and are borne by project owners who participate in the non-preservation program. Non-preserved projects no longer have a guaranteed income stream. Since non-preservation will only occur in "loose" low- and moderate-income housing markets, these owners face the risk of revenue losses due to the departure of certificate- or voucher-holding tenants paying the fair-market rent (FMR). In loose markets, subsidized tenants may only be replaceable by unsubsidized tenants willing and able to pay something less than the FMR.

In addition, tenants who choose to move because they are participants in the certificate or voucher program may incur relocation costs. However, any such costs are incurred only because of the increased choices available to tenants, which would be unavailable under a preservation contract.

2. Development of foreclosure packages. This provision is at 24 CFR 290.103 of the proposed rule.

The foreclosure package includes expense and rent analyses, repair estimates, tenants' input, and Section 8 needs estimates. The development of formal foreclosure packages facilitates the statutory goal of preserving units for low- and moderate-income residents while promoting HUD's objective of selling the maximum number of projects at competitive foreclosure sales. Under this provision, this analysis will be prepared prior to foreclosure sale.

Benefits. The foreclosure package permits HUD to establish a realistic sales price for a project based on a standardized pricing procedure and taking into account statutory restrictions. The standardization of the foreclosure package provides the market with a consistent means of evaluating properties which HUD is selling.

Costs. Since more foreclosure analyses will be performed, a major cost of this regulatory change is increased staff time. There is no estimate currently available for this cost. Another cost arises from the delay that assembly of the foreclosure package causes in the foreclosure process. There currently is no estimate for the level of these costs.

3. Notification to tenants of pending foreclosure of HUD-held mortgages. This provision is at 24 CFR 290.100.

To further HUD's homeownership goals as well as assure timely disposition of foreclosed property, a single tenant notification of a foreclosure sale is made.

Benefits. Tenant notification increases the efficiency of the sales process by providing early input on potential interest or lack of interest by tenants in acquisition of a project.

Costs. Costs of tenant notification are limited to preparation and postal delivery costs of written notices, as well as posting notices in public area where required. There are no estimates of this cost available.

[FR Doc. 93-9624 Filed 4-23-93; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 52

[PS-158-86]

RIN 1545-AJ23

Petroleum Tax Imposed on Natural Gasoline

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulation relating to the taxes imposed on natural gasoline under section 4611 of the Internal Revenue Code. The proposed regulation reflects changes to the law made by the Hazardous Substance Response Revenue Act of 1980 and the Superfund Revenue Act of 1986 and affects producers of natural gasoline.

DATES: Written comments and requests for a public hearing must be received by June 25, 1993.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (Attn: CC:CORP:T:R (PS-158-86), room 5228). In the alternative, comments and requests may be hand delivered to: CC:CORP:T:R (PS-158-86), Internal Revenue Service, room 5228, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, (202) 622-3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4611 of the Internal Revenue Code, tax is imposed on crude oil received at a United States refinery. Section 4612(a)(1) provides that, for purposes of section 4611, the term "crude oil" includes natural gasoline. Section 4612(a)(5) provides that a United States refinery is any facility in the United States at which crude oil, including natural gasoline, is refined. Thus, any facility in the United States that produces natural gasoline is a United States refinery, even though the production of natural gasoline is not considered "refining" in the traditional sense of that term.

Under section 4612(a)(6), the natural gasoline produced at a United States refinery is treated as received at that refinery at the time the natural gasoline is produced. Generally, natural gasoline is produced by the fractionation of natural gas liquids.

To reflect these statutory provisions, the proposed regulation provides that any facility that produces natural gasoline by fractionation or similar operation is treated as a United States refinery. This provision does not represent a change in the Treasury Department's interpretation of sections 4611 and 4612.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to those regulations and, therefore, an Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing will be scheduled and held upon written request by any person who submits timely written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 52

Chemicals, Excise taxes, Petroleum.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 52 is proposed to be amended as follows:

PART 52—ENVIRONMENTAL TAXES

Paragraph 1. The authority citation for part 52 continues to read in part as follows:

Authority: 26 U.S.C. 7805 • • •

Par. 2. Section 52.4612-1 is added to read as follows:

§ 52.4612-1 United States refinery.

(a) *In general.* For purposes of the tax imposed by section 4611(a)(1), a United States refinery includes any facility in the United States at which natural gasoline is produced by fractionation or similar operation.

(b) *Effective date.* This section is effective as of April 26, 1993.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 93-9581 Filed 4-23-93; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 75-93]

Exemption of Records System Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice proposes to exempt a system of records from subsections (c)(3) and (4); (d); (e)(1), (2), and (3); (e)(4)(I); (e)(5) and (8); and (g) of the Privacy Act, 5 U.S.C. 552a. This system of records is the "National Drug Intelligence Center Data Base (JUSTICE/NDIC-001)." Information in this system relates to the mission of the National Drug Intelligence Center (NDIC), as set forth in section 9078 of Public Law 102-396, to coordinate and consolidate drug intelligence from all

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national security and law enforcement agencies and to produce information regarding the structure, membership, finances, communications, and activities of drug trafficking organizations and their memberships. The exemptions are necessary to avoid interference with the law enforcement-related functions of NDIC and of those agencies that provide information to, or receive information from, NDIC. Specifically, the exemptions are necessary to preserve the safety of law enforcement personnel and of confidential informants and other witnesses, to prevent disclosure of investigative techniques, to prevent persons suspected of illegal activities related to narcotic trafficking from frustrating law enforcement activities (for example, by flight or destruction of evidence), and to protect the privacy of third parties. The exemptions may also be necessary, in some cases, to safeguard information properly classified, pursuant to Executive Order, in the interest of national defense or foreign policy.

DATES: Submit any comments by May 26, 1993.

ADDRESSES: Address all comments to Patricia E. Neely, Staff Assistant, Systems Policy Staff, Information Resources Management, Justice Management Division; Room 850, Washington Center Building; Department of Justice, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Patricia E. Neely, (202) 616–0178.

SUPPLEMENTARY INFORMATION: In the Notice Section of today's **Federal Register**, the Department of Justice provides a description of the "National Drug Intelligence Center Data Base, JUSTICE/NDIC-001."

This Order relates to individuals rather than small businesses. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the Order will not have "a significant impact on a substantial number of small entities."

List of Subjects in Part 16

Administrative Practices and Procedure, Courts, Freedom of Information Act, Privacy Act and Government in the Sunshine Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, it is proposed to amend 28 CFR part 16 by adding a new section, § 16.82, as set forth below.

Dated: April 16, 1993.

Stephen R. Colgate,

Assistant Attorney General for Administration.

1. The authority for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

2. It is proposed to amend 28 CFR part 16 by adding § 16.82 to read as follows:

§ 16.82 Exemption of the National Drug Intelligence Center Data Base—Limited Access

(a) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c)(3) and (4); (d); (e)(1), (2), and (3); (e)(4)(I); (e)(5) and (8); and (g) of 5 U.S.C. 552a. In addition, the following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a (k)(1) and (k)(2) from subsections (c)(3), (d), and (e)(1) and (e)(4)(I) of 5 U.S.C. 552a:

(1) National Drug Intelligence Center Data Base (JUSTICE/NDIC–001).

(b) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(1), and (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, e.g., public source materials, the applicable exemption may be waived, either partially or totally, by the National Drug Intelligence Center (NDIC). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) for the same reasons that the system is exempted from the provisions of subsection (d).

(2) From subsection (c)(4) because this system is exempt from the access provisions of subsection (d) pursuant to subsection (j)(2) of the Privacy Act.

(3) From subsection (d) because disclosure to the subject could alert the subject of an investigation pertaining to narcotic trafficking or related activity of the fact and nature of the investigation, and/or of the investigative interest of NDIC and other intelligence or law enforcement agencies (including those responsible for civil proceedings related to laws against drug trafficking); lead to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; reveal the details of a sensitive investigative or intelligence technique, or the identity of a confidential source; or otherwise impede, compromise, or interfere with investigative efforts and other related law enforcement and/or intelligence activities. In addition, disclosure could invade the privacy of third parties and/or endanger the life and safety of law enforcement personnel, confidential informants, witnesses, and potential crime victims. Finally, access to records could result in the release of properly classified information that could compromise the national defense or foreign policy. Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(4) From subsection (e)(1) because, in the course of its acquisition, collation, and analysis of information, NDIC will need to retain information not immediately shown to be relevant to counterdrug law enforcement to establish patterns of activity and to assist other agencies charged with the enforcement of laws and regulations regarding drug trafficking and charged with the acquisition of intelligence related to international aspects of drug trafficking. This consideration applies equally to information acquired from, or collated or analyzed for, both law enforcement agencies and agencies of the U.S. foreign intelligence community.

(5) From subsection (e)(2) because application of this provision could present a serious impediment to law enforcement in that it would put the subject of an investigation, study or analysis on notice of the fact of such investigation, study, or analysis, thereby permitting the subject to engage in conduct intended to frustrate the activity; because, in some circumstances, the subject of an investigation may not be required to provide to investigators certain information; and because thorough analysis and investigation may require seeking information from a number of different sources.

(6) From subsection (e)(3) (to the extent applicable) because the requirement that individuals supplying information be provided a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation and reveal the identity of confidential informants and endanger their lives and safety.

(7) From subsection (e)(4)(I), to the extent that this subsection is interpreted to require more detail regarding the record sources in this system than have been published in the **Federal Register.** Should the subsection be so interpreted,

exemption from this provision is necessary to protect the confidentiality of the sources of criminal and other law enforcement information and to protect the privacy and physical safety of witnesses and informants. Furthermore, greater specificity concerning the sources of properly classified records could compromise national defense or foreign policy.

(8) From subsection (e)(5) because the acquisition, collation and analysis of information for law enforcement purposes does not permit advance determination whether such information is accurate or relevant, nor can such information be limited to that which is complete or apparently timely. Information of this type often requires further analysis and investigation to develop into a comprehensive whole that which is otherwise incomplete or even fragmentary. Moreover, its accuracy is continually subject to analysis and review, and, upon careful examination, seemingly irrelevant or untimely information may acquire added significance as additional information brings new details to light. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in collating and analyzing information and would impede the development of criminal intelligence necessary for effective law enforcement.

(9) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement by revealing investigative techniques, procedures, or evidence.

(10) From subsection (g) to the extent that the system is exempt from subsection (d).

[FR Doc. 93–9579 Filed 4–23–93; 8:45 am]
BILLING CODE 4410–02–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Pennsylvania Abandoned Mine Lands Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of public comment period.

SUMMARY: OSM is reopening and extending the public comment period on a proposed amendment to the Pennsylvania permanent regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment provides for changes to the approved Pennsylvania Plan to allow for the initiation of a State administered emergency reclamation program.

This document sets forth the times and locations that the Pennsylvania plan and the proposed amendment to that plan are available for public inspection, the comment period during which interested persons may submit written comments on the amendment and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on May 22, 1993, to ensure consideration in the rulemaking process. If requested, a public hearing on the amendment will be held at 9 a.m. on May 11, 1993. Requests to present testimony at the hearing must be received on or before 4 p.m. on May 10, 1993.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand delivered to Robert J. Biggi, Director, Harrisburg Field Office at the address listed below. Copies of the Pennsylvania plan, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting OSM's Harrisburg Field Office.

Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Harrisburg Transportation Center, Third Floor, suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036.

Pennsylvania Department of Environmental Resources, Bureau of Abandoned Mine Reclamation, P.O. Box 1467, Harrisburg, Pennsylvania 17105, Telephone: (717) 783–2156.

A public hearing, if held, will be at the Penn Harris Motor Inn and Convention Center at the Camp Hill Bypass and U.S. Routes 11 and 15, Camp Hill, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Director, Harrisburg Field Office, (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

The Secretary of the Interior approved the Pennsylvania plan effective July 31, 1982. Information on the background of the Pennsylvania plan including the Secretary's findings, and the disposition of comments can be found in the July 30, 1982, **Federal Register** (47 FR 33079). Effective October 30, 1992, the Pennsylvania Plan was amended to update existing policies and procedures, and to allow for the new initiatives provided under the Abandoned Mine Reclamation Act of 1990 (Public Law 101–508). The Secretary's findings and the disposition of comments relative to the Plan amendment can be found in the October 30, 1992 **Federal Register** (57 FR 49135–49138).

II. Discussion of the Proposed Amendment

By notice dated September 29, 1982, (47 FR 42729–42730), the Secretary extended an opportunity to the States and Tribes to amend their AML Reclamation Plans to allow for a self-administered emergency reclamation program. Until that time, projects declared an emergency pursuant to section 410 of the SMCRA had been administered solely by OSM. To ensure that State/Tribal reclamation plan amendments submitted in response to the notice were consistent and adequately addressed necessary program requirements, OSM established guidelines on March 7, 1983. These guidelines for submission of amendments to State reclamation plans to conduct emergency reclamation contain specific authorizations, policies, and procedures that should be addressed as part of the amendment request. In addition, the March 7, 1983 guidance also contains information on the administration of State emergency reclamation programs.

By letter dated December 30, 1992, the Pennsylvania Department of Environmental Resources (PADER) submitted to OSM a proposed amendment to revise the Pennsylvania Plan to assume responsibility for a State administered emergency reclamation program. The amendment, as submitted, proposes to add a new part F to the current Pennsylvania Plan. Part F is composed of six sections that address AML Reclamation Plan amendment requirements under 30 CFR 884.13. The following is a summary of each section under the new part F:

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1. Governor's Designation of the Department of Environmental Resources

This section addressed the designation by the Governor of Pennsylvania that PADER is authorized to conduct the reclamation program.

2. The Legal Opinion Authorizing PADER to Administer the Emergency Program

PADER has submitted a revised legal opinion from the Assistant Counsel of the Bureau of Legal Services concerning its authorities for conducting an emergency program.

3. Policies and Procedures in Conducting the Emergency Program

This section of the amendment contains a discussion of the purpose of the emergency program, coordination activities with other State and Federal agencies, and procedures for entering onto private property and conducting lien evaluations. In addition, this section addresses the planning and design of emergency projects, the determination of site eligibility, and the participation of the public in the development of the amendment.

4. Administrative and Managerial Structure for the Emergency Program

This section of the amendment provides information on the structure and staffing of the emergency program, assistance to be provided by OSM during the period of transition from a Federal to a State administered program, and on the overall funding of the Pennsylvania emergency program. In addition, this section discusses the procurement and accounting systems to be used for emergency projects.

5. Emergency Problem Quantification

This section provides information on the types of emergencies and where they may occur in the State.

6. Emergency Program in Pennsylvania

This section provides a statement on the objectives of the overall reclamation program and the emergency program in Pennsylvania.

OSM published a notice announcing receipt of this amendment and the opening of the public comment period in the March 23, 1993, **Federal Register** (54 FR 15456). The public comment period was set to end on April 22, 1993. The public hearing was scheduled to be held at 9 a.m. on April 19, 1993. As a consequence of this reopening and extension, the public comment period will now end on May 22, 1993, and the public hearing is rescheduled for 9 a.m. on May 11, 1993.

III. Public Comment Procedures

OSM is reopening and extending the public comment period for Pennsylvania's proposed amendment due to the interest expressed in this amendment and for the sake of providing ample opportunity for all commenters to comment. In accordance with the provisions of 30 CFR 884.14, OSM is now seeking comments on whether the amendment proposed by Pennsylvania satisfies the applicable plan approval criteria of 30 CFR 884.13. If the amendment is deemed adequate, it will become part of the Pennsylvania Plan.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATE**" or at locations other than the Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person under "**FOR FURTHER INFORMATION CONTACT**" by 4 p.m. on May 10, 1993. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held.

Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Harrisburg Field Office by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made part of the Administrative Record.

IV Procedural Determinations

Executive Order 12291

On March 30, 1992, the Office of Management and Budget (OMB) granted the Office of Surface Mining Reclamation and Enforcement (OSM) an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions related to approval or disapproval of State and tribal abandoned mine land reclamation plans and revisions thereof. Therefore, preparation of a regulatory impact analysis is not necessary and OMB regulatory review is not required.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and adopted by a specific State or Tribe, not by OSM. Decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of title IV of the Surface Mining Control and reclamation Act (SMCRA) (30 U.S.C. 1231–1243) and the Federal regulations at 30 CFR parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a

substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State (or Tribal) submittal which is the subject of this rule is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the State (or Tribe). In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 16, 1993.

W. Hord Tipton,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 93–9657 Filed 4–23–93; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR 285, 602, 630, and 678

Receipt of Petition for Rulemaking; Center for Marine Conservation

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of receipt of petition for rulemaking and request for comments.

SUMMARY: NMFS announces receipt of a petition for rulemaking on issues related to fishery management regulations promulgated under the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA). The Center for Marine Conservation (CMC) has petitioned the Secretary of Commerce to: (1) Amend guidelines for fishery management plans to create a presumption that proposed new fishing gear is prohibited from any fishery under U.S. jurisdiction until it has been observed in operation, evaluated and certified not to cause harm to protected fishery resources; and (2) amend the fishery management plans for Atlantic swordfish and other fisheries and their implementing regulations to regulate pair trawling as an experimental fishery. In addition, CMC has asked NMFS to reinitiate consultation on the effects of pair trawl gear on endangered marine turtles and whales under section 7 of the ESA, and to reclassify fisheries in which pair trawl gear is used from Category II to Category I under Interim Exemption for Commercial Fisheries established pursuant to section 114 of the NMPA. The request to reinitiate consultation under section 7 of the Endangered Species Act has been denied based on the lack of any new information indicating interactions between pair trawl gear and endangered or threatened species. NMFS has already initiated rulemaking to address the reclassification of fisheries under the Interim Exemption for Commercial Fisheries (57 FR 34553, August 5, 1992) and is not soliciting further comments on this request at this time. The information presented by the Center for Marine Conservation is being considered in the rulemaking process.

DATES: Comments on the petition are requested through May 26, 1993.

ADDRESSES: Comments on the petition should be directed to: Nancy Foster, Assistant Administrator (Acting), National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910 (Attention: Richard Stone—F/CM4). Please indicate in the letter that your comment is in response to the "CMC Petition for Rulemaking."

FOR FURTHER INFORMATION CONTACT: Regarding Fishery Management Plan issues, please contact Aaron King, 301–713–2347; regarding ESA and MMPA issues, please contact Victoria Credle at 301–713–2322. Copies of the Center for Marine Conservation's petition for rulemaking are available upon request. Also available are aggregated data on catch of target species and bycatch in the pair trawl fishery as collected by observers during the fall of 1992.

SUPPLEMENTARY INFORMATION: Pair trawling involves the deployment of a large mesh midwater trawl between two vessels. Participants describe the pelagic fishery as a nighttime fishery, with trawl times averaging 2.5 to 3 hours to preserve the quality of the catch. The head rope is no less than 30 feet (9–10 meters) below the surface of the water while the gear is fishing. First introduced on the U.S. northeast coast in 1991, pair trawl gear targeted tuna and swordfish for one season under the regulations existing at that time, which did not restrict the types of gear that could be used to take swordfish commercially. At that time, fishing occurred slightly inshore on the continental shelf, from the Hudson Canyon north to the Grand Banks. In a final rule published on December 13, 1991 (56 FR 65007), NMFS restricted the directed catch of Atlantic swordfish gear to longline, harpoon and drift gillnet, except under an experimental fishery permit.

Presently, information on pair trawl interactions with marine mammals is limited to unofficial reports on the striped bass and albacore tuna fisheries in the Bay of Biscay, France, and some preliminary data collected by NMFS during the last few pair trawl trips taken during the fall of 1992 off the northeast coast of the United States. Information from the French pair trawl albacore tuna fishery indicates that interactions with marine mammals occur at a rate greater than that documented in the drift gillnet fishery when the head rope is 2 meters under water. Little information is available on the pair trawl striped bass fishery. However, unofficial reports indicate a noticeable increase in the number of stranded dolphins on the northern coast of Brittany since the introduction of pair trawls. No data on interaction rates are available; however, the European Economic Community is currently considering a report on this issue.

Pursuant to a December 13, 1991, rulemaking, NMFS has the authority to require all selected Atlantic swordfish fishery vessels, whether taking swordfish in a directed fishery or incidental to another fishery, to carry NMFS approved observers. NMFS is now using this authority to collect scientific data on all aspects of this fishery. By the end of 1992, there were 11 vessels in the fishery consisting of four pairs and one group of three vessels that pair off in different combinations.

In addition to the requested rulemakings, CMC has petitioned NMFS to reinitiate consultation on the effects of pair trawl gear on endangered marine turtles and whales under section 7 of the ESA, and to reclassify fisheries (at 50 CFR part 229) in which pair trawl gear is used from Category II to Category I under the Interim Exemption for Commercial Fisheries established pursuant to section 114 of the MMPA. NMFS is denying the request to reinitiate consultation under section 7 of the ESA as there is no new evidence to suggest that vessels using pair trawl gear are interacting with endangered or threatened marine animals to a greater degree than previously considered. However, any new proposed rulemakings which affect the pair trawl fishery will be subject to consultation under section 7. NMFS has already initiated rulemaking to address the reclassification of fisheries under the Interim Exemption for Commercial

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Fisheries (57 FR 34553, August 5, 1992) and is not soliciting further comments on this request at this time. The information presented by the Center for Marine Conservation is being considered in the rulemaking process.

Dated: April 20, 1993.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries National Marine Fisheries Service

[FR Doc. 93-9666 Filed 4-23-93; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 58, No. 78

Monday, April 26, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Butler Rural Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA) has made a finding of no significant impact (FONSI) with respect to the potential environmental impact resulting from a proposal by Butler Rural Electric Cooperative, Inc. (BREC), to construct a new headquarters and warehouse facility (project) in Butler County, Ohio. The FONSI is based on the Borrower's Environmental Report (BER) prepared by BREC. REA conducted an independent evaluation of the report and concurs with its scope and content. In accordance with REA Environmental Policies and Procedures, 7 CFR 1794.61, REA has adopted the BREC's BER as the Environmental Assessment (EA) for the project.

FOR FURTHER INFORMATION CONTACT: Jennifer A. Corwin, Environmental Protection Specialist, Environmental Compliance Branch, Electric Staff Division, room 1246, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250-1500, telephone (202) 720-1784.

SUPPLEMENTARY INFORMATION: The proposed project will be located in Butler County, Ohio. The project will include a 10,000-square foot office and service center building, a 12,000-square foot warehouse, parking to accommodate more than 60 vehicles, and a storm water detention basin with a surface area of approximately one acre. BREC has purchased a little over 12 acres of land for the project, all of which will be affected by construction and landscaping activities.

Alternatives examined for the proposed project include taking no action, renovating the existing headquarters building, demolishing the old headquarters facility and constructing a new facility on the existing site, and constructing the facility at alternative sites.

Based on an independent analysis of the adopted BER, REA has concluded that the construction of the proposed project will have no significant impact on air quality, water quality, the 100-year floodplain, existing land uses, historic properties, federally-listed threatened and endangered species, or designated critical habitat or species proposed for listing or proposed critical habitat. A Farmland Conversion Impact Rating Form was completed by BREC and the U.S. Soil Conservation Service and it was determined that the 12-acre site has a low ranking for important farmland. Also, a wetland delineation report was prepared for BREC by KEMRON Environmental Sciences. The report concluded that the proposed project will not affect wetlands.

No other potential significant impact resulting from the construction and use of the proposed project has been identified. Copies of the EA and FONSI are available for review at, or can be obtained from, REA at the address provided herein or from Butler Rural Electric Cooperative, Inc., P.O. Box 13030, Hamilton, Ohio 45013-0030.

Dated: April 20, 1993.

James B. Huff, Sr.,

Administrator.

[FR Doc 93-9621 Filed 4-23-93; 8:45 am]

BILLING CODE 3410-15-F

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Also Known as Golamreza Zandianjazi, et al.

In the matter of: Reza Zandian, also known as Golamreza Zandianjazi, with addresses at 5 Hillsborough, Newport Beach, California 92660 and c/o Iran Business Machines, USA, 600 Anton Boulevard, Costa Mesa, California 92626; Charles Robert Reger, 9582 Erskine Drive, Huntington Beach, California 92646; Iran Business Machines, No. 50 Molla Sadra Avenue, 14357 Tehran, Iran; Iran Business Machines, USA, 600 Anton Boulevard, Costa Mesa, California 92626; Lucach Corporation, and its division, Computerworld North America, also known as Computer World, 17526-B Von Karman, Irvine, California 92714 and Computerworld Europe, also known as Computer World and C.E.P.A.T., Rue Jean-Grandel, BP 12-95102 Argenteuil, France, Respondents.

Order Temporarily Denying Export Privileges

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (Department), pursuant to the provisions of § 788.19 of the Export Administration Regulations (currently codified at 15 CFR parts 768-799 (1992)) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401-2420 (1991, Supp. 1992, and Pub. L. 103-10, March 27, 1993)) (the Act), has asked the Acting Assistant Secretary for Export Enforcement to issue an order temporarily denying all United States export privileges to Reza Zandian, also known as Golamreza Zandianjazi (Zandian); Charles Robert Reger (Reger); Iran Business Machines; Iran Business Machines, USA; Lucach Corporation and its division, Computerworld North America, also known as Computer World (Lucach); and Computerworld Europe, also known as Computer World and C.E.P.A.T. (Computerworld Europe) (hereinafter collectively referred to as respondents).[1]

In its request, the Department states that, as a result of an ongoing investigation, it has reason to believe that, during the period from approximately July 1991 through approximately January 1993, Zandian and Reger, acting through Zandian's companies, Iran Business Machines, USA, a company located in Costa Mesa, California, and Lucach, located in Irvine, California, exported and attempted to export U.S.-origin computers, controlled for reasons of national security, nuclear non-proliferation, and foreign policy, to Iran without the validated export licenses required by the Regulations for such exports.

The Department believes that Zandian and Reger, acting through Zandian's companies both in the United States and overseas, would obtain orders from

[1] All of the companies identified above are owned or controlled by Zandian. Reger is the General Manager of Zandian's companies in the United States.

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customers in Iran for U.S.-origin commodities. The commodities would be ordered from U.S. suppliers by Iran Business Machines, USA, on the representation that the goods were intended for use in the United States. Once the goods were delivered to Iran Business Machines, USA, Zandian and Reger would use another of Zandian's companies in the United States, Lucach, to export the goods to Iran.

In at least two instances, they submitted license applications to the Department seeking authorization to export U.S.-origin computers from the United States to Iran. Upon receiving notification that the Department intended to deny the applications, however, they requested that the license applications be returned to them without action. They then attempted to export the computers to Zandian's company in France, Computerworld Europe, also known as Computer World and C.E.P.A.T., pursuant to a general license, when they knew the computers were destined for Iran and that no authorization for the reexport of the computer from France to Iran had been granted by the Department.[2]

In another instance in which no application was filed, Zandian and Reger exported a U.S.-origin computer from the United States to Iran without the required validated export license. In connection with that export, they submitted a Shipper's Export Declaration (SED) to the U.S. government, stating that the export was authorized under general license G–DEST. In fact, a validated license was required for the export of the computer to Iran.[3]

In light of the above-described events, the Department believes that the violations respondents are suspected of having committed were significant, deliberate and covert and are likely to occur again unless a temporary denial order naming respondents is issued by the Acting Assistant Secretary. In addition, the Department believes that a temporary denial order is necessary to give notice to companies in the United States and abroad that they should cease dealing with respondents in export-related transactions involving U.S.-origin goods.

Accordingly, based on the showing made by the Department, I find that an order temporarily denying the export privileges of Reza Zandian, also known as Golamreza Zandianjazi; Charles Robert Reger; Iran Business Machines; Iran Business Machines, USA; Lucach Corporation and its division, Computerworld North America, also known as Computer World; and Computerworld Europe, also known as Computer World and C.E.P.A.T., is necessary in the public interest to prevent an imminent violation of the Act and the Regulations and to give notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations, in order to reduce the substantial likelihood that respondents will continue to engage in activities that are in violation of the Act and the Regulations. This order is issued on an *ex parte* basis without a hearing, based on the Department's showing that expedited action is required.

Accordingly, it is hereby *Ordered*.

I. All outstanding individual validated licenses in which any of the respondents appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of respondents' privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. For a period of 180 days from the date of entry of this order, Reza Zandian, also known as Golamreza Zandianjazi, with addresses at 5 Hillsborough, Newport Beach, California 92660 and c/o Iran Business Machines, USA, 600 Anton Boulevard, Costa Mesa, California 92626; Charles Robert Reger, 9582 Erskine Drive, Huntington Beach, California 92646; Iran Business Machines, No. 50 Molla Sadra Avenue, 14357 Tehran, Iran; Iran Business Machines, USA, 600 Anton Boulevard, Costa Mesa, California 92626; Lucach Corporation, and its division, Computerworld North America, also known as Computer World, 17526–B Von Karman, Irvine, California 92714; and Computerworld Europe, also known as Computer World and C.E.P.A.T., Rue Jean-Grandel, BP 12–95102 Argenteuil, France, and all their successors, assignees, officers, partners, representatives, agents, and employees, hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 788.3(c), any person, firm, corporation, or business organization related to respondents by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order. Based on the showing made by the Department, I have determined that the following companies are related to one or more of the respondents by affiliation, ownership, or control in the conduct of trade and related services and, accordingly, are hereby made subject to this Order:

Optima Technology Corporation, also known as O.T.C., 17526 Von Karman, Irvine, California 92714
Optima Technology Europe, also known as O.T.E., Rue Jean-Grandel, BP 12–95102 Argenteuil, France
Optima Technology Middle East, also known as O.T.M.E., 132 Pelestin Avenue, Tehran, Iran
Computerworld Middle East, No. 50 Molla Sadra Avenue, 14357 Tehran, Iran
AS/TEQ Corporation, 17526 Von Karman, Irvine, California 92714
U.S. Business Machines Corporation, 17526 Von Karman, Irvine, California 92714
RISQ Technology Corporation, 17526 Von Karman, Irvine, California 92714

and

ICSAA Trade Company, with addresses at 7502 Mar Avenue, La Jolla, California 92037

and

P.O. Box 27082, 1395 Marine Drive, West Vancouver, British Columbia, V7T2X8 Canada

IV. As provided by § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. In accordance with the provisions of § 788.19(e) of the Regulations, any respondent may, at any time, appeal this temporary denial order by filing with the Office of the Administrative Law Judge, U.S. Department of Commerce/Export Control, room H–4017, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support of the appeal. Any related person may appeal the finding that it is related to one or more of the denied parties, but may not appeal the underlying issuance of the temporary denial order.

VI. This order is effective immediately and shall remain in effect for 180 days.

VII. In accordance with the provisions of § 788.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose a request to renew this temporary denial order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order shall be served on each respondent and each related person. This order shall be published in the **Federal Register.**

Dated: April 16, 1993.

Douglas E. Lavin,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 93–9577 Filed 4–23–93; 8:45 am]

BILLING CODE 3510–DT–M

[2] On January 22, 1993, a three count indictment was returned against Zandian and Reger charging them with conspiracy, attempted unlawful export and making a false statement to the U.S. government on the Shipper's Export Declaration submitted in connection with the attempted export of an International Business Machine ES 9000 model 9121–190 computer on or about January 4, 1993.

[3] The Department also stated that the investigation has given it reason to believe that respondents have possession of a U.S.-origin computer that they ordered for a company in Iran.

International Trade Administration

[A–427–812]

Initiation of Antidumping Duty Investigation: Calcium Aluminate Cement and Cement Clinker From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 26, 1993.

FOR FURTHER INFORMATION CONTACT: Jim Cunningham, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4207.

Initiation of Investigation

The Petition

On March 31, 1993, we received a petition filed in proper form by Lehigh Portland Cement Company (petitioner). Petitioner filed a supplement to the petition on April 15, 1993. In accordance with 19 CFR 353.12, petitioner alleges that calcium aluminate cement and cement clinker from France is being, or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because the petition was filed on behalf of the U.S. industry producing the product subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E) or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file a written notification with the Assistant Secretary for Import Administration.

Scope of Investigation

The products covered by this investigation are calcium aluminate cement and cement clinker other than white, high purity calcium aluminate cement and cement clinker. The products included in this investigation contain by weight more than 32 percent but less than 65 percent alumina and more than one percent each of iron and silica. Clinker is the primary raw material used in the cement production process.

Calcium aluminate cement and cement clinker covered by the scope of this investigation are currently classifiable under the following HTSUS subheadings: 2523.30.0000 and 2523.10.0000, respectively. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

United States Price and Foreign Market Value

Petitioner based its estimate of United States Price (USP) on observed price quotations during August and September, 1992, by a party in the United States related to the French producer, Lafarge Fondu International. The prices are delivered, bagged prices for cement. Petitioner claims that virtually all of the subject merchandise imported into the United States from France has been entered in the form of cement clinker, which is sold to the French producer's wholly-owned subsidiary in the United States, Lafarge Calcium Aluminates Incorporated (Lafare CA). Lafarge CA further manufactures cement clinker into cement in the United States. Therefore, petitioner calculated margins for cement clinker by taking a USP for cement and adjusting for further manufacturing in the United States, profit, on further manufacturing, ocean freight and insurance charges and VAT.

Petitioner based its estimate of Foreign Market Value (FMV) on observed price quotations obtained by a market research firm in France. The price quotations were effective from March through July, 1992. The prices are delivered, bagged, and VAT-exclusive prices for cement. Since petitioner could not find sales of cement clinker by Lafarge to unrelated parties in France, petitioner adjusted cement prices for differences in merchandise to obtain a cement clinker price. Petitioner also adjusted FMV for freight charges, credit and value-added tax (VAT).

The range of dumping margins for calcium aluminate cement and cement clinker based on price-to-price comparisons alleged by petitioner is 41.23—198.10 percent.

Initiation of Investigation

We have examined the petition on calcium aluminate cement and cement clinker from France and have found that it meets the requirements of section

732(b) of the Act. Therefore, we are

Extraordinary Challenge Committee

Docket Number: 92–147. *Applicant:*

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732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of calcium aluminate cement and cement clinker from France are being, or are likely to be, sold in the United States at less than fair value.

Preliminary Determination by the International Trade Commission

The International Trade Commission (ITC) will determine by May 17, 1993, whether there is a reasonable indication that imports of calcium aluminate cement and cement clinker from France are materially injuring, or threaten material injury to, a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: April 20, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-9677 Filed 4-23-93; 8:45 am]

BILLING CODE 3510-DS-M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Completion of Panel Review

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of completion of panel review in the matter of live swine from Canada, Secretariat File No: USA-91-1904-03.

SUMMARY: On April 8, 1993, an Extraordinary Challenge Committee issued its decision affirming two binational panel decisions in this matter. Pursuant to Rule 60 of the Rules of Procedure for Article 1904 Extraordinary Challenge Committees, and the Extraordinary Challenge Committee Memorandum Opinion and Order dated April 8, 1993, and Rule 81 of the Article 1904 Panel Rules, the binational panel review described above was completed on April 12, 1993.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: By a decision dated April 8, 1993, The Extraordinary Challenge Committee (Secretariat File No: ECC-93-1904-01USA), which was convened to review the binational panel decisions in this matter, dismissed the request for an extraordinary challenge for failure to meet the standards of an extraordinary challenge set forth under FTA Article 1904.13. The Committee ordered that the Binational Panel's October 30, 1992 Decision shall remain in effect and affirmed the Order of the Panel dated December 21, 1992.

Pursuant to Rule 61 of the Rules of Procedure for Article 1904 Extraordinary Challenge Committees, the Committee members were discharged from their duties effective April 9, 1993, the day after the decision affirming the panel decision. On the basis of Rule 81 of the Article 1904 Panel Rules, the Panel Review was completed and the panelists discharged from their duties effective April 12, 1993, the day after the Extraordinary Challenge Committee was discharged.

Dated: April 19, 1993.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 93-9674 Filed 4-23-93; 8:45 am]

BILLING CODE 3510-GT-M

Loyola University Medical Center, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 92-145. *Applicant:* Loyola University Medical Center, Maywood, IL 60153. *Instrument:* Two #3D Micromanipulators with Adaptor for Microscope, Models WR-89 and P-1. *Manufacturer:* Narishige Scientific Instruments, Japan. *Intended Use:* See notice at 57 FR 49456, November 2, 1992. *Reasons:* The foreign instrument provides superior isolation from vibration and electrical interference and 30 mm working distances in the X, Y, and Z axes.

Docket Number: 92-147. *Applicant:* Pomona College, Claremont, CA 91711-6338. *Instrument:* Stopped Flow Spectrofluorimeter with Accessories, Model SF-51. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* See notice at 57 FR 49456, November 2, 1992. *Reasons:* The foreign instrument provides: (1) Sample volume as small as 100 µl, (2) an inert flow system and (3) temperature control to 0.02°C with independently thermostatted sample reservoir and syringes.

Docket Number: 92-148. *Applicant:* University of Rochester Medical Center, Rochester, NY 14642. *Instrument:* Digital Microspectrofluorimeter. *Manufacturer:* Newcastle Photometric Systems, United Kingdom. *Intended Use:* See notice at 57 FR 49456, November 2, 1992. *Reasons:* The foreign instrument provides precisely synchronized dual filter wheels correlated in the millisecond time frame.

Docket Number: 92-153. *Applicant:* Iowa State University of Science and Technology, Ames, IA 50011. *Instrument:* Short Lifetime and Steady State Wide Wavelength Spectrofluorimeter System, Model FL 900. *Manufacturer:* Edinburg Instruments Ltd., United Kingdom. *Intended Use:* See notice at 57 FR 54972, November 23, 1992. *Reasons:* The foreign instrument provides: (1) Lifetime measurement in the 200ps to 10s range, (2) time-resolved single photon counting and (3) luminescence spectra capability.

Docket Number: 92-155. *Applicant:* The Johns Hopkins University, Baltimore, MD 21287-9131. *Instrument:* Linear Motion Stimulator. *Manufacturer:* Linear Motors Limited, United Kingdom. *Intended Use:* See notice at 57 FR 54972, November 23, 1992. *Reasons:* The foreign instrument provides linear and rotational forces up to 0.05 gravity.

Docket Number: 92-157. *Applicant:* The Ohio State University, Columbus, OH 43210-1292. *Instrument:* Micro Stopped-flow Spectrophotometer System, Model SF-61AX. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* See notice at 57 FR 54972, November 23, 1992. *Reasons:* The foreign instrument provides: (1) Guaranteed anaerobic and low temperature (−10°C) operation, (2) 0.8 ms deadtime and (3) simultaneous monitoring of absorbance and fluorescence.

Docket Number: 92-163. *Applicant:* West Virginia University, Morgantown, WV 26506-6045. *Instrument:* Micro Stopped-flow Spectrophotometer/

Fluorimeter System, Model SF-61AF. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* See notice at 57 FR 54973, November 23, 1992. *Reasons:* The foreign instrument provides: (1) Sub-millisecond deadtime, (2) two-color simultaneous dual detection and (3) a "spectroscan" repetition rate of 95ms per scan.

Docket Number: 92-167. *Applicant:* Bowman Gray School of Medicine of Wake Forest University, Winston-Salem, NC 27157. *Instrument:* Stopped-flow Spectrofluorimeter, Model DX.17MV. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* See notice at 58 FR 4978, January 19, 1993. *Reasons:* The foreign instrument provides: (1) Small (to 25 µl) sample volume, (2) sub-millisecond deadtime and (3) effective oxygen and temperature control (to 5°C).

The National Institutes of Health advises in its memoranda dated February 9, 1993, that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93-9675 Filed 4-23-93; 8:45 am]

BILLING CODE 3510-DS-F

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 93-025. *Applicant:* Washington University, 1130 Hampton Avenue, Box 1147, St. Louis, MO 63139. *Instrument:* (2) 3-D Micromanipulators, Model WR-88-R. *Manufacturer:* Narishige Instrument Co., Japan. *Intended Use:* The instrument will be used to position glass micropipettes which will be used to monitor membrane currents in cultured cells during experiments conducted to define fundamental biophysical and pharmacological properties of specific subtypes of ion channels. *Application Received by Commissioner of Customs:* March 12, 1993.

Docket Number: 93-026. *Applicant:* University of Minnesota, Department of Pharmacology, 3-249 Millard Hall, Minneapolis, MN 55455. *Instrument:* (2) Microelectrode Pullers, Models PN-3 and PP-83 and (3) 3-D Micromanipulators, Model M-2. *Manufacturer:* Narishige Scientific Instrument Co., Japan. *Intended Use:* The instrument will be used to measure the membrane potentials, ion currents in xenopus oocytes. The objectives of the studies are: (a) to establish an in vitro bioassay system for G-protein receptor activations; (b) to elucidate the mechanism of G-protein and receptor interactions; and (c) to delineate the identities of G-proteins which mediate specific receptor functions. *Application Received by Commissioner of Customs:* March 12, 1993.

Docket Number: 93-027. *Applicant:* University of Minnesota, 495 Borlaug Hall, 1991 Upper Buford Circle, St. Paul, MN 55108. *Instrument:* Electron Microscope, Model CM 12. *Manufacturer:* Philips Electronic Instruments, The Netherlands. *Intended Use:* The instrument will be used for experiments involving biological aspects of plant and animal production, analysis of food substances, and the geology of soils. The investigations will include the determination of host-pathogen anatomy and life cycle of fungal, bacterial and viral systems, isolation and identification of plant viruses, measurement of soil chemistry and identification and quantification of soil structure. In addition, the instrument will be used for educational purposes in various related science courses. *Application Received by Commissioner of Customs:* March 18, 1993.

Docket Number: 93-028. *Applicant:* Woods Hole Oceanographic Institution, Woods Hole, MA 02543. *Instrument:* Mass Spectrometer, Model OPTIMA. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* The instrument will be used to measure the stable carbon isotope ratios of CO_2 from samples of seawater collected throughout the world's oceans. *Application Received by Commissioner of Customs:* March 23, 1993.

Docket Number: 93-029. *Applicant:* University of Colorado, Boulder, Campus Box 449, Boulder, CO 80309-0449. *Instrument:* Field Portable Spectrometer, Model PIMA II. *Manufacturer:* Integrated Spectronics Pty. Ltd., Australia. *Intended Use:* The instrument will be used for studies of rocks and soils in their natural field environments. Experiments will consist of systematic measurements of the geologic materials including both fresh and weathered surfaces in field locations primarily in the southwestern United States. *Application Received by Commissioner of Customs:* March 18, 1993.

Docket Number: 93-030. *Applicant:* University of California, San Diego, Scripps Institution of Oceanography, 8655 Production Avenue, San Diego, CA 92121. *Instrument:* Wave Measuring Equipment. *Manufacturer:* Datawell, BV, The Netherlands. *Intended Use:* The instrument will be used for statistical analysis of waves. *Application Received by Commissioner of Customs:* March 22, 1993.

Docket Number: 93-031. *Applicant:* University of Utah, Department of Medicinal Chemistry, 311A Skaggs Hall, Salt Lake City, UT 84112. *Instrument:* Mass Spectrometer, Model API III-R. *Manufacturer:* Perkin-Elmer Sciex Instruments, Canada. *Intended Use:* The instrument will be used to investigate the following phenomena: (a) Molecular structure of RNA, with respect to identity and sequence location of post-transcriptional modifications; (b) gas-phase ionization and dissociation chemistry of oligonucleotides; and (c) analytical chemistry protocols for structure analysis of naturally modified RNA, based principally on atmospheric pressure ionization liquid chromatography-tandem mass spectrometry. *Application Received by Commissioner of Customs:* March 25, 1993.

Docket Number: 93-032. *Applicant:* University of Nevada, Reno, Department of Physics, Reno, NV 89557. *Instrument:* ECR Multicharge Ion Source. *Manufacturer:* Centre D'Etudes Nucleaires De Grenoble, France. *Intended Use:* The instrument will be used to produce beams of highly ionized ions for studies of the fundamental charge-changing processes involving highly charged ions. The fundamental phenomena to be studied include electron-impact excitation, ionization, recombination, charge exchange

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collisions and neutralization of ions at solid surfaces. In addition, the instrument will be used in physics courses to provide students a "hands-on" introduction to modern experimental techniques, instruments and devices. *Application Received by Commissioner of Customs:* March 30, 1993.

Docket Number: 93–033. *Applicant:* Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, NY 10461. *Instrument:* Stopped-Flow Spectrophotometer System, Model SF-61AX with Model OPT.690 Anaerobic Kit. *Manufacturer:* Hi-Tech Scientific, Ltd., United Kingdom. *Intended Use:* The instrument will be used to study the fast reactions catalyzed by a number of enzymes presently under investigation to determine for each enzyme in precise details the chemical mechanism by which the enzyme performs catalysis. *Application Received by Commissioner of Customs:* March 30, 1993.

Frank W. Creel,

Director, Statutory Import Programs Staff

[FR Doc. 93–9676 Filed 4–23–93; 8:45 am]

BILLING CODE 3510–DS–F

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council will hold a public meeting of its Vessel Monitoring Committee (Committee) on April 23, 1993, from 1:30 p.m. to 3 p.m. The meeting will be held in the Conference room of the Pacific Ocean Producers, 965–B North Nimitz Highway, Honolulu, HI.

The Committee will discuss progress with the Council's vessel monitoring initiative, and begin developing an amendment to the Pelagics Fishery Management Plan to require a vessel monitoring system on Hawaii-based longliners.

FOR MORE INFORMATION CONTACT: Kitty M. Simonds, Executive Director, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: April 20, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management; National Marine Fisheries Service.

[FR Doc. 93–9669 Filed 4–23–93 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Summer Study Task Force on Tactical Air Warfare

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Summer Study Task Force on Tactical Air Warfare will meet in closed session on May 5–6, 1993 at the Institute for Defense Analysis, Alexandria, Virginia.

The mission of the Defense Science board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review the nation's acquisition options for tactical air warfare over the next 10 to 10 years as force structure is drawn down. They should then recommend promising concepts and technologies to pursue that may have high leverage cost and effectiveness against foreseeable threats.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. app. II, (1988), it has been determined that this DSB Task Force meeting, concerns matter listed in 5 U.S.C. 552b(c) (1) (1988), and that accordingly this meeting will be closed to the public.

Dated: April 21, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–9649 Filed 4–23–93; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting.

Name of Committee: Army Science Board (ASB).

Date of Meeting: 07 May 1993.

Time of Meeting: 1200–1600 hours.

Place: Pentagon.

Agenda: The Army Science Board's Ad Hoc Panel on "Technology for the Future Land Warrior," will meet to finalize issues for the draft final report and to discuss the issues with the Sponsor. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof and title 5, U.S.C. Appendix 2, subsection 10(d). The proprietary and non-proprietary information to be discussed will be so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 93–9631 Filed 4–23–93; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.999H]

The National Assessment of Educational Progress (NAEP) Program

Notice inviting applications for new awards for fiscal year 1993.

Purpose of Program: To conduct data collection, scoring, analysis and reporting for the State component of the 1994 National Assessment of Educational Progress (NAEP) which will be conducted in reading in grades 4, 8, and 12. NAEP supports the National Education Goals by providing measures of progress toward the Goals.

Eligible Applicants: Public, private, for-profit, and non-profit institutions, agencies, and other qualified organizations or consortia of such institutions, agencies, and organizations.

Deadline for Transmittal of Applications: June 9, 1993.

Applications Available: April 27, 1993.

Available Funds: The Department estimates that about $750,000 can be made available in fiscal year 1993 for the State component of NAEP. The Department's request for fiscal year 1994 includes additional funds for this activity. Should the State component of NAEP be authorized by the Congress, the Department expects to award funds for the initial work by the middle of July, 1993, and additional funds for the second budget period in November, 1994.

Estimated Number of Awards: 1.

Project Period: Up to 34 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86; and (b) The regulations in 34 CFR Part 98 (Students Rights in Research, Experimental Activities, and Testing). (Note that 34 CFR Parts 74 through 77 were amended July 8, 1992 (see **Federal Register** of that date, pages 30328 to 30342)). These amendments are not yet codified. (Copies of the pertinent portions of the **Federal Register** are available on request from this Department.)

SUPPLEMENTARY INFORMATION: A national component of the National Assessment of Educational Progress (NAEP) is authorized by section 406 of the General Education Provisions Act (20 U.S.C. 1221e-1). This law provides for the establishment of the National Assessment Governing Board (NAGB). The law requires NAGB, among other responsibilities, to formulate the policy guidelines for the National Assessment and select the subject areas to be assessed. Copies of these guidelines are available from the Department. Three cooperative agreements are currently in effect: one to develop assessment instruments for the 1994 assessment; a second to conduct data collection for a national component of NAEP; and a third to score, analyze, and report data from the national component of NAEP.

This notice is limited to seeking applications for activities in connection with the State component of the National Assessment. Applications are being invited to allow sufficient time to complete the grant process before the end of the fiscal year, should the Congress authorize this State component.

In the past, Congress authorized trial assessments in 1990 and 1992 for the purpose of determining whether such assessments yield valid, reliable State-representative data. The Department presently has no authority to conduct a State component of the 1994 assessment, but reasonably anticipates enactment of such authority in the Spring of 1993. No awards may be made under this Application Notice unless Congress authorizes a State component of the 1994 National Assessment.

Priorities:

Absolute Priority: Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Collection, Scoring, Analysis and Reporting of Data From the State Component of the 1994 National Assessment of Educational Progress.

The data collection, scoring, analysis and reporting for the State component of the 1994 NAEP must be performed in accordance with guidelines developed by NAGB.

Selection Criteria: Applications are evaluated according to the selection criteria in 34 CFR 75.210. Under 34 CFR 75.210(c), the Secretary is authorized to distribute an additional 15 points among the selection criteria to bring the total possible points to a maximum of 100 points. For the purpose of this competition, the Secretary will distribute the additional points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Fifteen (15) additional points will be added for a possible total of 30 points for this criterion.

FOR APPLICATIONS OR INFORMATION CONTACT: Steve Gorman, U.S. Department of Education, 555 New Jersey Avenue, NW., room 308b, Washington, DC 20208–5653. Telephone: (202) 219–1937. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1221e–1.

Dated: April 20, 1993.

Emerson J. Elliott,

Acting Assistant Secretary for Office of Educational Research and Improvement.

[FR Doc. 93–9655 Filed 4–23–93; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 93–26–NG]

Western Gas Resources, Inc.; Application for Blanket Authorization To Import and Export Natural Gas From and to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on February 22, 1993, of an application filed by Western Gas Resources, Inc. (Western) requesting blanket authorization to import up to 73 Bcf of natural gas from Mexico and to export up to 73 Bcf of natural gas to Mexico over a two-year period beginning with the date of the first import or export delivery. Western states would use existing pipeline facilities to transport the gas. Also, Western would advise DOE of the date of first deliveries and submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, May 26, 1993.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–05, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478.

FOR FURTHER INFORMATION CONTACT:

Stanley C. Vass, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3H–087, FE–53, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9482.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Western is a natural gas marketer with its principal place of business in Denver, Colorado. Under the authority requested, Western will import and export the gas under spot and short-term purchase arrangements, either on its own behalf or as the agent for others. The specific terms of these arrangements would be negotiated individually, including the price and volumes.

The decision on Western's request for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing Western's export proposal DOE considers the domestic need for the gas to be exported and any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment in their responses on these issues. Western asserts the proposed imports would be competitive and there is no current need for the domestic gas that would be exported. Parties opposing Western's application bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

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Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the applications must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Western's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 20, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–9672 Filed 4–23–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Projects Nos. 2458–009 and 2572–005–Maine]

Great Northern Paper, Inc.; Intent To Prepare an Environmental Impact Statement

April 20, 1993.

The Federal Energy Regulatory Commission (FERC) has received applications for new license for the Penobscot Mills and Ripogenus Projects Nos. 2458 and 2572, situated on the West Branch of the Penobscot River and Millinocket Stream in Penobscot and Piscataquis Counties, Maine.

The FERC staff has determined that issuing new licenses for these projects would constitute a major federal action significantly affecting the quality of the human environment. Therefore, the staff intends to prepare an environmental impact statement (EIS) on the hydroelectric projects in accordance with the National Environmental Policy Act. The staff's EIS will objectively consider both site specific and cumulative environmental effects of the projects and reasonable alternatives, and will include an economic, financial and engineering analysis.

A draft EIS will be issued and circulated for review by all interested parties. All comments filed on the draft EIS will be analyzed by the staff and considered in a final EIS. The staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decisions. Public and agency scoping meetings will be held at a future date to be announced.

For further information, please contact Robert Bell at (202) 219–2806.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9595 Filed 4–23–93; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2333–005 Maine]

Rumford Falls Power Co.; Availability of Environmental Assessment

April 20, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for new license for the Rumford Falls Hydroelectric Project located on the Androscoggin River, in the Town of Rumford, Oxford County, Maine, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff analyzed the environmental impacts of the project and concluded that approval of the project, with appropriate mitigative measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9594 Filed 4–23–93; 8:45 am]

BILLING CODE 6717–01–M

Hydroelectric Application Filed With the Commission

April 20, 1993

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. *Type of Application:* Approval of Plan to Relocate a Hang-Glider Landing Zone.

b. *Project No:* 2426–057.

c. *Dates Filed:* April 1, 1993 and April 7, 1993.

d. *Applicant:* California Department of Water Resources.

e. *Name of Project:* Devil Canyon Hydroelectric Project.

f. *Location:* California Aqueduct, San Bernardino County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Don Colson, Chief, Plants and Pipeline Branch, California Department of Water Resources, 1416 Ninth Street, P.O. Box 942836, Sacramento, CA 94236–0001. (916) 653–7092.

i. *FERC Contact:* Heather Campbell, (202) 219–3097.

j. *Comment Date:* May 21, 1993.

k. *Description of Project:* The California Department of Water Resources, licensee for the Devil Canyon Project, requests approval of a plan to relocate a hang-glider landing zone operated by the Crestline Soaring Society. The original landing zone is needed for construction of the Second Afterbay which is part of a power enhancement project for the State Water Project. The licensee would like to relocate the landing zone 800 feet east of the location approved in a September 23, 1992 Commission order. The new landing zone will be located at the southern foot of the San Bernardino Mountains.

l. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "PROTEST" OR "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and 8 copies to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Motion to intervene must also be served upon each representative of the applicant specified in the particular application.

D2. *Agency Comments*—The Commission invites federal, state, and local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the applicant.) If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9596 Filed 4–23–93; 8:45 am]

BILLING CODE 6717–01–M

Order Delegating Authority to the Secretary and Certain Office Directors

Before Commissioners: Elizabeth Anne Moler, Chair; Jerry J. Langdon, Martin L. Allday, and Branko Terzic.

Issued April 16, 1993.

The Commission anticipates that it may lack a quorum for the transaction of business for particular matters or for a temporary period in the near future.[1] At the same time, the Commission recognizes that it has a continuing responsibility to fulfill its statutory and regulatory obligations in the most effective and efficient manner possible. Companies subject to the Commission's jurisdiction will continue to file rate cases that, in the absence of Commission action, would take effect without suspension or refund protection. Parties will also file petitions for rehearing that, absent Commission action, would be denied without consideration of the merits of the issues raised. To meet its responsibility to protect the public interest, the Commission is delegating certain authority to the Secretary, the Directors of the Office of Pipeline and Producer Regulation and the Office of Electric Power Regulation, and the General Counsel, to be exercised in circumstances where the absence of a quorum would otherwise allow various actions to occur without Commission consideration.

These delegations are made under the authority granted the Commission in section 401(f) of the Department of Energy Organization Act, Public Law 95–91, 91 Stat, 565 (1977), section 309 of the Federal Power Act (16 U.S.C. 825h), section 16 of the Natural Gas Act (15 U.S.C. 717o) and section 501(a) of the Natural Gas Policy Act (5 U.S.C. 3411(a)) to issue orders and to perform any and all acts the Commission may find necessary or appropriate to carry out the provisions of those statutes.

Public notice and comment is impractical because of the immediate need for Commission action. The public interest requires that these delegations take effect immediately.

Any action taken by the staff under this order may, to the extent authorized by law, be the subject of a petition for rehearing to the Commission in accordance with the procedures in 18 CFR 385.1902. In accordance with existing regulations, a petition for rehearing of staff action taken under this order does not stay the action.

The Commission Delegates

1. To the Secretary, or, in her absence, her designee, authority to:

a. Grant requests for rehearing filed under Rules 713 and 1902, solely for purposes of further consideration;

b. Issue other notices or orders as appropriate in order to extend the time within which the Commission would otherwise be required to act.

2. To the Director, Office of Pipeline and Producer Regulation, or, in his absence, his designee, authority to:

a. Suspend tariff filings for an appropriate length of time under the Natural Gas Act;

b. Set suspended tariff filings for hearing under the Natural Gas Act;

c. Take whatever further action is necessary to process those tariff filings.

3. To the Director, Office of Electric Power Regulation, or, in his absence, his designee, authority to:

a. Suspend rate schedules for an appropriate length of time under the Federal Power Act;

b. Set suspended rate schedules for hearing under the Federal Power Act;

c. Take whatever further action is necessary to process those rate schedules.

4. To the General Counsel, or in his or her absence, his or her designee, authority to act upon requests for exempt wholesale generator status under section 32 of the Public Utility Holding Company Act.

All existing delegations of authority to staff in effect prior to the date of this order remain in full force and effect. For the reasons given above, the Commission finds good cause to make this order effective immediately in accordance with 5 U.S.C. 553(d).

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9592 Filed 4–23–93; 8:45 am]

BILLING CODE 6717–01–M

[1] Commissioner Trabandt resigned effective March 31, 1993. Commissioner Allday will resign effective April 16, 1993. Commissioners Langdon and Terzic have announced an intention to resign in the near future. On April 12, 1993, the President announced an intention to nominate four named individuals as new Commissioners. The confirmation process has not been completed for any of the four.

[Docket No. RP93–73–000]

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[Docket No. RS92-73-000]

Pacific Interstate Offshore Co.; Conference

April 20, 1993.

Take notice that on Tuesday, April 27, 1993, a conference will be convened, pursuant to the Commission's March 17, 1993 order in the captioned restructuring docket, to discuss certain disputed tariff provisions in Pacific Interstate Offshore Company's December 31, 1992 restructuring proposal.

The conference will be held at 10 a.m. at the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. All interested persons and Staff are invited to attend. Attendance at the conference will not confer party status. For additional information, interested persons may call Erica Yanoff at (202) 208-0708.

Lois D. Cashell,

Secretary.

[FR Doc. 93-9593 Filed 4-23-93; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4615-8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces the Office of Management and Budget's (OMB) responses to Agency PRA clearance requests.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer (202) 260-2740.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency PRA Clearance Requests

OMB Approvals

EPA ICR No. 1054.05; NSPS for Petroleum Refineries (Subpart J)--Recordkeeping and Reporting; was approved 03/17/93; OMB No. 2060-0022; expires 03/31/96.

EPA ICR No. 1629.01; Evaluation of Environmental Programs; was approved 03/01/93; OMB No. 2010-0024; expires 03/31/96.

EPA ICR No. 0988.05; Water Quality Standards Regulation; was approved 02/17/93; OMB No. 2040-0049; expires 02/28/96.

EPA ICR No. 1343.04; State Hazardous Waste Capacity Assurances Process, CERCLA; was approved 03/01/93; OMB No. 2050-0099; expires 03/31/96.

EPA ICR No. 0160.04; Application for Registration of Pesticide-Producing Establishments, Pesticide Report for Pesticide-Producing Establishments; was approved 02/18/93; OMB No. 2070-0078; expires 02/28/96.

EPA ICR No. 0664.04; NSPS for Bulk Gasoline Terminals (Subpart XX) Information Requirements; was approved 03/03/93; OMB No. 2060-0006; expires 03/31/96.

EPA ICR No. 0138.03; Modification of Secondary Treatment Requirements for Discharges into Marine Waters; was approved 02/19/93; OMB No. 2040-0088; expires 02/28/96.

EPA ICR No. 0161.06; Foreign Purchaser Acknowledgement Statement of Unregistered Pesticides; was approved 03/30/93; OMB No. 2070-0027; expires 03/31/96.

EPA ICR No. 0982.04; Standards of Performance for New Stationary Sources Metallic Mineral Processing Plants (Subpart LL) was approved 03/24/93; OMB No. 2060-0016; expires 03/31/96.

EPA ICR No. 0988.04; Amendments to Water Quality Standards Reg. to Establish Numeric Criteria for Priority Toxic Pollutants Necessary to Bring all States into Compliance with Clean Water Act; was approved 03/24/93; OMB No. 2040-0049; expires 02/28/96.

EPA ICR No. 0152.04; Notice of Arrival of Pesticides or Devices; OMB No. 2070-0020; was approved 04/05/93; expires 04/30/96.

EPA ICR No. 0222.03; Investigations into Possible Noncompliance of Motor Vehicles with Federal Emission Standards; was approved 03/31/93; OMB No. 2060-0086; expires 03/31/96.

OMB Correction/Approval

This is a correction of EPA ICR No. 0575.05; OMB N0. 2070-0004; Health and Safety Data Reporting, Submission of Lists and Copies of Health and Safety Studies. The OMB Notice of Approval was published in the CFR on 02/17/93; the EPA ICR No. is 0575.06 and it expires 02/28/96.

OMB Disapprovals

EPA ICR No. 1623.01; State Certification of Effective Petroleum Response/Remediation Programs for TC Suspension; was disapproved 02/19/93.

EPA ICR No. 0276.05; Application for an Experimental Use Permit (EUP) to Ship and Use Pesticides for Experimental Purposes Only; was disapproved 03/02/93.

Withdrawal

EPA ICR No. 1628.01; Certified/Commercial Pesticide Applicator Survey; was withdrawn at the request of the Agency.

OMB Extensions of Expiration Dates

EPA ICR No. 1541; NESHAP for Benzene Waste Operations (Subpart FF); OMB No. 2060-0183; expiration date was extended to 06/30/93.

EPA ICR No. 1241; Suspended and Cancelled Pesticide Products: Claim for Indemnification; OMB No. 2070-0071; expiration date was extended to 07/31/93.

EPA ICR No. 1086; NSPS for Onshore Natural Gas Processing Plants/Equipment Leaks of VOC and Emissions of SO2-Reporting and Recordkeeping; OMB No. 2060-0120; expiration date was extended to 07/31/93.

EPA ICR No. 1139; TSCA section 4 Test Rules and Exemptions; OMB No. 2070-0033; expiration date was extended to 09/30/93.EPA ICR No. 0607; Pesticide Use Survey; OMB No. 2070-0115; expiration date was extended to 08/31/93.

EPA ICR No. 0601; FIFRA section 29 Annual Report on Conditional Registrations; expiration date was extended to 07/31/93.

EPA ICR No. 1049; Notification of Episodic Releases of Oil and Hazardous Substances; OMB No. 2050-0046; expiration date was extended to 09/30/93.

EPA ICR No. 1331; Accidental Release Information Program (ARIP); 2050-0065; expiration date was extended to 08/31/93.

Conditional Approvals

EPA ICR No. 0794.04; Notification of Substantial Risk of Injury to Health and the Environment under section 8(E) of the Toxic Substances Control Act (TSCA, The Act); OMB No. 2070-0046; expires 09/30/93. This Information Collection Request received a one-year clearance with conditions. For a copy of the OMB Notice containing the conditions, please call Sandy Farmer on (202) 260-2740.

EPA ICR No. 1504.02; Data Generation for Registration; OMB NO. 2070-0107; expires 03/31/96. This Information Collection Request received a three-year clearance with conditions. For a copy of the OMB Notice containing the conditions, please call Sandy Farmer on (202) 260-2747.

EPA ICR No. 0922.04; Data Call-In for Special Review Chemicals; OMB No. 2070-0057; expires 03/31/96. This Information Collection Request received a three-year clearance with conditions. For a copy of the OMB Notice containing the conditions, please call Sandy Farmer on (202) 260-2740.

Dated: April 19, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93-9660 Filed 4-23-93; 8:45 am]

BILLING CODE 6560-60-F

[FRL-4618-1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before May 26, 1993.

FOR FURTHER INFORMATION OR A COPY OF THIS ICR CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Hazardous Waste Industry Studies (EPA ICR #0818.05; OMB No. 2050-0042). This ICR is a revision of a currently approved information collection.

Abstract: EPA will conduct surveys of, and site visits to, facilities in various industries to collect hazardous waste information, including information on products, industrial processes, residual characteristics and management methods, capacity, source reduction and recycling practices, and health/risk assessment. Data will be gathered primarily through industry questionnaires and supplemented with a selected number of site visits. Under this revised ICR, the Agency has consolidated related information collection activities required by several RCRA programs into an expanded 3007 questionnaire. The information will be used to support listing determinations, land disposal restrictions, and capacity assurance investigations.

Burden Statement: The estimated average public burden for this collection of information is about 8 to 13 hours per response to complete the pre-questionnaire; about 25 to 100 hours per response to complete the questionnaire; and about 40 hours per response to provide survey updates. These estimates include all aspects of the information collection, including time for reviewing instructions, gathering the data needed, reviewing the collection of information, and submitting the form.

Respondents: Industries that generate or manage hazardous waste. The specific eight industries projected for study are: Solvents, Chlorinated Aliphatics, Petroleum Refining, Dyes and Pigments, Paint Production, Inorganics, Pulp and Paper, and Smelting Wastes.

Estimated Number of Respondents: 2,282.

Frequency of Collection: On occasion.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 17,737.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460

and

Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: April 20, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93-9683 Filed 4-23-93; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4617-4]

Government-Owned Inventions: Available for Licensing

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for licensing in the United States in accordance with 35 U.S.C. 207 and 37 CFR part 404. Pursuant to 37 CFR 404.7, the Government may grant exclusive or partially exclusive licenses on any of the inventions listed below three months after the date of this notice.

Copies of the listed patents and patent applications are available from the person indicated below. Requests for copies of patent applications must include the patent number or patent application serial number. An application for a license should include the information set forth in 37 CFR 404.8, including applicant's plan for development or marketing the invention.

DATES: Exclusive licenses may be granted for the inventions listed below after July 26, 1993.

FOR FURTHER INFORMATION CONTACT: Thomas Gorman, Patent Counsel, Office of General Counsel (LE-132K), U.S. Environmental Protection Agency, Washington, DC 20460, Telephone (202) 260-1339.

Patents

U.S. Patent No. 4,485,747: Reducing Pollutant Emissions by Fines Removal; issued December 4, 1984.

U.S. Patent No. 4,518,401: Electrostatic Precipitating System; issued May 21, 1985.

U.S. Patent No. 4,592,289: Reducing Pollutant Emissions from a Spreader-Stocker-Fired Furnace by Stoichiometric Control; issued June 3, 1986.

U.S. Patent No. 4,842,748: Methods for Removing Volatile Substances from Water Using Flash Evaporation; issued June 27, 1989.

Patent Applications

U.S. Patent Application No. 08/005,958: Fireplace With Destruction of Products of Incomplete Combustion Enhanced by a Gaseous-Fueled Pilot Burner; filed January 19, 1993.

U.S. Patent Application No. 07/969,554: Method of Reducing Transient Emissions From Rotary Kiln Incinerators and Container for Attaining the Same; filed October 30, 1992.

Dated: April 20, 1993.

Gerald H. Yamada,

Acting General Counsel.

[FR Doc. 93-9665 Filed 4-23-93; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4617-3]

Public Meeting on Hazardous Waste Identification

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: On May 18-19 EPA will hold a meeting to discuss issues related to contaminated media and treatment residuals and how to factor them into a comprehensive Hazardous Waste Identification system. The meeting is open to the public without advance registration.

DATES: The meeting will be held on May 18-19. It will start at 8:30 a.m. and end by 5 p.m. each day.

LOCATION: The meeting will be held at the Radisson Mark Plaza Hotel, 5000

Seminary Road, Alexandria, Virginia

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Seminary Road, Alexandria, Virginia, (703) 845–1010.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on substantive matters should contact William A. Collins, Jr., Office of Solid Waste, EPA, (202) 260–4791. Persons needing further information on procedural matters should call Denise Madigan, the Co-facilitator, at (202) 429–8782.

Dated: April 21, 1993.

Chris Kirtz,

Director, Consensus and Dispute Resolution Program.

[FR Doc. 93–9662 Filed 4–23–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4616–9]

Superfund Program and Office of Enforcement—Superfund; Model Administrative Order on Consent for Removal Actions and Model Unilateral Administrative Order for Removal Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Agency is announcing today the availability of its "Model Administrative Order on Consent for Removal Actions" and "Model Unilateral Administrative Order for Removal Response Activities," OSWER Directives # 9833.06 and 9833.07, both dated March 16, 1993, in order to inform the public on important aspects of the Superfund Program. These documents contain model language which EPA's regional offices may consider when issuing or negotiating an administrative order for removal actions. A potentially responsible party may also find these models helpful. The Agency believes these documents will provide additional benefit to the removal enforcement process.

ADDRESSES: To obtain a copy of these directives please contact the National Technical Information Service at (703) 487–4650. The NTIS order numbers are PB 93–963605 for the "Model Administrative Order on Consent for Removal Actions" and PB 93–963606 for the "Model Unilateral Administrative Order for Removal Response Activities."

FOR FURTHER INFORMATION CONTACT: Fred Zimmerman, U.S. Environmental Protection Agency, Office of Waste Programs Enforcement, 5502–G, 401 M Street, SW., Washington, DC 20460, (703) 603–9063.

Dated: April 1, 1993.

E.A. Cotsworth,

Acting Director, Office of Waste Programs Enforcement.

[FR Doc. 93–9663 Filed 4–23–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4617–2]

Transfer of Data to Contractor

AGENCY: Environmental Protection Agency.

ACTION: Notice of transfer of data and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) plans to transfer data to its contractor, ICF, Inc., and its subcontractors: Booz-Allen & Hamilton, Inc.; Clayton Environmental Consultants; DPRA, Inc.; Eastern Research Group, Inc.; Franklin Associates; Hydro-Geologic, Inc.; Jaakko Poyry Consulting, Inc.; Labat-Anderson, Inc.; Mastech Systems Corp.; Resources for the Future; Ross & Associates Environmental Consulting, Ltd.; Sullivan Environmental Consulting, Inc.; Tellus Institute; Vigyan, Inc.; and Westat, Inc. These data pertain to facility management practices, waste characteristics and constituent concentrations, waste volumes, and the costs of waste management, treatment and disposal. These data have been, or will be, submitted to EPA under the authority of the Resource Conservation and Recovery Act (RCRA) Section 3007. Some of these data may have been, or may be, claimed as confidential business information. These firms are conducting cost and economic analyses of RCRA waste programs and regulations, analyses of environmental and human health effects, cost and risk comparative analyses, regulatory support, data collection and management.

DATES: The Transfer of data submitted to EPA will occur no sooner than May 3, 1993.

ADDRESSES: Comments should be sent to Margaret Lee, Document Control Officer, Office of Solid Waste (OS–312), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Comments should be identified as "Transfer of Confidential Data."

FOR FURTHER INFORMATION CONTACT: Margaret Lee, Document Control Officer, Office of Solid Waste (OS–312), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, (202) 260–3410.

SUPPLEMENTARY INFORMATION:

1. Transfer of Data

The U.S. Environmental Protection Agency is conducting cost and economic analyses, analyses of environmental and human health effects, cost and risk comparative analyses, regulatory support, and data collection and management including support of the RCRA Docket. The contractors will support the policies and programs established for solid and hazardous waste management under the authority of Section 3007(b) of the Resource Conservation and Recovery Act of 1976, including subsequent amendments through 1984.

Under EPA Contract 68–W3–0008, ICF, Inc., and its subcontractors, will assist the Communications Analysis and Budget Division, of the Office of Solid Waste in conducting cost and economic analyses, analyses of environmental and human health effects, cost and risk comparative analyses, regulatory support, data collection and management. The data being transferred to ICF, Inc., and its subcontractors, pertain to facility waste management practices, waste characteristics and constituent concentrations, waste volumes and the costs of waste management, treatment and disposal. These data have been, or will be, submitted to EPA under the authority of the Resource Conservation and Recovery Act (RCRA). Some of the data may have been, or may be, claimed as Confidential Business Information (CBI).

In accordance with 40 CFR 2.305(h) EPA has determined that ICF, Inc., and its subcontractors, require access to Confidential Business Information (CBI) submitted to EPA, under the authority of RCRA, to perform work satisfactorily under the above-noted contract. EPA is issuing this notice to inform all submitters of CBI that EPA may transfer to these firms, on a need-to-know basis, CBI collected under the authority of RCRA. Upon completing their review of materials submitted, ICF, and its subcontractors will return all such materials to EPA.

ICF, Inc., and its subcontractors, have been authorized to have access to RCRA CBI under the EPA "Contractors Requirements for the Control and Security of RCRA Confidential Business Information Security Manual." EPA will approve the security plans of the contractors to insure that their facilities comply with security procedures outlined in the security manual prior to RCRA CBI being transferred to the contractors.

Personnel from these firms will be required to sign non-disclosure agreements and be briefed on appropriate security procedures before they are permitted access to confidential information.

Dated: April 12, 1993.

Richard J. Guimond,

Acting Assistant Administrator.

[FR Doc. 93–9661 Filed 4–23–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

First Virginia Banks, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 13, 1993.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. First Virginia Banks, Inc., Falls Church, Virginia; to engage *de novo* through its subsidiary, First Virginia Insurance Services, Inc., Falls Church, Virginia, in providing securities brokerage services and related investment advice including the purchase and sale as agent of stocks, bonds, and mutual funds; purchase and sale of agent of fixed and variable rate annuities pursuant to § 225.25(b)(15)(ii) of the Board's Regulation Y and previous Board Order. *Norwest Corporation*, 76 Federal Reserve Bulletin 873 (1990). These activities will be conducted in the States of Maryland, Virginia, Tennessee and the District of Columbia.

2. Premier Bankshares Corporation, Tazewell, Virginia; to engage *de novo* through its subsidiary, Premier Bank Services Corporation, Tazewell, Virginia, in acting as an investment or financial advisor by providing portfolio investment advice to banks, other financial institutions, and other persons; and to provide financial advice to state and local governments pursuant to §§ 225.25(b)(4)(iii) and (b)(4)(v) of the Board's Regulation Y.

3. Signet Banking Corporation, Richmond, Virginia; to engage *de novo* through its subsidiaries, Signet Financial Services, Inc., and Signet Insurance Services, Inc., Richmond, Virginia, in the sale as agent of variable-rate and fixed-rate annuities pursuant to the Board's previous order. *Norwest Corporation*, 76 Federal Reserve Bulletin 873 (1990)

Board of Governors of the Federal Reserve System, April 20, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-9633 Filed 4-23-93; 8:45 am]

BILLING CODE 6210-01-F

The Fort Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications mustbe received not later than May 17, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. The Fort Bancorp, Inc., Fort Deposit, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of First Lowndes Bank, Fort Deposit, Alabama.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Fairfield Bancshares, Inc., Fairfield, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Fairfield National Bank, Fairfield, Illinois.

2. Trans Financial Bancorp, Inc., Bowling Green, Kentucky; to acquire 100 percent of the voting shares of Trans Kentucky Bancorp, Pikeville, Kentucky, and thereby indirectly acquire Citizens Bank of Pikeville, Pikeville, Kentucky.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Citizens Bancshares of El Reno, Inc., El Reno, Oklahoma; to become a bank holding company by acquiring 90 percent of the voting shares of Citizens National Bank and Trust Co., El Reno, Oklahoma.

2. Continental Security Bancshares, Inc., Springfield, Missouri; to become a bank holding company by acquiring at least 84.8 percent of the voting shares of Deepwater State Bank, Deepwater, Missouri.

3. Orchard Valley Financial Corporation, Englewood, Colorado; to acquire 15 percent of the voting shares of MegaBank Financial Corporation, Englewood, Colorado, and thereby indirectly acquire MegaBank of Arapahoe, Englewood, Colorado.

4. Southeastern Capital Corporation Employee Stock Ownership Plan, Idabel, Oklahoma; to become a bank holding company by acquiring 38 percent of the voting shares of Southeastern Capital

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Corporation, Idabel, Oklahoma, and thereby indirectly acquire Idabel National Bank, Idabel, Oklahoma.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. A.N.B. Holding Company, Ltd., Terrell, Texas; to acquire up to an additional 30 percent of The American National Bank of Terrell, Terrell, Texas.

2. M & F Bancshares, Inc., Weatherford, Texas, and M & F Financial Corp., Wilmington, Delaware; to acquire 100 percent of the voting shares of Texas Bank, Grapevine, Texas.

4. Texas Security First Bancshares, Inc. and SSSB Delaware Bancorporation, Inc., Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Sulphur Springs State Bank, Sulphur Springs, Texas.

Board of Governors of the Federal Reserve System, April 20, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-9364 Filed 4-23-93; 8:45 am]

BILLING CODE 6210-01-F

Randall N. and Peggy Snyder; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 13, 1993.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Randall N. and Peggy Snyder, Ballwin, Missouri, and Edmond, Oklahoma; to acquire an additional 18.97 percent of the voting shares of Prism Group, Inc., Hamilton, Missouri, and thereby indirectly acquire The Hamilton Bank, Hamilton, Missouri.

Board of Governors of the Federal Reserve System, April 20, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-9635 Filed 4-23-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC Advisory Committee on the Prevention of HIV Infection (CDC ACPHI); Subcommittee on Developing Partnerships for HIV Prevention; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee meeting.

Name: CDC ACPHI Subcommittee on Developing Partnerships for HIV Prevention.

Time and Date: 8 a.m.-5 p.m., May 11, 1993.

Place: J.W. Marriott Hotel at Lenox, Tallahassee Room, 3300 Lenox Road, NE., Atlanta, Georgia 30326.

Status: Open to the public, limited only by the space available.

Purpose: The initial meeting of this subcommittee will provide an overview and current status of CDC's HIV prevention programmatic relationships with nongovernmental organizations. The meeting will also include a discussion of the purpose and process for the external review.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Connie Granoff, Committee Assistant, Office of the Associate Director for HIV/AIDs, CDC, 1600 Clifton Road, NE., Mailstop E-40, Atlanta, Georgia 30333, telephone 404/639-2918.

Dated: April 20, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93-9619 Filed 4-23-93; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 92N-0424]

Mohammed Azeem; Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under section 306(a)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 335a(a)(2)) permanently debarring Mr. Mohammed Azeem, Medical Center for Federal Prisoners Springfield 27247-037, P.O. Box 4000, Springfield, MO 65808, from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Mr. Azeem was convicted of felonies under Federal law for conduct relating to the development and approval, including the process for development and approval, of a drug product; and relating to the regulation of a drug product under the act. Mr. Azeem has failed to request a hearing and, therefore, has waived his opportunity for a hearing concerning this action.

EFFECTIVE DATE: April 26, 1993.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8041.

SUPPLEMENTARY INFORMATION:

I. Background

Mr. Mohammed Azeem has been convicted of Federal felony offenses in two separate cases. On June 5, 1990, the United States District Court for the District of Maryland entered judgment against Mr. Azeem for one count of aiding and abetting interstate travel in aid of racketeering in violation of 18 U.S.C. 1952 and 18 U.S.C. 2, and one count of giving an unlawful gratuity in violation of 18 U.S.C. 201(c)(1)(A). Judgment was also entered against Mr. Azeem on May 1, 1992, for one count of conspiracy to make false statements to an agency of the United States in violation of 18 U.S.C. 371, and two counts of aiding and abetting the making of false statements to an agency of the United States in violation of 18 U.S.C. 1001 and 18 U.S.C. 2.

As a result of these convictions, FDA served Mr. Azeem by certified mail on January 11, 1993, a notice proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application and offered him an opportunity for a hearing on the proposal. The proposal was based on a finding, under section 306(a)(2)(A) and (a)(2)(B) of the act, that he was convicted of felonies under Federal law for conduct (1) relating to the development and approval, including the process for development and approval, of a drug product; and (2) relating to the regulation of a drug product under the act. Mr. Azeem did not request a hearing. His failure to request a hearing constitutes a waiver of his opportunity for a hearing and a waiver of any contentions concerning his debarment.

II. Findings and Order

Therefore, the Deputy Commissioner for Operations, under section 306(a) of the act, and under authority delegated to her (21 CFR 5.20), finds that Mr. Mohammed Azeem has been convicted of felonies under Federal law for conduct (1) relating to the development and approval, including the process for development and approval, of a drug product (21 U.S.C. 335a(a)(2)(A)); and (2) relating to the regulation of a drug product (21 U.S.C. 335a(a)(2)(B)).

As a result of the foregoing findings, Mr. Mohammed Azeem is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective April 26, 1993 (21 U.S.C. 355a(c)(1)(B) and (c)(2)(A)(ii) and 21 U.S.C. 321(ee)). Any person with an approved or pending drug product application who knowingly uses the services of Mr. Azeem in any capacity, during his period of debarment, will be subject to civil money penalties. If Mr. Azeem, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug application or abbreviated antibiotic drug application from Mr. Azeem during his period of debarment.

Any application by Mr. Azeem for termination of debarment under section 306(d)(4) of the act (21 U.S.C. 335a(d)(4)) should be identified with Docket No. 92N-0424 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 9, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93-9582 Filed 4-23-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92N-0420]

Charles Y. Chang; Debarment Order; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that published in the **Federal Register** of March 8, 1993 (58 FR 12967). That notice permanently debarred Mr. Charles Y. Chang from providing services in any capacity to a person that has an approved or pending drug product application. The document was published with an incorrect authority citation. This document corrects that error.

EFFECTIVE DATE: March 8, 1993.

FOR FURTHER INFORMATION CONTACT: Megan L. Foster, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8041.

In FR Doc. 93-5247 appearing on page 12967 in the **Federal Register** of Monday, March 8, 1993, the following correction is made:

On page 12697, in the second column, in the fifth line in the caption "**SUMMARY:**" "(21 U.S.C. 355a(a)(2))" is corrected to read "(21 U.S.C. 335a(a)(2))".

Dated: April 6, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93-9586 Filed 4-23-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92N-0461]

Gloria H. Schetlick; Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under section 306(a)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 335a(a)(2)) permanently debarring Ms. Gloria H. Schetlick, No. 27831-037, Federal Prision Camp Alderson, Alderson, WV 24910, from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Ms. Schetlick was convicted of felonies under Federal law for conduct relating to the development and approval, including the process for development and approval, of a drug product; and relating to the regulation of a drug product under the act. Ms. Schetlick has failed to request a hearing and, therefore, has waived her opportunity for a hearing concerning this action.

EFFECTIVE DATE: April 26, 1993.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Diane M. Sullivan, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8041.

SUPPLEMENTARY INFORMATION:

I. Background

On July 14, 1992, the United States District Court for the District of Maryland entered judgment against Ms. Gloria H. Schetlick for one count of obstruction of an agency proceeding, and one count of aiding and abetting the making of a false statement in a matter within the jurisdiction of a Federal agency, Federal felony offenses under 18 U.S.C. 1505, 18 U.S.C. 1001, and 18 U.S.C. 2.

As a result of these convictions, FDA served Ms. Schetlick by certified mail on February 8, 1993, a notice proposing to permanently debar her from providing services in any capacity to a person that has an approved or pending drug product application and offered her an opportunity for a hearing on the proposal. The proposal was based on a finding, under section 306(a)(2)(A) and (a)(2)(B) of the act, that she was convicted of felonies under Federal law for conduct (1) relating to the development and approval, including the process for development and approval, of a drug product; and (2) relating to the regulation of a drug product under the act. Ms. Schetlick did not request a hearing. Her failure to request a hearing constitutes a waiver of her opportunity for a hearing and a waiver of any contentions concerning her debarment.

II. Findings and Order

Therefore, the Deputy Commissioner for Operations, under section 306(a) of the act, and under authority delegated to

her (21 CFR 5.20), finds that Ms. Gloria

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her (21 CFR 5.20), finds that Ms. Gloria H. Schetlick has been convicted of felonies under Federal law for conduct (1) relating to the development and approval, including the process for development and approval, of a drug product (21 U.S.C. 335a(a)(2)(A)); and (2) relating to the regulation of a drug product (21 U.S.C. 335a(a)(2)(B)).

As a result of the foregoing findings, Ms. Gloria H. Schetlick is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective April 26, 1993 (21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(ii) and 21 U.S.C. 321(ee)). Any person with an approved or pending drug product application who knowingly uses the services of Ms. Schetlick in any capacity, during her period of debarment, will be subject to civil money penalties. If Ms. Schetlick, during her period of debarment, provides services in any capacity to a person with an approved or pending drug product application, she will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug application or abbreviated antibiotic drug application from Ms. Schetlick during her period of debarment.

Any application by Ms. Schetlick for termination of debarment under section 306(d)(4) of the act (21 U.S.C. 335a(d)(4)) should be identified with Docket No. 92N-0461 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 9, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93-9583 Filed 4-23-93; 8.45 am]

BILLING CODE 4160-01-F

[Docket No. 92M-0446]

DePuy®; Premarket Approval of the Unicompartmental Device Configuration of the New Jersey LCS® Total Knee System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by DePuy®, Warsaw, IN, for premarket approval, under the Medical Device Amendments of 1976, of the Unicompartmental Device Configuration of the new jersey LCS® Total Knee System. After reviewing the recommendation of the Orthopedic and Rehabilitation Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of October 30, 1992, of the approval of the application.

DATES: Petitions for administrative review by May 26, 1993.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nirmal K. Mishra, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1036.

SUPPLEMENTARY INFORMATION: On March 25, 1991, DePuy®, Warsaw, IN 46581, submitted to CDRH an application for premarket approval of the Unicompartmental Device Configuration of the new jersey LCS® Total Knee System. The device is indicated for uncemented use in patients over 60 years old undergoing unicompartmental knee surgery for rehabilitating knees when only one condyle has been damaged as a result of noninflammatory degenerative joint disease or its composite diagnoses of osteoarthritis or post-traumatic arthritis.

On August 16, 1991, the Orthopedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On October 30, 1992, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nirmal K. Mishra (HFZ-410) (address above).

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 26, 1993, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 9, 1993.

Elizabeth D. Jacobson,

Deputy Director for Science, Center for Devices and Radiological Health.

[FR Doc. 93-9701 Filed 4-23-93; 8.45 am]

BILLING CODE 4160-01-F

Health Resources and Services Administration

Program Announcement and Proposed Review Criteria and Funding Priority for Grants for Nurse Anesthetist Traineeships for Fiscal Year 1993

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1993 Grants for Nurse Anesthetist Traineeships under the authority of section 831(a), title VIII of the Public Health Service (PHS) Act, as amended by the Nurse Education and Practice Improvement Amendments of 1992, title II of the Health Professions Education Extension Amendments of 1992, Public Law 102-408, dated October 13, 1992. Comments are invited on the proposed review criteria and funding priority.

Approximately $800,000 will be available in FY 93 for this program. It is anticipated that 50 competing awards will be made ranging from $16,000 to $30,000.

Previous Funding Experience

Previous funding experience information is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In FY 1992, HRSA reviewed 62 applications for Grants for Nurse Anesthetist Traineeships. Of those applications, 100 percent were approved. In FY 1991, HRSA reviewed 64 applications for Grants for Nurse Anesthetist Traineeships. Of those applications, 100 percent were approved. Grant funds were distributed by formula to all approved applicants. Amending legislation requires peer review.

Purpose

Section 831(a) of the Public Health Service Act authorizes the Secretary to award grants to cover the costs of traineeships for licensed registered nurses to become nurse anesthetists. To receive support, programs must meet the requirements of regulations as set forth in 42 CFR 57, subpart F. Federal support can be requested for up to 2 years.

Eligibility

Eligible applicants for Grants for Nurse Anesthetist Traineeships are public or private nonprofit institutions.

The applicant must agree that, in providing traineeships, the institution will give preference to individuals who are residents of health professional shortage areas designated under section 332. The applicant must also agree that traineeships provided with the grant will pay all or part of the costs of (A) the tuition, books, and fees of the program of nursing with respect to which the traineeships is provided; and (B) reasonable living expenses of the individual during the period for which the traineeship is provided.

National Health Objectives for the Year 2000

The Public Health Service urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone 202-783-3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Review Criteria

The following criteria are proposed for review of applications for this program:

1. Program information including total full-time enrollment, and full-time enrollment beyond the first 12 months of the program; and information on other financial aid available to students.

2. The extent to which the program includes clinical experiences in medically underserved communities.

3. The extent to which the applicant offers didactic and/or clinical courses which address issues of cultural diversity and special needs of minority populations.

4. The extent to which the applicant offers didactic and/or clinical courses which promote the development of cultural competence.

5. Qualifications of the Program Director.

Other Considerations

In addition, the following funding factors may be applied in determining funding of approved applications.

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of approved applications.

A funding priority is defined as the favorable adjustment of aggregate review scores of individual approved applications when applications meet specified criteria.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Statutory Funding Preferences

In making awards of grants under this section, preference will be given to any qualified applicant that—(A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. Preference will be given only for applications ranked above the 20th percentile of applications that have been recommended for approval by the appropriate peer review group. Additional details about the implementation of this preference were published in the **Federal Register** on February 22, 1993 (58 FR 9570).

Preference will also be given to qualified applicants carrying out traineeship programs whose participants gain significant experience in providing health services at rural health facilities.

Proposed Funding Priority

A funding priority will be given to programs which demonstrate either substantial progress over the last 3 years or a significant experience of 10 or more years in enrolling and graduating students from those minority or low-income populations identified as at-risk of poor health outcomes. This priority is consistent with a HRSA strategy to increase the number of health professionals from minority and other at risk populations, to assure equal access to health professions education for all population groups, and ultimately, to provide a greater volume of health care in underserved areas.

Additional Information

Interested persons are invited to comment on the proposed review criteria and funding priority. The comment period is 30 days. All comments received on or before May 26, 1993 will be considered before the final review criteria and funding priority are established. Written comments should be addressed to: Marla E. Salmon, ScD, RN, FAAN, Director, Division of Nursing, Bureau of Health Professions, Health Resources and Services

individuals who are most in need of

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Administration, Parklawn Building, room 9–35, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Nursing, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be directed to: Sandra Bryant, Grants Management Officer (A22), Nurse Anesthetist Traineeship Program, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6915, FAX: (301) 443–6343.

Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact: Ms. Anastasia Buchanan, Chief, Nursing Practice Resources Section, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 9–36, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5763, FAX: (301) 443–8586.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915–0060.

The deadline date for receipt of applications is May 28, 1993. Applications will be considered to be "on time" if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

This program, Grants for Nurse Anesthetist Traineeships, is listed at 93.124 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: March 19, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–9588 Filed 4–23–93; 8:45 am]

BILLING CODE 4160–15–P

Program Announcement and Proposed Criteria for Fellows and Proposed Review Criteria for Grants for Nurse Anesthetist Faculty Fellowships for Fiscal Year 1993

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1993 Grants for Nurse Anesthetist Faculty Fellowships under the authority of section 831(b), title VIII of the Public Health Service (PHS) Act, as amended by the Nurse Education and Practice Improvement Amendments of 1992, title II of the Health Professions Education Extension Amendments of 1992, Public Law 102–408, dated October 13, 1992. Comments are invited on the proposed criteria for fellows and proposed review criteria.

Approximately $160,000 will be available in FY 1993 for this program. It is anticipated that $160,000 will be available to support 16 competing awards averaging $10,000.

Previous Funding Experience

Previous funding experience information is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In FY 1992, HRSA reviewed 9 applications for Grants for Nurse Anesthetist Faculty Fellowships. Of those applications, 100 percent were approved and funded. In FY 1991, HRSA reviewed 13 applications for Grants for Nurse Anesthetist Faculty Fellowships. Of those applications, 100 percent were approved and funded.

Purpose

Section 831(b) of the Public Health Service Act authorizes the Secretary to make grants to provide financial assistance to certified registered nurse anesthetists (CRNA) who are faculty members in accredited programs to enable such nurse anesthetists to obtain advanced education relevant to their teaching functions. Applicants must compete for Federal support annually.

Eligibility

Public and private nonprofit institutions which employ CRNA faculty to teach registered nurses in a full-time accredited nurse anesthetist training program may apply for a Grant for Nurse Anesthetist Faculty Fellowships.

National Health Objectives for the Year 2000

The Public Health Service urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017–001–00474–0) or *Healthy People 2000* (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Proposed Criteria for Fellows

It is proposed that to be eligible for traineeship support an individual must be:

1. A United States citizen, noncitizen national, or foreign national who possesses a visa permitting permanent residence in the United States;

2. A certified registered nurse anesthetist with current licensure to practice, and with teaching responsibilities in an accredited nurse anesthetist education program;

3. Enrolled or accepted for enrollment in a formal program of study which leads to a master's or doctoral degree;

4. Proposed for a fellowship in the applicant institution's grant proposal; and

5. A faculty member employed by, or affiliated with, the applicant institution during the period of approved fellowship support.

Policy on Payment of Stipends

The following policy on payment of stipends was established in fiscal year 1990 after public comment (55 FR 36325, dated September 5, 1990) and is being extended in fiscal year 1993.

A faculty member may be paid a stipend for living costs if attending an educational institution as a full-time student; no stipend would be available for a faculty member who is enrolled in part-time study or who is employed on a full-time basis. This policy is designed to target stipend assistance to the individuals who are most in need of such aid.

Proposed Review Criteria

The following criteria are proposed for review of applications for this program:

1. The plan for faculty development at the applicant school, and the relationship of the faculty fellowship request to the overall program plan.

2. The extent to which the described advanced education is relevant to the faculty member's teaching function.

3. The extent to which the faculty practices and/or teaches in medically underserved and rural communities.

4. The justification and reasonableness of the budget request.

5. Qualifications of the Program Director.

Other Considerations

In addition, the following funding factors may be applied in determining funding of approved applications.

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of approved applications.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Statutory Funding Preference

Section 860(e) of the PHS Act, as amended by the Nurse Education and Practice Improvement Amendments of 1992, title II of the Health Professions Education Extension Amendments of 1992, Public Law 102–408, enacted on October 13, 1992, provides for the following statutory preference for this program of Grants for Nurse Anesthetist Faculty Fellowships, as well as for certain other programs under titles VII and VIII of the PHS Act.

Statutory preference will be given to qualified applicants that: (1) have a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (2) have achieved, during the 2-year period preceding the fiscal year for which such an award is sought, a significant increase in the rate of placing graduates in such settings.

This preference will only be applied to applications that rank above the 20th percentile of applications that have been recommended for approval by peer review groups under section 831(b) of the PHS Act, as amended. Additional details about the implementation of this preference were published in the **Federal Register** on February 22, 1993 (58 FR 9570).

Established Funding Preference

The following funding preference was established in fiscal year 1990 after public comment (55 FR 36325, dated September 5, 1990). A revised version is being extended in fiscal year 1993. The Department determined that this is a more appropriate means to achieve program goals.

A funding preference will be given first to faculty who will be completing degree requirements before or by the end of the funded budget year, second to faculty who are full-time students, and third to faculty who are part-time students.

Additional Information

Interested persons are invited to comment on the proposed criteria for fellows and proposed review criteria. The comment period is 30 days. All comments received on or before May 26, 1993 will be considered before the final criteria for fellows and proposed review criteria are established. Written comments should be addressed to: Marla Salmon, ScD, RN, FAAN, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 9–35, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Nursing, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be directed to: Ms. Sandra Bryant (A–22), Grants Management Specialist, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6915, FAX: (301) 443–6343.

Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact: Mary S. Hill, R.N., Ph.D., Chief, Nursing Education Practice Resources Branch, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 9–36, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443–6193, FAX: (301) 443–8586.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915–0060.

The deadline date for receipt of applications is June 4, 1993. Applications will be considered to be "on time" if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant.

This program, Grants for Nurse Anesthetist Faculty Fellowships, is listed at 93.907 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: March 19, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–9589; Filed 4–23–93; 8:45 am]

BILLING CODE 4160–15–P

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending June 30, 1993

Section 701 of the Public Health Service Act (42 U.S.C. 292) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools.

Section 60.13(a)(4) of the program's implementing regulations (42 CFR part 60, previously 45 CFR part 126) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending June 30, 1993, three interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 6⅝ percent. Using the regulatory formula

(45 CFR 126.13(a)), in effect prior to

(Catalog of Federal Domestic Assistance No.

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(45 CFR 126.13(a)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of the 91-day U.S. Treasury bills for the preceding calendar quarter (3.05 percent), and rounding the result (6.55 percent) upward to the nearest ⅛ percent (6⅝ percent).

However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rate of the 4 quarters ending June 30, 1993, is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 7⅜ percent for the quarter ending September 30, 1992; 6¾ percent for the quarter ending December 31, 1992; and 6¾ percent for the quarter ending March 31, 1993.

2. For variable rate loans executed during the period of January 27, 1981 through October 21, 1985, the interest rate is 6⅜ percent. Using the regulatory formula (42 CFR 60.13(a)) in effect for that time period, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (3.05 percent); adding 3.50 percent (6.55 percent) and rounding that figure to the next higher one-eighth of one percent (6⅝ percent).

3. For fixed rate loans executed during the period of April 1, 1993 through June 30, 1993, and for variable rate loans executed on or after October 22, 1985, the interest rate is 6⅛ percent. The Health Professions Training Assistance Act of 1985 (Public Law 99–129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent. Using the regulatory formula (42 CFR 60.13(a)), the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (3.05 percent); adding 3.0 percent (6.05 percent) and rounding that figure to the next higher one-eighth of one percent (6⅛ percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: April 15, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–9587 Filed 4–23–93; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D–93–1023; FR–3515–D–01]

Chicago Regional Office; Designation of Order of Succession

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of order of succession—Region V, Chicago.

SUMMARY: The Regional Administrator—Regional Housing Commissioner of designating officials who may serve as Action Regional Administrator—Regional Housing Commissioner during the absence, disability or vacancy in the position of the Regional Housing Commissioner.

EFFECTIVE DATE: This designation is effective as of March 22, 1993.

FOR FURTHER INFORMATION CONTACT: Lewis Nixon, Regional Counsel, Chicago Regional Office, 77 West Jackson Blvd, #2604, Chicago, Illinois, 60604–3507, (312) 353–4681. (This is not a toll-free number.)

Designation

Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator—Regional Housing Commissioner during the absence, disability or vacancy in the position of the Regional Administrator—Regional Housing Commissioner, with all the powers, functions and duties redelegated or assigned to the Regional Administrator—Regional Housing Commissioner: Provided that no official in this designation is authorized to serve as the Regional Administrator—Regional Housing Commissioner unless all other officials whose title precedes his or hers in this designation are unable to act by reason of absence, disability or vacancy.

1. Deputy Regional Administrator
2. Regional Counsel
3. Director of Regional Housing
4. Director of Community Planning Development
5. Director of Regional Administration
6. Director of Regional Fair Housing and Equal Opportunity
7. Director of Regional Indian Programs
8. Director of Regional Public/Housing

This designation supersedes the designation published, July 7, 1986, FR Doc. 86–15140, Filed 7–3–83 (Citation) Vol. 51, No. 129, effective May 28, 1986.

Authority: Delegation of Authority, 27 FR 4319, 1962; section 9(c), Department of Housing and Urban Development Act, 42 U.S.C. 3531 note; and Interim Order II, 31 FR 815, 1966.

Joseph Garaffa,

Acting Regional Administrator, Regional Housing Commissioner, Region V, Chicago Regional Office.

[FR Doc. 93–9623 Filed 4–23–93; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Administration

[Docket No. N–93–3615; FR–3516–N–01]

Privacy Act of 1974; Proposed Amendment to a System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of a proposed amendment to an existing system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), HUD proposed to amend a system of records entitled "Single Family Case Files, HUD/DEPT–46." Notice of the system was last published in the **Federal Register** Privacy Act Issuances 1991 Compilation.

The system notice has been amended to include holders of subordinate or junior lien mortgages in the routine use category.

EFFECTIVE DATE: This amendment shall become effective without further notice in 30 calendar days (May 26, 1993) unless comments are received on or before that date which would result in a contrary determination.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communications submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For Privacy Act: Jeanette Smith, Departmental Privacy Act Officer, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, Telephone Number (202) 708–2374. For Program: John J. Coonts, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, Telephone Number (202) 708–3046. [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: The Department has decided that the system of records should be amended to allow the release of certain information to holders of subordinate or junior mortgages.

A report of the Department's intention to amend the system has been submitted to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

Authority: 5 U.S.C. 552a, 88 Stat. 1986; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

The system description is printed below.

Issued at Washington, DC, April 20, 1993.

Michael F. Hill,

Deputy Assistant Secretary for Resource Planning and Operations.

HUD/DEPT–46

SYSTEM NAME:

Single Family Case Files.

SYSTEM LOCATION:

Headquarters and Field Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for HUD/FHA mortgage insurance in connection with single family housing programs of the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain standard records used for day-to-day maintenance of single-family mortgage cases, including daily case control, mortgage servicing, payment records, loan recommendations, information concerning borrower inability to make payments, cancellations, and monies returned. Also, requests for refinancing, income and employment information used in determination of applicant eligibility, insurance documents, sales agreements, conditional and firm commitments, owner requests for appraisals, property descriptions, appraisal and inspection reports; verification of employment and income; credit bureau reports; mortgage note and deed of trust; record of escrow account; correspondence and complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Housing Act as amended, 12 U.S.C. 1702 et seq.

The information collection under the National Housing Act will enable HUD to process applications for HUD mortgage insurance and respond to requests for applications and insurance endorsement information.

The system will assist the Department in complying with requests for information regarding HUD processing of mortgage insurance applications and servicing of Secretary-held mortgages.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs of prefatory statement. Other routine uses: To welfare agencies—for fraud investigation, to VA—for coordination with HUD in processing construction complaints, Congressional delegation—providing information concerning status of complaints, complainants and attorneys representing them—review of complaint file for status information, builders and attorneys representing them—review of complaint file for status information, and to holders of subordinate or junior mortgages—to determine the outstanding balance due to HUD on a Secretary-held mortgage.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored in the file folders and computerized tape, disc and drum.

RETRIEVABILITY:

Records are retrieved by name of individual and case file number.

SAFEGARDS:

Records are maintained in lockable file cabinets with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are primarily active with some historical data. Inactive files are normally disposed after a two-year period.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Insured Single Family Housing, HSS, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about the existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, current and previous employers, credit bureaus and financial institutions, corporations and firms and federal and non-federal government agencies.

[FR Doc. 93–9622 Filed 4–23–93; 8:45 am]

BILLING CODE 4201–01

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–966–4230–05–P; AA–6697–A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Tanadgusix Corporation for approximately 28.00 acres. The lands involved are in the vicinity of St. Paul Island, Alaska.

All Streets and Alleys encompassed within Tract A of U.S. Survey No. 4943, Alaska.

A notice of the decisions will be

The following described public land

incidental take permit/application

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A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decisions may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government, or regional corporation, shall have until May 26, 1993 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Ana M. Stafford,

Acting Chief, Branch of Southwest Adjudication.

[FR Doc. 93–9590 Filed 4–23–93; 8:45 am]

BILLING CODE 4310–JA–P

[G–010–G3–0036–4210–05; NMNM 86622]

Farmington District; Realty Action—Termination and Order Providing for Opening of Public Land in San Juan County, New Mexico, and Classification of Land for Recreation and Public Purposes Act

AGENCY: Bureau of Land Management, Farmington District, Interior.

ACTION: Notice of Realty Action. Recreation and public purposes patent of public land in San Juan County, New Mexico.

SUMMARY: On Monday, July 20, 1992, certain lands were classified as being suitable for leasing and later patenting under the Recreation and Public Purposes Act. This is a notice of termination of that classification which was placed on the following land, in the **Federal Register**, Vol. 57, No. 139, Monday, July 20, 1992.

New Mexico Principal Meridian

T. 29 N., R. 13 W.,
Sec. 20, E½NW¼SE¼.
Containing 20 acres, more or less.

This notice also modifies the notice placed in the **Federal Register**, Vol. 57, No. 139, Monday, July 20, 1992. Information concerning that proposal remains correct except for termination of the original classification stated above and the following information.

The following described public land has been determined suitable for classification for patenting to the City of Farmington under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et. seq.).

New Mexico Principal Meridian

T. 29 N., R. 14 W.,
Sec. 9, NE¼NE¼.
Containing 40 acres, more or less.

The land would not be leased prior to being patented to the City of Farmington as stated in the July 20, 1992 notice. The estimated intended time of patent issuance is July 15, 1993.

At 9 a.m. on May 26, 1993, the land classified in the **Federal Register**, Vol. 57, No. 139, Monday, July 20, 1992 shall be open to all forms of appropriation under the public land laws, including the general mining laws subject to valid existing rights, and the requirements of applicable law. All applications received at or prior to 9 a.m. on May 26, 1993 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: April 20, 1993.

Mike Pool,

District Manager.

[FR Doc. 93–9742 Filed 4–22–93; 8:45 am]

BILLING CODE 4310–FB–M

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Proposed Canyon Ridge Phase A and B Development, Austin, Travis County, TX

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Beard Family Partnership (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a) of the Endangered Species Act. The Applicant has been assigned Permit Number PRT–777083. The requested permit, which is for a period not to exceed 30 years, would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take would occur as a result of the construction and operation of a commercial and residential development on a 197.6 acre tract, of which 18.8 acres are already developed, in Austin, Travis County, Texas.

The Service has prepared an environmental assessment (EA) for the incidental take permit application. A determination of jeopardy to the species or a finding of no significant impact (FONSI) will not be made before 30 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations. (40 CFR 1506.6)

DATES: Written comments on the application and draft EA should be received within 30 days of the date of this publication.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing the Austin Field Office, U.S. Fish and Wildlife Service, 611 East Sixth Street, suite 407, Austin, Texas 78701. Persons wishing to review the draft EA may obtain a copy by contacting Joseph E. Johnston, Austin Field Office. Documents will be available by written request for public inspection, by appointment, during normal business hours at the Austin Field Office (8 a.m. to 4:30 p.m.). Written data or comments concerning the application and draft EA should be submitted to Sam Hamilton, State Administrator, Austin Field Office. Please refer to Permit Number PRT–777083 when submitting comments.

Austin Field Office, U.S. Fish and Wildlife Service, U.S. Fish and Wildlife Service, 611 East Sixth Street, suite 407, Austin, Texas 78701

FOR FURTHER INFORMATION CONTACT: Robert B. Simpson at the above Austin Field Office address.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of any endangered species, including the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species if such taking is incidental to, and not the purpose of otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Applicant plans to build a commercial and residential development on the northwest side of Austin near the intersection of Ranch to Market Road 2222 and Jester Boulevard in Travis County, Texas. The development will occupy approximately 80.8 acres with the remaining 98 acres proposed as parkland and conservation areas. These activities will permanently eliminate about 71 acres of occupied and/or potential endangered species habitat. The Applicant proposes to mitigate the incidental take via dedicating 98 acres for open space, conducting golden-cheeked warbler monitoring studies, establishing an escrow fund of $40,000 to fund a golden-cheeked warbler population study in the Bull Creek area, and constructing and maintaining a fence between the proposed development and the areas of open space set aside for the golden-cheeked warbler.

The Applicant considered four alternatives but rejected them because they were not economically viable.

James A. Young,

Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, Southwest Region (2), Albuquerque, New Mexico.

[FR Doc. 93–9673 Filed 4–23–93; 8:45 am]

BILLING CODE 4310–55–M

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for Valley Community Chapel and Good Shepherd Lutheran Church, Town of Yucca Valley, San Bernardino County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Valley Community Chapel and Good Shepherd Lutheran Church (Churches) have applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act (Act). The proposed permit would authorize the incidental take of the threatened desert tortoise (*Gopherus agassizii*). The Service also announces the availability of an environmental essessment (EA) for the incidental take permit application. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the permit application and EA should be received on or before May 26, 1993.

ADDRESSES: Comments regarding the application or adequacy of the EA should be addressed to Mr. Craig Faanes, Field Supervisor, U.S. Fish and Wildlife Service, Ventura Field Office, 2140 Eastman Avenue, suite 100, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Mr. Ray Bransfield, U.S. Fish and Wildlife Service, 2140 Eastman Avenue, suite 100, Ventura, California 93003 (805–644–1766). Individuals wishing copies of the application or EA for review should immediately contact the above individual.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of a threatened species like the desert tortoise. However, the service, under limited circumstances, may issue permits to take threatened species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened species are in 50 CFR 17.32.

The Churches proposed to construct two places of worship and associated facilities on a 5-acre parcel, which is located in the town of Yucca Valley, San Bernardino County, California. The proposed development would permanently eliminate five acres of threatened species habitat. The Churches propose to minimize and mitigate for this incidental take via several on-site and off-site measures. Such mitigation measures include providing funds to the Desert Tortoise Preserve Committee to acquire off-site desert tortoise habitat within California Department of Fish and Game's crucial habitat for the desert tortoise and to enhance and manage the conveyed lands in perpetuity for the desert tortoise. Incidental take will be minimized from various on-site measures to avoid take of the desert tortoises to the maximum extent possible during construction of the Churches and associated facilities.

The EA considers the environmental consequences of the proposed action and the no action alternative. The Churches considered a third alternative to not develop those portions of the parcel that were inhabited by desert tortoises. The proposed action would result in the loss of a portion of a population of desert tortoises already fragmented by development in and around the town of Yucca Valley. The proposed action would also result in the preservation and enhancement of desert tortoise habitat within high quality desert tortoise habitat that could be better managed for this species. Although the no action alternative would not permit the take of the desert tortoise on the proposed project site, the effects of other activities in the vicinity would likely prevent the long-term survival of desert tortoises at this site. The third alternative was rejected because of the small size of the proposed site.

Dated: April 16, 1993.

William E. Martin,

Acting Regional Director, U.S. Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 93–9620 Filed 4–23–93; 8:45 am]

BILLING CODE 4310–55–M

INTERNATIONAL TRADE COMMISSION

Investigations Relating to Potential Breaches of Administrative Protective Orders, Sanctions Imposed for Actual Violations.

AGENCY: International Trade Commission.

ACTION: Summary of Commission practice relating to administrative protective orders.

SUMMARY: This notice provides a summary by the International Trade Commission (Commission) of its investigations of breaches of administrative protective orders (APOs) issued in connection with investigations under Title VII of the Tariff Act of 1930.

This notice is intended to inform the public of the Commission's experience with APO breaches. The Commission also intends that this notice will educate and alert representatives of parties to Commission proceedings as to some specific types of APO breaches encountered by the Commission. This notice is illustrative only and does not limit the Commission's Rules or standard APO. The notice does not provide an exclusive list of conduct that will be deemed to be a breach of the Commission's APOs, and does not indicate how the Commission will rule in future cases.

FOR FURTHER INFORMATION CONTACT: Charles H. Nall, Esq., Assistant General Counsel for Antidumping and Countervailing Duty Investigations, U.S. International Trade Commission, telephone 202–205–3106.

SUPPLEMENTARY INFORMATION: The discussion below illustrates APO breach investigations that the Commission has conducted during 1992 including a description of sanctions imposed. The Commission will report a summary of its actions in response to violations of Commission APOs periodically in an effort to educate those obtaining access under an APO of the common problems encountered in handling business proprietary information (BPI). This is the third notice of its kind, the first one having been published at 56 FR 4846–4850 (Feb. 6, 1991), and the second at 57 FR 12335 (Apr. 9, 1992). The Commission intends to publish summaries at least annually, and more frequently as appropriate.

As part of the effort to educate practitioners about APO practice, the Commission's Secretary issued in September 1991 An Introduction to Administrative Protective Order Practice in Antidumping and Countervailing Duty Investigations. This

document is available upon request

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document is available upon request from the Office of the Secretary, U.S. International Trade Commission, 500 E. Street, SW., Washington, DC 20436, telephone 202–205–2000.

Section 1332 of the Omnibus Trade and competitiveness Act of 1988 requires the Commission to release under APO to the authorized representatives of interested parties in dumping and countervailing duty investigations the business proprietary information (BPI) collected by the Commission in the course of such investigations. 19 U.S.C. 1677f. The Commission has implemented procedures governing the release of BPI under APO. 19 CFR 207.7. The APO rules were amended effective April 1991. 56 FR 11,918 (March 21, 1991). Among other changes, those rules amendments provided parties with an extra day in which to file the public version of certain submissions containing BPI. This "one day rule," which also permits correction of the bracketing of BPI during that extra day, was intended to reduce the incidence of APO breaches caused by inadequate bracketing and improper placement of BPI. The Commission urges parties to make use of the rule.

The rules provide that the Secretary of the Commission will provide BPI only to "authorized applicants" who agree to be bound by the terms and conditions of an APO. The standard APO form for antidumping and countervailing duty investigations issued by the Commission requires the applicant to swear that he or she will:

(1) Not divulge any of the BPI obtained under the APO and not otherwise available to him, to any person other than

(i) Personnel of the Commission concerned with the investigation,

(ii) The person or agency from whom the BPI was obtained,

(iii) A person whose application for disclosure of BPI under the APO his been granted by the Secretary, and

(iv) Other persons, such as paralegal and clerical staff, who: (a) Are employed or supervised by and under the direction and control of the authorized applicant or another authorized applicant in the same firm whose application has been granted: (b) have a need thereof in connection with the investigation; (c) are not involved in competitive decisonmaking for an interested party which is a party to the investigation; and (d) have submitted to the Secretary a signed Acknowledgment for Clerical Personnel in the form attached hereto (the authorized applicant shall also sign such acknowledgment and will be deemed responsible for such persons' compliance with the APO);

(2) Use such BPI solely for the purposes of the above-captioned Commission investigation or for judicial or binational panel review of such Commission investigation;

(3) Not consult with any person not described in paragraph (1) concerning BPI disclosed under the APO without first having received the written consent of the Secretary and the party or the attorney of the party from whom such BPI was obtained;

(4) Whenever materials (*e.g.*, documents, computer disks, etc.) containing such BPI are not being used, store such material in a locked file cabinet, vault, safe, or other suitable container (N.B.: storage of BPI on so-called hard disk computer media is to be avoided, because mere erasure of data from such media may not irrecoverably destroy the BPI and may result in violation of paragraph C of the APO);

(5) Serve all materials containing BPI disclosed under the APO as directed by the Secretary and pursuant to § 207.7(f) of the Commission's rules;

(6) Transmit each document containing BPI disclosed under the APO:

(i) With a cover sheet identifying the document as containing BPI,

(ii) With all BPI enclosed in brackets and each page warning that the document contains BPI,

(iii) If the document is to be filed by a deadline, with each page marked "Bracketing of BPI not final for one business day after date of filing," and

(iii) If by mail, within two envelopes, the inner one sealed and marked "Business Proprietary Information—To be opened only by [name of recipient]", and the outer one sealed and not marked as containing BPI;

(7) Comply with the provisions of the APO and § 207.7 of the Commission's rules;

(8) Make true and accurate representations in the authorized applicant's application and promptly notify the Secretary of any changes that occur after the submission of the application and that affect the representations made in the application (*e.g.*, change in personnel assigned to the investigation);

(9) Report promptly and confirm in writing to the Secretary any possible breach of the APO; and

(10) Acknowledge that breach of the APO may subject the authorized applicant and other persons to such sanctions as the Commission deems appropriate, including the administrative sanctions set out in the APO.

Breach of the protective order may subject an applicant to:

(1) Disbarment from practice in any capacity before the Commission along with such person's partners, associates, employer, and employees, for up to seven years following publication of a determination that the order has been breached;

(2) Referral to the United States Attorney;

(3) In the case of an attorney, accountant, or other professional, referral to the ethics panel of the appropriate professional association; and

(4) Such other administrative sanctions as the Commission determines to be appropriate, including public release of or striking from the record any information or briefs submitted by, or on behalf of, the offender or the party represented by the offender, and denial of further access to business proprietary information in the current or any future investigations before the Commission.

Commission employees are not signatories to the Commission's APOs and do not obtain access to BPI through the APO procedure. Consequently, they are not subject to the APOs' requirements with respect to the handling of BPI. However, Commission employees are subject to strict statutory and regulatory constraints concerning BPI, and face severe penalties for noncompliance. See 18 U.S.C. 1905; Title 5, U.S. Code; and Commission personnel policies implementing the statutes. Although the Privacy Act (5 U.S.C. 552a) limits the Commission's authority to disclose personnel actions against agency employees, this should not lead the public to conclude that no such actions have been taken.

In April of 1989, the Commission delegated authority to the Secretary for the issuance of letters of inquiry to suspected breachers of APOs in Title VII investigations. If, based on the response made to such a letter of inquiry, the Commission determines that a breach has occurred, the Commission issues a second letter asking the breacher to address the questions of mitigating circumstances and possible sanctions. The Commission then decides the appropriate sanction. However, in two cases in 1992, the Commission determined that breaches had occurred but that sanctions were not warranted, and therefore found it unnecessary to issue a second letter concerning what sanctions might be appropriate. The Commission retains sole authority to make final determinations regarding the existence of a breach and the appropriate sanction if a breach occurred.

The records of Commission investigations of APO breaches are not publicly available and are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552. Section 135(b) of the Customs and Trade Act of 1990, 19 U.S.C. 1677f(g).

I. Breach Investigations Generally

The breach most frequently investigated by the Commission involves paragraph (1) of the standard APO which prohibits the dissemination of BPI to unauthorized persons. Such dissemination usually occurs as the result of failure to delete BPI from public versions of documents filed with the Commission. Other breaches in past years have involved: The failure to properly bracket BPI in proprietary documents filed with the Commission; the failure to immediately report known violations of an APO; improper or inadequate application for access to BPI; failure to adequately supervise junior attorneys or non-legal personnel in the handling of BPI in certain circumstances; and failure to destroy confidential information in a timely manner.

II. Sanction Determinations

Sanctions for APO violations serve two basic interests: (a) Preserving the confidence of submitters of BPI in the Commission as a reliable protector of BPI, and (b) disciplining breachers and deterring future violations. As the Conference Report to the Omnibus Trade and Competitiveness Act of 1988 observed, "the effective enforcement of limited disclosure under administrative protective order depends in part on the extent to which private parties have confidence that there are effective sanctions against violation." H.R. Conf. Rep. No. 576, 100th Cong., 1st Sess. 623 (1988). The Commission has worked to develop consistent jurisprudence, not only in determining whether a breach has occurred, but also in selecting an appropriate sanction. In determining the appropriate sanction, the Commission generally considers mitigating factors such as whether the breach was unintentional, lack of prior breaches committed by the breaching party, the mitigating measures taken by the breaching party, the promptness with which the breaching party reported the violation to the Commission, and any relevant circumstances peculiar to the situation.

III. Specific Investigations in Which Breaches Were Found

The following case studies are presented to illustrate the various types of APO breaches found by the Commission and the sanctions imposed by the Commission. In addition, the case studies discuss the factors considered by the Commission as mitigating the sanctions imposed in particular instances. While each situation is slightly different, the Commission has pursued a consistent jurisprudence over the period that the current APO procedures have been in effect. The Commission has not included some of the specific facts in the descriptions of investigations where such disclosure could reveal the identity of a particular breacher. Thus, in some cases, apparent inconsistencies in the facts set forth in this notice result from the Commission's inability to disclose particular facts more fully.

The APO summary for 1991 discussed 26 cases, in 7 of which the Commission found that a breach had occurred. The following discussion covers the 3 cases in 1992 in which violations were found. The discussion also covers one case in 1992 involving a violation of the "one day rule" as well as a breach of the APO. In general, the Commission has experienced a decline in APO breaches, apparently due to practitioners' increasing familiarity with the Commission's rules and jurisprudence, as well as to the April 1991 rules amendments, including the "one day rule."

Case 1: An attorney (1) failed to delete significant amounts of BPI obtained under APO from the public version of a brief, and (2) made BPI available to other attorneys in the same firm who had not applied for or been granted access to BPI under the APO. The breaches were not discovered by the attorney but were found by the Secretary to the Commission. The Commission found that the attorney had breached the APO in an egregious manner, but that mitigating circumstances existed because this was the attorney's first appearance before the Commission, the attorney's firm did not practice regularly before the Commission, and the breaches were not willful. The attorney was given a private letter of reprimand and was instructed that, in the attorney's next appearance before the Commission in a case involving BPI, the attorney would be required to provide a written description of the steps taken to insure that BPI was adequately protected, including (1) reading the APO handbook, (2) requiring the firm's other attorneys to read the handbook, (3) arranging for keeping BPI documents in a locked container, and (4) careful proofreading of documents to insure that all BPI is bracketed in confidential documents and redacted in public versions.

Case 2: Two attorneys filed with the Commission a document that contained BPI obtained under APO but that neither bracketed such BPI nor identified the document as containing BPI. The Commission found the following to be mitigating circumstances: the breach was inadvertent; the document was intended only for use with a confidential brief so that only persons authorized to see the document received copies of it; and the attorneys acted expeditiously to correct their error. The Commission determined that a breach had occurred, but that, in view of the mitigating circumstances in the case, a sanction was not warranted. Both attorneys received letters of warning urging them to use greater caution in the future.

Case 3: An attorney failed to delete BPI obtained under APO from the public version of a brief. The Commission found that the attorney had breached the APO. Two colleagues were not found to have breached, because they apparently had not participated in preparing their brief. Mitigating circumstances were found in the fact that the BPI was subsequently made public by the submitter. The breaching attorney was not sanctioned but received a letter of warning.

Case 4: An attorney violated Commission rule 207.3(c) (the "one day rule") by submitting a "corrected" version of a postconference brief containing numerous substantive and editorial changes from the version filed the previous day. The same attorney and an associate attorney under his supervision also breached the APO by failing to serve the original confidential version of the brief on counsel to the other parties.

As discussed above, the "one day rule" permits correction of the bracketing of BPI the day after the confidential version of the document is filed, but specifically states: "No changes to the document other than bracketing and deletion of business proprietary information are permitted after the deadline." The Commission issued a private letter of reprimand to the attorney for the APO breach and violation of the "one day rule." The Commission also suspended his privilege to use that rule the next time he appears before the Commission in a Title VII investigation. Although violation of the "one day rule" is not an

APO breach, the Commission considers

Washington, DC 20436, telephone 202–

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APO breach, the Commission considers it appropriate to report this case here because of the extensive use and important role of the "one day rule" in helping reduce the number of APO breaches. As for the associate attorney, the Commission determined to take no formal disciplinary action against him, although it did issue a warning letter. Among the mitigating factors that the Commission considered was the fact that the associate attorney had been instructed not to serve the original postconference brief on the other parties.

IV. Investigations in Which No Breach Was Found

During 1992, the Commission completed 11 investigations in which no breach was found. The reasons for a finding of no breach included:

(1) The information allegedly mishandled by the alleged breacher considered entirely of information pertaining to the alleged breacher's own client;

(2) The information in question was not BPI; and

(3) The information in question was available to the alleged breacher from sources other than disclosure under the APO.

By order of the Commission.

Issued: April 19, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–9647 Filed 4–23–93; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–RA–344]

Certain Cutting Tools for Flexible Plastic Conduit and Components Thereof; Notice of Commission Determination Not To Review an Initial Determination Amending the Complaint and Notice of Investigation To Delete a Claim

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ) initial determination (ID) (Order No. 12) in the above-captioned investigation amending the notice of investigation to delete the claim that respondents have infringed U.S. Letters Patent Des. 266,736.

FOR FURTHER INFORMATION CONTACT: Robin L. Turner, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3103.

SUPPLEMENTARY INFORMATION: On April 2, 1993, the ALJ issued an ID granting a motion by complaints Dawn Industries, Inc., Dextel Inc., and Duane Robertson to amend the complaint and notice of investigation to delete a claim that respondents have infringed on U.S. Letters Patent Des. 266,736. No petitions for review or government agency comments were filed.

This section is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and section 210.53(h) of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.53(h)).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

By order of the Commission.

Issued: April 20, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–9646 Filed 4–23–93; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–290 (Sub–No. 126X)]

Georgia Northern Railway Co.—Abandonment Exemption—In Dougherty and Lee Counties, GA

April 20, 1993.

Notice to the Parties:

A decision in the above proceeding, served and published in the **Federal Register** (58 FR 17626) on April 5, 1993, inadvertently referred to the applicant as Conrail in the first line of the second paragraph on page 1. Please correct your copies by substituting GN as the applicant. Because this is a ministerial error, the procedural schedule dates set forth in the served notice will remain the same.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–9656 Filed 4–23–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

April 20, 1993.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;
(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;
(3) How often the form must be filled out or the information is collected;
(4) Who will be asked or required to respond, as well as a brief abstract;
(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
(6) An estimate of the total public burden (in hours) associated with the collection; and,
(7) An indication as to whether section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jefferson B. Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Don Wolfrey, on (202) 514–4115 or facsimile: (202) 514–1534. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/850 WCTR, Department of Justice, Washington, DC 20530.

New Collection

(1) Dedicated Commuter Lane Usage Survey
(2) Immigration and Naturalization Service
(3) As Needed.
(4) Individuals or households. The Immigration and Naturalization Service will pilot test various fee-driven alternative inspection methods at land borders. This survey of the general public crossing the border will assist in the evaluation, planning and implementation of these pilot projects at selected locations.
(5) 100,000 annual responses at .083 hours per response
(6) 8,300 annual burden hours
(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: April 20, 1993.

Don Wolfrey,

Department Clearance Officer, Department of Justice.

[FR Doc. 93–9608 Filed 4–23–93; 8:45 am]

BILLING CODE 4410–10–M

[AAG/A Order No. 74–93]

Privacy Act of 1974; New System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Department of Justice, National Drug Intelligence Center (NDIC), proposes to establish a new system of records entitled, "National Drug Intelligence Center Data Base, JUSTICE/NDIC–001." A rule document promulgating exemptions for the system appears in the Proposed Rules Section of today's **Federal Register**.

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be provided a 30-day period in which to comment on the routine uses of a new system; the office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires that it be given a 60-day period in which to review the system.

Therefore, please submit any comments by May 26, 1993. The public, OMB, and Congress are invited to send written comments to Patricia E. Neely, Staff Assistant, Systems Policy Staff, Information Resources Management, Justice Management Division, Room 850, Washington Center Building, Department of Justice, Washington, DC. 20530.

In accordance with Privacy Act requirements, the Department of Justice has provided a report on the proposed system to OMB and the Congress.

Dated: April 6, 1993.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/NDIC–001

SYSTEM NAME:

National Drug Intelligence Center Data Base (JUSTICE/NDIC–001).

SYSTEM LOCATION:

The primary location of the system will be the National Drug Intelligence Center, 319 Washington Street, 5th Floor, Johnstown, PA 15907. In addition, information in the NDIC Data Base will be retrieved at the NDIC Washington area office, located at Suite 1001, 8201 Greensboro Drive, McLean, VA 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Individuals suspected of, charged with, or convicted of, illicit narcotic trafficking or activities related thereto.

2. Non-implicated persons with pertinent knowledge of some circumstances or aspect of a case or record subject; such persons may include witnesses or associates of record subjects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may contain any information, including but not limited to personal identification data, which may assist the National Drug Intelligence Center (NDIC) in fulfilling its responsibilities to collect, consolidate, analyze, and coordinate multi-source drug intelligence data from all national security and law enforcement agencies; to produce information regarding the structure, finances, communications and activities of drug trafficking organizations and their memberships; and to make such information available, as appropriate, to domestic and foreign law enforcement agencies and to agencies of the U.S. foreign intelligence community. Information will include any data that may assist law enforcement agencies and agencies of the U.S. foreign intelligence community in executing their responsibilities with respect to counterdrug enforcement, including identification, location, arrest and prosecution of persons for narcotics trafficking and related activities and civil proceedings related to such enforcement activities. Such information may be derived from investigative and intelligence reports prepared by law enforcement agencies and agencies of the U.S. foreign intelligence community, from documents or other record media seized by law enforcement agencies and made available to NDIC for exploitation, and publicly available information such as media reports and commercially acquired data bases. Records may also include information on persons not implicated in narcotics trafficking or related activities, but with pertinent knowledge of some circumstance of a case or record subject. Such records may contain any information, including but not limited to personal identification data, which may assist NDIC in discharging its responsibilities generally, e.g., information which may assist in identifying and locating such persons.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9078, Pub. L. 102–396.

PURPOSE(S):

This system of records will allow the NDIC to collect and consolidate information from multiple sources, including law enforcement agencies and agencies of the U.S. foreign intelligence community, in order to be able to produce a more complete picture of the activities of drug trafficking organizations and their memberships than any one such agency can produce by itself. The system will enable NDIC to provide the results of its analyses and other relevant information acquired by it, to Federal, State, and local law enforcement and regulatory agencies, to certain foreign law enforcement agencies, and to agencies of the U.S. foreign intelligence community, to assist them in fulfilling their responsibilities with respect to enforcement of law related to drug trafficking, including civil proceedings related to enforcement of such laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information contained in this system of records may be disclosed as follows:

1. To the appropriate Federal, State, local, or foreign agency responsible for investigating, enforcing, or implementing a statute, rule, regulation, or order, to the extent that the information is relevant to the recipient's law enforcement function.

2. To the Department of Defense, and components thereof, to support its role in the detection and monitoring of the transportation of illegal drugs into the United States or such other roles in support of counterdrug law enforcement as may be permitted by law.

3. To individuals or organizations, including Federal, State, local or foreign agencies, in the course of counterdrug law enforcement efforts, to the extent

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necessary to elicit information pertinent to counterdrug law enforcement.

4. To the news media, to the extent releasable in accordance with 28 CFR 50.2, and provided, in each case, that release of the specific information in that situation would not constitute an unwarranted invasion of personal privacy.

5. To the Department of State, and to agencies of the U.S. foreign intelligence community, to further the efforts of those agencies with respect to the national security and foreign affairs aspects of international drug trafficking.

6. To Members of Congress, or their staffs acting upon the Members' behalf, when they request the information on behalf of and at the request of the individuals who are the subjects of the respective records.

7. To the National Archives and Records Administration and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer at NDIC's headquarters in Johnstown, Pennsylvania and retrieved both there and at NDIC's Washington area office. Some information, including investigative files and information incorporated into analytical products, may be retained in hard copy format in file folders.

RETRIEVABILITY:

Access to individual records is gained by use of data retrieval capabilities of computer software acquired and developed for processing of information in the NDIC Data Base. Data will be retrieved through a number of criteria, including personal identifying information such as name.

SAFEGUARDS:

The NDIC Data Base is protected by both physical security methods and dissemination and access controls. Fundamental in all cases is that all access to information is limited by a system of password and access control to those NDIC personnel or representatives of other agencies with a demonstrated and lawful need to know the information in order to perform assigned functions. All NDIC personnel capable of accessing the NDIC Data Base will have successfully passed a background investigation, and access by such persons will be limited to those having a "need to know." All accesses to the data base, both internal and external, will be electronically recorded, and such records will be reviewed periodically to ensure against inappropriate access. The NDIC Data Base will be retained within a 24-hour guarded facility which is secured by intruder alarms and other appropriate physical security devices.

RETENTION AND DISPOSAL:

A schedule for the retention and disposal of these records is under review and development.

SYSTEM MANAGER AND ADDRESS:

Director, National Drug Intelligence Center, 319 Washington Street, 5th Floor, Johnstown, PA 15907.

NOTIFICATION PROCEDURES

Inquires should be addressed to: Chief, Administration Branch, National Drug Intelligence Center, 319 Washington Street, 5th Floor, Johnstown, PA 15907.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES

Same as above.

RECORD SOURCE CATEGORIES:

Information provided by Federal, State, local and foreign law enforcement agencies; agencies of the U.S. foreign intelligence community; and open sources, such as broadcast and print media and publicly available data bases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT

The Attorney General has exempted this system from subsections (c)(3) and (4); (d); (e)(1), (2) and (3); (e)(4)(I); (e)(5) and (8); and (g) pursuant to 5 U.S.C. 552a(j)(2). In addition, the Attorney General has exempted the system from subsections (c)(3), (d), (e)(1) and (e)(4)(I) pursuant to 5 U.S.C. 552a(k) (1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the **Federal Register**.

[FR Doc. 93-9578 Filed 4-23-93; 8:45 am]

BILLING CODE 4410-02

NATIONAL SCIENCE FOUNDATION

Collection of Information Submitted For OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting a notice of information collection that will affect the public. Interested persons are invited to submit comments by May 7, 1993. Comments may be submitted to: (A) *Agency Clearance Officer.* Herman G. Fleming, Division of Personnel and Management, National Science Foundation; Washington, DC 20550, or by telephone (202) 357-7335. Copies of materials may be obtained at the above address or telephone. Comments may also be submitted to:

(B) *OMB Desk Officer.* Officer of Information and Regulatory Affairs, ATTN: Dan Chenok, Desk Officer, OMB, 722 Jackson Place, room 3208, NEOB, Washington, DC 20503.

Title: Instructional Materials Development Program Principal Investigators

Affected Public: Individuals

Respondents/Reporting Burden: 486 respondents: 1 hour per response.

Abstract: The survey of principal investigators of Instructional Materials Development program awards is needed in order to develop an on-line, public use database that will provide information on the subject matter, instructional methods, and other characteristics of the materials developed to teachers, educational administrators and researchers throughout the country. A report on these materials will be provided to Congress.

Dated: April 20, 1993.

Herman G. Fleming,

Reports Clearance Officer.

[FR Doc. 93-9653 Filed 4-23-93; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Neuroscience; Meeting Amendments

The following announcement is being amended to reflect changes in meeting dates and times. The notice for this meeting originally appeared in the April 8, 1993 edition of the **Federal Register**, Vol. 58, No. 66, p. 18232.

Name: Advisory Panel for Neuroscience.

Date and Time: April 28-29, 1993, 9 a.m. to 5 p.m.

Place: Room 1243, 1800 G Street NW., Washington, DC.

Type of Meeting: Part-Open.

Contact Person: Dr. Sanya Springfield, Program Director, Neuronal and Glial Mechanisms, Division of Integrative Biology and Neuroscience, room 321, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Telephone: (202) 357-7471.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Open session: April 29, 1993; 3 p.m. to 5 p.m. To discuss research trends and opportunities in Neuroscience.

Closed session: April 28, 1993; 9 a.m. to 5 p.m. and April 29, 1993; 9 a.m. to 3 p.m. To review and evaluate Neuronal and Glial Mechanisms proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 21, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-9625 Filed 4-23-93; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrences for Fourth Quarter CY 1992 Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events that the Commission determines are significant from the standpoint of public health and safety.) During the fourth quarter of CY 1992, the following incidents at NRC licensees were determined to be abnormal occurrences (AOs) and are described below, together with the remedial actions taken. The events are also being included in NUREG-0090, Vol. 15, No. 4 ("Report to Congress on Abnormal Occurrences: October-December 1992"). This report will be available at the NRC's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555 about three weeks after the publication date of this **Federal Register** Notice.

Nuclear Power Plants

92-12 *Operation With Degraded Steam Generator Tubs at Arkansas Nuclear One Unit 2 and McGuire Nuclear Station Units 1 and 2*

One of the AO reporting guidelines notes that a major degradation of fuel integrity, primary coolant pressure boundary, or primary containment boundary can be considered an abnormal occurrence.

Date and Place—March 9, 1992; Arkansas Nuclear One Unit 2, a Combustion Engineering-designed pressurized-water reactor (PWR), operated by Entergy Operations, Incorporated and located near Russelville, Arkansas; and January 16, 1992, McGuire Nuclear Station Units 1 and 2, Westinghouse-design PWRs, operated by Duke Power Company, and located in Mecklenburg County, North Carolina.

Nature and Probable Consequences—The NRC received notifications from two nuclear power plant licensees indicating that some of their steam generator (SG) tubes have degraded to a point where they no longer have adequate margin for structural integrity. SG tubing constitutes more than half of the reactor coolant pressure boundary. Thus, its integrity is important in minimizing the loss of primary coolant and release of radioactive fission products. Requirements for periodic inservice inspection of the SG tubes have been established in the plant Technical Specifications to ensure that the SG tubes retain adequate structural margin as defined in NRC Regulatory Guide 1.121, "Bases for Plugging Degraded PWR Steam Generator Tubes." The structural margins that a SG tube must possess at the end of an operating cycle, as described in the NRC Regulatory Guide, take into account inspection measurement uncertainty and flaw growth between inspections.

A partial inservice of the SG tubing is typically performed every refueling outage with eddy current probes. During the past year, two utilities identified SG tubes that failed to satisfy the structural margin criteria of NRC Regulatory Guide 1.121. These SG tubes did not retain adequate structural margins to ensure their integrity for the full range of normal operating, transient, and postulated accident conditions.

On March 9, 1992, Arkansas Nuclear One Unit 2 (ANO-2) shut down upon detecting a primary-to-secondary coolant leak of 360 gallons per day, which is approximately half of its Technical Specifications limit. Entergy Operations, Incorporated, the licensee for ANO-2, conducted an eddy current inspection of the SG tubing and identified the location of the leak. The licensee reviewed the eddy current test data from the previous inspection (April 1991), and found that this tube had exhibited a flaw-like indication at that time. In addition, the licensee identified six additional tubes that had been incorrectly analyzed in 1991. To further characterize the degradation mechanism affecting this particular location on the SG tubes, the licensee removed several tube sections from the SG for analysis.

On August 7, 1992, the licensee for ANO-2 reported to the NRC that for three of the tubes, the examination revealed circumferentially oriented intergranular stress corrosion cracking (IGSCC) beginning on the outer surface of the tubes. The cracks extended 360 degrees around each of the tubes and had average depths ranging between 88 and 94 percent of the tube wall thickness. Due to the extent of this degradation, these SG tubes did not retain adequate structural margins, consistent with NRC Regulatory Guide 1.121, at the time of the March 1992 shutdown of ANO-2.

On January 16, 1992, McGuire 1 shut down after the primary-to-secondary coolant leak rate approached 250 gallons per day. The licensee subsequently identified the source and location of the leak using eddy current techniques. The licensee reviewed the eddy current test data from the previous inspection (October 1991) for the leaking tube, and found that this tube had exhibited a flaw indication at that time. This tube, however, was not removed from service as required by the plant's Technical Specifications due to improper classification and administrative handling of the indication. In addition, the licensee identified an additional indication on this tube that had not been identified in the previous inspection of October 1991. The licensee, therefore, reviewed all of the eddy current data from the 1991 inspection. Since McGuire 2 was in a scheduled refueling outage at this time, the licensee decided to further characterize the degradation mechanism affecting this particular location of the SG tubing by removing several tube sections for analysis. The eddy current indications in these sections exhibited similar characteristics to those in the Unit 1 SGs.

In April 1992, Duke Power reported the preliminary results from the examination of the SG tube segments from McGuire 2 to the NRC. One tube was found to contain axially oriented IGSCC beginning on the outer surface of the tube. The crack was approximately 1.4 inches long with an average through-wall depth of 72 percent of the wall thickness. Furthermore, the burst pressure for this tube section was lower than specified in NRC Regulatory Guide 1.121. Both McGuire 1 and 2 were shut down in May 1992 for further examination of the SG tubing. At this time, several tube sections were removed from the Unit 1 SGs, including the tube that had leaked and was subsequently plugged in January 1992. The destructive examination of a segment of the tube that leaked in January 1992 revealed an axially oriented stress corrosion crack initiating from the outer surface of the tube. This tube was found not to retain structural integrity consistent with the NRC Regulatory Guide.

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A previous SG tube failure, in this case a SG tube rupture, occurred at McGuire Unit 1 in March of 1989, and was reported as an abnormal occurrence in NUREG–0090, Vol. 12, No.1, "Report to Congress on Abnormal Occurrences: January–March 1989."

Cause or Causes—The licensee for ANO–2 attributed the missed eddy current flaw indications from the 1991 inspection to: (1) Lack of training for the eddy current data analysts in guidelines for SG tube damage mechanisms specific to ANO–2 and similar sites; (2) lack of a performance demonstration test by the data analysts using actual site data; and (3) inherent difficulties in analyzing signals at the location where the defect was found caused by interference from surrounding structures, the geometry of the tube at this location, and deposits on the SG tubes.

Although the above may have been contributing factors, the NRC staff believes inappropriate test probes were used for tube locations susceptible to circumferential cracking. Circumferential cracks can only be detected satisfactorily with specialized probes, as discussed in NRC Information Notice 90–49, "Stress Corrosion Cracking in PWR Steam Generator Tubes," and in NRC Information Notice 92–80, "Operation with Steam Generator Tubes Seriously Degraded." During the ANO–2 SG tube inspections in 1991, the licensee did not use the type of probe discussed in Information Notice 90–49. However, during subsequent plant outages in 1992, the licensee did use an appropriate probe for the detection of circumferential cracking.

The primary-to-secondary leakage observed at McGuire 1 in January 1992 was attributed primarily to a SG tube that had not been removed from service during the previous refueling outage (October 1991) as required by the plant's Technical Specifications. The failure to plug the tube to remove it from service was due to misclassification of the tube's flaw indication during the data analysis process. Althouhg the tube was reinspected during the process with a more sensitive probe, the process still failed to assure that the tube was plugged.

Actions Taken to Prevent Recurrence

Licensee—The licensee for ANO–2 has taken several corrective steps to address the causes of the missed eddy current flaw indications including: (1) Enhancement of the eddy current guidelines; (2) implementation of an analyst training and performance demonstration program; (3) broadening of the SG tube inspection scope; and (4) the use of a probe appropriate for the detection of circumferential cracking. The licensee plans to perform a mid-cycle inspection of SG tubes beginning at the end of April 1993.

As a result of the missed eddy current indications during the 1991 outage at McGuire 1, Duke Power Company took several corrective steps to address the causes of the missed indications including: (1) Re-evaluation of eddy current data from the previous outage using enhanced guidelines; (2) implementation of administrative controls to address the manner in which information on SG tubes is conveyed for tub disposition; and (3) reducing the work schedule of the eddy current data analysts. As a result of the metallographic examination of the tube sections in April 1992, the licensee: (1) Further enhanced their eddy current guidelines and reinspected the SGs; (2) performed additional training; and (3) administratively lowered the allowable amount of primary-to-secondary leakage.

NRC—NRC Information Notice 92–80 "Operation with Steam Generator Tubes Seriously Degraded" was issued on December 7, 1992 to inform licensees of findings from SG tube inspections and investigations at ANO–2. As a result, recipients can consider, as appropriate, actions to avoid similar problems at their facilities. The generic implications of undetected degradation of SG tubes will continue to be actively studied by the NRC.

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92–13 *Engineered Safety Features Actuation System Design Deficiency—Single Failure Vulnerability at Millstone Power Station Unit 2*

One of the AO reporting guidelines notes that a major degradation of essential safety-related equipment can be considered an abnormal occurrence.

Date and Place—July 6, 1992; Millstone Unit 2, a Combustion Engineering-designed pressurized water reactor (PWR), operated by Northeast Nuclear Energy Company and located in New London County, Connecticut.

Nature and Probable Consequences—On July 6, 1992, during a planned outage at the Millstone Nuclear Power Station, Unit 2, with the fuel removed from the reactor pressure vessel and stored in the spent fuel pool, the licensee, Northeast Nuclear Energy Company, was preparing to replace two vital inverters. Millstone Unit 2 uses four inverters, two on each vital dc bus, to power two trains of engineered safety features actuation system (ESFAS), comprised of four sensor cabinets and two actuation cabinets. Operators removed power from one actuation train, which caused a false loss of normal power signal and a false start signal for the emergency core cooling system. The effect of this action was similar in consequence to the complete loss of one of the two vital dc buses.

One emergency diesel generator (EDG) started and tied onto the bus. The second EDG did not start because it was out of service for maintenance. After the one EDG started, the safety loads failed to sequence onto the bus because of a continuous false load shed signal. Operators recovered from the event by stopping the EDG and restoring power to one of the sensor cabinets. This action removed the false loss of power signal and thus the load shed signal.

The licensee reviewed the event and concluded that an unblocking feature of the automatic test insertion (ATI) system had caused the continuous load shedding signal. The ATI system, a continuous, on-line, logic tester that is common for both trains, was still energized and permitted the spurious loss of power signal to continue to shed the loads.

In reviewing the event, the licensee determined that the ESFAS could also cause other unintended actions under certain power supply failure conditions. These automatic actions are not related to the ATI modification.

(1) If power is lost to either one of the two dc vital buses, both the safety injection actuation signal and sump recirculation actuation signal would be simultaneously initiated. The recirculation actuation signal would result in tripping all low pressure injection pumps. Also, the spurious sump recirculation actuation signal would cause one of the containment sump outlet valves to open.

(2) If power was lost only to the sensor cabinets in one actuation train, both containment sump outlet valves would open. If this occurred during a loss-of-coolant accident, high pressure in containment could shut down refueling water storage tank check valves, inhibiting flow to all emergency coolant injection pumps.

(3) The loss of all dc power to one actuation train would cause a power operated relief valve in the other train to open. In addition, when control power alone is lost to only the sensor cabinets in a single actuation train, spurious high pressurizer pressure signals would cause the relief valves in both trains to open. Both cases would result in a loss of primary coolant.

The design deficiency in the on-line testing feature could have prevented both emergency diesels from accepting emergency loads under certain single failure conditions. The licensee investigated this event and found several design vulnerabilities related to loss of a vital dc bus which may apply to ESFAS at other plants. Although the described event resulted from an ATI modification, the other vulnerabilities are inherent in the ESFAS design and its power supplies.

The licensee is planning modifications to correct these problems and is reviewing the design of Unit 2 for other similar problems. The NRC will be reviewing the licensee's corrective actions prior to plant re-start.

Cause or Causes—The event was caused by a failure to correctly transfer design package requirements into the plant modification. The implementation plan identified the proper sequence that the inverters would have to be replaced and turned on, but when the work order was prepared the planned sequence was not followed.

Some plant design vulnerabilities were known to the licensee prior to this event. In 1990, the licensee discovered a long standing Technical Specifications interpretation that had permitted indefinite operation of an emergency electrical bus on the non-safety related backup supply.

The NRC reviewed the design change, the outage plan, and the operation implementation procedures. In addition, the NRC interviewed the engineer that was responsible for the design change, the personnel that prepared the work order, and the operations personnel that released the work order. The NRC concluded that there was ample opportunity for the licensee personnel to identify the error in the work order that caused the partial loss of normal power. The staff considers the subsequently discovered design vulnerabilities in the ESFAS to be significant because, had the plant been operating at the time of the event, the licensee would have been required to take immediate remedial action.

Actions Taken to Prevent Recurrence

Licensee—Implementation of the pertinent aspects of the Performance Enhancement Program will enhance pre-performance review of design change records and help resolve plant requirements to support multiple work activities in outage planning.

An ESFAS analysis has thus far identified three areas in which design changes were needed. These include:

1. Eliminate the interaction of the automatic test insertion unit with the load shed actuation module.
2. Modify the action of the simultaneous safety injection actuation signal and the sump recirculation actuation signal to eliminate the low pressure injection pump trip and to prevent premature pump suction shift to the containment sump.
3. Modify the power operated relief valve control relay logic to prevent inadvertent opening on loss of control power.

These changes are complete. Satisfactory operation of the ESFAS was demonstrated during recent testing performed as a part of startup preparations following the steam generator replacement project.

An Independent Review Committee was formed to investigate this event. The recommendations from the Committee have been evaluated and, where appropriate, implemented.

NRC—The NRC conducted an inspection to investigate the circumstances of the July 6, 1992 event. On February 4, 1993, the NRC issued Information Notice No. 93–11, "Single Failure Vulnerability of Engineered Safety Features Actuation Systems," that described the Millstone 2 event.

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Other NRC Licensees (Industrial Radiographers, Medical Institutions, Industrial Users, etc.)

92–14 *Medical Therapy Misadministration at Memorial Hospital of Laramie County in Cheyenne, Wyoming*

One of the AO reporting guidelines notes that a therapeutic dose that is greater than 1.5 times the prescribed dose can be considered an abnormal occurrence.

Date and Place—August 19, 1992; Memorial Hospital of Laramie County; Cheyenne, Wyoming.

Nature and Probable Consequences—On October 22, 1992, the licensee notified NRC Region IV that a therapeutic misadministration had occurred on August 19, 1992, involving a brachytherapy implant procedure utilizing iridium-192 as seeds encased in nylon ribbon (small sealed radiation sources utilized for interstitial treatment of cancer). The proposed treatment included a prescribed dose of 3,258 rads for the patient's prostate gland.

On October 21, 1992, while reviewing the shipping documents associated with the implant performed on August 19, 1992, the licensee's dosimetrist noted a discrepancy in the units of measurement between what she had ordered as opposed to what she had received. The licensee ordered brachytherapy ribbons containing 0.79 millicuries per ribbon. However, the vendor delivered brachytherapy ribbons containing 0.79 milligrams radium equivalent (1.36 millicuries) per ribbon. When the shipment was received, the dosimetrist checked the prescription order against what was received and noted that the quantities (0.79) matched, but she failed to note that the amount received was measured in milligrams radium equivalent rather than the requested millicurie units. As a result, the radiation dose to the patient's prostate gland was 5,669 rads rather than the prescribed 3,258 rads.

The referring physician was notified and chose not to inform the patient.

The patient was examined during subsequent follow-up visits and has shown no adverse effects due to the increased radiation exposure. The licensee does not anticipate any significant effects to the patient as a result of the misadministration.

Cause or Causes—The cause is attributed to human error by the licensee's staff resulting in the failure to perform an adequate verification of source strengths prior to implanting the brachytherapy sources. The licensee's dosimetrist had checked the prescription order against the receipt records but failed to note the discrepancy in units of measurement. Additionally, miscommunication between the licensee and the vendor also appears to have contributed to the error.

Actions Taken To Prevent Recurrence

Licensee—Revised procedures have been implemented to prevent recurrence of administering implants without complete verification of brachytherapy source strengths. This includes an implant checklist that must be completed and initialed to ensure that units of measurement received correspond to that which was ordered. Additionally, the licensee's physicists will verify source strengths by direct measurement prior to implantation.

NRC—An NRC Region IV inspector conducted a special safety inspection on November 19–20, 1992, to review the circumstances associated with the misadministration and to review the licensee's corrective actions. The licensee's determination of the cause of the event was considered accurate based upon interviews of the individuals involved. The inspection revealed violations associated with the failure of the licensee's authorized user to instruct individuals under his supervision in the licensee's quality management program. Enforcement action is under consideration.

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92–15 *Medical Therapy Misadministration and Unplanned Exposure at St. Clares Riverside Medical Center in Denville, New Jersey*

One of the AO reporting guidelines notes that a therapeutic exposure to a part of the body not scheduled to receive radiation can be considered an abnormal occurrence.

Date and Place—October 2, 1992; St. Clares Riverside Medical Center; Denville, New Jersey.

Nature and Probable Consequences—On October 2, 1992, the licensee notified the NRC by telephone that a therapeutic misadministration involving the implant of two tridium–192 ribbons had occurred that day at its facility. At 2:30 p.m. on October 1, 1992, a patient was implanted with 48.25 millicuries of iridium–192 contained in two nylon ribbons. The ribbons were inserted into catheters that extended from the patient's abdomen into the common bile duct. The procedure was scheduled to last 20 to 23 hours during which a dose of 1500 to 2,000 rads would be delivered to a colon tumor obstructing the common bile duct. After implanting the iridium–192 ribbons into the two catheters, the implant site was dressed and instructions were given to nursing personnel not to change the dressing. These instructions were not detailed on the patient's chart. Due to excessive drainage of bile at the implant site during the evening and early morning hours, the patient's dressings were changed several times and then reinforced with additional absorbent. At 4:15 a.m. on the morning of October 2, 1992, the nurse on duty noted that the dressing was completely displaced and acted to replace the dressing. The nurse noticed that the two ribbons were displaced but, not knowing what they were, coiled the ribbons in her hand and taped the ribbons to the patient's abdomen. A routine X-ray identified that the seeds were no longer implanted, and the coiled ribbons were removed from the surface of the patient's abdomen by a physician to approximately 12:00 p.m. on October 2, 1992.

The licensee estimated that the patient received 1,145 rads to the targeted tumor site, between 172 and 1,032 rads to the skin of the abdomen, 19.9 rads to the liver and small bowel, 12.7 rads to the kidneys, 50.9 rads to the colon, and 6.7 rads to the testes. The licensee estimated that the nurse who coiled the ribbons and taped them to the patient's abdomen received approximately 7.6 rads to her hands. The licensee expects no adverse clinical effects as a result of the reduced dose to the target organ since this brachytherapy treatment was a booster to the external beam dose that was yet to be administered.

Both the patient and nurse were notified of the misadministration.

Cause or Causes—The misadministration was caused by: (1) lack oversight of the procedure by the licensee's Radiation Safety Officer (RSO); and (2) inadequate training of the nursing staff in that they were unable to identify the brachythraphy source ribbon.

Actions Taken to Prevent Recurrence

Licensee—The licensee initiated an expanded training program that includes familiarization of personnel with the size and appearance of the radioactive sources used in brachytherapy treatments at the licensee's facility. The licensee stated that a manager will be responsible for ensuring that personnel on all shifts involved in the care and treatment of radiation therapy patients receive this training. The licensee decided to name a new RSO because the current RSO was unable to devote sufficient time to the radiation safety program due to his other responsibilities. The licensee's actions also included: (1) Committing that a new RSO would be in place before another brachytherapy procedure is performed; (2) developing a nurses' procedure manual; (3) conducting formal inservice training in radiation safety with all nursing unit workers; and (4) requiring a written directive be initiated before ordering radioactive material.

NRC—NRC Region I conducted an inspection on October 5, 6, 7, and 9, 1992, and held an Enforcement Conference on November 5, 1992, to discuss the inspection findings. The licensee's corrective and preventive actions will be reviewed during the next inspection of the licensed program. Several violations of NRC requirements were identified including: (1) Failure to adequately train nursing personnel to recognize brachytherapy procedures; (2) failure to train personnel on potential radiological emergencies for brachytherapy procedures; (3) failure to implement radiation safety and quality management programs to ensure adequate safety.

A civil penalty of $10,000 was proposed in a letter dated January 11, 1993. The licensee paid the civil penalty on February 5, 1993.

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92–16 *Medical Therapy Misadministration at the Lahey Clinic Medical Center in Burlington, Massachusetts*

One of the AO reporting guidelines notes that a therapeutic exposure to a part of the body not scheduled to receive radiation can be considered an abnormal occurrence.

Date and Place—October 14, 1992; Lahey Clinic Medical Center; Burlington, Massachusetts.

Natural and Probable Consequences—On October 19, 1992, the licensee notified the NRC Operations Center of a therapeutic misadministration involving a high dose rate remote afterloader (HDR) that occurred at the facility on October 14, 1992. A patient was scheduled to receive brachytherapy treatment to the right main stem bronchus in three fractions using a Gamma Med HDR. Each fraction was to deliver 700 rads to the targeted tumor site. On October 7, 1992, the patient was administered the first treatment as prescribed. On October 14, 1992, the therapist made an error during input of the offset distance into the treatment computer, entering an offset distance of 7 millimeters rather than 7 centimeters as required. This error resulted in the second fraction delivering 90 percent of the prescribed fractionated radiation dose to unintended tissues away from the tumor site and underdosing the tumor site. The underdose was made up during the administration of the third fraction on October 22, 1992. The physician stated that he expected no adverse clinical effect on the patient due to underdosing the tumor site as the dose was made up in the third and final fraction.

The referring physician and patient were both notified of the misadministration.

Cause or Causes—The licensee followed established procedures; however, the procedure did not include a mechanism to verify data entries on the HDR console at the time of treatment.

Actions Taken to Prevent Recurrence

Licensee—The licensee instituted a new procedure that requires that a second individual verify the data input on the HDR console prior to administration of the therapy.

NRC—NRC Region I conducted a routine inspection at the facility on December 3, 1992. The inspection resulted in the identification of six apparent violations: (1) Failure to have a quality management program to meet the regulatory requirements; (2) failure to make timely notification to the NRC; (3) failure to provide radiation safety training to workers; (4) failure to perform the required tests on the dose calibrator; (5) failure to perform radiation surveys; and (6) failure to maintain the prior exposure record of a new employee.

The licensee stated that there were no adverse effects to the patient as a result of the misadministration.

Enforcement action is under consideration.

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92–17 *Medical Therapy Misadministration at Indiana University Medical Center in Indianapolis, Indiana*

One of the AO reporting guidelines notes that a therapeutic dose that is greater than 1.5 times the prescribed dose can be considered an abnormal occurrence.

Date and Place—November 13–14, 1992; Indiana University Medical Center; Indianapolis, Indiana.

Nature and Probable Consequences—A 31-month old patient, being treated for a brain tumor, was to receive two cobalt-60 teletherapy treatments of 150 rads each for total dose of 300 rads to reduce swelling behind the patient's eye. The dosimetrist mistakenly prepared the dose calculations for 300 rads per treatment. The patient was treated November 13 and 14, 1992, with 300 rads per treatment for a total dose of 600 rads.

Prior to the treatment, the treatment plan was reviewed by the treating physician. Following the treatments, the dose calculations were reviewed by a medical physicist and approved. The error was discovered by a student technologist during a monthly chart review on December 2, 1992.

Both the patient's referring physician and guardian were informed of the misadministration. The treatment accomplished its intended purpose and the swelling was reduced. The licensee reported that no adverse medical effects were expected because of the additional radiation exposure.

Cause or Causes—The error was caused by the mistaken calculations by the dosimetrist and by the apparent inadequate review by the physician before the treatment began. The doses normally used for this type of treatment are 300 rads per treatment, and this further contributed to the failure to identify the error before the treatments occurred. There was also a problem with the legibility and format of the treatment plan.

Actions Taken to Prevent Recurrence

Licensee—The licensee has provided additional training to treatment personnel to eliminate the types of problems that contributed to the misadministration. The licensee also intends to revise the treatment form to make it more understandable.

NRC—The NRC retained a medical consultant to review the case and to provide clinical assessment of the misadministration. NRC Region III conducted a special inspection on December 14–15, 1992, to review the circumstances surrounding this misadministration. Enforcement action on the inspection findings is pending.

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92–18 *Loss of Iridium-192 Source and Medical Therapy Misadministration at Indiana Regional Cancer Center in Indiana, Pennsylvania*

One of the AO reporting guidelines notes that a therapeutic dose that is greater than 1.5 times the prescribed dose can be considered an abnormal occurrence. In addition, another AO reporting guideline notes that an exposure to an individual in an unrestricted area such that the whole body dose received exceeds 0.5 rem in one calendar year may be considered an abnormal occurrence.

Date and Place—November 16, 1992; Indiana Regional Cancer Center; Indiana, Pennsylvania.

Nature and Probable Consequences—On December 1, 1992, the licensee, Oncology Services Corporation (OSC), notified NRC Region I of the loss of an approximately 4.3-curie sealed iridium-192 source from their high dose rate (HDR) remote afterloader unit at their Indiana Regional Cancer Center (IRCC), Indiana, Pennsylvania. The licensee stated that they were notified by a local nursing home that a manager from Brown-Ferris Industries (BFI), a biological and hazardous waste handler, found radioactive material in the biowaste that was picked up from the nursing home. The licensee performed radiological surveys of the HDR and noted that the iridium-192 source was missing.

On December 1, 1992, Region I dispatched a section chief and inspector to the IRCC to ascertain the facts surrounding the loss of the iridium-192 source and how it was transferred to BFI facilities. On December 3, 1992, the NRC upgraded its response to an Incident Investigation Team (IIT). On February 8, 1993, the IIT presented its findings (NUREG-1480) to the Nuclear Regulatory Commission. The following are synopses of the Region I inspection and IIT findings.

On November 16, 1992, an elderly patient was treated for anal carcinoma at the IRCC in Indiana, Pennsylvania, using HDR brachytherapy. The patient died on the evening of November 21, 1992, five days after the treatment. Before the treatment, five catheters were placed in the tumor. During the treatment, an approximate 4.3-curie iridium-192 source was placed at various positions in each catheter to irradiate the tumor by use of a remotely controlled Omnitron 2000 afterloader. This treatment was the first of a series of three 600-rad treatments planned by the physician, and the five catheters were to remain in the patient for subsequent treatments.

On November 16, 1992, after a trial run through the five catheters with a dummy wire, the iridium source wire was placed in four catheters without difficulty. After several unsuccessful attempts to insert the source wire and the dummy wire into a fifth catheter, the treatment was terminated. An area radiation monitor in the treatment area was observed in an alarm condition at various times when the source should have been retracted during the unsuccessful attempts to insert the source wire through the catheter. Although three technologists and the physician attending the patient were aware of the alarm condition, no one conducted a survey for radiation levels with the available portable radiation survey instrument. The only action taken was to check the control console of the HDR remote after loader. Because the console indicator showed "safe," they believed the source to be fully retracted into the lead shield and assumed the area radiation monitor was malfunctioning. They were unaware the source wire had broken, leaving the source in one of the catheters in the patient. The patient was transported by ambulance, with the source, to a local nursing home.

The source remained in the patient's body for almost four days. The catheter with the source came loose on the fourth day and, eventually, the catheter fell out early on the morning of November 20, 1992. It was placed in a medical biohazards bag (red-bag) in a storage room by nursing home personnel who did not know it contained the radioactive source. Later, on the same day, the catheter containing the source was moved to another storage location at the nursing home and placed in a box with other red bags. From November 16 through November 25, 1992, numerous residents, employees, and visitors to the nursing home were unknowingly irradiated. The ambulance staff who returned the patient to the nursing home were irradiated along with employees and patients at the IRCC.

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On November 25, 1992, a driver from BFI picked up the red-bag biowaste and transported it to a BFI facility in Carnegie, Pennsylvania, and from there, it was transported to a BFI medical waste incinerator in Warren, Ohio.

At the Warren facility, fixed radiation monitors identified radiation emanating from the trailer, and, on facility personnel direction, the trailer was returned to Carnegie the same day. It was left over the weekend and on Monday, November 30, 1992, the BFI staff searched the truck for the radiation source. They identified the box with the radiation source and looked at individual red bags to identify the origin of the waste. On December 1, 1992, BFI successfully identified a name found with the red-bag waste in the box, and traced it to the nursing home.

After being notified by BFI, the nursing home called the IRCC on December 1, 1992. The cancer center had not used the HDR afterloader after the single treatment on November 16, 1992. Upon being informed of the source discovery, the medical physicist determined that no source was present in the HDR afterloader and informed the NRC Region I office of this fact. The physician and the medical physicist drove to Carnegie and retrieved the source.

A second Omnitron 2000 source wire broke at the Greater Pittsburgh Cancer Center (GPCC) of OSC on December 7, 1992. This wire broke in the same approximate location as the first wire. The GPCC medical physicist who was conducting the treatment was aware of the first incident and immediately recognized the problem and promptly and appropriately intervened, thereby preventing significant dose consequences to the patient or the cancer center staff.

An NRC medical consultant concluded that an analysis of the medical records and physical dosimetry would indicate that the massive radiation dose was a probable contributing cause of death in this patient. The licensee reported the prescribed dose at one centimeter was 1,800 rads to be delivered in three treatments and that the delivered dose was 1,600,000 rads to the same point, an overdose of about three orders of magnitude. The licensee stated the effect on the patient would be significant local tissue damage and possible significant tissue damage to organs outside the treatment area, depending upon the progression of radiation damage with time before the patient expired. The licensee stated the dose was of sufficient magnitude that it believed it was highly probable that the radiation exposure was at least a contributing factor to the patient's subsequent death. In a press release dated January 26, 1993, the Indiana County Coroner stated that the cause of death listed in the official autopsy report was "Acute Radiation Exposure and Consequences Thereof."

In addition to the patient, the team evaluated the radiation doses to 94 persons associated with the IRCC event. Radiation doses received by these individuals ranged between 40 mrem and 22 rem.

Of these individuals, nine residents who were involved in recreational activities at the Scenery Hill Manor Nursing Home were not notified regarding the exposure they had received. The IIT was unable to determine their identity. The rest of the individuals were notified either by the NRC or were monitored by their employer for occupational dose.

Cytogenetic studies were also performed on a number of these exposed individuals and the results were consistent with calculated doses within the limits of accuracy of both techniques. The highest extremity dose was calculated to be between 73 to 160 rem to the hands of one of the Certified Nursing Assistants.

No personnel or property contamination occurred and no occupational worker received a whole body radiation dose above the NRC occupational limit of 1.25 rem. While members of the public received radiation doses above applicable limits, no one received a dose at which acute radiation injury or clinical signs are expected to occur.

Cause or Causes—The IIT reported that the event was caused by the following:

1. OSC had weaknesses in their radiation safety program that were a major contributing cause of the seriousness of the event and radiation exposure consequences. Some of these were a result of a rapid expansion in their HDR brachytherapy program from one facility to ten facilities in less than a year. The Radiation Safety Officer (RSO) failed to ensure that the staff at all facilities received adequate radiation safety training and that all management instructions relating to HDR were being followed.

Informal and unwritten procedures that may have been adequate when the licensee possessed one HDR unit under the direct control of the RSO were ineffective for the expanded program.

2. A number of weaknesses were found in the design and testing of the Omnitron 2000. Weaknesses were identified in the testing and validation of source-wire design, and in the design of certain safety features of the HDR afterloader. These could allow the undetected retraction and further use of a broken wire with no warning to the user. Although not contributing to this event, weaknesses were found in Omnitron's quality assurance/quality control (QA/QC) program. The cause of the wire failure is not known with certainty at this time. The vender believes it has evidence to show that storage of the source wire in teflon, if moisture is present, causes degradation of the teflon with release of fluorine or hydrogen fluoride that causes degradation of the Nitinol (nickel-titanium alloy) wire. The NRC and its consultant are still evaluating this hypothesis and conducting further studies.

3. The safety culture at IRCC contributed significantly to the event. Technologists routinely ignored the PrimAlert-10 alarm. Its problems were worked around and not fixed. Technologists did not survey patients, the afterloader, or the treatment room following HDR treatments. No one was sure who was responsible for radiation safety training or the radiation safety program. The authorized user failed to wear a film badge on both occasions when the source was encountered.

4. Overall regulatory oversight was weak. NRC regulations do not directly address HDR brachytherapy to the extent that teletherapy and low dose rate brachytherapy are addressed. Licensing guidance for HDR has been unchanged since 1986 in spite of significant changes in medical regulations and other medical licensing guidance. Inspection guidance for medical licensees does not specifically address HDR brachytherapy. Although inspected by the NRC Region I office within a year of initial licensing, the inspection program does not require early reinspection in cases where licensees significantly expand the scope of their program through license amendments. The regulatory interaction between the NRC, the FDA, and the involved Agreement States in the regulation and authorization of the Omnitron 2000 HDR afterloader is poorly defined.

Action taken to Prevent Recurrence

Licensee—Licensee actions to prevent recurrence are still undergoing NRC staff review.

NRC—The NRC initiated the IIT. The NRC issued Bulletin 92-03 to users of Omnitron 2000 HDR afterloaders, Information Notice 92-84 to all NRC licensees, and Confirmatory Action Letters curtailing the use of Omnitron 2000 HDR and providing safety precautions.

On January 20, 1993, the NRC issued an Order Suspending License (Effective Immediately) to preclude the licensee from performing licensed activities at any of its facilities pending further order. Issuance of this order does not preclude additional enforcement action.

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92-19 *Medical Therapy Misadministration and Temporary Loss of Brachytherapy Source at Yale-New Haven Hospital in New Haven, Connecticut*

One of the AO reporting guidelines notes that a therapeutic exposure to a part of the body not scheduled to receive radiation can be considered an abnormal occurrence.

Date and Place—December 2, 1992; Yale-New Haven Hospital; New Haven, Connecticut.

Nature and Probable Consequences—On December 2, 1992, the NRC was notified by the licensee that it had recovered a 35 millicurie brachytherapy source that was discovered to be missing earlier that day. On December 3, 1992, NRC Region I was notified that the source had probably been lost before or during a brachytherapy treatment, resulting in a therapeutic misadministration. A female patient, approximately 39 years old, was to receive 1,848 rads to the cervix for cancer treatment. One of the sources that was prescribed was either never inserted or was removed from the applicator during treatment. Assuming maximum deviation from the planned treatment, the actual dose to the patient was only 1,235 rads. The licensee stated that a source was also misplaced and was in contact with one of the patient's legs for a period of time, resulting in an estimated dose to the leg of 260 rads. The physicians responsible for the treatment, after reviewing the dose estimates, decided no additional treatments were necessary.

The misplaced source was inadvertently put with hospital linen. The linen with the brachytherapy source was taken to an off-site laundry facility, from which it was subsequently recovered.

Cause or Causes—The licensee failed to recognize the significance to radiation safety of a procedural change that eliminated the use of disposable pads in favor of reusable linen pads. Previously, the licensee disposed pads by putting them in infectious waste, which stayed in the room until after the final radiation survey was performed, after removal of the radiation sources. The reusable pads, when changed, were placed in laundry bags in the hallway, which were taken to the laundry facility daily. The nursing staff failed to follow the procedure that prohibited removing anything from the patient's room that had not been checked for the presence of a brachytherapy source.

The referring physician and patient were notified of the misadministration.

Actions Taken to Prevent Recurrence

Licensee—The licensee has taken the following steps:

1. Physicians have been instructed to visually confirm that sources are properly loaded into applicators.
2. Dosimetrists have been instructed to observe the loading process and confirm that applicators are correctly loaded.
3. A linen hamper will be placed in each brachytherapy patient's room so that linen will not, generally, be removed until after the final room survey to confirm that no sources have been lost.
4. Soiled linen that cannot be left in the room until the end of treatment will be surveyed to ensure that no sources are in the linen prior to its removal from the patient's room.
5. Physicians have been instructed to visually check for the presence of sources at the time they are removed from the patients.

NRC—The NRC retained a medical consultant to review the case to provide clinical assessment of this misadministration. NRC Region I conducted a special inspection on December 3–4, 1992, and three violations of NRC requirements were identified: (1) failure to survey soiled linen pads prior to removing them from a patient's room; (2) loss of control of the radioactive source; and (3) existence of radiation levels above the regulatory limit in unrestricted areas. Enforcement action is under consideration.

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Dated at Rockville, MD this 19th day of April 1993.

For The Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93-9645 Filed 4-23-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-390 and 50-391]

Tennessee Valley Authority Availability of Safety Evaluation Report Supplement Related to the Operation of Watts Bar Nuclear Plant, Units 1 and 2

The U.S. Nuclear Regulatory Commission has published the Safety Evaluation Report, Supplement 11 (NUREG-0847, Supp. 11) related to the operation of Watts Bar Nuclear Plant, Units 1 and 2, Docket Nos. 50-390 and 50-391.

Copies of the report have been placed in the NRC's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and in the Local Public Document Room, Chattanooga-Hamilton Library, 1001 Broad Street, Chattanooga, Tennessee 37402, for review by interested persons. Copies of the report may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. GPO deposit account holders may charge orders by calling 202-275-2060. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Rockville, Maryland this 16th day of April, 1993.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II-4, Division of Reactor Projects—I/II, Office of Nuclear Regulatory Commission.

[FR Doc. 93-9644 Filed 4-23-93; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-32171; International Series Release No. 533; File No. SR-DTC-92-17]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extended Eligibility in the Foreign Securities Option of the Existing Elective Dividends Function.

April 19, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on October 15, 1992, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change extends eligibility in DTC's existing Elective

[1] 15 U.S.C. 78s(b)(1) (1988).

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Dividends ("EDS") foreign securities option function to include all foreign securities. This will enable Participants to deposit at DTC foreign issues beneficially owned by nonresidents of the United States and others whose securities were previously ineligible for deposit at DTC.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to extend the benefits of DTC's existing EDS foreign securities option to all foreign securities. The EDS foreign securities option was developed for issues from foreign countries which have tax treaties with the U.S. that provide for withholding of foreign taxes from distributions of foreign issues at different rates for different classes of beneficial owners.

Currently the EDS foreign securities option is available for upcoming distributions on Canadian securities and on United Kingdom ("UK") American Depositary Receipts ("ADRs").[2] This option permits a DTC Participant to use DTC's Participant Terminal System to certify the number of Canadian securities and UK ADRs credited to its account as of record date that are entitled to favorable tax treatment ("treaty rate") "at source" (*i.e.*, the tax exempt benefit to which the participant is entitled will be included in the payment DTC receives from the foreign payor). For Canadian securities, the Participant may also certify the portion of its record date position that is completely exempt from Canadian nonresident withholding tax.

Securities of other foreign issuers are currently covered not by EDS but by DTC's existing rule concerning the Tax Certificate as to Beneficial Ownership ("Tax Certificate"). Except for Canadian securities and UK ADRs, the Tax Certificate requires Participants to refrain from depositing at DTC physical certificates evidencing foreign issues beneficially owned by customers (primarily foreign persons) not entitled to the treaty rate. The Tax Certificate also requires that Participants withdraw for custody outside the depository system certificates evidencing such foreign securities received by book-entry for any such customers.

Under the proposed rule change, DTC will advise Participants as each country's securities become eligible for the EDS foreign securities option. Participants will then be able to deposit at DTC all such foreign securities held for customers. Shortly after record date for a distribution on the security, the Participant will certify to DTC the quantity of securities entitled to the treaty rate or other favorable treatment. This certification will override the Tax Certificate. On payment date, the Participant will not receive the treaty rate for securities not certified through EDS.

The distributions received on payment date on securities certified through EDS will depend on DTC's agreement with the tax authorities of each foreign country. Some foreign countries, such as Canada and the UK, will permit receipt of the treaty benefit at source. Other foreign countries will not permit payment of the treaty benefit at source but may permit a streamlined refund process.

The EDS foreign securities option is designed to be transparent. Participants will follow the existing EDS foreign securities procedure regardless of when and how the tax benefit is to be paid.

The proposed rule change is consistent with Section 17A of the Act, as amended, and the rules and regulations thereunder applicable to DTC because it removes a disincentive to depository immobilization and because it extends depository eligibility to certain securities whose beneficial owners were previously denied access to the depository.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

DTC has been working with Participants, depositories for foreign ADRs, foreign issuers, and US and foreign tax authorities for years to obtain favorable treatment for treaty rate and exempt foreign securities held at DTC in order to avoid withdrawal or exclusion of any securities from DTC. For treaty rate customers who are entitled to favorable treatment at source if the securities are registered in their own names, DTC developed methods to obtain treaty benefits for their securities registered in DTC's nominee name, Cede & Co. Otherwise, to obtain the benefit such customers would have to withdraw certificates evidencing their securities from the depository and transfer registration.

Where the benefit is not available at source, many treaty rate customers find the procedures for claiming refunds so burdensome that they forgo the refund to which they are entitled and thereby frustrate the purpose of the tax treaty. For example, the current procedure for obtaining French refunds requires each of some 14,000 beneficial owners holding through DTC to file a six-part form in duplicate with French tax authorities. When Participants determine that the French authorities would not permit the treaty benefit to be available at source, Participants asked DTC to concentrate development efforts on a streamlined refund procedure to replace the six-part form.

The EDS foreign securities option was designed to enable flexibility when negotiating with each foreign country. There have been no written comments from Participants or others.

III. Date of Effectiveness of the Proposed rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act rule 19b-4 because the proposal effects a change in an existing service that (A) does not adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which DTC is responsible and (B) does not significantly affect the respective rights or obligations of DTC or persons using the service. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the File No. SR-DTC-92-17 and should be submitted by May 17, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-9604 Filed 4-23-93; 8:45 am]

BILLING CODE 8010-01-M

[2] Securities Exchange Act Release No. 29650, International Series Release No. 254 (April 5, 1991), 56 FR 15387 [File No. SR-DTC-91-03] [order approving changes to tax exempt dividend services for Canadian issues] and Securities Exchange Act Release No. 25908 [July 14, 1988], 53 FR 27587 [File No. SR-DTC-88-12] [notice of filing and order approving ADR tax withholding service].

[3] 17 CFR 200.30-3(a) (12) (1991).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of a restatement of the procedures for the Institutional Delivery ("ID") System of DTC. The ID System procedures constitute Section M of DTC's Participant Operating Procedures.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Numerous enhancements have been added to the ID System since 1983 when the ID System procedures were last reprinted as a single document. For convenience of reference by ID System users, the ID System procedures are being restated to include in one document all changes made in the ID System since 1983 and to make minor typographical and format changes in the text. No substantive changes in the ID System are being made at this time.

The proposed rule change is consistent with the requirements of the Act, particularly section 17A of the Act,[2] and the rules and regulations thereunder applicable to DTC because the proposed rule change will contribute to the ease of use of the ID System. The proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible because the proposed rule change enhances DTC's existing ID System.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments from DTC participants or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(i) of the Act[3] and subparagraph (e)(4) of Securities Exchange Act Rule 19b-4[4] because the proposed rule change effects changes in existing services of DTC that (i) Do not adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and (ii) do not significantly affect the respective rights or obligations of DTC or persons using the services.

At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-93-03 and should be submitted by May 17, 1993.

[2] 15 U.S.C. 78q-1 (1989).

[3] 15 U.S.C. 78s(b)(3)(A)(i) (1989).

[4] 17 CFR 240.19b-4(e)(4) (1991).

[Release No. 34-32162; File No. SR-DTC-93-03]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Institutional Delivery System

April 16, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 31, 1993, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-DTC-93-03) as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1) (1989).

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For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-9607 Filed 4-23-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32170; File No. SR-CSE-93-03]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change To Extend the Pilot on The Cincinnati Stock Exchange, Inc., Relating to the Preferencing of Public Agency Market and Marketable Limit Orders by Approved Dealers and Other Proprietary Members

April 19, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 29, 1993, the Cincinnati Stock Exchange, Incorporated ("CSE or Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") hereby proposes to extend for an additional year, ending May 7, 1994, the CSE's pilot program regarding preferencing. The pilot was initially approved by the Commission on February 7, 1991.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CSE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The purpose of the rule filing is to extend for another year the Exchange's pilot program governing preference trading. The Commission originally approved the pilot in February 1991, and subsequently extended the pilot on August 5, 1991[2], and on August 7, 1992.[3]

At this time, the CSE has determined not to request an increase in the maximum number of securities in which a preferencing dealer may be registered. The CSE will continue to provide the Commission staff with information regarding the pilot. Such information will include lists of the dealers, the number of issues assigned to each and the level of volume transacted by each. The CSE has also agreed to furnish, upon Commission request, information relating to the specific time intervals of the dealer transactions. Restrictions that 1) preference trading not be used for index arbitrage purposes, and 2) that no order referenced by a firm will have been purchased from the customer for a direct cash payment, also will remain in effect.

(2) Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it will promote just and equitable principals of trade and remove impediments to and perfect the mechanisms of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The CSE solicited comments on the original filing from other Intermarket Trading System participants.[4]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Room. Copies of the filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to the file number in the caption above and should be submitted by May 17, 1993.

For the Commission by the Division of Market Regulation, pursuant to the delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-9603 Filed 4-23-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32168; File No. SR-MSRB-93-4]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Arbitration Code.

April 19, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 23, 1993, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Self-Regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 17 CFR 200.30-3(a)(12) (1991).

[2] Securities Exchange Act Release No. 28866.

[3] Securities Exchange Act Release No. 30353.

[4] Securities Exchange Act Release No. 31011.

[5] See File No. SR-CSE-90-6.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing amendments to rule G-35, the Board's Arbitration Code (hereafter referred to as "the proposed rule change"). The proposed rule change would amend various sections of the Board's Arbitration Code. Since 1977, the Securities Industry Conference on Arbitration ("SICA") has worked to develop a Uniform Code of Arbitration ("Uniform Code") in an effort to promote consistency in the securities industry arbitration process. Rule G-35, the Board's Arbitration Code, closely follows the Uniform Code. Over the past few years, SICA has modified and refined its Uniform Code. The proposed rule change is based on such changes to the Uniform Code. The Board requests that the Commission delay only the effective date of the amendment to Section 36, concerning predispute arbitration agreements, in order to provide dealers with sufficient time to amend their arbitration agreements.

II. Self-Regulatory Organization's statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Since 1977, SICA has worked to develop a Uniform Code in an effort to promote consistency in the securities industry arbitration process. Rule G-35, the Board's Arbitration Code, closely follows the Uniform Code. Over the Past few years, SICA has modified and refined its Uniform Code. The proposed rule change is based on such changes to the Uniform Code. The Board believes that the proposed rule change will facilitate the just and timely resolution of disputes between customers and dealers, and will further the Board's statutory mandate to protect investors and the public interest.

Matters Subject to Arbitration (Section 1)

At its January 1992 meeting, SICA unanimously adopted a rule governing class action which provides that class actions between dealers and their customers are to be resolved in court, rather than through arbitration. Currently, the Board's arbitration code does not specifically address class action claims. Thus, the proposed rule change adds new language (identical to the Uniform Code) to exclude class action claims from Board arbitration proceedings. The amendments also provide that a claimant may pursue a claim in arbitration even if that claim is the subject of a class action, as long as the claimant has complied with any court-imposed conditions for properly withdrawing from the class. In addition, the amendments prohibit dealers from attempting to compel a customer to arbitrate a claim included in a class action, or from attempting to enforce an arbitration agreement against any customer that has initiated a class action claim in court and who has not opted out of the class, until a court denies class certification, the class is decertified, or the court excludes the customer from the class.

Persons Subject to the Board's Arbitration Code (Section 2)

Section 15B(b)(2) of the Act states that:

> The Board shall propose and adopt rules to effect the purposes of [the Act] with respect to transactions in municipal securities effected by brokers, dealers, and municipal securities dealers.

In general, Board rules state that they apply to "brokers, dealers, and municipal securities dealers." However, Sections 1 and 2 of the arbitration code speak in terms of "municipal securities broker and municipal securities dealer." Thus, the amendments conform these references to the statutory reference, thereby promoting consistency among Board rules.

Joinder and Consolidation—Multiple Parties (Section 5)

In the past, the various self-regulatory organizations ("SROs") had conflicting policies concerning joining multiple parties in the same claim. In reviewing this issue, SICA believed that two competing interests must be weighed: convenience to the parties and prejudice to the respondents. Section 20 of the Federal Rules of Civil Procedure, concerning joinder and consolidation, strikes an appropriate balance between these two interests. Accordingly, SICA amended its Uniform Code to conform to the language of the Federal Rules. The amendments to rule G-35 track this language and provide that (i) all claimants may join in one action if their claims arise out of the same transaction; (ii) all respondents may be joined in one action if the claims asserted against them arise out of the same transaction; and (iii) judgments may be apportioned according to the claimants' rights to relief and the respondents' liabilities. In addition, the amendments clarify that parties are permitted to file claims with multiple claimants, that the Director of Arbitration is permitted to consolidate claims that have been filed separately, and that all further determinations made by an arbitration panel concerning such matters shall be deemed final.

Designation of Time and Place of Hearings (Section 16)

Currently, the Director of Arbitration is authorized to determine the time and place of the initial hearing and an arbitration panel is authorized to determine the time and place of subsequent hearings, "unless the law directs otherwise." Some SROs have experienced problems with this section. Thus, SICA amended the Uniform Code to delete the conditional language ("unless the law directs otherwise"), thereby making final the Director's and arbitrators' determinations concerning the time and place of hearings. This amendment is intended to ensure that a dealer cannot unfairly control the selection of a hearing location and in so doing cause a customer to incur unreasonable costs in pursuing an arbitration claim.

Failure to Appear (Section 19)

The amendments to this section merely clarify that arbitrators are authorized to proceed with and dispose of a case if a party fails to appear at a hearing or at any continuation of a hearing session.

Discovery (Section 22)

The amendments to this section merely clarify when discovery requests may be served.

Party Service of Amended Pleadings (Section 29)

Rule G-35 currently provides that, when a claim is amended, the arbitration staff serves copies of such amended pleadings on the other parties. This intermediary role results in unnecessary delays and additional costs to the Board's arbitration program. The amendments are designed to save

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administrative time and costs by requiring that parties serve copies of amended pleadings on all other parties and provide the Director of Arbitration with sufficient additional copies for each arbitrator.

Awards (Section 31)

While arbitrators may rule in a party's favor and grant a monetary award, this does not necessarily mean that the prevailing party will receive that award in a timely manner, or at all. In an effort to facilitate the prompt payment of awards, SICA amended the Uniform Code to provide for the accrual and payment of interest on awards. Accordingly, the amendments provide that interest shall accrue on awards that are not paid within 20 calendar days of receipt unless an appeal or motion to vacate has been filed in court. The amendments also provide that interest on awards shall be assessed at either the prevailing "legal" rate in the state where the award was rendered or at a rate specified by the arbitrators.

In addition, the amendments require that awards contain (amount other information) the names of counsel, if any. This amendment is intended to enhance the general flow of information about arbitration proceedings.

Agreement to Arbitrate (formerly entitled "Miscellaneous") (Section 32)

Currently, this section incorporates the Board's arbitration code into every duly executed submission agreement. If a party does not sign a submission agreement, then it could be argued that the party is not bound by the code. Certain other documents, however, are recognized as contractual agreements to arbitrate. Thus, the amendments are intended to ensure that a party who does not sign a submission agreement, but is subject to other agreements to arbitrate, also is bound by the Board's arbitration code.

Use of Simplified Arbitration for Small Claims (Section 34)

The amendments to paragraph (a), concerning use of simplified arbitration procedures, eliminate the requirement that a customer demand use of such procedures before they can be implemented. The amendments also eliminate the requirement that parties first consent in writing to use of these procedures. All SROs use simplified arbitration procedures in cases involving public customers where the amount in dispute does not exceed $10,000 without requiring that the customer demand use of such procedures or that the parties agree in writing to such use. The amendments to rule G–35 simply codify this current SRO practice.

The amendments to paragraph (d), concerning referring claims, counterclaims, and third-party claims to a panel of arbitrators, are intended to correct earlier changes to this section, in conformity with Section 12(a) of the Board's arbitration code.

The amendments to paragraph (h), concerning submission of further documentary evidence in simplified arbitration procedures, add new language which (1) codifies the applicability of Board discovery procedures to simplified arbitrations when a public customer demands a hearing; and (2) establishes a procedure to resolve discovery disputes when no hearing is demanded or consented to. This latter amendment includes setting shorter time frames for discovery under such circumstances, in keeping with the Board's (and SICA's) policy of expediting small claims.

Simplified Arbitration—Intra-Industry (Section 35)

The amendments to paragraph (a) merely clarify that only those inter-dealer small claims that are subject to the Board's arbitration code shall be resolved pursuant to the simplified procedures set forth in this section.

The amendments to paragraph (c), concerning referring claims, counterclaims, and third-party claims to a panel of arbitrators, are intended to correct earlier changes to this section, in conformity with section 12(b) of the Board's arbitration code.

Predispute Arbitration Agreements (Section 36)

The amendments add new language requiring that all new predispute arbitration agreements signed by customers must include a prescribed statement excluding class actions from the arbitration contract and clarifying investors' ability to pursue class actions in court.[1] This language is intended to prohibit dealers from bringing class actions to arbitration and from attempting to enforce an agreement to arbitrate against a member of a class action. This amendment shall apply only to new agreements signed by an existing or new customer. As noted above, the Board requests that the Commission delay the effectiveness of this particular amendment to Section 36 until one year after Commission approval, in order to provide dealers with sufficient time to amend their arbitration agreements.

(b) The Board has adopted the proposed rule change pursuant to sections 15B(b)(2)(C) and 15B(b)(2)(D) of the Securities Exchange Act of 1934, as amended ("Act"). Section 15B(b)(2)(C) requires, in pertinent part, that the Board's rules be designed:

> to promote just and equitable principles of trade * * * to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

Section 15B(b)(2)(D) of the Act states that the Board shall, if it deems appropriate:

> provide for the arbitration of claims, disputes, and controversies relating to transactions in municipal securities: Provided, however, That no person other than a municipal securities broker, municipal securities dealer, or person associated with such a municipal securities broker or municipal securities dealer may be compelled to submit to such arbitration except at this instance and in accordance with section 29 of this title.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will effect any burden on competition since it will apply equally to all brokers, dealers, and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board neither solicited nor received comments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested people are invited to submit written data, views, and arguments concerning the foregoing. People making written submissions should file six copies thereof with the

[1] See the amendments to Section 1, above, concerning class actions.

Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to the file number in the caption above and should be submitted by May 17, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–9600 Filed 4–23–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32166; File No. SR–NASD–93–20]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating To Use of a Special Indicator for Average-priced Trade Reports

April 19, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 30, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing amendments to trade reporting requirements pertaining to average-priced transactions in Nasdaq securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Association is proposing amendments to Parts XII and XIII in Schedule D to the By-Laws to require use of a special indicator for averaged-price weighted trades. Confusion has arisen recently regarding a limited number of trades that have been reported at a price based on average-weighting or another formula rather than current negotiated price. An example of such a transaction would be a trade negotiated as an agency cross during the trading day to be executed after 4 p.m. at a price equal to the average of weighted prices of transactions taking place during the trading day. Certain institutions find such a trade attractive because it ensures that they will not purchase at the high for the day or sell at the low. Trade reports such as these, although timely made, may not relate to the last sale price on Nasdaq and carry no identifier describing their specialized nature. In order to alleviate confusion with regard to these trade reports, the NASD is proposing amendments to the transaction reporting plans for Nasdaq National Market System and Nasdaq SmallCap securities in Schedule D to require members to mark all such trades with a special identifier, ".W" to denote their specialized sale condition.

While there are various specialized sale condition indicators employed in the reporting of Nasdaq transaction data to vendors (e.g., ".SLD" for late trades and ".T" for trade reports executed outside of the normal market hours of 9:30 a.m. to 4 p.m. Eastern Time), none accurately describe average-price weighted trades. Accordingly, a new indicator (".W" for price weighted trades) is appropriate to cover these types of trades. The NASD has already adopted amendments to Schedule G to the By-Laws with identical trade reporting requirements for members using average-price weighting formulas for exchange-listed securities and the special indicator has been approved and implemented in the consolidated data stream operated by the Consolidated Tape Association.[1]

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest.

In addition, the proposed rule change furthers the objective set forth in section 11A(a)(1)(C)(iii) of ensuring the availability to brokers, dealers and investors of information with respect to quotations for and transactions in securities. Reporting transactions in Nasdaq securities that are market with a special indicator to identify their unique pricing formulas is appropriate for regulatory purposes and obviates investor confusion with regard to these transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

[1] Securities Exchange Act Release Nos. 30437, SR–NASD–91–37 (March 3, 1992) and 30955, SR–NASD–92–23 (August 25, 1992).

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A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by May 17, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–9602 Filed 4–23–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32169; File No. SR–NASD–93–24]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to Securities Eligible for Quotation in the OTC Bulletin Board Service

April 19, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act"), notice is hereby given that on April 5, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD hereby files this proposed rule change pursuant to section 19(b)(1) of the Act and Rule 19b–4 thereunder, to expand the universe of equity securities eligible for quotation in the OTC Bulletin Board Service ("OTCBB"). Specifically, it is proposed that any equity security meeting the following criteria be deemed eligible for quotation in the OTCBB: (1) The security is listed on one or more regional stock exchanges in the U.S. and (2) the security does not meet the requirements for dissemination of transaction reports through the facilities of the Consolidated Tape.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Through this filing, the NASD is seeking the Commission's approval of a more expansive definition of equity securities eligible for quotation in the OTCBB. In the NASD's original filing on the Service (File No. SR–NASD–88–19),[1] the universe of securities classified as potentially eligible for inclusion was limited to equity securities that were neither qualified for inclusion on Nasdaq nor listed on a U.S. securities exchange. The instant filing would produce a modest expansion by permitting certain exchange-listed equities to be quoted in the OTCBB. The subset of equity securities affected by this proposal is limited to only those listed on any regional stock exchange (i.e., current and prospective listings) and not classified as "Eligible Securities" under the Consolidated Tape Plan.[2]

Since the inception of the OTCBB, the NASD has monitored trading activity in individual securities traded exclusively over-the-counter ("OTC") by analyzing aggregate volume and price range data submitted by member firms pursuant to Section 2 of Schedule H to the NASD By-Laws. In 1991, the Schedule H reporting requirements were expanded to cover OTC transactions in exchange-listed equities that were not eligible for transaction reporting via the Consolidated Tape.[3] Under the current proposal, this same group of equity securities would become eligible for quotation in the OTCBB by NASD member firms that function as market makers in this electronic medium. To the extent that member firms elect to quote these securities in the Service, the NASD's surveillance capabilities will be enhanced by the electronic capture of quotation data, which can be accessed in tandem with the Schedule H data already captured.

The NASD recognizes that some securities covered by this rule change might eventually qualify for dissemination of transaction reports over the Consolidated Tape by listing on one of the primary stock exchanges. If this occurs, the subject security will no longer be qualified for quotation in the OTCBB. NASD member firms desiring to continue as market makers must then register as Consolidated Quotation Service ("CQS") market makers in accord with Part VII of Schedule D to the NASD By-Laws.

Assuming SEC approval of the instant rule change, the NASD would implement the revised inclusion standards within 90 days of the date of the SEC's approval order.

The NASD believes that the proposed rule change is consistent with sections 15A(b)(6) and 15A(b)(11) of the Act. Section 15A(b)(6) requires, *inter alia*, that the NASD's rules be designated to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and facilitate transactions in securities. As noted above, expansion of the OTCBB to include certain exchange-listed securities will enable more effective surveillance of members' OTC trading in these securities. Section 15A(b)(11) authorizes the NASD to adopt rules

[1] *See* Securities Exchange Act Release No. 27975–A (May 30, 1990), 55 FR 23161.

[2] Part VI (a) of the Consolidated Tape defines "Eligible Securities" to include any common stock, long-term warrant, or preferred stock registered or admitted to unlisted trading privileges on any national securities exchange (other than the New York Stock Exchange ("NYSE") or the American Stock Exchange ("AMEX"), respectively) which, at the time of such registration or the commencement of such trading, substantially meets the original listing requirements of the NYSE or of the AMEX.

[3] NASD members that effect OTC transactions in exchange-listed securities that are eligible for Consolidated Tape reporting must observe the transaction reporting requirements contained in Schedule G to the NASD By-Laws.

governing the form and content of quotations for securities traded over-the-counter. Such rules should produce fair and informative quotations, prevent misleading quotations, and promote orderly procedures for collecting and disseminating quotations. In this regard, the NASD submits that the admission of selected regional exchange listings to the OTCBB will enable broader dissemination of members' quotations in these securities through the networks of commercial vendors. This should facilitate greater price discovery and the execution of retail orders at the best available price, while enhancing the NASD's regulatory ability to verify compliance with best execution requirements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by May 17, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–9601 Filed 4–23–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32167; File No. SR–PHLX–92–16]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Filing of FOCUS Reports by Registered Options Traders

April 19, 1993

On June 15, 1992, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposal to amend Exchange Rule 703, "Financial Responsibility and Reporting," to (i) authorize PHLX registered options traders ("ROTs") operating under letters of guarantee from their clearing agents to file Financial and Operational Combined Uniform Single ("FOCUS") reports on a semiannual basis rather than a quarterly basis; and (ii) authorize the Exchange to require a member organization to file financial reports more frequently than currently required under its rules. The proposed rule change was noticed for comment in Securities Exchange Act Release No. 30903 (July 9, 1992), 57 FR 31551. No comments were received on the proposal.

Currently, Exchange Rule 703(c)(iv) requires ROTs operating under letters of guarantee from their clearing agents to file FOCUS reports on a quarterly basis. The PHLX proposes to allow ROTs operating under letters of guarantee to provide FOCUS reports semiannually rather than quarterly. The Exchange, which is the Designated Options Examining Authority ("DOEA") for all of the ROTs who would be subject to the reduced FOCUS filing requirement, believes that more limited filing of FOCUS reports is appropriate because the Exchange currently relies heavily on daily reports rather than FOCUS reports to monitor on-going financial compliance. the PHLX notes that in some instances the current quarterly FOCUS reports filed by ROTs provide less information than the daily statements filed with the Exchange's Examination Department, which disclose, among other things, the equity in ROT's trading accounts.

In addition, the PHLX proposes to amend paragraph (d) of Exchange Rule 703 to authorize the Exchange to require a member organization or foreign currency option participant organization to file financial reports more frequently than currently required under its rules. The PHLX states that it might require a member firm to file reports more frequently than once each quarter if closer than normal surveillance is justified based, for example, on the firm's equity level or on excessive liabilities held outside of its clearing account.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with section 6(b)(5) in that the proposal is designed to remove impediments to and perfect the mechanism of a free and open market.[3] Specifically, the Commission believes that the reduced FOCUS reporting requirement for ROTs operating under letters of guarantee from their clearing agents will reduce the administrative burdens placed on the Exchange and ROTs, while not compromising the ability of the PHLX to continue to monitor the financial condition of ROTs. In this regard, the Commission notes that the PHLX is the DOEA for all of the ROTs subject to the reduced FOCUS reporting requirement, and that the PHLX relies heavily on daily statements filed by the ROTs with the Exchange's Examinations Department to monitor ongoing financial compliance. Among other things, the daily statements provide timely information on the equity in the ROTs' trading accounts and, specifically, on whether a ROT has sufficient equity to continue trading. In light of the information provided through the ROTs' daily statements, and the Exchange's reliance on that

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4 (1992).

[3] 15 U.S.C. 78f(b)(5) (1988).

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information, the Commission believes that the PHLX will have sufficient information available to monitor the ROTs' financial condition through the daily statements and the semiannual FOCUS reports. For this reason, the Commission believes that the proposal will not diminish the PHLX's ability to possess financial information sufficient to monitor the financial condition of ROTs. The Commission notes that the semiannual reporting requirement will apply only to ROTs that operate under a letter of guarantee from their clearing firms and maintain a minimum of $25,000 in net liquid assets. Accordingly, by the terms of PHLX Rule 703, the proposal will not apply to PHLX members who act as clearing members for other ROTs.

The Commission also finds that the proposal authorizing the PHLX to request more frequent financial reports from members and foreign currency option participant organizations will benefit investors and help to ensure the stability of the PHLX's markets by enhancing the Exchange's ability to monitor ongoing financial compliance and to track possible financial difficulties. Closer monitoring may provide the Exchange with an early warning of a member's financial difficulty and allow the Exchange to take appropriate action. The PHLX might suggest, for example, that the member unwind or hedge a position or follow a more neutral trading strategy. In addition, the Commission believes that the proposal should not impose an undue administrative burden on members because it is intended to allow the PHLX to request additional financial reports only in instances where heightened surveillance is warranted based, for example, on a firm's equity level or on excessive liabilities held outside of the firm's clearing account.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change (SR-PHLX-92-16) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-9599 Filed 4-23-93; 8:45 am]

BILLING CODE 8010-01-M

[4] 15 U.S.C. 78s(b)(2) (1988).

[5] 17 CFR 200.30-3(a)(12) (1992).

Issuer Delisting; Application To Withdraw From Listing and Registration; (North Coast Energy, Inc., Common Stock, $0.01 Par Value) File No. 1-11029

April 20, 1993.

North Coast Energy, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and regulation include the following:

According to the Exchange, the Board of Directors of the Company (the "Board"), pursuant to a Written Consent Action, authorized the withdrawal of the Company's Common Stock from listing on the Amex Emerging Company Marketplace ("Amex/ECM") and listing the Common Stock on the National Association of Securities Dealers Automated Quotations Small Cap Market ("NASDAQ"). The decision of the Board was based upon the belief that listing of the Common Stock on NASDAQ will be more beneficial to its stockholders than the present listing on the Amex/ECM because:

(1) According to the Company, it is believed that the NASDAQ system of competing market-makers will result in increased visibility and sponsorship for the Common Stock than is presently the case with the single specialist assigned to the stock on the Amex/ECM;

(2) According to the Company, it is believed that the NASDAQ systems will offer the Company's stockholders more liquidity than that presently available on the Amex/ECM and less volatility in quoted prices per share when trading volume is slight. On NASDAQ the Company will have the opportunity to secure its own group of market-makers and, in doing so, expand the capital base available for trading in its Common Stock; and

(3) According to the Company, it is believed that firms making a market in the Company's Common Stock will be inclined to issue research reports concerning the Company, thereby increasing the number of firms providing institutional research and advisory reports.

Any interested person may, on or before May 11, 1993 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-9654 Filed 4-23-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25799]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

April 19, 1993.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 13, 1993 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Central Power and Light Company (70-8169)

Central Power and Light Company ("CP&L"), 539 North Carancahua Street, Corpus Christi, Texas 78401, a wholly owned public-utility subsidiary

company of Central and South West Corporation, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(c) of the Act and Rules 42 and 50(a)(5) thereunder.

CP&L proposes to incur obligations, through December 31, 1994, in connection with the proposed issuance of up to $221 million aggregate principal amount of Pollution Control Revenue Refunding Bonds ("Refunding Bonds").

The Refunding Bonds will be issued by Matagorda County Navigation District Number One ("County") to reacquire all or a portion of the County's: (1) $139.2 million of outstanding 10⅛% Pollution Control Revenue Bonds Series 1984; and (2) $81.7 million of outstanding 9¾% Collateralized Pollution Control Revenue Bonds Series 1985A (collectively, "Old Bonds").

The Old Bonds were issued pursuant to the Indenture of Trust between the County and NationsBank of Texas, N.A., as Trustee ("Trustee"), and CP&L and the County entered into an Installment Sale Agreement to provide for the issuance of the Old Bonds. In connection with the issuance of the Refunding Bonds, CP&L will amend the Sale Agreement or enter into an agreement with substantially the same terms as the Sale Agreement. The Old Bonds were originally issued to finance the cost of the acquisition of certain pollution control and solid waste disposal facilities at Units 1 and 2 and of the South Texas Project Electric Generating Station.

The Refunding Bonds will bear interest payable semi-annually and will mature in not less than ten nor more than thirty-five years. The interest rate, redemption provisions and other terms and conditions applicable to the Refunding Bonds will be determined by negotiations between the CP&L and one or more investment banking firms that will purchase or underwrite the Refunding Bonds ("Purchasers"). It is anticipated that the Refunding Bonds will be: (1) Redeemable at any time in whole at the option of the CP&L at the principal amount thereof plus accrued interest; (2) subject to optional redemption in whole or in part at times and with premiums to be determined by negotiations between CP&L and the Purchasers; and (3) subject to special mandatory redemption, in whole or in part, at the principal amount thereof plus accrued interest, in the event the interest becomes subject to federal income tax.

CP&L will not permit the issuance of the Refunding Bonds unless the estimated net present value savings is, on an afterward basis, greater than the present value of all costs to acquire the Old Bonds and issue the Refunding Bonds, assuming an appropriate discount rate.

As credit enhancement for the Refunding Bonds, CP&L may cause the issuance of an insurance policy to ensure payment of principal, interest and premium, if any, at maturity by an insurance company or another unaffiliated party. Alternatively CP&L proposes to issue first mortgage bonds ("Bonds"), subject to applicable indenture restrictions upon the issuance thereof, by executing a supplemental indenture to its Mortgage Indenture dated November 1, 1943 to the First National Bank of Chicago and A.H. Bohm. The Bonds will be issued to the Trustee solely for the benefit of the holders of the Refunding Bonds and will not be transferable except to a successor Trustee. The Bonds will be issued in the exact amount and have substantially the same terms as the Refunding Bonds and payments on the Refunding Bonds will be used to make the necessary payments of principal and interest on the Bonds.

CP&L seeks authority to deviate from the sinking fund and redemption limitation provisions contained in the Commission's Statement of Policy Regarding First Mortgage Bonds (HCAR No. 13105, February 16, 1956, as amended by HCAR No. 16369, May 8, 1969) ("SOP") with respect to the issuance of the Bonds. CP&L proposes that the Bonds be subject to a ten-year redemption limitation while the SOP requires a redemption at any time upon reasonable notice and with reasonable redemption premiums, if any. The SOP further requires that a company deposit annually with a trustee for first mortgage bonds an amount of cash equal to not less than one percent of the aggregate principal amount of all first mortgage bonds authenticated under the first mortgage bond indenture. CP&L requests authority to issue the Bonds without sinking fund provisions unless the Refunding Bonds have sinking fund provisions.

CP&L further proposes to acquire from time to time through December 31, 1994, in open market and negotiated transactions, Old Bonds in an aggregate principal amount of up to $50 million. The proceeds of the offering of the Refunding Bonds will be used to reacquire, either in the open market, through direct negotiation with institutional holders of Old Bonds, or pursuant to a tender offer, all or a portion of the Old Bonds. CP&L may be required to deposit the proceeds of the Refunding Bonds with the Trustee in connection with acquisition of the Old Bonds. The proceeds of the offering may also be used to reimburse CP&L's treasury for Old Bonds previously acquired.

CP&L requests authority to begin negotiations with Purchasers with respect to the interest rate, redemption provisions and other terms and conditions applicable to the Refunding Bonds. It may do so.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-9605 Filed 4-23-93; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Portland District Advisory Council; Public Meeting

The U.S. Small Business Administration Portland District Advisory Council will hold a public meeting at 1 p.m. on Thursday, May 20 and continuing at 8 a.m. on Friday, May 21, 1993 at Kah-Nee-Ta Resort, Warm Springs, Oregon, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. John L. Gilman, District Director, U.S. Small Business Administration, 222 SW. Columbia, suite 500, Portland, Oregon 97201, (503) 326-5221).

Dated: April 21, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93-9629 Filed 4-23-93; 8:45 am]

BILLING CODE 8025-01-M

Richmond District Advisory Council; Public Meeting

The U.S. Small Business Administration Richmond District Advisory Council will hold a public meeting from 9 a.m. to 2 p.m. on Tuesday, April 27, 1993, at the Federal Building, 400 North 8th Street, Room 7230, Richmond, Virginia, to conduct training for Council members and Congressional staff.

For further information, write or call Mr. Dratin Hill, Jr., District Director, U.S. Small Business Administration, Federal Building, P.O. Box 10126, Richmond, Virginia 23240, (804) 771-2400, Ext. 140.

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Dated: April 21, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93-9630 Filed 4-23-93; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5519]

Filing for an Application for an Exemption Under the Conflict of Interest Regulation; Zenia Capital Corp.

Notice is hereby given that Zenia Capital Corporation (ZCC), 39-01 Main Street, suite 210, Flushing, New York 11354, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.903(b) of the Regulations governing small business investment companies (13 CFR 107.903(h) (1992)) for an exemption from the provisions of the cited Regulation.

Subject to SBA approval, ZCC proposes to provide funds to Transtate Insurance Co., Inc. (Transtate) for purchase of common stock in Transtate.

The proposed financing is brought within the purview of § 107.903(b) of the Regulations because Zenia Yuan, President of ZCC, is a director of Transtate and therefore Transtate is considered an Associate of ZCC as defined by § 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments on the proposed transaction to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in the New York, New York area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 21, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93-9671 Filed 4-23-93; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Dade County, FL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in Dade County, Florida.

FOR FURTHER INFORMATION CONTACT: R.V. Robertson, District Engineer, Federal Highway Administration, 227 N. Bronough Street, room 2015, Tallahassee, Florida 32302. Telephone: (904) 681-7236.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation will prepare an EIS for a proposal to improve SR 25 in Dade County, Florida. The proposed project would involve safety and capacity improvements to SR 25/US 27/Okeechobee Road from SR 112/ Airport Expressway to SR 826/Palmetto Expressway, a distance of 4.9 miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand and to address safety issues.

Alternatives under consideration include (1) taking no action; (2) safety improvements including the following: a median to separate the existing four lanes, left turn storage lanes, an underpass at the FEC Railroad Crossing, and widening bridges; (3) widening to a six-lane divided facility which may include four through lanes and two frontage lanes.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have expressed interest in this proposal. A series of public meetings are currently being held in the City of Hialeah, the City of Miami Springs, and the Town of Medley, Dade County. In addition, a public hearing will be held the first quarter of 1994. Public notice will be given of the time and place of the public hearing. The Draft EIS will be made available for public and agency review and comment. A formal scoping meeting is planned within the project vicinity during June 1993.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

R.V. Robertson,

District Engineer, Tallahassee, Florida.

[FR Doc. 93-9637 Filed 4-23-93; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. 93-24; Notice 1]

Receipt of Petition for Determination That Nonconforming 1990 Mercedes-Benz 300TE Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1990 Mercedes-Benz 300TE passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1990 Mercedes-Benz 300TE that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is May 26, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register.**

Champagne Imports Inc. of Lansdale, Pennsylvania (Registered Importer No. R-90-009) has petitioned NHTSA to determine whether 1990 Mercedes-Benz 300TE (Model ID 124.090) passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1990 Mercedes-Benz 300TE that Daimler Benz A.G. manufactured for importation into and sale in the United States, and certified as conforming to all applicable Federal motor vehicle safety standards.

The petitioner states that it carefully compared the non-U.S.-certified 300TE to its U.S.-certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S.-certified 300TE, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S.-certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the non-U.S.-certified 1990 model 300TE is identical to the U.S.-certified 1990 model 300TE with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that the bumpers on the non-U.S.-certified 1990 model 300TE comply with the Bumper Standard found in 49 CFR part 581.

Petitioner also contends that the non-U.S.-certified 1990 model 300TE is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the seat belt symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Replacement of the passenger's outside rearview mirror, which is convex but does not bear the required warning statement.

Standard No. 114 *Theft Protection:* Installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power-Operated Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the ignition is turned off.

Standard No. 206 *Door Locks and Door Retention Components:* Replacement of the rear door locks and rear door locking buttons with U.S.-model parts.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of either a U.S.-model seat belt in the driver's position or a belt webbing-actuated microswitch in the driver's seat belt retractor to activate the seat belt warning system; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer. The petitioner claims that the non-U.S.-certified 1990 model 300TE is equipped with a passive restraint system consisting of an airbag, control module, and knee bolster, which have identical part numbers to those found on the U.S.-certified 1990 model 300TE.

Standard No. 214 *Side Door Strength:* Installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel and the evaporative emissions collection canister.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 20, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93-9636 Filed 4-23-93; 8:45 am]

BILLING CODE 4910-59-M

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[Docket No. 93-25; Notice 1]

Receipt of Petition for Determination That Nonconforming 1989 Toyota Camry Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1989 Toyota Camry passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1989 Toyota Camry that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is May 26, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

J.K. Motors, Inc. of Kingsville, Maryland ("J.K.") (Registered Importer No. R-90-006) has petitioned NHTSA to determine whether non-U.S.-certified 1989 Toyota Camry passenger cars are eligible for importation into the United States. The vehicle which J.K. believes is substantially similar is the 1989 Toyota Camry that Toyota Motor Corporation manufactured for importation into, and sale in the United States, and certified as conforming to all applicable Federal motor vehicle safety standards.

The petitioner stated that it carefully compared the non-U.S.-certified 1989 Toyota Camry to its U.S.-certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that the non-U.S.-certified 1989 Toyota Camry, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S.-certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the non-U.S.-certified 1989 Toyota Camry is identical to its U.S.-certified counterpart with respect to compliance with Standard Nos. 102 Transmission Shift Lever Sequence. . . ., 103 Defrosting and Defogging Systems, 104 Windshield Wiping and Washing Systems, 105 Hydraulic Brake Systems, 106 Brake Hoses, 107 Reflecting Surfaces, 109 New Pneumatic Tires, 113 Hood Latch Systems, 116 Brake Fluid, 124 Accelerator Control Systems, 201 Occupant Protection in Interior Impact, 202 Head Restraints, 203 Impact Protection for the Driver From the Steering Control System, 204 Steering Control Rearward Displacement, 205 Glazing Materials, 206 Door Locks and Door Retention Components, 207 Seating Systems, 209 Seat Belt Assemblies, 210 Seat Belt Assembly Anchorages, 211 Wheel Nuts, Wheel Discs and Hubcaps, 212 Windshield Retention, 216 Roof Crush Resistance, 219 Windshield Zone Intrusion, and 302 Flammability of Interior Materials.

Petitioner also contends that the vehicle is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 Control and Displays: (a) substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 Lamps, Reflective Devices and Associated Equipment: (a) installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 Tire Selection and Rims: installation of a tire information placard.

Standard No. 111 Rearview Mirrors: replacement of the passenger's outside rearview mirror, which is convex but does not bear the required warning statement.

Standard No. 114 Theft Protection: installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 Vehicle Identification Number: installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 Power-Operated Window Systems: Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 Occupant Crash Protection: installation of a seat belt warning buzzer.

Standard No. 214 Side Door Strength: installation reinforcing beams.

Standard No. 301 Fuel System Integrity: Installation of a rollover valve in the fuel tank vent line between the fuel and the evaporative emissions collection canister.

Additionally, the petitioner states that the front and rear bumpers on the non-U.S.-certified 1989 Toyota Camry must be modified by adding energy absorbing shocks to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on April 20, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93-9626 Filed 4-23-93; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 93-14; Notice 2]

Determination That Nonconforming 1980 BMW 628 CSI Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by NHTSA that nonconforming 1980 BMW 628 CSi passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1980 BMW 628 CSi passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1980 BMW 633 CSi), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective as of the date of its publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports Inc. of Lansdale, Pennsylvania (Registered Importer No. R-90-009) petitioned NHTSA to determine whether 1980 BMW 628CSi passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on February 23, 1993 (58 FR 11085) under Docket No. 92-18 to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. On March 8, 1993, NHTSA published notice that the docket number had been changed to 93-14 (58 FR 12981). No comments were received in response to the notice of petition. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #32 is the vehicle eligibility number assigned to vehicles admissible under this notice of final determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1980 BMW 628CSi is substantially similar to a 1980 BMW 633CSi originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and that the 1980 BMW 628CSi is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 20, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93-9627 Filed 4-23-93; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 93-05; Notice 2]

Determination That Nonconforming 1991 Mercedes-Benz 500SL Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by NHTSA that nonconforming 1991 Mercedes Benz 500SL passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1991 Mercedes Benz 500SL passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1991 Mercedes Benz 500SL), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective as of the date of its publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States,

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certified under section 114 [of the Act], and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

G&K Automotive Conversion, Inc. of Santa Ana, California (Registered Importer No. R-90-007) petitioned NHTSA to determine whether 1991 Mercedes Benz 500SL passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on February 23, 1993 (58 FR 11086) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #33 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1991 Mercedes Benz 500SL (Model ID 129.066) not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1991 Mercedes Benz 500SL originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(III); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 20, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93-9628 Filed 4-23-93; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Fiscal Service

Senior Executive Service; Financial Management Service Performance Review Board (PRB)

AGENCY: Treasury Department; Fiscal Service; Financial Management Service.

ACTION: Notice to members to the FMS PRB.

SUMMARY: Pursuant to 5 U.S.C. 4314 (c)(4), this Notice announces the appointment of members to the Financial Management Service (FMS) Performance Review Board (PRB). This Board reviews the performance appraisals of career senior executives below the Assistant Commissioner level and makes recommendations regarding ratings, bonuses, and other personnel actions. Three voting members constitute a quorum. The names and titles of the FMS PRB members are as follows:

Primary Members

Michael R. Smokovich, Deputy Commissioner
Bland T. Brockenborough, Assistant Commissioner, Management
Diane E. Clark, Assistant Commissioner, Financial Information
Michael D. Serlin, Assistant Commissioner, Agency Services

Alternate Members

Larry D. Stout, Assistant Commissioner, Federal Finance Mitchell A. Levine, Assistant Commissioner, Regional Operations
Ronald A. Nervitt, Assistant Commissioner, Information Resources

DATES: Membership is effective on the date of this Notice.

FOR FURTHER INFORMATION CONTACT: Michael T. Smokovich, Deputy Commissioner, Financial Management Service, 401 14th Street, Washington, DC 20227; telephone (202) 874-7000

Russell D. Morris,

Commissioner.

[FR Doc. 93-9659 Filed 4-23-93; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1992—Rev., Supp. No. 18]

Surety Companies Acceptable on Federal Bonds Termination of Authority: PACIFIC STATES CASUALTY COMPANY

Notice is hereby given that the Certificate of Authority issued by the Treasury to PACIFIC STATES CASUALTY COMPANY, Chino, California, a California corporation, under the United States Code, title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated today.

PACIFIC STATES CASUALTY COMPANY was listed as an acceptable surety on Federal bonds at 57 FR 29386, July 1, 1992.

With respect to any bonds currently in force with PACIFIC STATES CASUALTY COMPANY, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 874-6765.

Dated: March 10, 1993.

Diane E. Clark,

Assistant Commissioner, Financial Information, Financial Management Service.

[FR Doc. 93-9591 Filed 4-23-93; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 78
Monday, April 26, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), U.S.C. 552b:

DATE AND TIME: April 28, 1993, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208-0400. For a recording listing items stricken from or added to the meeting, call (202) 208-1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference end Information Center.

Consent Agenda—Hydro, 978th Meeting—April 28, 1993, Regular Meeting (10:00 a.m.)

CAH-1.—Project No. 2494-005, Puget Sound Power & Light Co.
CAH-2.—Project No. 10521-001, Mahoning Hydro Associates
CAH-3.—Project No. 2827-004, City of Redding, California
CAH-4.—Project No. 2232-286, Duke Power Co.
CAH-5.—Project No. 8142-022, Henwood Associates, Inc.
CAH-6.—Project No. 6287-002, Rainsong Co.
CAH-7.—Project No. 2523-004, Wisconsin Electric Power Co.

Consent Agenda—Electric

CAE-1.—Docket No. ER93-276-000, Appalachian Power Co. and Indiana Michigan Power Co.; Docket No. ER93-295-000, Kentucky Power Co. and Ohio Power Co.
CAE-2.—Omitted
CAE-3.—Docket No. ER93-114-000, Montana Power Co.
CAE-4.—Docket No. ER93-200-000, Appalachian Power Co.
CAE-5.—Docket No. ER93-413-000, Pacific Gas & Electric Co.
CAE-6.—Docket No. EG93-33-000, NW Energy (William Lake) Limited Partnership
CAE-7.—Docket No. EL91-30-001, Municipal Resale Service Customers v. Ohio Power Co.
CAE-8.—Docket No. EL93-9-001, Red Top Cogeneration Project, L.P.
CAE-9.—Docket No. EL88-1-005 (Phase II), Indiana and Michigan Municipal Distributors Association and City of Auburn, Indiana v. Indiana Michigan Power Co.; Docket Nos. ER88-31-004 and ER88-32-004 (Phase II), Indiana Michigan Power Co.
CAE-10.—Docket No. ER89-48-002, Southern Co. Services, Inc.
CAE-11.—Docket No. ER92-280-001, Public Service Electric & Gas Co.
CAE-12.—Docket No. EL88-10-002, Industrial Congenerators v. Florida Public Service Commission
CAE-13.—Docket No. ER91-569-003, Entergy Services, Inc.

Consent Agenda—Oil and Gas

CAG-1.—Docket No. RP93-99-000, Colorado Interstate Gas Co.
CAG-2.—Docket No. RP93-98-000, Northern Natural Gas Co., a Division of Enron Corp.
CAG-3.—Docket No. RP92-166-009, Panhandle Eastern Pipe Lina Co.
CAG-4.—Docket No. RP93-4-000, Mississippi River Transmission Corp.
CAG-5.—Docket No. RP93-5-003, Northwest Pipeline Corp.
CAG-6.—Docket No. RP92-202-000, Tennessee Gas Pipeline Co.
CAG-7.—Docket Nos. TA93-1-43-000, 001 and TM93-3-43-000, Williams Natural Gas Co.
CAG-8.—Docket Nos. TA93-1-21-000 and TM93-9-21-000, Columbia Gas Transmission Corp.
CAG-9.—Docket No. TM93-5-18-000, Texas Gas Transmission Corp.
CAG-10.—Docket Nos. RP92-237-004, 005, 006 and 007, Alabama-Tennessee Natural Gas Co.
CAG-11.—Docket No. RP93-97-000, Arkla Energy Resources Co.
CAG-12.—Docket Nos. RP89-160-015 and RP89-114-007, Trunkline Gas Co.
CAG-13.—Docket No. RP93-67-001, Columbia Gas Transmission Corp.
CAG-14.—Docket No. RP92-185-004, El Paso Natural Gas Co.
CAG-15.—Docket No. RP88-44-039, El Paso Natural Gas Co.
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III. Pipeline Certificate Matters

PC-1.—Reserved

Lois D. Cashell,

Secretary.

[FR Doc. 93-9868 Filed 4-22-93; 3:51 pm]

BILLING CODE 6717-01-M

Corrections

Federal Register

Vol. 58, No. 78

Monday, April 26, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 30, 33, 180 and 190

Protection of Commodity Customers; Risk Disclosure by Futures Commission Merchants and Introducing Brokers to Customers; Bankruptcy Disclosure

Correction

In rule document 93-7727 beginning on page 17495 in the issue of Monday, April 5, 1993 make the following corrections:

(1) On page 17499, in the first column, in the first full paragraph, in the sixth line from the bottom "indicated" should read "indicates".

(2) On the same page, in the 3d column, in the 1st paragraph, 14 lines from the bottom "interest" should read "interests".

(3) On the same page, in footnote 18, in the 3d column, in the 2d line insert after "such funds" the words "to the customer is required pursuant to the requirement tht such funds".

(4) On page 17500, in the first column, under B. 1., in the fourth line "account" should read "accounts".

(5) On page 17501, in the second column, the heading "2. Notice of Commission" should read "2. Notice to Commission".

(6) On page 17502, in the 1st column, under 1., in the 14th line, "documents and addressing" should read "documents addressing".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Announcement of Proposed Noncompetitive Grant Awards

Correction

In notice document 93-8586 beginning on page 19278 in the issue of Tuesday, April 13, 1993, make the following correction:

On page 19278, in the third column, under **DATES**, in the last line, "May 13, 1993." should read "April 28, 1993.".

BILLING CODE 1505-01-D

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CFR CHECKLIST

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

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[6] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1992. The CFR volume issued July 1, 1989, should be retained.

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[8] No amendments to this volume were promulgated during the period October 1, 1991 to September 30, 1992. The CFR volume issued October 1, 1991, should be retained.

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Part II

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REGULATORY INFORMATION SERVICE CENTER

Unified Agenda of Federal Regulations

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to the Unified Agenda of Federal Regulations.

SUMMARY: The Regulatory Flexibility Act (5 U.S.C. 602) requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing. Executive Order 12291 and OMB memoranda implementing section 5 of the Executive order establish minimum standards for executive agencies' agendas, including specific types of information for each entry and publication in a uniform format. In addition, the Office of Federal Procurement Policy Act Amendments of 1988 (41 U.S.C. 402) require the development and semiannual publication of a report on procurement regulations. The Unified Agenda helps fulfill the procurement requirement. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this **Unified Agenda of Federal Regulations.**

The following separate parts in this issue of the **Federal Register** are the agency agendas, which together comprise the April 1993 edition of the semiannual **Unified Agenda of Federal Regulations.**

ADDRESSES: Regulatory Information Service Center, 750 17th Street NW., Suite 500, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the Agency Contact listed for each entry. To provide comment on or to obtain further information about the **Unified Agenda of Federal Regulations**, contact: Mark G. Schoenberg, Executive Director, (202) 634-6222, or Margaret M. Donohue, Project Director, (202) 634-6220.

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INTRODUCTION TO THE UNIFIED AGENDA OF FEDERAL REGULATIONS

About the Unified Agenda

The Regulatory Information Service Center (the Center) compiles the **Unified Agenda of Federal Regulations** (Unified Agenda) for the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The Center provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The Office of Information and Regulatory Affairs is responsible for overseeing the Federal Government's regulatory, paperwork, and information-management activities and for implementing Executive Orders 12291 "Federal Regulation" (46 FR 13193; 3 CFR 1981 Comp., p. 127) and 12498 "Regulatory Planning Process" (50 FR 1036; 3 CFR 1985 Comp., p. 323).

The Unified Agenda provides uniform reporting of data on regulatory activities under development throughout the Federal Government. This edition of the Unified Agenda includes 59 regulatory agendas from all Federal departments, agencies, and commissions that publish agendas. Agencies of the United States Congress are not included. The Federal Mediation and Conciliation Service, the Institute of Museum Services, the Merit Systems Protection Board, and the National Capital Planning Commission have published regulatory agendas in the past but have nothing to report for this edition.

The regulatory activities included in the agency agendas are those currently planned for the next 12 months. The agendas do not include regulations excluded from review under E.O. 12291, such as those concerning military or foreign affairs functions and regulations related to internal agency management.

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for the **Unified Agenda of Federal Regulations.**

In addition, Executive Order 12612 of October 26, 1987, entitled "Federalism" (3 CFR 1987 Comp., p. 252) directs executive departments and agencies to identify proposed regulatory provisions that have significant federalism implications. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on various levels of government.

The Unified Agenda also helps fulfill the statutory requirement that the Office of Federal Procurement Policy (OFPP) publish a **Procurement Regulatory Activity Report** as required by the Office of Federal Procurement Policy Act Amendments of 1988 (102 Stat. 4055; 41 U.S.C. 402). In their agendas, agencies indicate which regulatory actions are procurement-related, as well as whether or not there is a statutory requirement or a paperwork burden associated with the procurement-related actions. Information that agencies publish in the Unified Agenda is used by OFPP to produce its report.

The Unified Agenda is produced through a computer system designed and maintained by the Center with the advice and assistance of the Government Printing Office. The system was designed to save agencies time and money by automating the preparation and printing of their agendas in a uniform format and to make the Unified Agenda easier to use. In order to further facilitate producing the Unified Agenda, many agencies currently use computer terminals at their offices to enter agenda information into the Center's computer system.

All agendas contain uniform data elements -- regulation title, significance, legal authority, CFR citation, legal deadline, abstract, timetable, small entities affected, government levels affected, procurement, agency contact, and a unique Regulation Identifier Number. Agencies also include any additional information they consider important. If any of the data elements are not included, the agency either did not report the information or may provide an explanation in its preamble, the text that introduces the agency's section of the Unified Agenda. For further information, please contact the individual agency.

Congress generally authorizes a single Federal agency to implement, through regulation, a specific policy objective. Sometimes, however, a statute may require that several agencies issue regulations to accomplish the objective. In such cases, the agencies, working with a central coordinator, jointly publish the documents issued in the course of the rulemaking proceeding. These proceedings are referred to as Governmentwide common rules.

In this edition of the Unified Agenda, three Governmentwide common rules are reported by the agencies participating in their development. They are:

- Debarment and Suspension
- New Restrictions on Lobbying
- Uniform Administrative Requirements for Grants and Cooperative Agreements With State and Local Governments

Agencies participating in the development of these common rules have reported them in their individual sections of the Unified Agenda.

The Unified Agenda of Federal Regulations is published in April and October of each year. We welcome comments on this edition and suggestions for improving future ones.

How To Use the Unified Agenda

Each agency agenda appears as a separate part in this edition of the **Federal Register.** The parts are organized alphabetically in four groups: Cabinet departments, other executive agencies, joint authorities, and independent agencies. Departments are divided into agencies, which may in turn be divided into subagencies.

Each agency introduces its section of the Unified Agenda with a preamble providing information specific to that section. Each agency lists its rules in four groups:

1. Prerule Stage -- actions agencies will undertake in the next 12 months to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. Proposed Rule Stage -- actions for which agencies plan to publish a Notice of Proposed Rulemaking (NPRM) as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. Final Rule Stage -- actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step in their rulemaking process.

4. Completed Actions -- actions or reviews the agency completed or withdrew since publishing its last agenda. This section also includes items that were begun and completed between issues of the Unified Agenda.

An agency may use a subheading to identify regulations that it has grouped according to a particular topic. When these subheadings are used, they appear above the title of the first regulation in the group.

A bullet (•) preceding an entry indicates that the entry appears in the Unified Agenda for the first time.

All entries are numbered sequentially from the beginning to the end of the Unified Agenda. The Sequence Number (Seq. No.) preceding the title of each entry identifies the location of the entry in this edition of the Unified Agenda. The same number is used in the indexes to enable readers to find entries on specific subjects.

For each agency that requests it, the Center provides a computer-produced Table of Contents that appears after the agency preamble. The agency Tables of Contents help readers locate quickly those entries within an agency that may be of most interest to them. Sequence numbers also appear in agency Tables of Contents.

The Unified Agenda contains three indexes. The first two indexes list the regulatory actions that agencies believe may have effects on small entities or levels of government. In addition, the Unified Agenda contains a Subject Index based on the **Federal Register Thesaurus of Indexing Terms** to help readers locate entries from various agencies that may affect a particular area of interest. The index also contains cross references to assist the reader's search.

Entries describing regulations in the Unified Agenda should contain, at a minimum, the following information:

- Title of the Regulation.
- Significance -- an indication of the significance of the entry that appears when:

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a. The action is included in the **Regulatory Program of the United States Government**, or
b. the agency otherwise considers the action a priority.

The Significance heading appears only if the entry is a significant action.

- Legal Authority -- the section(s) of the United States Code (U.S.C.) or Public Law (P.L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.
- CFR Citation -- the section(s) of the Code of Federal Regulations that will be affected by the action.
- Legal Deadline -- an indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some "Other" action.
- Abstract -- a description of the problem the regulation will address; the need for a Federal solution; to the extent available, the alternatives that the agency is considering to address the problem; and the potential costs and benefits of the action.
- Timetable -- the dates and citations (if available) for all past steps and at least a projected date for the next step for the regulatory action. If a date appears in this section as 00/00/00, it means the date of the action is currently undetermined. Similarly, 10/00/93 means the agency can predict the month and year the action will take place but not the day it will occur.
- Small Entities Affected -- indicates whether the rule is expected to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act (5 U.S.C. 601) and, if so, whether the small entities are businesses, governmental jurisdictions, or organizations.
- Government Levels Affected -- indicates whether the rule is expected to affect levels of government and, if so, whether the governments are local, State, or Federal.
- Agency Contact -- the name, title, address, and phone number of a person in the agency who is knowledgeable about the regulation
- Procurement -- a statement identifying procurement-related actions and indicating whether there is a statutory requirement for the action and whether there is a paperwork burden associated with the action. The Procurement heading appears only if the entry is a procurement-related action.

Some agencies have provided other optional information at their discretion.

Data Limitations

Agencies prepared entries for this edition of the Unified Agenda to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed. The Unified Agenda does not create a legal obligation on agencies to adhere to schedules within it or to confine their regulatory activities to those regulations that appear in it. The information in this edition is accurate as of February 26, 1993, in the judgment of the submitting agencies, except as otherwise noted in individual agency preambles. Where applicable, individual actions will be subject to review for compliance with E.O. 12291, the Regulatory Flexibility Act, the Office of Federal Procurement Policy Act Amendments of 1988, and the Paperwork Reduction Act at appropriate points in the regulatory process.

List of Abbreviations

The following abbreviations appear throughout this edition of the Unified Agenda:

ANPRM -- An Advance Notice of Proposed Rulemaking is a preliminary notice that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR -- The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the departments and agencies of the Federal Government. The Code is divided into 50 titles, and each title covers a broad area subject to Federal regulation. The CFR is keyed to and kept up-to-date by the daily issues of the **Federal Register**.

EO -- An Executive order is a directive from the President to an executive agency, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

FR -- The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal departments and agencies.

FY -- The Federal fiscal year runs from October 1 to September 30.

NPRM -- A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum:

- A statement of the time, place, and nature of the public rulemaking proceeding;
- a reference to the legal authority under which the rule is proposed; and
- either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL -- A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, as opposed to a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, PL 102-5 is the fifth public law of the 102nd Congress.

RFA -- A Regulatory Flexibility Analysis describes the impact of a proposed rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601). An RFA describes why the agency is considering the action; the objectives of and legal basis for the proposed rule; an estimate of the number of small entities that could be affected and the compliance requirements they would have to fulfill; any other duplicative, overlapping, or conflicting Federal rules; and alternatives to the proposed action. When required, an initial RFA accompanies an NPRM, and a final RFA accompanies a final rule.

RIA -- A Regulatory Impact Analysis is required by E.O. 12291 for all major rules and other regulations designated by the Office of Management and Budget. An RIA is prepared to determine whether a proposed regulatory action meets the requirements of section 2 of E.O. 12291; namely, that it:

- Be based on adequate information concerning the need for and consequences of the action;
- not be undertaken unless the potential benefits outweigh the potential costs to society;
- maximize net benefits to society;
- entail the least net cost to society of the alternatives considered; and
- take into account the condition of particular affected industries, the national economy, and contemplated future regulatory actions.

RIN -- The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Unified Agenda. Many agencies include RIN numbers in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register**.

Seq. No. -- The Sequence Number identifies the location of an entry in this edition of the Unified Agenda.

USC -- The United States Code is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles, and each title covers a broad area of Federal law.

Information About Additional Copies

Additional copies of this edition of the **Federal Register** are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325, (202) 783-3238.

Copies of individual agency agendas may be available directly from the agency. Please contact the particular agency for further information.

Dated: April 1, 1993.

Mark G. Schoenberg,

Executive Director.

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Part III

Department of Agriculture

Semiannual Regulatory Agenda

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DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda, April 1993

AGENCY: Office of the Secretary, USDA

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of major and nonmajor regulations being developed in agencies of the U.S. Department of Agriculture in conformance with Executive Order 12291 "Federal Regulation." The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96-354.

This semiannual update of the agenda comes at a time when the regulatory policies and practices of the Department are under review by the Office of the Secretary and senior policy staff. Therefore, no new entries will appear in this edition. The entries that do appear are those carried forward from the October 1992 edition. Each of the dockets in this latter category will also undergo further policy review before publication for comment or initiating action. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action.

Requests for copies of the agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 147-E, Administration Building, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-1272.

Dated: March 1993.

Marvin J. Shapiro,

Chief, Legislative, Regulatory, and Automated Systems Division

Agricultural Marketing Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1	Organic Certification of Organic Food Production Act of 1990	0581-AA40

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2	Review of Pricing Provisions in All Federal Milk Marketing Orders	0581-AA37
3	National Laboratory Accreditation Program	0581-AA38
4	Establish a Processor-Funded Milk Promotion Program	0581-AA44
5	Revision of Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products	0581-AA45
6	Regulations Under the Federal Seed Act	0581-AA52
7	Mandatory Inspection of Eggs and Egg Products	0581-AA55
8	Policy Statement and Regulations Governing Availability of Tobacco Inspection Services to Burley Tobacco on Designated Markets	0581-AA56
9	Review of Basic Formula Price in All Federal Milk Orders	0581-AA57
10	Voluntary Inspection of Egg Products and Grading	0581-AA58
11	Grading of Shell Eggs	0581-AA60
12	Voluntary Grading of Poultry Products and Rabbit Products	0581-AA61
13	Fees and Charges, Mandatory Tobacco Inspection	0581-AA62
14	Amendment to Cotton Board Rules and Regulations	0581-AA63
15	Revision of User Fees for Cotton Classification, Testing and Standards	0581-AA75
16	Procedures for Conduct of Soybean Referendum	0581-AA77
17	Rules of Practice Governing Proceedings on Petitions to Modify or to be Exempted from the Soybean Promotion and Research Order	0581-AA78
18	Agency Reorganization of Analytical Testing Services	0581-AA85

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Agricultural Marketing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
19	Recordkeeping Requirements for Certified Applicators of Federally Restricted Use Pesticides	0581-AA39
20	Fee Increase for Dairy Grading Program	0581-AA42
21	Egg Research and Promotion Rules and Regulations	0581-AA59
22	Milk for Manufacturing Purposes and Its Production and Processing; Requirements Recommended for Adoption by State Regulatory Agencies	0581-AA70
23	Fresh Fruits, Vegetables, and Other Products (Inspection, Certification, and Standards)	0581-AA71
24	Beef Promotion and Research Reapportionment	0581-AA76
25	Policy Statement and Regulations Governing the Extension of Tobacco Inspection and Price Support Services to New Markets and to Additional Sales on Designated Markets	0581-AA84

Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
26	Mushroom Promotion, Research, and Consumer Information Order	0581-AA49
27	Revision of Grade Standards for American Upland Cotton	0581-AA65
28	Increase in Fees and Charges for Egg Products Inspection and Egg, Poultry, and Rabbit Grading	0581-AA72
29	Requirements for Applicants for Service To Launder or Provide Outer Frocks to Federal Meat Graders	0581-AA79

Agricultural Stabilization and Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
30	1993 Wool and Mohair Program	0560-AC65
31	Common Provisions for the 1994 Wheat, Feed Grain, Cotton, and Rice Programs	0560-AC74
32	1991-95 Crops Sugar Beet and Sugarcane Program	0560-AC76
33	Amendments to the Production Adjustment Regulations—Reconstitution of Bases, Allotments and Quotas	0560-AC99
34	Pilot Voluntary Production Limitation Program	0560-AD00
35	1994 Feed Grain Loan Rates and Acreage Reduction Levels	0560-AD02

Agricultural Stabilization and Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
36	Amend U.S. Warehouse Act (USWA) Regulations to Provide Informal Hearings for USWA Licensed Warehousemen	0560-AC05
37	Excessive Manufacturing (Make) Allowances in State Marketing Orders for Milk	0560-AC23
38	Allocation of Procurement of Processed Agricultural Commodities for Donation on a Lowest Landed Cost Basis	0560-AC27
39	National Average Loan Rates for 1993-Crop Quota and Additional Peanuts and Minimum Commodity Credit Corporation (CCC) Export-Edible Sales Price for Additional Peanuts	0560-AC61
40	Farmer-Owned Reserve (FOR) Program for the 1992 Crop of Feed Grains	0560-AC71
41	1994 Wheat Loan Rate and Acreage Reduction Program	0560-AC75
42	1993-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AC80
43	1993-Crop Marketing Quotas for Five Kinds of Tobacco	0560-AC81
44	1993-Crop Price Support Levels for Six Kinds of Tobacco	0560-AC82
45	Amendment to the Highly Erodible Land and Wetland Conservation Program Regulations—Person Determinations	0560-AC86
46	Amendments to the Sugar Marketing Assessment Regulations	0560-AC91
47	Amendments to the Wetlands Regulation Regarding Abandoned Acreage and Drainage by Drainage District	0560-AC92
48	General Price Support Regulations for Grain, Rice, Oilseeds, Cotton, and Honey for the 1991-95 Crops	0560-AC95
49	1993-94 Marketing Year Penalty Rate for All Kinds of Tobacco Subject to Quotas	0560-AC97
50	1993-Crop Sugar Beet and Sugarcane Price-Support Loan Rates	0560-AC98
51	Agricultural Conservation and Stabilization Service Debt Settlement Regulations	0560-AD03

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Agricultural Stabilization and Conservation Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
52	1992-Crop Marketing Quotas for Five Kinds of Tobacco	0560-AC40
53	1992-Crop Price Support Levels for Six Kinds of Tobacco	0560-AC41
54	1992-Crop Peanuts National Poundage Quota	0560-AC42
55	National Average Loan Rates for 1992-Crop Quota and Additional Peanuts and Minimum Commodity Credit Corporation (CCC) Export-Edible Sales Price for Additional Peanuts	0560-AC43
56	1993 Feed Grain Loan Rates and Acreage Reduction Levels	0560-AC54
57	Amendments to the CCC Cotton Loan Program Regulations	0560-AC55
58	Adjusted World Market Prices (AWPs) for Upland Cotton and Rice-Timing of Announcement	0560-AC59
59	1993-Crop Peanuts National Poundage Quota	0560-AC60
60	1993 Upland Cotton Loan Rate and Acreage Reduction Program	0560-AC63
61	1993 Extra Long Staple (ELS) Cotton Loan Rate and Acreage Reduction Program	0560-AC64
62	Agricultural Resources Conservation Program Amendments	0560-AC66
63	1993 Oilseed Program	0560-AC68
64	1993 Wheat Loan Rate and Acreage Reduction Program	0560-AC69
65	Farmer-Owned Reserve (FOR) Program for the 1992 Crop of Wheat	0560-AC70
66	1993 Rice Loan Rate and Acreage Reduction Program	0560-AC72
67	Common Provisions for the 1993 Wheat, Feed Grain, Cotton and Rice Programs	0560-AC73
68	1993-Crop Marketing Quota and Price Support Level for Flue-Cured Tobacco	0560-AC79
69	Amendments to the Poundage Quota Regulations for the 1991-95 Crops of Peanuts	0560-AC84
70	Amendment to the Conservation Reserve Regulations Regarding Small Wetlands	0560-AC93
71	Highly Erodible Land and Wetland Conservation: Definition of Prior Converted Cropland	0560-AC94
72	Amendments to the Payment Limitation Regulations—"Actively Engaged" Determinations	0560-AD01
73	Disaster Payment Program and Tree Assistance Program for 1990, 1991, and 1992	0560-AD04

Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
74	Exotic Newcastle Disease in All Birds and Poultry; Psittacosis and Ornithosis in Poultry	0579-AA22
75	Privately-Operated Quarantine Facilities for Imported Ruminants and Swine	0579-AA28
76	Regulation of Horses and Farm Animals Under the Animal Welfare Act	0579-AA31
77	National Environmental Policy Act Implementing Procedures	0579-AA33
78	Cyclical Review of 9 CFR Part 92, Phase II	0579-AA34
79	Importation of Certain Animals and Poultry and Certain Animal and Poultry Products—Prevention of Poultry Diseases	0579-AA38
80	Importation of Nursery Stock Plants, Roots, Bulbs, Seeds, and Other Plant Products - Phase II	0579-AA41
81	User Fees	0579-AA43
82	Importation of Unmanufactured Wood	0579-AA47
83	Chicken Disease Caused By Salmonella Enteritidis	0579-AA48
84	Pseudorabies	0579-AA49
85	Importation of Certain Dried Pork Products	0579-AA50
86	Addition of Cervidae to the Regulations Concerning Tuberculosis in Livestock	0579-AA53

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
87	Honeybees and Honeybee Semen; Removing Certain Restrictions on Honeybees and Honeybee Semen From New Zealand	0579-AA37
88	Gypsy Moth	0579-AA39
89	Animal Welfare; Random Source Dogs and Cats	0579-AA42

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Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
90	Revision of 7 CFR 319.56, Importation of Fruits and Vegetables	0579-AA12
91	Imported Fire Ant	0579-AA25
92	Ruminants and Swine Imported From Foot-and-Mouth-Disease Countries	0579-AA40
93	Accreditation of Veterinarians	0579-AA52

Cooperative State Research Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
94	Higher Education Challenge Grants Program; Administrative Provisions	0524-AA02
95	1890 Institution Capacity Building Grants Program; Administrative Provisions	0524-AA03

Cooperative State Research Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
96	Rangeland Research Grants Program; Administrative Provisions	0524-AA04
97	Biotechnology Risk Assessment Research Grants Program; Administrative Provisions	0524-AA05

Farmers Home Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
98	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations	0575-AA35
99	Real Property Insurance	0575-AA53
100	Deny Credit to Applicants Delinquent on any Federal Debt	0575-AA66
101	Planning and Performing Site Development Work	0575-AA88
102	Housing for Rural Homeless and Migrant Farmworkers, Policies, Procedures, and Authorizations	0575-AB14
103	Rural Housing Guaranteed Loans	0575-AB15
104	Disposition of Interests In Indian Trust Land	0575-AB17
105	Management of Hazardous Substances	0575-AB18
106	Solid Waste Management Grants	0575-AB22
107	Technical Assistance and Training Grants	0575-AB23
108	Wastewater Circuit Rider Grants	0575-AB24
109	1980-E Business and Industrial Loan Program - Feasibility Studies	0575-AB34

Farmers Home Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
110	Liquidation, Management and Disposition of Real Property Which Secured Single Family Housing (SFH) Loans	0575-AA03
111	Housing Preservation Grants	0575-AA18
112	Recapture of Section 502 Rural Housing Subsidy	0575-AA29
113	Management and Collection of Nonprogram (NP) Loans	0575-AA39
114	Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients	0575-AA49
115	Prepayment and Displacement Prevention of Multiple Family Housing Loans	0575-AA51
116	Rural Rental Housing Loan Policies, Procedures and Authorizations —Processing Preapplications	0575-AA67
117	Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Multiple Family Housing	0575-AA69
118	Adverse Decisions and Administrative Appeals FmHA Instruction 1900-B	0575-AA70
119	Farmer Programs Guaranteed Interest Assistance Program	0575-AA80
120	Civil Rights Compliance Requirements - 1940-D	0575-AA83
121	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations (Deferred Mortgage Program)	0575-AA87

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Farmers Home Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
122	Farmer Program Account Servicing Policies for Section 1816 and Other Related Sections for the "1990 Fact Act"	0575-AA91
123	Housing Application Packaging Grants	0575-AA92
124	Agricultural Resource Conservation Demonstration Program	0575-AB01
125	Rural Rental and Rural Cooperative Housing Loan Policies, Procedures, and Authorizations	0575-AB08
126	Debt Settlement	0575-AB10
127	Changes to FmHA Farmer Program Account Servicing and Loan Making Policies for Section 1808, 1818, 1819 and 1821 of the Food, Agriculture, Conservation, and Trade Act of 1990. (Fact Act)	0575-AB13
128	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations (Interest Credit/Earned Income)	0575-AB16
129	Disposal of Inventory Property	0575-AB21
130	Community Facility Loans 1942A	0575-AB25
131	Supervised Bank Accounts and Multihousing Reserve Funds	0575-AB31
132	Five-year Applicant Loan Eligibility Certification by County Committee	0575-AB32
133	Implementation of Certified Lender Program	0575-AB33
134	Section 502 Rural Housing Loan Policies, Procedures and Authorizations (Appraisal Fee)	0575-AB36

Farmers Home Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
135	Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations	0575-AA60
136	Processing and Servicing FmHA Assistance to Employees, Relatives, and Associates	0575-AA64
137	Supplemental Requirements for Making Section 502 Loans for Housing Units Located in Condominiums or Planned Unit Developments	0575-AA90
138	Section 504 Rural Housing Loans and Grants	0575-AA93
139	Adverse Decisions and Administrative Appeals FmHA Instruction 1900-B	0575-AB09
140	1924-C, Planning and Performing Site Development Work (Remote Rural Area)	0575-AB11

Federal Crop Insurance Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
141	General Administrative Regulations; Sanctions, Civil Penalties, Suspension and Debarment	0563-AA70

Federal Crop Insurance Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
142	General Administrative Regulations, Appeal Procedures	0563-AA63
143	Late and Prevented Planting Endorsement	0563-AA71

Federal Crop Insurance Corporation—Completed Actions

Sequence Number	Title	Regulation Identifier Number
144	ASCS Farm Program Payment Yield Option	0563-AA57
145	Peanut Crop Insurance Regulations	0563-AA64
146	General Crop Insurance Regulations Amendment No. 70 - Late Filed Applications	0563-AA67
147	General Crop Insurance Regulations, Rice Endorsement	0563-AA69

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Federal Grain Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
148	A Review of the Regulations Under the United States Grain Standards Act: Part 800	0580-AA08
149	Regulatory Application of Water to Grain	0580-AA25
150	Fees for Official Inspection and Weighing Services	0580-AA27
151	United States Standards for Corn	0580-AA28
152	United States Standards for Barley	0580-AA29
153	United States Standards for Rice	0580-AA30

Federal Grain Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
154	United States Standards for Soybeans	0580-AA14

Federal Grain Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
155	United States Standards for Sorghum	0580-AA10
156	United States Standards for Wheat	0580-AA15
157	United States Standards for Beans, Whole Dry Beans, Split Peas and Lentils	0580-AA31
158	General Regulations (BC + FM - BN + FM)	0580-AA32
159	Certificate of Additive-Treated Grain	0580-AA33
160	Issuance of Official Certificates	0580-AA34

Food and Nutrition Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
161	Systematic Alien Verification for Entitlements	0584-AA73

Food and Nutrition Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
162	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems	0584-AA80
163	Food Stamp Program: Emergency Assistance for Victims of Disasters	0584-AA85
164	Food Stamp Program: Student Eligibility and Treatment of Educational Assistance	0584-AA90
165	Food Stamp Program: Quality Control Review of Negative Actions	0584-AB07
166	Special Supplemental Food Program for Women, Infants, and Children (WIC): Part 246.10, Food Package III Children/Women With Special Dietary Needs	0584-AB09
167	Special Supplemental Food Program for Women, Infants and Children (WIC): Miscellaneous Provisions	0584-AB10
168	Nutrition Education and Training (NET) Program Changed Administrative Requirements	0584-AB15
169	Child and Adult Care Food Program: Child Nutrition and WIC Reauthorization Act Amendments	0584-AB16
170	Child and Adult Care Food Program: Authority To Collect Overclaims	0584-AB19
171	Child and Adult Care Food Program: Prohibition of Institutionalized Adults	0584-AB21
172	Food Distribution Programs—Paperwork Reduction	0584-AB27
173	Food Distribution Programs—Implementation of 1990 Farm Bill	0584-AB28
174	Technical Amendments to the State Processing Program and the National Commodity Processing Program	0584-AB30
175	Child and Adult Care Food Program: Paperwork Reduction Regulations	0584-AB33
176	Child Nutrition Programs: Revision of Infant Meal Patterns for the Child Nutrition Program	0584-AB34
177	Commodity Supplemental Food Program: Elderly-Only Sites, Administrative Funding, Referrals to Health and Social Services, Caseload Allocation Process, Priority System and Miscellaneous	0584-AB37

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Food and Nutrition Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
178	Food Stamp Program: Quality Control Technical Amendments	0584-AB38
179	Food Stamp Program: Miscellaneous Provisions of the Food, Agriculture, Conservation, and Trade Act of 1991 and Earned Income Tax Credit	0584-AB39
180	Food Stamp Program: Resource Provision From the Mickey Leland Memorial Domestic Hunger Relief Act of 1990 and the Food, Agriculture, Conservation, and Trade Act of 1991	0584-AB40
181	Food Stamp Program: Performance Standards for the Employment and Training Program	0584-AB46
182	Distribution of Employment and Training Performance-Based Funds	0584-AB47

Food and Nutrition Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
183	Child and Adult Care Food Program—Adult Day Care Provision	0584-AA74
184	Rules of Procedure	0584-AA75
185	Outcome-Based Performance Standards for Food Stamp Employment and Training Programs	0584-AA82
186	Food Stamp Program: Treatment of Foster Care Individuals and Foster Care Payments	0584-AA93
187	Food Stamp Program: Income Exemption for Homeless Households in Transitional Housing From the Mickey Leland Memorial Domestic Hunger Relief Act	0584-AA96
188	Food Stamp Program: Resource Exemption for Public Assistance/Supplemental Security Income From the Mickey Leland Memorial Domestic Hunger Relief Act	0584-AB00
189	Miscellaneous Farm Bill Provisions Relating to the Authorization of Retail Firms and Wholesale Food Concerns	0584-AB02
190	Food Stamp Program: Retailer Wholesaler Changes	0584-AB03
191	Recipient Claims and Automated Data Processing (ADP) Funding Requirements from the Mickey Leland Memorial Domestic Hunger Relief Act	0584-AB08
192	Special Supplemental Food Program for Women, Infants and Children (WIC): Food Cost Containment Requirements	0584-AB11
193	Special Supplemental Food Program for Women, Infants and Children (WIC): Coordination Rule Mandates of the Child Nutrition and WIC Reauthorization Act of 1989	0584-AB13
194	Determination of Eligibility for Free Meals by Summer Food Service Program Sponsors and Free and Reduced Price Meals by Child and Adult Care Food Program Institution	0584-AB17
195	Adult Meal Pattern for the Child and Adult Care Food Program	0584-AB18
196	Summer Food Service Program: Child Nutrition and WIC Reauthorization Act Amendments	0584-AB20
197	Meal Supplements in the National School Lunch Program	0584-AB24
198	Food Distribution Programs—Implementation of the Hunger Prevention Act of 1988	0584-AB25
199	Food Distribution Programs—Commodity Distribution Reform	0584-AB26
200	State Administrative Expense Funds: National School Lunch Program, Special Milk Program, School Breakfast Program, Child and Adult Care Food Programs, Food Distribution Program	0584-AB31
201	Benefit Delivery Rule	0584-AB32
202	Permanent Agreements/Direct Certification in National School Lunch, School Breakfast and Special Milk Programs	0584-AB35
203	Food Stamp Program: Technical Amendments Concerning Disabled in Group Homes and Income Exclusions for Plans for Achieving Self-Support (PASS) - Public Law 102-237	0584-AB41
204	Provisions of the Stewart B. McKinney Homeless Assistance Act and a Provision of the Food Security Act of 1985	0584-AB42
205	WIC Farmers' Market Nutrition Program	0584-AB43
206	National School Lunch Program, Special Milk Program for Children, and School Breakfast Program: Coordinated Review Effort	0584-AB44
207	Administrative Improvement and Simplification Provisions From the Hunger Prevention Act of 1988	0584-AB45

Food and Nutrition Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
208	Special Supplemental Food Program for Women, Infants, and Children Nondiscretionary Funding Rule	0584-AA83
209	Employment and Training Provisions From the Mickey Leland Memorial Domestic Hunger Relief Act	0584-AA87
210	Food Stamp Application and Income Exclusion Provisions of the 1990 Farm Bill	0584-AA91
211	Special Supplemental Food Program for Women, Infants and Children (WIC): Drug Abuse and Other Harmful Substances, Information and Referrals	0584-AB14

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Food and Nutrition Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
212	Confidentiality of Information Provided on Applications for Free and Reduced Price Meals	0584-AB22
213	Special Supplemental Food Program for Women, Infants and Children (WIC): Food Package for Breastfeeding Women	0584-AB36

Food Safety and Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
214	Amenability of Specific Poultry Species Under the Poultry Products Inspection Act	0583-AB29

Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
215	Sulfonamide and Antibiotic Residues in Young Veal Calves; Revised Testing Program	0583-AA68
216	Sodium/Potassium Lactate as Means of Reducing Certain Pathogenic Microorganisms in Specific Meat and Poultry Products	0583-AA83
217	Ante-Mortem Inspection of Disabled Animals on Transport Vehicles	0583-AA98
218	Food Additives and GRAS Substances Used as Ingredients in Meat Food and Poultry Products	0583-AB02
219	Poultry Post-Mortem Inspection System	0583-AB03
220	Export Certification Procedures	0583-AB04
221	Use of Compressed Air in Boning Operations	0583-AB13
222	Processing, Distribution, Storage, and Retail Handling of Ready-to-Eat, Uncured, Perishable Meat and Poultry Products Packaged in Sealed Containers	0583-AB14
223	Use of Ascorbic Acid, Erythorbic Acid, Citric Acid, Sodium Citrate, and Sodium Ascorbate in Fresh Beef and Lamb	0583-AB15
224	Notification of Residue Violators and Testing of Subsequent Shipments of Animals	0583-AB32
225	Requirements for Imported Poultry Products	0583-AB42
226	User Fees for Laboratory Accreditation	0583-AB49
227	Prior Label Approval Process	0583-AB50
228	Substitute Products Identified by Standardized Terms and Nutrient Content Claims	0583-AB51
229	License or Other Authorization for Federal Poultry Inspection	0583-AB54
230	Use of Carbon Dioxide in the Humane Slaughter of Swine	0583-AB57
231	United States-Canada Meat and Poultry Reinspection	0583-AB61

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
232	Requirements for Foreign Country Import Certification and Live Animal Importation	0583-AA47
233	Increase in Use Levels of Sodium Citrate as an Anticoagulant	0583-AA76
234	Use of Sorbitol as a Flavoring Agent in Specific Meat Products	0583-AA79
235	Processing Procedures and Cooking Instructions for Cooked, Uncured Meat Patties	0583-AA81
236	PFF for Turkey Ham	0583-AA84
237	Imported Canadian Product; Provision for "Streamlined" Inspection Procedures; Exemption From Official Mark of Inspection	0583-AA99
238	Use of Tricalcium Phosphate as a Sequestrant in Mechanically Deboned Chicken	0583-AB09
239	Policy for Differentiating Between Calves and Adult Cattle	0583-AB18
240	Use of Citric Acid as a Color Preservative on the Surface of Cured Meat Cuts	0583-AB20
241	Use of Tocopherols as Antioxidants and Citric Acid as a Synergist in Various Meat Products	0583-AB25
242	Smoke Flavorings and Artificial Smoke Flavorings	0583-AB36
243	Listing of Minor Ingredients in Other Than Order of Predominance	0583-AB37
244	Prominent Labeling Disclosures on Meat and Poultry Products	0583-AB53

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Food Safety and Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
245	Use of Sodium Lactate and Potassium Lactate as Flavor Enhancers in Meat and Poultry Products	0583-AA75
246	Nutrition Labeling of Meat and Poultry Products	0583-AB34

Foreign Agricultural Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
247	Reporting Requirements Related to Tobacco Exports	0551-AA32

Foreign Agricultural Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
248	Proposed Regulations Governing Implementation of the Cooperator Market Development Program Overseas	0551-AA26
249	Section 22 Import Quotas	0551-AA27

Foreign Agricultural Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
250	Regulations Governing Implementation of the Market Promotion Program (MPP) Overseas	0551-AA24
251	CCC Export Credit Guarantee Program (GSM-102) and CCC Intermediate Export Credit Guarantee Program (GSM-103)	0551-AA30
252	Program Criteria for the Sunflowerseed Oil Assistance Program (SOAP) and the Cottonseed Oil Assistance Program (COAP)	0551-AA31
253	Sunflowerseed Oil Assistance Program Operations (SOAP) and Cottonseed Oil Assistance Program Operations (COAP)	0551-AA33
254	Direct Credit Programs (GSM-5, GSM-201, GSM-301) Regulations	0551-AA34
255	Emerging Democracies Agricultural Facility Guarantee Program	0551-AA35
256	Regulations Governing the Financing of Commercial Sales of Agricultural Commodities (P.L. 480 Title I Program)	0551-AA36

Forest Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
257	Whiskeytown-Shasta-Trinity National Recreation Area	0596-AA68
258	Change Emphasis Away From Residual Value Appraisal to Transaction Evidence Appraisal as the Prime Method of Appraising National Forest Timber	0596-AB26
259	Retention of Downpayment on Timber Sale Contracts	0596-AB28

Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
260	Grazing and Livestock Use	0596-AA35
261	Prohibition on Mechanical Transport and Other Activities in Wilderness	0596-AA39
262	Application Procedures and Fees for Hydroelectric Uses on National Forest System Lands	0596-AA47
263	Locatable Minerals	0596-AA49
264	National Forest Prohibitions; Law Enforcement Support Activities	0596-AA75
265	Revise Small Tracts Act Regulations	0596-AA79

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Forest Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
266	Revise Rules Governing Special Uses of National Forest System Lands and Resources at 36 CFR 251 To Remove Ambiguities Regarding First Amendment Rights	0596-AA80
267	Hells Canyon National Recreation Area—Private Lands	0596-AA88
268	Irrevocable Letter of Credit	0596-AA93
269	Disposal of Quartz Minerals on the Ouachita National Forest	0596-AB01
270	Pre-Award Information Requirements	0596-AB03
271	Expanded Use of Prospecting Permits and Preference Right Sales for Mineral Materials	0596-AB12
272	Clarification and Revision of Appealable Decisions Under 36 CFR Part 251, Subpart C	0596-AB17
273	Land and Resource Management Planning	0596-AB20
274	Government Cancellation of Timber Sale Contracts	0596-AB21
275	Species Surplus to Domestic Manufacturing Needs	0596-AB27
276	National Forest System Notice; Comment and Appeals Procedures	0596-AB30
277	Proposed Policy National Forest System Land and Resource Management Planning Forest Service Manual (FSM 1920)	0596-AB31
278	Use of Fixed Anchors for Rock Climbing in Wilderness	0596-AB33

Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
279	Improving Financial Security of Timber Sale Contracts	0596-AA33
280	Land Exchanges	0596-AA42
281	Indian Allotments on National Forest System Lands	0596-AA52
282	Surety Bond Form Revision	0596-AA94
283	Federal Cave Resources Protection	0596-AB02
284	Recreation Residence Authorization Policy	0596-AB06
285	Hells Canyon National Recreation Area—Use of National Forest Lands	0596-AB08
286	Federal Timber Export and Substitution Restrictions (Comprehensive Revision)	0596-AB22
287	Below-Cost Timber Sale Program Policy and Guidelines	0596-AB24
288	State and Private Forestry Assistance Stewardship Incentive Program	0596-AB32
289	Special-Use Applications and Administration of Special-Use Authorizations	0596-AB35

Forest Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
290	Use of "Smokey Bear" Symbol	0596-AA66
291	36 CFR 241 Wildlife: Cooperation in Wildlife Protection, Wildlife Management, and Federal Refuge Regulations	0596-AA81
292	National Environmental Policy Act Revised Implementing Policy and Procedures	0596-AB05
293	Viability of Species in Forest Planning	0596-AB34

Office of Finance and Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
294	Audits of Institutions of Higher Education and Other Nonprofit Organizations	0505-AA07
295	Audits of State, Local, and Indian Tribal Governments	0505-AA09

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Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
296	Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture	0503-AA05

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
297	Food Stamp Program: Forfeiture and Denial of Property Rights	0503-AA07

Rural Electrification Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
298	Loan Security Documents—Telephone Program	0572-AA30
299	Revision of Telecommunication Policies and Procedures for Approval of Standards, Specifications, Contract Forms, and Drawings	0572-AA45
300	Electric System Construction Policies and Procedures—Electric Materials and Construction	0572-AA47
301	Electric System Planning and Design—Policies and Procedures	0572-AA48
302	Margin Stabilization Plans and Revenue and Expense Deferrals	0572-AA50
303	Specification for Fiber Optic Splice Closures	0572-AA62
304	REA Software License Agreement	0572-AA63
305	REA Specification for Mechanical Fiber Optic Splices	0572-AA64
306	Loan Account Computations, Policies, and Procedures	0572-AA65
307	Electric Standards and Specifications for Materials and Construction	0572-AA67
308	Pre-Loan Policies and Procedures for Insured Electric Loans	0572-AA69
309	Post-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans	0572-AA70
310	Post-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans	0572-AA71
311	REA Performance Specification for Line Concentrators	0572-AA72
312	REA Buy American Requirement	0572-AA73
313	Electric Systems Operations and Maintenance	0572-AA74
314	Civil Rights Policies Applicable to REA Borrowers	0572-AA75
315	Loan Documents—Bank Program	0572-AA76
316	Standards and Specifications for Timber Products Acceptable for use on REA Financed Electric and Telephone Systems	0572-AA77
317	Depreciation Rates and Procedures	0572-AA80
318	Specification for Filled Fiber Optic Cables	0572-AA82
319	Specification for Pole Line Hardware	0572-AA83
320	Electric System Construction Policies and Procedures	0572-AA84

Rural Electrification Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
321	REA Form 525, Central Office Equipment Contract (Including Installation)	0572-AA20
322	Accounting Requirements for REA Electric Borrowers	0572-AA23
323	Wholesale Contracts for the Purchase and Sale of Electric Power and Energy	0572-AA41
324	REA Specification for Filled Telephone Cables	0572-AA55
325	REA Specification for Filled Telephone Cables with Expanded Insulation	0572-AA56
326	REA Specification for Filled Buried Wires	0572-AA57
327	General Specification for Digital, Stored, Program Controlled Central Office Equipment	0572-AA58
328	Pre- and Post-Loan Policies and Procedures for Guaranteed Electric and Telephone Loans	0572-AA59
329	Loan Payment Deferments for Economic Development Programs	0572-AA60
330	Rescission of REA Bulletins 345-13 and 345-29	0572-AA66
331	Pre- and Post-Loan Policies and Procedures for Guaranteed Electric and Telephone Loans	0572-AA68

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Rural Electrification Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
332	Borrower Investments—Telephone Loan Program	0572-AA78
333	Seismic Safety of New Building Construction	0572-AA61

Rural Electrification Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
334	Credit Support of Power Supply Borrowers	0572-AA39
335	Rural Business Incubator Project	0572-AA46
336	Distance Learning and Medical Link Programs	0572-AA79

Soil Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
337	Farmland Protection Policy Act	0578-AA14

Soil Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
338	Soil Surveys	0578-AA00

Office of Operations—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
339	Agriculture Acquisition Regulation	0599-AA00

Office of Operations—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
340	New Restrictions on Lobbying	0599-AA01
341	Vending Facilities Operated by Blind Persons in USDA-Controlled Buildings	0599-AA02

DEPARTMENT OF AGRICULTURE (USDA)

Prerule Stage

Agricultural Marketing Service (AMS)

1. ORGANIC CERTIFICATION OF ORGANIC FOOD PRODUCTION ACT OF 1990

Significance: Agency Priority

Legal Authority: PL 101-624, sec 2101 to 2123; 7 USC 6501 to 6522

CFR Citation: None

Legal Deadline: NPRM, Statutory, May 28, 1992. Final, Statutory, October 1, 1993. Other, Statutory, May 28, 1991. Act calls for the Secretary to appoint the National Organic Standards Board 180 days after enactment and convene it within 60 days thereafter.

Abstract: Public Law 101-624 calls for necessary regulations to implement the Organic Foods Production Act of 1990. The legislation calls for a national program to develop standards for certifying products as organic. Actions called for under this Act include: (a) notice for applicants to apply for membership on the National Organic

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Standards Board; (b) notice of nominations to the Board and announcement of meetings; (c) notice inviting States and other individuals to apply to be Certifying agents; (d) notice, hearings and comments for development of regulations for standards for organic livestock products; (e) notice and comment on proposed and final National List of Approved and Prohibited Substances for Organic Production and Handling; (f) notice and comment on proposed amendments to the National List; (g) issue a proposed rule to implement the title for comment; and (h) issue a final rule to implement the program.

Timetable: Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Harold S. Ricker, Assistant Director, Transportation and Marketing Division, Department of Agriculture, Agricultural Marketing Service, Room 4006 South Building, PO Box 96456, Washington, DC 20090-6456, 202 720-2704

RIN: 0581–AA40

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS) — Proposed Rule Stage

2. REVIEW OF PRICING PROVISIONS IN ALL FEDERAL MILK MARKETING ORDERS

Significance: Agency Priority

Legal Authority: 7 USC 601 to 674 Agricultural Marketing Agreement Act

CFR Citation: 7 CFR 1001 to 1139

Legal Deadline: None

Abstract: To consider proposed amendments to the Class I milk price, Class II milk price, classification of milk products, and reconstituted milk provisions of all milk orders. Certain of these provisions have not been reviewed at a hearing for many years.

Timetable:

Action	Date	FR Cite
Advance Notice for Proposals Submit Proposed Amendments by May 31, 1990	04/03/90	55 FR 12369
Notice of Hearing	07/17/90	55 FR 29034
Public Hearing	09/15/90	
Public Hearing on Amendments Ends	11/20/90	
Comment Period Extended to 04/30/91	04/03/91	56 FR 13603
Recommended Decision	11/22/91	56 FR 58972

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Clayton H. Plumb, Chief, Order Formulation Branch, Dairy Division, Department of Agriculture, Agricultural Marketing Service, Room 2968 South Bldg., Washington, DC 20250, 202 720-6274

RIN: 0581–AA37

3. NATIONAL LABORATORY ACCREDITATION PROGRAM

Significance: Agency Priority

Legal Authority: PL 101-624, sec 1321 to 1330; 7 USC 138 to 138i

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The 1990 Farm Bill authorized the creation of a National Laboratory Accreditation Program (NLAP) for laboratories that request accreditation and conduct residue testing of agricultural products or that make claims to the public or buyers of agricultural products concerning chemical residue levels on agricultural products. The program is designed to protect human health by ensuring that laboratories which make claims to the public concerning pesticide residue levels meet minimum quality and reliability standards. The standards for the NLAP will be provided by the Food and Drug Administration with the operation of the program under the Agricultural Marketing Service, USDA. The program costs will be offset by a fee schedule. The one-time appropriation was used to provide for a fully equipped pesticide laboratory to verify the findings of those laboratories applying for accreditation.

Timetable:

Action	Date	FR Cite
ANPRM	11/20/92	57 FR 54727
ANPRM Comment Period End	01/19/93	57 FR 54727
NPRM	00/00/00	
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Public Compliance Cost: Initial Cost: $600,000; Base Year for Dollar Estimates: 1992

Sectors Affected: Multiple

Agency Contact: Craig A. Reed, Director, Science Division, Department of Agriculture, Agricultural Marketing Service, Room 3064 South Building, Washington, DC 20090-6456, 202 720-5231

RIN: 0581–AA38

4. ESTABLISH A PROCESSOR-FUNDED MILK PROMOTION PROGRAM

Significance: Agency Priority

Legal Authority: PL 101-624, Sec 1999(A); 7 USC 6401 to 6417

CFR Citation: None

Legal Deadline: Other, Statutory. A final order, if approved by fluid milk processors, shall become effective not later than 180 days following publication of the proposed order.

Abstract: The "Fluid Milk Promotion Act of 1990," authorized the establishment of a processor-funded milk promotion program which will provide an orderly procedure for developing, financing through assessments on fluid milk products produced in the United States, and carrying out a coordinated program of advertising designed to strengthen the position of the dairy industry in the market place.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Borovies, Marketing Specialist, Dairy Division, Department of Agriculture, Agricultural Marketing Service, Room 2968 South Building, Washington, DC 20250, 202 690-1366

RIN: 0581–AA44

USDA—AMS — **Proposed Rule Stage**

5. REVISION OF REGULATIONS GOVERNING THE INSPECTION AND GRADING SERVICES OF MANUFACTURED OR PROCESSED DAIRY PRODUCTS

Legal Authority: 7 USC 1621 to 1627 Agricultural Marketing Act of 1946

CFR Citation: 7 CFR 58

Legal Deadline: None

Abstract: The regulations have not been updated since December 1, 1976. The revisions of regulations are needed to reflect more desirable ways of carrying out the dairy inspection and grading program. The changes are not expected to have any major impact on program participation, however, in that most participants are operating in a manner that is consistent with the proposed changes.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tracy Schonrock, Chief, Inspection and Grading Branch, Dairy Division, Department of Agriculture, Agricultural Marketing Service, Room 2968 South Building, Washington, DC 20250, 202 720-0530

RIN: 0581–AA45

6. REGULATIONS UNDER THE FEDERAL SEED ACT

Legal Authority: 7 USC 1551 to 1611 Federal Seed Act

CFR Citation: 7 CFR 201 to 202

Legal Deadline: None

Abstract: Changes in the regulations of the Federal Seed Act (FSA) are to be proposed to eliminate differences between FSA and Association of Official Seed Analysts (AOSA) testing rules as well as differences between minimum seed certification standards of the FSA and those of the Association of Official Seed Certifying Agencies (AOSCA). The FSA regulates the interstate shipment of agricultural and vegetable seed, which is required to be labeled with certain information needed by the seed buyer. The Agricultural Marketing Service (AMS) has cooperative agreements with each of the 50 states who inspect and test seed being sold in their state. Interstate shipments of seed found to be mislabeled can be submitted to AMS for action under the FSA. States test seed according to AOSA rules. AMS must test according to FSA rules. Any alternative to the changes, could in some cases cause seed labeled according to a test conducted by AOSA rules to be mislabeled when tested according to FSA rules, or cause seed certified by an AOSCA member agency to be not in compliance with the FSA. On balance these changes will likely result in no cost or a net savings to the seed industry.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James P. Triplitt, Chief, Seed Regulatory and Testing Branch, Department of Agriculture, Agricultural Marketing Service, Building 506, BARC-E, Beltsville, MD 20705, 301 504-9430

RIN: 0581–AA52

7. MANDATORY INSPECTION OF EGGS AND EGG PRODUCTS

Significance: Agency Priority

Legal Authority: 21 USC 1031 to 1056 Egg Products Inspection Act

CFR Citation: 7 CFR 59

Legal Deadline: None

Abstract: The proposal clarifies areas of responsibility and authority in regard to the time of inspection, operating schedules of official plants, facilities to be furnished for the inspectors, a new authority regarding an appeal grading or inspection, air flow in liquid holding rooms, hand washing and sanitizing, covering facial hair, and results of laboratory tests and analyses. Changes to make this regulation consistent with other Division regulations affect the definition of "Dirty Egg," a new definition for "Nest run eggs," and the rinse water temperature in egg cleaning operations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Janice L. Lockard, Chief, Stn. Branch, Poultry Division, Department of Agriculture, Agricultural Marketing Service, Room 3944 South Building, P.O. Box 96456, Washington, DC 20090-6456, 202 720-3506

RIN: 0581–AA55

8. POLICY STATEMENT AND REGULATIONS GOVERNING AVAILABILITY OF TOBACCO INSPECTION SERVICES TO BURLEY TOBACCO ON DESIGNATED MARKETS

Significance: Agency Priority

Legal Authority: 7 USC 511 et seq

CFR Citation: 7 CFR 29

Legal Deadline: None

Abstract: The proposed rule was withdrawn and is being rewritten. We plan to publish the proposed rule in April with a 60-day comment period. The Department established the burley tobacco advisory committee effective May 14, 1990 to assist in the regulation of sales at designated markets selling burley tobacco. The committee has met three times and adopted a statement of policies and procedures for the 1991-92 season.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0

Agency Contact: Larry J. Hopkins, Director, Tobacco Division, Department of Agriculture, Agricultural Marketing Service, Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456, 202 205-0567

RIN: 0581–AA56

9. REVIEW OF BASIC FORMULA PRICE IN ALL FEDERAL MILK ORDERS

Significance: Agency Priority

Legal Authority: 7 USC 601 to 674 Agricultural Marketing Agreement Act

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USDA—AMS **Proposed Rule Stage**

CFR Citation: 7 CFR 1001 to 1139

Legal Deadline: Other, Statutory, October 1, 1991.
An advance notice of proposed rulemaking shall be issued not later than October 1, 1991 (PL 101-624, Sec. 103).

Abstract: To consider the proposed replacement of the Minnesota-Wisconsin price serves as the basic formula price in federal milk marketing orders.

Timetable:

Action	Date	FR Cite
Notice of Hearing	05/15/92	57 FR 20790
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Clayton R. Plumb, Chief, Order Formulation Branch Dairy Division, Department of Agriculture, Agricultural Marketing Service, Room 2968 South Building, Washington, DC 20250, **202 720-6274**

RIN: 0581–AA57

10. VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1627 Agricultural Marketing Act of 1946

CFR Citation: 7 CFR 55

Legal Deadline: None

Abstract: The proposal will broaden the definition of "Product" to include certain products that are now exempt and will change the terminology describing facilities to be furnished by official plants. These are the same changes being proposed for 7 CFR part 59 and would make both regulations consistent to avoid confusion among the inspectors who must enforce both regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Janice L. Lockard, Chief, Stn. Branch, Poultry Division, Department of Agriculture, Agricultural Marketing Service, Room 3944 South Building, P.O. Box 96456, Washington, DC 20090-6456, **202 720-3506**

RIN: 0581–AA58

11. GRADING OF SHELL EGGS

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1627 Agricultural Marketing Act of 1946

CFR Citation: 7 CFR 56

Legal Deadline: None

Abstract: The proposal clarifies and updates provisions of the regulations in response to changing industry practices, program direction, and policy interpretation. Changes to reflect current industry practices would affect grading room requirements, references to the tape used to seal cartons, and the reuse of oil from shell egg protecting operations. Changes to clarify and strengthen existing regulations would affect the definition of "quality assurance inspector," the facilities and equipment required for graders, the temperature of the spray rinse in shell egg cleaning operations, and the "nest run B quality shell" definition. Other changes will be to require a specific level of humidity in cooler rooms to help maintain egg quality and to eliminate wholesale grades and weight classes because they are no longer used.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Janice L. Lockard, Chief, Stn. Branch, Poultry Division, Department of Agriculture, Agricultural Marketing Service, Room 3944 South Building, PO Box 96456, Washington, DC 20090-6456, **202 720-3506**

RIN: 0581–AA60

12. VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1627 Agricultural Marketing Act of 1946

CFR Citation: 7 CFR 70

Legal Deadline: None

Abstract: The proposal updates the poultry grade standards to reflect changes in marketing practices. Changes to reflect current industry practices will reclassify discolorations, will expand the range allowable, will eliminate the two procurement grades, will change new carcass weight categories, and will establish new grading criteria for large poultry parts. Change to clarify and strengthen existing regulations related to the definition of "exposed flesh."

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Janice L. Lockard, Chief, Stn. Branch, Poultry Division, Department of Agriculture, Agricultural Marketing Service, Room 3944 South Building, PO Box 96456, Washington, DC 20090-6456, **202 720-3506**

RIN: 0581–AA61

13. FEES AND CHARGES, MANDATORY TOBACCO INSPECTION

Significance: Agency Priority

Legal Authority: 7 USC 511 et seq

CFR Citation: 7 CFR 29

Legal Deadline: None

Abstract: AMS does not plan to ask for an increase until Fiscal Year 1994.

Timetable:

Action	Date	FR Cite
NPRM	04/00/94	
NPRM Comment Period End	05/00/94	
Final Action	07/00/94	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Larry J. Hopkins, Director, Tobacco Division, Department of Agriculture, Agricultural Marketing Service, Room 502 Annex Building, PO Box 96456, Washington, DC 20090-6456, **202 205-0567**

RIN: 0581–AA62

14. AMENDMENT TO COTTON BOARD RULES AND REGULATIONS

Significance: Agency Priority

Legal Authority: 7 USC 2101

USDA—AMS **Proposed Rule Stage**

CFR Citation: 7 CFR 1205

Legal Deadline: None

Abstract: The objective of this rulemaking is to modify the value of imported cotton promulgated in the regulation for the purpose of collecting assessments on imported cotton and cotton-containing products. The new value would reflect the latest data available as published by USDA.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Craig Shackelford, Asst. Chief, Research and Promotion Staff, Department of Agriculture, Agricultural Marketing Service, Room 2641 South Building, 14th and Independence Avenue SW., Washington, DC 20250, **202 720-2259**

RIN: 0581–AA63

15. REVISION OF USER FEES FOR COTTON CLASSIFICATION, TESTING AND STANDARDS

Legal Authority: 7 USC 473(a); 7 USC 473(d); 7 USC 55

CFR Citation: 7 CFR 28; 7 CFR 27

Legal Deadline: Final, Statutory, June 1, 1993.

Abstract: This revision will adjust the 1992 user fees for grower's classification under the Cotton Statistics and Estimates Act of 1987 as amended by Public Law 102-237. The revisions would allow for the recovery of costs associated with these programs. The economic impact of the revisions in user fees are not yet precisely known. A slight increase would not have a major economic impact. All services are voluntary.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lee Cliburn, Assistant to the Director, Department of Agriculture, Agricultural Marketing Service, Room 2641-S South Building, 14th & Independence Ave. SW., Washington, DC 20250, **202 720-3193**

RIN: 0581–AA75

16. PROCEDURES FOR CONDUCT OF SOYBEAN REFERENDUM

Legal Authority: 7 USC 6301 to 6311

CFR Citation: 7 CFR 1220

Legal Deadline: None

Abstract: Pursuant to the Soybean Promotion, Research, and Consumer Information Act, a referendum must be held during the January 1993 to July 1994 period. This rule is necessary to provide procedures for the conduct of a referendum.

Alternatives: This rule is mandated by the Soybean Promotion, Research, and Consumer Information Act. Consequently, it is not within the Secretary's discretion to consider alternatives.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph L. Tapp, Chief, Marketing Programs Branch, Livestock and Seed Division, Department of Agriculture, Agricultural Marketing Service, Room 2624-S South Building, P.O. Box 96456, Washington, DC 20090-6456, **202 720-1115**

RIN: 0581–AA77

17. RULES OF PRACTICE GOVERNING PROCEEDINGS ON PETITIONS TO MODIFY OR TO BE EXEMPTED FROM THE SOYBEAN PROMOTION AND RESEARCH ORDER

Legal Authority: 7 USC 6301 to 6311

CFR Citation: 7 CFR 1220

Legal Deadline: None

Abstract: This rule is necessary to provide affected persons with the guidelines to request exemption from the Order. This is a requirement in this program's enabling legislation.

Alternatives: This rule is mandated by the Soybean Promotion, Research, and Consumer Information Act. Consequently, it is not within the Secretary's discretion to consider alternatives.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	04/00/93	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph L. Tapp, Chief, Marketing Programs Branch, Livestock and Seed Division, Department of Agriculture, Agricultural Marketing Service, Room 2624-S South Building, P.O. Box 96456, Washington, DC 20090-6456, **202 720-1115**

RIN: 0581–AA78

18. AGENCY REORGANIZATION OF ANALYTICAL TESTING SERVICES

Significance: Agency Priority

Legal Authority: 7 USC 1421; 7 USC 1423; 7 USC 1441; 7 USC 1621 to 1627; 7 USC 2321; 7 USC 2326; 7 USC 2352 to 2353; 7 USC 2356; 7 USC 2371; 7 USC 2402(b); 7 USC 2403; 7 USC 2426 to 2427; 7 USC 2501(c); 15 USC 714(c); 21 USC 1301 to 1056

CFR Citation: 7 CFR 29; 7 CFR 52; 7 CFR 55; 7 CFR 58; 7 CFR 59; 7 CFR 61; 7 CFR 70; 7 CFR 90 to 159; 7 CFR 180

Legal Deadline: None

Abstract: The Agricultural Marketing Service (AMS) of the Department of Agriculture consolidated and transferred functions related to analytical laboratory testing services performed on tobacco, seeds, dairy products, eggs, fruits, vegetables, meat, poultry and related agricultural products to its Science Division. This proposed rule would revise the regulations by establishing a new Subchapter E, Commodity Laboratory Testing Programs, in Title 7 of the Code of Federal Regulations by amending and transferring AMS regulations concerning laboratory services, and the regulations under the Plant Variety Protection Act. The regulations would also be revised by adding provisions for statistical science support services and residue monitoring operations to the new subchapter parts 90-101 and part 110. In addition, fees charged for testing services under the various Science Division programs would be

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amended to reflect additional costs associated with the services.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig A. Reed, Director, Department of Agriculture, Agricultural Marketing Service, Room 3064-S South Agriculture Building, Washington, DC 20090-6456, 202 720-5231

RIN: 0581–AA85

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS) — **Final Rule Stage**

19. RECORDKEEPING REQUIREMENTS FOR CERTIFIED APPLICATORS OF FEDERALLY RESTRICTED USE PESTICIDES

Significance: Agency Priority

Legal Authority: PL 101-624, sec 1491; 7 USC 136i-1

CFR Citation: 7 CFR 110

Legal Deadline: NPRM, Statutory, August 10, 1992. Final, Statutory, June 1, 1993.
Statutory, May 27, 1991 (180 Days after enactment).

Abstract: The USDA, in consultation with EPA, will establish requirements for recordkeeping by all certified applicators of federally restricted use pesticides. Annual reports to Congress on agricultural/nonagricultural uses of federally restricted pesticides are mandated. The identity of individual producers in these reports and surveys will be protected. Currently no recordkeeping requirements exist at the Federal level for certified private applicators. Most State commercial applicator certification programs require some form of recordkeeping. States that do not have any type of recordkeeping regulations will fall under a Federal program. To implement, USDA will delegate operational responsibilities to States through cooperative agreements. AMS will oversee the Federal program.

Timetable:

Action	Date	FR Cite
ANPRM	05/12/92	57 FR 20380
ANPRM Comment Period End	08/10/92	
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Public Compliance Cost: Initial Cost: $1,500,000,000; Base Year for Dollar Estimates: 1992

Sectors Affected: Multiple

Agency Contact: Bonnie Poli, Chief, Pesticide Record Branch, Department of Agriculture, Agricultural Marketing Service, Suite 200, 8700 Centervill Rd., Manassas, VA 22110, 703 330-7826

RIN: 0581–AA39

20. FEE INCREASE FOR DAIRY GRADING PROGRAM

Legal Authority: 7 USC 1621 to 1629 Agricultural Marketing Act of 1946

CFR Citation: 7 CFR 58

Legal Deadline: None

Abstract: The main purpose of the program changes is to increase fees charged for inspection and grading services. The program is voluntary, with all cost being covered by user fees.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10382
NPRM Comment Period End	04/11/91	56 FR 10382

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tracy Schonrock, Chief, Inspection and Grading Branch, Dairy Division, Department of Agriculture, Agricultural Marketing Service, Room 2968 South Building, Washington, DC 20050, 202 720-0503

RIN: 0581–AA42

21. EGG RESEARCH AND PROMOTION RULES AND REGULATIONS

Significance: Agency Priority

Legal Authority: 7 USC 2701 to 2718 Egg Research and Consumer Information Act

CFR Citation: 7 CFR 1250

Legal Deadline: None

Abstract: The proposal will add a late payment charge on past-due assessments. This change was approved by the Board and will assist the Board in carrying out provisions of the "Egg Research and Consumer Information Act."

Timetable:

Action	Date	FR Cite
NPRM	12/18/92	57 FR 60139
NPRM Comment Period End	01/19/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Janice L. Lockard, Chief, Stn. Branch, Poultry Division, Department of Agriculture, Agricultural Marketing Service, Room 3944 South Building, PO Box 96456, Washington, DC 20090-6456, 202 720-3506

RIN: 0581–AA59

22. MILK FOR MANUFACTURING PURPOSES AND ITS PRODUCTION AND PROCESSING; REQUIREMENTS RECOMMENDED FOR ADOPTION BY STATE REGULATORY AGENCIES

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1627 Agricultural Marketing Act

CFR Citation: None

Legal Deadline: None

Abstract: This document incorporates provisions for an expanded drug residue monitoring program. This action provides State regulatory agencies and the dairy industry with guidance in carrying out sampling, testing and monitoring activities relating to drug residues in manufacturing grade milk. The document also includes a provision for a State-sanctioned penalty to be imposed on a manufacturing-grade milk producer who ships milk testing positive for drug residue.

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Timetable:

Action	Date	FR Cite
NPRM	07/27/92	57 FR 33168
NPRM Comment Period End	08/26/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Duane R. Spomer, Chief, Dairy Standardization Branch, Dairy Division, Department of Agriculture, Agricultural Marketing Service, Room 2750-S, P.O. Box 96456, Washington, DC 20090-6456, 202 720-7473

RIN: 0581–AA70

23. FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

Significance: Agency Priority

Legal Authority: 7 USC 1622; 7 USC 1624

CFR Citation: 7 CFR 51

Legal Deadline: None

Abstract: The objective is to increase the fees for voluntary inspection services at destination markets to replenish the reserve balance of the trust fund. The industry has repeatedly emphasized the program's need to provide faster response to requests for service. To meet this requirement, we have hired more graders. The additional costs have caused the market inspection segment of the Fresh Products Trust Fund reserve to fall to 1.3 months of operating reserve, well below the four months needed to ensure the program's financial viability and to satisfy requirements of AMS policy.

Timetable:

Action	Date	FR Cite
NPRM	07/02/92	57 FR 29449
NPRM Comment Period End	08/03/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Douglas C. Bailey, Head, Program Operations and Review Section, Department of Agriculture, Agricultural Marketing Service, Room 2056-S, Fresh Products Branch, Washington, DC 20250, 202 720-5870

RIN: 0581–AA71

24. BEEF PROMOTION AND RESEARCH REAPPORTIONMENT

Legal Authority: 7 USC 2901 to 2911

CFR Citation: 7 CFR 1260

Legal Deadline: None

Abstract: Pursuant to the Beef Promotion and Research Act reapportionment of the Board is required every 3 years based on cattle numbers in the States or regions as well as the volume of imports.

Alternatives: (1) Delay reapportionment, (2) No change

Selection of either alternative would cause the Board to not reflect the geographic distribution of cattle production volume in the U.S. and the volume of imported cattle, beef, or beef products into the U.S.

Timetable:

Action	Date	FR Cite
NPRM	10/19/92	57 FR 47576
NPRM Comment Period End	11/18/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph L. Tapp, Chief, Marketing Programs Branch, Department of Agriculture, Agricultural Marketing Service, Room 2624-S South Building, P.O. Box 96456, Washington, DC 20090-6456, 202 720-1115

RIN: 0581–AA76

25. POLICY STATEMENT AND REGULATIONS GOVERNING THE EXTENSION OF TOBACCO INSPECTION AND PRICE SUPPORT SERVICES TO NEW MARKETS AND TO ADDITIONAL SALES ON DESIGNATED MARKETS

Legal Authority: 7 USC 511 et seq

CFR Citation: 7 CFR 29

Legal Deadline: None

Abstract: A proposed rule was published in the Federal Register January 8, 1993, with a 30-day comment period requested by the industry to allow more flexibility in building new warehouses. In many markets zoning laws and the cost of land make it impossible to build new warehouses within the three mile limit.

Timetable:

Action	Date	FR Cite
NPRM	01/08/93	58 FR 3233
NPRM Comment Penod End	02/08/93	
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Larry J. Hopkins, Director, Tobacco Division, Department of Agriculture, Agricultural Marketing Service, Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456, 202 205-0567

RIN: 0581–AA84

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS) — **Completed Actions**

26. MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION ORDER

Significance: Agency Priority

CFR Citation: 7 CFR 1209

Completed:

Reason	Date	FR Cite
Final Action	01/08/93	58 FR 3446
Final Action Effective	01/08/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Martha Ransom, 202 720-9915

RIN: 0581–AA49

27. REVISION OF GRADE STANDARDS FOR AMERICAN UPLAND COTTON

Significance: Agency Priority

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CFR Citation: 7 CFR 28

Completed:

Reason	Date	FR Cite
Final Action	08/05/92	57 FR 34495
Final Action Effective	08/05/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lee Cliburn, 202 720-3193

RIN: 0581–AA65

28. INCREASE IN FEES AND CHARGES FOR EGG PRODUCTS INSPECTION AND EGG, POULTRY, AND RABBIT GRADING

Significance: Agency Priority

CFR Citation: 7 CFR 55; 7 CFR 56; 7 CFR 59; 7 CFR 70

Completed:

Reason	Date	FR Cite
Final Action	10/19/92	57 FR 47565
Final Action Effective	11/01/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice L. Lockard, 202 720-3506

RIN: 0581–AA72

29. REQUIREMENTS FOR APPLICANTS FOR SERVICE TO LAUNDER OR PROVIDE OUTER FROCKS TO FEDERAL MEAT GRADERS

CFR Citation: 7 CFR 54

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry R. Meadows, 202 720-1246

RIN: 0581–AA79

BILLING CODE 3410-02-F

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Stabilization and Conservation Service (ASCS) — **Proposed Rule Stage**

30. 1993 WOOL AND MOHAIR PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1781 et. seq.; The National Wool Act of 1954, as amended

CFR Citation: 7 CFR 1468

Legal Deadline: None

Abstract: The objective of this action is to encourage the continued domestic production of wool at prices fair to both producers and consumers, in a manner that will assure a viable domestic wool industry in the future, by supporting the prices of wool and mohair by means of loans, purchases, payments, or other operations. The primary determinations are 1) support mohair at a level not more than 15 percent above or below the comparable percentage of parity at which shorn wool is supported (the price support level for shorn wool is determined by statutory formula), and 2) support pulled wool through payments based on the liveweight of unshorn lambs marketed for slaughter. The net cost is expected to be $150 million to $200 million.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC65

31. COMMON PROVISIONS FOR THE 1994 WHEAT, FEED GRAIN, COTTON, AND RICE PROGRAMS

Significance: Regulatory Program

Legal Authority: 7 USC 1441-2; 7 USC 1444; 7 USC 1444-2; 7 USC 1444f; 7 USC 1445b-3a; The Agricultural Act of 1949, as amended

CFR Citation: 7 CFR 1413

Legal Deadline: None

Abstract: The objective of this action is to implement the Wheat, Feed Grain, Cotton, and Rice Programs as required by legislation. Primary determinations are 1) crops to be allowed to be planted on flexible acreage, 2) implementation of Targeted Option Payments, 3) planting of designated crops and conserving crops on Acreage Conservation Reserve (ACR) acreage, and 4) planting of oats on wheat and feed grain ACR. The net cost to the Government is expected to be $100 million to $200 million.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC74

32. 1991-95 CROPS SUGAR BEET AND SUGARCANE PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1446; The Agricultural Act of 1949, sec 201 and 206, as amended; 7 USC 1311; The Agricultural Adjustment Act of 1938, as amended

CFR Citation: None

Legal Deadline: None

Abstract: The objective of this action is to implement the Sugarcane and Sugar Beet Program as required by legislation. The primary determinations are 1) the 1991 price support level (set at the statutory minimum of 18.00 cents per pound), and 2) implementation of Domestic Marketing Allotments. No Government outlays are expected as a result of this action, but the program raises costs to consumers by about $2.0 billion per year.

Timetable:

Action	Date	FR Cite
NPRM--Price Support and Allotments	06/11/91	56 FR 26777
Final Rule--Price Support	09/18/91	56 FR 47125
NPRM--Allotments	12/02/91	56 FR 61191
NPRM--Allotments Withdrawn	07/29/92	57 FR 33459
New NPRM--Allotments	08/25/93	58 FR 16126
Final Rule--Allotments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC76

USDA—ASCS — **Proposed Rule Stage**

33. AMENDMENTS TO THE PRODUCTION ADJUSTMENT REGULATIONS—RECONSTITUTION OF BASES, ALLOTMENTS AND QUOTAS

Legal Authority: 7 USC 1379; The Agricultural Adjustment Act of 1938, sec 379, as amended.

CFR Citation: 7 CFR 719

Legal Deadline: None

Abstract: This action is needed to amend the regulations regarding reconstitution of bases, allotments, and quotas in order to 1) clarify them, 2) make them more consistent with the payment limitation regulations, and 3) determine whether a spouse should be considered the "same owner" when determining whether land is under the same ownership. No Federal outlays are expected.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC99

34. PILOT VOLUNTARY PRODUCTION LIMITATION PROGRAM

Legal Authority: 7 USC 1444f, 1445b-3a; The Agricultural Act of 1949, sec 105B(g), as amended.

CFR Citation: 7 CFR 1413

Legal Deadline: None

Abstract: This action is needed to implement the Pilot Voluntary Production Limitation Program (PVPLP) for wheat and feed grains, as required by P.L. 101-624. This action will implement regulations to provide for 1) Implementation of the PVPLP in at least 15 states, 2) Limiting the amount of wheat or feed grains that can be disposed of in excess of the production limitation quantity for the marketing year, 3) A production limitation quantity calculation, 4) Terms and conditions for producers who elect to participate, 5) Provisions for excess production, 6) Subsequent year marketing of excess production, and 7) Measures to prevent circumvention of the program, including refunds or forfeitures of commodities. Only minor administrative and program costs are expected.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AD00

35. 1994 FEED GRAIN LOAN RATES AND ACREAGE REDUCTION LEVELS

Significance: Regulatory Program

Legal Authority: 7 USC 1444 et seq; The Agricultural Act of 1949, sec 105B, as amended.

CFR Citation: 7 CFR 1413

Legal Deadline: NPRM, Statutory, August 1, 1993. Final, Statutory, September 30, 1993. Other, Statutory, November 15, 1993.
Other deadline is for adjustments.

Abstract: This action is needed to provide an adequate supply of feed grains for domestic and foreign utilization, support farm income, and comply with statutory requirements. The expected cost is $3.0 -$4.5 billion.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AD02

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DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Stabilization and Conservation Service (ASCS)

Final Rule Stage

36. AMEND U.S. WAREHOUSE ACT (USWA) REGULATIONS TO PROVIDE INFORMAL HEARINGS FOR USWA LICENSED WAREHOUSEMEN

Legal Authority: 7 USC 268; The United States Warehouse Act

CFR Citation: 7 CFR 735; 7 CFR 742

Legal Deadline: None

Abstract: This action would give USWA licensees an opportunity for informal hearings in cases of license suspension. There are no expected outlays as a result of this action.

Timetable:

Action	Date	FR Cite
NPRM	05/09/91	56 FR 21952
NPRM Withdrawn	10/06/92	57 FR 45993
New NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC05

37. EXCESSIVE MANUFACTURING (MAKE) ALLOWANCES IN STATE MARKETING ORDERS FOR MILK

Significance: Agency Priority

Legal Authority: 7 USC 1446e-1; The Food, Agriculture, Conservation, and Trade Act of 1990

CFR Citation: None

Legal Deadline: Final, Statutory, November 28, 1991.

Abstract: The Food, Agriculture, Conservation, and Trade Act of 1990 requires that, beginning 12 months after enactment, no State shall provide for (and no person shall collect, directly or indirectly) a greater allowance for the processing of milk ("make allowance") than is permitted under a Federal program to establish a Grade A price for manufacturing butter, nonfat dry milk, or cheese. The law provides for penalties and investigations by the Secretary if a producer provides evidence of such action. No Government outlays are expected.

Timetable:

Action	Date	FR Cite
NPRM	06/19/92	57 FR 27371
NPRM Comment Period End	10/19/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC23

38. ALLOCATION OF PROCUREMENT OF PROCESSED AGRICULTURAL COMMODITIES FOR DONATION ON A LOWEST LANDED COST BASIS

Significance: Agency Priority

Legal Authority: 46 USC 1241f(c); The Merchant Marine Act, 1936, as amended, sec 901b(c)

CFR Citation: 7 CFR 1496

Legal Deadline: None

Abstract: The objective of this action is to amend the regulations governing the procurement of commodities as required by the Food, Agriculture, Conservation, and Trade Act of 1990 (the 1990 Act). The 1990 Act requires that CCC shall, without detriment to any port range, allocate, on the principle of lowest landed cost (LLC) without regard to the country of documentation of the vessel, 50 percent of the bagged, processed, or fortified commodities for Title II (PL 480) donations. In addition, the 1990 Act provides that CCC limit the Great Lakes port range to a percentage share under this procedure that is no greater than in 1984, and that cargo allocated to Great Lakes ports may not be shipped from other port ranges except to meet U.S. flag cargo preference requirements. This action will result in no more than a $5 million increase in annual Government outlays.

Timetable:

Action	Date	FR Cite
NPRM	02/08/91	56 FR 5161
NPRM Comment Period End	03/11/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC27

39. NATIONAL AVERAGE LOAN RATES FOR 1993-CROP QUOTA AND ADDITIONAL PEANUTS AND MINIMUM COMMODITY CREDIT CORPORATION (CCC) EXPORT-EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Significance: Agency Priority

Legal Authority: 7 USC 1445c-3; The Agricultural Act of 1949, sec 108B, as amended

CFR Citation: 7 CFR 1446; 7 CFR 1421

Legal Deadline: Final, Statutory, February 15, 1993.
This deadline applies to price support levels only.

Abstract: The objective of this action is to determine the price support levels for quota and additional peanuts, as required by legislation. The price support levels provide a domestic price floor for quota and additional peanuts. The primary determinations are 1) price support level for quota peanuts, 2) price support level for additional peanuts, and 3) minimum CCC export-edible sales price for additional peanuts. The net cost is expected to be $3 million.

Timetable:

Action	Date	FR Cite
NPRM	11/24/92	57 FR 55151
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC61

40. FARMER-OWNED RESERVE (FOR) PROGRAM FOR THE 1992 CROP OF FEED GRAINS

Significance: Regulatory Program

USDA—ASCS

Final Rule Stage

Legal Authority: 7 USC 1445e; The Agricultural Act of 1949, Sec. 110, as amended

CFR Citation: 7 CFR 1421

Legal Deadline: Final, Statutory, March 15, 1993.

Abstract: The objective of this action is to formulate and administer a FOR program as required by legislation. The FOR program provides extended loans (at no less than the current loan rate) and storage payments to producers to enable them to store their crops when supplies are abundant, extend the time period for orderly marketing, and provide adequate carryover stocks to ensure a reliable supply. The primary determinations are 1) terms and conditions, and 2) maximum quantity of feed grains to be stored in the FOR. Entry will likely reduce loan redemptions by about $400 million in FY 1992. Loan redemptions and storage payments in FY's 1993 through 1995 would result in a net cost over the FY 1992-95 period of about $50 million to $100 million.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC71

41. 1994 WHEAT LOAN RATE AND ACREAGE REDUCTION PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1445b-3a; The Agricultural Act of 1949, sec 107B, as amended

CFR Citation: 7 CFR 1413; 7 CFR 1421

Legal Deadline: NPRM, Statutory, April 1, 1993. Final, Statutory, June 1, 1993. Other, Statutory, July 31, 1993.
The April 1 and June 1, 1993, deadlines are for the ARP level. The July 31, 1993, deadline is for final program adjustments.

Abstract: The objective of this action is to assure sufficient supplies of wheat for domestic and export use, support farm income, combat inflation, hold down Government costs, conserve natural resources, and comply with statutory requirements. The primary determinations are 1) loan and purchase rate and 2) Acreage Reduction Program level. The net cost is expected to be $2 billion to $3 billion.

Timetable:

Action	Date	FR Cite
Final Action	08/00/93	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC75

42. 1993-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Significance: Agency Priority

Legal Authority: 7 USC 1314; The Agricultural Adjustment Act of 1938, sec 314, as amended; 7 USC 1445; The Agricultural Act of 1949, sec 106, as amended

CFR Citation: 07 CFR 723; 07 CFR 1464

Legal Deadline: Final, Statutory, February 1, 1993.

Abstract: The burley tobacco marketing quota and price support programs are required by legislation. The purpose of the quota and price support is to balance supply with demand at levels assuring stable supplies for domestic and export use, at prices fair to producers. The national quota is based on manufacturers' intentions, 3-year average exports, an adjustment to maintain loan stocks, and a discretionary adjustment of plus or minus 3 percent. The price support level is based on a formula that weights average market prices (2/3) and a cost index (1/3), plus discretion to limit any increase to 65 percent of formula increase. Gross loan outlays of $80 million are expected in FY 1994. These outlays will be offset by loan redemptions and no-net-cost assessments in FY 1994 and subsequent years, for a net cost of $0.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analysis, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC80

43. 1993-CROP MARKETING QUOTAS FOR FIVE KINDS OF TOBACCO

Significance: Agency Priority

Legal Authority: 7 USC 1312; The Agricultural Adjustment Act of 1938, sec 312, as amended

CFR Citation: 07 CFR 723

Legal Deadline: None

Abstract: Marketing quotas and acreage allotments are required by legislation for Fire-cured (type 21), Fire-cured (types 22-23), Dark Air-cured (types 35-36), Virginia Sun-cured (type 37), and Cigar Filler and Binder (types 42-44 and 53-55). The purpose of quotas and allotments for these five kinds of tobacco is to balance supply with demand at levels that assure stable supplies for domestic and export use at prices that are fair to producers. Marketing quota and acreage allotment determinations are based on 10-year average marketings adjusted for trends to yield the "reserve supply level" as defined by legislation. Marketing quotas are implemented if approved by producers in referenda. Producers approved quotas for the 1993 crop of Fire-cured and Dark Air-cured tobaccos. Referenda for the other types are scheduled for 3/92 and 3/93. Producers of these types have historically voted in favor of quotas. Gross loan outlays under the price support and quota program of $2 million are expected in FY 1994. These outlays will be offset by loan redemptions and no-net-cost assessments in FY 1994 and subsequent years, for a net cost of $0.

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USDA—ASCS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	01/12/93	58 FR 3869
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC81

44. 1993-CROP PRICE SUPPORT LEVELS FOR SIX KINDS OF TOBACCO

Significance: Agency Priority

Legal Authority: 7 USC 1445; The Agricultural Act of 1949, sec 106 as amended

CFR Citation: 07 CFR 1464

Legal Deadline: None

Abstract: Price support levels for Fire-cured (type 21), Fire-cured (types 22-23), Dark Air-cured (types 35-36), Virginia Sun-cured (types 37), Puerto Rican Cigar Filler (type 46), and Cigar Filler and Binder (types 42-44 and 53-55) are set by statutory formula whenever a marketing quota is in effect. No quota will be in effect for type 46 because supplies are well above the reserve supply level, therefore no price support will be available for this type. Gross loan outlays under the price support and quota program of $2 million are expected in FY 1992. These outlays will be offset by loan redemptions and no-net-cost assessments in FY 1994 and subsequent years, for a net cost of $0

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC82

45. AMENDMENT TO THE HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION PROGRAM REGULATIONS—PERSON DETERMINATIONS

Legal Authority: 16 USC 3801; 16 USC 3811; 16 USC 3812; 16 USC 3821-23; The Food Security Act of 1985, sec 1201, as amended

CFR Citation: 7 CFR 12

Legal Deadline: None

Abstract: The objective of this action is to set a standard for a more consistent "person" determination by using an attribution method for determining benefits that shall be denied persons who are associated with the actual violators of the highly erodible land (HEL) and wetland conservation provisions. The current affiliated person rule for HEL and wetlands is difficult to administer because a strict interpretation of the rules could result in a chain of affiliated persons, all of whom would be ineligible for USDA benefits, when in fact many of the affiliated persons did not play a part in the violation. This action will provide a more equitable and understandable method for imposing sanctions on conservation compliance violations. No costs are expected as a result of this action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC86

46. AMENDMENTS TO THE SUGAR MARKETING ASSESSMENT REGULATIONS

Legal Authority: 7 USC 1446g; The Agricultural Act of 1949, sec 206, as amended

CFR Citation: 7 CFR 1435

Legal Deadline: None

Abstract: The objective of this action is to amend regulations governing the sugar market assessment as required by the Food, Agriculture, Conservation, and Trade Act Amendments of 1991. The regulations will be amended to 1) provide that assessments will be effective for FY's 1992-96, rather than FY's 1991-95, 2) provide that the assessments will be collected, on a monthly basis, for sugar that has been marketed during the fiscal year, 3) clarify the term "marketed" to mean shipments from the first processor that involves a title transfer, and 4) provide that sugar subject to the assessment includes that processed from domestically produced cane and beet molasses, as well as from domestically produced cane and beets. No costs are expected as a result of this action.

Timetable:

Action	Date	FR Cite
NPRM	12/31/92	57 FR 62486
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC91*

47. AMENDMENTS TO THE WETLANDS REGULATION REGARDING ABANDONED ACREAGE AND DRAINAGE BY DRAINAGE DISTRICT

Legal Authority: 16 USC 3801, 3821-23, sec 1201 and 1221-1224; The Food Sec. Act of 1985, as amended by sec 1421-24(PL101-624)

CFR Citation: 7 CFR 12

Legal Deadline: None

Abstract: This action is necessary to enhance the flexibility of wetland regulations for producers without imposing any significant cost to the Government or decreasing protection of wetlands. The determinations are 1) Allow any area used for production of any crop or for long term rotation to not be considered an "abandoned" wetland, and 2) Allow areas drained by a drainage district to be planted to forage crops and harvested by mechanical means. The "abandonment" determination will remove an incentive to keep land in intensive production. The drainage determination will allow production on a small number of acres that otherwise would not likely be farmed. The total acreage involved will likely be less than 50,000 acres, and no impacts on prices are expected. Producers' income could increase by up to $2.5 million per year by the end of ten years through increased efficiency. No cost to Government is expected.

Timetable:

Action	Date	FR Cite
NPRM	07/06/92	57 FR 29658
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC92

USDA—ASCS **Final Rule Stage**

48. GENERAL PRICE SUPPORT REGULATIONS FOR GRAIN, RICE, OILSEEDS, COTTON, AND HONEY FOR THE 1991-95 CROPS

Significance: Agency Priority

Legal Authority: The Agricultural Act of 1949, as amended

CFR Citation: 7 CFR 1421; 7 CFR 1427; 7 CFR 1434

Legal Deadline: None

Abstract: The objective of this action is to amend the price support program regulations as required by sections 301-701, and 1001 of the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624), and by section 1105(a) and (d) of the Agricultural Reconciliation Act of 1990 (P.L. 101-508). The action will 1) clarify provisions relating to "beneficial interest" for payment eligibility purposes, loan advances by cotton loan clerks, recourse loans for seed cotton, settlement provisions, and loan deficiency payment provisions, 2) provide for gin-direct cotton loan deficiency payments, 3) amend the policy for soybean promotion fees, 4) remove high-moisture barley from recourse loan eligibility, 5) remove requirement for lease agreements for commodities stored in leased space, 6) provide new penalties for incorrect certification, unauthorized removal, unauthorized disposition of commodities, and 7) make other minor technical corrections.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/18/93	58 FR 14495
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC95

49. 1993-94 MARKETING YEAR PENALTY RATE FOR ALL KINDS OF TOBACCO SUBJECT TO QUOTAS

Legal Authority: 7 USC 1314; The Agricultural Adjustment Act of 1938, sec 314, as amended

CFR Citation: None

Legal Deadline: None

Abstract: This action announces the penalty rate for all kinds of tobacco for the 1993-94 marketing year. Legislation provides that the penalty shall be 75 percent of the previous year's average marketing price. Tobacco producers, warehousemen, and dealers need to be advised of the penalty rate prior to the beginning of the marketing year. No Federal outlays are expected.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC97

50. 1993-CROP SUGAR BEET AND SUGARCANE PRICE-SUPPORT LOAN RATES

Significance: Regulatory Program

Legal Authority: 7 USC 1446g; The Agricultural Act of 1949, sec 206, as amended.

CFR Citation: 7 CFR 1435

Legal Deadline: None

Abstract: The objective of this action is to support the price of domestically produced sugarcane and sugar beets at a level that assures growers and processors of these commodities sufficient income, as required by legislation. The primary determinations are 1) the loan rate for raw cane sugar, 2) the loan rate for refined beet sugar, 3) the minimum support price paid by processors for sugarcane, and 4) the minimum support price paid by processors for sugar beets. The Sugar Program is carried out at no net cost to the government. However, based on latest U.S. consumption and price data, the annual cost to U.S. consumers of sugar and corn sweeteners is around $2 billion.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AC98

51. AGRICULTURAL CONSERVATION AND STABILIZATION SERVICE DEBT SETTLEMENT REGULATIONS

Legal Authority: 31 USC 3711, et seq; Fed. Claims Collection Act, as amended, by Debt Coll. Act-1982.

CFR Citation: 7 CFR 792

Legal Deadline: None

Abstract: These rules and regulations are needed to clarify and codify the policies and procedures the Agricultural Stabilization and Conservation Service (ASCS) will use to settle debts owed to ASCS. The primary determinations are 1) Define

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terms applicable to the collection of debts by ASCS, 2) Provide procedures for making demand for payment of debts due ASCS, 3) Provide for collection of debts by installment payments if certain conditions are met, 4) Indicate when collection by administrative offset is appropriate, 5) List the priorities that are applicable to offsets and assignments, 6) State when withholding of a payment prior to the completion of an applicable offset procedure may be made from amounts payable to a debtor by ASCS, 7) State the circumstances when an administrative appeal is appropriate, 8) Specify when contact can be made with the debtor's employing agency, 9) State when a debt should be discharged, 10) Provide the procedures that will be followed by ASCS and the rights that will be afforded to debtors when ASCS reports delinquent debts to credit reporting agencies, 11) State the requirements for referring debts to (cont)

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: the Department of Justice, Internal Revenue Service, or private collection agencies and when a debt can be compromised by the Secretary or his designee. Only minor administrative costs will be incurred.

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AD03

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Stabilization and Conservation Service (ASCS)

Completed Actions

52. 1992-CROP MARKETING QUOTAS FOR FIVE KINDS OF TOBACCO

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	10/16/92	57 FR 47443

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC40

53. 1992-CROP PRICE SUPPORT LEVELS FOR SIX KINDS OF TOBACCO

Significance: Agency Priority

CFR Citation: 7 CFR 1464.2

Completed:

Reason	Date	FR Cite
Final Action	10/09/92	57 FR 46534

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC41

54. 1992-CROP PEANUTS NATIONAL POUNDAGE QUOTA

Significance: Agency Priority

CFR Citation: 7 CFR 729

Completed:

Reason	Date	FR Cite
Final Action	10/09/92	57 FR 64477

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC42

55. NATIONAL AVERAGE LOAN RATES FOR 1992-CROP QUOTA AND ADDITIONAL PEANUTS AND MINIMUM COMMODITY CREDIT CORPORATION (CCC) EXPORT-EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Significance: Agency Priority

CFR Citation: 7 CFR 1446

Completed:

Reason	Date	FR Cite
Final Action	10/09/92	57 FR 46477

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC43

56. 1993 FEED GRAIN LOAN RATES AND ACREAGE REDUCTION LEVELS

Significance: Regulatory Program

CFR Citation: 7 CFR 1413

Completed:

Reason	Date	FR Cite
Final Action	01/14/93	58 FR 4303

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC54

57. AMENDMENTS TO THE CCC COTTON LOAN PROGRAM REGULATIONS

CFR Citation: 7 CFR 1427

Completed:

Reason	Date	FR Cite
Final Action	03/22/93	58 FR 18261

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC55

58. ADJUSTED WORLD MARKET PRICES (AWPS) FOR UPLAND COTTON AND RICE-TIMING OF ANNOUNCEMENT

CFR Citation: 7 CFR 1427

Completed:

Reason	Date	FR Cite
Final Action	11/03/92	57 FR 49635

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC59

59. 1993-CROP PEANUTS NATIONAL POUNDAGE QUOTA

Significance: Agency Priority

CFR Citation: 7 CFR 729

Completed:

Reason	Date	FR Cite
Final Action	03/02/93	58 FR 11962

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC60

60. 1993 UPLAND COTTON LOAN RATE AND ACREAGE REDUCTION PROGRAM

Significance: Regulatory Program

CFR Citation: 7 CFR 1413; 7 CFR 1427

Completed:

Reason	Date	FR Cite
Final Action	03/24/93	58 FR 15755

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC63

61. 1993 EXTRA LONG STAPLE (ELS) COTTON LOAN RATE AND ACREAGE REDUCTION PROGRAM

Significance: Agency Priority

CFR Citation: 7 CFR 1413; 7 CFR 1427

Completed:

Reason	Date	FR Cite
Final Action	03/04/93	58 FR 12332

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC64

62. AGRICULTURAL RESOURCES CONSERVATION PROGRAM AMENDMENTS

CFR Citation: 7 CFR 704; 7 CFR 1410

Completed:

Reason	Date	FR Cite
Final Action	01/13/93	58 FR 4063

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC66

63. 1993 OILSEED PROGRAM

Significance: Regulatory Program

CFR Citation: 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	01/14/93	58 FR 4303

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC68

64. 1993 WHEAT LOAN RATE AND ACREAGE REDUCTION PROGRAM

Significance: Regulatory Program

CFR Citation: 7 CFR 1413; 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	11/24/92	57 FR 55054

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC69

65. FARMER-OWNED RESERVE (FOR) PROGRAM FOR THE 1992 CROP OF WHEAT

Significance: Regulatory Program

CFR Citation: 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	12/31/92	57 FR 62473

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC70

66. 1993 RICE LOAN RATE AND ACREAGE REDUCTION PROGRAM

Significance: Regulatory Program

CFR Citation: 7 CFR 1413; 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	03/23/93	58 FR 15416

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC72

67. COMMON PROVISIONS FOR THE 1993 WHEAT, FEED GRAIN, COTTON AND RICE PROGRAMS

Significance: Regulatory Program

CFR Citation: 7 CFR 1413

Completed:

Reason	Date	FR Cite
Final Action	03/04/93	58 FR 12329

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC73

68. 1993-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Significance: Agency Priority

CFR Citation: 07 CFR 723; 07 CFR 1464

Completed:

Reason	Date	FR Cite
Final Action	03/02/93	58 FR 11960

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC79

69. AMENDMENTS TO THE POUNDAGE QUOTA REGULATIONS FOR THE 1991-95 CROPS OF PEANUTS

CFR Citation: 7 CFR 729

Completed:

Reason	Date	FR Cite
Final Action	11/03/92	57 FR 49631

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USDA—ASCS — **Completed Actions**

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC84

70. AMENDMENT TO THE CONSERVATION RESERVE REGULATIONS REGARDING SMALL WETLANDS

CFR Citation: 7 CFR 704; 7 CFR 1410

Completed:

Reason	Date	FR Cite
Final Action	01/13/93	58 FR 4063

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC93

71. HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION: DEFINITION OF PRIOR CONVERTED CROPLAND

Significance: Regulatory Program

CFR Citation: 7 CFR 12.32

Completed:

Reason	Date	FR Cite
Withdrawn	12/01/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AC94

72. AMENDMENTS TO THE PAYMENT LIMITATION REGULATIONS—"ACTIVELY ENGAGED" DETERMINATIONS

CFR Citation: 7 CFR 1497

Completed:

Reason	Date	FR Cite
Withdrawn	12/01/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, 202 720-7583

RIN: 0560–AD01

73. • DISASTER PAYMENT PROGRAM AND TREE ASSISTANCE PROGRAM FOR 1990, 1991, AND 1992

Significance: Regulatory Program

Legal Authority: PL 103-368; PL 102-229; 7 USC 1421 note

CFR Citation: 07 CFR 1477; 07 CFR 1478

Legal Deadline: None

Abstract: Legislation provided for $1.037 billion to be made available for losses associated with the 1990, 1991, and 1992 crops under the provisions of the Food, Agriculture, Conservation, and Trade Act of 1990. In addition, the Commodity Credit Corporation may borrow additional funds to insure that each producer will receive not less than 50.4 percent of their approved disaster loss, the proportion that was paid for in the previous phase of the program.

Timetable:

Action	Date	FR Cite
Final Action Effective	02/16/93	
Final Action	02/19/93	58 FR 9107

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Regulatory Analyst, Office of the Deputy Administrator, Policy Analysis, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3741-S, P.O. Box 2415, Washington, DC 20013, 202 720-7583

RIN: 0560–AD04

BILLING CODE 3410-05-F

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS) — **Proposed Rule Stage**

74. EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSITTACOSIS AND ORNITHOSIS IN POULTRY

Significance: Regulatory Program

Legal Authority: 21 USC 111 to 113, 21 USC 115; 21 USC 117; 21 USC 120; 21 USC 123 to 126; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 82

Legal Deadline: None

Abstract: Exotic Newcastle Disease (also known as viscerotropic velogenic Newcastle disease and as VVND) and psittacosis or ornithosis (now generally referred to as chlamydiosis) are communicable diseases of birds and poultry. The spread of these diseases in the United States could have serious consequences for the United States poultry industry. A review of the Department's regulations to prevent the interstate spread of these diseases indicates the need for a complete revision to make the regulations more effective and to increase compliance with them.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. M.A. Mixson, Chief Staff Veterinarian, Emergency Programs Staff, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Federal Building, Room 747, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8073

RIN: 0579–AA22

75. PRIVATELY-OPERATED QUARANTINE FACILITIES FOR IMPORTED RUMINANTS AND SWINE

Significance: Agency Priority

Legal Authority: 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111, 21 USC 134a; 21 USC 134b; 21 USC 134c; 21 USC 134d; 21 USC 134f; 21 USC 135; 31 USC 9701

CFR Citation: 9 CFR 92

Legal Deadline: None

Abstract: The Department currently regulates the importation of certain animals and animal products to prevent the introduction of communicable animal diseases into the United States. With certain exceptions, most animals imported into the United States must be quarantined upon arrival at facilities operated by the Federal Government; only sheep, birds, and horses may be quarantined in privately operated facilities. Some importers have expressed interest, however, in importing ruminants and swine, other than sheep, in greater numbers per shipment than can be handled at existing Federal facilities. The Department is considering amending the regulations to allow other species of domesticated ruminants and swine, from countries free of certain serious diseases, to be quarantined upon arrival in the United States at privately operated facilities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Dr. David Vogt, Senior Staff Veterinarian, Import-Export Animals Staff, Department of Agriculture, Animal and Plant Health Inspection Service, Room 764 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8170

RIN: 0579–AA28

USDA—APHIS — **Proposed Rule Stage**

76. REGULATION OF HORSES AND FARM ANIMALS UNDER THE ANIMAL WELFARE ACT

Significance: Agency Priority

Legal Authority: 7 USC 2131 to 2157

CFR Citation: 9 CFR 1; 9 CFR 2; 9 CFR 3

Legal Deadline: None

Abstract: The Department is authorized to regulate the treatment of certain horses and other farm animals under the Animal Welfare Act (the Act). Under the Act, the Department is authorized to regulate the treatment of horses used for research purposes, and is authorized to regulate the treatment of other farm animals, unless those animals are used or intended for use as food or fiber, for breeding management or production efficiency, or for improving the quality of food fiber. As a matter of policy, however, the Department has not been regulating such horses and other farm animals. However, because of the increasing use of these animals for research purposes, the Department has given notice of its intent to regulate such animals, and has requested comments on standards to be developed for the inclusion of these animals under the regulations. These actions will help ensure that the animals are treated humanely, in accord with the Act.

Timetable:

Action	Date	FR Cite
ANPRM	04/05/90	55 FR 12667
ANPRM Comment Period Extended	06/12/90	55 FR 23748
ANPRM Comment Period Extended	07/12/90	55 FR 28638
ANPRM Comment Period End	09/10/90	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Dr. R.L. Crawford, Director, Animal Care, Regulatory Enforcement and Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, Room 565, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-7833

RIN: 0579–AA31

77. NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

Significance: Regulatory Program

Legal Authority: 40 USC 4321

CFR Citation: 7 CFR 372

Legal Deadline: None

Abstract: The National Environmental Policy Act (NEPA) (42 USC 4321, et seq.) requires that every Federal agency establish procedures to implement the provisions of the Act. The proposed APHIS NEPA Implementing Procedures have been developed to ensure compliance with NEPA. These Agency-specific procedures will enable APHIS decision makers to reach decisions in which environmental concerns are fully reviewed and will ensure timely public involvement in the NEPA process. The procedures will identify Agency actions, requirements, guidance, and references for completion of environmental assessments, and environmental reviews. The new APHIS NEPA Implementing Procedures will supersede the previous issues, APHIS Guidelines for Implementing NEPA Procedures (44 FR 50381-50384 and 44 FR 51272-51274), upon publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mr. Carl Bausch, Deputy Director, Environmental Documentation, Department of Agriculture, Animal and Plant Health Inspection Service, Room 828, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8565

RIN: 0579–AA33

78. CYCLICAL REVIEW OF 9 CFR PART 92, PHASE II

Significance: Regulatory Program

Legal Authority: 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 134a; 21 USC 134b; 21 USC 134c; 21 USC 134d; 21 USC 134f; 21 USC 135; 31 USC 9701

CFR Citation: 9 CFR 92

Legal Deadline: None

Abstract: The Department is reviewing the regulations in 9 CFR part 92, which, among other things, govern the importation into the United States of certain animals and poultry, and certain animal and poultry products. This is in compliance with Executive Order 12291 and Departmental Regulation 1512-1, which requires agencies to periodically review regulations.

The Department is conducting this Cyclical Review in phases. Phase I, effective August 2, 1990, reorganized the regulations. The Department is now starting Phase II. Subpart F (Dogs) of 9 CFR Part 92 has been reviewed and a notice of proposed rulemaking will be published. Reviews of the other subparts will follow. If the Department determines those regulations should be changed, notices of proposed rulemaking will be published.

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Timetable:

Subpart F
- NPRM 08/00/93
- NPRM Comment Period End 10/00/93
- Final Action 00/00/00

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Robert Whiting, Chief Staff Veterinarian, Import-Export Animals Staff, Department of Agriculture, Animal and Plant Health Inspection Service, Room 760, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8590

RIN: 0579–AA34

79. IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS—PREVENTION OF POULTRY DISEASES

Significance: Agency Priority

Legal Authority: 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 31 USC 9701

CFR Citation: 9 CFR 92

Legal Deadline: None

Abstract: The Department currently regulates the importation of poultry and poultry products, including eggs for hatching, to prevent the introduction of certain poultry diseases into the United States. We are considering revising these regulations to add restrictions to prevent the introduction of Salmonella enteritidis, serotype enteritidis, phage-type 4 (referred to below as S. enteritidis, phage-type 4), a virulent type of Salmonella that has not been detected in poultry flocks in the United States. Canada is the only country other than the United States in which poultry flocks are recognized as being free of S. enteritidis, phage-type 4. Safeguards under consideration include testing of individual poultry of the flock of origin in the country of origin, and testing and inspection during quarantine in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Keith Hand, Senior Staff Veterinarian, Import-Export Animals Staff, Department of Agriculture, Animal and Plant Health Inspection Service, Room 830, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8172

RIN: 0579–AA38

80. IMPORTATION OF NURSERY STOCK PLANTS, ROOTS, BULBS, SEEDS, AND OTHER PLANT PRODUCTS - PHASE II

Significance: Regulatory Program

Legal Authority: 7 USC 150dd to 150ff; 7 USC 154; 7 USC 155; 7 USC 157; 7 USC 159; 7 USC 160; 7 USC 162; 7 USC 164a

CFR Citation: 7 CFR 319.37

Legal Deadline: None

Abstract: To prevent the introduction of plant pests and diseases, the Department prohibits or restricts the importation of living plants, roots, bulbs, seeds, and related articles. The Department is updating the lists of those prohibited and restricted articles and is revising the regulatory requirements for the importation of imported plants established in growing media

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	08/00/93	
Final Action	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mr. Frank Cooper, Senior Operations Officer, Plant Protection and Quarantine, Department of Agriculture, Animal and Plant Health Inspection Service, Room 639-C, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-3249

RIN: 0579–AA41

81. USER FEES

Significance: Regulatory Program

Legal Authority: 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 354; 9 CFR 130

Legal Deadline: None

Abstract: The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) and the Food, Agriculture, Conservation and Trade Act of 1990 (P.L. 101-624) authorize the Secretary of Agriculture to prescribe and collect fees to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of international passengers, commercial vessels, commercial aircraft, and commercial trucks or railroad cars. APHIS is already collecting fees for certain services, including agricultural quarantine and inspection services, export services, and animal import services. APHIS plans to collect fees for veterinary diagnostics and reagents, additional animal import services, and preclearance or preinspection services at sites outside the customs territory of the United States.

Timetable:

Phase 1
- NPRM 02/27/91 (56 FR 8148)
- NPRM Comment Period End 03/14/91
- Final Action, AQI Services 04/12/91 (56 FR 14837)
- Final Action, Hawaii/Puerto Rico 04/23/91 (56 FR 18495)
- Final Action Eff., AQI Services 05/13/91
- Final Action Eff., HI/PR 08/01/91
- Final Action Eff., HI/PR: Postponed 08/01/91 (56 FR 36724)
- Final Action Eff., HI/PR: Postponed 09/30/91 (56 FR 49389)
- Final Action, HI/PR: Withdrawn 04/21/92 (57 FR 14475)

Phase 2
- NPRM 08/07/91 (56 FR 37481)
- NPRM Comment Period End 09/06/91
- Final Action 01/09/92 (57 FR 755)
- Final Action Effective 02/09/92
- 2nd NPRM, Diagnostics/Reagents 03/22/93 (58 FR 15292)
- 2nd NPRM Comment Period End 04/21/93
- Final Action, Diagnostics/Reagents 00/00/00

Phase 3
- NPRM, Border Svcs./Facility Insp. 00/00/00

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ms. Barbara L. Thompson, Chief, User Fee Branch, Management and Budget, Department of Agriculture, Animal and Plant Health Inspection Service, Room 263, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-5901

RIN: 0579–AA43

USDA—APHIS — **Proposed Rule Stage**

82. IMPORTATION OF UNMANUFACTURED WOOD

Significance: Regulatory Program

Legal Authority: 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 151 to 167

CFR Citation: 7 CFR 319

Legal Deadline: None

Abstract: USDA is developing regulations to restrict the importation of certain types of manufactured wood, such as logs, lumber, wood chips, bark, and pulp wood. There are a variety of plant pests and diseases associated with these articles, and there has recently been increased interest in importing large quantities of these articles into the U.S. At this time we are considering prohibiting the importation of logs and unmanufactured wood from certain tree genera and species, unless they meet importation criteria contained in the regulations and are imported under a permit issued by APHIS. The trees we are considering regulating in this manner are: all coniferous species; Carya; Fagus; Juglans; Liquidambar; Liriodendron; Nyssa; Populus; Quercus; Salix; and Thuja. The importation criteria would address the genus or species of the tree; the nature of the wood article; the country or area of origin; and methods by which the trees were harvested, stored, and treated.

Timetable:

Action	Date	FR Cite
ANPRM	09/22/92	57 FR 43628
ANPRM Comment Period End	11/23/92	
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Mr. Michael J. Shannon, Chief Operations Officer, Operational Support, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Room 814, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8716

RIN: 0579–AA47

83. CHICKEN DISEASE CAUSED BY SALMONELLA ENTERITIDIS

Significance: Regulatory Program

Legal Authority: 21 USC 111; 21 USC 134a; 21 USC 134f

CFR Citation: 9 CFR 82

Legal Deadline: None

Abstract: Disease caused by the bacterium known as Salmonella enteritidis serotype enteritidis (referred to below as SE) is a serious problem in egg-type chicken breeding flocks and egg production flocks, and is also a serious public health concern. The Animal and Plant Health Inspection Service (APHIS) has established regulations to control the spread of SE in egg-type chicken breeding flocks and egg production flocks, and continues to work to reduce the impact of SE on the poultry industry and consumer health. Under the current APHIS regulatory program, study flocks are identified through traceback of eggs implicated in human outbreaks of SE, these study flocks are subjected to testing for SE, and if the flocks test positive for SE, interstate movement of articles from the flocks is restricted. We are currently working with other agencies including the Agricultural Marketing Service, the Food and Drug Administration, and the Centers for Disease Control to evaluate the success of this approach and determine whether to propose changes to the regulatory procedures of the current program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Dr. John Mason, Director, Salmonella Task Force, Veterinary Service, Department of Agriculture, Animal and Plant Health Inspection Service, Room 205, Presidential Building, 6525 Belcrest Road, Hyattsville, MD 20782, 301 436-4363

RIN: 0579–AA48

84. PSEUDORABIES

Significance: Agency Priority

Legal Authority: 21 USC 111 to 113; 21 USC 115; 21 USC 117; 21 USC 120; 21 USC 121; 21 USC 123 to 126; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 85

Legal Deadline: None

Abstract: Pseudorabies, also known as Aujeszky's disease, mad itch, and infectious bulbar paralysis, is caused by a herpes virus and is primarily a disease of swine. The spread of this disease in the United States could have serious consequences for the United States livestock industry. A review of the Department's regulations to prevent the interstate spread of this disease indicates the need for a complete revision to make the regulations more effective and to increase compliance with them.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Dr. W.C. Stewart, Chief Staff Veterinarian, Swine Diseases Section, Department of Agriculture, Animal and Plant Health Inspection Service, Room 735, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-7767

RIN: 0579–AA49

85. IMPORTATION OF CERTAIN DRIED PORK PRODUCTS

Significance: Agency Priority

Legal Authority: 7 USC 147a; 7 USC 150ee; 7 USC 161; 7 USC 162; 7 USC 450; 19 USC 1306; 21 USC 111; 21 USC 114a; 21 USC 134a; 21 USC 134b; 21 USC 134c; 21 USC 134f; 31 USC 9701; 42 USC 4331; 42 USC 4332

CFR Citation: 9 CFR 94

Legal Deadline: None

Abstract: The Federal government has responsibility for preventing the introduction into the United States of various diseases of livestock, including foot-and-mouth disease, rinderpest, African swine fever, and swine vesicular disease. To fulfill this responsibility, it is necessary for the Federal government to revise and update its regulations concerning the importation of pork products, based upon the methods and procedures used to process pork products. APHIS is

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developing regulations that would allow certain dry-cured pork products to be imported into the United States. Only hams and loins derived from certain breeds of swine and processed in a specified manner would be allowed to be imported.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. John H. Blackwell, Senior Staff Microbiologist Import-Export Products Staff, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Room 758, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-7885

RIN: 0579–AA50

86. ADDITION OF CERVIDAE TO THE REGULATIONS CONCERNING TUBERCULOSIS IN LIVESTOCK

Significance: Agency Priority

Legal Authority: 21 USC 111 to 113; 21 USC 114; 21 USC 114a; 21 USC 114a-1; 21 USC 115 to 117; 21 USC 120 to 126; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 77

Legal Deadline: None

Abstract: Bovine tuberculosis is a contagious, infectious, and communicable disease affecting cattle, bison, and other species, including humans. The spread of bovine tuberculosis in the United States could have serious consequences for the United States cattle and bison industries, as well as for human health. Currently, the regulations concerning control and eradication programs for bovine tuberculosis in livestock only regulate cattle, bison, and swine. Recent outbreaks in the United States of bovine tuberculosis in semi-domesticated herds of cervidae (such as deer and elk) have made apparent the need to also regulate these animals in order to prevent the spread of bovine tuberculosis.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Dr. Ronald A. Stenseng, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Room 734, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8715

RIN: 0579–AA53

DEPARTMENT OF AGRICULTURE (USDA) — **Final Rule Stage**

Animal and Plant Health Inspection Service (APHIS)

87. HONEYBEES AND HONEYBEE SEMEN; REMOVING CERTAIN RESTRICTIONS ON HONEYBEES AND HONEYBEE SEMEN FROM NEW ZEALAND

Significance: Agency Priority

Legal Authority: 7 USC 281

CFR Citation: 7 CFR 322

Legal Deadline: None

Abstract: The regulations governing the importation into the United States of honeybees and honeybee semen contain the criteria used for determining which countries may import honeybees and honeybee semen and under what conditions. This change will allow the importation of honeybees and honeybee semen from New Zealand, for other than research purposes, if accompanied by a certificate of origin.

Timetable:

Action	Date	FR Cite
NPRM	02/06/90	55 FR 3968
NPRM Comment Period End	02/21/90	
NPRM Comment Period Extended	03/02/90	55 FR 7499
NPRM Comment Period End	04/02/90	
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mr. Philip J. Lima, Staff Specialist, Biological Assessment & Taxonomic Support, Department of Agriculture, Animal and Plant Health Inspection Service, Room 624, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 301 436-8677

RIN: 0579–AA37

88 GYPSY MOTH

Significance: Agency Priority

Legal Authority: 7 USC 150bb; 7 USC 150dd to 150ff; 7 USC 161; 7 USC 162; 7 USC 164 to 167

CFR Citation: 7 CFR 301.45

Legal Deadline: None

Abstract: Current regulations quarantine certain States to control Gypsy Moth, establish high-risk and low-risk regulated areas within those States, and restrict the interstate movement of regulated articles and outdoor household articles from regulated areas. Plant Protection and Quarantine is developing new definitions and restrictions for these areas and articles to more effectively control Gypsy Moth

Timetable:

Action	Date	FR Cite
NPRM	12/04/92	57 FR 57379
NPRM Comment Period End	02/02/93	
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mr. Terry McGovern, Operations Officer, Operational Support, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Room 646, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8247

RIN: 0579–AA39

USDA—APHIS — **Final Rule Stage**

89. ANIMAL WELFARE; RANDOM SOURCE DOGS AND CATS

Significance: Regulatory Program

Legal Authority: 7 USC 2131 to 2157

CFR Citation: 9 CFR 2

Legal Deadline: Other, Statutory, May 25, 1991.

Abstract: Section 2503 of the Farm Bill, entitled "Protection of Pets," instructs APHIS to amend the Animal Welfare regulations to require that dogs and cats be held for at least 5 days at pounds and shelters and at licensed research facilities. Additionally, the Farm Bill instructs APHIS to require that dealers provide a valid certification to anyone acquiring random source dogs and cats from those dealers. The certification would have to identify the dealer, the animal, and the source of the animal, and would have to accompany the shipment of the animal. The intent of these provisions is to prevent stolen animals from being entered into research channels and to provide owners with the opportunity to locate their animals.

Timetable:

Action	Date	FR Cite
NPRM	11/15/91	56 FR 57991
NPRM Comment Period End	12/16/91	
Final Action	08/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Dr. Richard Crawford, Assistant Deputy Administrator, Regulatory Enforcement and Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, Room 554, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301 436-4981

RIN: 0579–AA42

DEPARTMENT OF AGRICULTURE (USDA) — **Completed Actions**

Animal and Plant Health Inspection Service (APHIS)

90. REVISION OF 7 CFR 319.56, IMPORTATION OF FRUITS AND VEGETABLES

Significance: Regulatory Program

CFR Citation: 7 CFR 319.56

Completed:

Reason	Date	FR Cite
Final Action	11/19/92	57 FR 54485
Final Action Effective	11/12/92	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mr. Frank Cooper, 301 436-4378

RIN: 0579–AA12

91. IMPORTED FIRE ANT

Significance: Regulatory Program

CFR Citation: 7 CFR 301

Completed:

Reason	Date	FR Cite
Final Action	12/04/92	57 FR 57322
Final Action Effective	01/04/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Mr. Robert Brittingham, 301 436-6365

RIN: 0579–AA25

92. RUMINANTS AND SWINE IMPORTED FROM FOOT-AND-MOUTH-DISEASE COUNTRIES

Significance: Agency Priority

CFR Citation: 9 CFR 92

Completed:

Reason	Date	FR Cite
Withdrawn - FMD-free countries already impose restrictions	08/26/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Samuel Richeson, 301 436-8144

RIN: 0579–AA40

93. ACCREDITATION OF VETERINARIANS

Significance: Agency Priority

CFR Citation: 9 CFR 160; 9 CFR 161; 9 CFR 162

Completed:

Reason	Date	FR Cite
Final Action	11/23/92	57 FR 54906
Final Action Effective	11/23/92	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dr. J.A. Heamon, 301 436-6954

RIN: 0579–AA52

BILLING CODE 3410-34-F

DEPARTMENT OF AGRICULTURE (USDA) — **Prerule Stage**

Cooperative State Research Service (CSRS)

94. HIGHER EDUCATION CHALLENGE GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Significance: Agency Priority

Legal Authority: 7 USC 3152

CFR Citation: 7 CFR 3405

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Higher Education Challenge Grants Program.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/93	

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Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jay Jackman, Grant Program Specialist, Department of Agriculture, Cooperative State Research Service, Rm 310E Aerospace Center Building, 14th Street & Independence Ave. SW., Washington, DC 20250-2200, 202 401-1790

RIN: 0524–AA02

95. 1890 INSTITUTION CAPACITY BUILDING GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Significance: Agency Priority

Legal Authority: 7 USC 3318

CFR Citation: 7 CFR 3406

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and award of project grants under the 1890 Institution Capacity Building Grants Program

Timetable:

Action	Date	FR Cite
ANPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Hood, Grant Program Specialist, Department of Agriculture, Cooperative State Research Service, Rm 310E Aerospace Center, 14th Street & Independence Ave. SW., Washington DC 20250-2200, 202 401-1790

RIN: 0524–AA03

DEPARTMENT OF AGRICULTURE (USDA)

Cooperative State Research Service (CSRS)

Final Rule Stage

96. RANGELAND RESEARCH GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Significance: Agency Priority

Legal Authority: 7 USC 3333

CFR Citation: 7 CFR 3401

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Rangeland Research Grants Program

Timetable:

Action	Date	FR Cite
NPRM	11/04/92	57 FR 52688
NPRM Comment Period End	12/04/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry J. Pacovsky, Director, Awards Management Division, Department of Agriculture, Cooperative State Research Service, Rm 322B Aerospace Center Building, Washington, DC 20250-2200, 202 401-5024

RIN: 0524–AA04

97. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Significance: Agency Priority

Legal Authority: 7 USC 5921

CFR Citation: 7 CFR 3415

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Biotechnology Risk Assessment Research Grants Program.

Timetable:

Action	Date	FR Cite
NPRM	03/01/93	58 FR 11910
NPRM Comment Period End	03/31/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry J. Pacovsky, Director, Awards Management Division, Department of Agriculture, Cooperative State Research Service, Rm 322B Aerospace Center Building, Washington, DC 20250-2200, 202 401-5024

RIN: 0524–AA05

BILLING CODE 3410-90-F

DEPARTMENT OF AGRICULTURE (USDA)

Farmers Home Administration (FmHA)

Proposed Rule Stage

98. SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 7 CFR 2.23, 7 CFR 2.70

CFR Citation: 7 CFR 1944 subpart A; 7 CFR 1910 subpart A; 7 CFR 1965 subpart C; 7 CFR 1951 subpart G; 7 CFR 1944 subpart J; 7 CFR 1924 subpart C

Legal Deadline: None

Abstract: Major revision on single family housing loan making regulation including elimination of housing restrictions and new concept of modest housing, revised method of granting interest credit assisting use of ratios for determining repayment ability, changes in application processing and changes in maximum loan limits

Timetable:

Action	Date	FR Cite
ANPRM	04/28/92	57 FR 17858
ANPRM Comment Period End	05/28/92	57 FR 17858
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

USDA—FmHA

Proposed Rule Stage

Additional Information: Study currently underway to assist in formulation and economic impact assessment of proposed changes.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA35

99. REAL PROPERTY INSURANCE

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1806

Legal Deadline: None

Abstract: Revisions to bring FmHA into compliance with current industry standards. Also, to incorporate provisions for obtaining and monitoring flood insurance.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA53

100. DENY CREDIT TO APPLICANTS DELINQUENT ON ANY FEDERAL DEBT

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1910(a); 7 CFR 1941(a); 7 CFR 1943(a); 7 CFR 1945(d); 7 CFR 1980(b); 7 CFR 1943(b)

Legal Deadline: None

Abstract: OMB Circular A-129 dated November 25, 1988, recommends that the processing of applications for Federal direct loans be suspended and require private lenders to suspended processing of loan guarantee applications when an applicant is found to be delinquent on a Federal debt.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA66

101. PLANNING AND PERFORMING SITE DEVELOPMENT WORK

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1924-C

Legal Deadline: None

Abstract: Under HR 5334 the Secretary is authorized to accept locally approved subdivisions. This regulation will be amended to no longer require approval of individual subdivisions before FmHA loans are approved within the subdivision. Instead, there will be individual site approval requirements. The cost of implementing the changes would include procedure development, training, and development of forms. The benefits would be that FmHA site requirements would be consistent with HUD and VA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA88

102. HOUSING FOR RURAL HOMELESS AND MIGRANT FARMWORKERS, POLICIES, PROCEDURES, AND AUTHORIZATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 1486

CFR Citation: 7 CFR 1944-H (New)

Legal Deadline: Final, Statutory, March 28, 1991.

Abstract: This regulation provides for the eligibility of the rural homeless and migrant farmworkers under Section 516 Farm Labor Housing Program. Regulations are being drafted to implement this provision of the law which will provide short term occupancy housing for these individuals.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB14

103. RURAL HOUSING GUARANTEED LOANS

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart D; 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: Revise existing Guaranteed Loan Regulations to make minor corrections and additions for clarification purposes.

Timetable:

Action	Date	FR Cite
ANPRM	04/28/92	57 FR 17858

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USDA—FmHA — **Proposed Rule Stage**

Action	Date	FR Cite
ANPRM Comment Period End	05/28/92	57 FR 17858
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB15

104. DISPOSITION OF INTERESTS IN INDIAN TRUST LAND

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1955, 7 CFR 1965

Legal Deadline: None

Abstract: Incorporate requirements of the Cranston-Gonzalez National Affordable Housing Act, Section 708, into FmHA Instructions 1955-A, 1955-B, 1955-C, 1965-B, and 1965-C. This law prohibits the transfer or sale of FmHA's security interest in Indian Trust Land to anyone except an eligible tribal member, the tribe, or the Indian Housing Authority serving the tribes. These requirements will enhance the opportunity of these specific entities to become homeowners, thereby, serving a previously underserved area.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB17

105. MANAGEMENT OF HAZARDOUS SUBSTANCES

Significance: Regulatory Program

Legal Authority: PL 96-510; PL 94-580; PL 94-469; PL 92-500

CFR Citation: 40 CFR 300; 40 CFR 260; 40 CFR 700; 40 CFR 400

Legal Deadline: None

Abstract: There are a number of federal environmental statutes which govern the management of hazardous substances, materials and wastes. At the present time, FmHA does not have implementing regulations for these federal statutes.

The development of implementation procedures for managing hazardous substances is necessary to insure consistency in compliance with Federal, as well as State environmental statutes, and to develop appropriate "due diligence" policies to limit the Agency's liability with regard to environmental cleanups of hazardous waste in loan making/servicing and property management activities.

FmHA has approximately 10,000 inventory properties. FmHA cannot be certain how many of these inventory properties will require hazardous waste cleanup prior to sale.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB18

106. SOLID WASTE MANAGEMENT GRANTS

Legal Authority: PL 101-624, sec 2325

CFR Citation: 7 CFR 4284

Legal Deadline: None

Abstract: FmHA implemented this authority by adding it to the existing Technical Assistance grant program for water and waste disposal facilities. In order to prevent confusion and to further refine the requirements of the program, FmHA is proposing to publish a separate regulation for two programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	09/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB22

107. TECHNICAL ASSISTANCE AND TRAINING GRANTS

Legal Authority: PL 99-198, sec 1304

CFR Citation: 7 CFR 4284

Legal Deadline: None

Abstract: Under current regulations FmHA administers two separate technical assistance grant programs that have similar requirements. In order to avoid confusion for the public because of differences in eligibility and purposes of the two programs, FmHA proposes to rewrite the existing regulation to separate the two programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	09/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB23

108. WASTEWATER CIRCUIT RIDER GRANTS

Legal Authority: PL 101-624, sec 2324

CFR Citation: 7 CFR 1942

Legal Deadline: Final, Statutory, May 28, 1991

USDA—FmHA — **Proposed Rule Stage**

Abstract: Public Law 101-624, Food, Agriculture, Conservation, and Trade Act of 1990, authorized a new rural wastewater circuit rider program FmHA proposes to publish a new regulation for this program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	
Final Action	12/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Analysis: Regulatory Flexibility Analysis

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250 202 720-9744

RIN: 0575–AB24

109. 1980-E BUSINESS AND INDUSTRIAL LOAN PROGRAM - FEASIBILITY STUDIES

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1980-E

Legal Deadline: None

Abstract: The proposed rule will allow the Agency to waive the requirement for a feasibility study for existing business on a case-by-case basis.

Timetable.

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348, South Agriculture Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB34

DEPARTMENT OF AGRICULTURE (USDA) — Final Rule Stage

Farmers Home Administration (FmHA)

110. LIQUIDATION, MANAGEMENT AND DISPOSITION OF REAL PROPERTY WHICH SECURED SINGLE FAMILY HOUSING (SFH) LOANS

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1955

Legal Deadline: None

Abstract: Create a new subpart D to cover liquidation of Single Family Housing (SFH) loans, and management and sale of SFH inventory property; and revise existing subparts A, B, and C to have them apply to all programs other than SFH. Costs to create new subpart and revise and/or amend existing ones is minimal and would enhance all programs' ability to revise and/or amend the regulations with reduced clearances and provide personnel with clearer and simpler regulations to follow and implement. Will avoid "tie-up" of the regulations for one program subject to changes mandated by legislation or court order for another program, such as SFH changes being held up subject to Farmer Program changes being completed, as has frequently been the case.

Timetable:

Action	Date	FR Cite
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Action on this project was effectively paralyzed during calendar year 1988 by extensive changes by Farmer Programs pursuant to the Agriculture Act of 1987.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA03

111. HOUSING PRESERVATION GRANTS

Legal Authority: 42 USC 1490 (m)

CFR Citation: 7 CFR 1944, subpart N

Legal Deadline: None

Abstract: Expansion of HPG program to include residential rental properties (single and multi-unit) and cooperative housing. Maintain availability of adequate and decent, safe, and sanitary rental housing for very low and low income individuals and families in the rural areas. Compliance with the Housing and Urban Recovery Act of 1983 and Community Development Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	01/15/92	57 FR 1678
NPRM Comment Period End	03/16/92	57 FR 1678
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA18

112. RECAPTURE OF SECTION 502 RURAL HOUSING SUBSIDY

Significance: Agency Priority

Legal Authority: 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1951, subpart I

Legal Deadline: None

Abstract: The Farmers Home Administration (FmHA) proposes to

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revise the regulation for the recapture of subsidy granted on Section 502 Rural Housing Loans. This action is necessary because of an accounting system change resulting from the September 1987 congressionally mandated rural housing asset sale. The intended effect of this action is to adjust the formula to coincide with the revised method of applying monthly subsidy to interest credit accounts. In addition, this action will also shorten and simplify the recapture process

Timetable:

Action	Date	FR Cite
NPRM	10/25/90	55 FR 42987
NPRM Comment Period End	12/24/90	55 FR 42987
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA29

113. MANAGEMENT AND COLLECTION OF NONPROGRAM (NP) LOANS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1951 subpart J

Legal Deadline: None

Abstract: A new instruction to provide policy and guidance for FmHA field office personnel to make, manage, collect and liquidate nonprogram (NP) loans.

Timetable:

Action	Date	FR Cite
NPRM	08/17/89	54 FR 33906
NPRM Comment Period End	10/16/89	54 FR 33906
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA49

115. PREPAYMENT AND DISPLACEMENT PREVENTION OF MULTIPLE FAMILY HOUSING LOANS

Significance: Agency Priority

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1965, subpart E; 7 CFR 1930, subpart C; 7 CFR 1944, subpart D; 7 CFR 1944, subpart E; 7 CFR 1944, subpart L; 7 CFR 1951, subpart E; 7 CFR 1951, subpart N; 7 CFR 1955, subpart A; 7 CFR 1955, subpart C; 7 CFR 1965, subpart B; 7 CFR 1924, subpart A; 7 CFR 1940, subpart L

Legal Deadline: Final, Statutory, April 22, 1989.

Abstract: This action seeks to implement amendments to the Housing Act of 1949, affording tenants some protection against being displaced from multi-housing projects. An interim rule with request for comments was published on April 22, 1988. An emergency change to correct a legal concern was published on February 13, 1990. As a result of comments received, a proposed rule was published on July 20, 1990. In addition, an interim final rule was published on July 20, 1990, implementing added changes required by law. The final rulemaking action plans to incorporate all of these earlier rulemaking actions, directly to a final rulemaking action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/22/88	53 FR 13244
NPRM	07/20/90	55 FR 29601
NPRM Comment Period End	09/18/90	55 FR 29601
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA39

114. MANAGEMENT AND SUPERVISION OF MULTIPLE FAMILY HOUSING BORROWERS AND GRANT RECIPIENTS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 5 USC 1989; 5 USC 301

CFR Citation: 7 CFR 1930, subpart C; 7 CFR 1944, subpart E, 7 CFR 1951, subpart K; 7 CFR 1965, subpart B; 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: General revision to keep the regulations current with policy clarification and incorporate changes to comply with recent legislative changes. Alternatives were to not revise or only incorporate some changes.

Timetable:

Action	Date	FR Cite
NPRM	08/27/91	56 FR 42384
NPRM Comment Period End	10/28/91	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Public Compliance Cost: Initial Cost: $10,741,732; Yearly Recurring Cost: $10,741,732; Base Year for Dollar Estimates: 1992

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA51

116. RURAL RENTAL HOUSING LOAN POLICIES, PROCEDURES AND AUTHORIZATIONS —PROCESSING PREAPPLICATIONS

Legal Authority: 42 USC 1485

CFR Citation: 7 CFR 1944 subpart E

Legal Deadline: None

Abstract: Revise and simplify the manner in which multifamily housing preapplications are rated, ranked, and funded, and add provisions for cooperation between FmHA and HUD when working in the same market area.

Timetable:

Action	Date	FR Cite
NPRM	10/31/91	56 FR 56032

Action	Date	FR Cite
NPRM Comment Period End	12/30/91	56 FR 56032
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA67•

117. SERVICING CASES WHERE UNAUTHORIZED LOAN OR OTHER FINANCIAL ASSISTANCE WAS RECEIVED—MULTIPLE FAMILY HOUSING

Legal Authority: 5 USC 301; PL 93-357; 42 USC 1480; 42 USC 2942

CFR Citation: 7 CFR 1951, subpart N; 7 CFR 2.70

Legal Deadline: None

Abstract: General revision to keep the regulation current with the clarification of policy and incorporation of changes regarding automated processing of payments. The alternative was to not make the revision.

Timetable:

Action	Date	FR Cite
NPRM	11/19/91	56 FR 58325
NPRM Comment Period End	01/21/92	56 FR 58325
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA69

118. ADVERSE DECISIONS AND ADMINISTRATIVE APPEALS FMHA INSTRUCTION 1900-B

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 270

CFR Citation: 7 CFR 1900 subpart B

Legal Deadline: Final, Statutory, July 1, 1987.

Abstract: The Agency published an interim rule amending FmHA Instruction 1900-B to provide for multi-party appeals involving the sale of suitable farmland to eligible applicants and denials of leaseback/buyback and homestead protection rights. These changes were a result of Section 611 of the Agricultural Credit Act of 1987. Subsequently passage of the 1990 Farm Bill P.L. 101-624 required further changes to appeals involving the sale of inventory property classified as suitable farmland. These changes superseded those made in the interim rule. Those changes were published in the Federal Register as an interim rule on April 30, 1992, Vol 57 No. 84 page 18612 (see RIN 0575-AA91).

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/30/92	57 FR 18612
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 720-9744

RIN: 0575–AA70

119. FARMER PROGRAMS GUARANTEED INTEREST ASSISTANCE PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980(a); 7 CFR 1980(b); 7 CFR 1980(d); 7 CFR 1980(e); 7 CFR 1980(g); 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: This regulation will provide for a government subsidy to lenders for interest rates for guaranteed Farmer Programs loans so the borrower will be paying interest rates for guaranteed loans that are similar to insured loans. This should provide an incentive for using the guaranteed loan program. The potential cost to the Government will be reduced as the Government will only pay a lender up to 90 percent of the losses on loans and only part of the interest rate rather than loaning a borrower the full amount of the loan and paying an investor the full cost of the Government borrowing the money for an insured loan. The benefit is that the borrower will be paying an interest rate for guaranteed loans that is comparable to that for insured loans, the lender will receive the subsidy for the lower interest rate, and the Government will reduce the amount of money needed for the program. The alternative is to continue with the program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/28/91	56 FR 8258
Interim Final Rule Comment Period End	04/29/91	56 FR 8258
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA80

120. CIVIL RIGHTS COMPLIANCE REQUIREMENTS - 1940-D

Significance: Agency Priority

Legal Authority: PL 100-259; PL 88-352; 42 USC 2000d et seq; PL 90-284; 42 USC 3601 to 3619; PL 100-430; PL 92-318; 20 USC 1681 et seq; PL 93-112; 29 USC 749; PL 94-135; 42 USC 6101 et seq; PL 94-239; 15 USC 1601 et seq; EO 11246

CFR Citation: 7 CFR 15; 12 CFR 202; 28 CFR 42; 45 CFR 90; 41 CFR 60 to 64; 24 CFR 14

Legal Deadline: None

Abstract: Will effectuate a comprehensive civil rights regulation implementing the following laws: The Equal Credit Opportunity Act (ECOA); Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (The Fair

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Housing Act); section 504 Federally conducted programs, Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975, and programs and activities; Amendments of 1972; the Age Discrimination Act of 1975; and Executive Order 11246. The revised regulations will provide detailed guidelines for field offices for improved enforcement and compliance with these laws which heavily impact FmHA's programs. Mechanisms for monitoring compliance by field offices and recipients of FmHA's financial assistance at all levels will decrease the Agency's vulnerability due to noncompliance with recently enacted Civil Rights legislation. Also includes section 504 of the Rehabilitation Act of 1973.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA83

121. SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS (DEFERRED MORTGAGE PROGRAM)

Significance: Agency Priority

Legal Authority: 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1944-A, 7 CFR 1951-G

Legal Deadline: Other, Statutory, April 1, 1991.
Other deadline is effective date of law.

Abstract: This regulation is being amended to include a mortgage payment deferral program to enable the Agency to assist a greater number of very low-income families. The Program is intended to provide additional assistance to those families who can not afford the costs of homeownership with full interest credit benefits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/23/91	07 FR 41764
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA87

122. FARMER PROGRAM ACCOUNT SERVICING POLICIES FOR SECTION 1816 AND OTHER RELATED SECTIONS FOR THE "1990 FACT ACT"

Significance: Regulatory Program

Legal Authority: PL 101-624, Sec 1816; 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1900 subpart B; 7 CFR 1924 subpart B; 7 CFR 1951 subpart S; 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: Other, Statutory, November 28, 1990.
Other deadline is effective date of law.

Abstract: Provisions of the Food, Agriculture, Conservation and Trade Act of 1990, as they affect the Farmers Home Administration's Farmer Programs, plus relevant provisions of the Omnibus Budget Reconciliation Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	10/23/91	56 FR 54970
NPRM Comment Period End	11/22/91	56 FR 54970
Interim Final Rule	04/30/92	57 FR 18612
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: The Food, Agriculture, Conservation, and Trade Act of 1990, called the FACT Act of 1990, amended certain provisions of the consolidated Farm and Rural Development Act (CONACT). The CONACT of 1987 required Major changes in the servicing and restructuring of FmHA farm program loans. These changes were implemented by interim rule published in the Federal Register on September 14, 1988 (53 FR 35638-35798).

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA91

123. HOUSING APPLICATION PACKAGING GRANTS

Legal Authority: 42 USC 1479

CFR Citation: 7 CFR 1944 subpart B

Legal Deadline: Other, Statutory, April 1, 1991.
Other deadline is effective date of law.

Abstract: Provide grant program for housing application packaging by public and private nonprofits in poor counties and colonias.

Timetable:

Action	Date	FR Cite
NPRM	09/01/92	57 FR 39635
NPRM Comment Period End	11/02/92	57 FR 39635
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Public Compliance Cost: Initial Cost: $97,800; Yearly Recurring Cost: $97,800

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AA92

124. AGRICULTURAL RESOURCE CONSERVATION DEMONSTRATION PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1989; 7 USC 4201; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980, subpart J; 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: The FACT Act as amended authorized a demonstration program to preserve our national farmland

resources for future generations. The program provides for Federal guarantees of timely payments of principal and interest due for 10 years and substantial interest assistance on loans made to States and instrumentalities of States. A number of States currently have programs in which the State purchases development rights from farmers so the farmland is not developed. The program was fashioned, to some extent, after several of these programs. States are required to share in this effort by contributing an amount equal to at least half the amount of the loan guaranteed by FmHA. Each eligible State may receive up to $10 million in guarantees per fiscal year. Loan funds may be invested by the borrower to increase the capital available for farmland preservation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/04/92	57 FR 4336
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Additional Information: Published in the Federal Register as an Interim Final Rule (57 FR 4336-4350). This action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact statement is not required.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB01

125. RURAL RENTAL AND RURAL COOPERATIVE HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1924; 7 CFR 1944

Legal Deadline: None

Abstract: Existing regulations will be revised to provide additional guidance to reduce program vulnerability. Revisions will address program vulnerability issues identified by FmHA and OIG/GAO audits regarding construction activities. The regulation will rectify identity of interest concerns, provide more guidance on cost containment and cost certification. It also incorporates several provisions of the Housing and Community Development Act of 1992 such as the uniform construction costs regulations, and sharing cost data with state agencies administering tax credits.

Timetable:

Action	Date	FR Cite
NPRM	06/19/92	57 FR 27379
NPRM Comment Period End	08/18/92	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB08

126. DEBT SETTLEMENT

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 31 USC 3711

CFR Citation: 7 CFR 1956

Legal Deadline: None

Abstract: The objective of revising the debt settlement regulation is to eliminate the administrative costs of maintaining accounts which have been charged off and authorize the Administrator to debt settle third party converters, nonprogram, economic emergency, and economic opportunity loans. Action is being recommended to remove chargeoffs because the funds collected from charged off accounts do not justify the administrative costs of maintaining and servicing these accounts. Action is being recommended to authorize the Administrator to debt settle accounts which were formerly settled under the Federal Claims Collection Act to conform with the revisions made in Section 331 (d) of the CONACT under the 1990 FACT Act. The State Director is also being given the authority to approve debt settlements less than $1,000,000.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB10

127. CHANGES TO FMHA FARMER PROGRAM ACCOUNT SERVICING AND LOAN MAKING POLICIES FOR SECTION 1808, 1818, 1819 AND 1821 OF THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990. (FACT ACT)

Significance: Regulatory Program

Legal Authority: PL 101-624, sec 1808; PL 101-624, sec 1818; PL 101-624, sec 1819; PL 101-624, sec 1821

CFR Citation: 7 CFR 1910 subpart A; 7 CFR 1943 subpart B; 7 CFR 1924 subpart B; 7 CFR 1941 subpart A; 7 CFR 1945 subpart D; 7 CFR 1943 subpart A; 7 CFR 1951 subpart F; 7 CFR 1951 subpart S; 7 CFR 1980 subpart B; 7 CFR 1962 subpart A; 7 CFR 1965 subpart A

Legal Deadline: None

Abstract: Regulations are needed to set forth the curriculum and process for the Agency's farmer loan applicant/borrower to obtain special training; and to assess the borrower's progress; and to implement a market placement program for qualified loans.

Timetable:

Action	Date	FR Cite
NPRM	11/25/92	57 FR 55473
NPRM Comment Period End	12/28/92	57 FR 55473
Final Action	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Will implement section 1819 and 1826 of the 1990 FACT Act. Section 1819 requires a loan assessment credit quality review as part of the loan

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making process. Section 1821 creates a guaranteed loan placement program for all farmer program applications.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB13

128. SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS (INTEREST CREDIT/EARNED INCOME)

Legal Authority: PL 101-508; PL 101-201; 25 USC 1480; 42 USC 1437; EO 12744

CFR Citation: 7 CFR 1944, subpart A

Legal Deadline: None

Abstract: The definition of income is being revised pursuant to the Omnibus Budget Reconciliation Act of 1990. The regulations are being revised to clarify that the interest of individual Indians in trust on restricted land shall not be considered a resource in determining eligibility. Changes are being made to exclude from the Agent Orange settlement fund or any other fund established pursuant to the settlement in Agent Orange liability litigation. Based on a Supreme Court decision FmHA is deleting the public posting that require county supervisors to post on the bulletin board after each selection period a list of those applications selected and notified of the processing of their applications. The county supervisors are also required to review the SFH applicants audited or most recent Federal tax return. The interest credit regulation is being revised to remove previous discrepancies.

Timetable:

Action	Date	FR Cite
NPRM	01/06/93	58 FR 507
NPRM Comment Period End	03/05/93	
Final Action	09/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $38,197; Yearly Recurring Cost: $38,197

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB16

129. DISPOSAL OF INVENTORY PROPERTY

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1955 subpart C; 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: Permits the sale of groups of section 502 inventory property out of Government inventory for use as affordable rental housing.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB21

130. COMMUNITY FACILITY LOANS 1942A

Significance: Agency Priority

Legal Authority: 7 USC 1989; 5 USC 301

CFR Citation: 7 CFR 1942

Legal Deadline: None

Abstract: Changes the requirements for audits based upon annual gross income and extends the deadline for submission of audits based on annual gross income.

Timetable:

Action	Date	FR Cite
NPRM	07/16/92	57 FR 31462
NPRM Comment Period End	08/17/92	57 FR 31462
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, D. C. 20250, 202 720-9744

RIN: 0575–AB25

131. SUPERVISED BANK ACCOUNTS AND MULTIHOUSING RESERVE FUNDS

Significance: Agency Priority

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1902; 7 CFR 1930

Legal Deadline: None

Abstract: Requires reserve accounts to be subject to counter signature by an Agency official before funds can be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	09/01/92	57 FR 39631
NPRM Comment Period End	11/02/92	57 FR 39631
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, D C 20250, 202 720-9744

RIN: 0575–AB31

132. FIVE-YEAR APPLICANT LOAN ELIGIBILITY CERTIFICATION BY COUNTY COMMITTEE

Legal Authority: PL 101-554, sec 12

CFR Citation: 7 CFR 1910-A, 7 CFR 1941-A, 7 CFR 1943-A; 7 CFR 1943-B, 7 CFR 1980-B

Legal Deadline: NPRM, Statutory, April 30, 1993

Abstract: The objective of this action is to extend County Committee eligibility for Farmer Programs loan applications (except emergency loan applications) up to five years. The current policy requires a County Committee determination for each loan application. The proposed action will decrease the paperwork required for loan applications, and reduce the amount of time needed by the County Committee to review loan applications.

The proposed action is required by Public Laws 101-554 and 101-624. No additional costs to the Government or to the public will be incurred as a result of this action. Government costs will be reduced because County Committee members will spend less time reviewing applications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This action does not constitute a major federal action significantly affecting the quality of the human environments - an environmental impact statement is not required. The intended effect is to reduce the amount of time needed to process Farmer Programs Loans and reduce the amount of burden on the County offices personnel, lenders, and the County Committee.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, 14th & Independence Ave., S.W. - Room 6248-S, Washington, DC 20250, 202 720-9744

RIN: 0575–AB32

133. IMPLEMENTATION OF CERTIFIED LENDER PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1987; 42 USC 1480; 5 USC 301; PL 101-624, sec 18

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B, 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: Lenders participating in the Guaranteed Loan Program have cited the excessive amount of paperwork and time required to apply for and receive approval on guaranteed loans as a deterrent to participation in the program. The Agency assembled a Guaranteed Overview Task Force to identify specific forms and regulations that could be eliminated or revised without increasing the risk to the Government. We intend to immediately implement those recommendations which will meet these criteria and can be implemented by the next lending season. Fewer forms and a streamlined process will reduce operating costs for both FmHA and lenders. With the new Certified Lender Program, those lenders that FmHA has determined can properly process and service guaranteed loans will be given greater flexibility. The CLP program will encourage increased participation in the program, thereby reducing the demand for direct loan funds, which are more costly than guaranteed loans.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This rule implements section 18 of the Agricultural Credit Improvement Act of 1992 which establishes a Certified Lender Program (CLP). Farm operating loans and farm ownership loans are excluded with the exception of non-farm enterprise activity from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local offices.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, 14th & Independence Ave., S.W. - Room 6348-S, Washington, DC 20250, 202 720-9744

RIN: 0575–AB33

134. • SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES AND AUTHORIZATIONS (APPRAISAL FEE)

Significance: Agency Priority

Legal Authority: 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1944-A; 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: The regulation is being amended to clarify that an appraisal fee is an authorized loan purpose and permit the loan amount to exceed the market value of the property by the amount of the fee. The Agency instituted an appraisal system that uses contract appraisers for appraisal services. However, the funds available for this service have been reduced and are not adequate to procure appraisals. By including the fee in the loan, funds would be provided to obtain appraisals with minimal impact on borrowers.

Timetable:

Long Term	
NPRM	12/30/92 (57 FR 62243)
NPRM Comment Period End	03/01/93
Final Action	00/00/00
Short Term	
Final Action	12/30/92 (57 FR 62172)
Final Action Effective	01/15/93

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost $121,500; Yearly Recurring Cost: $151,600; Base Year for Dollar Estimates: 1991

Additional Information: This is an emergency funding situation that will be addressed in the short term by issuing a final rule effective until 9/30/93 that includes an appraisal fee for rural housing in the loan. At the same time a proposed rule will be published proposing the same procedure for a long term solution to the lack of funding for the purchase of appraisals.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 720-9744

RIN: 0575–AB36

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DEPARTMENT OF AGRICULTURE (USDA)
Farmers Home Administration (FmHA)

Completed Actions

135. FARM LABOR HOUSING LOAN AND GRANT POLICIES, PROCEDURES, AND AUTHORIZATIONS

CFR Citation: 7 CFR 1944, subpart D; 7 CFR 1930, subpart C

Completed:

Reason	Date	FR Cite
Final Action	12/17/92	57 FR 59900
Final Action Effective	01/19/93	57 FR 59900

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, 202 720-9744

RIN: 0575–AA60

136. PROCESSING AND SERVICING FMHA ASSISTANCE TO EMPLOYEES, RELATIVES, AND ASSOCIATES

CFR Citation: 7 CFR 1900 subpart D

Completed:

Reason	Date	FR Cite
Final Action	01/05/93	58 FR 222
Final Action Effective	02/04/93	58 FR 222

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, 202 720-9744

RIN: 0575–AA64

137. SUPPLEMENTAL REQUIREMENTS FOR MAKING SECTION 502 LOANS FOR HOUSING UNITS LOCATED IN CONDOMINIUMS OR PLANNED UNIT DEVELOPMENTS

CFR Citation: 7 CFR 1944-A; 7 CFR 1924-A; 7 CFR 1922-C

Completed:

Reason	Date	FR Cite
Withdrawn	03/10/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, 202 720-9744

RIN: 0575–AA90

138. SECTION 504 RURAL HOUSING LOANS AND GRANTS

CFR Citation: 7 CFR 1944 subpart J

Completed:

Reason	Date	FR Cite
Withdrawn	03/10/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, 202 720-9744

RIN: 0575–AA93

139. ADVERSE DECISIONS AND ADMINISTRATIVE APPEALS FMHA INSTRUCTION 1900-B

CFR Citation: 7 CFR 1900 subpart B; 7 CFR 2.70

Completed:

Reason	Date	FR Cite
Withdrawn	03/10/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, 202 720-9744

RIN: 0575–AB09

140. 1924-C, PLANNING AND PERFORMING SITE DEVELOPMENT WORK (REMOTE RURAL AREA)

Significance: Agency Priority

CFR Citation: 7 CFR 1924

Completed:

Reason	Date	FR Cite
Final Action	12/03/92	57 FR 57095
Final Action Effective	01/04/93	57 FR 57095

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, 202 720-9744

RIN: 0575–AB11

BILLING CODE 3410-07-F

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Proposed Rule Stage

141. GENERAL ADMINISTRATIVE REGULATIONS; SANCTIONS, CIVIL PENALTIES, SUSPENSION AND DEBARMENT

Significance: Agency Priority

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 400, subpart R

Legal Deadline: None

Abstract: Add civil penalties under the Federal Crop Insurance Act as an additional available sanction, and incorporates provisions for implementing departmental regulations for Debarment and Suspension and Program Fraud Civil Remedies Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mari L. Dunleavy, Acting Director, Regulatory and Procedural Development Staff, Department of Agriculture, Federal Crop Insurance Corporation, Washington, DC 20250, 202 254-8314

RIN: 0563–AA70

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Final Rule Stage

142. GENERAL ADMINISTRATIVE REGULATIONS; APPEAL PROCEDURES

Significance: Agency Priority

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 400, subpart J

Legal Deadline: None

Abstract: Establishes the FCIC Appeal Procedures for staffing, authority, and the administrative procedures for complete and independent review of determinations.

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Timetable:

Action	Date	FR Cite
NPRM	12/30/91	56 FR 67228
NPRM Comment Period End	01/29/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mari L. Dunleavy, Acting Director, Regulatory and Procedural Development Staff, Department of Agriculture, Federal Crop Insurance Corporation, Washington, DC 20250, 202 254-8314

RIN: 0563–AA63

143. LATE AND PREVENTED PLANTING ENDORSEMENT

Legal Authority: 7 USC 1521 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 400, subpart L

Legal Deadline: None

Abstract: Replace the current optional coverage for late and prevented planting in the Corn, Grain Sorghum, and Soybean Endorsements.

Timetable:

Action	Date	FR Cite
NPRM	01/27/92	57 FR 1116
NPRM Comment Period End	01/27/92	57 FR 1116
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mari L. Dunleavy, Acting Director, Regulatory and Procedural Development Staff, Department of Agriculture, Federal Crop Insurance Corporation, Washington, DC 20250, 202 254-8314

RIN: 0563–AA71

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Completed Actions

144. ASCS FARM PROGRAM PAYMENT YIELD OPTION

Significance: Agency Priority

CFR Citation: 7 CFR 401.149

Completed:

Reason	Date	FR Cite
Withdrawn	12/01/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mari L. Dunleavy, 202 254-8314

RIN: 0563–AA57

145. PEANUT CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 425

Completed:

Reason	Date	FR Cite
Final Action	11/04/92	57 FR 52583
Final Action Effective	12/04/92	57 FR 52583

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mari L. Dunleavy, 202 254-8314

RIN: 0563–AA64

146. GENERAL CROP INSURANCE REGULATIONS AMENDMENT NO. 70 - LATE FILED APPLICATIONS

CFR Citation: 7 CFR 401.8

Completed:

Reason	Date	FR Cite
Withdrawn	03/04/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mari L. Dunleavy, 202 254-8314

RIN: 0563–AA67

147. GENERAL CROP INSURANCE REGULATIONS, RICE ENDORSEMENT

CFR Citation: 7 CFR 401.120

Completed:

Reason	Date	FR Cite
Final Action	11/20/92	57 FR 54681
Final Action Effective	11/30/92	57 FR 54681

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mari L. Dunleavy, 202 254-8314

RIN: 0563–AA69

BILLING CODE 3410-08-F

DEPARTMENT OF AGRICULTURE (USDA)
Federal Grain Inspection Service (FGIS)

Proposed Rule Stage

148. A REVIEW OF THE REGULATIONS UNDER THE UNITED STATES GRAIN STANDARDS ACT: PART 800

Legal Authority: 7 USC 71 to 87

CFR Citation: 7 CFR 800

Legal Deadline: None

Abstract: Under the requirements of Executive Order 12291 to periodically review all existing regulations, and USDA Departmental Regulation 1512-1 to conduct each such review within a five-year timeframe, the Federal Grain Inspection Service will review its General Regulations under the United States Grain Standards Act. To simplify and promote a better understanding of policies and procedures, FGIS will be proposing changes to the regulations. Alternatives will be considered after receipt of public comments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
NPRM Comment Period End	01/00/94	
Final Action	04/00/94	
Final Action Effective	05/00/94	
Begin Review	06/00/96	
End Review	08/00/97	

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: George W. Wollam, Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0632 South Building, Box 96454, Washington, DC 20090-6454, 202 720-0292

RIN: 0580–AA08

149. REGULATORY APPLICATION OF WATER TO GRAIN

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.61 (a)(1); 7 CFR 800.61 (a)(2)

Legal Deadline: None

Abstract: FGIS proposes to regulate the application of water to grain. The indiscriminate application of water to grain may adversely impact on the storability of such grain and may detract from the quality of such grain.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	10/00/93	
Final Action	01/00/94	
Final Action Effective	02/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George W. Wollam, Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0632 South Building, Box 96454, Washington, DC 20090-6454, 202 720-0292

RIN: 0580–AA25

150. FEES FOR OFFICIAL INSPECTION AND WEIGHING SERVICES

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.71

Legal Deadline: None

Abstract: The Federal Grain Inspection Service (FGIS) proposes to increase its fees on average by 3.7 percent for Official Inspection and Weighing Services performed in the United States under the United States Grain Standards Act (USGSA), as amended. The USGSA provides for establishment of fees which are to cover the costs for performance of these official services. FGIS's current fee does not generate sufficient revenue to cover any of the approved FY 1992 3.7 percent federal employee raise.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	04/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0632 South Building, P.O. Box 96454, Washington, DC 20090-6454, 202 720-0292

RIN: 0580–AA27

151. UNITED STATES STANDARDS FOR CORN

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 810

Legal Deadline: None

Abstract: The Federal Grain Inspection Service proposes to initiate a review of the United States Standards for Corn. Public comments will be requested regarding the adequacy of existing corn standards: (e.g. tolerances, classification system, language clarity, and other potential improvements). The review is being initiated to meet the requirements of Executive Order 12291 and Departmental Regulation 1521 to conduct periodic reviews of existing regulations. This action is a routine administrative review. Alternatives to the existing standards will be considered as the review schedule progresses and public comments are evaluated.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
NPRM Comment Period End	01/00/94	
Final Action	05/00/94	
Final Action Effective	06/00/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0632 South Building, P.O. Box 96454, Washington, DC 20090-6454, 202 720-0292

RIN: 0580–AA28

152. UNITED STATES STANDARDS FOR BARLEY

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 810

Legal Deadline: None

Abstract: The Federal Grain Inspection Service proposes to initiate a review of the United States Standards for Barley. Public comments will be requested regarding the adequacy of existing barley standards: (e.g. tolerances, classification system, language clarity, and other potential improvements). The review is being initiated to meet the requirements of Executive Order 12291 and Departmental Regulation 1521 to conduct periodic reviews of existing regulations. This action is a routine administrative review. Alternatives to the existing standards will be considered as the review schedule progresses and public comments are evaluated.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	12/00/93	
Final Action Effective	07/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0632 South Building, P.O. Box 96454, Washington, DC 20090-6454, 202 720-0292

RIN: 0580–AA29

153. UNITED STATES STANDARDS FOR RICE

Legal Authority: 7 USC 1622

CFR Citation: 7 CFR 68

Legal Deadline: None

Abstract: The Federal Grain Inspection Service proposes to initiate a review of the United States Standards for Rice. Public comments will be requested regarding the adequacy of existing rice standards: (e.g., tolerances, classification system, language clarity, and other potential improvements). The review is being initiated to meet the requirements of Executive Order 12291 and Departmental Regulation 1521 to conduct periodic reviews of existing

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regulations. Alternatives to the existing standards will be considered as the review schedule progresses and public comments are evaluated.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/92	57 FR 2482
ANPRM Comment Period End	04/21/92	
NPRM	01/11/93	58 FR 3511
NPRM Comment Period End	04/12/93	
Final Action	10/00/93	
Final Action Effective	07/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George W. Wollam, Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0632 South Building, P.O. Box 96454, Washington, DC 20090-6454, 202 720-0292

RIN: 0580–AA30

DEPARTMENT OF AGRICULTURE (USDA)
Federal Grain Inspection Service (FGIS) — Final Rule Stage

154. UNITED STATES STANDARDS FOR SOYBEANS

Legal Authority: 7 USC 75a; 7 USC 76

CFR Citation: 7 CFR 810

Legal Deadline: None

Abstract: According to the requirements of Executive Order 12291 and Departmental Regulation 1512-1 regarding periodic reviews of existing regulations, the Federal Grain Inspection Service will review the United States Standards for Soybeans. Public comment will be requested on various aspects of the Standards including tolerances, grading limits, definitions, language clarity and other potential improvements.

Timetable:

Action	Date	FR Cite
ANPRM	03/09/90	55 FR 8956
ANPRM Comment Period End	06/07/90	
NPRM	07/02/91	56 FR 30342
NPRM Comment Period End	09/03/91	56 FR 30342
Final Action	04/00/94	
Final Action Effective	09/00/94	
Begin Review	04/00/98	
End Review	07/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George W. Wollam, Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0632 South Building, Box 96454, Washington, DC 20090-6454, 202 720-0292

RIN: 0580–AA14

DEPARTMENT OF AGRICULTURE (USDA)
Federal Grain Inspection Service (FGIS) — Completed Actions

155. UNITED STATES STANDARDS FOR SORGHUM

CFR Citation: 7 CFR 810.1401; 7 CFR 810.1402; 7 CFR 810.1403; 7 CFR 810.1404; 7 CFR 810.1405

Completed:

Reason	Date	FR Cite
Final Action	12/14/92	57 FR 58967
Final Action Effective	06/01/93	57 FR 58967

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George W. Wollam, 202 720-0292

RIN: 0580–AA10

156. UNITED STATES STANDARDS FOR WHEAT

CFR Citation: 7 CFR 810

Completed:

Reason	Date	FR Cite
Final Action	12/14/92	57 FR 58961
Final Action Effective	05/01/93	57 FR 58961

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George W. Wollam, 202 720-0292

RIN: 0580–AA15

157. UNITED STATES STANDARDS FOR BEANS, WHOLE DRY BEANS, SPLIT PEAS AND LENTILS

CFR Citation: 7 CFR 68

Completed:

Reason	Date	FR Cite
Withdrawn	08/28/92	57 FR 39140

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam, 202 720-0292

RIN: 0580–AA31

158. GENERAL REGULATIONS (BC + FM - BN + FM)

CFR Citation: 7 CFR 800; 7 CFR 800.162

Completed:

Reason	Date	FR Cite
Final Action	11/30/92	57 FR 56438
Final Action Effective	12/30/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George W. Wollam, 202 720-0292

RIN: 0580–AA32

159. CERTIFICATE OF ADDITIVE-TREATED GRAIN

CFR Citation: 7 CFR 800; 7 CFR 800.88(d); 7 CFR 800.96(c)(2)

Completed:

Reason	Date	FR Cite
Final Action	01/08/93	58 FR 3211
Final Action Effective	02/08/93	

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USDA—FGIS — **Completed Actions**

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George W. Wollam, 202 720-0292

RIN: 0580–AA33

160. ISSUANCE OF OFFICIAL CERTIFICATES

Significance: Regulatory Program

CFR Citation: 7 CFR 800; 7 CFR 800.84(c); 7 CFR 800.160(a)

Completed:

Reason	Date	FR Cite
Final Action	09/03/92	57 FR 40301
Final Action Effective	10/05/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George W. Wollam, 202 720-0292

RIN: 0580–AA34

BILLING CODE 3410-EN-F

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS) — **Prerule Stage**

161. SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS

Significance: Regulatory Program

Legal Authority: PL 99-603 Immigration Reform and Control Act of 1986, sec 121

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273; 7 CFR 275; 7 CFR 277

Legal Deadline: Other, Statutory, October 1, 1988. Deadline for interim final rule

Abstract: This rule establishes procedures for State agencies to use to participate in the Systematic Alien Verification for Entitlements (SAVE) system. As required by IRCA, the Immigration and Naturalization Service (INS) implemented this system. IRCA requires the Food Stamp Program (FSP) and certain other entitlement programs to use SAVE to verify the immigration status of aliens applying for benefits. The rule also provides guidelines for Federal reimbursement of administrative costs. In addition the rule implements nondiscretionary provisions of IRCA requiring all household members to attest to their citizenship or alien status and certain requirements relating to documentation of alien status. (87-009)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/07/88	53 FR 39433
Begin Review	07/00/93	
End Review	10/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AA73

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS) — **Proposed Rule Stage**

162. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS

Significance: Regulatory Program

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: A proposed rule addressing WIC Food Delivery Systems was published on December 28, 1990. The Department provided a 120-day comment period for the proposed rule, which closed on April 29, 1991. Nearly 1100 comments were received from a wide variety of sources. Despite the degree of preliminary input to the December 28, 1990 proposed rule, many of the commenters responding during the formal comment period suggested that the Department's food delivery regulations needed to be proposed again, rather than proceeding directly to a final rule. In addition, several members of Congress requested that the rule be re-proposed in light of its impact on State agency food delivery systems. Therefore, the Department intends to issue a second proposed rule addressing WIC food delivery systems and requirements. This second rule will address all of the provisions contained in the previous rulemaking, but will contain significant modifications to some of the proposed provisions, as well as clarifications to several provisions, which may not have been clearly understood in the earlier rule.

Timetable:

Action	Date	FR Cite
NPRM	12/28/90	55 FR 53446
NPRM Comment Period End	04/29/91	
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room

USDA—FNS — **Proposed Rule Stage**

308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AA80

163. FOOD STAMP PROGRAM: EMERGENCY ASSISTANCE FOR VICTIMS OF DISASTERS

Legal Authority: 7 USC 2013 (b); 7 USC 2014 (h)

CFR Citation: 7 CFR 272; 7 CFR 273; 7 CFR 280

Legal Deadline: None

Abstract: This rule would define special eligibility and issuance procedures during disasters. The rule addresses the eligibility and issuance of food stamps by the Food Stamp Program during a disaster.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
NPRM Comment Period End	03/00/94	
Interim Final Rule	06/00/94	
Final Action Effective	07/00/94	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AA85

164. FOOD STAMP PROGRAM: STUDENT ELIGIBILITY AND TREATMENT OF EDUCATIONAL ASSISTANCE

Significance: Agency Priority

Legal Authority: 7 USC 2011 to 2032; PL 101-624; PL 100-50; PL 101-392; PL 102-237

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: Other, Statutory, October 1, 1991. Effective the first day of the month 120 days after publication. Must be promulgated by 10/01/91.

Abstract: This action proposes to implement the provisions of Public Law 101-624 governing student eligibility for the Food Stamp Program and the treatment of educational assistance as excluded income or resources.

This action also proposes to regulate provisions of Public Law 100-50 and Public Law 101-392 and Public Law 102-325 governing the treatment of certain Federal educational assistance as excluded income and/or resources for food stamp purposes.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AA90

165. FOOD STAMP PROGRAM: QUALITY CONTROL REVIEW OF NEGATIVE ACTIONS

Legal Authority: 7 USC 2025

CFR Citation: 7 CFR 272.1(g); 7 CFR 275.11(e); 7 CFR 272.13; 7 CFR 272.14; 7 CFR 275.21

Legal Deadline: None

Abstract: This regulatory action will improve the efficiency of Food Stamp Program Quality Control (QC) negative reviews, which measure the accuracy of State agencies' denials and terminations of participation in the Food Stamp Program. This rule will address which negative actions are subject to review, when they will be sampled and how they will be reviewed. It is expected that the revised system will provide broader, more useful information at no higher cost.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	11/00/93	
Final Action Effective	02/00/94	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB07

166. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): PART 246.10, FOOD PACKAGE III CHILDREN/ WOMEN WITH SPECIAL DIETARY NEEDS

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: Food Package III will be revised to increase the maximum quantity of special formula authorized per month; clarify what formula is; add additional authorized WIC foods to the package; and address tailoring.

Need for Action:

This special dietary package currently provides special formula, juice, and cereal. It was designed specifically to assist low-income women and children who require special formulas due to medical conditions. Without WIC these individuals would have difficulty in obtaining special formulas, which tend to be quite expensive. Program administrators, participants and the National Advisory Council on Maternal, Infant and Fetal Nutrition recognize that current monthly maximum quantity of formula allowed is sometimes not sufficient and recommend that it be increased. They also recognized that there is a nutritional need for additional WIC foods to be made available to participants receiving this package. This is a very infrequently used package and the proposed rule will in no way affect the other WIC food packages.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

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Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB09

167. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): MISCELLANEOUS PROVISIONS

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This proposed rule responds to a variety of program concerns, most of which have been expressed by WIC State agencies. The proposal strengthens the provision of services to participants in the areas of eligibility determination and nutrition education and increases State agency flexibility regarding the age of medical data and the sharing of participant information with other programs. Several minor clarifications and technical corrections are also made. Principal provisions include: (1) mandatory minimum content requirements for nutrition education participant contacts; (2) State agency discretion to accept medical data over 60 days old under certain circumstances; (3) additional flexibility for State agencies to share participant information with related programs; and (4) mandatory eligibility determination within 20 days of request of program benefits, whether by phone, letter, or personal appearance.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	09/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB10

168. NUTRITION EDUCATION AND TRAINING (NET) PROGRAM CHANGED ADMINISTRATIVE REQUIREMENTS

Legal Authority: PL 101-147

CFR Citation: 7 CFR 227

Legal Deadline: None

Abstract: This rulemaking proposes to amend the Nutrition Education and Training (NET) Program regulations to incorporate changes to the Program brought about by the enactment of P.L. 101-147 on November 10, 1989. These changes include the required utilization by State and local NET programs of materials and services developed by the National Food Service Management Institute which was established under the National School Lunch Act, the inclusion of Summer Food Service Program participants as NET beneficiaries, the replacement of an annual State Plan requirement with an annual Plan update, changes in the formula for allocating Program funds to States, and several technical amendments intended to bring Program regulations into conformance with non-Program changes which resulted from P.L 101-147.

Timetable:

Action	Date	FR Cite
NPRM	12/00/94	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB15

169. CHILD AND ADULT CARE FOOD PROGRAM: CHILD NUTRITION AND WIC REAUTHORIZATION ACT AMENDMENTS

Significance: Agency Priority

Legal Authority: 42 USC 1766; PL 101-147

CFR Citation: 7 CFR 226

Legal Deadline: Other, Statutory, July 1, 1990.

Abstract: Implements certain provisions of P.L. 101-147, including the provision of expansion funds to family day care home sponsors for rural and low-income area outreach; authority for States agencies to establish an every-other-year sponsor application process; a reduction in the number of required monitoring visits in school-sponsored child care; authority for State governors to designate an alternate State agency to administer the adult day care portion of the Program; and a change in the basis for determining States' Program commodity entitlement from current year to prior year data.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	10/00/93	
Final Action	10/00/94	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB16

170. CHILD AND ADULT CARE FOOD PROGRAM: AUTHORITY TO COLLECT OVERCLAIMS

Significance: Agency Priority

Legal Authority: 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: Establishes the Department's authority to collect overclaims where participating institutions fail to comply with regulatory recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	11/00/93	
Final Action	06/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB19

171. CHILD AND ADULT CARE FOOD PROGRAM: PROHIBITION OF INSTITUTIONALIZED ADULTS

Significance: Agency Priority

Legal Authority: 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: Clarifies the statutory intent of P.L. 100-175, the Older Americans Act of 1987, by incorporating into regulations a provision under which adults residing in institutions are not eligible for benefits under the Child and Adult Care Food Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
NPRM Comment Period End	01/00/94	
Final Action	01/00/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB21

172. FOOD DISTRIBUTION PROGRAMS—PAPERWORK REDUCTION

Significance: Agency Priority

Legal Authority: PL 101-147

CFR Citation: 7 CFR 250; 7 CFR 251

Legal Deadline: None

Abstract: This rule will implement the food distribution portion of the recommendations of the August 1990 task force on paperwork reduction. These recommendations were included in a report to Congress and included perpetual State/Federal agreements and longer contract duration for warehouses.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	
Final Action	04/00/94	
Final Action Effective	05/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB27

173. FOOD DISTRIBUTION PROGRAMS—IMPLEMENTATION OF 1990 FARM BILL

Significance: Agency Priority

Legal Authority: PL 101-624

CFR Citation: 7 CFR 250; 7 CFR 251

Legal Deadline: Final, Statutory, July 30, 1992.

Abstract: This rule will implement the following provisions of Pub. L. 101-624: (1) revised requirements for evaluation of State warehousing and distribution systems and conversion to commercial systems; (2) procedures for State option contracts (SOCs), including timeframes for States to reimburse USDA for processing costs; and (3) procedures for distribution of soup kitchen commodities to "food pantries."

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	12/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB30

174. TECHNICAL AMENDMENTS TO THE STATE PROCESSING PROGRAM AND THE NATIONAL COMMODITY PROCESSING PROGRAM

Significance: Agency Priority

Legal Authority: PL 101-624

CFR Citation: 7 CFR 250; 7 CFR 252

Legal Deadline: None

Abstract: This proposed rule amends the Food Distribution Program regulations to strengthen provisions concerning the processing of donated food and to increase uniformity between provisions governing State processing activities in 7 CFR part 250 and those governing the national commodity processing program in 7 CFR part 252.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	12/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB30

175. CHILD AND ADULT CARE FOOD PROGRAM: PAPERWORK REDUCTION REGULATIONS

Significance: Agency Priority

Legal Authority: 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: Implements certain recommendations made by the Paperwork Reduction Taskforce established under the Child Nutrition and WIC Reauthorization Act Amendments of 1989. These recommendations include (1) a reduction in the number of certain sponsor review requirements, (2) an increase in the overclaim disregard threshold and (3) modifications to the

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procedures for State verification of free and reduced price applications.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB33

176. CHILD NUTRITION PROGRAMS: REVISION OF INFANT MEAL PATTERNS FOR THE CHILD NUTRITION PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 1758; 42 USC 1766 (g)(1); 42 USC 1733 (e)(1)

CFR Citation: 7 CFR 210; 7 CFR 220; 7 CFR 226

Legal Deadline: None

Abstract: Implements provision in the National School Lunch, School Breakfast and Child and Adult Care Food Program regulations under which reimbursement would be provided for meals served to infants which contain only breast milk.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	
Final Action	02/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB34

177. COMMODITY SUPPLEMENTAL FOOD PROGRAM: ELDERLY-ONLY SITES, ADMINISTRATIVE FUNDING, REFERRALS TO HEALTH AND SOCIAL SERVICES, CASELOAD ALLOCATION PROCESS, PRIORITY SYSTEM AND MISCELLANEOUS

Significance: Agency Priority

Legal Authority: 7 USC 512(c)

CFR Citation: 7 CFR 247

Legal Deadline: Final, Statutory, October 1, 1991. Other, Statutory, October 1, 1990.
Statutory deadline in P.L. 101-624 for funding provisions only was 10/01/90; all other provisions to be implemented by regulation by 10/01/91.

Abstract: This rule is being proposed in response to changes brought about by P.L. 101-624 and to strengthen other program areas. This proposed rule will implement those provisions of P.L. 101-624 which affect the Commodity Supplemental Food Program (CSFP) and which do not require Departmental discretion. The following list includes those provisions addressed in this rulemaking: (1) authorizes State agencies to operate elderly-only sites; (2) provides administrative funding to agencies not to exceed 20 percent of the annual appropriation; and (3) mandates that State agencies serving women, infants and children: (a) distribute written information on Food Stamps, AFDC, and Child Support Enforcement Programs; (b) provide each local agency with materials showing the income limits according to family size, applicable to pregnant women, infants, and children in the Medicaid Program; and (c) distribute written information on and referrals to the Medicaid Program, when appropriate. State agencies serving elderly persons shall ensure that written information is provided on Food Stamps, Supplemental Security Income benefits, and Medicaid. (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: ABSTRACT CONT: This rulemaking is also responsive to a variety of program concerns. The proposal strengthens the provision of services to participants in the area of nutrition education. In addition the rule: revises and simplifies the caseload allocation and priority system processes; increases State agency flexibility in determining the share of administrative funding to be retained at the State level; revises the State Plan requirements; and incorporates an administrative appeals procedure. Several minor clarifications and technical corrections are also made, such as updating the Financial Management requirements. The Department also proposes a reorganization of Program regulations for ease of use.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB37

178. FOOD STAMP PROGRAM: QUALITY CONTROL TECHNICAL AMENDMENTS

Legal Authority: 7 USC 2013; 7 USC 2025

CFR Citation: 7 CFR 275

Legal Deadline: None

Abstract: The Food and Nutrition Service is proposing six technical changes to the Food Stamp Program's Quality Control System. These changes would reduce the workload on State agencies and improve the efficiency of the quality control system. The six proposed changes would: (1) permit State agencies to reduce their sample sizes; (2) clarify sampling procedures; (3) change the way Federal subsample sizes are calculated; (4) change the way FNS avoids double-billing for non-compliance; (5) change the way State agencies request arbitration; and (6) change the way Federal findings are treated once FNS sends them to the State agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

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Action	Date	FR Cite
Final Action	11/00/93	
Final Action Effective	02/00/94	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB38

179. FOOD STAMP PROGRAM: MISCELLANEOUS PROVISIONS OF THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1991 AND EARNED INCOME TAX CREDIT

Legal Authority: 7 USC 2011 to 2032; PL 102-237; PL 101-508

CFR Citation: 7 CFR 273.8; 7 CFR 273.21

Legal Deadline: None

Abstract: This rule addresses two provisions of the Food, Agriculture, Conservation, and Trade Act of 1991. Pursuant to Section 910 of that Act, in cases subject to Monthly Reporting and Retrospective Budgeting (MRRB), the rule prohibits proration during the certification period when a new member is added to the household except for the initial month. Pursuant to Section 908 postpones until April 1993, a provision contained in final rules published on 12/04/91 (56 FR 63597) which mandates exclusion of households residing on Indian reservations from monthly reporting effective 02/02/91. This rule addresses a provision of Public Law 101-508 which provides that Earned Income Tax Credits are excluded from consideration as a countable resource. This provision was implemented on 01/01/91 by Agency directive. This rulemaking formally incorporates the provision into the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	07/00/93	
Final Action Effective	11/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB39

180. FOOD STAMP PROGRAM: RESOURCE PROVISION FROM THE MICKEY LELAND MEMORIAL DOMESTIC HUNGER RELIEF ACT OF 1990 AND THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1991

Legal Authority: 7 USC 2011 to 2032; PL 101-624; PL 102-237

CFR Citation: 7 CFR 273.8

Legal Deadline: None

Abstract: The NPRM was published on August 13, 1991. After full consideration of comments, the Department has decided that a new proposed rulemaking is warranted to take into consideration comments received and recent legislative changes to the provision as a result of PL 102-237.

The new proposed rule will exempt from consideration as a resource, resources which meet three tests. The tests are: (1) the resource is jointly owned by the household and other parties; (2) the household could not have access to its share without agreement of the other owners, i.e., the resource is not readily divisible; and (3) the sale of the resource would not yield a significant return or would not yield a significant amount of funds for the support of the household. "Significant amount of funds" is defined as an amount greater than half the applicable resource limit for the household, in accordance with 7 CFR 273.8, after any expenses of the sale are deducted.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	
Final Action	02/00/94	
Final Action Effective	03/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB40

181. FOOD STAMP PROGRAM: PERFORMANCE STANDARDS FOR THE EMPLOYMENT AND TRAINING PROGRAM

Legal Authority: PL 102-237

CFR Citation: 7 CFR 273

Legal Deadline: None

Abstract: The Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (PL 102-237) mandate that the performance standard for the Food Stamp Employment and Training Program shall not exceed 10 percent in Fiscal Years 1992 and 1993, and 15 percent in Fiscal Years 1994 and 1995. The rule proposes a performance standard of 10 percent through Fiscal Year 1994 with an increase to 15 percent in Fiscal Year 1995.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB46

182. DISTRIBUTION OF EMPLOYMENT AND TRAINING PERFORMANCE-BASED FUNDS

Significance: Agency Priority

Legal Authority: 7 USC 2011 to 2032; PL 102-237

CFR Citation: 7 CFR 273.7

Legal Deadline: None

Abstract: The rule proposes to freeze Federal Employment and Training performance-based grants at the levels

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the States will receive in Fiscal Year 1993 in each subsequent fiscal year until outcome-based performance standards are implemented. The proposed action will bring the Food Stamp Program regulations into compliance with certain statutory requirements enacted by the Food, Agriculture, Conservation and Trade Act Amendments of 1991 (PL 102-237).

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB47

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

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183. CHILD AND ADULT CARE FOOD PROGRAM—ADULT DAY CARE PROVISION

Legal Authority: 42 USC 1758; 42 USC 1759a; 42 USC 1762a; 42 USC 1765; 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: The rule amends the Child and Adult Care Food Program (CACFP) regulations by providing program eligibility for certain adult day care centers. It implements a provision of the Older Americans Act (OAA) Amendments of 1987, which allows these centers to receive cash and commodity assistance available under the CACFP for meals served to eligible enrolled individuals and a provision of the Rural Development, Agriculture and Related Agencies Appropriations Act of 1989, which provides categorical eligibility for free meals for participants of these centers who receive assistance under Title XVI or XIX in the Social Security Act or are members of a household receiving assistance under the Food Stamp Act and defines the income to be included in determining eligibility for free and reduced-price meal benefits. (FNS 88-502)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/88	53 FR 52584
Final Action	04/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AA74

184. RULES OF PROCEDURE

Legal Authority: PL 100-435, Sec 603

CFR Citation: 7 CFR 275; 7 CFR 276; 7 CFR 283

Legal Deadline: NPRM, Statutory, October 1, 1985.
Retroactive for Fiscal Year 1985 quality control payment error rate liability claims.

Abstract: This regulatory action is required because the Hunger Prevention Act of 1988 (PL 100-435) revised the Food Stamp Act of 1977, as amended, specifying that Food Stamp Program quality control (QC) payment error rate (PER) liability appeals by State agencies be conducted by Administrative Law Judges. The use of Administrative Law Judges replaces the current appeal process which is conducted by the State Food Stamp Appeals Board. This regulation will delineate the procedures to be followed in these QC appeals. (88-011)

Timetable:

Action	Date	FR Cite
NPRM	01/19/93	58 FR 5188
NPRM Comment Period End	03/19/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AA75

185. OUTCOME-BASED PERFORMANCE STANDARDS FOR FOOD STAMP EMPLOYMENT AND TRAINING PROGRAMS

Significance: Regulatory Program

Legal Authority: PL 100-435

CFR Citation: 7 CFR 271; 7 CFR 273

Legal Deadline: Final, Statutory.
The final performance standards shall be published not later than 12 months after the publication of final standards for the JOBS Program under part F, title IV of the Social Security Act.

Abstract: The Hunger Prevention Act of 1988 mandates that the U.S. Department of Agriculture change the basis of its performance standards for Food Stamp Employment and Training programs from process-based to outcome-based measures. Consequently, the Food Stamp regulations must be revised to reflect the new measurement criteria for performance and the methodology for computing the new standards.

Timetable:

Action	Date	FR Cite
NPRM	08/30/91	56 FR 43152
NPRM Comment Period End	10/29/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room

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RIN: 0584–AA82

186. FOOD STAMP PROGRAM: TREATMENT OF FOSTER CARE INDIVIDUALS AND FOSTER CARE PAYMENTS

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None
Retroactive implementation date to date all State agencies directed to implement by FNS memorandum.

Abstract: Expands appeals court decisions on treatment of individuals receiving foster care payments when determining the eligibility and benefit level of households caring for such individuals from the districts covered by the appeals courts to all States so that policy is uniform for entire Food Stamp Program. All State agencies were directed to implement policy by court set date, if in district under jurisdiction of one of the appeals courts or by February 1, 1989. FNS implemented policy through memorandum to preclude further legal action.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AA93

187. FOOD STAMP PROGRAM: INCOME EXEMPTION FOR HOMELESS HOUSEHOLDS IN TRANSITIONAL HOUSING FROM THE MICKEY LELAND MEMORIAL DOMESTIC HUNGER RELIEF ACT

Significance: Agency Priority

Legal Authority: 7 USC 2011 to 2032; PL 101-624

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: Final, Statutory, October 1, 1991.
Provision becomes effective and must be implemented first day of the month, 120 days after publication. Must be promulgated no later than 10/01/91.

Abstract: This rule proposed to implement a provision of the Leland Act which allows an income exclusion for households living in transitional housing that is equal to 50 percent of the maximum shelter allowance provided to families receiving Aid to Families with Dependent Children residing in permanent housing under a State agency's approved AFDC Plan.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	
Final Action Effective	10/01/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AA96

188. FOOD STAMP PROGRAM: RESOURCE EXEMPTION FOR PUBLIC ASSISTANCE/SUPPLEMENTAL SECURITY INCOME FROM THE MICKEY LELAND MEMORIAL DOMESTIC HUNGER RELIEF ACT

Significance: Agency Priority

Legal Authority: 7 USC 2011 to 2032; PL 101-624

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: Final, Statutory, October 1, 1991.
Provision becomes effective and must be implemented first day of the month 120 days after publication. Must be promulgated no later than October 1, 1991.

Abstract: Interim Rule to implement a provision of Public Law 101-624 which allows the exemption of resources for food stamps for certain individuals receiving public assistance or Supplemental Security Income. This provision increases conformance between food stamps, supplemental security, and public assistance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/91	56 FR 23203
Final Action Effective	02/01/92	
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB00

189. MISCELLANEOUS FARM BILL PROVISIONS RELATING TO THE AUTHORIZATION OF RETAIL FIRMS AND WHOLESALE FOOD CONCERNS

Significance: Agency Priority

Legal Authority: 7 USC 2011 to 2031, PL 101-624

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 274; 7 CFR 278

Legal Deadline: Final, Statutory, October 1, 1991.
Effective 120 days from publication of implementing rules.

Abstract: This rule would implement three provisions of the 1990 Farm Bill (PL 101-624, 104 stat 3359) which revise the Food Stamp Act of 1977, as amended (7 USC 2011 et seq.). The first provision would amend the definition of "food" to include meals sold to the homeless program participants by restaurants approved by State agencies for this purpose. Such restaurants must contract with the State and must be authorized by the Food and Nutrition Service to provide meals at concessional prices to homeless participants. The second provision would allow a periodic reauthorization of retail food stores and wholesale food concerns to participate in the Food Stamp Program. The third provision prohibits a firm which is primarily in the business of selling food at wholesale from being authorized as a retail food store unless failure to authorize such a firm as a retail food store would cause hardship to food stamp households.

Timetable:

Action	Date	FR Cite
NPRM	10/23/91	7 FR 54799
NPRM Comment Period End	11/22/91	

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Action	Date	FR Cite
Final Action	04/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB02

190. FOOD STAMP PROGRAM: RETAILER WHOLESALER CHANGES

Legal Authority: 7 USC 2011 to 2031

CFR Citation: 7 CFR 271; 7 CFR 276; 7 CFR 278; 7 CFR 279

Legal Deadline: None

Abstract: The proposed rule clarifies the Department of Agriculture's policy on authorizing and educating retail grocers who take part in the Food Stamp Program. In addition, the rule sets forth changes in assigning penalties to retailers who violate program rules. The regulations clarify and emphasize the full and ongoing responsibility of retailers for their actions and the actions of their employees. Under the proposed regulations, the severity of the penalty would not be affected by any warning received by the retailer prior to an investigation. The penalty would be based on the seriousness of the violations committed during the investigation and the level of responsibility for store operations of persons who committed the violations.

Timetable:

Action	Date	FR Cite
NPRM	03/28/91	56 FR 12857
NPRM Comment Period End	05/28/91	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB03

191. RECIPIENT CLAIMS AND AUTOMATED DATA PROCESSING (ADP) FUNDING REQUIREMENTS FROM THE MICKEY LELAND MEMORIAL DOMESTIC HUNGER RELIEF ACT

Significance: Agency Priority

Legal Authority: 7 USC 2011 to 2032; PL 101-624; PL 102-237

CFR Citation: 7 CFR 272; 7 CFR 273; 7 CFR 276; 7 CFR 277

Legal Deadline: Final, Statutory, October 1, 1991. Other, Statutory, October 1, 1990. See Abstract.

Abstract: This rule implements three provisions from PL 101-624 that affect Food Stamp recipient claims and ADP funding. For recipient claims, effective October 1, 1990, the timeframe for household election of a repayment method for intentional Program violation (IPV) claims was reduced from 30 to zero days. Also, effective October 1, 1990 for a five-year period, retention rates for collections of recipient claims for State agencies were reduced from 50 to 25 percent for IPV claims and from 25 to 10 percent for inadvertent household errors. Finally, effective October 1, 1991, the enhanced funding rate for costs of planning, designing, developing or installing ADP and information retrieval systems was reduced from 75 to 63 percent. These provisions will increase amounts of recipient claims collected and returned to the Federal Government and decrease Federal Government administrative costs. This rule will also implement a provision of PL 102-237 which concerns the timeframe for timely electing a repayment method for inadvertent household error (IHE) claims, effective December 13, 1991.

Timetable:

Action	Date	FR Cite
NPRM	09/10/91	56 FR 46127
NPRM Comment Period End	10/10/91	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB08

192. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): FOOD COST CONTAINMENT REQUIREMENTS

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: Final, Statutory, March 10, 1991.

Abstract: This regulation implements the mandates of P.L. 101-147, enacted November 10, 1989, relative to food cost containment in WIC. In order to achieve further savings in the cost of WIC Program foods, principally the cost of infant formula, this rule implements two major legislative provisions. First, it restates and extends into future years the provisions of P.L. 100-460, which mandated that in order to receive its grant allocation a State agency must examine the feasibility of cost containment systems by 8/30/89 and implement a cost containment system where feasible. Second, the rule requires all WIC State agencies using a retail food delivery system, except certain Indian State agencies, to employ one of two infant formula rebate procurement methods. These two methods are the competitive method (single- supplier contract) and the comparative method, where the State agency fairly compares the cost savings of any alternative form of infant formula cost containment it may wish to implement. The rebate system generating the greatest savings of those compared must then be implemented. This rule establishes specific factors to be considered in the analysis of the systems after (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/90	55 FR 9709
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a

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paperwork burden associated with this action.

Additional Information: ABSTRACT CONT: completing the cost comparison under comparative method. If the State agency can justify to FNS that the cost containment method resulting in the greatest total savings would cause demonstrable harm to the efficient and effective operation of the WIC Program, a waiver will be granted. Timelines are established in the rule for compliance based on the present rebate contract situation of experiencing unavoidable delays related to the procurement process that prevent the State agency from meeting the implementing timeframes established in the rule.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB11

193. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): COORDINATION RULE MANDATES OF THE CHILD NUTRITION AND WIC REAUTHORIZATION ACT OF 1989

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: Final, Statutory, July 1, 1990.

Abstract: This rule amends regulations governing the WIC Program to comply with mandates of Sections 123 and 213 of the Child Nutrition and WIC Reauthorization Act of 1989 (P.L. 101-147) which are not related to the allocation and use of program funds. The following major areas of WIC Program Operation are addressed in this rulemaking: adjunct income eligibility, program access, dissemination of program information, and breastfeeding promotion activities. This rule also expands State agencies discretion to mail food instruments to participants and reduces the frequency in which all States must review their local agencies from annual to biennial. A number of minor mandates of P.L. 101-147 are also addressed in this rulemaking.

Finally, this rule incorporates into the WIC Program regulations by reference the following departmentwide rules: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 7 CFR 3016; and governmentwide Department and (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/09/90	55 FR 28033
NPRM Comment Period End	08/08/90	55 FR 28033
Final Action	04/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: ABSTRACT CONT: Suspension (Non-Procurement) and governmentwide requirements for a drug-free workplace (Grants), 7 CFR part 3017. This rule also provides guidelines for the allocation of WIC program funds, including changes in the administrative funding structure, breastfeeding targets, and conversion of food funds to administrative funds. The revised funding structure eliminates the 20 percent limit on administrative and program services funds and bases such funding on a national administrative grant per person. State agencies must also spend their proportionate shares of at least $8 million for breastfeeding promotion in addition to the current 1/6 nutrition education requirement. Curtailment of vendor abuse activities that enable States to convert food funds to cover administrative expenses. Finally, any State using a cost containment measure may temporarily borrow 1st quarter funds to pay a previous year's 4th quarters expenses. Timelines for the allocation and reallocation of program funds are also established by this rule.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB13

194. DETERMINATION OF ELIGIBILITY FOR FREE MEALS BY SUMMER FOOD SERVICE PROGRAM SPONSORS AND FREE AND REDUCED PRICE MEALS BY CHILD AND ADULT CARE FOOD PROGRAM INSTITUTION

Significance: Agency Priority

Legal Authority: 42 USC 1758; PL 101-147

CFR Citation: 7 CFR 225; 7 CFR 226

Legal Deadline: Final, Statutory, July 1, 1990.

Abstract: Implements certain provisions of Pub. L. 101-147, including a requirement that applicants for free or reduced price meals need only provide the Social Security Number of the household member who signs the application and a requirement that the Program sponsor rather than the applicant total the income information provided.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	
Final Action	08/00/94	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB17

195. ADULT MEAL PATTERN FOR THE CHILD AND ADULT CARE FOOD PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 1766; PL 101-147

CFR Citation: 7 CFR 226

Legal Deadline: Final, Statutory, July 1, 1991.

Abstract: Implements a new meal pattern for individuals participating in the Child and Adult Care Food Program in adult day care centers. Also, implements a provision found in P.L. 101-147 that meals served to those individuals meet one-third of the recommended dietary allowances for such individuals.

Timetable:

Action	Date	FR Cite
NPRM	08/27/90	55 FR 34935
NPRM Comment Period End	10/26/90	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, **703 305-2760**

RIN: 0584–AB18

196. SUMMER FOOD SERVICE PROGRAM: CHILD NUTRITION AND WIC REAUTHORIZATION ACT AMENDMENTS

Significance: Agency Priority

Legal Authority: 42 USC 1761

CFR Citation: 7 CFR 225

Legal Deadline: None

Abstract: Implements certain provisions of the Child Nutrition and WIC Reauthorization Act of 1989 including the readmission of certain private, nonprofit sponsors to the Program, the eligibility of food service sites that serve homeless children and the availability of the Program to colleges and universities that operate the National Youth Sports Program during the school year.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/10/90	55 FR 13454
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, **703 305-2760**

RIN: 0584–AB20

197. MEAL SUPPLEMENTS IN THE NATIONAL SCHOOL LUNCH PROGRAM

Significance: Agency Priority

Legal Authority: PL 101-147

CFR Citation: 7 CFR 210

Legal Deadline: Final, Statutory, July 1, 1990.

Abstract: Implements provision in the Child Nutrition and WIC Reauthorization Act of 1989 which authorizes schools which serve meal supplements in care programs under the Child Care Food Program as of May 15, 1989, to serve snacks and receive reimbursement under the National School Lunch Program.

Timetable:

Action	Date	FR Cite
NPRM	07/02/91	56 FR 30339
NPRM Comment Period End	09/16/91	
Final Action	10/00/93	
Final Action Effective	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, **703 305-2760**

RIN: 0584–AB24

198. FOOD DISTRIBUTION PROGRAMS—IMPLEMENTATION OF THE HUNGER PREVENTION ACT OF 1988

Significance: Agency Priority

Legal Authority: PL 100-435

CFR Citation: 7 CFR 250; 7 CFR 251

Legal Deadline: None

Abstract: This rule addresses the Hunger Prevention Act of 1988 including: Increasing the funding for Emergency Feeding Organizations from 20 percent to 40 percent; the distribution of additional commodities for use by Emergency Feeding Organizations ($120 million) and soup kitchens ($32 million); and procedures for the distribution of the additional commodities.

Timetable:

Action	Date	FR Cite
NPRM	04/06/90	55 FR 12838
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, **703 305-2760**

RIN: 0584–AB25

199. FOOD DISTRIBUTION PROGRAMS—COMMODITY DISTRIBUTION REFORM

Significance: Agency Priority

Legal Authority: PL 100-237; PL 101-147

CFR Citation: 7 CFR 250; 7 CFR 240

Legal Deadline: None

Abstract: This rule will finalize those sections of the above acts requiring the replacement of out-of-condition commodities and commodity delivery schedules to ensure that schedules are established by agencies; the dissemination of summaries of product specifications to recipient agencies; purchase of domestically produced products; testing procedures; establishing commodity values; and offering the per meal value to school food authorities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/21/88	53 FR 27469
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, **703 305-2760**

RIN: 0584–AB26

200. STATE ADMINISTRATIVE EXPENSE FUNDS: NATIONAL SCHOOL LUNCH PROGRAM, SPECIAL MILK PROGRAM, SCHOOL BREAKFAST PROGRAM, CHILD AND ADULT CARE FOOD PROGRAMS, FOOD DISTRIBUTION PROGRAM

Significance: Agency Priority

Legal Authority: PL 101-147

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 235

Legal Deadline: Final, Statutory, October 1, 1991.

Abstract: Implements provisions of P.L. 101-147, Child Nutrition and WIC Reauthorization Act of 1989, which affected State Administrative Expense funding. Specifically, limits the amount of funds a State may carry over from one fiscal year to the next, specifies how funds returned by the State are to be redistributed and authorizes direct payments to alternate agencies operating the audit component of the Child and Adult Care Food Program.

Timetable:

Action	Date	FR Cite
NPRM	12/06/91	56 FR 63882
NPRM Comment Period End	02/04/92	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, **703 305-2760**

RIN: 0584–AB31

201. BENEFIT DELIVERY RULE

Significance: Agency Priority

Legal Authority: 7 USC 2011 to 2032; PL 101-624; PL 100-435; PL 102-237

CFR Citation: 7 CFR 272; 7 CFR 274; 7 CFR 273

Legal Deadline: Final, Statutory, February 1, 1992. Other, Statutory, April 1, 1993.
See Abstract.

Abstract: This rule makes final two provisions from PL 101-624 which must be implemented by February 1, 1992: aggregate (combined) allotment of benefits to households applying after the 15th of the month, and mail issuance in rural areas where households may experience transportation difficulties obtaining benefits. This rule also makes final staggered issuance on Indian reservations (PL 101-624) to be implemented by April 1, 1993, in accordance with PL 102-237. This rule also makes final the combined allotment provision from an interim rule published June 7, 1989, at 54 FR 24518, and makes technical changes to current regulatory provisions considered appropriate to clarify and improve issuance.

Timetable:

Action	Date	FR Cite
ANPRM	05/20/91	56 FR 23027
ANPRM Comment Period End	06/19/91	
Final Action	04/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, **703 305-2760**

RIN: 0584–AB32

202. PERMANENT AGREEMENTS/ DIRECT CERTIFICATION IN NATIONAL SCHOOL LUNCH, SCHOOL BREAKFAST AND SPECIAL MILK PROGRAMS

Significance: Agency Priority

Legal Authority: PL 101-147

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 245

Legal Deadline: None

Abstract: The Child Nutrition and WIC Reauthorization Act of 1989 made the agreement between the school and the State agency to operate the school nutrition programs a permanent document to be amended as necessary. This law also authorized schools to certify children as eligible for free meals using information obtained directly from food stamp/AFDC offices attesting that these children are receiving food stamps or AFDC benefits. This rule implements these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	05/28/91	56 FR 24033
NPRM Comment Period End	07/29/91	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, **703 305-2760**

RIN: 0584–AB35

203. FOOD STAMP PROGRAM: TECHNICAL AMENDMENTS CONCERNING DISABLED IN GROUP HOMES AND INCOME EXCLUSIONS FOR PLANS FOR ACHIEVING SELF-SUPPORT (PASS) - PUBLIC LAW 102-237

Legal Authority: 7 USC 2011 to 2032; PL 102-237

CFR Citation: 7 CFR 273.9

Legal Deadline: None

Abstract: This rulemaking addresses sections 901 and 903 of P.L. 102-237 Section 901 expands eligibility to receive food stamps and to use them to purchase meals prepared by certain group living arrangements to all individuals who meet the definition of disabled in the Food Stamp Act and reside in certain group homes. This rulemaking resolves an inequity under which persons receiving disability or blindness payments under certain sections of the Social Security Act were eligible to use food stamps to purchase meals prepared and served by these homes while other persons considered disabled under the Food Stamp Act but not receiving disability or blindness payments under the Social Security Act were not eligible to use food stamp to purchase such meals. Section 903 adds an additional income exclusion. Certain recipients of Supplemental Security Income can have a Plan for Achieving Self-Support (PASS). Amounts held in PASS accounts to fulfill this Plan are currently excluded as a resource. Under this rulemaking, PASS amounts will also be excluded from income for food stamp purposes.

Timetable:

Action	Date	FR Cite
NPRM	12/21/92	57 FR 60489
Final Action	10/00/93	
Final Action Effective	11/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room

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RIN: 0584–AB41

204. PROVISIONS OF THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT AND A PROVISION OF THE FOOD SECURITY ACT OF 1985

Legal Authority: PL 100-77, as amended by PL 101-220; PL 99-198

CFR Citation: 7 CFR 273

Legal Deadline: None

Abstract: This rulemaking places into final form an interim rule published on 9/29/87. The interim rule implemented all provisions of the Stewart B. McKinney Homeless Assistance Act and one provision of the Food Security Act of 1985. The majority of the provisions are intended to help homeless individuals obtain food stamp eligibility and benefits. The rule: 1) defines a homeless household; 2) allows for Federal funding of State outreach aimed at informing the homeless about the Program; 3) allows an income exclusion for certain housing assistance payments; 4) requires expedited service to households whose monthly rent/mortgage and utilities are more than its income and resources and to households in which all members are homeless; 5) allows certain parents with minor children to be considered a separate household from others they live with; 6) excludes from income public and general assistance vendor payments for medical and child care, energy assistance and special emergency assistance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/29/87	52 FR 36390
Final Action	04/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB42

205. WIC FARMERS' MARKET NUTRITION PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 1786(m)

CFR Citation: 7 CFR 248

Legal Deadline: None

Abstract: This rulemaking would propose implementing regulations for the establishment of the WIC Farmers' Market Nutrition Program (FMNP) as mandated by P.L. 102-314. The FMNP is designed to provide fresh nutritious unprepared foods (such as fruits and vegetables) to WIC participants. The foods would be provided by farmers' markets and would also serve to expand the awareness and use of farmers' markets and to increase sales at such markets. The proposed rule would establish criteria for allocating grants to State agencies and for their operation of the FMNP.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	
Final Action	11/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB43

206. NATIONAL SCHOOL LUNCH PROGRAM, SPECIAL MILK PROGRAM FOR CHILDREN, AND SCHOOL BREAKFAST PROGRAM: COORDINATED REVIEW EFFORT

Significance: Agency Priority

Legal Authority: PL 101-147

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 220

Legal Deadline: None

Abstract: This regulation will modify the existing Coordinated Review Effort (CRE) to give State Agencies larger measure of flexibility when they conduct reviews, take fiscal action, and withhold payments under CRE. The final CRE, published on July 17, 1991, was perceived by some to be unnecessarily rigid in its methodology. Its requirements for overclaims based on incorrectly determined applications and/or improper counting of meals were also seen to be potentially harmful to local programs, as was the requirement that, if a school does not take effective corrective action, all program payments must be withheld until the school does take corrective action. This new regulation would limit the scope of review in those situations where preliminary findings indicate no problems. Fiscal action would be limited to the review period in most instances. States would have the authority to withhold only a portion of program payments when it is considered to be in the best interests of the program to do so. Finally, this regulation initiates an appeal procedure for schools.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/26/92	57 FR 38579
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Additional Information: This regulation represents an agreement negotiated with Congressional staff and representatives of State and local officials affected by the July 17, 1992, regulation. It will result in an overall reduction in burden on State and local programs and some monetary savings at both levels.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB44

207. ADMINISTRATIVE IMPROVEMENT AND SIMPLIFICATION PROVISIONS FROM THE HUNGER PREVENTION ACT OF 1988

Significance: Agency Priority

Legal Authority: 7 USC 2011 to 2032; PL 100-435

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273

USDA—FNS **Final Rule Stage**

Legal Deadline: Final, Statutory, July 1, 1989.

Abstract: The regulation will put in final form the provisions of an interim Food Stamp Program rule published on June 7, 1989. The interim rule amended food stamp regulations to implement several food stamp program provisions contained in the Hunger Prevention Act of 1988. The provisions of that act addressed in this rule are: (1) Verification; (2) Expanded definition of disabled; (3) Optional Training for volunteer and nonprofit organizations; (4) Program information for low-income households; (5) Expanding Hardship criteria for waiving in-office interviews; (6) Simplified applications; (7) Joint applications; (8) Federally authorized cash-out benefits in other assistance programs; (9) Simplified procedures for claiming the excess medical deductions; (10) Telephone access to certification offices in order to receive program information or to report changes; (11) Annualizing self-employment income and expenses from farming; (12) Resource exclusions for farm households in transition from farming.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/07/89	54 FR 24518
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302, 703 305-2760

RIN: 0584–AB45

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS) **Completed Actions**

208. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN NONDISCRETIONARY FUNDING RULE

Significance: Agency Priority

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Incorporated into RIN 0584-AB13	01/04/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, 703 305-2760

RIN: 0584–AA83

209. EMPLOYMENT AND TRAINING PROVISIONS FROM THE MICKEY LELAND MEMORIAL DOMESTIC HUNGER RELIEF ACT

Significance: Agency Priority

CFR Citation: 7 CFR 272; 7 CFR 273

Completed:

Reason	Date	FR Cite
Final Action	12/18/92	57 FR 60074

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Sheri Ackerman, 703 305-2760

RIN: 0584–AA87

210. FOOD STAMP APPLICATION AND INCOME EXCLUSION PROVISIONS OF THE 1990 FARM BILL

Significance: Agency Priority

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273; 7 CFR 274; 7 CFR 275; 7 CFR 276; 7 CFR 277; 7 CFR 278; 7 CFR 279; 7 CFR 280; 7 CFR 281; 7 CFR 282; 7 CFR 283; 7 CFR 284; 7 CFR 285

Completed:

Reason	Date	FR Cite
Final Action	01/05/93	58 FR 213

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, 703 305-2760

RIN: 0584–AA91

211. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): DRUG ABUSE AND OTHER HARMFUL SUBSTANCES, INFORMATION AND REFERRALS

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Final Action	02/26/93	58 FR 11497
Final Action Effective	03/29/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, 703 305-2760

RIN: 0584–AB14

212. CONFIDENTIALITY OF INFORMATION PROVIDED ON APPLICATIONS FOR FREE AND REDUCED PRICE MEALS

Significance: Agency Priority

CFR Citation: 7 CFR 245

Completed:

Reason	Date	FR Cite
Withdrawn	01/15/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, 703 305-2760

RIN: 0584–AB22

213. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): FOOD PACKAGE FOR BREASTFEEDING WOMEN

Significance: Agency Priority

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Final Action	11/27/92	57 FR 56231
Final Action Effective	12/28/92	

Small Entities Affected: None

Government Levels Affected: Local, State

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USDA—FNS — **Completed Actions**

Agency Contact: Sheri Ackerman, 703 305-2760

RIN: 0584–AB36

BILLING CODE 3410-30-F

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS) — **Prerule Stage**

214. AMENABILITY OF SPECIFIC POULTRY SPECIES UNDER THE POULTRY PRODUCTS INSPECTION ACT

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 362; 9 CFR 381

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking would solicit comments and recommendations regarding criteria to determine the amenability of various species of poultry to Federal inspection. Because of increasing use of formerly wild species for food purposes and genetic variations of traditional species, the Agency is increasingly in need of a framework for deciding when a specific food animal is subject to inspection laws.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol M. Seymour, Director, Policy Evaluation and Planning Staff, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue SW., Washington, DC 20250, 202 447-3317

RIN: 0583–AB29

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS) — **Proposed Rule Stage**

215. SULFONAMIDE AND ANTIBIOTIC RESIDUES IN YOUNG VEAL CALVES; REVISED TESTING PROGRAM

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 310

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations by revising the current testing program for detecting violative levels of sulfonamide and antibiotic residues in bob veal calves (calves up to 3 weeks in age or 150 pounds in weight). FSIS has determined that residues in bob veal calves have reached stable occurrence. As a result, FSIS is proposing to adjust the current testing program, which involves testing levels based on an establishment's history of calf condemnations, to make it more compatible with programs for other slaughter classes which have comparable violation rates.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/20/87	52 FR 2101
NPRM	06/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Dr. Tari Kindred, Acting Director, Residue Evaluation and Planning Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue SW., Washington, DC 20250, 202 205-0007

RIN: 0583–AA68

216. SODIUM/POTASSIUM LACTATE AS MEANS OF REDUCING CERTAIN PATHOGENIC MICROORGANISMS IN SPECIFIC MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit the use of sodium lactate and potassium lactate as means of reducing certain pathogenic microorganisms in cooked meat and poultry products, and would provide for additional protection against the growth and toxin development of Clostridia botulinum in these products. FSIS has received a petition from Oscar Mayer Foods Corporation, Madison, Wisconsin, to use these substances in various cooked meat and poultry products at levels not to exceed 4.8 percent of the formulation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 305-Cotton Annex Building, Washington, DC 20250, 202 205-0080

RIN: 0583–AA83

217. ANTE-MORTEM INSPECTION OF DISABLED ANIMALS ON TRANSPORT VEHICLES

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 320

Legal Deadline: None

USDA—FSIS — **Proposed Rule Stage**

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit an alternate method of ante-mortem inspection of disabled animals. This method would allow a transport vehicle to be an extension of an official establishment's premises for purposes of ante-mortem inspection of disabled animal(s) that are within the vehicle. FSIS received a request from the Western States Meat Association, Oakland, California, to allow ante-mortem inspection of disabled animals to be performed on a transport vehicle. This proposed rule would (1) specify establishment responsibilities for maintaining control over the transport vehicle, for providing proper ante-mortem inspection facilities, for complying with the veterinary disposition, and for providing assistance to the veterinary Medical Officer when performing the ante-mortem inspection; (2) prescribe the facility requirements needed for safe ante-mortem inspection of disabled animals; and (3) provide the requirements for the written request for this inspection.

Timetable:

Action	Date	FR Cite
NPRM	10/22/90	55 FR 42578
NPRM Comment Period End	12/21/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William O. James, Director, Slaughter Inspection Standards & Procedures Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 4444-South Building, Washington, DC 20250, 202 720-3219

RIN: 0583–AA98

218. FOOD ADDITIVES AND GRAS SUBSTANCES USED AS INGREDIENTS IN MEAT FOOD AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to simplify the procedures by which FSIS approves food additives and Generally Recognized as Safe (GRAS) substances to be used as ingredients in meat food products and poultry products. The proposed rule will be developed in cooperation with the Food and Drug Administration to make the Federal regulation of food additives and other substances that may be used as ingredients in meat food and poultry products more efficient and uniform.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol M. Seymour, Director, Policy Evaluation and Planning Staff, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue SW., Washington, DC 20250, 202 447-3317

RIN: 0583–AB02

219. POULTRY POST-MORTEM INSPECTION SYSTEM

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations as a consequence of the Agency's ongoing review of its poultry post-mortem inspection regulations to simplify the regulations for all classes of poultry.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William O. James, Director, Slaughter Inspection Standards & Procedures Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 4444-South Building, Washington, DC 20250, 202 720-3219

RIN: 0583–AB03

220. EXPORT CERTIFICATION PROCEDURES

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 322; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to provide electronic export certification of all meat and poultry products exported to foreign countries. Domestic inspectors would continue to certify that the product is USDA inspected and passed. Exporters would be required to certify that all foreign requirements have been met. In 1988, the Agency conducted a pilot test to determine the feasibility of streamlining export certification procedures by centralizing controls; utilizing contemporary communications technology; establishing plant review criteria; and modifying stamping requirements. FSIS is reviewing the current regulations to determine what, if any, changes should be made to accommodate electronic issuance of export certificates.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Robert Fetzner, Director, Export Coordination Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue SW., Washington, DC 20250, 202 720-9051

RIN: 0583–AB04

221. USE OF COMPRESSED AIR IN BONING OPERATIONS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 310; 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of compressed air or other gases such as nitrogen and carbon dioxide in boning operations as requested by several establishments. Tests indicate that this

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would facilitate the separation of muscle tissue from the fat tissue and bone of carcasses and parts without affecting the wholesomeness of the product.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jesse Majkowski, Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158-South Building, Washington, DC 20250, 202 720-3840

RIN: 0583–AB13

222. PROCESSING, DISTRIBUTION, STORAGE, AND RETAIL HANDLING OF READY-TO-EAT, UNCURED, PERISHABLE MEAT AND POULTRY PRODUCTS PACKAGED IN SEALED CONTAINERS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 308; 9 CFR 318; 9 CFR 320; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to provide for application of HACCP principles in the production of ready-to-eat, uncured, perishable meat and poultry products that are packed in sealed containers bearing a "Perishable, Keep Refrigerated," or similar label statement. Examples of such products include, but are not limited to, soups, sauces, pastas, salads, and entrees.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/90	55 FR 19888
ANPRM Correction	06/20/90	55 FR 25138
ANPRM Comment Period End	07/13/90	
ANPRM Extension of Request for Comments	07/13/90	55 FR 28770
ANPRM Comment Period End	10/11/90	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jesse Majkowski, Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158-South Building, Washington, DC 20250, 202 720-3840

RIN: 0583–AB14

223. USE OF ASCORBIC ACID, ERYTHORBIC ACID, CITRIC ACID, SODIUM CITRATE, AND SODIUM ASCORBATE IN FRESH BEEF AND LAMB

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of ascorbic acid, erythorbic acid, citric acid, sodium citrate, and sodium ascorbate, to maintain the color in fresh beef and lamb. FSIS received a petition from Wilson Foods Corporation, Oklahoma City, OK, to allow the use of these substances on beef and lamb cuts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 305-Cotton Annex Building, Washington, DC 20250, 202 205-0080

RIN: 0583–AB15

224. NOTIFICATION OF RESIDUE VIOLATORS AND TESTING OF SUBSEQUENT SHIPMENTS OF ANIMALS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 310; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to provide the authority needed to permit FSIS to notify those entities determined to have marketed livestock or poultry with violative levels of residues and to test subsequent shipments of livestock or poultry marketed by the violators. These actions would not establish new policy in these areas but would, instead, permit the Agency to enforce current policy.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William Leese, Director, Residue Operations Staff, Inspection Operations, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue SW., Washington, DC 20250, 202 720-3311

RIN: 0583–AB32

225. REQUIREMENTS FOR IMPORTED POULTRY PRODUCTS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations by defining the phrase "the same as" and by replacing the phrase "at least equal to" with the phrase "the same as" wherever it appears. The proposal is a result of pending litigation and Congressional clarification as to the meaning of "the same as" as it applies to certified foreign establishments producing poultry products for export to the United States.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William Dubbert, Deputy Administrator, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue SW., Washington, DC 20250, 202 720-3473

RIN: 0583–AB42

226. USER FEES FOR LABORATORY ACCREDITATION

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq; PL 101-624

CFR Citation: 9 CFR 318; 9 CFR 381; 9 CFR 391

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to provide for user fees for FSIS laboratory accreditation. The Agency's accredited laboratory program was established in response to the demand by the meat and poultry industry for acceptable alternate facilities (other than FSIS-operated laboratories) for chemical analysis of official samples. Under technical amendments to the 1990 Farm Bill, FSIS is authorized to collect user fees to offset the cost of its Accredited Laboratory Program. Under FSIS's program, laboratories may be accredited for food chemistry analysis and/or specific chemical residue analysis, including chlorinated pesticide residues, of official samples collected for meat and poultry inspection purposes. It should be noted that FSIS's Accredited Laboratory Program is different from the Department's Accredited Laboratory Program. The Department's Program was established by the 1990 Farm Bill. The Department's Program would also be funded by user fees and would accredit laboratories to conduct residue testing of various agricultural products.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Richard L. Ellis, Director, Chemistry Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 302, Cotton Annex Building, Washington, DC 20250, 202 205-0623

RIN: 0583–AB49

227. PRIOR LABEL APPROVAL PROCESS

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to streamline the labeling process by eliminating the need for manufacturers to submit final label applications, provided sketch applications of such labels have been approved by the Agency. This would result in significant savings for manufacturers, as well as FSIS, while continuing to provide consumers with useful and truthful information on product labels. FSIS is reassessing its current labeling policies and the prior label approval process, and plans to initiate rulemaking on label reform as may be appropriate.

Timetable:

Action	Date	FR Cite
ANPRM	03/25/92	57 FR 10300
ANPRM Comment Period End	04/24/92	
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Ashland L. Clemons, Director, Food Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311, Cotton Annex Building, Washington, DC 20250, 202 205-0042

RIN: 0583–AB50

228. SUBSTITUTE PRODUCTS IDENTIFIED BY STANDARDIZED TERMS AND NUTRIENT CONTENT CLAIMS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to establish standards of composition for meat and poultry products such as "low fat" and "low cholesterol," in conjunction with a standardized name. This action stems from the current nutrition labeling rulemaking proceeding which allows modified versions of certain standardized products.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 305, Cotton Annex Building, Washington, DC 20250, 202 205-0080

RIN: 0583–AB51

229. LICENSE OR OTHER AUTHORIZATION FOR FEDERAL POULTRY INSPECTION

Legal Authority: 21 USC 451

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to remove the requirement for the licensing or other authorization of State employees to perform inspection in official poultry establishments. Assurance that only qualified employees are assigned to such establishments will now be covered under terms to be prescribed in Talmadge-Aiken or other cooperative agreements. This action is possible because of expanded training and certification requirements for veterinarians and food inspectors employed by the States under agreements to be concluded between the States and FSIS.

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USDA—FSIS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Lester Nordyke, Director, Federal-State Relations, Inspection Operations, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue SW., Washington, DC 20250, 202 720-6313

RIN: 0583–AB54

230. USE OF CARBON DIOXIDE IN THE HUMANE SLAUGHTER OF SWINE

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 308

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of carbon dioxide to induce death in swine. Current regulations governing the humane slaughter of swine permit carbon dioxide to be used to render the animals unconscious, with death resulting from the bleeding operation. The proposed amendment is based on scientific research that shows the use of carbon dioxide to induce death in swine to be an effective and humane slaughtering method.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William O. James, Director, Slaughter Inspection Standards and Procedures Division, S&T, Department of Agriculture, Food Safety and Inspection Service, 14th and Independence Avenue SW., Washington, DC 20250, 202 720-3219

RIN: 0583–AB57

231. UNITED STATES-CANADA MEAT AND POULTRY REINSPECTION

Significance: Regulatory Program

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: FSIS plans to initiate discussions with its counterparts in Agriculture Canada which will focus on reducing or eliminating existing barriers that may now impede the import/export of meat and poultry products. FSIS has developed several discussion points concerning the trade of meat and poultry products. If agreement is reached in any or all of the discussion points, amendments to the regulations may be needed. Once the discussions are concluded, FSIS will examine the need for regulatory changes to accommodate any such agreements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Manis, Director, Import Inspection Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue SW., Washington, DC 20250, 202 720-2952

RIN: 0583–AB61

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Final Rule Stage

232. REQUIREMENTS FOR FOREIGN COUNTRY IMPORT CERTIFICATION AND LIVE ANIMAL IMPORTATION

Significance: Agency Priority

Legal Authority: PL 99-198

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule will respond to amendments to the Federal Meat Inspection Act by the Food Security Act of 1985. The amendments require that FSIS periodically certify residue control programs submitted by foreign countries desiring to export meat and poultry products to the United States. The amendments also provide the Secretary with the authority to issue an order prohibiting the importation of livestock for immediate slaughter that have been administered a drug or antibiotic banned for use in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/26/88	53 FR 27998
NPRM Comment Period End	09/26/88	
Reproposal	03/09/90	55 FR 8956
Reproposal Comment Period End	04/09/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Lawrence Skinner, Director, Foreign Programs Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, Room 0038, South Building, 14th & Independence Avenue SW., Washington, DC 20250, 202 720-6933

RIN: 0583–AA47

233. INCREASE IN USE LEVELS OF SODIUM CITRATE AS AN ANTICOAGULANT

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This rule will amend the Federal meat inspection regulations to increase the level of sodium citrate allowed to be used as an anticoagulant in blood from 0.2 percent to 0.5 percent. FSIS has been petitioned by American Meat Protein Corporation, Ames, Iowa, to approve an increased use level of this substance as an anticoagulant in blood to 0.5 percent to facilitate the cleaning of equipment and the separation of red blood cells from plasma, as well as to improve sanitation.

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Timetable:

Action	Date	FR Cite
NPRM	10/18/91	56 FR 52218
NPRM Comment Period End	12/17/91	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 305-Cotton Annex Building, Washington, DC 20250, 202 205-0080

RIN: 0583–AA76

234. USE OF SORBITOL AS A FLAVORING AGENT IN SPECIFIC MEAT PRODUCTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This rule will amend the Federal meat inspection regulations to permit the use of sorbitol to reduce charring in pizza toppings and other cured meat products subject to severe heat treatment. FSIS was petitioned by Quality Sausage Company, Inc., Dallas, Texas, to approve the use of sorbitol at a level of 2.0 percent of the product formula.

Timetable:

Action	Date	FR Cite
NPRM	08/10/92	57 FR 35505
NPRM Comment Period End	10/09/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 305-Cotton Annex Building, Washington, DC 20250, 202 205-0080

RIN: 0583–AA79

235. PROCESSING PROCEDURES AND COOKING INSTRUCTIONS FOR COOKED, UNCURED MEAT PATTIES

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This rule will provide processors of fully and partially cooked, and char-marked, uncured meat patties with specific manufacturing, handling, and labeling requirements for these products to reduce the potential for incidents of food-borne, pathogen-caused illness from consumption of inadequately cooked, uncured meat patties. This rule will also establish (1) holding temperature and time requirements for raw meat used for cooked, uncured meat patties; (2) internal temperature and time combination processing requirements for fully and partially-cooked, uncured meat patties which are char-marked with heat but remain raw; (3) a requirement that a cooking instruction be placed on the label of partially-cooked and char-marked, uncured patties, instructing the final preparer to cook the patties to a well done state (a minimum internal meat temperature of 160 degrees Fahrenheit); and (4) requirements to assure that fully-cooked, uncured meat patties are not contaminated after cooking. This action will prevent instances of illness from the consumption of such patties.

Timetable:

Action	Date	FR Cite
NPRM	12/27/88	53 FR 52179
NPRM Comment Period End	01/26/89	
Reproposal	06/05/90	55 FR 23030
Reproposal Comment Period End	07/05/90	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jesse Majkowski, Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158-South Building, Washington, DC 20250, 202 720-3840

RIN: 0583–AA81

236. PFF FOR TURKEY HAM

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the poultry products inspection regulations to permit the use of added water in turkey ham. The new standard provides for several categories of products that are delineated according to the protein content on a fat-free basis. FSIS was petitioned by the National Turkey Federation, Reston, Virginia, to establish protein fat-free values for turkey ham to promote product standardization and permit producers of turkey ham to compete more equitably with pork producers. This rule will replace the current provision which limits the amount of added water and other substances contained in turkey ham products by requiring the weight of the finished product to be no more than the original weight of the turkey thigh meat used prior to curing.

Timetable:

Action	Date	FR Cite
NPRM	02/21/89	54 FR 7434
NPRM Comment Period End	04/18/89	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jesse Majkowski, Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158, South Building, 14th and Independence Avenue SW., Washington, DC 20250, 202 720-3840

RIN: 0583–AA84

237. IMPORTED CANADIAN PRODUCT; PROVISION FOR "STREAMLINED" INSPECTION PROCEDURES; EXEMPTION FROM OFFICIAL MARK OF INSPECTION

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

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Abstract: This rule amended the Federal meat and poultry products inspection regulations to provide "streamlined" inspection procedures for the reinspection of Canadian meat and poultry products and to exempt Canadian meat and poultry products offered for importation from the requirement that such product and/or containers of product be marked with the official mark of inspection once they are passed for entry into the United States. These actions stemmed from the Canada-United States Free Trade Agreement Implementation Act of 1988, Pub. L. 100-449. These actions specifically responded to one goal of the Agreement whereby both countries are charged with liberalizing agriculture trade practices by seeking ways to eliminate technical or procedural requirements which now may serve to impede trade in agricultural products.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/89	54 FR 273
Interim Final Rule Reopening of Comment Period	03/16/89	54 FR 10621
Interim Final Rule Comment Period End	04/12/89	
Interim Final Rule Correction	06/22/89	54 FR 26186
Interim Final Rule Withdrawal	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Manis, Director, Import Inspection Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue SW., Washington, DC 20250, **202 720-2952**

RIN: 0583–AA99

238. USE OF TRICALCIUM PHOSPHATE AS A SEQUESTRANT IN MECHANICALLY DEBONED CHICKEN

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the poultry products inspection regulations to permit the use of tricalcium phosphate in mechanically deboned chicken during the dehydration process to preserve the color of such products. Use of tricalcium phosphate at a proposed level not to exceed 2 percent would sequester the iron present in the blood of mechanically deboned chicken during the dehydration process, thus preventing discoloration (browning) of the product. The regulation is in response to a petition submitted by Henningsen Foods, Inc., Omaha, NE.

Timetable:

Action	Date	FR Cite
NPRM	08/25/92	57 FR 38450
NPRM Comment Period End	10/26/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 305-Cotton Annex Building, Washington, DC 20250, **202 205-0080**

RIN: 0583–AB09

239. POLICY FOR DIFFERENTIATING BETWEEN CALVES AND ADULT CATTLE

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 310

Legal Deadline: None

Abstract: This rule will amend the Federal meat inspection regulations to define the term "calf" for inspection purposes, as a young bovine animal whose weight does not exceed 750 pounds live, or whose dressed carcass weight does not exceed 450 pounds. In addition, the rule will provide that certain indicators of maturity, such as teeth and bone formation, be used in conjunction with weight to determine if the animal is a "calf."

Timetable:

Action	Date	FR Cite
NPRM	06/06/90	55 FR 23100
NPRM Comment Period End	08/06/90	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: W. S. Horne, Deputy Administrator, Inspection Operations, Department of Agriculture, Food Safety and Inspection Service, Room 344-E, Administration Building, 14th and Independence Avenue SW., Washington, D. C. 20250, **202 720-5190**

RIN: 0583–AB18

240. USE OF CITRIC ACID AS A COLOR PRESERVATIVE ON THE SURFACE OF CURED MEAT CUTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This rule will amend the Federal meat inspection regulations to permit the use of up to a 30 percent solution of citric acid as a color preservative on the surface of cured meat cuts.

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 269
NPRM Comment Period End	02/04/93	
Final Action	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 305-Cotton Annex Building, Washington, DC 20250, **202 205-0080**

RIN: 0583–AB20

241. USE OF TOCOPHEROLS AS ANTIOXIDANTS AND CITRIC ACID AS A SYNERGIST IN VARIOUS MEAT PRODUCTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This rule will amend the Federal meat inspection regulations to permit the use of tocopherols as antioxidants and the use of citric acid as a synergist in various meat food products. This action is in response to a petition filed jointly by the Akzo Salt, Inc., St. Clair, Michigan, (formerly Diamond Salt Company) and the Henkel Corporation, Minneapolis,

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Minnesota, requesting that FSIS approve such uses.

Timetable:

Action	Date	FR Cite
NPRM	08/25/92	57 FR 38448
NPRM Comment Period End	09/24/92	
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 305-Cotton Annex Building, Washington, DC 20250, **202 205-0080**

RIN: 0583–AB25

242. SMOKE FLAVORINGS AND ARTIFICIAL SMOKE FLAVORINGS

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to delete the requirement for prior Agency approval of the use of smoke flavorings and artificial smoke flavorings. Prior FSIS approval is no longer necessary because smoke flavorings and artificial smoke flavorings are now considered generally recognized as safe (GRAS) by the Food and Drug Administration.

Timetable:

Action	Date	FR Cite
NPRM	12/04/92	57 FR 57390
NPRM Comment Period End	02/02/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 305-Cotton Annex Building, Washington, DC 20250, **202 205-0080**

RIN: 0583–AB36

243. LISTING OF MINOR INGREDIENTS IN OTHER THAN ORDER OF PREDOMINANCE

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations by modifying the current ingredient declaration requirements for labels of meat and poultry products. The modification will allow processors the option of listing minor ingredients in other than order of predominance if the ingredients are present at 2 percent or less of the total product. This action is in response to a petition submitted by the National Food Processors Association, Washington, D.C.

Timetable:

Action	Date	FR Cite
NPRM	07/20/92	57 FR 31972
NPRM Comment Period End	09/18/92	
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Food Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex Building, Washington, DC 20250, **202 205-0042**

RIN: 0583–AB37

244. PROMINENT LABELING DISCLOSURES ON MEAT AND POULTRY PRODUCTS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 318; 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to eliminate the requirement that the names and use of certain substances added to specific meat and poultry products be prominently disclosed on the product label as qualifiers to the product name. FSIS believes that qualifying phrases can be eliminated because they duplicate information provided in ingredients statements.

Timetable:

Action	Date	FR Cite
NPRM	11/04/92	57 FR 52596
NPRM Comment Period End	01/04/93	
Final Action	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Food Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311, Cotton Annex Building, Washington, DC 20250, **202 205-0080**

RIN: 0583–AB53

DEPARTMENT OF AGRICULTURE (USDA) — Completed Actions

Food Safety and Inspection Service (FSIS)

245. USE OF SODIUM LACTATE AND POTASSIUM LACTATE AS FLAVOR ENHANCERS IN MEAT AND POULTRY PRODUCTS

CFR Citation: 9 CFR 318; 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	01/13/93	58 FR 4067
Final Action Effective	02/12/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Edwards, 202 205-0080

RIN: 0583–AA75

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246. NUTRITION LABELING OF MEAT AND POULTRY PRODUCTS

Significance: Agency Priority

CFR Citation: 9 CFR 317; 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	01/06/93	58 FR 632
Final Action Effective	07/06/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Edwards, 202 205-0080

RIN: 0583–AB34

BILLING CODE 3410-DM-F

DEPARTMENT OF AGRICULTURE (USDA) — **Prerule Stage**

Foreign Agricultural Service (FAS)

247. REPORTING REQUIREMENTS RELATED TO TOBACCO EXPORTS

Significance: Regulatory Program

Legal Authority: 7 USC 509; PL 101-624, sec 1557

CFR Citation: 7 CFR 1525

Legal Deadline: None

Abstract: Exporters/manufacturers of unmanufactured tobacco, cigarettes and cigarette-ready tobacco are required to maintain records and submit reports pertaining to such records on tobacco content related to crop year, grade, type, country of origin, and poundage to the Secretary of Agriculture. Submitted information will be provided to Congress. Annual cost to the Government is established at $100,000.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Barry D. Abromovage, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th Street & Independence Avenue SW., Washington, DC 20250, 202 720-6713

RIN: 0551–AA32

DEPARTMENT OF AGRICULTURE (USDA) — **Proposed Rule Stage**

Foreign Agricultural Service (FAS)

248. PROPOSED REGULATIONS GOVERNING IMPLEMENTATION OF THE COOPERATOR MARKET DEVELOPMENT PROGRAM OVERSEAS

Legal Authority: 7 USC 1704

CFR Citation: 7 CFR 1550

Legal Deadline: None

Abstract: These regulations are promulgated to provide minimum requirements and criteria under which parties interested in the cooperator Market Development program, as authorized in Section 601 of the Agricultural Act of 1954 (PL 480), may apply and participate

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry D. Abromovage, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250, 202 720-6713

RIN: 0551–AA26

249. SECTION 22 IMPORT QUOTAS

Significance: Agency Priority

Legal Authority: EO 3019

CFR Citation: 7 CFR 6.20 to 6.34

Legal Deadline: None

Abstract: Provides for quotas for certain dairy products to prevent material interference with the domestic price support program for milk. Controls are administered through a licensing procedure so that the quotas may be allocated in a fair and equitable manner among importers and users. A fee is charged for each license issued to recover the costs of administering the licensing system.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barry D. Abromovage, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, D. C. 20250, 202 720-6713

RIN: 0551–AA27

DEPARTMENT OF AGRICULTURE (USDA) — **Final Rule Stage**

Foreign Agricultural Service (FAS)

250. REGULATIONS GOVERNING IMPLEMENTATION OF THE MARKET PROMOTION PROGRAM (MPP) OVERSEAS

Significance: Regulatory Program

Legal Authority: 7 USC 1485

CFR Citation: 7 CFR 1736; 7 CFR 1485

Legal Deadline: None

Abstract: These regulations are promulgated to provide minimum requirements and criteria under which parties interested in the Market Promotion Program (MPP) as authorized by the Food, Agriculture, Conservation and Trade Act of 1990, may apply and participate.

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Timetable:

Action	Date	FR Cite
NPRM	04/26/90	55 FR 17618
NPRM Comment Period End	06/26/90	
Interim Final Rule	08/16/91	56 FR 40745
Interim Final Rule Comment Period End	10/15/91	56 FR 40745
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry D. Abromovage, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250, 202 720-6713

RIN: 0551–AA24

251. CCC EXPORT CREDIT GUARANTEE PROGRAM (GSM-102) AND CCC INTERMEDIATE EXPORT CREDIT GUARANTEE PROGRAM (GSM-103)

Significance: Agency Priority

Legal Authority: 15 USC 714(b); 15 USC 714(f); 7 USC 5602; 7 USC 5622; 7 USC 5661; 7 USC 5663; 7 USC 5664; 7 USC 5676

CFR Citation: 7 CFR 1493

Legal Deadline: None

Abstract: Revision of the regulations for the GSM-102 and GSM-103 programs to improve and update the current regulations and incorporate material required by the Agricultural Trade Act of 1978 as amended by section 1531 of the Food, Agriculture, Conservation, and Trade Act of 1990.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/06/91	56 FR 25998
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Abromovage, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250, 202 720-6713

RIN: 0551–AA30

252. PROGRAM CRITERIA FOR THE SUNFLOWERSEED OIL ASSISTANCE PROGRAM (SOAP) AND THE COTTONSEED OIL ASSISTANCE PROGRAM (COAP)

Significance: Agency Priority

Legal Authority: PL 101-624, sec 1531; 7 USC 5663

CFR Citation: 7 CFR 1570

Legal Deadline: NPRM, Statutory, May 31, 1991.

Abstract: This regulation establishes the criteria to evaluate and approve proposals for country and commodity initiatives under the SOAP and COAP. The establishment of criteria for these programs is mandated under Section 403(a) of the Agricultural Trade Act of 1978, as amended in Section 1531 of the Food, Agriculture, Conservation, and Trade Act of 1990.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/27/91	56 FR 42222
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Barry D. Abromovage, Regulatory Coordinator, Compliance Review Staff, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250, 202 720-6713

RIN: 0551–AA31

253. SUNFLOWERSEED OIL ASSISTANCE PROGRAM OPERATIONS (SOAP) AND COTTONSEED OIL ASSISTANCE PROGRAM OPERATIONS (COAP)

Legal Authority: 7 USC 1464, sec 201(b)(2)(A); PL 101-624, sec 1541 As amends 7 USC 1464, sec 201 (b)(2)

CFR Citation: 7 CFR 1570 subpart B; 7 CFR 1570 subpart C

Legal Deadline: None

Abstract: Title 7, part 1570, subpart B will establish operational regulations for the Sunflowerseed Oil Assistance Program (SOAP). Title 7, part 1570, subpart C will establish operational regulations for the Cottonseed Oil Assistance Program (COAP). These programs have been previously administered by the Foreign Agricultural Service through the issuance of announcements and invitations for offers. The regulations will replace the issued announcements for SOAP and COAP.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Barry Abromovage, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th Street & Independence Ave SW., Washington, DC 20250, 202 720-6713

RIN: 0551–AA33

254. DIRECT CREDIT PROGRAMS (GSM-5, GSM-201, GSM-301) REGULATIONS

Legal Authority: 15 USC 714(c) to 714(f); 07 USC 17070; 07 USC 5602; 07 USC 5621; 07 USC 5661; 07 USC 5662; 07 USC 5676

CFR Citation: 7 CFR 1487; 7 CFR 1488; 7 CFR 1491; 7 CFR 1492

Legal Deadline: None

Abstract: This final rule effects the regulations of the Commodity Credit Corporation (CCC) regarding the use of "direct credit." The CCC is issuing this final rule which deletes the regulations for the noncommercial risk assurance programs (GSM-101) and amends the regulations for financing of sales of agricultural commodities (GSM-5), the CCC intermediate credit export sales program for breeding animals (GSM-201) and the CCC intermediate credit export sales program for foreign market development facilities (GSM-301). The amendments to the GSM-5, GSM-201 and GSM-301 Programs are made to incorporate material required by provisions of the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624).

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Abromovage, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th Street & Independence Avenue

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RIN: 0551–AA34

255. EMERGING DEMOCRACIES AGRICULTURAL FACILITY GUARANTEE PROGRAM

Legal Authority: 7 USC 5622 (b)

CFR Citation: 7 CFR 17

Legal Deadline: None

Abstract: The regulations will provide the terms and conditions of obtaining a Commodity Credit Corporation Export Credit Guarantee for agricultural facility establishment or improvement in emerging democracies that will primarily promote the export of U.S. agricultural commodities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/93	58 FR 11786
Interim Final Rule Effective	03/01/93	
Interim Final Rule Comment Period End	06/01/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Barry Abromovage, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th & Independence Ave SW., Washington, DC 20250, 202 720-6713

RIN: 0551–AA35

256. REGULATIONS GOVERNING THE FINANCING OF COMMERCIAL SALES OF AGRICULTURAL COMMODITIES (P.L. 480 TITLE I PROGRAM)

Legal Authority: 7 USC 1701 to 1705; 7 USC 1736 (a); 7 USC 1736 (c); 7 USC 5676; EO 12220

CFR Citation: 7 CFR 17

Legal Deadline: None

Abstract: The proposed rule would clarify the interim rule published Feb. 1, 1991 in response to the 1990 Food, Agriculture, Conservation, and Trade Act; it would change the basis for demurrage/despatch computations and the distribution of despatch; and it would limit brokerage payments to country agents and expand U.S. Government access to records. These actions would reduce the possibility of conflicts of interest, expedite loading of commodities, increase competition for ocean transportation and reduce ocean freight expenditures under the PL 480 Title I program.

Timetable:

Action	Date	FR Cite
NPRM	11/12/92	57 FR 53607
NPRM Comment Period End	01/13/93	
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Barry D. Abromovage, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th & Independence Ave SW., Washington, DC 20250, 202 720-6713

RIN: 0551–AA36

BILLING CODE 3410-10-F

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS) — **Prerule Stage**

257. WHISKEYTOWN-SHASTA-TRINITY NATIONAL RECREATION AREA

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 292, subpart B

Legal Deadline: None

Abstract: The rules at 36 CFR 292, subpart B govern joint administration of the Shasta and Clair Engle-Lewiston units of the National Recreation Area by the Forest Service and the Bureau of Reclamation. The rules also set forth standards for defining compatible private land uses within the National Recreation Area to govern decisions by local zoning authorities, or in the absence of such authorities, decisions on land uses by the Secretary of Agriculture. The review has focused on experience under the rules and whether they still serve the public interest in ensuring that development and management of the NRA meet congressional intent.

Timetable:

Action	Date	FR Cite
Begin Review	03/01/88	
End Review	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA68

258. CHANGE EMPHASIS AWAY FROM RESIDUAL VALUE APPRAISAL TO TRANSACTION EVIDENCE APPRAISAL AS THE PRIME METHOD OF APPRAISING NATIONAL FOREST TIMBER

Legal Authority: 16 USC 1600

CFR Citation: 36 CFR 223.60

Legal Deadline: None

Abstract: The emphasis will be changed in 36 CFR 223.60 away from the Residual Value Appraisal method of appraising National Forest timber to the Transaction Evidence Appraisal method. The basic procedure will be the Transaction Evidence Appraisal system, except in Region 10 where Residual Value appraising will continue to be used in light of the two long-term contracts that are currently in place. Other uses of the Residual Value and other appraisal systems may be used subject to approval from the Chief of the Forest Service.

The present 36 CFR 223.60 leans heavily to the Residual Value Appraisal System. National direction has been given to convert to the Transaction Evidence Appraisal system by October 1, 1992; thus the emphasis in the CFR needs to be changed.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/93	
ANPRM Comment Period End	06/00/93	
Final Action	07/00/93	
Final Action Effective	07/00/93	

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Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB26

259. RETENTION OF DOWNPAYMENT ON TIMBER SALE CONTRACTS

Legal Authority: 16 USC 472(a); 16 USC 618

CFR Citation: 36 CFR 223.49

Legal Deadline: None

Abstract: The Federal Timber Sale Contract Payment Modification Act directs the Forest Service to require purchasers to make downpayments and periodic payment on timber sales. The objective of these requirements is to discourage speculative bidding on National Forest System timber sales. This rule will identify the requirements to hold downpayments until the timber sale contract is substantially completed and will establish criteria to determine speculative bidding.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/93	
ANPRM Comment Period End	06/00/93	
NPRM	08/00/93	
NPRM Comment Period End	09/00/93	
Final Action	01/00/94	
Final Action Effective	01/00/94	

Small Entities Affected: Businesses

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $10,000; Yearly Recurring Cost: $0

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB28

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS) — **Proposed Rule Stage**

260. GRAZING AND LIVESTOCK USE

Legal Authority: 7 USC 1011; 16 USC 472; 16 USC 551; 16 USC 572; 16 USC 580g; 16 USC 580h; 16 USC 580l; 16 USC 1600 et seq; 31 USC 9701; 43 USC 1901 to 1903; 43 USC 1751; 43 USC 1752

CFR Citation: 36 CFR 222, subpart A

Legal Deadline: None

Abstract: This rulemaking seeks to remove outdated provisions, to incorporate policies and procedures issued in the Forest Service directive system, and to revise the remaining regulations, making them clearer and easier for the public and Agency personnel to use. The proposed regulations (1) clarify the definitions of excess livestock and unauthorized use rate; (2) remove the rule for grazing advisory boards; (3) establish requirements or procedures for minimum permit size, eligibility related to compliance with permit terms, permits for livestock use in vegetation management, valuing range improvements when livestock grazing is eliminated, charging a fee for processing actions initiated or caused by a permittee or applicant, and association meeting frequency of at least 1 every 12 months; (4) incorporate currently used policies and procedures for escrow waivers, associated member grievances, permit cancellation or suspension for excess use, charges for excess use, running a child's livestock under a parent's permit, requests for information for evaluating grazing applications and action on apparent violations of permit terms. (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/16/88	53 FR 30954
NPRM Comment Period End	10/17/88	53 FR 30954
NPRM - Second	10/00/93	
NPRM Comment Period End	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: On August 16, 1988, a proposed rule was published in 53 FR 30954. In response to comments received, a second proposed rule is being issued. The dates projected are for proposed and final rules revising 36 CFR 222, subpart A -- grazing and livestock use.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA35

261. PROHIBITION ON MECHANICAL TRANSPORT AND OTHER ACTIVITIES IN WILDERNESS

Legal Authority: 16 USC 113 to 136; 16 USC 528 to 531; 16 USC 577 to 577c; 16 USC 1133

CFR Citation: 36 CFR 293.6(a); 36 CFR 261

Legal Deadline: None

Abstract: Except where specifically provided for, the Wilderness Act (16 USC 1133) prohibits both motorized equipment and mechanical transport. Mechanical transport includes devices such as bicycles, hang gliders, wheeled carts, and other items designed to carry people or supplies and powered by either "nonliving" or "living" power sources. The objective of this action is to clarify the definition of mechanical transport in 36 CFR 293.6(a) and to make corollary revisions in the prohibitions applicable to wilderness use, including prohibiting competitive events and expanding the definition of aircraft to include hang gliders, parachutes and parasails. (FS 86-009)

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA39

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Proposed Rule Stage

262. APPLICATION PROCEDURES AND FEES FOR HYDROELECTRIC USES ON NATIONAL FOREST SYSTEM LANDS

Legal Authority: 16 USC 551; 43 USC 1761

CFR Citation: 36 CFR 251.54; 36 CFR 251.57

Legal Deadline: None

Abstract: A revision of Agency procedures is needed to reduce confusion regarding the role of the Forest Service in permitting hydroelectric uses on National Forest System lands. The goal of the directives will be to establish procedures, compatible with the procedures of the Federal Energy Regulatory Commission (FERC) for obtaining various approvals and involvement of the Forest Service in a timely manner.

In addition, the directives will establish a fee system for hydroelectric uses as required by Title V, Section 501 of the Federal Land Policy and Management Act of 1976. A Notice of Proposed Policy was published 6/8/84 and comments were received. The proposed policy will take those comments into account.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	10/00/93	
Final Action Effective	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA47

263. LOCATABLE MINERALS

Significance: Agency Priority

Legal Authority: 16 USC 478; 16 USC 551; 43 USC 1701 et seq

CFR Citation: 36 CFR 228, subpart A

Legal Deadline: None

Abstract: Since the regulations were promulgated in 1974, certain legal requirements have changed due to the provisions of the Wilderness Act and recent court decisions; some sections of the regulations no longer apply and revisions and updating are necessary. Major changes proposed will specifically address the requirements for wilderness operations and, secondly, will clarify the mechanism for administering locatable mineral activities not conducted on mining claims but which are nevertheless authorized by the 1872 mining law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA49

264. NATIONAL FOREST PROHIBITIONS; LAW ENFORCEMENT SUPPORT ACTIVITIES

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 683; 7 USC 1011(f); 16 USC 1246(e); 16 USC 1133(c) to 1133(d)(1); 16 USC 559(a)

CFR Citation: 36 CFR 261; 36 CFR 262

Legal Deadline: None

Abstract: The rules at 36 CFR part 261 declare the range of unacceptable public behavior when visiting or using National Forest System lands. Among topics covered are prohibitions on setting campfires in certain areas, unlawful cutting of trees, and other unlawful uses of resources and property of the National Forest System. Violations of these prohibitions carry legal penalties. The rules at 36 CFR part 262 address impoundment of property and rewards for information leading to arrest.

Review has examined the adequacy of the rules for administration of the National Forest System and whether changes in conditions, laws, or other factors require revision. The Agency has completed its review and is now preparing a proposed rule to revise the prohibitions.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	08/01/88	
NPRM	05/00/93	
NPRM Comment Period End	10/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RIN 0596-AA65 was combined with RIN 0596-AA75

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA75

265. REVISE SMALL TRACTS ACT REGULATIONS

Significance: Agency Priority

Legal Authority: 16 USC 521(c) to 521(i)

CFR Citation: 36 CFR 254, subpart C

Legal Deadline: None

Abstract: Implementation of the Agency's Small Tracts regulations has revealed an inadvertent inconsistency between the regulations at 36 CFR 254.35(f) and 254.41(a) and the legislative history of the Small Tracts Act of January 12, 1983. The regulations imply that the disposal of mineral fractions by sale can only be made in response to an application from an abutting landowner, thus discouraging the conveyance by sale to the public. The Act clearly authorizes sale of mineral fractions to the public through public sale, as well as individual applications, provided that certain conditions are met. The revisions will clarify the application of the Act to ensure that both individual applications and public sale are permissible means of disposing of qualifying tracts.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	10/00/93	
Final Action Effective	11/00/93	

Small Entities Affected: None

USDA—FS

Proposed Rule Stage

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA79

266. REVISE RULES GOVERNING SPECIAL USES OF NATIONAL FOREST SYSTEM LANDS AND RESOURCES AT 36 CFR 251 TO REMOVE AMBIGUITIES REGARDING FIRST AMENDMENT RIGHTS

Significance: Agency Priority

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1134; 16 USC 3210; 30 USC 185; 43 USC 1740; 43 USC 1761 to 1771

CFR Citation: 36 CFR 251, subpart A; 36 CFR 251, subpart B; 36 CFR 251, subpart E (New); 36 CFR 251, subpart F (New)

Legal Deadline: None

Abstract: A Federal District Court has ruled that existing regulations discriminate against groups who wish to gather on National Forests to exercise their first amendment rights of assembly and free speech. The proposed rule will seek to remove ambiguities regarding these first amendment rights.

The Agency is reviewing the rules of other Federal land managing agencies for possible approaches and is considering establishing separate rules for authorizing short-term, noncommercial uses of National Forests.

There will be no additional costs as a result of the proposed rule change. The benefit will be that the Forest Service will be able to adequately regulate large group use on the National Forests in a manner that ensures protection of the public health and safety and National Forest resources.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	07/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA80

267. HELLS CANYON NATIONAL RECREATION AREA—PRIVATE LANDS

Legal Authority: PL 94-199, Sec 10(a)

CFR Citation: 36 CFR 292, subpart E (New)

Legal Deadline: None

Abstract: The Forest Service proposes to issue regulations concerning use of private lands in the Hells Canyon National Recreation Area (HCNRA) on the Oregon-Idaho border, as required in Pub. L. 94-199. The intended effect of this action is to establish standards for use and development of privately owned lands within the HCNRA.

The standards are intended to achieve the following management objectives for the Recreation Area: (1) conservation and continuance of forest land for forest uses and farm land for farm uses; (2) maintenance and protection of the free flowing nature of rivers within the HCNRA; (3) conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit; (4) preservation, especially in the area generally known as Hells Canyon, of all features and peculiarities believed to be biologically unique; (5) protection and maintenance of fish and wildlife habitat; (6) protection of archaeological and paleontological sites; (7) preservation of historic sites associated with and typifying the economic and social history of the region (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	11/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: ABSTRACT CONT: and the American West; and (8) continuation of traditional uses.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA88

268. IRREVOCABLE LETTER OF CREDIT

Significance: Agency Priority

Legal Authority: 16 USC 472a; 16 USC 528 to 531; 16 USC 1600 et seq; 12 USC 1 et seq.

CFR Citation: None

Legal Deadline: None

Abstract: In a 1987 court decision, a letter of credit issued in lieu of surety bond was found to be unenforceable because the person who signed the letter of credit did not have authority to do so and because the bank had violated State law in regard to limits of liability. Others were invalid because they exceeded the expiration date. To remedy this problem, the Forest Service is proposing to issue a requirement that the bank president certify as to the authority of the person signing the letter of credit and the conformance with State and Federal statutes. An automatic extension of the expiration date would also be required.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	10/00/93	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA93

269. DISPOSAL OF QUARTZ MINERALS ON THE OUACHITA NATIONAL FOREST

Legal Authority: PL 100-446, Sec 323; 30 USC 601; 30 USC 603

CFR Citation: 36 CFR 228, subpart C

Legal Deadline: None

Abstract: This regulation is a direct response to the direction in Section 323 of Public Law 100-446 which classified quartz mineral on the Ouachita

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National Forest in Arkansas as no longer subject to location under the General Mining Law of 1872. These materials are now to be managed in the same manner as common varieties of mineral materials under regulations prescribed by the Secretary of Agriculture. Publication of this proposal is being delayed until publication of the final rule defining common variety mineral materials (RIN 0596-AA44).

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AB01

270. PRE-AWARD INFORMATION REQUIREMENTS

Legal Authority: 16 USC 472(a); 16 USC 618

CFR Citation: 36 CFR 223.101

Legal Deadline: None

Abstract: Recently, as the number of timber sale defaults has increased, the number of debarred purchasers has increased, and the Government has initiated a policy of only doing business with responsible parties, it is becoming commonplace for bidders to form new affiliates in order to continue to be awarded Forest Service timber sale contracts. Unless the bidder voluntarily identifies affiliates, the Agency must make the determination through a time consuming process prior to award, prior to determining if double downpayment rules apply, and prior to taking debarment action. This rule would require bidders to disclose, prior to award of sales, all affiliates, and to certify that none are suspended or debarred. Filing a false certification would be cause for contract cancellation and debarment action.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AB03

271. EXPANDED USE OF PROSPECTING PERMITS AND PREFERENCE RIGHT SALES FOR MINERAL MATERIALS

Legal Authority: 30 USC 601 et seq

CFR Citation: 36 CFR 228, subpart C

Legal Deadline: None

Abstract: Currently rules pertaining to prospecting permits and preference right negotiated sales apply only to minerals on acquired National Forest lands. This limitation is felt to encourage parties to locate mining claims on other National Forest lands under the mining laws of 1872, when it would be more appropriate to apply for a sale of mineral materials. This proposed rule would expand the use of prospecting permits to other National Forest System lands and responds to a recent change in the definition of mineral materials and clarification of those minerals that are subject to mining claims and those that are subject to sale.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AB12

272. CLARIFICATION AND REVISION OF APPEALABLE DECISIONS UNDER 36 CFR PART 251, SUBPART C

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 251, subpart C

Legal Deadline: None

Abstract: The current rules at 36 CFR part 251 subpart C provide appeal procedures for holders of or certain applicants for land use and occupancy authorizations. Experience under this rule indicates a need to revise the rule as to purpose and scope and appealable decision. Questions have arisen on whether terms and conditions of the permit and routine administration of the permit by the Forest Service are appealable. In addition, the rule is silent on administrative review of decisions regarding recomputation of timber volume shares for small timber purchasers and decisions related to determination for the need for structural changes in a market area under the Small Business Timber Set Aside program. This rulemaking will seek to address the problems.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington DC 20090-6090, 703 235-1488

RIN: 0596–AB17

273. LAND AND RESOURCE MANAGEMENT PLANNING

Significance: Agency Priority

Legal Authority: 16 USC 1600 et seq; 5 USC 301

CFR Citation: 36 CFR 219

Legal Deadline: None

Abstract: This rulemaking will revise the regulations governing forest land and resource management planning to reflect agency experience in preparing initial forest plans as required by the National Forest Management Act. The rule will articulate and clarify the forest planning and decisionmaking process, propose ways to streamline plan amendment and revision, and, in general, adjust and fine tune the rule and its requirements to make the planning process more realistic, meaningful, and efficient.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/91	56 FR 6508
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington DC 20090-6090, 703 235-1488

RIN: 0596–AB20

274. GOVERNMENT CANCELLATION OF TIMBER SALE CONTRACTS

Significance: Agency Priority

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 223.40; 36 CFR 223.116

Legal Deadline: None

Abstract: Current regulations governing cancellation of National Forest timber sale contracts do not adequately protect the Government's financial interests in the event the Forest Service is forced to cancel contracts due to events beyond its control arising from compliance with environmental statutes. This rulemaking would remove an unworkable compensation of damages formula, remove limits applicable to length of contract term, and establish a termination for environmental protection clause in timber sale contracts, a standard in most Federal procurement contracts.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	
Final Action	10/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 200090-6090, 703 235-1488

RIN: 0596–AB21

275. SPECIES SURPLUS TO DOMESTIC MANUFACTURING NEEDS

Legal Authority: 16 USC 620 et seq

CFR Citation: 36 CFR 223.200

Legal Deadline: None

Abstract: This proposed rule would amend subpart F, part 223 of title 36 of the Code of Federal Regulations, section 223.200, to list species proposed to be surplus to domestic manufacturing needs.

This proposed rule would implement a portion of section 489(b) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 USC 620 et seq). Section 489(a) of the Act provides that no person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange or otherwise convey such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States. Section 489(b) of the Act provides that the prohibition contained in subsection (a) shall not apply to specific quantities of grades and species of unprocessed timber originating in Federal lands which the Secretary concerned determines to be surplus to domestic manufacturing needs, issued in accordance with section 553 of title 5, USC.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB27

276. NATIONAL FOREST SYSTEM NOTICE; COMMENT AND APPEALS PROCEDURES

Legal Authority: 16 USC 551; 16 USC 472

CFR Citation: 36 CFR 215

Legal Deadline: None

Abstract: This rule responds to Public Law 102-381, section 322, Forest Service Decisionmaking and Appeals Reform. This rule establishes procedures to require public notice and opportunity to comment on certain Forest Service actions for which environmental documentation is required. This rule establishes new appeal procedures in accord with those specified in Pub. L. 102-381, for certain actions which implement forest land and resource management plans. In addition, this rule recodifies the agency's administrative appeal process at 36 CFR part 217 for appeals of approvals or amendments of regional guides, and approval, significant amendment, and revision of forest land resource management plans to 36 CFR part 215, subpart C. The intended effect is to comply with the new law, expand opportunities for pre-decisional involvement of the public in Forest Service decisionmaking, and to minimize delay in providing a stable supply of resources to society.

Timetable:

Action	Date	FR Cite
NPRM	03/26/92	57 FR 10444
NPRM Comment Period End	04/27/92	
NPRM	04/14/93	58 FR 19369
NPRM Comment Period End	04/29/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Additional Information: This rule substitutes for a previous regulatory action using the same RIN number. Before the previous rule could be finalized, Pub. L. 102-381 was enacted specifying changes to the agency public notice and comment process and the appeals process for actions

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Proposed Rule Stage

implementing Forest Service land and resource management plans.

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB30

277. PROPOSED POLICY NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING FOREST SERVICE MANUAL (FSM 1920)

Significance: Agency Priority

Legal Authority: 16 USC 1600 et seq

CFR Citation: None

Legal Deadline: None

Abstract: The proposed manual policy would incorporate all direction for land and resource management planning into one Forest Service Manual chapter (FSM 1920). The proposed policy would clarify how the revised land and resource management planning regulations at 36 CFR 219 will be implemented. The proposal will focus on implementation of forest plans: monitoring, evaluation, amendment, and revision of forest plans; and clarifying the relationship between forest planning and project decisionmaking. The agency plans to make this policy available for review during the comment period on the proposed revised rule (see entry for 0596-AB20).

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	
Final Action	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB31

278. USE OF FIXED ANCHORS FOR ROCK CLIMBING IN WILDERNESS

Significance: Agency Priority

Legal Authority: 16 USC 1121; 16 USC 1131 to 1136

CFR Citation: 36 CFR 261.16; 36 CFR 293.9

Legal Deadline: None

Abstract: The sport of rock climbing is often accomplished by using fixed, rather than removable, metal bolts and anchors. These bolts are considered permanent improvements when installed. These improvements may detract from the wilderness experience and are not always compatible with management of the wilderness resource. The Forest Service proposes to reduce impacts on the wilderness resource by regulating use of fixed anchors for rock climbing in wilderness administered by the agency so that rock climbing occurs in a manner compatible with wilderness management. Alternatives to the proposed action are to prohibit all use of fixed anchors in wilderness, or permit unrestricted use of fixed anchors.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $1,000; Base Year for Dollar Estimates: 1992

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB33

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Final Rule Stage

279. IMPROVING FINANCIAL SECURITY OF TIMBER SALE CONTRACTS

Significance: Regulatory Program; Agency Priority

Legal Authority: 16 USC 472a

CFR Citation: None

Legal Deadline: None

Abstract: The Forest Service proposes to strengthen the Government's contract financial position by: the elimination of the $500,000 performance bond ceiling; increasing the bid guarantee to 10 percent of the advertised value; assessing damages for contract repudiation based on resale value; and conditions. In addition, the Forest Service is proposing to increase the amount of contract security to deter speculative bidding, decrease the potential for contract defaulting, and provide additional guarantee for payment in the event of default damage claims. Following notice and comment, these changes will be issued in the form of instruction to agency contracting officers in the Forest Service Directive System.

Timetable:

Action	Date	FR Cite
NPRM	12/07/90	55 FR 50647
NPRM Comment Period End	01/07/91	
Final Action	05/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action separates the rule making issues from the policy proposals contained in RIN-AA33, as listed in the April 1990 Agenda.

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington DC 20090-6090, 703 235-1488

RIN: 0596–AA33

280. LAND EXCHANGES

Significance: Agency Priority

Legal Authority: 16 USC 485; 16 USC 486; 16 USC 516; 7 USC 1011; 16 USC 555a; 43 USC 1715; 43 USC 1716 102 Stat 1086

CFR Citation: 36 CFR 254, subpart A

Legal Deadline: Final, Statutory, August 20, 1989.

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Abstract: Changes in existing regulations are needed to implement provisions of the Federal Land Exchange Facilitation Act of August 20, 1988, as well as to correct errors, delete obsolete portions, update to reflect current authorities, and clarify ambiguities. Upon consideration of public comment and further coordination with the Bureau of Land Management which is also developing rules to implement the Act, the Agency has decided to issue a new proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	08/18/89	54 FR 34368
NPRM Comment Period End	10/02/89	
Extension of Comment Period	12/01/89	54 FR 41849
NPRM	10/02/91	56 FR 49948
NPRM Comment Period End	12/02/91	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA42

281. INDIAN ALLOTMENTS ON NATIONAL FOREST SYSTEM LANDS

Significance: Agency Priority

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603; 43 USC 1740; 25 USC 337

CFR Citation: 36 CFR 254, subpart D (New)

Legal Deadline: None

Abstract: Objectives are to set forth Forest Service procedures and role in the regulation of Indian allotments on National Forest System land. The Indian Allotment Act, as amended, authorizes the Secretary of the Interior to make allotments of National Forest System lands to Indians for homesteading and agricultural and grazing purposes. The Forest Service has relied upon USDI rules and procedures at 43 CFR 2533 to govern its involvement in Indian allotment cases. Litigation and a decision by the Interior Board of Land Appeals indicate the need for the Forest Service to set forth its own regulations when the Forest Service determines that lands are not chiefly valuable for agricultural and grazing purposes.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23473
NPRM Comment Period End	07/22/87	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA52

282. SURETY BOND FORM REVISION

Significance: Agency Priority

Legal Authority: 31 USC 9301 to 9309; 31 USC 223 to 225

CFR Citation: None

Legal Deadline: None

Abstract: Following a period of high-priced timber sales bid prior to 1982, the Forest Service experienced a number of contract defaults on these sales. Subsequently, the Forest Service has had difficulty collecting from some sureties on the bonds guaranteeing performance on these sales. As part of a financial security initiative affecting future sales, the Forest Service is proposing to revise the payment and performance bonds to clarify surety's obligation in regard to what is being guaranteed, when payment is due in case of default, what additional charges will be assessed if payment is not made when due and when collection action may be suspended. Other alternatives include eliminating surety bonds as a form of security, reducing surety guarantee to mid-point and periodic payment and retention of current bond forms. Upon adoption the final revised bond forms will be issued for use by Forest Service Contracting and Fiscal Officers for future timber sale contracts.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1742
NPRM Comment Period End	03/20/89	
Final Action	09/00/93	
Final Action Effective	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Final action on this entry has been delayed to obtain advice of the Comptroller General.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA94

283. FEDERAL CAVE RESOURCES PROTECTION

Significance: Agency Priority

Legal Authority: PL 100-691

CFR Citation: 36 CFR 290, subpart A (New)

Legal Deadline: Final, Statutory, August 18, 1989.

Abstract: These regulations will implement the Federal Cave Resources Protection Act of 1988, which requires that the rules define what is a significant cave for purposes of this Act. The Act also requires that the rules address an inventory of cave resources, provide for confidentiality of information concerning the nature and location of caves on Federal land, and permits for collection and removal of cave resources. The regulations are being developed in concert with agencies of the U.S. Department of the Interior as required by the act.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/89	54 FR 9066
ANPRM Comment Period End	04/03/89	
NPRM	12/23/91	56 FR 66388
NPRM Comment Period End	03/23/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box

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USDA—FS

Final Rule Stage

96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AB02

284. RECREATION RESIDENCE AUTHORIZATION POLICY

Significance: Agency Priority

Legal Authority: 16 USC 497

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The policy for administering recreation residences on National Forest lands was adopted August 16, 1988 (53 FR 30924) and subsequently appealed under the administrative appeal process (36 CFR 211.18). In rendering his decision on the appeal the Assistant Secretary of Agriculture for Natural Resources and Environment suspended certain provisions related to tenure and the offering of in-lieu sites; designated the remaining features interim policy; and directed the Chief of the Forest Service to review and reconsider the entire policy (54 FR 23499; June 1, 1989). The policy is being reformulated and consideration given to public comments received. The purpose of the policy is to improve the administration of recreation residence permits and implement a revised fee schedule that obtains fair market value for the use. The policy affects about 15,800 permittees.

Timetable:

Action	Date	FR Cite
ANPRM	09/20/89	54 FR 38700
ANPRM Comment Period End	11/20/89	
ANPRM Comment Period Extended	01/19/90	54 FR 48666
NPRM	10/10/91	56 FR 51260
NPRM Comment Period End	03/08/92	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AB06

285. HELLS CANYON NATIONAL RECREATION AREA—USE OF NATIONAL FOREST LANDS

Significance: Agency Priority

Legal Authority: 16 USC 460(gg) Hells Canyon National Recreation Area

CFR Citation: 36 CFR 292, subpart F (New)

Legal Deadline: None

Abstract: In Oregon Natural Resource Council v Lyng, the 9th Circuit Court of Appeals ruled that the Secretary must promulgate regulations as required by the Hells Canyon National Recreation Act (HCNRA) governing federal and private land uses in the HCNRA. The Department had argued that such rules were discretionary and the Agency's comprehensive management plan for the NRA, which was prepared as required by the Act, was sufficient to guide management of the area. As a result of the court's ruling, the risk of litigation to halt ongoing activities, particularly timber sales, is high. Accordingly, there is an urgent need to promulgate an interim rule governing management of the federal lands in the HCNRA. While many existing regulations governing National Forest System lands remain applicable to the Hells Canyon NRA, pending projects and plans are vulnerable to continued litigation until final rules are effective. An interim rule is the most expeditious way to effect rules. Public comment will be invited on the interim rule and will be considered in development of the final rule. (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/89	54 FR 41089
Interim Final Rule Comment Period End	12/04/89	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The only alternative to the court ruling to promulgate rules is to publish a proposed rule rather than interim rules. This is unacceptable because of the potential for disruption to management of the area and the regulatory void that would be created by the longer timeframes involved in going through a Notice of Proposed Rulemaking.

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AB08

286. FEDERAL TIMBER EXPORT AND SUBSTITUTION RESTRICTIONS (COMPREHENSIVE REVISION)

Significance: Agency Priority

Legal Authority: 16 USC 620 to 620j

CFR Citation: 36 CFR 223, subpart B; 36 CFR 223, subpart C; 36 CFR 223, subpart D; 36 CFR 223, subpart F; 36 CFR 261, subpart A

Legal Deadline: Final, Statutory, May 20, 1991.

Abstract: These rules are necessary to carry out the restrictions placed on the export of unprocessed timber from Federal lands and the restrictions on the direct and indirect purchasing of Federal logs to be used in substitution for the export of unprocessed timber originating from private lands. The rules are mandated by the Forest Resources Conservation and Shortage Relief Act of August 20, 1990. The Act calls for various rules to be issued. The agency anticipates several rulemakings to achieve implementation of the act. See RIN 0596-AB25 for related rulemaking.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/20/90	55 FR 48572
Interim Rule Effective	11/20/90	
Comprehensive		
NPRM 01/29/91 (56 FR 3354)		
NPRM Comment Period End 03/15/91		
Final Action 05/00/93		
Final Action Effective 05/00/93		
Limited Scope		
NPRM 01/29/91 (56 FR 3375)		
NPRM Comment Period End 02/05/91		
Final Action 05/00/93		
Final Action Effective 05/00/93		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB22

USDA—FS

Final Rule Stage

287. BELOW-COST TIMBER SALE PROGRAM POLICY AND GUIDELINES

Significance: Agency Priority

Legal Authority: 43 USC 1764

CFR Citation: None

Legal Deadline: None

Abstract: The Forest Service is proposing a policy and implementing guidelines to address below-cost timber sale programs on individual National Forests. The policy would be issued to Forest Service field employees, would address the costs and revenues associated with the management of National Forest timber sale programs, and would require use of the Timber Sale Program Information Reporting System to assess each National Forest timber sale program.

Timetable:

Action	Date	FR Cite
NPRM	04/16/91	56 FR 15323
NPRM Comment Period End	06/17/91	56 FR 15323
Final Action	06/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AB24

288. STATE AND PRIVATE FORESTRY ASSISTANCE STEWARDSHIP INCENTIVE PROGRAM

Significance: Agency Priority

Legal Authority: 16 USC 2101 et seq

CFR Citation: 36 CFR 230

Legal Deadline: None

Abstract: This final rule would incorporate any changes resulting from public comments on the interim rule published December 4, 1991. The interim rule established the interim procedures for administration of the Stewardship Incentive Program. The Program is intended to encourage private landowners, through cost-share assistance, to manage their forest lands for economic, environmental, and social benefits. Only two alternatives were considered in detail: (1) to implement the Program in accordance with 16 USC 2101, et seq, and (2) not to implement the Program, in which case there would be no accelerated program for multiple resource management on nonindustrial private forest lands. The overall effects of the Program over time will be environmentally beneficial by enhancing wetlands, wildlife habitat, forest health, forest productivity, and recreation. The Program will help meet future demand for commodity and noncommodity forest resources. There are no potential negative impacts anticipated for the Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/04/91	56 FR 63581
Interim Final Rule Public Comment Period End	01/21/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB32

289. SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Significance: Agency Priority

Legal Authority: 43 USC 1764; 31 USC 483(a); 30 USC 181 Mineral Leasing Act; 16 USC 551

CFR Citation: 36 CFR 251(b)

Legal Deadline: None

Abstract: The Forest Service proposes to amend the regulations governing the use and occupancy of National Forest System lands to minimize application expenses, streamline and make more efficient environmental analysis of special use proposals, provide the ability to use one-time payments for easements as presently used in the market place, limit certain liability requirements to amounts determined by a risk assessment, make certain definitions more explicit, and clarify direction on renewal of existing special use regulations. The intended effect is to reduce costs to proponents and the agency, expedite decisionmaking, and administer authorizations in a more "user friendly" manner by removing certain requirements deemed unnecessary and/or outdated.

Timetable:

Action	Date	FR Cite
NPRM	08/14/92	57 FR 36618
NPRM Comment Period End	09/28/92	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB35

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Completed Actions

290. USE OF "SMOKEY BEAR" SYMBOL

CFR Citation: 36 CFR 271

Completed:

Reason	Date	FR Cite
Suspended	01/11/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, 703 235-1488

RIN: 0596–AA66

291. 36 CFR 241 WILDLIFE: COOPERATION IN WILDLIFE PROTECTION, WILDLIFE MANAGEMENT, AND FEDERAL REFUGE REGULATIONS

CFR Citation: 36 CFR 241

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USDA—FS — **Completed Actions**

Completed:

Reason	Date	FR Cite
Withdrawn	01/15/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, 703 235-1488

RIN: 0596–AA81

292. NATIONAL ENVIRONMENTAL POLICY ACT REVISED IMPLEMENTING POLICY AND PROCEDURES

Significance: Agency Priority

CFR Citation: 40 CFR 1500 to 1508

Completed:

Reason	Date	FR Cite
Final Action	09/18/92	57 FR 43180

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, 703 235-1488

RIN: 0596–AB05

293. VIABILITY OF SPECIES IN FOREST PLANNING

Significance: Agency Priority

CFR Citation: 36 CFR 219.19

Completed:

Reason	Date	FR Cite
Incorporated into RIN 0596-AB20	03/02/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, 202 235-1488

RIN: 0596–AB34

BILLING CODE 3410-11-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of Finance and Management (OFM) — **Final Rule Stage**

294. AUDITS OF INSTITUTIONS OF HIGHER EDUCATION AND OTHER NONPROFIT ORGANIZATIONS

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 7 CFR 3015; 7 CFR 3051

Legal Deadline: None

Abstract: Sets forth USDA's policy for audits of institutions of higher education and other nonprofit institutions and implements OMB's Circular A-133.

Timetable:

Action	Date	FR Cite
NPRM	04/11/91	56 FR 4654
NPRM Comment Period End	05/11/91	
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Larry Wilson, Director, Department of Agriculture, Office of Finance and Management, Rm 4094 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 720-8345

RIN: 0505–AA07

295. AUDITS OF STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS

Significance: Agency Priority

Legal Authority: 5 USC 301; 31 USC 7505

CFR Citation: 7 CFR 3015; 7 CFR 3016; 7 CFR 3050

Legal Deadline: None

Abstract: Consolidates and revises USDA's policy for audits of State, local and Indian Tribal Governments.

Timetable:

Action	Date	FR Cite
Final Action	07/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Larry Wilson, Director, Department of Agriculture, Office of Finance and Management, Rm 4094 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 720-8345

RIN: 0505–AA09

BILLING CODE 3410-90-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC) — **Prerule Stage**

296. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE

Significance: Agency Priority

Legal Authority: PL 101-194 Ethics Reform Act; EO 12674 Ethical Conduct for Government Officers and Employees

CFR Citation: 05 CFR 2635

Legal Deadline: None

Abstract: The regulations will supplement Government-wide ethical conduct regulations issued by the Office of Government Ethics (OGE) in August 1992. The OGE must approve USDA's supplementation.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Donald Downing, Director, Employee Relations Division, Department of Agriculture, Office of the Secretary, Room 47W Administration Building, 14th and Independence Ave. SW., Washington, DC 20250, 202 720-3327

RIN: 0503–AA05

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC) — **Proposed Rule Stage**

297. FOOD STAMP PROGRAM: FORFEITURE AND DENIAL OF PROPERTY RIGHTS

Significance: Agency Priority

Legal Authority: 7 USC 2024(g)

CFR Citation: 7 CFR 271.5

Legal Deadline: None

Abstract: The USDA Office of Inspector General is proposing this rule to implement section 15(g) of the Food Stamp Act of 1977, as amended by section 124 of the Food Stamp Act Amendments of 1980, Public Law 96-249, which authorizes the Secretary of Agriculture to subject to forfeiture and denial of property rights any nonfood items, moneys, negotiable instruments, securities, or other things of value that are furnished or intended to be furnished by any person in exchange for food coupons, authorization cards, or other program benefit instruments or access devices in any manner not authorized by the Act or regulations issued pursuant to the Act, 7 USC 2024(g). The proposed rule would establish procedures concerning the handling of forfeited property to be followed by the Inspector General and other Federal Law enforcement officials. Violations of the Food Stamp Act may cause the Government to acquire property subject to forfeiture and denial of property rights.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Herb Murray, Senior Special Agent, Program Investigations Division, Department of Agriculture, Office of the Secretary, Room 418-A Administration Building, Washington, DC 20250, 202 720-4401

RIN: 0503–AA07

BILLING CODE 3410-90-F

DEPARTMENT OF AGRICULTURE (USDA)
Rural Electrification Administration (REA) — **Proposed Rule Stage**

298. LOAN SECURITY DOCUMENTS—TELEPHONE PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1744

Legal Deadline: None

Abstract: This new rule provides information on the loan security documents borrowers are required to execute and includes as appendixes REA's standard forms of loan contract, note, and mortgage.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA30

299. REVISION OF TELECOMMUNICATION POLICIES AND PROCEDURES FOR APPROVAL OF STANDARDS, SPECIFICATIONS, CONTRACT FORMS, AND DRAWINGS

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: This regulation will update, consolidate, and clarify REA policies and procedures relating to approvals of REA standards, specifications, equipment contract forms, manual selections, and drawings, and REA acceptances of materials and equipment for use on REA-financed telephone facilities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA45

300. ELECTRIC SYSTEM CONSTRUCTION POLICIES AND PROCEDURES—ELECTRIC MATERIALS AND CONSTRUCTION

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1726

Legal Deadline: None

Abstract: This rule will codify and update Agency policies and procedures for the construction of electrical systems of REA borrowers.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA47

301. ELECTRIC SYSTEM PLANNING AND DESIGN—POLICIES AND PROCEDURES

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1724

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Legal Deadline: None

Abstract: This rule will codify and update Agency policies and procedures for the planning and design of electrical systems of REA borrowers.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA48

302. MARGIN STABILIZATION PLANS AND REVENUE AND EXPENSE DEFERRALS

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1767

Legal Deadline: None

Abstract: This rule will set forth procedures that borrowers must follow to obtain approval of margin stabilization plans and revenue and expense deferrals. The rule will implement provisions of Statement of Financial Accounting Standards No. 71, Accounting for the Effects of Certain Types of Regulation.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: An Advance Notice of Proposed Rulemaking on this subject was published November 7, 1988, at 53 FR 44887 as 7 CFR part 1718. As part of REA's project to simplify and clarify Agency regulations, it has been redesignated as shown above.

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA50

303. SPECIFICATION FOR FIBER OPTIC SPLICE CLOSURES

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: REA proposes to issue a specification for fiber optic splice closures which would describe the mechanical and electrical requirements that ensure safe, reliable, and cost effective closures for REA telephone borrowers. Specific references to appropriate industry standards would be incorporated. Detailed product evaluation procedures will be covered where industry specifications are not available.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA62

304. REA SOFTWARE LICENSE AGREEMENT

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: REA proposes to establish a uniform software license agreement to be attached to all REA-financed central office equipment contracts as an addendum.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA63

305. REA SPECIFICATION FOR MECHANICAL FIBER OPTIC SPLICES

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: REA proposes to issue a specification for mechanical fiber optic splices which describes the mechanical and electrical requirements that insure safe, reliable, and cost effective splices for use by REA telephone borrowers. Specific references to industry standards will be incorporated. Product evaluation procedures will be specified where industry specifications are not available.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA64

306. LOAN ACCOUNT COMPUTATIONS, POLICIES, AND PROCEDURES

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1785

Legal Deadline: None

Abstract: REA proposes to codify, consolidate, and update the policies and procedures currently contained in REA Bulletin 20-9:320-12.

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Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA65

307. ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1728

Legal Deadline: None

Abstract: This regulation provides REA borrowers and the public with specifications for material and equipment as a complement to the list of construction standards and specifications incorporated by reference.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA67

308. PRE-LOAN POLICIES AND PROCEDURES FOR INSURED ELECTRIC LOANS

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1714

Legal Deadline: None

Abstract: This regulation contains the administrative policies, requirements and procedures of the REA electric program for applicants seeking insured loan funds from REA to furnish electric service in rural areas.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA69

309. POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717, subpart O; 7 CFR 1717, subpart P; 7 CFR 1717, subpart S

Legal Deadline: None

Abstract: This regulation will codify most basic post-loan policies and procedures common to insured and guaranteed electric loans.

Timetable:

Action	Date	FR Cite
NPRM	03/05/93	58 FR 12552
NPRM Comment Period End	05/04/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA70

310. POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717, subparts A to F; 7 CFR 1717, subparts J to K

Legal Deadline: None

Abstract: This regulation will codify most basic post-loan policies and procedures common to insured and guaranteed electric loans.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA71

311. REA PERFORMANCE SPECIFICATION FOR LINE CONCENTRATORS

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: REA is proposing to revise the specification to reflect the latest technical advancements in line concentrator performance. REA is also proposing to rescind Bulletin 345-185 (REA Form 397g) from section 1755.97, Incorporation By Reference of Telephone Standards. REA proposes to codify the revised Bulletin as 7 CFR 1755.397.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA72

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312. REA BUY AMERICAN REQUIREMENT

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 901 et seq

Legal Deadline: None

Abstract: This proposed rule would provide borrowers, material and equipment manufacturers, and the public with proposed rules for compliance with a Buy American requirement in connection with the expenditure of loan, grant, or guaranteed funds. This action will codify the requirements of the Buy American Act and Executive Order 10582. REA Bulletin 43-9:344-3 "Buy American" will be rescinded upon publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA73

313. ELECTRIC SYSTEMS OPERATIONS AND MAINTENANCE

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1730

Legal Deadline: None

Abstract: The Rural Electrification Administration proposes to codify and clarify REA policy concerning operation and maintenance of borrower electric systems. In addition, it is proposed to add REA policies relating to the review and evaluation of borrower systems and facilities financed with loans from REA. These policies are presently contained in REA Bulletin 161-5 which will be rescinded upon publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA74

314. CIVIL RIGHTS POLICIES APPLICABLE TO REA BORROWERS

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1790

Legal Deadline: None

Abstract: This action provides REA borrowers with access to the requirements of Title VI, Section 504, and the Age Discrimination Act, which apply directly to the operation of their programs and activities. REA Bulletin 20-19:320-19, entitled Nondiscrimination Among Beneficiaries of REA Programs will be rescinded upon publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA75

315. LOAN DOCUMENTS—BANK PROGRAM

Legal Authority: 7 USC 941 et seq

CFR Citation: 7 CFR 1620

Legal Deadline: None

Abstract: REA proposes to add a new part 1620 which provides information on loan documents which telephone borrowers are required to execute. New part 1620 will also include Rural Telephone Bank standard forms of loan contract, note, and mortgage. Bulletin 402-1, Mortgage Restrictions on Dividends and Other Distributions - Telephone Borrowers, will be rescinded upon publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA76

316. STANDARDS AND SPECIFICATIONS FOR TIMBER PRODUCTS ACCEPTABLE FOR USE ON REA FINANCED ELECTRIC AND TELEPHONE SYSTEMS

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1728; 7 CFR 1755

Legal Deadline: None

Abstract: The Rural Electrification Administration proposes to revise 7 CFR 1728 by rescinding Bulletins 50-17 and 50-24, and codifying the information of these bulletins at 1728.95 and 1728.96 respectively. Also, REA proposes to revise Bulletin 50-18, renumber it as 1728F-DT5C, and incorporate it by reference at 7 CFR 1728. Additionally, REA proposes to revise 7 CFR 1755 by incorporating by reference Bulletin 1728F-DT5C. These revisions are prompted by borrower requests to use copper naphthenate products, and by suppliers wanting to furnish these products to REA borrowers.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA77

317. DEPRECIATION RATES AND PROCEDURES

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1767

Legal Deadline: None

Abstract: The Rural Electrification Administration proposes to add a new subpart to 7 CFR 1767 that codifies current policy on depreciation rates and procedures. Revisions are being proposed to the existing policy that will require continuing records to be maintained on a vintage year basis, and that set forth requirements for utilizing depreciation rates that vary from those that are prescribed in this subpart. Current REA policy is set forth in Bulletin 183-1, which will be rescinded upon publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA80

318. SPECIFICATION FOR FILLED FIBER OPTIC CABLES

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: The Rural Electrification Administration proposes to amend 7 CFR 1755.97 by rescinding Bulletin 345-90 and codifying the revised specification at 7 CFR 1755.900. The revised specification allows the use of dispersion-shifted single mode fibers, allows the use of 62.5/125 micrometer multimode fibers, includes a section on self supporting aerial fiber optic cable, and establishes end product requirements associated with the options stated above.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	
Final Action	10/00/93	
Final Action Effective	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA82

319. SPECIFICATION FOR POLE LINE HARDWARE

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1728

Legal Deadline: None

Abstract: The Rural Electrification Administration proposes specifications for hardware used on electric utility poles. The organization performing the secretariat function for pole line hardware has withdrawn and ceased to operate, and all existing standards will expire in five years.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	11/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA83

320. ELECTRIC SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1726

Legal Deadline: None

Abstract: The Rural Electrification Administration proposes to allow borrowers to modify its standard forms of electric contracts by revising the provision relating to indemnification of the owner by the contractor.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA84

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DEPARTMENT OF AGRICULTURE (USDA)
Rural Electrification Administration (REA)

Final Rule Stage

321. REA FORM 525: CENTRAL OFFICE EQUIPMENT CONTRACT (INCLUDING INSTALLATION)

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755.93

Legal Deadline: None

Abstract: The purpose of revising 7 CFR part 1755 is to announce a general revision of REA Contract Form 525, Central Office Equipment Contract (Including Installation).

Timetable:

Action	Date	FR Cite
NPRM	10/25/89	54 FR 43429
Federal Register Correction	11/01/89	54 FR 46187
NPRM Comment Period End	12/26/89	54 FR 43429
New Proposed Rule	03/14/91	56 FR 10827
NPRM Comment Period end	05/13/91	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA20

322. ACCOUNTING REQUIREMENTS FOR REA ELECTRIC BORROWERS

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1767

Legal Deadline: None

Abstract: To codify the policy and procedures currently set forth in REA Bulletin 181-1, Uniform System of Accounts Prescribed for Electric Borrowers of the Rural Electrification Administration and REA Bulletin 181-3, Accounting Interpretation for REA Electric Borrowers. In addition to codifying, revisions are being proposed to the existing policy that will update REA's accounting guidelines.

Timetable:

Action	Date	FR Cite
NPRM	09/17/90	55 FR 36936
NPRM Comment Period End	11/06/90	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA23

323. WHOLESALE CONTRACTS FOR THE PURCHASE AND SALE OF ELECTRIC POWER AND ENERGY

Legal Authority: 7 USC 901 et seq; PL 99-591

CFR Citation: 7 CFR 1717.300 to 1717.349

Legal Deadline: None

Abstract: This regulation revises REA policies and procedures relating to wholesale power contracts.

Timetable:

Action	Date	FR Cite
NPRM	09/21/90	55 FR 38930
NPRM Comment Period End	11/20/90	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA41

324. REA SPECIFICATION FOR FILLED TELEPHONE CABLES

Legal Authority: 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: REA amends 7 CFR 1755.97, Incorporation by Reference of Telephone Standards and Specifications, by rescinding REA Bulletin 345-67, REA Specifications for Filled Telephone Cables, PE-39, and codifying the specification at 7 CFR 1755.390, REA Specifications for Filled Telephone Cables. This revised specification updates the end product performance requirements of filled cables brought about by technological advancements made during the last two years.

Timetable:

Action	Date	FR Cite
NPRM	09/10/91	56 FR 46132
NPRM Comment Period End	10/10/91	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA55

325. REA SPECIFICATION FOR FILLED TELEPHONE CABLES WITH EXPANDED INSULATION

Legal Authority: 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: REA proposes to revise 7 CFR 1755.97 by rescinding Bulletin 345-89, and incorporating by reference new Bulletin 1753F-208 (PE-89), REA Specification for Filled Telephone Cables with Expanded Insulation. The new Bulletin will update the end product performance requirements of filled cables with expanded insulation. These new requirements are a result of technological advances during the last five years.

Timetable:

Action	Date	FR Cite
NPRM	09/13/91	56 FR 46575
NPRM Comment Period End	10/15/91	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA56

USDA—REA

Final Rule Stage

326. REA SPECIFICATION FOR FILLED BURIED WIRES

Legal Authority: 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: REA proposes to revise 7 CFR 1755.97 by rescinding Bulletin 345-86, REA Specification for Filled Buried Service Wire, and Incorporating by Reference new Bulletin 1753F-206(PE-86). The new Bulletin implements the use of 24 AWG conductor sizes and 3 pair wire designs, includes raw material requirements for insulation and jacket compounds, and establishes end product requirements associated with these standards.

Timetable:

Action	Date	FR Cite
NPRM	12/31/92	57 FR 62490
NPRM Comment Period End	02/01/93	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA57

327. GENERAL SPECIFICATION FOR DIGITAL, STORED, PROGRAM CONTROLLED CENTRAL OFFICE EQUIPMENT

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: REA proposes to revise 7 CFR 1755 by rescinding Bulletin 345-165, General Specification for Digital, Stored, Program Controlled Office Equipment, and incorporate by reference new Bulletin 1753E-001 (522). The new Bulletin will permit greater latitude to provision power converters and ringing source functions, and limit a diminished effect on public telephone service integrity.

Timetable:

Action	Date	FR Cite
NPRM	03/14/91	56 FR 10835
NPRM Comment Period End	05/13/91	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA58

328. PRE- AND POST-LOAN POLICIES AND PROCEDURES FOR GUARANTEED ELECTRIC AND TELEPHONE LOANS

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1712; 7 CFR 1719; 7 CFR 1739; 7 CFR 1746

Legal Deadline: None

Abstract: REA is finalizing policies and procedures for a new program authorized by Section 314 of the Rural Electrification Act. It provides 90 percent guarantees for loans from private lenders.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/27/91	56 FR 42460
Final Action	10/00/93	
Final Action Effective	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA59

329. LOAN PAYMENT DEFERMENTS FOR ECONOMIC DEVELOPMENT PROGRAMS

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1703

Legal Deadline: None

Abstract: REA proposes to establish policies, requirements, and procedures that allow electric and telephone borrowers to defer loan payments in an amount equal to an investment in a rural development project.

Timetable:

Action	Date	FR Cite
NPRM	06/16/92	57 FR 26782
NPRM Comment Period End	07/16/92	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA60

330. RESCISSION OF REA BULLETINS 345-13 AND 345-29

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: REA withdraws and rescinds two specifications for telephone materials and equipment which are obsolete due to innovations in technology.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	54 FR 46071
NPRM Comment Period End	01/02/90	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA66

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USDA—REA — **Final Rule Stage**

331. PRE- AND POST-LOAN POLICIES AND PROCEDURES FOR GUARANTEED ELECTRIC AND TELEPHONE LOANS

Legal Authority: 7 USC 901 et seq; PL 99-591

CFR Citation: 7 CFR 1712, subparts C to D; 7 CFR 1719, subparts C to D; 7 CFR 1739, subparts C to D; 7 CFR 1746, subparts C to D

Legal Deadline: None

Abstract: This regulation will consolidate, update and clarify policies and requirements contained in various REA publications by stating requirements specific to guaranteed loans authorized under section 306 of the Rural Electrification Act. It provides 100 percent guarantees for loans from private lenders.

Timetable:

Action	Date	FR Cite
NPRM	08/27/91	56 FR 42496
NPRM Comment Period End	10/28/91	
Final Action	10/00/93	
Final Action Effective	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA68

332. BORROWER INVESTMENTS—TELEPHONE LOAN PROGRAM

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1744

Legal Deadline: None

Abstract: The Rural Electrification Administration proposes to add a new subpart E to 7 CFR 1744 describing the types of investments REA telephone borrowers may make without prior approval of the Administrator. REA also proposes to add the procedure for the treatment of investments in rural development projects when determining a borrowers allowable distribution of capital. This proposed rule should promote economic growth in communities served by REA telephone borrowers by making available additional sources of funding for rural economic development projects.

Timetable:

Action	Date	FR Cite
NPRM	09/01/92	57 FR 39628
NPRM Comment Period End	11/02/92	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA78

333. SEISMIC SAFETY OF NEW BUILDING CONSTRUCTION

Legal Authority: EO 12699

CFR Citation: 7 CFR 1792

Legal Deadline: None

Abstract: The Rural Electrification Administration proposes a new regulation for compliance with seismic safety requirements for new building construction using REA loans, grants, or guaranteed funds. This action is necessary to codify policies and requirements that implement Executive Order 12699 of January 5, 1990, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction, and to comply with the building safety provisions of the Earthquake Hazards Reduction Act of 1977, as amended.

Timetable:

Action	Date	FR Cite
NPRM	11/24/92	57 FR 55153
NPRM Comment Period End	12/24/92	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250, 202 720-9550

RIN: 0572–AA81

DEPARTMENT OF AGRICULTURE (USDA)
Rural Electrification Administration (REA) — **Completed Actions**

334. CREDIT SUPPORT OF POWER SUPPLY BORROWERS

CFR Citation: 7 CFR 1710.350 to 1710.399

Completed:

Reason	Date	FR Cite
Withdrawn	03/04/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, 202 720-9550

RIN: 0572–AA39

335. RURAL BUSINESS INCUBATOR PROJECT

CFR Citation: 7 CFR 1703

Completed:

Reason	Date	FR Cite
Withdrawn	03/04/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, 202 720-9550

RIN: 0572–AA46

336. DISTANCE LEARNING AND MEDICAL LINK PROGRAMS

CFR Citation: 7 CFR 1703

USDA—REA — **Completed Actions**

Completed:

Reason	Date	FR Cite
Final Action	02/26/93	58 FR 11507
Final Action Effective	03/29/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, 202 720-9550

RIN: 0572–AA79

BILLING CODE 3410-15-F

DEPARTMENT OF AGRICULTURE (USDA)
Soil Conservation Service (SCS) — **Proposed Rule Stage**

337. FARMLAND PROTECTION POLICY ACT

Significance: Agency Priority

Legal Authority: 7 USC 4201

CFR Citation: 7 CFR 658

Legal Deadline: None

Abstract: This proposed rule amends part 658 of title 7 of the Code of Federal Regulations, which implements the Farmland Protection Policy Act (FPPA), 7 USC 4201-4209. Congress amended the FPPA through section 1255 of the Food Security Act of 1985, Pub. L. 99-198. The proposed amendments contained in this proposed rule will: (1) Remove definitions from the existing rule that restated the act; (2) remove the applicability and exemption section that restated the Act; (3) remove the "Technical Assistance" section that restated the requirements of the Act; (4) require Federal agencies to return a copy of the "Farmland Impact Rating Form AD-1006," to USDA once the final decision is made on a proposed conversion, and inform USDA of progress in reviewing and revising their policy and procedures to protect farmland. This information will be used to make the annual report to Congress as required in the 1985 amendments to FPPA. Since the elimination of these sections of the existing rule was not included in the 1987 proposed rule, and the fact that almost 4 years have passed since the proposed rule, this proposed rule is being published for additional public comments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1987

Sectors Affected: None

Agency Contact: Michael F. King, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, Room 6016 South Building, 14th & Independence Ave. SW., Washington, DC 20250, 202 447-4811

RIN: 0578–AA14

DEPARTMENT OF AGRICULTURE (USDA)
Soil Conservation Service (SCS) — **Final Rule Stage**

338. SOIL SURVEYS

Legal Authority: PL 74-46 The Soil Conservation and Domestic Allotment Act; PL 89-560 Soil Surveys for Resource Planning and Development; 42 USC 3271; 42 USC 3274

CFR Citation: 7 CFR 611

Legal Deadline: None

Abstract: Prescribes the policy on soil survey operations including cooperative relationships with State agencies, standards, guidelines and plans on survey operations, distribution of soil survey information, and cartographic operations services furnished. (SCS 83-006)

Timetable:

Action	Date	FR Cite
End Review	12/31/86	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Michael F. King, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, Room 6016 South Building, 14th & Independence Ave. SW., Washington, DC 20250, 202 447-4811

RIN: 0578–AA00

BILLING CODE 3410-90-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of Operations (OO) — **Proposed Rule Stage**

339. AGRICULTURE ACQUISITION REGULATION

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 401 to 453 (Revision)

Legal Deadline: None

Abstract: This rule anticipates miscellaneous changes to the Department of Agriculture Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	09/00/93	
Final Action Effective	10/00/93	

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Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: Multiple

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Larry Schreier, Procurement Analyst, Department of Agriculture, Office of Operations, Rm 1550 South Building, Washington, DC 20250, **202 720-8924**

RIN: 0599–AA00

DEPARTMENT OF AGRICULTURE (USDA)
Office of Operations (OO)

Final Rule Stage

340. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 5 USC 301; 31 USC 1352

CFR Citation: 7 CFR 3018

Legal Deadline: None

Abstract: Prescribes USDA policy and procedures for compliance with section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 USC 1352). Imposes restrictions and disclosure requirements on payments to persons for influencing activities in connection with contracts (excluding contracts subject to the Federal Acquisition Regulation), grants, cooperative agreements, loans, or commitments to insure or guarantee loans.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Joseph J. Daragan, Procurement Analyst, Department of Agriculture, Office of Operations, Rm 1550 South Building, 14th & Independence Avenue SW., Washington, DC 20250, **202 720-5729**

RIN: 0599–AA01

341. VENDING FACILITIES OPERATED BY BLIND PERSONS IN USDA-CONTROLLED BUILDINGS

Significance: Regulatory Program

Legal Authority: 5 USC 301

CFR Citation: 7 CFR 1.91 to 1.94

Legal Deadline: None

Abstract: Policies and procedures governing the installation of vending machines to be operated by licensed blind persons on Federal property in accordance with the Randolph-Sheppard Vending Stand Act, as amended, were published in 34 CFR 395 in 1977. As a result, this subpart governing the installation and operation of vending facilities by licensed blind persons on Department controlled property became obsolete. The final rule will delete the provisions of this subpart from 7 CFR.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: None

Additional Information: This change is proposed to bring 7 CFR 1.91, 1.92, 1.93, and 1.94 up to date and into compliance with changes made to Randolph-Sheppard by P.L. 93-516, P.L. 93-651, P.L. 96-88 and policy changes in the Department of Agriculture.

Agency Contact: William Kiley, Realty Specialist, Real Property Management Division, Department of Agriculture, Office of Operations, 14th and Independence Ave. SW., Washington, DC 20250, **202 720-5001**

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Monday
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Part IV

Department of Commerce

Semiannual Regulatory Agenda

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DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, XI, XII

19 CFR Ch. III

37 CFR Chs. I, IV, and V

48 CFR Ch. 13

50 CFR Chs. II, III, and VI

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: April 1993 regulatory agenda.

SUMMARY: In compliance with Executive Order (E.O.) 12291 entitled "Federal Regulation" and the Regulatory Flexibility Act (Pub. L. 96-354), the Department of Commerce, in April and October of each year, publishes in the **Federal Register** an agenda of the rulemaking actions covered by section 1 of E.O. 12291 that the Department plans to conduct or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, and rulemaking actions completed since the October 1992 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's April 1993 regulatory agenda includes regulatory activities that are expected to be conducted during the period April 1, 1993, through March 31, 1994.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Michael A. Levitt, Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230; telephone: 202-482-0846.

SUPPLEMENTARY INFORMATION: E.O. 12291 requires all executive agencies to publish semiannually an agenda of those regulations that are under consideration pursuant to this order. By memorandum of December 9, 1992, the Office of Management and Budget (OMB) issued guidelines and procedures for the preparation and publication of the April 1993 Unified Agenda of Federal Regulations. E.O. 12291 and the OMB guidelines require that each agency's agenda report the following information on nonexempt regulatory activities being conducted or planned to be conducted by the agency during the 12-month period succeeding publication: The title of the regulation; the name, title, address, and phone number of an agency person who is knowledgeable about the regulation; whether the action is expected to have a significant economic impact on a substantial number of small entities and whether it will affect levels of government; the section(s) of the Code of Federal Regulations which will affect or be affected by the action; the section of the United States Code, Public Law, or Executive order that authorizes the action; an indication of whether or not the entry is a significant regulatory action included in the Administration's Regulatory Program and if the agency considers it a priority action; an abstract describing the problem the regulation addresses, alternatives to the regulation being considered, and potential costs and benefits of the action; legal deadline, if any; and a timetable of dates and, if available, **Federal Register** citations for past stages of the action. In addition, OMB requires that procurement-related regulatory actions include additional information on all actions that are covered by section 22 of the Office of Federal Procurement Policy Act Amendments of 1988. This information will be used by the Office of Federal Procurement Policy in preparing the "Procurement Regulatory Activity Report."

The Regulatory Flexibility Act requires agencies to prepare a regulatory flexibility analysis where there is a positive finding that a rule will have a significant economic impact on a substantial number of small entities. E.O. 12291 requires agencies to prepare a regulatory impact analysis for any regulation considered to be a "major rule" as defined in the order.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units, such as the Economic Development Administration, the Bureau of Export Administration, the International Trade Administration, the National Institute of Standards and Technology (NIST), the National Oceanic and Atmospheric Administration (NOAA), and the Patent and Trademark Office, issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda are proposed or final Federal Information Processing Standards (FIPS) issued by NIST under Public Law 100-235. FIPS consist of standards and guidelines to improve Federal Government use and management of computers and information technology. The standards, while often of great use to industry and the public, apply only to the Federal Government. In developing the standards and guidelines and in providing technical guidance and coordination to Federal agencies, NIST works closely with private industry standard-setting organizations.

Another large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*) (Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries which require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing can be conducted in a fishery for which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

The DOC April 1993 regulatory agenda follows.

Dated: February 23, 1993.

Carol C. Darr,

Acting General Counsel.

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Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
342	Contract Clauses and Solicitation Provisions for the Commerce Automated Solicitation System	0690-AA08
343	Source Evaluation Procedures and Miscellaneous Revisions to the Commerce Acquisition Regulation	0690-AA13
344	Modify Requirement in the Commerce Acquisition Regulation To Publish Presolicitation Notices in the Commerce Business Daily for DOC Procurements Which Will Be Performed in Foreign Countries	0690-AA18
345	Modify the Commerce Acquisition Regulation To Use a Deviation Version of a Federal Acquisition Regulation Clause on the Buy American Trade Agreement Acts	0690-AA19

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
346	Change in Reporting Requirements for Foreign-Owned Banks Reporting on Quarterly Report Forms BE-605 and BE-606B	0691-AA20
347	Change in Long-Form Exemption Level for BE-15, Annual Survey of Foreign Direct Investment in the United States	0691-AA21

Bureau of Economic Analysis—Completed Actions

Sequence Number	Title	Regulation Identifier Number
348	Benchmark Survey of Foreign Direct Investment in the United States—1992	0691-AA18
349	Change in Reporting Requirements for BE-22, Annual Survey of Selected Services Transactions With Unaffiliated Foreign Persons	0691-AA19

Bureau of the Census—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
350	Revision of Foreign Trade Statistics Regulations	0607-AA10
351	Change in the Definition of "General Use" Software from Technical Data to Commodity	0607-AA16

Bureau of the Census—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
352	Requirement That Shipper's Export Declarations (SEDs) for Shipments From the United States to Puerto Rico Be Collected in Puerto Rico	0607-AA15

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Bureau of the Census—Completed Actions

Sequence Number	Title	Regulation Identifier Number
353	Fee Structure for Age Search and Citizenship Information	0607-AA17

Economic Development Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
354	Review of Regulations for Economic Development Administration—Department of Commerce	0610-AA47
355	Special Economic Development and Adjustment Assistance Grants	0610-AA48

Economic Development Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
356	General Requirements for Financial Assistance—Design, Construction of Buildings To Accommodate the Physically Handicapped	0610-AA05
357	General Requirements for Financial Assistance: Employment of Expediters or Administrative Employees; Compensation of Persons Engaged by or on Behalf of Applicants	0610-AA18
358	Protection of EDA's Interest in Facilities Acquired, Built, or Improved With EDA Grant Funds	0610-AA35
359	Economic Development Districts, District Organization; Civil Rights Requirements	0610-AA38
360	Public Works—Industrial Parks and Sites	0610-AA40
361	General Requirements for Financial Assistance—Electric and Gas Facilities	0610-AA43
362	Overall Economic Development Program—Progress Report	0610-AA44
363	Public Works and Development Facilities Program - Specific Types of Projects - Skill Training Center Facilities	0610-AA51

General Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
364	Nonprocurement Debarment and Suspension	0605-AA02
365	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	0605-AA04

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
366	New Restrictions on Lobbying	0605-AA06

International Trade Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
367	Antidumping Duties	0625-AA29
368	Antidumping Duties; Methodology for Assessment Instructions	0625-AA36

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International Trade Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
369	Countervailing Duties	0625-AA31

International Trade Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
370	Limit on Duty-Free Insular Watches In Calendar Year 1993	0625-AA06
371	Antidumping Duties; Countervailing Duties	0625-AA32
372	Short Supply Procedures for ITA	0625-AA34
373	Antidumping and Countervailing Duties; Significant Ministerial Errors	0625-AA35

Bureau of Export Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
374	Revisions to Short Supply Regulations	0694-AA01
375	Defense Priorities and Allocations System (DPAS)	0694-AA02
376	Revision of Foreign Boycott Provisions of Export Administration Regulations	0694-AA11
377	Conversion to the Metric System	0694-AA50
378	Transfer of Dual Use Items From U.S. Munitions List to Commodity Control List	0694-AA52
379	Expansion of Foreign Policy Controls on Chemical Weapon Precursors	0694-AA53
380	Special License Procedures; Revisions to the Eligibility Requirements for Computers	0694-AA61
381	Exports to Iran; Revision of Foreign Policy Controls	0694-AA52
382	Administrative Exceptions and Favorable Consideration Treatment for Country Group W; Telecommunications Equipment for Country Groups Q & Y; Revisions and Clarifications to the CCL	0694-AA63
383	Revisions to the Commerce Control List: Equipment Related to the Production of Biological Weapons	0694-AA64

Bureau of Export Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
384	Exports From Abroad of Foreign Products Incorporating U.S.-Origin Parts and Components	0694-AA06
385	General License GFW	0694-AA07
386	Elimination of Controls on Exports to and Reexports From COCOM Member Countries	0694-AA13
387	Shipper's Export Declaration: Combining General License and Validated License on the Same SED	0694-AA14
388	Revision of General License GIFT	0694-AA26
389	Change In Reporting Requirements for the Special Licenses	0694-AA27
390	Elimination of Submission Requirement for Certain Supporting Documents	0694-AA28
391	Implementation of COCOM Core List	0694-AA51
392	Imposition and Expansion of Foreign Policy Controls (Megareg)	0694-AA54
393	Imposition of Foreign Policy Controls on Equipment and Technical Data Related to the Production of Chemical and Biological Weapons	0694-AA55
394	Revisions to the Commodity Control List: Changes in Nuclear Nonproliferation Controls	0694-AA56
395	Revisions to the Distribution License Procedure	0694-AA60

National Institute of Standards & Technology—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
396	FIPS for POSIX System Administration	0693-AA71
397	FIPS for IRDS Export/Import File Format	0693-AA76
398	FIPS for Digital Signature Standard	0693-AA86

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National Institute of Standards & Technology—Proposed Rule Stage (Continued)

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400	Proposed FIPS for ODA Raster DAP	0693-AB12
401	Revision of FIPS 177, Initial Graphics Exchange Specification (IGES)	0693-AB13
402	Proposed FIPS for Administration Standards for the Telecommunications Infrastructure of Federal Buildings	0693-AB14
403	National Voluntary Laboratory Accreditation Program	0693-AB15
404	Advanced Technology Program	0693-AB16
405	National Voluntary Conformity Assessment Systems Evaluation	0693-AB17

National Institute of Standards & Technology—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
406	Revision of FIPS 140, General Security Requirements for Equipment Using the Data Encryption Standard	0693-AA68
407	FIPS for POSIX Shell and Utility Application Interface for Computer Operating Systems Environments	0693-AA70
408	Fastener Quality	0693-AA90
409	Revision of FIPS 128, Computer Graphics Metafile (CGM)	0693-AA93
410	FIPS for Automated Password Generator	0693-AA94
411	Proposed FIPS for ISDN	0693-AA96
412	Proposed FIPS for Secure Hash Standard	0693-AA97
413	Proposed FIPS for Standard Security Label Format for GOSIP	0693-AA99
414	Proposed Revision of FIPS 125, MUMPS	0693-AB00
415	Proposed Revision of FIPS 151-1, POSIX	0693-AB01
416	Procedures for Registering Computer Security Objects	0693-AB02
417	FIPS for Standard Page Description Language	0693-AB03
418	Proposed Revision of FIPS 127-1, Database Language SQL	0693-AB05
419	FIPS for Integration Definition for Function Modeling (IDEFO) and Integration Definition for Information Modeling (IDEF1X)	0693-AB07
420	Proposed Reaffirmation of FIPS 46-1, Data Encryption Standard (DES)	0693-AB09
421	Proposed Revision of FIPS 158, the User Interface Component of the Applications Portability Profile	0693-AB10

National Institute of Standards & Technology—Completed Actions

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422	FIPS for Document Application Profile (DAP) for the Office Document Architecture (ODA) and Interchange Format Standard	0693-AA67
423	FIPS 179, Government Network Management Profile (GNMP)	0693-AA85
424	FIPS 177, Initial Graphics Exchange Specification (IGES)	0693-AA88
425	FIPS 178, Video Teleconferencing Services at 56 to 1,920 Kb/s	0693-AB06

National Oceanic and Atmospheric Administration—Prerule Stage

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426	U.S. Standards for Grades of Fresh and Frozen Fish Fillets	0648-AD53
427	Use of Information Collected by Voluntary Fishery Data Collectors in Enforcement Proceedings	0648-AE40
428	Take of Marine Mammals by the U.S. Navy Incidental to Activities in Southern California Bight	0648-AF49
429	Proposed Regulations for the Key Largo National Marine Sanctuary	0648-AA33
430	Proposed Regulations for the Looe Key National Marine Sanctuary	0648-AB64
431	Proposed Regulations for the Florida Keys National Marine Sanctuary	0648-AD85

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National Oceanic and Atmospheric Administration—Proposed Rule Stage

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433	Amendment 4 to the Fishery Management Plan for the Atlantic Sea Scallop Fishery	0648-AC99
434	Revised Regulations Governing Permits for the Taking and Importing of Marine Mammals for Scientific Research and Public Display	0648-AD11
435	Regulations Governing the Take of Dolphins Incidental to Removing Oil and Gas Platforms in the Gulf of Mexico	0648-AD25
436	Amendment 5 to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AD33
437	Procedure for Setting Quotas on Removal of Atlantic Bottlenose Dolphins From the Waters of the Gulf of Mexico and Florida's East Coast	0648-AD39
438	Regulatory Amendment-Standard Product Recovery Rates for Alaska Groundfish and Limitations on Proportions of Retained Pollock Roe	0648-AD44
439	Regulatory Amendment To Establish North Pacific Fisheries Research Plan; Fees for Domestic Observers	0648-AD80
440	Fishery Management Plan for the Shrimp Fishery of the South Atlantic	0648-AD86
441	Fishery Management Plan for the Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands	0648-AD91
442	Certificate of Legal Origin for Anadromous Fish Products	0648-AD93
443	Amendment 11 to the FMP for Commercial and Recreational Salmon Fisheries off the Coast of Washington, Oregon, and California	0648-AE05
444	Secretarial Amendment to the FMP for Atlantic Swordfish	0648-AE09
445	Amendment 5 to the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region	0648-AE20
446	Amendment 2 to the Fishery Management Plan for the Summer Flounder Fishery	0648-AE21
447	Amendment 7 to the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region	0648-AE35
448	General Provisions for Domestic Fisheries	0648-AE39
449	Fishery Management Plan for Corals and Associated Invertebrates of Puerto Rico and the U.S. Virgin Islands	0648-AE47
450	Fishery Management Plan for Atlantic Herring	0648-AE50
451	Amendment 6 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AE51
452	Amendment 7 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AE52
453	Amendment 2 to the Fishery Management Plan for Shallow-Water Reef Fish of Puerto Rico and the U.S. Virgin Islands	0648-AE53
454	Sea Turtle Conservation Measures for the Summer Flounder Fishery	0648-AE54
455	Regulatory Amendment To Establish the Framework for Allocation of Pacific Whiting	0648-AE55
456	Amendment 5 to the Gulf of Mexico Reef Fish Fishery Management Plan	0648-AE58
457	Amendment 23 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands and Amendment 28 to the FMP for the Groundfish Fishery of the Gulf of Alaska	0648-AE62
458	Groundfish of the Gulf of Alaska and Groundfish of the Bering Sea and Aleutian Islands; 1993 Regulatory Amendment to Revise Requirements for Reporting and Recordkeeping	0648-AE63
459	Seafood Inspection	0648-AE76
460	Sea Turtle Monitoring and Conservation Measures for Nonshrimp Trawlers	0648-AE77
461	Regulatory Amendment on Interactive Communications in the Groundfish Fisheries of the GOA and BSAI	0648-AE78
462	Regulatory Amendment for Groundfish of the Gulf of Alaska and Bering Sea and Aleutian Islands to Revise IFQ Transfer Provisions to Require Transfer of "Blocks"	0648-AE79
463	Regulatory Amendment to Define Pelagic Trawl in the Alaska Groundfish Fisheries	0648-AE81
464	Total Allowable Catch (TAC) Determination for Atlantic Swordfish for 1993	0648-AE82
465	Atlantic Bluefin Tuna Permit and Reporting Requirements, Certificate of Origin Requirements and Other Regulatory Provisions	0648-AE83
466	Regulatory Amendment for Mutton Snapper in the Gulf of Mexico	0648-AE84
467	Regulatory Amendment To Add South Carolina SMZs Under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AE89
468	Regulatory Amendment to the FMP for the Snapper-Grouper Fishery of the South Atlantic To Allow Multiple Gears	0648-AE91
469	Amendment 3 to the Fishery Management Plan for the Summer Flounder Fishery	0648-AE96
470	Amendment 21B to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands	0648-AE97
471	Amendment 7 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic	0648-AE98
472	Amendment 7 to the Northern Anchovy Fishery Management Plan	0648-AE99
473	Regulatory Amendment To Require Offloading of Prohibited Species Caught Seaward of the EEZ; Groundfish Fisheries of the GOA and BSAI	0648-AF00
474	Amendment 5 to the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish	0648-AF01
475	Amendment 21A to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands To Prohibit Bottom Trawling Adjacent to the Pribilof Islands	0648-AF02

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National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

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477	Designated Critical Habitat for Eastern Seaboard Northern Right Whale (Eubalaena Glacialis)	0648-AF06
478	Regulatory Amendment to the FMP for Groundfish of the BSAI To Delay the Pollock Non-Roe Season	0648-AF13
479	Regulatory Amendment To Define Legal Gear Types in the Groundfish Fisheries of the GOA and BSAI	0648-AF15
480	Amendment 25 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands	0648-AF17
481	Regulatory Amendment To Change the Gulf of Alaska Groundfish Trawl Season Opening Date	0648-AF25
482	Regulatory Amendment To Establish Minimum Quota Shares for Groundfish in the Gulf of Alaska and Bering Sea and Aleutian Islands Under IFQ	0648-AF26
483	Regulatory Amendment—1994 Changes to Recordkeeping and Reporting Requirements in Alaska Groundfish Fisheries	0648-AF27
484	Regulatory Amendment To Establish "Fair Start" in the Gulf of Alaska Hook-and-Line Sablefish Fishery	0648-AF28
485	Proposed Rule To Require Certain Fish From Mexico To Retain Heads and Tails Intact in Order To Protect the Endangered Totoaba	0648-AF32
486	Regulatory Amendment—Northeast Region General Fisheries Permit and Reporting Procedures	0648-AF33
487	Proposed Rule To Designate Critical Habitat for Steller Sea Lions	0648-AF34
488	Regulatory Amendment To Establish a Minimum Size for Opakapaka Taken in the Bottomfish Fishery off Hawaii	0648-AF35
489	Amendment 4 to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic	0648-AF37
490	Regulatory Amendment Implementing Groundfish Gear Changes in the Pacific Coast Groundfish Fishery	0648-AF38
491	Amendment 4 to the Fishery Management Plan for American Lobster	0648-AF39
492	Regulatory Amendment to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic	0648-AF40
493	Secretarial Amendment to the FMP for Atlantic Surf Clams and Ocean Quahogs	0648-AF41
494	Amendment To Enhance Data on Bycatch and Establish a Pilot Program for Donation of Atlantic Swordfish	0648-AF42
495	Amendment to the FMP for the Groundfish Fishery of the Gulf of Alaska To Redefine "Other Species"	0648-AF43
496	Amendment 26 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands and Amendment 29 to the FMP for the Groundfish Fishery of the Gulf of Alaska	0648-AF44
497	Amendment to the FMP for the Groundfish Fishery of the Gulf of Alaska to Authorize a Rockfish Rebuilding Plan	0648-AF45
498	Amendment to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands To Subdivide the Aleutian Island Management Area	0648-AF46
499	Amendment to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands—Preferential Allocation of BSAI Pacific Cod to Gear Types	0648-AF47
500	Taking of Marine Mammals Incidental to Fisheries-Related Research	0648-AF50
501	Regulatory Amendment—Changes to Directed Fishing Regulations Other Than for Rockfish in the Alaska Groundfish Fisheries	0648-AF53
502	Regulatory Amendment to the Domestic Groundfish Observer Program	0648-AF54
503	Regulatory Amendment to Reduce Directed Fishing Standards for Rockfish	0648-AF55
504	Regulatory Amendment to Seasonally Apportion Pacific Cod in the Bering Sea and Aleutian Islands	0648-AF56
505	Regulatory Amendment Regarding Mesh Size in Trawls in the Alaska Groundfish Fisheries	0648-AF57
506	Pacific Coast Groundfish Fishery: Restriction of Fishing Operations in the Pacific Whiting Fishery to Protect Salmon off the Coasts of Washington, Oregon, and California	0648-AF58
507	Proposed Regulations for the Fagatele Bay National Marine Sanctuary	0648-AA74
508	Proposed Regulations for the Channel Islands National Marine Sanctuary	0648-AC03
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510	The Monitor National Marine Sanctuary	0648-AC78
511	Proposed Regulations for the Northwest Straits National Marine Sanctuary	0648-AC91
512	Proposed Regulations for the Norfolk Canyon National Marine Sanctuary	0648-AC92
513	Thunder Bay National Marine Sanctuary	0648-AE41
514	Gray's Reef National Marine Sanctuary	0648-AE42
515	National Marine Sanctuary Program Regulations	0648-AE68
516	National Marine Sanctuary Program, Site Evaluation List	0648-AF23
517	Licensing of Private Remote-Sensing Space Systems	0648-AC64
518	Natural Resource Damage Assessment and Restoration Regulations	0648-AE13
519	Modernization of the National Weather Service	0648-AE73
520	Regional Marine Research Program	0648-AF20

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National Oceanic and Atmospheric Administration—Final Rule Stage

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522	U.S. General Standards for Grades of Shrimp	0648-AA47
523	Endangered Fish and Wildlife; Approaching Humpback Whales in Hawaiian Waters	0648-AB79
524	Interim Exemption Governing the Incidental Taking of Marine Mammals During Commercial Fishing Operations	0648-AC65
525	Fishermen's Protective Act	0648-AC73
526	Depletion of the Coastal-Migratory Stock of Bottlenose Dolphins in the U.S. Mid-Atlantic	0648-AD02
527	Performance Standards for Tuna Vessel Operators	0648-AD03
528	Prohibition of the Use of Explosives in the Yellowfin Tuna-Dolphin Fishery	0648-AD08
529	Secretarial Fishery Management Plan for Sharks of the Atlantic Ocean	0648-AD12
530	Amendment 15 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Amendment 20 to the FMP for the Groundfish Fishery of the Gulf of Alaska	0648-AD19
531	Regulatory Amendment - U.S. Nationals Fishing in Russian Fisheries	0648-AD29
532	Approaching Marine Mammals	0648-AD30
533	Foreign Fishing, Health and Safety Standards	0648-AD35
534	U.S. Standards for Grades of Frozen Fish Portions	0648-AD92
535	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping and Observer Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels; Pacific Coast Groundfish	0648-AE01
536	Nontrawl Sablefish Season Regulatory Amendment Under the Pacific Coast Groundfish FMP	0648-AE07
537	Regulatory Amendment—South Pacific Tuna Fisheries	0648-AE18
538	Regulatory Amendment Prohibiting Landing of Surf Clams and Ocean Quahogs on the Same Trip and Requiring Trip Notification	0648-AE27
539	Regulatory Amendment to Implement Seasonally Expanded Trawl Fishery Closure Around Ugamak Island, Alaska	0648-AE45
540	Amendment 6 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AE49
541	Regulatory Amendment for Red Snapper Management in 1993 Under the Gulf of Mexico Reef Fish Fishery Management Plan	0648-AE57
542	U.S. Standards for Grades of Whole or Dressed Fish	0648-AE69
543	U.S. Standards for Grades of North American Freshwater Catfish and Products Made Therefrom	0648-AE70
544	U.S. Standards for Grades of Fish Fillets	0648-AE71
545	Process for the Management of Atlantic Ocean Highly Migratory Species	0648-AE72
546	Regulatory Amendment to the Fishery Management Plan for American Lobster	0648-AE87
547	Amendment 7 to the Pacific Coast Groundfish Fishery Management Plan	0648-AE93
548	Regulatory Amendment To Require Vessel Operators and Relief Operators With Mau Zone Bottomfishing Permits To Attend a Protected Species Workshop	0648-AE94
549	Taking and Importing of Marine Mammals; Dolphin Mortality Limits During Purse Seine Sets on Marine Mammals in the Eastern Tropical Pacific	0648-AF07
550	Taking and Importing of Marine Mammals; "Dolphin-Safe" Tuna Labeling	0648-AF08
551	Regulatory Amendment Requiring Marking of Longline Gear Under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region	0648-AF12
552	Designation of Critical Habitat for Snake River Sockeye Salmon, Snake River Spring/Summer Chinook Salmon, and Snake River Fall Chinook Salmon	0648-AF19
553	Regulatory Amendment To Establish Pacific Halibut Bycatch Mortality Limits for Trawl and Non-trawl Gear	0648-AF21
554	Fishing Vessel Capital Construction Fund Procedures—Eligibility for Safety Improvements	0648-AF22
555	Pacific Halibut Regulations for 1993	0648-AF29
556	Designated Critical Habitat for Sacramento River Winter-Run Chinook Salmon	0648-AF30
557	Regulatory Amendment to the FMP for Groundfish of the Bering Sea and Aleutian Islands to Incorporate Community Development Quota Criteria	0648-AF31
558	Regulatory Amendment To Designate as "Routine" the Trip Landing and Frequency Limits for Pacific Whiting in the Pacific Coast Groundfish Fishery	0648-AF36
559	Fishing Vessel Obligation Guarantee Program	0648-AF48
560	CEMP Sites of Special Scientific Interest	0648-AF51
561	Regulatory Amendment to Delay the Second Quarter Pollock Opening in the Gulf of Alaska	0648-AF52
562	Proposed Regulations for the National Estuarine Reserve Research Program	0648-AB68
563	Final Regulations for the Olympic Coast National Marine Sanctuary	0648-AC93
564	Final Regulations for the Stellwagen Bank National Marine Sanctuary	0648-AC94
565	Implementation of Coastal Zone Management Act Appeal Fees	0648-AD83
566	Technical Conforming Changes to Existing NOAA Regulations To Implement 1990 Reauthorization of the Coastal Zone Management Act	0648-AE11

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National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
567	Policy To Require Observers To Be Carried on Domestic Fishing Vessels	0648-AC45
568	Amendment 16 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands and Amendment 21 to the FMP for Groundfish of the Gulf of Alaska	0648-AD18
569	Amendment 18 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands and Amendment 23 to the FMP for the Groundfish Fishery of the Gulf of Alaska	0648-AD50
570	Amendment 6 to the Pacific Coast Groundfish Fishery Management Plan	0648-AD63
571	Taking and Importing of Marine Mammals; Purse Seine Sets on Manne Mammals in the Eastern Tropical Pacific	0648-AD69
572	Amendment 24 to the FMP for the Groundfish Fishery of the Gulf of Alaska and Amendment 19 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands	0648-AD76
573	Confidentiality of Statistics	0648-AD77
574	Sea Turtle Conservation; Shrimp Trawling Requirements	0648-AE12
575	Amendment 5 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic	0648-AE23
576	Amendment 6 to the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region	0648-AE36
577	Amendment 8 to the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region	0648-AE48
578	Regulatory Amendment Implementing the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic	0648-AE61
579	Sablefish Allocation Regulatory Amendment for 1993	0648-AE64
580	Pacific Whiting Season Regulatory Amendment for 1993	0648-AE65
581	Regulatory Amendment to the FMP for Groundfish of the BSAI to Incorporate Community Development Quota Criteria	0648-AE80
582	Regulatory Amendment to Trawl and Fixed Gear Provisions in the Pacific Coast Groundfish Fishery	0648-AE85
583	Foreign Fishing Poundage and Permit Fees for 1993	0648-AE86
584	Amendment 26a to the FMP for Groundfish of the GOA	0648-AE88
585	Amendment 26 to the FMP for Groundfish of the GOA	0648-AE90
586	Regulatory Amendment Requiring Completion and Submission of Logbooks by Federally Permitted Vessel Operators in the Northwestern Hawaiian Islands Bottomfish Fishery	0648-AE95
587	Regulatory Amendment To Prohibit Landing of Undersized Pacific Halibut in the United States	0648-AF03
588	Amendment 22 to the FMP for Groundfish of the BSAI and Amendment 27 to the FMP for Groundfish of the GOA	0648-AF04
589	Proposal To Remove the California Gray Whale From the Endangered Species Act's List of Endangered and Threatened Species	0648-AF09
590	Taking of Ringed Seals Incidental to On-Ice Seismic Activities	0648-AF10
591	Regulatory Amendment To Establish Product Recovery Rates for Pollock Roe-Stripping in the Alaska Groundfish Fisheries	0648-AF16
592	Regulatory Amendment To Establish Trawl Test Areas Off Alaska	0648-AF24

National Telecommunications and Information Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
593	Notice of Availability—National Endowment for Children's Educational Television	0660-AA03

Patent and Trademark Office—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
594	Patent Application Electronic Submission Rules	0651-AA50

Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
595	Variety Denomination Requirements for Plant Patent Applications	0651-AA12
596	Trademark Procedures	0651-AA46

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Patent and Trademark Office—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
597	Patent Term Extension Application Requirements	0651-AA52
598	Changes in Computer Program Listings Filed in Patent Applications	0651-AA58
599	Revision of Patent and Trademark Fees	0651-AA61
600	Procedures for Amending Patent Applications	0651-AA62
601	Changes in Patent and Trademark Assignment Practice	0651-AA64

Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
602	Miscellaneous Changes in Patent Practice	0651-AA34
603	Drawing Changes in Patents Cases	0651-AA44
604	Patent Interference Practice	0651-AA53
605	Changes in Signature and Filing Requirements for Papers Filed in the Patent and Trademark Office	0651-AA55
606	Changes in Revival of Patent Applications and Reinstatement of Patents	0651-AA57
607	Patent Interference Practice; Burden of Proof	0651-AA63

Patent and Trademark Office—Completed Actions

Sequence Number	Title	Regulation Identifier Number
608	Registration of Attorneys and Agents	0651-AA48
609	Revision of Patent Cooperation Treaty Provisions	0651-AA51
610	Changes in Practice Relating to Filing Patent Applications	0651-AA59
611	Office of Enrollment and Discipline Investigation Procedures	0651-AA60

Technology Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
612	Licensing of Government-Owned Inventions	0692-AA04

Technology Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
613	Administration of a Uniform Patent Policy With Respect to Domestic Rights in Inventions Made by Government Employees	0692-AA05
614	Transfer of Federally Funded Information	0692-AA12

Technology Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
615	Marking of Toy, Look-Alike and Imitation Firearms	0692-AA11

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United States Travel and Tourism Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
616	Guidelines and Procedures to Provide Financial Assistance to Cooperative Tourism Marketing Programs for International Tourism Trade Development	0644-AA02

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)
Proposed Rule Stage

342. CONTRACT CLAUSES AND SOLICITATION PROVISIONS FOR THE COMMERCE AUTOMATED SOLICITATION SYSTEM

Legal Authority: 41 USC 251 et seq; PL 98-369; PL 98-577

CFR Citation: 48 CFR 1301 to 1353

Legal Deadline: None

Abstract: The Department of Commerce is currently reviewing standardized contract clauses and solicitation provisions for inclusion in a planned departmentwide automated solicitation system. A proposed amendment to the Commerce Acquisition Regulation (CAR) would illustrate and incorporate these standardized clauses and provisions. This should ultimately be less burdensome to Department contractors and potential contractors, since the clauses and provisions would be used uniformly throughout the Department.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert A. Welch, Director for Procurement, Office of Procurement, Department of Commerce, Office of the Secretary, 14th Street and Constitution Avenue NW., Washington, DC 20230, 202 482-2773

RIN: 0690–AA08

343. SOURCE EVALUATION PROCEDURES AND MISCELLANEOUS REVISIONS TO THE COMMERCE ACQUISITION REGULATION

Legal Authority: 41 USC 251 et seq

CFR Citation: 48 CFR 1301 to 1353

Legal Deadline: None

Abstract: The proposed amendment will revise the CAR to incorporate references to the Department's Acquisition Manual chapter on formal source selection procedures and will also add agency procedures in those areas of the CAR where the FAR specifies that agency procedures are required. In addition, the proposed amendment will update the CAR to conform with the latest policies and procedures of the FAR.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert A. Welch, Director for Procurement, Office of Procurement, Department of Commerce, Office of the Secretary, 14th Street and Constitution Avenue NW., Washington, DC 20230, 202 482-2773

RIN: 0690–AA13

344. MODIFY REQUIREMENT IN THE COMMERCE ACQUISITION REGULATION TO PUBLISH PRESOLICITATION NOTICES IN THE COMMERCE BUSINESS DAILY FOR DOC PROCUREMENTS WHICH WILL BE PERFORMED IN FOREIGN COUNTRIES

Legal Authority: 41 USC 251 et seq

CFR Citation: 48 CFR 1305

Legal Deadline: None

Abstract: Revise the Commerce Acquisition Regulation, part 5 to reflect class deviation that presolicitation Commerce Business Daily notices are not required for foreign procurements. The current procedures are burdensome and delay the procurements needlessly. Most of the potential sources are foreign firms and publishing the presolicitation notices does not achieve government goals of increasing competition among U.S. firms. The revised regulation will require notices to be provided if there are a significant number of U.S. firms doing business in the location and these firms are able to provide the required supplies or services.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert A. Welch, Director for Procurement, Office of Procurement, Department of Commerce, Office of the Secretary, 14th Street and Constitution Avenue NW., Washington, DC 20230, 202 482-2773

RIN: 0690–AA18

345. MODIFY THE COMMERCE ACQUISITION REGULATION TO USE A DEVIATION VERSION OF A FEDERAL ACQUISITION REGULATION CLAUSE ON THE BUY AMERICAN TRADE AGREEMENT ACTS

Legal Authority: 41 USC 251 et seq

CFR Citation: 48 CFR 1325; 48 CFR 1352

Legal Deadline: None

Abstract: Revise the Commerce Acquisition Regulation to authorize the use of a contract clause which deviates from the FAR Clause at 52.225-9 "Buy American Act-Trade Agreements Act-Balance of Payments Program" and the provision at 52.225-7 "Buy American Act-Trade Agreement Act-Balance of Payment Program Certificate." The revision will permit the case of a provision and clause which does not give U.S. firms a disadvantage against foreign firms. Recently the FAR provision and clause were found to be in violation of the Trade Agreement Act. The proposed CAR Regulation will remain in effect only until the FAR is revised to correct this problem. The rule is in accord with the governmentwide policies established by the Office of Federal Procurement Policy.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert A. Welch, Director for Procurement, Office of Procurement, Department of Commerce, Office of the Secretary, 14th Street and Constitution Avenue NW., Washington, DC 20230, 202 482-2773

RIN: 0690–AA19

DOC—OS

Proposed Rule Stage

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)
Proposed Rule Stage

346. CHANGE IN REPORTING REQUIREMENTS FOR FOREIGN-OWNED BANKS REPORTING ON QUARTERLY REPORT FORMS BE-605 AND BE-606B

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 806.15 to bring reporting by foreign-owned banks in the United States on quarterly report forms BE-605, Transactions of U.S. Affiliate, Except an Unincorporated Bank, With Foreign Parent, and BE-606B, Transactions of U.S. Banking Branch or Agency With Foreign Parent into conformity with new reporting requirements under consideration for banks on the BE-12, Benchmark Survey of Foreign Direct Investment in the United States -- 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street NW., Room 1008, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691–AA20

347. CHANGE IN LONG-FORM EXEMPTION LEVEL FOR BE-15, ANNUAL SURVEY OF FOREIGN DIRECT INVESTMENT IN THE UNITED STATES

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 806.15 to raise the exemption level for reporting on the long form in the BE-15, Annual Survey of Foreign Direct Investment in the United States, to $50 million, from $20 million. The exemption level is being raised to conform with the exemption level proposed for reporting on the long form in the 1992 BE-12, Benchmark Survey of Foreign Direct Investment in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	
Final Action	11/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street NW., Room 1008, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691–AA21

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)
Completed Actions

348. BENCHMARK SURVEY OF FOREIGN DIRECT INVESTMENT IN THE UNITED STATES—1992

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: Other, Statutory, January 1993.

It is a statutory requirement that a benchmark survey covering 1992 be conducted. Efficient conduct of that survey requires final rules be effective in January 1993.

Abstract: This action will amend existing rule 15 CFR 806.17 to provide for the conduct of the BE-12, Benchmark Survey of Foreign Direct Investment in the United States -- 1992, as required in the International Investment and Trade in Services Survey Act, 22 USC 3101 to 3108 (see especially section 4(b) of the Act). The existing rule covers a similar survey for 1987 which has been completed and which the new survey will update. The proposed rule raises the exemption level for reporting on the long form to $50 million, from $20 million in the

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1987 survey. Also, a separate report form for foreign-owned U.S. banks is added, to clarify reporting requirements and reduce the need for follow-up contact.

Timetable:

Action	Date	FR Cite
NPRM	09/18/92	57 FR 43158
NPRM Comment Period End	11/02/92	
Final Action	12/22/92	57 FR 60731
Final Action Effective	01/21/93	57 FR 60731

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street NW., Room 1008, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691–AA18

349. CHANGE IN REPORTING REQUIREMENTS FOR BE-22, ANNUAL SURVEY OF SELECTED SERVICES TRANSACTIONS WITH UNAFFILIATED FOREIGN PERSONS

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 801.9(b)(6) to bring reporting on the BE-22, Annual Survey of Selected Services Transactions With Unaffiliated Foreign Persons, into conformity with reporting requirements on the 1991 BE-20, Benchmark Survey of Selected Services Transactions With Unaffiliated Foreign Persons, to drop coverage of certain small types of services, and to add coverage of purchases of certain financial services by U.S. firms that are not financial service intermediaries. The BE-22 is the annual follow-on survey that updates the quinquennial BE-20.

Timetable:

Action	Date	FR Cite
NPRM	08/26/92	57 FR 38635
NPRM Comment Period End	10/13/92	
Final Action	12/15/92	57 FR 59288
Final Action Effective	01/14/93	57 FR 59288

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street NW., Room 1008, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691–AA19

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS) — **Proposed Rule Stage**

350. REVISION OF FOREIGN TRADE STATISTICS REGULATIONS

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.1 to 30.92

Legal Deadline: None

Abstract: Review of 15 CFR 30 for changes to conform to the harmonized system for imports and exports as mandated by The Omnibus Trade and Competitiveness Act of 1988. This review will combine elements of housekeeping changes, updating obsolete information, clarification, conforming to the harmonized system (including metric measurements) and bringing the system in line with current reporting practices. There should be no added burden or costs to the public because there are no additional information or reporting requirements.

The benefits of these changes will be to allow direct comparisons between U.S. imports and exports and to allow comparisons between trade balances of the United States and its major trading partners.

Additionally, section 30.54 will be revised to raise the exemption from Shipper's Export Declaration filing requirements for exports by mail from $500 to $2500. This will reduce the reporting burden on the public, particularly small shippers.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	10/00/93	
Final Action	12/00/93	
Final Action Effective	01/01/94	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: All

Agency Contact: Harold Blyweiss, Chief, Regulations Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Washington, DC 20233, 301 763-5310

RIN: 0607–AA10

351. CHANGE IN THE DEFINITION OF "GENERAL USE" SOFTWARE FROM TECHNICAL DATA TO COMMODITY

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.1

Legal Deadline: None

Abstract: The Census Bureau proposes to change the definition of "General Use" software from technical data to commodity. This will involve changes to the Foreign Trade Statistics Regulations. "General Use" Software as a commodity will be valued on the transaction value and will be included in the merchandise trade statistics.

This will complement data collected in surveys by the Bureau of Economic Analysis on software as a service transaction. There will be some increase in reporting burden on exporters.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	10/00/93	
Final Action	12/00/93	
Final Action Effective	01/01/94	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: All

Agency Contact: Harold L. Blyweiss, Chief, Regulations Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Washington, DC 20233, 301 763-5310

RIN: 0607–AA16

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS) — **Final Rule Stage**

352. REQUIREMENT THAT SHIPPER'S EXPORT DECLARATIONS (SEDS) FOR SHIPMENTS FROM THE UNITED STATES TO PUERTO RICO BE COLLECTED IN PUERTO RICO

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.20 to 30.24

Legal Deadline: None

Abstract: The Census Bureau proposes to change the Foreign Trade Statistics Regulations to require the collection of SEDs for shipments from the United States to Puerto Rico in Puerto Rico. In addition, the U.S. Customs Service will revise their regulations in order to implement this change. In order to ensure compliance with the new regulations, the Puerto Rico Planning Board will fund positions in the Census Bureau Office and the U.S. Customs Service Office in Puerto Rico.

Data users will benefit through improved quality and completeness of the data for shipments from the United States to Puerto Rico. The Census Bureau does not anticipate any change in reporting burden from these revisions or any significant cost impact on the exporting community.

Timetable:

Action	Date	FR Cite
NPRM	11/30/92	57 FR 56531
NPRM Comment Period End	01/29/93	57 FR 56531
Final Action	05/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: All

Agency Contact: Harold L. Blyweiss, Chief, Regulations Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Washington, DC 20233, 301 763-5310

RIN: 0607–AA15

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS) — **Completed Actions**

353. • FEE STRUCTURE FOR AGE SEARCH AND CITIZENSHIP INFORMATION

Legal Authority: 13 USC 8(a)

CFR Citation: 15 CFR 50.5

Legal Deadline: None

Abstract: The Bureau of the Census is hereby amending title 15, Code of Federal Regulations, chapter 1, part 50, section 50.5, fee structure for age search and citizenship information, to increase the fee for an age search from $25.00 to $40.00, to increase the additional fee for a full schedule transcript from $6.00 to $10.00, and to reduce the number of censuses searched per fee from two to one. This change is being made to recover the actual costs to process a request. We conducted an in-depth analysis of the costs associated with processing requests for searches of census records and have determined that the current fee structure does not allow us to recover our costs. Title 13, United States Code, requires recovery of the costs. This is not a major rule within the meaning of section 1 of Executive Order 12291. The rulemaking provisions of the Administrative Procedure Act (APA), 5 USC section 553 are inapplicable because this rule falls within the proprietary exception of subparagraph (a)(2) of section 553. This cost increase is minimal, reflecting the actual costs for searching and furnishing the information, and funds for this purpose are not (cont)

Timetable:

Action	Date	FR Cite
Final Action	01/13/93	58 FR 4077
Final Action Effective	01/31/93	58 FR 4077

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: available from any other source.

Agency Contact: Jane Woods, Department of Commerce, Bureau of the Census, 1201 E. 10th Street, Jeffersonville, IN 47132, 812 288-3212

RIN: 0607–AA17

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA) — **Prerule Stage**

354. REVIEW OF REGULATIONS FOR ECONOMIC DEVELOPMENT ADMINISTRATION—DEPARTMENT OF COMMERCE

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR ch III

Legal Deadline: None

Abstract: EDA is in the process of reviewing its regulations to update and streamline those in need of revision.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., Room 7001, 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-4687

RIN: 0610–AA47

355. SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE GRANTS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 308

Legal Deadline: None

Abstract: EDA intends to initiate regulatory action to revise the rules governing the use of loan funds under its Revolving Loan Fund (RLF) program. The proposed regulatory action is contingent upon legislation being enacted which would provide that EDA funds lose their Federal

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character after the first round of grant funds has been loaned out. The legislation would also provide for its retroactive application.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., Room 7001, 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-4687

RIN: 0610–AA48

DEPARTMENT OF COMMERCE (DOC)

Economic Development Administration (EDA)

Final Rule Stage

356. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE—DESIGN, CONSTRUCTION OF BUILDINGS TO ACCOMMODATE THE PHYSICALLY HANDICAPPED

Legal Authority: 42 USC 4151 to 4156; 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.14

Legal Deadline: None

Abstract: These regulations will be changed to conform to the recently amended DOC rule at 15 CFR part 8b.18 (55 FR 29318, July 18, 1990), to include references to Uniform Federal Accessibility Standards (UFAS).

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	
Final Action	07/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th Street & Constitution Avenue NW., Room 7001, Washington, DC 20230, 202 482-5441

RIN: 0610–AA05

357. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE: EMPLOYMENT OF EXPEDITERS OR ADMINISTRATIVE EMPLOYEES; COMPENSATION OF PERSONS ENGAGED BY OR ON BEHALF OF APPLICANTS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309

Legal Deadline: None

Abstract: This rule amends EDA's general requirements regulation -- employment of expediters or administrative employees -- concerning EDA positions involving discretion, to conform to the reorganization of EDA pursuant to Department of Commerce Organization Order 45-1. Old positions which are no longer in existence are deleted. New comparable positions are listed in the amended regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/85	50 FR 97
Final Action	06/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-5441

RIN: 0610–AA18

358. PROTECTION OF EDA'S INTEREST IN FACILITIES ACQUIRED, BUILT, OR IMPROVED WITH EDA GRANT FUNDS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 314

Legal Deadline: None

Abstract: EDA intends to initiate regulatory action to protect its interests by enabling EDA to expend funds to care for property acquired by virtue of its lien interest in property purchased or improved with EDA grant funds, including liquidation, litigation, or any other necessary action. The proposed regulatory action is contingent upon legislation being enacted which authorizes EDA to expend funds and take other actions to protect its ownership rights in property purchased or improved with EDA grant funds.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-4687

RIN: 0610–AA35

359. ECONOMIC DEVELOPMENT DISTRICTS, DISTRICT ORGANIZATION; CIVIL RIGHTS REQUIREMENTS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 303; 13 CFR 311

Legal Deadline: None

Abstract: At the request of the Department of Justice, the Economic Development Administration (EDA) is revising our Civil Rights Regulations at 13 CFR 303 and 311. The specific changes involve minority representation on District Boards funded by EDA and Affirmative Action requirements, as well as a few minor changes in terminology.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	
Final Action	08/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

DOC—EDA

Final Rule Stage

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-4687

RIN: 0610–AA38

360. PUBLIC WORKS—INDUSTRIAL PARKS AND SITES

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 305

Legal Deadline: None

Abstract: The requirement for a property value agreement from the owner of a private industrial park or site will be less restrictive, so that such an agreement will only be required where there is an apparent or actual incidence of the private owner's failure to deal at arm's length, or if the Assistant Secretary chooses for any other reason to impose the requirements for such an agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/93	
Final Action	09/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-4687

RIN: 0610–AA40

361. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE—ELECTRIC AND GAS FACILITIES

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.4

Legal Deadline: None

Abstract: EDA will amend its rule on financing gas or electrical facilities to omit references to primary or secondary functions, to be consistent with PWEDA (42 USC 3214(e)).

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/03/90	55 FR 18594
Final Action	07/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-4687

RIN: 0610–AA43

362. OVERALL ECONOMIC DEVELOPMENT PROGRAM—PROGRESS REPORT

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 304.8

Legal Deadline: None

Abstract: EDA will amend its reporting requirements for Overall Economic Development Program (OEDP) periodic revisions to coincide with the previous project's final report, and the time of submission of the next grant period work program and application. This change applies to EDA's planning grant recipients.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	
Final Action	07/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-4687

RIN: 0610–AA44

363. PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM - SPECIFIC TYPES OF PROJECTS - SKILL TRAINING CENTER FACILITIES

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 305.45

Legal Deadline: None

Abstract: The purpose of the amendment to 13 CFR 305.45 is to clarify EDA's policies on skill training programs and sheltered workshops. Projects involving bona fide training are to be encouraged when they provide education for workers who can then move into the private sector. Projects involving sheltered workshops should also be encouraged because they provide jobs often to long-term unemployed, which are comparable to those in the private sector.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/07/92	57 FR 11674
Final Action	06/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., Room 7001, Washington, DC, 202 482-4687

RIN: 0610–AA51

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DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN)

Proposed Rule Stage

364. NONPROCUREMENT DEBARMENT AND SUSPENSION

Legal Authority: EO 12549, Debarment and Suspension; EO 12689; 5 USC 301

CFR Citation: 15 CFR 26

Legal Deadline: None

Abstract: Executive Order 12689, signed August 16, 1989, calls for agency debarment and suspension actions under procurement or nonprocurement activities to have reciprocal governmentwide effect. The common rule will be amended to reflect the requirements contained in the Executive order.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Lambis, Director, Office of Federal Assistance, Ofc. of Fed. Asst. & Management Support, Department of Commerce, Office of Administration, 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-5817

RIN: 0605–AA02

365. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 24

Legal Deadline: None

Abstract: On June 9, 1987, a notice of a proposed rule establishing governmentwide administrative requirements for grants and cooperative agreements to States and local governments was published in the Federal Register (52 FR 21820-21862). On March 11, 1988, a final rule was published in the Federal Register (53 FR 8033-8103) and was made effective October 1, 1988. Subsequently, a November 4, 1988 NPRM was published in the Federal Register (53 FR 44715-44819) that proposed to amend the common rule to incorporate requirements for grantees that are universities or nonprofit organizations. Based on comments received in response to the NPRM, however, OMB published a notice (55 FR 45289-45290) cancelling plans for such changes. Currently, an interagency task force is now in the process of updating and revising the requirements for States and local governments, and Commerce regulations published at 15 CFR 24 will be amended to accommodate these modifications.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Barbara Lambis, Director, Office of Federal Assistance, Ofc. of Fed. Asst. & Management Support, Department of Commerce, Office of Administration, 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-5817

RIN: 0605–AA04

DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN)

Final Rule Stage

366. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; PL 101-121, sec 319; 5 USC 301

CFR Citation: 15 CFR 28

Legal Deadline: None

Abstract: The interim final rule is in response to section 319 of PL 101-121. Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guarantee a loan, must disclose lobbying.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Interim Final Rule Comment Period End	04/27/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Barbara Lambis, Director, Office of Federal Assistance, Ofc. of Fed. Asst. & Management Support, Department of Commerce, Office of Administration, 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-5817

RIN: 0605–AA06

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Prerule Stage

367. ANTIDUMPING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1673 et seq

CFR Citation: 19 CFR 353

Legal Deadline: None

Abstract: Revisions will codify existing administrative practice with respect to the identification and measurement of dumping. Revisions also will account for statutory amendments made by the Omnibus Trade and Competitiveness Act of 1988. The revisions will improve administrative efficiency and make the antidumping law more accessible to the public.

Timetable:

Action	Date	FR Cite
ANPRM	02/01/89	54 FR 05092

DOC—ITA

Prerule Stage

Action	Date	FR Cite
ANPRM Comment Period End	03/20/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Counsellor to the Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-4224

RIN: 0625–AA29

368. ANTIDUMPING DUTIES; METHODOLOGY FOR ASSESSMENT INSTRUCTIONS

Significance: Regulatory Program

Legal Authority: 19 USC 1673 et seq

CFR Citation: 19 CFR 353

Legal Deadline: None

Abstract: The ITA is considering initiating a rulemaking proceeding in order to: (1) change existing administrative practice to simplify and streamline the collection of estimated antidumping duties and the assessment of antidumping duties; and (2) codify existing administrative practice, to the extent that such codification is consistent with the first objective.

Timetable:

Action	Date	FR Cite
ANPRM	12/05/91	56 FR 63696
ANPRM Comment Period End	02/03/92	56 FR 63696

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John D. McInerney Acting Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room H3622, 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-5589

RIN: 0625–AA36

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Proposed Rule Stage

369. COUNTERVAILING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1303; 19 USC 1671 et seq

CFR Citation: 19 CFR 355

Legal Deadline: None

Abstract: Current countervailing duty regulations will be revised to codify existing administrative practice with respect to the identification and measurement of subsidies. Revisions also will take into account statutory amendments made by the Omnibus Trade and Competitiveness Act of 1988. The revisions will improve administrative efficiency and will make the countervailing duty law more accessible to the public.

Timetable:

Action	Date	FR Cite
NPRM	05/31/89	54 FR 23366
NPRM Comment Period End	09/05/89	54 FR 33238

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Counsellor to the Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th Street & Constitution Avenue NW., Washington, DC 20230, 202 482-4224

RIN: 0625–AA31

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Final Rule Stage

370. • LIMIT ON DUTY-FREE INSULAR WATCHES IN CALENDAR YEAR 1993

Legal Authority: 19 USC 1202, note

CFR Citation: 15 CFR 303

Legal Deadline: None

Abstract: This amendment to the watch duty regulations establishes the total quantity and respective shares of insular watches and watch movements which will be allowed to enter the United States free of duty during calendar year 1993. This amendment also removes two unnecessary provisions. Sections 303.10 and 303.14 are amended to remove the minimum average wage input per watch movement as a condition for duty-free treatment. Present minimum wage requirements and applicable minimum assembly requirements make this condition unnecessary. Also being removed is the provision in section 303.14 which required complete assembly in the territory of the setting mechanism and train assemblies for a watch to qualify for duty-free treatment. This provision is being removed so as not to discourage assembly operations which do, in fact, involve substantial labor input (e.g., chronographs).

Timetable:

Action	Date	FR Cite
NPRM	01/19/93	58 FR 4947
NPRM Comment Period End	02/18/93	58 FR 4947
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Creel, Director, Statutory Import Programs Staff, Department of Commerce, International Trade Administration, Room 4211, Washington, DC 20230, 202 482-1660

RIN: 0625–AA06

371. ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1671 et seq; 19 USC 1673 et seq

CFR Citation: 19 CFR 353; 19 CFR 355

Legal Deadline: None

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DOC—ITA — **Final Rule Stage**

Abstract: Revisions to the current antidumping duty and countervailing duty regulations are needed in order to conform those regulations to certain statutory amendments made by the Omnibus Trade and Competitiveness Act of 1988. Those amendments deal with (1) downstream product monitoring; (2) consultations with the International Trade Commission on certain scope rulings; (3) procedures for administrative protective orders; (4) correction of ministerial errors; and (5) effective dates. The revisions will enable the Department to apply the new statutory provisions in an orderly and efficient basis.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/09/90	55 FR 9046
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Counsellor to the Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th Street & Constitution Avenue NW., Washington, DC 20230, **202 482-4224**

RIN: 0625–AA32

372. SHORT SUPPLY PROCEDURES FOR ITA

Legal Authority: PL 101-221

CFR Citation: 19 CFR 357

Legal Deadline: None

Abstract: The authority for this program expired on March 31, 1992, when the steel voluntary restraint agreements terminated. Accordingly, the regulations will be withdrawn.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/12/90	55 FR 1348
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William D. Hunter, Counsellor to the Chief Counsel for Import, Administration, Department of Commerce, International Trade Administration, Room 3622, 14th Street & Constitution Avenue NW., Washington, DC 20230, **202 482-4224**

RIN: 0625–AA34

373. ANTIDUMPING AND COUNTERVAILING DUTIES; SIGNIFICANT MINISTERIAL ERRORS

Legal Authority: 19 USC 1303; 19 USC 1671 et seq; 19 USC 1673 et seq

CFR Citation: 19 CFR 353; 19 CFR 355

Legal Deadline: None

Abstract: Regulations are needed to set forth the circumstances in which the ITA will correct significant ministerial errors made in preliminary antidumping and countervailing duty determinations. Regulations also will establish the procedures to be used by private parties in requesting the correction of significant ministerial errors.

Timetable:

Action	Date	FR Cite
NPRM	01/10/92	57 FR 1131
NPRM Comment Period End	03/10/92	57 FR 1131
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William D. Hunter, Counsellor to the Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th Street & Constitution Avenue NW., Washington, DC 20230, **202 482-4224**

RIN: 0625–AA35

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Final Rule Stage

374. REVISIONS TO SHORT SUPPLY REGULATIONS

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 771; 15 CFR 777; 15 CFR 799

Legal Deadline: None

Abstract: On July 12, 1985, the Export Administration Amendments Act of 1985 (PL 99-64) extended and amended the Export Administration Act of 1979 (50 USC app 2401, et seq.)(EAA). Certain changes were made to the Short Supply provisions of section 7 of the EAA. Accordingly, revision of the Short Supply provisions (15 CFR 777) and related licensing requirements (15 CFR 771 and 799) of the Export Administration Regulations (15 CFR 730-799) is necessary. An interim final rule was issued which included (1) elimination of the validated licensing requirement for exports of refined petroleum products so as to permit their export with certain restrictions under a general license; (2) a new definition of "crude oil" for purposes of the regulation; and (3) certain technical and housekeeping changes. There are no costs associated with this action which would promote the export of decontrolled products.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/09/85	50 FR 41131
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Willard Fisher, Regulations Branch, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Washington, DC 20230, **202 482-2440**

RIN: 0694–AA01

375. DEFENSE PRIORITIES AND ALLOCATIONS SYSTEM (DPAS)

Legal Authority: 50 USC app 2061 et seq; 50 USC app 468; EO 10480; EO 12148; EO 12742

CFR Citation: 15 CFR 700

Legal Deadline: None

Abstract: The Defense Priorities and Allocations System (DPAS) implements the priorities and allocations authority of title I of the Defense Production Act of 1950, as amended, and the priorities authority of section 18 of the Selective Service Act of 1948. The DPAS was published as a final rule on July 30, 1984. Based on the findings and recommendations of an interagency sponsored study concerning the controlled materials program, and comments from both defense agency and industry users, this proposed rule would amend the DPAS to remove the controlled materials provisions and make certain revisions to its procedural requirements. These amendments will have no costs associated with them, would reduce the regulatory and information reporting burden on industry and make the DPAS more effective and efficient, and would result in cost savings for defense contractors.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Richard V. Meyers, DPAS Program Manager, Department of Commerce, Bureau of Export Administration, Office of Industrial Resources Admin., National Security Preparedness Div., Room 3878, Washington, DC 20230, **202 482-3634**

RIN: 0694–AA02

DOC—BXA — **Final Rule Stage**

376. REVISION OF FOREIGN BOYCOTT PROVISIONS OF EXPORT ADMINISTRATION REGULATIONS

Legal Authority: 50 USC 1701 et seq; 50 USC app 2401 et seq; EO 12002; EO 12058; EO 12214; EO 12730; EO 12735

CFR Citation: 15 CFR 769

Legal Deadline: None

Abstract: The Department proposes to revise the foreign boycott provisions of the Export Administration Regulations. The revisions would clarify the application of: (1) the intent provision to the reporting requirement; (2) the jurisdictional requirements relating to the implementation of letters of credit; (3) the furnishing information prohibitions to information about the nationality of directors and about blacklisted persons; (4) the shipping requirement exception to refusals to use blacklisted vessels; and (5) the import and shipping document exception to information about the nationality of carriers and residence of manufacturers or suppliers. The revisions are intended to clarify areas of confusion. In addition, the proposal would remove many references and provisions dealing with effective dates and grace periods that are no longer applicable.

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39415
NPRM Comment Period End	10/26/89	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Arvin, Director, Compliance Policy Division, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, **202 482-4550**

RIN: 0694–AA11

377. CONVERSION TO THE METRIC SYSTEM

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 15 USC 205b; 15 USC 20fj-1; 46 USC 466c; EO 12730; EO 12735

CFR Citation: 15 CFR 768 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations to convert units of weight and measure to the metric system. This brings BXA into compliance with the 1988 Omnibus Trade and Competitiveness Act, which amends the Metric Conversion Act of 1975 to authorize the conversion of the weights and measures of "all U.S. trade and commerce" and all Federal agencies to the metric system. It also reflects the current situation of international trade, which is conducted almost exclusively in the metric system. Much of this was accomplished by the publications of the Core list in the fall of 1991.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe, Regulations Branch, Office of Technology and Policy Analysis, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, **202 482-3856**

RIN: 0694–AA50

378. TRANSFER OF DUAL USE ITEMS FROM U.S. MUNITIONS LIST TO COMMODITY CONTROL LIST

Significance: Regulatory Program

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 799.1

Legal Deadline: None

Abstract: The COCOM Industrial List (IL) controls so-called dual-use items, which have both civil and military uses. There is not a direct correspondence between the IL and BXA's Commodity Control List (CCL) because some IL items are controlled by the State Department in the U.S. munitions list.

In his November 15, 1990 memorandum of disapproval of H.R. 4653 the President determined that, "By June 1, 1991, the United States will remove from the U.S. munitions list all items contained on the COCOM dual-use list unless significant U.S. national security interests would be jeopardized." This rule will implement BXA controls through the CCL on those items removed from the U.S. munitions list as a result of the President's decision.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerold Beiter, Electronics Engineer, Office of Technology and Policy Analysis, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, **202 482-1641**

RIN: 0694–AA52

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379. EXPANSION OF FOREIGN POLICY CONTROLS ON CHEMICAL WEAPON PRECURSORS

Significance: Agency Priority

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 776; 15 CFR 799

Legal Deadline: None

Abstract: In support of U.S. policies opposing the proliferation and use of chemical weapons the Department expanded foreign policy controls on the export of certain chemical precursors (i.e., chemicals that can be used in the manufacture of chemical weapons). On March 13, 1991 (56 FR 10756), the Department expanded the number of countries for which a validated license is required for 39 precursor chemicals. These chemicals require a validated license for export to all destinations, except countries participating in the Australia group. On December 18, 1992 (57 FR 60122), the Department imposed the same validated export license requirements on 4 additional precursor chemicals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/18/92	57 FR 60122
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, 202 482-3856

RIN: 0694–AA53

380. • SPECIAL LICENSE PROCEDURES; REVISIONS TO THE ELIGIBILITY REQUIREMENTS FOR COMPUTERS

Legal Authority: 18 USC 2510 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 50 USC app 2401 et seq; EO 12002; EO 12214; EO 12058; EO 12730; EO 12735

CFR Citation: 15 CFR 773; 15 CFR 778

Legal Deadline: None

Abstract: The Distribution License (DL) is a special license issued to approximately 100 exporters, allowing exports of pre-approved goods to pre-approved consignees without regard for quantity or value. This procedure allows firms that are willing to adopt rigorous control regimes to supply their regular customers without the burden of repetitively applying for export licenses. The Distribution License places limits on the export of computers (one of the main products shipped under the Distribution License) which may vary with the destination. On May 1, 1992, the Bureau of Export Administration published a rule (57 FR 18815) that expanded substantially the ability of Distribution License holders to export computers, to the extent that supercomputers may now be exported to 12 countries. To further implement the President's directive to revise eligibility level thresholds under the Distribution License, this rule raises the computer levels that may be exported under the DL to most countries listed in Supplement No. 3 to part 773 of the Export Administration Regulations, with more modest increases for certain other destinations.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, 202 482-4479

RIN: 0694–AA61

381. • EXPORTS TO IRAN; REVISION OF FOREIGN POLICY CONTROLS

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 771; 15 CFR 785; 15 CFR 799

Legal Deadline: None

Abstract: This interim rule amends the Export Administration Regulations by revising the special country policies and provisions, consistent with the National Defense Authorization Act (NDAA) of 1992, to establish a policy of denial for all items that require a validated license for Iran, except items subject to short supply controls.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, 202 482-2440

RIN: 0694–AA62

382. • ADMINISTRATIVE EXCEPTIONS AND FAVORABLE CONSIDERATION TREATMENT FOR COUNTRY GROUP W; TELECOMMUNICATIONS EQUIPMENT FOR COUNTRY GROUPS Q & Y; REVISIONS AND CLARIFICATIONS TO THE CCL

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC app 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12730; EO 12735; EO 12058

CFR Citation: 15 CFR 771; 15 CFR 785; 15 CFR 786; 15 CFR 799

Legal Deadline: None

Abstract: This final rule amends the Commerce Control List (CCL) by adding a number of Advisory Notes that provide administrative exceptions treatment or favorable consideration treatment for exports to Country Group W (Czechoslovakia and Poland). These Advisory Notes significantly increase the number of items eligible for such treatment to these countries. This rule also expands the administrative exceptions treatment for the People's Republic of China. This rule adds new administrative exceptions procedures for the export of certain Category 5 Telecommunications items to Country Groups QWY. In addition this rule makes various revisions, certifications, and corrections to the CCL. Finally, this rule revises the instructions for completing the Shipper's Export Declaration (SED) by requiring exporters to designate the Export Control Classification Number on the SED when shipping under General Licenses GFW, GCT, and GLR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/24/92	57 FR 61059
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, 202 482-4819

RIN: 0694–AA63

DOC—BXA — Final Rule Stage

383. • REVISIONS TO THE COMMERCE CONTROL LIST: EQUIPMENT RELATED TO THE PRODUCTION OF BIOLOGICAL WEAPONS

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3701 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 799

Legal Deadline: None

Abstract: This final rule amends the Export Administration Regulations (EAR) by describing changes to the U.S. List to conform U.S. Controls on dual-use biological equipment (Export Control Classification Number 1B71) to the list being considered for adoption by the countries participating in the Australia Group. On September 14, 1992, the Bureau of Export Administration published in the Federal Register (57 FR 41894), a proposed rule that described certain changes to the U.S. list being considered for adoption by the Australia Group. This final rule revises the Commerce Control List by adopting the Australia Group's list of biological equipment.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, 202 482-2440

RIN: 0694–AA64

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Completed Actions

384. EXPORTS FROM ABROAD OF FOREIGN PRODUCTS INCORPORATING U.S.-ORIGIN PARTS AND COMPONENTS

Legal Authority: 18 USC 2510 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 50 USC app 2401 et seq; 46 USC 466c; EO 12002; EO 12058; EO 12214; EO 12730; EO 12735; EO 12769

CFR Citation: 15 CFR 776

Legal Deadline: None

Abstract: In accordance with section 5(a)(A) of the EAA, as amended by the 1988 Trade Act, this rule revises section 776.12 of the EAR to reduce export and reexport controls on U.S.-origin parts and components incorporated in foreign-made products. Under section 776.12 prior authorization is not required when U.S.-origin content comprises 25 percent or less and the foreign-made product is exported to a country listed in Supplements 2 and 3 to Part 773, i.e., countries cooperating in nuclear non-proliferation policy. This interim rule revises section 776.12 to apply the 25 percent exemption to all destinations, except the embargoed countries. The 10 percent exemption, but not the dollar value limitation, is continued for these proscribed destinations. The rule also exempts from control foreign-made products incorporating U.S.-origin content consisting of low level technology specifically designated on the Commodity Control List.

Timetable:

Action	Date	FR Cite
NPRM	12/07/88	53 FR 49327
Interim Final Rule	10/03/89	54 FR 40640

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Washington, DC 20230, 202 482-2440

RIN: 0694–AA06

385. GENERAL LICENSE GFW

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 799

Legal Deadline: None

Abstract: Section 5(b)(3)(A) of the Omnibus Trade and Competitiveness Act of 1988 (OTCA) requires the removal of national security based licensing requirements on all exports to Free World countries. Commodities that are covered by this provision are those described in the Advisory Notes in the Commodity Control List that indicate likelihood of approval for Country Groups QWY.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/27/90	55 FR 6791

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, 202 482-2440

RIN: 0694–AA07

386. ELIMINATION OF CONTROLS ON EXPORTS TO AND REEXPORTS FROM COCOM MEMBER COUNTRIES

Significance: Regulatory Program

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DOC—BXA

Completed Actions

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 770; 15 CFR 771; 15 CFR 772; 15 CFR 773; 15 CFR 776; 15 CFR 779; 15 CFR 786; 15 CFR 799

Legal Deadline: None

Abstract: The interim rule created a new general license GCT that permitted license-free shipment to COCOM member countries, with certain conditions and exceptions. Two subsequent rules removed almost all restrictions, creating a true license-free zone, and allowed most national security-based reexports from COCOM member countries without prior U.S. authorizations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/90	55 FR 25083
Interim Final Rule	05/01/92	57 FR 18819

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Room 4054, Washington, DC 20230, 202 482-2440

RIN: 0694–AA13

387. SHIPPER'S EXPORT DECLARATION: COMBINING GENERAL LICENSE AND VALIDATED LICENSE ON THE SAME SED

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 786

Legal Deadline: None

Abstract: Section 786.3(h) of the Export Administration Regulations contains certain requirements for listing commodities on the Shipper's Export Declaration (SED). Previously, section 786.3(h)(1) contained a general prohibition against combining general license commodities with validated license commodities on the same SED. This interim rule will amend section 786.3(h) to permit general license commodities and validated license commodities to be listed on the SED. The rule also will revise section 786.3(h) to clarify that the commodities that may be listed on the same SED must be included in one shipment on board a single carrier and must be from the same exporter to the same consignee.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/90	55 FR 47048

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Washington, DC 20230, 202 482-2440

RIN: 0694–AA14

388. REVISION OF GENERAL LICENSE GIFT

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 771

Legal Deadline: None

Abstract: The Bureau of Export Administration is revising section 771.18 of the Export Administration Regulations (15 CFR parts 768-799), which contains provisions on the applicability of General License GIFT for exports from the United States. General License GIFT authorizes export of parcels from U.S. individuals or charitable organizations overseas. General License GIFT is modified to allow no more than one gift parcel from the same donor to the same donee in any one month. Currently, one parcel may be shipped each week. This change is intended to assure that the license is utilized in conformity with its intended purpose, namely the donative provision of gifts between individuals. Specific authorization to exceed this limit may be granted on a case-by-case basis to meet compelling humanitarian concerns (e.g., gifts of medicine to relatives). The Bureau of Export Administration will grant case-by-case exemptions through issuance of a validated license. For clarity, new text is added on appropriateness of items as gifts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/09/89	54 FR 19883

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Regulations Branch, Room 4054, 14th Street & Pennsylvania Avenue NW., Washington, DC 20230, 202 482-2440

RIN: 0694–AA26

389. CHANGE IN REPORTING REQUIREMENTS FOR THE SPECIAL LICENSES

Legal Authority: 18 USC 2510 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 50 USC app 2401 et seq; EO 12002; EO 12058; EO 12214; EO 12730; EO 12735; EO 12769

CFR Citation: 15 CFR 773

Legal Deadline: None

Abstract: This rule amends the EAR to remove requirements that exporters submit certain documents to BXA with their license applications or concerning their exports under bulk licenses. Instead, exporters will be required to retain the documents in their files for five years. The current retention period is two years. The changes facilitate the EAR provisions governing electronic submission of license applications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/90	55 FR 47050

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Room 4054, 14th Street & Pennsylvania Avenue NW., Washington, DC 20230, 202 482-2440

RIN: 0694–AA27

DOC—BXA

Completed Actions

390. ELIMINATION OF SUBMISSION REQUIREMENT FOR CERTAIN SUPPORTING DOCUMENTS

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 772; 15 CFR 774; 15 CFR 775; 15 CFR 787

Legal Deadline: None

Abstract: This rule amends the EAR to remove requirements that exporters submit certain documents to BXA with their license applications or concerning their exports under bulk licenses. Instead exporters will be required to retain the documents in their files for five years. The current retention period is two years. The changes facilitate the EAR provisions governing electronic submission of license applications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/05/90	55 FR 46503

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, 202 482-2440

RIN: 0694–AA28

391. IMPLEMENTATION OF COCOM CORE LIST

Significance: Regulatory Program

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 799.1, supp 1

Legal Deadline: None

Abstract: The Commodity Control List is based on the Multinational Industrial List, agreed to by the 17 member nations of the Coordinating Committee (COCOM). COCOM has agreed to replace the Industrial List with a totally new "Core List." The Core List will be arranged and numbered differently. Since the CCL is now based on the Industrial List Numbering System, the entire CCL will have to be reformatted to adapt to the new system. The new list incorporates format changes to make it easier to use. While exporters will have to make major changes in their systems to adjust to a totally new control list, they should also benefit from a tighter, more specific list and an improved format that will simplify the process of determining export controls on their products.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/91	56 FR 42824

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel E. Cook, Director, Policy Development Division, Office of Technology and Policy Analysis, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, 202 482-4479

RIN: 0694–AA51

392. IMPOSITION AND EXPANSION OF FOREIGN POLICY CONTROLS (MEGAREG)

Significance: Agency Priority

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 771; 15 CFR 773; 15 CFR 776; 15 CFR 778; 15 CFR 779; 15 CFR 799

Legal Deadline: None

Abstract: The Department is amending the EAR in support of U.S. nonproliferation policies. This interim rule imposes foreign policy controls on certain exports by providing authority to deny most items already requiring a validated license where the export could be destined for the design, development, production, or use of missiles or chemical or biological weapons, or for a facility engaged in such activities. The rule also imposes foreign policy controls on exports to specified destinations, where the exporter knows the item may be related to such purposes or be destined to such sites. The rule also restricts related activities of U.S. persons or their activities at certain sites and groups regulations relating to weapons proliferation in newly designated part 778.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/15/91	56 FR 40494

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, 202 482-2440

RIN: 0694–AA54

393. IMPOSITION OF FOREIGN POLICY CONTROLS ON EQUIPMENT AND TECHNICAL DATA RELATED TO THE PRODUCTION OF CHEMICAL AND BIOLOGICAL WEAPONS

Significance: Agency Priority

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 770; 15 CFR 776; 15 CFR 778; 15 CFR 799

Legal Deadline: None

Abstract: In support of U.S. policies opposing the proliferation and prohibited use of chemical and biological weapons, the Department imposed foreign policy controls on exports of certain dual-use equipment that can be used to produce: 1) chemicals or biological agents controlled by certain ECCNs; 2) chemical or biological agents controlled under the International Traffic in Arms Regulations. The Department also imposed foreign policy controls on technical data for the production of such equipment. A further interim rule revised the equipment controls and established a positive list of biological substances subject to control.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/13/91	56 FR 10760
NPRM	09/30/91	56 FR 49441

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Completed Actions

Action	Date	FR Cite
NPRM Comment Period End	10/30/91	
Revised Interim Final Rule	07/15/92	57 FR 31309

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Please delete this entry. It was completed as an Interim Final Rule on 3-13-91 (56 FR 10760).

Agency Contact: James Seeraratnam, Industrial Specialist, Department of Commerce, Bureau of Export Administration, Room 4060, Washington, DC 20230, 202 482-5695

RIN: 0694–AA55

394. REVISIONS TO THE COMMODITY CONTROL LIST: CHANGES IN NUCLEAR NONPROLIFERATION CONTROLS

Significance: Agency Priority

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 773; 15 CFR 799

Legal Deadline: None

Abstract: This interim rule amends the CCL by revising the items subject to control for nuclear nonproliferation reasons. The changes are intended to update the nuclear nonproliferation policy. While the changes made by this rule may have a significant impact on the licensing requirement for individual Export Control Commodity Numbers, the net effect of these changes on export licensing requirements will be limited.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/28/91	56 FR 42652

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, 202 482-2440

RIN: 0694–AA56

395. REVISIONS TO THE DISTRIBUTION LICENSE PROCEDURE

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466c; EO 11912; EO 12058; EO 12730; EO 12735; ...

CFR Citation: 15 CFR 773 supplement 1; 15 CFR 799 supplement 2

Legal Deadline: None

Abstract: The Distribution License is a Special License issued to about 150 exporters, allowing exports of pre-approved goods to pre-approved consignees without regard for quantity or value. This procedure allows firms that are willing to adopt rigorous control regimes to supply their regular customers without the burden of repetitively applying for export licenses. The Distribution License places limits on the levels of computers (one of the main products shipped under the Distribution License), which vary with the destination. With advances in computer technology, the levels allowed had begun to restrict use of the Distribution License and hamper the competitiveness of license holders. BXA consulted other concerned agencies to determine the appropriate levels of computer performance, consistent with advances in technology and concerns for national security and nonproliferation. On May 1, 1992, BXA published a rule that expanded substantially the ability of Distribution License holders to export computers, to the extent that supercomputers are now eligible for 12 countries.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/01/92	57 FR 18815

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Please delete this entry. It was completed as an Interim Final Rule on 5-01-92 (57 FR 18815).

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Washington, DC 20230, 202 482-2440

RIN: 0694–AA60

DEPARTMENT OF COMMERCE (DOC)

National Institute of Standards & Technology (NIST)

Proposed Rule Stage

396. FIPS FOR POSIX SYSTEM ADMINISTRATION

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt a set of specifications on an interim basis to provide functional system administration requirements for POSIX operating system implementations. Actual utility names and options for system administration will be specified in a future revision to this FIPS. This standard will facilitate the interchange of computer programs among different vendor systems and architectures.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA71

397. FIPS FOR IRDS EXPORT/IMPORT FILE FORMAT

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard being developed by Standards Committee X3H4. The standard will specify the precise format of files used to exchange information between IRDSs. The specification will complete the IRD-IRD Interface, the functionality of which is specified in FIPS PUB 156.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA76

DOC—NIST

Proposed Rule Stage

398. FIPS FOR DIGITAL SIGNATURE STANDARD

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will specify a Digital Signature algorithm appropriate for digital signature applications. The standard will enable users to verify the integrity of the data and the origin of messages sent between computers, and to verify the integrity of data and programs that are stored in computers.

Timetable:

Action	Date	FR Cite
NPRM	08/30/91	56 FR 42980
NPRM Comment Period End	02/28/92	56 FR 61231
Second Comment Period End	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA86

399. PROPOSED REVISION OF FIPS 71-1, ADVANCED DATA COMMUNICATION CONTROL PROCEDURES (ADCCP)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision will adopt revised international standards for data communications control procedures. This revision will facilitate the transfer and control of information across telecommunications links, and improve interoperability between different equipment and systems.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA98

400. • PROPOSED FIPS FOR ODA RASTER DAP

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will specify an interchange format suitable for the transfer of raster images between systems designed for raster graphics applications. The standard will enable users to transfer documents between different equipment designed for raster processing.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AB12

401. • REVISION OF FIPS 177, INITIAL GRAPHICS EXCHANGE SPECIFICATION (IGES)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision will update FIPS 177 by adopting revised voluntary industry specifications for IGES. The revision will enable the Federal Government to maintain compatibility with industry practices for the representation and exchange of product definition data used in computer-aided design and computer-aided manufacturing systems.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AB13

402. • PROPOSED FIPS FOR ADMINISTRATION STANDARDS FOR THE TELECOMMUNICATIONS INFRASTRUCTURE OF FEDERAL BUILDINGS

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt ANSI/TIA/EIA-606-1992, Administration Standard for the Telecommunications Infrastructure of Commercial Buildings. The standard will provide the administrative requirements for the telecommunications equipment spaces, cable pathways, grounding wiring and termination hardware that support the distribution of information within a new, existing, or renovated office building or campus.

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DOC—NIST — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AB14

403. • NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Legal Authority: 15 USC 271 et seq

CFR Citation: 15 CFR 7; 15 CFR 285

Legal Deadline: None

Abstract: The NVLAP procedures will be redesignated as part 285 of title 15 of the Code of Federal Regulations and revised to: expand the procedures to include accreditation of calibration laboratories; update the procedures for compatibility with conformity assurance and assessment concepts, assure consistency with relevant International Organization for Standardization (ISO) documents (e.g., ISO guides 25, 38, 43, 58, and 9000), and facilitate and promote acceptance of calibration and test results between countries to avoid barriers to trade. Provisions in this regard will facilitate cooperation between laboratories and other bodies to assist in the exchange of information and experience, harmonize standards and procedures, and establish the basis for bilateral and multilateral agreements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Albert Tholen, Chief, NVLAP, Department of Commerce, National Institute of Standards & Technology, TRF Bldg., Room A162, Gaithersburg, MD 20899, 301 975-4017

RIN: 0693–AB15

404. • ADVANCED TECHNOLOGY PROGRAM

Legal Authority: PL 102-245

CFR Citation: 15 CFR 295

Legal Deadline: None

Abstract: The American Technology Preeminence Act of 1992 (Public Law 102-245), made changes in the legal authority for the Advanced Technology Program that must be incorporated into the ATP program procedures. Changes address: (1) participation by foreign companies in ATP; (2) the establishment of a patent policy different from the governmentwide policy set out by the Bayh-Dole Act; and (3) a new requirement that "joint research and development ventures" be industry-led. Further, requirements for royalty-sharing by ATP recipients with the Federal government for inventions funded under ATP have been repealed by the Act, and are thus to be removed from the regulations. Similarly, ATP authority to provide direct funding to independent research organizations has been repealed, and appropriate revisions to the regulations are needed. Also, changes not required by the Act will be proposed, including changes to simplify and clarify the selection criteria and to streamline the internal operations of ATP, including the selection process.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: George Uriano, Director, Advanced Technology Program, Department of Commerce, National Institute of Standards & Technology, Administration Bldg., Room A403, Gaithersburg, MD 20899, 301 975-5187

RIN: 0693–AB16

405. • NATIONAL VOLUNTARY CONFORMITY ASSESSMENT SYSTEMS EVALUATION

Legal Authority: 15 USC 271 et seq

CFR Citation: 15 CFR 286

Legal Deadline: None

Abstract: The National Institute of Standards and Technology (NIST) will propose to establish the National Voluntary Conformity Assessment System Evaluation (NVCASE) Program. The program will enable the Department of Commerce, acting through NIST, to evaluate and recognize competently conducted conformity assessment activities. The results of NIST evaluations will provide a basis for the U.S. Government to assure foreign governments that qualified conformity assessment bodies are competent to satisfy their regulatory requirements. The program is complementary to those of other Federal agencies and is intended, together with those programs, to provide the basis for U.S. Government negotiations with foreign governments to gain their recognition of U.S.-based conformity assessment bodies as providing results acceptable for regulatory purposes. The program is intended to cover organizations engaged in product sample testing, product certification, and quality system registration and, most especially, their accreditors. NIST will offer its evaluations, based on publicly developed requirements, on a fee-for-service basis and will provide those meeting the requirements (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: ABSTRACT CONT: with a certificate of recognition. NIST will maintain lists of all recognized organizations and, in the case of recognized accreditation bodies, lists of conformity assessment bodies accredited by them.

Agency Contact: Stanley Warshaw, Director, Office of Standards Services, Department of Commerce, National Institute of Standards & Technology, Administration Building, Room A603, Gaithersburg, MD 20899, 301 975-4000

RIN: 0693–AB17

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST) — **Final Rule Stage**

406. REVISION OF FIPS 140, GENERAL SECURITY REQUIREMENTS FOR EQUIPMENT USING THE DATA ENCRYPTION STANDARD

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision will bring the standard up to date to cover new encryption applications, and new policies for testing for conformance to the standard.

Timetable:

Action	Date	FR Cite
ANPRM	12/09/88	53 FR 49722
ANPRM Comment Period End	03/09/89	53 FR 49722
NPRM	01/08/91	56 FR 681
NPRM Comment Period End	04/08/91	56 FR 681
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA68

407. FIPS FOR POSIX SHELL AND UTILITY APPLICATION INTERFACE FOR COMPUTER OPERATING SYSTEMS ENVIRONMENTS

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt, on an interim basis, Draft 9 of the Institute of Electrical and Electronics Engineers (IEEE) Standard for Shell and Application Utility Interface for Computer Operating Systems Environments (IEEE 1003.2/POSIX Shell and Tools). This standard will extend the functionality of the POSIX standard by providing an interactive interface for users to control processing.

Timetable:

Action	Date	FR Cite
NPRM	06/07/89	54 FR 24375
NPRM Comment Period End	09/05/89	54 FR 24375
Repeated NPRM	06/13/90	55 FR 23959
NPRM Comment Period End	09/11/90	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA70

408. FASTENER QUALITY

Significance: Regulatory Program

Legal Authority: PL 101-592

CFR Citation: 15 CFR 280

Legal Deadline: NPRM, Statutory, May 15, 1991.

Abstract: This rule will implement the Fastener Quality Act. In 1990, Congress enacted the Fastener Quality Act (the Act) to protect public safety, deter introduction of nonconforming fasteners into commerce, improve traceability of fasteners used in critical applications, and provide customers with greater assurance that fasteners meet stated specifications. The Act requires that certain fasteners sold in commerce conform to the specifications to which they are represented to be manufactured; provides for accreditation of laboratories engaged in fastener testing; and requires the inspection, testing, and certification (in accordance with standardized methods) of fasteners used in critical applications.

Timetable:

Action	Date	FR Cite
NPRM	08/17/92	57 FR 37032
NPRM Comment Period End	11/02/92	57 FR 37032
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley Warshaw, FQA Program Manager, Office of Standards Services, Department of Commerce, National Institute of Standards & Technology, Room A603 Administration, Gaithersburg, MD 20899, 301 975-4000

RIN: 0693–AA90

409. REVISION OF FIPS 128, COMPUTER GRAPHICS METAFILE (CGM)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revised FIPS will adopt the redesignated version of the CGM standard, known as ANSI/ISO 8632.1-4:1991, and add a requirement for the use of profiles. A profile defines the options, elements, and parameters of ANSI/ISO 8632 necessary to accomplish a particular function and to maximize the probability of interchange between systems implementing the profile. The revised FIPS will also adopt MIL-D-28003, Computer-Aided Acquisition and Logistics Support (CALS), as the first CGM Application Profile.

Timetable:

Action	Date	FR Cite
NPRM	11/26/91	56 FR 59928
NPRM Comment Period End	02/24/92	56 FR 59928
Second NPRM	05/26/92	57 FR 21961
Second NPRM Comment Period End	07/10/92	57 FR 21961
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA93

410. FIPS FOR AUTOMATED PASSWORD GENERATOR

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will provide an algorithm that will be implemented in software systems. The algorithm will generate pronounceable passwords for authenticating users of an ADP system.

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or for authorizing access to system resources.

Timetable:

Action	Date	FR Cite
NPRM	09/08/92	57 FR 40894
NPRM Comment Period End	12/07/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA94

411. PROPOSED FIPS FOR ISDN

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will define the generic protocols necessary to establish transparent Integrated Services Digital Network (ISDN) connections among government networks and between government and conformant common carrier networks. This standard will facilitate the interconnection of Federal telecommunications systems to standard ISDN services.

Timetable:

Action	Date	FR Cite
NPRM	01/13/92	57 FR 1255
NPRM Comment Period End	04/13/92	57 FR 1255
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA96

412. PROPOSED FIPS FOR SECURE HASH STANDARD

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an algorithm which provides a formula for producing a numeric value (called a "message digest") of a message (or any digital information). This standard will be used whenever a secure hash algorithm is needed to provide a mechanism to check the integrity of data.

Timetable:

Action	Date	FR Cite
NPRM	01/31/92	57 FR 3747
NPRM Comment Period End	04/30/92	57 FR 3747
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA97

413. PROPOSED FIPS FOR STANDARD SECURITY LABEL FORMAT FOR GOSIP

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will specify the format for security labels to be used with the Government Open Systems Interconnection Profile (GOSIP). Security labels will facilitate the institution of controls to prevent accidental or intentional disclosure, modification, or destruction of data

Timetable:

Action	Date	FR Cite
NPRM	08/21/92	57 FR 37948
NPRM Comment Penod End	11/19/92	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA99

414. PROPOSED REVISION OF FIPS 125, MUMPS

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision will adopt American National Standard for MUMPS, ANSI/MDC X11.1-1990. This revision will facilitate the interchange of application programs among different computer systems and improve the productivity of computer programmers.

Timetable:

Action	Date	FR Cite
NPRM	05/26/92	57 FR 21963
NPRM Comment Period End	08/24/92	57 FR 21963
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AB00

415. PROPOSED REVISION OF FIPS 151-1, POSIX

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision will adopt International Standard ISO/IEC 9945-1: 1990, Information Technology - Portable Operating System Interface (POSIX) - Part 1: System Application Program Interface (API) (C Language), which defines a C programming language source interface to an operating system environment. This standard will facilitate the portability of application programs among different computer systems.

Timetable:

Action	Date	FR Cite
NPRM	06/29/92	57 FR 28829
NPRM Comment Period End	09/28/92	57 FR 28829
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AB01

416. PROCEDURES FOR REGISTERING COMPUTER SECURITY OBJECTS

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This register will specify names that uniquely identify Computer Security Objects (CSOs), which will be used to support secure communication of data between systems. The unique names will be used to reference objects during the negotiation of security services for a transaction or application. The register will also be a repository of parameters associated with the registered object.

Timetable:

Action	Date	FR Cite
NPRM	08/11/92	57 FR 35787
NPRM Comment Period End	11/09/92	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AB02

417. FIPS FOR STANDARD PAGE DESCRIPTION LANGUAGE

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt the International Standards Organization International Electrotechnical Commission Standard Page Description Language (SPDL), ISO/IEC/DIS 10180, which defines a device-independent format for representing documents in their final fully formatted form, to printers or other presentation processes. It combines the image description technology of modern page description languages with a document structure which enables efficient processing and page image management.

Timetable:

Action	Date	FR Cite
NPRM	05/04/92	57 FR 19111
NPRM Comment Period End	08/03/92	57 FR 19111
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AB03

418. PROPOSED REVISION OF FIPS 127-1, DATABASE LANGUAGE SQL

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision to FIPS 127-1, Database Language SQL, will adopt the draft proposed American National Standard: Database Language SQL (dpANS X3.135-199X), which is expected to be approved as an American National Standard. This revision to FIPS 127-1 will provide a substantial, upward-compatible enhancement of Database Language SQL.

Timetable:

Action	Date	FR Cite
NPRM	09/09/92	57 FR 41126
NPRM Comment Period End	12/08/92	57 FR 41126
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AB05

419. FIPS FOR INTEGRATION DEFINITION FOR FUNCTION MODELING (IDEFO) AND INTEGRATION DEFINITION FOR INFORMATION MODELING (IDEF1X)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: Two FIPS will adopt non-proprietary IDEF modeling techniques developed by government and industry for use in the analysis and development of information systems. The first FIPS will adopt the IDEFO modeling methodology which produces a structured representation of the processes and functions carried out by an information system. The second FIPS will adopt the IDEF1X modeling methodology which produces an information model of the structure and semantics of the information used by a system.

Timetable:

Action	Date	FR Cite
NPRM	12/14/92	57 FR 59081
Correction Notice	12/29/92	57 FR 61967
NPRM Comment Period End	03/15/93	57 FR 59081
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: The December 14, 1992, Federal Register notice incorrectly listed RIN 0693-AB11 as the RIN for this action.

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151

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DOC—NIST

Final Rule Stage

Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AB07

420. PROPOSED REAFFIRMATION OF FIPS 46-1, DATA ENCRYPTION STANDARD (DES)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: A review will be conducted of Federal Information Processing Standard 46, Data Encryption Standard, which provides an algorithm to be implemented in electronic hardware devices and used for the cryptographic protection of computer data. The standard, which was issued in 1977 and reviewed in 1983 and 1987, will be reviewed again to assess the continued adequacy of the standard to protect computer data.

Timetable:

Action	Date	FR Cite
NPRM	09/11/92	57 FR 41727
NPRM Comment Period End	12/10/92	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirely Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AB09

421. PROPOSED REVISION OF FIPS 158, THE USER INTERFACE COMPONENT OF THE APPLICATIONS PORTABILITY PROFILE

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision will adopt the X Protocol, Xlib Interface, Xt Intrinsics and Bitmap Distribution Format Specifications of the X Window System, Version 11, Release 5 (X Window System is a trademark of the Massachusetts Institute of Technology (MIT)). This standard will assist computing professionals involved in system and application software development and implementation.

Timetable:

Action	Date	FR Cite
NPRM	10/20/92	57 FR 47839
NPRM Comment Period End	01/19/93	57 FR 47839
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AB10

DEPARTMENT OF COMMERCE (DOC)

National Institute of Standards & Technology (NIST)

Completed Actions

422. FIPS FOR DOCUMENT APPLICATION PROFILE (DAP) FOR THE OFFICE DOCUMENT ARCHITECTURE (ODA) AND INTERCHANGE FORMAT STANDARD

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will be based on international standards for office document architecture and office document interchange formats. The profile will provide necessary functionality to enable documents developed on different manufacturers' equipment to be interchanged between systems.

Timetable:

Action	Date	FR Cite
NPRM	01/27/89	54 FR 4054
NPRM Comment Period End	04/27/89	54 FR 4054
Withdrawn - not in best interest of the Government to propose FIPS	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA67

423. FIPS 179, GOVERNMENT NETWORK MANAGEMENT PROFILE (GNMP)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will specify a management protocol, management information, and management functions for interoperable multi-vendor networks that implement Open System Interconnection (OSI) standards. The standard will be based on the stable agreements reached by NIST Workshop for Implementors of OSI as developed by the Special Interest Group on Network Management.

Timetable:

Action	Date	FR Cite
NPRM	07/31/91	56 FR 36136
Correction Notice	08/12/91	56 FR 38174
NPRM Comment Period End	10/29/91	
Final Action	12/14/92	57 FR 59085
Final Action Effective	06/14/93	57 FR 59085

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA85

DOC—NIST

Completed Actions

424. FIPS 177, INITIAL GRAPHICS EXCHANGE SPECIFICATION (IGES)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS adopts the American National Standard Digital Representation for Communication of Product Definition Data, ASME/ANSI Y14.26M-1989, more commonly known as the Initial Graphics Exchange Specification (IGES). This FIPS establishes information structures for the digital representation and communication of product definition data and permits the compatible exchange of product definition data used by various computer-aided design and computer-aided manufacturing (CAD/CAM) systems.

Timetable:

Action	Date	FR Cite
NPRM	10/03/91	56 FR 50096
NPRM Comment Period End	01/02/92	56 FR 50096
Final Action	11/30/92	57 FR 56559
Final Action Effective	04/30/93	57 FR 56559

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA88

425. FIPS 178, VIDEO TELECONFERENCING SERVICES AT 56 TO 1,920 KB/S

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard adopts International Telegraph and Telephone Consultative Committee (CCITT) Recommendation H.320, H.221, H.242, H.261, and H.230 for video teleconferencing and video telephony systems. This standard provides Federal departments and agencies with a comprehensive description of the interoperability criteria for audiovisual systems used in video teleconferencing and videophone applications.

Timetable:

Action	Date	FR Cite
NPRM	06/26/91	56 FR 29264
NPRM Comment Period End	09/24/91	56 FR 29264
Final Action	12/21/92	57 FR 60506
Final Action Effective	06/01/93	57 FR 60506

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Computer Specialist, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AB06

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Prerule Stage

NATIONAL MARINE FISHERIES SERVICE

426. U.S. STANDARDS FOR GRADES OF FRESH AND FROZEN FISH FILLETS

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 263 subparts A to E

Legal Deadline: None

Abstract: The purpose of this notice is to invite written comments to evaluate national interest in the deletion of the current five (5) Fillet Standards for Grades and the development of a new U.S. General Standard for Grades of Fresh and Frozen Fish Fillets that would be applicable to all species.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Moreau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, 508 281-9319

RIN: 0648–AD53

427. USE OF INFORMATION COLLECTED BY VOLUNTARY FISHERY DATA COLLECTORS IN ENFORCEMENT PROCEEDINGS

Legal Authority: 16 USC 1853(f)

CFR Citation: 15 CFR 904; 50 CFR 11; 50 CFR 12

Legal Deadline: None

Abstract: Problem: The National Marine Fisheries Service requires scientific data about the state of various fisheries in order to provide better management. In the past, much of this data has been collected by voluntary fishery data collectors placed aboard private vessels by NMFS. Owners and operators of these vessels have expressed concern that information collected by these voluntary fishery data collectors might be used against them in a subsequent enforcement proceeding, thereby affecting their willingness to take on these collectors. Solution: The newly enacted statute "restricts" the use of data obtained by voluntary fishery data collectors in subsequent enforcement proceedings brought pursuant to the Magnuson Fishery Conservation and Management Act, 16 USC 1801, the Marine Mammal Protection Act, 16 USC 1361, and the Endangered Species Act, 16 USC 1531.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Regulations will likely appear at 15 CFR part 905.

Agency Contact: Joel LaBissonniere, Attorney, Office of General Counsel-Enforcement and Litigation, Department of Commerce, National Oceanic and Atmospheric Administration, 8484

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DOC—NOAA — **Prerule Stage**

Georgia Avenue, Fourth Floor, Silver Spring, MD 20910, **301 427-2202**

RIN: 0648–AE40

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428. • TAKE OF MARINE MAMMALS BY THE U.S. NAVY INCIDENTAL TO ACTIVITIES IN SOUTHERN CALIFORNIA BIGHT

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 228

Legal Deadline: None

Abstract: The U.S. Navy has requested NMFS to issue regulations that would authorize a take of marine mammals incidental to ship shock trials and small scale underwater explosive tests in the Navy outer test range seaward of the southern California Bight. Under the Marine Mammal Protection Act, NMFS is allowed to authorize these takings if certain findings are made and regulations are issued that include requirements for monitoring and reporting.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/93	
ANPRM Comment Period End	05/00/93	
NPRM	07/00/93	
NPRM Comment Period End	08/00/93	
Final Action	11/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret Lorenz, Marine Resources Management Specialist, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, SSMC#1, Silver Spring, MD 20910, **301 713-2322**

RIN: 0648–AF49

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

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429. PROPOSED REGULATIONS FOR THE KEY LARGO NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 929

Legal Deadline: None

Abstract: These regulations are being revised to implement the Florida Keys National Marine Sanctuary Protection Act (Pub. L. 101-605) by incorporating the Key Largo Sanctuary into the Florida Keys National Marine Sanctuary management plan and regulations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235, **202 606-4122**

RIN: 0648–AA33

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430. PROPOSED REGULATIONS FOR THE LOOE KEY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 937

Legal Deadline: None

Abstract: These regulations are being revised to implement the Florida Keys National Marine Sanctuary Protection Act (Pub. L. 101-605) by incorporating the Looe Key Sanctuary into the Florida Keys National Marine Sanctuary management plan and regulations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235, **202 606-4122**

RIN: 0648–AB64

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431. PROPOSED REGULATIONS FOR THE FLORIDA KEYS NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 et seq; PL 101-605

CFR Citation: 15 CFR 929

Legal Deadline: Final, Statutory, May 1993.

Abstract: These regulations are necessary for the implementation of the congressionally designated national marine sanctuary.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235, **202 606-4122**

RIN: 0648–AD85

DEPARTMENT OF COMMERCE (DOC) — **Proposed Rule Stage**

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

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432. SCIENTIFIC RESEARCH—DOMESTIC AND FOREIGN FISHING

Legal Authority: 16 USC 1801 et seq, Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 611; 50 CFR 620

Legal Deadline: None

Abstract: The rule would define scientific research under the Magnuson Act and would add several prohibitions to the general regulations governing domestic fisheries.

Timetable:

Action	Date	FR Cite
NPRM	05/00/94	
NPRM Comment Period End	06/00/94	
Final Action	08/00/94	
Final Action Effective	09/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Marilyn Luipold, Staff Attorney, Department of Commerce, National Oceanic and Atmospheric Administration, 8484 Georgia Ave., Silver Spring, MD 20910, **301 427-2202**

RIN: 0648–AC61

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433. AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SEA SCALLOP FISHERY

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 650

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt of the amendment from the fishery management council.

Abstract: The amendment to the Fishery Management Plan for Atlantic sea scallops is expected to: (1) implement effort and/or vessel controls; (2) eliminate current meat count/shell height standards; and (3) define overfishing of Atlantic sea scallops as required by an amendment to 50 CFR part 602, effective August 23, 1989.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, **508 281-9300**

RIN: 0648–AC99

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434. REVISED REGULATIONS GOVERNING PERMITS FOR THE TAKING AND IMPORTING OF MARINE MAMMALS FOR SCIENTIFIC RESEARCH AND PUBLIC DISPLAY

Legal Authority: 16 USC 1361 et seq, Marine Mammal Protection Act; 16 USC 1531 et seq, Endangered Species Act; 16 USC 1151 et seq, Fur Seal Act

CFR Citation: 50 CFR 216; 50 CFR 215; 50 CFR 222

Legal Deadline: None

Abstract: The National Marine Fisheries Service has recently concluded the first comprehensive examination of its permit program for scientific research and public display since passage of the Marine Mammal Protection Act of 1972 and Endangered Species Act of 1973 and the issuance of permit regulations in 1974 (50 CFR 216 and 222). The review encompassed all aspects of permit program policy, procedures, and management concerning protected species (i.e., marine mammals and endangered or threatened species) under the authority of the Marine Mammal Protection Act, the Endangered Species Act, and the Fur Seal Act. The National Marine Fisheries Service will issue proposed revised regulations governing permits for the taking, import, export, or conduct of an otherwise prohibited activity involving protected species for purposes of scientific research, public display, or enhancement.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Art Jeffers, Chief, Public Display and Education Branch, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, **301 713-2289**

RIN: 0648–AD11

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435. REGULATIONS GOVERNING THE TAKE OF DOLPHINS INCIDENTAL TO REMOVING OIL AND GAS PLATFORMS IN THE GULF OF MEXICO

Legal Authority: 16 USC 1371(a)(5); 16 USC 1361 et seq

CFR Citation: 50 CFR 228

Legal Deadline: None

Abstract: NMFS has received an amended request from the American Petroleum Institute for the take of bottlenose and spotted dolphins incidental to the removal of oil and gas platforms in the Gulf of Mexico. This activity would be allowed under Section 101(a)(5) of the Marine Mammal Protection Act if the Service makes certain findings and if regulations are issued that cover monitoring and reporting.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas C. Eagle, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, **301 713-2323**

RIN: 0648–AD25

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436. AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 651

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the New England Fishery Management Council.

Abstract: Amendment 5 to the Northeast Multispecies Fishery Management Plan will establish significantly tighter effort controls to allow rebuilding of groundfish stocks, especially cod, haddock, and yellowtail flounder. It will also address the percent maximum spawning potential targets established by the FMP as defining overfishing. The timeframe and rebuilding strategy to achieve targets will be established by Amendment 5. Emphasis will be on an overall reduction in fishing effort.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	08/00/93	
Final Action	10/00/93	
Final Action Effective	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648–AD33

437. PROCEDURE FOR SETTING QUOTAS ON REMOVAL OF ATLANTIC BOTTLENOSE DOLPHINS FROM THE WATERS OF THE GULF OF MEXICO AND FLORIDA'S EAST COAST

Legal Authority: 16 USC 1361

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: Regulations will establish a procedure for setting and revising quotas to govern the removal of Atlantic bottlenose dolphins (Tursiops truncatus) from the Gulf of Mexico and Florida's east coast. Regulations will be supported by an EIS that will provide a comprehensive review of the status of stocks of bottlenose dolphins in the southeast region and the validity of the 2 percent rule for determining the allowable take to the extent reliable data are available. These regulations and quotas will take into account other types of taking such as those that may occur incidentally to commercial fisheries.

Timetable:

Action	Date	FR Cite
ANPRM	05/31/90	55 FR 22042
ANPRM Comment Period End	07/02/90	
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Katherine Horstman, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2289

RIN: 0648–AD39

438. REGULATORY AMENDMENT-STANDARD PRODUCT RECOVERY RATES FOR ALASKA GROUNDFISH AND LIMITATIONS ON PROPORTIONS OF RETAINED POLLOCK ROE

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: Product recovery rates are used to calculate weights of whole groundfish from weights of finished product. These product recovery rates will be published in the Federal Register for public comment. This action also proposes a reduction in the amount of pollock roe that may be retained on board a vessel.

Timetable:

Action	Date	FR Cite
NPRM	02/01/91	56 FR 4029
NPRM Comment Period End	03/04/91	
Second NPRM	04/00/93	
Second NPRM Comment Period End	05/00/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AD44

439. REGULATORY AMENDMENT TO ESTABLISH NORTH PACIFIC FISHERIES RESEARCH PLAN; FEES FOR DOMESTIC OBSERVERS

Legal Authority: 16 USC 1801 et seq, Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 672; 50 CFR 675; 50 CFR 677

Legal Deadline: None

Abstract: Establishes a Northern Pacific Research Plan and a fee system for funding of domestic observers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	10/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AD80

440. FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE SOUTH ATLANTIC

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq, Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 658

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This FMP will establish objectives and management measures to manage and conserve the white shrimp resource in the EEZ off the South Atlantic coast. The FMP would allow individual States to request concurrent shrimping closures in adjacent Federal waters, following severe winter mortality of white shrimp. Other measures being considered include a 25-nautical-mile buffer zone inside which no shrimp trawling, including for rock shrimp, would be allowed during a closure; a prohibition on possession of pink and brown shrimp in the closed portion of the EEZ during a white shrimp closure, and the allowance of possession of royal red shrimp and rock shrimp during a closure.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	09/00/93	
Final Action	11/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD86

441. FISHERY MANAGEMENT PLAN FOR THE QUEEN CONCH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Legal Authority: 16 USC 1801 et seq, Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This FMP will establish management measures to rebuild the queen conch resource, including size and bag limits (for personal harvest).

Timetable:

Action	Date	FR Cite
NPRM	02/00/94	
NPRM Comment Period End	03/00/94	
Final Action	04/00/94	
Final Action Effective	05/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD91

442. CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

Legal Authority: PL 101-627, Sec 801; Fishery Conservation Amendments of 1990

CFR Citation: 50 CFR 247

Legal Deadline: Final, Statutory, May 27, 1991.
Final regulations are required by PL 101-627, Section 801(d) within 180 days of November 28, 1990, provided an agreement is in place with another country under section 801(a) of PL 101-627.

Abstract: The regulation will provide for the issuance of Certificates of Legal Origin for anadromous fish and anadromous fish products legally harvested by vessels of the United States. The certificates will be issued pursuant to agreements between the United States and other countries negotiated under section 801(a) of PL 101-627.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: These regulations cannot be put into effect until the United States enters into an agreement with another country under section 801(a) of PL 101-627. The Department of State has not yet negotiated such an agreement. Accordingly, there is no timetable for implementing these regulations.

Agency Contact: Alan Mager, Special Agent, Department of Commerce, National Oceanic and Atmospheric Administration, NMFS, Office of Enforcement 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2300

RIN: 0648–AD93

443. AMENDMENT 11 TO THE FMP FOR COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COAST OF WASHINGTON, OREGON, AND CALIFORNIA

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq, Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 661

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 11 will do one or more of the following: (1) Establish a permanent recreational subarea and allocation between Cape Alava and Queets River, Washington; (2) provide flexibility in preseason recreational coho harvest distributions north of Cape Falcon, Oregon (primarily between the Westport and Columbia River subareas); and (3) establish independent management of the Columbia River subarea.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	
NPRM Comment Period End	02/00/94	
Final Action	04/00/94	
Final Action Effective	05/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way, NE., Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AE05

444. SECRETARIAL AMENDMENT TO THE FMP FOR ATLANTIC SWORDFISH

Significance: Regulatory Program

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Legal Authority: 16 USC 1801 et seq. Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 630

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after beginning of review

Abstract: PL 101-627 (signed into law November 7, 1990) transferred full responsibility for the management of swordfish, including preparation of fishery management plans and amendments, from the regional fishery management councils to the Secretary of Commerce. The Secretary will prepare an amendment to the FMP for Atlantic swordfish that will reduce fishing mortality, prevent overfishing, rebuild an overexploited resource, and be consistent with conservation measures recommended by the International Commission for the Conservation of Atlantic Tunas. The existing FMP management measures remain in effect until superseded by Secretarial actions

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
NPRM Comment Period End	12/00/93	
Final Action	02/00/94	
Final Action Effective	03/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2334

RIN: 0648–AE09

445. AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR THE BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES OF THE WESTERN PACIFIC REGION

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 683

Legal Deadline: NPRM, Statutory Final, Statutory

NPRM 15 days and final action 110 days from receipt from the fishery management council.

Abstract: Amendment 5 would establish a single limited entry zone in the fishery

Timetable:

Action	Date	FR Cite
NPRM	03/00/94	
NPRM Comment Period End	05/00/94	
Final Action	07/00/94	
Final Action Effective	09/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Matlock, Acting Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, 310 980-4001

RIN: 0648–AE20

446. AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SUMMER FLOUNDER FISHERY

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 625

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment would address overfishing by: (1) expanding permit and reporting requirements; (2) implementing quota management measures; (3) modifying size limits, bag limits, and mesh-size requirements; (4) initiating framework measures in the recreational fishery; (5) imposing a prohibition on the sale of summer flounder caught in the recreational fishery; and (6) authorizing application fee collection for vessel and dealer permits. This amendment also contains conservation measures designed to protect threatened and endangered sea turtles incidentally caught in the summer flounder trawl fishery. Two provisions in the amendment were disapproved and are being resubmitted as revised. Federal permits required under the FMP would be conditioned with restriction that the vessel may not land summer flounder in a State whose quota has been reached.

Timetable:

Action	Date	FR Cite
NPRM	06/10/92	57 FR 24577
NPRM Comment Period End	07/20/92	
NPRM for Resubmitted Portion of Amendment 2	08/12/92	57 FR 36055
NPRM Comment Period End for Resubmitted Portion of Amendment 2	09/01/92	
Final Rule Effective Date	11/30/92	57 FR 57358
Final Rule for Resubmitted Portion of Amendment 2	12/04/92	57 FR 57358
NPRM for Resubmitted Portion of Amendment 2 for Mandatory Vessel Log Books	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648–AE21

447. AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 685

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council

Abstract: This amendment will replace an existing moratorium on new entry into the longline fishery based in Hawaii. The amendment may include a new limited entry program for the Hawaii-based longline fishery, a requirement that longline vessels carry automated vessel monitoring equipment, authority for the NMFS Regional Director to require longline vessels to carry observers to collect scientific data, and permit and reporting requirements for other tuna and billfish fishing vessels in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
NPRM Comment Period End	12/00/93	
Final Action	02/00/94	
Final Action Effective	04/00/94	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Gary Matlock, Acting Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, 310 980-4001

RIN: 0648–AE35

448. GENERAL PROVISIONS FOR DOMESTIC FISHERIES

Legal Authority: 16 USC 1801-81 Magnuson Act

CFR Citation: 50 CFR 620

Legal Deadline: None

Abstract: The amendments to the Magnuson Act of November 14, 1990, added several new prohibitions such as the ban on large-scale driftnet fishing and the prohibition on assaulting observers. The regulations at 50 CFR 620 contain the prohibitions that apply generally to domestic fishing regulated under the Magnuson Act. The regulations must be amended to reflect the recent amendments to the Magnuson Act and to update and improve current language generally. The alternative would be to leave the regulatory language as it is now. This would be unacceptable because it would leave the regulation out of date and inconsistent with the current statutory language. The benefits would be to improve the current regulations and to clarify the scope of the new statutory language. There are no potential costs identified.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kraniotis, Staff Attorney, Department of Commerce, National Oceanic and Atmospheric Administration, Office of General Counsel, 8484 Georgia Avenue, Room 400, Silver Spring, MD 20910, 301 427-2202

RIN: 0648–AE39

449. FISHERY MANAGEMENT PLAN FOR CORALS AND ASSOCIATED INVERTEBRATES OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Legal Authority: 16 USC 1801 et seq

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from a regional fishery management council.

Abstract: This fishery management plan will contain measures to protect and rebuild the coral resources that include: (1) prohibition on the collection of certain species; (2) habitat protection; (3) prohibition of diving, anchoring, and other activities on the coral reef tract; (4) setting aside coral reefs for a natural reserve; (5) gear restrictions; (6) prohibition on the use of drugs and explosives in the fishery; and (7) reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
NPRM Comment Period End	02/00/94	
Final Action	03/00/94	
Final Action Effective	04/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AE47

450. FISHERY MANAGEMENT PLAN FOR ATLANTIC HERRING

Legal Authority: 16 USC 1801 et seq. Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: This fishery management plan would implement management measures for Atlantic herring in the EEZ off New England and the Mid-Atlantic States.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	
NPRM Comment Period End	03/00/94	
Final Action	04/00/94	
Final Action Effective	05/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard B. Roe, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648–AE50

451. AMENDMENT 6 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from a regional fishery management council.

Abstract: This amendment would address: (1) specifications of allowable gear; (2) Federal permit requirement for dealers; (3) moratorium on commercial permits for entire fishery not to exceed 5 years; and (4) procedures for setting TAC for deep-water groupers, tilefish, and amberjack.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	08/00/93	
Final Action	10/00/93	
Final Action Effective	11/00/93	

Small Entities Affected: Undetermined

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Proposed Rule Stage

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AE51

452. AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from a regional fishery management council.

Abstract: This amendment would evaluate the establishment of a four-part ITQ system to be grouped as follows: (1) deep-water groupers; (2) amberjack; (3) shallow-water groupers, snappers, and other species north of Cape Canaveral; and (4) shallow-water species south of Cape Canaveral.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	10/00/93	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St Petersburg, FL 33702, 813 893-3141

RIN: 0648–AE52

453. AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR SHALLOW-WATER REEF FISH OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 669

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from a regional fishery management council.

Abstract: To rebuild the resources, the following management measures will be implemented: (1) expand the management unit to include deep-water reef fish, and tropical fish and aquarium species; (2) prohibit the possession and harvest of jewfish and red grouper; (3) provide for the closure of two additional red hind spawning aggregation areas, as well as closure of a mutton snapper and tiger grouper spawning aggregation area; (4) establish marine reef reserves; (5) modify fish trap restrictions; (6) prohibit the use of destructive methods of harvesting species in the marine aquarium fishery; and (7) institute permitting and reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AE53

454. SEA TURTLE CONSERVATION MEASURES FOR THE SUMMER FLOUNDER FISHERY

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 217; 50 CFR 227

Legal Deadline: None

Abstract: NMFS proposes to protect sea turtles through the implementation of sea turtle conservation measures on the summer flounder fishery. Between November 26, 1990, and December 7, 1990, 54 sea turtles were stranded on North Carolina beaches. The North Carolina Division of Marine Fisheries closed State waters to summer flounder bottom trawling, which was implicated in the strandings from Cape Hatteras Light to Ocracoke Inlet on December 7, 1990. On December 26, 1990, waters were opened to trawlers pulling experimental turtle excluder devices (TEDs) until early January, at which time turtles were no longer encountered in North Carolina waters and fishing without TEDs was allowed. Because of new information collected during the 1990 stranding events, a section 7 consultation was reinitiated and resulted in a finding that the unrestricted operation of the fishery jeopardizes the continued existence of the endangered sea turtles. Currently, sea turtles are protected by an emergency regulatory action authorized by 50 CFR 227.72(e)(6) through the 1992-1993 fishing season.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30709
ANPRM Comment Period End	08/08/92	
Interim Final Rule	02/16/93	58 FR 8554
NPRM	05/00/93	
Final Action	08/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $25,000; Yearly Recurring Cost: $12,500; Base Year for Dollar Estimates: 1992

Analysis: Regulatory Flexibility Analysis

Agency Contact: Phil Williams, National Sea Turtle Coordinator, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1335 East-West Highway, SSMC#1, Silver Spring, MD 20910, 301 713-2322

RIN: 0648–AE54

455. REGULATORY AMENDMENT TO ESTABLISH THE FRAMEWORK FOR ALLOCATION OF PACIFIC WHITING

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulatory amendment would establish a permanent framework for allocating the harvest guideline for Pacific whiting between shoreside and at-sea processing sectors.

DOC—NOAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	04/00/93	
Final Action	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AE55

456. AMENDMENT 5 TO THE GULF OF MEXICO REEF FISH FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days from receipt from a regional fishery management council.

Abstract: Amendment 5 to the Gulf of Mexico Reef Fish Fishery Management Plan would modify gear restrictions, modify restricted area boundaries, and establish special management areas off Alabama.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	04/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AE58

457. AMENDMENT 23 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 28 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 301; 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: The amendments establish a moratorium on the entry of new vessels into the groundfish, crab, and halibut fisheries. The objective of the moratorium is to control continued growth in fishing capacity while alternative management measures to address the overcapacity problem are developed.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P. O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AE62

458. GROUNDFISH OF THE GULF OF ALASKA AND GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS; 1993 REGULATORY AMENDMENT TO REVISE REQUIREMENTS FOR REPORTING AND RECORDKEEPING

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: Revises requirements for reporting and recordkeeping for harvesting and processing of groundfish off Alaska; provides authority to collect information with new forms.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P. O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AE63

459. SEAFOOD INSPECTION

Significance: Regulatory Program

Legal Authority: 7 USC 1621 to 1632; 16 USC 742a to 742j

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Food and Drug Administration and NOAA are developing a voluntary, fee-for-service seafood inspection program to be operated by both agencies. The agencies are developing and operating the program in four phases (domestic finfish and shellfish processors, retail, foreign products and molluscan shellfish). Each of these phases is being developed in cooperation with the industry and includes pilot testing before formal implementation.

Timetable:

Action	Date	FR Cite
ANPRM	06/27/90	55 FR 26334
ANPRM Comment Period End	10/05/90	55 FR 36289
NPRM	06/00/93	
Final Action	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Richard Cano, Office of Trade and Industry Services, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2355

RIN: 0648–AE76

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Proposed Rule Stage

460. SEA TURTLE MONITORING AND CONSERVATION MEASURES FOR NONSHRIMP TRAWLERS

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 217; 50 CFR 222; 50 CFR 227

Legal Deadline: None

Abstract: All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973. The shrimp industry in the southeast region of the United States is by far the leading cause of human-induced mortality to sea turtles in the water. A recent study by the National Academy of Sciences concluded that nonshrimp fisheries constitute the second largest source of mortality of juvenile to adult sea turtles. NMFS is soliciting public comment and information on nonshrimp fisheries for which sea turtle conservation measures are needed and on appropriate monitoring and conservation measures that shall be imposed to protect sea turtles.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30709
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Nancy Foster, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2332

RIN: 0648–AE77

461. REGULATORY AMENDMENT ON INTERACTIVE COMMUNICATIONS IN THE GROUNDFISH FISHERIES OF THE GOA AND BSAI

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This amendment will determine requirements for interactive communications in the groundfish fisheries of the Gulf of Alaska and Bering Sea and Aleutian Islands area to enhance reporting and recordkeeping.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	
NPRM Comment Period End	02/00/94	
Final Action	04/00/94	
Final Action Effective	05/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AE78

462. REGULATORY AMENDMENT FOR GROUNDFISH OF THE GULF OF ALASKA AND BERING SEA AND ALEUTIAN ISLANDS TO REVISE IFQ TRANSFER PROVISIONS TO REQUIRE TRANSFER OF "BLOCKS"

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This action provides issuance of Individual Fishing Quotas (IFQ) quota shares in blocks.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	09/00/93	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AE79

463. REGULATORY AMENDMENT TO DEFINE PELAGIC TRAWL IN THE ALASKA GROUNDFISH FISHERIES

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This action would institute a new pelagic trawl definition for the Alaska fisheries to further clarify gear types for enforcement and closure purposes and to ensure that fishermen are certain what gear-type closures apply to them.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	04/00/93	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AE81

464. TOTAL ALLOWABLE CATCH (TAC) DETERMINATION FOR ATLANTIC SWORDFISH FOR 1993

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: This action will establish the total allowable catch (TAC) for 1993 for Atlantic swordfish for conservation purposes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Hwy., Silver Spring, MD 20910, 301 713-2334

RIN: 0648–AE82

DOC—NOAA

Proposed Rule Stage

465. ATLANTIC BLUEFIN TUNA PERMIT AND REPORTING REQUIREMENTS, CERTIFICATE OF ORIGIN REQUIREMENTS AND OTHER REGULATORY PROVISIONS

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 285

Legal Deadline: None

Abstract: The number of participants in the angling category of the bluefin tuna fishery is only roughly known. International commitments will require "certificates of origin" to accompany all Atlantic bluefin imported into and exported from the United States. Additional regulatory adjustments to the Atlantic bluefin tuna regulations may be required.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	04/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Hwy., Silver Spring, MD 20910, 301 713-2334

RIN: 0648–AE83

466. REGULATORY AMENDMENT FOR MUTTON SNAPPER IN THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: None

Abstract: Under the framework procedures of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico, this action will institute a May-June spawning season area closure for mutton snapper and prohibit Gulf-wide landings of that species during that time.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	04/00/93	
Final Action	06/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AE84

467. REGULATORY AMENDMENT TO ADD SOUTH CAROLINA SMZS UNDER THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: None

Abstract: This amendment will add South Carolina's special management zones (SMZs) to the regulations implementing the FMP for snapper-grouper resources of the South Atlantic region.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	04/00/93	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AE89

468. REGULATORY AMENDMENT TO THE FMP FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC TO ALLOW MULTIPLE GEARS

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: None

Abstract: This amendment will: (1) allow the use of multiple gears on a single trip; (2) remove bag limit restrictions for bycatch; and (3) define the dimensions of a black sea bass pot. This amendment will also implement a number of miscellaneous adjustments under the framework procedure established under the FMP

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	04/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AE91

469. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE SUMMER FLOUNDER FISHERY

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 625

Legal Deadline: NPRM, Statutory. Final, Statutory. NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 3 would revise the bycatch limit of summer flounder for vessels using small-mesh gear and establish a new exemption area from the minimum mesh size during the winter fishery.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One

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DOC—NOAA

Proposed Rule Stage

Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648–AE96

470. AMENDMENT 21B TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment establishes salmon bycatch management measures in the Bering Sea and Aleutian Islands.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	
Final Action	09/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AE97

471. AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 642

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 7 will: (1) change the boundaries for king and Spanish mackerel in the Gulf of Maine and South Atlantic; (2) adopt a quota splitting program and a trip limit regime for king mackerel to comply with Florida's regulations; and (3) establish an ITQ system for East Coast Spanish mackerel.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
NPRM Comment Period End	01/00/94	
Final Action	02/00/94	
Final Action Effective	03/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AE98

472. AMENDMENT 7 TO THE NORTHERN ANCHOVY FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 662

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 7 will incorporate species of coastal pelagics into the management unit of the FMP.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	10/00/93	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Matlock, Acting Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802, 310 980-4001

RIN: 0648–AE99

473. REGULATORY AMENDMENT TO REQUIRE OFFLOADING OF PROHIBITED SPECIES CAUGHT SEAWARD OF THE EEZ; GROUNDFISH FISHERIES OF THE GOA AND BSAI

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This amendment would require offloading of prohibited species caught seaward of the EEZ for enforcement purposes. This action facilitates enforcement of domestic regulations governing prohibited species in the U.S. EEZ.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Begin Review	06/00/93	
End Review	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF00

474. AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 655

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 5 would establish a moratorium on entry of vessels and add a requirement for mandatory reporting.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One

DOC—NOAA

Proposed Rule Stage

Blackburn Drive, Gloucester, MA 01930, 508 281-9200

RIN: 0648–AF01

475. AMENDMENT 21A TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS TO PROHIBIT BOTTOM TRAWLING ADJACENT TO THE PRIBILOF ISLANDS

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This action would prohibit bottom trawling adjacent to the Pribilof Islands to prevent excessive king crab bycatch in the area.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	
Final Action	11/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P. O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF02

476. REGULATORY AMENDMENT TO REDUCE HALIBUT BYCATCH MORTALITY RATES IN THE HOOK-AND-LINE FISHERIES FOR GROUNDFISH IN THE GULF OF ALASKA AND THE BERING SEA AND ALEUTIAN ISLANDS AREA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: These amendments would establish requirements for cutting gangions for Pacific halibut to reduce bycatch mortality in the hook-and-line fisheries. This could result in a reduced mortality rate, which would allow the fishing season for Pacific cod to be extended.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	04/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF05

477. DESIGNATED CRITICAL HABITAT FOR EASTERN SEABOARD NORTHERN RIGHT WHALE (EUBALAENA GLACIALIS)

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: None

Abstract: NMFS received a petition to designate critical habitat for the northern right whale at three areas along the Eastern Seaboard. An environmental assessment has been prepared and the petitioned action is warranted.

Timetable:

Action	Date	FR Cite
ANPRM	07/12/90	55 FR 28670
ANPRM Comment Period End	09/10/90	
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert C. Ziobro, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2322

RIN: 0648–AF06

478. REGULATORY AMENDMENT TO THE FMP FOR GROUNDFISH OF THE BSAI TO DELAY THE POLLOCK NON-ROE SEASON

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: None

Abstract: This amendment would delay the opening date for the pollock non-roe ("B") season in the Bering Sea and Aleutian Islands Area. The delay would be from June 1 to August 15 due to shortened fishing seasons to allow fish to mature or recover from the spawning season. The intent is to delay the second pollock fishing season to allow harvest of pollock when the product recovery rate and associated value are at an optimum.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	04/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF13

479. REGULATORY AMENDMENT TO DEFINE LEGAL GEAR TYPES IN THE GROUNDFISH FISHERIES OF THE GOA AND BSAI

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This amendment would define legal gear types for all groundfish fisheries in the Gulf of Alaska and the Bering Sea and Aleutian Islands.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and

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Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF15

480. AMENDMENT 25 TO THE FISHERY MANAGEMENT PLAN FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 25 authorizes allocation of prohibited species bycatch allowances to the Bering Sea and Aleutian Islands pollock fisheries (inshore/offshore and Community Development Quotas). Allocations will be based on percentages set forth in regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	10/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF17

481. • REGULATORY AMENDMENT TO CHANGE THE GULF OF ALASKA GROUNDFISH TRAWL SEASON OPENING DATE

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: This regulatory amendment changes the Gulf of Alaska groundfish trawl season opening date from January 20 to January 1.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	08/00/93	
Final Action	10/00/93	
Final Action Effective	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF25

482. • REGULATORY AMENDMENT TO ESTABLISH MINIMUM QUOTA SHARES FOR GROUNDFISH IN THE GULF OF ALASKA AND BERING SEA AND ALEUTIAN ISLANDS UNDER IFQ

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This regulatory amendment establishes a 1,000-pound minimum quota share for recipients in the initial allocation under an Individual Fishing Quota (IFQ) program.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	09/00/93	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF26

483. • REGULATORY AMENDMENT—1994 CHANGES TO RECORDKEEPING AND REPORTING REQUIREMENTS IN ALASKA GROUNDFISH FISHERIES

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This amendment revises requirements for recordkeeping and reporting for harvesting and processing of groundfish off Alaska.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
NPRM Comment Period End	12/00/93	
Final Action	02/00/94	
Final Action Effective	03/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF27

484. • REGULATORY AMENDMENT TO ESTABLISH "FAIR START" IN THE GULF OF ALASKA HOOK-AND-LINE SABLEFISH FISHERY

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: This amendment would establish a "fair start" in the Gulf of Alaska sablefish hook-and-line fishery by prohibiting participation in the directed sablefish fishery by vessels that deploy hook-and-line gear within 72 hours prior to the opening of that fishery and would provide a regulatory framework for the annual determination of the May season opening date of the Gulf of Alaska hook-and-line sablefish fishery.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric

Administration, P.O. Box 21688, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF28

485. • PROPOSED RULE TO REQUIRE CERTAIN FISH FROM MEXICO TO RETAIN HEADS AND TAILS INTACT IN ORDER TO PROTECT THE ENDANGERED TOTOABA

Legal Authority: 16 USC 1531 et seq. Endangered Species Act

CFR Citation: 50 CFR 227

Legal Deadline: None

Abstract: In response to a petition, the National Marine Fisheries Service is proposing to regulate the importation of certain fish from Mexico by requiring those fish to be imported with heads and tails intact. This action is being proposed in order to prevent the illegal importation of totoaba, an endangered sciaenid fish, which when in fillet form is indistinguishable from the other species. Preliminarily, NMFS has determined that this rule, if promulgated, will have a minimal economic impact on importers, as major importers require fish imports to retain heads in order to determine freshness.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, SSMC#1, Silver Spring, MD 20910, 301 713-2055

RIN: 0648–AF32

486. • REGULATORY AMENDMENT—NORTHEAST REGION GENERAL FISHERIES PERMIT AND REPORTING PROCEDURES

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 285; 50 CFR 622; 50 CFR 625; 50 CFR 628; 50 CFR 649 to 652; 50 CFR 655

Legal Deadline: None

Abstract: This action would consolidate provisions pertaining to permit-related activities for fisheries in the Northeast Region, NMFS. Fisheries impacted include Atlantic bluefin tuna, summer flounder, bluefish, American lobster, Atlantic sea scallops, Northeast multispecies groundfish, Atlantic surf clams and ocean quahogs, and Atlantic mackerel, squid, and butterfish. This rule would also authorize fees to be collected as a requirement for fishing permits. The intent is to ensure more consistency and eliminate redundancy between permit-related activities of the fisheries of the northeast region.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard B. Roe, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9200

RIN: 0648–AF33

487. • PROPOSED RULE TO DESIGNATE CRITICAL HABITAT FOR STELLER SEA LIONS

Legal Authority: 16 USC 1531 et seq. Endangered Species Act

CFR Citation: 50 CFR 227

Legal Deadline: Final, Statutory, November 26, 1991.
Due 1 year after listing date; NMFS received an intent to sue notice on 11/3/92.

Abstract: The National Marine Fisheries Service is proposing to designate critical habitat for the Steller sea lion (northern) pursuant to the Endangered Species Act. The proposed critical habitat includes: (1) all rookeries and major haulouts sites within U.S. borders; (2) a 20-nautical-mile zone proximal to the Gulf of Alaska and Bering Sea - Aleutian Island rookeries and major haulouts west of 144 degrees W longitude; and (3) foraging habitat within the core of the sea lion's range.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Payne, Fishery Biologist, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, SSMC#1, Silver Spring, MD 20910, 301 713-2322

RIN: 0648–AF34

488. • REGULATORY AMENDMENT TO ESTABLISH A MINIMUM SIZE FOR OPAKAPAKA TAKEN IN THE BOTTOMFISH FISHERY OFF HAWAII

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 683

Legal Deadline: None

Abstract: This amendment would establish a minimum size of 17 inches for opakapaka taken in the bottomfish fishery in the EEZ seaward of Hawaii.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Gary Matlock, Acting Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802, 310 980-4001

RIN: 0648–AF35

489. • AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 640

Legal Deadline: NPRM, Statutory. Final, Statutory.

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Proposed Rule Stage

NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 4 will establish differential bag limits off Georgia, South Carolina, and North Carolina.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AF37

490. • REGULATORY AMENDMENT IMPLEMENTING GROUNDFISH GEAR CHANGES IN THE PACIFIC COAST GROUNDFISH FISHERY

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulatory amendment implements groundfish gear changes that would update the definitions and specifications for legal groundfish gear to conform with changes in the fishery, technology, and state regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AF38

491. • AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR AMERICAN LOBSTER

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 649

Legal Deadline: NPRM, Statutory.
Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 4 will redefine overfishing for American lobster and revise minimum-size requirements for the fishery.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
NPRM Comment Period End	01/00/94	
Final Action	05/00/94	
Final Action Effective	06/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard B. Roe, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9200

RIN: 0648–AF39

492. • REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 640

Legal Deadline: None

Abstract: This amendment will conform the two-day sport fishing season to changes recently made by the State of Florida. The amendment would: (1) change the current season from the weekend to the last consecutive Wednesday and Thursday in July of each year; (2) limit the harvesting methods to diving and the use of bully nets; (3) set the daily bag limit of 12 lobsters per person for a two-day possession limit of 24 lobsters on shore for counties other than Monroe County, Florida; and (4) prohibit night diving off Monroe County, Florida. The amendment would also change the Federal sport season language to indicate that the Federal sport season and associated bag limits reflect State regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AF40

493. • SECRETARIAL AMENDMENT TO THE FMP FOR ATLANTIC SURF CLAMS AND OCEAN QUAHOGS

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 652

Legal Deadline: NPRM, Statutory.
NPRM 15 days from date amendment review begins and council is sent copy for comments.

Abstract: This amendment would allow a fishery for mahogany clams (ocean quahogs) off a portion of the coast of Maine in the EEZ to be exempt from the regulations implementing Individual Transferable Quotas (ITQs) by Amendment 8 to the FMP. The fishery will have a maximum size limit and restricted area of operation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard B. Roe, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9200

RIN: 0648–AF41

DOC—NOAA

Proposed Rule Stage

494. • AMENDMENT TO ENHANCE DATA ON BYCATCH AND ESTABLISH A PILOT PROGRAM FOR DONATION OF ATLANTIC SWORDFISH

Legal Authority: 16 USC 971 to 971h

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: This action would establish a pilot program to allow donation, on an experimental basis, of dead, undersized Atlantic swordfish to charitable organizations for data collection and humanitarian purposes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	04/00/93	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2334

RIN: 0648–AF42

495. • AMENDMENT TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA TO REDEFINE "OTHER SPECIES"

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: NPRM, Statutory.
Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This action would redefine "other species" and establish separate total allowable catch (TAC) amounts for Atka mackerel.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	
Final Action	11/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF43

496. • AMENDMENT 26 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 29 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory.
Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: These amendments would require all trawl vessels participating in a directed pollock fishery to register to fish in either the western central Gulf of Alaska or the Bering Sea and Aleutian Islands area, but not both.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	
Final Action	09/00/93	
Final Action Effective	07/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF44

497. • AMENDMENT TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA TO AUTHORIZE A ROCKFISH REBUILDING PLAN

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: NPRM, Statutory.
Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This action authorizes a rockfish rebuilding program for the Gulf of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	02/00/94	
NPRM Comment Period End	04/00/94	
Final Action	06/00/94	
Final Action Effective	07/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF45

498. • AMENDMENT TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS TO SUBDIVIDE THE ALEUTIAN ISLAND MANAGEMENT AREA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: NPRM, Statutory.
Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment is intended to provide for more appropriate management of Atka mackerel, rockfish, and sablefish based on their biomass distributions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric

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DOC—NOAA

Proposed Rule Stage

Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF46

499. • AMENDMENT TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS—PREFERENTIAL ALLOCATION OF BSAI PACIFIC COD TO GEAR TYPES

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final rule 110 days after receipt from the fishery management council.

Abstract: This amendment would authorize allocation of Pacific cod total allowable catch among trawl, hook-and-line and pot gear fisheries.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF47

500. • TAKING OF MARINE MAMMALS INCIDENTAL TO FISHERIES-RELATED RESEARCH

Legal Authority: 16 USC 1631 et seq

CFR Citation: 50 CFR 228

Legal Deadline: None

Abstract: The National Marine Fisheries Service has received requests from its regional offices to take small numbers of marine mammals incidental to fisheries-related research over the next 5 years. This activity would be allowed under section 101(a)(5) of the Marine Mammal Protection Act, if NMFS makes certain findings and regulations are issued that cover monitoring and reporting.

Timetable:

Action	Date	FR Cite
ANPRM	12/09/91	56 FR 64234
ANPRM Comment Period End	01/08/92	56 FR 64234
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Thomas C. Eagle, Fishery Biologist, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, SSMC#1, Silver Spring, MD 20910, 301 713-2319

RIN: 0648–AF50

501. • REGULATORY AMENDMENT—CHANGES TO DIRECTED FISHING REGULATIONS OTHER THAN FOR ROCKFISH IN THE ALASKA GROUNDFISH FISHERIES

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: Regulatory amendment to clarify, simplify, and framework directed fishing standards in the Alaska groundfish fisheries.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	
Final Action	09/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 98802, 907 586-7221

RIN: 0648–AF53

502. • REGULATORY AMENDMENT TO THE DOMESTIC GROUNDFISH OBSERVER PROGRAM

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This regulatory amendment bases observer coverage requirements on fishing days, changes the way in which 30-percent coverage vessels must meet their quarterly coverage requirements, and modifies observer coverage requirements for vessels using pot gear.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF54

503. • REGULATORY AMENDMENT TO REDUCE DIRECTED FISHING STANDARDS FOR ROCKFISH

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This action would reduce allowable bycatch amounts to avoid reaching total allowable catch and subsequent Prohibited Species catch status and wastage of resources.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF55

DOC—NOAA

Proposed Rule Stage

504. • REGULATORY AMENDMENT TO SEASONALLY APPORTION PACIFIC COD IN THE BERING SEA AND ALEUTIAN ISLANDS

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: None

Abstract: Regulatory amendment to seasonally apportion Pacific cod total allowable catch (TAC) to address market and bycatch concerns.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF56

505. • REGULATORY AMENDMENT REGARDING MESH SIZE IN TRAWLS IN THE ALASKA GROUNDFISH FISHERIES

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This regulatory amendment specifies trawl mesh size to reduce bycatch of undersized fish and reduce waste in the Alaska groundfish fisheries.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	10/00/93	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF57

506. • PACIFIC COAST GROUNDFISH FISHERY: RESTRICTION OF FISHING OPERATIONS IN THE PACIFIC WHITING FISHERY TO PROTECT SALMON OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This rule will restrict fishing operations in the Pacific whiting fishery to minimize the impact of the Pacific whiting fishery on Pacific salmon stocks. The rule will be issued under authority of proposed Amendment 7 to the Pacific Coast Groundfish Fishery Management Plan. Restrictions on fishing operations to minimize the bycatch of Pacific salmon are necessary because many Pacific salmon stocks appear to be at record low levels, and some stocks may not meet escapement goals even in the absence of any commercial or recreational salmon harvest. This rule will also change the yearly start of the regular season in the Eureka subarea south of the Oregon border from April 15 to March 1 to allow small-scale harvest of whiting when the fish are in that area.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115-0070, 206 526-6150

RIN: 0648–AF58

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

507. PROPOSED REGULATIONS FOR THE FAGATELE BAY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1445

CFR Citation: 15 CFR 941

Legal Deadline: None

Abstract: These existing regulations are to be revised to improve enforcement of prohibited activities, provide additional protective provisions, and update permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/00/95	
NPRM Comment Period End	05/00/95	
Final Action	11/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235, 202 606-4122

RIN: 0648–AA74

508. PROPOSED REGULATIONS FOR THE CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1445

CFR Citation: 15 CFR 935

Legal Deadline: None

Abstract: These existing regulations are to be revised to improve enforcement of prohibited activities, provide additional protective provisions, and update permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/00/94	
NPRM Comment Period End	11/00/94	
Final Action	05/00/95	
Final Action Effective	07/00/95	

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235, 202 606-4122

RIN: 0648–AC03

509. PROPOSED REGULATIONS FOR THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1445

CFR Citation: 15 CFR 936

Legal Deadline: None

Abstract: These existing regulations are being revised to improve enforcement of prohibited activities, provide additional protective provisions, and update permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/94	
NPRM Comment Period End	02/00/95	
Final Action	08/00/95	
Final Action Effective	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235, 202 606-4122

RIN: 0648–AC05

510. THE MONITOR NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 924

Legal Deadline: None

Abstract: These regulations are being revised to update site management provisions.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235, 202 606-4122

RIN: 0648–AC78

511. PROPOSED REGULATIONS FOR THE NORTHWEST STRAITS NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1445

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will protect the conservational, recreational, ecological, historical, research, educational, and esthetic qualities of the waters of northern Puget Sound in the State of Washington, if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	06/00/94	
NPRM Comment Period End	08/00/94	
Final Action	02/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., Universal Bldg., Room 714, Washington, DC 20235, 202 606-4122

RIN: 0648–AC91

512. PROPOSED REGULATIONS FOR THE NORFOLK CANYON NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1445

CFR Citation: 15 CFR 939

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Norfolk Canyon if the area is designated as a national marine sanctuary.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., Universal Bldg., Room 714, Washington, DC 20235, 202 606-4122

RIN: 0648–AE41

513. THUNDER BAY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1445

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Thunder Bay if the area is designated as a national marine sanctuary.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., Universal Bldg., Room 714, Washington, DC 20235, 202 606-4122

RIN: 0648–AE42

514. GRAY'S REEF NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1445

CFR Citation: 15 CFR 938

Legal Deadline: None

Abstract: These regulations are being revised to update site management provisions.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., Universal Bldg., Room 714, Washington, DC 20235, 202 606-4122

RIN: 0648–AC92

515. NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: This rulemaking will implement 1988 amendments to Title III of the Marine Protection, Research and Sanctuaries Act, including modifications to expedite the sanctuary designation process, to promote and coordinate research in national marine sanctuaries, to expand enforcement authority, and to implement new authority to assess damages for destruction, loss or injury to sanctuary resources.

Timetable:

Action	Date	FR Cite
NPRM	07/14/92	57 FR 31150
NPRM Comment Period End	08/28/92	
Second NPRM - National Marine Sanctuary Regulations	08/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., Washington, DC 20235, 202 606-4100

RIN: 0648–AE68

516. • NATIONAL MARINE SANCTUARY PROGRAM, SITE EVALUATION LIST

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: NOAA plans to amend the National Marine Sanctuary Program regulations which implement the Site Evaluation List development process. NOAA will integrate the procedures and criteria for identifying, evaluating, and selecting sites of special historical significance with the procedures and criteria for identifying, evaluating, selecting, and ranking sites of special natural resource significance. The purpose of integrating the two processes is to develop a single, comprehensive SEL which will include sites of both natural resource and historical, cultural, and human use value.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Capt. Francesca M. Cava, Chief, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Mgmt, Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Services, 1825 Connecticut Avenue NW., Washington, DC 20235, 202 606-4122

RIN: 0648–AF23

OFFICE OF THE ADMINISTRATOR

517. LICENSING OF PRIVATE REMOTE-SENSING SPACE SYSTEMS

Legal Authority: 15 USC 4244; PL 102-555

CFR Citation: 15 CFR 960

Legal Deadline: None

Abstract: Pub. L. 102-555 amends the Land Remote Sensing Commercialization Act of 1984 to transfer the LANDSAT program from the Department of Commerce to a joint NASA/DOD office. However, title II retains the basic provisions of title IV of the previous act authorizing the Secretary of Commerce to license private operators of land remote sensing space systems who are subject to U.S. jurisdiction. The Secretary is required to consult with the Secretaries of Defense and State, who are responsible for determining conditions to protect national security and foreign policy concerns, respectively. The recent Act removes a regulatory restriction which required operators to make the data available to all customers on the same terms and conditions.

Timetable:

Action	Date	FR Cite
ANPRM	01/18/89	54 FR 01945
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: John A. Milholland, Senior Counselor/Satellite, Department of Commerce, National Oceanic and Atmospheric Administration, Room 603, 1825 Connecticut Avenue NW., Washington, DC 20235, 202 673-5200

RIN: 0648–AC64

518. NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION REGULATIONS

Significance: Regulatory Program

Legal Authority: 33 USC 2706

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, August 18, 1992. Other, Statutory. Congress required the regulations to be promulgated no later than two years following the enactment of the Oil Pollution Act.

Abstract: In section 1006(e) of the Oil Pollution Act, Congress specified that the Federal Government, through NOAA, take the lead in developing natural resource damage assessment regulations. A Federal approach will provide a consistent, uniform set of procedures specifically for use in oil spills. These procedures will be aveilable to State, Indian, and foreign natural resource trustees. A single Federal solution will be more cost effective than having the individual States develop separate methodologies. It is expected that trustees will use the procedures contained in the regulations because any determination or assessment of damages made in accordance with the regulations shall have the force and effect of a rebuttable presumption on behalf of the trustee in an administrative or judicial proceeding under the Oil Pollution Act.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/90	55 FR 53478
Public Meeting Scheduled for 03/20/91	02/28/91	56 FR 8307
ANPRM	04/01/91	56 FR 8307
ANPRM Comment Period Extended to 10/01/92	06/01/92	57 FR 23067
ANPRM Comment Period End	01/15/93	58 FR 4601
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Randall Luthi, Project Manager, Department of Commerce, National Oceanic and Atmospheric

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Administration, 14th Street and Constitution Ave. NW., Washington, DC 20230, **202 482-1400**

RIN: 0648–AE13

519. MODERNIZATION OF THE NATIONAL WEATHER SERVICE

Legal Authority: PL 102-567

CFR Citation: 15 CFR 946

Legal Deadline: None

Abstract: Pub. L. 102-567, enacted on October 29, 1992, and not yet codified, establishes a process to guide the transition of the Weather Service from its current structure of approximately 250 field offices with varying responsibilities to 115 offices with uniform responsibilities using modern radars (NEXRAD), automated surface observing systems, and communications and processing equipment. The Act directs the NWS to contract with National Research Council to assess the criteria for commissioning new observation systems, decommissioning old radars, evaluating staffing levels, and certifying that automating, consolidating, relocating, or closing a field office will not result in a degradation of services. The Act establishes the broad requirements for these certifications as well as a number of consultation requirements with the FAA and with a Modernization Transition Committee, created by the Act to advise on the modernization.

Timetable:

Action	Date	FR Cite
NPRM	09/08/92	57 FR 40877
NPRM Comment Period End	11/09/92	57 FR 40877
Second NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: **Lou Boezi**, Deputy Assistant Administrator for, Modernization, Department of Commerce, National Oceanic and Atmospheric Administration, 1325 East-West Highway, Silver Spring, MD 20910, **301 713-0397**

RIN: 0648–AE73

520. REGIONAL MARINE RESEARCH PROGRAM

Legal Authority: 16 USC 1447 et seq; PL 101-593

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Regulations will state Regional Boards structure, proposed review process for plans and research proposals.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **William Graham**, Chief, Environmental Studies, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, **301 713-2451**

RIN: 0648–AF20

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Final Rule Stage

NATIONAL MARINE FISHERIES SERVICE

521. PROCESSED FISHERY PRODUCTS, PROCESSED PRODUCTS THEREOF & CERTAIN OTHER PROCESSED FOOD PRODUCTS: U.S. STANDARDS FOR GRADES OF FROZEN FISH BLOCKS & PRODUCTS MADE THEREFROM, ETC

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 264A

Legal Deadline: None

Abstract: The revised rule will expand the coverage of established voluntary standards for grades of fishery products to include new products made from fish blocks. The standards will take into account new technology and equipment. These standards will be used in a voluntary program of fishery products inspection and certification by the NMFS. Industry has shown a high level of interest and support for the revisions.

Timetable:

Action	Date	FR Cite
NPRM	09/21/89	54 FR 38881
NPRM Comment Period End	11/06/89	
Extension of Comment Period	12/29/89	54 FR 53660
NPRM Comment Period End	01/29/90	54 FR 53660
Interim Final Rule	10/16/90	55 FR 41856
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: **Tom Moreau**, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, **508 281-9319**

RIN: 0648–AA46

522. U.S. GENERAL STANDARDS FOR GRADES OF SHRIMP

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 265A

Legal Deadline: None

Abstract: The final rule will establish general quality grading standards for all non-breaded forms of fresh or frozen shrimp. These grading standards will provide for the systematic differentiation of the quality of shrimp into categories -- U.S. Grades A, B, and Substandard. The proposed standards will be applied to all commercial species of fresh or frozen shrimp in raw or cooked states in all non-breaded market forms. The adoption of grading standards is expected to facilitate trade in shrimp of all commercial species, as consumers will be able to select shrimp on the basis of identified quality.

Industry has shown great interest in and support for the standards.

Timetable:

Action	Date	FR Cite
NPRM	05/20/82	47 FR 21840
NPRM Comment Period End	08/18/82	47 FR 21840
NPRM	09/21/89	54 FR 38885
NPRM Comment Period End	11/06/89	
Extension of Comment Period	12/29/89	54 FR 53660
NPRM Comment Period End	01/29/90	54 FR 53660
Interim Final Rule	10/24/91	56 FR 55090
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: **Tom Moreau**, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, **508 281-9319**

RIN: 0648–AA47

523. ENDANGERED FISH AND WILDLIFE; APPROACHING HUMPBACK WHALES IN HAWAIIAN WATERS

Legal Authority: 16 USC 1382(a); 16 USC 1540(f)

CFR Citation: 50 CFR 222.31

Legal Deadline: None

Abstract: This rule will establish as regulation a previously published Notice of Interpretation regarding minimum distances that should be maintained in the presence of humpback whales in Hawaii. Establishing a 100-yard perimeter around any of the whales while in the Hawaiian Exclusive Zone as a regulation is considered necessary given a large increase in vessel traffic and other water use activities in areas where this species historically occurs. In response to comments received in the public record, NOAA is defining two specific sites as cow/calf areas in which an approach closer than 300 yards is prohibited. This addition creates a new subsection to the rule.

Timetable:

Action	Date	FR Cite
NPRM	11/24/86	51 FR 42271
NPRM Comment Period End	12/24/86	51 FR 42271
Interim Final Rule	11/23/87	52 FR 44912
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing

Additional Information: NMFS will incorporate the humpback whale Interim Rule into the "general" approach regulations when they become final.

Agency Contact: **Jim Lecky**, Chief, Protected Species Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, **310 980-4001**

RIN: 0648–AB79

524. INTERIM EXEMPTION GOVERNING THE INCIDENTAL TAKING OF MARINE MAMMALS DURING COMMERCIAL FISHING OPERATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216; 50 CFR 229

Legal Deadline: NPRM, Statutory, March 23, 1989. Final, Statutory, July 21, 1989. Other, Statutory, January 20, 1989.
Other deadline is for ANPRM.

Abstract: 1988 Amendments to the Marine Mammal Protection Act direct the Secretary of Commerce to establish within 240 days, a 5-year program for exempting commercial fishing operations within the U.S. Exclusive Economic Zone from the Act's prohibition on taking marine mammals. The exemption will require registration of vessels with the National Marine Fisheries Service, reports on interactions with marine mammals, and taking Government observers if required. The amendments also require NMFS to publish annually a proposed and final List of Fisheries identifying fisheries which have either frequent, occasional or no interactions with marine mammals.

Timetable:

Action	Date	FR Cite
ANPRM	01/27/89	54 FR 04154
ANPRM Comment Period End	02/27/89	
Interim Final Rule	05/19/89	54 FR 21910
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $8,300,000; Yearly Recurring Cost: $7,900,000; Base Year for Dollar Estimates, 1989

Agency Contact: **Herbert Kaufman**, Deputy Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, **301 713-2332**

RIN: 0648–AC65

525. FISHERMEN'S PROTECTIVE ACT

Legal Authority: 22 USC 1980

CFR Citation: 50 CFR 258

Legal Deadline: None

Abstract: Reinstating regulations inadvertently dropped when the Fishermen's Guaranty Fund Program was transferred to the State Department. Revisions to program procedures deriving from an Internal Control Review scheduled for completion in May 1992, will be incorporated in the regulations. These revised procedures will reduce the risk that fraudulent claims will be paid.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: **Charles Cooper**, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, **301 713-2396**

RIN: 0648–AC73

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526. DEPLETION OF THE COASTAL-MIGRATORY STOCK OF BOTTLENOSE DOLPHINS IN THE U.S. MID-ATLANTIC

Significance: Agency Priority

Legal Authority: 16 USC 1361 et seq, Marine Mammal Protection Act; 16 USC 1383b

CFR Citation: 50 CFR 216.15

Legal Deadline: None

Abstract: Based on a review of the best available information on the status of the coastal-migratory stock of bottlenose dolphins in the U.S. Mid-Atlantic, the National Marine Fisheries Service (NOAA Fisheries) is considering the publication of a proposed rule designating this population stock as depleted under the Marine Mammal Protection Act (MMPA). This action is required by the MMPA when a species or population stock falls below its optimum sustainable population (OSP). If this population stock is designated as depleted, the MMPA requires the application of certain additional restrictions on taking and importation, and the preparation and implementation of a conservation plan to restore the stock to OSP. NOAA Fisheries is also requesting any additional scientific information on this action that may be available from interested parties, as required by the MMPA Amendments of 1988.

Timetable:

Action	Date	FR Cite
ANPRM	10/11/89	54 FR 41654
ANPRM Comment Period End	12/17/89	
NPRM	08/15/91	56 FR 40594
NPRM Comment Period End	09/30/91	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $25,000; Yearly Recurring Cost: $50,000; Base Year for Dollar Estimates: 1990

Agency Contact: Dean Wilkinson, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, **301 713-2322**

RIN: 0648–AD02

527. PERFORMANCE STANDARDS FOR TUNA VESSEL OPERATORS

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NOAA has established a system of performance standards for operators of U.S.-flag tuna purse seine fishing vessels that catch yellowfin tuna associated with marine mammals in the eastern tropical Pacific Ocean.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	54 FR 46086
NPRM Comment Period End	12/01/89	
Interim Final Rule Effective	05/16/90	
Interim Final Rule	05/17/90	55 FR 20458
Interim Final Rule Comment Period End	09/03/90	
Final Action	04/00/93	
Final Action Effective	05/00/93	
Second Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Matlock, Acting Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, **310 980-4001**

RIN: 0648–AD03

528. PROHIBITION OF THE USE OF EXPLOSIVES IN THE YELLOWFIN TUNA-DOLPHIN FISHERY

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24(d)(2)(vii)(E)

Legal Deadline: Final, Statutory, April 1, 1990.

Abstract: In 1988, Congress amended the Marine Mammal Protection Act to prohibit the use of explosive devices in tuna purse seine operations that involve marine mammals. An exception from this prohibition was that Class C explosive pest control devices, approved by the Department of Transportation, could continue to be used when marine mammals are present. An interim final rule in this regard was published in the Federal Register (54 FR 411) and became effective January 1, 1989. Continued unrestricted use of the Class C explosive pest control devices was made contingent upon the outcome of a study mandated by Congress and undertaken by NMFS. The MMPA requires the Secretary to prescribe regulations to prohibit or restrict the use of Class C explosives by April 1, 1990, unless the Secretary, based upon the study, determines "...that the use of such devices does not result in physical impairment or increased mortality of marine mammals." Such a study was conducted by NMFS and the results were reviewed by experts in a workshop. The workshop participants determined that physical injuries to dolphins were caused by Class C explosives (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/90	55 FR 11588
Interim Final Rule Effective	04/01/90	
Interim Final Rule Comment Period End	04/27/90	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: that were detonated within 0.5 meters of the animal. Therefore, because NMFS cannot show that Class C seal bombs do not result in physical impairment or increased mortality of dolphins, and because these devices have the potential to cause injuries and compromise the future survivability of the marine mammals affected, NMFS implemented an interim final rule.

Agency Contact: Gary Matlock, Acting Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, **310 980-4001**

RIN: 0648–AD08

529. SECRETARIAL FISHERY MANAGEMENT PLAN FOR SHARKS OF THE ATLANTIC OCEAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

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CFR Citation: 50 CFR 678

Legal Deadline: NPRM, Statutory. NPRM 15 days after the beginning of a 60-day period for fishery management council's consideration and comment on the Secretarial Plan.

Abstract: The Secretarial Fishery Management Plan establishes a new management program intended to: (1) prevent overfishing of Atlantic Ocean sharks; (2) encourage management of sharks throughout their range; (3) establish a data collection, research and fishery monitoring program; (4) prohibit the practice of "finning"; and (5) optimize benefits and minimize wastes of shark resources. Proposed measures include: (1) annual commercial quotas; (2) recreational bag limits; (3) prohibition on "finning"; (4) commercial fishing permits; (5) prohibition on sale of recreational catch; (6) reporting of catch and effort information by commercial vessels and by those operating recreational fishing tournaments; (7) an annual fishing year beginning July 1 of each year; (8) a requirement for all fishermen to cut the fishing line for all sharks not taken as part of the quota or bag limit; and (9) commercial fishery closures after attainment of annual quotas.

Timetable:

Action	Date	FR Cite
NPRM	06/08/92	57 FR 24222
NPRM Comment Period End	07/23/92	
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Analysis: Regulatory Flexibility Analysis

Additional Information: Will involve new collections of information under the Paperwork Reduction Act.

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, **301 713-2334**

RIN: 0648–AD12

530. AMENDMENT 15 TO THE FISHERY MANAGEMENT PLAN FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AREA AND AMENDMENT 20 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675; 50 CFR 676

Legal Deadline: NPRM, Statutory. Final, Statutory. NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: These amendments would provide for a limited access system for the fixed-gear sablefish fishery.

Timetable:

Action	Date	FR Cite
NPRM	12/03/92	57 FR 57130
NPRM Comment Period End	01/11/93	
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21-68, Juneau, AK 99802, **907 586-7221**

RIN: 0648–AD19

531. REGULATORY AMENDMENT - U.S. NATIONALS FISHING IN RUSSIAN FISHERIES

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 299

Legal Deadline: None

Abstract: The regulation specifies procedures for U.S. nationals fishing in the Russian economic zone. Procedures include annual permits, port calls, visas, emergency medical treatment, exchange of crews, research vessels and Russian-imposed sanctions. U.S. nationals are required to comply with permit requirements, comply with Russian law, provide information contained in permits, report on and keep records for 3 years on fish and fish products on board when departing and reentering the EEZ, protect marine mammals, and cooperate with enforcement procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/17/89	54 FR 29896
Second Interim Final Rule	07/30/92	57 FR 33649
Second Interim Final Rule Comment Period End	09/14/92	57 FR 33649
Final Action	10/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing

Agency Contact: John D. Kelly, Fishery Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, **301 713-2337**

RIN: 0648–AD29

532. APPROACHING MARINE MAMMALS

Legal Authority: 16 USC 1540(f); 16 USC 1361

CFR Citation: 50 CFR 216; 50 CFR 218, 50 CFR 222

Legal Deadline: None

Abstract: This rule will establish a minimum distance for approaches to marine mammals by humans, vessels, aircraft, and thrillcraft. These regulations are considered necessary because of increasing activities around marine mammals. Guidelines have not been effective in protecting marine mammals from these activities and from people who wish to view these animals too closely. An interim regulation regarding approaching humpback whales in Hawaii is working far better than previously used guidelines.

Timetable:

Action	Date	FR Cite
NPRM	08/03/92	57 FR 34101
NPRM Comment Period End	12/31/92	57 FR 47606
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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Agency Contact: Margaret Lorenz, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2322

RIN: 0648–AD30

533. FOREIGN FISHING, HEALTH AND SAFETY STANDARDS

Legal Authority: 16 USC 1801 et seq, 16 USC 971 et seq; 22 USC 1971 et seq; 16 USC 1361 et seq

CFR Citation: 50 CFR 611.8(d)(8)

Legal Deadline: None

Abstract: Proposed rule requiring any foreign fishing vessel fishing in the United States EEZ and carrying an observer, to have on board an emergency position indicating radio beacon that broadcasts on 406 MHz.

Timetable:

Action	Date	FR Cite
NPRM	05/24/90	55 FR 21410
NPRM Comment Period End	06/25/90	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Action delayed due to a virtual end of foreign fishing in United States waters.

Agency Contact: Gary A. Wood, Special Agent, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2300

RIN: 0648–AD35

534. U.S. STANDARDS FOR GRADES OF FROZEN FISH PORTIONS

Legal Authority: 7 USC 1621 to 1630, Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 264; 50 CFR 269

Legal Deadline: None

Abstract: The revised rule will expand coverage of established voluntary standards for grades of frozen fish portions. The standards will take into account new technology and equipment. These standards will be used in a voluntary program of fishery products inspection and certification by NMFS. Industry has shown a high level of interest and support for the revisions.

Timetable:

Action	Date	FR Cite
NPRM	06/11/90	55 FR 23565
NPRM Comment Period End	08/27/90	55 FR 23565
Interim Final Rule	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas J. Moreau Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, 508 281-9319

RIN: 0648–AD92

535. REGULATORY AMENDMENT TO IMPLEMENT PERMIT, REPORTING, AND RECORDKEEPING AND OBSERVER REQUIREMENTS FOR PROCESSING VESSELS OVER 125 FEET AND THEIR CATCHER VESSELS; PACIFIC COAST GROUNDFISH

Legal Authority: 16 USC 1801 et seq, Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: Regulations would implement a comprehensive data collection and regulatory program for all processing vessels longer than 125 feet and for all harvesting vessels that deliver their catch to those vessels in the groundfish fishery off Washington, Oregon, and California. This program would consist of: (1) a requirement that processing vessels carry NMFS-certified observers; (2) a requirement for a mandatory Federal permit; (3) recordkeeping and reporting requirements; and (4) a definition for "fishing trip" for processing vessels over 125 feet in length for the purpose of applying trip landing and frequency limits.

Timetable:

Action	Date	FR Cite
NPRM	11/19/92	57 FR 54552
NPRM Comment Period End	12/21/92	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070, 206 526-6150

RIN: 0648–AE01

536. NONTRAWL SABLEFISH SEASON REGULATORY AMENDMENT UNDER THE PACIFIC COAST GROUNDFISH FMP

Legal Authority: 16 USC 1801 et seq, Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulatory amendment would establish a flexible opening date for the regular season for the nontrawl sablefish fishery off Washington, Oregon, and California to correspond to 3 days before the opening of the Alaska fishery, with 72-hour closures both before and after the regular season.

Timetable:

Action	Date	FR Cite
NPRM	11/09/92	57 FR 53313
NPRM Comment Period End	12/07/92	
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way, NE., Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AE07

537. REGULATORY AMENDMENT—SOUTH PACIFIC TUNA FISHERIES

Legal Authority: 16 USC 973-973r

CFR Citation: 50 CFR 282

Legal Deadline: None

Abstract: This rule implements changes to the obligations of the U.S. Government and of participants fishing under the terms of the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States, including changes in reporting requirements and in the payment of fees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/27/89	54 FR 4031
Interim Final Rule Implementation of Amended Treaty	04/00/93	
Final Rule Allocation System	04/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	
License Application System		
Interim Final Rule	04/26/91	(56 FR 19312)
South Pacific Tuna Act Implementation		
Final Rule	04/26/91	(56 FR 19312)

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This action results from the merging of two previous entries in the regulatory agenda.

Agency Contact: Gary Matlock, Acting Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802, 310 980-4001

RIN: 0648–AE18

538. REGULATORY AMENDMENT PROHIBITING LANDING OF SURF CLAMS AND OCEAN QUAHOGS ON THE SAME TRIP AND REQUIRING TRIP NOTIFICATION

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 652

Legal Deadline: None

Abstract: This regulatory amendment would prohibit the landing of surf clams and ocean quahogs on the same trip under the Mid-Atlantic Surf Clam and Ocean Quahog FMP. For individuals holding individual transferable quotas (ITQs) for both surf clams and ocean quahogs, mixing of the harvest of these species on the same trip may lead to misreporting of the catch and overrun of individual quotas The Regional Director would be authorized to require vessel operators to specify whether they intended to fish for surf clams or ocean quahogs on a specified trip. This amendment would also mandate certain trip notifications.

Timetable:

Action	Date	FR Cite
NPRM	10/27/92	57 FR 48589
NPRM Comment Period End	11/25/92	
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9200

RIN: 0648–AE27

539. • REGULATORY AMENDMENT TO IMPLEMENT SEASONALLY EXPANDED TRAWL FISHERY CLOSURE AROUND UGAMAK ISLAND, ALASKA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This action implements a 20-nautical-mile, seasonally expanded trawl fishery closure around the Ugamak Island Steller sea lion rookery in the eastern Aleutian Islands during the pollock roe season conducted in the Bering Sea and Aleutian Islands Area.

Timetable:

Action	Date	FR Cite
NPRM	12/07/92	57 FR 57726
NPRM Comment Period End	01/04/93	57 FR 57726
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AE45

540. AMENDMENT 6 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq, Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 658

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: Amendment 6 would seasonally modify the boundary of the Tortugas shrimp sanctuary to reduce the area closed to trawl fishing. This action would enable fishermen to harvest marketable-sized shrimp during specified periods from 3 small areas that would otherwise be closed.

Timetable:

Action	Date	FR Cite
NPRM	12/09/92	57 FR 58175
NPRM Comment Period End	01/19/93	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AE49

541. REGULATORY AMENDMENT FOR RED SNAPPER MANAGEMENT IN 1993 UNDER THE GULF OF MEXICO REEF FISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: Other, Statutory. Existing regulations at 50 CFR part 641 require annual adjustment of management measures by January 1 of each year to accomplish goals of the FMP.

Abstract: This regulatory amendment, under the annual adjustment of management measures framework of Amendment 1 to the FMP, would modify red snapper management measures for the 1993 fishing season.

Timetable:

Action	Date	FR Cite
NPRM	12/03/92	57 FR 57129

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Action	Date	FR Cite
NPRM Comment Period End	12/17/92	
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St Petersburg, FL 33702, 813 893-3141

RIN: 0648–AE57

542. U.S. STANDARDS FOR GRADES OF WHOLE OR DRESSED FISH

Legal Authority: 7 USC 1621 to 1630

CFR Citation: 50 CFR 261

Legal Deadline: None

Abstract: NMFS is testing an alternative set of U.S. standards for grades of whole or dressed fish for use in NMFS's National Seafood Inspection Program. The test standards recognize advances made by industry in process controls. The test standards allow for evaluation of flavor, odor, and texture in the pre-processing state, evaluation of physical defects in the thawed/fresh state, and evaluation for dehydration in the frozen state. Products graded using the test standards will be allowed to make reference to applicable grades on the label of the product.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Moreau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, 508 281-9319

RIN: 0648–AE69

543. U.S. STANDARDS FOR GRADES OF NORTH AMERICAN FRESHWATER CATFISH AND PRODUCTS MADE THEREFROM

Legal Authority: 7 USC 1621 to 1630; Reorganization Plan No. 4 of 1970 (84 Stat. 2090)

CFR Citation: 50 CFR 267

Legal Deadline: None

Abstract: NMFS is testing an alternative set of U.S. standards for grades of North American freshwater catfish and products made therefrom for use in NMFS's National Seafood Inspection Program. The test standards recognize advances made by industry in process controls. The test standards allow for evaluation of flavor, odor, and texture in the pre-processing state, evaluation of physical defects in the thawed/fresh state, and evaluation for dehydration in the frozen state. Products graded using the test standards will be allowed to make reference to applicable grades on the label of the product.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Moreau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, 508 281-9319

RIN: 0648–AE70

544. U.S. STANDARDS FOR GRADES OF FISH FILLETS

Legal Authority: 7 USC 1621 to 1630; Reorganization Plan No. 4 of 1970 (84 Stat. 2090)

CFR Citation: 50 CFR 263

Legal Deadline: None

Abstract: NMFS is testing an alternative set of U.S. standards for grades of fish fillets for use in NMFS's National Seafood Inspection Program. The test standards recognize advances made by industry in process controls. The test standards allow for evaluation of flavor, odor, and texture in the pre-processing state, evaluation of physical defects in the thawed/fresh state, and evaluation for dehydration in the frozen state. Products graded using the test standards will be allowed to make reference to applicable grades on the label of the product.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Moreau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, 508 281-9139

RIN: 0648–AE71

545. PROCESS FOR THE MANAGEMENT OF ATLANTIC OCEAN HIGHLY MIGRATORY SPECIES

Legal Authority: PL 101-627; 16 USC 1811; 16 USC 1854(f)(3)

CFR Citation: None

Legal Deadline: None

Abstract: An agency process for implementing provisions of the Fishery Conservation Amendments of 1990 (Pub. L. 101-627) concerning the management of highly migratory species in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. NOAA will follow this process in preparing, amending, and implementing fishery management plans for Atlantic highly migratory species, including swordfish, billfishes, tunas, and oceanic sharks. The process identifies opportunities for involvement by the public, Regional Fishery Management Councils, and U.S. commissioners (and their advisers) to the International Commission for the Conservation of Atlantic Tunas.

Timetable:

Action	Date	FR Cite
NPRM	05/29/92	57 FR 22718
NPRM Comment Period End	07/28/92	
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2334

RIN: 0648–AE72

DOC—NOAA

Final Rule Stage

546. REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR AMERICAN LOBSTER

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 649

Legal Deadline: None

Abstract: This action would provide codified regulations to replace an interim rule that allowed lobster traps not constructed entirely of wood to contain a ghost panel with a specified degradable door fastener.

Timetable:

Action	Date	FR Cite
NPRM	12/11/92	57 FR 58781
NPRM Comment Period End	01/11/93	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648–AE87

547. AMENDMENT 7 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days from receipt from a fishery management council.

Abstract: Amendment 7 would provide framework authority to regulate the groundfish fishery to control the bycatch of non-groundfish species. Salmon bycatch in the whiting fishery would be included under the framework.

Timetable:

Action	Date	FR Cite
NPRM	02/08/93	58 FR 7525
NPRM Comment Period End	03/22/93	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AE93

548. REGULATORY AMENDMENT TO REQUIRE VESSEL OPERATORS AND RELIEF OPERATORS WITH MAU ZONE BOTTOMFISHING PERMITS TO ATTEND A PROTECTED SPECIES WORKSHOP

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 683

Legal Deadline: None

Abstract: This rule would require all primary operators and relief operators intending to fish for bottomfish within the Mau Zone of the Northwestern Hawaiian Islands to complete a protected species workshop conducted by NMFS.

Timetable:

Action	Date	FR Cite
NPRM	11/19/92	57 FR 54560
NPRM Comment Period End	12/18/92	
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Matlock, Acting Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, 310 980-4001

RIN: 0648–AE94

549. TAKING AND IMPORTING OF MARINE MAMMALS; DOLPHIN MORTALITY LIMITS DURING PURSE SEINE SETS ON MARINE MAMMALS IN THE EASTERN TROPICAL PACIFIC

Significance: Agency Priority

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: This interim final rule will amend the current performance standards in the MMPA regulations to ensure that U.S. vessels can be legally prevented from making sets on tuna associated with dolphins in the eastern tropical Pacific Ocean once the vessels' dolphin mortality limit is reached. This rule also implements portions of the international Dolphin Conservation Act of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	
Begin Review	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Matlock, Acting Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, 310 980-4001

RIN: 0648–AF07

550. TAKING AND IMPORTING OF MARINE MAMMALS; "DOLPHIN-SAFE" TUNA LABELING

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216; 50 CFR 247

Legal Deadline: None

Abstract: This rule will finalize the interim final rule implementing the Dolphin Protection Consumer Information Act. The interim final rule: (1) identified fish and fish products subject to importation requirements mandated by the Marine Mammal Protection Act, as amended by the DPC14; (2) specified the use and contents of a new NOAA form required to import into the United States certain fish and fish products potentially harvested with methods injurious to marine mammals; (3) required importers of certain fish and fish products harvested by nations that engage in high seas large-scale driftnet fishing to provide certification by a responsible government official of the harvesting nation that the items to be imported were not harvested with large-scale driftnets in certain areas of the high seas; and (4) regulated the use of labels suggesting that tuna products are "dolphin safe." This rule also implements portions of the High Seas Driftnet Fisheries Enforcement Act.

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Timetable:

Action	Date	FR Cite
Interim Final Rule	09/19/91	56 FR 47418
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Matlock, Acting Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, 310 980-4001

RIN: 0648–AF08

551. REGULATORY AMENDMENT REQUIRING MARKING OF LONGLINE GEAR UNDER THE FISHERY MANAGEMENT PLAN FOR THE PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 611; 50 CFR 685

Legal Deadline: None

Abstract: This rule would require that all floats and buoys used by or possessed on federally permitted longline vessels be clearly marked with the vessel's official number.

Timetable:

Action	Date	FR Cite
NPRM	10/14/92	57 FR 47040
NPRM Comment Period End	11/13/92	
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Matlock, Acting Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-2413, 310 980-4001

RIN: 0648–AF12

552. DESIGNATION OF CRITICAL HABITAT FOR SNAKE RIVER SOCKEYE SALMON, SNAKE RIVER SPRING/SUMMER CHINOOK SALMON, AND SNAKE RIVER FALL CHINOOK SALMON

Legal Authority: 16 USC 1533 et seq

CFR Citation: 50 CFR 226

Legal Deadline: Final, Statutory, November 20, 1992.
ESA requires a final action within 1 year of listing as endangered.

Abstract: NMFS proposes to designate critical habitat for the Snake River sockeye salmon, Snake River spring/summer and fall Chinook salmon pursuant to the Endangered Species Act of 1973.

Timetable:

Action	Date	FR Cite
NPRM	12/02/92	57 FR 57051
NPRM Comment Period End	03/02/93	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Garth Griffen, Protected Species Branch, Environmental and Technical Services Division, Department of Commerce, National Oceanic and Atmospheric Administration, 911 NE. 11th Avenue, Room 620, Portland, OR 97232, 503 230-5430

RIN: 0648–AF19

553. • REGULATORY AMENDMENT TO ESTABLISH PACIFIC HALIBUT BYCATCH MORTALITY LIMITS FOR TRAWL AND NON-TRAWL GEAR

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: None

Abstract: This regulatory amendment establishes the Pacific halibut bycatch mortality limits and provides notice of proposed 1993 specifications of Pacific halibut bycatch allowances.

Timetable:

Action	Date	FR Cite
NPRM	12/22/92	57 FR 60788
NPRM Comment Period End	01/21/93	
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Authority to specify trawl and non-trawl gear halibut bycatch mortality limits is contained in Amendment 21 to the FMP for the groundfish fishery of the Bering Sea and Aleutian Islands.

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF21

554. • FISHING VESSEL CAPITAL CONSTRUCTION FUND PROCEDURES—ELIGIBILITY FOR SAFETY IMPROVEMENTS

Legal Authority: 46 USC 1177

CFR Citation: 50 CFR 259

Legal Deadline: None

Abstract: To allow use of capital construction funds for approved safety improvement projects.

Timetable:

Action	Date	FR Cite
NPRM	11/18/92	57 FR 54356
NPRM Comment Period End	12/18/92	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles L. Cooper, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2396

RIN: 0648–AF22

555. • PACIFIC HALIBUT REGULATIONS FOR 1993

Legal Authority: 5 UST 5; TIAS 2900; 16 USC 773 to 773K

CFR Citation: 50 CFR 301

Legal Deadline: None

Abstract: Pacific halibut regulations for 1993 provide catch limits and fishing seasons for U.S. fishermen in accordance with regulations of the International Pacific Halibut Commission.

Timetable:

Action	Date	FR Cite
Final Action Effective	04/01/93	
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

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Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF29

556. • DESIGNATED CRITICAL HABITAT FOR SACRAMENTO RIVER WINTER-RUN CHINOOK SALMON

Legal Authority: 16 USC 1553

CFR Citation: 50 CFR 226

Legal Deadline: Final, Statutory, August 14, 1993.

Abstract: NMFS proposes to designate critical habitat for the Sacramento River winter-run Chinook salmon. This would include the Sacramento River from Keswick Dam in Shasta County to Chipps Island; from Chipps Island to Carquinez Bridge; all waters of San Pablo Bay; and all waters of San Francisco Bay to the Golden Gate Bridge.

Timetable:

Action	Date	FR Cite
NPRM	08/14/92	57 FR 36626
NPRM Comment Period End	01/15/93	57 FR 57982
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Margaret Lorenz, Marine Resources Management Specialist, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, SSMC#1, Silver Spring, MD 20910, 301 713-2322

RIN: 0648–AF30

557. • REGULATORY AMENDMENT TO THE FMP FOR GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS TO INCORPORATE COMMUNITY DEVELOPMENT QUOTA CRITERIA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: None

Abstract: This amendment incorporates program criteria for the Community Development Quota in the management of pollock in the Bering Sea and Aleutian Islands Area for 1994-1995. This will set aside 7.5 percent of the BSAI pollock total allowable catch for allocation to communities that qualify under the program criteria.

Timetable:

Action	Date	FR Cite
NPRM	10/07/92	57 FR 46139
NPRM Comment Period End	11/16/92	57 FR 46139
Final Action	04/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Businesses

Government Levels Affected: Local

Additional Information: Sunset date of this action is 12/31/95.

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF31

558. • REGULATORY AMENDMENT TO DESIGNATE AS "ROUTINE" THE TRIP LANDING AND FREQUENCY LIMITS FOR PACIFIC WHITING IN THE PACIFIC COAST GROUNDFISH FISHERY

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulatory amendment would designate the setting of trip landing and frequency limits for Pacific whiting as "routine" management measures, as authorized by Amendment 4 to the Fishery Management Plan for the Pacific Coast Groundfish Fishery. This action also announces an initial trip limit of 3,000 pounds for Pacific whiting, prior to the regular season opening date.

Timetable:

Action	Date	FR Cite
NPRM	12/01/92	57 FR 56897
NPRM Comment Period End	12/10/92	57 FR 56897
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AF36

559. • FISHING VESSEL OBLIGATION GUARANTEE PROGRAM

Legal Authority: 46 USC 1271 to 1279

CFR Citation: 50 CFR 255

Legal Deadline: None

Abstract: This regulation will add definitions of "aquaculture" and "under utilized species."

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael L. Grable, Division Chief, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2390

RIN: 0648–AF48

560. • CEMP SITES OF SPECIAL SCIENTIFIC INTEREST

Legal Authority: 16 USC 2431 et seq

CFR Citation: 50 CFR 380

Legal Deadline: None

Abstract: Establish a permit system for access to Seal Island Antarctica. This island is designated as a site of special scientific interest under the Convention for the Conservation of Antarctic Marine Living Resources.

Timetable:

Action	Date	FR Cite
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas J. McIntyre, Marine Resources Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources Fisheries, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2055

RIN: 0648–AF51

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561. • REGULATORY AMENDMENT TO DELAY THE SECOND QUARTER POLLOCK OPENING IN THE GULF OF ALASKA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: This regulatory amendment would delay the second quarter pollock opening from April 1 to the Monday nearest June 1. Reasons for the delay include increased recovery rates, reduced salmon bycatch, and a decrease in the discard of undersized pollock.

Timetable:

Action	Date	FR Cite
NPRM	01/06/93	58 FR 503
NPRM Comment Period End	02/05/93	58 FR 503
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, **907 586-7221**

RIN: 0648–AF52

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

562. PROPOSED REGULATIONS FOR THE NATIONAL ESTUARINE RESERVE RESEARCH PROGRAM

Legal Authority: 16 USC 1461

CFR Citation: 15 CFR 921

Legal Deadline: None

Abstract: This action will incorporate amendments resulting from The Coastal Zone Act Reauthorization Amendments of 1990 and changes to the regulations as a result of comments on the interim rule published July 23, 1990 (55 FR 29940).

Timetable:

Action	Date	FR Cite
NPRM	10/28/88	53 FR 43816
NPRM Comment Period End	12/30/88	
Interim Final Rule	07/23/90	55 FR 29940
Second NPRM	07/17/92	57 FR 31926
NPRM Comment Period End	08/31/92	57 FR 31926
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235, **202 606-4122**

RIN: 0648–AB68

563. FINAL REGULATIONS FOR THE OLYMPIC COAST NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1445

CFR Citation: 15 CFR 925

Legal Deadline: None

Abstract: These regulations will protect the conservational, recreational, ecological, historical, research, educational, and esthetic qualities of the waters offshore of the Olympic Coast of the State of Washington, if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	09/20/91	56 FR 47836
NPRM Comment Period End	11/27/91	
Interim Final Rule	12/00/93	
Final Action	05/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., Universal Bldg., Room 714, Washington, DC 20235, **202 606-4122**

RIN: 0648–AC93

564. FINAL REGULATIONS FOR THE STELLWAGEN BANK NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 et seq; PL 102-587, sec 2202

CFR Citation: 15 CFR 940

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding the Stellwagen Bank National Marine Sanctuary, designated by Congress in Pub. L. 102-587, (section 2202).

Timetable:

Action	Date	FR Cite
NPRM	02/08/91	56 FR 5282
NPRM Comment Period End	04/08/91	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. Francesca Cava, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., Universal Bldg., Room 714, Washington, DC 20235, **202 606-4122**

RIN: 0648–AC94

565. IMPLEMENTATION OF COASTAL ZONE MANAGEMENT ACT APPEAL FEES

Legal Authority: 16 USC 1451 et seq

CFR Citation: 15 CFR 930

Legal Deadline: None

Abstract: This rulemaking will implement new authority under the Coastal Zone Management Act to charge fees for appeals.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Margo F. Jackson, Asst. General Counsel for Ocean Services, Office of General Counsel, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., Suite 603, Washington, DC 20235, **202 606-4200**

RIN: 0648–AD83

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Final Rule Stage

566. TECHNICAL CONFORMING CHANGES TO EXISTING NOAA REGULATIONS TO IMPLEMENT 1990 REAUTHORIZATION OF THE COASTAL ZONE MANAGEMENT ACT

Legal Authority: 16 USC 1451 et seq

CFR Citation: 15 CFR 923; 15 CFR 926; 15 CFR 927; 15 CFR 931

Legal Deadline: None

Abstract: This rulemaking will make technical conforming changes to NOAA's existing regulations which are necessary to implement the 1990 reauthorization of the Coastal Zone Management Act.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean & Coastal Resource Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., Suite 701, Washington, DC 20235, **202 606-4100**

RIN: 0648–AE11

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

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567. POLICY TO REQUIRE OBSERVERS TO BE CARRIED ON DOMESTIC FISHING VESSELS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq, Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 620

Legal Deadline: None

Abstract: The policy would establish guidelines for the use of observers in the domestic fisheries managed under the Magnuson Act. The observers collect catch and effort data on fishing operations, and biological information on fish stocks and the marine ecosystem.

Timetable:

Action	Date	FR Cite
ANPRM	06/06/88	53 FR 20661
ANPRM Comment Period End	07/18/88	
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing

Additional Information: Following consultation with Regional Fishery Management Councils and industry representatives, the action was put on hold in February 1989 by the Assistant Administrator for Fisheries, NOAA, to await the outcome of voluntary observer programs planned by the fishing industry in Alaska waters for the 1989 and 1990 fishing seasons. Following the passage of the reauthorized Magnuson Act (11/90), the policy has been subjected to further revision and legal review to ensure consistency with congressional mandates.

Agency Contact: Peter H. Fricke, Sociologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Fisheries Conservation & Mgmt., 1335 East-West Highway, Silver Spring, MD 20910, **301 713-2337**

RIN: 0648–AC45

568. AMENDMENT 16 TO THE FISHERY MANAGEMENT PLAN FOR GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 21 TO THE FMP FOR GROUNDFISH OF THE GULF OF ALASKA

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq; 16 USC 1361 et seq; 22 USC 1971 et seq

CFR Citation: 50 CFR 611; 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: These amendments contain bycatch management measures for halibut in the Gulf of Alaska and the Bering Sea and Aleutian Islands and bycatch management of red King crab and Tanner crab in the Bering Sea and Aleutian Islands. The vessel incentive program as originally submitted in Amendments 16 and 21 was disapproved by the Secretary of Commerce. This portion of the amendments was resubmitted for proposed and final rulemaking (see Supplemental Timetable).

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38347
NPRM Comment Period End	10/27/90	
Additional NPRM: - revised	01/16/91	56 FR 1612
Final Action	01/24/91	56 FR 2700
Interim Final Rule	05/10/91	56 FR 21619
Final Action	09/23/92	57 FR 43926
Final Action Effective	09/30/92	57 FR 43926

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing

Additional Information: RIN 0648-AC98 has been combined with this RIN.

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, PO Box 21668, Juneau, AK 99802, **907 586-7221**

RIN: 0648–AD18

569. AMENDMENT 18 TO THE FISHERY MANAGEMENT PLAN FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 23 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: These amendments allocate Pacific cod and pollock between the inshore and offshore components of the

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groundfish fishery in the Gulf of Alaska and temporarily allocate pollock between inshore and offshore components in the Bering Sea and Aleutian Islands. A revised Amendment 18 was also submitted to the Secretary of Commerce.

Timetable:

Action	Date	FR Cite
NPRM	12/20/91	56 FR 66009
NPRM Comment Period End	02/03/92	
Final Rule Effective Date	06/01/92	
Final Rule	06/03/92	57 FR 23321
NPRM for Resubmitted Portion of Amendment 18	10/07/92	57 FR 46133
NPRM Comment Period End for Resubmitted Portion of Amendment 18	10/23/92	
Final Action	12/24/92	57 FR 61326
Final Action Effective	01/19/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AD50

570. AMENDMENT 6 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 611; 50 CFR 663

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Pacific Fishery Management Council.

Abstract: Amendment 6 institutes a license limitation program ("limited entry") for the Pacific Coast groundfish fishery. Only vessels with trawl gear for groundfish, longlines, or traps (or pots) will be required to have limited entry permits to use the gear. Permits will be endorsed for specific gear and some may be transferable. Control dates for participation were previously established as July 11, 1984, through August 1, 1988. The license limitation program will limit or reduce harvest capacity. Full implementation of the license limitation program is not expected until January 1, 1994.

Timetable:

Action	Date	FR Cite
NPRM	07/22/92	57 FR 32499
NPRM Comment Period End	08/21/92	
Final Action - see additional information for other effective dates	11/16/92	57 FR 54001
Final Action Effective	01/01/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Final action was effective January 1, 1993, except for sections 663.7(q), (r), (t), and (u), and 663.30(b), which are effective January 1, 1994.

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way, NE., Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AD63

571. TAKING AND IMPORTING OF MARINE MAMMALS; PURSE SEINE SETS ON MARINE MAMMALS IN THE EASTERN TROPICAL PACIFIC

Significance: Agency Priority

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24(e)(5)(i)

Legal Deadline: None

Abstract: In 1988, Congress amended the Marine Mammal Protection Act to require that a harvesting nation must meet a two-part test to determine whether its marine mammal program is comparable to that of the United States before its yellowfin tuna and yellowfin tuna products are allowed to enter this country. These regulations provide specific criteria for issuing initial and subsequent findings to a harvesting nation which implements a prohibition against intentional purse seine sets on marine mammals by its vessels.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/16/90	55 FR 47880
Final Action	11/16/92	57 FR 54334
Final Action Effective	11/16/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Matlock, Acting Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, 310 980-4001

RIN: 0648–AD69

572. AMENDMENT 24 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA AND AMENDMENT 19 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS

Legal Authority: 16 USC 1801 et seq, Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This action reduces Pacific halibut prohibited species catch limit established for trawl gear; establishes authority to develop and implement regulatory authority to provide for time/area closures to reduce prohibited species bycatch rates; expands the vessel incentive program to address halibut bycatch rates in all trawl fisheries; delays the season opening date of the Gulf of Alaska trawl rockfish fishery; delays the season opening data for the Bering Sea and Aleutian Islands and Gulf of Alaska groundfish trawl fishing year to January 20 of each fishing year.

Timetable:

Action	Date	FR Cite
NPRM	05/29/92	57 FR 22695
NPRM Comment Period End	06/13/92	
Final Action Effective	09/30/92	
Final Action	03/23/93	57 FR 43926

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21661, Juneau, AK 99802, 907 586-7228

RIN: 0648–AD76

DOC—NOAA

Completed Actions

573. CONFIDENTIALITY OF STATISTICS

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 603

Legal Deadline: None

Abstract: Rule to amend 50 CFR part 603 to conform with changes in the Magnuson Fishery Conservation and Management Act. This rule will permit state employees access to confidential fishery statistics pursuant to an agreement with the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	07/09/92	57 FR 30458
NPRM Comment Period End	08/10/92	57 FR 30458
Final Action	10/20/92	57 FR 47800
Final Action Effective	10/20/92	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Mark C. Holliday, Chief, Fisheries Statistics Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Room 8313, Silver Spring, MD 20910, 301 713-2328

RIN: 0648–AD77

574. SEA TURTLE CONSERVATION; SHRIMP TRAWLING REQUIREMENTS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 217; 50 CFR 227

Legal Deadline: None

Abstract: The National Marine Fisheries Service (NMFS) has determined that there is a need to enhance enforcement and compliance of the 1987 Sea Turtle Conservation Regulations (50 CFR parts 217, 222, and 227) to provide adequate protection to endangered and threatened sea turtles. In addition, NMFS has determined that there is a need to strengthen the conservation measures of these regulations. This is necessary because a significant number of shrimp fishermen are failing to properly use and operate qualified turtle excluder devices (TEDs) as specified in the 1987 regulations. Some commercial shrimp fishermen are altering, or otherwise modifying, the turtle escape openings of TEDs making them nonfunctional for turtle release. In addition, while implementation of the regulations has resulted in a reduction in the number of turtles killed, significant mortality continues during the months of the year when the conservation requirements are not in effect. The intended effect of these revisions is to reduce the mortality of endangered and threatened sea turtles that may be killed incidental to shrimp trawling, and to enhance compliance with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/30/92	57 FR 18446
NPRM Comment Period End	07/29/92	
Interim Final Rule Effective Date	09/01/92	57 FR 40861
Interim Final Rule	09/08/92	57 FR 40861
Interim Final Rule Comment Period Extended	10/23/92	57 FR 41123
Final Action Effective	12/01/92	57 FR 57348
Final Action	12/04/92	57 FR 57348

Small Entities Affected: Businesses

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $1,700,000; Yearly Recurring Cost: $1,700,000; Base Year for Dollar Estimates: 1991

Analysis: Regulatory Impact Review 05/30/91

Additional Information: This rule contains a collection-of-information requirement through registration of fishermen to implement emergency TED exemptions or sea turtle conservation measures. A request to make this collection has been submitted to the Office of Management and Budget.

Agency Contact: Phil Williams, Ecologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2322

RIN: 0648–AE12

575. AMENDMENT 6 TO THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 642

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 6: (1) allows the earned income requirement for a commercial vessel permit for king or Spanish mackerel to be met in one of the 3 years preceding the permit application; (2) changes the fishing year for the recreational bag limits to the calendar year; (3) removes the provision for changing the recreational bag limit to zero during a fishing year; (4) increases the minimum size for king mackerel to 20 inches; (5) implements commercial vessel trip limits for Atlantic migratory group Spanish mackerel; (6) specifies periods for rebuilding overfished stocks; (7) changes the required frequency of stock assessments from annually to biennially; (8) adds to the management measures that may be implemented or modified by the framework procedure; and (9) provides for the establishment of separate subgroups and allocations for Gulf-group king mackerel.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	57 FR 38810
NPRM Comment Period End	10/08/92	
Final Action Effective	12/03/92	
Final Action	12/08/92	57 FR 58151

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AE23

576. AMENDMENT 6 TO THE FISHERY MANAGEMENT PLAN FOR THE PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 685; 50 CFR 611

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Council.

Abstract: This amendment incorporates tunas into the Fishery Management

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Plan for the Pelagic fisheries of the Western Pacific Region.

Timetable:

Action	Date	FR Cite
NPRM	07/24/92	57 FR 32952
NPRM Comment Period End	09/04/92	
Final Action	10/27/92	57 FR 48564
Final Action Effective	11/27/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Matlock, Acting Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-9213, 310 980-4001

RIN: 0648–AE36

577. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR THE PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq. Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 685

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: Amendment 8 will require federally permitted longline vessels based in Hawaii to install and maintain automated vessel tracking devices.

Timetable:

Action	Date	FR Cite
Merged with RIN 0648-AE35	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Matlock, Acting Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802, 310 980-4001

RIN: 0648–AE48

578. REGULATORY AMENDMENT IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR THE SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq. Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 640

Legal Deadline: None

Abstract: This amendment: (1) adopts in the EEZ off Florida, Florida's trap certificate, trap reduction and trap identification programs; (2) requires that divers measure spiny lobsters harvested in the EEZ in the water; (3) requires in the EEZ the same number size for marking trap buoys as required in Florida waters; (4) restricts divers who harvest spiny lobsters in the EEZ at night to the bag limit; (5) specifies diving and use of a bully net hoop net and trap as the only authorized method/gears in the EEZ in a directed fishery for spiny lobster; (6) establishes a catch limit of 5 percent by weight of all fish aboard for the incidental harvest of spiny lobsters by trawls in the EEZ; (7) standardizes the Florida and Federal size limit for traps used in the EEZ off Florida; and (8) reduces the number of undersized lobsters that may be retained in the EEZ for use as attractants in traps to 50 per vessel, or one per trap on board, whichever is greater.

Timetable:

Action	Date	FR Cite
NPRM	07/24/92	57 FR 32956
NPRM Comment Period End	08/21/92	
Final Action	11/30/92	57 FR 56516
Final Action Effective	12/30/92	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AE61

579. SABLEFISH ALLOCATION REGULATORY AMENDMENT FOR 1993

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulatory amendment would allocate sablefish between the two gear groups -- trawlers and non-trawlers. In recent years, the allocation has been 42 percent non-trawl, 58 percent trawl.

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AE64

580. PACIFIC WHITING SEASON REGULATORY AMENDMENT FOR 1993

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulatory amendment would establish separate opening dates for the shore-side and at-sea processing segments of the whiting fishery.

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AE65

581. REGULATORY AMENDMENT TO THE FMP FOR GROUNDFISH OF THE BSAI TO INCORPORATE COMMUNITY DEVELOPMENT QUOTA CRITERIA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: None

Abstract: This regulatory amendment would allocate sablefish between the two gear groups -- trawlers and non-trawlers. In recent years, the allocation has been 42 percent non-trawl, 58 percent trawl.

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AE65

Community Development Quota in the management of pollock in the Bering Sea and Aleutian Islands area. This will set aside 7.5 percent of the BSAI pollock total allowable catch (TAC) for allocation to communities that qualify under the program criteria.

Timetable:

Action	Date	FR Cite
NPRM	10/07/92	57 FR 46139
NPRM Comment Period End	10/23/92	
Final Action Effective	11/18/92	
Final Action	11/23/92	57 FR 54936

Small Entities Affected: Businesses

Government Levels Affected: Local

Additional Information: Comments on implementation of proposed rule for 1994-1995 accepted until 11/16/92, 57 FR 46139.

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AE80

582. REGULATORY AMENDMENT TO TRAWL AND FIXED GEAR PROVISIONS IN THE PACIFIC COAST GROUNDFISH FISHERY

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulatory amendment would revise trawl and fixed gear regulations in the Pacific Coast groundfish fishery under the Pacific Coast Groundfish FMP.

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AE85

583. FOREIGN FISHING POUNDAGE AND PERMIT FEES FOR 1993

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 611.22

Legal Deadline: None

Abstract: This rule will set poundage and permit fees for 1993.

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alfred J. Bilik, Chief, Operations Support and Analysis Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Hwy., Silver Spring, MD 20910, 301 713-2337

RIN: 0648–AE86

584. AMENDMENT 26A TO THE FMP FOR GROUNDFISH OF THE GOA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment to the FMP would prohibit or restrict the use of trawl gear east of 140 degrees W longitude. The intent is to provide protection for bottom habitat

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: North Pacific Fishery Management Council voted not to proceed with this action.

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AE88

585. AMENDMENT 26 TO THE FMP FOR GROUNDFISH OF THE GOA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment would extend the sunset date for king crab protection near Kodiak Island in the Gulf of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	10/15/92	57 FR 47321
NPRM Comment Period End	11/23/92	
Final Action Effective	01/01/93	
Final Action	01/06/93	58 FR 503

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AE90

586. REGULATORY AMENDMENT REQUIRING COMPLETION AND SUBMISSION OF LOGBOOKS BY FEDERALLY PERMITTED VESSEL OPERATORS IN THE NORTHWESTERN HAWAIIAN ISLANDS BOTTOMFISH FISHERY

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 683

Legal Deadline: None

Abstract: This regulatory amendment will require operators of vessels with Federal permits to fish in the Northwestern Hawaiian Islands to maintain and submit to NMFS logbooks with detailed data on catch and effort.

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Matlock, Acting Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802, 310 980-4001

RIN: 0648–AE95

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DOC—NOAA

Completed Actions

587. REGULATORY AMENDMENT TO PROHIBIT LANDING OF UNDERSIZED PACIFIC HALIBUT IN THE UNITED STATES

Legal Authority: 5 UST 5; TIAS 2900; 16 USC 773-773k

CFR Citation: 50 CFR 301

Legal Deadline: None

Abstract: This action would prohibit landing of undersized Pacific halibut in the United States. The landing of these fish is allowed in Russia. The intent is to improve enforcement of the U.S. minimum size requirements.

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF03

588. AMENDMENT 22 TO THE FMP FOR GROUNDFISH OF THE BSAI AND AMENDMENT 27 TO THE FMP FOR GROUNDFISH OF THE GOA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: These amendments would establish areas that may be used to test trawl gear when the season is otherwise closed to trawling. This would allow fishermen the time and opportunity to ensure that newly acquired gear is functioning properly prior to the opening of a fishery.

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Authority to establish test areas is contained in Amendment 27 to the FMP for groundfish of the Gulf of Alaska and Amendment 22 to the FMP for groundfish of the Bering Sea and Aleutian Islands. See RIN 0648-AF24 for regulatory action taken.

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF04

589. PROPOSAL TO REMOVE THE CALIFORNIA GRAY WHALE FROM THE ENDANGERED SPECIES ACT'S LIST OF ENDANGERED AND THREATENED SPECIES

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 222.23(a)

Legal Deadline: Final, Statutory, November 22, 1992.
ESA requires a final action within 1 year of proposal for petitional actions.

Abstract: NMFS has issued a final determination to upgrade the status of the eastern North Pacific stock of gray whales from endangered to fully recovered. NMFS has taken this action on the basis of a status review which determined that the stock is not in danger of becoming extinct and is not threatened with becoming endangered in the near future.

Timetable:

Action	Date	FR Cite
Final Action	01/07/93	58 FR 3121
Final Action Effective	01/07/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Herbert Kaufman, Deputy Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2333

RIN: 0648–AF09

590. TAKING OF RINGED SEALS INCIDENTAL TO ON-ICE SEISMIC ACTIVITIES

Legal Authority: 16 USC 1371(a)(5)

CFR Citation: 50 CFR 228

Legal Deadline: None

Abstract: NMFS issued final regulations that govern the taking of ringed seals incidental to oil and gas exploration (seismic operations on the ice) in the Beaufort Sea from 1993 to 1997.

Timetable:

Action	Date	FR Cite
NPRM	09/15/92	57 FR 42538
NPRM Comment Period End	10/15/92	
Final Action	01/13/93	58 FR 4091
Final Action Effective	02/13/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Lorenz, Fishery Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 713-2322

RIN: 0648–AF10

591. REGULATORY AMENDMENT TO ESTABLISH PRODUCT RECOVERY RATES FOR POLLOCK ROE-STRIPPING IN THE ALASKA GROUNDFISH FISHERIES

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This regulatory amendment would establish product recovery rates for pollock roe-stripping in the Gulf of Alaska and Bering Sea and Aleutian Islands groundfish fisheries.

Timetable:

Action	Date	FR Cite
Merged with RIN 0648-AD44	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF16

592. • REGULATORY AMENDMENT TO ESTABLISH TRAWL TEST AREAS OFF ALASKA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This amendment establishes 3 trawl test areas for groundfish fishermen to test trawl gear in areas that would otherwise be closed. This will allow fishermen to test trawl gear to improve operational efficiency and reduce costs.

Timetable:

Action	Date	FR Cite
NPRM	12/14/92	57 FR 54702
NPRM Comment Period End	01/08/93	57 FR 54702
Final Action Effective	01/15/93	58 FR 5660
Final Action	01/22/93	58 FR 5660

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AF24

DOC—NOAA

Completed Actions

DEPARTMENT OF COMMERCE (DOC)
National Telecommunications and Information Administration (NTIA)

Final Rule Stage

593. • NOTICE OF AVAILABILITY—NATIONAL ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

Significance: Agency Priority

Legal Authority: 47 USC 394

CFR Citation: None

Legal Deadline: None

Abstract: It is the purpose of the National Endowment for Children's Educational Television to enhance the education of children through the creation and production of television programming specifically directed toward the development of fundamental intellectual skills. There are no alternatives being considered. The program will cost approximately 3 million dollars. The benefits are expected to be an increased pool of children's educational television programming.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Connors, Associate Administrator, Department of Commerce, National Telecommunications and Information Administration, NECET, Room H-4625, 14th and Constitution Avenue NW., Washington, DC 20230, 202 482-5802

RIN: 0660–AA03

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Prerule Stage

594. PATENT APPLICATION ELECTRONIC SUBMISSION RULES

Significance: Agency Priority

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1

Legal Deadline: None

Abstract: The Office proposes to allow patent and trademark applicants the option of submitting their applications electronically. The proposed revisions to 37 CFR 1 and 2 would set out the procedures for filing patent and trademark applications in an electronic format.

Timetable:

Action	Date	FR Cite
ANPRM	11/30/92	57 FR 56537
ANPRM Comment Period End	03/01/93	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Edward R. Kazenske, Executive Assistant to the Commissioner and Director of Interdisciplinary Programs, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231, 703 305-8600

RIN: 0651–AA50

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Proposed Rule Stage

595. VARIETY DENOMINATION REQUIREMENTS FOR PLANT PATENT APPLICATIONS

Legal Authority: 35 USC 41; 35 USC 6

CFR Citation: 37 CFR 1.17; 37 CFR 1.72; 37 CFR 1.168

Legal Deadline: None

Abstract: PTO will amend its rules of practice in patent cases to implement the International Convention for the Protection of New Varieties of Plants. The International Convention requires registration of a plant variety name at the time a patent on a plant variety is issued. Compliance with the registration requirements of the Convention would be determined in the process of examining plant patent applications.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/85	50 FR 52963
NPRM	11/02/87	52 FR 42016
NPRM Comment Period End	01/08/88	52 FR 42016
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

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Proposed Rule Stage

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: H. Dieter Hoinkes, Legislative and International Intellectual Property Specialist, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, **703 305-9300**

RIN: 0651–AA12

596. TRADEMARK PROCEDURES

Legal Authority: 15 USC 1051 et seq

CFR Citation: 37 CFR 2.24; 37 CFR 2.85(e); 37 CFR 2.102(e); 37 CFR 2.119; 37 CFR 2.146(d); 37 CFR 2.162(e); 37 CFR 2.183; 37 CFR 2.33; 37 CFR 2.111(b); 37 CFR 2.80; 37 CFR 2.162(e); 37 CFR 2.187; 37 CFR 2.189

Legal Deadline: None

Abstract: The proposed rule changes concern housekeeping changes to conform the rules to the Trademark Law Revision Act of 1988 and other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lynne Beresford, Trademark Administrator, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231, **703 305-9464**

RIN: 0651–AA46

597. PATENT TERM EXTENSION APPLICATION REQUIREMENTS

Legal Authority: 35 USC 6; 35 USC 156

CFR Citation: 37 CFR 1.740; 37 CFR 1.785

Legal Deadline: None

Abstract: The regulations pertaining to applications for patent term extension are proposed to be amended to clarify requirements for eligibility and filing.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles E. Van Horn, Patent Policy and Projects Administrator, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, **703 305-9054**

RIN: 0651–AA52

598. CHANGES IN COMPUTER PROGRAM LISTINGS FILED IN PATENT APPLICATIONS

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.96

Legal Deadline: None

Abstract: Patent applications directed to computer program-related inventions often include numerous pages of computer program listings. The proposed modification in the regulations would specify a format for all computer program listings. This format would improve clarity and uniformity of the text and reduce the volume of printed pages of any patents which issue from these applications.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Michael Thesz, Special Program Examiner, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, **703 305-9364**

RIN: 0651–AA58

599. REVISION OF PATENT AND TRADEMARK FEES

Significance: Agency Priority

Legal Authority: 35 USC 6; 35 USC 41; 35 USC 376; 15 USC 1113; PL 101-508; PL 102-204

CFR Citation: 37 CFR 1.16; 37 CFR 1.17; 37 CFR 1.18; 37 CFR 1.19; 37 CFR 1.20; 37 CFR 1.21; 37 CFR 1.26; 37 CFR 1.445; 37 CFR 1.482; 37 CFR 1.492; 37 CFR 2.6; 37 CFR 2.87

Legal Deadline: Final, Statutory, October 1, 1993.

Abstract: PTO proposes to amend its rules of practice to revise patent statutory fees and trademark fees to reflect fluctuations in the Consumer Price Index and non-statutory patent fees to reflect the average cost of providing the goods or services consistent with the Patent and Trademark Authorization Act of 1991 (Pub. L. 102-204).

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	08/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Frances Michalkewicz, Director, Office of Long-Range Planning and Evaluation, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, **703 305-8510**

RIN: 0651–AA61

600. PROCEDURES FOR AMENDING PATENT APPLICATIONS

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.121; 37 CFR 1.122; 37 CFR 1.124

Legal Deadline: None

Abstract: Amendments of patent applications are now presented in the form of instructions to change the written text at identified locations (e.g., page and line) in the application. A new practice would be adopted to require the submission of a replacement page containing the amendment. The new practice will reduce costs for the patent applicant and the Office by eliminating the need for the patent applicant to submit instructions and eliminating the need for the Office to amend the text of the application.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

DOC—PTO

Proposed Rule Stage

Agency Contact: Charles E. Van Horn, Patent Policy and Projects Administrator, Department of Commerce, Patent and Trademark Office, Office of Assistant Commissioner for Patents, Washington, DC 20231, **703 305-9054**

RIN: 0651–AA62

601. • CHANGES IN PATENT AND TRADEMARK ASSIGNMENT PRACTICE

Legal Authority: 15 USC 1060; 15 USC 1113; 15 USC 1123; 15 USC 6; 15 USC 261

CFR Citation: 37 CFR 3

Legal Deadline: None

Abstract: PTO proposes to revise its assignments practices to provide for electronic filing of assignments.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patrick Rowe, Director, Office of Public Records, Department of Commerce, Patent and Trademark Office, U.S. Patent and Trademark Office, Washington, DC 20231, **703 308-9743**

RIN: 0651–AA64

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Final Rule Stage

602. MISCELLANEOUS CHANGES IN PATENT PRACTICE

Significance: Agency Priority

Legal Authority: 35 USC 6; 35 USC 31; 35 USC 41; 35 USC 181; 15 USC 1123

CFR Citation: 37 CFR 1.13; 37 CFR 1.85; 37 CFR 1.136; 37 CFR 1.153; 37 CFR 1.193; 37 CFR 1.194; 37 CFR 1.197; 37 CFR 1.312; 37 CFR 1.321; 37 CFR 1.352; 37 CFR 1.362; 37 CFR 1.482; 37 CFR 1.607; 37 CFR 5.19; 37 CFR 10.98; ...

Legal Deadline: None

Abstract: The Office proposes to modify patent administrative processing requirements and to liberalize the policy on signing disclaimers.

Timetable:

Action	Date	FR Cite
NPRM	09/21/92	57 FR 43412
NPRM Comment Period End	11/05/92	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abraham Hershkovitz, Petitions Examiner, Office of Petitions, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, **703 305-9285**

RIN: 0651–AA34

603. DRAWING CHANGES IN PATENTS CASES

Legal Authority: 35 USC 6; 35 USC 41; 35 USC 113; 35 USC 114; 35 USC 161; 35 USC 171

CFR Citation: 37 CFR 1.81; 37 CFR 1.83; 37 CFR 1.84; 37 CFR 1.85; 37 CFR 1.88; 37 CFR 1.96; 37 CFR 1.136; 37 CFR 1.152; 37 CFR 1.154; 37 CFR 1.165; 37 CFR 1.174

Legal Deadline: None

Abstract: Drawing rules have caused confusion and slowed down the processing of patent applications. The PTO proposes to clarify the requirements for patent drawings and also to expedite patent drawing procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/16/92	57 FR 42741
NPRM Comment Period End	10/16/92	
Final Action	04/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeffrey V. Nase, Director, Office of Petitions, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, **703 305-9285**

RIN: 0651–AA44

604. PATENT INTERFERENCE PRACTICE

Legal Authority: 35 USC 6; 35 USC 135

CFR Citation: 37 CFR 1.11; 37 CFR 1.601; 37 CFR 1.607; 37 CFR 1.608; 37 CFR 1.632; 37 CFR 1.633; 37 CFR 1.637; 37 CFR 1.653; 37 CFR 1.656

Legal Deadline: None

Abstract: The proposed changes will clarify patent interference practice, particularly with respect to preliminary motions.

Timetable:

Action	Date	FR Cite
NPRM	01/23/92	57 FR 2698
NPRM Comment Period End	03/23/92	57 FR 2698
Final Action	04/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Saul I. Serota, Chairman, Department of Commerce, Patent and Trademark Office, Box Interference, Commissioner of Patents and Trademarks, Washington, DC 20231, **703 557-4072**

RIN: 0651–AA53

605. CHANGES IN SIGNATURE AND FILING REQUIREMENTS FOR PAPERS FILED IN THE PATENT AND TRADEMARK OFFICE

Legal Authority: 5 USC 500; 15 USC 1123; 35 USC 6; 35 USC 31; 35 USC 41

CFR Citation: 37 CFR 1.4; 37 CFR 1.5(a); 37 CFR 1.6; 37 CFR 1.8; 37 CFR 1.304; 37 CFR 1.366(b); 37 CFR 1.741(a); 37 CFR 10.18(a); 37 CFR 10.23(c)

Legal Deadline: None

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DOC—PTO

Final Rule Stage

Abstract: Most papers filed in the Patent and Trademark Office (PTO) requiring a signature have to be submitted with an original signature. The modified regulations would permit, in most cases, the filing of photocopies or facsimile transmitted papers. Furthermore, the certificate of mailing procedures currently in effect would be extended to papers sent by facsimile transmission. These changes would reduce the burden currently faced by those submitting papers to the PTO and would make it easier to meet PTO deadlines.

Timetable:

Action	Date	FR Cite
NPRM	08/12/92	57 FR 36034
NPRM Comment Period End	10/13/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abraham Hershkovitz, Petitions Examiner, Office of Petitions, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 305-9282

RIN: 0651–AA55

606. CHANGES IN REVIVAL OF PATENT APPLICATIONS AND REINSTATEMENT OF PATENTS

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.137; 37 CFR 1.155; 37 CFR 1.316; 37 CFR 1.317; 37 CFR 1.378(c)(3)

Legal Deadline: None

Abstract: The proposed modification would require the filing of a terminal disclaimer in patent applications abandoned for a period in excess of six months in both unavoidably and unintentionally abandoned applications. The current policy of granting exceptions, in certain limited circumstances, to the one-year limit for reviving unintentionally abandoned applications is also incorporated into the proposed rules. These changes would incorporate current policy into the regulations and would reduce delays in filing petitions to revive patent applications.

Timetable:

Action	Date	FR Cite
NPRM	09/14/92	57 FR 41899
NPRM Comment Period End	11/13/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abraham Hershkovitz, Petitions Examiner, Office of Petitions, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 305-9282

RIN: 0651–AA57

607. • PATENT INTERFERENCE PRACTICE; BURDEN OF PROOF

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1

Legal Deadline: None

Abstract: The Patent and Trademark Office plans to amend its rules of practice in patent interference cases. As a result of issues arising in some recent cases, it is apparent that parties in interference cases would be helped if the interference rules explicitly stated which party has the burden of proof when a motion is filed. PTO also plans to more clearly specify the nature of expert witness and factual witness evidence which must accompany a preliminary motion. Finally, PTO plans to add a definition of an interlocutory order, as contrasted with a final decision.

Timetable:

Action	Date	FR Cite
NPRM	01/06/93	58 FR 00528
NPRM Comment Period End	03/08/93	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Fred E. McKelvey, Solicitor, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 305-9035

RIN: 0651–AA63

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Completed Actions

608. REGISTRATION OF ATTORNEYS AND AGENTS

Legal Authority: 5 USC 500; 15 USC 1123; 35 USC 6; 35 USC 31; 35 USC 32

CFR Citation: 37 CFR 10.6; 37 CFR 10.9

Legal Deadline: None

Abstract: The rule change would clarify PTO's requirement for registering aliens to practice before the Office.

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cameron Weiffenbach, Director, Office of Enrollment and Discipline, Department of Commerce, Patent and Trademark Office, Box OED, Washington, DC 20231, 703 308-9618

RIN: 0651–AA48

609. REVISION OF PATENT COOPERATION TREATY PROVISIONS

Significance: Agency Priority

Legal Authority: 35 USC 6; 35 USC 351 to 376

CFR Citation: 37 CFR 1.401 to 1.499

Legal Deadline: Other, Statutory, July 1, 1992.

Deadline for national implementation set by International Patent Cooperation Union Assembly.

Abstract: The United States Patent and Trademark Office proposes to change the regulations found at 37 CFR 1 Subpart C to clarify practice and to reflect the changes of the Patent Cooperation Treaty which were agreed to at the International Patent Cooperation Union Assembly Session of July 8 to 12, 1991.

Timetable:

Action	Date	FR Cite
NPRM	07/01/92	57 FR 30703
NPRM Comment Period End	07/31/92	57 FR 30703

DOC—PTO

Completed Actions

Action	Date	FR Cite
Final Action	01/14/93	58 FR 4335
Final Action Effective	05/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles E. Van Horn, Patent Policy and Projects Administrator, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231, 703 305-9054

RIN: 0651–AA51

610. CHANGES IN PRACTICE RELATING TO FILING PATENT APPLICATIONS

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.48; 37 CFR 1.60

Legal Deadline: None

Abstract: The proposed rule would harmonize PTO's continuation patent application practice under 37 CFR 1.60 to be more consistent with other continuation application procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/15/92	57 FR 31344
NPRM Comment Period End	08/14/92	
Final Action	11/30/92	57 FR 56446
Final Action Effective	01/04/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey V. Nase, Director, Office of Petitions, Department of Commerce, Patent and Trademark Office, Office of the Assistant Commissioner for Patents, Box DAC, Washington, DC 20231, 703 305-9282

RIN: 0651–AA59

611. OFFICE OF ENROLLMENT AND DISCIPLINE INVESTIGATION PROCEDURES

Legal Authority: 35 USC 31; 5 USC 500; 15 USC 1123; 35 USC 32

CFR Citation: 37 CFR 10.7; 37 CFR 10.131; 37 CFR 10.133

Legal Deadline: None

Abstract: PTO proposes to set forth the procedures it will follow for handling investigations of complaints regarding alleged improper conduct by persons seeking recognition to practice before the Patent and Trademark Office and by persons already recognized to practice before the Patent and Trademark Office.

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cameron Weiffenbach, Director, Office of Enrollment and Discipline, Department of Commerce, Patent and Trademark Office, Box OED, Washington, DC 20231, 703 308-9618

RIN: 0651–AA60

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Prerule Stage

612. LICENSING OF GOVERNMENT-OWNED INVENTIONS

Legal Authority: 35 USC 208

CFR Citation: 37 CFR 404; 37 CFR 102

Legal Deadline: None

Abstract: The Department held a public meeting on July 31, 1991, to discuss the need to revise the Federal domestic and foreign patent licensing regulations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: All

Agency Contact: John Paugh, Acting Director, Office of Technology Commercialization, Department of Commerce, Technology Administration, Room H 4418, Washington, DC 20230, 202 482-2100

RIN: 0692–AA04

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Proposed Rule Stage

613. ADMINISTRATION OF A UNIFORM PATENT POLICY WITH RESPECT TO DOMESTIC RIGHTS IN INVENTIONS MADE BY GOVERNMENT EMPLOYEES

Significance: Agency Priority

Legal Authority: EO 10096; EO 10930; 35 USC 207 to 208; 15 USC 3701 et seq

CFR Citation: 37 CFR 501; 37 CFR 101

Legal Deadline: None

Abstract: The Department held a public meeting on July 31, 1991, to discuss the need to revise the employee rights determination procedure.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: John Paugh, Acting Director, Office of Technology Commercialization, Department of Commerce, Technology Administration, Room H 4418, Washington, DC 20230, 202 482-2100

RIN: 0692–AA05

614. TRANSFER OF FEDERALLY FUNDED INFORMATION

Legal Authority: PL 102-245

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory, February 14, 1993.

Abstract: This action will establish procedures for transferring in a timely manner to the National Technical Information Service unclassified scientific, technical, and engineering information from federally funded research and development activities for dissemination to the private sector.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Donald W. Corrigan, Associate Director for Program Development, Technology Services, Department of Commerce, National Institute of Standards & Technology, Gaithersburg, MD 20899, 301 975-4511

RIN: 0692–AA12

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Completed Actions

615. MARKING OF TOY, LOOK-ALIKE AND IMITATION FIREARMS

Legal Authority: 15 USC 5001

CFR Citation: 15 CFR 1150

Legal Deadline: None

Abstract: The Under Secretary for Technology plans to amend the regulation pertaining to marking of toy, look-alike and imitation firearms. Public Law 100-615 prohibits the manufacturing, entering into commerce, shipping, transporting, or receipt of any toy, imitation or look-alike firearm (device) unless such device contains, or has affixed to it, a marking approved by the Secretary of Commerce. The amendments to the regulation will set out additional permissible markings, and will further define those devices covered by the regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/07/91	56 FR 56953
NPRM Comment Period End	03/17/92	57 FR 2065
Action	Date	FR Cite
Final Action	10/26/92	57 FR 48451
Final Action Effective	10/26/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bradford C. Brown, Acting Chief Counsel for Technology Department of Commerce, Technology Administration, Washington, DC 20230 202 482-1984

RIN: 0692–AA11

DEPARTMENT OF COMMERCE (DOC)
United States Travel and Tourism Administration (USTTA)

Final Rule Stage

616. • GUIDELINES AND PROCEDURES TO PROVIDE FINANCIAL ASSISTANCE TO COOPERATIVE TOURISM MARKETING PROGRAMS FOR INTERNATIONAL TOURISM TRADE DEVELOPMENT

Significance: Agency Priority

Legal Authority: 22 USC 2123; 22 USC 2123a

CFR Citation: 15 CFR 1200

Legal Deadline: Final, Statutory, March 29, 1993.

Abstract: The USTTA is establishing guidelines and procedures to administer the financial assistance program outlined in the Tourism Policy and Export Promotion Act of 1992. This financial assistance to Cooperative Tourism Marketing Programs for International Tourism Trade Development will support expansion and more effective investment in international tourism trade development which will result in increased international visitation and will contribute to the economic well-being of the various States and regions of the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5672
NPRM Comment Period End	02/15/93	58 FR 5672
NPRM Comment Period Extended to 03/23/93	02/16/93	58 FR 8564
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Karen M. Cardran, Director, Marketing Programs, Department of Commerce, United States Travel and Tourism Administration, Room 1860, 14th and Constitution Avenue NW., Washington, DC 20230, 202 482-1904

RIN: 0644–AA02

[FR Doc. 93-5036 Filed 04-23-93; 8:45 am]
BILLING CODE 3510-BW-F

federal register

Monday
April 26, 1993

Part V

Department of Defense

Semiannual Regulatory Agenda

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DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Department of Defense (DoD).

ACTION: Publication of the consolidated semiannual agenda of DoD regulatory documents.

SUMMARY: The Department of Defense is publishing this consolidated semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under E.O. 12291 "Federal Regulation" and the Office of Federal Procurement Policy Act of 1988 (41 U.S.C. 402). This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under E.O. 12291, the Federal Procurement Policy Act, and other regulatory programs. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, public, or private interests under the criteria of E.O. 12291. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

This agenda updates the report published on November 3, 1992, and includes regulations expected to be issued and under review over the next 12 months. The procurement-related agenda items included in this publication will also be used by the Office of Federal Procurement Policy to publish a "Procurement Regulatory Activity Report" as required by the Office of Federal Procurement Policy Act Amendments of 1988.

The next agenda is scheduled to be published in October 1993. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. William P. Pearce, telephone 703-746-0933, or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-697-2714.

For general information on Office of the Secretary of Defense regulations, contact Mrs. Patricia H. Means, Directives Division, Directorate for Correspondence and Directives, Washington Headquarters Services; telephone 703-697-4111. For general information on the procurement-related agenda items, contact Mr. Owen L. Green III, telephone 703-697-7266, or write to Defense Acquisition Regulations System, 3062 Defense Pentagon, Washington, DC 20301-3062.

For general information on Department of the Army regulations, contact Mr. Kenneth L. Denton, telephone 703-325-6277, or write to Commander, U.S. Army Publications and Printing Command, ATTN: ASQZ-PD-SS, Room 1050, Hoffman I, Alexandria, Virginia 22331-0302.

For general information on the U.S. Army Corps of Engineers, Civil Works, regulations, contact Mr. Michael L. Davis, telephone 703-695-1376, or write to Office of the Assistant Secretary of the Army (Civil Works), 108 Army Pentagon, Washington, DC 20310-0108.

For general information on Department of the Navy regulations, contact Ms. Alcinda P. Wenberg, telephone 703-602-2542, or write to Department of the Navy, Commander, Naval Information Systems Management Center, 2211 Jefferson Davis Highway, CP5, Room 334, Arlington, Virginia 22202-3744.

For general information on Department of the Air Force regulations, contact Ms. Patsy J. Conner, telephone 703-614-3527, or write to Department of the Air Force, SAF/AAIA, 1610 Air Force Pentagon, Washington, DC 20330-1610.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This consolidated agenda is composed of the regulatory status reports, including procurement-related regulatory status reports from the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force. Included also in this agenda is the regulatory report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of E.O. 12291 and involve water resource projects and regulation of activities in waters of the United States. Their agenda will reflect these requirements with follow-on reporting actions taken as necessary.

DoD issuances range from DoD Directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement Directives). The OSD agenda section contains the primary Directives under which DoD components promulgate their implementing regulations.

To ease identification and to clarify the differences among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes component level of authority and type of issuance, in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of E.O. 12291, will continue to be the DoD single-source reporting vehicle, which will identify issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, when applicable, DoD components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;

b. Paperwork Reduction Act;

c. GATT International Trade Agreement; and

d. Office of Federal Procurement Policy Act Amendments of 1988.

These DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the reports in this agenda will contain four sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; and (4) completed actions.

Although not a regulatory agency, the Department of Defense will continue to

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participate in regulatory initiatives designed to reduce economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in each section.

Although sensitive to the needs of the public and regulatory reform, the Department of Defense reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission.

Note: The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 and section 1 of E.O. 12291.

Dated: February 25, 1993.

J. R. Sungenis,

Director, Information Operations and Reports.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
617	Contractor Advisory Assistance Services (DAR Case 92-D016)	0790-AE01
618	Personal Services Compensation (DAR Case 91-085D)	0790-AE45
619	Demilitarization (DAR Case 92-D024)	0790-AE48
620	Architect-Engineer Services (DAR Case 92-D027)	0790-AE50
621	Orders Under the Economy Act (DAR Case 92-D032)	0790-AE54
622	Streamlined Research and Development Procedures (Lab Demonstrations) (DAR Case 92-D034)	0790-AE56
623	Security Containers (DAR Case 92-D311)	0790-AE69
624	Economic or Employment Report (DAR Case 92-D316)	0790-AE72
625	Made in America Label (DAR Case 92-D329)	0790-AE80
626	Small Business Subcontracting Plan (DAR Case 92-D333)	0790-AE83
627	Organizational Conflicts of Interest (DAR Case 92-D344)	0790-AE90
628	Foreign Controlled Contracts (DAR Case 92-D348)	0790-AE93
629	Award to Foreign Controlled Contractors (DAR Case 92-D349)	0790-AE94
630	Hazardous Materials on Arsenal Property (DAR Case 92-D361)	0790-AF00
631	Reduction in Defense Programs (DAR Case 92-D363)	0790-AF02
632	Ball and Roller Bearings (DAR Case 92-D366)	0790-AF04

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
633	Timekeeping and Labor Accounting Systems (DAR Case 91-004)	0790-AD16
634	Contract Services (DAR Case 91-071)	0790-AD44
635	Joint Ventures (DAR Case 91-054)	0790-AD54
636	Waiver of Non-Manufacturer Rule (DAR Case 91-055)	0790-AD55
637	Mentor-Protege Credits (DAR Case 91-317)	0790-AD60
638	Valves and Machine Tools (DAR Case 91-320)	0790-AD63
639	Electronic Funds Transfer (DAR Case 90-009)	0790-AD80
640	Uniform Suspension and Debarment (DAR Case 92-D007)	0790-AD93
641	Overhead Should Cost Reviews (DAR Case 92-D010)	0790-AD95
642	Adequate Price Competition (DAR Case 92-D011)	0790-AD96
643	Progress Payment Rates (DAR Case 92-D014)	0790-AD99
644	Insurance/Liability to Third Parties (DAR Case 92-D015)	0790-AE00
645	Drug-Free Workforce (DAR Case 89-083)	0790-AE40
646	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)	0790-AE42
647	Program Milestones (DAR Case 91-044)	0790-AE44
648	Berry Amendment Exceptions (DAR Case 92-D020)	0790-AE46
649	Prompt Pay Overseas (DAR Case 92-D030)	0790-AE52
650	Undefinitized Contractual Actions (DAR Case 92-D033)	0790-AE55
651	Contractor Insurance/Pension Reviews (DAR Case 92-D040)	0790-AE60
652	Construction Performance Evaluation (DAR Case 92-D042)	0790-AE62
653	Four-Ton Dolly Jacks (DAR Case 92-D328)	0790-AE79
654	Certificate of Conformance Requirements (DAR Case 92-D334)	0790-AE84
655	Certification of Contract Claims (DAR Case 92-D339)	0790-AE86

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Office of the Secretary—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
656	Allowable Costs (DAR Case 92-D343)	0790-AE89
657	Ozone (DAR Case 92-D354)	0790-AE96
658	Public-Private Competition (DAR Case 92-D355)	0790-AE97
659	Overseas Severance Pay (DAR Case 92-D359)	0790-AE98

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
660	Total Quality Management (DoD Directive 5000.51)	0790-AB33
661	Restrictions on Lobbying	0790-AC54
662	Release of Acquisition-Related Information (DoD Directive 5230.aa)	0790-AC62
663	Department of Defense Personnel Security Program (DoD Directive 5200.2)	0790-AD25
664	Recoupment Costs (DoD Directive 2140.2)	0790-AE05
665	Contracting Officer's Decisions (DAR Case 91-043D)	0790-AD37
666	Bond Waiver Tests (DAR Case 91-316)	0790-AD59
667	Acquisition of Commercial Items (DAR Case 89-316)	0790-AD79
668	Environmental Surety Bonds (DAR Case 91-325)	0790-AD89
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670	General Accounting Office Bid Protest Regulations (DAR Case 91-006D)	0790-AE43
671	Recoupment of Nonrecurring Costs (DAR Case 92-D021)	0790-AE47
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675	DFARS Subpart 231.1 Editorial (DAR Case 92-D035)	0790-AE57
676	Basic Agreements (DAR Case 92-D036)	0790-AE58
677	Precious Metals (DAR Case 92-D039)	0790-AE59
678	Industrial Modernization and Incentives Program (DAR Case 92-D041)	0790-AE61
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680	Uniform Procurement Instrument Identification Numbers (PIIN) (DAR Case 92-D044)	0790-AE64
681	Defense Acquisition Workforce Improvement Act (DAR Case 92-D045)	0790-AE65
682	Research and Development (DAR Case 92-D303)	0790-AE66
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686	Fixed Price Research and Development (DAR Case 92-D314)	0790-AE71
687	Unsolicited Proposals (DAR Case 92-D317)	0790-AE73
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689	Nonprofit Agencies for the Blind or Other Severely Handicapped (DAR Case 92-D320)	0790-AE75
690	Audit of Contracts With Universities (DAR Case 92-D322)	0790-AE76
691	Federally Funded Research and Development Centers (DAR Case 92-D323)	0790-AE77
692	Carbon, Steel or Armor Steel Plate (DAR Case 92-D325)	0790-AE78
693	Carbonyl Iron Powders (DAR Case 92-D331)	0790-AE81
694	Section 1207 (DAR Case 92-D332)	0790-AE82
695	Subcontracting Plan Test (DAR Case 92-D335)	0790-AE85
696	Convicted Felons (DAR Case 92-D340)	0790-AE87
697	Master Agreements (DAR Case 92-D341)	0790-AE88
698	Competitive Prototyping (DAR Case 92-D345)	0790-AE91
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700	Hazardous Wastes (DAR Case 92-D353)	0790-AE95
701	Employment Openings (DAR Case 92-D362)	0790-AF01
702	Acquisition Plans for Major Defense Acquisition Programs (DAR Case 92-D365)	0790-AF03

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Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
703	Collection From Third Party Payers of Reasonable Costs of Health Care Services	0790-AD32
704	Fraud Payment Reductions (DAR Case 90-318)	0790-AD02
705	Waiver of United Kingdom Levies (DAR Case 91-027)	0790-AD21
706	Recovery of Nonrecurring Costs (DAR Case 91-033)	0790-AD22
707	Major Automated Systems (DAR Case 91-338)	0790-AD33
708	Government Personnel Work Products (DAR Case 91-313)	0790-AD34
709	Plant Clearance Officer Responsibilities (DAR Case 91-069)	0790-AD36
710	Educational Institutions (DAR Case 91-089)	0790-AD38
711	Contingency Small Purchases (DAR Case 91-310)	0790-AD42
712	Public-Private Competition (DAR Case 91-354)	0790-AD45
713	Component Breakout Program for Major Systems (DAR Case 91-058)	0790-AD52
714	Austria and Finland Memoranda of Understanding (DAR Case 91-080)	0790-AD56
715	Trade Agreements Act (DAR Case 91-092)	0790-AD57
716	Carbonyl Iron Powders (DAR Case 91-321)	0790-AD64
717	Boycott of Israel (DAR Case 91-327)	0790-AD65
718	Audit of Contracts with Universities (DAR Case 91-348)	0790-AD72
719	Carbon Alloy or Steel (DAR Case 91-352)	0790-AD73
720	Severance Pay for Foreign Nationals (Dar Case 89-303)	0790-AD77
721	Disseminating Acquisition Information (DAR Case 89-310)	0790-AD78
722	Cost or Pricing Threshold (DAR Case 90-303)	0790-AD81
723	Buy American Act, Construction (DAR Case 91-D048)	0790-AD83
724	Contractor Establishment Code (DAR Case 91-072D)	0790-AD84
725	Certificates of Competency (DAR Case 91-088)	0790-AD85
726	IR&D and B&P costs (DAR Case 91-307)	0790-AD86
727	Subcontractor Payment Protections (DAR Case 91-311)	0790-AD87
728	Hazardous Waste Indemnification (DAR Case 91-324)	0790-AD88
729	Commercial buses and trucks (DAR Case 92-D003)	0790-AD90
730	Contract Reporting for Small Purchases during Contingencies (DAR Case 92-D004)	0790-AD91
731	Antitrust Notification (DAR Case 92-D005)	0790-AD92
732	Orders Under the Economy Act (DAR Case 92-D008)	0790-AD94
733	Interagency Acquisitions Under the Economy Act (DAR Case 92-D012)	0790-AD97
734	Federal Information Processing Resources Acquisitions (DAR Case 92-D013)	0790-AD98
735	Fluctuating Exchange Rates (DAR Case 92-D017)	0790-AE02
736	Quality Assurance Actions, Electronic Screening (DAR Case 92-D018)	0790-AE03
737	Purchase From Military Exchanges (DAR Case 92-D301)	0790-AE04
738	Qualified Nonprofit Subcontractors (DAR Case 91-346)	0790-AE06
739	End User Certificates (DAR Case 92-D009)	0790-AE07
740	Economic Order Quantity Funding (DAR Case 92-D019)	0790-AE08
741	(DAR Case 92-D023)	0790-AE18
742	Defective Cost or Pricing Data (DAR Case 92-D026)	0790-AE19
743	DD Form 250 (DAR Case 92-D028)	0790-AE20

U.S. Army Corps of Engineers—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
744	Regulatory Programs of the Corps of Engineers, Part 325, Appendix D—Endangered Species Counterpart Regulations	0710-AA17
745	Part 326, Enforcement; Class II Administrative Penalties	0710-AA25
746	Nationwide Permit Program (Low-Value Wetlands)	0710-AA34

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
747	Regulatory Programs of the Corps of Engineers	0710-AA30

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U.S. Army Corps of Engineers—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
748	Nationwide Permit Program (New Nationwide Permits for Additional Activities)	0710-AA32
749	Flood Control and Agricultural Water Supply Cost Sharing Requirements Under the Ability-to-Pay Provisions	0710-AA37
750	Regulatory Programs of the Corps of Engineers, Wetland Delineator Certification Program	0710-AA38

U.S. Army Corps of Engineers—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
751	Regulatory Program of the Corps of Engineers—Excavation Activities	0710-AA35

U.S. Army Corps of Engineers—Completed Actions

Sequence Number	Title	Regulation Identifier Number
752	Water Control Management (ER 1110-2-240), U.S. Army Corps of Engineers	0710-AA33
753	Regulatory Program of the Corps of Engineers—Administrative Permit	0710-AA36

Department of the Navy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
754	Adjustments to Prices Under Shipbuilding Contracts	0703-AA34
755	Release of Official Information for Litigation	0703-AA39

Department of the Air Force—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
756	Public Affairs Policies and Procedures	0701-AA18
757	Air Force Privacy Act Program	0701-AA30
758	Air Force Materiel Command Federal Acquisition Regulation Supplement; Special Contracting Methods, Vendor Rating System	0701-AA34
759	Environmental Impact Analysis Process	0701-AA36

Department of the Air Force—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
760	Air Force Materiel Command Contractor Performance Assessment	0701-AA33
761	Utilization of Excess and Disposal of Surplus Real Property	0701-AA35

Department of the Air Force—Completed Actions

Sequence Number	Title	Regulation Identifier Number
762	Air Force Freedom of Information Act Program (AFR 12-30)	0701-AA31
763	Air Force Federal Acquisition Regulation Supplement Clause: Contractor Toxicological Testing-Aircraft Accidents	0701-AA39

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Department of the Air Force—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
764	Acquisition of Information Concerning United States Persons and Organizations Not Affiliated With the Department of Defense (AFR 124-13)	0701-AA40
765	Department of Defense Commercial Air Carrier Quality and Safety Review Program	0701-AA41

Office of Assistant Secretary for Health Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
766	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Basic Program (DoD 6010.8-R)	0720-AA06
767	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Former Spouse/Widow(er) and Federal Claims Collection Act (DoD 6010.8-R)	0720-AA07
768	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Mammography and Papanicolaou (Pap) Tests (DoD 6010.8-R)	0720-AA08
769	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Certified Marriage and Family Therapists (DoD 6010.8-R)	0720-AA10
770	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Requirements for Coverage and Reimbursement of Services of Physicians in Teaching Settings (DoD 6010.8-R)	0720-AA13

Office of Assistant Secretary for Health Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
771	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Supplemental Insurance Plans (DoD 6010.8-R)	0720-AA01
772	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Program for the Handicapped (DoD 6010.8-R)	0720-AA04
773	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Reimbursement of Providers	0720-AA15

DEPARTMENT OF DEFENSE (DOD)

Prerule Stage

Office of the Secretary (OS)

617. CONTRACTOR ADVISORY ASSISTANCE SERVICES (DAR CASE 92-D016)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 237

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement changes to DOD Directive 4205.2 on Contractor Advisory and Assistant Services.

Timetable:

Action	Date	FR Cite
Case opened	06/03/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE01

618. • PERSONAL SERVICES COMPENSATION (DAR CASE 91-085D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 231

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to clarify reasonableness of compensation costs resulting from Labor-Management agreements and adequately provide for maintenance for contractor compensation systems that are consistently reasonable.

Timetable:

Action	Date	FR Cite
Case opened	07/08/92	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no

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paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE45

619. • DEMILITARIZATION (DAR CASE 92-D024)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 223

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to notify contractors of demilitarization requirements.

Timetable:

Action	Date	FR Cite
Case opened	07/29/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE48

620. • ARCHITECT-ENGINEER SERVICES (DAR CASE 92-D027;

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 236

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to consider recommendations by the Committee on Federal Procurement of Architectural and Engineering services.

Timetable:

Action	Date	FR Cite
Case opened	07/29/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE50

621. • ORDERS UNDER THE ECONOMY ACT (DAR CASE 92-D032)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 217

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to clarify the scope and intent of the Economy Act.

Timetable:

Action	Date	FR Cite
Case opened	09/24/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE54

622. • STREAMLINED RESEARCH AND DEVELOPMENT PROCEDURES (LAB DEMONSTRATIONS) (DAR CASE 92-D034)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 235

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to improve procedures for Research and Development procurements of $10 million or less.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE56

623. • SECURITY CONTAINERS (DAR CASE 92-D311)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9027

CFR Citation: 48 CFR 231

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to provide that funds cannot be expended to purchase, install, replace or repair locks on a safe or security container that does not meet federal specifications.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of

Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE69

624. • ECONOMIC OR EMPLOYMENT REPORT (DAR CASE 92-D316)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9048

CFR Citation: 48 CFR 231

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to prohibit preparation of any material, report, list or analysis on actual or projected economic or employment impact in a State or Congressional district of an acquisition program.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE72

625. • MADE IN AMERICA LABEL (DAR CASE 92-D329)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9117; PL 102-484, Sec 834

CFR Citation: 48 CFR 209

Legal Deadline: Final, Statutory, January 21, 1993.

Abstract: Modify the Defense FAR Supplement to require debarment of any person falsely placing "Made in America" labels in foreign products.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE80

626. • SMALL BUSINESS SUBCONTRACTING PLAN (DAR CASE 92-D333)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 802

CFR Citation: 48 CFR 219

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to add certain requirements to the Small Disadvantaged Business program.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE83

627. • ORGANIZATIONAL CONFLICTS OF INTEREST (DAR CASE 92-D344)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 819

CFR Citation: 48 CFR 209

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to provide guidance regarding contractor participation in certain phases of procurement.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE90

628. • FOREIGN CONTROLLED CONTRACTS (DAR CASE 92-D348)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 838

CFR Citation: 48 CFR 225

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to prohibit foreign entities from acquiring United States companies in certain situations.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE93

629. • AWARD TO FOREIGN CONTROLLED CONTRACTORS (DAR CASE 92-D349)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 836

CFR Citation: 48 CFR 209

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to prohibit award of certain contracts to companies owned by foreign nationals.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE94

630. • HAZARDOUS MATERIALS ON ARSENAL PROPERTY (DAR CASE 92-D361)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 2852

CFR Citation: 48 CFR 223

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to allow a DOD installation, under certain circumstances, to store or dispose of hazardous material not owned by DOD.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AF00

631. • REDUCTION IN DEFENSE PROGRAMS (DAR CASE 92-D363)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 4471

CFR Citation: 48 CFR 222

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to require contractors, upon notification of termination of or substantial reduction of a defense program, to notify certain employees of the termination or substantial reduction.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AF02

632. • BALL AND ROLLER BEARINGS (DAR CASE 92-D366)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 832; PL 102-396, Sec 9097

CFR Citation: 48 CFR 225

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to provide that funds may not be obligated for procurement of ball or roller bearings other than in accordance with 208.79 and 225.71.

Timetable:

Action	Date	FR Cite
Case opened	11/24/92	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AF04

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS) — **Proposed Rule Stage**

633. TIMEKEEPING AND LABOR ACCOUNTING SYSTEMS (DAR CASE 91-004)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 209; 48 CFR 242

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to clarify the requirement for contractors to have sufficient internal accounting controls.

Timetable:

Action	Date	FR Cite
Case opened	02/21/91	
NPRM	06/10/91	56 FR 26645
NPRM Comment Period End	08/01/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD16

634. CONTRACT SERVICES (DAR CASE 91-071)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 207; 48 CFR 237; 48 CFR 252

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to include guidance on continuation of essential contractor services by DOD contractors during crisis situations.

Timetable:

Action	Date	FR Cite
Case opened	10/17/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD44

635. JOINT VENTURES (DAR CASE 91-054)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 219; 48 CFR 252

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to allow joint ventures between small disadvantaged businesses and non-disadvantaged small businesses to be eligible to participate in the DOD 5 percent goal program.

Timetable:

Action	Date	FR Cite
Case opened	08/28/91	
NPRM	12/02/92	57 FR 56895
NPRM Comment Period End	01/31/93	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD54

636. WAIVER OF NON-MANUFACTURER RULE (DAR CASE 91-055)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 219; 48 CFR 252

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to apply Small Business Administration waivers to the Small Disadvantaged Business set aside program.

Timetable:

Action	Date	FR Cite
Case opened	08/28/91	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD55

637. MENTOR-PROTEGE CREDITS (DAR CASE 91-317)

Significance: Agency Priority

Legal Authority: PL 102-190, Sec 814

CFR Citation: 48 CFR 219

Legal Deadline: Final, Statutory, November 26, 1991.

Abstract: Modify the Defense FAR Supplement to redefine ways for contractors to receive credit of reimbursement for developmental assistance costs.

Timetable:

Action	Date	FR Cite
Case opened	12/02/91	
Interim Final Rule	10/15/92	57 FR 47270
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

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Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD60

638. VALVES AND MACHINE TOOLS (DAR CASE 91-320)

Significance: Agency Priority

Legal Authority: PL 102-190, Sec 834

CFR Citation: 48 CFR 225

Legal Deadline: Final, Statutory, December 5, 1991.

Abstract: Modify the Defense FAR Supplement to extend the restriction on foreign purchases of valves and machine tools through fiscal year 1996.

Timetable:

Action	Date	FR Cite
Case opened	12/02/91	
Interim Final Rule	04/23/92	57 FR 14998
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD63

639. ELECTRONIC FUNDS TRANSFER (DAR CASE 90-009)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 232

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to broaden the use of electronic funds transfer in DOD contracts.

Timetable:

Action	Date	FR Cite
Case opened	10/19/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD80

640. UNIFORM SUSPENSION AND DEBARMENT (DAR CASE 92-D007)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 209

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to include uniform suspension and debarment procedures.

Timetable:

Action	Date	FR Cite
Case opened	03/04/92	
NPRM	11/16/92	57 FR 54035
NPRM Comment Period End	12/16/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD93

641. OVERHEAD SHOULD COST REVIEWS (DAR CASE 92-D010)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide guidance for conducting overhead should cost reviews.

Timetable:

Action	Date	FR Cite
Case opened	04/08/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD95

642. ADEQUATE PRICE COMPETITION (DAR CASE 92-D011)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to clarify guidance on adequate price competition in dual source procurements.

Timetable:

Action	Date	FR Cite
Case opened	04/02/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD96

643. PROGRESS PAYMENT RATES (DAR CASE 92-D014)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 232

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to include changes in method used to establish uniform customary progress payment rates and eliminate customary flexible progress payment rates on future DOD contracts.

Timetable:

Action	Date	FR Cite
Case opened	04/29/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD99

644. INSURANCE/LIABILITY TO THIRD PARTIES (DAR CASE 92-D015)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 228

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to remove inconsistencies between FAR 52.228-7, Insurance-Liability to Third Parties, and its Alternate I.

Timetable:

Action	Date	FR Cite
Case opened	05/06/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE40

646. • INCREMENTAL FUNDING, FIXED PRICE CONTRACTS (DAR CASE 90-037)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 232

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide guidance on the use of incremental funding.

Timetable:

Action	Date	FR Cite
Case opened	10/02/90	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE42

645. • DRUG-FREE WORKFORCE (DAR CASE 88-083)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 223

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to require contractors to maintain a drug-free workforce.

Timetable:

Action	Date	FR Cite
Case opened	06/14/88	
NPRM	07/23/92	57 FR 32769
Interim Final Rule	07/23/92	57 FR 32736
NPRM Comment Period End	09/21/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE00

647. • PROGRAM MILESTONES (DAR CASE 91-044)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 207

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement those parts of Department of Defense Instruction 5000.1 on program milestones that apply to contracting officers.

Timetable:

Action	Date	FR Cite
Case opened	07/24/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon,

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RIN: 0790–AE44

648. • BERRY AMENDMENT EXCEPTIONS (DAR CASE 92-D020)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to fully comply with exceptions of the Berry Amendment.

Timetable:

Action	Date	FR Cite
Case opened	07/08/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE46

649. • PROMPT PAY OVERSEAS (DAR CASE 92-D030)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 232

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide Prompt Payment Act coverage for contracts awarded overseas and include extended payment periods for overseas contracts.

Timetable:

Action	Date	FR Cite
Case opened	09/02/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE52

650. • UNDEFINITIZED CONTRACTUAL ACTIONS (DAR CASE 92-D033)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 217

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to clarify limitations on obligation and expenditure of funds for undefinitized contractual actions.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE55

651. • CONTRACTOR INSURANCE/ PENSION REVIEWS (DAR CASE 92-D040)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 242

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to raise the threshold for conducting Contractor Insurance/ Pension Reviews from $10 million to $40 million when other than sealed bid procedures are used.

Timetable:

Action	Date	FR Cite
Case opened	12/02/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE60

652. • CONSTRUCTION PERFORMANCE EVALUATION (DAR CASE 92-D042)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 236

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to use new form DD 2626 in lieu of SF 1420.

Timetable:

Action	Date	FR Cite
Case opened	12/09/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE62

653. • FOUR-TON DOLLY JACKS (DAR CASE 92-D328)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9108

CFR Citation: 48 CFR 225

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to provide that funds cannot be expended to award a contract for the procurement of Four Ton Dolly Jacks if such equipment is or would be manufactured outside the United States.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE79

654. • CERTIFICATE OF CONFORMANCE REQUIREMENTS (DAR CASE 92-D334)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 804

CFR Citation: 48 CFR 219

Legal Deadline: Final, Statutory, October 1, 1992.

Abstract: Modify the Defense FAR Supplement to allow offerors bidding on a contract to request the Small Business Administration to make a determination on an entity's eligibility.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE84

655. • CERTIFICATION OF CONTRACT CLAIMS (DAR CASE 92-D339)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 813

CFR Citation: 48 CFR 233

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to allow certification of contract claims, requests for equitable adjustment to contract terms and requests for relief under PL 85-804 that exceed $100,000.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE86

656. • ALLOWABLE COSTS (DAR CASE 92-D343)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 818

CFR Citation: 48 CFR 231

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to provide for a penalty to be waived for a contractor's proposal for settlement of indirect costs under certain conditions.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE89

657. • OZONE (DAR CASE 92-D354)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 326

CFR Citation: 48 CFR 207

Legal Deadline: Final, Statutory, June 1, 1993.

Abstract: Modify the Defense FAR Supplement to prohibit DOD contracts from including a specification for use of class 1 ozone-depleting substances.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon,

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Proposed Rule Stage

Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE96

658. • PUBLIC-PRIVATE COMPETITION (DAR CASE 92-D355)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9095; PL 102-484, Sec 353

CFR Citation: 48 CFR 217

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to permit competition between public activities and private firms.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE97

659. • OVERSEAS SEVERANCE PAY (DAR CASE 92-D359)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 1351

CFR Citation: 48 CFR 231

Legal Deadline: Final, Statutory, October 1, 1991.

Abstract: Modify the Defense FAR Supplement to prohibit payment of costs of severance pay paid by contractors to foreign nationals employed under defense service contracts in the Philippines.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE98

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Final Rule Stage

660. TOTAL QUALITY MANAGEMENT (DOD DIRECTIVE 5000.51)

Legal Authority: EO 12637

CFR Citation: 32 CFR 281

Legal Deadline: None

Abstract: This proposed rule establishes policy and assigns responsibility for implementation of the Total Quality Management concept in the Department of Defense. The concept will be implemented both internally with the Department of Defense as well as in DoD acquisition strategies.

Timetable:

Action	Date	FR Cite
NPRM	07/19/89	54 FR 30227
NPRM Comment Period End	08/18/89	54 FR 30227
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: F. Doherty, Department of Defense, Office of the Secretary, 703 695-7915

RIN: 0790–AB33

661. RESTRICTIONS ON LOBBYING

Legal Authority: PL 102-121; 31 USC 1352; 5 USC 301; 10 USC 113

CFR Citation: 32 CFR 282

Legal Deadline: None

Abstract: The Department of Defense (DoD) is adopting the following interim rule establishing new restrictions on lobbying and will proceed with internal agency coordination, the results of which will be reflected in the final common rule. It is the Department of Defense's objective to establish uniform practices within the Office of the Secretary of Defense, the military departments, and the defense agencies that would be consistent with those being established by other executive departments and agencies in adopting this governmentwide rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6752
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: F. Sobieszczyk, Department of Defense, Office of the Secretary, 703 614-0205

RIN: 0790–AC54

662. RELEASE OF ACQUISITION-RELATED INFORMATION (DOD DIRECTIVE 5230.AA)

Legal Authority: PL 101-189

CFR Citation: 32 CFR 286h

Legal Deadline: None

Abstract: This rule establishes the policy of the Department of Defense to make the maximum amount of acquisition-related information available to the public and to respond promptly to specific requests from the public.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/12/90	55 FR 28614
Interim Final Rule Comment Period End	08/13/90	55 FR 28614
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

DOD—OS

Final Rule Stage

Government Levels Affected: None

Agency Contact: S. Slavsky, Department of Defense, Office of the Secretary, 703 697-8335

RIN: 0790–AC62

663. DEPARTMENT OF DEFENSE PERSONNEL SECURITY PROGRAM (DOD DIRECTIVE 5200.2)

Legal Authority: 50 USC 781

CFR Citation: 32 CFR 156

Legal Deadline: None

Abstract: The Department of Defense has revised and updated its policies regarding standards for the conduct of personnel security investigations, adjudication criteria for access to classified information and minimum due process procedures when an unfavorable personnel security determination is proposed. These changes are the first to the directive since 1979 and are attempting to make the source document for the DoD personnel program consistent with more recent policy development.

Timetable:

Action	Date	FR Cite
NPRM	06/10/91	56 FR 26634
NPRM Comment Period End	07/10/91	56 FR 26634
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: Federal

Agency Contact: P. Nelson, Department of Defense, Office of the Secretary, 703 697-3039

RIN: 0790–AD25

664. • RECOUPMENT COSTS (DOD DIRECTIVE 2140.2)

Legal Authority: 31 USC 9701

CFR Citation: 32 CFR 165

Legal Deadline: None

Abstract: This proposed rule would further reduce the financial and administrative burden on contractors making direct commercial sales to non-U.S. Government parties. It would eliminate the requirement to recoup nonrecurring costs on those sales.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: R. Florence, Department of Defense, Office of the Secretary, 703 697-0585

RIN: 0790–AE05

665. CONTRACTING OFFICER'S DECISIONS (DAR CASE 91-043D)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 233

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to comply with the Contract Disputes Act of 1978 when a contractor's appeal involves a default matter absent a money claim.

Timetable:

Action	Date	FR Cite
Case opened	08/14/91	
Interim Final Rule	11/27/91	56 FR 60066
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD37

666. BOND WAIVER TESTS (DAR CASE 91-316)

Significance: Agency Priority

Legal Authority: PL 102-190, Sec 813

CFR Citation: 48 CFR 236

Legal Deadline: Final, Statutory, August 31, 1992.

Abstract: Modify the Defense FAR Supplement to exempt small businesses from the requirement to have surety bonds for construction contracts.

Timetable:

Action	Date	FR Cite
Case opened	12/02/91	
Interim Final Rule	08/24/92	57 FR 38286
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD59

667. ACQUISITION OF COMMERCIAL ITEMS (DAR CASE 89-316)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 824

CFR Citation: 48 CFR 211

Legal Deadline: Final, Statutory, August 3, 1990.

Abstract: Modify the Defense FAR Supplement to implement Section 824b of PL 101-189 to develop a simplified uniform contract for the acquisition of commercial items.

Timetable:

Action	Date	FR Cite
Case opened	12/06/89	
NPRM	07/11/90	55 FR 28514
NPRM Comment Period End	08/27/90	
Interim Final Rule	04/23/91	56 FR 18160
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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Final Rule Stage

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD79

668. ENVIRONMENTAL SURETY BONDS (DAR CASE 91-325)

Significance: Agency Priority

Legal Authority: PL 102-190, Sec 336

CFR Citation: 48 CFR 228

Legal Deadline: Final, Statutory, December 5, 1991.

Abstract: Modify the Defense FAR Supplement to allow reimbursement to sureties who provide Bid, Performance or Payment Bonds in connection with a procurement under a defense environment restoration program and begin activities to meet their obligations under such bonds.

Timetable:

Action	Date	FR Cite
Case opened	01/01/92	
Interim Final Rule	09/15/92	57 FR 42626
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD89

669. • ACQUISITION OF COMMERCIAL ITEMS (DAR CASE 89-316)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 824

CFR Citation: 48 CFR 211

Legal Deadline: Final, Statutory, August 3, 1990.

Abstract: Modify the Defense FAR Supplement to develop a simplified uniform contract for acquisition of commercial items.

Timetable:

Action	Date	FR Cite
Case opened	12/06/89	
NPRM	07/11/90	55 FR 28514
NPRM Comment Period End	08/27/90	
Interim Final Rule	04/23/91	56 FR 18160
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE41

670. • GENERAL ACCOUNTING OFFICE BID PROTEST REGULATIONS (DAR CASE 91-006D)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 233

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement General Accounting Office's published revised bid protest regulations.

Timetable:

Action	Date	FR Cite
Case opened	06/26/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE43

671. • RECOUPMENT OF NONRECURRING COSTS (DAR CASE 92-D021)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 271

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to incorporate revisions to Department of Defense Directive 2140.2

Timetable:

Action	Date	FR Cite
Case opened	07/08/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE47

672. • COST ACCOUNTING STANDARDS DEFINITIONS AND REFERENCES (DAR CASE 92-D025)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 235

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise DFARS references to Cost Accounting Standards.

Timetable:

Action	Date	FR Cite
Case opened	07/29/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

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Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE49

673. • BASE CLOSURES, EMPLOYMENT (DAR CASE 92-D029)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 207

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to require use of the same or similar clause as FAR 52.207-3 in contracts awarded to prepare bases for closure or to maintain the base property once closure has occurred.

Timetable:

Action	Date	FR Cite
Case opened	08/19/92	
Interim Final Rule	11/04/92	57 FR 52593
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE51

674. • EXAMINATION OF RECORDS (DAR CASE 92-D031)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to delete the requirement to notify Congress when the Examination of Records clause is omitted.

Timetable:

Action	Date	FR Cite
Case opened	09/02/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE53

675. • DFARS SUBPART 231.1 EDITORIAL (DAR CASE 92-D035)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 231

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to indicate that the clause at 252.231.7000 should only be inserted in those solicitations and contracts described in FAR 31.000.

Timetable:

Action	Date	FR Cite
Case opened	11/18/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE57

676. • BASIC AGREEMENTS (DAR CASE 92-D036)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 235

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to remove the reference to the Office of Naval Research as the DOD agency for negotiating basic agreements.

Timetable:

Action	Date	FR Cite
Case opened	11/24/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE58

677. • PRECIOUS METALS (DAR CASE 92-D039)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 245

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to streamline the process of providing disposition instructions for the recovery of precious metals.

Timetable:

Action	Date	FR Cite
Case opened	12/02/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of

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Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AE59

678. • INDUSTRIAL MODERNIZATION AND INCENTIVES PROGRAM (DAR CASE 92-D041)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to delete the Industrial Modernization and Incentives Program.

Timetable:

Action	Date	FR Cite
Case opened	12/16/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AE61

679. • DODDS, CONTRACTING ACTIVITY (DAR CASE 92-D043)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 202

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to reflect that DOD Dependents Schools (DODDS) has been delegated authority as a contracting activity.

Timetable:

Action	Date	FR Cite
Case opened	12/09/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AE63

680. • UNIFORM PROCUREMENT INSTRUMENT IDENTIFICATION NUMBERS (PIIN) (DAR CASE 92-D044)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 204

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise Appendix G on the use of uniform Procurement Instrument Identification Numbers.

Timetable:

Action	Date	FR Cite
Case opened	12/26/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AE64

681. • DEFENSE ACQUISITION WORKFORCE IMPROVEMENT ACT (DAR CASE 92-D045)

Legal Authority: PL 101-510

CFR Citation: 48 CFR 201

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to correct inconsistencies between PL 101-510 and 201.603-2.

Timetable:

Action	Date	FR Cite
Case opened	01/06/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AE65

682. • RESEARCH AND DEVELOPMENT (DAR CASE 92-D303)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 401

CFR Citation: 48 CFR 206

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to instruct contracting officers to consult legal counsel before making noncompetitive awards to universities.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AE66

683. • BERRY AMENDMENT (DAR CASE 92-D305)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9005

CFR Citation: 48 CFR 225

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to comply with exceptions of the Berry Amendment.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AE67

684. • MULTIYEAR CONTRACTS (DAR CASE 92-D307)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9013

CFR Citation: 48 CFR 217

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to require Congressional notification before initiating a multiyear contract over $20 million.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AE68

685. • MAJOR AUTOMATED SYSTEMS (DAR CASE 92-D312)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9028

CFR Citation: 48 CFR 239

Legal Deadline: Final, Statutory, October 6, 1992

Abstract: Modify the Defense FAR Supplement to provide that funds cannot be obligated or expended for acquisition of major automated information systems which have not successfully completed oversight reviews required by DOD regulations.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AE70

686. • FIXED PRICE RESEARCH AND DEVELOPMENT (DAR CASE 92-D314)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9037

CFR Citation: 48 CFR 235

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to provide that funds cannot be obligated or expended for fixed price contracts in excess of $10 million for development of a major system or subsystem unless authorized by the Under Secretary of Defense (Acquisition).

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AE71

687. • UNSOLICITED PROPOSALS (DAR CASE 92-D317)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9050

CFR Citation: 48 CFR 237

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to provide that funds cannot be expended for a contract for studies, analyses or consulting services entered into without competition based on unsolicited proposals.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AE73

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686. • SECONDARY ARAB BOYCOTT OF ISRAEL (DAR CASE 92-D319)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9069; PL 102-484, Sec 1332

CFR Citation: 48 CFR 225

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to provide that no prime contract over the small purchase threshold may be awarded to a foreign entity unless it certifies that it does not comply with the secondary boycott of Israel.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE74

689. • NONPROFIT AGENCIES FOR THE BLIND OR OTHER SEVERELY HANDICAPPED (DAR CASE 92-D320)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9077

CFR Citation: 48 CFR 219

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to provide that qualified nonprofit agencies for the blind or other severely handicapped shall be given maximum opportunity to participate as subcontractors/suppliers.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE75

690. • AUDIT OF CONTRACTS WITH UNIVERSITIES (DAR CASE 92-D322)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9089

CFR Citation: 48 CFR 215

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to provide that funds cannot be obligated or expended for any contract or grant with a university or other institution of higher learning unless the contract or grant is audited in accordance with the FAR, DFARS or other audit standards.

Timetable:

Action	Date	FR Cite
Case opened	10/28/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE76

691. • FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS (DAR CASE 92-D323)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9090

CFR Citation: 48 CFR 235

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to provide that funds cannot be obligated or expended for a Federally Funded Research and Development Center if a member of its Board of Trustees serves on the Board of Directors of a profit making company under contract to DOD.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE77

692. • CARBON, STEEL OR ARMOR STEEL PLATE (DAR CASE 92-D325)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9092

CFR Citation: 48 CFR 225

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to provide that funds cannot be expended to procure carbon, alloy or steel plate which are not melted and rolled in the United States or Canada.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE78

693. • CARBONYL IRON POWDERS (DAR CASE 92-D331)

Significance: Agency Priority

Legal Authority: PL 102-396, Sec 9151

CFR Citation: 48 CFR 225

Legal Deadline: Final, Statutory, October 6, 1992.

Abstract: Modify the Defense FAR Supplement to require that only domestically manufactured carbonyl iron powders be used in a system or item procured by or provided to DOD.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE81

694. • SECTION 1207 (DAR CASE 92-D332)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 801; PL 102-484, Sec 1207

CFR Citation: 48 CFR 219

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: Modify the Defense FAR Supplement to extend the Small Disadvantaged Business program through the year 2000.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE82

695. • SUBCONTRACTING PLAN TEST (DAR CASE 92-D335)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 805

CFR Citation: 48 CFR 219

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to extend the subcontracting plan test through fiscal year 1994.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE85

696. • CONVICTED FELONS (DAR CASE 92-D340)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 815

CFR Citation: 48 CFR 203

Legal Deadline: Final, Statutory, February 20, 1993.

Abstract: Modify the Defense FAR Supplement to require a single point of contact be established so contractors and subcontractors can determine if an entity proposed for use is under a prohibition.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE87

697. • MASTER AGREEMENTS (DAR CASE 92-D341)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 816

CFR Citation: 48 CFR 237

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to extend the master agreements for procurements of Advisory and Assistance Services programs.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no

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paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE88

698. • COMPETITIVE PROTOTYPING (DAR CASE 92-D345)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 821

CFR Citation: 48 CFR 207

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to provide that acquisition strategy for major defense programs provide for competitive prototyping unless an exception is provided.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE91

699. • TYPEWRITERS (DAR CASE 92-D346)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 831

CFR Citation: 48 CFR 225

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to remove the procurement limitation on typewriters.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE92

700. • HAZARDOUS WASTES (DAR CASE 92-D353)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 321

CFR Citation: 48 CFR 223

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to extend to 1993 contractors' obligations when performing hazardous waste treatment or disposal.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE95

701. • EMPLOYMENT OPENINGS (DAR CASE 92-D362)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 4470

CFR Citation: 48 CFR 222

Legal Deadline: Final, Statutory, February 20, 1993.

Abstract: Modify the Defense FAR Supplement to require that each contractor performing a contract of $500,000 or more to list immediately with the local employment service office all of its suitable employment openings.

Timetable:

Action	Date	FR Cite
Case opened	10/28/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AF01

702. • ACQUISITION PLANS FOR MAJOR DEFENSE ACQUISITION PROGRAMS (DAR CASE 92-D365)

Significance: Agency Priority

Legal Authority: PL 102-484, Sec 4220

CFR Citation: 48 CFR 207

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: Modify the Defense FAR Supplement to provide that acquisition plans for each major defense acquisition program includes certain provisions.

Timetable:

Action	Date	FR Cite
Case opened	11/04/92	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

DOD—OS

Final Rule Stage

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AF03

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Completed Actions

703. COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTH CARE SERVICES

Legal Authority: 5 USC 301; 10 USC 1095

CFR Citation: 32 CFR 220

Legal Deadline: None

Abstract: This rule implements recent legislative amendments to 10 USC 1095 that expanded the third party collection authority to cover outpatient services, automobile liability and no-fault insurance policies, and Medicare supplemental insurance plans.

Timetable:

Action	Date	FR Cite
NPRM	12/23/91	56 FR 66381
NPRM Comment Period End	02/21/92	56 FR 66381
Final Action	09/09/92	57 FR 41096
Final Action Effective	10/09/92	57 FR 41096

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: S. Olson, Department of Defense, Office of the Secretary, 703 693-2570

RIN: 0790–AD32

704. FRAUD PAYMENT REDUCTIONS (DAR CASE 90-318)

Significance: Agency Priority

Legal Authority: PL 101-510, Sec 836

CFR Citation: 48 CFR 232

Legal Deadline: Final, Statutory, May 6, 1991.

Abstract: Modify the Defense FAR Supplement to provide that agencies can reduce or suspend payments to a contractor if there is substantial evidence that the request for payment is based on fraud.

Timetable:

Action	Date	FR Cite
Case Opened	04/24/91	
NPRM	10/21/91	56 FR 52497
NPRM Comment Period End	12/20/91	
Final Action DAC 91-4, Item X.	11/12/92	57 FR 53596

Timetable:

Action	Date	FR Cite
Case opened	11/15/90	
Interim Final Rule	01/29/92	57 FR 3358
Final Action DAC 91-3, Item XVII.	09/15/92	57 FR 42626

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD02

705. WAIVER OF UNITED KINGDOM LEVIES (DAR CASE 91-027)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215; 48 CFR 252

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to require offerors to identify commercial exploitation levies assessed by the Government of the United Kingdom.

Timetable:

Action	Date	FR Cite
Case Opened	06/19/91	
NPRM	10/25/91	56 FR 55264
NPRM Comment Period End	12/09/91	
Case closed into DAR Case 92-D021, RIN 0790-AE47	07/20/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD21

706. RECOVERY OF NONRECURRING COSTS (DAR CASE 91-033)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 234; 48 CFR 271

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to reflect revisions to DOD Directive 2140.2 which eliminates the requirement to collect recoupment charges on commercial, foreign and domestic sales.

Timetable:

Action	Date	FR Cite
Case Opened	06/19/91	
NPRM	10/25/91	56 FR 55264
NPRM Comment Period End	12/09/91	
Case closed into DAR Case 92-D021, RIN 0790-AE47	07/20/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD22

707. MAJOR AUTOMATED SYSTEMS (DAR CASE 91-338)

Significance: Agency Priority

Legal Authority: PL 102-172, Sec 8028

CFR Citation: 48 CFR 239

Legal Deadline: Final, Statutory, November 26, 1991.

Abstract: Modify the Defense FAR Supplement to state that funds cannot be obligated for acquisition of major automated information systems that have not successfully completed oversight reviews.

Timetable:

Action	Date	FR Cite
Case opened	12/30/91	
Interim Final Rule	04/23/92	57 FR 14988
Final Action DAC 91-3, Item XIX.	09/15/92	57 FR 42626

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD33

708. GOVERNMENT PERSONNEL WORK PRODUCTS (DAR CASE 91-313)

Significance: Agency Priority

Legal Authority: PL 102-190, Sec 808

CFR Citation: 48 CFR 242

Legal Deadline: Final, Statutory, April 3, 1991.

Abstract: Modify the Defense FAR Supplement to require DOD oversight employees at contractors' plants to retain control of their work products.

Timetable:

Action	Date	FR Cite
Case opened	12/02/91	
Interim Final Rule	04/23/92	57 FR 14988
Final Action DAC 91-3, Item II.	09/15/92	57 FR 42626

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD34

709. PLANT CLEARANCE OFFICER RESPONSIBILITIES (DAR CASE 91-069)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 245

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide a better definition of plant clearance officer responsibilities.

Timetable:

Action	Date	FR Cite
Case opened	10/15/91	
Final Action DAC 91-3, Item XX.	09/15/92	57 FR 42626

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD36

710. EDUCATIONAL INSTITUTIONS (DAR CASE 91-089)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 231

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to incorporate OMB Circular A-21, which specifically identifies certain unallowable costs in contracts with educational institutions.

Timetable:

Action	Date	FR Cite
Case opened	12/11/91	
Final Action DAC 91-3, Item XVI.	09/15/92	57 FR 42526

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD38

711. CONTINGENCY SMALL PURCHASES (DAR CASE 91-310)

Significance: Agency Priority

Legal Authority: PL 102-190, Sec 805

CFR Citation: 48 CFR 213

Legal Deadline: Final, Statutory, December 5, 1991.

Abstract: Modify the Defense FAR Supplement to increase the small purchase threshold to $100,000 for contingency operations outside the United States.

Timetable:

Action	Date	FR Cite
Case opened	12/02/91	
NPRM	06/16/92	57 FR 26814

Action	Date	FR Cite
NPRM Comment Period End	07/15/92	
Final Action DAC 91-4, Item I.	09/02/92	57 FR 53596

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD42

712. PUBLIC-PRIVATE COMPETITION (DAR CASE 91-354)

Significance: Agency Priority

Legal Authority: PL 102-172, Sec 8120

CFR Citation: 48 CFR 217

Legal Deadline: Final, Statutory, November 26, 1991.

Abstract: Modify the Defense FAR Supplement to allow acquisition of certain depot level maintenance and repair through competition by depots and private firms.

Timetable:

Action	Date	FR Cite
Case opened	12/30/91	
Case closed into DAR Case 92-D355, RIN 0790-AE97	10/30/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD45

713. COMPONENT BREAKOUT PROGRAM FOR MAJOR SYSTEMS (DAR CASE 91-058)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 217; 48 CFR ch II, app D

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to require analysis of the trade off between savings available through component breakout and the increased risk to the Government of assuring responsibility for government-furnished equipment items.

Timetable:

Action	Date	FR Cite
Case opened	09/05/91	
Final Action DAC 91-3, Item XXII.	09/15/92	57 FR 42626

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD52

714. AUSTRIA AND FINLAND MEMORANDA OF UNDERSTANDING (DAR CASE 91-080)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to add Austria and Finland to the list of qualifying country sources.

Timetable:

Action	Date	FR Cite
Case opened	12/04/91	
Final Action DAC 91-4, Item IV.	11/12/92	57 FR 53596

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD56

715. TRADE AGREEMENTS ACT (DAR CASE 91-092)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to change the threshold for determining whether purchases are subject to the Trade Agreements Act to $176,000.

Timetable:

Action	Date	FR Cite
Case opened	12/20/91	
Final Action DAC 91-3, Item XI.	09/15/92	57 FR 42626

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AD57

716. CARBONYL IRON POWDERS (DAR CASE 91-321)

Significance: Agency Priority

Legal Authority: PL 102-190, Sec 835

CFR Citation: 48 CFR 225

Legal Deadline: Final, Statutory, November 26, 1991.

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Abstract: Modify the Defense FAR Supplement to eliminate the Secretary of Defense's authority to terminate the restriction on carbonyl iron powders after fiscal year 1994.

Timetable:

Action	Date	FR Cite
Case opened	12/02/91	
Interim Final Rule	04/23/92	57 FR 14988
Final Action DAC 91-3, Item XIII.	09/15/92	57 FR 42626

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD64

717. BOYCOTT OF ISRAEL (DAR CASE 91-327)

Significance: Agency Priority

Legal Authority: PL 102-190

CFR Citation: 48 CFR 225

Legal Deadline: Final, Statutory, November 26, 1991.

Abstract: Modify the Defense FAR Supplement to state that no DOD prime contract over the small purchase threshold may be awarded to a foreign entity unless it certifies that it does not comply with the secondary boycott of Israel.

Timetable:

Action	Date	FR Cite
Case opened	12/30/91	
Interim Final Rule	06/30/92	57 FR 29041
Final Action DAC 91-4, Item VIII.	11/12/92	57 FR 53596

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD65

718. AUDIT OF CONTRACTS WITH UNIVERSITIES (DAR CASE 91-348)

Significance: Agency Priority

Legal Authority: PL 102-172, Sec 8106

CFR Citation: 48 CFR 215

Legal Deadline: Final, Statutory, November 26, 1991.

Abstract: Modify the Defense FAR Supplement to state that no contract or grant shall be made with a university unless the contract or grant is audited in accordance with the FAR, DFARS or other audit standards.

Timetable:

Action	Date	FR Cite
Case opened	12/30/91	
Final Action DAC 91-3, Item I.	09/15/92	57 FR 42626

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD72

719. CARBON ALLOY OR STEEL (DAR CASE 91-352)

Significance: Agency Priority

Legal Authority: PL 102-172, Sec 8111

CFR Citation: 48 CFR 225

Legal Deadline: Final, Statutory, November 26, 1991.

Abstract: Modify the Defense FAR Supplement to state that DOD cannot expend funds to procure carbon, alloy or armor plate for use in any government owned facility or property under DOD control which were not melted and rolled in the United States or Canada.

Timetable:

Action	Date	FR Cite
Case opened	12/30/91	
Interim Final Rule	04/23/92	57 FR 14988
Final Action DAC 91-4, Item XI.	11/12/92	57 FR 53596

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD73

720. SEVERANCE PAY FOR FOREIGN NATIONALS (DAR CASE 89-303)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 311(A)

CFR Citation: 48 CFR 231; 48 CFR 237

Legal Deadline: Final, Statutory, November 29, 1989.

Abstract: Modify the Defense FAR Supplement to restrict allowability of severance pay to foreign nationals under service contracts performed outside the Unites States.

Timetable:

Action	Date	FR Cite
Case opened	05/06/92	
Final Action DAC 91-4, Item XIII	11/12/92	57 FR 53596

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD77

721. DISSEMINATING ACQUISITION INFORMATION (DAR CASE 89-310)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 822

CFR Citation: 48 CFR 203

Legal Deadline: Final, Statutory, March 28, 1992.

Abstract: Modify the Defense FAR Supplement to prescribe uniform regulations concerning disseminating of and access to acquisition information.

Timetable:

Action	Date	FR Cite
Case opened	01/01/90	
Case closed - no DFARS revisions needed	01/02/90	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD78

722. COST OR PRICING THRESHOLD (DAR CASE 90-303)

Significance: Agency Priority

Legal Authority: PL 101-150, Sec 803

CFR Citation: 48 CFR 252

Legal Deadline: Final, Statutory, May 5, 1991.

Abstract: Modify the Defense FAR Supplement to revise the threshold for certified cost and pricing data to $500,000.

Timetable:

Action	Date	FR Cite
Case opened	04/01/92	
Final Action DAC 91-3, Item V.	09/15/92	57 FR 42626

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD81

723. BUY AMERICAN ACT, CONSTRUCTION (DAR CASE 91-D048)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to establish a 50% differential for post-award waivers of the Buy American Act for DOD construction contracts.

Timetable:

Action	Date	FR Cite
Case opened	08/14/91	
Case closed - no DFARS revisions needed	10/16/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD83

724. CONTRACTOR ESTABLISHMENT CODE (DAR CASE 91-072D)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 204

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise contractor establishment codes.

Timetable:

Action	Date	FR Cite
Case opened	10/25/91	
Final Action DAC 91-3, Item III.	09/15/92	57 FR 42626

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD84

725. CERTIFICATES OF COMPETENCY (DAR CASE 91-088)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 219

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to state that certificates of competency procedures apply to small business concerns regardless of where the contracting office is located.

Timetable:

Action	Date	FR Cite
Case opened	02/13/92	
Case closed - no DFARS revisions needed	08/05/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD85

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726. IR&D AND B&P COSTS (DAR CASE 91-307)

Significance: Agency Priority

Legal Authority: PL 102-190, Sec 802

CFR Citation: 48 CFR 225; 48 CFR 231; 48 CFR 242

Legal Deadline: Final, Statutory, June 1, 1992.

Abstract: Modify the Defense FAR Supplement to provide payment, by DOD, of expenses incurred by contractors for Independent Research and Development and Bid and Proposal costs.

Timetable:

Action	Date	FR Cite
Case opened	12/02/91	
NPRM	04/01/92	57 FR 11059
NPRM Comment Period End	05/01/92	
Final Action DAC 91-4, Item XIV.	11/12/92	57 FR 53596

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD86

727. SUBCONTRACTOR PAYMENT PROTECTIONS (DAR CASE 91-311)

Significance: Agency Priority

Legal Authority: PL 102-190, Sec 806

CFR Citation: 48 CFR 228; 48 CFR 232; 48 CFR 252

Legal Deadline: Final, Statutory, August 31, 1992.

Abstract: Modify the Defense FAR Supplement to advise subcontractors, when requested, of payment terms, payment bonds and progress payments.

Timetable:

Action	Date	FR Cite
Case opened	12/02/91	
NPRM	07/01/92	57 FR 29269
NPRM Comment Period End	07/31/92	
Final Action DAC 91-4, Item XII.	11/12/92	57 FR 53596

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD87

728. HAZARDOUS WASTE INDEMNIFICATION (DAR CASE 91-324)

Significance: Agency Priority

Legal Authority: PL 102-190, Sec 331

CFR Citation: 48 CFR 223

Legal Deadline: Final, Statutory, February 6, 1992.

Abstract: Modify the Defense FAR Supplement to require contractors or subcontractors to reimburse the Government for liabilities incurred that are caused by breach of terms of the contract or of any willful or negligent act.

Timetable:

Action	Date	FR Cite
Case opened	12/23/91	
Interim Final Rule	04/23/92	57 FR 14988
Final Action DAC 91-4, Item VII.	11/12/92	57 FR 53596

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD88

729. COMMERCIAL BUSES AND TRUCKS (DAR CASE 92-D003)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR ch II, app B

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to transfer responsibility to GSA for procurement of all DOD requirements for commercial, non-tactical, passenger carrying vehicles, buses and trucks regardless of weight.

Timetable:

Action	Date	FR Cite
Case opened	02/12/92	
Final Action DAC 91-3, Item XXI.	09/15/92	57 FR 42626

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD90

730. CONTRACT REPORTING FOR SMALL PURCHASES DURING CONTINGENCIES (DAR CASE 92-D004)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 204; 48 CFR 253

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise guidance on reporting small purchases.

Timetable:

Action	Date	FR Cite
Case opened	02/12/92	
Final Action DAC 91-4, Item I.	11/12/92	57 FR 53596

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD91

731. ANTITRUST NOTIFICATION (DAR CASE 92-D005)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 245

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise the threshold for submission of antitrust notifications to the Attorney General and GSA.

Timetable:

Action	Date	FR Cite
Case opened	03/04/92	
Final Action DAC 91-4, item XV.	11/12/92	57 FR 53596

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD92

732. ORDERS UNDER THE ECONOMY ACT (DAR CASE 92-D008)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 217

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to require DOD to use only the DD Form 448 to place orders under the Economy Act.

Timetable:

Action	Date	FR Cite
Case opened	03/25/92	
Case closed - closed into DAR Case 92-D032, RIN 0790-AE54	09/30/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD94

733. INTERAGENCY ACQUISITIONS UNDER THE ECONOMY ACT (DAR CASE 92-D012)

Legal Authority: 5 USC 301; 10 USC 2202; 31 USC 1535(a)

CFR Citation: 48 CFR 217

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to add a fourth criteria for satisfying interagency acquisition of goods and services.

Timetable:

Action	Date	FR Cite
Case opened	04/08/92	
Case closed - closed into DAR Case 92-D032, RIN 0790-AE54	09/30/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD97

734. FEDERAL INFORMATION PROCESSING RESOURCES ACQUISITIONS (DAR CASE 92-D013)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 239

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to allow use of the Federal Information Resource Management Regulations to acquire Federal Information Processing that is exempt from the Brooks Act by the Warner amendment.

Timetable:

Action	Date	FR Cite
Case opened	04/15/92	
Final Action DAC 91-3, Item XVIII.	09/15/92	57 FR 42626

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, **703 697-7266**

RIN: 0790–AD98

735. FLUCTUATING EXCHANGE RATES (DAR CASE 92-D017)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to address exchange rate concerns.

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Timetable:

Action	Date	FR Cite
Case opened	06/24/92	
Case closed - no DFARS revisions needed	09/11/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE02

736. QUALITY ASSURANCE ACTIONS, ELECTRONIC SCREENING (DAR CASE 92-D018)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 246

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to develop standard definitions for Latent and Patent Defects.

Timetable:

Action	Date	FR Cite
Case opened	06/24/92	
Case closed - no DFARS revisions needed	08/12/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE03

737. PURCHASE FROM MILITARY EXCHANGES (DAR CASE 92-D301)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 2424

CFR Citation: 48 CFR 206

Legal Deadline: Final, Statutory, November 29, 1989.

Abstract: Modify the Defense FAR Supplement to authorize contracting with overseas military exchanges for supplies and services to be used by the Armed Forces Overseas.

Timetable:

Action	Date	FR Cite
Case opened	05/28/92	
Final Action DAC 91-4, Item II.	11/12/92	57 FR 53596

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE04

738. • QUALIFIED NONPROFIT SUBCONTRACTORS (DAR CASE 91-346)

Significance: Agency Priority

Legal Authority: PL 102-172, Sec 8082

CFR Citation: 48 CFR 219

Legal Deadline: Final, Statutory, November 26, 1991.

Abstract: Modify the Defense FAR Supplement to state that qualified nonprofit agencies for the blind or other severely handicapped shall be given maximum opportunity to participate as subcontractors and suppliers.

Timetable:

Action	Date	FR Cite
Final Action Effective	11/26/91	
Case opened	12/20/91	
Final Action DAC 91-3, Item VI.	09/15/92	57 FR 42625

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE06

739. • END USER CERTIFICATES (DAR CASE 92-D009)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide guidance on handling requests for end user certificates.

Timetable:

Action	Date	FR Cite
Case opened	01/23/92	
Final Action Effective	08/31/92	
Final Action DAC 91-3, Item VIII.	09/15/92	57 FR 42626

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE07

740. • ECONOMIC ORDER QUANTITY FUNDING (DAR CASE 92-D019)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 217

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to clarify language in

217.103 to accurately reflect DOD Appropriations Act restrictions.

Timetable:

Action	Date	FR Cite
Case opened	07/08/92	
Final Action Effective	10/30/92	
Final Action DAC 91-4, Item IV.	11/12/92	57 FR 53596

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE08

741. • (DAR CASE 92-D023)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 214

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to delete language which identifies the delegation authority to decide mistakes in bids prior to award.

Timetable:

Action	Date	FR Cite
Case opened	07/15/92	
Final Action Effective	08/31/92	
Final Action DAC 91-3, Item IV.	09/15/92	57 FR 42626

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE18

742. • DEFECTIVE COST OR PRICING DATA (DAR CASE 92-D026)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to delete DFARS 215.804.

Timetable:

Action	Date	FR Cite
Case opened	07/29/92	
Final Action Effective	10/30/92	
Final Action DAC 91-4, Item III.	11/12/92	57 FR 53596

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE19

743. • DD FORM 250 (DAR CASE 92-D028)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 253

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to reduce standard distribution requirements of the DD Form 250.

Timetable:

Action	Date	FR Cite
Case opened	08/19/92	
Final Action Effective	10/30/92	
Final Action DAC 91-4, Item XVI.	11/12/92	57 FR 53596

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulations System, Room 3D139, Pentagon, Washington, DC 20301-3000, 703 697-7266

RIN: 0790–AE20

DEPARTMENT OF DEFENSE (DOD)

Prerule Stage

U.S. Army Corps of Engineers (COE)

744. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, PART 325, APPENDIX D—ENDANGERED SPECIES COUNTERPART REGULATIONS

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325, app D

Legal Deadline: None

Abstract: Procedures for the protection of endangered species in the regulatory program of the Corps of Engineers. Because of the increased emphasis being placed on endangered species by the Federal and State resource agencies, the Corps identified a need to provide more definitive guidance on implementing the Endangered Species Act (ESA) in its regulatory program. The Corps is now developing counterpart regulations with the Department of Interior. The regulations would bring together various guidance used in the past by both the Corps and DOI. The regulations will include guidance on how the ESA Amendments impact applicants for Federal permits.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: No schedule at this time.

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army

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DOD—COE — **Prerule Stage**

Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-1782

RIN: 0710–AA17

745. PART 326, ENFORCEMENT; CLASS II ADMINISTRATIVE PENALTIES

Significance: Agency Priority

Legal Authority: 33 USC 1319(g)

CFR Citation: 33 CFR 326.7

Legal Deadline: None

Abstract: The regulation provides the procedures for assessing Class II administrative penalties for violations of the conditions and limitations contained in permits issued by the Corps of Engineers pursuant to section 404 of the Clean Water Act. Clean Water Act Class II administrative penalties may not exceed $10,000 per day, and may not exceed a maximum of $125,000.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $1,000,000; Yearly Recurring Cost: $3,000,000; Base Year for Dollar Estimates: 1989

Sectors Affected: All

Agency Contact: Jack T. Chowning, Policy Development Section, Regulatory Branch, Department of Defense, U.S. Army Corps of Engineers, 20 Massachusetts Avenue NW., Washington, DC 20314-1000, 202 272-1781

RIN: 0710–AA25

746. NATIONWIDE PERMIT PROGRAM (LOW-VALUE WETLANDS)

Significance: Regulatory Program

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 330

Legal Deadline: None

Abstract: The Corps would propose a new nationwide permit for low-value wetlands in an effort to reduce unnecessary regulation while maintaining needed environmental protection. Activities that occur in low-value wetlands are those that have the least impact on the aquatic environment.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-1782

RIN: 0710–AA34

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE) — **Proposed Rule Stage**

747. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS

Significance: Regulatory Program

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 320 to 330

Legal Deadline: None

Abstract: The Corps of Engineers intends to make numerous clarifications to its existing regulations at 33 CFR 320-330, to consolidate all permit regulations into one document, and to reorganize 33 CFR 325 for clarity. Since the Corps Regulatory Program final regulations were published in the Federal Register on November 13, 1986 (51 CFR 41206), there has been need to clarify several of those provisions. Since 1986, the Corps has adopted 2 new appendices at 33 CFR 325, appendices B and C, and the Corps has also adopted revisions to the Nationwide Permit Program (33 CFR 330) and Class I Administrative Civil Penalties (33 CFR 326). The Corps has proposed several changes that include revisions to the definition of discharge of Dredged Material and Fill Material and prior converted croplands. For clarity, the Corps intends to consolidate all these changes into one document.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	
Final Action	05/00/94	
Final Action Effective	07/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, 20 Massachusetts Avenue NW., Washington, DC 20314-1000, 202 272-1782

RIN: 0710–AA30

748. NATIONWIDE PERMIT PROGRAM (NEW NATIONWIDE PERMITS FOR ADDITIONAL ACTIVITIES)

Significance: Regulatory Program

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 330

Legal Deadline: None

Abstract: The Corps will propose new nationwide permits based on a review of activities being authorized by individual permit. The authorization of activities by nationwide permits is the most efficient and effective way to regulate minor activities with minimal impacts and thus reduce the regulatory burden of the Corps regulatory program while maintaining environmental safeguards.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	12/00/93	
Final Action Effective	02/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-1782

RIN: 0710–AA32

DOD—COE — **Proposed Rule Stage**

749. • FLOOD CONTROL AND AGRICULTURAL WATER SUPPLY COST SHARING REQUIREMENTS UNDER THE ABILITY-TO-PAY PROVISIONS

Significance: Agency Priority

Legal Authority: 33 USC 2201 et seq

CFR Citation: 33 CFR 241

Legal Deadline: None

Abstract: A final rule implementing ability-to-pay guidelines for flood control projects was published in the Federal Register (54 FR 40572, October 2, 1989). Section 305 of Public Law 101-640, as amended by section 201 of Public Law 102-580, directs amendment of these guidelines, as appropriate, and establishment of procedures for ability-to-pay determinations for agricultural water supply projects implemented by the Corps of Engineers. The amended guidelines will establish the eligibility of sponsors of flood control and agricultural water supply projects to receive reductions in the non-Federal cost share requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Donald L. Barnes, Chief, Policy Development Branch, Policy and Planning Division, Department of Defense, U.S. Army Corps of Engineers, HQUSACE, Director of Civil Works, ATTN: CECW-PA, Washington, DC 20314-1000, 202 272-0120

RIN: 0710–AA37

750. • REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, WETLAND DELINEATOR CERTIFICATION PROGRAM

Significance: Agency Priority

Legal Authority: 33 USC 1344

CFR Citation: 33 CFR 328

Legal Deadline: None

Abstract: The regulation establishes the procedures for certification under the Corps of Engineers Wetland Delineator Certification Program developed pursuant to section 307(e) of the Water Resources Development Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
NPRM Comment Period End	12/00/93	
Final Action	02/00/94	
Final Action Effective	04/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Karen Kochenbach, Assistant to the Chief, Policy Development Section, Regulatory Branch, Department of Defense, U.S. Army Corps of Engineers, HQUSACE, ATTN: CECW-OR, Washington, DC 20314-1000, 202 272-1784

RIN: 0710–AA38

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE) — **Final Rule Stage**

751. REGULATORY PROGRAM OF THE CORPS OF ENGINEERS—EXCAVATION ACTIVITIES

Significance: Agency Priority

Legal Authority: 33 USC 1344

CFR Citation: 33 CFR 323; 33 CFR 328

Legal Deadline: None

Abstract: The Corps of Engineers would clarify: 1) when excavation activities result in a discharge of dredged material; 2) when the placement of pilings results in a discharge of material; and 3) that prior croplands are not waters of the United States. A permit is required under section 404 of the Clean Water Act for discharges of dredged or fill material into waters of the United States. In the last few years confusion over these issues has increased. The Environmental Protection Agency would include consistent changes to its Clean Water Act program regulations. The first two changes are being proposed in accordance with the settlement agreement in North Carolina Wildlife Federation v. Tulloch.

Timetable:

Action	Date	FR Cite
NPRM	06/16/92	57 FR 26894
NPRM Comment Period End	08/17/92	57 FR 26894
Final Action	06/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-1782

RIN: 0710–AA35

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE) — **Completed Actions**

752. WATER CONTROL MANAGEMENT (ER 1110-2-240), U.S. ARMY CORPS OF ENGINEERS

Legal Authority: 33 USC 709; 16 USC 791(A)

CFR Citation: 33 CFR 222.7

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: Section 310(b) of the Water Resources Development Act of 1990 requires the Corps to issue regulations providing significant opportunities for public participation including public hearings (public meetings), in developing or revising reservoir water control manuals. The Secretary of the

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DOD—COE — **Completed Actions**

Army is required to issue regulations implementing this part of the act. The Army Corps of Engineers owns and operates over 500 major water projects. The Water Control Management policies and procedures followed in carrying out water control management activities are included in Engineering Regulation (ER) 1110-2-240.

Timetable:

Action	Date	FR Cite
Final Action	08/11/92	57 FR 35757
Final Action Effective	09/11/92	57 FR 35757

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Sullivan, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314, ATTN: CECW-EH-W, 202 272-8509

RIN: 0710–AA33

753. REGULATORY PROGRAM OF THE CORPS OF ENGINEERS—ADMINISTRATIVE PERMIT

Significance: Agency Priority

Legal Authority: 33 USC 403 et seq; 33 USC 1344

CFR Citation: 33 CFR 325

Legal Deadline: None

Abstract: The Corps of Engineers would add an administrative permit process to its regulatory program regulations to provide that, except when necessary to comply with laws and regulations, a permit would be automatically granted if the Corps failed to make a final decision on a complete application within 180 days.

Timetable:

Action	Date	FR Cite
Withdrawn	01/29/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-1782

RIN: 0710–AA36

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY) — **Final Rule Stage**

754. ADJUSTMENTS TO PRICES UNDER SHIPBUILDING CONTRACTS

Legal Authority: 10 USC 2405

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: The interim rule prescribes policies and procedures to restrict contract price adjustments under shipbuilding contracts, thus implementing by regulation the requirements of 10 USC 2405. The interim rule also defines the terminology of 10 USC 2405 and promulgates a solicitation provision and contract clause on price adjustments to shipbuilding contracts. This action is intended to clarify the meaning and ensure the consistent interpretation, implementation, and administration of the statute.

Timetable:

Action	Date	FR Cite
NPRM	11/16/89	54 FR 47689
NPRM Comment Period End	02/15/90	55 FR 3608
NPRM	06/29/90	55 FR 26708
NPRM Comment Period End	08/16/90	55 FR 33541
Public Hearing	10/26/90	55 FR 43150
Interim Final Rule	12/05/91	56 FR 63664
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard A. Moye, Senior Procurement Analyst, Department of Defense, Department of the Navy, Office of the Assistant Secretary of the Navy (Research, Development and Acquisition), Washington, DC 20350-1000, 703 602-2807

RIN: 0703–AA34

755. RELEASE OF OFFICIAL INFORMATION FOR LITIGATION

Legal Authority: 5 USC 301; 10 USC 113; 10 USC 5013; 31 USC 9701; 32 CFR 97

CFR Citation: 32 CFR 725

Legal Deadline: None

Abstract: This regulation assigns responsibilities to Department of the Navy (DON) personnel in responding to requests from members of the public for official DON information (testimonial, documentary, or otherwise in connection with litigation).

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	01/22/92	57 FR 2462
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LT. Michael T. Palmer, Department of Defense, Department of the Navy, Office of the Judge Advocate General, General Litigation Division, 200 Stovall St., Alexandria, VA 22332-2400, 703 325-9870

RIN: 0703–AA39

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF) — **Proposed Rule Stage**

756. PUBLIC AFFAIRS POLICIES AND PROCEDURES

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 837

Legal Deadline: None

Abstract: Describes Air Force Public Affairs program and how public affairs resources are to be managed to effectively reach public affairs goals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Col. Giammo, Department of Defense, Department of the Air Force, SAF/PAR, 1690 Air Force Pentagon, Washington, DC 20330-1690, 703 697-5838

RIN: 0701–AA18

757. AIR FORCE PRIVACY ACT PROGRAM

Legal Authority: 5 USC 552a

CFR Citation: 32 CFR 806b

Legal Deadline: None

Abstract: Establishes Air Force policies and procedures for implementing Privacy Act requirements for collecting, safeguarding, maintaining, using, accessing, amending, and disseminating personal information kept by the Department of the Air Force in Privacy Act systems of records.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne W. Turner, Air Force Access Programs Manager, Department of Defense, Department of the Air Force, SAF/AAIA, 1610 Air Force Pentagon, Washington, DC 20330-1610, 703 697-3491

RIN: 0701–AA30

758. AIR FORCE MATERIEL COMMAND FEDERAL ACQUISITION REGULATION SUPPLEMENT; SPECIAL CONTRACTING METHODS, VENDOR RATING SYSTEM

Legal Authority: 5 USC 301; 10 USC 2305(a)(3)

CFR Citation: 48 CFR 5317

Legal Deadline: None

Abstract: This rule will assist replenishment spare parts contracting personnel in determining which competitive offer represents the best value to the government. Vendor Rating System (VRS) will accomplish this by providing a 12-month historical record of each contractor's quality and delivery performance on completed AFMC replenishment spare parts contracts as a numerical rating. This data will then be used to make a best-value decision in source selection awards. Pending coordination with the DOD Past Performance Coordinating Council and approval by USD(A) / DDP, the policy will be reissued for public comment.

Timetable:

Action	Date	FR Cite
NPRM	10/24/90	55 FR 42863
NPRM Comment Period End	11/23/90	55 FR 42863
Second NPRM	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: S. Wiginton, Department of Defense, Department of the Air Force, HQ AFMC/PKP, 4375 Chidlaw Rd., Suite 6, Wright Patterson AFB, OH 45433-5006, 513 257-6057

RIN: 0701–AA34

759. ENVIRONMENTAL IMPACT ANALYSIS PROCESS

Significance: Agency Priority

Legal Authority: PL 91-190

CFR Citation: 32 CFR 989

Legal Deadline: None

Abstract: Contains policies, responsibilities, and procedures for the Air Force EIAP in the United States and its territories and possessions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth L. Reinertson, Department of Defense, Department of the Air Force, HQ USAF/CEVP, 1260 Air Force Pentagon, Washington, DC 20330-1260, 703 697-1235

RIN: 0701–AA36

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF) — **Final Rule Stage**

760. AIR FORCE MATERIEL COMMAND CONTRACTOR PERFORMANCE ASSESSMENT

Legal Authority: 10 USC 2305(a)(3)

CFR Citation: 32 CFR 838

Legal Deadline: None

Abstract: This rule will expand CPAR coverage to operation and maintenance contracts in AFMC. The CPAR system has been effective in improving the ability of AFMC source selection officials when making judgments concerning past performance of contractors on AFMC systems contracts. Performance on these contracts tends to be complex and is accomplished over several years. The CPAR system provides a consistent structure for collecting performance assessments by program officials over the life of these contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/15/90	55 FR 9733
NPRM Comment Period End	04/16/90	55 FR 9733
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no

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statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: R. Summerour, Department of Defense, Department of the Air Force, SAF/AQCF, 1060 Air Force Pentagon, Washington, DC 20330-1060, **703 695-3859**

RIN: 0701–AA33

761. UTILIZATION OF EXCESS AND DISPOSAL OF SURPLUS REAL PROPERTY

Significance: Agency Priority

Legal Authority: PL 100-526, sec 204; PL 101-510, sec 2905

CFR Citation: 41 CFR 132-47

Legal Deadline: None

Abstract: Describes the procedure to be used by the Air Force to transfer excess real property between Federal agencies and to dispose of surplus real property.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/91	56 FR 13286
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gilbert Sailer, Realty Specialist, Department of Defense, Department of the Air Force, AFBDA/BDR, 1211 South Fern Street, Arlington, VA 22202-2808, **703 614-9699**

RIN: 0701–AA35

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Completed Actions

762. AIR FORCE FREEDOM OF INFORMATION ACT PROGRAM (AFR 12-30)

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 806

Legal Deadline: None

Abstract: Establishes Air Force policies and procedures for implementing the Freedom of Information Act (FOIA) and explains how the public may get copies of Air Force records under the FOIA.

Timetable:

Action	Date	FR Cite
Final Action Effective	07/31/92	57 FR 41396
Final Action	09/10/92	57 FR 41396

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne W. Turner, Air Force Access Programs Manager, Department of Defense, Department of the Air Force, SAF/AAIA, 1610 Air Force Pentagon, Washington, DC 20330-1610, **703 697-3491**

RIN: 0701–AA31

763. AIR FORCE FEDERAL ACQUISITION REGULATION SUPPLEMENT CLAUSE: CONTRACTOR TOXICOLOGICAL TESTING-AIRCRAFT ACCIDENTS

Legal Authority: 5 USC 301

CFR Citation: 48 CFR 5323

Legal Deadline: None

Abstract: This rule requires toxicological testing of any contractor employees after an accident on an Air Force aircraft.

Timetable:

Action	Date	FR Cite
NPRM	05/24/91	56 FR 23829
NPRM Comment Period End	06/24/91	56 FR 23829
Withdrawn	02/02/93	58 FR 6771

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: R. Summerour, Department of Defense, Department of the Air Force, SAF/AQCF, 1060 Air Force Pentagon, Washington, DC 20330-1060, **703 695-3859**

RIN: 0701–AA39

764. ACQUISITION OF INFORMATION CONCERNING UNITED STATES PERSONS AND ORGANIZATIONS NOT AFFILIATED WITH THE DEPARTMENT OF DEFENSE (AFR 124-13)

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 954

Legal Deadline: None

Abstract: This regulation establishes Air Force policy, limitations, procedures, and operational guidance on collecting, processing, storing, and distributing information concerning U.S. persons and organizations not affiliated with the Department of Defense.

Timetable:

Action	Date	FR Cite
Withdrawn	01/19/93	58 FR 4902

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. Debra Donnahoo, Department of Defense, Department of the Air Force, SAF/IGV, 1140 Air Force Pentagon, Washington, DC 20330-1140, **703 697-5853**

RIN: 0701–AA40

765. • DEPARTMENT OF DEFENSE COMMERCIAL AIR CARRIER QUALITY AND SAFETY REVIEW PROGRAM

Legal Authority: 10 USC 8013; 10 USC 2640

CFR Citation: 32 CFR 861

Legal Deadline: None

Abstract: The Department of the Air Force revised its rule on DOD quality and safety criteria for air carriers providing or seeking to provide airlift services to the DOD. The Commercial Airlift Review Board (CARB) changes and current practices resulting from DOD reorganization actions are necessary for the CARB to legally and effectively carry out its aviation safety responsibilities.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/10/92	57 FR 44682
Final Action	09/09/92	57 FR 44682

Small Entities Affected: None

Government Levels Affected: None

DOD—AF — **Completed Actions**

Agency Contact: Col. Robert S. Wells, Jr., Director, Air Carrier Survey and Analysis Directorate, Department of Defense, Department of the Air Force, HQ AMC/XOB, Scott AFB, IL 62225-5001, **618 256-4801**

RIN: 0701–AA41

DEPARTMENT OF DEFENSE (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Proposed Rule Stage

766. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); BASIC PROGRAM (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This proposed rule removes the existing CHAMPUS benefit exclusion of certain diagnostic or treatment procedures which involve electronic transmission of data. The intention of this proposed amendment is to allow coverage, in addition to the current coverage of remote cardiac pacemaker monitoring, of otherwise allowable procedures when they employ electronic transfer of data to improve the quality and efficiency of the management of a clinical condition.

Timetable:

Action	Date	FR Cite
NPRM	09/24/91	56 FR 48134
NPRM Comment Period End	10/24/91	56 FR 48134

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: J Baker, Department of Defense, Office of Assistant Secretary for Health Affairs, Pentagon, Washington, DC 20301-1200, **303 361-4019**

RIN: 0720–AA06

767. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); FORMER SPOUSE/WIDOW(ER) AND FEDERAL CLAIMS COLLECTION ACT (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This proposed rule updates regulation changes to stipulate that annulled remarriages of former spouses or widows or widowers will be regarded as if the remarriage had never taken place and will reinstate their eligibility effective 12:01 a.m. of the day following the annulment; will clarify the effect of Medicare entitlement of former spouses; and will adopt the Federal Claims Collection Act and the Federal Claims Collection Standards by reference.

Timetable:

Action	Date	FR Cite
NPRM	09/24/91	56 FR 48135
NPRM Comment Period End	10/24/91	56 FR 48135

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: A Armijo, Department of Defense, Office of Assistant Secretary for Health Affairs, Pentagon, Washington, DC 20201-1200, **303 362-3630**

RIN: 0720–AA07

768. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); MAMMOGRAPHY AND PAPANICOLAOU (PAP) TESTS (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This proposed rule revises the CHAMPUS regulation's exclusions and limitations pertaining to preventive care and unnecessary diagnostic tests not related to a specific illness, injury, or definitive set of symptoms. This amendment is being made to allow coverage for screening mammography and papanicolaou tests on either a preventative or diagnostic basis.

Timetable:

Action	Date	FR Cite
NPRM	08/21/91	56 FR 41496
NPRM Comment Period End	09/20/91	56 FR 41496

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: T Agee, Department of Defense, Office of Assistant Secretary for Health Affairs, Pentagon, Washington, DC 20201-1200, **303 361-3586**

RIN: 0720–AA08

769. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); CERTIFIED MARRIAGE AND FAMILY THERAPISTS (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule proposes to amend the regulations to comply with section 702 of the National Defense Authorization Act for Fiscal Year 1991 which removed the requirement for physician supervision and referral for certified marriage and family therapists and requires all certified marriage and family therapists to accept CHAMPUS payment as payment in full. The intent of this amendment is to ensure that the relationship of certified marriage and family therapists is consistent with other mental health practitioners with comparable education and training

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while also protecting the CHAMPUS beneficiaries from incurring added out-of-pocket costs for care rendered that is not part of the current CHAMPUS mental health benefits package.

Timetable:

Action	Date	FR Cite
NPRM	11/12/91	56 FR 57498
NPRM Comment Period End	12/12/91	56 FR 57498

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: J Carroll, Department of Defense, Office of Assistant Secretary for Health Affairs, Pentagon, Washington, DC 20201-1200, **303 361-3521**

RIN: 0720–AA10

770. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); REQUIREMENTS FOR COVERAGE AND REIMBURSEMENT OF SERVICES OF PHYSICIANS IN TEACHING SETTINGS (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This proposed amendment provides specific requirements for coverage and reimbursement of services of teaching physicians and for physicians in training.

Timetable:

Action	Date	FR Cite
NPRM	12/10/91	56 FR 64488
NPRM Comment Period End	01/09/92	56 FR 64488

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: S Isaacson, Department of Defense, Office of Assistant Secretary for Health Affairs, Pentagon, Washington, DC 20201-1200, **303 361-4005**

RIN: 0720–AA13

DEPARTMENT OF DEFENSE (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA) — Final Rule Stage

771. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); SUPPLEMENTAL INSURANCE PLANS (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule defines and limits the types of plans recognized as supplemental insurance coverage under CHAMPUS. The rule will also help provide guidance in identifying plans that would come under the CHAMPUS double coverage regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/12/91	56 FR 26946
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: S. Regensberg, Department of Defense, Office of Assistant Secretary for Health Affairs, Pentagon, Washington, DC 20301-1200, **303 361-3572**

RIN: 0720–AA01

772. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROGRAM FOR THE HANDICAPPED (DOD 6010.8-R)

Significance: Agency Priority

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule simplifies access to, and administration of, the CHAMPUS Program for the Handicapped (PFTH). The PFTH benefit is limited to active duty Uniformed Service member dependents with moderate or severe mental retardation or a serious physical handicap. This proposal does not alter the PFTH benefit or PFTH eligibility requirements, but simply rewrites the applicable provisions to remove redundant material, provide more concise definition of key terms, and establish greater flexibility in the administration of the Program.

Timetable:

Action	Date	FR Cite
NPRM	06/10/91	56 FR 26635
NPRM Comment Period End	06/25/91	56 FR 26635
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: Undetermined

Agency Contact: J. Baker, Department of Defense, Office of Assistant Secretary for Health Affairs, Pentagon, Washington, DC 20301-1200, **303 361-4019**

RIN: 0720–AA04

773. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); REIMBURSEMENT OF PROVIDERS

Legal Authority: 5 USC 301; 10 USC 1079; 10 USC 1086

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This document proposes to implement the provisions of the Department of Defense Appropriations Act, 1993, section 9011, which limits in maximum allowable payment to physicians and other individual professional providers (including clinical laboratories), authorizes reductions in such amounts for overpriced procedures, and establishes limits on balance billing by providers.

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	57 FR 58427
NPRM Comment Period End	01/11/93	57 FR 58427

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Action	Date	FR Cite
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: S. Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs, Pentagon, Washington, DC 20201-1200, **703 695-3350**

RIN: 0720–AA15

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April 26, 1993

Part VI

Department of Education

Semiannual Regulatory Agenda

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DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulations

AGENCY: Office of the Secretary, Education.

ACTION: Publication of the semiannual agenda of Federal regulations.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulations issued under the authority of section 6(b) of Executive Order 12291 "Federal Regulation." The purpose of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to Kenneth C. Depew, Division of Regulations Management, Office of the General Counsel, Department of Education, Room 5125, FOB-6, 400 Maryland Avenue SW., Washington, DC 20202-2241; telephone: (202) 401-2884. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC, 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., eastern time.

SUPPLEMENTARY INFORMATION: Section 5 of Executive Order 12291, dated February 17, 1981, and the Regulatory Flexibility Act, 5 U.S.C. 602(a), require the Department of Education to publish, in October and April of each year, (1) an agenda of proposed regulations that the Agency has issued or expects to issue and currently effective rules that are under Agency review and (2) a brief description of the subject area of any rule that the Agency expects to propose or promulgate that is likely to have a significant impact on a substantial number of small entities. The agenda includes both notices of proposed rulemaking (NPRMs) currently being drafted and pending final regulations.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation of any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(b)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.
- An indication if the action is a priority and the criteria used in determining the priority status.

If the "Abstract" section of an entry refers readers to the preamble, it means that amendments to those particular regulations would be designed (1) to effect regulatory relief, including reducing paperwork and compliance burdens, improving cost effectiveness, and to the extent possible, vesting greater discretion in State and local agencies and (2), if necessary, to clarify and simplify requirements governing that program.

The Department also will review all regulations that will be published to ensure that, if appropriate, those regulations support the National Education Goals. These goals call for:

- All children starting school ready to learn;
- Increasing the high school graduation rate to at least 90 percent;
- U.S. students demonstrating competency in challenging subject matter, including English, mathematics, science, history, and geography;
- U.S. students becoming first in the world in science and mathematics achievement;
- Adult Americans becoming literate and possessing the knowledge and skills necessary to compete in a global economy and to exercise the rights and responsibilities of citizenship; and
- Freeing every school of drugs and violence so as to offer a disciplined environment conducive to learning.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded. Dates of future regulatory action are subject to revision in subsequent agendas.

The October agenda will reflect revised schedules for publication of regulations needed to implement the Higher Education Amendments of 1992 in accordance with section 431(g) of the General Education Provisions Act.

Dated: February 26, 1993.

Steven Y. Winnick,

Acting General Counsel.

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
774	Uniform Administrative Requirements for Grants and Cooperative Agreements	1880-AA34
775	Education Department General Administrative Regulations—Amendments III	1880-AA50
776	Uniform Administrative Requirements for Grants and Cooperative Agreements for State and Local Governments	1880-AA53
777	General Education Provisions Act—Enforcement: Proportionality and Equitable Offsets	1880-AA56
778	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) and Student Assistance General Provisions	1880-AA51
779	Family Educational Rights and Privacy	1880-AA57

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Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
780	State-Administered Programs Under the Rehabilitation Act of 1973	1880-AA41
781	Technical Amendments to Program Regulations	1880-AA33
782	General Education Provisions Act - Enforcement	1880-AA55
783	New Restrictions on Lobbying	1880-AA48
784	Department of Education Acquisition Regulation	1880-AA52

Departmental Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
785	Disposal and Utilization of Surplus Real Property for Educational Purposes	1880-AA42
786	Family Educational Rights and Privacy	1880-AA54

Office of Bilingual Education and Minority Languages Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
787	Bilingual Education—Evaluation Assistance Centers Program	1885-AA19

Office for Civil Rights—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
788	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance	1870-AA06

Office for Civil Rights—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
789	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance	1870-AA05

Office of Educational Research and Improvement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
790	Library Education and Human Resource Development	1850-AA48
791	Library Research and Demonstration Program; Improving Access to Research Library Resources Program; College Library Technology and Cooperation Grants Program	1850-AA47

Office of Educational Research and Improvement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
792	National Diffusion Network	1850-AA42

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Office of Educational Research and Improvement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
793	National Program for Math and Science Education; Fund for the Improvement and Reform of Schools and Teaching (FIRST); Schools and Teachers Program; FIRST: Family-School Partnership Program	1850-AA45
794	Library Literacy Program	1850-AA43
795	Library Services and Construction Act: State-Administered Program	1850-AA46

Office of Elementary and Secondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
796	Drug-Free Schools and Communities Program—Emergency Grants Program	1810-AA66

Office of Elementary and Secondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
797	Chapter 1 Program in Local Educational Agencies	1810-AA69
798	High School Equivalency Program and College Assistance Migrant Program	1810-AA68
799	Drug Free Schools and Communities Program—Counselor Training Grants Program	1810-AA65
800	Magnet Schools Assistance Program	1810-AA67
801	Territories and Freely Associated States Educational Grant Program	1810-AA62

Office of Postsecondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
802	Institutional Eligibility	1840-AB87
803	Institutional Eligibility Under the Higher Education Act of 1965, as Amended—Eligibility of Foreign Institutions and Foreign Graduate Medical Schools	1840-AB88
804	Secretary's Procedure and Criteria for Recognition of Accrediting Agencies	1840-AB82
805	Strengthening Institutions Program	1840-AB78
806	School, College, and University Partnerships	1840-AB63
807	College Facilities Loan Program	1840-AB61
808	Cooperative Education Program—General Administration Projects; Demonstration Projects; Research Projects; and Training and Resource Center Projects	1840-AB66
809	Urban Community Service	1840-AB64
810	Talent Search	1840-AB94
811	Educational Opportunity Centers	1840-AB95
812	Ronald E. McNair Postbaccalaureate Achievement	1840-AB65
813	Graduate Assistance in Areas of National Need	1840-AB68
814	Jacob K. Javits Fellowship Program	1840-AB93
815	Paul Douglas Teacher Scholarship Program	1840-AB76
816	Robert C. Byrd Honors Scholarship Program	1840-AB77
817	State Postsecondary Review Program	1840-AB89
818	Student Assistance General Provisions, Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program	1840-AB71
819	Student Assistance General Provisions and Federal Family Education Loan Program—Third-Party Servicers	1840-AB60
820	Student Assistance General Provisions—Ability to Benefit (Guidelines to Assist Institutions in Determining Student Eligibility for Title IV, HEA Student Financial Assistance)	1840-AB84
821	Student Assistance General Provisions—Subparts A and B	1840-AB85
822	Student Assistance General Provisions—Subparts D and F	1840-AB66
823	Student Assistance General Provisions—Subparts A and C - Student Eligibility	1840-AB90
824	Perkins Loan Program and Federal Family Education Loan Program	1840-AB50
825	Federal Stafford Loan Cancellation Demonstration Program	1840-AB62

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Office of Postsecondary Education—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
826	Exceptional Performance Designation in the Federal Family Education Loan Program (FFELP) for Lenders, Servicers, and Guaranty Agencies	1840-AB81
827	Federal Family Education Loan Program (FFELP) Loan Servicing and Collection Regulations	1840-AB83
828	Federal Family Education Loan Program (FFELP) (General Administration)	1840-AB97
829	Federal Direct Student Loan Program	1840-AB91
830	Federal Pell Grant Program; Presidential Access Scholarship Program	1840-AB73
831	State Student Incentive Grant Program	1840-AB72
832	National Early Intervention Scholarship and Partnership Program	1840-AB79
833	Campus Sexual Offenses Education and Prevention Program	1840-AB60

Office of Postsecondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
834	Strengthening Historically Black Colleges and Universities Program and Strengthening Historically Black Graduate Institutions	1840-AB74
835	Drug Prevention Programs in Higher Education	1840-AB11
836	Fund for the Improvement of Postsecondary Education	1840-AB75
837	Training Program for Federal TRIO Program, Upward Bound Program, and Student Support Services	1840-AB92
838	Patricia Roberts Harris Fellowship Program—Part 649	1840-AB67
839	International Education Programs	1840-AB69
840	Student Assistance General Provisions—Subparts A, B, C, E, G, and Appendix D	1840-AB19
841	Student Right-to-Know and Campus Security Act	1840-AB44

Office of Postsecondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
842	Student Assistance General Provisions—Emergency Action	1840-AB38
843	Institutional Eligibility—Additional Locations and Student Assistance General Provisions	1840-AB46
844	Guaranteed Student Loan Programs—Standardized Lender Agreements and PLUS Loan Disbursements	1840-AB51
845	Endowment Challenge Grants Program	1840-AB70
846	Minority Science Improvement Program	1840-AB59
847	Law School Clinical Experience Program	1840-AB58
848	Student Assistance General Provisions—Subparts G and H	1840-AB47
849	Student Assistance General Provisions—Immigration Status Confirmation	1840-AB96
850	Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs—Miscellaneous Changes	1840-AB22
851	Guaranteed Student Loan (GSL) Program, Including the Stafford Loan, PLUS, Supplemental Loans for Students and Consolidation Loan Programs (Federal Family Education Loan Program (FFELP))	1840-AA96
852	Guaranteed Student Loan (GSL) Programs, Including the Stafford Loan, PLUS, Supplemental Loans for Students, and Consolidation Loan Programs—Default Reduction Initiative	1840-AB41

Office of Special Education and Rehabilitative Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
853	Disability and Rehabilitation Research; General Provisions	1820-AB01
854	Disabilities Rehabilitation Research; Research and Demonstration Projects	1820-AB04
855	Disability and Rehabilitation Research; Rehabilitation Research and Training Centers	1820-AB05
856	Disability and Rehabilitation Research; Rehabilitation Engineering Centers	1820-AB06
857	State Vocational Rehabilitation Services Program	1820-AB12
858	State Vocational Rehabilitation Services Program—Order of Selection	1820-AB13
859	State Vocational Rehabilitation Services Program—Evaluation Standards and Performance Indicators	1820-AB14

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Office of Special Education and Rehabilitative Services—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
860	The State Independent Living Rehabilitation Services Program	1820-AB18
861	Centers for Independent Living—Standards and Evaluation Indicators	1820-AA81
862	Centers for Independent Living	1820-AB19
863	Independent Living Services for Older Blind Individuals	1820-AB20
864	Client Assistance Program	1820-AB16
865	Demonstration Projects to Increase Client Choice	1820-AB23
866	Projects for Initiating Special Recreation Programs for Individuals with Handicaps	1820-AB22
867	Protection and Advocacy of Individual Rights Program	1820-AB17
868	Rehabilitation Training: Rehabilitation Long-Term Training	1820-AB21
869	State Vocational Rehabilitation Unit In-Service Training	1820-AB24
870	Training of Interpreters for Deaf Individuals	1820-AB25

Office of Special Education and Rehabilitative Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
871	Early Intervention Program for Infants and Toddlers With Disabilities	1820-AA97
872	Training Personnel for the Education of Individuals with Disabilities - Grants for Personnel Training	1820-AB03
873	Disability and Rehabilitation Research; Technical Amendments	1820-AB09
874	State Vocational Rehabilitation Services Program—Criteria for Selection of Vocational Rehabilitation Services	1820-AB15
875	Technical Amendments Package - Rehabilitation Services Administration	1820-AB11

Office of Special Education and Rehabilitative Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
876	Regional Resource and Federal Centers	1820-AB00
877	Training Personnel for the Education of Individuals With Disabilities—Grants for Parent Training and Information Centers; State Educational Agencies and Institutes of Higher Education	1820-AA99
878	The State Vocational Rehabilitation Services Program - Deregulation	1820-AA47
879	Rehabilitation Services Administration General Deregulation	1820-AA45
880	The State Independent Living Rehabilitation Services Program - Deregulation	1820-AA37

Office of Vocational and Adult Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
881	State-Administered Workplace Literacy Program and National Workplace Literacy Program	1830-AA11

Office of the General Counsel—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
882	Equal Access to Justice	1801-AA01
883	U.S. Exchange Visitor Program—Request for Waiver of the Two-Year Foreign Residence Requirement	1801-AA07
884	Privacy Act Regulations	1801-AA06

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)

Proposed Rule Stage

774. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 074; 34 CFR 080

Legal Deadline: None

Abstract: These regulations remove Part 80 and revise Part 74 to establish certain governmentwide administrative requirements for grants and cooperative agreements to State and local governments, institutions of higher education, hospitals, and nonprofit and commercial organizations. These regulations were based on an OMB proposal to combine OMB Circulars A-102 (Grants and Cooperative Agreements with State and Local Governments) and A-110 (Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations) into a single, unified grants management circular. On October 29, 1990, the Office of Management and Budget (OMB) published a notice in the Federal Register (55 FR 45289) that cancelled plans to merge OMB Circulars A-102 and A-110. Therefore, the Department does not intend to combine administrative requirements for grants and cooperative agreements for all types of recipients into 34 CFR Part 74. The Department will revise the substance of the current Part 74 after OMB issues a final version of OMB Circular A-110, which is currently undergoing revision.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sherlyn Taylor, Grants and Contracts Service, Office of Human Resources and Administration, Department of Education, 400 Maryland Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4700, **202 708-5580**

RIN: 1880–AA34

775. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS—AMENDMENTS III

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 075; 34 CFR 076

Legal Deadline: None

Abstract: These proposed regulations would revise Part 75 to clarify various issues related to indirect cost rates, including the appropriate application of restricted indirect cost rates. These regulations would also affect Part 76 because that part incorporates the Part 75 restricted indirect cost rate rules.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sherlyn Taylor, Grants and Contracts Service, Office of Human Resources and Administration, Department of Education, 400 Maryland Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4700, **202 708-5580**

RIN: 1880–AA50

776. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS FOR STATE AND LOCAL GOVERNMENTS

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 080

Legal Deadline: None

Abstract: These regulations propose to revise part 80 to establish certain governmentwide administrative requirements for grants and cooperative agreements to State and local governments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Gregory Vick, Grants and Contracts Services, Office of Human Resources and Administration, Department of Education, 400 Maryland Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4700, **202 708-5580**

RIN: 1880–AA53

777. • GENERAL EDUCATION PROVISIONS ACT—ENFORCEMENT: PROPORTIONALITY AND EQUITABLE OFFSETS

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 1234; 20 USC 3474(a)

CFR Citation: 34 CFR 081

Legal Deadline: None

Abstract: The proposed regulations would clarify circumstances under which benefit to a grant or cooperative agreement and equitable offset are taken into account in determining harm to an identifiable Federal interest under GEPA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Theodore Sky, Senior Counsel, Office of the General Counsel, Department of Education, 400 Maryland Avenue SW., Room 4091, FOB-6, Washington, DC 20202-2110, **202 401-2605**

RIN: 1880–AA56

778. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCJREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS) AND STUDENT ASSISTANCE GENERAL PROVISIONS

Legal Authority: 20 USC 1082(a)(1) to 1082 (h)(1); 20 USC 1094(c)(1)(D); 20 USC 1221e-3(a)(1); 20 USC 3474; EO 12689

CFR Citation: 34 CFR 085; 34 CFR 668

Legal Deadline: None

Abstract: These proposed regulations would implement Executive Order 12689, which requires agency debarment and suspension actions under procurement or nonprocurement activities to have reciprocal governmentwide effect. The regulations would also clarify the policy and procedures that affect both governmentwide debarment and suspension and termination of participation of institutions of higher education in student financial assistance programs under Title IV of

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the Higher Education Act of 1965, as amended.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Jane Kane, Grants and Contracts Service, Office of Human Resources and Administration, Department of Education, 400 Maryland Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4700, 202 708-5580

RIN: 1880–AA51

779. • FAMILY EDUCATIONAL RIGHTS AND PRIVACY

Legal Authority: 20 USC 1232g

CFR Citation: 34 CFR 099

Legal Deadline: None

Abstract: These regulations would implement a provision of the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: LeRoy Rooker, Family Policy Compliance Office, Office of Human Resources & Administration, Department of Education, 400 Maryland Avenue SW., 2100 Corridor, L'Enfant Plaza, Washington, DC 20202-4605, 202 732-1807

RIN: 1880–AA57

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)
Final Rule Stage

780. STATE-ADMINISTERED PROGRAMS UNDER THE REHABILITATION ACT OF 1973

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 3474

CFR Citation: 34 CFR 076; 34 CFR 080

Legal Deadline: None

Abstract: These regulations provide flexibility to States in administering Federal grants by extending the time period for liquidation of certain kinds of obligations under State-administered programs of the Department's Rehabilitation Act of 1973. During the last session, Congress passed an amendment to the Rehabilitation Act of 1973, which has the effect of making funds available under that program, also available for obligation an additional year. Therefore, there is no need for these regulations. The Department will publish a notice withdrawing this rulemaking action.

Timetable:

Action	Date	FR Cite
NPRM	08/26/92	57 FR 38740
NPRM Comment Period End	10/13/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sherlyn Taylor, Grants and Contracts Service, Office of Human Resources and Administration, Department of Education, 400 Maryland Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4700, 202 708-5580

RIN: 1880–AA41

781. TECHNICAL AMENDMENTS TO PROGRAM REGULATIONS

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 074; 34 CFR 080

Legal Deadline: None

Abstract: On November 4, 1988, the Department published an NPRM proposing to establish certain governmentwide administrative requirements for grants and cooperative agreements to State and local governments, institutions of higher education, hospitals, and nonprofit and commercial organizations. The regulations would appear in a revised 34 CFR part 74. On October 29, 1990, the Office of Management and Budget (OMB) published a notice in the Federal Register (55 FR 45289) that cancelled plans to merge OMB Circulars A-102 and A-110. Therefore, the Department does not intend to combine administrative requirements for grants and cooperative agreements for all types of recipients into 34 CFR part 74. However, the Department intends to revise program regulations to cite the applicable administrative requirements found in EDGAR. A notice amending certain program regulations will be published in the Federal Register after final action is taken in the effort to reorganize EDGAR.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sherlyn Taylor, Grants and Contracts Service, Office of Human Resources and Administration, Department of Education, 400 Maryland Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4700, 202 708-5580

RIN: 1880–AA33

782. GENERAL EDUCATION PROVISIONS ACT - ENFORCEMENT

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 081

Legal Deadline: None

Abstract: These regulations implement technical changes and clarify Part 81 of the Education Department General Administrative Regulations on proceedings before the Office of Administrative Law Judges.

Timetable:

Action	Date	FR Cite
NPRM	01/06/92	57 FR 506
Final Action	06/00/93	

Small Entities Affected: Undetermined

ED—EDMAN — **Final Rule Stage**

Government Levels Affected: Undetermined

Agency Contact: Frank Furey, Office of Hearings and Appeals, Department of Education, 400 Maryland Avenue SW., Room 2100, L'Enfant Plaza, Washington, DC 20202-4533, 202 732-1828

RIN: 1880–AA55

783. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; 20 USC 347-4

CFR Citation: 34 CFR 082

Legal Deadline: None

Abstract: These regulations implement provisions to prohibit recipients of Federal grants and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific grant or loan, and imposes certain certification and disclosure requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sherlyn Taylor, Grants and Contracts Service, Office of Human Resources and Administration, Department of Education, 400 Maryland Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4700, 202 708-5580

RIN: 1880–AA48

784. DEPARTMENT OF EDUCATION ACQUISITION REGULATION

Legal Authority: 15 USC 205b

CFR Citation: 48 CFR 3410

Legal Deadline: None

Abstract: These regulations implement requirements of Public Law 100-418, which designates the metric system as the preferred system of weights and measures.

Timetable:

Action	Date	FR Cite
NPRM	11/27/92	57 FR 56416
Final Action	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Verbena R. Crowley, Grants and Contracts Service, Office of Human Resources and Administration, Department of Education, 400 Maryland Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4702, 202 708-8528

RIN: 1880–AA52

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)
Completed Actions

785. DISPOSAL AND UTILIZATION OF SURPLUS REAL PROPERTY FOR EDUCATIONAL PURPOSES

CFR Citation: 34 CFR 012

Completed:

Reason	Date	FR Cite
Final Action	12/18/92	57 FR 60394
Final Action Effective	02/01/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: David B. Hakola, 202 401-0500

RIN: 1880–AA42

786. FAMILY EDUCATIONAL RIGHTS AND PRIVACY

CFR Citation: 34 CFR 099

Completed:

Reason	Date	FR Cite
Final Action	01/07/93	58 FR 3188
Final Action Effective	02/25/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: LeRoy Rooker, 202 732-1807

RIN: 1880–AA54

DEPARTMENT OF EDUCATION (ED)
Office of Bilingual Education and Minority Languages Affairs (OBEMLA)
Completed Actions

787. BILINGUAL EDUCATION—EVALUATION ASSISTANCE CENTERS PROGRAM

CFR Citation: 34 CFR 555

Completed:

Reason	Date	FR Cite
Final Action	11/06/92	57 FR 53194
Final Action Effective	12/21/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ana Maria Garcia, 202 205-8077

RIN: 1885–AA19

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DEPARTMENT OF EDUCATION (ED)
Office for Civil Rights (OCR)
Proposed Rule Stage

788. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 20 USC 1681

CFR Citation: 34 CFR 106

Legal Deadline: None

Abstract: These proposed regulations would amend the fringe benefits provision of the regulations implementing Title IX of the Education Amendments of 1972. The regulations would require employers offering employees a fringe benefit plan to have both equal pay-in and equal pay-out provisions, regardless of the sex of the employee.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeanette J. Lim, Director, Policy, Enforcement and Program Service, Department of Education, Office for Civil Rights, 400 Maryland Avenue SW., Rm 5036, Switzer Bldg., Washington, DC 20202-1170, 202 205-8635

RIN: 1870–AA06

DEPARTMENT OF EDUCATION (ED)
Office for Civil Rights (OCR)
Final Rule Stage

789. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6101 et seq

CFR Citation: 34 CFR 110

Legal Deadline: None

Abstract: These agency-specific final regulations provide appropriate investigative, conciliation, and enforcement procedures consistent with the general Age Discrimination Act regulations issued by the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jeanette J. Lim, Director, Policy, Enforcement and Program Service, Department of Education, Office for Civil Rights, 400 Maryland Avenue SW., Room 5036 Switzer Bldg., Washington, DC 20202-1170, 202 205-8635

RIN: 1870–AA05

DEPARTMENT OF EDUCATION (ED)
Office of Educational Research and Improvement (OERI)
Proposed Rule Stage

790. • LIBRARY EDUCATION AND HUMAN RESOURCE DEVELOPMENT

Legal Authority: 20 USC 1021; 20 USC 1032

CFR Citation: 34 CFR 776

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louise Sutherland, Acting Director, Discretionary Library Programs Division, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Room 404, Washington, DC 20208-5571, 202 219-1315

RIN: 1850–AA48

791. • LIBRARY RESEARCH AND DEMONSTRATION PROGRAM; IMPROVING ACCESS TO RESEARCH LIBRARY RESOURCES PROGRAM; COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS PROGRAM

Legal Authority: 20 USC 1021; 20 USC 1022; 20 USC 1033; 20 USC 1041; 20 USC 1042; 20 USC 1047

CFR Citation: 34 CFR 777; 34 CFR 778; 34 CFR 779

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louise Sutherland, Acting Director, Discretionary Library Programs Division, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Room 404, Washington, DC 20208-5571, 202 219-1315

RIN: 1850–AA47

DEPARTMENT OF EDUCATION (ED)
Office of Educational Research and Improvement (OERI)
Final Rule Stage

792. NATIONAL DIFFUSION NETWORK

Legal Authority: 20 USC 2962

CFR Citation: 34 CFR 785 to 787

Legal Deadline: None

Abstract: These regulations establish separate criteria for reapproval of exemplary programs, products, practices, and dissemination processes that have been previously approved by either the Joint Dissemination Review Panel or the Program Effectiveness Panel.

Timetable:

Action	Date	FR Cite
NPRM	09/25/92	57 FR 44408
NPRM Comment Period End	10/26/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Helen O'Leary, Recognition Division, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Room 510, Washington, DC 20208-5645, 202 219-2134

RIN: 1850–AA42

ED—OERI
Final Rule Stage

DEPARTMENT OF EDUCATION (ED)
Office of Educational Research and Improvement (OERI)
Completed Actions

793. NATIONAL PROGRAM FOR MATH AND SCIENCE EDUCATION; FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING (FIRST): SCHOOLS AND TEACHERS PROGRAM; FIRST: FAMILY-SCHOOL PARTNERSHIP PROGRAM

CFR Citation: 34 CFR 755; 34 CFR 757; 34 CFR 758

Completed:

Reason	Date	FR Cite
Final Action	11/06/92	57 FR 5320
Final Action Effective	11/06/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anmora Dorsey, 202 219-2087

RIN: 1850–AA45

794. LIBRARY LITERACY PROGRAM

CFR Citation: 34 CFR 769

Completed:

Reason	Date	FR Cite
Final Action	10/30/92	57 FR 49264
Final Action Effective	12/14/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol Cameron Lyons, 202 219-1321

RIN: 1850–AA43

795. LIBRARY SERVICES AND CONSTRUCTION ACT: STATE-ADMINISTERED PROGRAM

CFR Citation: 34 CFR 770

Completed:

Reason	Date	FR Cite
Final Action	02/23/93	58 FR 11166
Final Action Effective	04/28/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Robert Klassen, 202 219-1303

RIN: 1850–AA46

DEPARTMENT OF EDUCATION (ED)
Office of Elementary and Secondary Education (OESE)
Proposed Rule Stage

796. DRUG-FREE SCHOOLS AND COMMUNITIES PROGRAM—EMERGENCY GRANTS PROGRAM

Legal Authority: 20 USC 3216

CFR Citation: 34 CFR 232

Legal Deadline: None

Abstract: These regulations would revise the Emergency Grants Program: (1) to allow applicants to design programs to combat drug and alcohol abuse by students in the most troubled areas of a local educational agency, (2) to clarify eligibility requirements, and (3) to ensure that applicants are able to demonstrate their eligibility to receive an emergency grant.

Timetable:

Action	Date	FR Cite
NPRM	03/23/93	58 FR 15748
NPRM Comment Period End	05/07/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The NPRM published on March 23, 1993, inadvertently listed this action as RIN 1810-AA65.

Agency Contact: Madeline Bosma, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue SW., Room 2123, FOB-6, Washington, DC 20202-6439, 202 401-1258

RIN: 1810–AA66

DEPARTMENT OF EDUCATION (ED)
Office of Elementary and Secondary Education (OESE)
Completed Actions

797. • CHAPTER 1 PROGRAM IN LOCAL EDUCATIONAL AGENCIES

Legal Authority: 20 USC 2701 to 2731; 20 USC 2821 to 2838; 20 USC 2851 to 2854; 20 USC 2891 to 2901

CFR Citation: 34 CFR 200

Legal Deadline: None

Abstract: These regulations implement a statutory amendment to Chapter 1 that provides flexibility to local educational agencies (LEAs) in meeting one of the fiscal requirements governing schoolwide projects.

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ED—OESE — **Completed Actions**

Timetable:

Action	Date	FR Cite
Final Action	03/01/93	58 FR 11920

Small Entities Affected: None

Government Levels Affected: None

Additional Information: In accordance with section 431(b)(2)(A) of the General Education Provisions Act and the Administrative Procedure Act, the Secretary has waived the normal rulemaking procedure because these regulations merely incorporate a statutory change. Therefore, the regulation would be published as a final rule with no public comment.

Agency Contact: Mary Jean LeTendre, Director, Compensatory Education Programs, Office of Elementary Education, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue SW., Room 2043, FOB-6, Washington, DC 20202-6232, 202 401-1682

RIN: 1810–AA69

798. HIGH SCHOOL EQUIVALENCY PROGRAM AND COLLEGE ASSISTANCE MIGRANT PROGRAM

CFR Citation: 34 CFR 206

Completed:

Reason	Date	FR Cite
Final Action	12/18/92	57 FR 60406
Final Action Effective	02/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank V. Corrigan, 202 401-0740

RIN: 1810–AA68

799. DRUG FREE SCHOOLS AND COMMUNITIES PROGRAM—COUNSELOR TRAINING GRANTS PROGRAM

CFR Citation: 34 CFR 238

Completed:

Reason	Date	FR Cite
Final Action	03/09/93	58 FR 13176

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Mattocks, 202 401-1258

RIN: 1810–AA65

800. MAGNET SCHOOLS ASSISTANCE PROGRAM

CFR Citation: 34 CFR 280

Completed:

Reason	Date	FR Cite
Final Action	12/24/92	57 FR 61508
Final Action Effective	02/07/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sylvia Wright, 202 401-0360

RIN: 1810–AA67

801. TERRITORIES AND FREELY ASSOCIATED STATES EDUCATIONAL GRANT PROGRAM

CFR Citation: 34 CFR 282

Completed:

Reason	Date	FR Cite
Final Action	01/19/93	58 FR 5174
Final Action Effective	03/05/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Zulla Toney, 202 401-1154

RIN: 1810–AA62

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Proposed Rule Stage

802. • INSTITUTIONAL ELIGIBILITY

Legal Authority: 20 USC 1071 et seq; 20 USC 1078; 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1099; 20 USC 1141; 26 USC 501(c)

CFR Citation: 34 CFR 600

Legal Deadline: None

Abstract: These regulations would amend the Institutional Eligibility Regulations to reflect statutory changes made by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Carney M. McCullough, Acting Chief, General Provisions Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4318, ROB-3, Washington, DC 20202, 202 708-7888

RIN: 1840–AB87

803. • INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED—ELIGIBILITY OF FOREIGN INSTITUTIONS AND FOREIGN GRADUATE MEDICAL SCHOOLS

Legal Authority: 20 USC 1085; 20 USC 1088

CFR Citation: 34 CFR 600

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Higher Education Amendments of 1992 and set forth the procedures and criteria under which a foreign institution or a foreign graduate medical school may be eligible to apply for participation in the Federal Family Education Loan Program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carney M. McCullough, Acting Chief, General Provisions Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4318, ROB-3, Washington, DC 20202, 202 708-7888

RIN: 1840–AB88

ED—OPE — **Proposed Rule Stage**

804. • SECRETARY'S PROCEDURE AND CRITERIA FOR RECOGNITION OF ACCREDITING AGENCIES

Legal Authority: 20 USC 1058; 20 USC 1061; 20 USC 1085; 20 USC 1088; 20 USC 1141; 20 USC 1401; 20 USC 2471; 20 USC 3381

CFR Citation: 34 CFR 602

Legal Deadline: None

Abstract: These regulations govern the recognition of accrediting agencies that the Secretary determines to be reliable authorities as to the education or training provided by the institutions and/or programs they accredit. The regulations implement certain provisions of the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Karen W. Kershenstein, Acting Director, Accreditation and State Liaison Division, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3035, ROB-3, Washington, DC 20202, 202 708-7417

RIN: 1840–AB82

805. • STRENGTHENING INSTITUTIONS PROGRAM

Legal Authority: 20 USC 1057 to 1059c; 20 USC 1066 to 1069f

CFR Citation: 34 CFR 607

Legal Deadline: None

Abstract: These regulations would implement changes made in the program by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Louis J. Venuto, Division of Institutional Development, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3042, ROB-3, Washington, DC 20202-5251, 202 708-8839

RIN: 1840–AB78

806. • SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS

Legal Authority: 20 USC 1001 et seq

CFR Citation: 34 CFR 610

Legal Deadline: None

Abstract: These regulations are needed to implement certain provisions of the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard T. Sonnergren, Director, Division of Student Services, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 5065, FOB-6, Washington, DC 20202-5249, 202 708-4804

RIN: 1840–AB63

807. • COLLEGE FACILITIES LOAN PROGRAM

Legal Authority: 20 USC 1132-d to 1132d-3

CFR Citation: 34 CFR 614

Legal Deadline: None

Abstract: These regulations would implement changes made in the program by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/15/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph P. Ferguson, Div. of Higher Education Incentive Programs, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3022, ROB-3, Washington, DC 20202-5251, 202 708-7389

RIN: 1840–AB61

808. • COOPERATIVE EDUCATION PROGRAM—GENERAL ADMINISTRATION PROJECTS; DEMONSTRATION PROJECTS; RESEARCH PROJECTS; AND TRAINING AND RESOURCE CENTER PROJECTS

Legal Authority: 20 USC 1133 to 1133c

CFR Citation: 34 CFR 631 to 635

Legal Deadline: None

Abstract: These regulations would implement changes made in the programs by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John E. Bonas, Div. of Higher Education Incentive Programs, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3022, ROB-3, Washington, DC 20202-5251, 202 708-9407

RIN: 1840–AB68

809. • URBAN COMMUNITY SERVICE

Legal Authority: 20 USC 1136 to 1136h

CFR Citation: 34 CFR 636

Legal Deadline: None

Abstract: These regulations would implement changes made in the program by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: W. Stanley Kruger, Div. of Higher Education Incentive Programs, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3022,

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Proposed Rule Stage

ROB-3, Washington, DC 20202-5251, 202 708-7389

RIN: 1840–AB64

810. • TALENT SEARCH

Legal Authority: 20 USC 1070a-11; 20 USC 1070a-12

CFR Citation: 34 CFR 643

Legal Deadline: None

Abstract: These regulations are needed to implement certain provisions of the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard T. Sonnergren, Director, Division of Student Services, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 5065, FOB-6, Washington, DC 20202-5249, 202 708-4804

RIN: 1840–AB94

811. • EDUCATIONAL OPPORTUNITY CENTERS

Legal Authority: 20 USC 1070a-16

CFR Citation: 34 CFR 644

Legal Deadline: None

Abstract: These regulations would implement changes made in the program by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard T. Sonnergren, Director, Division of Student Services, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 5065, FOB-6, Washington, DC 20202-5249, 202 708-4804

RIN: 1840–AB95

812. • RONALD E. MCNAIR POSTBACCALAUREATE ACHIEVEMENT

Legal Authority: 20 USC 1070a-15

CFR Citation: 34 CFR 647

Legal Deadline: None

Abstract: These regulations would implement changes made in the program by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard T. Sonnergren, Director, Division of Student Services, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 5065, FOB-6, Washington, DC 20202-5249, 202 708-4804

RIN: 1840–AB65

813. • GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

Legal Authority: 20 USC 1134; 20 USC 1134l; 20 USC 1134g-1

CFR Citation: 34 CFR 648

Legal Deadline: None

Abstract: These regulations are needed to implement the Graduate Assistance in Areas of National Need Program, recently amended by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carolyn Proctor-Kelly, Div. of Higher Education Incentive Program, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3022, ROB-3, Washington, DC 20202-5251, 202 708-7389

RIN: 1840–AB66

814. • JACOB K. JAVITS FELLOWSHIP PROGRAM

Legal Authority: 20 USC 1134; 20 USC 1134h to 1134k-1

CFR Citation: 34 CFR 650

Legal Deadline: None

Abstract: The regulations implement changes made in the program by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jane Wrenn, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3022, ROB-3, Washington, DC 20202-5251, 202 708-9403

RIN: 1840–AB93

815. • PAUL DOUGLAS TEACHER SCHOLARSHIP PROGRAM

Legal Authority: 20 USC 1104 to 1104k

CFR Citation: 34 CFR 653

Legal Deadline: None

Abstract: These regulations would implement changes made in the program by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Valerie Hurry, Div. of Higher Education Incentive Programs, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3022, ROB-3, Washington, DC 20202-5251, 202 708-4953

RIN: 1840–AB76

816. • ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

Legal Authority: 20 USC 1070d-35 to 1070-41

ED—OPE

Proposed Rule Stage

CFR Citation: 34 CFR 654

Legal Deadline: None

Abstract: These regulations would implement changes made in the program by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ron Amon, Div. of Higher Education Incentive Programs, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3022, ROB-3, Washington, DC 20202-5251, 202 708-7861

RIN: 1840–AB77

817. • STATE POSTSECONDARY REVIEW PROGRAM

Legal Authority: 20 USC 1099a

CFR Citation: 34 CFR 667

Legal Deadline: None

Abstract: These regulations would implement the provisions of the Higher Education Amendments of 1992, Pub. L. 102-325.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carney M. McCullough, Acting Chief, General Provisions Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4318, ROB-3, Washington, 20202, 202 708-7888

RIN: 1840–AB89

818. • STUDENT ASSISTANCE GENERAL PROVISIONS, FEDERAL PERKINS LOAN PROGRAM, FEDERAL WORK-STUDY PROGRAM, AND FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Legal Authority: 20 USC 1070b to 1070b-3; 20 USC 1087aa to 1087hh; 20 USC 1094; 20 USC 2571 to 2756b

CFR Citation: 34 CFR 668; 34 CFR 674; 34 CFR 675; 34 CFR 676

Legal Deadline: None

Abstract: These regulations would propose a change to the Student Assistance General Provisions resulting from public comments received in response to a notice published in the Federal Register requesting comments on statutes and regulations that substantially impede economic growth or impose unnecessary burdens. These regulations also propose to revise the existing campus-based regulations to implement the Higher Education Amendments of 1992, enacted July 23, 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold McCullough, Chief, Campus-Based Programs Section, Grants Branch, Policy Development Division, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4018, ROB-3, Washington, DC 20202-5447, 202 708-4690

RIN: 1840–AB71

819. • STUDENT ASSISTANCE GENERAL PROVISIONS AND FEDERAL FAMILY EDUCATION LOAN PROGRAM—THIRD-PARTY SERVICERS

Legal Authority: 20 USC 1071 to 1087-2; 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668; 34 CFR 682

Legal Deadline: None

Abstract: These regulations would amend the Student Assistance General Provisions and Federal Family Education Loan Program regulations to establish procedures for fines on, emergency actions against, and limitations, suspensions, and terminations of the eligibility of third-party servicers to contract with institutions, guaranty agencies, and lenders.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carney M. McCullough, Acting Chief, General Provisions Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4318, ROB-3, Washington, DC 20202, 202 708-7888

RIN: 1840–AB80

820. • STUDENT ASSISTANCE GENERAL PROVISIONS—ABILITY TO BENEFIT (GUIDELINES TO ASSIST INSTITUTIONS IN DETERMINING STUDENT ELIGIBILITY FOR TITLE IV, HEA STUDENT FINANCIAL ASSISTANCE)

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations will implement guidelines for institutions to determine student eligibility through administering an ability to benefit test and a cumulative list of approved Ability-To-Benefit Examinations, as provided by the Higher Education Amendments of 1992 (Pub. L. 102-325, enacted July 23, 1992).

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorraine Kennedy, Program Analyst, Student Eligibility and Verification Section, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW.,

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Room 4318, ROB-3, Washington, DC 20202, **202 708-4601**

RIN: 1840–AB84

821. • STUDENT ASSISTANCE GENERAL PROVISIONS—SUBPARTS A AND B

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations would amend the provisions of Subpart A and Subpart B of the Student Assistance General Provisions regulations in accordance with the Higher Education Amendments of 1992 (Pub. L. 102-325).

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	07/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John DeCleene, Program Specialist, General Provisions Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4318, ROB-3, Washington, DC 20202, **202 708-7888**

RIN: 1840–AB85

822. • STUDENT ASSISTANCE GENERAL PROVISIONS—SUBPARTS D AND F

Legal Authority: 20 USC 1082; 20 USC 1092

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations would implement changes to the Higher Education Act of 1965 made by the Higher Education Amendments of 1992 concerning the student consumer provisions and misrepresentation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paula M. Husselmann, Senior Program Specialist, General Provisions Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4318, ROB-3, Washington, DC 20202, **202 708-7888**

RIN: 1840–AB86

823. • STUDENT ASSISTANCE GENERAL PROVISIONS—SUBPARTS A AND C - STUDENT ELIGIBILITY

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Higher Education Amendments of 1992 that pertain to student eligibility. They clarify policy with regard to the eligibility of incarcerated students, students studying abroad, graduate students, and students enrolled in telecommunications or correspondence courses.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Claude Denton, Program Specialist, General Provisions Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4318, ROB-3, Washington, DC 20202, **202 708-7888**

RIN: 1840–AB90

824. PERKINS LOAN PROGRAM AND FEDERAL FAMILY EDUCATION LOAN PROGRAM

Legal Authority: 20 USC 1087aa to 1087hh; 20 USC 421 to 429; 20 USC 1071 to 1087-2

CFR Citation: 34 CFR 674; 34 CFR 682

Legal Deadline: None

Abstract: These proposed regulations would establish procedures for managing the two programs and set standards for extending credit in accordance with OMB circular A-129.

Timetable:

Action	Date	FR Cite
NPRM	03/10/93	58 FR 13356
NPRM Comment Period End	04/26/93	58 FR 13356
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold McCullough, Chief, Campus Based Programs Section, Grants Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4018, ROB-3, Washington, DC 20202, **202 708-4690**

RIN: 1840–AB50

825. • FEDERAL STAFFORD LOAN CANCELLATION DEMONSTRATION PROGRAM

Legal Authority: 20 USC 1078-10

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These regulations are needed to implement certain provisions of the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela A. Moran, Acting Chief, FFEL Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4310, ROB-3, Washington, DC 20202-5449, **202 708-8242**

RIN: 1840–AB62

826. • EXCEPTIONAL PERFORMANCE DESIGNATION IN THE FEDERAL FAMILY EDUCATION LOAN PROGRAM (FFELP) FOR LENDERS, SERVICERS, AND GUARANTY AGENCIES

Legal Authority: 20 USC 1071 to 1087

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These regulations are needed to implement certain provisions of the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela A. Moran, Acting Chief, FFEL Branch, Pell and State Grant Section, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4310, ROB-3, Washington, DC 20202-5449, **202 708-8242**

RIN: 1840–AB81

827. • FEDERAL FAMILY EDUCATION LOAN PROGRAM (FFELP) LOAN SERVICING AND COLLECTION REGULATIONS

Legal Authority: 20 USC 1071 to 1087

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These regulations are needed to implement certain provisions of the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela A. Moran, Acting Chief, FFEL Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4310, ROB-3, Washington, DC 20202-5449, **202 708-8242**

RIN: 1840–AB83

828. • FEDERAL FAMILY EDUCATION LOAN PROGRAM (FFELP) (GENERAL ADMINISTRATION)

Legal Authority: 20 USC 1071 to 1087

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These regulations are needed to implement certain provisions of the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela A. Moran, Acting Chief, FFEL Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4310, ROB-3, Washington, DC 20202-5449, **202 807-8242**

RIN: 1840–AB97

829. • FEDERAL DIRECT STUDENT LOAN PROGRAM

Legal Authority: 20 USC 1071 to 1087a

CFR Citation: 34 CFR 685

Legal Deadline: NPRM, Statutory, April 1993. Final, Statutory, July 1993.

Abstract: These proposed regulations would implement certain provisions of Higher Education Amendments of 1992. The regulations would establish a new loan demonstration program. Under this demonstration program, student and parent loan capital would be provided directly by the Federal Government rather than through private lenders.

Timetable:

Action	Date	FR Cite
NPRM	04/02/93	58 FR 17472
Final Action	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lloyd Robertson, Program Specialist, Federal Direct Student Loan Program, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 490, L'Enfant Plaza, Eastside, Washington, DC 20202, **202 732-1818**

RIN: 1840–AB91

830. • FEDERAL PELL GRANT PROGRAM; PRESIDENTIAL ACCESS SCHOLARSHIP PROGRAM

Legal Authority: 20 USC 1070a

CFR Citation: 34 CFR 690; 34 CFR 691

Legal Deadline: None

Abstract: FEDERAL PELL GRANT PROGRAM: These proposed regulations would amend the Pell Grant Program regulations to incorporate statutory changes made by the 1992 Higher Education Amendments. These changes would alter how institutions administer the Federal Pell Grant program and incorporate new requirements that the Federal Pell Grants supplement and not supplant a State's postsecondary educational expenditures for incarcerated students within that State.

PRESIDENTIAL ACCESS SCHOLARSHIP PROGRAM: These proposed regulations implement the Presidential Access Scholarship Program and provide the requirements that States, institutions, and students must follow to participate in and administer the Presidential Access Scholarship Program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Fred H. Sellers, Chief, Pell and State Grant Section, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4018, ROB-3, Washington, DC 20202-5447, **202 708-4607**

RIN: 1840–AB73

831. • STATE STUDENT INCENTIVE GRANT PROGRAM

Legal Authority: 20 USC 1070c to 1070c-4

CFR Citation: 34 CFR 692

Legal Deadline: None

Abstract: These proposed regulations would amend the State Student Incentive Grant Program regulations to clarify them, to make minor technical changes, and to implement statutory changes made by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Fred Sellers, Chief, Pell and State Grant Section, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4018, ROB-3, Washington, DC 20202-5447, **202 708-4607**

RIN: 1840–AB72

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ED—OPE — **Proposed Rule Stage**

832. • NATIONAL EARLY INTERVENTION SCHOLARSHIP AND PARTNERSHIP PROGRAM

Legal Authority: 20 USC 1070a-21 to 1070a-27

CFR Citation: 34 CFR 693

Legal Deadline: None

Abstract: These proposed regulations would implement the new National Early Intervention Scholarship and Partnership Program under Chapter 2, Subpart 2, Part A, Title IV, of the Higher Education Act of 1965, Higher Education Amendments of 1992, enacted July 23, 1992 (Pub. L. 102-325). These proposed regulations also specify the role of the Secretary, the responsibilities of the student applicant eligibility requirements, and the criteria by which the Secretary approves a State's application to participate in the program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Fred Sellers, Chief, Pell and State Grants Section, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4018, ROB-3, Washington, DC 20202-5447, **202 708-4607**

RIN: 1840–AB79

833. • CAMPUS SEXUAL OFFENSES EDUCATION AND PREVENTION PROGRAM

Legal Authority: 20 USC 1145h

CFR Citation: 34 CFR 698

Legal Deadline: None

Abstract: These regulations are needed to implement the Campus Sexual Offenses Education and Prevention Program recently enacted in the Higher Education Amendments of 1992 (Pub. L. 102-325).

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: H. Reed Saunders, Director, Div. of Higher Education Program Services, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3012, ROB-3, Washington, DC 20202-5170, **202 708-8922**

RIN: 1840–AB60

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Final Rule Stage

834. • STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES PROGRAM AND STRENGTHENING HISTORICALLY BLACK GRADUATE INSTITUTIONS

Legal Authority: 20 USC 1060; 20 USC 1063; 20 USC 1063a; 20 USC 1063c; 20 USC 1069c; 20 USC 1069d; 20 USC 1069f

CFR Citation: 34 CFR 608; 34 CFR 609

Legal Deadline: None

Abstract: These regulations are needed to implement certain provisions of the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	02/23/93	58 FR 11158
Final Action	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elwood L. Bland, Division of Institutional Development, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3042, ROB-3, Washington, DC 20202-5336, **202 708-9926**

RIN: 1840–AB74

835. DRUG PREVENTION PROGRAMS IN HIGHER EDUCATION

Legal Authority: 20 USC 3211

CFR Citation: 34 CFR 612

Legal Deadline: None

Abstract: These regulations would implement various policy changes through amendments to current regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/25/92	57 FR 44350
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donald Fischer, Program Analyst, Fund for the Improvement of Postsecondary Education, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3000, ROB-3, Washington, DC 20202-5171, **202 708-5771**

RIN: 1840–AB11

836. • FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

Legal Authority: 20 USC 1135 to 1135a-2; 20 USC 1135a-11; 20 USC 1137 to 1137a

CFR Citation: 34 CFR 630

Legal Deadline: None

Abstract: These regulations would implement changes made in the program by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John E. Donahue, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3100, ROB-3, Washington, DC 20202-5175, **202 708-5750**

RIN: 1840–AB75

ED—OPE — **Final Rule Stage**

837. • TRAINING PROGRAM FOR FEDERAL TRIO PROGRAM, UPWARD BOUND PROGRAM, AND STUDENT SUPPORT SERVICES

Legal Authority: 20 USC 1070d

CFR Citation: 34 CFR 642; 34 CFR 645; 34 CFR 646

Legal Deadline: None

Abstract: The regulations would implement changes made in the program by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard T. Sonnergren, Director, Division of Student Services, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 5056, FOB-6, Washington, DC 20202-5249, **202 708-4804**

RIN: 1840–AB92

838. • PATRICIA ROBERTS HARRIS FELLOWSHIP PROGRAM—PART 649

Legal Authority: 20 USC 1134; 20 USC 1134d to 1134g

CFR Citation: 34 CFR 649

Legal Deadline: None

Abstract: These regulations are needed to implement certain provisions of the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	03/01/93	58 FR 11928
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Miller, Div. of Higher Education Incentive Programs, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3022, ROB-3, Washington, DC 20202-5251, **202 708-9415**

RIN: 1840–AB67

839. • INTERNATIONAL EDUCATION PROGRAMS

Legal Authority: 20 USC 1121 to 1130b; 20 USC 1122; 20 USC 1124; 20 USC 1125; 20 USC 1130 to 1130b; 20 USC 1123; 20 USC 1125a

CFR Citation: 34 CFR 655; 34 CFR 656; 34 CFR 657; 34 CFR 658; 34 CFR 660; 34 CFR 661; 34 CFR 669; 34 CFR 671

Legal Deadline: None

Abstract: These regulations for the Title VI programs are needed to implement changes in the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph F. Belmonte, Deputy Director, Center for International Education (CIE), Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3052, ROB-3, Washington, DC 20202-5248, **202 708-7283**

RIN: 1840–AB69

840. STUDENT ASSISTANCE GENERAL PROVISIONS—SUBPARTS A, B, C, E, G, AND APPENDIX D

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations amend the provisions related to Selective Service requirements, implement a provision of the Omnibus Budget Reconciliation Act of 1989, Pub. L. 101-239, and make other miscellaneous changes in the student assistance general provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/23/91	56 FR 66496
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This document includes 1840-AB36.

Agency Contact: Carney M. McCullough, Acting Chief Branch, General Provisions, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4318, ROB-3, Washington, DC 20202, **202 708-7888**

RIN: 1840–AB19

841. STUDENT RIGHT-TO-KNOW AND CAMPUS SECURITY ACT

Legal Authority: PL 101-542

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations implement certain provisions of the Student Right-to-Know and Campus Security Act.

Timetable:

Action	Date	FR Cite
NPRM	07/10/92	57 FR 30826
NPRM Comment Period End	08/24/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paula Husselmann, General Provisions Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4318, ROB-3, Washington, DC 20202, **202 708-7888**

RIN: 1840–AB44

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DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Completed Actions

842. STUDENT ASSISTANCE GENERAL PROVISIONS—EMERGENCY ACTION

CFR Citation: 34 CFR 600; 34 CFR 668

Completed:

Reason	Date	FR Cite
Final Action	03/10/93	58 FR 13336

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol F. Sperry, 202 708-4906

RIN: 1840–AB38

843. INSTITUTIONAL ELIGIBILITY—ADDITIONAL LOCATIONS AND STUDENT ASSISTANCE GENERAL PROVISIONS

CFR Citation: 34 CFR 600; 34 CFR 668

Completed:

Reason	Date	FR Cite
Final Action	12/03/92	57 FR 57304
Final Action Effective	01/29/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol F. Sperry, 202 708-4906

RIN: 1840–AB46

844. GUARANTEED STUDENT LOAN PROGRAMS—STANDARDIZED LENDER AGREEMENTS AND PLUS LOAN DISBURSEMENTS

CFR Citation: 34 CFR 682

Completed:

Reason	Date	FR Cite
Withdrawn	12/10/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela Moran, 202 708-8242

RIN: 1840–AB51

845. • ENDOWMENT CHALLENGE GRANTS PROGRAM

Legal Authority: 20 USC 1065

CFR Citation: 34 CFR 628

Legal Deadline: None

Abstract: These regulations are needed to implement changes made to the Higher Education Act by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
Final Action	02/23/93	58 FR 11162

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann Price-Collins, Division of Institutional Development, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3042, ROB-3, Washington, DC 20202-5336, 202 708-8866

RIN: 1840–AB70

846. • MINORITY SCIENCE IMPROVEMENT PROGRAM

Legal Authority: 20 USC 1135b to 1135b-3; 20 USC 1135d to 1135d-3; 20 USC 1135d-5; 20 USC 1135d-6

CFR Citation: 34 CFR 637

Legal Deadline: None

Abstract: The regulations implement changes made in the program by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
Final Action	11/18/92	57 FR 54301
Final Action Effective	01/02/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Argelia Velez-Rodriguez, Div. of Higher Education Incentive Programs, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3022, ROB-3, Washington, DC 20202-5251, 202 708-7389

RIN: 1840–AB59

847. • LAW SCHOOL CLINICAL EXPERIENCE PROGRAM

Legal Authority: 20 USC 1134u to 1134v

CFR Citation: 34 CFR 639

Legal Deadline: None

Abstract: The regulations implement changes made in the program by the Higher Education Amendments of 1992.

Timetable:

Action	Date	FR Cite
Final Action	11/03/92	57 FR 49650
Final Action Effective	12/18/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara J. Harvey, Div. of Higher Education Incentive Programs, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 3022, ROB-3, Washington, DC 20202-5251, 202 708-7389

RIN: 1840–AB58

848. STUDENT ASSISTANCE GENERAL PROVISIONS—SUBPARTS G AND H

CFR Citation: 34 CFR 668

Completed:

Reason	Date	FR Cite
Final Action	12/17/92	57 FR 60032
Final Action Effective	01/31/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Fred J. Marinucci, 202 401-2732

RIN: 1840–AB47

849. • STUDENT ASSISTANCE GENERAL PROVISIONS—IMMIGRATION STATUS CONFIRMATION

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations establish rules by which an educational institution must confirm the immigration status of certain non-citizen applicants for student financial assistance. These regulations were published in the Federal Register under RIN 1840-AB30.

Timetable:

Action	Date	FR Cite
Final Action	01/07/93	58 FR 3180
Final Action Effective	02/25/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Claude E. Denton, Program Specialist, General Provisions Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Room 4318, ROB-3, Washington, DC 20202, 202 708-7888

RIN: 1840–AB96

ED—OPE

Completed Actions

850. PERKINS LOAN, COLLEGE WORK-STUDY, AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAMS—MISCELLANEOUS CHANGES

CFR Citation: 34 CFR 674; 34 CFR 675; 34 CFR 676

Completed:

Reason	Date	FR Cite
Final Action	12/21/92	57 FR 60700
Final Action Effective	02/04/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold F. McCullough, 202 708-4690

RIN: 1840–AB22

851. GUARANTEED STUDENT LOAN (GSL) PROGRAM, INCLUDING THE STAFFORD LOAN, PLUS, SUPPLEMENTAL LOANS FOR STUDENTS AND CONSOLIDATION LOAN PROGRAMS (FEDERAL FAMILY EDUCATION LOAN PROGRAM (FFELP))

Significance: Regulatory Program

CFR Citation: 34 CFR 682

Completed:

Reason	Date	FR Cite
Final Action	12/18/92	55 FR 48324
Final Action Effective	02/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela Moran, 202 708-8242

RIN: 1840–AA96

852. GUARANTEED STUDENT LOAN (GSL) PROGRAMS, INCLUDING THE STAFFORD LOAN, PLUS, SUPPLEMENTAL LOANS FOR STUDENTS, AND CONSOLIDATION LOAN PROGRAMS—DEFAULT REDUCTION INITIATIVE

Significance: Regulatory Program

CFR Citation: 34 CFR 682

Completed:

Reason	Date	FR Cite
Final Action	01/07/93	58 FR 3174
Final Action Effective	02/25/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela Moran, 202 708-8242

RIN: 1840–AB41

DEPARTMENT OF EDUCATION (ED)
Office of Special Education and Rehabilitative Services (OSERS)

Proposed Rule Stage

853. DISABILITY AND REHABILITATION RESEARCH; GENERAL PROVISIONS

Legal Authority: 20 USC 760 to 762

CFR Citation: 34 CFR 350

Legal Deadline: None

Abstract: These regulations require an applicant to send a copy of its application to the appropriate State rehabilitation agency or agencies for comment. These regulations would also implement certain provisions of the Rehabilitation Act Amendments of 1992, Pub. L. 102-569.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Betty Jo Berland, Planning Officer, NIDRR, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3422, Switzer Building, Washington, DC 20202-2651, 202 205-9739

RIN: 1820–AB01

854. • DISABILITIES REHABILITATION RESEARCH; RESEARCH AND DEMONSTRATION PROJECTS

Legal Authority: 29 USC 760 to 762

CFR Citation: 34 CFR 351

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Rehabilitation Act Amendments of 1992, Pub. L. 102-569.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty Jo Berland, Planning Officer, NIDRR, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3422, Switzer Building, Washington, DC 20202-2651, 202 205-9739

RIN: 1820–AB04

855. • DISABILITY AND REHABILITATION RESEARCH; REHABILITATION RESEARCH AND TRAINING CENTERS

Legal Authority: 29 USC 762(b)(1)

CFR Citation: 34 CFR 352

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Rehabilitation Act Amendments of 1992, Pub. L. 102-569.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty Jo Berland, Planning Officer, NIDRR, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3422, Switzer Building, Washington, DC 20202-2651, 202 205-9739

RIN: 1820–AB05

856. • DISABILITY AND REHABILITATION RESEARCH; REHABILITATION ENGINEERING CENTERS

Legal Authority: 29 USC 762(b)(2)

CFR Citation: 34 CFR 353

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the

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Rehabilitation Act Amendments of 1992, Pub. L. 102-569.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty Jo Berland, Planning Officer, NIDRR, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3422, Switzer Building, Washington, DC 20202-2651, 202 205-9739

RIN: 1820–AB06

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857. • STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

Legal Authority: 29 USC 711(e); PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: This action is needed to revise existing regulations due to changes in authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569). These regulations include the regulatory provisions previously listed under RIN 1820-AA47.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, 202 205-5482

RIN: 1820–AB12

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858. • STATE VOCATIONAL REHABILITATION SERVICES PROGRAM—ORDER OF SELECTION

Legal Authority: 29 USC 721(a)(5)(A); PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: This action is needed to revise existing regulations due to changes in authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569). Amendments require that specific regulations be promulgated regarding criteria for order of selection.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, 202 205-5482

RIN: 1820–AB13

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859. • STATE VOCATIONAL REHABILITATION SERVICES PROGRAM—EVALUATION STANDARDS AND PERFORMANCE INDICATORS

Legal Authority: PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: Final, Statutory, September 30, 1994.

Abstract: This action is needed to revise existing regulations due to changes in authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569). Amendments require the development of standards and performance indicators.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/93	58 FR 9458
NPRM	10/00/93	
Final Action	09/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, 202 205-5482

RIN: 1820–AB14

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860. • THE STATE INDEPENDENT LIVING REHABILITATION SERVICES PROGRAM

Legal Authority: 29 USC 796 to 796e-3

CFR Citation: 34 CFR 365

Legal Deadline: None

Abstract: This action is needed to revise existing regulations due to changes in authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569).

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	09/00/93	

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, 202 205-5482

RIN: 1820–AB18

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861. CENTERS FOR INDEPENDENT LIVING—STANDARDS AND EVALUATION INDICATORS

Legal Authority: 20 USC 796d-1(b); 20 USC 796f-4

CFR Citation: 34 CFR 366

Legal Deadline: Final, Statutory, October 1, 1993.

Abstract: These proposed regulations would implement certain changes to the Rehabilitation Act of 1973 made by the Rehabilitation Act Amendments of 1992.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30860
ANPRM Comment Period End	09/08/92	
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Rehabilitation Services Administration, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Bldg., Washington, DC 20202-2531, 202 205-5482

RIN: 1820–AA81

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862. • CENTERS FOR INDEPENDENT LIVING

Legal Authority: 29 USC 796f to 796f 6

CFR Citation: 34 CFR 366

Legal Deadline: None

Abstract: This action is needed to revise existing regulations due to changes in authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub L 102-569).

Timetable.

Action	Date	FR Cite
NPRM	05/00/93	
Final Actior	09/00/93	

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, 202 205-5482

RIN: 1820–AB19

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863. • INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

Legal Authority: 29 USC 796j to 796l

CFR Citation: 34 CFR 367

Legal Deadline: None

Abstract: This action is needed to revise existing regulations due to changes in authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569).

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, 202 205-5482

RIN: 1820–AB20

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864. • CLIENT ASSISTANCE PROGRAM

Legal Authority: 29 USC 732

CFR Citation: 34 CFR 370

Legal Deadline: None

Abstract: This action is needed to revise existing regulations due to changes in authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569).

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	09/00/93	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, 202 205-5482

RIN: 1820–AB16

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865. • DEMONSTRATION PROJECTS TO INCREASE CLIENT CHOICE

Legal Authority: PL 102-569

CFR Citation: 34 CFR 377

Legal Deadline: None

Abstract: This action is needed to establish regulations for a new program included in the Rehabilitation Act Amendments of 1992, Pub. L. 102-569.

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	58 FR 17308
Final Action	07/00/93	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, 202 205-5482

RIN: 1820–AB23

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866. • PROJECTS FOR INITIATING SPECIAL RECREATION PROGRAMS FOR INDIVIDUALS WITH HANDICAPS

Legal Authority: 29 USC 777f; PL 102-569

CFR Citation: 34 CFR 378

Legal Deadline: None

Abstract: This action is needed to revise existing regulations due to changes in authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569).

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, 202 205-5482

RIN: 1820–AB22

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867. • PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS PROGRAM

Legal Authority: 29 USC 794e

CFR Citation: 34 CFR 381

Legal Deadline: None

Abstract: This action is needed to establish regulations for the Protection and Advocacy of Individual Rights Program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: Organizations

Government Levels Affected: State

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Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, **202 205-5482**

RIN: 1820–AB17

868. • REHABILITATION TRAINING: REHABILITATION LONG-TERM TRAINING

Legal Authority: 29 USC 711(c); 29 USC 774; PL 102-569

CFR Citation: 34 CFR 386

Legal Deadline: None

Abstract: This action is needed to revise existing regulations due to changes in authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569).

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	09/00/93	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, **202 205-5482**

RIN: 1820–AB21

869. • STATE VOCATIONAL REHABILITATION UNIT IN-SERVICE TRAINING

Legal Authority: 29 USC 711(c); 29 USC 774; PL 102-569

CFR Citation: 34 CFR 388

Legal Deadline: None

Abstract: This action is needed to revise existing regulations due to changes in authorizing legislation made by the Rehabilitation Act Amendments of 1992 Pub. L. 102-569.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, **202 205-5482**

RIN: 1820–AB24

870. • TRAINING OF INTERPRETERS FOR DEAF INDIVIDUALS

Legal Authority: 29 USC 744(d); PL 102-569

CFR Citation: 34 CFR 396

Legal Deadline: None

Abstract: This action is needed to revise existing regulations due to changes in authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569).

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	09/00/93	

Small Entities Affected: Organizations

Government Levels Affected: Undetermined

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, **202 205-5482**

RIN: 1820–AB25

DEPARTMENT OF EDUCATION (ED)

Office of Special Education and Rehabilitative Services (OSERS)

Final Rule Stage

871. EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES

Legal Authority: 20 USC 1471 to 1485

CFR Citation: 34 CFR 303

Legal Deadline: None

Abstract: These regulations implement certain provisions of the Individuals with Disabilities Education Act Amendments of 1991, Pub. L. 102-119.

Timetable:

Action	Date	FR Cite
NPRM	05/01/92	57 FR 18986
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Peggy Cvach, Education Program Specialist, Division of Education Services, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 4609, Switzer Building, Washington, DC 20202, **202 205-9807**

RIN: 1820–AA97

872. • TRAINING PERSONNEL FOR THE EDUCATION OF INDIVIDUALS WITH DISABILITIES - GRANTS FOR PERSONNEL TRAINING

Legal Authority: 20 USC 1431(a); 20 USC 1431(b); 20 USC 1434

CFR Citation: 34 CFR 318

Legal Deadline: Final, Statutory, June 1993.

Abstract: These regulations would implement certain provisions of the Education of the Deaf Act Amendments of 1992, Pub. L. 102-421, and the Rehabilitation Act Amendments of 1992, Pub. L. 102-569.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Max Mueller, Director, Division of Personnel Preparation, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3072, Switzer

Building, Washington, DC 20202-2643, **202 205-9554**

RIN: 1820–AB03

873. • DISABILITY AND REHABILITATION RESEARCH; TECHNICAL AMENDMENTS

Legal Authority: 29 USC 2201 to 2271; 29 USC 760 to 762; 29 USC 761a(d); 29 USC 762(b)(13); 29 USC 777a(a)

CFR Citation: 34 CFR 346; 34 CFR 347; 34 CFR 354; 34 CFR 355; 34 CFR 356; 34 CFR 357; 34 CFR 358; 34 CFR 359; 34 CFR 360

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Rehabilitation Act Amendments of 1992, Pub. L. 102-569.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty Jo Berland, Planning Officer, NIDRR, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3422, Switzer Building, Washington, DC 20202-2651, **202 205-9739**

RIN: 1820–AB09

874. • STATE VOCATIONAL REHABILITATION SERVICES PROGRAM—CRITERIA FOR SELECTION OF VOCATIONAL REHABILITATION SERVICES

Legal Authority: PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: Final, Statutory, February 27, 1993.
Pub. L. 102-569 requires the promulgation of regulations within 120 days of enactment of Amendments.

Abstract: This action is needed to revise existing regulations due to changes in authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569). Amendments require the promulgation of regulations specific to the selection of the providers of vocational rehabilitation services.

Timetable:

Action	Date	FR Cite
ANPRM	02/16/93	58 FR 8688
ANPRM Comment Period End	03/18/93	58 FR 8688
Final Action	06/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, **202 205-5482**

RIN: 1820–AB15

875. • TECHNICAL AMENDMENTS PACKAGE - REHABILITATION SERVICES ADMINISTRATION

Legal Authority: PL 102-569; 29 USC 732; 29 USC 750; 29 USC 775; 29 USC 776; 29 USC 777a(a)(1); 29 USC 777a(a)(3); 29 USC 777(b); 29 USC 777f; 29 USC 795g; 29 USC 711(c); 29 USC 777a(a)(4); 29 USC 777a(c); 29 USC 777a(d)

CFR Citation: 34 CFR 363; 34 CFR 369; 34 CFR 371; 34 CFR 373; 34 CFR 374; 34 CFR 375; 34 CFR 376; 34 CFR 379; 34 CFR 380; 34 CFR 385; 34 CFR 387; 34 CFR 389; 34 CFR 390

Legal Deadline: None

Abstract: This action is needed to revise existing regulations due to changes in authorizing legislation made by the Rehabilitation Act Amendments of 1992 Pub. L. 102-569.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Agency Contact: Beverlee Stafford, Special Assistant to the Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW., Room 3028, Switzer Building, Washington, DC 20202-2531, **202 205-5482**

RIN: 1820–AB11

DEPARTMENT OF EDUCATION (ED)

Office of Special Education and Rehabilitative Services (OSERS)

Completed Actions

876. REGIONAL RESOURCE AND FEDERAL CENTERS

CFR Citation: 34 CFR 305

Completed:

Reason	Date	FR Cite
Final Action	02/19/93	58 FR 9462

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Marie Roane, 202 205-8451

RIN: 1820–AB00

877. TRAINING PERSONNEL FOR THE EDUCATION OF INDIVIDUALS WITH DISABILITIES—GRANTS FOR PARENT TRAINING AND INFORMATION CENTERS; STATE EDUCATIONAL AGENCIES AND INSTITUTES OF HIGHER EDUCATION

CFR Citation: 34 CFR 316; 34 CFR 318; 34 CFR 319

Completed:

Reason	Date	FR Cite
Final Action	12/29/92	57 FR 62094
Final Action Effective	02/12/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Max Mueller, 202 205-9554

RIN: 1820–AA99

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ED—OSERS

Completed Actions

878. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM - DEREGULATION

Significance: Regulatory Program

CFR Citation: 34 CFR 361

Completed:

Reason	Date	FR Cite
Merged with RIN 1820-AB12 - All comments will be addressed in RIN 1820-AB12.	01/22/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beverlee Stafford, 202 205-5482

RIN: 1820–AA47

879. REHABILITATION SERVICES ADMINISTRATION GENERAL DEREGULATION

CFR Citation: 34 CFR 362; 34 CFR 366; 34 CFR 369; 34 CFR 371; 34 CFR 372; 34 CFR 374; 34 CFR 375; 34 CFR 378; 34 CFR 379; 34 CFR 385; 34 CFR 386; 34 CFR 387; 34 CFR 388; 34 CFR 389; 34 CFR 390

Completed:

Reason	Date	FR Cite
Withdrawn	01/22/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beverlee Stafford, 202 205-9331

RIN: 1820–AA45

880. THE STATE INDEPENDENT LIVING REHABILITATION SERVICES PROGRAM - DEREGULATION

Significance: Regulatory Program

CFR Citation: 34 CFR 365

Completed:

Reason	Date	FR Cite
Withdrawn	01/22/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beverlee Stafford, 202 205-9331

RIN: 1820–AA37

DEPARTMENT OF EDUCATION (ED)
Office of Vocational and Adult Education (OVAE)

Proposed Rule Stage

881. • STATE-ADMINISTERED WORKPLACE LITERACY PROGRAM AND NATIONAL WORKPLACE LITERACY PROGRAM

Legal Authority: 20 USC 1211

CFR Citation: 34 CFR 462; 34 CFR 472

Legal Deadline: None

Abstract: These regulations would incorporate changes to improve project accountability and make technical changes to 34 CFR parts 462 and 472.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Agency Contact: Sharon A. Jones, Department of Education, Office of Vocational and Adult Education, 400 Maryland Avenue SW., Room 4050, Switzer Building, Washington, DC 20202-7120, **202 205-8237**

RIN: 1830–AA11

DEPARTMENT OF EDUCATION (ED)
Office of the General Counsel (EDOGC)

Final Rule Stage

882. EQUAL ACCESS TO JUSTICE

Legal Authority: 5 USC 504

CFR Citation: 34 CFR 021

Legal Deadline: None

Abstract: These regulations amend the procedures for the award of fees and other expenses to applicants who prevail in adversary adjudications before the Department of Education. The current regulations must be amended to reflect amendments to the Equal Access to Justice Act made by PL 99-80.

Timetable:

Action	Date	FR Cite
NPRM	12/08/92	57 FR 58100
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Berthiaume, General Attorney, Department of Education, Office of the General Counsel, 400 Maryland Ave. SW., Room 4087, FOB-6, Washington, DC 20202-2243, **202 401-3690**

RIN: 1801–AA01

883. U.S. EXCHANGE VISITOR PROGRAM—REQUEST FOR WAIVER OF THE TWO-YEAR FOREIGN RESIDENCE REQUIREMENT

Legal Authority: 8 USC 1182(e); 20 USC 2451 et seq

CFR Citation: 34 CFR 50

Legal Deadline: None

Abstract: These regulations would simplify the language and format of provisions establishing procedures, criteria, and other policies used by the Department of Education in requesting waivers for exchange visitors with respect to areas in which the Department serves as an interested agency.

Timetable:

Action	Date	FR Cite
NPRM	03/01/93	58 FR 11924
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jean Pedersen, Internat'l Management & Research Specialist, International and Territorial Services Staff, Department of Education, Office of the General Counsel, 400 Maryland Avenue SW., Room 3047, FOB-6, Washington, DC 20202-3721, **202 401-0430**

RIN: 1801–AA07

ED—EDOGC

Final Rule Stage

884. PRIVACY ACT REGULATIONS

Legal Authority: 5 USC 301; 5 USC 552a

CFR Citation: 34 CFR 5b

Legal Deadline: None

Abstract: These regulations would modify existing departmental regulations exempting the system of records known as the Office of Inspector General Investigative Files from certain provisions of the Act and corresponding departmental regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/16/92	56 FR 59860
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Thomas D. Strong, Department of Education, Office of Inspector General, 400 Maryland Avenue SW., Room 4117, Switzer Building, Washington, DC 20202-1510, **202 205-8762**

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Part VII

Department of Energy

Semiannual Regulatory Agenda

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DEPARTMENT OF ENERGY (DOE)

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: April 1993 regulatory agenda.

SUMMARY: In order to make Government more responsive to the citizens of the United States and to assist in reducing regulatory burdens, the Department of Energy (DOE) is publishing this regulatory agenda of: (i) Rulemakings currently in progress and rulemakings which currently are expected to begin during the coming year; (ii) any existing rules which are being reviewed within DOE to determine whether modifications should be proposed based upon experience; and (iii) rulemakings and rule reviews which have been completed since publication of the last regulatory agenda for October 1992 (57 FR 51252, November 3, 1992). This regulatory agenda also contains information on any rulemakings which are likely to have a significant economic impact on a substantial number of small entities, and it contains additional data on procurement-related actions.

FOR FURTHER INFORMATION CONTACT: For further information about any particular item on the regulatory agenda, please contact the individual listed under that item. For further information on the regulatory agenda in general, please contact: Theodore ("Ted") Wilson, DOE, Room 6B-256, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9507.

SUPPLEMENTARY INFORMATION: Covered agencies publish regulatory agendas under Executive Order 12291 in April and October of each year. Under the Executive order, the Office of Management and Budget (OMB) sets standards and procedures for the preparation of these agendas. Regulatory agendas are important to efforts to reduce the burdens of existing and future regulations, increase agency accountability for regulatory actions, provide for oversight of the regulatory process, minimize duplication and conflict of regulations, and insure well-reasoned regulations. DOE has made considerable progress in attaining these objectives.

Executive Order 12291 provides that the regulatory agenda may be incorporated with the "regulatory flexibility agenda" required under the Regulatory Flexibility Act, 5 U.S.C. 602 *et seq.* The regulatory flexibility agenda must cover any rule which the agency expects to propose or promulgate which is "likely to have a significant economic impact on a substantial number of small entities." Its information requirements are similar to those of the Executive order. The regulatory flexibility agenda required under 5 U.S.C. 602(a) is incorporated in today's notice.

The Office of Federal Procurement Policy Act Amendments of 1988, 41 U.S.C. 402, require publication, twice a year, of a "Procurement Regulatory Activity Report." As determined by OMB, agency information is now in the regulatory agenda for use by the Office of Federal Procurement Policy in producing these reports.

A Note on the April 1993 Regulatory Agenda

This semiannual updating of the regulatory agenda comes at a time when the regulatory policies and practices of DOE are undergoing review by the Office of the Secretary and senior policy staff. Moreover, the Energy Policy Act of 1992, Public Law 102-486 (October 24, 1992), recently established an array of new DOE regulatory responsibilities. At this time, DOE is unable to provide sufficiently informative regulatory agenda entries for many of these new responsibilities, since planning for their implementation still is in progress. Accordingly, entries for most new Energy Policy Act regulatory actions first will appear in the next regulatory agenda in October 1993. In addition, all entries appearing in today's notice are subject to further policy review before publication for comment or initiating action.

Contents and Format of the Regulatory Agenda

Entries appended to this notice reflect the status of activities as of approximately February 15, 1993. They are divided into categories, first by subagencies and then according to their stage of rulemaking action: Prerule, proposed rulemaking, final rulemaking, or completed action.

Appended entries contain the following information: (1) The organizational unit responsible for the regulation; (2) the Regulation Indentifier Number (RIN) assigned by OMB; (3) title; (4) significance (that is, whether the regulation appears in the Regulatory Program prepared under Executive Order 12498 and, if it does not, whether it is nevertheless a DOE priority); (5) the name, title, address, and telephone number of a person who is knowledgeable about the regulation; (6) effects on small business (that is, whether the action is likely to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act) and effects on Federal, State, and local governments; (7) CFR citation (that is, the affected portion of the Code of Federal Regulations); (8) legal authority (that is, a citation to the section of the United States Code (USC), Public Law (PL), or Executive order (EO) that authorizes the regulatory action); (9) abstract (that is, a description of the problem the regulation will address, the regulatory approach under consideration, the alternatives being considered for addressing the problem, and the potential costs and benefits of the action); (10) legal deadline (that is, the statutory or judicial deadline, if any); and (11) timetable (that is, the dates and citations, if applicable, for all past stages and the date for at least the next stage of the rulemaking). The timetable for completed actions (that is, regulations completed or withdrawn and reviews completed since the preceding regulatory agenda) gives the completion date and any related citation.

For each procurement-related regulatory action, additional information is provided on whether there is a statutory requirement for the action and whether there is a paperwork burden associated with the action.

A draft of this regulatory agenda has been transmitted to the Chief Counsel for Advocacy of the U.S. Small Business Administration for comment, if any, pursuant to 5 U.S.C. 602(b).

DOE's next regulatory agenda will be published in October 1993.

Issued in Washington, DC, on March 23, 1993.

Eric J. Fygi,

Acting General Counsel.

DOE

Conservation and Renewable Energy—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
885	Energy Efficiency Standards for Central Air Conditioners, Heat Pumps, Furnaces, Refrigerators, Refrigerator-Freezers and Freezers	1904-AA47

Conservation and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
886	Energy Efficiency Standards for Water Heaters, Pool Heaters, Direct Heating Equipment, Mobile Home Furnaces, Kitchen Ranges & Ovens, Room Air Conditioners, Fluorescent Lamp Ballasts, (cont)	1904-AA38
887	Equivalent Petroleum-Based Fuel Economy Calculation for Electric Vehicles	1904-AA40
888	Test Procedures for Furnaces/Boilers, Vented Home Heating Equipment, and Pool Heaters—Amendment	1904-AA45
889	Test Procedures for Central Air Conditioners and Heat Pumps—Amendments	1904-AA46
890	Test Procedures for Water Heaters, Kitchen Ranges, Ovens and Microwaves, and Clothes Washers—Amendment	1904-AA52
891	Federal Building Energy Standards	1904-AA53

Conservation and Renewable Energy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
892	Energy Conservation Performance Standards for New Buildings; Subpart A - Commercial and Multi-Family High Rise Residential Buildings	1904-AA08
893	Energy Conservation Performance Standards for New Buildings; Subpart C - Mandatory Performance Standards for New Federal Residential Buildings	1904-AA27
894	Energy Conservation Performance Standards for New Buildings; Subpart B - Voluntary Performance Standards for New Non-Federal Residential Buildings	1904-AA34
895	Amendments to the State Energy Conservation Program	1904-AA42
896	Amendments to the Low-Income Weatherization Assistance Program	1904-AA43
897	Grant Programs for Schools and Hospitals, Local Government Buildings and Public Care Institutions—Amendments	1904-AA48

Defense and Security Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
898	Personnel Assurance Program	1992-AA14
899	Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material	1992-AA15

Defense and Security Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
900	Personnel Security Assurance Program: Substance Abuse Testing Procedures	1992-AA13
901	Security Skills Training and Qualifications Standards for Protective Force Personnel	1992-AA16
902	Accelerated Access Authorization Program at Selected DOE Sites	1992-AA17
903	Assistance to Foreign Atomic Energy Activities	1992-AA18
904	Trespassing on DOE Property	1992-AA19

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DOE

Departmental and Others—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
905	Hazardous Substance Response and Emergency Response Worker Training and Contractor Certification Program	1901-AA44
906	Implementation of DOE Science Education Enhancement Act	1901-AA51

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
907	Electric Power System Permits and Reports; Applications; Administrative Procedures and Sanctions	1901-AA19
908	New Administrative Procedures With Respect to Short-Term Imports and Exports of Natural Gas	1901-AA25
909	Energy Board of Contract Appeals Rules of Practice	1901-AA30
910	Rules of Practice To Govern Proceedings To Resolve Certain Disputes Arising Between M&O Contractors and Their Subcontractors	1901-AA31
911	Renegotiation of Power Sales Contracts	1901-AA36
912	Preference Policy for Sales of Surplus Firm Power and Surplus Nonfirm Energy Under the Northwest Power Act	1901-AA37
913	Radiation Protection of the Public and the Environment	1901-AA38
914	Nuclear Safety Management: PHASE II	1901-AA42
915	Standard Contract for the Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste	1901-AA49

Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
916	Procedural Rules for DOE Nuclear Activities	1901-AA26
917	Freedom of Information	1901-AA32
918	Nuclear Safety Management	1901-AA34
919	Occupational Radiation Protection	1901-AA39
920	Policy To Implement Section 6(c) of the Northwest Power Act	1901-AA43

Departmental and Others—Completed Actions

Sequence Number	Title	Regulation Identifier Number
921	Procedures for Implementing the Equal Access to Justice Act in Energy Board of Contract Appeals Proceedings	1901-AA22
922	Environmental Restoration Management Contractor	1901-AA29
923	Procedures for Financial Assistance Appeals Before the Energy Financial Assistance Appeals Board	1901-AA33

Office of Procurement, Assistance and Program Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
924	DEAR: Patent Policy Revisions	1991-AA23
925	Department of Energy Property Management Regulations: Management of Motor Equipment	1991-AA28
926	DEAR: Miscellaneous Changes on Acquisition of Motor Equipment	1991-AA32
927	Resolution of Disputes Between Subcontractors and DOE Management and Operating Contractors	1991-AA44
928	Technology Transfer: DOE Management and Operating Contractors	1991-AA63
929	Debarment and Suspension	1991-AA69
930	Personnel Appendices and Employee Relocation Under Management and Operating Contracts	1991-AA80
931	Acquisition of Federal Information Resources by Contract	1991-AA81
932	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	1991-AA85
933	DEAR: Security Procedures	1991-AA86
934	DEAR: M&O Work Authorization and Control System	1991-AA91
935	DEAR: Miscellaneous Amendments #4	1991-AA92

DOE

Office of Procurement, Assistance and Program Management—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
936	DEAR: Project Control System	1991-AA93
937	DEAR: Organizational Conflicts of Interest	1991-AA95
938	DEAR: Records	1991-AA96
939	DEAR: Interagency Agreements	1991-AA98
940	DEAR: Organizational Conflicts of Interest	1991-AA99

Office of Procurement, Assistance and Program Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
941	DEAR: Environmental, Safety and Health Requirements	1991-AA53
942	DEAR: Miscellaneous Amendments #3	1991-AA60
943	New Restrictions on Lobbying	1991-AA64
944	DEAR: Management and Operating Contractors and Facility Management Directives	1991-AA67
945	DEAR: Major Fraud Act	1991-AA73
946	Research Opportunity Announcements	1991-AA82
947	Protective Services and Continuity of Operation	1991-AA83
948	Amendment to Workplace Substance Abuse Programs at DOE Sites	1991-AA90
949	DEAR: Amendment to Workplace Substance Abuse Programs at DOE Sites	1991-AA97

Office of Procurement, Assistance and Program Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
950	DEAR: Contractor Employee Protection Program	1991-AA75
951	Use of Commerce Business Daily	1991-AA84
952	DEAR: Implementation of the NCTTA	1991-AA87
953	DEAR: Acquisition of Hot Cell Services	1991-AB00

Office of General Counsel—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
954	Patent Waiver Regulation	1990-AA02
955	Foreign Gifts and Decorations	1990-AA04
956	Payment of Travel Expenses of Persons Who Are Not Government Employees	1990-AA15
957	DOE Patent Licensing Regulations—Amendment	1990-AA18
958	Conduct of Employees	1990-AA19

Office of General Counsel—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
959	Production or Disclosure of Material or Information and Provision of Agency Witnesses in Federal and State Proceedings	1990-AA12

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DEPARTMENT OF ENERGY (DOE)
Conservation and Renewable Energy (CE)

Prerule Stage

885. ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS, HEAT PUMPS, FURNACES, REFRIGERATORS, REFRIGERATOR-FREEZERS AND FREEZERS

Significance: Regulatory Program

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1994.
EPCA requires DOE determinations on need to amend Federal appliance standards in a period from 07/01/89 to 01/01/94. The statute requires completion of a second reanalysis of all (cont)

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy-efficiency standards levels for most types of major appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended. These products are: refrigerators, refrigerator-freezers, and freezers; room air conditioners; central air conditioners and central air conditioning heat pumps; water heaters; pool heaters; direct heating equipment; furnaces; dishwashers; clothes washers; clothes dryers; kitchen ranges and ovens; and fluorescent lamp ballasts. Other appliances, including television sets, may be regulated by the Department. This rulemaking will review the statutory standards for central air conditioners and furnaces to determine whether those levels need to be amended. This is the second reanalysis of the standard levels for refrigerators, refrigerator-freezers and freezers.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/93	
NPRM	06/00/94	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information: LEGAL DEADLINE CONT: then-extant standards in a period from 07/01/94 to 12/31/2006. The EPCA requires a final determination on central air conditioners, heat pumps and furnaces by 01/01/94. The EPCA also requires a final determination in the reanalysis of refrigerators, refrigerator-freezers and freezers by 11/17/94 (5 years after publication of the previous final determination).

Agency Contact: Michael J. McCabe, Director, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-9127

RIN: 1904–AA47

DEPARTMENT OF ENERGY (DOE)
Conservation and Renewable Energy (CE)

Proposed Rule Stage

886. ENERGY EFFICIENCY STANDARDS FOR WATER HEATERS, POOL HEATERS, DIRECT HEATING EQUIPMENT, MOBILE HOME FURNACES, KITCHEN RANGES & OVENS, ROOM AIR CONDITIONERS, FLUORESCENT LAMP BALLASTS, (CONT)

Significance: Regulatory Program

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.
EPCA requires DOE determinations on need to amend Federal appliance standards in a period from 7/1/89 to 1/1/94. The statute requires completion of a second reanalysis of all (cont)

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy-efficiency standard levels for most types of major appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended. These products are: refrigerators, refrigerator- freezers, and freezers; room air conditioners; central air conditioners and central air conditioning heat pumps; water heaters; pool heaters; direct heating equipment; furnaces; dishwashers; clothes washers; clothes dryers; kitchen ranges and ovens; and fluorescent lamp ballasts. Other appliances, including television sets, may be regulated by the Department. This rulemaking will review the statutory standards for water heaters; pool heaters; kitchen ranges and ovens; room air conditioners; direct heating equipment; mobile home furnaces; and fluorescent lamp ballasts to determine whether those levels need to be amended. In addition, television sets will be examined to determine whether conservation standards are justified.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	06/00/93	
Final Action	06/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information: TITLE CONT: and Television Sets

LEGAL DEADLINE CONT: then-extant standards in a period from 7/1/94 to 12/31/2006. EPCA requires a Final Rule by May 14 1996, in the second reanalysis of clothes washer standards. Prior to the April 1992 Agenda, clothes washer standards were included in the multi-product review reported in RIN 1904-AA38. On February 26, 1992, DOE granted a petition to remove clothes washer until the moratorium expires.

Agency Contact: Michael J. McCabe, Director, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-9127

RIN: 1904–AA38

887. EQUIVALENT PETROLEUM-BASED FUEL ECONOMY CALCULATION FOR ELECTRIC VEHICLES

Legal Authority: PL 96-185, Sec 18; PL 94-413, Sec 13(c); PL 94-163, Sec 503(a)(3)

CFR Citation: 10 CFR 474

DOE—CE

Proposed Rule Stage

Legal Deadline: None

Abstract: The final rule on the inclusion of electric vehicles in the Corporate Average Fuel Economy (CAFE) program was issued by DOE on April 15, 1981. It established a methodology for determining the equivalent petroleum-based fuel economy of electric vehicles so that they could be included in a manufacturer's overall CAFE program. This methodology was based on several factors including the energy efficiency of the vehicle, the efficiency of electricity generation and transmission, the fuels used to generate electricity, and the driving patterns of electric vehicles. This rulemaking would update the factors in this methodology that are necessary for calculating the CAFE credits for electric vehicles.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Report comparing Alternative Motor Fuels Act with existing rule completed April 1992. Second report recommending new Petroleum Equivalency Factor for NPRM completed May 1992.

Agency Contact: Rogelio Sullivan, Program Manager, Electric and Hybrid Propulsion Division, Department of Energy, Conservation and Renewable Energy, CE-322, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-8042

RIN: 1904–AA40

888. TEST PROCEDURES FOR FURNACES/BOILERS, VENTED HOME HEATING EQUIPMENT, AND POOL HEATERS—AMENDMENT

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: These revisions to the test procedures for furnaces and boilers, vented home heating equipment and pool heaters in accordance with the Energy Policy and Conservation Act, as amended, would incorporate by reference ASHRAE Standard 103-1988 and would establish a new annual efficiency descriptor. This revision is prompted by the ASHRAE revision of Standard 103-1982 and the need to add annual efficiency as a new descriptor.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Michael J. McCabe, Director, Office of Codes and Standards (CE-43), Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-9127

RIN: 1904–AA45

889. TEST PROCEDURES FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS—AMENDMENTS

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: These revisions to the test procedures for central air conditioners and heat pumps in accordance with the Energy Policy and Conservation Act, as amended, will include appliances that perform water heating in addition to air conditioning or heating. This is prompted by the issuance of a Decision and Order granting a waiver to the Carrier Corporation for its Hydrotech 2000 integrated heat pump/water heater (Waiver CAC-005, 55 FR 13607, April 11, 1990).

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Michael J. McCabe, Director, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence, Ave. SW., Washington, DC 20585, 202 586-9127

RIN: 1904–AA46

890. • TEST PROCEDURES FOR WATER HEATERS, KITCHEN RANGES, OVENS AND MICROWAVES, AND CLOTHES WASHERS—AMENDMENT

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: In accordance with the Energy Policy and Conservation Act as amended, the test procedures for water heaters, kitchen ranges, ovens, microwaves, and clothes washers are being revised. Rulemaking issues include: with respect to water heater test procedures, inclusion of electric instantaneous water heaters and storage water heaters with less than 20 gallons volume and revision of the first hour rating; with respect to test procedures for kitchen ranges, ovens and microwaves, revision of the constant for annual cooking energy and improvements in measurement of microwave efficiencies; and with respect to clothes washer test procedures, measurements for water usage and water retention.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Michael J. McCabe, Director, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., 5E-066 (CE-43), Washington, DC 20585, 202 586-9127

RIN: 1904–AA52

891. • FEDERAL BUILDING ENERGY STANDARDS

Legal Authority: 42 USC 6834, Energy Policy Act of 1992, sec 101(a)(2)

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: Title III of the Energy Conservation and Production Act as amended by the Energy Policy Act of 1992 (PL 102-486, October 24, 1992) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim

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DOE—CE

Proposed Rule Stage

energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jean J. Boulin, Project Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave SW., Washington, DC 20585, 301 586-9127

RIN: 1904–AA53

DEPARTMENT OF ENERGY (DOE)

Conservation and Renewable Energy (CE)

Completed Actions

892. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART A - COMMERCIAL AND MULTI-FAMILY HIGH RISE RESIDENTIAL BUILDINGS

Significance: Regulatory Program

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 1983.

Abstract: Title III of the Energy Conservation and Production Act, as amended, required the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE promulgated Subpart A interim standards for commercial buildings and multi-family high rise buildings. The standards are mandatory for the Federal sector and voluntary for all others. DOE conducted demonstrations of interim standards and reported its findings to Congress. The Energy Policy Act of 1992 deleted the requirement for these standards and established other requirements for Federal building energy standards. See RIN 1904-AA53.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 17051
NPRM Comment Period End	08/04/87	
Interim Final Rule	01/30/89	54 FR 4538
Interim Final Rule Effective	07/31/89	54 FR 4538
Requirement repealed, Energy Policy Act of 1992, sec 101(a)(2)	10/24/92	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1989

Analysis: Economic Analysis 05/06/87 (52 FR 17051); Environmental Analysis 05/06/87 (52 FR 17051)

Additional Information: Interim standards remain in effect for the Federal sector until standards established under the Energy Policy Act of 1992 become effective.

Agency Contact: Jean J. Boulin, Project Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-9127

RIN: 1904–AA08

893. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART C - MANDATORY PERFORMANCE STANDARDS FOR NEW FEDERAL RESIDENTIAL BUILDINGS

Significance: Regulatory Program

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 1983.

Abstract: Title III of the Energy Conservation and Production Act, as amended, required the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE promulgated Subpart C, interim mandatory standards for new Federal residential buildings. DOE conducted demonstrations of interim standards and reported its findings to Congress. The Energy Policy Act of 1992 deleted the requirement for these standards and established other requirements for Federal building energy standards. See RIN 1904-AA53.

Timetable:

Action	Date	FR Cite
NPRM	08/20/86	51 FR 29754
Interim Final Rule	08/25/88	53 FR 32536
Proposed Modification of Interim Final Rule	08/25/88	53 FR 32547
Final Modification of Interim Final Rule	01/31/91	56 FR 3764
Requirement repealed, Energy Policy Act of 1992, sec 101(a)(2)	10/24/92	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1989

Analysis: Economic Analysis 08/20/86 (51 FR 29773); Environmental FONSI 08/20/86 (51 FR 29773)

Additional Information: On 01/31/91, the Department modified the interim final rule in three respects (56 FR 3764). To the computerized building design program (COSTSAFR) is added: (1) credit for three mass-wall configurations; (2) new energy data on window glazings; and (3) a mathematical process for integrating innovative design options into the analysis.

Interim standards remain in effect for the Federal sector until standards established under the Energy Policy Act of 1992 become effective.

Agency Contact: Jean J. Boulin, Project Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-9127

RIN: 1904–AA27

DOE—CE

Completed Actions

894. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART B - VOLUNTARY PERFORMANCE STANDARDS FOR NEW NON-FEDERAL RESIDENTIAL BUILDINGS

Significance: Regulatory Program

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 1983.

Abstract: Title III of the Energy Conservation and Production Act, as amended, required the development and promulgation of voluntary energy performance standards for new buildings. In order to comply with this requirement, DOE developed and proposed Subpart B, interim voluntary standards for new non-Federal residential buildings. The Energy Policy Act of 1992 deleted the requirement for these standards.

Timetable:

Action	Date	FR Cite
NPRM	08/31/92	57 FR 39424
Requirement repealed, Energy Policy Act of 1992, sec 101(a)(2)	10/24/92	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: Public comments received on the NPRM will be used to improve the versatility, accuracy, and acceptability of the ARES computer program developed for the proposed standards. DOE expects to use the improved ARES computer program in proposing cost-effective upgrades to existing voluntary residential standards and to assist in developing the Federal residential standards required by the Energy Policy Act of 1992. See RIN 1904-AA53.

Agency Contact: Jean J. Boulin, Project Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-9127

RIN: 1904–AA34

895. AMENDMENTS TO THE STATE ENERGY CONSERVATION PROGRAM

Legal Authority: 42 USC 6201; PL 101-440

CFR Citation: 10 CFR 420

Legal Deadline: None

Abstract: This rulemaking amends the regulations for the State Energy Conservation Program to incorporate changes mandated by the State Energy Efficiency Programs Improvement Act of 1990 (SEEPIA), (Public Law 101-440). Changes required by SEEPIA include: Updating State energy efficiency goals; providing for an energy emergency planning program; broadening the range of permissible elements of State energy conservation plans; repealing the supplemental State energy conservation plan; and establishing an energy technology commercialization services program.

Timetable:

Action	Date	FR Cite
NPRM	12/31/91	56 FR 6710
NPRM Comment Period End	02/14/92	56 FR 6710
Final Action	11/05/92	57 FR 52942
Final Action Effective	11/05/92	57 FR 52942

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sandra S. Monje, State Energy Programs Division, Office of Technical & Financial Assistance, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, 202 586-8295

RIN: 1904–AA42

896. AMENDMENTS TO THE LOW-INCOME WEATHERIZATION ASSISTANCE PROGRAM

Legal Authority: 42 USC 6861 et seq; PL 101-440

CFR Citation: 10 CFR 440.1 to 440.30

Legal Deadline: None

Abstract: The regulation incorporates changes to the Weatherization Program as set forth in the State Energy Efficiency Programs Improvement Act of 1990. These changes include: Adding cooling measures and renter protection requirements to the program, updating allocation formula data annually, allowing landlord contributions, increasing subgrantee administrative cost allowances, providing a waiver to the 40 percent materials requirement, indexing the average $1600 per-unit cost limitation, and revising production incentives. The regulation also makes administrative changes based on program experience over the last five years.

Timetable:

Action	Date	FR Cite
NPRM	10/23/91	56 FR 54932
NPRM Comment Period End	02/07/92	56 FR 54932
Final Action	03/04/93	58 FR 12514
Final Action Effective	04/05/93	58 FR 12514

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Gregory Reamy, Energy Conservation Specialist, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-2207

RIN: 1904–AA43

897. GRANT PROGRAMS FOR SCHOOLS AND HOSPITALS, LOCAL GOVERNMENT BUILDINGS AND PUBLIC CARE INSTITUTIONS—AMENDMENTS

Legal Authority: 42 USC 6371 et seq; PL 101-440, Sec 6

CFR Citation: 10 CFR 455

Legal Deadline: None

Abstract: This regulation is being revised to incorporate changes made by the State Energy Efficiency Programs Improvement Act of 1990, and to provide clearer and/or more flexible requirements for various aspects of program operation. Among the changes are several to add new types of State grants for additional State activities to support the program; more flexible requirements for energy audits and related activities; broadened eligibility for buildings and improvements; more specific requirements for describing and/or supporting recommendations for improvements; and an increased minimum State administrative grant amount.

Timetable:

Action	Date	FR Cite
NPRM	01/06/92	57 FR 432

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DOE—CE

Completed Actions

Action	Date	FR Cite
Final Action	02/19/93	58 FR 9424
Final Action Effective	03/22/93	58 FR 9424

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Robert K. Volk, Jr., Director, Institutional Conservation Program (CE-531), Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-8034

RIN: 1904–AA48

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Proposed Rule Stage

898. PERSONNEL ASSURANCE PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 2012 et seq, Atomic Energy Act of 1954

CFR Citation: 10 CFR 711

Legal Deadline: None

Abstract: The Department of Energy (DOE) conducts a Personnel Assurance Program (PAP) under DOE 5610.11 'Program to Prevent Accidental or Unauthorized Nuclear Explosive Detonation." The PAP was created in order to assure the reliability and safety of individuals in certain critical positions and is a part of the DOE nuclear weapons and explosives safety program. To further minimize the potential risks to personnel, public health and safety, and national security, the Department now proposes this rule which describes the PAP and provides for testing for alcohol under certain circumstances and for possible use of illegal drugs by DOE Federal and contractor employees requiring PAP certification or recertification. The DOE employees under the PAP are part of the DOE Drug-Free Workplace Program (DOE 3792.3). The DOE contractors under the PAP are a part of the Workplace Substance Abuse Programs at DOE Facilities (proposed 10 CFR 707).

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Turner or Douglas Zimmerman, Defense Programs, Department of Energy, DP-20.1, Washington, DC 20545, 301 903-3463

RIN: 1992–AA14

899. CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SIGNIFICANT QUANTITIES OF SPECIAL NUCLEAR MATERIAL

Legal Authority: 42 USC 2161; 42 USC 2165; 42 USC 2201; EO 10450; EO 10865

CFR Citation: 10 CFR 710, subpart A

Legal Deadline: None

Abstract: The criteria and procedures will be revised to permit: Managers to render final determinations when an individual processed under part 710 declines the right to a hearing; termination of processing or administrative termination of security clearance when an individual refuses to submit or complete required security forms or be subject to a personnel security interview; and final determinations to be rendered by the Director, Office of Security Affairs, who has been delegated this authority by the Secretary of Energy. This action would also change the manner in which hearing officers and Personnel Security Review Examiners are appointed.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. Barry Dalinsky, Chief, Personnel Security Policy Branch (SA-122), Department of Energy, Office of Safeguards and Security, Office of Security Affairs, Washington, DC 20545, 301 903-5010

RIN: 1992–AA15

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Final Rule Stage

900. PERSONNEL SECURITY ASSURANCE PROGRAM: SUBSTANCE ABUSE TESTING PROCEDURES

Significance: Regulatory Program

Legal Authority: 42 USC 2161; 42 USC 2165; 42 USC 2201

CFR Citation: 10 CFR 710, subpart B

Legal Deadline: None

Abstract: The Department of Energy (DOE) has established the Personnel Security Assurance Program (PSAP) through the publication of the revision to 10 CFR 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material." The PSAP was created in order to assure the reliability of individuals in certain positions, defined in Section 710.50(a), and referred to as PSAP positions for purposes of this proposed rule. The Department now proposes to amend this rule to promulgate guidelines for DOE contractors for testing for possible use of illegal drugs or alcohol by their PSAP-cleared employees. These guidelines will constitute a baseline PSAP substance abuse testing component.

Timetable:

Action	Date	FR Cite
NPRM	03/08/91	56 FR 10075
NPRM Comment Period End	04/08/91	
Final Action	04/00/93	

Small Entities Affected: None

DOE—DSA

Final Rule Stage

Government Levels Affected: None

Agency Contact: Lynn Gebrowsky, Personnel Security Policy Branch, (SA-122), Policy, Standards and Analysis Division, Department of Energy, Office of Safeguards and Security, Office of Security Affairs, Washington, DC 20545, 301 903-3200

RIN: 1992–AA13

901. SECURITY SKILLS TRAINING AND QUALIFICATIONS STANDARDS FOR PROTECTIVE FORCE PERSONNEL

Significance: Agency Priority

Legal Authority: 42 USC 2201k, Atomic Energy Act of 1954, sec 161k; 42 USC 2012(a); 42 USC 2012(e); 42 USC 7254, DOE Organization Act, sec 644

CFR Citation: 10 CFR 1046 (Revision)

Legal Deadline: None
This is a court-ordered action.

Abstract: On February 9, 1988, DOE Order 5632.7 "Protective Forces" was issued which updated the requirements for firearms qualifications for security inspectors at DOE facilities. In an order and judgment entered March 19, 1990, the U.S. District Court of Nevada granted summary judgment and invalidated DOE's order as it applied to contractor personnel, due to the agency's failure to conduct an Administrative Procedure Act notice and comment rulemaking. The regulations would, inter alia, require that each contractor protective force officer have an appropriate access authorization and successfully complete formal basic and annual training in security skills and knowledge. The regulations also would require security inspectors to pass a firearms qualification test. Each security inspector would be required to demonstrate firearms proficiency at least semiannually, as indicated in the DOE requirements of the Standard DOE Qualification Courses, with all weapons reasonably expected to be used by the employee.

Timetable:

Action	Date	FR Cite
NPRM	05/10/91	56 FR 21631
NPRM Comment Period End	07/09/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Public hearings were held in Las Vegas, NV, on June 14, 1991, Argonne, IL, on June 21, 1991, and Oak Ridge, TN, on June 28, 1991.

Rulemaking to be sent to Attorney General for approval.

Agency Contact: William J. Desmond, Chief, Physical Security Branch (SA-121), Office of Safeguards and Security, Department of Energy, Office of Security Affairs, 19901 Germantown Road, Germantown, MD 20545, 301 903-4244

RIN: 1992–AA16

902. ACCELERATED ACCESS AUTHORIZATION PROGRAM AT SELECTED DOE SITES

Legal Authority: 42 USC 2165, Atomic Energy Act of 1954, sec 145

CFR Citation: Not applicable

Legal Deadline: None

Abstract: In response to a pressing need for more expeditious processing of access authorization (personnel security clearance) requests, the Department of Energy (DOE) established an Accelerated Access Authorization (AAA) program at the Albuquerque Field Office. DOE has determined that the AAA program was necessary because of the need to secure, on a timely basis, staff expertise to be applied to a variety of urgent environmental and defense issues. The AAA program does not take the place of the current access authorization clearance process, but allows workers to perform their jobs while the full background investigation is being conducted. The AAA program will be offered to DOE contractor and Federal employees as an option.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action is an interpretation of the statute, and is not subject to notice and comment.

Agency Contact: Lynn Gebrowsky, Personnel Security Policy Branch, (SA-122), Policy, Standards and Analysis Division, Department of Energy, Office of Safeguards and Security, Office of Security Affairs, Washington, DC 20545, 301 903-3200

RIN: 1992–AA17

903. ASSISTANCE TO FOREIGN ATOMIC ENERGY ACTIVITIES

Significance: Agency Priority

Legal Authority: 42 USC 2077; 42 USC 2156 to 2158; 42 USC 2201; 42 USC 2273; PL 93-438, sec 104; 41 USC 7101

CFR Citation: 10 CFR 810

Legal Deadline: None

Abstract: Under the existing part 810 regulations, entitled Assistance to Foreign Atomic Energy Activities, assistance by U.S. persons to nuclear power reactor-related activities outside the United States is generally authorized for countries not listed in section 810.8. A main purpose of this revision is to establish a general authorization to enhance the operational safety of existing civilian nuclear power reactors in all countries that are on the section 810.8 list, eliminating the need for specific authorization by the Secretary of Energy for such assistance. In addition, the section 810.8 list of countries is being updated. Deletions from the list include countries that no longer exist and East European countries that were listed solely for national security reasons that vanished with the disintegration of the Warsaw Pact. Added to the list are certain republics of the former Soviet Union.

The revision of part 810 would: (1) expedite safety-related assistance to civilian nuclear powerplants. particularly (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/11/93	58 FR 13427
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: in the former Soviet Union, and support the U.S. Government's efforts to improve the operational safety of nuclear power reactors worldwide; (2) reduce the regulatory burden on U.S. industry by eliminating unnecessary paperwork and time- consuming bureaucratic delays; and (3) enable U.S. firms to compete more effectively

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Final Rule Stage

against foreign competitors for safety-related nuclear business.

Agency Contact: Zander Hollander, Export Control Specialist (AN-30), Department of Energy, Office of Export Control & International Safeguards, Washington, DC 20585, **202 586-2125**

RIN: 1992–AA18

904. • TRESPASSING ON DOE PROPERTY

Legal Authority: 42 USC 2278a, Atomic Energy Act of 1954, sec 229

CFR Citation: 10 CFR 860

Legal Deadline: None

Abstract: This is an amendment to 10 CFR Part 860 that reflects changes in federal criminal statutes increasing fines for certain acts including trespass on DOE property.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: TIMETABLE: This rule is not subject to prior proposal and comment because the increase in fines is mandated by federal statute.

Agency Contact: William Desmond, Chief, Physical Security (SA-121), Department of Energy, E374 Germantown Building, Germantown, MD 20545, **301 903-4244**

RIN: 1992–AA19

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Prerule Stage

905. HAZARDOUS SUBSTANCE RESPONSE AND EMERGENCY RESPONSE WORKER TRAINING AND CONTRACTOR CERTIFICATION PROGRAM

Significance: Agency Priority

Legal Authority: PL 102-190, sec 3131

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Public Law 102-190, sec 3131, subsection (b) directs the Department of Energy to assess civil penalties against contractors at DOE nuclear weapons facilities who fail either to provide training to employees engaged in hazardous substance response and emergency response or fail to certify that such workers have been adequately trained. The regulation will provide the procedures for enforcement as provided for in sec 3131

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1991

Sectors Affected: All

Agency Contact: David Smith, Industrial Hygienist, Department of Energy, EH-31.1, Washington, DC 20585, **301 903-4669**

RIN: 1901–AA44

906. • IMPLEMENTATION OF DOE SCIENCE EDUCATION ENHANCEMENT ACT

Legal Authority: PL 101-510, DOE Science Education Enhancement Act; PL 101-514, sec 305

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This is a review to determine what portion of Public Law 101-510 will require a program rule. Public Law 101-510, DOE Science Education Enhancement Act: (1) states that the support for science education is now considered one of DOE's main missions; (2) encourages development and implementation of existing science, mathematics, and engineering education at DOE laboratories; (3) provides for more efficient coordination of DOE education programs between the laboratories and educational institutions; (4) authorizes the Secretary to establish new educational programs; and (5) establishes "partnerships" between the Department, DOE facilities, and educational institutions. The purpose of any program rule and DOE Orders is to set forth the administrative and financial policies and procedures applicable to educational partnerships, personal property partnerships, laboratory cooperative science centers, precollege, undergraduate and educational institutions and related organizations. The potential benefits of the program include (1) identifying and successfully managing the (cont)

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: ABSTRACT CONT: total DOE-wide educational environment for the future; (2) eliminating duplication of effort in implementing educational programs; (3) better communication flow between DOE, its laboratories, universities, schools, other Federal agencies, and State organizations; (4) providing a better systematic approach to administering and implementing policies as required by Public Law 101-510; (5) evaluating and managing existing and future funding requirements; and (6) recognizing potential educational problems and establishing internal policies and procedures to resolve them.

Agency Contact: Michael L. Wolfe, Program Manager, Office of University & Science Education, Department of Energy, Office of Science & Technology (ST-50), 1000 Independence Ave SW., Washington, DC 20585, **202 586-5462**

RIN: 1901–AA51

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Proposed Rule Stage

907. ELECTRIC POWER SYSTEM PERMITS AND REPORTS; APPLICATIONS; ADMINISTRATIVE PROCEDURES AND SANCTIONS

Legal Authority: PL 95-91; PL 66-280; EO 12038

CFR Citation: 10 CFR 205

Legal Deadline: None

Abstract: These regulations would streamline the existing procedures for applying to the DOE for Presidential permits and electricity export authorizations, by eliminating the use of FERC "trial-type" procedures and establishing a less adversarial process of decisionmaking. These regulations may also establish that DOE's decisional criterion is only electric power system reliability and not the economic or commercial viability of projects.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen Russell, Fuels Conversion Analyst, (FE-52), Office of Coal and Electricity, Department of Energy, Room 3F-094, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-9624**

RIN: 1901–AA19

908. NEW ADMINISTRATIVE PROCEDURES WITH RESPECT TO SHORT-TERM IMPORTS AND EXPORTS OF NATURAL GAS

Significance: Agency Priority

Legal Authority: 15 USC 717b; 42 USC 7101 et seq; EO 12009

CFR Citation: 10 CFR 590

Legal Deadline: None

Abstract: The rule would amend the administrative procedure regulations contained in 10 CFR 590, by establishing a new Subpart F to provide alternative, expedited procedures regarding applications to import and export natural gas on a short-term basis. The rule would reduce the regulatory burden on parties wishing to import or export natural gas on a short-term or spot market basis by streamlining our licensing process, thus facilitating the operation of the market.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: This regulatory agenda item was previously under RIN: 1903-AA07 under the same title. This item was deleted from the agenda on August 8, 1989.

Agency Contact: Clifford P. Tomaszewski, Director, Office of Natural Gas (FE-50), Office of Fossil Energy, Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-9482**

RIN: 1901–AA25

909. ENERGY BOARD OF CONTRACT APPEALS RULES OF PRACTICE

Legal Authority: 41 USC 601 et seq

CFR Citation: 10 CFR 1023

Legal Deadline: None

Abstract: Update the rules of practice of the Energy Board of Contract Appeals to provide for Alternative Dispute Resolution (ADR) and for other purposes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. Barclay Van Doren, Chair, Board of Contract Appeals, Department of Energy, 4040 N. Fairfax Drive, Rm 1006, Arlington, VA 22203, **703 235-2700**

RIN: 1901–AA30

910. RULES OF PRACTICE TO GOVERN PROCEEDINGS TO RESOLVE CERTAIN DISPUTES ARISING BETWEEN M&O CONTRACTORS AND THEIR SUBCONTRACTORS

Legal Authority: PL 95-91, title VI, sec 644; PL 83-703, sec 161; 9 USC 1 to 14

CFR Citation: 10 CFR 1023; 48 CFR 970

Legal Deadline: None

Abstract: Procedures are necessary to resolve certain disputes arising between DOE M&O contractors and their subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. Barclay Van Doren, Chair, Board of Contract Appeals, Department of Energy, 4040 N. Fairfax Drive, Rm. 1006, Arlington, VA 22203, **703 235-2700**

RIN: 1901–AA31

911. RENEGOTIATION OF POWER SALES CONTRACTS

Legal Authority: 16 USC 839(c)

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The Bonneville Power Administration has begun a multi-year process of renegotiation of its Power Sales Contracts. In preparation for that, BPA will from time to time issue notices in the Federal Register which explain to BPA's customers the progress of the renegotiation process.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Miller, Attorney/OGC, Department of Energy, Bonneville Power Administration, Portland, Oregon 97208-3621, **503 230-4201**

RIN: 1901–AA36

912. PREFERENCE POLICY FOR SALES OF SURPLUS FIRM POWER AND SURPLUS NONFIRM ENERGY UNDER THE NORTHWEST POWER ACT

Legal Authority: 16 USC 839c(f); 16 USC 837(b)

CFR Citation: Not applicable

Legal Deadline: None

Abstract: Section 5(f) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Pub. L. 96-501, provides that the

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Bonneville Power Administration (BPA) may sell or otherwise dispose of power which is surplus to the obligations of the Administrator under sections 5(b), (c), and (d) in accordance with that Act and other applicable provisions of the statute. Section 9(c) of the Northwest Power Act and the Act of August 31, 1964, Pub. L. 88-552 (the Northwest Preference Act), provide that the BPA may only sell power outside the Pacific Northwest that is surplus firm power, surplus nonfirm energy, or surplus capacity as defined in those Acts. Surplus firm power, surplus nonfirm energy or surplus capacity is defined as energy or capacity for which there is no market or demand in the Pacific Northwest at rates established for the disposition of such energy or capacity. In February 1990, BPA published for comment a proposal for adoption of policy and procedures for sales of surplus firm power, surplus nonfirm energy, and surplus capacity. To complete its effort to establish a formal policy on the disposal of this power, BPA will issue in the Federal Register a Notice (cont)

Timetable:

Action	Date	FR Cite
ANPRM	02/23/90	55 FR 6420
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: of Response to Comments on Issues to be Addressed in establishing a Preference Policy, as well as a Notice of Draft Policy and a Final Policy.

Agency Contact: **Thomas Miller**, Attorney/OGC, Department of Energy, Bonneville Power Administration, Portland, Oregon 97208-3621, **503 230-4201**

RIN: 1901–AA37

913. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Significance: Regulatory Program

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 834

Legal Deadline: None

Abstract: The Department of Energy (DOE) proposes the addition of a new part to its regulations establishing a body of rules for DOE contractor and subcontractor activities that will form the basic requirements for ensuring radiation protection of the public and environment at DOE facilities. These requirements stem from the Department's ongoing effort to strengthen the protection of health, safety, and the environment from the nuclear, radiological, and chemical hazards posed by these DOE facilities. The new part provides radiation protection requirements for the public and environment for DOE and DOE contractor operations. Major elements of the regulation include a dose limitation system for protection of the public; requirements for liquid discharges; reporting and monitoring requirements; and residual radioactive material requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/25/93	58 FR 16268
NPRM Comment Period End	06/22/93	58 FR 16268
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: **Andrew Wallo, III, Director**, Air, Water and Radiation Div. (EH-232), Office of Environmental Guidance, Department of Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, **202 586-4996**

RIN: 1901–AA38

914. NUCLEAR SAFETY MANAGEMENT: PHASE II

Significance: Regulatory Program

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 830

Legal Deadline: None

Abstract: This action would make additions to DOE's regulation 10 CFR 830 establishing a body of rules for DOE contractor and subcontractor activities that will form the basic requirement for ensuring nuclear safety at DOE facilities. These requirements stem from DOE's ongoing effort to strengthen the protection of health, safety and the environment from the nuclear radiological and chemical hazards posed by these facilities. Among other matters, the Phase II rules relate to safety concern management; reactor design criteria; seismic and environmental qualifications; fire protection; personnel training; emergency preparedness; safety responsibility; and contractor oversight.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Stephen Stern**, Nuclear Safety Policy Division (NE-72), Office of Nuclear Safety Policy & Standards, Department of Energy, 1000 Independence Ave. SW., Washington, DC. 20585, **301 903-2527**

RIN: 1901–AA42

915. • STANDARD CONTRACT FOR THE DISPOSAL OF SPENT NUCLEAR FUEL AND/OR HIGH-LEVEL RADIOACTIVE WASTE

Significance: Agency Priority

Legal Authority: 42 USC 10222

CFR Citation: 10 CFR 961

Legal Deadline: None

Abstract: On April 18, 1983, DOE published a rule that established the Standard Contract for the Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste (Standard Contract) to be used by DOE in furnishing disposal services to the owners and generators of spent nuclear fuel (SNF) and/or high-level radioactive waste (HLW) (48 FR 16590). The Standard Contract represents the sole contractual mechanism for DOE acceptance and disposal of SNF. The Standard Contract establishes the requirements and operational responsibilities of DOE and the owners and generators of SNF regarding administrative matters, fees, terms of payment, waste acceptance criteria and waste acceptance procedures. Since 1987, DOE has worked cooperatively with representatives of the owners and generators on many of the issues that must be resolved in order to implement the terms and conditions of the Standard Contract. This rulemaking concerns changes and additions to the Standard Contract to address the first set of these issues. These changes and additions will provide sufficient detail and guidance to enable both the DOE and the owners and generators to carry out their respective contractual (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: ABSTRACT CONT: responsibilities and plan for the orderly transfer to SNF to the civilian radioactive waste management system.

Agency Contact: Nancy S. Montgomery, Industrial Specialist

(Nuclear), Department of Energy, Office of Logistics & Utility Interface (RW-432), Office of Civilian Radioactive Waste Management,Wash. DC 20585, **202 586-8320**

RIN: 1901–AA49

DEPARTMENT OF ENERGY (DOE) Departmental and Others (ENDEP) — Final Rule Stage

916. PROCEDURAL RULES FOR DOE NUCLEAR ACTIVITIES

Significance: Regulatory Program

Legal Authority: PL 100-408; 42 USC 2201; 42 USC 7191; 42 USC 2282a; 42 USC 2273(c)

CFR Citation: 10 CFR 820

Legal Deadline: None

Abstract: The Price-Anderson Amendments Act (PAAA) of 1988 contains provisions subjecting DOE contractors (and subcontractors and suppliers thereto) who are indemnified under the PAAA, to penalties for violations of nuclear safety rules, regulations, or orders issued by the Department. The Secretary has authority to compromise, modify, or remit penalties and to prescribe regulations as necessary. The Secretary is required to determine by rule whether nonprofit educational institutions should receive automatic remission of civil penalties. The penalty provisions of the PAAA are directed toward assuring compliance with DOE nuclear safety requirements through the use of monetary penalties. These regulations implement the penalty provisions of the Act and will include, as an appendix, a General Statement of Enforcement Policy.

Timetable:

Action	Date	FR Cite
Notice of Inquiry	09/21/89	54 FR 38865
NPRM	12/09/91	56 FR 64290
Public Hearing	01/09/92	57 FR 855
NPRM Comment Period End	03/25/92	57 FR 855
Notice of Clarification-Clarify Definition of DOE Nuclear Safety Requirements	05/15/92	57 FR 20796
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: **Richard L. Black**, Director, Enforcement Division (NS-30), Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, **301 427-1692**

RIN: 1901–AA26

917. FREEDOM OF INFORMATION

Legal Authority: 5 USC 552

CFR Citation: 10 CFR 1004

Legal Deadline: None

Abstract: This rule will revise the DOE regulations on the procedures and principles to be applied in responding to requests for records under the Freedom of Information Act (FOIA) 5 USC 552. Revisions include updated names and addresses of organizational entities, and updated guidelines for the schedule of fees associated with processing requests. A proposed section on policies would clarify DOE's operation of a first-in, first-out policy in responding to FOIA requests. The issue of when contractor records become agency records also will be resolved in the new rule. The role of the Office of Hearings and Appeals is clarified.

Timetable:

Action	Date	FR Cite
NPRM	10/23/91	56 FR 55036
NPRM Comment Period End	11/22/91	56 FR 55036
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: All

Agency Contact: **Denise Diggin**, Chief of FOI/PA (AD-621), Office of Administration and Management, Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-6025**

RIN: 1901–AA32

918. NUCLEAR SAFETY MANAGEMENT

Significance: Regulatory Program

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 830

Legal Deadline: None

Abstract: The Department of Energy (DOE) proposes the addition of a new part to its regulations establishing a body of rules for DOE contractor and subcontractor activities that will form the basic requirements for ensuring nuclear safety at DOE facilities. These requirements stem from the Department's ongoing effort to strengthen the protection of health, safety, and the environment from the nuclear, radiological, and chemical hazards posed by these DOE facilities. The requirements relate to (1) Safety Analysis Reports, (2) Unreviewed Safety Questions, (3) Quality Assurance, (4) Defect Identification, (5) Conduct of Operations, (6) Technical Safety Requirements, (7) Training, (8) Maintenance Management, and (9) Reporting Operational Occurrences.

Timetable:

Action	Date	FR Cite
NPRM	12/09/91	56 FR 64316
NPRM Comment Period End	03/25/92	57 FR 855
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Stephen Stern**, Nuclear Safety Policy Division, (NE-72), Office of Nuclear Safety Policy & Standards, Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, **301 903-2527**

RIN: 1901–AA34

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919. OCCUPATIONAL RADIATION PROTECTION

Significance: Regulatory Program

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 835

Legal Deadline: None

Abstract: The Department of Energy (DOE) proposes the addition of a new part to its regulations establishing a body of rules for DOE contractor and subcontractor activities that will form the basic requirements for ensuring radiation protection of the occupational worker at DOE facilities. These requirements stem from the Department's ongoing effort to strengthen the protection of health and safety from the nuclear and radiological hazards posed by these DOE facilities. The new part provides radiation protection requirements for the occupational workers for DOE and DOE contractor operations. Major elements of the regulation include increased emphasis on as low as reasonably achievable (ALARA) exposure limits for the protection of workers and requirements for a written Radiation Protection Program.

Timetable:

Action	Date	FR Cite
NPRM	12/09/91	56 FR 64344
NPRM Comment Period End	03/25/92	57 FR 855
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: R. Thomas Bell or Anthony A. Weadock, Health Physicist (EH-411), Health Physics Programs Division, Department of Energy, 19901 Germantown Rd., Germantown, MD. 20874, 301 903-3889

RIN: 1901–AA39

920. POLICY TO IMPLEMENT SECTION 6(C) OF THE NORTHWEST POWER ACT

Legal Authority: 16 USC 839d, Northwest Power Act, sec 6(c)

CFR Citation: Not applicable

Legal Deadline: None

Abstract: Under section 6(c) of the Northwest Power Act, Bonneville must hold a hearing on proposals to (1) acquire a major resource, (2) implement a conservation measure that is equivalent to a major resource, (3) pay or reimburse preconstruction and investigation costs to major resource sponsors, or (4) grant billing credits. As part of the hearing, the Administrator must determine whether the proposed actions are consistent with the Northwest Power and Conservation Planning Council's plan. Bonneville and the Council recently concluded a 5-year review of their respective 6(c) Policies, which establish the basis for holding a 6(c) hearing and the procedures governing the hearings. The scope of the policies was expanded to cover paying or reimbursing preconstruction and investigation expenses to sponsors of major resources, and providing billing credits or services involving a major resource. Bonneville also included a provision for expedited 6(c) hearing procedures under certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	08/20/92	57 FR 37792
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phyllis Evans, Public Utilities Specialist (APG), Department of Energy, P.O. Box 3621, Portland, OR 97208, 503 230-5341

RIN: 1901–AA43

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP) — **Completed Actions**

921. PROCEDURES FOR IMPLEMENTING THE EQUAL ACCESS TO JUSTICE ACT IN ENERGY BOARD OF CONTRACT APPEALS PROCEEDINGS

Legal Authority: PL 95-91, title VI, sec 644; 5 USC 504

CFR Citation: 10 CFR 1023

Legal Deadline: None

Abstract: Procedures are necessary to implement the Equal Access to Justice Act for proceedings before the Energy Board of Contract Appeals.

Timetable:

Action	Date	FR Cite
NPRM	09/03/92	57 FR 40345
NPRM Comment Period End	10/05/92	57 FR 40345
Final Action	11/12/92	57 FR 53541
Final Action Effective	12/14/92	57 FR 53541

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: E. Barclay Van Doren, Chair, Board of Contract Appeals, Department of Energy, 4040 N. Fairfax Dr., Rm. 1006, Arlington, VA 22203, 703 235-2700

RIN: 1901–AA22

922. ENVIRONMENTAL RESTORATION MANAGEMENT CONTRACTOR

Significance: Regulatory Program

Legal Authority: 42 USC 2011 et seq, The Atomic Energy Act of 1954

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This action addresses the problem of the Department's management and operating contractors not being uniformly qualified to perform environmental restoration (ER) work, and involves contract initiatives. The Department has published a notice of intent to develop an environmental restoration alternate business strategy (55 FR 45843, October 31, 1990). This strategy calls for an Environmental Restoration Management Contractor (ERMC) to assist DOE in managing all the environmental restoration work at each DOE Field Office. A pilot phase program is planned starting with the Fernald Environmental Management Project and followed by the Hanford Site/Richland Field Office. An ERMC at each site will have responsibility for managing ER work. The benefits of such a contract initiative include promoting specialized expertise in cleanup rather than national defense activities; reducing cleanup costs and

DOE—ENDEP — **Completed Actions**

expediting environmental restoration; and promoting the application of innovative technologies in cleanup work. The Department selected an ERMC for the Fernald site on August 5, 1992. The Fernald ERMC started initial work at the site during a transition period that began (cont)

Timetable:

Action	Date	FR Cite
Withdrawn - No further rulemaking planned.	02/26/93	
Fernald		
Final RFP 12/23/91		
Establish the ERMC 08/05/92		
Richland		
Final RFP 05/08/92		
Establish the ERMC 01/15/93		

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: ABSTRACT CONT: on September 1, 1992, and assumed full contract responsibilities on December 1, 1992. At the Hanford site, a request for proposals was issued on May 8, 1992, and selection of an ERMC occurred January 15, 1993. The Hanford site contract has been suspended while the General Accounting Office considers protests by two unsuccessful offerors.

Agency Contact: Roger P. Whitfield, Associate Director, Office of Environmental Restoration, Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-6331

RIN: 1901–AA29

923. PROCEDURES FOR FINANCIAL ASSISTANCE APPEALS BEFORE THE ENERGY FINANCIAL ASSISTANCE APPEALS BOARD

Legal Authority: 42 USC 7101 et seq; 41 USC 501 to 509

CFR Citation: 10 CFR 1024

Legal Deadline: None

Abstract: To amend the Procedures for Financial Assistance Appeals to resolve inconsistencies in language between sec. 1024.3(c) and Rule 1(a) for filing a notice of appeal.

Timetable:

Action	Date	FR Cite
NPRM	01/29/92	57 FR 3364
NPRM Comment Period End	02/28/92	57 FR 3364
Final Action	11/30/92	57 FR 56440
Final Action Effective	12/30/92	57 FR 56440

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. Barclay Van Doren, Chair, Board of Contract Appeals, Department of Energy, 4040 N. Fairfax Drive, Rm. 1006, Arlington, VA 22203, 703 235-2700

RIN: 1901–AA33

DEPARTMENT OF ENERGY (DOE)
Office of Procurement, Assistance and Program Management (PR) — **Proposed Rule Stage**

924. DEAR: PATENT POLICY REVISIONS

Legal Authority: 41 USC 401 et seq, The Office of Federal Procurement Policy Act; 42 USC 7101 et seq, The Department of Energy Organization Act; EO 12352 Procurement Reforms

CFR Citation: 48 CFR 927; 48 CFR 970

Legal Deadline: None

Abstract: The Department of Energy Acquisition Regulation (DEAR), promulgated March 29, 1984, at 49 FR 11922, supplements and implements the Federal Acquisition Regulation. A more recent Federal Acquisition Circular has issued to establish a FAR part 27 concerning patents. It will be necessary to revise part 927 of the DEAR to supplement and implement the FAR and to explain how DOE patent policy will differ due to our statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-8264

RIN: 1991–AA23

925. DEPARTMENT OF ENERGY PROPERTY MANAGEMENT REGULATIONS: MANAGEMENT OF MOTOR EQUIPMENT

Legal Authority: 42 USC 7254

CFR Citation: 41 CFR 109

Legal Deadline: None

Abstract: Updates the Property Management Regulations regarding management of motor equipment, including motor vehicles, aircraft, and watercraft.

Timetable:

Action	Date	FR Cite
NPRM	05/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wilson, Supply Management Representative, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-8260

RIN: 1991–AA28

926. DEAR: MISCELLANEOUS CHANGES ON ACQUISITION OF MOTOR EQUIPMENT

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 908; 48 CFR 970; 48 CFR 945

Legal Deadline: None

Abstract: To provide additional, and to revise current, policy guidance in the Department of Energy Acquisition Regulation (DEAR) on the acquisition of personal property in the areas of

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motor equipment management including motor vehicles and aircraft.

Timetable:

Action	Date	FR Cite
NPRM	05/00/94	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert Wilson, Supply Management Representative, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-8260

RIN: 1991–AA32

927. RESOLUTION OF DISPUTES BETWEEN SUBCONTRACTORS AND DOE MANAGEMENT AND OPERATING CONTRACTORS

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Establishes a system, by regulation, to allow subcontractors under DOE Management and Operating contracts access in certain circumstances to the Energy Board of Contract Appeals in resolution of disputes with the contractor. Also clarifies that DOE Contracting Officers lack authority to designate Management and Operating contractors as purchasing agents for DOE absent special authorization.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-8264

RIN: 1991–AA44

928. TECHNOLOGY TRANSFER: DOE MANAGEMENT AND OPERATING CONTRACTORS

Legal Authority: PL 101-189, sec 3133; 42 USC 7256(a)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Public Law 101-189 amended the Stevenson-Wydler Technology Innovation Act to include DOE management and operating laboratories. Consistent with DOE's Technology Transfer mission, DOE will also authorize the conduct of certain technology transfer activities at its non-laboratory facilities operated by M&O contractors. DOE will need to amend DEAR 970 to standardize the implementation of its technology transfer program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Howard K. Mitchell, Procurement Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-8190

RIN: 1991–AA63

929. DEBARMENT AND SUSPENSION

Legal Authority: EO 12689

CFR Citation: 10 CFR 1035; 10 CFR 1036

Legal Deadline: None

Abstract: This conforms procurement debarment procedures and nonprocurement debarment procedures to have reciprocal governmentwide effect.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Eric Tolmach, Director, Program Analysis & Evaluation Division, Office of Contractor Human Resource Mgmt., Department of Energy, Office of Procurement, Assistance and Program Management, Room 4H-023, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-9032

RIN: 1991–AA80

930. PERSONNEL APPENDICES AND EMPLOYEE RELOCATION UNDER MANAGEMENT AND OPERATING CONTRACTS

Significance: Agency Priority

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970 to 3101; 48 CFR 970 to 3102

Legal Deadline: None

Abstract: The rulemaking will (1) establish one basic method -- the personnel appendix -- for recording advance understandings on personnel costs, (2) clarify that only those personnel policies and associated costs which are set forth in the personnel appendix are reimbursable under the contract, (3) make allowable contractors dependent care programs which meet DOE criteria and the contractor's workforce needs, (4) allow reimbursement to contractor employees for tax liabilities incurred as a result of relocating at DOE direction, and (5) clarify provisions on allowable contractor pension costs and describe the Department's contractor pension funding policy. The rule will enhance control over contractor personnel relocation costs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Eric Tolmach, Director, Program Analysis &

Evaluation Division, Office of Contractor Human Resource Mgmt., Department of Energy, Office of Procurement, Assistance and Program Management, Room 4H-023, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-9032

RIN: 1991–AA80

931. ACQUISITION OF FEDERAL INFORMATION RESOURCES BY CONTRACT

Legal Authority: 40 USC 486(c); 42 USC 7101

CFR Citation: 48 CFR 939; 48 CFR 970.39

Legal Deadline: None

Abstract: Provides procedures governing acquisition of Federal information processing resources by contract.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: E. Simpson, Policy Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., PR-121, Washington, DC 20585, 202 586-8247

RIN: 1991–AA81

932. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: 42 USC 7254; 42 USC 7256

CFR Citation: 10 CFR 600, subpart E

Legal Deadline: None

Abstract: This rulemaking modifies the governmentwide Common Rule pertaining to administrative requirements for grants and cooperative agreements to States, local governments and Indian tribes. The rule was first published in 1988 and this revision updates some provisions of the rule and changes others to address issues that have been raised.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Edward Sharp, Procurement Analyst (PR-122), Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-8192

RIN: 1991–AA85

933. DEAR: SECURITY PROCEDURES

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 904; 48 CFR 952

Legal Deadline: None

Abstract: Revise security procedures regarding foreign ownership, control and influence to clarify requirements and simplify approval process.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a paperwork burden associated with this action.

Agency Contact: Richard Langston, Procurement Analyst (PR-121), Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-8247

RIN: 1991–AA86

934. DEAR: M&O WORK AUTHORIZATION AND CONTROL SYSTEM

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970.10; 48 CFR 970.52

Legal Deadline: None

Abstract: Amend the DEAR to require management and operating contracts to utilize an improved contract work authorization and control system.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst (PR-121), Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, 202 586-8247

RIN: 1991–AA91

935. DEAR: MISCELLANEOUS AMENDMENTS #4

Legal Authority: 40 USC 486(c); 42 USC 7254

CFR Citation: 48 CFR 904; 48 CFR 906; 48 CFR 913; 48 CFR 915; 48 CFR 916; 48 CFR 919; 48 CFR 922; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: Miscellaneous Amendments - These amendments will perform housekeeping duties such as updating references, correcting editorial errors, and clarifying language.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kevin M. Smith, Procurement Analyst (PR-121), Department of Energy, Office of Procurement, Assistance and Program

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DOE—PR — **Proposed Rule Stage**

Management, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-8189**

RIN: 1991–AA92

936. DEAR: PROJECT CONTROL SYSTEM

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 952.212-73

Legal Deadline: None

Abstract: Amend the Department of Energy Acquisition Regulation (DEAR) to require contractors performing project work to have project control system in place which meets the requirements set forth in DOE Notice 4700, Project Control System Guidelines.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Van Jones, Management Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-4050**

RIN: 1991–AA93

937. • DEAR: ORGANIZATIONAL CONFLICTS OF INTEREST

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 909.57

Legal Deadline: None

Abstract: Regulation is to clarify certain aspects of existing regulations covering organizational conflicts of interest in the award of contracts and subcontracts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Avenue SW., Washington, DC 20585, **202 586-8264**

RIN: 1991–AA95

938. • DEAR: RECORDS

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This amendment would allow ownership of certain records to vest in DOE management and operating contractors, even though produced at Government expense provided the contract contains terms ensuring the Government's right to audit, use, and copy such records.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst (PR-121), Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-8247**

RIN: 1991–AA96

939. • DEAR: INTERAGENCY AGREEMENTS

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 917.5

Legal Deadline: None

Abstract: The existing regulation is to be amended to add guidance regarding Interagency Agreements. It will add definitions, define responsibilities and discuss funding methods for funds-out interagency agreements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard Langston, Procurement Analyst (PR-121), Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave, Washington, DC 20585, **202 586-8247**

RIN: 1991–AA98

940. • DEAR: ORGANIZATIONAL CONFLICTS OF INTEREST

Legal Authority: 15 USC 789; 42 USC 5918

CFR Citation: 48 CFR 909.57

Legal Deadline: None

Abstract: The purpose of this rulemaking is to make changes to existing regulations on organizational conflicts of interest at Department of Energy Acquisition Regulation 909.57. These changes are to clarify portions of the regulation in response to a Department-wide training program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave SW., Washington, DC 20585, **202 586-8264**

RIN: 1991–AA99

DEPARTMENT OF ENERGY (DOE) — **Final Rule Stage**

Office of Procurement, Assistance and Program Management (PR)

941. DEAR: ENVIRONMENTAL, SAFETY AND HEALTH REQUIREMENTS

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 916; 48 CFR 970

Legal Deadline: None

Abstract: The Department of Energy is proposing to amend the Department of Energy Acquisition Regulation to clarify and emphasize environmental protection, safety, and health requirements for contractors.

Timetable:

Action	Date	FR Cite
NPRM	08/28/91	56 FR 42584
NPRM Comment Period End	09/27/91	56 FR 42584
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: P. Devers Weaver, Procurement Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-8250**

RIN: 1991–AA53

942. DEAR: MISCELLANEOUS AMENDMENTS #3

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 915; 48 CFR 933; 48 CFR 942; 48 CFR 952; 48 CFR 970; 48 CFR 905

Legal Deadline: None

Abstract: Miscellaneous Amendments - These amendments will perform housekeeping duties such as updating references, correcting editorial errors, and clarifying language. The final rule does not require prior notice and comment because none of the amendments raises a substantive issue.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kevin M. Smith, Procurement Analyst (PR-121), Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-8189**

RIN: 1991–AA60

943. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: PL 101-121, sec 319

CFR Citation: 10 CFR 1036

Legal Deadline: None

Abstract: The Department will join 28 other Executive agencies in issuing a final common rule for the purpose of implementing new statutory prohibitions and disclosure requirements with regard to certain influencing activities.

Timetable:

Action	Date	FR Cite
OMB Interim Final Guidance	12/20/89	54 FR 52306
Interim Final Rule	02/26/90	55 FR 6736
Further OMB Guidance	06/15/90	55 FR 24540
Further OMB Guidance	01/15/92	57 FR 1772
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Howard K. Mitchell, Procurement Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-8190**

RIN: 1991–AA64

944. DEAR: MANAGEMENT AND OPERATING CONTRACTORS AND FACILITY MANAGEMENT DIRECTIVES

Legal Authority: 42 USC 7254 et seq

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: The purpose of this action is to specify that DOE management and operating contractors will comply with applicable DOE directives when performing facility management duties.

Timetable:

Action	Date	FR Cite
NPRM	09/03/91	56 FR 43576
NPRM Comment Period End	10/03/91	56 FR 43576
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-8247**

RIN: 1991–AA67

945. DEAR: MAJOR FRAUD ACT

Legal Authority: 41 USC 2201; 42 USC 7254; PL 100-700, Major Fraud Act of 1988

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: To implement the Major Fraud Act of 1988 with regard to the allowability of a Management and Operating contractor's costs incurred in connection with a criminal, civil or administrative proceeding and to otherwise limit DOE reimbursements of such costs.

Timetable:

Action	Date	FR Cite
NPRM	01/13/93	58 FR 4141
Final Action	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gwendolyn S. Cowan, Director, Business and Financial Policy Division, Department of Energy, Office of Procurement, Assistance and Program Management,

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DOE—PR

Final Rule Stage

1000 Independence Ave. SW., Washington, DC 20585, **202 588-8159**

RIN: 1991–AA73

946. RESEARCH OPPORTUNITY ANNOUNCEMENTS

Legal Authority: 42 USC 7101

CFR Citation: 48 CFR 935

Legal Deadline: None

Abstract: To refine the research opportunity announcement process of soliciting and awarding research projects based upon lessons learned during the first annual review and award cycle.

Timetable:

Action	Date	FR Cite
NPRM	11/06/91	56 FR 56621
NPRM Comment Period End	12/06/91	56 FR 56621
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: E. Simpson, Procurement Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, PR-121, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-8247**

RIN: 1991–AA82

947. PROTECTIVE SERVICES AND CONTINUITY OF OPERATION

Legal Authority: 41 USC 401; 42 USC 7101

CFR Citation: 48 CFR 937.70

Legal Deadline: None

Abstract: Require labor and management to seek means other than strike or lockout to assure continuity of facility operation under contracts for protective services.

Timetable:

Action	Date	FR Cite
NPRM	08/12/91	56 FR 38096
NPRM Comment Period End	09/11/91	56 FR 38096
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard Langston, Procurement Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., PR-121, Washington, DC 20585, **202 586-8247**

RIN: 1991–AA83

948. AMENDMENT TO WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES

Significance: Regulatory Program

Legal Authority: 42 USC 2012 et seq Atomic Energy Act of 1954

CFR Citation: 10 CFR 707

Legal Deadline: None

Abstract: This action will amend the Department's rule governing the use of illegal drugs at DOE sites to ensure that substance abuse programs include provisions that also address misuse and abuse of alcohol. DOE expects to mitigate the potential for harm to the environment and to the public health and safety at DOE sites by contractor employees and other individuals performing health or safety sensitive functions. Cost incurred will affect primarily cost reimbursement type contracts for managing, operating, constructing, and servicing DOE facilities and certain other on-site contractors and subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	07/22/92	57 FR 32664
NPRM Comment Period End	09/21/92	57 FR 32664
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Juanita E. Smith, Director, Employee Relations Division (PR-151), Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-9033**

RIN: 1991–AA90

949. • DEAR: AMENDMENT TO WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES

Significance: Agency Priority

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 923.5; 48 CFR 970.2305

Legal Deadline: None

Abstract: To implement revised requirements of 10 CFR 707 concerning alcohol abuse in contracts subject to DOE's Workplace Substance Abuse Programs. This rule would conform the Department of Energy Acquisition Regulation to 10 CFR 707 in this respect. See RIN 1991-AA90.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Edward Simpson, Procurement Analyst, Office of Policy, Department of Energy, Office of Procurement, Assistance and Program Management, Washington, DC 20585, **202 586-8246**

RIN: 1991–AA97

DEPARTMENT OF ENERGY (DOE)

Office of Procurement, Assistance and Program Management (PR)

Completed Actions

950. DEAR: CONTRACTOR EMPLOYEE PROTECTION PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 2012 et seq, Atomic Energy Act of 1954; 42 USC 5801 et seq, Energy Reorganization Act of 1974; 42 USC 7101 et seq, DOE Organization Act

CFR Citation: 48 CFR 922; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: This rule will conform the DOE Acquisition Regulation (DEAR) to 10 CFR part 708. Employees of contractors at DOE nuclear energy facilities should be able to provide information to DOE, the Congress, and certain contractors concerning violations of law, health, and safety, or matters involving gross mismanagement, waste, fraud or abuse without fear of reprisal. Part 708 establishes a procedure for investigation, hearing, and review of allegations of reprisal for such disclosures. The final rule for part 708 was published in the Federal Register on April 2, 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/04/92	57 FR 57638
Effective Date	03/04/93	57 FR 57638

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: P. Devers Weaver, Procurement Analyst (PR-12), Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-8250**

RIN: 1991–AA75

951. USE OF COMMERCE BUSINESS DAILY

Legal Authority: 42 USC 7101

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Require management and operating contractors to use Commerce Business Daily to publicize subcontract opportunities exceeding $100,000.

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Richard Langston, Procurement Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., PR-121, Washington, DC 20585, **202 586-8247**

RIN: 1991–AA84

952. DEAR: IMPLEMENTATION OF THE NCTTA

Legal Authority: PL 101-189; 42 USC 7254

CFR Citation: 48 CFR 915; 48 CFR 917; 48 CFR 935; 48 CFR 952

Legal Deadline: None

Abstract: Implementation of the National Competitiveness Technology Transfer Act of 1989 (NCTTA) will require amendment of the DEAR to, among other things, provide procedures, a solicitation provision and a contract clause requiring awardees to propose steps to enhance U.S. competitiveness and the U.S. economy.

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Howard K. Mitchell, Procurement Analyst (PR-122), Department of Energy, Office of Procurement, Assistance and Program Management, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-8190**

RIN: 1991–AA87

953. • DEAR: ACQUISITION OF HOT CELL SERVICES

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 925; 48 CFR 952

Legal Deadline: Final, Statutory, January 22, 1993.

Abstract: The Department of Energy issued an interim final rule which amends the DOE Acquisition Regulation to implement section 2305 of the Energy Policy Act of 1992 (PL 102-486). The Act requires selection for contract award of nuclear hot cell services in a way that affords United States companies and foreign companies an equal competition for contracts. These are services regarding nuclear fuel rods or related assemblies after discharge from nuclear reactors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/18/93	58 FR 8909
Effective Date	03/22/93	58 FR 8909

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: P. Devers Weaver, Procurement Analyst, Department of Energy, Office of Procurement, Assistance and Program Management, Procurement Policy Division (PR-121), Washington, DC 20585, **202 586-8250**

RIN: 1991–AB00

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DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)
Proposed Rule Stage

954. PATENT WAIVER REGULATION

Legal Authority: 42 USC 2182; 42 USC 5908; PL 99-661

CFR Citation: 10 CFR 784

Legal Deadline: None

Abstract: The regulation provides procedures and standards for obtaining a waiver of the Government's rights in inventions made under DOE research and development contracts with entities that are not small businesses or nonprofit institutions, and terms and conditions of such waivers. Currently, DOE waiver policy is provided in DOE Procurement Regulations (41 CFR 9-9.109-6). The proposed regulation places DOE patent waiver policy in a separate regulation, and also provides updates, revisions and clarifications to waiver policy as contained in 41 CFR 9-9.109-6.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Richard E. Constant, Assistant General Counsel for Patents, Department of Energy, Office of General Counsel, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-2802**

RIN: 1990–AA02

955. FOREIGN GIFTS AND DECORATIONS

Legal Authority: 5 USC 7342; 41 CFR 101-49.001-5

CFR Citation: 10 CFR 1050

Legal Deadline: None

Abstract: The DOE regulations need to be amended to reflect the increase in the dollar amount of "minimal value," as determined by General Services Administration (GSA) regulation. Accordingly, the DOE regulations will reference the GSA regulation. Whether a gift is of "minimal value" is a factor in whether the regulations apply.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Shebek, Deputy Assistant General Counsel for General Law, Department of Energy, Office of General Counsel, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-1522**

RIN: 1990–AA04

956. PAYMENT OF TRAVEL EXPENSES OF PERSONS WHO ARE NOT GOVERNMENT EMPLOYEES

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 1060

Legal Deadline: None

Abstract: The regulation needs to be revised to reflect the delegation of authority from the Office of Personnel Management to pay travel expenses of certain job applicants in traveling to preemployment interviews required by the Department.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Shebek, Deputy Assistant General Counsel for General Law, Department of Energy, Office of General Counsel, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-1522**

RIN: 1990–AA15

957. DOE PATENT LICENSING REGULATIONS—AMENDMENT

Legal Authority: 35 USC 207

CFR Citation: 37 CFR 404; 10 CFR 781

Legal Deadline: None

Abstract: The proposed regulation is based on 37 CFR 404, Commerce Department's regulation on Licensing of Government-Owned Patents. The proposed regulation would amend 10 CFR 781 to reflect current DOE patent licensing policies and procedures, terms, and conditions, while removing any inconsistencies with statutory changes since 1980.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The date for the notice of proposed rulemaking is undetermined because it is dependent on the issuance of licensing regulations being presently drafted by the Commerce Department.

Agency Contact: Robert J. Marchick, Patent Counsel (GC-42), Assistant General Counsel for Patents, Department of Energy, Office of General Counsel, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-4792**

RIN: 1990–AA18

958. • CONDUCT OF EMPLOYEES

Legal Authority: 42 USC 7211 to 7218; EO 12674

CFR Citation: 10 CFR 1010; 5 CFR 2635

Legal Deadline: None

Abstract: The DOE regulation on conduct of employees needs to be revised to reflect the issuance of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR 2635).

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: MaryAnn Shebek, Deputy Assistant General Counsel for General Law, Department of Energy, Office of General Counsel, 1000 Independence Ave SW., Washington, DC 20585, **202 586-1522**

RIN: 1990–AA19

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)
Final Rule Stage

959. PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION AND PROVISION OF AGENCY WITNESSES IN FEDERAL AND STATE PROCEEDINGS

Legal Authority: 42 USC 7254; 5 USC 301

CFR Citation: 10 CFR 202

Legal Deadline: None

Abstract: DOE currently has a regulation to establish an agencywide procedure for processing subpoenas and/or requests for testimony by DOE officers and employees or requests for DOE records in litigation in which the Department is not a party. The revised regulation would establish or clarify policies, practices, responsibilities, and procedures to provide for the orderly and efficient handling of requests while minimizing the disruption of official agency business.

Timetable:

Action	Date	FR Cite
Final Action	12/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule is procedural in nature and is exempt from notice and comment.

Agency Contact: I. Avrum Fingeret, Deputy Assistant General Counsel for Special Litigation (GC-21), Department of Energy, Office of General Counsel, 1000 Independence Ave. SW., Washington, DC 20585, **202 586-5678**

RIN: 1990–AA12

[FR Doc. 93-7453 Filed 04-23-93; 8:45 am]
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Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

20 CFR Ch. III

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Regulations

AGENCY: Office of the Secretary, HHS.

ACTION: Publication of unified agenda of regulations.

SUMMARY: Executive Order 12291 of February 17, 1981, and the Regulatory Flexibility Act of 1980 require the Department to publish an agenda of significant regulations being developed and an indication of those regulatory actions that are being analyzed for their effect on small businesses. Preparation of the entries in this submission began prior to the Clinton Administration. Further review may result in improved approaches to dealing with some of the regulatory issues facing the Department. The Department published its last agenda on November 3, 1992.

FOR FURTHER INFORMATION CONTACT: For further inquiries or comments related to specific regulations listed in the agenda, the public is encouraged to contact the appropriate responsible individual. Questions or comments on the overall agenda should be sent to: Ann White, Regulations Coordinator, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC 20201; telephone: (202) 690-6824.

Claudia Cooley,

Executive Secretary to the Department.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
960	Mammography Quality Standards Act of 1992	0991-AA76

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
961	Nondiscrimination Requirements (Including on the Basis of Sex or Religion) Applicable to Block Grants and Standard Nondiscrimination Procedures Applicable to Certain Other Programs	0991-AA02
962	Principles for Determining Costs and Cost Allocation Procedures Applicable to Grants, Contracts, and Other Agreements for Work Performed by Hospitals	0991-AA12
963	Equal Opportunity in Employment: Public Broadcasting, Public Radio and Public Telecommunications Entities Receiving Federal Funds from the Corporation for Public Broadcasting	0991-AA22
964	Civil Money Penalties (CMPs) for Certain Hospital Physician Incentive Plans	0991-AA45
965	Civil Money Penalties (CMPs) for Certain Practices Relating to Medicare Supplemental Policies	0991-AA53
966	Uniform Administrative Requirements for Grants and Cooperative Agreements	0991-AA56
967	Standardization and Uniform Application of CMP Procedures	0991-AA57
968	Civil Money Penalties for Physician Ownership of and Referral to Certain Health Care Entities	0991-AA65
969	Additional Safe Harbor Provisions Under the Anti-Kickback Statute	0991-AA66
970	Safe Harbors for Protecting Health Plans	0991-AA69
971	Title VI of the CRA of 1964, Subpart B-National Origin Discrimination in Programs Receiving Fed. Financial Assistance from the DHHS Against Persons of Limited English Proficiency	0991-AA72
972	Revisions to the PRO Sanctions Process	0991-AA73

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
973	Audits of Nongovernmental Grantees	0991-AA29
974	Civil Money Penalties and Exclusions for Assistants at Cataract Surgery	0991-AA37
975	Civil Money Penalties and Intermediate Sanctions for HMOs and Competitive Medical Plans	0991-AA44
976	Block Grant Programs	0991-AA55
977	Governmentwide Guidance for New Restrictions on Lobbying; Interim Final Guidance	0991-AA70
978	Clarification of the OIG Safe Harbor Anti-Kickback Provisions	0991-AA74

HHS

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
979	Civil Money Penalties for Failure To Identify Medicare Secondary Payer Situations	0991-AA64
980	Clarification to the Amendments to OIG Exclusion and CMP Authorities Resulting From Public Law 100-93	0991-AA75

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
981	Implementation of the Equal Access to Justice Act in Agency Proceedings	0990-AA02

Social Security Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
982	OASDI, and SSI Programs; Performance Standards Revisions and Other Changes Involving Administrative Requirements and Procedures (381A)	0960-AD64

Social Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
983	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Musculoskeletal System (143P)	0960-AB01
984	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Adjustments in SSI Benefits on Account of Retroactive Benefits Under Title II (061P)	0960-AB38
985	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Evaluation Guides for Determining Substantial Gainful Activity (SGA) (147P)	0960-AB73
986	Old-Age, Survivors, and Disability Insurance Program; Nonpayment of Benefits to Prisoners, Vocational Rehabilitation Exception (166P)	0960-AC16
987	Supplemental Security Income Program; Continuation of Benefits and Special Eligibility for Certain Severely Impaired Recipients Who Work (171P)	0960-AC22
988	Old-Age Survivors and Disability Insurance and Supplemental Security Income Programs; Determining Disability and Blindness; Fee Limitation Policy for Purchase of Laboratory Tests (184P)	0960-AC41
989	Old-Age, Survivors and Disability Insurance and Supplemental Security Income Programs; Vocational Factors Regulations Restructuring and Clarification (207P)	0960-AC61
990	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Interim Disability Benefits (215P)	0960-AC76
991	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Medical Improvement Review Standard (MIRS)—Miscellaneous Changes (225P)	0960-AC81
992	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Appeals Council Notice Requirements (235P)	0960-AC93
993	Supplemental Security Income Program; Waiver of SSI Rule for Deeming to Children the Income and Resources of Their Parents for Certain Disabled Children (252P)	0960-AC96
994	SSI Program; Reduction in Time When Income and Resources of Separated Couples Must Be Treated as Jointly Available for Purposes of SSI Eligibility and Benefits (254P)	0960-AC98
995	Supplemental Security Income Program; Augmented Benefits (271P)	0960-AD07
996	Old-Age, Survivors, and Disability Insurance; Use of State Laws to Determine Child Relationship (286P)	0960-AD16
997	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Representative Payee Reforms (295P)	0960-AD22
998	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Fees for Representation of Claimants (296P)	0960-AD23
999	OASDI and SSI for the Aged, Blind & Disabled; Continuation of Benefits on Account of Participation in a Non-State VR Program (299P)	0960-AD26
1000	Supplemental Security Income for the Aged, Blind, and Disabled; Treatment of Certain Royalties and Honoraria (310P)	0960-AD35

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Social Security Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1001	Supplemental Security Income for the Aged, Blind, and Disabled; Exclusion from Income and Resources of Victims' Compensation Payments and State Relocation Assistance (311P)	0960-AD36
1002	Supplemental Security Income for the Aged, Blind, and Disabled; Reimbursement for VR Services Furnished During Certain Months of Non-Payment (315P)	0960-AD39
1003	Organization and Procedures; Review by Appeals Council (334P)	0960-AD45
1004	Code of Conduct for the Office of Hearings and Appeals (OHA) Administrative Law Judges and Administrative Appeals Judges (341P)	0960-AD54
1005	Election of Benefits Based on Age by Disabled Widow, Widower and Surviving Divorced Spouse Beneficiaries (343P)	0960-AD56
1006	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Reorganization of Medical Evidence Regulations (340P)	0960-AD57
1007	SSI Program; SSI Maximum Payment Limit ($30) When Medicaid Is Not Paying Toward the Cost of Institutional Care Because the Individual Transferred a Resource (345P)	0960-AD60
1008	Supplemental Security Income Program; Treatment of Promissory Notes in Home Replacement Situations (182P)	0960-AD61
1009	Against Equity and Good Conscience (348P)	0960-AD62
1010	OASDI and SSI; Testing Modifications to the Disability Determination Procedures (359P)	0960-AD63
1011	Reliable Information Which Is Currently Available for Determining Benefit Amounts in the Supplemental Security Income Program (382P)	0960-AD65
1012	Appeal Rights Following State-Initiated Mass Change in Federally Administered State Supplementary Payments Resulting in Reduction, Suspension, or Termination of State Supplementary Payments (383P)	0960-AD66
1013	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Hemic and Lymphatic System, and Malignant Neoplastic Diseases (399P)	0960-AD67

Social Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1014	Supplemental Security Income Program; Suspensions, Terminations, and Advance Notice of Adverse Determinations (031F)	0960-AA22
1015	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Cardiovascular System (141F)	0960-AA99
1016	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Respiratory System (142F)	0960-AB00
1017	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Program; Continued Payment of Benefits to Persons in Vocational Rehabilitation Programs (131F)	0960-AB05
1018	Supplemental Security Income Program and Medicaid Assistance; What Is Not Income (121F)	0960-AB09
1019	Supplemental Security Income Program; Exclusions From Income and Resources of Indian Judgment Funds and Per Capita Distributions (201F)	0960-AB86
1020	Revision of the Listing of Impairments; Part A and Part B of the Endocrine and Multiple Body Systems; Immune System (150F)	0960-AC06
1021	Supplemental Security Income Program, Payment of Benefits Due Deceased Recipients (174F)	0960-AC28
1022	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Cancelled Consultative Examinations (181F)	0960-AC40
1023	Supplemental Security Income Program; Proceeds of a Loan, Payment of Pro Rata Share of Household Operating Expenses (180F)	0960-AC42
1024	Old-Age, Survivors, and Disability Insurance Program; Applicability of Government Pension to Certain Federal Employees (188F)	0960-AC46
1025	Supplemental Security Income Program; Continuation of Full Benefit Standard for Certain Persons Institutionalized (198F)	0960-AC55
1026	Old-Age, Survivors and Disability Insurance and Supplemental Security Income Programs; Determination of Disability - Determining State Agency Substantial Failure (206F)	0960-AC60
1027	Old-Age, Survivors, and Disability Insurance Program; Suspension of Benefits of Deported Nazis; Exemption From Social Security Taxation Because of Religious Beliefs (210F)	0960-AC68
1028	Old-Age, Survivors, and Disability Insurance Program; Medical Criteria for Evaluating Mental Disorders for Adults (222F)	0960-AC74
1029	Supplemental Security Income Program; Redeterminations of Supplemental Security Income Eligibility (223F)	0960-AC77
1030	Supplemental Security Income Program; Treatment Of Augmented Veteran's Benefits (231F)	0960-AC82

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Social Security Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1031	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Representation of Claimants for Benefits Under Title II or Title XVI (249F)	0960-AC87
1032	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Standards Applicable in Determinations of Good Cause, Fault, and Good Faith (247F)	0960-AC88
1033	Supplemental Security Income Program; Exclusion From Income of Domestic Commercial Transportation Tickets Received as Gifts in Determining SSI Income (253F)	0960-AC97
1034	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Take Into Account Misinformation Provided to Applicants in Determining Date of Application (267F)	0960-AD05
1035	Supplemental Security Income; Determining Disability for a Child Under Age 18 (275F)	0960-AD09
1036	Supplemental Security Income Program; Financial Institution Accounts in the SSI Program (278F)	0960-AD10
1037	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Updating Nomenclature (264F)	0960-AD11
1038	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Reopening Determinations and Decisions (279F)	0960-AD12
1039	Old-Age, Survivors, and Disability Insurance; Suspension of Auxiliary Benefits When A Disabled Worker is in an Extended Period of Eligibility (303F)	0960-AD30
1040	Old-Age, Survivors, and Disability Insurance; Continued Entitlement to Benefits of Deemed Spouse Despite Entitlement of Legal Spouse (304F)	0960-AD31
1041	Supplemental Security Income for the Aged, Blind, and Disabled; Exclusion from Income and Resources of Earned Income Tax Credits (319F)	0960-AD41
1042	Old-Age, Survivors and Disability Insurance and Supplemental Security Income; Limitation of Travel Expenses for Representation of Claimants at Administrative Proceedings (324F)	0960-AD46
1043	Supplemental Security Income for the Aged, Blind, and Disabled; Time Limits for Disposition of Resources (330F)	0960-AD48
1044	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Payments for Vocational Rehabilitation Services (333F)	0960-AD50
1045	Supplemental Security Income for the Aged, Blind, and Disabled; Presumptive Disability and Presumptive Blindness (337F)	0960-AD51
1046	Residence and Citizenship Under the Supplemental Security Income Program—Temporary Protected Status (347F)	0960-AD55
1047	Old-Age, Survivors, and Disability Insurance Program; Considering An Application Filed Under the Railroad Retirement Act as an Application for Social Security Benefits (342F)	0960-AD59
1048	Dropout Years, Disposition of Underpayments, and Resolving Overpayments (403F)	0960-AD68
1049	Federal Old-Age, Survivors, and Disability Insurance Program; Technical Changes to Requirement for Entitlement to Widow(er)'s Benefits (404F)	0960-AD69

Social Security Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1050	Supplemental Security Income Program; Parent-to-Child Deeming (105F)	0960-AC38
1051	Old-Age, Survivors, and Disability Insurance Program; Extension of Social Security Coverage to Certain Workers; Medicare Only Coverage of Certain State and Local Government Employees (187F)	0960-AC45
1052	Supplemental Security Income Program; Technical Changes to Subparts K and L (244F)	0960-AC94
1053	Supplemental Security Income Program; Eligibility for SSI Benefits of Children of Armed Forces Personnel Residing Overseas (251F)	0960-AC95
1054	Old-Age, Survivors, and Disability Insurance Programs; Earnings and Benefit Statements (269F)	0960-AD06
1055	Extending Old-Age, Survivors, and Disability Insurance Coverage to Certain State and Local Government Employees (291F)	0960-AD18
1056	Old-Age, Survivors, and Disability Insurance; Waiver of 2-Year Waiting Period for Independent Entitlement to Divorced Spouses' Benefits (307P)	0960-AD33
1057	Supplemental Security Income for the Aged, Blind, and Disabled; Extension of the Period of Presumptive Eligibility for Benefits (316F)	0960-AD40
1058	Supplemental Security Income for Aged, Blind and Disabled; Technical Changes (323F)	0960-AD47

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Public Health Service—Office of Assistant Secretary for Health (OASH)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1059	Public Health Service Policies on Research Misconduct	0905-AE02
1060	Standards of Compliance for Abortion-Related Services in Family Planning Service Projects	0905-AE03

Public Health Service—Office of Assistant Secretary for Health (OASH)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1061	Privacy Act; Exempt System	0905-AD31

Public Health Service—Substance Abuse and Mental Health Services Administration (SAMHSA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1062	Confidentiality of Substance Abuse Patient Records	0905-AD97
1063	Protection and Advocacy for Individuals With Mental Illness	0905-AD99
1064	Block Grants for Prevention and Treatment of Substance Abuse (Tobacco Provisions)	0905-AE05

Public Health Service—Substance Abuse and Mental Health Services Administration (SAMHSA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1065	Block Grants for Prevention and Treatment of Substance Abuse	0905-AD98

Public Health Service—Centers for Disease Control and Prevention (CDC)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1066	NIOSH Revision of Tests and Requirements for Certification of Respiratory Protective Devices	0905-AB58

Public Health Service—Centers for Disease Control and Prevention (CDC)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1067	Interstate Shipment of Biological Material That Contains or May Contain Etiologic Agents	0905-AC89
1068	Medical Examination of Aliens	0905-AD29

Public Health Service—Food and Drug Administration (FDA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1069	Regulation of the Collection, Processing, and Distributing of Sperm Intended for Artificial Insemination	0905-AD80
1070	Dietary Supplements	0905-AD90
1071	Medical Foods	0905-AD91

HHS

Public Health Service—Food and Drug Administration (FDA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1072	Over-the-Counter (OTC) Drug Review	0905-AA06
1073	New Animal Drug Approval Process	0905-AA96
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1323	Administrative Waiver Process	0970-AB17
1324	Family Violence Prevention and Services	0970-AB18
1325	Policy Regarding Smoking in Head Start Facilities	0970-AB22
1326	Child Abuse and Neglect State Grant Program	0970-AB23
1327	Standards for Safe Transportation of Head Start Children and for Purchase of Facilities	0970-AB24
1328	Title IV-E Training	0970-AB25
1329	Omnibus Regulation for Miscellaneous Revisions and Technical Changes	0970-AB26
1330	Refugee Cash Assistance and Refugee Medical Assistance	0970-AB27
1331	State Legalization Impact Assistance Grant	0970-AB28
1332	Assistance for United States Citizens Returned from Foreign Countries	0970-AB29

Administration for Children and Families—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1333	Aid to Families With Dependent Children Program; Extension of Medicaid Eligibility When Support Collections Result in Termination of AFDC Eligibility	0970-AA07
1334	Disregards of Income and Resources	0970-AA70

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Administration for Children and Families—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1335	Safeguarding Information; Federal Income Tax Refund Offset	0970-AA88
1336	Essential Persons	0970-AA93
1337	Require Recoupment of Overpayments From Current Recipients	0970-AA94
1338	Head Start Performance Standards for Infants, Toddlers, and Pregnant Women	0970-AB04
1339	Adoption and Foster Care Analysis and Reporting System (AFCARS)	0970-AB05
1340	Social Services Block Grant Information Collection	0970-AB06
1341	Technical Changes to the AFDC Program as Required by OBRA 90	0970-AB14
1342	Block Grant Programs (Low Income Home Energy Assistance Program - LIHEAP) FY 91 and FY 92 Provisions	0970-AB15
1343	State Legalization Impact Assistance Grants	0970-AB30

Administration for Children and Families—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1344	Prohibition of Federal Funding of Guardian Ad Litem Fees	0970-AA86
1345	Timeframes for Paying Support Collections to AFDC Families	0970-AA87
1346	Review and Adjustment of Child Support Orders	0970-AA91
1347	Child Support Related Changes to the AFDC Program	0970-AA96
1348	Head Start Staff and Program Options Requirements	0970-AA99
1349	Head Start Appeals Process	0970-AB00
1350	Head Start Performance Standards for Services to Children With Disabilities	0970-AB01
1351	Nonrecurring Expenses of Adoption-Technical Amendment	0970-AB09
1352	Title IV-E Administrative Costs	0970-AB10
1353	Grants for State Domestic Violence Coalitions	0970-AB19
1354	Public Information Campaign Grants	0970-AB20
1355	Family Violence Protection and Services Grants	0970-AB21

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Prerule Stage

960. • MAMMOGRAPHY QUALITY STANDARDS ACT OF 1992

Significance: Regulatory Program

Legal Authority: PL 102-539 Mammography Quality Standards Act of 1992

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, July 27, 1993.
DHHS is required to establish standards for accreditation bodies by July 27, 1993.

Abstract: The purpose of the Mammography Quality Standards Act of 1992, enacted October 27, 1992, is to assure quality in all aspects of the practice of mammography. The primary mechanism for this is oversight of all mammography facilities through a certification and inspection program. Only facilities certified by the Secretary will be permitted to produce, process, or interpret mammographic images. The statute also requires the establishment of an advisory committee to set regulatory quality standards and also provides for the establishment of surveillance systems to evaluate breast cancer screening programs.

Regulations are required in several areas: Issuance and denial of certificates; standards for accreditation bodies; approval or withdrawal of approval of accreditation bodies; quality standards for facilities; certification of personnel, an inspection program, a user fee program, and an enforcement program. The statute mandates other activities for which regulations may also be necessary, although not specifically required.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Jur Strobos, Chief, Policy Research Staff, Office of Policy, Department of Health and Human Services, Food and Drug Administration, HF-20, 5600 Fishers Lane, Rockville, MD 20857, **301 443-5004**

RIN: 0991–AA76

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Proposed Rule Stage

961. NONDISCRIMINATION REQUIREMENTS (INCLUDING ON THE BASIS OF SEX OR RELIGION) APPLICABLE TO BLOCK GRANTS AND STANDARD NONDISCRIMINATION PROCEDURES APPLICABLE TO CERTAIN OTHER PROGRAMS

Legal Authority: 42 USC 9906; 42 USC 300x-7; 42 USC 708; 42 USC 8625; 42 USC 9821; 42 USC 9849; 42 USC 1397; 42 USC 300w-7

CFR Citation: 45 CFR 94

Legal Deadline: None

Abstract: To implement the nondiscrimination requirements applicable to block grants authorized by the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, and the 1990 amendments to the Act.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2806
NPRM Comment Period End	03/24/86	51 FR 2806
Second NPRM	09/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Marcella Haynes, Director, Policy & Special Projects Staff, Office for Civil Rights, Department of Health and Human Services, Office of the Secretary, 330 Independence Ave., SW., Rm. 5034, Washington, DC 20201, **202 619-0671**

RIN: 0991–AA02

962. PRINCIPLES FOR DETERMINING COSTS AND COST ALLOCATION PROCEDURES APPLICABLE TO GRANTS, CONTRACTS, AND OTHER AGREEMENTS FOR WORK PERFORMED BY HOSPITALS

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74, app E

Legal Deadline: None

Abstract: This action will revise the Department's current cost principles for research and development activities under grants and contracts with hospitals to make them compatible with cost principles issued by OMB for State and local units of government, educational institutions and nonprofit organizations.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Additional Information: The current OMB project to completely rewrite its Circular A-87, "Cost Principles for State and Local Governments" includes proposed revisions of the interest allowability provision. OMB is considering the possibility of adopting uniform provisions on interest in each of its Circulars on Cost Principles, A-87, A-21 for Educational Institutions and A-122 for Nonprofit Organizations. If this occurs, HHS will consider adopting the same provisions for interest costs incurred by hospitals under Federal research and training awards.

Agency Contact: Edward M. Tracy, Director, Division of Cost Policy and Oversight, Department of Health and Human Services, Office of the Secretary, Room 1067 Cohen Bldg, 200 Independence Ave. SW., Washington, DC 20201, **202 401-2806**

RIN: 0991–AA12

963. EQUAL OPPORTUNITY IN EMPLOYMENT: PUBLIC BROADCASTING, PUBLIC RADIO AND PUBLIC TELECOMMUNICATIONS ENTITIES RECEIVING FEDERAL FUNDS FROM THE CORPORATION FOR PUBLIC BROADCASTING

Legal Authority: 47 USC 398

CFR Citation: 45 CFR 87.1-40

Legal Deadline: None

Abstract: Implements the Equal Opportunity in Employment Provisions of the Public Telecommunications Financing Act of 1978, Pub. L. 95-567, 47 U.S.C. 398(b)(1). This provision requires that equal opportunity in employment be afforded to all persons and that no person shall be subjected to discrimination in employment on the grounds of race, color, religion, national origin, or sex by the Public Broadcasting Service, National Public Radio, and public telecommunications entities receiving Federal funds from the Corporation for Public Broadcasting.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/79	44 FR 14582
NPRM	12/21/79	44 FR 75676
NPRM Comment Period End	01/20/80	44 FR 75676
Second NPRM	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Public Compliance Cost: Yearly Recurring Cost: $6,000

Additional Information: Because of concerns expressed by interested parties and time elapsed since issuance of the ANPRM, HHS/OS/OCR will be announcing a new NPRM.

Agency Contact: Marcella Haynes, Director, Policy & Special Projects Staff, Office for Civil Rights, Department of Health and Human Services, Office of the Secretary, 330 Independence Ave., SW., Room 5034, Washington, DC 20201, **202 619-0671**

RIN: 0991–AA22

964. CIVIL MONEY PENALTIES (CMPS) FOR CERTAIN HOSPITAL PHYSICIAN INCENTIVE PLANS

Legal Authority: PL 99-509, Sec 9313

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would prohibit a hospital from knowingly making incentive payments to a physician as an inducement to reduce or limit services provided to Medicare or Medicaid beneficiaries who are under the direct cere of that physician. The rule would also set forth standards governing the imposition of CMPs for each such individual for whom payments are made.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue SW., Washington, DC 20201, **202 619-3270**

RIN: 0991–AA45

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HHS—OS

Proposed Rule Stage

965. CIVIL MONEY PENALTIES (CMPS) FOR CERTAIN PRACTICES RELATING TO MEDICARE SUPPLEMENTAL POLICIES

Legal Authority: PL 100-360, Sec 428(b); PL 101-508, Sec 4351; PL 101-508, Sec 4353(a); PL 101-508, Sec 4354; PL 101-508, Sec 4355(a); PL 101-508, Sec 4357

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would authorize the imposition of CMPs against individuals or entities who knowingly and willfully use misleading and fraudulent practices in the advertisement, solicitation, offering for sale, or delivery of Medicare supplemental health insurance (Medigap) policies. Penalties would also be established for failure to meet Medigap policy loss-ratio requirements, failure to comply with policy simplification standards, and failure to obtain Secretarial certification of Medigap policies in States with non-approved regulatory programs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA53

966. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74; 45 CFR 92

Legal Deadline: None

Abstract: OMB is in the process of issuing updated fiscal and administrative guidance on requirements governing grants (including cooperative agreements). Separate guidance will be provided for grants awarded to governments and those awarded to colleges and universities and other nonprofit organizations. In separating grant rules for governments from those of other recipients, OMB recognizes the unique competence of States to administer grants and embraces the concept of Federalism. HHS regulations governing grants to these entities will have to be updated to accommodate these changes. HHS regulations governing grants to governments which implement OMB Circular A-102 are codified in 45 CFR part 92. Those governing grants to colleges and universities and other nonprofit organizations which implement OMB Circular A-110 are codified in 45 CFR part 74.

Timetable:

Action	Date	FR Cite
45 CFR 74		
NPRM	06/24/87	(52 FR 23729)
NPRM Comment Period End	08/23/87	
NPRM Comment Period End	01/03/89	
45 CFR 92		
NPRM	06/24/87	(52 FR 23729)
NPRM Comment Period End	08/23/87	
NPRM	11/04/88	(53 FR 44715)
NPRM Comment Period End	01/03/89	
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Charles Gale, Director, Division of Grants Policy and Oversight, Department of Health and Human Services, Office of the Secretary, Rm 517D, HHH Bldg., 200 Independence Avenue SW., Washington, DC 20201, 202 690-6377

RIN: 0991–AA56

967. STANDARDIZATION AND UNIFORM APPLICATION OF CMP PROCEDURES

Legal Authority: PL 99-509, Sec 9320; PL 99-509, Sec 9331; PL 99-509, Sec 9332; PL 99-509, Sec 9338; PL 100-203, Sec 4045; PL 100-203, Sec 4049; PL 100-203, Sec 4051; PL 100-203, Sec 4062; PL 100-203, Sec 4064; PL 100-203, Sec 4085; PL 100-360, Sec 202; PL 101-508, Sec 4109; PL 101-508, Sec 4155; PL 101-508, Sec 4163(b)(2); PL 101-508, Sec 4401(b)

CFR Citation: 42 CFR 1001; 42 CFR 1002; 42 CFR 1003

Legal Deadline: None

Abstract: This rulemaking would standardize the procedures for imposing civil money penalties and related sanctions authorized by statutes incorporating provisions of section 1128A of the Social Security Act. In addition to standardizing OIG's existing CMP procedures, this rule would include provision for CMPs and related exclusions for various Medicare Part B violations resulting from OBRA '86, OBRA '87, OBRA '90 and PL 100-360.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA57

968. CIVIL MONEY PENALTIES FOR PHYSICIAN OWNERSHIP OF AND REFERRAL TO CERTAIN HEALTH CARE ENTITIES

Significance: Agency Priority

Legal Authority: PL 101-239, Sec 6204; PL 101-508, Sec 4207(e); PL 101-508, Sec 4207(m)(2)

CFR Citation: 42 CFR 1003

Legal Deadline: Final, Statutory, October 1, 1991.

Abstract: This rule will implement new civil money penalty authorities regarding prohibited physician ownership and referral arrangements as set forth in Section 1877 of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This rulemaking is being developed in conjunction with RIN 0938-AF40.

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of Inspector General, OMP, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA65

HHS—OS

Proposed Rule Stage

969. ADDITIONAL SAFE HARBOR PROVISIONS UNDER THE ANTI-KICKBACK STATUTE

Legal Authority: PL 100-93, Sec 2; PL 100-93, Sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This proposed rule would set forth additional "safe harbor" provisions, as authorized by section 14 of PL 100-93. The proposed rule would further delineate business and payment practices relating to the Medicare and State health care programs that will be immunized from either criminal or civil prosecution in accordance with the Medicare/Medicaid anti-kickback statute.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of Inspector General, OMP, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA66

970. SAFE HARBORS FOR PROTECTING HEALTH PLANS

Significance: Agency Priority

Legal Authority: PL 100-93, Sec 2; PL 100-93, Sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This rule establishes additional "safe harbor" provisions, as authorized by section 14 of PL 100-93. This rule protects certain health care plans, such as health maintenance organizations, that offer incentives to enrollees or that enter into negotiated price reduction agreements with contract health care providers.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	11/05/92	57 FR 52723
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The public comment period for this rule was extended until March 5, 1993. The OIG is currently reviewing the public comments to determine whether further revisions to this rule are necessary.

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of the Inspector General, OMP, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA69

971. TITLE VI OF THE CRA OF 1964, SUBPART B-NATIONAL ORIGIN DISCRIMINATION IN PROGRAMS RECEIVING FED. FINANCIAL ASSISTANCE FROM THE DHHS AGAINST PERSONS OF LIMITED ENGLISH PROFICIENCY

Legal Authority: 42 USC 2000d-1

CFR Citation: 45 CFR 80

Legal Deadline: None

Abstract: Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in programs and activities that receive Federal financial assistance. This addition as Subpart B to the Department's Title VI regulation will address a serious barrier to equal access to health and human services--the denial of services and other unequal or discriminatory treatment to persons of Limited English Proficiency (LEP). Persons of LEP tend to be disproportionately represented in certain national origin groups. The inability to communicate with persons of LEP therefore may have the effect of discriminating against certain persons on the basis of national origin. This regulation will establish standards for compliance by recipients and provide guidance to OCR Regional Offices in conducting complaint investigations and compliance reviews. Compliance with these regulations would improve access to services for persons regardless of national origin. The alternative would be to do nothing about the identified problem, which would be detrimental to LEP persons.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	
Final Action	03/00/94	
Final Action Effective	04/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Marcella Haynes, Director, Policy and Special Projects Staff, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue, SW., Room 5034, Washington, DC 20201, 202 619-0671

RIN: 0991–AA72

972. REVISIONS TO THE PRO SANCTIONS PROCESS

Legal Authority: 42 USC 1302; 42 USC 1320c-5; PL 100-93, sec 6; PL 100-93, sec 8; PL 100-93, sec 10; PL 100-203, sec 4095; PL 101-508, sec 4205

CFR Citation: 42 CFR 1004

Legal Deadline: None

Abstract: This rule would revise and update the procedures governing the imposition and adjudication of sanctions predicated on recommendations of State Peer Review Organizations. These changes are necessitated by statutory revisions resulting from PL 100-93, PL 100-203, and PL 101-508. This rule will also set forth new appeal and reinstatement procedures that are presently codified in 42 CFR part 1004.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
NPRM Comment Period End	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence

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HHS—OS — Proposed Rule Stage

Avenue SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA73

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage
Office of the Secretary (OS)

973. AUDITS OF NONGOVERNMENTAL GRANTEES

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74.62

Legal Deadline: None

Abstract: This action will implement OMB Circular A-133 which was issued on March 8, 1990. The Circular provides governmentwide standards for non-Federal audits of colleges and universities and other nonprofit recipients of Federal grants and contracts and requires such audits for fiscal periods beginning on or after January 1, 1990. The Circular exempts hospitals not affiliated with institutions of higher education. The HHS implementation of the Circular will contain a definition of affiliation on which the public will be afforded an opportunity to provide comments. The Circular and these amendments replace the audit requirements currently contained in OMB Circular A-110.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/91	56 FR 8712
Interim Final Rule Effective	03/01/91	56 FR 8712
Comment Period End	04/30/91	56 FR 8712
Next Action Undetermined		

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Additional Information: Only a small number of public comments on the interim final rule's definition of affiliation were received. However, they contained some misunderstandings about the HHS definition and its effects, as well as a number of suggestions for possible changes thereto. We are carefully considering those comments and expect to issue a final rule responding to misunderstandings and making some minor changes to the definition.

Agency Contact: Edward M. Tracy, Director, Division of Cost Policy and Oversight, Department of Health and Human Services, Office of the Secretary, Room 1067 Cohen Bldg., 200 Independence Ave. SW., Washington, DC 20201, 202 401-2806

RIN: 0991–AA29

974. CIVIL MONEY PENALTIES AND EXCLUSIONS FOR ASSISTANTS AT CATARACT SURGERY

Legal Authority: PL 99-272, Sec 9307; PL 99-514, Sec 1895(b)(16)

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: These final regulations provide for the imposition of civil money penalties and exclusions against physicians billing the Medicare program or program beneficiaries for services of an assistant at surgery for cataract operations where prior approval has not been granted. This rule specifically responds to various comments raised as a result of the interim final, and makes a number of technical corrections to those final regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/10/87	52 FR 11649
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA37

975. CIVIL MONEY PENALTIES AND INTERMEDIATE SANCTIONS FOR HMOS AND COMPETITIVE MEDICAL PLANS

Legal Authority: PL 99-509, Sec 9312; PL 99-509, Sec 9434; PL 100-203, Sec 4014; PL 100-360, Sec 224; PL 100-360, Sec 411; PL 101-239, Sec 6411

CFR Citation: 42 CFR 1003; 42 CFR 417; 42 CFR 431; 42 CFR 434

Legal Deadline: None

Abstract: This final rule will broaden the Secretary's authority to impose intermediate sanctions and civil money penalties against eligible organizations that substantially fail to provide Medicare or Medicaid enrollees with required medically necessary items and services, or that practice certain marketing, enrollment, reporting or claims payment abuses.

Timetable:

Action	Date	FR Cite
NPRM	07/22/91	56 FR 33403
NPRM Comment Period End	09/20/91	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA44

976. BLOCK GRANT PROGRAMS

Legal Authority: PL 100-485; PL 100-607; PL 100-690

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: Recent legislation modified technical, administrative and reporting requirements for several of the Department's block grants. This notice would propose regulatory changes to reflect these statutory changes and to clarify certain other block grant regulatory provisions.

HHS—OS — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/17/92	57 FR 31682
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Glenn Kamber, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW., Washington, DC 20201, 202 690-7150

RIN: 0991–AA55

977. GOVERNMENTWIDE GUIDANCE FOR NEW RESTRICTIONS ON LOBBYING; INTERIM FINAL GUIDANCE

Significance: Regulatory Program

Legal Authority: 31 USC 1352

CFR Citation: 45 CFR 93

Legal Deadline: None

Abstract: This interim final rule is in response to section 319 of P.L. 101-121. Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan or a Federal commitment to insure or guarantee a loan, must disclose lobbying activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Charles Gale, Director, Division of Grants Policy and Oversight, Department of Health and Human Services, Office of the Secretary, Rm 517D, HHH Bldg., 200 Independence Avenue SW., Washington, DC 20201, 202 690-6574

RIN: 0991–AA70

978. CLARIFICATION OF THE OIG SAFE HARBOR ANTI-KICKBACK PROVISIONS

Legal Authority: PL 100-93, sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This final rule clarifies various aspects of the original set of safe harbor provisions that were published on July 29, 1991 (56 FR 35953) and that are currently set forth in 42 CFR 1001.952(a)-(k). This clarifying document modifies the final safe harbor provisions to give greater clarity to their original intent.

Timetable:

Action	Date	FR Cite
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of the Inspector General, OMP, 330 Independence Avenue SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA74

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions
Office of the Secretary (OS)

979. CIVIL MONEY PENALTIES FOR FAILURE TO IDENTIFY MEDICARE SECONDARY PAYER SITUATIONS

CFR Citation: 42 CFR 1003

Completed:

Reason	Date	FR Cite
No plans to develop regulations for these provisions at this time.	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, 202 619-3270

RIN: 0991–AA64

980. CLARIFICATION TO THE AMENDMENTS TO OIG EXCLUSION AND CMP AUTHORITIES RESULTING FROM PUBLIC LAW 100-93

Significance: Agency Priority

CFR Citation: 42 CFR 1001; 42 CFR 1005

Completed:

Reason	Date	FR Cite
Final Action	01/22/93	58 FR 5617
Final Action Effective	01/22/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, 202 619-3270

RIN: 0991–AA75

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage
Departmental Management (HHSDM)

981. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 45 CFR 13

Legal Deadline: None

Abstract: The Equal Access to Justice Act requires agencies to pay attorney fees to parties prevailing against the Government in certain types of administrative proceedings. It requires each agency to issue rules implementing the Act as it applies to these proceedings. As originally enacted, the Act had a sunset clause. A statutory amendment eliminated the sunset provision and made other

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changes in the Act. The instant regulation would amend 45 CFR part 13 (HHS's regulation implementing the Act) to eliminate the corresponding sunset provision and to make other changes conforming with the statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	06/19/87	52 FR 23311
NPRM Comment Period End	08/17/87	
Final Action	05/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eileen Bradley, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Room 5362, HHS Cohen Building, 330 Independence Avenue SW., Washington, DC 20201, **202 619-0150**

RIN: 0990–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA) — Prerule Stage

982. • OASDI, AND SSI PROGRAMS; PERFORMANCE STANDARDS REVISIONS AND OTHER CHANGES INVOLVING ADMINISTRATIVE REQUIREMENTS AND PROCEDURES (381A)

Legal Authority: 42 USC 421; 42 USC 1302; 42 USC 405(a)

CFR Citation: 20 CFR 404.1640; 20 CFR 404.1641; 20 CFR 404.1642; 20 CFR 404.1643; 20 CFR 404.1644; 20 CFR 404.1645; 20 CFR 404.1650; 20 CFR 416.1040; 20 CFR 416.1041; 20 CFR 416.1042; 20 CFR 416.1043; 20 CFR 416.1044; 20 CFR 416.1045; 20 CFR 416.1050

Legal Deadline: None

Abstract: This announces SSA's intent to review and revise the performance standards that are currently used to evaluate the accuracy and the timeliness of the disability determinations made by State agencies under Titles II and XVI of the Social Security Act. It also invites public comments on the current performance standards and other indicators that may be appropriate for measuring the operational effectiveness of State agencies.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Alicia Matthews, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1713**

RIN: 0960–AD64

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA) — Proposed Rule Stage

983. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MUSCULOSKELETAL SYSTEM (143P)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500ff, appendix 1

Legal Deadline: None

Abstract: Sections 1.00 and 101.00 of appendix 1 to the Disability Regulations (404.1501 through 404.1599) describe those musculoskeletal impairments which are considered severe enough to prevent a person from doing any gainful activity or, in the case of a child under age 18, age-appropriate activities. We are proposing comprehensive revisions to these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	08/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 966-0512**

RIN: 0960–AB01

984. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II (061P)

Legal Authority: 42 USC 405; 42 USC 1320a-6; 42 USC 1302; 42 USC 1383; PL 98-369, Sec 2615; 42 USC 1383b; 42 USC 1327

CFR Citation: 20 CFR 404.408b; 20 CFR 416.1123; 20 CFR 416.1402(m); 20 CFR 416.1123a; 20 CFR 404.902

Legal Deadline: None

Abstract: Sec. 2615 of Pub. L. 98-369 amended sec. 1127 of the Social Security Act to eliminate windfalls that permitted some people who were paid Old-Age, Survivors and Disability Insurance (OASDI) and Supplemental Security Income (SSI) benefits retroactively to receive more in total benefits for the same period than if

HHS—SSA — Proposed Rule Stage

they had been paid the benefits when regularly due. The two main changes are: (1) SSI benefits will be reduced where retroactive OASDI benefits have been paid before the SSI benefits. Under prior law, reductions could be made only in retroactive OASDI benefits and only when the retroactive SSI had been paid first. (2) OASDI or SSI benefits payable upon reinstatement following a period of suspension or termination will be reduced by the amount of SSI benefits that would not have been paid if the OASDI benefits had been paid when regularly due. We will amend our regulations to conform to the statutory changes. Any costs/savings are associated with the legislation being implemented and not with the regulations themselves.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, **410 965-8471**

RIN: 0960–AB38

985. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; EVALUATION GUIDES FOR DETERMINING SUBSTANTIAL GAINFUL ACTIVITY (SGA) (147P)

Significance: Agency Priority

Legal Authority: PL 98-460, Sec 10; PL 99-643; PL 100-203; PL 101-508

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These proposed changes will clarify how the Social Security Administration evaluates a person's work activity. These regulations also will increase the monthly earnings amount that constitutes services for trial work period purposes and change the rules to allow the value of any subsidy or impairment- related work expenses to be deducted in determining that monthly earnings amount. These regulations also reflect statutory changes with respect to the trial work period and the re-entitlement period.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra Bond, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1794**

RIN: 0960–AB73

986. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; NONPAYMENT OF BENEFITS TO PRISONERS, VOCATIONAL REHABILITATION EXCEPTION (166P)

Significance: Agency Priority

Legal Authority: 42 USC 402(x)(1); 42 USC 405

CFR Citation: 20 CFR 404.468; 20 CFR 404.469 (New)

Legal Deadline: None

Abstract: Existing regulations at 20 CFR 404.468(d) provide a vocational rehabilitation exception to the nonpayment of benefits to prisoners provision described at 20 CFR 404.468(a). Under the exception, the nonpayment provision does not apply if a prisoner who is entitled to benefits on the basis of disability is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by a court of law. In addition, the Secretary must determine that the program is expected to result in the individual being able to do substantial gainful activity upon release and within a reasonable time. No benefits will be paid to the prisoner for any month prior to the approval of the program. The proposed regulations would set out more definitive criteria for applying the exception and would define terms, such as "rehabilitation program," "court of law," and "reasonable time," for purposes of applying the exception.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 965-8470**

RIN: 0960–AC16

987. SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUATION OF BENEFITS AND SPECIAL ELIGIBILITY FOR CERTAIN SEVERELY IMPAIRED RECIPIENTS WHO WORK (171P)

Significance: Agency Priority

Legal Authority: PL 99-643, Sec 2; PL 99-643, Sec 4; PL 101-508, Sec 5032; PL 101-508, Sec 5033; 42 USC 1382a; 42 USC 1382h

CFR Citation: 20 CFR 416.260; 20 CFR 416.261; 20 CFR 416.262; 20 CFR 416.265; 20 CFR 416.268; 20 CFR 416.269; 20 CFR 416.1112; 20 CFR 416.1402; 20 CFR 426.264

Legal Deadline: None

Abstract: These proposed regulations will implement statutory changes contained in sections 2 and 4 of PL 99-643. These provisions: (1) make section 1619 of the Social Security Act permanent; and (2) simplify the transitions among regular SSI status, special benefit status, and special Supplemental Security Income status for Medicaid purposes. The proposed regulations also will involve the statutory change contained in sections 5032 and 5033 of Pub. L. 101-508 which eliminate the age-65 limit for eligibility for special Supplemental Security Income status for Medicaid purposes and which liberalizes the impairment-related work exclusion of section 1612(b)(4)(B)(ii).

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 965-1758**

RIN: 0960–AC22

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988. OLD-AGE SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINING DISABILITY AND BLINDNESS; FEE LIMITATION POLICY FOR PURCHASE OF LABORATORY TESTS (184P)

Legal Authority: 42 USC 421(a); 42 USC 1302; 42 USC 1383b

CFR Citation: 20 CFR 404.1624a (New); 20 CFR 416.1024a (New)

Legal Deadline: None

Abstract: These proposed regulations would place a limitation on the rates of payment a State may pay for laboratory tests purchased by State agencies. Under these proposed regulations a State agency would be required to limit the amounts it pays for laboratory tests to the maximum payment level contained in the Health Care Financing Administration's (HCFA) National Limitation Amounts for Laboratory Fee Schedules. Currently the only payment requirement is that the rates of payment not exceed the highest rates paid by Federal or other agencies in the State for the same or similar types of services.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: **Richard M. Bresnick**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1758**

RIN: 0960–AC41

989. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; VOCATIONAL FACTORS REGULATIONS RESTRUCTURING AND CLARIFICATION (207P)

Legal Authority: 42 USC 405; 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404.1520; 20 CFR 404.1550 to 404.1567; 20 CFR 416.920; 20 CFR 416.950 to 416.967

Legal Deadline: None

Abstract: Based upon adjudicative experience, we are proposing clarifications and a restructuring of the disability vocational evaluation regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Harry J. Short**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 965-6243**

RIN: 0960–AC61

990. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; INTERIM DISABILITY BENEFITS (215P)

Legal Authority: 42 USC 423(h); 42 USC 1383(a); PL 100-647, Sec 8001

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These regulations implement a section of Pub. L. 100-647 that authorizes interim benefit payments whenever an Administrative Law Judge (ALJ) decides that a claimant is entitled to benefits based on disability or blindness and the Secretary has not issued his final decision within 110 days after the date of the ALJ's determination.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Lawrence V. Dudar**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1759**

RIN: 0960–AC76

991. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; MEDICAL IMPROVEMENT REVIEW STANDARD (MIRS)—MISCELLANEOUS CHANGES (225P)

Legal Authority: 42 USC 405; 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404.1579; 20 CFR 404.1594; 20 CFR 404.1598; 20 CFR 416.994

Legal Deadline: None

Abstract: These proposed regulations will make no policy changes but are needed to make a number of technical corrections to our existing regulations pertaining to how we decide whether disability continues or ends.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Irving Darrow**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 966-0512**

RIN: 0960–AC81

992. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; APPEALS COUNCIL NOTICE REQUIREMENTS (235P)

Legal Authority: 42 USC 401(g); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 421(d); 42 USC 1302; 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 404.973; 20 CFR 416.1473

Legal Deadline: None

Abstract: These proposed regulations amend the existing regulations to clarify the requirements that the Appeals Council (AC) notify the parties of its reasons for reviewing a case and the issues to be decided. The proposed regulations clarify the AC's procedures with regard to providing the notice required by the regulations and do not represent any change in policy. These regulations are intended to remove any ambiguities in the current regulations concerning the circumstances and the manner in which the AC provides notice to the parties.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Phil Berge**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1769**

RIN: 0960–AC93

993. SUPPLEMENTAL SECURITY INCOME PROGRAM; WAIVER OF SSI RULE FOR DEEMING TO CHILDREN THE INCOME AND RESOURCES OF THEIR PARENTS FOR CERTAIN DISABLED CHILDREN (252P)

Legal Authority: 42 USC 1382c(f)(2)

CFR Citation: 20 CFR 416.415; 20 CFR 416.1148; 20 CFR 416.1165; 20 CFR 416.1202

Legal Deadline: Other, Statutory, June 1, 1990.

Abstract: These proposed regulations reflect the provisions of section 8010 of Pub. L. 101-239 which waive the SSI income and resource deeming rules (which deem the income and resources of a disabled child's parents to the child if the child is living at home) for disabled children who were eligible for SSI benefits while in a medical institution and who qualify for Medicaid under a State home care plan authorized under title XIX when deeming parental income and resources would make the disabled child ineligible for SSI benefits or eligible for a payment of less than the personal needs allowance. This was effective June 1, 1990.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: **Irving Darrow**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 966-0512**

RIN: 0960–AC96

994. SSI PROGRAM; REDUCTION IN TIME WHEN INCOME AND RESOURCES OF SEPARATED COUPLES MUST BE TREATED AS JOINTLY AVAILABLE FOR PURPOSES OF SSI ELIGIBILITY AND BENEFITS (254P)

Legal Authority: 42 USC 1382c(b)

CFR Citation: 20 CFR 416.120(c); 20 CFR 416.305; 20 CFR 416.430; 20 CFR 416.432; 20 CFR 416.532(c); 20 CFR 416.554; 20 CFR 416.1130(c); 20 CFR 416.1147; 20 CFR 416.1801(c); 20 CFR 416.1802(b); 20 CFR 416.1806; 20 CFR 416.1811; 20 CFR 416.1830(a); 20 CFR 416.1832(c) and 416.1832(d)

Legal Deadline: None

Abstract: This proposed regulation requires that a married couple be treated as separate individuals for purposes of SSI eligibility and benefit determination beginning with the month after the month they begin living apart. This change is effective October 1, 1990.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Irving Darrow**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 966-0512**

RIN: 0960–AC98

995. SUPPLEMENTAL SECURITY INCOME PROGRAM; AUGMENTED BENEFITS (271P)

Legal Authority: 42 USC 1382a

CFR Citation: 20 CFR 416.1121; 20 CFR 416.1122

Legal Deadline: None

Abstract: These proposed regulations will state the Supplemental Security Income program policy on the treatment of benefits from other programs that have been augmented to provide for dependents. Our current regulations only provide policy regarding the treatment of the primary beneficiary's portion of an augmented Department of Veterans Affairs benefit.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Duane Heaton**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-8470**

RIN: 0960–AD07

996. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; USE OF STATE LAWS TO DETERMINE CHILD RELATIONSHIP (286P)

Legal Authority: 42 USC 416; 42 USC 1302

CFR Citation: 20 CFR 404.354

Legal Deadline: None

Abstract: Current regulations provide that the relationship of a child to a deceased worker is determined by applying the laws on devolution of intestate personal property in effect at the time of death in the State in which the worker was domiciled at the time of death. The proposed revision will take into account situations where the State law in effect at the time of death was declared unconstitutional by a State or Federal Court or where State law was amended after the worker's death, but is effective retroactively to the worker's death.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Jack Schanberger**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-8471**

RIN: 0960–AD16

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997. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; REPRESENTATIVE PAYEE REFORMS (295P)

Significance: Regulatory Program

Legal Authority: PL 101-508, Sec 5105

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations, which reflect certain provisions of PL 101-508, modify existing representative payee procedures by requiring the Social Security Administration (SSA) to do a more extensive investigation of representative payee applicants; generally limit to 1 month the deferral or suspension of direct payment of benefits pending selection of a payee; provide stricter standards in determining the fitness of representative payee applicants to manage benefit payments on behalf of beneficiaries; require SSA to repay to the beneficiary or an alternate payee, an amount equal to any misused funds resulting from SSA's negligent failure to investigate or monitor a representative payee; and require SSA to compile and maintain a centralized file of certain beneficiary and payee information.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	07/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Philip Berge**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1769**

RIN: 0960–AD22

998. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; FEES FOR REPRESENTATION OF CLAIMANTS (296P)

Legal Authority: PL 101-508, Sec 5106

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: We propose to amend the regulations to reflect section 5106(a) of Pub. L. 101-508 which modifies the manner in which past-due benefits are calculated and the process by which SSA approves fees charged by persons representing claimants before the Agency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Philip Berge**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1769**

RIN: 0960–AD23

999. OASDI AND SSI FOR THE AGED, BLIND & DISABLED; CONTINUATION OF BENEFITS ON ACCOUNT OF PARTICIPATION IN A NON-STATE VR PROGRAM (299P)

Legal Authority: PL 101-508, Sec 5113

CFR Citation: 20 CFR 404.316; 20 CFR 404.337; 20 CFR 404.352; 20 CFR 404.902; 20 CFR 404.1586; 20 CFR 404.1596; 20 CFR 404.1597; 20 CFR 416.1321; 20 CFR 416.1338

Legal Deadline: None

Abstract: These regulations will reflect section 5113 of Pub. L. 101-508, which amends sections 225 (b) and 1631 (a)(6) of the Act to extend eligibility for continuation of benefits under these sections to persons who are participating in a non-State VR program. Prior to these amendments, the law only provided for continuation of benefits when a person was participating in a State VR Program. These regulatory changes will bring our regulations into conformity with the law.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Jack Schanberger**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-8471**

RIN: 0960–AD26

1000. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; TREATMENT OF CERTAIN ROYALTIES AND HONORARIA (310P)

Legal Authority: PL 101-508, Sec 5034(a)(1)(B); 42 USC 1382a(a)(1)(E)

CFR Citation: 20 CFR 416.1110; 20 CFR 416.1111; 20 CFR 416.1121

Legal Deadline: None

Abstract: These regulations amend the Supplemental Security Income regulations to reflect a statutory change in the treatment of royalties in connection with any publication of the works of an individual and that portion of honoraria received for services rendered, from unearned income to earned income.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Duane Heaton**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-8470**

RIN: 0960–AD35

1001. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; EXCLUSION FROM INCOME AND RESOURCES OF VICTIMS' COMPENSATION PAYMENTS AND STATE RELOCATION ASSISTANCE (311P)

Legal Authority: PL 101-508, Sec 5031; PL 101-508, Sec 5035

CFR Citation: 20 CFR 416.1124; 20 CFR 416.1161(a); 20 CFR 416.1204(a), 20 CFR 416.1210, 20 CFR 416.1229 (New); 20 CFR 416.1239 (New)

Legal Deadline: None

Abstract: These regulations will provide for the exclusion from income and from resources (for nine months) in the Supplemental Security Income Program payments received by a person from a State established fund to aid victims of crime and payments received as State or local government relocation assistance.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RIN 0960-AD37 has been merged with this action.

Agency Contact: **Harry J. Short**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1753**

RIN: 0960–AD36

1002. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; REIMBURSEMENT FOR VR SERVICES FURNISHED DURING CERTAIN MONTHS OF NON-PAYMENT (315P)

Legal Authority: PL 101-508, Sec 5037

CFR Citation: 20 CFR 416.1321; 20 CFR 416.1331; 20 CFR 416.1338; 20 CFR 416.1402; 20 CFR 416.2201

Legal Deadline: None

Abstract: These regulations reflect section 5037 of Pub. L. 101-508, which amends section 1615 of the Act, to provide for reimbursement for VR services furnished during certain months of nonpayment of Supplemental Security Income benefits. Prior to these amendments there was no provision in the law for such reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Jack Schanberger**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-8471**

RIN: 0960–AD39

1003. ORGANIZATION AND PROCEDURES; REVIEW BY APPEALS COUNCIL (334P)

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 422.205

Legal Deadline: None

Abstract: We propose to amend our regulations to give Appeals Officers of the Appeals Council authority to deny requests for review of hearings decisions. Presently, this authority rests only with members of the Appeals Council.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Philip Berge**, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, **410 965-1709**

RIN: 0960–AD45

1004. CODE OF CONDUCT FOR THE OFFICE OF HEARINGS AND APPEALS (OHA) ADMINISTRATIVE LAW JUDGES AND ADMINISTRATIVE APPEALS JUDGES (341P)

Legal Authority: EO 12674 as modified by EO 12731;; 42 USC 405

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will propose a Code of Conduct for OHA Administrative Law Judges and Administrative Appeals Judges.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Philip Berge**, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1769**

RIN: 0960–AD54

1005. ELECTION OF BENEFITS BASED ON AGE BY DISABLED WIDOW, WIDOWER AND SURVIVING DIVORCED SPOUSE BENEFICIARIES (343P)

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 404.335; 20 CFR 404.336; 20 CFR 404.337

Legal Deadline: None

Abstract: We propose to amend our regulations to permit the election of benefits based on age by widows, widowers and surviving divorced spouses (hereinafter, collectively widows) who are at least age 60 and who are already entitled to widow's benefits based on disability. This proposal would allow the widow to choose which of the two types of widow's benefits is more advantageous. The estimated increase in benefit payments is less than $500,000 per year for fiscal years 1992-1995.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Cassandra Bond**, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, 410 965-1794

RIN: 0960–AD56

1006. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; REORGANIZATION OF MEDICAL EVIDENCE REGULATIONS (340P)

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: We are working on a reorganization of the medical evidence sections of our regulations so that the numbering of the sections will conform with Federal Register requirements which state that section numbers with alpha characters should not be used in designating units within the CFR system.

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Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alicia Matthews, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, 410 965-1713

RIN: 0960–AD57

1007. SSI PROGRAM; SSI MAXIMUM PAYMENT LIMIT ($30) WHEN MEDICAID IS NOT PAYING TOWARD THE COST OF INSTITUTIONAL CARE BECAUSE THE INDIVIDUAL TRANSFERRED A RESOURCE (345P)

Legal Authority: 42 USC 1382b; 42 USC 1382(e)(1)

CFR Citation: 20 CFR 416.414

Legal Deadline: None

Abstract: These proposed regulations amend existing regulations to include language explaining that the $30 maximum monthly SSI payment limit applies when Medicaid is not paying toward the cost of institutional care because the individual transferred a resource for less than fair market value.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, 410 965-1759

RIN: 0960–AD60

1008. SUPPLEMENTAL SECURITY INCOME PROGRAM; TREATMENT OF PROMISSORY NOTES IN HOME REPLACEMENT SITUATIONS (182P)

Legal Authority: 42 USC 1302 42 USC 1302(b)

CFR Citation: 20 CFR 416.1212

Legal Deadline: None

Abstract: This proposed regulation explains how the Social Security Administration (SSA) treats promissory notes and similar installment sales contracts and the proceeds generated therefrom when received as a result of the sale of a home which is excluded from resources under the Supplemental Security Income (SSI) program. This proposed regulation provides for application of the "home replacement exclusion" in these situations where timely reinvestment of the installments into another home, which is similarly excludable as the principal place of residence, is made.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, 410 965-1762

RIN: 0960–AD61

1009. AGAINST EQUITY AND GOOD CONSCIENCE (348P)

Legal Authority: 30 USC 923; 42 USC 404; 42 USC 1383

CFR Citation: 20 CFR 404.509; 20 CFR 410.561d; 20 CFR 416.554

Legal Deadline: None

Abstract: These proposed regulations amend the existing regulations to change how we determine when recovery of an overpayment would be against equity and good conscience. Currently, regulations permit determinations that recovery of an overpayment would be against equity and good conscience under [illegible] conditions. The proposed regulations will provide for the "against equity and good conscience" determination to be based on an examination and consideration of a variety of factors such as cause and result of overpayment, fairness, and defeat the purpose of the program as they affect both the beneficiary and the Social Security Administration.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, 410 965-8470

RIN: 0960–AD62

1010. OASDI AND SSI; TESTING MODIFICATIONS TO THE DISABILITY DETERMINATION PROCEDURES (359P)

Significance: Agency Priority

Legal Authority: 42 USC 405(a); 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.906; 20 CFR 416.1406

Legal Deadline: None

Abstract: We propose to add new rules we may use to test modifications to the disability determination procedures that we follow under titles II and XVI of the Social Security Act. On a limited basis, we may test procedures designed to improve the disability claims process. These models are designed to provide us with comprehensive information regarding the effect of these procedures on the disability process. They would enable us to measure whether, and to what degree, the disability process may be improved, especially with respect to obtaining the correct decision earlier in the process and shortening aggregate processing times. We would measure costs and determine the feasibility of each model. The intended result of testing these models would be to enable SSA to make recommendations for national implementation of improvements to the disability process.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner Legal Assistant, Office of Regulations, Department of Health and Human

Services, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, 410 965-1762

RIN: 0960–AD63

1011. • RELIABLE INFORMATION WHICH IS CURRENTLY AVAILABLE FOR DETERMINING BENEFIT AMOUNTS IN THE SUPPLEMENTAL SECURITY INCOME PROGRAM (382P)

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1382(a) to 1382(c); 42 USC 1382(e); 42 USC 1382a; 42 USC 1382f; 42 USC 1383

CFR Citation: 20 CFR 416.420

Legal Deadline: NPRM, Judicial, December 31, 1992.
A stay was granted pending a ruling by the District Court.

Abstract: Pursuant to the Court order in Gould, et al. v. Sullivan, No. C2-87-964 (S.D. Ohio, October 2, 1992), we are proposing a rule for determining benefits in the SSI program. Under section 1611(c)(4)(A) of the Social Security Act, if the Secretary determines that reliable information is currently available concerning the income and other circumstances of an individual, the Secretary may use that information to determine an individual's current month's SSI benefit amount. This discretionary method of determining SSI benefit amounts is an exception to the use of information from a prior month, known as retrospective monthly accounting (RMA), as provided in section 1611(c)(1) of the Act. The proposed rule will explain that the Secretary has determined that no information exists which is reliable and currently available to use in computing SSI benefit amounts pursuant to section 1611(c)(4).

Timetable:

Action	Date	FR Cite
NPRM	03/16/93	58 FR 14191
NPRM Comment Period End	04/15/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 410 965-1762

RIN: 0960–AD65

1012. • APPEAL RIGHTS FOLLOWING STATE-INITIATED MASS CHANGE IN FEDERALLY ADMINISTERED STATE SUPPLEMENTARY PAYMENTS RESULTING IN REDUCTION, SUSPENSION, OR TERMINATION OF STATE SUPPLEMENTARY PAYMENTS (383P)

Significance: Agency Priority

Legal Authority: 42 USC 405(a); 42 USC 1302(a); 42 USC 1382e; 42 USC 1383(d)(1)

CFR Citation: 20 CFR 416.1401; 20 CFR 416.1402; 20 CFR 416.1403

Legal Deadline: None

Abstract: The regulation addresses the problem of appeals filed by supplemental security income recipients whose payments are reduced, suspended or terminated because of a decrease in the amount of federally administered State supplementary payments. These are decreases resulting from a State-initiated across- the-board change due to legislative or executive action by a State. In these situations, our notices advising of the reduction, suspension or termination of payments will offer appeal rights and continuation of unreduced benefits only when the recipient protests the computation of the reduced payment.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 410 965-8471

RIN: 0960–AD66

1013. • OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; HEMIC AND LYMPHATIC SYSTEM, AND MALIGNANT NEOPLASTIC DISEASES (399P)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500

Legal Deadline: None

Abstract: Sections 7.00 and 107.00 (hemic and lymphatic system), and 13.00 and 113.00 (malignant neoplastic diseases) of appendix 1 to Subpart P of Part 404 of the Disability Regulations (404.1501 through 404.1599) describe those impairments which are considered severe enough to prevent a person from engaging in any gainful activity, or in the case of a child under age 18, age-appropriate activities. We are proposing revisions to these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alicia Matthews, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 410 965-1713

RIN: 0960–AD67

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA)

Final Rule Stage

1014. SUPPLEMENTAL SECURITY INCOME PROGRAM; SUSPENSIONS, TERMINATIONS, AND ADVANCE NOTICE OF ADVERSE DETERMINATIONS (031F)

Legal Authority: 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382c; 42 USC 1382d; 42 USC 1383; PL 99-643, Sec 3; PL 99-643, Sec 4; PL 100-203, Sec 9103; PL 100-203, Sec 9112; PL 100-203, Sec 9115; PL 101-239, Sec 8009; PL 101-508, Sec 5038; PL 101-508, Sec 5105

CFR Citation: 20 CFR 416B; 20 CFR 416G; 20 CFR 416M

Legal Deadline: None

Abstract: This regulation reorganizes, revises, and clarifies the rules on stopping, reducing, suspending, and terminating an SSI beneficiary's SSI benefits. This regulation's purpose is to make these rules easier to read and understand. These rules also reflect the following statutory enactments: (1) section 3 of Pub. L. 99-643, (2) section 4 of Pub. L. 99-643, (3) section 9103 of Pub. L. 100-203, (4) section 9112 of Pub. L. 100-203, (5) section 9115 of Pub. L. 100-203, (6) section 8009 of Pub. L. 101-239, (7) section 5038 of Pub. L. 101-508, and (8) section 5105 of Pub. L. 101-508.

Timetable:

Action	Date	FR Cite
Notice of Decision to Develop Regs	06/19/79	44 FR 35241
NPRM	05/08/86	51 FR 17057
NPRM Comment Period End	07/07/86	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1759**

RIN: 0960–AA22

1015. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; CARDIOVASCULAR SYSTEM (141F)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500ff, appendix 1

Legal Deadline: None

Abstract: Sections 4.00 and 104.00 of appendix 1 of the Disability regulations (404.1501 through 404.1599) describe cardiovascular impairments considered severe enough to prevent an individual from doing any gainful activity or, in the case of a child under age 18, age-appropriate activities. Because of the advances in medical technologies and practice in this area we are revising the criteria in the Listing of Impairments to bring these sections up to date. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	07/09/91	56 FR 31266
NPRM Comment Period End	09/09/91	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 966-0512**

RIN: 0960–AA99

1016. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; RESPIRATORY SYSTEM (142F)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500ff, appendix 1

Legal Deadline: None

Abstract: Sections 3.00 and 103.00 of appendix 1 to the Disability Regulations (404.1501 through 404.1599) describe those respiratory impairments which are considered severe enough to prevent a person from engaging in any gainful activity or, in the case of a child under age 18, age-appropriate activities. We are proposing revisions to require consideration of the nature and clinical manifestations of respiratory disorders and the limitations such disorders impose on the individual's ability to function. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance programs.

Timetable:

Action	Date	FR Cite
NPRM	10/18/91	56 FR 52231
NPRM Comment Period End	12/17/91	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra Bond, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 965-1794**

RIN: 0960–AB00

1017. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUED PAYMENT OF BENEFITS TO PERSONS IN VOCATIONAL REHABILITATION PROGRAMS (131F)

Legal Authority: 42 USC 405; 42 USC 425; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.316; 20 CFR 404.337; 20 CFR 404.352; 20 CFR 404.902; 20 CFR 404.1586; 20 CFR 404.1596; 20 CFR 404.1597; 20 CFR 416.1321; 20 CFR 416.1338; 20 CFR 416.1331; 20 CFR 416.1402

Legal Deadline: None

Abstract: This change permits the continued payment of disability benefits to persons who medically recover while participating in a vocational rehabilitation (VR) program, without regard to whether the person was expected at the onset of the VR program to medically recover before the scheduled completion date of the program and without regard to whether the person has any residual functional limitation. These changes bring the regulations into conformity with certain court decisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/14/86	51 FR 17616
Final Action	00/00/00	

HHS—SSA

Final Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 965-8471**

RIN: 0960–AB05

1018. SUPPLEMENTAL SECURITY INCOME PROGRAM AND MEDICAID ASSISTANCE; WHAT IS NOT INCOME (121F)

Legal Authority: 42 USC 1382a

CFR Citation: 20 CFR 416.1103(a); 42 CFR 433.136; 42 CFR 435.725(a); 42 CFR 435.725(c); 42 CFR 435.726(a); 42 CFR 435.726(c); 42 CFR 435.733(a); 42 CFR 435.733(c); 42 CFR 435.735(a); 42 CFR 435.735(c); 42 CFR 435.832(a); 42 CFR 435.832(c); 42 CFR 436.832(a); 42 CFR 436.832(c)

Legal Deadline: None

Abstract: The rule changes SSI policy to consider Department of Veterans Affairs payments resulting from unusual medical expenses not to be income for SSI purposes.

Timetable:

Action	Date	FR Cite
NPRM	08/24/88	53 FR 32252
NPRM Comment Period End	10/24/88	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 965-8470**

RIN: 0960–AB09

1019. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSIONS FROM INCOME AND RESOURCES OF INDIAN JUDGMENT FUNDS AND PER CAPITA DISTRIBUTIONS (201F)

Legal Authority: PL 97-458; PL 98-64; PL 100-241

CFR Citation: 20 CFR 416K Appendix; 20 CFR 416.1234; 20 CFR 416.1236

Legal Deadline: None

Abstract: The proposed regulation reflects the provisions of the following statutes: (1) Pub. L. 97-458, enacted January 12, 1983, which provides that Indian judgment funds held in trust or distributed per capita pursuant to a plan approved by Congress or the Secretary of the Interior are excluded from income and resources under the Supplemental Security Income Program; (2) Pub. L. 98-64 enacted August 2, 1983, which provides for the exclusion of all funds held in trust by the Secretary of the Interior for an Indian tribe and distributed per capita to a member of that tribe; and (3) Pub. L. 100-241. enacted February 3, 1988, which provides for the exclusion from income and resources of certain items received by an individual Alaskan native or descendant of an Alaskan native from a native corporation. The program and administrative impact of these regulations are negligible, i.e., less than $1 million and/or 30 workyears.

Timetable:

Action	Date	FR Cite
NPRM	07/27/92	57 FR 33137
NPRM Comment Period End	09/25/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 965-8470**

RIN: 0960–AB86

1020. REVISION OF THE LISTING OF IMPAIRMENTS; PART A AND PART B OF THE ENDOCRINE AND MULTIPLE BODY SYSTEMS; IMMUNE SYSTEM (150F)

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404.1500ff, Appendix 1

Legal Deadline: None

Abstract: These rules will, for the first time, add HIV infection to the regulatory "Listing of Impairments." These rules, which have separate proposed listings for children and adults, provide criteria in our regulations for evaluating manifestations of HIV infection and emphasize the special considerations needed to evaluate HIV infection in women and children.

Timetable:

Action	Date	FR Cite
NPRM	12/18/91	56 FR 65702
NPRM Comment Period End	02/18/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 965-6243**

RIN: 0960–AC06

1021. SUPPLEMENTAL SECURITY INCOME PROGRAM; PAYMENT OF BENEFITS DUE DECEASED RECIPIENTS (174F)

Legal Authority: 42 USC 1383(b)(1)(A)

CFR Citation: 20 CFR 416.340(d); 20 CFR 416.345(e); 20 CFR 416.533; 20 CFR 416.536; 20 CFR 416.537(b); 20 CFR 416.538(a); 20 CFR 416.538(b); 20 CFR 416.538(c); 20 CFR 416.538(d); 20 CFR 416.542(b); 20 CFR 416.542(c); 20 CFR 416.543; 20 CFR 416.1402(k); 20 CFR 416.1402(l); 20 CFR 416.1402(m); ...

Legal Deadline: None

Abstract: Section 8 of Pub. L. 99-643 provides that effective for benefits payable for months after May 1986, an underpayment shall be paid to any surviving spouse of a deceased SSI recipient whether or not the spouse was eligible for SSI, if such spouse was living in the same household with the recipient at the time of death, or within the 6 months immediately preceding the month of death; or to the parent(s) of a deceased recipient who was a blind or disabled child at the time the underpayment occurred if the recipient was living with the parent(s) at the time of death or within the 6 months immediately preceding the month of death. These proposed regulations would also reflect a policy change that would continue the appeals process (versus automatic dismissal), at the Administrative Law Judge or Appeals Council level, for the survivors'

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entitlement to an underpayment if they meet certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	09/10/90	55 FR 37249
NPRM Comment Period End	11/09/90	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CFR CITATION CONT: 20 CFR 416.1457(c)(4); 20 CFR 416.1471 (b)

Agency Contact: Lawrence V. Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 965-1795**

RIN: 0960–AC28

1022. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; CANCELLED CONSULTATIVE EXAMINATIONS (181F)

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1624; 20 CFR 416.1024

Legal Deadline: None

Abstract: We are considering the development of a final rule to provide that we will no longer pay for consultative examinations when services are not rendered because the scheduled appointment was broken or otherwise not kept. Presently, the States decide whether to pay for these canceled examinations and such payments have already been abolished in 22 States. The total elimination of these payments will establish a uniform national policy.

Timetable:

Action	Date	FR Cite
NPRM	10/07/88	53 FR 39487
NPRM Comment Period End	12/06/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Richard M. Bresnick, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1758**

RIN: 0960–AC40

1023. SUPPLEMENTAL SECURITY INCOME PROGRAM; PROCEEDS OF A LOAN, PAYMENT OF PRO RATA SHARE OF HOUSEHOLD OPERATING EXPENSES (180F)

Significance: Agency Priority

Legal Authority: 42 USC 1302

CFR Citation: 20 CFR 416.1103; 20 CFR 416.1133

Legal Deadline: None

Abstract: Money borrowed (a loan) is not income for SSI purposes and therefore has no effect on a person's SSI benefits. These regulations will state that only cash transactions may be considered loans. These regulations will also provide that the one-third reduction rule which applies when a person who lives in another's household and receives in-kind support and maintenance will not apply if the SSI recipient pays his or her pro rata share in cash and no later than the month under consideration. No additional costs or savings are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	08/20/90	55 FR 33922
NPRM Comment Period End	10/19/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 965-8470**

RIN: 0960–AC42

1024. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; APPLICABILITY OF GOVERNMENT PENSION TO CERTAIN FEDERAL EMPLOYEES (188F)

Legal Authority: 42 USC 402(b); 42 USC 402(c); 42 USC 402(e); 42 USC 402(f); 42 USC 402(g); PL 100-203, Sec 9007; PL 100-647, Sec 8014

CFR Citation: 20 CFR 404.408a

Legal Deadline: None

Abstract: This final rule would reflect provisions of the Omnibus Budget Reconciliation Act of 1987 (PL 100-203, sec 9007) on the Government pension offset and provisions of the Technical and Miscellaneous Revenue Act of 1988 (PL 100-647), which also contained new rules on the government pension offset.

Timetable:

Action	Date	FR Cite
NPRM	12/12/89	54 FR 51036
NPRM Comment Period End	02/12/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations 6401 Security Blvd., Baltimore, MD 21235, **410 965-8471**

RIN: 0960–AC46

1025. SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUATION OF FULL BENEFIT STANDARD FOR CERTAIN PERSONS INSTITUTIONALIZED (198F)

Significance: Agency Priority

Legal Authority: PL 100-203, Sec 9115; PL 99-643, Sec 3

CFR Citation: 20 CFR 416.211; 20 CFR 416.414; 20 CFR 416.1149; 20 CFR 416.1167; 20 CFR 416.1325; 20 CFR 416.2040; 20 CFR 416.410; 20 CFR 416.412; 20 CFR 416.640; 20 CFR 416.1147

Legal Deadline: None

Abstract: These amendments would require continued payment for up to three months based on the full payment rate to certain persons eligible for SSI payments under sections 1619 or 1611 of the Social Security Act who enter certain medical or psychiatric institutions, SSI benefits would be reduced or suspended.

Timetable:

Action	Date	FR Cite
NPRM	09/28/92	57 FR 44519
NPRM Comment Period End	11/27/92	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 965-1759**

RIN: 0960–AC55

1026. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINATION OF DISABILITY - DETERMINING STATE AGENCY SUBSTANTIAL FAILURE (206F)

Legal Authority: 42 USC 421; 42 USC 1302

CFR Citation: 20 CFR 404.1641; 20 CFR 404.1670; 20 CFR 404.1680; 20 CFR 404.1682; 20 CFR 404.1683; 20 CFR 416.1041; 20 CFR 416.1070; 20 CFR 416.1080; 20 CFR 416.1082; 20 CFR 416.1083

Legal Deadline: None

Abstract: The proposed rules contain procedures for determining when a State agency has substantially failed to make disability determinations in accordance with applicable Federal law. If it is determined that a State agency has substantially failed to make disability determinations in a manner consistent with Federal regulations or other written guidelines, the Social Security Administration, in accordance with section 221 of the Social Security Act (42 USC 421), must assume the responsibility for making the disability determinations. The costs or savings likely to result from implementation of these regulations are not predictable.

Timetable:

Action	Date	FR Cite
NPRM	03/14/91	56 FR 11025
NPRM Comment Period End	05/13/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **410 966-0512**

RIN: 0960–AC60

1027. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; SUSPENSION OF BENEFITS OF DEPORTED NAZIS; EXEMPTION FROM SOCIAL SECURITY TAXATION BECAUSE OF RELIGIOUS BELIEFS (210F)

Legal Authority: PL 100-647, Sec 8007; 42 USC 402(n); 42 USC 402(v); PL 101-239; PL 101-649, Sec 603(b)

CFR Citation: 20 CFR 404.305; 20 CFR 404.464; 20 CFR 404.1039 (New); 20 CFR 404.1068; 20 CFR 404.1075

Legal Deadline: None

Abstract: This regulation reflects a provision of Pub. L. 100-647 which extends the current law treatment of self-employed workers who may claim an exemption from Social Security coverage if they are members of a religious faith that is opposed to participation in Social Security programs to employees in cases where both the employee and the employer are members of a qualifying religious faith. It also reflects a provision of Pub. L. 101-649 which concerns the suspension of Social Security benefits when an individual is deported.

Timetable:

Action	Date	FR Cite
NPRM	05/28/91	56 FR 24043
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1759**

RIN: 0960–AC68

1028. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; MEDICAL CRITERIA FOR EVALUATING MENTAL DISORDERS FOR ADULTS (222F)

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1382c

CFR Citation: 20 CFR 404.1500ff, Appendix 1; 20 CFR 404.1520a; 20 CFR 404.1528; 20 CFR 416.920a; 20 CFR 416.928

Legal Deadline: None

Abstract: These proposed amendments revise the medical evaluation criteria for mental disorders for the Social Security and Supplemental Security Income disability programs. The proposed revisions will reflect advances in medical treatment and in methods of evaluating certain mental impairments and will provide up-to-date medical criteria for use in the evaluation of disability claims based on mental disorders. (The present medical criteria used to evaluate disability claims based on mental disorders was extended through August 27, 1993, by a final regulation published on June 8, 1992.)

Timetable:

Action	Date	FR Cite
NPRM	07/18/91	56 FR 33130
NPRM Comment Period End	09/18/91	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1758**

RIN: 0960–AC74

1029. SUPPLEMENTAL SECURITY INCOME PROGRAM; REDETERMINATIONS OF SUPPLEMENTAL SECURITY INCOME ELIGIBILITY (223F)

Legal Authority: 42 USC 1302; 42 USC 1381a; 42 USC 1382; 42 USC 1382(c); 42 USC 1382h(a); 42 USC 1383

CFR Citation: 20 CFR 416.204

Legal Deadline: None

Abstract: We propose to amend our regulations on redeterminations of Supplementary Security Income eligibility. Our current rules do not include in the redetermination period the month of eligibility, the month of application, or the month of the last redetermination or eligibility update. The redeterminations omit these months and, as a result, we do not have an accounting of all living arrangements, income, and resources for the period of eligibility. We propose to change our rules to include in the redetermination period all months from the first day of the month of eligibility,

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month of application, or month of eligibility update for the first redetermination and all months from the first day of the month of the last redetermination for subsequent redeterminations.

Timetable:

Action	Date	FR Cite
NPRM	11/20/92	57 FR 54732
NPRM Comment Period End	01/19/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Duane Heaton**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-8470**

RIN: 0960–AC77

1030. SUPPLEMENTAL SECURITY INCOME PROGRAM; TREATMENT OF AUGMENTED VETERAN'S BENEFITS (231F)

Legal Authority: 42 USC 1382a

CFR Citation: 20 CFR 416.1123

Legal Deadline: None

Abstract: These regulations describe the treatment of the dependent's portion of an augmented Department of Veterans Affairs benefit as income to the dependent by the SSI program.

Timetable:

Action	Date	FR Cite
NPRM	05/18/90	55 FR 20612
NPRM Comment Period End	07/17/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Duane Heaton**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-8470**

RIN: 0960–AC82

1031. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; REPRESENTATION OF CLAIMANTS FOR BENEFITS UNDER TITLE II OR TITLE XVI (249F)

Significance: Regulatory Program

Legal Authority: PL 101-239, Sec 10307

CFR Citation: 20 CFR 404.1705; 20 CFR 416.1505

Legal Deadline: None

Abstract: These proposed regulations will provide that information regarding the options for obtaining an attorney and the availability of legal services organizations will be included with the notice sent to claimants who receive an adverse determination.

Timetable:

Action	Date	FR Cite
NPRM	10/28/91	56 FR 55475
NPRM Comment Period End	12/27/91	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Philip Berge**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1769**

RIN: 0960–AC87

1032. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; STANDARDS APPLICABLE IN DETERMINATIONS OF GOOD CAUSE, FAULT, AND GOOD FAITH (247F)

Significance: Regulatory Program

Legal Authority: PL 101-239, Sec 10305

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: This proposed rule will implement a section of P.L. 101-239 that requires that we take into account a claimant's physical, mental, educational or language limitations, including any lack of facility with the English language when we make certain determinations involving the claimant's good cause, fault or good faith in taking or not taking certain actions.

Timetable:

Action	Date	FR Cite
NPRM	10/30/91	56 FR 55848
NPRM Comment Period End	12/30/91	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Philip Berge**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1769**

RIN: 0960–AC88

1033. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION FROM INCOME OF DOMESTIC COMMERCIAL TRANSPORTATION TICKETS RECEIVED AS GIFTS IN DETERMINING SSI INCOME (253F)

Legal Authority: 42 USC 1382a(b)(15)

CFR Citation: 20 CFR 416.1124; 20 CFR 416.1161

Legal Deadline: None

Abstract: Pursuant to 42 USC 1382a(b)(15), gifts of certain commercial transportation tickets are excluded from income for SSI purposes, if they are used by the individual (or his or her spouse) and not converted to cash. These proposed rules will reflect the statutory provision which is effective as of March 1, 1990.

Timetable:

Action	Date	FR Cite
NPRM	09/24/92	57 FR 44146
NPRM Comment Period End	11/23/92	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Irving Darrow**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 966-0512**

RIN: 0960–AC97

1034. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; TAKE INTO ACCOUNT MISINFORMATION PROVIDED TO APPLICANTS IN DETERMINING DATE OF APPLICATION (267F)

Legal Authority: 42 USC 402(j); 42 USC 1383(e); PL 101-239, Sec 10302

CFR Citation: 20 CFR 404.612; 20 CFR 404.614; 20 CFR 404.615; 20 CFR 404.633 (New); 20 CFR 404.902; 20 CFR 404.903; 20 CFR 416.310; 20 CFR 416.325; 20 CFR 416.351 (New); 20 CFR 416.1402; 20 CFR 416.1403

Legal Deadline: None

Abstract: These proposed regulations reflect section 10302 of P.L. 101-239 which provides for the establishment of a deemed filing date of an application for Social Security or Supplemental Security Income benefits in any case where it is determined to the satisfaction of the Secretary that an individual failed to apply for these benefits because of misinformation provided to the individual by an officer or employee of the Social Security Administration about the individuals eligibility for the benefits.

Timetable:

Action	Date	FR Cite
NPRM	10/16/92	57 FR 47415
NPRM Comment Period End	12/15/92	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Henry Lerner**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1762**

RIN: 0960–AD05

1035. SUPPLEMENTAL SECURITY INCOME; DETERMINING DISABILITY FOR A CHILD UNDER AGE 18 (275F)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1382c(a); 42 USC 1382h; 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 416.901; 20 CFR 416.902; 20 CFR 416.905; 20 CFR 416.906; 20 CFR 416.913; 20 CFR 416.916; 20 CFR 416.920; 20 CFR 416.921; 20 CFR 416.923; 20 CFR 416.924; 20 CFR 416.924a; 20 CFR 416.924b; 20 CFR 416.924c; 20 CFR 416.924d; 20 CFR 416.924e

Legal Deadline: Final, Judicial, September 1992.

Abstract: These amendments revise the disability evaluation and determination process for Supplemental Security Income claims of children based on disability.

Timetable:

Action	Date	FR Cite
Final With Comment Period	02/11/91	56 FR 5534
Comment Period End	04/11/91	
Comment Period Extension	05/07/91	56 FR 21075
Extended Comment Period End	07/08/91	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Cassandra Bond**, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1754**

RIN: 0960–AD09

1036. SUPPLEMENTAL SECURITY INCOME PROGRAM; FINANCIAL INSTITUTION ACCOUNTS IN THE SSI PROGRAM (278F)

Legal Authority: 42 USC 1383

CFR Citation: 20 CFR 416.1201(b); 20 CFR 416.1208 (New)

Legal Deadline: None

Abstract: Title XVI of the Act and SSI regulations are silent on the issue of how funds held in bank accounts are attributed for resource purposes. These regulations provide criteria to be used for determining ownership of financial institution accounts.

Timetable:

Action	Date	FR Cite
NPRM	05/27/92	57 FR 22187
NPRM Comment Period End	07/27/92	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Henry Lerner**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1762**

RIN: 0960–AD10

1037. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; UPDATING NOMENCLATURE (264F)

Significance: Agency Priority

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404; 20 CFR 410; 20 CFR 416; 20 CFR 422

Legal Deadline: None

Abstract: This regulation amends current regulations to replace outdated nomenclature and terminology, to eliminate little used rules and provisions which are no longer in effect, and to correct technical errors such as misspellings and incorrect cross-references.

Timetable:

Action	Date	FR Cite
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Cassandra Bond**, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1794**

RIN: 0960–AD11

1038. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; REOPENING DETERMINATIONS AND DECISIONS (279F)

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.987; 20 CFR 416.1487

Legal Deadline: None

Abstract: These proposed rules revise our current regulations to clarify that the Agency on its own initiative, as

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well as at the request of any person claiming a right under the Social Security or Supplemental Security Income programs, may reopen and revise a final administrative determination or decision.

Timetable:

Action	Date	FR Cite
NPRM	10/28/91	56 FR 55477
NPRM Comment Period End	12/27/91	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1762**

RIN: 0960–AD12

1039. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; SUSPENSION OF AUXILIARY BENEFITS WHEN A DISABLED WORKER IS IN AN EXTENDED PERIOD OF ELIGIBILITY (303F)

Legal Authority: PL 101-508, Sec 5118

CFR Citation: 20 CFR 404.332; 20 CFR 404.337; 20 CFR 404.346; 20 CFR 404.352; 20 CFR 404.467; 20 CFR 404.1592a

Legal Deadline: None

Abstract: These regulations reflect section 5118 of Pub. L. 101-508, which amends section 223 of the Social Security Act to provide that the benefits of dependents of a disability insurance beneficiary who has completed a 9 month trial work period and is in an extended period of eligibility, will not be paid during this period, if the disabled worker's benefits are not payable.

Timetable:

Action	Date	FR Cite
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1795**

RIN: 0960–AD30

1040. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; CONTINUED ENTITLEMENT TO BENEFITS OF DEEMED SPOUSE DESPITE ENTITLEMENT OF LEGAL SPOUSE (304F)

Legal Authority: PL 101-508, Sec 5119

CFR Citation: 20 CFR 404.331; 20 CFR 404.332; 20 CFR 404.336; 20 CFR 404.337; 20 CFR 404.340; 20 CFR 404.341; 20 CFR 404.346

Legal Deadline: None

Abstract: These regulations reflect section 5119 of Pub. L. 101-508, which amends section 216 and 203 of the Social Security Act to provide for the payment of benefits to both a legal spouse and a deemed spouse, or to both a legal widow and a deemed widow. That is, the existence of a legal spouse would no longer prevent a deemed spouse from receiving benefits on a worker's record or terminate the benefits of a deemed spouse who was already receiving benefits on the worker's record.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1759**

RIN: 0960–AD31

1041. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; EXCLUSION FROM INCOME AND RESOURCES OF EARNED INCOME TAX CREDITS (319F)

Legal Authority: 42 USC 1302; 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1383

CFR Citation: 20 CFR 416.210; 20 CFR 416.1110; 20 CFR 416.1111; 20 CFR 416.1112; 20 CFR 416.1161; 20 CFR 416.1210; 20 CFR 416.1235 (New)

Legal Deadline: NPRM, Statutory, January 1, 1991.

Abstract: This proposed regulation reflects section 11115 of Pub. L. 101-508 (the Omnibus Budget Reconciliation Act of 1990), which increases earned income tax credit (EITC) rates and excludes payments related to EITC from income in the month of receipt and from resources in the month of receipt and in the month following the month of receipt, under the Supplemental Security Income, Aid to Families With Dependent Children, Medicaid, and Food Stamp programs.

Timetable:

Action	Date	FR Cite
NPRM	09/25/92	57 FR 44348
NPRM Comment Period End	11/24/92	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1762**

RIN: 0960–AD41

1042. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME; LIMITATION OF TRAVEL EXPENSES FOR REPRESENTATION OF CLAIMANTS AT ADMINISTRATIVE PROCEEDINGS (324F)

Legal Authority: PL 101-508, Sec 5106(c)

CFR Citation: 20 CFR 404.999c(d); 20 CFR 416.1498(d)

Legal Deadline: None

Abstract: We propose to amend the regulations concerning payment of certain travel expenses to implement the provisions of section 5106(c) of Pub. L. 101-508, the Omnibus Budget Reconciliation Act of 1990, enacted November 5, 1990. Section 5106(c) amended sections 201(j), 1631(h) and 1817(i) of the Social Security Act to provide that the amount available for payment under these sections for travel by a representative to attend a proceeding before an administrative law judge or other adjudicator shall not exceed the maximum amount allowable for travel originating within the geographic area of the office having jurisdiction over the proceeding.

Timetable:

Action	Date	FR Cite
NPRM	01/19/93	58 FR 4950
Final Action	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Philip Berge, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-1769**

RIN: 0960–AD46

1043. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; TIME LIMITS FOR DISPOSITION OF RESOURCES (330F)

Legal Authority: 42 USC 1302; 42 USC 1382b(b)

CFR Citation: 20 CFR 416.1242

Legal Deadline: None

Abstract: We propose a revision to 20 CFR 416.1242(a) to indicate that the time period for disposal of property begins on the date SSA accepts the individual's signed written agreement, provided that, on or before that date, SSA has determined that the individual meets the eligibility requirements in 20 CFR 416.202, with the exception of the resource requirement. The proposed rules further state that if SSA receives a signed agreement prior to the date it determines that all nonresource requirements are met, SSA's acceptance of the written agreement will not occur (and thus, the time period for disposal of property will not begin) until SSA notifies the individual that all nonresource requirements are met.

Timetable:

Action	Date	FR Cite
NPRM	07/01/92	57 FR 29244
NPRM Comment Period End	08/31/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, **410 965-1762**

RIN: 0960–AD48

1044. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; PAYMENTS FOR VOCATIONAL REHABILITATION SERVICES (333F)

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 422; 42 USC 1302; 42 USC 1382d; 42 USC 1383

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These proposed rules amend our regulations governing payments to States on alternate participants for vocational rehabilitation (VR) services provided to disabled or blind Social Security or Supplemental Security Income beneficiaries. They expand the use of non-State VR providers in situations in which a State VR agency declines to provide services to a beneficiary; ensure in appropriate cases that payment may be made only for those VR services that contribute to a beneficiary's return to work; prescribe the specific kinds of VR services for which payment may be made; and make other changes intended to improve the VR payment programs.

Timetable:

Action	Date	FR Cite
NPRM	07/24/92	57 FR 32926
NPRM Comment Period End	09/22/92	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: (Title Continued) Services.

Agency Contact: Jack Schanberger, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-8471**

RIN: 0960–AD50

1045. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; PRESUMPTIVE DISABILITY AND PRESUMPTIVE BLINDNESS (337F)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.933

Legal Deadline: None

Abstract: This rule will incorporate into the regulations expanded procedures to make findings of presumptive disability for people who allege infection with the human immunodeficiency virus (HIV). The present regulations permit Social Security field offices to make findings of presumptive disability for HIV infection only upon confirmation by a licensed physician that an individual had a diagnosis of acquired immunodeficiency syndrome (AIDS). These revisions will affect individuals with HIV infection whose (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/18/91	56 FR 65714
NPRM Comment Period End	02/18/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: disease manifestations are of listing-level severity.

Agency Contact: Harry J. Short, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, **410 965-8243**

RIN: 0960–AD51

1046. RESIDENCE AND CITIZENSHIP UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM—TEMPORARY PROTECTED STATUS (347F)

Legal Authority: PL 101-649

CFR Citation: 20 CFR 416.1619 (New)

Legal Deadline: None

Abstract: This final regulation will incorporate into the Supplemental Security Income (SSI) regulations a provision of section 244A(f) of the

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Final Rule Stage

Immigration and Nationality Act. Specifically, this final regulation will provide that an alien granted temporary protected status (TPS) by the Attorney General of the United States shall not be considered to be permanently residing in the United States under color of law during that period and therefore cannot be considered eligible for SSI benefits while in TPS status.

Timetable:

Action	Date	FR Cite
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, 410 965-6243

RIN: 0960–AD55

1047. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; CONSIDERING AN APPLICATION FILED UNDER THE RAILROAD RETIREMENT ACT AS AN APPLICATION FOR SOCIAL SECURITY BENEFITS (342F)

Legal Authority: 42 USC 402; 42 USC 405(a); 42 USC 423; 42 USC 428; 42 USC 1302

CFR Citation: 20 CFR 404.611

Legal Deadline: None

Abstract: This proposed regulation will amend the existing regulation to clarify that an application filed with the Railroad Retirement Board (RRB) for an annuity under the Railroad Retirement Act of 1974, as amended, is also an application for Social Security benefits under title II of the Social Security Act, unless the claimant specifies otherwise. This regulation will clarify that a claim filed with the RRB under the Railroad Unemployment Insurance Act is not a claim for Social Security benefits.

Timetable:

Action	Date	FR Cite
NPRM	10/19/92	57 FR 47584
NPRM Comment Period End	12/18/92	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Office of Regulations, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, 410 965-8471

RIN: 0960–AD59

1048. • DROPOUT YEARS, DISPOSITION OF UNDERPAYMENTS, AND RESOLVING OVERPAYMENTS (403F)

Legal Authority: 42 USC 415; 42 USC 204

CFR Citation: 20 CFR 404.221; 20 CFR 404.503; 20 CFR 404.510

Legal Deadline: None

Abstract: The regulation will update our rule in 20 CFR 404.221 on computing benefit amounts for disabled workers, by explaining the rule on dropping years of low earnings. The regulation will also update our rule on disposing of overpayments to self-employed beneficiaries. Finally, the regulation will clarify our rules on who is eligible for the underpaid benefits of a deceased beneficiary.

Timetable:

Action	Date	FR Cite
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alicia Matthews, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 410 965-1713

RIN: 0960–AD69

1049. • FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; TECHNICAL CHANGES TO REQUIREMENT FOR ENTITLEMENT TO WIDOW(ER)'S BENEFITS (404F)

Legal Authority: 42 USC 416(c)(6); 42 USC 416(g)(16)

CFR Citation: 20 CFR 404.335

Legal Deadline: None

Abstract: This rule clarifies the rules regarding entitlement requirements to widow(er)'s benefits for those individuals who were, the month before they married the insured, entitled to or potentially entitled to mother's or father's benefits on the account of another individual.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Alicia Matthews, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 410 965-1713

RIN: 0960–AD69

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Social Security Administration (SSA)

Completed Actions

1050. SUPPLEMENTAL SECURITY INCOME PROGRAM; PARENT-TO-CHILD DEEMING (105F)

Significance: Regulatory Program

CFR Citation: 20 CFR 416.1165

Completed:

Reason	Date	FR Cite
Final Action	10/27/92	57 FR 48559

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, 410 966-0512

RIN: 0960–AC38

HHS—SSA

Completed Actions

1051. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; EXTENSION OF SOCIAL SECURITY COVERAGE TO CERTAIN WORKERS; MEDICARE ONLY COVERAGE OF CERTAIN STATE AND LOCAL GOVERNMENT EMPLOYEES (187F)

CFR Citation: 20 CFR 404.429(c)(3); 20 CFR 404.1015; 20 CFR 404.1018b; 20 CFR 404.1019; 20 CFR 404.1020; 20 CFR 404.1021; 20 CFR 404.1055; 20 CFR 404.1059; 20 CFR 404.1097

Completed:

Reason	Date	FR Cite
Final Action	12/17/92	57 FR 59911

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Lawrence V. Dudar, 410 965-1759

RIN: 0960–AC45

1052. SUPPLEMENTAL SECURITY INCOME PROGRAM; TECHNICAL CHANGES TO SUBPARTS K AND L (244F)

CFR Citation: 20 CFR 416.1103; 20 CFR 416.1124; 20 CFR 416.1142; 20 CFR 416.1150; 20 CFR 416.1170; 20 CFR 416, subpart K, app; 20 CFR 416.1236; 20 CFR 416.1237

Completed:

Reason	Date	FR Cite
Final Action	11/13/92	57 FR 53849

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, 410 965-8470

RIN: 0960–AC94

1053. SUPPLEMENTAL SECURITY INCOME PROGRAM; ELIGIBILITY FOR SSI BENEFITS OF CHILDREN OF ARMED FORCES PERSONNEL RESIDING OVERSEAS (251F)

CFR Citation: 20 CFR 416.202; 20 CFR 416.215 (New)

Completed:

Reason	Date	FR Cite
Final Action	01/19/93	58 FR 4896

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, 410 965-1762

RIN: 0960–AC95

1054. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; EARNINGS AND BENEFIT STATEMENTS (269F)

CFR Citation: 20 CFR 404; 20 CFR 422

Completed:

Reason	Date	FR Cite
Final Action	11/23/92	57 FR 54917

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, 410 965-8471

RIN: 0960–AD06

1055. EXTENDING OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE COVERAGE TO CERTAIN STATE AND LOCAL GOVERNMENT EMPLOYEES (291F)

CFR Citation: 20 CFR 404.1004; 20 CFR 404.1020; 20 CFR 404.1073; 20 CFR 404.1200; 20 CFR 404.1201; 20 CFR 404.1202

Completed:

Reason	Date	FR Cite
Final Action	12/17/92	57 FR 59909

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Duane Heaton, 410 965-8470

RIN: 0960–AD18

1056. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; WAIVER OF 2-YEAR WAITING PERIOD FOR INDEPENDENT ENTITLEMENT TO DIVORCED SPOUSES' BENEFITS (307P)

CFR Citation: 20 CFR 404.331; 20 CFR 404.415; 20 CFR 404.416(a); 20 CFR 404.417(b)(4)

Completed:

Reason	Date	FR Cite
Action Terminated	01/07/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, 410 966-0512

RIN: 0960–AD33

1057. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; EXTENSION OF THE PERIOD OF PRESUMPTIVE ELIGIBILITY FOR BENEFITS (316F)

CFR Citation: 20 CFR 416.931; 20 CFR 416.932

Completed:

Reason	Date	FR Cite
Final Action	11/13/92	57 FR 53852

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, 410 965-1754

RIN: 0960–AD40

1058. SUPPLEMENTAL SECURITY INCOME FOR AGED, BLIND AND DISABLED; TECHNICAL CHANGES (323F)

CFR Citation: 20 CFR 416, subpart K, appendix; 20 CFR 416.1201; 20 CFR 416.1236

Completed:

Reason	Date	FR Cite
Final Action	11/24/92	57 FR 55087

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, 410 965-8470

RIN: 0960–AD47

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Proposed Rule Stage
Public Health Service (PHS)—Office of Assistant Secretary for Health (OASH)

1059. • PUBLIC HEALTH SERVICE POLICIES ON RESEARCH MISCONDUCT

Legal Authority: 42 USC 289b; 42 USC 290aa

CFR Citation: 42 CFR 93

Legal Deadline: None

Abstract: The proposed regulation will revise the definition of research misconduct, identify responsibilities of institutions receiving allegations of research misconduct involving PHS-supported research, provide a hearing opportunity for persons found to have engaged in research misconduct, and set forth other policies of the Department of Health and Human Services related to research integrity.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Lawrence Rhoades, Director, Division of Policy and Education, Office of Research Integrity, Department of Health and Human Services, Public Health Service, 5515 Security Lane, Suite 700, Rockville, MD 20852, **301 443-5300**

RIN: 0905–AE02

1060. • STANDARDS OF COMPLIANCE FOR ABORTION-RELATED SERVICES IN FAMILY PLANNING SERVICE PROJECTS

Significance: Agency Priority

Legal Authority: 42 USC 300a-4

CFR Citation: 42 CFR 59

Legal Deadline: None

Abstract: This rule would return the Family Planning Service Program, funded under Title X of the Public Health Service Act, to the compliance standards operative prior to February 2, 1988, with regard to the statutory provision prohibiting abortion as a method of family planning in projects funded under that title.

Timetable:

Action	Date	FR Cite
NPRM	02/05/93	58 FR 7464
NPRM Comment Period End	04/06/93	58 FR 7464
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Gerald Bennett, Acting Deputy Assistant Secretary for Population Affairs, Department of Health and Human Services, Public Health Service, P.O.Box 23783, Washington, DC 20026-3783, **202 690-8335**

RIN: 0905–AE03

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Final Rule Stage
Public Health Service (PHS)—Office of Assistant Secretary for Health (OASH)

1061. PRIVACY ACT; EXEMPT SYSTEM

Legal Authority: 5 USC 552a; 5 USC 301

CFR Citation: 45 CFR 5b-11

Legal Deadline: None

Abstract: The Department of Health and Human Services proposes to exempt a new system of records, 09-37-0021, "Public Health Services Records Related to Investigations" from certain requirements of the Privacy Act. The purpose of this exemption is to protect records compiled in the course of an allegation assessment and/or investigation and to protect the identity of the confidential source of information. There are no known costs associated with the NPRM. The benefits will be that the investigative files will not be disclosed inappropriately and promises to withhold identities of individuals will be honored.

Timetable:

Action	Date	FR Cite
NPRM	06/12/92	57 FR 25004
NPRM Comment Period End	07/13/92	57 FR 25004
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Lawrence Rhoades, Acting Director, Division of Policy and Education, Department of Health and Human Services, Public Health Service, 5515 Security Lane, Suite 700, Rockville, MD 20852, **301 443-5300**

RIN: 0905–AD31

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Proposed Rule Stage
Public Health Service (PHS)—Substance Abuse and Mental Health Services Administration (SAMHSA)

1062. • CONFIDENTIALITY OF SUBSTANCE ABUSE PATIENT RECORDS

Legal Authority: 42 USC 290dd-2, as amended by PL 102-321; 42 USC 290dd-3, as amended by PL 102-321

CFR Citation: 42 CFR 2

Legal Deadline: None

Abstract: This action modifies rules at 42 CFR Part 2 to clarify coverage of general medical facilities in light of U.S. v. Eide, 875 F.2d 1429, 1438 (9th Cir. 1989).

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	12/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: William A. Quinlan, Jr., Regulations Officer, SAMHSA, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Room 12C-15, Rockville, MD 20857, **301 443-4640**

RIN: 0905–AD97

HHS—PHS—SAMHSA
Proposed Rule Stage

1063. • PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS

Legal Authority: 42 USC 10801 et seq, as amended by P.L. 102-173

CFR Citation: 45 CFR subchapter H

Legal Deadline: Final, Statutory, May 27, 1992.
Section 9 of P.L. 102-173, enacted on 11/27/91, sets this deadline.

Abstract: Sets requirements for funding State and State-designated systems for protecting and advocating for individuals with mental illness. By law, these requirements must be set out in regulations. These requirements are intended to be published with revisions to 45 CFR 1385 et seq. These rules govern formula grants from the Administration on Developmental Disabilities for protecting and advocating for individuals with developmental disabilities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	12/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Willian A. Quinlan, Jr., Regulations Officer, SAMHSA, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Room 12C-15, Rockville, MD 20857, **301 443-4640**

RIN: 0905–AD99

1064. • BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE (TOBACCO PROVISIONS)

Significance: Agency Priority

Legal Authority: 42 USC 300x-21

CFR Citation: 45 CFR 96; 45 CFR 130

Legal Deadline: None

Abstract: Sets standards and procedures for enforcement of State law against sale of tobacco products to minors as a condition of full funding of Federal block grants to States for prevention and treatment of substance abuse. These requirements apply beginning in fiscal year 1994 except, under certain conditions, in fiscal year 1995.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	09/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: William A. Quinlan, Regulations Officer, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, 12-C-15, Rockville, MD 20857, **301 443-4640**

RIN: 0905–AE05

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Final Rule Stage
Public Health Service (PHS)—Substance Abuse and Mental Health Services Administration (SAMHSA)

1065. • BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

Legal Authority: 42 USC 300-x et seq, as amended by PL 102-321

CFR Citation: 45 CFR 96

Legal Deadline: Final, Statutory, August 25, 1992.
Awards to States after January 1, 1993 cannot be made until implementing regulations are published.

Abstract: Sets requirements for block grants for prevention and treatment of substance abuse. They include criteria for approval of State plans which must by statute be prescribed in regulations. These provisions are effective immediately. However, States have 90 days from the effective date to bring previously submitted FY 1993 applications into substantial compliance and need submit applications in the prescribed format beginning only with 1994 applications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/93	58 FR 17062
Interim Final Rule Comment Period End	06/01/93	
Final Action	01/00/94	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: William A. Quinlan, Jr., Regulations Officer, SAMHSA, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Room 12C-15, Rockville, MD 20857, **301 443-4640**

RIN: 0905–AD98

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Proposed Rule Stage
Public Health Service (PHS)—Centers for Disease Control and Prevention (CDC)

1066. NIOSH REVISION OF TESTS AND REQUIREMENTS FOR CERTIFICATION OF RESPIRATORY PROTECTIVE DEVICES

Significance: Regulatory Program

Legal Authority: 30 USC 842(h); 30 USC 844; 30 USC 957

CFR Citation: 30 CFR 11; 42 CFR 84

Legal Deadline: None

Abstract: The proposed rule addresses three major problems of the current regulation by (1) substantially upgrading laboratory performance tests for certifying respirators; (2) adding quantitative face seal performance tests;

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and (3) replacing current certification tests that are design- or application-specific with tests that are performance-based. The first NPRM for revising 42 CFR part 84 was published in the Federal Register on August 27, 1987 (52 FR 32402). In response to the many comments on the first proposal, NIOSH is in the process of developing a second NPRM.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32402
First Public Hearing	01/20/88	52 FR 37639
Second Public Hearing	01/27/88	52 FR 37639
NPRM Public Comment Period End	03/28/88	53 FR 5595
Second NPRM Published	07/00/93	
Second NPRM Comment Period End	10/00/93	
Final Action	12/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $14,000,000; Yearly Recurring Cost: $14,000,000; Base Year for Dollar Estimates: 1992

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: Yearly recurring cost to public will drop from $14,000,000 to $6,400,000 in year six and all following years.

Agency Contact: Richard Metzler, Chief, Cert. & Quality Assurance Br., Division of Safety Research, NIOSH, Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, 944 Chestnut Ridge Road, Morgantown, WV 26505, **304 284-5713**

RIN: 0905–AB58

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Centers for Disease Control and Prevention (CDC)

Final Rule Stage

1067. INTERSTATE SHIPMENT OF BIOLOGICAL MATERIAL THAT CONTAINS OR MAY CONTAIN ETIOLOGIC AGENTS

Significance: Agency Priority

Legal Authority: 42 USC 216; 42 USC 264; 42 USC 271

CFR Citation: 42 CFR 72

Legal Deadline: None

Abstract: The revised regulation will clarify and expand the requirements for proper packaging and handling of etiologic agents during interstate shipment. The revised regulation will ensure that all biological material that could contain etiologic agents is packaged in a manner for interstate shipment that minimizes the potential for leakage and possible contamination of the environment and minimizes direct physical contact with the contents by package handlers. The revised regulation is not expected to have a major impact on the cost of shipping these materials.

Timetable:

Action	Date	FR Cite
NPRM	03/02/90	55 FR 7678
NPRM Comment Period End	05/09/90	55 FR 7678
Final Action	06/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jonathan Y. Richmond, Ph.D., Director, Office of Health and Safety, Centers for Disease Control and Prevention, Department of Health and Human Services, Public Health Service, 1600 Clifton Road NE., Atlanta, GA 30333, **404 639-3883**

RIN: 0905–AC89

1068. MEDICAL EXAMINATION OF ALIENS

Significance: Agency Priority

Legal Authority: 8 USC 1182; 8 USC 1224; 8 USC 1225; 42 USC 216; 42 USC 249; 42 USC 252; PL 101-649

CFR Citation: 42 CFR 34

Legal Deadline: Final, Statutory, May 31, 1991.

Abstract: This is a proposed revision in the regulations for the medical examination of aliens. The regulations were developed to provide for the physical and mental examination of aliens within the United States or in other countries as required by the Immigration and Nationality Act. This revision would update the regulations in accordance with current epidemiologic concepts and medical diagnostic standards.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/31/91	56 FR 25000
Interim Final Comment Period End	08/02/91	56 FR 25000
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Charles R. McCance, Director, Division of Quarantine, Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, Mailstop E-04, Atlanta, GS 30333, **404 639-1455**

RIN: 0905–AD29

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Food and Drug Administration (FDA)

Prerule Stage

1069. REGULATION OF THE COLLECTION, PROCESSING, AND DISTRIBUTING OF SPERM INTENDED FOR ARTIFICIAL INSEMINATION

Significance: Agency Priority

Legal Authority: 42 USC 264

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: FDA will request public comment and information on a plan to promulgate requirements related to the collection, processing, and distribution of human sperm intended for artificial insemination (sperm banking). FDA's intent in regulating sperm banking is to assure that communicable disease is not transmitted through artificial insemination. FDA will request the submission of both scientific and economic information to help the agency in designing a regulatory program that will meet the agency's objectives while being of minimum economic burden to the industry.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steve Falter, Supervisory Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research, (HFM-635) 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448, **301 295-9074**

RIN: 0905–AD80

1070. • DIETARY SUPPLEMENTS

Significance: Agency Priority

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 350; 21 USC 371

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: FDA is considering a proposal to amend its regulations pertaining to procedures for determining the safety of dietary supplements consisting of vitamins, essential minerals, herbs, amino acids and other similar nutritional substances. The FDA will announce availability of the Dietary Supplements Task Force Final Report in May 1992.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Judith Kraus, Consumer Safety Officer, Department of Health and Human Services, Public Health Service, Office of Special Nutritionals (HFS-456) Center for Food Safety and Applied Nutrition, 200 C St. SW Washington, DC 20204, **202 205-5233**

RIN: 0905–AD90

1071. • MEDICAL FOODS

Significance: Agency Priority

Legal Authority: 21 USC 321; 21 USC 341; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 350; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360ee; 21 USC 371

CFR Citation: 21 CFR Not yet determined

Legal Deadline: None

Abstract: The Food and Drug Administration is considering development of regulations for medical foods, as defined by the Orphan Drug Act Amendments of 1988 (21 USC 360ee(b)(3)) to assure, among other things, the safety and effectiveness of these products, proper labeling of the nutrient content and purported uses, including adequate and appropriate directions for use, and duality control and good manufacturing practices.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/93	
ANPRM Comment Period End	08/00/93	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Carol Lang, Acting Chief, Regulatory Branch, Department of Health and Human Services, Public Health Service, Center for Food Safety and Applied Nutrition, (HFS-456) 200 C St. SW Washington, DC 20204, **202 205-5817**

RIN: 0905–AD91

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Food and Drug Administration (FDA)

Proposed Rule Stage

1072. OVER-THE-COUNTER (OTC) DRUG REVIEW

Significance: Agency Priority

Legal Authority: 21 USC 321p; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360a; 21 USC 371a

CFR Citation: 21 CFR 310; 21 CFR 330; 21 CFR 333; 21 CFR 334; 21 CFR 335; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; ...

Legal Deadline: None

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" was combined with NPRM for "Emetic Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" was included in the NPRM for "Skin Protectant Products." NPRM for "Diaper Rash Products" was included in NPRMs for "Antifungal," "Antimicrobial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." "Poison Ivy/Oak/Sumac Prevention" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for

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"Mercurial (Topical) Products" to be included in revised NPRM (cont)

Timetable:

Acne (Topical) Products
ANPRM 03/23/82 (47 FR 12430)
NPRM 01/15/85 (50 FR 2172)
NPRM (Amendment) 08/07/91 (56 FR 37622)
Final Action 08/16/91 (56 FR 41008)

Alcohol (Oral) in OTC Drug Products
NPRM 09/00/93

Alcohol (Topical) Products (To be merged w/other rulemkg)
ANPRM 05/21/82 (47 FR 22324)

Anorectal Products
ANPRM 05/27/80 (45 FR 35576)
NPRM 08/15/88 (53 FR 30756)
Final Action 08/03/90 (55 FR 31776)

Anorectal Products (Lycd)
Final Action 04/00/93

Antacid Drug Products
ANPRM 04/05/73 (38 FR 8714)
NPRM 11/12/73 (38 FR 31260)
Final Action 06/04/74 (39 FR 9862)
NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66754)
NPRM 04/00/93
FINAL ACTION (Amendment) (Warning) 04/00/93

Antheimintic Products
ANPRM 09/09/80 (45 FR 59541)
NPRM 08/24/82 (47 FR 37062)
Final Action 08/01/86 (51 FR 27756)

Antibiotic First Aid Products
ANPRM 04/01/77 (42 FR 17642)
NPRM 07/09/82 (47 FR 29986)
Final Action 12/11/87 (52 FR 47312)
NPRM (Amendment) 08/18/89 (54 FR 34188)
Final Action 03/15/90 (55 FR 9721)
NPRM (Amendment) 05/11/90 (55 FR 19868)
NPRM (Amendment) 06/08/90 (55 FR 23450)
Final Action (Amendment) 10/03/90 (55 FR 40379)
Final Action (Amendment) 12/05/90 (55 FR 50171)

Anticaries Products
ANPRM 03/28/80 (45 FR 20666)
NPRM 09/30/85 (50 FR 39854)
NPRM 06/15/88 (53 FR 22430)
Final Action 00/00/00

Antidiarrheal Products
ANPRM 03/21/75 (40 FR 12924)
NPRM 04/30/86 (51 FR 16138)
Final Action 09/00/93

Antidotes, Toxic Ingestion Prdts (Now Poison Treatment Prdts)
ANPRM 01/05/82 (47 FR 444)

Antiemetic Products
ANPRM 03/21/75 (40 FR 12934)
NPRM 07/13/79 (44 FR 41064)
Final Action 04/30/87 (52 FR 15886)
NPRM 04/00/93

Antiflatulent Drug Products
NPRM 11/12/73 (38 FR 31260)
Final Action 06/04/74 (39 FR 19877)
NPRM (Amendment) 01/29/88 (53 FR 2716)

Antifungal (Diaper Rash) Products
Final Action 12/18/92 (57 FR 60430)

Antifungal (Topical) Products
ANPRM 03/23/82 (47 FR 12480)
NPRM 12/12/89 (54 FR 51136)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25240)
Final Action (Partial) 05/00/93
Final Action 05/00/93

Antimicrobial Products
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25246)

Antiperspirant Products
ANPRM 10/10/78 (43 FR 46694)
NPRM 08/20/82 (47 FR 36492)
Final Action 00/00/00

Antiseptic First Aid
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 07/22/91 (56 FR 33644)
Final Action 00/00/00

Antiseptic Products (Professional Use)
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 09/00/93

Aphrodisiac Products
ANPRM 10/01/82 (47 FR 43572)
NPRM 01/15/85 (50 FR 2168)
Final Action 07/07/89 (54 FR 28780)

Astringent (Wet Dressings) Prdts (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Benign Prostatic Hypertrophy Products
ANPRM 10/01/82 (47 FR 43566)
NPRM 02/20/87 (52 FR 5406)
Final Action 02/27/90 (55 FR 6926)

Boil Ointments
ANPRM 06/29/82 (47 FR 28306)
NPRM 01/26/88 (53 FR 2198)
Final Action 06/00/93

Camphorated Oil Drug Products
ANPRM 09/26/80 (45 FR 63869)
Final Action 09/21/82 (47 FR 41716)

Cholecystokinetic Products
ANPRM 02/12/80 (45 FR 9286)
NPRM 08/24/82 (47 FR 37068)
Final Action 06/10/83 (48 FR 27004)
NPRM (Amendment) 08/15/88 (53 FR 30786)
Final Action (Amendment) 02/28/89 (54 FR 8320)

Corn and Callus Remover Products
ANPRM 01/05/82 (47 FR 522)
NPRM 02/20/87 (52 FR 5412)
Final Action 08/14/90 (55 FR 33258)

Cough/Cold (Anticholinergic) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 11/08/85 (50 FR 46582)

Cough/Cold (Antihistamine) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2200)
NPRM (Amendment) 08/24/87 (52 FR 31892)
Final Action 12/09/92 (57 FR 58356)

Cough/Cold (Antitussive) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/19/83 (48 FR 48576)
Final Action 08/12/87 (52 FR 30042)
NPRM (Amendment) 07/06/89 (54 FR 28442)
NPRM (Amendment) 10/02/89 (54 FR 40412)
Final Action (Amendment) 07/06/90 (55 FR 27806)
Final Action (Amendment) 10/03/90 (55 FR 40381)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27666)
NPRM (Amendment)(Ingredients) 12/09/92 (57 FR 58378)
Final Action (Warning) 09/00/93

Cough/Cold (Bronchodilator) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/26/82 (47 FR 47520)
Final Action 10/02/86 (51 FR 35326)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27662)
Final Action (Amendment)(Warning) 09/00/93

Cough/Cold (Combination) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 08/12/88 (53 FR 30522)
Final Action 00/00/00

Cough/Cold (Expectorant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 02/28/89 (54 FR 8494)
Final Action (Technical Changes) 06/30/92 (57 FR 29176)

Cough/Cold (Expectorsnt/Ipecac) Products
Final Action 09/14/92 (57 FR 41857)

Cough/Cold (Nasal Decongestant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2220)
NPRM (Amendment) 06/19/92 (57 FR 27658)
Final Action 09/00/93

Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/82 (47 FR 54646)
NPRM 07/30/86 (51 FR 27346)
Final Action 12/04/91 (56 FR 63554)
NPRM (Amendment) 04/00/93

Daytime Sedatives
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 06/22/79 (44 FR 36378)

Diaper Rash Products (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39406)

Digestive Aid Products
ANPRM 01/05/82 (47 FR 454)
NPRM 01/29/88 (53 FR 2706)
Final Action 09/00/93

Emetic Products
ANPRM 03/21/75 (40 FR 12939)
NPRM 09/05/78 (43 FR 39544)

Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/79 (44 FR 75666)
NPRM 11/08/85 (50 FR 46594)
NPRM (Reproposed) 07/15/91 (56 FR 32282)
Final Action 00/00/00

External Analgesic Products
ANPRM 12/04/79 (44 FR 69768)
NPRM 02/08/83 (48 FR 5852)
NPRM (Amendment) (Dandruff) 07/30/86 (51 FR 27360)
NPRM (Amendment) (Anorectal) 08/25/88 (53 FR 32592)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40818)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3370)
NPRM (Amendment) (1%Hydrocortisone) 02/27/90 (55 FR 6932)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25234)
Final Action (Diaper Rash) 12/18/92 (57 FR 60426)
Final Action 00/00/00

Fever Blister Products (Internal)
ANPRM 01/05/82 (47 FR 502)
NPRM 06/17/85 (50 FR 25156)
Final Action 06/30/92 (57 FR 29166)

Fvr Blister/Cold Sore Prdts (Ext.) (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Hair Grower and Hair Loss Prevention Products
ANPRM 11/07/80 (45 FR 73955)
NPRM 01/15/85 (50 FR 2190)
Final Action 07/07/89 (54 FR 28772)

Hormone (Topical) Products
ANPRM 01/05/82 (47 FR 430)
NPRM 10/02/89 (54 FR 40618)
Final Action 04/00/93

Hypo/Hyperphosphatemia Products
ANPRM 12/09/80 (45 FR 81154)
NPRM 01/15/85 (50 FR 2160)
Final Action 05/11/90 (55 FR 19852)

Ingrown Toenail Relief Products
ANPRM 10/17/80 (45 FR 69128)
NPRM 09/03/82 (47 FR 39120)
Final Action 04/00/93

Insect Bite & Sting (Relief) Prdts (Merged w/ other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Insect Repellent Drug Products (Internal)
ANPRM 01/05/82 (47 FR 424)
NPRM 06/10/83 (48 FR 26986)
Final Action 06/17/85 (50 FR 25170)

Internal Analgesic Products
ANPRM 07/08/77 (42 FR 35346)
NPRM 11/16/88 (53 FR 46204)
NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66762)

Internal Analgesic Products (Overindulgence)
Final Action 00/00/00

Internal Deodorant Products
ANPRM 01/05/82 (47 FR 512)
NPRM 06/17/85 (50 FR 25162)
Final Action 05/11/90 (55 FR 19862)

Labeling of Drug Products for OTC Use
NPRM 04/00/93

Laxative Products
ANPRM 03/21/75 (40 FR 12902)
NPRM 01/15/85 (50 FR 2124)
NPRM (Amendment) 10/01/86 (51 FR 35136)
NPRM (Amendment) 04/00/93
Final Action 00/00/00

Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/82 (47 FR 43562)
NPRM 11/08/85 (50 FR 46588)
Final Action 09/00/93

Male Genital Desensitizer Products
ANPRM 09/07/82 (47 FR 39412)
NPRM 10/02/85 (50 FR 40260)
Final Action 06/19/92 (57 FR 27654)

Menstrual Products
ANPRM 12/07/82 (47 FR 55075)
NPRM 11/16/88 (53 FR 46194)

Mercurial (Topical) Products (To be merged w/other rulemkg)
ANPRM 01/05/82 (47 FR 436)

Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/80 (45 FR 69122)
NPRM 09/03/82 (47 FR 39096)
Final Action 04/00/93

Nighttime Sleep Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/14/89 (54 FR 6814)
NPRM (Amendment) 04/00/93

NDA Labeling Exclusivity
NPRM 09/00/93

Ophthalmic (Anti-Infective) Products
Final Action 12/18/92 (57 FR 60416)

Ophthalmic Products
ANPRM 05/06/80 (45 FR 30002)
NPRM 06/28/83 (48 FR 29788)
Final Action 03/04/88 (53 FR 7076)

Oral Discomfort (Relief) Products
ANPRM 05/25/82 (47 FR 22712)
NPRM 09/24/91 (56 FR 48302)

Oral Health Care Products
ANPRM 05/25/82 (47 FR 22760)
NPRM 01/27/88 (53 FR 2436)
NPRM (Amendment) (Antimicrobials) 09/00/93
Final Action 00/00/00

Oral Mucosal Injury Products (Merged w/ Oral Health Care)
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)

Oral Wound Healing Products
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)
Final Action 07/18/86 (51 FR 26112)

Otic Products (Earwax)
NPRM 07/09/82 (47 FR 30012)
Final Action 08/08/86 (51 FR 28656)

Otic Products (Swimmers Ear)
NPRM 07/30/86 (51 FR 27366)
Final Action 00/00/00

Overindulgence Remedies
ANPRM 10/01/82 (47 FR 43540)
NPRM 12/24/91 (56 FR 66742)
NPRM (Amendment)(Warning) 07/00/93

Overindulgence Remedies/Prevention of Inebriation
ANPRM 10/01/82 (47 FR 43540)
Final Action 07/19/83 (48 FR 32872)

Pediculicide Products
ANPRM 06/29/82 (47 FR 28312)
NPRM 04/03/89 (54 FR 13480)

Poison Ivy/Oak/Sumac Prevention (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Poison Treatment Products
NPRM 01/15/85 (50 FR 2244)
Final Action 00/00/00

Reporting of Adverse Reactions
NPRM 09/00/93
Final Action 00/00/00

Skin Bleaching Products
ANPRM 11/03/78 (43 FR 51546)
NPRM 09/03/82 (47 FR 39108)
NPRM (Reproposed) 09/00/93

Skin Protectant Products
ANPRM 08/04/78 (43 FR 34628)
NPRM 02/15/83 (48 FR 6820)
NPRM (Amendment) (Astringent) 04/03/89 (54 FR 13490)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40808)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3362)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25204)
Final Action 00/00/00

Smoking Deterrent Products
ANPRM 01/05/82 (47 FR 490)
NPRM 07/03/85 (50 FR 27552)
Final Action 09/00/93

Sodium Labeling
NPRM 04/25/91 (56 FR 19222)
Final Action 00/00/00

Status of Certain Category II and III Ingredients
more 05/16/90 (55 FR 20434)
Final Action 11/07/90 (55 FR 46914)
NPRM 08/25/92 (57 FR 38568)
Final Action 09/00/93

Stimulant (Overindulgence) Products
NPRM (Amendment) 12/24/91 (56 FR 66758)

Stimulant Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/29/88 (53 FR 6100)

Stomach Acidifier Products
ANPRM 10/19/79 (44 FR 60316)
NPRM 01/15/85 (50 FR 2184)
Final Action 08/17/88 (53 FR 31270)

Sunscreen Products
ANPRM 08/25/78 (43 FR 38206)
NPRM 08/00/93

Sweet Spirits of Nitre
ANPRM 02/22/80 (45 FR 11846)
Final Action 06/27/80 (45 FR 43400)

Topical Drug Products Containing Benzoyl Peroxide (Labeling)
NPRM 06/00/93

Vaginal Contraceptive Products
ANPRM 12/12/80 (45 FR 82014)
NPRM 04/00/93

Vaginal Drug Products
ANPRM 10/13/83 (48 FR 46694)
NPRM 09/00/93

Vitamin/Mineral Products
ANPRM 03/16/79 (44 FR 16126)
Withdrawal 11/27/81 (46 FR 57914)

Wart Remover Products
ANPRM 10/03/80 (45 FR 65609)
NPRM 09/03/82 (47 FR 39102)
NPRM (Amendment) 03/27/87 (52 FR 9992)
Final Action 08/14/90 (55 FR 33246)

Water Soluble Gums
NPRM 10/30/90 (55 FR 45782)
Final Action 04/00/93

Weight Control Products
ANPRM 02/26/82 (47 FR 8466)
NPRM 10/30/90 (55 FR 45788)
Final Action 08/08/91 (56 FR 37792)
NPRM (Amendment) 09/00/93

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: for "Antimicrobial Products."

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NPRM for "Alcohol (Topical) Products" to be included in revised NPRM for "Antimicrobial Products." The NPRM for "Antimicrobial Products" is being revised because it is being updated and split into two sections: first aid products and health care products.

SMALL ENTITIES AFFECTED: The effects, if any, vary depending on the individual rulemaking. However, the agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Agency Contact: William E. Gilbertson, Director, Division of OTC Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-210), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8000

RIN: 0905–AA06

1073. NEW ANIMAL DRUG APPROVAL PROCESS

Legal Authority: 21 USC 360b; 21 USC 371

CFR Citation: 21 CFR 514.1; 21 CFR 514.8

Legal Deadline: None

Abstract: On December 17, 1991, the agency published a proposed revision of the existing regulations that are consistent with the current procedural regulations for human drugs where appropriate. The New Animal Drug Application (NADA) revisions would articulate general requirements in regulations containing performance standards and would complement them through detailed guidelines on, among other matters, appropriate ways of meeting requirements for submission of chemistry, pharmacology, and statistical data that would better address the intricate scientific issues involved. A separate proposed rule for reporting requirements for marketed animal drugs also published on that date. FDA is also reproposing a provision in the December 17, 1991 proposal so that it will have the option of requiring the submission of a regulatory method for the detection of drug residues in edible products, especially milk, from food-producing animals.

Timetable:

New Animal Drug Approval Process	
NPRM	12/17/91 (56 FR 65544)
REPROPOSAL	04/00/93
Final Action	08/00/93
Final Action	02/00/94
Reporting Requirements for Marketed Animal Drugs	
NPRM	12/17/91 (56 FR 65581)
Final Action	08/00/93

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Contact Lonnie W. Luther for information concerning new animal drug approval process.

For information concerning reporting requirements for marketed animal drugs, contact Andrew J. Beaulieu, Director, Division of Therapeutic Drugs for Food Animals, Center for Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3044.

Agency Contact: Lonnie W. Luther, Chief, Generic Animal Drugs and Quality Control Staff, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-102), 7500 Standish Place, Rockville, MD 20855, 301 295-8623

RIN: 0905–AA96

1074. POLICIES CONCERNING USES OF SULFITING AGENTS

Significance: Agency Priority

Legal Authority: 21 USC 321; 21 USC 336; 21 USC 341; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 182.3616; 21 CFR 182.3637; 21 CFR 182.3739; 21 CFR 182.3766; 21 CFR 182.3798; 21 CFR 182.3862; 21 CFR 100; 21 CFR 130.9

Legal Deadline: None

Abstract: Acceptable evidence and information exist to show that a subgroup of asthmatics is at moderate to severe risk for a severe reaction upon exposure to sulfites. The agency's primary tool for handling a situation where population subgroups may be at increased risk from a food ingredient that is safe for most people is to use labeling to inform those persons who need or want to avoid the ingredient. The agency issued a final rule, effective January 7, 1987, that requires that when a sulfiting agent is present in a finished food at 10 parts per million or greater, the sulfiting agent must be declared on the label. In addition, FDA issued a final rule, effective August 8, 1986, prohibiting the use of sulfiting agents on raw fruits and vegetables intended to be served or sold raw to consumers (e.g., in salad bars). On December 10, 1987, FDA announced its tentative conclusion that there is no longer a basis to find that the use of sulfiting agents on "fresh" potatoes served or sold unpackaged to consumers is GRAS. On December 19, 1988, FDA proposed to affirm, with specific limitations, that certain other uses of sulfiting agents are GRAS (cont)

Timetable:

Food Labeling; Declaration of Sulfiting Agents	
NPRM	04/03/85 (50 FR 13306)
Final Action	07/09/86 (51 FR 25012)
Effective Date	01/09/87 (51 FR 25012)
GRAS Status of the Use of Sulfiting Agents on Fresh Potatoes	
NPRM-To be Merged w/Frozen Potatoes	12/10/87 (52 FR 46968)
Final Action	03/15/90 (55 FR 9826)
GRAS Status of Certain Other Food Uses of Sulfiting Agents, Etc.	
NPRM	12/19/88 (53 FR 51065)
Final Action	03/00/94
Revoking Use of Sulfiting Agents on Fruits & Vegetables, Etc.	
NPRM	08/14/85 (50 FR 32836)
Final Action	07/09/86 (51 FR 25021)
Final Action Effective	08/09/86 (51 FR 25021)
Status of the Use of Sulfiting Agents on Minimally Processed &	
NPRM	10/00/93
Status of the Use of Sulfiting Agents on Shrimp	
NPRM	10/00/93

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: and to establish labeling requirements for sulfiting agents in standardized foods.

On March 15, 1990 (55 FR 9826), FDA issued a final rule prohibiting the use of sulfiting agents on "fresh" potatoes (55 FR 9826) and requested data and information concerning the use of sulfiting agents on frozen potatoes (55 FR 9834).

On August 3, 1990, the United States District Court for the Middle District of Pennsylvania declared the final rule concerning fresh potatoes to be "null and void" based on perceived procedural defects in the rulemaking proceeding. The Government appealed the district court's decision. On May 22, 1991, the U.S. Court of Appeals for the Third Circuit en banc affirmed, by an equally divided vote and without opinion, the decision of the district court invalidating on procedural grounds FDA's final rule revoking the GRAS status of the use of sulfiting agents on fresh potatoes.

FDA's reproposed rule will include the GRAS status of sulfiting agents on both minimally processed (formerly fresh) and frozen foods.

Agency Contact: JoAnn Ziyad, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-207), 200 C Street SW., Washington, DC 20204, 202 254-9515

RIN: 0905–AB52

1075. INFANT FORMULA ACT

Significance: Regulatory Program

Legal Authority: 21 USC 350a

CFR Citation: 21 CFR 107; 21 CFR 106

Legal Deadline: None

Abstract: The agency published on December 24, 1991, a final rule implementing the Infant Formula Act of 1986. The rule establishes infant formula record and record retention requirements. The agency is also preparing a proposed rule that will establish current good manufacturing practice regulations and strengthen the agency's existing quality control procedures for infant formulas.

Timetable:

Infant Form Cons Comp, Micro Test & Recd Retention Req	
NPRM	01/26/89 (54 FR 3783)
NPRM (Comment Period End)	03/27/89 (54 FR 3783)
Final Action	12/24/91 (56 FR 66566)
Infant Formula Current Good Practices; Qual Control Proc	
NPRM	08/00/93

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carolyn W. Miles, Nutritionist, Regulatory Branch, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-456) 200 C Street SW., Washington, DC 20204, 202 205-5817

RIN: 0905–AC46

1076. CURRENT GOOD MANUFACTURING PRACTICE FOR BLOOD & BLOOD COMPONENTS; NOTIFICATION OF CONSIGNEES RECEIVING BLOOD & BLOOD COMPONENTS AT INCREASED RISK FOR TRANSMITTING HIV INFECTION

Significance: Regulatory Program

Legal Authority: 21 USC 351 to 360k; 21 USC 374; 42 USC 262 to 264

CFR Citation: 21 CFR 606; 21 CFR 610

Legal Deadline: None

Abstract: The agency currently requires that all blood and blood components intended for the manufacture of any product be tested for antibody to human immunodeficiency virus (HIV). In instances when the blood of a donor is found to contain antibodies to HIV, some blood centers have initiated a program of voluntary "look-back" to notify consignees of blood and blood components obtained from the donor's prior donations. Consignees may withdraw or destroy such blood and blood products, and may trace and notify recipients. A well-conducted look-back program can provide an effective mechanism for identifying, testing, and counseling transfusion recipients who are at increased risk of HIV infection--those who receive blood from a donor later found to be infected with HIV. The agency is considering a proposal to establish a mandatory look-back program. The proposal would require blood collection facilities to develop a procedure to notify consignees promptly whenever a blood donor who has previously donated blood or source plasma is found to be positive for the antibody to HIV; and to keep appropriate records (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: when such notification has been made. The purpose of the rulemaking is to ensure that the consignees are notified and take appropriate action.

Agency Contact: Paula McKeever, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-635), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448, 301 245-9074

RIN: 0905–AC90

1077. LEAD IN FOODS

Significance: Regulatory Program

Legal Authority: 21 USC 321; 21 USC 336; 21 USC 342(a); 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 109; 21 CFR 182; 21 CFR 189

Legal Deadline: None

Abstract: In light of the public health concerns raised by continuing findings concerning the effects of low levels of exposure to lead, particularly exposure by pregnant women, infants, and children, the agency is undertaking a comprehensive effort to further reduce lead levels in food where controllable or avoidable sources of lead addition to food can be identified. The goal of FDA is to reduce consumer's exposure to lead in the diet to the lowest level that can be practicably obtained. FDA has identified several potential sources of dietary lead exposure that it intends to address in proposed rules in its initiatives to reduce exposure to lead in the diet. The agency is also considering rulemaking concerning lead glazed ceramic foodware based upon a June 1, 1989 NPRM (54 FR 23485).

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	54 FR 23485
NPRM Comment Period End	07/31/89	54 FR 23485
Prohibit Use of Lead Soldered Food Cans		
NPRM	04/00/93	
Prohibit Use of Tin-Coated Lead Foil Capsules on Wine Bottles		
NPRM	11/25/92 (57 FR 55485)	
Final Action	08/00/93	
Specifications for Lead in Calcium Supplements that are GRAS		
NPRM	12/00/93	
Tolerance for Lead in Wine		
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael E. Kashtock, Supervisory Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-305), 200

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C Street SW., Washington, DC 20204, 202 485-0229

RIN: 0905–AC91

1078. IMPLEMENTATION OF TITLE I OF THE GENERIC ANIMAL DRUG AND PATENT TERM RESTORATION ACT

Significance: Regulatory Program

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 514

Legal Deadline: Final, Statutory, November 15, 1989.

Abstract: The agency proposes to amend its regulations to implement title I of the Generic Animal Drug and Patent Term Restoration Act which established new standards for marketing approval of generic copies of animal drug products approved after 1962.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lonnie W. Luther, Chief, Generic Animal Drug and Quality Control Staff, Department of Health and Human Services, Public Health Service, Center for Veterinary Medicine (HFV-102), 7500 Standish Place, Rockville, MD 20855, 301 295-8623

RIN: 0905–AD15

1079. VOLUNTARY, FEE-FOR-SERVICE SEAFOOD INSPECTION PROGRAM

Significance: Regulatory Program

Legal Authority: 21 USC 372a

CFR Citation: 21 CFR 197

Legal Deadline: None

Abstract: The Food and Drug Administration and the National Marine Fisheries Service are exploring the feasibility of establishing a voluntary, fee-for-service inspection program for fish and fish products, to be operated by both agencies.

Timetable:

Action	Date	FR Cite
ANPRM	06/27/90	55 FR 26334
ANPRM Comment Period End	10/05/90	55 FR 36289
NPRM	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Mary Snyder, Chief, Policy Branch, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety & Applied Nutrition (HFS-416), 200 C Street SW., Washington, DC 20204, 202 254-3888

RIN: 0905–AD23

1080. PRESCRIPTION DRUG MARKETING ACT OF 1987; POLICY INFORMATION, GUIDANCE, AND CLARIFICATIONS

Legal Authority: PL 100-293 Prescription Drug Marketing Act of 1987

CFR Citation: 21 CFR 203

Legal Deadline: None

Abstract: The Prescription Drug Marketing Act of 1987 (PDMA) amended the Federal Food, Drug, and Cosmetic Act to: (1) require State licensing of wholesale distributors of prescription human drugs under Federal guidelines including minimum standards for storage, handling, and recordkeeping; (2) ban the reimportation of prescription human drugs produced in the United States, except when reimported by the manufacturer for emergency use; (3) ban the sale, trade, or purchase of drug samples; (4) ban trafficking in or counterfeiting of drug coupons; (5) mandate storage, handling, and recordkeeping requirements for drug samples; (6) require licensed practitioners to request drug samples in writing; (7) prohibit, with certain exceptions, the resale of prescription human drugs purchased by hospitals or health care facilities; and (8) set forth criminal and civil penalties for violations of these provisions. In the Federal Register of September 14, 1990 (55 FR 38012), FDA issued a final rule setting forth Federal guidelines for State licensing of wholesale drug distributors. This proposed rule would provide (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: information, guidance, and clarification of those sections of PDMA that are not related to State licensing of wholesale distributors.

Agency Contact: Richard L. Arkin, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, 7500 Standish Place, Rockville, MD 20855, 301 295-8049

RIN: 0905–AD44

1081. IMPLEMENTATION OF THE SAFE MEDICAL DEVICES ACT OF 1990

Significance: Regulatory Program

Legal Authority: PL 101-629 Safe Medical Devices Act of 1990

CFR Citation: 21 CFR 860; 21 CFR 820; 21 CFR 807; 21 CFR 803; 21 CFR 17; 21 CFR 812; 21 CFR 7; 21 CFR 814; 21 CFR 821; 21 CFR 861; 21 CFR 895

Legal Deadline: NPRM, Statutory, August 28, 1991. Final, Statutory, November 16, 1992. Other, Statutory, December 1, 1991.
Medical Device Tracking NPRM, 8/28/91; Medical Device Tracking Final, 11/28/92; Exemption of Humanitarian Devices, etc., Final, 11/28/91; Classification of Transitional Devices Notice, 12/1/91.

Abstract: The Safe Medical Devices Act of 1990 (SMDA), enacted November 28, 1990, was intended to assure marketed devices are safe and effective, FDA learns quickly of device problems, and has authority to remove defective devices from the market. The act directs or authorizes FDA to develop these regulations: Medical Device Reporting--This rule will require healthcare facilities and distributors to report deaths and serious injuries/ ilinesses related to medical devices. Medical Device Tracking--This regulation will require manufacturers to track certain devices to the user. Classification of Transitional Devices--FDA issued a notice to require submission of adverse safety and effectiveness data on transitional devices. FDA will now propose to keep each device in class III, or reclassify it in class I or II. Good Manufacturing Practices for Medical Devices--FDA will propose to add preproduction design

validation in existing CGMP regulations. Exemption of Humanitarian Devices--A proposed rule will give procedures for applications for certain premarket review exemptions for humanitarian devices. (cont)

Timetable:

Assignment of Agency Component for Review of Premarket Applctns
Notice (Public Hearing) 07/12/91 (56 FR 31951)
Final Action 11/21/91 (56 FR 31951)
Civil Penalties - Hearing Procedures
NPRM 04/00/93
Classification of Transitional Devices
Notice 11/14/91 (56 FR 57960)
Notice 04/00/93
CGMPs for Medical Devices
ANPRM (Revisions;Request for Cmnts) 06/15/90 (55 FR 24544)
ANPRM (Suggested Changes;Availblty) 11/30/90 (55 FR 49644)
ANPRM (Extension of Comment Period) 02/14/91 (56 FR 5965)
Notice (Open Public Advsy Cmte Mtg) 04/17/91 (56 FR 15626)
NPRM 04/00/93
Exemption of Humanitarian Devices
NPRM 12/21/92 (57 FR 60491)
Final Action 03/00/94
Medical Device Reporting
Notice (Public Conf.;Rqst for Info) 03/28/91 (56 FR 12934)
NPRM 11/26/91 (56 FR 60024)
Final Action 05/00/93
Medical Device Tracking
NPRM 03/27/92 (57 FR 10702)
NPRM 05/29/92 (57 FR 22971)
Final Action 05/29/92 (57 FR 22966)
FINAL ACTION (Not. Stat. Eff. Date 00/00/00
Miscellaneous Procedural Changes in Medical Device Regulations
Final Action 12/10/92 (57 FR 58400)
Pre-Amendment Class III Devices
Notice 03/00/94
Recall of Medical Devices
NPRM 06/00/93
Reports of Removals and Corrections of Medical Devices
NPRM 06/00/93
Safe Medical Devices Act of 1990; Implementation Plans
Notice 04/05/91 (56 FR 14111)
Summaries of Safety & Effectiveness for Premarket Notification
Final Action 04/28/92 (57 FR 18062)
Notice (Stay of Effective Date) 06/01/92 (57 FR 23059)
Final Action 08/00/93
Temporary Suspension of a Premarket Approval Application
NPRM 04/00/93

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Summaries of Safety and Effectiveness for Premarket Notification--A final rule will set forth information to be included in data summaries on which substantial equivalence determinations are made. Recall of Medical Devices--FDA will propose procedures for using its authority to order device recalls and notifications. Reports of Removal and Corrections-- FDA will propose procedures for manufacturers to report to FDA health-related market removals and corrections of devices. Civil Penalties--FDA intends to issue regulations to establish procedures for a hearing to which persons are entitled before the imposition of civil penalties. Procedural Changes in Medical Device Regulations--This final rule made revisions in regulations necessary because of procedural changes made by the SMDA. Premarket Review of Combination Products--FDA published a final rule establishing procedures for determining which FDA center will review premarket approval applications for products that are a combination of a device and a drug or biologic.

Agency Contact: Joseph M. Sheehan, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, 12720 Twinbrook Parkway, Rockville, MD 20852, 301 443-4874

RIN: 0905–AD59

1082. MANDATORY HACCP SEAFOOD INSPECTION PROGRAM

Significance: Agency Priority

Legal Authority: 21 USC 342 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 21 USC 374 Federal Food, Drug, and Cosmetic Act; 42 USC 264 Public Health Service Act

CFR Citation: 21 CFR 123

Legal Deadline: None

Abstract: The Food and Drug Administration is considering incorporating additional Hazard Analysis Critical Control Point (HACCP) principles into its proposal of mandatory seafood inspections. HACCP involves the identification and monitoring of "critical control points" in a processing or other operation the failure of which can render a product adulterated. HACCP has been strongly endorsed by the National Academy of Sciences for use by the seafood industry.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Philip Spiller, Deputy Director, Office of Seafood, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, (HFS-401) 200 C Street SW., Washington, DC 20204, 202 254-3885

RIN: 0905–AD60

1083. BOTTLED WATER

Significance: Regulatory Program

Legal Authority: 21 USC 341; 21 USC 343(h); 21 USC 349; 21 USC 371(a)

CFR Citation: 21 CFR 103

Legal Deadline: Other, Statutory. Other deadline is for publication of NPRM or Notice within 180 days of EPA final action.

Abstract: In fulfillment of its mandate under the Safe Drinking Water Act, EPA is currently in the midst of reviewing and establishing standards for contaminants in public drinking water such as pathogenic bacteria, pesticides and organic chemicals. When EPA establishes such standards for public drinking water, FDA is required to take appropriate action to amend its regulations for bottled drinking water or state its reasons for not doing so. FDA also establishes identity standards for a food when it has determined that the standard will promote honesty and fair dealing in the interest of consumers.

Timetable:

Beverages; Bottled Water
NPRM 01/05/93 (58 FR 393)
Final Action 12/00/93
Microbiological Quality Standard
NPRM 06/00/93
Quality Standard for Lead and Copper
NPRM 01/05/93 (58 FR 389)
Quality Standards for Lead and Copper
Final Action 09/00/93
Quality Standards for 24 Contaminants
NPRM 05/00/93
Quality Standards for 39 Contaminants
NPRM 01/05/93 (58 FR 382)
Final Action 09/00/93
Quality Standards for 7 Volatile Organic Chemicals
NPRM 03/21/91 (56 FR 11979)
Final Action 01/05/93 (58 FR 378)

Small Entities Affected: Undetermined

Government Levels Affected: None

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Agency Contact: Michael E. Kashtock, Supervisory Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-306), 200 C Street SW., Washington, DC 20204, 202 205-5229

RIN: 0905–AD65

1084. REPORTING OF ERRORS AND ACCIDENTS RELATING TO BLOOD SAFETY AND WITHDRAWAL OF PREVIOUSLY PROPOSED RULE

Significance: Agency Priority

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360i; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262 to 264

CFR Citation: 21 CFR 600; 21 CFR 606

Legal Deadline: None

Abstract: All licensed blood establishments are required to notify FDA promptly of errors or accidents in the manufacture of products that may effect the safety, purity, or potency of any biological product (21 CFR 600.14). The reporting of certain errors or accidents occurring in the manufacture of blood and blood components is necessary so that FDA can respond where the public health may be endangered and provide added assurance as to the continued safety, identity, quality, purported quality, and purity of blood and blood components. FDA has determined that errors and accidents that are detected and corrected before a finished unit is removed from the unprocessed inventory and made available for release and distribution do not affect the safety of the blood supply and need not be reported to the agency. The proposed rule not only makes this clear but also provides definitions of "error," "accident," "reportable error," and "reportable accident." The proposed rule would require licensed establishments, unlicensed establishments, and transfusion services to report and keep records. The cost to licensed establishments would be minimal (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: ABSTRACT CONT: Since they already are required to report, licensed establishments would only have to make some changes in standard operating procedures. Unlicensed establishments are already required to keep records and conduct investigations. Under the proposed rule they would have to establish reporting procedures and report to FDA. The transfusion services would have to assure their recordkeeping and investigation procedures are sufficient and establish reporting procedures. Reporting by transfusions services is expected to be minimal.

Agency Contact: JoAnn Minor, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-635), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448, 301 295-9074

RIN: 0905–AD67

1085. PROPOSED LABELING FOR HUMAN DRUG PRODUCTS BASED ON FALSE OR FRAUDULENT DATA

Significance: Agency Priority

Legal Authority: 21 USC 321; 21 USC 331, 21 USC 351 to 353; 21 USC 355 to 358; 21 USC 360 to 360b; 21 USC 371, 21 USC 374; 21 USC 376; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 263b to 263n; 42 USC 264

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The agency proposes to revise its regulations pertaining to human drug product labeling. The proposed revisions would subject drug products whose labeling was based in whole or in part on false or fraudulent data or information to the statutory requirements in sections 502(f) (1) of the Federal Food, Drug, and Cosmetic Act. The proposal would also interpret the term "false or fraudulent labeling."

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip L. Chao, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Division of Regulatory Affairs, Center for Drug Evaluation and Research (HFD-362), 301 295-8049

RIN: 0905–AD71

1086. REVIEW OF WARNINGS, USE INSTRUCTIONS AND PRECAUTIONARY INFORMATION UNDER SECTION 314 OF THE NATIONAL CHILDHOOD VACCINE INJURY ACT OF 1986

Significance: Agency Priority

Legal Authority: PL 99-660, sec 314

CFR Citation: Not applicable

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: Section 314 of the National Childhood Vaccine Injury Act of 1986 mandated that the warnings, use instructions, and precautionary information of specified childhood vaccines be reviewed and that their adequacy in warning health care professionals of the nature and extent of dangers posed by such vaccines be determined. This precautionary information is contained in the package insert of each vaccine licensed by the agency. FDA held a public meeting to receive public comment on the adequacy of these package inserts.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting; Public Comment on Package Inserts	07/31/92	57 FR 33915
NPRM	03/00/94	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: A public meeting was held on 9/18/92 on Section 314 Labeling Review. Presentations were made by FDA, CDC, manufacturers, parents groups, and the public on the adequacy of the current labeling.

Agency Contact: JoAnn Minor, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for

Biologics Evaluation and Research, 1401 Rockville Pike, Suite 200N (HFM-635), Rockville, MD 20852-1448, 301 295-9074

RIN: 0905–AD72

1087. GENERAL BIOLOGICAL STANDARDS; ALTERNATIVE PROCEDURES AND EXCEPTIONS

Significance: Agency Priority

Legal Authority: 42 USC 262

CFR Citation: 21 CFR 610; 21 CFR 640

Legal Deadline: None

Abstract: The Food and Drug Administration is amending its regulations governing biological products. This amendment would authorize the Director, Center for Biologics Evaluation and Research, to approve an exception or alternative to any regulation in 21 CFR governing biological products. The regulation will provide flexibility needed to accommodate rapid changes in biotechnology and to assure the continued availability of biological products.

Timetable:

Action	Date	FR Cite
Withdrawn	01/26/93	
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Daniel Kearns, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research, 1401 Rockville Pike, Suite 200N (HFM-635), Rockville, MD 20852-1448, 301 295-9074

RIN: 0905–AD82

1088. MEDICAL DEVICES; INFANT APNEA MONITOR; DEVELOPMENT OF MANDATORY STANDARD

Legal Authority: 21 USC 360d

CFR Citation: 21 CFR 860

Legal Deadline: None

Abstract: FDA is proposing a mandatory standard for infant apnea monitors which are intended for use on infants to detect cessation of breathing. The standard includes requirements for infant apnea monitors in four areas: Patient monitoring, electrical, mechanical and environmental, and labeling. FDA considered reliance upon voluntary standards to address risks presented by these devices but determined that a mandatory standard is necessary.

Timetable:

Action	Date	FR Cite
ANPRM	07/08/83	48 FR 31392
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James J. McCue, Jr., Chief, Operations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, (HFZ-84), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4874

RIN: 0905–AD83

1089. INVESTIGATIONAL NEW DRUG APPLICATIONS

Significance: Regulatory Program

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The agency is considering several steps that could be taken to facilitate the early phases of clinical investigations of drug and biologic products, as part of the larger effort to speed the development and approval of promising new therapeutic products, without jeopardizing the safety of human study subjects or the quality of the data obtained. These steps are intended to eliminate the need for investigators to submit, and for FDA to review and approve, protocols that present minimal risk to subjects and do not require FDA involvement as part of an efficient drug development effort.

FDA is considering an amendment to 21 CFR Part 312 to exempt certain clinical investigations from the investigational new drug (IND) requirements, provided that specific requirements are met. The investigator would have to submit protocols for qualified studies to an institutional review board (IRB) rather than FDA.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Klein, Office of Health Affairs, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, HFY-20, Rockville, MD 20857, 301 443-1382

RIN: 0905–AD85

1090. THRESHOLD OF REGULATION POLICY FOR COMPONENTS OF FOOD CONTACT ARTICLES

Significance: Regulatory Program

Legal Authority: 21 USC 321; 21 USC 341; 21 USC 342; 21 USC 346a; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 170; 21 CFR 171; 21 CFR 174

Legal Deadline: None

Abstract: FDA is proposing a policy for determining when the likelihood/ extent of migration of a component of a food contact article is so trivial as not to require regulation as a food additive. A substance considered under this Threshold of Regulation Policy would undergo an abbreviated review by FDA, as opposed to the extensive review and formal issuance of a regulation required for other food edditives. This proposal lists the criteria which must be met for a food-contact material to be reviewed under this policy and identifies the types of data that FDA will need for its review. This policy will reduce regulatory cost and delays and thereby bring important and innovative products to market faster.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward J. Machuga, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-216), 200 C Street, SW., Washington, DC 20204, 202 254-9528

RIN: 0905–AD86

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HHS—PHS—FDA

Proposed Rule Stage

1091. • LEVO-ALPHA-METHADOL (LAAM) IN MAINTENANCE; JOINT PROPOSED REVISION OF CONDITIONS FOR USE

Significance: Agency Priority

Legal Authority: 21 USC 355; 21 USC 371; 21 USC 823; 42 USC 241(d); 42 USC 290ee-3; 42 USC 257a

CFR Citation: 21 CFR 291

Legal Deadline: None

Abstract: The Food and Drug Administration and the National Institute on Drug Abuse are issuing an interim rule, to be effective upon date of publication with opportunity for public comment, that revises the conditions for the treatment of narcotic addiction to provide for the use of LAAM, when approved, in the maintenance treatment of narcotic addicts. This action will allow narcotic treatment programs to provide an additional treatment drug for use in the maintenance treatment of narcotic addicts. The only narcotic drug currently approved for use in the treatment of narcotic addiction is methadone.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Thomas C. Kuchenberg, Regulatory Counsel, Department of Health and Human Services, Public Health Service, Division of Regulatory Affairs, Food and Drug Administration, Center for Drug Evaluation and Research, 301 295-8046

RIN: 0905–AD92

1092. • CLINICAL INVESTIGATOR DISQUALIFICATION

Significance: Agency Priority

Legal Authority: 21 USC 360j(g)

CFR Citation: 21 CFR 812

Legal Deadline: None

Abstract: The rule would amend the investigational device exemption (IDE) regulations to provide for a procedure for disqualification of clinical investigators in cases of fraud or other serious violations of the regulations. Persons whose disqualification is proposed would be entitled to an opportunity for hearing.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Public Health Service, FDA, CDRH (HFZ-84), 5600 Fishers Lane, Rockville, MD 20857, **301 443-4874**

RIN: 0905–AD94

1093. • REVOCATION OF INTRAOCULAR LENS INVESTIGATION DEVICE EXEMPTION

Significance: Agency Priority

Legal Authority: 21 USC 360j(g)

CFR Citation: 21 CFR 813; 21 CFR 812

Legal Deadline: None

Abstract: The rule would revoke the separate investigational device exemption regulation for intraocular lenses (IOLs). IOLs would then be subject to the same IDE regulation (21 CFR Part 812) as all other devices. The IOL-IDE regulation was originally created as an interim measure.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Public Health Service, FDA, CDRH (HFZ-84), 5600 Fishers Lane, Rockville, MD 20857, **301 443-4874**

RIN: 0905–AD95

1094. • DIETARY SUPPLEMENT LABEL REVIEW

Significance: Regulatory Program

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 101

Legal Deadline: NPRM, Statutory, June 15, 1993. Final, Statutory, December 31, 1993.
If final regulations on labeling of Dietary Supplements are not published by 12/31/93, the proposed regulations shall be considered the final regulations.

Abstract: With the publication of various final rules on January 6, 1993, the agency completed action on its food labeling initiative under the Nutrition Labeling and Education Act of 1990. Rulemaking on nutrition labeling of dietary supplements was delayed due to requirements of the Dietary Supplement Act of 1992 (DSA), which amended the law to provide that the agency would issue proposed regulations for dietary supplements by June 15, 1993, and final regulations by December 31, 1993. Proposed and final regulations will be published to implement the provisions of the DSA.

Timetable:

Health Claims; Dietary Supplements	
NPRM	06/00/93
Nutrient Content Claims; Dietary Supplements	
NPRM	06/00/93
Nutrition Labeling; Dietary Supplements	
NPRM	06/00/93

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: F. Edward Scarbrough, Director, Office of Food Labeling, Department of Health and Human Services, Public Health Service, Center for Food Safety and Applied Nutrition, 200 C St. SW., Washington, DC 20204, **202 205-4561**

RIN: 0905–AD96

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Food and Drug Administration (FDA)

Final Rule Stage

1095. ABBREVIATED NEW DRUG APPLICATION REGULATIONS (TITLE I OF THE "DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT OF 1984")

Significance: Agency Priority

Legal Authority: 21 USC 355 title I

CFR Citation: 21 CFR 10; 21 CFR 310; 21 CFR 314; 21 CFR 320

Legal Deadline: None

Abstract: Until the passage of Title I of the Drug Price Competition and Patent Term Restoration Act of 1984, abbreviated new drug application (ANDA) procedures were only available for generic products equivalent to pioneer drugs approved before 1962. Title I opened up the ANDA policy to generic copies of products approved after 1962. On July 10, 1989 (54 FR 28872), FDA proposed regulations to implement Title I. The proposal provides for the submission of abbreviated new drug applications for generic versions of drug products first approved after 1962. These new provisions will benefit consumers by making generic drug products available more quickly.

The agency is reviewing the public comments submitted in response to the proposed rule and preparing the final rule in two segments. The first segment will establish requirements for format and content of an ANDA, suitability petitions, and certain administrative actions. The second segment will establish requirements for patent certification and exclusivity.

Timetable:

Action	Date	FR Cite
NPRM	07/10/89	54 FR 28872
NPRM Comment Period End	10/10/89	54 FR 28872
NPRM Extension of Comment Period	10/11/89	54 FR 41629
NPRM Public Comment Period End	01/09/90	54 FR 41629
NPRM Extension of Comment Period	01/16/90	55 FR 1471
NPRM Public Comment Period End	04/09/90	55 FR 1471
Content and Format, Suitability Petitions		
Final Action	04/28/92	(57 FR 17950)
Patent Certification and Exclusivity		
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip L. Chao, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 7500 Standish Place, Rockville, MD 20855, **301 295-8049**

RIN: 0905–AB63

1096. EXPEDITING APPROVAL FOR DRUGS INTENDED TO TREAT LIFE-THREATENING AND SEVERELY DEBILITATING ILLNESSES

Significance: Agency Priority

Legal Authority: 21 USC 351 to 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: In the Federal Register of October 21, 1988 (53 FR 41561), FDA issued an interim rule, effective upon date of publication, with opportunity for public comment, that set forth procedures designed to speed the availability of new therapies to desperately ill patients, while preserving appropriate guarantees for safety and effectiveness. These procedures are intended to facilitate the development, evaluation, and marketing of such products, especially where no satisfactory alternative therapies exist. These procedures reflect the recognition that physicians and patients are generally willing to accept greater risks or side effects from products that treat life-threatening and severely-debilitating illness. These procedures also reflect the recognition that the benefits of the drug need to be evaluated in light of the severity of the disease being treated. The procedures apply to life-threatening or severely debilitating illnesses. The agency is reviewing the public comments submitted in response to the interim rule and preparing a Federal Register document that will respond to these comments. The (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/88	53 FR 41561
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: agency is also considering the recommendations contained in the report of the "National Committee to Review Current Procedures for Approval of New Drugs for Cancer and AIDS."

Agency Contact: Philip L. Chao, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 7500 Standish Place, Rockville, MD 20855, **301 295-8049**

RIN: 0905–AC94

1097. RETENTION OF BIOAVAILABILITY AND BIOEQUIVALENCE TESTING SAMPLES

Significance: Regulatory Program

Legal Authority: 21 USC 201; 21 USC 301; 21 USC 501; 21 USC 502; 21 USC 503; 21 USC 505; 21 USC 506; 21 USC 507; 21 USC 701

CFR Citation: 21 CFR 312; 21 CFR 314; 21 CFR 320

Legal Deadline: None

Abstract: On November 8, 1990, FDA issued an interim rule effective upon date of publication, with opportunity for public comment. The interim rule requires the retention for a specified period of reserve samples of the drug products used to conduct bioavailability or bioequivalence studies of drug products and, when specifically requested, to release the reserve samples to FDA. The agency has reviewed the public comments submitted in response to the interim rule and is preparing a Federal Register document that will respond to these comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/08/90	55 FR 47034
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn L. Watson, Special Assistant to the Director, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-360), 7500 Standish Place, Rockville, MD 20855, **301 295-8038**

RIN: 0905–AD17

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1098. FEES FOR CERTIFICATION SERVICES; INSULIN AND COLOR ADDITIVE CERTIFICATION PROGRAMS

Significance: Agency Priority

Legal Authority: 21 USC 502; 21 USC 506; 21 USC 701; 21 USC 706

CFR Citation: 21 CFR 80.10; 21 CFR 429.55

Legal Deadline: None

Abstract: In the Federal Register of October 4, 1991 (56 FR 50248), FDA issued an interim rule effective on November 4, 1991 with opportunity for public comment, revising the fee schedule for insulin certification services. The fees are intended to recover the full costs of operation of FDA's insulin certification program, including the unfunded liability of the Civil Service Retirement Fund and appropriate overhead costs of the Public Health Service and Department of Health and Human Services. FDA is also considering similar amendments to the regulations governing fees for the color additive certification program.

Timetable:

Action	Date	FR Cite
Interim Final Rule (Insulin)	10/04/91	56 FR 50248
Final Action (Color Additives)	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: David R. Petak, Chief, Accounting Branch, Office of Management, Department of Health and Human Services, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301 443-1766

RIN: 0905–AD34

1099. CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURE, PROCESSING, PACKAGING, OR HOLDING; REVISION OF CERTAIN LABELING CONTROLS

Significance: Agency Priority

Legal Authority: 21 USC 321(n); 21 USC 351 to 352; 21 USC 355 to 357; 21 USC 371

CFR Citation: 21 CFR 211

Legal Deadline: None

Abstract: An agency study of drug product recalls over a 5-year period identified label mixups as the leading cause of recall incidents involving mislabeled products. An analysis of the recall incidents attributed to label mixups showed that the use of cut labels, labels of similar size, shape, or color, and deviations from existing current good manufacturing practice (CGMP) labeling requirements were the leading causes of such mixups. On June 23, 1989 (54 FR 26394), the agency proposed to amend the CGMP regulations to specify conditions for the use of gang-printed or cut labeling, exempt from CGMP labeling reconciliation requirements manufacturers that use automated 100-percent labeling inspection systems, and to require manufacturers to identify filled drug product containers that are not immediately labeled. This final rule, thus, establishes as requirements the proposed revisions to the CGMP regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/23/89	54 FR 26394
NPRM Comment Period End	08/22/89	54 FR 26394
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas C. Kuchenberg, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-362), 301 295-8046

RIN: 0905–AD73

1100. SPECIFIC REQUIREMENTS ON CONTENT AND FORMAT OF LABELING FOR HUMAN PRESCRIPTION DRUGS; REVISION OF "PEDIATRIC USE" SUBSECTION IN THE LABELING

Significance: Agency Priority

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 358; 21 USC 360 to 360b; 21 USC 371; 21 USC 374; 21 USC 376; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 263b to 263n; 42 USC 264

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: In the Federal Register of October 16, 1992 (57 FR 47423), the agency proposed to amend its regulations pertaining to the specific content and format of prescription drug labeling by revising the current "Pediatric Use" subsection of professional labeling to provide for the inclusion of more complete information about use of a drug in children and about hazards associated with this use. This regulatory action is intended to respond to concerns in FDA and elsewhere that current prescription drug labeling does not contain adequate information about the use of drugs in children. The agency is reviewing the public comments submitted in response to the proposed rule and preparing a final rule.

Timetable:

Action	Date	FR Cite
NPRM	10/16/92	57 FR 47423
NPRM Comment Period End	12/15/92	57 FR 47423
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard L. Arkin, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-362), 301 295-8049

RIN: 0905–AD76

1101. IMPRINTING OF ORAL SOLID DOSAGE FORM DRUG PRODUCTS

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374; 21 USC 376; 21 USC 360 to 360b; 42 USC 262

CFR Citation: 21 CFR 206; 21 CFR 207; 21 CFR 314

Legal Deadline: None

Abstract: The agency has proposed to require that human drugs in solid oral dosage form (e.g., tablets and capsules) be imprinted with a product specific code. The proposal would apply to both over-the-counter (OTC) and prescription drugs. Drug identification by imprinting serves a number of important public health functions such as identifying drugs in drug overdosing, alerting patients to drug substitution, identifying illicit products, and aiding FDA and other drug regulatory authorities in tracking counterfeit and defective drug products. The agency is reviewing the public comments

submitted in response to the proposed rule and preparing a Federal Register document that will respond to those comments.

Timetable:

Action	Date	FR Cite
NPRM	05/15/91	56 FR 22370
NPRM Comment Period End	08/13/91	56 FR 22370
Reopening of comment period	08/20/91	56 FR 41313
Comment period end	09/19/91	56 FR 41313
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Public Health Service, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 5600 Fishers Ln, Rockville, MD 20857, 301 443-4874

RIN: 0905–AD78

1103. NEW DRUG AND ABBREVIATED NEW DRUG APPLICATIONS; PREAPPROVAL INSPECTION REQUIREMENTS

Significance: Agency Priority

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 371; 21 USC 374; 21 USC 376; 21 USC 355 to 357

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: This regulatory action is being taken to improve FDA's surveillance and enforcement activities with respect to new drug and abbreviated new drug applications (NDA's and ANDA's) and supplemental applications consistent with the agency's efforts to address certain fraudulent practices found during investigations of the generic drug industry. This regulation will amend the regulations governing the approval for marketing of new drugs and antibiotic drugs for human use (21 CFR Part 314) to require the submission by applicants of NDA's, ANDA's, and supplemental applications of an additional copy of the chemistry, manufacturing, and controls section of their applications. The additional copy will be used by FDA investigators during a preapproval inspection to audit application commitments and statements against actual manufacturing practices used by applicants. The regulation will also require the submission of certain information about the batches of a drug product used to perform bioavailability, bioequivalence, and stability tests.

Timetable:

Action	Date	FR Cite
NPRM	01/28/91	56 FR 3180
NPRM Comment Period End	03/29/91	56 FR 3180
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn L. Watson, Special Assistant to the Director, Department of Health and Human Services, Public Health Service, Division of Regulatory Affairs, Food and Drug Administration, Center for Drug, Evaluation and Research (HFD-360), 301 295-8038

RIN: 0905–AD79

1104. MEDICAL DEVICES; PROTECTIVE RESTRAINTS; REVOCATION OF EXEMPTIONS FROM 510(K) PREMARKET NOTIFICATION PROCEDURES AND CURRENT GOOD MANUFACTURING PRACTICES REGULATIONS

Significance: Agency Priority

Legal Authority: 21 USC 351; 21 USC 360; 21 USC 360c; 21 USC 360e; 21 USC 360y; 21 USC 371

CFR Citation: 21 CFR 880.6760; 21 CFR 890.3910

Legal Deadline: None

Abstract: FDA has become aware through various sources of numerous reports of complications including permanent physical injuries, severe psychological disabilities, other serious injuries and deaths that have been attributed to incorrect supervision, handling or application of protective restraint devices by medical or paramedical personnel. Complications associated with protective restraint devices frequently result from misuse of the devices. To address potential misuse, manufacturers should include specific directions for use, to the extent that such directions are not currently available or not attached to or kept with the garment. Revocation of the premarket notification exemptions will allow FDA to collect information about the current availability and actual employment of directions for use and to monitor the introduction into commerce of new and changed protective restraints. Revocation of the exempting Current Good Manufacturing Practice regulation will allow FDA to require the necessary controls over labeling. FDA is also considering educational programs to address this problem. FDA anticipates total first year costs of $930,000 for this regulation. (CONT)

Timetable:

Action	Date	FR Cite
NPRM	06/19/92	57 FR 27397

1102. RECORDKEEPING AND REPORTING: ELECTRONIC PRODUCTS

Legal Authority: 21 USC 360hh; 21 USC 360ii; 21 USC 360jj; 21 USC 360kk; 21 USC 360ll; 21 USC 360mm; 21 USC 360nn; 21 USC 360oo; 21 USC 360oo

CFR Citation: 21 CFR 1000; 21 CFR 1002

Legal Deadline: None

Abstract: The Final Rule would amend FDA regulations on Recordkeeping and Reporting of adverse events and other information relating to radiation emitting electronic products. The timing and content of certain reports will be revised to enhance the usefulness of the information. This action will result in improved protection of the public health while reducing the regulatory burden on manufacturers and distributors.

Timetable:

Action	Date	FR Cite
ANPRM	07/02/82	47 FR 29004
ANPRM	11/16/82	47 FR 51706
ANPRM	07/01/85	50 FR 27024
NPRM	10/25/90	55 FR 43066
NPRM Comment Period End	01/22/91	55 FR 43066
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

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HHS—PHS—FDA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	08/18/92	57 FR 27397
Final Action	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: These costs will be offset by the saving of lives and reduced product liability exposure.

Agency Contact: Patricia Dubill, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, (HFZ-84), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4874

RIN: 0905–AD84

1105. • FOOD LABELING REVIEW

Significance: Regulatory Program

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 100; 21 CFR 101; 21 CFR 102; 21 CFR 161

Legal Deadline: Final, Statutory, May 8, 1993.
If final regulations on Nonfunctional Slack Fill are not published by 05/08/93, the proposed regulations shall be considered the final regulations.

Abstract: The Nutrition Labeling and Education Act of 1990 requires that most foods bear nutrition labeling. In developing the final rules that were published on January 6, 1993, the agency identified three areas that should be the subject of additional rulemaking: a definition for the nutrient content claim "healthy"; a definition for "nonfunctional slack fill"; and requirements for the identification of certain ingredients on food labels. Proposed regulations addressing these issues were published on January 6, 1993.

Timetable:

Misleading Containers; Nonfunctional Slack Fill
NPRM 01/06/93 (58 FR 2957)
Final Action 05/00/93

Nutrient Content, Definition of the Term, Healthy
NPRM 01/06/93 (58 FR 2944)
Final Action 09/00/93

Protein Hydrolysates; Broth in Tuna; and/or Labeling
NPRM (Declaration of Ingredients) 01/06/93 (58 FR 2950)
Final Action (Dec. of Ingredients) 09/00/93

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: F. Edward Scarbrough, Director, Office of Food Labeling, Department of Health and Human Services, Public Health Service, Center for Food Safety and Applied Nutrition, (HFS-150) 200 C St. SW Washington, DC 20204, 202 205-4561

RIN: 0905–AD89

1106. • TEMPOROMANDIBULAR JOINT IMPLANT CLASSIFICATION

Significance: Agency Priority

Legal Authority: 21 USC 360c; 21 USC 360e

CFR Citation: 21 CFR 872.3940; 21 CFR 872.3950; 21 CFR 872.3960; 21 CFR 872.3970

Legal Deadline: None

Abstract: The final rule would classify into class III (Premarket approval) certain temporomandibular joint (TMJ) prostheses including the interarticular disc prosthesis (the interpositional implant), the mandibular condyle prosthesis, and the glenoid fossa prosthesis. This action would allow FDA to require manufacturers of these devices to submit premarket approval applications demonstrating the safety and effectiveness of these devices. The devices present a risk of implant loosening or displacement; foreign body reaction; degenerative changes to the natural articulating surfaces; infection; and loss of implant integrity.

Timetable:

Action	Date	FR Cite
NPRM	09/18/92	57 FR 43165
NPRM Comment Period End	12/08/92	57 FR 56876
Final Action	06/30/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Public Health Service, FDA, CDRH (HFZ-84), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4874

RIN: 0905–AD93

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Food and Drug Administration (FDA)

Completed Actions

1107. PROPOSED RULE TO IMPLEMENT THE ORPHAN DRUG AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Significance: Regulatory Program

CFR Citation: 21 CFR 316

Completed:

Reason	Date	FR Cite
Final Action	12/29/92	57 FR 62076

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Emery J. Sturniolo, 301 443-4718

RIN: 0905–AB55

1108. COMPUTER PRODUCTS; POLICY GUIDANCE

CFR Citation: 21 CFR 800

Completed:

Reason	Date	FR Cite
Withdrawn - no further action planned	01/25/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles S. Furfine, 301 443-4874

RIN: 0905–AC72

1109. METHADONE IN MAINTENANCE TREATMENT OF NARCOTIC ADDICTS; JOINT FDA AND NIDA PROPOSED REVISION OF CONDITIONS OF USE

Significance: Agency Priority

CFR Citation: 21 CFR 291

HHS—PHS—FDA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	01/06/93	58 FR 495
Final Action Effective	01/06/93	58 FR 495

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Thomas C. Kuchenberg, 301 295-8049

RIN: 0905–AC93

1110. FOOD LABELING REVIEW

Significance: Regulatory Program

CFR Citation: 21 CFR 101

Completed:

Reason	Date	FR Cite
Final Action	01/06/93	58 FR 2066

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: F. Edward Scarbrough, 202 205-4561

RIN: 0905–AD08

1111. PATENT TERM RESTORATION FOR ANIMAL DRUGS

Significance: Regulatory Program

CFR Citation: 21 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	11/27/92	57 FR 56260
Final Action Effective	12/28/92	57 FR 56260

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ronald L. Wilson, 301 443-1382

RIN: 0905–AD16

1112. NEW DRUG, ANTIBIOTIC, AND BIOLOGICAL DRUG PRODUCT REGULATIONS; ACCELERATED APPROVAL

Significance: Regulatory Program

CFR Citation: 21 CFR 314; 21 CFR 601

Completed:

Reason	Date	FR Cite
Final Action	12/11/92	57 FR 58942
Final Action Effective	01/11/93	57 FR 58942

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn L. Watson, 301 295-8038

RIN: 0905–AD66

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

Proposed Rule Stage

1113. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM; GRANTS FOR STATE LOAN REPAYMENT PROGRAMS

Significance: Regulatory Program

Legal Authority: PL 100-177; PL 101-597

CFR Citation: 42 CFR 62.21 to 62.30; 42 CFR 62.51 to 62.58

Legal Deadline: None

Abstract: The National Health Service Corps (NHSC) Revitalization Amendments of 1990, PL 101-597, amends Section 336B of the PHS Act which authorizes the NHSC Loan Repayment Program. These Amendments also revise the State Loan Repayment Program at Section 338I of the PHS Act. The interim rule relating to both these programs as published April 3, 1989, will be revised to reflect the 1990 amendments. Regulations governing the Special Repayment Program established under PL 100-177 were published on 11/6/91 in final form under RIN: 0905-AD58, separate from this NPRM (RIN: 0905-AC65). The amended NHSC Loan Repayment Program (RIN: 0905-AD57) removes the provision which limits the Secretary's loan repayment to one month in advance of services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/03/89	56 FR 13458
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Rhoda Abrams, Director, Office of Program and Policy Development, Bureau of Primary Health Care, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Room 7-34, Rockville, MD 20857, 301 443-2330

RIN: 0905–AC65

1114. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK RULES

Significance: Agency Priority

Legal Authority: 42 USC 1320b-8 section 1138 of the Social Security Act; 42 USC 274 Section 372 of the Public Health Service Act

CFR Citation: 42 CFR 121

Legal Deadline: None

Abstract: Section 1138 of the Social Security Act requires Medicare and Medicaid participating hospitals that perform organ transplants to be members of and abide by the rules and requirements of the Organ Procurement and Transplantation Network (OPTN) as established by section 372 of the Public Health Service Act. Section 1138 also requires that for organ procurement costs attributable to payments to an Organ Procurement Organization (OPO) to be paid by Medicare or Medicaid, the OPO must be a member of and abide by the rules and requirements of the OPTN. No other entity (for example, a histocompatibility laboratory) is required to be a member of or abide by the rules of the OPTN under the provisions of the statute. It is the Department's position that no rule, requirement, policy, or other issuance of the OPTN will be considered to be a "rule or requirement" of the Network within the meaning of section 1138 unless the Secretary has formally approved that rule. The OPTN is currently in operation and these rules will impose no further cost or provide any benefit other than that which now exists.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: None

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Government Levels Affected: None

Agency Contact: Judy Braslow, Director, Division of Organ Transplantation, Bureau of Health Resources Development, Department of Health and Human Services, Public Health Service, Room 11A-22, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-7577

RIN: 0905–AD26

1115. NATIONAL PRACTITIONER DATA BANK: MEDICAL MALPRACTICE PAYMENTS REPORTING REQUIREMENTS

Legal Authority: 42 USC 11131

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: This NPRM proposes to require that in addition to reporting to the National Practitioner Data Bank medical malpractice payments made where physicians or other health care practitioners are named in judgments or settlements, payments be reported where they are made for the benefit of physicians or other health care practitioners not named in the judgments or settlements but who furnished or failed to furnish the health care services upon which the actions or claims were based. The purpose of this NPRM is to prevent the evasion of the medical malpractice payment reporting requirement of the Data Bank through the agreement of the parties to a lawsuit to use the "corporate veil" to prevent the health care practitioner from being reported

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas C. Croft, Actg Director, Division of Quality Assurance, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, Room 8-67, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-2300

RIN: 0905–AD70

1116. • HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: LENDERS' PERFORMANCE STANDARDS

Legal Authority: 42 USC 216; 42 USC 292 to 292o

CFR Citation: 42 CFR 60

Legal Deadline: NPRM, Statutory, October 13, 1993.

Abstract: This Notice of Proposed Rulemaking proposes to amend the existing regulations governing the HEAL Program to establish standards for lenders and holders as required by the Health Professions Education Extension Amendments of 1992 (Pub. L. 102-408). These standards would provide lenders and holders a greater incentive to work to maintain low HEAL default rates and, thus, improve the long-term solvency of the Student Loan Insurance Fund.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Heningburg, Director, Division of Student Assistance, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, Room 8-48, Rockville, Maryland 20857, 301 443-1173

RIN: 0905–AD87

1117. • MATERNAL AND CHILD HEALTH (MCH) PROJECT GRANTS

Legal Authority: 42 USC 702(a)

CFR Citation: 42 CFR 51a

Legal Deadline: None

Abstract: This proposed rule abstract revises existing regulations governing the Maternal and Child Health (MCH) Federal Set-Aside programs to accommodate changing policy concerns, implement data collection requirements established under the Omnibus Budget Reconciliation Act (OBRA) of 1989 (Pub. L. 101-239), and make other technical or clarifying changes. This proposed rule will bring the existing regulations up-to-date with current Department policy and statutory amendments to these programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Lynn Squire, Reports Clearance Officer/Office of Program Development, Maternal & Child Health Bureau, Department of Health and Human Services, Health Services Administration, 5600 Fishers Lane, Parklawn Building, Room 18-20, Rockville, Maryland 20857, 301 443-2778

RIN: 0905–AD88

1118. • MEDICAL FACILITY CONSTRUCTION AND MODERNIZATION; REQUIREMENTS FOR PROVISION OF SERVICES TO PERSONS UNABLE TO PAY

Significance: Agency Priority

Legal Authority: 42 USC 291 et seq; 42 USC 300q et seq

CFR Citation: 42 CFR 124 subpart F

Legal Deadline: None

Abstract: The proposed rule would revise the rules currently governing how certain health care facilities, assisted under titles VI and XVI of the Public Health Service Act, fulfill the assurance given in their applications for assistance that they would provide a reasonable volume of services to persons unable to pay. Public comment on the current rules and operational experience with them has indicated the need to revise the current requirements with respect to nonprofit facilities that provide substantial amounts of free or below-cost care under their own programs but are unable, under current requirements, to credit such care toward fulfillment of their assurance. The intended effect of these proposed rules is to allow qualified facilities to satisfy their uncompensated services assurance through their continued provision of free or below-cost health services.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Charlotte G. Pascoe, Director, Div. of Facilities and Compliance, Bureau of Health Resources Development, Department of Health and Human Services, Health Resources and Services Administration, Room 11-19 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-5656

RIN: 0905–AE06

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

Final Rule Stage

1119. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: SCHOOL COLLECTION ASSISTANCE

Significance: Regulatory Program

Legal Authority: 42 USC 216; 42 USC 292 to 292o

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: This rule amends existing regulations governing the HEAL program to provide schools with authority to withhold services from defaulted HEAL borrowers. This provision is designed to assist schools in reducing their default rates.

Timetable:

Action	Date	FR Cite
NPRM	10/01/90	55 FR 40140
NPRM Comment Period End	11/30/90	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Farrington, D.M.D., Deputy Director, Division of Student Assistance, BHPr, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Room 8-48, Parklawn Building, Rockville, MD 20857, 301 443-1173

RIN: 0905–AC87

1120 HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: POSTJUDGMENT COLLECTIONS

Legal Authority: 42 USC 216; 42 USC 292 to 292o

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: In accordance with the statutory requirement in the Drug Abuse Treatment Technical Corrections Act of 1989, which amended section 733(h)(2) of the Public Health Service Act, this rule amends existing regulations governing the Health Education Assistance Loan (HEAL) program to specify postjudgment collection procedures which a lender or holder must follow prior to filing a default claim.

Timetable:

Action	Date	FR Cite
NPRM	08/31/90	55 FR 35687
NPRM Comment Period End	10/30/90	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Heningburg, Director, Division of Student Assistance, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-1173

RIN: 0905–AD11

1121. NATIONAL VACCINE INJURY COMPENSATION (NVIC) PROGRAM: REVISIONS TO THE VACCINE INJURY TABLE

Significance: Regulatory Program

Legal Authority: 42 USC 216; 42 USC 300aa-14; 42 USC 300aa-1 note.

CFR Citation: 42 CFR 100

Legal Deadline: NPRM, Statutory, December 22, 1990.
Section 312 of PL 99-660 requires the Secretary to propose regulations to amend the Vaccine Injury Table, based on the findings of the Institute of Medicine (IOM) study, (cont)

Abstract: The National Vaccine Injury Compensation (NVIC) Program, administered by the Secretary, and governed by subtitle 2 of title XXI of the Public Health Service Act, as enacted by the National Childhood Vaccine Injury Act of 1986 (the Act), provides a system of no-fault compensation for certain individuals who have been injured by specific childhood vaccines. The nature of the injuries, disabilities, illnesses, conditions, and deaths which will be presumed to result from the administration of specific vaccines, and the time period in which the first symptom or manifestation of onset must occur for this presumption to apply, are outlined in section 2114 of the Act in what is known as the Vaccine Injury Table. This NPRM proposes to make refinements to the Vaccine Injury Table to more accurately reflect current scientific knowledge about the conditions that result from vaccines which will result in appropriate compensation for injuries related to vaccines.

Timetable:

Action	Date	FR Cite
NPRM	08/14/92	57 FR 36878
NPRM Comment Period End	02/11/93	
Final Action	02/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL DEADLINE CONT: within 3 years of the effective date of title III (12/22/87). Since the IOM study was not completed until August 1991, it was not possible to meet this legal deadline. This section also requires the Final regulation to be published 6 months after the NPRM. Given the 180-day comment period, the 6-month requirement is an impossibility.

Agency Contact: Thomas E. Balbier, Jr., Director, Division of Vaccine Injury Compensation Program, BHPr, Department of Health and Human

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HHS—PHS—HRSA — Final Rule Stage

Services, Health Resources and Services Administration, Room 702, Montrose Building, 6001 Montrose Road, Rockville, Maryland 20852, 301 443-6593

RIN: 0905–AD64

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions

Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

1122. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM

CFR Citation: 42 CFR 62.25(a)

Completed:

Reason	Date	FR Cite
Final Action	12/02/92	57 FR 56994

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhoda Abrams, 301 443-2330

RIN: 0905–AD57

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage

Public Health Service (PHS)—Indian Health Service (IHS)

1123. INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM REGULATIONS

Legal Authority: PL 100-713

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: Public Law 100-713, enacted November 23, 1988, authorized a program in which health professionals would have their health professions education loans repayed in amounts up to a maximum of $25,000 per year in exchange for service in an Indian health program. The Secretary is directed to implement some provisions by regulations, i.e., waiver provision

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wesley Picciotti, Chief, Scholarship Branch, Indian Health Service, Department of Health and Human Services, Public Health Service, 12300 Twinbrook Parkway, Suite 100, Rockville, MD 20852, 301 443-6197

RIN: 0905–AC96

1124. INDIAN HEALTH CATASTROPHIC HEALTH EMERGENCY FUND PROGRAM

Legal Authority: PL 100-713

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: Public Law 100-713, enacted November 23, 1988, authorized a new program establishing a catastrophic health emergency fund. The Secretary is directed to establish the program by regulations consistent with provisions of the Law including a definition of a catastrophic disease.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. McCloskey, Dir., Div. of Legislation and Regulations, Indian Health Service, Department of Health and Human Services, Public Health Service, Rm. 6-34, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, 301 443-1116

RIN: 0905–AC97

1125. REVISION OF INDIAN SELF-DETERMINATION REGULATIONS

Significance: Regulatory Program

Legal Authority: PL 93-638; PL 100-202; PL 100-446; PL 100-472; PL 100-581; PL 101-301; 25 USC 450

CFR Citation: 42 CFR 36; 48 CFR 380 4; 48 CFR 352.280-4

Legal Deadline: NPRM, Statutory, May 5, 1989. Final, Statutory, August 5, 1989.

Abstract: Public Law 93-638 passed in 1975, requires the IHS to turn over administrative responsibility to tribes so requesting, using the mechanism of contracting. Public Law 93-638 also authorizes the IHS to make grants to tribe(s) for the planning, development, and/or operations of health programs. Public Law 100-472, enacted October 5, 1988, made significant changes to the state and required that regulations implementing the amendments be promulgated in final within ten months of enactment. The law provides for tribal consultation and participation in the development of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	10/00/93	
Final Action	10/00/94	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: 1. The Act (P.L. 100-472) provides that except for construction contracts, the Office of Federal Procurement Policy Act and Federal Acquisition Regulations shall not apply to self-determination

HHS—PHS—IHS — Proposed Rule Stage

contracts. Therefore, implementing regulations for the Indian Self-Determination Act amendments will include a subpart on construction contracts which, unlike other self-determination awards, will be made subject to certain procurement rules (e.g., FARS, HSARS, FSARS). 2. There is a statutory requirement to implement P.L. 93-638 regulations. 3. There is a paperwork burden associated with the action. It will be included with the overall clearance package.

Agency Contact: Richard J. McCloskey, Dir., Div. of Legislation and Regulations, Indian Health Service, Department of Health and Human Services, Public Health Service, Rm. 6-34, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, 301 443-1116

RIN: 0905–AC98

1126. REVISION OF URBAN INDIAN HEALTH REGULATIONS

Legal Authority: PL 100-713

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: P.L. 100-713, enacted November 23, 1988, requires the Secretary to prescribe, by regulation, the criteria for selecting urban Indian organizations to enter into contracts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. McCloskey, Dir., Div. of Legislation and Regulations, Indian Health Service, OPEL, Department of Health and Human Services, Public Health Service, Parklawn Building, Room 6-34, 5600 Fishers Lane, Rockville, MD 20857, 301 443-1116

RIN: 0905–AD20

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage

Public Health Service (PHS)—Indian Health Service (IHS)

1127. REVIEW OF THE DETERMINATION OF AN INDIAN TRIBE'S RESOURCE DEFICIENCY LEVEL

Legal Authority: PL 100-713

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: P.L. 100-713, enacted November 23, 1988, requires the Secretary to establish, by regulation, procedures which would allow any Indian tribe to petition the Secretary for a review of any determination of the health resources deficiency level of such tribe.

Timetable:

Action	Date	FR Cite
NPRM	10/10/91	56 FR 51189
NPRM Comment Period End	12/09/91	56 FR 51189
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. McCloskey, Dir., Div. of Legislation and Regulations, Indian Health Service, OPEL, Department of Health and Human Services, Public Health Service, Parklawn Building, Room 6-34, 5600 Fishers Lane, Rockville, MD 20857, 301 443-1116

RIN: 0905–AD21

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage

Public Health Service (PHS)—National Institutes of Health (NIH)

1128. GRANTS FOR RESEARCH PROJECTS

Legal Authority: 21 USC 360ii; 29 USC 669(a); 30 USC 951; 42 USC 216; 42 USC 241; 42 USC 242; 42 USC 242a; 42 USC 247b(k)(3); 42 USC 280b; 42 USC 284; 42 USC 285e-4; 42 USC 285g-4; 42 USC 285n; 42 USC 285o-4; 42 USC 286b-4

CFR Citation: 42 CFR 52

Legal Deadline: None

Abstract: Regulations covering grants for research projects will be amended to show changes necessitated by enactment of Public Laws 99-158, 99-660, 100-607, 101-549, 101-613, 102-222, 102-321, and 102-588, and to show their applicability to various programs administered by the Centers for Disease Control and the Food and Drug Administration previously omitted from the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: 42 USC 300a-2; 42 USC300a-4; 42 USC 300z-7; 42 USC 300cc-14; 42 USC 300cc-15; 42 USC 300cc-20; 42 USC 300cc-41; 42 USC 4487b; 42 USC 7403

Agency Contact: John J. Migliore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, 31/3B07, Bethesda, MD 20892, 301 496-4606

RIN: 0905–AC02

1129. SPECIAL VOLUNTEER SERVICES AT THE NATIONAL INSTITUTES OF HEALTH

Legal Authority: 42 USC 216; 42 USC 282(b)(10); 42 USC 284(b)(1)(k); 42 USC 2850-4(b)(4)

CFR Citation: 45 CFR 57a

Legal Deadline: None

Abstract: Regulations concerning the acceptance and use of voluntary and uncompensated services at the National Institutes of Health, as authorized under PHS Act sections 402(b)(10), 405(b)(1)(k), and 464P(b)(4) will be promulgated.

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Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen C. Benowitz, Director, Division of Personnel Management, Department of Health and Human Services, Public Health Service, NIH, Bldg. 1, Rm. B1-60, 9000 Rockville Pike, Bethesda, MD 20892, 301 496-3592

RIN: 0905–AC95

1130. NATIONAL INSTITUTES OF HEALTH AIDS RESEARCH LOAN REPAYMENT PROGRAM

Legal Authority: 42 USC 216; 42 USC 288-1

CFR Citation: 42 CFR 68

Legal Deadline: None

Abstract: Section 634 of PL 100-607 creates a new program through which health professionals can obtain federally funded repayment of educational loans by conducting AIDS research as NIH employees. The new regulations will cover this program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marc Horowitz, Director, NIH AIDS Research Loan Repayment Program, Department of Health and Human Services, Public Health Service, Office of AIDS Research, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892, 301 496-0357

RIN: 0905–AD18

1131. TRAINEESHIPS

Legal Authority: 42 USC 216; 42 USC 284(b)(1)(C); 42 USC 286b-3; 42 USC 287c-1

CFR Citation: 42 CFR 63

Legal Deadline: None

Abstract: Regulations concerning National Institutes of Health, National Center for Nursing Research, and National Library Medicine traineeships will be revised in their entirety to cover traineeships awarded under the authority provided in PHS Act sections 405(b)(1)(C), 474, and 484.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Migliore, NIH Regulations Officer, Department of Health and Human Services, Public Health Service, National Institutes of Health, 9000 Rockville Pike, Bldg. 31, Rm. 3B11, Bethesda, MD 20892, 301 496-4606

RIN: 0905–AD28

1132. HAZARDOUS SUBSTANCES BASIC RESEARCH AND TRAINING GRANTS

Legal Authority: 42 USC 9660; 42 USC 216

CFR Citation: 42 CFR 65a

Legal Deadline: None

Abstract: Regulations will be promulgated concerning grants for research and training made for the purpose of understanding, assessing, and reducing the adverse effect on human health of exposure to hazardous substances. The grants are authorized by section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as added by section 209 of the Superfund Amendments and Reauthorization Act (SARA) of 1986, P.L. 99-499.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. William A. Suk, Program Administrator, Division of Extramural Research and Training, Department of Health and Human Services, Public Health Service, NIEHS, P.O. Box 12233, Research Triangle Park, NC 27709, 919 541-0797

RIN: 0905–AD46

1133. NATIONAL INSTITUTES OF HEALTH CONSTRUCTION GRANTS

Legal Authority: 42 USC 216; 42 USC 285a-2; 42 USC 285a-3; 42 USC 285b-3; 42 USC 285b-4; 42 USC 285d-6; 42 USC 285i; 42 USC 300cc-41

CFR Citation: 42 CFR 52b

Legal Deadline: None

Abstract: Regulations concerning NCI construction grants will be amended to more clearly show their general applicability to all NIH extramural programs with construction grant authority. Additionally, the regulations will be amended to show new administrative and technical requirements, add new procedures for the recovery of grant funds for facilities no longer used for biomedical research, show new PHS Act section numbers, and update the listing of other HHS regulations relevant to construction grants.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Migliore, NIH Regulations Officer, Department of Health and Human Services, Public Health Service, National Institutes of Health, 9000 Rockville Pike, Bldg. 31, Rm 3B11, Bethesda, Maryland 20892, 301 496-4606

RIN: 0905–AD49

1134. TRAINING GRANTS

Legal Authority: 42 USC 216; 42 USC 285a-2(b)(3); 42 USC 285b; 42 USC 285c; 42 USC 285c-2; 42 USC 285d; 42 USC 285d-2; 42 USC 285e, 285e-1, 285f to 285g; 42 USC 285g-4(b)(1), 42 USC 285h to 285i; 42 USC 285j-1; 42 USC 285l; 42 USC 285m; 42 USC 287c-1; 42 USC 300cc-15(b)(1); ...

CFR Citation: 42 CFR 63a

Legal Deadline: None

Abstract: New regulations concerning non-NRSA training grants authorized by various PHS Act sections and training activities authorized by section 103(h)(2) of the Clean Air Act, as amended by section 901 of the Clean Air Act Amendments of 1990, P.L. 101-549. The regulations are intended to serve as a standing set of regulations that could be adapted for future training grant programs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: 42 USC 300cc-41 (a)(5)(C); 42 USC 740(h)(2)

Agency Contact: John J. Migliore, NIH Regulations Officer, Department of Health and Human Services, Public Health Service, National Institutes of Health, 9000 Rockville Pike, Bldg. 31, Rm 3B-11, Bethesda, MD 20892, 301 496-4606

RIN: 0905–AD56

1135. NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES HAZARDOUS WASTE WORKER TRAINING

Legal Authority: 42 USC 9660a; 42 USC 1816

CFR Citation: 42 CFR 65

Legal Deadline: None

Abstract: Regulations concerning the NIEHS Hazardous Waste Worker Training Program will be amended to make them applicable to grants administered under the Hazardous Materials Employee Training Grant Program. The grants are authorized under section 118 of the Hazardous Materials Transportation Act (HMTA), 49 USC App. 1816, as amended by the Hazardous Materials Transportation Uniform Safety Act (HMTUSA) of 1990, P.L. 101-615.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Migliore, NIH Regulations Officer, Department of Health and Human Services, Public Health Service, National Institutes of Health, 9000 Rockville Pike, Bldg. 31, Rm. 3B11, Bethesda, MD 20892, 301 496-4606

RIN: 0905–AD69

1136. • NATIONAL INSTITUTES OF HEALTH CENTER GRANTS

Legal Authority: 42 USC 216; 42 USC 285a-3; 42 USC 285b-4; 42 USC 285c-5; 42 USC 285d-6; 42 USC 285e-2; 42 USC 285e-3; 42 USC 285m-3; 42 USC 300cc-16; 42 USC 285o-2

CFR Citation: 42 CFR 52a

Legal Deadline: None

Abstract: NIH Center Grants regulations will be amended to show their applicability to the Drug Abuse Research Centers Program authorized by PHS Act, section 464N, as added by section 123 of the ADAMHA Reorganization Act, P.L. 102-321.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Migliore, NIH Regulations Officer, Department of Health and Human Services, Public Health Service, National Institutes of Health, Building 31, Room 3B-11, 9000 Rockville Pike, Bethesda, MD 20892, 301 496-4606

RIN: 0905–AE00

1137. • RESPONSIBILITIES OF PUBLIC HEALTH SERVICE FUNDED INSTITUTIONS FOR PROMOTING OBJECTIVITY IN RESEARCH

Legal Authority: 42 USC 216

CFR Citation: 42 CFR 50, subpart F; 42 CFR 309

Legal Deadline: None

Abstract: PHS proposes to issue regulations requiring the institutions that apply for or receive funding for biomedical, behavioral, or other health-related research under the PHS Act to assume full responsibility for ensuring that the financial interests of the respective institution and the employees of the institution do not compromise the objectivity with which PHS-funded research is conducted or reported.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Dr. George J. Galasso, Associate Director for Extramural Affairs, Department of Health and Human Services, Public Health Service, NIH, Shannon Building, Room 152, Bethesda, Maryalnd 20892, 301 496-5356

RIN: 0905–AE01

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—National Institutes of Health (NIH)

Final Rule Stage

1138. MINORITY BIOMEDICAL RESEARCH SUPPORT PROGRAM

Legal Authority: 42 USC 216; 42 USC 241(a)(3)

CFR Citation: 42 CFR 52c

Legal Deadline: None

Abstract: NIH regulations concerning the Minority Biomedical Research Support (MBRS) Program will be amended to (1) change the name of Part 52c to correspond to the present name of the program, (2) update the authority citation and section 52c.7, and (3) revise the definition of "ethnic minorities" in section 52c.2 to correspond to the present operational definition used in administering the program.

Timetable:

Action	Date	FR Cite
NPRM	08/20/92	57 FR 37745
NPRM Comment Period End	10/19/92	57 FR 37745
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Migliore, NIH Regulations Officer, Department of Health and Human Services, Public Health Service, National Institutes of Health, 9000 Rockville Pike, Bldg. 31, Rm. 3B11, Bethesda, Maryland 20892, 301 496-4606

RIN: 0905–AD47

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HHS—PHS—NIH

Final Rule Stage

1139. NATIONAL HEART, LUNG, AND BLOOD INSTITUTE GRANTS FOR PREVENTION AND CONTROL PROJECTS

Legal Authority: 42 USC 216; 42 USC 285b-1

CFR Citation: 42 CFR 52e

Legal Deadline: None

Abstract: NIH regulations covering NHLBI grants for prevention and control projects will be amended to correct PHS Act section numbers necessitated by enactment of the Health Research Extension Act of 1985 (P.L. 99-158). The Table of Contents will be amended as part of the program to simplify regulatory language. Additionally references in section 52e.8 to other HHS regulations and policies that apply to awards made under Part 52e will be updated.

Timetable:

Action	Date	FR Cite
NPRM	08/19/92	57 FR 37502
NPRM Comment Period End	10/18/92	57 FR 37502
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Migliore, NIH Regulations Officer, Department of Health and Human Services, Public Health Service, National Institutes of Health, 9000 Rockville Pike, Bldg. 31, Rm. 3B11, Bethesda, Maryland 20892, 301 496-4606

RIN: 0905–AD48

1140. STANDARDS FOR BONE MARROW REGISTRIES AND CENTERS

Legal Authority: 42 USC 216; 42 USC 274k

CFR Citation: 42 CFR 122

Legal Deadline: Final, Statutory, May 14, 1991.

Abstract: Regulations will be promulgated to implement Title I of PL 101-616, Transplant Amendments Act of 1990, which added section 379 to the Public Health Service Act. Section 379 authorizes the Secretary to establish and maintain a National Bone Marrow Donor Registry, and further provides that the Secretary shall establish and enforce criteria, standards, and procedures for entities participating in the National Bone Marrow Donor Program, including the National Registry.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul R. McCurdy, MD, Special Assistant for Clinical Hematology, Div. of Blood Diseases and Resources, NHLBI, Department of Health and Human Services, Public Health Service, Federal Building, Room 516, 7550 Wisconsin Avenue, Bethesda, MD 20892, 301 496-8387

RIN: 0905–AD51

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—National Institutes of Health (NIH)

Completed Actions

1141. NATIONAL INSTITUTES OF HEALTH CENTER GRANTS

CFR Citation: 42 CFR 52a

Completed:

Reason	Date	FR Cite
Final Action	12/23/92	57 FR 61005
Final Action Effective	12/23/92	57 FR 61005

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Migliore, 301 496-4606

RIN: 0905–AC27

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Agency for Health Care Policy and Research (AHCPR)

Proposed Rule Stage

1142. GRANTS FOR HEALTH SERVICES RESEARCH, EVALUATION, DEMONSTRATION, AND DISSEMINATION PROJECTS

Legal Authority: 42 USC 299c-1(e)

CFR Citation: 42 CFR 67

Legal Deadline: None

Abstract: This NPRM proposes to revise the regulations under 42 CFR part 67 governing grants for health services research and grants for health services research centers made by the former National Center for Health Services Research and Health Care Technology Assessment (NCHSR). Public Law 101-239, enacted on December 19, 1989, established the Agency for Health Care Policy and Research, replacing the NCHSR, and provided the new agency with a much expanded role in health services research. The NPRM will incorporate applicable provisions of Public Law 101-239. It will also incorporate the applicable amendments of Public Law 102-410, enacted October 13, 1992, which reauthorized the AHCPR.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda K. Demlo, Ph.D., Dir. Office of Program Development, Agency for Health Care Policy and Research, Department of Health and Human Services, Public Health Service, Suite 603, 2101 East Jefferson Street, Rockville, MD 20852, 301 227-8453

RIN: 0905–AD30

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Health Care Financing Administration (HCFA)

Proposed Rule Stage

1143. ADMINISTRATIVE APPEALS PROCESS FOR PROVIDER PAYMENT DISPUTES INCLUDING AMENDING COST REPORTS & REOPENING INTERMEDIARY PAYMENT DETERMINATIONS & ADMINISTRATIVE REVIEW DECISIONS (BPD-221-P)

Legal Authority: 42 USC 1395g; 42 USC 1395l(a); 42 USC 1395oo

CFR Citation: 42 CFR 405.1833; 42 CFR 405.1885; 42 CFR 405.1887; 42 CFR 405.1803; 42 CFR 405.1811(a); 42 CFR 405.1813; 42 CFR 405.1837; 42 CFR 405.1841; 42 CFR 405.1863; 42 CFR 405.1877; 42 CFR 405.1889; 42 CFR 412.72(b); 42 CFR 413.24

Legal Deadline: None

Abstract: This proposal would clarify and establish rules governing the administrative appeals process for providing appeals of payment disputes including rules distinguishing between the amending of cost reports and the reopening of Medicare intermediary payment determinations and administrative review decisions. This proposal would provide guidance to intermediaries and the Provider Reimbursement Review Board concerning the circumstances under which those actions may be taken.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending resolution of complex policy and operational issues.

Agency Contact: Paul Olenick, Director, Division of Medicare Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Blvd., Baltimore, MD 21207, 410 966-4472

RIN: 0938–AA33

1144. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY SERVICES (BPD-309-P)

Legal Authority: 42 USC 1395l(a)(1)(D); 42 USC 1395l(a)(2)(D); 42 USC 1395l(b)(3); 42 USC 1395l(h); 42 USC 1395cc(a)(2)(A); 42 USC 1396b(i)(7)

CFR Citation: 42 CFR 405.501; 42 CFR 405.502; 42 CFR 405.505; 42 CFR 405.506; 42 CFR 405.511; 42 CFR 405.556; 42 CFR 405.1310; 42 CFR 413.170; 42 CFR 414.350 to 414.378; 42 CFR 424.55; 42 CFR 424.64; 42 CFR 431.54; 42 CFR 447.10; 42 CFR 447.300; 42 CFR 447.321

Legal Deadline: None

Abstract: These regulations would incorporate provisions of Public Laws 99-272, 99-509, 100-203, 100-647, 101-239, and 101-508 regarding payment and "assignment" for diagnostic clinical laboratory tests establishing in regulations the methods for implementing fee schedules. These rules would set forth the methods by which the fee schedules would be updated and would allow certain adjustment for exceptions to the fee schedules.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, Division of Medical Services Payment, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 410 966-4497

RIN: 0938–AB50

1145. HOSPICE SERVICES (MB-7-P)

Legal Authority: 42 USC 1396d(a)(18); 42 USC 1396d(o); 42 USC 1396a(a)(13)(D); 42 USC 1396o(a)(2)(E); 42 USC 1302

CFR Citation: 42 CFR 418.32; 42 CFR 435.218; 42 CFR 435.231; 42 CFR 440.185; 42 CFR 447.53; 42 CFR 447.327; 42 CFR 447.381 to 447.384; 42 CFR 435.726; 42 CFR 435.735; 42 CFR 436.231

Legal Deadline: None

Abstract: This regulation would implement section 9505 of PL 99-272 by establishing eligibility and coverage requirements, payment procedures and conditions of participation for optional Medicaid coverage of hospice care. It would also implement section 9435(b) of PL 99-509 regarding payment for hospice care for individuals residing in a nursing facility or intermediate care facility in a State that has not elected to cover hospice services. It also would implement sections 4705 and 4717 of PL 101-508 which further clarifies conditions for payment and the scope of benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Robert Wardwell, Director, Division of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 400 EHR, 6325 Security Blvd., Baltimore, MD 21207, 410 966-5659

RIN: 0938–AC52

1146. DENIAL OF PAYMENT FOR SUBSTANDARD QUALITY CARE (HSQ-132-P)

Legal Authority: 42 USC 1320c-3(a); 42 USC 1395cc(a)(1)(K); 42 USC 1395u; 42 USC 1395pp(b); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 462.105; 42 CFR 466; 42 CFR 473; 42 CFR 476; 42 CFR 489.21

Legal Deadline: None

Abstract: This final rule implements section 9403 of Pub. L. 99-272; section 9353(c) of Pub. L. 99-509; section 4096(a) of Pub. L. 100-203; and section 4205 of Pub. L. 101-508. In accordance with these statutory provisions, Peer Review Organizations (PROs) are authorized to deny Medicare payment to a physician or hospital for services furnished that are of substandard quality. Beneficiaries are protected from liability for the cost of the services where payment is denied because services were of substandard quality.

Timetable:

Action	Date	FR Cite
NPRM	01/18/89	54 FR 1956
NPRM Comment Period End	03/20/89	54 FR 1956
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information:

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TIMETABLE: Pending review in light of the Health Care Quality Improvement Initiative under the PRO program.

Agency Contact: Harvey Brook, Office of Peer Review, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, **410 966-6853**

RIN: 0938–AC84

1147. PRO REVIEW OF SURGICAL PROCEDURES AND REQUIREMENTS FOR SECOND OPINIONS (HSQ-147-P)

Legal Authority: 42 USC 1320c-13; 42 USC 1302; 42 USC 1395hh; 42 USC 1395pp

CFR Citation: 42 CFR 466.150 to 466.190; 42 CFR 473.12; 42 CFR 473.14; 42 CFR 473.40; 42 CFR 405.332

Legal Deadline: None

Abstract: This proposed rule would implement section 9401 of Pub.L. 99-272, which provides that, under Medicare, a physician must request from the Peer Review Organization (PRO) preadmission review for certain surgical procedures. Under section 9401, if the PRO determines that the procedure is not appropriate and medically necessary, the PRO will deny payment under Medicare. If the PRO cannot determine whether a surgical procedure is medically necessary and appropriate, the beneficiary would obtain an opinion from a second physician, or where the opinion of the second physician differs from the first physician, the beneficiary may obtain an opinion from a third physician. In addition, as required by section 4096(b) of Pub.L. 100-203, if an assigned claim by a physician or supplier or any claim by a provider is denied because the services furnished are not reasonable and necessary or constitute custodial care and the physician, suppler or provider, but not the beneficiary, knew, or reasonably could be expected to know, that the services were not covered by Medicare, (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: the physician, supplier or provider would not be entitled to collect and retain payment from the beneficiary for those services.

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Harvey Brook, Office of Peer Review, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, **410 966-6853**

RIN: 0938–AC90

1148. PAYMENT FOR THE COST OF MALPRACTICE INSURANCE FOR HOSPITALS EXCLUDED FROM THE PROSPECTIVE PAYMENT SYSTEM (BPD-437-P)

Legal Authority: 42 USC 1395x(v)(1)(A)

CFR Citation: 42 CFR 413.56

Legal Deadline: None

Abstract: This rule would revise the method Medicare uses to determine payment for the costs of malpractice insurance incurred by a hospital. A hospital would receive payment for its malpractice insurance costs based on the utilization formula adopted by the Secretary at the beginning of the Medicare program. That is, malpractice insurance costs will be included in the general and administrative cost center, along with other provider overhead costs, to be apportioned to the Medicare program based on the hospital's Medicare patient utilization.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Paul Trimble, Special Assistant, Office of Payment Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 East Low Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, **410 966-4509**

RIN: 0938–AC97

1149. OPTIONAL PAYMENT SYSTEM FOR LOW MEDICARE VOLUME SKILLED NURSING FACILITIES (BPD-409-P)

Legal Authority: 42 USC 1395yy(d)

CFR Citation: 42 CFR 413.200; 42 CFR 413.202; 42 CFR 413.204; 42 CFR 413.208; 42 CFR 413.210; 42 CFR 413.212; 42 CFR 413.214; 42 CFR 413.216; 42 CFR 413.220; 42 CFR 413.221; 42 CFR 413.1; 42 CFR 413.24

Legal Deadline: None

Abstract: This rule proposes to establish optional prospective payment rates for routine services furnished by certain skilled nursing facilities. The prospective rate would be on a per diem basis and would include payment for the cost of furnishing general inpatient routine services and associated capital-related costs. Ancillary services will be paid on the basis of reasonable cost. This rule would propose instructions for determining eligibility for payment under this system, and the methodology for calculating the prospective payment rates. Freestanding SNFs electing to be paid under this prospective payment system may file a simplified cost report.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4513**

RIN: 0938–AD02

1150. MEDICAID ELIGIBILITY OF POVERTY LEVEL GROUPS AND EXTENDED COVERAGE OF SERVICES (MB-13-P)

Significance: Agency Priority

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396a(l); 42 USC 1396a(f); 42 USC 1302; 42 USC 1396a(m); 42 USC 1396b(f); 42 USC 1396r-1; 42 USC 1396a(a)(47); 42 USC 1396a(e)(6); 42 USC 1396a(e)(7); 42 USC 1396a(a)(17)

CFR Citation: 42 CFR 431; 42 CFR 435; 42 CFR 436; 42 CFR 440; 42 CFR 447

Legal Deadline: None

Abstract: This rule would amend the Medicaid regulations to incorporate changes relating to Medicaid eligibility groups and coverage of services made by the Medicare Catastrophic Coverage Act of 1988 (PL 100-360), the Omnibus Budget Reconciliation Acts of 1990, 1989, 1987, and 1986, (PL 101-508, PL 101-239, PL 100-203 and PL 99-509), and the Homeless Eligibility Clarification Act of the Anti-Drug Abuse Act of 1986 (PL 99-570). This rule would also add eligibility groups of pregnant women, infants and children, and aged and disabled individuals with incomes up to specified percentage of the Federal poverty line; clarify eligibility of homeless individuals; and add provisions for the presumptive eligibility period for pregnant women who, based on preliminary information, appear to meet income requirements under Medicaid.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Eligibility Policy, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, Room 323 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4451**

RIN: 0938–AD17

1151. TRANSFER OF RESOURCES FOR LESS THAN FAIR MARKET VALUE (MB-10-P)

Legal Authority: 42 USC 1302; 42 USC 1396p(c)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: These regulations would conform the Medicaid regulations to section 1917(c) of the Social Security Act, which was entirely revised by section 303(b) of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360) as amended by section 608(d)(16)(B) of the Family Support Act (Pub. L. 100-485) and section 6411(e)(1) of OBRA '89 (Pub. L. 101-239). Section 1917(c) now requires that State Medicaid agencies provide individuals with a period of ineligibility for nursing facility services or home and community based services for up to 30 months if these individuals or their spouses made transfers of assets for less than fair market value during a prohibited period. The period of ineligibility applies if the individual or spouse made a transfer of assets for less than fair market value at any time during or after the 30-month period immediately before (1) the date the individual became institutionalized, if he or she was entitled to Medicaid on that date, or (2) the date he or she applied for Medicaid while institutionalized. Section 1917(c) (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: ABSTRACT CONT: also exempts certain specific transfers of assets from the period of ineligibility.

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 323 EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4451**

RIN: 0938–AD18

1152. MEDICARE COVERAGE OF OUTPATIENT OCCUPATIONAL THERAPY SERVICES (BPD-425-P)

Legal Authority: 42 USC 1395x(g); 42 USC 1395x(p); 42 USC 1395x(w)(1)

CFR Citation: 42 CFR 400.202; 42 CFR 410; 42 CFR 424; 42 CFR 484; 42 CFR 485; 42 CFR 489

Legal Deadline: None

Abstract: This proposed rule would implement section 9337 of PL 99-509 which provides Medicare coverage for outpatient occupational therapy services furnished by providers and independent practitioners, identical to the coverage for outpatient physical therapy. It also would implement section 6133(a) of PL 101-239 which increased the payment limit for outpatient occupational therapy services provided by independent practitioners. This proposed rule would also redesignate current subpart Q of part 405 of the Medicare rules as new part 485.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marsha Klamner, Program Analyst, Alternative Delivery Organizations Branch, Department of Health and Human Services, Health Care Financing Administration, Rm. 401, EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4632**

RIN: 0938–AD32

1153. REVISIONS TO THE FREEDOM OF INFORMATION REGULATIONS (OPA-1-P)

Legal Authority: 5 USC 552; EO 12600

CFR Citation: 42 CFR 401.101 to 401.104; 42 CFR 401.110 to 401.112; 42 CFR 401.120 to 401.125; 42 CFR 401.130 to 401.138; 42 CFR 401.140 to 401.145; 42 CFR 401.150 to 401.154

Legal Deadline: None

Abstract: This rule proposes changes to the regulations implementing the Freedom of Information Act (FOIA). The regulations are being revised based on HCFA's experience with the FOIA in administering the Medicare and Medicaid programs. This rule would also conform HCFA's FOIA regulations to regulations published by the Department of Health and Human Services, as well as to guidance issued by the Office of Management and Budget, the Department of Justice, Presidential Executive Order 12600, and to the Freedom of Information Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rosario Cirrincione, Director, Freedom of Information Division, Department of Health and Human Services, Health Care Financing

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Administration, Room 100 Professional Bldg., 6660 Security Blvd., Baltimore, MD 21207, 410 966-5352

RIN: 0938–AD60

1154. CHANGES CONCERNING THE INVESTMENT INCOME OFFSET POLICY (BPD-481-P)

Legal Authority: 42 USC 1395x(v)

CFR Citation: 42 CFR 413.153; 42 CFR 413.130

Legal Deadline: None

Abstract: This proposed rule would require that "necessary interest" be offset by investment income for purposes of Medicare reasonable cost reimbursement. Rather than offset interest expense by investment income, we are proposing to reduce (dollar for dollar) allowable debt principal related to patient care by the principal amount of investment funds generated from operations related to patient care and subsequently invested in nonpatient care activities or in another provider's patient care activities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William J. Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-4513

RIN: 0938–AD72

1155. NEW MINIMUM STANDARDS FOR MEDICARE SUPPLEMENTAL (MEDIGAP) POLICIES (BPD-491-P)

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395ss

CFR Citation: 42 CFR 403.200; 42 CFR 403.206; 42 CFR 403.210; 42 CFR 403.215 to 403.217; 42 CFR 403.220; 42 CFR 403.222; 42 CFR 403.232; 42 CFR 403.239; 42 CFR 403.250 to 403.258

Legal Deadline: None

Abstract: This rule would organize and codify in regulations the statutory changes to Medigap provisions make in 1987, 1988, 1989, and 1990. It will contain specific procedures for review of State regulatory plans (and individual policies) as required in the Omnibus Budget Reconciliation Act of 1990. These procedures are needed to permit Medigap insurance sales to continue uninterrupted as the program phases in during 1992 and 1993. The new standards were enacted by OBRA '87, and '90, the Medicare Catastrophic Coverage Act of 1988 and the Medicare Catastrophic Coverage Repeal Act of 1989.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

TIMETABLE: Under development.

Agency Contact: Thomas E. Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-4607

RIN: 0938–AD82

1156. CLARIFICATION OF "WITHOUT FAULT" AS IT APPLIES TO PHYSICIAN PROVIDER AND SUPPLIER LIABILITY (BPD-719-P)

Legal Authority: 42 USC 1395gg

CFR Citation: 42 CFR 405.350; 42 CFR 405.355; 42 CFR 405.356; 42 CFR 405.360; 20 CFR 404.506 to 510

Legal Deadline: None

Abstract: This proposed rule would amend the Medicare regulations to clarify our interpretation of "without fault" as it applies to physician, provider, supplier and beneficiary liability for overpayments. This definition would result in greater uniformity of determinations by carriers and intermediaries. Additionally, this proposed rule would incorporate pertinent SSA regulations located at 20 CFR 404.506 - 404.510.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul Olenick, Director, Division of Medicare Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-4472

RIN: 0938–AD95

1157. PROTECTION OF INCOME AND RESOURCES FOR COMMUNITY SPOUSE (MB-23-P)

Legal Authority: 42 USC 1302; 42 USC 1396r-5

CFR Citation: 42 CFR 435.630; 42 CFR 435.632; 42 CFR 435.634; 42 CFR 435.636; 42 CFR 435.638; 42 CFR 435.640; 42 CFR 435.642; 42 CFR 435.644; 42 CFR 435.646; 42 CFR 435.648

Legal Deadline: None

Abstract: These regulations would interpret section 303(a) of the Medicare Catastrophic Coverage Act of 1988, as amended by section 608(d)(16)(A) of the Family Support Act (PL 100-485), section 6411(e)(3) of OBRA '89, and section 4714 of OBRA '90. Section 303(a) allocates income and resources between a spouse who is institutionalized and the spouse remaining in the community. It also provides special post-eligibility rules for institutionalized individuals who have spouses in the community. The revision would allow the community spouse to retain more income to meet living expenses.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 323, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-4451

RIN: 0938–AE12

1158. PHYSICIAN CERTIFICATION AND PLAN OF CARE REQUIREMENTS AND INSPECTION OF CARE REVIEWS (HSQ-178-P)

Legal Authority: 42 USC 1302; 42 USC 1396b(g); 42 USC 1396a(a)(30); 42 USC 1396a(e)(44)

CFR Citation: 42 CFR 400; 42 CFR 440; 42 CFR 441; 42 CFR 456; 42 CFR 483

Legal Deadline: None

Abstract: This proposed rule would make the requirements for physician certification and development of a plan of care general State plan requirements. States would no longer be required to make quarterly showings that they had determined compliance with those requirements or with utilization review. A quarterly demonstration to the Secretary of an effective program of medical review as demonstrated by a satisfactory utilization control program would be limited to Inspections of Care (IOCs) in participating Intermediate Care Facilities/Mentally Retarded (ICFs/MR) and psychiatric hospitals. This rule will establish review criteria specifically for ICFs/MRs that ensure essential client protections and focus on the provision of active treatment. This rule will also clarify utilization control requirements included in 42 CFR part 456, Subpart S.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Emanuel, Utilization Control Branch, Division of Long Term Care Services, Department of Health and Human Services, Health Care Financing Administration, 2-D-2, ME, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-5927

RIN: 0938–AE17

1159. HMO ORGANIZATIONAL STRUCTURE AND SERVICES (OCC-019-P)

Significance: Regulatory Program

Legal Authority: 42 USC 300e(a); 42 USC 300e(b)(1); 42 USC 300e(b)(3)(A)

CFR Citation: 42 CFR 417.100; 42 CFR 417.101; 42 CFR 417.103; 42 CFR 417.104; 42 CFR 417.107

Legal Deadline: None

Abstract: This regulation would provide organizations which operate health maintenance organizations (HMOs) which are federally qualified under Title XIII of the Public Health Service Act with greater flexibility in operating other health benefit plans. It would also authorize, with certain limitations, qualified HMOs to offer out-of-plan physician services and require a reasonable deductible for those services. It would permit the HMO to use assets of the parent organization to meet fiscal soundness and insolvency protection requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maureen Miller, Analyst, Office of Coordinated Care Policy and Planning, Department of Health and Human Services, Health Care Financing Administration, Room 4360, Cohen Bldg., 330 Independence Avenue SW., Washington, DC 20201, 202 619-0129

RIN: 0938–AE25

1160. MEDICAID PAYMENT OF MEDICARE COST SHARING FOR QUALIFIED MEDICARE BENEFICIARIES AND QUALIFIED DISABLED WORKERS (MB-031-P)

Legal Authority: 42 USC 1396a(a)(10)(E); Clause VIII of the matter following 42 USC 1396a(a)(10)(F); 42 USC 1396a(e)(8); 42 USC 1396a(nj(4); 42 USC 1396a(n); 42 USC 1396b(f)(4); 42 USC 1396d(a); 42 USC 1396d(p); 42 USC 1302

CFR Citation: 42 CFR 431.625; 42 CFR 435; 42 CFR 436; 42 CFR 441.256; 42 CFR 447.600 to 447.620; 42 CFR 447.51; 42 CFR 447.53

Legal Deadline: None

Abstract: These rules would propose to require States to include in their State plans payment of Medicare cost-sharing for low income Medicare beneficiaries, Qualified Medicare Beneficiaries (QMB) and Qualified Disabled and Working Individuals (QDWI). The territories have the option to do the same. We would define cost-sharing, specify criteria for determining QMB status, propose requirements and options for payment amounts and limitations, and provide for Federal financial participation in State payments for Medicare cost-sharing on behalf of QMBs. For QDWIs Federal financial participation would be limited to Medicare, Part A premium. The changes would implement provisions of the Medicare Catastrophic Coverage Act of 1988 as modified by the Family Support Act of 1988, the Technical and Miscellaneous Revenue Act of 1988, the Omnibus Budget Reconciliation Act of 1989, and the Omnibus Budget Reconciliation Act of 1990. These provisions went into effect January 1, 1989.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 323, EHR, 6325 Security Blvd., Baltimore, MD 21207, 410 966-4451

RIN: 0938–AE38

1161. HOSPITAL STANDARD FOR HIV INFECTIOUS BLOOD (BPD-633-P)

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395x(e)(9)

CFR Citation: 42 CFR 482

Legal Deadline: None

Abstract: This proposed rule would require hospitals or blood banks providing services to hospitals to notify either each recipient or each recipient's physician when potentially HIV infectious blood has been administered, and to offer each recipient counseling and testing. This rule implements a recommendation of the President s Commission on AIDS.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

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Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Blvd, Baltimore, MD 21207, **410 966-4607**

RIN: 0938–AE40

1162. EXTENDED MEDICAID ELIGIBILITY FOR CERTAIN INDIVIDUALS (MB-026-P)

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1396r-6; 42 USC 1396r(b)

CFR Citation: 42 CFR 435; 42 CFR 436; 42 CFR 440; 42 CFR 447

Legal Deadline: None

Abstract: This regulation would revise current regulations to reflect that participants in work supplement programs are deemed to be AFDC recipients under the State plan and make Medicaid eligibility mandatory for those individuals; to provide extended Medicaid benefits to certain families when they become ineligible for AFDC solely because of increased earnings from, or hours of, employment; and to revise certain conditions of eligibility that minor parents and pregnant minors must meet before receiving Medicaid benefits.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Marinos Svolos, Director, Division of Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 323 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4451**

RIN: 0938–AE51

1163. POST CONTRACT BENEFICIARY PROTECTIONS AND OTHER PROVISIONS (OCC-011-P)

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395mm

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This rule would provide Medicare beneficiaries with certain coverage for pre-existing conditions under supplemental insurance after non-renewal or termination of a Medicare HMO or CMP contract; provide a 30-day open enrollment period for individuals who would otherwise lose prepaid Medicare coverage as a result of termination, non-renewal or reduction in service area of a contract; extend the deadline for risk contracting HMOs and CMPs to submit adjusted community rate proposals, require all HMOs and CMPs to furnish a copy of an executed enrollment application form to Medicare applicants, and require HCPPs to meet same application procedures as HMOs and CMPs.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tracy Jensen, Office of Coordinated Care Policy and Planning, Department of Health and Human Services, Health Care Financing Administration, Room 4360 Cohen Building, 330 Independence Ave. SW., Washington, DC 20201, **202 619-2158**

RIN: 0938–AE63

1164. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT (EPSDT) SERVICES (MB-28-P)

Significance: Regulatory Program

Legal Authority: 42 USC 1396a(a)(43); 42 USC 1396d(r), 42 USC 1302

CFR Citation: 42 CFR 441.50; 42 CFR 440.40

Legal Deadline: None

Abstract: Section 6403 of the Omnibus Budget Reconciliation Act of 1989 defines in new section 1905(r) of the Social Security Act the following EPSDT services: screening services, vision services, dental services and hearing services. It also extends EPSDT services to include such other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) of the Act to correct or ameliorate defects and illnesses and conditions discovered by the screening services whether or not the services are covered under the State plan. Section 6403 also amended section 1902(a)(43) of the Act to require States to report to the Secretary certain information about EPSDT services provided under the plan during each fiscal year. This rule would set forth requirements to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Robert Wardwell, Director, Division of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 400, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-5659**

RIN: 0938–AE72

1165. COST REPORT SETTLEMENT ADJUSTMENT FACTOR FOR SKILLED NURSING FACILITIES AND HOME HEALTH AGENCIES (BPD-702-P)

Legal Authority: PL 101-239, Sec 6024; 42 USC 1395 yy note

CFR Citation: 42 CFR 413.3(b)(2)

Legal Deadline: None

Abstract: Section 6024 of PL 101-239 required the Secretary to update the skilled nursing facility (SNF) cost limits effective for cost reporting periods beginning on or after October 1, 1989 in accordance with regulations that require the use of cost reports submitted by SNFs for cost reporting periods beginning not earlier than October 1, 1985. Many of the cost reports that HCFA uses to update limits on SNFs' costs are "as submitted" and therefore not "settled." Since using only "settled" cost reports is not always feasible, due to the lengthy time needed to receive and audit cost report data, HCFA is proposing that the adjustment factor be applied uniformly to all "as submitted" cost reports, contained on the SNF data base and the home health agency data used to establish future cost limits to adjust for the overstatement of costs that occurs in those reports. This rule sets forth the proposed adjustment factors and the methodology used to complete the factors.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5, ELR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4513**

RIN: 0938–AE87

1166. COVERAGE OF SCREENING PAP SMEARS (BPD-705-P)

Legal Authority: 42 USC 1395x(s)(14); 42 USC 1395x(nn)

CFR Citation: 42 CFR 410.10; 42 CFR 411.15; 42 CFR 410.56

Legal Deadline: None

Abstract: This rule would establish regulations under section 6115 of the Omnibus Budget Reconciliation Act of 1989 to govern Medicare Part B coverage of screening pap smears and related medically necessary services (including a physician's interpretation of the test results) provided to a woman for the early detection of cervical cancer.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: William Larson, Program Analyst, Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4639**

RIN: 0938–AE98

1167. MEDICARE COVERAGE AND PAYMENT OF CLINICAL PSYCHOLOGIST, OTHER PSYCHOLOGIST, AND CLINICAL SOCIAL WORKER SERVICES - MEDICARE (BPD-706-P)

Significance: Agency Priority

Legal Authority: 42 USC 1395l(c); 42 USC 1395x(hh)(2); 42 USC 1395x(ii)

CFR Citation: 42 CFR 410; 42 CFR 417; 42 CFR 424

Legal Deadline: None

Abstract: This rule would address provisions of section 6113 of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89) and section 4157 of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90). Section 6113 of OBRA '89 provides coverage for the services of clinical psychologists (CPs) and clinical social workers. It requires CPs to agree to consult with the patient's primary care or attending physician. Also, it eliminates the dollar limitation that previously applied to mental health services although the 62.5 percent limitation still applies. OBRA '89 also provides coverage for clinical social worker services, but places two limitations on separate payment, which apply to services provided to inpatients of hospitals and skilled nursing facilities that are Medicare participating. Section 4157 of OBRA '90 unbundled CP services from the definition of "inpatient hospital services."

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Regina Walker, Program Analyst, Office of Coverage & Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-6735**

RIN: 0938–AE99

1168. COVERAGE OF PHYSICIAN ASSISTANT, NURSE PRACTITIONER, AND CLINICAL NURSE SPECIALIST SERVICES (BPD-708-P)

Legal Authority: 42 USC 1395x(s)(2)(K); 42 USC 1395u(b)(12); 42 USC 1395x(aa)

CFR Citation: 42 CFR 405; 42 CFR 410

Legal Deadline: None

Abstract: This proposed rule would conform Medicare regulations to the provisions in sections 9338 of the Omnibus Budget Reconciliation Act of 1986, 4076(a) of the Omnibus Budget Reconciliation Act of 1987, 6114 of the Omnibus Budget Reconciliation Act of 1989, and 4155 of the Omnibus Budget Reconciliation Act of 1990. These sections amended portions of the Social Security Act (the Act) concerning the coverage of and payment for certain services described in section 1861(s)(2)(K) of the Act that are performed by physician assistants, nurse practitioners, and clinical nurse specialists.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Larson, Program Analyst, Office of Coverage & Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4639**

RIN: 0938–AF00

1169. UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATIONS (PROS): CONFIDENTIAL INFORMATION (HSQ-190-P)

Legal Authority: 42 USC 1320c-9; 42 USC 1302

CFR Citation: 42 CFR 476

Legal Deadline: None

Abstract: This rule would revise existing regulations to clarify which PRO information is considered confidential, to whom confidential information may be disclosed, and the conditions for disclosure.

Timetable:

Action	Date	FR Cite
NPRM	04/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harvey Brook, Office of Peer Review, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2, ME Bldg., 6325 Security Blvd., Baltimore, MD 21207, **410 966-6853**

RIN: 0938–AF03

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1170. CASE MANAGEMENT (MB-27-P)

Legal Authority: 42 USC 1396d; 42 USC 1396n; 42 USC 1302

CFR Citation: 42 CFR 431.51(c); 42 CFR 440.190; 42 CFR 440.250; 42 CFR 441.10; 42 CFR 441.18; 42 CFR 447.327; 42 CFR 431.54

Legal Deadline: None

Abstract: This rule would place in our regulations provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, the Omnibus Budget Reconciliation Act of 1986, the Tax Reform Act of 1986, the Technical Miscellaneous Revenue Act of 1988, and the Omnibus Budget Reconciliation Act of 1987 dealing with case management services. These regulations would provide for optimal Medicaid coverage of case management services furnished to specific groups in specific geographic areas or political subdivisions within a State.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Robert Wardwell, Director, Division of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 400, EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-5659**

RIN: 0938–AF07

1171. DAY HABILITATION AND RELATED SERVICES (MB-37-P)

Legal Authority: PL 101-239, Sec 6411(g)

CFR Citation: 42 CFR 440

Legal Deadline: None

Abstract: Section 6411(g) of the Omnibus Budget Reconciliation Act of 1989 prohibits disallowance on day habilitation services included in State plans which were approved on or before June 30, 1989. This prohibition will continue until clarifying regulations are promulgated. This rule would specify the types of day habilitation and related services that a State may cover under paragraph (9) or (13) of section 1905(a) of the Social Security Act on behalf of persons with mental retardation or with related conditions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Wardwell, Director, Division of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 400, EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-5659**

RIN: 0938–AF10

1172. MEDICAID THIRD PARTY LIABILITY: COST EFFECTIVENESS WAIVERS (MB-39-P)

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(25)

CFR Citation: 42 CFR 433.138; 42 CFR 433.139

Legal Deadline: None

Abstract: This rule would provide States with the opportunity to request waivers of certain third party liability requirements if the State has more cost effective methods than those required to be used under current regulations. These requirements relate to methods and procedures for determining liability of third parties to pay for services furnished under Medicaid and for paying claims. The waivers would apply to administratively imposed requirements, not statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information:

TIMETABLE: Pending resolution of complex issues.

This entry was erroneously omitted from the October 1992 edition of the Unified Agenda.

Agency Contact: Richard Friedman, Director, Division of Payment Systems, Department of Health and Human Services, Health Care Financing Administration, 273, EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-3292**

RIN: 0938–AF11

1173. OBRA '90 AND MISCELLANEOUS MANAGED CARE TECHNICAL AMENDMENTS (MB-044-P)

Legal Authority: 42 USC 1396b(m); 42 USC 1396a(e)(2)(A); 42 USC 1302

CFR Citation: 42 CFR 434.21 to 44; 42 CFR 447.361; 42 CFR 447.362

Legal Deadline: None

Abstract: This rule would require certain health insuring organizations to be subject to the regulations governing prepaid health plans. This proposed rule would also allow State-only funds to be paid to Medicaid contracting entities. These funds would not be considered when computing the rate at which Federal financial participation is made. This rule would also incorporate several technical amendments from section 4732 of OBRA '90.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Mary Dewane, Director, Medicaid Coordinated Care Office, Department of Health and Human Services, Health Care Financing Administration, Room 233, ELR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-9507**

RIN: 0938–AF15

1174. CRITERIA FOR THE DETERMINATION OF REASONABLE COSTS FOR MEDICARE - CONTRACTING PREPAID HEALTH PLANS (OCC-018-P)

Significance: Agency Priority

Legal Authority: 42 USC 1395mm(h); 42 USC 1395x(v)(1)(A); 42 USC 1302

CFR Citation: 42 CFR 417.532(a)(3); 42 CFR 417.802; 42 CFR 417.800(c)

Legal Deadline: None

Abstract: This rule would remove the absolute payment limit that is to be applied to Prepaid Health Organizations' cost contracts under section 1876 of the Social Security Act. This regulation would also set forth the revised criteria that HCFA will use in determining claimed costs that are reasonable and therefore reimbursable for prepaid health organizations with cost contracts under section 1876 and agreements under section 1833

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jennifer Messersmith, Program Analyst, Office of Coordinated Care Policy and Planning, Department of Health and Human Services, Health Care Financing Administration, 4360 Cohen Bldg., 330 Independence Ave. SW., Washington, DC 20201, **202 401-2325**

RIN: 0938–AF16

1175. PROVIDER REIMBURSEMENT DETERMINATIONS AND APPEALS REVISIONS (BPD-727-P)

Legal Authority: 42 USC 1395oo

CFR Citation: 42 CFR 405 Subpart R

Legal Deadline: None

Abstract: This regulation would update and clarify regulations governing the Provider Reimbursement Review Board and would deal with such issues as the prospective payment system, jurisdiction of the Board, time periods for filing appeals, and define more specifically "good cause" for late filings.

Timetable:

Action	Date	FR Cite
NPRM	02/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Paul Olenick, Director, Division of Medicare & Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4472**

RIN: 0938–AF28

1176. ALTERNATIVE SANCTIONS FOR PSYCHIATRIC HOSPITALS (HSQ-191-P)

Legal Authority: 42 USC 1395cc; 42 USC 1396a; 42 USC 1302

CFR Citation: 42 CFR 488

Legal Deadline: None

Abstract: These regulations would provide an alternative to terminating a psychiatric hospital's participation in the Medicare and Medicaid programs for facilities found to be out of compliance with participation requirements. These alternative sanctions could be imposed instead of terminating a psychiatric hospital's participation in the Medicare and Medicaid programs where deficiencies do not present immediate jeopardy to the health and safety of psychiatric hospital patients.

These amendments are necessary to conform HCFA regulations to changes made by section 6020 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239) and section 4755 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508).

The purpose of the legislation is to encourage correction of deficiencies that do not jeopardize patient health and safety before termination becomes necessary.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Irene Gibson, Director, Division of Program Operations, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2, ME, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-6768**

RIN: 0938–AF32

1177. MEDICARE, MEDICAID AND CLIA PROGRAMS: INSPECTION AND CERTIFICATION PROCEDURES FOR LABORATORIES (HSQ-193-P)

Legal Authority: 42 USC 1395w-2; 42 USC 263a; 42 USC 1302

CFR Citation: 42 CFR 493

Legal Deadline: None

Abstract: This rule would implement procedures for States to follow in inspecting and certifying laboratories under the Clinical Laboratory Improvement Amendments of 1988, Pub L. 100-578. This rule is needed to carry out the authority of the Department of Health and Human Services to inspect laboratories, as mandated by section 353(g) of the Public Health Service Act, and to take enforcement actions as authorized by section 353(h) and (i) of the Public Health Services Act and section 1846 of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Irene Gibson, Director, Division of Program Operations, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 ME, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-6768**

RIN: 0938–AF33

1178. CONTINUATION OF FFP FOLLOWING LOOK BEHIND TERMINATIONS (HSQ-194-P)

Legal Authority: 42 USC 1302; 42 USC 1396b

CFR Citation: 42 CFR 441.11; 42 CFR 442.40

Legal Deadline: None

Abstract: This proposal would establish in our rules the conditions under which we make matching payments to States (FFP) following Federal termination of an intermediate

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care facility for the mentally retarded under HCFA's "look behind" authority and a nursing facility under HCFA's validation authority. Without these rules, it is possible that incorrect payments may be claimed by States.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Irene Gibson, Director, Division of Program Operations, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2, ME, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-6768**

RIN: 0938–AF34

1179. PREADMISSION REVIEW AND AUTHORIZATION, OUTPATIENT SURGERY, PREADMISSION DIAGNOSTIC TESTING AND SAME DAY SURGERY UNDER MEDICAID (MB-021P)

Legal Authority: 42 USC 1302; 42 USC 1396(a)(30)(A)

CFR Citation: 42 CFR 431

Legal Deadline: None

Abstract: This rule would amend current Medicaid rules to require that State Medicaid plans include programs requiring preadmission review and approval for selected surgical procedures and medical treatment; identify surgical procedures that can be safely performed on an ambulatory basis; require diagnostic testing prior to admission; and schedule hospital admission on the same day as surgery.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information:

TIMETABLE: Pending issuance of statutorily mandated Report to Congres

Agency Contact: Robert Wardwell, Director, Division of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 400, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-5659**

RIN: 0938–AF35

1180. MEDICAID QUALIFYING TRUSTS (MB-011-P)

Legal Authority: 42 USC 1302; 42 USC 1396a(k)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This rule would implement section 1902(k) of the Social Security Act by defining Medicaid Qualifying Trusts (MQT); establishing rules for counting as available income or resources the maximum amount that could be paid to or on behalf of a Medicaid applicant or recipient from the body of the MQT, from income to the trust, or from both; and permitting States to waive the application of the rule in situations in which its application would result in undue hardships.

The purpose of the rule is to prevent individuals who have sufficient income and resources to pay for medical care from sheltering that income and resources through MQTs so that they can then become eligible for Medicaid.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 323, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4451**

RIN: 0938–AF61

1181. MEDICAID PAYMENT FOR OBSTETRICAL AND PEDIATRIC SERVICES—ADEQUATE PAYMENT LEVEL PROVISION (MB-036-P)

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(30)(A); 42 USC 1396a(s); 42 USC 1396r-7

CFR Citation: 42 CFR 430.12; 42 CFR 430.16; 42 CFR 447.204; 42 CFR 447.300; 42 CFR 447.301; 42 CFR 447.393; 42 CFR 447.397

Legal Deadline: None

Abstract: This rule would implement section 1902(a)(30)(A) of the Social Security Act, which requires that Medicaid payment rates be established at a level to ensure access to services for Medicaid recipients is at least equal to the access available to the general population in the geographic area. It would also implement section 1926 of the Social Security Act by establishing State plan requirements concerning obstetrical and pediatric services.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Bernard Truffer, Director, Division of Payment Policy, Department of Health and Human Services, Health Care Financing Administration, Room 291 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-0691**

RIN: 0938–AF62

1182. REQUIREMENTS FOR ENROLLMENT OF MEDICAID RECIPIENTS UNDER COST EFFECTIVE EMPLOYER BASED GROUP HEALTH PLANS (MB-047-P)

Significance: Agency Priority

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396a(u)(l); 42 USC 1396d(a); 42 USC 1396a(a)(25); 42 USC 1396a(e); 42 USC 1396e; 42 USC 1302

CFR Citation: 42 CFR 435.2; 42 CFR 435.3; 42 CFR 435.10; 42 CFR 435.186; 42 CFR 435.188

Legal Deadline: None

Abstract: This rule would amend our regulations to provide for continuation of payment of health insurance premiums for individuals who are entitled to elect COBRA continuation coverage under a group health plan provided by an employer with 75 or more employees; require Medicaid recipients to apply for enrollment in employer-based cost effective group health plans as a condition of Medicaid eligibility; require State agencies to pay for premiums, deductibles, coinsurances and other cost sharing obligations under employer-based cost effective group health plans, and define "COBRA continuation coverage" and "COBRA beneficiaries." (COBRA refers to the Consolidated Omnibus Reconciliation Act of 1985, Pub. L. 99-272.)

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 323 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4451**

RIN: 0938–AF64

1183. REFERRAL TO CHILD SUPPORT ENFORCEMENT AGENCIES OF MEDICAID FAMILIES WITH AN ABSENT PARENT (MB-051-P)

Legal Authority: 42 USC 1396k; 42 USC 1302

CFR Citation: 42 CFR 433.160

Legal Deadline: None

Abstract: This rule would require State Medicaid agencies to refer Medicaid families with an absent parent to child support enforcement (CSE) agencies. Section 9142 of the Omnibus Budget Reconciliation Act of 1987 required CSE agencies to provide all CSE services to such Medicaid families who have assigned to the State their rights to medical support. The purpose of these rules is to require States to make this referral to State CSE agencies to ensure that those recipients requiring CSE services receive them.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marinos Svolos, Director, Division of Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 323 EHR, 6325 Security Boulevard, Baltimore, MD 21207, **410 966-4451**

RIN: 0938–AF68

1184. CLARIFICATION OF COVERAGE OF INPATIENT PSYCHIATRIC SERVICES (MB-060-P)

Legal Authority: 42 USC 1396d(h)(l)(A); 42 USC 1302

CFR Citation: 42 CFR 440; 42 CFR 441

Legal Deadline: None

Abstract: This rule would establish settings, other than psychiatric hospitals, in which inpatient psychiatric services may be covered under State Medicaid plans. It would implement section 4755(a)(1) of the Omnibus Budget Reconciliation Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Robert Wardwell, Director, Division of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 400 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-5659**

RIN: 0938–AF73

1185. NATIONAL COVERAGE DECISIONS: RULES FOR RISK CONTRACTING HMOS AND CMPS (BPD-732-P)

Legal Authority: 42 USC 1395mm(c)(2)

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: Under this rule, Health Maintenance Organizations (HMOs) and Competitive Medical Plans (CMPs) that have entered into risk contracts with HCFA would no longer be required to absorb the expense of furnishing to its Medicare enrollees any new or additional Medicare benefit that is the subject of a national coverage decision, which the Secretary projects will result in a significant change in the organization's costs, if the cost of the benefit is not reflected in the monthly per capita payments paid by Medicare. This rule implements section 4204(c) of the Omnibus Budget Reconciliation Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joanne Sinsheimer, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4620**

RIN: 0938–AF76

1186. PART B ADVANCE PAYMENTS TO PHYSICIANS/SUPPLIERS OR OTHER ENTITIES FURNISHING ITEMS OR SERVICES UNDER MEDICARE PART B (BPO-105-P)

Significance: Agency Priority

Legal Authority: 42 USC 1395u(c)

CFR Citation: 42 CFR 421.212

Legal Deadline: None

Abstract: This rule would amend Medicare regulations to provide advance payment to physicians, suppliers, or entities that furnish items or services under Medicare Part B. These payments could be made only when claims processing is so delayed that interest payments alone are insufficient to adequately compensate the provider, in light of cash flow needs. This change is intended to result in more efficient and economical administration of the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Jim O'Shea, Program Analyst, Division of Account Management & Collection, Department of Health and Human Services, Health Care Financing Administration, Room 1-E-6, ME Building, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-7521**

RIN: 0938–AF65

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1187. • FEDERALLY QUALIFIED HEALTH CENTER SERVICES (MEDICAID) (MB-043-P)

Legal Authority: 42 USC 1396a(a)(13); 42 USC 1396b(m); 42 USC 1396d(l); 42 USC 1396n(b)

CFR Citation: 42 CFR 440; 42 CFR 447

Legal Deadline: None

Abstract: These regulations would establish a new category of facility known as a federally Qualified Health Center (FQHC), the services of which would be covered under the Medicaid program. This new type of facility includes community health centers, migrant health centers and health care for the homeless programs, which are receiving or are eligible to receive certain grants from the Public Health Service, and health programs or facilities operated by an Indian tribe or tribal organization. These regulations would establish requirements for coverage and payment of FQHC services under the Medicaid program. These regulations would implement section 6404 of OBRA '89 (Pub. L. 101-239) and section 4704 of OBRA '90 (Pub. L. 101-508).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

TIMETABLE: Pending resolution of complex policy and operational issues.

Agency Contact: Bernard Truffer, Director, Division of Payment Policy, Department of Health and Human Services, Health Care Financing Administration, Room 291, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4576**

RIN: 0938–AF90

1188. MINIMUM PHYSICIAN QUALIFICATIONS FOR CERTAIN SERVICES (MB-059-P)

Legal Authority: 42 USC 1396b(i)

CFR Citation: 42 CFR 441

Legal Deadline: None

Abstract: This rule would establish qualifications that physicians must meet as a condition for payment under Medicaid for services furnished to children under 21 and to pregnant women (and women during the 60 days following termination of pregnancy). Section 4752(e) of Pub. L. 101-508 establishes these requirements for services furnished on or after January 1, 1992. The regulation and legislation are intended to assure that high quality services are furnished to women and children.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Bob Wardwell, Director, Division of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 400, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-5659**

RIN: 0938–AF92

1189. REVISIONS TO RULES ON HEALTH CARE PREPAYMENT PLANS - USER FEES (OCC-032-P)

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395l; 31 USC 9701

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This regulation would impose a one-time user fee on those organizations seeking to qualify as health care prepayment plans. It would also require health care prepayment plans to specify the geographic service area in which it provides services and to ensure that medical services are available throughout that area. Finally, it would require the health care prepayment plan to inform Medicare beneficiaries of which Part B services it provides.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jean LeMasurier, Office of Coordinated Care Policy and Planning, Department of Health and Human Services, Health Care Financing Administration, Room 4360, Cohen Building, 330 Independence Avenue SW., Washington, DC 20201, **202 205-0553**

RIN: 0938–AF97

1190. RETROACTIVE ENROLLMENT (OCC-031-P)

Legal Authority: 42 USC 1395mm; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This regulation would allow retroactive enrollment of up to 90 days for individuals enrolling with an eligible organization (which has a risk-sharing contract under section 1876 of the Social Security Act) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer (or the employer or former employer of the individual's spouse). The regulation would implement section 4204(e) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tracy Jenseno, Div. of Coordinated Care Policy & Evaluation, Office of Coordinated Care Policy & Planning, Department of Health and Human Services, Health Care Financing Administration, Room 4360, Cohen Building, 330 Independence Avenue SW., Washington, DC 20201, **202 619-2158**

RIN: 0938–AF98

1191. MEDICARE PROGRAM: COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES (BPD-496-P)

Legal Authority: 42 USC 1395k(a)(2)(B)(iii); 42 USC 1395l(a)(1)(K); 42 USC 1395x(s)(2)(L); 42 USC 1395x(gg)

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 491

Legal Deadline: None

Abstract: This rule would specify that Medicare Part B Coverage includes the services of a certified nurse-midwife furnished independent of the supervision of a physician (if that practice is allowed under the State law of the State in which the service is furnished). Section 4073 of the Omnibus Budget Reconciliation Act of 1987, as amended by Section 411(h)(4) of the Medicare Catastrophic Coverage Act of 1988 established separate Medicare Part B coverage of certified nurse-midwife services furnished after June 30, 1988.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: David Higbee, Chief, Medical Services Branch, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, Rm. 437, EHR, 6325 Security Boulevard, Baltimore, MD 21207-5187, **410 966-4636**

RIN: 0938–AG02

1192. CHANGE IN PROVIDER AGREEMENT REGULATIONS RELATED TO FEDERAL EMPLOYEE HEALTH BENEFITS (BPD-748-P)

Legal Authority: 5 USC 8904(b)

CFR Citation: 42 CFR 489

Legal Deadline: None

Abstract: Existing Medicare conditions of participation and provider agreements do not require that hospitals accept the Medicare Prospective Payment System (PPS) rate as payment in full when issued by a Federal Employee Health Benefit (FEHB) plan for an enrollee not entitled to Medicare Part A. Section 7002(f) of Pub. L. 101-508 requires that FEHB plans limit their inpatient payment for retired FEHB enrollees who are age 65 and older, but who are not entitled to receive hospital insurance benefits under Medicare, to rates that would have been paid by Medicare under PPS. It also requires the Secretary to consider termination of the Medicare provider agreement when a hospital knowingly and willfully attempts to collect, on a repeated basis, from the patient the difference between the Medicare payment rates and the hospital's charge, less any deductible or coinsurance obligation. This rule will bring our regulations into accord with 5 USC 8904(b).

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Tom Hoyer, Director, Division of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 401 EHR, 6325 Security Boulevard, Baltimore, MD 21207, **410 966-4607**

RIN: 0938–AG03

1193. PAYMENT FOR EXTRACORPOREAL SHOCK WAVE LITHOTRIPSY SERVICES FURNISHED BY AMBULATORY SURGICAL CENTERS (BPD-762-PN)

Significance: Agency Priority

Legal Authority: 42 USC 1395l(i)(2)

CFR Citation: 42 CFR 416.120; 42 CFR 416.125; 42 CFR 416.130

Legal Deadline: None

Abstract: This proposed notice complies with the court order by the U.S. District Court for the District of Columbia on March 12, 1992, in The American Lithotripsy Society v. Louis W. Sullivan, M.D. The court order stays implementation of the Medicare payment rate announced on December 31, 1991 (56 FR 67666) for Extracorporeal Shock Wave Lithotripsy Services furnished in Medicare Participating Ambulatory Surgical Centers and use of the payment rate in determining the Medicare allowance in hospital out- patient departments until the Secretary publishes certain information relevant to the setting of the Extracorporeal Shock Wave Lithotripsy Rate, receives comments, and publishes a final notice.

Timetable:

Action	Date	FR Cite
Proposed Notice	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernadette Schumaker, Director, Division of Special Payment Programs, Department of Health and Human Services, Health Care Financing Administration, Room 1-A-5, ELR, 6325 Security Boulevard, Baltimore, MD 21207-5187, **410 966-4567**

RIN: 0938–AG04

1194. CONDITIONS OF PARTICIPATION FOR RURAL HEALTH CLINICS (BPD-764-P)

Legal Authority: PL 101-203, sec 4077(a); PL 100-203, sec 6113; PL 101-239, sec 6213; PL 101-508, sec 4067; PL 101-508, sec 4161(b); PL 101-508, sec 4155(d)

CFR Citation: 42 CFR 405 subpart X; 42 CFR 491 subpart A

Legal Deadline: None

Abstract: This rule would update our regulations to incorporate several health care coverage and payment provisions contained in Public Laws 100-203, 101-239, and 101-508 (the Omnibus Budget Reconciliation Acts of 1987, 1989 and 1990).

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacqueline Sheridan, Chief, Alternative Delivery Organizations Branch, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Boulevard, Baltimore, MD 21207, **410 966-4635**

RIN: 0938–AG05

1195. INTERMEDIARY AND CARRIER FUNCTIONS (BPO-111-P)

Legal Authority: 42 USC 1395h; 42 USC 1395u

CFR Citation: 42 CFR 421.100; 42 CFR 421.200

Legal Deadline: None

Abstract: Current regulations list functions that intermediaries and carriers must perform. All intermediaries and all carriers must perform all the enumerated functions. This rule would change the regulations to bring them into greater conformance with the Medicare statute, which gives the Health Care Financing Administration flexibility to move some

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functions from one contractor to another to reduce inefficiency, lower cost or achieve better program administration.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Alan Bromberg, Program Analyst, Div. of Contractor Planning & Managemt, BPO, Department of Health and Human Services, Health Care Financing Administration, 3-F-1 ME Building, 6325 Security Boulevard, Baltimore, MD 21207, 410 966-7441

RIN: 0938–AG06

1196. MEDICARE SECONDARY PAYER: MULTIEMPLOYER PLAN EXCEPTION (BPO-113-P)

Legal Authority: 42 USC 1395y(b)

CFR Citation: 42 CFR 411.72; 42 CFR 411.73

Legal Deadline: None

Abstract: This rule would set forth the procedures that must be followed by a multiemployer group health plan in order to have employees of employers of fewer than 20 employees exempted from the Medicare Secondary Payer (MSP) provisions. Medicare would be primary payer for employees exempted from the MSP provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Herbert Shankroff, Chief, State and Contractor Liaison Branch, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, Room 368, ME Bldg., 6325 Security Boulevard, Baltimore, MD 21207, 410 966-7171

RIN: 0938–AG07

1197. REVISED MEDICAID MANAGEMENT INFORMATION SYSTEMS (MB-38-PN)

Legal Authority: 42 USC 1396b(r)

CFR Citation: 42 CFR 433.1; 42 CFR 431.17; 42 CFR 447.10; 42 CFR 447.45; 42 CFR 74.20; 42 CFR 74.21

Legal Deadline: None

Abstract: This notice sets forth revised general functional requirements for the Medicaid Management Information System (MMIS). The MMIS consists of software and hardware used to process Medicaid claims and to retrieve and produce utilization and management information about services that are required by the Medicaid agency or Federal Government for administrative or audit purposes. The revised requirements allow States more flexibility to exercise variations in the implementation. (Systems concepts without prescribing a particular system design or solution.)

Timetable:

Action	Date	FR Cite
Notice	04/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Richard Friedman, Director, Division of Payment Systems, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, Room 273, ELR, 6325 Security Boulevard, Baltimore, MD 21207, 410 966-3292

RIN: 0938–AG10

1198. INCOME AND ELIGIBILITY VERIFICATION SYSTEM (MB-66-P)

Legal Authority: 42 USC 1320b-7

CFR Citation: 42 CFR 435.940; 42 CFR 435.945; 42 CFR 435.948; 42 CFR 435.952; 42 CFR 435.953; 42 CFR 435.955; 42 CFR 435.960; 42 CFR 435.965

Legal Deadline: None

Abstract: This rule would amend our regulations to allow States more flexibility to limit their income and eligibility verification system date match requests to only those matches that are productive or useful. States would be required to submit plans of alternative income and eligibility verification system procedures for approval by the Health Care Financing Administration. The flexibility offered by this change would afford States the freedom to design more efficient data matches.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State

Additional Information:

TIMETABLE: Pending publication of AFDC regulation (RIN 0970-AB13).

Agency Contact: Donna Jarosinski, Program Analyst, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, Room 237, EHR, 6325 Security Boulevard, Baltimore, MD 21207, 410 966-5928

RIN: 0938–AG12

1199. MEDICAID DRUG COVERAGE: SCOPE AND LIMITATIONS (MB-67-P)

Legal Authority: 42 USC 1396a(a)(54); 42 USC 1396b(i); 42 USC 1396r-8

CFR Citation: 42 CFR 440.120; 42 CFR 441.25

Legal Deadline: None

Abstract: This rule would revise the regulations governing the coverage of prescription drugs under Medicaid to clarify coverage requirements for those prescription drugs that do not fall under the drug rebate program under section 1927 of the Social Security Act. The drug rebate program was established by section 4401 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508. The rule also would further define drug "substances" for which Federal financial participation would be available and clarify whether drugs covered under Medicaid include drug-related supplies and devices or enteral nutrition products.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Linda Sizelove, Chief, Medicaid Coverage Branch, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, Room 400, EHR, 6325 Security Boulevard, Baltimore, MD 21207, 410 966-4626

RIN: 0938–AG13

1200. USE OF FEDERALLY STANDARDIZED CLAIMS PROCESSING FORMS AND PROCEDURES (MB-069-P)

Significance: Regulatory Program

Legal Authority: 42 USC 1301

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This rule concerns the steps that HCFA intends to take to streamline Medicaid claims processing by developing and requiring the use of a universal Medicaid claims processing form, as well as electronic data transmission standards. These steps are part of a strategy developed by the Department to reduce administrative costs and burden throughout the health care system. We anticipate that the increased use of electronic claims will help reduce administrative costs by eliminating the need for burdensome paperwork and duplication of effort.

Timetable:

Action	Date	FR Cite
ANPRM	10/19/92	57 FR 47587
NPRM Comment Period End	12/18/92	57 FR 47587
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Richard Friedman, Director, Division of Payment Systems, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, Room 273, EHR, 6325 Security Boulevard, Baltimore, MD 21207, 410 966-3292

RIN: 0938–AG14

1201. • UPDATE OF EPO PAYMENT RATE FOR 1993 (BPD-768-PN)

Significance: Agency Priority

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 413.70

Legal Deadline: None

Abstract: This Notice proposes the calendar year 1993 payment rate for Human Recombinant Erythropietin (EPO), a drug used to treat anemia in patients receiving hemodialysis treatments. Section 1881(b) of the Social Security Act and our regulations at 42 CFR 413.70 require that we publish changes to the EPO rate.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernadette Schumaker, Director, Division of Special Payment Programs, Department of Health and Human Services, Health Care Financing Administration, RH 1-A-5 ELR, 6325 Security Boulevard, Baltimore, MD 21207, 410 966-4567

RIN: 0938–AG15

1202. • MEDICARE APPEALS OF INDIVIDUAL CLAIMS (BPD-453-P)

Legal Authority: 42 USC 1395ff

CFR Citation: 42 CFR 405.732; 42 CFR 405.752; 42 CFR 405.801; 42 CFR 405.837; 42 CFR 405.838; 42 CFR 405.839; 42 CFR 405.840; 42 CFR 405.871

Legal Deadline: None

Abstract: This rule would implement sections 9313(a)(1) and 9341 of P.L. 99-509. Section 9313(a)(1) permits providers, physicians or suppliers to represent beneficiaries, with certain limitations, in pursuing appeals of adverse determinations regarding claims for benefits under Medicare Part A or Part B. Section 9341 extends to Medicare Part B claimants the right to a hearing before an administrative law judge if the amount in controversy is at least $500 and to judicial review, provided the amount in controversy is at least $1,000. Section 9341 also limits the review of national coverage determinations and prohibits judicial review of any regulation or instruction, initially issued before January 1, 1981, relating to a method of determining the amount of payment under Part B.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Olenick, Director, Division of Medicare Eligibility Policy, BPD, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-4472

RIN: 0938–AG18

1203. • REVISIONS TO THE DEFINITION OF END-STAGE RENAL DISEASE AND RESUMPTION OF ENTITLEMENT (BPD-738-P)

Legal Authority: 42 USC 426-1

CFR Citation: 42 CFR 406.13

Legal Deadline: None

Abstract: This rule would revise the definition of end-stage renal disease to clarify that only those individuals whose kidneys have failed and for whom the disease is expected to be a life-long affliction are eligible for Medicare and end-stage renal disease benefits. This rule would also specify that Medicare enrollment resumes for individuals who again begin a regular course of renal dialysis treatments after a previous course is terminated (with or without kidney transplant) and include the same considerations for those who have a second transplant.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Olenick, Director, Division of Medicare Eligibility Policy, BPD, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-4472

RIN: 0938–AG19

1204. • CRITERIA FOR APPROVAL OF END STAGE RENAL DISEASE (ESRD) PAYMENT EXCEPTION REQUESTS (BPD-763-P)

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 413.170; 42 CFR 413.172; 42 CFR 413.174; 42 CFR 413.176; 42 CFR 413.178; 42 CFR 413.179; 42 CFR 413.180; 42 CFR 413.182; 42 CFR 413.184; 42 CFR 413.186; 42 CFR 413.188; 42 CFR 413.190; 42 CFR 413.192; 42 CFR 413.194; 42 CFR 413.196; ...

Legal Deadline: None

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Abstract: These regulations specify the criteria HCFA would use to determine if a facility furnishing dialysis services to patients with end stage renal disease qualifies for a higher payment under an exception to the prospectively determined payment rate.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mike Powell, Program Analyst, Division of Special Payment Policy, BPD, Department of Health and Human Services, Health Care Financing Administration, Room 1-A-5, EHR Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-4557

RIN: 0938–AG20

1205. • REVISED ASSOCIATION FOR THE ADVANCEMENT OF MEDICAL INSTRUMENTATION GUIDELINES ON REUSE OF HEMODIALYZER FILTERS FOR END-STAGE RENAL DIALYSIS PATIENTS (BPD-766-P)

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 405.2150

Legal Deadline: None

Abstract: This rule would incorporate by reference, in our regulations, the 1992 edition of the Association for the Advancement of Medical Instrumentation voluntary guidelines and standards on "Recommended Practice for Reuse of Hemodialyzers." These revised guidelines clarify certain issues and reflect current medical technology on reuse of hemodialyzer filters.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne Marie Hummel, Director, Division of Medical Services Coverage Policy, BPD, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-4637

RIN: 0938–AG21

1206. • REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE (BPD-770-P)

Legal Authority: 42 USC 1395w-4

CFR Citation: 42 CFR 414; 42 CFR 405.517

Legal Deadline: None

Abstract: The rule would revise the fee list of services to be included in the schedule for payment for physicians' services that was effective January 1, 1992, and the payment amounts for those services. The fee schedule was established by Section 5102(a) of the Omnibus Budget Reconciliation Act of 1989, as amended by the Omnibus Budget Reconciliation Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Stanley Weintraub, Chief, Physician and Practitioner Payment, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5, EHR Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-9966

RIN: 0938–AG22

1207. • CHANGES TO THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEMS AND FISCAL YEAR 1994 RATES (BPD-771-P)

Significance: Regulatory Program

Legal Authority: 42 USC 1395ww

CFR Citation: 42 CFR 412; 42 CFR 413

Legal Deadline: NPRM, Statutory, May 1, 1993. Final, Statutory, September 1, 1993.

Abstract: This rule would make revisions to the inpatient hospital prospective payment systems for operating costs and capital- related costs. It also would include changes in the methods, amounts and factors used to determine the prospective payment rates applicable to discharges occurring during FY 1994. In addition, we would set forth proposed rate-of-increase limits for hospitals and hospital units excluded from the prospective payment systems.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: Barbara Wynn, Director, Division of Hospital Payment Policy, BPD, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-1, ELR Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-4529

RIN: 0938–AG23

1208. • MEDICARE PROGRAM: PROPOSED ADDITIONS TO AND DELETIONS FROM THE CURRENT LIST OF COVERED SURGICAL PROCEDURES FOR AMBULATORY SURGICAL CENTERS (BPD-776-PN)

Legal Authority: 42 USC 1395i(1)

CFR Citation: None

Legal Deadline: None

Abstract: This notice implements section 1833(i)(1) of the Social Security Act, which requires, in part, that the list of covered ambulatory surgical center (ASC) procedures be reviewed and updated at least every 2 years. The last update was published December 31, 1991. This notice announces and solicits public comment on the specific proposed additions to and deletions from the list of surgical procedures for which facility services are covered when the procedures are performed in an ASC.

Timetable:

Action	Date	FR Cite
Proposed Notice	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jacqueline Sheridan, Chief, Alternative Delivery Organizations Branch, BPD, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-4635

RIN: 0938–AG27

1209. • MEDICARE PROGRAM: SPECIAL PAYMENT LIMITS FOR HOME BLOOD GLUCOSE MONITORS (BPD-778-PN)

Significance: Agency Priority

Legal Authority: 42 USC 1395l; 42 USC 1395u(b)

CFR Citation: None

Legal Deadline: None

Abstract: This notice would establish special payment limits for standard home blood glucose monitors, identified as code EO607 of the HCFA common procedure coding system. The notice is intended to prevent excessive payment for these items.

Timetable:

Action	Date	FR Cite
Proposed Notice	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joel Kaiser, Program Analyst, Medical Services Payment Branch, BPD, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-4499

RIN: 0938–AG28

1210. • APPOINTMENT OF REPRESENTATIVES FOR APPEAL (BPO-120-P)

Legal Authority: 42 USC 1395ff

CFR Citation: 42 CFR 405.870; 42 CFR 405.701(c)

Legal Deadline: None

Abstract: This rule would clarify current regulations concerning: who can be appointed as representatives at Medicare appeal proceedings; the appointment procedure for representatives; whether a representative may be paid for his or her services; and the representative's specific responsibilities. These changes would improve the administration of the claims appeal process.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa Vriezen, Chief Appeals Branch, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, G-E-7 Meadows East Building, 6325 SEcurity Boulevard, Baltimore, Maryland 21207, 410 966-6477

RIN: 0938–AG30

1211. • ENFORCEMENT REQUIREMENTS FOR RENAL DIALYSIS FACILITIES (HSQ-204-P)

Legal Authority: 42 USC 1395rr(h)

CFR Citation: 42 CFR 405; 42 CFR 405.2181; 42 CFR 405.2182; 42 CFR 405.2184

Legal Deadline: None

Abstract: This rule would implement section 12 of P.L. 100-93, which amended section 1881 of the Social Security Act by adding a new paragraph (h). Paragraph (h) broadens the Secretary's authority to impose alternative sanctions on suppliers of ESRD services when the noncompliance of the supplier does not immediately jeopardize patient health and safety. Alternative sanctions provide HCFA with a more flexible response to facility deficiencies short of termination.

Timetable:

Action	Date	FR Cite
NPRM	02/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Debbie Schoenemann, Chief, Survey and Certification Procedures Branch, HSQ, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-6771

RIN: 0938–AG31

1212. • COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES (MB-070-P)

Legal Authority: 42 USC 1395u

CFR Citation: 42 CFR 435.3; 42 CFR 435.260; 42 CFR 440.1; 42 CFR 440.190; 42 CFR 441.400; 42 CFR 441.402; 42 CFR 441.404; 42 CFR 441.406; 42 CFR 441.408; 42 CFR 441.410; 42 CFR 441.412; 42 CFR 441.414

Legal Deadline: None

Abstract: This rule would specify requirements that must be met in order for a State to be eligible to provide community supported living arrangements services to individuals with developmental disabilities as an optional Medicaid service.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Linda Tavener, Program Analyst, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, Room 400, EHR Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-4673

RIN: 0938–AG35

1213. • MEDICAID COVERAGE OF PERSONAL CARE SERVICES OUTSIDE THE HOME (MB-071-P)

Legal Authority: 42 USC 1396d(a)(7)

CFR Citation: 42 CFR 440.70

Legal Deadline: None

Abstract: This rule would implement the provisions of section 4721 of the Omnibus Budget Reconciliation Act of 1990 by adding personal care services to the statutory definition of home health services and providing that personal care services may be furnished in a home or other location. These statutory provisions are effective for services furnished on or after October 1, 1994.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Linda Sizelove, Chief, Medicaid Coverage Policy Branch, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, Room 400, EHR, 6325 Security Boulevard,

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Baltimore, Maryland 21207, 410 966-4626

RIN: 0938–AG36

1214. • MEDICAID COVERED OUTPATIENT DRUGS UNDER DRUG REBATE (DVA LAW) (MB-072-P)

Legal Authority: PL 102-585

CFR Citation: 42 CFR 447

Legal Deadline: None

Abstract: This rule would implement section 601 of the Veterans Health Care Act (Public Law 102-585) which amended requirements under the Social Security Act covering payment for outpatient prescription drugs under Medicaid and provisions for Medicaid drug rebates.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Estelle Chisholm, Program Analyst, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, Room 300, EHR Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 965-2048

RIN: 0938–AG37

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage

Health Care Financing Administration (HCFA)

1215. MEDICAID ELIGIBILITY AND COVERAGE REQUIREMENTS (MB-001-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1396a(a)(10), 42 USC 1302; 42 USC 1396a(f); 42 USC 1396a(a)(17); 42 USC 1396b(f)(1); 42 USC 1396d(a)

CFR Citation: 42 CFR 435, 42 CFR 436

Legal Deadline: None

Abstract: This final rule amends the regulations for determining Medicaid eligibility. The amendments implement or conform the regulations to various statutes, including the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248), the Omnibus Budget Reconciliation Act (OBRA) of 1987 (Pub. L. 100-203), the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360), OBRA '89 (Pub. L. 101-239) and OBRA '90 (Pub. L. 101-508). The amendments also make some administrative changes to clarify policy and enhance the efficient operation of the Medicaid program.

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39421
NPRM Comment Period End	11/27/89	54 FR 39421
Final Rule With Comment Period	01/19/93	58 FR 4908
Public Comment Period End	02/16/93	58 FR 4908
Effective Date Generally	08/18/93	58 FR 9120
Effective Date for Secs. 435.604, 435.606, 436.604, and 436.606	10/19/93	58 FR 9120
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information:

TIMETABLE: Pending review of complex policy issues.

Agency Contact: Marinos Svolos, Director, Division of Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 323 EHR, 6325 Security Blvd., Baltimore, MD 21207, 410 966-4451

RIN: 0938–AA58

1216. DEDUCTION OF INCURRED MEDICAL EXPENSES (SPENDDOWN) (MB-020-FC)

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(10); 42 USC 1396a(a)(17)

CFR Citation: 42 CFR 435.732; 42 CFR 435.831; 42 CFR 436.831

Legal Deadline: None

Abstract: These regulations will permit States to revise the process by which medical expenses are considered in determining Medicaid eligibility. This process applies when an individual's income level during a budget period would ordinarily preclude eligibility except that incurred medical expenses reduce income to the eligibility level.

Timetable:

Action	Date	FR Cite
NPRM	09/02/83	48 FR 39959
NPRM Comment Period End	11/01/83	48 FR 39959
Final Rule With Comment Period	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 323 East High Rise Bldg., 6325 Security Boulevard, Baltimore, MD 21207, 410 966-4451

RIN: 0938–AB07

1217. PAYMENT FOR THE SERVICES OF PHYSICIANS FURNISHED IN TEACHING SETTINGS AND OTHER PROVIDERS (BPD-142-F)

Legal Authority: 42 USC 1395xx; 42 USC 1395l(a)(2); 42 USC 1395x(b); 42 USC 1395x(v)(1)(C); 42 USC 1395x(v)(1)(D); 42 USC 1395k(a)(2)(B)(i); 42 USC 1395u(b)(7)

CFR Citation: 42 CFR 405.465; 42 CFR 405.466; 42 CFR 405.480; 42 CFR 405.481; 42 CFR 405.482; 42 CFR 405.522; 42 CFR 405.523; 42 CFR 405.524; 42 CFR 405.525; 42 CFR 405.550; 42 CFR 405.551; 42 CFR 405.552; 42 CFR 405.553; 42 CFR 405.554; 42 CFR 405.555; ...

Legal Deadline: None

Abstract: These regulations will reflect provisions of section 948 of Pub. L. 96-499 and section 2307 of Pub. L. 98-369. These provisions deal with certain problems that have arisen in the Medicare program with respect to payment for physicians in the teaching setting. Specifically addressed by Congress is the problem of distinguishing between the services a physician furnishes to individual patients as a teaching physician and services furnished to the provider, as well as the method of payment for these services. These rules will set forth the conditions under which physicians

in teaching settings can be paid under the physicians' fee schedule.

Timetable:

Action	Date	FR Cite
NPRM	02/07/89	54 FR 5946
NPRM Comment Period End	04/10/89	54 FR 5946
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 410 966-4497

RIN: 0938–AB61

1218. HOME AND COMMUNITY-BASED SERVICES AND RESPIRATORY CARE FOR VENTILATOR-DEPENDENT INDIVIDUALS (MB-8-FC)

Legal Authority: 42 USC 1396n(c); 42 USC 1302

CFR Citation: 42 CFR 435.726; 42 CFR 435.735; 42 CFR 440.180; 42 CFR 441.301; 42 CFR 441.302; 42 CFR 441.303; 42 CFR 441.304; 42 CFR 441.305; 42 CFR 441.306; 42 CFR 441.307; 42 CFR 441.308; 42 CFR 441.310; 42 CFR 440.185; 42 CFR 440.250

Legal Deadline: None

Abstract: This rule revises the regulations for home and community based services as required by section 9502 of Pub. L. 99-272, sections 9408 and 9411 of Pub. L. 99-509, sections 4102 and 4118 of Pub. L. 100-203, sections 411(k)(10)(A) and 411(k)(10)(H) of Pub. L. 100-360, section 8427 of Pub. L. 100-647, and sections 4741 and 4742 of Pub. L. 101-508.

Timetable:

Action	Date	FR Cite
NPRM	06/01/88	53 FR 19950
NPRM Comment Period End	07/31/88	53 FR 19950
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Robert Wardwell, Director, Division of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 400 EHR, 6325 Security Blvd., Baltimore, MD 21207, 410 966-5659

RIN: 0938–AC55

1219. PARTICIPATION IN CHAMPUS AND CHAMPVA, HOSPITAL ADMISSIONS FOR VETERANS, DISCHARGE RIGHTS NOTICE, AND HOSPITAL RESPONSIBILITY FOR EMERGENCY CARE (BPD-393-FC)

Legal Authority: 42 USC 1395x; 42 USC 1395cc; 42 USC 1395dd; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 488.18; 42 CFR 489.20; 42 CFR 489.24; 42 CFR 489.25; 42 CFR 489.26; 42 CFR 489.27; 42 CFR 489.53; 42 CFR 1003

Legal Deadline: None

Abstract: This final rule with comment period will formally implement statutory requirements that require Medicare participating hospitals with emergency departments to provide upon request medical examinations and treatments for individuals with emergency medical conditions and women in active labor. A participating hospital that has specialized capabilities or facilities (such as burn, shock trauma, or neonatal intensive care units) must accept appropriate transfer if they have the capacity to treat the individual. Hospitals failing to meet those requirements may have their Medicare provider agreements terminated, and hospitals and responsible physicians may be subject to civil money penalties. Under section 9122 of Pub. L. 99-272, Medicare participating hospitals are required to accept CHAMPUS and CHAMPVA payment as payment in full for services provided to CHAMPUS and CHAMPVA beneficiaries. These regulations will also implement section 9305(b) of Pub. L. 99-509, which requires Medicare hospitals to give patients a notice of their discharge rights.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22513
NPRM Comment Period End	08/15/88	53 FR 22513
Final Rule With Comment Period	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401 EHR Bldg., 6325 Security Blvd., Baltimore, MD 21207, 410 966-4607

RIN: 0938–AC58

1220. REVISED EFFECTIVE DATE OF MEDICARE/MEDICAID PROVIDER AGREEMENT AND SUPPLIER PARTICIPATION (HSQ-139-F)

Legal Authority: 42 USC 1302; 42 USC 1395cc; 42 USC 1395hh; 42 USC 1396i

CFR Citation: 42 CFR 440.10; 42 CFR 440.70; 42 CFR 442.13; 42 CFR 488.11; 42 CFR 489.13; 42 CFR 498.3

Legal Deadline: None

Abstract: This rule would establish uniform rules for determining the effective date of participation for all Medicare and Medicaid providers and suppliers. It would also specify that those dissatisfied with a decision on their effective date of participation under Medicare are entitled to a Medicare reconsideration and hearing on the decisions.

Timetable:

Action	Date	FR Cite
NPRM	10/08/92	57 FR 46362
NPRM Comment Period End	12/07/92	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Irene Gibson, Director, Division of Program Operations, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 410 966-6768

RIN: 0938–AC88

1221. CHANGES CONCERNING SUSPENSION OF MEDICARE PAYMENTS AND DETERMINATIONS OF ALLOWABLE INTEREST EXPENSE (BPO-118-FC)

Legal Authority: 42 USC 1320b-4; 42 USC 1395g; 42 USC 1395x(v)(1)(A); 42 USC 1395l; 42 USC 1395gg

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CFR Citation: 42 CFR 413.153; 42 CFR 405.370; 42 CFR 413.5(c)(3); 42 CFR 405.371; 42 CFR 405.372; 42 CFR 405.373; 42 CFR 405.375

Legal Deadline: None

Abstract: This rule will change the Medicare regulations to provide for the following: (1) elimination of the requirement that in case of overpayments to health care providers, the contractor makes a determination that a suspension of payment is needed to protect the program against financial loss before the payment can be suspended; (2) clarification of procedures and roles of contractors, HCFA, and the OIG relating to suspension of payment; (3) elimination of the requirement that investment income of providers from gifts, grants, and endowments be offset against allowable interest expenses if that investment income is commingled with other funds; and (4) extension of the list of exceptions to the interest expense investment income offset provision to include investment income from deferred compensation plans and self-insurance funds.

Timetable:

Action	Date	FR Cite
NPRM	08/22/88	53 FR 31888
NPRM Comment Period End	10/21/88	
Final Rule With Comment Period	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending resolution of complex administrative issues.

Agency Contact: Sam Guida, Director, Div. of Acct Managmt & Collections, Division of Payment and Reporting - Policy, Department of Health and Human Services, Health Care Financing Administration, 1-E-6 Meadows East Building, 6325 Security Blvd., Baltimore, MD 21207, **410 966-7495**

RIN: 0938–AC99

1222. CHANGES CONCERNING THE DEFINITION OF ACCRUAL BASIS OF ACCOUNTING (BPD-366-F)

Legal Authority: 42 USC 1395x(v)(1)(A)

CFR Citation: 42 CFR 413.24

Legal Deadline: None

Abstract: This rule proposes to revise the Medicare regulations to clarify the definition of "accrual basis of accounting" to indicate that expenses must be incurred by a provider of health care services before Medicare will pay its share of those expenses. This change is intended to conform the regulations with the law and to promote economy and efficiency in the administration of the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	10/09/91	56 FR 50834
NPRM Comment Period End	12/09/91	56 FR 50834
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4513**

RIN: 0938–AD01

1223. CRITERIA AND PROCEDURES FOR MAKING MEDICAL SERVICES COVERAGE DECISIONS THAT RELATE TO HEALTH CARE TECHNOLOGY (BPD-432-F)

Legal Authority: 42 USC 1395y

CFR Citation: 42 CFR 400.200; 42 CFR 405.201; 42 CFR 405.203; 42 CFR 405.205; 42 CFR 405.207; 42 CFR 405.209

Legal Deadline: None

Abstract: The rule will establish in regulations generally applicable standards and procedures for determinations as to whether and under what circumstances specific medical items and services should be paid for under Medicare. It establishes and explains the criteria relied upon for determining whether an item or service is "reasonable and necessary." The objective of the criteria and procedures set forth in this rule is to assure that Federal funds are expended only for medical services that are properly covered under the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4302
NPRM Comment Period End	03/31/89	54 FR 4302
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Anne Marie Hummel, Director, Division of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 401 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, **410 966-4637**

RIN: 0938–AD07

1224. REVISIONS TO CONDITIONS OF PARTICIPATION FOR HOSPITALS AND CONDITIONS FOR COVERAGE OF SUPPLIERS OF END-STAGE RENAL DISEASE SERVICES (BPD-421-F)

Legal Authority: 42 USC 1395x(e)(6)(B); PL 99-509, Sec 9339(d); 42 USC 1395x(ee); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 482

Legal Deadline: None

Abstract: This final rule will require hospitals, as a condition of participation, to provide a discharge planning process for Medicare patients in accordance with section 9305(c) of Pub. L. 99-509. Revisions will also implement section 6025 of Pub. L. 101-239 to allow a doctor of dental surgery or dental medicine to be a hospital medical director if the laws of the State in which the hospital is located permit. The preamble to this final rule withdraws proposed regulations for the qualifications of laboratory directors under section 9339(d) of Pub. L. 99-509. The information collection burden of several end-stage renal disease regulations is reduced.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22506
NPRM Comment Period End	08/15/88	53 FR 22506
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401 EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4607**

RIN: 0938–AD11

1225. PROHIBITION ON UNBUNDLING OF HOSPITAL OUTPATIENT SERVICES (BPD-426-F)

Legal Authority: 42 USC 1395y(a)(14); 42 USC 1395cc(a)(1)(H); 42 USC 1395cc(g); 42 USC 1395x(w)(1)

CFR Citation: 42 CFR 405; 42 CFR 409; 42 CFR 410; 42 CFR 411; 42 CFR 412; 42 CFR 489; 42 CFR 1003

Legal Deadline: None

Abstract: These regulations will implement sections 9343(c)(1), (c)(2), and (c)(3) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4157 of the Omnibus Budget Reconciliation Act of 1990. This rule, issued jointly by HCFA and OIG, will prohibit Medicare payment for most nonphysician services furnished to a hospital outpatient by a provider or supplier other than the hospital, unless the services are furnished under an arrangement with the hospital. The hospital will be obligated by its provider agreement to furnish the services directly or under an arrangement. These regulations also authorize OIG to impose a civil money penalty, not to exceed $2,000, against any individual who knowingly and willfully presents, or causes to be presented, a bill or request for payment for a hospital outpatient service under Part B of Medicare in violation of an arrangement.

Timetable:

Action	Date	FR Cite
NPRM	08/05/88	53 FR 29486
NPRM Comment Period End	10/04/88	53 FR 29486
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Thomas Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 401 EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4607**

RIN: 0938–AD33

1226. CHANGES TO PEER REVIEW ORGANIZATION REGULATIONS (HSQ-135-F)

Legal Authority: 42 USC 1395y(a); 42 USC 1320(c); 42 USC 1395hh; 42 USC 1396a(a)(30); 42 USC 1395cc(a); 42 USC 1302

CFR Citation: 42 CFR 400.200; 42 CFR 411.15; 42 CFR 431.630; 42 CFR 433.15; 42 CFR 462.1; 42 CFR 462.50; 42 CFR 462.101; 42 CFR 462.102; 42 CFR 462.106; 42 CFR 462.107; 42 CFR 466.1; 42 CFR 466.71; 42 CFR 466.76; 42 CFR 466.78; 42 CFR 466.83; ...

Legal Deadline: None

Abstract: This rule sets forth several changes to regulations that govern Peer Review Organizations (PROs) and is based on legislative changes contained in the Omnibus Budget Reconciliation Acts of 1985 and 1986. In addition, several technical changes have been proposed, as a result of experience gained with the PRO program by HCFA. This rule also implements the new quality review requirements for certain Medicaid Health Maintenance Organization contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8654
NPRM Comment Period End	05/16/88	53 FR 8654
Final Action	11/30/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Harvey Brook, Office of Peer Review, Department of Health and Human Services, Health Care Financing Administration, Rm. 2-D-2 Meadows East Bldg., 6325 Security Blvd., Baltimore, MD. 21207, **410 966-6853**

RIN: 0938–AD38

1227. HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY (MB-019-F)

Legal Authority: 42 USC 1396n(d); 42 USC 1302

CFR Citation: 42 CFR 435.3; 42 CFR 435.217; 42 CFR 435.726; 42 CFR 435.735; 42 CFR 436.2; 42 CFR 436.217; 42 CFR 440.250; 42 CFR 441.10; 42 CFR 441.350 to 441.357; 42 CFR 441.360; 42 CFR 441.365; 42 CFR 400.203; 42 CFR 440.1; 42 CFR 440.181

Legal Deadline: Final, Statutory, October 1, 1989.

Abstract: This regulation implements section 1915(d) of the Social Security Act, which allows a State to obtain a waiver of certain Medicaid requirements to permit Federal financial participation for home and community based services provided to individuals age 65 or older who are shown by an evaluation to be likely to require the level of care provided in a skilled nursing facility (SNF) or intermediate care facility (ICF), (nursing facility (NF) effective October 1, 1990), the cost for which could be paid by Medicaid. The statute allows for waivers of statewideness, comparability, and income deeming. Under the waiver provisions, the total amount expended by the State for home and community based services, SNF services, and ICF services (NF effective October 1, 1990) for individuals over age 65 may not exceed a "projected amount," determined under the methodology provided in these regulations. For States electing this option the waiver would replace home and community based waivers available under section 1915(c) of the Act, for individuals in this age category.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment Period	06/30/92	57 FR 29142
Effective Date	08/30/92	57 FR 29142
Public Comment Period End	08/31/92	57 FR 29142
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information:

TIMETABLE: Pending analysis of public comments.

Agency Contact: Robert Wardwell, Director, Division of Coverage Policy Department of Health and Human Services, Health Care Financing Administration, Room 400 EHR, 6325

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Security Blvd., Baltimore, MD 21207, **410 966-5659**

RIN: 0938–AD55

1228. PAYMENT FOR DURABLE MEDICAL EQUIPMENT AND ORTHOTIC AND PROSTHETIC DEVICES (BPD-494-F)

Legal Authority: 42 USC 1395m(a); 42 USC 1395x(n)

CFR Citation: 42 CFR 405.501; 42 CFR 405.514; 42 CFR 414.200; 42 CFR 414.202; 42 CFR 414.210; 42 CFR 414.220; 42 CFR 414.222; 42 CFR 414.226; 42 CFR 414.228; 42 CFR 414.229; 42 CFR 410 36; 42 CFR 410.38; 42 CFR 414.232

Legal Deadline: None

Abstract: This final rule responds to comments received in response to the final rule with comment period (57 FR 57675) implementing section 4062 of PL 100-203 and sections 4152 and 4153 of PL 101-508. That rule established fee schedules and payment methodologies that govern payments for six categories of durable medical equipment and orthotic and prosthetic devices. If changes are warranted based on our evaluation of comments, they will be incorporated in this final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/07/92	57 FR 57675
Effective Date	01/06/93	57 FR 57675
Public comment period ends	02/05/93	57 FR 57675
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4497**

RIN: 0938–AD65

1229. MEDICARE SECONDARY PAYER FOR DISABLED ACTIVE INDIVIDUALS (BPD-482-FC)

Legal Authority: 42 USC 1395y(b)

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: This rule implements the Medicare secondary payer provision for disabled "active individuals" who are also covered under large group health plans (LGHP) and prohibits discrimination by LGHPs against such individuals.

Timetable:

Action	Date	FR Cite
NPRM	03/08/90	55 FR 8491
NPRM Comment Period End	05/08/90	55 FR 8491
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Herbert Pollock, Chief, Medicare Benefit Coordination Policy Branch, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Blvd., Baltimore, Maryland 21207, **410 966-4474**

RIN: 0938–AD73

1230. MEDICARE COVERAGE OF HOME HEALTH SERVICES, MEDICARE CONDITIONS OF PARTICIPATION AND HOME HEALTH AIDE SUPERVISION (BPD-469-F)

Legal Authority: 42 USC 1395x(m); 42 USC 1395x(o)

CFR Citation: 42 CFR 409; 42 CFR 418; 42 CFR 484

Legal Deadline: None

Abstract: These regulations establish home health aide supervision and duty requirements applicable to all home health agencies and hospices that provide home health aide services under the Medicare program. In addition, these regulations codify longstanding policies concerning the limitations and exclusions applicable to home health services covered under the Medicare program. The rule also clarifies policies concerning exclusions for drugs and biological and prosthetic devices.

Timetable:

Action	Date	FR Cite
NPRM	09/27/91	56 FR 49154
NPRM Comment Period End	11/26/91	56 FR 49154
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401 EHR, 6325 Security Blvd., Baltimore, Md. 21207, **410 966-4607**

RIN: 0938–AD78

1231. APPEALS FOR ENROLLEES OF PREPAID HEALTH CARE PLANS (OCC-020-F)

Legal Authority: 42 USC 1395mm; 42 USC 1302; 42 USC 1395hh; 42 USC 1395l(a)(1)(A)

CFR Citation: 42 CFR 405; 42 CFR 417, 42 CFR 482

Legal Deadline: None

Abstract: This rule will amend or establish regulations relating to appeal rights and procedures for Medicare beneficiaries who are enrolled in health maintenance organizations (HMOs), competitive medical plans (CMPs), and health care prepayment plans (HCPPs). Specifically, the rule will extend to HMO and CMP members the right to request review by a PRO of early hospital discharges; impose a 60-day limit for HMOs and CMPs to process requests by beneficiaries for reconsideration of decisions on denied services or claims; and require HCPPs to establish appeal procedures for enrollees who are Medicare beneficiaries. These changes are aimed at improving efficiency and at providing beneficiaries equitable appeal rights, regardless of their enrollment status.

Timetable:

Action	Date	FR Cite
NPRM	10/07/92	57 FR 46119
NPRM Comment Period End	12/07/92	57 FR 46119
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maureen Miller, Program Analyst, Office of Coordinated Care Policy and Planning, Department of Health and Human Services, Health Care Financing Administration, Room 4360 Cohen Building, 330 Independence Ave. SW., Washington, DC 20201, **202 619-0129**

RIN: 0938–AD79

1232. OMNIBUS NURSING HOME REFORM REQUIREMENTS (BPD-488-F)

Significance: Agency Priority

Legal Authority: 42 USC 1395x; 42 USC 1395i-3; 42 USC 1396r; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 483; 42 CFR 431; 42 CFR 440; 42 CFR 488; 42 CFR 418; 42 CFR 482

Legal Deadline: None

Abstract: This rule would implement several provisions of the Omnibus Budget Reconciliation Act of 1987, other than those implemented through the rule published on February 2, 1989, governing long term care facility participation in the Medicare and Medicaid programs effective October 1, 1990, and State requirements for Federal financial participation. The provisions include Federal standards for evaluating State waivers of nursing facility nurse staffing requirements, use of physical restraints and psychopharmacologic drugs for nursing facility residents, notices of Medicaid rights to be given to persons admitted to nursing facilities, and other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	02/05/92	57 FR 4516
NPRM Comment Period End	04/06/92	57 FR 4516
Final Action	02/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Ullman, Program Analyst, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-5667**

RIN: 0938–AD81

1233. FEE SCHEDULE FOR PAYMENT OF THERAPEUTIC AND DIAGNOSTIC SERVICES OTHER THAN PSYCHOLOGICAL TESTING PROVIDED BY CLINICAL PSYCHOLOGISTS AND CLINICAL SOCIAL WORKERS (BPD-495-IFC)

Legal Authority: 42 USC 1395k(a)(2)(B)(iii); 42 USC 1395x(gg); 42 USC 1395x(hh); 42 USC 1395w-4; 42 USC 1395x(b); 42 USC 1395l(a)(1)(L); 42 USC 1395x(s)

CFR Citation: 42 CFR 410; 42 CFR 414

Legal Deadline: None

Abstract: This interim final rule with comment period establishes fee schedules for payment for therapeutic and miscellaneous diagnostic services furnished under Medicare Part B by clinical psychologists or incident to the services of a clinical psychologist, and a clinical social worker. It implements a portion of section 4077(b) of the Omnibus Budget Reconciliation Act of 1987 as amended.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment Period	05/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, 1-H-5, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4497**

RIN: 0938–AD84

1234. SURVEY AND CERTIFICATION OF SKILLED NURSING FACILITIES AND NURSING FACILITIES AND ENFORCEMENT PROCEDURES (HSQ-156-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1395aa; 42 USC 1395i-3(g); 42 USC 1396r(g); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 488; 42 CFR 431; 42 CFR 442; 42 CFR 489

Legal Deadline: Final, Statutory, January 1, 1988.

Abstract: This rule would implement sections 4202, 4203, 4212, and 4213 of the Omnibus Budget Reconciliation Act of 1987 (PL 100-203) which govern the process used by HCFA to survey long-term care facilities, and to certify that the facilities meet the participation requirements for the Medicare and Medicaid programs. The rule would also specify a number of sanctions or remedies that could be used when a skilled nursing facility or nursing facility is out of compliance with Federal requirements as an alternative to or in addition to termination.

Timetable:

Action	Date	FR Cite
NPRM	08/28/92	57 FR 39278
NPRM Comment Period End	10/27/92	57 FR 39278
Final Action	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Irene Gibson, Director, Division of Program Operations, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2, ME Building, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-6768**

RIN: 0938–AD94

1235. DIAGNOSIS CODES ON PHYSICIAN BILLS (BPD-610-F)

Legal Authority: 42 USC 1395u(p)

CFR Citation: 42 CFR 424.3; 42 CFR 424.32; 42 CFR 424.34

Legal Deadline: None

Abstract: This rule requires each bill or request for payment for a service furnished by a physician under Medicare Part B to include appropriate diagnostic coding for the diagnosis on the nature of the illness or injury for which the Medicare beneficiary received care. This rule implements certain provisions of section 202(g) of PL 100-360.

Timetable:

Action	Date	FR Cite
NPRM	07/21/89	54 FR 30558
NPRM Comment Period End	09/19/89	54 FR 30558
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pat Brooks, Director, Medical Coding Policy Staff, Department of Health and Human Services, Health Care Financing Administration, 401 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-5318**

RIN: 0938–AE06

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1236. HMOS: GROUP SPECIFIC RATINGS (OCC-009-F)

Legal Authority: 42 USC 300e(c); 42 USC 300e-1(8)(C)

CFR Citation: 42 CFR 417.104; 42 CFR 417.107

Legal Deadline: None

Abstract: This rule amends the regulations governing payment for basic health services under the community rating system in federally qualified HMOs by implementing certain changes made by the Health Maintenance Organization Amendments of 1988 (Pub. L. 100-517). The changes broaden the definition of community rating, place some restrictions on the use of group specific ratings for small groups, and require HMOs using group specific rates to disclose the method and data used in calculating the rates of payment to employers or contracting entities.

Timetable:

Action	Date	FR Cite
NPRM	07/11/91	56 FR 31597
Public Comment Period End	09/09/91	56 FR 31597
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Melvin Silverman, Program Analyst, Office of Coordinated Care Policy and Planning, Department of Health and Human Services, Health Care Financing Administration, Room 4360 Cohen Building, 330 Independence Avenue SW., Washington, DC 20201, 202 619-0834

RIN: 0938–AE24

1237. CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988; FEE COLLECTION (HSQ-177-F)

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493.602 to 493.649

Legal Deadline: None

Abstract: This rulemaking implements certain provisions of the Clinical Laboratory Improvement Amendments of 1988 by requiring all laboratories to pay fees for issuance of certificates and for determining compliance with requirements for laboratory testing. It also establishes the methodology used to determine fee amounts and establish certificate application procedures.

Timetable:

Action	Date	FR Cite
NPRM	08/03/90	55 FR 31758
NPRM Comment Period End	10/02/90	55 FR 31758
Final Rule With Comment Period	02/28/92	57 FR 7188
Effective	03/30/92	57 FR 7188
Comment Period End	04/28/92	57 FR 7188
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information:

TIMETABLE: Pending analysis of public comments.

Agency Contact: Jeff Clark, Deputy Director, Division of Systems Management and Data Analysis, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East Building, 6325 Security Boulevard, Baltimore, MD 21207, 410 966-6801

RIN: 0938–AE28

1238. "CONFINED TO THE HOME" REQUIREMENTS FOR HOME HEALTH SERVICES (BPD-626-F)

Legal Authority: 42 USC 1395f(a)(2)(C); 42 USC 1395n(a)(2)(A)

CFR Citation: 42 CFR 409.42

Legal Deadline: None

Abstract: This rule clarifies when a home health patient is considered "confined to the home" in order to receive home health benefits.

Timetable:

Action	Date	FR Cite
NPRM	10/07/91	56 FR 50542
NPRM Comment Period End	12/06/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401 EHR, 6325 Security Blvd., Baltimore, MD 21207, 410 966-4607

RIN: 0938–AE34

1239. PAYMENT ADJUSTMENTS FOR HOSPITALS THAT SERVE A DISPROPORTIONATE NUMBER OF LOW-INCOME PATIENTS (MB-017-IFC)

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(13)(A); 42 USC 1396r-4

CFR Citation: 42 CFR 412; 42 CFR 440; 42 CFR 447

Legal Deadline: None

Abstract: This rule establishes the requirements and options for Medicaid payments to hospitals that serve a disproportionate number of low-income patients with special needs. The Medicaid agency will be required to make payment adjustments to these hospitals when such hospitals have met specified conditions.

Timetable:

Action	Date	FR Cite
NPRM	03/19/90	55 FR 10077
NPRM Comment Period End	05/18/90	55 FR 10077
Interim Final Rule	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Bernard Truffer, Director, Division of Payment Policy, Department of Health and Human Services, Health Care Financing Administration, Room 291, EHR, 6325 Security Boulevard, Baltimore, MD 21207, 410 966-1357

RIN: 0938–AE35

1240. SURVEY REQUIREMENTS AND ALTERNATIVE SANCTIONS FOR HOME HEALTH AGENCIES (HSQ-169-F)

Legal Authority: 42 USC 1302; 42 USC 1395w-2; 42 USC 1395bbb; 42 USC 1395hh

CFR Citation: 42 CFR 488; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: These rules would establish requirements for periodic, unannounced surveys of home health agencies, and specify a number of sanctions that could be used, when a home health agency is out of compliance with Federal requirements, as an alternative to terminating its participation in the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	08/02/91	56 FR 37054
NPRM Comment Period End	10/01/91	56 FR 37054
Final Action	08/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Irene Gibson, Director, Division of Program Operations, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 Meadows East, 6300 Security Boulevard, Baltimore, MD 21207, 410 966-6768

RIN: 0938–AE39

1241. MEDICARE, MEDICAID AND CLIA PROGRAMS: REGULATIONS IMPLEMENTING THE CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988 (CLIA' 88) (HSQ-176-F)

Significance: Regulatory Program

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493

Legal Deadline: None

Abstract: Historically the Department regulated laboratories by "location," rather than by types of tests they perform. The Clinical Laboratory Improvement Amendments of 1988 (CLIA) changed this approach. CLIA requires that the Department "regulate by test," using what is commonly referred to as the "complexity model." A final rule with comment period was published February 28, 1992, that set forth standards for all laboratories based on complexity and responds to public comments on the proposed standards. A final rule, which will respond to public comments on the February 28 rule, will also be issued.

Timetable:

Action	Date	FR Cite
NPRM	05/21/90	55 FR 20896
NPRM Comment Period End	09/21/90	55 FR 34289
Final Rule With Comment Period	02/28/92	57 FR 7002
Comment Period End	04/28/92	57 FR 7002
Effective	09/01/92	57 FR 7002
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information:

TIMETABLE: Pending analysis of public comments.

Agency Contact: Wayne Smith, Ph.D., Director, Division of Hospital and Ambulatory Services, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Boulevard, 2-D-2 ME, Baltimore, Maryland 21207, 410 966-6001

RIN: 0938–AE47

1242. CONDITIONS OF COVERAGE FOR ORGAN PROCUREMENT ORGANIZATIONS (BPD-646-FC)

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395hh

CFR Citation: 42 CFR 485; 42 CFR 405; 42 CFR 482

Legal Deadline: Final, Statutory, November 16, 1991.

Abstract: This final rule sets forth changes to the conditions of coverage for organ procurement organizations (OPOs). It deals with the definition of an OPO service area, expansion of the qualifications for the Board of Directors, OPO assistance to be provided to hospitals in establishing and implementing protocols governing organ procurement activity, establishing criteria for allocating organs, and organ testing for AIDS.

Timetable:

Action	Date	FR Cite
NPRM	06/21/91	56 FR 28513
NPRM Comment Period End	08/21/91	56 FR 28513
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Claude Mone, Program Analyst, Alternative Delivery Organizations Branch, Department of Health and Human Services, Health Care Financing Administration, 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-5666

RIN: 0938–AE48

1243. PREADMISSION SCREENING AND ANNUAL RESIDENT REVIEW (BPD-661-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1395r; 42 USC 1302

CFR Citation: 42 CFR 483

Legal Deadline: NPRM, Statutory, March 19, 1990.

Abstract: The final rule with comment period published November 30, 1992, (57 FR 56450) implemented sections 4211 of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), section 6901 of the Omnibus Budget Reconciliation Act of 1989 and section 4801 of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90). The provisions included: (1) State requirements for preadmission screening and annual resident review of individuals with mental illness or mental retardation who are applicants to or residents of nursing facilities that are certified for Medicaid; and (2) appeals systems for persons who may be transferred or discharged from facilities or who wish to dispute a determination made in the preadmission screening and annual review process. The changes in this rule included OBRA '90 provisions defining "severe mental illness" and "specialized services" which will reduce State review workloads and clarify Medicaid matching payment for the States. Following analysis of the public comments, we may issue a final rulemaking document.

Timetable:

Action	Date	FR Cite
NPRM	03/23/90	55 FR 10951
NPRM Comment Period End	05/22/90	55 FR 10951
Final rule with comment period	11/30/92	57 FR 56450
Public comment period end	01/29/93	57 FR 56450
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Julie Walton, Program Analyst, Long Term Care Branch, Department of Health and Human Services, Health Care Financing

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Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4622**

RIN: 0938–AE49

1244. RESIDENT ASSESSMENT IN LONG TERM CARE FACILITIES (HSQ-180-F)

Legal Authority: 42 USC 1395i-3; 42 USC 1396r; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 483

Legal Deadline: Final, Statutory, January 1, 1989.

Abstract: Sections 1819(b)(3) and 1919(b)(3) of the Social Security Act, as amended by PL 100-203, require that in order for an institution to qualify to participate as a skilled nursing facility in the Medicare program, and, before October 1, 1990, as a skilled nursing facility or as an intermediate care facility in the Medicaid program, and effective October 1, 1990, as a nursing facility in the Medicaid program, it must conduct a comprehensive, standardized assessment of each resident's capability to perform daily life functions. The assessment must also describe significant impairments in the resident's functional capacity and be based on a uniform minimum data set specified by the Secretary. Sections 1819(f)(6)(A) and 1919 (f)(6)(A) of the Act require the Secretary to specify a minimum data set of core elements and common definitions for use by nursing facilities in conducting the assessments. This rule would specify this minimum data set and establish guidelines for using it.

Timetable:

Action	Date	FR Cite
NPRM	12/28/92	57 FR 61614
NPRM Comment Period End	02/26/93	57 FR 61614
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Sue Nonemaker, Program Analyst, Division of Long Term Care, Department of Health and Human Services, Health Care Financing Administration, 2-D-2, ME, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-6825**

RIN: 0938–AE61

1245. CONFORMING PROVISIONS FOR 1988 HMO AMENDMENTS (OCC-012-F)

Legal Authority: 42 USC 300e(c); 42 USC 300e-1(l); 42 USC 300e-9

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This rule would conform existing regulations to sections 5(b) and 7 of the Health Maintenance Organization (HMO) Amendments of 1988 (Pub. L. 100-517). It would prohibit employers from financially discriminating against HMO enrollees in setting employee health plan contributions. It would also eliminate the requirement that one-third of a HMO's policymaking body be HMO enrollees.

Timetable:

Action	Date	FR Cite
NPRM	07/05/91	56 FR 30723
Public Comment Period End	09/03/91	56 FR 30723
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maureen Miller, Office of Coordinated Care Policy and Planning, Department of Health and Human Services, Health Care Financing Administration, Room 4360, Cohen Building, 330 Independence Ave. SW., Washington, DC 20201, **202 619-0129**

RIN: 0938–AE64

1246. PAYMENT FOR NURSING AND ALLIED HEALTH SCIENCE EDUCATION (BPD-685-F)

Legal Authority: PL 101-239, Sec 6205; PL 101-508, Sec 4004; PL 101-508, Sec 4159; 42 USC 1395x note

CFR Citation: 42 CFR 413

Legal Deadline: NPRM, Statutory, July 1, 1990.
Section 6205(b)(2) of PL 101-239 required that a proposed rule be published before July 1, 1990 and that a final rule not be effective before 10/01/90.

Abstract: This rule will set forth our policy for the payment of the costs of approved nursing and allied health science programs, an action directed by section 6205(b)(2) of PL 101-239. For the most part, the provisions set forth in this rule restate or clarify our current policies governing these costs, which have been previously set forth in the provider reimbursement manual and other documents, but have never been included in the regulations. In addition, we are amending the list of approved programs and clarify payment rules for certified registered nurse anesthetist programs. This rule will also implement section 4004 of PL 101-508, which provides that, effective with cost reporting periods beginning on or after October 1, 1990, under certain conditions, costs incurred by a hospital or educational institution related to the hospital for clinical training are treated as pass-through costs and paid on the basis of reasonable cost even though the hospital does not operate the education programs.

Timetable:

Action	Date	FR Cite
NPRM	09/22/92	57 FR 43659
NPRM Comment Period End	11/23/92	57 FR 43659
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Edwards, Chief, Payment Limitations and Exclusions Branch, Department of Health and Human Services, Health Care Financing Administration, 1-H-1 ELR, 6325 Security Blvd., Baltimore, Maryland 21207, **410 966-4531**

RIN: 0938–AE79

1247. UNIFORM ELECTRONIC COST REPORTING SYSTEM FOR HOSPITALS (BPD-689-F)

Legal Authority: 42 USC 1395ww(f)(1)(B)

CFR Citation: 42 CFR 413.20; 42 CFR 413.24; 42 CFR 413.40; 42 CFR 412.52

Legal Deadline: None

Abstract: This rule will implement section 1886(f)(1)(B) of the Social Security Act, which requires the Secretary to place into effect a standardized electronic cost reporting format and allows the Secretary to waive the requirement where such implementation would result in a financial hardship for a hospital.

Timetable:

Action	Date	FR Cite
NPRM	08/19/91	56 FR 41110

Action	Date	FR Cite
NPRM Comment Period End	10/18/91	56 FR 41110
Final Action	09/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5, ELR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4513**

RIN: 0938–AE80

1248. AGGREGATION OF MEDICARE CLAIMS FOR ADMINISTRATIVE LAW JUDGE (ALJ) HEARINGS AND JUDICIAL REVIEW (BPD-694-F)

Legal Authority: 42 USC 1395ff(b)(2)

CFR Citation: 42 CFR 405.740; 42 CFR 405.820

Legal Deadline: None

Abstract: This rule would implement section 9341 of the Omnibus Budget Reconciliation Act of 1986, which allows the aggregation of claims, in certain circumstances, to meet the threshold amount necessary to have a hearing before a contractor hearing officer or an administrative law judge and to obtain judicial review under Part A and B of Medicare.

Timetable:

Action	Date	FR Cite
NPRM	06/20/91	56 FR 28353
Public Comment Period End	08/19/91	56 FR 28353
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Olenick, Director, Division of Medicare Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4472**

RIN: 0938–AE93

1249. MEDICARE COVERAGE OF PRESCRIPTION DRUGS USED IN IMMUNOSUPPRESSIVE THERAPY (BPD-424-F)

Legal Authority: 42 USC 1395x(s)(2)(J)

CFR Citation: 42 CFR 410.31

Legal Deadline: None

Abstract: This final rule amends the regulations to reflect section 9335(c) of the Omnibus Budget Reconciliation Act of 1986 and section 4075 of the Omnibus Budget Reconciliation Act of 1987. These statutory provisions provide Medicare coverage for prescription drugs used in immunosuppressive therapy furnished to an individual who receives an organ transplant for which Medicare payment is made for a period of one year after the transplant procedure.

Timetable:

Action	Date	FR Cite
NPRM	01/19/88	53 FR 1383
NPRM Comment Period End	03/21/88	53 FR 1383
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walter Rutemeuller, Program Analyst, Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-6849**

RIN: 0938–AE94

1250. FIRE SAFETY STANDARDS FOR HOSPITALS, LONG TERM CARE FACILITIES, AND INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (BPD-650-F)

Legal Authority: 42 USC 1395x; 42 USC 1396d; 42 USC 1302

CFR Citation: 42 CFR 482.41(b)(1); 42 CFR 483.70(a); 42 CFR 483.470(j)(2)(i)(C)

Legal Deadline: None

Abstract: This rule amends the fire safety standards for hospitals, long term care facilities, and intermediate care facilities for the mentally retarded and affects only those facilities. It deletes references to the 1967 and 1973 editions of the Life Safety Code of the National Fire Protection Association and requires compliance with either the 1981 or 1985 editions depending on the date when the facility was first certified to participate in Medicare or Medicaid. This rule creates a uniform policy for all types of facilities that participate in the Medicare and Medicaid programs. The revision of the 1967 and 1973 editions of the Life Safety Code is intended to ensure that Medicare and Medicaid beneficiaries and recipients have the benefit of the most current fire protection standards.

Timetable:

Action	Date	FR Cite
NPRM	08/01/90	55 FR 31196
NPRM Comment Period End	10/01/90	55 FR 31196
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas E. Hoyer, Director, Division of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4607**

RIN: 0938–AE97

1251. ALLOWING CERTIFICATIONS AND RECERTIFICATIONS BY NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS FOR CERTAIN SERVICES (BPD-709-F)

Legal Authority: 42 USC 1395f(a)

CFR Citation: 42 CFR 424

Legal Deadline: None

Abstract: This final regulation implements section 6028 of the Omnibus Budget Reconciliation Act of 1989. It allows nurse practitioners and clinical nurse specialists working in collaboration with a physician to certify and recertify certain services.

Timetable:

Action	Date	FR Cite
NPRM	06/28/91	56 FR 29509
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 01,

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EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4607**

RIN: 0938–AF01

1252. CHANGES TO THE LONG-TERM CARE FACILITY SURVEY PROCESS (HSQ-175-FC)

Legal Authority: PL 101-239, Sec 6901(a); 42 USC 1395i-3; 42 USC 1395aa(d); 42 USC 1396r; 42 USC 1302

CFR Citation: 42 CFR 442; 42 CFR 488

Legal Deadline: None

Abstract: This final rule with comment period amends the Medicare and Medicaid regulations by removing obsolete long-term care survey forms, guidelines, and procedures used by State agencies when they evaluate a Medicare skilled nursing facility or a Medicaid nursing facility for compliance with Federal certification requirements. Effective October 1, 1990, the application of new Federal participation requirements for these facilities with an increased focus on actual or potential resident outcomes has made the survey forms and process in existing regulations outdated. Retention of the outdated items could cause confusion in connection with directions State survey agencies must follow in determining facility compliance.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information:

TIMETABLE: Pending court ruling.

Agency Contact: **Irene Gibson**, Director, Division of Program Operations, Department of Health and Human Services, Health Care Financing Administration, 2-D-2, ME, 6325 Security Blvd., Baltimore, MD 21207, **410 966-6768**

RIN: 0938–AF02

1253. GENERAL NOTICE ON MEDICARE SECONDARY PAYMENT (BPO-94-GN)

Legal Authority: 42 USC 1395y(b)

CFR Citation: 42 CFR 411.25

Legal Deadline: None

Abstract: This general notice will establish procedures to be followed by insurers in reporting Medicare Secondary Payment information which is required by current regulation. This notice is necessary because the regulation does not specify in detail the reporting procedures to be used.

Timetable:

Action	Date	FR Cite
General Notice	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: **Cathy Carter**, Chief, Operations Branch, Div. of Entitlement & Benefit Coordination, Department of Health and Human Services, Health Care Financing Administration, Room 367, ME Bldg., 6325 Security Blvd., Baltimore, MD 21207, **410 966-7449**

RIN: 0938–AF05

1254. REQUIRED COVERAGE OF NURSE PRACTITIONER SERVICES - MEDICAID (MB-41-F)

Legal Authority: 42 USC 1396d(a)(21); 42 USC 1302

CFR Citation: 42 CFR 440

Legal Deadline: None

Abstract: This regulation would require direct payment to certified pediatric and family nurse practitioners to the extent that these providers are authorized to practice under State laws. It would implement section 6405 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239) which became effective July 1, 1990.

Timetable:

Action	Date	FR Cite
NPRM	12/23/91	56 FR 66392
NPRM Comment Period End	02/22/92	56 FR 66392
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: **Robert Wardwell**, Director, Division of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 400, EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-5659**

RIN: 0938–AF12

1255. QUALIFIED FAMILY MEMBERS (MB-42-F)

Significance: Agency Priority

Legal Authority: 42 USC 1396a; 42 USC 1396d; 42 USC 1302

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: Section 401 of the Family Support Act of 1988 requires States to provide medical assistance to needy families in which the principal earner is unemployed, beginning October 1, 1990 (October 1, 1992, in certain territories). This rule would update eligibility regulations to address requirements for these additional individuals.

Timetable:

Action	Date	FR Cite
NPRM	08/17/92	57 FR 36968
NPRM Comment Period End	10/16/92	57 FR 36968
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: **Marinos Svolos**, Director, Division of Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 323, EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4451**

RIN: 0938–AF13

1256. PAYMENT FOR FEDERALLY QUALIFIED HEALTH CENTER (FQHC) SERVICES (BPD-728-F)

Legal Authority: 42 USC 1395x(s)(2)(E); 42 USC 1395x(aa)(3); 42 USC 1395x(aa)(4); 42 USC 1395k(a)(2)(D)(ii); 42 USC 1395l(b)(5)

CFR Citation: 42 CFR 405; 42 CFR 491

Legal Deadline: None

Abstract: This final rule will respond to comments received as a result of our publication of a final rule with comment period (57 FR 24961) which established a new category of facility known as an FQHC, the services of which are covered under the Medicare program. Those regulations also established requirements for coverage and payment of FQHC services under Medicare. They implemented section 4704 of Pub. L. 101-508. This final rule will clarify or change policy, as

appropriate, based on our evaluation of public comments.

Timetable:

Action	Date	FR Cite
Effective	06/12/92	57 FR 24961
Final Rule with Comment Period	06/12/92	57 FR 24961
Comment Period End	08/11/92	57 FR 24961
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: **Jackie Sheridan**, Chief, Alternative Delivery Organization Branch, Department of Health and Human Services, Health Care Financing Administration, Room 441, EHR, 6325 Security Blvd., Baltimore, MD 21207, **410 966-4635**

RIN: 0938–AF14

1257. GRANTING AND WITHDRAWAL OF DEEMING AUTHORITY TO NATIONAL ACCREDITATION ORGANIZATIONS (HSQ-159-F)

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1395f; 42 USC 1395x; 42 USC 1395bb; 42 USC 1395cc; 42 USC 1395hh; 42 USC 1395qq; 42 USC 1395rr; 42 USC 1395tt

CFR Citation: 42 CFR 401.126b; 42 CFR 401.133; 42 CFR 488.9

Legal Deadline: None

Abstract: This final rule expands the types of providers and suppliers of services that we may consider to meet conditions of participation or certification or conditions for coverage by virtue of their accreditation by a national accreditation program. In addition, the final rule permits HCFA to approve and disapprove accreditation organization programs and thereby determine that providers or suppliers accredited by a HCFA-approved national accreditation organization are deemed to meet the required HCFA requirements. This rule also amends confidentiality and disclosure provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/14/90	55 FR 51434
NPRM Comment Period End	02/12/91	55 FR 51434
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: **Irene Gibson**, Director, Division of Program Operations, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2, ME, 6325 Security Blvd., Baltimore, MD 21207, **410 966-6768**

RIN: 0938–AF17

1258. ESSENTIAL ACCESS COMMUNITY HOSPITALS (EACHS) AND RURAL PRIMARY CARE HOSPITALS (RPCHS) (BPD-713-F)

Legal Authority: 42 USC 1395i-4

CFR Citation: 42 CFR 400; 42 CFR 409; 42 CFR 410; 42 CFR 411; 42 CFR 412; 42 CFR 424; 42 CFR 485; 42 CFR 488; 42 CFR 489; 42 CFR 440; 42 CFR 413; 42 CFR 440; 42 CFR 498

Legal Deadline: None

Abstract: This final rule responds to comments we received on the proposed rule relating to the Essential Access Community Hospital (EACH) program that implements sections 6003(g) and 6116 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239), which authorizes HCFA to designate certain rural hospitals as EACHs and other rural facilities as rural primary care hospitals (RPCHs), and to pay for their services to Medicare patients. It also implements section 4008(d) of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) which made several technical amendments to the original EACH/RPCH legislation.

This final rule will state the requirements a facility must meet to be designated as an EACH or RPCH, describe the types of EACH and RPCH services for which Medicare coverage is available and explain how payment for the services will be made.

Timetable:

Action	Date	FR Cite
NPRM	10/25/91	56 FR 55382
NPRM Comment Period End	12/24/91	56 FR 55382
Final Action	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: **Thomas E. Hoyer**, Director, Division of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 413. EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4607**

RIN: 0938–AF21

1259. MEDICARE COVERAGE OF SCREENING MAMMOGRAPHY (BPD-724-F)

Legal Authority: 42 USC 1395aa(a); 42 USC 1395bb(a); 42 USC 1395l(a)(2)(E); 42 USC 1395y(a)(1)(F)

CFR Citation: 42 CFR 405.534; 42 CFR 405.535; 42 CFR 410.1; 42 CFR 410.10; 42 CFR 411.15; 42 CFR 413.123; 42 CFR 494.50

Legal Deadline: None

Abstract: This final rule will address comments received on the regulations published on December 31, 1990 that provide limited coverage for screening mammography services and set forth payment limitations and conditions for coverage of screening mammography. The conditions in the existing regulations consist of quality standards to assure the safety and accuracy of screening mammography services performed by qualified physicians and other suppliers of these services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/90	55 FR 53510
Effective	01/01/91	55 FR 53510
Public Comment Period End	03/01/91	55 FR 53510
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: **William Larson**, Program Analyst, Office of Coverage and Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4639**

RIN: 0938–AF26

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1260. SELF-IMPLEMENTING COVERAGE AND PAYMENT PROVISIONS OF OMNIBUS BUDGET RECONCILIATION ACT OF 1990 (BPD-725-F)

Significance: Agency Priority

Legal Authority: PL 101-508, Sec 4006; PL 101-508, Sec 4008(g); PL 101-508, Sec 4008(m)(1); PL 101-508, Sec 4102 to 4104; PL 101-508, Sec 4107; PL 101-508, Sec 4151(a)to (c); PL 101-508, Sec 4153(b); PL 101-508, Sec 4153(d); PL 101-508, Sec 4201; PL 101-508, Sec 4203(c); PL 101-508, Sec 4204(g); PL 101-239; PL 101-234

CFR Citation: 42 CFR 405; 42 CFR 406; 42 CFR 410; 42 CFR 411; 42 CFR 412; 42 CFR 413; 42 CFR 409; 42 CFR 418; 42 CFR 489

Legal Deadline: None

Abstract: The final rule with comment period (57 FR 36006) updated the Medicare regulations to add or conform them to certain self- implementing provisions on coverage of services and payment requirements under the Omnibus Budget Reconciliation Act of 1990 (OBRA '90). In some cases, certain self-implementing provisions of the Omnibus Budget Reconciliation Act of 1989 and the Medicare Catastrophic Coverage Repeal Act of 1989 were included so that the OBRA '90 provisions could be accurately reflected in the regulations.

The final rule with comment period removed conflicts between the regulations and the statute, thus preventing possible public confusion. A final document may be published, following our analysis of the public comments.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	08/12/92	57 FR 36006
Effective	09/11/92	57 FR 36006
Public Comment Period End	10/13/92	57 FR 36006
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Sue B. Brown, Director, Regulations Staff, Department of Health and Human Services, Health Care Financing Administration, Room 132, EHR, 6325 Security Boulevard, Baltimore,Maryland 21207, **410 966-4658**

RIN: 0938–AF27

1261. PHYSICIAN OWNERSHIP OF AND REFERRALS TO HEALTH CARE FACILITIES THAT FURNISH CLINICAL LABORATORY SERVICES (BPD-674-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1395nn; 42 USC 1302

CFR Citation: 42 CFR 411

Legal Deadline: Final, Statutory, October 1, 1991.

Abstract: This rule will incorporate into regulations provision of section 6204 of the Omnibus Budget Reconciliation Act of 1989. It will prohibit a physician from making a referral for the provision of clinical laboratory services to an entity with which the physician has a financial relationship.

Timetable:

Action	Date	FR Cite
NPRM	03/11/92	57 FR 8588
NPRM Comment Period End	05/11/92	57 FR 8588
Final Action	08/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Betty Burrier, Program Analyst, Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4649**

RIN: 0938–AF40

1262. MEDICAID PAYMENT FOR COVERED OUTPATIENT DRUGS UNDER REBATE AGREEMENTS (MB-046-IFC)

Significance: Regulatory Program

Legal Authority: 42 USC 1396e(a); 42 USC 1396b(i); 42 USC 1396r-8; 42 USC 1396b(a)

CFR Citation: 42 CFR 447

Legal Deadline: None

Abstract: This rule would incorporate section 4401 of the Omnibus Budget Reconciliation Act of 1990 which concern reimbursement for prescribed drugs. Section 4401 amended title XIX of the Social Security Act to add specific requirements for payment for covered outpatient drugs. In general, the requirements concern: denial of Federal financial participation unless rebate agreements and drug use review are in effect; prohibiting some State plan drug access limitations for drugs covered under a rebate agreement; and the content of the rebate agreements. The drug rebate agreement was previously published in the Federal Register on February 21, 1991 (56 FR 7049).

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Larry Reed, Chief, Medicaid Noninstitutional Payment Policy Branch, Department of Health and Human Services, Health Care Financing Administration, Room 273 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-0830**

RIN: 0938–AF42

1263. PAYMENT FOR CUSTOMIZED WHEELCHAIRS (BPD-730-F)

Significance: Agency Priority

Legal Authority: 42 USC 1395m(a)(4)

CFR Citation: 42 CFR 414.224

Legal Deadline: None

Abstract: This final rule establishes criteria to be applied in determinations whether a wheelchair qualifies for treatment as e customized item for payment purposes. Section 4152(c)(4)(B) of the Omnibus Budget Reconciliation Act of 1990 established a broad definition, effective for items furnished on or after January 1, 1992, that could have the effect of encompassing many more items than are presently being determined to be "customized" for payment purposes. However, that section also provides that the statutory criteria will not become effective if the Secretary develops specific criteria prior to January 1, 1992, for the treatment of wheelchairs as customized items for purposes of Medicare payment.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment	12/20/91	56 FR 65995
Effective	01/01/92	56 FR 65995
Comment Period End	02/18/92	56 FR 65995
Final Action	05/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, Room I-H-5, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4497**

RIN: 0938–AF49

1264. MEDICARE AND MEDICAID PROGRAMS; ADVANCE DIRECTIVES (BPD-718-F)

Significance: Agency Priority

Legal Authority: 42 USC 1395cc

CFR Citation: 42 CFR 417.436; 42 CFR 417.801; 42 CFR 431.20; 42 CFR 431.107; 42 CFR 434.28; 42 CFR 483.10; 42 CFR 484.10; 42 CFR 489.10; 42 CFR 489.100; 42 CFR 489.104; 42 CFR 498.3; 42 CFR 417.472; 42 CFR 489.102

Legal Deadline: None

Abstract: The final rules will make minor changes in the interim rule, which implemented statutory provisions effective in December, 1991. They will amend the Medicare and Medicaid regulations governing provider agreements and contracts to establish requirements for States, hospitals, nursing facilities, skilled nursing facilities, providers of home health care or personal care services, hospice programs and prepaid health plans concerning advance directives. An advance directive is a written instruction, such as a living will or durable power of attorney for health care, recognized under State law, relating to the provision of health care when an individual's condition makes him or her unable to express his or her wishes. The intent of these provisions is to enhance an individual's control over medical treatment decisions. These rules implement sections 4206 and 4751 of the Omnibus Budget Reconciliation Act of 1990.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment Period	03/06/92	57 FR 8194
Public Comment Period End	05/05/92	57 FR 8194
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4607**

RIN: 0938–AF50

1265. DURABLE MEDICAL EQUIPMENT (DME) MEDICAL NECESSITY FORMS (BPD-734-FC)

Legal Authority: 42 USC 1395m(a)(13)

CFR Citation: 42 CFR 410.38

Legal Deadline: None

Abstract: Section 4152(f) of the Omnibus Budget Reconciliation Act of 1990 prohibits DME suppliers from distributing to physicians or beneficiaries any completed or partially completed forms or other documents required by the Secretary to show that a covered item is medically necessary. These regulations set forth the limitations regarding the information which a supplier of DME may provide to a physician or beneficiary.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

TIMETABLE: Pending legislative activity.

Agency Contact: Israel Brauner, Program Analyst, Special Coverage Issues Branch, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4640**

RIN: 0938–AF51

1266. INJECTABLES FOR OSTEOPOROSIS (BPD-735-FC)

Legal Authority: 42 USC 1395x(s)(2)(O); 42 USC 1395x(jj)

CFR Citation: 42 CFR 410

Legal Deadline: None

Abstract: This final rule with comment period implements provisions of section 4156 of the Omnibus Budget Reconciliation Act of 1990. Under this provision, Medicare will provide limited coverage of injectable drugs for treatment of patients with postmenopausal osteoporosis. This rule will specify the conditions which a beneficiary must meet to be eligible for coverage under this provision.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

TIMETABLE: Pending technical legislative amendments.

Agency Contact: John Thomas, Program Analyst, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4636**

RIN: 0938–AF52

1267. PARTIAL HOSPITALIZATION SERVICES IN COMMUNITY MENTAL HEALTH CENTERS (BPD-736-IFC)

Legal Authority: 42 USC 1395k(a)(2)(J); 42 USC 1395x(ff)(3); 42 USC 1395cc(e)(2)

CFR Citation: 42 CFR 400; 42 CFR 410; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: In accordance with section 4162 of the Omnibus Budget Reconciliation Act of 1990, this interim final rule sets forth the coverage criteria and payment methodology for partial hospitalization services furnished in community mental health centers. t

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also specifies the requirements a community mental health center must meet in order to enter into a Medicare provider agreement to furnish partial hospitalization services.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment Period	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Regina Walker, Program Analyst, Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-6735**

RIN: 0938–AF53

1268. MEDICARE COVERAGE OF EPO FOR HOME USE BY HOME DIALYSIS PATIENTS (BPD-737-F)

Legal Authority: 42 USC 1395x(s)(2)(P)

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 413; 42 CFR 414

Legal Deadline: None

Abstract: This rule provides for Medicare coverage of the drug erythropoietin (EPO) when used at home by ESRD patients who dialyze at home. This makes it more convenient for home dialysis patients, who previously had to go to a dialysis facility or a physician's office to have the drug administered. The rule establishes requirements to ensure that only patients found capable of home use of the drug are approved for it, and that those patients are properly monitored during home use of the drug. Section 4201(d)(1)(C) of the Omnibus Budget Reconciliation Act of 1990 provides for Medicare coverage of EPO effective July 1, 1991, subject to methods and standards established by the Secretary in regulations for the sale and effective use of the drug.

Timetable:

Action	Date	FR Cite
Effective	09/04/91	56 FR 43706
Interim Final Rule With Comment	09/04/91	56 FR 43706
Public Comment Period End	11/04/91	56 FR 43706
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Cereghino, Program Analyst, Alternative Delivery Organizations Branch, Department of Health and Human Services, Health Care Financing Administration, Room 401 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4637**

RIN: 0938–AF54

1269. RECOGNITION OF THE JOINT COMMISSION ON THE ACCREDITATION OF HEALTHCARE ORGANIZATIONS STANDARDS FOR HOME HEALTH CARE ORGANIZATIONS (BPD-740-F)

Significance: Agency Priority

Legal Authority: 42 USC 1395bb(a)

CFR Citation: None

Legal Deadline: None

Abstract: In this final notice, we would recognize the accreditation program of the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) for Home Health Agencies (HHAs) that wish to participate in the Medicare or Medicaid programs. We have found that the accreditation process of this organization provides reasonable assurance that HHAs accredited by it meet the conditions required by Federal law and regulations. As a result of this determination, HHAs accredited by JCAHO will be "deemed" to meet the Medicare conditions of participation for HHAs, and therefore would not be subject to routine inspection by State survey agencies to determine their compliance with Federal requirements. They would, however, be subject to validation and complaint investigation surveys.

Timetable:

Action	Date	FR Cite
Proposed Notice	02/03/92	57 FR 4044
Comment Period End	04/03/92	57 FR 4044
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Thomas, Program Analyst, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4623**

RIN: 0938–AF56

1270. DESIGNATION OF REGIONAL CARRIERS TO PROCESS CLAIMS FOR DURABLE MEDICAL EQUIPMENT, PROSTHETICS, ORTHOTICS AND SUPPLIES (BPO-102-F)

Legal Authority: 42 USC 1395m(a)(12); 42 USC 1395m(a)(3); 42 USC 1395u(a)

CFR Citation: 42 CFR 400.202; 42 CFR 420.200; 42 CFR 420.201; 42 CFR 420.204; 42 CFR 420.205; 42 CFR 421.210; 42 CFR 421.1; 42 CFR 421.200; 42 CFR 421.202; 42 CFR 421.206

Legal Deadline: None

Abstract: This rule modifies Medicare regulations to establish provision for the designation of regional carriers to process claims for durable medical equipment, prosthetics, orthotics, and supplies. These revisions are made under authority provided in sections 1834(a)(12), 1834(h)(3), and 1842(a) of the Social Security Act. We expect more efficient and economical administration of the Medicare program to result.

Timetable:

Action	Date	FR Cite
NPRM	11/06/91	56 FR 47758
NPRM Comment Period End	01/06/92	56 FR 47758
Final Action With Comment Period	06/18/92	57 FR 27290
Final Action	08/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Lisanne Bradley, Program Analyst, Division of Operational Initiatives, Department of Health and Human Services, Health Care Financing Administration, Room 368 ME Building, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-3359**

RIN: 0938–AF59

1271. UNIFORM PAYMENT MECHANISM FOR HOSPITALS UNDER PART A OF MEDICARE (BPO-104-FN)

Significance: Agency Priority

Legal Authority: 42 USC 1395g

CFR Citation: None

Legal Deadline: None

Abstract: This notice will announce our intention to require all hospitals participating in Part A of Medicare to bill electronically and to receive payment and remittance notices electronically. We expect such procedures to result in more economical and efficient program operation and administration.

Timetable:

Action	Date	FR Cite
Proposed Notice	01/15/93	58 FR 4705
Public Comment Period End	03/16/93	58 FR 4705
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia Talley, Chief, Budget Formulation Branch, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, Room 1-B-4, ME Building, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-7493**

RIN: 0938–AF60

1272. EXEMPTION OF LOW INCOME PREGNANT WOMEN FROM ELIGIBILITY CONDITION OF ESTABLISHING PATERNITY AND SEEKING SUPPORT (MB-048-F)

Legal Authority: 42 USC 1396k(a)(1)(B)

CFR Citation: 42 CFR 433.145; 42 CFR 433.147; 42 CFR 435.604; 42 CFR 436.604

Legal Deadline: None

Abstract: As a condition of eligibility for Medicaid, every applicant must agree to cooperate in establishing the paternity of children born out of wedlock, and in obtaining medical payments and support. A final rule with comment period (58 FR 4904) modified the regulations to incorporate a provision of section 4606 of Pub. L. 101-508, which provides an exemption to this condition for pregnant women who qualify for Medicaid under special eligibility requirements for low income pregnant women. Following receipt and analysis of public comments, a determination will be made as to the need for a final rulemaking document.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	01/19/93	58 FR 4904
Effective	02/18/93	58 FR 4904
Public Comment Period End	03/22/93	58 FR 4904
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Marinos Svolos, Director, Division of Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 323 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4451**

RIN: 0938–AF65

1273. MEDICAID DRUG USE REVIEW PROGRAM AND ELECTRONIC CLAIMS MANAGEMENT SYSTEM FOR OUTPATIENT DRUG CLAIMS (MB-050-F)

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1396r-8(g)(h)

CFR Citation: 42 CFR 456

Legal Deadline: None

Abstract: An interim final rule with comment period (57 FR 49397) implemented sections 1927(g) and (h) of the Social Security Act as established by the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508). It prescribed requirements for an outpatient drug use review program that includes both prospective drug review and retrospective drug use review. It also contained requirements for State drug use review boards and requirements of a point-of-sale electronic claims management system for processing claims for outpatient drugs. Following analysis of public comments a final rulemaking document will be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment Period	11/02/92	57 FR 49397
Effective	01/01/93	57 FR 49397
Public Comment Period End	01/04/93	57 FR 49397
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Christopher Howe, Branch Chief, Systems Performance Branch, Department of Health and Human Services, Health Care Financing Administration, Room 2-J-2 ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-3276**

RIN: 0938–AF67

1274. MEDICAID: OUTSTATIONED INTAKE LOCATIONS FOR CERTAIN LOW-INCOME PREGNANT WOMEN, INFANTS AND CHILDREN (MB-052-IFC)

Legal Authority: 42 USC 1396a(a)(55); 42 USC 1302

CFR Citation: 42 CFR 435.901; 42 CFR 435.902; 42 CFR 435.903; 42 CFR 435.904; 42 CFR 435.907

Legal Deadline: None

Abstract: This rule implements a statutory requirement that State Medicaid agencies must provide for receipt and initial processing of Medicaid applications filed by certain low-income pregnant women, infants, and children at locations which are other than those used for receipt and processing of Aid to Families with Dependent Children (AFDC) applications. The statutory requirement also provides that the application form for these individuals must not be the AFDC application form.

The rule is based on section 1902(a)(55) of the Social Security Act as added by section 4602 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment Period	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 323 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4451**

RIN: 0938–AF69

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1275. HOME AND COMMUNITY-BASED CARE AS AN OPTIONAL SERVICE (MB-053-IFC)

Significance: Agency Priority

Legal Authority: 42 USC 1396d(a); 42 USC 1302

CFR Citation: 42 CFR 441

Legal Deadline: None

Abstract: This interim final rule would allow States to choose to provide home and community care for functionally disabled elderly as a State plan option. Rather than imposing a cost-neutrality component, as is the case in home and community based care waiver programs under section 1915 of the Social Security Act, this rule imposes two cost "caps" which are applied independently. One cap prohibits States from spending more than 50 percent of the amount Medicare would pay for certain nursing facility care, the second cap is an aggregate limit on the amount of Federal funding. This rule would implement section 4711 of the Omnibus Budget Reconciliation Act of 1990.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment Period	10/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Robert Wardwell, Director, Division of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 400 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-5659**

RIN: 0938–AF70

1276. OPTIONAL SPENDDOWN (MB-055-IFC)

Legal Authority: 42 USC 1396b(f)(2); 42 USC 1396a(a)(17); 42 USC 1302

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This rule would allow States to choose the option of a variation of the spenddown for medically needy individuals. Under the regular spenddown program a medically needy individual becomes eligible for Medicaid by spending down income in excess of the medically needy income standard until the standard is reached. Under the optional program, an applicant could choose to pay an amount equal to their excess income to the State instead of becoming eligible only after incurring expenses. This option was provided by section 4723 of the Omnibus Budget Reconciliation Act of 1990.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment Period	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Marinos Svolos, Director, Division of Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 323 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4451**

RIN: 0938–AF72

1277. MEDICARE AND MEDICAID PROGRAMS: REQUIREMENTS FOR PHYSICIAN INCENTIVE PLANS IN PREPAID HEALTH CARE ORGANIZATIONS (OCC-024-F)

Significance: Agency Priority

Legal Authority: 42 USC 1395mm; 42 USC 1396b; 42 USC 1302

CFR Citation: 42 CFR 417.01; 42 CFR 417.409; 42 CFR 417.495; 42 CFR 434.67; 42 CFR 1003.100; 42 CFR 1003.101; 42 CFR 1003.102; 42 CFR 1003.103

Legal Deadline: None

Abstract: This rule would amend the regulations governing federally qualified health maintenance organizations (HMOs) and competitive medical plans (CMPs) contracting with the Medicare program, and certain HMOs and health insuring organizations (HIOs) contracting with States under the Medicaid program, by implementing changes made by sections 4204(a) and 4731(a) of the Omnibus Budget Reconciliation Act of 1990 concerning physician incentive plans. The changes are intended to allow HMOs, CMPs, and HIOs the flexibility to provide reasonable financial incentives to their physicians and physician groups in order to eliminate unnecessary care and protect enrollees from reduced quality of care or access to care.

Timetable:

Action	Date	FR Cite
NPRM	12/14/92	57 FR 59024
Public Comment Period End	02/12/93	57 FR 59024
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jean LeMasurier, Program Analyst, Office of Coordinated Care, Department of Health and Human Services, Health Care Financing Administration, Room 4360 Cohen Building, 330 Independence Avenue SW., Washington, DC 20201, 202 205-0553

RIN: 0938–AF74

1278. REVISIONS TO CRITERIA AND STANDARDS FOR EVALUATING INTERMEDIARIES AND CARRIERS (BP0-083-F)

Legal Authority: 42 USC 1395h; 42 USC 1395u; PL 98-369, Sec 2326(c)

CFR Citation: 42 CFR 421

Legal Deadline: None

Abstract: This rule would revise the regulations that govern the establishment of criteria and standards used to evaluate the performance of "fiscal intermediaries" (FIs) and "carriers" in the administration of the Medicare program. ("Intermediaries" and "carriers" are the contractors that process Medicare claims and bills under Part A (Hospital Insurance) and Part B (Supplementary Medical Insurance) of the Medicare program, respectively.) Under the Medicare program the performance of intermediaries and carriers is measured by using a Contractor Performance and Evaluation Program (CPEP) that evaluates activities against established performance criteria and standards. The criteria and standards vary from year to year to reflect shifting program emphases and statutory changes. The revisions will update and remove outdated material from the regulations.

which will improve administration of the program.

Timetable:

Action	Date	FR Cite
NPRM	12/03/92	57 FR 57125
Public Comment Period End	02/01/93	57 FR 57125
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Larry Pratt, Chief, Performance Standards Development Branch, Department of Health and Human Services, Health Care Financing Administration, Room 320 ME Building, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-7403**

RIN: 0938–AF84

1279. APPLICATION OF INTEREST CHARGES TO MEDICARE SECONDARY PAYER RECOVERIES (BPO-108-GN)

Legal Authority: 31 USC 3711; 31 USC 3717

CFR Citation: 42 CFR 401.601; 42 CFR 405.376; 45 CFR 30.16; 45 CFR 30.13

Legal Deadline: None

Abstract: This notice announces that HCFA is proceeding under its authority to charge interest on secondary payer payments overdue to HCFA. Experience has shown that parties owing monies to HCFA are not motivated to make timely payments and require followup efforts to collect the payments. The existing regulation at 42 CFR 401.607, which authorizes claims collection (including interest), and other authorities are being invoked to stimulate prompt payment.

Timetable:

Action	Date	FR Cite
Notice	07/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: John Albert, Program Analyst, Div. of Entitlement & Benefit Coordination, Department of Health and Human Services, Health Care Financing Administration, Room 3-E-5 ME Building, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-7457**

RIN: 0938–AF87

1280. MEDICARE PROGRAM: PEER REVIEW ORGANIZATION; GENERAL CRITERIA AND STANDARDS FOR EVALUATING PERFORMANCE OF CONTRACT OBLIGATIONS (HSQ-200-N)

Legal Authority: 42 USC 1320c-2(h)(2)

CFR Citation: None

Legal Deadline: None

Abstract: This notice provides the general criteria and standards that will be used to evaluate the effective and efficient performance of Utilization and Quality Control Peer Review Organizations for contracts entered into on or after October 1, 1991. Section 1153(h)(2) of the Social Security Act requires that we publish these criteria and allow an opportunity for public comment.

Timetable:

Action	Date	FR Cite
Notice	05/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Diane Maupai-Harrington, Deputy Director, Division of Program Operations, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2, ME Building, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-7211**

RIN: 0938–AF89

1281. COMPUTER MATCHING AND PRIVACY PROTECTION FOR MEDICAID ELIGIBILITY (MB-057-F)

Legal Authority: 5 USC 552a note; 42 USC 1302

CFR Citation: 42 CFR 435.945; 42 CFR 435.952; 42 CFR 435.955

Legal Deadline: None

Abstract: This rule would require State Medicaid agencies to meet the requirements of the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100-503) as amended by the Computer Matching and Privacy Protection Act Amendments of 1989 (Pub.L.101-56). The purpose of these laws is to improve the oversight and procedures governing the disclosure of personal information used in computer matching programs and to protect the privacy and due process rights of individuals whose records are exchanged. Under these laws, State Medicaid agencies would have to verify all information received from Federal agencies through the income and eligibility verification system unless the requirements were waived by the data integrity board of the Federal Agency.

Timetable:

Action	Date	FR Cite
NPRM	12/04/92	57 FR 57403
NPRM Comment Period End	02/02/93	57 FR 57403
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Helaine Jeffers, Chief, Medicaid Operations Branch, Department of Health and Human Services, Health Care Financing Administration, Room 273, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-5920**

RIN: 0938–AF91

1282. STATE SHARE OF FINANCIAL PARTICIPATION (MB-062-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1396a; 42 USC 1396b

CFR Citation: 42 CFR 433

Legal Deadline: None

Abstract: This rulemaking proceeding concerns States' use of donations and tax revenue in determining the State share of Federal financial participation in Medicaid.

Timetable:

Action	Date	FR Cite
Interim Final Rule with Comment	11/24/92	57 FR 55118
Effective	12/24/92	57 FR 55118
Public Comment Period End	01/25/93	57 FR 55118
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

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Agency Contact: Bernard Truffer, Director, Division of Payment Policy, Department of Health and Human Services, Health Care Financing Administration, Room 291, EHR, 6325 Security Boulvard, Baltimore, Maryland 21207, **410 966-4576**

RIN: 0938–AF99

1283. PAYMENT FOR PREADMISSION SERVICES (BPD-731-IFC)

Legal Authority: 42 USC 1395ww(a)(4)

CFR Citation: 42 CFR 412.2(c); 42 CFR 413.40(c)(1)

Legal Deadline: None

Abstract: This interim final rule with comment period will implement section 4003 of the Omnibus Budget Reconciliation Act of 1990, entitled "Expansion of DRG Payment Window," which expands the definition of "inpatient operating cost" to include certain preadmission services. Included are services provided by a hospital (or by an entity wholly owned or operated by the hospital) to the patient during the three days immediately preceding the date of the patient's admission if the services are diagnostic services (including clinical diagnostic laboratory tests), or are other services related to the admission (as defined by the Secretary).

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment Period	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 401 East High Rise Building, 6325 Security Boulevard, Baltimore, MD 21207, **410 966-4607**

RIN: 0938–AG00

1284. INTERMEDIARY AND CARRIER CHECKS THAT ARE LOST, STOLEN, DEFACED, MUTILATED, DESTROYED, OR PAID ON FORGED ENDORSEMENTS (BPO-114-FC)

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 424.350; 42 CFR 424.352; 42 CFR 424.354

Legal Deadline: None

Abstract: This rule revises the Medicare regulations governing the procedures for replacing checks issued by our fiscal intermediaries and carriers that are lost, stolen, defaced, mutilated, destroyed, or paid on forged endorsements. Since States have established legal processes for pursuing claims for check replacement and recovery under these circumstances, it is inefficient to maintain duplicative Federal requirements. Our revised regulations would provide that any replacement or reclamation proceedings will be carried out in accordance with applicable State banking laws. We will continue to reissue only checks that have not been negotiated.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Samuel Guida, Director, Div. of Acct Managemt & Collection, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, Room 1-E-6 Meadows East Bldg., 6325 Security Boulevard, Baltimore, MD 21207, **410 966-7495**

RIN: 0938–AG16

1285. • SCHEDULE OF LIMITS ON HOME HEALTH AGENCY COSTS PER VISIT FOR COST REPORTING PERIODS BEGINNING ON OR AFTER JULY 1, 1993 (BPD-779-NC)

Significance: Agency Priority

Legal Authority: 42 USC 1395x(v)(1)(A); 42 USC 1395x(v)(1)(L)

CFR Citation: None

Legal Deadline: Other, Statutory, July 1, 1993.
Other deadline is for publication of Notice.

Abstract: This notice sets forth an updated schedule of limits on home health agency costs that may be paid under the Medicare program. This update will be applicable to cost reporting periods beginning on or after July 1, 1993.

Timetable:

Action	Date	FR Cite
Final Notice With Comment Period	07/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5, ELR Building, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4513**

RIN: 0938–AG24

1286. • PHYSICIAN PERFORMANCE STANDARD RATES OF INCREASE FOR 1994 (BPD-774-FN)

Significance: Agency Priority

Legal Authority: 42 USC 1395w-4

CFR Citation: None

Legal Deadline: Other, Statutory, October 31, 1993.
Other deadline is for publication of Notice.

Abstract: This notice announces the FY 1994 performance standard rates of increase for expenditures and volume of physician services as required by section 1848(f)(1)(C) of the Act. In addition, this notice announces the CY 1994 fee schedule update as required by section 1848(d)(1)(C)(i) of the Social Security Act.

Timetable:

Action	Date	FR Cite
Final Notice	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Reimbursement, BPD, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5, ELR Building, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4497**

RIN: 0938–AG25

1287. • UPDATE OF AMBULATORY SURGICAL CENTER PAYMENT RATES FOR FISCAL YEAR 1994 (BPD-775-FNC)

Legal Authority: 42 USC 1395l(i)(2)

CFR Citation: None

Legal Deadline: Other, Statutory, October 1, 1993.
Other deadline is for publication of Notice.

Abstract: This notice implements section 1833(i)(2) of the Social Security Act that requires the payment rates for ambulatory surgical center services be reviewed and updated every year.

Timetable:

Action	Date	FR Cite
Final Notice With Comment Period	10/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Bernadette Schumaker, Director, Division of Special Payment&, Programs, BPD, Department of Health and Human Services, Health Care Financing Administration, Room 1-A-5, ELR Building, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4568**

RIN: 0938–AG26

1288. • GENERAL EVALUATION CRITERIA AND STANDARDS FOR EVALUATING PERFORMANCE OF CONTRACT (HSQ-207-GNC)

Legal Authority: 42 USC 1320c-2(h)(2)

CFR Citation: 42 CFR 462

Legal Deadline: None

Abstract: The notice provides general criteria and standards that will be used to evaluate the effective and efficient performance of Utilization Quality Control Peer Review Organizations (PROs) for new contracts entered into on or after April 1, 1993 by the 53 PROs.

Timetable:

Action	Date	FR Cite
Notice With Comment Period	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Lafferty, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2, Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-6783**

RIN: 0938–AG32

1289. • DISCLOSURE OF CONFIDENTIAL PRO INFORMATION FOR RESEARCH PURPOSES (HSQ-208-FC)

Significance: Agency Priority

Legal Authority: 42 USC 1320c-9

CFR Citation: 42 CFR 1320c-9

Legal Deadline: None

Abstract: This final rule with comment period will allow Peer Review Organizations (PROs) to disclose confidential information to researchers without the consent of the individuals who would be identified. Currently, PROs can only disclose nonconfidential aggregate data where no one is specifically identified. HCFA is now emphasizing the shering of PRO data for educational and research purposes as evidenced by the implementation of the Uniform Clinical Data Set and the Health Care Quality Improvement Initiative. This regulatory revision will make confidential PRO information accessible to researchers while still protecting the identities of beneficiaries and practitioners from unwarranted disclosure. PRO flexibility to share information with researchers is comparable with the revised requirements in the PRO's Fourth Scope of Work contract.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	10/00/93	

Small Entities Affected: Organizations

Government Levels Affected: State, Federal

Agency Contact: Mike Rappaport, Director, Division of Systems Management, Health Standards Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-3, Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-6759**

RIN: 0938–AG33

1290. • CHANGES IN PHYSICIAN ATTESTATION REQUIREMENTS (BPD-769-FC)

Legal Authority: 42 USC 1395ww

CFR Citation: 42 CFR 412.46(c)

Legal Deadline: None

Abstract: This final rule with comment period will revise the Medicare regulations that require a hospital to obtain on an annual basis, from each physician who has admitting privileges, a signed acknowledgement that the physician understands the penalty for misrepresenting the information on an attestation statement relating to principal and secondary diagnoses and major procedures performed on patients. These regulations will eliminate the requirement for an annual acknowledgement statement and instead require that a physician sign an acknowledgement statement only upon being granted admitting privileges at a hospital. The purpose of this change is to reduce the paperwork burden associated with processing claims under Medicare.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services Coverage Policy, BPD, Department of Health and Human Services, Health Care Financing Administration, 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **410 966-4607**

RIN: 0938–AG34

1291. • UPDATED LIMITATIONS ON AGGREGATE PAYMENTS FOR DISPROPORTIONATE SHARE HOSPITALS (MB-073-N)

Significance: Agency Priority

Legal Authority: PL 102-234, Sec 3

CFR Citation: None

Legal Deadline: None

Abstract: This notice will announce the updated Federal Fiscal Year 1993 national aggregate limit and updated individual State allotments for Medicaid payments made to hospitals that serve a disproportionate number of

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Medicaid recipients and low-income patients with special needs. The updated national limit and State allotments will be based on the February 1993 State Medicaid budget submissions to HCFA and will be adjusted, if necessary, as a result of HCFA's review.

Timetable:

Action	Date	FR Cite
Final Notice	05/00/93	

Small Entities Affected: None

Government Levels Affected: State

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: William Lasowski, Branch Chief, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, Room 273, EHR Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-2003

RIN: 0938–AG38

1292. • PART A PREMIUM FOR 1994 FOR THE UNINSURED AGED AND FOR CERTAIN DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT (OACT-043-N)

Significance: Agency Priority

Legal Authority: 42 USC 1395i-2(d)(2); 42 USC 1395i-2a(d)(2)

CFR Citation: None

Legal Deadline: Other, Statutory, September 30, 1993.
Other deadline is for publication of Notice.

Abstract: This notice announces the hospital insurance premium for calendar year 1994 under Medicare's hospital insurance program (Part A) for the uninsured aged and for certain disabled individuals who have exhausted other entitlement. The uninsured aged are those individuals who are not insured under the Social Security or Railroad Retirement Acts, and do not otherwise meet the requirements for entitlement under Medicare, Part A. Section 1818(d) of the Social Security Act specifies the method to be used to determine this amount.

Timetable:

Action	Date	FR Cite
Notice	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Wandishin, Director, Division of Hospital Insurance, Office of the Actuary, Department of Health and Human Services, Health Care Financing Administration, 1705 Equitable Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-6389

RIN: 0938–AG39

1293. • MONTHLY ACTUARIAL RATES AND MONTHLY SUPPLEMENTARY MEDICAL INSURANCE PREMIUM RATES BEGINNING JANUARY 1, 1994 (OACT-044-N)

Significance: Agency Priority

Legal Authority: 42 USC 1395r

CFR Citation: None

Legal Deadline: Other, Statutory, September 30, 1993.
Other deadline is for publication of Notice.

Abstract: This notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) enrollees in the Medicare Supplementary Insurance (SMI) program for the 12 months beginning January 1, 1994. It also announces the monthly SMI premium rate to be paid by all enrollees during the 12 months beginning January 1, 1994.

Timetable:

Action	Date	FR Cite
Notice	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Wandishin, Director, Division of Hospital Insurance, Office of the Actuary, Department of Health and Human Services, Health Care Financing Administration, Room M-1, 1705 Whitehead Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-6396

RIN: 0938–AG40

1294. • INPATIENT HOSPITAL DEDUCTIBLE AND HOSPITAL AND EXTENDED CARE SERVICES COINSURANCE AMOUNTS FOR 1994 (OACT-045-N)

Significance: Agency Priority

Legal Authority: 42 USC 1395e(b)(2)

CFR Citation: None

Legal Deadline: Other, Statutory, September 15, 1993.
Other deadline is for publication of Notice.

Abstract: This notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in CY 1994 under Medicare's hospital insurance program (Medicare Part A). The Medicare statute specifies the formulae to be used to determine these amounts.

Timetable:

Action	Date	FR Cite
Notice	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carter Warfield, Director, Division of Supplementary Medical Insurance, Department of Health and Human Services, Health Care Financing Administration, Room M-1, 1705 Whitehead Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 410 966-6396

RIN: 0938–AG41

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA) — **Completed Actions**

1295. CHARGES TO RESIDENTS' FUNDS IN NURSING HOMES (BPD-477-F)

CFR Citation: 42 CFR 483

Completed:

Reason	Date	FR Cite
Final Action	11/02/92	57 FR 53572
Final Action Effective	10/01/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Thomas E. Hoyer, 410 966-4607

RIN: 0938–AD66

1296. PROHIBITION OF FFP FOR EDUCATIONAL AND VOCATIONAL TRAINING FOR INSTITUTIONALIZED INDIVIDUALS (BPD-485-F)

CFR Citation: 42 CFR 441

Completed:

Reason	Date	FR Cite
Final Action	11/20/92	57 FR 54705
Final Action Effective	12/21/92	57 FR 54705

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Thomas E. Hoyer, 410 966-4607

RIN: 0938–AD69

1297. CLARIFICATION OF AND CHANGES TO MEDICARE COVERAGE POLICY REGARDING DURABLE MEDICAL EQUIPMENT (BPD-468-P)

CFR Citation: 42 CFR 410

Completed:

Reason	Date	FR Cite
Withdrawn by decision of HCFA Acting Administrator	11/23/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam DellaVecchia, 410 966-5395

RIN: 0938–AD77

1298. REQUIREMENTS FOR COVERAGE OF SEAT LIFTS (BPD-607-P)

CFR Citation: 42 CFR 410.38

Completed:

Reason	Date	FR Cite
Withdrawn - surviving provisions will be included in new entry to be determined	01/12/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam DellaVecchia, 410 966-5395

RIN: 0938–AE05

1299. REVISIONS OF THE MEDICARE ECONOMIC INDEX (BPD-655-F)

Significance: Agency Priority

CFR Citation: 42 CFR 405.502; 42 CFR 405.504

Completed:

Reason	Date	FR Cite
Final Action	11/25/92	57 FR 55896
Final Action Effective	12/28/92	57 FR 55896

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard Patashnik, 410 966-4497

RIN: 0938–AE54

1300. PAYMENT CHANGE FOR HOME DIALYSIS (BPD-690-F)

Significance: Agency Priority

CFR Citation: 42 CFR 414

Completed:

Reason	Date	FR Cite
Final Action	11/17/92	57 FR 54179
Final Action Effective	12/17/92	57 FR 54179

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernadette Schumaker, 410 966-4568

RIN: 0938–AE81

1301. REVISED PROCEDURES FOR PAYING CLAIMS FROM PROVIDERS OF MEDICARE SERVICES (BPO-93-N)

Significance: Agency Priority

CFR Citation: 42 CFR 424

Completed:

Reason	Date	FR Cite
Final Action	10/21/92	57 FR 48033
Final Action Effective	11/20/92	57 FR 48033

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Louis Palmieri, 410 966-7528

RIN: 0938–AF04

1302. WITHDRAWAL OF COVERAGE OF THERMOGRAPHY(BPD-645-FN)

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	11/20/92	57 FR 54798
Final Action Effective	12/21/92	57 FR 54798

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Hippler, 410 966-4633

RIN: 0938–AF18

1303. WRITTEN DOCUMENTATION THAT DEFICIENCIES DO NOT JEOPARDIZE RESIDENT HEALTH AND SAFETY (HSQ-183-F)

CFR Citation: 42 CFR 442.105(a)

Completed:

Reason	Date	FR Cite
Final Action	11/20/92	57 FR 54710
Final Action Effective	11/20/92	57 FR 54710

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irene Gibson, 410 966-6768

RIN: 0938–AF31

1304. CONTINUOUS USE OF DURABLE MEDICAL EQUIPMENT (BPD-742-F)

Significance: Agency Priority

CFR Citation: 42 CFR 414

Completed:

Reason	Date	FR Cite
Final Action	12/03/92	57 FR 57109
Final Action Effective	01/04/93	57 FR 57109

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: William Long, 410 966-5655

RIN: 0938–AF57

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1305. REPORTING REQUIREMENTS FOR FINANCIAL RELATIONSHIPS BETWEEN PHYSICIANS AND HEALTH CARE ENTITIES THAT FURNISH SELECTED ITEMS AND SERVICES (BPO-100-F)

Significance: Agency Priority

CFR Citation: 42 CFR 411.1; 42 CFR 411.350; 42 CFR 411.351; 42 CFR 411.361; 42 CFR 411.363; 42 CFR 411.365

Completed:

Reason	Date	FR Cite
Final Action - final rule was merged into RIN 0938-AF40 (BPD-674-F)	01/04/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Debra Beals, 410 966-3356

RIN: 0938–AF58

1306. COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES (MB-049-IFC)

CFR Citation: 42 CFR 441.355; 42 CFR 441.357; 42 CFR 441.359

Completed:

Reason	Date	FR Cite
Final Action	01/04/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Robert Wardwell, 410 966-5659

RIN: 0938–AF66

1307. SKILLED NURSING FACILITY LIMITS FOR FY 1993 (BPD-743-NC)

Significance: Agency Priority

CFR Citation: 42 CFR 413.30

Completed:

Reason	Date	FR Cite
Final Notice - no further action necessary	10/07/92	57 FR 46177

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Goeller, 410 966-4595

RIN: 0938–AF77

1308. REVIEW AND ADJUSTMENT TO RELATIVE VALUE UNITS IN THE MEDICARE PHYSICIAN FEE SCHEDULE FOR FY 1993 (BPD-758-FNC)

Significance: Regulatory Program

CFR Citation: 42 CFR 414

Completed:

Reason	Date	FR Cite
Final Notice With Comment Period	11/25/92	57 FR 55914

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Bernard J. Patashnik, 410 966-4497

RIN: 0938–AF82

1309. PHYSICIAN PERFORMANCE STANDARD RATES OF INCREASE FOR 1993 (BPD-759-FN)

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Notice With Comment Period	11/25/92	57 FR 56168

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard Patashnik, 410 966-4497

RIN: 0938–AF83

1310. DEFINITION OF A MEDICAID EXPENDITURE (MB-061-P)

Significance: Agency Priority

CFR Citation: 42 CFR 430

Completed:

Reason	Date	FR Cite
Withdrawn - inconsistent with recent statutory changes	01/04/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Cutler, 410 966-3257

RIN: 0938–AF93

1311. INPATIENT HOSPITAL DEDUCTIBLE AND HOSPITAL AND SKILLED NURSING FACILITY COINSURANCE AMOUNTS FOR 1993 (OACT-042-N)

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	11/27/92	57 FR 56345
Final Action Effective	01/01/93	57 FR 56345

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara S. Klees, 410 966-6388

RIN: 0938–AF94

1312. MONTHLY ACTUARIAL RATES AND MONTHLY SUPPLEMENTARY MEDICAL INSURANCE PREMIUM RATES BEGINNING JANUARY 1, 1993 (OACT-041-N)

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	12/01/92	57 FR 56919
Final Action Effective	01/01/93	57 FR 56919

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carter Warfield, 410 966-6396

RIN: 0938–AF95

1313. PART A PREMIUM FOR 1993 FOR THE UNINSURED AGED AND FOR CERTAIN DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT (OACT-040-N)

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	12/01/92	57 FR 56918
Final Action Effective	01/01/93	57 FR 56916

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara S. Klees, 410 966-6388

RIN: 0938–AF96

1314. PEER REVIEW ORGANIZATIONS: REVISED SCOPE OF WORK FOR 45 STATES AND TERRITORIES (HSQ-198-FN)

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Notice	03/02/93	58 FR 12042

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Harvey Brook, 410 966-6853

RIN: 0938–AG09

1315. LIMITATIONS ON AGGREGATE PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS: FISCAL YEAR 1993 (MB-65-N)

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	11/24/92	57 FR 55261
Final Action Effective	10/01/92	57 FR 55261

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Strauss, 410 966-3267

RIN: 0938–AG11

1316. COVERAGE OF CERTIFIED NURSE MIDWIFE SERVICES (BPD-496-P)

Completed:

Reason	Date	FR Cite
Duplicate of RIN 0938-AG02	01/04/93	

RIN: 0938–AG17

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage

Administration for Children and Families (ACF)

1317. REVISIONS TO AUDIT REGULATIONS AS A RESULT OF THE CHILD SUPPORT PROVISIONS OF THE FAMILY SUPPORT ACT OF 1988

Significance: Agency Priority

Legal Authority: 42 USC 603(h); 42 USC 604(d); 42 USC 652(a)(1); 42 USC 652(a)(4); 42 USC 1302

CFR Citation: 45 CFR 301; 45 CFR 305

Legal Deadline: None

Abstract: This regulation revises existing audit procedures as a result of changes to program regulations to implement the child support provisions of the Family Support Act of 1988. These changes establish timeframes and standards for providing child support enforcement services, and require use of guidelines to establish support orders among other things. Audit regulations are being revised for consistency with new program requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
Final Action	10/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Lourdes Henry, Program Specialist, Policy and Planning Div, Office of Child Support Enforcement, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, 202 401-5440

RIN: 0970–AA74

1318. FOSTER CARE, ADOPTION ASSISTANCE, AND CHILD WELFARE SERVICES

Significance: Agency Priority

Legal Authority: 42 USC 627

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: None

Abstract: This NPRM will propose criteria the Department will use to verify that a State has met statutory requirements and is eligible to receive additional funds under section 427 of the Social Security Act. The proposed rule will contain the specific criteria by which State performance in meeting the requirements of section 427 is determined, the percentage levels and other standards for case record compliance, and procedures for conducting compliance reviews.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: This action was previously reported under RIN 0980-AA08.

Agency Contact: Daniel H. Lewis, Acting Associate Commissioner, Admin. for Children, Youth, and Families, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013, 202 205-8618

RIN: 0970–AA97

1319. REQUIREMENTS APPLICABLE TO TITLE IV-E FOSTER CARE AND TITLE IV-B CHILD WELFARE SERVICES

Legal Authority: 42 USC 670 et seq; 42 USC 620 et seq

CFR Citation: 45 CFR 1356; 45 CFR 1357

Legal Deadline: None

Abstract: The Department plans to issue a Notice of Proposed Rulemaking regarding: (1) regulatory changes related to the judicial determination requirement for reasonable efforts to prevent removal and to reunify the foster child with his parents; (2) a limitation on the documentation used to verify title IV-E eligibility and State compliance with section 427 of the Social Security Act; and (3) a regulatory change from current policy regarding what constitutes a child's home/foster home for the purpose of title IV-E eligibility which will provide for equitable treatment of relative and non-relative foster care providers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

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Government Levels Affected: State

Additional Information: This action was previously reported under RIN 0980-AA44.

Agency Contact: Daniel H. Lewis, Acting Associate Commissioner, Children's, Bureau, Admin. on Children, Youth & Families, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013, **202 205-8618**

RIN: 0970–AB07

1320. AMENDMENTS TO DEVELOPMENTAL DISABILITIES RULES

Legal Authority: 42 USC 6000 et seq

CFR Citation: 45 CFR 1385; 45 CFR 1386; 45 CFR 1387; 45 CFR 1388

Legal Deadline: Final, Statutory, April 29, 1991.

Abstract: This NPRM will propose to update current rules with clarifications and new requirements to implement recent changes in the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1990 (Pub. L. 101-496).

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: This action was previously reported under RIN 0980-AA48.

Agency Contact: Will Wolstein, Deputy Commissioner, Administration on Developmental Disabilities, Department of Health and Human Services, Administration for Children and Families, 200 Independence Avenue, SW., Room 329D, Washington, DC 20201, **202 690-5504**

RIN: 0970–AB11

1321. INCOME AND ELIGIBILITY VERIFICATION SYSTEM

Significance: Regulatory Program

Legal Authority: 42 USC 1320

CFR Citation: 45 CFR 205

Legal Deadline: None

Abstract: This rule modification will give States additional flexibility in the use of automated data matches for verification of applicant and recipient eligibility for AFDC.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
Final Action	09/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Mack A. Storrs, Director, Division of AFDC Program, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, **202 401-9289**

RIN: 0970–AB13

1322. BLOCK GRANT PROGRAMS (LOW INCOME HOME ENERGY ASSISTANCE PROGRAM - LIHEAP)—FY 93 AND FY 94 PROVISIONS

Legal Authority: 42 USC 8621 et seq

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: This notice of proposed rulemaking will amend the HHS block grant regulations to implement changes to the Low Income Home Energy Assistance Program (LIHEAP) statute which were made by the Augustus F. Hawkins Human Services Reauthorization Act (HSRA) of 1990 (Pub. L. 101-501) and language in the fiscal year 1993 appropriations statute (Pub. L. 102-394) that will affect grantee administration of the LIHEAP program in fiscal years 1993 and 1994. The major changes effective FY 93 and FY 94 are: -- Providing funding for the LIHEAP program on a new program year basis of July 1 - June 30 (forward funding) -- Ending of authority to transfer LIHEAP funds to other block grant programs.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet M. Fox, Director, Division of Energy Assistance, Office of Community Services, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, **202 401-9351**

RIN: 0970–AB16

1323. ADMINISTRATIVE WAIVER PROCESS

Significance: Regulatory Program

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 205

Legal Deadline: None

Abstract: Would provide for an administrative waiver process whereby certain specific regulatory provisions may be waived to provide States additional operational flexibility. This would enable States to focus their limited resources on initiatives that will: (1) eliminate administrative and procedural barriers to efficient program administration; (2) promote compatibility with other welfare-related programs in the application of certain eligibility requirements; (3) encourage coordination with other State and community-based programs that provide the AFDC population with preventative health care or other related services designed to preserve or improve family stability; and, (4) assist in the development and maintenance of State or local provisions to assist needy families in their effort to reduce welfare dependency and achieve self-sufficiency.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
Final Action	09/00/94	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Mack A. Storrs, Director, Division of AFDC Program Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, **202 401-9289**

RIN: 0970–AB17

1324. FAMILY VIOLENCE PREVENTION AND SERVICES

Legal Authority: 42 USC 10407; 42 USC 10412

CFR Citation: 45 CFR 1310

Legal Deadline: NPRM, Statutory, August 26, 1992. Final, Statutory, September 25, 1992.

Abstract: Would implement sections 303, 308, 311 and 314 of the Family Violence Prevention and Services Act providing various grants related to domestic violence.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	01/00/94	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Jackie Lemire, Director, Division of State Assistance, Office of Community Services, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, **202 401-9342**

RIN: 0970–AB18

1325. • POLICY REGARDING SMOKING IN HEAD START FACILITIES

Legal Authority: 42 USC 9801

CFR Citation: 45 CFR 1304

Legal Deadline: None

Abstract: The purpose of this NPRM is to amend the Program Performance Standards for Operation of Head Start Programs (45 CFR 1304) to include new provisions intended to manage and curtail smoking in Head Start program facilities. There are currently no requirements with regard to smoking in Head Start programs. New information from OSHA confirms the dangers of secondary exposure to cigarette smoke and the need to limit such exposure in Head Start programs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Acting Associate Commisioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013, **202 205-8569**

RIN: 0970–AB22

1326. • CHILD ABUSE AND NEGLECT STATE GRANT PROGRAM

Legal Authority: 42 USC 5101

CFR Citation: 45 CFR 1340

Legal Deadline: None

Abstract: The primary purpose of this NPRM will be to propose revisions of and additions to existing regulations at 45 CFR 1340 in order to implement recent amendments to the Child Abuse Prevention and Treatment Act with respect to confidentiality and State planning requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: David W. Lloyd, Director, National Center on Child Abuse and, Neglect, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013, **202 205-8586**

RIN: 0970–AB23

1327. • STANDARDS FOR SAFE TRANSPORTATION OF HEAD START CHILDREN AND FOR PURCHASE OF FACILITIES

Significance: Agency Priority

Legal Authority: 42 USC 9801

CFR Citation: 45 CFR 1309

Legal Deadline: None

Abstract: The NPRM will propose Head Start Performance Standards for the safe transportation of Head Start children, including vehicle requirements, driver qualifications and training and safety rules for children and staff while enroute and loading and unloading of vehicles. It also will propose performance standards for the purchase of facilities. This regulation will implement the provisions in the Head Start Improvement Act of 1992 for establishing guidelines regarding safety features for vehicles used by Head Start Agencies and procedures for the purchase of facilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Acting Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013, **202 205-8569**

RIN: 0970–AB24

1328. • TITLE IV-E TRAINING

Significance: Regulatory Program

Legal Authority: 42 USC 674

CFR Citation: 45 CFR 235; 45 CFR 1356.60

Legal Deadline: None

Abstract: Section 474 of the Social Security Act authorizes Federal matching for training personnel employed or preparing for employment by the State or local child welfare agency at 75 percent instead of 50 percent as for other administrative costs. This NPRM will correct inconsistencies in the current regulation and more clearly delineate what is included in the higher reimbursement rate.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Daniel H. Lewis, Acting Associate Commissioner, Children's Bureau, Admin on Children, Youth & Families, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013, **202 205-8618**

RIN: 0970–AB25

1329. • OMNIBUS REGULATION FOR MISCELLANEOUS REVISIONS AND TECHNICAL CHANGES

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 301; 45 CFR 302; 45 CFR 303; 45 CFR 304

Legal Deadline: None

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Proposed Rule Stage

Abstract: This omnibus regulation proposes to make revisions and technical changes to rules governing certain aspects of the child support enforcement program including: the process of obtaining and removing exemptions; and several technical changes designed to update, clarify or define terms and requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	
Final Action	01/00/95	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Marilyn R. Cohen, Program Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Administration for Children and Families, 370 L'enfant Promenade,SW, Washington, DC 20447, 202 401-5366

RIN: 0970–AB26

1330. • REFUGEE CASH ASSISTANCE AND REFUGEE MEDICAL ASSISTANCE

Significance: Agency Priority

Legal Authority: 8 USC 1522

CFR Citation: 45 CFR 400

Legal Deadline: None

Abstract: This regulation would remove any reference to a specified eligibility period for the RCA/RMA program and would establish a procedure whereby the Director of ORR could determine the RCA/RMA eligibility period for a given fiscal year based on the appropriation level for RCA/RMA for the fiscal year, and then notify States of the eligibility period through a letter of notification to States without the delay of a time-consuming regulatory clearance.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Toyo A. Biddle, Deputy Director, Division of Policy and Analysis, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, 202 401-9250

RIN: 0970–AB27

1331. • STATE LEGALIZATION IMPACT ASSISTANCE GRANT

Significance: Agency Priority

Legal Authority: PL 99-603; PL 102-394

CFR Citation: 45 CFR 402

Legal Deadline: None

Abstract: This rule amends the SLIAG regulations to implement the amendment to IRCA that directs the Secretary to reallocate any SLIAG funds not expended by States by December 30, 1994 to States which had expended their entire allocations, based on each State's percentage share of total unreimbursed legalization alien costs in all States. The reallocated funds will be available until June 30, 1995.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: David B. Smith, Director, Division of State Legalization and Repatriation, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, 202 401-9255

RIN: 0970–AB28

1332. • ASSISTANCE FOR UNITED STATES CITIZENS RETURNED FROM FOREIGN COUNTRIES

Legal Authority: 42 USC 1313

CFR Citation: 45 CFR 212

Legal Deadline: None

Abstract: The U.S. Repatriate Program is a program of temporary assistance to U.S. citizens who are returned to the U.S. from abroad by the State Department for reasons of destitution, illness, or violence abroad. This assistance must be repaid to the government, although repayment may be waived. Assistance is given through the States who are reimbursed for their costs, including administration. The proposed regulatory change will clarify grounds for waiving repayment, as well as giving guidelines for States wishing to claim administrative costs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: David B. Smith, Director, Division of State Legalization and Repatriation, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, 202 401-9255

RIN: 0970–AB29

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Final Rule Stage

1333. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; EXTENSION OF MEDICAID ELIGIBILITY WHEN SUPPORT COLLECTIONS RESULT IN TERMINATION OF AFDC ELIGIBILITY

Legal Authority: 42 USC 606; 42 USC 1302; PL 98-378, Sec 20; PL 100-485, Sec 303(e)

CFR Citation: 42 CFR 435; 42 CFR 436; 45 CFR 233

Legal Deadline: None

Abstract: This final rule, which implements section 20 of the Child Support Enforcement Amendments of 1984 (Pub. L. 98-378), specifies that in any case where the collection or increased collection of support under title IV-D of the Social Security Act contributes in whole or part to a family's ineligibility for AFDC, the family is deemed, but only for the purpose of Medicaid eligibility, to be receiving AFDC for a period of four calendar months after the last month of AFDC eligibility. This applies only to families who receive AFDC in three of the six months immediately preceding the month of ineligibility. "Received" includes those individuals denied an AFDC payment solely because of a payment under $10, the recoupment of an overpayment, or because the payment is determined to be zero as a result of rounding.

Timetable:

Action	Date	FR Cite
NPRM	11/27/92	57 FR 56294
Final Action	04/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mack A. Storrs, Director, Division of AFDC Program, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, 202 401-9289

RIN: 0970–AA07

1334. DISREGARDS OF INCOME AND RESOURCES

Legal Authority: PL 100-707; PL 100-383; PL 101-201; PL 101-239; PL 101-392; PL 102-325

CFR Citation: 45 CFR 233.20(a)(3),(4)

Legal Deadline: None

Abstract: Would add the following income and resource disregards to the regulations: (1) Disregard of Bona Fide Loans; (2) disregard of Student Financial Assistance under title IV of the Higher Education Act or under Bureau of Indian Affairs Student Assistance Programs; (3) Disregard of any assistance for attendance costs under the Carl D. Perkins Vocational and Applied Technology Education Act; (4) disregard of Compensation to individuals of Japanese ancestry, and residents of the Aleutian and Pribilof Islands who were interned during World War II; (5) disregard of Federal major disaster and emergency assistance under the Disaster Relief Act, as amended; and (6) disregard of Agent Orange Payments.

Timetable:

Action	Date	FR Cite
NPRM	07/15/91	56 FR 32152
NPRM Comment Period End	09/13/91	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Mack A. Storrs, Director, Division of AFDC Program, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, 202 401-9289

RIN: 0970–AA70

1335. SAFEGUARDING INFORMATION; FEDERAL INCOME TAX REFUND OFFSET

Significance: Agency Priority

Legal Authority: 42 USC 664

CFR Citation: 45 CFR 301.1; 45 CFR 303.21; 45 CFR 303.72

Legal Deadline: None

Abstract: This regulation implements section 5011 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508), extending the Federal Income Tax Refund Offset process for non-AFDC families in three ways: 1) by making the provision permanent in the statute; 2) by clarifying that spousal support in the same order may be collected; and, 3) by allowing collection of support for certain adult disabled children. In addition, this proposed rule would permit the disclosure of information to the appropriate agency with respect to known or suspected instances of child abuse.

Timetable:

Action	Date	FR Cite
NPRM	11/18/91	56 FR 58205
NPRM Comment Period End	01/18/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Susan Notar, Program Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, 202 401-4606

RIN: 0970–AA88

1336. ESSENTIAL PERSONS

Legal Authority: 42 USC 602(a)(7)

CFR Citation: 45 CFR 233.20(a)(2)(vi), (vii)

Legal Deadline: None

Abstract: The final rule rescinds the current regulation on essential persons which restricts the categories of individuals who may be considered in the State plan as essential persons and replaces the current regulation with an earlier version which restores the authority of states to make this determination.

Timetable:

Action	Date	FR Cite
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Mack A. Storrs, Director, Division of AFDC Program, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, 202 401-9289

RIN: 0970–AA93

1337. REQUIRE RECOUPMENT OF OVERPAYMENTS FROM CURRENT RECIPIENTS

Significance: Agency Priority

Legal Authority: 42 USC 602; 42 USC 606; 42 USC 607

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CFR Citation: 45 CFR 233.20

Legal Deadline: None

Abstract: 1) Requires States to use recoupment (grant reduction) to collect outstanding overpayments from current recipients; 2) permits States to recoup above the 10% recoupment limit upon recipients' written request; and 3) shortens the time period for States to initiate a specific recovery action. These actions would provide for prompt recovery of AFDC overpayments and increase overpayment collections, thereby enhancing the fiscal integrity of the AFDC program.

Timetable:

Action	Date	FR Cite
NPRM	08/12/91	56 FR 38094
NPRM Comment Period End	10/11/91	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Mack A. Storrs, Director, Division of AFDC Program, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, 202 401-9289

RIN: 0970–AA94

1338. HEAD START PERFORMANCE STANDARDS FOR INFANTS, TODDLERS, AND PREGNANT WOMEN

Significance: Agency Priority

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1307

Legal Deadline: None

Abstract: The final rule will establish a new part 1307 setting forth performance standards that must be used in providing Head Start services to infants, toddlers and pregnant women.

Timetable:

Action	Date	FR Cite
NPRM	06/19/90	55 FR 24899
NPRM Comment Period End	08/20/90	55 FR 24899
Final Action	11/00/93	

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: This action was previously reported under RIN 0980-AA33.

Agency Contact: Douglas Klafehn, Acting Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013, 202 205-8569

RIN: 0970–AB04

1339. ADOPTION AND FOSTER CARE ANALYSIS AND REPORTING SYSTEM (AFCARS)

Significance: Regulatory Program

Legal Authority: 42 USC 679

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: Final, Statutory, December 31, 1988.

Abstract: Section 479 of the Social Security Act requires the Secretary to publish regulations to collect data relating to foster care and adoption in the United States.

Timetable:

Action	Date	FR Cite
NPRM	09/27/90	55 FR 39540
NPRM Comment Period End	12/26/90	55 FR 39540
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: This action was previously reported under RIN 0980-AA35.

Agency Contact: Daniel H. Lewis, Acting Associate Commissioner, Children's, Bureau, Admin. on Children, Youth & Families, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013, 202 205-8618

RIN: 0970–AB05

1340. SOCIAL SERVICES BLOCK GRANT INFORMATION COLLECTION

Legal Authority: 42 USC 1397 to 1397e

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: The final rule will specify procedures and uniform definitions of services for use by States in preparing their annual reports to the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	04/05/90	55 FR 12678
NPRM Comment Period End	06/04/90	55 FR 12678
Final Action	08/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

Additional Information: This action was previously reported under RIN 0980-AA42.

Agency Contact: Bryant Tudor, Department of Health and Human Services, Administration for Children and Families, 200 Independence Avenue, SW., Room 326-F, Washington, DC 20201, 202 245-2874

RIN: 0970–AB06

1341. TECHNICAL CHANGES TO THE AFDC PROGRAM AS REQUIRED BY OBRA 90

Legal Authority: 42 USC 602

CFR Citation: 45 CFR 205; 45 CFR 233

Legal Deadline: None

Abstract: These interim final rules implement three minor changes to the AFDC program as required by the new statutory provisions in sections 5053, 5054, and 5055 of OBRA 90. They would eliminate deeming of income from legal guardians in minor parent cases, expand State agency responsibility for reporting child abuse and neglect, and authorize disclosure of information about AFDC cases to title IV-E programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	
Final Action	06/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Mack A. Storrs, Director, Division of AFDC Program, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, 202 401-9289

RIN: 0970-AB14

HHS—ACF

Final Rule Stage

1342. BLOCK GRANT PROGRAMS (LOW INCOME HOME ENERGY ASSISTANCE PROGRAM - LIHEAP) FY 91 AND FY 92 PROVISIONS

Legal Authority: 42 USC 8621 et seq

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: This final rule amends the Department's regulations governing the administration of block grant programs; this rule applies specifically to the Low-Income Home Energy Assistance Program (LIHEAP). The rule implements changes to the LIHEAP statute which were made by the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (Pub. L. 101-501) and which affect grantee administration of the LIHEAP program in fiscal years 1991 and 1992. These changes involve the Department's response to formal complaints, a reduction in the percent of LIHEAP funds that grantees may carry forward from one fiscal year to the next, waiver authority to increase the percent of LIHEAP funds that grantees may use for weatherization from 15% to 25%, a requirement for additional outreach and intake services under certain circumstances, and new leveraging incentive program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/92	57 FR 1960
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet M. Fox, Director, Division of Energy Assistance, Office of Community Services, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, 202 401-9351

RIN: 0970–AB15

1343. • STATE LEGALIZATION IMPACT ASSISTANCE GRANTS

Significance: Agency Priority

Legal Authority: PL 99-608, sec 204; PL 102-394

CFR Citation: 45 CFR 402

Legal Deadline: None

Abstract: This rule amends the final rule implementing the State Legalization Impact Assistance Grants (SLIAG). This action changes the deadline by which States' fiscal year 1994 SLIAG applications are due from October 1, 1993, to July 1, 1993, and the deadline by which a State's FY 1994 application must be approvable by the Secretary from December 15, 1993, to September 15, 1993. It also requires that States report actual costs for the first and second quarters of FY 1993 along with their FY 1994 applications. These actions are necessary so that FY 1994 allocations, which by Congressional action in the FY 1993 Appropriations Act must be made available to States by October 15, 1993, may be calculated and awarded by mandated deadlines.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: David B. Smith, Director, Division of State Legalization and Repatriation, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, 202 401-9255

RIN: 0970–AB30

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Completed Actions

Administration for Children and Families (ACF)

1344. PROHIBITION OF FEDERAL FUNDING OF GUARDIAN AD LITEM FEES

CFR Citation: 45 CFR 304.23

Completed:

Reason	Date	FR Cite
Final Action	11/19/92	57 FR 54519

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Marilyn R. Cohen, 202 401-5366

RIN: 0970–AA86

1345. TIMEFRAMES FOR PAYING SUPPORT COLLECTIONS TO AFDC FAMILIES

Significance: Agency Priority

CFR Citation: 45 CFR 232.20; 45 CFR 302.32

Completed:

Reason	Date	FR Cite
Final Action	11/19/92	57 FR 54515

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Lourdes Henry, 202 401-5440

RIN: 0970–AA87

1346. REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS

Significance: Agency Priority

CFR Citation: 45 CFR 302.70; 45 CFR 303.7; 45 CFR 303.8

Completed:

Reason	Date	FR Cite
Final Action	12/28/92	57 FR 61559

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Marianne C. Upton, 202 401-5373

RIN: 0970–AA91

1347. CHILD SUPPORT RELATED CHANGES TO THE AFDC PROGRAM

CFR Citation: 45 CFR 232; 45 CFR 235; 45 CFR 256

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mack A. Storrs, 202 401-9289

RIN: 0970–AA96

HHS—ACF

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HHS—ACF

Completed Actions

1348. HEAD START STAFF AND PROGRAM OPTIONS REQUIREMENTS

Significance: Agency Priority

CFR Citation: 45 CFR 1304; 45 CFR 1306

Completed:

Reason	Date	FR Cite
Final Action	12/08/92	57 FR 58084

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, 202 205-8569

RIN: 0970–AA99

1349. HEAD START APPEALS PROCESS

CFR Citation: 45 CFR 1303

Completed:

Reason	Date	FR Cite
Final Action	12/14/92	57 FR 59260

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, 202 205-8569

RIN: 0970–AB00

1350. HEAD START PERFORMANCE STANDARDS FOR SERVICES TO CHILDREN WITH DISABILITIES

Significance: Agency Priority

CFR Citation: 45 CFR 1304; 45 CFR 1305; 45 CFR 1308

Completed:

Reason	Date	FR Cite
Final Action	01/21/93	58 FR 5493

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, 202 205-8569

RIN: 0970–AB01

1351. NONRECURRING EXPENSES OF ADOPTION-TECHNICAL AMENDMENT

CFR Citation: 45 CFR 1356

Completed:

Reason	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel H. Lewis, 202 205-8618

RIN: 0970–AB09

1352. TITLE IV-E ADMINISTRATIVE COSTS

Significance: Agency Priority

CFR Citation: 45 CFR 1356

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel H. Lewis, 202 245-0618

RIN: 0970–AB10

1353. GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS

CFR Citation: 45 CFR 1310

Completed:

Reason	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jackie Lemire, 202 401-9342

RIN: 0970–AB19

1354. PUBLIC INFORMATION CAMPAIGN GRANTS

CFR Citation: 45 CFR 1310

Completed:

Reason	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jackie Lemire, 202 401-9342

RIN: 0970–AB20

1355. FAMILY VIOLENCE PROTECTION AND SERVICES GRANTS

CFR Citation: 45 CFR 1310

Completed:

Reason	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jackie Lemire, 202 401-9342

RIN: 0970–AB21

[FR Doc. 93-7454 Filed 04-23-93; 8:45 am]

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Monday
April 26, 1993

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Monday
April 26, 1993

Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. N-93-3589; FR-3491-N-01]

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual agenda, under Executive Order 12291 and the Regulatory Flexibility Act, of regulations expected to be issued and under review.

SUMMARY: In accordance with section 5 of Executive Order 12291 "Federal Regulation," the Department is publishing its agenda of proposed regulations already issued or expected to be issued and of currently effective rules that are under review. Also, under section 602 of the Regulatory Flexibility Act, the Department has prepared a regulatory flexibility agenda of regulations expected to be proposed or promulgated, which are likely to have a significant economic impact on a substantial number of small entities. As permitted by Executive Order 12291 and the Regulatory Flexibility Act, the two agendas are combined for publication.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410, (202) 708-3055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Executive Order 12291 "Federal Regulation," issued on February 17, 1981 (46 FR 13193), requires each agency to publish semiannually an agenda of regulations that the agency has issued or expects to issue and of currently effective regulations that are under agency review.

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires each agency to publish semiannually a regulatory flexibility agenda of rules expected to be proposed or promulgated, which are likely to have a significant economic impact on a substantial number of "small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12291 and section 605 of the Regulatory Flexibility Act each permits incorporation of the agenda required with any other prescribed agenda. Accordingly, the agenda set out below combines the information required by the Executive order and by the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive order or by the Act which the Department considers useful, both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

For purposes of Executive Order 12291, "regulation" or "rule" is defined as "an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency" subject to certain exceptions. The agenda published below concentrates upon regulatory material contained or expected to be contained in the Code of Federal Regulations (CFR) (or incorporated therein by reference) following publication in the **Federal Register**. As appropriate, however, issuances in the nature of general statements of policy may be published in the **Federal Register** but not for coordination in the CFR.

The Department also is subject to certain requirements involving congressional review of rulemaking action, including publication of an agenda. Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight (the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs) a semiannual agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days after transmittal of the agenda. If, within that period, either committee notifies the Secretary that it intends to review any rule or regulation which appears on the agenda, the Secretary must submit to both committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days before it is published for comment. The semiannual agenda published today is the agenda transmitted to the committees in compliance with the foregoing requirement.

The agenda items are divided first by program office. Within each program office, the agenda items are divided into four groups: (i) Prerulemaking actions, (ii) publication or other implementations of notices of proposed rulemaking, (iii) publications or other implementations of final rules, and (iv) completed actions. Within each grouping, rules are listed in chronological order by the part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected part number. Priority rules include all regulations designated for priority development by the Department.

Items listed in this agenda are from the following offices within the Department: Office of the Secretary; Office of Housing; Office of Public and Indian Housing; Office of Community Planning and Development; Office of Fair Housing and Equal Opportunity; Government National Mortgage Association; and Office of Administration.

Dated: March 4, 1993.

George L. Weidenfeller,

Deputy General Counsel (Operations).

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1356	00 CFR Not yet determined National Homeownership Trust Demonstration Program (FR-3032)	2501-AB15
1357	24 CFR 1 Deferral of Funding under Section 504 and Title VI Regulations (FR-2825)	2501-AB17

HUD

Office of the Secretary—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1358	24 CFR 6 Nondiscrimination in Programs and Activities Receiving Assistance Under Title I of the HCD Act of 1974 (FR-3079)	2501-AB32
1359	24 CFR 10 Standards of Conduct (FR-3331)	2501-AB55
1360	24 CFR 16.15 Implementation of the Privacy Act of 1974—Tenant Eligibility (FR-3436)	2501-AB60
1361	24 CFR 24 Government Debarment and Suspension and Governmentwide Requirements for a Drug-Free Workplace (FR-3065)	2501-AB24
1362	24 CFR 35 Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3061)	2501-AB23
1363	24 CFR 35 Regulations Implementing New Lead-Based Paint Program Requirements under Housing and Community Development Act of 1992 (FR-3482)	2501-AB57
1364	24 CFR 35 Regulations Implementing Lead-Based Paint Disclosure and Warning Requirements for Sale and Rental of Housing (FR-3483)	2501-AB58
1365	24 CFR 43 Residential Antidisplacement and Relocation Plan (FR-3449)	2501-AB52
1366	24 CFR 50 Departmental Policies, Responsibilities, and Procedures for Protection and Enhancement of Environmental Quality (FR-2206)	2501-AA30
1367	24 CFR 58 Environmental Review Procedures for State and Local Governments Under HUD Programs (FR-1965)	2501-AA25
1368	24 CFR 59 Protection of Historic Properties (FR-3315)	2501-AB44
1369	24 CFR 81 Regulations Implementing the Secretary's Authority Over FNMA and FHLMC (FR-3481)	2501-AB56
1370	24 CFR 81 Office of Federal Housing Enterprise Oversight Regulations Concerning the Financial Safety and Soundness of FNMA and FHLMC (FR-3484)	2501-AB59
1371	24 CFR 92 Housing and Community Development Act of 1992 Amendments to HOME Program (FR-3411)	2501-AB50
1372	24 CFR 95 Nepotism Restrictions Applicable to HUD Grantees (FR-3075)	2501-AB29
1373	24 CFR 215 Assisted Applications (FR-3466)	2501-AB62
1374	24 CFR 800 Determination of Areas of Undue Concentration of Poverty-Level Population; and Conforming Amendments (FR-3256)	2501-AB37
1375	24 CFR 882.219 Preference for Admission to Assisted Housing (FR-3122)	2501-AB35
1376	24 CFR 965.701 Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3325)	2501-AB48

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1377	00 CFR Not yet determined HOPE for Multifamily Housing (HOPE) (FR-2967)	2501-AB08
1378	00 CFR None HOPE for Public and Indian Housing Homeownership (HOPE 1) (FR-2966)	2501-AB10
1379	24 CFR 4 Prohibition of Advance Disclosure of Funding Decision (FR-2805)	2501-AB02
1380	24 CFR 9.101 Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by HUD (FR-2163)	2501-AB04
1381	24 CFR 10 Rulemaking Policies and Procedures—Expediting Rulemaking and Policy Implementation (FR-3292)	2501-AB43
1382	24 CFR 15.86 Relaxation of HUD Regulatory Requirements; Conforming Changes (FR-3221)	2501-AB40
1383	24 CFR 15 Freedom of Information Reform Act of 1986; Revision of Law Enforcement Exemption (FR-3282)	2501-AB47
1384	24 CFR 17 Administrative Claims - Disallowed Costs Provisions (FR-2861)	2501-AA97
1385	24 CFR 45 Implementation of OMB Circular A-133, "Audit of Institutions of Higher Education and Other Nonprofit Institutions" (FR-2594)	2501-AB19
1386	24 CFR 50.1 Changes in HUD Systems for Approval of Subdivisions (FR-3095)	2501-AB25
1387	24 CFR 55 Procedure for Floodplain Management and the Protection of Wetlands; Implementation of Executive Orders 11988 and 11990 (FR-865)	2501-AA23
1388	24 CFR 70 Davis-Bacon Volunteers (Sec. 955) (FR-2955)	2501-AB33
1389	24 CFR 86.20(f) Regulation of Consultants (FR-3386)	2501-AB54
1390	24 CFR 87 Prohibition on Use of Federal Funds for Lobbying; Requirements for Disclosure Statements (FR-2719)	2501-AA92
1391	24 CFR 92 HOME Investment in Affordable Housing Program (FR-2937)	2501-AB12
1392	24 CFR 92 Eligibility of Insular Areas for the HOME Program (FR-3242)	2501-AB42
1393	24 CFR 92 Interim Rule to Implement HOME Housing and Community Development Act of 1992 Amendments (FR-3410)	2501-AB49
1394	24 CFR 200 Restrictions on Housing Assistance to Ineligible Aliens (FR-2383)	2501-AA63
1395	24 CFR 207 Fire Rule (FR-3462)	2501-AB53
1396	24 CFR 215 Exclusion from Income of Earned Income Tax Credit (FR-3025)	2501-AB20

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Office of the Secretary—Final Rule Stage (Continued)

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1398	24 CFR 572 HOPE for Single Family Homes (HOPE 3) (FR-2968)	2501-AB09
1399	24 CFR 574 Housing Opportunities for Persons with AIDS (FR-3178)	2501-AB41
1400	24 CFR 700 Revised Congregate Program (Sec. 802) (FR-2990)	2501-AB34
1401	24 CFR 791.403 Allocation of Budget Authority for Housing Assistance (FR-3446)	2501-AB51
1402	24 CFR 813 Combined Income and Rent Regulations (FR-3324)	2501-AB61
1403	24 CFR 912 Definition Amendments (FR-3029)	2501-AB63
1404	24 CFR 920 HUD Prevailing Wage Rate Requirements for Maintenance, Nonroutine Maintenance and Technical Employees Working on Public Housing Projects (FR-2211)	2501-AB38
1405	24 CFR 941 Lead-Based Paint Poisoning Prevention Act—Stewart B. McKinney Homeless Assistance Amendments of 1988—Section 1088 (FR-2583)	2501-AB46

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1406	00 CFR Not yet determined HOPE for Elderly Independence Program - Program Guidelines (FR-2957)	2501-AB05
1407	00 CFR Not yet determined Preference for Native Hawaiians on Hawaiian Homelands Under Certain HUD Programs (FR-3127)	2501-AB31
1408	24 CFR 50 Environmental Policy for the HOPE Grant Programs (FR-3214)	2501-AB36
1409	24 CFR 81 Regs Implementing the Authority of the Secretary of DHUD Over the Conduct of the Secondary Market Operations of the FNMA & the FHLMC (FR-2895)	2501-AA99
1410	24 CFR 92 Amendment of HOME Investment Partnerships Program (FR-3317)	2501-AB45
1411	24 CFR 203 HOPE Grant Programs; Interim Regulations Related to the HOPE Programs (FR-2965)	2501-AB06
1412	24 CFR 203.1-9 Mortgagee Approval Reform and Direct Endorsement Expansion (FR-2854)	2501-AB16
1413	24 CFR 582 Shelter Plus Care Program (FR-2877)	2501-AB11

Office of Housing—Proposed Rule Stage

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1414	00 CFR Not yet determined Pre-Foreclosure Sale Option (FR-2682)	2502-AE72
1415	24 CFR 000 Assisted Housing Drug Elimination (FR-3467)	2502-AG07
1416	24 CFR 000 Participant's Consent to Release Information (FR-3468)	2502-AG08
1417	24 CFR 000 Standards and Obligations of Residency in Federally Assisted Housing (FR-3471)	2502-AG11
1418	24 CFR 100.325 Regulations Clarifying Term "Housing for Older Persons" (FR-3469)	2502-AG09
1419	24 CFR 200 Appraisals (FR-3027)	2502-AF25
1420	24 CFR 200.925a Changes to the Minimum Property Standards (FR-3028)	2502-AF26
1421	24 CFR 200 Seismic Safety—Earthquake Hazard Reduction (FR-3130)	2502-AF60
1422	24 CFR 200 Use of Materials Bulletin used in the HUD Building Product Standards and Certification Program (FR-3210)	2502-AF62
1423	24 CFR 200 Revision of FHA Multifamily Processing (FR-3349)	2502-AF74
1424	24 CFR 203 Nondiscrimination on Basis of Mortgage Charge Rates by Mortgagees on the Basis of Geographical Area (Tiered Pricing) (FR-3021)	2502-AF29
1425	24 CFR 203.18b(a) Mortgage Limits for High Cost Area (FR-3121)	2502-AF54
1426	24 CFR 203.402(f) Changes to Reimbursement for Preservation and Protection Expenditures (FR-3215)	2502-AF63
1427	24 CFR 204 Termination of Single-Family Coinsurance Program (FR-3418)	2502-AG00
1428	24 CFR 206 Home Equity Conversion Mortgage Insurance Demonstration (FR-2958)	2502-AF32
1429	24 CFR 207.4 Control of Luxury Housing Insured by the Department (FR-3223)	2502-AF76
1430	24 CFR 219 Flexible Subsidy (FR-3441)	2502-AG03
1431	24 CFR 236 Rent Changes in Section 236 and 221 Projects (FR-2977)	2502-AF39
1432	24 CFR 236 Mortgage Insurance and Interest Reduction Payment for Rental Projects (FR-3417)	2502-AF99
1433	24 CFR 242 Mortgage Insurance for Hospitals; Insurance of Mortgages Covering Existing Hospitals (FR-3083)	2502-AF47
1434	24 CFR 247.3(c) Tenant Protection (FR-3105)	2502-AF52
1435	24 CFR 247 Termination of Tenancy for Criminal Activity (FR-3472)	2502-AG12
1436	24 CFR 208 Nehemiah Housing Opportunity Grant Program (FR-3293)	2502-AF81

HUD

Office of Housing—Proposed Rule Stage (Continued)

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1438	24 CFR 290 Auction of FHA Multifamily Mortgages (FR-3009)	2502-AF27
1439	24 CFR 291 Single Family Property Disposition—Homeless (FR-3399)	2502-AF96
1440	24 CFR 812 Authority to Provide Preferences for Elderly Residents and for Disabled Residents in Certain Section 8 Housing (FR-3465)	2502-AG05
1441	24 CFR 880 Drug-Related Rent Adjustments (FR-2960)	2502-AF33
1442	24 CFR 880 Income Eligibility for Tenancy in New Construction Units (FR-3413)	2502-AF41
1443	24 CFR 3280 Manufactured Home Construction and Safety Standards on Seismic Requirements (FR-3099)	2502-AF67
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1445	24 CFR 3282 Manufactured Home Procedures and Enforcement Regulations; To Implement Inspection, Design Approval, Consumer Compliant Handling and Monitoring Program (FR-2985)	2502-AF42
1446	24 CFR 3282 Manufactured Home Construction Safety Standards on Hardboard Siding (FR-3470)	2502-AG10
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1448	24 CFR 3500 RESPA Amendments Required by the Housing and Community Development Act of 1992 (FR-3382)	2502-AG13

Office of Housing—Final Rule Stage

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1467	24 CFR 207 Risk-Sharing Program (FR-3383)	2502-AF94
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1470	24 CFR 215 State Agency Amendments (FR-1997)	2502-AC73
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1472	24 CFR 236.2 Definition of "Elderly Family" in Part 236 (FR-3286)	2502-AF79
1473	24 CFR 248 Preservation of Multifamily Low-Income Housing—"90-Day Rule" Housing and Community Development Act of 1992 Amendments (FR-3384)	2502-AF83
1474	24 CFR 248 Preservation of Multifamily Low Income Housing—"30-Day Rule" (FR-3377)	2502-AF80
1475	24 CFR 251 GNMA Request for Full Insurance on Coinsurance Loan (FR-2951)	2502-AF34
1476	24 CFR 280 Nehemiah Housing (FR-3438)	2502-AG02
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Office of Housing—Final Rule Stage (Continued)

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1483	24 CFR 890 Supportive Housing for Persons With Disabilities Act of 1992 (Simplification) (FR-3406)	2502-AF97
1484	24 CFR 3280 Update to the Manufactured Home Construction and Safety Standards (HUD Code) (FR-2622)	2502-AE66

Office of Housing—Completed Actions

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1486	24 CFR 203 Electronic Submission of Up-Front Mortgage Insurance Premiums (FR-3131)	2502-AF61
1487	24 CFR 204 Increase in FHA Multifamily Mortgage Limits (FR-3405)	2502-AF92
1488	24 CFR 208 Computer Automation of Required Data for Certification and Recertifications Subsidy Billing Procedures for Certain Multifamily Subsidized Projects (FR-2421)	2502-AE26
1489	24 CFR 235.4 Revision to the Section 235(r) Refinance Program (FR-3245)	2502-AF69
1490	24 CFR 242 Debenture Lock Agreements for Payment of FHA Insurance Claims (FR-2949)	2502-AF28
1491	24 CFR 865 Supportive Housing for the Elderly (FR-2956)	2502-AF19
1492	24 CFR 889 Section 202 Supportive Housing for the Elderly (Development) (FR-3229)	2502-AF65
1493	24 CFR 890 Supportive Housing for Persons with Disabilities (FR-2974)	2502-AF20
1494	24 CFR 890 Supportive Housing for Persons with Disabilities (Development) (FR-3337)	2502-AF66
1495	24 CFR 3500 Real Estate Settlement Procedures Act—Controlled Business Provisions and Miscellaneous Amendments (FR-1942)	2502-AC09

Office of Community Planning and Development—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1496	24 CFR 596 Revisions to HUD Enterprise Zone Regulations (FR-2592)	2506-AB00

Office of Community Planning and Development—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1497	00 CFR 000 John Heinz Neighborhood Development Program (FR-3389)	2506-AB48
1498	24 CFR 000 HOPE for Youth: YOUTHBUILD (FR-3450)	2506-AB52
1499	24 CFR 000 Community Investment Corporation Demonstration (FR-3477)	2506-AB56
1500	24 CFR 000 Safe Havens for Homeless Individuals Demonstration Program (FR-3478)	2506-AB57
1501	24 CFR 000 Rural Homeless Housing Assistance Program (FR-3479)	2506-AB58
1502	24 CFR 43 Residential Antidisplacement and Relocation Assistance Plan (FR-3449)	2506-AB51
1503	24 CFR 570 Income Definition and Other Amendments (FR-2772)	2506-AB01
1504	24 CFR 570 Architectural Barriers Act—Applicability to CDBG Activities (FR-2820)	2506-AB04
1505	24 CFR 570.420 to 570.438 Community Development Block Grants: Small Cities Program (FR-2879)	2506-AB11
1506	24 CFR 570 Community Development Block Grants—Disposition of Property Below Market Value (FR-2999)	2506-AB15
1507	24 CFR 570.203 Community Development Block Grant Entitlement: State Program—Economic Development Activities (FR-3008)	2506-AB20
1508	24 CFR 570 Presidentially Declared Major Disasters and Emergency Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FR-3119)	2506-AB30
1509	24 CFR 570 Community Development Block Grant Program—to Part 570 Technical Amendments (FR-3238)	2506-AB33
1510	24 CFR 570 Revised Regulations for CDBG Sanctions (FR-3298)	2506-AB43
1511	24 CFR 570.203 Guidelines for CDBG Economic Development (FR-3474)	2506-AB53

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Office of Community Planning and Development—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1512	24 CFR 570 Community Development Block Grants: Community Development Plan and Program Income, State Program (FR-3475)	2506-AB54
1513	24 CFR 570.200 Community Development Block Grants—1992 Act Changes (FR-3489)	2506-AB59
1514	24 CFR 576 Emergency Shelter Grants Program (FR-3005)	2506-AB17
1515	24 CFR 576 Emergency Shelter Grant Set-Asides for Indian Tribes and Alaskan Native Villages (FR-3458)	2506-AB46
1516	24 CFR 576 Participation of Homeless Individuals—Emergency Shelter Grants Program (FR-3394)	2506-AB50
1517	24 CFR 584 Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwelling for Homeless Individuals (FR-3500)	2506-AB47

Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1518	24 CFR 511 Amendment of Rental Rehabilitation Program Closeout Requirements (FR-3280)	2506-AB39
1519	24 CFR 570.3 Revisions of Part 570 to Implement Recent Statutory Changes (FR-2496)	2506-AA84
1520	24 CFR 570.202 Correction of Health and Safety Violations in Rehabilitated Residential Properties Assisted With Community Development Block Grant Funds (FR-2874)	2506-AB06
1521	24 CFR 570 Community Development Block Grants—Project (FR-3000)	2506-AB16
1522	24 CFR 570 Community Development Block Grant—Entitlement Program—CD Plan (FR-3007)	2506-AB19
1523	24 CFR 570.201 Inclusion of Program Income in CDBG Calculations of Public Service Spending CAP (FR-2905)	2506-AB24
1524	24 CFR 570 Community Development Block Grant—Funded Code Enforcement (FR-2943)	2506-AB26
1525	24 CFR 571 Community Development Block Grants for Indian Tribes and Alaskan Native Villages (FR-2880)	2506-AB12
1526	24 CFR 583 Supportive Housing Program (FR-3379)	2506-AB45
1527	24 CFR 882 Moderate Rehabilitation Single Room Occupancy for Homeless (FR-3431)	2506-AB44
1528	24 CFR 42 Prohibition Against Lump-Sum Relocation Payments for Rental Assistance (FR-3476)	2506-AB55

Office of Community Planning and Development—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1529	24 CFR 91 Comprehensive Housing Affordability Strategies—1992 Amendments (FR-3390)	2506-AB49
1530	24 CFR 511 Amendment of Rental Rehabilitation Program—Closeout Requirements (FR-3280)	2506-AB42
1531	24 CFR 570.480 Community Development Block Grants: State's Program (FR-1877)	2506-AA38
1532	24 CFR 570 Community Development Block Grant Entitlement Program Part 570 Amendments Related to Reimbursable Costs and Paperwork Reduction (FR-3239)	2506-AB34
1533	24 CFR 570 Community Development Block Grants Sanctions (FR-3298)	2506-AB40
1534	24 CFR 576.67 Reallocation of Unused Emergency Shelter Grants Amounts (FR-3319)	2506-AB41
1535	24 CFR 577 Supportive Housing Demonstration Program (FR-2878)	2506-AB10

Government National Mortgage Association—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1536	24 CFR 390.3 Revisions to GNMA Issuer Net Worth Requirements (FR-2908)	2503-AA07
1537	24 CFR 400 Guaranty of Real Estate Mortgage Investment Conduits (FR-3004)	2503-AA09

Office of Fair Housing and Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1538	24 CFR 91.15(l) CHAS—Affirmatively Furthering Fair Housing (FR-3118)	2529-AA54
1539	24 CFR 111 Fair Housing Assistance Program (FR-3322)	2529-AA60

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Office of Fair Housing and Equal Opportunity—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1540	24 CFR 112 Fair Housing Affirmative Administration of Programs Relating to HUD (FR-2885)	2529-AA46
1541	24 CFR 125 Fair Housing Initiatives Program (FR-3480)	2529-AA62
1542	24 CFR 135 Economic Opportunities for Low- and Very Low-Income Persons (FR-2898)	2529-AA49

Office of Fair Housing and Equal Opportunity—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1543	24 CFR 7 Equal Employment Opportunity; Policies and Procedures (FR-3323)	2529-AA61
1544	24 CFR 103 Fair Housing—Complaint Processing (FR-3456)	2529-AA65
1545	24 CFR 104 Fair Housing Act; Administrative Proceedings Under Section 812 of the Fair Housing Act (FR-3485)	2529-AA63
1546	24 CFR 104 Fair Housing Act; Fair Housing Complaint Processing (FR-3486)	2529-AA64
1547	24 CFR 7 Conforming Amendments to HUD Rules To Comply With Section 504 of the Rehabilitation Act and Other Authorities (FR-2531)	2529-AA38

Office of Fair Housing and Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1548	24 CFR 115 Certification of Substantially Equivalent Agencies (FR-3321)	2529-AA59

Office of Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1549	24 CFR 85 Implementation of Revised OMB Circular A-102 Grants and Cooperative Agreements to State and Local Governments (FR-3129)	2535-AA19

Office of Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1550	48 CFR 24 HUD Acquisition Regulation (FR-2473)	2535-AA16
1551	24 CFR 85 Competitive Proposal Requirements for Grants and Cooperative Agreement to State, Local and Federally Recognized Indian Tribal Governments (FR-3015)	2535-AA18

Office of the Inspector General—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1552	24 CFR 2003 Implementation of the Privacy Act of 1974 (FR-3259)	2508-AA07

Policy Development and Research—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1553	24 CFR 248 Preservation of Multifamily Assisted Rental Housing; Guidelines for the Section 222(e) Windfall Profits Test (FR-3177)	2528-AA03

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Office of Public and Indian Housing—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1554	24 CFR 904 Turnkey III Homeownership Opportunity Program Re: Revision of Existing Rule (FR-2819)	2577-AA85

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1555	00 CFR 000 Income Eligibility for Public Housing (FR-2979)	2577-AA93
1556	24 CFR 882 Use of Section 8 Certificates and Moderate Rehabilitation in Major Disasters (FR-2976)	2577-AB16
1557	24 CFR 000 Family Investment Centers (FR-3396)	2577-AB25
1558	24 CFR 000 Vacancy Reduction Program (FR-3398)	2577-AB26
1559	24 CFR 882 Comprehensive Revision to Section 8 Rental Certificate Program and Rental Voucher Program Regulations (FR-2294)	2577-AB14
1560	24 CFR 901 Reform of Public Housing Management (FR-3447)	2577-AB30
1561	24 CFR 905.639(c) CIAP Procurement Policy for LBP Testing and Abatement Services (FR-3231)	2577-AB12
1562	24 CFR 909 Choice in Public Housing Management (FR-3464)	2577-AB22
1563	24 CFR 941 Public Housing Development—Program Amendments (FR-2865)	2577-AA87
1564	24 CFR 945 Designating Housing for Occupancy by Elderly or Disabled Families (FR-3425)	2577-AB27
1565	24 CFR 960.500, subpart E Public Housing Rent Waiver for Police Officers (FR-2972)	2577-AA94
1566	24 CFR 965 Lead-Based Paint Liability Insurance for Public Housing Agencies and Indian Housing Authorities (FR-3275)	2577-AB21
1567	24 CFR 982 Section 8 Homeownership (FR-3385)	2577-AB23
1568	24 CFR 990 Performance Funding System: Adjustment to Operating Subsidy to Reflect Air Conditioning Effect on Utility Consumption (FR-2971)	2577-AA99

Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1569	00 CFR Not yet determined Family Self-Sufficiency Program (FR-2961)	2577-AB15
1570	00 CFR 000 Rental Assistance Fraud Recoveries (FR-3487)	2577-AB28
1571	24 CFR 901 Public Housing Management Assessment Program (PHMAP) (FR-2897)	2577-AA89
1572	24 CFR 905 Section 5(h) Homeownership Program (FR-2810)	2577-AA90
1573	24 CFR 905 Indian Lease and Grievance Procedures (FR-3228)	2577-AB11
1574	24 CFR 905 PIH; Revised Comprehensive Improvement Assistance Program (FR-3318)	2577-AB20
1575	24 CFR 905.210 Assisted Housing for Indians and Alaskan Natives—Payments to Municipalities (FR-3488)	2577-AB29
1576	24 CFR 965 Selection of Financially Responsible Insurance Provider by PHAs and IHAs (FR-3023)	2577-AB00
1577	24 CFR 970 Replacement Housing for Public Housing Demolition and Disposition 1987 HCD Act (FR-2463)	2577-AA58
1578	24 CFR 970 Demolition and Disposition of Public Housing—Opportunity to Purchase by Tenant Councils, Resident Management Corporations, or Tenant Cooperatives (FR-3093)	2577-AB09
1579	24 CFR 990.102 PFS Projected Operating Income Level (FR-2784)	2577-AA84
1580	24 CFR 990 Public Housing Operating Subsidies—Energy Savings (FR-3387)	2577-AB24

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1581	24 CFR 751 Drug Elimination (FR-2992)	2577-AA97
1582	24 CFR 813 Combined Income and Rent Regulations (FR-3324)	2577-AB19
1583	24 CFR 912 Definition Amendments (FR-3029)	2577-AA96
1584	24 CFR 913 Maximum Annual Limitation on Rental Increases Resulting from Employment; Amendments to Definitions of Income, Adjusted Income (FR-2973)	2577-AA95
1585	24 CFR 961 Youth Sports (FR-2993)	2577-AA98
1586	24 CFR 900 Low-Income Public Housing—Project-Based Accounting (FR-3088)	2577-AB08

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Proposed Rule Stage

1356. NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION PROGRAM (FR-3032)

Legal Authority: PL 101-625

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rule would establish a seven-member board of directors, chaired by the HUD Secretary, within HUD for National Homeownership Trust that would provide funding for downpayments and limit interest on mortgage to 6 percent for eligible, first-time homeowners

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Arthur J. Reiger, Division of Policy Development, Office of Policy Development & Research, Department of Housing and Urban Development, Policy Development and Research, 202 708-1537

RIN: 2501–AB15

1357. DEFERRAL OF FUNDING UNDER SECTION 504 AND TITLE VI REGULATIONS (FR-2825)

Legal Authority: 29 USC 794; 42 USC 3535(d); 42 USC 5309

CFR Citation: 24 CFR 1; 24 CFR 8

Legal Deadline: None

Abstract: This proposed rule would authorize the Secretary to defer financial assistance, during the pendency of administrative proceeding, on the basis of alleged noncompliance with the regulations implementing Title VI of the Civil Rights Act of 1964 and section 504 of the Rehabilitation Act of 1973.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Betsy Ryan, Office of HUD Program Investigation, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-2333

RIN: 2501–AB17

1358. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES RECEIVING ASSISTANCE UNDER TITLE I OF THE HCD ACT OF 1974 (FR-3079)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 6

Legal Deadline: None

Abstract: This proposed rule would create a new part 6 which would implement section 109 of Title I of the Housing and Community Development Act of 1974. Section 109 requires that no person in the United States shall, on the ground of race, color, national origin, religion or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program activity funded in whole or in part with community development funds. The rule will set forth the procedures and policies to assure nondiscrimination under section 109 in programs and activities receiving assistance from HUD under Title I of the HCD Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Betsy Ryan, Office of HUD Investigations, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-2333

RIN: 2501–AB32

1359. • STANDARDS OF CONDUCT (FR-3331)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 10

Legal Deadline: None

Abstract: This rule would be based on the Office of Government Ethics' Standards of Ethical Conduct for Employees of the Executive Branch. (To be published at 5 CFR part 2635.) The rule would establish standards relating to the receipt of gifts, whether from prohibited sources, because of official position, or between employees. The rule would also restrict certain financial holdings and outside activities, and set standards regarding the use of official position and time, Government property, and nonpublic information.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Carole W. Wilson, Associate General Counsel for Equal Opportunity & Administrative Law, Department of Housing and Urban Development, Office of the General Counsel, 202 708-2203

RIN: 2501–AB55

1360. • IMPLEMENTATION OF THE PRIVACY ACT OF 1974—TENANT ELIGIBILITY (FR-3436)

Legal Authority: 5 USC 552a; 42 USC 3535(d)

CFR Citation: 24 CFR 16.15

Legal Deadline: None

Abstract: This rule would create exemptions from disclosure requirements for a new system of records entitled "Tenant Eligibility Verification Files." The records referenced in the new system previously were included in the investigative files of the Office of the Inspector General. The Assistant Secretary for Public and Indian Housing will be adding records to the new system based on computer matching results and verification of those results with tenant case files and records supplied by Federal agencies and private employers.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David L. Decker, Director, Computer Matching Activities Div., Department of Housing and Urban Development, Office of the Secretary, 202 708-0099

RIN: 2501–AB60

1361. GOVERNMENT DEBARMENT AND SUSPENSION AND GOVERNMENTWIDE REQUIREMENTS FOR A DRUG-FREE WORKPLACE (FR-3065)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 24

HUD—HUDSEC

Proposed Rule Stage

Legal Deadline: None

Abstract: This proposed rule would amend existing 24 CFR 24.305, a part of the HUD Debarment Regulation. A recent United States District Court decision, involving an appeal of a debarment action taken by the Department, has greatly reduced the effectiveness of Section 24.305(d). The purpose of this rule is to correct the effect of the District Court's decision, and to clarify the Department's established and unchanged policy regarding causes for debarment.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Emmett N. Roden, Assistant General Counsel for Inspector General and Administrative Proceedings, Department of Housing and Urban Development, Office of the General Counsel, 202 708-3200

RIN: 2501–AB24

1362. LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES (FR-3061)

Significance: Regulatory Program

Legal Authority: 42 USC 4821 to 4846

CFR Citation: 24 CFR 35

Legal Deadline: None

Abstract: Update existing part 35 to reflect additional knowledge of technology and abatement regarding lead-based paint in residential structures

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Arthur Newburg, Director, Office of Lead-Based Paint Abatement and Poisoning Prevention, Department of Housing and Urban Development, Office of the Secretary, 202 755-1805

RIN: 2501–AB23

1363. • REGULATIONS IMPLEMENTING NEW LEAD-BASED PAINT PROGRAM REQUIREMENTS UNDER HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992 (FR-3482)

Legal Authority: 42 USC 4822

CFR Citation: 24 CFR 35

Legal Deadline: None

Abstract: This rule is necessary to implement extensive amendments to the Lead-Based Paint Poisoning and Prevention Act and other HUD program legislation, which were enacted under Title X of the Housing and Community Development Act of 1992, and which require the Secretary of Housing and Urban Development to promulgate new regulations concerning the evaluation and reduction of lead-based paint hazards in federally assisted and federally owned housing.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Kenneth A. Markison, Assistant General Counsel for Administrative Law, Department of Housing and Urban Development, Office of the General Counsel, 202 708-3137

RIN: 2501–AB57

1364. • REGULATIONS IMPLEMENTING LEAD-BASED PAINT DISCLOSURE AND WARNING REQUIREMENTS FOR SALE AND RENTAL OF HOUSING (FR-3483)

Legal Authority: 42 USC 4822

CFR Citation: 24 CFR 35

Legal Deadline: None

Abstract: This rule is necessary to implement provisions of Title X of the Housing and Community Development Act of 1992 which require the Secretary of Housing and Urban Development and the Administrator of the Environmental Protection Agency to promulgate regulations requiring the disclosure of lead-based paint hazards and warnings respecting such hazards in the sale or lease of all housing in the United States (except elderly housing, disabled housing and efficiency units).

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Kenneth A. Markison, Assistant General Counsel for Administrative Law, Department of Housing and Urban Development, Office of the General Counsel, 202 708-3137

RIN: 2501–AB58

1365. • RESIDENTIAL ANTIDISPLACEMENT AND RELOCATION PLAN (FR-3449)

Legal Authority: 42 USC 5301 to 5320; 42 USC 12701 to 12839; 42 USC 3535(d)

CFR Citation: 24 CFR 43

Legal Deadline: None

Abstract: This rule would consolidate the specific requirements for implementing a Residential Antidisplacement and Relocation Assistance Plan (sec. 104(d) of the Housing and Community Development of 1974) under the HOME, CDBG, and UDAG programs. By consolidating the requirements in a new part, the Department will ensure consistency in the terminology and applicability of the requirements among the affected programs. This rule will make it easier for participating jurisdictions in the HOME program to implement the requirements of section 220(b)(1) of the Housing and Community Development Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. J. Huecker, Director, Relocation & Real Estate Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-0366

RIN: 2501–AB52

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1366. DEPARTMENTAL POLICIES, RESPONSIBILITIES, AND PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY (FR-2206)

Legal Authority: 42 USC 4321; PL 95-557

CFR Citation: 24 CFR 50

Legal Deadline: None

Abstract: This rule proposes to revise the regulations that govern environmental review and decisionmaking by HUD staff and officials for projects under all HUD programs except for programs for which State or local governments exercise these responsibilities (under 24 CFR part 58). The rule will take account of pertinent legislative changes to the authorizations for established programs. It will include any changes as may be required under new authorizations, including those programs of the National Affordable Housing Act of 1990 for which HUD retains environmental review responsibility. In addition, the rule will propose language to amend the current interim rules; to clarify provisions based on HUD experience with those rules; to reduce regulatory burdens and procedural details consistent with environmental laws and other authorities; and to assure policy consistency with Part 58 on matters common to both rules.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Replaces RIN 2506-AA10

Agency Contact: Walter Prybyla, Office of Environment and Energy, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1767

RIN: 2501–AA30

1367. ENVIRONMENTAL REVIEW PROCEDURES FOR STATE AND LOCAL GOVERNMENTS UNDER HUD PROGRAMS (FR-1965)

Legal Authority: 42 USC 1437o(i); 42 USC 5304(f)

CFR Citation: 24 CFR 58

Legal Deadline: None

Abstract: This rule would accomplish the following purposes. First, it will implement section 288 of the Cranston-Gonzalez National Affordable Housing Act which, provides for the performance of environmental review responsibilities by States and units of local government for programs under title II of the Act, "Investment in Affordable Housing" (HOME programs). Second, it will indicate requirements and further exemptions and categorical exclusions applicable to the following: Community Development Block Grant Program; section 17 Rental Rehabilitation and Housing Development Programs; and programs under the Stewart B. McKinney Homeless Assistance Act. Finally, the rule will include certain clarifications based on public comments HUD received on the current interim rules.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/07/84	49 FR 23610
Interim Final Rule Effective	07/31/84	49 FR 23610
Interim Final Rule Comment Period End	08/06/84	
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Frederick D. Regetz, Office of Environment and Energy, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-4364

RIN: 2501–AA25

1368. PROTECTION OF HISTORIC PROPERTIES (FR-3315)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 59

Legal Deadline: None

Abstract: This rule proposes to implement the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended and the Archeological and Historic Preservation Act and the 1992 Amendments to the National Historic Preservation Act. The rule is designed to accommodate historic preservations concerns with the needs of HUD programs. The rule would apply to all HUD programs. It would require the agency official to take into account the effects of an undertaking, assure compliance with these regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roy Gonnella, Director, Environmental Review Division, Office of Environment & Energy, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-3436

RIN: 2501–AB44

1369. • REGULATIONS IMPLEMENTING THE SECRETARY'S AUTHORITY OVER FNMA AND FHLMC (FR-3481)

Significance: Agency Priority

Legal Authority: 12 USC 1723a(h); 12 USC 4589

CFR Citation: 24 CFR 81

Legal Deadline: Final, Statutory, April 28, 1994.

Abstract: This rule is needed to revise HUD's present regulations concerning the Secretary's authority over the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC) because of the enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 ("the New Act"), Title XIII of the Housing and Community Development Act of 1992. Under the New Act, the Secretary has new specific statutory duties concerning: new program approval; fair housing; establishing goals for mortgage purchases of low and moderate income housing, special affordable housing, and underserved areas; FOIA procedures, reporting and all other regulations needed to ensure that purposes of the New Act, the FNMA Charter Act, and the FHLMC Act are accomplished. The New Act confers authority on an independent Director to ensure the financial safety and soundness of the enterprises which necessitates modifications to the Secretary's regulations as well as

regulations implementing the Director's responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	02/00/94	
Final Action	04/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth A. Markison, Assistant General Counsel for Administrative Law, Department of Housing and Urban Development, Office of the General Counsel, 202 708-3137

RIN: 2501–AB56

1370. • OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT REGULATIONS CONCERNING THE FINANCIAL SAFETY AND SOUNDNESS OF FNMA AND FHLMC (FR-3484)

Significance: Agency Priority

Legal Authority: 12 USC 1723a(h); 12 USC 1452(b)(1)

CFR Citation: 24 CFR 81

Legal Deadline: Final, Statutory. 18 months after the appointment of the Director.

Abstract: This rule is needed to implement the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 ("the New Act"), enacted as Title XIII of Housing and Community Development Act of 1992. Under the New Act the Director, Office of Federal Housing Enterprise Oversight, has specific statutory duties and authorities to ensure the financial safety and soundness of the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC). The regulations to be issued by the Director include the following areas: safety and soundness, requiring reports, assessments against FNMA and FHLMC, level of compensation, FOIA procedures, and all other regulations needed to carry out the Director's authority.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth A. Markison, Assistant General Counsel for Administrative Law, Department of Housing and Urban Development, Office of the General Counsel, 202 708-3137

RIN: 2501–AB59

1371. • HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992 AMENDMENTS TO HOME PROGRAM (FR-3411)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d); PL 102-550

CFR Citation: 24 CFR 92

Legal Deadline: Other, Statutory, April 26, 1993.

Abstract: This rule would implement, by first publishing a NPRM for notice and public comment, statutory changes made to the HOME Investment Partnerships Program by the Housing and Community Development Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2470

RIN: 2501–AB50

1372. NEPOTISM RESTRICTIONS APPLICABLE TO HUD GRANTEES (FR-3075)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 95

Legal Deadline: None

Abstract: This rule would prohibit officials of grantees receiving grants from HUD from employing, or undertaking certain personnel actions involving, relatives. This rule would also prohibit grantees from awarding a contract or subgrant to a relative of a grantee official or to an entity in which such a relative has a financial interest. These prohibitions will standardize the rules imposed on HUD grantees and will minimize the possibility of improper favoritism. Under the rule, a grantee may undertake an otherwise prohibited action where the grantee certifies to the Department that compelling circumstance(s) require such action.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Kenneth A. Markison, Assistant General Counsel for Administrative Law, Department of Housing and Urban Development, Office of the General Counsel, 202 708-3137

RIN: 2501–AB29

1373. • ASSISTED APPLICATIONS (FR-3466)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 215; 24 CFR 236, 24 CFR 880; 24 CFR 881; 24 CFR 883; 24 CFR 885; 24 CFR 886

Legal Deadline: None

Abstract: Applicants may provide references when applying for occupancy in federally assisted housing, and the owner is to treat such information as confidential.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Tahash, Director, Planning & Procedures Div., Department of Housing and Urban Development, Office of the Secretary, 202 708-3944

RIN: 2501–AB62

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HUD—HUDSEC — **Proposed Rule Stage**

1374. DETERMINATION OF AREAS OF UNDUE CONCENTRATION OF POVERTY-LEVEL POPULATION; AND CONFORMING AMENDMENTS (FR-3256)

Legal Authority: 42 USC 3535(d); 42 USC 1437; 42 USC 1441; 42 USC 3608; 42 USC 5301

CFR Citation: 24 CFR 800; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 885; 24 CFR 889; 24 CFR 890; 24 CFR 941; 24 CFR 770

Legal Deadline: None

Abstract: This rule would amend HUD's regulations governing the location of assisted housing projects (site and neighborhood standards) to establish a quantitative standard by which HUD determines whether the location contains an undue concentration (high proportion) of poverty-level population. The existing regulations do not specify how an undue concentration determination will be made. The rule would require projects to be located only in census tracts in which the percentage of people with incomes below the poverty level is less than a stated, fixed percentage, with certain exceptions. The purpose of this rule is to provide for a more objective standard for determining undue concentration of lower-income households.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/13/93	58 FR 4262
NPRM	02/12/93	58 FR 8187
Interim Final Rule Withdrawn	02/12/93	58 FR 8186
NPRM Comment Period End	04/12/93	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David E. Shenk, Director, Division of Economic & Market Analysis, Department of Housing and Urban Development, Policy Development and Research, 202 708-0577

RIN: 2501–AB37

1375. PREFERENCE FOR ADMISSION TO ASSISTED HOUSING (FR-3122)

Legal Authority: 42 USC 1433d; 42 USC 1437f

CFR Citation: 24 CFR 882.219; 24 CFR 882.517; 24 CFR 215; 24 CFR 880.613; 24 CFR 881.613; 24 CFR 883.714; 24 CFR 884.226; 24 CFR 886.132; 24 CFR 905.305; 24 CFR 960.211; 24 CFR 887.157; 24 CFR 885.427

Legal Deadline: Final, Statutory, April 26, 1993.

Abstract: This rule implements changes made by the 1992 Housing and Community Development Act and the National Affordable Housing Act in the way the Federal preferences are applied. The revised statute provides that the Federal preferences for assisting families that occupy substandard housing, who pay more than 50% of income for rent, or who are involuntarily displaced, applies not to admission to all the units during a one-year period but to at least 50% of the public housing units, at least 70% of units in Indian housing and project-based programs, and at least 90% for tenant-based programs (Housing Voucher and Certificate Program). Preference in admission with respect to the remaining units is to be given to applicants who qualify for a local preference. The local preferences are to be adopted by a housing authority to respond to local housing needs and priorities after a public hearing. It also prohibits individuals evicted from housing under the U.S. Housing Act because of drug-related criminal activity from having a Federal or local preference for three years. The rule also clarifies that the term "substandard housing" includes homelessness or housing in a

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Local

Additional Information: ADDITIONAL AGENCY CONTACT (Office of Housing): Barbara Hunter, Deputy Director, Planning & Procedures Div., 202-708-4162

ABSTRACT CONT: homeless shelter.

Agency Contact: Edward Whipple, Director, Occupancy Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0744

RIN: 2501–AB35

1376. LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES (FR-3325)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 965.701; 24 CFR 200.815; 24 CFR 200.825

Legal Deadline: None

Abstract: Update existing regulations concerning the treatment of lead-based paint in public housing and HUD-owned properties disposition properties to reflect additional knowledge of technology and abatement regarding lead-based paint in residential structures.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Arthur S. Newburg, Director, Office of Lead-Based Paint Abatement and Poisoning Prevention, Department of Housing and Urban Development, Office of the Secretary, 202 755-1805

RIN: 2501–AB48

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC) — **Final Rule Stage**

1377. HOPE FOR MULTIFAMILY HOUSING (HOPE) (FR-2967)

Significance: Regulatory Program

Legal Authority: 42 USC 12879

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, September 15, 1992.

Abstract: Arising out of the National Affordable Housing Act, the HOPE for Homeownership of Multifamily Units Program (HOPE 2) provides homeownership opportunities for low-income families and individuals in certain multifamily housing owned, held, or insured by HUD, or owned by any other Federal agency, State, or local government. Applicants eligible to receive planning and implementation grants to develop and carry out a HOPE 2 program include public housing agencies, Indian housing authorities, resident management corporations, resident councils, cooperative associations, mutual housing associations and public or nonprofit organizations.

Timetable:

Action	Date	FR Cite
Notice	02/04/91	56 FR 4436
Notice Effective	02/04/91	
Notice Comment Period End	05/06/91	
Notice	01/14/92	57 FR 1558
Notice Comment Period End	04/15/92	
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Linda Flister, Office of Housing, Department of Housing and Urban Development, Office of Housing, 202 708-4542

RIN: 2501–AB08

1378. HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP (HOPE 1) (FR-2966)

Significance: Regulatory Program

Legal Authority: 42 USC 1437aa

CFR Citation: None

Legal Deadline: Final, Statutory, September 15, 1992.

Abstract: The HOPE for Public and Indian Housing Homeownership Program (HOPE 1) will provide homeownership opportunities for low-income families and individuals. The purpose of the HOPE 1 Program is to provide homeownership opportunities for eligible families to purchase public and Indian housing. Under the HOPE 1 Program, applicants eligible to receive planning and implementation grants to develop and carry out a HOPE 1 program include public housing agencies, Indian housing authorities, resident management corporations, resident councils, cooperative associations, and public or nonprofit organizations.

Timetable:

Action	Date	FR Cite
Notice	02/04/91	56 FR 4412
Notice Effective	02/04/91	
Notice Comment Period End	09/30/91	
Notice	01/14/92	57 FR 1522
Notice Comment Period End	04/15/92	
Final Action	04/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Gary Van Buskirk, Homeownership Division for PIH, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-4233

RIN: 2501–AB10

1379. PROHIBITION OF ADVANCE DISCLOSURE OF FUNDING DECISION (FR-2805)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 4

Legal Deadline: None

Abstract: This final rule amendment clarifies certain of the non-disclosure requirements of section 103 as set forth in the May 13, 1991 final rule implementing this section, and also elaborates on the circumstances to which section 103 applies.

Timetable:

Action	Date	FR Cite
NPRM	11/23/90	55 FR 49012
NPRM Comment Period End	01/22/91	
Interim Final Rule	08/04/92	57 FR 34246
Interim Final Rule Effective	09/03/92	
Interim Final Rule Comment Period End	10/05/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Garry Phillips, Acting Director, Office of Ethics, Department of Housing and Urban Development, Office of Administration, 202 708-3815

RIN: 2501–AB02

1380. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY HUD (FR-2163)

Significance: Agency Priority

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 9.101; 24 CFR 9.102; 24 CFR 9.103; 24 CFR 9.110; 24 CFR 9.111; 24 CFR 9.130; 24 CFR 9.140; 24 CFR 9.149; 24 CFR 9.150; 24 CFR 9.151; 24 CFR 9.160; 24 CFR 9.170

Legal Deadline: None

Abstract: This final rule implements section 504 of the Rehab Act of 1973 (as extended by the Rehabilitation Comprehensive Service and Developmental Disabilities Act of 1978) for HUD-conducted programs or activities. This final rule will be a companion rule to the Department's rule on nondiscrimination based on handicap in federally assisted programs.

Timetable:

Action	Date	FR Cite
NPRM	05/30/91	56 FR 24604
NPRM Comment Period End	07/29/91	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Betsy Ryan, Office of HUD Program Investigation, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-2333

RIN: 2501–AB04

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HUD—HUDSEC

Final Rule Stage

1381. RULEMAKING POLICIES AND PROCEDURES—EXPEDITING RULEMAKING AND POLICY IMPLEMENTATION (FR-3292)

Significance: Regulatory Program

Legal Authority: 5 USC 552; 5 USC 553; 42 USC 3535(d)

CFR Citation: 24 CFR 10

Legal Deadline: None

Abstract: This rule would amend 24 CFR Part 10, HUD's "rules on rules," to make possible the more timely implementation of new and changed policies of the Department in circumstances where notice and comment rulemaking is not required by law. The purposes of this rule are: to provide greater flexibility to the Department in implementing statutory and other changes to its program authorities; to avoid unnecessary rulemaking procedures; and to assure the more prompt delivery of program benefits provided for in new and amended statutes.

Timetable:

Action	Date	FR Cite
NPRM	10/14/92	57 FR 47166
NPRM Comment Period End	12/14/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: James E. Schoenberger, Associate General Deputy Assistant Secretary, Department of Housing and Urban Development, Office of Housing, 202 708-1490

RIN: 2501–AB43

1382. RELAXATION OF HUD REGULATORY REQUIREMENTS; CONFORMING CHANGES (FR-3221)

Legal Authority: 42 USC 3535q

CFR Citation: 24 CFR 15.86; 24 CFR 965.409

Legal Deadline: None

Abstract: This final rule makes technical changes to regulatory provisions to remove references in HUD's current rules to officials below the rank of Assistant Secretary who may waive certain rules. Because HUD has determined that these rules are subject to the Department's Statement of Policy on Waivers of Regulations (56 FR 16337, April 22, 1991), the regulations noted in the final rule may, under section 106 of the Department of HUD Reform Act (42 USC 3535q), be waived only by an Assistant Secretary, or by the Secretary.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Grady N. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Office of the General Counsel, 202 708-3055

RIN: 2501–AB40

1383. FREEDOM OF INFORMATION REFORM ACT OF 1986; REVISION OF LAW ENFORCEMENT EXEMPTION (FR-3282)

Legal Authority: 5 USC 552

CFR Citation: 24 CFR 15

Legal Deadline: None

Abstract: This final rule revises HUD's public disclosure regulations governing law enforcement records.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam E. Hutchinson, Assistant General Counsel for Personnel & Ethics Law, Department of Housing and Urban Development, Office of the General Counsel, 202 708-3087

RIN: 2501–AB47

1384. ADMINISTRATIVE CLAIMS - DISALLOWED COSTS PROVISIONS (FR-2861)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 17

Legal Deadline: None

Abstract: This rule would make the repayment of disallowed costs, as determined under the Departmental Audits Management System, a threshold requirement to be met in all of HUD's Discretionary Assistance Programs. As such, this rule would provide an additional important tool for the Department to collect moneys expended for ineligible purposes under HUD programs. This is particularly true with respect to State and Local Governments, which are not subject to administrative offset under the Federal Claims Collection Act.

There is no administrative or programmatic cost under the proposal. The potential for recovering disallowed costs, by establishing such a precondition for discretionary program assistance, lies in the millions of dollars.

Timetable:

Action	Date	FR Cite
NPRM	11/04/91	56 FR 56336
NPRM Comment Period End	01/03/92	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Robert S. Kenison, Associate General Counsel, Assisted Housing & Community Development, Department of Housing and Urban Development, Office of the General Counsel, 202 708-0212

RIN: 2501–AA97

1385. IMPLEMENTATION OF OMB CIRCULAR A-133, "AUDIT OF INSTITUTIONS OF HIGHER EDUCATION AND OTHER NONPROFIT INSTITUTIONS" (FR-2594)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 45

Legal Deadline: None

Abstract: OMB Circular A-133 provides policy guidance to Federal agencies for establishing uniform requirements for audits of awards provided to institutions of higher education and other nonprofit organizations. Through this rule, HUD adopts this circular and incorporates by reference the provisions of the circular where they apply to various HUD programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/20/92	57 FR 33252
Interim Final Rule Effective	08/26/92	

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Action	Date	FR Cite
Interim Final Rule Comment Period End	09/25/92	

Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Agency Contact: Donna Abbenante, Deputy Chief Financial Officer for Operations, Department of Housing and Urban Development, Office of the Secretary, 202 619-8114

RIN: 2501–AB19

1386. CHANGES IN HUD SYSTEMS FOR APPROVAL OF SUBDIVISIONS (FR-3095)

Legal Authority: 42 USC 1490o; 42 USC 3535d

CFR Citation: 24 CFR 50.1; 24 CFR 50.17; 24 CFR 50.19; 24 CFR 50.22; 24 CFR 50.36; 24 CFR 50.43; 24 CFR 51.201; 24 CFR 55.12; 24 CFR 200.163; 24 CFR 200.926; 24 CFR 200.926d; 24 CFR 203.12

Legal Deadline: None

Abstract: This rule eliminates the process of subjecting new residential subdivisions to prior HUD review as a prerequisite to HUD's providing mortgage insurance on home loans on newly constructed single family dwellings in a subdivision, when the loans on the dwellings are being processed under the Direct Endorsement Program.

Timetable:

Action	Date	FR Cite
NPRM	04/16/92	57 FR 13592
NPRM Comment Period End	06/15/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Carter, Director, Single Family Development Div., Department of Housing and Urban Development, Office of Housing, 202 708-2700

RIN: 2501–AB25

1387. PROCEDURE FOR FLOODPLAIN MANAGEMENT AND THE PROTECTION OF WETLANDS; IMPLEMENTATION OF EXECUTIVE ORDERS 11988 AND 11990 (FR-865)

Legal Authority: EO 11988; EO 11990; 42 USC 3535(d)

CFR Citation: 24 CFR 55; 24 CFR 50; 24 CFR 58; 24 CFR 200

Legal Deadline: None

Abstract: This regulation sets forth the policy, procedure and responsibilities of the Department of Housing and Urban Development to implement and enforce Executive Order 11988, Floodplain Management, and Executive Order 11990, the Protection of Wetlands. This regulation replaces a general statement of Departmental policy (44 FR 47623; August 14, 1979) implementing these Executive orders. In addition, this rule would revise HUD's Minimum Property Standards for One and Two Family Dwellings to accord with Executive Order 11988 and FEMA's regulations for its National Flood Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	01/04/90	55 FR 396
NPRM Comment Period End	03/05/90	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Richard H. Broun, Director, Office of Environment & Energy, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-3297

RIN: 2501–AA23

1388. DAVIS-BACON VOLUNTEERS (SEC. 955) (FR-2955)

Legal Authority: 42 USC 1437d; 42 USC 1437l; PL 101-625

CFR Citation: 24 CFR 70; 24 CFR 221; 24 CFR 231; 24 CFR 232; 24 CFR 242; 24 CFR 570; 24 CFR 880 to 886; 24 CFR 889; 24 CFR 890; 24 CFR 905; 24 CFR 941; 24 CFR 961; 24 CFR 968

Legal Deadline: None

Abstract: This rule will require regulations under the CDBG, PIH, Section 8 lower-income housing, and Section 202 elderly and handicapped housing programs to implement Section 955 of the Cranston-Gonzalez National Affordable Housing Act, which exempts volunteer workers from the Davis-Bacon or HUD-determined prevailing wage requirements under these programs. The provision eliminates the necessity for a HUD waiver to allow volunteers under the Section 202 program, and under the other programs cited.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/22/92	57 FR 14754
Interim Final Rule Effective	05/22/92	
Interim Final Rule Comment Period End	06/22/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard S. Allan, Deputy Assistant to the Secretary for Labor Relations, Department of Housing and Urban Development, Office of the Secretary, 202 708-0370

RIN: 2501–AB33

1389. • REGULATION OF CONSULTANTS (FR-3386)

Legal Authority: PL 102-550; 42 USC 3535(d)

CFR Citation: 24 CFR 86.20(f); 24 CFR 86.25(f)

Legal Deadline: None

Abstract: This rule exempts a State or local government, or the officer or employee of a State or local government or housing finance agency thereof who is engaged in the official business of the State or local government, from coverage of the registration and reporting requirements of section 112 of HUD Reform Act.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Garry L. Phillips, Acting Director, Office of Ethics, Department of Housing and Urban

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Development, Office of the Secretary, SE., **202 708-3815**

RIN: 2501–AB54

1390. PROHIBITION ON USE OF FEDERAL FUNDS FOR LOBBYING; REQUIREMENTS FOR DISCLOSURE STATEMENTS (FR-2719)

Legal Authority: 31 USC 1352

CFR Citation: 24 CFR 87

Legal Deadline: None

Abstract: This is part of a governmentwide common rule effort to implement section 319 of the Interior and Related Agencies Appropriations Act for FY 1990 (Pub. L. 101-121, approved October 23, 1989) which added a new section 1352 to title 31 of the United States Code, entitled "Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions" (the Byrd Amendments).

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Interim Final Rule Effective	02/26/90	55 FR 6736
Interim Final Rule Comment Period End	04/27/90	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Garry Phillips, Acting Director, Office of Ethics, Department of Housing and Urban Development, Office of Administration, 202 708-3815

RIN: 2501–AA92

1391. HOME INVESTMENT IN AFFORDABLE HOUSING PROGRAM (FR-2937)

Significance: Regulatory Program

Legal Authority: 42 USC 12721

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rule implements the HOME Investment Partnership Act, as enacted by Title II of the Cranston-Gonzalez National Affordable Housing Act. This program among other purposes is intended to expand the supply of decent, safe, and sanitary affordable housing. Under the HOME Program, HUD provides formula allocations to participating jurisdictions to be used for specified eligible housing uses in accordance with the jurisdiction's approved comprehensive housing affordability strategies. A portion of these allocations may be used for investment in housing developed, sponsored, or owned by community housing development organizations. HUD may also provide technical assistance to develop the capacity of participating jurisdictions and will develop model programs designed to carry out the purposes of the Act.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 11592
NPRM Comment Period End	04/18/91	
Interim Final Rule	12/16/91	56 FR 65312
Interim Final Rule Effective	01/16/92	56 FR 65312
Interim Final Rule Comment Period End	05/01/92	
Interim Final Rule	12/22/92	57 FR 60960
Interim Final Rule Effective	01/21/93	
Interim Final Rule Comment Period End	02/22/93	
Final Action	02/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Mary Kolesar, Director, Program Policy Division, Office of Housing Program, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2470

RIN: 2501–AB12

1392. ELIGIBILITY OF INSULAR AREAS FOR THE HOME PROGRAM (FR-3242)

Legal Authority: PL 101-625

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rule implements the distribution of funding for insular areas under the HOME Investment Partnerships Act, Title II of the National Affordable Housing Act, as amended December 12, 1991. This rule will ensure that insular areas receive a HOME allocation in an amount that reflects their share of the total population of eligible jurisdictions and will establish additional specific criteria to regulate the amounts reserved for insular areas.

Timetable:

Action	Date	FR Cite
NPRM	08/05/92	57 FR 34640
NPRM Comment Period End	09/04/92	
Interim Final Rule	12/11/92	57 FR 58862
Interim Final Rule Comment Period End	01/11/93	
Interim Final Rule Effective	01/11/93	57 FR 58862
Final Action	02/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing Program, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2470

RIN: 2501–AB42

1393. • INTERIM RULE TO IMPLEMENT HOME HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992 AMENDMENTS (FR-3410)

Legal Authority: 42 USC 3535(d); PL 102-550

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rule would implement, without first publishing a NPRM for notice and public comment, amendments made to the HOME Investment Partnerships Program that have been determined to be immediately effective.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing, Department of Housing and Urban Development, Office of Community

Planning and Development, **202 708-2470**

RIN: 2501–AB49

1394. RESTRICTIONS ON HOUSING ASSISTANCE TO INELIGIBLE ALIENS (FR-2383)

Significance: Regulatory Program

Legal Authority: 42 USC 1436a

CFR Citation: 24 CFR 200; 24 CFR 215; 24 CFR 235; 24 CFR 236; 24 CFR 247; 24 CFR 812; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 886; 24 CFR 887; 24 CFR 912

Legal Deadline: None

Abstract: This rule will implement section 214 of the Housing and Community Development Act of 1980, as amended in 1981, 1986, and 1988. That Act prohibits the Secretary from providing financial assistance to substantially all illegal aliens as well as to most classes of aliens admitted for temporary purposes. The restriction applies to the Public and Indian Housing programs, the Section 8 Housing Assistance Payments programs, the Rent Supplement program, the Section 236 program, and the Section 235 homeownership assistance program.

This new rule will provide that alien status must be verified with the Immigration and Naturalization Service by the entity responsible for tenant selection (or for approval of a Section 235 mortgage application).

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	53 FR 41038
NPRM Comment Period End	12/19/88	53 FR 41038
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ADDITIONAL AGENCY CONTACT (Public and Indian Housing): Edward Whipple, Director, Rental and Occupancy Branch, Office of Public Housing, (202) 708-0744

Agency Contact: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Office of Housing, **202 708-3944**

RIN: 2501–AA63

1395. • FIRE RULE (FR-3462)

Legal Authority: 42 USC 3535(d); PL 102-522

CFR Citation: 24 CFR 207; 24 CFR 213; 24 CFR 215; 24 CFR 220; 24 CFR 221; 24 CFR 231; 24 CFR 232; 24 CFR 234; 24 CFR 236; 24 CFR 242; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884

Legal Deadline: None

Abstract: This rule implements part of section 106(a) of the Fire Administration Authorization Act of 1992, which prohibits use of housing assistance unless specific fire safety requirements have been implemented. The FHA single family mortgage insurance programs and the homeownership assistance program under section 235 of NHA are explicitly exempted from these fire safety requirements. Newly constructed multifamily properties receiving housing assistance must be protected by an automatic sprinkler system and hard-wired smoke detectors. Rebuilt (substantially rehabilitated) multifamily properties must comply with the fire safety requirements of the chapter on existing apartment buildings of National Fire Protection Association Standard 101. All other units receiving housing assistance must be protected by hard-wired or battery operated smoke detectors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: David Engel, Office of Policy Development and Research, Department of Housing and Urban Development, Policy Development and Research, **202 708-4370**

RIN: 2501–AB53

1396. EXCLUSION FROM INCOME OF EARNED INCOME TAX CREDIT (FR-3025)

Legal Authority: PL 101-508

CFR Citation: 24 CFR 215; 24 CFR 236; 24 CFR 813; 24 CFR 913; 24 CFR 905

Legal Deadline: None

Abstract: Effective Jan. 1, 1991, the earned income tax credit is required by a change in tax law to be excluded from income and resources in the determination of eligibility and level of benefits under HUD's assisted housing programs. This change requires removal of the rule provision that specifically included earned income tax credits in income, as well as reissuance of the notice that specified statutory exclusions from income.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Edward Whipple, Director, Occupancy Division, Department of Housing and Urban Development, Office of Public and Indian Housing, **202 708-0744**

RIN: 2501–AB20

1397. PREPAYMENT OF A HUD-INSURED MORTGAGE BY AN OWNER OF LOW-INCOME HOUSING (FR-2978)

Significance: Regulatory Program

Legal Authority: 12 USC 1401; PL 101-625

CFR Citation: 24 CFR 248

Legal Deadline: None

Abstract: This rule implements sections 601-605 of the Cranston Act, and is intended to preserve affordable, federally-assisted housing by: (1) permitting owners of eligible housing to prepay their HUD-insured mortgages only under certain circumstances; (2) providing incentives to owners to extend the low-income use of the housing; and (3) permitting owners to transfer the low-income housing to qualified purchasers, but only after priority purchasers (residents, nonprofits and public agencies) are given a right of first refusal. In addition, HUD is authorized to provide subsidies to these priority purchasers to acquire and rehabilitate the low-income housing and to fund operating and replacement reserves.

Timetable:

Action	Date	FR Cite
NPRM	05/02/91	56 FR 20262

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Action	Date	FR Cite
NPRM Comment Period End	07/01/91	
Interim Final Rule	04/08/92	57 FR 11992
Interim Final Rule Effective	05/08/92	
Interim Final Rule Comment Period End	06/08/92	
Final Action	06/30/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Kevin East, Director, Preservation Division, Office of Preservation & Property Dispositon, Department of Housing and Urban Development, Office of Housing, 202 708-2300

RIN: 2501–AB14

1398. HOPE FOR SINGLE FAMILY HOMES (HOPE 3) (FR-2968)

Significance: Regulatory Program

Legal Authority: 42 USC 12898; 42 USC 3535(d)

CFR Citation: 24 CFR 572

Legal Deadline: Final, Statutory, September 15, 1992.

Abstract: Arising out of the National Affordable Housing Act as amended by the Housing and Community Development Act of 1992; the HOPE for Homeownership of Single Family Homes Program (HOPE 3) provides for homeownership opportunities for low-income families and individuals. The program utilizes Federal, State and local government-owned single family properties. Under the HOPE 3 Program, applicants eligible to receive an Implementation Grant to carry out a HOPE 3 Program include a private nonprofit organization, a cooperative association, or a public body (including a PHA, an IHA, and an agency or instrumentality of a public body) in cooperation with a private nonprofit organization.

Timetable:

Action	Date	FR Cite
Notice	02/04/91	56 FR 4458
Notice Effective	02/04/91	
Notice Comment Period End	09/30/91	
Notice	01/14/92	57 FR 1592
Notice Comment Period End	04/15/92	
Final Action	05/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John Garrity, Director, HOPE 3 Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-0324

RIN: 2501–AB09

1399. HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (FR-3178)

Legal Authority: 42 USC 12901; PL 102-550, Sec 606

CFR Citation: 24 CFR 574

Legal Deadline: None

Abstract: This rule amends the grant program that provides housing assistance and services to low-income persons with acquired immunodeficiency syndrome or related diseases (AIDS) and their families, to conform with changes in the statute made by section 606 of the Housing and Community Development Act of 1992. Those changes included specific eligibility for the families of the person with AIDS, and not just the individual; permitting nonprofit organizations to apply for the grants based on national significance; and designating the most populous unit of government in a metropolitan statistical area as the applicant for the metropolitan statistical area.

Timetable:

Action	Date	FR Cite
NPRM	07/20/92	57 FR 32106
NPRM Comment Period End	09/18/92	
Interim Final Rule	12/28/92	
Interim Final Rule Effective	12/28/92	
Interim Final Rule Comment Period End	02/26/93	
Final Action	06/00/93	

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Agency Contact: Dave Pollack, Director, Program Development Division, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1234

RIN: 2501–AB41

1400. REVISED CONGREGATE PROGRAM (SEC. 802) (FR-2990)

Legal Authority: 42 USC 8011; PL 101-625

CFR Citation: 24 CFR 700

Legal Deadline: None

Abstract: Section 802 of the Cranston-Gonzalez National Affordable Housing Act establishes a revised congregate housing services program which supersedes the Congregate Housing Services Program under the Congregate Housing Services Act of 1978. The new statutory provisions authorize provision of supportive services to enable frail elderly persons and persons with disabilities to live independently and also the provision of assistance for the retrofitting of dwelling units and common space to meet the special physical needs of residents. HUD and the Department of Agriculture are directed by Section 802(m) to jointly issue any necessary regulations within 180 days after enactment. No funds were appropriated for this program for FY 1991.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/92	57 FR 58042
Interim Final Rule Effective	12/08/92	
Interim Final Rule Comment Period End	02/08/93	
Final Action	06/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Robert Wilden, Director, Assisted Elderly and Handicapped Housing Division, Department of Housing and Urban Development, Office of Housing, 202 708-2730

RIN: 2501–AB34

HUD—HUDSEC

Final Rule Stage

1401. • ALLOCATION OF BUDGET AUTHORITY FOR HOUSING ASSISTANCE (FR-3446)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 791.403

Legal Deadline: None

Abstract: This rule amends 24 CFR 791.403 by adding a new category of budget authority for uses that the Secretary determines are incapable of geographic allocation by formula.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT (Office of Housing): Stephen W. Cooley, Office of Operations, Office of Housing, (202) 708-2454

Agency Contact: William Minning, Director, Policy Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0713

RIN: 2501–AB51

1402. COMBINED INCOME AND RENT REGULATIONS (FR-3324)

Legal Authority: 42 USC 3535d

CFR Citation: 24 CFR 813; 24 CFR 905; 24 CFR 913; 24 CFR 215; 24 CFR 236

Legal Deadline: None

Abstract: The provisions of this regulation ease the rent burden for working families and provide needed incentives for resident to improve their economic situations. These provisions assist families who are making the transition from welfare to gainful employment and encourage higher income working families to remain in public housing. This regulation removes several of the structural disincentives that exist in current regulations, by removing the provision that includes earned income tax credits as income, and by excluding deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum.

This regulation implements:

Section 102(a) of the HCDA of 1987

Section 302 of the HUD Reform Act of 1989

Section 515(b) of the NAHA of 1990

Section 102(a) of the HCD Act of 1992

Section 103(a) of the HCD Act of 1992

HUD Discretionary Income Exclusions

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Edward Whipple, Director, Occupancy Division, Department of Housing and Urban Development, Office of the Secretary, 202 708-0744

RIN: 2501–AB61

1403. DEFINITION AMENDMENTS (FR-3029)

Legal Authority: PL 101-625; 42 USC 3535(d); 42 USC 1437a(b)(3)

CFR Citation: 24 CFR 912; 24 CFR 812; 24 CFR 905

Legal Deadline: Final, Statutory, April 28, 1993.

Abstract: This rule would implement section 573(a) of the National Affordable Housing Act of 1990 and sections 103(b) and 621 of the Housing and Community Development Act of 1992 to amend the term "family" under the 1937 Housing Act to include any single person. It would add "near-elderly" as an eligibility category, subsume the definition of "handicapped" under "disabled", and provide separate definitions of "elderly family" and "disabled family." It would also implement the effect of the Fair Housing Act on occupancy requirements for single, pregnant women and persons in the process of obtaining custody of another individual.

Timetable:

Action	Date	FR Cite
NPRM	04/10/92	57 FR 12686
NPRM Comment Period End	06/09/92	
Final Action	04/28/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward Whipple, Director, Occupancy Division, Department of Housing and Urban Development, Office of the Secretary, 202 708-0744

RIN: 2501–AB63

1404. HUD PREVAILING WAGE RATE REQUIREMENTS FOR MAINTENANCE, NONROUTINE MAINTENANCE AND TECHNICAL EMPLOYEES WORKING ON PUBLIC HOUSING PROJECTS (FR-2211)

Legal Authority: 42 USC 1437j(a); 42 USC 3535(d)

CFR Citation: 24 CFR 920

Legal Deadline: None

Abstract: This rule would codify the Department's policies and procedures with regard to HUD and PHA responsibilities concerning HUD-determined prevailing wage rates for maintenance, nonroutine maintenance and technical workers under section 12(a) of the U.S. Housing Act of 1937, as amended. The rule establishes procedures for determining maintenance wage rates as prevailing based on collective bargaining agreements or other compensation-setting methods, and for adopting State- or locally-determined prevailing wage schedules. Additionally, the rule provides a procedure for the setting of technical wage rates as well as wage rates for special employment programs, and apprentices and trainees.

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Richard S. Allan, Deputy Assistant to the Secretary for Labor Relations, Department of Housing and Urban Development, Office of the Secretary, 202 708-0370

RIN: 2501–AB38

1405. LEAD-BASED PAINT POISONING PREVENTION ACT—STEWART B. MCKINNEY HOMELESS ASSISTANCE AMENDMENTS OF 1988—SECTION 1088 (FR-2583)

Significance: Regulatory Program

Legal Authority: 42 USC 4821; PL 100-628

CFR Citation: 24 CFR 941; 24 CFR 965; 24 CFR 966; 24 CFR 968; 24 CFR 35

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Legal Deadline: None

Abstract: The rule implements statutory amendments established by section 1088 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628). The amendments make a number of changes to the Lead-Based Paint Poisoning Prevention Act, including to what extent abatement in public housing will be for lead in paint of .06 percent by weight of the dry paint film required; adding dust containing lead to the hazard to be abated; adding atomic absorption spectroscopy (AAS) as an acceptable method of testing for lead-based paint and dust containing lead, and deleting testing and abatement of lead-based paint during unit turnover.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/15/91	56 FR 15170
Interim Final Rule Effective	05/15/91	
Interim Final Rule Comment Period End	06/14/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Arthur S. Newburg, Director, Office of Lead-Based Paint Abatement & Poisoning Prevention, Department of Housing and Urban Development, Office of the Secretary, **202 755-1805**

RIN: 2501–AB46

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC) — Completed Actions

1406. HOPE FOR ELDERLY INDEPENDENCE PROGRAM - PROGRAM GUIDELINES (FR-2957)

Significance: Regulatory Program

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Final Action	05/29/92	57 FR 22818
Final Action Effective	05/29/92	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Gerald Benoit, 202 708-0477

RIN: 2501–AB05

1407. PREFERENCE FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS UNDER CERTAIN HUD PROGRAMS (FR-3127)

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn	01/27/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Tahash, 202 708-3944

RIN: 2501–AB31

1408. ENVIRONMENTAL POLICY FOR THE HOPE GRANT PROGRAMS (FR-3214)

CFR Citation: 24 CFR 50

Completed:

Reason	Date	FR Cite
Withdrawn - merged with RIN 2501-AA30 (FR-2206)	01/27/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard A. Broun, 202 708-2894

RIN: 2501–AB36

1409. REGS IMPLEMENTING THE AUTHORITY OF THE SECRETARY OF DHUD OVER THE CONDUCT OF THE SECONDARY MARKET OPERATIONS OF THE FNMA & THE FHLMC (FR-2895)

Significance: Agency Priority

CFR Citation: 24 CFR 81; 1 CFR 462; 12 CFR ch X

Completed:

Reason	Date	FR Cite
Withdrawn - merged with RIN 2501-AB56 (FR-3481)	02/18/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth A. Markison, 202 708-3137

RIN: 2501–AA99

1410. AMENDMENT OF HOME INVESTMENT PARTNERSHIPS PROGRAM (FR-3317)

CFR Citation: 24 CFR 92

Completed:

Reason	Date	FR Cite
Withdrawn - merged with Rin 2501-ab12 (FR-2937)	01/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary A. Kolesar, 202 708-2675

RIN: 2501–AB45

1411. HOPE GRANT PROGRAMS; INTERIM REGULATIONS RELATED TO THE HOPE PROGRAMS (FR-2965)

Significance: Agency Priority

CFR Citation: 24 CFR 203; 24 CFR 234

Completed:

Reason	Date	FR Cite
Interim Final Rule	02/04/91	56 FR 4476

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Linda Flister, 202 708-4542

RIN: 2501–AB06

1412. MORTGAGEE APPROVAL REFORM AND DIRECT ENDORSEMENT EXPANSION (FR-2854)

CFR Citation: 24 CFR 203.1-9; 24 CFR 200.164(h); 24 CFR 24

HUD—HUDSEC — **Completed Actions**

Completed:

Reason	Date	FR Cite
Final Action	12/09/92	57 FR 58326
Final Action Effective	01/08/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William M. Heyman, 202 708-1824

RIN: 2501–AB16

1413. SHELTER PLUS CARE PROGRAM (FR-2877)

Significance: Regulatory Program

CFR Citation: 24 CFR 582

Completed:

Reason	Date	FR Cite
Final Action	03/15/93	58 FR 13884
Final Action Effective	04/14/93	

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: James N. Forsberg, **202 708-4300**

RIN: 2501–AB11

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH) — Proposed Rule Stage

1414. PRE-FORECLOSURE SALE OPTION (FR-2682)

Legal Authority: 12 USC 1710

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Section 1064 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 authorizes HUD to add pre-foreclosure sales to its roster of servicing options, as a means of saving the Department money and of assisting qualified mortgagors to avoid foreclosure of their FHA-insured mortgages. The Department is now able to pay a claim to a mortgagee to "bridge the gap" between the proceeds of a sale of the property to a third party buyer at current fair market value, and the original owner's indebtedness under the note. Until the Department received the authorization to pay these claims, such pre-foreclosure sales (or "short sales," as they are also known) were impracticable. At this time, a six to twelve month demonstration of pre-foreclosure sales is being conducted in five local HUD offices; subsequently, full implementing regulations will be issued to introduce the pre-foreclosure sale option throughout the Department.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Bates, Director, Single Family Servicing Division, Department of Housing and Urban Development, Office of Housing, **202 708-1672**

RIN: 2502–AE72

1415. • ASSISTED HOUSING DRUG ELIMINATION (FR-3457)

Legal Authority: 42 USC 11909(a)

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: This rule would implement the drug elimination program for assisted housing. The regulations should limit/target the use of grants for physical improvements to the property by including a list of ineligible activities within the regulations. For example, ineligible activities may include employment of security personnel, reimbursement of local law enforcement agencies, among others. The limiting/targeting of funds is extremely important because of the limited funds available to grant to owners.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Tahash, Director, Planning & Procedures Div., Department of Housing and Urban Development, Office of Housing, **202 708-3944**

RIN: 2502–AG07

1416. • PARTICIPANT'S CONSENT TO RELEASE INFORMATION (FR-3468)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: New consent form to release of information. Rule needed to conform existing CFR.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Tahash, Director, Planning & Procedures Div., Department of Housing and Urban Development, Office of Housing, **202 708-3944**

RIN: 2502–AG08

1417. • STANDARDS AND OBLIGATIONS OF RESIDENCY IN FEDERALLY ASSISTED HOUSING (FR-3471)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 000

Legal Deadline: Final, Statutory, November 28, 1993.

Abstract: Section 643 requires HUD to convene a Task Force to study occupancy policies for federally assisted housing and issue recommendations to revise such standards, regulations, and administrative guidelines. Once new guidelines are established through this process, sections 641 and 642 mandate compliance by owners as condition of Federal assistance and compliance with criteria for occupancy as requirement for tenancy.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

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Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Tahash, Director, Planning & Procedure Div., Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AG11

1418. • REGULATIONS CLARIFYING TERM "HOUSING FOR OLDER PERSONS" (FR-3469)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 100.325

Legal Deadline: NPRM, Statutory, April 28, 1993.

Abstract: The Fair Housing Act of 1988, 42 USC sections 3601-19, prohibits discrimination on the basis of familial status. The Act does, however, exempt "housing for older persons" from its prohibition of discrimination based on familial status. 42 USC section 3607(b)(1). Three types of housing are defined as exempt under the Act, including housing that is intended and operated for the occupancy of at least one person per unit who is age 55 years or older. 42 USC section 3607(b) (2)(C); 24 CFR section 100.304.

To establish that housing is exempt housing for persons age 55 or older, housing providers must demonstrate (as one means among others) that at the time they discriminate against families with children under the age of eighteen, the housing had significant facilities and services specifically designed to meet the physical or social needs of older persons. In accordance with section 903 of the Housing and Community Development Act of 1992, this rule will provide further definition of the term "significant facilities and services."

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James Tahash, Director, Planning & Procedures Div., Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AG09

1419. APPRAISALS (FR-3027)

Legal Authority: 12 USC 1708(e); 12 USC 1715(b)

CFR Citation: 24 CFR 200; 24 CFR 203; 24 CFR 206; 24 CFR 207; 24 CFR 213; 24 CFR 221; 24 CFR 223; 24 CFR 234; 24 CFR 267

Legal Deadline: None

Abstract: This proposed rule would establish minimum standards for (1) the real estate appraisals used in determining the maximum insurable mortgage amount in most FHA single family and multifamily transactions and (2) the selection of appraisers by mortgagees.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Morris Carter, Director, Single Family Development Division, Department of Housing and Urban Development, Office of Housing, 202 708-2700

RIN: 2502–AF25

1420. CHANGES TO THE MINIMUM PROPERTY STANDARDS (FR-3028)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d); 12 USC 1701 to 1715

CFR Citation: 24 CFR 200.925a; 24 CFR 200.925b; 24 CFR 200.925c; 24 CFR 200.926; 24 CFR 200.926a; 24 CFR 200.926c; 24 CFR 200.926c; 24 CFR 200.937; 24 CFR 200.938; 24 CFR 200.393

Legal Deadline: Final, Statutory, February 1, 1993.
National Affordable Act of 1990, sec 947 & EO 12699 on Seismic Safety.

Abstract: This rule would amend the Minimum Property Standards (MPS) in 24 CFR Part 200, subpart S, to specify that seismic design is a mandatory standard for applicable housing. In addition, the rule would update a reference to a private sector seismic design standard currently incorporated into the MPS, and would substitute a new standard for swimming pools. These changes to the MPS are needed to comply with the requirements of Executive Order 12699, the NEHRP Reauthorization Act, and the NAHA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald R. Fairman, Chief, Standards & Products Branch, Department of Housing and Urban Development, Office of Housing, 202 755-7440

RIN: 2502–AF26

1421. SEISMIC SAFETY—EARTHQUAKE HAZARD REDUCTION (FR-3130)

Legal Authority: 42 USC 12712

CFR Citation: 24 CFR 200; 24 CFR 207

Legal Deadline: NPRM, Statutory, February 1, 1993.

Abstract: Under section 947 of the Cranston-Gonzalez National Affordable Housing Act, HUD must assess the risk of earthquake-related damage to properties administered under HUD programs and must develop seismic safety standards for those properties. Similar responsibilities are placed upon HUD and other Federal agencies by E.O. 12699 of January 5, 1993. There is also a statutory deadline of February 1, 1993.

This rule would provide for the execution of these earthquake hazard policies in permanent agency policy.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: E.O. 12699 requires regulations in place to comply with the order's requirements by 1/5/93.

Agency Contact: John Bonkoski, Office of Housing Environmental Officer, Department of Housing and Urban Development, Office of Housing, 202 708-1740

RIN: 2502–AF60

1422. USE OF MATERIALS BULLETIN USED IN THE HUD BUILDING PRODUCT STANDARDS AND CERTIFICATION PROGRAM (FR-3210)

Legal Authority: 12 USC 1701 to 1715z; 12 USC 1716; 12 USC 1717; 12 USC 1717

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This proposed rule would adopt the following Use of Materials Bulletins (UMBs): b-Aluminium Fenestration Products; 44d-Carpet; 59b-Wood Fenestration Products; 71a-Polystyrene Foam Insulation Board; 72a-Carpet Cushion; 82a-Sealed Insulating Glass Units; 85a Poly (vinyl chloride) (PVC) Fenestration Products; 89-Steel Insulated Door Systems; and 100-Solar Water Heating Systems. This rule would also reference related national voluntary consensus standards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Leslie Breden, Manufactured Housing & Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 708-1929

RIN: 2502–AF62

1423. REVISION OF FHA MULTIFAMILY PROCESSING (FR-3349)

Legal Authority: 42 USC 3535(d); 12 USC 1715b

CFR Citation: 24 CFR 200; 24 CFR 207; 24 CFR 213; 24 CFR 220; 24 CFR 221; 24 CFR 231; 24 CFR 232; 24 CFR 231; 24 CFR 232; 24 CFR 234; 24 CFR 236; 24 CFR 241; 24 CFR 242; 24 CFR 244

Legal Deadline: None

Abstract: It is proposed that FHA multifamily processing regulations be amended to: (1) increase processing/commitment fees; (2) recognize a feasibility processing stage for substantial rehabilitation projects and impose a fee for this processing; (3) require a preapplication conference; and (4) eliminate the conditional commitment processing stage for all but section 242 hospital mortgages, section 223(f) acquisition/refinancing mortgages, and section 241 supplemental loans.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jessica Franklin, Director, Policy & Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 708-2556

RIN: 2502–AF74

1424. NONDISCRIMINATION ON BASIS OF MORTGAGE CHARGE RATES BY MORTGAGEES ON THE BASIS OF GEOGRAPHICAL AREA (TIERED PRICING) (FR-3021)

Significance: Agency Priority

Legal Authority: 12 USC 1709; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: The rule prohibits FHA mortgagees from making or holding home mortgages where customary lending practices of the mortgagee provide for a variation in mortgage charge rates that exceeds 2 percent for insured mortgages located within a particular area. A procedure is also established under which any person may file a request that the Secretary determine whether a mortgage is in compliance with this area's nondiscrimination requirement.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Heyman, Director, Office of Lender Activities, Department of Housing and Urban Development, Office of Housing, 202 708-3046

RIN: 2502–AF29

1425. MORTGAGE LIMITS FOR HIGH COST AREA (FR-3121)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203.18b(a)

Legal Deadline: None

Abstract: Remove the requirement that the Secretary must publish increases in mortgage limits before the limit can become effective. Revised regulation would permit the use of the higher mortgage limit upon approval of the new limit by the Secretary. HUD will continue to publish a complete list of high cost areas once each year.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Morris Carter, Director, Single Family Development Div., Department of Housing and Urban Development, Office of Housing, 202 708-2700

RIN: 2502–AF54

1426. CHANGES TO REIMBURSEMENT FOR PRESERVATION AND PROTECTION EXPENDITURES (FR-3216)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203.402(f); 24 CFR 203.402(g)

Legal Deadline: None

Abstract: Currently, section 203.402(g) authorizes mortgagees to be reimbursed 100% for all allowable expenses made for preservation and protection of properties until conveyance to HUD. There is little incentive for mortgagees to keep costs down. HUD has experienced problems with mortgagees exceeding established limits without approval and submitting claims for inappropriate expenditures. Placing a two-thirds cap on reimbursements will provide a financial incentive for the mortgagees to cooperate in reducing expenses. 24 CFR 203.402(g) would be changed to reflect a two-thirds reimbursement limitation.

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Tighter internal controls within a mortgagee's own operation ideally would improve due to the sharing of expenses and this would decrease demands on HUD's insurance funds.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jacqueline B. Campbell, Director, Single Family Property Disposition, Department of Housing and Urban Development, Office of Housing, 202 708-0740

RIN: 2502–AF63

1427. • TERMINATION OF SINGLE-FAMILY COINSURANCE PROGRAM (FR-3418)

Legal Authority: 42 USC 3535(d); 12 USC 1715(b)

CFR Citation: 24 CFR 204

Legal Deadline: None

Abstract: This rule would terminate the section 244 Single-Family Coinsurance Program. The program is neither cost effective for the Department to continue, nor will its termination result in reduction of avenues to mortgage credit for first-time and low- and moderate-income homebuyers. Its elimination would free up staff resources for more productive tasks without adversely affecting the homebuying clientele the Department is mandated to serve.

The Department endorses approximately 150 coinsured single-family mortgages per month. The combined volume for FYs 1990, 1991, and the first five months of 1992 was only about 4300 loans nationwide with the bulk coming from one lender doing business in Illinois. The remainder of coinsured loans (less than 40% of total coinsurance volume from four additional lenders) were from New York and Texas.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Morris E. Carter, Director, Single Family Development, Department of Housing and Urban Development, Office of Housing, 202 708-2700

RIN: 2502–AG00

1428. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION (FR-2958)

Significance: Regulatory Program

Legal Authority: PL 101-625

CFR Citation: 24 CFR 206

Legal Deadline: None

Abstract: Section 255 of the National Housing Act authorizes HUD to carry out a demonstration program for insuring mortgages on the homes of elderly homeowners, enabling the homeowners to convert the equity in their homes into cash. Section 255 authorizes HUD to insure up to 25,000 mortgages under this demonstration program until September 30, 1995. The regulation will make technical and programmatic changes to improve the efficiency of the program. The regulation will also explain the statutory disclosure requirements added by section 334 of the 1990 National Affordable Housing Act.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandy Krems, Program Specialist, Single Family Housing Division, Department of Housing and Urban Development, Office of Housing, 202 708-2676

RIN: 2502–AF32

1429. CONTROL OF LUXURY HOUSING INSURED BY THE DEPARTMENT (FR-3223)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 207.4; 24 CFR 204.32a; 24 CFR 213.7; 24 CFR 220.507; 24 CFR 221.514; 24 CFR 231.3; 24 CFR 236.12

Legal Deadline: None

Abstract: The regulation will propose limitations on program acceptance of properties for mortgage insurance. These limitations will affect the maximum mortgage determination and project eligibility by: (1) imposing maximum rent levels; (2) disallowing commercial space in new construction unless specifically approved by the Commissioner, for all rental programs except section 220 (for existing properties, whether proposed for purchase, refinancing or substantial rehabilitation, existing commercial space will be retained to a maximum); and (3) limiting interior common areas for new construction and substantial rehabilitation (where current design permits) to 10 percent of the gross floor area.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard D. Mayfield, Director, Multifamily Housing Technical Support Division, Department of Housing and Urban Development, Office of Housing, 202 708-0035

RIN: 2502–AF76

1430. • FLEXIBLE SUBSIDY (FR-3441)

Legal Authority: 12 USC 1715z to 1a

CFR Citation: 24 CFR 219

Legal Deadline: None

Abstract: This rule would implement the changes made to the Flexible Subsidy Program by the Housing and Community Development Act of 1992. These changes principally affect the conditions under which a project will be considered eligible for assistance under the Flexible Subsidy Program, and the criteria by which HUD will evaluate applications for assistance and award assistance under this program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	09/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: William J. Schick, Program Support Branch, Department of Housing and Urban Development, Office of Housing, 202 708-2654

RIN: 2502–AG03

1431. RENT CHANGES IN SECTION 236 AND 221 PROJECTS (FR-2977)

Legal Authority: PL 101-625; 42 USC 3535(d)

CFR Citation: 24 CFR 236; 24 CFR 221

Legal Deadline: None

Abstract: Ceiling rent must be applied to tenants whose income exceeds 80 percent of median income--ceiling is lower of 30 percent of adjusted income or Section 8 Fair Market Rent (Sec. 612 of C-G).

HUD is permitted to authorize increases in basic rents to cover return of capital for capital improvements (Sec. 611(b) of C-G).

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: James Tahash, Director, Planning and Procedures Div., Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AF39

1432. • MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS (FR-3417)

Legal Authority: 42 USC 3535(d); 12 USC 1715z

CFR Citation: 24 CFR 236

Legal Deadline: None

Abstract: The regulation will require that excess income in section 236 projects be remitted to HUD rather than allowing Excess Income to offset uncollected basic rent.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Tahash, Director, Planning & Procedures Div., Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AF99

1433. MORTGAGE INSURANCE FOR HOSPITALS; INSURANCE OF MORTGAGES COVERING EXISTING HOSPITALS (FR-3083)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 242

Legal Deadline: None

Abstract: Revision will permit conventionally financed existing hospitals to received mortgage insurance under Section 242 pursuant to Section 223(f). Regulations now limit such mortgage insurance to health facilities that are currently insured by HUD. Existing projects may be purchased or refinanced without substantial rehabilitation under Section 242/223(f).

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa Bolden, Director, Hospital Mortgage Insurance Staff, Department of Housing and Urban Development, Office of Housing, 202 708-3600

RIN: 2502–AF47

1434. TENANT PROTECTION (FR-3105)

Significance: Regulatory Program

Legal Authority: PL 101-625

CFR Citation: 24 CFR 247.3(c); 24 CFR 880.607(b)(3); 24 CFR 881.607(b)(3); 24 CFR 883.708(b)(3)

Legal Deadline: None

Abstract: This regulation will make it a material noncompliance of the lease for the tenant or any guest or member of the household to: a) engage in any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other tenants or b) engage in any drug-related criminal activities on or near the premises. This regulation is similar to section 145 in the 1992 Housing and Community Development Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: James Tahash, Director, Planning & Procedures Div., Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AF52

1435. • TERMINATION OF TENANCY FOR CRIMINAL ACTIVITY (FR-3472)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 247; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884

Legal Deadline: None

Abstract: This rule would state that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by persons residing in the immediate vicinity of the premises of any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control would be grounds for termination of tenancy.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Tahash, Director, Planning & Procedure Div., Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AG12

1436. NEHEMIAH HOUSING OPPORTUNITY GRANT PROGRAM (FR-3293)

Legal Authority: 42 USC 1715l

CFR Citation: 24 CFR 208

Legal Deadline: None

Abstract: Present regulations covering the Nehemiah Housing Opportunity Grants Program do not allow recipients to begin construction or substantial rehabilitation on homes until 25% of homes under the program are contracted for sale and required downpayments are made. This amendment to 24 CFR 280 would allow the 25% presale requirement to apply to individual phases of a Nehemiah project under certain conditions.

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Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joan Morgan, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 708-2676

RIN: 2502–AF81

1437. HUD-OWNED AND HUD-HELD MULTIFAMILY PROJECTS—MANAGEMENT AND DISPOSITION INCLUDING PROVISION OF SECTION 8 ASSISTANCE FOR PROJECTS AT FORECLOSURE (FR-2158)

Significance: Regulatory Program

Legal Authority: 42 USC 1437f; 12 USC 3706; 12 USC 3717; 12 USC 1713(k); 12 USC 1701z-11; 12 USC 1701z-12

CFR Citation: 24 CFR 290; 24 CFR 886

Legal Deadline: None

Abstract: This rule would amend HUD regulations to implement section 181 of the Housing and Community Development Act of 1987, section 1010 of the Stewart B. McKinney Homeless Assistance Amendments of 1988, and section 579 of the NAHA. Section 181 expanded the scope of section 203 of the HCD Amendments of 1978 to include projects that are subject to a HUD-held mortgage and are delinquent, under a work out agreement, or being foreclosed upon by HUD. HUD, when it is owner or mortgagee-in-possession, and the owner in other situations now covered by section 203 must, to the greatest extent possible, maintain all such occupied projects in decent, safe, and sanitary condition and maintain full occupancy and must also maintain all such projects for purposes of providing rental or cooperative housing for the longest feasible time. The statute directs HUD to provide not less than one of several specified forms of financial assistance to a purchaser other than HUD at foreclosure, or after sale by the Secretary. Section 1010 further amended section 203 to clarify which units in HUD-held unsubsidized projects (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/06/92	57 FR 34834
NPRM Comment Period End	10/05/92	
Publication of RIA	04/00/93	
Final Action	07/00/93	

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Additional Information: ABSTRACT CONT: must be preserved for low and moderate income tenants and to provide procedures under which local governments and designated State agencies have a right of first refusal to purchase HUD-owned multifamily housing projects.

Agency Contact: Frank Malone, Director, Office of Preservation and Property Disposition, Department of Housing and Urban Development, Office of Housing, 202 708-3555

RIN: 2502–AD43

1438. AUCTION OF FHA MULTIFAMILY MORTGAGES (FR-3009)

Significance: Agency Priority

Legal Authority: 12 USC 1715(g)(4); 42 USC 3535(d)

CFR Citation: 24 CFR 290

Legal Deadline: None

Abstract: Section 336 of the Cranston-Gonzalez National Affordable Housing Act requires HUD, in lieu of accepting assignments of mortgages under Section 221(g)(4) of the NHA for debentures, to arrange the sale of the beneficial interests in those mortgages through an auction and sale of the mortgage loans or participation certificates, or other mortgage-backed obligations acceptable to HUD. HUD must arrange the auction and sale at a price, to be paid to the mortgagee, of par plus accrued interest to the date of the sale.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Malone, Director, Office of Multifamily Housing Preservation & Property Disposition, Department of Housing and Urban Development, Office of Housing, 202 708-3555

RIN: 2502–AF27

1439. • SINGLE FAMILY PROPERTY DISPOSITION—HOMELESS (FR-3399)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 291

Legal Deadline: None

Abstract: This rule will amend current regulations to provide that acquired property will not be made available for the program until it has been made available for sale to the general public for at least 30 days. Exception to above, if the Secretary determines that there will not be a sufficient quantity of property for use by homeless if made available to public for sale for 30 days. In such cases, no more than 10% of eligible properties will not be made available to general public first. Rule will get criteria for determining such areas. Rule will also require HUD to inform, upon request, lessees or applicants for eligible properties of any exemptions or reductions of property taxes when properties are leased for use by homeless.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	08/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Ann Sudduth, Acting Director, Single Family Property Disposition, Department of Housing and Urban Development, Office of Housing, 202 708-0740

RIN: 2502–AF96

1440. • AUTHORITY TO PROVIDE PREFERENCES FOR ELDERLY RESIDENTS AND FOR DISABLED RESIDENTS IN CERTAIN SECTION 8 HOUSING (FR-3465)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 812; 24 CFR 880; 24 CFR 881; 24 CFR 883; 24 CFR 884

Legal Deadline: None

Abstract: This law requires owners to reserve units for disabled families (non-elderly and non-near-elderly

handicapped) in an amount not less than the lesser of 1 or 2: 1) the higher of the percent of units occupied by handicapped and disabled families upon enactment (Oct. 5, 1992), or Jan. 1, 1992; or 2) 10% of the units.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Tahash, Director, Planning & Procedures Div., Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AG05

1441. DRUG-RELATED RENT ADJUSTMENTS (FR-2960)

Significance: Agency Priority

Legal Authority: PL 101-625

CFR Citation: 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 886

Legal Deadline: None

Abstract: Section 8(c)(2)(B) of the United States Housing Act of 1937 permits HUD to adjust contract rents covering Section 8 assisted units to reflect increases in certain specified costs of owning and maintaining. Section 542 of the Cranston-Gonzalez National Affordable Housing Act amended Section 8 (c)(2) to provide the Secretary with the authority (subject to the availability of appropriations) to provide for rent adjustments where a project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of drug-related activity. This section limits the rent adjustments to a level no greater than 120% of the project rents, to cover the costs of maintenance, security, capital repairs and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity.

This proposed rule would implement the provisions of Section 542.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: James J. Tahash, Director, Planning & Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AF33

1442. INCOME ELIGIBILITY FOR TENANCY IN NEW CONSTRUCTION UNITS (FR-3413)

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 880; 24 CFR 881; 24 CFR 883; 24 CFR 884; 24 CFR 886

Legal Deadline: None

Abstract: This rule would amend the regulations to require that dwelling units under section 8 new construction or substantial rehabilitation be reserved for low income or very low income families.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Tahash, Director, Planning & Procedures Div., Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AF41

1443. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS ON SEISMIC REQUIREMENTS (FR-3099)

Legal Authority: 42 USC 5403; 42 USC 5424; 42 USC 3535(d); 42 USC 7701 to 7706

CFR Citation: 24 CFR 3280

Legal Deadline: NPRM, Statutory, February 1, 1993.

Abstract: Proposed amendments of the Federal Manufactured Home Construction and Safety Standards to account for the impact of earthquake ground movements, as mandated by E.O. 12699 and section 947 NAHA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: G. Robert Fuller, Director, Manufactured Housing & Const. Standard Div., Department of Housing and Urban Development, Office of Housing, 202 708-2210

RIN: 2502–AF67

1444. • WIND STANDARDS—MANUFACTURED HOMES (FR-3380)

Legal Authority: 42 USC 5403; 42 USC 5424; 42 USC 3535(d)

CFR Citation: 24 CFR 3280.4; 24 CFR 3280.5; 24 CFR 3280.302; 24 CFR 3280.303; 24 CFR 3280.304; 24 CFR 3280.305; 24 CFR 3208.306; 24 CFR 3280.403; 24 CFR 3280.404; 24 CFR 3282.362

Legal Deadline: None

Abstract: This rule will amend the Federal Manufactured Home Construction and Safety Standards to improve the resistance of manufactured homes to wind forces. The increased standards are the result of field investigations of the destruction caused by Hurricane Andrew, and of reviews of current standards and requirements. The increased wind loads required in certain locations will be based on a current private industry standard.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: G. Robert Fuller, Director, Manufactured Homes & Const. Standards Division, Department of Housing and Urban Development, Office of Housing, 202 708-2210

RIN: 2502–AF91

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HUD—OH

Proposed Rule Stage

1445. MANUFACTURED HOME PROCEDURES AND ENFORCEMENT REGULATIONS; TO IMPLEMENT INSPECTION, DESIGN APPROVAL, CONSUMER COMPLIANT HANDLING AND MONITORING PROGRAM (FR-2985)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 3282; 24 CFR 3283

Legal Deadline: None

Abstract: HUD solicited public comments on certain changes to the structure of the monitoring program used to enforce the manufactured housing construction and safety standards required by Manufactured Housing Construction and Safety Standards Act of 1974. HUD proposed alternative regulatory structures which would change the current third party design and inspection program and system of monitoring and enforcement. These alternative monitoring procedures will provide a more efficient and effective regulatory enforcement program which will assure protection of the consumers, while lessening the burden on the manufactured housing industry. The final rule will propose revisions.

Timetable:

Action	Date	FR Cite
ANPRM	01/03/92	57 FR 241
ANPRM Comment Period End	03/04/92	
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	
Final Action	02/00/94	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: G. Robert Fuller, Director, Manufactured Housing and Construction Standards Division, Department of Housing and Urban Development, Office of Housing, **202 708-2210**

RIN: 2502–AF42

1446. • MANUFACTURED HOME CONSTRUCTION SAFETY STANDARDS ON HARDBOARD SIDING (FR-3470)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: The Housing and Community Development Act of 1992 directed HUD to develop a new standard for hardboard siding taking into account durability, longevity, and consumer's costs for maintenance. This mandate also requires the Department to consult with National Commission on Manufactured Housing and the National Manufactured Home Advisory Council. The new standard will be a performance standard developed to ensure the durability of hardboard siding for at least the normal life of a mortgage with minimum maintenance.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Phil Schulte, Chief, Compliance Branch, Department of Housing and Urban Development, Office of Housing, **202 708-1960**

RIN: 2502–AG10

1447. REGULATIONS IMPLEMENTING SECTION 10 OF RESPA CONCERNING ESCROW ACCOUNTS (FR-3255)

Legal Authority: 12 USC 2601

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: This rule is necessary to implement section 942 of the National Affordable Housing Act regarding escrow account statements and section 10 of RESPA regarding escrow accounting. A proposed rule regarding escrow account statements was published December 9, 1991 and a proposed rule discussing escrow account procedures was published May 16, 1988. A new section 3500.17 was reserved under the overall RESPA rule revision published November 2, 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Grant E. Mitchell, Senior Attorney for RESPA, Department of Housing and Urban Development, Office of the General Counsel, **202 708-1550**

RIN: 2502–AF77

1448. • RESPA AMENDMENTS REQUIRED BY THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992 (FR-3382)

Legal Authority: 12 USC 2601

CFR Citation: 24 CFR 3500

Legal Deadline: Final, Statutory, April 1993.

Abstract: This rule is necessary to implement the amendments to RESPA, under Title IX of the Housing and Community Development Act of 1992, which extends the coverage of RESPA to second mortgages, home equity loans and other junior liens.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Grant E. Mitchell, Senior Attorney (RESPA), Administrative Law Division, Department of Housing and Urban Development, Office of the General Counsel, **202 708-1550**

RIN: 2502–AG13

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Housing (OH)

Final Rule Stage

1449. • NONJUDICIAL FORECLOSURE OF MULTIFAMILY MORTGAGES (FR-3368)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 27

Legal Deadline: None

Abstract: The regulation implements section 517 of the Housing and Community Development Act of 1990 by amending 24 CFR part 27 to expand the HUD programs subject to the Multifamily Foreclosure Act of 1981.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John P. Kennedy, Associate General Counsel, Office of Program Enforcement, Department of Housing and Urban Development, Office of the General Counsel, **202 708-2568**

RIN: 2502–AF88

1450. CHANGES TO THE MINIMUM PROPERTY STANDARDS (FR-2599)

Significance: Regulatory Program

Legal Authority: 12 USC 1701 to 1715z-18

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: The major component of this revision is the adoption of the Model Energy Code (MEC). Section 101 of the Energy Policy Act of 1992 states that if HUD does not issue a final rule adopting the MEC by October 24, 1993, then the MEC and the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRACE) standards 90.1-1989 shall go into immediate effect. This rule would amend 24 CFR Part 200 by (1) referencing the latest editions of private sector standards presently in the MPS; (2) standardizing requirements to control termites and wood decay; (3) revising the time for periodic changes to the MPS; and (4) making technical changes to section 100-1.2 and 100-1.3 Housing for the Elderly and Requirements for Accessibility to Physically Handicapped People in HUD Handbook 4910.1.

Timetable:

Action	Date	FR Cite
NPRM	11/05/90	55 FR 46632
NPRM Comment Period End	01/04/91	
Final Action	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Donald R. Fairman, Chief, Standards and Products Branch, Department of Housing and Urban Development, Office of Housing, **202 755-7440**

RIN: 2502–AE64

1451. MORTGAGE ASSUMABILITY AND RELEASE REQUIREMENTS (FR-2867)

Legal Authority: 12 USC 1709; 12 USC 1715(b)

CFR Citation: 24 CFR 200; 24 CFR 203; 24 CFR 234

Legal Deadline: None

Abstract: This rule sets forth policy not currently in regulations on the subjects of assumability of insured family mortgages and release of personal liability of selling mortgagors. The rule covers most of the provisions of Section 203(r) of the National Housing Act, and other HUD/FHA policies on assumability and releases currently stated in administrative issuances other than regulations. The rule includes restrictions on assumption by noncreditworthy persons or investors mandated by the HUD Reform Act.

Timetable:

Action	Date	FR Cite
NPRM	11/21/91	56 FR 58762
NPRM Comment Period End	01/21/92	
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Coonts, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, **202 708-3046**

RIN: 2502–AF07

1452. • USE OF MATERIALS BULLETIN 101: EXTERIOR FINISH AND INSULATION SYSTEMS USED IN THE HUD BUILDING PRODUCT STANDARDS AND CERTIFICATION PROGRAM (FR-3365)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This rule would adopt Use of Materials Bulletins (UM) No. 101 Exterior Finish and Insulation Systems, which is a new UM. This new UM would reference related national voluntary consensus standards. In accordance with 24 CFR 200.935, this UM would also provide a labeling and third party certification program to meet the appropriate national voluntary consensus standards. In addition, it provides for a third party inspection at the job site. The rule would also supplement the HUD Building Product Standards and Certification Program by requiring that additional information be included on the label, tag, or mark that each manufacturer would affix to a certified product. It would also specify the frequency with which products must be tested in order to be acceptable to HUD. Finally it requires an inspection report regarding installation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie Breden, Manufacturer Housing and Construction Standards Division, Department of Housing and Urban Development, Office of Housing, **202 708-1929**

RIN: 2502–AF84

1453. • SINGLE FAMILY AND MANUFACTURED HOME FHA INSURANCE—MISCELLANEOUS AMENDMENTS (FR-3445)

Legal Authority: 12 USC 1701 to 1715z

CFR Citation: 24 CFR 200; 24 CFR 201; 24 CFR 203; 24 CFR 204; 24 CFR 220; 24 CFR 221; 24 CFR 222; 24 CFR 234; 24 CFR 240

Legal Deadline: None

Abstract: This rule implements various provisions in the Housing and

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Community Development Act of 1992 relating to single family and manufactured home mortgage and loan limits, veteran's exemption from certain equity requirements, establishment of mortgage insurance premiums, and the correction of defects in certain FHA insured homes. In addition, the rule makes final four earlier proposed or interim rules relating to limitations on the insuring of secondary homes, MIP for 15-year mortgages, and minimum mortgagor equity.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Carter, Director, Single Family Development Div., Department of Housing and Urban Development, Office of Housing, 202 708-2700

RIN: 2502–AF93

1454. TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS—DEBT OWED TO THE U.S. UNDER TITLE I (FR-3326)

Legal Authority: 12 USC 1701

CFR Citation: 24 CFR 201

Legal Deadline: None

Abstract: This final rule creates a new subpart G that codifies the existing Title I debt collection practice and procedures into one subpart, and would be applicable to debts owed to the Department by defaulted borrowers, as well as debts owed to the Department by Title I lenders arising from repurchase demands and unpaid insurance charges.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paulette Porche, Director, Title I Accounting & Servicing Div., Department of Housing and Urban Development, Office of Housing, 202 708-3949

RIN: 2502–AF80

1455. HOUSING COUNSELING ACTIVITIES (FR-2753)

Legal Authority: 12 USC 1715z

CFR Citation: 24 CFR 214

Legal Deadline: None

Abstract: This regulation will codify the procedures governing housing counseling activities, which to date have been administered under a handbook; and will incorporate the two sections of the National Affordable Housing Act, Sections 577 and 706(c), which address housing counseling activities.

Timetable:

Action	Date	FR Cite
NPRM	11/15/91	56 FR 58158
NPRM Comment Period End	01/14/92	
Final Action	06/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Phillip A. Murray, Acting Chief, Secretary-Held and Counseling Services Branch, Department of Housing and Urban Development, Office of Housing, 202 708-1672

RIN: 2502–AE92

1456. REMOVAL OF CODIFIED LANGUAGE FOR INACTIVE TEMPORARY MORTGAGE ASSISTANCE PAYMENTS PROGRAM (FR-2791)

Legal Authority: 12 USC 1715b

CFR Citation: 24 CFR 203; 24 CFR 204

Legal Deadline: None

Abstract: This final rule removes from the Code of Federal Regulations language concerning the Temporary Mortgage Assistance Payments (TMAP) program that has never been made effective. Since the Code now contains two sets of provisions pertaining to assistance to homeowners in default on FHA-insured mortgages that bear overlapping section numbers, this rule is needed to remove the TMAP provisions and to make technical changes in the provisions governing under section 230(b) of the National Housing Act. Among the technical changes is a requirement that a mortgagee inform a mortgagor of the possible right to assignment before it accepts a deed in lieu of foreclosure from the mortgagor.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John J. Coonts, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 708-3046

RIN: 2502–AE99

1457. MINIMUM MORTGAGOR EQUITY APPLICABLE TO MOST FHA SINGLE FAMILY MORTGAGORS (FR-2939)

Significance: Regulatory Program

Legal Authority: 12 USC 1715(b); 42 USC 3535(d)

CFR Citation: 24 CFR 203; 24 CFR 204, 24 CFR 222; 24 CFR 226; 24 CFR 234; 24 CFR 240

Legal Deadline: None

Abstract: This rule implements section 2101 of the Omnibus Budget Reconciliation Act of 1990. That section establishes a minimum equity requirement applicable to most FHA single family mortgages.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/02/91	56 FR 20314
Interim Final Rule Effective	07/01/91	56 FR 24628
Interim Final Rule Comment Period End	07/29/91	
Final Action	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John J. Coonts, Deputy Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 708-3046

RIN: 2502–AF18

1458. SINGLE FAMILY INSURANCE—SECONDARY HOMES (FR-2981)

Legal Authority: 12 USC 1709(c); 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: The rule prohibits the Secretary of HUD from insuring mortgages with respect to secondary residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a mortgage covering a vacation home be insured.

Timetable:

Action	Date	FR Cite
NPRM	10/30/91	56 FR 55855
NPRM Comment Period End	12/30/91	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Prohibition in rule applies to mortgagor insured 60 days after enactment of Cranston-Gonzalez National Affordable Housing Act.

Agency Contact: John J. Coonts, Deputy Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 708-3046

RIN: 2502–AF37

1459. AMENDMENT TO WAIVER OF TITLE (FR-3103)

Legal Authority: 12 USC 1709; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 203.390

Legal Deadline: None

Abstract: The rule amendment would exclude liens in states without purchase money mortgage priority laws from HUD's waiver provisions.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Coonts, Deputy Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 708-3046

RIN: 2502–AF51

1460. SINGLE-FAMILY PROPERTY DISPOSITION PROGRAM (FR-3253)

Legal Authority: 12 USC 1709; 12 USC 1710; 12 USC 1715(b); 12 USC 1715(u); 12 USC 3535(d)

CFR Citation: 24 CFR 203; 24 CFR 291

Legal Deadline: None

Abstract: This rule will modify the existing procedures in 24 CFR Part 291 (1) maximum closing costs HUD will pay, (2) direct sales to government entities and non-profit organizations, and (3) extensions to the contract closing time requirement. The rule will remove the current 6% limit on closing costs HUD will pay, and will provide that the Secretary will determine the maximum limit appropriate for each are (291.105). The rule will also remove the pre-set 10% discount provided in direct sales to government entities and nonprofits, and will provide that a discount will be provided as determined appropriate by the Secretary, but not less than 10% (291.110). Finally, 291.130 will be amended to permit the initial 15-day extension to contract closing at no loss to owner-occupant purchasers where (1) proper and timely loan application was made; (2) the delay is not the fault of the buyer; and (3) mortgage approval is imminent.

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Robert Falkenstein, Acting Director, Single Family Disposition Division, Department of Housing and Urban Development, Office of Housing, 202 708-0740

RIN: 2502–AF75

1461. MORTGAGE INSURANCE PREMIUMS—15-YEAR MORTGAGES (FR-3279)

Legal Authority: 42 USC 3535(d); 12 USC 1715(b); 12 USC 1709(h)

CFR Citation: 24 CFR 203; 24 CFR 204

Legal Deadline: None

Abstract: This rule provides for a reduced premium applicable to 15-year FHA-insured mortgages that are liabilities of the Mutual Mortgage Insurance Fund. The purposes of the rule are to provide for a more equitable premium structure for these lower risk mortgages, and to achieve the operational goals set out in section 2105 of the Omnibus Budget Reconciliation Act of 1991.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/14/92	57 FR 46980
Interim Final Rule Comment Period End	12/14/92	
Interim Final Rule Effective	12/26/92	
Final Action	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John J. Coonts, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 708-3046

RIN: 2502–AF78

1462. • ASSIGNMENT OF MORTGAGES—DEFINITION (FR-3426)

Legal Authority: 12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 3535(c)

CFR Citation: 24 CFR 203.650

Legal Deadline: None

Abstract: This rule will amend the Department's single family mortgage insurance regulations to clarify the application of the terms "delinquency" and "default" in determining eligibility under the mortgage assignment program. The rule will memorialize the Department's existing interpretations, in response to a recent court decision on this issue.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Judy McCarthy, Mortgage Services Specialist, Department of Housing and Urban Development, Office of Housing, 202 708-3664

RIN: 2502–AF85

1463. • BOOK ENTRY FORM AND DISTRIBUTIVE SHARES (FR-3434)

Significance: Agency Priority

Legal Authority: 42 USC 3434(d); 12 USC 1715(b)

CFR Citation: 24 CFR 200; 24 CFR 203; 24 CFR 204; 24 CFR 207; 24 CFR 220; 24 CFR 221; 24 CFR 235; 24 CFR 236; 24 CFR 237; 24 CFR 241; 24 CFR 242

Legal Deadline: None

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Abstract: This rule implements provisions in the Housing and Community Development Act of 1992 that (1) authorize the Secretary to pay mortgage insurance claims with book entry forms of debentures and (2) establish a statute of limitations on payments of Mutual Mortgage Insurance Fund distributive shares.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Peterson, Director, Office of Mortgage Insurance Accounting & Servicing, Department of Housing and Urban Development, Office of Housing, 202 708-1046

RIN: 2502–AG01

1464. SECTION 223(D) OPERATING LOSS LOAN INSURANCE (FR-2892)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 207.4(f); 24 CFR 213.7(k); 24 CFR 220.507(e); 24 CFR 221.514(e); 24 CFR 231.7; 24 CFR 232.31a; 24 CFR 234.531; 24 CFR 242.95; 24 CFR 244.38

Legal Deadline: None

Abstract: This rule will implement section 427 of the HCD Act of 1987 expanding Section 223(d) Operating Loss Loan Insurance to cover operating losses (and other forms of cash contributions) for any consecutive 24-month period within the first 10 years after the date of completion of a HUD-insured multifamily housing project.

Timetable:

Action	Date	FR Cite
NPRM	08/18/92	57 FR 37119
NPRM Comment Period End	10/19/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Linda Cheatham, Director, Office of Insured Multifamily Housing Development, Department of Housing and Urban Development, Office of Housing, 202 708-3000

RIN: 2502–AF14

1465. EFFECT OF ACQUISITION OF TITLE BY MORTGAGEE OR THE SECRETARY ON TITLE INSURANCE POLICY (FR-3224)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 207

Legal Deadline: None

Abstract: Current regulations require a mortgagee to furnish a survey and a policy of title insurance or its equivalent as a prerequisite to the closing of an insured multifamily housing loan. If a mortgagee subsequently chooses to exercise its right to assign a mortgage to HUD, it must submit an owner's title policy in favor of HUD that is effective on the date that the project is conveyed to the Secretary. This rule would amend HUD regulations deleting the phrase "it will become an owner's policy running to the mortgagee or the Secretary as the case may be," and substituting "it will continue to provide the same coverage as the original policy, and will run to the mortgagee or the Secretary, as the case may be." This will allow HUD to decide on a case-by-case basis to either purchase an owner's policy at its own expense, or self-insure the time period between assignment and foreclosure.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Cooper, Assistant General Counsel for Multifamily Insurance, Department of Housing and Urban Development, Office of the General Counsel, 202 708-4090

RIN: 2502–AF64

1466. REVISION OF THREE YEAR REQUIREMENT FOR SUBMISSION OF PROJECTS INSURED UNDER SECTION 223(F) (FR-3330)

Legal Authority: 42 USC 3535(d); 12 USC 1715(b)

CFR Citation: 24 CFR 207

Legal Deadline: None

Abstract: Currently, multifamily projects proposed for insurance pursuant to Section 223(f) (purchase or refinance of existing multifamily housing projects) must have been completed (or substantially rehabilitated) for three years prior to submission for Section 223(f) insurance. This rule would reduce that time period to one year.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jessica Franklin, Director, Policies & Procedures Div., Department of Housing and Urban Development, Office of Housing, 202 708-2556

RIN: 2502–AF82

1467. • RISK-SHARING PROGRAM (FR-3383)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 207; 24 CFR 221; 24 CFR 241

Legal Deadline: Final, Statutory, December 14, 1993.

Abstract: Issue regulations to implement the authorized Risk Sharing Pilot Program required by section 542 of the Housing and Community Development Act of 1992. The Pilot will involve qualified housing finance agencies and may include FNMA, FHLMC and other entities.

The rule will also implement section 341(f)(10) of the National Housing Act as amended by section 602(a) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, which authorizes the Secretary to insure, and to commit to insure equity and acquisition loans approved by the Secretary and State housing finance agencies that enter into risk-sharing agreements. To be implemented in conjunction with State Housing Agency Pilot Program under section 542 of the Housing and Community Development Act.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Cheatham, Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, Office of Housing, 202 708-3000

RIN: 2502–AF94

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1468. • IMPLEMENTATION OF SECTION 512 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992—MULTIFAMILY HOUSING MORTGAGE INSURANCE (FR-3393)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 207

Legal Deadline: None

Abstract: This rule will modify existing regulations to establish an expedited procedure for processing section 223(f) applications for multifamily residential projects purchased from the Resolution Trust Corporation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/22/93	58 FR 9541
Interim Final Rule Effective	02/22/93	
Interim Final Rule Comment Period End	04/23/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jessica Franklin, Director, Policy & Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 708-2556

RIN: 2502–AF95

1469. • DELETION OF THE 90 PERCENT-OF-VALUE CRITERION IN SECTION 223(A)(7) REFINANCING (FR-3342)

Legal Authority: 12 USC 1701; 12 USC 1713; 12 USC 1715(b); 12 USC 1715(e); 12 USC 1717(a); 12 USC 1715(l); 42 USC 3535(d)

CFR Citation: 24 CFR 207.32; 24 CFR 213.45; 24 CFR 221.560; 24 CFR 236.40

Legal Deadline: None

Abstract: Section 223(a)(7) of the National Housing Act authorizes the Department to insure mortgages given to refinance existing HUD-insured mortgages under the Act. Current regulations provide that refinanced loans may not exceed 90% of the Federal Housing Commissioner's estimate of value. This limitation has prevented some insured projects that have sufficient net income to cover the new debt service from refinancing at lower rates and improving their financial condition. Because refinanced loans are already limited by statute, deletion of the 90 percent-of-value criterion would help to prevent defaults and claims against the Department's Insurance Funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jessica A. Franklin, Director, Policies and Procedures Div., Department of Housing and Urban Development, Office of Housing, 202 708-2556

RIN: 2502–AG04

1470. STATE AGENCY AMENDMENTS (FR-1997)

Legal Authority: 12 USC 1715z-16(b); 12 USC 1715z-16(c)

CFR Citation: 24 CFR 215; 24 CFR 221; 24 CFR 236; 24 CFR 245

Legal Deadline: None

Abstract: This rule would make the Department's regulations on prohibited lease terms applicable to section 236 projects financed by state housing agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/21/87	52 FR 48276
NPRM Comment Period End	02/19/88	52 FR 48276
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: James Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 708-3944

RIN: 2502–AC73

1471. • MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES AND BOARD AND CARE HOMES (FR-3374)

Legal Authority: 42 USC 3535(d); 12 USC 3701 to 3717

CFR Citation: 24 CFR 232

Legal Deadline: None

Abstract: Section 511 amends section 232 of the National Housing Act by expanding section 232 to include assisted living facilities. The regulation will also be amended to provide that projects with uninsured loans will now be eligible for refinancing under section 223(f). The rule will include the higher loan-to-value-ratio (95%) for nonprofits and additions to existing facilities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Cheatham, Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, Office of Housing, 202 708-3000

RIN: 2502–AF89

1472. DEFINITION OF "ELDERLY FAMILY" IN PART 236 (FR-3286)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 236.2

Legal Deadline: None

Abstract: This rule would change the interpretation of the definition of "elderly family" in Part 236 to delete reference to disabled or handicapped persons. This change would permit the Department to restrict admission to rental units for the elderly class only.

Timetable:

Action	Date	FR Cite
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Tahash, Director, Planning and Procedures Div. Office of Multifamily Housing Management, Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AF79

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1473. • PRESERVATION OF MULTIFAMILY LOW-INCOME HOUSING—"90-DAY RULE" HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992 AMENDMENTS (FR-3384)

Legal Authority: 12 USC 1715l; 12 USC 4101; 12 USC 1315b

CFR Citation: 24 CFR 248; 24 CFR 241, 24 CFR 236

Legal Deadline: Other, Statutory, January 26, 1993.
Interim Rule deadline.

Abstract: This rule implements sections 304, 305, 306, 307, 308(b), 309, 312, 313(a) and (b)(1), 316(a) and (h), and 331 of the Housing and Community Development Act of 1992 by amending parts 236, 241 and 248 of title 24 of the Code of Federal Regulations. These amendments permit public entities to become mortgagors of projects with mortgages insured under section 236 of the National Housing Act; authorize the Department to insure equity and acquisition loans for a term of 40 years and combine rehabilitation loans with equity or acquisition loans; protect proprietary information submitted by owners as part of their plans of action; require regulations setting forth the Department's procedures and criteria for approving plans of action to prepay or terminate, ensure that owners receive an 8% annual authorized return during the rent phase-in period; ensure that priority purchasers receive incentives sufficient to meet project oversight costs and receive an 8% annual authorized return on any actual cash investment and reimbursement for all reasonable transaction expenses; allow resident council purchasing under a resident homeownership program to (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: assume the federally assisted mortgage, require low-income affordability restrictions to be maintained on all units not sold to residents; eliminate the requirement that limited equity cooperative owners transfer ownership to residents in a timely manner; establish a technical assistance program for priority purchasers; impose LIHPRA notification requirements of ELIHPA owners; and ensure that owners under ELIHPA are not arbitrarily refused incentives based on the date they filed a plan of action.

Agency Contact: Kevin J. East, Office of Multifamily Housing Preservation and Property Disposition, Department of Housing and Urban Development, Office of Housing, 202 708-2300

RIN: 2502–AF83

1474. • PRESERVATION OF MULTIFAMILY LOW INCOME HOUSING—"30-DAY RULE" (FR-3377)

Legal Authority: 12 USC 1715l; 12 USC 4101

CFR Citation: 24 CFR 248

Legal Deadline: Other, Statutory, November 27, 1992.
Interim Rule deadline.

Abstract: This rule implements sections 302, 303, 308(a), 310, 311, 313(b)(2), 314 and 315 of the Housing and Community Development Act of 1992 by amending 24 CFR Part 248 which sets forth the policies and procedures of the Department of HUD for preserving eligible low income multifamily housing projects. These amendments revise the definition of "eligible low income housing," require appraisers to assume that all Federal rental assistance terminates upon a mortgage repayment, eliminate the Windfall Profits Test, reopen the public comment period on the existing regulatory provision governing the delegation of preservation processing to State agencies, limit the scope of the Department's preemption authority, and restrict the Department from requiring participation in a training program as a condition of eligibility and receipt of technical assistance under the 1992 Notice of Fund Availability.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/15/93	58 FR 4870
Interim Final Rule Effective	01/15/93	
Interim Final Rule Comment Period End	03/16/93	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: NOTE: Rule will be merged with RIN 2502-AF83 (FR-3384), the "90-Day" rule for purposes of developing the final rule.

Agency Contact: Kevin East, Office of Multifamily Housing Preservation & Property Disposition, Department of Housing and Urban Development, Office of Housing, 202 708-2300

RIN: 2502–AF90

1475. GNMA REQUEST FOR FULL INSURANCE ON COINSURANCE LOAN (FR-2951)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 251; 24 CFR 252; 24 CFR 255

Legal Deadline: None

Abstract: This rule would revise coinsurance regulations to eliminate the requirement that GNMA attempt to assign the issuer-servicer responsibility on current coinsured mortgages under the Mortgage-Backed Securities program to another approved coinsuring lender prior to requesting full insurance endorsements by FHA.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59314
NPRM Comment Period End	02/15/93	
Final Action	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Albert B. Sullivan, Director, Office of Management, Department of Housing and Urban Development, Office of Housing, 202 708-3730

RIN: 2502–AF34

1476. • NEHEMIAH HOUSING (FR-3438)

Legal Authority: 42 USC 3435(d); 12 USC 1715(b)

CFR Citation: 24 CFR 280

Legal Deadline: None

Abstract: The Nehemiah Housing Opportunity Grants Program authorizes HUD to make grants to nonprofit organizations to enable them to provide loans to families purchasing homes that

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are constructed or substantially rehabilitated in accordance with a HUD-approved program. The loans to the family: May not exceed $15,000; bear no interest; are secured by a second mortgage held by the Secretary; and are repayable to the Secretary upon the sale, lease or transfer of the property.

Section 183 of the Housing and Community Development Act of 1992 provides for a distribution schedule (between the Secretary and homeowner) for any proceeds from the sale or transfer of a Nehemiah home that remain after repaying the first mortgage. This rule implements section 183.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Carter, Director, Single Family Development Div., Department of Housing and Urban Development, Office of Housing, 202 708-2700

RIN: 2502–AG02

1477. LOW-INCOME TERM (FR-3046)

Significance: Regulatory Program

Legal Authority: PL 101-625

CFR Citation: 24 CFR 811; 24 CFR 812; 24 CFR 813; 24 CFR 842; 24 CFR 880; 24 CFR 881; 24 CFR 833; 24 CFR 884; 24 CFR 886

Legal Deadline: None

Abstract: In accordance with recent statutory changes in terminology, this final rule will replace, at various points in HUD's regulations, the terms "lower-income families" and "lower-income housing" with reference to "low-income" families and housing.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Tahash, Director, Planning and Procedures Div., Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AF50

1478. MANAGEMENT RULES FOR EXISTING PROJECTS FOR THE ELDERLY (FR-1761)

Legal Authority: 12 USC 1701q; 42 USC 3535(d)

CFR Citation: 24 CFR 885

Legal Deadline: None

Abstract: This final rule will amend HUD's regulations governing projects that received direct loans under section 202 of the Housing Act of 1959 and housing assistance payments under section 8 of the United States Housing Act of 1987. The regulation adds regulatory provisions to govern section 202/8 project operations and management; incorporates changes required by statutory requirements governing housing assistance payments contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/09/87	52 FR 46614
NPRM Comment Period End	02/08/88	52 FR 46614
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Wilden, Director, Housing for the Elderly & Handicapped People Division, Department of Housing and Urban Development, Office of Housing, 202 708-2730

RIN: 2502–AC03

1479. ANNUAL RENT ADJUSTMENTS FOR SECTION 8 ASSISTED HOUSING; COMPARABILITY STUDIES (FR-2822)

Significance: Regulatory Program

Legal Authority: 42 USC 1437f(c)(2)(C)

CFR Citation: 24 CFR 888

Legal Deadline: NPRM, Statutory, June 17, 1990.

Abstract: This rule would outline procedures and criteria for conducting comparability studies for section 8 projects where the Secretary has reason to believe that application of the Annual Adjustment Factor to contract rents would result in material differences between the rents of an assisted project and similar unassisted housing.

Timetable:

Action	Date	FR Cite
NPRM	10/29/92	57 FR 49120
NPRM Comment Period End	12/28/92	
Final Action	08/31/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Additional Information: The portion of section 801 of the 1989 Reform Act requiring HUD to make retroactive housing assistance payments to owners whose rents were reduced or limited by comparability studies from 1980 to May 31, 1991 was implemented as a separate rule, effective May 31, 1991.

Agency Contact: James Tahash, Director, Policies & Procedures Div., Department of Housing and Urban Development, Office of Housing, 202 708-3994

RIN: 2502–AF01

1480. • SUPPORTIVE HOUSING FOR THE ELDERLY (MANAGEMENT) (FR-3336)

Legal Authority: 42 USC 1701q; 42 USC 3535(d)

CFR Citation: 24 CFR 889

Legal Deadline: None

Abstract: This rule provides for the requirements related to management and operation of the new Supportive Housing for the Elderly Program which were not covered in the interim rules, published on June 12, 1991 at 56 FR 27104 or published on August 12, 1992 at 57 36338. The Supportive Housing for the Elderly Program is to enable elderly persons to live with dignity and independence by expanding the supply of supportive housing that is designed to accommodate the special needs of elderly persons and provides a range of services that are tailored to the needs of elderly persons occupying such housing.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: Robert Wilden, Director, Housing for the Elderly & Handicapped People Division, Department of Housing and Urban Development, Office of Housing, 202 708-2730

RIN: 2502–AF86

1481. • SUPPORTIVE HOUSING FOR THE ELDERLY ('92 ACT) (FR-3407)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d); 12 USC 1701q

CFR Citation: 24 CFR 889

Legal Deadline: Other, Statutory. This rule must be published before funding of supportive housing for the elderly in FY 1993.

Abstract: This rule revises the Supportive Housing for the Elderly Program by adding amendments made by section 602(b), (c), (f) and (g) of the Housing and Community Development (HCD) Act of 1992 and by simplifying the application and selection process. These revisions are necessary in order to permit the funding of Supportive Housing for the Elderly in FY 1993 and effectuate the purposes of the HCD Act of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wilden, Director, Housing for the Elderly & Handicapped People Div., Department of Housing and Urban Development, Office of Housing, 202 708-2730

RIN: 2502–AF98

1482. • SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES (MANAGEMENT) (FR-3337)

Legal Authority: 42 USC 8013; 42 USC 3535(d)

CFR Citation: 24 CFR 890

Legal Deadline: None

Abstract: This rule provides for the requirements related to management and operation of the Supportive Housing for Persons with Disabilities Program which were not covered in the interim rule, published on June 12, 1991 at 56 FR 27070 or published on August 12, 1992 at 57 36330. The Supportive Housing for Persons with Disabilities Program is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that is designed to accommodate the special needs of such persons and provides supportive services that address the individual health, mental health, and other needs of such persons.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wilden, Director, Housing for the Elderly & Handicapped People Div., Department of Housing and Urban Development, Office of Housing, 202 708-2730

RIN: 2502–AF87

1483. • SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES ACT OF 1992 (SIMPLIFICATION) (FR-3406)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d); 42 USC 8013

CFR Citation: 24 CFR 890

Legal Deadline: Other, Statutory. Interim Rule deadline. This rule must be published before funding of supportive housing for persons with disabilities in FY 1993.

Abstract: This rule revises the Supportive Housing for Persons with Disabilities Program by adding amendments made by section 603 of the Housing and Community Development (HCD) Act of 1992 and by simplifying the application and selection process. These revisions are necessary in order to permit the funding of supportive housing for persons with disabilities in FY 1993 and effectuate the purposes of the HCD Act of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wilden, Director, Housing for the Elderly & Handicapped People Div., Department of Housing and Urban Development, Office of Housing, 202 708-2730

RIN: 2502–AF97

1484. UPDATE TO THE MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS (HUD CODE) (FR-2622)

Legal Authority: 42 USC 5401

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: This rule updates and amends various subparts of Part 3280 to reflect recommendations from industry, the Council of American Building Officials Manufactured Home Committee, and the Department's staff. These recommendations were received prior to March 1, 1990. Reference standards would also be updated. In addition, the rule implements the Manufactured Energy Conservation Standards in section 586 of the 1987 Housing and Community Development (HCD) Act.

Section 104(c) of the Energy Policy Act of 1992 states that if HUD does not issue a final rule implementing section 568 of the 1987 HCD Act by October 24, 1993, then the States may establish thermal insulation and energy efficiency standards for manufactured housing located in their jurisdictions that are at least as stringent as those contained in the Second Public Review draft of BSR/ASHRAE 90.2P entitled "Energy Efficient Design of Low-Rise Residential Buildings."

Timetable:

Action	Date	FR Cite
NPRM	02/24/92	57 FR 6420
NPRM Comment Period End	05/26/92	57 FR 6420
Final Action	10/24/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Donald R. Fairman, Chief, Standards & Products Branch, Department of Housing and Urban Development, Office of Housing, 202 755-7440

RIN: 2502–AE66

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Completed Actions

1485. SINGLE FAMILY SERVICING; MISCELLANEOUS AMENDMENTS (FR-2853)

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	10/20/92	57 FR 47966
Final Action Effective	11/19/92	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Bates, 202 708-2676

RIN: 2502–AF02

1486. ELECTRONIC SUBMISSION OF UP-FRONT MORTGAGE INSURANCE PREMIUMS (FR-3131)

CFR Citation: 24 CFR 203; 24 CFR 204

Completed:

Reason	Date	FR Cite
Final Action	03/08/93	58 FR 12901
Final Action Effective	04/07/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Min-Li Chung, 202 708-0467

RIN: 2502–AF61

1487. • INCREASE IN FHA MULTIFAMILY MORTGAGE LIMITS (FR-3405)

Significance: Agency Priority

Legal Authority: 12 USC 1713; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 204; 24 CFR 213; 24 CFR 220; 24 CFR 221; 24 CFR 231; 24 CFR 234

Legal Deadline: Other, Statutory. New limits must take effect one year from date of enactment of HCD Act of 1992.

Abstract: This rule implements section 509 of the Housing and Community Development Act of 1992 by increasing the per unit dollar limits applicable to FHA multifamily housing.

Timetable:

Action	Date	FR Cite
Final Action	03/31/93	58 FR 16773
Final Action Effective	04/30/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Linda Cheatham, Director, Office of Insured Multifamily Development, Department of Housing and Urban Development, Office of Housing, 202 708-3000

RIN: 2502–AF92

1488. COMPUTER AUTOMATION OF REQUIRED DATA FOR CERTIFICATION AND RECERTIFICATIONS SUBSIDY BILLING PROCEDURES FOR CERTAIN MULTIFAMILY SUBSIDIZED PROJECTS (FR-2421)

Significance: Agency Priority

CFR Citation: 24 CFR 208

Completed:

Reason	Date	FR Cite
Withdrawn	04/04/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Tahash, 202 708-3944

RIN: 2502–AE26

1489. REVISION TO THE SECTION 235(R) REFINANCE PROGRAM (FR-3245)

CFR Citation: 24 CFR 235.4

Completed:

Reason	Date	FR Cite
Final Action	12/30/92	57 FR 62452
Final Action Effective	02/16/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert E. Falkenstein, Jr., 202 708-2720

RIN: 2502–AF69

1490. DEBENTURE LOCK AGREEMENTS FOR PAYMENT OF FHA INSURANCE CLAIMS (FR-2949)

CFR Citation: 24 CFR 242

Completed:

Reason	Date	FR Cite
Final Action	11/24/92	57 FR 55111
Final Action Effective	12/24/92	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Donald A. Kaplan, 202 708-3730

RIN: 2502–AF28

1491. SUPPORTIVE HOUSING FOR THE ELDERLY (FR-2956)

Significance: Agency Priority

CFR Citation: 24 CFR 885; 24 CFR 889

Completed:

Reason	Date	FR Cite
Withdrawn - merged with RIN 2502-AF86 (FR-3336)	12/04/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wilden, 202 708-2730

RIN: 2502–AF19

1492. SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY (DEVELOPMENT) (FR-3229)

CFR Citation: 24 CFR 889

Completed:

Reason	Date	FR Cite
Withdrawn - merged with RIN 2502-AF86 (FR-3336)	12/04/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert W. Wilden, 202 708-2730

RIN: 2502–AF65

1493. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES (FR-2974)

Significance: Agency Priority

CFR Citation: 24 CFR 890

Completed:

Reason	Date	FR Cite
Withdrawn - merged with RIN 2502-AF20	12/04/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wilden, 202 708-2730

RIN: 2502–AF20

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1494. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES (DEVELOPMENT) (FR-3337)

CFR Citation: 24 CFR 890

Completed:

Reason	Date	FR Cite
Withdrawn - merged with RIN 2502-AF66	12/04/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wilden, 202 708-2730

RIN: 2502–AF66

1495. REAL ESTATE SETTLEMENT PROCEDURES ACT—CONTROLLED BUSINESS PROVISIONS AND MISCELLANEOUS AMENDMENTS (FR-1942)

Significance: Regulatory Program

CFR Citation: 24 CFR 3500

Completed:

Reason	Date	FR Cite
Final Action	11/02/92	57 FR 49600
Final Action Effective	12/02/92	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Grant E. Mitchell, 202 708-1550

RIN: 2502–AC09

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Prerule Stage

1496. REVISIONS TO HUD ENTERPRISE ZONE REGULATIONS (FR-2692)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 596

Legal Deadline: None

Abstract: Enterprise zone legislation is currently under legislative consideration. This proposed rule (which is dependent upon the adoption of legislation) would implement the new law insofar as it affects HUD's role as selector of enterprise zones.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Roy Priest, Director, Economic Development, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2290

RIN: 2506–AB00

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Proposed Rule Stage

1497. • JOHN HEINZ NEIGHBORHOOD DEVELOPMENT PROGRAM (FR-3389)

Legal Authority: 42 USC 5318; 42 USC 3535(d)

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: This rule will solicit public comment on the requirements established for the FY 1993 funding of activities eligible under the program. The requirements will be established in a separate NOFA, to be published simultaneously with this rule. The Housing and Community Development Act of 1992 authorizes the program as a permanent program for the first time, and makes several statutory changes to the program as it had been operating as a demonstration program. Based on the comments received in response to this rule, the Department will issue final regulations for the permanent program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Organizations

Government Levels Affected: Undetermined

Agency Contact: Gene Hix, Community & Neighborhood Management Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2186

RIN: 2506–AB48

1498. • HOPE FOR YOUTH: YOUTHBUILD (FR-3450)

Legal Authority: 42 USC 1437

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: This rule would implement section 164 of the Housing and Community Development of 1992 which authorizes HOPE IV, HOPE for Youth: YOUTHBUILD.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Roy Priest, Director, Office of Economic Development, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2290

RIN: 2506–AB52

1499. • COMMUNITY INVESTMENT CORPORATION DEMONSTRATION (FR-3477)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: This rule would implement a demonstration program to improve access to capital to benefit residents and businesses in targeted geographic areas and test new models for bringing credit and investment capital to targeted areas and low income persons in such areas.

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Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Roy Priest, Director, Office of Economic Development, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2290

RIN: 2506–AB56

1500. • SAFE HAVENS FOR HOMELESS INDIVIDUALS DEMONSTRATION PROGRAM (FR-3478)

Legal Authority: 42 USC 3535(d); PL 102-550

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: The rule will implement a demonstration grant program of services and shelter for persons unwilling or unable to participate in other programs to rehabilitate the homeless. Grants would be made to States, local governments and nonprofit organizations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: James Forsberg, Director, Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-4300

RIN: 2506–AB57

1501. • RURAL HOMELESS HOUSING ASSISTANCE PROGRAM (FR-3479)

Legal Authority: 42 USC 3535(d); PL 102-550

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: This rule will implement a grant program for emergency and transitional housing and services, homeless preventive activities and costs for using disposed Federal properties by local governments, Indian tribes and nonprofit organizations in rural communities.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: James Forsberg, Director, Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-4300

RIN: 2506–AB58

1502. • RESIDENTIAL ANTIDISPLACEMENT AND RELOCATION ASSISTANCE PLAN (FR-3449)

Legal Authority: 42 USC 12701; 42 USC 5301

CFR Citation: 24 CFR 43; 24 CFR 570.488; 24 CFR 570.606; 24 CFR 92.353

Legal Deadline: None

Abstract: This rule clarifies implementation of section 220 of the Housing and Community Development Act of 1992, which requires a participating jurisdiction funded under the HOME Program to certify that it is following a "residential antidisplacement and relocation assistance plan" that is equivalent to that required for the CDBG Program under section 104(d) of the Housing and Community Development Act of 1974. The rule will consolidate the HOME and CDBG requirements under section 104(d), and will make conforming amendments to the CDBG regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: H. J. Huecker, Director, Relocation and Real Estate Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-0336

RIN: 2506–AB51

1503. INCOME DEFINITION AND OTHER AMENDMENTS (FR-2772)

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This proposed rule would revise the Community Development Block Grant (CDBG) program rules (24 CFR Part 570) in response to recommendations or suggestions by the Department's Inspector General, to clarify the language in section 570.204, and to include recent departmental policy determinations.

The proposed rule will address:

1. A proposed definition of income for families and households; changes in the definition of program income; and a definition of ineligible income payments.

2. Removal of the special protection afforded program income in revolving loan funds.

3. How "float loan" activities should be included in grantees' final statements.

4. The return of interest earned on loans made for ineligible activities to the U.S. Treasury.

5. Performance standards for CDBG grantees to make possible their certification that they are following their CHAS.

6. A requirement that the submission of an acceptable GPR is prerequisite to receiving a new grant award.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: James R. Broughman, Director, Entitlement Communities Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1577

RIN: 2506–AB01

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1504. ARCHITECTURAL BARRIERS ACT—APPLICABILITY TO CDBG ACTIVITIES (FR-2820)

Legal Authority: 42 USC 5301 to 5320; 42 USC 4151; 42 USC 4153

CFR Citation: 24 CFR 570; 24 CFR 571

Legal Deadline: None

Abstract: This proposed rule would amend the regulations governing the CDBG grant program to require compliance with the structural accessibility standards promulgated under the Architectural Barriers Act of 1966 (ABA). The proposed rule, through amendments to 24 CFR parts 570 and 571 (the CDBG regulations), would provide that any building or facility designed, constructed or altered with grants made available under the CDBG Program, and which meets the ABA's definition of "building" is subject to the requirements of the ABA. The requirements of the ABA would apply to entitlement grants and nonentitlement grants under the CDBG Program, the Indian CDBG Program, and to the section 108 Loan Guarantee Program. The rule would provide for the ABA requirements to be applicable to funds allocated or reallocated after the effective date of the final rule. The purpose of the rule is to bring the CDBG Program into compliance with the requirements of the ABA.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Additional Information: ADDITIONAL AGENCY CONTACT (Fair Housing and Equal Opportunity): Cheryl Kent, Quality Assurance Staff, Office of Fair Housing and Equal Opportunity, (202-708-2618)

Agency Contact: James Broughman, Director, Entitlement Communities Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1577

RIN: 2506–AB04

1505. COMMUNITY DEVELOPMENT BLOCK GRANTS: SMALL CITIES PROGRAM (FR-2679)

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 570.420 to 570.438

Legal Deadline: None

Abstract: This proposed rule would revise subpart F of 24 CFR part 570 regarding the CDBG Small Cities Program. This program is alternately known as the HUD-administered Small Cities Program. The revision is intended to take into account statutory changes made to Title I of the Housing and Community Development Act of 1974, as amended, since the existing Subpart F was promulgated in 1982, and to improve the operation and administration of the Small Cities Program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/01/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Stephen Rhodeside, Assistant Director, State & Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1322

RIN: 2506–AB11

1506. COMMUNITY DEVELOPMENT BLOCK GRANTS—DISPOSITION OF PROPERTY BELOW MARKET VALUE (FR-2999)

Legal Authority: 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule would revise the Community Development Block Grant (CDBG) Programs (Entitlement, State and HUD Administered Small Cities) to require grantees and State recipients to justify the disposition of real property at a sale price less than market value if CDBG funds were used in the purchase.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Robert Duncan, Economic Development Specialist, Office of Economic Development, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-3773

RIN: 2506–AB20

1507. COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT: STATE PROGRAM—ECONOMIC DEVELOPMENT ACTIVITIES (FR-3008)

Legal Authority: PL 101-625; 42 USC 5304; 42 USC 5301; PL 98-181

CFR Citation: 24 CFR 570.203; 24 CFR 570.208(a); 24 CFR 570.483(e); 24 CFR 570.484(b)

Legal Deadline: None

Abstract: This proposed rule would revise the Community Development Block Grant (CDBG) Program rules (24 CFR part 570) to implement section 907(a) of the National Affordable Housing Act of 19 and the 1992d Housing and Community Development Act which amend the section of the rule governing the provision of CDBG assistance to for-profit entities for economic development. This rule will address:

1. The new requirements for the provision of CDBG assistance to for-profit entities; and

2. Revisions to the criteria under which CDBG activities qualify as creating or retaining jobs, a majority of which are low- and moderate-income persons.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Interim Final Rule	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Robert Duncan, Economic Development Specialist, Office of Economic Development, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-3773

RIN: 2506–AB15

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1508. PRESIDENTIALLY DECLARED MAJOR DISASTERS AND EMERGENCY UNDER THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT (FR-3119)

Significance: Agency Priority

Legal Authority: PL 101-625, Sec 933

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: A number of Presidentially declared major disasters occur each year and metropolitan cities and urban counties have insufficient funds to deal with the tremendous costs that are incurred. Section 933 provides for certain funds to be made available to HUD to be assigned to eligible metropolitan cities and urban counties.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Thomas H. Terrell, Program Officer, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2435

RIN: 2506–AB30

1509. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM—TO PART 570 TECHNICAL AMENDMENTS (FR-3238)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule would implement a number of technical changes in Part 570.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Broughman, Director, Entitlement Communities Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1577

RIN: 2506–AB33

1510. REVISED REGULATIONS FOR CDBG SANCTIONS (FR-3298)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d); 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: The purpose of this rule is to revise the existing regulations governing the imposition of sanctions in the Community Development Block Grant (CDBG) program as necessary to the Department's understanding of the impact of a recent court decision, and to clarify to certain existing provisions on performance standards and the Department's review procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: James Broughman, Director, Entitlement Communities Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1577

RIN: 2506–AB43

1511. • GUIDELINES FOR CDBG ECONOMIC DEVELOPMENT (FR-3474)

Legal Authority: PL 102-550; 42 USC 3535(d)

CFR Citation: 24 CFR 570.203; 24 CFR 570.204

Legal Deadline: None

Abstract: This statutory provision requires HUD to establish, by regulation, guidelines for use by CDBG recipients in the evaluation, selection and review of economic development projects assisted with CDBG funds. The guidelines are to cover certain, specified aspects of project costs and financial requirements and the extent of public benefits that are to be derived as a result of the economic development project.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	
Final Action	09/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Broughman, Director, Entitlement Communities Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1577

RIN: 2506–AB53

1512. • COMMUNITY DEVELOPMENT BLOCK GRANTS: COMMUNITY DEVELOPMENT PLAN AND PROGRAM INCOME, STATE PROGRAM (FR-3475)

Legal Authority: 42 USC 3535(d); PL 102-550

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule would require each State recipient to submit a Community Development Plan to HUD that describes the State's priority non-housing community development needs that are eligible for assistance under the Act.

This rule would also revise the existing regulations governing program income in the State Program in accordance with the Housing and Community Development Act of 1992. The effect of the 1992 Act amendment for that program income generated at the local level will always be subject to applicable CDBG requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Richard Kennedy, Director, State & Small Cities Div., Department of Housing and Urban Development, Office of Community

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Planning and Development, **202 708-1322**

RIN: 2506–AB54

1513. • COMMUNITY DEVELOPMENT BLOCK GRANTS—1992 ACT CHANGES (FR-3489)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 570.200; 24 CFR 570 203

Legal Deadline: None

Abstract: Section 804 of the 1992 Act authorizes HUD to exempt from program rules any income that is so small that HUD determines would not be worth the administrative costs of assuring compliance. HUD will propose rules and get comments before establishing the amount of income for this purpose.

Section 806(e) of the 1992 Act allows grantees to assume that a person is low/moderate income for certain purposes if the person resides in a census tract that meets the Federal Enterprise Zone criteria. HUD will publish proposed criteria and get comments before establishing the criteria that will be used for this purpose.

Section 807(a) establishes a new eligibility category for the funding of certain services needed to carry out housing activities that are eligible under the CDBG or HOME programs. This provision also states that such costs are to be subject to any ceilings established by law on administrative expenses. Since many of these costs have, by regulation, been deemed for years to be eligible under the CDBG program without this new provision and are not subject to the statutory cap on CDBG (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: administrative costs, HUD must propose rules by which this seeming inconsistency is resolved. (HUD also intends to pursue statutory change or clarification in this matter, so such action may overtake this proposed rulemaking.)

Section 807(a) also makes eligible the use of CDBG funds to pay operating expenses necessary to maintain the habitability of certain housing units that have been acquired through tax foreclosure. HUD intends to propose rules that will govern which expenses and which housing units may be assisted under this authority.

Section 807(a) further makes eligible the use of CDBG funds to provide assistance to public and private organizations, agencies, and other entities to enable them to facilitate economic development providing credit for the establishment and expansion of microenterprises. It also makes eligible the use of CDBG funds by such entities for the provision of technical assistance and other general support services to owners of microenterprises and persons developing such enterprises.

Agency Contact: James Broughman, Director, Entitlement Communities Div., Department of Housing and Urban Development, Office of Community Planning and Development, **202 708-1577**

RIN: 2506–AB59

1514. EMERGENCY SHELTER GRANTS PROGRAM (FR-3005)

Legal Authority: 42 USC 11377

CFR Citation: 24 CFR 576

Legal Deadline: None

Abstract: The National Affordable Housing Act and the Housing and Community Development Act of 1992 made a number of changes to the Emergency Shelter Grant Program. Experience in administering the program has also led to the identification of various regulatory changes that should be made to improve the program. A proposed rule to be issued for public comment and final rule to follow will reflect these changes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	12/00/93	

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Agency Contact: James N. Forsberg, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development, **202 708-4300**

RIN: 2506–AB17

1515. • EMERGENCY SHELTER GRANT SET-ASIDES FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES (FR-3458)

Legal Authority: 42 USC 11376; 42 USC 3535(d)

CFR Citation: 24 CFR 576

Legal Deadline: None

Abstract: This rule would establish a regulatory scheme for the allocations and distribution of emergency shelter grant set-asides for Indian tribes and Alaskan Native Villages. The set-aside requirement is included in statutory changes made to the ESG program by the National Housing Act. (The rule will be published for comment simultaneously with a NOFA for the program.)

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James N. Forsberg, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development, **202 708-4300**

RIN: 2506–AB46

1516. • PARTICIPATION OF HOMELESS INDIVIDUALS—EMERGENCY SHELTER GRANTS PROGRAM (FR-3394)

Legal Authority: 42 USC 11375; 42 USC 3535(d)

CFR Citation: 24 CFR 576

Legal Deadline: None

Abstract: This rule will implement section 1402(c) of the Housing and Community Development Act of 1992, which provides for the participation of homeless individuals on the board of directors (or equivalent policymaking

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entity) of ESG recipients that are not States.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: James Forsberg, Director, Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development, **202 708-4300**

RIN: 2506–AB50

1517. • SECTION 8 MODERATE REHABILITATION PROGRAM FOR SINGLE ROOM OCCUPANCY DWELLING FOR HOMELESS INDIVIDUALS (FR-3500)

Legal Authority: 42 USC 11401

CFR Citation: 24 CFR 584

Legal Deadline: None

Abstract: This rule will update a program that provides rental assistance to homeless individuals in rehabilitated SRO housing. The program will be streamlined and relocated in the CFR from Part 882 to Part 584.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: James Forsberg, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development, **202 708-4300**

RIN: 2506–AB47

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Final Rule Stage

1518. AMENDMENT OF RENTAL REHABILITATION PROGRAM CLOSEOUT REQUIREMENTS (FR-3280)

Legal Authority: 42 USC 1437o; 42 USC 3535(d)

CFR Citation: 24 CFR 511

Legal Deadline: None

Abstract: As of October 1, 1991, the Rental Rehabilitation Program (RRP) was replaced by the HOME and HOPE programs. This rule would permit a State or local government whose RRP has been closed out to use program income on hand for activities eligible under the new HOME and HOPE programs, and would eliminate the requirement for on-site monitoring in advance of closeout, under specified conditions.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David M. Cohen, Director, Office of Affordable Housing Programs, Department of Housing and Urban Development, Office of Community Planning and Development, **202 708-2685**

RIN: 2506–AB39

1519. REVISIONS OF PART 570 TO IMPLEMENT RECENT STATUTORY CHANGES (FR-2496)

Legal Authority: PL 100-242; PL 102-139; PL 101-625; 42 USC 3535(d); 42 USC 5300 to 5320

CFR Citation: 24 CFR 570.3; 24 CFR 570.21; 24 CFR 570.202; 24 CFR 570.208; 24 CFR 570.506

Legal Deadline: None

Abstract: This rule would revise the Community Development Block Grant Program rules (24 CFR part 570) for the entitlement and HUD-administered small cities programs, as necessary to implement certain changes in the Housing and Community Development Act of 1987; the Department of Housing and Urban Development - Independent Agencies Appropriations Act, 1989; the Cranston-Gonzalez National Affordable Housing Act of 1990, sections 902, 903, 905, 906, and 912; and provisions of the Housing and Community Development Act that can be implemented without a prior proposed rule, including sections 806(e), 807(a)-(e) and 807(e) and 809.

Timetable:

Action	Date	FR Cite
NPRM	03/28/90	55 FR 11556
NPRM Comment Period End	05/29/90	55 FR 11556
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Richard J. Kennedy, Director, State & Small Cities Div., Department of Housing and Urban Development, Office of Community Planning and Development, **202 708-1322**

RIN: 2506–AA84

1520. CORRECTION OF HEALTH AND SAFETY VIOLATIONS IN REHABILITATED RESIDENTIAL PROPERTIES ASSISTED WITH COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (FR-2874)

Legal Authority: PL 100-242, Sec 101

CFR Citation: 24 CFR 570.202

Legal Deadline: None

Abstract: A recent IG audit finding involving a sample of CDBG grantees revealed that general improvements were being undertaken in CDBG-assisted rehabilitation properties while leaving health and safety violations uncorrected. As a result of this finding, CDBG regulations need to be amended to incorporate a provision that would require the correction of all health and safety violations in CDBG-assisted rehabilitated properties before any general improvements to these properties can be undertaken. The proposed rule will also include an exception that will allow properties with uncorrected health and safety violations to still take part in rehabilitation programs that grantees have established to expressly address significant community housing needs,

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such as energy conservation through weatherization programs and improving the exterior appearance of deteriorating buildings through painting programs. Moreover, the proposed rule will make clear that grantees will still have the flexibility to continue to provide funding for the general improvement of properties that are free and clear of health and safety violations.

Timetable:

Action	Date	FR Cite
NPRM	02/03/92	57 FR 3970
NPRM Comment Period End	04/03/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: David Cohen, Director, Office of Affordable Housing Program, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2685

RIN: 2506–AB06

1521. COMMUNITY DEVELOPMENT BLOCK GRANTS—PROJECT (FR-3000)

Legal Authority: 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule would add a definition of the term "project" for purposes of implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and Section 104(d) of the Housing and Community Development Act of 1974. The rule would cover Community Development Block Grant Programs, including the Entitlement, State and HUD-Administered Small Cities Programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: H. J. Huecker, Director, Relocation and Real Estate Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-0336

RIN: 2506–AB16

1522. COMMUNITY DEVELOPMENT BLOCK GRANT—ENTITLEMENT PROGRAM—CD PLAN (FR-3007)

Legal Authority: PL 101-625; PL 102-550; 42 USC 5301 to 20; 42 USC 5304(l)

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This final rule requires grantees to submit the newly required "CD Plan" containing non-housing facilities needed by the grantee. The plan is coordinated with other planning requirements in the program.

Timetable:

Action	Date	FR Cite
NPRM	01/03/92	57 FR 322
NPRM Comment Period End	03/04/92	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: Following establishment of the requested format, grantees must submit plan to HUD before receiving a grant.

Agency Contact: James Broughman, Director, Entitlement Communities Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1577

RIN: 2506–AB19

1523. INCLUSION OF PROGRAM INCOME IN CDBG CALCULATIONS OF PUBLIC SERVICE SPENDING CAP (FR-2905)

Legal Authority: 42 USC 5353(d)

CFR Citation: 24 CFR 570.201

Legal Deadline: None

Abstract: 24 CFR 570.201(e) is being revised to permit certain CDBG recipients to include "program income" in the base amount of CDBG funds from which the funds available for public service are calculated.

Timetable:

Action	Date	FR Cite
NPRM	06/17/92	57 FR 27116
NPRM Comment Period End	07/17/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James R. Broughman, Director, Entitlement Communities Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1577

RIN: 2506–AB24

1524. COMMUNITY DEVELOPMENT BLOCK GRANT—FUNDED CODE ENFORCEMENT (FR-2943)

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule would provide that where CDBG-funded code enforcement activity results in the demolition or conversion of low/moderate income-housing that such housing must be replaced. Also, low/moderate-income persons displaced by such conversion or demolition of any housing would be provided relocation assistance under Section 104(d) of the Housing and Community Development Act of 1974 or under the Uniform Relocation Act.

Timetable:

Action	Date	FR Cite
NPRM	02/03/92	57 FR 3971
NPRM Comment Period End	03/03/92	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: H. J. Huecker, Director, Relocation & Real Estate Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-0336

RIN: 2506–AB26

1525. COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES (FR-2880)

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 571

Legal Deadline: None

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Abstract: Section 702 of the HUD Reform Act of 1989 moved the grant authority for CDBG funding to Indian tribes from Section 107 to 106 of the Housing and Community Development Act. Paragraph (b) of Section 702 includes the following provision: "The Secretary shall provide for distribution of amounts under this paragraph pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment."

Timetable:

Action	Date	FR Cite
NPRM	06/21/91	56 FR 28666
NPRM Comment Period End	08/21/91	
Interim Final Rule	04/07/92	57 FR 11832
Interim Final Rule Effective	06/08/92	
Interim Final Rule Comment Period End	01/29/93	
Final Action	07/31/93	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Stephen Rhodeside, Assistant Director, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1322

RIN: 2506–AB12

1526. • SUPPORTIVE HOUSING PROGRAM (FR-3379)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 583

Legal Deadline: Final, Statutory, May 25, 1993.
Interim Final Rule statutory date Jan. 25, 1993.

Abstract: This program combines the former Supportive Housing Demonstration (Transitional Housing and Permanent Housing for Handicapped Homeless programs) and SAFAH programs, which were eliminated. The program provides grants to governmental entities and nonprofit organizations for acquisition, rehabilitation, leasing or new construction of housing for the homeless; and for operating costs and supportive services costs. Grants are for use and for facilities that serve eligible homeless families and individuals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/93	58 FR 13670
Interim Final Rule Effective Date	03/15/93	
Interim Final Rule Comment Period End	05/14/93	
Final Action	09/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: James Forsberg, Director, Special Needs Assistance Program, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-4300

RIN: 2506–AB45

1527. • MODERATE REHABILITATION SINGLE ROOM OCCUPANCY FOR HOMELESS (FR-3431)

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: This rule conforms the program regulations in subpart H, 24 CFR Part 882 to amendments by the 1989 HUD Reform Act to raise the minimum expenditure on rehabilitation to $3000 per unit and limit the size of projects to 100 units. The rule also clarifies the definition of SRO units to state that a unit may contain both food preparation and sanitary facilities, and clarifies that efficiency units are eligible under the program. The rule deletes the prohibition against use of PHA-owned property, and replaces waiting list requirements with a requirement for outreach to homeless persons. The rule also conforms the application process to other McKinney Act programs and adds recordkeeping and reports requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/93	58 FR 13828
Interim Final Rule Effective Date	04/14/93	
Interim Final Rule Comment Period End	05/14/93	
Final Action	09/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: James Forsberg, Director, Special Needs Assistance Program, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-4300

RIN: 2506–AB44

1528. • PROHIBITION AGAINST LUMP-SUM RELOCATION PAYMENTS FOR RENTAL ASSISTANCE (FR-3476)

Legal Authority: 42 USC 4601; 42 USC 12701; 42 USC 3535(d)

CFR Citation: 24 CFR 42; 49 CFR 24

Legal Deadline: None

Abstract: This rule implements section 922 of the Housing and Community Development Act of 1992 which prohibits lump-sum relocation payments for rental assistance to displaced residential tenants. The prohibition applies to relocation assistance under all HUD-assisted programs, including URA assistance and "section 104(d)" and optional relocation payments under the CDBG and HOME programs.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: H. J. Huecker, Director, Relocation & Real Estate Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-0336

RIN: 2506–AB55

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Completed Actions

1529. • COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES—1992 AMENDMENTS (FR-3390)

Legal Authority: 42 USC 3535(d); 42 USC 12101 to 12708

CFR Citation: 24 CFR 91

Legal Deadline: None

Abstract: This rule implements several changes to CHAS enacted by the Housing and Community Development Act of 1992. It requires linkage between a jurisdiction's needs and its plan; a plan to reduce the number of families in poverty; activities to coordinate housing and services; a plan to reduce lead-based paint hazard. It also broadens the applicability of relocation plan requirements and adds a few new programs to the list of those to which the CHAS is applicable.

Timetable:

Action	Date	FR Cite
Final Action	03/12/93	58 FR 13686
Final Action Effective	04/12/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing Programs, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2470

RIN: 2506–AB49

1530. AMENDMENT OF RENTAL REHABILITATION PROGRAM—CLOSEOUT REQUIREMENTS (FR-3280)

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 2506-AB39	01/27/93	

RIN: 2506–AB42

1531. COMMUNITY DEVELOPMENT BLOCK GRANTS: STATE'S PROGRAM (FR-1877)

Significance: Regulatory Program

CFR Citation: 24 CFR 570.480

Completed:

Reason	Date	FR Cite
Final Action	11/09/92	57 FR 53388
Final Action Effective	12/09/92	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Richard J. Kennedy, 202 708-1322

RIN: 2506–AA38

1532. COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT PROGRAM PART 570 AMENDMENTS RELATED TO REIMBURSABLE COSTS AND PAPERWORK REDUCTION (FR-3239)

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Withdrawn	01/27/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Broughman, 202 708-1577

RIN: 2506–AB34

1533. COMMUNITY DEVELOPMENT BLOCK GRANTS SANCTIONS (FR-3298)

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 2506-AB43	01/27/93	

RIN: 2506–AB40

1534. REALLOCATION OF UNUSED EMERGENCY SHELTER GRANTS AMOUNTS (FR-3319)

CFR Citation: 24 CFR 576.67

Completed:

Reason	Date	FR Cite
Withdrawn - Merged with RIN 2506-AB17	03/05/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James N. Forsberg, 202 708-4300

RIN: 2506–AB41

1535. SUPPORTIVE HOUSING DEMONSTRATION PROGRAM (FR-2878)

CFR Citation: 24 CFR 577; 24 CFR 578

Completed:

Reason	Date	FR Cite
Withdrawn	11/25/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James N. Forsberg, 202 708-4300

RIN: 2506–AB10

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Proposed Rule Stage

1536. REVISIONS TO GNMA ISSUER NET WORTH REQUIREMENTS (FR-2908)

Significance: Agency Priority

Legal Authority: 12 USC 1721(g); 12 USC 1723a(a)

CFR Citation: 24 CFR 390.3; 24 CFR 300; 24 CFR 310

Legal Deadline: None

Abstract: This rule would revise GNMA's standards for issuer approval by amending current net worth requirements and implementing new integrity requirements that would more accurately reflect an issuer's ability to participate in the GNMA mortgage-backed securities program. The proposal would also allow the acceptance of FHLMC approval in lieu of FNMA approval in GNMA's issuer application process.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

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Proposed Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Guy S. Wilson, Vice President, Department of Housing and Urban Development, Government National Mortgage Association, 202 708-2772

RIN: 2503–AA07

1537. GUARANTY OF REAL ESTATE MORTGAGE INVESTMENT CONDUITS (FR-3004)

Legal Authority: 12 USC 1721(g)

CFR Citation: 24 CFR 400

Legal Deadline: None

Abstract: GNMA is considering creation of a program under which GNMA will guarantee timely payment under Real Estate Mortgage Investment Conduits backed by GNMA Mortgage-Backed Securities. The regulation will provide an outline of the program. The program will be self-funding. It is projected that benefits will include attracting more capital and liquidity to the mortgage market which will reduce loan expenses, thus providing a greater opportunity for homeownership and affordable housing.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Guy S. Wilson, Vice President, Department of Housing and Urban Development, Government National Mortgage Association, 202 708-2772

RIN: 2503–AA09

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Proposed Rule Stage

1538. CHAS—AFFIRMATIVELY FURTHERING FAIR HOUSING (FR-3118)

Legal Authority: 42 USC 12705(b)(13)

CFR Citation: 24 CFR 91.15(l); 24 CFR 570.904(c); 24 CFR 91.20(l)

Legal Deadline: None

Abstract: This regulation will provide guidance on the minimum content of State and local efforts to satisfy the CHAS certification to Affirmatively Further Fair Housing. The rule will make mandatory the "Analysis of Impediments to Fair Housing Choice" currently described in 24 CFR 570.904(c) (the Entitlement Block Grant regulation) for all jurisdictions submitting a CHAS, will describe the components of such an Analysis, and will provide guidance on the types of actions HUD deems acceptable. It will also define the phrase "areas of minority concentration" found in the CHAS rule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Laurence Pearl, Director, Program Standards and Evaluation, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-0288

RIN: 2529–AA54

1539. FAIR HOUSING ASSISTANCE PROGRAM (FR-3322)

Legal Authority: 42 USC 3601

CFR Citation: 24 CFR 111

Legal Deadline: None

Abstract: The amendment will allow payment for complaint processing in accordance with the Fair Housing Act to State and local agencies that have been determined to be substantially equivalent; and another level to those agencies that have not achieved substantial equivalency but have enacted fair housing laws to assist the Department in carrying out investigation activities under the Fair Housing Act in their respective jurisdictions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marcella O. Brown, Director, Funded Programs Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-0455

RIN: 2529–AA60

1540. FAIR HOUSING AFFIRMATIVE ADMINISTRATION OF PROGRAMS RELATING TO HUD (FR-2885)

Legal Authority: EO 12259

CFR Citation: 24 CFR 112

Legal Deadline: None

Abstract: This rule would revise the existing FHIP regulation in the areas of opportunity for homeownership and affordable housing.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Maxine B. Cunningham, Director, Section 3 Compliance Div., Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-2251

RIN: 2529–AA46

1541. • FAIR HOUSING INITIATIVES PROGRAM (FR-3480)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 125

Legal Deadline: None

Abstract: This rule would revise the existing FHIP regulation in the areas of

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private enforcement initiatives funding of fair housing organizations, and education and outreach activities.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jacquelyn Shelton, Director, Office of Fair Housing Assistance & Voluntary Programs, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-0800

RIN: 2529–AA62

1542. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS (FR-2898)

Significance: Agency Priority

Legal Authority: 42 USC 1450; 42 USC 3301; 12 USC 1701u; 42 USC 3535(d)

CFR Citation: 24 CFR 135

Legal Deadline: NPRM, Statutory, April 30, 1990.

Abstract: The regulations at 24 CFR 135 must be revised substantially to incorporate the statutory amendments in the Housing and Community Development Act of 1992, to reflect certain changes in the Department's programs that are subject to the section 3 regulations, to clarify the obligations of individuals and entities subject to the requirements of section 3, and to simplify the Department's administration of section 3 requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Maxine B. Cunningham, Director, Section 3 Compliance Div., Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-2251

RIN: 2529–AA49

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — **Final Rule Stage**
Office of Fair Housing and Equal Opportunity (FHEO)

1543. EQUAL EMPLOYMENT OPPORTUNITY; POLICIES AND PROCEDURES (FR-3323)

Legal Authority: 42 USC 2000C to 16; 29 USC 621 to 634; 29 USC 1634; 29 USC 633a

CFR Citation: 24 CFR 7

Legal Deadline: None

Abstract: Conforming HUD rules governing the Equal Employment Opportunity complaint process to comply with 29 CFR 1614.

Timetable:

Action	Date	FR Cite
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: William O. Anderson, Director, Affirmative Action & Equal Employment Opportunity, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-2033

RIN: 2529–AA61

1544. • FAIR HOUSING—COMPLAINT PROCESSING (FR-3456)

Legal Authority: 42 USC 3600 to 3620

CFR Citation: 24 CFR 103

Legal Deadline: None

Abstract: This rule revises 24 CFR 103.400 by stating that the General Counsel retains the authority to reopen any determinations of no reasonable cause.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry L. Carey, Assistant General Counsel for Fair Housing, Department of Housing and Urban Development, Office of the General Counsel, 202 708-0570

RIN: 2529–AA65

1545. • FAIR HOUSING ACT; ADMINISTRATIVE PROCEEDINGS UNDER SECTION 812 OF THE FAIR HOUSING ACT (FR-3485)

Legal Authority: 42 USC 3612

CFR Citation: 24 CFR 104

Legal Deadline: None

Abstract: This rule revises HUD's regulations regarding administrative proceedings to clarify when physical and mental examinations of aggrieved persons are permissible and to provide for interlocutory appeals during proceedings.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry L. Carey, Assistant General Counsel for Fair Housing, Department of Housing and Urban Development, Office of the General Counsel, 202 708-0570

RIN: 2529–AA63

1546. • FAIR HOUSING ACT; FAIR HOUSING COMPLAINT PROCESSING (FR-3486)

Legal Authority: 42 USC 3601 to 3619

CFR Citation: 24 CFR 104

Legal Deadline: None

Abstract: This rule revises HUD's Fair Housing Complaint Processing regulations to clarify the authority of the General Counsel to reconsider determinations of no reasonable cause.

Timetable:

Action	Date	FR Cite
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry L. Carey, Assistant General Counsel for Fair

HUD—FHEO — **Final Rule Stage**

Housing, Department of Housing and Urban Development, Office of the General Counsel, 202 708-0570

RIN: 2529–AA64

1547. CONFORMING AMENDMENTS TO HUD RULES TO COMPLY WITH SECTION 504 OF THE REHABILITATION ACT AND OTHER AUTHORITIES (FR-2531)

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 7; 24 CFR 200; 24 CFR 207; 24 CFR 213; 24 CFR 220; 24 CFR 221; 24 CFR 232; 24 CFR 241; 24 CFR 244; 24 CFR 250; 24 CFR 251; 24 CFR 252; 24 CFR 270; 24 CFR 271; 24 CFR 277

Legal Deadline: None

Abstract: Conforming HUD rules to comply with section 504 of the Rehabilitation Act and other authorities, by adding appropriate citations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Laurence Pearl, Director, Program Standards & Evaluation, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-0288

RIN: 2529–AA38

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — **Completed Actions**
Office of Fair Housing and Equal Opportunity (FHEO)

1548. CERTIFICATION OF SUBSTANTIALLY EQUIVALENT AGENCIES (FR-3321)

CFR Citation: 24 CFR 115

Completed:

Reason	Date	FR Cite
Withdrawn	02/02/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marcella O. Brown, 202 708-0455

RIN: 2529–AA59

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — **Proposed Rule Stage**
Office of Administration (OA)

1549. IMPLEMENTATION OF REVISED OMB CIRCULAR A-102 GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS (FR-3129)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 85

Legal Deadline: None

Abstract: This governmentwide rule would make changes to 24 CFR part 85, grants and cooperative agreements to State and local governments, as a result of changes made to OMB Circular A-102.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Ed Girovasi, Director, Policy and Evaluation Division, Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration, 202 708-0294

RIN: 2535–AA19

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — **Completed Actions**
Office of Administration (OA)

1550. HUD ACQUISITION REGULATION (FR-2473)

CFR Citation: 48 CFR 24

Completed:

Reason	Date	FR Cite
Final Action	12/15/92	57 FR 59786
Final Action Effective	01/14/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related ection for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Ed Girovasi, 202 708-0294

RIN: 2535–AA16

1551. COMPETITIVE PROPOSAL REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENT TO STATE, LOCAL AND FEDERALLY RECOGNIZED INDIAN TRIBAL GOVERNMENTS (FR-3015)

CFR Citation: 24 CFR 85

Completed:

Reason	Date	FR Cite
Withdrawn	06/26/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ed Girovasi, 202 708-0294

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Inspector General (HUDIG)
Completed Actions

1552. IMPLEMENTATION OF THE PRIVACY ACT OF 1974 (FR-3259)

Significance: Agency Priority

CFR Citation: 24 CFR 2003

Completed:

Reason	Date	FR Cite
Final Action	12/29/92	57 FR 62142
Final Action Effective	01/28/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip A. Kesaris, 202 708-2350

RIN: 2508–AA07

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Policy Development and Research (PD&R)
Completed Actions

1553. PRESERVATION OF MULTIFAMILY ASSISTED RENTAL HOUSING; GUIDELINES FOR THE SECTION 222(E) WINDFALL PROFITS TEST (FR-3177)

CFR Citation: 24 CFR 248

Completed:

Reason	Date	FR Cite
Withdrawn	10/28/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce D. Atkinson, 202 708-0590

RIN: 2528–AA03

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)
Prerule Stage

1554. TURNKEY III HOMEOWNERSHIP OPPORTUNITY PROGRAM RE: REVISION OF EXISTING RULE (FR-2819)

Legal Authority: 42 USC 1437 to 1437s

CFR Citation: 24 CFR 904

Legal Deadline: None

Abstract: This rule would update the existing regulation that governs the Turnkey III Homeownership Opportunity Program to reflect forgiveness, under Section 3004 of the Housing and Community Development Amendments of 1985 (P.L. 99-272), which amend Section 4 of the United States Housing Act of 1937. Certain other changes are being considered to improve program administration and facilitate achievement of the program's homeownership objectives.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Wayne Hunter, Office of Resident Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0713

RIN: 2577–AA85

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)
Proposed Rule Stage

1555. • INCOME ELIGIBILITY FOR PUBLIC HOUSING (FR-2979)

Legal Authority: 42 USC 1437n

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: This rule would increase from 5% to 15% the percentage of post-1981 public housing and Section 8 units to be leased to lower income, but not very low-income, families. It would also require that not more than 25% of the dwelling units in any project of any agency be available for occupancy by low-income families other than very low-income families. Projects already exceeding this limitation before enactment of PL 101-625 are exempt.

This rule would also add local preferences as an exemption from the waiting list requirements. Finally, this rule would exempt scattered site public housing units from the income limit percentages.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Edward Whipple, Director, Occupancy Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0744

RIN: 2577–AA93

1556. USE OF SECTION 8 CERTIFICATES AND MODERATE REHABILITATION IN MAJOR DISASTERS (FR-2976)

Legal Authority: PL 101-625

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: This rule would set forth provisions for using additional authorization for use of moderate rehabilitation program in cases of major disasters declared by the President.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Madeline Hastings, Director, Rental Assistance Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-2841

RIN: 2577–AB16

HUD—PIH
Proposed Rule Stage

1557. • FAMILY INVESTMENT CENTERS (FR-3396)

Legal Authority: 42 USC 1437; 24 USC 3535(d)

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: This rule would implement section 515 of the National Affordable Housing Act. Section 515 directs the Secretary to provide families living in public housing with better access to educational and employment opportunities to achieve self-sufficiency and independence by: (1) developing facilities in or near public housing for training and support services; (2) mobilizing public and private resources to expand and improve delivery of such services; (3) providing funding for such essential training and support services that cannot otherwise be funded; and (4) improving the capacity of management to access the training and service needs of families with children, coordinate the provision of training and services that meets such need, and ensure the long-term provision of such training and services.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula O. Blunt, Acting Director, Resident Management Economic Div., Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-4214

RIN: 2577–AB25

1558. • VACANCY REDUCTION PROGRAM (FR-3398)

Legal Authority: 42 USC 1437l; 42 USC 3535(d)

CFR Citation: 24 CFR 000

Legal Deadline: Final, Statutory, April 26, 1993.

Abstract: This rule would implement section 510 of the National Affordable Housing Act. Section 510 directs the Secretary to require certain public housing agencies to participate in the vacancy reduction program to be established in accordance with this section. Designated public housing agencies are required to submit vacancy reduction plans, which will be reviewed and monitored by HUD, in part with the assistance of assessment terms.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William J. Flood, Director, Modernization Div., Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-1640

RIN: 2577–AB26

1559. COMPREHENSIVE REVISION TO SECTION 8 RENTAL CERTIFICATE PROGRAM AND RENTAL VOUCHER PROGRAM REGULATIONS (FR-2294)

Significance: Regulatory Program

Legal Authority: 42 USC 1437f; PL 100-242, Sec 144; PL 100-242, Sec 145; PL 100-242, Sec 146; PL 100-242, Sec 147; PL 100-242, Sec 148; PL 100-242, Sec 149; PL 100-242, Sec 262

CFR Citation: 24 CFR 882; 24 CFR 887; 24 CFR 982

Legal Deadline: None

Abstract: This rule will consolidate the Section 8 Rental Certificate Program and Rental Voucher Program regulations into a new Part 982 to provide, to the extent practicable, uniform policies for both programs. It will also conform the regulations to statutory amendments enacted by the Housing and Community Development Amendments of 1987, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, the National Affordable Housing Act, and the Housing and Community Development Act of 1992, and make other revisions.

Timetable:

Action	Date	FR Cite
NPRM	02/24/93	58 FR 11292
NPRM Comment Period End	04/26/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FR-2469 (RIN 2502-AE44), FR-2584 (RIN 2502-AE63) and FR-2889 (RIN 2502-AF11) have been merged into this item.

Agency Contact: Madeline Hastings, Director, Rental Assistance Division, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-2841

RIN: 2577–AB14

1560. • REFORM OF PUBLIC HOUSING MANAGEMENT (FR-3447)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 901

Legal Deadline: None

Abstract: This rule would implement section 113 of the Housing and Community Development Act of 1992. The rule would establish statutory language for the solicitation of competitive proposals from other public housing agencies and private entities with experience in construction management in the eventuality that such agencies may be needed to oversee the implementation of assistance; allow residents of a troubled public housing agency to petition the Secretary in writing to take action in remedying the situation; and provide procedures for the assessment of resident management corporations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sherone E. Ivey, Acting Director, General Management Div., Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0970

RIN: 2577–AB30

1561. CIAP PROCUREMENT POLICY FOR LBP TESTING AND ABATEMENT SERVICES (FR-3231)

Legal Authority: 42 USC 1437aa; 42 USC 1437bb; 42 USC 1437cc; 42 USC

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1437ee; 25 USC 450e(b); 42 USC 3535(d); 42 USC 1437d; 42 USC 1437l

CFR Citation: 24 CFR 905.639(c); 24 CFR 968.240(c)

Legal Deadline: None

Abstract: This rule would modify language in 24 CFR parts 905 and 968 that, as applied, requires Indian Housing Authorities (IHAs) and Public Housing Agencies (PHAs) to use the sealed bid method of procurement for lead-based paint (LPD) testing or abatement services with a contract value of over $25,000. Instead, IHAs and PHAs will be permitted to use any of the procurement methods authorized under section 905.175 or 85.36(d), respectively. The methods include small purchase procedures, the sealed bid method, the competitive proposals method, and the non-competitive proposals method of contracting for LBP testing or abatement services. These changes in procurement requirements are intended to provide IHAs and PHAs with maximum flexibility in determining the method of procurement that best suits their needs in this specialized area as currently authorized under section 85.36 when contracting for goods and services.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William Thorson, Director, Maintenance & Supply Div., Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-4703

RIN: 2577–AB12

1562. • CHOICE IN PUBLIC HOUSING MANAGEMENT (FR-3464)

Legal Authority: 42 USC 1437w

CFR Citation: 24 CFR 909

Legal Deadline: None

Abstract: Section 121 of the Housing and Community Development Act of 1992, authorizes the Department to award $46.6 million in modernization funds set-aside from each of the fiscal years 1993 and 1994 for the implementation of Choice in Public Housing Management. The purpose of the program is to enable residents of severely distressed public housing in troubled public housing agencies to hire alternative managers to manage and rehabilitate their development.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Roger W. Braner, Acting Director, Office of Assisted Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-1380

RIN: 2577–AB22

1563. PUBLIC HOUSING DEVELOPMENT—PROGRAM AMENDMENTS (FR-2865)

Legal Authority: 42 USC 1437c

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This proposed rule is a follow-up on the technical amendments final rule (FR-2782) with substantive amendments, incorporating numerous program changes; e.g., the Green Amendment on cost limits; elimination of total development cost cap panel; inclusion of Major Reconstruction of Obsolete Public Housing downgrading requirement for Assistant Secretary approval for Public Housing Agencies to acquire HUD-owned or held properties; expansion of site and neighborhood applicability to acquisition of existing projects; and revision of application procedures.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Janice D. Rattley, Director, Office of Construction, Rehabilitation, and Maintenance, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-1800

RIN: 2577–AA87

1564. • DESIGNATING HOUSING FOR OCCUPANCY BY ELDERLY OR DISABLED FAMILIES (FR-3425)

Legal Authority: 42 USC 1473e

CFR Citation: 24 CFR 945

Legal Deadline: NPRM, Statutory, January 28, 1993. NPRM, Judicial, May 28, 1993.

Abstract: This rule would amend title 24 CFR to create a new part 945, which would implement section 622(a) of the Housing and Community Development Act of 1992. Section 622(a) authorizes public housing agencies to design public housing developments or portions of public housing development for occupancy solely by (1) elderly families; (2) disabled families; or (3) elderly and disabled families.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	08/00/93	
Final Action	11/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Edward Whipple, Occupancy Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0744

RIN: 2577–AB27

1565. PUBLIC HOUSING RENT WAIVER FOR POLICE OFFICERS (FR-2972)

Legal Authority: 42 USC 1437n; 42 USC 3535(d)

CFR Citation: 24 CFR 960.500, subpart E; 24 CFR 905

Legal Deadline: None

Abstract: The rule would permit HUD to waive the applicability of any occupancy requirements to allow police officers and other security personnel, not otherwise eligible for residence in public and Indian housing, to reside in public and Indian housing dwelling units upon submission by a PHA/IHA and approval by HUD of a plan identifying the projects in which the police officers or security personnel will reside and describing the benefits of their residence.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Edward Whipple, Director, Occupancy Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0744

RIN: 2577–AA94

1566. LEAD-BASED PAINT LIABILITY INSURANCE FOR PUBLIC HOUSING AGENCIES AND INDIAN HOUSING AUTHORITIES (FR-3275)

Significance: Agency Priority

Legal Authority: 42 USC 1436c

CFR Citation: 24 CFR 965; 24 CFR 905

Legal Deadline: None

Abstract: This proposed rule will implement a provision of HUD's 1992 Appropriations Act (105 Stat. 758-759) that requires the Department to specify the "nature and quality" of insurance coverage to be obtained by public housing agencies and Indian housing authorities for lead-based paint personal injury liability.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: John Comerford, Director, Financial Management and Occupancy Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-1872

RIN: 2577–AB21

1567. • SECTION 8 HOMEOWNERSHIP (FR-3385)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 982

Legal Deadline: None

Abstract: Section 185 of the Housing and Community Development Act of 1992 authorizes the use of section 8 Certificates and Vouchers for homeownership purposes if the family: 1) is a first-time home-buyer; 2) participates in the Family Self-Sufficiency Program or demonstrates that the family has income from employment or other sources (other than public assistance); 3) demonstrates at the time that the family initially receives assistance that one or more adult members of the family have secured employment for the period as required by HUD; and 4) participates in a homeownership and housing counseling program provided by a PHA, and meets any other requirements as established by HUD.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	09/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Madeline Hastings, Director, Policy Branch, Rental Assistance Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-2841

RIN: 2577–AB23

1568. PERFORMANCE FUNDING SYSTEM: ADJUSTMENT TO OPERATING SUBSIDY TO REFLECT AIR CONDITIONING EFFECT ON UTILITY CONSUMPTION (FR-2971)

Legal Authority: PL 101-625

CFR Citation: 24 CFR 990; 24 CFR 905

Legal Deadline: None

Abstract: This rule will add a new factor to the Performance Funding System of calculating operating subsidy for Public Housing and Indian Housing projects. The utility expense level will now be adjusted for Cooling Degree Day differences from year-to-year, as well as Heating Degree differences.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, Federal

Agency Contact: John Comerford, Director, Financial Management Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-1872

RIN: 2577–AA99

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Public and Indian Housing (PIH)

Final Rule Stage

1569. FAMILY SELF-SUFFICIENCY PROGRAM (FR-2961)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rule implements the Family Self-Sufficiency (FSS) program created by Section 554 of the Cranston-Gonzalez National Affordable Housing Act. Section 554 directs PHAs (and IHAs) to use public and Indian housing and Section 8 assistance under the rental certificate and rental voucher programs together with public and private resources to provide supportive services, to enable participating families to achieve economic independence and self-sufficiency.

Timetable:

Action	Date	FR Cite
Notice	09/30/91	56 FR 49592
Notice Effective	09/30/91	
Interim Final Rule	04/00/93	
Final Action	04/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Madeline Hastings, Director, Rental Assistance Division, Office of Elderly & Assisted Housing, Department of Housing and Urban

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Development, Office of Public and Indian Housing, **202 708-2841**

RIN: 2577–AB15

1570. • RENTAL ASSISTANCE FRAUD RECOVERIES (FR-3487)

Legal Authority: 42 USC 1437f

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: This rule will implement section 129 of the Housing and Community Development Act of 1992. Section 129 permits PHAs administering section 8 rental assistance programs to retain, out of amounts obtained by the PHAs from tenants that are due as a result of fraud and abuse, an amount equal to the greater of 50% of the amount collected, or the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

Timetable:

Action	Date	FR Cite
Final Action	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Madeline Hastings, Director, Rental Assistance Div., Department of Housing and Urban Development, Office of Public and Indian Housing, **202 708-2841**

RIN: 2577–AB28

1571. PUBLIC HOUSING MANAGEMENT ASSESSMENT PROGRAM (PHMAP) (FR-2897)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d); 42 USC 1437d(j)

CFR Citation: 24 CFR 901

Legal Deadline: None

Abstract: This rule established the Public Housing Management Assessment Program (PHMAP) in accordance with Section 502 of the National Affordable Housing Act of 1990 (approved Nov. 28, 1990, PL 101-625, 104 Stat. 4079). Section 502 requires HUD to assess the management performance of Public Housing Agencies (PHAs) in all major areas of management operations and designation of troubled and mod-troubled PHAs. PHMAP uses a maximum of 12 indicators, including seven specifically mandated by the statute and five other indicators deemed appropriate by HUD. A PHA designated troubled or mod-troubled is required to enter into a memorandum of agreement (MOA) with HUD that sets forth targets, strategies, incentives and sanctions for approving its management performance. In the event of a substantial default on an agreement, HUD may petition the appropriate State or Federal court of venue for the appointment of a receiver or make other management changes for the troubled PHA. HUD is also authorized to commend exemplary PHAs.

PHMAP is intended to foster a uniform, nationwide level of excellence in public housing.

Timetable:

Action	Date	FR Cite
NPRM	04/17/91	56 FR 15712
NPRM Comment Period End	06/17/91	
Interim Final Rule	01/17/92	57 FR 2160
Interim Final Rule Effective	02/18/92	
Interim Final Rule Comment Period End	05/18/92	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sherone E. Ivey, Acting Director, General Management Div., Department of Housing and Urban Development, Office of Public and Indian Housing, **202 708-0970**

RIN: 2577–AA89

1572. SECTION 5(H) HOMEOWNERSHIP PROGRAM (FR-2810)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 905; 24 CFR 906

Legal Deadline: None

Abstract: The Department published an interim rule codifying the requirements of the Section 5(h) Homeownership Program (Section 5(h), U.S. Housing Act of 1937 ("Act")). Section 5(h), along with Section 6(c)(4)(D) of the Act, gives the Department the authority to implement a program that would provide homeownership opportunities for residents of public and Indian housing.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/20/91	56 FR 47852
Interim Final Rule Effective	10/21/91	
Interim Final Rule Comment Period End	11/19/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Wayne Hunter, Office of Resident Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing, **202 708-0713**

RIN: 2577–AA90

1573. INDIAN LEASE AND GRIEVANCE PROCEDURES (FR-3228)

Legal Authority: 42 USC 1437d

CFR Citation: 24 CFR 905

Legal Deadline: NPRM, Statutory, February 14, 1991. Final, Statutory, May 25, 1991.

Abstract: This rule will amend the Indian Housing rule's provisions concerning a resident's lease and grievance procedures to conform to statutory amendments made in 1990 by the National Affordable Housing Act. Those amendments made certain criminal activity by a member of the resident's household cause for termination of tenancy and permitted an IHA to use an expedited grievance procedure concerning such a termination. It also specified elements of due process, which--if provided under local law--would eliminate the need for providing a grievance procedure for this type of termination of tenancy or eviction.

(A similar rule was published Oct. 11, 1991 for Public Housing Agencies and it became effective Nov. 12, 1991.)

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59316
NPRM Comment Period End	02/16/93	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, Federal

Agency Contact: Dominic Nessi, Director, Office of Indian Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, **202 708-1015**

RIN: 2577–AB11

1574. PIH; REVISED COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM (FR-3318)

Significance: Agency Priority

Legal Authority: 42 USC 1437aa; 42 USC 1437bb; 42 USC 1437cc; 42 USC 1437ee; 24 USC 450e(b); 42 USC 3535(d); 42 USC 1434d; 42 USC 1437l

CFR Citation: 24 CFR 905; 24 CFR 968

Legal Deadline: None

Abstract: This rule would amend 24 CFR Parts 905 and 968 to establish a revised and simplified Comprehensive Improvement Assistance Program (CIAP) for public housing agencies (PHAs) and Indian housing authorities (IHAs) that own or operate fewer than 250 public or Indian housing units. This rule proposes to simplify and reduce processing procedures in obtaining modernization grants. This rule proposes to enhance resident and homebuyer participation. This rule solicits public comment on additional revisions needed to improve the CIAP program. This action is intended to result in substantial cost reduction in preparing, processing, and administering CIAP grants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/93	58 FR 13916
Interim Final Rule Comment Period End	04/14/93	
Interim Final Rule Effective Date	04/14/93	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Janice D. Rattley, Director, Office of Construction, Rehabilitation & Maintenance, Department of Housing and Urban Development, Office of Public and Indian Housing, **202 708-1800**

RIN: 2577–AB20

1575. • ASSISTED HOUSING FOR INDIANS AND ALASKAN NATIVES—PAYMENTS TO MUNICIPALITIES (FR-3488)

Legal Authority: 42 USC 1437aa(c); 42 USC 1437cc(b)

CFR Citation: 24 CFR 905.210; 24 CFR 905.720

Legal Deadline: None

Abstract: This rule will implement section 122(a) of the Housing and Community Development Act of 1992 by exempting Assisted Housing for Indian and Alaskan Natives for the requirements of section 6(h) of the United States Housing Act, which required housing agencies to develop housing by the new construction method only if acquisition or acquisition with rehabilitation could be demonstrated to be more costly. Since section 905.210 also contains the preference for construction for large families which no longer is required by statute, the entire section is being removed.

This rule would also implement section 122(c) of the Housing and Community Development Act of 1992, which amends section 203 (b) of the 1937 Act. Section 122(c) requires the Secretary to make an annual payment from operating subsidy funding to municipalities that provide roads, water supply and sewage facilities and electrical and fuel distribution systems to Indian housing rental projects in an amount for each rental housing unit equal to (1) 10% of the applicable shelter rent minus the utility allowance or (2) $150, whichever is greater.

Timetable:

Action	Date	FR Cite
Final Action	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Agency Contact: Bruce A. Knott, Acting Director, Housing Development Div., Department of Housing and Urban Development, Office of Public and Indian Housing, **202 708-1015**

RIN: 2577–AB29

1576. SELECTION OF FINANCIALLY RESPONSIBLE INSURANCE PROVIDER BY PHAS AND IHAS (FR-3023)

Significance: Regulatory Program

Legal Authority: 42 USC 1437g; PL 101-507

CFR Citation: 24 CFR 965; 24 CFR 905

Legal Deadline: None

Abstract: This rule would specify the requirements for a financially sound and responsible insurance provider for coverage of PHA and IHA required coverages. It would permit selection of a nonprofit insurance entity owned by PHAs or IHAs without competitive selection procedures when the entity satisfies these financial standards, in accordance with provisions of the HUD Appropriations Act for FY 1991.

Timetable:

Action	Date	FR Cite
NPRM	11/17/92	57 FR 54196
NPRM Comment Period End	01/19/93	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Local

Additional Information: This rule has been split off from a rule that dealt primarily with the Performance Funding System for calculating operating subsidy for PHAs. A proposed rule was published on December 19, 1989. After public comments were received, Congress legislated on the subject of PHA insurance--in the HUD Appropriations Act for FY 1991. As a result, this proposed rule is being undertaken as a separate project.

Agency Contact: John Comerford, Director, Financial Management Division, Department of Housing and Urban Development, Office of Public and Indian Housing, **202 708-1872**

RIN: 2577–AB00

1577. REPLACEMENT HOUSING FOR PUBLIC HOUSING DEMOLITION AND DISPOSITION 1987 HCD ACT (FR-2463)

Significance: Regulatory Program

Legal Authority: 42 USC 1437p; PL 100-242, Sec 121(a)-(d)

CFR Citation: 24 CFR 970; 24 CFR 905

Legal Deadline: None

Abstract: This rule establishes procedures for the approval of applications for demolition or disposition of public and Indian housing development. In addition,

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under this rule HUD may approve an application for demolition if the project is obsolete, making it unusable for housing purposes and if no reasonable program of modification is feasible to return the project to a useful life. The rule also provides that HUD, in allocating assistance for public housing acquisition or development or for Section 8 certificates, give consideration to providing housing that replaces demolished public housing units in accordance with an approved replacement plan. PHAs are prohibited from taking any action to demolish or dispose of public housing projects without obtaining HUD's approval and satisfying pertinent statutory requirements. The 1992 Authorization Act contains several new provisions that will be incorporated into the final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/17/88	53 FR 30984
Interim Final Rule Effective	10/06/88	53 FR 30984
Interim Final Rule Comment Period End	10/17/88	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Janice D. Rattley, Director, Office of Construction, Rehabilitation, and Maintenance, Department of Housing and Urban Development, Office of Public and Indian Housing, **202 708-1800**

RIN: 2577–AA58

1578. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING—OPPORTUNITY TO PURCHASE BY TENANT COUNCILS, RESIDENT MANAGEMENT CORPORATIONS, OR TENANT COOPERATIVES (FR-3093)

Significance: Agency Priority

Legal Authority: PL 101-625 Sec. 412, National Affordable Housing Act

CFR Citation: 24 CFR 970

Legal Deadline: None

Abstract: This notice sets forth the provisions and procedures to be followed in affording the opportunity to purchase to existing PHA-wide and IHA-wide resident councils and the resident management corporation, resident council or resident cooperative of the development that is proposed to be demolished or disposed of, in whole or a portion thereof, by the PHA or IHA. It also requires that PHAs or IHAs allow 45 days for residents of the affected development to form a resident organization. The 1992 Authorization Act contains language that amends the provisions of section 18 regarding a resident organization's right to purchase. This new language will be incorporated into the final rule on Demolition/Disposition (FR 2463).

Timetable:

Action	Date	FR Cite
Notice	10/06/92	57 FR 46074
Notice Effective	10/06/92	57 FR 46074
Notice Comment Period End	12/07/92	57 FR 46074
Final Action	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: William Flood, Director, Modernization Division, Department of Housing and Urban Development, Office of Public and Indian Housing, **202 708-1640**

RIN: 2577–AB09

1579. PFS PROJECTED OPERATING INCOME LEVEL (FR-2784)

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 990.102; 24 CFR 990.109; 24 CFR 905.102; 24 CFR 905.7

Legal Deadline: None

Abstract: This rule will not include original proposals affecting comprehensive occupancy plans and acceptable occupancy standards, since these elements were disfavored by Congress. The rule will continue other elements included in the proposal. Operating subsidy expenditures for vacant units will be reduced in several newly defined subcategories of vacant units. Some units removed from the rent roll for non-dwelling use in anti-drug and in economic self-sufficiency activities may continue to be eligible for full subsidy. In addition, for small PHAs/IHAs the rule will maintain the five-unit exception from the 97 percent acceptable occupancy standard.

Timetable:

Action	Date	FR Cite
NPRM	09/06/91	56 FR 45814
NPRM Comment Period End	11/05/91	
NPRM Comment Period Reopened	06/22/92	57 FR 27716
NPRM Second Comment Period End	07/22/92	57 FR 27716
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: John Comerford, Director, Financial Management Division, Department of Housing and Urban Development, Office of Public and Indian Housing, **202 708-1872**

RIN: 2577–AA84

1580. • PUBLIC HOUSING OPERATING SUBSIDIES—ENERGY SAVINGS (FR-3387)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 990

Legal Deadline: None

Abstract: This rule extends the period of sharing of energy cost savings between HUD and PHAs to six years.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Comerford, Director, Financial Management Div., Department of Housing and Urban Development, Office of Public and Indian Housing, **202 708-1872**

RIN: 2577–AB24

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Completed Actions

1581. DRUG ELIMINATION (FR-2992)

CFR Citation: 24 CFR 751

Completed:

Reason	Date	FR Cite
Final Action	12/30/92	58 FR 3160
Final Action Effective	02/08/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Malcolm E. Main, **202 708-1197**

RIN: 2577–AA97

1582. COMBINED INCOME AND RENT REGULATIONS (FR-3324)

Completed:

Reason	Date	FR Cite
Transfer Development to RIN 2501-AB61	02/24/93	

RIN: 2577–AB19

1583. DEFINITION AMENDMENTS (FR-3029)

Completed:

Reason	Date	FR Cite
Transfer Development to RIN 2501-AB63	03/11/93	

RIN: 2577–AA96

1584. MAXIMUM ANNUAL LIMITATION ON RENTAL INCREASES RESULTING FROM EMPLOYMENT; AMENDMENTS TO DEFINITIONS OF INCOME, ADJUSTED INCOME (FR-2973)

CFR Citation: 24 CFR 913; 24 CFR 813

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward Whipple, **202 708-0744**

RIN: 2577–AA95

1585. YOUTH SPORTS (FR-2993)

CFR Citation: 24 CFR 961; 24 CFR 905

Completed:

Reason	Date	FR Cite
Final Action	01/07/93	58 FR 3160
Final Action Effective	02/08/93	

Small Entities Affected: Organizations

Government Levels Affected: Local

Agency Contact: Robin Prichard, **202 708-1197**

RIN: 2577–AA98

1586. LOW-INCOME PUBLIC HOUSING—PROJECT-BASED ACCOUNTING (FR-3088)

CFR Citation: 24 CFR 900

Completed:

Reason	Date	FR Cite
Final Action	12/23/92	57 FR 61226
Final Action Effective	01/21/93	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: John T. Comerford, **202 708-1872**

RIN: 2577–AB08

[FR Doc. 93-6052 Filed 04-23-93; 8:45 am]
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Part X

Department of the Interior

Semiannual Regulatory Agenda

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DEPARTMENT OF THE INTERIOR (DOI)

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

50 CFR Chs. I and IV

Semiannual Agenda of Rules Scheduled for Review or Development

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual agenda of rules scheduled for review or development.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between April and October 1993. An agenda is required by the Regulatory Flexibility Act and Executive Order 12291.

ADDRESSES: Unless otherwise indicated, all agency contacts are located at the Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: All comments and inquiries with regard to these rules should be directed to the appropriate agency contact. General comments relating to the agenda should be directed to the Office of Congressional and Legislative Affairs, Department of the Interior, at the address above or on (202) 208-6233.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12291 that the Department publish, in April and October of each year, an agenda of rules that have been issued or are expected to be issued and currently effective rules that are scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that an agenda be published in April and October of each year identifying rules which will have significant economic effects on a substantial number of small entities; those rules which will have such effects are specifically identified in the agenda.

This agenda also identifies rules determined to be "significant" under Executive Order 12498 and which are included in this Department's 1993 regulatory program. A more comprehensive discussion of this program and the rules are contained in the Regulatory Program of the United States Government, which is published by the Office of Management and Budget.

Dated: March 10, 1993.

Brad Leonard,

Acting Assistant Secretary of the Interior for Policy, Management and Budget.

Assistant Secretary for Policy, Management and Budget—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1587	Department of the Interior Acquisition Regulation	1090-AA14
1588	Natural Resource Damage Assessments	1090-AA29
1589	Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Institutions	1090-AA32
1590	Department of the Interior Acquisition Regulation—Commercial Advertising	1090-AA34

Assistant Secretary for Policy, Management and Budget—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1591	Natural Resource Damage Assessments	1090-AA21
1592	Natural Resource Damage Assessments	1090-AA22
1593	Natural Resource Damage Assessments	1090-AA23
1594	Department of the Interior, Nonprocurement Debarment and Suspension Regulation	1090-AA24
1595	Department of the Interior Acquisition Regulation; Patent Rights Under Government Contracts and Subcontracts for Experimental, Developmental or Research Work	1090-AA27
1596	Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments	1090-AA33
1597	Department of the Interior—Provisions, Assignment and Administration of Quarters	1090-AA35
1598	Department of the Interior—Establishment of Quarters Rental Rates	1090-AA36
1599	Principles of Ethical Conduct	1090-AA38
1600	Grants to States for Establishing Youth Conservation Corps Programs	1090-AA39
1601	Grants to States for Establishing Young Adult Conservation Corps (YACC) Program	1090-AA40
1602	Administrative and Audit Requirements and Cost Principles for Assistance Programs	1090-AA41

Assistant Secretary for Policy, Management and Budget—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1603	Department of the Interior, New Restrictions on Lobbying	1090-AA26
1604	Administrative and Audit Requirements and Cost Principles for Assistance Programs	1090-AA37

Office of the Solicitor—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1605	Subpart E - Compulsory Process and Testimony of Employees	1092-AA09

Office of the Solicitor—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1606	Department of the Interior Hearings and Appeals Procedures—General Rules Relating to Procedures and Practice	1092-AA10

Office for Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1607	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance	1091-AA02

Office of Hearings and Appeals—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1608	Rules Applicable in Indian Affairs Hearings and Appeals	1094-AA38

Office of Hearings and Appeals—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1609	Rules Applicable in Indian Affairs Hearings and Appeals	1094-AA39
1610	Special Rules Applicable to Surface Coal Mining Hearings and Appeals	1094-AA42
1611	Special Rules Applicable to Surface Coal Mining Hearings and Appeals	1094-AA43

United States Fish and Wildlife Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1612	Migratory Bird Hunting	1018-AA24
1613	Release and Harvest of Captive-Bred Waterfowl	1018-AB77
1614	Migratory Bird Hunting: Hunting Regulations for Restriction of Shotshell Length, Maximum Shot Size and Nontoxic Shot Coatings	1018-AB80
1615	Exotic Bird Conservation Act	1018-AB93
1616	Clean Vessel Act Pumpout Station Grant Administration	1018-AB95

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United States Fish and Wildlife Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1617	Convention on International Trade in Endangered Species of Wild Fauna and Flora (Endangered Species Convention)	1018-AA29
1618	Public Entry and Use	1018-AA36
1619	Captive Bred Wildlife	1018-AB10
1620	Implementation of Klamath River Basin Fishery Resources Restoration Act	1018-AB11
1621	Endangered and Threatened Wildlife and Plants; Designated Ports for Plants	1018-AB28
1622	Highly Traded Appendix II Species	1018-AB30
1623	Amendments to the Marine Mammal Protection Act	1018-AB34
1624	Federal Migratory Bird Hunting and Conservation Stamp Licensing Procedures and Guidelines	1018-AB40
1625	Seasons and Bag Limits for Subsistence Management Regulations	1018-AB43
1626	Importation, Exportation, and Transportation of Wildlife	1018-AB49
1627	Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	1018-AB50
1628	The National Coastal Wetland Conservation Grant Program	1018-AB68
1629	Endangered and Threatened Wildlife and Plants: 50 Hawaiian Plants —16 from Molokai, 23 from Kauai, and 11 from Koolau	1018-AB69
1630	Compatibility of Permitted Uses on National Wildlife Refuges	1018-AB70
1631	Application Fees for Controlled Hunts on National Wildlife Refuges	1018-AB71
1632	List of Migratory Birds	1018-AB72
1633	Endangered and Threatened Wildlife and Plants: Emergency Proposal to Establish Additional Manatee Sanctuaries in Kings Bay, Crystal River, Citrus County, Florida	1018-AB74
1634	Eagle Permits	1018-AB81
1635	Endangered and Threatened Wildlife and Plants: 30 African Birds	1018-AB84
1636	Procedures for Certifying Fish Health Inspectors	1018-AB86
1637	Fish Health Inspections and Diagnostic Services Provided to Non-Service Entities	1018-AB87
1638	Endangered and Threatened Wildlife and Plants	1018-AB88
1639	Endangered and Threatened Wildlife and Plants: 22 Hawaiian Plants	1018-AB89
1640	Endangered and Threatened Wildlife and Plants: Policy on the Treatment of Hybrids and Proposed Definitions	1018-AB90
1641	Endangered and Threatened Wildlife and Plants: Four Hawaiian Ferns	1018-AB92
1642	Endangered and Threatened Wildlife and Plants; 13 Plants from Hawaii	1018-AB94
1643	Proposed Establishment of a Nonessential Experimental Population of Black-Footed Ferrets in North-Central Montana	1018-AB96

United States Fish and Wildlife Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1644	Refuge-Specific Hunting and Fishing Regulations	1018-AA71
1645	Endangered and Threatened Wildlife and Plants	1018-AA85
1646	Endangered and Threatened Wildlife and Plants	1018-AA95
1647	Proposed Determination of Experimental Population Status for an Introduced Population of Colorado Squawfish	1018-AB09
1648	Injurious Wildlife: Importation of Live or Dead Fish, Mollusks, and Crustaceans, or Their Eggs	1018-AB13
1649	National Wildlife Refuges: Adding to Areas Open to Hunting and Fishing	1018-AB25
1650	Endangered and Threatened Wildlife and Plants	1018-AB42
1651	Migratory Bird Permits: Determination that Kansas Meet Federal Falconry Standards	1018-AB45
1652	Cabin Management Regulations on National Wildlife Refuges in Alaska	1018-AB46
1653	Endangered and Threatened Wildlife and Plants	1018-AB52
1654	Endangered and Threatened Wildlife and Plants	1018-AB56
1655	Farm-Raised Fish; Exemption From Fish and Wildlife Export Requirements	1018-AB61
1656	Endangered and Threatened Wildlife and Plants	1018-AB66
1657	Endangered and Threatened Wildlife and Plants	1018-AB73
1658	Endangered and Threatened Wildlife and Plants	1018-AB75
1659	Endangered and Threatened Wildlife and Plants; Removal of Special Rule Allowing a Limited Special Hunt of Grizzly Bear	1018-AB78
1660	Marine Mammals: Incidental Take During Specified Activities (Oil and Gas Exploration, Development and Production), in Arctic Alaska and the Beaufort Sea	1018-AB79
1661	Endangered and Threatened Wildlife and Plants: Threatened Status for Snake River Spring/Summer Chinook Salmon, Threatened Status for Snake River Fall Chinook Salmon	1018-AB82

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United States Fish and Wildlife Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1662	Endangered and Threatened Wildlife and Plants	1018-AB83
1663	Endangered and Threatened Wildlife and Plants: Critical Habitat for Four Colorado River Fishes	1018-AB91

United States Fish and Wildlife Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1664	Refuge-Specific Sport Fishing Regulations	1018-AA50
1665	Endangered and Threatened Wildlife and Plants; Bruneau Hot Spring Snail	1018-AA98
1666	National Migratory Bird Harvest Information Program	1018-AB65
1667	Endangered and Threatened Wildlife and Plants: Proposal to Establish an Experimental Nonessential Population of Whooping Cranes in Florida	1018-AB85

National Park Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1668	Apostle Islands National Lakeshore: Snowmobiling	1024-AB80
1669	Blue Ridge Parkway: Fishing	1024-AC02
1670	Glacier Bay: Vessel Management Plan/Regulations	1024-AC05
1671	Curation of Federally Owned and Administered Archaeological Collections	1024-AC08
1672	Parts 1 to 5 Revisions	1024-AC12
1673	Rock Climbing	1024-AC13

National Park Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1674	Fort Jefferson National Monument: Fishing; Boundary Adjustments	1024-AA96
1675	Minerals Management—Nonfederal Oil and Gas	1024-AB39
1676	Yellowstone National Park: Commercial Traffic on U.S. Highway 191 Within Yellowstone National Park	1024-AB82
1677	National Capital Region Parks: Special Event Rules	1024-AB92
1678	National Park Service Symbols: United States Park Police Insignia	1024-AB94
1679	Solid Waste Disposal Sites in Units of the National Park System	1024-AB95
1680	Rights-of-Way	1024-AC01
1681	Alaska: Subsistence Uses	1024-AC03
1682	Penalty Provisions	1024-AC06
1683	Native American Graves Protection and Repatriation Act Implementation	1024-AC07

National Park Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1684	Protection of Archaeological Resources; Uniform Regulations	1024-AA51
1685	Everglades National Park: Mining	1024-AB10
1686	Management of Mineral Development Associated With Mining Claims	1024-AB74
1687	National Natural Landmarks Program	1024-AB96
1688	Glacier Bay National Park, Alaska Fishing Regulations	1024-AB99

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National Park Service—Completed Actions

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1689	Golden Gate National Recreation Area: Off Road Bicycle Use Areas	1024-AC04

Bureau of Indian Affairs—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1690	Osage Roll, Certificate of Competency	1076-AC85

Bureau of Indian Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1691	Administration of the Higher Education Program	1076-AA10
1692	Grants to Tribally Controlled Community Colleges and Navajo Community College	1076-AA11
1693	Administration of the Indian Adult Education Programs	1076-AA15
1694	Leasing and Permitting	1076-AA29
1695	Land Acquisitions for Tribes and Individual Indians	1076-AA81
1696	Oil and Gas and Geothermal Solid Mineral Agreements Leasing of Tribal Lands for Mineral Development; Leasing of Allotted Lands for Mineral Development	1076-AA82
1697	Roads of the Bureau of Indian Affairs	1076-AB05
1698	Leasing of Osage Reservation Lands for Oil/Gas Mining	1076-AC09
1699	Financial Assistance and Social Services Program	1076-AC13
1700	Certificates of Degree of Indian Blood	1076-AC19
1701	Revised Procedures for Implementation of the Indian Self-Determination and Education Assistance Act Amendments of 1988	1076-AC20
1702	Indian Electric Power Utilities	1076-AC24
1703	Leasing of Osage Reservation Lands for Mining for Minerals Other Than Oil and Gas	1076-AC28
1704	Safety and Health Inspection Program	1076-AC31
1705	Minimum Academic Standards for the Basic Education of Indian Children and National Criteria for Dormitory Situations	1076-AC32
1706	Indian School Equalization Program	1076-AC33
1707	General Forest Regulations	1076-AC44
1708	Deposit and Expenditure of Individual Funds of Members of the Osage Tribe of Indians Who Do Not Have Certificates of Competency	1076-AC45
1709	Facilities Construction Program	1076-AC49
1710	Operation and Maintenance of Irrigation Projects	1076-AC53
1711	Operation of Alaska Resupply Program	1076-AC54
1712	Law Enforcement Facilities Regulations	1076-AC60
1713	Individual Indian Monies	1076-AC65
1714	Adding New Criminal Offenses and Civil Procedures for the Courts of Indian Offenses	1076-AC66
1715	Sale of Forest Products, Red Lake Indian Reservation, Minnesota	1076-AC75
1716	Sale of Lumber and Other Forest Products Produced by Indian Enterprises from the Forests on Indian Reservations	1076-AC77
1717	Listing of Courts of Indian Offenses: Amendment	1076-AC78
1718	Adult and Juvenile Detention, Holding and Community Residential Standards for Facilities and Programs	1076-AC80
1719	Navajo Partitioned Lands Grazing Regulations	1076-AC81
1720	Housing Improvement Program	1076-AC82
1721	Mutual Fund Investment of Trust Funds	1076-AC83
1722	Employment Assistance for Adult Indians	1076-AC84
1723	Indian Monies, Proceeds of Labor (IMPL)	1076-AC86
1724	Business Practices on the Navajo, Hopi, and Zuni Reservations	1076-AC87
1725	Tribal Organization Under a Federal Statute	1076-AC88
1726	Petitioning and Other Procedures for Tribes Reorganized Under Federal Statute and Other Organized Tribes	1076-AC89
1727	Preference in Employment	1076-AC90
1728	Preservation of Antiquities	1076-AC91
1729	Minimum Standards and Application and Approval Procedures for Family and Child Education Programs	1076-AC92

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Bureau of Indian Affairs—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1730	Preparation of a Membership Roll of Delaware Indians of Western Oklahoma	1076-AC93
1731	Arrangements with States, Territories, and Other Agencies for Social Welfare of Indians	1076-AC94
1732	Licensed Indian Traders	1076-AC95
1733	Education Contracts Under the Johnson-O'Malley Act	1076-AC96

Bureau of Indian Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1734	Criminal and Civil Code of Offenses and Procedures For The Courts of Indian Offense	1076-AA01
1735	Protection of Archaeological Resources	1076-AC23
1736	Procedures for Establishing That an American Group Exists as an Indian Tribe	1076-AC46
1737	Preparation of a Roll of Independent Seminole Indians of Florida	1076-AC48
1738	Buy Indian Act Procedures for Contracting	1076-AC50
1739	Off Reservation Land Acquisitions for Indian Tribes	1076-AC51
1740	Indian Child Welfare Act	1076-AC55
1741	Use of Columbia River Indian In-Lieu Fishing Sites	1076-AC79

Bureau of Indian Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1742	Leasing of Certain Lands on the Wind River Indian Reservation, Wyoming, for Oil and Gas Mining	1076-AC36
1743	Issuance of Patents in Fee, Certification of Competency, Removal of Restrictions, and Sale of Certain Indian Lands	1076-AC57

Minerals Management Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1744	Requirements for Cranes Installed on Fixed Platforms in the Outer Continental Shelf	1010-AB62
1745	Redesignation of Financial Responsibility Certification Functions	1010-AB78

Minerals Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1746	Audit Procedures and Payor Requirements and Responsibilities During Audits	1010-AB44
1747	Payor Responsibilities	1010-AB45
1748	Amendment to Rules Governing Installation of Shutdown Valves on Pipelines	1010-AB52
1749	Geological and Geophysical Explorations of the Outer Continental Shelf	1010-AB56
1750	Valuation of Gas Production Under Unitization or Communitization Agreements	1010-AB57
1751	Offshore Pipeline Inspection and Burial	1010-AB65
1752	Reduction In Royalty Rates for Offshore Oil and Gas Leases	1010-AB68
1753	Limitations on Credit Adjustments Submitted by Lessees and Other Royalty Payors Under Federal and Indian Mineral Leases	1010-AB73
1754	Collection of Royalties, Interest, and Other Amounts Due Under Federal and Indian Mineral Leases by Administrative Offset	1010-AB74
1755	Outer Continental Shelf Deepwater Production	1010-AB75
1756	Outer Continental Shelf Oil and Gas Unitized Operations	1010-AB76
1757	Outer Continental Shelf Oil and Gas Production Rates and Production Measurement	1010-AB77
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Minerals Management Service—Proposed Rule Stage (Continued)

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1760	Amendment of Regulations Governing Assessments for Incorrect Reports	1010-AB82
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1762	Documents Incorporated by Reference	1010-AB85
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1764	Revision of Regulations Governing Fees Applicable to Filing of Assignments, Mortgages, and Other Documents	1010-AB88
1765	Offsets, Recoupments, and Refunds of Excess Payments of Royalties, Rentals, Bonuses, or Other Amounts Under Federal Offshore Mineral Leases	1010-AB90

Minerals Management Service—Final Rule Stage

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1767	Assessment for Failure to Submit Payment of Same Amount With Report or Bill or to Provide Adequate Information	1010-AB35
1768	Amendment to the Regulations Concerning the Requirement for Submission of a Corporate Surety Bond to Indemnify the U.S. From Default by a Lessee on the Conditions and Terms of an OCS Lease	1010-AB38
1769	Regulations Governing Recoupment of Overpayments on Indian Leases	1010-AB40
1770	Extension of Time Period for Maintaining Records on Outer Continental Shelf Net Profit Share Oil and Gas Leases	1010-AB46
1771	Amendments to 30 CFR 250.67—Hydrogen Sulfide	1010-AB50
1772	Archaeological Surveys	1010-AB63
1773	Oil and Gas and Sulphur Operations in the Outer Continental Shelf, Reporting Forms	1010-AB66
1774	Oil Spill Prevention and Response for Offshore Facilities Including State Submerged Lands and Pipelines	1010-AB81
1775	Amendment of Production Accounting Regulations	1010-AB84
1776	Amendment of Addresses in Minerals Management Service Regulations	1010-AB86
1777	Amendment of Information Collection Requirements and Addresses	1010-AB89

Minerals Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
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1779	Offsetting Royalty Underpayments and Overpayments Between Different Federal or Indian Leases (Cross-Lease Netting)	1010-AB58
1780	Electronic Data Interchange	1010-AB71
1781	Elimination of Form MMS-4014	1010-AB72

Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1782	Federal Regulatory Programs; Permit Application Fees	1029-AB29
1783	Wetlands Rule	1029-AB47
1784	Wire Transfer of Fees	1029-AB50
1785	Land Use Information Rule	1029-AB57
1786	Surface Coal Mining and Reclamation Operations; Permanent Regulatory Programs; Performance Bonds; Alternative Bonding Systems	1029-AB61
1787	Transfer of Permit Rights; Successor in Interest; Ownership and Control; Permit Information and the Applicant/Violator System; Civil Penalties; Statement of Interests	1029-AB62
1788	Protection of Historic Properties from Surface Coal Mining Operations	1029-AB63

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Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
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1791	Revegetation Performance Standards	1029-AB66
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1793	Abandoned Coal Refuse Sites	1029-AB70
1794	Abandoned Mine Land Grant Procedures	1029-AB72
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Office of Surface Mining Reclamation and Enforcement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1797	Permanent Program Performance Standards; Highwall Policy	1029-AB10
1798	Standards for Review of Ownership, Control, and Violation Information	1029-AB34
1799	Permanent Regulatory Program: Best Technology Currently Available	1029-AB36
1800	Permanent Regulatory Program; Performance Standards; Permanent and Temporary Impoundments	1029-AB40
1801	Definition and Criteria for Valid Existing Rights	1029-AB42
1802	Previously Mined Areas and Coal Preparation Plants - Remand	1029-AB45
1803	Abandoned Mine Land Reclamation Fund Reauthorization	1029-AB49
1804	Removal of Parts 718 and 720	1029-AB58
1805	Surface Coal Mining and Reclamation Operations: Initial and Permanent Regulatory Programs; Abandoned Sites	1029-AB60
1806	Basis for Coal Weight Determination	1029-AB68

Office of Surface Mining Reclamation and Enforcement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1807	Requirements for Coal Exploration	1029-AB32
1808	Enforcement of Effluent Limits	1029-AB67

Bureau of Reclamation—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
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Bureau of Reclamation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1810	Reclamation Acquisition Regulation System	1006-AA20
1811	Regulations for Administering Entitlements to Colorado River Water in the Lower Colorado River Basin	1006-AA24
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Bureau of Reclamation—Final Rule Stage

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1819	Acreage Limitation Regulations	1006-AA32

Bureau of Land Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1820	Paleontology	1004-AA27
1821	Unauthorized Use of Public Lands	1004-AA38
1822	Exploration Activity; Oil and Gas Leasing; Geothermal Resource Leasing-General	1004-AA97
1823	Rights-of-Way Under the Mineral Leasing Act	1004-AA98
1824	Rights-of-Way, Principles and Procedures	1004-AB00
1825	Indian Allotments	1004-AB10
1826	Geothermal Resource Operations	1004-AB18
1827	Minerals (Nonmineral Entries on Mineral Lands)	1004-AB20
1828	Onshore Oil and Gas Operations; Special Provisions; Onshore Oil and Gas Order No. 5—Measurement of Gas	1004-AB22
1829	Sales of Forest Products; General—Preparation for Sale	1004-AB34
1830	Onshore Oil and Gas Order No. 9 - Waste Prevention and Beneficial Use of Oil and Gas	1004-AB47
1831	Classifications	1004-AB57
1832	Village Selections	1004-AB58
1833	Rules of Conduct	1004-AB67
1834	Management of Designated Wilderness Area	1004-AB69
1835	Availability of Public Records	1004-AB70
1836	Drainage, Operations, and Leasing Obligations	1004-AB74
1837	Sales - Federal Land Policy and Management Act	1004-AB77
1838	Onshore Oil and Gas Operations: Onshore Oil and Gas Order No. 4 - Measurement of Oil	1004-AB80
1839	Award of Contract	1004-AB83
1840	Protection, Management, and Control of Wild Free-Roaming Horses and Burros	1004-AB84
1841	Conveyance of Federally-Owned Mineral Interests	1004-AB86
1842	Grazing Administration Exclusive of Alaska	1004-AB89
1843	Land Withdrawals	1004-AB94
1844	Restorations and Revocations	1004-AB95
1845	Sales of Forest Products; Designation of Surplus Species	1004-AB96
1846	Sales of Forest Products; Law Enforcement	1004-AB97
1847	Surface Management	1004-AB99
1848	FAA Airport Grants (43 CFR 2640)	1004-AC01
1849	Hardrock Minerals Prospecting Permits	1004-AC05
1850	Minerals; Cost Recovery	1004-AC06
1851	Rental Fees, Mining Claim Recordation, and Assessment Work	1004-AC07
1852	Onshore Oil and Gas Operations	1004-AC09
1853	Law Enforcement - Criminal	1004-AC10
1854	Law Enforcement - Criminal	1004-AC11

Bureau of Land Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1855	Onshore Oil and Gas Order No. 7 - Disposal of Produced Water	1004-AA66
1856	Exchanges—General Procedures	1004-AB28
1857	Mining Claims Under the General Mining Laws	1004-AB36
1858	Onshore Oil and Gas Order No. 8 - Well Workovers, Completions, Abandonments	1004-AB37
1859	Coal Management—General	1004-AB44
1860	Leases, Permits and Easements	1004-AB51
1861	Mining in Military Withdrawals	1004-AB52

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Bureau of Land Management—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1862	Public Availability of Minerals Resources Information	1004-AB55
1863	Cave Management	1004-AB59
1864	Onshore Oil and Gas Operations; Special Provisions; Onshore Oil and Gas Order No. 1 - Approval of Operations on Onshore Federal and Indian Oil and Gas Leases	1004-AB72
1865	Onshore Oil and Gas Unit Agreements—Unproven Areas	1004-AB73
1866	Mineral Materials Disposal	1004-AB76
1867	Protection, Management, and Control of Wild Free-Roaming Horses and Burros	1004-AB81
1868	Public Law 167; Act of July 23, 1955	1004-AB88
1869	Federal Land Withdrawals; Amendment to Withdrawal Procedures	1004-AB92
1870	Homesteading; Designation of Areas and Sites; Programs and Objectives (Administrative Final Rule)	1004-AB98
1871	Coal Management: General	1004-AC04
1872	Oil and Gas Competitive Leases, Duration of Lease Term	1004-AC08

Bureau of Land Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1873	Visitor Services: Rules of Conduct	1004-AB91
1874	Appeals Provisions	1004-AC02
1875	Sales Administration	1004-AC03

Bureau of Mines—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1876	Helium Distribution Contracts	1032-AA01

Bureau of Mines—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1877	Payments Required for Owners of Private Lands Upon Which the Bureau of Mines Performs Exploration or Development Work to Investigate Known Coal Deposits	1032-AA02
1878	Bureau of Mines Grant Programs	1032-AA03

Geological Survey—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1879	Obtaining Federal Assistance in Financing Exploration for Mineral Resources, Excluding Organic Fuels	1028-AA04

Geological Survey—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1880	State Water Research Institutes	1028-AA03

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DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)
Prerule Stage

1587. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 1400

Legal Deadline: None

Abstract: This proposed rule makes miscellaneous revisions to the Department of the Interior Acquisition Regulation.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: The previous RIN (1090-AA14) for miscellaneous revisions to the Department of the Interior Acquisition Regulation was used for the April 18, 1991, Federal Register publication of a revision in the acquisition regulation's numbering system. This office wishes at this time to reserve another agenda entry and RIN for the publication of future revisions to the Department of the Interior Acquisition Regulation.

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Office of Acquisition and Property Mgmt., Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street N.W. (MS 5512-MIB), Washington, DC 20240, **202 208-3433**

RIN: 1090–AA14

1588. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c)

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: The Department is currently revising its CERCLA type B procedures based on a court ruling. Section 301(c)(3) of CERCLA requires that the regulations be reviewed and revised, as appropriate, on a biennial basis. The Department will begin a review of the type B rule once it is revised. The Department will ask trustees, other interested parties, and members of the public to draw upon their experience with the type B procedures and the general assessment process to advise the Department of areas where revisions to the process and the type B procedures may be desired. If these comments and suggestions show areas where revisions to the general process or to the type B procedures are needed, a notice of proposed rulemaking will be issued to revise the rule. This review will be closely coordinated with the rulemaking of the National Oceanic and Atmospheric Administration (Commerce), which has responsibility for natural resource damage assessment rulemaking under the Oil Pollution Act of 1990.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/93	
ANPRM Comment Period End	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jonathan P. Deason, Director, Office of Environmental Affairs, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340, 1849 C Street NW., Washington, DC 20240, **202 208-3891**

RIN: 1090–AA29

1589. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS AND OTHER NONPROFIT INSTITUTIONS

Legal Authority: 5 USC 301; OMB Circular A-110

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This proposed rule will implement in a regulatory format the Department's Implementation of OMB Circular A-110. Prior implementation has been limited to a reference to the applicability of the Circular. Since the revision currently under way provides an opportunity for executive agencies to use this format to facilitate the preparation of their regulations, the Department has decided to use this approach.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Office of Acquisition and Property Mgmt., Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street N.W. (MS-5512-MIB), Washington, DC 20240, **202 208-3433**

RIN: 1090–AA32

1590. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION—COMMERCIAL ADVERTISING

Legal Authority: 5 USC 301; 40 USC 486(c); EO 12731

CFR Citation: 48 CFR 1403

Legal Deadline: None

Abstract: DOI is considering a rule that would prohibit contractors, cooperators and grantees from using Government awards as the basis for commercial advertising. This will avoid the appearance of an improper preference for a particular company, and would implement EO 12731's prohibition on the use of a public office for private gain.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Office of Acquisition and Property Mgmt., Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240, **202 208-3433**

RIN: 1090–AA34

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)
Proposed Rule Stage

1591. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA allows natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or, under certain circumstances, a discharge of oil. Section 301(c)(2)(A) calls for the promulgation of simplified assessment procedures. The Department has begun the development of a type A procedure for use in the Great Lakes environment. After a review of the natural resource damage assessment rule, the U.S. Circuit Court of Appeals for the District of Columbia remanded certain parts of that rule to the Department for revision. The court upheld the use of an interactive computer model, but stated that such a model should incorporate restoration or replacement costs and all reliably calculated lost use values in the damage calculations. The Department will revise its development of a type A procedure for Great Lakes environments to comply with the court's ruling.

Timetable:

Action	Date	FR Cite
ANPRM	09/22/89	54 FR 39016
ANPRM Comment Period End	10/23/89	54 FR 39016
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jonathan P. Deason, Director, Office of Environmental Affairs, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340, MIB, 1849 C Street NW., Washington, DC 20240, **202 208-3891**

RIN: 1090–AA21

1592. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA allows natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or, under certain circumstances, a discharge of oil. Section 301(c)(2)(B) calls for the promulgation of a set of alternative protocols for the testing, sampling, and determining compensation for natural resource damages, referred to as the type B procedures. Final rules for the assessment of damages were promulgated by the Department consistent with those requirements. In a review of those rules, the U.S. Circuit Court of Appeals for the District of Columbia held that restoration or replacement costs are the basic measure of natural resource damages under CERCLA, and all reliably calculated lost use values of injured natural resources should also be recoverable, with no required hierarchy of methodologies for conducting those valuations. The Department is considering revisions to the proposed rule based on comments received as of July 16, 1991. The required biennial review of the Type B rule will await completion of this revision implementing the court ruling.

Timetable:

Action	Date	FR Cite
NPRM	04/29/91	56 FR 19752
NPRM Comment Period End	07/16/91	56 FR 30367

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jonathan P. Deason, Director, Office of Environmental Affairs, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340, 1849 C Street NW., Washington, DC 20240, **202 208-3891**

RIN: 1090–AA22

1593. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA allows natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or, under certain circumstances, a discharge of oil. Section 301(c)(2)(A) calls for the promulgation of simplified assessment procedures. The first type A procedure for coastal and marine environments uses a computer model known as the natural resource damage assessment model for coastal and marine environments (NRDAM/CME). The U.S. Circuit Court of Appeals for the District of Columbia upheld the use of an interactive computer model, but stated that such a model should incorporate restoration or replacement costs and all reliably calculated lost use values in the damage calculations. The Department will revise the type A procedure for coastal and marine environments to comply with the court's ruling and will incorporate changes in response to the first biennial review of the type A procedure at the same time.

Timetable:

Action	Date	FR Cite
ANPRM	09/22/89	54 FR 39015
ANPRM Comment Period End	10/23/89	54 FR 39015
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jonathan P. Deason, Director, Office of Environmental Affairs, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340, 1849 C St. NW., Washington, DC 20240, **202 208-3891**

RIN: 1090–AA23

1594. DEPARTMENT OF THE INTERIOR, NONPROCUREMENT DEBARMENT AND SUSPENSION REGULATION

Legal Authority: EO 12549; 5 USC 301; EO 12689

CFR Citation: 43 CFR 12

Legal Deadline: None
EO 12689 directed agencies to simultaneously publish proposed rules within 6 months after resolution of

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differences between procurement and nonprocurement rules.

Abstract: This action proposes a revision to the Department's regulation establishing a uniform system of nonprocurement debarment and suspension. This proposed rule would implement the requirements of paragraph (a)(1) of section 12.110, Coverage, of common final rule on Governmentwide Debarment and Suspension (Nonprocurement).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240, 202 208-3433

RIN: 1090–AA24

1595. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION; PATENT RIGHTS UNDER GOVERNMENT CONTRACTS AND SUBCONTRACTS FOR EXPERIMENTAL, DEVELOPMENTAL OR RESEARCH WORK

Legal Authority: 35 USC 18

CFR Citation: 48 CFR 1400; 48 CFR 1427; 48 CFR 1452

Legal Deadline: None

Abstract: PL 98-620 amended 35 USC 18 dealing with patent rights in inventions made with Federal funding. On June 12, 1989, Federal Acquisition Regulation implementation of PL 98-620 was issued through FAC 84-48. Patent rights under Government contracts are covered in FAR subpart 27.3. FAR 27.304-5(b) requires agencies to establish and publish their respective appeals, administrative due process, and fact-finding procedures related to patent rights. The proposed Department of the Interior Acquisition Regulation coverage establishes Department of the Interior policy with regard to title rights, exception determinations, appeals, greater rights determinations, retention of rights by inventors, assignment of rights, exercise of march-in rights and licensing to third parties. It also identifies key Departmental points of contact in matters concerning patent rights. The proposed coverage supplements FAC 84-48 and amends sections 14227 and 1452, as parts of 48 CFR, chapter 14.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Office of Acquisition and Property Management, Washington, DC 20240, 202 208-3433

RIN: 1090–AA27

1596. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS WITH STATE AND LOCAL GOVERNMENTS

Legal Authority: 5 USC 301; OMB Circular A-102

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This proposed rule will amend the Department's implementation of the common rule which established consistency and uniformity among Federal agencies in the administration of grants and cooperative agreements to State, local and federally recognized Indian tribal governments and was previously published in the March 11, 1988, Federal Register (53 FR 8034). This action is necessary because of efforts underway to revise the common rule.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Office of Acquisition and Property Mgmt., Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street N.W. (MS 5512-MIB), Washington, DC 20240, 202 208-3433

RIN: 1090–AA33

1597. DEPARTMENT OF THE INTERIOR—PROVISIONS, ASSIGNMENT AND ADMINISTRATION OF QUARTERS

Legal Authority: 5 USC 5911; EO 11609

CFR Citation: 41 CFR 114-51

Legal Deadline: None

Abstract: This proposed rule adds specificity to existing regulations and adds new Quarters management regulations which have been developed based on the recommendations of Department of the Interior (DOI) bureaus and other Federal agencies for which DOI provides Quarters management services. The rule increases the uniformity of the employee Emergency Quarters Program regulations and provides greater consistency among regulations concerning the treatment of Government Quarters' occupants.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
NPRM Comment Period End	01/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gregory Haller, Departmental Quarters Officer, Acquisition and Property Management, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Administrative Svc. Ctr (D-2910), 7301 West Mansfield Avenue, Denver, CO 80235-2230, 303 969-7240

RIN: 1090–AA35

1598. DEPARTMENT OF THE INTERIOR—ESTABLISHMENT OF QUARTERS RENTAL RATES

Legal Authority: 5 USC 5911; OMB Circular A-45

CFR Citation: 41 CFR 114-52

Legal Deadline: None

Abstract: This proposed rule implements the policies of OMB Circular A-45, "Policy Governing Charges for Rental Quarters and Related Facilities," as revised, for use by the DOI and the Federal agencies that adopt DOI's established Quarters rental rates and Quarters management policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
NPRM Comment Period End	01/00/94	
Final Action	02/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gregory Haller, Departmental Quarters Officer, Acquisition and Property Management, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Administrative Svc. Ctr. (D-2910), 7301 West Mansfield Avenue, Denver, CO 80235-2230, 303 969-7240

RIN: 1090–AA36

1599. PRINCIPLES OF ETHICAL CONDUCT

Legal Authority: Ethics in Government Act

CFR Citation: 5 CFR 2635

Legal Deadline: None

Abstract: The U.S. Office of Government Ethics (OGE) has issued new standards of conduct regulations. The Department of the Interior (DOI) is preparing special conduct regulations (applies only to DOI employees) to supplement OGE's new standards of conduct. Interior's supplemental regulations, if approved by OGE, will be codified in 5 CFR Part 2635.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mason Tsai, Deputy Ethics Program Coordinator, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240, 202 208-5916

RIN: 1090–AA38

1600. GRANTS TO STATES FOR ESTABLISHING YOUTH CONSERVATION CORPS PROGRAMS

Legal Authority: 86 Stat 1320; 16 USC 1704

CFR Citation: 43 CFR 26

Legal Deadline: None

Abstract: The Department of the Interior is proposing to rescind this regulation (43 CFR 26). The Congress in 1981 terminated the grants portion of Public Law 93-408, dated September 3, 1974.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ben Murdock, Office of HBCU/JC Programs, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240, 202 208-5951

RIN: 1090–AA39

1601. GRANTS TO STATES FOR ESTABLISHING YOUNG ADULT CONSERVATION CORPS (YACC) PROGRAM

Legal Authority: PL 95-93, sec 806; 29 USC 801

CFR Citation: 43 CFR 32

Legal Deadline: None

Abstract: The Department of the Interior is proposing to rescind this regulation (43 CFR 32). The Congress terminated this program in 1981.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ben Murdock, Office of HBCU/JC Programs, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240, 202 208-5951

RIN: 1090–AA40

1602. • ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS

Legal Authority: PL 102-381; 5 USC 301

CFR Citation: 43 CFR 12

Legal Deadline: Other, Statutory, October 31, 1993.
This requirement applies to financial assistance awards made during Fiscal Year 1993.

Abstract: This action proposes a revision to 43 CFR part 12 by adding a new Subpart E to implement the Buy American requirements of section 319 of Public Law 102-381. This provision requires that no funds appropriated or transferred pursuant to the Act can be expended by an entity unless the entity agrees that in expending the assistance, it will comply with sections 2 through 4 of the Act of March 3, 1933, (41 U.S.C. 10a-10c) popularly known as the "Buy American Act."

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240, 202 208-3433

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DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Final Rule Stage

1603. DEPARTMENT OF THE INTERIOR, NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: PL 101-121, Sec 319, 31 USC 1352; 5 USC 301

CFR Citation: 43 CFR 18

Legal Deadline: None

Abstract: This final rule will prohibit recipients of Federal contracts, grants and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant or loan.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Office of Acquisition and Property Management, 1849 C Street NW., Washington, DC 20240, **202 208-3433**

RIN: 1090–AA26

1604. ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS

Legal Authority: EO 12731; EO 12549; 41 USC 701 et seq Drug-Free Workplace Act of 1988; 5 USC 301; PL 98-502; OMB Circular A-102; OMB Circular A-110; OMB Circular A-128; OMB Circular A-133

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This proposed rule will implement for grants and cooperative agreements Secretarial Outreach Issue Paper Decision - Issue 4 - Endorsement of Commercial Products or Services. The Secretary determined that as a matter of departmental policy, there should be a provision in all contracts (exceeding $25,000), assistance agreements, and Memoranda of Understanding/Agreement (MOU/MOAs) that would prevent the nongovernmental party from using the arrangement to imply Government endorsement of a product, service or position that the recipient represents in its commercial advertising.

Timetable:

Action	Date	FR Cite
NPRM	08/06/92	57 FR 34755
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Office of Acquisition and Property Mgmt., Department of the Interior, Assistant Secretary for Policy Management and Budget, Acquisition and Assistance Division, MS-5512, 1849 C St. NW., Washington, DC 20240, **202 208-6432**

RIN: 1090–AA37

BILLING CODE 4310-RK-F

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Solicitor (OSOL)

Final Rule Stage

1605. SUBPART E - COMPULSORY PROCESS AND TESTIMONY OF EMPLOYEES

Legal Authority: 5 USC 301

CFR Citation: 43 CFR 2.80

Legal Deadline: None

Abstract: These regulations amend the Department's current regulations on employee testimony and response to subpoenas for documents. The current regulations do not provide enough guidance to allow appropriate decisions to be made as to whether testimony should be allowed or documents released. Further, the current regulations do not have a centralized review to allow for consistent decisionmaking throughout the Department. These regulations provide guidance to those requesting testimony of employees or production of documents as to what the Department must consider to make a reasonable and just decision.

Timetable:

Action	Date	FR Cite
NPRM	01/15/93	58 FR 4635
NPRM Comment Period End	02/16/93	58 FR 4635
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Peg Romanik, Attorney-Advisor, Department of the Interior, Office of the Solicitor, 1849 C St. NW., MS 6531, Washington, DC 20240, **202 208-5216**

RIN: 1092–AA09

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Solicitor (OSOL)

Completed Actions

1606. DEPARTMENT OF THE INTERIOR HEARINGS AND APPEALS PROCEDURES—GENERAL RULES RELATING TO PROCEDURES AND PRACTICE

Legal Authority: R.S. 2478, as amended; 43 USC 1201

CFR Citation: 43 CFR 4.21

Legal Deadline: None

Abstract: The proposed rule would revise the regulation found at 43 CFR 4.21(a) which governs the effect of an administrative decision pending appeal before the Office of Hearings and Appeals. The current rule provides that the filing of a Notice of Appeal will automatically suspend the effect of the decision appealed from pending the decision on appeal, unless the Director, Office of Hearings and Appeals or the Appeals Board makes a special finding to the contrary. The revision would mandate that a decision remain in full force and effect pending appeal unless the appellant files a petition for a stay of the decision. In ruling on the petition the Appeals Board shall consider (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of irreparable harm to the appellant if the stay is not granted, and (4) whether the public interest favors granting the stay.

Timetable:

Action	Date	FR Cite
NPRM	09/25/92	57 FR 44353
NPRM Comment Period End	10/26/92	57 FR 44353
Final Action	01/19/93	58 FR 4939
Final Action Effective	02/22/93	58 FR 4939

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nadine Markham-Itteilag, Attorney-Advisor, Department of the Interior, Office of the Solicitor, 1849 C Street NW., Washington, DC 200240, **202 208-5216**

RIN: 1092–AA10

BILLING CODE 4310-17-F

DEPARTMENT OF THE INTERIOR (DOI)
Office for Equal Opportunity (OEO)

Proposed Rule Stage

1607. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: PL 92-318, title IX of the Education Amendment of 1972; PL 93-568; PL 94-482; 20 USC 1681 to 1686

CFR Citation: 43 CFR 17

Legal Deadline: None

Abstract: The Title IX regulation is intended to address the problem of discrimination on the basis of sex in any education program or activity receiving or benefiting from Federal financial assistance administered by the DOI.

No alternative for addressing problems of discrimination in DOI's education programs can be considered due to the fact that Title IX requires each Federal agency which extends Federal financial assistance to any educational program or activity, to issue rules and regulations implementing Title IX.

DOI's recipients are anticipated to incur expenses in two (2) areas: (1) Data collection and recordkeeping; (2) rectifying areas of noncompliance with Title IX. With respect to DOI, expenses will be incurred in three (3) areas: (1) Development and publication of the Title IX rule; (2) provision of technical assistance; and (3) accomplishing compliance reviews and enforcement activities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melvin C. Fowler, Supervisory Equal Opportunity Specialist, Department of the Interior, Office for Equal Opportunity, 1849 C Street NW., Washington, DC 20240, **202 208-3455**

RIN: 1091–AA02

BILLING CODE 4310-RE-F

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Proposed Rule Stage

1608. RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: PL 96-274; PL 97-459; 5 USC 301

CFR Citation: 43 CFR 4.300; 43 CFR 4.301; 43 CFR 4.302; 43 CFR 4.303; 43 CFR 4.304; 43 CFR 4.305; 43 CFR 4.306; 43 CFR 4.307; 43 CFR 4.308

Legal Deadline: None

Abstract: The agency proposes to amend its regulations in 43 CFR 4.300 through 4.308 relating to Tribal Purchase of Interests Under Special Statutes in order to provide standard procedures for implementation of two recent statutes expanding tribal purchase rights and escheat requirements, namely, Pub. L. 96-274, applicable to the Standing Rock Sioux Reservation in North and South Dakota, and Pub. L. 97-459, applicable to the Devils Lake Sioux Reservation of North Dakota. The Department's current regulations in 43 CFR 4.300 through 4.308 apply to the Yakima, Warm Springs and Nez Perce Reservations. The proposed amendments to these regulations will incorporate provisions necessary for consideration of cases arising under the two statutes cited above.

Timetable:

Action	Date	FR Cite
NPRM	09/30/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathryn A. Lynn, Chief Administrative Judge, Interior Board of Indian Appeals, Department of the Interior, Office of Hearings and

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DOI—OHA — **Proposed Rule Stage**

Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3816

RIN: 1094–AA38

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA) — **Final Rule Stage**

1609. RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 36 Stat 855, as amended; 38 Stat 586; 42 Stat 1185, as amended; 56 Stat 1021 to 1022; R.S. 463; R.S. 465; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 373a; 25 USC 373b; 25 USC 374

CFR Citation: 43 CFR 4.207; 43 CFR 4.242; 43 CFR 4.274

Legal Deadline: None

Abstract: The agency proposes: (1) Amendment of 4.207 to permit acceptance of compromise settlements in probate of estates of Indians who died owning property in trust or restricted status when all parties are advised of all facts and are cognizant of effect of the compromise on their rights, and where no family member is coerced into the agreement. Such settlements are already provided for in disputed cases; (2) amendment of 4.242 to require petitioner for reopening of an estate which has been closed more than 3 years to show due diligence in pursuing the claim. This will place in the regulation case law developed over the past 18 years; (3) amendment of 4.274 by adding a new paragraph (c) for allowance of immediate payment of claims where appropriate for better conservation of assets of the estate, and a new paragraph (d) to permit partial distribution of an estate to provide funds for the maintenance of the family where the ultimate distribution is unlikely to be disputed

Timetable:

Action	Date	FR Cite
NPRM	09/06/90	55 FR 36669
NPRM Comment Period End	10/09/90	55 FR 36669
Final Action	09/30/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathryn A. Lynn, Chief Administrative Judge, Interior Board of Indian Appeals, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3816

RIN: 1094–AA39

1610. SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

Significance: Agency Priority

Legal Authority: 5 USC 301; 30 USC 1256; 30 USC 1260; 30 USC 1261; 30 USC 1264; 30 USC 1268; 30 USC 1271; 30 USC 1272; 30 USC 1275; 30 USC 1293

CFR Citation: 43 CFR 4.1307(c); 30 CFR 773.20(c)(3); 30 CFR 773.20(c)(4); 30 CFR 773.21(c)

Legal Deadline: None

Abstract: In accordance with the settlement agreement in Save Our Cumberland Mountains v. Lujan, OHA will propose rules (1) to amend the burden of proof set forth in 43 CFR 4.1307(c) in individual civil penalty proceedings, (2) to provide for hearings and a right to petition for review by the Interior Board of Land Appeals on determinations by the Office of Surface Mining (OSM), based on the Applicant Violator System, that a person is linked to a person currently in violation of the Surface Mining Control and Reclamation Act, and (3) to provide for hearings and a right to petition for review of OSM decisions to suspend or rescind improvidently issued permits under 30 CFR 773.20(c)(3) or (4).

Timetable:

Action	Date	FR Cite
NPRM	09/06/91	56 FR 45806
NPRM Comment Period End	11/20/91	56 FR 55263

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Will A. Irwin, Administrative Law Judge, Interior Board of Land Appeals, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094–AA42

1611. SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

Legal Authority: 5 USC 301; 30 USC 1256; 30 USC 1260; 30 USC 1261; 30 USC 1264; 30 USC 1268; 30 USC 1271; 30 USC 1272; 30 USC 1275; 30 USC 1293

CFR Citation: 43 CFR 4.1105; 43 CFR 4.1151; 43 CFR 4.1152; 43 CFR 4.1154; 43 CFR 4.1157; 43 CFR 4.1271

Legal Deadline: None

Abstract: Some of the regulations that govern the procedures for hearings and appeals under the Surface Mining Control and Reclamation Act of 1977 need to be amended to provide current references to other regulations, to make them consistent with other regulations, to clarify what document to file in order to appeal from the initial decision of an administrative law judge, or to provide for additional parties in certain proceedings. Amendments to 43 CFR 4.1105, 43 CFR 4.1151 et seq., and 43 CFR 4.1271 are proposed for these purposes.

Timetable:

Action	Date	FR Cite
NPRM	11/19/91	56 FR 58330
NPRM Comment Period End	12/19/91	56 FR 58330

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Will A. Irwin, Administrative Law Judge, Interior Board of Land Appeals, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203, 703 235-3750

RIN: 1094–AA43

BILLING CODE 4310-79-F

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS) — **Prerule Stage**

1612. MIGRATORY BIRD HUNTING

Significance: Regulatory Program

Legal Authority: 16 USC 703 to 711

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service annually publishes a series of documents establishing migratory bird hunting regulations for the current hunting season. This annual process consists of proposed frameworks providing outside limits for dates and hours of shooting, as well as bag and possession limits; final frameworks for hunting seasons from which States may select regulations; and final rules approving such State selections.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/93	
NPRM	07/00/93	
1992-93 early season hunting regulations		
NPRM 07/10/92 (57 FR 30884)		
Final Action 08/21/92 (57 FR 38202)		
1992-93 late season hunting regulations		
NPRM 08/21/92 (57 FR 38215)		
Final Action 09/22/92 (57 FR 43856)		

Small Entities Affected: Businesses

Government Levels Affected: State

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SMALL ENTITIES CONT: Small entities likely to be affected by these rules include some sporting goods stores, hardware stores, motels and hotels, restaurants, clothing stores, boat and marine equipment stores, marinas, gasoline stations, private hunting clubs, land owners' leasing hunting rights, and mail order houses selling hunting equipment and supplies. Originally scheduled: April 1985. EO 12291: These rules are major because of the economic values associated with migratory game bird hunting; however, the need to obtain and consider the latest population data for these migratory birds requires that the regulatory schedule be shortened. The regulatory impact analysis, as required by EO 12291, and the small entity flexibility analysis, as required by 5 U.S.C. 601 et seq., have been combined into one analysis as provided for by both authorities. Copies of the combined analysis are available from the Agency Contact.

Agency Contact: Thomas Dwyer, Chief, Migratory Bird Management Office, Department of the Interior, United States Fish and Wildlife Service, MS - 634 Arlington Square, Washington, DC 20240, 703 358-1714

RIN: 1018–AA24

1613. RELEASE AND HARVEST OF CAPTIVE-BRED WATERFOWL

Legal Authority: 16 USC 701 to 711

CFR Citation: 50 CFR 21.13; 50 CFR 21.14

Legal Deadline: None

Abstract: The Service is proposing to review the regulations governing the release and harvest of captive-bred waterfowl on State-licensed shooting preserves. Considerable concern has been generated about these activities and their effects on the harvest and well-being of wild populations. The possibility for introduction of diseases into wild populations remains a serious concern. Current activities may be in conflict with prohibitions against live decoys (20.21f), and baiting (20.21i).

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Vogel, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS - 634 Arlington Square, Washington, DC 20240, 703 358-1838

RIN: 1018–AB77

1614. MIGRATORY BIRD HUNTING: HUNTING REGULATIONS FOR RESTRICTION OF SHOTSHELL LENGTH, MAXIMUM SHOT SIZE AND NONTOXIC SHOT COATINGS

Significance: Agency Priority

Legal Authority: 16 USC 703 et seq

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: Before the passage of the Migratory Bird Treaty Act (MBTA), there were no restrictions on firearms or ammunition used in the taking of migratory birds. The MBTA gave rise to regulations that required shotguns used in the sport hunting of migratory birds to be not larger than 10 gauge. Recently, there has been a trend toward long shotshells, which defeats the intent of the present regulatory restriction to limit firepower to reduce crippling and unretrieved harvest of migratory birds. The 10 gauge 3 1/2 inch shotshell now in use has a larger payload than the 8-gauge, 3-inch shotshell outlawed for use earlier in this century. The intent is to limit shotshell length to the current maximum (3 1/2) to stop market competition for ever longer shells and to eliminate any waste of migratory gamebird resources that added shell length would induce. (cont)

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Further, size "F" shot has been determined to be nonlethal on geese beyond 55 yards due to inadequate pattern density. This results in unacceptable crippling loss. The intent is to restrict the maximum shot size for hunting migratory birds to size "T," the largest size tested that has exhibited acceptable performance. Also, although the Service has a policy regarding regulating anti-corrosive coatings of steel shot to ensure nontoxicity, the policy has not been codified. The Service will seek public comment on its regulation of shot coatings to prevent inadvertent toxicity problems for waterfowl and other migratory birds.

Agency Contact: Keith Morehouse, Staff Specialist, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS-634, Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-1773

RIN: 1018–AB80

1615. • EXOTIC BIRD CONSERVATION ACT

Legal Authority: PL 102-440

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Service will propose regulations implementing the provisions of the Exotic Bird Conservation Act of 1992.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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DOI—FWS

Prerule Stage

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, 1849 C Street NW., Washington, DC 20240, **703 358-2093**

RIN: 1018–AB93

1616. • CLEAN VESSEL ACT PUMPOUT STATION GRANT ADMINISTRATION

Legal Authority: PL 102-587

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Clean Vessel Act provides funds to States for construction, renovation, operation and maintenance of pumpout stations, and waste reception facilities for discharging of wastes from recreation boaters. Guidance is needed on how the program will be administered because funds are available for this fiscal year. The Act requires the issuance of draft guidelines on pumpout stations and waste reception facilities for public comment within 6 months after the date of enactment. This rulemaking will propose guidelines to be used by States to build pumpout stations, and will be used by the Service to review grant proposals for construction of pumpouts.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Columbus H. Brown, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS - 322 Arlington Square, 1849 C Street NW., Washington, DC 20240, **703 358-2156**

RIN: 1018–AB95

DEPARTMENT OF THE INTERIOR (DOI)

United States Fish and Wildlife Service (FWS)

Proposed Rule Stage

1617. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (ENDANGERED SPECIES CONVENTION)

Significance: Agency Priority

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Service adds the saffron toucanet, chestnut-eared aracari, red-breasted toucan, and the spot-billed toucanet, at the request of Argentina, and the hill myna at the request of Thailand, to Appendix II of the Endangered Species Convention. The Convention regulates import, export, re-export, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are listed in Appendices I, II, and III to the Convention. The countries participating in this treaty, including the U.S., recently adopted species amendments to Appendices I and II. The U.S. did not enter a reservation on any of the listing amendments approved at the recent eighth meeting of the Conference of the Parties. These amendments will be implemented in a separate rulemaking action.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) regulates international trade in certain species of animals and plants. Species for which trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily now threatened with extinction may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control.

Agency Contact: Charles W. Dane, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 725 Arlington Square, Washington, DC 20240, **703 358-1708**

RIN: 1018–AA29

1618. PUBLIC ENTRY AND USE

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 26

Legal Deadline: None

Abstract: Regulations will be proposed which will simplify and reduce administrative costs related to the process by which special regulations relating to public access use and recreation are issued for units of the National Wildlife Refuge system. Special regulations will be used for public access use and recreation on individual national wildlife refuges.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Robert Shallenberger, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS - 670 Arlington Square, Washington, DC 20240, **703 358-1744**

RIN: 1018–AA36

1619. CAPTIVE BRED WILDLIFE

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: These regulations will be reviewed to determine if further action is necessary to relieve certain restrictions on the public that may have become burdensome, counterproductive or outmoded.

Timetable:

Action	Date	FR Cite
ANPRM	01/07/92	57 FR 548
ANPRM Comment Period End	03/09/92	57 FR 548
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS

DOI—FWS

Proposed Rule Stage

- 432 Arlington Square, Washington, DC 20240, **703 358-2093**

RIN: 1018–AB10

1620. IMPLEMENTATION OF KLAMATH RIVER BASIN FISHERY RESOURCES RESTORATION ACT

Legal Authority: 16 USC 460ss

CFR Citation: 50 CFR 72

Legal Deadline: None

Abstract: This rule implements the Klamath River Basin Fishery Resources Restoration Act. These include establishment of qualifications for volunteers, establishment of standards for determining the value of in-kind contributions and real and personal property provided by non-Federal sources to implement the conservation area restoration program, and establishment of the basis for determining whether matching funds will be provided in a timely and appropriate manner.

Timetable:

Action	Date	FR Cite
ANPRM	03/25/87	52 FR 9550
ANPRM Comment Period End	05/11/87	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Edwards, Assistant Director - Fisheries, Department of the Interior, United States Fish and Wildlife Service, MS - 3245 MIB, 1849 C Street NW., Washington, DC 20240, **202 208-6394**

RIN: 1018–AB11

1621. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATED PORTS FOR PLANTS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 24; 7 CFR 300 to 399; 50 CFR 17.12; 50 CFR 23.23

Legal Deadline: None

Abstract: The Service proposes to amend regulations by adding additional ports to the list of those designated for listed plants.

Timetable:

Action	Date	FR Cite
NPRM	04/09/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, Washington, DC 20240, **703 358-2093**

RIN: 1018–AB28

1622. HIGHLY TRADED APPENDIX II SPECIES

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in listed plants and animals. The Service, as management and scientific authorities, must make appropriate determinations concerning Appendix II listed species prior to granting export approval to these listed species. Notice in the Federal Register is required by United States law in the determination process.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, Washington, DC 20240, **703 358-2093**

RIN: 1018–AB30

1623. AMENDMENTS TO THE MARINE MAMMAL PROTECTION ACT

Legal Authority: 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service proposes to amend regulations to reflect the 1988 amendments to the Marine Mammal Protection Act pertaining to permits.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 430 Arlington Square, Washington, DC 20240, **703 358-2093**

RIN: 1018–AB34

1624. FEDERAL MIGRATORY BIRD HUNTING AND CONSERVATION STAMP LICENSING PROCEDURES AND GUIDELINES

Legal Authority: 16 USC 718

CFR Citation: 50 CFR 91

Legal Deadline: None

Abstract: The Service intends to develop rules governing the licensing of the Federal Migratory Bird Hunting and Conservation Stamp design, commonly referred to as the Federal Duck Stamp, for reproduction on appropriate products manufactured and offered for sale by private enterprises and organizations.

Timetable:

Action	Date	FR Cite
ANPRM	07/27/90	55 FR 30727
ANPRM Comment Period End	08/27/90	55 FR 30727
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Norma Opgrand, Chief, Federal Duck Stamp Program, Department of the Interior, United States Fish and Wildlife Service, MS - 2058 MIB, 1849 C Street NW., Washington, DC 20240, **202 208-4354**

RIN: 1018–AB40

1625. SEASONS AND BAG LIMITS FOR SUBSISTENCE MANAGEMENT REGULATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 3111 to 3126

CFR Citation: 50 CFR 100

Legal Deadline: None

Abstract: This rule amends management regulations for subsistence hunting, trapping, and fishing on Federal lands in Alaska. The

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regulations implement the subsistence priority provisions for rural residents for Alaska under the Alaska National Interest Lands Conservation Act and provide for issuance of subsistence hunting, trapping, and fishing seasons and bag limits. Due to a decision by State court, management responsibility for subsistence taking of fish and wildlife was assumed by the Federal land management agencies in 1990.

This rule also provides for the seasonal bag limits and dates for subsistence hunting, trapping, and fishing on Federal lands in Alaska. The seasons and bag limits are developed in cooperation with State and local governmental entities to ensure that fish and wildlife populations in the State are adequately protected.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: ANILCA requires the Secretaries of Interior and Agriculture to implement a joint program to grant a preference in favor of subsistence uses of fish and wildlife resources on public lands unless the State of Alaska enacts and implements laws of general applicability consistent with ANILCA's requirements. The State implemented such a program; however, in December 1989, the Alaska Supreme Court ruled such program unconstitutional. As a result of that decision, the Departments of Interior and Agriculture were required to take over the implementation of title VIII of ANILCA on Federal lands on July 1, 1990. On June 29, 1990, the temporary Subsistence Management Regulations for Public Lands in Alaska were published in the Federal Register. The Service proposes to extend the temporary subsistence managements regulations to June 1993 in a separate rulemaking action.

Agency Contact: Richard S. Pospahala, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503, 907 786-3447

RIN: 1018–AB43

1626. IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Legal Authority: 16 USC 3371 et seq; 16 USC 1532 et seq; 16 USC 1382; 16 USC 703 et seq

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service will amend 50 CFR 14 to permit the use of the U.S. Customs Service's Automated Commercial System (ACS) for the declaration and clearance of importations and exportation of wildlife.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The ACS system is being tested in several ports of entry. The Service will amend 50 CFR 14 when the system is fully implemented by the Customs Service.

Agency Contact: John Doggett, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500, Arlington Square, Washington, DC 20240, 703 358-1949

RIN: 1018–AB49

1627. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES)

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Service proposes to amend 50 CFR 23, subparts A and B, to consider the following proposals recommended by the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora: (1) Whether or not to reduce the paperwork burden for trade in certain hybrid plants. Such reduction would cause slight risks to wild plants, but a substantial reduction of administrative and public burdens. (2) Whether to require a fitness-to-travel checklist to reduce the high mortality/morbidity in the shipment of live animals. Processing such checklists would increase costs but would also increase awareness of live animals transport requirements/needs. (3) To allow innocent infractions of regulations to be cured by by issuance of permits retroactively. While such action would increase costs slightly, there would be slight reductions in the cost of processing violations and such action would encourage voluntary compliance.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Arthur Lazarowitz, Chief, Operations Branch, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2093

RIN: 1018–AB50

1628. THE NATIONAL COASTAL WETLAND CONSERVATION GRANT PROGRAM

Significance: Agency Priority

Legal Authority: 16 USC 3954

CFR Citation: 50 CFR 84

Legal Deadline: None

Abstract: The National Coastal Wetland Conservation Grant Program was established through the Coastal Wetlands Planning, Protection and Restoration Act. Funding for this grant program is provided from a portion of the funds deposited in the Sport Fish Restoration Account of the Federal Aid program. The proposed rules for 50 CFR 84 will be used for uniform administration of this new grant program. Such rules are needed to establish procedures from the selection and uniform administration of grants funded under the Act. Since grantees are State agencies, the requirements contained in 43 CFR 12 are applicable to audits, costs, and administration of grants under this program.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Columbus H. Brown, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS - 322 Arlington Square, Washington, DC 20240, 703 358-2156

RIN: 1018–AB68

1629. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 50 HAWAIIAN PLANTS —16 FROM MOLOKAI, 23 FROM KAUAI, AND 11 FROM KOOLAU

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

(Kauai) Brighamia insignis
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Cyanea asarifolia
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Cyrtandra limahuliensis
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Delissea rhytidosperma
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Dielilia laciniata
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Exocarpos luteolus
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Hedyotis cookiana
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Hibiscus clayi
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Lipochaeta fauriei
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Lipochaeta micrantha
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Lipochaeta waimeaensis
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Lysimachia filifolia
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Melicope haupuensis
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Melicope knudsenii
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Melicope pallida
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Melicope quadrangularis
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Munroidendron racemosum
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Nothocestrum peltatum
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Peucedanum sandwicense
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Phyllostegia waimeae
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Pteralyxia kauaiensis
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Schiedea sperguline
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Kauai) Solanum sandwicense
NPRM 10/30/91 (56 FR 55862)
Final Action 00/00/00
(Koolau) Chamaesyca deppeana
NPRM 00/00/00
Final Action 00/00/00
(Koolau) Cyanea truncata
NPRM 00/00/00
Final Action 00/00/00
(Koolau) Cyrtandra crenata
NPRM 00/00/00
Final Action 00/00/00
(Koolau) Cyrtandra polyantha
NPRM 00/00/00
Final Action 00/00/00
(Koolau) Eugenia koolauensis
NPRM 00/00/00
Final Action 00/00/00
(Koolau) Hesperomannia arborescens
NPRM 00/00/00
Final Action 00/00/00
(Koolau) Lobelia oahuensis
NPRM 00/00/00
Final Action 00/00/00
(Koolau) Lycopodium nutans
NPRM 00/00/00
Final Action 00/00/00
(Koolau) Melicope lydgatei
NPRM 00/00/00
Final Action 00/00/00
(Koolau) Rollandia crispa
NPRM 00/00/00
Final Action 00/00/00
(Koolau) Tetraplasandra gymnocarpa
NPRM 00/00/00
Final Action 00/00/00
(Molokai) Bidens wiebkei
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Brighamia rockii
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Canavalia molokaiensis
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Claramontia oblongifolia ssp. brevipes
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Cyanea mannii
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Cyanea procera
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Hedyotis mannii
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Hibiscus arnottianus ssp. immaculatus
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Melicope reflexa
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Phyllostegia mannii
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Pritchardia munroi
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Schiedea lydgatei
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Silene alexandri
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Silene lanceolata
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Stenogyne bifida
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)
(Molokai) Tetramolopium rockii
NPRM 09/20/91 (56 FR 47718)
Final Action 10/08/92 (57 FR 46325)

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB69

1630. COMPATIBILITY OF PERMITTED USES ON NATIONAL WILDLIFE REFUGES

Legal Authority: 16 USC 668dd

CFR Citation: 50 CFR 25; 50 CFR 26; 50 CFR 29

Legal Deadline: None

Abstract: This rulemaking would revise portions of 50 CFR 25, 26 and 29 to define and provide standards for the compatibility of permitted uses on the National Wildlife Refuge System. Congress has expressed concern that all uses permitted on national wildlife

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refuges be consistently "compatible" with the purposes for which the respective refuges were established. This rulemaking would provide a uniform definition for "compatible" use and, consequently, allow enhanced protection to the national wildlife refuge system.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Shallenberger, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS - 670 Arlington Square, Washington, DC 20240, 703 358-1744

RIN: 1018–AB70

1631. APPLICATION FEES FOR CONTROLLED HUNTS ON NATIONAL WILDLIFE REFUGES

Legal Authority: 16 USC 668dd

CFR Citation: 50 CFR 25

Legal Deadline: None

Abstract: The popularity of controlled hunts has increased greatly over the last several years. Consequently, the number of applications for hunting permits has increased proportionately to such an extent that individual national wildlife refuges have been overburdened financially, and in terms of personnel work hours, with their review of such applications for permit eligibility and issuance. The purpose of this rulemaking is to provide a regulation that will pertain to the establishment of application fees for controlled hunts on national wildlife refuges. The establishment of an application fee would defray the additional burden placed upon the individual national wildlife refuge managing a controlled hunt.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Shallenberger, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS - 670 Arlington Square, Washington, DC 20240, 703 358-1744

RIN: 1018–AB71

1632. LIST OF MIGRATORY BIRDS

Legal Authority: 16 USC 704; 16 USC 712

CFR Citation: 50 CFR 10.13

Legal Deadline: None

Abstract: The List of Migratory Birds found at 50 CFR 10.13 is being revised to (1) bring the list into conformity with generally accepted taxonomy and nomenclature--English (common) and scientific names, as reflected in four published supplements to the 6th (1983) edition of the American Ornithologists' Union Check-list of North American Birds; and (2) add species that are of regular occurrence in the United States that are not included on the current list.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas J. Dwyer, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS - 634 Arlington Square, Washington, DC 20240, 703 358-1714

RIN: 1018–AB72

1633. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: EMERGENCY PROPOSAL TO ESTABLISH ADDITIONAL MANATEE SANCTUARIES IN KINGS BAY, CRYSTAL RIVER, CITRUS COUNTY, FLORIDA

Significance: Agency Priority

Legal Authority: 16 USC 1531 to 1544

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Fish and Wildlife Service proposes to establish four additional manatee sanctuaries (32 acres) in Kings Bay, Crystal River, Citrus County, Florida. All waterborne activities would be prohibited in these sanctuaries from November 15 through March 31 of each year. The proposed action would prevent the taking of manatees by harassment resulting from waterborne activities during the winter months. The number of sanctuaries in Kings Bay would be increased from three (10.7 acres) to seven (42.7 acres) to accommodate the increase in the number of manatees using the area each winter, and to offset the harassment from increasing public use.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Establishment of additional manatee protection areas		
FINAL ACTION (Emergency Rule)	01/22/93	(57 FR 5643)

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: An emergency rule will implement Federal protection for 240 days. A proposed rule to list and provide additional manatee protection areas will follow the emergency rulemaking and will allow for public comment.

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB74

1634. EAGLE PERMITS

Legal Authority: 16 USC 668

CFR Citation: 50 CFR 22

Legal Deadline: None

Abstract: Presently, the taking, possession, and transportation of bald or golden eagles, or their parts, nests, or eggs for the religious use of Native Americans is a permitted activity. The Service proposes to revise 50 CFR 22.22 to provide an import or export mechanism for eagle feathers legally possessed by Native Americans.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas L. Striegler, Deputy Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS 550 - Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-1949

RIN: 1018–AB81

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1635. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 30 AFRICAN BIRDS

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Alaotra grebe
NPRM 00/00/00
Final Action 00/00/00
Aldabru warbler
NPRM 00/00/00
Final Action 00/00/00
Algerian nuthatch
NPRM 00/00/00
Final Action 00/00/00
Amsterdam albatross
NPRM 00/00/00
Final Action 00/00/00
Banded wattle-eye
NPRM 00/00/00
Final Action 00/00/00
Bannerman's turaco
NPRM 00/00/00
Final Action 00/00/00
Canarian black oystercatcher
NPRM 00/00/00
Final Action 00/00/00
Clarke's weaver
NPRM 00/00/00
Final Action 00/00/00
Dappled mountain robin
NPRM 00/00/00
Final Action 00/00/00
Djibouti francolin
NPRM 00/00/00
Final Action 00/00/00
Freira
NPRM 00/00/00
Final Action 00/00/00
Ibadan malimbe
NPRM 00/00/00
Final Action 00/00/00
Madagascar pochard
NPRM 00/00/00
Final Action 00/00/00
Madagascar sea eagle
NPRM 00/00/00
Final Action 00/00/00
Madagascar serpent eagle
NPRM 00/00/00
Final Action 00/00/00
Marungu sunbird
NPRM 00/00/00
Final Action 00/00/00
Mascarene black petrel
NPRM 00/00/00
Final Action 00/00/00
Mauritius fody
NPRM 00/00/00
Final Action 00/00/00
Pink pigeon
NPRM 00/00/00
Final Action 00/00/00
Pollen's vanga
NPRM 00/00/00
Final Action 00/00/00
Raso lark
NPRM 00/00/00
Final Action 00/00/00
Rodrigues fody
NPRM 00/00/00
Final Action 00/00/00
Seychelles lesser vasa parrot
NPRM 00/00/00
Final Action 00/00/00
Seychelles turtle dove
NPRM 00/00/00
Final Action 00/00/00
Taita thrush
NPRM 00/00/00
Final Action 00/00/00
Thyolo alethe
NPRM 00/00/00
Final Action 00/00/00
Uluguru bush-shrike
NPRM 00/00/00
Final Action 00/00/00
Van Dam's vanga
NPRM 00/00/00
Final Action 00/00/00
White-breasted guineafowl
NPRM 00/00/00
Final Action 00/00/00
White-tailed laurel pigeon
NPRM 00/00/00
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452, Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB84

1636. PROCEDURES FOR CERTIFYING FISH HEALTH INSPECTORS

Significance: Agency Priority

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: The Service proposes to develop regulations that will describe the application and evaluation processes for fish health specialists who desire to be certified as fish health inspectors. These inspectors are required in order to implement regulations contained in 50 CFR 16.13. This regulation would also discuss the renewal process for such inspectors.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph J. Webster, Chief, Division of Fish Hatcheries, Department of the Interior, United States Fish and Wildlife Service, MS-820, Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-1715

RIN: 1018–AB86

1637. FISH HEALTH INSPECTIONS AND DIAGNOSTIC SERVICES PROVIDED TO NON-SERVICE ENTITIES

Significance: Agency Priority

Legal Authority: 18 USC 42 to 44; 16 USC 742

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: The Service proposes to develop regulations which will describe how the Service will provide fish health inspections and diagnostic services to non-Service entities, such as private and State fish hatcheries. These procedures have not been officially standardized. This regulation will also include the application process, procedures to be followed, and responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph J. Webster, Chief, Division of Fish Hatcheries,

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Department of the Interior, United States Fish and Wildlife Service, MS-820, Arlington Square, 1849 C Street NW., Washington, DC 20240, **703 358-1715**

RIN: 1018–AB87

1638. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

(Niihau) Wahane
NPRM 12/17/92 (57 FR 59970)
Final Action 12/00/93
(Oahu) Dielis unisora (No common name (NCN))
NPRM 12/14/92 (57 FR 59066)
Final Action 12/00/93
(Oahu) Gouania vitifolia (NCN)
NPRM 12/14/92 (57 FR 59066)
Final Action 12/00/93
(Oahu) Hoha
NPRM 12/14/92 (57 FR 59066)
Final Action 12/00/93
Braunton's milk-vetch
NPRM 11/30/92 (57 FR 56541)
Final Action 11/00/93
Conejo dudleya
NPRM 11/30/92 (57 FR 56541)
Final Action 11/00/93
Coyote ceanothus
NPRM 12/14/92 (57 FR 59053)
Final Action 12/00/93
Eastern gray kangaroo (delisting)
NPRM 01/21/93 (58 FR 5341)
Final Action 01/00/94
Fountain thistle
NPRM 12/14/92 (57 FR 59053)
Final Action 12/00/93
Hartweg's golden sunburst
NPRM 11/30/92 (57 FR 56549)
Final Action 11/00/93
Lyon's pentachaeta
NPRM 11/30/92 (57 FR 56541)
Final Action 11/00/93
Marcescent dudleya
NPRM 11/30/93 (57 FR 56541)
Final Action 11/00/94
Marin dwarf-flax
NPRM 12/14/92 (57 FR 59053)
Final Action 12/00/93
Metcalf Canyon jewelflower
NPRM 12/14/92 (57 FR 59053)
Final Action 12/00/93
Pennell's bird's beak
NPRM 12/14/92 (57 FR 59053)
Final Action 12/00/93
Presidio clarkia
NPRM 12/14/92 (57 FR 59053)
Final Action 12/00/93
Red kangaroo (delisting)
NPRM 01/21/93 (58 FR 5341)
Final Action 01/00/94
San Joaquin adobe sunburst
NPRM 11/30/93 (57 FR 56549)
Final Action 11/00/94
San Mateo woolly sunflower
NPRM 12/14/92 (57 FR 59053)
Final Action 12/00/93
Santa Clara Valley dudleya
NPRM 12/14/92 (57 FR 59053)
Final Action 12/00/93
Santa Monica Mountains dudleya
NPRM 11/30/93 (57 FR 56541)
Final Action 11/00/94
Tiburon jewelflower
NPRM 12/14/92 (57 FR 59053)
Final Action 12/00/93
Tiburon mariposa lily
NPRM 12/14/92 (57 FR 59053)
Final Action 12/00/93
Tiburon paintbrush
NPRM 12/14/92 (57 FR 59053)
Final Action 12/00/93
Tidewater goby
NPRM 12/11/92 (57 FR 58770)
Final Action 12/00/93
Western gray kangaroo (delisting)
NPRM 01/21/93 (58 FR 5341)
Final Action 01/00/94
White-rayed pentachaeta
NPRM 12/14/92 (57 FR 59053)
Final Action 12/00/93

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240, **703 358-2171**

RIN: 1018–AB88

1639. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 22 HAWAIIAN PLANTS

Significance: Agency Priority

Legal Authority: 15 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing, no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	

'Aiea (Nothocestrum breviflorum)
NPRM 00/00/00
Final Action 00/00/00
Clermontia lindseyana ('oha wai)
NPRM 00/00/00
Final Action 00/00/00
Clermontia peleana ('oha wai)
NPRM 00/00/00
Final Action 00/00/00
Clermontia pyrularia ('oha wai)
NPRM 00/00/00
Final Action 00/00/00
Cyanea copelandii ssp. copelandii (haha)
NPRM 00/00/00
Final Action 00/00/00
Cyanea hamatiflora ssp. carlsonii (haha)
NPRM 00/00/00
Final Action 00/00/00
Cyanea shipmanii (haha)
NPRM 00/00/00
Final Action 00/00/00
Cyanea stictophylla (haha)
NPRM 00/00/00
Final Action 00/00/00
Ha'iwale (Cyrtandra giffardii)
NPRM 00/00/00
Final Action 00/00/00
Ha'iwale (Cyrtandra tintinnabula)
NPRM 00/00/00
Final Action 00/00/00
Hesperocnide sandwicensis (No common name (NCN))
NPRM 00/00/00
Final Action 00/00/00
Hilo ischaemum
NPRM 00/00/00
Final Action 00/00/00
Holei
NPRM 00/00/00
Final Action 00/00/00
Kaulla
NPRM 00/00/00
Final Action 00/00/00
Laukahi kuahiwi
NPRM 00/00/00
Final Action 00/00/00
Loulu
NPRM 00/00/00
Final Action 00/00/00
Mariscus fauriei (NCN)
NPRM 00/00/00
Final Action 00/00/00
Po'e (Portulaca sclerocarpa)
NPRM 00/00/00
Final Action 00/00/00
Silene hawaiiensis (NCN)
NPRM 00/00/00
Final Action 00/00/00
Tetramolopium arenarium (NCN)
NPRM 00/00/00
Final Action 00/00/00
Wahine noho kula
NPRM 00/00/00
Final Action 00/00/00
Zanthoxylum hawaiiense (a'e)
NPRM 00/00/00
Final Action 00/00/00

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240, **703 358-2171**

RIN: 1018–AB89

1640. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: POLICY ON THE TREATMENT OF HYBRIDS AND PROPOSED DEFINITIONS

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to issue a policy that will include within the scope of a listing for a specific taxon "hybrid" individuals that more closely resemble a listed species than they resemble individuals intermediate with another species. The proposed policy is intended to allow the Service to routinely protect and conserve intercross progeny. A second goal is to give the Service the ability to eliminate intercross progeny if their presence interferes with conservation efforts for a listed species. It also allows fostering of intercrossing when this would preserve remaining genetic material from a nearly extinct species. Under the policy, intermediate individuals or populations of direct hybrid origin would not ordinarily be protected or be eligible for listing.

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240, **703 358-2171**

RIN: 1018–AB90

1641. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR HAWAIIAN FERNS

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Asplenium fragile var. insulare
NPRM 00/00/00
Final Action 00/00/00
Ctenitis squamigera
NPRM 00/00/00
Final Action 00/00/00
Diplazium molokaiense
NPRM 00/00/00
Final Action 00/00/00
Pteris tidgatei
NPRM 00/00/00
Final Action 00/00/00

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240, **703 358-2171**

RIN: 1018–AB92

1642. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; 13 PLANTS FROM HAWAII

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

'Ohai (Sesbania tomentosa)
NPRM 00/00/00
Final Action 00/00/00
Ale (Plantago princeps)
NPRM 00/00/00
Final Action 00/00/00
Bonamia menziesii (No Common Name (NCN))
NPRM 00/00/00
Final Action 00/00/00
Dielis erecta (NCN)
NPRM 00/00/00
Final Action 00/00/00
Ma'aloa (Neraudia sericea)
NPRM 00/00/00
Final Action 00/00/00
Ma'o hau hele (Hibiscus brackenridgei)
NPRM 00/00/00
Final Action 00/00/00
Mariscus pennatiformis (NCN)
NPRM 00/00/00
Final Action 00/00/00
Mehamehame
NPRM 00/00/00
Final Action 00/00/00
Oahu vigna
NPRM 00/00/00
Final Action 00/00/00
Pendant kihi fern
NPRM 00/00/00
Final Action 00/00/00
Pololei
NPRM 00/00/00
Final Action 00/00/00

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Spermolepis hawaiiensis (NCN)
NPRM 00/00/00
Final Action 00/00/00
Thorny popolo
NPRM 00/00/00
Final Action 00/00/00

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB94

1643. • PROPOSED ESTABLISHMENT OF A NONESSENTIAL EXPERIMENTAL POPULATION OF BLACK-FOOTED FERRETS IN NORTH-CENTRAL MONTANA

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service, in cooperation with the Montana Department of Fish, Wildlife and Parks, will reintroduce black-footed ferrets (Mustela nigripes) into the 11,061-square kilometers (4,237 square miles) north-central Montana Black-footed Ferret Experimental Population Area in north-central Montana. This reintroduction is proposed to implement a primary recovery action for this federally listed endangered species and to evaluate release techniques.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB96

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Final Rule Stage

1644. REFUGE-SPECIFIC HUNTING AND FISHING REGULATIONS

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: The Service will review annually and prior to each hunting season may amend hunting regulations for specific national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	12/11/92	57 FR 58930
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: April 1983.

Agency Contact: Robert Shallenberger, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS - 670 Arlington Square, Washington, DC 20240, 703 358-1744

RIN: 1018–AA71

1645. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list, reclassify, or delist certain species of wildlife and plants as endangered or threatened species. When prudent, critical habitat will also be identified.

Timetable:

Inyo brown towhee (critical habitat)
NPRM 08/03/87 (52 FR 28787)
Final Action 00/00/00
Inyo brown towhee (listing)
NPRM 11/23/84 (49 FR 46174)
Final Action 08/03/87 (52 FR 28717)

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Originally scheduled: April 1985.

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AA85

1646. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1544

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Least Bell's vireo critical habitat
NPRM Revised 08/07/92 (57 FR 34892)
Final Action 00/00/00
Least Bell's vireo listing
NPRM 05/03/85 (50 FR 18966)
Final Action 05/02/86 (51 FR 16474)

Small Entities Affected: None

Government Levels Affected: State

Additional Information: After reviewing the biological status of candidate and listed species, the Service promptly proceeds to propose rules to list, delist, or reclassify such species as appropriate. Generally, final action on the proposed rules must be taken within one year.

DOI—FWS

Final Rule Stage

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AA95

1647. PROPOSED DETERMINATION OF EXPERIMENTAL POPULATION STATUS FOR AN INTRODUCED POPULATION OF COLORADO SQUAWFISH

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to introduce Colorado squawfish (Ptychocheilus lucius) into the lower Colorado River in Arizona and to determine the population to be "nonessential experimental" population according to section 10(j) of the Endangered Species Act. The Service will propose a special rule to allow take in accordance with State law. In the past, Colorado squawfish were more widespread in the State of Arizona, occurring in several river drainages. This action is being taken in an effort to establish an additional population within the species' historic range.

Timetable:

Action	Date	FR Cite
NPRM	08/26/87	52 FR 32143
NPRM Comment Period End	10/26/87	52 FR 32143
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 Arlington Square, Washington DC 20240, 703 358-2171

RIN: 1018–AB09

1648. INJURIOUS WILDLIFE: IMPORTATION OF LIVE OR DEAD FISH, MOLLUSKS, AND CRUSTACEANS, OR THEIR EGGS

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: Regulations regarding importation of fish or fish eggs of the fish family Salmonidae will be revised to reflect current scientific information.

Timetable:

Action	Date	FR Cite
ANPRM	08/17/89	54 FR 33947
NPRM	07/07/92	57 FR 29856
NPRM Comment Period End	08/21/92	57 FR 29856
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph J. Webster, Chief, Division of Fish Hatcheries, Department of the Interior, United States Fish and Wildlife Service, MS - 820 Arlington Square, Washington, DC 20240, 703 358-1715

RIN: 1018–AB13

1649. NATIONAL WILDLIFE REFUGES: ADDING TO AREAS OPEN TO HUNTING AND FISHING

Legal Authority: 5 USC 301; 16 USC 460K; 16 USC 664; 16 USC 668dd; 16 USC 715i

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: National Wildlife Refuges are generally closed to hunting or fishing until specifically opened by rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/08/92	57 FR 58108
NPRM Comment Period End	12/23/92	57 FR 58108
Final Action	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Shallenberger, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS - 670 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-1744

RIN: 1018–AB25

1650. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Ka'u silversword
NPRM 08/06/90 (55 FR 31860)
Final Action 00/00/00
Nile crocodile in Zimbabwe, reclassified to threatened
NPRM 08/03/92 (57 FR 34095)
Final Action 00/00/00
Saltwater crocodile in Australia
NPRM 09/27/90 (55 FR 39489)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB42

1651. MIGRATORY BIRD PERMITS: DETERMINATION THAT KANSAS MEET FEDERAL FALCONRY STANDARDS

Legal Authority: 16 USC 703 to 712

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to revise 50 CFR 21 to add Kansas to the list of States participating in the joint Federal/State falconry permit system. The Director has determined that the falconry laws of the State meet or exceed the minimum Federal standards for the use of certain migratory birds for falconry. The proposed rule would permit the practice of falconry in that State.

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Timetable:

Action	Date	FR Cite
NPRM	11/14/90	55 FR 47498
NPRM Comment Period End	12/14/90	55 FR 47498

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Doggett, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS - 520 Arlington Square, Washington, DC 20240, 703 358-1949

RIN: 1018–AB45

1652. CABIN MANAGEMENT REGULATIONS ON NATIONAL WILDLIFE REFUGES IN ALASKA

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: The Service proposes to revise and clarify regulations contained in 50 CFR 36.33.

Timetable:

Action	Date	FR Cite
NPRM	04/25/91	56 FR 19074

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Karges, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS -670 Arlington Square, Washington, DC 20240, 703 358-1744

RIN: 1018–AB46

1653. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened or neither, and are based solely on the biological information available to the Department.

Timetable:

Banbury Springs limpet
NPRM 12/18/90 (55 FR 51931)
Final Action 12/14/92 (57 FR 59244)
Bliss Rapids snail
NPRM 12/18/90 (55 FR 51931)
NPRM (Reopening of Comment Period) 10/07/91 (56 FR 50550)
Final Action 12/14/92 (57 FR 59244)
Idaho springsnail
NPRM 12/18/90 (55 FR 51931)
NPRM (Reopening of Comment Period) 10/07/91 (56 FR 50550)
Final Action 12/14/92 (57 FR 59244)
Indus River dolphin
NPRM 01/14/91 (56 FR 1464)
NPRM (Reopening of Comment Period) 10/07/91 (56 FR 50550)
Final Action 00/00/00
Penland alpine fen mustard
NPRM 10/15/90 (55 FR 41725)
NPRM (Extension of Comment Period) 10/28/91 (56 FR 55487)
NPRM (Reopening of Comment Period) 12/24/91 (56 FR 66614)
Final Action 00/00/00
Snake River Physa snail
NPRM 12/18/90 (55 FR 51931)
NPRM (Reopening of Comment Period) 10/07/91 (56 FR 50550)
Final Action 12/14/92 (57 FR 59244)
Stenogyne kanehoana
NPRM 01/23/91 (56 FR 2493)
Final Action 00/00/00
Utah valvata snail
NPRM 12/18/90 (55 FR 51931)
NPRM (Reopening of Comment Period) 10/07/91 (56 FR 50550)
Final Action 12/14/92 (57 FR 59244)

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB52

1654. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Cambarus aculabrum cave crayfish
NPRM 05/26/92 (57 FR 21929)
Final Action 05/00/93
Coastal California gnatcatcher
NPRM 09/17/91 (56 FR 47053)
NPRM (Reopening of Comment Period) 09/22/92 (57 FR 43686)
NPRM (Reopening of Comment Period) 02/11/93 (58 FR 8032)
Final Action 03/30/93 (58 FR 16742)
Duskytail darter
NPRM 07/08/92 (57 FR 30191)
Final Action 07/00/93
Guam bridled white-eye, critical habitat
NPRM 06/14/91 (56 FR 27485)
NPRM (Reopening of Comment Period) 06/12/92 (57 FR 25007)
Final Action 00/00/00
Guam broadbill, critical habitat
NPRM 06/14/91 (56 FR 27485)
NPRM (Reopening of Comment Period) 06/12/92 (57 FR 25007)
Final Action 00/00/00
Guam Micronesian kingfisher, critical habitat
NPRM 06/14/91 (56 FR 27485)
NPRM (Reopening of Comment Period) 06/12/92 (57 FR 25007)
Final Action 00/00/00
Little Mariana fruit bat, critical habitat
NPRM 06/14/91 (56 FR 27485)
NPRM (Reopening of Comment Period) 06/12/92 (57 FR 25007)
Final Action 00/00/00
Marbled murrelet
NPRM 06/20/91 (56 FR 28362)
NPRM (Reopening of Comment Period) 01/30/92 (57 FR 3604)
NPRM (Reopening of Comment Period) 07/29/92 (57 FR 33478)
Final Action 00/00/00
Mariana crow, critical habitat
NPRM 06/14/91 (56 FR 27485)
NPRM (Reopening of Comment Period) 06/12/92 (57 FR 25007)
Final Action 00/00/00

Mariana fruit bat, critical habitat
NPRM 06/14/91 (56 FR 27485)
NPRM (Reopening of Comment Period) 06/12/92 (57 FR 25007)
Final Action 00/00/00
Nelson's checker-mallow
NPRM 06/07/91 (56 FR 28373)
NPRM (Extension of Comment Period) 07/23/91 (56 FR 33741)
Final Action 02/12/93 (58 FR 8235)
Palezone shiner
NPRM 07/08/92 (57 FR 30191)
Final Action 07/00/93
Pygmy madtom
NPRM 07/08/92 (57 FR 30191)
Final Action 07/00/93

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB56

1655. FARM-RAISED FISH; EXEMPTION FROM FISH AND WILDLIFE EXPORT REQUIREMENTS

Significance: Agency Priority

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service has determined that the export of live farm-raised fish and farm-raised fish eggs does not adversely affect the wild resources. This rulemaking would exempt exporters from licensing requirements, designated port requirements, and payment of user fees. This rule will relieve exporters of the requirement of obtaining an import/export license ($125 per year), and of the payment of user fees ($25 per shipment).

Timetable:

Action	Date	FR Cite
NPRM	07/09/92	57 FR 30457
NPRM Comment Period End	08/10/92	57 FR 30457

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Doggett, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500, Arlington Square, Washington, DC 20240, 703 358-1949

RIN: 1018–AB61

1656. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Addax antelope
NPRM 11/05/91 (56 FR 56491)
NPRM (Reopening of Comment Period) 06/08/92 (57 FR 24220)
Final Action 00/00/00
Alabama moccasinshell mussel
NPRM 11/19/91 (56 FR 58339)
Final Action 03/17/93 (58 FR 14330)
Alabama streak-sorus fern
NPRM 11/29/91 (56 FR 60957)
Final Action 07/08/92 (57 FR 30164)
American chaffseed
NPRM 09/11/91 (56 FR 46277)
Final Action 09/29/92 (57 FR 44703)
Comal Springs dryopoid beetle
NPRM 00/00/00
Final Action 00/00/00
Comal Springs riffle beetle
NPRM 11/19/91 (56 FR 58339)
Final Action 00/00/00
Coosa moccasinshell mussel
NPRM 11/19/91 (56 FR 58339)
Final Action 03/17/93 (58 FR 14330)
Corsican swallowtail butterfly
NPRM 09/10/92 (56 FR 46145)
Final Action 01/14/93 (58 FR 4356)
Dama gazelle
NPRM 11/05/91 (56 FR 56491)
NPRM (Reopening of Comment Period) 06/08/92 (57 FR 24220)
Final Action 00/00/00
Dark pigtoe mussel
NPRM 11/19/91 (56 FR 58339)
Final Action 03/17/93 (58 FR 14330)
Delta smelt
NPRM 10/03/91 (56 FR 50075)
Final Action 03/05/93 (58 FR 12854)
Fine-lined pocketbook mussel
NPRM 11/19/91 (56 FR 58339)
Final Action 03/17/93 (58 FR 14330)
Godfrey's butterwort
NPRM 05/20/92 (57 FR 21377)
Final Action 05/00/93
Holy ghost ipomopsis
NPRM 09/22/92 (57 FR 43683)
NPRM (Reopening of Comment Period) 01/13/93 (58 FR 4144)
Final Action 00/00/00
Homerus swallowtail butterfly
NPRM 09/10/91 (56 FR 46145)
Final Action 01/14/93 (58 FR 4356)
Hungerford's crawling water beetle
NPRM 03/02/93 (58 FR 12013)
Final Action 00/00/00
Lee County cave isopod
NPRM 11/15/91 (56 FR 58026)
Final Action 11/20/92 (57 FR 54722)
Louisiana quillwort
NPRM 10/21/91 (56 FR 52500)
Final Action 10/28/92 (57 FR 48741)
Luzon peacock swallowtail butterfly
NPRM 09/10/92 (56 FR 46145)
Final Action 01/14/93 (58 FR 4356)
Mitchell's satyr butterfly
Final Action (Emergency Rule) 06/25/91 (56 FR 28825)
NPRM 09/11/91 (56 FR 46273)
Final Action 05/20/92 (57 FR 21564)
Morefield's leather flower
NPRM 10/21/91 (56 FR 52503)
Final Action 05/20/92 (57 FR 21562)
Ohio emerald dragonfly
NPRM 00/00/00
Final Action 00/00/00
Orange-nacre mucket mussel
NPRM 11/19/91 (56 FR 58339)
Final Action 03/17/93 (58 FR 14330)
Oryx antelope
NPRM 11/05/91 (56 FR 56491)
NPRM (Reopening of Comment Period) 06/08/92 (57 FR 24220)
Final Action 00/00/00
Ovate clubshell mussel
NPRM 11/19/91 (56 FR 58339)
Final Action 03/17/93 (58 FR 14330)
Peck's cave amphipod
NPRM 00/00/00
Final Action 00/00/00
Pecos pupfish
NPRM 00/00/00
Final Action 00/00/00
Sensitive joint-vetch
NPRM 07/26/91 (56 FR 34162)
Final Action 05/20/92 (57 FR 21377)
Siler pincushion cactus (downlisting)
NPRM 03/10/93 (58 FR 13245)
Final Action 00/00/00
Southern acornshell mussel
NPRM 11/19/91 (56 FR 58339)
Final Action 03/17/93 (58 FR 14330)
Southern clubshell mussel
NPRM 11/19/91 (56 FR 58339)
Final Action 03/17/93 (58 FR 14330)
Southern pigtoe mussel
NPRM 11/19/91 (56 FR 58339)
Final Action 03/17/93 (58 FR 14330)

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Final Rule Stage

Tarahumara frog
NPRM 00/00/00
Final Action 00/00/00
Triangular kidneyshell mussel
NPRM 11/19/91 (56 FR 58339)
Final Action 03/17/93 (58 FR 14330)
Upland combshell mussel
NPRM 11/19/91 (56 FR 58339)
Final Action 03/17/93 (58 FR 14330)

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB66

1657. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Applegate's milk-vetch
NPRM 11/26/91 (56 FR 59917)
Final Action 00/00/00
Atlantic Coast piping plover
NPRM 00/00/00
Final Action 00/00/00
Ben Lomond spineflower
NPRM 10/24/91 (56 FR 55107)
Final Action 00/00/00
California orcutt grass
NPRM 11/12/91 (56 FR 57503)
Final Action 00/00/00
Chorro Creek bog
NPRM 12/23/91 (56 FR 66400)
Final Action 00/00/00
Cushenberry buckwheat
NPRM 11/19/91 (56 FR 58332)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Final Action 00/00/00
Cushenberry milkvetch
NPRM 11/19/91 (56 FR 58332)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Cushenberry oxytheca
NPRM 11/19/91 (56 FR 58332)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Final Action 00/00/00
Giant garter snake
NPRM 12/27/91 (56 FR 67046)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Final Action 00/00/00
Indian Knob mountainbalm
NPRM 12/23/91 (56 FR 66400)
Final Action 00/00/00
Monterey spineflower
NPRM 10/24/91 (56 FR 55107)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Final Action 00/00/00
Morro manzanita
NPRM 12/23/91 (55 FR 66400)
Final Action 00/00/00
Morro shoulderband snail
NPRM 12/23/91 (56 FR 66400)
Final Action 00/00/00
Otay Mesa mint
NPRM 11/12/91 (56 FR 57503)
Final Action 00/00/00
Parish's daisy
NPRM 11/19/91 (56 FR 58332)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Final Action 00/00/00
Peninsular bighorn sheep
NPRM 05/08/92 (57 FR 19837)
Final Action 05/00/93
Piamo clarkia
NPRM 12/23/91 (56 FR 66400)
Final Action 00/00/00
Riverside fairy shrimp
NPRM 11/12/91 (56 FR 57503)
Final Action 00/00/00
Robust spineflower
NPRM 10/24/91 (56 FR 55107)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Final Action 00/00/00
San Bernadino Mountains bladderpod
NPRM 11/19/91 (56 FR 58332)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Final Action 00/00/00
San Diego button-celery
NPRM 11/12/91 (56 FR 57503)
Final Action 00/00/00
Santa Cruz wallflower
NPRM 10/24/91 (56 FR 55107)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Final Action 00/00/00
Scott's Valley spineflower
NPRM 10/24/91 (56 FR 55107)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Final Action 00/00/00
Western snowy plover
NPRM 01/14/92 (57 FR 1443)
NPRM (Reopening of Comment Period) 08/03/92 (57 FR 34100)
Final Action 03/05/93 (58 FR 12864)

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452, Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB73

1658. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Apalachicola rosemary
NPRM 05/20/92 (57 FR 21369)
Final Action 05/00/93
California linderiella
NPRM 05/08/92 (57 FR 19856)
NPRM (Reopening of Comment Period) 08/13/92 (57 FR 36380)
Final Action 00/00/00
Carolina heelsplitter
NPRM 05/26/92 (57 FR 21925)
Final Action 05/00/93
Clubshell mussel
NPRM 06/18/92 (57 FR 27203)
Final Action 06/00/93
Coachella Valley milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 05/00/93

DOI—FWS

Final Rule Stage

Conservancy fairy shrimp
NPRM 05/08/92 (57 FR 19856)
NPRM (Reopening of Comment Period) 08/13/92 (57 FR 36380)
Final Action 00/00/00
Copperbelly water snake
NPRM 05/20/92 (56 FR 21369)
Final Action 05/00/93 (57 FR 21369)
Etonia rosemary
NPRM 05/20/92 (57 FR 21369)
Final Action 05/00/93
Fish Slough milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 05/00/93
Karner blue butterfly
NPRM 01/21/92 (57 FR 2241)
Final Action 00/00/00
Lane Mountain milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 05/00/93
Leptoceresu grantianus (no common name (NCN))
NPRM 05/20/92 (57 FR 21374)
Final Action 05/00/93
Longhorn fairy shrimp
NPRM 05/08/92 (57 FR 19856)
NPRM Reopen Comment Period 08/13/92 (57 FR 36380)
Final Action 00/00/00
Northern riffleshell mussel
NPRM 06/18/92 (57 FR 27203)
Final Action 06/00/93
Okeechobee gourd
NPRM 05/20/92 (57 FR 21381)
Final Action 05/00/93
Pelrson's milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 05/00/93
Pima pineapple cactus
NPRM 04/20/92 (57 FR 14374)
Final Action 00/00/00
Seabeech amaranth
NPRM 05/26/92 (57 FR 21921)
Final Action 05/00/93
Shining milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 05/00/93
Short-leaved rosemary
NPRM 05/20/92 (57 FR 21369)
Final Action 05/00/93
Sodaville milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 05/00/93
Spectacled eider
NPRM 05/08/92 (57 FR 19852)
Final Action 05/00/93
Steller's eider
NPRM 05/08/92 (57 FR 19852)
Final Action 05/00/93
Triple-ribbed milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 05/00/93
Vernal pool fairy shrimp
NPRM 05/08/92 (57 FR 19856)
Final Action 05/00/93
Vernal pool tadpole shrimp
NPRM 05/08/92 (57 FR 19856)
Final Action 05/00/93

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB75

1659. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; REMOVAL OF SPECIAL RULE ALLOWING A LIMITED SPECIAL HUNT OF GRIZZLY BEAR

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to remove 50 CFR 17.40 (b)(1)(i)(E), the special rule which allows take of grizzly bears through a special hunt in northwestern Montana. The Service further intends to review the Grizzly Bear Special Rule to address actions needed due to population pressure within a grizzly bear population. The proposed removal of the authorization for the special hunt in Montana is to allow time to review the regulation based on current biological information. The removal of the special rule will, in no way, change the remainder of the Grizzly Bear rule in 50 CFR 17.40(b).

Timetable:

Action	Date	FR Cite
NPRM	04/20/92	57 FR 14378
Final Action	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452, Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB78

1660. MARINE MAMMALS: INCIDENTAL TAKE DURING SPECIFIED ACTIVITIES (OIL AND GAS EXPLORATION, DEVELOPMENT AND PRODUCTION), IN ARCTIC ALASKA AND THE BEAUFORT SEA

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18.121

Legal Deadline: None

Abstract: The Marine Mammal Protection Act allows for periods of up to 5 years the incidental, but not intentional, take in specified activities (other than commercial fishing) of marine mammals if it is determined, based on the best scientific evidence available, that the total of such taking for the 5-year period will have a negligible impact on the marine mammal species and will not have an unmitigable adverse impact on the availability of these species for subsistence uses by Alaskan Natives. BP Exploration (Alaska) Inc., on behalf of itself and 14 other Petitioners, on December 17, 1991, submitted applications to the Service for promulgation of regulations to allow the incidental take of polar bears and walrus during year-round oil and gas exploration, development and production activities in Coastal Arctic Alaska and the Beaufort Sea.

Timetable:

Action	Date	FR Cite
NPRM	12/30/92	57 FR 62283
NPRM Comment Period End	03/15/93	57 FR 62283
Final Action	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James G. Geiger, Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS - 820 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-1718

RIN: 1018–AB79

1661. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: THREATENED STATUS FOR SNAKE RIVER SPRING/SUMMER CHINOOK SALMON, THREATENED STATUS FOR SNAKE RIVER FALL CHINOOK SALMON

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service is adding the Snake River spring/summer chinook salmon and the Snake River fall chinook salmon to the list of Endangered and Threatened Wildlife. Under the Endangered Species Act, and

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in accordance with the Reorganization Plan No. 4 of 1970, the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Department of Commerce, is responsible for chinook salmon. The Fish and Wildlife Service is responsible for the actual addition of a species to the List of Endangered and Threatened Wildlife in 50 CFR 17.11(h).

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB82

1662. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

(PR) Calyptranthes thomasiana (No Common Name (NCN)
NPRM 01/05/93 (58 FR 339)
Final Action 01/00/94
(PR) Myrcia paganii (NCN)
NPRM 01/05/93 (58 FR 339)
Final Action 01/00/94
Adiantum vivesii (NCN)
NPRM 07/14/92 (57 FR 31166)
Final Action 07/00/93
Aristida chaseae (NCN)
NPRM 00/00/00
Final Action 00/00/00
Elaphoglossum serpens (NCN)
NPRM 07/14/92 (57 FR 31166)
Final Action 07/00/93
Lyonia truncata var. proctorii (NCN)
NPRM 00/00/00
Final Action 00/00/00
Polystichum calderonense (NCN)
NPRM 07/14/92 (57 FR 31166)
Final Action 07/00/93
Star cactus
NPRM 10/09/92 (57 FR 46528)
NPRM (Reopening of Comment Period) 02/12/93 (58 FR 8249)
Final Action 10/00/93
Tectaria estremerana (NCN)
NPRM 07/14/92 (57 FR 31166)
Final Action 07/00/93
Vernonia proctorii (NCN)
NPRM 00/00/00
Final Action 00/00/00
Water howellia
NPRM 00/00/00
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452, Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB83

1663. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CRITICAL HABITAT FOR FOUR COLORADO RIVER FISHES

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Other, Statutory, January 25, 1993.
The Service is under court order to publish a proposed rule for the razorback sucker by January 25, 1993, using currently available information.

Abstract: The Service proposes to designate critical habitat for four species of endemic Colorado River Basin fishes: Razorback sucker, Colorado squawfish, Humpback chub, and Bonytail chub. These species are listed under the Endangered Species Act. Historically, these four species occurred throughout the Colorado River system from Wyoming to Mexico. The proposed critical habitat designation, when made final, would result in additional consultation and conference requirements under Section 7 of the Act with regard to Federal agency actions which are likely to destroy or adversely modify critical habitat.

Timetable:

Action	Date	FR Cite
NPRM	01/29/93	58 FR 6578
NPRM Comment Period End	03/30/93	58 FR 6578
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB91

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Completed Actions

1664. REFUGE-SPECIFIC SPORT FISHING REGULATIONS

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 33

Legal Deadline: None

Abstract: The Service will review annually and prior to each fishing season may amend fishing regulations for specific national wildlife refuges.

Timetable:

Action	Date	FR Cite
Withdrawn Consolidated into RIN 1018-AA71	11/25/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: On November 25, 1992 at 57 FR 55686, the Service published a proposed rule to make an administrative change in moving information regarding refuge-specific regulations for migratory game bird hunting, upland game hunting, big game hunting and fishing into one consolidated regulation. The consolidated regulations will be published under RIN 1018-AA71.

Agency Contact: Robert Shallenberger, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS-670 Arlington Square, Washington, DC 20240, 703 358-1744

RIN: 1018–AA50

1665. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; BRUNEAU HOT SPRING SNAIL

Significance: Agency Priority

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be proposed to add the Bruneau Hot Spring snail (Pyrgulopsis bruneauensis) to the list of endangered wildlife. The Bruneau Hot Spring snail is endemic to the complex of related thermal springs adjacent to the Bruneau River south of Mountain Home, Idaho. The major threat to this species is habitat loss due to the drastic and continuing reduction in thermal spring flows from groundwater withdrawal/mining in the Bruneau Hot Spring aquifer.

Timetable:

Action	Date	FR Cite
NPRM	08/21/85	50 FR 33803
Final Action	01/25/93	58 FR 5938
Final Action Effective	02/24/93	58 FR 5938
Bruneau hot spring snail		
NPRM (Reopening of Comment Period) 10/05/92 (57 FR 45762)		
NPRM (Reopening of Comment Period) 12/18/92 (57 FR 60160)		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The Service proposed the snail for listing as endangered on August 21, 1985 (50 FR 33803). A final decision concerning the proposed rule has not been published.

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AA98

1666. NATIONAL MIGRATORY BIRD HARVEST INFORMATION PROGRAM

Significance: Agency Priority

Legal Authority: 16 USC 701 to 711; 16 USC 742(a) to 742(d); 16 USC 742(e) to 742(j); 16 USC 712

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: There is a need to obtain better estimates of migratory bird harvests toward the end of aiding decisions affecting the ability to maintain populations at healthy levels. Names and addresses of a representative sample of migratory bird hunters are needed in order to develop improved surveys that are free from bias. The action will be to develop, through existing State and Federal hunter licensing activities, a more reliable sample of names and addresses of persons who hunt migratory birds than is currently available. One proposed alternative would require all migratory bird hunters to obtain and maintain in their possession a program card. Cards would be available through the State license vendors, with States having the option to charge a fee to recover administrative and distribution costs. More efficient and less costly means of acquiring the necessary names and addresses may exist. Therefore, the FWS will solicit recommendations for alternatives to the previously identified option. The main benefit of the proposed action will be to increase the quality and extent of migratory bird harvest information.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/91	56 FR 28812
ANPRM Comment Period End	08/01/91	56 FR 28812
NPRM	06/10/92	57 FR 24736
NPRM Comment Period End	07/10/92	57 FR 24736
Final Action	03/19/93	58 FR 15093
Final Action Effective	03/19/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Paul H. Geissler, Chief, Waterfowl Harvest Surveys Section, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Patuxent Wildlife Research Center, Route 197 and Powder Mill Road, Laurel, MD 20708-9619, 301 498-0401

RIN: 1018–AB65

1667. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PROPOSAL TO ESTABLISH AN EXPERIMENTAL NONESSENTIAL POPULATION OF WHOOPING CRANES IN FLORIDA

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to reintroduce whooping cranes (Grus americana) in central Florida in the Kissimmee Prairie area. The reintroduction is proposed to: (1) Implement a primary recovery action for a federally listed endangered species; (2) obtain data for further assessing the suitability of Kissimmee Prairie of south central Florida as whooping crane habitat; and (3) evaluate the merit of releasing captive-reared whooping cranes, conditioned for wild release, as a technique for establishing a self-sustaining nonmigratory population.

Timetable:

Action	Date	FR Cite
NPRM	09/29/92	57 FR 44721
NPRM Comment Period End	10/29/92	57 FR 44721
Final Action	01/22/93	58 FR 5647
Final Action Effective	01/22/93	58 FR 5647

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-

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DOI—FWS

Completed Actions

452, Arlington Square, 1849 C Street NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AB85

BILLING CODE 4310-55-F

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Prerule Stage

1668. APOSTLE ISLANDS NATIONAL LAKESHORE: SNOWMOBILING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.82

Legal Deadline: None

Abstract: This proposed rule designates routes and frozen water surfaces for use by snowmobiles at Apostle Islands National Lakeshore. The general regulations at 36 CFR 2.18 prohibit such use unless routes and water surfaces are specifically identified and promulgated as special regulations. The intended effect of this regulation is to remove that prohibition and allow the use of snowmobiles to conduct legislatively authorized fishing activities.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Krambrink, Chief Ranger, Department of the Interior, National Park Service, RT 1, Box 4, Bayfield, WI 54814, 715 779-3397

RIN: 1024–AB80

1669. BLUE RIDGE PARKWAY: FISHING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.34

Legal Deadline: None

Abstract: The proposed rulemaking would revise the Park's fishing regulations by eliminating most of 36 CFR 7.34(b) in favor of adopting applicable State fishing regulations regarding seasons and creel limits. Special closures and other restrictions for specific park waters will be accomplished through annual Superintendent's orders established pursuant to 36 CFR 1.5.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bambi Teague, Department of the Interior, National Park Service, 200 BB&T Building, Asheville, NC 28801, 704 259-0760

RIN: 1024–AC02

1670. GLACIER BAY: VESSEL MANAGEMENT PLAN/REGULATIONS

Legal Authority: 16 USC 3; 16 USC 3101; 16 USC 1361; 16 USC 1531

CFR Citation: 36 CFR 13.65

Legal Deadline: None

Abstract: Glacier Bay National Park is initiating a vessel management plan that will, during its formulation, review the existing vessel regulations for revisions.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marvin Jensen, Superintendent, Department of the Interior, National Park Service, Glacier Bay National Park, Gustavus, AK 99826, 907 697-2230

RIN: 1024–AC05

1671. CURATION OF FEDERALLY OWNED AND ADMINISTERED ARCHAEOLOGICAL COLLECTIONS

Legal Authority: 16 USC 470aa to 470mm

CFR Citation: 36 CFR 79.5; 36 CFR 79.12

Legal Deadline: None

Abstract: These proposed amendments to the existing regulation specify the necessary distribution of reports, records, and other documents related to archeological collections and the procedures for discarding certain kinds of materials.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Veletta Canouts, Archeologist, Department of the Interior, National Park Service, Archeological Assistance Division, P.O Box 37127, Washington, DC 20013-7127, 202 343-4101

RIN: 1024–AC08

1672. • PARTS 1 TO 5 REVISIONS

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 1; 36 CFR 2; 36 CFR 3; 36 CFR 4; 36 CFR 5

Legal Deadline: None

Abstract: A major revision of 36 CFR parts 1 to 5 was completed in 1983. This current review is to address any issues involving clarity, continued utility, changes in authorities, or other issues affecting these CFR parts. The purpose of this revision is to update existing regulations and not a major revision or change in regulatory structure as was accomplished in 1983.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Tony Sisto, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 208-4874

RIN: 1024–AC12

1673. • ROCK CLIMBING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Rock climbing has long been an accepted recreational activity in many park areas. An explosive growth of rock climbing in recent years, along with increased impacts to park resources because of this activity, suggests that regulations and guidelines need to be developed to protect park resources while providing for a quality climbing experience. Information to address this issue will be sought from interested parties in an Advance Notice of Proposed Rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tony Sisto, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 208-4874

RIN: 1024–AC13

DOI—NPS

Prerule Stage

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Proposed Rule Stage

1674. FORT JEFFERSON NATIONAL MONUMENT: FISHING; BOUNDARY ADJUSTMENTS

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.27

Legal Deadline: None

Abstract: This proposed regulation pertains to Fort Jefferson National Monument and will delete references to the taking of crayfish and conch. Information will be included to redefine the park boundary. These changes are necessary to reflect a closure of park waters to the removal of crayfish and conch and to update boundary changes mandated by congressional action in 1980 that enlarged the park area.

Timetable:

Action	Date	FR Cite
NPRM	08/05/86	51 FR 28110
NPRM Comment Period End	09/04/86	51 FR 28110
Reproposal	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tony Sisto, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 73127, Washington, DC 20013-7127, 202 208-4874

RIN: 1024–AA96

1675. MINERALS MANAGEMENT—NONFEDERAL OIL AND GAS

Significance: Agency Priority

Legal Authority: 16 USC 1 et seq; 16 USC 410g; 16 USC 4101; 16 USC 459d-3; 16 USC 459h-3; 16 USC 698c; 16 USC 698i; 16 USC 460-2(i); 16 USC 450kk; 16 USC 230a; PL 100-301, Sec 8; 31 USC 9701

CFR Citation: 36 CFR 9

Legal Deadline: Final, Statutory, January 29, 1989.
Section 8 of the Big Cypress National Preserve Addition Act directs the Secretary of the Interior to promulgate regulations governing nonfederal oil and gas development by 1/29/89.

Abstract: Several sections of 36 CFR part 9, subpart B contain ambiguous language which has caused confusion in interpreting the existing regulations. The NPS wants to make technical revisions to clarify requirements for both applicants and the Service. Also, the existing regulations exempt two classes of operators from compliance. Because of these exemptions, the regulations apply to only 30% of the existing operations resulting in avoidable impacts to park resources and visitor values from unregulated operations. Finally, the Service intends to propose revisions to the existing regulations to incorporate congressionally mandated requirements and timetables governing nonfederal oil and gas development in the Big Cypress National Preserve Addition. Examples of such revisions include: making the regulations applicable to all oil and gas operations within all units of the National Park System; updating terms for consistency with existing policies, practices, and laws; and removing the monetary ceiling and floor on bonds and security deposits so that bonds may be calculated and posted commensurate with reclamation costs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Einar Olsen, Environmental Protection Specialist, Department of the Interior, National Park Service, P.O. Box 37127, Room 3223, 1100 L St. NW., Washington, DC 20013-7127, 202 343-4968

RIN: 1024–AB39

1676. YELLOWSTONE NATIONAL PARK: COMMERCIAL TRAFFIC ON U.S. HIGHWAY 191 WITHIN YELLOWSTONE NATIONAL PARK

Significance: Agency Priority

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.13

Legal Deadline: None

Abstract: The proposed regulation will exempt the section of U.S. 191 within Yellowstone National Park from the prohibition on the use of National Park Service roads by commercial vehicles when such use has in no way a connection with operation of the park; delete the special regulations establishing the speed limit on U.S. 191 within Yellowstone National Park; and restrict the amount and type of hazardous materials which may be transported on U.S. 191 within Yellowstone National Park. The special regulation establishing the present fee schedule for commercial traffic within Yellowstone will be eliminated and the Superintendent provided the discretion to establish and adjust fees for such use on an annual basis.

These actions will clearly define the management and regulation of commercial traffic on U.S. 191 through Yellowstone and assure a certain measure of protection against hazardous waste spills.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Sacklin, Chief, Planning, Department of the Interior,

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National Park Service, Yellowstone National Park, P.O. Box 168, Yellowstone National Park, WY 82190, 307 344-7381

RIN: 1024–AB82

1677. NATIONAL CAPITAL REGION PARKS: SPECIAL EVENT RULES

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(q); 16 USC 462(k); DC Code 8-137; DC Code 40-721

CFR Citation: 36 CFR 7.96

Legal Deadline: None

Abstract: The National Park Service proposed rule and policy statement with request for comments relates to special events in the National Capital Region. A variety of special events, such as festivals and private rented events have occurred on park land for some time. These events have increased in number and size and have caused a strain on limited park resources and on the National Capital Region budget. The proposed rule would limit the number and size of festivals and private rented events, limit sales at such events, and require sponsors of the events to bear any unbudgeted costs of the National Park Service.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Stanton, Regional Director, National Capital Region, Department of the Interior, National Park Service, 1100 Ohio Drive SW., Washington, DC 20242, 202 619-7005

RIN: 1024–AB92

1678. NATIONAL PARK SERVICE SYMBOLS; UNITED STATES PARK POLICE INSIGNIA

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 11

Legal Deadline: None

Abstract: The National Park Service proposed rule and request for comments relates to the United States Park Police insignia. It will recognize an official United States Park Police insignia, provide for its future protection and prevent the unauthorized use of the insignia.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Tony Sisto, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 208-4874

RIN: 1024–AB94

1679. SOLID WASTE DISPOSAL SITES IN UNITS OF THE NATIONAL PARK SYSTEM

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 6

Legal Deadline: None

Abstract: The National Park Service proposes to severely restrict the creation of any new solid waste management sites within the boundaries of any National Park unit. Sites in existence as of September 1, 1984, will be regulated to minimize the impacts upon the environment and the visitor experience.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: John Donohue, Program Specialist, Environmental Compliance Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 208-4274

RIN: 1024–AB95

1680. RIGHTS-OF-WAY

Legal Authority: 16 USC 3; 16 USC 5; 16 USC 79

CFR Citation: 36 CFR 14

Legal Deadline: None

Abstract: The regulations for rights-of-way found at 36 CFR part 14, subparts A to H were promulgated as interim regulations in 1980. The regulations no longer meet the needs of the Service or of rights-of-way applicants. Final regulations need to be developed through a revision of part 14.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Tony Sisto, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240, 202 208-4874

RIN: 1024–AC01

1681. ALASKA: SUBSISTENCE USES

Legal Authority: 16 USC 3; 16 USC 3101

CFR Citation: 36 CFR 13

Legal Deadline: None

Abstract: The proposed rulemaking will amend 36 CFR part 13, subpart B - "Subsistence," to establish an alternative process for deletion of a resident zone community or area based upon an approved recommendation of a Subsistence Resource Commission (SRC) established pursuant to 16 USC 3118.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tony Sisto, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240, 202 208-4874

RIN: 1024–AC03

1682. PENALTY PROVISIONS

Legal Authority: 16 USC 1; 16 USC 3; 18 USC 3571

CFR Citation: 36 CFR 1.3

Legal Deadline: None

Abstract: Existing fine penalties at 36 CFR 1.3 were outdated by the Criminal Fine Improvement Act of 1987 (Pub. L. 100-185). These proposed regulations will establish penalty provisions in accordance with the Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tony Sisto, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240, 202 208-4874

RIN: 1024–AC06

1683. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT IMPLEMENTATION

Legal Authority: 25 USC 3001 to 3013

CFR Citation: 43 CFR 10

Legal Deadline: None

Abstract: Regulations will provide Federal agencies, museums that receive Federal funds, and Indian tribes and Native Hawaiian organizations with directions on procedures and actions needed to comply with the Native American Graves Protection and Repatriation Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Francis P. McManamon, Departmental Consulting Archeologist, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-4101

RIN: 1024–AC07

DEPARTMENT OF THE INTERIOR (DOI) — Final Rule Stage
National Park Service (NPS)

1684. PROTECTION OF ARCHAEOLOGICAL RESOURCES; UNIFORM REGULATIONS

Legal Authority: PL 100-555; PL 100-588

CFR Citation: 43 CFR 7; 36 CFR 296; 18 CFR 1312; 32 CFR 229

Legal Deadline: None

Abstract: This proposed rule would amend the description of prohibited acts in the final uniform regulations to include attempts to excavate, remove, damage, or otherwise alter or deface archeological resources, based on amendments to the Archaeological Resources Protection Act made in 1988.

Timetable:

Action	Date	FR Cite
NPRM	01/29/90	55 FR 2848
NPRM Comment Period End	02/28/90	55 FR 2848
Additional Proposed Amendments	09/11/91	56 FR 46259
Final Action	04/15/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard Waldbauer, Archeologist, Department of the Interior, National Park Service, Archeological Assistance Division, P.O. Box 37127, Washington, DC 20013-7127, 202 343-4113

RIN: 1024–AA51

1685. EVERGLADES NATIONAL PARK: MINING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.45(a)

Legal Deadline: None

Abstract: This revision applies to Everglades National Park in Florida. Section 7.45(a) will be revised to eliminate obsolete regulations, remove expired material from the Code of Federal Regulations pertaining to commercial fishing, provide for consistency with State fishing rules, and ensure continued protection of park resources.

Timetable:

Action	Date	FR Cite
NPRM	08/05/86	51 FR 28108
NPRM Comment Period End	09/04/86	51 FR 28108
Reproposal	12/21/92	57 FR 60496
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tony Sisto, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 208-4874

RIN: 1024–AB10

1686. MANAGEMENT OF MINERAL DEVELOPMENT ASSOCIATED WITH MINING CLAIMS

Significance: Agency Priority

Legal Authority: 16 USC 1901 et seq.; Mining in the Parks Act of 1976; 16 USC 1 et seq, NPS Organic Act; 30 USC 21 et seq, Mining Law of 1872

CFR Citation: 36 CFR 9

Legal Deadline: None

Abstract: The existing regulations at 36 CFR part 9, subpart A, promulgated in January of 1977, contain a provision regarding the use of water in connection with mining claims within National Park System units that creates a "catch 22" for miners seeking to use water in connection with their claims. In order to use water in a park, a miner must have a perfected water right. However, to obtain a perfected water right, a miner must use water. Herein lies the "catch 22." The National Park Service would like to rectify this dilemma through a rule change that would eliminate the perfected water right language while at the same time preserve the Service's ability to protect water quality and quantity.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19411
NPRM Comment Period End	07/05/89	54 FR 19411
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol McCoy, Chief, Policy and Regulations Section, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013, 202 343-4962

RIN: 1024–AB74

1687. NATIONAL NATURAL LANDMARKS PROGRAM

Significance: Agency Priority

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DOI—NPS

Final Rule Stage

Legal Authority: 16 USC 461 et seq

CFR Citation: 36 CFR 62

Legal Deadline: None

Abstract: This proposed rulemaking will amend the current regulations for the National Natural Landmarks Program. Proposed changes include strengthening and clarifying provisions for landowner notification, adding requirements for voluntary landowner consent for natural landmark designation, and providing for review of natural landmark nominations by the National Park System Advisory Board.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/90	55 FR 43384
NPRM	11/21/91	56 FR 58790
NPRM Comment Period End	02/19/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael A. Ruggiero, Chief, Wildlife and Vegetation Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, **202 343-8100**

RIN: 1024–AB96

1688. GLACIER BAY NATIONAL PARK, ALASKA FISHING REGULATIONS

Significance: Agency Priority

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 3101 et seq

CFR Citation: 36 CFR 13.65

Legal Deadline: None

Abstract: The proposed regulations will allow commercial fishing in Glacier Bay National Park as an exemption from currently existing servicewide regulations until December 31, 1997. Non-commercial consumptive fishing methods are designated, and subsistence uses are prohibited pursuant to statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/05/91	56 FR 37262
NPRM Comment Period End	11/03/91	56 FR 46589
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tony Sisto, Staff Park Ranger, Department of the Interior, National Park Service, Ranger Activities, P.O. Box 37127, Washington, DC 20013-7127, **202 208-4874**

RIN: 1024–AB99

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Completed Actions

1689. GOLDEN GATE NATIONAL RECREATION AREA: OFF ROAD BICYCLE USE AREAS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.97

Legal Deadline: None

Abstract: This rulemaking will designate certain off-road routes within Golden Gate National Recreation Area as open to bicycle use, and to regulate their safe use in these areas. Areas to be designated are based on a "Trail Use Designation Plan" prepared by the Park with public input, and include sections of former ranch or military roads, or maintained fire roads.

Timetable:

Action	Date	FR Cite
NPRM	01/29/92	57 FR 3392
NPRM Comment Period End	03/30/92	
Final Action	12/11/92	57 FR 58711
Final Action Effective	01/11/93	57 FR 58711

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gil Soper, Chief Ranger, Department of the Interior, National Park Service, Golden Gate National Recreation Area, Building 201 Fort Mason, San Francisco, CA 94123, **415 556-4283**

RIN: 1024–AC04

BILLING CODE 4310-70-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Prerule Stage

1690. • OSAGE ROLL, CERTIFICATE OF COMPETENCY

Legal Authority: 25 USC 331

CFR Citation: 25 CFR 154

Legal Deadline: None

Abstract: The Bureau is updating these regulations to reflect current policy. The proposed changes will bring these provisions into line with proposed revisions to 25 CFR 117 - Deposit and Expenditure of Individual Funds of Members of the Osage Tribe of Indians Who Do Not Have Certificates of Competency.

Timetable:

Action	Date	FR Cite
Begin Review	04/00/93	
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	
Final Action	04/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gordon Jackson, Superintendent, Osage Indian Agency, Department of the Interior, Bureau of Indian Affairs, P.O. Box 1539, Pawhuska, OK 74056, **918 287-1032**

RIN: 1076–AC85

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Proposed Rule Stage

1691. ADMINISTRATION OF THE HIGHER EDUCATION PROGRAM

Significance: Agency Priority

Legal Authority: 25 USC 13; PL 67-85

CFR Citation: 25 CFR 40

Legal Deadline: None

Abstract: This rule will revise established policies and provide uniform procedures to govern the higher education program administered under the authority of 25 USC 13. This rule applies only to educational grants; Bureau educational loans are governed by 25 CFR part 91. This part has been redesignated from 25 CFR part 32.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6482
NPRM Comment Period End	05/04/87	52 FR 11503
Public Consultation	01/23/91	
Reproposal	04/00/93	
Comment Period End	06/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Reginald Rodriguez, Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, MS-3530 MIB, 1849 C Street NW., Washington, DC 20240, **202 208-4871**

RIN: 1076–AA10

1692. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Significance: Agency Priority

Legal Authority: 25 USC 1815; 25 USC 640

CFR Citation: 25 CFR 41

Legal Deadline: None

Abstract: The Secretary proposes to revise the current regulations which are used to govern the administration of grants to the Tribally Controlled Community Colleges. The revision is mandatory since the current regulations do not apply to the new requirements which were made under the 1990 Amendments Act. The revision will govern the new requirements which include: (1) Planning Grants; (2) Forward Funding; (3) Facility Construction; (4) Endowments; and (5) New Method of Counting Students.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Reginald Rodriguez, Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, **202 208-4871**

RIN: 1076–AA11

1693. ADMINISTRATION OF THE INDIAN ADULT EDUCATION PROGRAMS

Significance: Agency Priority

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 46

Legal Deadline: None

Abstract: These proposed regulations are designed to provide standardized administrative procedures for administering and operating Indian adult education programs.

Timetable:

Action	Date	FR Cite
NPRM	12/30/87	12 FR 49172
NPRM Comment Period End	02/29/88	52 FR 49172
Public consultation	01/23/91	
Reproposal	04/00/93	
Comment Period End	06/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Reginald Rodriguez, Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 1849 C Street NW., Washington, DC 20240, **202 208-4871**

RIN: 1076–AA15

1694. LEASING AND PERMITTING

Significance: Agency Priority

Legal Authority: 25 USC 395; 25 USC 402; 25 USC 403; 25 USC 466

CFR Citation: 25 CFR 162

Legal Deadline: None

Abstract: The Bureau proposes to reorganize part 162 into subparts to facilitate the use of the regulations for easier reference and to incorporate requirements for grazing permits within the rule for Leasing and Permitting. The inclusion of the requirements for grazing permits in this part will result in the removal of 25 CFR part 166, General Grazing Regulations, from the 25 CFR.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hank Kipp, Division of Water and Land Resources, Billings Area Office, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, **202 208-4004**

RIN: 1076–AA29

1695. LAND ACQUISITIONS FOR TRIBES AND INDIVIDUAL INDIANS

Legal Authority: 25 USC 465; 25 USC 2202

CFR Citation: 25 CFR 151

Legal Deadline: None

Abstract: As a result of the Indian Land Consolidation Act, PL 97-495, many of the current provisions within 25 CFR 151 require updating. These changes will have a major impact on the ability of tribes and individual Indians to manage their real estate more effectively and efficiently. In addition to those provisions that are affected by the Act, other provisions within existing regulations are in need of updating as well. The proposed changes will enhance the review and processing of land acquisition transactions for tribes and individual Indians.

Timetable:

Action	Date	FR Cite
NPRM	04/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alice Harwood, Realty Specialist, Department of the Interior, Bureau of Indian Affairs,

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Division of Real Estate Services, 1849 C Street NW., Washington, DC 20240, 202 208-3604

RIN: 1076–AA81

1696. OIL AND GAS AND GEOTHERMAL SOLID MINERAL AGREEMENTS LEASING OF TRIBAL LANDS FOR MINERAL DEVELOPMENT; LEASING OF ALLOTTED LANDS FOR MINERAL DEVELOPMENT

Significance: Agency Priority

Legal Authority: 25 USC 10; 25 USC 289; 25 USC 396a to 396; 25 USC 415; 25 USC 476; 25 USC 290; 25 USC 396

CFR Citation: 25 CFR 225; 25 CFR 211; 25 CFR 212

Legal Deadline: None

Abstract: The regulations in 25 CFR part 211 govern contracts for the prospecting and mining of Indian-owned minerals, other than oil and gas. Revisions will be made which would combine rules for the review and approval of mineral development contracts on both tribal and allotted lands into one part. This part has been redesignated from 25 CFR part 171.

As a result of the public comments on the previously proposed rules for 25 CFR parts 211 and 225, it has been determined that 25 CFR part 212 will not be removed. Public response to the proposed rule contained reasonable and compelling arguments for retaining 25 CFR part 212 and for restructuring the format of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/21/87	52 FR 39332
Comment period end	12/21/87	52 FR 39332
Reproposed	11/21/91	56 FR 58734
Comment period end	01/19/92	
NPRM	06/00/93	
Final Action	02/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: April 1983.

Agency Contact: Kim Snyder, Div. of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, 202 208-3607

RIN: 1076–AA82

1697. ROADS OF THE BUREAU OF INDIAN AFFAIRS

Significance: Agency Priority

Legal Authority: 25 USC 47; 25 USC 318a; 23 USC 202; 23 USC 204

CFR Citation: 25 CFR 170

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing to revise 25 CFR part 170 to reflect the current Bureau of Indian Affairs (BIA) and Federal Highway Administration (FHWA) policies for the road systems on Indian reservations. This change is proposed to assure that funds are apportioned from the Highway Trust Fund (HTF) for construction projects on Indian reservations roads in accordance with the relative needs of the reservation, and to implement tribal self-determination.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard B. Geiger, Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, 202 208-4359

RIN: 1076–AB05

1698. LEASING OF OSAGE RESERVATION LANDS FOR OIL/GAS MINING

Legal Authority: PL 95-496, sec 1 to 2; PL 95-321; PL 95-919

CFR Citation: 25 CFR 226

Legal Deadline: None

Abstract: This proposed rule would amend 25 CFR part 226 to allow certain producers to receive bonus or premium pay for the crude oil produced. The regulations strengthen the management of the Osage mineral estates and relieve the Osage oil lessees from basing the payment of royalties to the Osage Tribe on the offered or posted price of a major purchaser in Kansas-Oklahoma area.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Kim Snyder, Liaison Officer, Energy and Minerals, Office of Trust and Economic Development, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Mail Stop 4544-MIB, Washington, DC 20240, 202 208-3607

RIN: 1076–AC09

1699. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Significance: Agency Priority

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: The Bureau is amending existing Financial Assistance and Social Services program regulations. The proposed regulations define the extent of the programs, establish eligibility requirements and set the parameters for assistance payments. General Assistance, Child Welfare Assistance and Services to Families and Communities will be revised. Adult Care Services, Tribal Work Experience Program and Miscellaneous Assistance Programs will be added to the regulations in more detail.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Hickman, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, 202 208-2721

RIN: 1076–AC13

1700. CERTIFICATES OF DEGREE OF INDIAN BLOOD

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 70

Legal Deadline: None

Abstract: This rulemaking action is to add a new part 70 to govern the issuance of Certificates of Degree of Indian Blood (CDIB's). There has been a sharp increase in the number of requests for CDIB's over the past few years. More and more programs are requiring individuals to submit CDIB's to document possession of Indian blood. This rulemaking action is intended to clarify the circumstances under which the Bureau will issue CDIB's; the documents and records on which the Bureau will base the issuance of CDIB's; and the procedures that individuals will need to follow, including any documentation requirements, to obtain CDIB's.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	
Final Action	03/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lathel Duffield, Chief, Branch of Tribal Enrollment Services, Department of the Interior, Bureau of Indian Affairs, MS-2611 MIB, 1849 C Street NW., Washington, DC 20240, 202 208-3702

RIN: 1076–AC19

1701. REVISED PROCEDURES FOR IMPLEMENTATION OF THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT AMENDMENTS OF 1988

Significance: Regulatory Program

Legal Authority: 25 USC 450; 5 USC 5911; 43 USC 1396

CFR Citation: 25 CFR 900; 25 CFR 272; 25 CFR 274; 25 CFR 275; 25 CFR 276; 25 CFR 277; 25 CFR 278

Legal Deadline: NPRM, Statutory, August 5, 1989. Final, Statutory, October 5, 1989.

Abstract: The primary purpose of the amendments to 93 USC 638 is to permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services while maintaining the Federal Government's unique and continuing relationship with and responsibility to individual Indian tribes and to the Indian people as a whole. In addition to extensive consultation with the tribes and Native American groups, the Bureau of Indian Affairs is examining all of its planning administrative procedures from the perspective of maximizing tribal participation. The changes are one of process rather than increases or decreases in budget or program funding.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	10/00/93	
Final Action	10/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This Rule combined the current 25 CFR parts 271,272,274,275,276, 277 and 278.

Agency Contact: Denise Homer, Chief, Indian Self Determination, Department of the Interior, Bureau of Indian Affairs, Room 4627-MIB, 1849 C Street NW., Washington, DC 20240, 202 208-5727

RIN: 1076–AC20

1702. INDIAN ELECTRIC POWER UTILITIES

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 175

Legal Deadline: None

Abstract: This proposed revision will add a new section "Hardship Cases" to the current regulation and will make necessary changes to incorporate a delegation of authority under Secretary's Order 3150. There are no other alternatives to consider and these changes will not create additional cost to the public or the Federal Government. Benefits will be to the consumer who is considered under hardship conditions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mort Dreamer, General Supervisory Engineer, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., MS 4550 MIB, Washington, DC 20240, 202 208-5696

RIN: 1076–AC24

1703. LEASING OF OSAGE RESERVATION LANDS FOR MINING FOR MINERALS OTHER THAN OIL AND GAS

Legal Authority: PL 59-321

CFR Citation: 25 CFR 214

Legal Deadline: None

Abstract: The BIA is proposing to revise the regulations at 25 CFR 214 governing management of non-oil and gas minerals on Osage Reservation Lands in Oklahoma. The proposed revisions eliminate specific royalties for minerals not found within the Osage Mineral estate and give authority to the Osage Tribal Council, with the approval of the Superintendent of the Osage Agency, to set applicable royalty rates. This revision also replaces outmoded methods of exchange with modern methods, and correctly designates those officials responsible for the management of non-oil and gas minerals within the Osage Mineral estate. The proposed revisions are intended to enhance the management ability of the Department over the production of these minerals, and to eliminate various inaccuracies in the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	
Final Action	04/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gordon Jackson, Superintendent, Department of the Interior, Bureau of Indian Affairs, Osage

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Agency, Pawhuska, OK 74056, 918 287-2481

RIN: 1076–AC28

1704. SAFETY AND HEALTH INSPECTION PROGRAM

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13; 5 USC 7902; 7 USC 135 et seq; 21 USC 301 et seq; 23 USC 208, 33 USC 467 et seq

CFR Citation: 25 CFR 50

Legal Deadline: None

Abstract: This proposed rule establishes a new part containing requirements for determining whether plant conditions at Bureau-funded schools are an immediate hazard to health and safety. The Bureau is required to develop rules for a safety and health inspection program by PL 100-297, which states that schools may be closed or consolidated, or programs substantially curtailed, for plant conditions constituting an immediate hazard to health or safety only if a Bureau health and safety officer determines that such conditions exist. This rule is administrative in nature and outlines the responsibilities of the Division of Safety Management for conducting safety and health inspections.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Jaynes, Department of the Interior, Bureau of Indian Affairs, Division of Safety Management, P.O. Box 2186, Albuquerque, NM 87103, 505 766-2863

RIN: 1076–AC31

1705. MINIMUM ACADEMIC STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN AND NATIONAL CRITERIA FOR DORMITORY SITUATIONS

Legal Authority: 25 USC 2001

CFR Citation: 25 CFR 36

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing to revise the regulations in 25 CFR 36 which govern the provisions of academic and dormitory programs for bureau-funded schools. The proposed revisions will satisfy the requirements of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 (PL 100-297) which require the establishment of standards for immunization of students, an alcohol and substance abuse curriculum and a process for substituting alternative dormitory standards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Martin, Chief, Planning, Oversight and Evaluation Staff, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, 202 219-1131

RIN: 1076–AC32

1706. INDIAN SCHOOL EQUALIZATION PROGRAM

Significance: Agency Priority

Legal Authority: 25 USC 2008; 25 USC 2010

CFR Citation: 25 CFR 39

Legal Deadline: None

Abstract: The Bureau is revising 25 CFR 39 to satisfy the requirements of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 (PL 100-297), which requires amendments to the Indian School Equalization Program formula weight factors affecting students enrolled in the seventh and eighth grades, small schools, school board expenses, and gifted and talented students.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Martin, Chief, Planning, Oversight and Evaluation Staff, Department of the Interior, Bureau of Indian Affairs, MS-3530, MIB, 1849 C Street NW., Washington, DC 20240, 202 219-1131

RIN: 1076–AC33

1707. GENERAL FOREST REGULATIONS

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 301; 25 USC 406; 25 USC 407; 25 USC 413; 25 USC 466

CFR Citation: 25 CFR 163

Legal Deadline: Final, Statutory, May 28, 1992.

Abstract: The Bureau of Indian Affairs is revising 25 CFR part 163 to reflect those changes necessary to implement the National Indian Forest Resources Management Act, PL 101-630. This action includes revisions and amendments to existing regulations as well as the addition and deletion of sections affected by the Act. The regulations will provide uniform guidance for forest management and administration and implement Indian and Alaskan Native forestry education assistance programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	12/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: In conjunction with this revision of Part 163, Parts 164 and 165 will be deleted.

Agency Contact: Jim Stires, Forester, Branch of Forestry, Department of the Interior, Bureau of Indian Affairs, Billings Area Office, 1316 N. 26th Street, Billings, MT 59101, 406 657-6358

RIN: 1076–AC44

1708. DEPOSIT AND EXPENDITURE OF INDIVIDUAL FUNDS OF MEMBERS OF THE OSAGE TRIBE OF INDIANS WHO DO NOT HAVE CERTIFICATES OF COMPETENCY

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 117

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is publishing a proposed rule to amend the regulations governing the deposit and expenditure of individual funds belonging to persons of Osage blood who do not possess a certificate of competency. The regulations are being amended to correspond to current administrative and economic conditions. The promulgation of these amendments will improve the management of the restricted funds of such persons and estates of such deceased persons.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gordon Jackson, Superintendent, Osage Agency, Department of the Interior, Bureau of Indian Affairs, Grandview Agency, Tulsa, OK 74056, 918 287-2495

RIN: 1076–AC45

1709. FACILITIES CONSTRUCTION PROGRAM

Significance: Agency Priority

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 13; 25 USC 413; 25 USC 9; 25 USC 295; 25 USC 2005c; 29 USC 794

CFR Citation: 25 CFR 294

Legal Deadline: None

Abstract: The purpose of these regulations is to formalize procedures and the approval process for the acquisition of sites, construction, or renovation (including all necessary equipment) for schools for Indian children under funds authorized and appropriated under Federal statutes for new school construction application evaluations and priority rankings. These appropriations include, but are not limited to, the following: facility structures that require new addition to an existing structure, new school facilities, dormitories, gymnasiums, cafeterias, libraries, and multi-purpose rooms. Because these are procedural regulations, they do not entail any additional costs; the benefits include a more effective program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	07/00/93	
Final Action	11/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: A new Part 294 will be published in a new subchapter P in 25 CFR chapter I, "Facilities, Construction, Operation and Maintenance."

Agency Contact: Kathleen L. Slover, Program Liaison Specialist, Office of Construction Management, Department of the Interior, Bureau of Indian Affairs, Room 2417 MIB, 1849 C Street NW., Washington, DC 20240, 202 208-3405

RIN: 1076–AC49

1710. OPERATION AND MAINTENANCE OF IRRIGATION PROJECTS

Significance: Agency Priority

Legal Authority: 25 USC 145; 25 USC 383; 25 USC 385; 25 USC 338; 25 USC 43

CFR Citation: 25 CFR 171

Legal Deadline: None

Abstract: The purpose of these revisions is to provide for consistent administration, to establish policies for updating practices and procedures of operation and maintenance of the irrigation system and to provide uniform accounting procedures.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	08/00/93	
Final Action	02/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mort Dreamer, Supervisory General Engineer, Department of the Interior, Bureau of Indian Affairs, Room 4559, MIB, 1849 C Street NW., Washington, DC 20240, 202 208-5696

RIN: 1076–AC53

1711. OPERATION OF ALASKA RESUPPLY PROGRAM

Legal Authority: 5 USC 301; 25 USC 13; 48 USC 50

CFR Citation: 25 CFR 142

Legal Deadline: None

Abstract: The proposed revisions will accommodate the new delivery methods which are a result of a test period utilizing the Air Force's contracts with commercial enterprises. This system has replaced the use of the vessel known as the USMS NORTH STAR III. Additionally, the proposed revisions will serve to clarify certain administrative functions resulting from recent management audits as well as other changing conditions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Hillman, Acting Director Seattle Support Center, Department of the Interior, Bureau of Indian Affairs, P.O. Box 80947, Seattle, WA 98108, 206 764-3328

RIN: 1076–AC54

1712. LAW ENFORCEMENT FACILITIES REGULATIONS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 13; 25 USC 413

CFR Citation: 25 CFR 296

Legal Deadline: None

Abstract: The Bureau of Indian Affairs (BIA) is proposing to add a new part 296 to formalize the procedures applicable to the priority ranking process for Adult and Juvenile Detention Centers projects federally owned, leased, contracted or granted. The new part 296 will be added under a new subchapter P of title 25 of the Code of Federal Regulations entitled

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Facilities Management Program. The priority ranking process will result in the establishment of a priority listing of Adult and Juvenile Detention Center projects for possible funding as authorized and appropriated by Congress. Because these are procedural regulations, they do not entail any additional cost; the benefits include a more effective program.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	
Final Action	05/00/94	
Final Action Effective	10/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: A new part 294 will be placed in a new subchapter P of 25 CFR chapter I, "Facilities Construction, Operations, and Maintenance."

Agency Contact: Kathleen L. Slovor, Program Liaison Specialist, Office of Construction Management, Department of the Interior, Bureau of Indian Affairs, Room 2417 MIB, 1849 C Street NW., Washington, DC 20240, **202 208-3405**

RIN: 1076–AC60

1713. INDIVIDUAL INDIAN MONIES

Significance: Agency Priority

Legal Authority: 5 USC 301; 25 USC 29; 43 USC 1457

CFR Citation: 25 CFR 115

Legal Deadline: None

Abstract: This regulation will modify existing regulations governing the Individual Indian Monies Trust (IIM) Funds and establish guidelines on accepting new IIM accounts. The Federal Government has sole responsibility for the protection of Indian trust funds which have been either collected from receipts from Indian trust land or through judgment awards to tribes and/or individuals.

The Bureau of Indian Affairs has established the Office of Trust Funds Management to oversee Indian Trust Funds operations. The modified and new regulations will result in the added protection, and more efficient handling of the Indian trust funds.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Parris, Director, Office of Trust Funds Management, Department of the Interior, Bureau of Indian Affairs, 505 Marquette NW, Suite 700, Albuquerque, NM 87102, **505 766-3230**

RIN: 1076–AC65

1714. ADDING NEW CRIMINAL OFFENSES AND CIVIL PROCEDURES FOR THE COURTS OF INDIAN OFFENSES

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: The Bureau of Indian Affairs has recently revised its regulations governing Courts of Indian Offenses to provide those courts with an updated code of laws and to clarify the jurisdiction of those courts and their relationships to tribal governments and the Department of the Interior.

New provisions concern drug abuse, abuse of psychotoxic substances, child abuse prostitution, domestic violence and increased maximum penalties for various offenses in the Code. Other added provisions include a change in the method of listing Indian reservations to which the Code applies, together with a repeal of the supersession provision by which tribal ordinances, inconsistent with the regulations, may override the Code's text. A clarifying provision on jurisdictional limitations is added, specifically excluding from jurisdiction under this part Federal employees acting within the scope of their employment.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty Rushing, Chief, Branch of Judicial Services, Department of the Interior, Bureau of Indian Affairs, Division of Tribal Government Services, 1849 C Street, NW MS-2612 MIB, Washington, DC 20240, **202 208-4400**

RIN: 1076–AC66

1715. SALE OF FOREST PRODUCTS, RED LAKE INDIAN RESERVATION, MINNESOTA

Significance: Agency Priority

Legal Authority: 25 USC 9; 25 USC 2

CFR Citation: 25 CFR 165

Legal Deadline: None

Abstract: The purpose of this action is to delete part 165 from 25 CFR. Since the Red Lake Indian Mills no longer exist and since section 163.13, "Indian tribal forest enterprise operations," of the 1993 revision of the 25 CFR General Forest Regulations adequately prescribes policy for the sale of forest products produced by other Indian forest product enterprises on the Red Lake Indian Reservation, 25 CFR part 165 is no longer needed.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This Part is being deleted due to revisions made in Part 163.

Agency Contact: Jim Stires, Forester, Office of Trust and Economic Development, Department of the Interior, Bureau of Indian Affairs, 1316 N. 26th Street, Billings, MT 59101, **406 657-6358**

RIN: 1076–AC75

1716. SALE OF LUMBER AND OTHER FOREST PRODUCTS PRODUCED BY INDIAN ENTERPRISES FROM THE FORESTS ON INDIAN RESERVATIONS

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 164

Legal Deadline: None

Abstract: The purpose of this action is to delete part 164 from 25 CFR. Since section 163.13, "Indian tribal forest enterprise operations," of the 1993 revision of the 25 CFR General Forest Regulations adequately prescribed policy for the sale of lumber and other forest products produced by Indian enterprises from forests on Indian reservations, 25 CFR part 164 is no longer needed.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This Part is being deleted due to revisions made to Part 163.

Agency Contact: Jim Stires, Forester, Department of the Interior, Bureau of Indian Affairs, 1316 N. 26th Street, Billings, MT 59101, **406 657-6358**

RIN: 1076–AC77

1717. LISTING OF COURTS OF INDIAN OFFENSES: AMENDMENT

Legal Authority: 5 USC 301; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: On May 14, 1991, the Ute Mountain Tribal Council voted to retrocede the operation of the law enforcement services and tribal court programs citing ongoing problems which have hindered the fair and impartial administration of justice. This decision has created a jurisdictional void since neither State or Federal authorities have jurisdiction over minor offenses committed by Indians. To minimize the potential danger to the residents of the Ute Mountain Ute Reservation, the BIA is undertaking this rulemaking to authorize the establishment of Courts of Indian Offenses to fill this apparent jurisdictional void.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roland Johnson, Assistant Area Director (Programs), Albuquerque Area Office, Department of the Interior, Bureau of Indian Affairs, P.O. Box 26567, Albuquerque, NM 87125-6567, **505 768-3157**

RIN: 1076–AC78

1718. ADULT AND JUVENILE DETENTION, HOLDING AND COMMUNITY RESIDENTIAL STANDARDS FOR FACILITIES AND PROGRAMS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 2417; 25 USC 2453; 25 USC 2802

CFR Citation: 25 CFR 10

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing a new Part 10 in 25 CFR to establish standards for governing Indian adult and juvenile detention, holding and community residential facilities and programs. The current detention regulations in 25 CFR are over 20 years old and extremely limited. The proposed changes will cover all important issues governing detention and residential services. The standards will increase the bureau's capability to provide Indian tribes the direction to administer constitutionally sound detention and residential programs. It will also provide a preventative measure to potential litigation.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Warren D. LeBeau, Detention Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, **202 208-5786**

RIN: 1076–AC80

1719. NAVAJO PARTITIONED LANDS GRAZING REGULATIONS

Legal Authority: 25 USC 640(d)

CFR Citation: 25 CFR 161

Legal Deadline: None

Abstract: These regulations are necessary for implementation of the livestock and grazing control provisions of 25 USC 640(d). In 1982 the Federal District Court for Arizona abolished 25 CFR 153, Grazing Regulation for the Joint Use Administrative Area and ordered the Secretary to promulgate new regulations for the control of grazing and livestock for the former Joint Use Administrative Area. Due to a lack of tribal concurrence, regulations were not promulgated for lands partitioned to the Navajo Tribe. Navajo tribal concurrence has been recently obtained; therefore, the BIA needs to move forward with publication of these regulations. Any cost associated with the implementation of these regulations will be assumed within the BIA annual budget. Cost associated with compliance of the provisions of these regulations will be borne by the Navajo Tribe or its members. There is no associated cost to the general public.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ray Smith, Chief, Branch of Agriculture, Division of Water and Land, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, **202 208-6807**

RIN: 1076–AC81

1720. • HOUSING IMPROVEMENT PROGRAM

Significance: Agency Priority

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 256

Legal Deadline: None

Abstract: Language contained in the current regulations is in some cases vegue and confusing, resulting in assistance being provided to ineligible applicants. Abuses have been identified

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and the program has been declared a material weakness by the Department. In addition, an error in a selection criteria point must be corrected. The changes will ensure that Federal funds are used to provide decent, safe, and sanitary housing.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	
Final Action	03/00/94	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Ronald Thurman, Housing Program Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, 202 208-5427

RIN: 1076–AC82

1721. • MUTUAL FUND INVESTMENT OF TRUST FUNDS

Significance: Agency Priority

Legal Authority: PL 101-644; 25 USC 151

CFR Citation: 25 CFR 144

Legal Deadline: None

Abstract: This regulation will address the general guidelines related to the investment of tribal and individual Indian funds exceeding $50,000. These funds are in a mutual account comprised entirely of public debt obligations of the United States, or other obligations which are unconditionally guaranteed by the United States as to both principal and interest.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	
Final Action	04/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jim Parris, Director, Office of Trust Funds Management, Department of the Interior, Bureau of Indian Affairs, 505 Marquette Street NW., Suite 700, Albuquerque, NM 87102, 505 766-3230

RIN: 1076–AC83

1722. • EMPLOYMENT ASSISTANCE FOR ADULT INDIANS

Legal Authority: 25 USC 13, The Snyder Act; 25 USC 309

CFR Citation: 25 CFR 26; 25 CFR 27

Legal Deadline: None

Abstract: This rule will establish basic procedures that will provide equitable delivery of adult vocational training and employment assistance services and will meet the requirements set forth in the Inspector General's Audit Report No. W-IA-BIA-38-84.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	
Final Action	05/00/94	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: This action will combine parts 26 and 27 of 25 CFR into a new part 28. Parts 26 and 27 will be deleted.

Agency Contact: Deano Poleahla, Acting Chief, Division of Job Placement, Office of Economic Development, Department of the Interior, Bureau of Indian Affairs, Room 309 - SIB, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-2570

RIN: 1076–AC84

1723. • INDIAN MONIES, PROCEEDS OF LABOR (IMPL)

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 155

CFR Citation: 25 CFR 113

Legal Deadline: None

Abstract: The Bureau is proposing to rescind part 113 of 25 CFR in accordance with Pub. L. 97-257, which provided that no funds shall be deposited in such accounts after September 30, 1982. The accounts have been removed from the accounting system and are no longer in use.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	
Final Action	05/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jim R. Parris, Director, Office of Trust Funds Management, Department of the Interior, Bureau of Indian Affairs, 505 Marquette St. NW., Suite 700, Albuquerque, NM 87102, 505 766-3230

RIN: 1076–AC86

1724. • BUSINESS PRACTICES ON THE NAVAJO, HOPI, AND ZUNI RESERVATIONS

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 141

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing to revise language that provides that license fees be deposited into "Indian Monies, Proceeds of Labor (IMPL)" accounts. The Bureau is no longer authorized to obligate or expend IMPL funds in accordance with Pub. L. 97-257, which rescinded use of IMPL accounts. Language pertaining to the IMPL accounts will be deleted and corrected to read "Special Deposit Account."

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	
Final Action	05/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jim R. Parris, Director, Office of Trust Funds Management, Department of the Interior, Bureau of Indian Affairs, 505 Marquette St. NW., Suite 700, Albuquerque, NM 87102, 505 766-3230

RIN: 1076–AC87

1725. • TRIBAL ORGANIZATION UNDER A FEDERAL STATUTE

Legal Authority: 5 USC 301; 25 USC 473; 25 USC 476; 25 USC 477; 25 USC 503; PL 100-581

CFR Citation: 25 CFR 81

Legal Deadline: None

Abstract: These regulations establish uniform procedures for conducting Secretarial elections for voting on proposed constitutions when tribes wish to reorganize, adopt constitutional amendments, ratify and amend charters, or revoke existing constitutions. This proposed rule will revise the regulations to bring them into compliance with PL 100-581.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	
Final Action	03/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joyce Grisham, Division of Tribal Government Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, 202 208-7445

RIN: 1076–AC88

1726. • PETITIONING AND OTHER PROCEDURES FOR TRIBES REORGANIZED UNDER FEDERAL STATUTE AND OTHER ORGANIZED TRIBES

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 473; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 82

Legal Deadline: None

Abstract: This regulation will provide uniformity and order in the formulation and submission of petitions to request the Secretary to call elections to amend tribal constitutions, issue charters, and other actions where constitutions provide for petitioning the Secretary or Commissioner. This rule will amend the regulations to allow the spokesman for the petitioners to make technical changes to petitions in consultation with the Bureau and to change the petition format.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mercedes Lewis, Supervisory Staffing Specialist, Office of Administrative Services, Department of the Interior, Bureau of Indian Affairs, Room 320 - SIB, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-2506

RIN: 1076–AC90

1727. • PREFERENCE IN EMPLOYMENT

Legal Authority: 25 USC 479

CFR Citation: 25 CFR 5

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing to amend 25 CFR 5 by removing Section 5.1(e), since time limitations on this information have expired. Definition 5.1(c) will apply to the Osage Indian Tribe when this rule becomes final.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mercedes Lewis, Supervisory Staffing Specialist, Office of Administrative Services, Department of the Interior, Bureau of Indian Affairs, Room 320 - SIB, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-2506

RIN: 1076–AC90

1728. • PRESERVATION OF ANTIQUITIES

Legal Authority: 25 USC 301; 25 USC 378; 25 USC 379

CFR Citation: 25 CFR 261

Legal Deadline: None

Abstract: This rule will delete 25 CFR 261, which provides Bureau-specific procedures for the issuance of permits under the Antiquities Act of 1906 (16 USC 432). The part is superseded by regulations covering the issuance of permits for the same purpose under the more comprehensive Archaeological Resources Protection Act of 1979 (16 USC 470).

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald Sutherland, Archaeologist, Office of Trust Responsibilities, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington DC 20240, 202 208-4791

RIN: 1076–AC91

1729. • MINIMUM STANDARDS AND APPLICATION AND APPROVAL PROCEDURES FOR FAMILY AND CHILD EDUCATION PROGRAMS

Legal Authority: 25 USC 2; 25 USC 2003; 25 USC 2002; 25 USC 13

CFR Citation: 25 CFR 35

Legal Deadline: None

Abstract: This rule will establish new standards and procedures for applications and approval of applications under family and child education programs. The proposed standards are intended to enhance and ensure fairness in the award of funds for these programs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patsy Jones, Education Specialist, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, Room 3530 MIB, 1849 C Street NW., Washington, DC 20240, 202 219-1127

RIN: 1076–AC92

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DOI—BIA

Proposed Rule Stage

1730. • PREPARATION OF A MEMBERSHIP ROLL OF DELAWARE INDIANS OF WESTERN OKLAHOMA

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 65

Legal Deadline: None

Abstract: This rule will delete 25 CFR 65. The actions it was designed for have now been completed and the rule is no longer necessary.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	
Final Action	03/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lathel Duffield, Chief, Branch of Tribal Enrollment Services, Office of Tribal Government Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, 202 208-3702

RIN: 1076–AC93

1731. • ARRANGEMENTS WITH STATES, TERRITORIES, AND OTHER AGENCIES FOR SOCIAL WELFARE OF INDIANS

Legal Authority: 25 USC 454

CFR Citation: 25 CFR 21

Legal Deadline: None

Abstract: The passage of Public Law 96-638, the Indians Self Determination and Education Assistance Act, authorized Indian tribes to enter into contractual agreements with the Federal government to administer tribal social services programs, as well as other programs formerly administered by Federal agencies. This rule will set forth procedures governing these agreements, as well as those entered into for the same purpose with state governments.

Timetable:

Action	Date	FR Cite
NPRM	09/30/93	
NPRM Comment Period End	10/30/93	
Final Action	01/31/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Hickman, Chief, Division of Social Services, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, Room 310 - SIB, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-2649

RIN: 1076–AC94

1732. • LICENSED INDIAN TRADERS

Legal Authority: 25 USC 261; 25 USC 262; 25 USC 2; 25 USC 9; 25 USC 301; 18 USC 437

CFR Citation: 25 CFR 140

Legal Deadline: None

Abstract: The rule will delete part 140 in order to reflect current tribal sovereignty. Since the tribes have established tribal courts and have their own permit regulations, the Bureau does not now implement this regulation.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	
Final Action	05/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharlot Johnson, Area Tribal Operations Officer, Department of the Interior, Bureau of Indian Affairs, P.O.Box 10, Phoenix, AZ 85001, 603 379-6786

RIN: 1076–AC95

1733. • EDUCATION CONTRACTS UNDER THE JOHNSON-O'MALLEY ACT

Legal Authority: 25 USC 455 to 457; PL 95-561; PL 93-638

CFR Citation: 25 CFR 273

Legal Deadline: None

Abstract: This rule will change the definition of the term "eligible Indian for services" and incorporate applicable statutory changes and Federal court decisions. The proposed change will clarify program eligibility.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Erma Skye, Education Specialist, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, Room 3530 - MIB, 1849 C Street NW., Washington, DC 20240, 202 208-1127

RIN: 1076–AC96

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Indian Affairs (BIA)

Final Rule Stage

1734. CRIMINAL AND CIVIL CODE OF OFFENSES AND PROCEDURES FOR THE COURTS OF INDIAN OFFENSE

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11; 25 CFR 12

Legal Deadline: None

Abstract: The present regulations contain an incomplete criminal code that does not cover many areas of the law that are usually in the laws of the States where the reservation is located The current regulations also contain very sketchy provisions on criminal and civil procedure. This rule proposes to update the sections on criminal offenses and create new sections on criminal procedures, domestic relations, probate proceedings, appellate proceedings and juvenile proceedings. This will provide the Courts with more complete and up-to-date proceedings and rules. Courts will have a six month period from the date of publication of the final rule to the effective date in which to revise their court codes. It is not anticipated that this revision will have any effect on the annual caseload for these courts or routine additional staffing. Therefore, the initiation of these rules should not result in additional costs.

Timetable:

Action	Date	FR Cite
NPRM	10/24/85	50 FR 43235
NPRM Comment Period End	01/31/86	51 FR 400
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty Rushing, Chief, Branch of Judicial Services, Department of the Interior, Bureau of Indian Affairs, Division of Tribal Government Services, 1849 C Street NW., MS-2611, Washington, DC 20240, 202 208-4400

RIN: 1076–AA01

1735. PROTECTION OF ARCHAEOLOGICAL RESOURCES

Legal Authority: 16 USC 470

CFR Citation: 25 CFR 262

Legal Deadline: None

Abstract: The proposed rule will add a new part to title 25 of the Code of Federal Regulations. The rule is in response to direction in the Archeological Protection Act of 1979. Key areas of the proposed rule will address the permit requirements specific to Indian Tribes and individuals, and the custody of archeological resources.

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2580
NPRM Comment Period End	02/24/90	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don Sutherland, Archeologist, Office of Environmental Quality, Department of the Interior, Bureau of Indian Affairs, Mail Stop 4544-MIB, 1849 C Street NW., Washington, DC 20240, 202 208-4791

RIN: 1076–AC23

DOI—BIA

Final Rule Stage

1736. PROCEDURES FOR ESTABLISHING THAT AN AMERICAN GROUP EXISTS AS AN INDIAN TRIBE

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 83

Legal Deadline: None

Abstract: The proposed revisions will improve existing regulations by clarifying and revising definitions, criteria, and administrative procedures and by adding a revised independent review of decisions. The revisions respond to issues raised by diverse parties concerning the interpretation of the regulations and the administration of the review process. The proposed changes are based upon 14 years of experience administering the acknowledgement process and upon public comments from the Congress, states, recognized tribes, unrecognized groups, other Federal agencies, and national Indian organizations.

Timetable:

Action	Date	FR Cite
NPRM	09/18/91	56 FR 47320
NPRM Comment Period End	12/17/91	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Holly Reckord, Acting Chief, Branch of Acknowledgement and Research, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, 202 208-3592

RIN: 1076–AC46

1737. PREPARATION OF A ROLL OF INDEPENDENT SEMINOLE INDIANS OF FLORIDA

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; PL 101-227

CFR Citation: 25 CFR 67

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing to add a new part 67 to provide procedures to govern the preparation, certification, and approval of a descendancy roll of independent Seminole Indians of Florida. The Act of April 30, 1990, provides for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission. Section 7 directs the Secretary of the Interior to compile a roll of independent individuals of Seminole descent. The descendancy roll will be used as the basis for a per capita distribution of a portion of the Seminole judgement funds.

Timetable:

Action	Date	FR Cite
NPRM	09/30/92	57 FR 45252
NPRM Comment Period End	10/30/92	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kaye Armstrong Vann, Area Tribal Relations Specialist, Department of the Interior, Bureau of Indian Affairs, 3701 N. Fairfax Drive, MS-260, Virginia Square, Arlington, VA 22203, 703 235-2575

RIN: 1076–AC48

1738. BUY INDIAN ACT PROCEDURES FOR CONTRACTING

Significance: Regulatory Program

Legal Authority: 25 USC 47

CFR Citation: 48 CFR 1480

Legal Deadline: Final, Statutory, September 12, 1991.
Interim Final - 03/01/91.

Abstract: This rule will be codified as the new 48 CFR 1480, replacing 41 CFR part 14H, and will establish policies and procedures concerning the Bureau of Indian Affairs' acquisition management system. This rule pertains to contracts entered into pursuant to the Act of June 25, 1910 (25 USC 47), which is usually referred to as the "Buy Indian Act."

Timetable:

Action	Date	FR Cite
NPRM	09/12/91	56 FR 46468
NPRM Comment Period End	01/10/92	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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Final Rule Stage

Agency Contact: Kimberly A. Romine, Procurement Analyst, Department of the Interior, Bureau of Indian Affairs, MS 334-A, SIB, 1849 C Street NW., Washington, DC 20240, **202 208-2825**

RIN: 1076–AC50

1739. OFF RESERVATION LAND ACQUISITIONS FOR INDIAN TRIBES

Significance: Regulatory Program

Legal Authority: 25 USC 465; 25 USC 2202

CFR Citation: 25 CFR 151

Legal Deadline: None

Abstract: This proposed rule will provide stronger and more consistent guidelines for reviewing trust applications than the current case-by-case review, which uses general criteria. The Secretary of the Interior announced on July 19, 1990, a new policy for Indian Tribes acquiring in trust for gaming and non-gaming purposes lands contiguous to or outside the tribe's existing reservation boundaries. This proposed revision will add two new sets of criteria that will be used in evaluating tribal off-reservation acquisition for gaming and non-gaming purposes.

Timetable:

Action	Date	FR Cite
NPRM	07/15/91	56 FR 32278
NPRM Comment Period End	08/15/91	56 FR 32278
Final Action	09/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alice Harwood, Realty Specialist, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, Room 4522 - MIB, 1849 C Street NW., Washington, DC 20240, **202 208-3604**

RIN: 1076–AC51

1740. INDIAN CHILD WELFARE ACT

Significance: Regulatory Program

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 23

Legal Deadline: None

Abstract: The regulations (25 CFR part 23) are being revised to authorize the provision of funds to Indian tribes on a non-competitive basis. The revised rule will also incorporate provisions for maintaining a competitive grant award process for non-reservation Indian organizations.

Timetable:

Action	Date	FR Cite
NPRM	01/12/93	58 FR 4046
NPRM Comment Period End	02/11/93	
Final Action	09/00/93	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: David Hickman, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, Room 310, SIB, 1849 C Street NW., Washington, DC 20240, **202 208-2721**

RIN: 1076–AC55

1741. USE OF COLUMBIA RIVER INDIAN IN-LIEU FISHING SITES

Significance: Agency Priority

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 248

Legal Deadline: None

Abstract: The purpose of this action is to amend 25 CFR 248 to be consistent with the decision of the 9th Circuit Court of Appeals and the final judgment in Sohappy v. Hodel. The court declared invalid that portion of the regulation prohibiting permanent occupancy of the five Columbia River in-lieu fishing sites. The proposed amendment revises the rule to delete the prohibition against construction of permanent dwelling structures on the five in-lieu sites.

Timetable:

Action	Date	FR Cite
NPRM	09/30/92	57 FR 45258
NPRM Comment Period End	11/30/92	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ron Eggers, Chief, Branch of Fisheries, Portland Area Office, Department of the Interior, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, OR 97232-4169, **503 231-6749**

RIN: 1076–AC79

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Completed Actions

1742. LEASING OF CERTAIN LANDS ON THE WIND RIVER INDIAN RESERVATION, WYOMING, FOR OIL AND GAS MINING

Legal Authority: 43 USC 361

CFR Citation: 25 CFR 227

Legal Deadline: None

Abstract: The regulations at 24 CFR 227 are being revised to reflect organizational changes in the Bureaus of Indian Affairs and Land Management. The principal changes update the references to the Bureau of Land Management official assigned various responsibilities by the regulations.

Timetable:

Action	Date	FR Cite
Withdrawn at the request of the program director	01/15/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharlene Roundface, Realty Specialist, Department of the Interior, Bureau of Indian Affairs, Division of Real Property Management, 316 North 26th Street, Billings, MT 59101, **406 657-6301**

RIN: 1076–AC36

1743. ISSUANCE OF PATENTS IN FEE, CERTIFICATION OF COMPETENCY, REMOVAL OF RESTRICTIONS, AND SALE OF CERTAIN INDIAN LANDS

Significance: Agency Priority

Legal Authority: 25 USC 301; 25 USC 378; 25 USC 379; 25 USC 404; 25 USC 405; 25 USC 372; 25 USC 373; 25 USC 483; 25 USC 355; 25 USC 2202

CFR Citation: 25 CFR 152

Legal Deadline: None

Abstract: The proposed changes will enhance the review and processing of land acquisition and disposal transactions for tribes and individual Indians. The revision will reflect statutory changes, Federal court decisions, and conflicts in present regulations relating to Acquisitions. In addition to those provisions that are affected by the conflict, other provisions within the existing regulations are in need of updating as well.

Timetable:

Action	Date	FR Cite
Withdrawn - removed at request of program office	01/11/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alice Harwood, Realty Specialist Division of Real Estate Services, Office of Trust and Economic Dev., Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, **202 208-3604**

RIN: 1076–AC57

BILLING CODE 4310-02-F

DOI—BIA

Completed Actions

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Prerule Stage

1744. REQUIREMENTS FOR CRANES INSTALLED ON FIXED PLATFORMS IN THE OUTER CONTINENTAL SHELF

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.20

Legal Deadline: None

Abstract: The rules at 30 CFR 250.22(c) are being evaluated to determine whether the requirements for the operation and maintenance of cranes installed on fixed platforms are adequate to promote safety on the Outer Continental Shelf. The advance NPRM will discuss current maintenance, testing, and inspection requirements contained in the regulations through incorporation by reference of the American Petroleum Institute's Recommended Practice for Operation and Maintenance of Offshore Cranes (API RP 2D). Alternative rules will be discussed in the notice. The advance NPRM will also discuss training, crane operator qualifications, and the need for certifying crane operators. The oil and gas industry and general public will be requested to comment and make recommendations concerning regulation of cranes on offshore platforms.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/93	
ANPRM Comment Period End	07/00/93	
NPRM	03/00/94	
NPRM Comment Period End	05/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, **703 787-1607**

RIN: 1010–AB62

1745. REDESIGNATION OF FINANCIAL RESPONSIBILITY CERTIFICATION FUNCTIONS

Legal Authority: PL 101-380; EO 12777

CFR Citation: 30 CFR 253 (New)

Legal Deadline: None

Abstract: The Oil Pollution Act of 1990 (OPA) and its implementing Executive Order 12777 assigned offshore financial responsibility certification functions from the U.S. Coast Guard (USCG) to the Minerals Management Service (MMS). The existing financial responsibility regulations in 33 CFR 135 are being transferred to MMS' regulations and redesignated as 30 CFR 253. This action will result in no substantive change to the regulatory requirements at this time (i.e., the $35 million level of financial responsibility that exists in the regulations is retained). Rulemaking at a later date will address the new financial responsibility requirements set in the OPA.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/93	
ANPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, **703 787-1607**

RIN: 1010–AB78

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Proposed Rule Stage

1746. AUDIT PROCEDURES AND PAYOR REQUIREMENTS AND RESPONSIBILITIES DURING AUDITS

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 217

Legal Deadline: None

Abstract: The Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) requires that the Secretary of the Interior establish a comprehensive inspection and auditing system to provide the capability to accurately determine royalties, interest.

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fines, penalties, fees, deposits, and other payments owed on Federal or Indian oil and gas leases. This responsibility has been delegated to MMS. However, performance of the required audits may be delegated to States or Indian tribes pursuant to sections 202 and 205 of FOGRMA or to independent certified public accountants under contract. The FOGRMA also requires the promulgation of regulations to establish audit standards and procedures, payor requirements and responsibilities, and authorities and responsibilities which may be delegated by MMS to a State, Indian tribe, or an independent certified public accountant. The purpose of this rulemaking action is to establish the regulations required by FOGRMA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, 303 231-3058

RIN: 1010–AB44

1747. PAYOR RESPONSIBILITIES

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: Responsibilities of Minerals Management Service include the collection of royalties, bonuses, rentals, and related revenues from Federal and Indian mineral leases. These monies are, for the most part, collected from the current designated payor on the lease. However, if MMS is unable to collect from the current payor, it must pursue collections from a prior payor(s), the lessee, or an assignee of the lease. Existing regulations are unclear as to the responsibilities and liabilities of the parties involved. Therefore, MMS is proposing to amend its regulations to clarify payor, lessee, and assignee requirements and responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, 303 231-3058

RIN: 1010–AB45

1748. AMENDMENT TO RULES GOVERNING INSTALLATION OF SHUTDOWN VALVES ON PIPELINES

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.154

Legal Deadline: None

Abstract: The development of this notice of proposed rulemaking resulted from the recommendation of a task force that examined many contributing causes to recent fatal accidents in the North Sea and the Gulf of Mexico. The task force identified areas where changes in regulations should be considered. This action considers changes to the regulations concerning better communication among personnel, protection of pipeline risers, safe fuel storage, fire survivability of the accommodation, and the placement of shutdown valves on pipelines as a means to isolate the pressurized hydrocarbons in the pipeline from potential danger that could result from a fire or other damage to the pipeline. An alternative is to leave the rules unchanged.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/90	55 FR 29860
ANPRM Comment Period End	09/21/90	
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	02/00/94	
Final Action Effective	03/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1607

RIN: 1010–AB52

1749. GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS OF THE OUTER CONTINENTAL SHELF

Legal Authority: 43 USC 1331 et seq; 42 USC 4332 et seq

CFR Citation: 30 CFR 251

Legal Deadline: None

Abstract: This rule is revised to reflect the current requirements and practices and to conform with new or changed laws and regulations. It expands the requirements for filing notice to include all geological and geophysical research not conducted pursuant to a permit. It clarifies that these regulations are applicable only to oil, gas, and sulphur, as all other mineral resources on the Outer Continental Shelf are covered by 30 CFR part 280. This rule will provide other pertinent information, such as current filing location addresses.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
NPRM Comment Period End	11/00/93	
Final Action	07/00/94	
Final Action Effective	08/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1607

RIN: 1010–AB56

1750. VALUATION OF GAS PRODUCTION UNDER UNITIZATION OR COMMUNITIZATION AGREEMENTS

Significance: Regulatory Program

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30,USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 202

Legal Deadline: None

Abstract: The current gas valuation regulations provided that when the lessee of any gas lease committed to a federally approved unitization or communitization agreement does not take the full share of production under the terms of the agreement, the entitled, but not taken, production is still subject to royalty payment and reporting requirements. This rulemaking would eliminate the requirement that the actual disposition of any part of production to which a lessee was entitled but did not take governs the valuation of that part. Under the rulemaking, the regulations would be amended to allow lessees to value their entitled, but not taken, production at prices based upon information that is accessible to the lessee. This rule will reduce the administrative burden for payors and MMS so that there is certainty in the determination of royalty values. The adoption of these rules would not affect the requirement in Indian leases and the current regulations for the performance of major portion analyses or dual accounting.

Timetable:

Action	Date	FR Cite
ANPRM	06/01/92	57 FR 23068
ANPRM Comment Period End	08/17/92	57 FR 31471
NPRM	10/00/93	
NPRM Comment Period End	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, 303 231-3058

RIN: 1010–AB57

1751. OFFSHORE PIPELINE INSPECTION AND BURIAL

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.153

Legal Deadline: Final, Statutory, May 18, 1992.

Abstract: Public Law 101-599 requires that the Secretary of Transportation establish standards to ensure continued burial of offshore pipelines lying between the mean high water mark and the point where the subsurface is under 15 feet of water as measured from mean low water. The Department of the Interior has jurisdiction over gathering pipelines on Federal offshore oil and gas leases. The Minerals Management Service will promulgate burial and inspection regulations for these pipelines. As of July 1992, there were 287 platforms on Federal leases in the Gulf of Mexico that were installed in water depths of between 7 and 16 feet.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1607

RIN: 1010–AB65

1752. REDUCTION IN ROYALTY RATES FOR OFFSHORE OIL AND GAS LEASES

Legal Authority: 43 USC 1337(a)(3)

CFR Citation: 30 CFR 203.50; 30 CFR 256.57

Legal Deadline: None

Abstract: Existing regulations at 30 CFR 203.50 would be amended to cross reference 30 CFR 256.57. The substance of the existing regulations would be recodified at 30 CFR 256.57 and amended to broaden the rules to include enhanced oil recovery projects as recommended by the General Accounting Office as well as to encourage investment in economically borderline new production on existing producing leases. The rule would retain current incentives to continue production that has declined to its economic limit. The rule could result in a substantial increase in production of otherwise unrecoverable oil and gas. The alternative would be to leave the existing regulations in place.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1607

RIN: 1010–AB68

1753. LIMITATIONS ON CREDIT ADJUSTMENTS SUBMITTED BY LESSEES AND OTHER ROYALTY PAYORS UNDER FEDERAL AND INDIAN MINERAL LEASES

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: Section 10 of the Outer Continental Shelf Lands Act (OCSLA), 43 USC 1339, requires that a lessee or payor under an offshore lease submit a request to Minerals Management Service (MMS) for recoupment or refund of an overpayment (credit adjustment) within 2 years of the date of the original payment. However, current law does not provide for a time limitation on credit adjustments under onshore Federal or Indian leases similar to that provided in the OCSLA. This rule would add a new provision entitled "Limitations on Credit Adjustments" which would restrict credit adjustments without prior authorization to payments due within 5 years before the date of the adjustments. The rule provides that MMS could authorize credit adjustments with respect to payments made more than 5 years but less than 10 years before the date of the adjustments. However, credit adjustments with respect to any

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payment made more than 10 years before the date of the adjustment would be prohibited.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, 303 231-3058

RIN: 1010–AB73

1754. COLLECTION OF ROYALTIES, INTEREST, AND OTHER AMOUNTS DUE UNDER FEDERAL AND INDIAN MINERAL LEASES BY ADMINISTRATIVE OFFSET

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1810 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: The Debt Collection Act of 1982 (DCA), 31 USC 3716, provides for a Federal Agency's exercise of administrative offset to collect claims of the United States Government. The DCA instructs each Agency to prescribe regulations before collecting a claim by administrative offset. In accordance with the requirements of the DCS, the Minerals Management Service (MMS) is proposing new regulations governing collection by administrative offset of royalties, interest, and other amounts due under Federal and Indian oil, gas, and other mineral leases. Under this rule, collection by administrative offset would only be used after other attempts to collect the debt had been attempted by MMS.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, 303 231-3058

RIN: 1010–AB74

1755. OUTER CONTINENTAL SHELF DEEPWATER PRODUCTION

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: The Minerals Management Service (MMS) is proposing to amend the regulatory program by establishing new requirements for the development and production of oil and gas leases located in deepwater. The proposed requirements address the installation and operation of floating production facilities and other deepwater production facilities, extended well tests for deepwater reservoirs, oil storage, and/or offloading systems, and other associated deepwater production safety systems. This action serves to notify the public of the changes MMS is proposing and to solicit comments on the subject. The costs to lessees to implement these amendments are not expected to significantly increase over the costs of complying with the current program under 30 CFR 250.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
NPRM Comment Period End	02/00/94	
Final Action	10/00/94	
Final Action Effective	12/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1607

RIN: 1010–AB75

1756. OUTER CONTINENTAL SHELF OIL AND GAS UNITIZED OPERATIONS

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: Ambiguous and inadequate language will be revised by this rulemaking so that confusion is avoided and the intent of the regulation is achieved. The alternative is not to revise the regulations. There are no costs associated with this rulemaking as no substantive changes in the rules are being undertaken. The benefits of these revisions are the removal of possibilities for misinterpretation of the regulations and the amplification and clarification of the provisions affected.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1607

RIN: 1010–AB76

1757. OUTER CONTINENTAL SHELF OIL AND GAS PRODUCTION RATES AND PRODUCTION MEASUREMENT

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: These revisions comprise some 15 minor changes and amendments to the regulations governing production rates and production measurement. The changes are being made to correct and alleviate several problems such as ambiguous language resulting in erroneous and undesirable interpretation, incorrect and outdated references, absence of provisions inadvertently dropped in previous revisions and the need to improve operational safety by adding minor requirements. The alternative is not to revise the regulations. Potential benefits include improved safety and environmental conditions, elimination of ambiguous provisions and correction of erroneous references.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Interim Final Rule	12/00/93	
Final Action	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 220070, 703 787-1607

RIN: 1010–AB77

1758. REGULARIZATION OF UNITIZATION ACROSS STATE AND FEDERAL JURISDICTIONAL BOUNDARIES

Legal Authority: 43 USC 1334; 43 USC 1337

CFR Citation: 30 CFR 250; 30 CFR 256

Legal Deadline: None

Abstract: This rule would regulate unitization across the State and Federal jurisdictional boundary (revision of 8(g) of the Outer Continental Shelf Lands Act (OCSLA)) of the Consolidated Omnibus Budget Reconciliation Act of April 8, 1986. The rule would also revise the rules for prevention of waste caused by unrestrained competitive development (section 5(j) of the OCSLA). Revisions of parts 250 and 256 to implement sections 5(j) and 8(g) will not result in substantial increases in costs to industry. Successful completion of these revisions will clarify the questions raised as to the ramifications of these legislative actions. Nonaction will only continue the confusion regarding the ramifications of the mandate in section 5(j).

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	
Final Action	01/00/94	
Final Action Effective	02/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1607

RIN: 1010–AB79

1759. REQUIREMENT FOR NOTIFICATION FOR SCIENTIFIC RESEARCH FOR PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

Legal Authority: 43 USC 1331 et seq; 42 USC 4332 et seq

CFR Citation: 30 CFR 280

Legal Deadline: None

Abstract: The rule would revise regulations governing prelease activities for minerals other than oil and gas to make modifications similar to those being proposed for oil and gas activities. These changes would include requiring a notice for geological and geophysical scientific research activities and modifying proprietary terms for geophysical data and information and permit terms. The alternative is not to change the present requirements. The costs to those conducting prelease activities are not expected to significantly increase over the costs of complying with the current requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
NPRM Comment Period End	02/00/94	
Final Action	06/00/94	
Final Action Effective	07/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1607

RIN: 1010–AB80

1760. AMENDMENT OF REGULATIONS GOVERNING ASSESSMENTS FOR INCORRECT REPORTS

Significance: Agency Priority

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 216; 30 CFR 218

Legal Deadline: None

Abstract: 30 CFR 216.40(b) and 218.40(b) authorize the Minerals Management Service (MMS) to assess an amount not to exceed $10 for each report received by the designated due date but which is incorrectly completed. The reports subject to this assessment are required to be submitted to MMS by royalty payors, lease operators, lessees, or other parties in accordance with statutes, regulations, contracts, orders, or terms of Federal or Indian mineral leases. The MMS regulations do not provide for an assessment for incorrect reports if the incorrect report is received after its designated due date. However, the administrative costs incurred by MMS to research and resolve reporting errors are identical whether or not the report is received timely or late. So that MMS may be compensated for all administrative costs incurred due to reporting errors, MMS is amending sections 216.40(b) and 218.40(b) to include as assessable, all reports that are submitted incorrectly regardless of whether or not the report was received by the designated due date or was received late.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, 303 231-3058

RIN: 1010–AB82

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1761. AMENDMENT OF REGULATIONS GOVERNING LATE PAYMENT INTEREST CHARGES ON SOLID MINERALS AND GEOTHERMAL RESOURCES LEASES

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: Section 218.54 of 30 CFR of the MMS regulations provides for late-payment interest charges on oil and gas late royalty payments based on the rate applicable under section 6621 of the Internal Revenue Code, 26 U.S.C. 6621(a)(2) (Supp. 1987). However, MMS regulations applicable to solid minerals and geothermal resources late royalty payments provide for late payment interest charges based on the lower rate prescribed by the Department of the Treasury as the "Treasury Current Value of Funds Rate." The MMS is amending its solid minerals and geothermal resources regulations to provide for the higher interest rate authorized by section 6621 of the Internal Revenue Code. This rule amendment will provide for consistency in MMS regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, **303 231-3058**

RIN: 1010–AB83

1762. DOCUMENTS INCORPORATED BY REFERENCE

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: MMS currently incorporates by reference 68 documents that describe recommended practices or design criteria that must be followed in conducting specific offshore operations. Many of these incorporated documents have been revised and replaced with new editions; therefore, MMS needs to update the offshore operating regulations by incorporation of new editions of documents to those incorporated by reference. Most new editions reviewed would be adopted; however, in some cases it may no longer be necessary to incorporate a specific document into the regulations. The costs to lessees to implement these amendments are not expected to significantly increase over the costs of complying with the current program under 30 CFR 250.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	
Final Action	11/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, **703 787-1607**

RIN: 1010–AB85

1763. • LEASE CANCELLATION AND LEASE COMPENSATION

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250, 30 CFR 256

Legal Deadline: None

Abstract: This proposed rule will expand and consolidate the provisions implementing lease cancellation and lessee compensation requirements of the Outer Continental Shelf Lands Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
Final Action	11/00/93	
Final Action Effective	04/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, MS 4700, 381 Elden Street, Herndon, VA 22070, **703 787-1607**

RIN: 1010–AB87

1764. • REVISION OF REGULATIONS GOVERNING FEES APPLICABLE TO FILING OF ASSIGNMENTS, MORTGAGES, AND OTHER DOCUMENTS

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 256.64

Legal Deadline: None

Abstract: This rule will increase the fees for lease assignments and for recording mortgages and other documents. Also, this change will reflect changes in the time required to review and process lease assignments and to process mortgages and other documents.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	08/00/93	
Final Action	01/00/94	
Final Action Effective	02/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, **703 787-1607**

RIN: 1010–AB88

1765. • OFFSETS, RECOUPMENTS, AND REFUNDS OF EXCESS PAYMENTS OF ROYALTIES, RENTALS, BONUSES, OR OTHER AMOUNTS UNDER FEDERAL OFFSHORE MINERAL LEASES

Legal Authority: 43 USC 1339

CFR Citation: 30 CFR 200

Legal Deadline: None

Abstract: This rulemaking will add new provisions covering Federal offshore mineral leases subject to section 10 of the Outer Continental Shelf Lands Act (OCSLA), 43 USC 1339. The rule will establish

procedures for crediting (recouping) excess payments of royalties, rentals, bonuses, or other amounts against a current or future payment obligation. It will also provide for refunding excess payments to any person lawfully entitled to receive a refund or credit for overpayments made under an offshore lease.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, **303 231-3058**

RIN: 1010–AB90

DEPARTMENT OF THE INTERIOR (DOI)

Minerals Management Service (MMS)

Final Rule Stage

1766. CLARIFICATION OF DATA FOR RELEASE TO THE PUBLIC OF CERTAIN DATA AND INFORMATION SUBMITTED IN ASSOCIATION WITH DRILLING AND PRODUCTION OPERATIONS

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.18

Legal Deadline: None

Abstract: The rule is intended to remove apparent inconsistencies in current regulations concerning the release of data and information submitted to MMS on certain MMS forms. Section 250.18 specifies periods of time that certain geological and geophysical data will be protected from disclosure to the public when submitted on specific forms. The alternatives of providing guidance through an OCS order or through a Notice to Lessees and Operators on a region-to-region basis fail to ensure that information is uniformly available to the public. This rulemaking does not involve any significant additional costs. Its benefits are the removal of ambiguity in the current regulations and the clear identification of items of data and information that are made available for public information.

Timetable:

Action	Date	FR Cite
NPRM	08/04/89	54 FR 32316
NPRM Comment Period End	10/03/89	54 FR 32316
Further Notice of Proposed Rulemaking	06/18/91	56 FR 27929
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, **703 787-1607**

RIN: 1010–AB34

1767. ASSESSMENT FOR FAILURE TO SUBMIT PAYMENT OF SAME AMOUNT WITH REPORT OR BILL OR TO PROVIDE ADEQUATE INFORMATION

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: The MMS Auditing and Financial System (AFS) matches and applies each payment received to its corresponding report or bill. If a payment cannot be automatically matched and applied by the AFS because of inadequate or erroneous information, it must be manually matched and applied by MMS personnel. The manual matching of payments to reports and bills results in MMS incurring substantial costs so that the AFS can operate properly to account for and distribute royalties. This situation also delays the payment application process and can result in delay in distribution of royalties and related information to States and Indian Tribes and allottees. To recover the costs, MMS is proposing to amend its regulations to add a new assessment amount not to exceed $250 per incident. The new assessment would encourage payors to submit their payment, when required, together with the applicable report or copy of the bill and for the same amount as the report or bill. The new assessment would also encourage payors to adequately identify payments to the report or bill to be paid.

Timetable:

Action	Date	FR Cite
NPRM	03/22/90	55 FR 10630
NPRM Comment Period End	05/21/90	55 FR 10630
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, **303 231-3058**

RIN: 1010–AB35

1768. AMENDMENT TO THE REGULATIONS CONCERNING THE REQUIREMENT FOR SUBMISSION OF A CORPORATE SURETY BOND TO INDEMNIFY THE U.S. FROM DEFAULT BY A LESSEE ON THE CONDITIONS AND TERMS OF AN OCS LEASE

Legal Authority: 43 USC 1335

CFR Citation: 30 CFR 256

Legal Deadline: None

Abstract: This rulemaking would amend current regulations requiring lessee surety bonds. The monetary value of surety bonds designated in current regulations was established over 20 years ago and is seriously inadequate to protect the Government from loss due to lessee failure to meet the terms of the OCS lease for royalty payments, proper abandonment of wells, site cleanup, and ongoing lease operations. Bond requirements may be increased on a case-by-case basis, as an alternative to rule change. This might

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result in inconsistent requirements. The potential costs are whatever increase is incurred in obtaining a higher value bond. Benefits would be a reduced potential for Government loss and a greater protection of the public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/24/90	55 FR 2388
NPRM Comment Period End	03/26/90	55 FR 2388
Final Action	05/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, **703 787-1607**

RIN: 1010–AB38

1769. REGULATIONS GOVERNING RECOUPMENT OF OVERPAYMENTS ON INDIAN LEASES

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: Because royalty payments are a major source of income to many Indian allottees, and the only source in some instances, it has been a longstanding Department of the Interior policy that overpayments made by lessees and other royalty payors to Indians cannot be recovered by refund. This policy was established to prevent an undue financial burden on Indian allottees who may have limited financial means to refund the overpayment. However, the adopted policy permits lessees and payors to recoup overpayments as a credit against future rental or royalty accruals due to Indian tribes or allottees. Lessees and operators were instructed to follow this recoupment policy in "Notice to Lessees and Operators of Indian Oil and Gas Leases No. 1A" (NTL-1A), issued by the Conservation Division of U.S. Geological Survey in 1977. The MMS published revised final oil and gas product valuation regulations at 30 CFR part 206 on January 15, 1988 (53 FR 1184 and 53 FR 1230), effective March 1, 1988. Section 206.150(e)(2) of the revised regulations terminated NTL-1A. Although the Indian lease overpayment recoupment policy has been the same for many years, MMS believes that its (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/31/90	55 FR 3232
NPRM Comment Period End	03/02/90	55 FR 3232
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: regulations should state the policy. Consequently, MMS proposes to add new sections at 30 CFR 218.53 (previously reserved) and 30 CFR 218.203 to codify the policy and procedure.

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, **303 231-3058**

RIN: 1010–AB40

1770. EXTENSION OF TIME PERIOD FOR MAINTAINING RECORDS ON OUTER CONTINENTAL SHELF NET PROFIT SHARE OIL AND GAS LEASES

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 220

Legal Deadline: None

Abstract: There is a conflict in MMS regulations at 30 CFR 220.030 with the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) as to the time period that an offshore net profit share lessee (NPSL) must maintain records and all other documentation pertaining to the NPSL capital account. Therefore, MMS is proposing to amend 30 CFR 250.030 to extend the time period to 6 years, from 36 months, consistent with the statutory requirement of FOGRMA. The MMS is also proposing to remove 30 CFR 220.033 which includes language that conflicts with the recordkeeping requirements of FOGRMA and MMS regulations at 30 CFR 212.50 and 212.51.

Timetable:

Action	Date	FR Cite
NPRM	06/07/90	55 FR 23248
NPRM Comment Period End	07/09/90	55 FR 23248
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, **303 231-3058**

RIN: 1010–AB46

1771. AMENDMENTS TO 30 CFR 250.67—HYDROGEN SULFIDE

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.67

Legal Deadline: None

Abstract: The rules for Hydrogen Sulfide are being amended to revise the requirements for visual and audible warning systems, personnel protection, hydrogen sulfide (H2S) and sulphur dioxide (SO2) detection and monitoring, and the criteria for the activation of visual and audible warning systems. These amendments are necessary to be consistent with the new personnel exposure limits for H2S and SO2 established by the Occupational Safety and Health Administration. Amending the rule would reduce personnel exposure limits, thereby decreasing the risks associated with hazardous environments. An NPRM was published in the Federal Register on August 15, 1990 (55 FR 33326), soliciting comments. The comments received were reviewed and revisions were written. Due to the extensive nature of the revisions, a decision was made to repropose the rule soliciting further comments. The costs to lessees to implement these amendments are not expected to significantly increase over the costs of complying with the current program.

Timetable:

Action	Date	FR Cite
NPRM	08/15/90	55 FR 33326
NPRM Comment Period End	10/15/90	55 FR 33326
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, **703 787-1607**

RIN: 1010–AB50

1772. ARCHAEOLOGICAL SURVEYS

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.33; 30 CFR 250.34; 30 CFR 250.157

Legal Deadline: None

Abstract: This rule proposes to amend the regulations to specifically express the authority under which Regional Directors may require archaeological resource surveys and reports. The requirements under consideration are comparable to requirements previously included in lease stipulations and are not expected to add significant costs to the lessee.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	
Final Action Effective	05/00/93	
NPRM	11/00/93	
NPRM Comment Period End	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, **703 787-1607**

RIN: 1010–AB63

1773. OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF, REPORTING FORMS

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This final rule amends Minerals Management Service (MMS) regulations at 30 CFR part 250 that govern Outer Continental Shelf (OCS) reporting forms used for collecting information related to oil and gas and sulphur drilling and production in the OCS. The current OCS reporting forms are being updated and modernized as part of the effort to reduce the paperwork and respondent burden imposed on the public as required by the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 USC 3501 et seq.). These revisions are a result of an analysis by an MMS task force and comments received from industry in response to several Federal Register notices published in August 1990 on the proposed forms. These changes will enable MMS to process the data submitted by industry more efficiently, reduce the reporting requirements for industry, and establish a consistent format and syntax to facilitate submission of information by electronic data transmission.

Timetable:

Action	Date	FR Cite
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, **703 787-1607**

RIN: 1010–AB66

1774. OIL SPILL PREVENTION AND RESPONSE FOR OFFSHORE FACILITIES INCLUDING STATE SUBMERGED LANDS AND PIPELINES

Significance: Agency Priority

Legal Authority: 33 USC 1321; EO 12777

CFR Citation: 30 CFR Not yet determined

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: Regulations are being developed to implement the authority of Minerals Management Service (MMS) under the Federal Water Pollution Control Act (FWPCA) as amended by the Oil Pollution Act of 1990. These regulations will address oil spill prevention and response in State submerged lands as well as in the Outer Continental Shelf. A nonregulatory alternative will not meet the mandate of the FWPCA as amended. The expected costs will depend on the extent to which existing practices in State and Federal waters meet the new mandated requirements. The expected benefits will be an assurance that oil spill prevention and response capability are being addressed on all facilities in both State and Federal waters.

Timetable:

Action	Date	FR Cite
ANPRM	08/12/92	57 FR 36032
ANPRM Comment Period End	10/28/92	
Interim Final Rule	04/00/93	
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	11/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, **703 787-1607**

RIN: 1010–AB81

1775. AMENDMENT OF PRODUCTION ACCOUNTING REGULATIONS

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 216

Legal Deadline: None

Abstract: On May 9, 1988, the Minerals Management Service (MMS) published a Notice of Final Rulemaking in the Federal Register (53 FR 18408) to amend its regulations to provide for lease operators to report onshore production data to MMS as a result of the transfer of accounting responsibility

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from the Bureau of Land Management (BLM). The transfer of responsibility from BLM to MMS has been completed. The MMS has also completed installation of a new computer system. As a result, certain sections of 30 CFR part 216 relative to reporting requirements require amendment. The amendments are administrative changes only and will result in a reduction of operator reporting burden by the elimination of certain reporting forms. The amendments also clarify existing operator responsibilities for reporting operations information to MMS.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, **303 231-3058**

RIN: 1010–AB84

1776. • AMENDMENT OF ADDRESSES IN MINERALS MANAGEMENT SERVICE REGULATIONS

Legal Authority: 5 USC 301; 25 USC 396; 25 USC 2101; 30 USC 181; 30 USC 351; 30 USC 1001; 30 USC 1701; 31 USC 9701; 43 USC 1301; 43 USC 1331; 43 USC 1801

CFR Citation: 30 CFR 210; 30 CFR 216; 30 CFR 218

Legal Deadline: None

Abstract: The Royalty Management Program has been reorganized, therefore addresses in the current regulations for mailing or delivering requests, forms, and/or payments must be amended to reflect the new organization structure.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, **303 231-3058**

RIN: 1010–AB86

1777. • AMENDMENT OF INFORMATION COLLECTION REQUIREMENTS AND ADDRESSES

Legal Authority: 5 USC 301; 25 USC 396; 25 USC 2101; 30 USC 181; 30 USC 351; 30 USC 1001; 30 USC 1701; 30 USC 9701; 43 USC 1301; 43 USC 1331; 43 USC 1801

CFR Citation: 30 CFR 207; 30 CFR 210; 30 CFR 216; 30 CFR 219; 30 CFR 220; 30 CFR 228

Legal Deadline: None

Abstract: This rule will change the title of an existing reporting form, add a new reporting form, and revise the estimated public reporting burden. It will also amend references to addresses for mailing and delivering requests, forms, and/or payments to MMS.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, **303 231-3058**

RIN: 1010–AB89

DEPARTMENT OF THE INTERIOR (DOI)

Minerals Management Service (MMS)

Completed Actions

1778. AMENDMENT OF VALUATION BENCHMARKS IN GAS REGULATIONS

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The existing regulations provide for the valuation of unprocessed gas, residue gas, or any gas plant product which is not sold pursuant to an arm's-length contract to be determined in accordance with a benchmark method. In the final regulations, MMS adopted as the first benchmark the lessee's gross proceeds received under its non-arm's-length transaction if they were equivalent to the gross proceeds received under comparable arm's-length contracts for like-quality production in the same field or area. The criteria to be considered in defining comparable contracts were also outlined. However, since the adoption of the revised regulations, numerous questions have been raised as to the interpretation of the first benchmark. These questions have identified the need to further clarify MMS's intention in this regard.

Timetable:

Action	Date	FR Cite
NPRM	12/12/91	56 FR 64724
Comment Period Extended to 02/14/92	01/09/92	57 FR 865
NPRM Comment Period End	02/14/92	57 FR 865
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Based upon comments received in response to the proposed rule, MMS has decided to withdraw this rulemaking action.

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, **303 231-3058**

RIN: 1010–AB29

1779. OFFSETTING ROYALTY UNDERPAYMENTS AND OVERPAYMENTS BETWEEN DIFFERENT FEDERAL OR INDIAN LEASES (CROSS-LEASE NETTING)

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218; 30 CFR 230

Legal Deadline: None

Abstract: It is MMS's current practice to only allow the offsetting of underpayments and overpayments within an individual lease and not between leases unless both of the leases are included in the same unitization or communitization agreement. However, it may not be appropriate, in certain cases of obvious payor reporting errors, for MMS to assess late payment interest charges or deny a request for refund of an overpayment on a Federal offshore lease which is subject to the filing and reporting requirements of section 10 of the Outer Continental Shelf Lands Act, 43 USC 1339. This rulemaking would amend MMS regulations to allow payors to offset royalty underpayments on one lease against overpayments on a different lease (referred to as cross-lease netting) in certain cases where reporting errors do not result in harm to the royalty recipients. The rule specifies the conditions that must be met before MMS would allow cross-lease netting.

Timetable:

Action	Date	FR Cite
NPRM	07/12/91	56 FR 31891
NPRM Comment Period End	09/10/91	
Final Action	12/30/92	57 FR 62200
Final Action Effective	02/01/93	57 FR 62200

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Assoc. Director for Royalty Mgmt., Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, **303 231-3058**

RIN: 1010–AB58

1780. ELECTRONIC DATA INTERCHANGE

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: Regulations are being considered to amend the rules governing oil and gas and sulphur operations in the Outer Continental Shelf. The regulations would address plans to propose digital/electronic reporting requirements for well tests and for gas meter documents as part of the effort to move to electronic data interchange (EDI). The alternative is not to implement the new reporting requirements. The costs to lessees to implement these amendments are not expected to significantly increase over the costs of complying with the current program.

Timetable:

Action	Date	FR Cite
Withdrawn	01/14/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, **703 787-1607**

RIN: 1010–AB71

1781. ELIMINATION OF FORM MMS-4014

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206; 30 CFR 210; 30 CFR 218

Legal Deadline: None

Abstract: The Minerals Management Service (MMS) is continually reviewing its operations relative to the collection and disbursement of royalties and other revenues from Federal and Indian mineral leases for improvements that can be made to improve efficiency. As a result of this ongoing process, MMS has revised its Form MMS-2014 (Report of Sales and Royalty Remittance) to provide for the reporting thereon of all sales and royalty information from any type of Federal or Indian mineral lease. Federal and Indian mineral leases include oil and gas leases, geothermal resources leases, and solid minerals leases. Therefore, MMS is amending its regulations to remove all references to Form MMS-4014 because that form will no longer be used after the effective date of this final rule. The consolidation of all payors reporting requirements on the revised Form MMS-2014 will simplify reporting requirements on the part of the payor and improve the efficiency of MMS' collection process.

Timetable:

Action	Date	FR Cite
Final Action	11/05/92	57 FR 52719
Final Action Effective	12/01/92	57 FR 52719

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165, **303 231-3058**

RIN: 1010–AB72

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DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Proposed Rule Stage

1782. FEDERAL REGULATORY PROGRAMS; PERMIT APPLICATION FEES

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 736; 30 CFR 740; 30 CFR 750

Legal Deadline: None

Abstract: In response to comments received concerning the rulemaking under RIN 1029-AB15, OSMRE will conduct a study of possible fees for permit revisions, renewals, and certain other permitting-related activities in the coming year and intends to propose further rulemaking where the results of that study indicate that such fees are justified and that fee collection would be administratively feasible.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Arthur Abbs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240, **202 208-2651**

RIN: 1029–AB29

1783. WETLANDS RULE

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701; 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: This rule will add a definition of "wetland" and would establish standards for wetland success.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dennis Hunter, Chief, Branch of Research and Technical Standards, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Room 7424 MIB, Washington, DC 20240, **202 343-1504**

RIN: 1029–AB47

1784. WIRE TRANSFER OF FEES

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870

Legal Deadline: None

Abstract: The proposed rule would lower the threshold for requiring the payment of abandoned mine land reclamation fees by electronic transfer from $100,000 to $25,000. The proposed rule will increase the number of payments received by electronic transfer and reduce the float time for such payments.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Delleane McKenzie, Accountant, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave NW., Washington, DC 20240, **202 208-2560**

RIN: 1029–AB50

1785. LAND USE INFORMATION RULE

Legal Authority: 30 USC 1201

CFR Citation: 30 CFR 779; 30 CFR 783; 30 CFR 784; 30 CFR 780

Legal Deadline: None

Abstract: OSM proposes to either delete or restructure sections of its rules to reduce the burden of collecting excessive information. The provisions to be deleted or restructured pertain to mapping and identification of vegetative communities, previous mining in the permit area, slope measurements, and grazing management plans for post-mining land use. All of the information is deemed duplicative of other information collection requirements in the regulations or else is not needed.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Archana K. Puri, Civil Engineer, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave NW., Washington, DC 20240, **202 343-3871**

RIN: 1029–AB57

1786. SURFACE COAL MINING AND RECLAMATION OPERATIONS; PERMANENT REGULATORY PROGRAMS; PERFORMANCE BONDS; ALTERNATIVE BONDING SYSTEMS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 800.11

Legal Deadline: None

Abstract: The Office of Surface Mining Reclamation and Enforcement will propose a rule which adds two new components to existing bonding requirements. First, the rules will be amended to require that alternative bonding systems (ABS) remain liable for the generation of income or that an alternative system be established to satisfy existing forfeitures and liabilities covered by the ABS, in the event the ABS is terminated. Second, in the event of a Section 733 action, the ABS fund and all supporting legal documents must be transferable to the United States.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Lord, Program Analyst, Division of Technical Services, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Room 5111-L, Washington, DC 20240, **202 343-1480**

RIN: 1029–AB61

1787. TRANSFER OF PERMIT RIGHTS; SUCCESSOR IN INTEREST; OWNERSHIP AND CONTROL; PERMIT INFORMATION AND THE APPLICANT/VIOLATOR SYSTEM; CIVIL PENALTIES; STATEMENT OF INTERESTS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701; 30 CFR 773; 30 CFR 774; 30 CFR 778; 30 CFR 823

Legal Deadline: None

Abstract: The Office of Surface Mining Reclamation and Enforcement proposes to establish new regulations and amend

DOI—OSMRE

Proposed Rule Stage

existing provisions to clarify the role of the Applicant/Violator System (AVS) in the permit application process; amend the definitions of ownership and control and of transfer, assignment or sale of permit right; establish procedures for successor in interest; revise requirements for information to be submitted as part of the permit application process; and eliminate certain civil penalties as a basis for a permit block for owners and controllers of violators.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annetta Cheek, Chief, Applicant/Violator System Office, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Room 7424 MIB, Washington, DC 20240, **202 208-4654**

RIN: 1029–AB62

1788. PROTECTION OF HISTORIC PROPERTIES FROM SURFACE COAL MINING OPERATIONS

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 731; 30 CFR 732; 30 CFR 761; 30 CFR 772; 30 CFR 773; 30 CFR 779; 30 CFR 780; 30 CFR 783; 30 CFR 784

Legal Deadline: None

Abstract: The Office of Surface Mining Reclamation and Enforcement's (OSM) regulations concerning the protection of historic properties from surface coal mining operations, promulgated on February 10, 1987, were remanded by the DC District Court on October 7, 1991, for failure to comply with the National Historic Preservation Act (NHPA). The Court held that the rules were based on the incorrect premise that the State permitting actions are not Federal undertakings and remanded the matter to the Secretary of the Interior to bring OSM into compliance with NHPA. OSM must now propose new or amended rules to implement the court decision.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Suzy Hudak, Policy Analyst, Branch of Federal and Indian Programs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., MS-Rm 110, Washington, DC 20240, **202 208-2700**

RIN: 1029–AB63

1789. REGULATION OF IMPOUNDMENTS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 817; 30 CFR 780; 30 CFR 784

Legal Deadline: None

Abstract: This rule would consolidate Office of Surface Mining Reclamation and Enforcement's and Mining Safety and Health Administration's rules covering the design, construction, inspection, and removal of impoundments thereby providing a uniform set of criteria for all coal mining operations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Robert Wiles, General Engineer, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Division of Technical Services, 1951 Constitution Ave. NW., Washington, DC 20240, **202 343-1502**

RIN: 1029–AB64

1790. REGULATION OF INDIAN LANDS

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; 30 USC 181 et seq

CFR Citation: 30 CFR 710.11; 30 CFR 750.16

Legal Deadline: None

Abstract: This rule would allow coal operators to comply with either the interim program performance standards or the permanent program performance standards on Indian lands currently required under Office of Surface Mining Reclamation and Enforcement rules.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Billie E. Clark, Chief, Federal and Indian Permitting Branch, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Brooks Towers, 1020 15th Street, Denver, CO 800202, **303 844-2829**

RIN: 1029–AB65

1791. REVEGETATION PERFORMANCE STANDARDS

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: This rule would revise the national performance standards used to measure the success of revegetating lands reclaimed after coal mining.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: J. Scott Boyce, Environmental Protection Specialist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Division of Technical Services, 1951 Constitution Ave. NW., Washington, DC 20240, **202 343-1514**

RIN: 1029–AB66

1792. • SUBSIDENCE

Significance: Agency Priority

Legal Authority: 30 USC 1201

CFR Citation: 30 CFR 817

Legal Deadline: Final, Statutory, October 1993.

Abstract: This rule would require coal mine operators who conduct underground mining after October 24,

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1992, to repair or compensate the surface owner for resultant subsidence damage to occupied residential dwellings, related structures, and non-commercial buildings, and to replace existing drinking, residential, or domestic water supplies from wells or springs which are damaged or lost. The rule is required to implement Section 2504(a) of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Broderick, Chief, Branch of Federal and Indian Programs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1952 Constitution Ave. NW., Washington, DC 20240, 202 208-2533

RIN: 1029–AB69

1793. • ABANDONED COAL REFUSE SITES

Significance: Agency Priority

Legal Authority: 30 USC 1201

CFR Citation: 30 CFR 700; 30 CFR 701; 30 CFR 816; 30 CFR 817; 30 CFR 845; 30 CFR 870

Legal Deadline: NPRM, Statutory, October 24, 1993.

Abstract: OSM will propose new regulations governing permitting and performance standards for on-site processing of abandoned coal refuse piles and operations for removal of abandoned coal refuse piles. The rules are required to implement Section 2503(e) of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Don Smith, Deputy Director, Big Stone Gap Field Office, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, P.O. Box 1216, Big Stone Gap, VA 24219, 703 523-1814

RIN: 1029–AB70

1794. • ABANDONED MINE LAND GRANT PROCEDURES

Legal Authority: 30 USC 1201

CFR Citation: 30 CFR 886; 30 CFR 887; 30 CFR 888

Legal Deadline: None

Abstract: This rule will modify the Abandoned Mine Land grant regulations to codify the grant simplification initiative now being implemented. The rule will remove requirements for the submission of grant forms and other materials that are no longer needed and will reduce the reporting burden on States and Indian tribes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Norm Hess, Program Management Specialist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-2949

RIN: 1029–AB72

1795. • ASSISTANCE TO SMALL COAL OPERATORS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 795

Legal Deadline: None

Abstract: This rule will modify entitlements under the Small Operator Assistance Program (SOAP) by adding permitting services which an operator is liable to reimburse the program. The rules are required to implement section 2513 of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Douglas Growitz, Hydrologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-1507

RIN: 1029–AB73

1796. • COAL REMINING

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701; 30 CFR 773; 30 CFR 784; 30 CFR 816; 30 CFR 817; 30 CFR 870; 30 CFR 874

Legal Deadline: None

Abstract: These rules will enable permittee operations which encounter an unanticipated event resulting in a violation to obtain new permits. The authority for this would exist from October 24, 1992, through September 30, 2004. The rules will also shorten the period of liability for revegetation from 5 years to 2 in the east and midwest and from 10 years to 5 in the arid west for remining sites. The rules will ensure that remining sites do not lose their abandoned mine land eligibility. The rules are required to implement section 2503 of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dennis Hunter, Chief, Branch of Research and Technical Standards, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240, 202 343-1504

RIN: 1029–AB74

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Final Rule Stage

1797. PERMANENT PROGRAM PERFORMANCE STANDARDS; HIGHWALL POLICY

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 845.15; 30 CFR 846.12

Legal Deadline: None

Abstract: The proposed regulation is in accordance with a court approved settlement agreement and would provide a method of calculating civil penalties when compliance with section 816.102(a) cannot be accomplished using best technology currently available or where compliance would result in significant harm to the environment and the operation does not qualify for an exemption to total highwall elimination in accordance with 30 CFR 816.102(k).

Timetable:

Action	Date	FR Cite
NPRM	10/29/87	52 FR 41666
NPRM Comment Period End	01/07/88	52 FR 41666
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dennis Hunter, Chief, Branch of Research and Technical Standards, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240, 202 343-1504

RIN: 1029–AB10

1798. STANDARDS FOR REVIEW OF OWNERSHIP, CONTROL, AND VIOLATION INFORMATION

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 773; 30 CFR 774; 30 CFR 843

Legal Deadline: NPRM, Judicial. NPRM due 180 days from effective data of settlement agreed to in "Save Our Cumberland Mountains, Inc., et al., and Manuel Lujan, Jr., Secretary, US Department of the Interior, et al."

Abstract: The proposed rule will establish standards for review and rebuttal of presumptions regarding ownership and control relationships between permit applicants and violators as well as between permittees and violators. The rule will also specify requirements for verifying whether the ownership and control information specified on a permit application is complete, require use of OSM's applicant violator computer system and other available data by regulatory authorities when conducting violation reviews and establish procedures for regulatory authorities to use in determining the status of outstanding violations. The rule will prescribe sanctions in cases where a permit applicant intentionally fails to provide complete or accurate ownership and control information. The rule will also require regulatory authorities to conduct an annual verification of certain ownership and control information for all permittees. In addition, the rule will specify measures for OSM to take should a state regulatory authority fail to implement these new requirements. Regulations which may be modified include 30 CFR 773, 774, and 843.

Timetable:

Action	Date	FR Cite
NPRM	09/06/91	56 FR 45780
NPRM Comment Period End	10/21/91	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dr. Annetta Cheek, Chief, Applicant Violator System Staff, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240, 202 208-4654

RIN: 1029–AB34

1799. PERMANENT REGULATORY PROGRAM: BEST TECHNOLOGY CURRENTLY AVAILABLE

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: The requirement that all runoff from mined areas must pass through a siltation structure was suspended in compliance with a court-ordered remand. The rule will remove or reinstate suspended requirements that relate to the best technology currently available or may consider other alternatives.

Timetable:

Action	Date	FR Cite
NPRM	11/13/90	55 FR 47430
NPRM Comment Period End	02/28/91	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Douglas I. Growitz, Hydrologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Research and Technical Standards Branch, 1951 Constitution Avenue NW., Washington, DC 20240, 202 208-1507

RIN: 1029–AB36

1800. PERMANENT REGULATORY PROGRAM; PERFORMANCE STANDARDS; PERMANENT AND TEMPORARY IMPOUNDMENTS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816.46; 30 CFR 816.49; 30 CFR 817.46; 30 CFR 817.49

Legal Deadline: None

Abstract: The proposed rule would clarify the design precipitation requirements for impoundments that rely primarily on storage to control stormwater runoff. It would also add a hazard consideration to the criteria for determining which design precipitation event is applicable in each case for spillway design.

Timetable:

Action	Date	FR Cite
NPRM	06/28/91	56 FR 29774
NPRM Comment Period End	08/27/91	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Hunter, Chief, Branch of Research and Technical Standards, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240, 202 343-1504

RIN: 1029–AB40

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DOI—OSMRE

Final Rule Stage

1801. DEFINITION AND CRITERIA FOR VALID EXISTING RIGHTS

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 761.5

Legal Deadline: None

Abstract: This rule will amend the portions of the permanent program which address the circumstances which constitute valid existing rights to mine coal in areas where Congress has otherwise prohibited mining under section 522(e) of the Surface Mining Control and Reclamation Act of 1977. This revision is in response to a court decision in round III of the litigation on OSM's permanent program regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/18/91	56 FR 33152
NPRM Comment Period End	09/16/91	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Nancy Broderick, Chief, Branch of Federal and Indian Programs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-2553

RIN: 1029–AB42

1802. PREVIOUSLY MINED AREAS AND COAL PREPARATION PLANTS - REMAND

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5; 30 CFR 827.131(a)

Legal Deadline: None

Abstract: This rule will amend the definition of "previously mined area" at 30 CFR 701.5 and the requirements for coal preparation plants at 30 CFR 827.13 in response to a February 12, 1990, District Court decision.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48714
NPRM Comment Period End	11/25/91	
Final Action	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Suzy Hudak, Policy Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-2700

RIN: 1029–AB45

1803. ABANDONED MINE LAND RECLAMATION FUND REAUTHORIZATION

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870; 30 CFR 872; 30 CFR 874; 30 CFR 875; 30 CFR 876; 30 CFR 878

Legal Deadline: None

Abstract: Pursuant to the recently enacted Abandoned Mine Reclamation Act of 1990, the regulations found at 30 CFR subchapter R require revision and amendment to reflect and implement the new provisions contained in the statute. The subject provisions address the eligibility of both coal and noncoal reclamation projects and also relate to the collection and allocation of abandoned mine land fees to eligible reclamation projects, including the Rural Abandoned Mine Program and the Small Operator Assistance Program.

Timetable:

Action	Date	FR Cite
NPRM	09/06/91	56 FR 45780
NPRM Comment Period End	02/21/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Danny Lytton, Chief, Branch of Program Policy, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave NW., Washington, DC 20240, 202 208-2819

RIN: 1029–AB49

1804. REMOVAL OF PARTS 718 AND 720

Legal Authority: 30 USC 1201

CFR Citation: 30 CFR 718; 30 CFR 720

Legal Deadline: None

Abstract: OSM proposes to remove parts 718 and 720 of the Initial Program regulation because they have been superseded by the Permanent Program regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/11/92	57 FR 35960
NPRM Comment Period End	10/13/92	
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel E. Stocker, Inspection and Enforcement Specialist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave NW., Washington, DC 20240, 202 208-2550

RIN: 1029–AB58

1805. SURFACE COAL MINING AND RECLAMATION OPERATIONS: INITIAL AND PERMANENT REGULATORY PROGRAMS; ABANDONED SITES

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 840.11; 30 CFR 842.11

Legal Deadline: None

Abstract: The rule would establish criteria for defining a site as "abandoned." Once a site met this definition, it would be eligible for an inspection frequency less than that required under SMCRA for non-abandoned sites. These changes would allow better use of inspection resources.

Timetable:

Action	Date	FR Cite
NPRM	12/18/92	57 FR 60410
NPRM Comment Period End	01/19/93	
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel Stocker, Chief, Branch of Inspection and Enforcement, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave.

DOI—OSMRE

Final Rule Stage

NW., MS-Rm 110, Washington, DC 20240, 202 208-2550

RIN: 1029–AB60

1806. BASIS FOR COAL WEIGHT DETERMINATION

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870

Legal Deadline: None

Abstract: Some processors purchase raw coal from operators on an estimated clean coal basis. The Office of Surface Mining Reclamation and Enforcement's rules require reclamation fee payment on the actual gross weight of the clean or raw coal at the time of sale, transfer or use. Records required to document the basis of a coal sale are not clearly defined. Legislative changes provide OSM the authority to audit coal preparation plants, tipples and loading facilities. Records a person operating a coal preparation plant must maintain on coal purchases are not specified in regulation. A person operating a preparation plant is not liable for fee payment on coal sales that exceed purchases. This rule would allow an operator who sells coal to a processor, who actually cleans the coal, to pay fees on the same basis on which the operator is paid by the processor. The person who operates a coal preparation plant would be liable for reclamation fee payment on all coal sold that exceeds coal purchased. Records to be maintained to document the basis for coal sales would be defined in regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/29/92	57 FR 62116
NPRM Comment Period End	03/01/93	
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jane R. Robinson, Program Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240, 202 343-2862

RIN: 1029–AB68

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Completed Actions

1807. REQUIREMENTS FOR COAL EXPLORATION

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 772

Legal Deadline: None

Abstract: OSM is proposing to amend 30 CFR part 772 to ensure that exploration permits will not be issued to applicants with unresolved violations of SMCRA and other applicable laws or who possess a history of violations of SMCRA indicating an intent not to comply with the Act's provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/12/91	56 FR 32050
NPRM Comment Period End	09/10/91	
Withdrawn	10/16/92	57 FR 47431

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Fred Block, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240, 202 208-2860

RIN: 1029–AB32

1808. ENFORCEMENT OF EFFLUENT LIMITS

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816.42

Legal Deadline: None

Abstract: This rule would address the duplication between Office of Surface Mining Reclamation and Enforcement's rules and the requirements that apply to coal mining operations through the Environmental Protection Agency's rules.

Timetable:

Action	Date	FR Cite
Withdrawn - OSM has decided to take no further action on this rule	08/07/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Douglas Growitz, Hydrologist; Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Division of Technical Services, 1951 Constitution Ave. NW., Washington, DC 20240, 202 343-1507

RIN: 1029–AB67

BILLING CODE 4310-05-F

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Reclamation (RB)

Prerule Stage

1809. PROCEDURE TO PROCESS AND RECOVER THE VALUE OF RIGHTS-OF-USE AND ADMINISTRATIVE COSTS INCURRED IN PERMITTING SUCH USE

Legal Authority: 43 USC 387; 31 USC 483

CFR Citation: 43 CFR 429

Legal Deadline: None

Abstract: The existing regulations will be revised to include procedures for issuing competitive rights-of-use, to provide for additional contacts with respondents, to provide for reporting requirements as a condition for issuance of rights-of-use, and to update list of addresses.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alonzo D. Knapp, Chief, Lands and Revenues Branch, Department of the Interior, Bureau of

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DOI—RB

Prerule Stage

Reclamation, P.O. Box 25007, Denver Federal Center, Denver, CO 80225, 303 236-8503

RIN: 1006–AA23

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Proposed Rule Stage

1810. RECLAMATION ACQUISITION REGULATION SYSTEM

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 1400 appendix B et seq

Legal Deadline: None

Abstract: This rule will establish the Reclamation Acquisition Regulation System containing rules implementing and supplementing the Federal Acquisition Regulation and the Department of the Interior Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/01/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Bill Opdyke, Chief, Policy Branch, Acquisition and Assistance Division, Department of the Interior, Bureau of Reclamation, P.O Box 25007, Denver, CO 80225-0007, 303 236-3753

RIN: 1006–AA20

1811. REGULATIONS FOR ADMINISTERING ENTITLEMENTS TO COLORADO RIVER WATER IN THE LOWER COLORADO RIVER BASIN

Legal Authority: 43 USC 617; 43 USC 391; 43 USC 485; 43 USC 390; 5 USC 552

CFR Citation: 43 CFR 415

Legal Deadline: None

Abstract: Colorado River water has been apportioned for consumptive use among water users with valid water rights within the States of Arizona, California, and Nevada. Future requests for delivery of this water are expected to exceed the amount that will be available. Formal rules will help ensure that water is put to beneficial use and that unauthorized uses are eliminated. The rules will provide a basis for the Secretary of the Interior to curtail unauthorized water use and establish a due process for water users to appeal adverse action decisions. Without formal rules and an appeals process, it is likely that the Secretary would be unable to enforce an action to curtail unauthorized water use and be subject to legal action by valid water users for not preventing unauthorized diversions of water. The initial cost of implementing the rule is estimated at $125,000; annual costs thereafter - $12,000, all costs in 1991 dollars. Costs are expected to be recovered from beneficiaries.

Timetable:

Action	Date	FR Cite
ANPRM	04/22/91	56 FR 16291
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dale Ensminger, Repayment Specialist, Department of the Interior, Bureau of Reclamation, P.O. Box 61470, Attn: LC-449, Boulder City, NV 89006-1470, 702 293-8536

RIN: 1006–AA24

1812. • RECLAMATION OF ARID LANDS BY THE UNITED STATES

Legal Authority: 43 USC 373

CFR Citation: 43 CFR 230

Legal Deadline: None

Abstract: This rule is proposed for rescission because current procedures for managing water rights conform to state requirements rather than procedures stated in this CFR part. Further, the Bureau's relationships are with organizations rather than individuals, and homesteading is no longer a primary consideration for reclamation projects.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/15/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eleanor Ashby, Records Management Policy Staff, Department of the Interior, Bureau of Reclamation, P.O. Box 25007, Denver Federal Center, Bldg. 67, Denver, CO 80225-00007, 303 236-7183

RIN: 1006–AA26

1813. • EXCHANGE OR AMENDMENT OF FARM UNITS ON FEDERAL RECLAMATION PROJECTS

Legal Authority: 43 USC 373; 43 USC 451

CFR Citation: 43 CFR 406

Legal Deadline: None

Abstract: This rule was written in the 1950s to help carry out the Farm Unit Exchange Act of 1953, which provides for the exchange of certain unpatented farm units or private land on a Federal irrigation project by certain classes of qualified applicants. All farm units that were eligible for exchange have been exchanged, and since the program is no longer active, the rule needs to be rescinded.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eleanor Ashby, Records Management Policy Staff, Department of the Interior, Bureau of Reclamation, P.O.Box 25007, Denver, CO 80225-0007, 303 236-7183

RIN: 1006–AA27

DOI—RB

Proposed Rule Stage

1814. • ADMINISTRATIVE CLAIMS UNDER THE PUBLIC WORKS APPROPRIATION ACT FOR TETON DAM

Legal Authority: PL 94-180; PL 94-400

CFR Citation: 43 CFR 419

Legal Deadline: None

Abstract: This rule provides for the payment of claims for damages, losses, injuries, or death directly resulting from the failure on June 5, 1976, of the Teton Dam. There is no need to continue this rule because all claims against the United States resulting from the failure of the Teton Dam have been settled.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eleanor Ashby, Records Management Policy Staff, Department of the Interior, Bureau of Reclamation, P.O. Box 25007, Denver Federal Center, Bldg. 67, Denver, CO 80225-0007, 303 236-7183

RIN: 1006–AA28

1815. • EMERGENCY DROUGHT ACT

Legal Authority: 43 USC 502

CFR Citation: 43 CFR 423

Legal Deadline: None

Abstract: This rule prescribes policies, procedures, and authority of the Bureau to mitigate losses and damages resulting from drought conditions in 17 western states in 1987 through 1989. This rule was promulgated upon passage of the Drought Assistance Act of 1988. Because activities under the Act terminated on December 31, 1989, the rule is no longer necessary.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eleanor Ashby, Records Management Policy Staff, Department of the Interior, Bureau of Reclamation, P.O.Box 25007, Denver, CO 80225-0007, 303 236-7183

RIN: 1006–AA29

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Final Rule Stage

1816. ACREAGE LIMITATION RULES AND REGULATIONS

Significance: Agency Priority

Legal Authority: 43 USC 390aa to 390zz-1, Reclamation Reform Act of 1982; 43 USC 371 to 600(e), The Reclamation Act of 1902; 5 USC 552

CFR Citation: 43 CFR 426

Legal Deadline: Final, Judicial, June 10, 1993.

Abstract: On March 10, 1992, the United States District Court for the Eastern District of California issued an order in the Natural Resources Defense Council v. Duvall lawsuit (No. CIV-S-88-0375-LKK). The order requires, among other things, that the Bureau of Reclamation issue interim rules to implement the RRA in the Central Valley Project of California, including the preparation of an EIS. The order stipulates the rules must be issued by June 10, 1993.

Timetable:

Action	Date	FR Cite
Notice of Intent to Prepare EIS	05/12/92	57 FR 20288
Interim Final Rule	06/10/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alonzo D. Knapp, Chief, Lands and Revenues Branch, Department of the Interior, Bureau of Reclamation, P.O. Box 25007, Denver Federal Center, D-5610, Denver, CO 80225, 303 236-8503

RIN: 1006–AA25

1817. • REVENUES MANAGEMENT

Legal Authority: 5 USC 552; 43 USC 371; 43 USC 501; 43 USC 392

CFR Citation: 43 CFR 403

Legal Deadline: None

Abstract: This rule will define requirements for the crediting/disposition of revenues. The rule notifies water districts of a review of legislation, repayment contracts, and amendments, and of current Bureau practice relating to collection and crediting/disposition. The rule also states that inappropriate direct crediting of revenues will be discontinued effective January 1, 1994, and that inappropriate direct credits received for calendar year 1993 must be repaid to the Bureau with interest of 7.040 percent. Since the Bureau does not have the option to dispose of revenues other than as required by law, the intent of this review is to ensure that revenue crediting follows the requirements of law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Davis, Revenues Management Specialist, Department of the Interior, Bureau of Reclamation, P.O. Box 25007, Denver, CO 80225-0007, 303 236-4633

RIN: 1006–AA30

1818. • ACREAGE LIMITATION REPORTING THRESHOLD

Significance: Agency Priority

Legal Authority: 43 USC 390 Reclamation Reform Act of 1982; 43 USC 371 to 600 Reclamation Act of 1902; 5 USC 552

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DOI—RB

Final Rule Stage

CFR Citation: 43 CFR 426

Legal Deadline: None

Abstract: This rule will revise provisions exempting landholders (owners and lessees) in districts subject to the acreage limitation provisions of reclamation law from the information collection requirements of the Reclamation Reform Act of 1982 (RRA) if their reclamation project landholdings total 40 acres or less. The Bureau has determined that there may be ways to increase the exemption threshold that would reduce the public reporting burden and improve the Bureau's ability to administer the RRA

Timetable:

Action	Date	FR Cite
NPRM	10/16/92	57 FR 47437
NPRM Comment Period End	11/16/92	57 FR 47437
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry Lynott, Director, Policy and Programs, Department of the Interior, Bureau of Reclamation, P.O. Box 25007, Denver Federal Center, D-5010, Denver, CO 80225, 303 236-3286

RIN: 1006–AA31

1819. • ACREAGE LIMITATION REGULATIONS

Significance: Agency Priority

Legal Authority: 43 USC 390 Reclamation Reform Act of 1982; 43 USC 371 to 600 Reclamation Act of 1902, 5 USC 552

CFR Citation: 43 CFR 426

Legal Deadline: Final, Judicial, September 25, 1994.

Abstract: On March 10, 1992, the United States District Court for the eastern district of California issued an order pursuant to the lawsuit of Natural Resources Defense Council v. Duvall (No. S-88-375-LKK). The order requires that the Bureau of Reclamation issue final rules that will apply to all Reclamation projects. An environmental impact statement must also be prepared in conjunction with the rules. The order stipulates the rules must be issued by September 25, 1994

Timetable:

Action	Date	FR Cite
Final Action	09/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Terry Lynott, Director, Policy and Programs, Department of the Interior, Bureau of Reclamation, P.O. Box 25007, Denver Federal Center, D-5010, Denver, CO 80225, 303 236-3286

RIN: 1006–AA32

BILLING CODE 4310-09-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Proposed Rule Stage

1820. PALEONTOLOGY

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 8270

Legal Deadline: None

Abstract: This rule will be revised to provide the procedures for the management of paleontological specimens located on the public lands

Timetable:

Action	Date	FR Cite
NPRM	08/17/82	47 FR 35914
Reproposal	10/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: F. Carl Barna, Division of Recreation, Cultural and Wilderness Resources, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-9183

RIN: 1004–AA27

1821. UNAUTHORIZED USE OF PUBLIC LANDS

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 9230

Legal Deadline: None

Abstract: This rule will be amended to clarify those activities that are prohibited on the public lands, to provide managers with additional authority to resolve existing violations and to clarify the authority of the Secretary of the Interior in instances of mineral trespass.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Walter I. Johnson, Jr., Chief, Division of Law Enforcement and Resource Protection, Department of the Interior, Bureau of Land Management, 3905 Vista Avenue, Boise, ID 83705, 208 334-1260

RIN: 1004–AA38

1822. EXPLORATION ACTIVITY; OIL AND GAS LEASING; GEOTHERMAL RESOURCE LEASING-GENERAL

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 16 USC 3101 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 3100, 43 CFR 3200

Legal Deadline: None

Abstract: The rule will issue corrections and clarifications to published final rules of May 16, 1988 and June 17, 1988.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lois Mason, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-2182

RIN: 1004–AA97

DOI—BLM

Proposed Rule Stage

1823. RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Legal Authority: 30 USC 185

CFR Citation: 43 CFR 2880

Legal Deadline: None

Abstract: This rule will amend the regulations to provide for improved administration of rights-of-way under the Mineral Leasing Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carl Gammon, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW (320), Washington, DC 20240, 202 653-9215

RIN: 1004–AA98

1824. RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES

Legal Authority: 16 USC 1134; 43 USC 1746; 43 USC 1740; 43 USC 1732; 43 USC 1761

CFR Citation: 43 CFR 2800

Legal Deadline: None

Abstract: This rule will amend the regulations to provide for improved administration of rights-of-way under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carl Gammon, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW (320), Washington, DC 20240, 202 653-9215

RIN: 1004–AB00

1825. INDIAN ALLOTMENTS

Legal Authority: 25 USC 334

CFR Citation: 43 CFR 2530

Legal Deadline: None

Abstract: This rule would revise the existing regulations to remove obsolete and burdensome provisions and clarify and simplify the remaining provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brenda Zenan, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-9215

RIN: 1004–AB10

1826. GEOTHERMAL RESOURCE OPERATIONS

Legal Authority: 30 USC 1001 to 1025

CFR Citation: 43 CFR 3200; 43 CFR 3260; 43 CFR 3270

Legal Deadline: None

Abstract: This rulemaking will revise provisions related to geothermal leasing and geothermal operations conducted on Federal lands. The changes are designed to remove burdensome and cumbersome provisions and simplify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Erick Kaarlela, Chief, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-2182

RIN: 1004–AB18

1827. MINERALS (NONMINERAL ENTRIES ON MINERAL LANDS)

Legal Authority: 30 USC 186; 30 USC 124

CFR Citation: 43 CFR 2093

Legal Deadline: None

Abstract: The amendments made by this rulemaking would eliminate portions of the existing regulations that refer to repealed authorities and make minor changes that reflect the merger of functions between the Bureau of Land Management and the Minerals Management Service.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Matt Millenbach, Chief, Division of Lands and Realty, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-9215

RIN: 1004–AB20

1828. ONSHORE OIL AND GAS OPERATIONS; SPECIAL PROVISIONS; ONSHORE OIL AND GAS ORDER NO. 5—MEASUREMENT OF GAS

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 396 to 399; 43 USC 1457; 40 USC 471 et seq; 42 USC 4321; 42 USC 6508; 30 USC 1701 et seq; 25 USC 2102

CFR Citation: 43 CFR 3164.1

Legal Deadline: None

Abstract: This rule will amend Onshore Oil and Gas Order No. 5 on Measurement of Gas to provide clarifications of recordkeeping and orifice meter standards, and to provide for approval by the jurisdictional Bureau of Land Management State Office of gas measurement by electronic flow computers, using an orifice, that calculate volume using equations specified by the American Gas Association Committee Report No.3.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Erick Kaarlela, Chief, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-2182

RIN: 1004–AB22

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1829. SALES OF FOREST PRODUCTS; GENERAL—PREPARATION FOR SALE

Legal Authority: 16 USC 617

CFR Citation: 43 CFR 5400; 43 CFR 5420

Legal Deadline: None

Abstract: This rule will implement the Forest Resources Conservation and Shortage Relief Act of 1990 by prohibiting the export of unprocessed timber from western Federal timber lands and direct and indirect substitution for such timber.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bob Bierer, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-8864

RIN: 1004–AB34

1830. ONSHORE OIL AND GAS ORDER NO. 9 - WASTE PREVENTION AND BENEFICIAL USE OF OIL AND GAS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1; 43 CFR 3162.4; 43 CFR 3162.5; 43 CFR 3162.7-1; 43 CFR 3162.7-2; 43 CFR 3162.7-3; 43 CFR 3165.3; 43 CFR 3165.4

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas operations regulations as found in 43 CFR 3160. This order details the requirements in order to prevent wastes and promote beneficial uses of oil and gas. This order also provides the enforcement actions that will result when violations of standards occur. It also replaces NTL-4A. This order is to be referenced in the table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erick Kaarlela, Chief, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-2182

RIN: 1004–AB47

1831. CLASSIFICATIONS

Legal Authority: 43 USC 315f; 43 USC 869; 43 USC 1701 et seq

CFR Citation: 43 CFR 2400

Legal Deadline: None

Abstract: This rule will amend part 2400 to include conformance with land-use planning and environmental analysis for establishing and terminating classifications.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Paugh, Realty Specialist, Department of the Interior, Bureau of Land Management, 2515 Warren Ave., P.O. Box 1828, Cheyenne, WY 82003, 307 775-6306

RIN: 1004–AB57

1832. VILLAGE SELECTIONS

Legal Authority: 43 USC 1613

CFR Citation: 43 CFR 2651

Legal Deadline: None

Abstract: This rule would amend the existing regulations to allow underselected Alaska Native Village Corporations to select lands identified and made available by the Secretary enabling them to fulfill their statutory entitlement under the Alaska Native Claims Settlement Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mike Berch, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-9215

RIN: 1004–AB58

1833. RULES OF CONDUCT

Legal Authority: 102 Stat 4571

CFR Citation: 43 CFR 8365

Legal Deadline: None

Abstract: This rule will amend the penalty provision in 43 CFR 9260 to provide for the penalty called for in the Arizona-Idaho Conservation Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: Harold Belisle, Chief, Branch of Recreation Resources, Department of the Interior, Bureau of Land Management, 1849 C St NW., Washington, DC 20240, 202 653-8828

RIN: 1004–AB67

1834. MANAGEMENT OF DESIGNATED WILDERNESS AREA

Legal Authority: 43 USC 1701 et seq; 16 USC 1131 et seq

CFR Citation: 43 CFR 8560

Legal Deadline: None

Abstract: This rule will amend the existing regulations to remove obsolete provisions, clarify and simplify the regulations, and add provisions on access to inholdings, rights-of-way, use of mechanized equipment by certain individuals, access by Native Americans

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rob Hellie, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-9183

RIN: 1004–AB69

1835. AVAILABILITY OF PUBLIC RECORDS

Legal Authority: 43 USC 1201; 43 USC 1460; 43 USC 1734; 43 USC 1737; 5 USC 552

CFR Citation: 43 CFR 1814

Legal Deadline: None

Abstract: This rule will establish specific procedures for public access to Bureau of Land Management records on all media, including paper, microform, computer, and audiovisual, in order to facilitate public access. It will also provide information on fees that may be required for providing records or services.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dorothy A. Chambers, Management Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-8853

RIN: 1004–AB70

1836. DRAINAGE, OPERATIONS, AND LEASING OBLIGATIONS

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 396 to 399; 43 USC 1457; 40 USC 471 et seq; 42 USC 4321; 42 USC 6508; 30 USC 1701 et seq; 43 USC 1701 et seq; 25 USC 2102; 16 USC 668dd to ee; 31 USC 483a

CFR Citation: 43 CFR 3100.2; 43 CFR 3100.2-1; 43 CFR 3100.2-2; 43 CFR 3162.2

Legal Deadline: None

Abstract: This rule will clarify the responsibilities of fluid mineral lessees for protecting Federal-leased fluid minerals from drainage by operations on nearby lands that would result in lower royalties for Federal or Indian lessors by specifying requirements before the obligation of lessees to protect from such drainage begins, by providing a profitability threshold for lessee responsibility, by allocating burden of proof of drainage, and by specifying the responsibilities of multiple lessees and assignees. It will also clarify responsibility of the liable parties for other obligations arising from lease terms and operations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Erick Kaarlela, Chief, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-2182

RIN: 1004–AB74

1837. SALES - FEDERAL LAND POLICY AND MANAGEMENT ACT

Legal Authority: 43 USC 1701; 43 USC 1713

CFR Citation: 43 CFR 2710

Legal Deadline: None

Abstract: This rule will amend 43 CFR part 2710 to provide for improved administration of sales of public land under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jim Paugh, Realty Specialist, Department of the Interior, Bureau of Land Management, 2515 Warren Ave., P.O. Box 1828, Cheyenne, WY 82003, 307 775-6306

RIN: 1004–AB77

1838. ONSHORE OIL AND GAS OPERATIONS: ONSHORE OIL AND GAS ORDER NO. 4 - MEASUREMENT OF OIL

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 471 et seq; 42 USC 4321; 42 USC 6508; 30 USC 1701 et seq; 25 USC 2102

CFR Citation: 43 CFR 3160

Legal Deadline: None

Abstract: This rule will amend Onshore Oil and Gas Order No. 4 on Measurement of Oil to provide clarification of tank gauging sampling procedures, thermometer standards, sales meter proving requirements, oil removal documentation, and will make other minor editorial changes.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Erick Kaarlela, Chief, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-2182

RIN: 1004–AB80

1839. AWARD OF CONTRACT

Legal Authority: 43 USC 1181e; 30 USC 601 et seq

CFR Citation: 43 CFR 5450

Legal Deadline: None

Abstract: This rule will require purchasers of timber with previous defaults on U.S. Forest Service timber sale contracts to establish their responsibility in the same manner required of purchasers with previous defaults on BLM timber sale contracts.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Bierer, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-8864

RIN: 1004–AB83

1840. PROTECTION, MANAGEMENT, AND CONTROL OF WILD FREE-ROAMING HORSES AND BURROS

Legal Authority: 16 USC 1331 to 1340

CFR Citation: 43 CFR 4700

Legal Deadline: None

Abstract: This rule will clarify existing BLM policy on several matters, including adoption fees (they are nonrefundable) and the status of foals born to wild horses and burros after proper execution of a Private Maintenance and Care Agreement. The rule will also change the process of issuing decisions and administrative remedies and make necessary corrections in other portions of the regulations.

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Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Dawson, Acting Chief, National Wild Horses and Burros Program, Department of the Interior, Bureau of Land Management, P.O. Box 12000, Reno, NV 89520-0006, 702 785-6583

RIN: 1004–AB84

1841. CONVEYANCE OF FEDERALLY-OWNED MINERAL INTERESTS

Legal Authority: 43 USC 1719; 43 USC 1740

CFR Citation: 43 CFR 2720

Legal Deadline: None

Abstract: This rule will clarify terminology and required procedures for the conveyance of mineral interests owned by the United States where the surface is or will be in non-Federal ownership.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Clyde Topping, Economist, Division of Minerals Policy Analysis and Economic Evaluation, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-6610

RIN: 1004–AB86

1842. GRAZING ADMINISTRATION EXCLUSIVE OF ALASKA

Legal Authority: 43 USC 315; 43 USC 1701 et seq

CFR Citation: 43 CFR 4100

Legal Deadline: None

Abstract: This rule will clarify the public participation role in management of the public rangelands, provide authority for non-monetary settlement for unauthorized grazing use determined by the BLM to have resulted from circumstances beyond the control of the permittee or lessee, and provide for decisions to be placed in full force and effect pending appeal when necessary to assure orderly administration, management, or proper use of the rangelands.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: George Ramey, Range Conservationist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-9195

RIN: 1004–AB89

1843. LAND WITHDRAWALS

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 2300

Legal Deadline: None

Abstract: This rule will amend the existing regulations to clarify and simplify the procedures for implementing the authority of the Secretary of the Interior to process withdrawal applications, and, where appropriate, to make, modify, or extend Federal land withdrawals.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeff Holdren, Withdrawals Program Leader, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-9202

RIN: 1004–AB94

1844. RESTORATIONS AND REVOCATIONS

Legal Authority: 43 USC 1701 et seq; 43 USC 1201; 40 USC 472

CFR Citation: 43 CFR 2370

Legal Deadline: None

Abstract: This rule will amend the existing regulations to improve and define more precisely the procedures for the revocation and restoration of Federal land withdrawals that are no longer needed by a Federal agency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeff Holdren, Withdrawals Program Leader, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-9202

RIN: 1004–AB95

1845. SALES OF FOREST PRODUCTS; DESIGNATION OF SURPLUS SPECIES

Legal Authority: 16 USC 620 et seq

CFR Citation: 43 CFR 5400

Legal Deadline: None

Abstract: This rule will declare values of grades and species of unprocessed Federal timber that are surplus to domestic processing needs and that are therefore not restricted from export from the United States.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bob Bierer, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-8864

RIN: 1004–AB96

1846. SALES OF FOREST PRODUCTS; LAW ENFORCEMENT

Legal Authority: 43 USC 1181e; 30 USC 601 et seq; 43 USC 1701 et seq; 43 USC 1201; 18 USC 1851 to 1858

CFR Citation: 43 CFR 5460; 43 CFR 5510; 43 CFR 9230; 43 CFR 9260

Legal Deadline: None

Abstract: This rule will amend current regulations to make them more orderly and easier to follow, and add a list of prohibited acts to the sections on forest product contracts and free use permits to provide guidance for the administration of contracts and permits and a basis for law enforcement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bob Bierer, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-8864

RIN: 1004–AB97

1847. SURFACE MANAGEMENT

Legal Authority: 30 USC 22; 43 USC 1201; 43 USC 1701 et seq

CFR Citation: 43 CFR 3809

Legal Deadline: None

Abstract: This rule will revise the regulations used to manage surface-disturbing mining activities on public lands. Topics that may be addressed in a proposed rule are: reconsideration of the 5-acre threshold, revision of the definition of "unnecessary or undue degradation," civil and/or criminal penalties for noncompliance, administrative deadlines, and further environmental and reclamation requirements.

Timetable:

Action	Date	FR Cite
ANPRM	10/23/91	56 FR 54815
ANPRM Comment Period End	01/03/92	
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jennifer Fox, Geologist, Division of Solid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-5182

RIN: 1004–AB99

1848. FAA AIRPORT GRANTS (43 CFR 2640)

Legal Authority: 49 USC 2215

CFR Citation: 43 CFR 2640

Legal Deadline: None

Abstract: This rule will amend the existing regulation by providing for continued segregation after patent, and for the use of a notice of decision rather than a Notice of Realty Action, in order to make these regulations consistent with subpart 2091.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jim Paugh, Realty Specialist, Department of the Interior, Bureau of Land Management, 2515 Warren Ave., P.O. Box 1828, Cheyenne, WY 82003, 307 775-6306

RIN: 1004–AC01

1849. HARDROCK MINERALS PROSPECTING PERMITS

Legal Authority: 5 USC app

CFR Citation: 43 CFR 3562

Legal Deadline: None

Abstract: This rule will amend the regulations to extend the duration of prospecting permits for hardrock minerals.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Linda Ponticelli, Mineral Leasing Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW (660), Washington, DC 20240, 202 653-5182

RIN: 1004–AC05

1350. MINERALS; COST RECOVERY

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 1001 to 1025; 5 USC app; 30 USC 22

CFR Citation: 43 CFR 3100; 43 CFR 3200; 43 CFR 3400; 43 CFR 3500; 43 CFR 3600; 43 CFR 3610; 43 CFR 3700; 43 CFR 3800

Legal Deadline: None

Abstract: This rule will amend the regulations for fluid and solid leasable minerals, locatable minerals, and mineral materials to adjust current fees or establish new fees in accordance with Title V of the Independent Offices Appropriation Act of 1952 (User Charge Statute) and Office of Management and Budget Circular A-25, "User Charges."

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Linda Ponticelli, Mineral Leasing Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW (660), Washington, DC 20240, 202 653-5182

RIN: 1004–AC06

1851. • RENTAL FEES, MINING CLAIM RECORDATION, AND ASSESSMENT WORK

Legal Authority: 106 Stat 1374

CFR Citation: 43 CFR 3730; 43 CFR 3820; 43 CFR 3833; 43 CFR 3850

Legal Deadline: None

Abstract: This rule will implement provisions of the Interior and Related Agencies Appropriation Act of 1993 requiring an annual rental fee of $100 for each mining claim and site located and held under the General Mining Law of 1872 for fiscal years 1993 and 1994.

Timetable:

Action	Date	FR Cite
NPRM	03/05/93	58 FR 12878
NPRM Comment Period End	04/19/93	58 FR 12878
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management, Nevada State Office, BLM, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520-0006, 702 785-6576

RIN: 1004–AC07

1852. • ONSHORE OIL AND GAS OPERATIONS

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 396 et seq; 43 USC 1457; 30 USC 1701 et seq; 25 USC 2102 et seq

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DOI—BLM

Proposed Rule Stage

CFR Citation: 43 CFR 3160

Legal Deadline: None

Abstract: This rule will clarify the responsibilities of the Bureau of Land Management for lands administered by the Forest Service under the Federal Onshore Oil and Gas Leasing Reform Act of 1987, providing the BLM is responsible only for Applications for Permit to Drill, related subsurface impacts, and related appeals

Timetable:

Action	Date	FR Cite
NPRM	10/01/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Erick Kaarlela, Chief, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-2182

RIN: 1004–AC09

1853. • LAW ENFORCEMENT - CRIMINAL

Legal Authority: 16 USC 433; 16 USC 470; 16 USC 668(a); 16 USC 670(j); 16 USC 703, 16 USC 1241 to 1246; 16 USC 1331 to 1340, 16 USC 1538; 16 USC 3372; 16 USC 4301; 18 USC 47; 18 USC 111; 18 USC 371 to 372; 18 USC 641; 18 USC 1170; ...

CFR Citation: 43 CFR 9260

Legal Deadline: None

Abstract: This rule would completely revise part 9260 - Law Enforcement - Criminal to reflect current conditions, standards and authorities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dennis McClane, Chief Ranger, Department of the Interior, Bureau of Land Management, Division of Law Enforcement and Resource Protection, 3905 Vista Ave., Boise, ID 83705, 208 334-1260

RIN: 1004–AC10

1854. • LAW ENFORCEMENT - CRIMINAL

Legal Authority: 16 USC 668(a); 16 USC 670; 16 USC 707; 16 USC 1538(a); 16 USC 1540; 16 USC 3370(d), 43 USC 1732; 43 USC 1733

CFR Citation: 43 CFR 9260

Legal Deadline: None

Abstract: This rule would amend the existing regulations to clarify the applicability of Federal, State and local fish and wildlife protection laws on the public land, and to delete obsolete regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dennis McClane, Chief Ranger, Department of the Interior, Bureau of Land Management, Division of Law Enforcement and Resource Protection, 3905 Vista Ave., Boise, ID 83705, 208 334-1260

RIN: 1004–AC11

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Final Rule Stage

1855. ONSHORE OIL AND GAS ORDER NO. 7 - DISPOSAL OF PRODUCED WATER

Legal Authority: 30 USC 189; 30 USC 359

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas regulations as found in 43 CFR part 3160. The order details the requirements for the handling, storing or disposing of water produced from oil or gas wells. It replaces NTL-2B. The order will also contain inspection standards. This order is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	01/19/90	55 FR 1837
NPRM Comment Period End	03/20/90	55 FR 1837
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erick Kaarlela, Chief, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-2182

RIN: 1004–AA66

1856. EXCHANGES—GENERAL PROCEDURES

Legal Authority: 43 USC 1715; 43 USC 1716; 43 USC 1732

CFR Citation: 43 CFR 2200

Legal Deadline: Final, Statutory, August 20, 1989.

Abstract: This rule will amend the existing regulations to provide procedures to facilitate and expedite the processing of land exchanges.

Timetable:

Action	Date	FR Cite
NPRM	08/18/89	54 FR 34380
NPRM Comment Period End	12/01/89	54 FR 43185
Reprcposal	10/02/91	56 FR 49962
NPRM Comment Period End	12/02/91	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Don Simpson, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-9215

RIN: 1004–AB28

DOI—BLM

Final Rule Stage

1857. MINING CLAIMS UNDER THE GENERAL MINING LAWS

Significance: Regulatory Program

Legal Authority: 30 USC 22; 43 USC 1201; 43 USC 1744; 43 USC 1734; 43 USC 1740

CFR Citation: 43 CFR 3809

Legal Deadline: None

Abstract: This rule will require submission of financial guarantees for reclamation for all mining operations greater than casual use, create additional financial instruments for this purpose, and require operators with a record of noncompliance to file plans of operations.

Timetable:

Action	Date	FR Cite
NPRM	07/11/91	56 FR 31602
NPRM Comment Period End	09/09/91	
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rick Deery, Division of Solid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-5182

RIN: 1004–AB36

1858. ONSHORE OIL AND GAS ORDER NO. 8 - WELL WORKOVERS, COMPLETIONS, ABANDONMENTS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3160

Legal Deadline: None

Abstract: This order is being issued under the Oil and Gas Operations regulations as found in 43 CFR part 3160. The order details the minimum standards of performance when conducting workover, completions, and abandonment of existing wells on Federal and Indian lands (except Osage Tribe). It also will contain enforcement actions that will result from the failure to meet the minimum standards.

Timetable:

Action	Date	FR Cite
NPRM	05/06/91	56 FR 20568
NPRM Comment Period End	07/26/91	
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Erick Kaarlela, Chief, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-2182

RIN: 1004–AB37

1859. COAL MANAGEMENT—GENERAL

Significance: Regulatory Program

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will revise the exploration and mining operations regulations, as well as other operations-related regulations, to streamline them and to have them reflect current policy and standard industry operating practices relating to Federal coal.

Timetable:

Action	Date	FR Cite
NPRM	07/12/91	56 FR 32002
NPRM Comment Period End	09/10/91	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Politzer, Chief, Division of Solid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-5182

RIN: 1004–AB44

1860. LEASES, PERMITS AND EASEMENTS

Legal Authority: 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2920

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide for improved administration of Leases, Permits and Easements under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	11/21/90	55 FR 48810
NPRM Comment Period End	01/22/91	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brenda Zenan, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-9215

RIN: 1004–AB51

1861. MINING IN MILITARY WITHDRAWALS

Legal Authority: 100 Stat 3457, sec 12; 30 USC 22; 43 USC 1701 et seq

CFR Citation: 43 CFR 3828; 43 CFR 3811

Legal Deadline: None

Abstract: This proposed rule establishes guidelines for mining in certain military installations under the Mining Law of 1872, as amended, and for assuring the safe, uninterrupted, and unimpeded use of the lands for military purposes. The Military Lands Withdrawal Act of 1986 specifically provided for certain military lands previously withdrawn from mining to be considered for opening to the operation of the Mining Law of 1872, as amended, with certain special restrictions. Military lands identified as suitable for mining through the Bureau of Land Management's planning system are proposed to be opened on the effective date of an opening order that will be published in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	07/02/91	56 FR 30367
NPRM Comment Period End	09/03/91	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carole Smith, Mineral Leasing Specialist, Division of Solid Minerals, Department of the Interior, Bureau of Land Management,

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DOI—BLM

Final Rule Stage

1849 C Street NW., Washington, DC 20240, **202 653-5182**

RIN: 1004–AB52

1862. PUBLIC AVAILABILITY OF MINERALS RESOURCES INFORMATION

Legal Authority: 5 USC 552

CFR Citation: 43 CFR 3000

Legal Deadline: None

Abstract: This rule will remove conflicts between existing mineral regulations relating to public availability of mineral resources information and the Freedom of Information Act. The rule will also remove discrepancies among the various mineral regulations regarding public release of information.

Timetable:

Action	Date	FR Cite
NPRM	05/31/91	56 FR 24767
NPRM Comment Period End	07/31/91	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorothy Chambers, Management Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, **202 653-8853**

RIN: 1004–AB55

1863. CAVE MANAGEMENT

Legal Authority: 16 USC 4301 et seq; 43 USC 1740

CFR Citation: 43 CFR 37

Legal Deadline: Final, Statutory, August 18, 1989.

Abstract: This rule will provide criteria to determine whether caves on Federal lands are significant and thereby to be given special attention in planning and other decisions affecting Federal lands.

Timetable:

Action	Date	FR Cite
NPRM	01/13/92	57 FR 1344
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Del Price, Outdoor Recreation Planner, Department of the Interior, Bureau of Land Management, 2850 Youngfield St., Lakewood, CO 80215-7076, **303 239-3739**

RIN: 1004–AB59

1864. ONSHORE OIL AND GAS OPERATIONS; SPECIAL PROVISIONS; ONSHORE OIL AND GAS ORDER NO. 1 - APPROVAL OF OPERATIONS ON ONSHORE FEDERAL AND INDIAN OIL AND GAS LEASES

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 396 to 399; 43 USC 1457; 40 USC 471 et seq; 42 USC 4321; 42 USC 6508; 30 USC 1701 et seq; 25 USC 2102

CFR Citation: 43 CFR 3164.1

Legal Deadline: None

Abstract: This rule will amend Order No. 1 to conform to the regulations in 43 CFR 3160 and for consistency with the Federal Onshore Oil and Gas Leasing Reform Act of 1987. The rule will specify the requirements for the approval of all proposed exploratory, development, and service wells, and for approval of certain subsequent operations.

Timetable:

Action	Date	FR Cite
NPRM	07/23/92	57 FR 32756
NPRM Comment Period End	09/21/92	
Final Action	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Erick Kaarlela, Chief, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, **202 653-2182**

RIN: 1004–AB72

1865. ONSHORE OIL AND GAS UNIT AGREEMENTS—UNPROVEN AREAS

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3180

Legal Deadline: None

Abstract: This rule will clarify the effective date of approval of a unit agreement, and will provide for State Director review in cases of appeals by adversely affected parties. It will also condition Federal approval of a unit agreement on its containing a provision for payment to the Government of compensatory royalties for oil and gas drained from unleased Federal lands located within participating areas of the unit, in order to prevent loss through drainage through adjacent non-Federal wells without compensation to the Government.

Timetable:

Action	Date	FR Cite
NPRM	02/04/92	57 FR 4177
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erick Kaarlela, Chief, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, **202 653-2182**

RIN: 1004–AB73

1866. MINERAL MATERIALS DISPOSAL

Legal Authority: 30 USC 601 et seq

CFR Citation: 43 CFR 3600

Legal Deadline: None

Abstract: This rule will improve the economies of scale of mineral materials production by providing for contracts with a longer term than the current 10 years, either a longer fixed term, or a term based on the duration of production tied to diligence requirements. It will also provide for contracts for concomitantly larger quantities of mineral materials, the quantity available at the contract site.

Timetable:

Action	Date	FR Cite
NPRM	01/27/92	57 FR 3092
NPRM Comment Period End	03/27/92	
Final Action	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga Rimal, Geologist, Division of Solid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, **202 653-5182**

RIN: 1004–AB76

DOI—BLM

Final Rule Stage

1867. PROTECTION, MANAGEMENT, AND CONTROL OF WILD FREE-ROAMING HORSES AND BURROS

Legal Authority: 16 USC 1331 to 1340

CFR Citation: 43 CFR 4770

Legal Deadline: None

Abstract: The rule will allow the Secretary of the Interior to protect adopted wild horses and burros from abuse and neglect by authorizing full force and effect decisions to cancel Private Maintenance and Care Agreements when the condition of the animals warrants such action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/09/91	56 FR 786
Interim Final Rule Comment Period End	03/11/91	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Dawson, Acting Chief, National Wild Horses and Burros Program, Department of the Interior, Bureau of Land Management, P.O. Box 12000, Reno, NV 89520-0006, **702 785-6583**

RIN: 1004–AB81

1868. PUBLIC LAW 167; ACT OF JULY 23, 1955

Significance: Regulatory Program

Legal Authority: 30 USC 22; 30 USC 612; 43 USC 1701 et seq

CFR Citation: 43 CFR 3710

Legal Deadline: None

Abstract: This rule will enumerate the restrictions on use and occupancy of unpatented mining claims and mill sites on public lands.

Timetable:

Action	Date	FR Cite
NPRM	09/11/92	57 FR 41846
NPRM Comment Period End	11/10/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rick Deery, Division of Solid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, **202 653-5182**

RIN: 1004–AB88

1869. FEDERAL LAND WITHDRAWALS; AMENDMENT TO WITHDRAWAL PROCEDURES

Legal Authority: 43 USC 1714

CFR Citation: 43 CFR 2310

Legal Deadline: None

Abstract: This rule will amend existing regulations by removing references to emergency withdrawals.

Timetable:

Action	Date	FR Cite
NPRM	11/26/91	56 FR 59914
NPRM Comment Period End	12/26/91	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vanessa Engle, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, **202 653-9215**

RIN: 1004–AB92

1870. HOMESTEADING; DESIGNATION OF AREAS AND SITES; PROGRAMS AND OBJECTIVES (ADMINISTRATIVE FINAL RULE)

Legal Authority: 43 USC 161 to 164; 43 USC 166 to 169; 43 USC 185; 43 USC 201; 43 USC 231; 43 USC 1201; 43 USC 1411

CFR Citation: 43 CFR 2510; 43 CFR 2070; 43 CFR 1720; 43 CFR 8350

Legal Deadline: None

Abstract: This rule will remove parts 2510, 2070, and 1720 and subpart 8352 of Title 43 of the Code of Federal Regulations. The authorities for these parts have all either been repealed or have expired under their own terms.

Timetable:

Action	Date	FR Cite
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Paugh, Realty Specialist, Department of the Interior, Bureau of Land Management, 2515 Warren Ave., P.O. Box 1828, Cheyenne, WY 82003, **307 775-6306**

RIN: 1004–AB98

1871. COAL MANAGEMENT: GENERAL

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will amend the regulations to render all decisions on coal leasing, exploration, and development in full force and effect pending the outcome of appeals to the Interior Board of Land Appeals, unless the appellant shows cause as to direct, adverse effects on himself/herself.

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5697
NPRM Comment Period End	03/23/93	58 FR 5697

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carole Smith, Mineral Leasing Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW (660), Washington, DC 20240, **202 653-5182**

RIN: 1004–AC04

1872. • OIL AND GAS COMPETITIVE LEASES, DURATION OF LEASE TERM

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 16 USC 3101 et seq; 43 USC 1701 et seq; 40 USC 471 et seq; 40 Op Atty Gen 41

CFR Citation: 43 CFR 3120

Legal Deadline: None

Abstract: This rule will extend the primary term of all new competitive Federal onshore oil and gas leases from five years to ten years. This revision is necessary to comply with provisions of the Energy Policy Act of 1992 (PL 102-486).

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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DOI—BLM — **Final Rule Stage**

Agency Contact: Erick Kaarlela, Chief, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1849 C St. NW., Washington, DC 20240, 202 653-2182

RIN: 1004–AC08

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM) — **Completed Actions**

1873. VISITOR SERVICES: RULES OF CONDUCT

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 8365

Legal Deadline: None

Abstract: This rule will require the use of safety belts in vehicles operated on roadways on Federal lands managed by the Bureau of Land Management.

Timetable:

Action	Date	FR Cite
NPRM	05/30/91	56 FR 24363
NPRM Comment Period End	07/30/91	
Final Action	12/23/92	57 FR 61242
Final Action Effective	01/22/93	57 FR 61242

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul V. Lynch, Chief, Safety Staff, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-8851

RIN: 1004–AB91

1874. APPEALS PROVISIONS

Legal Authority: 30 USC 181 et seq; 43 USC 1701 et seq; 16 USC 3101 et seq; 30 USC 351 to 359; 31 USC 483a; 42 USC 6504; 42 USC 6508

CFR Citation: 43 CFR 3150; 43 CFR 3160

Legal Deadline: None

Abstract: This rule will render BLM decisions and approvals in full force and effect pending appeal.

Timetable:

Action	Date	FR Cite
NPRM	03/13/92	57 FR 9014
Interim Final Rule	03/13/92	57 FR 9010
NPRM Comment Period End	04/13/92	
Final Action	09/25/92	57 FR 44333
Final Action Effective	10/26/92	57 FR 44333

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erick Kaarlela, Chief, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-2182

RIN: 1004–AC02

1875. SALES ADMINISTRATION

Significance: Agency Priority

Legal Authority: 30 USC 601 et seq; 43 USC 1181e

CFR Citation: 43 CFR 5460

Legal Deadline: None

Abstract: This rule will provide for delay of midterm payments on timber sale contracts that are extended due to actions taken by the Federal or State governments that cause a delay in harvesting activities. The first anniversary payment and second anniversary payments may be delayed for the period of time that is granted to provide an additional amount of operating time equal to operating time that is lost due to delay caused by Federal or State governments.

Timetable:

Action	Date	FR Cite
NPRM	08/21/92	57 FR 37936
NPRM Comment Period End	09/21/92	
Final Action	12/30/92	57 FR 62232
Final Action Effective	01/29/93	57 FR 62232

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Bierer, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240, 202 653-8864

RIN: 1004–AC03

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DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Mines (MINES) — **Proposed Rule Stage**

1876. HELIUM DISTRIBUTION CONTRACTS

Legal Authority: 50 USC 167 et seq

CFR Citation: 30 CFR 602

Legal Deadline: None

Abstract: Issuance of a revision to 30 CFR 602 is designed to correct a deficiency identified by the Inspector General. Under the existing rule, the Bureau of Mines has not been able to bill and collect the $5 per thousand cubic feet price premium for Bureau helium purchased for sale to Federal agencies but sold to commercial accounts. The Inspector General estimated that $293,000 and $437,000 went uncollected in 1989 and 1990, respectively. Estimates of any future benefits are uncertain because of changing market conditions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Armond A. Sonnek, Assistant Director-Helium Operations, Department of the Interior, Bureau of Mines, 810 7th Street NW., Washington, DC 20241, 202 501-9245

RIN: 1032–AA01

DOI—MINES — **Proposed Rule Stage**

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Mines (MINES) — **Completed Actions**

1877. PAYMENTS REQUIRED FOR OWNERS OF PRIVATE LANDS UPON WHICH THE BUREAU OF MINES PERFORMS EXPLORATION OR DEVELOPMENT WORK TO INVESTIGATE KNOWN COAL DEPOSITS

Legal Authority: 60 Stat 373

CFR Citation: 30 CFR 609

Legal Deadline: None

Abstract: This rule will rescind 30 CFR part 609 because the Bureau of Mines no longer conducts exploration and development work on known coal deposits. Although there are no cost savings realized as a result of the proposed rescission, it would meet the President's objective for revising or rescinding unnecessary and burdensome regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/21/92	57 FR 43411
NPRM Comment Period End	10/21/92	
Final Action - 30 CFR 609 was rescinded on 12/29/92	12/29/92	57 FR 61831
Final Action Effective	12/29/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John D. Ford, Management Analyst, Department of the Interior, Bureau of Mines, 810 7th Street NW., Washington, DC 20241, 202 501-9253

RIN: 1032–AA02

1878. BUREAU OF MINES GRANT PROGRAMS

Legal Authority: 42 USC 3253; 42 USC 1891 to 1893; 30 USC 482

CFR Citation: 30 CFR 651

Legal Deadline: None

Abstract: This regulation which requires innovation in the submission of research and development proposals to further Bureau of Mines' programs as authorized by statute is proposed for rescission because these requirements are also contained in 48 CFR, chapter 15, subpart 1515.5. Although there are no cost savings realized as a result of the proposed rescission, it would meet the President's objective for revising or rescinding unnecessary and burdensome regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/21/92	57 FR 43412
NPRM Comment Period End	10/21/92	
Final Action - 30 CFR 651 was rescinded 12/29/92	12/29/92	57 FR 61831
Final Action Effective	12/29/92	57 FR 61831

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John D. Ford, Management Analyst, Department of the Interior, Bureau of Mines, 810 7th Street NW., Wasington, DC 20241, 202 501-9253

RIN: 1032–AA03

BILLING CODE 4310-53-F

DEPARTMENT OF THE INTERIOR (DOI)
Geological Survey (GS) — **Proposed Rule Stage**

1879. OBTAINING FEDERAL ASSISTANCE IN FINANCING EXPLORATION FOR MINERAL RESOURCES, EXCLUDING ORGANIC FUELS

Legal Authority: 30 USC 642(e)

CFR Citation: 30 CFR 400

Legal Deadline: None

Abstract: This agency is proposing to remove 30 CFR 400, Regulations for Obtaining Federal Assistance in Financing Exploration for Mineral Resources, excluding organic fuels, in the United States, its Territories and Possessions, because the program has had no funding authority since 1979, and it is doubtful that funding will be authorized in the foreseeable future.

Timetable:

Action	Date	FR Cite
NPRM	09/21/92	57 FR 43411
NPRM Comment Period End	10/21/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Curtin, Department of the Interior, Geological Survey, 913 National Center, Reston, Virginia 22092, 703 648-4242

RIN: 1028–AA04

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DEPARTMENT OF THE INTERIOR (DOI)
Geological Survey (GS)

Final Rule Stage

1880. STATE WATER RESEARCH INSTITUTES

Legal Authority: PL 98-242; PL 101-397

CFR Citation: 30 CFR 401

Legal Deadline: None

Abstract: This agency is proposing to revise the procedures and criteria for evaluating the State Water Research Institutes authorized under the Water Resources Research Act of 1984. The revision incorporates changes made by PL 101-397 so that evaluation teams are not required to visit each institute but can visit such institutes as deemed necessary; the composition of the evaluation team is changed; the evaluation team will consider only those institute activities funded under section 104 of the Water Resources Research Act of 1984. The revision will lower the cost of the evaluation process.

Timetable:

Action	Date	FR Cite
NPRM	12/17/92	57 FR 59941
NPRM Comment Period End	01/19/93	57 FR 59941
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Allen Ford, Department of the Interior, Geological Survey, 424 National Center, Reston, Virginia 22092, 703 648-6806

RIN: 1028–AA03

[FR Doc. 93-6053 Filed 04-23-93; 8:45 am]

BILLING CODE 4310-31-F

federal register

Monday
April 26, 1993

Part XI

Department of Justice

Semiannual Regulatory Agenda

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DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE

8 CFR Ch. I

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28 CFR Ch. I

Regulatory Agenda

AGENCY: Department of Justice.

ACTION: Regulatory agenda.

SUMMARY: The Department of Justice is publishing its April 1993 regulatory agenda pursuant to Executive Order No. 12291 "Federal Regulation," 3 CFR, 1981 Comp., p. 127, and the Regulatory Flexibility Act, 5 U.S.C. 601-612 (West 1984).

FOR FURTHER INFORMATION CONTACT: Erik Reid, Office of Policy Development, Department of Justice, Room 4248, 10th and Constitution Avenue NW., Washington, DC 20530, (202) 514-2456.

Dated: March 30, 1993.

Kevin R. Jones,

Acting Director, Office of Policy Development

Civil Rights Division—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1881	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance	1190-AA03

Drug Enforcement Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1882	Prescriptions for Controlled Substances, Requirements for Use of Automated Data Processing Systems	1117-AA03

Federal Prison System—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1883	Pretrial Inmates	1120-AA00
1884	Searching/Detaining of Non-Inmates	1120-AA01
1885	Visiting Regulations	1120-AA02
1886	Volunteer Community Service Projects	1120-AA03
1887	UNICOR Inmate Work Programs	1120-AA04

General Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1888	Determination for Access to National Security Information: Eligibility, Adjudication, and Appeal Procedures	1103-AA18

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1889	Procedures for Collection of Past Due Legally Enforceable Debt Through Federal Tax Refund Offset	1103-AA16

General Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1890	Debt Collection	1103-AA23

DOJ

Immigration and Naturalization Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1891	Dedicated Commuter Lanes	1115-AD35
1892	Revision of Form I-589	1115-AD36
1893	Guidelines on Producing Master Exhibits for Asylum Applications	1115-AD39

Immigration and Naturalization Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1894	Prosecution for Escape From Service Custody	1115-AB15
1895	Personal Check Elimination for Fee Remittance	1115-AB24
1896	Aliens, Exclusion Grounds, Immigration, Nationality, and Waivers of Inadmissibility	1115-AB45
1897	United States-Canada Free-Trade Agreement, Amendments	1115-AB72
1898	Suspension or Disbarment	1115-AB87
1899	Proof of Official Records	1115-AC11
1900	Exclusion of Aliens: Proceedings to Determine Deportability of Aliens in the United States; Apprehension, Custody, Hearing, and Appeal; Rescission of Adjustment of Status	1115-AC22
1901	Change of Nonimmigrant Classification	1115-AC23
1902	Contractual Augmentation of Federal Inspectional Services	1115-AC27
1903	Conditional Basis of Lawful Permanent Residence for Certain Alien Investors, Their Spouses, and Sons and Daughters	1115-AC53
1904	Representations and Appearances; Suspension or Disbarment	1115-AC61
1905	Asylum and Withholding of Deportation Procedures; Aggravated Felons	1115-AC66
1906	Registration of Special Groups	1115-AC68
1907	Parole Authority	1115-AC69
1908	Adjustment of Status to That of Person Admitted for Permanent Residence: Conditional Residents and Fiance(e)s	1115-AC70
1909	Judicial Recommendations Against Deportation; Controlled Substance Violations	1115-AC73
1910	Unavailability to TWOV to Citizens of the Former Socialist Federal Republic of Yugoslavia	1115-AC87
1911	Nonimmigrant Visitors for Business	1115-AC89
1912	Overtime Liability of Cargo Vessels and Aircraft	1115-AC91
1913	Non-Mariel Cuban Parole Determinations	1115-AC98
1914	Biannual INS User Fee Review	1115-AD06
1915	Special Services and Benefits; User Fees	1115-AD18
1916	Stipulated Deportation; Waiver of Presence of the Parties	1115-AD20
1917	Revision to Affirmative Asylum Adjudication Procedures	1115-AD22
1918	Documentary Requirements: Nonimmigrants; Nonresident Alien Border Crossing Cards	1115-AD24
1919	Safeguarding Classified Information in Temporary Protected Status Cases	1115-AD25
1920	Record of Conviction; Certification	1115-AD26
1921	Petitioning for Foreign-Born Orphans by United States Citizens	1115-AD28
1922	Charging of User Fees at Land Border Ports-of-Entry	1115-AD30
1923	Designated Area Entry Permit	1115-AD31
1924	Rescission of All Evidence of Lawful Permanent Residence Except Alien Registration Receipt Card, Form I-551	1115-AD32
1925	Nonimmigrant Classes: Exchange Visitors	1115-AD37
1926	Pilot Program for Investors	1115-AD38
1927	Emergency Federal Law Enforcement Assistance	1115-AD40
1928	Jurisdictional Changes for Certain Appeals to denials for Immigration Benefits	1115-AD41
1929	Automated Permit Ports at Specified Ports of Entry	1115-AD42

Immigration and Naturalization Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1930	Nonimmigrant Classes; Temporary Employees	1115-AA25
1931	Immigration User Fee	1115-AA30
1932	Guam Visa Waiver Program, Taiwan	1115-AA75
1933	Seizure and Forfeiture of Conveyances	1115-AA95

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Immigration and Naturalization Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1934	Proceedings to Determine Deportability of Aliens in the United States: Apprehension, Custody, Hearing and Appeal; Suspension of Deportation and Voluntary Departure	1115-AB19
1935	Waiver of Certain Types of Visas	1115-AB40
1936	Apprehension, Custody, and Detention; Clarification of Force and Effect of Service Detainers (Form I-247)	1115-AB48
1937	Nonimmigrant Classes; Special Requirement for Admission, Extension and Maintenance of Status, Control of Employment of Alien	1115-AB52
1938	Field Officers; Powers and Duties; Subpoena	1115-AB63
1939	Termination of Temporary Resident Status	1115-AB74
1940	Establishment of Pilot Programs to Charge a User Fee at Selected Ports of Entry	1115-AB78
1941	Claims to Asylum or Withholding of Deportation Made by Aliens Fleeing Coercive Family Planning Policies	1115-AB86
1942	Visa Waiver Pilot Program	1115-AB93
1943	Immigration and Nationality Petitions/Applications; Certification of Documents	1115-AC07
1944	Availability of Material Under the Freedom of Information Act	1115-AC15
1945	Suspension of Immediate and Continuous Transit Agreements	1115-AC17
1946	Adjustment of Status to That of Persons Admitted for Lawful Temporary or Permanent Resident Status Under Section 245a of the Immigration and Nationality Act, as Amended	1115-AC18
1947	Changes in Processing Procedures for Certain Applications and Petitions for Immigration Benefits	1115-AC20
1948	Contracts with Transportation Lines, Signatory Authority	1115-AC24
1949	Temporary Protected Status	1115-AC30
1950	Special Classes of Persons Who May be Naturalized; Veterans of the U.S. Armed Forces Who Served During WWI or WWII or Enlisted Under Act of June 30, 1950, as Amended	1115-AC34
1951	Application for the Exercise of Discretion Under 212c Aggravated Felons	1115-AC35
1952	Consent to Reapply for Admission After Deportation, Removal, or Departure at Government Expense	1115-AC37
1953	Applicant Processing for Family Unity Benefits	1115-AC39
1954	Exemption to General Prohibition Against Approval of Application for Immigration Benefits Based on Marriage Entered Into During Deportation or Exclusion Proceedings	1115-AC43
1955	Conditional Basis of Lawful Permanent Residence for Certain Alien Spouses and Sons and Daughters; Battered Wife Exception	1115-AC47
1956	Special Immigrant Status; Certain Aliens Declared Dependent on a Juvenile Court	1115-AC48
1957	Treaty Aliens, E Classification	1115-AC51
1958	Administrative Naturalization	1115-AC58
1959	Release Procedures; Lawful Permanent Residents Convicted of Aggravated Felonies	1115-AC60
1960	Enhancing the Enforcement Authority of Immigration Officers	1115-AC63
1961	Procedures for Asylum and Withholding of Deportation	1115-AC65
1962	Asylum Application Mail-in Program to Asylum Offices Issuance of Charging Documents in Exclusion and Deportation Proceedings by Supervisory Asylum Officers	1115-AC67
1963	Temporary Alien Workers Seeking Classification Under the Immigration and Nationality Act	1115-AC72
1964	Removal of the Requirement for the Registration and Fingerprinting of Certain Nonimmigrants Bearing Iraqi and Kuwaiti Travel Documents	1115-AC83
1965	Revision of Grounds for Deportation, Conforming Regulations	1115-AC86
1966	Mariel Cuban Parole Determinations	1115-AC90
1967	Powers and Duties of Service Officers' Availability of Service Records	1115-AC94
1968	Distribution of Service Forms	1115-AC97
1969	Detention and Release of Juveniles, Aggravated Felons	1115-AD04
1970	Special Immigrant Status; Aliens Who Have Served Honorably (or Are Enlisted To Serve) in the Armed Forces of the United States for at Least Twelve Years	1115-AD05
1971	Application for Extension or Reinstatement of Voluntary Departure	1115-AD07
1972	Admission of Refugees; Fingerprinting	1115-AD08
1973	Physical and Mental Examination of Arriving Aliens	1115-AD10
1974	Adjustment of Status to That of Person Admitted for Permanent Residence; Interview	1115-AD12
1975	Automatic Conversion of Classification of Beneficiary	1115-AD14
1976	Precompletion Interval Training; F-1 Student Work Authorization	1115-AD16
1977	Inspection of Persons Applying for Admission	1115-AD17
1978	Classification of Certain Scientists of the Independent States of the Former Soviet Union and Baltic States as Employment-Based Immigrants	1115-AD29
1979	Adjustment of Status for Certain Nationals of the People's Republic of China	1115-AD33
1980	Ports of Entry for Aliens Arriving by Airport	1115-AD34
1981	Unavailability of Transit Without Visa Procedure to Citizens of Haiti, Honduras, People's Republic of China, and Somalia	1115-AD43

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Immigration and Naturalization Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1982	Contracts with Transportation Lines	1115-AA88
1983	Change of Address Notification; Immigration Forms	1115-AB65
1984	Adjustment of Status; Nurses	1115-AB76
1985	Progressive Clearance	1115-AB90
1986	Nonimmigrant Classes, School Approvals and Reporting Requirements	1115-AB97
1987	Petition for Alien to Perform Agricultural Labor or Services of a Temporary or Seasonal Nature (H-2A); Petition Agreements	1115-AC28
1988	International Cultural Exchange Visitors, Q Classification	1115-AC32
1989	Landing Requirements; Place of Landing	1115-AC74
1990	Notice to Transportation Lines; National Fines Office	1115-AC75
1991	Landing of Alien Crewmen; Examination of Crewmen; Requirements for Admission; Revocation of Conditional Landing Permits; Deportation	1115-AC76
1992	Control of Alien Crewmen	1115-AC77
1993	Discharge of Alien Crewmen	1115-AC78
1994	Procedure Under Section 257 of the Immigration and Nationality Act	1115-AC79
1995	Prevention of Unauthorized Landing of Aliens	1115-AC80
1996	Unlawful Bringing of Aliens into the United States	1115-AC81
1997	Collection of Refunded Transportation Costs	1115-AC82
1998	Fees for Processing Certain Asylee/Refugee Related Applications	1115-AC93
1999	Name Change for Border Patrol Sector Number 3 and Sector Number 2	1115-AC95
2000	Ports of Entry for Aliens Arriving by Vessel or by Land Transportation	1115-AD00
2001	Contracts with Transportation Lines; Documentary Requirements	1115-AD01
2002	Implementation of Internal Reorganization of the Immigration and Naturalization Service	1115-AD03
2003	Emergency Federal Law Enforcement Assistance	1115-AD11
2004	N - Nonimmigrant Classes: Control of Employment of Aliens	1115-AD13
2005	Changing Definition of External Boundary of the United States	1115-AD19
2006	Accelerated EOIR Proceeding for Aggravated Felon	1115-AD21
2007	Designated Area Entry Permit	1115-AD23
2008	Contracts with Transportation Lines; Signatory Authority	1115-AD27

Legal Activities—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2009	Implementation of the Equal Access to Justice Act in Department of Justice Administrative Proceedings	1105-AA05
2010	Criminal Fines Enforcement	1105-AA16

Legal Activities—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2011	Deportation Proceedings: Alien Convicted of Aggravated Felony	1105-AA19

Legal Activities—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2012	New Restrictions on Lobbying	1105-AA12
2013	Unfair Immigration-Related Employment Practices	1105-AA17

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Office of Justice Programs—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2014	Uniform Administrative Requirements for Grants and Cooperative Agreements to Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	1121-AA18

Office of Justice Programs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2015	Criminal Justice Information Systems	1121-AA13
2016	Office of Juvenile Justice and Delinquency Prevention Formula Grants Regulations	1121-AA15
2017	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	1121-AA16

Office of Justice Programs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2018	Equal Employment Opportunity Program Guidelines	1121-AA10
2019	Nondiscrimination in OJP Federally Assisted Programs	1121-AA11
2020	Criminal Intelligence Systems Operating Policies	1121-AA12

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)
Final Rule Stage

1881. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6103

CFR Citation: 28 CFR 42 subpart I (New)

Legal Deadline: None

Abstract: This regulation will implement the Age Discrimination Act of 1975, as amended, in program or activities assisted by the Department of Justice (DOJ). The statute requires that Federal agencies providing Federal financial assistance promulgate implementing regulations consistent with the general regulations issued by the Secretary of Health and Human Services (HHS), and the statute provides that such agency regulations shall not be effective until approved by HHS. In 1980 the proposed rule was published for comment, modified, approved by the DOJ Office of Legal Counsel, and on November 10, 1980, a draft final rule was sent to HHS for approval. On July 13, 1984, HHS conditionally approved the draft regulation. On August 12, 1987, DOJ submitted to HHS a draft final regulation. On August 3, 1991, HHS approved a DOJ draft final regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/18/80	45 FR 32710
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William R. Worthen, Attorney, Coordination and Review Section, Department of Justice, Civil Rights Division, P.O. Box 66118, Washington, DC 20035-6118, 202 307-2218

RIN: 1190–AA03

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)
Proposed Rule Stage

1882. PRESCRIPTIONS FOR CONTROLLED SUBSTANCES, REQUIREMENTS FOR USE OF AUTOMATED DATA PROCESSING SYSTEMS

Significance: Agency Priority

Legal Authority: 21 USC 821; 21 USC 829; 21 USC 871(b)

CFR Citation: 21 CFR 1306.21; 21 CFR 1306.22; 21 CFR 1306.26; 21 CFR 1306.31

Legal Deadline: None

Abstract: This rule will amend existing regulations concerning the maintenance and retrieval of controlled substance prescription information stored in automated data processing systems. The rule is intended to clarify and simplify existing requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/05/89	54 FR 36815

DOJ—DEA
Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	11/24/89	54 FR 43436

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: G. Thomas Gitchel, Chief, State and Industry Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537, 202 307-7297

RIN: 1117–AA03

DEPARTMENT OF JUSTICE (DOJ)
Federal Prison System (FP)
Final Rule Stage

1883. • PRETRIAL INMATES

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.100 to 551.120

Legal Deadline: None

Abstract: The Bureau of Prisons is amending its rule on Pretrial Inmates. Changes made in this amendment include the addition of provision for the review of the pretrial inmate's status, the addition of a definition for "waiver of separation" and procedures related to allowing inmates separation, and a revision of the definition of "pretrial inmate" to clarify that the definition does not include an inmate who is awaiting sentence once the Bureau has received notification of the conviction.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Attorney-Advisor, Department of Justice, Federal Prison System, HOLC Room 754, 320 First Street NW., Washington, DC 20534, 202 307-3062

RIN: 1120–AA00

1884. • SEARCHING/DETAINING OF NON-INMATES

Legal Authority: 18 USC 751 to 752; 18 USC 1791 to 1792; 18 USC 3050; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4012; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 511.10 to 511.12

Legal Deadline: None

Abstract: The Bureau of Prisons is amending its rules on searching/detaining of non-inmates to incorporate statutory changes concerning the arrest authority for employees of the Bureau of Prisons, to clarify terminology concerning contraband and prohibited objects, and to make minor editorial changes.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Attorney-Advisor, Department of Justice, Federal Prison System, HOLC Room 754, 320 First Street NW., Washington, DC 20534, 202 307-3062

RIN: 1120–AA01

1885. • VISITING REGULATIONS

Legal Authority: 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 5 USC 301; 5 USC 551; 5 USC 552(a); 28 USC 509 to 510

CFR Citation: 28 CFR 540 to 541

Legal Deadline: None

Abstract: The Bureau of Prisons is amending its rules on Visiting Regulations and Inmate Discipline and Special Housing Units. The amendment raises the age requirement for visits by children unaccompanied by a responsible adult; makes minor procedural changes for preparation of the visiting list; updates references to statutory penalties for providing or attempting to provide contraband to inmates; and makes other editorial changes. This amendment also clarifies visiting procedures for inmates in detention and special housing, and it makes a further clarification of the Bureau's general policy on loss of privileges. The intended effect of this amendment is to provide for the continued orderly operation of inmate visiting.

Timetable:

Action	Date	FR Cite
NPRM	02/08/91	56 FR 5303
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Attorney-Advisor, Department of Justice, Federal Prison System, HOLC Room 754, 320 First Street NW., Washington, DC 20534, 202 307-3062

RIN: 1120–AA02

1886. • VOLUNTEER COMMUNITY SERVICE PROJECTS

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.60

Legal Deadline: None

Abstract: The Bureau of Prisons is issuing an interim rule on Voluntary Community Service Projects. A volunteer community service project is a project designed to provide for the public good which has been developed by local government or by a nonprofit charitable organization for approval by the Bureau. This rule provides for the voluntary participation by an inmate in a volunteer community service project. The intent of this rule is to promote the public interest and provide for the security and good order of the institution by reducing inmate idleness.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/93	58 FR 5210
Final Action	06/00/93	

Small Entities Affected: None

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DOJ—FP

Final Rule Stage

Government Levels Affected: None

Agency Contact: Roy Nanovic, Attorney-Advisor, Department of Justice, Federal Prison System, HOLC Room 754, 320 First Street NW., Washington, DC 20534, 202 307-3062

RIN: 1120–AA03

1887. • UNICOR INMATE WORK PROGRAMS

Legal Authority: 18 USC 4126

CFR Citation: 28 CFR 345

Legal Deadline: None

Abstract: The Bureau of Prisons is proposing to revise and reorganize its rule on UNICOR Inmate Work Programs. This proposed rule revises, and codifies into one part, the existing provision on inmate hiring procedures, pay, and scholarship and incentive awards programs. It updates Bureau policy by adding provisions on position classification and recruitment, physical and medical work limitations, inmate worker standards, performance appraisal, dismissal procedures, benefit retention, and training programs. The intent of this proposal is to enable the Bureau to continue to employ and train inmates in a manner that will assist the inmate in post-release employment.

Timetable:

Action	Date	FR Cite
NPRM	12/16/92	57 FR 59866
NPRM Comment Period End	02/01/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Attorney-Advisor, Department of Justice, Federal Prison System, HOLC Room 754, 320 First Street NW., Washington, DC 20534, 202 307-3062

RIN: 1120–AA04

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Proposed Rule Stage

1888. DETERMINATION FOR ACCESS TO NATIONAL SECURITY INFORMATION: ELIGIBILITY, ADJUDICATION, AND APPEAL PROCEDURES

Legal Authority: EO 12356; Information Security Oversight Office Directive No. 1

CFR Citation: 28 CFR 17

Legal Deadline: None

Abstract: To establish procedures for granting, denying, suspending, and revoking access to national security information originated by, or in the control of, the Department of Justice.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: D. Jerry Rubino, Director, Security and Emergency Planning Staff, Department of Justice, Justice Management Division, 10th & Constitution Avenue NW., Washington, DC 20530, 202 514-2094

RIN: 1103–AA18

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Final Rule Stage

1889. PROCEDURES FOR COLLECTION OF PAST DUE LEGALLY ENFORCEABLE DEBT THROUGH FEDERAL TAX REFUND OFFSET

Legal Authority: 31 USC 3720A; 31 USC 3718; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 11

Legal Deadline: None

Abstract: The final rule will revise an interim final rule published on March 9, 1989, which established procedures for referring to the Department of Treasury debts for collection by offset against Federal Income Tax Refunds. The final rule will broaden the scope of coverage by including organizations and entities in addition to individual debtors, and by including debts that are past due and legally enforceable but not reduced to judgment in addition to debts that have been reduced to judgment.

Timetable:

Action	Date	FR Cite
NPRM	06/13/88	53 FR 22026
Interim Final Rule	03/09/89	54 FR 9979
Interim Final Rule Effective	03/09/89	
NPRM	03/01/91	56 FR 8734
Final Action	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Imogene McCleary, Special Assistant to the Director, Department of Justice, Debt Collection Management, Justice Management Division, Room 1340, 10th & Const. Ave. NW., Washington, DC 20530, 202 514-5343

RIN: 1103–AA16

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Completed Actions

1890. DEBT COLLECTION

Significance: Agency Priority

CFR Citation: 28 CFR 11

Completed:

Reason	Date	FR Cite
Final Action	09/24/92	57 FR 44106
Final Action Effective	10/26/92	57 FR 44106

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James E. Williams, 202 501-6984

RIN: 1103–AA23

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Prerule Stage

1891. • DEDICATED COMMUTER LANES

Legal Authority: 28 USC 509 and 510; 8 USC 1103

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This notice informs the public that the Immigration and Naturalization Service (Service) will be conducting a public opinion survey periodically over the next twelve months at land border Ports-of-Entry, to determine whether there will be sufficient potential usage of the public to warrant the opening of a dedicated commuter lane at selected sites.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1605-92

Agency Contact: Donna Kay Barnes, Associate Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, 202 514-3275

RIN: 1115–AD35

1892. • REVISION OF FORM I-589

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282

CFR Citation: 8 CFR 208.3

Legal Deadline: None

Abstract: This regulation is to revise INS Form I-589 (Request For Asylum In the United States.) The revision is necessary due to procedural changes in the Asylum Program. (INS No. 1396R-93)

A notice will be issued to provide information on the submission of INS Form I-589, Request for Asylum in the US, revised 8-1-91. The notice advises the public that prior versions of the form will no longer be accepted after the date of publication of this notice. (INS No. 1396-92)

Timetable:

Action	Date	FR Cite
ANPRM for INS No. 1396-92	05/00/93	
NPRM for INS No. 1396R-93	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1396-92 (Form I-589, Request for Asylum in the United States)

INS No. 1396R-93 (Revision of Form I-589)

Agency Contact: Christine Davidson, Senior Policy Analyst, Refugee, Asylum and Parole, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Atten: ULLICO, 3rd Floor, Washington, DC 20536, 202 633-4622

RIN: 1115–AD36

1893. • GUIDELINES ON PRODUCING MASTER EXHIBITS FOR ASYLUM APPLICATIONS

Legal Authority: 28 USC 509 and 510; 8 USC 1103

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This notice provides information on how to obtain guidelines on submitting Master Exhibits to the Resource Information Center for use in asylum applications; on what Master Exhibits are currently available; and on how to obtain them from submitting organizations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1601-92

Agency Contact: John Evans, Director, Resource Information Center, Office of International Affairs, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., (ULLICO, 3rd Floor), Washington, DC 20536, 202 633-1040

RIN: 1115–AD39

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Proposed Rule Stage

1894. PROSECUTION FOR ESCAPE FROM SERVICE CUSTODY

Legal Authority: PL 100-690

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: The regulation will create implementing language for that section of the Anti-Drug Abuse Act of 1988 that makes escape, attempted escape, or assisting in an escape from Service custody a misdemeanor offense.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1213-89 (Cross reference with INS No. 1226-90)

Agency Contact: Carol Jenifer, Detention and Deportation Officer, Enforcement, Department of Justice, Immigration and Naturalization Service,

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DOJ—INS

Proposed Rule Stage

425 I Street NW., Room 6008, Washington, DC 20536, 202 514-2865

RIN: 1115–AB15

1895. • PERSONAL CHECK ELIMINATION FOR FEE REMITTANCE

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1303; 8 USC 1304; 8 USC 1443; 28 USC 1746; 31 USC 9701; 5 USC 552(a); EO 12356; 8 CFR 2

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule modifies current procedures by allowing the acceptance of certified/cashiers checks and money orders as fee remittances for applications and petitions.

Timetable:

Action	Date	FR Cite
NPRM	05/09/89	54 FR 19905
NPRM Comment Period End	06/08/89	54 FR 19905

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1127-93

INS No. 1127-92

Agency Contact: Margaret Ulasek, Systems Accountant, Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6309, Washington, DC 20536, 202 514-2660

RIN: 1115–AB24

1896. ALIENS, EXCLUSION GROUNDS, IMMIGRATION, NATIONALITY, AND WAIVERS OF INADMISSIBILITY

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1201; 8 USC 1304; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1186A; 8 USC 1255; 8 CFR 2; ...

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 238; 8 CFR 103; 8 CFR 204; 8 CFR 207; 8 CFR 208; 8 CFR 209; 8 CFR 210; 8 CFR 210a; 8 CFR 213; 8 CFR 223a; 8 CFR 234; 8 CFR 235; 8 CFR 236; ...

Legal Deadline: None

Abstract: This regulation provides changes in the exclusion grounds and waivers.

Timetable:

Action	Date	FR Cite
NPRM	01/05/90	55 FR 438
NPRM Comment Period End	02/05/90	55 FR 438
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1413-91

Consolidated INS Rules 1304, RIN 1115-AC01; 1235, RIN 1115-AB39; and 1232, RIN 1115-AB45

Agency Contact: Edward H. Skerrett, Chief, Immigrant Branch, Adjudications, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, 202 514-5014

RIN: 1115–AB45

1897. • UNITED STATES-CANADA FREE-TRADE AGREEMENT, AMENDMENTS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 CFR 2

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This regulation would bring Part 214 of 8 CFR into comportment with procedural changes effected by INS during the past year.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1611-93

Cross reference INS No. 1310-92

The enactment of a North American Free-Trade Agreement may impact the promulgation of this regulation.

Agency Contact: Jackie Bednarz, Chief, Nonimmigrant Branch, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7223, Washington, DC 20536, 202 514-5014

RIN: 1115–AB72

1898. SUSPENSION OR DISBARMENT

Legal Authority: 8 USC 1103; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 292.3

Legal Deadline: None

Abstract: The proposed rule subjects attorneys and representatives to suspension or disbarment from practice before the Immigration and Naturalization Service (INS) if they are found to have violated the American Bar Association Model Rules of Professional Conduct.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1291-90

Agency Contact: Ira L. Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 1000, Washington, DC 20536, 202 514-0747

RIN: 1115–AB87

1899. PROOF OF OFFICIAL RECORDS

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 287.6

Legal Deadline: None

Abstract: This rule will permit immigration officers to attest to having seen an official record and having made a true copy thereof.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1297-91

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536, 202 514-0747

RIN: 1115–AC11

DOJ—INS

Proposed Rule Stage

1900. EXCLUSION OF ALIENS: PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES; APPREHENSION, CUSTODY, HEARING, AND APPEAL; RESCISSION OF ADJUSTMENT OF STATUS

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1252; 8 USC 1255; 8 USC 1362; 8 CFR 2; 8 USC 1186A; 8 USC 1187; 8 USC 1251; 8 USC 1254; 8 USC 1256; 8 USC 1259

CFR Citation: 8 CFR 236.10; 8 CFR 242.25; 8 CFR 246.10

Legal Deadline: None

Abstract: This rule implements sections 601(a)(3) and 602(a)(4) of the Immigration Act of 1990 by permitting the Service to introduce under certain restrictions, relevant information that is classified under EO 12356 to be considered "in camera" and "ex parte" in exclusion, deportation and rescission hearings by a special inquiry officer.

This rule is necessary to aid in expelling alien terrorists from the United States and thus reduces the threat that such aliens pose to the national security and other vital interests of the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1327-91

AG Order Number to be assigned

This regulation falls under IMMACT 90

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536, 202 514-0747

RIN: 1115–AC22

1901. CHANGE OF NONIMMIGRANT CLASSIFICATION

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1187; 8 USC 1258

CFR Citation: 8 CFR 1; 8 CFR 214; 8 CFR 248; 8 CFR 299

Legal Deadline: None

Abstract: This regulation will eliminate many of the anomalies that have been introduced into this section of regulation over the years.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1329-91

Agency Contact: Jack Tabaka, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, 202 514-5014

RIN: 1115–AC23

1902. CONTRACTUAL AUGMENTATION OF FEDERAL INSPECTIONAL SERVICES

Legal Authority: 8 USC 1103; 8 USC 1356

CFR Citation: 8 CFR 286

Legal Deadline: None

Abstract: Presently international passengers pay a five dollar user fee to fund immigration inspection services at airports and some seaports. A legislative change is being sought to Section 286 of the INA, to permit airport operators, bridge owners and local government or special governmental districts to contract with the INS to provide augmented levels of inspectional services at airport, seaport or land border ports of entry, beyond that level available through the user fee or appropriations process. This rule would be promulgated after such change was made to the INA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: INS No. 1333-91

Agency Contact: Una Brien, Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, 202 514-2681

RIN: 1115–AC27

1903. CONDITIONAL BASIS OF LAWFUL PERMANENT RESIDENCE FOR CERTAIN ALIEN INVESTORS, THEIR SPOUSES, AND SONS AND DAUGHTERS

Legal Authority: PL 101-649, Sec 121

CFR Citation: 8 CFR 216

Legal Deadline: None

Abstract: This rule establishes criteria for maintenance and termination of conditional resident investor status. It also establishes process and criteria for removal of the conditional basis of permanent resident status.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1429-91

Agency Contact: Edward H. Skerrett, Chief, Immigrant Branch, Adjudications, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7223, Washington, DC 20536, 202 514-5014

RIN: 1115–AC53

1904. REPRESENTATIONS AND APPEARANCES; SUSPENSION OR DISBARMENT

Legal Authority: 8 USC 1103; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 292.3

Legal Deadline: None

Abstract: This rule modifies two grounds for suspension or disbarment of attorney or nonattorney representatives by removing the restriction on attorneys or their representatives to advertise the availability of their services on immigration matters, and by removing the restriction to make and retain a copy of a record in a case without authorization.

Removal of these two outdated grounds for ethical standards should increase the respectful attention paid by attorney and nonattorney

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Proposed Rule Stage

representatives to the serious obligations imposed by 8 CFR 292. The effect of these modifications will be that INS regulations regarding suspension and disbarment will conform with the current state of the law and everyday practice.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1325-91

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536, **202 514-0747**

RIN: 1115–AC61

1905. ASYLUM AND WITHHOLDING OF DEPORTATION PROCEDURES; AGGRAVATED FELONS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1158; 8 USC 1182; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1252; 8 USC 1253; 8 USC 1254; 8 USC 1282; 8 USC 1283; 8 USC 1285; 8 USC 1362

CFR Citation: 8 CFR 208; 8 CFR 236; 8 CFR 242

Legal Deadline: None

Abstract: This regulation implements section 515 of the Immigration Act of 1990 (IMMACT), Pub. L. 101-649, which provides that an alien who has been convicted of an aggravated felony, is ineligible for asylum, and is ineligible for withholding of deportation on the basis of having been convicted of a particularly serious crime.

The elimination of these forms of relief from deportation for aggravated felons applies to applications filed on or after November 29, 1990.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1412-91; AG Order No. (to be assigned upon signature)

Agency Contact: Christine Davidson, Senior Policy Analyst, Refugee, Asylum and Parole, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Atten: ULLICO, 3rd Floor, Washington, DC 20536, **202 633-4389**

RIN: 1115–AC66

1906. REGISTRATION OF SPECIAL GROUPS

Legal Authority: 8 USC 1101; 8 USC 1303; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 263

Legal Deadline: None

Abstract: This rule permits the Immigration and Naturalization Service to register aliens on probation and parole. By so doing, INS can regulate such aliens by having them report to the Service for registration. At that point, it can be determined if the alien is amenable to deportation. If so, the alien can be placed in deportation proceedings. Failure to report can be prosecuted as a misdemeanor or can result in the alien's probation or parole status being revoked.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1356-91

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536, **202 514-0747**

RIN: 1115–AC68

1907. PAROLE AUTHORITY

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1361; 8 CFR 2

CFR Citation: 8 CFR 212.5

Legal Deadline: None

Abstract: This rule adds the positions of Director and Assistant Directors, Organized Crime Drug Enforcement Task Force (OCDETF), New York, NY; Los Angeles, CA; Houston, TX; and Miami, FL as officials having authority to authorize parole of aliens into the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1367-91; RIN 1115-AD09 has been merged with this regulation.

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536, **202 514-0747**

RIN: 1115–AC69

1908. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE: CONDITIONAL RESIDENTS AND FIANCE(E)S

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This regulation amends 8 CFR 245.1(b)(12) to clarify that an alien lawfully admitted for permanent residence on a conditional basis under either section 216 or section 216A of the Act remains ineligible for adjustment of status under section 245 of the Act even after the alien's status has been terminated under section 216 or section 216A, respectively.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1353-91; AG Order No. (to be assigned)

Agency Contact: Rita A. Boie, Senior Immigration Examiner, Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, **202 514-3241**

RIN: 1115–AC70

DOJ—INS

Proposed Rule Stage

1909. JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION; CONTROLLED SUBSTANCE VIOLATIONS

Legal Authority: 8 USC 1103; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 241; 8 CFR 236; 8 CFR 246

Legal Deadline: None

Abstract: This rule will eliminate portions of the present rule due to passage of section 505 of the Immigration Act of 1990. It will retain that portion of the rule mandating that an alien notify the special inquiry officer when a judicial recommendation against deportation will be the basis of denying the charges made by the INS against the alien. It will also require the alien to produce a certified copy of the judicial recommendation against deportation at an expulsion hearing.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1311-91

INS No. 1411-91 (Cross Reference)

Agency Contact: Ira Frank, Senior Special Agent, Investigations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536, **202 514-0747**

RIN: 1115–AC73

1910. • UNAVAILABILITY TO TWOV TO CITIZENS OF THE FORMER SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule amends 8 CFR 212 by adding Yugoslavia to the list of countries whose nationals are prohibited from transiting through the US without a visa.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/93	58 FR 4891
NPRM Comment Period End	02/18/93	
2nd Interim INS No. 1397R-93	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1397-92

INS No. 1397R-93

Agency Contact: Una Brien, Asssitant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, **202 514-2681**

RIN: 1115–AC87

1911. NONIMMIGRANT VISITORS FOR BUSINESS

Legal Authority: PL 101-649

CFR Citation: 8 CFR 212; 8 CFR 214

Legal Deadline: None

Abstract: The Immigration and Naturalization Service, through the use of the Public Notice process in the Federal Register has solicited public comment on the Service's operating instructions as they relate to aliens, employers, and religious organizations which may be affected by changes to the nonimmigrant classifications (B-1 nonimmigrant classifications) which have resulted from the enactment of Pub. L. 101-649, the Immigration Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1441-91; regulatory action on hold pending change in statute.

Agency Contact: Jacquelyn A. Bednarz, Chief, Nonimmigrant Branch, Adjudications, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, **202 514-3946**

RIN: 1115–AC89

1912. OVERTIME LIABILITY OF CARGO VESSELS AND AIRCRAFT

Legal Authority: 8 USC 1356

CFR Citation: 8 CFR 286

Legal Deadline: None

Abstract: This regulation would propose that the Immigration and Naturalization Service include direct salary costs and an administrative overhead charge in its overtime billing for arriving aircraft, trains, and vessels for all immigration inspection services.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INS No. 1345-92

Agency Contact: Robert Bevilacqua, Assistant Commissioner, Financial Management, Office of Finance, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6321, Washington, DC 20536, **202 616-7695**

RIN: 1115–AC91

1913. NON-MARIEL CUBAN PAROLE DETERMINATIONS

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This regulation provides procedures for parole determinations with respect to arriving non-Mariel Cubans.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1354-91

AG Order No. (to be determined)

Agency Contact: Joan Lieberman, Assistant General Counsel, General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536, **202 514-1932**

RIN: 1115–AC98

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1914. BIANNUAL INS USER FEE REVIEW

Legal Authority: 8 USC 1103; 8 USC 1356

CFR Citation: 8 CFR 286

Legal Deadline: None

Abstract: Biannual review of the INS user fee program.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1350-91 (Cross reference INS No. 1372-92, RIN 1115-AA30)

Agency Contact: Robert Bevilacqua, Assistant Commissioner, Finance, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6307, Washington, DC 20536, 202 616-7695

RIN: 1115–AD06

1915. SPECIAL SERVICES AND BENEFITS; USER FEES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1305; 8 USC 1356; 5 USC 552; 5 USC 552(a); 31 USC 9701

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: The rule amends the fee schedule contained in 8 CFR 103.7 (b)(1) in an attempt to satisfy Federal user fee statutes and regulations and specific Federal immigration laws that require recipients of special Government services and benefits which are not directed to the public at large to bear the costs of the Government providing those special services and benefits.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1384-92; AG Order No. to be determined. Cross reference to RIN 1115-AA30

Agency Contact: Barbara J. Atherton, Chief, Fee Analysis and Operations Branch, Finance, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6240, Washington, DC 20536, 202 514-3410

RIN: 1115–AD18

1916. STIPULATED DEPORTATION; WAIVER OF PRESENCE OF THE PARTIES

Significance: Agency Priority

Legal Authority: 8 USC 1252; 8 USC 1226

CFR Citation: 8 CFR 3.24

Legal Deadline: None

Abstract: This regulation would require an Immigration Judge to accept a stipulated order of deportation or exclusion without the appearance of the parties.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1386-92

Agency Contact: Kim Bingham, Associate General Counsel, General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536, 202 514-2895

RIN: 1115–AD20

1917. REVISION TO AFFIRMATIVE ASYLUM ADJUDICATION PROCEDURES

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282, 8 CFR 2

CFR Citation: 8 CFR 208

Legal Deadline: None

Abstract: This rule would change the standard for granting interim work authorization to aliens while their asylum applications are being granted. It would also change the process for review of decisions to deny asylum and to allow asylum offices the discretion to deny claims from persons who come directly to the US without seeking asylum from a third country that served as a safe haven. Finally it would permit asylum officers, rather than require them, to seek the view of the Department of State on specific asylum claims.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INS No. 1385-92

Agency Contact: Bo Cooper, Deputy Associate, General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7048, Washington, DC 20536, 202 514-9863

RIN: 1115–AD22

1918. DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; NONRESIDENT ALIEN BORDER CROSSING CARDS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1227; 8 USC 1154; 8 USC 1159; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 235; 8 CFR 245; 8 CFR 264; 8 CFR 299

Legal Deadline: None

Abstract: This rule would standardize guidelines for the issuance of border crossing cards on the southern border.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1390-92

Cross reference INS No. 1058-87

Agency Contact: Linda Loveless, Associate Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, 202 616-7489

RIN: 1115–AD24

1919. SAFEGUARDING CLASSIFIED INFORMATION IN TEMPORARY PROTECTED STATUS CASES

Significance: Agency Priority

Legal Authority: 8 USC 1103; 8 USC 1254a; 8 USC 1254 note

CFR Citation: 8 CFR 240

Legal Deadline: None

Abstract: This rule would permit an immigration judge and the Board of Immigration Appeals to consider classified information in the case of an alien applying for Temporary Protected Status. This information requires protection from unauthorized disclosure in the interest of national security after the Commissioner of the Immigration and Naturalization Service first determines that such information is relevant. This rule is necessary to ensure that the methods and/or means of gathering information is not compromised if disclosed in an open forum such as a deportation proceeding.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1379-92

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536, 202 514-0747

RIN: 1115–AD25

1920. RECORD OF CONVICTION; CERTIFICATION

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 287

Legal Deadline: None

Abstract: This rule provides procedures to the States to transmit to the Immigration and Naturalization Service certified records of conviction of aliens who have been convicted of violating the criminal laws of the State.

The rule defines the term "record of conviction," and will provide a means of certifying records that are electronically transmitted to the Service by the States.

The rule also provides the States flexibility by permitting the use of abstracts of criminal conviction records, if that option makes providing the needed records easier.

The rule will help the States meet the requirements of Section 507 of the Immigration Act of 1990, and will help the Service in expelling from the United States, aliens who have been convicted of violating criminal laws of this country.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: INS No. 1457-92

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536, 202 514-0747

RIN: 1115–AD26

1921. • PETITIONING FOR FOREIGN-BORN ORPHANS BY UNITED STATES CITIZENS

Legal Authority: 8 USC 1103; 8 USC 1153; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule revises 8 CFR 204.3 by clarifying language and procedures for prospective adoptive parents and other interested parties. The rule also enhances the ability of INS to ensure that children eligible for orphan status will receive proper care.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1395-92

Agency Contact: Jack Tabaka, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, 202 514-5014

RIN: 1115–AD28

1922. • CHARGING OF USER FEES AT LAND BORDER PORTS-OF-ENTRY

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1226; 8 USC 1227; 5 USC 552; 5 USC 552a

CFR Citation: 8 CFR 103; 8 CFR 217; 8 CFR 235; 8 CFR 264; 8 CFR 286

Legal Deadline: None

Abstract: This rule proposes to amend the regulations to allow the Immigration and Naturalization Service to require a user fee for the issuance of specified documents at land border Ports-of-Entry (POEs). The imbalance between workload and resources available to land border operations has necessitated the implementation of appropriate solutions to supplement the appropriate resources. The revenue generated by the collection of land border user fees will enable the Service to allocate additional resources to improve service to the public at land border POEs.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1603-92

Agency Contact: Linda Loveless, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, 202 616-7489

RIN: 1115–AD30

1923. • DESIGNATED AREA ENTRY PERMIT

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule establishes a 3 year pilot program to augment the uses of the Form I-68, formerly titled Canadian Border Boat Landing Permit, now titled Designated Area Entry Permit. The pilot program will allow, at selected cites, the new permit to be used for other recreational activities besides boating. The rule adds scientific studies, established local farming and ranching, and established Indian tribal pursuits to the activities for which the permit may be used and allows USCs and residents to use the permit to return

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to the US within the geographic area designated.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No 1604-92

Agency Contact: Linda Loveless, Assistant Chief Inspector, Inspections Divisions, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, 202 616-7489

RIN: 1115–AD31

1924. • RESCISSION OF ALL EVIDENCE OF LAWFUL PERMANENT RESIDENCE EXCEPT ALIEN REGISTRATION RECEIPT CARD, FORM I-551

Significance: Agency Priority

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1304; 8 USC 1356; 5 USC 552; 5 USC 552a

CFR Citation: 8 CFR 103; 8 CFR 204, 8 CFR 211; 8 CFR 223; 8 CFR 223A; 8 CFR 235; 8 CFR 245; 8 CFR 246; 8 CFR 247; 8 CFR 251; 8 CFR 252; 8 CFR 264; 8 CFR 274A; 8 CFR 299; 8 CFR 316; ...

Legal Deadline: None

Abstract: The Immigration and Naturalization Service (Service) proposes to amend its regulations concerning valid evidence of lawful permanent residence. The proposed regulations would require all aliens in possession of Form I-151, or prior documents, to replace their card with the more secure, machine-readable Alien Registration Receipt Card, I-551 (INS No. 1381R-93)

On June 26, 1992 the Immigration and Naturalization Service (the Service) published a Notice in the Federal Register announcing the expiration of validity of Alien Registration Receipt Card, Form I-151 and all prior documentation such as Forms AR-3, and AR-103 on August 2, 1993. (INS No. 1381N-93).

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1381N-93 Notice of Suspension of Expiration Date of Alien Registration Receipt Card, Form I-151

INS No. 1381R-93 Rescission of All Evidence of Lawful Permanent Residence Except Alien Registration Receipt Card, Form I-551

Agency Contact: Gerald Casale, Examiner, Examination Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, 202 514-0130

RIN: 1115–AD32

1925. • NONIMMIGRANT CLASSES: EXCHANGE VISITORS

Legal Authority: 8 USC 1101; 8 USC 1184; 8 USC 1324a

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: This regulation amends 8 CFR to comport to the regulatory amendments being made by the United States Information Agency (USIA), which were proposed in October of 1992

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1610-93

USIA final rule pending at OMB 1-93

Agency Contact: Jackie Bednarz, Chief, Nonimmigrant Branch, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7223, Washington, DC 20536, 202 514-5014

RIN: 1115–AD37

1926. • PILOT PROGRAM FOR INVESTORS

Legal Authority: 8 USC 1153(b)(5); PL 102-395

CFR Citation: 8 CFR 204

Legal Deadline: NPRM, Statutory, October 1, 1993.
Department of State and Department of Justice must implement program by October 1, 1993.

Abstract: Pursuant to Public Law 102-395 the INS and Department of State (DOS) will, through rulemaking, set aside visas for a pilot program which will involve a regional economic center in the US. Both a public notice and proposed rule will be issued around May 1993 which will discuss how aliens admitted under the Pilot Program will be able to establish reasonable methodologies for determining job creation.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: INS No. 1609-93

Agency Contact: Edward Skerrett, Chief, Immigrant Branch, Adjudications and Naturalization, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, 202 514-5014

RIN: 1115–AD38

1927. • EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

Legal Authority: 8 USC 1101; 42 USC 10501; 42 USC 10502; 42 USC 10503; 42 USC 10504; 42 USC 10505; 42 USC 10506; 42 USC 10507; 42 USC 10508; 42 USC 10509; 42 USC 10510; 42 USC 10511; 42 USC 10512; 42 USC 10513

CFR Citation: 28 CFR 65

Legal Deadline: None

Abstract: The regulation amends Part 65 of Title 28 of the Code of Federal Regulations by adding a new subpart I entitled, Immigration Emergency Fund. This new part establishes procedures for State and local governments to obtain reimbursement from the Attorney General, up to a maximum of $20,000,000 from the immigration emergency fund for services provided at the Attorney General's request to aid in the enforcement of the US immigration laws.

Timetable:

Action	Date	FR Cite
NPRM	01/14/92	57 FR 1439

Action	Date	FR Cite
NPRM Comment Period End	02/13/92	57 FR 1439

Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: INS No. 1449-92; AG Order No. 1553-92

Agency Contact: Michael Coster, Associate General Counsel, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7048, Washington, DC 20536, 202 514-2895

RIN: 1115–AD40

1928. • JURISDICTIONAL CHANGES FOR CERTAIN APPEALS TO DENIALS FOR IMMIGRATION BENEFITS

Legal Authority: 8 USC 204, 205, 212(d)(3) and 280 of the INA.

CFR Citation: 8 CFR 3.1(b)(4),(5),(6); 8 CFR 103.1(f)(2); 8 CFR 204.1(a)(2)(H); 8 CFR 212.4(b); 8 CFR 236.F; 8 CFR 280.13(b); 8 CFR 280.51(c)

Legal Deadline: None

Abstract: This regulation will re-define the appellate jurisdictional roles between the Office of Administrative Appeals and the Board of Immigration Appeals.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1613-93

Agency Contact: Terrance M. O'Reilly, Director, Office of Administrative Appeals, Department of Justice, Immigration and Naturalization Service, 400 Vermont Avenue, Washington, DC 20019, 202 376-2052

RIN: 1115–AD41

1929. • AUTOMATED PERMIT PORTS AT SPECIFIED PORTS OF ENTRY

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1304; 8 USC 1356; 5 USC 552; 5 USC 552a; ...

CFR Citation: 8 CFR 103; 8 CFR 235; 8 CFR 299

Legal Deadline: None

Abstract: This rule adds a new section to 8 CFR Part 235, establishing a three year pilot program to implement automated permit ports at specified remote Ports-of-Entry on the northern border of the United States. This will allow access to the US by frequent, low risk border crossers in remote border areas and will accommodate the needs of local residents while still safeguarding the integrity of the northern border.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1615-93

Agency Contact: Linda Loveless, Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, 202 616-7489

RIN: 1115–AD42

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Final Rule Stage

1930. NONIMMIGRANT CLASSES; TEMPORARY EMPLOYEES

Significance: Regulatory Program

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1258

CFR Citation: 8 CFR 214.2(h)

Legal Deadline: None

Abstract: The Immigration Reform and Control Act of 1986 (IRCA) imposes sanctions against employers who hire aliens not authorized to work. Since many of the nation's agricultural employers have become dependent upon such workers to meet production and harvesting needs, Congress created the Special Agricultural Workers (SAW) Program and the Replenishment Agricultural Workers (RAW) Program to grant permanent resident status to certain agricultural workers. To clarify the process through which employers can employ nonimmigrant seasonal and temporary agricultural workers, Congress moved agricultural employment from H-2 classification into a separate H-2A class, and incorporated a labor certification process into the statute. This rule establishes special H-2A regulatory criteria. It supplements the Department of Labor's rules covering the temporary agricultural labor certification process. This rule amends Service regulations relating therefore to temporary alien workers seeking classification under section 101(a)(15)(H) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
NPRM	08/08/86	51 FR 28576
NPRM Comment Period End	10/07/86	51 FR 28576
Interim Final Rule	06/01/87	52 FR 20554
Interim Rule Effective Date	06/01/87	52 FR 20554
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1302-90 (Cross reference to INS No. 1008-88)

Rule contingent upon Department of Labor final regulations

Agency Contact: William Tollifson, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, 202 514-5014

RIN: 1115–AA25

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DOJ—INS

Final Rule Stage

1931. IMMIGRATION USER FEE

Legal Authority: 8 USC 1103; 8 USC 1356; 8 CFR 2

CFR Citation: 8 CFR 286

Legal Deadline: None

Abstract: This regulation implements changes to 8 CFR 286 as mandated by section 210 of Pub. L. 101-515, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991, which removed some of the exceptions on charging the Immigration User Fee to commercial air travelers and charged the remittance schedule for commercial air generated fees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1372-92 (Cross reference to INS No.1350-92, RIN 1115-AD06, INS No. 1392-92

Agency Contact: Robert Bevilacqua, Assistant Commissioner, Finance, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6240, Washington, DC 20536, **202 514-3410**

RIN: 1115–AA30

1932. • GUAM VISA WAIVER PROGRAM, TAIWAN

Legal Authority: 8 USC 1103; 8 USC 1102; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This temporary rule adds Taiwan temporarily to the Guam Visa Waiver Program, implemented under the Omnibus Territories Act of 1986. This rule will facilitate the travel of citizens of Taiwan to visit Guam under certain conditions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1398-92

Agency Contact: Virginia Gorman, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, **202 514-3019**

RIN: 1115–AA75

1933. SEIZURE AND FORFEITURE OF CONVEYANCES

Legal Authority: 8 USC 1324; 28 CFR 9

CFR Citation: 8 CFR 274

Legal Deadline: None

Abstract: This rule would make general revisions to 8 CFR Part 274 to establish more uniformity in handling seizures and forfeitures within the Department of Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1391-92 INS regulations pending DOJ changes to 28 CFR Part 9

Agency Contact: Daniel J. Stephen, Director, Asset Forfeiture Office, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1202, Washington, DC 20536, **202 616-2480**

RIN: 1115–AA95

1934. PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING AND APPEAL; SUSPENSION OF DEPORTATION AND VOLUNTARY DEPARTURE

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 242; 8 CFR 244

Legal Deadline: None

Abstract: Changes to the current regulations are necessitated by the Anti-Drug Abuse Act of 1988 provisions relating to aliens convicted of aggravated felonies. The regulations will delineate when a warrant of deportation may be used in lieu of a warrant of arrest to take an alien into custody.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/19/90	55 FR 24858
NPRM Comment Period End	07/19/90	55 FR 24858
Interim Rule Comment Period End	07/19/90	55 FR 24858
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1209-90

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536, **202 514-0747**

RIN: 1115–AB19

1935. WAIVER OF CERTAIN TYPES OF VISAS

Legal Authority: 8 USC 1182; 8 USC 1103; 8 USC 1102; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212.1

Legal Deadline: None

Abstract: This rule would enable INS inspectors to take action on nonimmigrant visa waivers at ports of entry with the presumed concurrence of the Department of State. It will save time for the DOS, INS, and the traveling public.

Timetable:

Action	Date	FR Cite
NPRM	07/30/91	56 FR 36028
NPRM Comment Period End	08/29/91	56 FR 36028
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1225-90

Agency Contact: Diane Hinckley, Assistant Chief Inspector, Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, **202 514-2725**

RIN: 1115–AB40

DOJ—INS

Final Rule Stage

1936. APPREHENSION, CUSTODY, AND DETENTION: CLARIFICATION OF FORCE AND EFFECT OF SERVICE DETAINERS (FORM I-247)

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 242.2

Legal Deadline: None

Abstract: This rule will clarify the force and effect of Service detainers and make clear that a Service detainer has no effect upon the alien or correctional institution until the alien has been released from the custody of the correctional institution.

Timetable:

Action	Date	FR Cite
NPRM	07/11/89	54 FR 29050
NPRM Comment Period End	08/10/89	54 FR 29050
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1219-89

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536, **202 514-0747**

RIN: 1115–AB48

1937. NONIMMIGRANT CLASSES; SPECIAL REQUIREMENT FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS, CONTROL OF EMPLOYMENT OF ALIEN

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 214.2; 8 CFR 274a.12

Legal Deadline: None

Abstract: Collaborative effort with INS, Department of State and Department of Defense on revising Service regulations relating to employment authorization for dependents of certain principal aliens in NATO status. The revision is to clarify the current regulations and bring them more into alignment with the A and G regulations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1328-91

Draft regulations circulated to Department of State, Department of Defense, and NATO.

Agency Contact: Jack Tabaka, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, **202 514-3240**

RIN: 1115–AB52

1938. FIELD OFFICERS; POWERS AND DUTIES; SUBPOENA

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 287.4

Legal Deadline: None

Abstract: This rule amends regulations by permitting service of a subpoena to be made by an immigration officer except when the subpoena is issued by a special inquiry officer on behalf of a party other than the Immigration and Naturalization Service.

The rule would permit an immigration officer to ask for a subpoena from an immigration judge. It deletes the Regional Director, Office of Professional Responsibility, as an official who may issue a subpoena and/or designate service of same. The new rule specifically permits the subpoenaing of demonstrative evidence. Finally, the rule authorizes specified Immigration Service officials as well as special inquiry officers, to issue subpoenas on behalf of the service subsequent to commencement of any proceeding.

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 48766
NPRM Comment Period End	10/28/91	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1242-90

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536, **202 514-0747**

RIN: 1115–AB63

1939. TERMINATION OF TEMPORARY RESIDENT STATUS

Legal Authority: 8 USC 1103; 8 USC 1160; 8 CFR 2

CFR Citation: 8 CFR 210.2(e); 8 CFR 210.3(d); 8 CFR 210.4(d)

Legal Deadline: None

Abstract: This rule amends regulations concerning termination of temporary resident status granted to an alien as a Special Agricultural Worker. This rule will ensure that affected aliens are notified of the grounds alleged for termination of status and are given an opportunity to appeal any adverse decision.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/05/90	55 FR 12629
Interim Rule Effective	04/05/90	55 FR 12629
Interim Rule Comment Period End	05/07/90	55 FR 12629
Interim Rule (2nd Interim)	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1260-90

Agency Contact: Kathryn Kazalois, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, **202 514-5014**

RIN: 1115–AB74

1940. ESTABLISHMENT OF PILOT PROGRAMS TO CHARGE A USER FEE AT SELECTED PORTS OF ENTRY

Legal Authority: 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 286; 8 CFR 299

Legal Deadline: None

Abstract: This action would be issued subsequent to the passage of a bill amending section 286 to establish an immigration user fee for services for persons entering the United States from contiguous territory and adjacent islands.

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Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/13/91	56 FR 21917
Interim Rule Effective	06/12/91	56 FR 21918
Interim Rule Comment Period End	08/12/91	56 FR 21918
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1263-90, INS No. 1312-91

Agency Contact: Donna Kay Barnes, Assistant Chief Inspector, Inspection, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, 202 514-2725

RIN: 1115–AB78

1941. CLAIMS TO ASYLUM OR WITHHOLDING OF DEPORTATION MADE BY ALIENS FLEEING COERCIVE FAMILY PLANNING POLICIES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1158; 8 USC 1252; 8 USC 1226; 8 USC 1253, 8 USC 1283

CFR Citation: 8 CFR 208

Legal Deadline: None

Abstract: This rule amends 8 CFR 208 by providing that a claim to asylum or withholding of deportation may be based on persecution or a fear of persecution due to enforcement of any foreign nation's coercive population control policies of forced abortions or sterilization. These humanitarian provisions are necessary in order to provide protection for foreign nationals seeking asylum or withholding of deportation as a result of such policies. The changes will conform with the President's foreign policy and will provide guidance for adjudication of asylum and withholding of deportation claims.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/29/90	55 FR 2803
Interim Rule Effective	01/29/90	55 FR 2803
Interim Rule Comment Period End	02/28/90	55 FR 2803

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DOJ Order No. 1391-90, INS No. J-90

Agency Contact: Paul Virtue, Deputy General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536, 202 514-2895

RIN: 1115–AB86

1942. VISA WAIVER PILOT PROGRAM

Legal Authority: 8 USC 1356; 8 USC 1187; 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 217

Legal Deadline: None

Abstract: INS Regulation No. 1406-91 amended 8 CFR 217 to enhance the Visa Waiver Pilot Program by permitting nationals of countries designated for the program to apply for admission at land border ports as well as at airports and seaports.

INS Regulation No. 1447-91 further amends 8 CFR 217 by permitting nationals of 13 additional designated countries, Andorra, Austria, Belgium, Denmark, Finland, Iceland, Liechtenstein, Luxembourg, Monaco, New Zealand, Norway, Spain, and San Marino to apply for admission for 90 days or less as nonimmigrant visitors for business or pleasure without first obtaining a nonimmigrant visa.

Timetable:

Action	Date	FR Cite
NPRM	05/07/91	56 FR 21101
NPRM Comment Period End	05/22/91	56 FR 21101
Final Rule (INS No 1406-91)	07/18/91	56 FR 32952
Final Rule Effective	07/18/91	56 FR 32952
Interim Final Rule	09/13/91	56 FR 46716
Interim Rule Adding Additional Countries (INS No. 1447-91)	09/13/91	56 FR 46716
Interim Rule Effective	10/01/91	56 FR 46716
Interim Rule Comment Period End	10/15/91	56 FR 46716

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1406-91, INS No. 1447-91

Final action pending--awaiting State Department review of concurrent regulations.

Agency Contact: Virginia Gorman, Assistant Chief Inspector, Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, 202 514-3995

RIN: 1115–AB93

1943. IMMIGRATION AND NATIONALITY PETITIONS/ APPLICATIONS; CERTIFICATION OF DOCUMENTS

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1304; 31 USC 9701; EO 12356; 47 FR 14874; 47 FR 15557; 3 CFR, 1982 Comp, p 166; 8 CFR 2

CFR Citation: 8 CFR 103.2(b)(1)

Legal Deadline: None

Abstract: This proposed rule will revise the requirement that all supporting documents submitted by individuals applying for immigration benefits be accompanied by certified copies or that copies be certified by designated INS personnel at the time of receipt for retention with the petition(s) or application(s). Available data do not show a significant number of rescission/revocation actions based on fraudulent claims to warrant continuing to require that all documents in support of a request for an immigration benefit be certified. The public will be less burdened with having to produce and pay for certified copies. The public will also have to spend less time standing in line at an INS office waiting for their documents to be read and matched for certification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1298-90

Agency Contact: Nina Conner, Information Management Specialist, Public Contact Section, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 5060, Washington, DC 20536, 202 514-5365

RIN: 1115–AC07

DOJ—INS

Final Rule Stage

1944. AVAILABILITY OF MATERIAL UNDER THE FREEDOM OF INFORMATION ACT

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1304; 5 USC 552; 5 USC 552a; 31 USC 9701; EO 12356; 47 FR 14874

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This regulation amends 8 CFR 103 to be consistent with the current regulations in title 28 of the Code of Federal Regulations as they pertain to the Freedom of Information Act. This change would clarify editorial issues; notify the public of INS procedures for requesting access under the Freedom of Information Program; and it will include a reference to fee requirements and to business information.

Timetable:

Action	Date	FR Cite
NPRM	01/07/92	57 FR 2057
NPRM Comment Period End	02/18/92	57 FR 2057

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1316-91

Agency Contact: Mildred Carter, Freedom of Information Specialist, Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 5056, Washington, DC 20536, 202 514-1722

RIN: 1115–AC15

1945. SUSPENSION OF IMMEDIATE AND CONTINUOUS TRANSIT AGREEMENTS

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1182c; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1225 to 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 238

Legal Deadline: None

Abstract: The provisions for aliens in immediate and continuous transit without visa preclude screening of such aliens prior to their arrival at a port of entry in the United States. This rule revises the appropriate sections of 8 CFR to eliminate a loophole that allows certain unscreened aliens to embark to the United States.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1319-91

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, 202 616-7499

RIN: 1115–AC17

1946. ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Legal Authority: 8 USC 1103; 8 USC 1255a; 8 USC 1255a note; 8 CFR 2.1

CFR Citation: 8 CFR 245a

Legal Deadline: None

Abstract: This interim rule amends the present rule by providing for the automatic termination of section 245A temporary resident status upon entry of a final order of deportation or exclusion.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1321-91

AG Order Number to be assigned

Additional Agency Contact: Gerald Hurwitz, Executive Office of Immigration Review

Agency Contact: David Dixon, Appellate Counsel, General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536, 202 514-2895

RIN: 1115–AC18

1947. CHANGES IN PROCESSING PROCEDURES FOR CERTAIN APPLICATIONS AND PETITIONS FOR IMMIGRATION BENEFITS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1304; 8 USC 1455; 5 USC 552; 5 USC 552a; 28 USC 1746; 31 USC 9701; 8 CFR 2

CFR Citation: 8 CFR 103; 8 CFR 214; 8 CFR 223; 8 CFR 223a; 8 CFR 248; 8 CFR 264; 8 CFR 292

Legal Deadline: None

Abstract: This rule would clarify and streamline evidence rules and the process by which persons may apply and receive certain immigration documents and benefits. It would also revise how the Service notifies applicants and petitioners of decisions, and modify how the Service communicates with applicants and petitioners represented by an attorney or other representatives.

Timetable:

Action	Date	FR Cite
NPRM	12/02/91	56 FR 61201
NPRM Comment Period End	01/02/92	56 FR 61201

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1324-91

Agency Contact: Mike Aytes, Director, Service Center Operations, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4014, Washington, DC 20536, 202 514-3156

RIN: 1115–AC20

1948. • CONTRACTS WITH TRANSPORTATION LINES; SIGNATORY AUTHORITY

Legal Authority: 8 USC 1103; 8 USC 1228; 8 CFR 2

CFR Citation: 8 CFR 238

Legal Deadline: None

Abstract: The rule delegates signatory authority to enter into contracts under the purview of Section 238 of the Immigration and Nationality Act to the Executive Associate Commissioner for Operations.

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Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/17/92	57 FR 59906
Interim Rule Effective	12/17/92	57 FR 59906
NPRM Comment Period End	01/19/93	57 FR 59906
Interim Rule Comment Period End	01/19/93	57 FR 59906

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1376-92

Agency Contact: Una Brien, Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, 202 514-2681

RIN: 1115–AC24

1949. TEMPORARY PROTECTED STATUS

Significance: Regulatory Program

Legal Authority: 8 USC 1103; 8 USC 1254a; 8 USC 1254a note; 8 USC 1362, 8 USC 1324a; 8 USC 1101; 8 CFR 2, 28 USC 509; 5 USC 301; 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1201, 8 USC 1304; 31 USC 9701

CFR Citation: 8 CFR 3, 8 CFR 103, 8 CFR 240; 8 CFR 274a; 8 CFR 299

Legal Deadline: Final, Statutory, January 1, 1991.
Implementation date for TPS Program and for designation of El Salvador

Abstract: This rule implements a new section 244A of the Immigration and Nationality Act, established by section 302 of the Immigration Act of 1990, IMMACT, Pub. L. 101-649, November 29, 1990. This rule sets forth procedures for making application for Temporary Protected Status and provides, in accordance with the act, an opportunity for eligible individuals to temporarily remain and work in the United States until it is safe for them to return to their homeland.

This regulation also provides for the designation of other countries for Temporary Protected Status and specifies when such designations are to expire and discusses fees for EAD Authorization Document.

Regulation also provides an exception to the registration deadlines for TPS for persons who were in valid immigrant or non-immigrant status during the initial registration period. The regulation also updated the application process to conform with current procedures and reflect changes made by IMMACT.

Timetable:

Bosnia TPS (INS No. 1400BOS-92); AG Order 1610-92 (12-mo. period)
Expires 08/10/93; 08/10/92 (57 FR 35604)
Employment Authorization Document Fees (INS No. 1453-92)
Interim Rule 02/13/92 (57 FR 5227)
Interim Rule Effective Date 02/14/92 (57 FR 5227)
Interim Rule Comment Period End 03/16/92 (57 FR 5227)
Final Rule - Withdrawn by INS 02/17/93 (00 FR 0000)
Exception to Registration Deadlines for TPS
Interim Rule (INS No. 1608-93) 05/00/93
Kuwait for TPS Effective Date
Termination of Designation 03/27/92 (57 FR 2930)
Kuwait TPS (AG Order No. 1484-91) (12-mo. period)
Designation 03/27/91 (56 FR 12745)
Kuwait TPS (INS No. 1400K-92); AG Order No. 1557-92
Termination of Designation 01/24/92 (57 FR 2930)
Lebanon TPS (termination date 04/09/93) (AG Order 1680-93)
Termination of Designation 02/08/93 (58 FR 7582)
Lebanon TPS (AG Order No. 1485-91) (12-mo. period)
Designation 03/27/91 (56 FR 12746)
Lebanon TPS (INS No. 1400LEB-92); AG Order No. 1559-92
Extension of Designation 01/24/92 (57 FR 2931)
Lebanon TPS (12-mo. extension until 03/28/93)
Extension of Designation 01/24/92 (57 FR 2931)
Liberia TPS (AG Order No. 1483-91 (12-mo. period)
Designation 03/27/91 (56 FR 12746)
Liberia TPS (INS No. 1400LIB-92); AG Order No. 1558-92
Extension of Designation 01/24/92 (57 FR 2932)
Liberia TPS (12-mo. extenaion until 03/28/93)
Extension of Designation Liberia 01/24/92 (57 FR 2932)
Liberia TPS (12-mo. extension until 03/28/94) (AG Order 1682-93)
Extension of Designation 02/10/93 (58 FR 7898)
Somalia TPS (INS No. 1374-92)
Designation 09/16/91 (56 FR 46804)
Unavailability of TWOV 00/00/00
Somalia TPS (INS No. 1400SOM-92); AG Order 1607-92 (12 mo ext)
Extension Until 09/17/93; 07/21/92 (57 FR 32232)
TPS for Salvadorans
Deferral of Enfd Departure Eff Date 07/01/92 (57 FR 28700)
TPS for Salvadorans (INS No. 1445-91) (4-mo. period)
Application Extension Eff Date 07/01/91 (56 FR 41445)
Application Extension 08/21/91 (56 FR 41445)
TPS for Salvadorans (INS No. 1459-92)
Deferral of Enforced Departure 06/26/92 (57 FR 28700)
Waiver of Fees; TPS (INS No. 1443-91); AG Order No. ---
Final Rule 00/00/00
8 CFR Part 240 - General TPS Rule
Interim Rule Effective Date 01/02/91 (56 FR 618)
Interim Rule 01/07/91 (56 FR 618)
Interim Rule Comment Period End 02/06/91 (56 FR 618)
Final Rule 05/22/91 (56 FR 23491)
Final Rule Effective Date 05/22/91 (56 FR 23491)
8 CFR Part 240-Removal of Obsolete TPS Language (1612-93)
Final Rule 11/00/93

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1400-91; AG Order 1465-91; Additional contact Gerald Hurwitz, EOIR, 703-756-6470

The Attorney General may designate other countries for TPS

Cross Reference to INS No. 1443-91, Waiver of Fees; contact Lori Scialabba, INS General Attorney, 202-514-2895.

Cross Reference to INS No. 1453-92, Employment Authorization Document Fees for nationals of El Salvador under TPS, contact Bo Cooper, INS General Attorney, 202-514-2895

Cross Reference to INS No. 1374-92, Unavailability to Transit Without Visa Procedure to Citizens of Somalia; contact John King, Assistant Chief Inspector, 202-514-2725.

Cross Reference to INS No. 1608-93, TPS, Exception to Registration Deadlines; contact Kathryn Kazalonis, Senior Immigration Examiner, 202-514-5014.

Cross Reference to INS No. 1612-93, Removal of Obsolete TPS language; contact Stella Janina, Chief, Naturalization and Special Projects Branch, 202-514-5014.

Agency Contact: Kathryn A. Kazalonis, Senior Immigration Examiner, Adjudications and Naturalization, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, 202 514-5014

RIN: 1115–AC30

DOJ—INS

Final Rule Stage

1950. SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED; VETERANS OF THE U.S. ARMED FORCES WHO SERVED DURING WWI OR WWII OR ENLISTED UNDER ACT OF JUNE 30, 1950, AS AMENDED

Legal Authority: 8 USC 1103; 8 USC 1440 and note; 8 USC 1443; 66 Stat 173; 66 Stat 250; 66 Stat 276

CFR Citation: 8 CFR 329

Legal Deadline: None

Abstract: This rule implements section 405 of the Immigration Act of 1990, Pub. L. 101-649, to allow for the naturalization of natives of the Philippines, based upon certain active-duty military service during WWI, who would not otherwise be eligible for naturalization. Approximately 50,000 persons will be eligible for naturalization as a result of the implementation of this regulation. (INS No. 1404-91)

This rule amends the existing fee schedule for the INS to recover the cost of providing special services which allow for the naturalization of natives of the Philippines, based upon certain active duty military service during World War II. (INS No. 1404F-92).

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/91	56 FR 11060
Interim Rule Effective (INS No. 1404-91)	03/15/91	56 FR 11060
Interim Rule Comment Period End (INS No. 1404-91)	04/15/91	
Final Action	05/00/93	
Final Rule (INS No. 1404-91)	06/00/93	
Interim Rule (INS No. 1404F-92)	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1404-91, Special Classes Regulation INS No. 1404F-92, Increase in Fee for Application Regulation

Agency Contact: Stella Jarina, Chief, Naturalization Branch, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7223, Washington, DC 20536, 202 514-5014

RIN: 1115–AC34

1951. APPLICATION FOR THE EXERCISE OF DISCRETION UNDER 212C AGGRAVATED FELONS

Legal Authority: PL 101-649, Sec 511

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This regulation implements Section 511 of the Immigration Act of 1990, Pub. L. 101-649, by providing that a lawful permanent resident applying for advance permission to enter the United States under section 212(c) of the Act may not be granted such permission if he or she has been convicted of an aggravated felony and has served a term of imprisonment of at least five years.

This rule also provides that certain specified aliens are ineligible for discretionary relief under section 212(c) of the Act for a period of five years from the date of the barring act, if the alien fails to: appear for deportation, voluntarily departs, or appear at an asylum hearing.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/03/91	56 FR 50033
Interim Rule Effective	10/03/91	56 FR 50033
NPRM Comment Period End	11/04/91	56 FR 50033
Interim Rule Comment Period End	11/04/91	56 FR 50033
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: INS No. 1405-91

Agency Contact: Edward H. Skerrett, Chief, Immigrant Branch, Adjudications Division, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, 202 514-5014

RIN: 1115–AC35

1952. CONSENT TO REAPPLY FOR ADMISSION AFTER DEPORTATION, REMOVAL, OR DEPARTURE AT GOVERNMENT EXPENSE

Significance: Agency Priority

Legal Authority: 8 USC 1101 to 1103; 8 USC 1182; 8 USC 1182(c); 8 USC 1184; 8 USC 1125; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule implements section 514 of the Immigration Act of 1990 (IMMACT 90), Pub. L. 101-649, by extending from ten to twenty years the bar on reentry into the United States after deportation or removal of aliens who are convicted on one of more aggravated felonies. The change applies to admission occurring on or after January 1, 1991.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/91	56 FR 23212
Interim Rule Comment Period End	06/20/91	56 FR 23212
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1410-91

Agency Contact: Edward H. Skerrett, Chief, Immigrant Branch, Adjudications, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, 202 514-5014

RIN: 1115–AC37

1953. APPLICANT PROCESSING FOR FAMILY UNITY BENEFITS

Significance: Regulatory Program

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1255a note; 8 USC 1362

CFR Citation: 8 CFR 242; 8 CFR 103; 8 CFR 243; 8 CFR 264; 8 CFR 274; 8 CFR 299

Legal Deadline: Final, Statutory, October 1, 1991.
Public Law 101-649 would make Section 301 effective this date.

Abstract: This rule proposes to implement section 301 of the Immigration Act of 1990. It provides for application for family unity benefits (voluntary departure and employment authorization) and sets procedures for applying, adjudication, and appeals to adverse decisions. The public will receive relief from being a deportable alien where none existed before, for those who are eligible.

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Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/30/91	56 FR 42948
NPRM Comment Period End	09/30/91	
Interim Rule Effective	10/01/91	57 FR 6457
Interim Final Rule	02/25/92	57 FR 6457
Interim Rule Comment Period End	03/26/92	57 FR 6457
Interim Rule Correction	04/21/92	57 FR 14627

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1414-91

Additional Service Center Contact, Jack Hartsoch 202-514-5309

Agency Contact: Jack Hartsoch, Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4014, Washington, DC 20536, 202 514-3156

RIN: 1115–AC39

1954. EXEMPTION TO GENERAL PROHIBITION AGAINST APPROVAL OF APPLICATION FOR IMMIGRATION BENEFITS BASED ON MARRIAGE ENTERED INTO DURING DEPORTATION OR EXCLUSION PROCEEDINGS

Legal Authority: PL 101-649, Sec. 702

CFR Citation: 8 CFR 204; 8 CFR 245

Legal Deadline: None

Abstract: This regulation would allow a citizen or lawful permanent resident petitioner, or an alien applicant for permanent resident status, to seek an exemption from the general prohibition against approval of immigration benefits based upon a marriage entered into while the beneficiary or applicant was under deportation or exclusion proceedings.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/91	56 FR 28311
Interim Rule Effective	06/20/91	56 FR 28311
Interim Rule Comment Period End	07/22/91	56 FR 28311
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1419-91

Agency Contact: Rita Boie, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7223, Washington, DC 20536, 202 514-5014

RIN: 1115–AC43

1955. CONDITIONAL BASIS OF LAWFUL PERMANENT RESIDENCE FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGHTERS; BATTERED WIFE EXCEPTION

Legal Authority: PL 101-649, Sec 701

CFR Citation: 8 CFR 216

Legal Deadline: None

Abstract: This rule would amend the existing waiver provisions and establish a third basis for waiving the joint filing requirement to remove the conditional basis of lawful permanent residence for certain alien spouses, sons, and daughters.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/91	56 FR 22635
Interim Rule Effective	05/16/91	56 FR 22635
Interim Rule Comment Period End	06/17/91	56 FR 22635
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1423-91

Agency Contact: Rita Boie, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7223, Washington, DC 20536, 202 514-5014

RIN: 1115–AC47

1956. SPECIAL IMMIGRANT STATUS; CERTAIN ALIENS DECLARED DEPENDENT ON A JUVENILE COURT

Significance: Agency Priority

Legal Authority: PL 101-649, Sec 153, PL 102-232, Sec 302(d)(2)

CFR Citation: 8 CFR 101; 8 CFR 204; 8 CFR 205; 8 CFR 245

Legal Deadline: None

Abstract: This regulation would establish a procedure for classification of certain aliens who have been declared dependent on a juvenile court in the United States as special immigrants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/91	56 FR 23207
Interim Rule Effective	05/21/91	56 FR 23207
Interim Rule Comment Period End	06/20/91	56 FR 23207
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: INS No. 1424-91

Agency Contact: Rita Boie, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7223, Washington, DC 20536, 202 514-5014

RIN: 1115–AC48

1957. TREATY ALIENS, E CLASSIFICATION

Significance: Regulatory Program

Legal Authority: 8 USC 1103, 8 USC 1184, 8 CFR 2

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule would codify existing policy guidelines regarding the classification of nonimmigrant treaty aliens.

Timetable:

Action	Date	FR Cite
NPRM	08/30/91	56 FR 42962
NPRM Comment Period End	10/15/91	
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1427-91

Development of the Final Rule is pending coordination with the Department of State.

Additional Contact: Katherine Lorr (202 514-3043)

Agency Contact: Jacquelyn A. Bednarz, Chief, Nonimmigrant Branch, Adjudications, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, 202 514-3043

RIN: 1115–AC51

DOJ—INS

Final Rule Stage

1958. ADMINISTRATIVE NATURALIZATION

Significance: Regulatory Program

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1304; 8 USC 1424; 8 USC 1425; 8 USC 1426; 8 USC 1427; 8 USC 1429; 8 USC 1433; 8 USC 1443; 8 USC 1447; 8 USC 1448; 8 USC 1454; 8 CFR 2.1

CFR Citation: 8 CFR 103; 8 CFR 299; 8 CFR 310; 8 CFR 312; 8 CFR 313; 8 CFR 315; 8 CFR 316; 8 CFR 319; 8 CFR 322; 8 CFR 324; 8 CFR 325; 8 CFR 327; 8 CFR 328; 8 CFR 329; 8 CFR 330; ...

Legal Deadline: Final, Statutory, October 1, 1991.

Abstract: The Immigration Act of 1990, Pub. L. 101-649, (IMMACT) conferred upon the Attorney General, as of October 1, 1991, the responsibility for making final determinations on applications for naturalization. This regulation provides for the implementation of the new administrative system and serves to codify those essential substantive and procedural requirements for naturalization provided by statute and previous judicial interpretations and precedent. The rule also makes those technical and administrative changes as are necessary to allow for more efficiency in administering the naturalization provisions, and provides additional guidance and clarification to Service officials. This rule also implements the Miscellaneous and Technical Amendments Act of 1991.

Timetable:

Action	Date	FR Cite
Interim Rule Effective	10/01/91	56 FR 50475
Interim Final Rule	10/07/91	56 FR 50475
Interim Rule Comment Period End	11/21/91	56 FR 50475
Interim Rule (2nd Interim)	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1435-91; AG Order No. (to be assigned)

Agency Contact: Stella Jarina, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, 202 514-5014

RIN: 1115–AC58

1959. RELEASE PROCEDURES; LAWFUL PERMANENT RESIDENTS CONVICTED OF AGGRAVATED FELONIES

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186A; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1362; 8 CFR 2; 104 Stat 4978; 100 Stat 3537; 66 Stat 173; 66 Stat 208; 66 Stat 214; 66 Stat 235

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: This regulation provides the procedures to be followed in determining release conditions for lawfully admitted aliens who are in deportation proceedings and who have been convicted of aggravated felonies as defined in section 101(a)(43) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/91	56 FR 23214
Interim Final Rule Effective Date	05/21/91	56 FR 23214
Interim Final Rule Comment Period End	06/20/91	56 FR 23214
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: INS No. 1439-91

Agency Contact: Gale David, Detention and Deportation Officer, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1102, Washington, DC 20536, 202 514-1958

RIN: 1115–AC60

1960. ENHANCING THE ENFORCEMENT AUTHORITY OF IMMIGRATION OFFICERS

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186A; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1357; 8 USC 1362; 8 USC 1225; 8 USC 1226; 8 CFR 2

CFR Citation: 8 CFR 242; 8 CFR 287

Legal Deadline: None

Abstract: This regulation codifies existing policy guidance regarding the authority of immigration officers to arrest persons, carry firearms, and serve process. It further expands the arrest authority of immigration officers beyond arrests for violations of the immigration laws. These changes are the result of expanded authority provided in section 503 of the Immigration Act of 1990, Pub. L. 101-649.

Timetable:

Action	Date	FR Cite
NPRM	10/14/92	57 FR 47011
NPRM Comment Period End	11/30/92	57 FR 47011
Interim Final Rule	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1442-91

Agency Contact: Kathryn E. Sheehan, Special Assistant, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7246, Washington, DC 20536, 202 514-3032

RIN: 1115–AC63

1961. • PROCEDURES FOR ASYLUM AND WITHHOLDING OF DEPORTATION

Legal Authority: 8 USC 1102; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 208

Legal Deadline: None

Abstract: This rule will modify 8 CFR 208, Procedures for Asylum and Withholding of Deportation

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1355-91

Agency Contact: David Dixon, Appellate Counsel, General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536, 202 514-2895

RIN: 1115–AC65

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Final Rule Stage

1962. ASYLUM APPLICATION MAIL-IN PROGRAM TO ASYLUM OFFICES ISSUANCE OF CHARGING DOCUMENTS IN EXCLUSION AND DEPORTATION PROCEEDINGS BY SUPERVISORY ASYLUM OFFICERS

Legal Authority: 8 USC 1103; 8 USC 1158, 8 USC 1226; 8 USC 1252; 8 USC 1253; 8 USC 1283; 66 Stat 173

CFR Citation: 8 CFR 100; 8 CFR 208; 8 CFR 235; 8 CFR 242

Legal Deadline: None

Abstract: This rule establishes procedures to be used in filing for asylum under section 208, and withholding of deportation under section 243(h) of the Immigration and Nationality Act, as amended by the Refugee Act of 1980, Pub. L. 96-212.

The rule modifies the final rule on asylum adjudication published on July 27, 1990 at 55 FR 30674

It establishes seven Asylum Offices and their jurisdictions; and also indicates how asylum and withholding of deportation applications should be filed by mail with these offices instead of with Service district offices and suboffices.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/09/91	56 FR 50810
Interim Rule Effective	10/09/91	56 FR 50810
Public Notice for filing applications for asylum in the US under Sec. 208 INA	06/17/92	57 FR 27068
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1343-91

INS No. 1382-92

Agency Contact: Christine Davidson, Senior Policy Analyst, Refugee, Asylum and Parole, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., ULLICO, 3rd Floor, Washington, DC 20536, **202 633-4389**

RIN: 1115–AC67

1963. TEMPORARY ALIEN WORKERS SEEKING CLASSIFICATION UNDER THE IMMIGRATION AND NATIONALITY ACT

Significance: Regulatory Program

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186A; 8 USC 1187; 8 CFR 2; 8 USC 1104

CFR Citation: 8 CFR 214; 8 CFR 214.2

Legal Deadline: None

Abstract: This regulation implements provisions of the Immigration Act of 1990 (IMMACT), Pub. L. 101-649, as they relate to temporary alien workers seeking nonimmigrant classification and admission to the US under sections 101(a)(15)(H),(L),(O), and (P) of the Immigration and Nationality Act

This rule also contains technical amendments which reflect the Service's operating experience under the H and L classifications.

This rule will conform Service policy to the intent of Congress as it relates to these classifications, implement new nonimmigrant classifications and requirements established by IMMACT, and clarify for businesses and the general public requirements for classification, admission, and maintenance of status.

INS Regulation 1452-92 alters some of the procedures required to petition for an H-1B nonimmigrant and also describes the eligibility criteria for foreign physicians. The rule clarifies new requirements for eligibility and admission

INS Regulation 1454-92 implements provisions of Pub. L. 102-232 concerning aliens eligible for H-1B, O, and P classifications.

Timetable:

Action	Date	FR Cite
NPRM	07/11/91	56 FR 31553
NPRM Comment Period End	08/12/91	56 FR 31553
Final Rule Effective for INS No. 1417-91	10/01/91	56 FR 61111
Final Rule for INS No. 1417-91	12/02/91	56 FR 61111
Final Rule Correction for INS No. 1417-91	01/08/92	57 FR 749
Interim Rule Effective for INS No. 1452-92	03/31/92	57 FR 12177
Interim Rule Effective for INS No. 1454-92	04/01/92	57 FR 12177
Interim Final Rule	04/09/92	57 FR 12177
Interim Rule for INS No. 1452-92	04/09/92	57 FR 12177
Interim Rule for INS No. 1454-92	04/09/92	57 FR 12179
Interim Rule Comment Period End for INS No. 1452-91	06/08/92	
Interim Rule Comment Period End for INS No. 1454-92	06/08/92	
Final Action for INS No. 1452-92	06/00/93	
Final Action for INS No. 1454-92	06/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1417-91, INS No. 1452-92 (H-1B), INS No. 1454-92 (H-1B, O, and P nonimmigrant classifications).

Agency Contact: John Brown, Senior Immigration Examiner, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7215, Washington, DC 20536, **202 514-3240**

RIN: 1115–AC72

1964. • REMOVAL OF THE REQUIREMENT FOR THE REGISTRATION AND FINGERPRINTING OF CERTAIN NONIMMIGRANTS BEARING IRAQI AND KUWAITI TRAVEL DOCUMENTS

Legal Authority: 8 USC 1103; 8 USC 1201; 8 USC 1201a; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305

CFR Citation: 8 CFR 264

Legal Deadline: None

Abstract: This rule provides for the removal of the requirement for the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents who apply for admission to the United States.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1606-93

Cross reference INS No. 1315-91 (AG Order 1467-91), Registration and Fingerprinting of Certain Nonimmigrants Bearing Iraqi and Kuwaiti Travel Documents.

DOJ—INS

Final Rule Stage

Agency Contact: Andrea Sickler, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, **202 514-3019**

RIN: 1115–AC83

1965. REVISION OF GROUNDS FOR DEPORTATION; CONFORMING REGULATIONS

Legal Authority: 8 USC 1103; 8 USC 1184; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 210a; 8 CFR 214; 8 CFR 241; 8 CFR 242

Legal Deadline: Final, Statutory, March 1, 1991.
Public Law 101-649

Abstract: This regulation provides technical amendments to 8 CFR parts 210a, 214, 241, and 242 to bring these sections into conformance with Section 241 of the Immigration and Nationality Act, as amended by Section 602 of the Immigration Act of 1990, Pub. L. 101-649.

Timetable:

Action	Date	FR Cite
Interim Rule Effective	03/01/91	56 FR 38332
Interim Final Rule	08/13/91	56 FR 38331
Interim Rule Comment Period End	09/27/91	56 FR 38332
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1438-91

Agency Contact: Gale David, Detention and Deportation Officer, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1102, Washington, DC 20536, **202 514-1958**

RIN: 1115–AC86

1966. MARIEL CUBAN PAROLE DETERMINATIONS

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule revises and expands the discretionary authority of the INS under the Cuban Review Plan, to withdraw parole approval for excludable Mariel Cubans where circumstances make it impossible to execute the parole decision, and release of the detainee is contrary to the public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/07/91	56 FR 21100
NPRM Comment Period End	06/06/91	56 FR 21100
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1344-91

AG Order No. 1492-91

Agency Contact: Joan Lieberman, Assistant General Counsel, General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536, **202 514-1932**

RIN: 1115–AC90

1967. POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1304; 5 USC 552; 5 USC 552A; 31 USC 9701; 3 CFR 1982 Comp, p 166; 8 CFR 2

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This regulation would add Forensic Document Analysts and Fingerprint Specialists, which were previously omitted, to the list of immigration officers contained in 8 CFR 103.1.

Timetable:

Action	Date	FR Cite
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1348-91

Agency Contact: John Camp, Director, Forensic Document Lab, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7311, Washington, DC 20536, **202 514-2964**

RIN: 1115–AC94

1968. DISTRIBUTION OF SERVICE FORMS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 299

Legal Deadline: None

Abstract: The purpose of this proposed regulation is to clarify that the distribution of INS forms is a function of the Associate Commissioner, Examinations. The rule states that for efficiency, control and cost factors the Associate Commissioner may assign the forms distribution task to a particular unit(s) within the Examinations Division.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1352-91

Agency Contact: E. B. Duarte, Jr., Director, Examinations Operations Support Program, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., ULLICO 3rd floor, Washington, DC 20536, **202 786-3587**

RIN: 1115–AC97

1969. DETENTION AND RELEASE OF JUVENILES, AGGRAVATED FELONS

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186A; 8 USC 1252; 8 USC 1254; 8 USC 1362; 8 CFR 2; 104 Stat 4978; 66 Stat 173; 66 Stat 208; 66 Stat 214; 66 Stat 235; 100 Stat 3537

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: This regulation would amend 8 CFR 242.24 to conform with the mandatory detention requirements for aggravated felons required by Pub. L. 101-649. The regulation would specifically address release procedures for juvenile aliens who are Lawful Alien Permanent Residents (LAPRs) and who have been convicted of aggravated felonies as defined in section 101(a)(43) of the INA.

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DOJ—INS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1366-91

Agency Contact: Gale David, Detention and Deportation Officer, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1102, Washington, DC 20536, 202 514-1958

RIN: 1115–AD04

1970. SPECIAL IMMIGRANT STATUS; ALIENS WHO HAVE SERVED HONORABLY (OR ARE ENLISTED TO SERVE) IN THE ARMED FORCES OF THE UNITED STATES FOR AT LEAST TWELVE YEARS

Legal Authority: 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1304; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1255a; 8 USC 1255a note

CFR Citation: 8 CFR 103; 8 CFR 204; 8 CFR 245

Legal Deadline: None

Abstract: Will provide aliens serving honorably in the Armed Forces of the United States with a means to be granted permanent residence and in most cases, United States citizenship, based upon their military service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/31/92	57 FR 33859
Interim Rule Comment Period End	08/31/92	57 FR 33859
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1450-91

Agency Contact: Susan A. Dugas, Senior Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, 202 514-5014

RIN: 1115–AD05

1971. APPLICATION FOR EXTENSION OR REINSTATEMENT OF VOLUNTARY DEPARTURE

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1201; 8 USC 1252; 8 USC 1254; 8 USC 1304; 8 USC 1356; 8 CFR 2; 31 USC 9701

CFR Citation: 8 CFR 100; 8 CFR 103; 8 CFR 242; 8 CFR 244; 8 CFR 299

Legal Deadline: None

Abstract: This regulation will require the use of a form application (for a fee) to apply for the benefits of extension and reinstatement of voluntary departure, where previously the request process was informal. Service form I-246 (Application for Stay of Deportation) is being amended to include this application in conjunction with the proposed rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1371-92

Agency Contact: Gale David, Detention and Deportation Officer, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1102, Washington, DC 20536, 202 514-1958

RIN: 1115–AD07

1972. ADMISSION OF REFUGEES; FINGERPRINTING

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1157; 8 USC 1159; 8 USC 1182

CFR Citation: 8 CFR 207

Legal Deadline: None

Abstract: This regulation amends the procedures to be used in adjudicating refugee resettlement applications under section 207 of the Immigration and Nationality Act by removing the fingerprinting requirement for refugee applicants 14 years of age or older.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1510-92

Agency Contact: Janelle Jones, Refugee Officer, Refugee, Asylum and Parole, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., ULLICO, 3rd Floor, Washington, DC 20536, 202 633-4389

RIN: 1115–AD08

1973. PHYSICAL AND MENTAL EXAMINATION OF ARRIVING ALIENS

Legal Authority: 8 USC 1103; 8 USC 1224

CFR Citation: 8 CFR 234

Legal Deadline: None

Abstract: This regulation is implemented in conjunction with regulations issued by the Department of Health and Human Services, Public Health Service. The rule amends 8 CFR 234 to implement section 601(a) of the Immigration Act of 1990, Pub. L. 101-649 (IMMACT).

The rule ensures implementation and regulatory compliance with IMMACT as it relates to the physical and mental examination of aliens arriving into the United States. The rule also serves to provide guidance for the designation of civil surgeons.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1446-92

Agency Contact: Edward H. Skerrett, Chief, Immigrant Branch, Adjudications, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, 202 514-3946

RIN: 1115–AD10

1974. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE: INTERVIEW

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 245

Legal Deadline: None

DOJ—INS

Final Rule Stage

Abstract: This rule removes 8 CFR 245.9 which requires that all applicants for adjustment of status to that of permanent residence be interviewed by an immigration officer, except those applicants who are under the age of 14, or who are clearly ineligible for having lived or worked illegally in the United States or who, prior to November 20, 1990, filed an application under the provisions of the Cuban Adjustment Act of November 2, 1966.

This rule will remove the mandatory interview requirement in favor of the discretionary use of the interview for adjustment of status.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/02/92	57 FR 49374
Interim Rule Effective	11/02/92	57 FR 49374
Interim Rule Comment Period End	12/02/92	57 FR 49374
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1373-92

Agency Contact: Rita A. Boie, Senior Immigration Examiner, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7215, Washington, DC 20536-0002, 202 514-5014

RIN: 1115–AD12

1975. AUTOMATIC CONVERSION OF CLASSIFICATION OF BENEFICIARY

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule reinstates the process for the automatic conversion of classification of a beneficiary of an approved Form I-130, Immigrant Petition for Relative, Fiance(e), or Orphan, which was inadvertently removed from regulation published at 56 FR 60897, November 29, 1991.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1456-92

INS No. 1434-91, RIN 1115-AC59

Agency Contact: Yolanda Sanchez-K, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7216, Washington, DC 20536, 202 514-5014

RIN: 1115–AD14

1976. PRECOMPLETION INTERVAL TRAINING; F-1 STUDENT WORK AUTHORIZATION

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1324a

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: The regulation restores the ability of foreign students to engage in practical training prior to completion of their course of study and will also provide employment authorization for F-1 students based upon severe economic hardships. Pre-completion training is necessary to permit students to accept short term employment that furthers their academic studies before the students have graduated.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/20/92	57 FR 31954
Interim Rule Effective	07/20/92	57 FR 31954
Interim Rule Comment Period End	09/18/92	57 FR 31954

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1458-92

Agency Contact: William Tollifson, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, 202 514-3240

RIN: 1115–AD16

1977. INSPECTION OF PERSONS APPLYING FOR ADMISSION

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1353a; 8 USC 1353b; 31 USC 9701

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule provides for the reimbursement to the INS for certain direct salary costs and administrative overhead charges in its overtime billing for arriving trains and vessels under 8 USC 1353b, for all immigration inspection services rendered to crews, and for services rendered to passengers not exempt under 8 USC 1353b or 1356(g).

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	01/21/93	
Final Action	06/00/93	
NPRM	12/22/93	57 FR 60741

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1512-92

Agency Contact: Robert Bevilacqua, Assistant Commissioner, Finance, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6321, Washington, DC 20536, 202 616-7695

RIN: 1115–AD17

1978. • CLASSIFICATION OF CERTAIN SCIENTISTS OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION AND BALTIC STATES AS EMPLOYMENT-BASED IMMIGRANTS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule implements the provisions of the Soviet Scientists Immigration Act of 1992 by providing petitioning procedures to establish eligibility as immigrants for certain qualifying scientists. This rule is necessary to prevent the employment of these scientists by unscrupulous nations intent on developing weapons which can threaten the world's security.

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Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1602-92

Agency Contact: Edward H. Skerrett, Chief, Immigrant Branch, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, 202 514-5014

RIN: 1115–AD29

1979. • ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257; 8 CFR 2; PL 102-404

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This regulation implements the provisions of Public Law 102-404 by providing adjustment of status procedures for certain nationals of the People's Republic of China.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1607-93

Agency Contact: Rita A. Boie, Senior Immigration Examiner, Adjudications and Naturalization, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7223, Washington, DC 20536, 202 514-5014

RIN: 1115–AD33

1980. • PORTS OF ENTRY FOR ALIENS ARRIVING BY AIRPORT

Legal Authority: 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 100.4

Legal Deadline: None

Abstract: This rule corrects the names of the airports in Brownsville and McAllen, Texas. The changes update 8 CFR 100.4 to reflect current airport listings.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1393-92

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536, 202 633-4389

RIN: 1115–AD34

1981. • UNAVAILABILITY OF TRANSIT WITHOUT VISA PROCEDURE TO CITIZENS OF HAITI, HONDURAS, PEOPLE'S REPUBLIC OF CHINA, AND SOMALIA

Significance: Agency Priority

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule amends 8 CFR 212.1 by adding Haiti, Honduras, People's Republic of China, and Somalia to the list of countries for whose citizens the transit without visa (TWOV) procedure are not available. The rule will eliminate the abuse of the TWOV procedure by the above aliens misrepresenting themselves as transit passengers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1374-93

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7216, Washington, DC 20536, 202 616-7499

RIN: 1115–AD43

DEPARTMENT OF JUSTICE (DOJ)

Immigration and Naturalization Service (INS)

Completed Actions

1982. CONTRACTS WITH TRANSPORTATION LINES

CFR Citation: 8 CFR 238.2(b); 8 CFR 238.3(b)

Completed:

Reason	Date	FR Cite
Withdrawn - no activity pending in this area at this time.	02/11/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peggy Wong, 202 514-3019

RIN: 1115–AA88

1983. CHANGE OF ADDRESS NOTIFICATION; IMMIGRATION FORMS

CFR Citation: 8 CFR 265.1; 8 CFR 299.1; 8 CFR 299.5; 8 CFR 287.6(c)

Completed:

Reason	Date	FR Cite
Withdrawn	03/31/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ira L. Frank, 202 514-0747

RIN: 1115–AB65

1984. ADJUSTMENT OF STATUS; NURSES

Significance: Regulatory Program

CFR Citation: 8 CFR 245

Completed:

Reason	Date	FR Cite
Final Action	12/01/92	57 FR 56807
Final Action Effective	12/01/92	57 FR 56807

Small Entities Affected: None

DOJ—INS

Completed Actions

Government Levels Affected: None

Agency Contact: Rita Boie, 202 514-5014

RIN: 1115–AB76

1985. PROGRESSIVE CLEARANCE

CFR Citation: 8 CFR 231.1(c)

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peggy Wong, 202 514-3019

RIN: 1115–AB90

1986. NONIMMIGRANT CLASSES, SCHOOL APPROVALS AND REPORTING REQUIREMENTS

CFR Citation: 8 CFR 214

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/17/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: William R. Tollifson, 202 514-3946

RIN: 1115–AB97

1987. PETITION FOR ALIEN TO PERFORM AGRICULTURAL LABOR OR SERVICES OF A TEMPORARY OR SEASONAL NATURE (H-2A); PETITION AGREEMENTS

CFR Citation: 8 CFR 214

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Graber, 703 756-3911

RIN: 1115–AC28

1988. INTERNATIONAL CULTURAL EXCHANGE VISITORS, Q CLASSIFICATION

Significance: Regulatory Program

CFR Citation: 8 CFR 214; 8 CFR 274a

Completed:

Reason	Date	FR Cite
Final Action	11/24/92	57 FR 55056
Final Action Effective	12/24/92	57 FR 55056

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Pearl Chang, 202 514-3241

RIN: 1115–AC32

1989. LANDING REQUIREMENTS; PLACE OF LANDING

CFR Citation: 8 CFR 239

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Graber, 703 756-3911

RIN: 1115–AC74

1990. NOTICE TO TRANSPORTATION LINES; NATIONAL FINES OFFICE

CFR Citation: 8 CFR 243

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Graber, 703 756-3911

RIN: 1115–AC75

1991. LANDING OF ALIEN CREWMEN; EXAMINATION OF CREWMEN; REQUIREMENTS FOR ADMISSION; REVOCATION OF CONDITIONAL LANDING PERMITS; DEPORTATION

CFR Citation: 8 CFR 252

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Graber, 703 756-3911

RIN: 1115–AC76

1992. CONTROL OF ALIEN CREWMEN

CFR Citation: 8 CFR 254

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Graber, 703 756-3911

RIN: 1115–AC77

1993. DISCHARGE OF ALIEN CREWMEN

CFR Citation: 8 CFR 256

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Graber, 703 756-3911

RIN: 1115–AC78

1994. PROCEDURE UNDER SECTION 257 OF THE IMMIGRATION AND NATIONALITY ACT

CFR Citation: 8 CFR 280

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Graber, 703 756-3911

RIN: 1115–AC79

1995. PREVENTION OF UNAUTHORIZED LANDING OF ALIENS

CFR Citation: 8 CFR 271

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/17/93	

Small Entities Affected: None

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Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Graber, 703 756-3911

RIN: 1115–AC80

1996. UNLAWFUL BRINGING OF ALIENS INTO THE UNITED STATES

CFR Citation: 8 CFR 273

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Graber, 703 756-3911

RIN: 1115–AC81

1997. COLLECTION OF REFUNDED TRANSPORTATION COSTS

CFR Citation: 8 CFR 273

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Graber, 703 756-3911

RIN: 1115–AC82

1998. FEES FOR PROCESSING CERTAIN ASYLEE/REFUGEE RELATED APPLICATIONS

CFR Citation: 8 CFR 103; 8 CFR 208

Completed:

Reason	Date	FR Cite
Final Action	03/03/93	58 FR 12145
Final Action Effective	03/18/93	58 FR 12146

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Barbara J. Atherton, 202 514-3410

RIN: 1115–AC93

1999. NAME CHANGE FOR BORDER PATROL SECTOR NUMBER 3 AND SECTOR NUMBER 2

CFR Citation: 8 CFR 100

Completed:

Reason	Date	FR Cite
Final Action	01/06/93	58 FR 471
Final Action Effective	01/06/93	58 FR 471

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marion Moody, 202 514-1109

RIN: 1115–AC95

2000. PORTS OF ENTRY FOR ALIENS ARRIVING BY VESSEL OR BY LAND TRANSPORTATION

CFR Citation: 8 CFR 100

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diane Hinckley, 202 514-2725

RIN: 1115–AD00

2001. CONTRACTS WITH TRANSPORTATION LINES; DOCUMENTARY REQUIREMENTS

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 238

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office, consolidated into INS 1376	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Gottlieb, 202 514-3019

RIN: 1115–AD01

2002. IMPLEMENTATION OF INTERNAL REORGANIZATION OF THE IMMIGRATION AND NATURALIZATION SERVICE

Significance: Agency Priority

CFR Citation: 8 CFR 100; 8 CFR 103

Completed:

Reason	Date	FR Cite
Withdrawn by Department of Justice, may be resubmitted to new administration	02/02/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Virtue, 202 514-2895

RIN: 1115–AD03

2003. EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

Completed:

Reason	Date	FR Cite
Duplicate of RIN 1115-AD40	02/12/93	

RIN: 1115–AD11

2004. • N - NONIMMIGRANT CLASSES: CONTROL OF EMPLOYMENT OF ALIENS

Significance: Agency Priority

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 214; 8 CFR 274A

Legal Deadline: None

Abstract: This rulemaking will expand the list of aliens authorized to accept employment in the United States by including those nonimmigrant employment-authorized classifications created by the Immigration Act of 1990.

Timetable:

Action	Date	FR Cite
Final Action	09/17/92	57 FR 42884
Final Action Effective	09/17/92	57 FR 42884

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INS No. 1455-92

Agency Contact: Michael L. Shaul, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, **202 514-3240**

RIN: 1115–AD13

2005. CHANGING DEFINITION OF EXTERNAL BOUNDARY OF THE UNITED STATES

CFR Citation: 8 CFR 287

Completed:

Reason	Date	FR Cite
Final Action	10/15/92	57 FR 47257
Final Action Effective	10/15/92	57 FR 47257

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Ira Frank, 202 514-0747

RIN: 1115–AD19

2006. ACCELERATED EOIR PROCEEDING FOR AGGRAVATED FELON

Significance: Agency Priority

CFR Citation: 8 CFR 3.3; 8 CFR 3.14

Completed:

Reason	Date	FR Cite
Withdrawn by EOIR - notice will follow	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert K. Bingham, **202 514-4616**

RIN: 1115–AD21

2007. DESIGNATED AREA ENTRY PERMIT

CFR Citation: 8 CFR 235.1

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office, consolidated with INS 1604-92	02/17/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diane Hinckley, 202 514-2725

RIN: 1115–AD23

2008. CONTRACTS WITH TRANSPORTATION LINES; SIGNATORY AUTHORITY

Completed:

Reason	Date	FR Cite
Duplicate of RIN 1115-AC24	02/12/93	

RIN: 1115–AD27

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Prerule Stage

2009. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN DEPARTMENT OF JUSTICE ADMINISTRATIVE PROCEEDINGS

Legal Authority: 5 USC 504 Equal Access to Justice Act

CFR Citation: 28 CFR 24 (Revision)

Legal Deadline: None

Abstract: The Equal Access to Justice Act was reauthorized on August 5, 1985. Various new amendments have been adopted which require revision of the procedures for applications for attorneys fees, eligible parties, and proceedings covered.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Sectors Affected: Multiple

Analysis: Regulatory Impact Analysis

Agency Contact: Olga R. Trujillo, Acting General Counsel, Department of Justice, 633 Indiana Avenue, NW., Room 1246E, Washington, DC 20531, **202 307-0790**

RIN: 1105–AA05

2010. CRIMINAL FINES ENFORCEMENT

Legal Authority: 18 USC 3013(b); 18 USC 3613; 18 USC 3663(h); 26 USC 7805

CFR Citation: 28 CFR 72

Legal Deadline: None

Abstract: The Sentencing Reform Act of 1984 makes certain tax collection provisions of the Internal Revenue Code applicable to the collection of criminal fines. The proposed rule is intended to facilitate the collection of criminal fines by modifying the tax collection provision to better reflect the difference in the nature of tax and fine liabilities.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Richard Sponseller, Financial Litigation Staff, EOUSA, Department of Justice, Room 6404, 601 D Street NW., Washington, DC 20530, **202 501-7017**

RIN: 1105–AA16

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Proposed Rule Stage

2011. • DEPORTATION PROCEEDINGS: ALIEN CONVICTED OF AGGRAVATED FELONY

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252; 8 USC 1362; 28 USC 509 and 510; 28 USC 1746; 5 USC 301

CFR Citation: 8 CFR 3

Legal Deadline: None

Abstract: This proposed rule amends 8 CFR part 3 by requiring an Immigration Judge to conduct a hearing on the merits within 30 days after the filing of the order to show cause in the case of an alien who is charged in the order as an alien who has been convicted of an aggravated felony. The Immigration Judge may not grant more than one continuance absent extraordinary circumstances. If an

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DOJ—LA — **Proposed Rule Stage**

appeal is taken from an order of deportation, the Board of Immigration Appeals shall decide the appeal within 60 days of the filing thereof.

Timetable:

Action	Date	FR Cite
NPRM	12/28/92	57 FR 61587
NPRM Comment Period End	01/27/93	57 FR 61587

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: AG Order No 1641-92

Agency Contact: Gerald Hurwitz, Counsel to the Executive Director, Executive Office for Immigration Review, Department of Justice, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041, 703 756-6470

RIN: 1105–AA19

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Final Rule Stage

2012. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: PL 101-121, Sec 319; 31 USC 1352; 42 USC 3711 et seq; 42 USC 5601 et seq; 18 USC 4042; 42 USC 10601; 18 USC 4351 to 4353

CFR Citation: 28 CFR 69

Legal Deadline: None

Abstract: This interim final rule is in response to section 319 of PL 101-121. Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan or a Federal commitment to insure or guarantee a loan, must disclose lobbying activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6751

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Agency Contact: Cynthia Schwimer, Manager, Financial Services Branch, Financial Grants Mgt. Admin. Div. (OC), Department of Justice, 633 Indiana Avenue NW., Room 942, Washington, DC 20745, 202 307-3186

RIN: 1105–AA12

2013. UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

Significance: Regulatory Program

Legal Authority: 8 USC 1324b

CFR Citation: 28 CFR 44.100 to 44.305

Legal Deadline: None

Abstract: This section prohibits discrimination on the basis of national origin and citizenship status. The existing regulations implementing the anti-discrimination provisions of section 274B of the Immigration and Nationality Act, 8 U.S.C. 1324b, need to be modified to incorporate the Immigration Act of 1990 amendments As currently written, portions of the existing regulations conflict with the amended statute. This conflict creates a significant problem in the enforcement and the comprehension of the anti-discrimination provisions. In addition, as the case law develops under this new statute, two issues have arisen. First, many issues have not been addressed or defined by the statute or regulations. Second, while it is possible for these issues to be decided on a case by case basis, the case law is not reported by any service. This has created a significant problem in the comprehension of the anti-discrimination provisions. The main objectives of this rulemaking will be to eliminate contradictions, to incorporate additions, to promote a better understanding of the anti-discrimination provisions, and to determine whether additional clarification of the (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/91	56 FR 40247
Interim Final Rule Effective Date	08/14/91	
Interim Final Rule Comment Period End	10/15/91	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: anti-discrimination provisions would promote a better understanding of the anti-discrimination provisions and lead to a decline in employers' discriminatory practices.

This entry was incorrectly listed under the Civil Rights Division in the April 1991 edition of the agenda.

Agency Contact: Andrew M. Strojny, Deputy Special Counsel, Department of Justice, P.O. Box 65490, Washington, DC 20035-5490, 202 653-8121

RIN: 1105–AA17

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Prerule Stage

2014. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 3711 et seq, as amended; 42 USC 5601 et seq, as amended; 42 USC 10601 et seq, as amended; 18 USC 4042; 18 USC 4351 to 4353; EO 12291

CFR Citation: 28 CFR 66

Legal Deadline: None

Abstract: This common rule will replace OMB Circular A-110 which provides uniform administrative requirements for Grant and Cooperative Agreements to Institutions of Higher Education, Hospitals and other Nonprofit Organizations. This rule specifies governmentwide terms and conditions for grants and cooperative agreements.

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Stacy Worthington, Financial Analyst, Office of the Comptroller, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531, 202 307-0623

RIN: 1121–AA18

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Proposed Rule Stage

2015. CRIMINAL JUSTICE INFORMATION SYSTEMS

Legal Authority: 42 USC 3789g

CFR Citation: 28 CFR 20

Legal Deadline: None

Abstract: To change Office and Bureau nomenclature to comply with changes resulting from the Anti-Drug Abuse Act of 1988, Pub. L. 100-690, and to delete obsolete terminology.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Paul Kendall, Attorney-Advisor, Department of Justice, Office of Justice Programs, 633 Indiana Avenue, NW., Room 1246E, Washington, DC 20531, 202 307-0793

RIN: 1121–AA13

2016. OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION FORMULA GRANTS REGULATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 5601 et seq; Juv. Justice & Delinquency Prevention Act of 1974 as amended

CFR Citation: 28 CFR 31

Legal Deadline: None

Abstract: These regulations, which implement sections 223(a)(12)(A), 223(a)(13), and 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974, 42 USC 5601 et seq., as amended by the Juvenile Justice and Delinquency Prevention Amendments of 1988, 1984, and 1980, are being amended to reflect more clarity, uniformity, consistency, for the States, and more latitude for the Administrator on implementing the requirements of the Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Roberta Dorn, Acting Director, SRAD, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531, 202 307-5921

RIN: 1121–AA15

2017. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 3711 et seq, as amended; 42 USC 5601 et seq, as amended; 42 USC 10601 et seq, as amended; 18 USC 4042; 18 USC 4351 to 4353; EO 12291

CFR Citation: 28 CFR 66

Legal Deadline: None

Abstract: This rule is being revised to update uniform administrative requirements for Grants and Cooperative Agreements to State and Local Governments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Stacy Worthington, Financial Analyst, Office of the Comptroller, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531, 202 307-0623

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DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Final Rule Stage

2018. EQUAL EMPLOYMENT OPPORTUNITY PROGRAM GUIDELINES

Legal Authority: 42 USC 3789d(c); 42 USC 5674; 42 USC 10504(b), 42 USC 10604(e)

CFR Citation: 28 CFR 42.301

Legal Deadline: None

Abstract: To change departmental nomenclature to comply with nomenclature changes in the Anti-Drug Abuse Act of 1988 and eliminate references to title VI of the Civil Rights Act of 1964 which are not specifically applicable.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Inez Alfonso-Lasso, Director, Office for Civil Rights, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Room 1246A, Washington, DC 20531, 202 307-0690

RIN: 1121–AA10

2019. NONDISCRIMINATION IN OJP FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 3789d(c); 42 USC 5674; 42 USC 10604(e); 42 USC 10504(b)

CFR Citation: 28 CFR 42.201

Legal Deadline: None

Abstract: To change departmental nomenclature to comply with changes in the Anti-Drug Abuse Act of 1988, expected reauthorization, and eliminate references to title VI and title IX which are not specifically applicable.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Inez Alfonso-Lasso, Director, Office for Civil Rights, Department of Justice, Office of Justice Programs, 633 Indiana Avenue, NW., Room 1246A, Washington, DC 20531, 202 307-0690

RIN: 1121–AA11

2020. CRIMINAL INTELLIGENCE SYSTEMS OPERATING POLICIES

Legal Authority: 42 USC 3796h(c); 42 USC 3782(a); 42 USC 3789g(c)

CFR Citation: 28 CFR 23

Legal Deadline: None

Abstract: To change Office and Bureau nomenclature to comply with changes resulting from the Anti-Drug Abuse Act of 1988, Pub. L. 100-690, and to clarify policy issues relating to time periods for validation of intelligence information.

Timetable:

Action	Date	FR Cite
NPRM	02/27/92	57 FR 6691
NPRM Comment Period End	04/27/92	
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Public Compliance Cost: Initial Cost: $0

Agency Contact: Paul Kendall, Attorney-Advisor, Department of Justice, Office of Justice Programs, 633 Indiana Ave., NW., Room 1246E, Washington, DC 20531, 202 307-0793

RIN: 1121–AA12

[FR Doc. 93-7920 Filed 04-23-93; 8.45 am]

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Federal Register

Monday
April 26, 1993

Part XII

Department of Labor

Semiannual Regulatory Agenda

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DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual agenda of regulations selected for review or development.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The agenda complies with the requirements of both Executive Order 12291 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between April 1993 and April 1994, as well as those completed during the past 6 months.

FOR FURTHER INFORMATION CONTACT: Roland G. Droitsch, Acting Assistant Secretary, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 219-9058.

Note: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12291 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations.

The Regulatory Flexibility Act became effective on January 1, 1981, and applies only to regulations for which a notice of proposed rulemaking was issued on or after that date. It requires the Department of Labor to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602). Executive Order 12291 became effective February 17, 1981, and in substance, requires the Department of Labor to publish an agenda listing all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming 1-year period.

As permitted by law, the Department of Labor is combining the publication of its agendas under the Regulatory Flexibility Act and Executive Order 12291.

The Department is committed to issuing and enforcing all regulatory actions necessary to protect workers and others, as well as to carry out its responsibilities under the many statutes and Executive order programs it administers. However, in order to allow me and my staff to have a sufficient opportunity to review the regulatory plans of the Department, many of the dates for next action are not shown and the nature of the next action to be taken may be undetermined. For example, more than half of the safety and health standards on which OSHA has been working fall into this category.

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

Robert B. Reich,
Secretary of Labor

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2021	Coordinated Enforcement of Farm Labor Protective Statutes	1290-AA11
2022	Use of Settlement Judges in Proceedings Before the Office of the Administrative Law Judges	1290-AA12

Employment Standards Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2023	Child Labor Regulations, Orders and Statements of Interpretation (ESA/W-H)	1215-AA09
2024	Defining and Delimiting the Terms "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)	1215-AA14
2025	Standards for Waivers Under Section 503 of the Rehabilitation Act	1215-AA84

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2026	Government Contractors: Nondiscrimination and Affirmative Action Obligations (ESA/OFCCP)	1215-AA01
2027	Wage Payments Under the Fair Labor Standards Act of 1938	1215-AA32

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Employment Standards Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2028	Government Contractors: Contractor Participation in Training Programs Pursuant to the Job Training Partnership Act (JTPA) (29 USC 1781)	1215-AA56
2029	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AA62
2030	Application of the Fair Labor Standards Act to Domestic Service	1215-AA82
2031	Procedures for Handling Discrimination Complaints Under Federal "Whistleblower" Protection Statutes	1215-AA83

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2032	Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act	1215-AA43
2033	Enforcement of Contractual Obligations Between Health Care Facilities Authorized To Utilize Temporary Nonimmigrant Alien Nurses	1215-AA55
2034	Fair Labor Standards Amendments of 1989 as Applied to Puerto Rico	1215-AA57
2035	Attestations by Employers for Off-Campus Work Authorization for Alien Students (F-1 Nonimmigrants)	1215-AA68
2036	Labor Condition Applications and Requirements for Employers Using Aliens on H-1B Visas in Specialty Occupations and as Fashion Models	1215-AA69
2037	Defining the Terms "Construction" and "Repairs" Under the Davis-Bacon and Related Acts	1215-AA71
2038	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Individuals with Disabilities	1215-AA76
2039	The Family and Medical Leave Act of 1993	1215-AA85
2040	Extension of the Effective Date of Final Rules for Labor Organization Annual Financial Reports and Abbreviated Annual Financial Reports for Small Labor Organizations	1215-AA66

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2041	Employment of Homeworkers in Certain Industries	1215-AA36
2042	Training Wage Provisions of the Fair Labor Standards Amendments of 1989	1215-AA52
2043	Civil Penalties for Violations of the Fair Labor Standards Act Minimum Wage and Overtime Compensation Provisions	1215-AA53
2044	Labor Standards for Federal Service Contracts	1215-AA78
2045	Employment of Student Learners	1215-AA80
2046	Obligations of Federal Contractors and Subcontractors; Notice of Employee Rights Concerning Payment of Union Dues or Fees (Removal of Part 470)	1215-AA87

Employment and Training Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2047	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring and Enforcement	1205-AA37

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2048	Airline Deregulation: Employee Benefit Program	1205-AA07
2049	Senior Community Service Employment Program	1205-AA29
2050	Job Training Partnership Act: Job Corps Program Under Title IV-B	1205-AA54

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Employment and Training Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2051	Advances Under Title XII, SSA, and Tax Credit Under FUTA	1205-AA65
2052	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA66
2053	Implementation of Defense Authorization Act Amendments to Title III of the Job Training Partnership Act	1205-AA85
2054	Permanent Labor Certification Program: Pilot Labor Market Information and Notice Provisions	1205-AA87
2055	Job Training Partnership Act: Native American Programs and Migrant and Seasonal Farmworker Programs	1205-AA96
2056	Job Corps Allowances and Allotments	1205-AA98

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2057	Unemployment Compensation for Ex-Servicemembers	1205-AA06
2058	Trade Adjustment Assistance for Workers	1205-AA72
2059	Federal-State Unemployment Compensation Program; Confidentiality and Disclosure of State Records	1205-AA74
2060	Labor Standards for the Registration of Apprenticeship Programs (Revision)	1205-AA77
2061	Attestation Process for Health Care Facilities Seeking to Employ Nonimmigrant Nurses	1205-AA84
2062	Permanent Labor Certification Program: Amendments to Regulations at 20 CFR Part 656	1205-AA86
2063	Off-Campus Work Authorization for Foreign Students: Attestation Process	1205-AA88
2064	Temporary Specialized Professional Occupations (H-1B) Labor Condition Application Process	1205-AA89
2065	Implementation of Clean Air Act Amendments to Title III of the Job Training Partnership Act (JTPA)	1205-AA92
2066	Job Training Partnership Act Amendments of 1992	1205-AA95
2067	Extended Benefits in the Federal-State Unemployment Compensation Program	1205-AA97

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2068	Administrative Procedure, Federal State Unemployment Compensation Program	1205-AA69

Pension and Welfare Benefits Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2069	Qualified Domestic Relations Orders Under the Retirement Equity Act	1210-AA19
2070	Definition of Participant Covered Under the Plan	1210-AA39

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2071	Individual Benefits Reporting and Recordkeeping for Multiemployer Plans	1210-AA02
2072	Individual Benefits Reporting and Recordkeeping for Single Employer Plans	1210-AA03
2073	Definition of "Plan Assets"—Participant Contributions	1210-AA16
2074	Time and Manner of Notice Requirement Under ERISA Section 101(d)	1210-AA36

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Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2075	Adequate Consideration	1210-AA15
2076	Civil Penalties Under ERISA Section 502(l)	1210-AA37

Office of Labor Management Standards—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2077	Obligations of Federal Contractors and Subcontractors; Notice of Employee Rights Concerning Payment of Union Dues or Fees	1294-AA06
2078	Labor Organization Annual Financial Reports	1294-AA07
2079	Abbreviated Annual Financial Reports for Small Labor Organizations	1294-AA08

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2080	Intrinsically Safe Battery-Powered Devices	1219-AA59
2081	Approval of Explosion-Proof Enclosures	1219-AA60

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2082	Underground Coal Mine Ventilation	1219-AA11
2083	Safeguard Criteria for Hoisting and Transportation	1219-AA12
2084	Noise Standard	1219-AA53
2085	Confined Spaces	1219-AA54
2086	Waterlines in Belt Conveyor Entries	1219-AA70
2087	Carbon Monoxide Monitor Approval	1219-AA72
2088	Firefighting and Escape and Evacuation Program	1219-AA73
2089	Diesel Particulate	1219-AA74
2090	Belt Entry Advisory Committee	1219-AA76
2091	Training and Retraining of Miners	1219-AA77
2092	Examinations of Surface Work Areas	1219-AA78
2093	Decertification of Certified and Qualified Persons	1219-AA79
2094	Respirable Coal Dust Revisions	1219-AA81

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2095	Safety Standards for Explosives at Metal and Nonmetal Mines	1219-AA17
2096	Diesel-Powered Equipment for Underground Coal Mines	1219-AA27
2097	Hazard Communication	1219-AA47
2098	Air Quality Chemical Substances and Respiratory Protection Standards	1219-AA48
2099	Experienced Miner and Supervisor Training	1219-AA55
2100	Requirements for Approval of Flame-Resistant Conveyor Belts	1219-AA65
2101	High-Voltage Longwall Equipment	1219-AA75
2102	Safety Standards for Operation and Maintenance of Machinery and Equipment in Underground Coal Mines	1219-AA80

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Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2103	Civil Penalties for Violations of the Federal Mine Safety and Health Act of 1977	1219-AA44
2104	Approval of Electric Cables and Splice Kits	1219-AA57
2105	Approval of Electric Motor Assemblies	1219-AA61

Office of the Assistant Secretary for Administration and Management—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2106	Department of Labor Acquisition Regulations	1291-AA20

Office of the Assistant Secretary for Administration and Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2107	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	1291-AA15

Office of the Assistant Secretary for Administration and Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2108	New Restrictions on Lobbying	1291-AA18

Office of the Assistant Secretary for Administration and Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2109	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Job Training Partnership Act of 1982, as Amended (JTPA)	1291-AA02

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2110	Medical Surveillance Programs for Employees	1218-AB00
2111	Exposure Assessment Programs for Employees Exposed to Hazardous Chemicals	1218-AB01
2112	Indoor Air Quality in the Workplace	1218-AB37
2113	Comprehensive Occupational Safety and Health Programs	1218-AB41

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2114	Respiratory Protection	1218-AA05
2115	Fall Protection (Part 1926)	1218-AA37
2116	Safety and Health Regulations for Longshoring (Part 1918) and Marine Terminals (Part 1917)	1218-AA56
2117	Steel Erection (Part 1926)	1218-AA65
2118	Welding, Cutting and Brazing (Part 1910 and Part 1926)	1218-AA72
2119	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol and Their Acetates	1218-AA84

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Occupational Safety and Health Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2120	Hazardous Materials (Part 1910)	1218-AB20
2121	Shipyard Employment: Phase II (Part 1915)	1218-AB22
2122	Recording and Reporting Occupational Injuries and Illnesses	1218-AB24
2123	Air Contaminants Rule for Construction, Agriculture and Maritime	1218-AB26
2124	Control of Hazardous Energy (Lockout/Tagout)—Construction (Part 1926)	1218-AB30
2125	Powered Industrial Truck Operator Training	1218-AB33
2126	Ergonomic Safety and Health Standards	1218-AB36
2127	Crane Safety	1218-AB38
2128	Abatement Verification	1218-AB40
2129	Retention of Markings and Placards	1218-AB42
2130	Hazard Communication (MSDS)	1218-AB43
2131	Coke Oven Emissions	1218-AB44

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2132	Methods of Compliance	1218-AA28
2133	Scaffolds (Part 1926)	1218-AA40
2134	Fall Protection Systems (Personal Protective Equipment) (Part 1910)	1218-AA48
2135	Logging Operations (Part 1910)	1218-AA52
2136	Electric Power Generation, Transmission and Distribution (Part 1910)	1218-AA59
2137	Fall Protection in Shipyards (Part 1915)	1218-AA66
2138	Scaffolds in Shipyards (Part 1915)	1218-AA68
2139	Access and Egress in Shipyards (Part 1915)	1218-AA70
2140	Face, Head, Eye and Foot Protection (Personal Protective Equipment) (Part 1910)	1218-AA71
2141	Welding, Cutting and Heating in Shipyards (Part 1915)	1218-AA73
2142	Personal Protective Equipment in Shipyards (Part 1915)	1218-AA74
2143	1,3-Butadiene	1218-AA83
2144	Explosive and Other Dangerous Atmospheres (Part 1915)	1218-AA91
2145	Methylene Chloride	1218-AA98
2146	Hazard Communication	1218-AB02
2147	Walking and Working Surfaces (Part 1910)	1218-AB04
2148	Asbestos (Remand)	1218-AB25
2149	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27
2150	Occupant Protection in Motor Vehicles	1218-AB28
2151	Lead in Construction	1218-AB34
2152	Reporting of Fatality or Multiple Hospitalizations	1218-AB35

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2153	Confined Space (Part 1910)	1218-AA51

Office of the Assistant Secretary for Veterans' Employment & Training—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2154	Uniformed Services Employment Rights	1293-AA05

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Office of the Assistant Secretary for Veterans' Employment & Training—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2155	Veterans' Programs and Services Administered by the Office of the Assistant Secretary for Veterans' Employment and Training	1293-AA03

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)
Final Rule Stage

2021. COORDINATED ENFORCEMENT OF FARM LABOR PROTECTIVE STATUTES

Legal Authority: 29 USC 49 et seq; 29 USC 201 et seq; 29 USC 651 et seq; 29 USC 1801 et seq; 8 USC 1188(g)(2); 5 USC 301

CFR Citation: 29 CFR 42

Legal Deadline: None

Abstract: The Department intends to revise its regulations for coordinated enforcement of farm protective statutes. The rule will clarify existing regulatory language and update the regulations by making nomenclature and other technical amendments. The sections also will be reorganized for clarification. These regulations were first promulgated in 1980 to coordinate the farm labor enforcement activities of the Department's Employment and Training Administration, the Employment Standards Administration, the Occupational Safety and Health Administration, and the Office of the Solicitor of Labor (45 FR 39489). The regulations establish a National Farm Labor Coordinated Enforcement Committee, which meets quarterly, consisting of the heads of the above DOL agencies, to oversee that coordination. A Regional Farm Labor Coordinated Enforcement Committee, which meets quarterly, is established in each DOL regional office. The Regional Committee is made up of the head of each of the above Agencies' regional offices. Each Regional Committee holds at least one annual public meeting to discuss farm labor issues.

Timetable:

Action	Date	FR Cite
ANPRM	07/24/92	57 FR 32939
ANPRM Comment Period End	08/24/92	
NPRM	01/19/93	58 FR 5158
NPRM Comment Period End	02/18/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Since 1980, a number of changes have taken place in DOL's farm labor activities, such as: The Farm Labor Contractor Registration Act has been replaced by the Migrant and Seasonal Agricultural Worker Protection Act; the title of the head of the National Committee has been changed from Under Secretary to Deputy Secretary; the Immigration Reform and Control Act of 1986 has amended the Immigration and Nationality Act, authorizing DOL to enforce work contracts executed by employers of alien (H-2A) farmworkers; the role of States in operating the Employment Service under the Wagner-Peyser Act was enhanced in 1982; regional offices of the Employment Standards Administration no longer exist and the regional farm labor enforcement role is now coordinated by the Regional Administrator for Wage Hour; and the Assistant Secretary for Policy has assumed a role in farm labor programs at the national level. These and other changes necessitate updating the coordinated enforcement regulations.

Agency Contact: Gordon L. Claucherty, Chairman, Farm Labor Coordinated, Enforcement Working Group, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room S2114, FP Building, Washington, DC 20210, 202 219-6026

RIN: 1290–AA11

2022. • USE OF SETTLEMENT JUDGES IN PROCEEDINGS BEFORE THE OFFICE OF THE ADMINISTRATIVE LAW JUDGES

Significance: Agency Priority

Legal Authority: 5 USC 301; 5 USC 551 to 553; 5 USC 581; EO 12778

CFR Citation: 29 CFR 18.9

Legal Deadline: None

Abstract: The Department's Office of Administrative Law Judges is proposing to adopt regulations that would permit the use of a settlement judge to mediate settlement negotiations. The settlement judge process (a form of alternative dispute resolution) provides the parties with an assessment of the relative merits of their cases and thereby encourages a settlement. Any party could veto the use of the procedure.

Timetable:

Action	Date	FR Cite
NPRM	01/11/93	58 FR 3822
NPRM Comment Period End	02/25/93	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John M. Vittone, Deputy Chief Administrative Law Judge, Office of Administrative Law Judges, Department of Labor, Office of the Secretary, 800 K Street NW., Room 4150, Washington, DC 20001-8002, 202 633-0341

RIN: 1290–AA12

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)
Prerule Stage

2023. CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 203

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: Section 3(1) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary also is directed to designate occupations that may be particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14- and 15-year olds may be employed. In addition, this regulation specifies the number of hours in a day and in a week, and time periods within a day that such minors may be employed. The nonagricultural hazardous occupations orders which prohibit the employment of minors in such occupations are also contained in 29 CFR 570. Changes in technology and job content over the years require a review of the regulations to ensure the safety and health of such minors and at the same time avoid unnecessary restrictions on their employment opportunities. Revisions to HOs 2, 10, and 12 were published in final on 11/20/91 (cont)

Timetable:

Action	Date	FR Cite
Final Action on HOs 2, 10, 12	11/20/91	56 FR 58626
Final Action Effective Date	12/20/91	56 FR 58626
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: (56 FR 58626), effective 12/20/91. The Department intends to consider whether other changes to the hazardous orders or to Child Labor Regulation No. 3 for 14- and 15-year-olds are appropriate.

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm S3502, FP Bldg., Washington, DC 20210, 202 219-8305

RIN: 1215–AA09

2024. DEFINING AND DELIMITING THE TERMS "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 213(a)(1)

CFR Citation: 29 CFR 541

Legal Deadline: None

Abstract: These regulations set forth the criteria used in the determination of the application of the Fair Labor Standards Act exemption for "executive," "administrative," "professional" and "outside sales employees" from the minimum wage and overtime requirements of the Act. The existing regulation was targeted for review by the President's Task Force on Regulatory Relief. A final rule increasing the salary test criteria was published on 01/13/81 (46 FR 3010) and was scheduled to become effective on 02/13/81. On 02/12/81 (46 FR 11972) an indefinite stay of the final rule was published. On 03/27/81 (46 FR 18998) a proposal to suspend the final rule indefinitely was published with comments due by 04/28/81. As a result of numerous comments and petitions received from industry groups regarding the duties and responsibilities tests as set forth in the regulations, as well as recent case law developments, the Department concluded that a more comprehensive review of these regulations was needed and decided to reopen the comment period and broaden the scope of the review to include all aspects of the regulations. An ANPRM was published on 11/19/85 and its comment period was (cont)

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal To Suspend Rule Indefinitely	03/27/81	46 FR 18998
ANPRM	11/19/85	50 FR 47696
Extension of ANPRM Comment Period From 01/2l/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	51 FR 2525
ANPRM Second	09/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: subsequently extended to 03/22/86. The Department, in its overall review of the full range of issues raised by public comments submitted on its advance notice of proposed rulemaking of November 19, 1985, continues to consider a variety of other possible changes to the regulations.

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Bldg., Washington, DC 20210, 202 219-8305

RIN: 1215–AA14

2025. • STANDARDS FOR WAIVERS UNDER SECTION 503 OF THE REHABILITATION ACT

Significance: Agency Priority

Legal Authority: 29 USC 706; 29 USC 793, as amended by PL 99-506; PL 100-630; PL 100-259; PL 101-336; PL 102-569; EO 11758

CFR Citation: 41 CFR 60-741

Legal Deadline: None

Abstract: OFCCP is planning to issue regulations that will set forth standards for waivers (from provisions of Section 503 of the Rehabilitation Act) sought by federal contractors for facilities that they deem totally separate from and not involved in government contract work. OFCCP is required to issue these regulations by the 1992 Rehabilitation Act amendments.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annie A. Blackwell, Director, Division of Policy, Planning and Program Development, OFCCP,

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DOL—ESA

Prerule Stage

Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210, 202 219-9430

RIN: 1215–AA84

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

2026. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS (ESA/OFCCP)

Significance: Regulatory Program

Legal Authority: EO 11246, as amended; 38 USC 4212; 29 USC 793

CFR Citation: 41 CFR 60-1; 41 CFR 60-2; 41 CFR 60-4; 41 CFR 60-20; 41 CFR 60-30; 41 CFR 60-50; 41 CFR 60-60; 41 CFR 60-250; 41 CFR 60-741

Legal Deadline: None

Abstract: These regulations cover nondiscrimination and affirmative action obligations of Federal contractors under Executive Order 11246, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 USC 4212), as amended; and Section 503 of the Rehabilitation Act of 1973, as amended. The NPRM published 08/25/81 and supplemented on 04/23/82 extended the effective date of a final rule published 12/30/80 and proposed amendments to that rule. OFCCP's review of regulatory options continues with emphasis on Executive Order recordkeeping requirements, use of desk audits to establish priorities for onsite reviews, certification requirements and coverage provisions.

Timetable:

Action	Date	FR Cite
ANPRM	07/14/81	46 FR 36213
Supplement to ANPRM	08/21/81	46 FR 42490
Previous NPRM & Suspend Eff Date	08/25/81	46 FR 42968
NPRM	04/23/82	47 FR 17770
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Annie A. Blackwell, Director, Division of Policy, Planning and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Ave. NW., Rm C3325, FP Bldg., Washington, DC 20210, 202 219-9430

RIN: 1215–AA01

2027. • WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Legal Authority: 29 USC 203(m); 29 USC 203(t)

CFR Citation: 29 CFR 531

Legal Deadline: None

Abstract: The Labor Department intends to revise regulations, 29 CFR Part 531, Wage Payments under the Fair Labor Standards Act of 1938, to comport with amendments to the Act and changes in enforcement policy since the regulations were last revised in 1967.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210, 202 219-8305

RIN: 1215–AA32

2028. GOVERNMENT CONTRACTORS: CONTRACTOR PARTICIPATION IN TRAINING PROGRAMS PURSUANT TO THE JOB TRAINING PARTNERSHIP ACT (JTPA) (29 USC 1781)

Significance: Regulatory Program

Legal Authority: 29 USC 1781

CFR Citation: 41 CFR 60-1; 41 CFR 60-2

Legal Deadline: Final, Statutory, October 1, 1983.

Abstract: Section 481 of the Job Training Partnership Act of 1982 (JTPA) requires OFCCP to issue regulations which will specify the degree to which contractors' participation in JTPA approved training programs will satisfy their affirmative action obligations under Executive Order 11246, as amended. Among the issues to be determined are: (1) the extent to which a contractor's participation in an approved training program satisfies its affirmative action obligations; (2) the contents of an abbreviated affirmative action program; (3) methods for determining compliance; and (4) recordkeeping and reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Additional Information: Issuance of a proposal has been delayed while the Department explores and evaluates the most effective ways to implement the JTPA consistent with OFCCP's nondiscrimination and affirmative action requirements. (Previously part of RIN 1215-AA01)

Agency Contact: Annie A. Blackwell, Director, Division of Policy, Planning and Program Development, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210, 202 219-9430

RIN: 1215–AA56

DOL—ESA

Proposed Rule Stage

2029. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Significance: Regulatory Program

Legal Authority: 38 USC 4211; 38 USC 4212; PL 93-508 Amended; PL 94-502; PL 95-520; PL 96-466; PL 101-237; EO 11758; PL 97-306; PL 98-223; PL 102-16; PL 102-127

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: OFCCP is planning to revise its regulations implementing 38 USC 4212 (formerly 2012) of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 to: (1) Make its provisions for special disabled veterans consistent with the Americans with Disabilities Act of 1990 (ADA), (2) incorporate some legislative and other changes that have occurred, and (3) generally clarify 38 USC 4212 Affirmative Action Program (AAP) requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annie A. Blackwell, Director, Division of Policy, Planning and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210, 202 219-9430

RIN: 1215–AA62

2030. • APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

Legal Authority: Section 13(a)(15), Fair Labor Standards Act (FLSA), as amended; Section 13(b)(21), FLSA, as amended; 29 USC 213(a)(15); 29 USC 213(b)(21) 88 Stat. 62; Section 29(b), FLSA of 1974; PL 93-259 88 Stat.76

CFR Citation: 29 CFR 552

Legal Deadline: None

Abstract: Section 13(a)(15) of the Fair Labor Standards Act (FLSA) provides an exemption from minimum wage and overtime compensation for domestic service employees engaged in providing companionship services. Section 13(b)(21) of the FLSA provides an exemption from overtime compensation for live-in domestic service employees. The Department intends to revise section 552.109 of regulations, 29 CFR Part 552, Application of the Fair Labor Standards Act to Domestic Service, to clarify that these exemptions are applicable to third-party employers to temporary help agencies only where the domestic service worker is jointly employed by the third-party employer or temporary health agency and the family or household using their services.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210, 202 219-8305

RIN: 1215–AA82

2031. • PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER FEDERAL "WHISTLEBLOWER" PROTECTION STATUTES

Significance: Agency Priority

Legal Authority: 42 USC 5851; PL 102-486 sec 2902, 106 Stat 2776

CFR Citation: 29 CFR 24

Legal Deadline: None

Abstract: The Energy Policy Act of 1992, Public Law 102-486, was enacted on October 24, 1992. Among other provisions, this law amended the employee protection provisions for nuclear whistleblowers under former Section 210 of the ERA. The amendments affect only ERA whistleblower complaints and do not extend to the procedures established in 29 CFR Part 24 for handling employee whistleblower complaints under the Federal statutory employee protection provisions other than the ERA. The legislative amendments to ERA apply to whistleblower claims filed under section 211(b)(1) of the ERA as amended (42 USC section 5851(b)(1) on or after October 24, 1992, the date of enactment of section 2902 of the Energy Policy Act of 1992 (section 2902, Public Law 102-486; 106 Stat. 2776). The Department proposes to establish modified procedures and time frames for handling ERA complaints under 29 CFR Part 24 to implement the statutory amendments.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210, 202 219-8305

RIN: 1215–AA83

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DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Final Rule Stage

2032. ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 216 OF THE IMMIGRATION AND NATIONALITY ACT

Legal Authority: PL 99-603

CFR Citation: 29 CFR 501

Legal Deadline: Final, Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 contains certain labor standards requirements for foreign agricultural workers employed under the H-2A foreign agricultural worker program, as well as for U.S. workers hired by employers who utilize foreign agricultural workers. The standards relate to pay, working conditions, housing, transportation and recruitment. The Employment Standards Administration issued an interim final rule on June 1, 1987 (53 FR 20524) that incorporates the labor standards issued by the Employment and Training Administration (ETA) and sets forth procedures for enforcement of these labor standards. No further action is planned until ETA issues its final rule.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16795
NPRM Comment Period End	05/19/87	52 FR 16795
Interim Final Rule	06/01/87	52 FR 20524
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm S3502, FP Bldg., Washington, DC 20210, 202 219-8305

RIN: 1215–AA43

2033. ENFORCEMENT OF CONTRACTUAL OBLIGATIONS BETWEEN HEALTH CARE FACILITIES AUTHORIZED TO UTILIZE TEMPORARY NONIMMIGRANT ALIEN NURSES

Significance: Agency Priority

Legal Authority: PL 101-238; 8 USC 1182(m); PL 102-232

CFR Citation: 29 CFR 504

Legal Deadline: Final, Statutory, August 1, 1990.

Abstract: The Immigration Nursing Relief Act of 1989, PL 101-238, amends Section 212 of the Immigration and Nationality Act to add a new subsection (m) governing the admission to the United States of nonimmigrant nurses during a 5-year period. The law requires employers (health care facilities) interested in hiring temporary alien nurses in the future to file an attestation with the Department of Labor, which must include certain assurances as to the need for and effect of the alien's employment, wage rates to be paid, steps being taken to recruit and retain non-alien nurses, that no strike or lockout exists in a labor dispute, and that certain notifications and posting of notices have occurred. The Department is also required to establish a system for investigating and resolving complaints that the employer is not carrying out these attestations, and is authorized to impose administrative remedies, including civil monetary penalties, as deemed appropriate. The Employment and Training Administration of the Department developed regulations governing the (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/06/90	55 FR 27992
NPRM Comment Period End	08/06/90	55 FR 30720
Interim Final Rule	12/06/90	55 FR 50500
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: attestation process for health care facilities seeking to employ nonimmigrant nurses. The Employment Standards Administration will administer the enforcement provisions in the legislation by implementing regulations that incorporate the labor standards/attestations issued by ETA and set forth procedures for enforcement of these labor standards. Proposed rules were published on 7/6/90. Interim final regulations were published on 12/6/90 (55 FR 50500). On December 12, 1991, Congress enacted the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991. The Department intends to publish conforming changes to the regulations.

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210, 202 219-8305

RIN: 1215–AA55

2034. FAIR LABOR STANDARDS AMENDMENTS OF 1989 AS APPLIED TO PUERTO RICO

Significance: Agency Priority

Legal Authority: PL 101-157; 29 USC 206(c)

CFR Citation: 29 CFR 510

Legal Deadline: None

Abstract: The Fair Labor Standards Amendments of 1989 were enacted on November 17, 1989. Among other provisions, the amendments provide that the increases in the Fair Labor Standards Act minimum wage applicable to the United States mainland will be phased in by industry for workers in Puerto Rico, with all employees becoming subject to the full mainland minimum wage level by April 1, 1996. Interim Final Rules were published on 03/30/90, and amended on September 27, 1990 (55 FR 39574), October 1, 1990 (55 FR 39958), December 27, 1990 (55 FR 53246) and January 10, 1992 (57 FR 1102).

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/90	55 FR 12114
Interim Final Rule Effective Date	04/01/90	55 FR 12114
Interim Final Rule Amendment	09/27/90	55 FR 39574
Interim Final Rule Amendment	10/01/90	55 FR 39958
Interim Final Rule Amendment	12/27/90	55 FR 53246
Regulatory Impact Analysis	01/08/92	57 FR 611
Interim Final Rule Amendment	01/10/92	57 FR 1102
Final Action	06/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210, 202 219-8305

RIN: 1215–AA57

DOL—ESA

Final Rule Stage

2035. ATTESTATIONS BY EMPLOYERS FOR OFF-CAMPUS WORK AUTHORIZATION FOR ALIEN STUDENTS (F-1 NONIMMIGRANTS)

Legal Authority: PL 101-649, Sec 221(a); 104 Stat 4978 and 5027; PL 102-232

CFR Citation: 29 CFR 508

Legal Deadline: Final, Statutory, October 1, 1991.

Abstract: This rule implements regulations governing the filing and enforcement of attestations by employers seeking to use aliens admitted as students on F-1 visas (hereafter F-1 student) in off-campus work. Under the Immigration and Nationality Act (INA), as amended by the Immigration Act of 1990, employers are required to submit these attestations to DOL and the educational institution in order for such students, if otherwise qualified, to receive work authorizations from the Attorney General. The attestation process will be administered by ETA, while complaints and investigations regarding violations of the attestation provisions and procedures will be handled by ESA. On December 12, 1991, Congress enacted the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991. The Department intends to publish conforming changes to the regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/91	56 FR 56860
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Bldg., Washington, DC 20210, 202 219-8305

RIN: 1215–AA68

2036. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING ALIENS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Significance: Agency Priority

Legal Authority: PL 101-649, Sec 205; PL 102-232

CFR Citation: 29 CFR 507

Legal Deadline: Final, Statutory, October 1, 1991.

Abstract: The Employment Standards Administration (ESA) and the Employment and Training Administration (ETA) promulgated regulations governing the filing and enforcement of labor condition applications filed by employers seeking to use aliens in specialty occupations on H-1B visas. Under the Immigration and Nationality Act as amended by the Immigration Act of 1990, an employer seeking to employ an alien in a specialty occupation on an H-1B visa is required to file with the Department of Labor, and receive approval therefor, a labor condition application before the Immigration and Naturalization Service may approve an H-1B visa petition. The labor condition application process is to be administered by ETA and complaints and investigations regarding labor condition applications will be the responsibility of ESA. An interim final rule was published on October 22, 1991, effective October 1, 1991 (56 FR 54750). On December 12, 1991, Congress enacted the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991. On January 13, 1992, the Department published conforming changes to these regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/05/91	56 FR 37175
NPRM Comment Period End	09/04/91	56 FR 37175
Interim Final Rule	10/22/91	56 FR 54720
Second Interim Final Rule	01/13/92	57 FR 1316
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Bldg., Washington, DC 20210, 202 219-8305

RIN: 1215–AA69

2037. DEFINING THE TERMS "CONSTRUCTION" AND "REPAIRS" UNDER THE DAVIS-BACON AND RELATED ACTS

Significance: Agency Priority

Legal Authority: 40 USC 276a-7; 40 USC 276c; 40 USC 327 to 332; Reorganization Plan No. 14 of 1950, 5 USC appendix; 5 USC 301; 29 USC 259; Statutes listed in 5.1(a) of 29 CFR 5

CFR Citation: 29 CFR 5

Legal Deadline: None

Abstract: The Department intends to amend the regulations defining the terms "construction," "prosecution," "completion," and "repair" on federally financed and assisted construction contracts subject to the Davis-Bacon and Related Acts. This revision is necessary to reflect the decision by the U.S. Court of Appeals for the District of Columbia Circuit in Building and Construction Trades Department, AFL-CIO v. United States Department of Labor, Wage Appeals Board, Midway Excavators, Inc., 932 F.2nd 985 (DC Cir. 1991). In that decision, the court invalidated the provisions in section 29 CFR 5.2(j) of the regulations that apply the act to employees of construction contractors and subcontractors who haul materials and supplies to the site of a Davis-Bacon covered project.

Timetable:

Action	Date	FR Cite
NPRM	05/04/92	57 FR 19208
Interim Final Rule	05/04/92	57 FR 19204
NPRM Comment Period End	07/06/92	57 FR 19208
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210, 202 219-8305

RIN: 1215–AA71

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DOL—ESA

Final Rule Stage

2038. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR INDIVIDUALS WITH DISABILITIES

Significance: Regulatory Program

Legal Authority: 29 USC 706; 29 USC 793; PL 99-506 Amended; PL 100-630; PL 100-259; PL 101-336; EO 11758

CFR Citation: 41 CFR 60-741

Legal Deadline: None

Abstract: OFCCP is planning to revise its regulations implementing Section 503 of the Rehabilitation Act of 1973: (1) to make them consistent with the Americans with Disabilities Act, (2) to incorporate legislative and other changes that have occurred, and (3) to generally clarify Section 503 Affirmative Action Program requirements. Costs are undetermined. These revisions should greatly assist the public, and employers in particular, by providing a comprehensive set of up-to-date regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/21/92	57 FR 48084
NPRM Comment Period End	11/20/92	
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annie A. Blackwell, Director, Division of Policy, Planning and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210, **202 219-9430**

RIN: 1215–AA76

2039. • THE FAMILY AND MEDICAL LEAVE ACT OF 1993

Significance: Agency Priority

Legal Authority: PL 103-3 107 Stat 6

CFR Citation: 29 CFR 825

Legal Deadline: Other, Statutory, June 5, 1993.
Interim Final Rule

Abstract: Public Law 103-3, the Family and Medical Leave Act of 1993, which becomes effective on August 5, 1993, requires employers with 50 or more employees to provide up to 12 weeks of unpaid leave for "eligible employees" to use for the care of a newborn or newly adopted child, for the care of a family member with a serious medical condition, or for their own illness. It also requires employers to maintain health insurance coverage and job protection for the duration of the leave, and sets minimum length of service and hours of work requirements before employees become eligible. The Department of Labor intends to issue regulations of implement Title I of the Act as it applies to private sector and certain governmental employers. OPM will issue regulations to implement similar provisions of the Act which have application to Federal sector employees within its jurisdiction.

Timetable:

Action	Date	FR Cite
NPRM	03/10/93	58 FR 13394
NPRM Comment Period End	03/31/93	
Interim Final Rule	06/00/93	
Final Action	02/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, Dc 20210, **202 219-8305**

RIN: 1215–AA85

2040. • EXTENSION OF THE EFFECTIVE DATE OF FINAL RULES FOR LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS AND ABBREVIATED ANNUAL FINANCIAL REPORTS FOR SMALL LABOR ORGANIZATIONS

Significance: Agency Priority

Legal Authority: 29 USC 431; 29 USC 438; 5 USC 7120(d); 22 USC 4117(d)

CFR Citation: 29 CFR 402; 29 CFR 403; 29 CFR 458

Legal Deadline: None

Abstract: The Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) requires covered labor organizations to file an annual financial report with the Department of Labor. On October 30, 1992, final rules were published in the Federal Register which revised the detailed annual financial reports (Form LM-2 or LM-3) and issued a new abbreviated annual financial report (Form LM-4). The effective date of the October 30, 1992 final rules is December 31, 1993. This revision proposed to extend the effective date from December 31, 1993 to December 31, 1994 because of problems encountered by labor organizations and the Department in connection with efforts to implement the revised reporting forms and because further study of the revisions may be necessary, including evaluating whether modification or rescission of some or all of the revisions may be appropriate.

Timetable:

Action	Date	FR Cite
NPRM	02/19/93	58 FR 9418
NPRM Comment Period End	03/22/93	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under the Office of Labor Management Standards (1294-AA08 and 1294-AA07).

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, OLMS, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210, **202 219-7373**

RIN: 1215–AA86

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Completed Actions

2041. EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

Significance: Regulatory Program

Legal Authority: 29 USC 211

CFR Citation: 29 CFR 530

Legal Deadline: None

Abstract: This regulation sets forth restrictions on industrial homework and governs the issuance of certificates authorizing the employment of homeworkers in certain industries, pursuant to Section 11(d) of the Fair Labor Standards Act (FLSA). As originally issued, these regulations restricted the employment of industrial homework in seven industries: knitted outerwear; women's apparel; jewelry; buttons and buckles; gloves and mittens; handkerchiefs; and embroideries. The ban was removed on homework in the knitted outerwear industry by the Department on 11/9/81, following extensive hearings and public comment. This action was subsequently upheld by the District Court for the District of Columbia. However, on appeal the ban was reimposed 2/29/84 by the U.S. Court of Appeals for the District of Columbia Circuit. On 3/27/84, the Department published a proposed rule rescinding the ban on homework in the knitted outerwear industry only. In addition to soliciting comments on the proposed rescission, the Department sought comments on various alternatives to such action (49 FR 11786). On 11/5/84, a final rule was published lifting the ban on homework for (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/21/86	51 FR 30036
NPRM Comment Period End	12/04/86	51 FR 37298
NPRM Second	03/30/88	53 FR 10342
NPRM Second -- Comment Period End	05/13/88	53 FR 15063
Final Rule	11/10/88	53 FR 45706
ANPRM	12/30/88	53 FR 53344
ANPRM Comment Period End	05/05/89	54 FR 11008
Withdrawn	02/05/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: employers in the knitted outerwear industry who obtain a certificate from the Department. Based on analysis of the results of its enforcement experience under the new certification procedure, and review of comments from a Notice of Proposed Rulemaking published on August 21, 1986 (51 FR 30036), a proposal was published on March 30, 1988 (53 FR 10342) which included enforcement mechanisms to enhance compliance among employers of homeworkers. The comment period was later extended to May 13, 1988 (53 FR 15063). The proposal also excluded the women's apparel industry and stated that this industry would be the subject of separate rulemaking. A final rule was published November 10, 1988 (53 FR 45706). An ANPRM concerning women's apparel homework was published December 30, 1988 (53 FR 53344). Public hearings on this issue were held in seven cities during March and April 1989. The public comment period on the ANPRM closed on May 5, 1989 (54 FR 11008). The Department is considering whether it would be appropriate to modify the existing regulations in the women's apparel industry.

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm S3502, FP Bldg., Washington, DC 20210, **202 219-8305**

RIN: 1215–AA36

2042. TRAINING WAGE PROVISIONS OF THE FAIR LABOR STANDARDS AMENDMENTS OF 1989

Significance: Agency Priority

Legal Authority: PL 101-157; 29 USC 201 et seq

CFR Citation: 29 CFR 517

Legal Deadline: None

Abstract: The Fair Labor Standards Amendments of 1989 were enacted on November 17, 1989. Among other provisions, the amendments provide that employers may pay employees under the age of 20, under certain conditions, a wage rate of at least 85 percent of the minimum wage, but not less than $3.35 per hour, for a period up to 90 days. An employee who has been paid at the training wage for 90 days can be employed by any other employer at the training wege an additional 90 days, but only if that employer provides on-the-job training in accordance with regulations required to be issued by the Department of Labor. The training wage provisions took effect April 1, 1990 and expire March 31, 1993. The statute provides that the Secretary of Labor shall issue regulations containing criteria for what qualifies as on-the-job training, and for defining what constitutes the requisite proof of previous periods of employment with other employers that is required to be provided by employees. Employers may rely on such proof of prior employment in good (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/90	55 FR 7450
Interim Final Rule Effective Date	04/01/90	55 FR 7450
Interim Final Rule Comment Period End	04/30/90	
Statutory Authority Expired	03/31/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: faith as a valid defense against a finding of violations.

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210, **202 219-8305**

RIN: 1215–AA52

2043. CIVIL PENALTIES FOR VIOLATIONS OF THE FAIR LABOR STANDARDS ACT MINIMUM WAGE AND OVERTIME COMPENSATION PROVISIONS

Significance: Regulatory Program

Legal Authority: PL 101-157; 29 USC 216(e)

CFR Citation: 29 CFR 578; 29 CFR 579; 29 CFR 580

Legal Deadline: None

Abstract: The Fair Labor Standards Amendments of 1989 were enacted on November 17, 1989. Section 9 of the 1989 amendments amends Section 16(e) of the Fair Labor Standards Act (FLSA) to provide that employers who willfully or repeatedly violate the FLSA minimum wege (Section 6) or overtime

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compensation (Section 7) provisions shall also become subject to a civil penalty of up to $1,000 for each violation. Final rules were published 5/31/91 (effective 7/1/91) amending existing procedures for assessment of civil money penalties for child labor violations (29 CFR parts 579 and 580) to incorporate procedures for assessment of civil money penalties for violations of minimum wage and overtime compensation provisions (56 FR 24990). On June 3, 1991, a proposed rule (29 CFR part 578) was published for the implementation of civil money penalties for minimum wage and overtime violations (56 FR 25168). Final rules were published 10/29/92, effective 11/30/92.

Timetable:

Action	Date	FR Cite
Final Rule (29 CFR 579 and 580)	05/31/91	56 FR 24990
NPRM	06/03/91	56 FR 25168
NPRM Comment Period End	08/02/91	
Final Action	10/29/92	57 FR 49128
Final Action Effective	11/30/92	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210, 202 219-8305

RIN: 1215–AA53

2044. LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

Significance: Agency Priority

Legal Authority: 41 USC 351 et seq; 79 Stat 1034, as amended in 86 Stat 789; 90 Stat 2358; 41 USC 38; 41 USC 39; 5 USC 301

CFR Citation: 29 CFR 4

Legal Deadline: None

Abstract: The Service Contract Act (SCA) applies to Federal contracts principally for the furnishing of services through the use of service employees and, on contracts over $2,500 where the predecessor contract was not subject to a collective bargaining agreement, requires the Department of Labor to determine locally prevailing wages and fringe benefits to be paid to various classifications of workers on the contract. Prevailing wage determinations issued by the Department become part of the Federal contract and establish the minimum compensation for employees performing on that contract. The proposed rule would provide for a variance from the Act's requirement for locality-based fringe benefit determinations, pursuant to Section 4(b) of SCA, to reflect the Department's practice of issuing fringe benefit amounts derived from data collected on a nationwide basis. Section 4(b) of SCA permits variances from the Act's requirements in "special circumstances" where the Secretary determines the variance is "necessary and proper in the public interest or to avoid serious impairment of government business, and is in accord with the (cont)

Timetable:

Action	Date	FR Cite
Withdrawn	02/05/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: remedial purpose of this Act to protect prevailing labor standards." The proposal would also include minor technical amendments to update and clarify the regulations.

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210, 202 219-8305

RIN: 1215–AA78

2045. EMPLOYMENT OF STUDENT LEARNERS

Significance: Agency Priority

Legal Authority: Section 14, 52 Stat 1068, as amended; 29 USC 214

CFR Citation: 29 CFR 520

Legal Deadline: None

Abstract: With the passage of legislation proposed by the Employment and Training Administration to implement the Job Training 2000 initiative (youth apprenticeship program), the Employment Standards Administration intends to revise the regulations regarding the employment of student learners at subminimum wages under the Fair Labor Standards Act. These revisions would make the regulations consistent with the Job Training 2000 initiative and would open up job opportunities for students, as well as enable employers to hire and train them without incurring significant labor costs.

Timetable:

Action	Date	FR Cite
Withdrawn	02/05/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles E. Pugh, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm S3502, FP Building, Washington, DC 20210, 202 219-8305

RIN: 1215–AA80

2046. • OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS; NOTICE OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (REMOVAL OF PART 470)

Legal Authority: EO 12836

CFR Citation: 29 CFR 470

Legal Deadline: None

Abstract: This final rule removes the regulations found at 29 CFR Part 470 which implemented Executive Order 12800. On February 1, 1993, President Clinton signed Executive Order 12836, revoking Executive Order 12800 and instructing executive agencies to revoke any orders, rules, or regulations implementing Executive Order 12800. 29 CFR Part 470 required government contractors and subcontractors to post notices informing their employees that under federal law, they cannot be required to join a union or maintain membership in a union to retain their jobs, and employees who chose not to be union members may object to the use of their compulsory union dues and fees collected pursuant to a lawful union-security agreement for activities other than collective bargaining, contract administration, and grievance adjustment, and may be entitled to a refund and an appropriate reduction in future payments. Part 470 also required

federal contracting agencies and covered government contractors and subcontractors to include certain provisions of the Order in their contracts, subcontracts, and purchase orders.

Timetable:

Action	Date	FR Cite
Final Action	03/22/93	58 FR 15402
Final Action Effective	03/22/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: OLMS is now a part of the Employment Standards Administration. This regulation was previously published in FINAL under RIN 1294-AA06.

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, OLMS, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210, 202 219-7373

RIN: 1215–AA87

DEPARTMENT OF LABOR (DOL) — Prerule Stage

Employment and Training Administration (ETA)

2047. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING AND ENFORCEMENT

Legal Authority: 29 USC 49(k)

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under Title V of the Job Training Partnership Act. It is anticipated that an ANPRM will be published and subsequent rulemaking may result.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Alicia Fernandez-Mott, National Monitor Advocate, Department of Labor, Employment and Training Administration, 200 Constitution Ave. NW., Rm N4470, FP Building, Washington, DC 20210, 202 219-5174

RIN: 1205–AA37

DEPARTMENT OF LABOR (DOL) — Proposed Rule Stage

Employment and Training Administration (ETA)

2048. AIRLINE DEREGULATION: EMPLOYEE BENEFIT PROGRAM

Significance: Agency Priority

Legal Authority: 49 USC 1552

CFR Citation: 20 CFR 618

Legal Deadline: None

Abstract: These regulations are being developed to implement the monetary provisions contained in Sec. 43 of the Airline Deregulation Act of 1978. The Act requires the Secretary of Labor to specify the percentage of prior salary which an "eligible protected employee" would receive as a benefit payment under the Act. An eligible protected employee is a person who has had at least 4 years of employment with a certificated air carrier as of October 24, 1978 and who loses his or her job during the ten years following such date in a bankruptcy or major employment contraction if and only if the Department of Transportation determines that the principal causes of such job loss was deregulation. On May 17, 1984 the U.S. District Court for the District of Columbia held that Section 43 of the Airline Deregulation Act was unconstitutional. On July 16, 1985, the U.S. Court of Appeals decided that the employee protection provisions of Section 43 were severable from the legislative veto provisions. The U.S. Supreme Court ruled on March 25, 1987 that the legislative veto provisions were unconstitutional but the first right-to-hire provisions were constitutional, therefore, rulemaking can proceed on the (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	10/00/93	
Final Action	06/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: monetary benefit aspects of the employee protection provisions.

Agency Contact: Sandra T. King, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Rm C4514, FP Bldg., Washington, DC 20210, 202 219-5309

RIN: 1205–AA07

2049. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 301 Older Americans Act of 1965

CFR Citation: 20 CFR 674

Legal Deadline: None

Abstract: The Senior Community Service Employment Program has not published final regulations since 1976. For a variety of reasons that are no longer pertinent, proposed revisions published for comment in 1990 and 1985 were not promulgated in final. Thus statute Title V of the Older Americans Act mandates that the Senior Community Service Employment Program is to be administered and regulations are to be issued by the Department of Labor.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29606
NPRM Comment Period End	08/27/85	50 FR 34725
NPRM Second	06/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Paul A. Mayrand, Director, Office of Special Targeted Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Rm N4641, FP Bldg., Washington, DC 20210, **202 219-5500**

RIN: 1205–AA29

2050. • JOB TRAINING PARTNERSHIP ACT: JOB CORPS PROGRAM UNDER TITLE IV-B

Significance: Agency Priority

Legal Authority: Job Training Reform Amendments of 1992

CFR Citation: 20 CFR 626; 20 CFR 638

Legal Deadline: None

Abstract: This regulation amends 20 CFR Parts 626 and 638, Job Corps Regulations under Title IV-B of the Job Training Partnership Act (JTPA). These amendments are required so that the Job Corps regulations will conform to the Job Training Reform Amendments of 1992 (Amendments). Amending its regulations enables Job Corps to implement related portions of the Amendments, which become effective July 1, 1993. It should be noted that no major changes in Job Corps policy or program content/design are necessitated by the Amendments. The proposed rulemaking involves changes in (1) language related to income eligibility, (2) definition of "family" and "family of one," (3) language defining eligibility for Job Corps through receipt of food stamps, (4) provision for a portion of the total Job Corps enrollment to come from persons who are age 22 through 24, and (5) establishment of annual performance standards for centers and other program components. There are no associated costs with these changes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Timothy F. Sullivan, Chief, Division of Program Planning and Development, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4507, FP Building, Washington, DC 20210, **202 219-5556**

RIN: 1205–AA54

2051. ADVANCES UNDER TITLE XII, SSA, AND TAX CREDIT UNDER FUTA

Significance: Regulatory Program

Legal Authority: 26 USC 7805; 42 USC 1302

CFR Citation: 20 CFR 606

Legal Deadline: None

Abstract: Since 1981, Congress has enacted major changes in the Federal Unemployment Tax Act (FUTA) and Social Security Act (SSA) with respect to advances to States for the payment of unemployment insurance and the repayment of such advances and interest thereon. Promulgation of comprehensive regulations is being undertaken in two phases. The proposed rule will replace instructions contained in several Unemployment Insurance Program Letters approved under OMB No. 1205-0199 expiring November 30, 1993. This action represents the second phase, governing States receiving and voluntarily repaying advances to their unemployment funds and paying interest on such advances. The final rule for the first phase, governing relief from automatic repayment and interest charges, was published in the Federal Register on September 26, 1988 (RIN 1205-AA14).

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Sandra T. King, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4514, FP Building, Washington, DC 20210, **202 219-5309**

RIN: 1205–AA65

2052. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Legal Authority: INA 212 (a)(5)(A)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: Before the Department of State (DOS) and the Immigration and Naturalization Service (INS) may issue visas and admit certain immigrant aliens to work permanently in the United States, the Secretary of Labor pursuant to Section 212(a)(5)(A) of the Immigration and Naturalization Act (INA) must certify to the Secretary of State and to the Attorney General that: (a) There are not sufficient United States workers who are able, willing, qualified and available at the time of the application for a visa and admission into the United States and at the place where the alien is to perform work; and (b) the employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers (8 USC 1182(a)(5)(A) of the Department of Labor (DOL) has promulgated regulations at 20 CFR Part 656 pursuant to and to implement section 212(a)(5)(A) INA 212(a)(5)(A)). These regulations set forth the fact finding process designed to support the granting or denial of a permanent labor certification. Experience in (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	
NPRM Comment Period End	02/00/94	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: ABSTRACT CONT: administering the regulations to the certification of immigrant aliens for permanent employment in the United States indicates that a number of changes should be made to these regulations to make labor certification process more efficient and clarify ambiguities in the present regulations.

Agency Contact: Robert A. Schaerfl, Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4470, FP Building, Washington, DC 20210, **202 219-5257**

RIN: 1205–AA66

DOL—ETA

Proposed Rule Stage

2053. IMPLEMENTATION OF DEFENSE AUTHORIZATION ACT AMENDMENTS TO TITLE III OF THE JOB TRAINING PARTNERSHIP ACT

Significance: Regulatory Program

Legal Authority: 29 USC 1662; 29 USC 1662(c)

CFR Citation: 29 CFR 631, subpart H

Legal Deadline: None

Abstract: Regulatory action is necessary to provide specific requirements and guidelines for programs designed to assist workers dislocated as a consequence of reductions in Defense Department procurement and activities, including both personnel and facilities reductions in the military, in compliance with the Defense Authorization Act of 1990 (H. 12045). Under the Act grants may be made to States, substate grantees, employers, employer associations, and representatives of employees to provide training, adjustment assistance and employment services to such eligible dislocated workers in accordance with the requirements of the Act. These provisions are being promulgated to implement the amendment to the Job Training Partnership Act (JTPA) enacted as part of the Defense Authorization Act which added a new Section 326 to Title III of JTPA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Robert N. Colombo, Director, Office of Worker Retraining and Adjustment Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N5426, FP Building, Washington, DC 20210, **202 219-5577**

RIN: 1205–AA85

2054. PERMANENT LABOR CERTIFICATION PROGRAM: PILOT LABOR MARKET INFORMATION AND NOTICE PROVISIONS

Significance: Regulatory Program

Legal Authority: PL 101-649

CFR Citation: 20 CFR 656

Legal Deadline: NPRM, Statutory, October 1, 1991. Final, Statutory, April 1, 1992. Other, Statutory, September 30, 1994.

The law becomes effective on October 1, 1991, and is effective until September 30, 1994. Implementing regulations for this program will be published by April 1, 1992. (cont)

Abstract: This rule is necessary to implement section 122 of Public Law 101-649, the Immigration Act of 1990. This section requires the Secretary of Labor to establish a pilot which provides for a determination of labor shortages or surpluses in up to 10 occupational classifications. The occupation may then be used in lieu of an individual, case-by-case labor certification. The pilot program is effective during the 3-fiscal year period beginning with FY 92.

Timetable:

Action	Date	FR Cite
NPRM	03/19/93	58 FR 15242
NPRM Comment Period End	04/19/93	
Final Action	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: LEGAL DEADLINE CONT: Program expires on September 30, 1994.

Agency Contact: Robert A. Schaerfl, Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4470, FP Building, Washington, DC 20210, **202 219-5257**

RIN: 1205–AA87

2055. JOB TRAINING PARTNERSHIP ACT: NATIVE AMERICAN PROGRAMS AND MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Significance: Regulatory Program

Legal Authority: Title IV, Sec. 401 and 402 of the JTPA

CFR Citation: 20 CFR 632; 20 CFR 633

Legal Deadline: None

Abstract: The Department will implement the Job Training Reform Amendments of 1992 by revising the current sections 401 and 402 of the JTPA regulations which were published in the Federal Register on October 20, 1983. In addition, the Department will revise the regulations to target services to those facing serious barriers to employment, to enhance the quality of services provided, and program outcomes in relation to labor market needs, to strengthen fiscal and program accountability and to foster a comprehensive and coherent system of human resource services. The grantee communities will be actively involved in the review of any proposed regulatory changes.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul A. Mayrand, Director, Office of Special Targeted Program, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210, 202 219-5500

RIN: 1205–AA96

2056. JOB CORPS ALLOWANCES AND ALLOTMENTS

Legal Authority: 29 USC 1579(a)

CFR Citation: 20 CFR 638

Legal Deadline: None

Abstract: Job Corps is devising a new pay and allotment system which will provide students with enough money to meet their basic needs, while adding greater incentives than are available in the current system to encourage retention, performance, program completion and length of enrollment. Payroll will be conducted biweekly versus the current twice monthly procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	09/00/93	

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Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary H. Silva, Chief, Division of Program Management and Review, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4656, FP Building, Washington, DC 20210, **202 219-6568**

RIN: 1205–AA98

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Final Rule Stage

2057. UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS

Significance: Regulatory Program

Legal Authority: PL 104-164

CFR Citation: 20 CFR 614

Legal Deadline: None

Abstract: The regulations incorporate statutory amendments to the unemployment compensation for ex-servicemembers program contained in Section 301 of the Emergency Unemployment Compensation Act of 1991. These regulations will be issued as an interim final rule because the statutory changes became effective upon enactment. To provide an opportunity for public participation in the rulemaking, a comment period is provided.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/15/92	57 FR 59798
Interim Final Effective Date 1/14/93	12/15/92	57 FR 59798
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Sandra T. King, Chief, Division of Program Management and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4524, FP Building, Washington, DC 20210, **202 219-5309**

RIN: 1205–AA06

2058. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Significance: Regulatory Program

Legal Authority: 19 USC 2320

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: These regulations implement the Amendments to the trade adjustment assistance provisions of the Trade Act of 1974 in Pub. L. 100-418 by expanding the eligibility for TAA to workers in the oil and natural gas industry engaged in exploration and drilling; requiring a written notice to workers believed to be covered by a certification issued by the Department and the publication of a notice of certification in a newspaper of general circulation; making participation in training a condition for receiving trade readjustment allowances; authorizing the waiver of training for a worker when training is not feasible or appropriate; authorizing the payment of TRA to a worker during breaks in training that do not exceed 14 days; basing TAA benefits on the worker's most recent separation rather than first qualifying separation as previously applied; extending the authorization of the TAA program to September 30, 1993; and making other changes.

Timetable:

Action	Date	FR Cite
NPRM	11/30/88	53 FR 48474
NPRM Comment Period End	12/30/88	53 FR 48474
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marvin Fooks, Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210, **202 219-5555**

RIN: 1205–AA72

2059. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; CONFIDENTIALITY AND DISCLOSURE OF STATE RECORDS

Significance: Regulatory Program

Legal Authority: 42 USC 1302

CFR Citation: 20 CFR 603

Legal Deadline: None

Abstract: The Employment and Training Administration proposes to make rules regarding the disclosure of unemployment insurance wage and claim information by State agencies.

Timetable:

Action	Date	FR Cite
NPRM	03/23/92	57 FR 10064
NPRM Comment Period End	05/22/92	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Virginia Chupp, Unemployment Insurance Program Specialist, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4512, FP Bldg., Washington, DC 20210, **202 219-5200**

RIN: 1205–AA74

2060. LABOR STANDARDS FOR THE REGISTRATION OF APPRENTICESHIP PROGRAMS (REVISION)

Significance: Regulatory Program

Legal Authority: 29 USC 50 The National Apprenticeship Act; 40 USC 276; 5 USC 3301

CFR Citation: 29 CFR 29 (Revision)

Legal Deadline: None

Abstract: ETA has undertaken a review of the Apprenticeship system to determine the role of apprenticeship in meeting America's future needs for a skilled work force. The Apprenticeship 2000 review, through research, review of existing materials and related programs, is considering alternative ways to strengthen and expand apprenticeship and related training programs. Existing regulations governing apprenticeship programs may be revised to: 1) improve the existing program's ability to produce skilled workers to meet demands in the industries where it is now prevalent; and 2) expand the apprenticeship concept of training to fill the needs for skilled workers in additional industries.

Timetable:

Action	Date	FR Cite
NPRM	08/24/90	55 FR 34868
NPRM Comment Period End	10/23/90	55 FR 34868
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James D. Van Erden, Administrator, Office of Work-Based Learning, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4649, FP Bldg., Washington, DC 20210, **202 219-6540**

RIN: 1205–AA77

DOL—ETA

Final Rule Stage

2061. ATTESTATION PROCESS FOR HEALTH CARE FACILITIES SEEKING TO EMPLOY NONIMMIGRANT NURSES

Significance: Agency Priority

Legal Authority: Sec. 212 of Immigration and Nationality Act

CFR Citation: 20 CFR 655, subpart D; 29 CFR 504, subpart E

Legal Deadline: Final, Statutory, August 1, 1990.

Abstract: This regulation will implement section 212 of the Immigration and Nationality Act by adding a new subsection governing the admission to the United States of nonimmigrant nurses during a five year period.

Timetable:

Action	Date	FR Cite
NPRM	07/06/90	55 FR 27992
NPRM Comment Period End	08/06/90	55 FR 30720
Interim Final Rule	12/06/90	55 FR 50500
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert A. Schaerfl, Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Rm N4470, FP Building, Washington, DC 20210, **202 219-5257**

RIN: 1205–AA84

2062. PERMANENT LABOR CERTIFICATION PROGRAM: AMENDMENTS TO REGULATIONS AT 20 CFR PART 656

Significance: Regulatory Program

Legal Authority: 8 USC 1182(a)(5)(A); PL 101-649, Sec 122(b)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: The Employment and Training Administration proposes to amend its regulations relating to the certification of permanent employment of immigrant aliens in the U.S. The amendments implement the Immigration Act of 1990 and its amendments to the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
NPRM	07/15/91	56 FR 32244
NPRM Comment Period End	08/14/91	56 FR 32244
Interim Final Rule	10/23/91	56 FR 54920
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert A. Schaerfl, Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4470, FP Building, Washington, DC 20210, **202 210-5257**

RIN: 1205–AA88

2063. OFF-CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS: ATTESTATION PROCESS

Significance: Regulatory Program

Legal Authority: PL 101-649

CFR Citation: 20 CFR 655; 29 CFR 508

Legal Deadline: Other, Statutory, October 1, 1991.
Other deadline is for interim final rule.

Abstract: This rule is necessary to implement section 221 of the Immigration Act of 1990, Public Law 101-649, which regards off-campus work authorization for students under the F-1 visa. In order to employ an F-1 student, the employer must provide the Secretary of Labor with an attestation that it has recruited for at least 60 days for the position, and that it will pay the greater of the prevailing or actual wage. The Secretary also has enforcement responsibility under this new law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/91	56 FR 56860
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert A. Schaerfl, Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4470, FP Building, Washington, DC 20210, **202 210-5257**

RIN: 1205–AA88

2064. TEMPORARY SPECIALIZED PROFESSIONAL OCCUPATIONS (H-1B) LABOR CONDITION APPLICATION PROCESS

Significance: Regulatory Program

Legal Authority: PL 101-649, Sec 205; PL 102-232

CFR Citation: 20 CFR 655; 29 CFR 507

Legal Deadline: Other, Statutory, October 1, 1991.
Other deadline is for interim final rule.

Abstract: This rule is necessary to implement certain revisions to the nonimmigrant H-1B visa category made by Public Law 101-649. The law provides that no alien may be admitted or provided status under this category unless the petitioning employer attests to the Secretary of Labor that the employer is offering prevailing wages and working conditions and that there is not a strike or lockout in the course of a labor dispute in the occupational classification at the place of employment. The law also directs the

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DOL—ETA **Final Rule Stage**

employer to notify the bargaining representative at the place of employment of the filing of an H-1B petition. If there is no bargaining representative, the employer must post a notice in conspicuous locations at the place of employment. The law provides a procedure for any aggrieved person or organization to challenge the employer's attestation.

Timetable:

Action	Date	FR Cite
NPRM	08/05/91	56 FR 37175
NPRM Comment Period End	09/04/91	56 FR 37175
Interim Final Rule	01/13/92	57 FR 1316
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert A. Schaerfl, Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4470, FP Building, Washington, DC 20210, **202 219-5257**

RIN: 1205–AA89

2065. IMPLEMENTATION OF CLEAN AIR ACT AMENDMENTS TO TITLE III OF THE JOB TRAINING PARTNERSHIP ACT (JTPA)

Significance: Regulatory Program

Legal Authority: 29 USC 1579(a); 29 USC 1662e(i)

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, May 14, 1991.

Abstract: Regulatory action is necessary to provide specific requirements and guidelines for programs designed to assist workers dislocated as a consequence of compliance with the Clean Air Act of 1990 (S. 1630). Under the Act, grants may be made to States, certain substate grantees, employers, employer associations and representatives of employees -- to provide training, adjustment assistance and employment services to eligible individuals, and to make needs-related payments to such individuals in accordance with the requirements of the Act. These provisions are being promulgated to implement the amendment to the Job Training Partnership Act (JTPA) enacted as part of the Clean Air Act which added a new Section 326 to Title III of JTPA.

Timetable:

Action	Date	FR Cite
NPRM	03/24/92	57 FR 10232
NPRM Comment Period End	04/23/92	
Final Action	06/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Mr. Robert N. Colombo, Director, Office of Worker Retraining and Adjustment Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N5426, FP Building, Washington, DC 20210, **202 219-5577**

RIN: 1205–AA92

2066. JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1992

Significance: Agency Priority

Legal Authority: 29 USC 1501 et seq

CFR Citation: 20 CFR 626; 20 CFR 627; 20 CFR 628; 20 CFR 629; 20 CFR 630

Legal Deadline: Final, Statutory, December 18, 1992.

Abstract: The amendments focus on improving the targeting of programs to those facing serious barriers to employment, enhancing the quality of services provided, strengthening fiscal and program accountability, and promoting and coordinating programs and resources to more effectively provide job training and placement to the disadvantaged. The amendments were signed into law by the President on Monday, September 7, 1992.

Timetable:

Action	Date	FR Cite
ANPRM	09/10/92	57 FR 41447
ANPRM Comment Period End	09/25/92	57 FR 41447
Interim Final Rule	12/29/92	57 FR 62004
Final Action	06/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Hugh S. Davies, Acting Director, Office of Employment and Training Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4703, FP Building, Washington, DC 20210, **202 219-5580**

RIN: 1205–AA95

2067. EXTENDED BENEFITS IN THE FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM

Legal Authority: PL 102-318

CFR Citation: 20 CFR 615

Legal Deadline: None

Abstract: The regulations incorporate statutory amendments to the permanent Federal-State Extended Benefits Program contained in the Unemployment Compensation Amendments of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Sandra T. King, Chief, Division of Program Development, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4514, FP Building, Washington, DC 20210, **202 219-5309**

RIN: 1205–AA97

DEPARTMENT OF LABOR (DOL) **Completed Actions**

Employment and Training Administration (ETA)

2068. ADMINISTRATIVE PROCEDURE, FEDERAL STATE UNEMPLOYMENT COMPENSATION PROGRAM

Significance: Agency Priority

Legal Authority: Not yet determined

CFR Citation: 20 CFR 601

Legal Deadline: None

Abstract: This proposed rule would replace outdated administrative regulations for the unemployment insurance (UI) program grants to States with reference to more current common administrative requirements for State governments codified elsewhere by the Department of Labor (DOL). Because of certain unique needs of the UI program, this action would also cover UI program exceptions to these requirements and clarifications of Employment and Training Administration (ETA) policy in applying requirements to State grantees. As a result, the proposed rule is expected to aid States in understanding and complying with the requirements.

Timetable:

Action	Date	FR Cite
Withdrawn	01/25/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The regulations proposed to be amended were last amended in 1977 and 1981, and since that time DOL has implemented changes in requirements for State governments which now need to be reflected in UI program regulations.

Agency Contact: Mary Ann Wyrsch, Director, Unemployment Insurance Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Rm N4231, FP Bldg., Washington, DC 20210, **202 219-7831**

RIN: 1205–AA69

DEPARTMENT OF LABOR (DOL) **Prerule Stage**

Pension and Welfare Benefits Administration (PWBA)

2069. QUALIFIED DOMESTIC RELATIONS ORDERS UNDER THE RETIREMENT EQUITY ACT

Significance: Agency Priority

Legal Authority: 29 USC 1056(d)(3)(L); 29 USC 1135

CFR Citation: 29 CFR 2530

Legal Deadline: None

Abstract: This regulation would clarify the application of the qualified domestic relations order provisions of section 206(d)(3) of ERISA and related provisions contained in section 414(p) of the Internal Revenue Code which were added by the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PWBA is considering the publication of proposed regulations under section 206(d)(3) of ERISA and related provisions contained in section 414(p) of the Internal Revenue Code which would clarify the statutory requirements pertaining to Qualified Domestic Relations Orders (QDROs). Under amendments effected by the Retirement Equity Act of 1984 (REA) to the anti-assignment and alienation provisions of ERISA and the Code, benefits under a pension plan may be assigned or alienated pursuant to a domestic relations order only if the order constitutes a QDRO. This ANPRM is intended to facilitate early public participation in the development of regulations, in the event that regulations are proposed.

Agency Contact: Susan Rees, Staff Attorney, Plan Benefits Security Division, Department of Labor, Office of the Secretary, 200 Constitution Ave. NW., Rm N4611, FP Bldg., Washington, DC 20210, **202 219-9141**

RIN: 1210–AA19

2070. DEFINITION OF PARTICIPANT COVERED UNDER THE PLAN

Significance: Agency Priority

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2510.3-3

Legal Deadline: None

Abstract: Regulation 29 CFR 2510.3-3(d)(2)(ii) describes the circumstances under which a plan participant receiving a distribution of benefits ceases to be a participant covered under the plan. Under the existing regulation, a participant covered under a pension plan loses his status as such where he receives an annuity contract guaranteeing his benefits from an insurance company licensed to do business in a state. PWBA will solicit suggestions from the public with respect to development of a proposed amendment of this regulation that would provide that a participant covered under a pension plan would not automatically lose his status upon purchase of an annuity.

Timetable:

Action	Date	FR Cite
ANPRM	06/21/91	56 FR 28638
ANPRM Comment Period End	09/19/91	56 FR 36750

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210, **202 219-7461**

RIN: 1210–AA39

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DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

Proposed Rule Stage

2071. INDIVIDUAL BENEFITS REPORTING AND RECORDKEEPING FOR MULTIEMPLOYER PLANS

Significance: Agency Priority

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520; 29 CFR 2530

Legal Deadline: None

Abstract: The rule would govern: (1) reports that must be furnished to participants and beneficiaries in multiemployer pension plans, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. This rule was first proposed on 02/09/79 (44 FR 8294) jointly with the single employer plan benefit reporting regulations.

Timetable:

Action	Date	FR Cite
NPRM Previous	02/09/79	44 FR 8294
NPRM Previous	08/08/80	45 FR 52824
Notice of Public Hearing on Previous	11/12/80	45 FR 74727
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The Pension and Welfare Benefits Administration (PWBA) is holding this regulation in abeyance pending completion of the PWBA's comprehensive review of legislative options related to the reporting and disclosure requirements under ERISA.

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave. NW., Rm N5669, FP Bldg., Washington, DC 20210, **202 219-7461**

RIN: 1210–AA02

2072. INDIVIDUAL BENEFITS REPORTING AND RECORDKEEPING FOR SINGLE EMPLOYER PLANS

Significance: Agency Priority

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520; 29 CFR 2530

Legal Deadline: None

Abstract: The rule would govern: (1) reports that must be furnished to participants and beneficiaries in single employer pension plans, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. This rule was first proposed on 02/09/79 (44 FR 8294) jointly with the multiemployer plan benefit reporting regulation.

Timetable:

Action	Date	FR Cite
NPRM Previous	02/09/79	44 FR 8294
NPRM Previous	08/01/80	45 FR 51231
Notice of Public Hearing on Previous	11/12/80	45 FR 74728
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The Pension and Welfare Benefits Administration (PWBA) is holding this regulation in abeyance pending completion of the PWBA's comprehensive review of legislative options related to the reporting and disclosure requirements under ERISA.

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave. NW., Rm N5669, FP Bldg., Washington, DC 20210, **202 219-7461**

RIN: 1210–AA03

2073. DEFINITION OF "PLAN ASSETS"—PARTICIPANT CONTRIBUTIONS

Significance: Regulatory Program

Legal Authority: 29 USC 1103; 29 USC 1135

CFR Citation: 29 CFR 2550.403b-1

Legal Deadline: None

Abstract: Section 403(a) of ERISA requires that all assets of an employee benefit plan be held in trust by one or more trustees pursuant to a written trust instrument, except as otherwise provided in section 403(b). This regulation would provide guidance with respect to circumstances under which participant monies paid to, or withheld by employers in connection with, certain welfare plans may not be subject to the trust requirement of section 403(a).

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave. NW., Rm N5669, FP Building, Washington, DC 20210, **202 219-7461**

RIN: 1210–AA16

2074. TIME AND MANNER OF NOTICE REQUIREMENT UNDER ERISA SECTION 101(D)

Significance: Agency Priority

Legal Authority: 29 USC 1021

CFR Citation: 29 CFR 2520.101

Legal Deadline: None

Abstract: Section 101(d) of ERISA provides that when an employer maintaining a plan other than a multiemployer plan fails to make a required installment or other payment required to meet minimum funding standards under section 302 to a plan before the 60th day following the due date, the employer shall notify each participant and beneficiary of such failure. Section 101(d) also provides that the notice shall be made at such time and in such manner as the Secretary shall provide. Because OBRA 1989 added section 502(c)(3) to permit the imposition of substantial penalties upon employers who fail to give the notice required by section 101(d), there will be an increased need for regulatory guidance by the Secretary as to the time and manner in which notice under section 101(d) must be provided.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave. NW., Room N5669, FP Building, Washington, DC 20210, **202 219-7461**

RIN: 1210–AA38

DOL—PWBA

Proposed Rule Stage

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

Final Rule Stage

2075. ADEQUATE CONSIDERATION

Significance: Regulatory Program

Legal Authority: 29 USC 1002(3)(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes adequate consideration under section 3(18) of ERISA for securities for which there is no generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/18/88	
Final Action	02/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel Maguire, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Rm N4611, FP Building, Washington, DC 20210, **202 219-9592**

RIN: 1210–AA15

2076. CIVIL PENALTIES UNDER ERISA SECTION 502(L)

Significance: Regulatory Program

Legal Authority: 29 USC 1132

CFR Citation: 29 CFR 2570.80 (Procedural); 29 CFR 2560.502(i)-1 (Substantive)

Legal Deadline: None

Abstract: Section 502(l) of ERISA requires the Secretary of Labor to assess a civil penalty to a fiduciary who breaches or commits a violation of part 4 of Title I of ERISA, or any other person who knowingly participates in such breach or violation by any other person. The Department has published an interim rule setting for the procedures for the assessment of penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment, as well as a proposed rule that defines the following pivotal terms contained in section 502(1): "applicable recovery amount," "breach of fiduciary responsibility or violation," and "settlement agreement" or "court order." The Department intends to finalize these two regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25284
Interim Final Rule	06/20/90	55 FR 25284
NPRM Comment Period End	08/20/90	55 FR 25284
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Vicki Shteir-Dunn, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210, **202 219-9141**

RIN: 1210–AA37

DEPARTMENT OF LABOR (DOL)
Office of Labor Management Standards (OLMS)

Completed Actions

2077. OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS; NOTICE OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

Significance: Regulatory Program

Legal Authority: EO 12800

CFR Citation: 29 CFR 470

Legal Deadline: None

Abstract: This regulation will implement E.O. 12800 which requires government contractors and subcontractors to post notices informing their employees that (1) under federal law they cannot be required to join a union or maintain membership in a union to retain their jobs, and (2) employees who choose not to be union members may object to the use of their compulsory union dues and fees for activities other than collective bargaining, contract administration, and grievance adjustment, and may be entitled to a refund and an appropriate reduction in future payments. The proposed regulation, in accordance with E.O. 12800, also requires that, where applicable, each government contracting agency include certain provisions of the Order in its government contracts, and that government contractors and subcontractors include these provisions in their nonexempt subcontracts and purchase orders.

Timetable:

Action	Date	FR Cite
NPRM	07/28/92	57 FR 33403
Interim Procedural Notice	07/28/92	57 FR 33402
NPRM Comment Period End	08/27/92	
Final Action	11/02/92	57 FR 49588
Final Action Effective	12/02/92	

Small Entities Affected: None

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Government Levels Affected: Local, State, Federal

Additional Information: OLMS is now part of the Employment Standards Administration. This regulation is now reported under RIN 1215-AA87.

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, Department of Labor, Office of Labor Management Standards, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210, **202 219-7373**

RIN: 1294–AA06

2078. LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS

Significance: Regulatory Program

Legal Authority: 29 USC 431; 29 USC 438; 29 USC 461; 5 USC 7120(d); 22 USC 4117(d)

CFR Citation: 29 CFR 402; 29 CFR 403; 29 CFR 458

Legal Deadline: None

Abstract: This proposed regulatory amendment deals with the information that unions must disclose concerning their financial condition and operations under statutes requiring them to file financial reports (Form LM-2 or LM-3) with the Secretary. In view of developments in decisional law and accounting standards, it has been determined by the Secretary and announced by the President that unions should be required to disclose their finances in terms of the functions of their disbursements and generally accepted accounting principles.

Timetable:

Action	Date	FR Cite
NPRM	04/17/92	57 FR 14244
NPRM Comment Period End	06/16/92	
Final Action	10/30/92	57 FR 49282
Final Action Effective	12/31/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: OLMS is now a part of the Employment Standards Administration. A NPRM is being published under its new RIN (1215-AA86) to extend the effective date.

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, Department of Labor, Office of Labor Management Standards, 200 Constitution Avenue NW., Room N5605, FP Bldg., Washington, DC 20210, **202 219-7373**

RIN: 1294–AA07

2079. ABBREVIATED ANNUAL FINANCIAL REPORTS FOR SMALL LABOR ORGANIZATIONS

Legal Authority: 29 USC 431; 29 USC 438; 5 USC 7120(d); 22 USC 4117(d)

CFR Citation: 29 CFR 402; 29 CFR 403; 29 CFR 458

Legal Deadline: None

Abstract: The Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), requires covered labor organizations to file an annual financial report with the Department of Labor. The regulations currently require unions to file detailed annual financial reports (Form LM-2 or LM-3). The revision will implement an abbreviated annual financial report (Form LM-4) which may be filed by unions having less than $10,000 in annual receipts. The revised regulation will lessen the financial reporting burden on small labor organizations, many of which have frequent officer changes, part-time unpaid officers, and officers with minimal accounting/bookkeeping expertise.

Timetable:

Action	Date	FR Cite
NPRM	09/10/92	57 FR 41634
NPRM Comment Period End	10/13/92	57 FR 41634
Final Action	10/30/92	57 FR 49356
Final Action Effective	12/31/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: OLMS is now a part of the Employment Standards Administration. A NPRM is being published under its new RIN (1215-AA86) to extend the effective date.

Agency Contact: Kay H. Oshel, Chief Division of Interpretations and Standards, Department of Labor, Office of Labor Management Standards, 200 Constitution Avenue NW., Room N5605, FP Bldg., Washington, DC 20210, **202 219-7373**

RIN: 1294–AA08

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA) — **Prerule Stage**

2080. INTRINSICALLY SAFE BATTERY-POWERED DEVICES

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18

Legal Deadline: None

Abstract: MSHA proposes to revise existing part 18 specifications and test requirements for the approval of intrinsically safe battery-powered devices as a subpart to 30 CFR part 7. Under part 7, testing would be done by the applicant or a third party, subject to agency requirements and approval. MSHA's review will update the existing approval criteria and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, **703 235-1910**

RIN: 1219–AA59

2081. APPROVAL OF EXPLOSION-PROOF ENCLOSURES

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18

Legal Deadline: None

Abstract: MSHA proposes to revise existing 30 CFR part 18 specifications and test requirements for the approval of explosion-proof enclosures as a subpart to 30 CFR part 7. Under part 7, testing would be done by the applicant or a third party subject to agency requirements and approval. MSHA's review will update the existing approval criteria and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, **703 235-1910**

RIN: 1219–AA60

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA) — **Proposed Rule Stage**

2082. • UNDERGROUND COAL MINE VENTILATION

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: MSHA published a final rule revising safety standards for ventilation of underground coal mines on May 15, 1992. On November 13, 1992, MSHA stayed sections 75.313 and 75.344(a)(1) until July 1, 1993. On November 16, 1992, the U.S. Court of Appeals for the D.C. Circuit issued an order staying the application of section 75.321(a). MSHA plans to repropose these provisions to address the concerns expressed by the mining community. Further, as a result of discussions with the mining community, the Agency will be considering certain other provisions for reproposal.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, **703 235-1910**

RIN: 1219–AA11

2083. SAFEGUARD CRITERIA FOR HOISTING AND TRANSPORTATION

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1403-11

Legal Deadline: None

Abstract: Transporting persons and material has been a leading cause of fatal accidents in underground coal mines. The Agency, however, has very few mandatory standards addressing haulage hazards. The hoisting and transportation standards need to be updated to reflect advances in technology.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, **703 235-1910**

RIN: 1219–AA12

2084. NOISE STANDARD

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71

Legal Deadline: None

Abstract: Hearing impairment is a serious occupational hazard in the mining industry. Many miners are consistently exposed to noise levels that are near maximum levels currently permitted by MSHA. As a result, miners may be suffering hearing impairment, notwithstanding existing MSHA noise standards. MSHA is using comments and information submitted in response to the December 1989 ANPRM to develop a proposed rule which would establish noise standards to apply to all mining.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/89	54 FR 50209
ANPRM Comment Period End	06/22/90	55 FR 6011
NPRM	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, BT #3, Arlington, VA 22203, **703 235-1910**

RIN: 1219–AA53

2085. CONFINED SPACES

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking published in December 1991 requested comments on how to address the hazards of working in confined spaces. In mining operations, the majority of the fatalities associated with confined spaces occur in storage bins, hoppers, and stockpiles. The primary hazards to miners occur from being trapped by shifting piles of loose materials, falling into materials, and being struck by overhanging materials. Many hazards are identical to those confined space hazards that exist in general industry for which OSHA issued a proposed rule on June 5, 1989 (54 FR 24080).

Timetable:

Action	Date	FR Cite
ANPRM	12/30/91	56 FR 67364

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Action	Date	FR Cite
ANPRM Comment Period End	05/01/92	57 FR 8102
NPRM	11/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA54

2086. WATERLINES IN BELT CONVEYOR ENTRIES

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75, subpart L

Legal Deadline: None

Abstract: MSHA currently requires waterlines to be installed along all belt conveyors in underground coal mines. Potential firefighting problems exist whenever air used to ventilate belt conveyor entries moves in an outby direction. Waterlines located in these entries are susceptible to severe damage caused by the spread of fire to the outby areas of where the water is needed to fight the fire. MSHA is currently evaluating the need to revise this regulation so that waterlines are located to effectively fight all fires, regardless of the direction of air flow.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA70

2087. CARBON MONOXIDE MONITOR APPROVAL

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 12

Legal Deadline: None

Abstract: The use of carbon monoxide monitoring systems in underground coal mines can be effective in monitoring mine atmospheres to detect fires in the early stages of development. If mine operators depend on these systems for early fire detection, minimum performance criteria are necessary to ensure proper performance. MSHA intends to propose approval requirements for these systems for use in underground coal mines.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA72

2088. FIREFIGHTING AND ESCAPE AND EVACUATION PROGRAM

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1101-23

Legal Deadline: None

Abstract: Currently 30 CFR 75.1101-23 requires each operator of an underground coal mine to adopt a program for mine evacuation in the event of an emergency, such as fire or explosion. However, the existing standard does not directly address heat sensing and carbon monoxide detection systems and the actions to be taken when such systems activate an alarm. In addition, regular review and update of firefighting and evacuation plans is not required by the existing standard. This rulemaking would address these issues.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA73

2089. DIESEL PARTICULATE

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: During the past decade, diesel-powered equipment has been introduced into the underground coal mining industry in increasing numbers. MSHA does not have regulations that specifically address the health hazards associated with the particulate in the exhaust emitted by diesel-powered equipment in underground mines. In July 1990 the National Institute for Occupational Safety and Health issued an exploratory risk assessment for diesel particulate based on an animal study. The Agency is in the early stages of developing a permissible exposure limit to control miners' exposure to diesel exhaust and reduce the incidence of illness and disease related to this substance in the mining industry. In January 1992, MSHA issued an advance notice of proposed rulemaking in which the Agency requested public comments on a series of issues relating to health effects, methods of monitoring to measure exposure, duration and frequency of exposure, and technological and economic feasibility. MSHA expects to address the appropriate exposure levels for diesel particulate in rulemaking after the public comments and data can be collected (cont)

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 500
Extension of Comment Period to 7/10/92	03/05/92	57 FR 7906
ANPRM Comment Period End	07/10/92	57 FR 7906

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: ABSTRACT CONT: and more fully evaluated.

Agency Contact: Patricia W. Silvey, Director, Office of Standards,

Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA74

2090. BELT ENTRY ADVISORY COMMITTEE

Significance: Regulatory Program

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 75.350; 30 CFR 75.326

Legal Deadline: None

Abstract: In June 1991, the Secretary established an advisory committee to make recommendations concerning the conditions under which air coursed through the belt entry could be safely used in the face areas of underground coal mines. A series of six public advisory committee meetings began in April 1992, with the final meeting held in September 1992. After reviewing extensive amounts of material and after many hours of deliberation, the committee reached its conclusions and issued its final report to the Secretary in November 1992. The advisory committee made consensus recommendations with respect to: (1) the conditions under which belt haulage entries could be safely used as intake air courses to ventilate working places; (2) minimum velocities in conveyor belt haulageways; and (3) ventilation of escapeways. MSHA will review the recommendations in the report and proceed with regulatory action.

Timetable:

Action	Date	FR Cite
Belt Entry Report	08/25/89	54 FR 35356
Notice of Establishment of Advisory Committee	06/12/91	56 FR 27034
Notice of Renewal of Charter	12/10/91	56 FR 64526
Notice of Availability of Report	12/02/92	57 FR 57078
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: A public hearing was held in April 1990.

Agency Contact: Patricia W. Silvey, Director, Office of Standards,

Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA76

2091. TRAINING AND RETRAINING OF MINERS

Significance: Regulatory Program

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48

Legal Deadline: None

Abstract: MSHA received many comments in response to its proposed rule on experienced miner and supervisor training that requested MSHA to address such issues as the appropriate training for different types of mining, the need for training of contractors, training for construction workers, and other suggested training changes. MSHA is reviewing these comments to determine what changes in the training regulations would be appropriate.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA77

2092. EXAMINATIONS OF SURFACE WORK AREAS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 77.1713

Legal Deadline: None

Abstract: Under 30 CFR 77.1713 coal mine operators are required to conduct examinations of each active working area of surface mines and active surface installations during each shift. Any hazardous conditions detected must be entered into a report of such examination along with a description of corrective actions taken. The Agency has interpreted this standard to exclude surface work areas of underground mines. The possibilities for hazards associated with such areas are numerous. The majority of the injuries and fatalities are a result of hazardous conditions not detected and corrected. This rulemaking would revise the standard to apply the on-shift examination requirement to surface such areas of underground mines. By conducting an on-shift examination of hazardous conditions in these areas, the mine operator will better guarantee a safe working environment for the miners and a reduction in accidents.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA78

2093. DECERTIFICATION OF CERTIFIED AND QUALIFIED PERSONS

Significance: Agency Priority

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77; 30 CFR 90; 30 CFR 48

Legal Deadline: None

Abstract: MSHA has several existing provisions that require the certification or qualification of individuals to perform certain tasks at mines. However, the Agency has no formal procedures for revoking a person's certification or qualification when evidence indicates that the individual does not adhere to required regulatory procedures. The Agency intends to develop generic procedures for decertification of individuals who no longer meet the requirements to be certified or qualified, or who have failed to comply with the law in their role as a certified or qualified person.

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DOL—MSHA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, **703 235-1910**

RIN: 1219–AA79

2094. • RESPIRABLE COAL DUST REVISIONS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: In May 1991, the Secretary of Labor directed MSHA to conduct a thorough review of the program to control respirable coal dust and to develop recommendations for how the program could be improved. In June 1992, an interagency task group made recommendations to the Secretary on how to improve the accuracy and effectiveness of the coal dust program. This proposed rule will address those recommendations, and revise, where appropriate, the existing respirable dust standards.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, **703 235-1910**

RIN: 1219–AA81

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Mine Safety and Health Administration (MSHA)

2095. SAFETY STANDARDS FOR EXPLOSIVES AT METAL AND NONMETAL MINES

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56, subpart E; 30 CFR 57, subpart E

Legal Deadline: None

Abstract: On January 18, 1991, MSHA published a final rule in the Federal Register (56 FR 2070) revising its safety standards for explosives at metal and nonmetal mines. On October 16, 1992 (57 FR 47524) MSHA published a proposed rule addressing certain stayed provisions of the January 18, 1991 final rule. MSHA's proposed rule addressed the following stayed provisions: definitions of "blast site," "magazine," and "storage facility," the requirements of storage of packaged blasting agents, the location of explosive material storage facilities, vehicles used to transport explosives, primer protection, loading and blasting, double trunklines in nonelectric initiation systems, hazards of excessive temperatures and burning explosive material. A public hearing was held. MSHA plans to publish a final rule addressing these provisions in May 1993.

Timetable:

Action	Date	FR Cite
NPRM	10/16/92	57 FR 47524
Extension of Comment Period to 01/29/93	11/25/92	57 FR 55491
NPRM Comment Period End	12/15/92	
Final Action	08/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, **703 235-1910**

RIN: 1219–AA17

2096. DIESEL-POWERED EQUIPMENT FOR UNDERGROUND COAL MINES

Significance: Regulatory Program

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 7; 30 CFR 70; 30 CFR 75

Legal Deadline: None

Abstract: MSHA has an established mining equipment approval program which includes evaluation criteria and corresponding safety standards requiring the use and maintenance of approved equipment. However, existing approval regulations do not generally apply to the diesel-powered equipment now being used in coal mines. In July 1988 an advisory committee convened by the Secretary of Labor made recommendations to the Secretary concerning standards for the use of diesel-powered equipment in underground coal mines. Based on those recommendations, MSHA published a proposed rule that addressed the approval and use of diesel equipment, including monitoring requirements for certain diesel emissions. Public hearings were held in February and March 1991.

Timetable:

Action	Date	FR Cite
NPRM	10/04/89	54 FR 40950
NPRM Comment Period End	05/10/91	56 FR 13404
Final Action	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, **703 235-1910**

RIN: 1219–AA27

DOL—MSHA

Final Rule Stage

2097. HAZARD COMMUNICATION

Significance: Regulatory Program

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The primary purpose of this action is to provide miners with the means to receive necessary information on the hazards of chemicals to which they are exposed and the actions necessary to protect their safety and health. In preparation of the rule, MSHA has reviewed OSHA's hazard communication standard and information collected by NIOSH as well as public comments received. MSHA's proposed rule pursued a performance-oriented approach that allows employees the flexibility to develop appropriate individual programs tailored to their particular workplace conditions. Hearings were held in October 1991. MSHA is reviewing all information received to develop a final rule.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	11/02/90	55 FR 46400
NPRM Comment Period End	01/21/92	56 FR 48720
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, BT #3, Arlington, VA 22203, **703 235-1910**

RIN: 1219–AA47

2098. AIR QUALITY CHEMICAL SUBSTANCES AND RESPIRATORY PROTECTION STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: MSHA's proposed rule incorporates permissible exposure limits which are applicable to the hazards encountered in metal and nonmetal mines and coal mines. The final rule will update permissible exposure limits and address methods of controlling such limits. Permissible exposure limits and standards for use of respiratory protective equipment will replace outdated incorporations by reference. The final rule also will update asbestos standards. Other issues being considered are: requirements for exposure monitoring; precautions for handling restricted-use chemicals; miner observation of monitoring; notification to workers of overexposures; miner access to exposure monitoring records; medical surveillance and transfer of miners required to use respirators and miners using certain carcinogens. Public hearings were held in June and October 1990 and March 1991.

Timetable:

Action	Date	FR Cite
NPRM	08/29/89	54 FR 35760
NPRM Comment Period End	08/30/91	56 FR 29201
Final Action	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 631, BT #3, Arlington, VA 22203, **703 235-1910**

RIN: 1219–AA48

2099. EXPERIENCED MINER AND SUPERVISOR TRAINING

Significance: Regulatory Program

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48

Legal Deadline: None

Abstract: MSHA proposed to amend the definition of "experienced miner" to mean a miner who has had one year of mining experience and, for new miners hired after October 13, 1978, has completed new miner training. MSHA proposed to strengthen the training requirements for experienced miners by adding course requirements. Also, MSHA proposed to delete the supervisory personnel exemption from the training requirements. The comments received by MSHA on its September 1991 proposed rule addressed such issues as the appropriate training for different types of mining, the need for training of contractors, training for construction workers, and other suggested training changes. MSHA is reviewing these comments to determine the appropriateness of any further changes to the Agency's training regulations. Public hearings on the proposed rule were held in July 1992. MSHA intends to complete the more limited rulemaking of the current proposal by publishing a final rule in April 1993.

Timetable:

Action	Date	FR Cite
NPRM	09/24/91	56 FR 48376
NPRM Comment Period End	08/24/92	57 FR 29853
Final Action	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, BT #3, Arlington, VA 22203, **703 235-1910**

RIN: 1219–AA55

2100. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 14; 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: The proposed rule would implement new procedures and requirements for testing and approval of flame-resistant conveyor belts to be used in underground mines. The proposed revisions would replace the existing flame test for acceptance of flame-resistant conveyor belts specified in agency regulations. The proposal would also include current terminology. Current regulations require that conveyor belts be flame resistant in accordance with specifications of the Secretary. Conforming amendments to safety standards are being proposed as part of this rulemaking.

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DOL—MSHA — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61524
NPRM Comment Period End	02/22/93	
Final Action	01/00/94	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA65

2101. HIGH-VOLTAGE LONGWALL EQUIPMENT

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: This rulemaking would apply to high-voltage longwall electric face equipment used in underground coal mines. Presently, 30 CFR 75.1002 precludes the use of high-voltage cables within 150 feet of pillar workings. Therefore, mine operators have had to file petitions for modification so that they may use high-voltage longwall equipment. High-voltage longwall equipment would still be required to comply with the requirements of part 18, but this rulemaking would address additional safety requirements for the use of high-voltage longwall equipment, including trailing cables, motor, and shearer cables.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	57 FR 39036
Extension of Comment Period to 11/13/92	10/23/92	57 FR 46350
NPRM Comment Period End	10/26/92	57 FR 39036
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA75

2102. SAFETY STANDARDS FOR OPERATION AND MAINTENANCE OF MACHINERY AND EQUIPMENT IN UNDERGROUND COAL MINES

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1725(c)

Legal Deadline: None

Abstract: Currently, 30 CFR 75.1725(c) requires that the power be cut off and the machinery be blocked against motion before repairs can be done. MSHA proposes to revise this standard to clarify that activities involved in extending or retreating conveyor belts be considered maintenance. The hazards that persons are exposed to while extending conveyor belts are essentially the same as those involved in more routine belt maintenance such as replacement or adjustment of rollers and installing and splicing new sections of belt.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61538
NPRM Comment Period End	02/22/93	
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA80

DEPARTMENT OF LABOR (DOL) — **Completed Actions**

Mine Safety and Health Administration (MSHA)

2103. CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Significance: Regulatory Program

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 100

Legal Deadline: None

Abstract: The final rule revises MSHA's procedures in 30 CFR part 100 for proposing civil penalties under the Federal Mine Safety and Health Act of 1977. The rule is responsive to a November 21, 1989, Order of the United States Court of Appeals for the District of Columbia Circuit. The rules applies a regular assessment, rather than a single penalty, to a timely abated non-significant and substantiated (non-S&S) violation at a mine with an excessive history of violations. The changes are intended to encourage greater overall mine operator compliance with MSHA's safety and health standards, thereby improving miner safety and health.

Timetable:

Action	Date	FR Cite
NPRM	01/24/92	57 FR 2972
NPRM Comment Period End	04/24/92	57 FR 9518
Final Action	12/21/92	57 FR 60690
Final Action Effective	02/01/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA44

2104. APPROVAL OF ELECTRIC CABLES AND SPLICE KITS

Significance: Agency Priority

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 7; 30 CFR 57; 30 CFR 75

Legal Deadline: None

Abstract: This final rule implements new procedures for testing and approval of electric cables, signaling cables and cable splice kit designs. The final rule revises the existing requirements for acceptance of cables in 30 CFR Part 18, establishes flame-resistant requirements for approval of cable splice kits designs, and contains the approval requirements for signaling cables, all of which are currently being granted by MSHA. The final rule also makes conforming changes to 30 CFR parts 57 and 75 to require certain cables and splice kits to be accepted or approved by MSHA as flame resistant.

Timetable:

Action	Date	FR Cite
NPRM	10/01/90	55 FR 40124
NPRM Comment Period End	11/30/90	
Final Action	12/23/92	57 FR 61210
Final Action Effective	02/22/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA57

DOL—MSHA — **Completed Actions**

2105. APPROVAL OF ELECTRIC MOTOR ASSEMBLIES

Significance: Agency Priority

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 7; 30 CFR 18

Legal Deadline: None

Abstract: This final rule establishes the specific requirements for MSHA approval of certain explosion-proof electric motor assemblies intended for use in approved equipment in underground mines. Applications for approval or extension of approval submitted three years after the effective date of this rule will be required to be in compliance with subpart J of part 7.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10464
NPRM Comment Period End	06/14/91	
Final Action	12/23/92	57 FR 61182
Final Action Effective	02/22/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA61

DEPARTMENT OF LABOR (DOL) — **Prerule Stage**

Office of the Assistant Secretary for Administration and Management (OASAM)

2106. DEPARTMENT OF LABOR ACQUISITION REGULATIONS

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 2900 to 2999

Legal Deadline: None

Abstract: Revisions to DOLAR reflect changes in the Federal Acquisition Regulations and organizational changes within DOL.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Melvin Goldberg, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room S1522, FP Bldg., Washington, DC 20210, 202 219-9174

RIN: 1291–AA20

DEPARTMENT OF LABOR (DOL) — **Proposed Rule Stage**

Office of the Assistant Secretary for Administration and Management (OASAM)

2107. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Significance: Agency Priority

Legal Authority: OMB Circular A-110

CFR Citation: 29 CFR 97

Legal Deadline: None

Abstract: On March 11, 1988, a common final rule was published which implemented OMB Circular A-102, Administrative Requirements for Grants and Cooperative Agreements with State and local governments. OMB and DHS have prepared a proposed common rule and revised Circular A-110 to conform the grants management requirements for non-governmental grantees with government grants. The common rule already published on governmental grantees will be amended to incorporate non-governmental grants.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44710
NPRM Comment Period End	01/03/89	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melvin Goldberg, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Rm S1522, FP Bldg., Washington, DC 20210, 202 219-9174

RIN: 1291–AA15

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DEPARTMENT OF LABOR (DOL) — **Final Rule Stage**
Office of the Assistant Secretary for Administration and Management (OASAM)

2108. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; PL 101-121, Sec 319; 5 USC 301 Reorganization Plan No. 6 of 1950

CFR Citation: 29 CFR 93

Legal Deadline: None

Abstract: This rule is in response to section 319 of Public Law 101-121. Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guarantee a loan, must disclose lobbying.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Melvin Goldberg, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room S1522, FP Building, Washington, DC 20210, **202 219-9174**

RIN: 1291–AA18

DEPARTMENT OF LABOR (DOL) — **Completed Actions**
Office of the Assistant Secretary for Administration and Management (OASAM)

2109. IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE JOB TRAINING PARTNERSHIP ACT OF 1982, AS AMENDED (JTPA)

Significance: Regulatory Program

Legal Authority: 29 USC 1551; 29 USC 1574; 29 USC 1577; 29 USC 1579

CFR Citation: 29 CFR 34

Legal Deadline: Final, Statutory, December 7, 1992.
As amended by the Job Training Reform Amendments of 1992, JTPA requires that final regulations implementing the nondiscrimination and equal opportunity provisions (cont)

Abstract: This rule implements the nondiscrimination and equal opportunity provisions of the Job Training Partnership Act of 1982, as amended (JTPA). Under JTPA, the Department of Labor (DOL) provides financial assistance to certain recipients for the purposes of establishing programs to meet the job training needs of youth and adults facing serious barriers to employment. The nondiscrimination and equal opportunity provisions of JTPA prohibit discrimination on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation has been approved by the Department of Justice, the EEOC, and OMB. It was published on January 15, 1993.

Timetable:

Action	Date	FR Cite
Final Action	01/15/93	58 FR 4742
Final Action Effective	02/15/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Public Compliance Cost: Initial Cost: $0

Sectors Affected: None

Additional Information: LEGAL DEADLINE CONT: of JTPA be issued within 90 days of the enactment date of the Job Training Reform Amendments of 1992.

Agency Contact: Annabelle T. Lockhart, Director, Directorate of Civil Rights, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Rm N4123, FP Building, Washington, DC 20210, **202 219-8927**

RIN: 1291–AA02

DEPARTMENT OF LABOR (DOL) — **Prerule Stage**
Occupational Safety and Health Administration (OSHA)

2110. MEDICAL SURVEILLANCE PROGRAMS FOR EMPLOYEES

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On January 19, 1989, OSHA modified (54 FR 2332) the Z table permissible exposure limits of 29 CFR 1910.1000 in response to current scientific data. Section 6(b) of the Act requires where appropriate, provision for medical surveillance in each 6(b) rulemaking for a harmful substance. A generic standard for medical surveillance would satisfy the requirements of the Act thus enabling the Agency to deal directly with the narrower issues of the revision of the tables. OSHA published an Advance Notice of Proposed Rulemaking on September 27, 1988, (53 FR 37595) to acquire additional information. OSHA also intends to review its compliance experience with medical surveillance provisions and seek experienced medical opinion in the form of a symposium or other public discussion. In addition, OSHA initiated a survey in 1990 to collect information regarding the prevalence and effectiveness of current medical surveillance programs. OSHA will determine whether or not to proceed with rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/88	53 FR 37595
ANPRM Comment Period End	12/27/88	
Next Action Undetermined		

Small Entities Affected: Undetermined

DOL—OSHA — **Prerule Stage**

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3718, FP Bldg., Washington, DC 20210, **202 219-7075**

RIN: 1218–AB00

2111. EXPOSURE ASSESSMENT PROGRAMS FOR EMPLOYEES EXPOSED TO HAZARDOUS CHEMICALS

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On January 19, 1989, OSHA modified (54 FR 2332) the Z table permissible exposure limits of 29 CFR 1910.1000 (General Industry) in response to current scientific data. Section 6(b)(7) of the Act requires provisions for exposure monitoring for each substance undergoing 6(b) rulemaking. A generic standard for exposure monitoring would satisfy the monitoring requirement of the Act thus enabling the Agency to deal directly with the narrower issues of the revision of the Z tables. OSHA published an Advance Notice of Proposed Rulemaking on September 27, 1988, (53 FR 37591). OSHA intends to review its compliance experience with exposure monitoring provisions and seek expert opinion to determine the appropriateness of generic exposure monitoring provisions. In addition, OSHA initiated a survey in 1990 to collect information regarding the prevalence and effectiveness of current exposure assessment programs. OSHA will determine whether or not to proceed with rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/88	53 FR 37591
ANPRM Comment Period End	12/27/88	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3718, FP Bldg., Washington, DC 20210, **202 219-7075**

RIN: 1218–AB01

2112. INDOOR AIR QUALITY IN THE WORKPLACE

Significance: Regulatory Program

Legal Authority: 29 USC 655

CFR Citation: 29 CFR Not yet determined

Legal Deadline: None

Abstract: Health complaints related to indoor air quality (IAQ) have increased significantly following energy conservation measures instituted in the early seventies. Such measures have generally reduced the infiltration of outside air, allowing the build-up of indoor air contaminants. Adverse health effects associated with indoor air contaminants are classified as: (1) sick building syndrome which is characterized by general complaints that may include headaches, fatigue, nausea, mucous membrane (eye, nose, and throat) irritation, coughs, and muscle pain; and (2) building-related illness which describes those specific medical conditions of known etiology which can often be documented by physical signs and laboratory findings. These include respiratory allergies and Legionnaires' disease. A particular concern with matters dealing with indoor air quality is exposure to passive tobacco smoke (PTS). A wide range of health effects caused by passive exposure to tobacco smoke have been reported by the Surgeon General, the National Research Council, the Environmental Protection Agency (EPA), and private researchers, as well as by citizens reporting (cont)

Timetable:

Action	Date	FR Cite
Request for Information	09/20/91	56 FR 47892
Comment Period End	01/21/92	56 FR 47892
Next Action to be Determined	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: health effects due to exposure to passive smoke while at work. These effects range from acute annoyance and eye and respiratory tract irritation to the development of chronic pulmonary disease, cardiovascular disease, and lung cancer. OSHA received two petitions for an Emergency Temporary Standard (ETS) in May 1987. Both requested an ETS to prohibit smoking in all indoor workplaces except certain specified areas. OSHA determined that available data did not demonstrate the existence of a "grave danger," due to workplace exposure to passive tobacco smoke, as defined in Section 6(c) of the OSH Act. OSHA, therefore, denied the petitions on September 1, 1989. In response to the OSHA denial, a suit was filed by the Action on Smoking and Health (ASH) in the United States Court of Appeals for the District of Columbia D.C. Circuit for a review of the Agency's decision and for an order pursuant to 5 USC, Section 706 setting aside the denial. The Court upheld OSHA's decision not to issue an ETS in an unpublished decision issued on May 10, 1991. OSHA published a request for information on Indoor Air Quality September 20, 1991 (56 FR 47892). Comment period was extended to March 20, 1992.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210, **202 219-7075**

RIN: 1218–AB37

2113. COMPREHENSIVE OCCUPATIONAL SAFETY AND HEALTH PROGRAMS

Significance: Regulatory Program

Legal Authority: 29 USC 655

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: OSHA has long recognized the utility of comprehensive safety and health programs, and adopted non-mandatory guidance for safety and health program management on January 26, 1989 (54 FR 3904). These guidelines were based on a distillation of safety and health management practices used by employers that have implemented successful comprehensive programs. The major elements OSHA has identified in the guidelines for effective occupational safety and health

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programs are: (1) management commitment and employee involvement; (2) worksite analysis to anticipate and prevent harmful occurrences; (3) hazard prevention afforded employees; and (4) safety and health training. Successfully implemented programs generally have a lower incidence of occupationally-related illnesses and injuries. In particular, OSHA has found that companies that have implemented comprehensive safety and health programs and are participating in its Voluntary Protection Program have lost-workday case rates that range from one-fifth to one-third the rates experienced by average worksites within their industrial classification. In addition, (cont)

Timetable:

Action	Date	FR Cite
Request for Comments and Information	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: participating sites reported improved employee morale and productivity as a secondary benefit of their safety and health management activities. OSHA plans to publish a request for comments and information (RFI) to solicit data regarding the parameters of existing programs; the numbers and types of employers implementing such programs; the costs and benefits of implementation; and suggestions for mandatory requirements. In addition to collecting such information, OSHA also intends to solicit suggestions regarding existing requirements that could be consolidated, revised, or otherwise modified if requirements for a comprehensive occupational safety and health program were promulgated.

Agency Contact: Thomas J. Shepich, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AB41

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

2114. RESPIRATORY PROTECTION

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1926.103

Legal Deadline: None

Abstract: The present respiratory protection standards have been in place for more than 10 years and do not take into consideration the current state-of-the-art for respiratory protection. In addition, the general industry standard for respirators contains redundancies and includes several advisory provisions which should be eliminated or changed. OSHA has reviewed the current standards and intends to propose revisions. In developing this proposal, OSHA has been working closely with the National Institute of Occupational Safety and Health (NIOSH) and the Mine Safety and Health Administration (MSHA).

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20803
ANPRM Comment Period End	09/13/82	
Public Comment Period on Preproposal Draft Ends	11/29/85	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3718, FP Bldg., Washington, DC 20210, 202 219-7075

RIN: 1218–AA05

2115. FALL PROTECTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.104; 29 CFR 1926.105; 29 CFR 1926.500; 29 CFR 1926.501; 29 CFR 1926.502; 29 CFR 1926.107(b); 29 CFR 1926.250(b)(2); 29 CFR 1926.651(t); 29 CFR 1926.951(b)(4)(i); 29 CFR 1926.107(c); 29 CFR 1926.107(f); 29 CFR 1926.651(w)

Legal Deadline: None

Abstract: The existing standard has been proposed for revision because it is poorly formatted, contains unnecessary and restrictive provisions, and does not properly address the fall protection needs of certain areas and operations. The proposal raises several significant issues including (1) when fall protection systems must be installed, (2) whether work surface inspections are necessary to insure adequate structural integrity before commencing work, and (3) whether body belt systems or body harness systems are appropriate for use as fall protection. (Subpart M revised)

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	08/14/87	52 FR 20616
Reopening of Rulemaking Record Comment Period Ends 11/3/92	08/05/92	57 FR 34656
New Reopening of Rulemaking Record	04/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This agenda entry is part of Regulatory Program RIN 1218-AB05: Elevated Surfaces (Part 1926).

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3605, FPBldg, 200 Constitution Ave. NW., Washington, DC 20210, 202 219-8061

RIN: 1218–AA37

DOL—OSHA

Proposed Rule Stage

2116. SAFETY AND HEALTH REGULATIONS FOR LONGSHORING (PART 1918) AND MARINE TERMINALS (PART 1917)

Significance: Regulatory Program

Legal Authority: 29 USC 655 Occupational Safety and Health Act of 1970; 33 USC 941 Longshore and Harborworkers Compensation Act

CFR Citation: 29 CFR 1910.16; 29 CFR 1918 (Revision); 29 CFR 1917 (Revision and Corrections)

Legal Deadline: None

Abstract: The purpose of this regulatory action would be to update and revise a standard first issued in 1960. The current language in many instances addresses the hazards of cargo handling involving methods long since abandoned, and fails to address the serious hazards of newer methods. Because much of the current standard is out of date, there are problems with compliance. These revised requirements will provide both employers and employees with a blueprint for effective and safe work practices in the cargo handling industry. No alternative other than revision is contemplated. The annual cost of the revision is expected to be minimal -- less than five million dollars. In conjunction with the above regulatory action, the Marine Terminal Standard, Part 1917, will be revised to conform with changes made to Part 1918). Corrections to Part 1917 will also be made at this time.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 44 Water Transportation

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605 FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AA56

2117. STEEL ERECTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 40 USC 333

CFR Citation: 29 CFR 1926.750 (Revision); 29 CFR 1926.751 (Revision); 29 CFR 1926.752 (Revision)

Legal Deadline: None

Abstract: In the December 29, 1992, Federal Register, OSHA announced its intention to form a Negotiated Rulemaking Advisory Committee to negotiate issues associated with a revision to the existing steel erection standard. Four of the primary issues to be negotiated include the need to expand the scope and application of the existing standard; construction specifications and workplaces; written construction safety erection plans; and fall protection. Comments on forming the committee and nominations for representation on the committee are due by March 29, 1993.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AA65

2118. WELDING, CUTTING AND BRAZING (PART 1910 AND PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.251; 29 CFR 1910.252; 29 CFR 1910.253; 29 CFR 1910.254; 29 CFR 1926.350; 29 CFR 1926.351; 29 CFR 1926.352; 29 CFR 1926.353; 29 CFR 1926.354

Legal Deadline: None

Abstract: OSHA proposes to revise and update its existing Part 1910 and Part 1926 subparts covering welding, cutting and brazing operations, and to develop performance-oriented standards designed to reduce the number of deaths and injuries due to unsafe equipment and unsafe operations. There has been no substantial revision to these subparts since their adoption in 1971. A complete and comprehensive revision is needed at this time to bring the standards into line with the current state-of-the-art and updated consensus standards. In developing its proposed revision for for welding provisions in Part 1910 (General Industry), OSHA has determined that a similar revision to the Part 1926 (Construction Industry) welding provisions are warranted.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3605, FP Bldg., Washington, DC 20210, 202 219-8061

RIN: 1218–AA72

2119. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL AND THEIR ACETATES

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: On May 20, 1986, the Environmental Protection Agency (EPA) issued a report to OSHA, under Section 9(a) of the Toxic Substances Control Act, stating that EPA has reasonable basis to conclude that the risk of injury to worker health from exposure to four glycol ethers during their manufacture, processing and use is unreasonable, and that this risk may be prevented or reduced to a significant extent by OSHA regulatory action. EPA gave OSHA 180 days in which to respond to its report. OSHA published its response on December 11, 1986, stating that OSHA had preliminarily concluded that occupational exposures to the subject glycol ethers at the current OSHA permissible exposure limits may present significant risks to the health of workers. OSHA published an Advance Notice of Proposed rulemaking (ANPRM) on April 2, 1987,

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(52 FR 10586). OSHA will use the information received in response to the ANPRM, as well as other information and analysis, to prepare a proposed standard.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	03/23/93	58 FR 15526
NPRM Comment Period End	06/07/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3718, FP Bldg., Washington, DC 20210, **202 219-7075**

RIN: 1218–AA84

2120. HAZARDOUS MATERIALS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910, subpart H

Legal Deadline: Final, Statutory, November 15, 1991.

Abstract: Standards in 29 CFR Part 1910, Subpart H, which address the storage, handling and use of hazardous materials, such as compressed gases, acetylene, hydrogen, oxygen, liquified petroleum gases, and flammable and combustible liquids, will be revised. This regulatory action will provide a new approach to the revision of Subpart H and will occur in four phases in an expanded timeframe. The four phases will be: (1) Process Safety Management, (2) Flammable and Compressed Gases, (3) Hazardous Liquids, and (4) Explosives. The first phase of the proposed action is intended to better protect employees from unexpected releases of significant quantities of dangerous substances, and this phase has been completed. The remaining phases are intended to simplify, clarify and consolidate standards on hazardous materials and assist employers and employees in general industry to better understand and better focus on the hazards inherent in the use, handling, and storage of such materials.

Timetable:

Action	Date	FR Cite
Phase I Completed	02/24/92	57 FR 6356
Administrative Stay of Selected Provisions and Request for Comments	06/01/92	57 FR 23060
Effective Date of Stayed Provisions	08/27/92	57 FR 38600
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action includes three previous actions: (a) Hazardous Materials--Flammable and Compressed Gases (Part 1910); (b) Hazardous Materials--Flammable and Combustible Liquids (Part 1910); and (c) Process Safety Management of Highly Hazardous Chemicals (completed), and adds a new action, Explosives, as the fourth phase of this regulatory action.

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210, **202 219-8061**

RIN: 1218–AB20

2121. SHIPYARD EMPLOYMENT: PHASE II (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.1 et seq; 29 CFR 1915.31 et seq; 29 CFR 1915.91 et seq; 29 CFR 1915.111 et seq; 29 CFR 1915.131 et seq; 29 CFR 1915.161 et seq; 29 CFR 1915.171 et seq; 29 CFR 1915.181; 29 CFR 1910.13 et seq; 29 CFR 1910.14; 29 CFR 1910.15; 29 CFR 1910.95; 29 CFR 1910.96; 29 CFR 1910.97; 29 CFR 1910.141; ...

Legal Deadline: None

Abstract: This regulatory action will complete the consolidation and updating of Parts 1915 and 1910 by providing shipyard employees with coverage under one comprehensive OSHA standard. This revision effort will involve the promulgation of 20 maritime subparts. Its completion will be done in stages and will relieve shipyard owners from the burden of having to comply with two sets of rules that are complex, prescriptive, confusing and, in some cases, conflicting. OSHA has established an Advisory Committee to assist the Agency is reviewing and revising these subparts. Experts from government, industry, unions and the States are working with OSHA on this project. A previously identified project, Surface Preparation and Preservation (RIN 1218-AA96), will be included in this project.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Bldg., Washington, DC 20210, **202 219-8061**

RIN: 1218–AB22

2122. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

Significance: Regulatory Program

Legal Authority: 29 USC 657; 29 USC 673

CFR Citation: 29 CFR 1904.1

Legal Deadline: None

Abstract: Concerns about the reliability and utility of injury and illness data have been raised by Congress, OSHA, NIOSH, BLS, the National Academy of Sciences, OMB, the General Accounting Office and representatives of business and labor. The revision of the regulations, forms, and associated interpretive material are being undertaken to simplify the injury and illness recordkeeping system. OSHA is currently working on this project and has not collected sufficient information to determine the effect on paperwork burden. Benefits will include: (1) A system that is easier for employers, employees and government personnel to use; (2) increased reliability and utility of the records; (3) comprehensive records of the injury and illness experience at a given site will be available; and (4) employee involvement and awareness in safety and health matters will be enhanced.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Sectors Affected: All

Analysis: Regulatory Impact Analysis

Agency Contact: Stephen A. Newell, Director, Office of Statistics, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3507, FP Building, Washington, DC 20210, **202 219-6463**

RIN: 1218–AB24

2123. AIR CONTAMINANTS RULE FOR CONSTRUCTION, AGRICULTURE AND MARITIME

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The permissible exposure limits (PELs) promulgated by OSHA in 1971 do not reflect current knowledge of the health effects of many toxic substances. OSHA published a proposal on June 7, 1988 (53 FR 20960) to amend and expand the PELs for general industry. On January 19, 1989 OSHA set new PELs for the toxic substances originally covered in 1971 and covered new substances in a single rulemaking that applied to general industry. On June 12, 1992 (57 FR 26001) OSHA published a proposed rule that would provide more protective PELs on hundreds of toxic airborne substances for workers in construction, agriculture and maritime. On July 10, 1992 the Eleventh Circuit Court of Appeals overturned the PELs update for general industry. Accordingly on August 18, 1992 (57 FR 37125) OSHA published a notice delaying hearings and extending indefinitely the comment period on the Air Contaminants Rule for Construction, Agriculture and Maritime. The Acting Solicitor General determined not to appeal the court's decision. Consequently, OSHA must determine the appropriate action in light of the judicial decision.

Timetable:

Action	Date	FR Cite
NPRM	06/12/92	57 FR 26001
Comment Period Extended Indefinitely	08/18/92	57 FR 37125
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210, **202 219-7075**

RIN: 1218–AB26

2124. CONTROL OF HAZARDOUS ENERGY (LOCKOUT/TAGOUT)—CONSTRUCTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: Hazards at construction sites resulting from the absence of effective lockout/tagout procedures to control hazardous energy appear to be caused by several factors, all associated with the nature of the construction industry. These factors basically relate to such considerations as the types of machines and equipment found in construction; the makeup of the industry in which employment is relatively "short term," lasting only as long as the length of the current project; the presence of multiple employers having different employer/employee relationships and the temporary nature of the "in-the-field" maintenance activity. The Occupational Safety and Health Administration (OSHA) expects the proposal to address lockout-related hazards in those construction work-site areas in which the available data indicate these hazards to be significant. Regulatory options involve developing a comprehensive standard covering all potentially hazardous energy sources. OSHA will consider the use of the construction advisory committee to assist in the development of this standard.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210, **202 219-8061**

RIN: 1218–AB30

2125. POWERED INDUSTRIAL TRUCK OPERATOR TRAINING

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.178

Legal Deadline: None

Abstract: Nationally, fatalities due to unsafe operation of industrial vehicles and equipment account for approximately 12 percent of the private sector fatalities. This is the second leading cause of fatalities in the private sector, behind only highway vehicle fatalities. The present standard has proven to be ineffective in reducing the number of accidents involving powered industrial trucks. OSHA intends to revise the present standard to increase its effectiveness by requiring, in performance language, initial and refresher training as necessary. The frequency of the refresher training will be based upon the ability of the vehicle operator to retain the knowledge, skills and abilities to perform the job safely. OSHA will also give guidance as to what information the instruction should include. There will also be other amendments to the standard to increase its effectiveness.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200

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Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210, **202 219-8061**

RIN: 1218–AB33

2126. ERGONOMIC SAFETY AND HEALTH STANDARDS

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: The Bureau of Labor Statistics (BLS) has reported the number of reported "disorders associated with repeated trauma" have more than doubled since 1984. These serious, potentially crippling disorders account for 48 percent of all occupational illnesses reported to OSHA in 1988, up from 28 percent in 1984. These disorders are being recognized as very serious problems by the industrial nations of the world and some have promulgated ergonomic standards in the last several years. In November 1988, OSHA received a petition from a meat packing industry representative requesting the development of a standard covering ergonomic issues. Prior to issuing a Notice of Proposed Rulemaking (NPRM), OSHA will publish an Advance Notice of Proposed Rulemaking (ANPRM) to gather, review, and analyze available information in industry on individual case studies, anecdotal data, and statistical data in which ergonomic hazards have been addressed and resolved. OSHA also will seek this information from a variety of other sources.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/92	57 FR 34192
ANPRM Comment Period End	02/01/93	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: **Thomas J. Shepich**, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210, **202 219-8061**

RIN: 1218–AB36

2127. CRANE SAFETY

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333; 33 USC 941

CFR Citation: 29 CFR 1926.550; 29 CFR 1926.552; 29 CFR 1926.553; 29 CFR 1926.554; 29 CFR 1926.556; 29 CFR 1910.67; 29 CFR 1910.179; 29 CFR 1910.180; 29 CFR 1919.181

Legal Deadline: None

Abstract: The present crane regulations for construction and general industry have not been revised since being promulgated in 1971. They rely heavily on outdated 1968 ANSI standards. OSHA has received comments that the existing provisions are inadequate and need revision to reflect current conditions and equipment. It has also been suggested that there is need to establish additional crane installation and use provisions, including possible certification programs for crane operators and riggers. OSHA anticipates that this project will come about in several phases due to the magnitude of the project.

Timetable:

Action	Date	FR Cite
ANPRM	10/19/92	57 FR 47746
ANPRM Comment Period End	02/12/93	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: **Thomas J. Shepich**, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210, **202 219-8061**

RIN: 1218–AB38

2128. ABATEMENT VERIFICATION

Significance: Regulatory Program

Legal Authority: 29 USC 657; 29 USC 658; 5 USC 553

CFR Citation: 29 CFR 1903

Legal Deadline: None

Abstract: A critical element of OSHA's comprehensive enforcement strategy under the Occupational Safety and Health act is assurance that employers have abated hazards cited during inspections. Currently, unless an employer voluntarily complies with OSHA's request to submit documentation, OSHA has no proof of hazard abatement without conducting a followup inspection. From 1972 to the present, OSHA has implemented several administrative measures to induce employers to provide abatement documentation, but some 30 percent of cited employers still do not voluntarily do so. OSHA's internal audits, the Department of Labor's Inspector General, and the General Accounting Office have pointed out this deficiency. The regulation OSHA now proposes will require cited employers to provide hazard abatement documentation. The NPRM will address the kinds of evidence to be required, what notice to employees is needed, potential penalties for non-reporting, possible certification forms for compliance, and other questions. OSHA estimates that the economic impact of this regulation on employer products and product prices will be insignificant.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Sectors Affected: All

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: **Raymond E. Donnelly**, Director, General Industry Compliance Assistance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3119, FP Building, Washington, DC 20210, 202 219-8041

RIN: 1218–AB40

2129. • RETENTION OF MARKINGS AND PLACARDS

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910; 29 CFR 1926; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918

Legal Deadline: None

Abstract: Public Law 101-615, the Hazardous Materials Transportation Uniform Safety Act (HMTUSA), mandates that the Secretary of Labor issue regulations regarding the retention of markings and placards in accordance with Section 29 of the Act. The Act clearly conveys the intent of Congress for a collaborative effort by the Secretaries of Labor, Transportation and Treasury to ensure that placards and labels required on packages or containers of hazardous materials and explosives be retained until such materials are removed to the extent they no longer pose a health or safety risk. The Agency is currently developing a proposed rule that would require any employer who receives a package, container, rail car or similar receptacle containing hazardous materials that is required to be marked, placarded or labeled in accordance with regulations issued under the Hazardous Materials Transportation Act, to retain such labels until the hazards are removed. The proposed rule would apply to all employers covered by the OSH Act. Therefore, separate but identical standards are included for (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: general industry (including agricultural operations), construction, shipyards, marine terminals, and longshoring. In preparing the proposed rule, OSHA has consulted with delegated representatives of the Secretary of Transportation and the Secretary of Treasury, as required by HMTUSA.

Agency Contact: **Charles E. Adkins**, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210, **202 210-7075**

RIN: 1218–AB42

2130. • HAZARD COMMUNICATION (MSDS)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: The Hazard Communication Standard (HCS) is a generic, performance-oriented rule which provides workers exposed to hazardous chemicals with the right-to-know about their hazards, identities, and ways to prevent exposure. The HCS requires chemical manufacturers and importers to evaluate the hazards of the chemicals they produce or import, and to develop container labels and more detailed technical bulletins called material safety data sheets (MSDSs) regarding those hazards and associated protective measures. On May 17, 1990 (55 FR 20480), OSHA published a request for comments and information (RFI) in the Federal Register to solicit public input on experiences regarding HCS implementation, and suggestions for improving the quality of information provided. Nearly 600 responses were received by OSHA in response to the RFI. By far the issue of greatest concern to the commenters was the standardization of the format or order of information for the MSDSs. Users of MSDSs believe that standardization will allow the MSDSs to be used more effectively; will make training easier; and will facilitate electronic (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: storage and retrieval of MSDS information. There was also significant support for standardization of label information. In addition to issues related to format, there are concerns regarding the comprehensibility of the MSDS information and international harmonization of chemical safety and health information. OSHA intends to develop a notice of proposed rulemaking (NPRM) to address the issues described above.

Agency Contact: **Charles E. Adkins**, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210, **202 219-7075**

RIN: 1218–AB43

2131. • COKE OVEN EMISSIONS

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: On January 28, 1992, the White House imposed a 90-day moratorium on regulations and directed the heads of selected Executive branch, departments, and agencies, including the Department of Labor, to evaluate existing regulations to identify those imposing unnecessary regulatory burdens; those that have failed to keep pace with technological innovations; and those that contain unnecessarily prescriptive requirements. In response to the President's request, the Department of Labor initiated a Request for Public Comment on the moratorium (57 FR 6301, February 24, 1992). As a result, OSHA identified the medical surveillance is to identify health problems caused by occupational exposure when intervention is likely to be of value. In theory, early diagnosis by medical surveillance would lead to increasing rates of cure. However, medical surveillance under the Coke Oven Standard attempts to recognize workers who have already developed severe illness (i.e., cancer of the lung or kidney) that requires extensive medical and/or surgical intervention. It has been brought to OSHA's attention that sputum cytology (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: monitoring of coke oven workers rarely, if ever, detects lung cancer in early stages. Also, the safety of semi-annual chest x-rays has been questioned. For these reasons, OSHA will initiate 6(b) rulemaking to update the Coke Oven Emissions Standard.

Agency Contact: **Charles E. Adkins**, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room

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DOL—OSHA — Proposed Rule Stage

N3718, FP Building, Washington, DC 20210, 202 219-7075

RIN: 1218–AB44

DEPARTMENT OF LABOR (DOL) — Final Rule Stage

Occupational Safety and Health Administration (OSHA)

2132. METHODS OF COMPLIANCE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000(e); 29 CFR 1910.134(a)(1)

Legal Deadline: None

Abstract: OSHA's policy concerning the use of engineering controls and respirators was targeted for review by the President's Task Force on Regulatory Relief in 1981. Current OSHA regulations require that employers implement feasible engineering controls to maintain air contaminant concentrations in the workplace at or below the prescribed permissible exposure limits. The use of respirators is permitted only in those cases where engineering controls are not feasible, not yet installed, or not adequate. This policy has been criticized as being inflexible, not cost-effective, and often unnecessary for employee health protection. OSHA believes that any changes to the policy for use of engineering controls must be closely coordinated with revisions in the respiratory protection regulations (29 CFR 1910.134). This rulemaking does not address the assessment and reduction of any absolute existing risks, but rather addresses the possible change in risk abatement associated with the use of respirators instead of engineering controls. OSHA published a proposal on June 5, 1989 (54 FR 23991). Hearings were held on May 30-31, 1990, and continued on July 9-10, 1990.

Timetable:

Action	Date	FR Cite
ANPRM	02/22/83	48 FR 7473
ANPRM Comment Period End	06/22/83	
NPRM	06/05/89	54 FR 23991
NPRM Comment Period End	10/03/89	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Post-hearing comments were due by October 9, 1990, and responses to post-hearing comments were due by December 10, 1990. In response to oral petitions from participants, the post-hearing comment period was extended to January 14, 1991. OSHA will use the information received in response to the proposal to develop a final rule.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3718, FP Bldg, 200 Constitution Ave. NW., Washington, DC 20210, 202 219-7075

RIN: 1218–AA28

2133. SCAFFOLDS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1926.752(k)

Legal Deadline: None

Abstract: The existing standard has been proposed for revision because it is poorly formatted, contains unnecessary and restrictive provisions, and omits necessary specific coverage for certain types of scaffolds. The proposal raises several significant issues including: (1) the use of crossbraces as guardrails, (2) the use of fall protection during scaffold erection and dismantling operations, and (3) the role of engineers in scaffold design. (Subpart L, revised)

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	08/14/87	52 FR 20616
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This agenda entry is part of Regulatory Program RIN 1218-AB05; Elevated Surfaces (Part 1926).

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AA40

2134. FALL PROTECTION SYSTEMS (PERSONAL PROTECTIVE EQUIPMENT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910, subpart I

Legal Deadline: None

Abstract: Existing standards do not contain criteria for personal fall protection systems. Consequently, requirements containing criteria for personal fall protection systems would be added to 29 CFR part 1910; Subpart I, Personal Protection Equipment, to enhance employee protection from injury and death due to falls to different elevations.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13423
NPRM Comment Period End	08/22/90	55 FR 13423
Hearing	09/11/90	55 FR 29224
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: 1218-AA48 will be issued concurrently with 1218-AB04.

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605,

DOL—OSHA — Final Rule Stage

FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AA48

2135. LOGGING OPERATIONS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.266 (Revision)

Legal Deadline: None

Abstract: Logging is a very hazardous industry. It has an incidence rate nearly twice that of manufacturing, and reflecting the seriousness of the injuries incurred, a lost workday rate nearly four times as high. The purpose of the standard will be to protect workers from the ever-present hazards of chain saw operation, falling objects (trees, branches), rolling or sliding logs, falls from trees, and materials handling accidents. At present there is no OSHA standard specifically applicable to logging in general. There is a standard, 29 CFR 1910.266, applicable only to pulpwood logging; however, pulpwood logging is estimated to account for less than half of the logging activity in the United States. Development of a national OSHA standard addressing all types of logging will provide coverage for those loggers not now protected. The new regulation will provide coverage where there is no approved state regulation and will set a minimum safety level for those states that chose to develop a state regulation.

Timetable:

Action	Date	FR Cite
NPRM	05/02/89	54 FR 18798
NPRM Comment Period End	07/31/89	
Public Hearing 07/24/90	05/11/90	55 FR 19745
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 24 Lumber and Wood Products, Except Furniture

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AA52

2136. ELECTRIC POWER GENERATION, TRANSMISSION AND DISTRIBUTION (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.137; 29 CFR 1910.269

Legal Deadline: None

Abstract: A major area of coverage not addressed in the current OSHA electrical standards for general industry (29 CFR 1910) involves the maintenance and operation practices associated with electrical transmission and distribution lines, substations and generating stations. It is intended that the proposed standard fill this void by establishing minimum requirements for electrical safety work practices for qualified employees working on or near installations whose purpose is the generation and distribution of electricity. The proposal also revises the standards for electrical protective equipment, which is used routinely for electrical power work.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 4974
NPRM Comment Period End	06/01/89	
Public Hearing Scheduled for 11/28/89	08/03/89	54 FR 31970
Reopening of the Record and Request for Public Comment	11/09/90	55 FR 47074
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AA59

2137. FALL PROTECTION IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.201; 29 CFR 1915.202; 29 CFR 1915.203; 29 CFR 1915.73; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.77

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering fall protection and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR part 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48166
NPRM Comment Period End	02/27/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable part 1910 provisions under consideration: 29 CFR 1910.21-1910.23.

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AA66

2138. SCAFFOLDS IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71; 29 CFR 1910.28; 29 CFR 1910.29

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standards covering scaffolds and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR part 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

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DOL—OSHA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48182
NPRM Comment Period End	02/27/89	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable part 1910 provisions under consideration: 29 CFR 1910.28 - 1910.29.

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AA68

2139. ACCESS AND EGRESS IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standards covering access and egress and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR Part 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable part 1910 provisions under consideration: 29 CFR 1910.24-1910.27; 29 CFR 1910.36-1910.37.

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AA70

2140. FACE, HEAD, EYE AND FOOT PROTECTION (PERSONAL PROTECTIVE EQUIPMENT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Existing standards for eye, face, head, and foot protection reference outdated national consensus standards which have been updated and improved. Consequently, criteria for personal protective equipment for eye, face, head, and foot would be revised to reflect improved developments in these types of equipment. This would allow the use of better personal protective equipment and would result in improved employee protection from eye, face, head, and foot hazards.

Timetable:

Action	Date	FR Cite
NPRM	08/16/89	54 FR 33832
NPRM Comment Period End	10/16/89	
Public Hearing Held April 3, 1990	02/01/90	55 FR 3412
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AA71

2141. WELDING, CUTTING AND HEATING IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.51; 29 CFR 1915.52; 29 CFR 1915.53; 29 CFR 1915.54; 29 CFR 1915.55; 29 CFR 1915.56; 29 CFR 1915.57

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering welding, cutting, and heating. The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. In addition, it will consolidate 29 CFR part 1915 standards and applicable 29 CFR part 1910 standards into one set of provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48111
NPRM Comment Period End	02/27/89	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Applicable part 1910 provisions under consideration: 29 CFR 1910.251-1910.252.

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AA73

2142. PERSONAL PROTECTIVE EQUIPMENT IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.151; 29 CFR 1915.152; 29 CFR 1915.153; 29 CFR 1915.154; 29 CFR 1915.155; 29 CFR 1915.156; 29 CFR 1915.157; 29 CFR 1915.158; 29 CFR 1915.159

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering personal protective equipment. The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. It will consolidate 29 CFR part 1915 standards and applicable 29 CFR part 1910 standards into one set of provisions.

DOL—OSHA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48150
NPRM Comment Period End	02/27/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable part 1910 provisions under consideration: 29 CFR 1910.132-1910.137.

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3605, FP Bldg., Washington, DC 20210, 202 219-8061

RIN: 1218–AA74

2143. 1,3-BUTADIENE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000 (Table Z-1); 29 CFR 1910.1051

Legal Deadline: None

Abstract: On October 10, 1985, EPA referred 1,3-butadiene (BD) to OSHA for possible regulatory action under section 9(a) of the Toxic Substance Control Act. On April 11, 1986, OSHA responded to the EPA referral indicating that the Agency has preliminarily concluded that BD poses risk to the occupationally exposed population at the current OSHA permissible exposure limit and that the risk can be reduced or prevented through the promulgation of a revised standard. On October 1, 1986 (51 FR 35003), OSHA published an ANPRM initiating regulatory action within the meaning of section 9(a) of TSCA. Comments were submitted to OSHA by December 30, 1986. Based on the comments received in response to the ANPRM OSHA developed a proposal which was published on August 10, 1990. Hearings were held in Washington, D.C. on January 15, 1991, and in New Orleans, Louisiana on February 20, 1991. Submission of the post-hearing comments and briefs were scheduled to end on June 22, and July 22, 1991 respectively; however, OSHA extended the dates to September 27, and October 28, 1991. The post-hearing comments and briefs were again extended and finally closed on (cont)

Timetable:

Action	Date	FR Cite
EPA Referral	10/10/85	50 FR 41393
Request for Comments	12/27/85	50 FR 52952
Response to EPA Referral	04/11/86	51 FR 12526
ANPRM	10/01/86	51 FR 35003
ANPRM Comment Period End	12/30/86	
NPRM	08/10/90	55 FR 32736
NPRM Comment Period End	10/19/90	55 FR 32736
Final Action	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: November 26, 1991 and February 10, 1992, respectively.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3718, FP Bldg., Washington, DC 20210, 202 219-7075

RIN: 1218–AA83

2144. EXPLOSIVE AND OTHER DANGEROUS ATMOSPHERES (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.11; 29 CFR 1915.12; 29 CFR 1915.13; 29 CFR 1915.14; 29 CFR 1915.15; 29 CFR 1915.16

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering explosive and other dangerous atmospheres. This revision will develop, in part, a performance-oriented standard, address any gaps in coverage, recognize new technology, and eliminate outmoded or redundant standards.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48092
NPRM Comment Period End	02/27/89	
NPRM Comment Period Reopened Until 9/22/92	06/24/92	57 FR 28152
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 373 Ship and Boat Building and Repairing

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AA91

2145. METHYLENE CHLORIDE

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: In July 1985, OSHA was petitioned by the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) to issue a hazard alert; issue an emergency temporary standard; and to begin work on a new permanent standard for methylene chloride (DCM). This request was based on information obtained from the Environmental Protection Agency and the National Toxicology Program indicating that DCM is an animal carcinogen and may have the potential to cause cancer in humans. In November 1986, OSHA notified the UAW that its petition had been granted, in part, and denied, in part. Specifically, OSHA issued a set of guidelines for controlling occupational exposure to DCM and OSHA denied that portion of the petition requesting the issuance of an emergency temporary standard. OSHA published an Advance Notice of Proposed Rulemaking on November 24, 1986 (51 FR 42257). After reviewing and analyzing the comments received in response to the ANPRM, OSHA published a proposal in the Federal Register on November 7, 1991 (56 FR 57036). The comment period closed on April 6, 1992. On June 9, 1992, OSHA published a notice of informal public hearings to be held in Washington, DC on (cont)

Timetable:

Action	Date	FR Cite
ANPRM	11/24/86	51 FR 42257

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Action	Date	FR Cite
ANPRM Comment Period End	02/23/87	51 FR 42257
NPRM	11/07/91	56 FR 57036
NPRM Comment Period End	04/06/92	
Final Action	09/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: September 16, 1992 and in San Francisco, CA on October 14, 1992. The notice also reopened the comment period until August 24, 1992.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3718, FPBldg., Washington, DC 20210, **202 219-7075**

RIN: 1218–AA98

2146. HAZARD COMMUNICATION

Significance: Regulatory Program

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657; 33 USC 941; 40 USC 333; 5 USC 553

CFR Citation: 29 CFR 1910.1200; 29 CFR 1915.99; 29 CFR 1917.28; 29 CFR 1918.90; 29 CFR 1926.59; 29 CFR 1928.21

Legal Deadline: None

Abstract: OSHA promulgated a final rule on August 24, 1987, that extended the protections of its Hazard Communication Standard (HCS) from the manufacturing sector to all other workplaces where employees are exposed to hazardous chemicals. The HCS requires covered employers to establish hazard communication programs for their employees, including labels on containers, material safety data sheets, and training programs. On August 8, 1988, OSHA published a NPRM to modify the final rule, and provide an opportunity for public comment. Public comments have been received, hearings have been held, and OSHA will prepare a final rule based on the public record for this standard, including the record developed in earlier rulemakings. OSHA published a request for information (RFI) on May 17, 1990, (55 FR 20580) to improve the quality and representation of the information provided on the MSDS's and labels and to consider a standardized format. OSHA will determine if the rule should be reopened after the comments and other relevant information are analyzed. The comment period for the RFI expired on August 15, 1990.

Timetable:

Action	Date	FR Cite
ANPRM	11/27/85	50 FR 48794
ANPRM Comment Period End	02/25/86	
NPRM	08/08/88	53 FR 29822
NPRM Comment Period End	10/28/88	
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3718, FP Bldg., Washington, DC 20210, **202 219-7075**

RIN: 1218–AB02

2147. WALKING AND WORKING SURFACES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.21; 29 CFR 1910.22; 29 CFR 1910.23; 29 CFR 1910.24; 29 CFR 1910.25; 29 CFR 1910.26; 29 CFR 1910.27; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1910.30; 29 CFR 1910.31; 29 CFR 1910.32

Legal Deadline: None

Abstract: Existing standards for walking and working surfaces need to be revised because they are out of date and restrict technological innovation. The proposed revision is performance-oriented and permits flexibility for compliance.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	08/22/90	55 FR 13360
Hearing	09/11/90	55 FR 29224
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: 1218-AB04 will be issued concurrently with 1218-AA48.

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Bldg., Washington, DC 20210, **202 219-8061**

RIN: 1218–AB04

2148. ASBESTOS (REMAND)

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR 1910.1001; 29 CFR 1926.58

Legal Deadline: None

Abstract: On June 20, 1986, OSHA published revised standards governing occupational exposure to asbestos, tremolite, anthophyllite and actinolite in general industry and construction. In these standards, OSHA reduced the 8-hour time weighted average (TWA) permissible exposure limit (PEL) to 0.2 f/cc, and established other protective provisions. This standard was legally challenged, and as a result, the Court of Appeals for the District of Columbia upheld the standard except that the court held that OSHA must reconsider several of the standard's provisions to determine if more protective regulatory provisions are available to reduce risk. One of the issues to be reconsidered was the need for a short-term limit for occupational exposure to asbestos in response to the Court's directive. This limit was established as 1 f/cc averaged over a 30-minute sampling period and a legal notification of this amendment was published on September 14, 1988, at 53 FR 35610. (cont)

Timetable:

Action	Date	FR Cite
Asbestos Remand - Category I Issues	12/20/89	54 FR 52024
Asbestos Remand - Category II Effective Date 5/7/90	02/05/90	55 FR 3724
Asbestos Remand - Category II Issues	02/05/90	55 FR 3724
Asbestos Remand - Category III	07/20/90	55 FR 29712
Hearing	10/23/90	55 FR 29712
Hearing	11/09/90	55 FR 40676
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: On December 20, 1989 (54 FR 52024) OSHA responded to the first three remand issues. OSHA deleted the ban on spraying asbestos containing materials; amended the regulatory text to clarify when construction employers must resume periodic monitoring; and explained why OSHA is not amending the regulatory text to clarify the limited exemption for "small-scale, short-duration operations" in the construction industry standard. OSHA published a notice of its resolution of Category II remand issues on February 5, 1990, and a notice of proposed rulemaking for Category III on July 20, 1990 (55 FR 29712). On September 20, 1990, the comment period was extended to December 3, 1990, and the public hearing was rescheduled to commence on January 23, 1991. The post-hearing comment period closed on April 26, 1991, and the briefing period was extended to July 24, 1991. On November 3, 1992 (57 FR 49657), OSHA reopened the record for 60 days to receive additional comments.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Bldg, Washington, DC 20210, **202 219-7075**

RIN: 1218–AB25

2149. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); PL 101-549 (November 15, 1990); 5 USC 552(a); 5 USC 533

CFR Citation: 29 CFR 1910.121, subpart H

Legal Deadline: None

Abstract: Public Law 99-499 established the criteria under which OSHA developed and promulgated 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response (HAZWOPER). 29 CFR 1910.120 was published March 9, 1989, and became effective one year later. Section 126 of Public Law 99-499 was later revised to require OSHA to also develop a training accreditation program for the training programs required in paragraphs (e) and (p) of 1910.120. OSHA has been developing that accreditation program based upon the initial public record of comments on its proposed accreditation program and additional public comments received in response to a limited reopening of the public record in 1992. The limited reopening of the public record allowed additional public comment on an effectiveness of training study conducted by OSHA. OSHA continues to develop and refine the regulatory text for the final rule. We are also developing the logistics necessary for receiving and accrediting the large number of training programs expected to be submitted to the Agency for accreditation.

Timetable:

Action	Date	FR Cite
NPRM	01/26/90	55 FR 2776
NPRM Comment Period End	04/26/90	55 FR 2776
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Bldg, Washington, DC 20210, **202 219-8061**

RIN: 1218–AB27

2150. OCCUPANT PROTECTION IN MOTOR VEHICLES

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.140; 29 CFR 1915.99; 29 CFR 1915.100; 29 CFR 1917.44; 29 CFR 1918.73; 29 CFR 1926.33; 29 CFR 1928.58

Legal Deadline: None

Abstract: OSHA has developed the regulatory text for this rule and is developing the preamble portion of the Final Rule. OSHA has slowed the development of this rule as a result of recent Congressional action on the Department of Labor's 1993 appropriation bill. Initial versions of the appropriation bill would have prevented OSHA from enforcing this rule if it were promulgated. Final Congressional action has resulted in a requirement for OSHA to review, reexamine, and reevaluate the public record of comments with regard to the following four issues. First, whether mandatory seat belt use or driver awareness training is necessary for all occupational vehicle use, particularly passenger cars, and whether mandatory motorcycle helmet use is necessary. Second, whether mandated driver awareness training programs for employees reduce motor vehicle injuries or fatalities, and whether employers should be penalized for an employee's failure to conform to vehicular safety regulation. Third, what impact employee driver training requirements will have on employers, and particularly, small businesses. And, finally, how OSHA will ensure (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/12/90	55 FR 28728
NPRM Comment Period End	11/09/90	55 FR 28728
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: that employers are not unfairly punished under the final rule for the actions of the employees. OSHA is presently conducting the reevaluation of the public record in response to the Congressional directive.

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210, **202 219-8061**

RIN: 1218–AB28

2151. LEAD IN CONSTRUCTION

Significance: Regulatory Program

Legal Authority: Not yet determined

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: On November 14, 1978 (43 FR 52952), OSHA promulgated a standard that limited occupational exposures to lead. The standard also contained requirements for exposure monitoring, protective equipment,

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housekeeping and hygiene practices, medical surveillance, medical removal protection, posted areas and education and training. However, the scope of the standard did not include the construction industry. Lead exposures in the construction industry continued to be regulated by the air contaminants standard for construction (29 CFR 1926.55) which has no protective ancillary provisions such as those contained in the general industry standard. This standard adopted the 1970 American Conference for Governmental Industrial Hygienists (ACGIH) Threshold Limit Value (200 ug/m3) which is four times the current standard for general industry. OSHA recognized that this level represents a potential for material impairment of health and is in the process of developing a proposal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The Housing and Community Development Act (Title IV, Subtitle C, Section 1031) (October 28, 1992) requires the Secretary of Labor to adopt an interim final regulation (within 180 days) on occupational exposure to lead in the construction industry. The regulation would provide places of employment for employees which are as safe and healthful as those which would prevail under the Department of Housing and Urban Development Guidelines published on September 28, 1990. It is OSHA's intention to promulgate a permanent rule which will supersede the interim final rule. The interim rule will not follow any procedural requirements of Section 6 of the OSH Act or the notice and comment provisions of the Administrative Procedure Act.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210, 202 219-7075

RIN: 1218–AB34

2152. REPORTING OF FATALITY OR MULTIPLE HOSPITALIZATIONS

Significance: Regulatory Program

Legal Authority: 29 USC 657; 29 USC 673

CFR Citation: 29 CFR 1904.8

Legal Deadline: None

Abstract: Concerns have been raised by Congress, OMB, OSHA, NIOSH, BLS, the National Academy of Sciences, GAO and representatives of business and labor about the reporting of fatalities and multiple hospitalizations. These include the procedures employers are required to follow, the length of time employers have to report the fatalities to OSHA, and the number of hospitalizations required before the employer must report the incident to OSHA. In particular, 48 hour reporting may allow too many workplace factors to change before OSHA can reach the worksite to perform an adequate investigation of the incident. In addition, there are concerns that the current regulation may not adequately inform employers of the need to report all occupational fatalities, including those that occur extended periods of time after the employee was originally injured. Benefits will include more accurate employer reporting of fatalities and multiple hospitalizations, an improved ability for OSHA to respond to serious accidents while evidence is still "fresh," an improved count of fatalities and multiple hospitalizations and an upgraded data base for researchers and policy officials.

Timetable:

Action	Date	FR Cite
NPRM	05/19/92	57 FR 21222
NPRM Comment Period End	08/17/92	
Final Action	06/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Stephen A. Newell, Director, Office of Statistics, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3507, FP Building, Washington, DC 20210, 202 219-6463

RIN: 1218–AB35

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Completed Actions

2153. CONFINED SPACE (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.146

Legal Deadline: None

Abstract: Entry into confined spaces has been responsible for many employee deaths and injuries. However, current standards do not specifically address the hazards associated with entry into confined spaces. Therefore, OSHA is proposing certain criteria and precautions which are necessary to minimize the hazards associated with employees entering confined spaces.

Timetable:

Action	Date	FR Cite
NPRM	06/05/89	54 FR 24080
NPRM Comment Period End	10/04/89	54 FR 30557
Final Action	01/14/93	58 FR 4462
Final Action Effective	04/15/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Agency Contact: Thomas J. Shepich, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210, 202 219-8061

RIN: 1218–AA51

DEPARTMENT OF LABOR (DOL)

Office of the Assistant Secretary for Veterans' Employment & Training (ASVET)

Prerule Stage

2154. UNIFORMED SERVICES EMPLOYMENT RIGHTS

Significance: Regulatory Program

Legal Authority: 38 USC 2021 to 2027

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Veterans' Reemployment Rights (VRR) law, 38 USC sections 2012-2206 with subsequent amendments and judicial constructions, has become a confusing and cumbersome doctrine. As a result, the Administration proposes to introduce legislation replacing the existing Veterans' Reemployment Rights statute. The proposed legislation requires the Secretary of Labor to issue regulations implementing and interpreting the statute. The proposal will seek to: (1) make the law understandable; (2) determine the veteran's entitlement and eligibility requirement on time rather than category of service; (3) promote expedited resolution of claims; and (4) provide statutory processing timeframes. The costs and benefits are intangible and relate to the ability to maintain sufficient membership in the Armed Forces, and to ensure the availability of citizen-soldiers.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: If and when legislation is enacted.

Agency Contact: Hary P. Puente-Duany, Director, Office of Veterans' Employment, Reemployment, and Training, Department of Labor, Office of the Assistant Secretary for Veterans' Employment & Training, 200 Constitution Avenue NW., Room S1316, FP Building, Washington, DC 20210, 202 219-9110

RIN: 1293–AA05

DEPARTMENT OF LABOR (DOL)

Office of the Assistant Secretary for Veterans' Employment & Training (ASVET)

Final Rule Stage

2155. VETERANS' PROGRAMS AND SERVICES ADMINISTERED BY THE OFFICE OF THE ASSISTANT SECRETARY FOR VETERANS' EMPLOYMENT AND TRAINING

Significance: Regulatory Program

Legal Authority: 38 USC Ch 41; 38 USC Ch 42; PL 100-323; 10 USC 1145 (PL 101-510); 29 USC 1721; 29 USC 49(k); PL 102-16

CFR Citation: 20 CFR Ch IX

Legal Deadline: None

Abstract: To revise new chapter IX of title 20, CFR, titled Office of the Assistant Secretary for Veterans' Employment and Training, to fully describe the authority and responsibilities for provision of services to veterans through administration of programs and activities carried out through the Veterans' Employment and Training Service (VETS). Revisions are to bring regulations into conformity with 38 U.S.C. chapters 41, 42, and 43, as amended by P.L. 100-323. Previous rulemaking will establish the new 20 CFR Chapter IX, Parts 1000-1099, which are hereby revised. According to PL 100-323, several major provisions must be added to the regulations as follows: (a) expand responsibilities of the Assistant Secretary for Veterans' Employment and Training; (b) establish position of Regional Administrator for Veterans' Employment and Training; (c) expand duties of Disabled Veterans' Outreach Program Specialists; (d) establish assignment formula and duties for local veterans' employment representatives; (cont)

Timetable:

Action	Date	FR Cite
NPRM	02/07/91	56 FR 5124
NPRM Comment Period End	04/08/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: ABSTRACT CONT: (e) expand list of data items to be collected and reported to Congress annually; (f) set requirements for greater coordination with JTPA and OPM. Requires solution since statute requires the Department of Labor to monitor and/or administer affected programs.

Agency Contact: Hary P. Puente-Duany, Director, Office of Veterans' Employment, Reemployment and Training, Department of Labor, Office of the Assistant Secretary for Veterans' Employment & Training, 200 Constitution Avenue NW., Room S1316, FP Building, Washington, DC 20210, 202 219-9110

RIN: 1293–AA03

[FR Doc. 93-7024 Filed 04-23-93; 8:45 am]

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Semiannual Regulatory Agenda

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DEPARTMENT OF STATE (STATE)

DEPARTMENT OF STATE

22 CFR Ch. I

[Public Notice 1776]

Unified Agenda of Federal Regulations

AGENCY: Department of State.

ACTION: Semiannual publication of regulatory agenda.

SUMMARY: As required by Executive Order 12291 and the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), the April 1993 agenda of regulations of the Department of State is set forth below. This agenda was prepared under the guidelines of OMB's memorandum of December 9, 1992. The purpose of the agenda is to provide information to the public on the Department's regulatory plans.

FOR FURTHER INFORMATION CONTACT: Sally J. Cummins, Assistant Legal Adviser for Management, Department of State, Room 5425, 2201 C Street NW., Washington, DC 20520-6310; telephone (202) 647-5154.

Dated: March 2, 1993.

Genta Hawkins Holmes,

Acting Under Secretary for Management.

DEPARTMENT OF STATE (STATE) — Prerule Stage

2156. AMENDMENT TO DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR CASE 89-011)

Legal Authority: 22 USC 2658; 22 USC 4343; 40 USC 486(c); 5 USC 301

CFR Citation: 48 CFR 601 to 670 (Revision)

Legal Deadline: None

Abstract: The DOSAR will be revised to include all agency acquisition regulations that implement and supplement the FAR. The revision will incorporate agency policy, procedures, contract clauses, solicitation provisions, and forms governing the Department of State contracting process.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Will Zehnder, Analyst, Domestic Policy and Compliance Division, Department of State, A/OPE, Room 603, SA-6, Washington, DC 20522-0602, **703 516-1690**

RIN: 1400–AA31

2157. • PASSPORT AND NOTARIAL ACTIVITIES OVERSEAS

Legal Authority: 8 USC 1104; 22 USC 2658; 22 USC 3926; 22 USC 4215

CFR Citation: 22 CFR 50.3; 22 CFR 50.5; 22 CFR 50.8; 22 CFR 50.12; 22 CFR 92.1; 22 CFR 92.1; 22 CFR 92.4; 22 CFR 92.5; 22 CFR 92.6; 22 CFR 92.7

Legal Deadline: None

Abstract: These additions and amendments to the CFR will allow officers other than commissioned Foreign Service Officers to perform notarial acts (excluding authentications), to adjudicate citizenship cases, to administer oaths for passport purposes and to issue passports. The extension of this responsibility for these administrative acts to these officers will allow Foreign Service consular officers to concentrate on managing the consular functions of the post.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carmen A. DiPlacido, Director, Office of Citizens Consular Services, Department of State, Bureau of Consular Affairs, Washington, DC 20520-4818, **202 647-3675**

RIN: 1400–AA46

DEPARTMENT OF STATE (STATE) — Proposed Rule Stage

2158. ESTABLISHMENT OF A REGISTRY IN THE DEPARTMENT OF STATE FOR INFORMATION ABOUT EXECUTION OF INTERNATIONAL WILLS

Legal Authority: See Abstract.

CFR Citation: 22 CFR 92.81(b)(3)

Legal Deadline: None

Abstract: By resolution of the international diplomatic conference that adopted the final text of the Convention, there was a recommendation that the Department of State establish an internal system to permit the optional registration of information to facilitate the discovery of international wills. The President transmitted the Convention to the Senate on July 2, 1986, with the recommendation that the Senate give its advice and consent to U.S. ratification of the Convention, and information about the intention to establish the Registry in the Department of State (Senate Treaty Doc. 99-29). The Senate gave advice and consent to ratification on August 2, 1991. The President signed the instrument of ratification on December 2, 1991. The U.S. has not deposited its instrument of ratification pending enactment of implementing legislation, the International Wills Act, required before the United States can take further action to ratify the Convention.

Timetable:

Action	Date	FR Cite
Senate Advice and Consent to Ratification of the 1973 Convention	08/02/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

STATE — Proposed Rule Stage

Agency Contact: Carmen A. DiPlacido, Director, Office of Citizens Consular Services, Department of State, Bureau of Consular Affairs, Washington, DC 20520-4818, **202 647-3666**

RIN: 1400–AA09

2159. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 22 USC 2658

CFR Citation: 22 CFR 135

Legal Deadline: None

Abstract: In August 1992 OMB prepared a revised Circular A-102 (dealing with grants and cooperative agreements to State and local governments). The Department of State has prepared a preamble to the proposed revised circular, endorsing it. When OMB publishes the revised circular as a proposed rule in the Federal Register, the Department's preamble will be published as well. OMB advises that it has discontinued plans to combine Circular A-102 and Circular A-110 (dealing with grants and cooperative agreements with other nonprofit organizations) into a single circular, and that Circular A-110 will follow a similar, but separate, course in revision.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/84	49 FR 24958
Notice of Proposed Forms	05/29/87	52 FR 20178
NPRM	06/09/87	52 FR 21820
Begin Review	06/24/87	52 FR 23729
Notice Public Comment Period End	07/28/87	52 FR 20178
NPRM Comment Period End	08/10/87	52 FR 21820
Final Rule	03/11/88	53 FR 8034
NPRM	11/04/88	53 FR 44716
NPRM Public Comment Period End	01/03/89	53 FR 44716
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Will Zehnder, Analyst, Domestic Policy and Compliance Division, Department of State, Room 603, SA-6, Washington, DC 20522-0602, **703 516-1690**

RIN: 1400–AA20

2160. INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR)

Legal Authority: 22 USC 2778; EO 12735; 22 USC 2751 et seq; EO 11958; EO 12735

CFR Citation: 22 CFR 120 to 130

Legal Deadline: NPRM, Statutory, June 1, 1991.
Deadline has been extended to May 1993.

Abstract: The ITAR were first published in their current form in 1955 and have been periodically amended to reflect statutory enactments and to implement foreign policy. The last substantial revision occurred in December 1984. In May 1992 the State Department office which administers the ITAR, the Office of Defense Trade Controls, published a proposed revision of the ITAR. This proposed revision clarifies and updates these regulations and adds exemptions for certain types of exports. This proposed rule is expected to become final in the next few months.

Timetable:

Action	Date	FR Cite
Published Administrative Changes to the International Traffic in Arms Regulations	10/17/89	54 FR 42496
New License Exemptions Under ITAR	06/26/90	53 FR 25981
NPRM	07/25/91	56 FR 34037
NPRM Comment Period End	08/26/91	
NPRM - Amending the ITAR (Two Rules)	09/05/91	56 FR 43894
NPRM - Two Rule Changes to the ITAR	09/16/91	56 FR 46753
Amend Prohibited Destination List	10/29/91	56 FR 55630
Amend USML	01/16/92	57 FR 1886
Designate Non-Significant Military Equipment	01/16/92	57 FR 1888
NPRM - Amends USML	04/13/92	57 FR 12774
NPRM - Amends USML	04/22/92	57 FR 14671
Final Rule - Amends Section 121 of ITAR	04/27/92	57 FR 15227
NPRM - Revision of ITAR	05/07/92	57 FR 19666
NPRM	07/20/92	57 FR 32148
NPRM - Global Position Systems Receivers	09/09/92	57 FR 41077
Final Rule - Amends USML	10/23/92	57 FR 48315
NPRM - Space	12/28/92	57 FR 61589
Continue Proposed Revisions	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Rose Biancaniello, Chief, Arms Licensing Division, Bureau of Politico-Military Affairs, Department of State, PM/DTC, Room 200, Annex 6, Washington, DC 20522-0602, 703 **875-6644**

RIN: 1400–AA23

2161. ADMINISTRATIVE PRACTICE AND PROCEDURE, CLASSIFIED INFORMATION, FREEDOM OF INFORMATION, PRIVACY

Significance: Agency Priority

Legal Authority: 5 USC 552; 5 USC 552a; 5 USC 551 et seq; 5 USC app 201; EO 12356; EO 12600

CFR Citation: 22 CFR 171

Legal Deadline: None

Abstract: These rules implement the Freedom of Information Act, the Privacy Act, and other information access provisions, and set forth the practices and procedures governing the availability of information and records to the public. The practices and procedures affect: The making of requests; the review of classified and other information in response to such requests; access and denial of access to the requested information; the right to administratively appeal a denial of access; the right to request amendment of personal information; the assessment and waiver of fees in connection with the foregoing; and access to and use of financial disclosure reports. During the next twelve months we anticipate that there will be a need to amend that section of the rules which covers the Privacy Act resulting from the creation of new systems of records subject to that Act.

Timetable:

Action	Date	FR Cite
NPRM	08/26/88	53 FR 32626

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STATE — **Proposed Rule Stage**

Action	Date	FR Cite
NPRM Comment Period End	09/26/88	53 FR 32626
Final Action	02/21/91	56 FR 6968
Final Action Effective	02/21/91	
Continue Proposed Revisions	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Margaret Grafeld, Chief, Privacy, Plans and Appeals Division, Department of State, A/IM/FPC/PPA, Room 1239, Washington, DC 20520-1239, 202 647-6620

RIN: 1400–AA30

2162. PROCEDURES FOR REVIEW OF ADVERSE ACTIONS

Legal Authority: 22 USC 211a; 22 USC 2705

CFR Citation: 22 CFR 51.80 to 51.89

Legal Deadline: None

Abstract: These rules provide the administrative remedy applicable to persons subject to adverse actions of denial, restriction, revocation, or invalidation of passports under 22 CFR 51.70 to 51.72. The action will amend the regulations to extend the application of the review procedures to actions of denial, restriction, revocation, or invalidation of passports based upon a finding of non-citizenship.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: William B. Wharton, Director, Office of Citizenship Appeals and Legal Assistance, Bureau of Consular Affairs, Department of State, Passport Services, 1425 K Street NW., Room 300, Washington, DC 20522-1705, 202 326-6175

RIN: 1400–AA33

2163. FOREIGN PROHIBITIONS ON LONGSHORE WORK BY U.S. NATIONALS

Legal Authority: 8 USC 1288(d)

CFR Citation: 22 CFR 89

Legal Deadline: Final, Statutory, December 31, 1992.

Legal deadline reflects the statutory requirement that the list be updated on an annual basis.

Abstract: The above-mentioned statute requires the Secretary of State to compile, and update annually through Notice-and-Comment rulemaking procedures, a list, by particular longshore activity, of countries where performance of such activity is prohibited by law, regulation, or in practice in the country concerned. According to the statute cited above, the Attorney General will use this list for enforcing restrictions on work performed by crewmembers of vessels from such countries. Compilation of the list itself does not involve any significant costs and is based upon information being provided to the Department of State by U.S. diplomatic missions overseas as well as by the public. Questions regarding the policy justification for the list and its use are best directed to the Department of Labor, Transportation, and Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/30/91	56 FR 24338
Final Rule	12/27/91	56 FR 66970
Final Rule Effective	01/01/92	
Final Rule Correction	01/04/92	57 FR 1384
NPRM	11/04/92	57 FR 52600
NPRM Comment Period End	12/04/92	
NPRM	09/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: In accordance with the mandate to maintain annually the list of countries, the Department will issue Final Rules to amend the list as appropriate.

Agency Contact: Stephen Miller, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State, 2201 C Street NW., Washington, DC 20520-5816, 202 647-6961

RIN: 1400–AA34

2164. VISAS; PART 41 DOCUMENTATION OF NONIMMIGRANTS UNDER THE INA, AS AMENDED

Significance: Regulatory Program

Legal Authority: PL 101-649, title II; PL 101-649, sec 204; PL 101-649, sec 205; PL 101-649, sec 206; PL 101-649, sec 207; PL 101-649, sec 208; PL 101-649, sec 209; PL 101-649, sec 201

CFR Citation: 22 CFR 41.51; 22 CFR 41.53; 22 CFR 41.54; 22 CFR 41.55; 22 CFR 41.56; 22 CFR 41.57; 22 CFR 41.58; 22 CFR 41.2(1); 22 CFR 41.2(j); 22 CFR 41.31

Legal Deadline: NPRM, Statutory, October 1, 1991.

Abstract: The Immigration Act of 1990 (The Act), Pub. L. 101-649, enacted on November 29, 1990, constitutes a comprehensive revision of the United States immigration law. This law modified certain nonimmigrant visa (NIV) classifications and created others. The Immigration and Nationality Act at section 104 (8 U.S.C. 1104) grants the Secretary of State general authority over the issuance and refusal of visas and to promulgate necessary regulations.

Timetable:

Action	Date	FR Cite
Proposed Rule; Passport and Visa Waiver Requirements (22 CFR 41.2(j))	07/30/91	56 FR 36029
NPRM - Modification of Nonimmigrant Visa Classifications	09/03/91	56 FR 43565
Interim Rule; Visa Waiver Pilot Program (22 CFR 41.2(1))	09/13/91	56 FR 46716
Proposed Rule; Creation of New NIV Classification	01/06/92	57 FR 00341
Final Rule; H-L-P-O Visas, 41.11 and 41.12	07/16/92	57 FR 31446
NPRM	05/00/93	
Final Rule; Delegation of Authority	05/00/93	
Final Rule; WWPP	06/00/93	
NPRM Comment Period End	07/00/93	
Final Rule; E Visas	08/00/93	
Final Rule; R Visas	09/00/93	
Final Action	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cornelius D. Scully, III, Office Director, Legislation, Regulations and Advisory Assistance, Department of State, Bureau of Consular Affairs, 2401 E Street, NW., SA-1, Washington, DC 20521-0113, 202 663-1184

RIN: 1400–AA36

STATE — **Proposed Rule Stage**

2165. VISA LOOKOUT SYSTEM

Significance: Regulatory Program

Legal Authority: PL 102-138, sec 128(e)

CFR Citation: 22 CFR 40

Legal Deadline: NPRM, Statutory, October 28, 1991.

Abstract: The Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, Pub. L. 102-138, enacted October 28, 1991, also modified certain provisions of the Immigration Act of 1990. Section 128(e) provides that the Secretary of State may enter into, or retain in, the visa lookout system names of aliens who have not been formally found to be ineligible to receive visas only for specified reasons and directs the Secretary to establish regulations and procedures for this purpose. This regulation would respond to that statutory requirement.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cornelius D. Scully, III, Office Director, Legislation, Regulations and Advisory Assistance, Department of State, Bureau of Consular Affairs, 2401 E Street NW., SA-1, Washington, DC 20522-0113, 202 663-1184

RIN: 1400–AA43

2166. VISA PART 45 DOCUMENTATION OF IMMIGRATION UNDER SECTION 124 OF PUBLIC LAW 101-649, AS AMENDED BY PUBLIC LAW 101-232

Legal Authority: PL 101-232, sec 302(b)(1)(5)

CFR Citation: 22 CFR 45.3(a)

Legal Deadline: None

Abstract: Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Pub. L. 102-232, was enacted on December 12, 1991, to make necessary technical corrections to the Comprehensive Immigration Act of 1990, Pub. L. 101-649. The Immigration and Nationality Act at section 104 (8 USC 1104) grants the Secretary of State general authority over the issuance and refusal of visas and to promulgate necessary regulations. That statutory provision constitutes the general authority to promulgate these regulations. Section 302(b)(1)(5) amends section 124 of the Immigration Act of 1990, relating to the transition for employees of U.S. businesses operating in Hong Kong.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cornelius D. Scully, III, Office Director, Legislation, Regulations and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113, 202 663-1184

RIN: 1400–AA44

DEPARTMENT OF STATE (STATE) — Final Rule Stage

2167. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; 22 USC 2658

CFR Citation: 22 CFR 138 (New)

Legal Deadline: None

Abstract: This interim final rule establishes a uniform regulation for nonprocurement Federal transactions among 29 Federal agencies. The regulation adopts and implements guidance published by the Office of Management and Budget (see 54 52306, December 20, 1989), pursuant to section 319 of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990. Section 319 added section 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," to title 31, United States Code. The interim final rule, published February 26, 1990, establishes semiannual reporting requirements. There has been no final action on the interim final rule, because new legislation has been proposed by Senator Levin which, if enacted, would rescind the current requirement for semiannual reporting, and add a provision requiring registration by all lobbyists with the Department of Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
OMB Governmentwide Guidance (Notice)	06/15/90	55 FR 24540

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Will Zehnder, Analyst, Domestic Policy and Compliance Division, Department of State, A/OPE, Room 603, SA-6, Washington, DC 20522-0602, 703 516-1690

RIN: 1400–AA29

2168. VISAS; PART 42 DOCUMENTATION OF IMMIGRANTS UNDER THE INA, AS AMENDED

Significance: Regulatory Program

Legal Authority: PL 101-649, title I; PL 101-649, sec 154; PL 101-649, sec 155

CFR Citation: 22 CFR 42; 22 CFR 42.72; 22 CFR 42.54

Legal Deadline: NPRM, Statutory, October 1, 1991.

Abstract: The Immigration Act of 1990 (the Act), Pub. L. 101-649, enacted on November 29, 1990, constitutes a comprehensive revision of the United States immigration law. The law partially restructured the immigrant visa system. The Immigration and Nationality Act at section 104 (8 U.S.C. 1104) grants the Secretary of State general authority over the issuance and refusal of visas and to promulgate necessary regulations.

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STATE — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Final Rule - Expedited Issuance of Certain Lebanese Visas	05/03/91	56 FR 20347
Final Rule - Extended Validity of IVs for Hong Kong	07/16/91	56 FR 32322
Final Rule - Extended Validity of IVs for Hong Kong	07/17/91	56 FR 52503
Interim Final Rule - Reorganize Immigrant Visa Regulations	10/01/91	56 FR 49678
Interim Final Rule - Various Amendments	10/01/91	56 FR 49675
Interim Final Rule - Reorganize Immigrant Visa Regulations	10/10/91	56 FR 49678
Interim Final Rule Effective	10/10/91	56 FR 51170
Interim Final Rule Comment Period End	10/31/91	56 FR 55077

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cornelius D. Scully, III, Office Director, Legislation, Regulations and Advisory Assistance, Department of State, Bureau of Consular Affairs, 2401 E Street, NW., SA-1, Washington, DC 20522-0113, 202 663-1184

RIN: 1400–AA37

DEPARTMENT OF STATE (STATE) — **Completed Actions**

2169. • CHANGE OF AGE ON PASSPORT APPLICATION (DSP-82)

Legal Authority: 22 USC 211a et seq

CFR Citation: 22 CFR 51.21 (Revision)

Legal Deadline: None

Abstract: To raise from 16 to 18, the age after which a passport applicant may use the mail-in procedure. To specify under what circumstances the personal appearance of a minor may be waived in applying for a passport.

Timetable:

Action	Date	FR Cite
Final Action	12/16/92	57 FR 59807
Final Action Effective	12/16/92	57 FR 59807

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Wharton, Director, Office of Citizenship Appeals and Legal Assistance, Bureau of Consular Affairs, Department of State, Passport Services, 1425 K Street NW., Room 300, Washington, DC 20522-1705, 202 326-6172

RIN: 1400–AA45

[FR Doc. 93-6054 Filed 04-23-93; 8:45 am]

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federal register

Monday
April 26, 1993

Part XIV

Department of Transportation

Semiannual Regulatory Agenda

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DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

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23 CFR Chs. I-III

33 CFR Chs. I and IV

46 CFR Chs. I-III

48 CFR Ch. 12

49 CFR Subtitle A, Chs. I-VI

[OST Docket No. 59; Notice 93-9]

Department Regulations Agenda; Semiannual Summary

AGENCY: Office of the Secretary, DOT.

ACTION: Department regulations agenda.

SUMMARY: The regulations agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity. The public is also invited to submit comments to continuously open regulatory review dockets, suggesting items for consideration as part of the Department's ongoing review of existing regulations.

ADDRESSES: The mailing address for the initiating offices of the Department which appear in the agenda is 400 7th Street SW., Washington, DC 20590; except for the Federal Aviation Administration, which is located at 800 Independence Avenue SW., Washington, DC 20591, and the U.S. Coast Guard, which is located at 2100 2nd Street SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the agenda in general, contact: Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-4723.

Specific

For further information about any particular item on the agenda, contact the individual listed in the column headed "Agency Contact" for that item.

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Agenda

SUPPLEMENTARY INFORMATION:

Background

Improvement of Government regulations is a prime goal of the Clinton Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation (Department) achieve these goals and in accordance with Executive Order 12291 "Federal Regulation" (46 FR 13193; February 19, 1981) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual regulations agenda for publication in the **Federal Register**. The agenda summarizes all current and projected rulemaking, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the initiating offices in January and July each year. After these reports are consolidated for and reviewed by the Department Regulations Council, the Department's regulations agenda is prepared and published in the **Federal Register**. The Department's last agenda was published in the **Federal Register** on November 3, 1992 (57 FR 51616). The next one is scheduled for publication in the **Federal Register** in October 1993.

Regulatory Flexibility Act

In 1980, Congress passed the Regulatory Flexibility Act (RFA), Public Law 96-354, which requires the designation of those regulations for which a Regulatory Flexibility Analysis will be prepared; i.e., those regulations that would have a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis is required for a rulemaking which, in the heading "Small Entities Affected," indicates an effect on small businesses, governmental jurisdictions, or organizations. If a Regulatory Flexibility Analysis will be prepared for a particular rulemaking, that fact also will be noted under the heading "Analysis."

The RFA also requires that, each year, the Department publish a list of those regulations that have a significant economic impact on a substantial number of small entities and are to be reviewed under the Act during the succeeding 12 months. The agenda includes those regulations to be reviewed under the RFA or those for which review has been concluded since the last agenda. However, it should be noted that, after a preliminary assessment of the regulations listed for RFA review, it may be found that the regulations, in fact, do not have a significant economic impact on a substantial number of small entities, and a full RFA review will be unnecessary.

Regulatory Impact Analysis

A preliminary and final Regulatory Impact Analysis is required for each proposed and final regulation, respectively, that

(1) is likely to result in:

(a) An annual effect on the economy of $100 million or more;

(b) a major effect on the general economy in terms of costs, consumer prices, or production;

(c) a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions;

(d) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets; or

(2) the Secretary or head of the initiating office has determined requires such an analysis.

Definitions

The agenda covers all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

(1) *Initiating office* means an operating administration or other organizational element within the Department, the head of which is authorized by law or delegation to issue regulations or to formulate regulations for issuance by the Secretary.

(2) *Significant regulation* means a regulation that is not an emergency regulation and that, in the judgment of the head of the initiating office or the Secretary or the Deputy Secretary,

(a) is a major regulation;

(b) concerns a matter on which there is substantial public interest or controversy;

(c) has a major impact on another operating administration or other parts of the Department or other Federal agency;

(d) has a substantial effect on State and local governments;

(e) has a substantial impact on a major transportation safety problem;

(f) initiates a substantial regulatory program or change in policy;

(g) is substantially different from international requirements or standards; or

(h) otherwise involves important Department policy.

(3) *Major regulation* means a significant regulation for which a Regulatory Impact Analysis is required to be prepared.

(4) *Emergency regulation* means a regulation that, (a) in the judgment of the head of the initiating office, circumstances require to be issued without notice and opportunity for public comment or made effective in less than 30 days after publication in the **Federal Register** or (b) is governed by short-term statutory or judicial deadlines.

(5) *Nonsignificant regulation* means a regulation that, in the judgment of the head of the initiating office, is neither a significant nor an emergency regulation.

Explanation of Information on the Agenda

The format for this agenda is required by Office of Management and Budget memorandum of December 9, 1992.

First, the agenda is divided by initiating offices. Then, in accordance with the OMB memorandum, for each initiating office, the agenda is divided into four categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, and (4) completed actions. For each entry, the agenda provides the following information: (1) The "significance" of the action (i.e., whether it is significant because it is on the Regulatory Program or because of agency priority or whether it is nonsignificant or routine and frequent); (2) a short descriptive title; (3) the legal basis for the action being taken or the regulation being reviewed; (4) the related regulatory citation in the Code of Federal Regulations; (5) an indication of any legal deadline and, if so, for what type of action (e.g., NPRM, final rule); (6) an abstract of the review or the proposed or final regulation; (7) a timetable, including the earliest expected date for a decision, on whether to issue the proposed or final regulation or complete the review and determine the corrective action to be taken. The preparation of this agenda and the development of most of the individual rulemakings began before the Clinton Administration took office. Upon further, more in-depth review, different approaches may be developed to some of the problems addressed by some of these rulemakings. (The action taken can be revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12291 and the Department's Regulatory Policies and Procedures.); (8) an indication as to whether the rulemaking will affect small entities and/or levels of government and which categories of small entities or governments will be impacted; (9) if there is information that does not fit in the other categories, it will be included under a separate heading entitled "Additional Information"; (10) a listing, where determined, of any analyses an initiating office will prepare or has prepared for the rulemaking document; e.g., a Regulatory Impact Analysis or Evaluation, an Environmental Impact Statement (EIS), a Regulatory Flexibility Analysis, or an Urban Impact Analysis. (It should be noted that, even though a Regulatory Impact Analysis is not required for some items on the agenda, the Department requires an economic analysis for all of its regulations. This economic analysis is contained in the Regulatory Evaluation, if a Regulatory Impact Analysis is not prepared.); (11) an agency contact office or official who can provide further information, including advice on how to obtain documents referenced in the agenda; and (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue in the **Federal Register** which may occur between agenda publications. (Departmental rulemaking documents published in the **Federal Register** now contain RIN numbers.)

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it may be provided under the "Additional Information" heading. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number.

In the "Timetable" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM

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stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a future date in this column is not an indication that a proposed or a final rule will be issued on that date; it is the earliest date on which a decision is expected to be made on whether to issue the document listed. Submittal of any proposed or final rule to the Office of Management and Budget for review under Executive Order 12291 must follow such a decision. For major rules, this review could take 60 days or more. If any document is issued, publication in the **Federal Register** would follow within a few days. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the agenda for the first time.

Mailing Lists for Regulatory Documents

To assist the public in obtaining regulatory documents issued within the Department of Transportation, an Appendix A has been included in this document. The appendix contains instructions on how to be placed on mailing lists for or to obtain copies of specific regulatory documents, including the Department's semiannual regulations agenda issued by the operating administrations of the Department and the Office of the Secretary. There is no charge for this service; however, because of the costs involved, the number of copies of a document forwarded to an individual requestor may be limited. Persons already on mailing lists for particular documents within the Department will remain on those lists and should not reapply.

By following the instructions specified in the appendix, a person can be placed on a mailing list for future copies of the Department's regulations agenda, which will be updated and published in the **Federal Register** every year during April and October. By using the agenda, individuals can determine which notice or advance notice of proposed rulemaking, to be issued by elements of the Department, is of interest to them. Then, using the instructions in the appendix, such persons also can be placed on a mailing list to ensure that, after the document of interest is issued, a copy will be mailed to them for their review and comment. In this way, individuals will be relieved of the burden of having to review the **Federal Register**, perhaps on a daily basis. The Department expects that this process will ensure that those people placed on mailing lists will receive early notice so that their views on the document can be adequately prepared and presented within the established comment period.

General Rulemaking Contact Persons

To assist persons desiring to obtain general information concerning the rulemaking process within the Department's operating administrations, an Appendix B has been added to the agenda. This appendix sets forth the addresses and the telephone numbers of the persons who can respond quickly to requests for general rulemaking information. Please note, however, that questions related to particular rulemaking actions should still be referred to the contact person listed with the particular rulemaking on the agenda.

Public Rulemaking Dockets

To facilitate the inspection of docket files and the submission of comments by the public, an Appendix C sets forth the addresses and working hours for the Rules Docket for each operating administration.

Request for Comments

Agenda

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the agenda easier to use. We would also like you, the public, to make suggestions or comments on how the agenda could be further improved. For example, do you find the information presented in an easily understandable manner? Do you find it easy to follow a regulation's development from agenda to agenda? Do you find that the format for setting out the information enables you to use the agenda easily? Do you find that the presentation of the information in the agenda is clearly explained in the preamble to the agenda? Your responses to these questions or any other comments or suggestions you may have should be sent to Neil R. Eisner, whose address appears above.

Reviews

In an effort to comply further with the spirit of Executive Order 12291 and the Regulatory Flexibility Act, we are also seeking suggestions on existing regulations that should be included in our review of existing regulations; that is, which existing regulations issued by an operating administration of the Department or the Office of the Secretary do you believe need to be reviewed to determine whether they should be revised or revoked? The Department is particularly interested in obtaining information on requirements that have a "significant economic impact on small entities" and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please send them, along with your explanation of why they should be reviewed, to the concerned operating administration or the Office of the Secretary. To ease the process for submission of suggestions of regulations warranting review by departmental entities, each operating administration and the Office of the Secretary maintains a continuously open regulatory review docket. Suggestions should be submitted to the docket section of the relevant modal administration or Office of the Secretary, attention "Regulatory Review Docket," with the following specific rulemaking docket numbers:

Federal Aviation Administration, Docket 26768;

Federal Highway Administration, Docket 92-12;

Federal Railroad Administration, Docket RSS-1-92-1;

Federal Transit Administration, Docket 92A;

Maritime Administration, Docket R-141;

National Highway Traffic Safety Administration, Docket 92-04;

Office of the Secretary, Docket 47978;

Research and Special Programs Administration, Docket RR-1;

Saint Lawrence Seaway Development Corporation, Attn: Marc Owen, Chief Counsel;

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United States Coast Guard, Docket 92-005.

The addresses of the docket sections are contained in Appendix C. Multiple copies of the suggestions would be appreciated but are not required.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that are targeted for review under the RFA. Those comments should be addressed to the "contact" person of the operating administration involved.

Purpose

The Department is publishing this regulations agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity. Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when notices may be issued seeking public comment should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded. If further information is desired on any of the items listed in the agenda, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the agenda in general or the Department's Regulatory Policies and Procedures may be obtained from Neil R. Eisner, whose address and telephone number appear above.

Issued in Washington, DC, on March 8, 1993.

Federico Peña

Secretary of Transportation.

Appendix A - Instructions for Obtaining Copies of Regulatory Documents

Some Administrations within the Department differ in procedures or as to inclusion on a mailing list. For the offices listed below, persons desiring to obtain a copy of a specific regulatory document to be issued that is listed in this agenda should communicate, either by telephone or by letter, with the contact person listed with the regulation at the addresses below.

United States Coast Guard (USCG)

(Name of contact person), United States Coast Guard, 2100 2nd Street SW., Washington, DC 20593.

Federal Highway Administration (FHWA)

(Name of contact person), Federal Highway Administration, 400 7th Street SW., Washington, DC 20590.

Federal Railroad Administration (FRA)

(Name of contact person), Federal Railroad Administration, 400 7th Street SW., Washington, DC 20590.

National Highway Traffic Safety Administration (NHTSA)

(Name of contact person), National Highway Traffic Safety Administration, 400 7th Street SW., Washington, DC 20590.

Federal Transit Administration (FTA)

(Name of contact person), Federal Transit Administration, 400 7th Street SW., Washington, DC 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

(Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street SW., Room 5424, Washington, DC 20590.

Research and Special Programs Administration (RSPA)

(Name of contact person), Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

Maritime Administration (MARAD)

James Saari, Secretary, Maritime Administration, 400 7th Street SW., Room 7300B, Washington, DC 20590, (202) 366-5746.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for notices and advance notices of proposed rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling (202) 267-3479 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-200, 800 Independence Avenue SW., Washington, DC 20591.

Office of the Secretary (OST)

Persons desiring to receive future copies of the Department's regulations agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, DC 20590, (202) 366-4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG - LTCR Don Wrye, Marine Safety Council, USCG Headquarters Building, Room 3600, 2100 2nd Street SW., Washington, DC 20593; telephone: (202) 267-1534.

FAA - Donald Byrne, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915A, Washington, DC 20591; telephone: (202) 267-3491.

FHWA - Thomas Holian, Office of Chief Counsel, 400 7th Street SW., Room 4223, Washington, DC 20590; telephone: (202) 366-1383.

FRA - Marina Appleton, Office of Chief Counsel, 400 7th Street SW., Room 8128, Washington, DC 20590; telephone: (202) 366-6743.

NHTSA - Steve Kratzke, Office of Chief Counsel, 400 7th Street SW., Room 5219, Washington, DC 20590; telephone: (202) 366-2992.

FTA - Susan Schruth, Office of Chief Counsel, 400 7th Street SW., Room 9316, Washington, DC 20590; telephone: (202) 366-4011.

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SLSDC - Marc Owen, General Counsel's Office, 400 7th Street SW., Room 5424, Washington, DC 20590; telephone: (202) 366-0108.

RSPA - Mary Crouter, Office of Chief Counsel, 400 7th Street SW., Room 8405, Washington, DC 20590; telephone: (202) 366-4367.

MARAD - James Saari, Secretary, Maritime Administration, 400 7th Street SW., Room 7300B, Washington, DC 20590; telephone: (202) 366-5746.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; telephone: (202) 366-4723.

Appendix C - Public Rulemaking Dockets

The following is a list of Rule Docket locations for the various operating administrations where the public may review regulatory dockets and hand-deliver comments on advance notices and notices of proposed rulemaking:

USCG - Marine Safety Council, 2100 2nd Street SW., Room 3406, Washington, DC 20593. Working Hours: 8:00-3:00 (Monday-Friday).

FAA - Rules Docket (AGC-10), Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915G, Washington, DC 20591. Working Hours: 8:30-5:00.

FHWA - Docket Room, 400 7th Street SW., Room 4232, Washington, DC 20590. Working Hours: 8:30-3:30.

FRA - Docket Clerk, 400 7th Street SW., Room 8201, Washington, DC 20590. Working Hours: 8:30-5:00.

NHTSA - Docket Room, 400 7th Street SW., Room 5109, Washington, DC 20590. Working Hours: 9:30-4:00.

FTA - Docket Clerk, 400 7th Street SW., Room 9316, Washington, DC 20590. Working Hours: 8:30-5:00.

SLSDC - 400 7th Street SW., Room 5424, Washington, DC 20590. Working Hours: 8:15-4:45.

RSPA - Docket Branch, 400 7th Street SW., Room 8421, Washington, DC 20590. Working Hours: 8:30-5:00.

MARAD - Docket Clerk, 400 7th Street SW., Room 7300, Washington, DC 20590. Working Hours: 8:30-5:00.

OST - Docket Clerk, 400 7th Street SW., Room 4107, Washington, DC 20590. Working Hours: 9:00-5:30.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2170	+Antidrug Programs for Department of Transportation Contractors	2105-AB40
2171	+Accessibility of Passenger Vessels to Individuals With Disabilities	2105-AB87
2172	Direct Flights	2105-AA73
2173	Price Advertising	2105-AB25
2174	Implementation of Amendments to the Equal Access to Justice Act	2105-AB73
2175	Transportation Acquisition Regulations; Rewrite	2105-AB75

+ Designates significant regulation.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2176	+Commercial Space Transportation: Financial Responsibility Requirements for Licensed Launch Activities	2105-AA26
2177	+Alcohol Misuse Prevention Program for the Transportation Industry	2105-AB52
2178	+Proposed Policy on Peak Period Pricing of Airport Landing Fees	2105-AB63
2179	+Licensing Commercial Space Launch Activities	2105-AB85
2180	+Nondiscrimination on the Basis of Handicap in Air Travel (Air Carrier Access Act)	2105-AB60
2181	+Procedures for Transportation Workplace Drug-Testing Programs	2105-AB71
2182	+Passenger Manifest Information	2105-AB78
2183	+Procedures for Transportation Workplace Drug-Testing Programs: Management Information Systems	2105-AB81
2184	+Disadvantaged Business Enterprise (DBE) Regulation; General Update	2105-AB92
2185	+Random Drug Testing Program	2105-AB94
2186	+Procedures for Transportation Workplace Drug and Alcohol Testing Programs	2105-AB95
2187	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	2105-AB46

+ Designates significant regulation.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2188	+New Restrictions on Lobbying	2105-AB57
2189	+Statement of Enforcement Policy on Rebating	2105-AB39

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Office of the Secretary—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2190	+Price Advertising	2105-AB50
2191	+Smoking Aboard Aircraft	2105-AB58
2192	+Nondiscrimination on the Basis of Handicap in Air Travel (Air Carrier Access Act)	2105-AB61
2193	+Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	2105-AB62
2194	+Seismic Safety of DOT Assisted or Regulated New Building Construction	2105-AB79
2195	+Aviation Charter Rules	2105-AB91
2196	+Transportation for Individuals with Disabilities	2105-AB97
2197	Nondiscrimination on the Basis of Age In DOT Financial Assistance Programs	2105-AA09
2198	Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
2199	Air Travelers: Age Discrimination	2105-AA45
2200	Policy Statement on Airline Preemption	2105-AA46
2201	Diversion of Flights Within a Metropolitan Area	2105-AA78
2202	Simplified Aviation Exemption Procedures	2105-AA82
2203	Baggage Liability Notices in International Air Transportation	2105-AA84
2204	Simplified Airline Counter-Sign Notices	2105-AA88
2205	Transportation Acquisition Regulations	2105-AB54
2206	Centralization of Formal Hearing Dockets (OST)	2105-AB69
2207	Rules of Conduct in DOT Proceedings	2105-AB89

+ Designates significant regulation.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2208	+Minority Business Enterprise Program (Financial Assistance Programs)	2105-AA04
2209	Testimony of Employees of the Department and Production of Records in Legal Proceedings	2105-AB56
2210	Procedures and Evidence Rules for Air Carrier Fitness Proceedings	2105-AB82
2211	Unfair Competition by Commonly Owned Carriers in Alaska	2105-AB83
2212	Removal of Obsolete and Redundant Regulations	2105-AB88
2213	Standard Time Zone Boundary in the State of North Dakota: Proposed Relocation	2105-AB90
2214	Commercial Space Transportation; Removal of User Fees	2105-AB96
2215	Employee Responsibilities and Conduct	2105-AB98

+ Designates significant regulation.

U.S. Coast Guard—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2216	+Drawbridge Operation Regulations; Potomac River, District of Columbia	2115-AE31
2217	Posting Requirements on Inspected Vessels (87-031)	2115-AC68
2218	Alcohol/Drug Abuse Review for License/Certificate of Registry and Merchant Mariner Document Applicants (91-210)	2115-AD91
2219	Criminal Record Reviews and Access to the National Driver Register (91-212)	2115-AD93
2220	Removal of Master or Person in Charge of a Vessel (91-214)	2115-AD95
2221	Reporting Marine Casualties (91-216)	2115-AD98
2222	Alteration of Obstructive Bridges (91-063)	2115-AE15
2223	Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities (92-026)	2115-AE22

+ Designates significant regulation.

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U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2224	+Structural and Operational Measures to Reduce Oil Spills from Existing Tank Vessels Without Double Hulls (91-045)	2115-AE01
2225	+Federal Agency Access to the Oil Spill Liability Trust Fund (CGD 92-074)	2115-AE34
2226	+Licensing of Pilots—Manning of Vessels (84-060)	2115-AB67
2227	+Security for Passenger Vessels and Passenger Terminals (91-012)	2115-AD75
2228	+Chemical Drug and Alcohol Testing of Commercial Vessel Personnel; Collection of Drug and Alcohol Testing Information (MIS) (CGD 91-019)	2115-AD84
2229	+User Fees for Approvals of Equipment, Laboratories, and Servicing Facilities (92-013)	2115-AE18
2230	+State Access to the Oil Spill Liability Trust Fund (92-014)	2115-AE19
2231	+Drug Testing of Individuals Applying for Issuance or Renewal of Licenses, Certificates of Registry, or Merchant Mariners' Documents (91-223)	2115-AE29
2232	Hybrid Personal Flotation Devices: Establishment of Approval Requirements (78-174)	2115-AA29
2233	Outer Continental Shelf Facilities: Aids to Navigation (82-054)	2115-AA92
2234	Safety Standards for New Self-Propelled Vessels Carrying Bulk Liquefied Gases (82-058)	2115-AA95
2235	Fire Protection Regulations (CGD 83-026)	2115-AB36
2236	Training in the Use of Automatic Radar Plotting Aids (ARPA) (85-089)	2115-AB99
2237	Revisions to the Electrical Engineering Regulations (85-063)	2115-AC20
2238	Small Passenger Vessel Inspection and Certification (CGD 85-080)	2115-AC22
2239	Load Lines (86-013)	2115-AC37
2240	Revision to Inflatable Liferaft Approval: SOLAS 74/83 (85-205)	2115-AC51
2241	Regattas and Marine Parades (CGD 87-087)	2115-AC84
2242	Delegation of Authority to Area Commanders When Functioning as Maritime Defense Zone Commanders (CGD 87-065)	2115-AC88
2243	Marine Transport of Bulk Solid Hazardous Materials (87-069)	2115-AD02
2244	Requirements for Marine Terminals Transferring Bulk Liquefied Hazardous Gases (88-049)	2115-AD06
2245	Written Warnings by Coast Guard Law Enforcement Officials (88-074)	2115-AD13
2246	Access Documents to Waterfront Facilities (88-097)	2115-AD14
2247	Controlling the Marine Asbestos Hazard (88-103)	2115-AD16
2248	Regulated Navigation Areas; Brownsville Ship Channel (8-89-01)	2115-AD21
2249	General Revisions to Stability Regulations (Subchapter S) (89-038)	2115-AD34
2250	Vessel Identification System (89-050)	2115-AD35
2251	Tank Level or Pressure Monitoring Devices (CGD 90-071)	2115-AD69
2252	New Terms of Validity for Certificates of Registry and Merchant Mariner's Documents	2115-AD92
2253	Suspension and Revocation of Licenses, Certificates of Registry, and Merchant Mariners' Documents	2115-AD94
2254	Manning Standards for Foreign Tank Vessels (91-215)	2115-AD97
2255	Periodic Gauging of Plating Thickness of Commercial Vessels	2115-AD99
2256	Fixed Red and Green Lateral Lights Structures in the Western Rivers (91-049)	2115-AE08
2257	Damage Stability Criteria for Double-Hulled Tank Vessels (91-206)	2115-AE11
2258	Unnecessary Drawbridge Opening (91-059)	2115-AE14
2259	Refuse Recordkeeping for Ships	2115-AE17
2260	Transfer Hose Markings (92-027)	2115-AE20
2261	Federal Pilotage Requirements for Foreign Trade Vessels (CGD 92-061)	2115-AE28
2262	Bulk Hazardous Materials (92-100) and Noxious Liquid Substances List (92-100a)	2115-AE35
2263	New York Vessel Traffic Service (CGD 92-065)	2115-AE36
2264	Amendments to Hull Identification Number Regulations and New Requirements for Certificates of Origin (CGD 92-065)	2115-AE37

+ Designates significant regulation.

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2265	+Offshore Supply Vessel Regulations (82-004 and 86-074)	2115-AA77
2266	+Traffic Separation Schemes and Shipping Safety Fairways off the Coast of California (83-032)	2115-AB29
2267	+Discharge-Removal Equipment For Vessels Carrying Oil (CGD 90-068)	2115-AD66
2268	+Financial Responsibility for Water Pollution (Vessels) (CGD 91-005)	2115-AD76
2269	+Direct User Fees for Inspection or Examination of U.S. and Foreign Commercial Vessels (91-030)	2115-AD78

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U.S. Coast Guard—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2270	+Tank Vessel Response Plans (91-034)	2115-AD81
2271	+Facility Response Plans (91-036)	2115-AD82
2272	+Lifesaving Equipment—Implementation of 1983 Amendments to SOLAS 1974 (84-069)	2115-AB72
2273	+Licensing of Officers and Operators for Mobile Offshore Drilling Units (81-59a)	2115-AB91
2274	+Implementation of the Commercial Fishing-Industry Vessel Safety Act (88-079)	2115-AD12
2275	+Recording of Instruments—Vessel Documentation (89-007)	2115-AD60
2276	+Double Hull Standards for Tank Vessels Carrying Oil (90-051)	2115-AD61
2277	+Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel (90-053)	2115-AD63
2278	+Claims Procedures Under The Oil Pollution Act of 1990 (CGD 91-035)	2115-AD90
2279	Tankermen (79-116)	2115-AA03
2280	Fixed Fire-Extinguishing Systems on Uninspected Vessels (74-284)	2115-AA08
2281	Safety/Security Zone Regulations	2115-AA97
2282	Anchorage Area Regulations	2115-AA98
2283	Incorporation of Amendments to the International Convention for Safety of Life at Sea, 1974 (83-043)	2115-AB41
2284	Personal Flotation Device Components (84-068)	2115-AB70
2285	Oil Pollution Prevention, MARPOL Annex I (85-026)	2115-AC11
2286	Uninspected Vessel Emergency Position Indicating Radio Beacons (EPIRBs) (87-016)	2115-AC69
2287	Anchorage Regulations (86-079)	2115-AC96
2288	Permits for the Transportation of Municipal and Commercial Wastes (89-014)	2115-AD23
2289	Chesapeake Bay Traffic Separation Scheme (90-039)	2115-AD43
2290	National Vessel Traffic Service (VTS) Regulations (90-020)	2115-AD56
2291	Requirements for Cargo Lightering Operations (CGD 90-052)	2115-AD68
2292	Ballast Water Management For Vessels Entering The Great Lakes (91-066)	2115-AD80
2293	Regulated Navigation Area; Puget Sound, Washington (13-90-03)	2115-AD86
2294	Overfill Devices (CGD 90-071a)	2115-AD87
2295	Use of Automatic Pilot; Area Restrictions and Performance Requirements (91-204)	2115-AE00
2296	A Second Licensed Officer on Tanker Bridge	2115-AE03
2297	Regulated Navigation Area: Puget Sound and Strait of Juan de Fuca, WA; Grays Harbor, WA; Columbia River and Willamette River, OR; Yaquina Bay, OR; Umqua River, OR; Coos Bay, OR	2115-AE06
2298	Gulf Intracoastal Waterway (91-050)	2115-AE09
2299	Escorts for Certain Tankers (91-202)	2115-AE10
2300	Unattended Engine Room (91-203)	2115-AE12
2301	Safety Equipment Carriage Requirements	2115-AE26
2302	Classifying, Packaging, and Communicating About Explosives	2115-AE27
2303	Drawbridge Operation Regulations; Temporary Deviations up to 90 Days	2115-AE30
2304	Recreational Vessel Fee Amendments (92-066)	2115-AE32
2305	Federal Water Pollution Control Act Class II Civil Penalties (CGD 91-228)	2115-AE33
2306	Authorization for NTSB Officials to be Allowed in the Pilothouse or On the Navigation Bridge of Merchant Vessels While Underway (CGD 91-023)	2115-AE38

+ Designates significant regulation.

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2307	+Subdivision and Damage Stability of Dry Cargo Vessels (CGD 87-094)	2115-AC87
2308	+Drawbridge Operations Regulations; Potomac River, District of Columbia (Woodrow Wilson Bridge) (90-064)	2115-AD71
2309	+Direct User Fees for Marine Licensing, Certification of Registry, and Merchant Mariner Documentation (91-002)	2115-AD72
2310	Updating Approval and Carriage Requirements for Breathing Apparatus (86-036)	2115-AC30
2311	Waiver of Crewmember Citizenship Requirements (89-061)	2115-AD38
2312	Definition of Channel 67 Radio Boundaries (89-086)	2115-AD44
2313	Drawbridge Operation Regulations, Waterborne Emergency (91-016)	2115-AD77
2314	Access to National Driver Register	2115-AD96
2315	Prince William Sound Pilotage	2115-AE24
2316	Documentation of Vessels; Controlling Interest	2115-AE25

+ Designates significant regulation.

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Federal Aviation Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2317	•Anti-Drug and Alcohol Misuse Prevention Programs for Employees of Foreign Air Carriers Engaged in Specified Aviation Activities	2120-AE79

• Designates significant regulation.

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2318	•Fatigue Evaluation of Structure	2120-AD42
2319	•Fatigue Test Requirements for Aging Aircraft	2120-AD43
2320	•Revision of Part 108, Airplane Operator Security	2120-AD45
2321	•Revision of Part 107, Airport Security	2120-AD46
2322	•Aging Aircraft Safety	2120-AE42
2323	•Alcohol Misuse Prevention Program for Personnel Engaged in Specified Aviation Activities	2120-AE43
2324	•Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules	2120-AE71
2325	•Anti-Drug Program for Personnel Engaged in Specified Aviation Activities	2120-AE82
2326	•Revision of Medical Standards and Certification Procedures	2120-AA70
2327	•Improved Standards for Determining Rejected Takeoff and Landing Performance	2120-AB17
2328	•Passenger-Carrying and Cargo Air Operations for Compensation or Hire	2120-AC08
2329	•Repair Station and Repairman Certification Rules	2120-AC38
2330	•Parts 121 and 135—Training, Checking, Certification, and Qualifications Requirements	2120-AC79
2331	•Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines	2120-AC87
2332	•Sole Radio Navigation System; Minimum Standards for Certification	2120-AD26
2333	•Airworthiness Standards; Occupant Protection Standards for Commuter Category Airplanes	2120-AD27
2334	•Alternative Means of Compliance	2120-AD66
2335	•Anti-Drug Program; Consolidated Amendments	2120-AD67
2336	•Protective Breathing Equipment; Cargo-Only Airplanes	2120-AD74
2337	•Crew Pairing Requirements	2120-AD88
2338	•Child Restraint Systems	2120-AD90
2339	•Access Into the Cockpit	2120-AE35
2340	•Reduced Altitude Separation	2120-AE51
2341	•JAR/FAR Harmonization Initiatives - Systems	2120-AE59
2342	•JAR/FAR Harmonization Initiatives - Propulsion	2120-AE60
2343	•JAR/FAR Harmonization Initiatives - Flight	2120-AE61
2344	•JAR/FAR Harmonization Initiatives - Airframe	2120-AE62
2345	•Airport Land Use Compatibility Planning - Proposed Revisions	2120-AE64
2346	•Relief From Transponder-On Requirement for Aircraft With Limited Electrical Systems	2120-AE67
2347	•Explosive Detection Systems	2120-AE77
2348	•Anti-Drug Program for Personnel Engaged in Specific Aviation Activities	2120-AE80
2349	•Mode S Transponder Requirement for Part 135 Operators	2120-AE81
2350	•Civil Penalty Assessment Procedures	2120-AE84
2351	•Special Visual Flight Rules (SVFR) Operations	2120-AE85
2352	•Accelerated Stalls in Commuter Category Airplanes	2120-AE86
2353	Review of Part 47, Aircraft Registration, and Part 49, Recording of Aircraft Titles and Security Documents	2120-AC17
2354	Fuel System Vent Fire Protection	2120-AA49
2355	Composite Propellers	2120-AB05
2356	Maintenance Recordkeeping Requirements	2120-AD25
2357	High Intensity Radiated Fields Protection Standards for Aircraft Electrical and Electronic Systems	2120-AD32
2358	Depressurization Evaluation of Structures	2120-AD35
2359	1-G Stalling Speed as a Basis for Compliance with Part 25 of the Federal Aviation Regulations	2120-AD40
2360	Cost of Services and Transfer of Fees to Part 187 from Parts 47, 49, 61, 63, 65, and 143	2120-AD91
2361	Visual Descent Points	2120-AE34
2362	Airport Runway Incursion	2120-AE38
2363	Type Certificates for Some Surplus Aircraft of the Armed Forces	2120-AE41
2364	Special Flight Authorizations for Noise-Restricted Aircraft	2120-AE49
2365	Non-Federal Navigation Facilities	2120-AE54
2366	Amend Part 34: Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes	2120-AE55

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Federal Aviation Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2367	Persons Authorized To Perform Maintenance, Preventive Maintenance, Rebuilding, and Alterations	2120-AE57
2368	Part 145 Review: Repair Stations	2120-AE58
2369	Part 71 Review: Airspace Designations	2120-AE65
2370	Removal of the Fee Provisions of Part 189	2120-AE68
2371	Part 187 - Fees	2120-AE72
2372	Kansas City Terminal Control Area	2120-AE73
2373	Stage 2 Airplane Operations in Hawaii	2120-AE83

• Designates significant regulation.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2374	•Civil Supersonic Aircraft Noise Type Certification Standards and Operating Rules	2120-AC22
2375	•Improved Survival Equipment for Inadvertent Water Landings	2120-AC72
2376	•Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	2120-AC84
2377	•Drug Enforcement Assistance	2120-AD16
2378	•Temporary Flight Restrictions	2120-AD55
2379	•Unescorted Access Privilege	2120-AE14
2380	•Aircraft Flight Simulator Use in Pilot Training, Testing, and Checking and at Training Centers	2120-AA83
2381	•Elimination of Airport Delays	2120-AB42
2382	•Flight Attendant Requirements	2120-AC32
2383	•Type and Number of Passenger Emergency Exits Required in Transport Category Airplanes	2120-AC43
2384	•Emergency Locator Transmitters	2120-AD19
2385	•Small Airplane Airworthiness Review Program Notice No. 4	2120-AD20
2386	•Small Airplane Airworthiness Review Program Notice No. 3	2120-AD30
2387	•Airworthiness Standards; Emergency Exit Provisions for Normal, Utility, Acrobatic, and Commuter Category Airplanes	2120-AD33
2388	•Establishment and Discontinuance Criteria for LORAN-C Nonprecision Approach Procedures	2120-AD68
2389	•Protective Breathing Equipment; Fire Drills	2120-AD76
2390	•Biennial Flight Review	2120-AE11
2391	•Proposed Alteration of the Denver Terminal Control Area, Colorado	2120-AE46
2392	•Aircraft Ground Deicing and Anti-Icing Program	2120-AE70
2393	•Operation of Jet Aircraft in Commuter Slots at O'Hare International Airport	2120-AE78
2394	Objects Affecting Navigable Airspace	2120-AA09
2395	Miscellaneous Amendments	2120-AA50
2396	Airworthiness Standards; Crash Resistant Fuel Systems	2120-AA57
2397	Airworthiness Standards: Aircraft Engine Electrical and Electronic Engine Control Systems	2120-AB06
2398	Standards for Approval for High Altitude Operation of Subsonic Transport Airplanes	2120-AB18
2399	Airworthiness Standards; Transport Category Rotorcraft Performance	2120-AB36
2400	Low Fuel Quantity Alerting System	2120-AB46
2401	Aircraft Engines: Fuel and Induction Systems	2120-AB76
2402	Airworthiness Standards; New Rotorcraft 30-Second/2-Minute One-Engine-Inoperative Power Ratings	2120-AB90
2403	Airworthiness Standards; Turboshaft Engine Rotor Burst Protection	2120-AB91
2404	Miscellaneous Changes to Emergency Evacuation Demonstration Procedures, Exit Handle Illumination, and PA Handsets	2120-AC45
2405	Airworthiness Standards; Crash Resistant Fuel Systems in Normal and Transport Category Rotorcraft	2120-AC68
2406	Electrical and Electronic Systems Lightning Protection	2120-AC81
2407	Airworthiness Standards: Aircraft Engines; Proposal for New One-Engine-Inoperative Ratings, Definitions, and Type Certification Standards	2120-AD21
2408	Improved Flammability Standards for Materials Used in the Interiors of Transport Category Airplane Cabins	2120-AD28
2409	Airplane Engine Cowling Retention	2120-AD34
2410	Design Standards for Airplane Jacking and Tie-Down Provisions	2120-AD38
2411	Airworthiness Standards; Small Airplanes With Stall Speed Greater Than 61 Knots	2120-AD48
2412	Centralization of Formal Hearing Dockets (FAA)	2120-AD63
2413	Temporary Restriction of Instrument Approaches and Certain Visual Flight Rules Operations in High Pressure Weather Conditions	2120-AD75

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Federal Aviation Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2414	Model Rocket Operations	2120-AD84
2415	Exit Seating for On-Demand Operations	2120-AE44
2416	Part 157 Review	2120-AE52
2417	Part 95 Instrument Flight Rules	2120-AA63
2418	Airworthiness Directives	2120-AA64
2419	Standard Instrument Approach Procedures	2120-AA65
2420	Airspace Actions	2120-AA66

+ Designates significant regulation.

Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2421	+Allowable Carbon Dioxide Concentration in Transport Category Airplane Cabins	2120-AD47
2422	+Establish Powered Ultralight Vehicles Standards	2120-AE12
2423	+Exit Seating	2120-AE22
2424	+Notification to Air Traffic Control (ATC) of Deviations From ATC Clearances and Instructions in Response to Traffic Alert and Collision Avoidance System Resolution Advisories	2120-AE31
2425	+Fire-Blocking Material for Part 135 Airplane Seats	2120-AE33
2426	+Emergency Locator Transmitter Replacement	2120-AE36
2427	+Drug Testing in the Workplace	2120-AE40
2428	+Production Certificate Modernization	2120-AE74
2429	Use of Inert Gas for Tire Inflation in Lieu of Air	2120-AD37
2430	Bird Strike Damage Assessment	2120-AD39
2431	Parachute Equipment and Packing Requirements	2120-AD57
2432	Reporting Requirements; Transferee Holders and Licensees	2120-AD64
2433	Applications for Export Airworthiness Approvals	2120-AD81
2434	Autopilot Minimum Altitudes	2120-AE15
2435	Offshore Airspace Review	2120-AE32
2436	Flight Recorders and Cockpit Voice Recorders	2120-AE39
2437	Manned Free Balloons	2120-AE63

+ Designates significant regulation.

Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2438	+Need To Require Training for All Entry-Level Drivers of Commercial Vehicles	2125-AD05
2439	Certification of Size and Weight Enforcement	2125-AC60
2440	Parts and Accessories for Safe Operation: Intermodal Cargo Containers	2125-AC74

+ Designates significant regulation.

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2441	+Commercial Driver's License Standards; Biometric Identifier	2125-AC24
2442	+Controlled Substances and Alcohol Use and Testing	2125-AD06
2443	+Controlled Substances and Alcohol Use and Testing; Foreign-Based Motor Carriers and Drivers	2125-AD11
2444	+Simplifying Revisions and Weight Threshold Adjustments to the Federal Motor Carrier Safety Regulations	2125-AC27
2445	+Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking	2125-AC28
2446	+State Compliance With CDL Program Requirements	2125-AC53
2447	+Qualification of Drivers; Vision	2125-AC62
2448	+Federal Motor Carrier Safety Regulations; General Transportation of Hazardous Materials	2125-AC78

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Federal Highway Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2449	+Qualifications of Drivers; Controlled Substances Testing, Recordkeeping, and Reporting Requirements	2125-AC81
2450	+Controlled Substances and Alcohol Use and Testing	2125-AC85
2451	+Statewide Transportation Planning	2125-AC94
2452	+Metropolitan Planning	2125-AC95
2453	+Management and Monitoring Systems	2125-AC97
2454	Construction Contract Equal Opportunity Compliance Procedures	2125-AB15
2455	Acquisition of Real Property for Rights-of-Way	2125-AC17
2456	Truck Length and Width Exclusive Devices	2125-AC30
2457	Qualification of Drivers; Medical Examination Form	2125-AC63
2458	Weight and Length Limitations—Longer Combination Vehicles	2125-AC86
2459	Training of Entry-Level Drivers of Commercial Motor Vehicles	2125-AC91
2460	Longer Combination Vehicles—Driver Training	2125-AC92
2461	Violations of Out-of-Service Orders—CDL Disqualifications	2125-AC93
2462	Erosion and Sediment Control on Highway Construction Projects	2125-AD08
2463	Removal of Obsolete and Redundant Right-of-Way Requirements	2125-AD09

+ Designates significant regulation.

Federal Highway Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2464	+Private Motor Carrier of Passengers	2125-AB62
2465	+Safety Fitness Procedures; Safety Ratings	2125-AC71
2466	+Radar Detectors in Commercial Motor Vehicles	2125-AC79
2467	+Transportation of Hazardous Materials; Highway Routing	2125-AC80
2468	+Speed Limit Compliance and Enforcement Requirements	2125-AC87
2469	+Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs	2125-AD02
2470	Qualification of Drivers; Diabetes	2125-AB91
2471	Public Availability of Information; Freedom of Information Act Regulations; Technical Amendments	2125-AC20
2472	Design Standards for Highways; AASHTO Publication; Geometric Design of Highways and Streets	2125-AC22
2473	Design Standards for Highways; Interstate System	2125-AC34
2474	Inspection, Repair and Maintenance; Periodic Inspections	2125-AC47
2475	Parts and Accessories Necessary for Safe Operation; Front Wheel Brakes on Mexican Commercial Motor Vehicles	2125-AC49
2476	Commercial Driver Instruction Permits	2125-AC54
2477	Centralization of Formal Hearing Dockets (FHWA)	2125-AC59
2478	National Standards for Traffic Control Devices; Manual of Uniform Traffic Control Devices; Work Zone Traffic Control Standards Revision; Revised Format	2125-AC83
2479	Design Standards for Highways; Requirements for Roadside Barriers and Safety Appurtenances	2125-AC84
2480	Transportation of Hazardous Materials; Preemption Determination	2125-AD00
2481	National Bridge Inspection Standards: Frequency of Inspection	2125-AD01
2482	Administration of Engineering and Design-Related Service Contracts; Private Sector Involvement Program	2125-AD03

+ Designates significant regulation.

Federal Highway Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2483	+Manual of Uniform Traffic Control Devices	2125-AC89
2484	+Hours of Service of Drivers; On-Duty Time	2125-AD04
2485	Notification and Reporting of Accidents	2125-AC48
2486	Truck Size and Weight; Beverage Semitrailers	2125-AC57
2487	Truck Size and Weight; Dromedary Boxes Carrying Explosives	2125-AC61
2488	Truck Size & Weight; Maxi-Cube Vehicles	2125-AC65
2489	Federal Motor Carrier Safety Regulations; General; Emergency Relief	2125-AC67
2490	Administration of Negotiated Contracts	2125-AC88
2491	Reimbursement; Temporary Matching Fund Waiver	2125-AC96

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Federal Highway Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2492	Commercial Driver's License Standards; Disqualifications, Technical Amendment	2125-AD07

+ Designates significant regulation.

National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2493	+Review: Passenger Car Front Seat Occupant Protection (Federal Motor Vehicle Safety Standard No. 208)	2127-AD82
2494	+Passenger Car Brake Performance	2127-AE47
2495	+Use of Safety Belts and Motorcycle Helmets: Compliance and Transfer-of-Funds Procedures	2127-AE50
2496	Review: Lamps, Reflective Devices, and Associated Equipment	2127-AB76
2497	Review: Glass-Plastic Windshields	2127-AD29
2498	Brake Lining	2127-AC66
2499	Standard 105; Hydraulic Brake	2127-AC94
2500	Tire Labeling, FMVSS 109, 110, 117, 119, 120; Parts 569, 574, 575	2127-AD28
2501	Rulemaking to Delete "Due Care" Provisions from the Occupant Crash Protection Standard	2127-AD54
2502	Brake Hoses and Fluids	2127-AD70
2503	Vehicles Equipped With Long-Stroke Brake Chambers	2127-AE54
2504	Radiator Safety Cap	2127-AE59
2505	Controlled Motion of Child Restraint Systems	2127-AE60
2506	Automatic Brake Adjusters and Brake Adjustment Indicators	2127-AE69
2507	Maximum Inflation Pressure	2127-AE70
2508	Standardized Display of Certification Labels	2127-AE71
2509	Upgrade Test Procedures for Brake Fluids	2127-AE72
2510	Data Code Requirements	2127-AE74
2511	Antilock Warning Signals	2127-AE75
2512	Automatic Brake Adjustment Limits	2127-AE76
2513	Labeling on Adjustment Positions of Child Restraint Systems	2127-AE81
2514	Quasi-Static Door Strength Requirements	2127-AE82
2515	Lateral Performance Requirements for Fuel System Integrity	2127-AE83
2516	Accelerometer Mounting Arrangements	2127-AE84
2517	Define Major Component Parts of a Vehicle	2127-AE85

+ Designates significant regulation.

National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2518	+Heavy Duty Vehicle Brake Systems (Formerly Truck and Trailer Brake Systems)	2127-AA00
2519	+Flammability of Interior Materials - School Buses	2127-AA44
2520	+Cars and Light Trucks: Padding A-Pillars, Side Rail, Etc	2127-AB85
2521	+Rollover	2127-AC64
2522	+Wheelchair Lifts	2127-AD50
2523	+Side Impact Protection: Anthropomorphic Alternate Test Dummies (BIOSID and EUROSID)	2127-AD73
2524	+Dynamic Testing of Light Trucks and Vans for Side Impact	2127-AE49
2525	Emergency Locking Retractors	2127-AC57
2526	Fuel Spillage	2127-AC62
2527	Air Brake Systems, Stopping-Distance Performance	2127-AD07
2528	Seating Systems Performance	2127-AD08
2529	Seating Systems Test Procedure	2127-AD09
2530	Enforcement of the National Traffic and Motor Vehicle Safety Act	2127-AD83
2531	Stopping Distance Performance Requirements	2127-AE21
2532	Optical Coatings and Heat Degradations	2127-AE38
2533	Child Booster Seats	2127-AE39
2534	Safety Belt Design	2127-AE48
2535	Bus Window Emergency Exit	2127-AE62

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National Highway Traffic Safety Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2536	American Automobile Labeling Act Requirements	2127-AE63
2537	Petitions and Plans for Relief Under the Automobile Fuel Efficiency Act of 1980	2127-AE65
2538	Exemption From Vehicle Theft Prevention Standard	2127-AE66
2539	Procedures for Selecting Lines to be Covered by the Theft Prevention Standard	2127-AE67
2540	Test Procedures for Parking/Emergency Brakes	2127-AE77
2541	Applicability of Warning Devices	2127-AE78
2542	Belt Labeling Requirements	2127-AE79
2543	Labeling and Printing Instructions for Child Restraint Systems	2127-AE80
2544	Insurer Reporting Requirements for October 1993	2127-AE87

+ Designates significant regulation.

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2545	+Crashworthiness Ratings	2127-AA03
2546	+Lighting Simplification—Potential Amendments on Long-Term Issues	2127-AB87
2547	+Truck Rear Underride Protection	2127-AA43
2548	+School Bus Body Joint Strength	2127-AC19
2549	+Film Transmittance of Glazing Materials	2127-AC85
2550	+Compressed Natural Gas (CNG) and Propane	2127-AD48
2551	+Light Truck Average Fuel Economy Standards for Model Years Beyond 1994	2127-AE42
2552	+Mandating Air Bags	2127-AE46
2553	+Certification of Speed Limit Enforcement	2127-AE52
2554	Proposed New Standard 135; Passenger-Car Brake System	2127-AA13
2555	Procedures for Considering Environmental Impacts	2127-AB79
2556	"Lock" Child Safety Systems	2127-AD39
2557	State Highway Safety Programs	2127-AD55
2558	Issuance, Amendment, and Revocation of Rules: Procedural Regulations	2127-AD78
2559	Impact Protection for the Driver From the Steering Control System	2127-AD87
2560	Adjustment Procedure for Burnish and Recovery	2127-AE15
2561	Exclusive Use of Hybrid III Test Dummy in Compliance Testing	2127-AE19
2562	Seat Adjustment Position	2127-AE22
2563	Emergency Exit Requirements for Non-School Buses	2127-AE25
2564	Certification Requirements of Multistage Vehicles	2127-AE27
2565	Built-in Child Restraints	2127-AE28
2566	Controls and Displays and Windshield Defrosting and Defogging Systems for Electric Vehicles	2127-AE29
2567	Head Injury Criterion and Use of Neck Injury Criterion	2127-AE34
2568	Dimensions of Bead Unseating Test Fixture	2127-AE55
2569	Test for Brake Hose Tubing Assemblies	2127-AE56
2570	Referee Material	2127-AE58
2571	Consumer Information Regulation - Vehicle Stopping Distance	2127-AE61
2572	Median Theft Rate	2127-AE68
2573	Commercial Vehicle Conspicuity	2127-AE86

+ Designates significant regulation.

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2574	+Commercial Vehicle Conspicuity	2127-AA12
2575	+Bus Window Retention and Release - Upgrade for School Buses	2127-AC88
2576	+Roof Crush Resistance	2127-AD13
2577	+Rearview Mirrors for School Buses	2127-AD24
2578	+Alcohol Fuels	2127-AD47
2579	+Wheelchair Securement Devices	2127-AD51

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National Highway Traffic Safety Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2580	+Passenger Automobile Average Fuel Economy Standards for MY 1990	2127-AE51
2581	Side-Impact Protection—Light Trucks, Vans, and Multipurpose Passenger Vehicles	2127-AC43
2582	Child Restraint Systems for a Newborn Infant	2127-AC87
2583	Importation of Motor Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards	2127-AD00
2584	Automatic Brake Adjusters for Heavy Duty Vehicles	2127-AD34
2585	Truck Voltage for Exterior Lighting	2127-AD40
2586	Daytime Running Lamps as an Option	2127-AD84
2587	Vehicle-Based Roadway Illumination Performance Requirements - Replaceable Light Source	2127-AE07
2588	Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars	2127-AE09
2589	Windshield Wiping and Washing Systems Definitions: Seating Reference Point	2127-AE11
2590	Insurance Cost Information	2127-AE18
2591	Motorcycle Turn Signal Lamp Spacing Requirement	2127-AE35
2592	Allow Optical Designations	2127-AE36
2593	New Replaceable Headlamp Bulb (Type H-7)	2127-AE37
2594	Vehicle ID Content Requirements	2127-AE40
2595	Wheel Nuts, Wheel Discs, and Hub Caps	2127-AE41
2596	Dynamic Crash Test Requirements To Accommodate Individuals With Disabilities	2127-AE44
2597	Label Requirements for Air Bag-Equipped Vehicles	2127-AE53
2598	Replaceable Light Source	2127-AE57
2599	Final Listing of High Theft Lines for 1993 Model Year	2127-AE64
2600	Power Operated Windows Closing Force	2127-AE73

+ Designates significant regulation.

Federal Railroad Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2601	+Special Safety Inquiry; Railroad Reporting Requirements	2130-AA56
2602	+Whistle Bans at Highway-Rail Grade Crossings	2130-AA71
2603	+Railroad Workplace Safety; Proposed Silica Exposure Standards	2130-AA83

+ Designates significant regulation.

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2604	+Control of Alcohol and Drug Use	2130-AA72
2605	+Alcohol Testing; Amendment to Alcohol/Drug Regulations	2130-AA81
2606	+International Application: Alcohol/Drug Regulations	2130-AA82
2607	+Railroad Accident Reporting	2130-AA58
2608	+Alcohol/Drug Regulations; Miscellaneous Technical Amendments and Corrections	2130-AA63
2609	+Annual Reporting Requirements; Amendments to Alcohol/Drug Regulations	2130-AA64
2610	+Freight Car Safety Standards: Maintenance-of-Way Equipment	2130-AA68
2611	+Railroad Police Officers	2130-AA69
2612	+Power Brake Regulations; Miscellaneous Revisions	2130-AA73
2613	+Track Safety Standards	2130-AA75
2614	+Railroad Operating Rules and Radio Standards and Procedures	2130-AA76

+ Designates significant regulation.

Federal Railroad Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2615	+Event Recorders	2130-AA53

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Federal Railroad Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2616	+Timely Response to Grade Crossing Signal System Malfunctions and Maintenance, Inspection, and Testing of Grade Crossing Signal Systems	2130-AA70
2617	+Qualification and Certification of Locomotive Engineers	2130-AA74
2618	+Protection of Utility Employees	2130-AA77
2619	+Locomotive Conspicuity; Minimum Standards for Auxiliary External Lights	2130-AA80
2620	Centralization of Formal Hearing Dockets (FRA)	2130-AA59
2621	Local Rail Freight Assistance to States	2130-AA60

+ Designates significant regulation.

Federal Railroad Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2622	Merger and Consolidation Procedures	2130-AA78
2623	Regional Local Rail Services Assistance	2130-AA79

Federal Transit Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2624	+Major Capital Investment Projects	2132-AA34
2625	+Prevention of Prohibited Drug Use in Transit Operations	2132-AA37
2626	+Prevention of Alcohol Misuse in Transit Operations	2132-AA38
2627	+State Responsibility for Fixed Guideway System Safety	2132-AA39
2628	+Temporary Matching Fund Waiver	2132-AA49
2629	+New Starts Criteria	2132-AA50
2630	+Charter Services	2132-AA40
2631	+Metropolitan Planning	2132-AA44
2632	+Management and Monitoring Systems	2132-AA47
2633	+Statewide Transportation Planning	2132-AA48
2634	Transportation for the Elderly and Persons With Disabilities	2132-AA46

+ Designates significant regulation.

Federal Transit Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2635	+Bus Testing	2132-AA30
2636	Buy America	2132-AA42
2637	Major Capital Investment Projects (Environmental)	2132-AA43

+ Designates significant regulation.

Federal Transit Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2638	Uniform System of Accounts and Records and Reporting System	2132-AA36
2639	Leasing Section 16 Vehicles	2132-AA41

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Research and Special Programs Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2640	+Infectious Substances	2137-AC36
2641	Consolidation of Specifications for High-Pressure Seamless Cylinders and Rewrite of 49 CFR 173.34	2137-AA92
2642	Modernizing the Passenger Origin-Destination Survey	2137-AB92

+ Designates significant regulation.

Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2643	+Safeguarding Food From Contamination During Transportation	2137-AC00
2644	+Alcohol Misuse Prevention Program	2137-AC21
2645	+Hazardous Materials in Intrastate Commerce	2137-AB37
2646	+Qualification of Pipeline Personnel	2137-AB38
2647	+Maps and Records of Pipeline Location and Characteristics; Notification of State Agencies; Pipe Inventory	2137-AB48
2648	+Improvements to Hazardous Materials Identification Systems	2137-AB75
2649	+Drug Testing; MIS Standardized Data Collection and Reporting	2137-AB95
2650	+Excess Flow Valves in Service Lines	2137-AB97
2651	Review of Commuter Air Traffic and Market Data Reporting	2137-AB18
2652	Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Detection Flaws, and Other Defects of Tank Car Tanks	2137-AB40
2653	DOT 3AL Aluminum Cylinders; Safety Problems	2137-AB51
2654	Transportation of a Hazardous Liquid at 20 Percent or Less of Specified Minimum Yield Strength	2137-AB86
2655	Crash Worthiness Protection Requirements for Tank Cars	2137-AB89
2656	Distribution System Definitions	2137-AC02
2657	Updating Confidentiality Rules for International Passenger Origin-Destination Survey Data and Service Segment Data	2137-AC07
2658	Design and Construction of Welded Breakout Tanks	2137-AC11
2659	Use of Cargo Tanks, Portable Tanks, and Multi-Unit Tank Car Tanks in TOFC/COFC Service	2137-AC26
2660	Yard Lines	2137-AC32
2661	Underwater Abandoned Pipeline Facilities	2137-AC33
2662	Environmentally-Sensitive Areas and High-Density Population Areas	2137-AC34
2663	Cargo Tanks; Miscellaneous Requirements	2137-AC37

+ Designates significant regulation.

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2664	+Hydrostatic Testing of Certain Hazardous Liquid Pipelines	2137-AB46
2665	+Gas Gathering Line Definition	2137-AB15
2666	+Operation and Maintenance Procedures for Pipelines	2137-AB44
2667	+Excavation Damage Prevention Programs for Gas and Hazardous Liquid Pipelines	2137-AB47
2668	+Amendments to the DOT Airline On-Time Disclosure Rule	2137-AB84
2669	+Regulatory Review: Gas Pipeline Safety Standards	2137-AC25
2670	+Response Plans for Onshore Oil Pipelines	2137-AC30
2671	+Oil and Hazardous Substances: Spill Prevention, Containment, and Response Plans	2137-AC31
2672	Transportation of Hazardous Materials; Miscellaneous Amendments	2137-AA44
2673	Quantity Limitations Aboard Aircraft	2137-AA85
2674	Enforcement of Motor Carrier Financial Responsibility Requirements	2137-AB35
2675	Gas Detection and Monitoring in Compressor Station Buildings	2137-AB49
2676	Determining the Extent of Corrosion on Exposed Gas Pipelines	2137-AB50
2677	Transportation Regulations; Compatibility with the International Atomic Energy Agency	2137-AB60
2678	Transportation of Hydrogen Sulfide by Pipeline	2137-AB63
2679	Leakage Surveys	2137-AB64
2680	Passage of Internal Inspection Devices	2137-AB71
2681	Centralization of Formal Hearing Dockets (RSPA)	2137-AB91

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Research and Special Programs Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2682	Implementation of the ICAO Technical Instructions	2137-AB99
2683	Nomenclature Changes in Rules	2137-AC19
2684	Intermediate Bulk Containers for Hazardous Materials	2137-AC23
2685	Tank Cars and Cargo Tank Motor Vehicles: Attendance Requirements	2137-AC24
2686	Regulatory Review: Hazardous Liquid and Carbon Dioxide Pipeline Safety Standards	2137-AC27
2687	Regulatory Review: Administrative Practices, Reporting Pipeline Incidents, Gas Pipeline Standards, and Liquefied Natural Gas Facility Standards	2137-AC28
2688	International Maritime Dangerous Goods Code and ICAO Technical Instructions; Matter Incorporated by Reference	2137-AC35

+ Designates significant regulation.

Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2689	+Training for Hazardous Materials Transportation	2137-AB26
2690	+Marine Pollutants	2137-AC16
2691	+Electronic Filing of Property and Passenger Tariffs	2137-AC18
2692	Elevated Temperature Materials	2137-AB58
2693	Confidentiality of Aircraft Inventory Data	2137-AC08
2694	Allocation Formula for State Grants	2137-AC12
2695	Incorporation by Reference of Voluntary Standards	2137-AC13
2696	Regulatory Review: Liquefied Natural Gas Facilities	2137-AC29

+ Designates significant regulation.

Maritime Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2697	Seamen's Service Awards	2133-AB02

Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2698	+Cargo Preference—U.S.-Flag Vessels; Uniform Contracting Requirements for Federal Program Participants	2133-AA95
2699	+Determination of Fair and Reasonable Guideline Rates for the Carriage of Bulk and Packaged Preference Cargoes on U.S.-Flag Commercial Vessels	2133-AA98
2700	Values for War Risk Insurance; Review of War Risk Insurance Valuation Methodology	2133-AA89
2701	Agency Agreements and Appointment of Agents	2133-AA91

+ Designates significant regulation.

Maritime Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2702	Centralization of Formal Hearing Dockets (MARAD)	2133-AA84
2703	Priority Use and Allocation of Shipping Services, Containers, Chassis, and Port Facilities and Services for National Security and National Defense Related Operations	2133-AA85
2704	Merchant Marine Training	2133-AA94

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Maritime Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2705	Operating-Differential Subsidy (ODS) on Bulk Cargo Vessels, Calculation of Maintenance and Repair Subsidy Rates	2133-AA99
2706	Federal Port Controllers	2133-AB03

Maritime Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2707	Foreign Transfer of Documented Vessels	2133-AB00

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Prerule Stage

2170. +ANTIDRUG PROGRAMS FOR DEPARTMENT OF TRANSPORTATION CONTRACTORS

Significance: Agency Priority

Legal Authority: 49 USC 322; 40 USC 486(c)

CFR Citation: 48 CFR 1226.7001; 48 CFR 1252.226-70; 48 CFR 34; 48 CFR 1.301

Legal Deadline: None

Abstract: Consistent with DOT antidrug initiatives for DOT employees and employees of regulated industries, DOT was considering requiring its contractors to establish antidrug programs (including drug testing and employee assistance programs) for employees performing safety-sensitive or security functions under DOT contracts. Although initially considered significant because of substantial public interest, the Department is considering withdrawing this rulemaking. Uniform, government-wide regulations to deter drug use among contractor employees have been issued to implement the Drug-Free Workplace Act.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Room 10424, Washington, DC 20590, **202 366-9306**

RIN: 2105–AB40

2171. +ACCESSIBILITY OF PASSENGER VESSELS TO INDIVIDUALS WITH DISABILITIES

Significance: Agency Priority

Legal Authority: 42 USC 12101 et seq; PL 101-336 Americans with Disabilities Act

CFR Citation: 49 CFR 37

Legal Deadline: Final, Statutory, July 26, 1991.

Abstract: The Department's Americans with Disabilities Act (ADA) final rule, published September 6, 1991 (56 FR 45584), reserved portions of the rule concerning passenger vessels. The ADA covers passenger vessels, but issuing accessibility requirements for vessels involves complex issues unlike those affecting land transportation. This action will address these issues and propose feasible requirements to make passenger vessels accessible to, and usable by, individuals with disabilities. This rulemaking is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, **202 366-9306**

RIN: 2105–AB87

2172. DIRECT FLIGHTS

Significance: Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The petition is filed in Docket 41217.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, **202 366-9306**

RIN: 2105–AA73

2173. PRICE ADVERTISING

Significance: Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1381

DOT—OST

Prerule Stage

CFR Citation: 14 CFR 380.30(e); 14 CFR 399.84

Legal Deadline: None

Abstract: The DOT rules cited above state that any price stated for air transportation, a tour or a tour component must be the entire price for that transportation, tour or component. In this petition, Mr. Donald Pevsner complains that some tour operators advertise prices which do not include additional features which must be purchased and which cost extra. He asks that the rules be amended to state that such additional features may only be priced separately if they may be purchased separately, i.e., if they are optional rather than mandatory. The petition is under consideration.

Timetable:

Action	Date	FR Cite
Petition for Rulemaking (Dkt 43147)	05/22/85	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, **202 366-9306**

RIN: 2105–AB25

2174. IMPLEMENTATION OF AMENDMENTS TO THE EQUAL ACCESS TO JUSTICE ACT

Significance: Nonsignificant

Legal Authority: 5 USC 504

CFR Citation: 49 CFR 6; 48 CFR 6301; 14 CFR 14

Legal Deadline: None

Abstract: This action would incorporate the latest amendments to the Equal Access to Justice Act (EAJA or "Act"), 5 USC 504, into OST's EAJA regulations, 49 CFR 6. The EAJA provides for the award of attorneys' fees and other expenses to eligible individuals and entities who prevail over the Government in administrative proceedings, unless the position of the Government was substantially justified. The latest amendment made certain technical and substantive amendments to the EAJA, as well as made the Act, as so amended, permanent. This rulemaking is undertaken at the Department's initiative in response to the statutory changes in the EAJA.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, **202 366-9306**

RIN: 2105–AB73

2175. TRANSPORTATION ACQUISITION REGULATIONS; REWRITE

Significance: Nonsignificant

Legal Authority: 40 USC 486C

CFR Citation: 48 CFR 1200 et seq

Legal Deadline: None

Abstract: The Department is rewriting 48 CFR chapter 12 in light of recent changes in the Federal Acquisition Regulations.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: Because of this expanded project, the entry under RIN 2105-AB54, which proposed only limited revision, will be withdrawn.

Agency Contact: Diane Litman, Chief, Acquisition Policy, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, **202 366-4271**

RIN: 2105–AB75

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Proposed Rule Stage

2176. +COMMERCIAL SPACE TRANSPORTATION: FINANCIAL RESPONSIBILITY REQUIREMENTS FOR LICENSED LAUNCH ACTIVITIES

Significance: Regulatory Program

Legal Authority: PL 98-575; PL 100-656, sec 15(c) to 16 Commercial Space Launch Act

CFR Citation: None

Legal Deadline: None

Abstract: Persons authorized to conduct commercial launch activities by a license issued by the Office of Commercial Space Transportation (OCST) are required to obtain insurance or demonstrate financial responsibility, in amounts and on terms prescribed by OCST, to protect against third-party or government property damage claims resulting from the licensed activities. Licensees and other launch participants are also required to enter into reciprocal waivers of claims arising out of licensed activities. In addition, persons engaged in commercial launch operations must provide proof of financial responsibility, or offer other assurances, adequate to protect the government when its property or personnel are involved in such operations. This rulemaking codifies the procedures by which OCST sets appropriate levels and terms of insurance and financial responsibility required to be carried by persons subject to its authority. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/85	50 FR 19280
ANPRM Comment Period End	07/08/85	50 FR 19280
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation

04/00/93

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Additional Information: The rulemaking entitled Commercial Space Transportation: Reciprocal Waiver of Claims, RIN 2105-AB76, has been consolidated into this rulemaking.

Agency Contact: Elaine David, Attorney Advisor, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9305

RIN: 2105–AA26

2177. +ALCOHOL MISUSE PREVENTION PROGRAM FOR THE TRANSPORTATION INDUSTRY

Significance: Regulatory Program

Legal Authority: 49 USC 1672; 49 USC 1674a; 49 USC 1681; 49 USC 1804; 49 USC 1808; 49 USC 2002; 49 USC 1657; The Omnibus Transportation Employee Testing Act of 1991

CFR Citation: 14 CFR 29; 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 121; 14 CFR 135; 49 CFR 40; 49 CFR 149; 49 CFR 217; 49 CFR 219; 49 CFR 350; 49 CFR 382 to 383; 49 CFR 392; 49 CFR 395; 49 CFR 654

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: The Omnibus Transportation Employee Testing Act of 1991 directs the Secretary of Transportation to prescribe regulations establishing an alcohol and drug testing program for sensitive safety-related employees in several transportation industries within 12 months. These rules would respond to the hazards of alcohol use and abuse in transportation and are considered significant because of important departmental policy and substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/02/89	54 FR 46326
ANPRM Comment Period End	01/31/90	
ANPRM Comment Period Extended to 03/09/90	02/20/90	55 FR 5856
Public Meeting Notice Request for Information	11/08/91	56 FR 57480
Common Preamble Comment Period End 04/14/93	12/15/92	57 FR 59382

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation

Additional Information: This proceeding incorporates several separate rulemakings. The common preamble for the five modal administrations it covered (FAA, FHWA, FRA, FTA, and RSPA) was published 12/15/92.

Agency Contact: Gwyneth Radloff, Attorney, Office of Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9305

RIN: 2105–AB52

2178. +PROPOSED POLICY ON PEAK PERIOD PRICING OF AIRPORT LANDING FEES

Significance: Regulatory Program

Legal Authority: 49 USC 1301 et seq

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The Department proposes to establish a set of guidelines to encourage the voluntary development of peak and off-peak pricing systems for airport landing fees at congested U.S. airports. The guidelines would provide economic incentives to promote more efficient use of existing airport facilities, which would reduce congestion and delays. This rulemaking is significant because of substantial public interest.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Martha Langelan, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-5404

RIN: 2105–AB63

2179. +LICENSING COMMERCIAL SPACE LAUNCH ACTIVITIES

Significance: Regulatory Program

Legal Authority: 49 USC app 2601 to 2623

CFR Citation: 14 CFR 400 to 415

Legal Deadline: None

Abstract: The Commercial Space Launch Act of 1984, as amended, grants the Department of Transportation's Office of Commercial Space Transportation authority to license and otherwise regulate commercial launches and the commercial operation of launch sites. The Office must ensure that commercial space launch activities are conducted in a manner that does not jeopardize public health and safety, and the safety of property without, however, imposing unnecessary regulatory burdens on the commercial launch industry. The industry has grown in size and complexity since the original regulations were published in 1988, and the Office's licensing program continues to evolve to reflect these changes. This rulemaking would modify the current regulations to reflect a streamlined and more mature licensing regime developed over the past few years. Such changes would benefit the industry by reducing regulatory burdens, thus reducing costs.

This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 04/00/93

Agency Contact: Norman C. Bowles, Assoc. Dir., Licensing and Safety Division, Office of Commercial Space Transportation, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-2929

RIN: 2105–AB85

2180. +NONDISCRIMINATION ON THE BASIS OF HANDICAP IN AIR TRAVEL (AIR CARRIER ACCESS ACT)

Significance: Agency Priority

Legal Authority: 49 USC 1374(a); 49 USC 1374(c)

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: An ANPRM requested comments on lifts and other boarding equipment for use in regional and commuter aircraft and air taxis, and accessible lavatories for narrowbody and smaller aircraft. It also sought comments on additional accommodations for hearing-impaired persons. This rulemaking is significant because of substantial public interest. An Advisory Committee has been established to determine a feasible specification for accessible lavatories in narrowbody airplanes. The Advisory Committee has met three times and has begun developing an outline for submitting recommendations to the Department.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/90	55 FR 8078
ANPRM Comment Period Extended to 07/20/90	06/08/90	55 FR 23450
ANPRM Comment Period End	07/05/90	
Workshop Meeting Schedule	06/04/92	57 FR 23555

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: ADDITIONAL AGENCY CONTACT: Ira Laster, (202) 366-4859. The telephone number for TDD is (202) 755-7687..

Advisory Committee meetings were held 07/29/92-07/30/92, 09/16-17/92, 12/9-10/92.

Agency Contact: Donald Trilling, Director, Office of Transportation Regulatory Affairs, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-4220

RIN: 2105–AB60

2181. +PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG-TESTING PROGRAMS

Significance: Agency Priority

Legal Authority: 49 USC 101; 49 USC 102; 49 USC 301; 49 USC 302; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: Drug-testing procedures of 49 CFR 40 to conform to the Hollings/Danforth drug-testing provisions in the DOT Appropriations Act for FY 1992 are being proposed in RIN 2105-AB95. The SNPRM herein would propose technical changes in the procedures to improve administration of the drug-testing program. Comments to the earlier NPRM on reporting of negative tests (55 FR 28782, 07/13/90) would also be addressed in the SNPRM. This action is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	07/13/90	55 FR 28782
NPRM Comment Period End	08/13/90	
SNPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/13/90 (55 FR 28782)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AB71

2182. +PASSENGER MANIFEST INFORMATION

Significance: Agency Priority

Legal Authority: 49 USC app. 1380; PL 101-604, sec 203

CFR Citation: 14 CFR 243

Legal Deadline: Final, Statutory, March 16, 1991.

Abstract: PL 101-604, enacted November 16, 1990, mandates that the Secretary of Transportation require all U.S. airlines to comply with a Passenger Manifest Collection Regulation for international flights. The Department of Transportation is therefore soliciting comments and suggestions from the public on the most cost-effective methods of facilitating the collection of the required information. This rulemaking is considered significant because of substantial public interest and the congressional mandate.

Timetable:

Action	Date	FR Cite
ANPRM	01/31/91	56 FR 3810
ANPRM Correction	02/12/91	56 FR 5665
ANPRM Comment Period End	02/19/91	
NPRM	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This entry was formerly titled Aviation Security: Passenger Manifest Information.

Agency Contact: Arnold Levine, Director, Office of International Transportation and Trade, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington DC 20590, 202 366-4368

RIN: 2105–AB78

2183. +PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG-TESTING PROGRAMS: MANAGEMENT INFORMATION SYSTEMS

Significance: Agency Priority

Legal Authority: 49 USC 101; 49 USC 102; 49 USC 301; 49 USC 302; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: This rulemaking would amend the Department-wide drug-testing procedures to require that regulated entities in each of the transportation industries submit reports on their drug-testing results on an annual basis in a standardized, uniform manner. The information is intended to provide compliance and enforcement as well as effectiveness data. Each of the Department's operating administrations will be making appropriate, conforming amendments to its drug-testing regulations. This action is significant because of substantial public interest and because it involves a number of administrations within the Department.

Timetable:

Action	Date	FR Cite
Common Preamble	12/15/92	57 FR 59382
Modal NPRM Comments Due	04/14/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: A common preamble for several modal administrations affected (FAA, FHWA, FRA, FTA, and RSPA) was published 12/15/92. These modal administrations are issuing their own NPRMs.

A Notice was issued 02/08/93 (58 FR 7506) on proposed forms and submission procedures.

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DOT—OST

Proposed Rule Stage

Agency Contact: Douglas Lamar Allen, Jr., Program Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-3784

RIN: 2105–AB81

2184. • +DISADVANTAGED BUSINESS ENTERPRISE (DBE) REGULATION; GENERAL UPDATE

Significance: Agency Priority

Legal Authority: Intermodal Surface Transportation Efficiency Act (ISTEA); PL 102-240; Airport and Airway Improvement Act, sec 511

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: This proposed rule would revise the Department's regulations for the disadvantaged business enterprise program to clarify regulatory provisions and revise program elements in light of experience in administering the program since 1980. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/09/92	57 FR 58288
NPRM Comment Period Extended	03/03/93	58 FR 12207
NPRM Comment Period End	03/09/93	
NPRM Comment Period End	04/08/93	
Final Action	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 12/09/92 (57 FR 58288)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC. 20590, 202 366-9306

RIN: 2105–AB92

2185. • +RANDOM DRUG TESTING PROGRAM

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 437 to 438; 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7301; 46 USC 7701; 49 USC 504; 49 USC 3102

CFR Citation: 14 CFR 121; 46 CFR 16; 49 CFR 382; 49 CFR 391; 49 CFR 219; 49 CFR 653; 49 CFR 199

Legal Deadline: None

Abstract: In response to public comments and industry petitions, the operating administrations that are, or are considering, requiring random drug testing have requested public comment and data as to whether there are less costly alternatives to the current random testing program that can maintain an adequate level of deterrence and detection of illegal drug use. This action is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/92	57 FR 59778
Public Meetings Schedule	12/15/92	57 FR 59778
ANPRM Comment Period End	02/16/93	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: LEGAL AUTHORITY CONT: 49 USC 106(g); 49 USC app 1354(a); 49 USC app 1355 to 1357; 49 USC app 1401; 49 USC app 1421 to 1430; 49 USC app 1472; 49 USC app 1485; 49 USC app 1502; 49 USC app 1672; 49 USC app 1674a; 49 USC app 1681; 49 USC app 1804; 49 USC app 1808; 49 USC app 2002; 49 USC app 2040; PL 97-449; PL 100-342; PL 102-143.

Agency Contact: Dr. Donna Smith, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC. 20590, 202 366-3784

RIN: 2105–AB64

2186. • +PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS

Significance: Agency Priority

Legal Authority: Omnibus Transportation Employee Testing Act of 1991; 49 USC 1657

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: This action proposed uniform testing procedures to be used by all DOT agencies conducting alcohol-testing programs and certain changes in DOT drug-testing procedures. A Management Information System (MIS) was also proposed, to gather evaluation and enforcement information for these testing programs. This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59409
NPRM Comment Period End	04/14/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/15/92 (57 FR 59409)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC. 20590, 202 366-9306

RIN: 2105–AB95

2187. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 18

Legal Deadline: None

Abstract: The current rule is being revised to address comments on the NPRM of 11/04/88 and Federal agency concerns on the current rule, and to update deviations from the common rule. OMB has decided not to merge into the existing rule those requirements that apply to universities, hospitals, and other nonprofit organizations. A revised NPRM is under review by OMB.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Comment Period End	01/03/89	
SNPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

DOT—OST

Proposed Rule Stage

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 11/04/88 (53 FR 44716)

Agency Contact: Robert G. Taylor, Chief, Grants and Systems Management Division, M-62, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-4289

RIN: 2105–AB46

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Final Rule Stage

2188. +NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 49 USC 322(a); 31 USC 1352

CFR Citation: 49 CFR 20

Legal Deadline: Final, Statutory, March 22, 1990.

Abstract: This regulation will implement the provisions of a new section 1352 to title 31, United States Code, that prohibits the use of appropriated funds to influence certain Federal contracting and financial transactions. Organizations that use their own funds to pay for lobbying activities are required to disclose such activity. The rule will be issued as a common rule based on guidance issued by the Office of Management and Budget on December 20, 1989, 54 FR 52305. Final action is awaiting OMB resolution of comments received on the interim final rule and possible changes to legislation restricting lobbying activities.

This action is considered significant because it involves governmentwide agencies or departments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Comment Period End	04/27/90	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 00/00/00

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: OMB has control of development of the final rule.

Agency Contact: Robert G. Taylor, Chief, Grants and Systems Management Division, Department of Transportation, Office of the Secretary, Office of Acquisition and Grant Management, Rm. 9401, M-62, Washington, DC 20590, 202 366-4289

RIN: 2105–AB57

2189. +STATEMENT OF ENFORCEMENT POLICY ON REBATING

Significance: Agency Priority

Legal Authority: 5 USC 601; 49 USC 1301 to 1302; 49 USC 1305; 49 USC 1324(a); 49 USC 1371 to 1379; 49 USC 1381 to 1382; 49 USC 1384; 49 USC 1386; 49 USC 1461; 49 USC 1481 to 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399.80; 14 CFR 399.85

Legal Deadline: None

Abstract: The Department is proposing to provide formal notice to the public of its enforcement policy concerning the rebating of international air fares by adopting that policy as a Policy Statement in the regulations. No change in the substance of that policy is intended. The Department also proposes to revoke an existing Policy Statement on the advertising of rebates that is contrary to DOT's current enforcement policy. The proposal responds to a request for such action by the American Society of Travel Agents. The proposed regulation is significant because it involves important departmental policies and substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41353
NPRM Comment Period End	12/20/88	
Extension of Comment Period to 02/21/89	02/03/89	54 FR 5497
Correction to Comment Period Document	02/10/89	54 FR 6475
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/21/88 (53 FR 41353)

Agency Contact: Betsy Wolf, Trial Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9342

RIN: 2105–AB39

2190. +PRICE ADVERTISING

Significance: Agency Priority

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 380; 14 CFR 399

Legal Deadline: None

Abstract: The Department is proposing to amend its rule and policy statement with respect to air transportation price advertising. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31052
Comment Period Extended to 9/25/89	08/23/89	54 FR 35005
NPRM Comment Period End	08/25/89	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

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DOT—OST

Final Rule Stage

Analysis: Regulatory Evaluation 07/26/89 (54 FR 31052)

Agency Contact: Steven Farbman, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9307

RIN: 2105–AB50

2191. +SMOKING ABOARD AIRCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1386; PL 101-164

CFR Citation: 14 CFR 252

Legal Deadline: None
Although there is no judicial or statutory deadline for the Department's implementation, the statutory ban was effective 02/25/90.

Abstract: This interim final rule amends the rules governing smoking aboard aircraft to incorporate a statutory ban on smoking aboard most U.S. flight segments. The statutory ban applies to both U.S. and foreign air carriers. This rulemaking proposed to clarify the current rule and make other minor changes. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/13/90	55 FR 4991

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/13/90 (55 FR 4991)

Additional Information: The interim final rule was effective 02/25/90, the comments were due by 04/16/90

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AB58

2192. +NONDISCRIMINATION ON THE BASIS OF HANDICAP IN AIR TRAVEL (AIR CARRIER ACCESS ACT)

Significance: Agency Priority

Legal Authority: 49 USC 1374(a), 49 USC 1374(c)

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: An SNPRM proposed three additions to part 382 to implement the Air Carrier Access Act of 1986. The additions concern standards for boarding chairs; airport terminal transportation systems; and substitute service for persons denied the opportunity to fly because of inaccessible small aircraft. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
SNPRM, Final Rule Amendments: Comment Period End 06/04/90	03/06/90	55 FR 8076
Comment Period Extended to 07/20/90	06/08/90	55 FR 23450

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/90 (55 FR 8076)

Additional Information: The telephone number for TDD is (202) 755-7687; a taped copy of the SNPRM is available on request.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AB61

2193. +NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Significance: Agency Priority

Legal Authority: 29 USC 794

CFR Citation: 49 CFR 27

Legal Deadline: None

Abstract: This action would amend portions of the rule implementing Section 504 of the Rehabilitation Act of 1973 concerning federally assisted airport facilities to comport with 14 CFR 382, implementing the Air Carrier Access Act of 1986. The proposed rule would also apply the Section 504 rule to air carriers receiving Federal financial assistance under the essential air service program. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/06/90	55 FR 8081
NPRM Comment Period End	06/04/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/90 (55 FR 8081)

Additional Information: The telephone number for TDD is (202) 755-7687; a taped copy of the NPRM is available on request.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AB62

2194. +SEISMIC SAFETY OF DOT ASSISTED OR REGULATED NEW BUILDING CONSTRUCTION

Significance: Agency Priority

Legal Authority: PL 95-124 Earthquake Hazards Reduction Act of 1977; 42 USC 7701 et seq; 91 Stat 1098; EO 12699; PL 101-614 sec 8(2)(3)

CFR Citation: 49 CFR 41

Legal Deadline: NPRM, Statutory, January 5, 1993. Final, Statutory, February 1, 1993.

Abstract: Executive Order 12699 implements certain provisions of the Earthquake Hazards Reduction Act of 1977. The Department has up to three years from the date of the Order (January 1, 1990) to demonstrate compliance for developing and implementing its own mission-appropriate and cost-effective seismic safety and hazard reduction program. For DOT, this includes the design and construction of new transportation buildings, construction and leasing of new buildings, assistance in financing through grants/ loans and guarantees of newly constructed buildings, and responsibility for regulating the structural safety of new buildings. This rulemaking is significant because of substantial public interest and safety implications.

DOT—OST

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/14/93	58 FR 4393
NPRM Comment Period End	03/01/93	
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, Federal

Analysis: Regulatory Evaluation 01/14/93 (58 FR 4393)

Additional Information: EO 12699 is titled "Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction."

Agency Contact: Donald Trilling, Director, Office of Transportation Regulatory Affairs, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-2937

RIN: 2105–AB79

2195. +AVIATION CHARTER RULES

Significance: Agency Priority

Legal Authority: PL 85-726, as amended

CFR Citation: 14 CFR 207 to 208; 14 CFR 212; 14 CFR 294; 14 CFR 298; 14 CFR 380; 14 CFR 389

Legal Deadline: None

Abstract: This rule governs the activities of public charter operators, a type of indirect air carrier that sells charter air transportation to consumers, and airlines that perform the direct air transportation. DOT is proposing to amend the rule to remove unnecessary burdens on charter operators and airlines in order to foster competition and facilitate low-cost air transportation for the public while updating, restructuring, and simplifying the necessary consumer protection provisions of the rules. The NPRM will propose simplified registration and financial procedures and allow use of credit cards for payments to charter operators. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/16/92	57 FR 42864
NPRM Comment Period End	10/16/92	
Comment Period Extended to 11/16/92	10/22/92	57 FR 48193

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/16/92 (57 FR 42864)

Agency Contact: C. W. McGuire, Chief, Regulatory Affairs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-1037

RIN: 2105–AB91

2196. • +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES

Significance: Agency Priority

Legal Authority: Americans with Disabilities Act of 1990; 49 USC 322

CFR Citation: 49 CFR 37

Legal Deadline: None

Abstract: This action proposed to amend the rules implementing the Americans with Disabilities Act. Among the issues being considered are the use of lifts by standees, equivalent facilitation, seat or wheelchair securement space, rail system detectable warnings, fare vending equipment, etc. This rulemaking amendment is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	11/17/92	57 FR 54210
NPRM Comment Period End	01/19/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/17/92 (57 FR 54210)

Additional Information: The TDD telephone number is (202) 755-7687. The NPRM of 11/17/92 inadvertently used RIN 2105-AB53, which was a completed action. The correct RIN is 2105-AB97.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AB97

2197. NONDISCRIMINATION ON THE BASIS OF AGE IN DOT FINANCIAL ASSISTANCE PROGRAMS

Significance: Nonsignificant

Legal Authority: PL 94-135

CFR Citation: 29 CFR 1691

Legal Deadline: None

Abstract: The NPRM proposed to prohibit age discrimination by recipients of DOT financial assistance programs. However, it has been concluded that exceptions to the statute would result in no substantive coverage of DOT programs. Moreover, the paperwork requirements for recipients, without substantive coverage, would have been counterproductive. The NPRM will be withdrawn. The Department will consider, in light of any changes in DOT programs, whether resultant substantive coverage would then warrant a new rulemaking proceeding.

Timetable:

Action	Date	FR Cite
NPRM	10/22/79	44 FR 60946
NPRM Comment Period End	01/21/80	
To Be Withdrawn	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/22/79 (44 FR 60946)

Agency Contact: Joseph Austin, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-5992

RIN: 2105–AA09

2198. DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Significance: Nonsignificant

Legal Authority: 49 USC 1324, 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None

Abstract: This action proposed to make direct air carriers responsible for returning charter passengers stranded by strikes or other service interruptions.

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by eliminating the force majeure clause from charter contracts. However, the CAB subsequently issued an interpretive rule (ER-1387, 49 FR 33436) which was affirmed in court. (Arrow Air, Inc. v. Dole, 784 F.2d 1118 (1986)). Therefore, this action is now moot; the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	
To Be Withdrawn	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: EDR 405, Docket 37169.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AA40

2199. AIR TRAVELERS: AGE DISCRIMINATION

Significance: Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376 (Proposed)

Legal Deadline: None

Abstract: This rule will prohibit discrimination against air travelers on the basis of age and implement the Age Discrimination Act of 1975. A final rule was adopted by the CAB on April 10, 1980, and was forwarded to the Secretary of HHS for approval, as required by the Age Discrimination Act. The rule was approved by HHS on July 13, 1984, with changes.

Timetable:

Action	Date	FR Cite
NPRM	09/26/79	44 FR 55383
Final Action Adopted by the Board	04/10/80	
HHS Approved Final Rule with Changes	07/13/84	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SPDR-74, Docket 36639.

Agency Contact: Robert Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AA45

2200. POLICY STATEMENT ON AIRLINE PREEMPTION

Significance: Nonsignificant

Legal Authority: 49 USC 1305

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The Civil Aeronautics Board in 1979 issued an interim Policy Statement on preemption. It discusses the policy of the Department with respect to three areas in which State law has been preempted by the Airline Deregulation Act of 1978: regulation of commuter air carriers and air taxis, the rights of airport proprietors, and general State authority as it directly or indirectly affects air transportation competition. The Supreme Court has recently ruled that section 105 of the ADA preempts even indirect State regulation that "has a connection with or reference to" airline rates, routes, or services. The Department is considering the effect of this holding on the Policy Statement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9948
Request for Comments on Interim Rule (PSDR-56, Docket 34684)	02/15/79	44 FR 9953
Comment Period End	04/16/79	
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: PS-83, Docket 34684

Agency Contact: Paul Smith, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9285

RIN: 2105–AA46

2201. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 253; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is now considering what action to take.

Timetable:

Action	Date	FR Cite
NPRM	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: ADDITIONAL LEGAL AUTHORITIES: PL 96-354; 5 USC 601. Docket 41683, EDR 468/PSDR-81.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AA78

2202. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 302; 14 CFR 389; 14 CFR 399

Legal Deadline: None

Abstract: A Civil Aeronautics Board rulemaking proposed to revise and simplify the requirements and procedures for applying for exemptions under Section 416(b) of the Federal Aviation Act. This action has become unnecessary since the Department included most of its provisions in its rule transferring the CAB's rules to DOT. Therefore, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39337
NPRM Comment Period End	12/04/84	
To Be Withdrawn	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PDR-88/ODR-27/PSDR-83.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AA82

2203. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1373; 49 USC 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: In response to a petition by Mr. Howard Boros, the CAB proposed to amend the baggage liability notices provided to passengers in foreign air travel. The NPRM proposed to eliminate the disclaimer of liability for fragile and perishable items because that notice is false and misleading.

Timetable:

Action	Date	FR Cite
NPRM	12/18/84	49 FR 49111
NPRM Comment Period End	03/19/85	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Docket 41690; EDR-477.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AA84

2204. SIMPLIFIED AIRLINE COUNTER-SIGN NOTICES

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 256

Legal Deadline: None

Abstract: The American Association of Airport Executives, the Airport Operators Council International and the Air Transport Association of America petitioned the CAB to simplify its counter-sign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified counter sign. The CAB adopted an NPRM that proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted and whether a smoking notice should be included. DOT is now considering what action to take in response to the notice and comments filed.

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation

Additional Information: Docket 41971; EDR-474

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AA88

2205. TRANSPORTATION ACQUISITION REGULATIONS

Significance: Nonsignificant

Legal Authority: 40 USC 486C

CFR Citation: 48 CFR 1200 et seq

Legal Deadline: None

Abstract: This rule proposed changes to the Department's acquisition regulations (TAR). However, in the light of comments received, and the fact that the proposal has been overtaken by subsequent events, it will be withdrawn. Instead, the Department is rewriting chapter 12. See RIN 2105-AB75.

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	54 FR 51426
NPRM Comment Period End	02/13/90	
To Be Withdrawn	04/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 12/15/89 (54 FR 51426)

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Lawrence E. Sawler, Procurement Analyst, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-4287

RIN: 2105–AB54

2206. CENTRALIZATION OF FORMAL HEARING DOCKETS (OST)

Significance: Nonsignificant

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Final Rule Stage

Legal Authority: 49 USC 1301; 49 USC 1323 to 1324; 49 USC 1371 to 1374; 49 USC 1376; 49 USC 1382; 49 USC 1471; 49 USC 1481 to 1482; 49 USC 1486; 42 USC 4321; 39 USC 5402

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: This final rule would provide that evidence and documents in formal hearing cases adjudicated within the Office of the Secretary (OST), and all of the Department of Transportation's modal administrations, except the Coast Guard and the Federal Transit Administration (FTA, formerly UMTA), will be filed and maintained in the OST Office of Documentary Services. The change would streamline operations and consolidate the documents used in formal hearing cases.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AB69

2207. RULES OF CONDUCT IN DOT PROCEEDINGS

Significance: Nonsignificant

Legal Authority: 49 USC 1324, 49 USC 1371 to 1389; 49 USC 1471; 49 USC 1473, 49 USC 1481 to 1482; 49 USC 1487; 18 USC 20(b) to 20(c); 49 USC Subtitle I

CFR Citation: 14 CFR 300

Legal Deadline: None

Abstract: This rulemaking would permit DOT staff to communicate informally with applicants and any objectors in air carrier initial and continuing fitness cases until a show-cause or other order instituting a formal proceeding was issued, at which time the current DOT restrictions on ex parte communications would apply.

Timetable:

Action	Date	FR Cite
NPRM	01/06/93	58 FR 516
NPRM Comment Period End	02/22/93	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/06/93 (58 FR 516)

Agency Contact: Patricia T. Szrom, Chief, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9721

RIN: 2105–AB89

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

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2208. +MINORITY BUSINESS ENTERPRISE PROGRAM (FINANCIAL ASSISTANCE PROGRAMS)

Significance: Agency Priority

Legal Authority: 42 USC 2000d Civil Rights Act of 1964, Title VI; 49 USC 1730; 49 USC 1615; PL 97-424, sec 105(f); PL 100-17, sec 106(c)

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: The Department is reviewing its regulation establishing a minority business enterprise (MBE) program in its financial assistance programs (49 CFR part 23). This regulation has been controversial, is of interest to most DOT grant recipients and contractors, and affects the operations of all DOT financial assistance programs. Section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) extended and modified the program as applied to FHWA and FTA; similar legislation applied the same requirements to the FAA. The Department issued a final rule to make the STURAA changes in October 1987; a similar rule for FAA programs was published in May 1988. In view of subsequent changed circumstances, this rulemaking was consolidated into the more recent rulemaking under RIN 2105-AB92.

Timetable:

Action	Date	FR Cite
Final Action	03/31/80	45 FR 21172
NPRM Interim Amdt. to Final Rule, Pending Revision of Entire Rule	03/12/81	46 FR 16282
Final Action for Interim Amendment	04/27/81	46 FR 23457
Interim Final Rule	10/21/87	52 FR 39225
Consolidated into RIN 2105-AB92	01/13/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/21/87 (52 FR 39225)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AA04

2209. TESTIMONY OF EMPLOYEES OF THE DEPARTMENT AND PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS

Significance: Nonsignificant

Legal Authority: 5 USC 301; 45 USC 41 to 42; 49 USC 322; 49 USC 504(f); 23 USC 409; 31 USC 9701

CFR Citation: 49 CFR 9

Legal Deadline: None

Abstract: The Department of Transportation (DOT or Department) has established procedures that must be followed when a Department employee, former employee, or DOT contractor is required or subpoenaed to provide testimony or produce records concerning information acquired in the course of performing official duties or because of the official status of the employee. The proposed procedures and restrictions are necessary because Department attorneys and employees currently spend a considerable amount of time responding to litigants' requests for documents or testimony, often on the same matter. This rule ensures more efficient use of Department resources, minimizes the possibility of involving the Department in controversial issues not related to its

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mission, maintains the impartiality of the Department among private litigants, and enhances the Department's ability to respond to requests.

Timetable:

Action	Date	FR Cite
NPRM	03/17/92	57 FR 9224
NPRM Comment Period End	05/18/92	
Final Action	02/02/93	58 FR 6719
Final Action Effective	03/04/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/02/93 (58 FR 6719)

Agency Contact: Paul M. Geier, Ass't Gen. Counsel for Litigation, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9279

RIN: 2105–AB56

2210. PROCEDURES AND EVIDENCE RULES FOR AIR CARRIER FITNESS PROCEEDINGS

Significance: Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1377

CFR Citation: 14 CFR 201 to 202; 14 CFR 204; 14 CFR 291; 14 CFR 302

Legal Deadline: None

Abstract: This rulemaking updated the filing procedures and evidentiary requirements pertinent to applicants for certificate, commuter, and domestic all-cargo air carrier authority.

Timetable:

Action	Date	FR Cite
NPRM	06/17/91	56 FR 27696
NPRM Comment Period End	08/16/91	
Final Action	08/27/92	57 FR 38761

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 08/27/92 (57 FR 38761)

Agency Contact: Carol Woods, Transportation Analyst, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-2340

RIN: 2105–AB82

2211. UNFAIR COMPETITION BY COMMONLY OWNED CARRIERS IN ALASKA

Significance: Nonsignificant

Legal Authority: 39 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: This action proposed to amend part 399 to state that it will be the Department's policy to regard it as an unfair method of competition under section 411 of the Federal Aviation Act for an individual or entity to own multiple air carriers that compete in the same city-pair market within the State of Alaska with the effect that the multiple carriers, taken together, receive a greater proportion of the mail tendered for transport for the United States Postal Service, under its present regulations, than the proportion received by any individual carrier serving the same market.

However, after considering comments received and more recent events in the Alaska market, it was determined that a more direct and practicable means of addressing the issues is to rely on the U.S. Postal Service, which has the ability and primary responsibility to fashion a solution to problems caused by its mail distribution within Alaska.

Timetable:

Action	Date	FR Cite
NPRM	06/14/91	56 FR 27469
NPRM Comment Period End	08/13/91	
Withdrawn	02/04/93	58 FR 7053

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/14/91 (56 FR 27469)

Agency Contact: Carol Woods, Transportation Analyst, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-2340

RIN: 2105–AB83

2212. REMOVAL OF OBSOLETE AND REDUNDANT REGULATIONS

Significance: Nonsignificant

Legal Authority: 49 CFR 322

CFR Citation: 14 CFR ch I and II; 23 CFR ch I; 33 CFR ch I; 46 CFR ch I and II; 49 CFR subtitle A; 49 CFR subtitle B, ch I, III, V, and VI; 49 CFR ch III, subchapter B

Legal Deadline: None

Abstract: In response to the President's Regulatory Moratorium and Review, the Department has reviewed all its existing regulations, identifying 71 which were obsolete or redundant, or could be reissued as nonregulatory guidance. This action removed those rules from the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21362
NPRM Comment Period End	07/06/92	
Final Action	12/22/92	57 FR 60725

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/22/92 (57 FR 60725)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AB88

2213. STANDARD TIME ZONE BOUNDARY IN THE STATE OF NORTH DAKOTA: PROPOSED RELOCATION

Significance: Nonsignificant

Legal Authority: 15 USC 260 to 264

CFR Citation: 49 CFR 71

Legal Deadline: None

Abstract: The County Commissioners of Oliver County, ND, have petitioned to move the county from mountain to central time. This action complied with the Commissioners' request.

Timetable:

Action	Date	FR Cite
NPRM	07/01/92	57 FR 29270
NPRM Comment Period End	08/31/92	
Final Action	10/23/92	57 FR 48336
Final Action Effective	10/25/92	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/23/92 (57 FR 48336)

Additional Information: The NPRM also announced a public hearing in Center,

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ND, for 08/04/92, which was tape recorded for inclusion in the docket

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AB90

2214. • COMMERCIAL SPACE TRANSPORTATION; REMOVAL OF USER FEES

Significance: Nonsignificant

Legal Authority: PL 102-588; 49 USC app 2601; 31 USC 9701

CFR Citation: 14 CFR 413; 14 CFR 415

Legal Deadline: None

Abstract: In accordance with the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993, this action removed from the Commercial Space Transportation Licensing Regulations the requirement for the payment of user fees by license applicants and licensees.

Timetable:

Action	Date	FR Cite
Final Action	01/12/93	58 FR 3826

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/12/93 (58 FR 3826)

Agency Contact: Elaine David, Attorney Advisor, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC. 20590, 202 366-9305

RIN: 2105–AB96

2215. • EMPLOYEE RESPONSIBILITIES AND CONDUCT

Significance: Nonsignificant

Legal Authority: 49 USC 322; EO 12674; EO 12731

CFR Citation: 49 CFR 99

Legal Deadline: None

Abstract: The Office of Government Ethics has issued new regulations on employee responsibilities and conduct. The Department of Transportation removed from the Code of Federal Regulations the DOT regulations, while retaining the regulations which relate to post-employment matters and conflict of interest, pending subsequent issuance of Office of Government Ethics regulations on these topics.

Timetable:

Action	Date	FR Cite
Final Action Effective	02/03/93	
Final Action	02/11/93	58 FR 7993

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/11/93 (58 FR 7993)

Agency Contact: William R. Register, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9161

RIN: 2105–AB98

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Prerule Stage

2216. • +DRAWBRIDGE OPERATION REGULATIONS; POTOMAC RIVER, DISTRICT OF COLUMBIA

Significance: Agency Priority

Legal Authority: PL 102-587

CFR Citation: 33 CFR 117

Legal Deadline: Other, Statutory, May 5, 1993.
Coast Guard Authorization Act of 1992 required issuance of ANPRM by 05/05/93.

Abstract: The Coast Guard is considering whether the operation schedule of the Woodrow Wilson Memorial Bridge, mile 103.8, should require 24 hour's advance notice by owners and operators of commercial vessels of a requested opening. Pursuant to a provision in the Coast Guard Authorization Act this advance notice of proposed rulemaking (ANPRM) is being published to solicit comments from the public. This rulemaking is considered significant because of substantial public interest

Timetable:

Action	Date	FR Cite
ANPRM	02/02/93	58 FR 6766
ANPRM Comment Period End	04/05/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ann B. Deaton, Project Manager, Fifth Coast Guard District, Department of Transportation, U.S. Coast Guard, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23704-5004, 804 398-6222

RIN: 2115–AE31

2217. POSTING REQUIREMENTS ON INSPECTED VESSELS (87-031)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 31; 46 CFR 71; 46 CFR 91; 46 CFR 167; 46 CFR 176; 46 CFR 189

Legal Deadline: None

Abstract: Various laws, international agreements, and Coast Guard regulations require the posting of specific certificates, licenses, plans, operating instructions, and warnings onboard vessels. Some of these contain essential operational data which must be accessible at all times; others are primarily informational. This rulemaking project will seek to reduce posting requirements for nonessential operational data to reduce the burden on the public. Alternatives such as having items readily available rather than being posted are being considered.

Timetable:

Action	Date	FR Cite
ANPRM	04/24/87	52 FR 31786
ANPRM Comment Period End	11/24/87	52 FR 31786
Second ANPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/93

Additional Information: As a result of the ANPRM, a new project was created

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to remove regulations requiring merchant vessels to post Form 811. A final rule was published under Docket Number 87-031a (RIN 2115-AC91) on 22 July 1988 (53 FR 27686).

Agency Contact: Mr. Allen W. Penn, Project Manager, G-MVI, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AC68

2218. ALCOHOL/DRUG ABUSE REVIEW FOR LICENSE/CERTIFICATE OF REGISTRY AND MERCHANT MARINER DOCUMENT APPLICANTS (91-210)

Significance: Nonsignificant

Legal Authority: 46 USC 7101; 46 USC 7302

CFR Citation: 46 CFR 10; 46 CFR 12

Legal Deadline: None

Abstract: This regulation will require that license, certificate of registry, and merchant marine document applicants make available certain national driver registry data and be tested for use of illegal, dangerous drugs. A review of the applicant's criminal record may also be required. (See RIN 2115-AD93.)

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Cratty, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6758

RIN: 2115–AD91

2219. CRIMINAL RECORD REVIEWS AND ACCESS TO THE NATIONAL DRIVER REGISTER (91-212)

Significance: Nonsignificant

Legal Authority: 46 USC 7109

CFR Citation: 46 CFR 10; 46 CFR 12

Legal Deadline: None

Abstract: This action would provide the Coast Guard discretionary authority to review the criminal record of each applicant for a merchant mariner credential and require that each merchant mariner credential applicant make available information contained in the National Driver Register (NDR). The regulation would create procedures to allow an applicant or a holder of a license, Certificate of Registry or merchant mariner document to request and comment upon any data received from the NDR. The data could be used against an individual's merchant mariner credential(s) under administrative procedures.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: RIN 2115-AD96, titled Access to National Driver Register, has been consolidated into this project.

Agency Contact: Jim Cratty, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6758

RIN: 2115–AD93

2220. REMOVAL OF MASTER OR PERSON IN CHARGE OF A VESSEL (91-214)

Significance: Nonsignificant

Legal Authority: 46 USC 8101

CFR Citation: 46 CFR 5; 46 CFR 15

Legal Deadline: None

Abstract: This regulation would require, under specific conditions, the relieving of the master or person in charge by the next most senior master, mate, or licensed operator.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Mr. W. Williamson, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6732

RIN: 2115–AD95

2221. REPORTING MARINE CASUALTIES (91-216)

Significance: Nonsignificant

Legal Authority: 46 USC 6101

CFR Citation: 46 CFR 4

Legal Deadline: None

Abstract: This action would add to the definition of a reportable marine casualty "significant harm to the environment." Some casualty reporting requirements are extended to include foreign tankships operating in U.S. waters, including the exclusive economic zone.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Vekerk, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6220

RIN: 2115–AD98

2222. ALTERATION OF OBSTRUCTIVE BRIDGES (91-063)

Significance: Nonsignificant

Legal Authority: 33 USC 511

CFR Citation: 33 CFR 116

Legal Deadline: None

Abstract: With the upsurge of interest in bridge alterations, it has become necessary to clarify the procedures for declaring a bridge to be an unreasonable obstruction and, most importantly, how a bridge qualifies for alteration under the Truman-Hobbs Act. This rule would clarify and update the procedures contained in 33 CFR 116 to more clearly reflect the procedures currently in use.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Marcia L. Waples, Project Manager, G-NBR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0375

RIN: 2115–AE15

2223. HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES (92-026)

Significance: Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 126

Legal Deadline: None

Abstract: This action would update regulations governing the handling of breakbulk, containerized, and dry bulk

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dangerous cargoes on waterfront facilities.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4127
ANPRM Comment Period End	04/13/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Independent study will be undertaken and, together with comments from the public, will determine industry and governmental interest in this rulemaking.

Agency Contact: Gary Chappell, Project Manager, G-MPS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0493

RIN: 2115–AE22

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Proposed Rule Stage

2224. +STRUCTURAL AND OPERATIONAL MEASURES TO REDUCE OIL SPILLS FROM EXISTING TANK VESSELS WITHOUT DOUBLE HULLS (91-045)

Significance: Regulatory Program

Legal Authority: 46 USC 3703; PL 101-380

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, August 26, 1991.

Abstract: This rulemaking will address the interim measures existing vessels must take to provide substantial protection to the environment. The interim measures will apply to existing vessels until the vessel must comply with the double hull regulations beginning on January 1, 1995. No tank vessel without a double hull may operate after January 15, 2015. Interim measures are to include structural and operational standards to provide substantial protection to the environment that are economically and technologically feasible. This rulemaking is considered significant due to substantial public interest and environmental impact.

Timetable:

Action	Date	FR Cite
ANPRM	11/01/91	56 FR 56284
ANPRM Comment Period End	12/31/91	
ANPRM Comment Period Extended to 01/30/92	01/13/92	57 FR 1243
NPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 07/00/93

Additional Information: This entry was previously titled Existing Tank Vessel Hull Requirements. The correct docket number is 91-045.

Agency Contact: LCDR Michael Karr, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6756

RIN: 2115–AE01

2225. • +FEDERAL AGENCY ACCESS TO THE OIL SPILL LIABILITY TRUST FUND (CGD 92-074)

Significance: Regulatory Program

Legal Authority: 33 USC 2712

CFR Citation: 33 CFR 134; 33 CFR 137; 33 CFR 153

Legal Deadline: None

Abstract: This action will implement provisions of OPA 90 which govern payments to Federal agencies for removal costs and to initiate the assessments of natural resources damages. OPA 90 also consolidates into one Oil Spill Liability Trust Fund the 311(k) fund; the Deepwater Port Liability Fund, and the Trans-Alaska Pipeline Liability Fund. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 06/00/93

Agency Contact: L. E. Burgess, Project Manager, National Pollution Fund Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd, Fairfax, VA 22302, 703 235-4796

RIN: 2115–AE34

2226. +LICENSING OF PILOTS—MANNING OF VESSELS (84-060)

Significance: Agency Priority

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 7101; 46 USC 7109; 46 USC 7112; 46 USC 8101; 46 USC 8502

CFR Citation: 46 CFR 15.812; 46 CFR 10.700

Legal Deadline: None

Abstract: This rulemaking would (1) delineate when certain inspected vessels are required to be under the direction and control of a pilot, (2) describe first class pilotage areas where local pilotage expertise is warranted, (3) allow licensed individuals to serve as pilot in areas not identified as first class pilotage areas on vessels that they are otherwise qualified to control, and (4) permit individuals with 5 years experience on towing vessel combinations of at least 5,000 gross tons while acting under the authority of a license as master, mate, or operator of uninspected towing vessels, with a minimum of 2 of the 5 years having been on towing vessels combinations of at least 10,000 gross tons, to obtain without a written examination, an endorsement as first class pilot, restricted to tug and barge combinations only, for those routes over which they have made the required number of round trips. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/24/85	50 FR 26117
NPRM Comment Period End	12/23/85	
SNPRM	06/06/88	53 FR 20654
SNPRM Supplemental	08/11/89	54 FR 33045
SNPRM Notice of Public Hearing	04/00/93	
Second SNPRM		

DOT—USCG — **Proposed Rule Stage**

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/27/85 (50 FR 26117)

Additional Information: This regulatory project has been split from a previously published action identified by the same title with Coast Guard Docket number 77-084 and RIN 2115-AA04, completed in 50 FR 26106. The Coast Guard initiated a comprehensive study of pilotage issues and requested public comment in 54 FR 31136.

Agency Contact: Mr. J. Hartke, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0217

RIN: 2115–AB67

2227. +SECURITY FOR PASSENGER VESSELS AND PASSENGER TERMINALS (91-012)

Significance: Agency Priority

Legal Authority: 33 USC 1226

CFR Citation: 33 CFR 120; 33 CFR 128

Legal Deadline: None

Abstract: The purpose of this action is to improve security measures on passenger vessels engaged in international voyages of 24 hours or more, and on the port facilities serving these vessels. This rulemaking is significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Gary W. Chappell, Project Manager, G-MPS-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AD75

2228. +CHEMICAL DRUG AND ALCOHOL TESTING OF COMMERCIAL VESSEL PERSONNEL; COLLECTION OF DRUG AND ALCOHOL TESTING INFORMATION (MIS) (CGD 91-019)

Significance: Agency Priority

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7301; 46 USC 7701

CFR Citation: 46 CFR 16

Legal Deadline: None

Abstract: To provide effective oversight and monitoring of transport industry antidrug programs, DOT would propose to implement a Management Information System (MIS) of standardized drug and alcohol testing data collected from the regulated industries. (See RIN 2105-AB81.) This entry is the Coast Guard's part of the departmental action and is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59752
NPRM Comment Period End	04/14/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/15/92 (57 FR 59752)

Agency Contact: LCDR Mark Grossetti, Project Manager, G-MMI-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1421

RIN: 2115–AD84

2229. +USER FEES FOR APPROVALS OF EQUIPMENT, LABORATORIES, AND SERVICING FACILITIES (92-013)

Significance: Agency Priority

Legal Authority: 46 USC 2110; 46 USC 664; 31 USC 9701

CFR Citation: 46 CFR subchapter F; 46 CFR subchapter J; 46 CFR subchapter Q; 33 CFR 159

Legal Deadline: None

Abstract: This regulatory project would establish direct user fees for Coast Guard services relating to equipment approvals, factory inspections, acceptance of independent laboratories and acceptance of servicing, repair, and testing facilities. The proposed fees are based on average workload, personnel, and overhead costs. The fees collected will be deposited in the general funds of the U.S. Treasury as offsetting receipts for Coast Guard activities. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 06/00/93

Agency Contact: LCDR J.J. Kelly, Project Manager, G-MP, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0009

RIN: 2115–AE18

2230. +STATE ACCESS TO THE OIL SPILL LIABILITY TRUST FUND (92-014)

Significance: Agency Priority

Legal Authority: 33 USC 2712

CFR Citation: 33 CFR 133

Legal Deadline: NPRM, Statutory, February 18, 1991.

Abstract: Pursuant to the Oil Pollution Act of 1990 (OPA 90), this action will specify how the authority to obligate the pollution trust fund for oil spill response and cleanup efforts and to enter into agreements with the States will be exercised. OPA 90 provides for access to the liability trust fund at the request of a State governor or pursuant to agreement with a State. This project has been split into two rulemakings within this RIN. The interim final rule addresses immediate State access to the trust fund. A separate NPRM will address formal agreements with States to establish administrative procedures, recordkeeping, and auditing requirements. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/13/92	57 FR 53968
NPRM	06/00/93	

Small Entities Affected: None

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Government Levels Affected: None

Analysis: Regulatory Evaluation 11/13/92 (57 FR 53968)

Agency Contact: Donald Taylor, Project Manager, National Pollution Fund Center (clr), Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd, Suite 1000, Arlington, VA 22203-1804, 703 235-4805

RIN: 2115–AE19

2231. • +DRUG TESTING OF INDIVIDUALS APPLYING FOR ISSUANCE OR RENEWAL OF LICENSES, CERTIFICATES OF REGISTRY, OR MERCHANT MARINERS' DOCUMENTS (91-223)

Significance: Agency Priority

Legal Authority: PL 101-380

CFR Citation: 46 CFR 10; 46 CFR 12; 46 CFR 16

Legal Deadline: None

Abstract: The Oil Pollution Act of 1990 requires merchant marine credential applicants be tested for use of dangerous drugs. This regulation will provide procedures for implementing this requirement. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/93

Agency Contact: Mr. Jim Cratty, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6742

RIN: 2115–AE29

2232. HYBRID PERSONAL FLOTATION DEVICES: ESTABLISHMENT OF APPROVAL REQUIREMENTS (78-174)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703; 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project would establish performance standards for hybrid PFDs and procedures for granting product approval to these devices.

Timetable:

Action	Date	FR Cite
ANPRM	03/15/79	44 FR 15933
NPRM	05/29/85	50 FR 21862
NPRM Comment Period End	07/15/85	
Interim Final Rule	08/22/85	50 FR 33923
SNPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/22/85 (50 FR 33923)

Additional Information: A related project, CGD 78-174, was completed on 6/27/91 (56 FR 29439).

Agency Contact: Ens. R. Smith, Project Manager, G-MVI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AA29

2233. OUTER CONTINENTAL SHELF FACILITIES: AIDS TO NAVIGATION (82-054)

Significance: Nonsignificant

Legal Authority: 14 USC 2; 14 USC 83; 14 USC 85; 14 USC 92; 14 USC 633

CFR Citation: 33 CFR 67

Legal Deadline: None

Abstract: This item will modify existing requirements to allow for the following: central approval of aids to navigation lighting equipment, conformance to International Association of Lighthouse Authorities marking recommendations for offshore structures, and realistic light-intensity requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/93

Additional Information: Formerly entitled Aids to Navigation on Outer Continental Shelf.

Agency Contact: Charles Mosher, Project Manager, G-NSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1973

RIN: 2115–AA92

2234. SAFETY STANDARDS FOR NEW SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES (82-058)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 154

Legal Deadline: None

Abstract: This proposal would update standards for ships carrying bulk liquefied gases by adopting Amendments 1 through 4 of the International Maritime Organization Code for the construction and equipment of ships carrying gases in bulk.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Mr. T. Felleisen, Project Manager, G-MTH-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AA95

2235. FIRE PROTECTION REGULATIONS (CGD 83-026)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306; 46 USC 3503; 46 USC 3703

CFR Citation: 46 CFR 32; 46 CFR 72; 46 CFR 92; 46 CFR 190; 46 CFR 193; 46 CFR 30; 46 CFR 31; 46 CFR 34; 46 CFR 35; 46 CFR 70; 46 CFR 76; 46 CFR 77; 46 CFR 78; 46 CFR 90; 46 CFR 95; ...

Legal Deadline: None

Abstract: The purpose of this proposal is to bring into agreement the international requirements of SOLAS 1974 (Safety of Life at Sea) and its amendments and Coast Guard regulations.

Timetable:

Action	Date	FR Cite
ANPRM	10/01/84	49 FR 38672
ANPRM Comment Period End	11/30/84	
NPRM	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Formerly titled Reassessment of Coast Guard Fire Protection Regulations to Incorporate SOLAS 1974.

Agency Contact: Marsha Kupferman, Project Manager, G-MTH-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AB36

2236. TRAINING IN THE USE OF AUTOMATIC RADAR PLOTTING AIDS (ARPA) (85-089)

Significance: Nonsignificant

Legal Authority: 33 USC 1223; 46 USC 3703

CFR Citation: 33 CFR 164; 46 CFR 10

Legal Deadline: None

Abstract: Current regulations require installation of ARPA on certain ships to improve vessel and waterway safety. Training in the use of this equipment is necessary to ensure its proper application and maximum benefit. A very small percentage of licensed personnel (those manning vessels of 10,000 GT or larger) would be required to complete an ARPA training course. The course is expected to cost approximately $500.00 per student.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/85	50 FR 43258
ANPRM Comment Period End	12/23/85	
NPRM	03/07/90	55 FR 8155
NPRM Comment Period End	06/05/90	
SNPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/07/90 (55 FR 8155)

Agency Contact: Paul Eulitt, Project Manager, G-MVP-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0224

RIN: 2115–AB99

2237. REVISIONS TO THE ELECTRICAL ENGINEERING REGULATIONS (85-063)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 2113; 46 USC 3301; 46 USC 3306; 46 USC 3318; 46 USC 3703; 46 USC 4104

CFR Citation: 46 CFR 110; 46 CFR 111; 46 CFR 112; 46 CFR 113

Legal Deadline: None

Abstract: This rulemaking would generally update and revise 46 CFR Subchapter J to address changes in technology, include international conventions (Amendments to SOLAS '74), clarify requirements, and reflect experience gained as a result of vessel reflaggings.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Bob Landman, Project Manager, G-MTH-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AC20

2238. SMALL PASSENGER VESSEL INSPECTION AND CERTIFICATION (CGD 85-080)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 175 to 185; 46 CFR 170; 46 CFR 171; 46 CFR 173

Legal Deadline: None

Abstract: This rulemaking would revise subchapters S and T to reflect statutory changes, incorporate new technology, and improve safety requirements. Among the changes contemplated would be a change in inspection intervals, drydocking intervals, lifesaving equipment requirements, and fire protection requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4412
Comment Period Extended and Notice of Hearings	04/26/89	54 FR 17997
Notice of Public Hearing Change	05/25/89	54 FR 22608
NPRM Comment Period End	05/30/89	
Notice of Intent to Issue SNPRM	09/18/89	54 FR 38410
SNPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/30/89 (54 FR 4412)

Additional Information: On April 26, 1989, the Coast Guard published notice of six public hearings and extended the comment period to July 31, 1989. Because of extensive substantive public comments, the Coast Guard will issue an SNPRM.

Agency Contact: LCDR M. Cruder, Project Manager, G-MVI-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AC22

2239. LOAD LINES (86-013)

Significance: Nonsignificant

Legal Authority: 46 USC 5102; 46 USC 5103; 46 USC 5104; 46 USC 5105; 46 USC 5106; 46 USC 5107; 46 USC 5108

CFR Citation: 46 CFR 41 to 48

Legal Deadline: None

Abstract: This proposal will revise 46 CFR parts 42 and 44 through 46 and add parts 41, 43, 47 and 48 (subchapter E) to correct errors, replace previous omissions, incorporate new policies which have not been published and implement provisions of the new Load Line Law enacted on 21 Oct 86 and now in effect.

Timetable:

Action	Date	FR Cite
Notice	12/29/86	51 FR 46972
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/00/93

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DOT—USCG

Proposed Rule Stage

Agency Contact: LCDR J. K. Dabney, Project Manager, G-MTH-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-2988**

RIN: 2115–AC37

2240. REVISION TO INFLATABLE LIFERAFT APPROVAL: SOLAS 74/83 (85-205)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project would establish approval requirements for inflatable liferafts meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
ANPRM RIN 2115-AA50	06/29/81	46 FR 33341
NPRM RIN 2115-AA50	01/11/85	50 FR 7558
Comment Period Extended to 10/14/85 RIN 2115-AA50	07/05/85	50 FR 27628
Comment Period Extended to 01/10/86 RIN 2115-AA50	09/09/85	50 FR 36639
ANPRM RIN 2115-AA57	08/14/86	51 FR 29117
Public Meeting RIN 2115-AA57	12/22/86	51 FR 45783
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Two related projects have been consolidated into this one: Inflatable Liferaft Stability (CGD 80-113), RIN 2115-AA50, and Servicing Inflatable Liferafts (CGD 81-010), RIN 2115-AA57.

Agency Contact: Mr. Kurt Heinz, Project Manager, MVI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-1444**

RIN: 2115–AC51

2241. REGATTAS AND MARINE PARADES (CGD 87-087)

Significance: Nonsignificant

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100.15

Legal Deadline: None

Abstract: This proposal would amend current regatta and marine parade regulations to increase the lead time requirement for submitting regatta permit applications. The rulemaking will allow the Coast Guard adequate time to review regatta permit applications, conduct appropriate coordination, and provide necessary public notice relating to regattas and marine events. In view of comments received, an SNPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	02/04/88	53 FR 3221
NPRM Comment Period End	04/04/88	53 FR 3221
SNPRM	10/00/93	

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 02/04/88 (53 FR 3221)

Agency Contact: Mr. Carlton Perry, Project Manager, G-NAB, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-0979**

RIN: 2115–AC84

2242. DELEGATION OF AUTHORITY TO AREA COMMANDERS WHEN FUNCTIONING AS MARITIME DEFENSE ZONE COMMANDERS (CGD 87-065)

Significance: Nonsignificant

Legal Authority: 50 USC 191; 33 USC 1231

CFR Citation: 33 CFR 6

Legal Deadline: None

Abstract: Following the 1986 reorganization of the Coast Guard, Area Commanders do not have authority to establish security zones, control vessels, or perform other necessary actions. This rule would delegate that authority to the Area Commanders. Since this proposal deals with agency procedure, it will be issued as a final rule with no notice of proposed rulemaking.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Chappell, Project Manager, G-MPS-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-0491**

RIN: 2115–AC88

2243. MARINE TRANSPORT OF BULK SOLID HAZARDOUS MATERIALS (87-069)

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 46 CFR 148

Legal Deadline: None

Abstract: This proposal would incorporate into 46 CFR 148 the requirements for shipping certain frequently carried hazardous bulk solids: Putting these requirements into regulation would eliminate paperwork for both the Coast Guard and the shipping industry. This proposal would also incorporate requirements found in the International Maritime Organization's Code of Safe Practice For Solid Bulk Cargoes.

Timetable:

Action	Date	FR Cite
ANPRM	04/28/89	54 FR 18308
ANPRM Comment Period End	06/27/89	
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Frank Thompson, Project Manager, G-MTH-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-0087**

RIN: 2115–AD02

2244. REQUIREMENTS FOR MARINE TERMINALS TRANSFERRING BULK LIQUEFIED HAZARDOUS GASES (88-049)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

DOT—USCG

Proposed Rule Stage

CFR Citation: 33 CFR 126; 33 CFR 127

Legal Deadline: None

Abstract: This project would develop requirements for marine terminals transferring bulk liquefied hazardous gases (petroleum and chemical) and establish comparable levels of safety and contingency measures for these commodities as are now required for liquefied natural gas (LNG).

Timetable:

Action	Date	FR Cite
ANPRM	09/28/88	53 FR 37792
ANPRM Comment Period End	11/28/88	
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Mr. G. W. Chappell, Project Manager, G-MPS-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-0491**

RIN: 2115–AD06

2245. WRITTEN WARNINGS BY COAST GUARD LAW ENFORCEMENT OFFICIALS (88-074)

Significance: Nonsignificant

Legal Authority: 14 USC 633

CFR Citation: 33 CFR 1

Legal Deadline: None

Abstract: This proposal would clarify which Coast Guard officials may issue written warnings for violations of statutes and regulations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LT Ralph Hetzel, Project Counsel, G-LRA, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-0014**

RIN: 2115–AD13

2246. ACCESS DOCUMENTS TO WATERFRONT FACILITIES (88-097)

Significance: Nonsignificant

Legal Authority: EO 10277

CFR Citation: 33 CFR 125

Legal Deadline: None

Abstract: This proposal would reemphasize the Port Security Card as an access control document rather than a personal identification document.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: LT Corpuc, Project Manager, G-MP-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-0475**

RIN: 2115–AD14

2247. CONTROLLING THE MARINE ASBESTOS HAZARD (88-103)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a); 43 USC 1333

CFR Citation: 46 CFR 197

Legal Deadline: None

Abstract: Asbestos has been identified as a carcinogen for which there are no safe limits of exposure. This regulatory project would limit the hazards posed by asbestos to marine industry personnel aboard Coast Guard inspected vessels, mobile offshore drilling units, Outer Continental Shelf platforms, and deepwater ports.

Timetable:

Action	Date	FR Cite
ANPRM	10/07/92	57 FR 46126
ANPRM Comment Period End	02/04/93	
NPRM	02/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR Barker, Project Manager, G-MVI-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-1181**

RIN: 2115–AD16

2248. REGULATED NAVIGATION AREAS; BROWNSVILLE SHIP CHANNEL (8-89-01)

Significance: Nonsignificant

Legal Authority: 33 USC 1225; 33 USC 1231; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: In recent years the port of Brownsville, Texas, has experienced several casualties involving vessels to be scrapped. This proposal would limit the possibility of future casualties by requiring advance notice of arrival and inspection for watertight integrity and the presence of hazardous gas.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR McHenry, Project Manager, Department of Transportation, U.S. Coast Guard, U.S.C.G. Marine Safety Office, P.O. Box 1621, Corpus Christi, TX 78403-1621, 512 888-3192

RIN: 2115–AD21

2249. GENERAL REVISIONS TO STABILITY REGULATIONS (SUBCHAPTER S) (89-038)

Significance: Nonsignificant

Legal Authority: 46 USC 1333; 46 USC 3306; 46 USC 3703; 46 USC 5115

CFR Citation: 46 CFR 170 to 174

Legal Deadline: None

Abstract: This project proposes general editorial changes to the stability regulations to correct errors and clarify meaning. No substantive revisions are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/93

Additional Information: This project was formerly entitled, Stability Regulations -- General Revision of Subchapter S (89-038).

Agency Contact: LT Guy T. Nolan, Project Manager, G-MTH-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-2988**

RIN: 2115–AD34

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2250. VESSEL IDENTIFICATION SYSTEM (89-050)

Significance: Nonsignificant

Legal Authority: 46 USC 12501

CFR Citation: 33 CFR subchapter S

Legal Deadline: None

Abstract: 46 USC 125 requires the Secretary of Transportation to establish a Vessel Identification System (VIS). This rulemaking will prescribe the manner and form for participating States to make information available for VIS; to establish guidelines for State vessel titling systems; and to establish procedures for certifying compliance with those guidelines.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/89	54 FR 38358
ANPRM Comment Period End	12/14/89	
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: LT Dave Fish, Project Manager, G-MIM-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6044

RIN: 2115–AD35

2251. TANK LEVEL OR PRESSURE MONITORING DEVICES (CGD 90-071)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; PL 101-380

CFR Citation: 46 CFR 32

Legal Deadline: Final, Statutory, December 1, 1991.

Abstract: The Oil Pollution Act of 1990 requires the Secretary of Transportation to issue regulations concerning the use of tank level or pressure monitoring devices. This proposal would implement the provisions of the Act.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/91	56 FR 21116
ANPRM Comment Period End	10/04/91	
Technical Feasibility Study Availability Notice	02/05/93	58 FR 2292
NPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/93

Additional Information: Formerly titled Overfill and Tank Level or Pressure Monitoring Devices.

Agency Contact: LCDR M. Karr, Project Manager, G-MS-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6756

RIN: 2115–AD69

2252. NEW TERMS OF VALIDITY FOR CERTIFICATES OF REGISTRY AND MERCHANT MARINER'S DOCUMENTS

Significance: Nonsignificant

Legal Authority: 46 USC 7107; 46 USC 7302

CFR Citation: 46 CFR 10; 46 CFR 12

Legal Deadline: None

Abstract: This regulation will propose a five-year period of validity for certificates of registry and merchant mariner's documents. The expiration of existing papers is also addressed.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/93

Agency Contact: W. Williamson, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6770

RIN: 2115–AD92

2253. SUSPENSION AND REVOCATION OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS

Significance: Nonsignificant

Legal Authority: 46 USC 2101; 46 USC 7701; 46 USC 7702; 46 USC 7703

CFR Citation: 33 CFR 95; 46 CFR 5; 46 CFR 10; 46 CFR 12

Legal Deadline: None

Abstract: This regulation will allow the temporary suspension of these papers under certain circumstances as part of the suspension and revocation procedures. These revisions would not involve substantial changes to existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 07/00/93

Agency Contact: W. Williamson, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6770

RIN: 2115–AD94

2254. MANNING STANDARDS FOR FOREIGN TANK VESSELS (91-215)

Significance: Nonsignificant

Legal Authority: 46 USC 9101

CFR Citation: 46 CFR 30

Legal Deadline: None

Abstract: This regulation would establish the requirements and procedures for the review for equivalency of foreign manning, training, qualification, and watchkeeping standards with respect to comparable United States or accepted international requirements. Enforcement of these standards by each respective government will also be reviewed.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/93

Agency Contact: Mr. W. Williamson, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100

Second Street SW., Washington, DC 20593-0001, 202 267-6732

RIN: 2115–AD97

2255. PERIODIC GAUGING OF PLATING THICKNESS OF COMMERCIAL VESSELS

Significance: Nonsignificant

Legal Authority: PL 101-380

CFR Citation: 46 CFR 30; 46 CFR 32

Legal Deadline: Final, Statutory, August 1991.

Abstract: This rulemaking applies to vessels constructed or adapted to carry oil in bulk or as cargo residue and requires that minimum standards for plating thickness be established. It also requires periodic gauging of the applicable vessels that are more than 30 years old. The purpose of these regulations is to prevent oil leaks from cracks in hull plating.

Timetable:

Action	Date	FR Cite
NPRM	03/23/93	58 FR 15740
NPRM Comment Period End	05/07/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/23/93 (58 FR 15740)

Agency Contact: Mr. Jordan, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6751.

RIN: 2115–AD99

2256. FIXED RED AND GREEN LATERAL LIGHTS STRUCTURES IN THE WESTERN RIVERS (91-049)

Significance: Nonsignificant

Legal Authority: 14 USC 85; 33 USC 1233; 43 USC 1333

CFR Citation: 33 CFR 62; 33 CFR 64

Legal Deadline: None

Abstract: This rulemaking would amend 33 CFR 62.51 to allow for fixed red and green lateral lights on structures (mainly wharves and piers) in the Western Rivers Marking System.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: LTJG Guyon, Project Manager, G-NSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0411

RIN: 2115–AE08

2257. DAMAGE STABILITY CRITERIA FOR DOUBLE-HULLED TANK VESSELS (91-206)

Significance: Nonsignificant

Legal Authority: PL 101-30

CFR Citation: 33 CFR 157; 46 CFR 172

Legal Deadline: None

Abstract: This rulemaking is intended to regulate stability of tank vessels built under the mandate of section 4115(a) of the Oil Pollution Act of 1990. This section requires vessels constructed or adapted to carry oil in bulk or as cargo residue, for which a contract was placed after 30 June 1990, to be equipped with double hulls.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: J. Sirkar, Project Manager, G-MTH-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-2988

RIN: 2115–AE11

2258. UNNECESSARY DRAWBRIDGE OPENING (91-059)

Significance: Nonsignificant

Legal Authority: 33 USC 499

CFR Citation: 33 CFR 117

Legal Deadline: None

Abstract: This rulemaking would revise 33 CFR 117.11 to prevent unnecessary drawbridge openings and add a definitions section. This revision would prohibit a vessel owner or operator from signalling a drawbridge to open when sufficient clearance is provided for the vessel to pass safely. It would also prohibit signalling for the bridge to open when there is no intention to pass through.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Tyssens, Project Manager, G-NBR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Wasington DC 20593-0001, 202 267-0376

RIN: 2115–AE14

2259. REFUSE RECORDKEEPING FOR SHIPS

Significance: Nonsignificant

Legal Authority: 33 USC 1903(b)

CFR Citation: 33 CFR 151

Legal Deadline: Final, Statutory, December 29, 1988.

Abstract: This regulation would require certain U.S. vessels and fixed or floating platforms to keep records of refuse discharges. This record is mandated by the Marine Plastic Pollution Research and Control Act of 1987. The regulation would require that certain information be recorded and kept on board the vessel. The regulation does not prescribe what format should be used or that a standard book be purchased to log entries. The action's potential costs should be minimal and result from recordkeeping. This rulemaking action should reduce the number of illegal discharges of garbage, provide information for enforcement and assist the Coast Guard in its studies of the methods of disposal being used, the problems encountered in port, and the amounts of garbage being generated at sea.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: ENS Claudia C. Gelzer, Project Manager, G-MEP, Department of Transportation, U.S.

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Proposed Rule Stage

Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6714

RIN: 2115–AE17

2260. TRANSFER HOSE MARKINGS (92-027)

Significance: Nonsignificant

Legal Authority: 33 USC 1903(b)

CFR Citation: 33 CFR 154; 33 CFR 155

Legal Deadline: None

Abstract: Proposal would require that hoses used to transfer bulk liquid hazardous materials to and from waterfront facilities and vessels be either labeled with the names of the products for which the hoses are used, be marked "oil service" or marked "for hazardous material service: Consult hose records for compatibility before use." This last alternative is being added because it is more practical and effective.

Timetable:

Action	Date	FR Cite
NPRM	02/18/93	58 FR 8918
NPRM Comment Period End	04/05/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/18/93 (58 FR 8918)

Additional Information: This proposed change in hose marking regulations was recommended by the Towing Safety Advisory Committee (TSAC).

Agency Contact: LT Jon Burton, Project Manager, G-MEP, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0426

RIN: 2115–AE20

2261. • FEDERAL PILOTAGE REQUIREMENTS FOR FOREIGN TRADE VESSELS (CGD 92-061)

Significance: Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3703; 46 USC 8105; 46 USC 8502

CFR Citation: 46 CFR 15.812

Legal Deadline: None

Abstract: This project proposes to establish a federal pilotage requirement for foreign trade vessels, meaning U.S. vessels sailing on registry and foreign vessels navigating at certain offshore marine oil terminals located within the U.S. navigable waters of the States of California and Hawaii, and while making intra-port transits within certain designated waters of the States of New York and New Jersey.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: J. Bennett, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6102

RIN: 2115–AE28

2262. • BULK HAZARDOUS MATERIALS (92-100) AND NOXIOUS LIQUID SUBSTANCES LIST (92-100A)

Significance: Nonsignificant

Legal Authority: 33 USC 1321; 46 USC 3507

CFR Citation: 33 CFR 151; 46 CFR 30; 46 CFR 98; 46 CFR 147; 46 CFR 150; 46 CFR 151; 46 CFR 153

Legal Deadline: None

Abstract: These actions would add new bulk hazardous liquids and noxious liquid substances to the Code of Federal Regulations and make minor technical changes and corrections.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Curtis Payne, Project Manager, G-MTH, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1577

RIN: 2115–AE35

2263. • NEW YORK VESSEL TRAFFIC SERVICE (CGD 92-065)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: This action will expand the boundaries of Vessel Traffic Service New York (VTSNY) to incorporate expanded surveillance capability as it becomes operational.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irene Hoffman, Project Manager, G-NVT, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6277

RIN: 2115–AE36

2264. • AMENDMENTS TO HULL IDENTIFICATION NUMBER REGULATIONS AND NEW REQUIREMENTS FOR CERTIFICATES OF ORIGIN (CGD 92-065)

Significance: Nonsignificant

Legal Authority: 46 USC 12501

CFR Citation: 33 CFR 181

Legal Deadline: None

Abstract: This rulemaking would expand the length of the hull identification number (HIN) to include information about a vessel and function as a vessel identification number. The rulemaking would also require manufacturers to supply a Certificate of Origin (COO) with each vessel produced to ensure documented certification of this information and establish a chain of ownership. These regulations to provide information identifying vessels and establishing evidence of vessel ownership are needed to help develop a Vessel Identification System (VIDS).

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Alston Colihan, Project Manager, G-NAD-6, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0984

RIN: 2115–AE37

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Final Rule Stage

2265. +OFFSHORE SUPPLY VESSEL REGULATIONS (82-004 AND 86-074)

Significance: Regulatory Program

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR 90; 46 CFR 125 to 136; 46 CFR 170; 46 CFR 174; 46 CFR 175

Legal Deadline: None

Abstract: These regulations would consolidate existing Offshore Safety Vessel standards and policy into a single subchapter and make specific revisions to accommodate the unique characteristics and methods of operation and the service in which the vessels are engaged. Rules specifically applicable to liftboats would be included. Because of substantial public interest in certain aspects of this proposal, it has been classified as significant.

Timetable:

Action	Date	FR Cite
ANPRM	02/14/83	48 FR 6636
Comment Period Extended to 09/12/83	06/09/83	48 FR 26631
ANPRM Comment Period End	06/14/83	48 FR 6636
ANPRM of Consolidated RIN AC63	04/16/87	52 FR 12439
NPRM	05/09/89	54 FR 20006
Comment Period Extended to 12/06/89	08/31/89	54 FR 36040
NPRM Comment Period End	09/06/89	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/09/89 (54 FR 20006)

Additional Information: Coast Guard Docket 86-074 (RIN 2115-AC63) titled Regulations for Self-Elevating Offshore Service and Support Vessels was combined with this project. Public Hearing was held in New Orleans 09/13/89 in response to House Subcommittee request.

Agency Contact: LCDR Scott Hartley, Project Manager, Department of Transportation, U.S. Coast Guard, G-MV1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-2307

RIN: 2115–AA77

2266. +TRAFFIC SEPARATION SCHEMES AND SHIPPING SAFETY FAIRWAYS OFF THE COAST OF CALIFORNIA (83-032)

Significance: Regulatory Program

Legal Authority: 33 USC 1223; 33 USC 1224

CFR Citation: 33 CFR 166; 33 CFR 167

Legal Deadline: None

Abstract: The Coast Guard has conducted the Port Access Route Study mandated by the Ports and Waterways Safety Act. As a result of the study, the Coast Guard will establish traffic separation schemes off the California Coast. These schemes have been in use for some time, and were adopted by the International Maritime Organization (IMO). The proposed shipping safety fairways connecting the San Francisco and the Santa Barbara traffic separation schemes are no longer necessary since creation of the Monterey Bay National Marine Sanctuary in September, 1992, and that portion of this rulemaking will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	04/27/89	54 FR 18258
Correction Notice	05/10/89	54 FR 20235
Announcement of Public Hearings	06/01/89	54 FR 23493
NPRM Comment Period End	07/26/89	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 04/27/89 (54 FR 18258); Environmental Assessment 04/27/89 (54 FR 18258)

Additional Information: Results of the Port Access Study for California were published in the Federal Register on June 24, 1982 (47 FR 27430) and on October 14, 1982 (47 FR 46043), and on December 5, 1985 (50 FR 49861). This rulemaking involves coordination with the Minerals Management Service of the Department of the Interior. This project was formerly titled California Offshore Routing System.

Agency Contact: Margie Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, G-NSR-3, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AB29

2267. +DISCHARGE-REMOVAL EQUIPMENT FOR VESSELS CARRYING OIL (CGD 90-068)

Significance: Regulatory Program

Legal Authority: 46 USC 4202

CFR Citation: 46 CFR 165

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: The Oil Pollution Act of 1990 directs the President by August 18, 1992 to (1) require periodic inspection of discharge-removal equipment to ensure that it is available in an emergency, and (2) require carriage of discharge-removal equipment by vessels operating in the navigable waters of the U.S. and carrying oil or hazardous substances. This proposal would implement those provisions. This proposal is considered significant because of expected costs and substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	08/30/91	56 FR 43534
ANPRM Comment Period End	10/16/91	
NPRM	09/29/92	57 FR 44912
NPRM Comment Period Extended to 11/16/92	10/26/92	57 FR 48489
NPRM Comment Period End	10/29/92	
Interim Final Rule	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 09/29/92 (57 FR 44912)

Agency Contact: Frank Wood, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6228

RIN: 2115–AD66

2268. +FINANCIAL RESPONSIBILITY FOR WATER POLLUTION (VESSELS) (CGD 91-005)

Significance: Regulatory Program

Legal Authority: 33 USC 2716; 42 USC 9608

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Final Rule Stage

CFR Citation: 33 CFR 130 to 132; 33 CFR 137

Legal Deadline: None

Abstract: This rulemaking will implement the provisions concerning financial responsibility for vessels in the Oil Pollution Act of 1990 and the Comprehensive Environmental Response Compensation and Liability Act. It will prescribe the means by which owners and operators of vessels establish and maintain evidence of insurance or other evidence of financial responsibility sufficient to meet their potential liability under these Acts. This rule is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 49006
NPRM Comment Period End	11/25/91	
NPRM Comment Period Extended to 01/24/92	12/02/91	56 FR 61216

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 09/26/91 (56 FR 49006)

Additional Information: The Oil Pollution Act of 1990 (OPA) repealed or superseded certain oil spill liability provisions under the Federal Water Pollution Control Act (33 USC 1321), Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (43 USC 1814), the Trans-Alaska Pipeline Authorization Act (43 USC 1653) and the Deepwater Port Act of 1974 (33 USC 1517). The financial responsibility provisions of those Acts were replaced by a single financial responsibility regime under OPA and keyed to the broader liability of OPA. In addition to financial responsibility requirements under OPA, which is limited to oil, this project would include financial responsibility requirements under the Comprehensive Environmental Response, Compensation, and Liability Act, which concerns hazardous substances. This consolidation would allow the issuance of a single, unified Certificate of Financial Responsibility for vessels, replacing separate certificates and financial responsibility regimes under the previously mentioned Acts.

Agency Contact: Robert M. Skall, Project Manager, Department of Transportation, U.S. Coast Guard, National Pollution Funds Center, 4200 Wilson Blvd, Suite 1000, Arlington, VA 22203-1804, 703 235-4704

RIN: 2115–AD76

2269. +DIRECT USER FEES FOR INSPECTION OR EXAMINATION OF U.S. AND FOREIGN COMMERCIAL VESSELS (91-030)

Significance: Regulatory Program

Legal Authority: 14 USC 633; 14 USC 6641; 31 USC 9701; 46 USC 2103; 46 USC 2104; 46 USC 2110; 46 USC 2111; 46 USC 3303(a); 46 USC 3303(b); 46 USC 3306; 46 USC 3317; 46 USC 3714; 46 USC 5115; 46 USC 8105; 46 USC 3703

CFR Citation: 33 CFR 143; 46 CFR 2

Legal Deadline: None

Abstract: The Omnibus Budget Reconcillation Act of 1990 requires the Coast Guard to establish user fees for Coast Guard services related to the inspection and examination of U.S. and foreign vessels and issuance of Certificates of Inspection, Certificates of Compliance, and related documents. The proposed fees are based on the way the Coast Guard presently conducts vessel inspection activities. This proposal is intended to recover costs of providing certain vessel inspection services. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/18/91	56 FR 65786
NPRM; Correction To Add Appendix A	12/24/91	56 FR 66766
NPRM Comment Period End	02/18/92	
NPRM Comment Period Reopened to 05/18/92	03/24/92	57 FR 10149
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 12/18/91 (56 FR 65786)

Agency Contact: LCDR J. J. Kelly, Project Manager, G-MP, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0009

RIN: 2115–AD78

2270. +TANK VESSEL RESPONSE PLANS (91-034)

Significance: Regulatory Program

Legal Authority: 46 USC 4202; 46 USC 5005; PL 101-30

CFR Citation: 46 CFR 165

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: This rulemaking partially implements sections 4202(b)(4) and 5005 of the Oil Pollution Act of 1990, P.L. 101-30 (OPA-90) concerning tank vessel and facility response plans. Section 4202(b)(4) of the OPA-90 amends section 311(j)(5) of the Federal Water Pollution Control Act (FWPCA), which requires owners and operators of tank vessels and facilities to develop response plans for responding to worst-case discharges (or substantial threat thereof) of oil or hazardous substances. Section 5005 requires that response plans for tank vessels operating in Prince William Sound, Alaska, and facilities permitted under the Trans-Alaska Pipeline Authorization Act provide for additional measures of oil spill preparedness. This action is considered significant because of substantial public interest and environmental considerations. This rulemaking covers tank vessel requirements. Facility requirements is a separate rulemaking under RIN 2155-AD82. The Coast Guard is utilizing a Regulatory Negotiation Rulemaking Committee to assist in this rulemaking. The initial meetings were held 8-10 January 1992.

Timetable:

Action	Date	FR Cite
ANPRM	08/30/91	56 FR 43534
ANPRM Comment Period End	10/16/91	
NPRM	06/19/92	57 FR 27514
NPRM Correction	07/01/92	57 FR 29354
Schedule of Open Meetings	07/28/92	57 FR 33287
NPRM Comment Period End	08/03/92	
Interim Final Rule Comment Period End 04/06/93	02/05/93	58 FR 7376
Interim Final Rule Correction	03/15/93	58 FR 13708
Final Action	07/00/93	

DOT—USCG

Final Rule Stage

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis; Regulatory Evaluation 02/05/93 (58 FR 7376)

Additional Information: The status of development of response plans was published 08/21/92 (57 FR 37920).

Agency Contact: LCDR Greene, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6489

RIN: 2115–AD81

2271. +FACILITY RESPONSE PLANS (91-036)

Significance: Regulatory Program

Legal Authority: 46 USC 4202; 46 USC 5005; PL 101-30

CFR Citation: 46 CFR 165

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: This rulemaking partially implements sections 4202(b)(4) and 5005 of the Oil Pollution Act of 1990, P.L. 101-30 (OPA 90) concerning tank vessel and facility response plans. Section 4202(b)(4) of OPA-90 amends section 311(j)(5) of the Federal Water Pollution Control Act (FWPCA), which requires owners and operators of tank vessels and facilities to develop response plans for responding to worst-case discharges (or substantial threat thereof) of oil or hazardous substances. Section 5005 requires that response plans for tank vessels operating in Prince William Sound, Alaska, and facilities permitted under the Trans-Alaska Pipeline Authorization Act provided for additional measures of oil spill preparedness. This action is considered significant because of substantial public interest and environmental considerations. This rulemaking covers facility requirements. Tank vessel requirements is a separate rulemaking under RIN 2115-AD81.

Timetable:

Action	Date	FR Cite
ANPRM	03/11/92	57 FR 8708
ANPRM Comment Period End	04/27/92	
Interim Final Rule	02/05/93	58 FR 7330
Interim Final Rule Correction	03/12/93	58 FR 13550
Comment Period End	04/06/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/05/93 (58 FR 7330)

Agency Contact: LCDR Hunt, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6230

RIN: 2115–AD82

2272. +LIFESAVING EQUIPMENT—IMPLEMENTATION OF 1983 AMENDMENTS TO SOLAS 1974 (84-069)

Significance: Agency Priority

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 199; 46 CFR 31; 46 CFR 33; 46 CFR 35; 46 CFR 71; 46 CFR 75; 46 CFR 78; 46 CFR 91; 46 CFR 94; 46 CFR 97; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 154; 46 CFR 160; ...

Legal Deadline: None

Abstract: This project would implement the provisions of the 1983 amendments to SOLAS 1974 (Safety of Life at Sea) which came into force in July of 1986. It would also reorganize the lifesaving equipment regulations in order to simplify, clarify, and reduce redundancy. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/84	49 FR 50745
ANPRM Comment Period End	03/01/85	
NPRM	04/21/89	54 FR 16198
NPRM Comment Period End	08/21/89	
Comment Period Reopened to 01/03/90	10/05/89	54 FR 41124
Public Hearing in Seattle 10/17/89	10/05/89	54 FR 41124
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/21/89 (54 FR 16198)

Additional Information: CFR CITATION CONT: 46 CFR 30; 46 CFR 90; 46 CFR 112; 46 CFR 113; 46 CFR 167; 46 CFR 189; 46 CFR 192; 46 CFR 196; 46 CFR 199.

Agency Contact: Mr. B. Berringer, Project Manager, G-MVI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AB72

2273. +LICENSING OF OFFICERS AND OPERATORS FOR MOBILE OFFSHORE DRILLING UNITS (81-59A)

Significance: Agency Priority

Legal Authority: 46 USC 2103; 46 USC 3703; 46 USC 8105

CFR Citation: 46 CFR 10; 46 CFR 15

Legal Deadline: None

Abstract: This project makes provision for the licensing of officers on mobile offshore drilling units and establishes manning standards for these vessels. This action is considered significant because of substantial public interest. Based on comments received, two SNPRMs were issued and the interim final rule revised.

Timetable:

Action	Date	FR Cite
NPRM	08/08/83	48 FR 35920
SNPRM	10/24/85	50 FR 43316
Interim Final Rule	10/16/87	52 FR 38660
Suspended Effective Date of Interim Final Rule	02/28/89	54 FR 8334
SNPRM Comment Period End 06/16/89	05/17/89	54 FR 21246
Extension of Comment Period to 07/31/89	06/20/89	54 FR 25881
Interim Final Rule	04/18/90	55 FR 14792
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/18/90 (55 FR 14792)

Additional Information: This project was split from Coast Guard Docket 81-059, Licensing of Maritime Personnel, which was completed under RIN 2115-AA64 (54 FR 125). The interim final rule effective date was suspended because the comments received indicated substantive revisions to the rule were necessary. The refined

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interim final rule of 04/18/90 withdrew the notice suspending the effective date and invited public comment through 06/18/90.

Agency Contact: Paul Eulitt, Project Manager, G-MVP-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0224

RIN: 2115–AB91

2274. +IMPLEMENTATION OF THE COMMERCIAL FISHING-INDUSTRY VESSEL SAFETY ACT (88-079)

Significance: Agency Priority

Legal Authority: 46 USC 4502; 46 USC 4506; 46 USC 6104(c); 46 USC 10603(h)

CFR Citation: 46 CFR 27; 46 CFR 28; 46 CFR 29

Legal Deadline: Final, Statutory, January 1, 1993.

Abstract: The Commercial Fishing Industry Act of 1988 requires the Secretary of Transportation to prescribe regulations for certain safety equipment and vessel operating procedures. Subjects addressed by the rulemaking included: navigation, radio, firefighting, and lifesaving equipment, as well as fuel, ventilation, and electrical systems. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM of Consolidated RIN 2115-AC34	07/09/87	52 FR 25890
ANPRM Correction of Consolidated RIN 2115-AC34	08/10/87	52 FR 29556
ANPRM	12/29/88	53 FR 52735
ANPRM Comment Period End	02/27/89	53 FR 52735
ANPRM Extension of Comment Period	03/02/89	54 FR 8765
NPRM	04/19/90	55 FR 14924
NPRM Comment Period End	08/20/90	
Notice of Intent to Publish SNPRM	08/31/90	55 FR 35694
Final Action Except SNPRM Issues; Final Action Effective 09/15/91	08/14/91	56 FR 40364
Final Rule Correction	09/20/91	56 FR 47679
Correcting Amendments to Final Action of 08/14/91	01/06/92	57 FR 363
Interim Final Rule Immersion Suits	08/03/92	57 FR 34188
SNPRM To Address Stability and Other Small Fishing Vessel Issues	10/27/92	57 FR 48670
SNPRM Correction	12/03/92	57 FR 57129
SNPRM Comment Period Extended to 02/28/93	12/18/92	57 FR 60158
SNPRM Correction	01/06/93	58 FR 630
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/27/92 (57 FR 48670)

Additional Information: While the final rule addressed most areas of the NPRM, the SNPRM addressed stability for vessels less than 79 feet in length, survival craft for vessels operating near shore with less than four persons on board, and exemptions for fisheries having high vessel density or of limited durations.

Coast Guard docket 86-024 titled Uninspected Fish-Processing Vessels (RIN 2115-AC34) has been incorporated into this project.

Agency Contact: CDR M. Rosecrans, Project Manager, G-MTH, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0177

RIN: 2115–AD12

2275. +RECORDING OF INSTRUMENTS—VESSEL DOCUMENTATION (89-007)

Significance: Agency Priority

Legal Authority: 46 USC 313

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This project would streamline the documentation process by eliminating unnecessary forms, merging forms, and simplifying procedures. In addition, the proposal would establish a fee system such that vessel owners would pay only for those services actually received and necessary. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/26/92	57 FR 10544
NPRM; Fees	05/20/92	57 FR 21546
NPRM Comment Period End	06/24/92	
Final Rule; Citizenship	09/24/92	57 FR 44126
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/26/92 (57 FR 10544)

Additional Information: The Coast Guard has combined two related dockets, CGD 89-007 and CGD 89-008a. They will be carried under docket number CGD 89-007 and RIN 2115-AD60. This action should help to avoid confusion. RIN 2115-AD30, the first phase of this project, was a completed action in the April 1991 Agenda. Coast Guard published two separate NPRMs, one dealing with forms and procedures (CGD 89-007a) and one dealing with proposed fees (CGD 89-007b). These will be combined at the final action as 89-007. In addition, the Coast Guard published a final rule reducing the need to submit declarations of citizenship, in order to provide immediate relief from this burden.

Agency Contact: Mr. T. Willis, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1492

RIN: 2115–AD60

2276. +DOUBLE HULL STANDARDS FOR TANK VESSELS CARRYING OIL (90-051)

Significance: Agency Priority

Legal Authority: 33 USC 1903; 46 USC 3703a; PL 101-380

CFR Citation: 33 CFR 155.390; 33 CFR 157.01; 33 CFR 157.03; 33 CFR 157.08; 33 CFR 157.10; 33 CFR 157.10(d); 33 CFR 157.11; 33 CFR 157.24; 33 CFR 157.25; 33 CFR 157.28; 46 CFR 30.01-5; 46 CFR 32.60; 46 CFR 70.05-30; 46 CFR 90.05-35; 46 CFR 172.060

Legal Deadline: None

Abstract: The Oil Pollution Act of 1990 requires a double hull to be fitted on vessels carrying oil in bulk. The Act does not provide technical standards for a double hull. This proposal would implement the requirements of the Act and establish technical standards. This rulemaking is significant because of substantial general, international, and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	12/05/90	55 FR 50192
NPRM Comment Period End	04/01/91	
NPRM Comment Period Reopened to 10/07/91	09/06/91	56 FR 44051
Notice of Availability of Impact Analysis	01/15/92	57 FR 1854
Interim Final Rule	08/12/92	57 FR 36222
Interim Final Rule Correction	09/03/92	57 FR 40494
Interim Final Rule Comment Period End	10/13/92	
Interim Final Rule Comment Period Reopened 02/26/93	12/18/92	57 FR 60402
Final Action	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/12/92 (57 FR 36222)

Agency Contact: Mr. Robert M. Gavin, Project Manager, G-MVI-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AD61

2277. +PROGRAMS FOR CHEMICAL DRUG AND ALCOHOL TESTING OF COMMERCIAL VESSEL PERSONNEL (90-053)

Significance: Agency Priority

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7301; 46 USC 7701

CFR Citation: 46 CFR 16

Legal Deadline: None

Abstract: This proposal would revise the conditions under which commercial vessel personnel may be excepted from pre-employment and periodic chemical testing for dangerous drugs, to provide relief from the unnecessary, repetitive testing required by the current rules. It would also make technical amendments to correct errors in certain references to the Department of Transportation's drug testing procedures regulations. This proposal is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/19/91	56 FR 6778
NPRM Correction	04/04/91	56 FR 13854
NPRM Comment Period End	04/05/91	
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 02/19/91 (56 FR 6778)

Agency Contact: LCDR Mark Grossetti, Project Manager, G-MMI, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1421

RIN: 2115–AD63

2278. +CLAIMS PROCEDURES UNDER THE OIL POLLUTION ACT OF 1990 (CGD 91-035)

Significance: Agency Priority

Legal Authority: 33 USC 2713; 33 USC 2714

CFR Citation: 33 CFR 136

Legal Deadline: None

Abstract: This rulemaking will implement the provisions of the Oil Pollution Act of 1990 concerning claims, designation of the source of the discharge or threat of discharge of oil, notification of responsible parties, and advertisements of the discharge or threat of discharge. This rulemaking is a temporary, interim measure to provide relief for eligible claimants damaged by oil pollution or incurring costs as a result of oil removal, until a more comprehensive rule can be developed. The action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/12/92	57 FR 36314
Interim Final Rule Correction	09/09/92	57 FR 41104
Interim Final Rule Comment Period End	12/10/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/12/92 (57 FR 36314)

Agency Contact: L. E. Burgess, Project Manager, National Pollution Fund Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd, Suite 1000, Arlington, VA 22203-1804, 703 235-4805

RIN: 2115–AD90

2279. TANKERMEN (79-116)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 46 USC 7317; 46 USC 8703; 46 USC 9101; 46 USC 9102

CFR Citation: 33 CFR 154; 33 CFR 155; 46 CFR 7; 46 CFR 12; 46 CFR 13; 46 CFR 30; 46 CFR 31; 46 CFR 35; 46 CFR 78; 46 CFR 90; 46 CFR 97; 46 CFR 98; 46 CFR 105; 46 CFR 151; 46 CFR 153; ...

Legal Deadline: None

Abstract: Rulemaking would redefine and establish more stringent qualifying criteria for individuals engaged in transporting and transferring various categories of oil and dangerous liquid cargoes. The Port and Tanker Safety Act of 1978 mandated the establishment of personnel qualification and manning standards for tank vessels. In addition, the International Convention on the Standards for Training, Certification, and Watchkeeping for Seafarers 1978 (STCW), has entered into effect and establishes international standards for tank vessel personnel qualifications. In view of the length of time since publication of the NPRM, a supplemental NPRM was issued.

Timetable:

Action	Date	FR Cite
NPRM	12/18/80	45 FR 83268
NPRM Comment Period End	03/18/81	
SNPRM; Comment Period End 01/16/90	10/17/89	54 FR 42624
Interim Final Rule	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/18/80 (45 FR 83268)

Additional Information: Former title: Qualifications of the Person in Charge of Oil Transfer Operations: Tankerman Requirements (79-116). Public meetings

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were held during January and February of 1981. Docket 79-116a (RIN 2115-AD18) has been included in this project and will no longer be listed as a separate Regulatory Agenda item.

Agency Contact: CDR Mike De Cesare, Project Manager, G-MVP-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0224

RIN: 2115–AA03

2280. FIXED FIRE-EXTINGUISHING SYSTEMS ON UNINSPECTED VESSELS (74-284)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 4104; 46 USC 4105; 46 USC 4302; 49 USC 108

CFR Citation: 46 CFR 162.029

Legal Deadline: None

Abstract: This action would establish standards for Halon 1301 and other fixed fire extinguishing systems as optional systems for compliance with existing regulations. SNPRM addressed new comments received requesting that industry specifications be used and incorporated by reference.

Timetable:

Action	Date	FR Cite
NPRM	04/19/82	47 FR 16648
NPRM Comment Period End	06/03/82	
SNPRM; Comment Period End 03/11/91	01/09/91	56 FR 829
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/09/91 (56 FR 829)

Agency Contact: Mr. K. Wahle, Project Manager, G-MVI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AA08

2281. SAFETY/SECURITY ZONE REGULATIONS

Significance: Nonsignificant

Legal Authority: 33 USC 1233; 33 USC 1225

CFR Citation: 33 CFR 100; 33 CFR 165

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through 10/00/93: 300.

Timetable:

Action	Date	FR Cite
Total Actions Expected to End	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margie Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, G-NSR-3, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AA97

2282. ANCHORAGE AREA REGULATIONS

Significance: Nonsignificant

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035; 33 USC 2071

CFR Citation: 33 CFR 110

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through 10/00/93: 6.

Timetable:

Action	Date	FR Cite
Total Actions Expected to End	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margie Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, G-NSR-3, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AA98

2283. INCORPORATION OF AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA, 1974 (83-043)

Significance: Nonsignificant

Legal Authority: 33 USC 1223; 46 USC 3703

CFR Citation: 46 CFR 50; 46 CFR 52; 46 CFR 56; 46 CFR 58; 46 CFR 51; 46 CFR 111

Legal Deadline: None

Abstract: This project would incorporate the provisions of chapters II-1, II-2, and V of the Safety of Life at Sea, 1974 International Convention (SOLAS 74). These provisions generally provide for acceptance of technology which is standard industry practice, such as use of plastic pipe in some places and common-rail bilge and ballast systems.

Timetable:

Action	Date	FR Cite
NPRM	09/28/90	55 FR 39638
NPRM Comment Period End	12/27/90	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/28/90 (55 FR 39638)

Additional Information: Formerly titled "Reassessment of Coast Guard Marine Engineering Regulations - Incorporation of SOLAS 74 Amendments"

Agency Contact: LCDR R. Dent, Project Manager, G-MTH-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AB41

2284. PERSONAL FLOTATION DEVICE COMPONENTS (84-068)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a); 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 164; 46 CFR 160

Legal Deadline: None

Abstract: This project would add state-of-the-art synthetic materials as standard components, add performance requirements for nonstandard components, and upgrade out-dated requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/13/89	54 FR 47234
NPRM Comment Period End	01/12/90	54 FR 47234
Final Action	04/00/93	

Small Entities Affected: None

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Government Levels Affected: None

Analysis: Regulatory Evaluation 11/13/89 (54 FR 47234)

Agency Contact: Ens. J. Johnson, Project Manager, G-MVI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AB70

2285. OIL POLLUTION PREVENTION, MARPOL ANNEX I (85-026)

Significance: Nonsignificant

Legal Authority: 33 USC 1321; 33 USC 1902; 33 USC 1903

CFR Citation: 33 CFR 155; 33 CFR 151

Legal Deadline: None

Abstract: This rulemaking would implement various provisions of the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 Relating Thereto (MARPOL 73/78). These proposed changes are largely editorial.

Timetable:

Action	Date	FR Cite
NPRM	02/07/86	51 FR 4768
NPRM Comment Period End	03/24/86	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/07/86 (51 FR 4768)

Additional Information: Formerly entitled MARPOL Pollution Prevention Regulations.

Agency Contact: LCDR M. McEwen, Project Manager, G-MEP, Department of Transportation, U.S. Coast Guard, G-MER-3, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0421

RIN: 2115–AC11

2286. UNINSPECTED VESSEL EMERGENCY POSITION INDICATING RADIO BEACONS (EPIRBS) (87-016)

Significance: Nonsignificant

Legal Authority: 46 USC 4102; PL 100-540

CFR Citation: 46 CFR 25; 46 CFR 26

Legal Deadline: None

Abstract: As a result of the passage of Public Law 100-540, EPIRBs will be required on each manned uninspected vessel operating on the high seas or beyond three miles from the coast line of the Great Lakes. On August 17, 1988 the Coast Guard published a rule to require EPIRBs on certain fishing vessels. This action extended the requirements of the August 1988 rule as required by PL 100-540.

Timetable:

Action	Date	FR Cite
NPRM	04/19/90	55 FR 14922
NPRM Comment Period End	06/18/90	
Partial Final Action	03/10/93	58 FR 13364
Effective	04/26/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/10/93 (58 FR 13364)

Additional Information: Although this action extended the requirements of the August 17 rule for most of this class of vessels, in a separate action the Coast Guard suspended the effective date for owners of small vessels so as to avoid the cost of a Category 1 EPIRB while alternatives are considered for them (04/19/90, 55 FR 14920). This project was divided into two parts. A final rule covered the non-controversial aspects. An SNPRM will make alternative proposals for other vessels not covered by the final rule.

Agency Contact: Mr. Robert Markle, Project Manager, G-MVI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC69

2287. ANCHORAGE REGULATIONS (86-079)

Significance: Nonsignificant

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035

CFR Citation: 33 CFR 165; 33 CFR 110

Legal Deadline: None

Abstract: This proposal would update the anchorage regulations by removing nonregulatory, obsolete or duplicative language; by standardizing the anchorage description format; by publishing subparts A and B as two parts: Part 110--Special Anchorage Areas and Part 111--Anchorage Grounds.

Timetable:

Action	Date	FR Cite
NPRM	03/11/88	53 FR 7949
NPRM Comment Period End	05/11/88	
SNPRM Expanding Revisions - Comments by 02/03/89	12/05/88	53 FR 48935
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/11/88 (53 FR 7949)

Agency Contact: Margie Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, G-NSR-3, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AC96

2288. PERMITS FOR THE TRANSPORTATION OF MUNICIPAL AND COMMERCIAL WASTES (89-014)

Significance: Nonsignificant

Legal Authority: 33 USC 2602

CFR Citation: 33 CFR 151

Legal Deadline: Final, Statutory, June 15, 1989.
See discussion in the Abstract.

Abstract: The Shore Protection Act of 1988 (33 USC 2501 et seq.) prohibits vessels from transporting municipal and commercial waste unless they have a permit and display a number. The Act requires the permit and number 240 days after enactment. This interim rule implemented these provisions of the Act and requested comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/89	54 FR 22546
Correction to Interim Final Rule	06/05/89	54 FR 24078
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/24/89 (54 FR 22546)

Additional Information: Further action pends Environmental Protection Agency's regulatory decisions and/or legislation to define classes of vessels to be permitted and the appeal process

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for denial or revocation. This project was formerly known as Implementation of the Shore Protection Act of 1988.

Agency Contact: Janice Jackson, Project Manager, G-MEP-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6714

RIN: 2115–AD23

2289. CHESAPEAKE BAY TRAFFIC SEPARATION SCHEME (90-039)

Significance: Nonsignificant

Legal Authority: 33 USC 1223(c)

CFR Citation: 33 CFR 167

Legal Deadline: None

Abstract: The Coast Guard conducted a study of the need for port access routes for the approaches to Chesapeake Bay, Virginia. (Notice of study results published July 13, 1989, 54 FR 29627). The study concluded that the southern approach part of the traffic separation scheme should be reconfigured to incorporate a proposed deep-water route for inbound and outbound vessel traffic. This proposal would implement that recommendation.

Timetable:

Action	Date	FR Cite
NPRM	09/06/90	55 FR 36666
NPRM Comment Period End	11/06/90	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/06/90 (55 FR 36666)

Agency Contact: Margie Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, G-NSR-3, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AD43

2290. NATIONAL VESSEL TRAFFIC SERVICE (VTS) REGULATIONS (90-020)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 1; 33 CFR 26; 33 CFR 89; 33 CFR 160; 33 CFR 161; 33 CFR 164; 33 CFR 165

Legal Deadline: None

Abstract: This proposal would draw all the Vessel Traffic Service (VTS) regulations into one part in the Code of Federal Regulations (33 CFR Part 161) and redesignate regulations not pertaining to all VTS users to other parts of Title 33 CFR. It would require certain classes of vessels operating in any U.S. port or harbor to comply with VTS measures prior to entry and while navigating in a VTS area.

Timetable:

Action	Date	FR Cite
NPRM	08/01/91	56 FR 36910
NPRM Correction	08/16/91	56 FR 40946
NPRM Comment Period End	09/30/91	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/01/91 (56 FR 36910)

Agency Contact: LT J. Arroyo, Project Manager, G-NVT, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0412

RIN: 2115–AD56

2291. REQUIREMENTS FOR CARGO LIGHTERING OPERATIONS (CGD 90-052)

Significance: Nonsignificant

Legal Authority: 33 USC 1312(j)

CFR Citation: 33 CFR 151; 33 CFR 155; 33 CFR 156

Legal Deadline: None

Abstract: This proposed rulemaking would require that lightering operations conducted from 12 to 200 nautical miles off the coast be conducted in accordance with applicable portions of the pollution prevention requirements in 33 CFR. Lightering operations past 12 miles have increased in frequency and there is reason to believe the trend will continue. This proposal would require that these offshore lightering operations are conducted with at least minimal safety standards.

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 452
NPRM Comment Period End	02/19/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/05/93 (58 FR 452)

Additional Information: Formerly titled Lightering of Oil and Hazardous Material Cargo.

Agency Contact: Joan Tilghman, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6401

RIN: 2115–AD68

2292. BALLAST WATER MANAGEMENT FOR VESSELS ENTERING THE GREAT LAKES (91-066)

Significance: Nonsignificant

Legal Authority: PL 101-646

CFR Citation: 33 CFR 51

Legal Deadline: Final, Statutory, November 29, 1992.

Abstract: This action proposed regulations to control ballast-water discharges in the Great Lakes as required by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which charged the Coast Guard to issue voluntary guidelines and then regulations within 24 months of enactment.

Timetable:

Action	Date	FR Cite
NPRM	10/02/92	57 FR 45591
NPRM Comment Period End	11/17/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/02/92 (57 FR 45591)

Additional Information: Joint U.S.-Canadian voluntary guidelines were published on 03/15/91 (56 FR 11330). This project was formerly entitled, Control of Discharge of Ballast Water Containing Harmful Marine Organisms.

Agency Contact: LT Jon Burton, Project Manager, G-MEP-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0426

RIN: 2115–AD80

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2293. REGULATED NAVIGATION AREA; PUGET SOUND, WASHINGTON (13-90-03)

Significance: Nonsignificant

Legal Authority: 33 USC 1225; 33 USC 1231; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: The Coast Guard has proposed to amend the regulations for the Regulated Navigation Area (RNA) of Puget Sound. An SNPRM addressed changes subsequent to the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	10/01/90	55 FR 39986
NPRM Comment Period End	11/15/90	
SNPRM; Comment Period End 08/30/91	07/31/91	56 FR 36121

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/31/91 (56 FR 36121)

Agency Contact: CDR Michael J. Haucke, Project Manager, USCG Puget Sound Vessel Traffic Service, Department of Transportation, U.S. Coast Guard, 1519 Alaskan Way South, Seattle, Washington 98134, 206 286-5640

RIN: 2115–AD86

2294. OVERFILL DEVICES (CGD 90-071A)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 33 CFR 155 to 156

Legal Deadline: Final, Statutory, August 18, 1991.

Abstract: The Oil Pollution Act of 1990 requires the Secretary of Transportation to issue regulations concerning the use of overfill devices. This proposal would implement the provisions of this Act.

Timetable:

Action	Date	FR Cite
NPRM	01/12/93	58 FR 4040
NPRM Comment Period End	03/15/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/12/93 (58 FR 4040)

Agency Contact: LCDR Michael B. Karr, Project Manager, G-MS-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6756

RIN: 2115–AD87

2295. USE OF AUTOMATIC PILOT; AREA RESTRICTIONS AND PERFORMANCE REQUIREMENTS (91-204)

Significance: Nonsignificant

Legal Authority: PL 101-380

CFR Citation: 33 CFR 165

Legal Deadline: Other, Statutory, February 1991.
USCG was to initiate rulemaking by February 1991.

Abstract: This regulation project defines the conditions and designates the waters upon which tankers may operate with their auto-pilot engaged.

Timetable:

Action	Date	FR Cite
NPRM	01/06/92	57 FR 514
NPRM Comment Period End	03/06/92	
SNPRM; Comment Period End 12/01/92	10/02/92	57 FR 45667
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/02/92 (57 FR 45667)

Additional Information: The issue of unattended engine rooms has been assigned a separate RIN (2115-AE12).

Agency Contact: LCDR Paul Jewell, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6746

RIN: 2115–AE00

2296. A SECOND LICENSED OFFICER ON TANKER BRIDGE

Significance: Nonsignificant

Legal Authority: PL 101-380; 46 USC 8502

CFR Citation: Not yet determined

Legal Deadline: Other, Statutory, February 1991.
US Coast Guard was to initiate rulemaking by February 1991.

Abstract: This regulation would designate the waters on which certain tankers must have on the bridge a master or mate licensed to direct and control their vessel who is separate and distinct from the required pilot.

Timetable:

Action	Date	FR Cite
NPRM	10/02/92	57 FR 45664
NPRM Comment Period End	12/01/92	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/02/92 (57 FR 45664)

Agency Contact: LCDR Paul Jewell, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6742

RIN: 2115–AE03

2297. REGULATED NAVIGATION AREA: PUGET SOUND AND STRAIT OF JUAN DE FUCA, WA; GRAYS HARBOR, WA; COLUMBIA RIVER AND WILLAMETTE RIVER, OR; YAQUINA BAY, OR; UMQUA RIVER, OR; COOS BAY, OR

Significance: Nonsignificant

Legal Authority: 33 USC 1225, 33 USC 1231; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: This action would require an emergency towline on tank barges while transiting certain port areas of the Pacific Northwest, to prevent discharges of oil or other hazardous substances during transport.

Timetable:

Action	Date	FR Cite
NPRM	10/24/91	56 FR 55104
NPRM Comment Period End	01/07/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/24/91 (56 FR 55104)

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Agency Contact: Cdr. W.O. Harper, Project Officer, Department of Transportation, U.S. Coast Guard, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, WA 98174-1067, 206 553-1711

RIN: 2115–AE06

2298. GULF INTRACOASTAL WATERWAY (91-050)

Significance: Nonsignificant

Legal Authority: 33 USC 2071

CFR Citation: 33 CFR 89

Legal Deadline: None

Abstract: This rulemaking would relieve tow operators on the Gulf Intracoastal Waterway of the requirement to show a masthead light, except when crossing major waterways, by making the Gulf Intracoastal Waterway subject to Inland Rule 24(i).

Timetable:

Action	Date	FR Cite
NPRM	09/18/92	57 FR 43169
NPRM Comment Period End	11/17/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/18/92 (57 FR 43169)

Agency Contact: Jon Epstein, Project Manager, G-NSR-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0352

RIN: 2115–AE09

2299. ESCORTS FOR CERTAIN TANKERS (91-202)

Significance: Nonsignificant

Legal Authority: PL 101-380; 46 USC 3703

CFR Citation: 46 CFR Not yet determined

Legal Deadline: None

Abstract: This rulemaking is to develop standards which implement section 4116(c) of the Oil Pollution Act of 1990. It will address the areas of Prince William and Puget Sounds where a two-vessel escort will be required, define other areas in U.S. waters where an affected tanker must have a two-vessel escort, identify other appropriate vessels in addition to towing vessels as defined in 46 USC 2101, and define the operational procedures for escorting.

Timetable:

Action	Date	FR Cite
NPRM	07/07/92	57 FR 30058
NPRM Comment Period End	09/08/92	
NPRM Comment Period Reopened to 07/24/93	03/26/93	58 FR 16391
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/07/92 (57 FR 30058)

Agency Contact: Charles Vekert, Project Manager, G-MS-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6220

RIN: 2115–AE10

2300. UNATTENDED ENGINE ROOM (91-203)

Significance: Nonsignificant

Legal Authority: PL 101-380

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: This regulation project defines the conditions and designates the waters upon which tankers may operate with an unattended engine room. The SNPRM revised the NPRM by proposing to require the machinery spaces of integrated tug/barge combinations and tankers over 1,600 gross tons to be attended when underway in navigable U.S. waters.

Timetable:

Action	Date	FR Cite
NPRM	04/09/92	57 FR 12378
NPRM Comment Period End	06/08/92	
SNPRM, Comment Period End 12/01/92	10/02/92	57 FR 45662
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/02/92 (57 FR 45662)

Agency Contact: LCDR Paul Jewell, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20592-0001, 202 267-6401

RIN: 2115–AE12

2301. • SAFETY EQUIPMENT CARRIAGE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 46 USC 4302; 46 USC 4305; 46 USC 4306

CFR Citation: 33 CFR 175

Legal Deadline: None

Abstract: This proposal would amend federal regulations as to carriage of personal flotation devices (PFDs) on recreational vessels, to require carriage of a wearable PFD for each person on board a recreational vessel under 16 feet in length; formally allow States to establish local PFD wearing or carriage requirements concerning children, recreational use of hand-powered racing vessels, kayaks, sailboards and personal watercraft; and revise or add PFD carriage exemptions for seaplanes, racing shells/rowing sculls/racing kayaks, recreational submersibles, sailboards and foreign competitors using U.S. vessels. The rule will provide clearer, more appropriate PFD carriage requirements and promote a safer recreational boating safety environment.

Timetable:

Action	Date	FR Cite
NPRM	11/09/92	57 FR 53410
NPRM Comment Period End	01/08/93	57 FR 53410
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/09/92 (57 FR 53410)

Agency Contact: Carlton Perry, Project Manager, G-NAB, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0979

RIN: 2115–AE26

2302. • CLASSIFYING, PACKAGING, AND COMMUNICATING ABOUT EXPLOSIVES

Significance: Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 6; 33 CFR 110; 33 CFR 126; 33 CFR 160; 46 CFR 38; 46 CFR 78; 46 CFR 194

Legal Deadline: None

Abstract: This action will consolidate and simplify the requirements for classifying, packaging and labeling explosives and bring the regulations into conformance with International Maritime Organization standards.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: ENS Richard Gonzalez, Project Manager, G-MPS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0514

RIN: 2115–AE27

2303. • DRAWBRIDGE OPERATION REGULATIONS; TEMPORARY DEVIATIONS UP TO 90 DAYS

Significance: Nonsignificant

Legal Authority: 33 USC 499

CFR Citation: 33 CFR 117.43

Legal Deadline: None

Abstract: This action would allow more time to test a drawbridge regulation to make it possible to capture the major portion of a boating season and provide an extended period during which the regulation is tested before comments are due.

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 47
NPRM Comment Period End	03/05/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/04/93 (58 FR 47)

Agency Contact: Marcia L. Warples, Project Manager, G-NBR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0378

RIN: 2115–AE30

2304. • RECREATIONAL VESSEL FEE AMENDMENTS (92-066)

Significance: Nonsignificant

Legal Authority: 46 USC 2110

CFR Citation: 33 CFR 1.30

Legal Deadline: Other, Statutory, October 1, 1992.
Statute enacted November 5, 1992 made changes in the statutory applicability of the RVF, effective October 1, 1992.

Abstract: The Coast Guard is changing the categories of recreational vessels subject to the recreational vessel fee (RVF). A recent legislative amendment reduces the number of recreational vessels subject to the annual fee by changing the vessel length categories in fiscal years 1993 and 1994 and by repealing the fee entirely for fiscal year 1995. This rulemaking amends the RVF regulations to reflect this phased-out repeal of the annual fee.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/17/93	58 FR 8884
Interim Final Rule Comment Period End	05/18/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/17/93 (58 FR 8884)

Agency Contact: Carlton Perry, Project Manager, G-NAB, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0979

RIN: 2115–AE32

2305. • FEDERAL WATER POLLUTION CONTROL ACT CLASS II CIVIL PENALTIES (CGD 91-228)

Significance: Nonsignificant

Legal Authority: PL 101-380

CFR Citation: 33 CFR 20

Legal Deadline: None

Abstract: This proposal would promulgate rules of procedures for cases in which the Coast Guard seeks to assess Class II civil penalties in accordance with Section 4301 of the Oil Pollution Act of 1990.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Vekert, Project Manager, G-MS-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6220

RIN: 2115–AE33

2306. • AUTHORIZATION FOR NTSB OFFICIALS TO BE ALLOWED IN THE PILOTHOUSE OR ON THE NAVIGATION BRIDGE OF MERCHANT VESSELS WHILE UNDERWAY (CGD 91-023)

Significance: Nonsignificant

Legal Authority: 33 USC 1321(j); 46 USC 3306; 46 USC 6101

CFR Citation: 46 CFR 78; 46 CFR 97

Legal Deadline: None

Abstract: This action would amend regulations prescribing the type of officials that may be allowed in the pilothouse or on the navigation bridge of vessels while underway to include National Transportation Safety Board (NTSB) personnel. This access is necessary for marine accident investigations and familiarization of vessels, navigation procedures, and waterways.

Timetable:

Action	Date	FR Cite
NPRM	11/05/92	57 FR 52748
NPRM Comment Period End	12/21/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/05/92 (57 FR 52748)

Additional Information: The NPRM was inadvertently published under RIN 2115-AD85, a completed action. The correct RIN 2115-AE38.

Agency Contact: Justine Bunnell, Project Manager, G-MVP, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-0238

RIN: 2115–AE38

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DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Completed Actions

2307. +SUBDIVISION AND DAMAGE STABILITY OF DRY CARGO VESSELS (CGD 87-094)

Significance: Agency Priority

Legal Authority: 46 USC 3301

CFR Citation: 46 CFR 174

Legal Deadline: None

Abstract: This action requires dry cargo vessels to meet a minimum standard of subdivision and damage stability. This rulemaking was significant because of the public interest in, and importance of establishing, minimum standards of subdivision and damage stability for dry cargo ships.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/88	53 FR 11440
ANPRM Comment Period End	01/03/89	
Reopen ANPRM Comment Period	11/06/89	54 FR 46631
NPRM	07/22/92	57 FR 32624
NPRM Comment Period End	09/08/92	
Final Action	04/01/93	58 FR 17316
Final Action Effective	05/03/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/01/93 (58 FR 17316)

Agency Contact: LCDR Guy R. Nolan, Project Manager, G-MTH-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-2988**

RIN: 2115–AC87

2308. +DRAWBRIDGE OPERATIONS REGULATIONS; POTOMAC RIVER, DISTRICT OF COLUMBIA (WOODROW WILSON BRIDGE) (90-064)

Significance: Agency Priority

Legal Authority: 33 USC 499; PL 102-587 Coast Guard Authorization Act of 1992

CFR Citation: 33 CFR 117

Legal Deadline: None

Abstract: At the request of State and local government officials, the Coast Guard was evaluating the operating regulations for the Woodrow Wilson Bridge, which crosses the Potomac River between Alexandria, VA, and Oxon Hill, MD, at mile 103.8. This action was considered significant because of substantial public interest in the operation of this bridge.

However, PL 102-587 has specified the schedule, and the final action herein conformed to that contained in the law. The changes restrict openings for vessel traffic and include no provision for daylight openings for recreational vessels.

Timetable:

Action	Date	FR Cite
NPRM	12/20/91	56 FR 66326
Public Hearing Notice; Hearing Held 01/28/92	12/20/91	56 FR 66326
NPRM Comment Period End	02/03/92	
Interim Final Rule	05/27/92	57 FR 27171
Rulemaking Action Withdrawn	10/17/92	57 FR 54202
Final Action	11/17/92	57 FR 54178

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 11/17/92 (57 FR 54178)

Additional Information: This project was formerly entitled, Woodrow Wilson Bridge Operating Regulations. A number of temporary rules were issued in order to evaluate the impacts of alternatives under consideration: 06/04/91 (56 FR 25369); 07/29/91 (56 FR 35816); 09/27/91 (56 FR 49145); 11/26/91 (56 FR 59880); 01/27/92 (57 FR 3008); 03/18/92 (57 FR 9386).

An ANPRM (RIN 2115-AE31) was issued 02/02/93 (58 FR 6766) soliciting public comment on whether there are practical ways to encourage owners and operators of commercial vessels to notify the bridgetender of the time a vessel will pass the bridge not later than 24 hours in advance.

Agency Contact: Ann Deaton, Project Manager, Chief, Bridge Section, Department of Transportation, U.S. Coast Guard, Commander, Fifth Coast Guard District, Federal Bldg, 431 Crawford Street, Portsmouth, VA 23704-5004, **804 398-6422**

RIN: 2115–AD71

2309. +DIRECT USER FEES FOR MARINE LICENSING, CERTIFICATION OF REGISTRY, AND MERCHANT MARINER DOCUMENTATION (91-002)

Significance: Agency Priority

Legal Authority: 31 USC 9701; 46 USC 2110

CFR Citation: 33 CFR 1; 46 CFR 10; 46 CFR 12

Legal Deadline: None

Abstract: Pursuant to the mandate of the Budget Reconciliation Act of 1990, the Coast Guard established direct user fees for services it provides relating to issuing, renewing, or revising merchant mariner documents. The fees will be deposited in the U.S. Treasury, ascribed to U.S. Coast Guard activities. This action was significant because of substantial public interest and because it is pursuant to a congressional mandate.

Timetable:

Action	Date	FR Cite
NPRM	06/20/91	56 FR 28448
NPRM Comment Period End	08/05/91	
Comment Period Reopened to 02/18/92	12/18/91	56 FR 65786
Final Action	03/19/93	58 FR 15228
Correction to Final Action	03/24/93	58 FR 15901
Final Action Effective	04/19/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/19/93 (58 FR 15228)

Agency Contact: LT Kevin Gillespie, Project Manager, G-MP, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-6982**

RIN: 2115–AD72

2310. UPDATING APPROVAL AND CARRIAGE REQUIREMENTS FOR BREATHING APPARATUS (86-036)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a); 46 USC 3703; 46 USC 6101

CFR Citation: 46 CFR 77; 46 CFR 96; 46 CFR 108; 46 CFR 160; 46 CFR 164; 46 CFR 167; 46 CFR 169; 46 CFR 195; 46 CFR 35.30-20

Legal Deadline: None

Abstract: This action updated the approval specifications for breathing apparatus for merchant vessels by citing present certification agencies and test schedules. It also removed gas masks from onboard most merchant vessels, although it leaves them as elective equipment onboard such vessels for 2 years.

Timetable:

Action	Date	FR Cite
NPRM	07/30/90	55 FR 30935
NPRM Comment Period End	10/29/90	
Final Action	10/23/92	57 FR 48320
Final Action Effective	11/23/92	
Final Rule Correction	11/27/92	57 FR 56406

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/23/92 (57 FR 48320)

Agency Contact: LCDR Mark Grossetti, Project Manager, G-MVI-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-1181**

RIN: 2115–AC30

DOT—USCG

Completed Actions

2311. WAIVER OF CREWMEMBER CITIZENSHIP REQUIREMENTS (89-061)

Significance: Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3703

CFR Citation: 46 CFR 15

Legal Deadline: None

Abstract: This action established a general waiver from crew member citizenship requirements (except for Master) with respect to offshore supply vessels from a foreign port and mobile offshore drilling units operating beyond the U.S. outer continental shelf.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/12/90	55 FR 1210
Final Action	01/04/93	58 FR 21
Final Action Effective	03/03/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/04/93 (58 FR 21)

Additional Information: The interim final rule was effective 2/12/90 and comments were due 6/30/90.

Agency Contact: Mr. C. Young, Project Manager, G-MVP, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-0216**

RIN: 2115–AD38

2312. DEFINITION OF CHANNEL 67 RADIO BOUNDARIES (89-086)

Significance: Nonsignificant

Legal Authority: 33 USC 1201; 33 USC 1208

CFR Citation: 33 CFR 26

Legal Deadline: None

Abstract: The purpose of this action was to define in 33 CFR the demarcation line between where channel 13 is used as the designated bridge-to-bridge radiotelephone frequency, and where channel 67 is used.

Timetable:

Action	Date	FR Cite
This regulatory project was completed without a rulemaking	04/21/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The substantive portion of this project was incorporated into another one entitled, "Vessel Communications Equipment: Requirement for Vessels Subject to Bridge-to-Bridge Radiotelephone Act to Carry VHF FM Channels 22A and 67", published at 57 FR 14483 dated April 21, 1992.

Agency Contact: Jonathan Epstein, Project Manager, G-NSR-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-0352**

RIN: 2115–AD44

2313. DRAWBRIDGE OPERATION REGULATIONS, WATERBORNE EMERGENCY (91-016)

Significance: Nonsignificant

Legal Authority: 33 USC 499

CFR Citation: 33 CFR 117

Legal Deadline: None

Abstract: This action amended the regulations which govern the Nation's drawbridges by requiring that emergency vessels and vessels in an emergency situation that have given the proper emergency signal be passed through an attended draw at any time. In addition, this action continued to allow drawbridges to remain closed for the passage of emergency vehicles.

Timetable:

Action	Date	FR Cite
NPRM	08/07/91	56 FR 37504
NPRM Comment Period End	09/23/91	
Final Action	01/04/93	58 FR 19
Final Action Effective	02/03/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/04/93 (58 FR 19)

Agency Contact: Larry Tyssens, Project Manager, G-NBR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-0376**

RIN: 2115–AD77

2314. ACCESS TO NATIONAL DRIVER REGISTER

Significance: Nonsignificant

Legal Authority: 23 USC 401; 46 USC 2302; 46 USC 7505

CFR Citation: 46 CFR 10; 46 CFR 12

Legal Deadline: None

Abstract: This action would create the procedures by which an applicant or a holder of a license, certificate of registry, or merchant mariner's document may review and comment upon any data received from the national driver's registry with regard to any action taken or intended to be taken against said license, certificate of registry, or merchant mariner's document under administrative procedures.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2115-AD93	01/12/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Cratty, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, **202 267-6758**

RIN: 2115–AD96

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DOT—USCG

Completed Actions

2315. PRINCE WILLIAM SOUND PILOTAGE

Significance: Nonsignificant

Legal Authority: PL 101-380

CFR Citation: 46 CFR 15

Legal Deadline: None

Abstract: This action designated waters in Prince William Sound where a Federal pilot is not required. In lieu of a Federal pilot, two officers will be required on the bridge of coastwise vessels.

Timetable:

Action	Date	FR Cite
NPRM	10/26/92	57 FR 48554
NPRM Comment Period End	12/28/92	
Final Action	03/10/93	58 FR 13360
Final Action Effective	04/09/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/10/93 (58 FR 13360)

Agency Contact: LCDR P. Jewell, Project Manager, G-MS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-6746

RIN: 2115–AE24

2316. • DOCUMENTATION OF VESSELS; CONTROLLING INTEREST

Significance: Nonsignificant

Legal Authority: 46 USC 12102

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This action solicited information concerning implementation of the ownership grandfather or savings provision of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987. However, the district court decision, that the Coast Guard's current interpretation of the savings provision was incorrect, was reversed by the appeals court; thereby upholding the Coast Guard's interpretation. Therefore, this action was withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	09/21/92	57 FR 43432
ANPRM Comment Period End	12/21/92	
Withdrawn	03/04/93	58 FR 12352

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. T. Willis, Project Manager, G-MVI, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, 202 267-1482

RIN: 2115–AE25

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Prerule Stage

2317. • +ANTI-DRUG AND ALCOHOL MISUSE PREVENTION PROGRAMS FOR EMPLOYEES OF FOREIGN AIR CARRIERS ENGAGED IN SPECIFIED AVIATION ACTIVITIES

Significance: Regulatory Program

Legal Authority: 49 USC 1346; 49 USC 1354(a); 49 USC 1355 to 1357, 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1485; 49 USC 1502; 49 USC 1511; 49 USC 1522; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 129

Legal Deadline: Final, Statutory, October 28, 1992
Omnibus Transportation Employee Act of 1991

Abstract: The Omnibus Transportation Employee Testing Act of 1991 directs the FAA Administrator to prescribe regulations that require foreign air carriers to establish drug and alcohol testing programs for employees performing safety-sensitive aviation functions. These regulations must be consistent with the international obligations of the United States and take into consideration any applicable laws and regulations of foreign countries. This notice invites comments on a variety of issues related to the application of drug and alcohol testing requirements to employees of foreign air carriers operating within the territory of the United States. This action is being taken in lieu of a notice of proposed rulemaking to seek the public's view on a variety of issues and to obtain responses to questions that may arise in addressing drug and alcohol testing by foreign air carriers. This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/92	57 FR 59473
ANPRM Comment Period End	02/16/93	
ANPRM Comment Period Extended	02/18/93	58 FR 8917
ANPRM Comment Period End	04/01/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: AAM-93-173R

Agency Contact: Julie B. Murdoch, Drug Abatement Division, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-6584

RIN: 2120–AE79

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Proposed Rule Stage

2318. +FATIGUE EVALUATION OF STRUCTURE

Significance: Regulatory Program

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

DOT—FAA

Proposed Rule Stage

Legal Deadline: None

Abstract: This notice would propose to revise the fatigue requirements for damage-tolerant structures on transport category airplanes to require full-scale fatigue testing and to require that the thresholds for inspections be based on crack growth from initial flaws in the structure. These proposed changes are based on the service history of airplanes evaluated to the current damage tolerance requirements and are intended to ensure that, should serious fatigue damage occur within the operational life of the airplane, the remaining structure can withstand reasonable loads without failure until the damage is detected. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Project Number ANM-88-013R.

Agency Contact: Iven Connally, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2120

RIN: 2120–AD42

2319. +FATIGUE TEST REQUIREMENTS FOR AGING AIRCRAFT

Significance: Regulatory Program

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations regarding the airworthiness standards for transport category airplanes and engines in parts 25, 33, and 35 of the Federal Aviation Regulations (FAR) and parallel provisions in parts 121 and 135 of the FAR. This rulemaking is considered significant because of substantial public interest.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ANM-90-004R.

Agency Contact: Dick Kirsch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9565

RIN: 2120–AD43

2320. +REVISION OF PART 108, AIRPLANE OPERATOR SECURITY

Significance: Regulatory Program

Legal Authority: 49 USC 1354; 49 USC 1356; 49 USC 1357; 49 USC 1421; 49 USC 1424; 49 USC 1511; 49 USC 106(g)

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: This notice would propose to amend part 108 of the Federal Aviation Regulations to incorporate new requirements in response to worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/00/93

Additional Information: Project Number ACS-87-107R.

Agency Contact: Karl Shrum, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3946

RIN: 2120–AD45

2321. +REVISION OF PART 107, AIRPORT SECURITY

Significance: Regulatory Program

Legal Authority: 49 USC 1354; 49 USC 1356; 49 USC 1357; 49 USC 1358; 49 USC 1421; 49 USC 106(g)

CFR Citation: 14 CFR 107

Legal Deadline: None

Abstract: This notice would propose to amend part 107 of the Federal Aviation Regulations to incorporate new requirements in response to the worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/00/93

Additional Information: Project Number ACS-87-106R.

Agency Contact: Robert Cammaroto, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-7723

RIN: 2120–AD46

2322. +AGING AIRCRAFT SAFETY

Significance: Regulatory Program

Legal Authority: 49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1501; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 39; 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: Other, Statutory, April 24, 1992.
Aging Aircraft Safety Act of 1991; action must be initiated by 04/24/92.

Abstract: This notice would propose to require air carriers of certain aircraft used in air transportation to demonstrate that the aircraft's maintenance has been adequate to ensure the highest degree of safety. This notice would propose to require

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DOT—FAA

Proposed Rule Stage

air carriers of 15-year-old or older aircraft with a maximum certificated takeoff weight of 75,000 pounds or more to demonstrate that certain specified maintenance actions have been performed and to make the aircraft available to the Administrator of the FAA for inspection. This rulemaking is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Project Number AFS-92-029R.

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-7355

RIN: 2120–AE42

2323. +ALCOHOL MISUSE PREVENTION PROGRAM FOR PERSONNEL ENGAGED IN SPECIFIED AVIATION ACTIVITIES

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a), 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 121; 14 CFR 135; 14 CFR 63; 14 CFR 65

Legal Deadline: Final, Statutory, October 28, 1992.
Omnibus Transportation Employee Act of 1991

Abstract: This action would implement the FAA-related provisions of the Omnibus Transportation Employee Testing Act of 1991, which was enacted on October 28, 1991. By amending the Federal Aviation Act of 1958, Congress has imposed a statutory obligation on the Administrator of the FAA to prescribe regulations that, among other things, establish an alcohol testing program for air carrier employees who perform safety-sensitive duties. This action would also propose to prohibit certain alcohol-related conduct by covered air carrier employees and would require pre-employment, random, reasonable suspicion, post-accident, and follow-up testing to detect and deter such conduct. This rulemaking is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59458
NPRM Comment Period End	04/14/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/05/92 (57 FR 59458)

Additional Information: Project Number AAM-92-028R. A common preamble for the five modal administrations affected (FAA, FHWA, FRA, FTA, and RSPA) was published 12/15/92 (57 FR 59382)

Agency Contact: Julie B. Murdoch, Drug Abatement Division, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 366-6584

RIN: 2120–AE43

2324. +PILOT, FLIGHT INSTRUCTOR, GROUND INSTRUCTOR, AND PILOT SCHOOL CERTIFICATION RULES

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This action would update and revise Part 61, Certification: Pilots and Flight Instructors; Part 141, Pilots Schools; and Part 143, Ground Instructors. In order to be more compatible with the current operating environment and evolving demands of the national airspace system, this action would update training, certification, and recency-of-experience requirements. It is considered significant because of substantial public interest in pilot and instructor certification and training issues.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/00/93

Additional Information: Project No.: AFS-90-025R. RIN 2120-AD59 entitled, "Operations Over the High Seas and Within the North Atlantic Minimum Navigation Performance Specification Airspace," has been incorporated into this document (previous Project No.: AFS-89-175R). The present action was formerly entitled "Part 61 - Phase II."

Agency Contact: John Lynch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3841

RIN: 2120–AE71

2325. • +ANTI-DRUG PROGRAM FOR PERSONNEL ENGAGED IN SPECIFIED AVIATION ACTIVITIES

Significance: Regulatory Program

Legal Authority: 49 USC 1346; 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1485; 49 USC 1502; 49 USC 1511; 49 USC 1522; 49 USC 106(g)

CFR Citation: 14 CFR 65; 14 CFR 121; 14 CFR 129; 14 CFR 135

Legal Deadline: Final, Statutory, October 28, 1992.
Omnibus Transportation Employee Testing Act of 1991

Abstract: This rulemaking would implement certain provisions of FAA's of the FAA's Omnibus Transportation Employee Testing Act of 1991. Also, it would clarify employer and Medical Review Officer responsibilities and address other issues that have been identified since the anti-drug rule was promulgated.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

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Additional Information: Project Number: AAM-92-319R

Agency Contact: Julie B. Murdoch, Drug Abatement Division, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-6584

RIN: 2120–AE82

2326. +REVISION OF MEDICAL STANDARDS AND CERTIFICATION PROCEDURES

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427

CFR Citation: 14 CFR 67

Legal Deadline: None

Abstract: This notice would revise the medical standards and the medical certification procedures of the Federal Aviation Regulations. This action follows the completion of a comprehensive review of the medical standards which was announced in previous notices. If adopted, these revised standards for airman medical certification and associated administrative procedures will better provide for safety in the aviation system and reflect current medical knowledge, practice, and terminology. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/00/93

Additional Information: The FAA contracted with the American Medical Association (AMA) on August 29, 1983, to develop a comprehensive report which was used by the FAA as part of its evaluation of Part 67 standards. AMA completed a professional review of the medical standards for civil airmen. The FAA announced the availability of the AMA report in the Federal Register on May 23, 1986 (51 FR 19040). RIN 2120-AB13 has been combined into this review. Project No. AAM-82-288R.

Agency Contact: Dennis P. McEachen, Special Projects Officer, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3428

RIN: 2120–AA70

2327. +IMPROVED STANDARDS FOR DETERMINING REJECTED TAKEOFF AND LANDING PERFORMANCE

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a) to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This notice proposed to amend parts 25, 121, and 135 of the Federal Aviation Regulations to add new standards for transport category airplanes which would provide for approval of a reduced takeoff decision speed (V1) methodology for takeoff on wet and contaminated runways. In view of the comments received in response to this notice, a supplemental notice of proposed rulemaking will be issued. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	52 FR 45578
NPRM Comment Period End	03/30/88	
SNPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/30/87 (52 FR 45578)

Additional Information: This project was formerly entitled "Standards for Approval of a Wet Runway Reduced V1 Methodology and Improved Takeoff and Landing Braking Performance." Project Number ANM-83-030R.

Agency Contact: Bill Boxwell, Flight Tests and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2111

RIN: 2120–AB17

2328. +PASSENGER-CARRYING AND CARGO AIR OPERATIONS FOR COMPENSATION OR HIRE

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); ...

CFR Citation: 14 CFR 119; 14 CFR 121; 14 CFR 125; 14 CFR 127; 14 CFR 135

Legal Deadline: None

Abstract: This notice proposed to amend the Federal Aviation Regulations to update, clarify, and consolidate into one part, new part 119, the certification and operations specifications requirements for persons who conduct passenger-carrying or cargo-carrying air operations for compensation or hire. Significant changes included defining what must be included in operations specifications; defining "scheduled" and "domestic" operations; increasing the lead-time period for application for a certificate; defining a "wet lease" operation; including in the regulations criteria to determine who has operational control of an operation; and standardizing the requirements and qualifications for management personnel. This action is needed to establish permanent minimum safety standards following the "sunset" of the Civil Aeronautics Board on December 31, 1984, and the enactment of the Airline Deregulation Act of 1978. This action would also replace SFAR 38, as amended, which has provided interim certification and operations specifications regulation. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/12/88	53 FR 39852
NPRM Comment Period End	01/10/89	
Comment Period Reopened To 05/17/90	04/17/90	55 FR 14404
SNPRM	04/00/93	

Small Entities Affected: None

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Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/12/88 (53 FR 39852)

Additional Information: Project No AFS-84-190R. The FAA has determined that an SNPRM should be issued to propose a different definition for "scheduled operation."

Agency Contact: Gary Davis, Air Transportation Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3750

RIN: 2120–AC08

2329. +REPAIR STATION AND REPAIRMEN CERTIFICATION RULES

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1355; 49 USC 1421; 49 USC 1427

CFR Citation: 14 CFR 43; 14 CFR 65; 14 CFR 145

Legal Deadline: None

Abstract: Current repair station rules were developed during the infancy of the aviation industry. Very few changes were made to those rules since they were adopted in 1952. This rulemaking project proposes to review foreign repair station requirements and update the rules to reflect the current international and domestic environment and needs. The FAA has held four public meetings to solicit information and views to review the existing regulations and to explore alternatives in revising the rules of this part. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meetings	07/24/89	54 FR 30866
Notice Correction	08/08/89	54 FR 32563
NPRM	05/00/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/00/94

Additional Information: Project No. AFS-87-045R. This project was formerly entitled Review and Revision of Repair Station Requirements.

Agency Contact: Leonard Colp, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8283

RIN: 2120–AC38

2330. +PARTS 121 AND 135—TRAINING, CHECKING, CERTIFICATION, AND QUALIFICATIONS REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise and upgrade the parts 121 and 135 training, checking, certification, and qualification requirements, including cockpit resource management. In addition, commuter air carriers conducting part 135 commuter operations in airplanes that require two pilots would be required to meet the proposed upgraded part 121 requirements. This action is in response to recommendations of the joint Government/Industry Task Force on Flight Crew Performance and is significant because of its safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/93

Additional Information: Project No. AFS-88-301R

Agency Contact: Gary Davis, Regulations Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3747

RIN: 2120–AC79

2331. +INSTALLATION OF CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449; PL 100-591

CFR Citation: 14 CFR 25

Legal Deadline: NPRM, Statutory, February 3, 1989.
Public Law 100-591, Aviation Safety Research Act of 1988.

Abstract: This preliminary action was initiated to determine the feasibility of installing, in all air carrier aircraft, crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident. This notice solicited public participation in identifying and selecting a regulatory course of action by inviting interested persons to submit specific comments and arguments concerning this proposed regulatory action. This rulemaking is considered significant because of a statutory requirement.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/89	54 FR 18824
ANPRM Comment Period End	10/30/89	
NPRM	03/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/00/94

Additional Information: Project No. ANM-89-005R.

Agency Contact: Mike McRae, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2133

RIN: 2120–AC87

2332. +SOLE RADIO NAVIGATION SYSTEM; MINIMUM STANDARDS FOR CERTIFICATION

Significance: Agency Priority

DOT—FAA

Proposed Rule Stage

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1353; 49 USC 1354; 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; ...

CFR Citation: 14 CFR 91

Legal Deadline: Final, Statutory, September 30, 1989.
Airway Safety and Capacity Expansion Act of 1987 (PL 100-223)

Abstract: This notice proposed to establish minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft conducting Instrument Flight Rules en route and terminal area operations, including nonprecision approach, in controlled airspace in the United States. This notice was developed in response to the Airport and Airway Safety and Capacity Expansion Act of 1987. This rulemaking is considered significant because of a congressional mandate.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/90	55 FR 2206
ANPRM Comment Period End	05/22/90	
NPRM	02/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/00/94

Additional Information: Project No. AFS-89-215R. This project was formerly entitled Sole Means Radio Navigation System.

Agency Contact: James Crowling, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-5215

RIN: 2120–AD26

2333. +AIRWORTHINESS STANDARDS; OCCUPANT PROTECTION STANDARDS FOR COMMUTER CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This notice would propose to amend the airworthiness standards for normal, utility, acrobatic, and commuter category airplanes by upgrading the requirements for both seat/restraint systems and for flammability standards for seat cushions used in commuter category airplanes. These amendments are needed to improve the occupant protection provisions for these types of airplanes. These new requirements would result in a level of safety commensurate with that provided by the seat/restraint requirements and the flammability standards for transport category airplanes. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Project No. ACE-87-014R. This project was formerly entitled "Improved Seat Safety Standards for Commuter Category Airplanes."

Agency Contact: Joseph Snitkoff, Standards Office, Small Airplane Directorate, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 426-5688

RIN: 2120–AD27

2334. +ALTERNATIVE MEANS OF COMPLIANCE

Significance: Agency Priority

Legal Authority: 49 USC 1341(a); 49 USC 1343(d); 49 USC 1348; 49 USC 1354(a); 49 USC 1401 to 1405; 49 USC 1421 to 1431; 49 USC 1481; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This action would revise the Federal Aviation Regulations to provide for the granting of relief from the literal compliance with certain rules provided the applicant justifies this relief and that the FAA finds that the provisions not complied with are compensated for by factors that have an equivalent level of safety or that there will be no adverse effect on safety. This action is considered significant because of a substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/00/93

Additional Information: Project Number ARM-90-045R. Formerly titled "Exemption Process."

Agency Contact: Linda Williams, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9685

RIN: 2120–AD66

2335. +ANTI-DRUG PROGRAM; CONSOLIDATED AMENDMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421; 49 USC 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This notice would propose revisions to certain provisions of the FAA's anti-drug rule in order to clarify the responsibilities of the employer and the medical review officer under the rule. This rulemaking is considered significant because of substantial public interest.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AAM-90-302R.

Agency Contact: Julie B. Murdoch, Drug Abatement Branch, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence

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Avenue SW., Washington, DC 20591, 202 267-6584

RIN: 2120–AD67

2336. +PROTECTIVE BREATHING EQUIPMENT; CARGO-ONLY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposed to revise the Federal Aviation Regulations governing portable protective breathing equipment (PBE) required for crewmembers' use in combatting in-flight fires. This action addresses concerns and issues identified by the Air Transport Association and several operators regarding required portable PBE for cargo-only operations. This action also would clarify the Federal Aviation Regulations governing required portable PBE in passenger compartments. This rulemaking is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	03/29/93	58 FR 16584
NPRM Comment Period End	05/28/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/29/93 (58 FR 16584)

Additional Information: Project Number AFS-90-324R.

Agency Contact: Donell Pollard, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8096

RIN: 2120–AD74

2337. +CREW PAIRING REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action would establish minimum experience levels for cockpit crew pairing. It would propose guidelines for initial operating experience and specify operating restrictions when the second in command has fewer than 100 hours of flight time. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/23/93	58 FR 15730
NPRM Comment Period End	06/21/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/23/93 (58 FR 15730)

Additional Information: Project Number AFS-91-004R.

Agency Contact: Larry Youngblut, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8096

RIN: 2120–AD88

2338. +CHILD RESTRAINT SYSTEMS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This notice would propose to amend several sections of the Federal Aviation Regulations related to the seating and restraint of children in child restraint systems. This notice would propose to facilitate the use of more child restraint systems in aircraft, which would increase the safety of children aboard aircraft. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Project Number AFS-90-323R.

Agency Contact: Donell Pollard, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8096

RIN: 2120–AD90

2339. +ACCESS INTO THE COCKPIT

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This notice would propose to revise part 121 of the Federal Aviation Regulations by allowing air traffic control specialists to ride on the cockpit jumpseat in nonpassenger-carrying air carrier operations. This action is significant because of anticipated substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/93

Additional Information: Project Number AFS-91-207R.

Agency Contact: Donell Pollard, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8096

RIN: 2120–AE35

2340. +REDUCED ALTITUDE SEPARATION

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471 to 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; EO 11514; 49 USC 106(g); 49 USC 1321 et seq

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: In the 1950's, a vertical separation minimum of 2,000 feet was established for use between aircraft operating above flight level 290. Reducing the 2,000-foot separation requirement to 1,000 feet would increase flight level availability, increase en route airspace capacity, enable aircraft to fly at more fuel efficient altitudes, and increase air traffic controller flexibility. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/94

Additional Information: Project Number: AFS-92-279R

Agency Contact: Roy Grimes, Technical Programs Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3755

RIN: 2120–AE51

2341. +JAR/FAR HARMONIZATION INITIATIVES - SYSTEMS

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(c); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations to the Director, Aircraft Certification Service, regarding the Airworthiness standards for standard and commuter category airplanes and engines in part 23 of the Federal Aviation Regulations. This rulemaking is significant because it would propose to harmonize the various regulations currently existing worldwide, in order to reduce the burden of the differences between FAA's and other nations' requirements on U.S. aircraft manufacturers and operators.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No.: ACE-92-013R.

Agency Contact: William J. (Joe) Sullivan, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9554

RIN: 2120–AE59

2342. +JAR/FAR HARMONIZATION INITIATIVES - PROPULSION

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations to the Director, Aircraft Certification Service, regarding the airworthiness standards for standard and commuter category airplanes and engines in part 23 of the Federal Aviation Regulations. This rulemaking is significant because it would endeavor to harmonize the various regulations existing worldwide, in order to reduce the burden of the differences between FAA's and other nations' requirements on U.S. aircraft manufacturers and operators.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No.: ACE-92-012R.

Agency Contact: William J. (Joe) Sullivan, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9554

RIN: 2120–AE60

2343. +JAR/FAR HARMONIZATION INITIATIVES - FLIGHT

Significance: Agency Priority

Legal Authority: 49 USC 134; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations to the Director, Aircraft Certification Service, regarding the airworthiness standards for standard and commuter category airplanes and engines in part 23 of the Federal Aviation Regulations. This rulemaking is significant because it would endeavor to harmonize the various regulations existing worldwide, in order to reduce the burden of the differences between FAA's and other nations' requirements on U.S. aircraft manufacturers and operators.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No.: ACE-92-013R.

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Agency Contact: William J. (Joe) Sullivan, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9554

RIN: 2120–AE61

2344. +JAR/FAR HARMONIZATION INITIATIVES - AIRFRAME

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423, 49.USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations to the Director, Aircraft Certification Service, regarding the airworthiness standards for standard and commuter category airplanes and engines in Part 23 of the Federal Aviation Regulations. This rulemaking is significant because it would propose to harmonize the various regulations currently existing worldwide, in order to reduce the burden of the differences between FAA's and other nations' requirements on U.S. aircraft manufacturers and operators.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ACE-92-014-R.

Agency Contact: William J. (Joe) Sullivan, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9554

RIN: 2120–AE62

2345. +AIRPORT LAND USE COMPATIBILITY PLANNING - PROPOSED REVISIONS

Significance: Agency Priority

Legal Authority: 49 USC 1348; 49 USC 1354(a); 49 USC 1421; 49 USC 1431; 49 USC 2101 to 2103(a); 49 USC 2104(a); 49 USC 2104(b); 49 USC 2201 et seq; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 150

Legal Deadline: None

Abstract: This notice would propose revisions to the requirements for developing noise exposure maps and noise compatibility programs and submitting them for FAA approval. The revisions are intended to expedite and simplify the part 150 process. Under the revised process, the mandatory set of noise abatement measures which are presently required to be considered by each airport sponsor would be limited in scope depending on the characteristics of each airport and its surrounding community. The new process would be supported by appropriated guidance, training, review, standardization, and consultation requirements. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/00/93

Additional Information: Project Number: AEE-90-410R.

Agency Contact: Allen Trickey, Policy and Regulations Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3496

RIN: 2120–AE64

2346. +RELIEF FROM TRANSPONDER-ON REQUIREMENT FOR AIRCRAFT WITH LIMITED ELECTRICAL SYSTEMS

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471 to 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); 42 USC 4321 et seq; EO 11514

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This notice would propose to revise the authorization allowing operation of an aircraft with transponder-off under certain conditions. This revision would eliminate the need to request an exemption. This action would exclude older aircraft gliders from transponder-on requirements when operated outside certain areas. This action is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/93

Additional Information: Project Number: ATP-90-341R.

Agency Contact: Aaron Boxer, Air Traffic Rules and Procedure Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8793

RIN: 2120–AE67

2347. • +EXPLOSIVE DETECTION SYSTEMS

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1356 to 1357; 49 USC 1358(a); 49 USC 1358(c); 49 USC 1421; 49 USC 1424; 49 USC 1511; 49 USC 106(g)

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: This action would establish criteria for the certification of explosive detection systems to screen checked baggage for international flights. These criteria would establish minimum performance requirements for explosive detection systems. This action is being taken to implement section 108 of the Aviation Security Improvement Act of 1990, which requires the Administrator to certify such systems prior to mandating their deployment. The 11/04/92 notice included those portions of the criteria that do not contain sensitive security information. This action is considered significant because of substantial public interest.

DOT—FAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Notice of Proposed Criteria for Certification of Explosive Detection System	11/04/92	57 FR 52698
Criteria Notice; Comment Period Extended to 02/04/93	01/07/93	58 FR 3192
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Butterworth, Director, Office of Civil Aviation Security, Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8058

RIN: 2120–AE77

2348. • +ANTI-DRUG PROGRAM FOR PERSONNEL ENGAGED IN SPECIFIC AVIATION ACTIVITIES

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: On November 21, 1988, the Federal Aviation Administration (FAA) published a final rule requiring specified aviation employers to implement anti-drug programs for personnel performing sensitive safety- and security-related functions. That final rule includes recordkeeping and reporting requirements. In response to a Department of Transportation (DOT) Notice of Proposed Rulemaking (NPRM) that would establish a standard Management Information System for the Department's drug testing programs, this action would modify the FAA's recordkeeping and reporting requirements. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59477
NPRM Comment Period End	04/14/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/15/92 (57 FR 59477)

Additional Information: Project No. AAM 91-314R.

The NPRM inadvertently indicated RIN 2120-AC33, rather than the correct RIN 2120-AE80.

Agency Contact: Carol Daugherty, Drug Abatement Division, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 366-6710

RIN: 2120–AE80

2349. • +MODE S TRANSPONDER REQUIREMENT FOR PART 135 OPERATORS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise the Mode S transponder requirement for all aircraft operating under part 135 and certain aircraft operating under part 121 based on the expected availability of operational capabilities of Mode S ground sensors. For part 121 operators, the action would affect only those aircraft not required to have Traffic Alert and Collision Avoidance System II. An aviation rulemaking advisory committee has recommended that the FAA conduct a study of the installed Mode S ground sensor to determine the extent of the benefits derived and the costs involved in equipage. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/00/93

Additional Information: Project Number: AFS-92-297R

Agency Contact: Daniel V. Meier, Jr., Airplane Rules and Aeronautical Information Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3749

RIN: 2120–AE81

2350. • +CIVIL PENALTY ASSESSMENT PROCEDURES

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1354(c); 49 USC 1374(d); 49 USC 1401 to 1406; 49 USC 1421 to 1432; 49 USC 1471 to 1473; 49 USC 1481; 49 USC 1482; 49 USC 1484 to 1489; 49 USC 1523; 49 USC 1655(c); 49 USC 1808 to 1810; 49 USC 2157(e); 49 USC 2157(f); 49 USC 2216; ...

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This notice proposes to revise the procedures for the assessment of civil penalties for violations of the Federal Aviation Regulations and other provisions. The procedures proposed in this notice implement the requirements of the FAA Civil Penalty Administrative Assessment Act of 1992, as they modify the procedures for adjudicating a civil penalty against a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Project Number: AGC-93-076R

Agency Contact: Mardi Ruth Thompson, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3073

RIN: 2120–AE84

2351. • +SPECIAL VISUAL FLIGHT RULES (SVFR) OPERATIONS

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348;

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DOT—FAA

Proposed Rule Stage

49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471 to 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 4321 et seq; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action would amend certain regulations governing special visual flight rules (SVFR) operations. By omission of certain words and phrases, the Airspace Reclassification final rule inadvertently altered the applicability and scope of part 91 SVFR provisions. This action would restore the applicability and scope of the SVFR provisions and reestablish airspace for SVFR operations essentially equivalent to that which existed prior to those amendments. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Project No ATP 93-135R

Agency Contact: Melodie M. DeMarr, Air Traffic Rules Branch, ATP-230, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8783

RIN: 2120–AE85

2352. • +ACCELERATED STALLS IN COMMUTER CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This proposed action would eliminate the certification requirement to demonstrate an accelerated entry stall for commuter category airplanes. Such aircraft typically have high power-to-weight ratios that require the airplane to achieve extremely high angles of attack (excessive nose-high attitudes) during stall demonstrations. Recovery from accelerated entry stalls is less certain for airplanes that attain these extreme nose-high angles. The proposed change would remove a potential hazard during flight demonstrations required for type certification without compromising passenger safety. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Project No. ACE-92-683A.

Agency Contact: J. Lowell Foster, Small Airplane Directorate, ACE-112, Department of Transportation, Federal Aviation Administration, 601 East Twelfth Street, Room 1544, Kansas City, MO 64106, 816 426-5688

RIN: 2120–AE86

2353. REVIEW OF PART 47, AIRCRAFT REGISTRATION, AND PART 49, RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1401; 49 USC 1403; 49 USC 1405; 49 USC 1406; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 47; 14 CFR 49

Legal Deadline: None

Abstract: This notice would propose to update parts 47 and 49 of the Federal Aviation Regulations to reflect changes in the law, legal interpretations, other recent rulemaking actions, and the FAA's current aircraft registry practices. The intent of these proposed changes is to articulate, modernize, and simplify the existing regulations rather than alter established procedures.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AVN-89-201R.

Agency Contact: Agnes Jones, Aviation Standards National Field Office, Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Boulevard, Oklahoma City, Oklahoma 73125, 405 680-7357

RIN: 2120–AC17

2354. FUEL SYSTEM VENT FIRE PROTECTION

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This notice would propose to amend the airworthiness standards for transport category airplanes to require fuel vent system protection during post-crash ground fires. This proposed rule would apply to air carriers, air taxi operators, and commercial operators of transport category airplanes, as well as the manufacturers of such airplanes.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38078
ANPRM Comment Period End	01/25/85	
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Docket 24251. Formerly entitled Implementation of SAFER Propulsion System Recommendations. Project No. ANM-82-050R.

Agency Contact: Mike McRae, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2116

RIN: 2120–AA49

2355. COMPOSITE PROPELLERS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1421; 49 USC 1423; 49 USC 106(g)

CFR Citation: 14 CFR 35

Legal Deadline: None

DOT—FAA

Proposed Rule Stage

Abstract: This notice would revise part 35 of the Federal Aviation Regulations to add requirements for composite propellers to include environmental effects in fatigue evaluation, bird impact, and lightning protection.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/00/93

Additional Information: Formerly entitled "Fatigue Evaluation, Bird Impact, and Lightning Protection for Propellers of Composite Construction." Project No. ANE-83-002R.

Agency Contact: Marty Buckman, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7079

RIN: 2120–AB05

2356. MAINTENANCE RECORDKEEPING REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1421 to 1430; 49 USC 1502

CFR Citation: 14 CFR 91; 14 CFR 121

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations regarding the airworthiness standards for transport category airplanes and engines in parts 25, 33, and 35 of the Federal Aviation Regulations (FAR) and parallel provisions in parts 121 and 135 of the FAR.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AFS-92-625R.

Agency Contact: Dick Kirsch, Air Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9565

RIN: 2120–AD25

2357. HIGH INTENSITY RADIATED FIELDS PROTECTION STANDARDS FOR AIRCRAFT ELECTRICAL AND ELECTRONIC SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23; 14 CFR 25; 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations regarding the airworthiness standards for transport category airplanes and engines in parts 25, 33, and 35 of the Federal Aviation Regulations (FAR) and parallel provisions in parts 121 and 135 of the FAR.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AIR-89-180R. This project was formerly entitled "Requirements for Aircraft Protection in High Energy Radiated Electromagnetic Fields."

Agency Contact: William J. (Joe) Sullivan, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9554

RIN: 2120–AD32

2358. DEPRESSURIZATION EVALUATION OF STRUCTURES

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would develop a retroactive requirement for transport category airplanes that would require that normally unpressurized areas and compartments be able to withstand the effects of the required depressurization failure conditions that have been applied to the pressurized compartments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Project No. ANM-88-008R.

Agency Contact: James Haynes, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 431-2131

RIN: 2120–AD35

2359. 1-G STALLING SPEED AS A BASIS FOR COMPLIANCE WITH PART 25 OF THE FEDERAL AVIATION REGULATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 36

Legal Deadline: None

Abstract: This notice would propose to amend the Federal Aviation Regulations to redefine the airplane reference stalling speed as the 1-g stalling speed in lieu of the minimum stalling speed. This notice would: (1) provide for a consistent, repeatable reference stalling speed; (2) ensure consistent and dependable maneuvering margins; (3) clarify the requirement for the use of 1-g stalling speeds in determining structural design speeds; (4) increase the head-on gust structural design requirement; and (5) provide for adjusted multiplying factors to maintain essentially equivalent requirements in areas where the use of minimum stalling speed has proven

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adequate. These changes are needed since the stalling characteristics of modern jet transports as determined by current methods can result in inconsistent reference stalling speeds. These changes may result in a higher level of safety where current methods have resulted in artificially low reference stalling speeds.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/93

Additional Information: Project No. ANM-86-041R.

Agency Contact: James Haynes, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2131

RIN: 2120–AD40

2360. COST OF SERVICES AND TRANSFER OF FEES TO PART 187 FROM PARTS 47, 49, 61, 63, 65, AND 143

Significance: Nonsignificant

Legal Authority: 49 USC 1341; 49 USC 1343; 49 USC 1344; 49 USC 1346, 49 USC 1348; 49 USC 1354, 49 USC 1355; 49 USC 106(g)

CFR Citation: 14 CFR 47; 14 CFR 49; 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 143; 14 CFR 187

Legal Deadline: None

Abstract: This notice would propose to assess reasonable charges for certain services provided by the FAA. The charges would be set at a level approximating the cost to the Government to provide these services and would be adjusted periodically as the cost of these services change or as prescribed in the Anti-Drug Abuse Act of 1988. The cost of providing services for aircraft registration and recording and replacement of airmen certificates is not being fully recouped in accordance with the changes reflected in the Consumer Price Index of All Urban Consumers which was published by the Bureau of Labor Statistics of the Department of Labor or as set by the Anti-Drug Abuse Act of 1988. This notice also would propose to consolidate all service fees by placing them in part 187 of the Federal Aviation Regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Project Number AVN-90-347R.

Agency Contact: Earl F. Mahoney, Registry Modernization Staff, Mike Monroney Aeronautical Center, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Oklahoma City, Oklahoma 73125-4939, 405 680-7357

RIN: 2120–AD91

2361. VISUAL DESCENT POINTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485, 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This notice would propose to revise parts 121 and 135 of the Federal Aviation Regulations to incorporate a requirement for visual descent points.

Timetable:

Action	Date	FR Cite
NPRM	05/00/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/00/94

Additional Information: Project Number AFS-91-206R.

Agency Contact: Donell Pollard, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8096

RIN: 2120–AE34

2362. AIRPORT RUNWAY INCURSION

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1432; 49 USC 106(g)

CFR Citation: 14 CFR 139

Legal Deadline: None

Abstract: This notice would propose to amend part 139 of the Federal Aviation Regulations by incorporating additional requirements regarding distance remaining markers and other signs at airports.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/94

Additional Information: Project Number AAS-91-205R.

Agency Contact: William Deloach, Airport Safety and Compliance Branch, Office of Aviation Safety and Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8723

RIN: 2120–AE38

2363. TYPE CERTIFICATES FOR SOME SURPLUS AIRCRAFT OF THE ARMED FORCES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a), 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 1651(b)(2); 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: Following World War II, a substantial number of surplus military airplanes were offered for sale to the public in order to meet an increased demand for civilian-use aircraft not being met by the civil aircraft industry. The current regulation permits both type and airworthiness certification for surplus military aircraft based on the particular aircraft's safety record and condition. As military aircraft have become increasingly complex and sophisticated, that practice is no longer acceptable. This action would remove the regulations for issuing type certificates for these surplus aircraft and eliminate references to obsolete standards. Surplus military aircraft would still be certificated in the normal, utility, acrobatic, commuter, transport, and restricted categories upon compliance with the applicable regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Project Number AIR-91-354R.

Agency Contact: George Kaseote, Policy and Procedures Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8541

RIN: 2120–AE41

2364. SPECIAL FLIGHT AUTHORIZATIONS FOR NOISE-RESTRICTED AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471 to 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 4321 et seq; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: The FAA is amending its regulations to add a Special Federal Aviation Regulation (SFAR) to Federal Aviation Regulations Part 91 to provide limited issuance of special flight authorizations that allow certain nonrevenue operations otherwise prohibited by Part 91, Subpart I, Operating Noise Limits. This SFAR is necessary because the former one (SFAR 47-3) expired on December 31, 1991. The new SFAR is also necessary because the Airport Noise and Capacity Act of 1990 provides for the operation of otherwise restricted Stage 2 aircraft in the United States if the aircraft are modified to meet Stage 3 noise levels.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: AEE-92-153R.

Agency Contact: Laurie Fisher, Policy and Regulatory Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3561

RIN: 2120–AE49

2365. NON-FEDERAL NAVIGATION FACILITIES

Significance: Nonsignificant

Legal Authority: 49 USC 1343; 49 USC 1346; 49 USC 1348; 49 USC 1354(a); 49 USC 1355; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472(c); 49 USC 1502; 49 USC 1522; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 171

Legal Deadline: None

Abstract: This notice proposes to amend part 171 to require the same specifications for non-Federal facilities as are required for FAA facilities. The amendment would consolidate subparts which would allow for easier use and access.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/94

Additional Information: Project Number: ASM-92-254R

Agency Contact: Ronald Jennings, Technical Standards Branch, Systems Maintenance Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-7911

RIN: 2120–AE54

2366. AMEND PART 34: FUEL VENTING AND EXHAUST EMISSION REQUIREMENTS FOR TURBINE ENGINE POWERED AIRPLANES

Significance: Nonsignificant

Legal Authority: 42 USC 1857(f); 49 USC 106(g); 49 USC 1348(c); 49 USC 1354(a); 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 34; 14 CFR 89

Legal Deadline: None

Abstract: This action would amend part 34 of the Federal Aviation Regulations to make corrections to sections 34.71 and 34.89 which were published incorrectly.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/93

Additional Information: Project No.: AEE-92-185R.

Agency Contact: Laurie Fisher, Policy and Regulatory Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3561

RIN: 2120–AE55

2367. PERSONS AUTHORIZED TO PERFORM MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421 to 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 43

Legal Deadline: None

Abstract: This notice would propose to amend the maintenance rules to allow, under certain conditions, properly trained pilots of rotorcraft and small (nine passengers or less) airplanes that are used in on-demand types of air carrier or commercial operations to perform certain preventive maintenance tasks on their aircraft. It also proposes to add to the definition of preventive maintenance the removal and installation of approved seats, litters, and doors, and the removal and replacement of medical oxygen bottles under certain conditions.

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Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/93

Additional Information: Project No.: AFS-92-070R.

Agency Contact: James E. Siegman, Aircraft Maintenance Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3796

RIN: 2120–AE57

2368. PART 145 REVIEW: REPAIR STATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1427

CFR Citation: 14 CFR 145

Legal Deadline: None

Abstract: This notice would propose to review Federal Aviation Regulation Part 145 to determine whether it is compatible with present safety, regulatory, and industry needs and practices. The Federal Aviation Administration has determined the following to be specific areas of the repair stations rules that may need revision: organization and format; types of ratings and classes, operations and inspection procedures; as well as other areas. This review would also include subpart D which concerns the Manufacturers Maintenance Facility.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No.: AFS-87-045R.

Agency Contact: Roger Phaneuf, General Aviation and Commercial Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8203

RIN: 2120–AE58

2369. PART 71 REVIEW: AIRSPACE DESIGNATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: The Federal Aviation Administration will review the various types of airspace designations under part 71 to determine which types can be processed under an informal and streamlined process, yet in concert with the Administrative Procedure Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/94

Additional Information: Project Number: ATP-92-286R

Agency Contact: Bill Mosley, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9251

RIN: 2120–AE65

2370. REMOVAL OF THE FEE PROVISIONS OF PART 189

Significance: Nonsignificant

Legal Authority: 49 USC 1341(c); 49 USC 1346; 49 USC 1348(b); 49 USC 1354(a); 49 USC 1355; 31 USC 483(a)

CFR Citation: 14 CFR 189

Legal Deadline: None

Abstract: This action would modify part 189 of the Federal Aviation Regulations to remove the outdated fee provision in part 189.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/93

Additional Information: Project Number: ATP-92-292R.

Agency Contact: Ellen Crum, Air Traffic Rules and Procedure Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9859

RIN: 2120–AE68

2371. PART 187 - FEES

Significance: Nonsignificant

Legal Authority: 49 USC 1341; 49 USC 1343; 49 USC 1344; 49 USC 1346; 49 USC 1348; 49 USC 1354; 49 USC 1355; 31 USC 483(a)

CFR Citation: 14 CFR 189

Legal Deadline: None

Abstract: This action would amend the existing fee schedule appearing in part 187 for certification of airmen and air agencies performed outside the U.S., e.g., certification of pilots, flight engineers, and mechanics. This action intends to provide fees for all activities authorized by statute and to estimate fees that permit full recovery of the Federal Aviation Administration's costs.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/93

Additional Information: Project No.: AFS-92-262R.

Agency Contact: Emily White, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3651

RIN: 2120–AE72

2372. KANSAS CITY TERMINAL CONTROL AREA

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This notice would propose to alter the Kansas City, MO, Terminal Control Area (TCA) to redefine several existing subareas to improve air traffic procedures and simplify visual flight rules operations outside the TCA. The primary goal of this modification to the TCA is to improve the degree of safety while providing the most efficient use of the terminal airspace.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Project Number: ATP-92-285R

Agency Contact: Lewis Still, Air Traffic Rules Branch, Air Traffic Rules and Procedures Services, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9250

RIN: 2120–AE73

2373. • STAGE 2 AIRPLANE OPERATIONS IN HAWAII

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1356; 49 USC 1401; 49 USC 1421 to 1432; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2126; 49 USC 2157; 49 USC 2158

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This notice proposes revisions to the airplane operating rules to provide reporting requirements for operators of Stage 2 airplanes in Hawaii. These revisions would require any U.S. operator or foreign air carrier that operated Stage 2 airplanes in Hawaii on November 5, 1990, to include certain information in its annual progress reports to the FAA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/93

Additional Information: Project Number: AEE-92-265R

Agency Contact: Alan V. Trickey, Policy and Regulatory Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3496

RIN: 2120–AE83

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Final Rule Stage

2374. +CIVIL SUPERSONIC AIRCRAFT NOISE TYPE CERTIFICATION STANDARDS AND OPERATING RULES

Significance: Regulatory Program

Legal Authority: 49 USC 1344; 49 USC 1348; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431(b); 49 USC 1651(b)(2); 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 36; 14 CFR 91

Legal Deadline: None

Abstract: This notice proposed revisions to the aircraft type certification standards and operating rules to require that future supersonic aircraft meet noise limits consistent with those required for future subsonic aircraft. Although considered significant due to substantial public interest, this project will be withdrawn from the Agenda until FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
ANPRM	10/30/86	51 FR 39663
ANPRM Comment Period End	02/27/87	
Comment Period Reopened Until 07/01/87	03/12/87	52 FR 7618
NPRM	05/30/90	55 FR 22020
NPRM Comment Period End	11/26/90	
To Be Withdrawn	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/30/90 (55 FR 22020)

Additional Information: Docket 25109. Formerly entitled "SST Stage 3 Compliance." Project No. AEE-86-012R.

Agency Contact: Richard N. Tedrick, Policy and Regulatory Division, Office of Environment, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3556

RIN: 2120–AC22

2375. +IMPROVED SURVIVAL EQUIPMENT FOR INADVERTENT WATER LANDINGS

Significance: Regulatory Program

Legal Authority: 49 USC 106(g); 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1374(d); 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, June 28, 1988.
PL 100-223, Section 303, Airport and Airway Safety and Capacity Enhancement Act of 1987.

Abstract: This notice proposed new requirements for water survival equipment carried aboard airplanes and rotorcraft. The requirements would apply, after specified dates, to U.S.-certificate holders that conduct common-carriage operations with airplanes and rotorcraft. This proposal is in response to the Airport and Airway Safety and Capacity Enhancement Act of 1987 (PL 100-223) and relates to safety recommendations by the National Transportation Safety Board. The proposed requirements are intended to increase the likelihood of aircraft passengers surviving a crash landing in water and, thus, this rulemaking is significant because of the safety implications.

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Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24890
NPRM Comment Period End	11/28/88	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/30/88 (53 FR 24890)

Additional Information: Project No. AIR-85-265R.

Agency Contact: John Petrakis, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9574

RIN: 2120–AC72

2376. +RETROFIT OF IMPROVED SEATS IN AIR CARRIER TRANSPORT CATEGORY AIRPLANES

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, April 28, 1988.
PL 100-223 Sec 303

Abstract: This notice proposed to require that all seats of transport category airplanes used in air carrier operations and transport category airplanes used in scheduled intrastate service comply with improved crashworthiness standards. The Airport and Airways Safety and Capacity Expansion Act of 1987 directs the Secretary of Transportation to initiate a rulemaking proceeding to consider requiring all seats onboard all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards. The intended effect of this action is to increase passenger protection and survivability in survivable impact accidents. This rulemaking is considered significant because of its safety implications and statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17650
NPRM Comment Period End	10/14/88	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/17/88 (53 FR 17650)

Additional Information: Docket 25611. Project No. AIR-88-136R.

Agency Contact: Arthur Hayes, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9937

RIN: 2120–AC84

2377. +DRUG ENFORCEMENT ASSISTANCE

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1354(c); 49 USC 1374(d); 49 USC 1401; 49 USC 1402; 49 USC 1403; 49 USC 1404; 49 USC 1405; 49 USC 1406; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; ...

CFR Citation: 14 CFR 13; 14 CFR 47

Legal Deadline: Final, Statutory, September 18, 1989.
FAA Drug Enforcement Assistance Act of 1988.

Abstract: This notice proposed to revise certain requirements concerning registration of aircraft, certification of pilots, and penalties associated with registration and certification violations. This notice also announced new procedures for processing major repair and alteration forms which pertain to fuel system modifications. Actions announced in this notice respond to the FAA Drug Enforcement Assistance Act. The proposed requirements and adopted procedures are intended to assist law enforcement agencies in their efforts to stop drug trafficking in general aviation aircraft. This rulemaking is significant because of congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/12/90	55 FR 9270
NPRM Comment Period End	05/11/90	
Comment Period Extended to 07/11/90	05/16/90	55 FR 20394
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/12/90 (55 FR 9270)

Additional Information: Project No. AVN-89-035R.

Agency Contact: Earl F. Mahoney, Aviation Standards National Field Office, Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 MacArthur Boulevard, Oklahoma City, Oklahoma 73125, 405 680-7357

RIN: 2120–AD16

2378. +TEMPORARY FLIGHT RESTRICTIONS

Significance: Regulatory Program

Legal Authority: 49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action proposed to revise the Federal Aviation Regulations to require the operator of an aircraft used in conducting authorized news-gathering operations in an area covered by temporary flight restrictions to be under the direction of the official in charge of the on-scene emergency response activities. Adoption of this proposal would reduce the potential for traffic conflicts and disruption of relief operations and would increase the level of safety afforded aircraft used in conducting rescue or disaster relief operations. This action is considered significant because of substantial public interest and safety considerations.

Timetable:

Action	Date	FR Cite
NPRM	07/24/91	56 FR 34000
NPRM Comment Period End	09/23/91	
Final Action	12/00/93	

DOT—FAA

Final Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/24/91 (56 FR 34000)

Additional Information: Project Number ATP-87-009R.

Agency Contact: William M. Mosley, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9251

RIN: 2120–AD55

2379. +UNESCORTED ACCESS PRIVILEGE

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1356; 49 USC 1357; 49 USC 1358 to 1421; 49 USC 106(g)

CFR Citation: 14 CFR 107; 14 CFR 108

Legal Deadline: Final, Statutory, April 24, 1992.
Aviation Security Improvement Act of 1990

Abstract: This action proposed to establish regulations to implement criminal history records checks for air carrier and airport security employees. This rulemaking is considered significant because of substantial congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/13/92	57 FR 5352
NPRM Comment Period Extended To 05/15/92	03/12/92	57 FR 8834
NPRM Comment Period End	03/16/92	
Public Meetings Notice	04/09/92	57 FR 12396
SNPRM	09/18/92	57 FR 43294
Comment Period End	12/17/92	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 09/18/92 (57 FR 43294)

Additional Information: Project Number ACS-91-076R.

Agency Contact: Andrew V. Cebula, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8293

RIN: 2120–AE14

2380. +AIRCRAFT FLIGHT SIMULATOR USE IN PILOT TRAINING, TESTING, AND CHECKING AND AT TRAINING CENTERS

Significance: Agency Priority

Legal Authority: 49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); ...

CFR Citation: 14 CFR 61; 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135; 14 CFR 141; 14 CFR 142

Legal Deadline: None

Abstract: This action would amend the pilot and flight instructor certification rules to include additional use of aircraft, aircraft flight simulators and flight training devices for pilot training, testing, and checking. This notice also would propose a new Part 142 that would govern a new concept called training centers. This new concept will emphasize the use of flight simulators in training applicants for pilot certificates. This rulemaking is considered significant because of substantial public interest; it involves a major change in the way industry trains applicants.

Timetable:

Action	Date	FR Cite
NPRM	08/11/92	57 FR 35888
NPRM Comment Period End	12/09/92	
SNPRM Comment Period End 03/22/93	02/19/93	58 FR 9514
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/11/92 (57 FR 35888)

Additional Information: This project was formerly entitled "Aircraft Simulator Use in Airman Training and Certification." Project Number AFS-83-105R.

The SNPRM clarified or eliminated certain provisions found to be unclear or inappropriate for present consideration.

Agency Contact: Warren Robbins, Manager, Regulations Branch, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8150

RIN: 2120–AA63

2381. +ELIMINATION OF AIRPORT DELAYS

Significance: Agency Priority

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 2402; 49 USC 2424; 49 USC 106(g)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This proposed rule is designed to alleviate increased delays throughout the air traffic system and is considered significant because of its involvement with important Department of Transportation policies.

Timetable:

Action	Date	FR Cite
NPRM	09/20/84	49 FR 33082
NPRM Comment Period End	09/04/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 08/20/84 (49 FR 33082)

Additional Information: Docket No. 24206.

Agency Contact: David L. Bennett, Manager, Airspace and Air Traffic Law Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3491

RIN: 2120–AB42

2382. +FLIGHT ATTENDANT REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421; 49 USC 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

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Abstract: The current regulations need to be revised to account for the changed operational practices stemming from airline economic deregulation. This proposal would clarify or change the number of flight attendants required when passengers are on board an airplane, including at stops. This proposal includes two new requirements: (1) a revision of the reduced number of flight attendants which, under certain conditions, a carrier is permitted to have on board a passenger-carrying airplane during stops; and (2) a requirement for a demonstration of competency by the other authorized persons who may be permitted to be substituted for required flight attendants when passengers are on board the airplane during stops. This proposal would change the current rule by clarifying and specifying the training required to be completed by these other authorized persons. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	54 FR 15134
NPRM Comment Period End	07/13/89	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/14/89 (54 FR 15134)

Additional Information: Project No. AFS-86-077R.

Agency Contact: Donell Pollard, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3735

RIN: 2120–AC32

2383. +TYPE AND NUMBER OF PASSENGER EMERGENCY EXITS REQUIRED IN TRANSPORT CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposed to revise the current requirements for passenger emergency exits and to adopt two new exit types into the regulations. These proposals are intended to provide more consistent standards with respect to passenger seating allowed for each exit type, and the type and number of exits required for passenger seating configurations. This notice proposed to reduce the maximum inflation time of an escape slide to reflect the current state of the art. These proposals resulted from the Public Technical Conference on Emergency Evacuation of Transport Airplanes held in Seattle, Washington, on September 3-6, 1985. This rulemaking is considered significant because it involves an important cabin-safety issue.

Timetable:

Action	Date	FR Cite
NPRM	02/22/90	55 FR 6344
NPRM Comment Period End	08/21/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/22/90 (55 FR 6344)

Additional Information: Project No. ANM-87-006R.

Agency Contact: Franklin Tiangsing, Regulations Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2121

RIN: 2120–AC43

2384. +EMERGENCY LOCATOR TRANSMITTERS

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1471; 49 USC 1485; 49 USC 1502; 49 USC 1522; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 29; 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This notice proposed to require installation of an improved emergency locator transmitter (ELT) that meets the requirements of a revised Technical Standards Order (TSO) on U.S.-registered airplanes and to terminate approval to use ELTs authorized under the original TSO issued for this equipment. The new equipment would be required for future installations. This proposal was prompted by unsatisfactory performance experienced with ELTs that are manufactured under the original TSO and relates to safety recommendations by the National Transportation Safety Board and the search-and-rescue community. Although most of the unsatisfactory field experience has been with automatic ELTs, the FAA is also proposing improved standards for survival ELTs. This proposal would save lives by increasing the number of survivors rescued after aircraft accidents. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/02/90	55 FR 12316
NPRM Comment Period End	07/31/90	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/02/90 (55 FR 12316)

Additional Information: Project No. AIR-85-348R.

Agency Contact: Phil Akers, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9571

RIN: 2120–AD19

2385. +SMALL AIRPLANE AIRWORTHINESS REVIEW PROGRAM NOTICE NO. 4

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

DOT—FAA

Final Rule Stage

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This notice proposed changes to the airframe and flight airworthiness standards for normal, utility, acrobatic, and commuter category airplanes that are based on a number of recommendations discussed at the Small Airplane Airworthiness Review Conference held on October 22-26, 1984. This action arose from the recognition that updated safety standards are needed for an acceptable level of safety in the design requirements for small airplanes used in both private and commercial operations. This notice included design requirements applicable to advancements in technology being incorporated in current designs and proposed to reduce the regulatory burden in showing compliance with some requirements while maintaining an acceptable level of safety. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/28/90	55 FR 26534
Correction To NPRM	08/24/90	55 FR 34797
NPRM Comment Period Extended	10/24/90	55 FR 42942
NPRM Comment Period End	10/25/90	
NPRM Comment Period End	12/14/90	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/28/90 (55 FR 26534)

Additional Information: Project No. ACE-84-012R.

Agency Contact: Victor F. Sokoloski, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 610 East 12th Street, Kansas City, MO 64106, 816 426-5688

RIN: 2120–AD20

2386. +SMALL AIRPLANE AIRWORTHINESS REVIEW PROGRAM NOTICE NO. 3

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This notice proposed changes to the powerplant and equipment airworthiness standards for normal, utility, acrobatic, and commuter category airplanes that were based on certain proposals and recommendations discussed at the Small Airplane Airworthiness Review Conference held in St. Louis, Missouri, on October 22-26, 1984. These proposals arose from the recognition, by both government and industry, that updated safety standards are needed to maintain an acceptable level of safety in the design requirements for small airplanes that are used in both private and commercial operations. These proposals, if adopted, will include design requirements applicable to advancements in technology being incorporated in current designs and reduce the regulatory burden in showing compliance with some requirements while maintaining an acceptable level of safety. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/03/90	55 FR 40598
NPRM Comment Period End	04/01/91	
NPRM Comment Period Extended To 07/02/91	05/24/91	56 FR 23813
NPRM Comment Period Extended To 08/21/91	07/22/91	56 FR 33688
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/03/90 (55 FR 40598)

Additional Information: Project No. ACE-84-011R.

Agency Contact: Ervin E. Dvorak, Standards Office, Small Airplane Directorate, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 426-5688

RIN: 2120–AD30

2387. +AIRWORTHINESS STANDARDS; EMERGENCY EXIT PROVISIONS FOR NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This notice proposed to amend emergency egress requirements of the airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. These proposed rules are necessary to improve the compatibility of the requirements for emergency exit provisions of commuter category airplanes with the corresponding requirements for similar sized transport category airplanes. These proposals provide alternative emergency exit requirements, applicable to commuter category airplanes, when additional bin safety features are included in the airplane design, and include specific requirements for flight crew emergency exits, emergency exit ditching provisions, and the size requirement of the passenger entry door for commuter category airplanes. This rulemaking is considered significant because it involves a cabin-safety issue.

Timetable:

Action	Date	FR Cite
NPRM	08/30/90	55 FR 35544
NPRM Correction	10/04/90	55 FR 40755
NPRM Comment Period End	02/26/91	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/30/90 (55 FR 35544)

Additional Information: Project No. ACE-88-001R. This project was formerly entitled Exit Requirements for Part 23 Airplanes.

Agency Contact: Norman R. Vetter, Standards Office, Small Airplane Directorate, Department of Transportation, Federal Aviation

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DOT—FAA

Final Rule Stage

Administration, 610 East 12th Street, Kansas City, MO 64106, 816 426-5688

RIN: 2120–AD33

2388. +ESTABLISHMENT AND DISCONTINUANCE CRITERIA FOR LORAN-C NONPRECISION APPROACH PROCEDURES

Significance: Agency Priority

Legal Authority: 49 USC 1343; 49 USC 1346; 49 USC 1348; 49 USC 1354(a); 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422 to 1430; 49 USC 1472(c); 49 USC 1502; 49 USC 1522; 49 USC 106(g)

CFR Citation: 14 CFR 170

Legal Deadline: None

Abstract: This proposed rule would prescribe benefit-cost-based criteria for establishment and discontinuance of LORAN-C nonprecision approach procedures at airports. It would consider traffic density, passengers served, and aircraft operating efficiencies along with the cost of establishing and maintaining an approach. The criteria will provide a guide for FAA management to assure the cost-effective placement of LORAN-C approaches. This rulemaking is considered significant because of substantial public interest

Timetable:

Action	Date	FR Cite
NPRM	01/31/92	57 FR 3830
NPRM Comment Period End	04/30/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/31/92 (57 FR 3830); Regulatory Evaluation 05/00/93

Additional Information: Project Number APO-90-340R.

Agency Contact: Norman Elrod, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3292

RIN: 2120–AD68

2389. +PROTECTIVE BREATHING EQUIPMENT; FIRE DRILLS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action would amend the current regulations requiring Part 121 crewmembers to perform an approved firefighting drill using protective breathing equipment. The objective of this proposed amendment is to ensure that each crewmember accomplishes a firefighting drill in which the crewmember combats an actual fire in addition to, or combined with, a protective breathing equipment drill. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/26/92	57 FR 38718
NPRM Comment Period End	10/26/92	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/26/92 (57 FR 38718)

Additional Information: Project Number AFS-90-325R.

Agency Contact: Donell Pollard, Regulations Branch, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8096

RIN: 2120–AD76

2390. +BIENNIAL FLIGHT REVIEW

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This action would amend part 61 of the Federal Aviation Regulations to require that the biennial flight review consist of a minimum of one hour of ground training and one hour of flight training. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/22/92	57 FR 32680
NPRM Correction	09/14/92	57 FR 41974
NPRM Comment Period End	09/21/92	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/22/92 (57 FR 32680)

Additional Information: Project Number AFS-90-431R.

A final rule published 09/05/91 (56 FR 43970) extended the compliance date for recreational pilots and non-instrument-rated private pilots with less than 400 hours of flight time to receive an annual flight review of a minimum of one hour each of flight and ground instruction. This action was necessary to allow the agency adequate time to complete the rulemaking herein. (A correction to the final rule was published 11/06/91, 56 FR 56571.)

Agency Contact: Tom Glista, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8150

RIN: 2120–AE11

2391. +PROPOSED ALTERATION OF THE DENVER TERMINAL CONTROL AREA, COLORADO

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action would alter the Denver, Colorado, terminal control area to coincide with the relocation of the new Denver International Airport. It would also propose to raise the upper limits of the terminal control area to 12,500 feet mean sea level to enable air traffic control to provide terminal air traffic control service to arriving and departing turbojet aircraft in a terminal control environment throughout transition to and from the en route structure. This rulemaking is considered significant because of substantial public interest.

DOT—FAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/26/92	57 FR 38724
NPRM Comment Period End	10/26/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/26/92 (57 FR 38724)

Additional Information: Project Number ATP-91-310T.

Agency Contact: Alton D. Scott, Airspace and Obstruction Evaluation Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9252

RIN: 2120–AE46

2392. +AIRCRAFT GROUND DEICING AND ANTI-ICING PROGRAM

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1422; 49 USC 1427; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This proposed amendment would establish a requirement for part 121 certificate holders to develop an FAA-approved ground deicing/anti-icing program and to comply with that program any time conditions are such that frost, ice, or snow could adhere to the aircraft's wings, control surfaces, or propellers. This action is necessary because several accidents and the recent International Conference on Airplane Ground Deicing indicate that, under present procedures, the pilot in command may be unable to effectively determine whether critical airplane components are free of all frost, ice, or snow prior to attempting a takeoff. The proposal is intended to provide an added level of safety to flight operations in adverse weather conditions, and is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/23/92	57 FR 32846
NPRM Comment Period End	08/07/92	
Interim Final Rule	09/29/92	57 FR 44924
Interim Final Rule Effective	11/01/92	
Interim Final Rule Correction	11/09/92	57 FR 53385
Comment Period End	04/15/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/29/92 (57 FR 44924)

Additional Information: Project Number: AFS-92-280-R.

A proposed advisory circular providing guidance on the program elements that should be included in an air carrier's approved ground deicing and anti-icing program was published September 29, 1992, requesting comments (57 FR 44944).

Various documents of this proceeding were erroneously published under RIN 2120-AE51.

Agency Contact: Larry Youngblut, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3755

RIN: 2120–AE70

2393. • +OPERATION OF JET AIRCRAFT IN COMMUTER SLOTS AT O'HARE INTERNATIONAL AIRPORT

Significance: Agency Priority

Legal Authority: 49 USC 106(g); 49 USC app 1302 to 1303; 49 USC app 1348; 49 USC app 1354(a); 49 USC app 1424; 49 USC app 2451 et seq

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposed to eliminate the limitation on the use of larger aircraft in commuter slots at O'Hare Airport to a temporary 2-year trial period. It also proposed to permit an air carrier to use larger aircraft in up to 50 percent of its commuter slot holdings, expand the category of aircraft that may be used in those slots, and remove restrictions on the maximum number of larger aircraft operations in commuter slots per half-hour periods. This action is significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 280
NPRM Comment Period End	03/08/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/05/93 (58 FR 280)

Agency Contact: Patricia R. Lane, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3491

RIN: 2120–AE78

2394. OBJECTS AFFECTING NAVIGABLE AIRSPACE

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1421 to 1430; 49 USC 1501; 49 USC 106(g)

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This notice proposed amendments to the standards, aeronautical studies, scope, and notice provisions concerning objects affecting navigable airspace. The notice consisted primarily of changes required by recent legislation or recommended by a government/industry task group of the National Airspace Review Advisory Committee. This notice also introduced language to cover electromagnetic interference phenomenon that could create a hazard to air navigation.

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/08/80	
National Airspace Review Begins	07/09/84	
NPRM	08/03/90	55 FR 31722
NPRM Correction	08/13/90	55 FR 32999
NPRM Correction	08/16/90	55 FR 33577
NPRM Correction	08/28/90	55 FR 35152
NPRM Correction	09/10/90	55 FR 37287
NPRM Comment Period End	12/31/90	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

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DOT—FAA

Final Rule Stage

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 08/03/90 (55 FR 31722)

Additional Information: Project ATP-85-015R.

Agency Contact: Richard Kagehiro, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8783

RIN: 2120–AA09

2395. MISCELLANEOUS AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1352 Federal Aviation Act of 1958, Sec. 311; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355(a) Federal Aviation Act of 1958, Sec. 314(a); 49 USC 1421 to 1430 Fed Aviation Act of 1958, Secs. 601 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This action would amend various sections of the regulations. Some of the amendments are clarifying or editorial in nature or correct improper or obsolete references. Others relax certain existing requirements. Others allow issuance of special flight permits for an additional purpose, relax a requirement for passenger information signs, and eliminate the bulk erasure device on cockpit voice recorders. This action is in response to numerous complaints, suggestions, and petitions for exemption concerning several regulatory requirements received from users of the National Airspace System. These users state that these sections contain obsolete references and vague, complex, and inadequate language and that, in some instances, the cost of compliance is not justified by the benefits derived.

Timetable:

Action	Date	FR Cite
NPRM	10/03/83	48 FR 45214
NPRM Comment Period End	12/02/83	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/03/83 (48 FR 45214)

Additional Information: Docket No. 23781. Project No. ARM-81-128R.

Agency Contact: Jean Casciano, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9683

RIN: 2120–AA50

2396. AIRWORTHINESS STANDARDS; CRASH RESISTANT FUEL SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action proposed changes to the airworthiness standards to improve the crash resistance of fuel systems on normal, utility, acrobatic, and commuter category airplanes. The FAA has determined that improved crash resistance of these fuel systems is necessary to prevent deaths and injuries due to fire in survivable crashes. The proposed design changes would limit fuel spillage near ignition sources and would provide additional time for the survivors to evacuate the airplane.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/85	50 FR 8948
ANPRM Comment Period End	07/03/85	
NPRM	02/28/90	55 FR 7280
NPRM Comment Period End	06/28/90	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/28/90 (55 FR 7280)

Additional Information: Formerly titled "Amend Part 23 To Include Requirements for Crash-Resistant Fuel Systems." Project No. ACE-82-005R.

Agency Contact: Norman Vetter, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 426-5688

RIN: 2120–AA57

2397. AIRWORTHINESS STANDARDS: AIRCRAFT ENGINE ELECTRICAL AND ELECTRONIC ENGINE CONTROL SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action would establish requirements for the certification of electrical and electronic engine control systems. These control systems range from simple power or thrust trimming devices with full hydromechanical backup to full authority digital electronic controls with no mechanical backup. Although these types of control systems have been certificated under existing regulations, those regulations do not address specific requirements related to electrical and electronic engine controls such as engine supplied power and data, lightning protection, high energy radio frequency protection, and software verification/validation.

Timetable:

Action	Date	FR Cite
NPRM	02/14/85	50 FR 6186
NPRM Comment Period End	07/29/85	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/14/85 (50 FR 6186)

Additional Information: Project No. ANE-83-001R.

Agency Contact: Cosimo J. Bosco, Engine and Propeller Standards Staff, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7068

RIN: 2120–AB06

2398. STANDARDS FOR APPROVAL FOR HIGH ALTITUDE OPERATION OF SUBSONIC TRANSPORT AIRPLANES

Significance: Nonsignificant

DOT—FAA

Final Rule Stage

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposed to amend the Federal Aviation Regulations to specify airplane and equipment airworthiness standards for subsonic transport airplanes to be operated up to an altitude of 51,000 feet. This proposal was prompted by an increase in the number of applications received to raise the maximum certificated operating altitude for transport category airplanes. This action is intended to ensure an acceptable level of safety for airplanes operated at high altitudes.

Timetable:

Action	Date	FR Cite
NPRM	11/22/89	54 FR 48538
NPRM Comment Period End	05/21/90	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Evaluation 11/22/89 (54 FR 48538)

Additional Information: Project No. ANM-83-022R.

Agency Contact: Bob McCracken, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2118

RIN: 2120–AB18

2399. AIRWORTHINESS STANDARDS; TRANSPORT CATEGORY ROTORCRAFT PERFORMANCE

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This notice proposed to revise the performance requirements for transport category rotorcraft. The proposed changes are needed to define more clearly the factors for determining takeoff distances for transport category rotorcraft and to add several other relevant standards. If adopted, these changes would provide for an improved level of safety achievable because of recent technological advances in turboshaft engine design and associated rotorcraft design.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/85	50 FR 42126
ANPRM Comment Period End	06/06/86	
NPRM	01/08/90	55 FR 698
NPRM Comment Period End	07/09/90	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/08/90 (55 FR 698)

Additional Information: Project No. ASW-83-006R.

Agency Contact: Jim S. Honaker, Regulations Group, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76193, 817 624-5109

RIN: 2120–AB36

2400. LOW FUEL QUANTITY ALERTING SYSTEM

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposed to amend the airworthiness standards for transport category airplanes to require a means to alert the flight crew of potentially unsafe low fuel quantities. There have been several fuel depletion incidents involving loss of power or thrust on all engines that could have resulted in forced landings and injury or loss of life. Most of these incidents resulted from improper fuel management techniques. This proposed amendment would require new transport category airplane designs to incorporate a low fuel quantity alert system that would allow for correction of certain fuel management errors or provide the flightcrew the opportunity to make a safe landing prior to engine fuel starvation.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17890
NPRM Comment Period End	09/09/87	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/12/87 (52 FR 17890)

Additional Information: Docket No. 25213. Project No. ANM-83-039R.

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2135

RIN: 2120–AB46

2401. AIRCRAFT ENGINES: FUEL AND INDUCTION SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 106(g)

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This notice would propose to add a new section 33.35(f) to the Federal Aviation Regulations which would incorporate a requirement for the fuel mixture and throttle controls to automatically move to a position allowing continued safe flight if either control becomes disconnected.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	51 FR 7224
ANPRM Comment Period End	04/29/86	
NPRM	10/20/92	57 FR 47934
NPRM Comment Period End	02/17/93	
Final Action	03/00/94	

Small Entities Affected: None

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Final Rule Stage

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/20/92 (57 FR 47934)

Additional Information: Project No. ANE-85-002R.

Former title: Engine Fuel and Induction Systems.

Agency Contact: Locke Easton, Engine and Propeller Standards Staff, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7088

RIN: 2120–AB76

2402. AIRWORTHINESS STANDARDS; NEW ROTORCRAFT 30-SECOND/2-MINUTE ONE-ENGINE-INOPERATIVE POWER RATINGS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1523; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This notice responded to a petition for rulemaking from Aerospace Industries Association of America, Inc., and proposed to amend the Federal Aviation Regulations to incorporate new one-engine-inoperative (OEI) power ratings for multiengine, turbine-powered rotorcraft. If adopted, this proposal would enhance rotorcraft safety after an engine failure or precautionary shutdown by providing OEI power, when required, with the assurance that the drive system would maintain its structural integrity and allow continued safe flight while operating at the new OEI power ratings with the operable engine(s)

Timetable:

Action	Date	FR Cite
NPRM	09/22/89	54 FR 39086
Notice of Public Hearing	10/13/89	54 FR 41986
NPRM Comment Period End	03/27/90	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 09/22/89 (54 FR 39086)

Additional Information: Formerly entitled New Rotorcraft Emergency Power Ratings.

Project No. ASW-85-469P.

Agency Contact: Ray Twa, Rotorcraft Standards Staff, Department of Transportation, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76193, 817 624-5158

RIN: 2120–AB90

2403. AIRWORTHINESS STANDARDS; TURBOSHAFT ENGINE ROTOR BURST PROTECTION

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This notice proposed to amend the Federal Aviation Regulations to minimize the failure hazards of high speed powerplant rotor systems used in turboshaft engines in newly designed transport category rotorcraft. Engine rotor failures have occurred resulting in the release of high energy rotor fragments or other engine component fragments. These fragments have impacted and damaged critical rotorcraft structures, systems, controls, and adjacent engines, as well as caused serious or fatal injuries to passengers and crewmembers. This proposal, if adopted, is intended to eliminate these hazards.

Timetable:

Action	Date	FR Cite
NPRM	10/17/89	54 FR 42716
Comment Period Extended to 10/16/90	03/08/90	55 FR 8474
NPRM Comment Period End	04/16/90	
NPRM Comment Period Reopened to 3/15/93	01/14/93	58 FR 4566
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/17/89 (54 FR 42716)

Additional Information: Formerly entitled "Turbine Burst Protection for Transport Category Helicopters." Project No. ASW-84-002.

Agency Contact: Mike Mathias, Regulations Group, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76193, 817 624-5123

RIN: 2120–AB91

2404. MISCELLANEOUS CHANGES TO EMERGENCY EVACUATION DEMONSTRATION PROCEDURES, EXIT HANDLE ILLUMINATION, AND PA HANDSETS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This notice proposed to modify the procedures for conducting an emergency evacuation demonstration by requiring that the flight crew take no active role in the demonstration and by changing the age/sex distribution requirement for demonstration participants. This notice also proposed to standardize the illumination requirements for the handles of the various types of passenger emergency exits. In addition, it is proposed to add a requirement for a "push to talk" switch to the public address system. These proposals are intended to enhance the provisions of transport category airplanes for egress of occupants during emergency conditions.

Timetable:

Action	Date	FR Cite
NPRM	09/08/89	54 FR 37414
NPRM Comment Period End	01/08/90	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/08/89 (54 FR 37414)

DOT—FAA

Final Rule Stage

Additional Information: Project No. ANM-87-010R.

Agency Contact: Frank Tiangsing, Regulations Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2121

RIN: 2120–AC45

2405. AIRWORTHINESS STANDARDS; CRASH RESISTANT FUEL SYSTEMS IN NORMAL AND TRANSPORT CATEGORY ROTORCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This notice proposed to add comprehensive crash resistant fuel system design and test criteria to the airworthiness standards for normal and transport category rotorcraft. The proposed standards would minimize fuel (and other flammable fluid) spillage near ignition sources, minimize potential ignition sources and, therefore, improve the evacuation time needed for crew and passengers to escape a postcrash fire. These proposals, if adopted, would minimize the postcrash fire hazard, save lives, and substantially reduce the severe physiological and psychological injuries sustained from postcrash fires in otherwise survivable accidents.

Timetable:

Action	Date	FR Cite
NPRM	10/05/90	55 FR 41000
NPRM Correction	12/11/90	55 FR 50931
NPRM Comment Period End	04/03/91	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/05/90 (55 FR 41000)

Additional Information: This project was formerly entitled "Rotorcraft Crash Resistant Fuel Systems."

Project Number ASW-85-006R.

Agency Contact: Mike Mathias, Regulations Group, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76193, 817 624-5123

RIN: 2120–AC68

2406. ELECTRICAL AND ELECTRONIC SYSTEMS LIGHTNING PROTECTION

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposed to amend the Federal Aviation Regulations to add a new standard for transport category airplanes which would provide lightning protection requirements for installed electrical and electronic systems. This proposal was the result of increasing concern for the vulnerability of these systems to the indirect effects of lightning. This notice was issued in order to promulgate specific lightning protection requirements for electrical systems which perform essential or critical functions.

Timetable:

Action	Date	FR Cite
NPRM	05/30/89	54 FR 23164
NPRM Comment Period End	09/27/89	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/30/89 (54 FR 23164)

Additional Information: Project No. ANM-86-014R.

Agency Contact: Gene Vandermolen, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2157

RIN: 2120–AC81

2407. AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES; PROPOSAL FOR NEW ONE-ENGINE-INOPERATIVE RATINGS, DEFINITIONS, AND TYPE CERTIFICATION STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1347; 49 USC 1348; 49 USC 1354(a); 49 USC 1357(d)(2); 49 USC 1372; 49 USC 1421 to 1430; 49 USC 1432; 49 USC 1442; 49 USC 1443; 49 USC 1472; 49 USC 1510; 49 USC 1522; 49 USC 1652(e); 49 USC 1655(c); 49 USC 106(g)

CFR Citation: 14 CFR 1; 14 CFR 33

Legal Deadline: None

Abstract: The Aerospace Industries Association of America, Inc., petitioned the FAA to provide new one-engine-inoperative ratings for rotorcraft engines and their application to rotorcraft. This notice responded to that petition and proposed to define and establish type certification standards for new one-engine-inoperative ratings for rotorcraft engines.

Timetable:

Action	Date	FR Cite
NPRM	09/22/89	54 FR 39080
Notice of Public Hearing	10/13/89	54 FR 41986
NPRM Comment Period End	03/27/90	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/22/89 (54 FR 39080)

Additional Information: Project No. ANE-85-001R.

Agency Contact: Donald F. Perrault, Engine and Propeller Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803, 617 273-7081

RIN: 2120–AD21

2408. IMPROVED FLAMMABILITY STANDARDS FOR MATERIALS USED IN THE INTERIORS OF TRANSPORT CATEGORY AIRPLANE CABINS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49

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USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1472; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This notice proposed to clarify the recently adopted standards concerning the flammability of components used in the cabins of certain transport category airplanes. These clarifications would be applicable to air carriers, air taxi operators and commercial operators, as well as manufacturers of such airplanes.

Timetable:

Action	Date	FR Cite
NPRM	04/12/90	55 FR 13886
NPRM Comment Period End	10/09/90	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/12/90 (55 FR 13886)

Additional Information: Project No. ANM-88-024R.

Agency Contact: Gary Killion, Manager, Regulations Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2112

RIN: 2120–AD28

2409. AIRPLANE ENGINE COWLING RETENTION

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposed to amend the airworthiness standards for transport category airplanes to require improved cowling retention devices. A review of a number of inflight incidents where engine cowlings were lost revealed that the largest single cause of such losses was improper latching of the cowlings. If adopted, this proposal would provide additional design standards to detect improperly latched cowlings and ensure the integrity of the latching system.

Timetable:

Action	Date	FR Cite
NPRM	09/19/89	54 FR 38610
NPRM Comment Period End	03/19/90	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/19/89 (54 FR 38610)

Additional Information: Project No. ANM-87-004R.

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2133

RIN: 2120–AD34

2410. DESIGN STANDARDS FOR AIRPLANE JACKING AND TIE-DOWN PROVISIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposed new design standards for airplane jacking and tie-down provisions for transport category airplanes. This proposal is needed to provide manufacturers of transport category airplanes with design standards for jacking conditions and is intended to provide protection of the airplane primary structure during wind gust conditions, during jacking operations, and while tied down.

Timetable:

Action	Date	FR Cite
NPRM	02/09/90	55 FR 4790
NPRM Comment Period End	08/08/90	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/09/90 (55 FR 4790)

Additional Information: Project No. ANM-84-006R. This project was formerly entitled "Airplane Jacking Loads."

Agency Contact: Iven Connally, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2120

RIN: 2120–AD38

2411. AIRWORTHINESS STANDARDS; SMALL AIRPLANES WITH STALL SPEED GREATER THAN 61 KNOTS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This notice proposed to amend the 61-knot stall speed limitation requirement applicable to normal, utility, and acrobatic category single-engine and certain multiengine small airplanes of less than 6,000 pounds maximum weight. The proposal would require additional occupant protection requirements for those airplanes with a stall speed exceeding 61 knots. This proposal retains the current level of airplane occupant protection and permits the design and type certification of higher performance, single-engine airplanes capable of attaining an increase in cruise speeds with better specific fuel consumption. This improvement in performance and operating economies cannot be achieved without substantial increased cost and complexity if these designs are constrained by the present 61-knot stall speed limitation.

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 22070
NPRM Comment Period End	09/10/91	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 05/13/91 (56 FR 22070)

Additional Information: This project was formerly entitled "61-Knot Stall Speed; Stall Speeds for Single-Engine Airplanes." Project Number ACE-83-006R.

Agency Contact: Victor F. Sokoloski, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 426-6941

RIN: 2120–AD48

2412. CENTRALIZATION OF FORMAL HEARING DOCKETS (FAA)

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1354(c); 49 USC 1374(d); 49 USC 1401 to 1406; 49 USC 1421 to 1428; 49 USC 1471; 49 USC 1475; 49 USC 1481; 49 USC 1482(a) to 1482(c); 49 USC 1484 to 1489; 49 USC 1655(c); 49 USC 1808 to 1810; 49 USC 2218 to 2219; 49 USC 106(g)

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This final action would provide that documents and evidence in formal hearing cases adjudicated within the Federal Aviation Administration would be filed and maintained in the Office of the Secretary's Office of Documentary Services. The change would be made in order to streamline operations and to consolidate the documents used in formal hearing cases.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Denise Daniels Ross, Special Assistant to the Chief Counsel, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3773

RIN: 2120–AD63

2413. TEMPORARY RESTRICTION OF INSTRUMENT APPROACHES AND CERTAIN VISUAL FLIGHT RULES OPERATIONS IN HIGH PRESSURE WEATHER CONDITIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This notice would propose to amend the Federal Aviation Regulations to authorize the issuance of temporary flight restrictions to certain operations when accurate altitude information is not available.

Timetable:

Action	Date	FR Cite
NPRM	03/12/92	57 FR 8830
NPRM Comment Period End	05/11/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/12/92 (57 FR 8830)

Additional Information: Project Number AFS-90-183R.

Agency Contact: Donell Pollard, Regulations Branch, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8096

RIN: 2120–AD75

2414. MODEL ROCKET OPERATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1372; 49 USC 1421; 49 USC 1442; 49 USC 1443; 49 USC 1472; 49 USC 1510; 49 USC 1522

CFR Citation: 14 CFR 101

Legal Deadline: None

Abstract: This notice would propose to extend the inapplicability of part 101 to heavier model rockets.

Timetable:

Action	Date	FR Cite
NPRM	09/10/92	57 FR 41628
NPRM Comment Period End	12/09/92	
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/10/92 (57 FR 41628)

Additional Information: This project was formerly entitled "Part 101 Review Program." Project Number ATP-84-020R. The NPRM herein was inadvertently published under RIN 2120-AB75, a completed action.

Agency Contact: Joseph White, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8783

RIN: 2120–AD84

2415. EXIT SEATING FOR ON-DEMAND OPERATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the exit seating rule to exclude from its applicability commuter air carrier aircraft having 9 or fewer passenger seats and on-demand air taxi aircraft having 19 or fewer passenger seats. These proposed amendments are intended to relieve air carriers and persons with disabling conditions of unnecessary burdens by allowing, on a commuter-carrier aircraft, seating in an exit-row seat a passenger who is not able, or willing without assistance, to activate an emergency exit. The revisions would eliminate unnecessary requirements for safe evacuation in an emergency, as seating configurations in such aircraft tend to differ from standard aisle-and-row seating and frequently include single units around a central open space in the cabin, couch seats, and club seating, which provide undefined, unrestricted paths to the exits.

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DOT—FAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/28/92	57 FR 48666
NPRM Comment Period End	11/27/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/28/92 (57 FR 48666)

Additional Information: Project Number AFS-91-332R.

Agency Contact: Donell Pollard, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, **202 267-8096**

RIN: 2120–AE44

2416. PART 157 REVIEW

Significance: Nonsignificant

Legal Authority: 49 USC 1350; 49 USC 1354(a); 49 USC 1355

CFR Citation: 14 CFR 157

Legal Deadline: None

Abstract: This action will respond to comments invited on the final rule of 07/24/91 (56 FR 33994) concerning construction, alteration, activation, and deactivation of airports.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No.: ATP-91-204R.

Agency Contact: Richard Kagehiro, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, **202 267-7667**

RIN: 2120–AE52

2417. PART 95 INSTRUMENT FLIGHT RULES

Significance: Routine and Frequent

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1510; 49 USC 106(g)

CFR Citation: 14 CFR 95

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2500. 10/00/92 - 10/00/93.

Timetable:

Action	Date	FR Cite
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, **202 267-8212**

RIN: 2120–AA63

2418. AIRWORTHINESS DIRECTIVES

Significance: Routine and Frequent

Legal Authority: 49 USC 1421; 49 USC 1423; 49 USC 106(g)

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently in order to correct known or expected safety problems on type certificated products. Total actions expected--400. 10/00/92 - 10/00/93.

Timetable:

Action	Date	FR Cite
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jack McGrath, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, **202 267-9580**

RIN: 2120–AA64

2419. STANDARD INSTRUMENT APPROACH PROCEDURES

Significance: Routine and Frequent

Legal Authority: 49 USC 1348; 49 USC 1354(a); 49 USC 1421; 49 USC 1510; 49 USC 106(g)

CFR Citation: 14 CFR 97

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2,800. 10/00/92 - 10/00/93.

Timetable:

Action	Date	FR Cite
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, **202 267-8212**

RIN: 2120–AA65

2420. AIRSPACE ACTIONS

Significance: Routine and Frequent

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 1522

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--240.

Timetable:

Action	Date	FR Cite
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Huff, Manager, Airspace Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, **202 267-3075**

RIN: 2120–AA66

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Completed Actions

2421. +ALLOWABLE CARBON DIOXIDE CONCENTRATION IN TRANSPORT CATEGORY AIRPLANE CABINS

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This rulemaking was established to review part 25 to determine if the current allowable concentration of carbon dioxide in the airplane cabin and flight deck is appropriate in light of standards established for air quality in buildings occupied by the general public and with workplace exposure limits adopted by other regulatory agencies. This rulemaking was considered significant because of the safety implications.

This action is being removed from the Agenda until FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
Action Terminated	01/14/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This project was formerly entitled "Carbon Dioxide Concentration." Project Number ANM-87-017R.

Agency Contact: Bob McCracken, Flight Test and Systems Branch, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2118

RIN: 2120–AD47

2422. +ESTABLISH POWERED ULTRALIGHT VEHICLES STANDARDS

Significance: Agency Priority

Legal Authority: 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1422; 49 USC 1423; 49 USC 106(g)

CFR Citation: 14 CFR 103

Legal Deadline: None

Abstract: This action was to propose to amend the standards for powered ultralight vehicles in the areas of registration, airworthiness, and pilot certification. In amending these standards, the recreational nature of ultralight operations would be taken into consideration. This rulemaking was considered significant because of substantial public interest.

This action is being removed from the Agenda until FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
Action Terminated	02/11/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AFS-88-234P.

Agency Contact: William Cook, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, **202 267-3840**

RIN: 2120–AE12

2423. +EXIT SEATING

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This final rule amends the exit row seating rule to relieve burdens on both passengers and operators caused by the restriction of more seats than are necessary in the interest of safety, to ensure that passengers who cannot respond to emergency commands are not seated in exit rows, and to remove unnecessarily burdensome language requirements for passenger information cards. This action was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Final Action	10/27/92	57 FR 48658

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/27/92 (57 FR 48658)

Additional Information: Project Number AFS-90-382R.

Agency Contact: Donell Pollard, Air Transportation Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, **202 267-8096**

RIN: 2120–AE22

2424. +NOTIFICATION TO AIR TRAFFIC CONTROL (ATC) OF DEVIATIONS FROM ATC CLEARANCES AND INSTRUCTIONS IN RESPONSE TO TRAFFIC ALERT AND COLLISION AVOIDANCE SYSTEM RESOLUTION ADVISORIES

Significance: Agency Priority

Legal Authority: 49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This final rule would clarify the responsibility of a pilot in command to advise an air traffic controller of any deviation from an air traffic control clearance or instruction when responding to a traffic alert and collision avoidance system resolution advisory. This action is considered significant because of its safety implications.

This action is being removed from the Agenda until FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
Action Terminated	02/16/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number ATP-89-354P.

Agency Contact: Richard K. Kagehiro, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence

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Avenue SW., Washington, DC 20591, 202 267-8783

RIN: 2120–AE31

2425. +FIRE-BLOCKING MATERIAL FOR PART 135 AIRPLANE SEATS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355(a); 49 USC 1421 to 1431; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: This action was to amend part 135 of the Federal Aviation Regulations to require the use of fire-blocking materials in passenger seats. This proposal is the result of a National Transportation Safety Board Recommendation. This rulemaking was considered significant because of substantial public interest and safety implications.

This action is being removed from the Agenda until FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
Action Terminated	02/16/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number ACE-91-001R.

Agency Contact: Victor Sokoloski, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 610 East 12th Street, Kansas City, MO 64106, 816 426-5688

RIN: 2120–AE33

2426. +EMERGENCY LOCATOR TRANSMITTER REPLACEMENT

Significance: Agency Priority

Legal Authority: 49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action would require the replacement of emergency locator transmitters (ELT's) on U.S.-registered airplanes with improved ELT's that meet the requirements of revised technical standard order number TSO-C91. This proposal was prompted by unsatisfactory performance of ELT's manufactured under the original technical standard order. This rulemaking was considered significant because of substantial public interest.

This action is being removed from the Agenda until FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
Action Terminated	02/16/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AIR-91-160R.

Agency Contact: Phil Akers, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9571

RIN: 2120–AE36

2427. +DRUG TESTING IN THE WORKPLACE

Completed:

Reason	Date	FR Cite
Action Terminated - Duplicate of RIN 2120-AE80	02/16/93	

RIN: 2120–AE40

2428. +PRODUCTION CERTIFICATE MODERNIZATION

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This action was to propose to standardize the production quality control systems requirements in part 21 of the Federal Aviation Regulations. This action was considered significant because of substantial public interest.

This action is being removed from the Agenda until FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
Action Terminated	02/16/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: AIR-89-048R.

Agency Contact: Andy Lown, Production Certification Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9540

RIN: 2120–AE74

2429. USE OF INERT GAS FOR TIRE INFLATION IN LIEU OF AIR

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action requires that an inert gas, such as nitrogen, be used in lieu of air, for inflation of tires on certain transport category airplanes. This action was prompted by at least three cases in which the oxygen in air-filled tires combined with volatile gases, given off by a severely overheated tire, and exploded upon reaching autoignition temperature. The use of an inert gas for tire inflation will eliminate the possibility of a tire explosion.

Timetable:

Action	Date	FR Cite
NPRM	03/05/90	55 FR 7876
NPRM Correction	03/21/90	55 FR 10467
NPRM Comment Period End	09/03/90	
Final Action	02/26/93	58 FR 11778
Final Action Effective	03/29/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/26/93 (58 FR 11778)

Additional Information: Project No. ANM-87-027R.

Agency Contact: Gary D. Lium, Regulations Branch, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2118

RIN: 2120–AD37

2430. BIRD STRIKE DAMAGE ASSESSMENT

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations by upgrading the standards for protecting transport category airplanes from bird impact damage by requiring that airplanes be designed such that: (1) only minor damage would result from impact with a 4-pound bird and (2) the airplane would be capable of continued safe flight and landing after impact with an 8-pound bird.

This project is being removed from the agenda until the FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
Action Terminated	01/03/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ANM-87-037R.

Agency Contact: Iven Connally, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056, 206 227-2120

RIN: 2120–AD39

2431. PARACHUTE EQUIPMENT AND PACKING REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1421; 49 USC 106(g)

CFR Citation: 14 CFR 105

Legal Deadline: None

Abstract: This action would propose to amend part 105 of the Federal Aviation Regulations to permit general use of approved dual harness and parachute packs.

This action is being removed from the Agenda until FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
Action Terminated	01/03/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AFS-86-102R.

Agency Contact: Melvin Cooper, Office of Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3788

RIN: 2120–AD57

2432. REPORTING REQUIREMENTS: TRANSFEREE HOLDERS AND LICENSEES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1348(a); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This notice would require holders and licensees of a type certificate to report a failure, malfunction, or defect in a product, part, or article manufactured under that type certificate by its transferor.

This action is being removed from the Agenda until FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
Action Terminated	01/14/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AIR-90-185R.

Agency Contact: Lyle Davis, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9588

RIN: 2120–AD64

2433. APPLICATIONS FOR EXPORT AIRWORTHINESS APPROVALS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This notice would propose to amend the Federal Aviation Regulations by allowing Parts Manufacturer Approval, Approved Production Inspection System, and Technical Standard Order authorization holders to apply orally for the issuance of Export Airworthiness Approval for their Class II products.

This action is being removed from the Agenda until FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
Action Terminated	01/03/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This project was formerly entitled "Export Airworthiness Approvals; Oral Applications." Project Number AIR-89-206R.

Agency Contact: Terry Allen, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-8361

RIN: 2120–AD81

2434. AUTOPILOT MINIMUM ALTITUDES

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430;

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DOT—FAA — **Completed Actions**

49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), within which several subcommittees were established to provide advice and recommendations to the FAA on the full range of aviation-related issues. The Air Carrier Operations Subcommittee has been tasked to suggest the criteria for autopilot engagement. The current regulation (section 121.579) does not address existing autopilot technology. The subcommittee will seek the expertise of terminal instrument procedures (TERPS) specialists, flight test engineers, and air carrier pilots in developing its recommendation.

This action is being removed from the Agenda until FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
Action Terminated	01/03/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AFS-90-432R.

Agency Contact: Gary Davis, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-3747

RIN: 2120–AE15

2435. OFFSHORE AIRSPACE REVIEW

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 71; 14 CFR 91; 14 CFR 103

Legal Deadline: None

Abstract: This action amended the Federal Aviation Regulations by revising certain offshore airspace areas; deleting Domestic Area Low Routes; eliminating control areas associated with jet routes outside of the Continental Control Area; deleting domestic high and most domestic low reporting requirements; including restricted and prohibited areas in the Continental Control Area; eliminating certain domestic low altitude reporting points; eliminating the special air traffic rules for Flushing (NY); and replacing the Valparaiso (FL) terminal area and special air traffic rules with the Eglin (FL) Class D airspace areas.

Timetable:

Action	Date	FR Cite
NPRM	09/16/92	57 FR 42810
NPRM Comment Period End	11/02/92	
Final Action	03/02/93	58 FR 12128

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/02/93 (58 FR 12128)

Additional Information: Project Number ATP-91-014R. Effective dates for these amendments vary.

Agency Contact: William M. Mosley, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9251

RIN: 2120–AE32

2436. FLIGHT RECORDERS AND COCKPIT VOICE RECORDERS

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); ...

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This final rule would amend the Federal Aviation Regulations to correct portions of the flight recorder specifications.

This action is being removed from the Agenda until FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
Action Terminated	01/13/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AIR-90-186R.

Agency Contact: Frank Rock, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 202 267-9567

RIN: 2120–AE39

2437. MANNED FREE BALLOONS

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 31

Legal Deadline: None

Abstract: This notice would propose to develop modified burn heater tests that are less burdensome to the manufacturers.

This action is being removed from the Agenda until FAA's Regulatory Review Board reestablishes a timetable for a rulemaking procedure.

Timetable:

Action	Date	FR Cite
Action Terminated	01/04/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No.: ACE-92-021R.

Agency Contact: Lowell Foster, Central Region Headquarters, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 426-5688

RIN: 2120–AE63

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA) — **Prerule Stage**

2438. • +NEED TO REQUIRE TRAINING FOR ALL ENTRY-LEVEL DRIVERS OF COMMERCIAL VEHICLES

Significance: Agency Priority

Legal Authority: PL 102-240, sec 4007

CFR Citation: 49 CFR 383

Legal Deadline: Final, Statutory, December 18, 1993.

Abstract: This action is in response to section 4007 of the Motor Carrier Act of 1991 (Title IV of the Intermodal Surface Transportation Efficiency Act of 1991). The Department must undertake a rulemaking on the need to require training of all entry-level drivers of commercial motor vehicles. If FHWA determines it is not in the public interest to issue a rule requiring such training, the Agency must submit a report to Congress, along with results of a cost-benefit analysis, as part of the rulemaking proceeding. FHWA is also required to submit a report to Congress on the effectiveness of private-sector efforts to ensure adequate training of all entry-level drivers. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jerry L. Robin, Driver Standards Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4001

RIN: 2125–AD05

2439. CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

Significance: Nonsignificant

Legal Authority: 23 USC 127; 23 USC 141; 23 USC 315

CFR Citation: 23 CFR 657

Legal Deadline: None

Abstract: This rulemaking action proposes to amend existing regulations contained in 23 CFR 657 by changing the requirements for State enforcement plans and certifications as well as the FHWA evaluation of State operations under the enforcement plans. The revised requirements will be determined through the rulemaking process. The revisions will result in evaluations and certifications being based more closely on the approved plans.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Dennis Miller, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4026

RIN: 2125–AC60

2440. PARTS AND ACCESSORIES FOR SAFE OPERATION: INTERMODAL CARGO CONTAINERS

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC app 2505; 49 USC 1.48

CFR Citation: 49 CFR 393

Legal Deadline: None

Abstract: The purpose of this ANPRM is to gather information and views regarding the need, if any, to amend the requirements of the Federal Motor Carrier Safety Regulations for securing intermodal cargo containers to the truck chassis.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Larry W. Minor, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AC74

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA) — **Proposed Rule Stage**

2441. +COMMERCIAL DRIVER'S LICENSE STANDARDS; BIOMETRIC IDENTIFIER

Significance: Regulatory Program

Legal Authority: PL 100-690, Sec 9105

CFR Citation: 49 CFR 383

Legal Deadline: Final, Statutory, December 31, 1990.

Abstract: This action was initiated to improve identification systems for truck and bus drivers as identified by the Congress in the Truck and Bus Regulatory Reform Act of 1988. Alternatives that were considered included retinal eye scans and advanced fingerprint technologies. After (1) further review (2) a careful analysis of public comments submitted to the ANPRM and (3) a review of demonstration project results, the FHWA has determined that current technology has not progressed to the point where an identification system could be established nationwide in a cost-effective manner and still provide the benefits for which a system was intended. Therefore, the FHWA has published an informational notice to summarize the results of the pilot study and the comments to the ANPRM to demonstrate how the technologies studied fall short of the demands in a commercial licensing environment. When information is available that the technologies would be beneficial to the CDL program and after completing additional studies on the accuracy of the current systems, the FHWA will propose standards for the biometric identifier. This project is considered significant because of substantial (cont)

Timetable:

Action	Date	FR Cite
ANPRM	05/15/89	54 FR 20875
ANPRM Comment Period End	07/14/89	54 FR 20875
Information Notice Published	03/08/91	56 FR 9925

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation

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Additional Information: ABSTRACT CONT: public interest.

Agency Contact: Phil Roke, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4001**

RIN: 2125–AC24

2442. • +CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

Significance: Regulatory Program

Legal Authority: 49 USC 2505; 49 USC 3102; 49 USC app 2717

CFR Citation: 49 CFR 382; 49 CFR 391

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: This action would create a new 49 CFR part 382 addressing controlled substances and alcohol testing. This new part would conform to the requirements of the Omnibus Transportation Employee Testing Act of 1991 by encompassing intrastate and interstate commercial vehicle operators, including governmental employees, for uniform controlled substances testing. Any resultant final rule, however, would not preempt provisions of State criminal law. This action deals with controlled substances testing only. Alcohol testing is dealt with in RIN 2125-AC85. This action is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59567
NPRM Comment Period End	04/14/93	
Final Action	10/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 12/15/92 (57 FR 59567)

Agency Contact: David Miller, Transportation Specialist, Standards Development Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-2981**

RIN: 2125–AD06

2443. • +CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING; FOREIGN-BASED MOTOR CARRIERS AND DRIVERS

Significance: Regulatory Program

Legal Authority: 23 USC 315; 49 USC 2505; 49 USC 3102; 49 USC app 2717

CFR Citation: 49 CFR 382

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: This action requests comments on the applicability of alcohol and controlled substances testing requirements for foreign-based drivers of motor carriers under the Omnibus Transportation Employee Testing Act of 1991. The FHWA has published two notices of proposed rulemaking regarding controlled substances testing of CMV drivers. The FHWA needs information concerning foreign government laws and regulations that may conflict with the proposed rules. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/92	57 FR 59536
ANPRM Comment Period End	02/16/93	
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/15/92 (57 FR 59536)

Agency Contact: David Miller, Transportation Specialist, Standards Development Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-2981**

RIN: 2125–AD11

2444. +SIMPLIFYING REVISIONS AND WEIGHT THRESHOLD ADJUSTMENTS TO THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS

Significance: Agency Priority

Legal Authority: 49 USC app 2505; 49 USC 504; 49 USC 3102; 49 CFR 1.48

CFR Citation: 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 396

Legal Deadline: None

Abstract: As a result of both a petition by the Delaware Department of Public Safety and an FHWA review of its regulations, the FHWA is considering an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) of vehicles with a gross vehicle weight rating (GVWR) of less than 26,001 pounds. The FHWA is also involved in a zero-base review of the FMCSRs, which is much broader in scope than the potential exemption. Because the regulatory review and the zero-base project are similar exercises, and because there is a lack of conclusive data about the relative safety risks of commercial motor vehicles in various weight categories, the FHWA will consider the proposed exemption in the broader context of the zero-base project.

This action is considered significant because of its potential impact on the motor-carrier industry.

Timetable:

Action	Date	FR Cite
ANPRM	02/17/89	54 FR 7224
ANPRM Comment Period Extended to 06/19/89	04/03/89	54 FR 13391
ANPRM Comment Period End	04/18/89	54 FR 7224
ANPRM Comment Period Extended to 11/03/89	06/15/89	54 FR 25484
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 10/00/95

Additional Information: This action was formerly titled "Federal Motor Carrier Safety Regulations; General; Commercial Motor Vehicle Definition."

Agency Contact: James Scapellato, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-1790**

RIN: 2125–AC27

2445. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; MOTOR VEHICLE MARKING

Significance: Agency Priority

Legal Authority: 49 USC 3102; 49 USC app 2503; 49 USC app 2505

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: This rulemaking would revise 49 CFR 390.21 concerning the marking of motor vehicles. The marking requirement was promulgated in part to identify the motor-carrier population subject to the regulations and to assist in maintaining a current, up-to-date census file of all those motor carriers. This action would consider the possible use of a postcard-type form for annual census purposes in lieu of Forms MCS-137 and MCS-150 and is considered significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
ANPRM	07/17/89	54 FR 29912
ANPRM Comment Period End	09/15/89	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The action with reference to marking treatment of rental vehicles was removed from this rulemaking and completed 02/28/90 (55 FR 6991) under RIN 2125-AC51. The issue of marking requirements for all commercial motor vehicles operated in interstate commerce was designated RIN 2125-AC82 and was a completed action in the April 1992 Agenda.

Agency Contact: Neill Thomas/ Deborah M. Freund, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-2981**

RIN: 2125–AC28

2446. +STATE COMPLIANCE WITH CDL PROGRAM REQUIREMENTS

Significance: Agency Priority

Legal Authority: PL 99-570; 49 USC 3102; 49 USC app 2505

CFR Citation: 49 CFR 383 to 384

Legal Deadline: None

Abstract: Section 12009 of the Commercial Motor Vehicle Safety Act of 1986 establishes 21 requirements under the Commercial Driver's License (CDL) program which States must meet before October 1, 1993, to avoid losing a portion of their Federal-aid highway funds. This regulation will delineate the criteria and standards which the FHWA will use in determining whether a State is substantially in compliance with the 21 requirements. In addition, the rule will include a procedure governing initial and subsequent reviews of State compliance with these requirements. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Neil E. Moyer, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4001**

RIN: 2125–AC53

2447. +QUALIFICATION OF DRIVERS; VISION

Significance: Agency Priority

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: The FHWA published a notice of final disposition (Docket No. MC-92-27) announcing its decision to issue waivers of the vision requirements to drivers who meet certain preconditions. The purpose of this action is to gather empirical data which will be used as the basis for future rulemaking. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/92	57 FR 6793
ANPRM Comment Period End	04/28/92	
NPRM	07/00/95	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: The decision to issue waivers of the vision requirements was finalized 07/16/92 (57 FR 31458) and waiver applications were accepted through 09/21/92. The waiver application period was extended 09/30/92 (57 FR 45002) to 12/31/92. Further rulemaking on vision is deferred until completion of the waiver study. Issues regarding hearing and epilepsy will be handled hereafter under separate RINs.

Agency Contact: Sandra L. Zywokarte, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AC62

2448. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL TRANSPORTATION OF HAZARDOUS MATERIALS

Significance: Agency Priority

Legal Authority: 49 USC app 2503; 49 USC app 2505; 49 USC 3102; 49 USC 3104

CFR Citation: 49 CFR 390.3; 49 CFR 397

Legal Deadline: Final, Statutory, November 15, 1991.

Abstract: This rulemaking will implement the statutory requirements of sections 8 and 15 of the Hazardous Materials Transportation Uniform Safety Act (HMTUSA) of 1990. Section 8 addresses the establishment of motor carrier safety permit regulations for motor carriers transporting Class A or B explosives, liquefied natural gases, hazardous materials designated as extremely toxic by inhalation, or highway route controlled quantity radioactive materials. Section 15 of the HMTUSA requires inspection of vehicles transporting those radioactive materials before each trip. The proposed rule will incorporate those provisions into the safety permit regulations. This action is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/00/93

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Additional Information: AGENCY CONTACT: The telephone number for Neill Thomas is (202) 366-2981.

Agency Contact: Lee Jackson or Neill Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4415

RIN: 2125–AC78

2449. +QUALIFICATIONS OF DRIVERS; CONTROLLED SUBSTANCES TESTING, RECORDKEEPING, AND REPORTING REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC app 2505; 49 USC 504; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: The FHWA is proposing to amend the recordkeeping and reporting requirements of its controlled substances testing regulation. This notice is intended to implement a DOT-wide plan to measure the effectiveness of drug testing programs of the various DOT operating administrations. The NPRM would require motor carriers to keep certain information and to report that information to the FHWA upon request. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59539
NPRM Comment Period End	04/14/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/15/92 (57 FR 59539)

Agency Contact: David Miller, Transportation Specialist, Standards Development Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AC81

2450. +CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

Significance: Agency Priority

Legal Authority: 49 USC 2505; 49 USC 3102; 49 USC app 2717

CFR Citation: 49 CFR 382

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: This action would create a new part 382 involving controlled substances and alcohol testing. The new part would conform to the requirements of the Omnibus Transportation Employees Testing Act of 1991 by encompassing intrastate and interstate commercial operators, and governmental employees, for uniform treatment. Any resultant regulation, however, would not preempt provisions of State criminal law. This action is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59516
NPRM Comment Period End	04/14/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 12/15/92 (57 FR 59516)

Additional Information: A common preamble for the five modal administrations affected (FAA, FHWA, FRA, FTA, and RSPA) was published on 12/15/92 at 57 FR 59382.

Agency Contact: David Miller, Transportation Specialist, Standards Development Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AC85

2451. +STATEWIDE TRANSPORTATION PLANNING

Significance: Agency Priority

Legal Authority: PL 102-240, sec 1025

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Section 1025 of the the Intermodal Surface Transportation Efficiency Act of 1991 amended 23 USC 135 to establish a requirement for statewide transportation planning to be coordinated with metropolitan transportation planning. Implementation of this mandate is considered significant because of substantial State and local government, congressional, and public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/02/93	58 FR 12084
Request for Comments	03/24/93	58 FR 15816
NPRM Comment Period End	05/03/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/02/93 (58 FR 12084)

Additional Information: This is a joint rulemaking with the Federal Transit Administration, whose RIN for this action is 2132-AA48.

Agency Contact: Thomas Weeks, Chief, Planning and Programming, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-5002

RIN: 2125–AC94

2452. +METROPOLITAN PLANNING

Significance: Agency Priority

Legal Authority: 23 USC 134; PL 102-240, sec 1024

CFR Citation: 23 CFR 450

Legal Deadline: None

Abstract: Section 1024 of the Intermodal Surface Transportation Efficiency Act of 1991 amends 23 USC 134 to strengthen the planning process and the role of metropolitan planning organizations in transportation decisionmaking. FHWA and FTA will coordinate revisions to 23 CFR 450 and 49 CFR 613 to implement the revisions of sections 1024 and 3012 (Federal Highway and Federal Transit metropolitan planning sections, respectively). This action is considered significant due to substantial State and local government, congressional, and public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/02/93	58 FR 12064
Request for Comments	03/24/93	58 FR 15816
NPRM Comment Period End	05/03/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/02/93 (58 FR 12064)

Additional Information: The RIN for the matching Federal Transit Administration rulemaking is 2132-AA44

Agency Contact: Dean Smeins, Chief, Planning Operations Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-9227

RIN: 2125–AC95

2453. +MANAGEMENT AND MONITORING SYSTEMS

Significance: Agency Priority

Legal Authority: 23 USC 303; 23 USC 315; 49 USC app 1607; 23 USC 135; 23 USC 134

CFR Citation: 23 CFR 500; 23 CFR 511; 23 CFR 626; 49 CFR 614

Legal Deadline: Final, Statutory, December 18, 1992.

Abstract: 23 U.S.C. 303 requires the Secretary of Transportation to issue regulations for State development, establishment, and implementation of systems for managing: highway pavement of Federal-aid highways; bridges on and off Federal-aid highways; highway safety; traffic congestion; public transportation facilities and equipment; and intermodal transportation facilities and systems. The Secretary also must issue guidelines and requirements for the State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment. States must be implementing each management system in Federal fiscal year 1995, or the Secretary may withhold up to 10% of funds apportioned under Title 23, U.S.C., or under the Federal Transit Act for any fiscal year beginning after September 30, 1995. The primary purpose of these systems is to improve the efficiency of, and protect the investment in, existing and future transportation infrastructure. The systems will provide additional information needed to make informed decisions for optimum utilization of limited resources. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	06/03/92	57 FR 23460
ANPRM Comment Period End	08/03/92	
NPRM	03/02/93	58 FR 12096
Request for Comments	03/24/93	58 FR 15816
NPRM Comment Period End	05/03/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/02/93 (58 FR 12096)

Additional Information: ABSTRACT CONT: The economic impact of the regulations is expected to be minimal. The regulations will be issued jointly with the Federal Transit Administration (RIN 2132-AA47). This regulation is considered significant because of substantial State and local government, congressional, and public interest.

Agency Contact: Tony Solury, Community Planner, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-5003

RIN: 2125–AC97

2454. CONSTRUCTION CONTRACT EQUAL OPPORTUNITY COMPLIANCE PROCEDURES

Significance: Nonsignificant

Legal Authority: 23 USC 101; 23 USC 112; 23 USC 117; 23 USC 140; 23 USC 315

CFR Citation: 23 CFR 230; 23 CFR 640; 23 CFR 642

Legal Deadline: None

Abstract: This proposed rulemaking is being evaluated in light of FHWA's recent comprehensive regulatory review. Consideration is being given to: (1) deleting unnecessary implementing procedures from the regulation and (2) consolidating the policy requirements with 23 CFR Subpart C. Proposed revisions are expected to provide a more streamlined regulatory process.

Timetable:

Action	Date	FR Cite
NPRM	11/22/82	47 FR 52470
NPRM Comment Period End	12/22/82	
SNPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 11/22/82 (47 FR 52470)

Additional Information: A supplemental NPRM will be issued in order to propose updated revisions. The supplemental NPRM will address all procedures and provisions contained in 23 CFR 230. Therefore, the related entry (RIN 2125-AB27) has been consolidated into this proceeding.

Agency Contact: Linda Brown, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1593

RIN: 2125–AB15

2455. ACQUISITION OF REAL PROPERTY FOR RIGHTS-OF-WAY

Significance: Nonsignificant

Legal Authority: 23 USC 315; PL 100-17, Sec 126; PL 100-17, Sec 146; 42 USC 4601 et seq

CFR Citation: 23 CFR 172; 23 CFR 710; 23 CFR 712; 23 CFR 713; 23 CFR 720; 23 CFR 740; 23 CFR 620; 23 CFR 635; 23 CFR 645

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) is proposing to revise and consolidate several right-of-way regulations to improve the organization of the subject matter and update the content. This action will also implement sections 126 and 146 (airspace and donations) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	06/30/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation

Additional Information: Two related rulemaking actions are: (1) a proposed rule entitled "Right-of-Way" which appeared in a prior Agenda under RIN 2125-AB58 and (2) a proposed rule entitled "Property Management; Disposals and Airspace" which appeared in a prior Agenda under RIN

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2125-AB60. Those entries have been consolidated into this rulemaking.

Agency Contact: Roger Kezar, Chief, Special Programs and Evaluation Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2021

RIN: 2125–AC17

2456. TRUCK LENGTH AND WIDTH EXCLUSIVE DEVICES

Significance: Nonsignificant

Legal Authority: 23 USC 315; PL 97-424, Sec 411; PL 97-424, Sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA requested public comment on how, under section 411(h) and 416(b) of the Surface Transportation Act of 1982 (STAA) (PL 97-424, 96 Stat. 2097), the Secretary may determine which safety or efficiency-enhancing devices are to be excluded when measuring the length and width of vehicles for compliance with federally mandated dimensions. The present system of employing rulemaking proceedings is too time-consuming and cumbersome to meet the needs of industry and is needlessly burdensome for FHWA. Therefore, a new approach will be proposed.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/89	54 FR 52951
ANPRM Comment Period Extended to 06/01/90	03/21/90	55 FR 10468
ANPRM Comment Period End	03/26/90	
ANPRM Docket Reopened; Comment Period Extended to 08/21/90	06/22/90	55 FR 25673
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Max Pieper, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4029

RIN: 2125–AC30

2457. QUALIFICATION OF DRIVERS; MEDICAL EXAMINATION FORM

Significance: Nonsignificant

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: This rulemaking action will consider revisions to the requirements contained in 49 CFR 391.43. The FHWA is reviewing the medical examination form in order to determine if revisions are needed so that a more comprehensive medical examination can be performed by the examining physician.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AC63

2458. WEIGHT AND LENGTH LIMITATIONS—LONGER COMBINATION VEHICLES

Significance: Nonsignificant

Legal Authority: PL 102-240, sec 1023; PL 102-240, sec 4006

CFR Citation: 23 CFR 658

Legal Deadline: Final, Statutory, June 18, 1992.

Abstract: The FHWA will list the States where LCVs and extra-length multi-unit combination vehicles could operate as of June 1, 1991, and the applicable operational conditions, routes, and legal citations. Future operation of these vehicles is limited to the States, routes, and conditions in effect as of June 1, 1991. The Federal Highway Administration will also (1) establish criteria for States to make minor adjustments to the list of States' weight and length limitations and requirements, (2) define loads which cannot be easily dismantled or divided, and (3) make other regulatory changes required by the Intermodal Surface Transportation Efficiency Act of 1991, PL 102-240. In view of comments received, an SNPRM was issued.

Timetable:

Action	Date	FR Cite
NPRM	03/20/92	57 FR 9900
NPRM Comment Period End	05/04/92	
SNPRM	02/25/93	58 FR 11450
SNPRM Comment Period End	04/12/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/25/93 (58 FR 11450)

Additional Information: RIN 2125-AC65, "Truck Size and Weight; Maxi-Cube Vehicles," and RIN 2125-AC57, "Truck Size and Weight; Beverage Semitrailers," are being combined with this action. Actions amending 23 CFR part 658 are being combined to avoid multiple, closely spaced amendments and lessen possible confusion.

Agency Contact: Doug McKelvey, Chief of Analysis, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1861

RIN: 2125–AC86

2459. TRAINING OF ENTRY-LEVEL DRIVERS OF COMMERCIAL MOTOR VEHICLES

Significance: Nonsignificant

Legal Authority: PL 102-240, sec 4007(a)(2); Intermodal Surface Transportation Efficiency Act (ISTEA)

CFR Citation: 49 CFR 383

Legal Deadline: NPRM, Statutory, December 18, 1992. Final, Statutory, December 18, 1993. Other, Statutory, January 18, 1994.
Other deadline is for report to Congress.

Abstract: The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Public Law 102-240) mandates that the FHWA report to Congress by December 18, 1992, on the effectiveness of private sector efforts to ensure adequate training of entry-level drivers of CMVs. The Act also directs the FHWA to initiate a rulemaking by December 18, 1992, on the need to require training of all entry-level drivers of CMVs. This rulemaking must be completed by December 18, 1993.

DOT—FHWA

Proposed Rule Stage

If the FHWA determines as a result of the rulemaking proceedings that it is not in the public interest to issue a rule that requires training for all entry-level drivers, the FHWA must submit a report to Congress by January 18, 1994, on the reason for the decision, together with the results of a cost-benefit analysis conducted as part of the rulemaking proceedings.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Jerry Robin, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4001

RIN: 2125–AC91

2460. LONGER COMBINATION VEHICLES—DRIVER TRAINING

Significance: Nonsignificant

Legal Authority: PL 102-240, sec 4007(b)(2); Intermodal Surface Transportation Efficiency Act (ISTEA)

CFR Citation: 49 CFR 383

Legal Deadline: Final, Statutory, December 18, 1993.

Abstract: This action would consider the need to establish minimum training requirements for operators of longer combination vehicles. The training would include certification of an operator's proficiency by a certified inspector.

Timetable:

Action	Date	FR Cite
ANPRM	01/15/93	58 FR 4638
ANPRM Comment Period End	03/16/93	
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/93

Agency Contact: Jerry Robin, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4001

RIN: 2125–AC92

2461. VIOLATIONS OF OUT-OF-SERVICE ORDERS—CDL DISQUALIFICATIONS

Significance: Nonsignificant

Legal Authority: PL 102-240, sec 4009(c); Intermodal Surface Transportation Efficiency Act (ISTEA)

CFR Citation: 49 CFR 383; 49 CFR 391.15; 49 CFR 390

Legal Deadline: Final, Statutory, December 18, 1992.

Abstract: The action would establish the sanctions and penalties for drivers violating out-of-service orders. Drivers convicted of violating an out-of-service order for the first time would be disqualified for at least 90 days; for convictions of subsequent violations of an out-of-service order, the driver would be disqualified for a period of five years. An employer who knowingly permits or requires a driver to violate an out-of-service order would be subject to a civil penalty. Civil penalties would also be prescribed for employees who are convicted of violating an out-of-service order.

Timetable:

Action	Date	FR Cite
ANPRM	01/15/93	58 FR 4640
ANPRM Comment Period End	03/16/93	
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/93

Agency Contact: Teresa Doggett, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4001

RIN: 2125–AC93

2462. • EROSION AND SEDIMENT CONTROL ON HIGHWAY CONSTRUCTION PROJECTS

Significance: Nonsignificant

Legal Authority: PL 102-240

CFR Citation: 23 CFR 650; 23 CFR 1.32; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: Section 1057 of the Intermodal Surface Transportation Efficiency Act of 1991 requires the Secretary to develop erosion control guidelines for States to follow when carrying out Federal-aid construction projects. This action would propose updating and modifying the existing regulation, issued in 1974, to reflect current practices and techniques.

Timetable:

Action	Date	FR Cite
NPRM	03/01/93	58 FR 11814
NPRM Comment Period End	06/28/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/01/93 (58 FR 11814)

Agency Contact: Robin L. Schroeder, Construction and Maintenance Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1366

RIN: 2125–AD08

2463. • REMOVAL OF OBSOLETE AND REDUNDANT RIGHT-OF-WAY REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 105 Stat 1914; 23 USC 101(a); 23 USC 107; 23 USC 108; 23 USC 111; 23 USC 114; 23 USC 204; 23 USC 210; 23 USC 308; 23 USC 315; 23 USC 317; 23 USC 323; 42 USC 2000d-1; 42 USC 4633; 42 USC 4651 to 4655

CFR Citation: 23 CFR 710; 23 CFR 712 to 713; 23 CFR 720

Legal Deadline: None

Abstract: The Intermodal Surface Transportation Efficiency Act of 1991 encourages greater flexibility in Federal involvement in the development of highway projects. Certain required Federal approvals limit this flexibility These proposals will eliminate certain of the required approvals considered unnecessary and thus encourage greater flexibility.

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DOT—FHWA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Gerald B. Saunders, Chief, Operations Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0142

RIN: 2125–AD09

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA) — Final Rule Stage

2464. +PRIVATE MOTOR CARRIER OF PASSENGERS

Significance: Regulatory Program

Legal Authority: 49 USC 104; 49 USC 3102; 49 USC app 2503; 49 USC app 2505

CFR Citation: 49 CFR 383; 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 393; 49 CFR 394; 49 CFR 395; 49 CFR 396

Legal Deadline: None

Abstract: The FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSRs) to make private motor carriers of passengers involved in interstate commerce subject to certain minimum safety requirements. This rulemaking is significant in that it is controversial, involving bringing new carriers under the regulatory scheme.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/85	50 FR 2998
ANPRM Comment Period End	03/11/85	50 FR 2998
NPRM	02/17/89	54 FR 7362
NPRM Comment Period End	06/19/89	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/17/89 (54 FR 7362)

Additional Information: This action was formerly entitled Minimum Requirements for Private Motor Carriers of Passengers and Drivers of Private Motor Vehicles of Passengers.

Agency Contact: Dan Hartman, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AB62

2465. +SAFETY FITNESS PROCEDURES; SAFETY RATINGS

Significance: Agency Priority

Legal Authority: 49 USC app 2512; 49 USC 104; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 3102; 49 USC app 1814; PL 101-500

CFR Citation: 49 CFR 385

Legal Deadline: Other, Statutory, January 1, 1991. Statutory prohibition became effective January 1, 1991.

Abstract: This action will amend the Federal Motor Carrier Safety Regulations to implement provisions of the Motor Carrier Safety Act of 1990 (section 15 of PL 101-500). This enactment prohibits a motor carrier that receives an "unsatisfactory" safety rating from operating commercial motor vehicles to transport hazardous materials in quantities for which vehicle placarding is required or to transport more than 15 passengers, including the driver. The prohibition is effective 45 days after receipt of an unsatisfactory rating and remains in effect until a satisfactory rating is secured. This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/91	56 FR 40801
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 08/16/91 (56 FR 40801)

Additional Information: The interim final rule was effective upon publication 08/16/91.

Agency Contact: Neill L. Thomas, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AC71

2466. +RADAR DETECTORS IN COMMERCIAL MOTOR VEHICLES

Significance: Agency Priority

Legal Authority: 49 USC app 2503; 49 USC app 2505; 49 USC 3102; 49 USC 3104; PL 102-143, sec. 342

CFR Citation: 49 CFR 390.5, 49 CFR 392.71; 49 CFR 1.48

Legal Deadline: NPRM, Statutory, January 15, 1992.

Abstract: This action would ban radar detectors from all commercial vehicles as defined in the Federal Motor Carrier Safety Regulations in 49 CFR 390. The proposal responds to the Congressional mandate in section 342 of PL 102-143 and to a petition filed jointly on July 18, 1990, by the Insurance Institute for Highway Safety and seven other organizations. FHWA is considering whether such a ban would further highway safety by enhancing commercial motor vehicle driver compliance with speed laws. This action is considered significant because of anticipated substantial public interest and controversy involving the use of radar detectors.

Timetable:

Action	Date	FR Cite
NPRM	01/24/92	57 FR 2885
NPRM Comment Period End	05/26/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 01/24/92 (57 FR 2885)

Additional Information: The NPRM of 01/24/92 inadvertently used RIN 2125-AC69; the correct RIN is 2125-AC79.

DOT—FHWA — Final Rule Stage

Agency Contact: James Scapellato, Director, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4009

RIN: 2125–AC79

2467. +TRANSPORTATION OF HAZARDOUS MATERIALS; HIGHWAY ROUTING

Significance: Agency Priority

Legal Authority: 49 USC 1801; 49 USC 1804; 49 USC 1811; PL 101-615

CFR Citation: 49 CFR 397

Legal Deadline: Final, Statutory, May 16, 1992.

Abstract: Currently, except for certain radioactive materials, DOT has not promulgated uniform, national standards for the highway routing of hazardous materials. The proposal would establish such standards and provide guidance to States and localities to minimize the promulgation of State and local routing requirements that are inconsistent with the Hazardous Materials Transportation Act. This rulemaking is significant because of the safety implications and possible federalism implications. The Hazardous Materials Uniform Safety Act of 1990 amended the HMTA to require the Secretary to issue Federal standards for highway routing.

Timetable:

Action	Date	FR Cite
ANPRM	04/07/88	53 FR 11618
ANPRM Comment Period Extended to 12/13/88	10/05/88	53 FR 39114
ANPRM Comment Period End	10/11/88	
NPRM	08/31/92	57 FR 39522
NPRM Comment Period End	10/30/92	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 08/31/92 (57 FR 39522)

Additional Information: Docket No. HM-203. Public hearings were held on June 14, 1988, in Sacramento, California, and on September 15, 1988, in Washington, DC. Further public hearing schedules were published 08/31/92 (57 FR 39533). This rulemaking has been transferred to the Federal Highway Administration from the Research and Special Programs Administration. It was reported in the April 1991 Agenda under RIN 2137-AB42.

Agency Contact: Henry Sandhusen, Chief, Traffic Control Programs Team, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2218

RIN: 2125–AC80

2468. +SPEED LIMIT COMPLIANCE AND ENFORCEMENT REQUIREMENTS

Significance: Agency Priority

Legal Authority: PL 102-240, sec 1029; Intermodal Surface Trans. Efficiency Act of 1991 (ISTEA)

CFR Citation: 23 CFR 659

Legal Deadline: NPRM, Statutory, December 18, 1992. Final, Statutory, February 18, 1993.

Abstract: As a result of section 1029 of ISTEA, speed compliance and enforcement data will have to be collected on highways with speed limits up to 65 mph, in addition to data currently being collected on 55 mph highways. New regulations will be issued that ensure uniform monitoring programs by States, so that reliable data is submitted for use by the Secretary in determining compliance by each State with the speed limits. A compliance formula must be included, which takes into account the amount by which speed limits are exceeded, and differentiates between types of road on which the violations occur. Enforcement efforts and accident information must be considered in development of the compliance formula. This action is considered significant because of substantial public, State, and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 186
NPRM Comment Period End	02/03/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/04/93 (58 FR 186)

Additional Information: This action is a joint FHWA/NHTSA rulemaking.

Agency Contact: Henry Sandhusen, Chief, Traffic Control Programs Team, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2218

RIN: 2125–AC87

2469. +UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Significance: Agency Priority

Legal Authority: 42 USC 4601 et seq; 49 CFR 1.48(cc)

CFR Citation: 49 CFR 24.2(g)(2)(x); 49 CFR 24.2(t); 49 CFR 304(a); 49 CFR 304(a)(3); 49 CFR 304(a)(8); 49 CFR 304(a)(10); 49 CFR 304(a)(13); 49 CFR 304(b)(3); 49 CFR 304(b)(4); 49 CFR 602; 49 CFR 603(d)

Legal Deadline: None

Abstract: In response to the President's memorandum of January 28, 1992, "Reducing the Burden of Government Regulation," the FHWA, as lead agency for implementing the Uniform Act, proposes several amendments to the governmentwide rule implementing the Uniform Act. The amendments would enhance the relocation benefits available to displaced businesses and replace the language in Subpart G, relating to the application for certification, with a simplified provision. Also a proposed technical amendment would conform the language of one paragraph to the two statutes cited therein. The monetary relocation assistance benefits provided in the regulation are primarily established by the Uniform Act. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/27/92	57 FR 33164
NPRM Comment Period End	09/10/92	
Interim Final Rule	04/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

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DOT—FHWA

Final Rule Stage

Analysis: Regulatory Evaluation 07/27/92 (57 FR 33164)

Agency Contact: Roger C. Kezar, Chief, Policy Development Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2021

RIN: 2125–AD02

2470. QUALIFICATION OF DRIVERS; DIABETES

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC app 2505; 23 USC 315

CFR Citation: 49 CFR 391.41(b)(3)

Legal Deadline: None

Abstract: This rulemaking action responds to a petition filed by the American Diabetes Association (ADA) and others. The current diabetic rule prohibits insulin-using diabetics from driving in interstate or foreign commerce. The ADA has petitioned to change the regulation to provide for exemptions. The purpose of this action is to consider the proposed exemption program. An NPRM requested comments on the development of medical evaluation procedures and risk assessment procedures for insulin-dependent diabetics. The FHWA published a Notice of Intent to issue waivers: Request for comments. Docket No. MC-87-17. This action proposed a pilot project to gather empirical data which will be used as the basis for future rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/87	52 FR 45204
ANPRM Comment Period End	12/28/87	53 FR 45204
ANPRM Comment Period Extended to 02/01/88	01/04/88	53 FR 42
NPRM	10/05/90	55 FR 41028
NPRM Comment Period Extended to 01/03/91	11/01/90	55 FR 46080
NPRM Comment Period End	12/04/90	
Notice of Intent to Issue Waivers; Comment Request	10/21/92	57 FR 48011
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/05/90 (55 FR 41028)

Agency Contact: Sandra L. Zywokarte, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AB91

2471. PUBLIC AVAILABILITY OF INFORMATION; FREEDOM OF INFORMATION ACT REGULATIONS; TECHNICAL AMENDMENTS

Significance: Nonsignificant

Legal Authority: 5 USC 552; 31 USC 9701; 49 USC 322

CFR Citation: 49 CFR 7

Legal Deadline: None

Abstract: This action amends appendix D of the final rule published on 8/11/88 at 53 FR 30265 regarding implementation of the Freedom of Information Act by FHWA. The technical amendments are necessary in order to revise the listing of publicly available materials, in order to correct a typographical error, to remove unnecessary explanatory language, to add a paragraph on determinations to disclose records and grant or deny requests for fee waivers or reductions, and to conform paragraph designations.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Pursuant to 5 USC 553(b), requirements for notice and public comment are not applicable since this action involves a matter of agency practice and procedure.

Agency Contact: John H. Schnackenberg, Chief, Organization and Management, Programs Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0534

RIN: 2125–AC20

2472. DESIGN STANDARDS FOR HIGHWAYS; AASHTO PUBLICATION; GEOMETRIC DESIGN OF HIGHWAYS AND STREETS

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: The American Association of State Highway and Transportation Officials (AASHTO) is revising and updating the publication entitled "Policy on Geometric Design of Highways and Streets, AASHTO 1984." It is anticipated that this action will, after receipt of public comments on the proposed action, designate, in whole or in part, the revised AASHTO publication as being acceptable to the FHWA for application in the geometric design of highways and remove the out-of-date version from the acceptable list.

Timetable:

Action	Date	FR Cite
NPRM	12/03/90	55 FR 49903
NPRM Comment Period End	04/02/91	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 12/03/90 (55 FR 49903)

Additional Information: The initial appearance of this entry in the agenda (4/89) made reference to another AASHTO publication entitled "A Policy on Design–Interstate System." This publication is being addressed in a separate rulemaking action under RIN 2125-AC34 entitled "Design Standards for Highways; Interstate System" and is located under the final action section.

Agency Contact: Seppo I. Sillan, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1327

RIN: 2125–AC22

2473. DESIGN STANDARDS FOR HIGHWAYS; INTERSTATE SYSTEM

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

DOT—FHWA

Final Rule Stage

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) requested comments on a proposed amendment to the design standards which apply to interstate highway construction and reconstruction projects eligible to receive funding under the Federal-aid highway program. A revised publication approved by the American Association of State Highway and Transportation Officials (AASHTO) entitled "A Policy on Design Standards--Interstate System, AASHTO 1991" would be substituted for the previous version of these standards last revised June 20, 1967. If the Federal Highway Administration (FHWA) adopts the 1991 document, the new AASHTO publication would constitute the FHWA's policy on geometric design for all federally assisted construction and reconstruction projects on the interstate highway system.

Timetable:

Action	Date	FR Cite
NPRM	07/18/89	54 FR 30095
NPRM Comment Period End	09/18/89	
NPRM Comment Period Extended to 11/18/89	09/18/89	54 FR 38387
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 07/18/89 (54 FR 30095)

Agency Contact: Seppo I. Sillan, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1327

RIN: 2125–AC34

2474. INSPECTION, REPAIR AND MAINTENANCE; PERIODIC INSPECTIONS

Significance: Nonsignificant

Legal Authority: 49 USC app 2509; 49 USC 3102

CFR Citation: 49 CFR 396

Legal Deadline: None

Abstract: This action would amend the periodic inspection requirements for commercial motor vehicles contained in 49 CFR part 396. The periodic inspection final rule was published on December 7, 1988, at 53 FR 49402, and amended on December 8, 1989, at 54 FR 50722. The December 8, 1989, amendment included a request for comments. In response to the comments received and requests for interpretations from the industry, the FHWA has determined that the rule should be amended to clarify the requirements for periodic inspection decals; evidence of the inspector's qualifications; the response time for a motor carrier to transmit a copy of a self-inspection report to an authorized Federal, State or local enforcement official; identity of the motor carrier or other entity offering a vehicle for inspection; and documentation of a State periodic inspection, including proof of inspection on vehicles. The FHWA would also propose to amend the inspection criteria to make the requirements of appendix G to subchapter B consistent with part 393 and the North American Uniform Vehicle Out-of-Service Criteria. These proposed amendments concern inspection standards for brake (cont)

Timetable:

Action	Date	FR Cite
Notice; Request for Comments	03/16/89	54 FR 11020
Final Rule; Delay in Compliance Date	12/08/89	54 FR 50722
Notice: State Inspection Programs	12/08/89	54 FR 50726
Petition: Comments Invited Through 07/02/90	05/02/90	55 FR 18355
Notice : State Inspection Programs	09/23/91	56 FR 47982
Denial of Petition	07/02/92	57 FR 29457
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/07/88 (53 FR 49402)

Additional Information: ABSTRACT CONT: adjustment limits, brake lining thickness, coupling devices, steering mechanism, tires marked "Not for Highway Use," and regrooved tires on steering axles. In addition to the amendments above, this document explains the requirements for inspector's identification, recordkeeping requirements for vehicles leased 30 days or less, and jurisdiction over non-motor carriers.

Agency Contact: Larry W. Minor, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AC47

2475. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; FRONT WHEEL BRAKES ON MEXICAN COMMERCIAL MOTOR VEHICLES

Significance: Nonsignificant

Legal Authority: 49 USC app 2505; 49 USC 3102

CFR Citation: 49 CFR 393

Legal Deadline: None

Abstract: By an Interim Final Rule published on 11/24/89, the FHWA amended 49 CFR 393, Parts and Accessories Necessary for Safe Operation, of the Federal Motor Carrier Safety Regulations (FMCSRs). The amendment allows Mexican motor carriers operating commercial motor vehicles in border commercial zones time to comply with the requirement that every commercial motor vehicle be equipped with brakes acting on all wheels. This action will facilitate the flow of trade and traffic between the two countries without interruption. The FHWA also removed the exception (paragraph (b)) from 393.1 which deferred application of part 393 to certain Mexican commercial motor vehicles until November 18, 1989. In this Interim Final Rule the FHWA requested comments on all issues addressed and expects to proceed to final action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/24/89	54 FR 48616
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 11/24/89 (54 FR 48616)

Additional Information: This rulemaking action originally appeared under RIN 2125-AC21. In order to clarify the many actions being taken in this area, the subject of this rulemaking action was assigned a separate RIN.

Agency Contact: Deborah M. Freund, Department of Transportation, Federal Highway Administration, 400 Seventh

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Street SW., Washington, DC 20590, 202 366-2983

RIN: 2125–AC49

2476. COMMERCIAL DRIVER INSTRUCTION PERMITS

Significance: Nonsignificant

Legal Authority: PL 99-570; 49 USC 3102; 49 USC app 2505; 49 CFR 1.48

CFR Citation: 49 CFR 383

Legal Deadline: None

Abstract: To reconcile the training needs of the motor carrier industry with the requirements of the Commercial Driver's License (CDL) program and the Commercial Motor Vehicle Safety Act of 1989, the FHWA is proposing additional minimum Federal standards for State-issued learner's permits that allow drivers to be trained in the operation of commercial motor vehicles (CMVs). Among the alternatives under consideration: Applicants for Commercial Driver Instruction Permits (CDIPs) might need to possess drivers' licenses and undergo record checks analogous to those now required for CDLs; CDIP transactions might be entered in the Commercial Driver's License Information System (CDLIS); and CDIP holders might be explicitly subject to the same disqualifications as CDL holders. Since driver training is nationwide in scope, the FHWA is proposing options that would allow a State to issue a CDIP to a driver trainee, or a 90-day CDL to a trained driver, without regard to his/her State of domicile.

Timetable:

Action	Date	FR Cite
NPRM	08/22/90	55 FR 34478
NPRM Comment Period End	10/22/90	
NPRM Comment Period Extended to 11/30/90	10/23/90	55 FR 42741
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Neil E. Moyer, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4001

RIN: 2125–AC54

2477. CENTRALIZATION OF FORMAL HEARING DOCKETS (FHWA)

Significance: Nonsignificant

Legal Authority: 49 USC 104(c)(2); 49 USC 501; 49 USC 1801; 49 USC 2501; 49 USC 2701; 49 USC 3101; 49 USC 10927

CFR Citation: 49 CFR 386

Legal Deadline: None

Abstract: This final rule provides that documents and evidence in formal hearing cases adjudicated within the Federal Highway Administration (FHWA) will be filed and maintained in the OST Documentary Services Division. The change is being made in order to streamline operations and to consolidate the documents used in formal hearing cases.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2125–AC59

2478. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES; WORK ZONE TRAFFIC CONTROL STANDARDS REVISION; REVISED FORMAT

Significance: Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 315

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: Based on a consultant's findings, public comments, and the agency's knowledge of work zone traffic control devices standards and applications, FHWA has proposed amendments for reformatting the Manual of Uniform Traffic Control Devices.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/92	57 FR 1134
ANPRM Comment Period End	07/30/92	
NPRM	01/05/93	58 FR 288
NPRM Comment Period End	03/08/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/05/93 (58 FR 288)

Agency Contact: James E. Weaver, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2189

RIN: 2125–AC83

2479. DESIGN STANDARDS FOR HIGHWAYS; REQUIREMENTS FOR ROADSIDE BARRIERS AND SAFETY APPURTENANCES

Significance: Nonsignificant

Legal Authority: PL 102-240, sec 1073

CFR Citation: 23 CFR 625

Legal Deadline: Other, Statutory, January 17, 1992.
Section 1073 requires that this rulemaking commence within 30 days of enactment of the ISTEA.

Abstract: The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) requires the Secretary of Transportation to initiate a rulemaking proceeding to revise the guidelines and establish standards for the installation of roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions, that provide an enhanced level of crashworthy performance to accommodate vans, minivans, pickup trucks, and 4-wheel-drive vehicles.

Timetable:

Action	Date	FR Cite
ANPRM	02/11/92	57 FR 4941
ANPRM Comment Period End	04/17/92	
NPRM	02/03/93	58 FR 6914
NPRM Comment Period End	03/29/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/03/93 (58 FR 6914)

Agency Contact: James H. Hatton, Jr., Highway Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1329

RIN: 2125–AC84

2480. TRANSPORTATION OF HAZARDOUS MATERIALS; PREEMPTION DETERMINATION

Significance: Nonsignificant

Legal Authority: 49 USC 1801 et seq; PL 101-615

CFR Citation: 49 CFR 397; 49 CFR 1.48

Legal Deadline: Final, Statutory, May 16, 1992.

Abstract: The FHWA is incorporating, without substantive change, the preemption determination and waiver of preemption procedures currently contained in the Research and Special Programs Administration's (RSPA) regulation 49 CFR 107.201-107.227 into the FHWA's regulation at 49 CFR 397, Subpart E. This final rule also incorporates, without substantive change, the routing requirements for radioactive materials currently contained in RSPA's regulation 49 CFR 177.825 into FHWA's regulation 49 CFR 397, Subpart D. This final rule is necessary due to a redelegation of authority of highway routing from RSPA to FHWA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/92	57 FR 44129
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/24/92 (57 FR 44129)

Additional Information: Pursuant to 5 U.S.C. 553(b), requirements for notice and public comment are not applicable since this action involves a matter of agency practice and procedure.

Agency Contact: Henry Sandhusen, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2218

RIN: 2125–AD00

2481. NATIONAL BRIDGE INSPECTION STANDARDS: FREQUENCY OF INSPECTION

Significance: Nonsignificant

Legal Authority: 23 USC 144; 23 USC 151

CFR Citation: 23 CFR 650.305

Legal Deadline: None

Abstract: This action would permit certain types or groups of bridges to be inspected every 4 years rather than every 2 years, where past inspection reports and favorable experience and analysis justify increasing the inspection interval to a maximum of 4 years.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/92	57 FR 53278
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/09/92 (57 FR 53278)

Additional Information: The interim final rule with request for comments was effective 12/09/92. Comment period ended 01/08/93.

Agency Contact: Stanley Gordon, Chief, Bridge Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4589

RIN: 2125–AD01

2482. ADMINISTRATION OF ENGINEERING AND DESIGN-RELATED SERVICE CONTRACTS; PRIVATE SECTOR INVOLVEMENT PROGRAM

Significance: Nonsignificant

Legal Authority: PL 102-240, sec 1060

CFR Citation: 23 CFR 172

Legal Deadline: Final, Statutory, June 18, 1992.

Abstract: A revision to 23 CFR Part 172 shall establish a new private sector involvement program, under which the FHWA will make funds available when appropriated to States, to encourage contracting with private sector consulting firms for engineering and design services on Federal-aid highway projects.

Timetable:

Action	Date	FR Cite
NPRM	11/12/92	57 FR 53631
NPRM Comment Period End	01/11/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/12/92 (57 FR 53631)

Agency Contact: Donald J. Marttila, Chief, Interstate & Program Support Branch, Office of Engineering, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4637

RIN: 2125–AD03

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Completed Actions

2483. +MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES

Significance: Agency Priority

Legal Authority: PL 102-240, sec 1077; Intermodal Surface Transportation Efficiency Act

CFR Citation: 23 CFR 655

Legal Deadline: Final, Statutory, March 17, 1992.

Abstract: This action revised the Manual of Uniform Traffic Control Devices to authorize State and local governments, at their discretion, to install stop or yield signs at any rail-highway grade crossing not having automatic traffic control devices but with two or more train crossings per day. This action was considered significant because of substantial interest by the public, Congress, and State and local governments.

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Timetable:

Action	Date	FR Cite
Final Action	11/06/92	57 FR 53029

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/06/92 (57 FR 53029)

Additional Information: Pursuant to 5 U.S.C. 553(b), requirements for notice and public comment are not applicable since this action involves a matter of agency practice and procedure.

Agency Contact: R. Umbs, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-2177**

RIN: 2125–AC89

2484. •HOURS OF SERVICE OF DRIVERS; ON-DUTY TIME

Significance: Agency Priority

Legal Authority: 49 USC app 2505; 49 USC 3102

CFR Citation: 49 CFR 392; 49 CFR 395; 49 CFR 1.48

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) proposes to amend a portion of the hours of service regulations for commercial motor vehicle drivers. This rulemaking would have permitted the on-duty-time limitation of 60 hours in 7 consecutive days or 70 hours in 8 consecutive days to begin anew after the driver had an off-duty "recovery period" of 24 consecutive hours or more. The proposal was withdrawn due to lack of adequate information as to sufficiency of the 24-hour recovery period, alternative on-duty/off-duty schedules, and relationship of the off-duty period to over-the-road driving exposure.

Timetable:

Action	Date	FR Cite
NPRM	08/19/92	57 FR 37504
Comment Period Extended to 11/04/92	10/02/92	57 FR 44158
NPRM Comment Period End	10/05/92	
Withdrawn	02/03/93	58 FR 6937

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/19/92 (57 FR 37504)

Agency Contact: James E. Scapellato, Director , Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Room 3404, HCS-1, Washington, DC 20590, **202 366-1790**

RIN: 2125–AD04

2485. NOTIFICATION AND REPORTING OF ACCIDENTS

Significance: Nonsignificant

Legal Authority: 49 USC app 2503; 49 USC app 2505; 49 USC 3102; 49 USC 3104; 49 CFR 1.48

CFR Citation: 49 CFR 390; 49 CFR 394

Legal Deadline: None

Abstract: This action eliminated the requirement that motor carriers submit accident reports to the FHWA and notify the FHWA of fatal accidents as currently required by 49 CFR 394. Instead, the FHWA, in cooperation with the States, implemented a new accident reporting system based on State-required police reports, which will be electronically transmitted from the States to the FHWA through the SAFETYNET accident reporting system. Motor carriers are required to keep certain information on file regarding accidents and make that information available to an authorized representative or special agent of the Federal Highway Administration upon request or inquiry.

Timetable:

Action	Date	FR Cite
NPRM	10/15/90	55 FR 41705
NPRM Comment Period End	12/14/90	
Final Action	02/02/93	58 FR 6726
Final Action Effective	03/04/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/02/93 (58 FR 6726)

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-2981**

RIN: 2125–AC48

2486. TRUCK SIZE AND WEIGHT; BEVERAGE SEMITRAILERS

Significance: Nonsignificant

Legal Authority: 23 USC 127; 23 USC 315; 49 USC app 2311 to 2313; 49 USC app 2316

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: This rulemaking proposes to designate as specialized equipment van-type, drop-frame beverage semitrailers whose length, when equipped with an upper coupler plate that extends in front of the semitrailer, exceeds 28 feet, as illustrated in the appendix to the preamble. The resulting configuration would be subject to certain limitations in that the kingpin may not be mounted more than 28 feet from the rear of the semitrailer, exclusive of rear-mounted devices not measured in determining semitrailer length, and the upper coupler may not extend beyond the semitrailer's swing radius (measured from the center line of the kingpin to the front corner of the semitrailer). The rule would prevent States from imposing an overall length limit on such vehicles operating in semitrailer or double-trailer combinations and would guarantee tractor-semitrailer combinations of such vehicles the same access to points of loading and unloading as "pup" semitrailers in 23 CFR 658.19(a).

Timetable:

Action	Date	FR Cite
NPRM	06/25/90	55 FR 25850
NPRM Comment Period End	07/25/90	55 FR 25850
Consolidated into RIN 01/12/93 2125-AC86		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 06/25/90 (55 FR 25850)

Additional Information: The next action for this proposal is a final rule. Because this action will amend 23 CFR part 658, the agency intends to combine this final rule into the final LCV freeze rule which will also amend 23 CFR 658. All actions amending 23 CFR 658 are being consolidated to avoid multiple, closely spaced amendments and avoid confusion over which version of 23 CFR 658 is current.

Agency Contact: Kathy Busby, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-2976**

RIN: 2125–AC57

2487. TRUCK SIZE AND WEIGHT; DROMEDARY BOXES CARRYING EXPLOSIVES

Significance: Nonsignificant

Legal Authority: 23 USC 127; 23 USC 315; 49 USC app 2311 to 2313; 49 USC app 2316

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: North American Transportation Consultants (NATC), on behalf of explosive carriers, sought an amendment to the FHWA dromedary box regulations. The NATC requested that truck tractors equipped with dromedary boxes designed for the transportation of class A or B explosives, when empty or carrying such explosives, be subject to Federal rather than State length limits when in combination with semitrailers operating on the National Network. Under existing regulation, truck tractors equipped with dromedary boxes, decks, or plates may operate on the National Network with semitrailer lengths authorized under the Surface Transportation Assistance Act of 1982 (STAA) only if the dromedary equipment was installed on the trailer by December 1, 1982.

The petition was denied because FHWA concluded there were insufficient bases for changing the current rules, the States could address the problem identified by NACT, and Federal action was not required absent a national emergency.

Timetable:

Action	Date	FR Cite
Petition Denied	04/24/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: An emergency rule was published 02/01/91 (56 FR 4164) under RIN 2125-AC72 and expired 08/01/91.

Agency Contact: Max Pieper, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4029**

RIN: 2125–AC61

2488. TRUCK SIZE & WEIGHT; MAXI-CUBE VEHICLES

Significance: Nonsignificant

Legal Authority: PL 101-516, Sec 411 (d); 49 USC app 2311(d)

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: This action would adopt rules to identify maxi-cube vehicles and regulate their length.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 01/12/93 2125-AC86		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: A related rulemaking titled Weight and Length Limitations -- Longer Combination Vehicles is located under RIN 2125-AC86, FHWA Docket No. 92-15, into which RIN 2125-AC65 has been consolidated.

Agency Contact: Max Pieper, Transportation Specialist, Office of Motor Carriers, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4029**

RIN: 2125–AC65

2489. FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; EMERGENCY RELIEF

Significance: Nonsignificant

Legal Authority: 49 USC app 2503; 49 USC app 2505; 49 USC 3102; 49 USC 3104

CFR Citation: 49 CFR 390; 49 CFR 395

Legal Deadline: None

Abstract: This rulemaking combines RINs 2125-AC43, 2125-AC66 and 2125-AC67 into one rule. This action amended the Federal Motor Carrier Safety Regulations (FMCSRs) to exempt from parts 390 and 399 motor carriers and drivers operating in interstate commerce that are providing direct assistance as a part of regional and local emergency relief efforts. This action also made technical amendments to part 395.

Timetable:

Action	Date	FR Cite
NPRM	05/29/91	56 FR 24162
NPRM Comment Period End	07/15/91	
Final Action	07/30/92	57 FR 33638
Final Action Effective	08/31/92	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/30/92 (57 FR 33638)

Agency Contact: David Miller, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-2981**

RIN: 2125–AC67

2490. ADMINISTRATION OF NEGOTIATED CONTRACTS

Completed:

Reason	Date	FR Cite
Duplicate of RIN 2125-AD03	02/03/93	

RIN: 2125–AC88

2491. REIMBURSEMENT; TEMPORARY MATCHING FUND WAIVER

Significance: Nonsignificant

Legal Authority: PL 102-240, sec 1054

CFR Citation: 23 CFR 140

Legal Deadline: None

Abstract: This action determined the procedures necessary for implementation of section 1054 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), which provides for a temporary waiver of State matching funds requirements. Section 1054 of the ISTEA allows a State to request an increase in the Federal share of the construction costs of a qualifying Federal-aid highway project, based on certification by a State's governor that sufficient funds are not available to pay costs of the non-Federal share. A State may receive up to 100 percent of Federal funds on a project for a period through September 30, 1993. Should the State fail to make timely reimbursement, 50

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percent would be deducted per year from the State's apportionment funds until the deferred amount is paid.

Timetable:

Action	Date	FR Cite
NPRM	07/16/92	57 FR 31467
NPRM Comment Period End	08/31/92	
Final Action	02/02/93	58 FR 6713

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/02/93 (58 FR 6713)

Agency Contact: Max Inman, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2853

RIN: 2125–AC96

2492. • COMMERCIAL DRIVER'S LICENSE STANDARDS; DISQUALIFICATIONS, TECHNICAL AMENDMENT

Significance: Nonsignificant

Legal Authority: PL 99-570; 49 USC 3102; 49 USC app 2505

CFR Citation: 49 CFR 383

Legal Deadline: None

Abstract: This action makes a technical correction to a final rule that appeared in the Federal Register on October 3, 1989 (54 FR 40788), by removing a duplicative paragraph.

Timetable:

Action	Date	FR Cite
Final Action	11/09/92	57 FR 53295
Final Action Effective	11/09/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Teresa Doggett, Driver Standards Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4001

RIN: 2125–AD07

DEPARTMENT OF TRANSPORTATION (DOT)

National Highway Traffic Safety Administration (NHTSA)

Prerule Stage

2493. +REVIEW: PASSENGER CAR FRONT SEAT OCCUPANT PROTECTION (FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 208)

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This standard requires the provision of automatic occupant protection in the front outboard seats of passenger cars after September 1, 1989. Air bags and automatic safety seat belts are being installed to meet the standard. The agency will analyze the actual road experience of vehicles equipped with automatic occupant protection to measure the reduction of fatalities and injuries, observe operational performance, and assess public acceptance and costs. The regulation was selected for review because of its costs, potential benefits, and public interest; this review is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Begin Review	01/17/90	55 FR 1586
Interim Evaluation Report	07/08/92	57 FR 30293
End Review	12/31/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Automatic occupant protection, State belt laws, and greater voluntary belt use amount to a winning combination that saves lives and reduce injury severity. Fatality risk of occupants in cars with air bags plus manual belts (at 1991 use rates) is 23 percent lower than in "baseline" cars with manual belts at 1983 use rates.

Agency Contact: Frank Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1574

RIN: 2127–AD82

2494. +PASSENGER CAR BRAKE PERFORMANCE

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105; 49 CFR 571.135

Legal Deadline: Other, Statutory, December 31, 1993. Deadline is for an ANPRM

Abstract: The NHTSA Authorization Act of 1991 directs the agency to publish an ANPRM to consider the need for additional brake performance standards for passenger cars, including antilock brake systems (ABS). The ANPRM will lay out the issues that the agency needs to resolve in order to determine whether to proceed with rulemaking on light vehicle ABS. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE47

2495. +USE OF SAFETY BELTS AND MOTORCYCLE HELMETS: COMPLIANCE AND TRANSFER-OF-FUNDS PROCEDURES

Significance: Agency Priority

Legal Authority: 23 USC 153

CFR Citation: 23 CFR 1215

Legal Deadline: None

Abstract: This notice proposes to implement the penalty provisions contained in section 153 of Title 23, USC, Intermodal Surface Transportation Efficiency Act of 1991. That section provides that a State that fails to adopt and put into effect motorcycle helmet and safety belt use law before the first day of FY 1994 (October 1, 1993) is subject to a penalty of having the Secretary of Transportation transfer funds from that State's Federal-aid highway and highway safety construction type programs to that State's apportionment under the section 402 safety program. This proposed rule sets forth the criteria to be used to determine a State's compliance or non-compliance with the Act and proposes the mechanism by which the agency will inform States of their compliance status. This action is considered significant due to substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/15/93	58 FR 4622
NPRM Comment Period End	03/01/93	
Final Action	05/00/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 01/15/93 (58 FR 4622)

Agency Contact: Adele Derby, Associate Administrator, Office of Regional Operations, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2121

RIN: 2127–AE50

2496. REVIEW: LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Standard 108 requires passenger cars sold after October 1, 1985, to be equipped with center high-mounted stop lamps (CHMSLs). NHTSA undertook a staff evaluation of the safety effectiveness, benefits, and cost of CHMSLs. A preliminary report was published in March 1987 and a final report in August 1989. Comments were requested, which will be considered before the review ends.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/85	
Preliminary Evaluation Report Published	03/20/87	52 FR 9609
Interim Evaluation Report Published	08/04/89	54 FR 32153
Interim Evaluation Report Comments Reviewed and Docketed	02/21/90	
End Review	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The evaluation report indicated that cars equipped with center high-mounted stop lamps were 17 percent less likely to be struck in the rear while braking than cars without the lamps.

Agency Contact: Frank G. Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, NPP-10, 400 Seventh Street SW., Washington, DC 20590, 202 366-1574

RIN: 2127–AB76

2497. REVIEW: GLASS-PLASTIC WINDSHIELDS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: This review involves analysis of the costs, benefits, and operational performance of glass-plastic windshields regulated by Federal Motor Vehicle Safety Standard No. 205. This program was selected because of public interest and potential benefits.

Timetable:

Action	Date	FR Cite
Begin Review	08/01/89	
End Review	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1574

RIN: 2127–AD29

2498. BRAKE LINING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Petitions from R. Grabowsky and American Trucking Association (ATA) requested initiation of rulemaking concerning brake linings (all vehicles and aftermarket). Mr. Grabowsky petitioned relative to stability, friction level, fade, wear, and identification of linings. ATA petitioned relative to friction level and identification of linings for heavy vehicles only. Petitions concerned both performance levels and test procedures, and were granted.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC66

2499. STANDARD 105; HYDRAULIC BRAKE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: The Highway Safety Act of 1991 requires the agency to publish by December 31, 1993, an ANPRM to amend Standard 105 to require antilock brake systems for passenger vehicles. The purpose of antilock brakes is to enhance the driver's control of the vehicle during emergency braking. Antilock brakes are currently available on many passenger cars and most light trucks. The accident statistics for cars and light trucks with antilock brakes are being reviewed in preparation for

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DOT—NHTSA

Prerule Stage

the proposed rulemaking and because of public interest in antilock brakes.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/90	
End Review	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-1574**

RIN: 2127–AC94

2500. TIRE LABELING, FMVSS 109, 110, 117, 119, 120; PARTS 569, 574, 575

Significance: Nonsignificant

Legal Authority: 15 USC 1392, 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 569; 49 CFR 571.109; 49 CFR 571.110; 49 CFR 571.117; 49 CFR 571.120; 49 CFR 574; 49 CFR 575

Legal Deadline: None

Abstract: This review concerns the usefulness of various tire labels and information to consumers, tire sellers, repairers, and retreaders.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/89	
End Review	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Preliminary finding of evaluation: Most individual consumers and buyers of tires for fleets know that Federal Motor Vehicle Safety Standards, but not Uniform Tire Quality Grading Standards information, is found on tires. Most tire sellers and repairers knew both FMVSS and UTQGS information is found on tires.

Agency Contact: Frank Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-1574**

RIN: 2127–AD28

2501. RULEMAKING TO DELETE "DUE CARE" PROVISIONS FROM THE OCCUPANT CRASH PROTECTION STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In 1986, NHTSA added a provision to Standard No. 208, Occupant Crash Protection, allowing vehicles that fail one or more of the injury criteria in the standard to still be considered as complying with the standard if the manufacturer could show it had exercised "due care" in the design and construction of the vehicle. The Motor Vehicle Safety Act requires all safety standards to be expressed in "objective terms." Further, the courts have held that compliance with safety standards must be determined by objective measurements and without recourse to any subjective determinations. The inherently subjective nature of a "due care" determination precludes the use of that concept as an aspect of compliance with the safety standards. Therefore, the "due care" provisions would be proposed to be deleted from the crash protection standard.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Edward Glancy, Senior Attorney Advisor, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-2992**

RIN: 2127–AD54

2502. BRAKE HOSES AND FLUIDS

Significance: Nonsignificant

Legal Authority: 15 USC 1401; 15 USC 1403; 15 USC 1407; 15 USC 1892

CFR Citation: 49 CFR 571.106; 49 CFR 571.116

Legal Deadline: None

Abstract: The agency has granted a petition from the United States Army Tank Automotive Command (ATAC), to amend Federal Motor Vehicle Safety Standard No. 106, Brake Hoses, and Federal Motor Vehicle Safety Standard No. 116, Brake Fluids. ATAC requested that Standard No. 106 be amended to require brake hose compatibility with a fluid that includes DOT 5 characteristics and that Standard No. 116 be amended to require compatibility of DOT 3, DOT 4, and DOT 5 brake fluids with elastomeric seals and cups internal to hydraulic brake system master and wheel cylinders. The agency believes that the changes suggested by ATAC warrant further consideration.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AD70

2503. VEHICLES EQUIPPED WITH LONG-STROKE BRAKE CHAMBERS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: The agency has received a petition requesting relief from the reservoir capacity requirements for vehicles equipped with long-stroke brake chambers in order to encourage the chambers' use. Petition is pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE54

2504. RADIATOR SAFETY CAP

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

DOT—NHTSA

Prerule Stage

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency has been petitioned to establish a new safety standard that would result in the use of thermal locking safety radiator caps. The purpose of the thermal locking radiator cap would be to prevent the accidental scalding of motorists and gas station attendants who hastily open the cap on a hot radiator of a motor vehicle. As an alternative to petition denial or grant, the agency is considering soliciting comments from the public and industry regarding the need for a new safety standard to address the issue of radiator cap scaldings. Petition is pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE59

2505. CONTROLLED MOTION OF CHILD RESTRAINT SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: The agency has received a petition to amend the standard to allow the design of controlled motion child restraint systems. The amendment would consist of changing the wording of Section S5.1.1 (b) of the standard to permit manufacturers to explore new and creative designs and still be in compliance with the performance requirements of the standard. The purpose of this action would be to develop child restraints to accommodate infants needing to be in non-upright position during travel and still be able to provide protection of the child during a crash by moving it to a vertical upright position. Petition is pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE60

2506. • AUTOMATIC BRAKE ADJUSTERS AND BRAKE ADJUSTMENT INDICATORS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for reconsideration of a final rule published October 20, 1992 (57 FR 47793), the agency is considering whether to change the effective date for automatic adjusters for hydraulic brakes. Petition is pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE69

2507. • MAXIMUM INFLATION PRESSURE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.109

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to add the maximum inflation pressure of 350 kPa (51 psi) to the standard. Petition is pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE70

2508. • STANDARDIZED DISPLAY OF CERTIFICATION LABELS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1397; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 567; 49 CFR 571.115

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to require the VIN (vehicle identification number) be specified by a permanent metal label with raised or recessed letters and numbers (except vehicles manufactured in two or more stages). Petition is pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE71

2509. • UPGRADE TEST PROCEDURES FOR BRAKE FLUIDS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.116

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to upgrade the laboratory test procedures in the area of humidification, chloride corrosion test, and water absorption effect, and to develop DOT 3 and 5.1 compatibility fluid. Petition is pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

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DOT—NHTSA — **Prerule Stage**

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE72

2510. • DATA CODE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.120

Legal Deadline: None

Abstract: In response to a petition granted for rulemaking, the agency is considering whether to amend the Data Code Requirement to allow the use of symbols.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE74

2511. • ANTILOCK WARNING SIGNALS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition granted for rulemaking, the agency is considering whether to allow an antilock warning lamp switch which would be capable of deactivating and reactivating the warning lamp used to indicate antilock electrical malfunction.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE75

2512. • AUTOMATIC BRAKE ADJUSTMENT LIMITS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published October 20, 1992 (57 FR 47793), the agency is considering whether to amend the adjustment limits for the automatic brake adjusters with adjustment indicators. Petitions are pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE76

2513. • LABELING ON ADJUSTMENT POSITIONS OF CHILD RESTRAINT SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to a petition for reconsideration of a final rule published September 10, 1992 (57 FR 41423), the agency is considering whether to amend the wording of the text requiring a label on adjustment positions of built-in child restraint systems. Petition is pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE81

2514. • QUASI-STATIC DOOR STRENGTH REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: In response to a petition for reconsideration to a final rule published July 13, 1992 (57 FR 30917) the agency is considering whether to amend the leadtime to comply with the quasi-static passenger car side door strength requirements. Petition is pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE82

2515. • LATERAL PERFORMANCE REQUIREMENTS FOR FUEL SYSTEM INTEGRITY

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: In response to a petition granted for rulemaking, the agency is considering whether to permit the certification of the lateral moving barrier crash requirement of FMVSS No. 301, Fuel System Integrity, with the side crash test conducted in compliance with FMVSS No. 214, Side Impact Protection.

Timetable:

Action	Date	FR Cite
Request for Comments; Comment Period End 02/12/93	12/14/92	57 FR 59041

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Action	Date	FR Cite
Request for Comments; Comment Period Extended to 03/05/93	02/05/93	58 FR 7266

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE83

2516. • ACCELEROMETER MOUNTING ARRANGEMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to amend the accelerometer mounting specifications for test dummies. Petition is pending.

Timetable:

Action	Date	FR Cite
Request for Comment; Comment End 02/12/93	12/14/92	57 FR 59041

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE84

2517. • DEFINE MAJOR COMPONENT PARTS OF A VEHICLE

Significance: Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 2022; 15 USC 2023

CFR Citation: 49 CFR 541

Legal Deadline: Final, Statutory, October 30, 1994.

Abstract: The agency is proposing to revise the regulation to designate the major component parts of a motor vehicle to be marked with the Vehicle Identification Number (VIN) and those respective replacement parts.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1740

RIN: 2127–AE85

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Proposed Rule Stage

2518. +HEAVY DUTY VEHICLE BRAKE SYSTEMS (FORMERLY TRUCK AND TRAILER BRAKE SYSTEMS)

Significance: Agency Priority

Legal Authority: 15 USC 1392 National Traffic & Motor Vehicle Safety Act of 1966; 15 USC 1407 National Traffic & Motor Vehicle Safety Act of 1966; PL 102-240

CFR Citation: 49 CFR 571.121; 49 CFR 571.105

Legal Deadline: NPRM, Statutory, May 31, 1992. Final, Statutory, May 1995. NHTSA may issue either an ANPRM or NPRM.

Abstract: NHTSA is considering measures to improve the stability and control performance characteristics of heavy vehicles during braking. Specifically, the agency is considering the issuance of a proposal to establish additional performance requirements for improving the lateral stability of such vehicles while braking. This action is considered significant because of the level of public and congressional interest. It is necessary to prevent and reduce the severity of accidents involving heavy vehicles by providing increased accident avoidance capability.

Timetable:

Action	Date	FR Cite
ANPRM; Comment Period End 04/16/79	02/15/79	44 FR 9783
Second ANPRM; Comment Period End 05/28/80	02/28/80	45 FR 13155
ANPRM	06/08/92	57 FR 24212
ANPRM Comment Period End	08/07/92	
NPRM	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/08/92 (57 FR 24212)

Additional Information: Docket No. 79-03. ANPRM, Notice 1; Second ANPRM, Notice 3.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AA00

2519. +FLAMMABILITY OF INTERIOR MATERIALS - SCHOOL BUSES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.302

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking requested comments regarding possible upgrade of Standard 302 to reduce the risk of fire to school bus occupants. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44627
ANPRM Comment Period End	01/03/89	53 FR 44627

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Action	Date	FR Cite
Request for Comments; Comment Period End 04/29/91	02/26/91	56 FR 7826
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AA44

2520. +CARS AND LIGHT TRUCKS: PADDING A-PILLARS, SIDE RAIL, ETC

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.201; 49 CFR 571.205; 49 CFR 571.206; 49 CFR 571.214

Legal Deadline: NPRM, Statutory, January 31, 1993.

Abstract: This action concerns improved head impact protection from interior components of passenger cars, i.e., roof rails, pillars, and front headers. This rulemaking action and notice of a publication date for the NPRM are required by the NHTSA Authorization Act of 1991. This action is considered significant because of safety and cost implications.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/88	53 FR 31712
ANPRM Comment Period End	10/18/88	
Notice of Intent	06/05/92	57 FR 24008
NPRM	02/08/93	58 FR 7506
NPRM Comment Period End	04/09/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/08/93 (58 FR 7506)

Additional Information: This entry was formerly titled: Side-Impact Protection, Head/Neck Protection, and Occupant Ejection Mitigation.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AB85

2521. +ROLLOVER

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.216

Legal Deadline: NPRM, Statutory, May 31, 1992. Final, Statutory, May 1993. NHTSA may issue either an ANPRM or NPRM.

Abstract: Pursuant to the NHTSA Authorization Act of 1991, the agency is considering whether to propose a Federal motor vehicle safety standard to reduce the casualties associated with rollovers of passenger cars, pickup trucks, vans, and utility vehicles. This action is considered significant as it concerns a matter of substantial public interest and any resultant rule might have substantial impact on a major safety problem.

Timetable:

Action	Date	FR Cite
ANPRM	01/03/92	57 FR 242
ANPRM Comment Period End	04/03/92	
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: A notice of availability of a planning document for this rulemaking was published 09/29/92 (57 FR 44721).

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC64

2522. +WHEELCHAIR LIFTS

Significance: Agency Priority

Legal Authority: PL 101-336 Americans With Disabilities Act

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This action would establish new requirements for wheelchair lifts used on motor vehicles. This is significant due to substantial public interest in transportation of the handicapped.

Timetable:

Action	Date	FR Cite
NPRM	02/26/93	58 FR 11562
NPRM Comment Period End	04/27/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/26/93 (58 FR 11562)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD50

2523. +SIDE IMPACT PROTECTION: ANTHROPOMORPHIC ALTERNATE TEST DUMMIES (BIOSID AND EUROSID)

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: In testing, a passenger car must provide protection to the thoracic and pelvic regions of a specified side-impact dummy (SID) in a full-scale crash test. Studies demonstrated that two alternative dummies, BioSID and/or EuroSID, compared satisfactorily to SID. Comments were requested on the desirability and need for specifying alternative dummies in standard 214, and to obtain relevant technical data which could be used to support an NPRM. This action is considered significant due to substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/91	56 FR 67042
ANPRM Comment Period End	03/12/92	

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Action	Date	FR Cite
ANPRM Comment Period Extended to 5/13/92	04/13/92	57 FR 12794

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RIN 2127-AD74 - Side Impact Protection: Anthropomorphic Alternate Test Dummy (EUROSID) has been consolidated into this rulemaking.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC, 202 366-0842

RIN: 2127–AD73

2524. +DYNAMIC TESTING OF LIGHT TRUCKS AND VANS FOR SIDE IMPACT

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.214

Legal Deadline: NPRM, Statutory, May 31, 1992. Final, Statutory, August 5, 1994.
Action must be completed within 26 months of ANPRM publication.

Abstract: On October 30, 1990 (55 FR 45722), the agency amended standard 214 to amend the current side door strength requirements in passenger cars to add dynamic side impact protection requirements. The NHTSA Authorization Act of 1991 directed the agency to initiate rulemaking to extend these requirements to light trucks and vans having a GVWR of less than 10,000 lbs. In response to this statutory mandate, the ANPRM announced that the agency is considering the issuance of this proposal. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/05/92	57 FR 24009
ANPRM Comment Period End	08/04/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 06/05/92 (57 FR 24009)

Additional Information: This action is currently in research.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE49

2525. EMERGENCY LOCKING RETRACTORS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Horkey and Associates petitioned to prohibit the use of emergency locking retractors, alleging they fail to provide adequate protection against occupant rebound in rear impact. The petition was granted, as was a related one from Environmental Research and Safety Technologists. (See RIN 2127-AD08.) A subsequent NHTSA request for comments concerned recent agency analyses and a proposed research plan as to seatback performance in rear impacts.

Timetable:

Action	Date	FR Cite
ANPRM	10/04/89	54 FR 40896
ANPRM Comment Period End	12/04/89	54 FR 40896
Request for Comments Comment Period Ended 01/22/93	11/23/92	57 FR 54958

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action was formerly titled Occupant Crash Protection, Emergency Locking Retractors.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC57

2526. FUEL SPILLAGE

Significance: Nonsignificant

Legal Authority: 15 USC 1407; 15 USC 1410

CFR Citation: 49 CFR 552; 49 CFR 571

Legal Deadline: None

Abstract: The California Highway Patrol (CHP) petitioned the agency to specify requirements in FMVSS No. 301 to reduce fuel spills from the fuel tank or fuel lines on heavy trucks and truck tractors over 10,000 pounds. The fuel spills, according to the CHP, are due to damage caused by road debris. The petition was granted pending the results of the forthcoming investigation of fuel-tank fires in over-the-road trucks, on which research is presently underway.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This entry was formerly titled Fuel System Integrity, Fuel Spillage.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC62

2527. AIR BRAKE SYSTEMS, STOPPING-DISTANCE PERFORMANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: Accidents involving heavy trucks have a higher fatality rate than all other motor vehicles. This rulemaking proposes to reinstate stopping distance performance requirements in Standard 121 so as to help improve heavy vehicle braking

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performance and hence reduce the number of accidents involving these vehicles. Although a court decision found that Standard 121, as it then existed, was unenforceable, additional accident data and technical review have persuaded NHTSA that the court's requirements can now be met.

Timetable:

Action	Date	FR Cite
NPRM	02/23/93	58 FR 11009
NPRM Comment Period End	05/24/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/23/93 (58 FR 11009)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD07

2528. SEATING SYSTEMS PERFORMANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.207

Legal Deadline: None

Abstract: Environmental Research and Safety Technologists of Flagstaff, AZ, petitioned the agency to reexamine the general performance requirements of the Standard. The ANPRM requested comments.

Timetable:

Action	Date	FR Cite
ANPRM	10/04/89	54 FR 40896
ANPRM Comment Period End	12/04/89	54 FR 40896

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Petitions for rulemaking were granted 07/24/89. See a related rulemaking action involving these petitioners under RIN 2127-AC57.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD08

2529. SEATING SYSTEMS TEST PROCEDURE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.207

Legal Deadline: None

Abstract: This action would adopt a test procedure more appropriate to pedestal seats, and has proposed using a procedure that more closely represents the load distribution actually experienced by pedestal seats in real-world crashes. The SNPRM concerned the definitions of a pedestal seat.

Timetable:

Action	Date	FR Cite
NPRM	08/14/90	55 FR 33141
NPRM Comment Period End	09/28/90	
SNPRM	03/08/93	58 FR 12921
SNPRM Comment Period End	05/07/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/08/93 (58 FR 12921)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD09

2530. ENFORCEMENT OF THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1397; 15 USC 1398, 15 USC 1401; 15 USC 1402; 15 USC 1403, 15 USC 1407; 15 USC 1408; 15 USC 1410a; 15 USC 1411; 15 USC 1412; 15 USC 1413; 15 USC 1414, 15 USC 1415; 15 USC 1516; ...

CFR Citation: 49 CFR 552; 49 CFR 554; 49 CFR 573; 49 CFR 576; 49 CFR 577

Legal Deadline: None

Abstract: The agency would propose to amend several provisions of regulations that pertain to its enforcement of the National Traffic and Motor Vehicle Safety Act. The proposed amendment would relate to NHTSA's consideration of petitions for rulemaking or for investigation of alleged defects or noncompliance with safety standards (Part 552); NHTSA's procedures following an initial determination that a safety-related defect exists (Part 573); the form and content of notification letters that manufacturers must send to owners following a determination that a vehicle or item of motor vehicle equipment contains a defect or does not comply with a safety standard (Part 577); record retention requirements applicable to manufacturers (Part 576); and a clarification that NHTSA's recordkeeping and reporting regulations (Part 573 and 576) apply to electronically generated or communicated materials.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: 15 USC 1416; 15 USC 1417; 15 USC 1418; 15 USC 1419; 15 USC 1420

Agency Contact: Jonathan D. White, Office of Defects Investigation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-5227

RIN: 2127–AD83

2531. STOPPING DISTANCE PERFORMANCE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: The agency is proposing to establish stopping distance performance requirements for trucks, buses, and multipurpose vehicles (MPVs) with a gross vehicle weight rating (GVWR) of over 10,000 pounds. These proposed requirements would be applicable on a high coefficient of friction surface.

Timetable:

Action	Date	FR Cite
NPRM	02/23/93	58 FR 11003
NPRM Comment Period End	05/24/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/23/93 (58 FR 11003)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE21

2532. OPTICAL COATINGS AND HEAT DEGRADATIONS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to rulemaking petition, NHTSA proposed changes in the weathering (haze) criteria for material that is used for reflex reflectors which would allow the use of polycarbonate plastic coating to reduce haze.

Timetable:

Action	Date	FR Cite
NPRM	03/09/93	58 FR 13042
NPRM Comment Period End	04/23/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/09/93 (58 FR 13042)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE38

2533. CHILD BOOSTER SEATS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: NPRM, Statutory, May 31, 1992. Final, Statutory, July 31, 1994.

Abstract: The NHTSA Authorization Act of 1991 directs the agency to initiate rulemaking on child booster seat safety. In response to this statutory mandate, this notice requests comments on issues regarding improved booster seat safety.

Timetable:

Action	Date	FR Cite
ANPRM	05/29/92	57 FR 22682
ANPRM Comment Period End	07/28/92	
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/29/92 (57 FR 22682)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE39

2534. SAFETY BELT DESIGN

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.208

Legal Deadline: Final, Statutory, July 29, 1994. Other, Statutory, May 31, 1992.
Initiate by May 31, 1992; complete by July 29, 1994.

Abstract: The NHTSA Authorization Act of 1991 directs the agency to initiate rulemaking to improve the design of safety belts. In response to this statutory mandate, this notice requests comments on possible means of improving safety belt comfort and fit.

Timetable:

Action	Date	FR Cite
ANPRM	05/29/92	57 FR 22687
ANPRM Comment Period End	07/28/92	
NPRM	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/29/92 (57 FR 22687)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE48

2535. BUS WINDOW EMERGENCY EXIT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.217

Legal Deadline: None

Abstract: In response to a rulemaking petition, the agency is proposing to allow windows that slide into the bus body panel to be used to meet emergency exit requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE62

2536. • AMERICAN AUTOMOBILE LABELING ACT REQUIREMENTS

Significance: Nonsignificant

Legal Authority: PL 102-388

CFR Citation: 49 CFR 1.50

Legal Deadline: Final, Statutory, October 1994.

Abstract: The American Automobile Labeling Act requires that new passenger cars, light-duty trucks, and multipurpose passenger vehicles (with a gross vehicle weight of 8,500 pounds or less), manufactured on or after October 1, 1994, bear labels providing information regarding the extent to which their parts are of domestic origin. The basic labeling requirement requires that each manufacturer of a

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new passenger motor vehicle shall annually establish for each model year and cause to be affixed, and each dealer shall cause to be maintained, in each such vehicle manufactured on or after October 1, 1994, a label specifying the vehicle's domestic and foreign origin.

Timetable:

Action	Date	FR Cite
Request for Comments/Public Meeting	11/18/92	57 FR 54351
Comment Period Extended to 01/11/93	12/29/92	57 FR 61869
NPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nelson Gordy, Safety Standards Engineer, Office of Market Incentivies, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4797

RIN: 2127–AE63

2537. • PETITIONS AND PLANS FOR RELIEF UNDER THE AUTOMOBILE FUEL EFFICIENCY ACT OF 1980

Significance: Nonsignificant

Legal Authority: 15 USC 1657; 15 USC 2002; 15 USC 2003

CFR Citation: 49 CFR 526

Legal Deadline: None

Abstract: The existing regulation includes a petitioning procedure for adjustment of fuel economy standards for four-wheel-drive light trucks for model years 1982 through 1985. This section is now obsolete and should be rescinded. Other minor language changes will be made to bring the regulation up to date.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements, Office of Market Incentivies, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AE65

2538. • EXEMPTION FROM VEHICLE THEFT PREVENTION STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 2022; 15 USC 2025

CFR Citation: 49 CFR 543

Legal Deadline: None

Abstract: The agency is proposing to amend the regulation to include new definitions and revise the number of vehicles allowed an exemption, beginning with Model Year (MY) 1997 through MY 2000.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1740

RIN: 2127–AE66

2539. • PROCEDURES FOR SELECTING LINES TO BE COVERED BY THE THEFT PREVENTION STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 2022; 15 USC 2023

CFR Citation: 49 CFR 542

Legal Deadline: None

Abstract: The agency is proposing to amend the regulation to include new statutory definitions and delete obsolete sections of the rule. In addition, the proposed amendment will include the requirement for manufacturers to inform the agency of new passenger motor vehicles.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1740

RIN: 2127–AE67

2540. • TEST PROCEDURES FOR PARKING/EMERGENCY BRAKES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition granted for rulemaking, the agency has proposed to revise the test procedure for air applied to mechanically held parking/emergency brake systems.

Timetable:

Action	Date	FR Cite
NPRM	03/11/93	58 FR 13437
NPRM Comment Period End	04/26/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/11/93 (58 FR 13437)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE77

2541. • APPLICABILITY OF WARNING DEVICES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.125

Legal Deadline: None

Abstract: The agency is investigating whether the regulation for warning devices should apply only to buses, trucks, and tractor trailers with a GVWR of over 10,000 pounds.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE78

2542. • BELT LABELING REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.208; 49 CFR 571.209

Legal Deadline: None

Abstract: The agency is proposing to simplify belt labeling requirements so that either labels on belts or installation instructions be permitted as part of belt replacement assemblies.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action is a spin-off of the final rule published April 16, 1991 (56 FR 15295) and the final rule published November 4, 1991 (56 FR 56323) in response to a petition for rulemaking.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE79

2543. • LABELING AND PRINTING INSTRUCTIONS FOR CHILD RESTRAINT SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is proposing to require a warning statement on the label of the child restraint system about possible child restraint interactions with the air bag that could cause a child injury and to include a similar warning statement in the printed instructions provided with the child restraint.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE80

2544. • INSURER REPORTING REQUIREMENTS FOR OCTOBER 1993

Significance: Nonsignificant

Legal Authority: 15 USC 2032

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: Title VI of the Motor Vehicle Information and Cost Savings Act requires certain passenger motor vehicle insurers to file reports with NHTSA, unless the agency exempts the insurer from filing such reports. The law stipulates that NHTSA can only exempt those insurance companies whose market share is below certain percentages for the Nation as a whole and in each individual State, or for which NHTSA determines that (1) the cost of preparing and furnishing such reports is excessive in relation to the size of the business of the insurer; and (2) the insurer's report will not significantly contribute to carrying out the purposes of Title VI. This action will list those insurers required to conform to Title VI requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1740

RIN: 2127–AE87

DEPARTMENT OF TRANSPORTATION (DOT)

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National Highway Traffic Safety Administration (NHTSA)

2545. +CRASHWORTHINESS RATINGS

Significance: Regulatory Program

Legal Authority: 15 USC 1401; 15 USC 1941

CFR Citation: 49 CFR 5

Legal Deadline: None

Abstract: This action would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public, to provide consumers with comparative information on the crashworthiness performance of new car models. This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025
Comment Period Extended to 10/22/81	04/02/81	46 FR 19947
NPRM Comment Period End	04/22/81	46 FR 7025
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Draft Regulatory Evaluation 01/22/81 (46 FR 7025)

Additional Information: Docket No. 79-17. NPRM, Notice 1.

Agency Contact: Stanley Scheiner, Director, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1740

RIN: 2127–AA03

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2546. +LIGHTING SIMPLIFICATION—POTENTIAL AMENDMENTS ON LONG-TERM ISSUES

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: NHTSA proposes a comprehensive review of headlighting requirements of FMVSS No. 108 which may be simplified, while being consistent with motor-vehicle safety. The agency has concentrated its efforts into five principal areas. This action addresses the first of these, which is the feasibility of a standard directed toward onboard original-equipment headlighting performance rather than toward performance of individual aftermarket headlamps in a laboratory environment. This action is considered significant because of safety implications. Based on comments received, a second NPRM was issued.

Timetable:

Action	Date	FR Cite
ANPRM	10/22/85	50 FR 42735
ANPRM Comment Period Extended to 03/06/86	01/14/86	51 FR 1542
ANPRM Comment Period End	01/21/86	
NPRM	12/29/87	52 FR 49038
NPRM Comment Period End	03/28/88	
SNPRM; Second	05/09/89	54 FR 20084
Correction to Second SNPRM	05/19/89	54 FR 21727
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Preliminary Regulatory Evaluation 12/29/87 (52 FR 49038)

Additional Information: Docket No. 85-15, Notice 1.

Docket No. 85-15, Notice 2. In response to comments to the SNPRM, additional research has been initiated as to vehicle-based roadway illumination performance requirements. RIN 2127-AD69 - Vehicle Based Roadway Illumination Performance Requirement was terminated as a duplicate entry in the April 1991 Agenda.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AB87

2547. +TRUCK REAR UNDERRIDE PROTECTION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: On January 8, 1981 (46 FR 2136) the agency published a notice of proposed rulemaking on rear underride crashes relative to small vehicles colliding with the rear of a heavy vehicle (a vehicle with a gross vehicle weight rating (GVWR) greater than 10,000 pounds). Rear underride occurs when the front of the smaller vehicle slides under ("underrides") the rear end of the larger vehicle. The agency received over 100 comments on the proposal, some of which raised issues about possible alternatives to the proposal and about the burdens of the proposal on small businesses. The SNPRM sought to retain the safety benefits of the earlier proposal while meeting the concerns about potential small business impacts. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/08/81	46 FR 2136
NPRM Comment Period End	04/08/81	46 FR 2136
SNPRM; Comment Period End 03/04/92	01/03/92	57 FR 252
SNPRM Comment Period Reopened to 06/08/92	04/09/92	57 FR 12289
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/03/92 (57 FR 252)

Additional Information: Docket No. 1-11. NPRM, Notice 8.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AA43

2548. +SCHOOL BUS BODY JOINT STRENGTH

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.221

Legal Deadline: None

Abstract: This action proposed to clarify and expand procedures for testing school bus body joint strength; to revise the exemption provided for maintenance access panels on school bus bodies; and to extend the scope of the Standard to include all school buses, including those of GVWR of 10,000 pounds or less. This rulemaking is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/87	52 FR 23314
ANPRM Comment Period End	08/03/87	52 FR 23314
Comment Period Extended to 10/15/87	08/12/87	52 FR 29873
NPRM	03/15/91	56 FR 11142
NPRM Comment Period End	05/14/91	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/15/91 (56 FR 11142)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AC19

2549. +FILM TRANSMITTANCE OF GLAZING MATERIALS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: A rulemaking petition was granted which requested an amendment

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be made to the standard which would allow the applications of a film with 35 percent transmittance to the windows of motor vehicles. This project is considered significant because of the substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/89	54 FR 30427
Petition for Rulemaking Granted	07/20/89	54 FR 30427
ANPRM Comment Period End	09/18/89	54 FR 30427
NPRM	01/22/92	57 FR 2496
NPRM Comment Period End	03/23/92	
NPRM Comment Period Extended to 05/22/92	03/25/92	57 FR 10327
NPRM Correction	04/09/92	57 FR 12286
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/22/92 (57 FR 2496)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AC85

2550. +COMPRESSED NATURAL GAS (CNG) AND PROPANE

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: The ANPRM proposed rulemaking concerning the possibility of proposing special fuel integrity requirements for vehicles using compressed natural gas (CNG) and liquefied petroleum gas (LPG). The NPRM proposed to establish a new standard specifying performance requirements for CNG fuel tanks and vehicles using CNG as a fuel. NHTSA also requested comment on whether vehicles using LPG as a fuel should be subject to similar requirements, and whether the proposed requirements for CNG vehicles should be applicable to all vehicles designed to be powered by a gaseous fuel, such as liquefied natural gas or hydrogen. This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/12/90	55 FR 41561
Public Meeting Notice	10/12/90	55 FR 41561
ANPRM Comment Period End	12/11/90	
ANPRM Comment Period Extended to 01/31/91	12/17/90	55 FR 51737
NPRM	01/21/93	58 FR 5323
NPRM Comment Period End	03/22/93	
NPRM Comment Period Extended to 05/06/93	03/23/93	58 FR 15463
Final Action	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/21/93 (58 FR 5323)

Agency Contact: Gary Woodford, General Engineer, Special Projects Staff, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4804**

RIN: 2127–AD48

2551. +LIGHT TRUCK AVERAGE FUEL ECONOMY STANDARDS FOR MODEL YEARS BEYOND 1994

Significance: Agency Priority

Legal Authority: 15 USC 1657; 15 USC 2002

CFR Citation: 49 CFR 533

Legal Deadline: Final, Statutory, March 31, 1993.

Abstract: In accordance with the mandatory requirements of section 502(b) of the Motor Vehicle Information and Cost Savings Act, this agency has published a notice proposing to establish average fuel economy standards for light trucks manufactured in model years (MY) 1995 through 1997. This action is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive market.

Timetable:

Action	Date	FR Cite
Questionnaire Gathering Information on Manufacture Product Plans	10/08/91	56 FR 50694
Questionnaire Correction	11/15/91	56 FR 58020
NPRM	12/24/92	57 FR 61377
NPRM Comment Period End	02/01/93	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/24/92 (57 FR 61377)

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0846**

RIN: 2127–AE42

2552. +MANDATING AIR BAGS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.208

Legal Deadline: Final, Statutory, September 1, 1993.

Abstract: The NHTSA Authorization Act of 1991 directs the agency to initiate rulemaking to amend the automatic occupant protection requirements of standard 208 by mandating the installation of air bags. The Act requires that all passenger cars be equipped with air bags at the front outboard seating positions by September 1, 1997, and that all light trucks and vans be so equipped by September 1, 1998. The agency published a proposal to amend the standard requirements to conform to this statutory directive. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/14/92	57 FR 59043
NPRM Comment Period End	02/12/93	
Final Action	09/00/93	

Small Entities Affected: None

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Government Levels Affected: None

Analysis: Regulatory Evaluation 12/14/92 (57 FR 59043)

Additional Information: RIN 2127-AE53, Label Requirements for Air Bag-Equipped Vehicles, has been consolidated into this action.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE46

2553. +CERTIFICATION OF SPEED LIMIT ENFORCEMENT

Significance: Agency Priority

Legal Authority: 23 USC 118; 23 USC 141; 23 USC 154; 23 USC 315; PL 102-240

CFR Citation: 23 CFR 1260

Legal Deadline: NPRM, Statutory, December 18, 1992. Final, Statutory, February 16, 1993.

Abstract: The agency proposes to replace the National Maximum Speed Limit procedures contained in 23 CFR and Part 659 with new procedures as required by section 1029 of Public Law 102-240, the "Intermodal Surface Transportation Efficiency Act of 1991." It proposes that the speed limit compliance formula, the speed monitoring plan, and the penalty for non-compliance be modified in accordance with the requirements of this new legislation. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 187
NPRM Comment Period End	02/03/93	
Final Action	02/00/94	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 01/04/93 (58 FR 187)

Additional Information: The NPRM inadvertently was published under RIN 2125-0027.

Agency Contact: J. Michael Sheehan, Chief, Traffic Services Division, Office of Traffic Safety Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4295**

RIN: 2127–AE52

2554. PROPOSED NEW STANDARD 135; PASSENGER-CAR BRAKE SYSTEM

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105; 49 CFR 571.135

Legal Deadline: None

Abstract: This rulemaking to establish a new standard for passenger-car brake systems grew out of NHTSA's efforts to harmonize its standards with international ones. After review of comments to the NPRM and SNPRM, a second SNPRM proposed refined and revised test procedures and performance requirements which should achieve harmonization while being fully consistent with the National Traffic and Motor Vehicle Safety Act. The new standard 135 was to replace standard 105 as it applies to passenger cars. This action was originally considered significant, but subsequent events have resulted in fewer issues to be resolved, and this project is no longer considered as such.

Timetable:

Action	Date	FR Cite
NPRM	05/10/85	50 FR 19744
Correction to NPRM for RIN AC63	06/20/85	50 FR 25612
NPRM Comment Period Extended to 01/13/86	09/17/85	50 FR 37702
NPRM Comment Period End	10/07/85	50 FR 19744
SNPRM; Comment Period End 10/13/87	01/14/87	52 FR 1474
Second SNPRM; Comment Period Extended to 10/31/91	07/03/91	56 FR 30528
Second SNPRM; Comment Period Extended to 01/10/92	10/25/91	56 FR 55266
Third SNPRM Comment Period End 03/01/93	01/15/93	58 FR 4649
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/03/91 (56 FR 30528)

Additional Information: A third SNPRM proposed to establish a new Standard No. 135 to replace Standard No. 105. This SNPRM responds to an ANPRM published December 27, 1991 (56 FR 67038) (RIN 2127-AE29) that asked for comments on the appropriateness of Standard No. 105 to braking systems of electric vehicles. However, upon consideration of comments received, NHTSA determined that any changes should be made to Standard 135 as well as existing Standard 105. Hence, both Standards are proposed to be revised to incorporate definitions and test conditions deemed appropriate.

Docket No. 85-06. RIN 2127-AC63, Passenger-Car Brake Systems, was consolidated into this proceeding.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AA13

2555. PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Significance: Nonsignificant

Legal Authority: 42 USC 4321 et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.

Timetable:

Action	Date	FR Cite
NPRM	01/14/93	58 FR 4393
NPRM Comment Period End	03/01/93	
Final Action	04/00/93	

Small Entities Affected: None

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Government Levels Affected: None

Agency Contact: Kathleen C. DeMeter, Ass't Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-1834**

RIN: 2127–AB79

2556. "LOCK" CHILD SAFETY SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This supplemental action proposes to require that lap belts or the lap belt portion of lap/shoulder belts be capable of tightly securing child safety seats.

Timetable:

Action	Date	FR Cite
NPRM	07/30/90	55 FR 30937
NPRM Comment Period End	09/13/90	
SNPRM Comment Period End 01/21/92	12/06/91	56 FR 63914
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/30/90 (55 FR 30937)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AD39

2557. STATE HIGHWAY SAFETY PROGRAMS

Significance: Nonsignificant

Legal Authority: 23 USC 401

CFR Citation: 23 CFR 1200; 23 CFR 1204; 23 CFR 1205

Legal Deadline: None

Abstract: This notice proposed the establishment of uniform procedures governing approval, implementation, and management of State highway safety programs. It would implement the Department of Transportation rule (49 CFR part 18) concerning the administration of grants with State and local governments, as it applies to highway safety programs, update and codify existing procedures and delete obsolete provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/28/91	56 FR 29598
NPRM Comment Period End	08/12/91	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/28/91 (56 FR 29598)

Agency Contact: Adele Derby, Associate Administrator, Regional Operations, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-2121**

RIN: 2127–AD55

2558. ISSUANCE, AMENDMENT, AND REVOCATION OF RULES: PROCEDURAL REGULATIONS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407; 15 USC 1912; 15 USC 1941; 15 USC 1988; 15 USC 2001

CFR Citation: 49 CFR 553.39

Legal Deadline: None

Abstract: The agency is proposing to amend one provision of the procedural regulations that apply to the issuance, amendment, and revocation of rules under the Motor Vehicle Information and Cost Savings Act and the Motor Vehicle Safety Act. The provision addresses the time within which affected persons may seek judicial review of a final rule if a petition for agency reconsideration of that rule has been filed.

Timetable:

Action	Date	FR Cite
NPRM	10/31/90	55 FR 45825
NPRM Correction	11/08/90	55 FR 47028
NPRM Comment Period End	12/17/90	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/31/90 (55 FR 45825)

Agency Contact: Kenneth Weinstein, Assistant Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-5263**

RIN: 2127–AD78

2559. IMPACT PROTECTION FOR THE DRIVER FROM THE STEERING CONTROL SYSTEM

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.203

Legal Deadline: None

Abstract: This notice solicited comments on a proposal to upgrade the reference to the Society of Automotive Engineers (SAE) recommended practice J944, from the December 1965 version to the June 1980 version as it applies to the body block test device. This action would clarify the positioning of the torso-shaped body block for compliance testing.

Timetable:

Action	Date	FR Cite
NPRM	06/06/91	56 FR 26046
NPRM Comment Period End	07/22/91	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/06/91 (56 FR 26046)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AD87

2560. ADJUSTMENT PROCEDURE FOR BURNISH AND RECOVERY

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

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Abstract: Petition for rulemaking was granted to amend two aspects of standard 121: the adjustment procedure for brake burnish during road testing and the recovery requirement for truck and bus front brakes.

Timetable:

Action	Date	FR Cite
NPRM	12/23/91	56 FR 66395
NPRM Comment Period End	03/09/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/23/91 (56 FR 66395)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE15

2561. EXCLUSIVE USE OF HYBRID III TEST DUMMY IN COMPLIANCE TESTING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 1.50; 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency published a proposal to require the use of the Hybrid III test dummy for all compliance testing under Standard No. 208.

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	57 FR 58437
NPRM Comment Period End	02/08/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/10/92 (57 FR 58437)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE19

2562. SEAT ADJUSTMENT POSITION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: The agency solicited comments on a proposal to amend the performance requirements of the standard to provide that the lap belt angle would be measured for rear adjustable seats with the seats in the rearmost adjustment position. This proposal is intended to resolve ambiguities regarding the seat adjustment position for the current requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/04/91	56 FR 63473
NPRM Correction	12/17/91	56 FR 65541
NPRM Comment Period End	02/03/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/04/91 (56 FR 63473)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE22

2563. EMERGENCY EXIT REQUIREMENTS FOR NON-SCHOOL BUSES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.217

Legal Deadline: None

Abstract: The agency published a proposal to permit non-school buses to meet either the current non-school bus requirements or the new upgraded school bus requirements (57 FR 49413, RIN-2127-AC88).

Timetable:

Action	Date	FR Cite
NPRM	11/02/92	57 FR 49444
NPRM Comment Period End	01/04/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/02/92 (57 FR 49444)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE25

2564. CERTIFICATION REQUIREMENTS OF MULTISTAGE VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1397; 15 USC 1401; 15 USC 1403; 15 USC 1912; 15 USC 1915; 15 USC 2021; 15 USC 2022; 15 USC 2026

CFR Citation: 49 CFR 567; 49 CFR 568; 49 CFR 1.50

Legal Deadline: None

Abstract: This action proposed to amend the certification requirement that applies to incomplete vehicles other than chassis-cabs. Incomplete vehicles are vehicles that include at least a frame and chassis structure, power train, steering system, suspension system, and brake system, but need further manufacturing performed on them to become completed vehicles. This action would extend the certification requirements currently applying to chassis-cabs to all types of incomplete vehicles.

Timetable:

Action	Date	FR Cite
NPRM	12/03/91	56 FR 61392
NPRM Comment Period End	01/31/92	
NPRM Comment Period Extended to 03/02/92	02/03/92	57 FR 3983
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/03/91 (56 FR 61392)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE27

2565. BUILT-IN CHILD RESTRAINTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This action proposes amendments to standard 213 to: expand the definition of a built-in child restraint system, amend the application section so that the standard applies to motor vehicles that are manufactured with a built-in restraint system, and respond to a rulemaking petition to simplify the labeling requirements for built-in restraints.

Timetable:

Action	Date	FR Cite
NPRM	01/09/92	57 FR 870
NPRM Comment Period End	03/09/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/09/92 (57 FR 870)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE28

2566. CONTROLS AND DISPLAYS AND WINDSHIELD DEFROSTING AND DEFOGGING SYSTEMS FOR ELECTRIC VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.101; 49 CFR 571.103

Legal Deadline: None

Abstract: The agency is proposing minor amendments to controls and displays and windshield defrosting and defogging systems that would make them more appropriate for electric powered motor vehicles. This proposal is based upon comments received in response to the ANPRM published in December 1991. Because the agency is modifying existing standards and not establishing new standards for battery powered vehicles, this action is no longer considered significant.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/91	56 FR 67038
ANPRM Comment Period End	03/27/92	
Discussion of Comments to ANPRM	11/18/92	57 FR 54354
NPRM	01/15/93	58 FR 4644
NPRM Comment Period End	03/01/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/15/93 (58 FR 4644)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE29

2567. HEAD INJURY CRITERION AND USE OF NECK INJURY CRITERION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency published a proposal to change the injury criteria used to determine compliance with the occupant crash protection standard. One of the specified injury criteria is the Head Injury Criterion, or HIC, which, as its name implies, was developed to assess the likelihood of head injuries. This action proposes to substitute a neck injury criterion for the HIC in non-contact crashes. The petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	57 FR 58444
NPRM Comment Period End	02/08/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/10/92 (57 FR 58444)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE34

2568. DIMENSIONS OF BEAD UNSEATING TEST FIXTURE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.109

Legal Deadline: None

Abstract: This action would amend the dimensions of the bead unseating test fixture to allow testing of new 18- and 19-inch tires.

Timetable:

Action	Date	FR Cite
NPRM	09/14/92	57 FR 41912
NPRM Comment Period End	10/29/92	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/14/92 (57 FR 41912)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE55

2569. TEST FOR BRAKE HOSE TUBING ASSEMBLIES

Significance: Nonsignificant

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Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: A rulemaking petition was granted to propose to remove the applicability of the hot oil immersion test to coiled tubing assemblies.

Timetable:

Action	Date	FR Cite
NPRM	08/26/92	57 FR 38654
NPRM Comment Period End	09/25/92	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/26/92 (57 FR 38654)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE56

2570. REFEREE MATERIAL

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.106; 49 CFR 571.116

Legal Deadline: None

Abstract: In response to a petition, the agency published a proposed amendment to the standards to specify a new referee material to be used in the compatibility testing of brake hoses and brake fluids.

Timetable:

Action	Date	FR Cite
NPRM	10/30/92	57 FR 49162
NPRM Comment Period End	12/14/92	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/30/92 (57 FR 49162)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE58

2571. CONSUMER INFORMATION REGULATION - VEHICLE STOPPING DISTANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407; 15 USC 1421; 15 USC 1423

CFR Citation: 49 CFR 575.101

Legal Deadline: None

Abstract: The agency published a notice proposing to amend the Consumer Information Regulations by rescinding the requirement that motor vehicle manufacturers provide information about vehicle stopping distance.

Timetable:

Action	Date	FR Cite
NPRM	11/23/92	57 FR 54962
NPRM Comment Period End	01/07/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/23/92 (57 FR 54962)

Agency Contact: Nelson Gordy, Safety Standards Engineer, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4797**

RIN: 2127–AE61

2572. • MEDIAN THEFT RATE

Significance: Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 2022; 15 USC 2023

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: The agency is proposing to publish a new median theft rate using Model Years (MYs) 1990 and 1991 passenger motor vehicles, designate new high theft passenger motor vehicles, revise regulations to include a new definition of passenger motor vehicle, and revise regulations to designate which parts are covered in the rule.

Timetable:

Action	Date	FR Cite
Final Action	10/00/94	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-1740**

RIN: 2127–AE68

2573. • COMMERCIAL VEHICLE CONSPICUITY

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407; PL 101-500

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: This notice proposes that trailers which have an overall width of 80 inches or more and a GVWR of more than 10,000 pounds, except trailers manufactured exclusively for use as offices or dwellings, and which are equipped with a conspicuity treatment conforming to the Final Rule published December 10, 1992 (57 FR 58406)(RIN 2127-AA12) need not be equipped with the reflex reflectors as required in the same Final Rule.

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5699
NPRM Comment Period End	03/08/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/22/93 (58 FR 5699)

Additional Information: This action is a spin-off of the final rule (RIN 2127-AA12) in the completed section of this Agenda.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehisle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400

Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE86

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

2574. +COMMERCIAL VEHICLE CONSPICUITY

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407; PL 101-500

CFR Citation: 49 CFR 571.108

Legal Deadline: NPRM, Statutory, February 3, 1991. Final, Statutory, November 3, 1992. Pursuant to the Sanitary Food Transportation Act of 1990.

Abstract: This action requires the improvement of conspicuity of commercial vehicles by establishing in FMVSS 108 performance requirements for the total lighting and marking system of commercial vehicles (excluding headlights). This rulemaking was considered significant because of substantial public and congressional interest. Related issues pertaining to the recently enacted Sanitary Food Transportation Act were incorporated into this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	05/27/80	45 FR 35405
ANPRM Comment Period End	08/25/80	45 FR 35405
Request for Comments; Comment Period End 11/09/87	09/18/87	52 FR 35345
NPRM	12/04/91	56 FR 63474
NPRM Comment Period End	02/03/92	
NPRM Comment Period Extended to 03/31/92	02/05/92	57 FR 4594
Final Action	12/10/92	57 FR 58406
Final Rule Change of Effective Date	03/02/93	58 FR 11974
Final Action Effective	12/01/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 12/10/92 (57 FR 58406)

Additional Information: Docket No. 80-9. For a related rulemaking concerning such trailers manufactured exclusively for use as offices or dwellings, see RIN 2127-AE86 in the final stage of this Agenda.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AA12

2575. +BUS WINDOW RETENTION AND RELEASE - UPGRADE FOR SCHOOL BUSES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.217

Legal Deadline: None

Abstract: This action revised the minimum requirements for school bus emergency exits and improved access to school bus emergency doors. It was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44623
ANPRM Comment Period End	01/03/89	53 FR 44623
NPRM	03/15/91	56 FR 11153
NPRM Comment Period End	04/29/91	
Final Action	11/02/92	57 FR 49413
Technical Amendment Effective 05/02/94	12/02/92	57 FR 57020
Final Action Effective	05/02/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/02/92 (57 FR 49413)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AC88

2576. +ROOF CRUSH RESISTANCE

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1417

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: On April 17, 1991, the agency published a final rule to extend its requirements to multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating (GVWR) of 6,000 pounds or less (56 FR 15510, effective September 1, 1993). This action delays for one year the effective date of the final rule requirements for light trucks. The agency believes that this delay would ease the economic burden of this regulation on the manufacturers of these vehicles with a minimal impact on occupant safety. This action was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/25/92	57 FR 38462
NPRM Comment Period End	10/05/92	
Final Action	01/22/93	58 FR 5632
Final Action Effective	09/01/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/22/93 (58 FR 5632)

Agency Contact: Deborah Parker, Director, Special Project Staff, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4931**

RIN: 2127–AD13

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2577. +REARVIEW MIRRORS FOR SCHOOL BUSES

Significance: Agency Priority

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: This action requires a bus driver to be able to see, either directly or through mirrors, certain specified areas in front of or along the side of school buses; specifies certain criteria for convex cross-view mirrors; and establishes test conditions designed to ensure that the image of an object is not unreasonably distorted. This rulemaking was significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/89	54 FR 53127
ANPRM Comment Period End	02/12/90	
NPRM	05/02/91	56 FR 20171
NPRM Comment Period End	06/17/91	
Final Action	12/02/92	57 FR 57000
Final Action Effective	12/02/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/02/92 (57 FR 57000)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD24

2578. +ALCOHOL FUELS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: This action amended Standard 301 to establish anti-siphoning requirements for alcohol fuel vehicles. This includes dedicated, dual, flexible fuel, and variable fuel vehicles. The agency is proposing no further requirements at this time. This action was considered significant due to substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
Rulemaking Petition Granted	03/01/90	55 FR 7346
NPRM	09/24/91	56 FR 48140
NPRM Comment Period End	11/25/91	
Final Action	01/15/93	58 FR 4586
Final Action Effective	01/17/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/15/93 (58 FR 4586)

Additional Information: A Notice announced availability of a research report on the state-of-the-art in wheelchair securement and occupant restraints on schoolbuses and requested comments (05/30/90, 55 FR 21891).

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD51

2579. +WHEELCHAIR SECUREMENT DEVICES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407; PL 101-336 Americans with Disabilities Act

CFR Citation: 49 CFR 571.222

Legal Deadline: None

Abstract: This action requires school buses designed to transport persons in wheelchairs to be equipped with wheelchair securement devices and occupant restraint systems meeting specified performance requirements. It was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/12/90	55 FR 41556
ANPRM Comment Period End	12/11/90	
NPRM	01/15/92	57 FR 1710
NPRM Comment Period End	03/16/92	
Final Action	01/22/93	58 FR 5633
Final Action Effective	09/01/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/22/93 (58 FR 5633)

Agency Contact: Gary Woodford, General Engineer, Special Projects Staff, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4804

RIN: 2127–AD47

2580. +PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS FOR MY 1990

Significance: Agency Priority

Legal Authority: 15 USC 1657; 15 USC 2002

CFR Citation: 49 CFR 531

Legal Deadline: None

Abstract: In response to an order of the U.S. Court of Appeals for the District of Columbia Circuit, the agency published a request for comment to reopen the rulemaking proceeding it commenced in 1988 to consider whether to reduce the corporate average fuel economy (CAFE) standard for model year (MY) 1990 passenger cars. This action was considered significant because of substantial public interest. However, after consideration of the court decision and public comments, it was determined not to amend the statutory standard and this proceeding was terminated.

Timetable:

Action	Date	FR Cite
Request for Comments; Comment Period End 12/28/92	10/28/92	57 FR 48777
Action Terminated	02/03/93	58 FR 6939

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Original termination notice published May 22, 1990 (54 FR 21985). CEI v. NHTSA, 956 F2d 321 (D.C. Circuit 1992) remanded the MY 1990 decision to NHTSA for further explanation.

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AE51

2581. SIDE-IMPACT PROTECTION—LIGHT TRUCKS, VANS, AND MULTIPURPOSE PASSENGER VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 1.50; 49 CFR 571.214

Legal Deadline: None

Abstract: This action amended Standard 214 to clarify how the quasi-static door strength test procedure is to be conducted in case of several types of vehicles. During rulemaking that extended the quasi-static test requirements to trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less several issues were raised concerning the application of the current test procedure to certain types of vehicles. This action amended the standard to resolve these issues. This action addressed the positioning of the loading cylinder in testing four different types of doors: (1) a door whose lower edge is not at all points parallel to the sill; (2) a door whose lower or rear edge has molding; (3) double cargo doors; and (4) a door which does not have a window. This action is no longer classified significant, as it imposes no new performance requirements, but merely clarify existing ones.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/88	53 FR 31716
Comment Period Extension Denied	09/27/88	53 FR 37615
Comment Period Extension Denied	10/17/88	53 FR 40462
ANPRM Comment Period End	10/18/88	53 FR 31716
NPRM	12/22/89	54 FR 52826
NPRM Comment Period End	02/20/90	54 FR 52826
Comment Period Extended to 03/22/90	02/23/90	55 FR 6407
Final Action; Quasi-Static Test Effective 09/01/93	06/14/91	56 FR 27427
SNPRM; Comment Period End 03/16/92	01/15/92	57 FR 1716
Final Action	03/16/93	58 FR 14162
Final Action Effective	09/01/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 03/16/93 (58 FR 14162)

Additional Information: A related action proposing requirements for passenger cars (RIN 2127-AB86) was consolidated into RIN 2127-AA48 which was completed in the April 1991 Agenda. RIN 2127-AE17, Side Door Strength Definition, was consolidated into this proceeding.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC43

2582. CHILD RESTRAINT SYSTEMS FOR A NEWBORN INFANT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to a petition, this action established specifications for a newborn infant test dummy to be used in testing infant restraints.

Timetable:

Action	Date	FR Cite
NPRM	08/12/91	56 FR 38108
NPRM Comment Period End	09/26/91	
NPRM Docket Reopened; Comment Period Extended to 01/00/92	12/06/91	56 FR 63922
Final Action	01/08/93	58 FR 3229
Final Action Effective	07/01/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/08/93 (58 FR 3229)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC87

2583. IMPORTATION OF MOTOR VEHICLES AND EQUIPMENT SUBJECT TO FEDERAL SAFETY, BUMPER, AND THEFT PREVENTION STANDARDS

Significance: Nonsignificant

Legal Authority: PL 100-562

CFR Citation: 49 CFR 591

Legal Deadline: None

Abstract: The partial final rulemaking action, in response to the original NPRM, requires that persons (other than original motor vehicle manufacturers who certify compliance with the safety standards) who wish to import nonconforming vehicles or equipment for research, investigation studies, demonstrations or training, or competitive racing events submit in advance of importation information supporting a request for admission and obtain a letter of permission from NHTSA. Upon further evaluation, the final action requires that importers required to furnish bonds upon importation of nonconforming vehicles be permitted, as an alternative to sureties, to furnish cash deposits or obligations. It would also allow importation of vehicles less than 25 years old for study under certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	01/29/91	56 FR 3236
NPRM Comment Period End	04/01/91	
Partial Final Rule Effective 02/18/92	01/17/92	57 FR 2043
SNPRM Final Rule Amendments	01/17/92	57 FR 2071
Partial Final Rule Clarification	06/30/92	57 FR 29042
Final Action	03/08/93	58 FR 12905
Final Action Effective	04/07/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/08/93 (58 FR 12905)

Agency Contact: Taylor Vinson, Senior Staff Attorney, Department of Transportation, National Highway Traffic Safety Administration, 400

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Seventh Street SW., Washington, DC 20590, **202 366-5263**

RIN: 2127–AD00

2584. AUTOMATIC BRAKE ADJUSTERS FOR HEAVY DUTY VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: The agency amended the standard to require automatic brake adjustment indicators on all air-braked vehicles and adjustment indicators on air-braked vehicles with external adjustment mechanisms and to require automatic brake adjusters on vehicles with hydraulic brake systems. Rule does not require adjustment indicators on hydraulically-braked vehicles because there do not appear to be any significant problems with monitoring automatic brake adjusters on such vehicles.

Timetable:

Action	Date	FR Cite
NPRM	05/03/91	56 FR 20396
NPRM Comment Period End	06/17/91	
Final Action	10/20/92	57 FR 47793

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/20/92 (57 FR 47793)

Additional Information: The amendments to FMVSS No. 121 become effective 10/20/94; the amendments to FMVSS No. 105 become effective 10/20/93.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AD34

2585. TRUCK VOLTAGE FOR EXTERIOR LIGHTING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: An investigation was conducted to see if the voltage to exterior truck body lights is adequate to produce the required illumination from the side marker, identification tail and brake lights as required in Standard 108, Lamps, Reflective Devices, and Associated Equipment. The present requirement tests at the voltage at which light flux is measured rather than at the voltage which actually occurs on vehicles, which is often less. The agency does not believe rulemaking is necessary at this time.

Timetable:

Action	Date	FR Cite
Action Terminated	01/14/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AD40

2586. DAYTIME RUNNING LAMPS AS AN OPTION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency amended the standard to permit daytime running lamps (DRL) as an item of optional motor vehicle lighting equipment.

Timetable:

Action	Date	FR Cite
NPRM	08/12/91	56 FR 38100
NPRM Comment Period End	10/11/91	
Final Action	01/11/93	58 FR 3500
Final Action Effective	02/10/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/11/93 (58 FR 3500)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AD84

2587. VEHICLE-BASED ROADWAY ILLUMINATION PERFORMANCE REQUIREMENTS - REPLACEABLE LIGHT SOURCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.108; 49 CFR 564

Legal Deadline: None

Abstract: This action adopted a rule that requires the manufacturers of replaceable light sources for headlamps to file dimensional information with the agency in a public docket pursuant to a new Part 564, Replaceable Light Source Information. The replaceable light sources must be designed to meet certain performance requirements of FMVSS No. 108. Mandatory compliance with the added photometric values is not required until September 1, 1994.

Timetable:

Action	Date	FR Cite
NPRM	05/09/89	54 FR 20084
NPRM Comment Period End	11/09/89	
SNPRM Comment Period End 12/17/91	10/18/91	56 FR 52242
SNPRM Comment Period Extended to 03/16/92	12/13/91	56 FR 65038
Final Action	01/12/93	58 FR 3856
Final Action Effective	02/11/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/12/93 (58 FR 3856)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE07

2588. TIRE SELECTION AND RIMS FOR MOTOR VEHICLES OTHER THAN PASSENGER CARS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.120

Legal Deadline: None

Abstract: This action amended Standard 120 to clarify the requirement that vehicle manufacturers who place a Standard 120 tire information label on a multipurpose passenger vehicle, truck, bus or trailer, recommending the use of a passenger car tire on the vehicle, must specify a recommended tire inflation pressure that reflects a reduction in load carrying capability of such a tire for any given inflation pressure.

Timetable:

Action	Date	FR Cite
NPRM	10/29/91	56 FR 55650
NPRM Comment Period End	12/13/91	
Final Action	03/11/93	58 FR 13424
Final Action Effective	04/26/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/11/93 (58 FR 13424)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE09

2589. WINDSHIELD WIPING AND WASHING SYSTEMS DEFINITIONS: SEATING REFERENCE POINT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.104; 49 CFR 571.36

Legal Deadline: None

Abstract: The final action redefining the "seating reference point" location necessitated changing the windshield wiping and washing standard also, since it requires substitution of this term for others in determining visibility requirements for the driver, which will now be done in positions other than the rear-most position.

Timetable:

Action	Date	FR Cite
NPRM	08/12/91	56 FR 38099
NPRM Comment Period End	10/11/91	
Final Action	03/09/93	58 FR 13021
Final Action Effective	04/08/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/09/93 (58 FR 13021)

Additional Information: The companion rulemaking, Seating Reference Point/ Motor Vehicle Driver's Eye Range, was a completed action 08/12/91 (56 FR 38084).

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE11

2590. INSURANCE COST INFORMATION

Significance: Nonsignificant

Legal Authority: 15 USC 1941(e)

CFR Citation: 49 CFR 582

Legal Deadline: None

Abstract: This action requires new car dealers to distribute to prospective customers comparative insurance cost information prepared and provided annually by NHSTA from data compiled by the Highway Loss Data Institute (HLDI), and sets forth a sample form for presentation of the HLDI information.

Timetable:

Action	Date	FR Cite
NPRM	11/07/91	56 FR 56963
NPRM Comment Period End	12/23/91	
Final Action	03/05/93	58 FR 12545
Final Action Effective	04/05/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/05/93 (58 FR 12545)

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0846**

RIN: 2127–AE18

2591. MOTORCYCLE TURN SIGNAL LAMP SPACING REQUIREMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: This final action deleted the requirement of a four-inch minimum edge-to-edge separation distance between a motorcycle rear turn signal lamp and the tail or stop lamp.

Timetable:

Action	Date	FR Cite
NPRM	04/28/92	57 FR 17871
NPRM Comment Period End	06/12/92	
Final Action	03/09/93	58 FR 13023
Final Action Effective	04/18/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/09/93 (58 FR 13023)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0842**

RIN: 2127–AE35

2592. ALLOW OPTICAL DESIGNATIONS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: This action adopted identification markings for lenses on round sealed-beam headlamps as an alternative to those presently required, which will allow manufacture of replacement headlamps for old cars

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that replicate the appearance of the original headlamps.

Timetable:

Action	Date	FR Cite
NPRM	07/08/92	57 FR 30189
NPRM Comment Period End	09/08/92	
Final Action	03/03/93	58 FR 12183
Final Action Effective	04/02/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/03/93 (58 FR 12183)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE36

2593. NEW REPLACEABLE HEADLAMP BULB (TYPE H-7)

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action proposed an additional type of standardized replaceable light source to be used in replaceable bulb headlamp systems on motor vehicles. It incorporates a single filament, and would be known as Type HB6. However, with subsequent adoption of 49 CFR 564, establishing a replaceable light source informational docket, rulemaking is no longer required for new light sources in motor vehicles subject to safety standards. Manufacturers may now use new light sources after submitting required information to NHTSA for inclusion in the docket. As the information for the H7(HB6) light source has been placed in the docket, this action was terminated.

Timetable:

Action	Date	FR Cite
NPRM	07/24/92	57 FR 32942
NPRM Comment Period End	09/08/92	
Withdrawn	03/10/93	58 FR 13243

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/24/92 (57 FR 32942)

Additional Information: The termination notice also designated the replaceable light source information docket as No. 93-11, by correction notice.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE37

2594. VEHICLE ID CONTENT REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1395; 15 USC 1397; 15 USC 1401; 15 USC 1407; 15 USC 1412

CFR Citation: 49 CFR 565

Legal Deadline: None

Abstract: The agency granted a petition for rulemaking requesting that the Vehicle Identification Number (VIN) of light trucks and multipurpose vehicles reflect the type of restraint systems used. However, by subsequent action, Congress mandated air bags in all passenger vehicles, including MPVs and light trucks, by 1999, which mooted the petitioner's requested. Therefore, the petitioner withdrew by letter and this proceeding was terminated.

Timetable:

Action	Date	FR Cite
Action Terminated	10/13/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE40

2595. WHEEL NUTS, WHEEL DISCS, AND HUB CAPS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.211

Legal Deadline: None

Abstract: This final action will permit wheel nuts, wheel discs, and hub caps with winged projections if, when the wheel nuts, wheel discs, or hub caps are installed on the wheel rim, the projections do not extend beyond the side of the wheel rim.

Timetable:

Action	Date	FR Cite
NPRM	06/08/92	57 FR 24207
NPRM Comment Period End	08/07/92	
Final Action	01/15/93	58 FR 4582
Final Action Effective	02/16/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/15/93 (58 FR 4582)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE41

2596. DYNAMIC CRASH TEST REQUIREMENTS TO ACCOMMODATE INDIVIDUALS WITH DISABILITIES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This action amended standard 208, to provide all manufacturers of certain trucks and multipurpose passenger vehicles designed to be driven by persons with disabilities with an alternative to complying with the existing occupant restraint requirement.

Timetable:

Action	Date	FR Cite
NPRM	08/05/92	57 FR 34539
NPRM Comment Period End	10/05/92	
Final Action	03/02/93	58 FR 11975
Final Action Effective	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/02/93 (58 FR 11975)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE44

2597. LABEL REQUIREMENTS FOR AIR BAG-EQUIPPED VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1409

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking the agency published a notice proposing the requirement that owner manuals for passenger cars and trucks, buses, and multipurpose passenger vehicles equipped with an inflatable restraint include a statement, in an easily understandable format, specifying information about the restraint system.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2127-AE46	12/14/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action has been consolidated into RIN 2127-AE46, Mandating Air Bags.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE53

2598. REPLACEABLE LIGHT SOURCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action reduced the thickness of the bulb ring on the Type HB2 standardized replaceable light source for headlamps, so as to harmonize with corresponding European requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/02/92	57 FR 40165
NPRM Comment Period End	10/19/92	
Final Action	01/12/93	58 FR 3853
Final Action Effective	02/11/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/12/93 (58 FR 3853)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE57

2599. • FINAL LISTING OF HIGH THEFT LINES FOR 1993 MODEL YEAR

Significance: Nonsignificant

Legal Authority: 15 USC 2021; 15 USC 2024; 15 USC 2026

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: The purpose of this action was to (1) report the results of the agency's actions for determining which car lines are subject to the marking requirements of the motor vehicle theft prevention standard for the 1993 model year and (2) publish a list of those car lines.

Timetable:

Action	Date	FR Cite
Final Action	01/12/93	58 FR 3850

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1740

RIN: 2127–AE64

2600. • POWER OPERATED WINDOWS CLOSING FORCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to several petitions for reconsideration of a final rule published June 6, 1992 (57 FR 23958), this action clarifies the standard's requirements and provides manufacturers additional flexibility in meeting them.

Timetable:

Action	Date	FR Cite
Final Action	03/31/93	58 FR 16782
Final Action Effective	04/30/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AE73

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Railroad Administration (FRA)

Prerule Stage

2601. +SPECIAL SAFETY INQUIRY; RAILROAD REPORTING REQUIREMENTS

Significance: Agency Priority

Legal Authority: 45 USC 431

CFR Citation: None

Legal Deadline: None

Abstract: This special inquiry will examine current railroad safety reporting requirements to determine whether the reporting process results in accurate and significant data. Methods

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Prerule Stage

of improving this process will be explored. This rulemaking is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite
Notice of Hearing	03/14/90	55 FR 9532
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: A Notice of Special Safety Inquiry appeared in the Federal Register 11/03/89 (54 FR 46497). However, it was subsequently postponed (55 FR 792) in order to be rescheduled to take place concurrently with a related hearing in the separate rulemaking on accident reporting requirements (RIN 2130-AA58). The rescheduled hearing took place in Washington, DC on 05/18/90.

Agency Contact: Billie Stultz, Deputy Assistant Chief Counsel, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0635

RIN: 2130–AA56

2602. +WHISTLE BANS AT HIGHWAY-RAIL GRADE CROSSINGS

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 437; 45 USC 438; 45 USC 38; 45 USC 42

CFR Citation: 49 CFR 234; 49 CFR 1.49(f); 49 CFR 1.49(g); 49 CFR 1.49(m)

Legal Deadline: None

Abstract: FRA is soliciting comments and suggestions from the public regarding Federal regulations governing the use of train whistles at grade crossings. This rulemaking is considered significant because of substantial public interest.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Mark H. Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0628

RIN: 2130–AA71

2603. • +RAILROAD WORKPLACE SAFETY; PROPOSED SILICA EXPOSURE STANDARDS

Significance: Agency Priority

Legal Authority: 45 USC 431(a), Federal Railroad Safety Act of 1970

CFR Citation: 49 CFR 214

Legal Deadline: None

Abstract: FRA believes this proceeding is necessary to determine whether exposure to silica dust in the railroad workplace is a subject matter over which FRA should exercise its jurisdiction in the future. Recent studies indicate that railroad employees may be overexposed to silica and, although OSHA has exercised its jurisdiction over this working condition, FRA will explore the advantages of regulating this working condition itself. This action is considered significant because of substantial interest in workplace safety.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Christine Beyer, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0443

RIN: 2130–AA83

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Proposed Rule Stage

2604. +CONTROL OF ALCOHOL AND DRUG USE

Significance: Regulatory Program

Legal Authority: 45 USC 431; 45 USC 437 to 438; PL 100-342; PL 102-143

CFR Citation: 49 CFR 219; 49 CFR 1.49(m)

Legal Deadline: None

Abstract: This action would amend regulations concerning the control of alcohol and drug use in railroad operations. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 10/00/93

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4002

RIN: 2130–AA72

2605. • +ALCOHOL TESTING; AMENDMENT TO ALCOHOL/DRUG REGULATIONS

Significance: Regulatory Program

Legal Authority: 45 USC 431; 45 USC 437; 45 USC 438; PL 100-342

CFR Citation: 49 CFR 219

Legal Deadline: Final, Statutory, October 28, 1992.
Omnibus Transportation Employee Act of 1991

Abstract: FRA has proposed to amend and expand its existing regulations regarding control of alcohol and drug use in railroad operations by incorporating new requirements, procedures, and safeguards with respect to breath and body-fluid testing for alcohol. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59588
NPRM Comment Period End	04/14/93	

DOT—FRA

Proposed Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/15/92 (57 FR 59588)

Additional Information: This NPRM of 12/15/92 inadvertently used RIN AA43; the correct RIN is AA81. A common preamble for the five modal administrations affected (FAA, FHWA, FRA, FTA, and RSPA) was published 12/15/92 (57 FR 59382).

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0635

RIN: 2130–AA81

2606. • +INTERNATIONAL APPLICATION: ALCOHOL/DRUG REGULATIONS

Significance: Regulatory Program

Legal Authority: PL 102-143

CFR Citation: 49 CFR 219

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: The Omnibus Transportation Employee Testing Act of 1991 requires FRA to incorporate new procedures and safeguards for breath and body fluid testing for alcohol and mandates reasonable suspicion testing for both alcohol and drugs. The ANPRM requested comments on issues arising from international application of the statutory requirements. This action is significant because of substantial public interest and the congressional mandate.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/92	57 FR 59605
ANPRM Comment Period End	02/16/93	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: The ANPRM of 12/15/92 inadvertently used RIN AA43; the correct RIN is AA82.

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0635

RIN: 2130–AA82

2607. +RAILROAD ACCIDENT REPORTING

Significance: Agency Priority

Legal Authority: 45 USC 431

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: FRA is drafting proposed rules based on comments and suggestions from the public regarding methods of improving FRA's injury and accident reporting system. This rulemaking is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	03/14/90	55 FR 9469
Hearing Notice	03/14/90	55 FR 9532
ANPRM Comment Period End	05/25/90	
Notice of Open Meeting in Washington, DC on 06/13/91	06/05/91	56 FR 25651
Notice of Open Meeting in Washington, DC on 08/21/91	08/15/91	56 FR 40593
Notice of Open Meeting in Washington, DC on 10/22/91	10/18/91	56 FR 52241
Notice of Open Meeting in Washington, DC on 08/18/92	08/06/92	57 FR 34756
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Public hearing was held in Washington, DC on 05/17/90.

Agency Contact: Billie Stultz, Deputy Assistant Chief Counsel, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0635

RIN: 2130–AA58

2608. +ALCOHOL/DRUG REGULATIONS; MISCELLANEOUS TECHNICAL AMENDMENTS AND CORRECTIONS

Significance: Agency Priority

Legal Authority: 45 USC 431 et seq The Federal Railroad Safety Act

CFR Citation: 49 CFR 219; 49 CFR 217

Legal Deadline: None

Abstract: The action would make technical amendments/corrections to regulations concerning the control of alcohol and drug use in railroad operations. This action is significant because of substantial public interest.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: FRA published notice of a proposed test program (05/17/91, 56 FR 22905) to permit an experimental group of railroads to test at a yearly rate of 25 percent of covered service employees, for comparison with a control group testing at the current 50 percent yearly rate, to determine the effect of different testing rates on deterrence. The test program was subsequently extended 07/02/92 (57 FR 29550) until 07/01/93.

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0635

RIN: 2130–AA63

2609. +ANNUAL REPORTING REQUIREMENTS; AMENDMENTS TO ALCOHOL/DRUG REGULATIONS

Significance: Agency Priority

Legal Authority: 45 USC 431 et seq

CFR Citation: 49 CFR 217; 49 CFR 219

Legal Deadline: None

Abstract: This action would amend and expand the current annual reporting requirements for data concerning control of alcohol and drug abuse in railroad operations. The proposed standard format for reporting is designed to elicit data in a manner compatible with related reporting requirements that would be embodied in the antidrug programs applicable to other transportation industries. This action is necessary to provide comparable data for inclusion in a management information system designed to determine effectiveness of antidrug programs, and is significant because of substantial public interest.

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Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59608
NPRM Comment Period End	04/14/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/15/92 (57 FR 59608)

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0635

RIN: 2130–AA64

2610. +FREIGHT CAR SAFETY STANDARDS: MAINTENANCE-OF-WAY EQUIPMENT

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 438, as amended

CFR Citation: 49 CFR 215

Legal Deadline: None

Abstract: The Federal Railroad Administration is proposing to amend the freight car safety standards by making all maintenance-of-way vehicles subject to the standards with the exception of stenciled cars not used in revenue service and restricted to a speed of less than 20 miles per hour. This action is considered significant because of substantial public interest.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Kyle M. Mulhall, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh St. SW., Washington, DC 20590, 202 366-0635

RIN: 2130–AA68

2611. +RAILROAD POLICE OFFICERS

Significance: Agency Priority

Legal Authority: 45 USC 446; PL 101-647

CFR Citation: 49 CFR 207

Legal Deadline: None

Abstract: This proposed regulation would implement section 1704 of the Crime Control Act of 1990, whereby Congress expanded the authority of railroad police officers to include enforcement power in every State where those officers may operate for the purpose of protecting railroad property, personnel, passengers, and cargo. Under the proposed regulation, railroad police officers commissioned in any State may enforce laws in every State where the employing railroad owns property, provided the railroad advises every State where those officers may operate.

This rulemaking is considered significant because of its impact on railroad police officer authority and possible federalism implications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Nancy Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh St. SW., Washington, DC 20590, 202 366-0635

RIN: 2130–AA69

2612. +POWER BRAKE REGULATIONS; MISCELLANEOUS REVISIONS

Significance: Agency Priority

Legal Authority: 45 USC 1 to 14; 45 USC 16

CFR Citation: 49 CFR 232

Legal Deadline: Final, Statutory, December 31, 1993.

Abstract: The regulation will address issues regarding existing power brake regulations and the lack of standards for locomotive dynamic brakes. The proceeding will focus on such issues as whether to mandate the use of end-of-train devices in lieu of cabooses, whether these devices should be two-way, and whether to require additional testing of train air brake systems during extremely cold weather conditions. This rulemaking is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/92	57 FR 62546
ANPRM Comment Period End	03/31/93	
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 10/00/93

Agency Contact: Thomas Herrmann, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0628

RIN: 2130–AA73

2613. +TRACK SAFETY STANDARDS

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 438; PL 102-365

CFR Citation: 49 CFR 213

Legal Deadline: Final, Statutory, September 3, 1994.

Abstract: The track regulations have not been comprehensively reviewed in the past decade. This regulatory action will consist of a revision of existing track safety standards, as mandated by Congress in the Rail Safety Enforcement and Review Act of 1992 (PL 102-365). With this revision FRA will also respond to a Brotherhood of Maintenance of way petition regarding numerous changes to the existing track standards. FRA will also incorporate input from research on internal rail defects and continuous welded rail. This rulemaking is significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	11/16/92	57 FR 54038
Public Workshop Notice and Schedule	01/05/93	58 FR 338
Correction: Workshop Notice	01/19/93	58 FR 4975
Correction: Workshop Notice	02/18/93	58 FR 8928
ANPRM Comment Period End	03/12/93	
NPRM	12/00/93	

Small Entities Affected: Businesses

DOT—FRA — **Proposed Rule Stage**

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 12/00/93

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0635

RIN: 2130–AA75

2614. +RAILROAD OPERATING RULES AND RADIO STANDARDS AND PROCEDURES

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 437; 45 USC 438

CFR Citation: 49 CFR 217; 49 CFR 220

Legal Deadline: None

Abstract: FRA proposes to amend the Railroad Operating Rules and Radio Standards and Procedures by removing requirements that railroads file operating rules, radio rules, and certain other documents with the Federal Railroad Administration and by substituting requirements that will enable the railroads to maintain records of such documents and make them available to FRA representatives during regular business hours. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/19/92	57 FR 47603
NPRM Comment Period Extended to 12/21/92	12/10/92	57 FR 58436
NPRM Comment Period End	11/20/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 10/19/92 (57 FR 47603)

Additional Information: A public hearing was held 12/14/92 in Washington, D.C.

Agency Contact: Jon Kaplan, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0635

RIN: 2130–AA76

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Railroad Administration (FRA) — **Final Rule Stage**

2615. +EVENT RECORDERS

Significance: Agency Priority

Legal Authority: PL 100-342, Rail Safety Improvement Act of 1988; 45 USC 431(m)

CFR Citation: 49 CFR 218; 49 CFR 229

Legal Deadline: Final, Statutory, December 22, 1989.

Abstract: FRA is acting to improve the safety of railroad operations and to enhance the quality of information available for post-accident investigations by requiring event recorders on fast trains, by requiring that event recorders be effectively maintained, and by requiring that the data recorded by event recorders be preserved following a reportable accident.

This project is considered significant because of substantial public interest and safety concerns.

Timetable:

Action	Date	FR Cite
ANPRM	11/23/88	53 FR 47557
Public Hearing Held 01/10/89	11/23/88	53 FR 47557
ANPRM Comment Period End	03/13/89	
NPRM	06/18/91	56 FR 27931
Second Public Hearing Scheduled 09/12/91	08/14/91	56 FR 40296
NPRM Comment Period End	09/20/91	
Third Public Hearing; Comment Period Extended to 10/31/91	09/30/91	56 FR 49446
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/18/91 (56 FR 27931)

Agency Contact: Rolf Mowatt-Larssen, Chief, Motive Power & Equipment Division, Office of Safety Enforcement, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4094

RIN: 2130–AA53

2616. +TIMELY RESPONSE TO GRADE CROSSING SIGNAL SYSTEM MALFUNCTIONS AND MAINTENANCE, INSPECTION, AND TESTING OF GRADE CROSSING SIGNAL SYSTEMS

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 437; 45 USC 438; 45 USC 38; 45 USC 42

CFR Citation: 49 CFR 234; 49 CFR 1.49(f); 49 CFR 1.49(g); 49 CFR 1.49(m)

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: FRA proposes to require that railroads take specific and timely actions to protect the travelling public and railroad employees from the hazards posed by malfunctioning highway-rail grade crossing warning systems, and will address the issue of maintenance, inspection, and testing of those systems.

This action is considered significant because of its railroad safety issues.

Timetable:

Action	Date	FR Cite
NPRM	06/29/92	57 FR 28819
NPRM Comment Period Extended to 09/25/92	08/12/92	57 FR 36054
NPRM Comment Period End	09/11/92	
NPRM Comment Period Extended to 12/01/92	09/25/92	57 FR 44355
NPRM Comment Period Extended to 01/15/93	11/12/92	57 FR 53684
NPRM Comment Period Extended to 02/15/93	01/14/93	58 FR 4400
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

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Analysis: Regulatory Evaluation 06/29/92 (57 FR 28819)

Additional Information: A public meeting was held 12/11/92 in Washington, DC.

Agency Contact: Mark H. Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0628

RIN: 2130–AA70

2617. +QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 438; PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: 49 CFR 240

Legal Deadline: Other, Judicial, January 29, 1993.
Deadline is for an interim final rule.

Abstract: FRA has been petitioned to reconsider several aspects of its final rule on locomotive engineer qualifications. Some technical changes requested in those petitions are warranted and the final rule will be amended to resolve these issues. Two issues involving coverage of the rule need more public discussion prior to resolution. An interim final rule will be issued to afford an opportunity for public comment. This rulemaking is significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: This rulemaking will amend the final rule issued on 06/19/91 (56 FR 28228).

Agency Contact: Lawrence I. Wagner, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0631

RIN: 2130–AA74

2618. +PROTECTION OF UTILITY EMPLOYEES

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 438; PL 100-342

CFR Citation: 49 CFR 218

Legal Deadline: None

Abstract: FRA regulations prescribe minimum requirements for certain railroad operating rules and practices, including blue signal protection of railroad employees engaged in the inspection, testing, repair and servicing of rolling equipment. Such activities may require employees to work on, under, or between such equipment and subject them to the danger of personal injury posed by any movement of such equipment. Train and yard crews are excluded from blue signal protection, unless assigned to perform such work on railroad rolling equipment that is not part of the train or yard movement and that they have been called to operate. FRA proposes to restate the exclusionary language to accommodate augmentation of a crew by using a "utility" employee which will permit increased efficient use of employees by the railroads. Alternative safety procedures are proposed to prevent injury. This action is considered significant because of substantial public interest for safety of railroad employees.

Timetable:

Action	Date	FR Cite
NPRM	09/10/92	57 FR 51454
NPRM Comment Period End	10/09/92	
Extended to 10/30/92		
NPRM Comment Period 10/26/92 (57 FR 48494)		
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/10/92 (57 FR 51454)

Agency Contact: Kyle Mulhall, Trial Attorney, Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, 400 Seventh Street SW., Washington, DC 20590, 202 366-0635

RIN: 2130–AA77

2619. • +LOCOMOTIVE CONSPICUITY; MINIMUM STANDARDS FOR AUXILIARY EXTERNAL LIGHTS

Significance: Agency Priority

Legal Authority: PL 102-533, Amtrak Authorization and Development Act

CFR Citation: 49 CFR 229

Legal Deadline: Other, Statutory, December 31, 1992.
Deadline is for an interim final rule.

Abstract: This interim final rule would identify several auxiliary external lighting arrangements as acceptable interim locomotive conspicuity measures. This rule would encourage the installation and use of such lighting arrangements as are now widely used and available. Lighting devices installed in conformance to acceptable current practice will not be immediately rendered obsolete when FRA issues final standards in this area. This rule will help alert motorists and pedestrians of an approaching train, thus reducing the number of accidents that occur at points where highways cross railroad tracks. This action is considered significant because of substantial congressional and public interest in promoting rail safety.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/03/93	58 FR 6899
Interim Final Rule Comment Period Ends	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 02/03/93 (58 FR 6899)

Agency Contact: Marina C. Appleton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0628

RIN: 2130–AA80

2620. CENTRALIZATION OF FORMAL HEARING DOCKETS (FRA)

Significance: Nonsignificant

Legal Authority: 45 USC 6; 45 USC 10; 45 USC 13; 45 USC 34; 45 USC 43; 45 USC 64a; 45 USC 431; 45 USC 437 to 439; 49 USC 103(c); 49 USC app 26(h); 49 USC 1655(c); PL 100-342

CFR Citation: 49 CFR 209; 49 CFR 1.49 et seq

Legal Deadline: None

Abstract: This final rule would provide that documents and evidence in formal hearing cases adjudicated within the Federal Railroad Administration (FRA) will be filed and maintained in the OST Office of Documentary Services. The change would streamline operations and consolidate the documents used in formal hearing cases.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2130–AA59

2621. LOCAL RAIL FREIGHT ASSISTANCE TO STATES

Significance: Nonsignificant

Legal Authority: PL 101-213 Local Rail Service Reauthorization Act

CFR Citation: 40 CFR 266

Legal Deadline: None

Abstract: FRA is revising the procedures and requirements for the receipt of financial assistance contained in part 266. These changes establish deadlines for submission of project applications for those seeking federal funding to provide local rail freight assistance and impose consequences for failure to expend approved funding. The new deadline for submission of project applications for entitlement and discretionary funding would be October 1 and January 1 of each year, respectively. FRA also is requesting comments on ways to improve the effectiveness of the program while complying with the recent statutory changes concerning administration of the program.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	55 FR 49648
NPRM Comment Period End	12/31/90	55 FR 49648
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Sectors Affected: 401 Railroads

Analysis: Regulatory Impact Analysis

Agency Contact: Laurence Fitzgerald, Program Analyst, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0635

RIN: 2130–AA60

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Completed Actions

2622. MERGER AND CONSOLIDATION PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 11346(a)

CFR Citation: 49 CFR 268

Legal Deadline: None
There is no legal deadline. This is part of the President's Regulatory Review Program.

Abstract: This action merely deleted obsolete regulations to streamline Government regulations in accord with the President's Regulatory Review Program.

Timetable:

Action	Date	FR Cite
Final Action	11/05/92	57 FR 52734
Final Action Effective	12/07/92	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/05/92 (57 FR 52734)

Agency Contact: G. Joseph King, Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-9416

RIN: 2130–AA78

2623. REGIONAL LOCAL RAIL SERVICES ASSISTANCE

Significance: Nonsignificant

Legal Authority: PL 99-509, Sec 4033(a)(1)

CFR Citation: 49 CFR 255

Legal Deadline: None
There is no legal deadline. This is part of the President's Regulatory Review Program.

Abstract: This action merely deleted obsolete regulations to streamline Government regulations in accord with the President's Regulatory Review Program.

Timetable:

Action	Date	FR Cite
Final Action	11/05/92	57 FR 52733
Final Action Effective	12/07/92	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/05/92 (57 FR 52733)

Agency Contact: G. Joseph King, Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-9416

RIN: 2130–AA79

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DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Proposed Rule Stage

2624. +MAJOR CAPITAL INVESTMENT PROJECTS

Significance: Regulatory Program

Legal Authority: 49 USC 1602(i); 23 USC 103(e); 23 USC 142; PL 100-17, sec 303; PL 102-240, sec 3010

CFR Citation: 49 CFR 611

Legal Deadline: None

Abstract: Section 303 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 directed the agency to issue guidelines for evaluating cost-effectiveness and local financial commitments in developing new fixed guideway projects. However, section 3010 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) directs the agency, in its evaluation of new fixed guideway projects, to consider a number of matters in addition to cost-effectiveness and local financial commitment--specifically, costs related to congestion, improved mobility, air and noise pollution, and energy consumption, and the degree to which a project may promote economic development and serve the needs of transit dependent population. Thus, the agency has withdrawn its April 25, 1989 NPRM and will prepare a new NPRM that responds to the directive of ISTEA section 3010. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/25/89	54 FR 17878
NPRM Comment Period End	06/26/89	
NPRM Withdrawn	02/03/93	58 FR 6948

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/25/89 (54 FR 17878)

Agency Contact: Don Emerson, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0096

RIN: 2132–AA34

2625. +PREVENTION OF PROHIBITED DRUG USE IN TRANSIT OPERATIONS

Significance: Regulatory Program

Legal Authority: PL 102-143, sec 6

CFR Citation: 49 CFR 653

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: The DOT Appropriations Act of 1991 requires FTA to issue regulations controlling the use of drugs in the transit industry. FTA must establish a program for drug testing of mass transportation employees responsible for safety-sensitive functions, for recipients under section 3, 9, or 18 of the Federal Transit Act or 23 USC 103(e)(4). This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59660
NPRM Public Hearings Notice	02/05/93	58 FR 7197
NPRM Comment Period End	04/14/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Analysis: Draft Regulatory Evaluation 12/15/92 (57 FR 59660)

Agency Contact: Judy Meade, Program Manager, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2896

RIN: 2132–AA37

2626. +PREVENTION OF ALCOHOL MISUSE IN TRANSIT OPERATIONS

Significance: Regulatory Program

Legal Authority: PL 102-143, sec 6

CFR Citation: 49 CFR 654

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: The DOT Appropriation Act of 1991 requires FTA to issue regulations controlling the misuse of alcohol in the transit industry. FTA must establish a program for alcohol testing of mass transit employees responsible for safety-sensitive functions, for recipients under section 3, 9, or 18 of the Federal Transit Act or 23 USC 103(c)(4). This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
Public Hearing Notice	06/11/92	57 FR 24768
ANPRM	06/25/92	57 FR 28572
ANPRM Comment Period End	08/24/92	
NPRM	04/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Draft Regulatory Evaluation 04/00/93

Agency Contact: Nancy Zaczek, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4011

RIN: 2132–AA39

2627. +STATE RESPONSIBILITY FOR FIXED GUIDEWAY SYSTEM SAFETY

Significance: Regulatory Program

Legal Authority: PL 102-240, sec 3029

CFR Citation: 49 CFR 659

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: This regulation would establish requirements for States to assume oversight responsibility for safe operations of fixed guideway transit systems in those States. This action is considered significant because of substantial public and congressional interest, and the statutory mandate.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59646
NPRM Public Hearings Notice	02/05/93	58 FR 7197
NPRM Comment Period End	04/14/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Analysis: Draft Regulatory Evaluation 12/15/92 (57 FR 59646)

Additional Information: A common preamble for the 5 modal administrations affected (FTA, FHWA, FRA, FAA, and RSPA) was published on December 15, 1992 (57 FR 59382).

Agency Contact: Rhonda Crawley, Program Manager, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington FC 20590, 202 366-2896

RIN: 2132–AA38

DOT—FTA

Proposed Rule Stage

Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4011

RIN: 2132–AA39

2628. • +TEMPORARY MATCHING FUND WAIVER

Significance: Regulatory Program

Legal Authority: PL 102-240, sec 1054; PL 102-388; PL 102-302

CFR Citation: 49 CFR 671

Legal Deadline: None

Abstract: The rulemaking is mandated by the 1992 Dire Emergency Supplemental Appropriations Act and 1993 Department of Transportation and Related Appropriations Act. The rule will allow recipients to ask for a temporary waiver in 1992 and 1993, of the local match required under sections 9 and 18 of the Federal Transit Act, as amended. The FTA will publish this rule as soon as possible, since it is extremely time-sensitive and of significant public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Impact Analysis

Agency Contact: Ron Jensen-Fisher, Senior Community Planner, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-0096

RIN: 2132–AA50

2629. • +NEW STARTS CRITERIA

Significance: Regulatory Program

Legal Authority: PL 102-240, sec 3010

CFR Citation: 49 CFR 611

Legal Deadline: None

Abstract: The Intermodal Surface Transportation Efficiency Act requires new criteria to be used in determining whether a major new construction project is eligible for funding. This rulemaking will apply to construction of new fixed guideways or extension of any fixed guideway system. This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 04/00/93

Additional Information: A policy statement providing general guidance on local share issues was published in the Federal Register on July 10, 1992 (57 FR 30880).

Agency Contact: Nancy Zaczek, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4011

RIN: 2132–AA49

2630. +CHARTER SERVICES

Significance: Agency Priority

Legal Authority: PL 102-240, sec 3040

CFR Citation: 49 CFR 604

Legal Deadline: Final, Statutory, September 18, 1992.

Abstract: This demonstration program would allow transit operators to provide charter services to meet transit needs that could not otherwise be met in a cost-efficient manner. This action is considered significant because of substantial public interest and the statutory mandate.

Timetable:

Action	Date	FR Cite
NPRM	10/28/92	57 FR 48924
Notice Advisory Committee Meeting	12/14/92	57 FR 59197
NPRM Comment Period End	12/28/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/28/92 (57 FR 48924)

Additional Information: FTA established an advisory committee on March 16, 1992, to assist the FTA in developing regulations to implement the charter services demonstration program. The NPRM described FTA's proposed demonstration program and requested proposals from localities wishing to participate.

Agency Contact: Rita Daguilard, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1936

RIN: 2132–AA40

2631. +METROPOLITAN PLANNING

Significance: Agency Priority

Legal Authority: PL 102-240, sec 3012

CFR Citation: 49 CFR 613

Legal Deadline: None

Abstract: Section 3012 of the Intermodal Surface Transportation Efficiency Act of 1991 revised section 8 of the Federal Transit Act to strengthen the planning process and the role of metropolitan planning organizations in transportation decisionmaking. FTA and FHWA will coordinate revisions to 49 CFR 613 and 23 CFR 450 to implement the provisions of sections 3012 and 1024. (Federal Transit and Federal Highway metropolitan planning sections, respectively). This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	03/02/93	58 FR 12064
Request for Comments	03/24/93	58 FR 15816
NPRM Comment Period End	05/03/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/02/93 (58 FR 12064)

Additional Information: The RIN for the matching Federal Highway Administration entry is 2125-AC95.

Agency Contact: Sam Zimmerman, Director, Office of Planning, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2360

RIN: 2132–AA44

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DOT—FTA

Proposed Rule Stage

2632. • +MANAGEMENT AND MONITORING SYSTEMS

Significance: Agency Priority

Legal Authority: PL 102-240, sec 1034; 23 USC 303

CFR Citation: 49 CFR 614

Legal Deadline: Final, Statutory, December 18, 1992.

Abstract: The Intermodal Surface Transportation Efficiency Act mandates the FTA and FHWA to issue regulations for State development and implementation of systems for managing: (1) highway pavement of Federal-aid highways; (2) bridges on and off Federal-aid highways; (3) highway safety; (4) traffic congestion; (5) public transportation facilities and equipment; (6) intermodal transportation facilities and systems. States must be implementing each management system in Federal fiscal year 1995, or the Secretary may withhold up to 10% of funds apportioned under Title 23, U.S.C., or under the Federal Transit Act, for any fiscal year beginning after September 30, 1995. The primary purpose of these systems is to improve the efficiency of, and protect the investment in, existing and future transportation infrastructure. The systems will provide additional information needed to make informed decisions for optimum utilization of limited resources. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	06/03/92	57 FR 23460
ANPRM Comment Period End	08/03/92	
NPRM	03/02/93	58 FR 12096
Request for Comments	03/24/93	58 FR 15816
NPRM Comment Period End	05/03/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/02/93 (58 FR 12096)

Additional Information: ABSTRACT CONT: The economic impact of the regulation is not known at this time. The regulations will be issued jointly with the Federal Highway Administration (RIN 2125-AC97). The regulation is considered significant because of substantial public and congressional interest.

Agency Contact: **Ron Jensen-Fisher**, Senior Community Planner, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0257**

RIN: 2132–AA47

2633. • +STATEWIDE TRANSPORTATION PLANNING

Significance: Agency Priority

Legal Authority: PL 102-240, sec 1025

CFR Citation: 49 CFR 613

Legal Deadline: None

Abstract: The rulemaking is mandated by section 1025 of the Intermodal Surface Transportation Efficiency Act of 1991, and will mandate statewide planning to be coordinated with metropolitan planning. This is a joint rulemaking action with FHWA and the implementation of this regulation is considered significant because of substantial congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/02/93	58 FR 12084
Request for Comments	03/24/93	58 FR 15816
NPRM Comment Period End	05/03/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/02/93 (58 FR 12084)

Additional Information: The RIN for the matching Federal Highway Administration entry is 2125-AC94.

Agency Contact: **Paul Verchinski**, Planning Program Manager, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-6385**

RIN: 2132–AA48

2634. TRANSPORTATION FOR THE ELDERLY AND PERSONS WITH DISABILITIES

Significance: Nonsignificant

Legal Authority: 49 USC app 1612(b)(2)

CFR Citation: 49 CFR 609

Legal Deadline: None

Abstract: The regulation sets forth requirements regarding transportation for the elderly and persons with disabilities mandated by section 16 of the Federal Transit Act, as amended. The ADA and DOT's implementing regulations supersede many provisions of part 609. The Federal Transit Administration will revise part 609 to acknowledge new ADA provisions and to update continuing provisions emanating from the Federal Transit Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: **Trudy Levy**, Assistant Chief Counsel, General Law Division, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-1936**

RIN: 2132–AA46

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Transit Administration (FTA)

Final Rule Stage

2635. +BUS TESTING

Significance: Agency Priority

Legal Authority: 49 USC 1608(h)

CFR Citation: 49 CFR 665

Legal Deadline: None

Abstract: This regulation implements a statutory provision that requires any new bus model purchased after September 30, 1989, to be tested at a facility established by the Secretary in Altoona, Pa. This regulation is significant because of the large amount of public interest.

DOT—FTA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22716
NPRM Comment Period End	07/24/89	
Interim Final Rule	08/23/89	54 FR 35158
Interim Final Rule; Comment Period Reopened	11/30/89	54 FR 35158
Interim Final Rule; Second	10/09/90	55 FR 41174
Interim Final Rule Extending Interim Procedures	09/13/91	56 FR 46572
Interim Final Rule New Vehicle Types	07/28/92	57 FR 33394
Interim Final Rule Partial Effectiveness Postponed	10/13/92	57 FR 46814
Interim Final Rule Comment Period Reopened to 01/29/93	01/07/93	58 FR 2989
Interim Final Rule Partial Effectiveness Postponed	02/23/93	58 FR 10989
Notice of Meeting	02/26/93	58 FR 11549
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 07/28/92 (57 FR 33394)

Additional Information: Section 12(h) of the FT Act, as amended, defines a "new bus model" as a bus model which has not been used in mass transportation service in the United States before the date of production of such model, or a bus model which has been used in such service, but which is being produced with a major change in configuration or components. A third interim final rule, published on 07/28/92, added two new categories of buses required to be tested. On 10/13/92 FTA published a notice postponing the application of the interim final rule for these vehicle types until 02/10/93. A January 7, 1993, notice reopened the comment period on this interim final rule until January 29, 1993.

Agency Contact: **Richard Wong**, Attorney-Advisor, Department of Transportation, Federal Transit Administration, Office of Chief Counsel, Room 9316, 400 Seventh Street SW., Washington, DC 20590, **202 366-1936**

RIN: 2132–AA30

2636. BUY AMERICA

Significance: Nonsignificant

Legal Authority: PL 102-240, sec 1048

CFR Citation: 49 CFR 661

Legal Deadline: Final, Statutory, May 30, 1992.

Abstract: The Intermodal Surface Transportation Efficiency Act of 1991 amended section 165(a) of the Surface Transportation Assistance Act of 1982 (23 USC 101 note) by adding "iron" to the list of products subject to "Buy America" provisions. The Federal Transit Administration's "Buy America" regulations are being amended to include this new statutory provision.

Timetable:

Action	Date	FR Cite
Final Action	09/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: Since the requirement to add iron to the list of products subject to the Buy America requirement is clearly stated in the statute and the agency has no discretion, the agency is not required to first issue the rule in proposed form.

Agency Contact: **Rita Daguillard**, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-1936**

RIN: 2132–AA42

2637. MAJOR CAPITAL INVESTMENT PROJECTS (ENVIRONMENTAL)

Significance: Nonsignificant

Legal Authority: PL 102-240, sec 3012

CFR Citation: None

Legal Deadline: Final, Statutory, May 18, 1992.

Abstract: The Intermodal Surface Transportation Efficiency Act of 1991 requires the FTA to conform its review requirements for transit projects under the National Environmental Policy Act (NEPA) to comparable requirements under NEPA applicable to highway projects. FTA anticipates a rulemaking or policy statement in conformance with FHWA's environmental regulations at 23 CFR part 771.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: Since the form of issuance will be guidance, the agency will not proceed with a rulemaking for this matter.

Agency Contact: **Scott Biehl**, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0952**

RIN: 2132–AA43

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Transit Administration (FTA)

Completed Actions

2638. UNIFORM SYSTEM OF ACCOUNTS AND RECORDS AND REPORTING SYSTEM

Significance: Nonsignificant

Legal Authority: 49 USC 1611

CFR Citation: 49 CFR 630

Legal Deadline: None

Abstract: This action is the result of the review of the Uniform System of Accounts and Records and Reporting System. The resultant changes reduce the burden of reporting information to FTA and improve the value of the reported data for analysis.

Timetable:

Action	Date	FR Cite
ANPRM	08/13/90	55 FR 33078

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DOT—FTA — **Completed Actions**

Action	Date	FR Cite
ANPRM Comment Period End	11/13/90	
NPRM	08/12/91	56 FR 38256
NPRM Comment Period End	10/11/91	
Final Action	01/15/93	58 FR 4880
Final Action Effective	02/16/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 01/15/93 (58 FR 4880)

Agency Contact: Marvin Futrell, Office of Capital and Formula Assistance, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-6471

RIN: 2132–AA36

2639. LEASING SECTION 16 VEHICLES

Significance: Nonsignificant

Legal Authority: 49 USC app 1612(b)(2); PL 102-240, sec 3021

CFR Citation: 49 CFR Not applicable

Legal Deadline: Final, Statutory, February 18, 1992.

Abstract: This action was to allow vehicles purchased under section 16(b) of the Federal Transit Act to be leased to local public bodies to meet the transit needs of the elderly and persons with disabilities.

Timetable:

Action	Date	FR Cite
Action Terminated; Obviated by the 1993 DOT Appropriations Act.	10/06/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Per the 1993 DOT Appropriations Act, this regulation is no longer required. Rather, the FTA will issue guidelines relative to leasing vehicles to local public bodies to meet the transit needs of the elderly and disabled. Consequently, this rulemaking activity has been terminated.

Agency Contact: Nancy Zaczek, Attorney-Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4011

RIN: 2132–AA41

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA) — **Prerule Stage**

2640. • +INFECTIOUS SUBSTANCES

Significance: Agency Priority

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 171 to 173

Legal Deadline: None

Abstract: This action will explore whether amendments are needed to the Hazardous Materials Regulations concerning the regulation of infectious substances, particularly medical waste containing infectious substances. The rulemaking is considered significant because it is of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/93	58 FR 12207
ANPRM Comment Period End	04/20/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: The ANPRM included notice of a public hearing in Washington, DC, March 17, 1993.

Agency Contact: E. Martin/J. Posten, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590-0001, 202 366-4488

RIN: 2137–AC36

2641. CONSOLIDATION OF SPECIFICATIONS FOR HIGH-PRESSURE SEAMLESS CYLINDERS AND REWRITE OF 49 CFR 173.34

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking involves a proposal to revise the requalification requirements for cylinders and consolidate and revise the specifications for high-pressure seamless cylinders. (Project No. 305-83).

Timetable:

Action	Date	FR Cite
ANPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Formerly entitled Review: Consolidation of Specifications for High-Pressure Seamless Cylinders.

Agency Contact: Gopala Vinjamuri, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4545

RIN: 2137–AA92

2642. MODERNIZING THE PASSENGER ORIGIN-DESTINATION SURVEY

Significance: Nonsignificant

Legal Authority: 49 USC 1377; 49 USC 1441

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: Historically, the source document for the Passenger Origin-Destination Survey was the auditor's coupon of the ticket. Until recently, these coupons provided all the information that was needed for the Survey. In the last few years, the carriers have begun using trip passes in conjunction with the tickets, thereby eliminating some of the data that is required to be reported in the Survey. Other innovations used by the industry, such as funnel flights and code-sharing, have impacted the Survey and obscured some of the data that is required to be reported, such as change of planes and junction points. This rulemaking will explore whether there are alternative sources for the data and modernize the collection system to keep pace with the industry.

DOT—RSPA — **Prerule Stage**

Timetable:

Action	Date	FR Cite
ANPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, DAI-1, Room 4125, 400 Seventh Street SW., Washington, DC 20590, 202 366-4383

RIN: 2137–AB92

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA) — **Proposed Rule Stage**

2643. +SAFEGUARDING FOOD FROM CONTAMINATION DURING TRANSPORTATION

Significance: Regulatory Program

Legal Authority: PL 101-500

CFR Citation: 49 CFR 1

Legal Deadline: Final, Statutory, August 1, 1991.

Abstract: The Sanitary Food Transportation Act of 1990 (SFTA; Pub. L. 101-500) requires the Secretary of Transportation, in consultation with the Secretaries of Agriculture and Health and Human Services and the Administrator of the Environmental Protection Agency, to issue regulations concerning the transportation of food, food additives, drugs, devices, and cosmetics in motor and rail vehicles also used to transport nonfood products that could pose an unreasonable danger to human or animal health when so transported. This rulemaking will implement the statutory requirements. This rulemaking is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/20/91	56 FR 6934
ANPRM Comment Period Extended to 04/29/91	03/21/91	56 FR 11982
ANPRM Comment Period End	03/26/91	
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Docket FS-1.

Agency Contact: E. Richards/J. Gale, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001, 202 366-0656

RIN: 2137–AC00

2644. +ALCOHOL MISUSE PREVENTION PROGRAM

Significance: Regulatory Program

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 199

Legal Deadline: None

Abstract: This action would require pipeline operators to establish alcohol misuse prevention programs for their employees who perform safety-sensitive functions. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59712
NPRM Comment Period End	04/14/93	57 FR 59712
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/15/92 (57 FR 59712)

Additional Information: Docket No. PS-128. A common preamble for the five modal administrations affected (FAA, FHWA, FRA, FTA, and RSPA) was published 12/15/92 (57 FR 59382).

Agency Contact: R. Rippert, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590, 202 366-6223

RIN: 2137–AC21

2645. +HAZARDOUS MATERIALS IN INTRASTATE COMMERCE

Significance: Agency Priority

Legal Authority: 49 USC 1802 to 1808

CFR Citation: 49 CFR 171 to 179

Legal Deadline: None

Abstract: ANPRM invited comments on the need for, and possible consequences of, DOT extending the application of its Hazardous Materials Regulations to all intrastate transportation of hazardous materials in commerce. This rulemaking is significant because of substantial public interest and possible federalism implications. The Hazardous Materials Transportation Uniform Safety Act of 1990 mandates that the Secretary issue regulations for the intrastate transportation of hazardous materials in commerce.

Timetable:

Action	Date	FR Cite
ANPRM	06/29/87	52 FR 24195
Comment Period Extended to 11/28/87	09/21/87	52 FR 35464
ANPRM Comment Period End	09/28/87	
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Docket No. HM-200.

Agency Contact: Jacquelyn Smith, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4488

RIN: 2137–AB37

2646. +QUALIFICATION OF PIPELINE PERSONNEL

Significance: Agency Priority

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Legal Authority: 49 USC 1672; 49 USC 2002; PL 102-508, Sec 106; PL 102-508, Sec 205

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: Training and qualification standards would be proposed for personnel involved in the operation and maintenance of gas and hazardous liquid pipelines. Special consideration would be given to operators of small gas systems to alleviate the burden of compliance. This rulemaking is considered significant because of substantial State and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/87	52 FR 9189
ANPRM Comment Period End	05/07/87	52 FR 9189
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Docket No. PS-94. Formerly entitled: Pipeline Operator Qualifications. The proposals regarding certification of personnel and emergency response in "Proposals for Pipeline Safety," RIN 2137-AB27, have been consolidated into this rulemaking.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-2036**

RIN: 2137–AB38

2647. +MAPS AND RECORDS OF PIPELINE LOCATION AND CHARACTERISTICS; NOTIFICATION OF STATE AGENCIES; PIPE INVENTORY

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, November 1, 1989.
Deadline pertains to pipe inventory and State agency information.

Abstract: Maintenance of appropriate information about pipelines is essential for emergency response, compliance with safety standards, and other purposes. As part of a continuing policy to adopt similar requirements for gas and hazardous liquid pipelines where appropriate for safety, this action proposes to equalize as far as possible the requirements that gas and liquid operators keep maps and records to show the location and other characteristics of pipelines. Operators would also be required to keep an inventory of pipe and annually report mileage and other facts. In addition, operators would be required to provide certain information to State agencies upon request. This is a significant action because of congressional and State concerns about the need for appropriate public officials to have pipeline information.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 04/00/93

Additional Information: RIN 2137-AB62, "Annual Report for Hazardous Liquid Pipelines," has been consolidated into this rulemaking. The proposals regarding information for local authorities, pipeline inventory, and condition reports in "Proposals for Pipeline Safety," RIN 2137-AB27, have been consolidated into this rulemaking.

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4560**

RIN: 2137–AB48

2648. +IMPROVEMENTS TO HAZARDOUS MATERIALS IDENTIFICATION SYSTEMS

Significance: Agency Priority

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172

Legal Deadline: Final, Statutory, May 16, 1993.

Abstract: This rulemaking proposes to determine methods of improving the current system of placarding vehicles transporting hazardous materials; determine the feasibility and methods for establishing a central reporting system and computerized telecommunications data center for daily hazardous materials shipments in all modes; and evaluate the need and safety benefits of requiring carriers to establish a continually monitored telephone system to provide information and assistance to emergency responders. This action is required by Section 25 of the Hazardous Materials Transportation Uniform Safety Act of 1990. This rulemaking is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	06/09/92	57 FR 24532
ANPRM Comment Period Extended to 10/09/92	08/05/92	57 FR 34542
ANPRM Comment Period End	08/10/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket HM-206. Formerly entitled "Improving Hazardous Materials Identification: Placarding; Reporting/Tracking; and Continually Monitored Telephone Systems."

Agency Contact: J. Potter/H. Engrum, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4488**

RIN: 2137–AB75

2649. +DRUG TESTING: MIS STANDARDIZED DATA COLLECTION AND REPORTING

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 199

Legal Deadline: None

Abstract: A minimum level of standardized data regarding pipeline anti-drug programs is needed to conduct analyses of program effectiveness. This action proposes that pipeline operators keep and maintain standardized data in a uniform format to enable the Department and State agencies to track implementation, compliance, and enforcement, and to provide for future policy formulation.

This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59720
NPRM Comment Period End	04/14/93	57 FR 59720
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/15/92 (57 FR 59720)

Additional Information: Docket No. PS-129.

Agency Contact: R. Rippert, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-6223**

RIN: 2137–AB95

2650. +EXCESS FLOW VALVES IN SERVICE LINES

Significance: Agency Priority

Legal Authority: 49 USC 1672; PL 102-508, Sec 104

CFR Citation: 49 CFR 192

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: Service line breaks due to excavation damage and other causes continue to be a threat to public safety, despite the precautions being taken through one-call damage prevention programs and line surveys for corrosion or leaks. Excess flow valves would be required on new and renewed service lines to stop the flow of gas in the event of a line break. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/90	55 FR 52188
ANPRM Comment Period End	03/20/91	
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Docket No. PS-118

Agency Contact: J. Willock, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4571**

RIN: 2137–AB97

2651. REVIEW OF COMMUTER AIR TRAFFIC AND MARKET DATA REPORTING

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 298

Legal Deadline: None

Abstract: Currently commuter air carriers providing scheduled passenger service file two quarterly traffic schedules. One schedule summarizes nine traffic elements while the other schedule provides the origination and destination for each carrier's on-line passengers. The Department has installed a new traffic and market data system for certificated and foreign air carriers called the T-100 system. This system could be used for commuter air carriers, providing the Department with one automated traffic and market data system for all carriers. This system would be less burdensome for the commuter air carriers and be more efficient for the user.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 09/00/93

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, DAI-1 Room 4125, 400 Seventh Street SW., Washington, DC 20590, **202 366-4383**

RIN: 2137–AB18

2652. DETECTION AND REPAIR OF CRACKS, PITS, CORROSION, LINING FLAWS, THERMAL DETECTION FLAWS, AND OTHER DEFECTS OF TANK CAR TANKS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1806; 49 USC 1807; 49 USC 1808

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This rule would clarify existing inspection requirements for tank car tanks; add new inspection requirements for thermal protection on tank car tanks; permit the use of new inspection techniques for tank cars transporting low vapor pressure commodities in lieu of periodic hydrostatic retests; and establish minimum in-service tank thickness requirements.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/67	52 FR 46510
ANPRM Comment Period End	02/11/88	52 FR 46510
ANPRM Comment Period Extended to 05/13/88	02/18/88	53 FR 4862
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 06/00/93

Additional Information: Docket HM-201.

Agency Contact: P. Olekszyk (FRA), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0897**

RIN: 2137–AB40

2653. DOT 3AL ALUMINUM CYLINDERS; SAFETY PROBLEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1806; 49 USC 1808

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Certain DOT 3AL cylinders made of aluminum alloy 6351 were discovered developing cracks during service and occasionally leaks developed resulting in loss of contents. This ANPRM was to alert and inform all persons possessing these cylinders of the problems, identify those cylinders at risk, and suggest steps to minimize risks.

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DOT—RSPA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	07/10/87	52 FR 26027
ANPRM Comment Period End	08/10/87	52 FR 26027
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Docket No HM-176A

Agency Contact: C. Hochman, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4545**

RIN: 2137–AB51

2654. TRANSPORTATION OF A HAZARDOUS LIQUID AT 20 PERCENT OR LESS OF SPECIFIED MINIMUM YIELD STRENGTH

Significance: Nonsignificant

Legal Authority: 49 USC 2002; PL 102-508, Sec 206

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: The Federal pipeline safety standards governing hazardous liquid pipelines do not apply to pipelines operated at 20 percent or less of the specified minimum yield strength of the pipe. When the standards were issued in 1969, these pipelines were thought not to pose an unreasonable risk to public safety because of their low operating stress levels. Since then, however, a number of accidents have been reported on low stress level pipelines, particularly involving harm to the environment. This rulemaking action would extend the Federal safety standards to cover these low stress level pipelines (except gathering lines) where warranted.

Timetable:

Action	Date	FR Cite
ANPRM	10/31/90	55 FR 45822
ANPRM Comment Period End	12/31/90	
Public Meeting Notice	05/22/91	56 FR 23538
NPRM	03/03/93	58 FR 12213
NPRM Comment Period End	05/03/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/03/93 (58 FR 12213)

Additional Information: The Secretary of Transportation's Safety Review Task Force and the National Association of Pipeline Safety Representatives have separately recommended this action. Docket No. PS-117.

Agency Contact: G. J. Wolf, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4560**

RIN: 2137–AB86

2655. CRASH WORTHINESS PROTECTION REQUIREMENTS FOR TANK CARS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This rulemaking solicits comments on the costs and safety benefits that would be derived should the Hazardous Materials Regulations be amended to improve the level of safety of tank car tanks.

Timetable:

Action	Date	FR Cite
ANPRM	05/15/90	55 FR 20242
ANPRM Comment Period End	08/21/90	
SANPRM; Comment Period End 01/04/91	08/29/90	55 FR 35327
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/93

Additional Information: Docket HM-175A. Formerly entitled, "Specifications for Tank Car Tanks."

Agency Contact: E. Martin, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4488**

RIN: 2137–AB89

2656. DISTRIBUTION SYSTEM DEFINITIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Experience enforcing the gas pipeline safety standards shows that terms, such as "service line" and "regulator station," that are used in the gas pipeline safety standards with respect to distribution systems may be unclear. This action proposes to revise existing definitions and add definitions of terms currently undefined in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/93

Agency Contact: J. Willock, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001, **202 366-9571**

RIN: 2137–AC02

2657. UPDATING CONFIDENTIALITY RULES FOR INTERNATIONAL PASSENGER ORIGIN-DESTINATION SURVEY DATA AND SERVICE SEGMENT DATA

Significance: Nonsignificant

Legal Authority: 49 USC 101; 49 USC 1324; 49 USC 1377

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: International passenger origin-destination survey data and service segment/Schedule T-9 data (replaced by Schedule T-100) submitted by U.S. air carriers have a permanent confidential period. In the public interest, such data may be released to other Federal agencies or State governments for internal use only. The Department will explore whether a shorter confidential period can be instituted that would be consistent with the confidential period for other data filed with the Department.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

DOT—RSPA

Proposed Rule Stage

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/00/93

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, DAI-1 Room 4125, 400 Seventh Street SW., Washington, DC 20590, **202 366-4383**

RIN: 2137–AC07

2658. DESIGN AND CONSTRUCTION OF WELDED BREAKOUT TANKS

Significance: Nonsignificant

Legal Authority: 49 USC 2002

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking proposes to add safety standards for the design and construction of pipeline breakout tanks. This action would incorporate by reference the applicable standards for breakout tank design and construction that are contained in American Petroleum Institute Standard 650. This standard is already widely followed in the pipeline industry.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/93

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001, **202 366-2036**

RIN: 2137–AC11

2659. USE OF CARGO TANKS, PORTABLE TANKS, AND MULTI-UNIT TANK CAR TANKS IN TOFC/COFC SERVICE

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 174

Legal Deadline: None

Abstract: This action proposes to revise the Hazardous Materials Regulations to permit the use of certain portable tanks and IM (intermodal) portable tanks to transport certain hazardous materials that pose a relatively low or moderate hazard in container-on-flatcar (COFC) service by rail without obtaining prior approval from the Federal Railroad Administration. Based on comments to the ANPRM, earlier proposals to allow cargo tanks and multi-unit tank car tanks in trailer-on-flatcar (TOFC) service by rail without prior approval are not included in this action.

Timetable:

Action	Date	FR Cite
ANPRM	04/30/85	50 FR 18278
ANPRM Comment Period End	06/27/85	
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Additional Information: Docket No. HM-197. Public hearing held 6/11/85.

Agency Contact: Diane La Valle, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001, **202 366-4488**

RIN: 2137–AC26

2660. • YARD LINES

Significance: Nonsignificant

Legal Authority: PL 102-508, Sec 115

CFR Citation: 49 CFR 192

Legal Deadline: Final, Statutory, October 24, 1993.

Abstract: The gas pipeline safety standards do not require operators to maintain customer-owned lines that connect customer buildings or houses to operator-maintained lines. These customer-owned lines, often called "yard lines," are subject to the same safety problems as operator-maintained lines. This action would require operators who do not maintain yard lines to advise customers with such lines of the potential hazards of not maintaining the lines, and the requirements and resources available for maintenance.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: J. Willock, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590-0001, **202 366-2392**

RIN: 2137–AC32

2661. • UNDERWATER ABANDONED PIPELINE FACILITIES

Significance: Nonsignificant

Legal Authority: PL 102-508, Sec 117; PL 102-508, Sec 216

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: This action would result in regulations specifying procedures for operators to report on underwater pipelines abandoned prior to October 24, 1992.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/93

Agency Contact: J. Willock, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590-0001, **202 366-2392**

RIN: 2137–AC33

2662. • ENVIRONMENTALLY-SENSITIVE AREAS AND HIGH-DENSITY POPULATION AREAS

Significance: Nonsignificant

Legal Authority: PL 102-508, Sec 102; PL 102-508, Sec 202

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: This action would require gas pipeline operators to identify pipeline facilities located in high-density population areas, and require hazardous liquid pipeline operators to

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identify pipeline facilities located in environmentally-sensitive areas.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/93

Agency Contact: C. Sames, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590-0001, 202 366-7697

RIN: 2137–AC34

2663. • CARGO TANKS; MISCELLANEOUS REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 173; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: This action would amend certain requirements concerning the manufacture, qualification, and maintenance of cargo tank motor vehicles. The proposed changes are based on petitions for rulemaking, exemptions, and National Transportation Safety Board recommendations. The intended effect of this action is to relax certain regulatory requirements and to reduce unnecessary economic burdens on industry where there would be no adverse effect on safety, and to increase safety for high pressure cargo tanks at minor cost to industry.

Timetable:

Action	Date	FR Cite
NPRM	03/03/93	58 FR 12316
NPRM Comment Period End	06/15/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/03/93 (58 FR 12316)

Additional Information: Docket HM-183C

In order to allow time for RSPA and the industry to resolve these technical issues, the compliance date for the final rules published 6/12/89 (54 FR 24982), 5/22/90 (55 FR 21035), 9/7/90 (55 FR 37028), and 6/17/91 (56 FR 27872) was extended to April 21, 1994.

Agency Contact: Jennifer Karim, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590-0001, 202 366-4488

RIN: 2137–AC37

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2664. +HYDROSTATIC TESTING OF CERTAIN HAZARDOUS LIQUID PIPELINES

Significance: Regulatory Program

Legal Authority: 49 USC 2002

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: Recent accidents involving petroleum pipelines demonstrate the potential for catastrophic losses if a large spill occurs in a populated area. Studies have shown that accidents attributable to latent material or construction defects can be prevented by restricting operation to not more than 80 percent of a prior test or operating pressure. In this regard, significant results have been achieved by imposing such an operating restriction on pipelines that carry highly volatile liquids. This rule would extend this existing safety standard to all hazardous liquid pipelines that are subject to part 195. This rulemaking is significant because of substantial public interest in the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	05/22/91	56 FR 23538
NPRM Comment Period End	07/22/91	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/22/91 (56 FR 23538)

Additional Information: Formerly entitled: Pressure Testing Existing Hazardous Liquid Pipelines. The integrity testing proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, has been consolidated, in part, in this rulemaking. Docket PS-121.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2036

RIN: 2137–AB46

2665. +GAS GATHERING LINE DEFINITION

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804; PL 102-508, Sec 109(b)

CFR Citation: 49 CFR 192.3

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: The existing definition of "gathering line" would be clearly defined to eliminate confusion in distinguishing these pipelines from transmission lines in rural areas. The costs should be minimal since the definition will conform to prevailing practices in government and industry. Action is significant because the definition is of Congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48505
NPRM Comment Period End	11/25/91	
Final Action	04/00/94	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 09/25/91 (56 FR 48505)

Agency Contact: C. De Leon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1640

RIN: 2137–AB15

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2666. +OPERATION AND MAINTENANCE PROCEDURES FOR PIPELINES

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: Adequate procedures for pipeline operation and maintenance, backed up by personnel training, have proven effective in minimizing the potential for accidents. Gas operators are required to have such procedures, but the existing requirements lack the clarity and specificity needed to assure a uniform, broad-based level of safety for all pipelines. Therefore, this proposal would clarify the existing requirements, make them more comprehensive, and, where appropriate, similar to the more detailed requirements applicable to the operation and maintenance of hazardous liquid pipelines. Also, a few additions and clarifying changes would be made to the hazardous liquid pipeline requirements. This is a significant action because of the need for adequate procedures to provide a basis for training and qualifying operator personnel.

Timetable:

Action	Date	FR Cite
NPRM	11/06/89	54 FR 46685
NPRM Comment Period End	02/05/90	54 FR 46685
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/06/89 (54 FR 46685)

Additional Information: Formerly entitled: Operation and Maintenance Procedures for Gas Pipelines. Docket No. PS-113.

Agency Contact: J. Willock, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4571

RIN: 2137–AB44

2667. +EXCAVATION DAMAGE PREVENTION PROGRAMS FOR GAS AND HAZARDOUS LIQUID PIPELINES

Significance: Agency Priority

Legal Authority: 49 USC 1672(a); 49 USC 2002(e)

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: Each year a large percentage of gas and hazardous liquid pipeline accidents are caused by excavation damage. Based on existing rules intended to reduce damage to gas pipelines in populated areas, this action would require hazardous liquid and carbon dioxide pipeline operators to provide damage prevention programs, and gas operators would have to expand their programs to cover rural areas. This is a significant action because of widespread interest in the use of "one-call" programs to prevent damage to buried pipelines. Where appropriate, operators would have to participate in "one-call" programs.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24747
NPRM Comment Period End	08/29/88	53 FR 24747
Interim Final Rule	04/00/93	
SNPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 06/30/88 (53 FR 24747)

Additional Information: Docket No. PS-101. Formerly entitled: Natural Gas and Hazardous Liquid Pipeline Damage Prevention Program. The one-call system proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, has been consolidated, in part, in this rulemaking. In light of comments received, an SNPRM will be issued, accompanying an interim final rule.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-2036

RIN: 2137–AB47

2668. +AMENDMENTS TO THE DOT AIRLINE ON-TIME DISCLOSURE RULE

Significance: Agency Priority

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1381; 5 USC 553(e)

CFR Citation: 14 CFR 234; 14 CFR 302.38

Legal Deadline: None

Abstract: This proposed action would amend the reporting requirements of 14 CFR 234 to require the on-time reporting performance of all flights, in response to an Inspector General's audit finding and recommendation, and to various industry comments. Under the current regulations, flights that are cancelled or late by 15 minutes or more because of a mechanical problem are not reported. The proposal would also require reporting of the aircraft tail number and wheels-up and wheels-down time for each flight. This data would be used, among other things, to reduce airport delays. This rulemaking is considered significant because it involves important Department policy concerning reporting of flight delays.

Timetable:

Action	Date	FR Cite
NPRM	12/11/92	57 FR 58755
NPRM Comment Period End	01/11/93	
NPRM Comment Period Extended to 02/11/93	01/14/93	58 FR 4370
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/11/92 (57 FR 58755)

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, DAI-1, Room 4125, 400 Seventh Street SW., Washington, DC 20590, 202 366-4383

RIN: 2137–AB94

2669. +REGULATORY REVIEW: GAS PIPELINE SAFETY STANDARDS

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Gas pipeline safety standards would be amended or clarified to eliminate burdensome requirements without reducing safety. This action is significant because it would reduce regulatory burden that could hinder economic growth, and because of substantial public interest.

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Timetable:

Action	Date	FR Cite
NPRM	08/31/92	57 FR 39572
NPRM Comment Period End	09/30/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/31/92 (57 FR 39572)

Additional Information: Certain proposals in "Alternative Weld Defect Acceptance Criteria," RIN 2137-AC03; "Petroleum Gas Systems," RIN 2137-AC04; and "Temperature Limits for Plastic Gas Pipelines," RIN 2137-AC20 have been consolidated into this rulemaking. Docket No. PS-124.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001, **202 366-2392**

RIN: 2137–AC25

2670. +RESPONSE PLANS FOR ONSHORE OIL PIPELINES

Significance: Agency Priority

Legal Authority: 33 USC 1321(j)(5)

CFR Citation: 49 CFR 194

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: This interim final rule establishes regulations requiring response plans for certain onshore oil pipelines. Those regulations are mandated by the Federal Water Pollution Control Act as amended by the Oil Pollution Act of 1990 (Pub. L. 101-380). The purpose of these requirements is to improve response capabilities and minimize the impact of onshore oil spills from pipelines.

This rule is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/93	58 FR 244
Interim Final Rule Comment Period End 02/19/93	01/05/93	58 FR 244
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/05/93 (58 FR 244)

Additional Information: Docket No. PS-130.

Agency Contact: Lloyd Ulrich, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4556**

RIN: 2137–AC30

2671. +OIL AND HAZARDOUS SUBSTANCES: SPILL PREVENTION, CONTAINMENT, AND RESPONSE PLANS

Significance: Agency Priority

Legal Authority: 33 USC 1321 (j)(5); 49 USC 1802 to 1805; 49 USC 1808; 49 USC 1818

CFR Citation: 49 CFR 171 to 177

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: This action would establish regulations requiring response plans for certain transportation containers such as cargo tanks and tank car tanks. These regulations are required by the Oil Pollution Act of 1990 (PL 101-380). The purpose of these regulations is to improve response capabilities and minimize the impact of onshore oil spills. This rule is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/02/93	58 FR 6864
Interim Final Rule Correction	02/17/93	58 FR 8820

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/02/93 (58 FR 6864)

Additional Information: Docket No. HM-214.

Agency Contact: Diane LaValle, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4488**

RIN: 2137–AC31

2672. TRANSPORTATION OF HAZARDOUS MATERIALS; MISCELLANEOUS AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. NPRM approximately every four months, with FR targeted approximately two months thereafter.

Timetable:

Action	Date	FR Cite
Periodic Update	03/19/85	50 FR 11048
Periodic Update	04/20/87	52 FR 13034
Periodic Update - NPRM	09/19/88	53 FR 36410
Periodic Update	09/20/89	54 FR 38790
Correction to Update	11/20/89	54 FR 47986
Final Rule; Response to Petitions for Reconsideration	07/05/90	55 FR 27640
Periodic Update	10/01/90	55 FR 39977
NPRM	08/07/91	56 FR 37505
NPRM Comment Period End	10/07/91	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-166X.

Agency Contact: D. LaValle, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4488**

RIN: 2137–AA44

2673. QUANTITY LIMITATIONS ABOARD AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1807; 49 USC 1808

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: This action proposed to remove the fifty-pound limit on the quantity that may be stowed in an inaccessible cargo location on passenger-carrying aircraft. Comments to the NPRM indicated that further evaluation is needed. Therefore, this action will be withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/84	49 FR 13717
ANPRM Comment Period End	09/01/84	49 FR 13717
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	50 FR 6013
To Be Withdrawn	04/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 02/13/85 (50 FR 6013)

Additional Information: This project was formerly entitled: Limitation Aboard Aircraft.

Agency Contact: Eileen Martin, Transportation Reg. Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4488**

RIN: 2137–AA85

2674. ENFORCEMENT OF MOTOR CARRIER FINANCIAL RESPONSIBILITY REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1805; 49 USC 1808 to 1809; 49 USC 1655; 49 USC 1655(c); 49 USC 10927

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 387

Legal Deadline: None

Abstract: This notice solicited comments on the merits of a petition for rulemaking from the National Tank Truck Carriers proposing to amend the Hazardous Materials Regulations to require shippers of hazardous materials by highway, in cargo tanks, to obtain documentary proof that the motor carrier possesses the minimum level of financial responsibility required by 49 CFR part 387. Comments received generally oppose imposition of the petition's proposed requirements. Evaluation of the merits of the comments indicate safety would not be significantly enhanced by the proposed requirements. Therefore, this rulemaking will be withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	05/20/87	52 FR 19116
ANPRM Comment Period End	08/18/87	
To Be Withdrawn	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-199.

Agency Contact: D. Billings, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4488**

RIN: 2137–AB35

2675. GAS DETECTION AND MONITORING IN COMPRESSOR STATION BUILDINGS

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Leaking gas accumulating inside an inadequately ventilated compressor station building is a serious safety problem that has caused recent deaths and injuries. This rulemaking action proposes additional regulations to require installation of gas detection and alarm systems.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/88	53 FR 10906
ANPRM Comment Period End	06/03/88	53 FR 10906
NPRM	07/27/90	55 FR 30724
NPRM Comment Period End	09/25/90	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/27/90 (55 FR 30724)

Additional Information: Docket No. PS-100

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4560**

RIN: 2137–AB49

2676. DETERMINING THE EXTENT OF CORROSION ON EXPOSED GAS PIPELINES

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Corrosion is a major cause of gas and hazardous liquid pipeline accidents. A safety standard applicable to liquid pipelines requires operators to examine exposed pipe for evidence of external corrosion and, if harmful corrosion is found, to investigate further to determine the extent of the corrosion. As part of a continuing policy to adopt similar requirements for gas and liquid pipelines where appropriate for safety, this action proposes that exposed gas pipelines with evidence of harmful corrosion be investigated to determine the extent of the corrosion.

Timetable:

Action	Date	FR Cite
NPRM	06/27/89	54 FR 27041
NPRM Comment Period End	09/25/89	54 FR 27041
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/27/89 (54 FR 27041)

Additional Information: National Transportation Safety Board Recommendation P-87-3 provides a basis for this action. Docket No. PS-107

Agency Contact: K. Saunders, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0524**

RIN: 2137–AB50

2677. TRANSPORTATION REGULATIONS; COMPATIBILITY WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY

Significance: Nonsignificant

Legal Authority: 49 USC 1804; 49 USC 1805; 49 USC 1808

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: This rulemaking would align the Hazardous Materials Regulations

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(HMR) with the International Atomic Energy Agency (IAEA) Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6. This action is necessary to implement practices and procedures that will improve safety in the transportation of radioactive materials and to facilitate international commerce.

Timetable:

Action	Date	FR Cite
Request for Comments; Comment Period End 12/23/88	11/21/88	53 FR 46973
NPRM	11/14/89	54 FR 47454
NPRM Comment Period Extended to 05/11/90	02/08/90	55 FR 4445
NPRM Comment Period End	02/09/90	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 11/14/89 (54 FR 47454)

Additional Information: Docket HM-169A

Agency Contact: John Gale, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4488**

RIN: 2137–AB60

2678. TRANSPORTATION OF HYDROGEN SULFIDE BY PIPELINE

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: In a few reported instances, excessive amounts of hydrogen sulfide were introduced into natural gas pipelines. High concentrations of hydrogen sulfide are very detrimental to steel pipelines and extremely toxic. This action examined the need to establish a maximum allowable concentration and other control measures. Based upon public comments and the views of its gas pipeline advisory committee, RSPA has decided that the proposed rule is unnecessary to public safety

Timetable:

Action	Date	FR Cite
ANPRM	06/07/89	54 FR 24361
ANPRM Comment Period End	09/05/89	54 FR 24361
NPRM	03/18/91	56 FR 11490
NPRM Comment Period End	06/17/91	
To be Withdrawn	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/18/91 (56 FR 11490)

Additional Information: Docket No. PS-106

Agency Contact: K. Saunders, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-1640**

RIN: 2137–AB63

2679. LEAKAGE SURVEYS

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Many gas distribution operators look for signs of dying vegetation as a leak survey technique. This technique is not as effective as other available methods, and leaks have occurred in areas found safe by vegetation surveys. This action would require the use of alternative methods to meet the leak survey requirements, where appropriate, and clarify that leakage surveys must be conducted at least at 3-year minimum intervals on cathodically unprotected pipelines that are not electrically surveyed for corrosion.

Timetable:

Action	Date	FR Cite
NPRM	10/23/91	56 FR 54816
NPRM Comment Period End	12/23/91	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/23/91 (56 FR 54816)

Additional Information: Docket No. PS-123

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202-366-4560**

RIN: 2137–AB64

2680. PASSAGE OF INTERNAL INSPECTION DEVICES

Significance: Nonsignificant

Legal Authority: PL 100-561, sec 108; PL 100-561, sec 207

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking would establish minimum Federal safety standards requiring that new and replacement gas transmission and hazardous liquid pipelines be designed to accommodate the passage of internal inspection devices. This rulemaking is mandated by PL 100-561.

Timetable:

Action	Date	FR Cite
NPRM	11/20/92	57 FR 54745
NPRM Comment Period End	01/19/93	57 FR 54745
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/20/92 (57 FR 54745)

Additional Information: The integrity testing proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, is consolidated, in part, in this rulemaking. Docket No. PS-126.

Agency Contact: K. Saunders, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-0524**

RIN: 2137–AB71

2681. CENTRALIZATION OF FORMAL HEARING DOCKETS (RSPA)

Significance: Nonsignificant

Legal Authority: 49 USC app 1421(c); 49 USC app 1802; 49 USC app 1806; 49 USC app 1808 to 1811; 49 USC 1653(d); 49 USC 1655

CFR Citation: 49 CFR 107; 49 CFR 1 45; 49 CFR 1.53

Legal Deadline: None

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Abstract: This action would provide that documents and evidence in formal hearing cases adjudicated within the Research and Special Programs Administration (RSPA) will be filed and maintained in the OST Office of Documentary Services. The change would be made in order to streamline operations and to consolidate the documents used in formal hearing cases.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-9306**

RIN: 2137–AB91

2682. IMPLEMENTATION OF THE ICAO TECHNICAL INSTRUCTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 175

Legal Deadline: None

Abstract: This action would permit the offering, acceptance, and transportation by aircraft and by motor vehicle incident to transportation by aircraft, of hazardous materials shipments conforming to the most recent edition of the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air. This action is necessary to facilitate the continued transport of hazardous materials in international commerce by aircraft pursuant to the latest edition of the ICAO Technical Instructions.

Timetable:

Action	Date	FR Cite
NPRM	11/07/90	55 FR 46839
NPRM Comment Period End	12/07/90	
SNPRM Comment Period End 2/18/92	01/16/92	57 FR 1891
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/07/90 (55 FR 46839)

Additional Information: Docket HM-184F.

Agency Contact: Frits Wybenga, International Standards Coordinator, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590, **202 366-0656**

RIN: 2137–AB99

2683. NOMENCLATURE CHANGES IN RULES

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 190; 49 CFR 193

Legal Deadline: None

Abstract: This rulemaking will amend regulations to reflect agency organizational changes and make editorial corrections.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Sames, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590, **202 366-7697**

RIN: 2137–AC19

2684. INTERMEDIATE BULK CONTAINERS FOR HAZARDOUS MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This action would establish standards for the construction, maintenance, and use of intermediate bulk containers (IBCs) for the transportation of hazardous materials. The proposal is based on standards contained in the United Nations Recommendations on the Transport of Dangerous Goods.

Timetable:

Action	Date	FR Cite
NPRM	08/14/92	57 FR 36694
NPRM Comment Period End	09/14/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/14/92 (57 FR 36694)

Additional Information: Docket No. HM-181E.

Agency Contact: John Potter/Theresa Gwynn, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001, 202 366-4488

RIN: 2137–AC23

2685. TANK CARS AND CARGO TANK MOTOR VEHICLES: ATTENDANCE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 59 USC 1808

CFR Citation: 49 CFR 174; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes to establish standards to allow the use of electronic surveillance and monitoring equipment (signalling systems) for unloading tank cars and loading cargo tank motor vehicles, and to revise other unloading requirements for tank cars. This action would recognize recent technological innovations and improve safety during the loading/unloading of bulk quantities of hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	09/14/92	57 FR 42466
NPRM Comment Period End	12/14/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/14/92 (57 FR 42466)

Additional Information: Docket No HM-212.

Agency Contact: Jennifer Karim/Diane LaValle, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street

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SW., Washington, DC 20590-0001, 202 366-4488

RIN: 2137–AC24

2686. REGULATORY REVIEW: HAZARDOUS LIQUID AND CARBON DIOXIDE PIPELINE SAFETY STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 2002

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: Hazardous liquid and carbon dioxide pipeline safety standards would be amended or clarified to eliminate burdensome requirements without reducing safety. This action would eliminate regulatory impediments to economic growth.

Timetable:

Action	Date	FR Cite
NPRM	11/27/92	57 FR 56304
NPRM Comment Period End	12/28/92	57 FR 56304
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/27/92 (57 FR 56304)

Additional Information: The proposals concerning hazardous liquid pipelines in "Alternative Weld Defect Acceptance Criteria," RIN 2137-AC03, have been consolidated into this rulemaking. Docket No. PS-127.

Agency Contact: J. Willock, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001, 202 366-4571

RIN: 2137–AC27

2687. REGULATORY REVIEW: ADMINISTRATIVE PRACTICES, REPORTING PIPELINE INCIDENTS, GAS PIPELINE STANDARDS, AND LIQUEFIED NATURAL GAS FACILITY STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 190; 49 CFR 191; 49 CFR 192; 49 CFR 193

Legal Deadline: None

Abstract: Administrative practices and various gas pipeline and liquefied natural gas facility requirements would be amended to eliminate burdensome requirements without reducing safety. This action would reduce regulatory impediments to economic growth.

Timetable:

Action	Date	FR Cite
NPRM	11/06/92	57 FR 53085
NPRM Comment Period End	12/07/92	57 FR 53085
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/06/92 (57 FR 53085)

Additional Information: Docket No. PS-125. Proposals in "Regulatory Review: Liquefied Natural Gas Facilities," RIN 2137-AC29, were consolidated into this rulemaking.

Agency Contact: J. Willock, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001, 202 366-4571

RIN: 2137–AC28

2688. • INTERNATIONAL MARITIME DANGEROUS GOODS CODE AND ICAO TECHNICAL INSTRUCTIONS; MATTER INCORPORATED BY REFERENCE

Significance: Nonsignificant

Legal Authority: 49 USC 1802 to 1805; 49 USC 1808; 49 USC 1815; 49 USC 1818

CFR Citation: 49 CFR 171

Legal Deadline: None

Abstract: This action updates a reference in the Hazardous Materials Regulations to the International Maritime Dangerous Goods Code (IMDG Code) to include the most recent amendment to the Code. This action also implements the most recent edition of the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). This action is necessary to facilitate the continued transport of hazardous materials in international commerce by vessel and aircraft when the two international regulations become effective.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/92	57 FR 60738
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-215.

Agency Contact: Beth Romo, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590-0001, 202 366-4488

RIN: 2137–AC35

DEPARTMENT OF TRANSPORTATION (DOT)

Research and Special Programs Administration (RSPA)

Completed Actions

2689. • +TRAINING FOR HAZARDOUS MATERIALS TRANSPORTATION

Significance: Regulatory Program

Legal Authority: 49 USC 1804

CFR Citation: 49 CFR 172; 49 CFR 174 to 177

Legal Deadline: Final, Statutory, May 16, 1992.

Abstract: This rule established detailed training requirements for persons involved with the transportation of hazardous materials. Establishing more detailed training requirements should diminish the number of hazardous materials transportation incidents which can be attributed to human error. This rulemaking was significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31144

DOT—RSPA

Completed Actions

Action	Date	FR Cite
NPRM Comment Period End	11/24/89	
Final Rule	05/15/92	57 FR 20944
Correction to Final Rule	05/27/92	57 FR 22181
Final Action - Response to Reconsideration Petitions	01/22/93	58 FR 5850

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/15/92 (57 FR 20944)

Additional Information: Docket No. HM-126F. Public hearings were held on 10/3/89 in Salt Lake City, Utah, and on 10/11/89 in Washington, DC.

Agency Contact: J. Smith, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590-0001, 202 366-4488

RIN: 2137–AB26

2690. +MARINE POLLUTANTS

Significance: Agency Priority

Legal Authority: 49 USC 1802 to 1805; 49 USC 1808; 49 USC 1818

CFR Citation: 49 CFR 171 to 174; 49 CFR 176

Legal Deadline: None

Abstract: This rulemaking amends the Hazardous Materials Regulations (HMR) to list and regulate, in all modes of transportation, those materials identified as marine pollutants by the International Maritime Organization. The rule is necessary to implement annex III of the 1973 International Convention for the Prevention of Pollution from Ships, to increase the level of safety associated with the transportation of environmentally hazardous materials. The rule is significant because of substantial congressional and public interest. Annex III was effective for all parties to the treaty on July 1, 1992.

Timetable:

Action	Date	FR Cite
NPRM	01/31/92	57 FR 3854
NPRM Comment Period Extended to 5/4/92	02/27/92	57 FR 6696
NPRM Comment Period End	03/02/92	
Final Action	11/05/92	57 FR 52930
Final Action Effective	01/01/93	57 FR 52930

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/05/92 (57 FR 52930)

Additional Information: Docket HM-211

Agency Contact: John Gale, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4488

RIN: 2137–AC16

2691. +ELECTRONIC FILING OF PROPERTY AND PASSENGER TARIFFS

Significance: Agency Priority

Legal Authority: 49 USC 403

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: This action proposed to accept electronic filing of passenger rules and cargo fares and rules required by 49 USC 403. Passenger fares are already filed electronically, and this action was to ensure that all tariff information is automated. This action was considered significant because it was intended to relieve regulatory burden. However, industry commenters, including representatives from major air carriers, computer reservation systems, and filing agents, expressed concern about the feasibility, costs, and benefits. Therefore, the NPRM was withdrawn to allow for reconsideration in light of industry comments. Should this issue be reinitiated, a new RIN will be assigned.

Timetable:

Action	Date	FR Cite
NPRM	10/15/92	57 FR 47303
NPRM Comment Period End	11/16/92	57 FR 47303
Comment Period Reopened until 3/5/93	01/05/93	58 FR 287
Withdrawn	03/04/93	58 FR 12350

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/15/92 (57 FR 47303)

Agency Contact: Donald W. Bright, Director, Office of Automated Tariffs, Department of Transportation, Research and Special Programs Administration, DAT-1, Room 6424, 400 Seventh St. SW., Washington, DC 20590, 202 366-2414

RIN: 2137–AC18

2692. • ELEVATED TEMPERATURE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 171 to 173

Legal Deadline: None

Abstract: This rulemaking addressed regulation of hazardous materials offered for transportation at elevated temperatures. Effect of these regulatory changes is to communicate the hazards of these elevated temperature materials through marking, shipping papers, and placarding, and to prescribe packaging requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/21/89	54 FR 38930
NPRM Comment Period Extended to 2/20/90	11/15/89	54 FR 47539
NPRM Comment Period End	11/20/89	
Final Rule	10/02/91	56 FR 49980
Final Rule Correction	12/17/91	56 FR 65541
Final Rule Compliance Delayed	12/31/91	56 FR 67542
Final Action - Response to Petitions for Reconsideration	01/08/93	58 FR 3344
Final Action Effective	01/08/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/02/91 (56 FR 49980)

Additional Information: Docket No. HM-198A. This project was inadvertently published in the Federal Register under RIN 2137-AB31, which was a completed action in a previous Agenda.

Agency Contact: B. Romo, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590-0001, 202 366-4488

RIN: 2137–AB58

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DOT—RSPA

Completed Actions

2693. CONFIDENTIALITY OF AIRCRAFT INVENTORY DATA

Significance: Nonsignificant

Legal Authority: 49 USC 101; 49 USC 1324; 49 USC 1377

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: Each large U.S. air carrier files a quarterly Form 41 schedule of its aircraft and engine purchases and an annual schedule of its aircraft and engine inventory. Included on these schedules is such information as the cost of the purchase, residual value, service life, etc. In response to a petition for rulemaking, the Department denied the petition because the information reported did not meet the requirements for confidentiality specified in the Freedom of Information Act and the Department's regulations. Therefore, the rulemaking proceeding initiated by the petition has been withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	07/18/91	56 FR 32992
ANPRM Comment Period End	09/03/91	
Withdrawn	01/04/93	58 FR 35

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, DAI-1 Room 4125, 400 Seventh Street SW., Washington, DC 20590, **202 366-4383**

RIN: 2137–AC08

2694. ALLOCATION FORMULA FOR STATE GRANTS

Significance: Nonsignificant

Legal Authority: 49 USC 1674; 49 USC 2004

CFR Citation: 49 CFR 198

Legal Deadline: None

Abstract: RSPA makes funds (grants-in-aid) available to States to encourage them to participate in the cooperative Federal/State pipeline safety program for gas and hazardous liquid pipelines. This action codified the formula for allocating grant funds among qualified State agencies. The purpose is to improve program efficiency and encourage broader State responsibility.

Timetable:

Action	Date	FR Cite
ANPRM	02/25/91	56 FR 7636
ANPRM Comment Period End	04/01/91	
NPRM	03/04/92	57 FR 7705
NPRM Comment Period End	04/03/92	
Final Action	02/23/93	58 FR 10985
Final Action Effective	03/25/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/23/93 (58 FR 10985)

Additional Information: Docket No. PS-119.

Agency Contact: G. T. Fortner, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001, **202 366-4564**

RIN: 2137–AC12

2695. INCORPORATION BY REFERENCE OF VOLUNTARY STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: The RSPA pipeline safety regulations incorporate by reference editions of various documents for which later editions have been published. This rulemaking updated those references to the later published editions.

Timetable:

Action	Date	FR Cite
Final Action	03/18/93	58 FR 14519
Final Action Effective	04/19/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Initially, this project covered only the incorporation by reference of American Society of Testing Materials Specification D2513, concerning thermoplastic gas pressure piping systems. The project was expanded to cover all other out-of-date references as well as D2513. This rulemaking was formerly entitled "Thermoplastic Gas Pressure Piping Systems."

Agency Contact: C. Sames, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001, **202 366-7697**

RIN: 2137–AC13

2696. REGULATORY REVIEW: LIQUEFIED NATURAL GAS FACILITIES

Significance: Nonsignificant

Legal Authority: 49 USC 1674a

CFR Citation: 49 CFR 193

Legal Deadline: None

Abstract: Safety standards for liquefied natural gas facilities would be amended to eliminate burdensome requirements without reducing safety. This action would eliminate regulatory impediments to economic growth.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 09/30/92 2137-AC28		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action has been consolidated into RIN 2137-AC28, "Regulatory Review: Administrative Practices, Reporting Pipeline Incidents, Gas Pipeline Standards, and Liquefied Natural Gas Facility Standards," and will no longer appear as a separate item in the Agenda.

Agency Contact: L. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001, **202 366-2392**

RIN: 2137–AC29

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MarAd)

Prerule Stage

2697. • SEAMEN'S SERVICE AWARDS

Significance: Nonsignificant

Legal Authority: 46 USC app 2001 et seq

CFR Citation: 46 CFR 350

Legal Deadline: None

Abstract: This rule will provide a point of contact with MARAD for obtaining merchant marine awards authorized by law and reflect significant changes in P.L. 100-324 governing the award of merchant marine decorations and medals.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Bruce Carlton, Director, Office of Maritime Labor and Training, Department of Transportation, Maritime Administration, 400 Seventh Street SW Room 7302, Washington, DC 20590, **202 366-5755**

RIN: 2133–AB02

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MarAd)

Proposed Rule Stage

2698. +CARGO PREFERENCE—U.S.-FLAG VESSELS; UNIFORM CONTRACTING REQUIREMENTS FOR FEDERAL PROGRAM PARTICIPANTS

Significance: Agency Priority

Legal Authority: 46 USC app 1244

CFR Citation: 46 CFR 381

Legal Deadline: None

Abstract: MARAD is proposing amendments to its cargo preference regulations intended to ensure that U.S.-flag carriers of preference cargoes be allowed to carry such cargoes subject to standard commercial contract and contract tender terms that will allow them to avoid economic harm from discriminatory practices. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Judy Blackman, Director, Office of National Cargo and Compliance, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590, **202 366-4610**

RIN: 2133–AA95

2699. +DETERMINATION OF FAIR AND REASONABLE GUIDELINE RATES FOR THE CARRIAGE OF BULK AND PACKAGED PREFERENCE CARGOES ON U.S.-FLAG COMMERCIAL VESSELS

Significance: Agency Priority

Legal Authority: 46 USC app 1114; 46 USC app 1241

CFR Citation: 46 CFR 382

Legal Deadline: None

Abstract: These regulations would amend the procedures for the calculation of guideline rates for certain preference cargoes carried in U.S.-flag vessels that have been in effect since January 1, 1990. Based on MARAD's experience gained in administering these regulations and observing their effect on the industry, MARAD is proposing to make amendments that are more equitable to the operator and that will improve the performance of the fair and reasonable guideline rates. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Arthur B. Sforza, Director, Office of Ship Operating Assistance, Department of Transportation, Maritime Administration, 400 Seventh Street NW., Washington, DC 20590, **202 366-2323**

RIN: 2133–AA98

2700. VALUES FOR WAR RISK INSURANCE; REVIEW OF WAR RISK INSURANCE VALUATION METHODOLOGY

Significance: Nonsignificant

Legal Authority: 46 USC app 1114; 46 USC app 1289

CFR Citation: 46 CFR 309; 46 CFR 308

Legal Deadline: None

Abstract: MARAD has considered comments received in response to an ANPRM and will propose a revised ship valuation methodology for the purpose of issuing war risk insurance. The existing methodology has been in effect since 1959.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/91	56 FR 21118
ANPRM Comment Period End	07/08/91	
NPRM	04/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight

Analysis: Regulatory Evaluation 04/00/93

Agency Contact: Edmond J. Fitzgerald, Director, Office of Trade Analysis and Insurance, Department of Transportation, Maritime Administration, 400 Seventh Street

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DOT—MarAd — **Proposed Rule Stage**

SW., Washington, DC 20590, 202 366-2400

RIN: 2133–AA89

2701. AGENCY AGREEMENTS AND APPOINTMENT OF AGENTS

Significance: Nonsignificant

Legal Authority: 50 USC app 1744

CFR Citation: 46 CFR 315; 46 CFR 316

Legal Deadline: None

Abstract: The National Shipping Authority (NSA) within the Maritime Administration (MARAD) proposes to amend its regulations at 46 CFR part 315, concerning Agency Agreements, and incorporate therein provisions as revised, now found in parts 316, 319, and 331, which parts are being removed in other rulemakings. This rulemaking would formalize MARAD's existing policy and procedure for appointing general agents and administering agency agreements by including in the regulations pertinent information that is consistent with a revised Service Agreement and Application for Appointment as General Agent, that are being adopted by MARAD, and a Ship Manager Contract that has been adopted.

Timetable:

Action	Date	FR Cite
NPRM	02/19/93	58 FR 9135
NPRM Comment Period End	04/20/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight

Analysis: Regulatory Evaluation 02/19/93 (58 FR 9135)

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Tim Roark, Chief, Division of Marine Acquisition, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-1943

RIN: 2133–AA91

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MarAd)

Final Rule Stage

2702. CENTRALIZATION OF FORMAL HEARING DOCKETS (MARAD)

Significance: Nonsignificant

Legal Authority: 46 USC app 1114

CFR Citation: 46 CFR 201

Legal Deadline: None

Abstract: This final rule would provide that documents and evidence in formal hearing cases adjudicated within the Maritime Administration (MARAD) will be filed and maintained in the OST Office of Documentary Services. The change is being considered in order to streamline operations and to consolidate the documents used in formal hearing cases.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590, 202 366-9306

RIN: 2133–AA84

2703. PRIORITY USE AND ALLOCATION OF SHIPPING SERVICES, CONTAINERS, CHASSIS, AND PORT FACILITIES AND SERVICES FOR NATIONAL SECURITY AND NATIONAL DEFENSE RELATED OPERATIONS

Significance: Nonsignificant

Legal Authority: 46 USC app 1114

CFR Citation: 46 CFR 340

Legal Deadline: None

Abstract: This revision would broaden the scope of the regulations to include chassis (a specialized trailer used in transporting a container) and chassis suppliers in the scheme of priority use and allocations of shipping services, containers and port facilities and services for national security and defense related operations to ensure that chassis are available for use by a defense agency in time of deployment of U.S. Armed Forces. The rule would be exempt from APA requirements of 5 USC 553(a)(1), since "a military or foreign affairs function of the United States" is involved.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight; 971 National Security

Agency Contact: John W. Carnes, Chief, Division of Port and Intermodal Operations, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4357

RIN: 2133–AA85

2704. MERCHANT MARINE TRAINING

Significance: Nonsignificant

Legal Authority: 46 USC app 1114(b)

CFR Citation: 46 CFR 310

Legal Deadline: None

Abstract: This action will amend provisions in MARAD's regulations governing admission and training at the United States Merchant Marine Academy to reflect and conform to provisions in PL 101-595 (Nov. 16, 1991).

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a

DOT—MarAd — **Final Rule Stage**

statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Bruce J. Carlton, Director, Office of Maritime Labor and Training, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-5755

RIN: 2133–AA94

2705. OPERATING-DIFFERENTIAL SUBSIDY (ODS) ON BULK CARGO VESSELS; CALCULATION OF MAINTENANCE AND REPAIR SUBSIDY RATES

Significance: Nonsignificant

Legal Authority: 46 USC app 1114; 46 USC app 1173

CFR Citation: 46 CFR 252

Legal Deadline: None

Abstract: This rule would modify the methodology and procedure MARAD uses for calculating and paying maintenance and repair (M&R) subsidy to operators of bulk cargo vessels that receive M&R subsidy under their ODS agreements. Payment is subject to findings by MARAD that M&R costs submitted by the subsidized operators are fair and reasonable and is subject to audit by the Department's Office of Inspector General. The amendment is intended to eliminate delay in determining final ODS payment for M&R expenses.

Timetable:

Action	Date	FR Cite
NPRM	11/06/92	57 FR 53083
NPRM Comment Period End	12/07/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/06/92 (57 FR 53083)

Agency Contact: Arthur B. Sforza, Director, Office of Ship Operating Costs, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC. 20590, 202 336-2323

RIN: 2133–AA99

2706. • FEDERAL PORT CONTROLLERS

Significance: Nonsignificant

Legal Authority: 50 USC app 2071

CFR Citation: 46 CFR 346

Legal Deadline: None

Abstract: The amendments will reflect the change in statutory authority for the Maritime Administrator to activate Federal Port Controller (FPC) contracts in the event of the deployment of U.S. Armed Forces. This authority citation will be consistent with that cited in 46 CFR 340 with respect to the allocation of port facilities, containers and vessels.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation

Agency Contact: John Carnes, Chief, Division of Port and Intermodal Planning, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-4357

RIN: 2133–AB03

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MarAd)

Completed Actions

2707. FOREIGN TRANSFER OF DOCUMENTED VESSELS

Significance: Nonsignificant

Legal Authority: 46 USC app 808

CFR Citation: 46 CFR 221

Legal Deadline: None

Abstract: The Maritime Administration (MARAD) was considering proposing to amend its regulations at 46 CFR part 221 to lessen further the requirement for regulatory review of the foreign transfer of certain U.S. documented vessels. Upon further analysis, it was determined such action is not required at this time.

Timetable:

Action	Date	FR Cite
Action Terminated	01/29/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway; 971 National Security; 972 International Affairs

Agency Contact: Edmund T. Sommer, Jr., Acting Deputy Chief Counsel, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590, 202 366-5711

RIN: 2133–AB00

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Part XV

Department of the Treasury

Semiannual Regulatory Agenda

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DEPARTMENT OF THE TREASURY (TREAS)

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda

AGENCY: Departmental Offices, Treasury.

ACTION: Semiannual agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12291 ("Federal Regulation," February 17, 1981), which require the publication of a semiannual agenda of regulations. The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda format developed by the Regulatory Information Service Center (RISC).

FOR FURTHER INFORMATION CONTACT: For additional information about a specific Departmental Offices regulation, contact the "Agency Contact" listed in the specific regulatory action.

Edward S. Knight,

Executive Secretary

Departmental Offices—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2708	17 CFR 402 Revisions to the Government Securities Act Regulations; Financial Responsibility; Minimum Capital Requirements	1505-AA44

Departmental Offices—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2709	31 CFR 10 Due Diligence Standards With Respect to Persons Practicing Before the Internal Revenue Service	1505-AA17
2710	31 CFR 21 Restrictions on Lobbying	1505-AA35
2711	31 CFR 103 Money Laundering Through International Payments	1505-AA37
2712	31 CFR 103 Mandatory Aggregation of Currency Transactions for Certain Financial Institutions and Mandatory Magnetic Media Reporting of Currency Transaction Reports	1505-AA41
2713	17 CFR 403 Revisions to the Government Securities Act Regulations; Mortgage-Backed Securities	1505-AA42
2714	31 CFR 10 Revision of Circular 230, Practice Before the Internal Revenue Service	1505-AA45

Departmental Offices—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2715	31 CFR 103 Proposed Amendments to the Bank Secrecy Act Regulations Regarding Reporting and Record-keeping Requirements by Casinos	1505-AA10

DEPARTMENT OF THE TREASURY (TREAS) — Proposed Rule Stage
Departmental Offices (DO)

2708. REVISIONS TO THE GOVERNMENT SECURITIES ACT REGULATIONS; FINANCIAL RESPONSIBILITY; MINIMUM CAPITAL REQUIREMENTS

Legal Authority: 31 USC 3121; 31 USC 9110; 15 USC 78o-5

CFR Citation: 17 CFR 402; 17 CFR 404

Legal Deadline: None

Abstract: The proposal would raise the minimum capital requirements for all government securities brokers and dealers subject to the requirements of 17 CFR 402.2 and establish a written notification requirement for certain withdrawals of capital. This proposal is a companion rule to Security and Exchange Commission's previously proposed revised minimum capital requirements for brokers and dealers subject to the requirements of 17 CFR 240.15c3-1 and final rules regarding the withdrawal of capital.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald V. Hammond, Assistant Director, Government Securities Regulations Staff, Department of the Treasury, Bureau of the Public Debt, Room 209, 999 E Street NW., Washington, DC 20239-0001, 202 219-3632

RIN: 1505-AA44

TREAS—DO — Proposed Rule Stage

DEPARTMENT OF THE TREASURY (TREAS) — Final Rule Stage
Departmental Offices (DO)

2709. DUE DILIGENCE STANDARDS WITH RESPECT TO PERSONS PRACTICING BEFORE THE INTERNAL REVENUE SERVICE

Legal Authority: 5 USC 301; 31 USC 330; 31 USC 321

CFR Citation: 31 CFR 10

Legal Deadline: None

Abstract: The proposed regulation would modify the current regulations governing practice before the Internal Revenue Service by clarifying the requirements relating to due diligence standards imposed on tax practitioners.

Timetable:

Action	Date	FR Cite
NPRM	08/14/86	51 FR 29113
Extend Public Comment Period to 11/13/86	08/27/86	51 FR 30510
NPRM Comment Period End	10/14/86	51 FR 29113
Extend Public Comment Period to 02/13/87	11/06/86	51 FR 40340

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie S. Shapiro, Director of Practice, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 535-6787

RIN: 1505-AA17

2710. RESTRICTIONS ON LOBBYING

Legal Authority: 31 USC 321; 31 USC 1352

CFR Citation: 31 CFR 21

Legal Deadline: None

Abstract: This document constitutes the Department of the Treasury's participation in a common rulemaking to prohibit certain recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant, or loan.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Interim Final Rule Effective Date	02/26/90	55 FR 6736
Interim Final Rule Comment Period End	04/27/90	55 FR 6736

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Cathy Thomas, Office of Management Programs Directorate, Department of the Treasury, Room 2217, Washington, DC 20220, 202 343-0249

RIN: 1505-AA35

2711. MONEY LAUNDERING THROUGH INTERNATIONAL PAYMENTS

Legal Authority: 31 USC 5314; 31 USC 5318

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule, issued under the Bank Secrecy Act, addresses the problem of money laundering through international payments, especially wire transfers of funds.

Timetable:

Action	Date	FR Cite
ANPRM	10/31/89	54 FR 45769
ANPRM Comment Period End	01/02/90	54 FR 45770
NPRM	10/15/90	55 FR 41696
NPRM Comment Period End	11/29/90	55 FR 41696
Comment Period Extended to 01/15/91	12/05/90	55 FR 50192

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Linda Noonan, Senior Counsel for Financial Enforcement, Department of the Treasury, Room 2000, Washington, DC 20220, 202 622-1934

RIN: 1505-AA37

2712. MANDATORY AGGREGATION OF CURRENCY TRANSACTIONS FOR CERTAIN FINANCIAL INSTITUTIONS AND MANDATORY MAGNETIC MEDIA REPORTING OF CURRENCY TRANSACTION REPORTS

Legal Authority: 12 USC 1929b; 12 USC 1951 to 1959; 31 USC 5311 to 5326

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This regulation would require that banks with deposits of over $100 million maintain systems to aggregate currency transactions that, at a minimum, are conducted by or on behalf of account holders at the bank and that affect an account during a business day; and require currency dealers and exchanges (including check cashers) and transmitters of funds, regardless of asset size, to maintain systems and procedures to aggregate currency transactions that are conducted by or on behalf of customers at the financial institution during a business day. The regulation also would require financial institutions that file more than 1,000 Currency Transaction Reports a year to file by use of magnetic media.

Timetable:

Action	Date	FR Cite
NPRM	09/06/90	55 FR 36663
NPRM Comment Period End	12/05/90	55 FR 36663

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinnis, Director, Office of Financial Enforcement, Department of the

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TREAS—DO — **Final Rule Stage**

Treasury, 1500 Pennsylvania Avenue NW., Room 4320, Washington, DC 20220, **202 622-0400**

RIN: 1505–AA41

2713. REVISIONS TO THE GOVERNMENT SECURITIES ACT REGULATIONS; MORTGAGE-BACKED SECURITIES

Legal Authority: 31 USC 3121; 31 USC 9110; 15 USC 78o-5

CFR Citation: 17 CFR 403

Legal Deadline: None

Abstract: The proposed regulations would implement a buy-in requirement for: (1) mortgage-backed securities that are in a fail-to-receive status for more than 60 days, and (2) all Government securities that are needed to complete a sell order of a customer (other than a short sale) if the securities have not been received from the customer within ten business days after the settlement date.

Timetable:

Action	Date	FR Cite
NPRM	04/17/91	56 FR 15529
NPRM Comment Period End	06/16/91	56 FR 15529

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Clifford Rones, Attorney-Advisor, Government Securities Regulations Staff, Department of the Treasury, Bureau of the Public Debt, Room 209, 999 E Street NW., Washington, DC 20239-0001, **202 219-3632**

RIN: 1505–AA42

2714. REVISION OF CIRCULAR 230; PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 330

CFR Citation: 31 CFR 10

Legal Deadline: None

Abstract: This rule would amend the regulations governing the practice of individuals before the Internal Revenue Service, and affect individuals who are eligible to practice before the Service. The regulations would (1) establish tax return preparation standards and prescribe the circumstances under which a practitioner could be disciplined for violations; (2) prohibit contingent fees for preparing tax returns; (3) extend certain existing restrictions governing limited practice before the Service to all individuals eligible to engage in limited practice; (4) establish expedited proceedings to temporarily suspend, in cases where certain determinations have been made by independent bodies, individuals from practice before the Service; and (5) permit attorneys and certified public accountants in good standing to obtain or retain enrolled agent status.

Timetable:

Action	Date	FR Cite
NPRM	10/08/92	57 FR 46356
NPRM Comment Period End	11/16/92	57 FR 46356
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David L. Meyer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, Office of the Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service, Washington, DC 20224, **202 622-6232**

RIN: 1505–AA45

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO) — **Completed Actions**

2715. PROPOSED AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS REGARDING REPORTING AND RECORDKEEPING REQUIREMENTS BY CASINOS

Legal Authority: 31 USC 5311 to 5322; 12 USC 1829b; 12 USC 1951 to 1959

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: The proposed regulations contain 16 amendments to the Bank Secrecy Act regulations that are designed to respond to substantial noncompliance with the current regulations by casinos.

Timetable:

Action	Date	FR Cite
NPRM	08/18/88	53 FR 31370
NPRM Comment Period End	10/17/88	53 FR 31370
Comment Period Extension to 11/14/88	10/28/88	53 FR 43736
Comment Period Extension to 12/14/88	12/01/88	53 FR 48551
Final Action	03/12/93	58 FR 13538
Final Action Effective	09/08/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinnis, Director, Office of Financial Enforcement, Department of the Treasury, 1500 Pennsylvania Avenue NW., Room 4320, Washington, DC 20220, **202 622-0400**

RIN: 1505–AA10

[FR Doc. 93-6055 Filed 04-23-93; 8:45 am]

BILLING CODE 4810-25-F

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Fiscal Service

31 CFR Ch. II

Semiannual Agenda

AGENCY: Financial Management Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12291 (Federal Regulation, February 17, 1981), which require publication of a semiannual agenda of regulations under development or review.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulation contained in this agenda, contact the "Agency Contact" listed in the specific regulatory action.

SUPPLEMENTARY INFORMATION: The proposed regulations are not considered to be major regulations within the meaning of E.O. 12291 and a regulatory impact analysis is not required. It is hereby certified that the proposed regulations will not have a significant economic impact on a substantial number of small entities; accordingly, a regulatory flexibility analysis is not required.

Dated: March 8, 1993.

Bland T. Brockenborough,

Acting Commissioner.

Financial Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2716	31 CFR 210,(Revision) Federal Payments Through Financial Institutions by the Automated Clearing House Method	1510-AA17
2717	31 CFR 203 Treasury Tax and Loan Depositaries, Depositaries for Federal Taxes	1510-AA22
2718	31 CFR 254 Payments on Account of Awards and Appraisals in Favor of Nationals of the United States on Claims Against the Government of Mexico	1510-AA25
2719	31 CFR 235 Issuance of Settlement Checks For Forged Checks Drawn on Designated Depositaries	1510-AA32
2720	31 CFR 206 Management of Federal Agency Receipts, Disbursements, and Operation of the Cash Management Improvements Fund	1510-AA34

Financial Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2721	31 CFR 210,(Revision) Federal Payments Through Financial Institutions by the Automated Clearing House Method	1510-AA20
2722	31 CFR 251 Payment of Unclaimed Interest on Certain Awards of the Mixed Claims Commission, United States and Germany	1510-AA23
2723	31 CFR 253 Payment Under the Act of Congress Approved August 30, 1962 on Unpaid Balances of Awards of Philippine War Damage Commission	1510-AA24
2724	31 CFR 290 Loans to Public or Private Agencies Under the Refugee Relief Act of 1953	1510-AA27
2725	31 CFR 209 Payment to Financial Institutions for Credit to Accounts of Employees and Beneficiaries	1510-AA30
2726	31 CFR 270 Availability of Records	1510-AA31

Financial Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2727	31 CFR 257 Payments on Account of Deposits in the Postal Savings System	1510-AA26
2728	31 CFR 250 Payments on Account of Awards of the Foreign Claims Settlement Commission of the United States	1510-AA29

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DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Proposed Rule Stage

2716. FEDERAL PAYMENTS THROUGH FINANCIAL INSTITUTIONS BY THE AUTOMATED CLEARING HOUSE METHOD

Significance: Regulatory Program

Legal Authority: 5 USC 5525; 12 USC 391; 31 USC 321

CFR Citation: 31 CFR 210,(Revision)

Legal Deadline: None

Abstract: Revision of 31 CFR part 210 will attempt reconciliation of Automated Clearing House regulations and private industry rules as set forth by the National Automated Clearing House Association. The revision will support the technological changes being made in Benefit Payment Methods to include a more rapid time frame for the reclamation process and to establish rules for commercial-to-Government entries (collections).

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Janelle Edgar, **Financial Program Specialist**, Electronic Initiatives Branch, Financial Innovation Division, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227, **202 874-6644**

RIN: 1510–AA17

2717. TREASURY TAX AND LOAN DEPOSITARIES, DEPOSITARIES FOR FEDERAL TAXES

Significance: Agency Priority

Legal Authority: 31 USC 3122; 31 USC 323; 12 USC 265; 12 USC 391

CFR Citation: 31 CFR 203; 31 CFR 214

Legal Deadline: None

Abstract: This rule revises the regulations found at 31 CFR Part 203 to more accurately reflect current practices, expand certain sections to clarify their intent, incorporate related regulations that currently appear in Part 214, and correct a number of editorial errors in the text.

Timetable:

Action	Date	FR Cite
NPRM	10/27/92	57 FR 48584
NPRM Comment Period End	11/27/92	57 FR 4854

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathryn Miller, Manager, Bank Review Branch, Department of the Treasury, Financial Management Service, Room 420A, 401 14th Street SW., Washington, DC 20227, **202 874-6590**

RIN: 1510–AA22

2718. PAYMENTS ON ACCOUNT OF AWARDS AND APPRAISALS IN FAVOR OF NATIONALS OF THE UNITED STATES ON CLAIMS AGAINST THE GOVERNMENT OF MEXICO

Significance: Agency Priority

Legal Authority: 56 Stat. 1062; 22 USC 661 to 672

CFR Citation: 31 CFR 254

Legal Deadline: None

Abstract: This revision proposes the removal of the regulation governing payment to United States nationals on their claims against the government of Mexico. This regulation is obsolete. No claims have been made in more than 5 years and all efforts to contact all awardholders have been exhausted. The effect of this regulation is to remove an unnecessary regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/27/92	57 FR 56293
NPRM Comment Period End	12/28/92	57 FR 56293

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mia Abeya, Branch Manager, Credit Accounting Branch, Department of the Treasury, Financial Management Service, Room 500C, 3700 East-West Highway, Hyattsville, MD 20782, **202 874-8740**

RIN: 1510–AA25

2719. ISSUANCE OF SETTLEMENT CHECKS FOR FORGED CHECKS DRAWN ON DESIGNATED DEPOSITARIES

Significance: Agency Priority

Legal Authority: 31 USC 3343; 31 USC 321; PL 100-86, Title X, sec 1005

CFR Citation: 31 CFR 235

Legal Deadline: None

Abstract: This rule amends existing regulations governing the issuance of settlement checks drawn on the United States Treasury and drawn on designated depositaries of the United States by accountable officers of the United States, that have been negotiated and paid on a forged or unauthorized endorsement. The changes are required due to the fact that the Check Forgery Insurance Fund has been closed pursuant to 31 USC 1555 which provides for closure of accounts where there have been no disbursements over a 2 year period.

Timetable:

Action	Date	FR Cite
NPRM	11/04/92	57 FR 52605
NPRM Comment Period End	01/04/93	57 FR 52605

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald Brooks, Program Analyst, Financial Processing Division, Department of the Treasury, Financial Management Service, Room 800F, 3700 East-West Highway, Hyattsville, MD 20782, **202 874-8480**

RIN: 1510–AA32

2720. MANAGEMENT OF FEDERAL AGENCY RECEIPTS, DISBURSEMENTS, AND OPERATION OF THE CASH MANAGEMENT IMPROVEMENTS FUND

Significance: Regulatory Program

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 3301; 31 USC 3302; 31 USC 3321; 31 USC 3327; 31 USC 3328; 31 USC 3332; 31 USC 3335; 31 USC 3720

CFR Citation: 31 CFR 206

Legal Deadline: None
Pub. L. No. 102-589 removed the deadline for promulgation of regulations.

TREAS—FMS

Proposed Rule Stage

Abstract: This regulation revises collection and deposit regulations requiring timely methods for the collection and deposit of Federal funds. The revisions, authorized by the Cash Management Improvement Act of 1990, as amended, require executive agencies to use effective, efficient disbursement mechanisms in the delivery of payments. Noncompliance by agencies may result in a charge equal to the cost of noncompliance to the Treasury's General Fund. By implementing the Act, the amended regulations will ensure efficient and effective disbursements of funds. These regulations have as a goal the electronic disbursement of all Federal funds.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John Galligan, Project Manager, Cash Management Improvement Act, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227, 202 874-6935

RIN: 1510–AA34

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Final Rule Stage

2721. FEDERAL PAYMENTS THROUGH FINANCIAL INSTITUTIONS BY THE AUTOMATED CLEARING HOUSE METHOD

Significance: Agency Priority

Legal Authority: 5 USC 5525; 12 USC 391; 31 USC 321

CFR Citation: 31 CFR 210,(Revision)

Legal Deadline: None

Abstract: Revision of 31 CFR part 210 will clarify that the Federal Reserve Bank may set the medium used to receive Government ACH transactions. The revision also will clarify that Federal Reserve banks must make Federal ACH payment information available before the opening of business on the payment date and announces the policy of requiring Government only receivers to establish an electronic access with their Federal Reserve banks by July 1994.

Timetable:

Action	Date	FR Cite
NPRM	08/05/92	57 FR 34650
NPRM Comment Period End	10/05/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janelle Edgar, Financial Program Specialist, Electronic Initiatives Branch, Financial Innovation Division, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227, **202 874-6644**

RIN: 1510–AA20

2722. PAYMENT OF UNCLAIMED INTEREST ON CERTAIN AWARDS OF THE MIXED CLAIMS COMMISSION, UNITED STATES AND GERMANY

Significance: Agency Priority

Legal Authority: 45 Stat. 254, Sec. 2(d) as amended

CFR Citation: 31 CFR 251

Legal Deadline: None

Abstract: This revision proposes the removal of the regulation governing payment of unclaimed interest on awards of the Mixed Claims Commission. This regulation is obsolete. No applications for payments have been filed against this fund in at least 5 years by the person(s) entitled thereto. The effect of this notice is to remove an unnecessary regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/27/92	57 FR 56292
NPRM Comment Period End	12/28/92	57 FR 56292
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mia Abeya, Branch Manager, Credit Accounting Branch, Department of the Treasury, Financial Management Service, Room 500C, 3700 East-West Highway, Hyattsville, MD 20782, **202 874-8740**

RIN: 1510–AA23

2723. PAYMENT UNDER THE ACT OF CONGRESS APPROVED AUGUST 30, 1962 ON UNPAID BALANCES OF AWARDS OF PHILIPPINE WAR DAMAGE COMMISSION

Significance: Agency Priority

Legal Authority: 50 USC app 1751 to 1806 note, 76 Stat. 412

CFR Citation: 31 CFR 253

Legal Deadline: None

Abstract: This revision proposes the removal of the regulation governing payment of unpaid balances of awards of the Philippine War Damage Commission. This regulation is obsolete. The time for applying for payment, and making the payment, have passed. The effect of this notice is to remove an unnecessary regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/27/92	57 FR 56293
NPRM Comment Period End	12/28/92	57 FR 56293
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mia Abeya, Branch Manager, Credit Accounting Branch, Department of the Treasury, Financial Management Service, Room 500C, 3700 East-West Highway, Hyattsville, MD 20782, **202 874-8740**

RIN: 1510–AA24

2724. LOANS TO PUBLIC OR PRIVATE AGENCIES UNDER THE REFUGEE RELIEF ACT OF 1953

Significance: Agency Priority

Legal Authority: EO 10487; 67 Stat. 406; 50 USC app 1971 to 1971q, note

CFR Citation: 31 CFR 290

Legal Deadline: None

Abstract: This revision proposes the removal of the regulation governing loans to public and private agencies of the United States under the Refugee Relief Act of 1953. This regulation is

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obsolete because the terms of the Act require the loans to mature not later than June 30, 1963. The effect of this notice is to remove an unnecessary regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/27/92	57 FR 56294
NPRM Comment Period End	12/28/92	57 FR 56294
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mia Abeya, Branch Manager, Credit Accounting Branch, Department of the Treasury, Financial Management Service, Room 500C, 3700 East-West Highway, Hyattsville, MD 20782, 202 874-8740

RIN: 1510–AA27

2725. PAYMENT TO FINANCIAL INSTITUTIONS FOR CREDIT TO ACCOUNTS OF EMPLOYEES AND BENEFICIARIES

Significance: Agency Priority

Legal Authority: 31 USC 321; 31 USC 3322; 31 USC 3332

CFR Citation: 31 CFR 209

Legal Deadline: None

Abstract: The Financial Management Service is revising and clarifying 31 CFR Part 209. The Federal Government disburses payment by both check and Electronic Funds Transfer methods. This revision generalizes the regulation to show that financial institutions may receive payment on behalf of a Federal Government payment recipient by Electronic Funds Transfer or check. A nomenclature change is being made to change references to "check" to read "payment." This revision also reflects procedural changes for savings allotment for payment recipients who receive their payment by Direct Deposit. The intended effect of this notice is to clarify the meaning of the rule by revising the language to comply with current operating procedures. The regulation also has been amended to reflect gender neutral terms. In addition, the word "shall" is to be changed to "may" in 209.4(c) to give agencies the discretion to NOT issue Direct Deposit checks. This will make that part of the rule conform with the authorizing language.

Timetable:

Action	Date	FR Cite
NPRM	12/04/92	57 FR 57400
NPRM Comment Period End	01/04/93	57 FR 57400
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donna Kotelnicki, Program Analyst, Payment Services Branch, Department of the Treasury, Financial Management Service, Room 321B, 401 14th Street SW., Washington, DC 20227, 202 874-6871

RIN: 1510–AA30

2726. AVAILABILITY OF RECORDS

Significance: Agency Priority

Legal Authority: 5 USC 552

CFR Citation: 31 CFR 270

Legal Deadline: None

Abstract: The Financial Management Service proposes to revise its regulations to provide more accurate information to the public concerning where to send requests for information and the fees that will be charged for services. This revision also includes editorial changes for clarity and address changes.

Timetable:

Action	Date	FR Cite
NPRM	09/09/92	57 FR 41117
NPRM Comment Period End	10/09/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rita Franklin, Branch Manager, Programs Branch, Department of the Treasury, Financial Management Service, Room 101, 3700 East-West Highway, Hyattsville, MD 20782, 202 874-8300

RIN: 1510–AA31

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Completed Actions

2727. PAYMENTS ON ACCOUNT OF DEPOSITS IN THE POSTAL SAVINGS SYSTEM

Significance: Agency Priority

Legal Authority: 5 USC 301; 31 USC 725p

CFR Citation: 31 CFR 257

Legal Deadline: None

Abstract: This revision proposes the removal of the regulation governing payment on account of deposits in the Postal Savings System. This regulation is obsolete. Applications for payment are precluded by the Postal Savings System Statute of Limitations Act of 1984 (Pub. L. 98-359). The effect of this notice is to remove an unnecessary regulation.

Timetable:

Action	Date	FR Cite
NPRM	08/18/92	57 FR 37139
NPRM Comment Period End	09/17/92	
Final Action	12/04/92	57 FR 57344
Final Action Effective	01/04/93	57 FR 57344

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mia Abeya, Branch Manager, Credit Accounting Branch, Department of the Treasury, Financial Management Service, Room 500C, 3700 East-West Highway, Hyattsville, MD 20782, 202 874-8740

RIN: 1510–AA26

2728. PAYMENTS ON ACCOUNT OF AWARDS OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

Significance: Agency Priority

Legal Authority: Sec. 7, 64 Stat. 16; Sec. 310, 69 Stat. 573; Sec. 413, 72 Stat. 530; Sec. 213, 76 Stat. 1111; 22 USC 1626; 22 USC 1641i; 22 USC 1642l; 50 USC app 2017l

CFR Citation: 31 CFR 250

Legal Deadline: None

Abstract: Treasury is revising its regulations to update the mailing address for the forwarding of forms used in connection with the payment on awards certified to the Secretary of the Treasury by the Foreign Claims Settlement Commission.

Timetable:

Action	Date	FR Cite
Final Action	01/15/93	58 FR 4578
Final Action Effective	01/15/93	58 FR 4578

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mia Abeya, Branch Manager, Credit Accounting Branch, Department of the Treasury, Financial Management Service, Room 500C, 3700 East-West Highway, Hyattsville, MD 20782, 202 874-8740

RIN: 1510–AA29

[FR Doc. 93-6056 Filed 04-23-93; 8:45 am]

BILLING CODE 4810-35-F

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Bureau of Alcohol, Tobacco and Firearms

27 CFR Ch. I

[Notice No. 769]

Unified Agenda of Federal Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: General notice; Unified Agenda of Federal Regulations of regulatory projects under development, consideration, and review.

SUMMARY: Pursuant to section 5 of Executive Order 12291 entitled "Federal Regulation," ATF is publishing an agenda of proposed regulations that are expected to be issued and of proposed regulations that have been issued and an agenda of existing regulations that are being reviewed under the terms of the Executive order within the next 6 months. The latter agenda also lists regulatory projects identified for review pursuant to the ATF Regulatory Reform Program. Pursuant to section 610 of the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. 610), ATF is also indicating whether a regulatory project is likely to have significant economic impact upon a substantial number of small entities.

This general notice is designed to give the public adequate notice of the regulatory activities being contemplated by ATF.

The agenda is based on information available at the present time. The next Unified Agenda of Federal Regulations will be published in the Federal Register of October 1993.

FOR FURTHER INFORMATION CONTACT: For information about any particular regulatory project, contact the person listed in the subheading "Agency Contact" for the regulatory project.

For general information about this general notice, contact Angela Shanks, Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927-8230.

Issuance

By direction of the Secretary of the Treasury, this general notice reads as set forth below.

Dated: February 19, 1993.

Stephen E. Higgins,

Director.

Bureau of Alcohol, Tobacco and Firearms—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2729	27 CFR 7 Standard of Identity for Malt Liquor	1512-AA95

Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2730	27 CFR 250 Recodification of 27 CFR Part 250 as 27 CFR Part 26	1512-AA69
2731	27 CFR 27 Recodification of 27 CFR Part 251 as 27 CFR Part 27	1512-AA72
2732	27 CFR 28 Recodification of 27 CFR Part 252 as 27 CFR Part 28	1512-AA98
2733	27 CFR 7.22(b)(7) Disclosure of Aspartame In The Labeling of Malt Beverages	1512-AB07
2734	27 CFR 4 Grape Wine Designation - Gamay Beaujolais	1512-AB08
2735	27 CFR 6 Revision Of The Trade Practice Regulations	1512-AB10
2736	27 CFR 25.205 Home Brew Warehouses for the Production of Beer for Personal or Family Use	1512-AB18
2737	27 CFR 55.121 Rewrite Records and Reports In Regulations Part 55	1512-AB02
2738	27 CFR 285 27 CFR Part 285, Manufacture of Cigarette Papers and Tubes	1512-AA33
2739	27 CFR 290 Exportation of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax	1512-AB03

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TREAS—BATF

Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2740	27 CFR 9 American Viticultural Areas	1512-AA07
2741	27 CFR 197 Nonbeverage Drawback	1512-AA20
2742	27 CFR 4 Wine Labeling Amendments	1512-AA31
2743	27 CFR 4 Winegrape Varietal Designations	1512-AA67
2744	27 CFR 16 Health Warning Statement on Labels of Alcoholic Beverages Request for Information	1512-AA82
2745	27 CFR 4 Definition of "Brand Label" for Wine; and Standard Wine Containers	1512-AA87
2746	27 CFR 24.182 Wine Treating Materials and Processes	1512-AA89
2747	27 CFR 24.273 Change In The Frequency of Filing Reports of Bonded Wine Premises Operations and Wine Excise Tax Return	1512-AB06
2748	27 CFR 22 27 CFR 22 - Distribution and Use of Tax Free Alcohol: Technical Corrections Covering Special (Occupational) Tax	1512-AB15
2749	27 CFR 25.297 Change in Frequency of Filing Brewers Reports of Operations and Additional Listing of Case and Keg Sizes	1512-AB16
2750	27 CFR 7 Alcoholic Content Labeling for Malt Beverages	1512-AB17
2751	27 CFR 178 Imported Parts	1512-AA93
2752	27 CFR 47 Importation of Arms, Ammunition and Implements of War	1512-AB20
2753	27 CFR 70.511 to 70.526 27 CFR Part 70 - Conference and Practice Requirements For The Bureau of Alcohol, Tobacco and Firearms	1512-AB11
2754	27 CFR 70.61 27 CFR Part 70 - Delegation Of Authority To Accept Checks and Waive Penalties	1512-AB12

Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2755	27 CFR 4.21 Labeling Of Bulk Process Sparkling Wine	1512-AB09
2756	27 CFR 70.307 27 CFR Part 70 - Procedures Involving Taxpayer Interviews; Recording of Interviews	1512-AB13
2757	27 CFR 70.201 27 CFR Part 70 - Civil Causes of Action For Unauthorized Collection Actions and For Failure to Release a Lien and Awarding of Cost and Certain Fees	1512-AB14
2758	27 CFR 270.11 Manufacturer's Identification on Tobacco Products Packages	1512-AA28

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Prerule Stage

ALCOHOL

2729. STANDARD OF IDENTITY FOR MALT LIQUOR

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 7

Legal Deadline: None

Abstract: A coalition of consumer organizations has petitioned ATF to establish a standard of identity for the labeling of malt liquor. Currently there are no standards of identity for any malt beverages. ATF is considering proposing standards of identity for the various classes and types of malt beverages.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8230

RIN: 1512–AA95

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Proposed Rule Stage

ALCOHOL

2730. RECODIFICATION OF 27 CFR PART 250 AS 27 CFR PART 26

Significance: Agency Priority

Legal Authority: 26 USC 7651 to 7652; PL 85-859; 26 USC 5314; 26 USC 7805

CFR Citation: 27 CFR 250

Legal Deadline: None

Abstract: As part of the recodification of part 250, we plan to simplify, consolidate and/or eliminate as many sections of regulations as possible by placing particular emphasis on reducing the number of recordkeeping requirements, forms, and customs responsibilities. Wherever possible, we plan to utilize proprietor's commercial records in lieu of requiring the proprietor to submit public use forms. These changes to part 250 should considerably reduce the burden hours on industry.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40885
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	10/15/92	57 FR 47319
ANPRM Comment Period Extended End	12/07/92	
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gail Hosey, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8210

RIN: 1512–AA69

2731. RECODIFICATION OF 27 CFR PART 251 AS 27 CFR PART 27

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 27; 27 CFR 251

Legal Deadline: None

Abstract: To update and clarify regulations relating to the importation of distilled spirits, wine, and beer and to incorporate related ATF Rulings into the regulations. To reduce or eliminate certain reporting requirements and reduce burden on industry.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40886
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	10/15/92	57 FR 47319
ANPRM Comment Period Extended End	12/07/92	
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ed Reisman, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8210

RIN: 1512–AA72

2732. RECODIFICATION OF 27 CFR PART 252 AS 27 CFR PART 28

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 28; 27 CFR 252

Legal Deadline: None

Abstract: To update and clarify regulations relating to the exportation of distilled spirits, wine, and beer and to incorporate related ATF Rulings into the regulations. To reduce or eliminate certain reporting requirements and reduce burden on industry.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40887
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	10/15/92	57 FR 47320
ANPRM Comment Period Extended End	12/07/92	
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gail Hosey, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8210

RIN: 1512–AA98

2733. DISCLOSURE OF ASPARTAME IN THE LABELING OF MALT BEVERAGES

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 7.22(b)(7)

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations in 27 CFR part 7 labeling and advertising of malt beverages to incorporate a recent change in the Food and Drug Administrations (FDA) food additive regulations to provide for the safe use of Aspartame as a sweetener in Malt Beverages products.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Brokaw, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8230

RIN: 1512–AB07

2734. GRAPE WINE DESIGNATION - GAMAY BEAUJOLAIS

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: Gamay Beaujolais has been used as a term to identify certain wines made from pinot noir or Napa Gamay grapes. Since Gamay Beaujolais is not the name of a grape variety, its usage on wine labels may be incorrect. A notice of proposed rulemaking will consider labeling requirements for use of this term. This rulemaking project was formerly included in rulemaking for winegrape varietal designation, RIN 1512-AA67.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts

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Avenue NW., Washington, DC 20226, 202 927-8230

RIN: 1512–AB08

2735. REVISION OF THE TRADE PRACTICE REGULATIONS

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 6; 27 CFR 8; 27 CFR 10; 27 CFR 11

Legal Deadline: None

Abstract: The intent of the proposed revisions and amendments will be to define permitted market practices within the existing statutory framework as well as to update, simplify, and/or clarify various interpretations of the Federal Alcohol Administration Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Brokaw, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8230

RIN: 1512–AB10

2736. • HOME BREW WAREHOUSES FOR THE PRODUCTION OF BEER FOR PERSONAL OR FAMILY USE

Significance: Agency Priority

Legal Authority: 26 USC 5051; 26 USC 5053(e)

CFR Citation: 27 CFR 25.205; 27 CFR 25.206

Legal Deadline: None

Abstract: ATF is considering issuing regulations relating to "Home Brew Warehouses." Under the exemption provided at 26 U.S.C. 5053(e), adults may produce beer for personal family use without payment of tax. Since there is no restriction on the place where such beer may be produced, home brew warehouses have come into existence as commercial establishments where adults may produce such beer. Regulations may require home brew warehouses to provide notice to ATF and to keep certain records.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan Crowley, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8039

RIN: 1512–AB02

TOBACCO PRODUCTS

2738. 27 CFR PART 285, MANUFACTURE OF CIGARETTE PAPERS AND TUBES

Significance: Agency Priority

Legal Authority: 26 USC 7805 (68A Stat 917)

CFR Citation: 27 CFR 285

Legal Deadline: None

Abstract: To reduce or eliminate administrative and recordkeeping burdens under 27 CFR part 285.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Mary Wood, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226, 202 927-8230

RIN: 1512–AA33

2739. EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 290

Legal Deadline: None

Abstract: ATF is proposing the recodification of 27 CFR part 290 in order to reduce recordkeeping and reporting requirements. This proposal will provide for the use of commercial records in lieu of U.S. Customs' supervision and certification. The elimination of the certification forms as well as other forms will also result from this proposal.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40689
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	01/08/93	58 FR 3247
ANPRM Comment Period Extended End	03/03/93	
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Wood, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8210

RIN: 1512–AB03

FIREARMS

2737. REWRITE RECORDS AND REPORTS IN REGULATIONS PART 55

Significance: Agency Priority

Legal Authority: 18 USC 847

CFR Citation: 27 CFR 55.121

Legal Deadline: None

Abstract: Subpart G is being rewritten to clarify use of commercial records as permanent records, and to clarify when variances are necessary. Also, number of changes applying to storage of explosives, refining some definitions in the fireworks area, and changing the quantity of explosive materials that may be in a process building, i.e., increasing quantity based on 2 years' experience with these restrictions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8230

RIN: 1512–AB18

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Final Rule Stage

ALCOHOL

2740. AMERICAN VITICULTURAL AREAS

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: Establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

Dunnigan Hills, CA (contact Marj Dundas)
NPRM 12/11/92 (57 FR 58763)
NPRM Comment Period End 01/25/93
Final Action 06/00/93
Lake Wisconsin, WI (contact James Hunt)
NPRM 05/00/93
Mt. Veeder, CA (contact David Brokaw)
NPRM 06/00/93
Oakville Valley, CA (contact Robert White)
NPRM 09/17/91 (56 FR 47039)
NPRM Reopening of Comment Period 04/22/92 (57 FR 14681)
Reopening of Comment Period End 07/21/92
Notice of Public Hearing 10/02/92 (57 FR 45588)
Date of Public Hearing 12/10/92
Final Action 07/00/93
Rutherford Valley, CA (contact Robert White)
NPRM 09/17/91 (56 FR 47044)
NPRM Reopening of Comment Period 04/22/92 (57 FR 14681)
Reopening of Comment Period End 07/21/92
Notice of Public Hearing 10/02/92 (57 FR 45588)
Date of Public Hearing 12/09/92
Final Action 07/00/93
Spring Mountain, CA (contact Marj Dundas)
NPRM 06/04/92 (57 FR 23559)
NPRM Comment Period End 08/03/92
Second NPRM 02/17/93 (58 FR 8726)
Second NPRM Comment Period End 03/19/93
Final Action 07/00/93
Texas High Plains, TX (contact Marj Dundas)
NPRM 09/30/92 (57 FR 45009)
NPRM Comment Period End 11/16/92
Final Action 03/02/93 (58 FR 11964)
Final Action Effective 04/01/93

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: See Timetable, American Viticultural Areas, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226, 202 927-8230

RIN: 1512–AA07

2741. NONBEVERAGE DRAWBACK

Significance: Agency Priority

Legal Authority: 26 USC 5131

CFR Citation: 27 CFR 197

Legal Deadline: None

Abstract: To update, clarify, simplify, and recodify the regulations relating to drawback of tax on distilled spirits used in the manufacture of non-beverage products.

Timetable:

Action	Date	FR Cite
NPRM	07/29/87	52 FR 28286
NPRM Comment Period End	10/29/87	
NPRM	08/31/92	57 FR 39536
NPRM Comment Period End	09/30/92	
NPRM Comment Period Extended	10/01/92	57 FR 45357
NPRM Comment Period Extended End	10/30/92	
Final Action	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SMALL ENTITIES CONT: This regulation affects approximately 500 small entities.

Agency Contact: Steve Simon, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8210

RIN: 1512–AA20

2742. WINE LABELING AMENDMENTS

Significance: Agency Priority

Legal Authority: 27 USC 205(e); 27 USC 205(f)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: Wine labeling issues addressed: (1) Transported grapes to retain viticultural area designation; (2) Certain wines allowed "other than standard" on label; (3) Harvest date for fruit, berry and agricultural wines; (4) Another use of the term "Estate Bottled".

Timetable:

Action	Date	FR Cite
NPRM	06/19/92	57 FR 27401
NPRM Comment Period End	07/20/92	
NPRM Comment Period Extended	07/27/92	57 FR 33139
NPRM Comment Period Extended End	08/21/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hunt, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226, 202 927-8230

RIN: 1512–AA31

2743. WINEGRAPE VARIETAL DESIGNATIONS

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: This proposal would establish a list of winegrape varietal names which may be used as the type designation on American wine labels. Establishment of this list will standardize labeling terminology and make labels less confusing for

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consumers to read. They will also assist in more accurate identification of wines labeled with the grape variety used.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4392
NPRM Comment Period End	04/07/86	
NPRM Comment Period Extended	04/08/86	51 FR 11944
NPRM Comment Period Extended End	07/07/86	
NPRM	09/03/92	57 FR 40380
NPRM Comment Period End	10/05/92	
NPRM Comment Period Extended	10/26/92	57 FR 48487
NPRM Comment Period Extended End	12/28/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8230

RIN: 1512–AA67

2744. HEALTH WARNING STATEMENT ON LABELS OF ALCOHOLIC BEVERAGES REQUEST FOR INFORMATION

Significance: Agency Priority

Legal Authority: 27 USC 215; 27 USC 217

CFR Citation: 27 CFR 16

Legal Deadline: None

Abstract: ATF is issuing this notice to obtain information which will enable the agency to make a determination as to whether the wording of the alcohol health warning statement should be amended. This action is taken by ATF in order to comply with section 206 of the Alcoholic Beverage Labeling Act of 1988 which requires a report to Congress if current available scientific information justifies a revision in the health warning statement.

Timetable:

Action	Date	FR Cite
NPRM	03/08/91	56 FR 10066
NPRM Comment Period End	07/08/91	
Final Action	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8230

RIN: 1512–AA82

2745. DEFINITION OF "BRAND LABEL" FOR WINE; AND STANDARD WINE CONTAINERS

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: ATF is proposing to amend the definition of "brand label" to make it consistent with the principal display panel approach of the Fair Packaging and Labeling Act. ATF had also been proposing to amend the regulations to provide that standard wine containers shall be so made and formed so as not to mislead the purchaser. However, on September 8, 1992, the standard wine and distilled spirits container issue was withdrawn from the notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	02/06/91	56 FR 4770
NPRM Comment Period End	03/08/91	
NPRM	09/12/91	56 FR 46393
NPRM Comment Period End	12/11/91	
NPRM Comment Period Extended	12/11/91	56 FR 64584
NPRM Comment Period Extended End	01/10/92	
Final Action	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8230

RIN: 1512–AA87

2746. WINE TREATING MATERIALS AND PROCESSES

Legal Authority: 26 USC 5382; 26 USC 5368; 26 USC 5388

CFR Citation: 27 CFR 24.182; 27 CFR 24.246; 27 CFR 24.248; 27 CFR 24.257

Legal Deadline: None

Abstract: This regulation will allow winemakers to use new wine treating materials and processes in the production, cellar treatment, and finishing of wine, if such materials and processes are found by the wine industry to be in accordance with "good commercial practice." No alternatives are being considered. No cost is associated with this action. This action will benefit winemakers by giving them more tools to produce quality wine and will benefit consumers by ensuring that more quality wine is available for purchase. This regulation will also allow a slightly more liberal alcohol label tolerance for wines under 7 percent alcohol by volume. This action is being taken because of the difficulty producers of the new light wine cooler products have in meeting the current alcohol label tolerance requirements. No other alternatives are being considered. No cost is associated with this action. This action will benefit producers of light wine cooler products by liberalizing alcohol label tolerance requirements which have been found to be too restrictive.

Timetable:

Action	Date	FR Cite
NPRM	06/03/92	57 FR 23357
NPRM Comment Period End	07/06/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert White, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8230

RIN: 1512–AA89

2747. CHANGE IN THE FREQUENCY OF FILING REPORTS OF BONDED WINE PREMISES OPERATIONS AND WINE EXCISE TAX RETURN

Significance: Regulatory Program

Legal Authority: 26 USC 5061; 26 USC 5367; 26 USC 5555

CFR Citation: 27 CFR 24.273; 27 CFR 24.300

Legal Deadline: None

Abstract: ATF is proposing to amend the wine regulations to allow certain small bonded wine premises proprietors to file operating reports annually instead of monthly; and to allow certain bonded wine premises who owe less than $1,000 per year in wine excise tax to file returns and pay tax annually instead of semi-monthly.

Timetable:

Action	Date	FR Cite
NPRM	07/29/92	57 FR 33467
NPRM Comment Period End	08/28/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8230

RIN: 1512–AB06

2748. • 27 CFR 22 - DISTRIBUTION AND USE OF TAX FREE ALCOHOL: TECHNICAL CORRECTIONS COVERING SPECIAL (OCCUPATIONAL) TAX

Significance: Agency Priority

Legal Authority: 26 USC 5214

CFR Citation: 27 CFR 22

Legal Deadline: None

Abstract: Updating regulations by including exception from paying special (occupational) tax to certain educational institutions which procure less than 25 gallons of distilled spirits free of tax for experimental or research use.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary Lou Blake, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8220

RIN: 1512–AB15

2749. • CHANGE IN FREQUENCY OF FILING BREWERS REPORTS OF OPERATIONS AND ADDITIONAL LISTING OF CASE AND KEG SIZES

Significance: Regulatory Program

Legal Authority: 26 USC 5412; 26 USC 5414; 26 USC 5555

CFR Citation: 27 CFR 25.297; 27 CFR 25.156; 27 CFR 25.158

Legal Deadline: None

Abstract: ATF is proposing to amend the beer regulations to allow certain small brewers to file operational reports quarterly instead of monthly and to expand the listings of case and keg sizes in regulations to include commercial packages now in use.

Timetable:

Action	Date	FR Cite
NPRM	09/28/92	57 FR 44525
NPRM Comment Period End	10/28/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8230

RIN: 1512–AB16

2750. • ALCOHOLIC CONTENT LABELING FOR MALT BEVERAGES

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 7

Legal Deadline: None

Abstract: A 10/28/92 Decision in the U.S. District Court for the District of Colorado held that the Federal Alcohol Administration Act prohibition against the statement of Alcoholic content on malt beverage labels is unconstitutional under the first amendment. ATF will issue an interim rule amending 27 CFR part 7 to permit the optional statement of alcoholic content on malt beverage labels. This rule is intended to provide guidelines on the form of statement, type size, placement and tolerances for statements of alcoholic content. Based on public comments and the outcome of future court actions, ATF will determine whether to make statements of alcoholic content mandatory on malt beverage labels.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	
Final Action	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8230

RIN: 1512–AB17

FIREARMS

2751. IMPORTED PARTS

Significance: Agency Priority

Legal Authority: 18 USC 922(r)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: Certain semi-automatic rifles are banned from importation. There are people who are currently assembling rifles identical to these banned weapons with the assembly being in the United States using imported parts. This regulation will ban the assembly of such weapons using imported parts.

Timetable:

Action	Date	FR Cite
NPRM	08/19/91	56 FR 41105
NPRM Comment Period End	11/18/91	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Trainor, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8310

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2752. • IMPORTATION OF ARMS, AMMUNITION AND IMPLEMENTS OF WAR

Significance: Agency Priority

Legal Authority: 22 USC 2778

CFR Citation: 27 CFR 47

Legal Deadline: None

Abstract: ATF is preparing a Treasury decision to amend 27 CFR part 47. The amendment will delete Estonia, Latvia and Lithuania from the proscribed countries list to allow the importation of sporting rifles, pistols, revolvers, their ammunition and component parts into the United States.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Pearl Baylor, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8320

RIN: 1512–AB20

PROCEDURAL

2753. 27 CFR PART 70 - CONFERENCE AND PRACTICE REQUIREMENTS FOR THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 70.511 to 70.526

Legal Deadline: None

Abstract: To document the adoption of certain conference and practice rules from IRS regulations in 26 CFR part 600 to ATF regulations in 27 CFR part 70. Currently the conference and practice regulations for ATF are still found in 26 CFR part 600 which is administered by IRS. By this final rule Sections 601.521 through 601.525 are adopted in whole and applicable sections of 601.501 through 601.509 are adopted in part and placed in 27 CFR part 70 which is administered by ATF.

Timetable:

Action	Date	FR Cite
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Bryce, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8220

RIN: 1512–AB11

2754. 27 CFR PART 70 - DELEGATION OF AUTHORITY TO ACCEPT CHECKS AND WAIVE PENALTIES

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 70.61; 27 CFR 70.77; 27 CFR 70.96 to 70.99; 27 CFR 70.74

Legal Deadline: None

Abstract: To expand the responsibilities of the "Chief, Tax Processing Center" by giving that office the authority to accept checks and waive penalties. This delegation will make the enforced collection process more efficient.

Timetable:

Action	Date	FR Cite
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Bryce, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8220

RIN: 1512–AB12

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Completed Actions

2755. LABELING OF BULK PROCESS SPARKLING WINE

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.21

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations in 27 CFR part 4 to permit the use of the phrases "fermented outside the bottle," "secondary fermentation outside the bottle," "not fermented in the bottle," or "not bottle fermented," as alternatives to "bulk process" to further describe sparkling wine produced by fermentation in a large closed container. The term "charmat method" may be used as additional information to describe this process, provided it appears immediately before or after one of the above mentioned phrases. In addition, ATF proposes to establish a clearer standard with respect to placement and type size requirements applicable to the optional designation on sparkling wine labels.

Timetable:

Action	Date	FR Cite
NPRM	05/05/92	57 FR 19267
NPRM Comment Period Extended	07/02/92	57 FR 29456
NPRM Comment Period End	07/06/92	
NPRM Comment Period End	08/05/92	
Final Action	01/22/93	58 FR 5608
Final Action Effective	07/22/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8230

RIN: 1512–AB09

2756. 27 CFR PART 70 - PROCEDURES INVOLVING TAXPAYER INTERVIEWS; RECORDING OF INTERVIEWS

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 70.307

Legal Deadline: None

Abstract: To provide guidance to taxpayers concerning taxpayer interviews as the result of the enforced collection of taxes administered by ATF. A new regulation is being created to reflect the addition of section 7521 of the Internal Revenue Code which allows the recording of taxpayer interviews, requires the taxpayer to be informed of his rights, and permits the taxpayer to designate certain persons to represent them.

Timetable:

Action	Date	FR Cite
Withdrawn	02/05/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Bryce, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8220

RIN: 1512–AB13

2757. 27 CFR PART 70 - CIVIL CAUSES OF ACTION FOR UNAUTHORIZED COLLECTION ACTIONS AND FOR FAILURE TO RELEASE A LIEN AND AWARDING OF COST AND CERTAIN FEES

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 70.201; 27 CFR 70.211; 27 CFR 70.212

Legal Deadline: None

Abstract: To provide guidance relating to the civil causes of action under sections 7432 and 7433 of the IRC and awarding of costs and fees under section 7430. Section 7432 covers civil causes of action for failure to release a lien. Section 7433 covers civil causes of action for certain unauthorized collection activities. Regulations are being amended to define terms in the underlying statutes and create administrative remedies that must be exhausted prior to the filing of a cause of action. These regulations are needed to provide taxpayers with guidance to create an administrative remedy in connection with a cause of action.

Timetable:

Action	Date	FR Cite
Withdrawn	02/05/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Bryce, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8220

RIN: 1512–AB14

2758. MANUFACTURER'S IDENTIFICATION ON TOBACCO PRODUCTS PACKAGES

Significance: Agency Priority

Legal Authority: 26 USC 5723

CFR Citation: 27 CFR 270.11; 27 CFR 270.212; 27 CFR 275.163; 27 CFR 275.170; 27 CFR 275.172; 27 CFR 275.174; 27 CFR 290.11; 27 CFR 290.181; 27 CFR 290.185; 27 CFR 290.241 to 290.267; 27 CFR 295.42

Legal Deadline: None

Abstract: To liberalize requirements relating to manufacturer identification on tobacco products packages and to make other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	01/12/87	52 FR 1207
NPRM Comment Period End	03/13/87	
Final Action	11/13/92	57 FR 53853
Final Action Effective	11/13/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cliff Mullen, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, 202 927-8210

RIN: 1512–AA28

[FR Doc. 93-6057 Filed 04-23-93; 8:45 am]

BILLING CODE 4810-31-F

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Comptroller of the Currency

12 CFR Ch. I

Semiannual Agenda of Regulatory Actions

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Semiannual agenda of regulations.

SUMMARY: As required by the Regulatory Flexibility Act and Executive Order 12291, the Office of the Comptroller of the Currency (OCC) has prepared this semiannual agenda of its rules and regulations currently under review and scheduled for review. Regulatory actions taken since the publication of the OCC's previous semiannual agenda on November 3, 1992 (57 FR 51793), are also included. It is expected that this semiannual agenda will enable the public to be more aware of and allow it to more effectively participate in the OCC's regulatory activity.

ADDRESSES: The mailing address for all contacts: Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: For general information about this semiannual agenda, contact John Ference, Financial Analyst, Legislative, Regulatory, and International Activities Division, (202) 874-5090.

For further information about a particular item on this semiannual agenda, contact the individual identified as the contact person.

SUPPLEMENTARY INFORMATION: Set forth below are regulatory projects currently under review or scheduled for review. Some of these regulations may be issued jointly with other Federal Government agencies.

Dated: March 10, 1993.

Stephen R. Steinbrink,

Acting Comptroller of the Currency.

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Comptroller of the Currency—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2759	12 CFR 9.12 Fiduciary Powers of National Banks and Collective Investment Funds (Conflicts of Interest)	1557-AB00

Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2760	12 CFR 5 Rules, Policies, and Procedures for Corporate Activities	1557-AA00
2761	12 CFR 4.19 Production of Documents and Testimony in Litigation Where the Comptroller or the Office is Not a Party	1557-AA57
2762	12 CFR 4.11 Description of Office, Procedures, Public Information; Supervision of Bank Operations	1557-AA67
2763	12 CFR 3 Recourse Arrangements	1557-AA91
2764	12 CFR 7 On-Premises Securities Sales Activities	1557-AB02
2765	12 CFR 26 Management Official Interlocks	1557-AB03
2766	12 CFR 3 Risk-Based Capital Guidelines; Interest	1557-AB14
2767	12 CFR 19 Independent Annual Audits of Insured Depository Institutions; Suspension and Debarment of Accountants	1557-AB15
2768	00 CFR Not yet determined Standards for Safety and Soundness	1557-AB17
2769	12 CFR 18.10 Disclosure of Financial and Other Information by National Banks; Prohibited Conduct and Penalties	1557-AB24
2770	12 CFR 5 Federal Branches and Agencies of Foreign Banks	1557-AB26
2771	12 CFR 5.50 Rules, Policies, and Procedures for Corporate Activities: Change in Bank Control	1557-AB27
2772	12 CFR 3 Risk-Based Capital Guidelines: Deferred Tax Assets	1557-AB28
2773	12 CFR 3 Risk-Based Capital Guidelines: Collateralized Transactions	1557-AB29
2774	12 CFR 9.10(b) Trust Funds Awaiting Investment or Distribution	1557-AB30
2775	12 CFR 24 Community Development Corporation and Project Investments	1557-AB31
2776	12 CFR 25 Community Reinvestment Act Regulation (CEBA Credit Card Banks)	1557-AB32
2777	12 CFR 27 Fair Housing Home Loan Data System	1557-AB33
2778	12 CFR 34 Real Estate Appraisals	1557-AB34
2779	12 CFR 35 Agricultural Loan Loss Amortization	1557-AB35
2780	12 CFR 7 Other Real Estate Owned	1557-AB36

Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2781	12 CFR 9.18 Fiduciary Powers of National Banks and Collective Investment Funds	1557-AA04
2782	12 CFR 5 Securities Offering Disclosure Rules	1557-AA65
2783	12 CFR 32 Lending Limit	1557-AA72
2784	12 CFR 12 Recordkeeping and Confirmation Requirements for Securities Transactions	1557-AA75
2785	12 CFR 4 Description of Office, Procedures, Public Information: Minority- and Women-Owned Business Contracting Outreach Program	1557-AA92
2786	12 CFR 3 Risk-Based Capital Guidelines: Intangible Assets	1557-AA94
2787	12 CFR 5.51 Rules, Policies, and Procedures for Corporate Activities: Changes in Directors and Senior Executive Officers	1557-AA97
2788	12 CFR 34, app A Real Estate Lending and Appraisals; Appendix A to Subpart C: Excerpts from the Uniform Standards of Professional Appraisal Practice Applicable to Federally Related Transactions	1557-AB11
2789	12 CFR 9.18(b)(6) Fiduciary Powers of National Banks and Collective Investment Funds (Ratable Distributions)	1557-AB12
2790	12 CFR 21.11 Criminal Referral Report	1557-AB19
2791	12 CFR 1.8 Investment Securities Regulation	1557-AB21
2792	12 CFR 5.33 Rules, Policies, and Procedures for Corporate Activities; Merger, Consolidation, Purchase, and Assumption	1557-AB22
2793	12 CFR 31 Extensions of Credit to National Bank Insiders	1557-AB23
2794	12 CFR 3 Risk-Based Capital Guidelines: Multifamily Housing Loans	1557-AB25

Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2795	12 CFR 5 Securities Exchange Act Disclosure Rules	1557-AA58
2796	12 CFR 9.10(a) Fiduciary Powers of National Banks and Collective Investment Funds (Uninvested Funds)	1557-AA66
2797	12 CFR 7.7490 Messenger Service	1557-AA85
2798	12 CFR 3 Risk-Based Capital Guidelines: Technical Amendments	1557-AA96
2799	12 CFR 31 Insider Transactions and Conflicts of Interest	1557-AB07
2800	12 CFR 34 Real Estate Lending Standards	1557-AB18
2801	12 CFR 5.49 Receivership	1557-AB20

DEPARTMENT OF THE TREASURY (TREAS)

Prerule Stage

Comptroller of the Currency (OCC)

2759. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS (CONFLICTS OF INTEREST)

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 9.12

Legal Deadline: None

Abstract: This rulemaking would address the conflicts of interest created when a national bank is the trustee to an issue of debt securities and enters into additional banking relationships with the issuer, including, but not limited to, the following: securities underwriter, letter of credit enhancer, originator of loans to collateralize the debt securities, or a commercial credit provider. Such multiple roles may serve to reduce the quality of disinterested services provided to both issuers and investors and further expose the bank and the depositors to significant liabilities if investors or issuers suffer losses as a result of a bank trustee's failure to act in their best interests. To the extent possible, the OCC would like to ensure that national banks do not assume conflicting roles which may become unmanageable if the security goes into default.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

ADDITIONAL AGENCY CONTACT: Dean E. Miller, Senior Advisor for Fiduciary Responsibilities, (202) 874-4447, 250 E Street SW., Washington, DC 20219.

Agency Contact: Carolyn M. Amundson, Attorney, Department of the Treasury, Comptroller of the Currency, Securities, Investments, and Fiduciary Practices Division, 250 E Street SW., Washington, DC 20219, **202 874-5210**

RIN: 1557–AB00

DEPARTMENT OF THE TREASURY (TREAS)

Proposed Rule Stage

Comptroller of the Currency (OCC)

2760. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 5

Legal Deadline: None

Abstract: The OCC is engaged in a continuing review of its rules, policies and procedures governing corporate activities. The OCC would: 1) outline the responsibility of the applicants for accurate and complete filings; 2) centralize the OCC's distribution of forms; 3) clarify procedures for changes in bank control; and 4) make miscellaneous technical amendments. These rulemakings would assist the OCC in fulfilling its responsibility for maintaining the safety and soundness of national banks and the national banking system, and improve OCC efficiency. See also RIN 1557-AB27.

Timetable:

Action	Date	FR Cite
Change in Bank Control	05/00/93	
Applicants' Responsibility	00/00/00	
Forms Distribution	00/00/00	
Technical Amendments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles E. Baker, Licensing Policy and Systems Analyst, Department of the Treasury, Comptroller of the Currency, Bank Organization & Structure Division, 250 E Street SW., Washington, DC 20219, **202 874-5060**

RIN: 1557–AA00

2761. PRODUCTION OF DOCUMENTS AND TESTIMONY IN LITIGATION WHERE THE COMPTROLLER OR THE OFFICE IS NOT A PARTY

Legal Authority: 5 USC 301; 5 USC 552(b); 18 USC 641; 18 USC 1905; 18 USC 1906; 12 USC 93a; 12 USC 481

CFR Citation: 12 CFR 4.19; 12 CFR 4.18(c); 12 CFR 7.6025(c); 12 CFR 4.18(a); 12 CFR 4.18(b); 12 CFR 4.16(b); 12 CFR 4.13 to 4.17a

Legal Deadline: None

Abstract: This rulemaking would amend OCC's regulations governing the release of confidential and privileged

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documents and testimony for use in litigation in which the OCC is not a party. The OCC is considering changing the rule to spell out the requirements for a request for such release, and the situations under which release might be authorized.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lester N. Scall, Senior Trial Attorney, Department of the Treasury, Comptroller of the Currency, Litigation Division, 250 E Street SW., Washington, DC 20219, 202 874-5280

RIN: 1557–AA57

2762. DESCRIPTION OF OFFICE, PROCEDURES, PUBLIC INFORMATION; SUPERVISION OF BANK OPERATIONS

Legal Authority: 12 USC 93a; 12 USC 164; 12 USC 481; 12 USC 1861 to 1867; 5 USC 552

CFR Citation: 12 CFR 4.11

Legal Deadline: None

Abstract: This rulemaking would amend OCC's regulations regarding supervision of bank operations and reports of banks. The rule would implement section 111 of the Federal Deposit Insurance Corporation Improvement Act of 1991 and update information regarding reports required.

Timetable:

Action	Date	FR Cite
NPRM	08/06/90	55 FR 31840
NPRM Comment Period End	09/05/90	55 FR 31840
Second NPRM	08/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christina Trojan-Masnyk, Attorney, Department of the Treasury, Comptroller of the Currency, Corporate Organization and Resolutions Division, 250 E Street SW., Washington, DC 20219, 202 874-5300

RIN: 1557–AA67

2763. RECOURSE ARRANGEMENTS

Legal Authority: 12 USC 93a; 12 USC 84; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3; 12 CFR 32

Legal Deadline: None

Abstract: This rulemaking would address the appropriate capital and lending limit treatment of recourse arrangements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Plaze, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division, 250 E Street SW., Washington, DC 20219, 202 874-4460

RIN: 1557–AA91

2764. ON-PREMISES SECURITIES SALES ACTIVITIES

Legal Authority: 12 USC 93a; 12 USC 1818

CFR Citation: 12 CFR 7; 12 CFR 16

Legal Deadline: None

Abstract: This rulemaking would amend OCC's regulations regarding on-premises sale by national banks of their own and their affiliates' securities in order to avoid possible customer confusion concerning the uninsured nature of the investments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Kay E. Bondehagen, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Securities, Investments, and Fiduciary Practices Division, 250 E Street SW., Washington, DC 20219, 202 874-5210

RIN: 1557–AB02

2765. MANAGEMENT OFFICIAL INTERLOCKS

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 26

Legal Deadline: None

Abstract: This rulemaking would implement recent changes to the Depository Institution Management Interlocks Act. The OCC will be working with the other Federal bank regulatory agencies to develop uniform implementing regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sue E. Auerbach, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Corporate Organization and Resolutions Division, 250 E Street SW., Washington, DC 20219, 202 874-5300

RIN: 1557–AB03

2766. RISK-BASED CAPITAL GUIDELINES; INTEREST

Significance: Regulatory Program

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1818; 12 USC 1828(Note); 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: Final, Statutory, June 19, 1993.

Abstract: Under section 305 of the Federal Deposit Insurance Corporation Improvement Act of 1991, Federal banking agencies must review their capital standards to ensure that those standards take adequate account of interest rate risk, concentration risk, and risks from nontraditional activities. National banks may become exposed to interest rate risk due to the composition of their asset, liability and off-balance sheet portfolios. This rulemaking will formulate a methodology to include an assessment of interest rate risk in the OCC's capital standards. In addition, this rulemaking will formulate standards to take into account concentration risk and risks from nontraditional activities.

Timetable:

Action	Date	FR Cite
ANPRM	08/10/92	57 FR 35507
ANPRM Comment Period End	10/09/92	57 FR 35507
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Ron Shimabukuro, Senior Attorney, Bank Operations and Assets Division, (202) 874-4460, 250 E Street SW., Washington, DC 20219.

Agency Contact: Christina Benson, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Office of the Chief National Bank Examiner, 250 E Street SW., Washington, DC 20219, 202 874-5170

RIN: 1557–AB14

2767. INDEPENDENT ANNUAL AUDITS OF INSURED DEPOSITORY INSTITUTIONS; SUSPENSION AND DEBARMENT OF ACCOUNTANTS

Significance: Regulatory Program

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 19

Legal Deadline: None

Abstract: This rulemaking would implement section 112(g)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 which requires the Federal banking agencies to develop joint procedures for the suspension and debarment of accountants, upon a showing of good cause, from performing certain audit services.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barrett Aldemeyer, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative, Regulatory, and International Activities Division, 250 E Street SW., Washington, DC 20219, 202 874-5090

RIN: 1557–AB15

2768. STANDARDS FOR SAFETY AND SOUNDNESS

Significance: Regulatory Program

Legal Authority: 12 USC 93a

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, August 1, 1993.

Abstract: This rulemaking would implement section 39 of the Federal Deposit Insurance Act, as added by section 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991. Section 39 requires the OCC and other Federal banking agencies to prescribe certain safety and soundness standards for insured depository institutions and depository institution holding companies. Standards must be prescribed in three principal areas: (1) operational and managerial; (2) asset quality, earnings, and stock valuation; and (3) employee compensation. If an insured depository institution does not meet one of these standards, section 39 requires that the institution establish a plan, acceptable to its primary regulator, to achieve compliance with the standard.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/92	57 FR 31336
ANPRM Comment Period End	09/16/92	57 FR 31336
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: David Thede, Attorney, Bank Operations and Assets Division, (202) 874-4460; or Asa Chamberlayne, Senior Attorney, Securities, Investment, and Fiduciary Practices Division, (202) 874-5210, 250 E Street SW., Washington, DC 20219.

Agency Contact: Emily R. McNaughton, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Office of the Chief National Bank Examiner, 250 E Street SW., Washington, DC 20219, 202 874-5170

RIN: 1557–AB17

2769. DISCLOSURE OF FINANCIAL AND OTHER INFORMATION BY NATIONAL BANKS; PROHIBITED CONDUCT AND PENALTIES

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1818

CFR Citation: 12 CFR 18.10

Legal Deadline: None

Abstract: This rulemaking would clarify that the prohibitions and penalties set forth in 12 CFR 18.10 shall apply to institution-affiliated parties, as defined at 12 USC 1813(u).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Asa L. Chamberlayne, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Securities, Investments, and Fiduciary Practices Division, 250 E Street SW., Washington, DC 20219, 202 874-5210

RIN: 1557–AB24

2770. FEDERAL BRANCHES AND AGENCIES OF FOREIGN BANKS

Legal Authority: 12 USC 93a; 12 USC 3101 et seq

CFR Citation: 12 CFR 5; 12 CFR 28

Legal Deadline: None

Abstract: This rulemaking would implement applicable sections of the Foreign Bank Supervision Enhancement Act of 1991 as contained in section 202 through 214(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991. The purpose of the rule will be to make procedural changes to applications processing, conditions, approvals and denials, examinations, and terminations of Federal branches and agencies which are licensed by the OCC.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Michaleski, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative, Regulatory, and International Activities Division, 250 E Street SW., Washington, DC 20219, 202 874-5090

RIN: 1557–AB26

2771. • RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES: CHANGE IN BANK CONTROL

Legal Authority: 12 USC 93a; 12 USC 1817(j)(13)

CFR Citation: 12 CFR 5.50

Legal Deadline: None

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Abstract: This rulemaking would revise the OCC's regulation implementing the Change in Bank Control Act. The revision would clarify certain recurring issues that have arisen under the Change in Bank Control Act and the existing regulation, and would implement section 205 of the Federal Deposit Insurance Corporation Improvement Act of 1991. The intent of the revision is to reduce unnecessary regulatory burden and cost on those persons required to comply with the Change in Bank Control Act by providing banks and proposed acquirors with a better understanding of: (a) when a notice under the Change in Bank Control Act is required; (b) what must be contained in the notice; and (c) the procedures associated with filing a required notice. This project is one of the group of projects covered under regulatory program entry RIN 1557-AA00.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Deborah Jan Kalmus, National Bank Examiner, Senior Licensing Policy and Systems Analyst, Licensing Policy and Systems Division at (202) 874-5060.

Agency Contact: Linda Gottfried, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Corporate Organization & Resolutions Division, 250 E Street SW., Washington, DC 20219, **202 874-5300**

RIN: 1557–AB27

2772. • RISK-BASED CAPITAL GUIDELINES: DEFERRED TAX ASSETS

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1818; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: This proposed rule amends the capital treatment of deferred tax assets by restricting the amount of deferred tax assets that a national bank may include in Tier 1 capital. This proposed rule is prompted by the recent change in instructions to the Consolidated Report of Condition and Income (Call Report), which generally permits national banks to report a greater amount of deferred tax assets in the Call Report. Because the Call Report is the basis for the calculation of regulatory capital, the reporting change also automatically increased the amount of deferred tax assets that could be included in capital. This proposed rule is intended to somewhat limit that effect. However, while this proposed amendment technically would restrict the amount of deferred tax assets that could be included in Tier 1 capital, the overall effect of this change, when considered in conjunction with the changed Call Report instructions, generally is to permit more deferred tax assets to be included in capital.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Elizabeth Salomon, Professional Accounting Fellow, Office of the Chief Accountant at (202) 874-4924.

Agency Contact: Ron Shimabukuro, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division, 250 E Street SW., Washington, DC 20219, **202 874-4460**

RIN: 1557–AB28

2773. • RISK-BASED CAPITAL GUIDELINES: COLLATERALIZED TRANSACTIONS

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1818; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: This rulemaking would lower the risk weight on certain loans collateralized by cash on deposit or government securities from 20 percent to zero percent.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Elizabeth Milor, Financial Economist, Economic and Regulatory Policy Analysis Division at (202) 874-5220.

Agency Contact: Ron Shimabukuro, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division, 250 E Street SW., Washington, DC 20219, **202 874-4460**

RIN: 1557–AB29

2774. • TRUST FUNDS AWAITING INVESTMENT OR DISTRIBUTION

Legal Authority: 12 USC 1 et seq; 12 USC 92a; 12 USC 481

CFR Citation: 12 CFR 9.10(b)

Legal Deadline: None

Abstract: This rulemaking would amend OCC's regulation on fiduciary powers of national banks and collective investment funds to require that the uninsured balances of funds held in trust which are awaiting investment or distribution be secured by qualifying securities with a market value rather than face value equal to or greater than the amount of such balances. The purpose of the change is to reduce the potential overpledging or underpledging of collateral (in terms of market value) as interest rates change.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael C. Dugas, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Securities, Investment, and Fiduciary Practices Division, 250 E Street SW., Washington, DC 20219, **202 874-5210**

RIN: 1557–AB30

2775. • COMMUNITY DEVELOPMENT CORPORATION AND PROJECT INVESTMENTS

Significance: Agency Priority

Legal Authority: 12 USC 24 (Eleventh); 12 USC 93a; 12 USC 161; 12 USC 481, 12 USC 1818

CFR Citation: 12 CFR 24; 12 CFR 7.7480

Legal Deadline: None

Abstract: This rulemaking would implement section 6 of the Depository Institutions Disaster Relief Act of 1992 which clarified national bank authority to make investments in community development corporations (CDCs) and community development projects (CD projects). The proposal would allow national banks, under certain conditions, to increase the amount of their aggregate and per project investments in CDCs and CD projects above current investment limits, with OCC approval. The rule would also permit national banks to make certain CDC and CD project investments without prior OCC approval by providing a brief self-certification of compliance with the rule. The rulemaking is intended to promote economic growth by enabling national banks to increase CDC and CD project investments to low- and moderate-income housing and small businesses, particularly in low- and moderate-income areas. Small banks without supervisory problems could make project or aggregate investments up to 5 percent of capital and surplus without OCC prior approval, if the structures and activities planned are included in those listed in the rule.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Margaret C. Hesse, Attorney, Bank Operations and Assets Division at (202) 874-4460.

Agency Contact: Janet R. Gordon, Associate Director, CDC and Investments Program, Department of the Treasury, Comptroller of the Currency, Community Development Division, 250 E Street SW., Washington, DC 20219, **202 874-4930**

RIN: 1557–AB31

2776. • COMMUNITY REINVESTMENT ACT REGULATION (CEBA CREDIT CARD BANKS)

Legal Authority: 12 USC 1814; 12 USC 2901 to 2906

CFR Citation: 12 CFR 25

Legal Deadline: None

Abstract: This rulemaking would state that the OCC's Community Reinvestment Act regulations do not apply to Competitive Equality Banking Act of 1987 credit card banks.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol Eve Robbins, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division, 250 E Street SW., Washington, DC 20219, **202 874-4460**

RIN: 1557–AB32

2777. • FAIR HOUSING HOME LOAN DATA SYSTEM

Legal Authority: 12 USC 93a; 12 USC 161

CFR Citation: 12 CFR 27

Legal Deadline: None

Abstract: This rulemaking would amend the OCC's Fair Housing Home Loan Data System (FHHLDS) to reduce recordkeeping requirements on national banks. Some national banks currently must maintain duplicative information under both the FHHLDS and the Home Mortgage Disclosure Act (HMDA). This rulemaking would eliminate the FHHLDS monthly recordkeeping requirement. HMDA Loan Application Registers already maintained by national banks will be required to be maintained on a monthly basis. This action will reduce burden on national banks.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. John Podvin, Jr., Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division, 250 E Street SW., Washington, DC 20219, 202 874-4460

RIN: 1557–AB33

2778. • REAL ESTATE APPRAISALS

Significance: Agency Priority

Legal Authority: 12 USC 481

CFR Citation: 12 CFR 34

Legal Deadline: None

Abstract: This rulemaking would examine whether amendments are warranted to the OCC's regulation regarding appraisals of real estate securing federally related transactions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Horace Sneed, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division, 250 E Street SW., Washington, DC 20219, **202 874-4460**

RIN: 1557–AB34

2779. • AGRICULTURAL LOAN LOSS AMORTIZATION

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 35

Legal Deadline: None

Abstract: This rulemaking would make amendments to the OCC's regulation regarding agricultural loan loss amortization to discontinue the program with regard to new applications. The rulemaking would also provide a sunset provision to end the amortization program on December 31, 1993.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel N. Berkland, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Special Supervision Division, 250 E Street SW., Washington, DC 20219, **202 874-4450**

RIN: 1557–AB35

2780. • OTHER REAL ESTATE OWNED

Significance: Agency Priority

Legal Authority: 12 USC 29; 12 USC 93a

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TREAS—OCC — **Proposed Rule Stage**

CFR Citation: 12 CFR 7; 12 CFR 34

Legal Deadline: None

Abstract: This rulemaking would amend OCC's regulation covering other real estate owned (OREO) and real estate acquired as salvage on uncollectable loans. The proposal will reorganize, shorten and simplify the information now in 12 CFR 7.3020 and 7.3025 and place that information in part 34 as a new subpart E, Other Real Estate Owned. The proposal will provide guidance on how a national bank can meet the real estate disposal requirements in 12 USC 29. The proposal will also provide updated guidance on accounting treatment, appraisals, and expenditures regarding OREO.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **F. John Podvin, Jr.**, Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division, 250 E Street SW., Washington, DC 20219, **202 874-4460**

RIN: 1557–AB36

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Final Rule Stage

2781. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Significance: Agency Priority

Legal Authority: 12 USC 92a; 12 USC 93a; 12 USC 481

CFR Citation: 12 CFR 9.18

Legal Deadline: None

Abstract: This rulemaking would amend OCC's regulations governing the exercise of fiduciary powers by national banks. The intent of the amendment is twofold: First, it would codify recent court decisions regarding collective Individual Retirement Account (IRA) funds; and second, it would make less burdensome the requirements of 12 CFR 9.18, regarding the management of collective investment funds by institutions exercising fiduciary powers. Further, the rulemaking would preserve appropriate protections for trusts and persons with interests therein. In addition to codifying court decisions that national banks are authorized to establish collective IRA funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940, the rulemaking would codify administrative decisions that national banks are authorized to establish registered collective funds whose assets consist of Keogh accounts or any other retirement accounts authorized under section 401 and 408 of the Internal Revenue Code (26 USC 401 and 408). The rulemaking would streamline the process for the review of new types of funds, clarify the authorization for (cont)

Timetable:

Action	Date	FR Cite
ANPRM	06/25/82	47 FR 27833
ANPRM Comment Period End	09/23/82	47 FR 27833
NPRM	02/07/90	55 FR 04184
NPRM Comment Period End	07/08/90	55 FR 24581
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: investment by funds in variable-amount notes, and clarify the status of certain tax-exempt funds.

ADDITIONAL AGENCY CONTACT: Dean E. Miller, Senior Advisor for Fiduciary Responsibilities, (202) 874-4447, 250 E Street SW., Washington, DC 20219.

Agency Contact: **Donald N. Lamson**, Assistant Director, Department of the Treasury, Comptroller of the Currency, Securities, Investment, and Fiduciary Practices Division, 250 E Street SW., Washington, DC 20219, **202 874-5210**

RIN: 1557–AA04

2782. SECURITIES OFFERING DISCLOSURE RULES

Legal Authority: 12 USC 1 et seq; 12 USC 93a

CFR Citation: 12 CFR 5; 12 CFR 16

Legal Deadline: None

Abstract: This rulemaking would amend the OCC's disclosure requirements for offers and sales of national bank securities. The OCC is considering eliminating regulations detailing the contents of offering documents covering national bank securities and instead requiring that offering documents contain the information that would be required by the appropriate Securities and Exchange Commission (SEC) form for registration. The OCC also is considering cross-referencing certain definitions and exemptions in the Securities Act of 1933 as well as a number of SEC rules.

Timetable:

Action	Date	FR Cite
NPRM	10/15/92	57 FR 47280
NPRM Comment Period End	12/14/92	57 FR 47280
NRPM Comment Period Extended to	02/01/93	58 FR 4600
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Elizabeth Malone**, Attorney, Department of the Treasury, Comptroller of the Currency, Securities, Investments, and Fiduciary Practices Division, 250 E Street SW., Washington, DC 20219, **202 874-5210**

RIN: 1557–AA65

2783. LENDING LIMIT

Legal Authority: 12 USC 84; 12 USC 93a

CFR Citation: 12 CFR 32; 12 CFR 7

Legal Deadline: None

Abstract: This rulemaking would amend the OCC's lending limit regulation. The rulemaking would amend definitions, restructure and simplify the loan combination rules, and place an aggregate cap on loans to foreign governments.

TREAS—OCC — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	10/24/89	54 FR 43398
NPRM Comment Period End	01/22/90	54 FR 43398
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: William C. Kerr, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 874-5170, 250 E Street SW., Washington, DC 20219.

Agency Contact: **Deborah Katz**, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Divison, 250 E Street SW., Washington, DC 20219, **202 874-4460**

RIN: 1557–AA72

2784. RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Legal Authority: 12 USC 24; 12 USC 92a; 12 USC 93a

CFR Citation: 12 CFR 12

Legal Deadline: None

Abstract: This rulemaking would amend OCC's recordkeeping and confirmation requirements for securities transactions undertaken by a national bank for its customers. It would broaden an exemption from requirements that banks maintain certain records and establish certain policies and procedures. The exemption for banks with an average of less than 200 securities transactions per year is expanded to 1,000 transactions per year, exclusive of transactions in U.S. Government and Federal agency obligations. This action would reduce the regulatory burden on banks of all sizes that engage in a low number of securities transactions per year. With respect to transactions, as agent, in U.S. Government and Federal agency obligations, the amendment would make the OCC's recordkeeping and confirmation requirements consistent with requirements under the Government Securities Act of 1986 (GSA), which governs Government securities brokers and dealers. The effect of the amendment with respect to transactions, as agent, in U.S. Government and Federal agency obligations, would (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/09/89	54 FR 32653
NPRM Comment Period End	10/10/89	54 FR 32653
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: be to reduce the regulatory burden on banks of all sizes that engage in a low number of transactions, as agent, in U.S. Government and Federal agency obligations. The recordkeeping exemption would not apply to Government securities dealers.

Agency Contact: **Asa L. Chamberlayne**, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Securities, Investment and Fiduciary Practices Division, 250 E Street SW., Washington, DC 20219, **202 874-5210**

RIN: 1557–AA75

2785. DESCRIPTION OF OFFICE, PROCEDURES, PUBLIC INFORMATION: MINORITY- AND WOMEN-OWNED BUSINESS CONTRACTING OUTREACH PROGRAM

Significance: Agency Priority

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 1833e; 5 USC 552

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: This rulemaking is being promulgated as mandated by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, section 1216(c). The regulation will provide description of a procurement outreach program that will further ensure the utilization of qualified minorities and women, and entities owned by these individuals, to the greatest extent possible, in OCC contract action.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Mary Ellen Dorsey, Outreach Program Specialist, Acquisitions Branch, (202) 874-5040, 250 E Street SW., Washington, DC 20219.

Agency Contact: **Patricia Grady**, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative, Regulatory, and International Activities Division, 250 E Street SW., Washington, DC 20219, **202 874-5090**

RIN: 1557–AA92

2786. RISK-BASED CAPITAL GUIDELINES: INTANGIBLE ASSETS

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1818; 12 USC 1828(Note); 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: This rulemaking generally would (1) increase the capital limitation on qualifying intangible assets from 25 percent to 50 percent of Tier 1 capital, and (2) permit the inclusion of purchased credit card relationships as a qualifying intangible asset, subject to a separate 25 percent sublimit.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/90	55 FR 40843
ANPRM Comment Period End	12/04/90	55 FR 40843
NPRM	04/09/92	57 FR 12214
NPRM Comment Period End	05/11/92	57 FR 12214
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: Eugene W. Green, Deputy Chief Accountant, Office of the Chief National Bank Examiner, (202) 874-5180; Elizabeth Salomon, Professional Accounting Fellow, Office of the Chief Accountant, (202) 874-4924; or C. Stewart Goddin, Senior International Economic Advisor, International Banking and Finance, (202) 874-4730, 250 E Street SW., Washington, DC 20219.

Agency Contact: **Ronald Shimabukuro**, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division, 250 E

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Street SW., Washington, DC 20219, 202 874-4460

RIN: 1557–AA94

2787. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES: CHANGES IN DIRECTORS AND SENIOR EXECUTIVE OFFICERS

Legal Authority: 12 USC 93a, PL 101-73 FIRREA; 12 USC 1831i

CFR Citation: 12 CFR 5.51

Legal Deadline: None

Abstract: This rulemaking would revise the OCC's current temporary rule implementing section 914 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. It would continue the requirement that national banks, within certain specified categories, file notices with the OCC prior to adding or replacing members of their boards of directors, employing individuals as senior executive officers, or changing the responsibilities of individuals from one senior executive position to another. In addition to the final rule, the OCC also is requesting comments on a proposed modification to the definition of change in control

Timetable:

Action	Date	FR Cite
NPRM	03/05/90	55 FR 7692
NPRM Comment Period End	05/04/90	55 FR 7692
Final Rule With Request for Comments	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: Cathy Young, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 874-5170, 250 E Street, SW., Washington, DC 20219.

Agency Contact: Linda A. Gottfried, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Corporate Organization and Resolutions Division, 250 E Street SW., Washington, DC 20219, 202 874-5300

RIN: 1557–AA97

2788. REAL ESTATE LENDING AND APPRAISALS; APPENDIX A TO SUBPART C: EXCERPTS FROM THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE APPLICABLE TO FEDERALLY RELATED TRANSACTIONS

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 371; 12 USC 1701j-3; 12 USC 3331 et seq

CFR Citation: 12 CFR 34, app A

Legal Deadline: None

Abstract: This rulemaking would codify portions of the Uniform Standards of Professional Appraisal Practice applicable to federally related transactions pursuant to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/90	55 FR 53610
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Horace G. Sneed, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division, 250 E Street SW., Washington, DC 20219, 202 874-4460

RIN: 1557–AB11

2789. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS (RATABLE DISTRIBUTIONS)

Legal Authority: 12 USC 92a; 12 USC 93a; 12 USC 481

CFR Citation: 12 CFR 9.18(b)(6)

Legal Deadline: None

Abstract: This rulemaking would clarify the OCC's longstanding and current requirement for national banks serving as trustees for collective investment funds to make all distributions of illiquid assets, such as real estate, from such funds to participants on a ratable basis.

Timetable:

Action	Date	FR Cite
NPRM	12/22/92	57 FR 60742
NPRM Comment Period End	02/22/93	57 FR 60742
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Dean E. Miller, Senior Advisor for Fiduciary Responsibilities, (202) 874-4447, 250 E Street SW., Washington, DC 20219.

Agency Contact: Donald N. Lamson, Assistant Director, Department of the Treasury, Comptroller of the Currency, Securities, Investments, and Fiduciary Practices Division, 250 E Street SW., Washington, DC 20219, 202 874-5210

RIN: 1557–AB12

2790. CRIMINAL REFERRAL REPORT

Legal Authority: 12 USC 93a; 12 USC 1818; 12 USC 1881 to 1884, 12 USC 3401 to 3422

CFR Citation: 12 CFR 21.11

Legal Deadline: None

Abstract: The OCC, as part of an interagency task force, has designed a uniform multi-agency criminal referral form. The form will facilitate financial institutions' compliance with criminal activity reporting requirements, and will enhance law enforcement agencies' ability to investigate the matters reported in the criminal referrals. The information from the form will also be entered into a new interagency data base which will enhance the regulatory and law enforcement agencies' ability to track criminal and administrative cases. This uniform criminal referral form is intended to replace the various criminal referral forms currently used by Federal bank, thrift, and credit union regulatory agencies and by financial institutions. This rulemaking would conform OCC's regulations to the new procedures for completion and submission of the uniform criminal referral form. This action is intended to improve reporting of crimes relating to financial institutions and to serve as a basis for a new interagency computer data base.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Robert S. Pasley, Assistant Director, Department of the Treasury, Comptroller of the Currency,

Enforcement and Compliance Division, 250 E Street SW., Washington, DC 20219, 202 874-4800

RIN: 1557–AB19

2791. INVESTMENT SECURITIES REGULATION

Legal Authority: 12 USC 1 et seq; 12 USC 24 (Seventh); 12 USC 93a

CFR Citation: 12 CFR 1.8

Legal Deadline: None

Abstract: This rulemaking would amend OCC's investment securities regulation to remove the requirement that banks maintain for specified periods of time credit information on issuers of certain securities. The purpose of the change is to reduce regulatory burden while promoting bank safety and soundness. National banks are expected to continue to exercise prudent banking judgment and retain records for appropriate periods.

Timetable:

Action	Date	FR Cite
NPRM	10/05/92	57 FR 45756
NPRM Comment Period End	11/04/92	57 FR 45756
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael C. Dugas, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Securities, Investments, and Fiduciary Practices Division, 250 E Steet SW., Washington, DC 20219, 202 874-5210

RIN: 1557–AB21

2792. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES; MERGER, CONSOLIDATION, PURCHASE, AND ASSUMPTION

Legal Authority: 12 USC 1 et seq; 12 USC 93a

CFR Citation: 12 CFR 5.33

Legal Deadline: None

Abstract: This rulemaking would establish procedures for national banks to follow in undertaking mergers or consolidations with Federal savings associations as authorized by sections 501(a) and 502(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991. To the extent possible, the procedures adopted parallel the statutory procedures governing mergers and consolidations between national banks and state chartered financial institutions pursuant to 12 USC 214a, 215, and 215a.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Request for Comments	11/03/92	57 FR 49639
Interim Final Rule Comment Period Extended to 03/04/93	01/29/93	58 FR 6441
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerome L. Edelstein, Senior Counsel, Department of the Treasury, Comptroller of the Currency, Corporate Organization and Resolutions Division, 250 E Street SW., Washington, DC 20219, 202 874-5300

RIN: 1557–AB22

2793. EXTENSIONS OF CREDIT TO NATIONAL BANK INSIDERS

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 31

Legal Deadline: None

Abstract: This rulemaking would implement section 306 of the Federal Deposit Insurance Corporation Improvement Act of 1991. The only change will be to modify the authority citation.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Thede, Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division, 250 E Street SW., Washington, DC 20219, 202 874-4460

RIN: 1557–AB23

2794. RISK-BASED CAPITAL GUIDELINES: MULTIFAMILY HOUSING LOANS

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1818; 12 USC 1828 (Note); 12 USC 1831n (Note); 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: Final, Statutory, April 10, 1992.

Abstract: This rulemaking would implement section 618(b) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (RTCRRIA), and section 305(b)(1)(B) of the Federal Deposit Insurance Corporation Improvement Act of 1991. The purpose of this rulemaking is to permit national banks to hold less capital against certain loans secured by qualifying multifamily residential property. This rulemaking would amend the risk-based capital guidelines to include in the 50 percent risk weight category certain loans secured by qualifying multifamily residential properties. It also would affect the risk weighting of certain privately issued mortgage-backed securities (MBSs) by permitting MBSs secured by multifamily residential properties to qualify for a 50 percent risk weight under certain circumstances and make other changes concerning multifamily residential property loans.

Timetable:

Action	Date	FR Cite
ANPRM	09/17/92	57 FR 42901
NPRM	09/17/92	57 FR 42901
ANPRM Comment Period End	10/19/92	57 FR 42901
NPRM Comment Period End	10/19/92	57 FR 42901
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: James Wright, Community Development Specialist, Customer and Industry Affairs, (202) 874-4930; Roger Tufts, Senior Economic Advisor, Office of the Chief National Bank Examiner, (202) 874-5170; or Elizabeth Milor, Financial Economist, Economic and Regulatory Policy Analysis, (202) 874-5220, 250 E Street SW., Washington, DC 20219.

Agency Contact: Ron Shimabukuro, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division,

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TREAS—OCC — Final Rule Stage

250 E Street SW., Washington, DC 20219, 202 874-4460

RIN: 1557–AB25

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Completed Actions

2795. SECURITIES EXCHANGE ACT DISCLOSURE RULES

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 15 USC 78l; 15 USC 78l(i); 15 USC 78m; 15 USC 78n; 15 USC 78p; 15 USC 78w

CFR Citation: 12 CFR 5; 12 CFR 11; 12 CFR 16

Legal Deadline: None

Abstract: This rulemaking would amend the OCC's Securities Exchange Act disclosure rules generally to incorporate through cross reference the regulations of the Securities and Exchange Commission. The OCC has reserved its authority to vary application of the SEC's rules as appropriate and also to make changes required by other amendments to its regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/09/92	57 FR 12222
NPRM Comment Period End	06/08/92	57 FR 12222
Final Action	10/07/92	57 FR 46081
Final Action Effective	11/06/92	57 FR 46081

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William T. Dehnke, Assistant Director, Department of the Treasury, Comptroller of the Currency, Securities, Investment, and Fiduciary Practices Division, 250 E Street SW., Washington, DC 20219, 202 874-5210

RIN: 1557–AA58

2796. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS (UNINVESTED FUNDS)

Legal Authority: 12 USC 92a

CFR Citation: 12 CFR 9.10(a)

Legal Deadline: None

Abstract: This rulemaking would amend the OCC's regulation regarding national bank fiduciary investment of uninvested or undistributed cash in fiduciary accounts.

Timetable:

Action	Date	FR Cite
NPRM	06/27/90	55 FR 26210
NPRM Comment Period End	08/27/90	55 FR 26210
Withdrawn	12/08/92	57 FR 57971

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol Eve Robbins, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division, 250 E Street SW., Washington, DC 20219, 202 874-4460

RIN: 1557–AA66

2797. MESSENGER SERVICE

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 7.7490

Legal Deadline: None

Abstract: This rulemaking would update 12 CFR 7.7490 regarding national bank messenger services in order to more fully address the impact of recent court decisions

Timetable:

Action	Date	FR Cite
Final Action	01/13/93	58 FR 4070
Final Action Effective	01/13/93	58 FR 4070

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerome L. Edelstein, Senior Counsel, Department of the Treasury, Comptroller of the Currency, Corporate Organization and Resolutions Division, 250 E Street SW., Washington, DC 20219, 202 874-5300

RIN: 1557–AA85

2798. RISK-BASED CAPITAL GUIDELINES: TECHNICAL AMENDMENTS

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1818; 12 USC 1828(n); 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: This rulemaking would make various technical and conforming amendments to the risk-based capital guidelines applicable to national banks. These amendments would make a variety of changes to clarify the provisions relating to (1) the definition of central government, (2) the unused portion of commitments, (3) the calculation of the amount of the allowance for loan and lease losses included in Tier 2 capital, (4) the calculation of the limitation on subordinated debt and intermediate term preferred stock in Tier 2 capital, (5) the redemption of capital instruments, (6) the authority of the OCC to permit supervisory goodwill as capital, (7) the 25 percent limitation on qualifying intangibles, (8) local currency claims guaranteed by non-OECD central governments, (9) claims on non-OECD central banks, (10) assets sold with recourse, and (11) the definition of credit card lines.

Timetable:

Action	Date	FR Cite
NPRM	10/17/90	55 FR 42017
NPRM Comment Period End	12/17/90	55 FR 42017
Final Action	09/24/92	57 FR 44078
Final Action Effective	10/26/92	57 FR 44078

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: Donna Duncan, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 874-5170; Eugene W. Green, Deputy Chief Accountant, Office of the Chief National Bank Examiner, (202) 874-5180; Mark Winer, Director, Banking Research & Statistics Division, (202) 874-5240; or C. Stewart Goddin, Senior International Economic Advisor, International Banking and Finance, (202) 874-4730, 250 E Street SW., Washington, DC 20219.

Agency Contact: Ronald Shimabukuro, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division, 250 E Street SW., Washington, DC 20219, 202 874-4460

RIN: 1557–AA96

TREAS—OCC — Completed Actions

2799. INSIDER TRANSACTIONS AND CONFLICTS OF INTEREST

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 375; 12 USC 1818

CFR Citation: 12 CFR 31

Legal Deadline: None

Abstract: This rulemaking would regulate business dealings (other than extensions of credit) between a national bank and its directors, officers, principal shareholders, and related interests of such persons.

Timetable:

Action	Date	FR Cite
Withdrawn	01/04/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Thede, Attorney, Department of the Treasury, Comptroller of the Currency, Bank Operations and Assets Division, 250 E Street SW., Washington, DC 20219, 202 874-4460

RIN: 1557–AB07

2800. REAL ESTATE LENDING STANDARDS

Significance: Regulatory Program

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 371; 12 USC 1701j-3; 12 USC 1828(o); 12 USC 3331 et seq

CFR Citation: 12 CFR 34

Legal Deadline: Final, Statutory, September 19, 1992.

Abstract: Together with the other bank and thrift regulatory agencies, the OCC has adopted a final uniform rule on real estate lending by insured depository institutions. This action was taken in accordance with section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991. The final rule prescribes real estate lending standards that require each insured depository institution to adopt and maintain comprehensive written real estate lending policies that are consistent with safe and sound banking practices.

Timetable:

Action	Date	FR Cite
ANPRM	07/16/92	57 FR 31594
Supplementary Analysis	08/17/92	57 FR 36911
ANPRM Comment Period End	08/31/92	57 FR 31594
Final Action	12/31/92	57 FR 62890
Final Action Effective	03/19/93	57 FR 62890

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: William Templeton, Attorney, Bank Operations and Assets Division, (202) 874-4460; or Mitchell Stengel, Financial Economist, Banking Research and Statistics, (202) 874-5240, 250 E Street SW., Washington, DC 20219.

Agency Contact: Frank R. Carbone, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Office of the Chief National Bank Examiner, 250 E Street SW., Washington, DC 20219, 202 874-5170

RIN: 1557–AB18

2801. RECEIVERSHIP

Legal Authority: 12 USC 1 et seq; 12 USC 93a

CFR Citation: 12 CFR 5.49

Legal Deadline: None

Abstract: This rulemaking would remove the OCC's regulation regarding receivership and containing factors for determining insolvency. Section 133 of the Federal Deposit Insurance Corporation Improvement Act of 1991 provides the OCC, and the other Federal banking agencies, with uniform grounds for appointing either a conservator or a receiver. In light of the statute, the OCC no longer is required to make this "insolvency" determination; and the receivership regulation is not necessary.

Timetable:

Action	Date	FR Cite
Final Action	12/14/92	57 FR 58972
Final Action Effective	12/19/92	57 FR 58972

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christina Trojan-Masnyk, Attorney, Department of the Treasury, Comptroller of the Currency, Corporate Organization and Resolutions Division, 250 E Street SW., Washington, DC 20219, 202 874-5300

RIN: 1557–AB20

[FR Doc. 93-7026 Filed 04-23-93; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Customs Service

19 CFR Ch. I

Semiannual Agenda

AGENCY: U.S. Customs Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: In response to Public Law 96-354, the "Regulatory Flexibility Act," and Executive Order 12291 "Federal Regulation," Customs is publishing for public information a list of regulations either under development or under review.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulation contained in this agenda, contact the "Agency Contact" listed in the specific regulatory action.

SUPPLEMENTARY INFORMATION: The projects listed below are not considered to be "major" regulations within the meaning of E.O. 12291 and will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act.

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TREAS—CUSTOMS

General statutory authority for the development or review of regulations relating to Customs matters is found in section 301, title 5, United States Code (5 U.S.C. 301), and in sections 66 and 1624, title 19, United States Code (19 U.S.C. 66, 1624). When appropriate, additional specific statutory authority is indicated as the legal authority for the project.

Dated: February 24, 1993.

John B. O'Loughlin,

Acting Assistant Commissioner, Office of Commercial Operations.

United States Customs Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2802	19 CFR 134 Country of Origin Marking	1515-AA59
2803	19 CFR 111 Broker Compliance	1515-AA85
2804	19 CFR 111.14 Contracting Out of Investigations	1515-AA90
2805	19 CFR 132 Quota Processing	1515-AA98
2806	19 CFR 10 Marking Assembled Articles	1515-AB07
2807	19 CFR 7.8 U.S. Insular Possessions—Duty-Free Treatment	1515-AB14
2808	19 CFR 101 Standards for the Establishment of Customs Services	1515-AB18
2809	19 CFR 141 Prefiling of Entry Documentation	1515-AB21
2810	19 CFR 19 Consolidation of In-Bond Export Shipments	1515-AB23
2811	19 CFR 18 Revision of In-Bond Requirements	1515-AB26
2812	19 CFR 142 Publication of Filer Codes	1515-AB27
2813	19 CFR 133 Disclosure of Information to Intellectual Property Rights Owners	1515-AB28

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2814	19 CFR 4 Customs User Fees	1515-AA50
2815	19 CFR 4 Harbor Maintenance Fee	1515-AA57
2816	19 CFR 162 Highest Degree of Care and Diligence to Prevent Unmanifested Narcotics and Marijuana	1515-AA67
2817	19 CFR 133 Enforcement of Protection of Semiconductor Chip Products: Patent Surveys	1515-AA81
2818	19 CFR 10 United States-Israel Free Trade	1515-AA84
2819	19 CFR 24 Donated Cargo Exemption From Harbor Maintenance Fee	1515-AA87
2820	19 CFR 122 Aircraft Arriving From Puerto Rico and U.S. Virgin Islands	1515-AA99
2821	19 CFR 103 Testimony or the Production of Documents in Court	1515-AB02
2822	19 CFR 10 Voluntary Restraint Arrangements—Steel	1515-AB04
2823	19 CFR 24 Assessment of Liquidated Damages for Failure to Deposit Estimated Duties or to Remit Passenger Processing Fees to Customs	1515-AB15
2824	19 CFR 141.89 Invoice Requirements	1515-AB17
2825	19 CFR 102 (New) Rules of Origin	1515-AB19
2826	19 CFR 146 Petroleum Refineries in Foreign Trade Subzones	1515-AB20
2827	19 CFR 113 Automated Surety Interface	1515-AB25

United States Customs Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2828	19 CFR 103 Dissemination of Manifest Data Tapes	1515-AA94
2829	19 CFR 122 International, Landing Rights and User Fee Airports	1515-AA95
2830	19 CFR 142 Line Release	1515-AB08
2831	19 CFR 118 (New) Centralized Examination Stations	1515-AB10
2832	19 CFR 10.175 Customs Regulations Amendment Relating to the Generalized System of Preferences Direct Importation Requirement	1515-AB24

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Proposed Rule Stage

2802. COUNTRY OF ORIGIN MARKING

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendment to the Customs Regulations relating to the requirement that every imported article of foreign origin, or its container, shall be legibly and conspicuously marked to indicate to an ultimate purchaser in the United States, the English name of the country of origin of the article. Proposal would require that whenever the full or abbreviated name of a country or place other than the country of origin, or a symbol readily associated with a country or place other than the country of origin appears anywhere on a foreign article or its container, then the actual country of origin of the article must be marked on the article or its container in close proximity to each reference to the country or place not the country of origin, or a hang tag or sticker affixed to a highly conspicuous portion of the article.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorrie Rodbart, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229, 202 482-7010

RIN: 1515–AA59

2803. BROKER COMPLIANCE

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1641

CFR Citation: 19 CFR 111

Legal Deadline: None

Abstract: Amendment of Customs Regulations to permit more effective management of the broker community's legal requirements and to allow Customs to deal with operational problems dealing with brokers and to facilitate processing license applications and the review of penalty recommendations forwarded by District Directors.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ray Janiszewski, Chief, Broker Compliance and Evaluation Branch, Department of the Treasury, United States Customs Service, Room 1422, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0365

RIN: 1515–AA85

2804. CONTRACTING OUT OF INVESTIGATIONS

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1641; 19 USC 1551; 19 USC 1565; 19 USC 1623

CFR Citation: 19 CFR 111.14; 19 CFR 112

Legal Deadline: None

Abstract: Amends Customs regulations to permit the contracting out of investigations which Customs is required to perform.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Algozzini, Project Officer, Department of the Treasury, United States Customs Service, Room B420, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0006

RIN: 1515–AA90

2805. QUOTA PROCESSING

Legal Authority: 19 USC 1624; 19 USC 1202; 19 USC 66; 19 USC 1623

CFR Citation: 19 CFR 132; 19 CFR 141; 19 CFR 142

Legal Deadline: None

Abstract: Proposal to permit certain filers using the automated broker interface who pay duties and taxes through the statement processing program using the ACH electronic payment mechanism to receive a date and time of presentation for quota merchandise consistent with the date and time of arrival of the carrier on which the quota class merchandise was carried even if the Customs office is not open at that time.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Mays, Operations Officer, Department of the Treasury, United States Customs Service, ICC Building, Room 2379, 1301 Constitution Avenue NW., Washington, DC 20229, 202 566-8592

RIN: 1515–AA98

2806. MARKING ASSEMBLED ARTICLES

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amends Customs regulations to remove section 10.22 under which articles must be marked with country of assembly when reported under Item 9802.00.80 of Harmonized Tariff Schedule.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorrie Rodbart, Attorney-Advisor, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229, 202 482-7010

RIN: 1515–AB07

2807. U.S. INSULAR POSSESSIONS—DUTY-FREE TREATMENT

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 7.8

Legal Deadline: None

Abstract: Rule setting forth in detail the criteria which must be met to obtain duty-free treatment for products imported from U.S. insular possessions.

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TREAS—CUSTOMS — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig Walker, Attorney-Advisor, Department of the Treasury, United States Customs Service, Special Classification Branch, 1301 Constitution Avenue NW., Washington, DC 20229, 202 482-6980

RIN: 1515–AB14

2808. STANDARDS FOR THE ESTABLISHMENT OF CUSTOMS SERVICES

Legal Authority: 5 USC 301; 19 USC 2; 19 USC 586; 19 USC 66; 19 USC 1202; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 101

Legal Deadline: None

Abstract: Notice of proposed rulemaking to amend part 101 to set forth standards and procedures for the establishment of Customs services and for the upgrading of existing facilities to port of entry status.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph O'Gorman, Department of the Treasury, United States Customs Service, Office of Inspection and Control, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0543

RIN: 1515–AB18

2809. PREFILING OF ENTRY DOCUMENTATION

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 141; 19 CFR 142

Legal Deadline: None

Abstract: Rule limiting the privilege of prefiling entry documentation to entry filers who are either participants in the Automated Broker Interface or who file entries manually for merchandise which is transported on carriers that are participants in the Automated Manifest System.

Timetable:

Action	Date	FR Cite
ANPRM	11/06/91	56 FR 56608
ANPRM Comment Period End	01/06/92	
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ernest Cunningham, Inspector, Department of the Treasury, United States Customs Service, Room 4404, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0167

RIN: 1515–AB21

2810. CONSOLIDATION OF IN-BOND EXPORT SHIPMENTS

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202 (Gen Note 8, Harmonized Tariff Schedule of the US); 19 USC 1624

CFR Citation: 19 CFR 19

Legal Deadline: None

Abstract: Rule to provide specific regulatory control over the activities of consolidators of in-bond cargo for exportation.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ernest L. Cunningham, Inspector, Department of the Treasury, United States Customs Service, Room 4408, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0167

RIN: 1515–AB23

2811. • REVISION OF IN-BOND REQUIREMENTS

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1641

CFR Citation: 19 CFR 18; 19 CFR 19; 19 CFR 111; 19 CFR 112; 19 CFR 122; 19 CFR 123; 19 CFR 125; 19 CFR 141; 19 CFR 142; 19 CFR 144; 19 CFR 146

Legal Deadline: None

Abstract: Revises in-bond procedures by, among other things, reducing types of in-bond movements, discontinuing use of TACM procedures and allowing the use of electronic in-bond data.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donna Shaw, Inspector, Office of Inspection and Control, Department of the Treasury, United States Customs Service, 1301 Constitution Ave. NW., Washington, DC 20229, 202 927-0985

RIN: 1515–AB26

2812. • PUBLICATION OF FILER CODES

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 142; 19 CFR 143

Legal Deadline: None

Abstract: Provides for the publication of a list of filer codes and the identity of individuals, licensed Customs brokers or importers assigned the specific number. Publication will improve control for various components of the trade community and reduce numerous problems for Customs relating to entry processing requirements, but could also provide a means to access commercial import information heretofore treated as confidential by Customs.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4115
ANPRM Comment Period End	03/15/93	
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deann Horton, Attorney, Entry Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Ave. NW., Washington, DC 20229, 202 482-7040

RIN: 1515–AB27

2813. • DISCLOSURE OF INFORMATION TO INTELLECTUAL PROPERTY RIGHTS OWNERS

Legal Authority: 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 133

TREAS—CUSTOMS — **Proposed Rule Stage**

Legal Deadline: None

Abstract: Provides intellectual property rights owners with information regarding importations so that they may pursue injunctive relief or other civil remedies against the party involved in infringing transactions.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tim Trainer, Attorney, Intellectual Property Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20029, 202 482-6960

RIN: 1515–AB28

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS) — **Final Rule Stage**

2814. CUSTOMS USER FEES

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 31 USC 9701; PL 99-272

CFR Citation: 19 CFR 4; 19 CFR 6; 19 CFR 24; 19 CFR 111; 19 CFR 123; 19 CFR 145

Legal Deadline: Final, Statutory, July 7, 1986.

Abstract: Amends Customs Regulations to provide for payment of specific fees to Customs for the processing of persons, aircraft, vehicles and merchandise arriving in the United States as well as for the payment of an annual fee by Customs brokers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/11/86	51 FR 21152
Final Rule Pending Internal Decision	05/01/88	
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: David Kahne, Operations Officer, Department of the Treasury, United States Customs Service, Room 4133, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0159

RIN: 1515–AA50

2815. HARBOR MAINTENANCE FEE

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 81a to 81u; 19 USC 623; 19 USC 1202; 19 USC 1624; 31 USC 9701; PL 99-272; PL 99-509; PL 99-662

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 146; 19 CFR 178

Legal Deadline: Final, Statutory, April 1, 1987.

Abstract: Amendments to the Customs Regulations to implement provisions of the Water Resources Development Act of 1986 which authorizes Customs to assess a harbor maintenance fee of 0.125 percent (.00125) on the value of commercial cargo loaded on or unloaded from a commercial vessel at a port unless specifically exempted from the fee. Proceeds of the fee are deposited in a trust fund for the U.S. Army Corps of Engineers to use for the improvement and maintenance of U.S. ports and harbors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	52 FR 10198
Interim Final Rule Public Comment Period End	08/28/87	
Comments Being Analyzed	02/08/88	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Patricia Barbare, Department of the Treasury, United States Customs Service, Room 4118, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0034

RIN: 1515–AA57

2816. HIGHEST DEGREE OF CARE AND DILIGENCE TO PREVENT UNMANIFESTED NARCOTICS AND MARIJUANA

Significance: Regulatory Program

Legal Authority: 19 USC 1584; 19 USC 1594; 19 USC 1595a; 21 USC 960; 21 USC 961; PL 99-570

CFR Citation: 19 CFR 162

Legal Deadline: Final, Statutory, February 17, 1989.
Required by 19 USC 1584 note.

Abstract: Amendment to the Customs Regulations relating to the liability of common carriers to penalties, seizure and forfeiture for unmanifested narcotic drugs or marijuana. The proposed changes would add to the regulations the statutory standard for the highest degree of care and diligence on the part of common carriers in preventing unmanifested drugs and marijuana. It also sets forth specific duties and procedures by which the standard is defined and against which compliance with the standard can be determined. These duties and procedures include such security measures as background investigations of employees, access restrictions to cargo areas, use of lighting in storage areas, and similar measures.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 4835
NPRM Comment Period End	04/03/89	
Second NPRM	02/12/91	56 FR 5665
Second NPRM Comment Period End	03/14/91	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harriett D. Blank, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229, 202 482-6950

RIN: 1515–AA67

2817. ENFORCEMENT OF PROTECTION OF SEMICONDUCTOR CHIP PRODUCTS; PATENT SURVEYS

Legal Authority: 17 USC 901 to 914; 19 USC 66; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 133; 19 CFR 12; 19 CFR 24

Legal Deadline: None

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Abstract: This document proposes to amend the Customs Regulations to enable persons seeking protection from infringing semiconductor chip products (mask works) to obtain the assistance of Customs in preventing pirated chips from being imported into the United States. This would give rise to a process of Customs recordation of mask works similar to that for copyrights.

Timetable:

Action	Date	FR Cite
NPRM	10/04/89	54 FR 40882
NPRM Comment Period End	03/26/90	55 FR 2386
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John F. Atwood, Director, Intellectual Property Rights Task Force, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229, 202 482-6960

RIN: 1515–AA81

2818. UNITED STATES-ISRAEL FREE TRADE

Legal Authority: 99 Stat 82; 19 USC 2112

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amends Customs Regulations to include for public information the legal and existing administrative rules under which the United States-Israel Free Trade Area is presently being conducted. Under this program, products of Israel are entitled to free or reduced rates.

Timetable:

Action	Date	FR Cite
NPRM	07/31/92	57 FR 33909
NPRM Comment Period End	09/29/92	
NPRM Comment Period Extended to 11/28/92	10/05/92	57 FR 45758
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maritza Castro, Operations Officer, Department of the Treasury, United States Customs Service, Room 1311, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0360

RIN: 1515–AA84

2819. DONATED CARGO EXEMPTION FROM HARBOR MAINTENANCE FEE

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 66; 19 USC 1202; 19 USC 1624; 31 USC 9701; 19 USC 58b; 19 USC 58c

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amends interim Customs Regulations relating to harbor maintenance fees. The interim regulations established a shipping fee for transporting cargo on specified U.S. waterways. The Act was amended to include an exemption for nonprofit organizations or cooperatives which own or finance cargo determined by Customs to be intended for use in humanitarian or development assistance overseas. This amendment sets forth the applicability and terms of this exemption.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/92	57 FR 607
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Barbare, Operations Officer, User Fee Task Force, Department of the Treasury, United States Customs Service, Room 4112, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0034

RIN: 1515–AA87

2820. AIRCRAFT ARRIVING FROM PUERTO RICO AND U.S. VIRGIN ISLANDS

Legal Authority: 5 USC 301; 19 USC 58b; 19 USC 66; 19 USC 1433; 19 USC 1436; 19 USC 1459; 19 USC 1590; 19 USC 1624; 19 USC 1644; 49 USC app 1509

CFR Citation: 19 CFR 122

Legal Deadline: None

Abstract: Rule to require aircraft arriving from Puerto Rico or U.S. Virgin Islands to comply with landing requirements for private aircraft arriving from areas south of the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bamford, Enforcement Aviation Operations Officer, Department of the Treasury, United States Customs Service, Room 5303, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-1930

RIN: 1515–AA99

2821. TESTIMONY OR THE PRODUCTION OF DOCUMENTS IN COURT

Legal Authority: 5 USC 552; 19 USC 66; 19 USC 1624; 31 USC 9201

CFR Citation: 19 CFR 103

Legal Deadline: None

Abstract: Amend Customs regulations to require subpoenaing parties to advise Customs of the nature of the case and testimony to be elicited.

Timetable:

Action	Date	FR Cite
Final Action	09/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lee H. Kramer, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229, 202 482-6970

RIN: 1515–AB02

2822. VOLUNTARY RESTRAINT ARRANGEMENTS—STEEL

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 2253 note

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amends Customs regulations to set forth entry requirements applicable to imported steel products subject to voluntary restraint arrangements between the U.S. and certain steel-exporting countries. Action mandated by the Steel Import Stabilization Act, as amended by the Steel Trade Liberalization Program Implementation Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/13/90	55 FR 37701
Correction Document	10/22/90	55 FR 42556
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Crowe, Operations Officer, Department of the Treasury, United States Customs Service, Room 1303, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0164

RIN: 1515–AB04

2823. ASSESSMENT OF LIQUIDATED DAMAGES FOR FAILURE TO DEPOSIT ESTIMATED DUTIES OR TO REMIT PASSENGER PROCESSING FEES TO CUSTOMS

Legal Authority: 5 USC 301; 19 USC 58a to 58c; 19 USC 66; 19 USC 1202; 19 USC 1448; 19 USC 1484; 19 USC 1623; 19 USC 1624; 26 USC 4461; 26 USC 4462; 31 USC 9701

CFR Citation: 19 CFR 24; 19 CFR 113; 19 CFR 142

Legal Deadline: None

Abstract: Proposed Customs regulations amendments permitting assessment of liquidated damages for failure to deposit estimated duties in a timely manner, or to remit passenger processing fees to Customs.

Timetable:

Action	Date	FR Cite
NPRM	02/06/92	57 FR 4589
NPRM Comment Period End	04/06/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney-Advisor, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229, 202 482-6950

RIN: 1515–AB15

2824. INVOICE REQUIREMENTS

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1481; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 141.89

Legal Deadline: None

Abstract: Rule setting forth revised requirements for product descriptions on invoices pertaining to imported merchandise.

Timetable:

Action	Date	FR Cite
NPRM	09/03/92	57 FR 44792
NPRM Comment Period End	11/02/92	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leo Wells, Operations Officer, Department of the Treasury, United States Customs Service, Office of Trade Operations, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0742

RIN: 1515–AB17

2825. RULES OF ORIGIN

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 46 USC app 3

CFR Citation: 19 CFR 102 (New); 19 CFR 4.80b(a); 19 CFR 10.12(e); 19 CFR 10.14(b); 19 CFR 10.171(c); 19 CFR 10.191(b)(3); 19 CFR 134.1(b), (d), and (e); 19 CFR 134.35; 19 CFR 177.22(a)

Legal Deadline: None

Abstract: Rule setting forth uniform standards for determining the country of origin of base metal products and of all products wholly obtained or produced in one country.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48448
NPRM Comment Period End	01/09/92	56 FR 61214
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Valentine, Attorney-Advisor, Department of the Treasury, United States Customs Service, International Nomenclature Staff, 1301 Constitution Avenue NW., Washington, DC 20229, 202 482-7000

RIN: 1515–AB19

2826. PETROLEUM REFINERIES IN FOREIGN TRADE SUBZONES

Legal Authority: 19 USC 66; 19 USC 81a to u; 19 USC 1202 (Gen Note 8, Harmonized Tariff Schedule of the US); 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 146

Legal Deadline: None

Abstract: Rule to add special procedures and requirements governing the operations of crude petroleum refineries approved as foreign trade subzones, in implementation of section 9002 of the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	08/10/92	57 FR 35530
NPRM Comment Period End	02/08/93	57 FR 55198
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis Hryniw, Supervisory Auditor, Department of the Treasury, United States Customs Service, Room 2317, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0677

RIN: 1515–AB20

2827. AUTOMATED SURETY INTERFACE

Legal Authority: 19 USC 66; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 113

Legal Deadline: None

Abstract: Provides for an automated system through which participating sureties will electronically provide to Customs acknowledgement that they are liable for transactions identified under their bonds.

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5680
NPRM Comment Period End	03/23/93	
Interim Final Rule	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diane Hundertmark, ACS Specialist, Department of the Treasury, United States Customs Service, Room 2345, 1301 Constitution

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Avenue NW., Washington, DC 20229, 202 927-0355

RIN: 1515–AB25

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Completed Actions

2828. DISSEMINATION OF MANIFEST DATA TAPES

Legal Authority: 5 USC 301; 5 USC 552; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 103

Legal Deadline: None

Abstract: Rule to specify Customs policy for providing manifest data tapes to the public.

Timetable:

Action	Date	FR Cite
Final Action	09/24/92	57 FR 44089
Final Action Effective	09/24/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Debbie Flickinger, Resource Management Specialist, Department of the Treasury, United States Customs Service, Room 7319, 1301 Constitution Avenue NW., Washington, DC 20229, 202 566-5260

RIN: 1515–AA94

2829. INTERNATIONAL, LANDING RIGHTS AND USER FEE AIRPORTS

Legal Authority: 5 USC 301; 19 USC 58b; 19 USC 66; 19 USC 1433; 19 USC 1436; 19 USC 1459; 19 USC 1590; 19 USC 1624; 19 USC 1644; 49 USC 1509

CFR Citation: 19 CFR 122

Legal Deadline: None

Abstract: Amends Customs regulations to clarify standards for permission to land at landing rights airports and for termination of user fee airport status, to update the list of user fee airports, and to improve the arrangement of the regulations regarding classes of airports.

Timetable:

Action	Date	FR Cite
NPRM	12/26/91	56 FR 66814
NPRM Comment Period End	02/24/92	
Final Action	09/21/92	57 FR 43395
Final Action Effective	11/20/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Lovejoy, Inspector, Department of the Treasury, United States Customs Service, Room 4126, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0444

RIN: 1515–AA95

2830. LINE RELEASE

Legal Authority: 19 USC 66; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1624

CFR Citation: 19 CFR 142

Legal Deadline: None

Abstract: Amends Customs regulations to incorporate automated line release system as the method of entering merchandise into the United States.

Timetable:

Action	Date	FR Cite
NPRM	08/28/91	56 FR 42568
NPRM Comment Period End	10/28/91	
Final Action	09/24/92	57 FR 44090
Final Action Effective	10/26/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Nolle, ACS Officer, Department of the Treasury, United States Customs Service, Room 2341, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-0541

RIN: 1515–AB08

2831. CENTRALIZED EXAMINATION STATIONS

Significance: Agency Priority

Legal Authority: 19 USC 66; 19 USC 1499; 19 USC 1623; 19 USC 1924

CFR Citation: 19 CFR 118 (New)

Legal Deadline: None

Abstract: Proposes to add a new part 118 to the Customs Regulations setting forth a regulatory framework for the establishment, operation and termination of Centralized Examination Stations (CES). CESs are privately operated facilities at which imported merchandise is made available to Customs Inspectors for physical examination. By having centrally located work sites, Customs will better use its inspectional resources and clear higher volumes of cargo.

Timetable:

Action	Date	FR Cite
NPRM	07/23/91	56 FR 33734
NPRM Comment Period End	09/23/91	
Final Action	01/22/93	58 FR 5596
Final Action Effective	02/22/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Duffy, Inspector, Department of the Treasury, United States Customs Service, Room 4406, 1301 Constitution Avenue NW., Washington, DC 20229, 202 927-1335

RIN: 1515–AB10

2832. CUSTOMS REGULATIONS AMENDMENT RELATING TO THE GENERALIZED SYSTEM OF PREFERENCES DIRECT IMPORTATION REQUIREMENT

Legal Authority: 19 USC 2461 to 2465; 19 USC 66; 19 USC 1202; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 10.175

Legal Deadline: None

Abstract: Regulation expands the "imported directly" definition in the Customs Regulations pertaining to the Generalized System of Preferences (GSP) to allow goods produced in a member of a GSP-eligible association of countries to be shipped through and processed in another member of the association even though that member's designation as a GSP-eligible country was terminated by the President.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/17/92	57 FR 2016

Action	Date	FR Cite
Final Action	09/03/92	57 FR 40314
Final Action Effective	09/03/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig Walker, Attorney Advisor, Office of Regulations and Rulings, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229, 202 482-6980

RIN: 1515–AB24

[FR Doc. 93-6058 Filed 04-23-93; 8:45 am]

BILLING CODE 4820-02-F

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Internal Revenue Service

26 CFR Ch. I

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Semiannual agenda of regulations.

SUMMARY: This semiannual agenda lists the regulations that the Internal Revenue Service will be developing from April 1, 1993, through March 31, 1994. Determinations with respect to the agenda were made as of January 31, 1993. The purpose of this semiannual agenda is to give the public adequate notice of regulatory activities of the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter, (202) 622-7190, not a toll-free call, Regulations Unit, Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044, Attention: CC:CORP:T:R.

SUPPLEMENTARY INFORMATION:

General

Section 5 of Executive Order 12291 and section 602 of the Regulatory Flexibility Act both require that a semiannual agenda of regulations under development and review be published in the **Federal Register**. The next semiannual agenda of the Internal Revenue Service will be published in the **Federal Register** in October of 1993.

Description

This semiannual agenda of regulations lists all projects within the Internal Revenue Service (IRS) as of January 31, 1993, for the development of regulations to appear in the Code of Federal Regulations. This agenda lists existing regulations under development by the Offices of the Assistant Chief Counsel (Corporate), Assistant Chief Counsel (Field Service), Assistant Chief Counsel (Financial Institutions and Products), Assistant Chief Counsel (Income Tax and Accounting), Assistant Chief Counsel (Passthroughs & Special Industries), Assistant Chief Counsel (Criminal Tax), Assistant Chief Counsel (General Litigation), Associate Chief Counsel (Employee Benefits and Exempt Organizations), and Associate Chief Counsel (International) of the Office of Chief Counsel, IRS. The following information is provided for each regulation project: The title; priority status; its effect, if any, on small business; the part of the Code of Federal Regulations affected; the legal authority for issuing the regulation; a brief description of the problem to be addressed in the regulation; and a timetable of action taken and to be taken. Under Additional Information, there is provided the control number of the project within the Chief Counsel's office and the names and telephone numbers of the drafting and reviewing attorneys.

By direction of the Secretary of the Treasury.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

Internal Revenue Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2833	26 USC 0041 Definition of Qualified Research and Computation of Research Credit Under Section 41 of the Code, After 1986 Act and 1989 Act	1545-AO51
2834	26 USC 0042 A Detailing of the Minimum Living Area Which Must Constitute a Bedroom for Purposes of Determining the Gross Rent Limitation Applicable to Rent-Restricted Units	1545-AO52
2835	26 USC 0104 Amount Received as Compensation for Personal Injury or Sickness	1545-AR36
2836	26 USC 0368 Corporate Reorganization Amendments - Bankruptcy Tax Act of 1980	1545-AK33
2837	26 USC 0382 Allocation of a Loss Corporation's Income or Loss for the Taxable Year that Includes the Change Date Between the Periods Ending With and After the Change Date	1545-AL58
2838	26 USC 0401 Coordination of Nondiscrimination	1545-AQ87
2839	26 USC 0847 Special Estimated Tax Payments	1545-AN33
2840	26 USC 0897(c)(3) FIRPTA Cleanup	1545-AJ72
2841	26 USC 0904 Resourcing Income to Prevent Avoidance of Foreign Tax Credit Limitation Rules Relating to Foreign Losses	1545-AN57

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Sequence Number	Title	Regulation Identifier Number
2842	26 USC 0904(f) Clarification of Treatment of Separate Limitation Losses	1545-AM11
2843	26 USC 0932 Source Rules Within the Virgin Islands	1545-AL40
2844	26 USC 0952 Subpart F - Use of Deficits	1545-AJ71
2845	26 USC 1248 Income Tax—Gain from Sale or Exchange of Stock in Foreign Corporations	1545-AC31
2846	26 USC 1276 Disposition Gain Representing Accrued Market Discount Treated as Ordinary Income; Deferral of Interest Deduction Allocable to Accrued Market Discount	1545-AH82
2847	26 USC 1502 Consolidated Alternative Minimum Tax	1545-AN73
2848	26 USC 1502 Consolidated 165(g)	1545-AQ09
2849	26 USC 6038 Information Reporting and Record Maintenance Under Section 6038C	1545-AP10
2850	26 USC 6231(a)(7) Limited Liability Company Tax Matter Partner	1545-AQ47
2851	26 USC 6325 Procedure and Administration—Release of Liens, Notice Before Levy, Property Exempt from Levy Redemption of Levied Real Property and Amount of Damages in Case of Wrongful Levy	1545-AE82
2852	26 USC 6700 Penalty for Promoting Abusive Tax Shelters	1545-AE99
2853	26 USC 6701 Penalty for Aiding and Abetting in the Understatement of Tax Liability	1545-AF01
2854	26 USC 7508 Time for Performing Certain Acts Postponed by Reason of Service in Combat Zone	1545-AP90

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2855	05 USC 0301 Statement of Procedural Rules—Update #2	1545-AR44
2856	26 USC 0025(c) Mortgage Credit Certificates and Targeted Areas	1545-AO05
2857	26 USC 0042 Low-Income Housing Credit Recapture Rule	1545-AL12
2858	26 USC 0042 10-Year Waiver Regulations Under Section 42 IRC	1545-AO94
2859	26 USC 0042 Stacking Rules	1545-AQ41
2860	26 USC 0042 Administrative Errors—Housing Credit	1545-AQ98
2861	26 USC 0042 Rules To Carry Out the Purposes of Section 42 and for Correcting Administrative Errors and Omissions	1545-AR46
2862	26 USC 0044 Disabled Access Credit	1545-AQ20
2863	26 USC 0055 Income Tax—Alternative Minimum Tax	1545-AE80
2864	26 USC 0055 Minimum Tax Credit and Other Miscellaneous Rules Relating to the Alternative Minimum Tax	1545-AJ86
2865	26 USC 0056 Income Tax—Inventory Adjustment for the Alternative Minimum Tax	1545-AL02
2866	26 USC 0057 Income Tax-Minimum Tax; Item of Tax Preference for Intangible Drilling Costs Incurred in Drilling Oil, Gas or Geothermal Wells	1545-AA34
2867	26 USC 0059 Alternative Minimum Tax Foreign Tax Credit	1545-AO33
2868	26 USC 0061 Amendment to the Regulations Under Section 61 to Conform the Treatment of Bond Premium Income to the Constant Yield Method	1545-AL92
2869	26 USC 0061 To Clarify That the Service Has Authority to Amend the Standard Industry Fare Level (SIFL) Aircraft Valuation Formula	1545-AQ16
2870	26 USC 0072 Loans Treated as Distributions	1545-AE41
2871	26 USC 0072 Ten Percent Additional Tax on Early Distribution From Qualified Plans	1545-AN16
2872	26 USC 0079 Removing Gender Distinction From Mortality Tables	1545-AK50
2873	26 USC 0079 Section 79 Table I Update	1545-AN54
2874	26 USC 0083 Study of Application of Section 302 and Section 1.83(d)	1545-AN55
2875	26 USC 0101(a) The Treatment of Accelerated Death Benefits under Section 101 of the Code	1545-AQ70
2876	26 USC 0103 Definition of "Reissuance" Under Section 103	1545-AI65
2877	26 USC 0104 Amount Received as Compensation for Personal Injury or Sickness	1545-AQ97
2878	26 USC 0108 Income Tax—Discharge of Indebtedness	1545-AA67
2879	26 USC 0108 Consolidated Attribute Reduction Under Section 108(b)	1545-AP95
2880	26 USC 0108 Purchase Money Debt Reduction Treated as Price Reduction	1545-AQ00
2881	26 USC 0117(d) Qualified Tuition Reductions	1545-AI13
2882	26 USC 0129 Dependent Care Assistance	1545-AN17
2883	26 USC 0131 Income Tax—Part I Exclusion from Gross Income for Certain Foster Care Payments	1545-AF52
2884	26 USC 0141 Definition of "Private Activity Bond," "Qualified Bond"	1545-AM01
2885	26 USC 0145 Qualified 501(c)(3) Bonds	1545-AJ39
2886	26 USC 0146 State Volume Cap for Tax-Exempt Bonds	1545-AJ37
2887	26 USC 0163 Qualified Residence Interest	1545-AL67

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Internal Revenue Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2888	26 USC 0168 Income Tax—Accelerated Cost Recovery System	1545-AA87
2889	26 USC 0168 Modification of ACRS	1545-AJ38
2890	26 USC 0179A Recapture—Clean Fuel/Electric Vehicles	1545-AR23
2891	26 USC 0195 Income Tax—To Add Provisions Relating to Start-Up Expenditures	1545-AB02
2892	26 USC 0216 Distributions by Cooperative Housing Association	1545-AO91
2893	26 USC 0245 Deduction for Dividends Received From Certain Foreign Corporations	1545-AL94
2894	26 USC 0246(c) Dividends Received Deduction—Holding Period Reduced for Periods Where Risk of Loss Is Diminished	1545-AR10
2895	26 USC 0263A(f) Capitalization of Interest Expense by Related Parties in the Case of the Production of Certain Property	1545-AQ85
2896	26 USC 0269B Rules for Treatment of Foreign Corporation Whose Stock Is Stapled to the Stock of a Domestic Corporation	1545-AN20
2897	26 USC 0280A Income Tax—Deductions for Expenses Attributable to Business Use of Homes, Rental of Vacation Homes	1545-AB09
2898	26 USC 0280F Limitation of Deductions on Passenger Automobiles and Other Listed Property	1545-AN05
2899	26 USC 0280F The Substantiation of Deductions Claimed for the Use of Cellular Telephones and Computers in a Taxpayer's Trade or Business	1545-AP46
2900	26 USC 0304 Section 304 Regulations	1545-AR40
2901	26 USC 0305(c)(1) Economic Accrual of Redemption Premium (Section 11322(A) of Pub. L. 101-508)	1545-AQ42
2902	26 USC 0336 Certain Stock Sales and Distributions Treated as Asset Transfers	1545-AK29
2903	26 USC 0337(d) Application of General Utilities Repeal Regulatory Authority to RICs and REITs	1545-AL65
2904	26 USC 0337(d) Scope of General Utilities Repeal	1545-AN21
2905	26 USC 0338 Treatment of an Affiliated Group of Corporations as a Selling Consolidated Group for Purposes of Elective Recognition Under Section 338(h)(10)	1545-AK31
2906	26 USC 0338 Amendment of Section 1.338-5T Regulations	1545-AO73
2907	26 USC 0338 Information Reporting Requirements for Section 338(h)(10) Transactions	1545-AP96
2908	26 USC 0358 Income Tax—Triangular Reorganizations, Basis and Other Consequences	1545-AB21
2909	26 USC 0361(a)(3) Fringe Benefit Sourcing Under Section 861	1545-AO72
2910	26 USC 0367 Section 361 Outbound Transfers of Property to Foreign Corporations	1545-AM97
2911	26 USC 0382 Reorganizations in Bankruptcy; Stock-for-Debt Exchanges; Use of Parent Corporation Stock; Triangular "G" Reorganizations	1545-AO30
2912	26 USC 0382 Suspension of Partnership Income and Expenses Arising From Unpaid Guaranteed Payments Accrued by Certain Partners	1545-AP43
2913	26 USC 0382 Modification of the Section 1.382-2T(j)(2) Rules	1545-AQ59
2914	26 USC 0401 Permissibility of Section 401(h) Account in Combination with an ESOP	1545-AP88
2915	26 USC 0401(a)(4) Nondiscrimination Requirements for Qualified Plans	1545-AR09
2916	26 USC 0401(k) Cash or Deferred Arrangements	1545-AQ77
2917	26 USC 0403 Nondiscrimination and Other Rules Applicable to Section 403(b) Annuities	1545-AI90
2918	26 USC 0404 Treatment of Dividends Deductible Under Section 404(k) for Purposes of Cash or Deferred Arrangements Described in Section 401(k)	1545-AQ96
2919	26 USC 0409 Income Tax—Part 1; Estate Tax—Part 20, Employee Stock Ownership Plan Rules Affected by TRA 1986	1545-AI87
2920	26 USC 0410(b) Special Rules in Merger and Acquisition	1545-AM94
2921	26 USC 0410(b) Minimum Coverage Requirements	1545-AR51
2922	26 USC 0412 Revising the Drafting of the Full Funding Limitation for Purposes of the Minimum Funding Requirement for Pension Plans	1545-AL53
2923	26 USC 0417 Disclosure Guidelines for QJSA Waiver	1545-AQ36
2924	26 USC 0419 Treatment of Funded Welfare Benefit Plans	1545-AG14
2925	26 USC 0442 Income Tax—Part 1—Amendment of Section 1.442-1 To Provide Simplified Procedures for Changes of Annual Accounting Period by Certain Exempt Organizations	1545-AI68
2926	26 USC 0446 Hybrid Instruments	1545-AR13
2927	26 USC 0446 Taxation of Tax-Exempt Organizations' Income From Corporate Sponsorship	1545-AR19
2928	26 USC 0446 Notional Principal Contracts	1545-AR22
2929	26 USC 0451 Changes to Method of Accounting for Certain Taxpayers Using Accrual Method of Accounting for Redemption of Trading Stamps and Coupons Pursuant to Section 461(H) of the Code	1545-AP04
2930	26 USC 0453 Income Tax—Installment Sales Revision Act of 1980, Regulations Relating to Wrap-Around Mortgages	1545-AB46
2931	26 USC 0457 Income Tax—Deferred Compensation Plans of State and Local Governments and Tax-Exempt Organizations	1545-AI89

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2932	26 USC 0460 Definition of a Long-Term Contract	1545-AQ30
2933	26 USC 0460 Subcontracts Between Related Parties That Benefit a Long-Term Contract	1545-AQ31
2934	26 USC 0465 Aggregation of Certain Activities for Purposes of the At-Risk Rules	1545-AI02
2935	26 USC 0465 Application of At-Risk Limitations to the Holding of Real Property	1545-AK08
2936	26 USC 0465 Regulations Will Provide Guidance on What Constitutes an Interest Other Than That of a Creditor	1545-AO32
2937	26 USC 0467 Temporary Income Tax Regulations-Deferred Payments for Use of Property or Services	1545-AG81
2938	26 USC 0469 Application of Passive Activity Loss and Credit Limitations to Trusts, Estates, and Their Beneficiaries	1545-AN62
2939	26 USC 0469 Allocation of Interest Expense Among Expenditures	1545-AO93
2940	26 USC 0469(i)(4) Special Rules for Allocation of Interest Expense Among Expenditures in the Case of Pass-through Entities	1545-AM79
2941	26 USC 0474 Simplified Dollar-Value LIFO Method for Certain Small Businesses	1545-AK64
2942	26 USC 0482 Intercompany Transfer Pricing for Services	1545-AR32
2943	26 USC 0514 Income Tax—Unrelated Trade or Business Income	1545-AE00
2944	26 USC 0514 Unrelated Debt-Financed Income of Qualified Service	1545-AR17
2945	26 USC 0514(c)(9)(E) Taxation of Certain Qualified Exempt Organizations on Income from Debt-Financed Property Owned Through a Partnership	1545-AO78
2946	26 USC 0584 Merger or Division of Common Trust Funds—Section 584	1545-AQ64
2947	26 USC 0601 Statement of Procedural Rules—Appeals Function	1545-AQ18
2948	26 USC 0643 Property Distributed in Kind and Treatment of Multiple Trusts (Sec. 81 and 82 of The Tax Reform Act of 1984)	1545-AI06
2949	26 USC 0643 Clarification of Section 1.643(a)(3) Relating to the Inclusion of Capital Gain in Distributable Net Income	1545-AI31
2950	26 USC 0667 Accumulation Trusts	1545-AM78
2951	26 USC 0672 Income Taxation of Trusts and Estates	1545-AJ20
2952	26 USC 0679 Foreign Grantor Trusts	1545-AO75
2953	26 USC 0704(c) Allocations Reflecting Built-In Gain or Loss on Property Contributed to a Partnership	1545-AG98
2954	26 USC 0706 Income Tax—Items Allocated to Portion of Year Partner Held Interest	1545-AB81
2955	26 USC 0707 Income Tax—Treatment of Payments to Partners Not Acting in Their Capacity as Partners	1545-AG83
2956	26 USC 0737 Section 737 Distributions	1545-AR48
2957	26 USC 0842 Taxation of Foreign Insurance Companies Doing Business in the United States Including the Explication of the Minimum Net Investment Income Calculation	1545-AN31
2958	26 USC 0842(b) Foreign Insurance Companies	1545-AL82
2959	26 USC 0861 Recomputation of Allocation and Apportionment of Deduction for State Income Taxes	1545-AP86
2960	26 USC 0863 Transportation Income Source Rules	1545-AJ68
2961	26 USC 0863 Sourcing Rule Applicable to Certain Insurance Income	1545-AQ37
2962	26 USC 0863 Special Rules for Determining Source	1545-AQ81
2963	26 USC 0864 Tiered Partnership Rules	1545-AO26
2964	26 USC 0864 Integrated Financial Transaction	1545-AR20
2965	26 USC 0864(c)(6) Treatment of Deferred Payments and Appreciation Arising Out of Business Conducted Within the United States	1545-AM53
2966	26 USC 0865 Source Rules for Personal Property Sales	1545-AJ83
2967	26 USC 0872(b) Income Tax—Reciprocal Exemptions for Certain Transportation Income	1545-AJ57
2968	26 USC 0881 Bank Exclusion From Portfolio Interest	1545-AQ39
2969	26 USC 0884 Proposed Regulations Under Section 1.884-3	1545-AQ72
2970	26 USC 0894 Dividend Withholding—Luxembourg Corporations	1545-AQ54
2971	26 USC 0897 Income Tax—Partnership Rules Regarding Taxation of Foreign Investment in United States Real Property Interests	1545-AL77
2972	26 USC 0902 Deemed Paid Credit Under Section 902 Determined on Accumulated Basis	1545-AL98
2973	26 USC 0905 Section 905(b) Regulations	1545-AP36
2974	26 USC 0936 Section 936 Regulations	1545-AR18
2975	26 USC 0953(d) Foreign Insurance Company - Domestic Election	1545-AO25
2976	26 USC 0954 Amendment to Subpart F Definitions	1545-AR31
2977	26 USC 0955 Subpart F Shipping Amendments	1545-AM46
2978	26 USC 0960 Deemed Paid Credit Under Section 960 Determined on Accumulated Basis	1545-AQ34
2979	26 USC 0964 Effect of Acquisitive Reorganizations on Earnings and Profits Pools	1545-AO71
2980	26 USC 0985 Change From the Dollar Approximate Separate Transaction Method (DASTM) to the Profit-and-Loss Method of Accounting	1545-AR24
2981	26 USC 0985 Change in Method of Accounting for QBU's That Are No Longer Hyperinflationary	1545-AR29

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Sequence Number	Title	Regulation Identifier Number
2982	26 USC 0986 Determination of Foreign Taxes and Foreign Corporation's Earnings and Profits	1545-AN37
2983	26 USC 0993 DISC Regulations	1545-AM05
2984	26 USC 1017 Basis Reduction Due to Cancellation of Indebtedness	1545-AP77
2985	26 USC 1031 Like-Kind Exchanges—Coordination With Section 453	1545-AQ48
2986	26 USC 1092 Income Tax—Tax Straddles	1545-AC21
2987	26 USC 1244 Revision of Section 1244 Regulations	1545-AQ80
2988	26 USC 1248 Gains from Certain Sales or Exchanges in Certain Foreign Corporations	1545-AL89
2989	26 USC 1254 Income Tax—Gain from Disposition of Interest in Oil, Gas, Geothermal or Other Mineral Properties by S Corporations and Their Shareholders	1545-AM98
2990	26 USC 1256(e) Hedging Exception to Mark-to-Market Rules for Section 1256 Contracts, Deferral of Certain Straddle Losses, and Wash-Sale and Short-Sale Principles Applicable to Certain Straddle Transactions	1545-AI72
2991	26 USC 1275 Contingent and Variable Debt Instruments	1545-AQ86
2992	26 USC 1275(d) The Treatment of Price Level Adjustment Mortgages Under the Original Issue Discount Provisions of the Code	1545-AO03
2993	26 USC 1286 Basic Issues Under Section 1286	1545-AQ25
2994	26 USC 1286 Certain Stripping Transactions	1545-AR12
2995	26 USC 1295 QEF Shareholder Election	1545-AM41
2996	26 USC 1363(d) Merger of a C Corporation Into S Corporation	1545-AR50
2997	26 USC 1366 Income Tax—Pass-Through of S Corporation Items to Shareholders	1545-AE85
2998	26 USC 1371 Income Tax—Application of Subchapter C Rules to S Corporations	1545-AE90
2999	26 USC 1374 Cross-Reference—Application of Section 1374 Built-in Gains Tax C Corporations Electing S Corporation Status	1545-AK93
3000	26 USC 1377 Income Tax—Definitions and Special Rules Pertaining to S Corporations	1545-AE94
3001	26 USC 1398 Section 1398 Substantive Consolidation in Bankruptcy	1545-AR45
3002	26 USC 1491 Revision of Regulations Under Sections 1491, 1492, and 1494	1545-AN39
3003	26 USC 1502 Income Tax—Application of Section 465 At Risk Limitations to Members that Join in Filing Consolidated Returns	1545-AC55
3004	26 USC 1502 Clarifying Deletion of Requirement of Section 1.1502-47(d)(12)(C) That in Applying the Tacking Rule, Profit Life Activities Not Be Separated From Loss Life Activities	1545-AI98
3005	26 USC 1502 Revision of Section 1.1502-33	1545-AL60
3006	26 USC 1502 Consolidated Returns: Separate Return Limitation Years and the Carryback and Carryover of Investment Credits, Foreign Tax Credits, Net Operating Losses, and Net Capital Losses	1545-AR11
3007	26 USC 1503 Applications of Section 1503(d) to Partnerships and Other Items	1545-AR26
3008	26 USC 1503 SRLY Limitations for Dual Consolidated Losses	1545-AR27
3009	26 USC 1504 Income Tax—Includibility in an Affiliated Group of Subsidiaries Formed to Comply with Foreign Laws	1545-AC58
3010	26 USC 2001 Estate and Gift Taxes, Unified Credit in Lieu of Exemption, Unified Rate Schedule for Estate and Gift Taxes	1545-AC60
3011	26 USC 2032 Estate Tax—Valuation of Certain Farm, etc. Real Property	1545-AC62
3012	26 USC 2039 Estate Tax Annuity Exclusion Repeal	1545-AP60
3013	26 USC 2055 Reformation of Charitable Transfers; Definition of Guaranteed Annuity and Lead Unitrust Interest	1545-AO31
3014	26 USC 2056 Alien Spouse Marital Deduction	1545-AM85
3015	26 USC 2104 Situs of Partnership Interests Held by a Nonresident Alien for Estate Tax Purposes	1545-AP07
3016	26 USC 2511 Loan Guarantees	1545-AR16
3017	26 USC 2601 Generation-Skipping Transfer Tax	1545-AQ65
3018	26 USC 2663 Estate Tax—Generation-Skipping Transfer Tax	1545-AL75
3019	26 USC 3201 Update of Railroad Retirement Tax Act Regulations	1545-AR08
3020	26 USC 3221 Supplemental Annuity Tax—Railroad Retirement (RR); Requirement of Making Quarterly Payments of the RR Unemployment Tax; Update of RR Retirement Tax Act	1545-AR07
3021	26 USC 3306 Treatment of Certain Deferred Compensation and Salary Reduction Arrangements	1545-AF97
3022	26 USC 3406 Taxpayer Identifying Number Matching Program	1545-AQ51
3023	26 USC 4091 Excise Tax on Diesel Fuel	1545-AL43
3024	26 USC 4101 Registration Under Section 4101	1545-AQ10
3025	26 USC 4221 Vaccine Exports	1545-AR38
3026	26 USC 4251 Revision and Update of Communications Tax Regs	1545-AP67
3027	26 USC 4261 Revision and Update of Air Transportation Tax Regs	1545-AP68
3028	26 USC 4611 Tax on Petroleum	1545-AJ23
3029	26 USC 4671 Chemical Tax Under Section 4461 and Imported Substance Tax Under Section 4671	1545-AL73
3030	26 USC 4682 Exports of Ozone-Depleting Chemicals	1545-AQ23

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Internal Revenue Service—Proposed Rule Stage (Continued)

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3031	26 USC 4980 Excise Tax—Part 54, Reversion of Qualified Plan Assets to Employer	1545-AI82
3032	26 USC 6011 Returns and Payments of Tax Under Federal Insurance Contributions Act	1545-AQ62
3033	26 USC 6033 Amendment of Section 1.6033-2(g)(5) Relating to Returns by an Integrated Auxiliary of a Church	1545-AI52
3034	26 USC 6045 Broker Reporting of Option Transactions	1545-AO40
3035	26 USC 6046A Income Tax Regulations Relating to Returns as to Interests in Foreign Partnerships	1545-AK75
3036	26 USC 6048 Section 6048 Regulations	1545-AR25
3037	26 USC 6049 Income Tax—To Require Issuers of Certificates of Deposit to Furnish Issue Price to Brokers	1545-AK36
3038	26 USC 6050H Information Reporting of Points on Mortgage Loans	1545-AO57
3039	26 USC 6051 IRC Section 6051	1545-AN57
3040	26 USC 6061 Voice Signatures	1545-AQ58
3041	26 USC 6081 Automatic Extension of Time for Filing Individual Income Tax Return	1545-AP39
3042	26 USC 6159 Agreements for Payment for Tax Liability in Installments	1545-AM56
3043	26 USC 6205 Interest-Free Adjustments	1545-AQ61
3044	26 USC 6222 Miscellaneous Rules Relating to Consolidated Administrative and Judicial Proceedings to Determine the Tax Treatment of Partnership Items	1545-AE51
3045	26 USC 6244 Determination of the Tax Treatment of Subchapter S Items at the Corporate Level	1545-AE96
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DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Prerule Stage

2833. DEFINITION OF QUALIFIED RESEARCH AND COMPUTATION OF RESEARCH CREDIT UNDER SECTION 41 OF THE CODE, AFTER 1986 ACT AND 1989 ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 101-239, sec 7110

CFR Citation: 26 CFR 602; 26 CFR 1

Legal Deadline: None

Abstract: The purpose of the regulation is to provide clarification on the computation of the research credit, under section 41 of the Internal Revenue Code of 1986, as a result of amendments to section 41 by the Tax Reform Act of 1986 and the Revenue Reconciliation Act of 1989.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-016-90.

Drafting attorney: David S. Hudson (202) 622-3120.

Reviewing attorney: Emil O. Muhs, Jr. (202) 622-3120.

Treasury attorney: Michael Schultz (202) 622-1343.

Agency Contact: David Hudson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3120**

RIN: 1545–AO51

2834. A DETAILING OF THE MINIMUM LIVING AREA WHICH MUST CONSTITUTE A BEDROOM FOR PURPOSES OF DETERMINING THE GROSS RENT LIMITATION APPLICABLE TO RENT-RESTRICTED UNITS

Legal Authority: 26 USC 42(g)(2)(C) Internal Revenue Code of 1986

CFR Citation: 26 CFR 42

Legal Deadline: None

Abstract: The temporary regulations discuss the minimum living area of a bedroom used for determining the gross rent limitation applicable to rent-restricted units under section 42(g)(2)(c) for purposes of the low-income housing credit.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: PS-010-90.

Drafting attorney: Elissa Shendalman (202) 622-3040.

Reviewing attorney: James F. Ranson (202) 622-3040.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Elissa Shendalman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3040**

RIN: 1545–AO52

2835. • AMOUNT RECEIVED AS COMPENSATION FOR PERSONAL INJURY OR SICKNESS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 104(a)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations established rules for whether amounts received under a Life Insurance Contract that also provides benefits prior to the death of the insured are received through accident and health insurance on account of personal injury or sickness.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: EE-48-92.

Drafting attorney: Felix Zech (202) 622-6080.

Reviewing attorney: Harry Beker (202) 622-6080.

Treasury attorney: Kurt Lawson (202) 622-1352.

Agency Contact: Felix Zech, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6080**

RIN: 1545–AR36

2836. CORPORATE REORGANIZATION AMENDMENTS - BANKRUPTCY TAX ACT OF 1980

Legal Authority: 26 USC 354 Internal Revenue Code of 1986; 26 USC 355 Internal Revenue Code of 1986; 26 USC 357 Internal Revenue Code of 1986; 26 USC 358 Internal Revenue Code of 1986; 26 USC 361 Internal Revenue Code of 1986; 26 USC 362 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986; 26 USC 381 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance with respect to amendments to the Internal Revenue Code by the Bankruptcy Tax Act of 1980, dealing with bankruptcy and other insolvency reorganizations.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-74-87.

Drafting attorney: Douglas Watkins (202) 622-7550.

Reviewing attorney: Christopher Kane (202) 622-7540.

Agency Contact: Douglas Watkins, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AK33

2837. ALLOCATION OF A LOSS CORPORATION'S INCOME OR LOSS FOR THE TAXABLE YEAR THAT INCLUDES THE CHANGE DATE BETWEEN THE PERIODS ENDING WITH AND AFTER THE CHANGE DATE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Except as provided in regulations, sections 382(b)(3)(A) and (d)(1) of the Internal Revenue Code of 1986 provide that income or net operating loss for the taxable year that includes the change date is allocated ratably. Notice 87-79, 1987-2 C.B. 387, states that regulations will, in certain cases, provide taxpayers with an election to allocate income and loss between the periods ending with and after the change date on the basis of a closing of their books. This regulation project provides a closing of the books election, and in cases where the closing of the books election is not made, provides that (1) extraordinary pre-change items are allocated to the pre-change period to net extraordinary pre-change loss that would otherwise be ratably allocated if the post-change period exceeds a threshold and (2) extraordinary post-change items are similarly allocated.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-49-88.

Drafting attorney: Roberta Mann (202) 622-7550.

Treasury attorney: Larry Garrett (202) 622-1778.

Reviewing attorney: Keith Stanley (202) 622-7750.

Agency Contact: Roberta Mann, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AL58

2838. COORDINATION OF NONDISCRIMINATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401

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Internal Revenue Code of 1986; 26 USC 402 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.401(k)-1; 26 CFR 1.401(m)-1; 26 CFR 1.401(m)-2; 26 CFR 1.402(g)-1

Legal Deadline: None

Abstract: This project will coordinate regulations under section 401(k) and (m) of the Internal Revenue Code of 1986 with nondiscrimination regulations under sections 401(a)(4) and 410(b). It will also make technical corrections to the regulations.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-86-91.

Drafting attorney: Catherine Livingston Fernandez (202) 622-4688.

Reviewing attorney: Richard M. Lent (202) 622-4688.

Treasury attorney: Kurt L.P. Lawson (202) 622-2647.

Agency Contact: Catherine Livingston Fernandez, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4688**

RIN: 1545–AQ87

2839. SPECIAL ESTIMATED TAX PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 847 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide rules for payment of special Estimated Taxes in an amount equal to the Tax Benefit of the special deduction allowed by section 847.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-022-89.

Drafting attorney: Michael J. Douglass (202) 622-3970.

Reviewing attorney: Donald J. Drees, Jr. (202) 622-3970.

Treasury attorney: Terry Jacobs (202) 622-1332.

Agency Contact: Michael J. Douglass, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3970**

RIN: 1545–AN33

2840. FIRPTA CLEANUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897 Internal Revenue Code of 1986; 26 USC 1445 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Reporting requirements for 5 percent shareholders; equity kickers; establish securities market definition; other related issues.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-785-87.

Drafting attorney: Gwendolyn A. Rotter (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: Marlin Risinger (202) 622-1762.

Agency Contact: Gwendolyn A. Rotter, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AJ72

2841. RESOURCING INCOME TO PREVENT AVOIDANCE OF FOREIGN TAX CREDIT LIMITATION RULES RELATING TO FOREIGN LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 904 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of the regulation is to require a taxpayer to resource the income of any member of an affiliated group of corporations, or, alternatively to modify the consolidated return regulations, to the extent necessary in order to prevent avoidance of the purposes of the foreign tax credit rules.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-6-90.

Drafting attorney: Kenneth D. Alllison (202) 622-3860.

Reviewing attorney: Charles P. Besecky (202) 622-3860.

Treasury attorney: Joni Walser (202) 622-1781.

Agency Contact: Kenneth D. Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, **202 622-3860**

RIN: 1545–AN87

2842. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1203 of the Tax Reform Act of 1986 amends section 904(f) by adding paragraph (**5**) at the end thereof which requires that foreign source losses with respect to any income category first offset a taxpayer's other foreign source income before such losses offset the taxpayer's U.S. source income. The regulation will provide rules for the allocation of foreign source losses.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-338-89.

Drafting attorney: Willard W. Yates (202) 622-3850.

Reviewing attorney: Carol Doran Klein (202) 622-3850.

Treasury attorney: Joni Walser (202) 622-1781.

Agency Contact: Willard W. Yates, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3850**

RIN: 1545–AM11

2843. SOURCE RULES WITHIN THE VIRGIN ISLANDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide sourcing rules for the determination as to whether income is derived from sources within the Virgin Islands or the United States or is effectively connected with the conduct of a trade or business within the Virgin Islands or the United States. To the extent possible, the rules will be similar to those set forth in IRC sections 861-865.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-613-87.

Drafting attorney: Ricardo A. Cadenas (202) 874-1490.

Reviewing attorney: George M. Sellinger (202) 874-1490.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Ricardo A. Cadenas, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W. Room 3319, Washington, DC 20024, **202 874-1490**

RIN: 1545–AL40

2844. SUBPART F - USE OF DEFICITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 952 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the extent to which current year deficits in unrelated income categories or prior year deficits may reduce the amount included in the gross income of any U.S. shareholder under section 951(a)(1)(A)(i) for taxable years after 1986.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-954-86.

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Treasury attorney: Unassigned.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AJ71

2845. INCOME TAX—GAIN FROM SALE OR EXCHANGE OF STOCK IN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1248 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would amend existing regulations with respect to the section 1248 amount attributable to stock of lower tier subsidiaries and stock in less developed country corporations. The regulations would also provide rules for determining the section 1248 amount due to certain dispositions on which gain is not recognized. The regulations would also expand the foreign tax credit available with respect to the section 1248 amount attributable to third-tier subsidiaries.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-42-86.

Drafting attorney: Kathryn Horton O'Brien (202) 622-3860.

Reviewing attorney: Charles P. Besecky (202) 622-3860.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: Kathryn Horton O'Brien, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AC31

2846. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME; DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1276 Internal Revenue Code of 1986; 26 USC 1278 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the treatment of gain realized on the disposition of any Market Discount Bond as ordinary income. These regulations will also prescribe the extent to which a deduction for interest allocable to accrued market discount is deferred.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-21-85.

Drafting attorney: Carol A. Schwartz (202) 622-3411.

Reviewing attorney: Thomas J. Lyden (202) 622-3920.

Treasury attorney: P. Val Strehlow (202) 622-0869.

Agency Contact: Carol A. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC20224, **202 622-3411**

RIN: 1545–AH82

2847. CONSOLIDATED ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 1502 Internal Revenue Code of 1986; 26 USC 53 Internal Revenue Code of 1986; 26 USC 55 Internal Revenue Code of 1986; 26 USC 56 Internal Revenue Code of 1986; 26 USC 57 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986; 26 USC 59 Internal Revenue Code of 1986; 26 USC 59A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.55; 26 CFR 1.1502

Legal Deadline: None

Abstract: This regulation will provide corporate taxpayers joining in the filing of a consolidated federal income return

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with guidance necessary to calculate their alternative minimum tax liability.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-057-89.

Drafting attorney: Martin Scully (202) 622-4960.

Reviewing attorney: Stephen Toomey (202) 622-4960.

Treasury attorney: Hal Gann (202) 622-1333.

Agency Contact: Martin Scully, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AN73

2848. CONSOLIDATED 165(G)

Significance: Agency Priority

Legal Authority: 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1502

Legal Deadline: None

Abstract: This regulation deals with claiming worthless stock deductions under the consolidated return regulations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-82-91.

Drafting attorney: Steven Teplinsky (202) 622-7770.

Reviewing attorney: Edward Cohen (202) 622-7760.

Treasury attorney: Andrew Dubroff (202) 622-1766.

Agency Contact: Steven Teplinsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-7770**

RIN: 1545–AQ09

2849. INFORMATION REPORTING AND RECORD MAINTENANCE UNDER SECTION 6038C

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7801 Internal Revenue Code of 1986; 26 USC 6038(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 6038C

Legal Deadline: None

Abstract: This regulation project will implement the directives of newly passed section 6038C.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-102-90.

Drafting attorney: Carol P. Tello (202) 622-3880.

Reviewing attorney: Thomas D. Fuller (202) 622-3880.

Treasury attorney: Warren Crowdus (202) 622-1779.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3880**

RIN: 1545–AP10

2850. LIMITED LIABILITY COMPANY TAX MATTER PARTNER

Legal Authority: 26 USC 6320(i) Internal Revenue Code of 1986; 26 USC 6230(k) Internal Revenue Code of 1986; 26 USC 7805(a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6231(a)(7)-1T

Legal Deadline: None

Abstract: A tax matters partner (a "TMP") of a partnership must keep each partner informed of all administrative and judicial proceedings for the adjustment at the partnership level of partnership items. A TMP also may file a petition for readjustment, file an administrative adjustment, and extend the statute of limitations on behalf of all partners. A partnership may only designate a general partner as the TMP. If a partnership does not designate a TMP, a general partner will be designated as the TMP either by statute or by the Internal Revenue Service. If it is impractical to designate a general partner as the TMP, the Service will designate a limited partner as the TMP. Because a limited liability company does not have a general partner, a limited liability company cannot designate a TMP. Guidance is needed that will allow a limited liability company to designate a TMP.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: PS-34-92.

Drafting attorney: Lindsay Russell (202) 622-3050.

Reviewing attorney: Dianna K. Miosi (202) 622-3050.

Agency Contact: Lindsay Russell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3050**

RIN: 1545–AQ47

2851. PROCEDURE AND ADMINISTRATION—RELEASE OF LIENS, NOTICE BEFORE LEVY, PROPERTY EXEMPT FROM LEVY REDEMPTION OF LEVIED REAL PROPERTY AND AMOUNT OF DAMAGES IN CASE OF WRONGFUL LEVY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6325 Internal Revenue Code of 1986; 26 USC 6331 Internal Revenue Code of 1986; 26 USC 6334 Internal Revenue Code of 1986; 26 USC 6337 Internal Revenue Code of 1986; 26 USC 7426 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will provide guidance in obtaining the issuance of a certificate of release of a notice of Federal tax lien. The regulation will revise existing regulations relating to the size of the exemption from levy available for certain property. The proposed regulation also increases the length of post-sale redemption period currently specified in the regulations. The proposed regulations provide rules for service employees administering the Code for providing notice of intention to levy upon the property of a delinquent taxpayer. The proposed regulations increase the amount of damages allowed where property has been levied wrongfully.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/93	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-547-87.

Drafting attorney: Kevin B. Connelly (202) 622-3640.

Reviewing attorney: Robert A. Miller (202) 622-3640.

Agency Contact: Kevin B. Connelly, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AE82

2852. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6700 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would provide rules and definitions relating to the penalty for promoting abusive tax shelters.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-273-82.

Drafting attorney: Michael F. Schmit (202) 622-4960.

Reviewing attorney: Stephen Toomey (202) 622-4960.

Agency Contact: Michael F. Schmit, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AE99

2853. PENALTY FOR AIDING AND ABETTING IN THE UNDERSTATEMENT OF TAX LIABILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6701 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposal will provide rules with respect to the penalty imposed on a person who aids and abets in the understatement of a third party's tax liability. The proposal also provides the standards which will subject one to the penalty.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-274-82.

Drafting attorney: Michael Schmit (202) 622-4960.

Reviewing attorney: Stephen Toomey (202) 622-4960.

Agency Contact: Michael Schmit, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AF01

2854. TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF SERVICE IN COMBAT ZONE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 7508

Legal Deadline: None

Abstract: This regulation will address how service in a combat zone affects the time for performing certain actions required or allowed under the internal revenue laws.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-006-91.

Drafting attorney: Stuart Spielman (202) 622-4940.

Reviewing attorney: Alan Fraser (202) 622-4940.

Treasury attorney: Jim Miller (202) 622-1768.

Agency Contact: Stuart Spielman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4940**

RIN: 1545–AP90

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Proposed Rule Stage

2855. • STATEMENT OF PROCEDURAL RULES—UPDATE #2

Legal Authority: 5 USC 552 (a)(1)(C)

CFR Citation: 26 CFR 601.101; 26 CFR 601.102; 26 CFR 601.103; 26 CFR 601.104; 26 CFR 601.105; 26 CFR 601.107; 26 CFR 601.108; 26 CFR 601.109

Legal Deadline: None

Abstract: The regulation updates the statement of procedural rules that concern the basic return processing, examination, and collection functions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-21-93.

Drafting attorney: John Moran (202) 622-4940.

Agency Contact: John Moran, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC. 20224, **202 622-4940**

RIN: 1545–AR44

2856. MORTGAGE CREDIT CERTIFICATES AND TARGETED AREAS

Legal Authority: 26 USC 25 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.25-4T(g)(2)

Legal Deadline: None

Abstract: The percentage of mortgage originations required by section 1.25-4T(g) (8 percent) was predicted of the 1:5 trade in rule contained in former section 25(c) of the Code to accommodate the new 1:4 rate contained in section 25(c). We are amending sections 1.25-4T(g).

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TREAS—IRS

Proposed Rule Stage

Timetable:

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Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: FI-068-89.

Drafting attorney: Harold Diamond (202) 622-3980.

Agency Contact: Harold Diamond, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AO05

2857. LOW-INCOME HOUSING CREDIT RECAPTURE RULE

Legal Authority: 26 USC 38 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986; 26 USC 167 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986; 26 USC 142(d) Internal Revenue Code of 1986; 26 USC 179 Internal Revenue Code of 1986; 26 USC 267(b) Internal Revenue Code of 1986; 26 USC 1274(d)(1) Internal Revenue Code of 1986; 26 USC 6621 Internal Revenue Code of 1986; 26 USC 6622 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance with respect to the recapture requirements of section 42(j)for the low-income housing credit. In addition, these regulations will clarify the types of housing that will qualify for the credit.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-108-87.

Drafting attorney: Christopher J. Wilson (202) 622-3040.

Reviewing attorney: James Ranson (202) 622-3040.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Christopher J. Wilson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3040**

RIN: 1545–AL12

2858. 10-YEAR WAIVER REGULATIONS UNDER SECTION 42 IRC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides rules on certain buildings acquired during a 10-year period.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-025-90.

Drafting attorney: Elissa Shendalman (202) 622-3040.

Reviewing attorney: Donna Young (202) 622-3040.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Elissa Shendalman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3040**

RIN: 1545–AO94

2859. STACKING RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide certain definitions and rules for determining the order in which housing credit dollar amounts are allocated under section 42(h)(3). These regulations also provide certain definitions and rules for determining which states qualify for an allocation of credit under section 42(h)(3)(D).

Timetable:

Action	Date	FR Cite
NPRM	05/01/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: PS-106-91.

Drafting attorney: Christopher J. Wilson (202) 622-3040.

Reviewing attorney: Donna Young (202) 622-3040.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Christopher Wilson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3040**

RIN: 1545–AQ41

2860. • ADMINISTRATIVE ERRORS—HOUSING CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation allows State and local housing credit agencies an opportunity to correct administrative errors and omissions. The regulation also allows the Secretary to provide guidance necessary or appropriate to carry out the purposes of section 42.

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 44
Hearing	04/05/93	58 FR 47
Final Action	07/31/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-50-92.

Drafting attorney: Jeffrey A. Erickson (202) 622-3040.

Reviewing attorney: Donna M. Young (202) 622-3040.

Agency Contact: Jeffrey A. Erickson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3040**

RIN: 1545–AQ98

TREAS—IRS

Proposed Rule Stage

2861. • RULES TO CARRY OUT THE PURPOSES OF SECTION 42 AND FOR CORRECTING ADMINISTRATIVE ERRORS AND OMISSIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 42

Legal Deadline: None

Abstract: The regulations address the Secretary's authority to provide under section 42(n). The regulation also provides State and local housing credit agencies an opportunity to correct administrative errors and omissions made in connection with allocations of low-income housing credit dollar amounts and recordkeeping within a reasonable period after their discovery.

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 44
Hearing	04/05/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-50-92.

Drafting attorney: Jeffrey A. Erickson (202) 622-3040.

Agency Contact: Jeffrey A. Erickson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3040**

RIN: 1545–AR46

2862. DISABLED ACCESS CREDIT

Legal Authority: 26 USC 44(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.44

Legal Deadline: None

Abstract: The regulation will explain who is eligible for the credit and what types of expenditures will qualify for the credit.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: PS-94-91.

Drafting attorney: Robert Pitzer (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Agency Contact: Robert Pitzer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3110**

RIN: 1545–AQ20

2863. INCOME TAX—ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 55 Internal Revenue Code of 1986; 26 USC 57 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulations will provide rules for the computation of the alternative minimum tax and the computation of the credits that may be used to reduce that tax, as well as rules for determining the amount of tax preference for excluded dividends and interest, mining exploration and development costs, and circulation, research and experimental expenditures. The Regulations will also provide rules relating to the optional 10 year write off of certain tax preferences.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-235-82.

Drafting attorney: Stephen J. Toomey (202) 622-4960.

Reviewing attorney: William Jackson (202) 622-4960.

Treasury attorneys: Hal Gann (202) 622-0868 and

J. Paul Whitehead (202) 622-0868.

Agency Contact: Stephen J. Toomey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AE80

2864. MINIMUM TAX CREDIT AND OTHER MISCELLANEOUS RULES RELATING TO THE ALTERNATIVE MINIMUM TAX

Significance: Regulatory Program

Legal Authority: 26 USC 55 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will address issues relating to the Alternative Minimum Tax for individuals and corporations. Changes to the applicable law were made by the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988. The regulations will provide individual and corporate taxpayers with the guidance necessary to determine their alternative minimum tax and their minimum tax credit.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-2-87.

Drafting attorney: Stephen J. Toomey (202) 622-4960.

Reviewing attorney: William Jackson (202) 622-4960.

Treasury attorneys: Hal Gann (202) 622-0868 and J. Paul Whitehead (202) 622-0868.

Agency Contact: Stephen J. Toomey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AJ86

2865. INCOME TAX—INVENTORY ADJUSTMENT FOR THE ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance with respect to inventory adjustments for the alternative minimum tax.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

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Government Levels Affected: Undetermined

Additional Information: IA-85-87.

Drafting attorney: Edward C. Schwartz (202) 622-4960.

Reviewing attorney: William Jackson (202) 622-4960.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Edward C. Schwartz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AL02

2866. INCOME TAX-MINIMUM TAX; ITEM OF TAX PREFERENCE FOR INTANGIBLE DRILLING COSTS INCURRED IN DRILLING OIL, GAS OR GEOTHERMAL WELLS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 57 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will explain the application and determination of the tax preference item for intangible drilling costs which was added by the Tax Reform Act of 1976. The regulations will provide rules for determining a taxpayer's net income from oil and gas properties, rules for determining if a well is nonproductive and rules for determining the proper preference tax if a well proves to be nonproductive after the close of a taxable year for which a tax return has already been filed.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-209-78.

Drafting attorney: Edward C. Schwartz (202) 622-4960.

Reviewing attorney: Stephen J. Toomey (202) 622-4960.

Agency Contact: Edward C. Schwartz, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AA34

2867. ALTERNATIVE MINIMUM TAX FOREIGN TAX CREDIT

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 59 Internal Revenue Code of 1986

CFR Citation: 26 CFR Not yet determined

Legal Deadline: None

Abstract: This regulation will provide taxpayers with the guidance necessary to correctly determine their alternative minimum tax foreign tax credit.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-95-91.

Drafting attorney: Edward C. Schwartz (202) 622-4960.

Reviewing attorney: William A. Jackson (202) 622-4960.

Agency Contact: Edward C. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AQ33

2868. AMENDMENT TO THE REGULATIONS UNDER SECTION 61 TO CONFORM THE TREATMENT OF BOND PREMIUM INCOME TO THE CONSTANT YIELD METHOD

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide a method for determining how to include bond premium into income. The method is the constant yield method.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-70-88.

Drafting attorney: Richard Larkins (202) 622-4441.

Reviewing attorney: Andrew Kittler (202) 622-3930.

Agency Contact: Richard Larkins, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4441**

RIN: 1545–AL92

2869. TO CLARIFY THAT THE SERVICE HAS AUTHORITY TO AMEND THE STANDARD INDUSTRY FARE LEVEL (SIFL) AIRCRAFT VALUATION FORMULA

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 61(a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Taxpayers want more timely publication of the Standard Industry Fare Level (SIFL) rates, preferably publication in the last quarter of the year before the year in which the rates will be applicable. Difficulties arising from the need to coordinate with the Department of Transportation which furnishes the rates make it virtually impossible to satisfy the request for timeliness under the current system. Therefore, the Service proposes to adopt a Cost of Living adjustment to be published in the last quarter of each year. The rate adjustment will be applied to a base SIFL rate. The Service believes that adopting a COLA adjustment will meet taxpayers needs for timely information and that it will significantly reduce the volume of telephone calls that the Service currently receives on this issue.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: EE-71-91.

Drafting attorney: Robert Wheeler (202) 622-6060.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Treasury attorney: Kurt Lawson (202) 622-1352.

Agency Contact: Robert Wheeler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6060**

RIN: 1545–AQ16

2870. LOANS TREATED AS DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 72 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the application of rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The loan rules are provided in section 72(p) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-106-82.

Drafting attorney: Elizabeth Purcell (202) 622-6080.

Reviewing attorney: Michael Thrasher (202) 622-6000.

Agency Contact: Elizabeth A. Purcell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6080**

RIN: 1545–AE41

2871. TEN PERCENT ADDITIONAL TAX ON EARLY DISTRIBUTION FROM QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 72 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.72(f)

Legal Deadline: None

Abstract: Guidance concerning the application of the tax to early distributions and an explanation of the exceptions, such as substantially equal periodic payments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-080-89.

Drafting attorney: Robin Ehrenberg (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Agency Contact: Robin Ehrenberg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6040**

RIN: 1545–AN16

2872. REMOVING GENDER DISTINCTION FROM MORTALITY TABLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 79 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will gender-neutralize the mortality table used under section 79 to determine the value of group-term life insurance's permanent benefits provided to employees.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-111-88.

Drafting attorney: Betty Clary (202) 622-6070.

Reviewing attorney: James Brokaw (202) 622-6070.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6070**

RIN: 1545–AK50

2873. SECTION 79 TABLE I UPDATE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 79 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will update the table used to determine the cost amount of group-term life insurance to be included in gross income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-82-89.

Drafting attorney: Betty Clary (202) 622-6070.

Reviewing attorney: James Brokaw (202) 622-6070.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6070**

RIN: 1545–AN54

2874. STUDY OF APPLICATION OF SECTION 302 AND SECTION 1.83(D)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 83 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.83-6

Legal Deadline: None

Abstract: Regulation section 1.83-6(d) will be revised to distinguish between a section 302 transaction and a 1032 transaction. Also, a special rule will be added for transfers of stock from a parent corporation to employees of a subsidiary.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-81-88.

Drafting attorney: Charles T. Deliee (202) 622-6060.

Agency Contact: Charles T. Deliee, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6060**

RIN: 1545–AN55

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2875. THE TREATMENT OF ACCELERATED DEATH BENEFITS UNDER SECTION 101 OF THE CODE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 101(a) Internal Revenue Code of 1986; 26 USC 7702 Internal Revenue Code

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding whether accelerated death benefits paid under a life insurance contract are excludable from income under section 101(a) of the Code. The regulations will provide the rules regarding the treatment of accelerated death benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59319
NPRM Comment Period End	02/26/93	57 FR 59324
Hearing	03/19/93	57 FR 59324

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-25-92.

Drafting attorney: Katherine A. Hossofsky (202) 622-3477.

Reviewing attorney: Stephen D. Hooe (202) 622-3970.

Agency Contact: Ann H. Logan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3970

RIN: 1545–AQ70

2876. DEFINITION OF "REISSUANCE" UNDER SECTION 103

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations would provide guidance regarding whether changes in the terms of an outstanding obligation result in that obligation being treated as retired and reissued as a new obligation. Guidance on the definition of issuance appeared as Notice 88-130, 1988-52, IRB 12. The rules contained in the Notice will be incorporated in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: FI-29-86.

Drafting attorney: David White (202) 622-3980.

Treasury attorney: Mitch Rappaport (202) 622-0871.

Agency Contact: David White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3980

RIN: 1545–AI65

2877. • AMOUNT RECEIVED AS COMPENSATION FOR PERSONAL INJURY OR SICKNESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 104(a)(3) Internal Revenue Service Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Relates to the treatment of amounts received under contracts issued by life insurance companies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-48-92.

Drafting attorney: Felix Zech (202) 622-6080.

Agency Contact: Felix Zech, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington DC 20224, 202 622-6060

RIN: 1545–AQ97

2878. INCOME TAX—DISCHARGE OF INDEBTEDNESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 108 Internal Revenue Code of 1986; 26 USC 1017 Internal Revenue Code of 1986; PL 96-589, Sec 2 Bankruptcy Tax Act 1980

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposal would provide rules relating to certain income from the discharge of indebtedness, including rules relating to the election to reduce the basis of assets in lieu of recognizing income.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-91-81.

Drafting attorney: Warren Joseph (202) 622-4930.

Reviewing attorney: Sharon Hall (202) 622-4930.

Agency Contact: Warren Joseph, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4930

RIN: 1545–AA67

2879. CONSOLIDATED ATTRIBUTE REDUCTION UNDER SECTION 108(B)

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 108 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.108(b)

Legal Deadline: None

Abstract: The regulations will provide for the reduction of consolidated attributes under section 108(b) when discharge of indebtedness income realized by a member of consolidated group is excluded from gross income under section 108(a).

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-44-91.

Drafting attorney: Amy Sargent (202) 622-7550.

Reviewing attorney: William Alexander (202) 622-7550.

Agency Contact: Christopher Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-7540

RIN: 1545–AP95

2880. PURCHASE MONEY DEBT REDUCTION TREATED AS PRICE REDUCTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 108(e)(5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the application of section 108(e)(5) under which a debt of a purchaser of property to the seller of such property is treated as a purchase price reduction, rather than as income from the cancellation of indebtedness.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-47-91.

Drafting attorney: Sharon L. Hall (202) 622-4930.

Reviewing attorney: Michael D. Finley (202) 622-4930.

Treasury attorney: Anne Alstott (202) 622-0865.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4930

RIN: 1545–AQ00

2881. QUALIFIED TUITION REDUCTIONS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 117 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations contain rules explaining when qualified tuition reductions provided for education below the graduate level to an employee of an educational organization or to a person treated as an employee will be excluded from the employee's gross income. The proposed regulations include rules relating to tuition reductions which discriminate in favor of officers, owners or highly compensated employees and so are includible in income. The proposed regulations also provide rules relating to the treatment of tuition reductions in the case of graduate student teaching and research assistants.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-35-85.

Drafting attorney: Michael Schmit (202) 622-4960.

Reviewing attorney: William Jackson (202) 622-4960.

Agency Contact: Michael Schmit, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-4960

RIN: 1545–AI13

2882. DEPENDENT CARE ASSISTANCE

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 129 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance to employers and their employees concerning qualified dependent care assistance programs. Under 26 USC 129, an employee may exclude up to $5,000 from gross income for dependent care.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-090-88.

Drafting attorney: Monice Rosenbaum (202) 622-6070.

Reviewing attorney: James L. Brokaw (202) 622-6070.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-6070

RIN: 1545–AN17

2883. INCOME TAX—PART I EXCLUSION FROM GROSS INCOME FOR CERTAIN FOSTER CARE PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 131 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will explain what foster care payments a foster care provider may exclude from gross income.

Timetable:

Action	Date	FR Cite
NPRM	02/01/85	50 FR 4702
NPRM Comment Period End	04/02/85	50 FR 4702
Hearing	06/25/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-83-83.

Drafting attorney: Victoria J. Driscoll (202) 622-4910.

Reviewing attorney: John Coulter (202) 622-4910.

Agency Contact: Victoria J. Driscoll, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-4910

RIN: 1545–AF52

2884. DEFINITION OF "PRIVATE ACTIVITY BOND," "QUALIFIED BOND"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1985; 26 USC 141 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides a definition of the term "private activity bond".

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-72-88.

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Drafting attorney: Harold Diamond (202) 622-3980.

Agency Contact: Harold Diamond, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, IIII Constitution Ave. NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AM01

2885. QUALIFIED 501(C)(3) BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 145 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance regarding the circumstances under which a private activity bond will be treated as a qualified 501(c)(3) bond.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-84-86.

Drafting attorney: Dave White (202) 622-3980.

Treasury attorney: Mitch Rappaport (202) 622-0871.

Agency Contact: David E. White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AJ39

2886. STATE VOLUME CAP FOR TAX-EXEMPT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 146 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide state volume cap rules for tax-exempt bonds.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-85-86.

Drafting attorney: Scott Lilienthal (202) 622-3980.

Agency Contact: Scott Lilienthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AJ37

2887. QUALIFIED RESIDENCE INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the definition of qualified residence interest, including the definition of acquisition debt and guidance regarding the computation of the limitation.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-27-88.

Drafting attorney: Sharon L. Hall (202) 622-4930.

Reviewing attorney: Kelly Alton (202) 622-4880.

Treasury attorney: Heldi Ebel (202) 622-1334.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, Washington, DC 20224, **202 622-4930**

RIN: 1545–AL67

2888. INCOME TAX—ACCELERATED COST RECOVERY SYSTEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168 Internal Revenue Code of 1954; 26 USC 179 Internal Revenue Code of 1954; 26 USC 1245 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954; 26 USC 167 Internal Revenue Code of 1954; 26 USC 1250 Internal Revenue Code of 1954; 26 USC 57(a)(12) Internal Revenue Code of 1954; 26 USC 312(k) Internal Revenue Code of 1954; 26 USC 172(b) Internal Revenue Code of 1954; 26 USC 812(b) Internal Revenue Code of 1954; 26 USC 46(b) Internal Revenue Code of 1954; 26 USC 53(c) Internal Revenue Code of 1954; 26 USC 381(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide regulations under section 168 and accompanying provisions clarifying the operation of the accelerated cost recovery scheme. This cost recovery system generally applies to property placed in service after December 31, 1980. Generally, section 168 applies to "recovery property" which is defined as tangible property of a character subject to the allowance for depreciation which is used in a trade or business, or held for the production of income.

Timetable:

Action	Date	FR Cite
NPRM	02/16/84	49 FR 5940
NPRM Comment Period End	05/16/84	49 FR 5940
Hearing held	05/21/84	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-185-81.

Drafting attorney: Mark Pitzer (202) 622-3110.

Reviewing attorney: Charles Ramsey (202) 622-3110.

Treasury attorney: Barksdale Penick (202) 622-1335.

Agency Contact: Mark Pitzer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3110**

RIN: 1545–AA87

2889. MODIFICATION OF ACRS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide rules concerning the accelerated cost recovery system for property generally placed in service after December 31, 1986.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-86-86.

Drafting attorney: Mark Pitzer (202) 622-3110.

Reviewing attorney: Charles Ramsey (202) 622-3110.

Treasury attorney: Barksdale Penick (202) 622-1335.

Agency Contact: Mark Pitzer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3110**

RIN: 1545–AJ38

2890. • RECAPTURE—CLEAN FUEL/ ELECTRIC VEHICLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 179A Internal Revenue Code of 1986; 26 USC 30 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will recapture the benefit of any deduction that is allowed for qualified clean fuel vehicle property or the benefit of any credit for qualified electric vehicles if such property ceases to be property eligible for the deduction or credit.

Timetable:

Action	Date	FR Cite
NPRM	06/30/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: PS-72-92.

Drafting attorney: Joanne Johnson (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Agency Contact: Joanne Johnson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3110**

RIN: 1545–AR23

2891. INCOME TAX—TO ADD PROVISIONS RELATING TO START-UP EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 195 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers electing to amortize start-up expenditures relating to the creation or acquisition of an active trade or business.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-36-81.

Drafting attorney: David Selig (202) 622-3040.

Reviewing attorney: James Ranson (202) 622-3040.

Treasury attorney: Joan Leonard (202) 622-0864.

Agency Contact: David Selig, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3040**

RIN: 1545–AB02

2892. DISTRIBUTIONS BY COOPERATIVE HOUSING ASSOCIATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 216 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide exceptions to the general rule of section 216(e) under which no gain or loss shall be recognized on the distribution by a cooperative housing association of a dwelling unit to a stockholder in such corporation if the exchange qualifies for nonrecognition under section 1034(f).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-047-90.

Drafting attorney: Lisa Shuman (202) 622-3120.

Reviewing attorney: Emil O. Muhs, Jr. (202) 622-3120.

Agency Contact: Lisa Shuman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3120**

RIN: 1545–AO91

2893. DEDUCTION FOR DIVIDENDS RECEIVED FROM CERTAIN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 245 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 245

Legal Deadline: None

Abstract: Draft regulations under section 245 of the Code, incorporating changes made by the Tax Reform Act of 1986.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-943-86.

Drafting attorney: Kathryn Horton O'Brien (202) 622-3860.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: Kathryn Horton O'Brien, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AL94

2894. • DIVIDENDS RECEIVED DEDUCTION—HOLDING PERIOD REDUCED FOR PERIODS WHERE RISK OF LOSS IS DIMINISHED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 246(c) Internal Revenue Code of 1986; 26 USC 1092(d)(3)(B) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.246-5; 26 CFR 1.1092(d)-2

Legal Deadline: None

Abstract: Proposed regulations determining when a taxpayer must reduce its holding period of stock for

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purposes of the dividends received deduction because it has diminished its risk of loss by holding a position in substantially similar or related property. Proposed regulations relating to tax straddles involving stock and substantially similar or related property.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-22-92.

Drafting attorney: Robert N. Deitz (202) 622-4443.

Drafting attorney: Richard G. Larkins (202) 622-4441.

Reviewing attorney: William Coppersmith (202) 622-3930.

Treasury attorney: David Weisbach (202) 622-1129.

Agency Contact: Richard Larkins, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4441

RIN: 1545–AR10

2895. CAPITALIZATION OF INTEREST EXPENSE BY RELATED PARTIES IN THE CASE OF THE PRODUCTION OF CERTAIN PROPERTY

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.263A(f)

Legal Deadline: None

Abstract: The proposed regulations provide related party rules necessary for taxpayers to comply with the requirement to capitalize interest with respect to certain property produced by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: IA-91-91.

Drafting attorney: Mary Goode (202) 622-4960.

Reviewing attorney: Eric Pleet (202) 622-4970.

Treasury reviewer: J. Paul Whitehead (202) 622-0868.

Treasury reviewer: John Parcell (202) 622-2578.

Agency Contact: Mary Goode, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4960

RIN: 1545–AQ85

2896. RULES FOR TREATMENT OF FOREIGN CORPORATION WHOSE STOCK IS STAPLED TO THE STOCK OF A DOMESTIC CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 268B Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide a general rule that where a U.S.-owned foreign corporation and a U.S.-owned domestic corporation are stapled entities, the foreign corporation will be treated as a domestic corporation and that the deemed conversion will be treated as a reorganization under section 368(a)(1)(F) of the Code. The regulations will also provide exceptions to this general rule.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-237-89.

Drafting attorney: Patricia A. Bray (202) 622-3840.

Reviewing attorney: David I. Bower (202) 622-3840.

Treasury attorney: Marlin Risinger (202) 622-1762.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3840

RIN: 1545–AN20

2897. INCOME TAX—DEDUCTIONS FOR EXPENSES ATTRIBUTABLE TO BUSINESS USE OF HOMES, RENTAL OF VACATION HOMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for determining the deductibility of expenses incurred in connection with the business use, or rental to others, of a dwelling unit. The regulations provide rules for determining when the taxpayer uses a dwelling unit for personal use or when use by another person of the unit is treated as personal use of the unit by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	07/21/83	48 FR 33326
NPRM Comment Period End	09/21/83	
Hearing	10/04/83	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-261-76.

Drafting attorney: Joel S. Rutstein (202) 622-4930.

Reviewing attorney: Michael Finley (202) 622-4930.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-4930

RIN: 1545–AB09

2898. LIMITATION OF DEDUCTIONS ON PASSENGER AUTOMOBILES AND OTHER LISTED PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280F Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will clarify the rules limiting the Investment Tax Credit (if any) and Cost Recovery deductions allowable with respect to passenger automobiles and certain other "listed property."

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-015-89.

Drafting attorney: Bernard P. Harvey (202) 622-3110.

Reviewing attorney: Harold E. Burghart (202) 622-3110.

Treasury attorney: John H. Parcell (202) 622-2578.

Agency Contact: Bernard P. Harvey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3110

RIN: 1545–AN05

2899. THE SUBSTANTIATION OF DEDUCTIONS CLAIMED FOR THE USE OF CELLULAR TELEPHONES AND COMPUTERS IN A TAXPAYER'S TRADE OR BUSINESS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280F Internal Revenue Code of 1986; 26 USC 61 Internal Revenue Code of 1986; 26 USC 132 Internal Revenue Code of 1986; 26 USC 274 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide the public with the guidance needed to substantiate the use of cellular telephones and computers in a trade or business. The regulations proposed for cellular telephones and computers follow the safe harbor rules of listed properties such as automobiles, and consider the possibility of exceptions to the rules for listed property when the use of a cellular telephone in a trade or business occurs under special conditions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-114-90.

Drafting attorney: Bernard P. Harvey (202) 622-3110.

Reviewing Tax Law Specialist: Harold E. Burghart (202) 622- 3110.

Treasury attorney: John H. Parcell (202) 622-2578.

Agency Contact: Bernard P. Harvey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3110

RIN: 1545–AP46

2900. • SECTION 304 REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 304 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.304

Legal Deadline: None

Abstract: Amend section 304 regulations to modify Rev. Rul. 70-496, apply section 1059, and make proper adjustments to basis and earnings and profits of an affiliated group of corporations not filing a consolidated return within which a section 304(a) stock transfer is made in order to prevent results similar to mirror subsidiary transactions.

Timetable:

Action	Date	FR Cite
NPRM	12/31/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-44-92.

Drafting attorney: Brendan O'Hara (202) 622-7530.

Reviewing attorney: Mark Jennings (202) 622-7530.

Agency Contact: Brendan O'Hara, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-7530

RIN: 1545–AR40

2901. ECONOMIC ACCRUAL OF REDEMPTION PREMIUM (SECTION 11322(A) OF PUB. L. 101-508)

Legal Authority: 26 USC 305(c)(1) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.305-5(b)(1); 26 CFR 1.305-5(b)(2)

Legal Deadline: None

Abstract: In Section 11322(a) of Pub. L. 101-508, Congress amended section 305(c) of the Code to modify the treatment of preferred stock issued with a redemption premium. The amendment to section 305(c) applies the economic accrual rules that are applicable to debt instruments issued with OID to certain preferred stock issued with a redemption premium if the stock will be redeemed, or it can reasonably be assumed that the stock will be redeemed, on a fixed date. The regulations under 305(c) will be amended to provide for the economic accrual, rather than the ratable inclusion, of redemption premiums, in accordance of OID principles.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-008-91.

Drafting attorney: Steven Planagan (202) 622-7790.

Reviewing attorney: Maura A. Sullivan (202) 622-7780.

Agency Contact: Steven Planagan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-7790

RIN: 1545–AQ42

2902. CERTAIN STOCK SALES AND DISTRIBUTIONS TREATED AS ASSET TRANSFERS

Legal Authority: 26 USC 336 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance for making an election under section 336 (e), and the consequences which result from making such an election.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-52-87.

Drafting attorney: Theresa Abell (202) 622-7790.

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Reviewing attorney: Maura Sullivan (202) 622-7780.

Treasury attorney: J. Judge Kelley (202) 622-1339.

Agency Contact: Theresa Abell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7790**

RIN: 1545–AK29

2903. APPLICATION OF GENERAL UTILITIES REPEAL REGULATORY AUTHORITY TO RICS AND REITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 337(d) Internal Revenue Code 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulations project is one of several dealing with the implementation of the repeal of the General Utilities doctrine by section 631 of the Tax Reform Act of 1986. This project deals with the regulations necessary to ensure the repeal is implemented with respect to RICs and REITs.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-15-88.

Drafting attorney: Michael Fulton (202) 622-7530.

Reviewing attorney: Mark S. Jennings (202) 622-7530.

Treasury attorney: Judge Kelley (202) 622-1339.

Agency Contact: Michael Fulton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 822-7530**

RIN: 1545–AL65

2904. SCOPE OF GENERAL UTILITIES REPEAL

Legal Authority: 26 USC 337(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 (the "Act") repealed the last vestiges of the General Utilities doctrine ("GU repeal"), thereby requiring corporations to recognize gain in most cases upon the distribution of appreciated property to their shareholders. The Act granted the Secretary authority to promulgate regulations necessary to carry out the purposes of the Act. It has been determined that GU repeal can be circumvented by conversion of for-profit corporations to tax-exempt entities and other transactions involving tax-exempt entities. This project will develop regulations to assure corporate gain or loss recognition in such transactions.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-014-89.

Drafting attorney: Stephen R. Cleary (202) 622-7530.

Reviewing attorney: Wayne T. Murray (202) 622-7530.

Agency Contact: Stephen R. Cleary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-7530**

RIN: 1545–AN21

2905. TREATMENT OF AN AFFILIATED GROUP OF CORPORATIONS AS A SELLING CONSOLIDATED GROUP FOR PURPOSES OF ELECTIVE RECOGNITION UNDER SECTION 338(H)(10)

Legal Authority: 26 USC 338 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the guidance for making elections under section 338(h)(10) when the selling group is an affiliated group of corporations which does not file a consolidated Federal income tax return, and the consequences of making such an election.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-50-87.

Drafting attorney: Keith Medleau (202) 622-7550.

Reviewing attorney: William D. Alexander (202) 622-7550.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AK31

2906. AMENDMENT OF SECTION 1.338-5T REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address problems that have surfaced in the section 1.338-5T regulations since their publication, issues raised by the repeal of the General Utilities doctrine, as well as issues presented by the passage of section 338(h)(16) in 1988.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-177-90.

Drafting attorney: Kenneth D. Allison (202) 622-3860.

Reviewing attorney: Charles Bosecky (202) 622-3860.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: Kenneth D. Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AO73

2907. INFORMATION REPORTING REQUIREMENTS FOR SECTION 338(H)(10) TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 0338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.338(h)(10)-1T

Legal Deadline: None

Abstract: The regulations will provide reporting requirements for section 338(h)(10) elections.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: CO-012-91.

Drafting attorney: Dania Leatherman (202) 622-7550.

Reviewing attorney; Keith Medleau (202) 622-7550.

Agency Contact: Dania Leatherman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AP96

2908. INCOME TAX—TRIANGULAR REORGANIZATIONS, BASIS AND OTHER CONSEQUENCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to basis of stock of a corporation acquiring property in exchange for stock of a corporation in control of the acquiring corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/02/81	46 FR 112
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-993-71.

Drafting attorney: Dean Lekos (202) 622-7550.

Reviewing attorney: Dave Madden (202) 622-7540.

Treasury attorney: Andrew Dubroff (202) 622-1766.

Agency Contact: Dean Lekos, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AB21

2909. FRINGE BENEFIT SOURCING UNDER SECTION 861

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address the clarification that an allocation of income of an individual for the performance of services both within and without the United States is appropriately made only on the time basis.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-107-90.

Drafting attorney: Robert W. Lorence (202) 622-3880.

Reviewing attorney: Thomas P. Fuller (202) 622-3880.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Robert W. Lorence, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3880**

RIN: 1545–AO72

2910. SECTION 361 OUTBOUND TRANSFERS OF PROPERTY TO FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The income tax regulations under section 367(a) will be amended to reflect the changes made to that section by the Technical and Miscellaneous Corrections Act of 1988. Section 367(a)(5) now provides that a transfer of assets to a foreign corporation in an exchange described in section 361 is subject to section 367(a)(1) unless certain ownership requirements and other conditions are met. The regulations will provide guidance regarding the application of this section. The change in the statute was necessitated by the repeal of "General Utilities."

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-089-89.

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Bernard T. Bress (202) 622-3850.

Treasury attorney: Peter Marrs (202) 622-0724. .

Agency Contact: Philip Tretiak, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AM97

2911. REORGANIZATIONS IN BANKRUPTCY; STOCK-FOR-DEBT EXCHANGES; USE OF PARENT CORPORATION STOCK; TRIANGULAR "G" REORGANIZATIONS

Legal Authority: 26 USC 108 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for members of an affiliated group of corporations filing consolidated returns which are reorganized in bankruptcy. The issuance of parent corporation stock in cancellation of subsidiary corporation indebtedness will come within the common law stock-for-debt exception to cancellation of indebtedness income (as limited by section 108(e)(8) and section 108(e)(10) without resort to a recapitalization analysis (whether deemed or actual). Collateral consolidation return and reorganization issues will be considered.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-078-89.

Drafting attorney: Victor Penico (202) 622-7750.

Reviewing attorney: Charles Whedbee (202) 622-7750.

Agency Contact: Victor Penico, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7750**

RIN: 1545–AO30

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2912. SUSPENSION OF PARTNERSHIP INCOME AND EXPENSES ARISING FROM UNPAID GUARANTEED PAYMENTS ACCRUED BY CERTAIN PARTNERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations suspend the recognition of income and expenses if certain partners, such as loss corporations, accrue unpaid guaranteed payments. The partner's income as well as the partnership's expense will be recognized in the taxable year in which the partnership pays, with an unrestricted transfer of money, the accrued guaranteed payment. The proposed regulations prevent loss corporations, and other covered taxpayers not subject to U.S. tax, from structuring partnership guaranteed payment that diverts taxable income to the loss corporation or other non U.S. taxpayer which is greater than the ultimate economic benefit realized from the guaranteed payment.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-95-90.

Drafting attorney: Susan Pace Hamill (202) 622-3050.

Reviewing attorney: David R. Haglund (202) 622-3050.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Susan Pace Hamill, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3050**

RIN: 1545–AP43

2913. MODIFICATION OF THE SECTION 1.382-2T(J)(2) RULES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 23 CFR 1.382

Legal Deadline: None

Abstract: The section 382 segregation rules (S. 1.382-2T(j)(2)(iii)) divide groups of less than 5% shareholders into separate public groups following certain transactions. The proposed regulations exempt certain de minimis transfers of loss corporation stock from the application of the segregation rules. The proposed regulations also modify the segregation rules to apply only to a certain portion of the stock issued by the loss corporation for cash during the taxable year.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-99-91.

Drafting attorney: Roberta Mann (202) 622-7550.

Reviewing attorney: David P. Madden (202) 622-7540.

Treasury attorney: Larry Garrett (202) 622-1778.

Agency Contact: Roberta Mann, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AQ59

2914. PERMISSIBILITY OF SECTION 401(H) ACCOUNT IN COMBINATION WITH AN ESOP

Significance: Agency Priority

Legal Authority: 26 USC 401(h) Internal Revenue Code of 1986; 26 USC 4975 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the permissibility of retiree health accounts under section 401(h) in combination with employee stock ownership plans.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-52-91.

Drafting attorney: John Ricotta (202) 622-6040.

Reviewing attorney: Steven Miller (202) 622-6000.

Agency Contact: John Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6040**

RIN: 1545–AP88

2915. • NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.401(a)-4-0 to 1.401(a)(4)-13

Legal Deadline: None

Abstract: The proposed regulations amend the final regulations under section 401(a)(4).

Timetable:

Action	Date	FR Cite
NPRM	01/12/93	58 FR 3876
NPRM Comment Period End	03/15/93	58 FR 3876
Hearing	04/23/93	58 FR 6103

Small Entities Affected: Businesses, Governmental jurisdictions, Organizations

Government Levels Affected: Local, State

Additional Information: EE-62-92.

Drafting attorney: David Munroe (202) 622-6080.

Reviewing attorney: Nancy Marks (202) 622-6000.

Treasury attorney: Evelyn Petschek (202) 622-0170.

Agency Contact: David Munroe, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6080**

RIN: 1545–AR09

2916. • CASH OR DEFERRED ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.401(k)-1(g)(11)(iii)(A); 26 CFR 1.401(k)-1(g)(11)(iii)(D)(2)

Legal Deadline: None

Abstract: This project will simplify the treatment of section 401(k) plans of employees who are members of collective bargaining units and addresses certain practical issues raised for plan sponsors by final regulations.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-42-92.

Drafting attorney: Cheryl Press (202) 622-6030.

Reviewing attorney: Richard Lent (202) 622-6030.

Agency Contact: Cheryl Press, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6030**

RIN: 1545–AQ77

2917. NONDISCRIMINATION AND OTHER RULES APPLICABLE TO SECTION 403(B) ANNUITIES

Legal Authority: 26 USC 403(b)(12) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the nondiscrimination and other rules applicable to tax-sheltered section 403(b) annuities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-163-86.

Drafting attorney: Richard M. Lent (202) 622-6030.

Reviewing attorney: Nancy Marks (202) 622-6000.

Treasury attorney: Kurt Lawson (202) 622-1352.

Agency Contact: Richard M. Lent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6030**

RIN: 1545–AI90

2918. TREATMENT OF DIVIDENDS DEDUCTIBLE UNDER SECTION 404(K) FOR PURPOSES OF CASH OR DEFERRED ARRANGEMENTS DESCRIBED IN SECTION 401(K)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 404(k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will address the issue of how to treat dividends paid under section 404(k) for purposes of section 401(k) & (m).

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-74-91.

Drafting attorney: John Ricotta (202) 622-6080.

Reviewing attorney: James Brokaw (202) 622-7040.

Agency Contact: John Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6080**

RIN: 1545–AQ96

2919. INCOME TAX—PART 1; ESTATE TAX—PART 20, EMPLOYEE STOCK OWNERSHIP PLAN RULES AFFECTED BY TRA 1986

Legal Authority: 26 USC 409 Internal Revenue Code of 1986; 26 USC 401(a)(28) Internal Revenue Code of 1986; 26 USC 401(a)(23) Internal Revenue Code of 1986; 26 USC 133 Internal Revenue Code of 1986; 26 USC 404(k) Internal Revenue Code of 1986; 26 USC 2057 Internal Revenue Code of 1986; 26 USC 1042 Internal Revenue Code of 1986; 26 USC 2210 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 20

Legal Deadline: None

Abstract: The proposed regulations would set forth requirements for the tax qualification of ESOPs and for various ESOP tax incentives.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-164-86.

Drafting attorney: John Ricotta (202) 622-6080.

Reviewing attorney: James Brokaw (202) 622-6070.

Agency Contact: John Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6080**

RIN: 1545–AI87

2920. SPECIAL RULES IN MERGER AND ACQUISITION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410(b) Internal Revenue Code of 1986; 26 USC 401(a)(4) Internal Revenue Code of 1986; 26 USC 401(a)(26) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations are intended to provide special rules for employee plans in mergers and acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-108-88.

Drafting attorney: Richard M. Lent (202) 622-6030.

Reviewing attorney: Richard Wickersham (202) 622-6030.

Agency Contact: Richard Lent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6030**

RIN: 1545–AM94

2921. • MINIMUM COVERAGE REQUIREMENTS

Legal Authority: 26 USC 7805

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CFR Citation: 26 CFR 1.410(b)-2 to 1.410(b)-10

Legal Deadline: None

Abstract: The regulations will amend the final regulations under section 410(b) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Additional Information: EE-4-93.

Drafting attorney: David Munroe (202) 622-6080.

Agency Contact: David Munroe, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-6080

RIN: 1545–AR51

2922. REVISING THE DRAFTING OF THE FULL FUNDING LIMITATION FOR PURPOSES OF THE MINIMUM FUNDING REQUIREMENT FOR PENSION PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 412(c)(7) Internal Revenue Code of 1986; 26 USC 401(a)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, August 5, 1988.

Abstract: This project will interpret the new full funding limitation on deductible contributions to pension plans.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-62-88.

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Steve Miller (202) 622-6000.

Treasury attorney: Harlan Weller (202) 622-1001.

Agency Contact: Linda Marshall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-6030

RIN: 1545–AL53

2923. DISCLOSURE GUIDELINES FOR QJSA WAIVER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.417

Legal Deadline: None

Abstract: These regulations will provide guidance on information required to be disclosed on spousal consent forms waiving rights to a QJSA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-100-91.

Drafting attorney: Terri Harris (202) 622-6070.

Reviewing attorney: Nancy Marks (202) 622-6070.

Agency Contact: Terri Harris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-6070

RIN: 1545–AQ36

2924. TREATMENT OF FUNDED WELFARE BENEFIT PLANS

Legal Authority: 26 USC 419 Internal Revenue Code of 1986; 26 USC 419A Internal Revenue Code of 1986; 26 USC 1239 (d) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the treatment of contributions made by an employer to a welfare benefit plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-66-84.

Drafting attorney: Michael J. Roach (202) 622-6060.

Reviewing attorney: Mark Schwimmer (202) 622-6060.

Treasury attorney: Kurt Lawson (202) 622-1352.

Agency Contact: Michael J. Roach, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-6060

RIN: 1545–AG14

2925. INCOME TAX—PART 1—AMENDMENT OF SECTION 1.442-1 TO PROVIDE SIMPLIFIED PROCEDURES FOR CHANGES OF ANNUAL ACCOUNTING PERIOD BY CERTAIN EXEMPT ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 442 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Revenue Procedure 85-58 provides change of accounting period approval procedures for exempt organizations. It substantially simplifies the former procedures in Revenue Procedure 76-9. The regulations under section 1.442-1 will be amended to reflect Revenue Procedure 85-58.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-06-86.

Drafting attorney: Linda Conway (202) 622-6080.

Reviewing attorney: Paul G. Accettura (202) 622-6070.

Agency Contact: Linda Conway, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-6080

RIN: 1545–AI68

2926. • HYBRID INSTRUMENTS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 446 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides accounting rules for hybrid financial instruments that contain a significant debt component. In addition, the regulation provides tax accounting methods for certain instruments derived from a bond stripping transaction.

Timetable:

Action	Date	FR Cite
NPRM	06/30/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-70-92.

Drafting attorney: Alan Munro (202) 622-3950.

Reviewing attorney: Alice Bennett (202) 622-3950.

Agency Contact: Alan Munro, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3950

RIN: 1545–AR13

2927. • TAXATION OF TAX-EXEMPT ORGANIZATIONS' INCOME FROM CORPORATE SPONSORSHIP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 512(a) Internal Revenue Code of 1986; 26 USC 513 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document provides guidance concerning whether sponsorship payments received by exempt organizations are unrelated business taxable income.

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5687
Hearing	07/08/93	58 FR 5691
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-74-92.

Drafting attorney: Regina L. Oldak (202) 622-6080.

Agency Contact: Regina L. Oldak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-6080

RIN: 1545–AR19

2928. • NOTIONAL PRINCIPAL CONTRACTS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation provides rules relating to training of income and deductions with respect to notional principal contracts under section 446.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-2-93.

Drafting attorney: Alan Munro (202) 622-3950.

Agency Contact: Alan Munro, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3950

RIN: 1545–AR22

2929. CHANGES TO METHOD OF ACCOUNTING FOR CERTAIN TAXPAYERS USING ACCRUAL METHOD OF ACCOUNTING FOR REDEMPTION OF TRADING STAMPS AND COUPONS PURSUANT TO SECTION 461(H) OF THE CODE

Significance: Agency Priority

Legal Authority: 26 USC 451 Internal Revenue Code of 1986; 26 USC 461 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The current regulations allow reserves for future estimated redemption expenses for trading stamp companies. This is contrary to rules set forth in section 461 of the Internal Revenue Code. The current section should either be removed or amended

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-075-90

Drafting attorney: Rochelle Hodes (202) 622-4910.

Reviewing attorney: Linda Kroening (202) 622-4910.

Agency Contact: Rochelle Hodes, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4910

RIN: 1545–AP04

2930. INCOME TAX—INSTALLMENT SALES REVISION ACT OF 1980, REGULATIONS RELATING TO WRAP-AROUND MORTGAGES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 15A.453-1(b)(ii)

Legal Deadline: None

Abstract: Proposal would provide regulations for reporting sales of property under a wrap-around mortgage arrangement.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-147-82.

Drafting attorney: George Wright (202) 622-4950.

Reviewing attorney: Dave Crawford (202) 622-4950.

Agency Contact: George Wright, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-4950

RIN: 1545–AB46

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2931. INCOME TAX—DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 457 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Internal Revenue Code section 457 provides an exclusion from gross income, in the case of a participant in an eligible deferred compensation plan, for any amounts deferred under the plan and any income attributable to the amounts so deferred.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-166-86.

Drafting attorney: Brant Goldwyn (202) 622-6030.

Reviewing attorney: A. Thomas Brisendine (202) 622-6030.

Agency Contact: Brant Goldwyn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6030**

RIN: 1545–AI89

2932. DEFINITION OF A LONG-TERM CONTRACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 460(h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.460

Legal Deadline: None

Abstract: The regulations will address the definition of a "long-term contract" for purposes of IRC section 460. This definition is necessary for taxpayers to determine whether their activities must be accounted for under IRC section 460 in determining their taxable income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-58-91.

Drafting attorney: Leo F. Nolan II (202) 622-4970.

Reviewing attorney: Eric Pleet (202) 622-4970.

Treasury accountant: J. Paul Whitehead III (202) 622-0868.

Agency Contact: Leo F. Nolan II, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4970**

RIN: 1545–AQ30

2933. SUBCONTRACTS BETWEEN RELATED PARTIES THAT BENEFIT A LONG-TERM CONTRACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 460(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.460

Legal Deadline: None

Abstract: These regulations are intended to coordinate accounting rules for members of a consolidated return group of corporations with regulations being developed by CC:Corporate in the consolidated return area (CO-11-90).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-57-91.

Drafting attorney: Leo F. Nolan II (202) 622-4970.

Reviewing attorney: Eric Pleet (202) 622-4970.

Treasury accountant: J. Paul Whitehead III (202) 622-0868.

Agency Contact: Leo F. Nolan II, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4970**

RIN: 1545–AQ31

2934. AGGREGATION OF CERTAIN ACTIVITIES FOR PURPOSES OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulation will provide rules for aggregating certain activities for purposes of applying the at-risk rules under section 465. In general, the at-risk rules limit the amount of loss deductible in a taxable year with respect to an activity to the amount the taxpayer is at risk in the activity.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-108-85.

Drafting attorney: Christopher Kehoe (202) 622-3080.

Reviewing attorney: Frances D. Schafer (202) 622-3070.

Treasury attorney: John H. Parcell (202) 622-2578.

Agency Contact: Christopher Kehoe, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AI02

2935. APPLICATION OF AT-RISK LIMITATIONS TO THE HOLDING OF REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986; 26 USC 752 Internal Revenue Code of 1986; 26 USC 46 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will explain the application of the at risk limitations to the activity of holding real property and the exception for qualified nonrecourse financing.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-124-86.

Drafting attorney: Donna Welch (202) 622-3080.

Reviewing attorney: Francis D. Schafer (202) 622-3070.

Treasury attorney: John H. Parcell (202) 622-2578.

Agency Contact: Donna Welch, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AK08

2936. REGULATIONS WILL PROVIDE GUIDANCE ON WHAT CONSTITUTES AN INTEREST OTHER THAN THAT OF A CREDITOR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance on what constitutes an interest other than that of a creditor.

Timetable:

Action	Date	FR Cite
NPRM	06/01/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-063-89.

Drafting attorneys: Christine Ellison (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Donna Welch, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W, Washington, DC 20224, **202 622-3080**

RIN: 1545–AO32

2937. TEMPORARY INCOME TAX REGULATIONS-DEFERRED PAYMENTS FOR USE OF PROPERTY OR SERVICES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 467 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1T

Legal Deadline: None

Abstract: The regulations will provide rules to the accrual of rents for the use of tangible property (and interest on rent that accrues but is not paid) under a section 467 rental agreement. A section 467 rental agreement will be defined. Certain tax avoidance transactions will be defined. Rules will be provided for the recapture of prior understated inclusions. Comparable rules for services will be provided.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-292-84.

Drafting attorney: Sharon L. Hall (202) 622-4930

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4930**

RIN: 1545–AG81

2938. APPLICATION OF PASSIVE ACTIVITY LOSS AND CREDIT LIMITATIONS TO TRUSTS, ESTATES, AND THEIR BENEFICIARIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 0469(a)(2)(A) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-8T

Legal Deadline: None

Abstract: This regulation will describe how the passive loss limitations affect trusts and estates.

Timetable:

Action	Date	FR Cite
NPRM	12/01/93	
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-036-89.

Drafting attorney: Donna Welch (202) 622-3080.

Reviewing attorney: Frances D. Schafer (202) 622-3070.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Donna Welch, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AN62

2939. ALLOCATION OF INTEREST EXPENSE AMONG EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469(l)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.163-8

Legal Deadline: None

Abstract: The regulations will set forth rules pursuant to which interest expense will be allocated among (1) trade or business interest (which is deductible), (2) investment interest (which is deductible subject to the limitations of section 163(d), (3) passive activity interest (which is deductible subject to the limitations of section 469), and (4) personal interest (which, pursuant to section 103(h), is not deductible). Finalizing temporary regulations used in T.D. 8145 (7/1/87).

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-043-90.

Drafting attorney: George Wright (202) 622-4950.

Reviewing attorney: John Fischer (202) 622-4950.

Agency Contact: George F. Wright, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4950**

RIN: 1545–AO93

2940. SPECIAL RULES FOR ALLOCATION OF INTEREST EXPENSE AMONG EXPENDITURES IN THE CASE OF PASSTHROUGH ENTITIES

Legal Authority: 26 USC 469(l) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.163-8T

Legal Deadline: None

Abstract: The regulation will address the treatment of interest expense on (1) debt allocated to distributions by passthrough entities; (2) repayment of passthrough entity debt; (3) debt allocated to expenditures for interests in passthrough entities; and (4) allocation of debt to loans between passthrough entities and interest holders.

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Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-109-87.

Drafting attorney: Ronald M. Gootzeit (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Treasury attorney: John H. Parcell (202) 622-2578.

Agency Contact: Ronald M. Gootzeit, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3080

RIN: 1545–AM79

2941. SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 474 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to certain small businesses that are eligible to elect a simplified dollar-value LIFO method of inventory valuation. This method requires the use of published government indexes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-31-87.

Drafting attorney: Harry-Todd Astroo (202) 622-4970.

Reviewing attorney: Eric Pleet (202) 622-4970.

Treasury accountant-advisor: J. Paul Whitehead (202) 622-2668.

Agency Contact: Harry-Todd Astroo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4970

RIN: 1545–AK64

2942. • INTERCOMPANY TRANSFER PRICING FOR SERVICES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will address the transfer pricing of services between related parties.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-051-92.

Drafting attorney: Sim S. Seo (202) 622-3840.

Reviewing attorney: Kenneth Wood (202) 874-1490.

Treasury attorney: Warren Crowdus (202) 622-1779.

Agency Contact: Sim S. Seo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3840

RIN: 1545–AR32

2943. INCOME TAX—UNRELATED TRADE OR BUSINESS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 512 (a) Internal Revenue Code of 1986; 26 USC 514 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the issue of what constitutes real property acquired by a qualified trust. The guidance provided on this issue will determine the scope of the exception under 26 USC 514(c)(9) for such acquisitions from the term acquisition indebtedness. Under 26 USC 514, the existence of such indebtedness on income producing property gives rise to unrelated debt-financed taxable income. The regulation will also address the issue of the proper allocation method to determine fixed indirect expenses connected with the unrelated trade or business use of an exempt organization's property.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-27-81.

Drafting attorney: Monice Rosenbaum (202) 622-6070.

Reviewing attorney: James L. Brokaw (202) 622-6070.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-6070

RIN: 1545–AE00

2944. • UNRELATED DEBT-FINANCED INCOME OF QUALIFIED SERVICE

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 514(g) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The project relates to unrelated trade or business income tax that may result when certain qualified organizations invest in debt-financed real estate.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-27-81.

Drafting attorney: Monice Rosenbaum (202) 622-6070.

Agency Contact: Monice Rosenbaum, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-6070

RIN: 1545–AR17

2945. TAXATION OF CERTAIN QUALIFIED EXEMPT ORGANIZATIONS ON INCOME FROM DEBT-FINANCED PROPERTY OWNED THROUGH A PARTNERSHIP

Significance: Agency Priority

Legal Authority: 26 USC 514(c)(9) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules governing the application of section 514(c)(9)(E) of the IRC to certain partnerships in which one or more (but not all) of the partners are qualified tax-exempt organizations within the meaning of 514(c)(9)(C).

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-056-90.

Drafting attorney: Christopher Kehoe (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Agency Contact: Christopher Kehoe, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3080

RIN: 1545–AO78

2946. MERGER OR DIVISION OF COMMON TRUST FUNDS—SECTION 584

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 584 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendment of section 1.584-4 of the regulations relating to the diversification requirement for mergers or divisions of common trust funds.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-29-92.

Drafting attorney: H. Grace Kim (202) 622-3060.

Reviewing attorney: Richard G. Blumenreich (202) 622-3060.

Treasury attorney: Monty Jackel (202) 622-0865.

Agency Contact: H. Grace Kim, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 202 622-3060

RIN: 1545–AQ64

2947. STATEMENT OF PROCEDURAL RULES—APPEALS FUNCTION

Significance: Agency Priority

Legal Authority: 5 USC 552(a)(1)(C)

CFR Citation: 26 CFR 601.106

Legal Deadline: None

Abstract: This portion of the SPR updates the rules for appealing an examination within the Service. It also revises the rule prescribing the information that a taxpayer must submit to initiate an appeal.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-085-91.

Drafting attorney: John M. Moran (202) 622-4940.

Reviewing attorney: George Bradley (202) 622-4800.

Agency Contact: John M. Moran, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-4940

RIN: 1545–AQ18

2948. PROPERTY DISTRIBUTED IN KIND AND TREATMENT OF MULTIPLE TRUSTS (SEC. 81 AND 82 OF THE TAX REFORM ACT OF 1984)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 643 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the tax consequences when property is distributed in kind from a trust or estate, including rules specifying what gain is recognized upon distribution, who recognizes such gain, and what the basis of the distributed property is in the hands of the distributee. The regulations also explain election rules available to the distributing trust or estate. The regulations also explain rules under which certain multiple trusts will be treated as a single trust.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-34-85.

Drafting attorney: Robert Rio (202) 622-3060.

Reviewing attorney: Thomas J. Hines (202) 622-3060.

Agency Contact: Robert Rio, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3060

RIN: 1545–AI06

2949. CLARIFICATION OF SECTION 1.643(A)(3) RELATING TO THE INCLUSION OF CAPITAL GAIN IN DISTRIBUTABLE NET INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 643(a)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will revise rules specifying when capital gains will be included in distributable net income.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-148-85.

Drafting attorney: Robert Rio (202) 622-3060.

Reviewing attorney: Thomas J. Hines (202) 622-3060.

Treasury attorney: Robert Weaver (202) 622-0871.

Agency Contact: Robert Rio, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3060

RIN: 1545–AI31

2950. ACCUMULATION TRUSTS

Legal Authority: 26 USC 667 Internal Revenue Code of 1986

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CFR Citation: 26 CFR 1.667(a); 26 CFR 1.641; 26 CFR 1.643; 26 CFR 1.652; 26 CFR 1.661; 26 CFR 1.666; 26 CFR 1.668

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 provides for a new method of computing the tax on distributions of income accumulated by a trust in prior years. The new method, in effect, determines the tax attributable to an accumulation distribution by averaging the distribution over the number of years during which the income was earned by the trust. This is accomplished by including, for purposes of tentative computations, a fraction of the income received from the trust in the beneficiaries' income for 3 of the 5 preceding years. Those 3 years are determined by taking from the 5 preceding years the year with the highest taxable income and the year with the lowest. The fraction of the income included in each of the 3 years is based upon the number of years during which the income is accumulated by the trust. The average yearly additional tax determined by recomputing the tax for the 3 years is then multiplied by the number of years during which the distribution was accumulated. The resulting tax so computed may be offset by a credit for any taxes previously paid by the trust with respect to the accumulated income. (cont)

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-184-76.

Drafting attorney: Daniel M. McCabe (202) 622-3060.

Reviewing attorney: Tom Hines (202) 622-3060.

Treasury attorney: Monte Jackel (202) 622-0865.

ABSTRACT CONT: Any remaining tax liability is then due and payable in the same year as the tax on the beneficiary's other income in the year of the distribution.

Agency Contact: James A. Quinn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3060**

RIN: 1545–AM78

2951. INCOME TAXATION OF TRUSTS AND ESTATES

Legal Authority: 26 USC 672 Internal Revenue Code of 1986; 26 USC 673 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding taxation of certain grantor trusts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-108-86.

Drafting attorney: James Quinn (202) 622-3060.

Reviewing attorney: Richard G. Blumenreich (202) 622-3060.

Treasury attorney: Robert Weaver (202) 622-0871.

Agency Contact: James Quinn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3060**

RIN: 1545–AJ20

2952. FOREIGN GRANTOR TRUSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 679 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance to taxpayers concerning the income tax treatment of transfers by U.S. persons to foreign trusts having U.S. beneficiaries. The amendments will conform to changes made by section 1013 of the Tax Reform Act of 1976.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-243-89.

Drafting attorney: Jeffrey L. Vinnik (202) 622-3860.

Reviewing attorney: Benedetta A. Kissel (202) 622-3810.

Treasury attorney: Unassigned.

Agency Contact: Jeffrey L. Vinnik, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AO75

2953. ALLOCATIONS REFLECTING BUILT-IN GAIN OR LOSS ON PROPERTY CONTRIBUTED TO A PARTNERSHIP

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will provide rules and examples relating to the requirement to allocate income, gain, loss, and deduction so as to take into account the variation between the basis of the property and its fair market value at the time of contribution.

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-164-84.

Drafting attorney: David Edquist (202) 622-3050.

Reviewing attorney: Claire Toth (202) 622-3050.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: David Edquist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3050**

RIN: 1545–AG98

2954. INCOME TAX—ITEMS ALLOCATED TO PORTION OF YEAR PARTNER HELD INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 706 (d) Internal Revenue Code of 1986; 26 USC 704 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.706

Legal Deadline: None

Abstract: The regulations would provide the methods to be used for allocating partnership items to partners whenever a partner's interest varies during the partnership taxable year.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-265-76.

Drafting attorney: Ann Veninga (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3050.

Agency Contact: Ann Veninga, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AB81

2955. INCOME TAX—TREATMENT OF PAYMENTS TO PARTNERS NOT ACTING IN THEIR CAPACITY AS PARTNERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 707 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.707

Legal Deadline: None

Abstract: These regulations will provide guidance to taxpayers relating to the treatment of certain allocations and distributions to partners for services and transfers of property where the partner is not acting in his capacity as a partner.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-234-84.

Drafting attorney: Brad Saunders (202) 622-3050.

Reviewing attorney: David R. Haglund (202) 622-3050.

Agency Contact: Brad Saunders, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3050**

RIN: 1545–AG83

2956. • SECTION 737 DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 737 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations under section 737 relating to the regulation of precontribution gain in the case of certain distributions to the contributing partner.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-76-92.

Drafting attorney: Robert Rio (202) 622-3060.

Agency Contact: Robert Rio, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3060**

RIN: 1545–AR48

2957. TAXATION OF FOREIGN INSURANCE COMPANIES DOING BUSINESS IN THE UNITED STATES INCLUDING THE EXPLICATION OF THE MINIMUM NET INVESTMENT INCOME CALCULATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 842 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.842 (New); Not yet determined

Legal Deadline: None

Abstract: The regulation will describe the proper rules applicable to the taxation of foreign insurance companies doing business in the United States. In particular, the regulation will address the computation of an insurance company's minimum effectively connected net investment income. Also the procedures by which an insurance company may elect to use its worldwide current investment yields will be discussed.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-020-89.

Drafting attorney: Thomas M. Preston (202) 622-3970.

Reviewing attorney: Steve Hooe (202) 622-3970.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Thomas M. Preston, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3970**

RIN: 1545–AN31

2958. FOREIGN INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 842 Internal Revenue Code of 1986; 26 USC 864(c)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation will prescribe rules for determining income effectively connected with the conduct of an insurance business in the United States.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-024-88.

Drafting attorney: Mary Gillmarten (202) 622-3870

Reviewing attorney: Jacob Feldman (202) 622-3870.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Mary Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AL82

2959. RECOMPUTATION OF ALLOCATION AND APPORTIONMENT OF DEDUCTION FOR STATE INCOME TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986; 26 USC 862 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.861-8

Legal Deadline: None

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Abstract: These regulations will address acceptable methods of recomputing allocation and apportionment of deduction for state income taxes after recomputation of state tax liability.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-009-91.

Drafting attorney: David F. Chan (202) 622-3810.

Reviewing attorney: Thomas D. Fuller (202) 622-3880.

Treasury attorney: Emily McMahon (202) 622-1763.

Agency Contact: David F. Chan, Legislative Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3810**

RIN: 1545–AP86

2960. TRANSPORTATION INCOME SOURCE RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the source of income attributable to transportation which begins or ends in the United States.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-947-86.

Drafting attorney: Patricia A. Bray (202) 622-3840.

Reviewing attorney: David I. Bower (202) 622-3840.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AJ68

2961. SOURCING RULE APPLICABLE TO CERTAIN INSURANCE INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will source insurance product income comprising amounts paid or credited to foreign policy holders of qualified and failed insurance annuity contracts sold by US insurance companies through foreign branches.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-0093-91.

Drafting attorney: Mary Gillmarten (202) 622-3870.

Reviewing attorney: Barbara A. Felker (202) 622-3870.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Mary Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AQ37

2962. SPECIAL RULES FOR DETERMINING SOURCE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863(a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.863-1(d)

Legal Deadline: None

Abstract: The regulations provide rules for determining the source of scholarships and fellowship grants as defined under section 117 of the Internal Revenue Code.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-041-92.

Drafting attorney: Carol P. Tello (202) 622-3880.

Reviewing attorney: Thomas D. Fuller (202) 622-3880.

Treasury attorney: Emily McMahon (202) 622-1763.

Agency Contact: Carol P. Tello, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3880**

RIN: 1545–AQ81

2963. TIERED PARTNERSHIP RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address whether a foreign partner in a tiered partnership arrangement is engaged in a trade or business in the United States by virtue of membership in that tiered partnership where the second tier partnership meets the requirements of being in U.S. trade or business. The alternatives are 1) to conclude the foreign partner is engaged in U.S. trade or business because any member of the tiered partnership arrangements is; and 2) to conclude the foreign partner is not engaged in a U.S. trade of business where the first tier partnership is not so engaged. Other considerations include the meaning of "principal place of business" and whether an entity may have more than one, and attribution rules applicable to the entities. A problem with the second alternative is that it arguably gives priority to form over substance, however, there are several methods by which the first alternative could be avoided and their appears to be no policy reason to prefer one form of doing business over another. Furthermore, no additional tax would be collected by following alternative 1.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-063-90.

Drafting attorney: Mary Gillmarten (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Unassigned.

Agency Contact: Mary Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AO26

2964. • INTEGRATED FINANCIAL TRANSACTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.861-10(c)

Legal Deadline: None

Abstract: The regulation addresses whether matched book sale and repurchase transactions conducted by securities dealers qualify as integrated financial transactions under section 1.861-10(c).

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-001-93.

Drafting attorney: Karl T. Walli (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Emily McMahon (202) 622-1763.

Agency Contact: Karl T. Walli, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AR20

2965. TREATMENT OF DEFERRED PAYMENTS AND APPRECIATION ARISING OUT OF BUSINESS CONDUCTED WITHIN THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the treatment of certain deferred payments and property transactions in sourcing effectively connected income.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-662-88.

Drafting attorney: Kristine K. Schlaman (202) 622-3850.

Reviewing attorney: Charles C. Saverude (202) 622-3800.

Treasury attorney: Unassigned.

Agency Contact: Kristine K. Schlaman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3850

RIN: 1545–AM53

2966. SOURCE RULES FOR PERSONAL PROPERTY SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 865 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the source of income from sales of personal property. The regulation will set forth rules for sales by U.S. residents and non-residents and specify special rules for depreciable personal property, intangibles, sales connected with an office or other fixed place of business, and sales of a foreign affiliate by a U.S. corporation.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-946-86.

Drafting attorney: Carol P. Tello (202) 622-3880.

Reviewing attorney: Thomas J. Fuller (202) 622-3880.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3880

RIN: 1545–AJ83

2967. INCOME TAX—RECIPROCAL EXEMPTIONS FOR CERTAIN TRANSPORTATION INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 883 Internal Revenue Code of 1986; 26 USC 872 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules with respect to whether a foreign country will be considered to grant a reciprocal Aircraft/Shipping exemption to U.S. corporations for purposes of section 883 of the Code, or to U.S. citizens for purposes of section 872 of the Code.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-948-86.

Drafting attorney: Patricia A. Bray (202) 622-3840.

Reviewing attorney: David I. Bower (202) 622-3840.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AJ57

2968. BANK EXCLUSION FROM PORTFOLIO INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 881 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Exception to 30 percent withholding on portfolio interest does not apply to banks. This regulation will address what a bank is for purposes of section 881(c)(3)(A).

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-080-91.

Drafting attorney: Leslie B. Van Der Wal (202) 622-3850.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Emily McMahon (202) 622-1763.

Agency Contact: Leslie B. Van Der Wal, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3850

RIN: 1545–AQ39

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2969. PROPOSED REGULATIONS UNDER SECTION 1.884-3

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 884 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 1.884

Legal Deadline: None

Abstract: This regulation will provide guidance on the coordination of the branch profits with second-tier withholding tax on dividends.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-028-92.

Drafting attorney: Kathryn Horton O'Brien (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Kathryn Horton O'Brien, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, 202 622-3860

RIN: 1545–AQ72

2970. DIVIDEND WITHHOLDING—LUXEMBOURG CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation is intended to ensure compliance by Luxembourg Corporations with U.S - Luxembourg income tax treaty.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-017-92.

Drafting attorney: Joseph S. Henderson (202) 622-3850.

Reviewing attorney: Unassigned.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Joseph S. Henderson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3850

RIN: 1545–AQ54

2971. INCOME TAX—PARTNERSHIP RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN UNITED STATES REAL PROPERTY INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897(g) Internal Revenue Code of 1986; 26 USC 897(e)(2) Internal Revenue Code of 1986; 26 USC 1445(e)(5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide rules for foreign partners disposing of an interest in a partnership holding United States real property interests, to determine the amount of gain or loss from such disposition for purposes of section 897(a).

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-384-88

Drafting attorney: James Sams (202) 622-3380

Reviewing attorney: Charles Besecky (202) 622-3860.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: James Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3380

RIN: 1545–AL77

2972. DEEMED PAID CREDIT UNDER SECTION 902 DETERMINED ON ACCUMULATED BASIS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 902(c)(7) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will modify the existing regulations to reflect changes in the computation of the indirect credit under the 1986 Act. The regulations will incorporate a pooling mechanism (rather than year-by-year) and will also reflect the separate basket computations under section 904(d).

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-933-86.

Drafting attorney: Caren S. Shein (202) 622-3850.

Reviewing attorney: Unassigned.

Treasury attorney: Joni Walser (202) 622-1781.

Agency Contact: Caren S. Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3850

RIN: 1545–AL98

2973. SECTION 905(B) REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 905 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address the substantiation of foreign tax credits

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-087-90.

Drafting attorney: Carl M. Cooper (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Treasury attorney: Unassigned.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3840

RIN: 1545–AP36

2974. • SECTION 936 REGULATIONS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936(h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will simplify the computation of combined taxable income for companies making an election under section 936(h) of the Code; it will revise the determination of the deemed sales price for purposes of the leasing rules applicable to such corporations.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-68-92.

Drafting attorney: Mary Gillmarten (202) 622-3870.

Reviewing attorney: Jacob Feldman (202) 622-3870.

Treasury attorney: Carol Doran Klein (202) 622-1762.

Agency Contact: Mary Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3870

RIN: 1545–AR18

2975. FOREIGN INSURANCE COMPANY - DOMESTIC ELECTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 953(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide substantive and procedural rules regarding the election under section 953(d) to treat certain controlled foreign corporations engaged in the insurance business as domestic corporations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-765-89.

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: David I. Bower (202) 622-3840.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3840

RIN: 1545–AO25

2976. • AMENDMENT TO SUBPART F DEFINITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.954-2(b); 26 CFR 1.954-2(g); 26 CFR 1.954-2(h)

Legal Deadline: None

Abstract: These proposed regulations contain provisions governing the definitions of foreign base company income and foreign personal holding company income of a CFC. The regulations are necessary because of changes to the prior law by the Tax Reform Act of 1986, the Technical and Miscellaneous Revenue Act of 1988, and the Revenue Reconciliation Act of 1989.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: INTL-75-92.

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3840

RIN: 1545–AR31

2977. SUBPART F SHIPPING AMENDMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address statutory changes under the Tax Reform Act of 1986, with respect to foreign base company shipping income and amounts invested in and withdrawn from foreign base company shipping operations.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-654-88.

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Jack Feldman (202) 622-3870.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3840

RIN: 1545–AM46

2978. DEEMED PAID CREDIT UNDER SECTION 960 DETERMINED ON ACCUMULATED BASIS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 902(c)(7) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will modify the existing regulations to reflect changes in the computation of the indirect credit under the 1986 Act. The regulations will incorporate a pooling mechanism (rather than year-by-year) and will also reflect the separate basket computations under section 904(d).

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-0084-91.

Drafting attorney: Caren S. Shein (202) 622-3850.

Reviewing attorney: Unassigned.

Treasury attorney: Joni Walser (202) 622-1781.

Agency Contact: Caren S. Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3850

RIN: 1545–AQ34

2979. EFFECT OF ACQUISITIVE REORGANIZATIONS ON EARNINGS AND PROFITS POOLS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 964 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would address the effect of acquisitive reorganizations on

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earnings and profits pools as required by the Tax Reform Act of 1986.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INTL-105-90.

Drafting attorney: Carol E. Murphy (202) 622-3870.

Reviewing attorney: Barbara A. Felker (202) 622-3870.

Treasury attorney: Unassigned.

Agency Contact: Carol E. Murphy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AO71

2980. • CHANGE FROM THE DOLLAR APPROXIMATE SEPARATE TRANSACTION METHOD (DASTM) TO THE PROFIT-AND-LOSS METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 985 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document provides a change in method of accounting to QBU's that are no longer hyperinflationary.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-66-92.

Drafting attorney: Jack Feldman (202) 622-3870.

Agency Contact: Jack Feldman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AR24

2981. • CHANGE IN METHOD OF ACCOUNTING FOR QBU'S THAT ARE NO LONGER HYPERINFLATIONARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 985 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 985

Legal Deadline: None

Abstract: These regulations provide rules for qualified business units ("QBUs") whose currency is no longer hyperinflationary including any necessary adjustment.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-066-92.

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Jacob Feldman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AR29

2982. DETERMINATION OF FOREIGN TAXES AND FOREIGN CORPORATION'S EARNINGS AND PROFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 986 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for translating foreign earnings and profits and taxes into dollars, as well as timing and computation rules relating to the taxation of exchange gain or loss on previously taxed income that is distributed through a chain of controlled foreign corporations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-107-89.

Drafting attorney: Mary Gillmarten (202) 622-3870.

Reviewing attorney: Barbara Felker (202) 622-3870.

Treasury attorney: Unassigned.

Agency Contact: Mary Gillmarten, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AN37

2983. DISC REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Conforming DISC regulations to FSC regulations.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-114-88.

Drafting attorney: Leslie B. Van Der Wal (202) 622-3850.

Reviewing attorney: Richard L. Chewning (202) 622-3870.

Treasury attorney: Unassigned.

Agency Contact: Leslie B. Van Der Wal, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3850**

RIN: 1545–AM05

2984. BASIS REDUCTION DUE TO CANCELLATION OF INDEBTEDNESS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1017(b)(1) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will explain the ordering rules that a taxpayer must use to reduce its tax attributes in accordance with sections 108(b) and 1017 of the Internal Revenue Code for discharges of indebtedness that occur after December 31, 1986.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-48-91.

Drafting attorney: Leo F. Nolan II (202) 622-4970.

Agency Contact: Leo F. Nolan II, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4970**

RIN: 1545–AP77

2985. LIKE-KIND EXCHANGES—COORDINATION WITH SECTION 453

Significance: Agency Priority

Legal Authority: 26 USC 1031(a)(3) Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed income tax regulations under section 1031(a)(3) of the Internal Revenue Code of 1986 relate to the coordination of section 1031(a)(3) with section 453. The proposed regulations would affect taxpayers who engage in certain like-kind exchanges under section 1031.

Timetable:

Action	Date	FR Cite
ANPRM	11/02/92	57 FR 49432
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-107-91.

Drafting attorney: Christopher Kane (202) 622-4800.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Christopher Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4800**

RIN: 1545–AQ48

2986. INCOME TAX—TAX STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 Internal Revenue Code of 1986; 26 USC 6653 Internal Revenue Code of 1986; 26 USC 263 (g) Internal Revenue Code of 1986; 26 USC 1256 Internal Revenue Code of 1986; 26 USC 1212 Internal Revenue Code of 1986; 26 USC 1236 Internal Revenue Code of 1986; 26 USC 1234A Internal Revenue Code of 1986; 26 USC 1232 Internal Revenue Code of 1986; 26 USC 1221 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide the rules under title 5 of the Economic Recovery Tax Act of 1981 for tax straddles. These regulations will affect the tax treatment of regulated futures contracts, forward contracts, and positions in commodities.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-187-81.

Drafting attorney: Robert Williams (202) 622-3950.

Agency Contact: Robert Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3950**

RIN: 1545–AC21

2987. REVISION OF SECTION 1244 REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1244 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1244(c)-1(e)

Legal Deadline: None

Abstract: These regulations revise 1244 regulations to provide ordinary loss treatment to shareholders of corporations that earn royalties, rents, dividends, interest, annuities and gains from the sale of exchange of stock to securities in the active conduct of business.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-39-92.

Drafting attorney: Kirsten L. Simpson (202) 622-7258.

Reviewing attorney: Robert Testoff (202) 622-7790.

Agency Contact: Kirsten L. Simpson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7258**

RIN: 1545–AQ80

2988. GAINS FROM CERTAIN SALES OR EXCHANGES IN CERTAIN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations that amend the regulations under section 1248 to partially suspend the application of section 1248(e) and to limit the application of section 1248(f) to those situations in which gain is not required.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-039-87.

Drafting attorney: David F. Bergkuist (202) 622-3860.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Unassigned.

Agency Contact: David F. Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3860

RIN: 1545–AL89

2989. INCOME TAX—GAIN FROM DISPOSITION OF INTEREST IN OIL, GAS, GEOTHERMAL OR OTHER MINERAL PROPERTIES BY S CORPORATIONS AND THEIR SHAREHOLDERS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1254 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986; PL 94-455, Sec 205 Tax Reform Act of 1976; PL 94-455, Sec 1901 Tax Reform Act of 1976; PL 95-618, Sec 402 Energy Tax Act of 1978

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will determine the tax treatment by S corporations and their shareholders from the disposition of certain oil, gas, geothermal, or other mineral properties. Gain subject to recapture under section 1254 will be accorded ordinary income treatment. The regulations also will determine the tax treatment of sales of

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shares of stock in an S corporation that holds oil, gas, geothermal, or other mineral properties.

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-7-89.

Drafting attorney: James A. Quinn (202) 622-3060.

Reviewing attorney: Richard Blumenreich (202) 622-3060.

Treasury attorney: Monte Jackel (202) 622-0865.

Agency Contact: James A. Quinn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3060**

RIN: 1545–AM98

2990. HEDGING EXCEPTION TO MARK-TO-MARKET RULES FOR SECTION 1256 CONTRACTS, DEFERRAL OF CERTAIN STRADDLE LOSSES, AND WASH-SALE AND SHORT-SALE PRINCIPLES APPLICABLE TO CERTAIN STRADDLE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1256 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the hedging transaction exception for section 1256 contracts and straddles.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: FI-10-86.

Drafting attorney: Robert B. Williams (202) 622-3950.

Reviewing attorney: Alice M. Bennett (202) 622-3950.

Agency Contact: Robert B. Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3950**

RIN: 1545–AI72

2991. CONTINGENT AND VARIABLE DEBT INSTRUMENTS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1275(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1275

Legal Deadline: None

Abstract: The regulation will address the proper accrual of original issue discount on debt instruments that provide for contingent or variable payments. This regulation will clarify existing uncertainties under the present law.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-059-91.

Drafting attorney: Frederick S. Campbell-Mohn (202) 622-3940.

Reviewing attorney: William Blanchard (202) 622-3930.

Agency Contact: Frederick S. Campbell-Mohn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3940**

RIN: 1545–AQ86

2992. THE TREATMENT OF PRICE LEVEL ADJUSTMENT MORTGAGES UNDER THE ORIGINAL ISSUE DISCOUNT PROVISIONS OF THE CODE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1275(d) Internal Revenue Code of 1986; 26 USC 163(h) Internal Revenue Code of 1986; 26 USC 6050H Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Final, Statutory, January 8, 1993. Section 7805(e)(2)

Abstract: The regulations provide rules concerning the treatment of a price level adjusted mortgage under the provisions of the Code concerning original issue discount and qualified residence interest. The regulations also clarify the meaning of the term "interest" for purposes of information reporting for mortgage interest.

Timetable:

Action	Date	FR Cite
NPRM	01/09/90	55 FR 739
NPRM Comment Period End	04/09/90	55 FR 739

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-064-89.

Drafting attorney: William E. Blanchard (202) 622-3950.

Reviewing attorney: Andrew Kittler (202) 622-3940.

Treasury attorney: Heidi Ebel (202) 622-1343.

Agency Contact: William E. Blanchard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3950**

RIN: 1545–AO03

2993. BASIC ISSUES UNDER SECTION 1286

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1286 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations will address selected basic issues relating to stripped bonds and stripped coupons under Code Section 1286.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-104-91.

Drafting attorney: Mark Smith (202) 622-3452.

Reviewing attorney: Sharon Galm (202) 622-3920.

Agency Contact: Mark Smith, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3452**

RIN: 1545–AQ25

2994. • CERTAIN STRIPPING TRANSACTIONS

Significance: Regulatory Program

Legal Authority: 26 USC 7805; 26 USC 1286

CFR Citation: 26 CFR 1286

Legal Deadline: None

Abstract: The regulation provides accounting rules for certain instruments that are derived from bond stripping transactions. In addition, the regulation provides rules for determining the tax-exempt portion for certain instruments derived from tax-exempt bond stripping transactions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-69-92.

Drafting attorney: Alan B. Munro (202) 622-3950.

Reviewing attorney: Alice Bennett (202) 622-3950.

Agency Contact: Alan Munro, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3950**

RIN: 1545–AR12

2995. QEF SHAREHOLDER ELECTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1295 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address QEF shareholder election as it applies to section 1295.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-579-88.

Drafting attorney: Joseph S. Henderson (202) 622-3850.

Reviewing attorney: Thomas D. Fuller (202) 622-3880.

Agency Contact: Joseph S. Henderson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3850**

RIN: 1545–AM41.

2996. • MERGER OF A C CORPORATION INTO S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations dealing with the merger of C corporations into S corporations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-16-93.

Drafting attorney: Elissa Shendalman (202) 622-3040.

Agency Contact: Elissa Shendalman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3040**

RIN: 1545–AR50

2997. INCOME TAX—PASS-THROUGH OF S CORPORATION ITEMS TO SHAREHOLDERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1366 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the tax treatment of income and loss items passed through to the shareholders.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-261-82.

Drafting attorney: Christine Ellison (202) 622-3080.

Reviewing attorney: Frances Schafer (202) 622-3070.

Agency Contact: Deane Burke, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AE85

2998. INCOME TAX—APPLICATION OF SUBCHAPTER C RULES TO S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1371 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide guidance in applying the rules of subchapter C to subchapter S.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-265-82.

Drafting attorney: Channing Brackey (202) 622-3080.

Reviewing attorney: Frances Schafer (202) 622-3070.

Treasury attorney: Heidi Ebel (202) 622-0864.

Agency Contact: Channing Brackey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AE90

2999. CROSS-REFERENCE—APPLICATION OF SECTION 1374 BUILT-IN GAINS TAX C CORPORATIONS ELECTING S CORPORATION STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1374 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules relating to the section 1374 built-in gains tax to C corporations electing S corporation status.

Timetable:

Action	Date	FR Cite
NPRM	12/08/92	

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TREAS—IRS

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	04/02/93	
Final Action	12/31/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-80-87.

Drafting attorney: Mark S. Jennings (202) 622-7530.

Reviewing attorney: Nelson F. Crouch (202) 622-7740.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7530**

RIN: 1545–AK93

3000. INCOME TAX—DEFINITIONS AND SPECIAL RULES PERTAINING TO S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1377 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would define and interpret special rules contained in Section 1377 of the Internal Revenue Code of 1986, thereby giving guidance on how the Internal Revenue Service intends to interpret that section.

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-268-82.

Drafting attorney: Robert Rio (202) 622-3060.

Reviewing attorney: Richard Blumenreich (202) 622-3060.

Treasury attorney: Jim Miller (202) 622-1768.

Agency Contact: Robert Rio, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3060**

RIN: 1545–AE94

3001. • SECTION 1398 SUBSTANTIVE CONSOLIDATION IN BANKRUPTCY

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1398 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules provided by section 1398 for the administration of tax attribute of individuals in Title 11 cases do not provide for the administration of the tax attributes of debtors whose estates have been substantively consolidated. This regulation sets forth rules for the administration of the tax attributes of debtors whose estates have been substantively consolidated.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-54-92.

Drafting attorney: Christie Jacobs (202) 622-4930.

Reviewing attorney: Amy Sargent (202) 622-4930.

Agency Contact: Christie Jacobs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC. 20224, **202 622-4930**

RIN: 1545–AR45

3002. REVISION OF REGULATIONS UNDER SECTIONS 1491, 1492, AND 1494

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1491 Internal Revenue Code of 1986; 26 USC 1492 Internal Revenue Code of 1986; 26 USC 1494 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of these regulations is to provide guidance to taxpayers regarding both the types of outbound property transfers that are subject to the tax imposed by section 1491 and the types of outbound property transfers that are exempt from the tax by reasons of section 1492.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: INTL-102-89.

Drafting attorney: Gwendolyn A. Rotter (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: Gwendolyn A. Rotter, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AN39

3003. INCOME TAX—APPLICATION OF SECTION 465 AT RISK LIMITATIONS TO MEMBERS THAT JOIN IN FILING CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would amend the consolidated returns regulations to provide rules applying the at-risk limitations of section 465 of the Internal Revenue Code of 1954 to affiliated groups filing consolidated returns, thereby giving the public needed guidance as to how these rules apply to such groups.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-75-79.

Drafting attorney: Richard E. Coss (202) 622-7790.

Reviewing attorney: Peter G. Lynard (202) 622-7710.

Agency Contact: Richard E. Coss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-7790**

RIN: 1545–AC55

TREAS—IRS

Proposed Rule Stage

3004. CLARIFYING DELETION OF REQUIREMENT OF SECTION 1.1502-47(D)(12)(C) THAT IN APPLYING THE TACKING RULE, PROFIT LIFE ACTIVITIES NOT BE SEPARATED FROM LOSS LIFE ACTIVITIES

Legal Authority: 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502

Legal Deadline: None

Abstract: Section 1.1502-47(d)(12)(C) restricted the separation of profitable life activities from loss life activities to prevent the gaming that otherwise could occur under the "bottom-line" consolidation rule mandated by section 818(f) as in existence prior to the Enactment of the Tax Reform Act of 1984 (TRA 1984), Public Law 98-369. As a result of the new method of taxing life insurance companies enacted in the TRA 1984, the bottom-line consolidation abuse potential is eliminated, thus eliminating the need for section 1.1502-47(d)(12)(C). Removing this provision will remove an unnecessary restraint on transactions, and a potential device to voluntarily deconsolidate.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-157-86.

Drafting attorney: William Barry (202) 622-7770.

Reviewing attorney: Richard Osborne (202) 622-7770.

Treasury attorney: Terry Jacobs (202) 622-1332.

Agency Contact: William F. Barry, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7770**

RIN: 1545–AI98

3005. REVISION OF SECTION 1.1502-33

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide new rules for determining earnings and profits of each member of the consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-68-88.

Drafting attorney: Steven Teplinsky (202) 622-7770.

Reviewing attorney: John Broadbent (202) 622-7710.

Treasury attorney: Andrew Dubroff (202) 622-1766.

Agency Contact: Steven Teplinsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Consitution Avenue NW., Washington, DC 20224, **202 622-7770**

RIN: 1545–AL60

3006. • CONSOLIDATED RETURNS: SEPARATE RETURN LIMITATION YEARS AND THE CARRYBACK AND CARRYOVER OF INVESTMENT CREDITS, FOREIGN TAX CREDITS, NET OPERATING LOSSES, AND NET CAPITAL LOSSES

Legal Authority: 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Possible revision of separate return year rules in consolidated return regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-71-92.

Drafting attorney: Steven Teplinsky (202) 622-7770.

Reviewing attorney: David Kessler (202) 622-7770.

Agency Contact: Steven Teplinsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7770**

RIN: 1545–AR11

3007. • APPLICATIONS OF SECTION 1503(D) TO PARTNERSHIPS AND OTHER ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Determination of when and how section 1503(d), treatment of dual consolidated losses, will apply to partnerships.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-037-92.

Drafting attorney: Sim S. Seo (202) 622-3840.

Reviewing attorney: David Bower (202) 622-3810.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: Sim S. Seo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3840

RIN: 1545–AR26

3008. • SRLY LIMITATIONS FOR DUAL CONSOLIDATED LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation addresses SRLY limitations for dual consolidated losses.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-040-92.

Drafting attorney: Sim S. Seo (202) 622-3840.

Reviewing attorney: David Bower (202) 622-3810.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: Sim S. Seo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111

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Constitution Avenue NW., Washington, DC 20224, 202 622-3840

RIN: 1545–AR27

3009. INCOME TAX—INCLUDIBILITY IN AN AFFILIATED GROUP OF SUBSIDIARIES FORMED TO COMPLY WITH FOREIGN LAWS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 1.1504(d)

Legal Deadline: None

Abstract: The regulations would provide rules relating to an election to treat a foreign subsidiary of a United States corporation as a domestic corporation if the subsidiary is formed in a contiguous country to comply with foreign law.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-338-88

Drafting attorney: Kenneth Allison (202) 622-3860.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Joni Walser (202) 622-1781.

Agency Contact: Kenneth Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3860

RIN: 1545–AC58

3010. ESTATE AND GIFT TAXES, UNIFIED CREDIT IN LIEU OF EXEMPTION, UNIFIED RATE SCHEDULE FOR ESTATE AND GIFT TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2001 Internal Revenue Code of 1986; 26 USC 2010 Internal Revenue Code of 1986; 26 USC 2011 Internal Revenue Code of 1986; 26 USC 2012(a) Internal Revenue Code of 1986; 26 USC 2012(c) Internal Revenue Code of 1986; 26 USC 2013(b) Internal Revenue Code of 1986; 26 USC 2013(e)(1) Internal Revenue Code of 1986; 26 USC 2014(b)(2) Internal Revenue Code of 1986; 26 USC 2035 Internal Revenue Code of 1986; 26 USC 2038(a) Internal Revenue Code of 1986; 26 USC 2044 Internal Revenue Code of 1986; 26 USC 2052 Internal Revenue Code of 1986; 26 USC 2104 Internal Revenue Code of 1986; 26 USC 2106 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25; 26 CFR 1

Legal Deadline: None

Abstract: The unified rate schedule for estate and gift taxes and unified credit in lieu of exemptions will be implemented by the regulation. The regulations also relate to the estate tax consequences of transfers made within three years of death. The regulations also provide rules relating to charitable remainder trusts.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-212-76.

Drafting attorney: Deborah S. Ryan (202) 622-3090.

Reviewing attorney: Lee A. Dunn (202) 622-3090.

Agency Contact: Deborah S. Ryan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington DC 20224, 202 622-3090

RIN: 1545–AC60

3011. ESTATE TAX—VALUATION OF CERTAIN FARM, ETC. REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2032A Internal Revenue Code of 1986; 26 USC 2013 (f) Internal Revenue Code of 1986; 26 USC 1016 (c) Internal Revenue Code of 1986; 26 USC 1040 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20, 26 CFR 1

Legal Deadline: None

Abstract: Special use valuation of certain farm and closely held business real property is available to qualifying estates. The regulation will contain definitions and rules relating to the various requirements which an estate must satisfy and will provide rules governing the imposition and payment of the "additional estate tax" should a qualified heir fail to meet the post-death requirements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-209-81.

Drafting attorney: Deborah Ryan (202) 622-3090.

Reviewing attorney: Lee Dunn (202) 622-3090.

Treasury attorney: Robert Weaver (202) 622-0871.

Agency Contact: Deborah Ryan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3090

RIN: 1545–AC62

3012. ESTATE TAX ANNUITY EXCLUSION REPEAL

Legal Authority: 26 USC 2039 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20.2039; 26 CFR 25.2517

Legal Deadline: None

Abstract: Section 2039 of the Internal Revenue Code, as amended by section 525(a) of the Tax Reform Act of 1984 and section 1852(e)(3) of the Tax Reform Act of 1986, provides for the inclusion in a decedent's gross estate of the value of a survivor annuity or other payment attributable to an employer's contribution and the value of an individual retirement annuity or payment. The regulations will address the application of the transitional rules set forth in section 525(a) of TRA 84 and section 1852(e)(3) of TRA 86. It will also address the repeal of the gift tax treatment of the transfer of an annuity under section 2517.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-31-91.

Drafting attorney: William L. Blodgett (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Agency Contact: William Blodgett, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Avenue NW., Washington, DC 20224, 202 622-3090

RIN: 1545–AP60

3013. REFORMATION OF CHARITABLE TRANSFERS; DEFINITION OF GUARANTEED ANNUITY AND LEAD UNITRUST INTEREST

Legal Authority: 26 USC 2055 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20.2055

Legal Deadline: None

Abstract: This project will address a number of issues including the following: (1) defining commencement under the 90-day rule; (2) defining what is a reformable interest; (3) reforming a nonremainder interest; and (4) reforming a remainder interest in a trust.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-070-89.

Drafting attorney: John McQuillan (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Treasury attorney: Monte Jackel (202) 622-0865.

Agency Contact: John McQuillan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3090

RIN: 1545–AO31

3014. ALIEN SPOUSE MARITAL DEDUCTION

Legal Authority: 26 USC 2056 Internal Revenue Code of 1986; 26 USC 2056A Internal Revenue Code of 1986; 26 USC 2523 Internal Revenue Code of 1986; 26 USC 2106 Internal Revenue Code of 1986; 26 USC 6324 Internal Revenue Code of 1986; 26 USC 2503 Internal Revenue Code of 1986; 26 USC 2001 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25

Legal Deadline: None

Abstract: These regulations will clarify the estate and gift tax treatment of transfers of property where the surviving spouse or donee spouse is not a United States citizen. The regulations will prescribe how certain transfers to a qualified domestic trust for the benefit of an alien spouse will qualify for the estate tax marital deduction. The regulations will also describe the manner on which an estate tax is imposed in the case of any principal distribution from a qualified domestic trust before the death of the surviving spouse and upon the value of the property remaining in the trust upon the surviving spouse's death.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-102-88.

Drafting attorney: Susan Hurwitz (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Agency Contact: Susan Hurwitz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3090

RIN: 1545–AM85

3015. SITUS OF PARTNERSHIP INTERESTS HELD BY A NONRESIDENT ALIEN FOR ESTATE TAX PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2104 Internal Revenue Code of 1986; 26 USC 2105 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: This regulation will determine the amount of partnership interests that will have a United States situs for estate tax purposes.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-079-90.

Drafting attorney: Leslie A. Cracraft (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Leslie A. Cracraft, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3860

RIN: 1545–AP07

3016. • LOAN GUARANTEES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2511 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to the gift tax treatment of loan guarantees.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-57-92.

Drafting attorney: Debra Ryan (202) 622-3090.

Agency Contact: Debra Ryan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3090

RIN: 1545–AR16

3017. GENERATION-SKIPPING TRANSFER TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2663 Internal Revenue Code of 1986

CFR Citation: 26 CFR 2601; 26 CFR 2662

Legal Deadline: None

Abstract: Temporary and proposed regulations relating to the respective liabilities of a decedent's executor and the trustee of a trust arrangement with respect to any generation-skipping transfer (GST) tax incurred in connection with a direct skip from a trust arrangement at the decedent's death. Temporary and proposed regulations relating to the circumstances under which the exercise of a nongeneral power of appointment over a trust that is otherwise "grandfathered" for GST tax purposes will constitute a constructive addition to the trust.

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Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-21-92.

Drafting attorney: John Franklin (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Treasury attorney: Monte Jackel (202) 622-0865.

Agency Contact: John Franklin, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3090**

RIN: 1545–AQ65

3018. ESTATE TAX—GENERATION-SKIPPING TRANSFER TAX

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2663 Internal Revenue Code of 1986

CFR Citation: 26 CFR 26

Legal Deadline: None

Abstract: The regulations will provide rules relating to certain definitions, the allocation of the transferor's GST exemption, and the determination of inclusion ratio. The project will also consider amendments made in 1989 by sections 7811(j)(2) and (4) of P.L. 101-239 to code sections 2642(b)(1) and (3) and 2654(a)(1).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-73-88.

Drafting attorney: John B. Franklin (202) 622-3090.

Reviewing attorney: Fred Grundeman (202) 622-3090.

Treasury attorney: Monte Jackel (202) 622-0871.

Agency Contact: John B. Franklin, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3090**

RIN: 1545–AL75

3019. • UPDATE OF RAILROAD RETIREMENT TAX ACT REGULATIONS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.3201-1; 26 CFR 1.3202-1; 26 CFR 1.3202-2; 26 CFR 1.3211-1; 26 CFR 1.3211-2; 26 CFR 1.3221-1; 26 CFR 1.3221-2; 26 CFR 1.3231(a)-1; 26 CFR 1.3231(e)-1

Legal Deadline: None

Abstract: Update existing regulations by removing obsolete provisions and adding new provisions to reflect statutory changes since the publication of the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-63-92.

Drafting attorney: Jean Whalen (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Treasury attorney: Kurt Lawson (202) 622-1352.

Agency Contact: Jean Whalen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6040**

RIN: 1545–AR08

3020. • SUPPLEMENTAL ANNUITY TAX—RAILROAD RETIREMENT (RR); REQUIREMENT OF MAKING QUARTERLY PAYMENTS OF THE RR UNEMPLOYMENT TAX; UPDATE OF RR RETIREMENT TAX ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31.3211-3; 26 CFR 31.3221-3

Legal Deadline: None

Abstract: The proposed regulations contain rules for calculating the work-hours subject to the supplemental annuity tax imposed by the Railroad Retirement Tax Act. The proposed regulations also contain a safe harbor that railroad employers may use to determine the taxable work-hours in lieu of calculating work-hours separately for each employee.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-9-92

Drafting attorney: Karin Loverud (202) 622-6060.

Reviewing attorney: Mary Oppenheimer (202) 622-6010.

Treasury attorney: Kurt Lawson (202) 622-1352.

Agency Contact: Karin Loverud, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Wshington, DC 20224, **202 622-6060**

RIN: 1545–AR07

3021. TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302 (c) Internal Revenue Code of 1886

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Proposal would provide rules concerning the treatment of certain deferred compensation and salary reduction arrangements under section 3121 (v) and section 3306 (r) of the Internal Revenue Code of 1954, thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret those sections of the Code.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-142-87.

Drafting attorney: David Fuller (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Agency Contact: David Fuller, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6040**

RIN: 1545–AF97

3022. TAXPAYER IDENTIFYING NUMBER MATCHING PROGRAM

Significance: Agency Priority

Legal Authority: 26 USC 3406 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 3406; 26 CFR 7805

Legal Deadline: None

Abstract: Under the regulations payors can pre-check the name/TIN combinations furnished by payees prior to their filing an information return and thereby carryout the purposes of section 3406 in obtaining correct TIN/name combinations. Accordingly, prior to filing an information return a payor may contact the Service concerning the TIN furnished by a payee. Upon receiving such an inquiry, the Service will advise the payor whether the name/TIN combination furnished matches the name/TIN combination contained in the Service's records. If the name/TIN combination does not match, then the payor has the opportunity to contact the payee for correction before filing the information return, thus reducing the likelihood of a notice to start backup withholding and of a penalty for filing an information return.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-8-92.

Drafting attorney: Renay France (202) 622-4910.

Reviewing attorney: John M. Coulter, Jr. (202) 622-4910.

Treasury attorney: Larry Garrett (202) 622-1778.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4910**

RIN: 1545–AQ51

3023. EXCISE TAX ON DIESEL FUEL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4091 to 4093 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48; 26 CFR 4091; 26 CFR 4092; 26 CFR 4093

Legal Deadline: None

Abstract: This regulation provides rules on diesel and aviation fuel taxes under the Revenue Act of 1987 and the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: PS-3-88.

Drafting attorney: Frank Boland (202) 622-3130.

Reviewing attorney: Dick Kocak (202) 622-3130.

Treasury attorney: J. Paul Whitehead (202) 622-0868.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3130**

RIN: 1545–AL43

3024. REGISTRATION UNDER SECTION 4101

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4101 Internal Revenue Code of 1986; 26 USC 4221 Internal Revenue Code of 1986; 26 USC 6427 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48.4101-1; 26 CFR 48.4081-6; 26 CFR 48.4221-3; 26 CFR 48.6416(b)(2)-2; 26 CFR 48.6427-8

Legal Deadline: None

Abstract: Regulations will provide rules for registration and bonding of certain persons involved with gasoline; rules relating to gasohol blending, and rates relating to the export of certain vaccines.

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-77-91.

Drafting attorney: Frank Boland (202) 622-3130

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3130**

RIN: 1545–AQ10

3025. • VACCINE EXPORTS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4221 Internal Revenue Code of 1986; 26 USC 6416 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48.4221; 26 CFR 48.6416

Legal Deadline: None

Abstract: The extent to which vaccines may be exported free of the tax imposed by section 4131.

Timetable:

Action	Date	FR Cite
NPRM	06/01/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-7-93.

Drafting attorney: Frank Boland (202) 622-3130.

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3130**

RIN: 1545–AR38

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3026. REVISION AND UPDATE OF COMMUNICATIONS TAX REGS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4251 Internal Revenue Code of 1986; 26 USC 4252 Internal Revenue Code of 1986; 26 USC 4253 Internal Revenue Code of 1986; 26 USC 4254 Internal Revenue Code of 1986

CFR Citation: 26 CFR 49

Legal Deadline: None

Abstract: The regulations will provide rules with respect to the application of the communications excise tax.

Timetable:

Action	Date	FR Cite
ANPRM	07/31/92	57 FR 33918
NPRM	07/30/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-017-91.

Drafting attorney: Bernard Weberman (202) 622-3130.

Reviewing attorney: Edward Madden (202) 622-3130.

Agency Contact: Bernard Weberman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3130**

RIN: 1545–AP67

3027. REVISION AND UPDATE OF AIR TRANSPORTATION TAX REGS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4041 Internal Revenue Code of 1986; 26 USC 4091 Internal Revenue Code of 1986; 26 USC 4261 Internal Revenue Code of 1986; 26 USC 4271 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48, 26 CFR 49

Legal Deadline: None

Abstract: The regulations will revise rules relating to the tax on the transportation of persons by air and provide rules for the tax on the transportation of property by air, and will provide rules relating to fuel taxes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: PS-16-91.

Drafting attorney: Tyrone Montague (202) 622-3130.

Reviewing attorney: Frank Boland (202) 622-3130.

Agency Contact: Tyrone Montague, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3130**

RIN: 1545–AP68

3028. TAX ON PETROLEUM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4611 Internal Revenue Code of 1986; 26 USC 4612 Internal Revenue Code of 1986

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: The regulations relate to tax on petroleum under section 4611 of the Code.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-158-86.

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Dick Kocak (202) 622-3130.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3130**

RIN: 1545–AJ23

3029. CHEMICAL TAX UNDER SECTION 4461 AND IMPORTED SUBSTANCE TAX UNDER SECTION 4671

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4671 Internal Revenue Code of 1986; 26 USC 4661 Internal Revenue Code of 1986

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: These are proposed regulations relating to taxable chemicals and taxable imported substances.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-71-88.

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Jeff Nelson (202) 622-3130.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3130**

RIN: 1545–AL73

3030. EXPORTS OF OZONE-DEPLETING CHEMICALS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4682(d)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: Rules relating to exemption from tax for exports of ozone-depleting chemicals.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-89-91.

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Dick Kocak (202) 622-3130.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3130**

RIN: 1545–AQ23

3031. EXCISE TAX—PART 54, REVERSION OF QUALIFIED PLAN ASSETS TO EMPLOYER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4980 Internal Revenue Code of 1986; PL 99-514, Sec 1132

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: The regulations would provide guidance regarding the excise tax on reversions of qualified plan assets imposed by section 4980 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-165-86.

Tax Law Specialist: Vernon Carter (202) 622-6070.

Reviewing attorney: James L. Brokaw (202) 622-6070.

Agency Contact: Vernon S. Carter, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6070**

RIN: 1545–AI82

3032. RETURNS AND PAYMENTS OF TAX UNDER FEDERAL INSURANCE CONTRIBUTIONS ACT

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31.6011(a)-1(a); 26 CFR 31.6071(a)-1(a); 26 CFR 31.6151-1; 26 CFR 31.6302(b)-1

Legal Deadline: None

Abstract: These regulations simplify the reporting and requirements for individual employers of domestic workers by reducing the frequency of filing returns that report the tax imposed by Federal Insurance Contributions Act (FICA). Amendments also permit employers paying wages of less than $10,000 to remit the tax imposed by FICA with the annual return.

Timetable:

Action	Date	FR Cite
NPRM	10/01/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-14-92.

Drafting attorney: Barbara Walker (202) 622-4940.

Reviewing attorney: Rudolph Planert (202) 622-4940.

Treasury attorney: Anne Alstott (202) 622-0865.

Agency Contact: Barbara Walker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4940**

RIN: 1545–AQ62

3033. AMENDMENT OF SECTION 1.6033-2(G)(5) RELATING TO RETURNS BY AN INTEGRATED AUXILIARY OF A CHURCH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 91-172, Sec 101 (d) (1) Tax Reform Act of 1969

CFR Citation: 26 CFR 1.6033-2(g)

Legal Deadline: None

Abstract: These regulations will revise the definition of integrated auxiliary of a church in section 1.6033-2(g)(5) of the Treasury Regulations to be consistent with Rev. Proc. 86-23, 1986-1 CB 564.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-41-86.

Drafting attorney: Terri Harris (202) 622-6070.

Reviewing attorney: Paul Accettura (202) 622-6070.

Agency Contact: Terri Harris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6070**

RIN: 1545–AI52

3034. BROKER REPORTING OF OPTION TRANSACTIONS

Legal Authority: 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6045-1(m)

Legal Deadline: None

Abstract: The proposed regulation will establish standards for brokers to report options transactions to the Service.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-004-90.

Drafting attorney: Jonathan Silver (202) 622-3441.

Reviewing attorney: Alvin Kraft (202) 622-3920.

Agency Contact: Jonathan Silver, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3441**

RIN: 1545–AO40

3035. INCOME TAX REGULATIONS RELATING TO RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6046A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would give guidance for determining which United States persons who acquire, dispose of or change their interests in foreign partnerships must report their activities. Additionally, guidance would be given as to how, when and where such persons must report and what information they must supply.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-879-86.

Drafting attorney: Kathryn Horton O'Brien (202) 622-3860.

Reviewing attorney: Charles Besecky (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Kathryn Horton O'Brien, Attorney-Advisor, Department

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of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3860

RIN: 1545–AK75

3036. • SECTION 6048 REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6048 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Revision of regulations under section 6048, return as to certain foreign trusts.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-067-92.

Drafting attorney: Joseph S. Henderson (202) 622-3850.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Unassigned.

Agency Contact: Joseph S. Henderson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3850

RIN: 1545–AR25

3037. INCOME TAX—TO REQUIRE ISSUERS OF CERTIFICATES OF DEPOSIT TO FURNISH ISSUE PRICE TO BROKERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations would amend existing regulations to require issuers to furnish the issue price to brokers.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-63-87.

Drafting attorney: Carol P. Nachman (202) 622-3950.

Reviewing attorney: Alice Bennett (202) 622-3950.

Agency Contact: Carol P. Nachman, Attorney, Department of the Treasury, Internal Revenue Service, IIII Constitution Ave. NW., Washington, D. C. 20224, 202 622-3950

RIN: 1545–AK36

3038. INFORMATION REPORTING OF POINTS ON MORTGAGE LOANS

Significance: Agency Priority

Legal Authority: 26 USC 6050H Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6050H-l; 26 CFR 1.6050H-2

Legal Deadline: NPRM, Statutory, December 31, 1990.
P.L. 101-239 OBRA 1989, 7646 requires the reporting of points received after 12/31/90; however, the reporting will first occur in 1992 for 1991 closings.

Abstract: Amend regulations to require the information reporting of the points received on a mortgage.

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-017-90.

Drafting attorney: James Atkinson (202) 622-4950.

Reviewing attorney: Douglas Fahey (202) 622-4950.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: James Atkinson, Attorney-Advisor, CC:IT&A:05, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4950

RIN: 1545–AO57

3039. IRC SECTION 6051

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6051 Internal Revenue Code of 1986

CFR Citation: 26 CFR 6051

Legal Deadline: None

Abstract: Project will modify existing regulations to require employers who terminate their business or otherwise cease operations to file Forms W-2 and W-3 within 30 calendar days after termination.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-083-89.

Drafting attorney: John Ricotta (202) 622-6080.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Agency Contact: John Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-6080

RIN: 1545–AN57

3040. VOICE SIGNATURES

Legal Authority: 26 USC 6061 Internal Revenue Code of 1986; 26 USC 6012 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6012-7T; 26 CFR 1.6061-2T; 26 CFR 1.6065-2T

Legal Deadline: None

Abstract: The regulations will enable the Service to accept a voice signature in lieu of a handwritten signature. This will allow the Service to test the feasibility of voice signatures for one year with certain taxpayers who live in the geographic area of the Cincinnati district office. The regulations also address the effect of a taxpayer using a voice signature.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-15-92.

Drafting attorney: Celia Gabrysh (202) 622-4960.

Reviewing attorney: William Jackson (202) 622-4960.

Agency Contact: Celia Gabrysh, Atorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4960

RIN: 1545–AQ68

3041. AUTOMATIC EXTENSION OF TIME FOR FILING INDIVIDUAL INCOME TAX RETURN

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6081 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6081-4

Legal Deadline: None

Abstract: The regulation provides an automatic extension of time for filing an individual income tax return to taxpayers who meet certain criteria.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-067-90.

Drafting attorney: Stuart Spielman (202) 622-4940.

Reviewing tax law specialist: Gail Winkler (202) 622-4940.

Agency Contact: Stuart Spielman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4940

RIN: 1545–AP39

3042. AGREEMENTS FOR PAYMENT FOR TAX LIABILITY IN INSTALLMENTS

Legal Authority: 26 USC 6159 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6159

Legal Deadline: None

Abstract: Prior law did not address the authority of the Internal Revenue Service to enter into installment payment agreements with taxpayers. New code section 6159, as added by the Technical and Miscellaneous Revenue Act of 1988, authorizes such agreements and specifies the circumstances under which the Service may modify or terminate such an agreement and when the Service must provide prior notice of a determination to modify or terminate an agreement. New regulations implementing section 6159 will be drafted in order to provide taxpayers and the Service specific guidance on the requirements and responsibilities imposed by this provision.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-708-88.

Drafting attorney: Kevin B. Connelly (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Agency Contact: Kevin B. Connelly, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3640

RIN: 1545–AM66

3043. INTEREST-FREE ADJUSTMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6205 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31.6205-1(a)(3); 26 CFR 31.6205-1(b); 26 CFR 31.6205-1(c); 26 CFR 31.6205-1(d)

Legal Deadline: None

Abstract: Under section 6205(a)(1) of the Code if less than the correct amount of tax imposed under the FICA, the RRTA, or the income tax withholding provisions is paid with respect to any payment of wages or compensation, proper adjustments; with respect to both the tax and amount to be deducted, must be made without interest in such manner and in such times as the Secretary may by regulations prescribe. The proposed amendments would add language to clarify that an interest-free adjustment can be made in certain situations in which th error is ascertained before the appropriate return is filed. The proposed amendments are intended to apply only to situations in which no return was filed because the employer improperly failed to treat its workers as employees.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-12-92.

Drafting Tax Law Specialist: Karin Loverud (202) 622-6060.

Reviewing attorney: Ronald Moore (202) 622-6050.

Agency Contact: Karin Loverud, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-6060

RIN: 1545–AQ61

3044. MISCELLANEOUS RULES RELATING TO CONSOLIDATED ADMINISTRATIVE AND JUDICIAL PROCEEDINGS TO DETERMINE THE TAX TREATMENT OF PARTNERSHIP ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6222 Internal Revenue Code of 1986; 26 USC 6223 Internal Revenue Code of 1986; 26 USC 6224 Internal Revenue Code of 1986; 26 USC 6227 Internal Revenue Code of 1986; 26 USC 6230 Internal Revenue Code of 1986; 26 USC 6231 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The proposed regulations would set forth miscellaneous procedural rules for consolidated administrative and judicial proceedings to determine the tax treatment of partnership items. The regulations would provide guidance for various elections under these new procedures and for filing requests for an administrative adjustment.

Timetable:

Action	Date	FR Cite
NPRM	04/18/86	51 FR 13231
NPRM Comment Period End	06/17/86	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-205-82.

Drafting attorney: Lindsay Russell (202) 622-3050.

Reviewing attorney: Dianna Miosi (202) 622-3050.

Treasury attorney: S. Barksdale Penick (202) 622-3050.

Agency Contact: Lindsay Russell, Attorney, Department of the Treasury, Internal Revenue Service, 1111

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Constitution Ave. NW., Washington, DC 20224, **202 622-3050**

RIN: 1545–AE51

3045. DETERMINATION OF THE TAX TREATMENT OF SUBCHAPTER S ITEMS AT THE CORPORATE LEVEL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6242 Internal Revenue Code of 1986; 26 USC 6243 Internal Revenue Code of 1986; 26 USC 6244 Internal Revenue Code of 1986; 26 USC 6233 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 51

Legal Deadline: None

Abstract: Proposed regulations would provide new rules for determining the tax treatment of any subchapter S item at the corporate level. Regulations would provide rules similar to rules for determining the tax treatment of partnership items.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-269-82.

Drafting attorney: Noah Baer (202) 622-3050.

Reviewing attorney: Dianna K. Miosi (202) 622-3050.

Treasury attorney: Barksdale Penick (202) 622-1335.

Agency Contact: Noah Baer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3050**

RIN: 1545–AE96

3046. RAILROAD UNEMPLOYMENT REPAYMENT TAX

Legal Authority: 26 USC 6302 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The new regulations will restore the authority of the Service to require quarterly payments of the Railroad Unemployment Repayment Tax. The authority was inadvertently eliminated under section 7106 of TAMRA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-079-89.

Drafting attorney: Jean Whalen (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Treasury attorney: Kurt Lawson (202) 622-1352.

Agency Contact: Jean Whalen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6040**

RIN: 1545–AN40

3047. DEPOSIT OF TAX WITHHELD FROM NONRESIDENT ALIENS AND OTHERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6302

Legal Deadline: None

Abstract: This notice of proposed rulemaking revises and updates regulations setting forth deposit requirement for income tax withheld at source from nonresident aliens and foreign corporations.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-19-91.

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Agency Contact: Vincent Surabian, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4940**

RIN: 1545–AP92

3048. • CHANGE IN REGULATIONS FOR FORM 941 SIMPLIFICATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302 Internal Revenue Code of 1986

CFR Citation: 26 CFR 6302

Legal Deadline: None

Abstract: Changing the Federal employment tax deposit regulations to reflect revision of form 941 and development of form 945 for use in reporting non-wage item.

Timetable:

Action	Date	FR Cite
NPRM	04/30/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-60-92.

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Agency Contact: Vincent Surabian, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4940**

RIN: 1545–AR42

3049. • MANNER OF PAYMENT OF RAILROAD RETIREMENT EMPLOYMENT TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document changes the manner whenever employers deposit Federal railroad retirement employment taxes.

Timetable:

Action	Date	FR Cite
NPRM	05/31/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-61-92.

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Agency Contact: Vincent Surabian, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Ave. NW., Washington, DC 20224, **202 622-4940**

RIN: 1545–AR43

3050. PROCEDURE AND ADMINISTRATION REGULATIONS—PAYMENT OF TAXES BY CHECK OR MONEY ORDER AND LIABILITY OF FINANCIAL INSTITUTIONS FOR UNPAID TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6311 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will describe the circumstances under which taxpayers may pay taxes by check, money order or other guaranteed draft and the circumstances under which financial institutions on which such instruments are drawn may be liable for unpaid taxes.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-549-87.

Drafting attorney: Jerome D. Sekula (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Agency Contact: Jerome D. Sekula, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AI24

3051. NOTICE OF LIEN ON PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6323 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6323(f)(1)(ii) (Revision); 26 CFR 1.6323(f)(5)

Legal Deadline: None

Abstract: The purpose of these regulations is to solve the problem that arose in the case of United States v. Air Florida, Inc. 56 B.R. 732 (S.D. Fla. 1985). The regulations will provide that if a State has adopted a Federal law establishing a place for the filing of liens under a national filing system, the State is not considered to have a second office for filing of the notice of lien. The regulations will also provide that the filing of a notice of Federal tax lien is governed solely by the Internal Revenue Code and is not subject to any other Federal law establishing a national filing system.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-719-88.

Drafting attorney: Susan B. Watson (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Agency Contact: Susan B. Watson, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AM64

3052. SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS DURING PROCEEDING TO ENFORCE DESIGNATED SUMMONS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6503 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6503

Legal Deadline: None

Abstract: The regulations will provide guidance to taxpayers with regard to the changes made to section 6503 by the Omnibus Budget Reconciliation Act of 1990. Under those changes, the period of limitations for assessment with respect to a corporation is suspended when a court proceeding is instituted to enforce or quash a designated summons or related summons issued within 30 days of the issuance of the designated summons.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-804-90.

Drafting attorney: Jerome D. Sekula (202) 622-3640.

Reviewing attorney: Robert A. Miller (202) 622-3640.

Agency Contact: Jerome D. Sekula, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AQ01

3053. CLARIFICATION OF PERIOD DURING WHICH INTEREST IS ALLOWED WITH RESPECT TO CERTAIN OVERPAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Under section 6611(b)(1), if an overpayment is credited against an underpayment, interest on the overpayment runs from the date of the overpayment until the due date of the amount against which the credit is taken. Section 301.6611-1(h)(2)(v) of the regulations provides that in the case of a credit against assessed interest, the due date is the assessment of such interest. Section 301.6611-1(h)(2)(vi) of the regulations provides that in the case of a credit against an amount assessed as an additional amount, addition to the tax or assessable penalty, the due date is the date of assessment. A literal application of these regulations' provisions may give a taxpayer interest where none should be paid. The proposed regulations correct this problem by changing the due dates of interest and certain additions to the tax.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-055-90.

Drafting attorney: Forest Boone (202) 622-4960.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Agency Contact: Forest Boone, Attorney, Department of the Treasury, Internal Revenue Service, 1111

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Constitution Avenue NW., Washington, DC 202224, **202 622-4960**

RIN: 1545–AO79

3054. DIFFERENTIAL INTEREST RATES AND EXPANDED CREDITING OF OVERPAYMENTS AGAINST UNDERPAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6621 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will explain the computation of interest on underpayments and overpayments of tax, including the extent to which underpayments and overpayments will be offset in computing interest.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-123-86.

Drafting attorney: Forest Boone (202) 622-4960.

Reviewing attorney: Karin Gross (202) 622-4930.

Agency Contact: Forest Boone, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AK06

3055. TO AMEND REGULATIONS UNDER SECTION 6655 TO PROVIDE SPECIAL RULE FOR ANNUALIZATION EXCEPTION TO ESTIMATED TAX PENALTY APPLICABLE TO FOREIGN SALES CORPORATIONS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6655 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules for FSC and its related supplier using annualization exception to determine estimated tax payments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-027-90.

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Treasury attorney: Unassigned

Agency Contact: Vincent Surabian, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4940**

RIN: 1545–AO87

3056. FAILURE TO MAKE A DEPOSIT OF TAXES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6656 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6656

Legal Deadline: None

Abstract: Proposal will provide rules for application of the four-tiered failure-to-deposit penalty imposed by section 6656 of the Internal Revenue Code. The proposal will also deal with the manner in which a taxpayer's account will be credited for deposits being made in light of the time-sensitive nature of the penalty.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-24-92.

Drafting attorney: Rochelle Hodes (202) 622-4910.

Reviewing attorney: John Coulter (202) 622-4910.

Treasury attorney: J. Paul Whitehead (202) 622-0868.

Agency Contact: Rochelle Hodes, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4910**

RIN: 1545–AQ63

3057. USE OF FACSIMILE SIGNATURES BY INCOME TAX RETURN PREPARERS OF FORMS 1041, U.S. FIDUCIARY INCOME TAX RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6695 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6695-1 (b)

Legal Deadline: None

Abstract: Section 1.6695-1 (b) currently requires that, with one exception, income tax return preparers must manually sign returns or claims for refund signed by them. The exception does allow preparers of returns and refund claims for nonresident aliens to use facsimile signatures under certain circumstances. Section 645 (a) of the Internal Revenue Code, added by section 1403 (a) of the Tax Reform Act of 1986, requires trusts, with certain limited exceptions, to use a calendar taxable year. The calendar year requirement means that, instead of being able to spread their duty to sign trust returns over the entire course of a year, preparers must now sign all trust returns before April 15 in order to present them to clients for timely filing. To alleviate this hardship, we are examining the advisability of permitting income tax return preparers of Forms 1041, U.S. Fiduciary Income Tax Returns, to use facsimile signatures and under what conditions such use would be permitted and appropriate.

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-238-88.

Drafting attorney: Susan Watson (202) 622-3640.

Reviewing attorney: Robert A. Miller (202) 622-3640.

Agency Contact: Susan Watson, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AL49

3058. INCOME TAX—PRESUMPTION OF JEOPARDY IN THE CASE OF ILLEGAL ACTIVITY CASH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6867 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6867

Legal Deadline: None

Abstract: The regulations would provide guidance for applying the presumptions that an amount of cash in excess of ten thousand dollars without an acknowledged owner (1) represents gross income to a single individual, (2) is taxable at the highest rate of tax specified in section 1, and (3) that collection of the tax is in jeopardy for the purposes of sections 6851 and 6881.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-548-87.

Drafting attorney: Jerome D. Sekula (202) 622-3640.

Reviewing attorney: Robert A. Miller (202) 622-3640.

Agency Contact: Jerome D. Sekula, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AE30

3059. POLITICAL ACTIVITY INJUNCTION

Legal Authority: 26 USC 7409 Internal Revenue Code of 1986 as amended; 26 USC 6852 Internal Revenue Code of 1986 as amended

CFR Citation: 26 CFR 1.6852; 26 CFR 53.6852; 26 CFR 56.6852; 26 CFR 301.6852; 26 CFR 301.7409

Legal Deadline: None

Abstract: The regulation will provide the procedures necessary to enjoin and/or make termination assessments in the case of a flagrant political expenditure by a section 501(c)(3) organization.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-48-90.

Drafting attorney: Cynthia Morton (202) 622-6070.

Reviewing attorney: Paul Accettura (202) 622-6070.

Agency Contact: Cynthia Morton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6070**

RIN: 1545–AO77

3060. FORFEITURE OF LAND SALES CONTRACT WITH RESPECT TO DISCHARGE OF FEDERAL TAX LIEN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7425

Legal Deadline: None

Abstract: The regulation will address the issue of when a land sales contract is considered to be forfeited for Federal tax purposes. It may be necessary, in so doing, to provide a definition or other guidelines as to what constitutes a land sales contract for purposes of this provision.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-550-87.

Drafting attorney: Kevin Connelly (202) 622-3640.

Reviewing attorney: Robert A. Miller (202) 622-3640.

Agency Contact: Kevin Connelly, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AK24

3061. REDEMPTIONS OF REAL PROPERTY UNDER IRC 7425 - EXCESS EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7425 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 301.7425-4(b)(3)(ii), which deals with excess expenses incurred by a purchaser of property after a foreclosure sale and before redemption, provides that the Service may request a written itemized statement from the purchaser regarding excess expenses. If the purchaser does not respond within 15 days, it shall be presumed that no excess expenses are payable. However, even after the 15-day period expires, a payment for excess expenses shall be made after the redemption within a reasonable time following the verification by the district director of a written itemized statement submitted by the purchaser. There is no specific time frame set for the purchaser to submit his claim after the redemption and after the expiration of the 15-day period. We are examining the feasibility of establishing a 30-day time limit within which a final claim for excess expenses must be submitted by the purchaser after the sale of the property. This will eliminate claims for reimbursement of expenses that may be submitted after redemption and sale of the property, where the liens were fully satisfied and released, and all surplus funds returned to the taxpayer.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-520-87.

Drafting attorney: Barton J. Uze (202) 622-3620.

Reviewing attorney: Robert A. Miller (202) 622-3640.

Agency Contact: Barton J. Uze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3620**

RIN: 1545–AL20

3062. WRONGFUL LEVY ACTIONS INVOLVING GOVERNMENT AGENCIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7426 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The existing language of the regulations under IRC section 7426 is ambiguous and confusing. It has been used in at least one court case as

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support for the proposition that whenever the Service attempts to seize property of a delinquent taxpayer that is in the custody of a Government agency, regardless of the form of the seizure (i.e., service of a Notice of Levy or of a Request for Setoff), such a seizure is always a setoff, and any third party injured by such a seizure has no cause of action under IRC section 7426. This is not the Service's position. The regulations should be clarified to rectify this misinterpretation.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: GL-0351-90.

Drafting attorney: Jerome D. Sekula (202) 622-3640.

Reviewing attorney: Robert A. Miller (202) 622-3640.

Agency Contact: Jerome D. Sekula, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AO60

3063. EXTENSION OF STATUTE OF LIMITATIONS IN JOHN DOE SUMMONS DISPUTES

Legal Authority: 26 USC 7609 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7609

Legal Deadline: None

Abstract: Under the Tax Reform Act of 1986, statutes of limitations are suspended in certain cases in which there is no resolution of a third-party recordkeeper's response to a summons. Section 7609(e)(2) was amended by the Technical and Miscellaneous Revenue Act of 1988 so that the suspension applies to all John Doe summonses, whether or not the summoned party is a third-party recordkeeper as defined in IRC section 7609(a)(3). The new regulations will make changes to 26 CFR 301.7609 to conform with the 1986 and 1988 amendments.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-723-88.

Drafting attorney: Jerome D. Sekula (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Agency Contact: Jerome D. Sekula, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AM67

3064. COORDINATION OF U.S. AND CERTAIN POSSESSION INCOME TAXES (TEMP)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7654 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to section 7654 of the Internal Revenue Code of 1986 which generally provides that net income tax collections from individuals described in sections 931 or 932(c), plus earned income of Federal personnel while bona fide residents of specified possessions, must be covered into the Treasury of the specified possession of which such individuals are bona fide residents.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-971-86.

Drafting attorney: Ricardo A. Cadenas (202) 874-1490.

Reviewing attorney: George Sellinger (202) 874-1490.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Ricardo A. Cadenas, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Suite 3319, Washington, DC 20024, **202 874-1490**

RIN: 1545–AP85

3065. TAXABLE MORTGAGE POOLS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7701(i) Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7701

Legal Deadline: None

Abstract: This regulation will provide rules related to taxable mortgage pools.

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61029
NPRM Comment Period End	04/12/93	57 FR 61029
Final Action	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-055-91.

Drafting attorney: Susan E. Overlander (202) 622-3960.

Reviewing attorney: Marshall Feiring (202) 622-3960.

Treasury attorney: Carol Schultze (202) 622-3960.

Agency Contact: Susan E. Overlander, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 290224, **202 622-3960**

RIN: 1545–AP98

3066. DEFINITION OF LIFE INSURANCE CONTRACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7702 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules to define a life insurance contract.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-107-87.

Drafting attorney: Ann H. Logan (202) 622-3970.

Reviewing attorney: Stephen D. Hooe (202) 622-3970.

Agency Contact: Ann H. Logan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3970**

RIN: 1545–AL08

3067. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 1.7704-1T

Legal Deadline: None

Abstract: The regulations provide rules relating to the classification of publicly traded partnerships.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-13-88.

Drafting attorney: Ann Veninga (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3050.

Treasury attorney: Barksdale Penick (202) 622-1335.

Agency Contact: Ann Veninga, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AL57

3068. • EXTENSION OF TIME FOR MAKING ELECTIONS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.9100-1

Legal Deadline: None

Abstract: These regulations amend section 301.9100-1, which provides an extension of time for making an election not expressly prescribed by statute.

Timetable:

Action	Date	FR Cite
NPRM	06/01/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-65-92.

Drafting attorney: Barbara B. Walker (202) 622-3060.

Reviewing attorney: Rudolf M. Planert (202) 622-4940.

Treasury attorney: Eve Elgin (202) 622-1338.

Agency Contact: Barbara Walker, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3060**

RIN: 1545–AR14

3069. • WITHDRAWAL OF PROPOSED REGULATIONS FOR WHICH THERE ARE NO CURRENT PLANS TO FINALIZE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation withdraws proposed regulations under 26 CFR part 1.

Timetable:

Action	Date	FR Cite
Withdrawal	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-53-92.

Drafting attorney: Paul C. Feinberg (202) 622-3325.

Agency Contact: Paul C. Feinberg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3325**

RIN: 1545–AR37

3070. • TECHNICAL CORRECTIONS FOR CHAPTER 14

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides technical corrections under chapters 2701, 2702, 2703 and 2704.

Timetable:

Action	Date	FR Cite
NPRM	09/30/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-8-93.

Drafting attorney: Fred Grundeman (202) 622-3090.

Agency Contact: Frederic Grundeman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3090**

RIN: 1545–AR49

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Final Rule Stage

3071. TO PROVIDE REGULATIONS RELATING TO MORTGAGE CREDIT CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 25 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.25-1T to 1.25-8T; 26 CFR 1.6709-1

Legal Deadline: None

Abstract: The regulations will provide guidance on the issuance of mortgage credit certificates rules. Guidance will be provided with respect to the various eligibility requirements that mortgagors must satisfy as well as the various program requirements that issuers must satisfy.

Timetable:

Action	Date	FR Cite
NPRM	05/08/85	50 FR 19383
NPRM Comment Period End	07/08/85	50 FR 19383
Hearing	08/14/85	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions

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Final Rule Stage

Government Levels Affected: Local, State

Additional Information: FI-245-84.

Drafting attorney: Harold N. Diamond (202) 622-3980.

Agency Contact: Harold N. Diamond, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3980

RIN: 1545–AH06

3072. INCOME TAX—INFORMATION REPORTING FOR MORTGAGE CREDIT CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 25 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.25-1T to 1.25-8T

Legal Deadline: None

Abstract: The regulations would provide guidance to issuers of mortgage credit certificates relating to the information to be collected with respect to each recipient of a mortgage credit certificate. The regulations will also provide guidance regarding the time and manner of filing this information with the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	09/03/85	50 FR 35572
NPRM Comment Period End	11/04/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information: FI-114-85.

Drafting attorney: Harold N. Diamond (202) 622-3980.

Reviewing attorney: Lon B. Smith (202) 622-3980.

Agency Contact: Harold N. Diamond, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3980

RIN: 1545–AI39

3073. MORTGAGE CREDIT CERTIFICATES IN TARGETED AREAS

Legal Authority: 26 USC 25(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.25-4T(g)(2)

Legal Deadline: None

Abstract: The percentage of mortgage originations required by section 1.25-4T(g) (8 percent) was predicated on the 1:5 trade-in rate contained in former section 25(c) of the Code. To accommodate the new 1:4 rate contained in section 25(c), we are amending section 1.25-4T(g).

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: FI-068-89.

Drafting attorney: Harold Diamond (202) 566-3980.

Agency Contact: Harold Diamond, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3980

RIN: 1545–AN93

3074. LOW-INCOME HOUSING CREDIT ALLOCATION RULES AND INFORMATION REPORTING REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide low-income housing credit allocation and reporting rules.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23471
NPRM Comment Period End	08/21/87	52 FR 23471
Hearing	11/09/87	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-83-86.

Drafting attorney: Jeffrey Erickson (202) 622-3040.

Reviewing attorney: James F. Ranson (202) 622-3040.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Jeffrey A. Erickson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3040

RIN: 1545–AJ65

3075. SPECIAL RULES TO AVOID SUBSTANTIAL DISTORTION FOR RECOVERY OF BASIS ON A CONTINGENT SALE

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 453

Legal Deadline: None

Abstract: Regulations will clarify that the Internal Revenue Service may require an alternative method of basis recovery in the event that the general rules of section 15a.453-(1)(c) substantially and inappropriately defer recovery of basis.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-071-90.

Drafting attorney: James A. Orefice (202) 622-4910.

Reviewing attorney: Mike Montemurro (202) 622-4910.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4910

RIN: 1545–AP41

3076. • CARRYOVER ALLOCATIONS AND OTHER RULES RELATING TO THE LOW-INCOME HOUSING CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations provide guidance with respect to: (1) eligibility for a carryover allocation; (2) procedures for electing an appropriate

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Final Rule Stage

percentage month; (3) the general public use requirement; (4) utility allowances to be used in determining gross rent; and (5) the inclusion of the cost of certain services in gross rent.

Timetable:

Action	Date	FR Cite
NPRM	12/29/92	57 FR 51852
NPRM Comment Period End	01/26/93	
Final Action	09/30/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Additional Information: PS-19-92.

Drafting attorney: Christopher Wilson (202) 622-3040.

Agency Contact: Christopher Wilson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3040

RIN: 1545–AR15

3077. CREDIT FOR COSTS RELATED TO ENHANCED OIL RECOVERY PROJECTS

Significance: Agency Priority

Legal Authority: PL 101-508 Revenue Reconciliation Act of 1990

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will determine when a credit is allowed for costs paid or incurred in connection with an enhanced oil recovery project, including which costs are included, the credit base, and the methods that qualify as qualified tertiary recovery methods.

Timetable:

Action	Date	FR Cite
NPRM	12/30/91	56 FR 67256
Hearing	04/07/92	56 FR 67256
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-101-90.

Drafting attorney: Brenda Stewart (202) 622-3120.

Reviewing attorney: Joseph Makurath (202) 622-3120.

Treasury attorney: Barksdale Penick (202) 622-1335.

Agency Contact: Brenda Stewart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3120

RIN: 1545–AP64

3078. CERTIFICATION OF ENHANCED OIL RECOVERY PROJECTS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 43(c)(2)(B) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.43-3T

Legal Deadline: None

Abstract: The proposed regulations provide procedures whereby an operator or designated owner of an enhanced oil recovery project certifies to the Internal Revenue Service that the project satisfies the requirements of section 43(c) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	12/30/91	56 FR 67255
Hearing	04/07/92	56 FR 67255
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-97-91.

Drafting attorney: Brenda M. Stewart (202) 622-3120.

Reviewing attorney: Joseph H. Makurath (202) 622-3120.

Treasury attorney: Barksdale Penick (202) 566-1335.

Agency Contact: Brenda M. Stewart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3120

RIN: 1545–AQ22

3079. INCOME TAX—SPECIAL RULES ADDED BY SEC 223(C) OF CRUDE OIL WINDFALL PROFIT TAX ACT 1980, RELATING TO REDUCTION OF CREDIT WHERE PROPERTY IS FINANCED BY SUBSIDIZED, ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 48 (l) Internal Revenue Code of 1986; PL 96-223, sec 223(c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide that subsidized energy financing and proceeds of exempt industrial development bonds used to finance a facility reduce the qualified investment in the energy property contained in that facility for purposes of determining the amount of the energy tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/26/82	47 FR 03559
NPRM Comment Period End	03/20/82	47 FR 03559
Hearing	06/03/82	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-176-80.

Drafting attorney: Winston H. Douglas (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Agency Contact: Winston H. Douglas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3110

RIN: 1545–AA26

3080. INCOME TAX—INVENTORY ADJUSTMENT FOR THE ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance with respect to inventory adjustment for the alternative minimum tax.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-84-87.

Drafting attorney: Edward C. Schwartz (202) 622-4960.

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Reviewing attorney: William Jackson (202) 622-4960.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Edward C. Schwartz, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AL03

3081. APPLICATION OF SECTION 58(H) OF THE 1954 CODE TO SITUATIONS INVOLVING NOL CARRYBACKS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 58(h) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: This regulation will give guidance on how to apply the special 58(h) tax benefit rule when a taxpayer receives no tax benefit from items of tax preference because of net operating losses.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-060-89.

Drafting attorney: Kelly Richardson Berg (202) 622-4960.

Reviewing attorney: William Jackson (202) 622-4960.

Agency Contact: Kelly Richardson Berg, Tax Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AO36

3082. TAXATION OF FRINGE BENEFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 61 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would amend section 1.61-21(d)(3)(ii) which concerns the valuation of employer-paid fuel.

Timetable:

Action	Date	FR Cite
NPRM	10/09/92	57 FR 46525
NPRM Comment Period End	11/09/92	57 FR 46525
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-101-91.

Drafting attorney: Marianna Dyson (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Treasury attorney: Kurt Lawson (202) 622-1352.

Agency Contact: Marianna Dyson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6040**

RIN: 1545–AQ28

3083. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 67 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance regarding the miscellaneous itemized deductions that are subject to the 2-percent floor and provide expense allocation rules for regulated investment companies and REMICs.

Timetable:

Action	Date	FR Cite
NPRM	03/28/88	53 FR 9951
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-97-86.

Drafting attorney: Beverly A. Baughman (202) 622-4940.

Reviewing attorney: George B. Baker (202) 622-4920.

Treasury attorney: J. Judge Kelley (202) 622-1339.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4940**

RIN: 1545–AJ49

3084. NOTICE OF ALLOCATION OF ALLOCABLE INVESTMENT EXPENSE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 67 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposed regulation would provide that issuers of single-class REMICS furnish notice to interest holders in the manner generally provided for REMICS in section 1.6049-7 of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/02/92	57 FR 40378
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-61-91.

Drafting attorney: James W.C. Canup (202) 622-3950.

Agency Contact: James W.C. Canup, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3950**

RIN: 1545–AQ82

3085. TREATMENT OF TRANSFER OF PROPERTY BETWEEN SPOUSES, TAX TREATMENT OF ALIMONY AND SEPARATE MAINTENANCE PAYMENTS, AND DEPENDENCY EXEMPTION IN THE CASE OF CHILD OF DIVORCED PARENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 71 Internal Revenue Code of 1986; 26 USC 215 Internal Revenue Code of 1986; 26 USC 1041 Internal Revenue Code of 1986; 26 USC 152 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to assist taxpayers in determining whether alimony and separate maintenance payments are deductible from income by the payor and includible in income by the payee, whether property transferred between spouses or between spouses incident to divorce has a carryover basis and whether the custodial or noncustodial parent is entitled to the dependency exemption.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34528
NPRM Comment Period End	10/20/84	49 FR 34528
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-153-84.

Drafting attorney: Edward C. Schwartz (202) 622-4960.

Reviewing attorney: Stephen J. Toomey (202) 622-4960.

Agency Contact: Edward C. Schwartz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AI49

3086. NONDISCRIMINATION RULES FOR NON-PENSION EMPLOYEE BENEFIT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 89 Internal Revenue Code of 1986; 26 USC 125 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide the following: an explanation of the eligibility, benefits and alternative tests contained in section 89; an explanation as to which plans are subject to section 89 requirements; and rules concerning how the requirements will be applied in actual operation. Also, these regulations will provide additional guidance for cafeteria plans under section 125.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	54 FR 9460
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: EE-174-86.

Drafting attorney: Munroe/Zech (202) 622-6080.

Reviewing attorney: Nancy Marks (202) 622-6000.

Agency Contact: David Munroe/Felix Zech, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6080**

RIN: 1545–AI78

3087. INCOME TAX—EXEMPTION FOR INDUSTRIAL DEVELOPMENT BONDS FOR WATER FACILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 142 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide guidance to determine the rules under which facilities for furnishing water to members of the general public can be financed with tax-exempt industrial development bonds under section 142 (e) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	08/22/84	49 FR 33283
NPRM Comment Period End	10/22/84	49 FR 33283
Hearing	01/30/85	49 FR 45449
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-190-78.

Drafting attorney: L. Michael Wachtel (202) 622-3980.

Reviewing attorney: Lon Smith (202) 622-3980.

Treasury attorney: Mitch Rappaport (202) 622-0871.

Agency Contact: L. Michael Wachtel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AA49

3088. INCOME TAX—TO DEFINE THE TERM "PRINCIPAL USER OF A FACILITY"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 144 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would define the meaning of the term "principal user of a facility" for purposes of applying the limitation set by the Internal Revenue Code upon the permissible size of a small issue of tax-exempt bonds, as diminished by certain other capital expenditures. This regulation would help identify other facilities the capital expenditures from which must be taken into account in determining whether that issue exceeds the small issue limitation.

Timetable:

Action	Date	FR Cite
NPRM	02/21/86	51 FR 6274
NPRM Comment Period End	04/22/86	51 FR 6274
Hearing	06/04/86	51 FR 6273
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-59-74.

Drafting attorney: Dave White (202) 622-3980.

Treasury attorney: Mitch Rappaport (202) 622-0871.

Agency Contact: David E. White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AA56

3089. INCOME TAX—MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules which interpret the provisions of section 103A, releting to Mortgage Subsidy Bonds. Mortgage Subsidy Bonds are any obligations a significant portion of the proceeds of

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which are used to provide financing for owner-occupied residences.

Timetable:

Action	Date	FR Cite
NPRM - Previous	07/01/81	46 FR 34348
Hearing	11/05/81	
NPRM	11/10/81	46 FR 55513
NPRM Comment Period End	01/09/82	46 FR 55513

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-10-81.

Drafting attorney: Suzanne Reynolds (202) 622-3980.

Agency Contact: Suzanne Reynolds, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AA63

3090. TO PROVIDE REGULATIONS REQUIRING CERTAIN DEBT OBLIGATIONS TO BE ISSUED IN REGISTERED FORM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 (a) Internal Revenue Code of 1986; 26 USC 163 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules will provide that certain debt obligations issued after December 31, 1982, must be in registered form. The rules will provide examples of certain obligations that are not subject to the registration requirements. The sanctions for not issuing an obligation in registered form are the denial of an interest deduction, loss of capital gains treatment, loss of an earnings and profits adjustment, and loss of tax-exempt interest status.

Timetable:

Action	Date	FR Cite
NPRM	11/15/82	47 FR 51414
NPRM Comment Period End	01/14/83	47 FR 51414
Hearing	01/25/83	47 FR 51414
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: FI-255-82.

Drafting attorney: Dianne O. Umberger (202) 622-3960.

Reviewing attorney: Alice Bennett (202) 622-3950.

Agency Contact: Dianne O. Umberger, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3960**

RIN: 1545–AE18

3091. TO PROVIDE REGULATIONS UNDER SECTION 103(K) AND (L)—RELATING TO PUBLIC APPROVAL AND INFORMATION REPORTING REQUIREMENTS FOR PRIVATE ACTIVITY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal will clarify the information reporting requirements with respect to private activity bonds. Industrial development bonds must be publicly approved--failure to fulfill this requirement results in loss of tax exemption for the interest on these bonds. Issuers of student loan bonds, charitable use bonds and industrial development bonds are required to supply certain information to the Internal Revenue Service. Failure to comply with this requirement will result in the loss of tax exemption for the bond's interest.

Timetable:

Action	Date	FR Cite
NPRM	05/11/83	48 FR 21166
NPRM Comment Period End	07/11/83	48 FR 21166
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-221-82.

Drafting attorney: Suzanne Reynolds (202) 622-3980.

Reviewing attorney: Lon B. Smith (202) 622-3980.

Agency Contact: Suzanne Reynolds, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AE24

3092. REGULATIONS RELATING TO $40 MILLION SMALL ISSUE LIMIT ON TAX-EXEMPT BONDS PER TAXPAYER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 144(a)(10) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations would provide guidance regarding the circumstances under which a bond is not treated as a qualified small issue bond if any test period beneficiary of the bond has more than $40 million of tax-exempt financing. These regulations would also provide guidance regarding how the proceeds of an issue of industrial development bonds are to be allocated among its beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	02/21/86	51 FR 6270
NPRM Comment Period End	04/22/86	51 FR 6270
Hearing	06/04/86	51 FR 6273

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-157-84.

Drafting attorney: Dave White (202) 622-3980.

Treasury attorney: Mitch Rappaport (202) 622-0871.

Agency Contact: David E. White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AH19

3093. TO PROVIDE REGULATIONS RELATING TO THE TAX EXEMPTION OF OBLIGATIONS TO FINANCE MIXED-USE RESIDENTIAL RENTAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.103-8

Legal Deadline: None

Abstract: The regulations will clarify the rule relating to obligations to provide residential rented property. The regulations will make clear that a residential rental project can consist in part of non-residential rental property.

Timetable:

Action	Date	FR Cite
NPRM	10/07/85	50 FR 46303
NPRM Comment Period End	01/06/86	
Hearing	02/10/86	51 FR 1392

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-269-84.

Drafting attorney: L. Michael Wachtel (202) 622-3980.

Reviewing attorney: Lon Smith (202) 622-3980.

Agency Contact: L. Michael Wachtel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AH68

3094. PROPOSED REGULATIONS UNDER SECTION 108; DISCHARGE OF INDEBTEDNESS

Legal Authority: 26 USC 108 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for determining whether stock is nominal or token.

Timetable:

Action	Date	FR Cite
Hearing	03/08/91	55 FR 53005
NPRM	11/04/92	57 FR 2601
NPRM Comment Period End	12/21/92	57 FR 2601
Final Action	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: CO-076-90.

Drafting attorney: Annette Ahlers (202) 622-7750.

Reviewing attorney: Nelson Crouch (202) 622-7740.

Treasury attorney: Michael Schultz (202) 622-1343.

Agency Contact: Annette Ahlers, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7750**

RIN: 1545–AP19

3095. CONSOLIDATED ATTRIBUTE REDUCTION UNDER SECTION 108(B)

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The attribute reduction required by section 108(b) only applies on a single entity basis. This regulation sets forth rules for the reduction of attributes under section 108(b) on a consolidated basis.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-72-91.

Drafting attorney: Amy Sargent (202) 622-4930.

Reviewing attorney: Mark Schneider (202) 622-4890.

Agency Contact: Amy Sargent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4930**

RIN: 1545–AQ84

3096. COMBAT ZONE COMPENSATION OF MEMBERS OF THE ARMED FORCES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 112 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.112-1

Legal Deadline: None

Abstract: Regulations are an update of regulations on combat zone compensation excludable from gross income under section 112. The regulations provide guidance to armed forces payroll centers and to service members for determining the conditions for the exclusion and the amount excludable.

Timetable:

Action	Date	FR Cite
NPRM	03/11/91	56 FR 10211
NPRM Comment Period End	05/10/91	56 FR 10211
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: EE-4-91.

Drafting attorney: Gregory J. Stull (202) 622-6040.

Reviewing attorney: Mary Oppenheimer (202) 622-6010.

Treasury attorney: Jim Miller (202) 622-1768.

Agency Contact: Marie Cashman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6040**

RIN: 1545–AP53

3097. EXCLUSION OF QUALIFIED SCHOLARSHIPS AND FELLOWSHIPS FROM GROSS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 117 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide rules relating to the exclusion of certain amounts received as a qualified scholarship. Regulations will also provide rules relating to withholding from certain payments and return of information requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/09/88	53 FR 21688
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-3-87.

Drafting attorney: Kelly Richardson Berg (202) 622-4960.

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Reviewing attorney: William Jackson (202) 622-4960.

Agency Contact: Kelly Richardson Berg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AJ87

3098. INCOME TAX—TAX TREATMENT OF CAFETERIA PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 125 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations establish rules for the tax treatment of cafeteria plans meeting certain nondiscrimination standards. A cafeteria plan permits participating employees to select the particular fringe benefits desired from a package of employer-provided benefits which include statutory nontaxable benefits and cash.

Timetable:

Action	Date	FR Cite
NPRM	12/31/84	49 FR 50733
NPRM Comment Period End	01/30/85	
Hearing	03/11/85	
NPRM	03/07/89	54 FR 9500
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-16-79.

Drafting attorney: Felix Zech (202) 622-6080.

Reviewing attorney: Harry Beker (202) 622-6080.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Kurt Lawson (202) 622-1352.

Agency Contact: Felix Zech, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6080**

RIN: 1545–AD63

3099. INCOME TAX-EXCLUSION FROM INCOME OF CERTAIN COST-SHARING PAYMENTS UNDER GOVERNMENT PROGRAMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 126 Internal Revenue Code of 1986; 26 USC 1255 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules on the exclusion from gross income of certain cost-sharing payments made by the Department of Agriculture and State governments to taxpayers for purposes of conservation, reclamation or restoration and on the amount recaptured when the property improved with the excluded income is sold within a certain specified period of time.

Timetable:

Action	Date	FR Cite
NPRM	05/21/81	46 FR 27723
NPRM Comment Period End	07/20/81	46 FR 27723
Hearing	12/01/81	46 FR 50808
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-222-76.

Drafting attorney: A. Michael Santoro, Jr. (202) 622-3120.

Reviewing attorney: Emil O. Muhs, Jr. (202) 622-3120.

Agency Contact: A. Michael Santoro, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3120**

RIN: 1545–AA73

3100. RECOVERY OF OVERPAYMENTS OF ARBITRAGE REBATE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 148 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.148-13T

Legal Deadline: None

Abstract: Under section 148 of the 1986 Code, arbitrage rebate payments are not refundable. However, provision should be made for recovery of overpayments of rebate if the issuer establishes to the satisfaction of the Commissioner that: (1) the issuer paid an amount in excess of the determined rebatable arbitrage, (2) the excess was paid in error, and (3) recovery of the overpayment at the date first requested would not result in rebatable arbitrage as of such date.

Timetable:

Action	Date	FR Cite
NPRM	05/18/92	57 FR 21044
Temporary Regulation	05/18/92	57 FR 20971
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-067-89.

Drafting attorney: William P. Cejudo (202) 622-3980.

Reviewing attorney: Lon B. Smith (202) 622-3980.

Agency Contact: William P. Cejudo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AO15

3101. • ARBITRAGE BONDS

Legal Authority: 26 USC 148 Internal Revenue Code of 1986; 26 USC 149 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.148 (f); 26 CFR 1.148 (i); 26 CFR 1.149 (g)(5); 26 CFR 1.149 (d)(7); 26 CFR 1.147; 26 CFR 1.148; 26 CFR 1.149 (d); 26 CFR 1.150

Legal Deadline: None

Abstract: Proposed regulations on the arbitrage restrictions applicable to tax-exempt bonds.

Timetable:

Action	Date	FR Cite
NPRM	11/06/92	57 FR 53046
NPRM Comment Period End	01/15/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FI-36-92.

Drafting attorney: William Cejudo (202) 622-3980.

Agency Contact: William Cejudo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AR05

3102. SUBSEQUENT INTENTIONAL ACTS TO EARN ARBITRAGE AND THE REASONABLE EXPECTATIONS TEST FOR ARBITRAGE BONDS

Legal Authority: 26 USC 148 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.103-13

Legal Deadline: None

Abstract: The proposed regulations provide that if subsequent intentional acts are taken after the date of issue to earn arbitrage, the reasonable expectations test does not prevent a bond from being declared an arbitrage bond.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-044-89.

Drafting attorney: David White (202) 622-3980.

Agency Contact: David White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AN69

3103. EXCEPTIONS FROM PROHIBITION OF FEDERAL GUARANTEES—PERMITTED INVESTMENTS OF TAX EXEMPT BOND PROCEEDS

Legal Authority: 26 USC 149(b)(3)(B)(v)Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.149(b)(3)-1T

Legal Deadline: None

Abstract: These temporary regulations except investments in obligations issued by the Resolution Funding Corporation from the prohibition of Federal guarantees applicable to tax-exempt bonds.

Timetable:

Action	Date	FR Cite
NPRM	10/15/90	55 FR 41695
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: FI-084-90.

Drafting attorney: William Cejudo (202) 622-3980.

Reviewing attorney: Lon Smith (202) 622-3980.

Treasury attorney: Mitchell Rapaport (202) 622-1354.

Agency Contact: William Cejudo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AP11

3104. CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 106(b) Internal Revenue Code of 1986; 26 USC 162(i)(2) Internal Revenue Code of 1986; 26 USC 162(k) Internal Revenue Code of 1986; 26 USC 4980B Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None

Abstract: These regulations will provide guidance relating to the requirement that a group health plan provide continuation coverage to individuals who would otherwise lose coverage as a result of certain events.

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22716
NPRM Comment Period End	08/14/87	52 FR 22716
Hearing	11/04/87	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-143-86.

Drafting attorney: Russell Weinheimer (202) 622-6060.

Review attorney: Mark Schwimmer (202) 622-6060.

Treasury attorney: Kurt Lawson (202) 622-2647.

Agency Contact: Russell Weinheimer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6060**

RIN: 1545–AI93

3105. INCOME TAX REGULATIONS—LIMITATIONS ON DEDUCTIONS FOR NONBUSINESS INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance relating to the disallowance of a deduction for personal interest, including guidance regarding the definitions of qualified residence, qualified residence interest and qualified indebtedness.

Timetable:

Action	Date	FR Cite
NPRM	12/22/87	52 FR 48452
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-137-86.

Drafting attorney: Sharon L. Hall (202) 622-4930.

Reviewing attorney: Kelly Alton (202) 622-4880.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4930**

RIN: 1545–AK17

3106. EARNINGS STRIPPING PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation addresses the deductibility of interest under section 163 being limited when paid by e

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corporation to related persons not subject to U.S. tax.

Timetable:

Action	Date	FR Cite
NPRM	06/18/91	56 FR 27907
Hearing	09/25/91	56 FR 27927
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-870-89

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Marlin Risinger (202) 622-1762.

Agency Contact: Jacob Feldman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3870

RIN: 1545–AO24

3107. INCOME TAX REGULATIONS—TAX STRADDLES RELATING TO SECTION 108 OF THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 165 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules under section 108 of the Tax Reform Act of 1984 and section 1808 (d) of the Tax Reform Act of 1986, relating to the treatment of certain losses on straddles entered into before the effective date of the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	08/23/84	49 FR 33458
NPRM Comment Period End	10/22/84	49 FR 33458
Hearing	11/29/84	
Final Action	12/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-147-84.

Drafting attorney: Robert B. Williams (202) 622-3950.

Reviewing attorney: Alice A. Bennett (202) 622-3950.

Agency Contact: Robert B. Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3950

RIN: 1545–AG57

3108. SECTION 165 REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 165(f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 165

Legal Deadline: None

Abstract: This regulation project will finalize all outstanding proposed and temporary regulations under section 1.165-5.

Timetable:

Action	Date	FR Cite
NPRM	01/21/93	58 FR 5316
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-115-90.

Drafting attorney: Carl M. Cooper (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Treasury attorney: Emily McMahon (202) 622-1763.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3840

RIN: 1545–AP33

3109. • BANK BAD DEBTS; CONCLUSIVE PRESUMPTION

Significance: Regulatory Program

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will make minor substantive changes to section 1.66-2(d)(3) of the Income Tax Regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/02/92	57 FR 45587
Final Action	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-49-92.

Drafting attorney: Craig Wojay (202) 622-4122.

Reviewing attorney: Al Kraft (202) 622 3097.

Treasury attorney: Eve Elgin (202) 622 1338.

Agency Contact: Craig Wojay, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-4122

RIN: 1545–AR02

3110. • BANK BAD DEBTS, CONCLUSIVE PRESUMPTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 166 Internal Revenue Code of 1986

CFR Citation: 26 CFR 166

Legal Deadline: None

Abstract: Amendments to conformity presumption regulation to clarify the scope of the required "Express Determination" letter.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/92	57 FR 45587
Interim Final Rule	10/02/92	57 FR 45568
ANPRM Comment Period End	12/02/92	
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernita Thigpen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-4016

RIN: 1545–AR47

3111. TAX-EXEMPT ENTITY LEASING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules concerning tax-exempt entity leasing and service contracts.

Timetable:

Action	Date	FR Cite
NPRM	07/02/85	50 FR 27297
NPRM Comment Period End	09/03/85	50 FR 27297
Hearing	11/25/85	
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: IA-31-85.

Drafting attorney: Edward C. Schwartz (202) 622-4960.

Reviewing attorney: Stephen J. Toomey (202) 622-4960.

Agency Contact: Edward C. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4960

RIN: 1545–AH76

3112. APPLICABLE CONVENTIONS UNDER THE ACCELERATED COST RECOVERY SYSTEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide rules relating to the half-year and mid-quarter conventions under the accelerated cost recovery system applicable to property generally placed in service after December 31, 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/31/90	55 FR 53571
NPRM Comment Period End	02/14/91	55 FR 53571
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-054-89.

Drafting attorney: Mark Pitzer (202) 622-3110.

Reviewing attorney: Peter Friedman (202) 622-3110.

Treasury attorney: Barksdale Penick (202) 622-1335.

Agency Contact: Mark Pitzer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3110

RIN: 1545–AN81

3113. GENERAL ASSET ACCOUNTS UNDER THE ACCELERATED COST RECOVERY SYSTEM

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide rules relating to the treatment of General Asset Accounts under the Accelerated Cost Recovery System. The regulation applies to property placed in service in taxable years ending on or after the date of publication of the final regulation in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	08/31/92	57 FR 39374
NPRM Comment Period End	10/15/92	
Hearing	11/04/92	
Final Action	06/30/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-055-89.

Drafting attorney: Kathleen Reed (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Treasury attorney: P. Val Strehlow (202) 622-0869.

Agency Contact: Kathleen Reed, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3110

RIN: 1545–AN82

3114. DEFINITION OF RESEARCH AND EXPERIMENTAL EXPENDITURES UNDER SECTION 174 OF THE CODE

Legal Authority: 26 USC 7805(a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.174-2; 26 CFR 1.41

Legal Deadline: None

Abstract: The regulations clarify the definition of "research or experimental expenditures" under section 174 of the Internal Revenue Code. The regulations also clarify the definition of "research and experimental expenditures" for purposes of section 41 of the Code, because section 41 relies on the definition of that item in section 174. The regulation also provides a rule interpreting the reasonableness requirement of section 174(e).

Timetable:

Action	Date	FR Cite
NPRM	05/17/89	54 FR 21224
NPRM Comment Period End	07/17/89	
Public Hearing	12/05/89	54 FR 37947
NPRM	01/12/93	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-002-89.

Drafting attorney: David Hudson (202) 622-3120.

Reviewing attorney: Christine Ellison (202) 622-3120.

Treasury attorney: Michael Schultz (202) 622-1343.

Agency Contact: David Hudson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3120

RIN: 1545–AM92

3115. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the costs incurred in the production and acquisition of property for resale in a trade or business or activity conducted for profit.

Timetable:

Action	Date	FR Cite
NPRM	03/30/87	52 FR 10118
NPRM Comment Period End	05/29/87	

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Action	Date	FR Cite
Hearing	12/07/87	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-168-86.

Drafting attorney: Ellen McElroy (202) 622-4970.

Reviewing attorney: Tom Luxner (202) 622-4970.

Agency Contact: Ellen McElroy, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4970

RIN: 1545–AK05

3116. CAPITALIZATION AND INCLUSION IN INVENTORY OF CERTAIN COSTS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules provide general rules regarding the operation of the uniform capitalization rules.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/87	52 FR 10118
ANPRM Comment Period End	05/29/87	52 FR 10118
Hearing	12/08/87	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-62-91.

Drafting attorney: Ellen McElroy (202) 622-7272.

Reviewing attorney: Tom Luxner (202) 622-4970.

Treasury reviewer: J. Paul Whitehead (202) 622-0868.

Agency Contact: Ellen McElroy, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-7272

RIN: 1545–AQ88

3117. RULES RELATING TO PRODUCED PROPERTY

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules provide guidance regarding the capitalization of costs associated with produced property.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/87	52 FR 10118
ANPRM Comment Period End	05/29/87	52 FR 10118
Hearing	12/08/87	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-63-91.

Drafting attorney: Ellen McElroy (202) 622-7272.

Reviewing attorney: Tom Luxner (202) 622-4970.

Treasury attorney: J. Paul Whitehead (202) 622-0868.

Agency Contact: Ellen McElroy, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-7272

RIN: 1545–AQ89

3118. RULES RELATING TO RESELLERS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules provide guidance for resellers subject to the uniform capitalization rules.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/87	52 FR 10118
ANPRM Comment Period End	05/29/87	52 FR 10118
Hearing	12/08/87	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-64-91.

Drafting attorney: Ellen McElroy (202) 622-7272.

Reviewing attorney: Tom Luxner (202) 622-4970.

Treasury attorney: J. Paul Whitehead (202) 622-0868.

Agency Contact: Ellen McElroy, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-7272

RIN: 1545–AQ90

3119. RULES RELATING TO FARMERS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules provide general rules regarding the application of the uniform capitalization rules to taxpayers engaged in farming.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/87	52 FR 10118
ANPRM Comment Period End	05/29/87	52 FR 1018
Hearing	12/08/87	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-65-91.

Drafting attorney: Merrill Feldstein (202) 622-4970.

Reviewing attorney: Tom Luxner (202) 622-4970.

Treasury attorney: J. Paul Whitehead (202) 622-0868.

Agency Contact: Merrill Feldstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4970

RIN: 1545–AQ91

3120. RULES RELATING TO CREATIVE PROPERTY

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules provide general rules regarding the application of the uniform capitalization rules to creative properties.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/87	52 FR 10118
ANPRM Comment Period End	05/29/87	52 FR 10118
Hearing	12/08/87	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-66-91.

Drafting attorney: Merrill Feldstein (202) 622-4970.

Reviewing attorney: Tom Luxner (202) 622-4970.

Treasury attorney: J. Paul Whitehead (202) 622-0868.

Agency Contact: Merrill Feldstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4970

RIN: 1545–AQ92

3121. RULES RELATING TO FOREIGN TAXPAYERS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules provide guidance regarding the application of the uniform capitalization rules to foreign taxpayers.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/87	52 FR 10118
ANPRM Comment Period End	05/29/87	52 FR 10118
Hearing	12/08/87	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-67-91.

Drafting attorney: Ellen McElroy (202) 622-7272.

Reviewing attorney: Tom Luxner (202) 622-4970.

Treasury reviewer: J. Paul Whitehead (202) 622-0868.

Agency Contact: Ellen McElroy, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-7272

RIN: 1545–AQ93

3122. METHOD CHANGE RULES FOR THE UNIFORM CAPITALIZATION RULES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules provide guidance regarding the method change requirement of section 263A.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/87	52 FR 10118
ANPRM Comment Period End	05/29/87	52 FR 10118
Hearing	12/08/87	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-68-91.

Drafting attorney: Ellen McElroy (202) 622-7272.

Reviewing attorney: Tom Luxner (202) 622-4970.

Treasury reviewer: J. Paul Whitehead (202) 622-0868.

Agency Contact: Ellen McElroy, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-7272

RIN: 1545–AQ94

3123. CAPITALIZATION OF INTEREST EXPENSE RELATING TO PRODUCTION OF PROPERTY

Significance: Regulatory Program

Legal Authority: 26 USC 263A(f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations concerning the capitalization of interest expense in the case of the production of designated property.

Timetable:

Action	Date	FR Cite
NPRM	08/16/91	56 FR 40815
Hearing	11/20/91	56 FR 40842
Final Action	04/01/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-120-86.

Drafting attorney: Mary Goode (202) 622-4960.

Reviewing attorney: Richard Davis (202) 622-4970.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Mary Goode, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4960

RIN: 1545–AK03

3124. LOSSES, EXPENSES, AND INTEREST IN TRANSACTIONS BETWEEN RELATED TAXPAYERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 0267 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The primary purpose of this project is to provide final regulations under section 267 of the Internal Revenue Code concerning the deferral and restoration of loss on the intercompany sale of property from one member of a controlled group of corporations to another member.

Timetable:

Action	Date	FR Cite
NPRM	11/30/84	49 FR 47048
NPRM Comment Period End	01/29/85	49 FR 47048
Next Action Undetermined		

Small Entities Affected: None

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Government Levels Affected: None

Additional Information: CO-023-89.

Drafting attorney: Keith E. Stanley (202) 622-7750.

Reviewing attorney: Nelson R. Crouch (202) 622-7740.

Treasury attorney: Andrew Dubroff (202) 622-1766.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7750**

RIN: 1545–AN19

3125. INCOME TAX—PERSONAL SERVICE CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 269A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules for determining when the Internal Revenue Service may reallocate income or tax benefits between a personal service corporation and its employee-owners.

Timetable:

Action	Date	FR Cite
NPRM	03/31/83	48 FR 13438
NPRM Comment Period End	05/31/83	48 FR 13438
Hearing	07/19/83	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-188-82.

Drafting attorney: Brendan O'Hara (202) 622-7530.

Reviewing attorney: Nelson Crouch (202) 622-7740.

Agency Contact: Brendan O'Hara, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-7530**

RIN: 1545–AF11

3126. INCOME TAX—SUBSTANTIATION REQUIREMENTS WITH RESPECT TO LISTED PROPERTY AND SUBSTANTIATION REQUIREMENTS RELATING TO THE TAXATION OF FRINGE BENEFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will set forth the requirements to substantiate any deduction or credit for certain business-related expenses with adequate records or sufficient evidence corroborating a taxpayer's own statement.

Timetable:

Action	Date	FR Cite
NPRM	11/06/85	50 FR 46006
NPRM Comment Period End	01/06/86	50 FR 46006
Hearing	03/04/86	51 FR 02898
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-140-86.

Drafting attorney: Joel Rutstein (202) 622-4930.

Reviewing attorney: Michael Finley (202) 622-4930.

Agency Contact: Joel Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4930**

RIN: 1545–AJ40

3127. AUTOMOBILE INCLUSION AMOUNTS FOR CALENDAR YEARS AFTER 1988

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280F Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide the requirements and tables to be used to determine the dollar amount, if any, that a lessee of a passenger automobile or other listed property must add to gross income. Further, the tax law applicable to automobiles placed in service after 1988 requires annual adjustments in the tables to reflect the automobile price inflation index.

Timetable:

Action	Date	FR Cite
NPRM	04/12/90	55 FR 13808
NPRM Comment Period End	06/11/90	55 FR 13808
Supplemental NPRM	01/24/92	57 FR 2862
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-53-89.

Drafting attorney: Bernard P. Harvey (202) 622-3110.

Reviewing attorney: Harold E. Burghart (202) 622-3110.

Treasury attorney: John H. Parcell (202) 622-2578.

Agency Contact: Bernard P. Harvey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3110**

RIN: 1545–AN80

3128. THE SUBSTANTIATION OF DEDUCTIONS CLAIMED FOR THE USE OF CELLULAR TELEPHONES AND COMPUTERS IN A TAXPAYER'S TRADE OR BUSINESS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280F Internal Revenue Code of 1986; 26 USC 61 Internal Revenue Code of 1986; 26 USC 132 Internal Revenue Code of 1986; 26 USC 274 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide the public with the guidance needed to substantiate the use of cellular telephones and computers in a trade or business. The regulations proposed for cellular telephones and computers follow the safe harbor rules for listed property, when the use of a cellular telephone in a trade or business occurs under special conditions.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-114-90.

Drafting attorney: Bernard P. Harvey (202) 622-3110.

Reviewing Tax Law Specialist: Harold E. Burghart (202) 622- 3110.

Treasury attorney: John E. Parcell (202) 622-2578.

Agency Contact: Bernard P. Harvey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3110**

RIN: 1545–AP45

3129. GOLDEN PARACHUTE PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280G Internal Revenue Code of 1986

CFR Citation: 26 CFR 280G

Legal Deadline: None

Abstract: These regulations will provide rules relating to restrictions on golden parachute payments. The regulations will provide guidance to taxpayers, who must comply with section 280G, by delineating the circumstances under which payments may be considered excess parachute payments.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19390
NPRM Comment Period End	07/05/89	
Hearing	11/21/89	54 FR 39548
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-30-90.

Drafting attorney: Robert Misner (202) 622-6060.

Agency Contact: Robert Misner, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6060**

RIN: 1545–AH49

3130. RECOGNITION OF GAIN OR LOSS ON LIQUIDATING SALES AND DISTRIBUTIONS OF PROPERTY

Significance: Regulatory Program

Legal Authority: 26 USC 336 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 (the "Act") repealed the last vestiges of the General Utilities doctrine ("GU repeal"), thereby requiring corporations to recognize gain in most cases upon the distribution of appreciated property to their shareholders. The Act granted the Secretary authority to promulgate regulations necessary to carry out the purposes of the Act. This project addresses issues related to the operating rules of sections 311, 331, 334, 336, and 337. Additional areas related to GU repeal, such as the scope of the repeal, will be addressed in a specific project.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-117-86.

Drafting attorney: Tom Matragrano (202) 622-7530.

Reviewing attorney: Don A. Leatherman (202) 622-7520.

Agency Contact: Tom Matragrano, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7530**

RIN: 1545–AJ01

3131. IMPLEMENT THE GUIDANCE IN NOTICE 89-37, WHICH TREATS THE RECEIPT OF A CORPORATE PARTNER'S STOCK BY THE CORPORATE PARTNER AS A CIRCUMVENTION OF GENERAL UTILITIES REPEAL

Legal Authority: 26 USC 337(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.337(d)

Legal Deadline: None

Abstract: The regulation will implement the guidance provided in Notice 89-37, 1989-1 C.B. 679, on the treatment of the receipt of a corporation partner's stock by other corporation partner in exchange for appreciated property from the other corporation partner.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	01/20/92	57 FR 59327
NPRM	12/15/92	57 FR 59324
Final Action	08/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-91-90.

Drafting attorney: Channing Brackey (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Agency Contact: Channing Brackey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AP52

3132. DEEMED PURCHASE PRICE WHEN CERTAIN STOCK PURCHASES ARE TREATED AS ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will prescribe rules for computing the basis of stock purchased in certain stock acquisitions and for allocating this basis among the assets of the corporation whose stock was thus acquired.

Timetable:

Action	Date	FR Cite
NPRM	07/01/86	51 FR 23790
NPRM Comment Period End	09/02/86	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-191-82.

Drafting attorney: Keith Medleau (202) 622-7550.

Reviewing attorney: William D. Alexander (202) 622-7550.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AF29

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3133. INCOME TAX—ELECTIONS UNDER SECTION 338, AS ADDED BY SECTION 224 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 AS AMENDED BY THE TECHNICAL CORRECTIONS ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986; PL 97-248, Sec 224; PL 97-448, Sec 306

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules for making elections under section 338, which permits certain stock purchases to be treated as asset acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	09/06/84	49 FR 35144
NPRM Comment Period End	11/05/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-26-83.

Drafting attorney: Keith Medleau (202) 622-7550.

Reviewing attorney: William D. Alexander (202) 622-7550.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AF38

3134. REGULATIONS UNDER SECTION 338(H)(10) AS ADDED TO THE CODE BY SECTION 306 OF THE TECHNICAL CORRECTIONS ACT OF 1982, RELATING TO SPECIAL ELECTIVE RECOGNITION OF GAIN OR LOSS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would interpret the rules of section 338(h)(10) under which a special election can be made so that target corporation recognizes gain or loss on the demand sale of its assets. The proposal is necessary so that affected taxpayers can make election under the provision.

Timetable:

Action	Date	FR Cite
NPRM	01/08/86	51 FR 763
NPRM Comment Period End	03/10/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-218-83.

Drafting attorney: Keith Medleau (202) 622-7550.

Reviewing attorney: William D. Alexander (202) 622-7550.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AF93

3135. QUESTIONS AND ANSWERS RELATING TO MISCELLANEOUS MATTERS UNDER SECTION 338

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance on a broad range of issues under section 338.

Timetable:

Action	Date	FR Cite
NPRM	06/24/85	50 FR 16430

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-33-85.

Drafting attorney: Keith Medleau (202) 622-7550.

Reviewing attorney: William D. Alexander (202) 622-7550.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AH88

3136. STATEMENTS OF ELECTION AND DUE DATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations provide guidance to taxpayers who make express elections under section 338 pursuant to the extended July 15, 1986, filing deadline where the statute of limitations in the target's taxable year which includes the acquisition date has expired prior to July 15, 1986, or will expire shortly thereafter.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17989
NPRM Comment Period End	07/15/86	51 FR 17989

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-8-86.

Drafting attorney: Keith Medleau (202) 622-7550.

Reviewing attorney: William D. Alexander (202) 622-7550.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AI53

3137. CONSISTENCY RULES UNDER SECTION 338

Significance: Agency Priority

Legal Authority: 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.338-1T to 6T; 26 CFR 1.338(b)-1T to 4T; 26 CFR 1.338(h)(10)-1T

Legal Deadline: None

Abstract: These regulations will modify or revise the consistency rules under Section 338.

Timetable:

Action	Date	FR Cite
NPRM	01/14/92	57 FR 1409
NPRM Comment Period End	03/12/92	57 FR 1409
Hearing	03/26/92	57 FR 1408
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-111-90.

Drafting attorneys: Michael Fulton (202) 622-7530/Kenneth Allison (202) 622-3860.

Reviewing attorney: Don Leatherman (202) 622-7520.

Treasury attorney: J. Judge Kelley (202) 622-1339.

Agency Contact: Michael Fulton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7530**

RIN: 1545–AQ05

3138. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 367 OF THE CODE (TRANSFERS TO FOREIGN CORPORATIONS) TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Income Tax Regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognition provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the active conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17990
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-610-86.

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AK74

3139. TRANSFERS OF STOCK ON SECURITIES BY U.S. PERSONS TO FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations will replace, when finalized, the temporary income tax regulations under section 1.367(a)-1T(c)(2) and section 1.367(a)-3T. They provide guidance on the application of section 367(a) to transfers of stock or securities by U.S. persons to foreign corporations. This regulation has been broken out of a larger regulation project (listed under INTL-610-86, RIN 1545-AK74) that will amend the remainder of the temporary income tax regulations under section 367(a).

Timetable:

Action	Date	FR Cite
NPRM	08/26/91	56 FR 41993
Hearing	11/22/91	56 FR 41992
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-54-91.

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AP81

3140. INCOME TAX—PART 1—STOCK TRANSFER RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The extent to which a foreign corporation shall be considered to be a corporation in connection with an exchange described in sections 332, 351, 354, 355, 356 or 361.

Timetable:

Action	Date	FR Cite
NPRM	08/26/91	56 FR 41993
Hearing	11/22/91	56 FR 41992
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-178-86.

Drafting attorney: Irwin Halpern (202) 622-3850.

Reviewing attorney: Bernard Bress (202) 622-3850.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: Irwin Halpern, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3850**

RIN: 1545–AI32

3141. INCOME TAX—OWNERSHIP CHANGE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on what constitutes "ownership change" under section 382 of the Internal Revenue Code of 1986 (generally, an "ownership change" is a shift in loss corporation stock ownership (after which the corporation's net operating loss carryovers are limited)).

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Timetable:

Action	Date	FR Cite
NPRM	08/11/87	52 FR 29704
NPRM Comment Period End	10/13/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-106-86.

Drafting attorney: Keith E. Stanley (202) 622-7750.

Reviewing attorney: Charles M. Whedbee (202) 622-7750.

Treasury attorney: Andrew Dubroff (202) 622-1766.

Agency Contact: Keith Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-7750

RIN: 1545–AJ00

3142. SECTION 382 LIMITATION ON GROUPS FILING CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This NPRM provides rules for applying section 382 to consolidated groups.

Timetable:

Action	Date	FR Cite
NPRM	02/04/91	56 FR 4195
NPRM Comment Period End	03/29/91	56 FR 4195
Hearing	04/08/91	56 FR 4243
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-132-87.

Drafting attorney: David P. Madden (202) 622-7540.

Reviewing attorney: Charles Whedbee (202) 622-7750.

Treasury attorney: Andrew Dubroff (202) 622-7166.

Agency Contact: David Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-7540

RIN: 1545–AL36

3143. AMENDMENTS OF SECTION 1.382-2T(R)(4)(X) TO EXCEPT ADDITIONAL OPTIONS FROM THE OPTION ATTRIBUTION RULES OF SECTION 1.382-2T(H)(4)(I)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The primary purpose of this project is to amend the temporary regulations under section 382 of the Internal Revenue Code to provide additional options to be excepted from the attribution rules of section 1.382-2T(h)(4). The project will also make other revisions to those attribution rules.

Timetable:

Action	Date	FR Cite
NPRM	11/05/92	57 FR 52743
NPRM Comment Period End	01/12/93	57 FR 52743
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-18-90.

Drafting attorney: Annette Ahlers (202) 622-7750.

Reviewing attorney: Charles M. Whedbee (202) 622-7750.

Reviewing attorney: Keith Stanley (202) 622-7750.

Treasury attorney: Michael Schultz (202) 622-1343.

Agency Contact: Annette Ahlers, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-7750

RIN: 1545–AO54

3144. SHORT TAXABLE YEARS AND CONTROL GROUPS

Legal Authority: 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations will provide rules regarding the application of section 382 in the case of short taxable years and of controlled groups of corporations.

Timetable:

Action	Date	FR Cite
NPRM	02/04/91	56 FR 4183
NPRM Comment Period End	03/29/91	56 FR 4183
Hearing	04/08/91	56 FR 4243
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-77-90.

Drafting attorney: David Madden (202) 622-7540.

Reviewing attorney: Charles Whedbee (202) 622-7750.

Treasury attorney: Andrew Dubroff (202) 622-1766.

Agency Contact: David Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-7540

RIN: 1545–AP14

3145. REGULATIONS UNDER SECTION 382 OF THE INTERNAL REVENUE CODE OF 1986; LIMITATIONS ON CORPORATE NET OPERATING LOSS CARRYFORWARDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382(l)(5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.382-9

Legal Deadline: None

Abstract: This document contains proposed amendments to the income tax regulations (26 CFR part 1) under section 382 of the Internal Revenue Code of 1986. The amendments provide rules relating to the determination whether certain indebtedness qualifies under section 382(l)(5)(E).

Timetable:

Action	Date	FR Cite
NPRM	09/23/91	56 FR 47921
NPRM Comment Period End	11/15/91	56 FR 47921
Hearing	11/20/91	56 FR 47928
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-045-91.

Drafting attorney: Diana C. Mackeen (202) 622-7550.

Agency Contact: Diana C. MacKeen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-7550

RIN: 1545–AQ08

3146. VALUE OF A LOSS CORPORATION IN AN OWNERSHIP CHANGE TO WHICH SECTION 382(L)(6) APPLIES

Significance: Agency Priority

Legal Authority: 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The notice of proposed rulemaking will provide guidance on the time, manner, and revocability of the election under section 382(l)(5)(H) of the Internal Revenue Code to forego section 382(l)(5); the manner of calculating the increase in value of the loss corporation under section 382(l)(6); the interaction of section 382(l)(6) and other value rules, and the effect of a second ownership change within two years.

Timetable:

Action	Date	FR Cite
NPRM	08/06/92	57 FR 34736
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-88-90.

Drafting attorney: Victor Penico (202) 622-7750.

Reviewing attorney: Nelson Crouch (202) 622-7740.

Treasury attorney: Larry Garrett (202) 622-1778.

Agency Contact: Victor Penico, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-7750

RIN: 1545–AQ60

3147. INCOME TAX—REFUND OF MISTAKEN CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(a)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations describe those circumstances under which an employer contribution or withdrawal liability payment to a multiemployer pension plan may be refunded due to a mistake of law or fact.

Timetable:

Action	Date	FR Cite
NPRM	03/11/83	48 FR 10374
NPRM Comment Period End	05/10/83	48 FR 10374
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-133-80.

Drafting attorney: John T. Ricotta (202) 622-6080.

Reviewing attorney: Michael A. Thrasher (202) 622-6000.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-6080

RIN: 1545–AD68

3148. INCOME TAX—REQUIRED DISTRIBUTIONS FROM QUALIFIED PLANS AND INDIVIDUAL RETIREMENT ACCOUNTS AND PARTIAL ROLLOVERS OF INDIVIDUAL RETIREMENT ACCOUNTS

Legal Authority: 26 USC 408(a)(6) Internal Revenue Code of 1986; 26 USC 401(a)(9) Internal Revenue Code of 1986; 26 USC 408(b)(3) Internal Revenue Code of 1986; 26 USC 408(d)(3)(C) Internal Revenue Code of 1986; 26 USC 219(d)(4) Internal Revenue Code of 1986; 26 USC 403(b)(10) Internal Revenue Code of 1986; 26 USC 4974 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will revise the Income Tax Regulations to incorporate the changes made in the law by the Tax Equity and Fiscal Responsibility Act of 1982 and the Tax Reform Act of 1984, and Income Tax Reform Act of 1986 concerning the required distributions from qualified plans, individual retirement accounts and 403(b) annuities and custodial accounts.

Timetable:

Action	Date	FR Cite
NPRM	07/27/87	52 FR 28070
HEARING	12/04/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-113-82.

Drafting attorney: Marjorie Hoffman (202) 622-6030.

Reviewing attorney: Thomas A. Brisendine (202) 622-6030.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-6030

RIN: 1545–AE95

3149. NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED PLANS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.401-4; 26 CFR 1.401(a)-4; 26 CFR 1.401(a)(4)-0 to 1.401(a)(4)-13; 26 CFR 1.401(a)(5)-1; 26 CFR 1.401(a)(17)-1; 26 CFR 1.401(a)(26)-9; 26 CFR 1.401(k)-0 to 1.401(k)-1; 26 CFR 1.401(l)-0 to 1.401(l)-6; 26 CFR 1.401(m)-1; 26 CFR 1.402(a)-1; 26 CFR 1.410(b)-0 to 1.410(b)-10; 26 CFR 1.411(d)-4; 26 CFR 1.414(r)-1; 26 CFR 1.414(s)-1

Legal Deadline: None

Abstract: The proposed regulations delay the effective date of the final regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/10/92	57 FR 35536
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Additional Information: EE-6-92.

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Drafting attorney: Dave Munroe (202) 622-6080.

Reviewing attorney: Nancy J. Marks (202) 622-6000.

Treasury attorney: Catherine Creech (202) 622-2647.

Agency Contact: David D. Munroe, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6080**

RIN: 1545–AQ76

3150. • TWENTY PERCENT WITHHOLDING ON ELIGIBLE ROLLOVER DISTRIBUTION

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 Internal Revenue Code of 1986; 26 USC 402 Internal Revenue Code of 1986; 26 USC 403 Internal Revenue Code of 1986; 26 USC 3405 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.401(a)(31); 26 CFR 1.402(c); 26 CFR 1.403(b); 26 CFR 31.3405(c)

Legal Deadline: None

Abstract: This project provides Temporary Income Tax Regulations relating to eligible rollover distributions from tax-qualified retirement plans and section 403(b) annuities. These regulations provide needed guidance reflecting the changes made by the Unemployment Compensation Amendments of 1992 (UCA). The UCA expanded the types of retirement plan distributions with regard to which income tax can be deferred by a rollover to an individual retirement account, another qualified plan, or section 403(b) annuity. The UCA also requires qualified pension plans and 403(b) annuities to provide a direct rollover option. Also, the UCA imposes mandatory 20 percent income tax withholding on any eligible rollover distribution that the employee does not elect to have transferred in a direct rollover.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/22/92	57 FR 48163
Final Action Effective	01/01/93	
Final Action	08/01/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: EE-43-92.

Drafting attorney: John Tolleris (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Catherine Creech (202) 622-1341.

Agency Contact: John Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6030**

RIN: 1545–AR34

3151. • TWENTY PERCENT WITHHOLDING ON ELIGIBLE ROLLOVER DISTRIBUTION

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 Internal Revenue Code of 1986; 26 USC 402 Internal Revenue Code of 1986; 26 USC 3405 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.401(a)(3); 26 CFR 1.402(c); 26 CFR 1.403(b); 26 CFR 31.3405(c)

Legal Deadline: None

Abstract: This project provides cross-reference notice of proposed rulemaking published in conjunction with temporary income tax regulations relating to eligible rollover distribution from tax-qualified retirement plans and section 403(b) annuities. This document provides the general public the opportunity to comment on the temporary and proposed regulations providing needed guidance on the changes made by the Unemployment Compensation Amendments of 1992 (UCA). The UCA expanded the types of retirement plan distributions with regard to which income tax can be deferred by a rollover to an individual retirement account, another qualified plan, or section 403(b) annuity. The UCA also requires qualified pension plans and 403(b) annuities to provide a direct rollover option. Also, the UCA imposes mandatory 20 percent income tax withholding on any eligible rollover distribution that the employee does not elect to have trans- ferred in a direct rollover.

Timetable:

Action	Date	FR Cite
NPRM	10/22/92	57 FR 48194
NPRM Comment Period End	12/28/92	57 FR 48194
Final Action Effective	01/01/93	
Hearing	01/15/93	57 FR 48193
Final Action	08/01/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: EE-43-92.

Drafting attorney: John Tolleris (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Catherine Creech (202) 622-1341.

Agency Contact: John Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6030**

RIN: 1545–AR35

3152. • TWENTY PERCENT WITHHOLDING ON ELIGIBLE ROLLOVER DISTRIBUTION

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 402(c) Internal Revenue Code of 1986; 26 USC 403(b) Internal Revenue Code of 1986; 26 USC 3405(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.401(a)(31)-1T; 26 CFR 1.402(c)-2T; 26 CFR 1.402(f)-2T; 26 CFR 1.403(b)-2T; 26 CFR 31.3405(c)-1T

Legal Deadline: None

Abstract: This project provides a cross-reference notice of proposed rulemaking providing guidance to implement statutory changes enacted by the Unemployment Compensation Amendments of 1992 (UCA). The UCA expands the types of pension distributions with regard to income retirement account or annuity, another qualified plan or a section 403(b) annuity. Also, the UCA requires plans and 403(b) plans to provide employees with a direct rollover option. Also, the UCA imposes a mandatory 20 percent income tax withholding upon any eligible rollover distribution that the employee does not elect to have paid in a direct rollover.

Timetable:

Action	Date	FR Cite
NPRM	10/22/92	57 FR 48194
NPRM Comment Period End	12/28/92	57 FR 48194
Hearing	01/15/93	57 FR 48193
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: EE-43-92.

Drafting attorney: John Tolleris (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Catherine Creech (202) 622-1341.

Agency Contact: John Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6030**

RIN: 1545–AR01

3153. INCOME TAX—DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 404A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the limitations on deductions and adjustments to earnings and profits (or accumulated profits) with respect to certain foreign deferred compensation plans.

Timetable:

Action	Date	FR Cite
NPRM	04/08/85	50 FR 13821
NPRM Comment Period End	06/07/85	50 FR 13821
Hearing	09/20/85	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-14-81.

Drafting attorney: Elizabeth A. Purcell (202) 622-6080.

Reviewing attorney: Michael A. Thrasher (202) 622-6080.

Agency Contact: Elizabeth A. Purcell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6080**

RIN: 1545–AD81

3154. INCOME TAX—PART 1—BENEFIT ACCRUAL BEYOND NORMAL RETIREMENT AGE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 411(b)(1)(H) Internal Revenue Code of 1986; 26 USC 411(b)(2) Internal Revenue Code of 1986; 26 USC 410(a)(2) Internal Revenue Code of 1986; 26 USC 411(a)(8)(B) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Final, Statutory, February 1, 1988.
Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules with regard to benefit accruals after attainment of normal retirement age and maximum age conditions on participating in certain type of plans.

Timetable:

Action	Date	FR Cite
NPRM	04/11/88	53 FR 11876
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-184-86.

Drafting attorney: Linda Marshall (202) 622-6030.

Agency Contact: Linda Marshall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6030**

RIN: 1545–AI85

3155. INCOME TAX—PART 1—MINIMUM VESTING STANDARDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410 Internal Revenue Code of 1986; PL 99-514, Sec 1113 Tax Reform Act of 1986; PL 99-514, Sec 1141 Tax Reform Act of 1986; 26 USC 411 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Final, Statutory, February 1, 1988.
Deadline set by Section 1141 of PL 99-514 "Tax Reform Act of 1986."

Abstract: These regulations will amend existing rules to reflect changes made by section 1113 of the Tax Reform Act of 1986, relating to minimum vesting standards and participation standards.

Timetable:

Action	Date	FR Cite
NPRM	01/06/88	53 FR 261
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-167-86.

Drafting attorney: T. Wolf (202) 622-6070.

Reviewing attorney: James Brokaw (202) 622-6070.

Cross-Reference to EE-73-87

Agency Contact: T. Wolf, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6070**

RIN: 1545–AI88

3156. MINIMUM FUNDING REQUIREMENTS—PLAN RESTORATION

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 412 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.412(c)(1)-3

Legal Deadline: None

Abstract: This document provides proposed rules by cross-reference to temporary regulations for the treatment of plans that have been or are being restored to their sponsoring employees after having been terminated pursuant to section 4041 and at 4042 of the Employee Retirement Income Security Act of 1974 (ERISA).

Timetable:

Action	Date	FR Cite
NPRM	10/23/90	55 FR 42728
NPRM Comment Period End	12/24/90	55 FR 42728

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Action	Date	FR Cite
Hearing	07/19/91	56 FR 19055
Final Action	09/30/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-86-90.

Drafting attorney: Michael Roach (202) 622-6060.

Reviewing attorney: Nancy Marks (202) 622-6000.

Treasury attorney: Evelyn Petschek (202) 622-0170.

Agency Contact: Michael Roach, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6060**

RIN: 1545–AP13

3157. INCOME TAX—EMPLOYEES OF AN AFFILIATED SERVICE GROUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414 (m) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules with regard to the aggregation of employees of certain organizations for purposes of certain pension requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/28/83	48 FR 8293
NPRM Comment Period End	04/29/83	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-3-81.

Drafting attorney: Robin Ehrenberg (202) 622-6080.

Review attorney: Nancy J. Marks (202) 622-6000.

Treasury attorney: Catherine Creech (202) 622-1341.

Agency Contact: Robin Ehrenberg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6080**

RIN: 1545–AD90

3158. INCOME TAX REGULATIONS—AFFILIATED SERVICE GROUPS AND EMPLOYEE LEASING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414(n) Internal Revenue Code of 1986; 26 USC 414(m)(5) Internal Revenue Code of 1986; 26 USC 414(o) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding the treatment of certain leased employees. In addition, the regulations will provide guidance regarding the aggregation of certain management companies as affiliated service groups.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32502
NPRM Comment Period End	10/26/87	
Hearing	12/02/87	52 FR 45835
Hearing	02/25/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-111-82.

Drafting attorney: Robin Ehrenberg (202) 622-6080.

Reviewing attorney: Nancy J. Marks (202) 622-6000.

Treasury attorney: Catherine Creech (202) 622-1341.

Agency Contact: Robin Ehrenberg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6080**

RIN: 1545–AE91

3159. DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.414(q)-1T

Legal Deadline: None

Abstract: The proposed and temporary regulations define the term "highly compensated employee" under section 414(q) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	02/19/88	
NPRM Comment Period End	04/19/88	53 FR 4999

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: EE-32-92.

Drafting attorney: Patricia McDermott (202) 622-6030.

Reviewing attorney: Nancy J. Marks (202) 622-6000.

Treasury attorney: Evelyn A. Patschek (202) 622-0170.

Temporary and proposed regulations under sections 414(g) and and 414(s) were published February 19, 1988 (53 FR 4965); and final regulations under section 414(s) were published September 19, 1991 (56 FR 47659), under project EE-129-86. The regulations under section 414(q) were split off from project EE-129-86. It is anticipated that final regulations under section 414(q) will be published in the future under project EE-32-92.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6030**

RIN: 1545–AQ74

3160. TIMING OF INCOME WITH RESPECT TO NOTIONAL PRINCIPAL CONTRACTS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations address the timing and nature of income and deductions from notional principal contracts, which encompasses interest rate swaps, interest rate caps, and interest rate floors.

Timetable:

Action	Date	FR Cite
NPRM	07/10/91	56 FR 31350
NPRM Comment Period End	09/23/91	56 FR 31350
Hearing	10/07/91	56 FR 31350
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-016-89.

Drafting attorney: Karl Walli (202) 622-3870.

Treasury attorney: Hal Gann (202) 622-1333.

Agency Contact: Karl Walli, Attorney Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AN15

3161. LIMITATION OF THE USE OF THE CASH METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 448 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to certain C Corporations, partnerships with a corporate partner and tax shelters prohibited from using the cash method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	06/16/87	52 FR 22796
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-122-86.

Drafting attorney: James A. Orefice (202) 622-4910.

Reviewing attorney: Mike Montemurro (202) 622-4910.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4910**

RIN: 1545–AJ52

3162. NONACCRUAL-EXPERIENCE METHOD OF ACCOUNTING—CLARIFICATION OF AMOUNTS DETERMINED TO BE UNCOLLECTIBLE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 448(d)(5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will clarify amounts determined to be uncollectible with respect to the nonaccrual-experience method of accounting under section 448(d)(5).

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-79-88.

Drafting attorney: James A. Orefice (202) 622-4910.

Reviewing attorney: Robert Casey (202) 622-4910.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4910**

RIN: 1545–AM33

3163. UNTIMELY COMPLIANCE WITH SECTION 448

Significance: Agency Priority

Legal Authority: 26 USC 448 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.448-1T

Legal Deadline: None

Abstract: Proposal would provide guidance to taxpayers that failed to comply with the effective date provision of Section 448 and the regulations thereunder.

Timetable:

Action	Date	FR Cite
NPRM	01/07/91	56 FR 508

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-52-89.

Drafting attorney: James A. Orefice (202) 622-4910.

Reviewing attorney: Mike Montemurro (202) 622-4910.

Agency Contact: Jim Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4910**

RIN: 1545–AO65

3164. INCOME TAX—GENERAL RULES FOR INSTALLMENT SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 28 CFR 15A.453-1(c); 26 CFR 15A.453-1

Legal Deadline: None

Abstract: Treasury decision will provide general rules and rules for reporting contingent installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	02/04/81	46 FR 10749
NPRM Comment Period End	04/06/81	46 FR 10749
Hearing	10/01/81	46 FR 40774

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-173-80.

Drafting attorney: George Wright (202) 622-4950.

Reviewing attorney: Dave Crawford (202) 622-4950.

Agency Contact: George Wright, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4950**

RIN: 1545–AB42

3165. INCOME TAX—INSTALLMENT REPORTING—ASSET SALES AND LIQUIDATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting gain in respect of installment obligations received as liquidating distributions from corporations under a plan of complete liquidation. Additionally includes rules regarding the allocation of consideration received in a multiple asset sale if a disposition of any one of the properties would qualify for installment sale treatment.

Timetable:

Action	Date	FR Cite
NPRM	01/13/84	49 FR 1742

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Action	Date	FR Cite
NPRM Comment Period End	03/16/84	49 FR 1742

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-184-80.

Drafting attorney: George Wright (202) 622-4950.

Reviewing attorney: Doug Fahey (202) 622-4950.

Agency Contact: George Wright, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4950**

RIN: 1545–AB43

3166. INCOME TAX—INSTALLMENT OBLIGATIONS RECEIVED IN TRANSACTIONS IN WHICH GAIN OR LOSS IS GENERALLY NOT RECOGNIZED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting installment obligations that are received as boot in certain exchanges in which gain may not be recognized.

Timetable:

Action	Date	FR Cite
NPRM	05/03/84	49 FR 18866
NPRM Withdrawn T.D 8270	11/02/89	54 FR 46375

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-186-80.

Drafting attorney: Keith Medleau (202) 622-7550.

Reviewing attorney: William D. Alexander (202) 622-7550.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AB44

3167. SPECIAL RULES FOR NONDEALERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to the pledging rules and special interest charge of section 453A.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-025-89.

Drafting attorney: James A. Orefice (202) 622-4910.

Reviewing attorney: Mike Montemurro (202) 622-4910.

Agency Contact: James Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4910**

RIN: 1545–AN13

3168. INCOME TAX—EXCLUSION FROM GROSS INCOME WITH RESPECT TO MAGAZINES, PAPERBACKS, AND RECORD RETURNS AFTER CLOSE OF TAXABLE YEAR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 458 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules on the exclusion from gross income of income attributable to the sale of magazines, paperbacks, or records that are returned.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34520

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-195-78.

Drafting attorney: Grant E. Gabriel (202) 622-4970.

Reviewing attorney: Thomas A. Luxner (202) 622-4970.

Agency Contact: Grant E. Gabriel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4970**

RIN: 1545–AB48

3169. LOOK-BACK METHOD FOR LONG-TERM CONTRACTS (MID-CONTRACT CHANGE IN TAXPAYER)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 460 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.460-6

Legal Deadline: None

Abstract: Final income tax regulations identifying the taxpayer that is responsible for applying the look-back method and the taxpayer that is liable for paying (or is entitled to receive) interest computed under the look-back method when there is a mid-contract change in the taxpayer reporting income from a long-term contract.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: IA-56-91.

Drafting attorney: Cheryl Oseekey (202) 622-4970.

Reviewing attorney: Eric Pleet (202) 622-4970.

Agency Contact: Cheryl Oseekey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4970**

RIN: 1545–AQ32

3170. INCOME TAX—DETERMINATION OF AMOUNTS AT RISK WITH RESPECT TO CERTAIN ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986; PL 94-455, Sec 204 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers for purposes of determining the amount the taxpayer is at risk in certain activities. This guidance is necessary because a taxpayer's deductions are limited to the amount the taxpayer is at risk in the activity. This at risk limit applies to most activities except the holding of real property and certain equipment leasing by closely-held corporations.

Timetable:

Action	Date	FR Cite
NPRM	06/05/79	44 FR 32235
NPRM Comment Period End	08/06/79	44 FR 32235
Hearing	09/27/79	44 FR 49701
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-168-76.

Drafting attorney: Channing Brackey (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Treasury attorney: John H. Parcell (202) 622-2578.

Agency Contact: Channing Brackey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AB52

TREAS—IRS **Final Rule Stage**

3171. DISPOSITION OF AN INTEREST IN A NUCLEAR POWER PLANT

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.468A-6 (New); 26 CFR 1.468A-1(b) (Revision); 26 CFR 1.468A-3 (Revision); 26 CFR 1.468A-0(b) (Revision); 26 CFR 1.468A-5(a)

Legal Deadline: None

Abstract: Final regulations relating to Nuclear Decommissioning Funds did not include provisions for treatment upon disposition of an interest in a nuclear power plant. The proposed regulations will provide guidance to determine the tax consequences of such disposition on a Nuclear Decommissioning Fund and on taxpayers that establish such funds. In addition, the proposed regulations will make a number of needed changes and clarifications to the existing regulations that will aid in the administration and processing of requests for schedules of ruling amounts.

Timetable:

Action	Date	FR Cite
NPRM	11/20/92	57 FR 54734
NPRM Comment Period End	01/11/93	57 FR 54734
Public Hearing	02/01/93	57 FR 54734
Final Action	07/31/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 491 Electric Services; 493 Combination Electric and Gas, and Other Utility Services

Additional Information: PS-004-89.

Drafting attorney: Peter C. Friedman (202) 622-3110.

Reviewing attorney: Charles B. Ramsey (202) 622-3110.

Treasury attorney: Eve Elgin (202) 622-1338.

Agency Contact: Peter C. Friedman, Senior Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3110**

RIN: 1545–AN06

3172. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469 (l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-0; 26 CFR 1.469-1T; 26 CFR 1.469-2T; 26 CFR 1.469-3T; 26 CFR 1.469-5T; 26 CFR 1.469-1; 26 CFR 1.469-2; 26 CFR 1.469-3; 26 CFR 1.469-5; 26 CFR 1.469-11

Legal Deadline: None

Abstract: The proposed regulations address essential issues in connection with passive activity losses and credits.

Timetable:

Action	Date	FR Cite
NPRM	02/25/88	53 FR 5733
Hearing	06/28/88	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-14-88.

Drafting attorney: Ronald Gootzeit (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Treasury attorney: John H. Parcell (202) 622-2578.

Agency Contact: Ronald M. Gootzeit, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AB26

3173. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—DEFINITION OF ACTIVITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-0; 26 CFR 1.469-1T; 26 CFR 1.469-2T; 26 CFR 1.469-3T; 26 CFR 1.469-1; 26 CFR 1.469-5T; 26 CFR 1.469-2; 26 CFR 602.101; 26 CFR 1.469-3; 26 CFR 1.469-4; 26 CFR 1.469-5; 26 CFR 1.469-11

Legal Deadline: None

Abstract: Pursuant to the grant of authority in section 469(l), the regulations define "activity."

Timetable:

Action	Date	FR Cite
NPRM	05/12/89	54 FR 20606
NPRM Comment Period End	08/31/89	54 FR 20606
NPRM	05/15/92	57 FR 20802
Public Hearing	09/03/92	57 FR 23356
Final Action	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-001-89.

Drafting attorney: Ronald M. Gootzeit (202) 622-3080.

Reviewing attorney: William O'Shea (202) 622-3070.

Treasury attorney: John H. Parcell (202) 622-2578.

Agency Contact: Ronald M. Gootzeit, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AM88

3174. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS; SELF-CHARGED ITEMS

Legal Authority: 26 USC 0469 (l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-7

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Legal Deadline: None

Abstract: The regulation will address the treatment of self-charged items of income and expense in connection with transactions between passthrough entities and owners of interests in those entities.

Timetable:

Action	Date	FR Cite
NPRM	04/05/91	56 FR 14034
Hearing	09/06/91	56 FR 14040
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: PS-039-89.

Drafting attorney: Deane Burke (202) 622-3040.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Deane Burke, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3040**

RIN: 1545–AN64

3175. INCOME TAX—THREE-YEAR AVERAGING FOR INCREASES IN INVENTORY VALUE WHEN ELECTING LIFO METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 472 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide for three-year averaging for increases in inventory value when electing the LIFO method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	04/11/83	48 FR 6134
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-254-81.

Drafting attorney: Harry-Todd Astroo (202) 622-4970.

Reviewing attorney: Eric Pleet (202) 622-4970.

Agency Contact: Harry-Todd Astroo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4970**

RIN: 1545–AB55

3176. SIMPLIFIED DOLLAR VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 474 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulations would provide guidance to certain small businesses that are eligible to elect a simplified dollar-value LIFO method of inventory valuation. This method requires the use of published government indexes.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-30-87.

Drafting attorney: Harry-Todd Astroo (202) 622-4970.

Reviewing attorney: Eric Pleet (202) 622-4970.

Treasury accountant advisor : J. Paul Whitehead 202) 622-2668.

Agency Contact: Harry-Todd Astroo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4970**

RIN: 1545–AN09

3177. SECTION 482 REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 482 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To revise section 482 regulations per section 482 white paper.

Timetable:

Action	Date	FR Cite
NPRM	01/30/92	57 FR 3571
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-401-88.

Drafting attorney: Sim S. Seo (202) 622-3840.

Reviewing attorney: Ken Wood (202) 874-1490.

Treasury attorney: Warren Crowdus (202) 622-1779.

Agency Contact: Sim S. Seo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AL80

3178. SECTION 482 COST SHARING REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 482 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Transfer of intangibles between affiliates; intercompany pricing issues.

Timetable:

Action	Date	FR Cite
NPRM	01/30/92	57 FR 3571
Hearing	08/31/92	57 FR 33663
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-372-88.

Drafting attorney: Lisa L. Sams (202) 622-3840.

Reviewing attorney: Ken Wood (202) 874-1490.

Treasury attorney: Warren Crowdus (202) 622-1779.

Agency Contact: Lisa L. Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AM00

3179. TAXATION OF GLOBAL TRADING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864 Internal Revenue Code of 1986; 26 USC 482 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to improve the taxation of global trading.

Timetable:

Action	Date	FR Cite
NPRM	08/28/90	55 FR 35152
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-070-90.

Drafting attorney: Richard L. Chewning (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Emily McMahon (202) 622-1763.

Agency Contact: Richard L. Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AP01

3180. VEBA QUALIFICATION—GEOGRAPHIC LOCALE RESTRICTION

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 501 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.501(c)(9)-2(a)(1); 26 CFR 1.501(c)(9)-2(d)

Legal Deadline: None

Abstract: The regulations will supplement the existing regulations by providing rules for determining whether membership in a VEBA consists of persons who have an employment related common bond because they are all employees of employers engaged in the same line of business in the same geographic locale.

Timetable:

Action	Date	FR Cite
NPRM	08/07/92	57 FR 34886
Hearing	12/03/92	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: EE-23-92.

Drafting attorney: Michael Roach (202) 622-6060.

Reviewing attorney: Mark Schwimmer (202) 622-6060.

Treasury attorney: Kurt Lawson (202) 622-1352.

Agency Contact: Michael J. Roach, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6060**

RIN: 1545–AQ66

3181. BAD DEBT RESERVES OF FINANCIAL INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 585 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document will provide final regulations that relate to the repeal of the bad debt reserves for large banks.

Timetable:

Action	Date	FR Cite
NPRM	12/12/90	55 FR 51124
NPRM Comment Period End	02/11/91	55 FR 51124
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-81-86.

Drafting attorney: Craig Wojay (202) 622-4122.

Reviewing attorney: Sharon Galm (202) 622-3920.

Agency Contact: Craig Wojay, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4122**

RIN: 1545–AJ31

3182. INCOME TAX—LIMITATION ON ADDITIONS TO BANK LOSS RESERVES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 585 Internal Revenue Code of 1986; PL 97-34, Sec 273

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would impose a requirement of a minimum addition to bad debt reserves of mutual savings banks in order to conform the treatment of these institutions to financial institutions described in section 585.

Timetable:

Action	Date	FR Cite
NPRM	12/19/83	48 FR 56083
NPRM Comment Period End	02/17/84	48 FR 56083
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-152-79.

Drafting attorney: Eric E. Boody (202) 622-3960.

Reviewing attorney: Alice Bennett (202) 622-3950.

Agency Contact: Eric E. Boody, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3960**

RIN: 1545–AB66

3183. BAD DEBT RESERVE RECAPTURE FOR THRIFT INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 593 Internal Revenue Code of 1986; 26 USC 446 Internal Revenue Code of 1986; 26 USC 481 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation addresses the recapture of bad debt reserves of thrift institutions that either fail the 60 percent-asset test or convert their charter to that of a commercial bank.

Timetable:

Action	Date	FR Cite
NPRM	01/13/92	57 FR 1232
NPRM Comment Period End	04/13/92	57 FR 1232
Hearing	06/05/92	57 FR 1243
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-042-90.

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Drafting attorney: Bernita Thigpen (202) 622-4016.

Reviewing attorney: Sharon Galm (202) 622-3920.

Agency Contact: Bernita Thigpen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4016**

RIN: 1545–AO69

3184. TAX CONSEQUENCES OF FEDERAL FINANCIAL ASSISTANCE PROVIDED IN CONNECTION WITH TAXABLE ASSET ACQUISITIONS OF TROUBLED FINANCIAL INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 597 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: Purpose of regulation is to implement changes to section 597 by FIRREA. The FDIC needs this guidance to facilitate the reorganization of failed S&L's.

Timetable:

Action	Date	FR Cite
NPRM	04/23/92	57 FR 14804
NPRM Comment Period End	06/26/92	57 FR 14804
Hearing	07/17/92	57 FR 14803
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-046-89.

Drafting attorney: Bernita Thigpen (202) 622-4016.

Reviewing attorney: Steven Glickstein (202) 622-4439.

Treasury attorney: Eve Elgin (202) 622-1338.

Agency Contact: Bernita Thigpen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4016**

RIN: 1545–AN71

3185. SECTION 597 TRANSITION RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 597 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation provides rules on tax treatment of lump sum pre-payment of tax-exempt Federal Financial Assistance.

Timetable:

Action	Date	FR Cite
NPRM	04/23/92	57 FR 14803
NPRM Comment Period End	06/26/92	57 FR 14803
Hearing	07/17/92	57 FR 14803
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-105-91.

Drafting attorney: Bernita Thigpen (202) 622-4016.

Reviewing attorney: Steve Glickstein (202) 622-4439.

Agency Contact: Bernita Thigpen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4016**

RIN: 1545–AQ26

3186. LIMITATIONS ON PERCENTAGE DEPLETION IN THE CASE OF OIL AND GAS WELLS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 613(a) Internal Revenue Code of 1986; 26 USC 703(a) Internal Revenue Code of 1986; 26 USC 705(a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would clarify the circumstances under which percentage depletion will be available in the case of oil and gas wells.

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 21965
Hearing	07/08/91	56 FR 21965
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-005-91.

Drafting attorney: Brenda Stewart (202) 622-3120.

Reviewing attorney: Joseph Makurath (202) 622-3120.

Treasury attorney: Barksdale Penick (202) 622-3120.

Agency Contact: Brenda Stewart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3120**

RIN: 1545–AP56

3187. TAXABLE YEARS OF CERTAIN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 706 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for determining the appropriate taxable year for certain partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/29/87	52 FR 49030
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-101-86.

Drafting attorney: Beverly A. Baughman (202) 622-4940.

Reviewing attorney: Rudi Planert (202) 622-4940.

Treasury attorney: Barksdale Penick (202) 622-1335.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4940**

RIN: 1545–AJ47

3188. TREATMENT OF TRANSACTIONS BETWEEN PARTNERS AND PARTNERSHIP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 707 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for determining when partnership transactions are to be treated as disguised sales.

Timetable:

Action	Date	FR Cite
NPRM	04/25/91	56 FR 19055
NPRM Comment Period End	09/23/91	56 FR 19071
Hearing	09/23/91	56 FR 19071
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-163-84.

Drafting attorney: Susan T. Edlavitch (202) 622-3050.

Reviewing attorney: David R. Haglund (202) 622-3050.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Susan T. Edlavitch, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3050**

RIN: 1545–AH22

3189. PARTNERSHIP TERMINATION DISTRIBUTIONS

Significance: Agency Priority

Legal Authority: 26 USC 708 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.708-1

Legal Deadline: None

Abstract: In order to prevent the shifting of the tax consequences between partners with respect to pre-contribution gain or loss Congress amended section 704(c) of the Code in the Tax Reform Act of 1984 and again in the Revenue Reconciliation Act of 1989. Treasury believes that in order to fully implement the Congressional intent, the regulations under section 708(b)(1)(B) of the Code need to be amended to insure that the pre-contribution gain or loss is properly accounted for when a partnership liquidates and is reformed. Accordingly, it has been proposed that the regulations under section 708(b)(1)(B) be amended to insure that the pre-contribution gain or loss will be preserved in the liquidation reformation process.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-024-90.

Drafting attorney: Steve Coleman (202) 622-3060.

Reviewing attorney: J. Thomas Hines (202) 622-3060.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Steve Coleman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3060**

RIN: 1545–AO20

3190. WHETHER RECEIPT OF A PARTNERSHIP PROFITS INTEREST IS TAXABLE

Legal Authority: 26 USC 721 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.721

Legal Deadline: None

Abstract: This regulation addresses whether the receipt of a partnership profits interest is taxable.

Timetable:

Action	Date	FR Cite
Final Action	12/00/93	
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-80-90.

Drafting attorney: Ann Veninga (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-2070.

Agency Contact: Ann Veninga, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AP51

3191. ELECTION OUT OF SUBCHAPTER K FOR PRODUCERS OF NATURAL GAS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 761 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide additional requirements for producers of natural gas electing under section 761 to be excluded from the subchapter K partnership rules.

Timetable:

Action	Date	FR Cite
NPRM	09/16/92	57 FR 42712
Hearing	11/17/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-103-90.

Drafting attorney: H. Grace Kim (202) 622-3060.

Reviewing attorney: Richard G. Blumenreich (202) 622-3060.

Treasury attorney: S. Barksdale Penick (202) 622-1335.

Agency Contact: H. Grace Kim, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3060**

RIN: 1545–AP23

3192. IMPUTED EARNINGS RATE FOR MUTUAL LIFE INSURANCE COMPANIES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 809 (d) Internal Revenue Code of 1986; 26 USC 809 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to mutual life insurance companies regarding the computation of the imputed earnings rate.

Timetable:

Action	Date	FR Cite
NPRM	08/19/92	57 FR 37495
NPRM Comment Period End	11/16/92	57 FR 37495
Hearing	12/07/92	57 FR 37495
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-159-84.

Drafting attorney: Katherine A. Hossofsky (202) 622-3477.

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Reviewing attorney: Steve Hooe (202) 622-3970.

Agency Contact: Katherine A. Hossofsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3477**

RIN: 1545–AG63

3193. AMORTIZATION OF POLICY ACQUISITION EXPENSES OF INSURANCE COMPANIES

Legal Authority: 26 USC 845(b) Internal Revenue Code of 1986; 26 USC 848(d)(4)(B) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.848-2; 26 CFR 1.848-3

Legal Deadline: None

Abstract: The proposed regulations relate to the requirement that insurance companies capitalize specified policy acquisition expenses for tax purposes. The proposed regulations define certain terms with respect to the application of the capitalization requirement to reinsurance transactions. The regulations are proposed to be effective, in general, for taxable years following November 15, 1991.

Timetable:

Action	Date	FR Cite
NPRM	11/15/91	56 FR 58003
Hearing	01/31/92	56 FR 58003
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-003-91.

Drafting attorney: Gary Geisler (202) 622-3970.

Reviewing attorney: Stephen D. Hooe (202) 622-3970.

Treasury attorney: Terry P. Jacobs (202) 622-1332.

Agency Contact: Gary Geisler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3970**

RIN: 1545–AQ14

3194. • MERGERS AND 852(A)(2)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 852 Internal Revenue Code of 1986; 26 USC 857 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations provide guidance to regulated investment companies (RICs) and real estate investment trusts (REITs) that have earnings and profits accumulated by a corporation during a taxable year when the corporation was not a RIC or a REIT.

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61017
Hearing	03/01/93	57 FR 61019
Final Action	08/31/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-59-92.

Drafting attorney: Jonathan Silver (202) 622-3920.

Reviewing attorney: Al Kraft (202) 622-3097.

Treasury attorney: Eve Elgin (202) 622-1338.

Agency Contact: Jonathan Silver, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3920**

RIN: 1545–AR06

3195. EXTENSION OF TIME FOR REAL ESTATE MORTGAGE INVESTMENT CONDUITS TO PROVIDE REPORTING INFORMATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 860F Internal Revenue Code of 1986; 26 USC 6049 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposed regulation would extend the deadline for REMICs or issuers of CDOs to furnish reporting information.

Timetable:

Action	Date	FR Cite
NPRM	09/30/91	56 FR 49525
Hearing	12/05/91	56 FR 49526
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-38-91.

Drafting attorney: James W.C. Canup (202) 622-3950.

Agency Contact: James W.C. Canup, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3950**

RIN: 1545–AP73

3196. CHARITABLE CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986

CFR Citation: 26 CFR 861

Legal Deadline: None

Abstract: Proposed section 1.861-8(e) would provide new guidance regarding the allocation of charitable deductions to U.S. or foreign source income. A taxpayer would allocate such a deduction solely to U.S. source income if he designated the contribution for U.S. use and reasonably believed that it would be so used. He would allocate such a deduction solely to foreign source income if he knows or has reason to know that it would be used solely outside the United States or that it must necessarily be so used. In all other cases, he would ratably apportion such a deduction.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10395
Hearing	08/01/91	56 FR 23823
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-116-90.

Drafting attorney: Carl M. Cooper (202) 622-3840.

Reviewing attorney: Charles C. Saverude (202) 622-3800.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AP30

3197. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND CERTAIN OTHER EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of proposed rulemaking by cross-reference to temporary regulations providing rules for affiliated group allocation and apportionment of expenses other than interest that are not traceable to specific income-producing activities or property of corporations.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10397
Hearing	06/21/91	56 FR 21640
Interim Final Rule	04/15/92	57 FR 13019
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-952-86.

Drafting attorney: David F. Bergkuist or Judith Cavell (202) 622-3860.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Emily McMahon (202) 622-1763.

Agency Contact: David F. Bergkuist/ Judith Cavell, Attorney-Advisors, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AM20

3198. TREATMENT OF RELATED PERSON FACTORING INCOME; CERTAIN INVESTMENTS IN UNITED STATES PROPERTY; AND STOCK REDEMPTIONS THROUGH RELATED CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864 (d) Internal Revenue Code of 1986; 26 USC 956 Internal Revenue Code of 1986; 26 USC 304 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules will relate to the treatment of income derived by foreign corporations from factoring the receivables of related persons, rules relating to certain investments in U.S. property and stock redemptions through related corporations.

Timetable:

Action	Date	FR Cite
NPRM	06/14/88	53 FR 22186
NPRM Comment Period End	08/15/88	53 FR 22186
Hearing	02/09/89	53 FR 49895
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-49-86.

Drafting attorney: Laura C. Apelbaum (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Laura C. Apelbaum, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AH85

3199. COMPUTATION OF INTEREST EXPENSE DEDUCTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 882 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will revise the rules for the computation of the interest expense deduction of a foreign corporation.

Timetable:

Action	Date	FR Cite
NPRM	04/24/92	57 FR 15038
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-309-88.

Drafting attorney: Karl T. Walli (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870

Treasury attorney: Emily McMahon (202) 622-1763.

Agency Contact: Karl T. Walli, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC, **202 622-3870**

RIN: 1545–AL84

3200. AMENDMENTS TO THE BRANCH PROFITS TAX UNDER SECTIONS 884 AND 864

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 884 Internal Revenue Code of 1986; 26 USC 864 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 1.884; 26 CFR 1.864

Legal Deadline: None

Abstract: This regulation will revise the "asset-use" test under section 864 to exclude stock. This regulation will explain what percentage of an interest in a partnership, trust or estate is a U.S. asset under section 884. In addition, this regulation amends the definition of "branch interest" under section 884.

Timetable:

Action	Date	FR Cite
NPRM	09/11/92	57 FR 41707
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-003-92.

Drafting attorney: Kathryn Horton O'Brien (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Kathryn Horton O'Brien, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AQ58

3201. FINAL REGULATIONS UNDER SECTION 1.884-2

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 884 Internal Revenue Code of 1986

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CFR Citation: 26 CFR 1; 26 CFR 1.884

Legal Deadline: None

Abstract: This regulation will finalize temporary regulations that provide special rules for termination or incorporation of a U.S. trade or business or liquidation or reorganization of a foreign corporation or its domestic subsidiary.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-027-92.

Drafting attorney: Kathryn Horton O'Brien (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Kathryn Horton O'Brien, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AQ73

3202. INCOME OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 892 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of Proposed Rulemaking by Cross-reference to temporary regulations regarding the taxation of income of foreign governments and international organizations.

Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24100
NPRM Comment Period End	08/26/88	53 FR 24100
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-285-88.

Drafting attorney: David A. Juster (202) 622-3850.

Reviewing attorney: Bernard T Bress (202) 622-3850.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: David A. Juster, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3850**

RIN: 1545–AL93

3203. NOTICE OF PROPOSED RULEMAKING—NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules concerning the effect of certain distributions including dividends, redemptions, distributions pursuant to reorganizations, and liquidations on corporations and their shareholders under the Foreign Investment in Real Property Tax Act. Proposal would also provide rules for determining the extent to which nonrecognition would apply to certain transfers of real property interests and the extent to which certain reorganizations will be treated as sales of property at fair market value.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16233
Hearing	03/01/89	54 FR 1189
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-491-87.

Drafting attorney: Leslie A. Cracraft (202) 622-3860.

Reviewing attorney: Charles C. Saverude (202) 622-3810.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: Leslie A. Cracraft, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AK79

3204. CONFORMING TAXABLE YEARS OF CFCS AND FPHCS: 1989 CHANGE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 898 Internal Revenue Code of 1986; 26 USC 902 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance to taxpayers concerning new section 898 of the Internal Revenue Code, added to the Code by the Omnibus Budget Reconciliation Act of 1989. Section 898 requires the taxable years of certain specified foreign corporations to conform to the taxable years of their majority U.S. shareholders.

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 290
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-848-89.

Drafting attorney: William T. Lundeen (202) 622-3840.

Reviewing attorney: David I. Bower (202) 622-3840.

Treasury attorney: Carol Doran Klein (202) 622-1762.

Agency Contact: William T. Lundeen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AO22

3205. APPLICATION OF SECTION 904 TO INCOME SUBJECT TO SEPARATE LIMITATIONS AND SECTION 864(E) AFFILIATED GROUP EXPERT ALLOCATION RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 904(d)(5) Internal Revenue Code of 1986; 26 USC 864(e)(7) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations modify proposed income tax regulations relating to affiliated group expense allocation rules of section 864(c)(5) and (6). In addition, the regulations propose

changes to the section 904(d) final foreign tax credit limitation regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/14/92	57 FR 20660
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-001-92.

Drafting attorney: Caren S. Shein (202) 622-3850.

Reviewing attorney: Unassigned.

Treasury attorney: Joni Walser (202) 622-1781.

Agency Contact: Caren S. Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3850**

RIN: 1545–AQ43

3206. INCOME TAX—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 905 (c) Internal Revenue Code of 1986; 26 USC 6689 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23659
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-61-86.

Drafting attorney: Laura C. Apelbaum (202) 622-3840.

Reviewing attorney: Richard L. Chewning (202) 622-3840.

Treasury attorney: Joni Walser (202) 622-1781.

Agency Contact: Laura C. Apelbaum, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AC09

3207. • EXTENSION OF TIME FOR MAKING A VALID ELECTION TO EXCLUDE FOREIGN EARNED INCOME AND HOUSING COST AMOUNTS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 911 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation amends the current regulations under section 1.911-7(a)(2)(i) to extend the period of time to elect the foreign earned income exclusion and the housing cost amounts under section 911.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-15-93.

Drafting attorney: Leslie B. van der Wal (202) 622-3850.

Reviewing attorney: Paul Miller (202) 622-3830.

Treasury attorney: Unassigned.

Agency Contact: Leslie B. van der Wal, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3850**

RIN: 1545–AR41

3208. FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION AND OTHER SPECIAL RULES FOR FSC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 925(b)(1) Internal Revenue Code of 1986; 26 USC 925(b)(2) Internal Revenue Code of 1986; 26 USC 927(d)(2)(B) Internal Revenue Code of 1986; 26 USC 927(e)(1) to 927(e)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for application of the FSC transfer pricing rules, distributions, dividends received, deductions and other special FSC provisions.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6467
NPRM Comment Period End	05/02/87	52 FR 6467
Hearing	01/19/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-153-86.

Drafting attorney: Richard L. Chewning (202) 622-3870.

Reviewing attorney: Bernard T. Bress (202) 622-3850.

Agency Contact: Richard L. Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AI16

3209. INCOME TAX—DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO & POSSESSION TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936(d)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules with respect to what constitutes qualified possession source investment income for purposes of the Puerto Rico and possession tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2726
Final Action	00/00/00	

Small Entities Affected: Undetermined

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Government Levels Affected: Undetermined

Additional Information: INTL-44-86.

Drafting attorney: W. Edward Williams (202) 874-1490.

Reviewing attorney: George M. Sellinger (202) 874-1490.

Treasury attorney: Warren Crowdus (202) 622-1779.

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Washington, DC 20024, **202 874-1490**

RIN: 1545–AC10

3210. CBI INVESTMENTS OF SECTION 936 FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936(d)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Will define investments made in qualified Caribbean Basin countries that give rise to interests or dividends available for the section 936 credit.

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 21963
Hearing	07/12/91	56 FR 21963
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-088-89.

Drafting attorney: W. Edward Williams (202) 874-1490.

Reviewing attorney: George M. Sellinger (202) 874-1490.

Treasury attorney: Unassigned.

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Washington, DC 20024, **202 874-1490**

RIN: 1545–AM91

3211. INSURANCE INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 953 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation defines related person insurance income; and sets forth rules regarding the amount of related person insurance income to be included in gross income. In addition, the regulation defines insurance income under section 953(a), prescribes rules of allocation and apportionment of deductions, and prescribes rules for the interaction of subchapter L and subchapter N.

Timetable:

Action	Date	FR Cite
NPRM	04/17/91	56 FR 15540
Hearing	06/21/91	56 FR 15570
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-939-86.

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AJ70

3212. SUBPART F DEFINITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986; 26 USC 957 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Definition of FPHC income. Particular issues include income equivalent to interest of property which does not give rise to income.

Timetable:

Action	Date	FR Cite
NPRM	07/21/88	53 FR 27532
Hearing	02/09/89	53 FR 49895
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-362-88.

Drafting attorney: Lisa G. Sams (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Treasury attorneys: Carol Dunahoo (202) 622-0726.

Agency Contact: Lisa G. Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AM15

3213. EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 964 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will develop procedures for foreign corporations or U.S. shareholders to make tax elections in computing functional currency earnings and profits under the 1986 Code.

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2535
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-087-89.

Drafting attorney: Margaret A. Hogan (202) 622-3870.

Reviewing attorney: Barbara A. Felker (202) 622-3870.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Margaret A. Hogan, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 202224, **202 622-3870**

RIN: 1545–AM90

3214. USE OF GAAP EARNINGS AS E&P OF FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 964 Internal Revenue Code of 1986; 26 USC 952 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations are proposed as part of Treasury's ongoing simplification efforts. The proposed regulations would modify the computation of earnings and profits (E&P) of foreign corporations by allowing taxpayers to account for inventory costs using capitalization methods used for financial accounting purposes rather than the uniform capitalization rules required by section 263A. The proposed regulations would also permit reliance on financial accounting conventions in computing depreciation for foreign corporations deriving less than 20% of gross income from U.S. sources and maintaining assets with tax bases not materially different from financial book bases. Use of these simplified rules may result in an accounting method change which would ordinarily require the filing of Form 3115 (Application for Change in Accounting Method). However, the proposed regulations waive this filing requirement if its conditions are met.

Timetable:

Action	Date	FR Cite
NPRM	07/01/92	57 FR 29246
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-018-92.

Drafting attorney: Margaret A. Hogan (202) 622-3870.

Reviewing attorney: Barbara A. Felker (202) 622-3870.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Margaret A. Hogan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, IIII Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AQ55

3215. COMPUTATION AND CHARACTERIZATION OF INCOME OF EARNINGS AND PROFITS UNDER THE DOLLAR APPROXIMATE SEPARATE TRANSACTIONS METHOD OF ACCOUNTING (DASTM)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 904 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986; 26 USC 985 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will address the computation of income in hyperinflationary environments.

Timetable:

Action	Date	FR Cite
NPRM	07/17/91	56 FR 32525
Hearing	09/13/91	56 FR 32533
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-029-91.

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Jacob Feldman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AP70

3216. • RULES FOR A QBU CHANGING FROM THE PROFIT-AND-LOSS METHOD TO DASTM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 985

Legal Deadline: None

Abstract: The regulation will provide rules for a qualified business unit ("QBU") changing from the profit and loss method of accounting to DASTM and also rules for any adjustments required due to the change in method.

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 300
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-045-92.

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Barbara Felker (202) 622-3870.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Jacob Feldman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AR28

3217. COMPUTATION OF A BRANCH'S TAXABLE INCOME TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Branch rules on how to translate branch income. Taxation of exchange gain or loss on branch remittances.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48457
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-965-86.

Drafting attorney: Carol E. Murphy (202) 622-3870.

Reviewing attorney: Barbara Felker (202) 622-3870.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Carol E. Murphy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AM12

3218. MARK-TO-MARKET METHOD OF ACCOUNTING UNDER SECTION 988

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 989(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations allow taxpayers to elect to account for exchange gains and losses under a mark-to-market method of accounting. The proposed regulation also addresses

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other matters including dual currency bonds, contingent payment bonds denominated in a nonfunctional currency, hyperinflationary instruments and certain hedging transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/17/92	57 FR 9217
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-015-91.

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Jacob Feldman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AP78

3219. PROPOSED INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1984 RELATING TO INTEREST CHARGE DISCS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 995 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulations will provide guidance relating to the Interest Charge imposed on DISC shareholders for taxable years ending after 1984. The regulations will explain how the Deemed Distribution is computed and how the Interest Charge is computed.

Timetable:

Action	Date	FR Cite
NPRM	02/02/87	52 FR 3256
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-043-86.

Drafting attorney: David Bergkuist (202) 622-3860.

Reviewing attorney: Jacob Feldman (202) 622-3870.

Treasury attorney: Unassigned.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AG71

3220. • MODIFICATIONS OF DEBT INSTRUMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1001 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document relates to the treatment of modifications of debt instruments as realization events under section 1001 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	12/02/92	57 FR 57034
Hearing	02/17/93	57 FR 57033
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-31-92.

Drafting attorney: Tom Kelly (202) 622-3940.

Agency Contact: Tom Kelly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3940**

RIN: 1545–AR04

3221. INCOME TAX—TRANSFERS OF SECURITIES UNDER CERTAIN AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1058 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that so long as the provisions of section 1058 and these regulations are met, the lender will neither recognize gain or loss on the transfer of securities nor upon the return of identical securities.

Timetable:

Action	Date	FR Cite
NPRM	07/26/83	48 FR 33912
NPRM Comment Period End	09/26/83	48 FR 33912
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-182-78.

Drafting attorney: Mark Smith (202) 622-3452.

Reviewing attorney: Al Kraft (202) 622-3920.

Agency Contact: Mark Smith, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3452**

RIN: 1545–AC20

3222. CERTAIN PAYMENTS MADE PURSUANT TO A SECURITIES LENDING TRANSACTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986; 26 USC 871 Internal Revenue Code of 1986; 26 USC 881 Internal Revenue Code of 1986; 26 USC 894 Internal Revenue Code of 1986; 26 USC 1058 Internal Revenue Code of 1986; 26 USC 1441 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations concern the source, character and income tax treaty treatment of substitute interest and dividend payments made pursuant to a transfer of securities described in section 1058(a) or a substantially similar transaction between a U.S. person and a foreign person. To determine the source and character of cross-order substitute payments, a substitute payment will be treated as interest or dividend income received with respect to the transferred security. Where a treaty looks to U.S. law to define a payment subject to a withholding tax, a substitute payment will be treated as interest or dividend income with respect to the transferred security.

Timetable:

Action	Date	FR Cite
NPRM	01/09/92	57 FR 860
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-106-89.

Drafting attorney: Teresa B. Hughes (202) 622-3870.

Reviewing attorney: Barbara A. Felker (202) 622-3870.

Treasury attorney: Emily McMahon (202) 622-1763.

Agency Contact: Teresa B. Hughes, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AP71

3223. INCOME TAX—SPECIAL ALLOCATION RULES FOR CERTAIN ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1060 Internal Revenue Code of 1986; 26 USC 755 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986; 26 USC 167 Internal Revenue Code of 1986; 26 USC 1031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will explain and illustrate the application of the residual method of allocation to the purchase price in certain asset acquisitions. It will also provide certain informational reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/18/88	53 FR 27053
NPRM Comment Period End	11/15/88	53 FR 32899
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-119-86.

Drafting attorney: Keith Medleau (202) 622-7550.

Reviewing attorney: William Alexander (202) 622-7550.

Treasury attorney: Judd Kelly (202) 622-1339.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AJ06

3224. CHARACTER OF GAINS AND LOSSES IN CASE OF STRADDLES WHERE AT LEAST ONE POSITION IS ORDINARY AND AT LEAST ONE POSITION IS CAPITAL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance with respect to the timing and character of gains and losses in case of straddles where at least one position is ordinary and at least one position is capital.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-106-88.

Drafting attorney: Robert B. Williams (202) 622-3950.

Reviewing attorney: Alice Bennett (202) 622-3950.

Agency Contact: Robert B. Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3950**

RIN: 1545–AM57

3225. INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1984 RELATING TO MIXED STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092(b)(1) Internal Revenue Code of 1986; 26 USC 1092(b)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to mixed straddles. The regulations will explain the application of the straddle-by-straddle identification rules of mixed straddles and the establishment of mixed straddle accounts.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3351
NPRM Comment Period End	03/25/85	50 FR 3351
Hearing	05/02/85	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-299-84.

Drafting attorney: Robert B. Williams (202) 622-3950.

Reviewing attorney: Alice Bennett (202) 622-3950.

Agency Contact: Robert B. Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3950**

RIN: 1545–AH59

3226. INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981 AND THE TAX REFORM ACT OF 1984, RELATING TO STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to tax straddles. The regulations will explain the general loss deferral rule under section 1092, and the application of rules similar to section 1091 and 1233 to straddles.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3352
NPRM Comment Period End	03/25/85	50 FR 3352
Hearing	05/02/85	
Final Action	12/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-297-84.

Drafting attorney: Robert B. Williams (202) 622-3950.

Reviewing attorney: Alice Bennett (202) 622-3950.

Agency Contact: Robert B. Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111

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Constitution Ave. NW., Washington, DC 20224, 202 622-3950

RIN: 1545–AH60

3227. INCOME TAX—GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1254 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986; PL 94-455, Sec 205 Tax Reform Act of 1976; PL 94-455, Sec 1901 Tax Reform Act of 1976; PL 95-618, Sec 402 Energy Tax Act of 1978

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will determine the tax treatment of gain from the disposition of certain oil, gas, or geothermal property to determine how much of the gain from the disposition is subject to recapture under section 1254 and accorded ordinary income treatment. The regulations also will define intangible drilling and development costs, disposition, and oil, gas and geothermal property for purposes of section 1254.

Timetable:

Action	Date	FR Cite
NPRM	06/11/80	45 FR 39512
NPRM Comment Period End	08/11/80	45 FR 39512
Hearing	09/09/80	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-276-76.

Drafting attorney: Brenda Stewart (202) 622-3120.

Reviewing attorney: Charles Ramsey (202) 622-3110.

Treasury attorney: Barksdale Penick (202) 622-1335.

Agency Contact: Brenda Stewart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3120

RIN: 1545–AC35

3228. REGULATIONS UNDER SECTIONS 1271 THROUGH 1275 RELATING TO TAX TREATMENT OF DEBT INSTRUMENTS HAVING ORIGINAL ISSUE DISCOUNT

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1275 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would provide guidance as to computation of amount to be included in income by holders and amount to be deducted by issuers of certain bonds issued after July 1, 1982. With respect to these bonds, original issue discount is computed under a constant yield method. Guidance is also provided as to the computation of original issue discount in special circumstances. A separate regulations project for contingent and variable instruments has been established (FI-59-91).

Timetable:

Action	Date	FR Cite
Hearing	11/17/86	51 FR 24162
NPRM	07/12/91	56 FR 31887
Hearing	08/23/91	56 FR 31890
NPRM	12/21/92	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-189-84.

Drafting attorney: William E. Blanchard (202) 622-3950.

Reviewing attorney: Andrew Kittler (202) 622-3940.

Treasury attorney: Val Strehlow (202) 622-0869.

Agency Contact: William E. Blanchard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3950

RIN: 1545–AH46

3229. TREATMENT OF SHAREHOLDERS OF PASSIVE FOREIGN INVESTMENT COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1291 Internal Revenue Code of 1986; 26 USC 1293 Internal Revenue Code of 1986; 26 USC 1297 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to the treatment of shareholders of passive foreign investment companies.

Timetable:

Action	Date	FR Cite
NPRM	04/01/92	57 FR 11024
NPRM Comment Period End	07/30/92	57 FR 11024
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-656-87.

Drafting attorney: Gayle Novig (202) 622-3880.

Reviewing attorney: Tom Fuller (202) 622-3880.

Treasury attorney: Anne Fisher (202) 622-1755.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3880

RIN: 1545–AC06

3230. PASSIVE FOREIGN INVESTMENT COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1294 Internal Revenue Code of 1986; 26 USC 1297(b)(1) Internal Revenue Code of 1986; 26 USC 1291(d)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance to passive foreign investment companies and their shareholders that are United States persons about the time, manner and other requirements for making certain elections.

Timetable:

Action	Date	FR Cite
NPRM	03/02/88	53 FR 6781
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-941-86.

Drafting attorney: Gayle Novig (202) 622-3880.

Reviewing attorney: Tom Fuller (202) 622-3880.

Treasury attorney: Anne Fisher (202) 622-1755.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3880

RIN: 1545–AI33

3231. INCOME TAX—DEFINITION OF S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1361 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will address the following matters: (1) the number of permitted shareholders of a small business corporation, (2) the types of trusts that are permitted to be shareholders of a small business corporation, (3) whether shares are permitted to be owned as a split interest and (4) the rules relating to corporations that are ineligible to be an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	10/07/87	51 FR 35659
NPRM Comment Period End	12/08/87	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-262-82.

Drafting attorney: Dina Del Principe (202) 622-3060.

Reviewing attorney: Thomas Hines (202) 622-3060.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Dina Del Principe, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3080

RIN: 1545–AE86

3232. INCOME TAX—RULES RELATING TO ADJUSTMENT TO BASIS OF STOCK OF SHAREHOLDERS OF S CORPORATIONS AND TO DETERMINATION OF BASIS OF PROPERTY DISTRIBUTION BY CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1367 Internal Revenue Code of 1986; 26 USC 1368 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide rules for adjusting the basis of stock of a shareholder in an S corporation and rules for determining the treatment of property distributions by an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	06/09/92	57 FR 24426
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-264-82.

Drafting attorney: Deane Burke (202) 622-3080.

Reviewing attorney: Christine Ellison (202) 622-3120.

Treasury attorney: Heidi Ebel

Agency Contact: Deane Burke, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3080

RIN: 1545–AE88

3233. USE OF PASSIVE ACTIVITY LOSS CARRYOVERS BY BANKRUPTCY ESTATES

Significance: Agency Priority

Legal Authority: 26 USC 1398(g)(8) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1398(g) which enumerated certain attributes of individual debtors that pass to the bankruptcy estate in cases under chapter 7 of or chapter 11 of the Bankruptcy Code was enacted in 1980. Section 1398(g)(8) provides that the Secretary can designate by regulation additional attributes that pass to the bankruptcy estate to the extent necessary or appropriate to carry out the purposes of section 1398. Section 469 which created passive activity losses was enacted in 1986. Passive activity losses are not attributes that are specifically enumerated in section 1398(g). This regulation addresses whether passive activity losses should be designated as an attribute that passes to the estate under section 1398(g). This regulation will provide guidance in an area of the law that is unclear.

Timetable:

Action	Date	FR Cite
NPRM	11/09/92	57 FR 53300
NPRM Comment Period End	12/03/92	57 FR 53300
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-5-92.

Drafting attorney: Amy Sargent (202) 622-4930.

Reviewing attorney: Karin Gross (202) 622-4930.

Agency Contact: Amy Sargent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4930

RIN: 1545–AQ50

3234. WITHHOLDING ON ITEMS OF INCOME COVERED BY AN INCOME TAX CONVENTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1441 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: These regulations relate to the withholding on certain items of income subject to a reduced rate of, or exemption from, U.S. tax under an income tax convention to which the United States is a party. These regulations would amend the existing regulations to provide a certification requirement for obtaining reduced rates of, or exemption from, U.S. withholding tax on payments of fixed or determinable annual or periodical income and certain other income.

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Timetable:

Action	Date	FR Cite
NPRM	09/10/84	49 FR 35511
NPRM Comment Period End	11/09/84	49 FR 35511
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-176-86.

Drafting attorney: Lilo A. Hester (202) 874-1490.

Reviewing attorney: George M. Sellinger (202) 874-1490.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Lilo A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Suite 3319, Washington, DC 20024, **202 874-1490**

RIN: 1545–AH86

3235. WITHHOLDING OF TAX ON NONRESIDENT ALIENS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1441 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1441

Legal Deadline: None

Abstract: Section 864(c)(6) of the Code, added in 1986, had the unintended effect of allowing nonresident alien individuals to elect out of all withholding on pension payments from qualified plans. The regulation corrects this inadvertent loophole and requires withholding on such payments.

Timetable:

Action	Date	FR Cite
NPRM	02/05/90	55 FR 3750
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: INTL-660-89.

Drafting attorney: Carol P. Tello (202) 622-3880.

Reviewing attorney: Thomas D. Fuller (202) 622-3880.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3880**

RIN: 1545–AN75

3236. GENERAL REVISION OF SECTION 1441 REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: General revision of section 1441 withholding regulations to accommodate changes to the tax law since these rules were issued.

Timetable:

Action	Date	FR Cite
ANPRM	04/25/90	55 FR 17455
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: INTL-062-90.

Drafting attorney: Eric P. Turner (202) 622-3830.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Unassigned.

Agency Contact: Eric P. Turner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3830**

RIN: 1545–AO27

3237. TEMPORARY REGULATION ON WITHHOLDING TAX ON PAYMENTS FROM PARTNERSHIPS TO FOREIGN PARTNERS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1446 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation explains under what circumstances withholding is required under section 1446. It also explains the timing of withholding and how to pay over the withheld amounts to the Internal Revenue Service. Section 1446 was substantially amended by the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-938-86.

Drafting attorney: Thomas L. Ralph (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Unassigned.

Agency Contact: Thomas L. Ralph, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3880**

RIN: 1545–AL32

3238. CONSOLIDATED RETURN REGULATIONS; ADJUSTMENT ON DISPOSITION OF STOCK OF SUBSIDIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will finalize temporary regulation 1.1502-32T concerning basis reduction accounts that are created when a subsidiary is deconsolidated but members of the affiliated group retain some stock in the deconsolidated subsidiary.

Timetable:

Action	Date	FR Cite
NPRM	03/14/88	53 FR 8773
NPRM Comment Period End	05/16/88	53 FR 8773

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-28-88.

Drafting attorney: Steven Teplinsky (202) 622-7770.

Reviewing attorney: John Broadbent (202) 622-7710.

Agency Contact: Steve Teplinsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7770**

RIN: 1545–AL59

3239. ADJUSTMENTS REFLECTING A RESTRUCTURING OF A CONSOLIDATED GROUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides rules for determining the basis and the earnings and profits of members of a consolidated group following certain changes in the structure of the group where the group remains in existence. This regulation also provides for alternative agents of the group if the common parent ceases to be the common parent.

Timetable:

Action	Date	FR Cite
NPRM	09/08/88	53 FR 34779
Public Hearing Discussing the Issues Discussed in the NPRM	09/18/89	54 FR 28683
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-66-88.

Drafting attorney: Steven Teplinsky (202) 622-7770.

Reviewing attorney: John Broadbent (202) 622-7710.

Treasury attorney: Andrew Dubroff (202) 622-1766.

Agency Contact: Steven Teplinsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7770**

RIN: 1545–AL62

3240. MODIFICATION OF RESTORATION RULES RELATING TO DEFERRED GAIN PROPERTY SOLD OUTSIDE THE GROUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-13

Legal Deadline: None

Abstract: The regulations will provide guidance relating to the treatment of gain recognized upon complete liquidations of corporations in a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	04/18/88	53 FR 12705
NPRM Comment Period End	06/17/88	53 FR 12705

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-11-91.

Drafting attorney: Roy Hirschhorn (202) 622-7770.

Reviewing attorney: Edward S. Cohen (202) 622-7760.

Treasury attorney: Andrew Dubroff (202) 622-1766.

Agency Contact: Roy Hirschhorn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7770**

RIN: 1545–AL63

3241. CONSOLIDATED RETURN REGULATIONS—FINALIZATION OF SECTION 1.1502-13T AND 1.1502-14T

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.453A; 26 CFR 1.1502

Legal Deadline: None

Abstract: The regulations provide rules concerning the creation and restoration of deferred gain or loss. The purpose of the regulations is to conform the original intent of the deferral mechanism by assuring that intercompany transfers generally do not affect the overall federal income tax consequences of the group.

Timetable:

Action	Date	FR Cite
NPRM	03/14/90	55 FR 9462
NPRM Comment Period End	05/14/90	55 FR 9462
Hearing	07/09/90	55 FR 9461

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-008-90.

Drafting attorney: Roy Hirschhorn (202) 622-7770.

Reviewing attorney: Edward Cohen (202) 622-7760.

Treasury attorney: Andrew Dubroff (202) 622-1766.

Agency Contact: Roy Hirschhorn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7770**

RIN: 1545–AO44

3242. LIMITATIONS ON THE USE OF CERTAIN LOSSES AND BUILT-IN DEDUCTIONS

Legal Authority: 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations provide rules for computing the limitation with respect to separate return limitation year losses.

Timetable:

Action	Date	FR Cite
NPRM	02/04/91	56 FR 4229
NPRM Comment Period End	03/29/91	56 FR 4229
Hearing	04/08/91	56 FR 4243
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-078-90.

Drafting attorney: David Madden (202) 622-7540.

Reviewing attorney: Charles Whedbee (202) 622-7750.

Treasury attorney: Andrew Dubroff (202) 622-1766.

Agency Contact: David Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7540**

RIN: 1545–AP15

3243. INVESTMENT ADJUSTMENTS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 1503 Internal Revenue Code of 1986

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CFR Citation: 26 CFR 1.1502-11; 26 CFR 1.1502-19; 26 CFR 1.1502-20; 26 CFR 1.1502-31; 26 CFR 1.1502-32; 26 CFR 1.1502-33; 26 CFR 1.1502-76; 26 CFR 1.1502-80

Legal Deadline: None

Abstract: The proposed regulations modify and simplify the investment adjustment rules of the consolidated return regulations. In addition, various related provisions of the consolidated return regulations are also revised.

Timetable:

Action	Date	FR Cite
NPRM	11/12/92	57 FR 53634
First Hearing	12/18/92	57 FR 53634
Second Hearing	03/04/93	57 FR 54957
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-030-92.

Drafting attorney: Steve Teplinsky (202) 622-7770.

Reviewing attorney: Edward S. Cohen (202) 622-7760.

Treasury attorney: Andrew Dubroff (202) 622-1766.

Agency Contact: Steven Teplinsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7770**

RIN: 1545–AQ69

3244. CROSS-REFERENCE—ALASKA NATIVE CORPORATIONS; REQUIREMENTS FOR AFFILIATION IN ORDER TO FILE A CONSOLIDATED RETURN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules relating to the affiliated requirements of Alaska Native Corporations with certain other corporations in order to file a consolidated return.

Timetable:

Action	Date	FR Cite
NPRM	03/18/87	52 FR 8471
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-23-87.

Drafting attorney: Mark S. Jennings (202) 622-7530.

Reviewing attorney: Don Leatherman (202) 622-7520.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7530**

RIN: 1545–AK88

3245. ESTATE & GIFT TAXES—INCLUSION OF STOCK IN ESTATE WHERE DECEDENT RETAINED VOTING RIGHTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2036 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: These regulations will provide the extent to which the retention of voting rights by a transferor of stock will require that the value of that stock be included in the transferor's gross estate.

Timetable:

Action	Date	FR Cite
NPRM	08/03/83	48 FR 35143
NPRM Comment Period End	11/03/83	48 FR 35143
Final Action	12/01/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-181-76.

Drafting attorney: Lane H. Damazo (202) 622-3090.

Reviewing attorney: Lee Dunn (202) 622-3090.

Treasury attorney: Monte Jackel (202) 622-1338.

Agency Contact: Lane H. Damazo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3090**

RIN: 1545–AC63

3246. ESTATE AND GIFT TAXES—INCREASE IN LIMITATIONS ON MARITAL DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2012 Internal Revenue Code of 1986; 26 USC 2014 Internal Revenue Code of 1986; 26 USC 2055 Internal Revenue Code of 1986; 26 USC 2056 Internal Revenue Code of 1986; 26 USC 2207A Internal Revenue Code of 1986; 26 USC 2519 Internal Revenue Code of 1986; 26 USC 2523 Internal Revenue Code of 1986; 26 USC 6019 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25

Legal Deadline: None

Abstract: These regulations will clarify the estate and gift tax treatment of transfers of property between spouses. They will provide how an executor may elect to treat certain property as qualified terminable interest property, in which case the imposition of transfer taxes will be delayed until the latter of (1) the surviving spouse's disposition of an interest in the property or (2) the surviving spouse's death.

Timetable:

Action	Date	FR Cite
NPRM	05/21/84	49 FR 21350
NPRM Comment Period End	07/20/84	49 FR 21350
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-211-76.

Drafting attorney: Susan Hurwitz (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Treasury attorney: Robert Weaver (202) 622-0871.

Agency Contact: Susan Hurwitz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3090**

RIN: 1545–AC67

3247. ESTATE TAX—GENERATION SKIPPING TRANSFER TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2653 Internal Revenue Code of 1986; 26 USC 2662 Internal Revenue Code of 1986; 26 USC 2663 Internal Revenue Code of 1986

CFR Citation: 26 CFR 26; 26 CFR 26a

Legal Deadline: None

TREAS—IRS **Final Rule Stage**

Abstract: The regulations will provide rules relating to the effective date provisions, return requirements, definitions, and certain special rules for the tax on generation skipping transfers.

Timetable:

Action	Date	FR Cite
NPRM	03/15/88	53 FR 8469
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-128-86.

Drafting attorney: John B. Franklin (202) 622-3090.

Reviewing attorney: Fred E. Grundeman (202) 622-3090.

Treasury attorney: Monte Jackel (202) 622-0871.

Agency Contact: John B. Franklin, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3090**

RIN: 1545–AJ11

3248. EXPLAIN RULES UNDER NEW SECTION 2704

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2701 Internal Revenue Code of 1986; 26 USC 2702 Internal Revenue Code of 1986; 26 USC 2704 Internal Revenue Code of 1986

CFR Citation: 26 CFR 25

Legal Deadline: None

Abstract: Special adjustment provisions where interests previously valued under sections 2701 and 2702 are subsequently transferred.

Timetable:

Action	Date	FR Cite
NPRM	09/11/91	56 FR 46244
Hearing	11/01/91	56 FR 46244
NPRM Comment Period End	11/04/91	56 FR 46244
Amended NPRM	02/04/92	57 FR 4279
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-030-91.

Drafting attorney: Fred Grundeman (202) 622-3090.

Reviewing attorney: Lee Dunn (202) 622-3090.

Treasury attorney: Monte Jackel (202) 622-1338.

Agency Contact: Fred Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3090**

RIN: 1545–AM86

3249. EMPLOYMENT TAX—TO REQUIRE WITHHOLDING OF SOCIAL SECURITY AND RAILROAD RETIREMENT TAX FROM CERTAIN PAYMENTS OF SICK PAY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3121 Internal Revenue Code of 1986; 26 USC 3231 Internal Revenue Code of 1986; PL 97-123, Sec 3

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide guidance to third parties paying sick pay which is subject to social security or railroad retirement tax, employees receiving the sick pay, and employers of the employees.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/82	
NPRM	07/06/82	47 FR 29266
NPRM Comment Period End	09/06/82	
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-23-82.

Drafting attorney: Renay France (202) 622-4910.

Reviewing attorney: John M. Coulter (202) 622-4910.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4910**

RIN: 1545–AC77

3250. TO PROVIDE REGULATIONS RELATING TO BACKUP WITHHOLDING UNDER SECTION 3406

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3406 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide that a tax equal to 20 percent of any reportable payment is required to be withheld if certain conditions exist. With respect to reportable interest or dividends, backup withholding applies if (1) no number is provided in the manner required, (2) the Service notifies the payor that the payee's taxpayer identification number is not correct, (3) the payee is subject to backup withholding due to a notified payee underreporting, and (4) the payee fails to certify when required that he or she is not subject to backup withholding due to notified payee underreporting. With respect to other reportable payments (such as rents, royalties, nonemployee compensation, broker transactions, or barter exchanges), backup withholding applies if (1) no taxpayer identification number is provided, or (2) the Service notifies the payor that the payee's taxpayer identification number is not correct.

Timetable:

Action	Date	FR Cite
NPRM	09/27/90	55 FR 39427
Hearing	03/04/91	55 FR 48867
NPRM	09/23/91	56 FR 47929
Hearing	11/19/91	56 FR 47921
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-224-82.

Drafting attorney: Renay France (202) 622-4910.

Reviewing attorney: John M. Coulter, Jr. (202) 622-4910.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4910**

RIN: 1545–AE20

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3251. INFORMATION REPORTING AND BACKUP WITHHOLDING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 35a

Legal Deadline: None

Abstract: This regulation relates to the requirement that certain payments must be reported to the Internal Revenue Service and that in certain instances 31 percent of a reportable payment must be deducted and withheld under section 3406 of the Internal Revenue Code. However, where a foreign person is an exempt recipient or has submitted a Form W-8, 1001 or 4224, no reporting or backup withholding is required.

Timetable:

Action	Date	FR Cite
NPRM	02/29/88	53 FR 05991
Hearing	06/15/89	54 FR 11236
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-052-86.

Drafting attorney: Teresa B. Hughes (202) 622-3870.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Emily McMahon (202) 622-1763.

Agency Contact: Teresa B. Hughes, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3870

RIN: 1545–AL99

3252. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS AS NONEMPLOYEES FOR EMPLOYMENT TAX PURPOSES—REPORTING REQUIREMENTS WITH RESPECT TO DIRECT SELLERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3508 Internal Revenue Code of 1986; 26 USC 3509 Internal Revenue Code of 1986; 26 USC 6041A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None

Abstract: The proposed regulations would provide rules for the treatment of real estate agents and direct sellers as independent contractors for employment tax purposes. The proposed rules would also provide guidance for the reporting requirements of sales to direct sellers. The proposed rules would also provide guidance for computing certain employer liability for employment taxes.

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 619
NPRM Comment Period End	03/10/86	51 FR 619
Hearing	06/18/86	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-37-88.

Drafting attorney: Alfred Kelley (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Agency Contact: Alfred Kelley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-6040

RIN: 1545–AE62

3253. RETAIL EXCISE TAXES ON CERTAIN LUXURY ITEMS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4004 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: Rules relating to the retailers excise taxes on certain luxury items

Timetable:

Action	Date	FR Cite
NPRM	01/02/91	56 FR 36
NPRM Comment Period End	03/04/91	56 FR 36
Hearing	04/29/91	56 FR 11979

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-094-90.

Drafting attorney: Edward Madden (202) 622-3130.

Reviewing attorney: Jeffrey Nelson (202) 622-3130.

Treasury attorney: Hal Gann (202) 622-1333.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3130

RIN: 1545–AP24

3254. EXCISE TAX—EXCISE TAX ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS

Legal Authority: 26 USC 4052 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations will clarify the definition of first retail sale.

Timetable:

Action	Date	FR Cite
NPRM	05/12/88	53 FR 16882

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-17-86.

Drafting attorney: Edward Madden (202) 622-3130.

Reviewing attorney: Richard A. Kocak (202) 622-3130.

Treasury attorney: James Miller (202) 622-1768.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3130

RIN: 1545–AI51

3255. EXCISE TAX—EXCESS DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4981A Internal Revenue Code of 1986; 26 USC 4980A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for determining the amount of the excise tax on excess distributions from qualified retirement plans.

Timetable:

Action	Date	FR Cite
NPRM	12/10/87	52 FR 46782
NPRM Comment Period End	02/08/88	52 FR 46782
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-162-86.

Drafting attorney: Marjorie Hoffman (202) 622-6030.

Reviewing attorney: A. Thomas Brisendine (202) 622-6030.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-6030

RIN: 1545–AI81

3256. EXCISE TAX—ISSUES ARISING WHERE MULTIPLE PARTIES SHARE IN PRODUCTION, INCLUDING UNITIZATIONS, PARTNERSHIPS, TRUSTS AND ESTATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4986 to 4998 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These regulations would provide rules relating to production from a unitized property of imputed stripper well crude oil, imputed heavy crude oil, and imputed newly discovered crude oil for purposes of the windfall profit tax. The regulations would provide rules for determining the amount of imputed oil and rules for allocating the imputed oil among the producers of the unitized property.

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	51 FR 34653
NPRM Comment Period End	12/01/86	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-225-81.

Drafting attorney: Lisa Shuman (202) 622-3120.

Reviewing attorney: Walter Woo (202) 622-3120.

Treasury attorney: Barksdale Penick (202) 622-1335.

Withdrawal notice in signature package.

Agency Contact: Lisa Shuman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3120

RIN: 1545–AC94

3257. EXCISE TAX—DEFINITION OF PROPERTY UNDER THE CRUDE OIL WINDFALL PROFIT TAX ACT 1980

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4996 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These proposed regulations would provide rules relating to the definition of "property" for purposes of the crude oil windfall profit tax. These regulations are important because the rate of tax depends, in part, on the characteristics of the property from which the crude oil is produced.

Timetable:

Action	Date	FR Cite
NPRM	09/25/86	51 FR 34095
NPRM Comment Period End	11/24/86	51 FR 34095
Hearing	02/25/87	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-34-82.

Drafting attorney: Lisa Shuman (202) 622-3120.

Reviewing attorney: Walter Woo (202) 622-3120.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Barksdale Penick (202) 622-1335.

Withdrawal notice in signature package

Agency Contact: Lisa Shuman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3120

RIN: 1545–AD08

3258. EXCISE TAX—PART 54—PROCEDURE AND ADMINISTRATION—PART 301—FILING OF RETURNS FOR PAYMENT OF PENSION EXCISE TAX ON REVERSIONS OF QUALIFIED PLAN ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4980 Internal Revenue Code of 1986

CFR Citation: 26 CFR 54; 26 CFR 602

Legal Deadline: None

Abstract: The regulations would provide guidance regarding the payment of the excise tax by employers receiving reversions of qualified plan assets imposed by section 4980 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	04/02/87	52 FR 10583
NPRM Comment Period End	06/01/87	52 FR 10583
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-151-86.

Drafting Tax Law Specialist: Vernon Carter (202) 622-6070.

Reviewing attorney: James L. Brokaw (202) 622-6070.

Agency Contact: Vernon Carter, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-6070

RIN: 1545–AI83

3259. INCOME TAX—AMENDMENTS TO REQUIREMENTS FOR RETURN OF PARTNERSHIP INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidelines for determining when and what information a partnership must provide to its partners. The regulations also provide guidelines for determining what foreign partnerships must file information returns.

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Timetable:

Action	Date	FR Cite
NPRM	01/23/86	51 FR 3075
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-198-82.

Drafting attorney: Christopher Kehoe (202) 622-3080.

Agency Contact: Christopher Kehoe, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AE40

3260. INFORMATION RETURNS REQUIRED OF UNITED STATES PERSONS WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6038 Internal Revenue Code of 1986

CFR Citation: 26 CFR 6038

Legal Deadline: None

Abstract: This notice of proposed rulemaking would clarify certain requirements of section 1.6038-2 of the income tax regulations relating to Form 5471 (Information Return requires of certain U.S. persons with respect to annual accounting periods of certain foreign corporations).

Timetable:

Action	Date	FR Cite
NPRM	07/07/92	57 FR 29851
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IL-079-91.

Drafting attorney: Carl Cooper (202) 622-3840

Reviewing attorney: David Bower (202) 622-3840

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AQ06

3261. INFORMATION FROM PASSPORT AND IMMIGRATION APPLICANTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6039E Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will prescribe the information to be gathered by the State Department and Immigration and Naturalization Service on passport and green card applicants and the penalties to be imposed on such applicants if they do not supply the information.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61373
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-978-86.

Drafting attorney: Ricardo A. Cadenas (202) 874-1490.

Reviewing attorney: George Sellinger (202) 874-1490.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Ricardo A. Cadenas, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Suite 3319, Washington, DC 20024, **202 874-1490**

RIN: 1545–AJ93

3262. INFORMATION RETURNS ON SALES THROUGH COD ACCOUNTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide a special rule for broker reporting with respect to transactions made through a cash on delivery account (COD). In addition, these regulations make technical corrections to the list of recipients exempted from coverage under the reporting requirement, and expand the class of brokers which qualify for the multiple broker rule.

Timetable:

Action	Date	FR Cite
NPRM	05/29/84	49 FR 22343
NPRM Comment Period End	07/30/84	49 FR 22343
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-62-84.

Drafting attorney: John Moriarty (202) 622-4950.

Reviewing attorney: David L. Crawford (202) 622-4950.

Agency Contact: John Moriarty, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4950**

RIN: 1545–AG52

3263. TO CLARIFY THE OBLIGATION OF BROKERS TO REPORT ORIGINAL ISSUE DISCOUNT ON FORM 1099

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6049 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulation explains the revised reporting requirements for original issue discount on debt instruments held by brokers and other middlemen as nominees to make it clear that a broker or middleman has an unqualified obligation to report original issue discount on certain debt instruments held as a nominee.

Timetable:

Action	Date	FR Cite
NPRM	12/17/86	51 FR 45131
NPRM Comment Period End	02/17/87	51 FR 45131
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-144-85.

Drafting attorney: Carol Nachman (202) 622-3950.

Reviewing attorney: Alice Bennett (202) 622-3950.

Agency Contact: Carol Nachman, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Avenue NW., Washington, DC 20224, **202 622-3950**

RIN: 1545–AM80

3264. INFORMATION REPORTING FOR REIMBURSEMENTS OF INTEREST ON QUALIFIED MORTGAGES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6050H Internal Revenue Code of 1986

CFR Citation: 26 CFR 6050H

Legal Deadline: None

Abstract: The proposed regulations provide that interest recipients must report on Form 1098 any reimbursement of overpayments of interest on a mortgage if the reimbursement relates to interest required to be reported on a Form 1098 by any interest recipient.

Timetable:

Action	Date	FR Cite
NPRM	10/16/92	57 FR 47428
Hearing	11/30/92	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-33-92.

Drafting attorney: Stephen J. Toomey (202) 622-4960.

Reviewing attorney: William Jackson (202) 622-4960.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Steve Toomey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AQ78

3265. AMEND AGGREGATION RULES FOR FILING REQUIREMENT

Legal Authority: 26 USC 6050I Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6050I-1(b)(1)

Legal Deadline: None

Abstract: An amendment to the regulation is necessary as the result of a policy decision to revise Form 8300.

Timetable:

Action	Date	FR Cite
NPRM	07/09/90	55 FR 28061
NPRM Comment Period End	09/07/90	55 FR 28061
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: IA-041-89.

Drafting attorney: Philip Scott (202) 622-4960.

Reviewing attorney: Vincent Cardella (202) 622-4960.

Agency Contact: Philip Scott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AN42

3266. VOICE SIGNATURES

Significance: Agency Priority

Legal Authority: 26 USC 6061 Internal Revenue Code of 1986; 26 USC 6012 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6012-7T; 26 CFR 1.6061-2T; 26 CFR 1.6065-2T

Legal Deadline: None

Abstract: The regulations will enable the Service to accept a voice signature in lieu of a handwritten signature. This will allow the Service to test the feasibility of voice signatures for one year with certain taxpayers who live in the geographic area of the Cincinnati district office. The regulations also address the effect of the taxpayers using a voice signature.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-15-92.

Drafting attorney: Celia Gabrysh (202) 622-4960.

Reviewing attorney: William Jackson (202) 622-4960.

Agency Contact: Celia Gabrysh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4960**

RIN: 1545–AQ67

3267. AUTHORITY OF THE FCIC TO REQUIRE EMPLOYER IDENTIFICATION NUMBERS FOR CERTAIN TAXPAYERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 25 CFR 301.6109-3

Legal Deadline: None

Abstract: The regulations would provide that the manager of the Federal Crop Insurance Corporation may require each policyholder and each reinsured company to furnish to the insurer or the manager the employer identification number of the policyholder.

Timetable:

Action	Date	FR Cite
NPRM	08/31/92	57 FR 39379
NPRM Comment Period End	09/30/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-4-92.

Drafting attorney: Beverly Baughman (202) 622-4940.

Treasury attorney: Evelyn Elgin (202) 622-1338.

Agency Contact: Beverly Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4940**

RIN: 1545–AQ49

3268. PROPOSED REGULATIONS UNDER SECTION 6111, RELATING TO TAX SHELTER REGISTRATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6111 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This project will provide rules explaining what investments are tax shelters that must be registered with the Internal Revenue Service. The project will also provide rules relating to the persons required to register tax shelters and to the furnishing of tax

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shelter registration numbers to investors in tax shelters.

Timetable:

Action	Date	FR Cite
NPRM	08/15/84	49 FR 32728
NPRM Comment Period End	10/15/84	49 FR 32728
Hearing held	01/17/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-142-84.

Drafting attorney: Christopher Kehoe (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Agency Contact: Christopher Kehoe, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AG45

3269. 6114 REPORTING REQUIREMENTS WAIVED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6114 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulation will provide that reporting under section 6114 is required in situations where the residency of an individual is determined under a treaty and apart from the Code.

Timetable:

Action	Date	FR Cite
NPRM	04/27/92	57 FR 15272
NPRM Comment Period End	06/26/92	57 FR 15272
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: INTL-121-90.

Drafting attorney: David A. Juster (202) 622-3850.

Reviewing attorney: Unassigned.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: David A. Juster, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3850**

RIN: 1545–AP35

3270. SMALL S CORPORATION EXCEPTION AND DEFINITION OF SUBCHAPTER S ITEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6241 Internal Revenue Code of 1986; 26 USC 6245 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 602; 26 CFR 51

Legal Deadline: None

Abstract: These regulations will provide a small S corporation exception to the unified corporate audit procedures of subchapter D of chapter 63 of the Internal Revenue Code. These regulations also will define subchapter S items for purposes of the income tax and windfall profit tax.

Timetable:

Action	Date	FR Cite
NPRM	01/30/87	52 FR 3027
NPRM Comment Period End	03/31/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-74-86.

Drafting attorney: Noah Baer (202) 622-3050.

Reviewing attorney: Dianna K. Miosi (202) 622-3050.

Treasury attorney: Barksdale Penick (202) 622-1335.

Agency Contact: Noah Baer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3050**

RIN: 1545–AJ99

3271. LEVY AND DISTRAINT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6331 Internal Revenue Code of 1986; 26 USC 6332 Internal Revenue Code of 1986; 26 USC 6334 Internal Revenue Code of 1986; 26 USC 6335 Internal Revenue Code of 1986; 26 USC 6343 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6331-1; 26 CFR 301.6331-2

Legal Deadline: None

Abstract: Section 6331 of the Internal Revenue Code was amended by section 6236 of the Technical and Miscellaneous Revenue Act of 1988 to preclude certain levies. The Treasury regulations promulgated under Code section 6331 must be changed to conform to the new statutory language.

Timetable:

Action	Date	FR Cite
NPRM	12/11/92	57 FR 58760
NPRM Comment Period End	02/09/93	57 FR 58761
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-709-88.

Drafting attorney: Susan B. Watson (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Agency Contact: Susan Watson, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AM70

3272. PROPERTY EXEMPT FROM LEVY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6334 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6334-1; 26 CFR 301.6334-2; 26 CFR 301.6334-3; 26 CFR 301.6334-4; 26 CFR 301.6334-5; 26 CFR 301.6334-6; 26 CFR 301.6334-7

Legal Deadline: None

Abstract: Section 6334 of the Internal Revenue Code of 1986 was amended by section 6236 of the Technical and Miscellaneous Revenue Act of 1988 to increase certain exemptions from levy, and to exempt a taxpayer's principal residence from levy with written authorization from the District Director or Assistant District Director in the absence of jeopardy. The Treasury regulations promulgated under this section must be changed to conform to the new statutory language.

Timetable:

Action	Date	FR Cite
NPRM	05/27/92	57 FR 22189
NPRM Comment Period End	07/31/92	57 FR 22194
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-173-89.

Drafting attorney: Robert Miller (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Agency Contact: Robert Miller, Technical Assistant to ACC (GL), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AN46

3273. AUTHORITY TO RELEASE LEVY AND RETURN PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6343 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6343-1

Legal Deadline: None

Abstract: Section 6343 of the Internal Revenue Code of 1986 was amended by section 6236 of the Technical and Miscellaneous Revenue Act of 1988 to provide new procedures for the release of levies and return of property. The Treasury regulations promulgated under this section must be changed to reflect the new statutory language.

Timetable:

Action	Date	FR Cite
NPRM	10/16/91	56 FR 51857
NPRM Comment Period End	11/21/91	56 FR 51857
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-175-89.

Drafting attorney: Jerome D. Sekula (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Agency Contact: Jerome D. Sekula, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AN48

3274. PROCEDURE AND ADMINISTRATION—ABATEMENT OF INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance on the definition of ministerial act.

Timetable:

Action	Date	FR Cite
NPRM	08/13/87	52 FR 30177
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-34-87.

Drafting tax law specialist: John J. McGreevy (202) 622-4910.

Reviewing attorney: John M. Coulter, Jr. (202) 622-4910.

Agency Contact: John J. McGreevy, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4910**

RIN: 1545–AK71

3275. PROCEDURE AND ADMINISTRATION REGULATIONS—MODIFICATIONS OF INTEREST PAYMENTS FOR CERTAIN PERIODS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6611 Internal Revenue Code of 1986; 26 USC 6601 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation would provide rules for determining the period during which interest accrues on an underpayment or an overpayment of tax as provided in sections 6601 and 6611 of the Internal Revenue Code of 1954. The period would be determined, in part, by the dates the return and the claim for refund are filed and by whether they were filed in a way that they can be processed.

Timetable:

Action	Date	FR Cite
NPRM	10/09/84	49 FR 39566
NPRM Comment Period End	12/10/84	
Final Action	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-280-82.

Drafting tax law specialist: Gail M. Winkler (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4940**

RIN: 1545–AF10

3276. FRAUDULENT FAILURE TO FILE TAX RETURN; IMPOSITION OF FRAUD PENALTY

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6651-5; 26 CFR 1.6663-1

Legal Deadline: None

Abstract: Provide guidance to taxpayers on the fraud penalty and fraudulent failure to file penalty as amended by the Revenue Reconciliation Act of 1989.

Timetable:

Action	Date	FR Cite
Temporary Regulation	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-036-90.

Drafting attorney: Barbara Walker (202) 622-4940.

Reviewing attorney: Rudolf Planert (202) 622-4940.

Agency Contact: Barbara Walker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4940**

RIN: 1545–AO84

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3277. TO PROVIDE REGULATIONS RELATING TO ACCELERATED PAYMENT OF ESTIMATED TAXES BY CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6655 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rules will provide for acceleration of estimated payments by corporations, new seasonal income exception, and clarify the annualization rules.

Timetable:

Action	Date	FR Cite
NPRM	03/26/84	49 FR 11186
Hearing	06/26/84	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-228-82.

Drafting attorney: Rochelle Hodes (202) 622-4910.

Reviewing attorney: John Coulter (202) 622-4910.

Agency Contact: Rochelle Hodes, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4910**

RIN: 1545–AE37

3278. SECTION 482 PENALTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6662 Internal Revenue Code of 1986; 26 USC 6664 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To develop regulations per sections 6662 and 6664 as they pertain to section 482.

Timetable:

Action	Date	FR Cite
NPRM	01/21/93	58 FR 5304
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-021-91.

Drafting attorney: Thomas L. Ralph (202) 622-3880.

Reviewing attorney: Kenneth W. Wood (202) 874-1490.

Treasury attorney: Warren Crowdus (202) 622-1779.

Agency Contact: Thomas L. Ralph, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, **202 622-3880**

RIN: 1545–AQ45

3279. CERTIFICATES OF COMPLIANCE WITH INCOME TAX LAWS BY DEPARTING ALIENS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6851(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will exempt certain alien students, industrial trainees, and exchange visitors from the requirement of obtaining a certificate of compliance with U.S. income tax laws before departing the United States. This action is necessary because of changes to the applicable tax laws made by the Technical Amendments and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	01/28/91	56 FR 3061
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-735-89.

Drafting attorney: Thomas L. Ralph (202) 622-3880.

Reviewing attorney: Thomas F. Fuller (202) 622-3880.

Treasury attorney: Unassigned.

Agency Contact: Thomas L. Ralph, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3880**

RIN: 1545–AN97

3280. PROCEDURE AND ADMINISTRATION—PROPERTY SEIZED BY THE INTERNAL REVENUE SERVICE UNDER THE MONEY LAUNDERING CONTROL ACT OF 1986

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7103 (b) Internal Revenue Code of 1986; 26 USC 7301 to 7328 Internal Revenue Code of 1986; 18 USC 981

CFR Citation: 26 CFR 403; 26 CFR 405

Legal Deadline: None

Abstract: This regulation provides guidance with respect to property seized by the Internal Revenue Service pursuant to 26 USC 7301 - 7302, and pursuant to 18 USC 981.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-006-90.

Drafting attorney: Richard Delmar (202) 622-4470.

Agency Contact: Richard Delmar, Branch Chief, Criminal Tax Division, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4470**

RIN: 1545–AL04

3281. RECOVERY OF ADMINISTRATIVE COSTS

Legal Authority: 26 USC 7430 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7430

Legal Deadline: None

Abstract: Section 6239 of the Technical and Miscellaneous Revenue Act expands section 7430 of the Internal Revenue Code to allow the recovery of administrative costs incurred after the earlier of the date of the receipt by the taxpayer of the notice of decision of the IRS Office of Appeals or the date of the notice of deficiency, if the taxpayer prevails against a position of the United States that is not substantially justified. The regulations will define essential terms in the statute and develop procedures to administer the statute.

Timetable:

Action	Date	FR Cite
NPRM	05/08/92	57 FR 19828
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: IA-3-89.

Drafting attorney: Tom Moffitt (202) 622-7860.

Reviewing attorney: Jerry Horan (202) 622-7900.

Agency Contact: Thomas Moffitt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7860**

RIN: 1545–AN02

3282. PROCEDURE AND ADMINISTRATION—AMENDMENT OF REGULATIONS RELATING TO THE TIMELY MAILING OF RETURNS, TAXES AND DEPOSITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would amend existing regulations, relating to the timely mailing of documents, to provide for the timely mailing of returns, taxes and deposits.

Timetable:

Action	Date	FR Cite
NPRM	12/11/79	44 FR 71430
NPRM Comment Period End	02/11/80	44 FR 71430
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-406-71.

Drafting attorney: Renay France (202) 622-4910.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4910**

RIN: 1545–AD42

3283. ESTATE AND GIFT TAX VALUATION TABLES

Legal Authority: 26 USC 7520 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.7520-1; 26 CFR 1.642(c)-6; 26 CFR 1.664-4; 26 CFR 20.2031-7; 26 CFR 25.2512-5

Legal Deadline: None

Abstract: Section 7520 of the Internal Revenue Code, as added by section 5031 of the Technical and Miscellaneous Revenue Act of 1988, requires that the value of any annuity, any interest for life or a term of years, and any remainder or reversionary interest be determined under valuation tables, revised periodically and the applicable Federal interest rate for the month of the valuation of the interest. The regulations will address the use of the tables, which will be published separately, and will contain rules for making an election where charitable transfers are involved. It will also include rules for rounding the applicable interest rates. In addition, the regulations will modify the current regulations for gift, estate, and charitable transfers of annuity trusts, and unitrusts and pooled income funds.

Timetable:

Action	Date	FR Cite
NPRM	11/02/92	57 FR 49514
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-100-88.

Drafting attorney: William L. Blodgett (202) 622-3090.

Reviewing attorney: Lee Dunn (202) 622-3090.

Agency Contact: William L. Blodgett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3090**

RIN: 1545–AM81

3284. PROCEDURES INVOLVING TAXPAYER INTERVIEWS (TIME AND PLACE OF EXAMINATION)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 100-647

CFR Citation: 26 CFR 301.7605-1 (a)

Legal Deadline: None

Abstract: The temporary regulations which are cross-referenced in this notice of proposed rulemaking provide guidance as to what is reasonable under the circumstances in the case-by-case determination as to the time and place of examination. The regulations balance the convenience of the taxpayer with the requirements of sound and efficient tax administration. The regulations provide that it is generally not reasonable for the IRS to require a taxpayer to attend an examination at an IRS office other than the office located closest to the taxpayer's home in that district. They also provide that it is generally not reasonable for the IRS to audit a taxpayer at his or her place of business if the business is so small that so doing will eventually require the taxpayer to close the business.

Timetable:

Action	Date	FR Cite
NPRM	04/03/90	55 FR 12386
NPRM Comment Period End	05/18/90	55 FR 12386
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-705-88.

Drafting attorney: Nancy O. Ryan (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Agency Contact: Nancy Ryan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AO64

3285. CONTINUITY OF LIFE FOR LIMITED PARTNERSHIPS

Significance: Agency Priority

Legal Authority: 26 USC 7701 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will clarify the rules for determining when an organization possesses or lacks the corporate characteristic of continuity of life.

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TREAS—IRS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	07/22/92	57 FR 32472
Final Action	04/01/93	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: PS-7-92.

Drafting attorney: James Quinn (202) 622-3060.

Reviewing attorney: J. Thomas Hines (202) 622-3060.

Treasury attorney: Barksdale Penick (202) 622-1335.

Agency Contact: James Quinn, Attorney, Department of the Treasury, Internal Revenue Service, 202 622-3060

RIN: 1545–AQ46

3286. INDIAN TRIBAL GOVERNMENTS TREATED AS STATES FOR CERTAIN PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7701 Internal Revenue Code of 1986; 26 USC 7871 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would provide guidance to certain Indian tribal governments as to their treatment as States under designated sections of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	05/07/84	49 FR 19329
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-221-83.

Drafting attorney: Adrian L. Michur (202) 622-3940.

Reviewing attorney: William Coppersmith (202) 622-3930.

Agency Contact: Adrian L. Michur, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3940

RIN: 1545–AF77

3287. REASONABLE MORTALITY CHARGES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7702 Internal Revenue Code of 1986

CFR Citation: 26 CFR 7702

Legal Deadline: NPRM, Statutory, December 31, 1989.

Abstract: Provide rules relating to the required use of reasonable mortality charges in determining whether a contract qualifies as a life insurance contract for purposes of the code.

Timetable:

Action	Date	FR Cite
NPRM	07/06/91	56 FR 30718
NPRM Comment Period End	09/04/91	56 FR 30718
Hearing	09/25/91	56 FR 30721
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-069-89.

Drafting attorney: Ann H. Logan (202) 622-3970.

Reviewing attorney: Steve Hooe (202) 622-3970.

Agency Contact: Ann H. Logan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3970

RIN: 1545–AO12

3288. CIRCULAR 230 REVISIONS

Significance: Agency Priority

Legal Authority: 31 USC 330

CFR Citation: 31 CFR 10

Legal Deadline: None

Abstract: Amendments to the regulations governing practice before the Internal Revenue Service. Areas to be addressed include standards for preparation of Federal tax returns, fees limited practice, expedited suspension from eligibility to practice, for cause, and dual enrollment and professional licensing.

Timetable:

Action	Date	FR Cite
NPRM	10/08/92	57 FR 46356
NPRM Comment Period End	11/16/92	
Hearing	12/16/92	
Final Action	08/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-20-92.

Drafting attorney: David L. Meyer (202) 622-4940.

Reviewing attorney: George Baker (202) 622-4920.

Treasury attorney: Eve Elgin (202) 622-1338.

Agency Contact: David Meyer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4940

RIN: 1545–AQ57

3289. • REMOVAL OF FINAL AND TEMPORARY REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 5; 26 CFR 5c; 26 CFR 12; 26 CFR 54; 26 CFR 602

Legal Deadline: None

Abstract: This document removes several final and temporary regulations from the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Removal of temp & final	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-53-92.

Drafting attorney: Paul C. Feinberg (202) 622-4530.

Agency Contact: Paul Feinberg, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4530

RIN: 1545–AQ99

3290. • EXTENSION OF TIME FOR MAKING CERTAIN ELECTIONS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Expanding relief under section 301.9100-1 of the regulations on procedure and administration.

TREAS—IRS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Final Regulations	02/01/93	
Final Action	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-65-92.

Drafting attorney: John Moran (202) 622-4940.

Reviewing attorney: Rudolf M. Planert (202) 622-4940.

Treasury attorney: Eve E. Elgin (202) 622-0140.

Agency Contact: John Moran, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave NW., Washington, DC 20224, 202 622-4940

RIN: 1545–AR39

3291. REGULATIONS ON INCOME TAX UNDER THE TAX REFORM ACT OF 1984, RELATING TO BELOW-MARKET LOANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7872 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance to taxpayers who enter into certain below-market interest rate loan transactions. The regulations explain what type of transactions are treated as loans and what type of loans are subject to the provisions of section 7872. If the loan is subject to section 7872, the below-market loan will be recharacterized as an arm's length market-interest rate loan coupled with a payment by the lender to the borrower in an amount generally equal to the amount of imputed interest. The regulations provide rules for determining the amount and the character of the imputed transfers.

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33553
NPRM Comment Period End	10/20/85	50 FR 33553
Hearing	01/09/86	50 FR 46460
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-165-84.

Drafting attorney: David B. Silber (202) 622-3930.

Reviewing attorney: William Coppersmith (202) 622-3930.

Agency Contact: David B. Silber, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3930

RIN: 1545–AH72

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Completed Actions

3292. PROCEDURE FOR MONITORING COMPLIANCE WITH LOW-INCOME HOUSING CREDIT REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide a procedure for state and local housing credit agencies to monitor for compliance with the requirements of section 42 of the Internal Revenue Code of 1986 and report any noncompliance to the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	12/27/91	56 FR 67018
NPRM Comment Period End	02/25/92	56 FR 67018
Hearing	03/04/92	57 FR 67023
Final Action T.D. 8430	09/03/92	57 FR 51776

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Additional Information: PS-78-91.

Drafting attorney: Paul F. Handleman (202) 622-3040.

Reviewing attorney: Donna M. Young (202) 622-3040.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Paul Handleman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-3040

RIN: 1545–AQ07

3293. ADJUSTED CURRENT EARNINGS

Significance: Agency Priority

Legal Authority: 26 USC 56(g) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 1.56

Legal Deadline: None

Abstract: The proposed regulations relate to the alternative minimum tax for corporations. The Tax Reform Act of 1986, the Technical and Miscellaneous Revenue Act of 1988, the Revenue Reconciliation Acts of 1989, and 1990, all made changes to the applicable law. These regulations affect corporate taxpayers and provide them with guidance necessary to determine their alternative minimum tax.

Timetable:

Action	Date	FR Cite
NPRM	03/15/91	56 FR 11122
Final Action T.D. 8454	12/18/92	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-14-91.

Drafting attorney: Nick Bogos (202) 622-4960.

Reviewing attorney: William Jackson (202) 622-4960.

Agency Contact: Nick Bogos, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-4960

RIN: 1545–AP58

3294. FRINGE BENEFITS—NOTICE REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 61 Internal Revenue Code of 1986

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CFR Citation: 26 CFR 1.61-21(c)

Legal Deadline: None

Abstract: The proposed amendment to the final fringe regulations provide guidance concerning the requirement that employers must notify their employers of the election to use a special valuation rule under section 1.61-21(c).

Timetable:

Action	Date	FR Cite
Closed without regulations	12/21/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-16-92.

Drafting attorney: Marianna Dyson (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Treasury attorney: Michael Schultz (202) 622-0998.

Agency Contact: Marianna Dyson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6040**

RIN: 1545–AQ75

3295. • TAXATION OF AND REPORTING AND WITHHOLDING OF EMPLOYEE BUSINESS EXPENSE REIMBURSEMENT AND OTHER EXPENSES ALLOWANCE ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 62(c) Internal Revenue Code of 1986; 26 USC 162 Internal Revenue Code of 1986; 26 USC 274(d) Internal Revenue Code 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation adopts in final form amendments to the temporary regulations that were made to reflect changes to the law made by the Family Support Act of 1988. These amendment were made in conjunction with the temporary and final regulations issued under section 62(c) of the IRC.

Timetable:

Action	Date	FR Cite
NPRM	12/12/89	54 FR 51038
Final Action T.D. 8451	12/07/92	57 FR 57668

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-52-92.

Drafting attorney: Marianna Dyson (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Treasury attorney: Kurt Lawson (202) 622-1352.

Agency Contact: Marianna Dyson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6040**

RIN: 1545–AR33

3296. • TAXATION OF AND REPORTING AND WITHHOLDING ON EMPLOYEE BUSINESS EXPENSE REIMBURSEMENT AND OTHER EXPENSE ALLOWANCE ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.62-1; 26 CFR 1.162-25; 26 CFR 1.274-5T

Legal Deadline: None

Abstract: Final regulations relating to the taxation of and reporting and withholding on employee business expense arrangements. Regulations adopt in final form portions of temporary regulations that would otherwise expire within 3 years after date of their issuance.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8451	12/07/92	57 FR 57669

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-52-92.

Drafting attorney: Marianna Dyson (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Treasury attorney: Kurt Lawson (202) 622-1352.

Agency Contact: Marianna Dyson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6040**

RIN: 1545–AR03

3297. NOTICE OF ALLOCATION OF ALLOCABLE INVESTMENT EXPENSE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 67 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposed regulation would provide that issuers of single-class REMICs furnish notice to interest holders in the manner generally provided for REMICs in section 1.6049-7 of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/30/91	56 FR 49524
Hearing	12/05/91	56 FR 49526
Final Action T.D. 8431	09/02/92	57 FR 40319

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-61-91.

Drafting attorney: James W.C. Canup (202) 622-3950.

Reviewing attorney: Tom Lyden (202) 622-3920.

Treasury attorney: P. Val Strehlow (202) 622-0869.

Agency Contact: James W.C. Canup, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3950**

RIN: 1545–AP97

3298. INCOME FROM DISCHARGE OF INDEBTEDNESS—ACQUISITION OF INDEBTEDNESS BY PERSON RELATED TO THE DEBTOR

Legal Authority: 26 USC 108(e)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Treasury decision will add final regulations under section 1.108-2 to implement section 108(e)(4) of the Internal Revenue Code. New section 1.108-2 will provide that the acquisition of outstanding indebtedness by a person related to the debtor from a person who is not related to the debtor results in the realization by the debtor of income from discharge of indebtedness (to the extent required by section 61(a)(12) and section 108). The final regulations will provide guidance on the timing of the income, the amount of the income, and the characterization of any subsequent transactions between the related persons with respect to the acquired indebtedness.

Timetable:

Action	Date	FR Cite
NPRM	03/22/91	56 FR 12135
Hearing	06/03/91	56 FR 12141
Final Action T.D. 8460	12/29/92	57 FR 61805

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: CO-90-90.

Drafting attorney: Victor L. Penico (202) 622-7750.

Reviewing attorney: William Alexander (202) 622-7550.

Agency Contact: Victor L. Penico, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7750**

RIN: 1545–AP28

3299. TAXATION OF FRINGE BENEFITS AND EXCLUSIONS FROM GROSS INCOME OF CERTAIN FRINGE BENEFITS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 132 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed amendments amend two provisions of the working condition fringe benefit regulations. These proposed amendments (1) provide additional rules for transportation provided to certain employees because of bona fide business-oriented security concerns and (2) clarify the treatment of bona fide volunteers who perform services for exempt organizations.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48465
NPRM Comment Period End	12/13/91	56 FR 48465
Public Hearing	01/30/92	56 FR 61391
Final Action T.D. 8457	12/30/92	57 FR 62192

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-46-91.

Drafting attorney: Marianna Dyson (202) 622-6040.

Reviewing attorney: Jerry E. Holmes (202) 622-6040.

Treasury attorney: Michael Schultz (202) 622-0998.

Agency Contact: Marianna Dyson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-6040**

RIN: 1545–AP74

3300. ARBITRAGE RESTRICTIONS ON TAX-EXEMPT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 148 Internal Revenue Code of 1986; 26 USC 149 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to arbitrage restrictions on tax-exempt bonds.

Timetable:

Action	Date	FR Cite
NPRM	05/18/92	57 FR 21044
Final Action - incorporated into another reg. project	05/18/92	57 FR 20971

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-91-86.

Drafting attorney: William Cejudo (202) 622-3980.

Reviewing attorney: Lon B. Smith (202) 622-3980.

Treasury attorney: David Walton (202) 622-1354.

Agency Contact: William Cejudo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3980**

RIN: 1545–AP49

3301. • CONCLUSIVE PRESUMPTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document relates to conclusive presumption of worthlessness available to banks to book-tax conformity in accounting for bad debts.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8441	10/02/92	57 FR 45568
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-49-92.

Drafting attorney: Bernita Thigpen (202) 622-4016.

Agency Contact: Bernita Thigpen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4016**

RIN: 1545–AQ95

3302. ELECTION TO EXPENSE CERTAIN DEPRECIABLE ASSETS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 179 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules relating to the changes made to section 179 by the Tax Reform Act of 1986. This includes changes to the dollar limitation and recapture provision as well as the new trade or business income limitation.

Timetable:

Action	Date	FR Cite
NPRM	03/28/91	56 FR 12868
NPRM Comment Period End	05/28/91	56 FR 12868
Hearing	08/08/91	56 FR 12879
Final Action T.D. 8455	12/24/92	57 FR 61313

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Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-52-88.

Drafting attorney: Winston H. Douglas (202) 622-3110.

Reviewing attorney: Harold Burghart (202) 622-3110.

Treasury attorney: Barksdale Penick (202) 622-1335.

Agency Contact: Winston Douglas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3110**

RIN: 1545–AL74

3303. DEDUCTIONS OF AMOUNTS OWED TO RELATED FOREIGN PERSONS UNDER SECTIONS 267(A)(3) AND 163(E)(3)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 267(a)(3) Internal Revenue Code of 1986; 26 USC 163(e)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide rules for the deduction of amounts owed to a related foreign person.

Timetable:

Action	Date	FR Cite
NPRM	03/19/91	56 FR 11531
Final Action T.D. 8465	01/05/93	58 FR 235

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-625-89.

Drafting attorney: Lisa G. Sams (202) 622-3840.

Reviewing attorney: Unassigned.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Lisa G. Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AN83

3304. CERTAIN CORPORATE DISTRIBUTIONS TO FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal deals with whether gain should be recognized under section 367 (e) (1) and (2) on the distributor of stock, securities or other property.

Timetable:

Action	Date	FR Cite
NPRM	01/16/90	55 FR 1472
Final Action T.D. 8472	01/25/93	58 FR 5927

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-704-87.

Drafting attorney: Leslie A. Cracraft (202) 622-3860.

Reviewing attorney: Charles C. Saverude (202) 622-3800.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: Leslie A. Cracraft, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AL35

3305. AMENDMENT OF SEC. 1.382-2T(H)(4)(X) TO GRANT THE IRS AUTHORITY TO DESIGNATE IN THE INTERNAL REVENUE BULLETIN ADDITIONAL OPTIONS TO BE EXCEPTED FROM ATTRIBUTION RULES OF SEC. 1.382-2T(H)(4)(I)

Legal Authority: 26 USC 382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of this project is to finalize the portion of the temporary regulations under section 382 of the Internal Revenue Code that grants the Internal Revenue Service the authority to designate in the Internal Revenue Bulletin additional options to be excepted from the attribution rules of section 1.382-2T(h)(4)(i).

Timetable:

Action	Date	FR Cite
NPRM	12/27/89	54 FR 52955
NPRM Comment Period End	02/26/90	54 FR 52955
Final Action T.D. 8440	10/05/92	57 FR 45711

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-010-89.

Drafting attorney: Keith Stanley (202) 622-7750.

Reviewing attorney: Charles M. Whedbee (202) 622-7750.

Treasury attorney: Michael Schultz (202) 622-1343.

Agency Contact: Keith Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7750**

RIN: 1545–AN76

3306. PROPOSED AMENDMENT TO TEMPORARY REGULATIONS SECTION 1.382-2T

Legal Authority: 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.382-2T

Legal Deadline: None

Abstract: To provide an exemption for mutual funds from the segregation of stock ownership rules of Section 1.382-2T(j)(2)(iii)(B)(ii) and (C).

Timetable:

Action	Date	FR Cite
Final Action T.D. 8428	08/29/92	57 FR 38281

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: CO-18-91.

Drafting attorney: Annette Ahlers (202) 622-7750.

Reviewing attorney: Charles Whedbee (202) 622-7750.

Treasury attorney: Larry Garrett (202) 622-1778.

Agency Contact: Annette Ahlers, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7750**

RIN: 1545–AP79

3307. • DIRECT ROLLOVERS AND 20 PERCENT WITHHOLDING UPON ELIGIBLE ROLLOVER DISTRIBUTIONS FROM QUALIFIED PLANS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 402(c) Internal Revenue Code of 1986; 26 USC 403(b) Internal Revenue Code of 1986; 26 USC 3405(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.401(a)(31)-11; 26 CFR 1.402(c)-2T; 26 CFR 1.402(f)-2T; 26 CFR 1.402(b)-2T; 26 CFR 31.3405(c)-1T

Legal Deadline: None

Abstract: This project provides temporary regulations implementing statutory changes enacted by the Unemployment Compensation Amendments of 1992 (UCA). The UCA expands the types of pension distributions with regard to which income tax can be deferred by a rollover to an individual retirement account or annuity, another qualified plan or a section 403(b) plans to provide employees with a direct rollover option. Also, the UCA imposes a mandatory 20 percent income tax withholding upon any eligible rollover distribution that the employee does not elect to have paid in a direct rollover.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8443	10/22/92	57 FR 48163

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: EE-43-92.

Drafting attorney: John Tolleris (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Catherine Creech (202) 622-1341.

Agency Contact: John Tolleris, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-6030**

RIN: 1545–AR00

3308. ELECTIVE DEFERRAL OF FEDERAL PAYMENTS RECEIVED AS A RESULT OF DESTRUCTION OR DAMAGE TO CROPS CAUSED BY NATURAL DISASTER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.451-6

Legal Deadline: None

Abstract: This regulation will prescribe the conditions under which insurance proceeds received as a result of destruction or damage to crops (including federal disaster payments) will qualify for the deferral election provided in section 451(d).

Timetable:

Action	Date	FR Cite
NPRM	03/01/90	55 FR 7343
NPRM Comment Period End	04/30/90	55 FR 7343
Final Action T.D. 8429	08/26/92	57 FR 38594

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-012-90.

Drafting attorney: Douglas Fahey (202) 622-4950.

Treasury attorney: J. Paul Whitehead (202) 622-8131.

Agency Contact: Doug Fahey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitition Avenue NW., Washington, DC 20224, **202 622-4950**

RIN: 1545–AO49

3309. NUCLEAR DECOMMISSIONING RESERVE FUNDS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.468A-5(a) (Revision); 26 CFR 1.468A-1(b) (Revision); 26 CFR 1.468A-2(a) (Revision); 26 CFR 1.468A-3 (Revision); 26 CFR 1.468A-4 (Revision); 26 CFR 1.468A-8(b)(11) (New)

Legal Deadline: None

Abstract: The final regulations amend the regulations under section 468A of the Code to resolve an apparent inconsistency in such regulations and conform the existing regulations to the Energy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	06/28/90	55 FR 26460
Hearing	12/20/90	55 FR 40402
NPRM	08/19/91	56 FR 41102
Hearing	10/02/91	56 FR 41105
Final Action T.D. 8461	12/30/92	57 FR 62198

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-007-90.

Drafting attorney: Peter C. Friedman (202) 622-3110.

Reviewing attorney: Charles B. Ramsey (202) 622-3110.

Treasury attorney: Eve Elgin (202) 622-1338.

Agency Contact: Peter C. Friedman, Senior Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3110**

RIN: 1545–AO42

3310. TAXATION OF SETTLEMENT FUNDS

Significance: Agency Priority

Legal Authority: 26 USC 468B Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 1.468B

Legal Deadline: None

Abstract: If a liability requires payment to another person and arises out of tort, the obligor is permitted a deduction only as payments are made to such person. See IRC Section 461(h)(2)(c). The obligor is not permitted to accrue a deduction when it makes payment to a settlement fund; rather, it is permitted to accrue a deduction only as payments are made from the settlement fund to the person to which the liability is owed. IRC Section 468B provides that under certain limited circumstances a payment to a settlement fund in respect of tort liability is deductible by the obligor. The provision applies only to payments made to a designated settlement fund. The regulations will address the taxation of a designated settlement fund along with escrow accounts and other similar funds. Under prior law, income earned on amounts deposited in settlement funds were not subject to tax until distribution to the claimants. See Rev.

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Rul. 71-119, 1979-1 C.B. 103; Rev. Rul. 70-567, 1970-2 C.B. 133. (cont)

Timetable:

Action	Date	FR Cite
NPRM	02/14/92	57 FR 5399
Hearing	05/27/92	57 FR 5409
Final Action T.D. 8459	12/23/92	57 FR 60983

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: IA-54-90.

ABSTRACT CONT: The regulations will also provide rules regarding the application of the section 461(h) economic performance requirements to payments to settlement funds.

Drafting attorney: Linda Kroening (202) 622-4910.

Reviewing attorney: Michael Montemurro (202) 622-4910.

Treasury attorney: Jose Berra (202) 622-0999.

Agency Contact: Linda Kroening, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4910**

RIN: 1545–AO99

3311. • SECTION 482 REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 482 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To revise section 482 regulations per section 482 white paper. The white paper was a study of intercompany pricing which the Service was directed by Congress to undertake in 1986. The study was published on October 18, 1988, and it contained: (a) a history of section 482 and cases interpreting the section; (b) results of a survey of field personnel regarding their experiences in applying section 482; and (c) proposals for changing the 5482 regulations.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8470	01/21/93	58 FR 5263

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-401-88.

Drafting attorney: Sim Seo (202) 622-3840.

Reviewing attorney: Ken Wood (202) 874-1490.

Treasury attorney: Warren Crowdus (202) 622-1779.

Agency Contact: Sim Seo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AR21

3312. INCOME TAX REGULATIONS—DISCOUNTING OF UNPAID LOSSES OF PROPERTY AND CASUALTY INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 846 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the discounting of unpaid losses of property and casualty insurance companies. It is anticipated that the regulations will provide guidance with respect to the treatment of salvage and subrogation and the use of a company's loss payment pattern.

Timetable:

Action	Date	FR Cite
NPRM	05/02/91	56 FR 20161
NPRM Comment Period End	07/31/91	56 FR 20161
Hearing	09/24/91	56 FR 20567
Final Action T.D. 8433	09/08/92	57 FR 174

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-139-86.

Drafting attorney: Katherine A. Hossofsky (202) 622-3477.

Reviewing attorney: Steve Hooe (202) 622-3970.

Agency Contact: Katherine A. Hossofsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3477**

RIN: 1545–AJ51

3313. INCOME TAX—ESSENTIAL ISSUES RELATING TO REAL ESTATE MORTGAGE INVESTMENT CONDUITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 860E Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide guidance on real estate mortgage investment conduits, a new entity established to clarify the tax treatment of investment in real estate mortgages and mortgage backed securities.

Timetable:

Action	Date	FR Cite
NPRM	09/30/91	56 FR 49526
Hearing	12/05/91	56 FR 49545
Final Action T.D. 8458	12/24/92	57 FR 61293

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-88-86.

Drafting attorney: Carol A. Schwartz (202) 622-3411.

Reviewing attorney: Thomas J. Lyden (202) 622-3920.

Treasury attorney: P. Val Strehlow (202) 622-0869.

Agency Contact: Carol A. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3411**

RIN: 1545–AJ35

3314. BRANCH PROFITS TAX (GENERAL RULE AND DEFINITIONS) AND SECOND LEVEL WITHHOLDING TAXES

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 884 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the calculation of the branch profits tax. The regulations will provide rules for the treatment of interest allocable to effectively connected income.

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Timetable:

Action	Date	FR Cite
NPRM	09/02/88	53 FR 34120
Hearing	01/17/89	53 FR 49208
Final Action T.D. 8432	09/11/92	57 FR 41644

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-934-86.

Drafting attorney: Kathryn Horton O'Brien (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: Ann Fisher (202) 622-1755.

Agency Contact: Kathryn Horton O'Brien, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3860**

RIN: 1545–AJ73

3315. NOTICE 92-12 SCHEDULE III

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897(k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.897-4T

Legal Deadline: None

Abstract: This regulation deals with the removal of section 1.897-4: Special Election under Section 897(k) for Certain Foreign Corporations, acquisitions of which were begun before November 26, 1980; and 12.5: Transfer to a DISC of assets of export trade corporations.

Timetable:

Action	Date	FR Cite
Closed Without Regulations	09/18/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-035-92.

Drafting attorney: Carl M. Cooper (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3840**

RIN: 1545–AQ79

3316. QBU'S THAT CHANGE FUNCTIONAL CURRENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 985 Internal Revenue Code of 1986

CFR Citation: 26 CFR 985

Legal Deadline: None

Abstract: These regulations cover adjustments required upon a change in functional currency and provide transition rules for a QBU that uses the net worth method beginning in 1987. Issues being considered include the adjustments to be required when a noncorporate taxpayer changes its functional currency.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8464	01/05/93	58 FR 231

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-087-91.

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Barbara Felker (202) 622-3870.

Treasury attorney: Charles Cope (202) 622-1752.

Agency Contact: Jacob Feldman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3870**

RIN: 1545–AQ44

3317. OID ON CERTAIN STRIPPED BONDS AND STRIPPED COUPONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1286 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance on the treatment of OID on certain stripped bonds and stripped coupons pursuant to section 1286(a).

Timetable:

Action	Date	FR Cite
NPRM	08/13/91	56 FR 38399
Final Action T.D. 8463	12/29/92	57 FR 61811

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-19-85.

Drafting attorney: Mark S. Smith (202) 622-3452.

Reviewing attorney: Sharon Galm (202) 622-3920.

Agency Contact: Mark Smith, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3452**

RIN: 1545–AQ03

3318. MARK-TO-MARKET ELECTION BY REGULATED INVESTMENT COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1291 Internal Revenue Code of 1986; 26 USC 1293 Internal Revenue Code of 1986; 26 USC 1297 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to the treatment of shareholders of passive foreign investment companies.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/01/92	57 FR 10992
Final Action T.D. 8404	04/01/92	57 FR 10992

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-656-87.

Drafting attorney: Gayle Novig (202) 622-3880.

Reviewing attorney: Thomas Fuller (202) 622-3880.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3880**

RIN: 1545–AQ52

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3319. AMENDMENT OF INCOME TAX REGULATIONS UNDER CODE SECTIONS 1362 AND 1363 RELATING TO THE ELECTION, REVOCATION, AND TERMINATION OF AN S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1362 Internal Revenue Code of 1986; 26 USC 1363 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidelines for electing, revoking and terminating S corporation status.

Timetable:

Action	Date	FR Cite
NPRM	12/27/88	53 FR 52190
NPRM	04/17/92	57 FR 13676
Final Action T.D. 8449	11/25/92	57 FR 55445

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-260-82.

Drafting attorney: Andrea Tucker (202) 622-3080.

Reviewing attorney: Margaret O'Connor (202) 622-3070.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Andrea Tucker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3080

RIN: 1545–AE26

3320. AMENDMENT OF CONSOLIDATED RETURN REGULATIONS TO ADDRESS TREATMENT OF ORGANIZATIONS WHOSE TAX EXEMPT STATUS WAS REPEALED BY THE 1986 ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 833 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will specify the consolidated return ramifications of the revocation of the tax-exempt status of certain organizations by section 1012 of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	09/05/90	55 FR 36290
NPRM Comment Period End	11/06/90	55 FR 36290
Final Action T.D. 8438	09/25/92	57 FR 44332

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-026-89.

Drafting attorney: David Friedel (202) 622-7770.

Reviewing attorney: Edward S. Cohen (202) 622-7760.

Treasury attorney: J. Judge Kelley (202) 622-1339.

Agency Contact: David Friedel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-7770

RIN: 1545–AM49

3321. DUAL RESIDENT COMPANIES—LIMITATION ON CONSOLIDATED LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1503 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: If a U.S. corporation is subject to a foreign country's tax on worldwide income, or on a residence basis as opposed to a source basis, any taxable loss it incurs cannot reduce the taxable income of any other member of a U.S.-affiliated group for any other taxable year. Where a corporation is subject to foreign tax on a residence basis, then for United States tax purposes, its loss will be available to offset.

Timetable:

Action	Date	FR Cite
NPRM	09/08/89	54 FR 37346
NPRM Comment Period End	11/07/89	54 FR 37346
Hearing	03/02/90	55 FR 310
Final Action T.D. 8434	09/09/92	57 FR 41079

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-399-88.

Drafting attorney: Sim S. Seo (202) 622-3840.

Reviewing attorney: David Bower (202) 622-3840.

Treasury attorney: Peter Marrs (202) 622-0724.

Agency Contact: Sim S. Seo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-3840

RIN: 1545–AM16

3322. INCOME TAX—AMENDMENT OF REGULATIONS UNDER SECTION 1504(A) OF THE CODE, AS AMENDED BY SECTION 60 OF THE TAX REFORM ACT OF 1984, DEFINING "AFFILIATED GROUP"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules defining "affiliated group" for purposes of subtitle A of the Code.

Timetable:

Action	Date	FR Cite
NPRM	03/02/92	57 FR 7340
NPRM Comment Period End	03/31/92	
Final Action T.D. 8462	12/29/92	57 FR 61797

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-152-84.

Drafting attorney: Kenneth Cohen (202) 622-7790.

Reviewing attorney: Edward Cohen (202) 622-7760.

Treasury attorney: J. Judge Kelley (202) 622-1339.

Agency Contact: Kenneth Cohen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-7790

RIN: 1545–AH09

3323. REPORTING REQUIREMENTS CONCERNING CHANGES IN CORPORATE CONTROL OR CAPITAL STRUCTURE UNDER SECTION 6043(C), I.R.C., AS AMENDED BY SECTION 7208(B) OF THE REVENUE RECONCILIATION ACT OF 1989

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6043(c) Internal Revenue Code of 1986; 26 USC 6652(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The purpose of the project is to implement the reporting requirements under section 6043(c) to provide the Internal Revenue Service information needed in order to more effectively examine the tax consequences of certain transactions in which control of a corporation is acquired or in which the capital structure of a corporation is changed, including in particular certain transactions that might be characterized as "leveraged buy-outs."

Timetable:

Action	Date	FR Cite
NPRM	07/05/90	55 FR 27648
NPRM Comment Period End	08/06/90	55 FR 27648
Withdrawn - closed without regulations	10/16/92	57 FR 47428

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-005-90.

Drafting attorney: Keith Stanley (202) 622-7750.

Reviewing attorney: Howard Staiman (202) 622-7750.

Treasury attorney: Judge J. Kelley (202) 622-1339.

Agency Contact: Keith Stanley, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 622-7750

RIN: 1545–AO46

3324. INFORMATION RETURNS OF BROKER TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations in this project clarify the definition of the term "commodity" for purposes of broker reporting. Rules are provided for determining whether personal property (including gold and silver) is a commodity. Generally, the term "commodity" is defined as personal property that is deliverable in satisfaction of a regulated futures contract, certain specified personal property that the secretary determines is to be treated as a commodity or any form or quality of or any interest in such personal property. The term "commodity" does not include a security, regulated futures contract, forward contract, or a form of tangible personal property if the gross proceeds from its sale exceed by more than 15 percent its value as a commodity. The rules proposed include alternative methods (the "exact" and "approximate" methods) of tangible personal property valuation.

Timetable:

Action	Date	FR Cite
NPRM	01/05/84	49 FR 646
NPRM Comment Period End	03/05/84	49 FR 646
Hearing	03/28/84	49 FR 645
Final Action T.D. 8452, portion closed, portion remains open	12/14/92	57 FR 58983

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-201-83.

Drafting attorney: John Moriarty (202) 622-4950.

Reviewing attorney: David L. Crawford (202) 622-4950.

Agency Contact: John Moriarty, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-4950

RIN: 1545–AG02

3325. EXCEPTION TO REPORTING REQUIREMENTS OF SECTION 6045 FOR PRODUCERS OF COMMODITIES

Legal Authority: 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Other, Judicial, May 31, 1993.

OMB Approval (1545-1301)

Abstract: Addresses the information reporting requirements for sales of agricultural commodities effected by the brokers. Also, address whether sales of generic commodity certificates issued by the Commodity Credit Corporation are subject to reporting.

Timetable:

Action	Date	FR Cite
NPRM	03/06/92	57 FR 8098
Hearing	04/21/92	57 FR 8098
NPRM Comment Period End	05/05/92	57 FR 8098
Final Action T.D. 8445	11/06/92	57 FR 53031

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-41-91.

Drafting attorney: John Moriarty (202) 622-4950.

Reviewing attorney: David Crawford (202) 622-4950.

Treasury attorney: Larry Garrett (202) 622-1778.

Agency Contact: John Moriarty, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 622-4950

RIN: 1545–AQ15

3326. DEPOSITS OF EMPLOYMENT TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31.6302

Legal Deadline: None

Abstract: This notice of proposed rulemaking revises and updates regulations setting forth deposit rules for employment taxes.

Timetable:

Action	Date	FR Cite
NPRM	05/18/92	57 FR 21045
NPRM Comment Period End	07/20/92	57 FR 21045
Hearing	08/03/92	57 FR 21051
Final Action T.D. 8436	09/24/92	57 FR 44099
Final Action Effective	01/01/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-028-91.

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Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Agency Contact: Vincent Surabian, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-4940**

RIN: 1545–AP91

3327. REVISION OF PROCEDURAL RULES RELATING TO EXCISE TAXES REPORTED ON FORM 720

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302(c) Internal Revenue Code of 1986; 26 USC 6011(a) Internal Revenue Code of 1986; 26 USC 6071(a) Internal Revenue Code of 1986; 26 USC 6091 Internal Revenue Code of 1986; 26 USC 6109(a) Internal Revenue Code of 1986; 26 USC 6101 Internal Revenue Code of 1986

CFR Citation: 26 CFR 40

Legal Deadline: None

Abstract: These regulations provide for returns, payments, and deposits of excise taxes reportable on Form 720.

Timetable:

Action	Date	FR Cite
NPRM	01/03/91	56 FR 233
NPRM Comment Period End	02/04/91	56 FR 233
Final Action T.D. 8442	10/22/92	57 FR 48174

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-065-90.

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Edward Madden (202) 622-3130.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3130**

RIN: 1545–AO97

3328. AMENDMENTS TO SECTION 40.6302 RELATING TO COMPUTING DEPOSITS OF COMMUNICATION AND AIR TRANSPORTATION TAXES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 40

Legal Deadline: None

Abstract: Special rules for use of Government depositories under Chapter 33 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	01/31/92	57 FR 3734
Final Action T.D. 8442	10/22/92	57 FR 48174

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-27-91.

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Edward Madden (202) 622-3130.

Treasury attorney: Heidi Ebel (202) 622-1334.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3130**

RIN: 1545–AQ04

3329. EFFECT OF HONORING A LEVY

Legal Authority: 26 USC 6332 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6332-1(c)

Legal Deadline: None

Abstract: Section 1.6332-1(c) currently provides that any person in possession of or obligated with respect to property or rights to property subject to levy and upon which levy has been made who surrenders the property or rights to property, or discharges the obligation to the district director is discharged from any obligation or liability to the delinquent taxpayer. Section 1015(t) of Technical and Miscellaneous Revenue Act of 1988 amends Section 6332 of the Internal Revenue Code to provide that a person who honors a levy is protected from any obligation or liability to any other person as well as the delinquent taxpayer. This should cause a reduction in the number of interpleader actions filed because of concerns over liability to third parties.

Timetable:

Action	Date	FR Cite
NPRM	10/16/91	56 FR 51855
NPRM Comment Period End	11/21/91	56 FR 51855
Final Action T.D. 8467	01/12/93	58 FR 3827

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-720-88.

Drafting attorney: Susan B. Watson (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Agency Contact: Susan B. Watson, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AM72

3330. SURRENDER OF PROPERTY SUBJECT TO LEVY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6332 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6332-1

Legal Deadline: None

Abstract: Section 6332 of the Internal Revenue Code of 1986 was amended by section 6236 of the Technical and Miscellaneous Revenue Act of 1988 to require banks to hold levied upon accounts for twenty-one days after a levy is served. The Treasury regulations promulgated under this code section must be changed to conform to the new statutory language.

Timetable:

Action	Date	FR Cite
NPRM	05/01/91	56 FR 19963
NPRM Comment Period End	06/17/91	
Final Action T.D. 8466	01/04/93	58 FR 15
Final Action Effective	01/04/93	58 FR 16

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-172-89.

Drafting attorney: Kevin Connelly (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Agency Contact: Kevin Connelly, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AN45

3331. REQUIREMENT FOR GUARANTEED REMITTANCE TO REDEEM PROPERTY

Legal Authority: 26 USC 6337 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6337

Legal Deadline: None

Abstract: To resolve any uncertainty as to how payments to redeem real property sold by the Internal Revenue Service after levy must be made. The present regulations do not state the form in which the redemption price is to be paid. Thus, controversy exists as to whether personal checks or other non-guaranteed forms of payment would be sufficient to constitute tender.

Timetable:

Action	Date	FR Cite
Final Action	12/31/92	
Closed without regulations	12/31/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-425-89.

Drafting attorney: Susan Watson (202) 622-3640.

Reviewing attorney: Robert A. Miller (202) 622-3640.

Agency Contact: Susan Watson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AN44

3332. ABATEMENTS, CREDITS, AND REFUNDS—SPECIAL RULES FOR AN INSOLVENT FINANCIAL INSTITUTION THAT WAS A MEMBER OF A CONSOLIDATED GROUP

Significance: Agency Priority

Legal Authority: 26 USC 6402 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 6411 Internal Revenue Code of 1986

CFR Citation: 26 CFR 6402; 26 CFR 1502; 26 CFR 6411

Legal Deadline: None

Abstract: The notice of proposed rulemaking is a cross-reference to a temporary regulation, which will address in what instances a refund can be paid to the court-appointed fiduciary of an insolvent corporation which is a member of an affiliated group of corporations filing a consolidated return to the extent that the secretary determines the refund is attributable to losses or credits of the insolvent corporation.

Timetable:

Action	Date	FR Cite
NPRM	12/31/91	56 FR 67553
Hearing	03/24/92	56 FR 67554
Final Action T.D. 8446	11/06/92	57 FR 26676

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: CO-98-88.

Drafting attorney: Rose L. Williams (202) 622-7550.

Reviewing attorney: Lewis Brickates (202) 622-7770.

Treasury attorney: Andrew Dubroff (202) 622-1766.

Agency Contact: Rose L. Williams, Assistant to the Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-7550**

RIN: 1545–AP57

3333. PROCEDURE AND ADMINISTRATION REGULATIONS—EXTENSION OF THE PERIOD FOR ASSESSMENT OF TAX IN CERTAIN CIRCUMSTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6501 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will describe circumstances under which the normal three-year period for the assessment and collection of tax may be extended.

Timetable:

Action	Date	FR Cite
Closed without regulations	08/12/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-162-85.

Drafting tax law specialist: John J. McGreevy (202) 622-4910.

Reviewing attorney: John M. Coulter, Jr. (202) 622-4910.

Agency Contact: John J. McGreevy, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4910**

RIN: 1545–AI23

3334. INCREASE IN THE RATE OF INTEREST IMPOSED ON LARGE CORPORATE UNDERPAYMENTS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6621(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6621-3

Legal Deadline: None

Abstract: The regulation contains rules relating to the increase in the rate of interest payable on large corporate underpayments of tax. The increase applies for periods after the "applicable date" on a "large corporate underpayment" of a tax. The regulation provides definitions of "large corporate underpayment" and "applicable date," including a special exception and a transition rule with respect to determining an "applicable date." Examples are also provided.

Timetable:

Action	Date	FR Cite
NPRM	12/19/90	55 FR 52054
NPRM Comment Period End	02/19/91	55 FR 52054
Hearing	04/02/91	56 FR 8967
Final Action T.D. 8447	11/12/92	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-110-90.

Drafting attorney: David A Schneider (202) 622-4920.

Reviewing attorney: Alan Fraser (202) 622-4950.

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Treasury attorney: Hal Gann (202) 622-1333.

Agency Contact: David Schneider, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4920**

RIN: 1545–AP27

3335. DISCLOSURE OF TAX RETURN INFORMATION FOR PURPOSES OF A QUALITY OR PEER REVIEW

Significance: Agency Priority

Legal Authority: 26 USC 7216(b)(3) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7216-2(O)

Legal Deadline: None

Abstract: This rule would expand the scope of services for which tax return information could be disclosed by a tax return preparer without the taxpayer's prior consent for purposes of a quality or peer review to include accounting and auditing services. No alternatives are presently being considered.

Timetable:

Action	Date	FR Cite
NPRM	12/27/91	56 FR 67024
NPRM Comment Period End	05/01/92	56 FR 67024
Hearing	06/03/92	56 FR 67023
Final Action T.D. 8427	08/18/92	57 FR 37085

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-98-91.

Drafting attorney: David Meyer (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Agency Contact: David Meyer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4940**

RIN: 1545–AQ21

3336. REVIEW OF JEOPARDY LEVY AND ASSESSMENT PROCEDURES

Legal Authority: 26 USC 7429 Internal Revenue Code of 1986 PL 100-647, Sec 6237; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.7429

Legal Deadline: None

Abstract: Section 7429 currently provides for administrative and judicial review of jeopardy assessments, but these review procedures do not apply to jeopardy levies. The Technical and Miscellaneous Revenue Act of 1988, PL 100-647, Sec. 6237, extends the review procedures of Section 7429 to the review of jeopardy levies and provides concurrent jurisdiction to the Tax Court with Federal District courts with respect to actions challenging a jeopardy assessment or jeopardy levy, provided a Tax Court petition is filed prior to the making of the assessment or levy. The regulations incorporate the statutory amendments that modify IRC S. 7429 and in addition, extend review to include all jeopardy levy cases in which the general notice requirements of IRC S. 6331(a) and (d) are not met.

Timetable:

Action	Date	FR Cite
NPRM	05/09/91	56 FR 21456
NPRM Comment Period End	06/24/91	
Final Action T.D. 8453	12/14/92	57 FR 58984
Final Action Effective	12/14/92	57 FR 58984

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-710-88.

Drafting attorney: Joseph Clark (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Agency Contact: Joseph W. Clark, Technical Assistant to ACC (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-3640**

RIN: 1545–AM68

3337. TREATMENT OF ACCELERATED DEATH BENEFITS UNDER SECTION 7702 OF THE CODE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7702 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide the rules regarding the treatment of accelerated death benefits under section 7702 of the Code.

Timetable:

Action	Date	FR Cite
Merged into RIN 1545-AQ70	12/15/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-26-92.

Drafting attorney: Ann H. Logan (202) 622-3970.

Reviewing attorney: Stephen A. Hooe (202) 622-3970.

Agency Contact: Ann H. Logan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, **202 622-3970**

RIN: 1545–AQ71

3338. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS—TRANSITION PROVISIONS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.7704-2T; 26 CFR 301.7704-2T

Legal Deadline: None

Abstract: This regulation defines the phrases "Existing Partnership" and "Substantial New Line of Business" in the transition rule applicable to section 7704 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/31/91	56 FR 67554
Final Action T.D. 8450	12/11/92	56 FR 67557

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-056-89.

Drafting attorney: Ann Veninga (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Treasury attorney: S. Barksdale Penick (202) 622-2578.

Agency Contact: Ann Veninga, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Avenue NW., Washington, DC 20224, **202 622-3080**

RIN: 1545–AN92

3339. THE TIME AND MANNER OF MAKING CERTAIN ELECTIONS UNDER THE TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.9100 to 9108

Legal Deadline: None

Abstract: This document contains regulations relating to the time and manner of making certain elections under the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	09/22/89	54 FR 39002
NPRM Comment Period End	11/21/89	54 FR 39002
Final Action T.D. 8435	09/23/92	57 FR 43893

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-9-89.

Drafting attorney: Grace Matuszeski (202) 622-4930.

Reviewing attorney: John Fischer (202) 622-4800.

Agency Contact: Grace Matuszeski, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, **202 622-4930**

RIN: 1545–AN03

[FR Doc. 93-6059 Filed 04-23-93; 8:45 am]

BILLING CODE 4830-01-F

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Office of Thrift Supervision

12 CFR Ch. V

[No. 93-26]

Agenda of Federal Regulations

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Publication of agenda items.

SUMMARY: The Office of Thrift Supervision (OTS) is hereby publishing items for the April Unified Agenda of Federal Regulations.

A number of the agenda items refer to statutory requirements imposed by FIRREA or FDICIA. These references mean, respectively, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Public Law 101-73, 103 Stat. 183 (1989), and the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Public Law 102-242, 105 Stat. 2236 (1991).

ADDRESSES: Information Services Division, Office of Public Affairs, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: See persons listed below for specific agenda items.

Dated: March 3, 1993.
By the Office of Thrift Supervision.

Jonathan L. Fiechter,
Acting Director.

Office of Thrift Supervision—Proposed Rule Stage

Sequence Number		Title	Regulation Identifier Number
3340	12 CFR 563	Safety and Soundness Standards	1550-AA54
3341	12 CFR 567	Capital: Concentration Risk and Risk of Nontraditional Activities	1550-AA59

Office of Thrift Supervision—Final Rule Stage

Sequence Number		Title	Regulation Identifier Number
3342	12 CFR 563	Mutual Holding Companies	1550-AA03
3343	12 CFR 567	Regulatory Capital: Leverage Ratio Requirement	1550-AA32
3344	12 CFR 574	Agency Disapproval of Directors and Senior Executive Officers	1550-AA36
3345	12 CFR 567	Regulatory Capital: Interest Rate Risk Component	1550-AA46
3346	12 CFR 552	Mergers and Other Combinations of Savings Associations	1550-AA47
3347	12 CFR 567	Regulatory Capital: Intangible Assets	1550-AA49
3348	12 CFR 517	Minority-, Women-, and Individuals With Disabilities-Owned Business Outreach Program: Contracting for Goods and Services	1550-AA53
3349	12 CFR 567	Multifamily Housing Loans	1550-AA58

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Office of Thrift Supervision—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3350	12 CFR 563 Savings Association Membership in the Federal Home Loan Bank System	1550-AA41
3351	12 CFR 545 Federal Savings Associations: Operating Subsidiaries and Service Corporations	1550-AA43
3352	12 CFR 563b Supervisory Conversions	1550-AA45
3353	12 CFR 545 Valuation and Regulatory Capital Treatment of Foreclosed Assets	1550-AA50
3354	12 CFR 563 Qualified Thrift Lender Test	1550-AA51
3355	12 CFR 563 Reporting Requirements for Adjustable-Rate Mortgage Index Data	1550-AA52
3356	12 CFR 567 Capital Treatment of Equity Investments	1550-AA55
3357	12 CFR 563 Real Estate Lending Standards	1550-AA56
3358	12 CFR 509 Regulatory Review	1550-AA60

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Proposed Rule Stage

3340. SAFETY AND SOUNDNESS STANDARDS

Significance: Regulatory Program

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: Final, Statutory, August 1, 1993.

Abstract: The OTS has issued an advance notice of proposed rulemaking jointly with the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation to solicit comment on the safety and soundness standards required by section 132 of FDICIA. These standards must include managerial and operational standards; asset quality, earnings and stock valuation; and compensation standards.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/92	57 FR 31336
ANPRM Comment Period End	09/14/92	57 FR 31336

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert J. Fishman, Program Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, 202 906-5672

RIN: 1550–AA54

3341. CAPITAL: CONCENTRATION RISK AND RISK OF NONTRADITIONAL ACTIVITIES

Significance: Regulatory Program

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a

CFR Citation: 12 CFR 567

Legal Deadline: Final, Statutory, June 19, 1993.

Abstract: The OTS has issued an advance notice of proposed rulemaking to solicit comment on how to ensure that its risk-based capital regulation adequately addresses concentrations of credit risk and the risks of nontraditional activities. This rule is to be adopted pursuant to section 305 of FDICIA, which requires each Federal banking agency to make such amendments.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/92	57 FR 45757
ANPRM Comment Period End	12/04/92	57 FR 45757

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Connolly, Program Manager, Capital Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, 202 906-6465

RIN: 1550–AA59

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Final Rule Stage

3342. MUTUAL HOLDING COMPANIES

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1828; 12 USC 3806; 42 USC 4106; 5 USC 552; 5 USC 559

CFR Citation: 12 CFR 563; 12 CFR 571; 12 CFR 575

Legal Deadline: None

Abstract: The OTS has issued a notice of proposed rulemaking which would implement the mutual holding company provisions of the Savings and Loan Holding Company Act, 12 U.S.C. 1467(o). The rule would establish procedures for obtaining regulatory approval for the formation of mutual holding companies and for the issuance of minority stock of savings association subsidiaries of mutual holding companies.

Final Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	10/21/88	53 FR 41343
ANPRM Comment Period End	12/05/88	53 FR 44436
NPRM	01/11/91	56 FR 1126
NPRM Comment Period End	03/12/91	56 FR 1126

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Formerly reported under FHLBB RIN 3068-AA77

Agency Contact: V. Gerard Comizio, Deputy Chief Counsel for Securities and Corporate Structure, Department of the Treasury, Office of Thrift Supervision, Corporate and Securities Division, 1700 G Street NW., Washington, DC 20552, 202 906-6411

RIN: 1550–AA03

3343. REGULATORY CAPITAL: LEVERAGE RATIO REQUIREMENT

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract: The OTS has issued a notice of proposed rulemaking to amend its minimum regulatory capital regulations by revising the leverage ratio requirement that applies to savings associations to comport with the leverage ratio adopted by the Office of the Comptroller of the Currency.

This proposal was adopted pursuant to section 5(t) of the Home Owners' Loan Act, which requires that OTS promulgate capital standards that are uniformly applicable to all savings associations. 12 U.S.C. 1464(t).

The proposal establishes a 3.0% leverage ratio for savings associations in the strongest financial and managerial condition. All other savings associations would be required to maintain additional leverage capital of 100 to 200 basis points.

Timetable:

Action	Date	FR Cite
NPRM	04/22/91	56 FR 16283
NPRM Comment Period End	05/22/91	56 FR 16283

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lorraine Weller, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, 202 906-6458

RIN: 1550–AA32

3344. AGENCY DISAPPROVAL OF DIRECTORS AND SENIOR EXECUTIVE OFFICERS

Significance: Agency Priority

Legal Authority: 12 USC 1467a; 12 USC 1817

CFR Citation: 12 CFR 574

Legal Deadline: None

Abstract: The OTS has proposed a revision to 12 CFR part 574 in order to implement section 914 of FIRREA. The proposal would add a section to part 574 which will require certain savings associations and savings and loan holding companies to file a notice with the OTS prior to adding or replacing a member of its board of directors, and prior to hiring a person in a position as a senior executive officer.

The OTS has the authority, pursuant to section 914 of FIRREA, to disapprove any potential board member or senior executive officer whose selection would not be in the best interest of the institution's depositors or the public.

Timetable:

Action	Date	FR Cite
NPRM	08/05/91	56 FR 37162
NPRM Comment Period End	09/04/91	56 FR 37162

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary Jo Johnson, Policy Analyst, Supervision, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, 202 906-5739

RIN: 1550–AA36

3345. REGULATORY CAPITAL: INTEREST RATE RISK COMPONENT

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a

CFR Citation: 12 CFR 567

Legal Deadline: Final, Statutory, June 19, 1993.

Abstract: As predecessor to the OTS, the Federal Home Loan Bank Board issued an advance supplemental notice of proposed rulemaking addressing interest rate risk generally. In December, 1990, the OTS issued an extensive notice of proposed rulemaking setting forth a description of methodologies to be used in calculating the interest rate risk component of the capital rule. A supplemental NPRM was issued in September 1992 seeking further comment on how to incorporate an interest rate risk component into the risk-based capital rule. The interest rate risk component is intended to ensure that savings associations maintain adequate capital based upon their level of interest rate risk exposure.

Pursuant to FDICIA, the rule must be adopted in final form by June 19, 1993.

Timetable:

Action	Date	FR Cite
ANPRM	07/03/89	55 FR 27885
ANPRM Comment Period End	08/02/89	55 FR 27885
NPRM	12/31/90	55 FR 53529
NPRM Comment Period End	06/01/91	56 FR 11115
Supplemental NPRM	09/03/92	57 FR 40524
Supplemental NPRM Comment Period End	11/02/92	57 FR 40524

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previously reported under RIN 1550-AA01.

Agency Contact: Anthony Cornyn, Deputy Assistant Director for Policy, Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC, 202 906-5727

RIN: 1550–AA46

3346. MERGERS AND OTHER COMBINATIONS OF SAVINGS ASSOCIATIONS

Significance: Agency Priority

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Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 552; 12 CFR 563

Legal Deadline: Final, Statutory, March 18, 1992.

Abstract: The OTS has proposed amendments to its regulations governing mergers and other combinations involving Federal stock savings associations to implement sections 501 and 502 of FDICIA. In general, the FDICIA amendments to the insurance conversion provisions of the Federal Deposit Insurance Act and to the Savings and Loan Holding Company Act provisions of the Home Owners' Loan Act ease previous restrictions on conversion transactions to permit all insured depository institutions to merge, assume each other's deposits, and transfer assets to each other in exchange for assuming deposit liabilities, provided the applicable Federal banking agency approved the transaction and the resulting institution continues to pay proportionate assessments to the appropriate Federal deposit insurance fund. The OTS is amending its regulations to effect these changes.

Timetable:

Action	Date	FR Cite
NPRM	08/18/92	57 FR 37112
NPRM Comment Period End	09/17/92	57 FR 37112

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael P. Vallely, Senior Attorney, Corporate and Securities Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, **202 906-6241**

RIN: 1550–AA47

3347. REGULATORY CAPITAL: INTANGIBLE ASSETS

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract: The OTS has proposed an amendment to its risk-based capital regulation to specify the types of intangible assets savings associations may include in calculating capital for purposes of complying with their tangible capital, leverage ratio, and risk-based capital requirements. Under the proposal, purchased mortgage servicing rights and purchased credit card relationships would be considered qualifying intangible assets that could be included in core capital, with some limitations.

Timetable:

Action	Date	FR Cite
NPRM	04/13/92	57 FR 12761
NPRM Comment Period End	05/13/92	57 FR 12761

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Connolly, Program Manager, Capital Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, **202 906-6465**

RIN: 1550–AA49

3348. MINORITY-, WOMEN-, AND INDIVIDUALS WITH DISABILITIES-OWNED BUSINESS OUTREACH PROGRAM: CONTRACTING FOR GOODS AND SERVICES

Significance: Agency Priority

Legal Authority: 12 USC 1833(e)

CFR Citation: 12 CFR 517

Legal Deadline: None

Abstract: The OTS has issued a notice of proposed rulemaking that would implement a Minority-, Women-, and Individuals With Disabilities-Owned Business Outreach Program that would conform with the requirements of section 1216(c) of FIRREA. The rule is intended to ensure that business concerns owned by members of minority groups, women and individuals with disabilities participate in OTS contracting programs to the maximum extent possible.

Timetable:

Action	Date	FR Cite
NPRM	09/17/92	57 FR 42906
NPRM Comment Period End	10/19/92	57 FR 42906

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Frances L. Sullivan, Director, Procurement Management Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, **202 906-6193**

RIN: 1550–AA53

3349. MULTIFAMILY HOUSING LOANS

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract: The OTS has issued a notice of proposed rulemaking that would implement section 618(b) of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991, concerning the capital treatment of multifamily residential mortgage loans and securities collateralized by such loans. The rule would place certain of these loans and securities in the 50% risk-weight category for purposes of OTS's current risk-based capital regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/02/92	57 FR 40143
NPRM Comment Period End	10/02/92	57 FR 40143

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dorene Rosenthal, Attorney, Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552. **202 906-7268**

RIN: 1550–AA58

3350. SAVINGS ASSOCIATION MEMBERSHIP IN THE FEDERAL HOME LOAN BANK SYSTEM

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: The OTS has issued a final regulation that will, after two years, remove the regulatory requirement that all savings associations have and maintain Federal Home Loan Bank membership. The two-year transition period is intended to allow for an orderly transition to voluntary membership.

Timetable:

Action	Date	FR Cite
NPRM	03/12/92	57 FR 8732
NPRM Comment Period End	05/11/92	57 FR 8732
NPRM Reopened Comment Period/ Public Hearing	06/12/92	57 FR 24994
Final Action	03/18/93	58 FR 14510
Final Action Effective	04/19/93	58 FR 14510

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard Blanks, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, **202 906-7037**

RIN: 1550–AA41

3351. FEDERAL SAVINGS ASSOCIATIONS: OPERATING SUBSIDIARIES AND SERVICE CORPORATIONS

Significance: Agency Priority

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1828

CFR Citation: 12 CFR 545

Legal Deadline: None

Abstract: The OTS has issued a final rule that authorizes Federal savings associations to establish and acquire operating subsidiaries that engage exclusively in activities authorized for Federal associations.

In addition, the rule revises the OTS's regulations governing service corporations to clarify and streamline existing requirements and adjust the scope of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/09/92	57 FR 12226
NPRM Comment Period End	05/11/92	57 FR 12226
Final Action	10/29/92	57 FR 48942
Final Action Effective	11/30/92	57 FR 48942

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dean V. Shahinian, Asst. Chief Counsel for Corporate Activities, Corporate and Securities Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, **202 906-7289**

RIN: 1550–AA43

3352. SUPERVISORY CONVERSIONS

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1464; 12 USC 1462a; 12 USC 1463; 12 USC 1467a; 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78n

CFR Citation: 12 CFR 563b

Legal Deadline: None

Abstract: The OTS has revised its voluntary supervisory conversion regulations to increase the number of capital deficient mutual savings associations eligible to undergo voluntary supervisory mutual-to-stock conversions. The amendments will revise the current supervisory conversion qualification standards to permit mutual associations to undertake voluntary supervisory conversions to raise additional capital without government assistance if they fail to meet certain capital levels and if they meet other specified standards.

Timetable:

Action	Date	FR Cite
NPRM	01/17/92	57 FR 2061
NPRM Comment Period End	02/18/92	57 FR 2061
Final Action	11/02/92	57 FR 49377
Final Action Effective	12/02/93	57 FR 49377

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James H. Underwood, Counsel (Banking and Finance), Corporate and Securities Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, **202 906-7354**

RIN: 1550–AA45

3353. VALUATION AND REGULATORY CAPITAL TREATMENT OF FORECLOSED ASSETS

Significance: Agency Priority

Legal Authority: 5 USC 552; 5 USC 559; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 563; 12 CFR 567; 12 CFR 571

Legal Deadline: None

Abstract: The OTS has issued a final rule to require savings associations to use fair value rather than net realizable value for valuing foreclosed assets subsequent to acquisition. In addition, the rule places all assets previously assigned to the 200% risk-weight category, including foreclosed assets, in the 100% risk-weight category.

Timetable:

Action	Date	FR Cite
NPRM	10/07/92	57 FR 46098
NPRM Comment Period End	12/07/92	57 FR 46098
Final Action Effective	12/31/92	58 FR 474
Final Action	01/06/93	58 FR 474

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert J. Fishman, Program Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, **202 906-5672**

RIN: 1550–AA50

3354. QUALIFIED THRIFT LENDER TEST

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: The OTS has issued a final rule to revise its qualified thrift lender test to implement changes made by the Qualified Thrift Lender Reform Act of 1991, subtitle G of FDICIA. The amendments lower the required

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qualified thrift lender percentage of housing-related investments from 70% to 65% of a savings association's portfolio assets, change the computation period, increase the amount of regulatory liquidity excludable from portfolio assets, authorize certain shares of stock of certain government sponsored enterprises to be included in computing qualified thrift investments, and increase certain percentages in computing qualified thrift investments.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/92	58 FR 15082
NPRM	09/02/92	57 FR 40140
NPRM Comment Period End	10/02/92	57 FR 40140
Final Action	03/19/93	58 FR 15082

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Valerie J. Lithotomos, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, 202 906-6439

RIN: 1550–AA51

3355. REPORTING REQUIREMENTS FOR ADJUSTABLE-RATE MORTGAGE INDEX DATA

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: The OTS has issued a final rule that amends its reporting regulation to require any member savings association within the jurisdiction of a Federal Home Loan Bank, and that currently reports data from which that Federal Home Loan Bank calculates an adjustable rate mortgage index, to continue to provide such data upon the request of the Federal Home Loan Bank. Such data were previously extracted from the monthly Thrift Financial Report which was discontinued as of January 1, 1993. The collection of this data will be continued so that the Federal Home Loan Banks will be able to continue to publish adjustable rate mortgage indices.

Timetable:

Action	Date	FR Cite
NPRM	07/30/92	57 FR 33662
NPRM Comment Period End	08/31/92	57 FR 33662
Final Action	12/24/92	57 FR 61249
Final Action Effective	01/25/93	57 FR 61249

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Catherine Shepard, Senior Attorney, Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, 202 906-7275

RIN: 1550–AA52

3356. CAPITAL TREATMENT OF EQUITY INVESTMENTS

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract: The OTS has issued a final rule to amend its risk-based capital treatment of equity investments that are permissible for both savings associations and national banks. The rule provides that savings associations are no longer required to deduct such investments in calculating their capital and specifies that such investments are now placed in the 100% risk-weight category.

Timetable:

Action	Date	FR Cite
NPRM	09/02/92	57 FR 40147
NPRM Comment Period End	10/02/92	57 FR 40147
Final Action	03/19/93	58 FR 15085
Final Action Effective	04/19/93	58 FR 15085

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Connolly, Program Manager, Capital Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, 202 906-6465

RIN: 1550–AA55

3357. REAL ESTATE LENDING STANDARDS

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: Final, Statutory, September 19, 1992.

Abstract: The OTS has issued a final rule jointly with the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation to implement section 304 of FDICIA. The statute requires that the agencies establish real estate lending standards for insured depository institutions. The rule sets forth real estate lending standards that require each insured depository institution to adopt and maintain comprehensive written real estate lending policies that are consistent with safety and soundness standards. The policies must take into consideration loan-to-value limits and must address loan administration procedures, portfolio diversification standards, and documentation, approval and reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/16/92	57 FR 31594
Request for Comment: Supplementary Analysis	08/17/92	57 FR 36911
NPRM Comment Period End	08/31/92	57 FR 31594
Final Action	12/31/92	57 FR 62890
Final Action Effective	03/19/93	57 FR 62890

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William J. Magrini, Project Manager for Credit Policy, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, 202 906-5744

RIN: 1550–AA56

3358. REGULATORY REVIEW

Significance: Agency Priority

Legal Authority: 5 USC 552; 5 USC 559; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467; 12 USC 1467a; 12 USC 1468; 12 USC 1701j-3; 12 USC 1813; 12 USC 1828; 12 USC 2801 et seq; 12 USC 2901 et seq; 12 USC 3806; ...

CFR Citation: 12 CFR 509; 12 CFR 516; 12 CFR 528; 12 CFR 541; 12 CFR 543; 12 CFR 545; 12 CFR 552; 12 CFR 556; 12 CFR 558; 12 CFR 559; 12 CFR 561; 12 CFR 563; 12 CFR 563b; 12 CFR 563e; 12 CFR 567; ...

Legal Deadline: None

Abstract: The OTS has issued a final rule to modify or delete a number of regulations consistent with a Presidential program of regulatory review initiated in January, 1992. This program called for a review of all Federal regulations and policies for the purpose of eliminating any over-burdensome regulations, thereby promoting economic growth.

The OTS has held public hearings on this matter as well as sought public comment on all of its current regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/03/92	57 FR 40350
NPRM Comment Period End	10/05/92	57 FR 40350
Final Action	01/14/93	58 FR 4308
Final Action Effective	02/16/93	58 FR 4308

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Solomon, Deputy Chief Counsel, Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, 202 906-7240

RIN: 1550–AA60

[FR Doc. 93-6060 Filed 04-23-93; 8:45 am]

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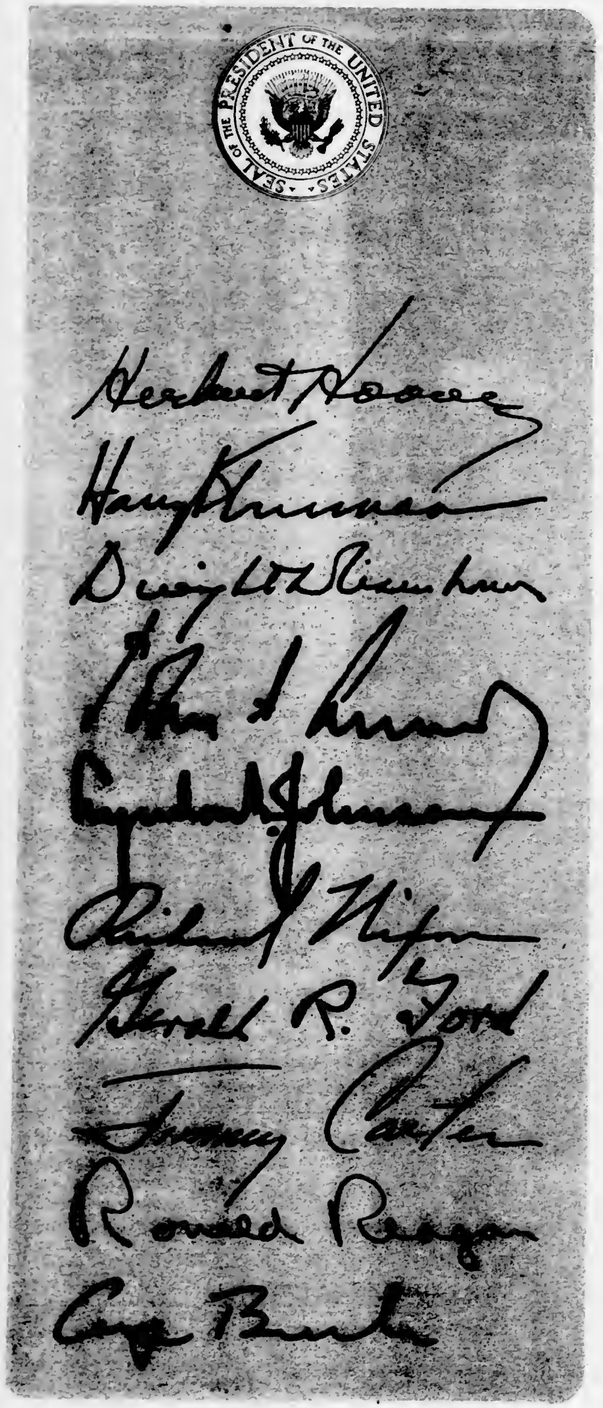

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Part XVI

Department of Veterans Affairs

Semiannual Regulatory Agenda

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DEPARTMENT OF VETERANS AFFAIRS (VA)

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Ch. I

Agenda of Federal Regulations

AGENCY: Department of Veterans Affairs.

ACTION: Publication of agenda of regulations.

SUMMARY: This agenda announces the regulations that the Department of Veterans Affairs will have under review, development, or revision during the 12-month period from April 1993 to April 1994. The purpose in publishing the Department's regulatory development activities is to allow all interested persons the opportunity to participate in the rulemaking process.

ADDRESSES: Interested persons are invited to comment on the regulations listed in the agenda by contacting the individual agency contact listed for each regulation or by writing to: Director, Records Management Service (723), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Cliff Slay, (202) 233-4251.

SUPPLEMENTARY INFORMATION: Executive Order 12291 "Federal Regulation" and the Regulatory Flexibility Act (Pub. L. 96-354) require that executive agencies publish in the **Federal Register**, in April and October of each year, an agenda of regulations under development and review.

The Department of Veterans Affairs has no regulations considered major under the terms of Executive Order 12291; however, all of this Department's proposed rules and current rules under review, except those considered to be internal Department policy management or routine regulations, have been listed in accordance with section 5(a) of the Executive order.

This agenda incorporates those categories of information required pursuant to 5 U.S.C. 602(a) and 610(c) of the Regulatory Flexibility Act.

This agenda has been prepared in accordance with OMB memorandum dated December 9, 1992.

Dated: February 26, 1993.

Robert J. Woods,

Deputy Assistant Secretary for Information Resources Management.

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3362	Line of Duty	2900-AF03
3363	Increase in Amount of Veterans' Mortgage Life Insurance	2900-AG36
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3372	Issuance of Prosthetic Devices on an Outpatient Basis	2900-AE86
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3375	Apportionment of Benefits to Dependents; Payment of Cost of Veteran's Maintenance in Institution; Recommendation for Payment	2900-AC10
3376	Compliance with Civil Rights Provisions	2900-AC72
3377	Qualification Requirements for Department of Veterans Affairs Fee Appraisers	2900-AD32
3378	Full Disclosure of Beneficiary's Income and Assets	2900-AD35
3379	Reservists' Education; PL 101-237 and the Montgomery GI Bill—Selected Reserve	2900-AE43
3380	Acceptance of Partial Payments; Indemnification of Default	2900-AE60
3381	Veterans' Education; Standardization of Programs	2900-AE82
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VA

Proposed Rule Stage (Continued)

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3386	Schedule for Rating Disabilities—The Hemic and Lymphatic System	2900-AF02
3387	Schedule for Rating Disabilities—Impairments of the Eye, Ear, and Other Sense Organs	2900-AF22
3388	Schedule for Rating Disabilities—Neurological Conditions and Convulsive Disorders	2900-AF23
3389	Schedule for Rating Disabilities—Digestive System	2900-AF24
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3393	Loan Guaranty; Credit Underwriting Standards and Procedures for Processing VA Guaranteed Loans	2900-AF39
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3396	Veterans' Education; Suspension and Discontinuance of Payments	2900-AF85
3397	Procedural Due Process and Appellant Rights	2900-AF94
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3502	Veterans' Education; Miscellaneous Amendments	2900-AF63
3503	Loan Guaranty: Lender Participation Fees for Lender Appraisal Processing Program	2900-AF67
3504	Claims Based on Exposure to Ionizing Radiation (Parathyroid Adenoma)	2900-AF73
3505	Veterans' Education; Disenrollment from the Post-Vietnam Era Veterans' Educational Assistance Program Following Election to Receive Other Benefits	2900-AF76
3506	Dependents' Education; Determining the Eligibility Period	2900-AF91
3507	Active Military Service Certified Under Section 401 of Pub. L. 95-202	2900-AF92
3508	Aggravation of Preservice Disability	2900-AF93
3509	Procedural Due Process and Appellate Rights	2900-AF99
3510	Active Military Service Certified Under Section 401 of Pub. L. 95-202	2900-AG02
3511	Veterans' Education; Standardization of Programs	2900-AG03
3512	Department of Veterans Affairs Acquisition Regulation—Improper Business Practices and Personal Conflicts of Interest	2900-AF68
3513	Department of Veterans Affairs Acquisition Regulation - Multiyear Contracting	2900-AG06
3514	Rules of Practice	2900-AF86
3515	Group Memorial Monuments	2900-AE13
3516	Committees on Waivers and Compromises	2900-AE61
3517	Standards for Collection, Compromise, Suspension, and Termination of Collection Effort	2900-AF18
3518	Regional Office Committees on Waivers and Compromises	2900-AF64
3519	Technical Amendment to 38 CFR	2900-AF95

DEPARTMENT OF VETERANS AFFAIRS (VA)

Prerule Stage

VETERANS HEALTH ADMINISTRATION

3359. AID TO STATES FOR CARE OF VETERANS IN STATE HOMES

Legal Authority: 38 USC 1741; 38 USC 1742; 38 USC 1743

CFR Citation: 38 CFR 17.165; 38 CFR 17.166; 38 CFR 17.167

Legal Deadline: None

Abstract: Several laws have been enacted since the last revision and update of the regulations governing the State Home Per Diem Program. Among them is Public Law 100-322 which provided the Secretary, Department of Veterans Affairs, to evaluate per diem rates annually and increase as appropriate; the rates may not exceed the percentage increase in VA general hospitals. Numerous other changes and updates are needed to assist the States in recognition of State homes, various options for operating State homes such as contracting or leasing and clarification of States' responsibilities for providing financial support for the operation, opening of beds, after completing construction in which VA provided up to 65 percent of the cost. Timeframes for opening beds and clarification of assurance of financial support needs to be documented.

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VA — Prerule Stage

Current regulations will be updated and revised to accomplish these purposes.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/93	
NPRM	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: L. Nan Stout, Chief, State Home Per Diem Program, Ofc of Geriatrics and Extended Care (114E), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 535-7166

RIN: 2900–AE87

VETERANS BENEFITS ADMINISTRATION

3360. EMPLOYEE FIDUCIARIES

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 0.735-21

Legal Deadline: None

Abstract: The existing regulation falls under the general rules of conduct for employees. The intended change will bar most employees from becoming fiduciaries for beneficiaries of Department of Veterans Affairs benefits and establish an exemption to the bar under a limited number of circumstances such as when the employee is a close relative.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-5291

RIN: 2900–AB50

3361. 1. VETERANS SERVICES OFFICER (VSO) TO SELECT AND APPOINT OR RECOMMEND FOR APPOINTMENT THE PERSON OR LEGAL ENTITY TO RECEIVE BENEFITS IN A FIDUCIARY CAPACITY 2. DIRECT PAYMENT

Legal Authority: 38 USC 5502

CFR Citation: 38 CFR 13.55; 38 CFR 13.56

Legal Deadline: None

Abstract: 38 CFR 13.55 authorizes the VSO to select and appoint a fiduciary and defines the types of payees authorized to receive payments in fiduciary cases. The intended change updates the authority language to more closely reflect changes to 38 USC 3202; removes gender specific terminology and reference to mental illness; and, further clarifies the types of payees available for selection.

38 CFR 13.56 defines classes of beneficiaries who may be paid directly. The intended change clarifies the conditions for direct payment.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-5291

RIN: 2900–AB75

3362. LINE OF DUTY

Legal Authority: 38 USC 105(a)

CFR Citation: 38 CFR 3.1; 38 CFR 3.301

Legal Deadline: None

Abstract: This amendment will preclude establishment of service connection for conditions that are secondary to the abuse of alcohol or drugs.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF03

3363. • INCREASE IN AMOUNT OF VETERANS' MORTGAGE LIFE INSURANCE

Legal Authority: 38 USC 2106(b); PL 102-568

CFR Citation: 38 CFR 8(a).2; 38 CFR 8(a).4

Legal Deadline: None

Abstract: Section 204 of Public Law 102-568 increases the amount of coverage available under the Veterans' Mortgage Life Insurance Program to $90,000. Regulations are being amended to reflect this change.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Senior Insurance Specialist/Attorney, Department of Veterans Affairs, PO Box 13399, Philadelphia, PA 19101, 215 951-5710

RIN: 2900–AG36

3364. • SUPPLEMENTAL SERVICE-DISABLED VETERANS' INSURANCE (S-DVI)

Legal Authority: 38 USC 1922(a); PL 102-568

CFR Citation: 38 CFR 8.0 (Revision); 38 CFR 8.2 (Revision)

Legal Deadline: None

Abstract: Section 203 of Public Law 102-568 provides supplemental S-DVI coverage of up to $20,000 to veterans eligible for a waiver of premium on their basic S-DVI coverage. Regulations are being amended to reflect this change.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Senior Insurance Specialist/Attorney, Department of Veterans Affairs, PO Box 13399, Philadelphia, PA 19101, 215 951-5710

RIN: 2900–AG37

3365. • INCREASED COVERAGE FOR SERVICEMEN'S AND VETERANS' GROUP LIFE INSURANCE

Legal Authority: 38 USC 1967; 38 USC 1977; PL 102-568

CFR Citation: 38 CFR 9.2 (Revision); 38 CFR 9.3 (Revision); 38 CFR 9.4 (Revision); 38 CFR 9.6 (Revision); 38 CFR 9.8 (Revision); 38 CFR 9.24 (Revision); 38 CFR 9.26 (Revision); 38 CFR 9.36 (Revision)

Legal Deadline: None

Abstract: Section 201 of Public Law 102-568 increases the maximum amount of coverage available under the Servicemen's Group Life Insurance program to $200,000. Section 202 increases the maximum amount of coverage available under the Veterans Group Life Insurance (VGLI) program to $200,000 and provides that coverage under the VGLI program shall be on a renewable five-year term basis. Regulations are being amended to reflect these changes.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Senior Insurance Specialist/Attorney, Department of Veterans Affairs, PO Box 13399, Philadelphia, PA 19101, 215 951-5710

RIN: 2900–AG38

BOARD OF VETERANS APPEALS

3366. RULES OF PRACTICE; REPRESENTATION

Legal Authority: 38 USC 5901; 38 USC 5904; 38 USC 7105(b)(2); 38 USC 5902; 38 USC 5905; 38 USC 5903

CFR Citation: 38 CFR 20.603; 38 CFR 20.606; 38 CFR 20.609; 38 CFR 20.610; 38 CFR 20.611

Legal Deadline: None

Abstract: This regulation will amend the Rules of Practice of the Board of Veterans' Appeals relating to representatives to refine them in light of experience and to improve the efficiency of the appellate process. No alternatives are available. These revisions will not entail any costs to the public or the Government other than the costs normally associated with drafting, agency review, and publication.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven L. Keller, Counsel to the Chairman (01C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2978

RIN: 2900–AG08

3367. APPEALS REGULATIONS; RULES OF PRACTICE

Legal Authority: 38 USC 7102; 38 USC 7103; 38 USC 7110; 38 USC 7104(a)

CFR Citation: 38 CFR 19.11; 38 CFR 20.1303

Legal Deadline: None

Abstract: This regulation will amend the appeals regulations and the rules of practice of the Board of Veterans Appeals to refine them in light of experience and to improve the efficiency of the appellate process. No alternatives are available. These revisions will not entail any costs to the public or the Government other than the costs normally associated with drafting, agency review, and publication.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven L. Keller, Counsel to the Chairman (01C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2978

RIN: 2900–AG09

3368. • RULES OF PRACTICE; ATTORNEYS' AND AGENTS' FEES

Legal Authority: 38 USC 5904(c)(3); 38 USC 501

CFR Citation: 38 CFR 20.609

Legal Deadline: None

Abstract: This regulation will amend the rules of practice of the Board of Veterans' Appeals concerning fees of attorneys and agents to reflect changes to 38 USC 5904(c) resulting from section 303 of Public Law 102-405. No alternatives are available. These revisions will not entail any costs normally associated with drafting, agency review, and publication.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller, Counsel to the Chairman (01C), Board of Veterans Appeals, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2978

RIN: 2900–AG42

VA — Prerule Stage

DEPARTMENT OF VETERANS AFFAIRS (VA) — Proposed Rule Stage

VETERANS HEALTH ADMINISTRATION

3369. DISPOSITION OF VETERAN'S PERSONAL FUNDS AND EFFECTS ON FACILITY UPON DEATH, OR DISCHARGE, OR UNAUTHORIZED ABSENCE, AND OF FUNDS AND EFFECTS FOUND ON FACILITY

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 12.0 to 12.24

Legal Deadline: None

Abstract: Section 208 of Public Law 94-581 provides that unclaimed property or funds and effects left by a dependent or survivor of a veteran receiving medical care at a Department of Veterans Affairs facility as a CHAMPVA beneficiary will be disposed of in the same or similar manner as such property left by a veteran. Also, estates of dependents or survivors of a veteran who dies intestate and without legal heirs while a patient in any Department of Veterans Affairs facility or any hospital, while being furnished care or treatment therein by VA will escheat to the U.S. Government. Some of these regulations have not been updated since 1948, therefore, editorial changes will be made which will not affect policy.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

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Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leroy Lewis, Medical Administration Program Specialist, Policies and Operations (161B1), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 535-7431**

RIN: 2900–AB61

3370. CONFIDENTIALITY OF CERTAIN MEDICAL RECORDS

Legal Authority: 38 USC 7332

CFR Citation: 38 CFR 1.460-499

Legal Deadline: None

Abstract: These regulations address the confidentiality of VA records pertaining to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), and sickle cell anemia treatment, rehabilitation, education, training, evaluation and research information.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold Ramsey, Medical Administration Specialist, Medical Administration Service (161B4), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 535-7657**

RIN: 2900–AE28

3371. CHAMPVA

Legal Authority: 38 USC 1713

CFR Citation: 38 CFR 17.54 to 17.54f

Legal Deadline: None

Abstract: The Civilian Health and Medical Program of VA (CHAMPVA) provides dependents and survivors of certain veterans with a medical benefits program similar in scope to DoD's Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) through which VA would help pay for certain medical services and supplies obtained from civilian sources for persons not otherwise eligible for medical care under CHAMPUS.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stuart E. Mount, CHAMPVA Liaison, Administrative Services Officer (161), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 535-7660**

RIN: 2900–AE64

3372. ISSUANCE OF PROSTHETIC DEVICES ON AN OUTPATIENT BASIS

Legal Authority: 38 USC 622(f)(1); 38 USC 612

CFR Citation: 38 CFR 17.48(d)(4); 38 CFR 17.115(a)

Legal Deadline: None

Abstract: The existing means test regulations require VA's Veterans Health Administration (VHA) to determine income for means test purposes in the same manner as income is determined for VA pension purposes. VHA is proposing to change its income determination methodology to one that is similar to the method used for VA pension. This change would allow VHA to simulate VA's Veterans Benefits Administration's (VBA's) income determination without having to hire additional staff. The change is a more liberal interpretation of the existing rules for income determination. During a technical revision to the prosthetic regulations, they were inadvertently substantively changed by deleting authority to provide prosthetic appliances to certain veterans. This error will be corrected.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leroy Cassette, Chief, Policies and Operations (161B1), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 535-7412**

RIN: 2900–AE86

3373. CONFIDENTIALITY OF HEALTHCARE QUALITY ASSURANCE REVIEWS

Legal Authority: 38 USC 5705

CFR Citation: 38 CFR 1.500 to 541

Legal Deadline: None

Abstract: This regulation will amend and update current VA regulations to more accurately reflect Medical Quality Assurance activities in the Veterans' Hospital Administration.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Galen L. Barbour, M.D. (15), CMD for Quality Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, **202 535-7330**

RIN: 2900–AG01

VETERANS BENEFITS ADMINISTRATION

3374. 1. PAYMENT TO THE WIFE OR HUSBAND OF AN INCOMPETENT VETERAN 2. LEGAL CUSTODIAN

Legal Authority: 38 USC 5502

CFR Citation: 38 CFR 13.57; 38 CFR 13.58

Legal Deadline: None

Abstract: 38 CFR 13.57 specifies types of Department of Veterans Affairs benefits that may be paid to spouse payee. The intended change broadens the class of payments to include Department of Veterans Affairs insurance. 38 CFR 13.58 explains in part duties expected of a legal custodian. The intended change will clarify the custodian's authority to purchase a burial agreement for the incompetent beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 233-5291**

RIN: 2900–AB76

3375. APPORTIONMENT OF BENEFITS TO DEPENDENTS; PAYMENT OF COST OF VETERAN'S MAINTENANCE IN INSTITUTION; RECOMMENDATION FOR PAYMENT

Legal Authority: 38 USC 501(a); 38 USC 5502; 38 USC 5503; PL 98-543, Sec 402

CFR Citation: 38 CFR 13.70; 38 CFR 13.71; 38 CFR 13.74

Legal Deadline: None

Abstract: 38 CFR 13.70 defines the conditions under which the Veterans Services Officer may recommend an apportionment of benefits to dependents. The proposed amendment will clarify these conditions. The amendment will also remove a reference to mental illness as the sole criteria for a rating of incompetency.

38 CFR 13.71 is to be amended to make clear that the signing of an institutional award agreement does not waive an institution's right to claim payments under 38 USC 641. This action is the result of an unpublished General Counsel opinion.

38 CFR 13.74 is based on the provisions of 38 USC sec. 3203(b)(1)(A); however, where the law refers to more than one type of institutional care, the regulation refers only to instances of hospitalization. This would seem to preclude application of the regulation when veterans are in State run nursing homes or other institutions operated by the United States or a political subdivision. The Department of Veterans Affairs, therefore, proposes to correct this defect by substituting the terms "institution" and "institutionalization" where appropriate.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 233-5291**

RIN: 2900–AC10

3376. COMPLIANCE WITH CIVIL RIGHTS PROVISIONS

Legal Authority: 38 USC 3115

CFR Citation: 38 CFR 21.324

Legal Deadline: None

Abstract: Compliance with civil rights provisions requires that payment of benefits to veterans be terminated upon a finding that a veteran is attending a facility which has been found in noncompliance with applicable provisions of part 18, Nondiscrimination in Federally Assisted Programs of the Department of Veterans Affairs. We propose to amend 38 CFR 21.324 to reflect this new requirement.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (281), Vocational Rehabilitation Service, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 233-6496**

RIN: 2900–AC72

3377. QUALIFICATION REQUIREMENTS FOR DEPARTMENT OF VETERANS AFFAIRS FEE APPRAISERS

Legal Authority: 38 USC 501; 38 USC 3731; PL 100-198

CFR Citation: 38 CFR 36.4339

Legal Deadline: None

Abstract: Pub. L. 100-198 requires that certain standards for being designated as a fee appraiser be published in regulatory form. The standards are to include the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers. In the past, such requirements have been published in administrative issues other than regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert C. Greaves, Assistant Director for Construction and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 233-2691**

RIN: 2900–AD32

3378. FULL DISCLOSURE OF BENEFICIARY'S INCOME AND ASSETS

Legal Authority: PL 99-576, Sec 505; 38 USC 5502

CFR Citation: 38 CFR 13.58(b)(2)(iii); 38 CFR 13.59(a); 38 CFR 13.100(a)(1); 38 CFR 13.102(b); 38 CFR 13.104(a)

Legal Deadline: None

Abstract: Federally appointed fiduciaries are not required, except under very specific circumstances, to divulge non-VA income and assets belonging to the incompetent beneficiary. It is difficult to assess whether the fiduciary is using the beneficiary's VA assets appropriately unless placed in the context of total income and assets available. The purpose of these changes is to lessen the potential for fraud, waste and abuse. 38 CFR 13.58(b)(2) and 13.59(a) detail the responsibilities of legal custodians and court-appointed guardians respectively. They would be amended to require the reporting of non-VA assets. 38 CFR 13.100(a)(1) defines the authority of the Veterans Services Officer to supervise fiduciaries. The intended change would permit the Veterans Services Officer to request non-VA financial information from fiduciaries. 38 CFR 13.102(b) and 13.104(b) define the accountability of legal custodians and court-appointed guardians respectively. The intended change requires disclosure of non-VA financial information.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue

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NW., Washington. DC 20420, 202 233-5291

RIN: 2900–AD35

3379. RESERVISTS' EDUCATION; PL 101-237 AND THE MONTGOMERY GI BILL—SELECTED RESERVE

Legal Authority: PL 101-189; PL 101-237

CFR Citation: 38 CFR 21.7520; 38 CFR 21.7540; 38 CFR 21.7576; 38 CFR 21.7612; 38 CFR 21.7620; 38 CFR 21.7622; 38 CFR 21.7624; 38 CFR 21.7631; 38 CFR 21.7635; 38 CFR 21.7636; 38 CFR 21.7639; 38 CFR 21.7640; 38 CFR 21.7642; 38 CFR 21.7645; 38 CFR 21.7653; ...

Legal Deadline: None

Abstract: The Department of Defense Authorization Act for Fiscal Years 1990 and 1991 greatly expands the types of training permitted under the Montgomery GI Bill--Selected Reserve. The Veterans Education and Employment Amendments of 1989 also add a new type of training, flight training, to this program. Furthermore, the amendments also allow participants to receive a work-study allowance. The regulations which govern the Montgomery GI Bill--Selected Reserve must be amended to implement these new provisions of law.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RIN 2900-AE47 has been merged with this RIN.

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AE43

3380. ACCEPTANCE OF PARTIAL PAYMENTS; INDEMNIFICATION OF DEFAULT

Legal Authority: 38 USC 501(a); 38 USC 3703; 38 USC 3732

CFR Citation: 38 CFR 4201; 38 CFR 4275; 38 CFR 4301; 38 CFR 4315; 38 CFR 4323

Legal Deadline: None

Abstract: Public Law 101-237, the Veterans Home Loan Indemnity and Restructuring Act of 1989, amended 38 USC 1832(a) to require holders of VA guaranteed loans that are in default to notify VA if they refuse a partial payment of the amount owed when submitted by the veteran borrower. Notification may include a statement as to the circumstances of the default and the reason for the holder's refusal; these regulations will also set out the changed requirements with regard to establishing a veteran's liability to the Government in the event of foreclosure of a VA guaranteed loan. In the past veterans were liable if their VA loan foreclosed. Under Public Law 101-237 liability will only be established in the event of fraud, misrepresentation, or bad faith.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3668

RIN: 2900–AE60

3381. VETERANS' EDUCATION; STANDARDIZATION OF PROGRAMS

Legal Authority: 38 USC 3034; 38 USC 3680

CFR Citation: 38 CFR 21.7032; 38 CFR 21.3032; 38 CFR 21.7320

Legal Deadline: None

Abstract: VA has been reviewing regulations for the purpose of standardizing procedures whenever possible. In the course of the review rules governing time limits provided veterans training under the Montgomery GI Bill-Active Duty is not exactly the same as that provided eligible persons training under the dependent's Educational Assistance Program with regard to perfecting a claim. Furthermore, rules governing notification which had been provided to those receiving benefits under the now-expired Vietnam Era GI Bill with regard to a loss of dependant had not been extended to the Montgomery GI Bill- Active Duty Beneficiaries in similar circumstances. These regulations will standardize these rules.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AE82

3382. SCHEDULE FOR RATING DISABILITIES—THE MUSCULAR SYSTEM

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.73

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the muscular system.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/90	55 FR 46950
ANPRM Comment Period End	01/07/91	
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John L. Roberts, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AE89

3383. SCHEDULE FOR RATING DISABILITIES—THE ORTHOPEDIC SYSTEM

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the orthopedic system.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/90	55 FR 53315
ANPRM Comment Period End	02/26/91	
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John L. Roberts, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AE91

3384. SCHEDULE FOR RATING DISABILITIES—SYSTEMIC CONDITIONS

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.88; 38 CFR 4.88a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate systemic conditions.

Timetable:

Action	Date	FR Cite
ANPRM	01/25/91	56 FR 2884
ANPRM Comment Period End	03/26/91	
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John L. Roberts, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AE95

3385. SCHEDULE FOR RATING DISABILITIES—MENTAL DISORDERS

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.125; 38 CFR 4.126; 38 CFR 4.127; 38 CFR 4.128; 38 CFR 4.129; 38 CFR 4.130; 38 CFR 4.131; 38 CFR 4.132

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate mental disorders.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20170
ANPRM Comment Period End	07/01/91	
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Seavey, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF01

3386. SCHEDULE FOR RATING DISABILITIES—THE HEMIC AND LYMPHATIC SYSTEM

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.117

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the hemic and lymphatic systems.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20168
ANPRM Comment Period End	07/01/91	
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Seavey, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF02

3387. SCHEDULE FOR RATING DISABILITIES—IMPAIRMENTS OF THE EYE, EAR, AND OTHER SENSE ORGANS

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75; 38 CFR 4.76; 38 CFR 4.77; 38 CFR 4.78; 38 CFR 4.79; 38 CFR 4.80; 38 CFR 4.83; 38 CFR 4.84; 38 CFR 4.85; 38 CFR 4.86; 38 CFR 4.87

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate impairments of the eye, ear, and other sense organs.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20170
ANPRM Comment Period End	07/01/91	
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Seavey, Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF22

3388. SCHEDULE FOR RATING DISABILITIES—NEUROLOGICAL CONDITIONS AND CONVULSIVE DISORDERS

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.120; 38 CFR 4.121; 38 CFR 4.122; 38 CFR 4.123; 38 CFR 4.124; 38 CFR 4.124a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the neurological system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20169
ANPRM Comment Period End	07/01/91	
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: John L. Roberts, Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF23

3389. SCHEDULE FOR RATING DISABILITIES—DIGESTIVE SYSTEM

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.114

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the digestive system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20168
ANPRM Comment Period End	07/01/91	
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Seavey, Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF24

3390. REDUCTION OF DEBT THROUGH THE PERFORMANCE OF WORK-STUDY SERVICES

Legal Authority: PL 102-16

CFR Citation: 38 CFR 1.912b

Legal Deadline: None

Abstract: There is a section of PL 102-16 which is designed to eliminate some VA debts. The Secretary of Veterans Affairs is given the authority to enter into an agreement with an individual who has incurred an overpayment of VA educational or rehabilitation benefits. Pursuant to the agreement the individual may reduce the resulting debt through performance of work-study services. The law gives VA considerable latitude in administering this program. The regulation will state the way in which VA will implement this provision of law.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AF29

3391. VETERANS' BENEFITS; ELIGIBILITY FOR THE MONTGOMERY GI BILL - ACTIVE DUTY

Legal Authority: PL 101-510

CFR Citation: 38 CFR 21.7020; 38 CFR 21.7042; 38 CFR 21.7044; 38 CFR 21.7045; 38 CFR 21.7072; 38 CFR 21.7073; 38 CFR 21.7136

Legal Deadline: None

Abstract: PL 101-510 contains several provisions that affect eligibility for the Montgomery GI Bill - Active Duty. The law looks forward to the time when the Armed Forces will be reduced in size through reductions in force, and provides a way for those affected by the reductions to become eligible for the Montgomery GI Bill - Active Duty. The Regulations governing eligibility and entitlement for that benefit must be revised to agree with the law.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AF30

3392. RESERVISTS' EDUCATION; THE PERSIAN GULF CONFLICT SUPPLEMENTAL AUTHORIZATION AND PERSONNEL BENEFITS ACT OF 1991 AND THE MONTGOMERY GI BILL - SELECTED RESERVE

Legal Authority: PL 102-25

CFR Citation: 38 CFR 21.7636

Legal Deadline: None

Abstract: The Persian Gulf War Veterans' Benefits Act of 1991 provides increases in the full-time, three-quarter-time and half-time rate of educational assistance payable to someone pursuing a program of education under the Montgomery GI Bill - Selected Reserve. These increases are effective October 1, 1991. This will implement that increase. VA is also authorized by law to set by regulation the amount of monthly educational assistance payable to someone who is pursuing a program of education at quarter-time under the Montgomery GI Bill - Selected Reserve. VA will propose making a proportional increase in the quarter-time rate.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AF33

3393. LOAN GUARANTY; CREDIT UNDERWRITING STANDARDS AND PROCEDURES FOR PROCESSING VA GUARANTEED LOANS

Legal Authority: 38 USC 501(a); 38 USC 3703(c)(1); 38 USC 3710(g)

CFR Citation: 38 CFR 4337

Legal Deadline: None

Abstract: The Loan Guaranty regulations are being amended to update the residual income guidelines of the credit underwriting standards, to add guidelines for underwriting cases involving foreclosures and federally-related debts, to provide more specific time frames for determinations regarding employment, and to further clarify the use of compensating factors in underwriting VA-guaranteed home loans.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Caden, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3042

RIN: 2900–AF39

3394. INTEREST ON PREMIUMS IN ARREARS

Legal Authority: 38 USC 1908

CFR Citation: 38 CFR 8.22 (Revision)

Legal Deadline: None

Abstract: The interest rate charged on National Service Life Insurance premiums in arrears is being increased to 7 1/2 percent per annum to coincide with the discount that is given premiums that are paid in advance.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Senior Insurance Specialist/Attorney, Department of Veterans Affairs, P.O. Box 8047, Philadelphia, PA 19101, 215 951-5710

RIN: 2900–AF71

3395. RESERVISTS' EDUCATION; COMMENCING DATE OF AWARD OF EDUCATIONAL ASSISTANCE

Legal Authority: 10 USC 2136

CFR Citation: 38 CFR 21.7631

Legal Deadline: None

Abstract: In VA's response to the final report of the Commission to Assess Veterans' Education Policy VA stated it would make various changes in response to the Commission's recommendations. These regulatory changes will include amendments to adjust the beginning dates of awards of educational assistance. This purpose will implement the commitments VA made in its response with respect to the Montgomery GI Bill - Selected Reserve.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AF74

3396. VETERANS' EDUCATION; SUSPENSION AND DISCONTINUANCE OF PAYMENTS

Legal Authority: 38 USC 3690

CFR Citation: 38 CFR 21.4133; 38 CFR 21.4134; 38 CFR 21.4135; 38 CFR 21.4146; 38 CFR 21.4152; 38 CFR 21.4202; 38 CFR 21.4207; 38 CFR 21.4208; 38 CFR 21.4210; 38 CFR 21.4211; 38 CFR 21.4212; 38 CFR 21.4213; 38 CFR 21.4214; 38 CFR 21.4215; 38 CFR 21.4216

Legal Deadline: None

Abstract: Under certain conditions VA can suspend or discontinue payments of educational assistance to individuals even though the course in which they are enrolled is approved for VA training. Current regulations provide for a review of the circumstances at the local VA facility and another de novo review at VA Central Office. The proposal would gather in one place the procedures which VA follows in deciding whether to suspend or discontinue payments; would make a part of the Code of Federal Regulations the rules at the hearing which may be conducted in making this decision; and would eliminate the de novo Central Office review.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: June Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AF85

3397. PROCEDURAL DUE PROCESS AND APPELLANT RIGHTS

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.103

Legal Deadline: None

Abstract: This amendment will clarify that a claimant hearing will not normally be scheduled solely for the purpose of receiving argument by a claimant's representative, and that a claimant is expected to be present at the hearing.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF94

3398. REASONABLE DOUBT

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.102

Legal Deadline: None

Abstract: This amendment will limit the granting of benefit of the doubt to those individuals who have established their status as "claimants" in accordance with a recent decision by the U.S. Court of Veterans Appeals.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF97

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3399. VETERANS' EDUCATION; SUSPENSION AND DISCONTINUANCE OF PAYMENTS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

Legal Authority: 38 USC 3690

CFR Citation: 38 CFR 21.5130; 38 CFR 21.5200

Legal Deadline: None

Abstract: VA will propose regulations which will gather in one place the procedures VA follows in deciding whether to suspend or discontinue payments. This will require revisions to the regulations governing the Post-Vietnam Era Veterans' Educational Assistance Program so that references to the sections concerned with suspension and discontinuance of educational assistance will be correct

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AG04

3400. RESERVISTS' EDUCATION; SUSPENSION AND DISCONTINUANCE OF PAYMENTS UNDER THE MONTGOMERY GI BILL - SELECTED RESERVE

Legal Authority: 38 USC 3690

CFR Citation: 38 CFR 21.7633; 38 CFR 21.7635; 38 CFR 21.7658

Legal Deadline: None

Abstract: VA will propose regulations which will gather in one place the procedures VA follows in deciding whether to suspend or discontinue payments of educational assistance. This will require revisions to the regulations governing the Montgomery GI Bill - Selected Reserve so that references to the sections concerned with the suspension and discontinuance of educational assistance will be correct.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AG05

3401. • ZERO PERCENT DISABILITY EVALUATIONS

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.357; 38 CFR 4.31

Legal Deadline: None

Abstract: To clarify adjudication regulations and the schedule for rating disabilities concerning the assignment of a zero percent evaluation when minimum requirements for compensable evaluation are not met.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Roberts, Consultant Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue, Washington, DC 20420, 202 233-3005

RIN: 2900–AG10

3402. • DISABILITY OR DEATH FROM HOSPITALIZATION, MEDICAL OR SURGICAL TREATMENT

Legal Authority: 38 USC 1151

CFR Citation: 38 CFR 3.3581(b)

Legal Deadline: None

Abstract: To clarify when benefits based upon disability or death resulting from hospitalization, medical or surgical treatment or pursuit of a vocational rehabilitation program, may be authorized.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AG12

3403. • LOAN GUARANTY: LIMITED DENIAL OF PARTICIPATION IN THE LOAN GUARANTY PROGRAM

Legal Authority: 38 USC 501(a); 38 USC 3703(c)

CFR Citation: 38 CFR 36.4233; 38 CFR 36.4235; 38 CFR 36.4331; 38 CFR 36.4341; 38 CFR 36.4361; 38 CFR 44.700; 38 CFR 44.705; 38 CFR 44.710; 38 CFR 44.711; 38 CFR 44.712; 38 CFR 44.713

Legal Deadline: None

Abstract: The regulations are being amended to revise and consolidate the suspension authorities contained in 38 CFR part 36 into a new subpart G of 38 CFR part 44 entitled "Limited Denial of Participation in the Loan Guaranty Program." The amended regulations will also delete the obsolete suspension provisions of part 36.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Caden, Assistant Dir. for Loan Policy (264), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3042

RIN: 2900–AG13

3404. • LOAN GUARANTY: IMPLEMENTATION OF PUBLIC LAW 102-547

Legal Authority: 38 USC 501(a); PL 102-547

CFR Citation: 38 CFR 36.4212; 38 CFR 36.4223; 38 CFR 36.4232; 38 CFR 36.4254; 38 CFR 36.4302; 38 CFR 36.4311; 38 CFR 36.4312; 38 CFR 36.4336

Legal Deadline: None

Abstract: The Loan Guaranty regulations are being amended to comply with certain provisions of PL 102-547, the Veterans Home Loan

Program Amendments of 1992. The amended regulations will provide for the guarantee of: (1) loans for reservists and members of the National Guard; (2) loan where the interest rate has been negotiated between the borrower and the lender; (3) adjustable rate mortgages; and (4) energy efficient mortgages. The amended regulations will also reflect a reduced funding fee for interest rate reduction refinancing loans and a revised guaranty percentage for these loans.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judity Caden, Assistant Dir. for Loan Policy (264), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3042

RIN: 2900–AG14

3405. • REVISED DEFINITION OF NET VALUE AND REVISED CRITERIA FOR PRE-FORECLOSURE DEBT WAIVERS

Legal Authority: 38 USC 210(c)(1); 38 USC 1803(e)(1)

CFR Citation: 38 CFR 36.4301; 38 CFR 36.4323

Legal Deadline: None

Abstract: The Department of Veterans Affairs is proposing to amend its Loan Guaranty regulations to revise the definition of Property Improvements for purposes of determining the net value of a foreclosed property and to clarify VA's position on pre-foreclosure debt waivers for liable veterans in cases involving transferee defaults. These changes will account for actual property appraisal procedures and will clarify agency policy on pre-foreclosure debt waiver.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Len Levy, Assistant Director for Loan Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3042

RIN: 2900–AG20

3406. • VETERANS' EDUCATION; IMPLEMENTATION OF THE VETERANS' BENEFITS ACT OF 1992 AND THE NATIONAL DEFENSE AUTHORIZATION ACT FOR 1993

Legal Authority: PL 102-484; PL 102-568

CFR Citation: 38 CFR 21.5023

Legal Deadline: None

Abstract: The Veterans' Benefits Act of 1992 contains many provisions which affect the educational programs VA administers. Among these is a change in the rate of payment made to individuals who are pursuing independent study, a change in the eligibility rules for veterans and servicemembers receiving educational assistance under the Montgomery GI Bill - Active Duty. The National Defense Authorization Act for Fiscal Year 1993 also contains provisions which affect the Montgomery GI Bill - Active Duty. For example, certain individuals who have voluntarily separated from the military are given an opportunity to become eligible for the Montgomery GI Bill - Active Duty. These regulations will implement these Acts with respect to the Montgomery GI Bill - Active Duty and Dependents' Educational Assistance.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AG22

3407. • VETERANS' EDUCATION; VETERANS' BENEFITS ACT OF 1992 AND THE NATIONAL DEFENSE AUTHORIZATION ACT OF 1993 IN THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

Legal Authority: PL 102-484; PL 102-568

CFR Citation: 38 CFR 21.5023; 38 CFR 21.5058; 38 CFR 21.5145; 38 CFR 21.5232; 38 CFR 21.5250; 38 CFR 21.5270

Legal Deadline: None

Abstract: The Veterans' Benefits Act of 1992 contains some provisions which affect the educational programs VA administers. Among these are changes affecting measurement of courses and VA's work-study program. The National Defense Authorization Act for Fiscal Year 1993 permits certain voluntarily separated veterans who contributed to the VEAP fund to instead receive benefits under the Montgomery GI Bill - Active Duty. These regulations will implement these two laws with respect to VEAP.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AG23

3408. • RESERVISTS' EDUCATION; IMPLEMENTATION OF THE VETERANS' BENEFITS ACT OF 1992 AND THE NATIONAL DEFENSE AUTHORIZATION ACT OF 1993

Legal Authority: PL 102-484; PL 102-568

CFR Citation: 38 CFR 21.7520; 38 CFR 21.7550; 38 CFR 21.7620; 38 CFR 21.7631; 38 CFR 21.7635; 38 CFR 21.7636; 38 CFR 21.7639; 38 CFR 21.7642; 38 CFR 21.7645; 38 CFR 21.7670; 38 CFR 21.7672; 38 CFR 21.7673; 38 CFR 21.7700; 38 CFR 21.7720; 38 CFR 21.7722

Legal Deadline: None

Abstract: The Veterans' Benefits Act of 1992 contains many provisions which affect the educational programs VA administers. Among these is a change in advance payment of work-study allowance and a prohibition against paying educational assistance to individuals who are pursuing a nonaccredited independent study program. The National Defense

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Authorization Act for Fiscal Year 1993 also contains provisions which affect the Montgomery GI Bill - Selected Reserve. For example, certain individuals who must leave the Selected Reserve because their units have been inactivated will retain eligibility for the Montgomery GI Bill - Selected Reserve. This proposal will acquaint the public with the way in which VA will implement these Acts with respect to the Montgomery GI Bill - Selected Reserve.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AG24

3409. • VETERANS' EDUCATION; WAIVER OF THE PRO RATA REFUND REQUIREMENT

Legal Authority: 38 USC 3676

CFR Citation: 38 CFR 21.4255

Legal Deadline: None

Abstract: Generally, nonaccredited educational institutions are required by statute to have a pro rata refund policy in order to have their courses approved for VA training. However, for some nonaccredited colleges and universities this requirement can be waived if the charges for tuition and fees are "nominal." This will update the definition of "nominal" used by VA to reflect the rising costs of education.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AG26

3410. • PROCEDURAL DUE PROCESS AND APPELLATE RIGHTS

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.103

Legal Deadline: None

Abstract: To amend regulations concerning procedural due process and appellate rights to add two exceptions to the general requirement that a pretermination/reduction notice must be sent to a claimant prior to accomplishing an action adversely affecting benefit payments.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Thornberry, Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AG28

3411. • CLAIMS BASED ON CHRONIC EFFECTS OF EXPOSURE TO VESICANT AGENTS

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.16

Legal Deadline: None

Abstract: To amend regulations concerning compensation for disabilities or deaths resulting from the chronic effects of in-service exposure to mustard gas and other vesicant agents based upon a national academy of sciences study of the long-term health effects of exposure to vesicant agents commissioned by VA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AG29

3412. • REVISION OF DECISIONS

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.105(a)

Legal Deadline: None

Abstract: To amend adjudication regulations concerning revision of decisions based upon clear and unmistakable error to clarify that the scope of the regulation is limited to the review of Regional Office decisions that have not been affirmed by a decision of the Board of Veterans Appeals.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AG32

3413. • PROCEDURAL DUE PROCESS AND APPELLATE RIGHTS

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.105(a)

Legal Deadline: None

Abstract: To amend adjudication regulations concerning procedural due process and appellate rights to clarify the number of decisionmakers VA will provide to conduct claimant hearings.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AG33

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3414. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—SERVICE CONTRACTING

Legal Authority: 38 USC 501

CFR Citation: 48 CFR 837

Legal Deadline: None

Abstract: This Department of Veterans Affairs regulation will provide coverage regarding service contracts in accordance with recently issued OFPP policy letters.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sherry Patton, Procurement Analyst (95A), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-5001

RIN: 2900–AC86

3415. ACQUISITION REGULATION—CHANGES TO SOLICITATION PROVISIONS, CONTRACT CLAUSES AND THEIR PRESCRIPTIONS

Legal Authority: 38 USC 501; 40 USC 486c

CFR Citation: 48 CFR 833; 48 CFR 836; 48 CFR 852

Legal Deadline: None

Abstract: This change will amend certain provisions and clauses to eliminate duplicative coverage and make VA's regulation consistent with the Federal Acquisition Regulation. Prescription will be added for several provisions and clauses.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/21/88	53 FR 1630
Interim Final Rule Effective	01/21/88	53 FR 1630
Interim Final Rule Comment Period End	02/22/88	53 FR 1630
NPRM	05/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Lisa Russell, Procurement Analyst (95A), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-5001

RIN: 2900–AC87

3416. ACQUISITION REGULATION—SEALED BIDDING

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 814

Legal Deadline: None

Abstract: This amendment will delete duplicative coverage from the VA Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Lisa Russell, Procurement Analyst (95A), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-5001

RIN: 2900–AE17

3417. • DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—FOREIGN ACQUISITION

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 825

Legal Deadline: None

Abstract: This change will add two items to the list of expected articles, materials, and supplies that are not mined, produced, or manufactured in the United States in sufficient commercial quantities.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Patricia A. Viverette, Procurement Analyst (95A), Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-5001

RIN: 2900–AG39

3418. • DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—ARCHITECT-ENGINEER SERVICES

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 836

Legal Deadline: None

Abstract: This change will reflect the reorganization of the VA office of Facilities in the Architect-Engineer selection process; simplify the administrative Architect-Engineer selection process in VA Medical Centers; and eliminate duplicative coverage.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Lisa Russell, Procurement Analyst (95A), Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-5001

RIN: 2900–AG40

BOARD OF VETERANS APPEALS

3419. APPEALS REGULATIONS; RULES OF PRACTICE

Legal Authority: 38 USC 7105; 38 USC 7105(d)(3) to 7105(d)(5); 38 USC 501(a)

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VA — Proposed Rule Stage

CFR Citation: 38 CFR 2.66; 38 CFR 19.30; 38 CFR 19.35; 38 CFR 20.202

Legal Deadline: None

Abstract: The Board of Veterans' Appeals will be revising its Appeals Regulations and Rules of Practice to refine them in light of experience and to improve the efficiency of the appellate process. No alternatives are available. These revisions will not entail any costs to the Government other than the costs normally associated with drafting, agency review, and publication. Costs to public, if any, have not yet been determined.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Steven L. Keller, Counsel to the Chairman (01C), Department of Veterans Affairs, Board of Veterans' Appeals, 810 Vermont Avenue NW., Washington, DC 20420, **202 233-2978**

RIN: 2900–AF54

BOARD OF CONTRACT APPEALS/ CONTRACT APPEALS BOARD

3420. RULES OF PRACTICE; HEARINGS

Legal Authority: 38 USC 501(a); 38 USC 7102; 38 USC 7104; 38 USC 7105(a); 38 USC 7105A; 38 USC 7110; 38 USC 5711; 38 USC 7102(c)

CFR Citation: 38 CFR 20.3; 38 CFR 20.700; 38 CFR 20.702; 38 CFR 20.703; 38 CFR 20.704; 38 CFR 20.707; 38 CFR 20.710; 38 CFR 20.711; 38 CFR 20.713; 38 CFR 20.714; 38 CFR 20.716; 38 CFR 20.717; 38 CFR 20.1003

Legal Deadline: None

Abstract: This regulation will amend the Rules of Practice of the Board of Veterans' Appeals concerning hearings to refine them in light of experience and to improve the efficiency of the appellate process. No alternatives are available. These revisions will not entail any costs to the Government other than the costs normally associated with drafting, agency review, and publication. These revisions will not entail any costs to the public.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven L. Keller, Counsel to the Chairman (01C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, **202 233-2978**

RIN: 2900–AG07

OFFICE OF FINANCIAL MANAGEMENT

3421. ESTABLISHING BILLING RATES FOR RECOVERING THE COSTS OF PROVIDING AMBULATORY SURGICAL PROCEDURES

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 17

Legal Deadline: None

Abstract: VA is proposing to amend its regulations that specifically address the rate setting methodology and the billing rates for the costs of providing care associated with ambulatory surgical procedures. VA wishes to amend the present regulations to utilize the rates already established and published by Health Care Financing Administration (HCFA). The intended effect of utilizing HCFA rates and methodology is to enable VA to expedite the rate setting process and bill for medical care services at a reasonable cost for providing care.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Gilfillan, Chief, Medical Rate and Analysis Division, (MRAD) (047M), Department of Veterans Affairs, 810 Vermont Avenue, Washington, DC 20420, **202 233-8284**

RIN: 2900–AF83

OFFICE OF THE GENERAL COUNSEL

3422. TESTIMONY OF DEPARTMENT PERSONNEL AND PRODUCTION OF DEPARTMENT RECORDS IN LEGAL PROCEEDINGS

Legal Authority: 5 USC 301; 38 USC 501

CFR Citation: 38 CFR 14.801 (New); 38 CFR 14.802; 38 CFR 14.803; 38 CFR 14.804; 38 CFR 14.805; 38 CFR 14.806; 38 CFR 14.807; 38 CFR 14.808; 38 CFR 14.809; 38 CFR 14.810

Legal Deadline: None

Abstract: Agencies are authorized to restrict the testimony of their employees and production of their records in private litigation. The Department of Veterans Affairs needs to conserve Government resources in the same manner as other agencies which have regulations to restrict their employees from testifying and producing their records in private litigation. This regulation would provide the authority to do this and would further the Department's mission of assisting all veterans by conserving personnel resources for official duties and controlling utilization of Government personnel in purely private controversies.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Audley Hendricks/ Neal Lawson, Assistant General Counsels (023)/(024), Department of Veterans Affairs, Office of the General Counsel, 810 Vermont Avenue NW., Washington, DC 20420, **202 523-3523**

RIN: 2900–AE76

3423. REVOCATION OF DELEGATION TO ISSUE SUBPOENAS PURSUANT TO 38 USC 3311 AND SPECIFY PERMISSIBLE METHODS OF SERVICE

Legal Authority: 38 USC 210(c)(1)

CFR Citation: 38 CFR 2.1

Legal Deadline: None

Abstract: Cases have held that the head of an agency may not lawfully delegate to, or expand the authority to subpoena documents of, the Offices of Inspector General established under the Inspector General Act. (The VA Inspector General was established under that Act.) Thus, the delegation of subpoena authority under 38 CFR 2.1 does not comport with law and should be changed. Current regulations do not specify the method of service. This amendment would rescind this delegation and incorporate into 38 CFR 2.1 information on methods of service of administrative subpoenas, as other agencies do on exercising subpoena power. It would provide needed guidance to VA officials and the public on proper service of subpoenas.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Audley Hendricks/ Neal Lawson, Assistant General Counsels (023)/(024), Department of Veterans Affairs, Office of the General Counsel, 810 Vermont Avenue NW., Washington, DC 20420, **202 523-3523**

RIN: 2900–AE77

VA — Proposed Rule Stage

3424. • STANDARDS OF ETHICAL CONDUCT AND RELATED RESPONSIBILITIES

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 0.735

Legal Deadline: None

Abstract: Pursuant to part I of Executive Order 12674 of April 12, 1989 (as modified by E.O. 12731), we are amending subpart A "General Provisions" of the "Standards of Ethical Conduct and Related Responsibilities" in part 0.735 of title 38, CFR. We are also rescinding subpart B of part 0.735 with the exception of four provisions sections: 0.735-21(e) (safety), -21(f) (furnishing testimony), -20(e)(4) (intoxicants and drugs), and -20(e)(5) (patient abuse), which will be repromulgated under the authority in 38 USC 501.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James E. Adams, Deputy Assistant General Counsel (023C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, **202 633-7159**

RIN: 2900–AG27

OFFICE OF POLICY AND PLANNING

3425. STANDARDS FOR PROGRAM EVALUATION

Legal Authority: 38 USC 210(c); 38 USC 219

CFR Citation: 38 CFR 1.15

Legal Deadline: None

Abstract: Due to the realignment of the program evaluation function and the reduction of resources dedicated to that function, the conduct of program evaluations will be reevaluated and alternatives explored which will better meet the needs of the VA in assessing the effectiveness of its programs. Regulations will be proposed to implement these changes.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois A. Shuck, Director, Management Analysis & Reports Division (008B3), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, **202 233-5212**

RIN: 2900–AE30

DEPARTMENT OF VETERANS AFFAIRS (VA) — Final Rule Stage

VETERANS HEALTH ADMINISTRATION

3426. REPORTING HEALTH CARE PRACTITIONERS TO STATE LICENSING BOARDS

Legal Authority: PL 99-166

CFR Citation: 38 CFR 47

Legal Deadline: None

Abstract: This regulation will specify the requirements for reporting licensed health care professionals to licensing and monitoring entities. It will also state the criteria to be used in determining who should be reported to licensing and monitoring entities.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melinda Murphy, Professional Affairs Staff (10A2), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 535-7327**

RIN: 2900–AE27

3427. HEALTH PROFESSIONALS' EDUCATIONAL ASSISTANCE PROGRAM

Legal Authority: PL 96-330; 38 USC 76; PL 101-366

CFR Citation: 38 CFR 17.613; 38 CFR 17.614; 38 CFR 17.615; 38 CFR 17.616; 38 CFR 17.617; 38 CFR 17.618

Legal Deadline: None

Abstract: VA is amending its Medical regulations by adding new sections to implement the provisions of Pub. L. 101-366. Section 205 of that law creates the "Stipend Program for Members of the Selected Reserve" codified at 38 U.S.C., chapter 76, subchapter V.

Timetable:

Action	Date	FR Cite
NPRM	07/29/92	57 FR 33471
NPRM Comment Period End	09/28/92	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

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VA

Final Rule Stage

Agency Contact: Charlotte F. Beason, Ed.D., Director, Associated Health Professions, Education Program Service (143), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, **202 535-7527**

RIN: 2900–AF87

3428. • HOSPITAL CARE AND MEDICAL SERVICES IN NON-VA FACILITIES

Legal Authority: PL 102-585

CFR Citation: 38 CFR 17.50(b)

Legal Deadline: None

Abstract: Prior to enactment of this law authorized contract non-VA hospital care for veterans rated permanently and totally disabled from a service connected disability could not be approved in advance. Instead these veterans were required to submit a claim for payment for each episode of non-VA hospital care following their discharge from the hospital. If the claim met established criteria, then VA would have to make payment; if not, the claim could be denied. This law allows VA to approve non-VA hospital care for these veterans in advance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. Roscoe Butler, MAS Program Specialist, Policies & Procedures (161B1), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, **202 535-7434**

RIN: 2900–AG41

3429. • HOME IMPROVEMENT AND STRUCTURAL ALTERATIONS (HISA) INCREASE IN THE LIMIT FOR HOME IMPROVEMENT AND STRUCTURAL ALTERATIONS (HISA)

Legal Authority: 38 USC 1717

CFR Citation: 38 CFR 17.60

Legal Deadline: None

Abstract: Revises 38 CFR 17.60 consistent with the provisions of Public Law 102-405 which increases the monetary limitations for expenditures for disabled veterans in need of home improvement and structural alterations. Specifically, the monetary limitations for this purpose are $4,000 for service-connected disabilities and $1,200 for nonservice-connected disabilities.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Monica Wilkins, Medical Administration Program Specialist, (161B1) Policies & Procedures Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, **202 535-7439**

RIN: 2900–AG43

VETERANS BENEFITS ADMINISTRATION

3430. LOANS TO PURCHASE MANUFACTURED HOMES

Legal Authority: 38 USC 501(a); 38 USC 3703(c)(1); 38 USC 3712(g); PL 101-508; PL 100-198; PL 100-253

CFR Citation: 38 CFR 36.4202; 38 CFR 36.4204; 38 CFR 36.4205; 38 CFR 36.4206; 38 CFR 36.4207; 38 CFR 36.4208; 38 CFR 36.4209; 38 CFR 36.4222; 38 CFR 36.4223; 38 CFR 36.4224; 38 CFR 36.4232; 38 CFR 36.4253; 38 CFR 36.4275; 38 CFR 36.4276; 38 CFR 36.4283; ...

Legal Deadline: None

Abstract: A number of regulatory changes will be proposed for the VA manufactured home loan program. VA would conform to HUD's practices on certifications, invoicing and volume rebates. Lenders would be permitted to file claims upon receipt of the VA's resale price and thereafter retain the profit or loss which results from subsequent sale of the home. Broader insurance coverage would be required to cover missing items at repossession. Actual freight costs would be allowed in the invoice, and the amounts and items which could be included in the loan would be revised. In addition, a new optional procedure would be provided to holders of manufactured home loans for filing claims under the terms of the loan guaranty.

Timetable:

Action	Date	FR Cite
NPRM	10/16/92	57 FR 47433
NPRM Comment Period End	11/16/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Caden, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 233-3042**

RIN: 2900–AC85

3431. SCHEDULE FOR RATING DISABILITIES; GENITOURINARY SYSTEM DISABILITIES

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.115; 38 CFR 4.115a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the genitourinary system.

Timetable:

Action	Date	FR Cite
ANPRM	08/21/89	54 FR 34531
ANPRM Comment Period End	10/20/89	54 FR 34531
NPRM	12/02/91	56 FR 61216
NPRM Comment Period End	01/02/92	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Seavey, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 233-3005**

RIN: 2900–AE11

3432. LOAN GUARANTY: SERVICING REQUIREMENTS FOR VA GUARANTEED LOANS

Legal Authority: 38 USC 501(a); 38 USC 3703(c)(1); 38 USC 3712(g)

CFR Citation: 38 CFR 36.4200 et seq; 38 CFR 36.4300 et seq

VA

Final Rule Stage

Legal Deadline: None

Abstract: Presently, VA has no standards for loan holders to follow in servicing VA guaranteed home loans. It is proposed to develop appropriate standards for holders to follow in servicing VA loans. This would ensure that defaults would be prevented whenever possible and that liquidations are conducted as efficiently as possible.

Timetable:

Action	Date	FR Cite
NPRM	10/04/90	55 FR 40682
NPRM Comment Period End	11/05/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 233-3668**

RIN: 2900–AE19

3433. LOAN GUARANTY: TITLE EVIDENCE REQUIREMENTS AND OCCUPANCY REQUIREMENTS FOR CONVEYANCE OF PROPERTIES TO VA

Legal Authority: 38 USC 501(a); 38 USC 3703(c)(1); 38 USC 3720

CFR Citation: 38 CFR 36.4320

Legal Deadline: None

Abstract: Present regulations give loan holders a choice of various forms of title evidence when conveying a property to the Secretary of Veterans Affairs. The regulations will be amended to authorize the Secretary to specify the title documentation necessary for conveyance of properties to the Secretary and establish a date by which such title evidence must be received. The amendment will also provide that the property must be vacant when conveyed to VA unless occupied by someone properly in possession by virtue of a redemption period or as otherwise directed by the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	08/06/90	55 FR 31847
NPRM Comment Period End	09/05/90	55 FR 31847
NPRM Comment Period Extended	10/05/90	55 FR 35325
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 233-3668**

RIN: 2900–AE20

3434. SCHEDULE FOR RATING DISABILITIES—THE CARDIOVASCULAR SYSTEM

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.100; 38 CFR 4.101; 38 CFR 4.102; 38 CFR 4.103; 38 CFR 4.104

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the cardiovascular system.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/90	55 FR 6658
ANPRM Comment Period End	04/27/90	55 FR 6658
NPRM	01/19/93	58 FR 4954
NPRM Comment Period End	03/22/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Seavey, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 233-3005**

RIN: 2900–AE40

3435. SCHEDULE FOR RATING DISABILITIES—THE ENDOCRINE SYSTEM

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.119

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the endocrine system.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/90	55 FR 6658
ANPRM Comment Period End	04/27/90	55 FR 6658
NPRM	01/22/93	58 FR 5691
NPRM Comment Period End	03/23/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Seavey, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, **202 233-3005**

RIN: 2900–AE41

3436. RESERVISTS' EDUCATION; PROCEDURAL DUE PROCESS, MONTGOMERY GI BILL —SELECTED RESERVE

Legal Authority: 38 USC 5101; 38 USC 5113

CFR Citation: 38 CFR 21.7532

Legal Deadline: None

Abstract: VA has been reviewing regulations for the purpose of improving due process procedures. This proposal will provide that in certain instances if VA does not furnish claimants or beneficiaries under the Montgomery GI Bill - Selected Reserve with notice of the time limits within which they are required to act, those time limits do not apply until notice is provided.

Timetable:

Action	Date	FR Cite
NPRM	10/14/92	57 FR 47024
NPRM Comment Period End	11/13/92	57 FR 47024
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810

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Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AE49

3437. SCHEDULE FOR RATING DISABILITIES—THE GYNECOLOGICAL SYSTEM

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.116; 38 CFR 4.116(a)

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the gynecological system.

Timetable:

Action	Date	FR Cite
ANPRM	08/20/90	55 FR 33924
ANPRM Comment Period End	10/19/90	55 FR 33924
NPRM	03/26/92	57 FR 10450
NPRM Comment Period End	04/27/92	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Seavey, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AE72

3438. VETERANS' EDUCATION; NONDUPLICATION OF BENEFITS

Legal Authority: 38 USC 3034; 38 USC 3681

CFR Citation: 38 CFR 21.7142, 38 CFR 21.4025

Legal Deadline: None

Abstract: The law prohibits the payment of educational assistance to a person who would otherwise be eligible for benefits under the Montgomery GI Bill when he or she is on active duty with the Armed Forces and the Armed Forces are paying for the courses in which he or she is enrolled. This regulation is intended to implement this provision of law. However, users of the regulation have complained that the regulation appears to contradict the law. This proposal will eliminate this unintended appearance. In addition, some minor amendments to the wording of a similar Montgomery GI Bill-Active Duty when he or she is on active duty with the Armed Forces and the Armed Forces are paying for the course in which he or she is enrolled. Since this provision occurs in the law, but not in the regulation, users of the regulations have occasionally been confused. In order to eliminate that confusion, this regulation would include that prohibition.

Timetable:

Action	Date	FR Cite
NPRM	03/16/92	57 FR 9061
NPRM Comment Period End	04/15/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AE84

3439. SCHEDULE FOR RATING DISABILITIES—THE RESPIRATORY SYSTEM

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.96; 38 CFR 4.97

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the respiratory system.

Timetable:

Action	Date	FR Cite
ANPRM	01/08/91	56 FR 667
ANPRM Comment Period End	03/11/91	
NPRM	01/19/93	58 FR 4962
NPRM Comment Period End	03/22/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Seavey, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AE94

3440. SCHEDULE FOR RATING DISABILITIES—THE SKIN

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.118

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate skin conditions.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20171
ANPRM Comment Period End	07/01/91	
NPRM	01/19/93	58 FR 4969
NPRM Comment Period End	03/22/93	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John L. Roberts, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF00

3441. RESERVISTS' EDUCATION; CHANGE OF PROGRAM OF EDUCATION

Legal Authority: 38 USC 3691

CFR Citation: 38 CFR 21.7614

Legal Deadline: None

Abstract: The Department of Veterans Affairs Nurse Pay Act of 1990 contains a section which affects most of the educational programs VA administers. The section revises the rules for determining whether an individual can change programs of education. The regulation governing changes of programs of education for reservists receiving benefits under the Montgomery GI Bill--Selected Reserve must be changed in order to bring it into agreement with the law.

Timetable:

Action	Date	FR Cite
NPRM	10/14/92	57 FR 47023
NPRM Comment Period End	11/13/92	57 FR 47023
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AF10

3442. DISABILITY OR DEATH FROM HOSPITALIZATION, MEDICAL OR SURGICAL TREATMENT

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.358(c)(3)

Legal Deadline: None

Abstract: These changes to regulations will expand benefit eligibility for disability or death resulting from VA hospital, medical or surgical treatment, or vocational rehabilitation programs.

Timetable:

Action	Date	FR Cite
NPRM	07/08/91	56 FR 30893
NPRM Comment Period End	08/07/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF27

3443. VETERANS' EDUCATION; IMPLEMENTATION OF LEGISLATION AFFECTING THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

Legal Authority: PL 102-16

CFR Citation: 38 CFR 21.5060; 38 CFR 21.5072; 38 CFR 21.5100; 38 CFR 21.5138; 38 CFR 21.5250

Legal Deadline: None

Abstract: The Act to amend title 38, United States Code, with respect to veterans education and employment programs which was enacted on March 22, 1991, has several provisions which affect the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP). Chief among these is the provision of vocational flight training in this program. These proposed amended regulations will acquaint the public with the way in which VA will administer these provisions of law.

Timetable:

Action	Date	FR Cite
NPRM	07/29/92	57 FR 33474
NPRM Comment Period End	08/28/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AF34

3444. VETERANS' EDUCATION; INCREASE IN RATES PAYABLE IN THE EDUCATIONAL TEST PROGRAM

Legal Authority: 10 USC 2143

CFR Citation: 38 CFR 21.5820; 38 CFR 21.5822

Legal Deadline: None

Abstract: The law provides that rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program shall be adjusted annually based upon the average actual cost of attendance at public institutions of higher education in the twelve-month period since the rates were last adjusted. After consultation with the Department of Education, the Department of Defense has concluded that these rates should be adjusted by 6 percent for the 1990-91 school year. The regulations dealing with these rates must be adjusted accordingly.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/90	
NPRM	12/10/92	57 FR 58435
NPRM Comment Period End	01/11/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AF36

3445. SCHEDULE FOR RATING DISABILITIES; DENTAL AND ORAL CONDITIONS

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.150

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate dental and oral conditions.

Timetable:

Action	Date	FR Cite
ANPRM	12/19/91	56 FR 65874
ANPRM Comment Period End	02/18/92	
NPRM	01/19/93	58 FR 4961
NPRM Comment Period End	03/22/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Seavey, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF41

3446. DISEASES ASSOCIATED WITH SERVICE IN THE REPUBLIC OF VIETNAM

Legal Authority: 38 USC 501(a); 38 USC 1116; PL 102-4

CFR Citation: 38 CFR 3.307; 38 CFR 3.309

Legal Deadline: None

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Abstract: These changes to adjudication regulations will allow service connection for certain diseases in accordance with provisions of the Agent Orange Act of 1991.

Timetable:

Action	Date	FR Cite
NPRM	07/10/92	57 FR 30707
NPRM Comment Period End	08/10/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF44

3447. IMPLEMENTING STATUTORY CHANGES

Legal Authority: PL 102-16

CFR Citation: 38 CFR 21.40; 38 CFR 21.100; 38 CFR 21.260; 38 CFR 21.4140; 38 CFR 21.4101

Legal Deadline: None

Abstract: The Department of Veterans Affairs is revising its regulations to conform to changes in the Veterans Education and Employment Programs Amendments. These amendments allow VA to provide vocational rehabilitation programs for disabled servicepersons who are inpatients or outpatients at military or nonmilitary hospitals and to pay the same rate of subsistence allowance to veterans in nonpay on-job training programs in State, local and Federal agencies. These statutory changes also broaden eligibility for counseling services to include servicepersons and veterans who are not eligible for assistance under VA educational assistance programs.

Timetable:

Action	Date	FR Cite
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (281), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF48

3448. UPDATING REHABILITATION CRITERIA

Legal Authority: 38 USC 3102; 38 USC 3107; 38 USC 3117

CFR Citation: 38 CFR 21.194; 38 CFR 21.196

Legal Deadline: None

Abstract: The Department of Veterans Affairs is proposing to revise criteria under which a veteran may be found rehabilitated. The proposed changes broaden the conditions under which a veteran who becomes employed in an occupation consistent with his or her abilities, aptitudes and interests may be declared rehabilitated when he or she has not completed all of the training prescribed by VA. The main effect of the change places greater emphasis on the achievement of suitable employment than completing all elements of the program of training and services.

Timetable:

Action	Date	FR Cite
NPRM	06/15/92	57 FR 26632
NPRM Comment Period End	07/15/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (281), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF49

3449. VETERANS' EDUCATION; ELECTION TO RECEIVE BENEFITS UNDER THE MONTGOMERY GI BILL - ACTIVE DUTY

Legal Authority: PL 101-510; 38 USC 3008(a); 38 USC 3202; 38 USC 3222; 38 USC 3223; 38 USC 3232

CFR Citation: 38 CFR 21.5058; 38 CFR 21.5064

Legal Deadline: None

Abstract: The Department of Veterans Affairs Nurse Pay Act of 1990 requires VA to make payments to certain military officers and former officers who were commissioned in 1977 and 1978. The law provides that if any of these officers or former officers participated in VEAP (Post-Vietnam Era Educational Assistance Program), they must disenroll from that program before receiving those benefits. The National Defense Authorization Act for fiscal year 1991 provides additional ways in which an individual may become eligible for benefits under VEAP to elect to receive benefits under the Montgomery GI Bill-Active Duty instead. These regulations will implement these provisions of law.

Timetable:

Action	Date	FR Cite
NPRM	09/10/92	57 FR 41451
NPRM Comment Period End	10/13/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AF52

3450. CLAIMS BASED ON EXPOSURE TO HERBICIDES CONTAINING DIOXIN (PERIPHERAL NEUROPATHY/LUNG CANCER)

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.311(a)

Legal Deadline: None

Abstract: This regulation will allow service connection for peripheral neuropathy based on exposure to herbicides containing dioxin and exclude service connection for lung cancer as secondary to dioxin exposure.

Timetable:

Action	Date	FR Cite
NPRM	01/21/92	57 FR 2236
NPRM Comment Period End	02/20/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF57

3451. VETERANS' EDUCATION; CHANGING PROGRAMS FOR POST-VIETNAM VETERANS

Legal Authority: 38 USC 3241; 38 USC 3691

CFR Citation: 38 CFR 21.5232

Legal Deadline: None

Abstract: The Department of Veterans Affairs Nurse Pay Act of 1990 contains a section which affects most of the educational programs VA administers. The section revises the rules for determining whether an individual can change programs of education. The regulation governing changes of programs of education for veterans receiving benefits under VEAP (Post-Vietnam Era Veterans' Educational Assistance Program) must be changed in order to bring it into agreement with the law. This proposal will effect this change.

Timetable:

Action	Date	FR Cite
NPRM	08/25/92	57 FR 38458
NPRM Comment Period End	09/24/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AF59

3452. SERVICE-DISABLED VETERANS' INSURANCE

Legal Authority: PL 102-86, sec 201; PL 102-86, sec 202

CFR Citation: 38 CFR 8.0 (Revision); 38 CFR 8.23 (Revision); 38 CFR 8.77 (Revision); 38 CFR 8.80 (Revision); 38 CFR 8.116 (Revision)

Legal Deadline: None

Abstract: Section 201 of Pub. L. 102-86 increased the Service-Disabled Veterans' Insurance (S-DVI) eligibility period to two years. Section 202 mandates that S-DVI gratuitous benefits be paid in a lump sum. Regulations are being amended to reflect these changes.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Senior Insurance Specialist/Attorney, Department of Veterans Affairs, P.O. Box 8047, Philadelphia, PA 19101, 215 951-5710

RIN: 2900–AF69

3453. EXCHANGE OF EVIDENCE; SOCIAL SECURITY ADMINISTRATION AND DEPARTMENT OF VETERANS AFFAIRS

Legal Authority: 38 USC 501(a); 38 USC 5105

CFR Citation: 38 CFR 3.201(a)

Legal Deadline: None

Abstract: This regulation will clarify the statutory conditions under which evidence received by SSA is also considered evidence received by VA.

Timetable:

Action	Date	FR Cite
NPRM	06/09/92	57 FR 24447
NPRM Comment Period End	07/09/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF72

3454. VETERANS' EDUCATION; IMPLEMENTATION OF THE VETERANS' EDUCATIONAL ASSISTANCE AMENDMENTS OF 1991

Legal Authority: 38 USC 101; 38 USC 3013; 38 USC 3032; 38 USC 3034; 38 USC 3511; 38 USC 3533; 38 USC 3680

CFR Citation: 38 CFR 21.3045; 38 CFR 21.4135; 38 CFR 21.4138; 38 CFR 21.4137; 38 CFR 21.7020; 38 CFR 21.7072; 38 CFR 21.7076; 38 CFR 21.7139

Legal Deadline: None

Abstract: The Veterans' Educational Assistance Amendments of 1991 contain several provisions which affect the payment of benefits to those receiving educational assistance under the programs VA administers. This includes restoring lost entitlement to those reservists called to active duty and an improvement in payments to these individuals. These regulations will inform the public of the way in which VA intends to implement these provisions of law with respect to Dependents' Educational Assistance and the Montgomery GI Bill - Active Duty.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AF77

3455. RESERVISTS' EDUCATION; IMPLEMENTATION OF THE VETERANS' EDUCATIONAL ASSISTANCE AMENDMENTS OF 1991

Legal Authority: 38 USC 101; 38 USC 2133; 38 USC 2131; 38 USC 2136; 38 USC 3680

CFR Citation: 38 CFR 21.7520; 38 CFR 21.7550; 30 CFR 21.7570; 38 CFR 21.7576; 38 CFR 21.7635; 38 CFR 21.7639

Legal Deadline: None

Abstract: The Veterans' Educational Assistance Amendments of 1991 contain several provisions which affect the payment of benefits to those receiving educational assistance under the programs VA administers. This includes restoring lost entitlement to those reservists called to active duty and an improvement in payments to these individuals. This proposal will inform the public of the way in which VA, the Department of Defense and the Coast Guard intend to implement these provisions of law with respect to the Montgomery GI Bill - Selected Reserve.

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Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AF78

3456. VETERANS' EDUCATION; IMPLEMENTATION OF THE VETERANS' EDUCATIONAL ASSISTANCE AMENDMENTS OF 1991 IN VEAP

Legal Authority: 38 USC 101; 38 USC 3235; 38 USC 3231

CFR Citation: 38 CFR 21.5052; 38 CFR 21.5053; 30 CFR 21.5072

Legal Deadline: None

Abstract: The Veterans' Educational Assistance Amendments of 1991 contain several provisions which affect the payment of benefits to those receiving educational assistance under the programs VA administers. This includes restoring lost entitlement to those reservists called to active duty and on improvement in payment to these individuals. These regulations will inform the public of the way in which VA intends to implement these provisions of law with respect to VEAP (the Post-Vietnam Veterans' Era Educational Assistance Program).

Timetable:

Action	Date	FR Cite
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AF79

3457. CLAIMS BASED ON EXPOSURE TO IONIZING RADIATION

Legal Authority: 38 USC 501(a); PL 98-542

CFR Citation: 38 CFR 3.311

Legal Deadline: None

Abstract: These amendments will add ovarian cancer and parathyroid adenoma to the list of radiogenic diseases for service-connected compensation purposes, and clarify other provisions under which service connection may be established for injury or disease claimed to be the result of exposure to ionizing radiation.

Timetable:

Action	Date	FR Cite
NPRM	03/26/92	57 FR 10449
NPRM Comment Period End	04/27/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF80

3458. PROCEDURAL DUE PROCESS APPELLATE RIGHTS

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.103

Legal Deadline: None

Abstract: This regulation will allow VA greater flexibility in choosing locations for claimants desiring a personal hearing.

Timetable:

Action	Date	FR Cite
NPRM	06/30/92	57 FR 29052
NPRM Comment Period End	07/30/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF81

3459. DIRECT SERVICE CONNECTION (POST-TRAUMATIC STRESS DISORDER)

Legal Authority: 38 USC 1154(b); 38 USC 501(a)

CFR Citation: 38 CFR 3.304

Legal Deadline: None

Abstract: This amendment will specify the extent of evidence required to establish service connection for post-traumatic stress disorder.

Timetable:

Action	Date	FR Cite
NPRM	08/05/92	57 FR 34536
NPRM Comment Period End	09/04/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF84

3460. EVIDENCE REQUIREMENTS

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.203; 38 CFR 3.205

Legal Deadline: None

Abstract: This amendment will relax the level of required evidence to establish military service and dependency under certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	10/23/92	57 FR 48350
NPRM Comment Period End	11/23/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF88

VA — Final Rule Stage

3461. RADIATION EXPOSURE COMPENSATION ACT OF 1990

Legal Authority: 42 USC 2210; 38 USC 501(a)

CFR Citation: 38 CFR 3.500; 38 CFR 3.715

Legal Deadline: None

Abstract: This amendment will implement provisions of the Radiation Exposure Compensation Act of 1990 which specifies that payments by the Department of Justice to certain individuals for disability or death due to specific radiogenic diseases represents full satisfaction of claims against the United States for that condition.

Timetable:

Action	Date	FR Cite
NPRM	09/03/92	57 FR 40424
NPRM Comment Period End	10/05/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AF89

3462. EXTENDING REHABILITATION PROGRAMS

Legal Authority: PL 102-91

CFR Citation: 38 CFR 6005; 38 CFR 6042; 38 CFR 6503; 38 CFR 6523

Legal Deadline: None

Abstract: Public Law 102-91 extended the termination date for the program of vocational training for certain pensioners and the special counseling and employment services program for veterans with total disability ratings because of individual unemployability. The termination date for these programs was extended from January 31, 1992 to December 31, 1992.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-6496

RIN: 2900–AG00

3463. • CIVIL LIBERTIES ACT AMENDMENTS OF 1992

Legal Authority: PL 102-371

CFR Citation: 38 CFR 3.261; 38 CFR 3.263; 38 CFR 3.262; 38 CFR 3.272; 38 CFR 3.275

Legal Deadline: None

Abstract: To implement the provisions of PL 102-371 which provided that certain restitution payments made to Japanese-Americans interned by the U.S. during WWII are excluded from consideration as income or net worth.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Thornberry, Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AG11

3464. • VETERANS' RADIATION EXPOSURE AMENDMENTS OF 1992

Legal Authority: PL 102-578

CFR Citation: 38 CFR 3.309(d)

Legal Deadline: None

Abstract: To bring regulation concerning presumptive service connection for certain diseases resulting from exposure to ionizing radiation during military service into conformance with PL 102-578.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bissset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AG15

3465. • VETERANS' BENEFITS ACT OF 1992

Legal Authority: PL 102-568

CFR Citation: 38 CFR 3.55; 38 CFR 3.115; 38 CFR 3.215; 38 CFR 3.341; 38 CFR 3.343; 38 CFR 3.502; 38 CFR 3.551

Legal Deadline: None

Abstract: To bring regulations into conformance with PL 102-568.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AG16

3466. • DEPENDENCY AND INDEMNITY COMPENSATION REFORM ACT OF 1992

Legal Authority: PL 102-568

CFR Citation: 38 CFR 3.5

Legal Deadline: None

Abstract: To bring regulations concerning the formula for the payment of Dependency and Indemnity Compensation to surviving spouses and children into conformance with PL 102-568.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Wasnington, DC 20420, 202 233-3005

RIN: 2900–AG17

3467. • EXCLUSIONS FROM INCOME

Legal Authority: PL 102-585

CFR Citation: 38 CFR 3.272

Legal Deadline: None

Abstract: To amend regulations concerning exclusions from countable income under the Improved Pension

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Program to conform with PL 102-585. This amendment is necessary to implement recently enacted legislation. The intended effect of this amendment is to bring the regulations into conformance with the new statutory requirements.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AG18

3468. • DIRECT LOANS TO NATIVE AMERICAN VETERANS ON TRUST LANDS

Legal Authority: 38 USC 3762; 38 USC 501

CFR Citation: 38 CFR 36.4501; 38 CFR 36.4527

Legal Deadline: None

Abstract: Public Law 102-547 requires VA amend its Loan Guaranty regulation for VA direct loans to establish a pilot program to make direct housing loans to Native American veterans. The purpose of this pilot program is to permit qualifying veterans to purchase, construct, or improve dwellings on trust lands. Under this program Native American veterans eligible for VA loan guaranty benefits may also use their eligibility to qualify for a loan made by VA to purchase, construct, or improve a home on trust land.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Caden, Assistant Director for Loan Policy (264), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3042

RIN: 2900–AG19

3469. • SPECIAL ALLOWANCES TO RESTORE CERTAIN SOCIAL SECURITY BENEFITS

Legal Authority: PL 97-377

CFR Citation: 38 CFR 3.812

Legal Deadline: None

Abstract: To amend regulations concerning entitlement to benefits under the Restored Entitlement Program for Survivors (REPS) to conform with the statutory provisions.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AG21

3470. • TENTATIVE ELIGIBILITY

Legal Authority: 38 USC 17

CFR Citation: 38 CFR 17.35

Legal Deadline: None

Abstract: Amends 38 CFR 17.335 allowing VA to provide medical care, on a tentative eligibility basis, to veterans who served in the Persian Gulf Area and require medical care for disorders medically determined to possibly be related to such service. Further, for those required to make copayments, defer such billing until claim for service-connection is adjudicated by VA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LeRoy Cossette, Chief, Policies & Operations (161B1), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 535-7412

RIN: 2900–AG25

3471. • DETERMINATIONS OF INCOMPETENCY

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.353

Legal Deadline: None

Abstract: To amend regulations concerning determinations of incompetency for the sake of consistency and to reflect long-standing VA policy.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Thornberry, Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AG30

3472. • RESUMPTION AND PAYMENT OF WITHHELD BENEFITS; INCOMPETENTS $1,500 ESTATE CASES

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.558(c)

Legal Deadline: None

Abstract: To amend adjudication regulations concerning the Resumption and Payment of Withheld Benefits of Certain Incompetent Veterans Whose Estates Exceed $1,500 to conform with a recent decision of the United States Court of Veterans Appeals.

Timetable:

Action	Date	FR Cite
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AG31

3473. • AMENDMENTS TO TRAINING AND REHABILITATION PROGRAMS

Legal Authority: PL 102-568

CFR Citation: 38 CFR 21.40; 38 CFR 21.260; 38 CFR 21.6005; 38 CFR 21.6015; 38 CFR 21.6042; 38 CFR 21.6050; 38 CFR 21.6052; 38 CFR 21.6054; 38 CFR 21.6056; 38 CFR 21.6058; 38 CFR 21.6420; 38 CFR 21.6501; 38 CFR 21.6503; 38 CFR 21.6505; 38 CFR 21.6507; ...

Legal Deadline: None

Abstract: The Veterans' Benefits Act of 1992 extends the termination date for the program of vocational training for certain pensioners through December 31, 1995; makes permanent the programs protecting health care benefits for pensioners who lose their benefits due to income from work or training and the special counseling and employment services program for veterans with total disability ratings because of individual unemployability. In addition the law authorizes a 10 percent increase in subsistence allowance for participants in the vocational rehabilitation program, and extends eligibility for vocational rehabilitation to veterans with service-connected disability of 10 percent under certain conditions.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Robert Lawson, Consultant, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-6494

RIN: 2900–AG35

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3475. ACQUISITION REGULATION: CONTRACTOR QUALIFICATIONS

Legal Authority: 38 USC 501; 40 USC 486(c); 42 USC 2453(c)

CFR Citation: 48 CFR 809

Legal Deadline: None

Abstract: This amendment makes administrative changes regarding the VA procedures for making debarment and suspension decisions.

Timetable:

Action	Date	FR Cite
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sherry Patton, Procurement Analyst (95A), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-5001

RIN: 2900–AE16

BOARD OF VETERANS APPEALS

3476. APPEALS REGULATIONS; RULES OF PRACTICE

Legal Authority: 38 USC 501; 38 USC 511; 38 USC 512; 38 USC 512(a); 38 USC 5903 to 5905; 38 USC 7102 to 7105; 38 USC 7109(c)

CFR Citation: 38 CFR 19.3 (Revision); 38 CFR 19.10; 38 CFR 19.15 (Revision; 38 CFR 19.39; 38 CFR 20.3; 38 CFR 20.101 (Revision); 38 CFR 20.102 (Revision); 38 CFR 20.201 (Revision); 38 CFR 20.605 (Revision); 38 CFR 20.609 (Revision); 38 CFR 20.903 (Revision); 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1002; 38 CFR 20.1100 (Revision); ...

Legal Deadline: None

Abstract: The Board of Veterans Appeals will be further revising a recent restructuring of its Appeals Regulations and Rules of Practice (54 FR 34334) in order to address questions which have arisen since that restructuring was proposed. No other alternatives are available. These additional revisions will not entail any costs to the public or to the Government other than the costs normally associated with drafting, agency review, and publication.

Timetable:

Action	Date	FR Cite
NPRM	02/03/92	57 FR 4131
NPRM Comment Period End	03/04/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: These proposed regulations were previously a part of RIN 2900-AE02.

Agency Contact: Steven L. Keller, Counsel to the Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2978

RIN: 2900–AE78

3477. RULES OF PRACTICE; HEARINGS BEFORE THE BOARD ON APPEAL

Legal Authority: 38 USC 501(a); 38 USC 7102; 38 USC 7104(a); 38 USC 7105; 38 USC 7105(a); 38 USC 7105A; 38 USC 7110

CFR Citation: 38 CFR 20.700 (Revision); 38 CFR 20.701 (Revision); 38 CFR 20.702 (Revision); 38 CFR 20.705 (Revision); 38 CFR 20.708 (Revision); 38 CFR 20.715 (Revision); 38 CFR 20.716 (Revision); 38 CFR 20.717 (Revision)

Legal Deadline: None

Abstract: This regulation will clarify the opportunities for hearings before the Board of Veterans Appeals. No other alternatives are available. These additional revisions to the Board's Rules of Practice will not entail any costs to the public or to the Government other than the costs

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normally associated with drafting, agency review, and publication.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller, Counsel to the Chairman (01C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2978

RIN: 2900–AF90

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3478. NONDISCRIMINATION ON THE BASIS OF SEX UNDER FEDERALLY ASSISTED EDUCATION PROGRAMS AND ACTIVITIES

Significance: Regulatory Program

Legal Authority: 20 USC 1681 et seq; 38 USC 210(a); EO 12250; EO 12067

CFR Citation: 38 CFR 18

Legal Deadline: None

Abstract: To establish standards and procedures for enforcing title IX of the Education Amendments of 1972 in educational programs and activities receiving Federal financial assistance from VA. Title IX prohibits discrimination on the basis of sex. There are no alternatives to the issuance of the regulations. Participants, potential participants and the public in general will benefit from Federally assisted programs provided free from prohibited discrimination based on sex.

This originally appeared as a proposed rule in the Federal Register of April 25, 1979 (44 FR 24320). Because of the extended time frame due to internal agency consultation with the Department of Justice, the Department is planning to repropose these regulations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. Lamont Johnson, External Program Manager, Affirmative Employment Service (06A1), Department of Veterans Affairs, Office of Equal Employment Opportunity, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2612

RIN: 2900–AB51

OFFICE OF THE ASSISTANT SECRETARY FOR ACQUISITION AND FACILITIES

3479. OPERATION OF CHILD CARE CENTERS AT VA FACILITIES

Legal Authority: 38 USC 4209

CFR Citation: 38 CFR 17.162

Legal Deadline: None

Abstract: Section 4209 of title 38 authorizes the Veterans Canteen Service to operate child care centers at VA facilities. The centers will be established based on the demand for care and to the extent that such operation is practical and in the best interest of VA. The centers will be available for the children of VA employees and, to the extent space is available, the children of other Federal and Department of Veterans Affairs affiliated employees. Also, these centers should provide an incentive for personnel recruitment. The regulations will prescribe the requirements and standards for the operation of VA child care centers.

Timetable:

Action	Date	FR Cite
NPRM	12/27/89	54 FR 53078
NPRM Comment Period End	01/26/90	54 FR 53078
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jonathan Gardner, Director of Field Support (133), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, 202 535-7985

RIN: 2900–AD48

OFFICE OF THE GENERAL COUNSEL

3480. DELEGATIONS OF AUTHORITY/ CLAIM FOR COST OF MEDICAL CARE AND SERVICES

Legal Authority: 38 USC 510; 38 USC 1729

CFR Citation: 38 CFR 2.6; 38 CFR 14.619

Legal Deadline: None

Abstract: Attorney General Order 1594-92, published in the Federal Register on June 19, 1992, established a new limit of $100,000 on claims which may be settled by VA without referral to the Department of Justice. This authority was previously $40,000 and was delegated to officials within the Office of the General Counsel and District Counsels. This regulation will redelegate the new limit of $100,000, add a new official, the General Counsel's Director of Debt Management, and require that cases being settled in field offices by District Counsels be cleared with the General Counsel when they are in amounts in excess of $40,000.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Douglas Bartow (021G), Director of Debt Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202 523-3355

RIN: 2900–AP96

OFFICE OF INFORMATION RESOURCES POLICIES AND OVERSIGHT

3481. RELEASE OF VA LISTS OF NAMES AND ADDRESSES AND PENALTY PROCEDURES FOR UNAUTHORIZED USE

Legal Authority: 38 USC 5701(f)

CFR Citation: 38 CFR 1.519

Legal Deadline: None

Abstract: VA is amending the existing regulations concerning VA lists of names and addresses and is also proposing administrative procedures to use when these lists are used for purposes not authorized by law. This action results from the need to amend the regulations to reflect current procedures, organizational changes, and concern expressed by veterans and some service organizations regarding unsolicited mail. The proposed regulatory amendments will allow VA to enforce its statutory duty to protect the privacy of information concerning veterans and their dependents, establish procedures to suspend recipients who misuse VA name and address lists of veterans/dependents, and give advance notice to recipients of what constitutes an authorized/ unauthorized use of veterans/ dependents names and address lists, thereby protecting the due process rights of any recipient before penalties are enforced.

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8624
NPRM Comment Period End	04/20/87	52 FR 8624
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Epps, Records Management Service (723), Department of Veterans Affairs, Ofc. of Info. Resources Policies & Oversight, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3648

RIN: 2900–AC63

3482. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352

CFR Citation: 38 CFR 45

Legal Deadline: None

Abstract: This regulation implements section 319 of Public Law 101-121. Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guaranty a loan, must disclose lobbying.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6752
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: B. Michael Berger, Director, Records Management Service (723), Department of Veterans Affairs, Ofc. of Info. Resources Policies & Oversight, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-3616

RIN: 2900–AE74

3483. FOIA: RECEIPT OF ELECTRONICALLY TRANSMITTED FACSIMILE REQUEST OR APPEAL; TIME LIMIT ON RIGHT OF ADMINISTRATIVE APPEAL; AND NO RECORD AS ADVERSE DETERMINATION

Legal Authority: 5 USC 552; 38 USC 5701

CFR Citation: 38 CFR 1.519; 38 CFR 1.553; 38 CFR 1.557

Legal Deadline: None

Abstract: VA is amending its information access regulations to: (1) clarify procedures for initial requests and appeals received under FOIA and 38 USC 5701 which are received by facsimile, (2) view a "no record" response to FOIA requests as an adverse determination requiring notification of appeal rights; and (3) establish a time limit on the right of appeal of initial denial under FOIA. Technical amendments are being made to update the organizational titles contained in regulation 38 CFR 1.519 to reflect the current organization and to update references to citations in 38 USC to reflect changes made by Pub. L. 102-40.

Timetable:

Action	Date	FR Cite
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Leandri, Chief, Records & Reports Mgmt. Div. (723), Department of Veterans Affairs, Office of Info Resources Policies, Oversight, 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2454

RIN: 2900–AF62

DEPARTMENT OF VETERANS AFFAIRS (VA) — Completed Actions

3484. CONFIDENTIALITY OF HEALTH CARE QUALITY REVIEWS

CFR Citation: 38 CFR 17

Completed:

Reason	Date	FR Cite
Merged with RIN 2900-AG01	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald Goldman, Ph.D., 202 535-7330

RIN: 2900–AE39

3485. PROVIDING OUTPATIENT DENTAL SERVICES FOR VETERANS WHOSE DENTAL CONDITIONS ARE COMPLICATING A MEDICAL CONDITION UNDER TREATMENT

CFR Citation: 38 CFR 612(b)

Completed:

Reason	Date	FR Cite
Final Action	09/11/92	57 FR 41700

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Monica Wilkins, 202 535-7439

RIN: 2900–AF98

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3486. RESERVISTS' EDUCATION; VETERANS' BENEFITS AND SERVICES ACT OF 1988 AND THE MONTGOMERY GI BILL

CFR Citation: 38 CFR 21.7670; 38 CFR 21.7672

Completed:

Reason	Date	FR Cite
Final Action	10/14/92	57 FR 46984
Final Action Effective	05/20/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AD68

3487. RESERVISTS' EDUCATION; THE VETERANS' BENEFITS AND PROGRAMS IMPROVEMENT ACT AND MONTGOMERY GI BILL

CFR Citation: 38 CFR 21.7520; 38 CFR 21.7540; 38 CFR 21.7550; 38 CFR 21.7551; 38 CFR 21.7635; 38 CFR 21.7636; 38 CFR 21.7639; 38 CFR 21.7670

Completed:

Reason	Date	FR Cite
Final Action	12/03/92	57 FR 57105
Final Action Effective	11/18/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AD89

3488. DEPENDENCY AND INCOME

CFR Citation: 38 CFR 3.261; 38 CFR 3.262; 38 CFR 3.263; 38 CFR 3.271; 38 CFR 3.272; 38 CFR 3.273; 38 CFR 3.275; 38 CFR 3.277; 38 CFR 3.660; 38 CFR 3.661

Completed:

Reason	Date	FR Cite
Final Action	12/15/92	57 FR 59296
Final Action Effective	12/15/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Thornberry, 202 233-3005

RIN: 2900–AD97

3489. VETERANS EDUCATION; PL 101-237 AND VEAP

CFR Citation: 38 CFR 21.5021; 38 CFR 21.5022; 38 CFR 21.5041; 38 CFR 21.5138; 38 CFR 21.5145

Completed:

Reason	Date	FR Cite
Final Action	08/26/92	57 FR 38613
Final Action Effective	12/18/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AE45

3490. DEPENDENTS EDUCATION; TIMELY SUBMISSION OF DESCRIPTIONS OF MITIGATING CIRCUMSTANCES

CFR Citation: 38 CFR 21.4137

Completed:

Reason	Date	FR Cite
Merged with RIN 2900-AE82	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AE81

3491. RESERVISTS' EDUCATION; TIMELY SUBMISSION OF DESCRIPTIONS OF MITIGATING CIRCUMSTANCES

CFR Citation: 38 CFR 21.7532

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AE83

3492. ELECTION OF SUBSISTENCE ALLOWANCE AT THE CHAPTER 34 RATE

CFR Citation: 38 CFR 21.21; 38 CFR 21.22; 38 CFR 21.78; 38 CFR 21.148; 38 CFR 21.254; 38 CFR 21.256; 38 CFR 21.260; 38 CFR 21.264; 38 CFR 21.268; 38 CFR 21.272; 38 CFR 21.276; 38 CFR 21.320; 38 CFR 21.330; 38 CFR 21.334; 38 CFR 21.340; ...

Completed:

Reason	Date	FR Cite
Final Action	12/03/92	57 FR 57107

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, 202 233-6496

RIN: 2900–AE85

3493. BENEFITS FOR CERTAIN OFFICERS AND FORMER OFFICERS

CFR Citation: 38 CFR 21.4701; 38 CFR 21.4720; 38 CFR 21.4730; 38 CFR 21.4732; 38 CFR 21.4740; 38 CFR 21.4742; 38 CFR 21.4744; 38 CFR 21.4800; 38 CFR 21.4810; 38 CFR 21.4812; 38 CFR 21.4814; 38 CFR 21.4820; 38 CFR 21.4822; 38 CFR 21.4830; 38 CFR 21.4831; ...

Completed:

Reason	Date	FR Cite
Final Action	12/03/92	57 FR 57101
Final Action Effective	08/15/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AF11

3494. DISENROLLMENT FROM THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM PURSUANT TO THE DEPARTMENT OF VETERANS AFFAIRS NURSE PAY ACT OF 1990

CFR Citation: 38 CFR 21.5058; 38 CFR 21.5064

Completed:

Reason	Date	FR Cite
Merged with RIN 2900-AF52	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AF14

3495. VETERANS' EDUCATION; VERIFICATION OF PURSUIT AND VEAP

CFR Citation: 38 CFR 21.5130; 38 CFR 21.5131; 38 CFR 21.5133; 38 CFR 21.5200

Completed:

Reason	Date	FR Cite
Final Action	08/26/92	57 FR 38611
Final Action Effective	08/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AF15

3496. IMPLEMENTATION OF THE PERSIAN GULF WAR VETERANS' BENEFITS ACT OF 1991 AND THE MONTGOMERY GI BILL - ACTIVE DUTY

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137

Completed:

Reason	Date	FR Cite
Final Action	12/03/92	57 FR 57103
Final Action Effective	10/01/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AF32

3497. RESERVISTS' EDUCATION; NONDUPLICATION OF BENEFITS

CFR Citation: 38 CFR 21.7642

Completed:

Reason	Date	FR Cite
Withdrawn	10/29/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AF37

3498. VETERANS' EDUCATION; DUPLICATION OF BENEFITS

CFR Citation: 38 CFR 21.5023

Completed:

Reason	Date	FR Cite
Withdrawn	10/29/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AF38

3499. CLAIMS BASED ON EXPOSURE TO IONIZING RADIATION AND HERBICIDES CONTAINING DIOXIN

CFR Citation: 38 CFR 3.311(a) to 3.311(g); 38 CFR 3.311b(h)

Completed:

Reason	Date	FR Cite
Merged with RIN 2900-AF80	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., 202 233-3005

RIN: 2900–AF45

3500. CLAIMS BASED ON CHRONIC EFFECTS OF EXPOSURE TO MUSTARD GAS

CFR Citation: 38 CFR 3.316

Completed:

Reason	Date	FR Cite
Final Action	07/31/92	57 FR 33875
Final Action Effective	07/31/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., 202 233-3005

RIN: 2900–AF46

3501. VETERANS' TRAINING; TIME LIMIT FOR SUBMITTING EMPLOYER'S CERTIFICATION UNDER THE VETERANS JOB TRAINING ACT

CFR Citation: 38 CFR 21.4632

Completed:

Reason	Date	FR Cite
Final Action	11/02/92	57 FR 49396
Final Action Effective	11/02/92	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AF61

3502. VETERANS' EDUCATION; MISCELLANEOUS AMENDMENTS

CFR Citation: 38 CFR 21.4131; 38 CFR 21.4234; 38 CFR 21.4251; 38 CFR 21.7131

Completed:

Reason	Date	FR Cite
Final Action	09/04/92	57 FR 40613
Final Action Effective	09/04/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AF63

3503. LOAN GUARANTY: LENDER PARTICIPATION FEES FOR LENDER APPRAISAL PROCESSING PROGRAM

CFR Citation: 38 CFR 36.4225; 38 CFR 36.4348

Completed:

Reason	Date	FR Cite
Final Action	09/04/92	57 FR 40515

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Caden, 202 233-3042

RIN: 2900–AF67

3504. CLAIMS BASED ON EXPOSURE TO IONIZING RADIATION (PARATHYROID ADENOMA)

CFR Citation: 38 CFR 3.311(b)

Completed:

Reason	Date	FR Cite
Merged with RIN 2900-AF80	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bissett, Jr., 202 233-3005

RIN: 2900–AF73

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VA

Completed Actions

3505. VETERANS' EDUCATION; DISENROLLMENT FROM THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM FOLLOWING ELECTION TO RECEIVE OTHER BENEFITS

CFR Citation: 38 CFR 21.5058; 38 CFR 21.5064

Completed:

Reason	Date	FR Cite
Merged with RIN 2900-AF52	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AF76

3506. DEPENDENTS' EDUCATION; DETERMINING THE ELIGIBILITY PERIOD

CFR Citation: 38 CFR 21.3046

Completed:

Reason	Date	FR Cite
Final Action	12/22/92	57 FR 60375
Final Action Effective	12/22/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AF91

3507. ACTIVE MILITARY SERVICE CERTIFIED UNDER SECTION 401 OF PUB. L. 95-202

CFR Citation: 38 CFR 3.7(x)

Completed:

Reason	Date	FR Cite
Final Action	09/23/92	57 FR 43904
Final Action Effective	09/23/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., 202 233-3005

RIN: 2900–AF92

3508. AGGRAVATION OF PRESERVICE DISABILITY

CFR Citation: 38 CFR 3.306

Completed:

Reason	Date	FR Cite
Final Action	12/15/92	57 FR 59296

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., 202 233-3005

RIN: 2900–AF93

3509. PROCEDURAL DUE PROCESS AND APPELLATE RIGHTS

CFR Citation: 38 CFR 3.103; 38 CFR 3.103(f); 38 CFR 3.105(h)(2)

Completed:

Reason	Date	FR Cite
Final Action	12/02/92	57 FR 56992

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bisset, Jr., 202 233-3005

RIN: 2900–AF99

3510. ACTIVE MILITARY SERVICE CERTIFIED UNDER SECTION 401 OF PUB. L. 95-202

CFR Citation: 38 CFR 3.7(x)

Completed:

Reason	Date	FR Cite
Final Action	12/22/92	57 FR 60734

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lance Peterson, 202 233-3005

RIN: 2900–AG02

3511. VETERANS' EDUCATION; STANDARDIZATION OF PROGRAMS

CFR Citation: 38 CFR 21.3032; 38 CFR 21.7032; 38 CFR 21.7320

Completed:

Reason	Date	FR Cite
Merged with RIN 2900-AE82	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, 202 233-2092

RIN: 2900–AG03

3512. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

CFR Citation: 48 CFR 803

Completed:

Reason	Date	FR Cite
Final Action	12/11/92	57 FR 58717
Final Action Effective	12/11/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sherry Patton, 202 233-5001

RIN: 2900–AF68

3513. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION - MULTIYEAR CONTRACTING

CFR Citation: 48 CFR 817

Completed:

Reason	Date	FR Cite
Final Action	09/24/92	57 FR 44129
Final Action Effective	09/24/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Viverette, 202 233-5001

RIN: 2900–AG06

3514. RULES OF PRACTICE

CFR Citation: 38 CFR 20.102; 38 CFR 20.609; 38 CFR 20.610

Completed:

Reason	Date	FR Cite
Final Action	08/25/92	57 FR 38442
Final Action Effective	08/25/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller, 202 233-2978

RIN: 2900–AF86

3515. GROUP MEMORIAL MONUMENTS

CFR Citation: 38 CFR 1.630 (Revision); 38 CFR 1.633 (New)

VA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	09/24/92	57 FR 44123
Final Action Effective	09/24/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: M'Liz McLendon, 202 535-7842

RIN: 2900–AE13

3516. COMMITTEES ON WAIVERS AND COMPROMISES

CFR Citation: 38 CFR 1.963; 38 CFR 1.964; 38 CFR 1.965

Completed:

Reason	Date	FR Cite
Final Action	01/12/93	58 FR 3840
Final Action Effective	01/12/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Mulhern, 202 233-3405

RIN: 2900–AE61

3517. STANDARDS FOR COLLECTION, COMPROMISE, SUSPENSION, AND TERMINATION OF COLLECTION EFFORT

CFR Citation: 38 CFR 1.912a; 38 CFR 1.930; 38 CFR 1.940

Completed:

Reason	Date	FR Cite
Final Action	10/15/92	57 FR 47262
Final Action Effective	10/15/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Mulhern, 202 233-3405

RIN: 2900–AF18

3518. REGIONAL OFFICE COMMITTEES ON WAIVERS AND COMPROMISES

CFR Citation: 38 CFR 1.964

Completed:

Reason	Date	FR Cite
Final Action	07/31/92	57 FR 33875
Final Action Effective	07/31/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Mulhern, 202 233-3405

RIN: 2900–AF64

3519. TECHNICAL AMENDMENT TO 38 CFR

CFR Citation: 38 CFR 0; 38 CFR 1; 38 CFR 45

Completed:

Reason	Date	FR Cite
Final Action	09/22/92	57 FR 43616
Final Action Effective	08/06/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frederic Conway, 202 523-3911

RIN: 2900–AF95

[FR Doc. 93-6061 Filed 04-23-93; 8:45 am]

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Monday
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Part XVII

ACTION

Semiannual Regulatory Agenda

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ACTION (ACTION)

ACTION

45 CFR Ch. XII

Executive Order 12291 "Federal Regulation"; Semiannual Agenda of Regulations

AGENCY: ACTION.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations that ACTION will have under development, revision, or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to provide the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning ACTION regulations or this semiannual agenda, contact Stewart A. Davis, Acting General Counsel, ACTION, 1100 Vermont Avenue NW., Washington, DC 20525, (202) 606-4833.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 "Federal Regulation" and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

ACTION has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required under 5 U.S.C. 602.

Dated: February 12, 1993

John Seal,

Acting Director

ACTION (ACTION) — Prerule Stage

3520. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL ASSISTANCE FROM ACTION

Legal Authority: 42 USC 6101; 42 USC 5042(13); 42 USC 5060; 42 USC 5057

CFR Citation: 45 CFR 1221

Legal Deadline: None

Abstract: In accordance with 42 USC 6101 and 42 USC 4951, ACTION will promulgate regulations implementing provisions of the Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance.

Timetable: Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, ACTION, 1100 Vermont Avenue NW., Washington, DC 20525, **202 606-4812**

RIN: 3001–AA10

3521. VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Significance: Agency Priority

Legal Authority: 42 USC 5042(13); 42 USC 5057; 42 USC 5060

CFR Citation: 45 CFR 1225

Legal Deadline: None

Abstract: In accordance with section 417 of the Domestic Volunteer Service Act of 1973, as amended, ACTION will update its regulations regarding volunteer discrimination complaint procedures.

Timetable: Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, ACTION, 1100 Vermont Avenue NW., Washington, DC 20525, **202 606-4812**

RIN: 3001–AA20

3522. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH—SUPPLEMENTAL REGULATIONS

Significance: Agency Priority

Legal Authority: PL 95-521; EO 12674, EO 12731

CFR Citation: 45 CFR 1201

Legal Deadline: None

Abstract: The regulation will supplement the ethics regulations issued by the Office of Government Ethics, addressing matters of particular relevance or importance to ACTION and its programs.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Britanya E. Rapp, Associate General Counsel, ACTION, 1100 Vermont Avenue NW., Suite 9200, Washington, DC 20525, **202 606-4833**

RIN: 3001–AA21

ACTION (ACTION) — Proposed Rule Stage

3523. • FOSTER GRANDPARENT PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 5011(d); 42 USC 5011(e); 42 USC 5042(13)

CFR Citation: 45 CFR 1208.1-2; 45 CFR 1208.3-1(v) (New); 45 CFR 1208.3-5(a)(3); 45 CFR 1208.3-5(a)(4); 45 CFR 1208.3-5(c)(5)

Legal Deadline: None

Abstract: The proposed regulatory revisions will replace the household definition, institute a medical expense deduction, change the method for adjusting income guidelines to account for geographical cost of living differences, and require that seniors at or below 100 percent of poverty receive special consideration.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rey Tejada, Program Officer, ACTION, 1100 Vermont Avenue NW., Washington, DC 20525, **202 606-4849**

RIN: 3001–AA24

ACTION — Proposed Rule Stage

3524. • SENIOR COMPANION PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 5013(b); 42 USC 5042(13)

CFR Citation: 45 CFR 1207.1-2; 45 CFR 1207.3-1(v) (New); 45 CFR 1207.3-5(a)(3); 45 CFR 1207.3-5(a)(4); 45 CFR 1207.3-5(a)(5)

Legal Deadline: None

Abstract: The proposed regulatory revisions will replace the household definition, institute a medical expense deduction, change the method for adjusting income guidelines to account for geographical cost of living differences, and require that seniors at or below 100 percent of poverty receive special consideration.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Endres, Program Officer, ACTION, 1100 Vermont Avenue NW., Washington, DC 20525, **202 606-4855**

RIN: 3001–AA25

ACTION (ACTION) — Final Rule Stage

3525. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 2000(d)(1); 42 USC 5057; 42 USC 5060

CFR Citation: 45 CFR 1203

Legal Deadline: None

Abstract: In accordance with 42 USC 2000(d)(1), ACTION will update regulations implementing provisions of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin in federally assisted programs.

Timetable: Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, ACTION, 1100 Vermont Avenue NW., Washington, DC 20525, **202 606-4812**

RIN: 3001–AA06

3526. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED EDUCATIONAL PROGRAMS

Legal Authority: PL 92-318

CFR Citation: 45 CFR 1231

Legal Deadline: None

Abstract: In accordance with PL 92-318, ACTION will promulgate regulations implementing provisions of Title IX of the Education Amendments of 1972, as amended, which prohibit discrimination based on sex in federally assisted programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, ACTION, 1100 Vermont Avenue NW., Washington, DC 20525, **202 606-4812**

RIN: 3001–AA17

3527. NEW RESTRICTIONS ON LOBBYING FINAL COMMON RULES

Significance: Regulatory Program

Legal Authority: 31 USC 1352; PL 101-121, sec 319; 42 USC 5042(13); 42 USC 5060

CFR Citation: 45 CFR 1230

Legal Deadline: None

Abstract: In accordance with PL 101-121, ACTION will promulgate final regulations to implement provisions prohibiting recipients of Federal contracts and grants from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government. The regulations also require disclosure of lobbying using nonappropriated funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Donna Darlington, Director, Procurement and Grants Management Division, ACTION, 1100 Vermont Avenue, NW., Room 2101, Washington, DC 20525, **202 606-5150**

RIN: 3001–AA18

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ACTION (ACTION) — **Completed Actions**

3528. IMPLEMENTATION OF PRIVACY ACT OF 1974

CFR Citation: 45 CFR 1223.1-19

Completed:

Reason	Date	FR Cite
Final Action	10/01/92	57 FR 45325
Final Action Effective	11/16/92	57 FR 45325

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judy A. Denny, 202 606-4804

RIN: 3001–AA22

[FR Doc. 93-5039 Filed 04-23-93; 8:45 am]
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Part XVIII

Advisory Council on Historic Preservation

Semiannual Regulatory Agenda

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ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Ch. VIII

Unified Agenda of Federal Regulations

AGENCY: Advisory Council on Historic Preservation (ACHP).

ACTION: Publication of agenda.

SUMMARY: The following Advisory Council on Historic Preservation regulation is scheduled for development from March 1993 through December 1993. It is submitted herein for publication in the Unified Agenda of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: See person listed below for specific agenda information.

Advisory Council on Historic Preservation.

Robert D. Bush,

Executive Director.

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP) — Proposed Rule Stage

3529. FREEDOM OF INFORMATION ACT REGULATIONS

Legal Authority: 16 USC 470 Nat. Historic Preservation Act of 1966, as amended

CFR Citation: 36 CFR 810.5

Legal Deadline: None

Abstract: The regulation will increase the fees charged to requesters of information to better reflect the cost to the Government of locating and copying the documents requested. Copying charges would be increased from $0.10 to $0.13 per page; fees for searches by professional staff from $2.00 to $4.65 per quarter hour; and fees for searches by clerical staff from $1.00 to $2.30 per quarter hour. The regulation would thus impose a "user's fee" to users of the Government FOIA system which is more consistent with other agencies' fees.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
NPRM Comment Period End	01/00/94	
Final Action	02/00/94	
Final Action Effective	02/00/94	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Katherine Barns Soffer, Associate General Counsel, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., #809, Washington, DC 20004, 202 786-0503

RIN: 3010–AA03

[FR Doc. 93-5040 Filed 04-23-93; 8:45 am]

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Part XIX

Agency for International Development

Semiannual Regulatory Agenda

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AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Ch. II

Federal Regulations; AID Regulatory Agenda Semiannual Summary

AGENCY: Agency for International Development, IDCA.

ACTION: AID regulations agenda.

SUMMARY: The Agency for International Development (AID) is publishing this agenda as required by section 5(a) of Executive Order 12291 "Federal Regulation" (46 FR 13193, February 19, 1981) and by the Regulatory Flexibility Act (Pub. L. 96-354, September 30, 1980). This agenda reports the status of those regulations currently under review and gives AID's plan for the issuance of proposed regulations during the next 12 months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in AID's rulemaking process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list in general, contact: Fred D. Allen, Office of Administrative Services, Agency for International Development, Washington, DC 20523; telephone (202) 647-9367.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act (RFA)

AID does not have any rulemaking activity that falls within the requirements of RFA and does not anticipate any during the next reporting period.

Dated: February 19, 1993.

John F. Owens,

Deputy Associate Administrator for Finance and Administration.

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Final Rule Stage

3530. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; 22 USC 2381

CFR Citation: 22 CFR 227

Legal Deadline: None

Abstract: The regulation is being issued to implement new restrictions prohibiting recipients of Federal grants from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific grant.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Interim Final Rule Comment Period End	04/27/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Kathleen O'Hara, Chief, Procurement Policy Branch, Agency for International Development, Planning Policy and Evaluation Staff, Bureau for Management Services, Washington, DC 20523, 703 875-1534

RIN: 0412–AA16

[FR Doc. 93-6062 Filed 04-23-93; 8:45 am]

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Part XX

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulations

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Submission of Unified Agenda of Federal Regulations.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities which may be conducted by the agency during the next 12 months. This regulatory agenda may be revised by the agency during the coming months as a result of action taken by the Board.

ADDRESSES: Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact James J. Raggio, General Counsel, (202) 272-5434 (voice) or (202) 272-5449 (TDD).

Lawrence W. Roffee,

Executive Director, Architectural and Transportation Barriers Compliance Board

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Prerule Stage

3531. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES

Significance: Agency Priority

Legal Authority: 42 USC 12204 Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1192

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles to include additional requirements for ferries, excursion boats, and other vehicles.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111, 202 272-5434

RIN: 3014–AA11

3532. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Significance: Agency Priority

Legal Authority: 42 USC 12204 Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191 appendix

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities to include additional requirements for boat and ferry docks.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: In the October 1991 agenda, this action was incorrectly reported as a completed action.

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111, 202 272-5434

RIN: 3014–AA12

3533. • AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: RECREATIONAL FACILITIES AND OUTDOOR DEVELOPED AREAS

Significance: Agency Priority

Legal Authority: 48 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191, app

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for recreational facilities and outdoor developed areas.

Timetable:

Action	Date	FR Cite
Notice of Intent To Form Advisory Committee	02/03/93	58 FR 6949

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW. Suite 1000, Washington, DC 20004-1111, 202 272-5434

RIN: 3014–AA16

3534. • AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES: CHILDREN'S ENVIRONMENTS

Significance: Agency Priority

Legal Authority: 42 USC 12204 Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191, app

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for children's environments.

Timetable:

Action	Date	FR Cite
ANPRM	02/03/93	58 FR 6924
ANPRM Comment Period End	04/05/93	

Small Entities Affected: Undetermined

ATBCB — Prerule Stage

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., Suite 1000, Washington, DC 20004-1111, 202 272-5434

RIN: 3014–AA17

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Proposed Rule Stage

3535. • AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: DETECTABLE WARNINGS

Significance: Agency Priority

Legal Authority: 42 USC 12204 Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To suspend temporarily certain detectable warning requirements until January 26, 1995 while additional research is conducted.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111, 202 272-5434

RIN: 3014–AA15

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Final Rule Stage

3536. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES, STATE AND LOCAL GOVERNMENT FACILITIES

Significance: Agency Priority

Legal Authority: 42 USC 12204 Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191 appendix

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities to include additional requirements for judicial, legislative, and regulatory facilities; detention and correctional facilities; residential housing; and public rights-of-way.

Timetable:

Action	Date	FR Cite
NPRM	12/21/92	57 FR 60612
NPRM Comment Period End	03/22/93	
Final Action	10/00/93	
Final Action Effective	11/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Elizabeth A. Stewart, Attorney, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111, 202 272-5434

RIN: 3014–AA13

3537. AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES, ACCESSIBLE AUTOMATED TELLER MACHINES

Significance: Agency Priority

Legal Authority: 42 USC 12204 Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend reach range requirement for accessible automated teller machines.

Timetable:

Action	Date	FR Cite
NPRM	09/08/92	57 FR 41006
NPRM Comment Period End	10/08/92	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111, 202 272-5434

RIN: 3014–AA14

[FR Doc. 93-6063 Filed 04-23-93; 8:45 am]

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Part XXI

Commission on Civil Rights

Semiannual Regulatory Agenda

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COMMISSION ON CIVIL RIGHTS (CCR)

COMMISSION ON CIVIL RIGHTS

45 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: U.S. Commission on Civil Rights.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations the U.S. Commission on Civil Rights will have under development during the 6-month period from April 1, 1993, through October 31, 1993. The purpose for publishing this agenda is to give notice of any regulatory activity by the Commission in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information on any items in the agenda, contact: Emma Monroig, Solicitor, U.S. Commission on Civil Rights, Room 632, 624 Ninth Street NW., Washington, DC 20425, (202) 376-8375.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 "Federal Regulation" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by the Commission are not "major" rules within the meaning of E.O. 12291, and no Regulatory Impact Analysis is required. The Commission has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public nor will the regulations have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required.

Emma Monroig,

Solicitor.

COMMISSION ON CIVIL RIGHTS (CCR) — Proposed Rule Stage

3538. COMMISSION ON CIVIL RIGHTS—UPDATE AND REVISION

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552(a); 5 USC 552(b)

CFR Citation: 45 CFR 701; 45 CFR 702; 45 CFR 703; 45 CFR 705

Legal Deadline: None

Abstract: The regulation updates and revises most of the Commission's current regulations, specifically 45 CFR 701, 702, 703, and 705. 45 CFR 701 identifies the organization and functions of the Commission. 45 CFR 702 specifies the rules on hearings, reports, and meetings of the Commission. 45 CFR 703 identifies the operations and functions of the Commission's State advisory committees. 45 CFR 705 states the Commission's obligations under the Privacy Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Emma Monroig, Solicitor, Commission on Civil Rights, 624 Ninth Street NW., Suite 632, Washington, DC 20425, 202 376-8375

RIN: 3035–AA02

COMMISSION ON CIVIL RIGHTS (CCR) — Completed Actions

3539. REGULATIONS FOR COLLECTION BY SALARY OFFSET FROM INDEBTED CURRENT OR FORMER EMPLOYEES

Significance: Agency Priority

CFR Citation: 45 CFR 708

Completed:

Reason	Date	FR Cite
Final Action	01/14/93	58 FR 4350
Final Action Effective	03/15/93	58 FR 4350

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Emma Monroig, 202 376-8375

RIN: 3035–AA03

[FR Doc. 93-7027 Filed 04-23-93; 8:45am]

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Part XXII

Environmental Protection Agency

Semiannual Regulatory Agenda

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ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-4609-1]

Regulatory Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's regulatory agenda is published each April and October. It serves as a semiannual summary of current and projected rulemakings, reviews of existing regulations, and Agency actions completed since the previous publication of the agenda. By providing the public with current and advance information about pending regulatory activities, the Agency hopes to encourage more effective public participation in the regulatory process.

ADDRESSES: To be placed on the mailing list for future agendas, contact Bridgette Dent, Regulatory Development Branch (PM-223Y), EPA, 401 M Street SW., Washington, DC 20460, (202) 260-5475.

If you have suggestions to improve this publication or need general information about the agenda, contact Angela Suber, Regulatory Development Branch (PM-223Y), EPA, 401 M Street SW., Washington, DC 20460, (202) 260-7205.

FOR FURTHER INFORMATION CONTACT: The name, address, and telephone number of an agency contact are provided for each entry.

SUPPLEMENTARY INFORMATION: The agenda provides the title, an abstract, legal authority, CFR reference, any analysis EPA is preparing, contact person, and schedule for completing the action for each regulation under review. The following statutes are covered in the agenda:

Asbestos Hazard Emergency Response Act (AHERA)
Atomic Energy Act (AEA)
Clean Air Act (CAA)
Clean Water Act (CWA)
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
Federal Food, Drug, and Cosmetics Act (FFDCA)
Hazardous and Solid Waste Amendments (HSWA)
Marine Protection, Research, and Sanctuaries Act (MPRSA)
National Environmental Policy Act (NEPA)
Resource Conservation and Recovery Act (RCRA)
Safe Drinking Water Act (SDWA)
Superfund Amendments and Reauthorization Act (SARA)
Toxic Substances Control Act (TSCA)
Water Quality Act of 1987 (WQA)
General (Other acts, including grant and procurement regulations that apply to several program areas.)

EPA's agenda also illustrates the Agency's compliance with various mandates. Included among these is the requirement of Executive Order 12498 to submit the Agency's priority regulatory activities for inclusion in the Administration's annual "Regulatory Program." Those priority activities are noted in the "Significance" section of the rule entry.

EPA's agenda entries also provide evidence of compliance with the requirements in Executive Order 12291 that the Agency ensure that the costs of a rule are justified by its benefits. This compliance is noted in the "Analysis" section of an entry, which indicates the Agency's performance of a Regulatory Impact Analysis (RIA) for any proposed or final regulation that may have:

1. A minimal economic effect of $100 million annually;

2. a major effect on the general economy in terms of costs, consumer prices, or production;

3. a major increase in costs or prices for any notable segment of the population; or

4. significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Regulatory Flexibility Act (RFA) requires the identification of those regulations which are likely to have a "significant economic impact on a substantial number of small entities" (i.e., small governments, small businesses, and small nonprofit organizations). Under the requirements of the Act, such regulations must be subjected to a "regulatory flexibility analysis." This analysis must address the likely economic impacts on small entities and must consider any significant alternatives to the rule which accomplish the objectives of applicable statutes and which minimize any significant economic impact of the rulemaking on small entities. In April 1992, EPA adopted a new policy which goes beyond the minimum requirements of the Regulatory Flexibility Act (this new policy applies to rulemakings which start after April 8, 1992). For rules subject to this new policy, EPA will perform a regulatory flexibility analysis if the rule is likely to have *any* economic impact on *any* small community.

Under each rulemaking listed in this regulatory agenda, the "Analysis" section indicates whether EPA expects to conduct a regulatory flexibility analysis. If EPA believes small entities will be affected by a rulemaking, this is indicated under "Small Entities Affected" and/or the "Government Levels Affected" section of the write-up for each listed rule. EPA invites public comment regarding EPA's assessment of which of the listed rules are appropriate for regulatory flexibility analysis.

The agenda is organized by statute and ordered numerically within each statutory area. Entries within each statute are divided into four categories: (1) Prerule, (2) proposed rule, (3) final rule, and (4) completed actions (i.e., regulations that EPA is deleting from the agenda because the Agency has completed, withdrawn, or postponed them indefinitely). Detailed information on each of these categories is presented below. A dot (•) preceding an entry indicates that this is the first time this entry appears in an agenda.

I. Prerulemakings

Prerulemaking actions are activities intended to determine whether to initiate rulemaking. These activities include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking, significant studies or analyses of the possible need for regulatory action, requests for public comment on the need for regulatory action, or important pre-regulatory policy proposals.

This section also includes a review of existing EPA regulations. The purpose of such reviews is to determine whether the Agency should revise, rescind, or leave the existing rule unchanged. If EPA decides to revise or rescind an existing regulation, that action will appear in the next agenda in the proposed rule section along with a timetable for completing the revision or rescission.

II. Proposed and Final Rules

This section includes all "significant" EPA regulations. EPA generally lists regulations in this category of the agenda once they are within a year of proposal or promulgation. The listings, however, exclude (a) specialized categories of actions (e.g., EPA approvals of State plans and other actions that do not apply nationally) and (b) routine actions (e.g., pesticide tolerances and minor amendments to existing rules).

III. Completed Actions

These are actions that appeared in the previous agenda, which EPA is deleting because they are completed or are no longer under consideration for rulemaking.

The Agency has attempted to list all regulations and regulatory reviews except those considered as minor, routine, or repetitive actions. There is no legal significance to the inadvertent omission of an item from the listing.

The agenda reflects dates for actions on each item; these dates are honest estimates but should not be construed as an Agency commitment to act on or by the date shown. The Administrator of EPA will be reviewing the items contained in this agenda over the next 6 months. Items in this agenda may be deleted, or new items may be added, as a result of that review.

Dated: March 24, 1993.

Wendy Cleland-Hamnett,

Acting Assistant Administrator, Office of Policy, Planning, and Evaluation.

EPA

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3540	SAN No. 3154. Revocation of Pesticide Food Additive Tolerances Subject to the Delaney Clause of the FFDCA	2070-AC55
3541	SAN No. 2444. Pesticide Tolerances; Portion of Food Commodities To Be Analyzed for Pesticide Residues	2070-AC45
3542	SAN No. 3199. Revisions to 40 CFR 180.1 Subpart A—Definitions and Interpretations	2070-AC54
3543	SAN No. 2684. Regulation of Plant-Produced Pesticides (Revision)	2070-AC02
3544	SAN No. 2687. Pesticide Data Requirements (Revision)	2070-AC12
3545	SAN No. 3019. Microbiological Water Purifiers; Labeling Claims	2070-AC43
3546	SAN No. 3222. Pesticides and Groundwater State Management Plan Regulation	2070-AC46
3547	SAN No. 2337. Sale of Restricted Use Pesticides to Noncertified Persons	2070-AB48
3548	SAN No. 2406. Pesticide Applicator Certification Fees for EPA Administered Programs	2070-AB76
3549	SAN No. 2724. Pesticide Data Requirements: Methods for Safe Storage and Disposal	2070-AC11
3550	SAN No. 2351. Classification of Certain Pesticides for Restricted Use Due to Groundwater Concerns	2070-AC33
3551	SAN No. 3141. Revision to Crop Grouping Regulations	2070-AC52
3552	SAN No. 2725. FIFRA Books and Records of Pesticide Production and Distribution (Revision)	2070-AC07
3553	SAN No. 2659. Pesticide Management and Disposal: Container Design, Residue Removal, Storage, Disposal, and Transportation of Pesticides	2070-AB95
3554	SAN No. 2639. Child-Resistant Packaging Regulations (Revision)	2070-AB96

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3555	SAN No. 3113. Endangered Species Protection Program	2070-AC42
3556	SAN No. 2351. Restricted Use Classification for Groundwater Contaminating Pesticides	2070-AB60
3557	SAN No. 1640. Worker Protection Standards; Hazard Information	2070-AC34
3558	SAN No. 2446. Regulations on Certification of Pesticide Applicators (Revision)	2070-AB75
3559	SAN No. 2445. Amendments to Experimental Use Permit Rule for Certain Microbial Pesticides (Revision)	2070-AB77
3560	SAN No. 2338. Reporting Requirements for Risk/Benefit Information (Revision)	2070-AB50
3561	SAN No. 2720. Policy or Procedures for Notification to the Agency of Stored Pesticides with Cancelled or Suspended Registration	2070-AC08
3562	SAN No. 3227. Determination of Adequacy of State Pesticide Residue Removal Compliance Programs	2070-AC56

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3563	SAN No. 2602. Tolerances and Exemptions from Tolerances for Pesticide Chemicals In or On Raw Agricultural Commodities or Processed Foods	2070-AC18
3564	SAN No. 2289. Labeling Requirements for Pesticides and Devices (Revision)	2070-AB46

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Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3565	SAN No. 2983. Technical Amendments to Pesticide Special Review Procedures	2070-AC35
3566	SAN No. 2554. Interpretative Rule - Advertising Claims Made for Registered Pesticide Products	2070-AB88
3567	SAN No. 2735. Revision of Statement of Policy on FIFRA Section 17: Pesticides Export	2070-AC09
3568	SAN No. 2659. Pesticide Management and Disposal: Procedural Regulations for Suspended and Cancelled Pesticides	2070-AC32

Toxic Substances Control Act (TSCA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3569	SAN No. 2800. Policy Statement Implementing the Prior Informed Consent Procedures for the Export/Import of Industrial Chemicals	2070-AC22
3570	SAN No. 2905. Environmental Hazard Communication Rule	2070-AC29

Toxic Substances Control Act (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3571	SAN No. 3007. Addition of Air Toxics to Toxic Release Inventory (TRI)	2070-AC40
3572	SAN No. 3034 and SAN No. 3095. Emergency Planning and Community Right-to-Know Act Section 313 Expanded Reporting Requirements	2070-AC47
3573	SAN No. 3052. EPCRA Section 313 Form R Corrections	2070-AC48
3574	SAN No. 2425. Responses to Petitions Received to Add to or Delete Chemicals from the List of Toxic Chemicals Under Section 313 of SARA	2070-AC00
3575	SAN No. 3242, 3243, 3244, and 3245. Lead Exposure Reduction; Legislative Mandates	2070-AC53
3576	SAN No. not yet assigned. Decisions on Test Rules: Proposed Rules	2070-AB07
3577	SAN No. 2245 and SAN No. 2657. Negotiated Consent Order Procedural Test Rule (Revision)	2070-AB30
3578	SAN No. 2563. SARA Section 110 Chemicals Generic Test Rule	2070-AB79
3579	SAN No. 2865. Multi-Chemical Endpoint(s) Test Rule	2070-AC36
3580	SAN No. not yet assigned. Chemical Specific Significant New Use Rules (SNURs) to Extend Provisions of Section 5(e) Orders	2070-AB27
3581	SAN No. 2247. Generic Significant New Use Rule (SNUR) for Acrylate Compounds	2070-AB56
3582	SAN No. 2325 (SNUR for Certain Biotech Products); SAN No. 2326 Rulemaking Concerning Certain Microbial Products ("Biotechnology") Under the Toxic Substances Control Act (TSCA)	2070-AB61
3583	SAN No. 2848. Regulatory Investigation Under the Toxic Substances Control Act (TSCA) To Reduce Lead (Pb) Consumption and Use	2070-AC21
3584	SAN No. 1976. Proposed Follow-up Rules on Non-5(e) New Chemical Substances	2070-AC38
3585	SAN No. 2146. Regulatory Investigation of Formaldehyde	2070-AB14
3586	SAN No. 2878. Polychlorinated Biphenyls (PCBs) Disposal Amendments	2070-AC01
3587	SAN No. 3021. Polychlorinated Biphenyls (PCBs) Transformer Reclassification Rule	2070-AC39
3588	SAN No. 3249. Prohibition of Hexavalent Chromium in Comfort Cooling Towers; Application of TSCA Section 12b Export Notification: Proposed Amendment	2070-AC57
3589	SAN No. 2129. Amendment to the TSCA Section 8(a) Comprehensive Assessment Information Rule (CAIR)	2070-AC19
3590	SAN No. 1923. Proposed Follow-up Rules on Existing Chemicals	2070-AC37

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3591	SAN No. 2847. Mandatory Pollution Prevention Reporting for Toxic Release Inventory (TRI)	2070-AC24
3592	SAN No. not yet assigned. Decision on Test Rules: Final Rules	2070-AB94
3593	SAN No. 2865. Multi-Chemical Endpoint(s) Test Rule	2070-AC27
3594	SAN No. 2881. TSCA Section 4(a)(1)(B) Policy Statement	2070-AC31
3595	SAN No. 1923. Final Follow-up Rules on Existing Chemicals	2070-AA58

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Sequence Number	Title	Regulation Identifier Number
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3597	SAN No. 2760. Premanufacture Notification (PMN) Rule Amendments	2070-AC14
3598	SAN No. 2150. Polychlorinated Biphenyls (PCBs): Applications for Exemptions from the Ban on Manufacturing, Processing, and Distribution	2070-AB20
3599	SAN No. 2560. Procedures and Criteria for Termination of Polychlorinated Biphenyls (PCBs) Disposal Permits	2070-AB81
3600	SAN No. 2844. Regulatory Investigation of Dioxin in Pulp and Paper Mill Sludge	2070-AC05
3601	SAN No. 2750. Polychlorinated Biphenyls (PCBs): Wet Weight/Dry Weight Clarification	2070-AC16
3602	SAN No. 2779. Use of Acrylamide and N-Methylolacrylamide (NMA) for Grouting	2070-AC17
3603	SAN No. 3148. Revised Asbestos Model Accreditation Plan	2070-AC51
3604	SAN No. 2178. Section 8(a) Preliminary Assessment Information Rules	2070-AB08
3605	SAN No. 1139. Section 8(d) Health and Safety Data Reporting Rules	2070-AB11
3606	SAN No. 2904. Export Notification Requirements; Changes to Reporting Requirements	2070-AC28

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Clean Water Act (CWA)—Proposed Rule Stage

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3610	SAN No. 1427. Effluent Guidelines and Standards for the Pharmaceutical Manufacturing Category	2040-AA13
3611	SAN No. 2712. Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category	2040-AB53
3612	SAN No. 2747. Effluent Guidelines and Standards for the Coastal Subcategory of the Oil and Gas Extraction Category	2040-AB72
3613	SAN No. 2805. Effluent Guidelines and Standards for the Waste Treatment Category	2040-AB78
3614	SAN No. 2806. Effluent Guidelines and Standards for the Metal Products and Machinery Category	2040-AB79
3615	SAN No. 3209. Effluent Guidelines and Standards for the Industrial Laundries Category	2040-AB97
3616	SAN No. 3204. Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category	2040-AB98
3617	SAN No. 3270. NPDES Application Regulations for Storm Water Discharges and Municipal Separate Storm Water Sewer Systems Affected by the Results of the 1990 Census	2040-AC16
3618	SAN No. 2501. NPDES Permit Application Standard Form A and Short Form A (Revision)	2040-AB39
3619	SAN No. 2196. Denial or Restriction of Disposal Sites (Revision)	2040-AB20
3620	SAN No. 2804. Clean Water Act Section 404 Program Definition	2040-AB74
3621	SAN No. 3198. Clean Water Act Section 404 State Program Regulations	2040-AC02
3622	SAN No. not yet assigned. Comparison of Dredged Material to a Reference Sediment	2040-AC14
3623	SAN No. 2737. Revisions to Ocean Dumping Regulations for Dredged Material	2040-AB62
3624	SAN No. 2736. Reorganization and Corrections to List of Ocean Dumping Sites	2040-AB63
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3627	SAN No. 2745. Effluent Guidelines and Standards for the Organic Chemicals, Plastics and Synthetic Fibers Category	2040-AB65
3628	SAN No. 2749. National Pollution Discharge Elimination System and Sludge Management State Program Regulations for Indian Tribes	2040-AB70
3629	SAN No. 2748. Amendments to National Pollutant Discharge Elimination System (NPDES) Surface Water Toxics Control Program	2040-AB68
3630	SAN No. 2587. Revisions to Regulations for Modification of Secondary Treatment Requirements for Municipal Discharges Into Marine Waters	2040-AB29
3631	SAN No. not yet assigned. Definition of Wetlands; Revisions to the Federal Manual for Identifying and Delineating Jurisdictional Wetlands	2040-AC03
3632	SAN No. 3154. Exception from Wetlands Mitigation Sequence for Alaska	2040-AC05

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3633	SAN No. 3090. National Pollutant Discharge Elimination System Sludge Permit Regulations; State Sludge Management Program Requirements	2040-AC01
3634	SAN No. 2497. Water Quality Standards for Toxic Pollutants	2040-AB56
3635	SAN No. 1649. Effluent Guidelines and Standards for the Offshore Subcategory of the Oil and Gas Extraction Category	2040-AA12
3636	SAN No. 2981. Revisions to Regulations for Implementation of Section 403 of the Federal Water Pollution Control Act	2040-AB94
3637	SAN No. 2682. Treatment of Indian Tribes as States Under Section 404 of the Clean Water Act	2040-AB69
3638	SAN No. 3197. Definition of Wetlands; Exemption of Certain Man-Made Wetlands From Regulation Under Section 404 of the Clean Water Act	2040-AC00
3639	SAN No. 3200. Section 404(b)(1) Guidelines; Revisions Regarding Sequencing Based on a Categorization Scheme	2040-AC04
3640	SAN No. 3196. Section 404(b)(1) Guidelines: Allowance for Projects To Proceed Unless Applicant Is Otherwise Notified	2040-AC06
3641	SAN No. 2162. Sewage Sludge Use and Disposal Regulation	2040-AA74

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3649	SAN No. 2807. National Primary Drinking Water Regulations: Arsenic	2040-AB75
3650	SAN No. 2772. National Primary Drinking Water Regulations: 25 Contaminants From Drinking Water Priority List (Phase VI)	2040-AB82
3651	SAN No. 3176. National Primary Drinking Water Regulations: Sulfate	2040-AC07
3652	SAN No. 3238. Reconsideration of the National Primary Drinking Water Standards (NPDWRs) for Aldicarb and Atrazine	2040-AC13
3653	SAN No. 2765. Osage Mineral Reserve Underground Injection Control Program (Revision)	2040-AB76
3654	SAN No. 2784. Construction Requirements for Class II (Oil and Gas Related Wells) Under Part C of the SDWA	2040-AB77
3655	SAN No. 2778. Management of Class V Injection Wells Under Part C of the Safe Drinking Water Act	2040-AB83

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3657	SAN No. 2426. Revisions to the Safe Drinking Water Act's Underground Injection Control (UIC) Regulations	2040-AB27
3658	SAN No. 2281. National Primary Drinking Water Regulation: Radionuclides	2040-AA94
3659	SAN No. 2782. Revision of Analytical Methods for Trihalomethanes under the SDWA	2040-AB87

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3664	SAN No. 3180. Guideline for Federal Procurement of Plastic Pipe Products	2050-AD74

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3675	SAN No. 2826. New and Revised Testing Methods Approved for RCRA Subtitle C Hazardous Waste Testing Manual SW-846, Third Edition, Update II	2050-AD06
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3681	SAN No. 3177. Identification and Listing of Hazardous Waste Treatability Studies Sample Exemption	2050-AD70
3682	SAN No. 3178. Removal of Pentachlorophenol From F027; Restore It as U242; Change Toxicity Designation of F021; and Clarify Basis for Listing Criteria	2050-AD78
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3711	SAN No. 2507. Test Methods for Evaluating Solid Waste (Manual SW846 Third Edition) Incorporation by Reference and Good Laboratory Practices—Update 1	2050-AC32
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3718	SAN No. 2277. Amendments to Groundwater Monitoring Requirements at Hazardous Waste Facilities	2050-AB20
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3725	SAN No. 2207. Disposal of Containerized Liquids In Hazardous Waste Landfills	2050-AA34
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3795	SAN No. 3091. "Substantially Similar" Definition for Diesel Fuels	2060-AD77
3796	SAN No. 3175. Restrictions on Motor Vehicle and Non-Road Engines	2060-AD72
3797	SAN No. 2940. Regulations Governing Prior Notice of Citizen Suits Brought Under Section 304 of the Clean Air Act	2060-AD80
3798	SAN No. 2857. Individual Constituents Standards - Phase III of RCRA Air Emission Standards	2060-AC90

Clean Air Act (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3799	SAN No. 2726. Alternative Fuel Corporate Average Fuel Economy Labeling Requirements	2060-AC78
3800	SAN No. 2793. Protection of Stratospheric Ozone: Recycling	2060-AC80
3801	SAN No. 2849. Reorganization of 40 CFR Part 86, Subpart A	2060-AC94
3802	SAN No. 2830. Revision of Gasoline Volatility Enforcement Procedures	2060-AC97
3803	SAN No. 2959 and 3118. Reformulated Gasoline	2060-AD27
3804	SAN No. 2955. Phaseout of Lead in Gasoline and Test Procedure for Lead Substitutes	2060-AD29
3805	SAN No. 2950. Motor Vehicle Certification Short Test and Performance Warranty Procedures	2060-AD34
3806	SAN No. 2954/2963. Urban Bus Particulate Matter (PM) Standards	2060-AD37
3807	SAN No. 3031. Acid Rain Phase I Reserve/Phase II Allowance Allocations Subpart	2060-AD42
3808	SAN No. not yet assigned. Emission Standards for Gaseous-Fueled Vehicles and Certification Procedures for Aftermarket Conversions	2060-AD86
3809	SAN No. 3207. Conformity of General Federal Actions to State Implementation Plans	2060-AE10
3810	SAN No. 3247. New Source Review - PM10 Increments for PSD Areas	2060-AE12
3811	SAN No. 3093. Final Approval of Colorado's Petition to Relax the Federal Reid Vapor Pressure Volatility Standard for Colorado in 1992 and 1993	2060-AE18
3812	SAN No. 3171. Designation of Areas for Air Quality Planning Purposes	2060-AE03
3813	SAN No. 1002 (Primary Standard); SAN No. 3248 (Secondary) NAAQS: Sulfur Oxides (Review)	2060-AA61
3814	SAN No. 2930. Criteria for Imposing Discretionary Sanctions Under Title I	2060-AD10
3815	SAN No. 1931. NSPS: SOCMI Reactor Processes	2060-AB55
3816	SAN No. 2535. NSPS: Municipal Solid Waste Landfills	2060-AC42
3817	SAN No. 2363. NESHAP: Hazardous Organic	2060-AC19
3818	SAN No. 2360. NESHAP: Perchloroethylene Dry Cleaning	2060-AC27
3819	SAN No. 3025. National Emission Standards for Coke Oven Batteries	2060-AD67
3820	SAN No. 3093. National Emissions Standards for Hazardous Air Pollutants; National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings	2060-AE23
3821	SAN No. 2557. Guideline on Air Quality Models (Revision)	2060-AC43
3822	SAN No. 2964. Economic Incentive Program Rules Authorized Under Title I of the CAA	2060-AD58
3823	SAN No. 3029. Control Techniques Guidelines	2060-AD05
3824	SAN No. 2763. Emissions Standards for New Motor Vehicles and Motor Vehicle Engines Fueled With Compressed Natural Gas or Liquified Petroleum Gas	2060-AC79
3825	SAN No. 2801. Nonconformance Penalties for 1994 Model Year Emission Standards for Heavy-Duty Vehicles and Engines	2060-AC96
3826	SAN No. 2637. Alternative Test Procedure for the Voluntary Aftermarket Part Certification Program	2060-AC50
3827	SAN No. 2952. Waiver of Preemption of California for Nonroad Engine and Vehicle Standards	2060-AE17
3828	SAN No. 2365. Fuel and Fuel Additives: Registration Requirements	2060-AC10
3829	SAN No. 2888. Acid Rain Nitrogen Oxides Control Regulation	2060-AD45
3830	SAN No. 2791. Development of a Schedule for Regulating Source Categories of Hazardous Air Pollutants Subject to Section 112 of the Clean Air Act Amendments of 1990	2060-AD66
3831	SAN No. 2690. Radon Proficiency Program User Fees	2060-AC66
3832	SAN No. 2240. Treatment, Storage, and Disposal Facility - RCRA Air Emission Standards	2060-AB94

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Sequence Number	Title	Regulation Identifier Number
3833	SAN No. 2967. Requirements for the Enhanced Monitoring of Ozone and Ozone Precursors	2060-AD11
3834	SAN No. 2962/2954. Heavy-Duty Engine Standards	2060-AD26
3835	SAN No. 2958. California Clean Fuels Pilot Program—Credits Program	2060-AD30
3836	SAN No. 2949. Revised Light-Duty Durability Procedures for Model Years 1994 and 1995	2060-AD36
3837	SAN No. 2886. Acid Rain Allowance System Regulation	2060-AD40
3838	SAN No. 2887. Acid Rain Continuous Emissions Monitoring Regulation	2060-AD44
3839	SAN No. 3028. Clarification of Best Available Control Technology Regulatory Definition	2060-AD61
3840	SAN No. not yet assigned. Approval and Promulgation of Implementation Plans; Partial Disapproval of New Jersey Implementation Plan for Ozone	2060-AD78
3841	SAN No. 3004. Requirements for Basic and Enhanced Inspection/Maintenance Programs	2060-AD89
3842	SAN No. 1920. NAAQS: Ozone (Review)	2060-AA96
3843	SAN No. 3084. NSPS Revision for Gas Turbines	2060-AD70
3844	SAN No. 2819. Compliance Extensions for Early Reduction of Hazardous Air Pollutants	2060-AC89
3845	SAN No. 2814. Statement of Policy and Procedures Regarding Petitions Under Section 112 of Title III of the Clean Air Act Amendments of 1990	2060-AC91
3846	SAN No. 3030. National Emissions Standards for Hazardous Air Pollutants; Polonium-210 Emissions From Elemental Phosphorus Plants	2060-AD59
3847	SAN No. 2696. Amendments to National Emission Standards for Benzene Waste Operations	2060-AD63
3848	SAN No. 2969. Motor Vehicle Test Procedures for Evaporative Emissions (Revision)	2060-AC64
3849	SAN No. 2704. On-Board Vehicle Based Diagnostic System Requirement	2060-AC65
3850	SAN No. 2889. Acid Rain Permits Regulation	2060-AD46
3851	SAN No. 2907. Protection of Stratospheric Ozone: Product Ban	2060-AD49
3852	SAN No. 2906. Protection of Stratospheric Ozone: Labelling	2060-AD47
3853	SAN No. 3026. Acid Rain Excess Emissions Requirements Regulation	2060-AD53
3854	SAN No. 2998. Guidelines for Oxygenated Gasoline Oxygen Credit Programs Under Section 211(m) of the Clean Air Act as Amended	2060-AD74
3855	SAN No. 2999. Guidance on Establishment of Control Periods by Area Under Section 211(m) of the Clean Air Act as Amended	2060-AD75
3856	SAN No. 2960. Labeling Regulations for Oxygenated Gasoline under Section 211(m) of the Clean Air Act as Amended	2060-AD79

Superfund (CERCLA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3857	SAN No. 2979. Risk Management Plans For Chemical Accidental Release Prevention	2050-AD26
3858	SAN No. 3000. Designation Under CERCLA and Reportable Quantity Adjustments of New Clean Air Act Hazardous Air Pollutants	2050-AD33
3859	SAN No. 3050. Deletion of Saccharin From the List of Hazardous Wastes Under RCRA and the List of Hazardous Substances Under CERCLA	2050-AD45
3860	SAN No. 2650. National Contingency Plan-Subpart K: A Roadmap to the NCP for Federal Facilities	2050-AC76
3861	SAN No. not yet assigned. National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed Rules	2050-AD47
3862	SAN No. 2855. Procedures for Reimbursement Petitions Under Section 106(b) of CERCLA	2050-AD11
3863	SAN No. 2882. Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan	2050-AD24
3864	SAN No. 3126. National Oil and Hazardous Substances Contingency Plan (Technical Revisions)	2050-AD73
3865	SAN No. 3036. Amendments to the Extremely Hazardous Substances List Under Section 302 of the Emergency Planning and Community Right-To-Know Act	2050-AD50

Superfund (CERCLA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3866	SAN No. 2972. List of Regulated Substances and Thresholds for Accidental Release Prevention; Requirements For Petitions Under Section 112(r)(3) of the CAAA of 1990	2050-AD25
3867	SAN No. 2394. Reporting Exemptions for Federally Permitted Releases of Hazardous Substances	2050-AB82
3868	SAN No. 2868. Reportable Quantity Adjustments for Petroleum Refinery Primary Treatment Sludges	2050-AD15

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Superfund (CERCLA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3869	SAN No. 3233. Reportable Quantity Adjustments of Lead, Lead Compounds, Lead-Containing Hazardous Waste Streams, and Methyl Isocyanate	2050-AD16
3870	SAN No. 2702. Comprehensive Environmental Response Compensation and Liability Act (CERCLA) Cost Recovery	2050-AC98
3871	SAN No. 3054. Administrative Reporting Exemptions Under CERCLA For Releases of Radionuclides From Four Source Categories	2050-AD46
3872	SAN No. 2976. Amendment to the NCP Appendix: OSWER Procedures for Contract Laboratory Program Investigations	2050-AD34
3873	SAN No. not yet assigned. National Priorities List for Uncontrolled Hazardous Waste Sites: Final Rules	2050-AD75
3874	SAN No. 2923. Facility Response Planning	2050-AD30
3875	SAN No. 2512. Administrative Hearing Procedures for Class II Penalties Under CERCLA and Emergency Planning and Community Right-to-Know Act	2050-AC39
3876	SAN No. 2615. Prior Notice of Citizen Suits Under CERCLA	2050-AC70

Superfund (CERCLA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3877	SAN No. 2336. Designation of Extremely Hazardous Substances as CERCLA Hazardous Substances	2050-AB62
3878	SAN No. 2429. Reportable Quantity Adjustments of Extremely Hazardous Substances	2050-AC14
3879	SAN No. 3102. National Priorities List (NPL) for Uncontrolled Hazardous Waste Sites—Updates	2050-AD22
3880	SAN No. 3103. National Priorities List for Uncontrolled Hazardous Waste Sites —Proposed Update XII	2050-AD23
3881	SAN No. not yet assigned. National Priorities List for Uncontrolled Hazardous Waste Sites: Update 14	2050-AD52
3882	SAN No. 2564. Response Claims Procedures for the Hazardous Substances Superfund	2050-AA90
3883	SAN No. 2498. Administrative Hearing Procedure for Superfund Claims	2050-AC26
3884	SAN No. 3043. Civil Penalty Provisions for All the Oil Pollution Prevention Regulations	2050-AD51
3885	SAN No. 2409. Reimbursement of Local Governments for Emergency Response to Hazardous Substance Releases	2050-AC11
3886	SAN No. 2758. Addition of Chemicals to the List of Extremely Hazardous Substances Based on Their Physical Properties	2050-AD02

General—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3887	SAN No. 3098. Procurement Integrity	2030-AA25
3888	SAN No. 3100. Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	2030-AA27
3889	SAN No. 3255. Source Selection Procedures	2030-AA29
3890	SAN No. 3256. Miscellaneous Revisions of Organizational Titles and Authority	2030-AA30
3891	SAN No. 2662. Amendments to Part 22 Consolidated Procedural Rules	2020-AA13
3892	SAN No. 2195. Confidentiality Regulations: Special Rules Governing Certain Information Under FIFRA (Revision)	2020-AA06
3893	SAN No. not yet assigned. Privacy Act of 1974; Proposed Alteration of Existing New System of Records	2020-AA18

General—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3894	SAN No. 3101. General Regulation for Assistance Programs for Other Than State and Local Governments	2030-AA28
3895	SAN No. 2218. Nondiscrimination on the Basis of Age in Programs Receiving Financial Assistance From the EPA (Revision)	2090-AA09
3896	SAN No. 3219. New Restrictions on Lobbying	2030-AA24
3897	SAN No. 2791. Instructions for Preparation of Cost or Pricing Proposals	2030-AA20

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General—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3898	SAN No. 0952. Evaluation Procedure for Award of Fixed Price Contracts for Commercial Supplies and Services	2030-AA09

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3540. • REVOCATION OF PESTICIDE FOOD ADDITIVE TOLERANCES SUBJECT TO THE DELANEY CLAUSE OF THE FFDCA

Legal Authority: 21 USC 346(a)(e) /FFDCA 406

CFR Citation: 40 CFR 185; 40 CFR 186

Legal Deadline: None

Abstract: The Agency is proposing to revoke food additive tolerances for a number of pesticide carcinogens in processed food because of the Delaney clause. The Delaney clause prohibits chemicals in processed foods that induce cancer in man or lab animals. This rulemaking is the result of a decision by the Court of Appeals for the Ninth Circuit which rejected the Agency's de minimis interpretation of the applicability of the Delaney clause.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3154.

Agency Contact: Tina Levine, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, Washington, DC 20460, **703 308-1847**

RIN: 2070–AC55

3541. PESTICIDE TOLERANCES; PORTION OF FOOD COMMODITIES TO BE ANALYZED FOR PESTICIDE RESIDUES

Significance: Regulatory Program

Legal Authority: 21 USC 346a/FFDCA 408; 21 USC 348/FFDCA 409; 21 USC 371/FFDCA 701

CFR Citation: 40 CFR 180

Legal Deadline: None

Abstract: EPA is proposing to amend its current pesticide tolerance regulations to clarify how raw agricultural commodities and processed foods are defined for conducting residue data development and analysis used in establishing and enforcing a tolerance. This proposed rule amendment restates, updates, clarifies, and makes more uniform the analytical practices that have been developed over the years, and therefore, should facilitate and improve efficiency in pesticide residue analysis on food commodities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2444.

This action is split from RIN 2070-AC18.

Agency Contact: Melissa L. Chun, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H7505C), Washington, DC 20460, **703 305-6354**

RIN: 2070–AC45

3542. • REVISIONS TO 40 CFR 180.1 SUBPART A—DEFINITIONS AND INTERPRETATIONS

Legal Authority: 21 USC 346/FFDCA 408 and 409

CFR Citation: 40 CFR 180.1

Legal Deadline: None

Abstract: EPA sets tolerances under FFDCA section 408 for pesticide residues in raw agricultural commodities (RACs) and establishes food additive regulations under section 409 for pesticide residues in processed foods if, as a result of processing, residues in the "ready to eat" processed food will exceed the raw food tolerance. To promote greater consistency in tolerance setting and enforcement, EPA is now proposing to amend its pesticide regulations to clarify how RACs are defined.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3199.

Agency Contact: Tina Levine, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, H-7505C, Washington, DC 20460, **703 308-1847**

RIN: 2070–AC54

3543. REGULATION OF PLANT-PRODUCED PESTICIDES (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136a/FIFRA 3; 7 USC 136w/FIFRA 25; 7 USC 136c/FIFRA 5

CFR Citation: 40 CFR 152.25

Legal Deadline: None

Abstract: EPA will clarify which pesticides produced by or with plants will be exempt from the provisions of FIFRA. For those plant producing pesticides that will be subject to FIFRA requirements, the Agency will outline the process by which these pesticides

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will be regulated. Modifications will be made to the regulatory process to reflect the characteristics of these products.

Timetable:

Action	Date	FR Cite
NPRM or Policy Statement	01/00/94	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2684.

Agency Contact: Bernice Slutsky, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H-7507C), Washington, DC 20460, **703 305-7974**

RIN: 2070–AC02

3544. PESTICIDE DATA REQUIREMENTS (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136/FIFRA 3, 4, 5, and 25

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: This amendment will update the existing data requirements (40 CFR 158) for evaluating the registrability of pesticide products. Reasons for the revisions include recent health and environmental concerns (e.g., groundwater contamination, worker exposure and neurotoxicity) and advancements in testing technology. The revisions will clarify data requirements to reflect current practice. Also, comparative product performance data requirements for use in risk/benefit analysis and in preparation of regulatory options used in making risk/benefit decisions will be added to 40 CFR part 158. Procedural and explanatory sections of 40 CFR 158 will be amended to make them consistent with the revised data requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/94	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2687.

Agency Contact: Amy Rispin, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H-7507C), Washington, DC 20460, **703 305-8127**

RIN: 2070–AC12

3545. MICROBIOLOGICAL WATER PURIFIERS; LABELING CLAIMS

Legal Authority: 7 USC 136/FIFRA 3 and 25

CFR Citation: 40 CFR 156.10(a)(6)

Legal Deadline: None

Abstract: The Agency is proposing to amend its regulations to establish standards for claims that a water treatment unit or product (whether a pesticide or device) will microbiologically purify water for human consumption. The rule would establish standards for when microbiological water purification claims may be legally made on the label. This proposal would base the acceptability of purifier-related claims on efficacy data demonstrating that the product met the criteria for microbiological reductions indicated in EPA's Guide Standard and Protocol for Testing Microbiological Water Purifiers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: SAN No. 3019.

Agency Contact: Ruth Douglas, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H7505C), Washington, DC 20460, **703 305-7964**

RIN: 2070–AC43

3546. PESTICIDES AND GROUNDWATER STATE MANAGEMENT PLAN REGULATION

Legal Authority: 7 USC 136/FIFRA 3

CFR Citation: 40 CFR 152

Legal Deadline: None

Abstract: The regulation will designate certain individual pesticides to be subject to EPA approved State Management Plans (SMPs) as a condition of legal sale and use. This regulation would establish SMPs as a new regulatory requirement for those pesticides; absent an EPA-approved state plan specifying risk-reduction measures, use of the chemical would be prohibited. The rule would also specify procedures and deadlines for development, approval and implementation of SMPs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 3222.

Agency Contact: Arden Calvert, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H7501C), Washington, DC 20460, 703 305-7099

RIN: 2070–AC46

3547. SALE OF RESTRICTED USE PESTICIDES TO NONCERTIFIED PERSONS

Legal Authority: 7 USC 136i/FIFRA 11; 7 USC 136j/FIFRA 12; 7 USC 136w/FIFRA 25

CFR Citation: 40 CFR 171.12

Legal Deadline: None

Abstract: This action is intended to develop regulations pursuant to FIFRA Section 12(a)(2)(F) to allow the sale of restricted use pesticides under certain circumstances to persons who are not certified applicators. Regulatory development will be coordinated with the review of State plans under FIFRA Section 11 to determine both need and compatibility with State authorities and programs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: State

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2337.

Agency Contact: Robert Bielarski, Environmental Protection Agency, Office of Prevention, Pesticides, and

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Toxic Substances, (H-7506C), Washington, DC 20460, 703 305-7371

RIN: 2070–AB48

3548. PESTICIDE APPLICATOR CERTIFICATION FEES FOR EPA ADMINISTERED PROGRAMS

Legal Authority: 31 USC 9701

CFR Citation: 40 CFR 171

Legal Deadline: None

Abstract: This rule is intended to implement a program for assessing fees for Federal certification and training of commercial and private applicators who apply restricted use pesticides. Fees will be collected in States with Federally-administered pesticide certification and training programs, and will cover the costs of administering such programs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 2406.

Agency Contact: John MacDonald, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H-7506C), Washington, DC 20460, 703 305-7370

RIN: 2070–AB76

3549. PESTICIDE DATA REQUIREMENTS: METHODS FOR SAFE STORAGE AND DISPOSAL

Significance: Regulatory Program

Legal Authority: 7 USC 136/FIFRA 3, FIFRA 6, FIFRA 19

CFR Citation: 40 CFR 158; 40 CFR 165

Legal Deadline: None

Abstract: EPA is authorized to issue regulations to specify the types and minimum amounts of data the Agency requires to support the registration or continued registration of a pesticide, and for other purposes. This rule may specify the necessary information and data EPA would require regarding methods for the safe storage and disposal of pesticides.

Timetable:

Action	Date	FR Cite
NPRM (Storage, Disposal of Excess)	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2724.

Agency Contact: Paul F. Schuda, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H-7507C), Washington, DC 20460, 703 305-7695

RIN: 2070–AC11

3550. CLASSIFICATION OF CERTAIN PESTICIDES FOR RESTRICTED USE DUE TO GROUNDWATER CONCERNS

Significance: Regulatory Program

Legal Authority: 7 USC 136 to 136y

CFR Citation: 40 CFR 152.175

Legal Deadline: None

Abstract: EPA will propose to restrict a number of pesticides to use by certified pesticide applicators. The goal of the action is to prevent or mitigate the potential for groundwater contamination. The pesticides subject to this proposal will be selected from those which meet EPA's proposed criteria for restricted use consideration due to groundwater concerns. Those criteria were published for comment on May 13, 1991 at 56 FR 22076 (RIN 2070-AB60).

Timetable:

Action	Date	FR Cite
NPRM	05/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2351.

Agency Contact: Jim Roelofs, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H7501C), Washington, DC 20460, 703 305-7102

RIN: 2070–AC33

3551. REVISION TO CROP GROUPING REGULATIONS

Legal Authority: 21 USC 346/FIFRA 6

CFR Citation: 40 CFR 180.34 (f) (Revision)

Legal Deadline: None

Abstract: EPA is developing a proposal to revise the crop grouping regulations to promote the greater utilization of crop grouping for pesticide tolerance-setting purposes. These revisions will establish crop subgroups, smaller groups of more closely related commodities for larger crop groups. Tolerances established for a subgroup would apply to all members of the subgroup. EPA will also propose other revisions to the crop groups that should promote greater utilization of crop groupings. Revisions to the crop grouping scheme that would increase its utilization will reduce the regulatory burden associated with residue data development in support of pesticide tolerances and registration.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3141.

Agency Contact: Hoyt Jamerson, EPA, Office of Pesticide Program, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St. S.W. 20460, Washington, DC 20460, 703 305-5310

RIN: 2070–AC52

3552. FIFRA BOOKS AND RECORDS OF PESTICIDE PRODUCTION AND DISTRIBUTION (REVISION)

Legal Authority: 7 USC 136f/FIFRA 8

CFR Citation: 40 CFR 169

Legal Deadline: None

Abstract: This action would amend the recordkeeping requirements for registrants and applicants for registration under FIFRA Section 8. It will also examine recordkeeping affected by the 1988 amendments to FIFRA and amend 40 CFR 169, as necessary.

Timetable:

Action	Date	FR Cite
NPRM	06/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 2725.

Agency Contact: Steve Howie, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (EN-342), Washington, DC 20460, 703 308-8383

RIN: 2070–AC07

3553. PESTICIDE MANAGEMENT AND DISPOSAL: CONTAINER DESIGN, RESIDUE REMOVAL, STORAGE, DISPOSAL, AND TRANSPORTATION OF PESTICIDES

Significance: Regulatory Program

Legal Authority: 7 USC 136q/FIFRA 19; 7 USC 136a/FIFRA 3; 7 USC 136w/ FIFRA 25

CFR Citation: 40 CFR 165; 40 CFR 156

Legal Deadline: Other, Statutory, December 24, 1991.
Final Container Design and Residue Removal

Abstract: The 1988 amendments to FIFRA significantly expand EPA authority to regulate the management of pesticides, including storage, transportation, and disposal of pesticides. The Agency may exercise this authority through labeling provisions, and other regulations for storage, transport, and disposal of pesticides. As required under Section 19, EPA has conducted a study on pesticide container design. The Report to Congress on this study was submitted in June 1992.

Timetable:

Action	Date	FR Cite
NPRM (Container Design, Residue Removal, Bulk Containment)	09/00/93	
NPRM (Storage, Disposal, Mixer/ Loader, and Transportation)	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2659.

Agency Contact: Paul F. Schuda, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H-7507C), Washington, DC 20460, 703 305-7695

RIN: 2070–AB95

3554. CHILD-RESISTANT PACKAGING REGULATIONS (REVISION)

Legal Authority: 7 USC 136/FIFRA 25

CFR Citation: 40 CFR 157

Legal Deadline: None
EPA regulations should be concurrent with CPSC.

Abstract: These regulations will revise current Child Resistant Packaging regulations (CRP) to be consistent with CRP protocol testing revisions the CPSC is proposing in its regulations. Also, these regulations will discuss the implementation of these changes in terms of pesticide registrations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2639.

Agency Contact: Rosalind L. Gross, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H-7505C), Washington, DC 20460, 703 305-5971

RIN: 2070–AB96

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Final Rule Stage

3555. ENDANGERED SPECIES PROTECTION PROGRAM

Significance: Regulatory Program

Legal Authority: PL 100-478, Sec 1010

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Pesticides are necessary for production of agricultural food and fiber commodities, yet have the potential to harm threatened or endangered species. EPA will develop and implement an endangered species pesticide labeling program designed to conserve federally listed species and to minimize the impacts to persons who use pesticides. The program will include development of species maps and pesticide use limitation bulletins to be distributed as an extension of pesticide labels. Pesticides that are determined to cause harm to endangered species will require label changes which display precautionary statements and directions on how to obtain county bulletins. The program will be coordinated with EPA, U.S. Fish and Wildlife Service of the Department of Interior.

Timetable:

Action	Date	FR Cite
Proposed Endangered Species Protection Program		
Notice	07/03/89	54 FR 27984
Notice	11/00/93	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 3113.

Agency Contact: Larry Turner, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H7507C), Washington, DC 20460, 703 305-5007

RIN: 2070–AC42

3556. RESTRICTED USE CLASSIFICATION FOR GROUNDWATER CONTAMINATING PESTICIDES

Significance: Regulatory Program

Legal Authority: 7 USC 136a/FIFRA 3; 7 USC 136d/FIFRA 6; 7 USC 136w/ FIFRA 25

CFR Citation: 40 CFR 152.170

Legal Deadline: None

Abstract: This rule will provide a mechanism for identifying pesticides which may pose an unreasonable risk because of the potential to leach into

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groundwater. The Agency will promulgate criteria for identifying pesticides as candidates for classification for restricted use. Restricted use pesticides generally may be applied only by state certified applicators.

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 22076
Final Action	05/00/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2351.

Agency Contact: Arden Calvert, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H-7501C), Washington, DC 20460, 703 305-7099

RIN: 2070–AB60

3557. WORKER PROTECTION STANDARDS; HAZARD INFORMATION

Significance: Regulatory Program

Legal Authority: 7 USC 136/FIFRA 3; 7 USC 136(w)/FIFRA 25

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: This action revises the Worker Protection Standards. The revisions propose the use of material safety data sheets or fact sheets for agricultural workers to make the FIFRA Hazard Communication Standards for Agricultural Workers consistent with OSHA's standards.

Timetable:

Action	Date	FR Cite
NPRM	08/21/92	57 FR 38167
NPRM Comment Period End	10/20/92	
Final Action	06/00/94	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 1640.

Agency Contact: Jim Boland, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H7506C), Washington, DC 20460, 703 305-7666

RIN: 2070–AC34

3558. REGULATIONS ON CERTIFICATION OF PESTICIDE APPLICATORS (REVISION)

Legal Authority: 7 USC 136i/FIFRA 11; 7 USC 136w/FIFRA 25

CFR Citation: 40 CFR 171

Legal Deadline: None

Abstract: This action is intended to revise existing regulations on certification of pesticide applicators. The current standards and requirements need to be updated to clarify definitions and to reflect changes in technology and current needs in State programs.

Timetable:

Action	Date	FR Cite
NPRM	11/07/90	55 FR 46890
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2446.

Agency Contact: John MacDonald, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H-7506C), Washington, DC 20460, 703 305-7370

RIN: 2070–AB75

3559. AMENDMENTS TO EXPERIMENTAL USE PERMIT RULE FOR CERTAIN MICROBIAL PESTICIDES (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136a/FIFRA 3; 7 USC 136c/FIFRA 5

CFR Citation: 40 CFR 172

Legal Deadline: None

Abstract: EPA proposes to amend its experimental use permit regulations for pesticides to clarify the circumstances under which an experimental use permit is presumed not to be required. As part of that clarification, EPA proposes to implement a screening procedure that requires notification to the Agency before initiation of small-scale testing of certain microbial pesticides. Two options for defining the scope of the notification requirement are presented for comment. The Agency will review notifications to assess the potential for adverse impacts on human health or the environment and will then determine whether to approve the test and/or whether to require an experimental use permit. This notification scheme would implement provisions of the Agency's policy statement of June 26, 1986, with modifications.

Timetable:

Action	Date	FR Cite
Notice	02/15/89	54 FR 7026
NPRM	01/22/93	58 FR 5878
Final Action	02/00/94	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2445.

Agency Contact: Fred Betz, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H-7507C), Washington, DC 20460, 703 305-6307

RIN: 2070–AB77

3560. REPORTING REQUIREMENTS FOR RISK/BENEFIT INFORMATION (REVISION)

Legal Authority: 7 USC 136d/FIFRA 6

CFR Citation: 40 CFR 153

Legal Deadline: None

Abstract: FIFRA section 6(a)(2) requires that registrants report to EPA additional factual information regarding unreasonable adverse effects of their products. In September 1985, EPA revised its 1979 section 6(a)(2) enforcement policy by publishing a notice which expanded upon the types of factual information which must be reported and established uniform timeframes for compliance. In response to comments received on this notice, the Agency is reissuing it as a proposal to clarify the types of information which registrants must report to EPA.

Timetable:

Action	Date	FR Cite
Final Action Interpretive and Policy Rule	08/23/78	43 FR 37611
Final Action Enforcement Policy	07/12/79	44 FR 40716
Final Action Codified Interpretive Rule	09/20/85	50 FR 38115
NPRM Interpretive Rule	09/24/92	57 FR 44290

Action	Date	FR Cite
NPRM Comment Period End Interpretive Rule	12/23/92	
Final Action	02/00/94	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2338.

Agency Contact: James V. Roelofs, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (H-7508W), Washington, DC 20460, 703 305-7102

RIN: 2070–AB50

3561. POLICY OR PROCEDURES FOR NOTIFICATION TO THE AGENCY OF STORED PESTICIDES WITH CANCELLED OR SUSPENDED REGISTRATION

Legal Authority: 7 USC 136/FIFRA 6

CFR Citation: 40 CFR 168

Legal Deadline: None

Abstract: This policy will clarify the requirements of section 6(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The policy will provide procedures for certain persons who possess cancelled or suspended pesticides to notify the EPA and State and local officials of (1) such possessions; (2) the quantity possessed; and (3) the place the pesticide is stored.

Timetable:

Action	Date	FR Cite
NPRM	03/28/91	56 FR 13042
Final Action	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2720.

Agency Contact: Jonathan Packman, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (EN-342), Washington, DC 20460, 703 308-8383

RIN: 2070–AC08

3562. • DETERMINATION OF ADEQUACY OF STATE PESTICIDE RESIDUE REMOVAL COMPLIANCE PROGRAMS

Legal Authority: 7 USC 136 FIFRA 19

CFR Citation: 40 CFR 168

Legal Deadline: Other, Statutory, December 24, 1993.

After December 24, 1993, a State may not exercise primary enforcement authority or certify applicators under FIFRA 11, unless the Administrator determines (cont)

Abstract: FIFRA 19(f)(2) states that after December 24, 1993, a State may not exercise primary enforcement authority under FIFRA 26, or certify an applicator under FIFRA 11, unless the Administrator determines that the State is carrying out an adequate program to ensure compliance with regulations promulgated under FIFRA 19(f). This proposed action would establish the process and develop criteria which States must meet to obtain EPA's approval of a compliance program. It would also announce EPA's intent to propose and publish additional criteria for continued EPA approval as the regulatory provisions under FIFRA 19 become effective.

Timetable:

Action	Date	FR Cite
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3227.

LEGAL DEADLINE CONT: that the State is carrying out an adequate program to ensure compliance with FIFRA 19(f) regulations.

Agency Contact: Phyllis Flaherty, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, Washington, DC 20460, 703 308-8383

RIN: 2070–AC56

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Completed Actions

3563. TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES OR PROCESSED FOODS

Significance: Regulatory Program

CFR Citation: 40 CFR 177 to 180; 40 CFR 185 to 186

Completed:

Reason	Date	FR Cite
Withdrawn	02/27/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melissa L. Chun, 703 305-6354

RIN: 2070–AC18

3564. LABELING REQUIREMENTS FOR PESTICIDES AND DEVICES (REVISION)

CFR Citation: 40 CFR 156; 40 CFR 167

Completed:

Reason	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Frane, 703 305-5944

RIN: 2070–AB46

3565. TECHNICAL AMENDMENTS TO PESTICIDE SPECIAL REVIEW PROCEDURES

CFR Citation: 40 CFR 154

Completed:

Reason	Date	FR Cite
Withdrawn	02/27/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard P. Dumas, 703 308-8015

RIN: 2070–AC35

3566. INTERPRETATIVE RULE - ADVERTISING CLAIMS MADE FOR REGISTERED PESTICIDE PRODUCTS

CFR Citation: 40 CFR 168

Completed:

Reason	Date	FR Cite
Withdrawn	02/27/93	

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EPA—FIFRA — **Completed Actions**

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Jenkins, 703 305-7443

RIN: 2070–AB88

3567. REVISION OF STATEMENT OF POLICY ON FIFRA SECTION 17: PESTICIDES EXPORT

CFR Citation: 40 CFR 168

Completed:

Reason	Date	FR Cite
Final Action	02/18/93	58 FR 9062

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Jordan, 703 305-7102

RIN: 2070–AC09

3568. PESTICIDE MANAGEMENT AND DISPOSAL: PROCEDURAL REGULATIONS FOR SUSPENDED AND CANCELLED PESTICIDES

Significance: Regulatory Program

CFR Citation: 40 CFR 165

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Stangel, 703 308-8295

RIN: 2070–AC32

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Toxic Substances Control Act (TSCA) — **Prerule Stage**

3569. POLICY STATEMENT IMPLEMENTING THE PRIOR INFORMED CONSENT PROCEDURES FOR THE EXPORT/IMPORT OF INDUSTRIAL CHEMICALS

Legal Authority: London Gdlns for Exchange of Info on Chemicals in Intl Trade

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The EPA intends to publish a proposed policy statement implementing the Prior Informed Consent (PIC) procedure for industrial chemicals. The principle of PIC was accepted by the United National Environment Programme (UNEP) as an amendment to the London Guidelines for the Exchange of Information on Chemicals in International Trade. The US is a member of UNEP and a signatory to the Guidelines. Hence, EPA is preparing this policy statement to further comply with the London Guidelines, specifically the provisions of the PIC procedure.

The goal of the Guidelines is to enhance the safe management of chemicals in all countries through the exchange of scientific, technical, economic, and legal information on chemicals in international trade. The policy statement will provide the current proposed list of industrial chemicals banned or severely restricted in the US which will include chemicals subject to regulatory action taken by agencies other than EPA. EPA believes this policy statement will establish a mechanism for information exchange which will advance the protection of human health and the global environment.

Timetable:

Action	Date	FR Cite
Notice	12/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2800.

Agency Contact: James B. Willis, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, Washington, DC 20460, (TS-799), 202 260-3949

RIN: 2070–AC22

3570. ENVIRONMENTAL HAZARD COMMUNICATION RULE

Legal Authority: 15 USC 2605/TSCA 6

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The Office of Pollution Prevention and Toxics (OPPT) is considering development of a voluntary program to provide for Environmental Hazard Communication (EHC) with the sale of commercial chemicals. The goal of the voluntary program would be to ensure that chemical processors, distributors, and users receive information enabling them to avoid environmental damage caused by inappropriate releases. It models the Occupational Safety and Health Administration's (OSHA) hazard communication standard by recommending that Material Safety Data Sheets include environmental hazard information. The program would not require testing to be performed if data were not available. The program may include OPPT specifying a list of chemicals for which EHC would be recommended. The program may also include other voluntary elements such as the publication of guidelines for the application of EHC to potentially hazardous chemicals. (cont)

Timetable:

Action	Date	FR Cite
Discussion Guide	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2905.

ABSTRACT CONT: EHC information could include the following: toxicity data; environmental fate data; use, handling, transportation, and disposal recommendations; and significant regulatory information. The EHC program could also include environmental labeling.

Agency Contact: Robert McNally, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-3945

RIN: 2070–AC29

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Toxic Substances Control Act (TSCA) — **Proposed Rule Stage**

3571. ADDITION OF AIR TOXICS TO TOXIC RELEASE INVENTORY (TRI)

Legal Authority: 42 USC 11023/EPCRA 313; 42 USC 11048; 42 USC 11076

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: This action would add seventeen chemicals to the list of toxic chemicals subject to the reporting requirements of Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Sixteen of these chemicals are from a list of hazardous air pollutants subject to requirements of the Clean Air Act Amendments of 1990. Most of these hazardous air pollutants are already covered by Section 313 reporting including some categorical listings. Adding these chemicals will establish a Comprehensive Inventory of Air Toxics Releases and will also provide information on releases of these chemicals to other environmental media. The seventeenth chemical is to be added because it is extremely toxic to aquatic organisms.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3007.

Agency Contact: Susan B. Hazen, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-799), Washington, DC 20460, 202 260-1024

RIN: 2070–AC40

3572. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT SECTION 313 EXPANDED REPORTING REQUIREMENTS

Significance: Agency Priority

Legal Authority: 42 USC 11013/EPCRA 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The current Toxics Release Inventory is limited, both in the numbers of chemicals and types of facilities required to report. EPA is considering an expanded list of chemicals and facilities that will have to submit information for the Toxics Release Inventory. Rather than attempting a broad revision to the current regulation, EPA is attempting to selectively propose groupings of chemicals and industries to be added.

This is an amendment to a regulation that carries with it significant demands in the form of reporting requirements and data management. Therefore, the Agency is also considering options for reducing or eliminating the reporting burden, particularly for small sources.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 3034 and SAN No. 3095.

Agency Contact: Susan B. Hazen, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-799), Washington, DC 20460, 202 260-1024

RIN: 2070–AC47

3573. EPCRA SECTION 313 FORM R CORRECTIONS

Legal Authority: 42 USC 11001 and 11023/EPCRA 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The purpose of this action is to explore strategies for EPA's handling of an increasing volume of corrections or changes to Toxic Release Inventory (TRI) Form R reports that facilities have been voluntarily submitting to EPA. The volume of revisions to reports for all years has steadily increased, as has the Agency's burden of processing revised data. The burden of processing revised data has affected the Agency's processing of current TRI reports. This action may or may not result in a new policy or a rule concerning some or all types of revisions to TRI reports.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3052.

Agency Contact: Linda A. Travers, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-793), Washington, DC 20460, 202 260-3938

RIN: 2070–AC48

3574. RESPONSES TO PETITIONS RECEIVED TO ADD TO OR DELETE CHEMICALS FROM THE LIST OF TOXIC CHEMICALS UNDER SECTION 313 OF SARA

Legal Authority: 42 USC 11013/SARA (EPCRA) 313

CFR Citation: 40 CFR 372

Legal Deadline: Other, Statutory. For each of these petitions the Agency must either initiate rulemaking or provide an explanation for the denial in the Federal Register within 180 days.

Abstract: These actions grant or deny petitions received to add or delete chemicals from the list of toxic chemicals under Section 313 of the Superfund Amendments and Reauthorization Act (SARA) (also known as the Emergency Planning and Community Right to Know Act, EPCRA). The actions cover individual chemicals or groups of chemicals for which petitions have been received.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 2425.

Agency Contact: Susan B. Hazen, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-799), Washington, DC 20460, 202 260-1024

RIN: 2070–AC00

3575. • LEAD EXPOSURE REDUCTION; LEGISLATIVE MANDATES

Legal Authority: Residential Lead-based Paint Hazard Reduction Act of 1992

CFR Citation: 40 CFR Not yet determined

Legal Deadline: Final, Statutory, April 28, 1994.

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Abstract: The Residential Lead-based Paint Hazard Reduction Act of 1992 mandates EPA to: (1) promulgate regulations governing lead-based paint additives to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified; (2) to promulgate a model State program which may be adopted by any State which seeks to administer and enforce a State program; (3) to promulgate regulations for the disclosure of lead-based paint hazards in residential property offered for sale or lease; and (4) to promulgate regulations which identify lead-based paint hazards, lead-contaminated soil, and lead-contaminated dust.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3242, 3243, 3244, and 3245.

Agency Contact: Gina Bushong, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, TS-798, Washington, DC 20460, 202 260-3797

RIN: 2070–AC53

3576. DECISIONS ON TEST RULES: PROPOSED RULES

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: NPRM, Statutory. One year from ITC designation.

Abstract: The following table lists chemicals for which EPA will initiate rulemaking to require testing, obtain testing through negotiated consent orders, or publish a notice which provides the reasons for not doing so. The list includes chemicals which have been designated for priority testing consideration by the Interagency Testing Committee as well as those chemicals (i.e., recommended and non-designated chemicals) for which the 12-month statutory requirement does not apply. The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other EPA program offices and through EPA review processes.

Timetable:

Action	Date	FR Cite
IRIS I Chemicals (ITC List 27)		
NPRM	11/00/93	
IRIS II Chemicals (ITC List 28)		
NPRM	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. not yet assigned.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8130

RIN: 2070–AB07

3577. NEGOTIATED CONSENT ORDER PROCEDURAL TEST RULE (REVISION)

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 790

Legal Deadline: None

Abstract: This action will amend the testing consent order process to increase its efficiency. The consent order process was adopted by the Agency in June 1986. Based on experience to date, the Agency needs to make changes in the process to reduce the resources required for consent order negotiation. This rule would propose appropriate procedural changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/85	50 FR 20652
Interim Final Rule	06/30/86	51 FR 23706
Interim Final Rule (Technical Modification)	09/01/89	54 FR 36311
Interim Final Rule (Technical Modification)	09/01/89	54 FR 36311
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No 2245 and SAN No. 2657.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8130

RIN: 2070–AB30

3578. SARA SECTION 110 CHEMICALS GENERIC TEST RULE

Significance: Regulatory Program

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: This action would set forth the policies and procedures for using the Toxic Substances Control Act (TSCA) section 4 testing and authority to obtain toxicity and chemical fate testing to fill certain data needs identified in toxicity profiles of chemicals prepared pursuant to Section 110 of the Superfund Amendments and Reauthorization Act (SARA).

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2563.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8130

RIN: 2070–AB79

3579. MULTI-CHEMICAL ENDPOINT(S) TEST RULE

Significance: Regulatory Program

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799.5050

Legal Deadline: None

Abstract: A multi-chemical endpoint test rule will require the testing of many chemicals for a specific effect or endpoint, e.g., bioaccumulation. This type of rule is an alternative to single chemical rules which require testing of one chemical for many effects. The multi-chemical endpoint rule approach will obtain testing while conserving on Agency resources. The multi-chemical rule for persistent bioaccumulators will obtain environmental effects and chemical fate data on chemicals that are believed to persist and bioaccumulate in the environment. Emerging environmental concerns have

focused on sediments contaminated with chemicals which are persistent (do not degrade) and bioaccumulate (may enter the human food chain). In addition, such chemicals are also typically toxic to aquatic and terrestrial organisms. EPA has identified over 30 chemicals for possible inclusion in the bioaccumulator test rule. EPA is also considering developing a multi-chemical test rule to obtain needed health and environmental effects testing for the 189 chemicals listed under Section 112 of the Clean Air Act (CAA). These rules may be amended in the future to require (cont)

Timetable:

Action	Date	FR Cite
Bioaccumulators		
NPRM	03/00/94	
CAA Section 112 Chemicals		
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2865.

ABSTRACT CONT: the same testing for other chemicals. Also, future multi-chemical rules will require testing of additional endpoints and chemicals. The testing requirements for each chemical in a multi-chemical rule will be listed in a single table by chemical under Section 799.5050. This table will be amended with each publication of a new multi-chemical rule.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8130

RIN: 2070–AC36

3580. CHEMICAL SPECIFIC SIGNIFICANT NEW USE RULES (SNURS) TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Legal Authority: 15 USC 2604/TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: When the Agency determines that uncontrolled manufacture, import, processing, distribution, use or disposal of a premanufacture notification notice (PMN) substance may present an unreasonable risk, it may issue a section 5(e) consent order to limit these activities. However, such orders apply only to the PMN submitter. Once the new substance is entered on the Toxic Substances Control Act (TSCA) chemical inventory, others can manufacture, import or process the substance without controls. Therefore, EPA extends the controls to apply to others by designating manufacture, import or processing of the substances for uses without the specified controls as significant new uses. Under the Expedited Follow-Up Rule, which became effective on October 10, 1989 (54 FR 31314), EPA routinely publishes batch SNURs containing routine section 5(e) and non-5(e) SNURs. However, certain activities, such as modifications, withdrawals, revocations, and SNURs upon which comments are received in the direct final publication process, are subject to notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
Alkylated Diphenyl Oxide (modification: 84-1079)		
Final Action	11/18/92	(57 FR 54304)
Batch SNUR: 84-660/-704, 84-105/-106 & -107, 85-433		
NPRM	06/00/93	
Polymer of Substituted Aryl Olephin (85-612)		
REPROPOSAL	04/00/93	
Pyridine Batch (modification: 50584 B)		
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. not yet assigned.

Agency Contact: Stuart McArthur, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8994

RIN: 2070–AB27

3581. GENERIC SIGNIFICANT NEW USE RULE (SNUR) FOR ACRYLATE COMPOUNDS

Legal Authority: 15 USC 2694/TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: The generic acrylate significant new use rule may require any person who proposes to manufacture, import, or process an acrylate/methacrylate subject to the category definition contained within the proposed rule to notify EPA at least 90 days in advance of the initiation of manufacture or processing for a significant new use. The significant new use rule will apply to a subset of acrylates and methacrylates added to the inventory after the effective date of the rule. It will no longer be necessary to issue routine 5(e) orders or chemical specific SNURs for those acrylates covered by the rule.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 2247.

Agency Contact: James Alwood, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-1857

RIN: 2070–AB56

3582. RULEMAKING CONCERNING CERTAIN MICROBIAL PRODUCTS ("BIOTECHNOLOGY") UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA)

Significance: Regulatory Program

Legal Authority: 15 USC 2604/TSCA 5

CFR Citation: 40 CFR 700; 40 CFR 720; 40 CFR 721

Legal Deadline: None

Abstract: EPA is planning to propose a regulation under the Toxic Substances Control Act (TSCA) for the oversight of certain microbial products of biotechnology. The proposed rule would be issued under the authority of Section 5 of TSCA, which generally requires that new chemical substances must be reviewed by EPA before they are introduced into commerce.

The proposed rule will contain mechanisms for exemption as well as actual proposed exemptions, guidance on how the TSCA Inventory will be used, and EPA's approach to Research and Development with biotechnology microorganisms.

Timetable:

Action	Date	FR Cite
Notice	02/15/89	54 FR 7026
NPRM	11/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

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Additional Information: SAN No. 2325 (SNUR for Certain Biotech Products); SAN No. 2326 (PMN for Certain Biotech Products).

Agency Contact: Paul Campanella, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-3725

RIN: 2070–AB61

3583. REGULATORY INVESTIGATION UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA) TO REDUCE LEAD (PB) CONSUMPTION AND USE

Significance: Regulatory Program

Legal Authority: 15 USC 2604/TSCA 5; 15 USC 2605/TSCA 6

CFR Citation: 40 CFR 721; 40 CFR 750

Legal Deadline: None

Abstract: This action initiates a regulatory investigation under the Toxic Substances Control Act (TSCA) section 6 to determine if uses of lead (Pb) present an unreasonable risk to human health and the environment. The investigation will involve examination of the potential sources of human exposure to lead throughout the life cycle. Based on information gathered, EPA may propose TSCA section 6(a) rules to control existing or new uses of Pb which pose an unreasonable risk to human health or the environment, and to explore the desirability and feasibility of discouraging overall consumption of Pb in general. In particular, EPA has begun regulatory investigations on three uses of lead: solder in drinking water systems, plumbing fixtures, and fishing sinkers.

Timetable:

Action	Date	FR Cite
ANPRM	05/13/91	56 FR 22096
Fishing Sinkers		
NPRM	12/00/93	
Lead Solder		
NPRM	12/00/93	
Plumbing Fixtures		
NPRM	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2848. Regulatory Flexibility Analysis: Undetermined. Regulatory Impact Analysis: Undetermined.

Agency Contact: Doreen Cantor, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-1777

RIN: 2070–AC21

3584. PROPOSED FOLLOW-UP RULES ON NON-5(E) NEW CHEMICAL SUBSTANCES

Legal Authority: 15 USC 2604/TSCA 5; 15 USC 2607/TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to regulate the commercial development of new chemicals that have completed premanufacture notice (PMN) review where activities described in the PMN did not present an unreasonable risk but uncontrolled manufacture, import, processing, distribution, use, or disposal outside the activities described in the PMN may present an unreasonable risk. EPA will issue Significant New Use Rules (SNURs) requiring 90-day notification to EPA from any manufacturer, importer, or processor, who would engage in activities that are designated as significant new uses.

Timetable:

Action	Date	FR Cite
Aluminum Cross-linked Sodium Carboxymethylcellulose		
NPRM	04/00/93	
Dialkyldialkoxysilane		
NPRM	08/19/92	(57 FR 37499)
Notice of Extended Comment Period	11/10/92	(57 FR 53461)
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 1976.

Agency Contact: Stuart McArthur, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8994

RIN: 2070–AC38

3585. REGULATORY INVESTIGATION OF FORMALDEHYDE

Significance: Regulatory Program

Legal Authority: 15 USC 2603/TSCA 4; 15 USC 2605/TSCA 6; 15 USC 2608/TSCA 9

CFR Citation: 40 CFR 765

Legal Deadline: None

Abstract: As described in the Federal Register on May 23, 1984, the Agency has been investigating regulatory options for reducing the exposure to formaldehyde of: (1) residents exposed to formaldehyde emissions from wood products used in the construction of manufactured homes; (2) similarly exposed residents of conventional homes; and (3) apparel manufacture employees exposed to formaldehyde released from treated fabrics. When the Occupational Safety and Health Administration (OSHA) proposed a revised workplace standard in December 1985 that applies to all occupational exposure, EPA terminated its investigation with respect to apparel manufacturing employees. An investigation of risks from exposure to formaldehyde emissions from wood products is being conducted in consultation with the Department of Housing and Urban Development (HUD) and the Consumer Product Safety Commission (CPSC). Toxic Substances Control Act (TSCA) sections 4 and 6 regulations may be developed to address certain pressed wood products that contain urea formaldehyde resins.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/84	49 FR 21870
Pressed Wood Products		
NPRM	00/00/00	
Termination for Apparel Workers		
Section 9(d) Notice	03/19/84	(49 FR 21870)

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2146.

Agency Contact: George Semeniuk, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-2134

RIN: 2070–AB14

3586. POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL AMENDMENTS

Significance: Regulatory Program

Legal Authority: 15 USC 2605(e)(1)(A)/TSCA 6(e)

CFR Citation: 40 CFR 761, subparts C, D, E, G

Legal Deadline: None

Abstract: The ANPRM solicits comments on alternate disposal methods for non-liquid PCBs and invites public input on modifications to the PCB disposal regulations. In February 1990, several parties petitioned EPA under Section 21 of TSCA to amend the regulations at 40 CFR 761, which govern the disposal of PCBs, and issue an interpretive rule or declaratory order construing the existing PCB disposal regulations. In responding to the petition, EPA agreed to initiate a regulatory investigation to determine whether or not to amend the disposal regulations. After analyzing the comments received in response to the ANPRM, a proposed rule will be drafted which will also address alternative disposal methods for newly identified scenarios such as large volume solids; mixed wastes such as PCB/radioactive wastes; and other issues, such as disposal of household wastes, small capacitors, and used paints. This notice will also solicit comments on a modification to the disposal regulations which would allow for the recognition of PCB waste management activities under other Federal or State authorities.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/91	56 FR 26738
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2878.

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-798), Washington, DC 20460, 202 260-3933

RIN: 2070–AC01

3587. POLYCHLORINATED BIPHENYLS (PCBS) TRANSFORMER RECLASSIFICATION RULE

Legal Authority: 15 USC 2605/TSCA 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: This rule would relax the regulatory requirements for reclassifying PCB transformers to a lower regulatory status by modifying the current reclassification requirements of 50 degree centigrade temperature and 90-day testing. Results of a preliminary analysis indicate that many transformers never reach the required temperature, but still reduce PCB concentrations and that safety risks to employees and to the general public occur in mandating the continued adherence to the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3021.

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-798), Washington, DC 20460, 202 260-3935

RIN: 2070–AC39

3588. • PROHIBITION OF HEXAVALENT CHROMIUM IN COMFORT COOLING TOWERS; APPLICATION OF TSCA SECTION 12B EXPORT NOTIFICATION: PROPOSED AMENDMENT

Legal Authority: 15 USC 2605/TSCA 6; 15 USC 2611(b)/TSCA 12(b)

CFR Citation: 40 CFR 749

Legal Deadline: NPRM, Judicial, August 15, 1993. Final, Judicial, August 15, 1994.

Abstract: EPA will propose an amendment to the TSCA Section 6 Hexavalent Chromium Rule to narrow the Agency's interpretation of TSCA Section 12(b) as it applies to the Rule. Under the proposal, export notification would be required for the hexavalent chromium water treatment chemicals rather than any compound containing hexavalent chromium.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	05/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3249.

Agency Contact: Geraldine Gardner, Environmental Protection Agency, Office of Enforcement, LE-134P, Washington, DC 20460, 202 260-8858

RIN: 2070–AC57

3589. AMENDMENT TO THE TSCA SECTION 8(A) COMPREHENSIVE ASSESSMENT INFORMATION RULE (CAIR)

Legal Authority: 15 USC 2607(a)/TSCA 8(a)

CFR Citation: 40 CFR 704 (Revision)

Legal Deadline: None

Abstract: This proposed rule will amend certain aspects of the CAIR. The CAIR is a model rule designed to gather production, use, and exposure information from chemical manufacturers, importers, and processors of listed chemical substances and mixtures. In response to public comments, EPA is considering revision of the CAIR to: establish exemptions for small and de minimis volumes; refine trade name reporting requirements; reduce certain advance substantiation requirements for Confidential Business Information (CBI) claims; and define processing activities using processor subclasses.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2129.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8130

RIN: 2070–AC19

3590. PROPOSED FOLLOW-UP RULES ON EXISTING CHEMICALS

Legal Authority: 15 USC 2604/TSCA 5; 15 USC 2607/TSCA 8

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EPA—TSCA

Proposed Rule Stage

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 8 to require reporting by the manufacturers, importers and/or processors of these chemicals. Proposed rules may be published on at least the chemicals listed on the timetable below.

Timetable:

Chloranil
NPRM 05/00/93
Lead
NPRM 12/00/93
Refractory Ceramic Fiber
NPRM 12/00/93

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 1923

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8130

RIN: 2070–AC37

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Toxic Substances Control Act (TSCA)

3591. MANDATORY POLLUTION PREVENTION REPORTING FOR TOXIC RELEASE INVENTORY (TRI)

Legal Authority: 42 USC 11013/Pollution Prevention Act of 1990

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: This proposed regulation would implement the "Source Reduction and Recycling Report" provision of the Pollution Prevention Act of 1990. Under this requirement, facilities that file EPA Form R must include information on the amount of the chemical entering wastestreams prior to treatment, recycling or disposal, amounts that are treated or recycled both on-site and off-site and projections for the following two years of expected amounts treated and recycled. Additional information will identify types of pollution prevention activities employed by the facility and other information that will allow the data user to identify progress toward toxic chemical use reduction

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48475
Finalization of Form R	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis, Regulatory Flexibility Analysis

Additional Information: SAN No. 2847.

EPA will conduct a formal Policy Dialogue, during FY'93, on issues raised by the proposed rule and Reporting Form under the Paperwork Reduction Act.

Agency Contact: Susan B. Hazen, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-799), Washington, DC 20460, 202 260-1024

RIN: 2070–AC24

3592. DECISION ON TEST RULES: FINAL RULES

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: The following table lists chemicals for which EPA has issued proposed test rules and will take final action under the Toxic Substances Control Act (TSCA) section 4. The Agency defines final action as a promulgation of a test rule, issuance of a consent order, withdrawal of a proposed test rule or a decision not to test. (See also Decision on Test Rules: Proposed Rules under RIN: 2070-AB07.)

Timetable:

Aryl Phosphates (ITC List 2)
ANPRM 12/29/83 (48 FR 57452)
NPRM 01/17/92 (57 FR 2138)
Final Action 11/00/93
Brominated Flame Retardants
NPRM 06/25/91 (56 FR 29140)
Final Action 06/00/94
Cyclohexane (ITC List 18)
NPRM 05/20/87 (52 FR 19096)
Final Action 09/00/93
Glycidols (ITC List 3)
ANPRM 12/30/83 (48 FR 57562)
NPRM 11/07/91 (56 FR 51744)
Final Action 10/00/93
Hexamethylene Diisocyanate (ITC List 22)
NPRM 05/17/89 (54 FR 21240)
Final Action 07/00/93
N-Methylpyrrolidone
NPRM 03/28/90 (55 FR 11398)
Final Action 10/00/93
Office of Drinking Water Chemicals
NPRM 05/24/90 (55 FR 21393)
Final Action 07/00/93

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. not yet assigned.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8130

RIN: 2070–AB94

3593. MULTI-CHEMICAL ENDPOINT(S) TEST RULE

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799.5050

Legal Deadline: None

Abstract: A multi-chemical endpoint test rule will require the testing of many chemicals for a specific effect or endpoint, e.g., neurotoxicity. This type of rule is an alternative to single chemical rules which require testing of one chemical for many effects. The multi-chemical endpoint rule approach will obtain a significant amount of testing while conserving on Agency resources. The multi-chemical rule for developmental and reproductive toxicity testing will require testing of twelve chemicals for developmental and/or reproductive effects; the multi-chemical rule for neurotoxicity testing will obtain base set neurotoxicity testing of ten high production solvents. These rules may be amended in the future to require the same testing for other chemicals. Also, future multi-chemical rules will require testing of additional endpoints and chemicals.

EPA—TSCA

Final Rule Stage

The testing requirements for each chemical in a multi-chemical rule will be listed in a single table by chemical under section 799.5050. This table will be amended with each publication of a new multi-chemical rule.

Timetable:

Multi-Chemical Rule for Developmental and Reproductive Toxicity
NPRM 03/04/91 (56 FR 9092)
Final Action 05/00/93
Multi-Chemical Rule for Neurotoxicity
NPRM 03/04/91 (56 FR 9105)
Final Action 08/00/93

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2865.

Regulatory Flexibility Analysis: Undetermined.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8130

RIN: 2070–AC27

3594. TSCA SECTION 4(A)(1)(B) POLICY STATEMENT

Legal Authority: 15 USC 2603

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: EPA is publishing its policies for evaluating substantial production, substantial environmental release, and substantial human exposure criteria, set forth in Section 4(a)(1)(B) rulemaking activities. Under this new policy, threshold values are established for each criterion, rather than case-by-case determinations. EPA extended the comment period on three proposed rules affected by this policy.

Timetable:

Action	Date	FR Cite
Proposed Policy Statement	07/15/91	56 FR 32295
Final Policy Statement	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2881.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8130

RIN: 2070–AC31

3595. FINAL FOLLOW-UP RULES ON EXISTING CHEMICALS

Legal Authority: 15 USC 2604/TSCA 5; 15 USC 2607/TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 8 to require reporting by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below.

Timetable:

Amine Contain. Metalwking Fluids w/ Potassium or Sodium Nitrites
NPRM 01/24/91 (56 FR 2733)
Final Action 12/00/93
Aromatic Ether Diamines
NPRM 05/30/90 (55 FR 21877)
Final Action 12/00/93
Erionite Fiber
NPRM 01/25/91 (56 FR 2889)
Final Action 11/12/91 (56 FR 56470)
2,4-Pentanedione
NPRM 09/27/89 (54 FR 39548)
Final Action 12/00/93

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 1923.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8130

RIN: 2070–AA58

3596. FINAL FOLLOW-UP RULES ON NON-5(E) NEW CHEMICAL SUBSTANCES

Legal Authority: 15 USC 2604/TSCA 5; 15 USC 2607/TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to regulate the commercial development of new chemicals that have completed premanufacture notice (PMN) review where activities described in the PMN did not present an unreasonable risk but uncontrolled manufacture, import, processing, distribution, use, or disposal outside the activities described in the PMN may present an unreasonable risk. EPA will issue Significant New Use Rules (SNURs) requiring 90-day notification to EPA from any manufacturer, importer, or processor who would engage in activities that are designated as significant new uses. Under the Expedited Follow-up Rule which became effective on October 12, 1989, EPA will identify such new chemicals and publish them in a batch SNUR 6-12 times per year. Chemicals that were subject to a proposed SNUR before the effective date of the EFUR or do not qualify under the EFUR may be regulated individually by notice and comment rulemaking.

Timetable:

Alkyl, Sulfonic Acid, Ammonium Salt (84-1056)
NPRM 06/11/86 (51 FR 21199)
Final Action 07/00/93
Dinitrophenyl Azo-2,4-Diamino-5-Methoxybenzene Derivatives
NPRM 10/25/84 (49 FR 42960)
Final Action 07/00/93
Diphenyl-2,4,6-Trimethylbenzol Phosphine Oxide (87-586)
NPRM 02/02/88 (53 FR 2857)
Final Action 07/00/93
1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)
NPRM 12/08/87 (52 FR 46496)
Final Action 07/00/93

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 1976.

Agency Contact: Stuart McArthur, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8994

RIN: 2070–AA59

3597. PREMANUFACTURE NOTIFICATION (PMN) RULE AMENDMENTS

Legal Authority: 15 USC 2604; 15 USC 2607; 15 USC 2613/TSCA 5

CFR Citation: 40 CFR 720 to 723

Legal Deadline: None

Abstract: This action will amend the PMN rules (40 CFR 720 to 723) under Section 5 of the Toxic Substances

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Control Act (TSCA) to conform to current policy needs. These changes are necessary to increase efficiency and incorporate proposed program improvements. They are expected to reduce the administrative burdens/cost of the New Chemicals Program and the overall number of Section 5 submissions while maintaining an effective and environmentally sound program. EPA has identified "low-risk" categories that meet certain established criteria and can be screened out of the full PMN review process at an early date based on low health/environmental concern or low exposure scenarios. EPA would like to reduce the burden to PMN submitters and maximize the efficiency and resources of the program by modifying the rule to reduce reporting requirements for low risk categories. This would enable the Agency to reduce the number of Section 5 submissions and concentrate its resources on PMNs with potential health or environmental concerns.

Timetable:

Action	Date	FR Cite
NPRM	01/19/93	58 FR 4993
Final Action	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No 2760.

Agency Contact: Mary Cushmac, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, **202 260-4443**

RIN: 2070–AC14

3598. POLYCHLORINATED BIPHENYLS (PCBS): APPLICATIONS FOR EXEMPTIONS FROM THE BAN ON MANUFACTURING, PROCESSING, AND DISTRIBUTION

Legal Authority: 15 USC 2605TSCA 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA) provides that the Administrator may grant, by rule, exemptions from the prohibitions on the manufacturing, processing, and distribution in commerce of PCBs upon finding: 1) that granting the exemption will not pose an unreasonable risk of injury to health or the environment; and 2) that good faith efforts have been made to develop a PCB substitute which does not pose an unreasonable risk of injury to health or the environment.

Timetable:

Action	Date	FR Cite
NPRM	03/02/92	57 FR 7439
NPRM Comment Period End	04/16/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2150.

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-798), Washington, DC 20460, **202 260-3935**

RIN: 2070–AB20

3599. PROCEDURES AND CRITERIA FOR TERMINATION OF POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL PERMITS

Legal Authority: 15 USC 2605/TSCA 6(e); 5 USC 556 et seq

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Under section 6(e) of the Toxic Substances Control Act (TSCA), the Agency is considering establishing uniform procedures and criteria for the revocation and suspension of TSCA PCB disposal permits. The regulation would establish uniform revocation procedures and criteria, thereby ensuring consistency in permit revocation proceedings.

Timetable:

Action	Date	FR Cite
NPRM	11/02/90	55 FR 46470
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2560.

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-798), Washington, DC 20460, **202 260-3935**

RIN: 2070–AB81

3600. REGULATORY INVESTIGATION OF DIOXIN IN PULP AND PAPER MILL SLUDGE

Significance: Regulatory Program

Legal Authority: 15 USC 2605/TSCA 6

CFR Citation: 40 CFR 744

Legal Deadline: NPRM, Judicial, April 30, 1991. Final, Judicial, November 30, 1992.
The Consent Decree between EPA, EDF, and NWF signed July 27, 1988, requires that EPA make best efforts to issue a final rule by November 30, 1992.

Abstract: The objective of this project is to reduce the unreasonable risks posed by dioxins and furans in bleached wood pulp and paper mill industrial sludge. In response to a July 1988 Consent Decree with the Environmental Defense Fund and the National Wildlife Federation, EPA announced on April 30, 1990, its schedule for a proposed rule under the Toxic Substances Control Act (TSCA), addressing the practice of industrial sludge land application, including mine reclamation and distribution/marketing. The Consent Decree required that this rule be proposed by April 30, 1991, and that EPA make its best efforts to issue a final rule by November 30, 1992. The analysis of new data received during the public comment period and by the Office of Water under section 308 of the Clean Water Act may require an additional comment period and delay promulgation of the final rule. On December 14, 1992, EPA informed EDF and NWF of the status of its efforts to evaluate and control risks from the land application of sludge produced from the treatment of wastewater from pulp and paper mills using chlorine and chlorine-derivative bleaching processes. (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/10/91	56 FR 21802
Response letter to EDF & NWF	12/14/92	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2844.

ABSTRACT CONT: The EPA Office of Water and Office of Air Quality Planning and Standards are in the process of developing integrated effluent guidelines and emission standards for the pulp and paper industry. In light of these proceedings and to promote multi-media pollution prevention, the Agency has chosen to defer the decision on promulgation of the final land application rule to take into account the effect of the process changes under consideration for these rules on the resulting levels of dioxin and furan contamination in the sludge. Once this determination has been made, the Agency will re-evaluate the risk from sludge land application and will be able to choose, if necessary, the appropriate regulatory or non-regulatory mechanism to address the situation. The Agency expects to make this determination in 1995. In the interim, the Agency plans to pursue a voluntary program with industry and States to reduce risk.

Agency Contact: Robert McNally, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, Washington, DC 20460, (TS-794), **202 260-3945**

RIN: 2070–AC05

3601. POLYCHLORINATED BIPHENYLS (PCBS): WET WEIGHT/ DRY WEIGHT CLARIFICATION

Legal Authority: 15 USC 2605/TSCA 6(e); 5 USC 556/et seq

CFR Citation: 40 CFR 761.1(b)

Legal Deadline: None

Abstract: Under section 6(e) of the Toxic Substances Control Act (TSCA), the Agency is proposing to reinstate the phrase "on a dry weight basis" to 40 CFR 761.1(b). This phrase was inadvertently omitted from the PCB final rule that was published in the Federal Register on July 10, 1984 (49 FR 28172). This action was withdrawn from OMB review on January 13, 1993. It will either be resubmitted at a later date or incorporated into the PCB Disposal Amendments.

Timetable:

Action	Date	FR Cite
NPRM	04/06/90	55 FR 12866
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2750.

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-798), Washington, DC 20460, **202 260-3935**

RIN: 2070–AC16

3602. USE OF ACRYLAMIDE AND N-METHYLOLACRYLAMIDE (NMA) FOR GROUTING

Significance: Regulatory Program

Legal Authority: 15 USC 2605/TSCA 6

CFR Citation: 40 CFR 764

Legal Deadline: None

Abstract: On October 2, 1991, EPA proposed a regulation of acrylamide and NMA grouts based on the unreasonable risk associated with their usage. EPA's proposed rule would prohibit the manufacture, distribution in commerce, and use of acrylamide grout; and would prohibit all uses of NMA grout, except its use for sewer line repair. The proposed rule would also prohibit, after a period of three years, the manufacture and distribution in commerce of NMA grout for any purpose, and the use of NMA grout for sewer line repair. EPA will review the public comments and develop a final rule.

Timetable:

Action	Date	FR Cite
NPRM	10/02/91	56 FR 49863
Final Action	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2779.

Agency Contact: Robert C. McNally, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, **202 260-3945**

RIN: 2070–AC17

3603. REVISED ASBESTOS MODEL ACCREDITATION PLAN

Legal Authority: 15 USC 2646/TSCA 6

CFR Citation: 40 CFR 763

Legal Deadline: Final, Statutory, November 28, 1992.

Abstract: The Asbestos School Hazard Abatement Reauthorization Act (ASHARA) amended TSCA to require that EPA revise its asbestos model accreditation plan to extend training and accreditation requirements to include persons performing certain asbestos-related work in public and commercial buildings, to increase the minimum number of training hours required for accreditation purposes and to effect other changes necessary to implement the amendments. This action will increase regulatory costs for the owners and managers of public and commercial building, but will also reduce asbestos exposures in these buildings.

Timetable:

Action	Date	FR Cite
NPRM	05/13/92	57 FR 20438
Interim Final Rule	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 3148.

Agency Contact: Gina Bushong, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-798), Washington, DC 20460, **202 260-3797**

RIN: 2070–AC51

3604. SECTION 8(A) PRELIMINARY ASSESSMENT INFORMATION RULES

Legal Authority: 15 USC 2607a/TSCA 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and designated mixtures subject to the requirements of the Toxic Substances Control Act Section 8(a) Preliminary Assessment Information Rule (40 CFR part 712). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these

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substances and the avenues of human and environmental exposure to these substances. These data will also support risk assessment and test rule decisions.

Timetable:

Action	Date	FR Cite
Final Action 26th ITC List Chemicals	06/05/90	55 FR 23050
Final Action 27th ITC List Chemicals	08/29/91	56 FR 42688
Final Action 28th ITC List Chemicals	06/00/93	
Final Action 29th ITC List Chemicals	06/00/93	
Final Action 30th ITC List Chemicals	06/00/93	
Final Action 31st ITC List Chemicals	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2178.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8130

RIN: 2070–AB08

3605. SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULES

Legal Authority: 15 USC 2607(d)/TSCA 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and mixtures subject to the requirements of the Toxic Substances Control Act Section 8(d) Health and Safety Data Reporting Rule. These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee. Manufacturers, importers, and processors of substances listed under Section 8(d) at 40 CFR 716.120 must submit unpublished health and safety data on those substances.

Timetable:

Action	Date	FR Cite
Final Action 26th ITC List Chemicals	06/05/90	55 FR 23050
Final Action 27th ITC List Chemicals	08/29/91	56 FR 42688
Final Action 28th ITC List Chemicals	06/00/93	
Final Action 29th ITC List Chemicals	06/00/93	
Final Action 30th ITC List Chemicals	06/00/93	
Final Action 31st ITC List Chemicals	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 1139.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-794), Washington, DC 20460, 202 260-8130

RIN: 2070–AB11

3606. EXPORT NOTIFICATION REQUIREMENTS; CHANGES TO REPORTING REQUIREMENTS

Legal Authority: 15 USC 2111/TSCA 12

CFR Citation: 40 CFR 707

Legal Deadline: None

Abstract: The amendment will change the current annual export notification requirement for exporters of chemicals subject to test rules under Section 4 of the Toxic Substances Control Act (TSCA) to a one-time export notification requirement. Additionally, the amendment will change the current process internally within the Office of Pollution Prevention and Toxics by providing only one notice of export per Section 4 chemical to each importing country rather than annually.

This change in the regulation will reduce the paperwork burden to EPA and industry while increasing the value of the notifications to importing countries by emphasizing, through continued yearly notifications, exports of chemicals which are of greater concern. Alternative burden reduction mechanisms will be considered including adopting a percentage cut-off for mixtures and requiring one-time notification for chemicals the subject of TSCA Section 5 actions, among others.

Timetable:

Action	Date	FR Cite
NPRM	07/12/89	54 FR 29524
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2904.

Agency Contact: James B. Willis, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (TS-799), Washington, DC 20460, 202 260-1024

RIN: 2070–AC28

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Toxic Substances Control Act (TSCA) — **Completed Actions**

3607. MASTER TESTING LIST

CFR Citation 40 CFR 799

Completed:

Reason	Date	FR Cite
Notice of Availability	12/23/92	57 FR 61240

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Kover, 202 260-8130

RIN: 2070–AC30

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Water Act (CWA) — **Prerule Stage**

3608. • WATER QUALITY STANDARDS REVISIONS

Legal Authority: 33 USC 1313(c) /CWA 303(c)

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: EPA is taking this action to seek public comment on possible revisions to the Water Quality Standards Regulations.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/93	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 3253.

Agency Contact: David K. Sabock, Environmental Protection Agency, Water, (WH-585), Washington, DC 20460, 202 260-1318

RIN: 2040–AC15

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Water Act (CWA) — **Proposed Rule Stage**

3609. WATER QUALITY GUIDANCE FOR THE GREAT LAKES SYSTEM

Significance: Regulatory Program

Legal Authority: 33 USC 1251/CWA 118(c)(2)

CFR Citation: 40 CFR 132

Legal Deadline: NPRM, Statutory, June 30, 1991. Final, Statutory, June 30, 1992. NPRM, Judicial, April 16, 1993.

Abstract: The Great Lakes are a valuable national resource, with unique environmental problems. In 1990 the Great Lakes Critical Programs Act was enacted, requiring States to adopt minimum water quality standards for the protection of the Great Lakes System. This regulation constitutes the Water Quality Guidance for the Great Lakes System required by section 118(c)(2) of the Clean Water Act (Pub. L. 92-500 as amended by the Great Lakes Critical Programs Act of 1990, Pub. L. 101-596). This guidance specifies minimum water quality standards, antidegradation policies, and implementation procedures for the Great Lakes System to protect human health, aquatic life, and wildlife.

Timetable:

Final Guidance	
FINAL	00/00/00
Proposed Guidance	
NPRM	04/00/93

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 3203.

Agency Contact: James A. Hanlon, Environmental Protection Agency, Water, (WH-551), Washington, DC 20460, 202 260-5400

RIN: 2040–AC08

3610. EFFLUENT GUIDELINES AND STANDARDS FOR THE PHARMACEUTICAL MANUFACTURING CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 439

Legal Deadline: NPRM, Judicial, August 1994. Final, Judicial, February 1996.
Dates contained in Consent Decree (NRDC v. Reilly).

Abstract: The Agency will review and revise as appropriate the effluent limitation guidelines and standards for the pharmaceutical manufacturing industry. A major part of the review will consider the inclusion of limitations on toxic and non-conventional volatile organic pollutants. The 1983 proposal covering New Source Performance Standards (NSPS) for conventional pollutants will also be reevaluated.

Timetable:

Action	Date	FR Cite
NPRM (NSPS)	10/27/83	48 FR 49832
NPRM	08/00/94	
Final Action	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 1427.

Agency Contact: Frank Hund, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 260-7182

RIN: 2040–AA13

3611. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 430

Legal Deadline: NPRM, Judicial, October 31, 1993. Final, Judicial, September 30, 1995.
These dates are contained in Consent Decree (EDF and NWF v. Reilly).

Abstract: EPA will revise the existing Best Practicable Technology (BPT), Best Conventional Pollution Control (BCT), Best Available Technology (BAT), New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES), and Pretreatment Standards for New Sources (PSNS). The Agency is developing these revised effluent limitations in conjunction with development of maximum achievable control technology (MACT) standards, which limit air emissions under the Clean Air Act. (See separate Agenda entry, "NESHAP: Pulp and Paper, in the Clean Air Act section, RIN 2060-AD03.)

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
Final Action	09/00/95	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2712.

Agency Contact: Debra Nicoll, Environmental Protection Agency,

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Water, (WH-552), Washington, DC 20460, 202 260-5386

RIN: 2040–AB53

3612. EFFLUENT GUIDELINES AND STANDARDS FOR THE COASTAL SUBCATEGORY OF THE OIL AND GAS EXTRACTION CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501; 33 USC 1311/CWA 301

CFR Citation: 40 CFR 435, subpart D

Legal Deadline: NPRM, Judicial, January 1995. Final, Judicial, July 1996. Dates contained in Consent Decree (NRDC v. Reilly).

Abstract: EPA will propose effluent limitation guidelines based on Best Available Technology (BAT), Best Conventional Technology (BCT), and New Source Performance Standards (NSPS) for coastal oil and gas extraction facilities. This regulation will apply to the facilities involved in exploration, development and production operations.

Timetable:

Action	Date	FR Cite
Notice	11/08/89	54 FR 46919
NPRM	01/00/95	
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2747.

Agency Contact: Allison Wiedeman, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 260-7179

RIN: 2040–AB72

3613. EFFLUENT GUIDELINES AND STANDARDS FOR THE WASTE TREATMENT CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 437

Legal Deadline: NPRM, Judicial, April 1994. Final, Judicial, January 1996. The April 1994 and January 1996 deadlines are for Phase I. For Phase II, there are judicial deadlines of 1995 for the NPRM and 1997 for the Final.

Abstract: The Waste Treatment Category consists of three groups of facilities: (a) Centralized Waste Treaters (CWT) that receive wastes from off-site for treatment or recovery (excluding solvent recovery); (b) industrial incinerators and thermal destruction units; and (c) municipal and hazardous waste landfills with leachate collection. The Agency is developing regulations for waste treatment facilities in two phases. The Phase I regulation will cover CWT facilities. The Phase II regulation will cover incinerators, thermal destruction units, and landfills.

Timetable:

Phase I
NPRM 04/00/94
Final Action 01/00/96
Phase II
NPRM 12/00/95
Final Action 12/00/97

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2805.

Agency Contact: Debra DiCianna, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 260-7141

RIN: 2040–AB78

3614. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 438

Legal Deadline: NPRM, Judicial, November 1994. Final, Judicial, May 1996.
Deadlines are for Phase I. Dates are contained in Consent Decree (NRDC v. Reilly).

Abstract: EPA will propose effluent limitation guidelines for facilities that generate wastewater while processing metal parts, metal products, and machinery, including manufacture, assembly, rebuilding, repair and maintenance. The Phase I regulation will cover seven major industrial groups: Aircraft, Aerospace, Hardware (including Machine Tools, Screw Machines, Metal Forging and Stamping, Metal Springs, Heating Equipment, Fabricated Structural Metal), Ordnance, Stationary Industrial Equipment (including Electrical Equipment), Mobile Industrial Equipment, and Electronic Equipment (including Communication Equipment). This category was formerly called "Machinery Manufacturing and Rebuilding."

Timetable:

Phase I
NPRM 11/00/94
Final Action 05/00/96

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2806.

Agency Contact: Elwood Forsht, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 260-7190

RIN: 2040–AB79

3615. EFFLUENT GUIDELINES AND STANDARDS FOR THE INDUSTRIAL LAUNDRIES CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1311/CWA 307; 33 USC 1314/CWA 304; 33 USC 1361/CWA 501; 33 USC 1316/CWA 306

CFR Citation: 40 CFR 441

Legal Deadline: NPRM, Judicial, December 1996. Final, Judicial, December 1998.
Dates contained in consent decree (NRDC v. Reilly).

Abstract: EPA will propose effluent limitation guidelines for Industrial Laundries, which supply laundered and dry-cleaned work uniforms, wiping towels, safety equipment (such as gloves and flame-resistant clothing), dust covers and cloths, and similar items to industrial and commercial users.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3209.

Agency Contact: Susan Burris, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 260-5379

RIN: 2040–AB97

3616. EFFLUENT GUIDELINES AND STANDARDS FOR THE TRANSPORTATION EQUIPMENT CLEANING CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1317/CWA 307; 33 USC 1314/CWA 304; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 442

Legal Deadline: NPRM, Judicial, December 1996. Final, Judicial, December 1998.
Dates contained in Consent Decree (NRDC v. Reilly).

Abstract: EPA will propose effluent limitation guidelines for transportation equipment cleaning facilities, which service tank trucks, railroad tank cars, tank barges, and aircraft exteriors (cleaning and de-icing).

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3204.

Agency Contact: Donald F. Anderson, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 260-7137

RIN: 2040–AB98

3617. • NPDES APPLICATION REGULATIONS FOR STORM WATER DISCHARGES AND MUNICIPAL SEPARATE STORM WATER SEWER SYSTEMS AFFECTED BY THE RESULTS OF THE 1990 CENSUS

Legal Authority: 33 USC 1251 / CWA 304

CFR Citation: 40 CFR 122, Appendices F, G, H, I

Legal Deadline: None

Abstract: This action would incorporate data from the 1990 decennial census to update several appendices in the regulations that identify large and medium municipal separate storm sewer systems. In addition, the rule would correct the definition of a municipal separate storm sewer systems to reflect the results of future censuses. The rule would also propose application deadlines for new storm sewer systems added to the appendices of 40 CFR 122 as well as systems added in the future.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: SAN No. 3270.

Agency Contact: William D. Tate, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 260-6963

RIN: 2040–AC16

3618. NPDES PERMIT APPLICATION STANDARD FORM A AND SHORT FORM A (REVISION)

Legal Authority: 33 USC 1342/CWA 402; 33 USC 1311/CWA 301

CFR Citation: 40 CFR 122.21(j)

Legal Deadline: None

Abstract: This action would revise the current NPDES Permit Application Standard Form A (municipal) and Short Form A (municipal) to reflect amendments to the Clean Water Act and changes in program requirements and emphasis. The new application forms must replace the old versions and enable permit writers to obtain more pertinent information regarding expected discharges and the environmental impact of proposed operations.

Timetable:

Action	Date	FR Cite
NPRM (Municipal Forms)	09/00/93	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2501.

Agency Contact: George Utting, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 260-9530

RIN: 2040–AB39

3619. DENIAL OR RESTRICTION OF DISPOSAL SITES (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1344/CWA 404(c)

CFR Citation: 40 CFR 231

Legal Deadline: None

Abstract: This action will revise EPA's existing 404(c) regulations, in effect since October 9, 1979. It will amend the procedures to be used when EPA is considering the use of Section 404(c) of the CWA to prevent the discharge of dredged or fill material into a defined area of the waters of the United States. Section 404(c) gives the Administrator authority to prohibit or withdraw the specification of a site as a disposal site or to deny or restrict use of a disposal site. The revisions will reflect our experiences to date under Section 404(c), and more clearly address use of 404(c) in advance of a specific proposed discharge.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2196.

Agency Contact: Gregory E. Peck, Environmental Protection Agency, Water, (A-104F), Washington, DC 20460, 202 260-1799

RIN: 2040–AB20

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3620. CLEAN WATER ACT SECTION 404 PROGRAM DEFINITION

Significance: Agency Priority

Legal Authority: 33 USC 1344 /CWA 404

CFR Citation: 40 CFR 232.2(q)

Legal Deadline: None

Abstract: This action would revise the definition of "waters of the U.S." by adding four examples to those currently contained under that definition. The intent of this action is to clarify aspects of the current definition which define waters, "the use, degradation or destruction of which would or could affect interstate or foreign commerce," as waters of the U.S. We are not proposing to address any aspects of the definition of "waters of the U.S." in this rulemaking other than those relating to these four examples.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2804.

Agency Contact: Gregory E. Peck, Environmental Protection Agency, Water, (A-104F), Washington, DC 20460, 202 260-1799

RIN: 2040–AB74

3621. CLEAN WATER ACT SECTION 404 STATE PROGRAM REGULATIONS

Significance: Regulatory Program

Legal Authority: 33 USC 1344/CWA 404

CFR Citation: 40 CFR 233

Legal Deadline: None

Abstract: EPA issued revised regulations in 1988 specifying the procedures and requirements for approving and monitoring State wetlands protection programs. The regulations have been criticized for being burdensome and providing for excessive oversight of approved State programs. EPA will continue to consult with State officials while we work with the Corps of Engineers to revise the State Program Regulations and develop performance based criteria for the approval of State wetlands programs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAN No. 3198.

Agency Contact: Jeanne Melanson, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 260-6073

RIN: 2040–AC02

3622. • COMPARISON OF DREDGED MATERIAL TO A REFERENCE SEDIMENT

Significance: Agency Priority

Legal Authority: 33 USC 1344 /CWA 404

CFR Citation: 40 CFR 230

Legal Deadline: None

Abstract: This action would revise the testing provisions of the Clean Water Act section 404(b)(1) Guidelines by providing for comparisons between dredged material proposed for discharge and a reference sediment that is substantially free of contaminants. This action would make a technical improvement in the testing provisions and make dredged material testing more consistent with that under section 103 of the Marine Protection, Research, and Sanctuaries Act, which currently employs a reference sediment approach.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. not yet assigned.

Agency Contact: John Goodin, Environmental Protection Agency, Water, (A-104F), Washington, DC 20460, 202 260-9910

RIN: 2040–AC14

3623. REVISIONS TO OCEAN DUMPING REGULATIONS FOR DREDGED MATERIAL

Significance: Regulatory Program

Legal Authority: 33 USC 1401 et seq/ MPRSA

CFR Citation: 40 CFR 225; 40 CFR 227; 40 CFR 228

Legal Deadline: None

Abstract: This rulemaking would revise the regulations applicable to the ocean dumping of dredged material. Issuance of these regulations is necessary to respond to the decision in National Wildlife Federation vs. Costle, 629 F. 2d. 118 (DC Circuit 1980) and to incorporate program experience. The revisions will make necessary technical changes and will improve the clarity of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
Final Action	09/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2737.

Agency Contact: Catherine Crane, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 260-9177

RIN: 2040–AB62

3624. REORGANIZATION AND CORRECTIONS TO LIST OF OCEAN DUMPING SITES

Significance: Regulatory Program

Legal Authority: 33 USC 1401 et seq/ MPRSA

CFR Citation: 40 CFR 228.12

Legal Deadline: None

Abstract: This action is necessary to correct technical errors in the list of ocean dumping sites and to better organize the format in which ocean dumping sites are listed in the Code of Regulations. The revision would correct misprints and other technical errors, and organize the list of sites by EPA region and type of material.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected None

Additional Information: SAN No. 2736.

Agency Contact: Susan Hitch, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 260-9178

RIN: 2040–AB63

3625. SHORE PROTECTION ACT, SECTION 4103(B) REGULATIONS

Legal Authority: 33 USC 2601/Shore Protection Act of 1988 (PL 100-6-88),4103(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Administrator, in consultation with the Secretary of Transportation, is developing regulations which may include the following: (1) requiring waste sources, receiving facilities and vessels to assure that municipal or commercial waste will not be deposited into coastal waters during loading, offloading, and transport; (2) requiring the adoption by each responsible party of a manual identifying procedures to prevent, report, and clean up deposit of waste into coastal waters including recordkeeping requirements; and (3) if the Administrator determines that tracking systems are required to assure adequate enforcement of laws preventing the deposit of waste into coastal waters, requiring installation of the appropriate systems within eighteen months after the Administrator makes that determination. Benefits resulting from regulation will be reduction of municipal and commercial waste deposited into coastal waters. This will also facilitate more effective enforcement programs to prevent such deposition.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	10/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2820.

Agency Contact: Joel Salter, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 260-8484

RIN: 2040–AB85

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Water Act (CWA) — Final Rule Stage

3626. EFFLUENT GUIDELINES AND STANDARDS FOR THE PESTICIDE CHEMICALS CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 455

Legal Deadline: NPRM, Judicial, March 1992. Final, Judicial, July 1993. Dates contained in the Consent Decree (NRDC v. Reilly) NPRM, January 1994 (Formulators/Packagers); Final, August 1995 (Formulators/Packagers).

Abstract: On April 10, 1992, EPA proposed a rule to limit the discharge of pollutants into waters of the United States and into publicly owned treatment works by existing and new facilities that manufacture pesticide active ingredients. EPA also proposed new test procedures for the analysis of pesticide pollutants in the Pesticide Chemicals Category. The agency will take final action by July 1993. In a separate action, EPA intends to propose effluent guidelines and standards for facilities which formulate, package and/ or repackage pesticide active ingredients into final products, by January 1994.

Timetable:

Data Availability
NOTICE 12/01/92 (57 FR 56883)

Extension of Comment Period
NOTICE 06/25/92 (57 FR 28474)

Formulators/Packagers
NPRM 01/00/94
Final Action 08/00/95

Manufacturers
NPRM 04/10/92 (57 FR 12560)
Final Action 07/00/93

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2473.

Agency Contact: Thomas Fielding, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 260-7156

RIN: 2040–AB32

3627. EFFLUENT GUIDELINES AND STANDARDS FOR THE ORGANIC CHEMICALS, PLASTICS AND SYNTHETIC FIBERS CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 414

Legal Deadline: Final, Judicial, May 1993.
Final (Remand Issues) Date contained in Consent Decree (NRDC v. Reilly).

Abstract: On October 10, 1989, the U.S. Court of Appeals for the Fifth Circuit remanded a portion of the Organic Chemicals, Plastics, Synthetic Fibers (OCPSF) regulation that was originally promulgated on November 5, 1987 (54 FR 42522). The revocation notice that implemented the provisions of the remand was published on June 29, 1990 (55 FR 26691). The remanded portion was reproposed on December 6, 1991 (56 FR 63897) with a Notice of Data Availability on December 1, 1992 (57 FR 56883), and repromulgation is scheduled for May 1993.

In the interim, EPA has promulgated amendments to 40 CFR 414 to implement the provisions of settlement agreements negotiated with petitioners during litigation of the OCPSF regulation. The amendments allow regulatory authorities to establish cyanide limitations and standards based on best professional judgment for elevated levels of non-amenable cyanide that result from the unavoidable complexing of cyanide at the process source of cyanide-bearing waste streams. (cont)

Timetable:

Action	Date	FR Cite
Notice Revocation (1 Pollutant)	06/29/89	54 FR 27351
Notice Revocation (19 Pollutants)	06/29/90	55 FR 26691

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Action	Date	FR Cite
NPRM Settlement Agreement Items	10/18/90	55 FR 42332
NPRM Remand Issues	12/06/91	56 FR 63897
Notice, Correction to Remand NPRM	12/20/91	56 FR 66120
Final Action Settlement Agreement Items	09/11/92	57 FR 41836
Notice Data Availability (Remand Issues)	12/01/92	57 FR 56883
Final Action Remand Issues	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis; RIA (Addendum)

Additional Information: SAN No. 2745.

ABSTRACT CONT: Another amendment allows regulatory authorities to establish metals limitations and standards to accommodate low background levels of metals in non-"metal-bearing waste streams" that result from corrosion of construction materials or from contamination of raw materials. EPA also amended Appendices A and B in 40 CFR Part 414 to correct listing errors. The last amendment specifies the method for determining BOD5 and TSS effluent limitations for direct discharge plants with manufacture processes in more than one subcategory.

Agency Contact: George M. Jett, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 260-7151

RIN: 2040–AB65

3628. NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM AND SLUDGE MANAGEMENT STATE PROGRAM REGULATIONS FOR INDIAN TRIBES

Significance: Regulatory Program

Legal Authority: 33 USC 1342; 33 USC 1345; 33 USC 1377

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 501

Legal Deadline: Final, Statutory, August 4, 1988.

Abstract: This rule, pursuant to CWA section 518, will establish the requirements and procedures by which an Indian tribe may be treated as a State and be approved to administer the NPDES and/or sludge management program for the purpose of CWA Sections 402, 405, 308, and in part, 309.

Timetable:

Action	Date	FR Cite
NPRM	03/10/92	57 FR 8522
Final Action	09/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2749.

Agency Contact: Laura Phillips, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 260-9522

RIN: 2040–AB70

3629. • AMENDMENTS TO NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) SURFACE WATER TOXICS CONTROL PROGRAM

Significance: Regulatory Program

Legal Authority: 33 USC 1251 /CWA 304(l); 33 USC 1314 /CWA 314(a)

CFR Citation: 40 CFR 130

Legal Deadline: None

Abstract: EPA published a final rule in the Federal Register on January 4, 1989, amending 40 CFR Parts 122, 123, and 130. This regulation sets out EPA's interpretation of section 304(l) of the CWA. Section 304(l) requires states to list those waters that are adversely affected by toxic, conventional, and nonconventional pollutants. In addition, the regulation requires states to identify the point sources discharging to certain listed waters, and to prepare individual control strategies (ICSs) that will control point source discharges of toxic pollutants. On September 28, 1990, the Ninth Circuit remanded a portion of EPA's regulations. The remand requires EPA to amend its regulations to require an expanded list of point sources that impair water quality. EPA is to reconsider whether ICSs should be required for the expanded list of point source discharges.

Timetable:

Action	Date	FR Cite
NPRM	07/24/92	57 FR 33051
Final Action	09/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2748.

Agency Contact: Robert Wood, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 260-9536

RIN: 2040–AB68

3630. REVISIONS TO REGULATIONS FOR MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR MUNICIPAL DISCHARGES INTO MARINE WATERS

Legal Authority: 33 USC 1311(h)/CWA 301(h)

CFR Citation: 40 CFR 125

Legal Deadline: None

Abstract: The revisions to the regulations primarily are intended to respond to statutory changes made to sec. 301(h) of the Clean Water Act (33 USC 1311(h)), which governs secondary treatment waivers for municipal discharges into marine waters. The statutory changes to be addressed include, among other things, new requirements for minimum treatment levels and additional requirements for pretreatment programs for certain waiver applicants. In addition, the Agency is considering revising the regulations to address more specifically procedures and requirements for the renewal of secondary treatment waivers. The revised regulations will affect only the limited number of municipal treatment plants which met the 1982 statutory deadline for applying for a secondary treatment waiver.

Timetable:

Action	Date	FR Cite
NPRM	01/24/91	56 FR 2814
Final Action	06/00/93	

EPA—CWA — **Final Rule Stage**

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: SAN No. 2587.

Agency Contact: Virginia Fox-Norse, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 260-9129

RIN: 2040–AB29

3631. DEFINITION OF WETLANDS; REVISIONS TO THE FEDERAL MANUAL FOR IDENTIFYING AND DELINEATING JURISDICTIONAL WETLANDS

Significance: Regulatory Program

Legal Authority: 33 USC 1344/CWA 404

CFR Citation: 40 CFR 110; 40 CFR 116; 40 CFR 117; 40 CFR 122; 40 CFR 230; 40 CFR 232; 40 CFR 435

Legal Deadline: None

Abstract: EPA, Army Corps of Engineers, and Soil Conservation Service are proposing to incorporate portions of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands into the regulations governing the agencies' wetland protection programs. These portions reflect revisions to the manual proposed on August 4, 1991 (56 FR 40446), and the final rule adopted by the agencies will be consistent with the final manual adopted by the agencies after consideration of all public comments on the manual and this proposal.

Timetable:

Action	Date	FR Cite
NPRM	12/19/91	56 FR 65964
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. not yet assigned.

Agency Contact: Gregory E. Peck, Environmental Protection Agency, Water, (A-104F), Washington, DC 20460, 202 260-1799

RIN: 2040–AC03

3632. EXCEPTION FROM WETLANDS MITIGATION SEQUENCE FOR ALASKA

Significance: Regulatory Program

Legal Authority: 33 USC 1344/CWA 404

CFR Citation: 40 CFR 230

Legal Deadline: None

Abstract: This action will revise the Clean Water Act Section 404(b)(1) guidelines to provide an exception from the wetlands mitigation sequence (i.e., avoid, minimize, and compensate) for proposed discharges of dredged or fill material into wetlands in the State of Alaska. This action is being taken to implement the provision of the President's Wetlands Plan which allows States with less than a one percent historic rate of wetlands development to satisfy permit requirements through minimization of impacts.

Timetable:

Action	Date	FR Cite
NPRM	11/04/92	57 FR 52716
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3154.

Agency Contact: Gregory E. Peck, Environmental Protection Agency, Water, (A-104F), Washington, DC 20460, 202 260-1799

RIN: 2040–AC05

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions

Clean Water Act (CWA)

3633. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM SLUDGE PERMIT REGULATIONS; STATE SLUDGE MANAGEMENT PROGRAM REQUIREMENTS

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 501

Completed:

Reason	Date	FR Cite
Final Action	02/19/93	58 FR 9404

Small Entities Affected: None

Government Levels Affected: Local; State, Federal

Agency Contact: Pam Mazakas, 202 260-6599

RIN: 2040–AC01

3634. WATER QUALITY STANDARDS FOR TOXIC POLLUTANTS

Significance: Regulatory Program

CFR Citation: 40 CFR 131

Completed:

Reason	Date	FR Cite
Final Action	12/22/92	57 FR 60848

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: David K. Sabock, 202 260-1318

RIN: 2040–AB56

3635. EFFLUENT GUIDELINES AND STANDARDS FOR THE OFFSHORE SUBCATEGORY OF THE OIL AND GAS EXTRACTION CATEGORY

Significance: Regulatory Program

CFR Citation: 40 CFR 435, subpart A

Completed:

Reason	Date	FR Cite
Final Action	03/04/93	58 FR 12454

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Ronald Jordan, 202 260-7115

RIN: 2040–AA12

3636. REVISIONS TO REGULATIONS FOR IMPLEMENTATION OF SECTION 403 OF THE FEDERAL WATER POLLUTION CONTROL ACT

Significance: Regulatory Program

CFR Citation: 40 CFR 125; 40 CFR 120; 40 CFR 124

Completed:

Reason	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

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EPA—CWA

Completed Actions

Agency Contact: Brigette Farren, 202 260-9134

RIN: 2040–AB94

3637. TREATMENT OF INDIAN TRIBES AS STATES UNDER SECTION 404 OF THE CLEAN WATER ACT

Significance: Regulatory Program

CFR Citation: 40 CFR 230; 40 CFR 233

Completed:

Reason	Date	FR Cite
Final Action	02/11/93	58 FR 8172

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Lori Williams, 202 260-5043

RIN: 2040–AB69

3638. DEFINITION OF WETLANDS; EXEMPTION OF CERTAIN MAN-MADE WETLANDS FROM REGULATION UNDER SECTION 404 OF THE CLEAN WATER ACT

Significance: Regulatory Program

CFR Citation: 40 CFR 230

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory E. Peck, 202 260-1799

RIN: 2040–AC00

3639. SECTION 404(B)(1) GUIDELINES; REVISIONS REGARDING SEQUENCING BASED ON A CATEGORIZATION SCHEME

Significance: Regulatory Program

CFR Citation: 40 CFR 230

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory E. Peck, 202 260-1799

RIN: 2040–AC04

3640. SECTION 404(B)(1) GUIDELINES: ALLOWANCE FOR PROJECTS TO PROCEED UNLESS APPLICANT IS OTHERWISE NOTIFIED

Significance: Regulatory Program

CFR Citation: 40 CFR 230

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory E. Peck, 202 260-1799

RIN: 2040–AC06

3641. SEWAGE SLUDGE USE AND DISPOSAL REGULATION

Significance: Regulatory Program

CFR Citation: 40 CFR 503

Completed:

Reason	Date	FR Cite
Final Action	02/19/93	58 FR 9248

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Alan B. Rubin, 202 260-1311

RIN: 2040–AA74

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Atomic Energy Act (AEA)

Proposed Rule Stage

3642. ENVIRONMENTAL PROTECTION STANDARDS FOR LOW-LEVEL RADIOACTIVE WASTE

Significance: Regulatory Program

Legal Authority: 42 USC 2201/AEA 274; 15 USC 2625/TSCA 6(a)(6)

CFR Citation: 40 CFR 193; 40 CFR 764

Legal Deadline: None

Abstract: Under 40 CFR 193, the Agency intends to set generally applicable standards for the management and disposal of low-level radioactive wastes under the purview of the Atomic Energy Act, as amended. The Agency is considering criteria for declaring certain wastes as below regulatory concern as part of this activity. Under 40 CFR 764, the Agency also intends to regulate the disposal of certain naturally occurring and accelerator-produced radioactive wastes.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/83	48 FR 39563
NPRM	12/00/93	
Final Action	12/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 1727.

Agency Contact: James M. Gruhlke, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 260-9633

RIN: 2060–AA04

3643. RESIDUAL RADIOACTIVITY

Significance: Regulatory Program

Legal Authority: 42 USC 2201/AEA 161; 42 USC 2021/AEA 272

CFR Citation: 40 CFR 194

Legal Deadline: None

Abstract: The Agency is determining what standards and/or guidance is needed to control radiation exposure levels to the public from residual radioactivity after cleanup of sites and facilities where radionuclides were used and where unrestricted use will be allowed. This action may also control radiation exposure levels to the general public from materials contaminated with radionuclides which will be recycled into general commerce.

EPA—AEA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	06/18/86	51 FR 22264
NPRM	05/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2073.

Regulatory Flexibility Analysis: Undetermined.

Agency Contact: Martin P. Halper, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 260-9620

RIN: 2060–AB31

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Atomic Energy Act (AEA)

Final Rule Stage

3644. ENVIRONMENTAL STANDARDS FOR THE MANAGEMENT AND DISPOSAL OF SPENT NUCLEAR FUEL, HIGH-LEVEL AND TRANSURANIC RADIOACTIVE WASTES

Significance: Regulatory Program

Legal Authority: 42 USC 2201/AEA 161 and Reorganization Plan 3 of 1970

CFR Citation: 40 CFR 191

Legal Deadline: Final, Statutory, May 31, 1993.

Abstract: On August 15, 1985, the Agency promulgated generally applicable environmental standards for the management and disposal of spent nuclear fuel, high-level and transuranic radioactive wastes. These standards applied to management and disposal of such materials generated by activities under the jurisdiction of the Department of Energy or regulated by the Nuclear Regulatory Commission. They established limits for the release of radioactive materials to the environment. Subsequent to promulgation of this rule, several petitions for review were filed and consolidated in the U.S. Court of Appeals for the First Circuit. On September 23, 1987 the Court vacated and remanded Subpart B of the Standards to the Agency for revision consistent with its ruling. In PL 102-579, "The Waste Isolation Pilot Plant Land Withdrawal Act," Congress reinstated containment and assurance requirements vacated in 1987, and gave EPA a 6-month deadline (5/31/93) to complete the individual and groundwater protection requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/10/93	58 FR 7924
Final Action	05/31/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 2590.

Agency Contact: Ray Clark, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 260-9633

RIN: 2060–AC30

3645. TRANSURANIUM ELEMENTS

Legal Authority: 42 USC 2021(h)/AEA 274(h) /Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This action provides interim recommendations to Federal agencies to establish dose rate limits for people exposed to transuranium elements in the general environment.

Timetable:

Action	Date	FR Cite
NPRM	11/30/77	42 FR 60956
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 1162.

Agency Contact: Alan Richardson, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 260-9620

RIN: 2060–AA01

3646. GROUNDWATER PROTECTION STANDARDS FOR INACTIVE URANIUM TAILING SITES

Significance: Regulatory Program

Legal Authority: 42 USC 2022(a)/AEA 275(a)

CFR Citation: 40 CFR 192

Legal Deadline: None

Abstract: The Tenth Circuit Court of Appeals has remanded the groundwater standards at 40 CFR 192.20(a)(2) and (3). The new standards will replace these remanded standards.

Timetable:

Action	Date	FR Cite
NPRM	09/24/87	52 FR 36000
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 1166.

Agency Contact: Allan Richardson, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 260-9620

RIN: 2060–AC03

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Safe Drinking Water Act (SDWA)

Proposed Rule Stage

3647. • ANALYTICAL METHODS FOR REGULATED DRINKING WATER CHEMICALS

Legal Authority: 42 USC 300g-1/SDWA 1412; 42 USC 300f/SDWA 1401; 42 USC 300j-9(a)/SDWA 1450(a)

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: The U.S. Environmental Protection Agency (EPA) approves analytical methods for analyzing regulated drinking water contaminants. Periodically, the Agency withdraws approval of outdated methods, updates older methods, and/or approves new methods. In this regulatory effort, EPA will propose to accomplish all three actions for a number of contaminants

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regulated under the Safe Drinking Water Act. These revisions have been evaluated and recommended for use by EPA's Office of Research and Development and by various standards setting organizations. Laboratory acceptance limits, detection limits and other method performance requirements that were specified under previous rules will not be changed in this rulemaking. This rule should decrease the cost of monitoring by broadening the number of regulated chemicals that can be measured by a method. It will also improve monitoring accuracy and precision for many regulated contaminants, since better methods would replace older ones.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAN No. not yet assigned.

Agency Contact: Paul Berger, Environmental Protection Agency, Water, WH-550D, Washington DC 20460, 202 260-3039

RIN: 2040–AC12

3648. NATIONAL PRIMARY DRINKING WATER REGULATIONS: GROUNDWATER DISINFECTION

Significance: Regulatory Program

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: NPRM, Judicial, August 1994. Final, Judicial, August 1996

Abstract: EPA will propose that all public water systems using groundwater use disinfection treatment processes, unless they have a natural disinfection or meet specified variance criteria.

Timetable:

Action	Date	FR Cite
NPRM	08/00/94	
Final Action	08/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2807.

Agency Contact: Heather Shank-Givens, Environmental Protection Agency, Water, (WH-550D), Washington, DC 20460, 202 260-0063

RIN: 2040–AB75

3649. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ARSENIC

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: NPRM, Judicial, September 1994. Final, Judicial, September 1996.

Abstract: This rule will set an MCLG and revised NPDWR for arsenic in drinking water, pursuant to the SDWA amendments of 1986. The SDWA requires EPA to promulgate national primary drinking water regulations for 83 specific contaminants of which arsenic is one. The SDWA directs EPA to promulgate MCLGs at a level at which, in the Administrator's judgment, "no known or anticipated adverse effects on the health of persons occur and which allows for an adequate margin of safety." MCLs are the federally enforceable standards and are set as close to the MCLGs as is feasible, taking costs into consideration.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2772.

David Huber (Phase VI B)(inorganic and organic chemicals) Environmental Protection Agency Office of Water, (WH-550D), Washington, DC 20460, 202-260-9566

Stig Regli (Phase VI A)(disinfection by-products) Environmental Protection Agency Office of Water, (WH-550D), Washington, DC 20460, 202-260-7379

3650. NATIONAL PRIMARY DRINKING WATER REGULATIONS: 25 CONTAMINANTS FROM DRINKING WATER PRIORITY LIST (PHASE VI)

Significance: Regulatory Program

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: NPRM, Statutory, January 1, 1990. Final, Statutory, January 1, 1991. NPRM, Judicial, June 30, 1993.

Abstract: EPA is scheduled to propose MCLGs and NPDWRs for 25 contaminants from the Drinking Water Priority List, as required by the SDWA of 1986. The SDWA requires regulation of at least 25 contaminants, which are known or anticipated to occur in public water systems, every three years starting in 1991. The SDWA directs EPA to promulgate MCLGs at a level at which, in the Administrator's judgment, "no known or anticipated adverse effects occur and which allows for an adequate margin of safety." MCLs are federally enforceable standards and are set as close to the MCLGs as is feasible, taking costs into consideration. The 25 contaminants come from two groups of contaminants: disinfection by-products (Phase VI A) and organic and inorganic chemicals (Phase VI B). The disinfection by-products portion of this rule is currently undergoing regulatory negotiation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	06/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2772.

David Huber (Phase VI B)(inorganic and organic chemicals) Environmental Protection Agency Office of Water, (WH-550D), Washington, DC 20460, 202-260-9566

Stig Regli (Phase VI A)(disinfection by-products) Environmental Protection Agency Office of Water, (WH-550D), Washington, DC 20460, 202-260-7379

Agency Contact: See Additional Information, Environmental Protection Agency, Water, Washington, DC 20460

RIN: 2040–AB82

3651. NATIONAL PRIMARY DRINKING WATER REGULATIONS: SULFATE

Significance: Regulatory Program

Legal Authority: 42 USC 300SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: NPRM, Judicial, October 1993. Final, Judicial, December 1994.

Abstract: The rule sets MCLG and NPDWR for sulfate as Specified in the Safe Drinking Water Act. The contaminant was deferred from the Phase V regulation in order to allow the Agency time to focus on implementation issues arising from the proposal concerning the risk of sulfate in drinking water to specific subpopulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
Final Action	12/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3176.

This action was split from RIN 2040-AB11.

Agency Contact: Nena Shaw, Environmental Protection Agency, Water, WH 550D, Washington, DC, 20460, 202 260-5555

RIN: 2040–AC07

3652. • RECONSIDERATION OF THE NATIONAL PRIMARY DRINKING WATER STANDARDS (NPDWRS) FOR ALDICARB AND ATRAZINE

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: None
The effective date for aldicarb (Jan 1, 1993) has been stayed as of May 8, 1992.

Abstract: EPA is reconsidering the NPDWRs for aldicarb, aldicarb sulfoxide aldicarb sulfone, and atrazine. New analyses of critical studies have caused the RfDs for all four chemicals to be re-examined. Consequently, EPA is considering the need to revisit the MCLGs and MCLs as well. The MCL for atrazine is in effect, while the effective date for the MCLs for aldicarb and its metabolites has been stayed.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3238.

Agency Contact: Heather L. Shank-Givens, Environmental Protection Agency, Water, WH-550D, Washington, DC 20460, 202 260-0063

RIN: 2040–AC13

3653. OSAGE MINERAL RESERVE UNDERGROUND INJECTION CONTROL PROGRAM (REVISION)

Legal Authority: 42 USC 300f/SDWA 1421 to 1425

CFR Citation: 40 CFR 147

Legal Deadline: None

Abstract: The Safe Drinking Water Act (SDWA) requires EPA to develop regulations for the protection of underground sources of drinking water from contamination by injection wells. EPA is proposing amendments to its Underground Injection Control (UIC) program regulations for the Osage Mineral Reserve in Oklahoma (40 CFR 147 Subpart GGG) to allow the Regional Administrator flexibility to waive certain technical requirements for temporary abandoned wells and to designate a portion of the Happy Hollow and Z-Sand aquifers in Western Osage County, Oklahoma as exempted aquifers. The proposed changes will provide the Regional Administrator with the same flexibility that presently exists in the generic Federal regulations (40 CFR 144.28(c)(2)(iv) and 144.52(a)(6)) to waive certain technical requirements applicable to active injection wells upon a demonstration by the owner or operator that the well will not endanger underground sources of drinking water during the period of temporary abandonment.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2765.

Agency Contact: Jeffrey B. Smith, Environmental Protection Agency, Water, (WH-550G), Washington, DC 20460, 202 260-5586

RIN: 2040–AB76

3654. CONSTRUCTION REQUIREMENTS FOR CLASS II (OIL AND GAS RELATED WELLS) UNDER PART C OF THE SDWA

Legal Authority: 42 USC 300f/SDWA 1421 to 1425

CFR Citation: 40 CFR 144; 40 CFR 146

Legal Deadline: None

Abstract: Part C of the SDWA directs EPA to develop regulations for the protection of underground sources of drinking water from contamination by injection wells. The greatest number of injection wells are Class II (oil and gas related) wells operated by the petroleum industry for disposal of produced brines and enhanced recovery projects. EPA is considering proposing standards for all newly constructed or converted (from production operations) Class II injection wells. These standards may establish new or incremental performance criteria to ensure protection of underground sources of drinking water (USDWs).

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
Final Action	08/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Sectors Affected: 131 Crude Petroleum and Natural Gas; 132 Natural Gas Liquids; 138 Oil and Gas Field Services

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2784.

Agency Contact: Jeffrey Smith, Environmental Protection Agency.

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EPA—SDWA — Proposed Rule Stage

Water, (WH-550G), Washington, DC 20460, 202 260-5586

RIN: 2040–AB77

3655. MANAGEMENT OF CLASS V INJECTION WELLS UNDER PART C OF THE SAFE DRINKING WATER ACT

Significance: Regulatory Program

Legal Authority: 42 USC 300f/SDWA 1421 to 1425

CFR Citation: 40 CFR 144, 40 CFR 145; 40 CFR 146

Legal Deadline: None

Abstract: The SDWA requires EPA to develop regulations for the protection of underground sources of drinking water from contamination by injection wells. Previously promulgated regulations specified minimum standards and technical requirements for Class I-IV wells. Class V wells, including certain septic systems and a variety of drainage wells, are the subject of this action. EPA intends to establish a regulatory framework for the management of these wells that will protect against contamination of groundwater while recognizing the difficulties of this diverse well class. Development of any regulatory program will focus on providing maximum flexibility to State, sub-state, and local entities. EPA will characterize risks associated with various Class V injection wells since data are unavailable for risk assessments on an individual subcategory basis.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
Final Action	06/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2778.

Agency Contact: Francoise Brasier, Environmental Protection Agency, Water, (WH-550G), Washington, DC 20460, 202 260-7077

RIN: 2040–AB83

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Safe Drinking Water Act (SDWA) — Final Rule Stage

3656. INDIAN RULE FOR THE WELLHEAD PROTECTION PROGRAM AND SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 300j-11/SDWA 1451

CFR Citation: 40 CFR 35

Legal Deadline: Final, Statutory, December 19, 1987.

Abstract: The Safe Drinking Water Act Amendments of 1986 authorize the EPA Administrator to treat Indian tribes as States, where appropriate. The Indian rule for the Wellhead Protection and Sole Source Aquifer Demonstration Programs will allow eligible Indian tribes to apply for and receive grants under these two programs, in the same manner as States.

Timetable:

Action	Date	FR Cite
NPRM	12/09/87	52 FR 46712
Final Action	06/00/94	

Small Entities Affected: None

Government Levels Affected: Local, Federal

Additional Information: SAN No. 2440.

Agency Contact: Jane Marshall, Environmental Protection Agency, Water, (WH-550G), Washington, DC 20460, 202 260-8897

RIN: 2040–AB18

3657. REVISIONS TO THE SAFE DRINKING WATER ACT'S UNDERGROUND INJECTION CONTROL (UIC) REGULATIONS

Legal Authority: 42 USC 300j-4/SDWA 1445; 42 USC 300h-1/SDWA 1422

CFR Citation: 40 CFR 144; 40 CFR 146

Legal Deadline: None

Abstract: These amendments to the UIC Program clarify the intent of the regulations covering authorization-by-rule requirements at 40 CFR Part 144, Subpart C. These new provisions will clarify how existing injection wells become authorized by rule and when injection is prohibited for failure to comply with authorization-by-rule requirements. EPA has proposed amendments to the noncompliance and program reporting requirements at 40 CFR 144.8; to the mechanical integrity requirements at 40 CFR 144.28(f) and 144.51(p). Finally, a new regulation will codify SDWA 1445(a)(1) as it applies to the UIC program.

Timetable:

Action	Date	FR Cite
NPRM	06/28/90	55 FR 26464
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 2426.

Agency Contact: Francoise Brasier, Environmental Protection Agency, Water, (WH-550G), Washington, DC 20460, 202 260-7077

RIN: 2040–AB27

3658. NATIONAL PRIMARY DRINKING WATER REGULATION: RADIONUCLIDES

Significance: Regulatory Program

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: Final, Statutory, June 19, 1989. NPRM, Judicial, June 15, 1991. Final, Judicial, April 17, 1993. EPA has requested an extension to this deadline from the Court.

Abstract: EPA has proposed Maximum Contaminant Levels Goals (MCLGs) and Primary Drinking Water Standards for radionuclides in drinking water. These radionuclides include radium, uranium, radon, total alpha, and beta particle and photon emitters. This rule also establishes analytical techniques to identify Radium 228 in drinking water, which was being developed independently in the past (see RIN 2040-AB90, SAN No. 2782).

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836

EPA—SDWA — Final Rule Stage

Action	Date	FR Cite
NPRM	07/18/91	56 FR 33050
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2281.

Agency Contact: Jan Auerbach, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 260-7575

RIN: 2040–AA94

3659. REVISION OF ANALYTICAL METHODS FOR TRIHALOMETHANES UNDER THE SDWA

Legal Authority: 42 USC 300/SDWA 1412; 42 USC 300(b)/SDWA 1401; 42 USC 300(a)/SDWA 1445(a)

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: This action will allow the methods for 502.1 and 524.2, compliance monitoring of trihalomethanes in drinking water under section 141.30.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2782.

(Note: This action was split from SAN No. 2781).

Agency Contact: Paul Berger, Environmental Protection Agency, Water, (WH-550D), Washington, DC 20460, 202 260-3039

RIN: 2040–AB87

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Safe Drinking Water Act (SDWA) — Completed Actions

3660. APPROVAL OF ADDITIONAL ANALYTICAL METHODS FOR TOTAL COLIFORMS AND E. COLI UNDER THE SDWA

CFR Citation: 40 CFR 141

Completed:

Reason	Date	FR Cite
Final Action	06/10/92	57 FR 24744

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Berger, 202 260-3039

RIN: 2040–AB84

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Noise Control Act (NCA) — Final Rule Stage

3661. WITHDRAWAL OF PRODUCTS FROM THE AGENCY'S REPORTS IDENTIFYING MAJOR NOISE SOURCES AND WITHDRAWAL OF PROPOSED RULES

Legal Authority: 42 USC 4904(b)(1)/NCA 5(b)(1); 42 USC 4905(a)(1)/NCA 6(a)(1)

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This action proposes to withdraw certain products from the Agency's report identifying major noise sources issued under authority of Section 5(b)(1) of the Noise Control Act of 1972. These products are: Truck Transport Refrigeration Units, Power Lawn Mowers, Pavement Breakers, Rock Drills, Wheel and Crawler Tractors and Buses. This action also proposes to withdraw proposed noise regulations for Wheel and Crawler Tractors, and Buses, issued under the authority of Section 6(a)(1) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54108
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2046.

No CFR parts pertain. This action withdraws proposals which were not codified.

Agency Contact: Ken Feith, Environmental Protection Agency, Air and Radiation, (ANR-443), Washington, DC 20460, 202 260-4996

RIN: 2060–AB24

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Resource Conservation and Recovery Act (RCRA) — Prerule Stage

3662. MODIFICATIONS TO THE DEFINITION OF SOLID WASTE AND REGULATIONS OF HAZARDOUS WASTE RECYCLING: GENERAL

Significance: Regulatory Program

Legal Authority: 42 USC 6905/RCRA 1004; 42 USC 6921 to 6928/RCRA 3001 to 3008

CFR Citation: 40 CFR 261; 40 CFR 266

Legal Deadline: None

Abstract: This rulemaking will propose to modify the current regulatory framework to improve the implementation of the regulations that define a solid waste and the regulations governing the recycling of hazardous wastes.

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EPA—RCRA

Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2872.

NOTE: EPA has not yet identified what the next action will be. An ANPRM may be issued, or regulatory changes may be proposed, or both.

Agency Contact: Mitch Kidwell, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 260-8551

RIN: 2050–AD18

3663. SUBTITLE D CORPORATE FINANCIAL TEST AND GUARANTEE

Significance: Agency Priority

Legal Authority: 42 USC 6907/RCRA 1007; 42 USC 6944/RCRA 4004; 42 USC 6949/RCRA 4009

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: The current regulations under Subtitle D require owners and operators to demonstrate financial responsibility for their costs of closure, post-closure care, and corrective action for known releases. This rule would allow owners and operators two low-cost financial instruments, the corporate financial test and guarantee for demonstrating financial responsibility.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3179.

Agency Contact: Ed Coe, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460, 703 308-8624

RIN: 2050–AD77

3664. GUIDELINE FOR FEDERAL PROCUREMENT OF PLASTIC PIPE PRODUCTS

Legal Authority: 42 USC 6912(a)RCRA 6002

CFR Citation: 40 CFR 248

Legal Deadline: None

Abstract: RCRA Section 6002(e) requires EPA to prepare guidelines for use by procuring agencies in complying with the requirements of section 6002. The guidelines must first designate items that are or can be produced with recovered materials for which a federal procurement guideline is appropriate. Second, the guidelines must provide product information concerning the availability and performance of products produced with recovered materials. Third, the guidelines are to set forth recommended procurement practices to aid procuring agencies in complying with section 6002. After the date specified in an applicable guideline, section 6002(c) requires each procuring agency which procures any item designated in a guideline to procure the item composed of the highest percentage of recovered materials practicable except in statutorily specified circumstances. To date, EPA has issued five procurement guidelines. This action will designate plastic pipe products for which the procurement requirement of RCRA section 6002 apply.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/93	
NPRM	06/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: SAN No. 3180.

Agency Contact: Kim Carr, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), Washington, DC 20460, 202 260-7600

RIN: 2050–AD74

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Resource Conservation and Recovery Act (RCRA)

Proposed Rule Stage

3665. DEGRADABLE RING RULE

Legal Authority: PL 100-556/Sections 102 to 103; 42 USC 6914(b); 42 USC 6914(1)

CFR Citation: 40 CFR 234

Legal Deadline: Final, Statutory, October 28, 1990.

Abstract: Plastic ring carriers have been found in the marine environment and fish and other wildlife have become entangled in them. Ring carriers were identified as an article of concern in the marine environment in EPA's February 1990 report to Congress on plastics. Congress has determined that degradable carriers should reduce the incidence of entanglement and has directed EPA to develop regulations that ring carriers be made of degradable material unless EPA finds that degradable rings pose more risk than non-degradable rings. EPA may specify degradability time frames and testing methods. A number of States currently require degradable rings. Nearly all rings manufactured in the United States are currently photodegradable.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2799.

Agency Contact: Tracy Bone, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), Washington, DC 20460, 202 260-5649

RIN: 2050–AD09

3666. LAND DISPOSAL RESTRICTIONS - RULEMAKING ON CONTAMINATED SOIL

Significance: Regulatory Program

Legal Authority: 42 USC 6901/RCRA 1001

EPA—RCRA

Proposed Rule Stage

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: The Hazardous and Solid Waste Amendments of 1984 require EPA to promulgate regulations prohibiting one or more methods of land disposal of hazardous wastes. The rules define treatment standards that must be met before hazardous waste may be disposed of on land. The final rule for scheduled wastes (those listed as hazardous prior to November 8, 1984) became effective on May 8, 1990. The present rulemaking revises existing standards for soil contaminated with hazardous wastes.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/91	56 FR 55160
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2935.

Agency Contact: Rhonda Craig, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 703 308-8771

RIN: 2050–AD37

3667. LAND DISPOSAL RESTRICTIONS - PHASE II: RULEMAKING ON NEWLY IDENTIFIED WASTES

Significance: Regulatory Program

Legal Authority: 42 USC 6901/RCRA 1001

CFR Citation: 40 CFR 268

Legal Deadline: Final, Judicial, April 1993.
This date is being renegotiated with the litigants. Until those discussions take place, the timetable for the rule is uncertain.

Abstract: The Hazardous and Solid Waste Amendments of 1984 require EPA to promulgate regulations prohibiting one or more methods of land disposal of hazardous wastes. The rules define treatment standards that must be met before hazardous waste may be disposed of on land. The final rule for scheduled wastes (those listed as hazardous prior to November 8, 1984) became effective on May 8, 1990. The present rulemaking establishes standards for certain wastes identified or listed since the originally scheduled wastes brought under the purview of the Land Disposal Restrictions (e.g., those covered by Toxicity Characteristics).

Timetable:

Action	Date	FR Cite
ANPRM	10/24/91	57 FR 55160
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 3213.

Agency Contact: Kathy Rafferty, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 703 308-8466

RIN: 2050–AD89

3668. LAND DISPOSAL RESTRICTIONS - PHASE III: RULEMAKING ON NEWLY IDENTIFIED WASTES

Significance: Regulatory Program

Legal Authority: 42 USC 6901/RCRA 1002

CFR Citation: 40 CFR 268

Legal Deadline: Final, Judicial, March 1994.
This date is being re-negotiated with litigants. Until these discussions, take place the timetable for this rule is uncertain.

Abstract: The Hazardous and Solid Waste Amendments of 1984 require EPA to promulgate regulations prohibiting one or more methods of land disposal of hazardous wastes. The rules define treatment standards that must be met before hazardous wastes may be disposed of on land. The final rule for scheduled waste (those listed as hazardous prior to November 8, 1984) became effective on May 8, 1990. The present rulemaking covers certain wastes identified or listed since the originally scheduled wastes were brought under the purview of the Land Disposal Restrictions (e.g., wood preserving waste, aluminum potliners, and characteristically hazardous mineral processing wastes).

Timetable:

Action	Date	FR Cite
ANPRM	10/24/91	56 FR 55160
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2936.

Agency Contact: Rhonda Craig, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 703 308-8771

RIN: 2050–AD38

3669. CAUSES FOR PERMIT MODIFICATIONS TO HAZARDOUS WASTE MANAGEMENT FACILITIES

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912/RCRA 2002; 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005; 42 USC 6927/RCRA 3007; 42 USC 6974

CFR Citation: 40 CFR 270.41

Legal Deadline: None

Abstract: This amendment may allow EPA to modify a permit to correct an inadvertent omission of an applicable requirement under RCRA which is in effect prior to the data of permit issuance. The permit correction would follow the modification procedures in 40 CFR 124. Citizens would be able to request such a correction using existing procedures in 40 CFR 124.5.

Timetable:

Action	Date	FR Cite
NPRM	12/00/94	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2780.

Agency Contact: Wayne Roepe, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460, 703 308-8630

RIN: 2050–AD05

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3670. HAZARDOUS WASTE MANAGEMENT SYSTEM: POST-CLOSURE REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 270

Legal Deadline: None

Abstract: This rule would modify the regulations to expand and improve the mechanisms available for addressing post-closure care at hazardous waste land disposal facilities. It would allow substitution of enforcement mechanisms for post-closure permits in some cases, while still retaining the permit as an option to address these facilities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3042.

Agency Contact: Becky Daiss, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460, **703 308-8632**

RIN: 2050–AD55

3671. REVISIONS TO INTERIM STATUS GROUNDWATER MONITORING REQUIREMENTS FOR NEWLY REGULATED LAND DISPOSAL FACILITIES

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6924/RCRA 3004; 42 USC 6921/RCRA 3001; 42 USC 6925/RCRA 3005; 42 USC 6935/RCRA 3015

CFR Citation: 40 CFR 265; 40 CFR 270

Legal Deadline: None

Abstract: This rule proposes to amend the groundwater monitoring requirements for interim status land disposal facilities handling hazardous waste under RCRA Subtitle C. This rule would clarify and revise the timing of certain monitoring requirements and would revise the groundwater monitoring certification requirement. The Agency is aware of confusion regarding the timing of aspects of the groundwater monitoring requirements and seeks to amend sections 265.90, 265.91, 265.93, and 270.14 to clarify these requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3053.

Agency Contact: Hugh R. Davis, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460, **703 308-8633**

RIN: 2050–AD56

3672. LISTING DETERMINATION FOR HAZARDOUS WASTES - ORGANOBROMINES CHEMICAL INDUSTRY

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6922/RCRA 3001; 42 USC 9602/CERCLA 102; 33 USC 1361/CERCLA 311; 33 USC 1321/CERCLA 501

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, January 30, 1994. Final, Judicial, January 30, 1995.

Abstract: This action will propose to list or not to list as hazardous wastes under RCRA those wastes generated during the production of organobromine compounds. The Agency will use the opportunity to investigate waste minimization options.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	
Final Action	01/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3065.

Agency Contact: Edwin Rissmann, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, **202 260-4785**

RIN: 2050–AD79

3673. SPENT SOLVENTS LISTING DETERMINATION AND STUDY

Legal Authority: 42 USC 6905/RCRA 1005; 42 USC 6912/RCRA 2002; 42 USC 6921/RCRA 3001; 42 USC 6922/RCRA 3002; 42 USC 6926/RCRA 3006; 42 USC 9602/RCRA 6002; 33 USC 1361/FWPCA 1361; 33 USC 1321/FWPCA 1321

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline: Final, Statutory, February 8, 1986. NPRM, Judicial, April 30, 1994. Final, Judicial, June 30, 1995.

Abstract: This action will propose to list or not list as hazardous wastes under RCRA 10 spent solvents and/or still bottoms from their recovery. The solvents are Cumene, Phenol, Isophorone, Acetonitrile, Furfural, Epichlorohydrin, Methyl Chloride, Ethylene Dibromide, Benzyl Chloride, and P-Dichlorobenzene. Any solvents listed will be added to the CERCLA list of hazardous substances with reportable quantities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/94	
Final Action	06/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3134.

Agency Contact: Ron Josephson, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, **202 260-4770**

RIN: 2050–AD84

3674. CHLORINATED ALIPHATICS LISTING DETERMINATION UNDER RCRA SUBTITLE C (HSWA)

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6922/RCRA 3001; 42 USC 9602/CERCLA 102; 33 USC 1361/FWPCA 311; 33 USC 1321/FWPCA 501

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, December 31, 1994. Final, Judicial, October 31, 1995.

Abstract: This action will propose to list or not to list as hazardous wastes under RCRA wastewaters and wastewater treatment sludge from the production of approximately 25 chlorinated aliphatics. These wastes, if identified as hazardous under RCRA, will be designated hazardous substances under CERCLA, with reportable quantities established. The Agency will use this opportunity to investigate waste minimization possibilities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/94	
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3151.

Agency Contact: Wanda Levine, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, **202 260-7458**

RIN: 2050–AD85

3675. NEW AND REVISED TESTING METHODS APPROVED FOR RCRA SUBTITLE C HAZARDOUS WASTE TESTING MANUAL SW-846, THIRD EDITION, UPDATE II

Legal Authority: 42 USC 6912/RCRA 2002; 42 USC 6921/RCRA 3001; 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005; 42 USC 6926/RCRA 3006

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270

Legal Deadline: None

Abstract: This regulatory action will revise certain testing methods and add other new testing methods that are approved or required under Subtitle C of RCRA. These new and revised methods are found in Update II to the Third Edition of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846. The revision to the manual is necessary to provide improved and more complete analytical methods for RCRA-relating testing.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	04/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2826.

Agency Contact: Charles Sellers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-331), Washington, DC 20460, **202 260-4761**

RIN: 2050–AD06

3676. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: HAZARDOUS WASTE IDENTIFICATION RULE

Significance: Regulatory Program

Legal Authority: 42 USC 6921/3001 ; 42 USC 6905; 42 USC 6912(a); 42 USC 6922

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271; 40 CFR 302

Legal Deadline: Final, Judicial, October 1994.

Abstract: This action will make modifications to the "mixture" and "derived from" rules. These two rules address when hazardous wastes that are mixed with other wastes or otherwise managed after generation can be determined to be no longer be hazardous. EPA intends to promulgate revisions to such "mixture" and "derived from" rules between October 1993 and October 1994.

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM withdrawn	10/30/92	57 FR 49280
Re-proposal of NPRM	11/00/93	
Final Action	10/00/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2482.

Agency Contact: William Collins, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, **202 260-4791**

RIN: 2050–AC25

3677. UNDERGROUND STORAGE TANKS CONTAINING PETROLEUM; FINANCIAL RESPONSIBILITY REQUIREMENTS; COMPLIANCE DATE TO 1998 FOR FACILITIES MEETING CERTAIN FEDERAL CRITERIA

Significance: Regulatory Program

Legal Authority: 42 USC 6921; 42 USC 6621; 42 USC 6991

CFR Citation: 40 CFR 280; 40 CFR 281

Legal Deadline: None

Abstract: Under this rule, EPA would propose to extend the Federal deadline for some facilities formerly in Category 4 if they meet federally determined criteria. For example, facilities that have been identified by States as entities in need of additional time to meet the finanacial responsibility deadline, facilities which are the sole providers of petroleum products in a certain area, facilities which provide essential community services, and facilities which are located in rural areas, might be considered under the criteria. This rule would apply to rural marketers, local governments, and Indian tribes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	08/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: SAN No. 3088.

Agency Contact: Sammy K. Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410W), Washington, DC 20460, **703 308-8882**

RIN: 2050–AD44

3678. HAZARDOUS WASTE MANAGEMENT SYSTEMS; AMENDMENT TO SUBPART C RULEMAKING PETITIONS; PROPOSED INCORPORATION OF EPA'S COMPOSITE MODEL FOR LANDFILLS

Legal Authority: 42 USC 6912(a)/RCRA 3001; 42 USC 6905; 42 USC 6930; 42 USC 6921 to 6927; 42 USC 6935; 42 USC 6937; 42 USC 6938; 42 USC 6974; 42 USC 6934; 42 USC 6939

CFR Citation: 40 CFR 260.22

Legal Deadline: None

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Abstract: The delisting program intends to promulgate the use of EPA's Composite Model for Landfills (EPACML) into the delisting regulations, for predicting the potential impact on human health and the environment of hazardous constituents that may be released from the petitioned wastes. In the past, the Agency has used the EPACML in the promulgation of the Toxicity Characteristic rule (55 FR 11798, March 29, 1990), and in the evaluation of a specific delisting petition (56 FR 32993, July 18, 1991 and 56 FR 67197, December 30, 1991).

Currently, the RCRA regulations do not include any specific model for use in delisting. The Agency must now propose the use of a specific model in each separate delisting decision, and respond to comments in each case. This codification will reduce this burden.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
Final Action	12/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 3041.

Agency Contact: Chichang Chen, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, 202 260-7392

RIN: 2050–AD48

3679. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: CARBAMATE CHEMICALS

Legal Authority: 42 USC 6912(a)/RCRA 3001; 42 USC 6921; 42 USC 9602(a); 42 USC 6905; 42 USC 6922

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline: Final, Statutory, February 8, 1986. NPRM, Judicial, December 31, 1993. Final, Judicial, January 31, 1995.

Abstract: Section 3001(e) of RCRA requires EPA to make a determination of whether or not to list carbamate wastes as hazardous wastes. Carbamate chemical production includes all carbamates, carbamoyl oxime, thiocarbamate and dithiocarbamate chemicals for all end uses, including but not limited to: intermediates, herbicides, insecticides, fungicides or rubber processing additives. Carbamate production also includes intermediate compounds used primarily as inputs to carbamate processes. The Agency committed to propose by December 31, 1993, and to promulgate its determination by January 31, 1995. These wastes may also be designated as hazardous substances under CERCLA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
Final Action	01/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3033.

Agency Contact: John Austin, Environmental Protection Agency, Solid Waste and Emergency Response, OS-333, Washington, DC 20460, 202 260-4789

RIN: 2050–AD59

3680. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: WOOD SURFACE PROTECTION CHEMICALS

Significance: Regulatory Program

Legal Authority: 42 USC 6905; 42 USC 6912; 42 USC 6921/RCRA 3001; 42 USC 6922; 42 USC 6938; 42 USC 9602

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, March 31, 1993. Final, Judicial, December 31, 1993.

Abstract: This action will propose to list or not to list as hazardous under RCRA wastewaters, process residuals, protectant drippage, and discarded formulations from wood protection processes at facilities that currently use or have previously used chlorophenolic formulations. These chemicals are applied to freshly cut lumber at sawmills to protect the wood against sap stain and molds which can grow on the wood during storage.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 3035.

Agency Contact: David J. Carver, Environmental Protection Agency, Solid Waste and Emergency Response, OS-333, Washington, DC 20460, 202 260-6775

RIN: 2050–AD60

3681. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE TREATABILITY STUDIES SAMPLE EXEMPTION

Significance: Regulatory Program

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6938

CFR Citation: 40 CFR 261 (Revised)

Legal Deadline: None

Abstract: Under the existing exclusion, up to 1000 kg of non-acutely hazardous waste may be treated from a single waste stream with a maximum of 250 kg (less than two drums) per day. This quantity limit is insufficient for testing many pilot-scale technologies and serves as an impediment to the development of new technology and inhibits broader treatability testing at hazardous waste sites. The proposed action involves a revision of the RCRA Treatability Study Exemption Rule (40 CFR 261.4(e)-(f)). A new limit will be considered based on needs for testing and de minimus risk.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3177.

This action is listed in Regulatory Program under 2050-AD68.

Agency Contact: Jim Cummings, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-110W), Washington, DC 20460, 703 308-8796

RIN: 2050–AD70

3682. REMOVAL OF PENTACHLOROPHENOL FROM F027; RESTORE IT AS U242; CHANGE TOXICITY DESIGNATION OF F021; AND CLARIFY BASIS FOR LISTING CRITERIA

Legal Authority: 42 USC 6921/RCRA 3001

CFR Citation: 40 CFR 261; 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: None

Abstract: The Agency is proposing to amend the regulations for hazardous waste management under RCRA by amending the basis for listing a hazardous waste (i.e., pentachlorophenol production wastes) under 40 CFR 261.31. The Agency is also proposing to amend one hazardous waste (i.e., delete part of FO27 - discarded unused formulations of pentachlorophenol and compounds derived from pentachlorophenol) listed in 40 CFR 261.33 and to add one waste (i.e., U242 - pentachlorophenol) to the list of hazardous wastes in 40 CFR 261. FO21 and U242 would no longer be subject to management standards for acute hazardous wastes. Lastly, the Agency is proposing to clarify the criteria used in 40 CFR 261.11 for listing solid wastes as hazardous. This rule proposes less stringent hazardous waste management standards for FO21 and discarded unused portions containing pentachlorophenol.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3178.

Agency Contact: Ambika Bathija, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-323), Washington, DC 20460, 202 260-7438

RIN: 2050–AD78

3683. LISTING DETERMINATION OF WASTES GENERATED DURING THE MANUFACTURE OF TRIARYLMETHANE DYES AND PIGMENTS

Legal Authority: 42 USC 6921/RCRA 3001

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, December 31, 1996. Final, Judicial, December 31, 1997.

Abstract: This action will propose the Agency's determination whether or not to list as hazardous wastes under RCRA wastes generated during the production of Triarylmethane Dyes and Pigments. The Agency is considering several alternatives to listing, specifically management standards, pollution prevention, waste minimization, recycling, reclamation, process changes, and substitution of starting materials.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3066.

Agency Contact: Ambika Bathija, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-323), Washington, DC 20460, 202 260-7438

RIN: 2050–AD80

3684. LISTING DETERMINATION OF ANTHRAQUINONE DYE AND PIGMENT WASTES

Legal Authority: 42 USC 6921/RCRA 3001

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, September 30, 1994. Final, Judicial, September 30, 1995.

Abstract: This action will propose the Agency's determination whether or not to list as hazardous wastes under RCRA wastes generated during the production of Anthraquinone dyes and pigments. The Agency is considering alternatives to listing, specifically management standards, pollution prevention, waste minimization, recycling, reclamation, process changes, and substitution of starting materials.

Timetable:

Action	Date	FR Cite
NPRM	09/00/94	
Final Action	09/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3068.

Agency Contact: Ambika Bathija, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-323), Washington, DC 20460, 202 260-7438

RIN: 2050–AD81

3685. LISTING DETERMINATION FOR AZO/BENZIDINE DYES AND PIGMENT WASTES

Legal Authority: 42 USC 6921/RCRA 3001

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, March 31, 1994. Final, Judicial, March 31, 1995.

Abstract: This action will propose to list or not to list as hazardous waste under RCRA wastes generated from the production of Azo/benzidine dye and pigments. The Agency is considering alternatives to listing, specifically management standards, pollution prevention, waste minimization, recycling, reclamation, process changes, and substitution of starting materials.

Timetable:

Action	Date	FR Cite
NPRM	03/00/94	
Final Action	03/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No 3069.

Agency Contact: Ambika Bathija, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-323), Washington, DC 20460, 202 260-7438

RIN: 2050–AD82

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3686. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: PETROLEUM REFINING PROCESS WASTES

Legal Authority: 42 USC 6921/RCRA 3001

CFR Citation: 40 CFR 261; 40 CFR 264, 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, August 31, 1995. Final, Judicial, October 31, 1996.

Abstract: This action will propose to list or not to list as hazardous wastes under RCRA, these waste streams from the petroleum refining process: 1) clarified slurry oil from catalytic cracking, 2) crude storage tank sludge, 3) spent hydrotreating catalyst, 4) sulfur complex and hydrogen sulfide removal specification product and fines, 5) spent catalytics reforming catalysts, 6) unleaded storage tank sludge, 7) spent hydrorefining sludge, 8) spent catalyst and fines from catalytic cracking, 9) spent catalyst from sulfur complex and hydrogen sulfide removal facilities, 10) spent caustic from liquid treating, 11) spent catalyst from sulfuric acid alkylation, 12) sludge from hydroflouric alkylation, 13) sludge from sulfuric acid alkylation. The Agency is considering alternatives to listing including management standards based on pollution prevention, recycling, reclamation, or feedstock to other manufacturing processes. This action will also adjust the reportable quantities for waste streams F037 and (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/00/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAN No. 3064.

ABSTRACT CONT: F038 (sludges from petroleum separation processes) under CERCLA as amended. Depending on the number of listed wastes and their generation quantities, the costs of this action could be very significant

Agency Contact: Maximo Diaz, Jr., Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, **202 260-4786**

RIN: 2050–AD88

3687. • RCRA FEES: HANDLER NOTIFICATIONS AND WASTE EXPORT NOTIFICATIONS

Legal Authority: Independent Offices Appropriations Act of 1951

CFR Citation: 40 CFR 262; 40 CFR 263; 40 CFR 265

Legal Deadline: None

Abstract: The Omnibus Budget and Reconciliation Act requires EPA to raise $38 million annually in user fees as part of an overall Federal deficit reduction program. To help achieve this level, EPA will use the authority of the Independent Offices Appropriations Act of 1951 to propose fees for RCRA Handler Notifications, Waste Export Notifications, and permit fees for EPA-issued RCRA permits.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
Final Action	08/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3211.

Agency Contact: Carol Terris, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-305), Washington, DC 20460, **202 260-4674**

RIN: 2050–AD92

3688. AMENDMENTS TO BIENNIAL REPORTING REQUIREMENTS

Legal Authority: RCRA 3002(a)(c)

CFR Citation: 40 CFR 262.41; 40 CFR 264.75; 40 CFR 271.10; 40 CFR 265.75

Legal Deadline: None

Abstract: This amendment may require States to modify their hazardous waste reporting system to collect additional data elements from their large quantity generators and treatment, storage, and disposal (TSDs) facilities. Currently, States are required to collect only minimal data from generators on quantities and types of waste generated and how such wastes are managed at TSDs. These minimal data requirements were last revised in 1985 with amendments to parts 40 CFR 262.41 (generators) and 40 CFR 264.75 and 40 CFR 265.75 (TSDs).

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 2857.

Agency Contact: Myra Galbreath, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-310), Washington, DC 20460, **202 260-4697**

RIN: 2050–AD10

3689. LOCATION STANDARDS FOR HAZARDOUS WASTE FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6912/RCRA 2002; 42 USC 6924(o)(7)/RCRA 3004(o)(7)

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 270

Legal Deadline: None

Abstract: Section 3004(o)(7) of RCRA authorizes EPA to restrict the siting of hazardous waste treatment, storage, and disposal facilities in environmentally sensitive locations. EPA's goal for the location standards is to ensure siting of new hazardous waste treatment, storage and disposal facilities in the most suitable locations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
Final Action	12/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2303.

Agency Contact: Felicia Wright, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-5303W), Washington, DC 20460, **703 308-8634**

RIN: 2050–AB42

3690. CORRECTIVE ACTION FOR RELEASES TO GROUNDWATER FROM REGULATED HAZARDOUS WASTE UNITS

Legal Authority: 42 USC 6924/RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: These regulations will amend the technical and procedural requirements for conducting corrective action to clean up significant releases to groundwater from regulated hazardous waste units at operating, closed, or closing RCRA facilities. The regulations will be used to amend the structure of the program and the requirements for implementing remedial action, remedy selection and corrective measures.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2503.

Agency Contact: Vernon Myers, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460, **703 308-8660**

RIN: 2050–AC28

3691. HAZARDOUS WASTE SUMP REQUIREMENTS

Legal Authority: 42 USC 6905; 42 USC 6912; 42 USC 6921; 42 USC 6924; 42 USC 6925; 42 USC 6974

CFR Citation: 40 CFR 264; 40 CFR 265

Legal Deadline: None

Abstract: EPA is proposing to extend the deadline by which certain existing sumps (a types of tank) that are used to manage hazardous wastes must have their integrity assessed. This revised section would apply to owners or operators of existing sumps that are inside a building or structure and are an integral part of a floor or building foundation. EPA would allow an additional year -- for a total of 24 months -- for owners or operators to conduct integrity assessments from the date in the future that wastes stored or treated in these sumps become regulated as hazardous wastes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	04/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2675.

Agency Contact: Rajani D. Joglekar, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, **202 260-3516**

RIN: 2050–AC79

3692. • RULE IDENTIFYING WHEN MILITARY MUNITIONS BECOME HAZARDOUS WASTES AND MANAGEMENT STANDARDS FOR SUCH WASTES

Legal Authority: 42 USC 6924(y)/RCRA 3004(y)

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 270

Legal Deadline: NPRM, Statutory, March 21, 1993. Final, Statutory, September 21, 1994.

Abstract: This rule will identify when military munitions and ordnance chemical warfare agents become hazardous wastes subject to Federal hazardous waste transportation, storage, treatment, and disposal rules. The rule may also identify management standards for such wastes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	09/00/94	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3235.

Agency Contact: Ken Shuster, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460, **703 308-8759**

RIN: 2050–AD90

3693. HAZARDOUS WASTE MANAGEMENT SYSTEM: GROUNDWATER MONITORING CONSTITUENTS (PHASE II) AND METHODS

Legal Authority: 42 USC 3251/RCRA 3004 and 3005

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: Appendix IX of 40 CFR part 264 is a list of hazardous constituents presently referenced in 40 CFR part 264, subpart F for use in groundwater monitoring. This proposed amendment would make minor revisions to Appendix IX and create a new list for the first phase (Detection Monitoring) of the groundwater monitoring program. This proposal may include a discussion of the appropriate groundwater monitoring techniques and requirements than currently exists in the regulations by revising and incorporating chapter 11 of "Test Methods for Evaluating Solid Waste" (EPA/SW0846) into 40 CFR parts 264 and 270.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2435.

Agency Contact: James Brown, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-5303W), Washington DC 20460, **703 308-8656**

RIN: 2050–AC05

3694. STREAMLINE PERMITTING FOR MIXED WASTE

Significance: Regulatory Program

Legal Authority: 42 USC 6925/RCRA 3005

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On January 13, 1992, the Utilities Solid Waste Activities Group (USWAG) petitioned EPA to create a conditional exemption from full Subtitle C permitting requirements for certain small commercial mixed waste generators that are already permitted by the NRC. The generators include medical schools, universities,

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biotechnology laboratories, and pharmaceutical companies. This new category would include NRC licensees that generate less than 1000 kg/month of mixed waste, counting mixed waste as distinct from other hazardous waste. EPA and NRC must together determine how to ensure adequate protection of human health and the environment in order for any streamlined permitting of NRC licensed facilities to be implemented.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3218.

Agency Contact: Reid Resnick, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460, 703 308-8758

RIN: 2050–AD65

3695. COMPLIANCE MONITORING AND ENFORCEMENT REQUIREMENTS FOR STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

Legal Authority: 42 USC 6926/RCRA 3006

CFR Citation: 40 CFR 271.15; 40 CFR 271.16

Legal Deadline: None

Abstract: Regulations governing State Authorization requirements for compliance monitoring and enforcement actions may be revised to reflect the Hazardous and Solid Waste Amendments of 1984. EPA will consider other changes such as a requirement for States to have administrative penalty authority.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAN No. 2158.

Agency Contact: Melissa Ward, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-520), Washington, DC 20460, 202 260-9325

RIN: 2050–AB01

3696. RCRA SUBTITLE C INDIAN PROGRAM AUTHORIZATION

Legal Authority: 42 USC 6926(b)/3006(b)

CFR Citation: 40 CFR 271 (Revision)

Legal Deadline: None

Abstract: The Agency has decided to authorize Indian Tribes to implement the Subtitle C program. This regulation will establish the definition of an Indian Tribe and the criteria an Indian Tribe must meet for authorization purposes. Since the Agency also decided that Indian Tribes may be authorized for partial programs (States are not allowed partial State programs under RCRA authorization), the regulation will address this program difference. The regulation will also address Indian capability, including criminal enforcement capability. This regulation fulfills EPA's stated 1984 Indian Policy by ensuring the close involvement of tribal governments in making decisions and managing environmental programs affecting reservation lands.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
Final Action	09/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information: SAN No. 2827.

Agency Contact: Richard La Shier, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-5303W), Washington, DC 20460, 703 308-8760

RIN: 2050–AD07

3697. FIELD FILTERING OF GROUNDWATER SAMPLES

Legal Authority: 42 USC 6944(a)/RCRA 4004(a); 33 USC 1345(d) and (e)/CWA 405

CFR Citation: 40 CFR 258.51(b)

Legal Deadline: None

Abstract: The RCRA Subtitle D Solid Waste Disposal Facility Criteria, among other provisions, require owners/operators of municipal solid waste landfills to monitor groundwater to detect a release from their landfills. The Criteria ban the filtering of groundwater samples in the field because filtering potentially removes some of the contamination found in the solid phase of the samples. Since promulgation of the Criteria, a number of States and industry groups have stated that it is important to field filter groundwater samples for metals to avoid potential false indications of a landfill release to groundwater. The commenters maintain that the analytical results using filtered samples are sufficiently protective and are as effective as unfiltered samples required in the Criteria. This notice of proposed rulemaking (NPRM) announces the Agency's intent to perform additional study on field filtering and solicits further public comment and data on this issue. In addition, this NPRM seeks comment on the appropriateness of allowing States/Tribes with EPA-approved permit programs to lift the ban on a site-specific basis.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3150.

Agency Contact: Andy Teplitzky, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), Washington, DC 20460, 202 260-1099

RIN: 2050–AD86

3698. FINANCIAL TEST FOR LOCAL GOVERNMENTS THAT OWN/OPERATE MUNICIPAL SOLID WASTE LANDFILLS

Legal Authority: 42 USC 6941 to 6949/RCRA 4001 to 4009

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: This rule would allow financially strong local governments that own/operate municipal solid waste landfills the option of using a financial test to demonstrate financial assurance for costs associated with closure, post-closure, and corrective action of known releases.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	12/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2761.

Agency Contact: Ed Coe, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460, 703 308-8624

RIN: 2050–AD04

3699. MUNICIPAL SOLID WASTE LANDFILLS; STATE/TRIBAL PERMIT PROGRAM—DETERMINATION OF ADEQUACY

Significance: Regulatory Program

Legal Authority: 42 USC 6945/RCRA 4005

CFR Citation: 40 CFR 239

Legal Deadline: None

Abstract: Regulations will describe procedures EPA will use to make determinations of adequacy for State/Tribal solid waste permitting programs, as required by Section 4005 of the Solid Waste Disposal Act, as amended (RCRA). This adequacy determination regulation is critical to the successful implementation of the Revised Criteria (40 CFR 258). Section 4005(c)(1)(B) requires States to adopt and implement a permit program, or other system of prior approval, within 18 months after the promulgation of revised criteria under Section 4004(a), as required by Section 4010(c). Section 4005(c)(1)(C) requires the Administrator to determine whether each State has developed an "adequate permit program" under this paragraph.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	05/00/94	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAN No. 2751.

Agency Contact: Henry Ferland, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), Washington, DC 20460, 202 260-3384

RIN: 2050–AD03

3700. GUIDELINE FOR FEDERAL PROCUREMENT OF PAPER AND PAPER PRODUCTS CONTAINING RECOVERED MATERIALS

Legal Authority: 42 USC 6912(a)/RCRA 6002

CFR Citation: 40 CFR 250

Legal Deadline: None

Abstract: RCRA Section 6002 states that if a procuring agency purchases certain designated items, such items must be composed of the highest percentage of recovered materials practicable. EPA is required to designate these items, prepare guidelines to assist procuring agencies in complying with the requirements of Section 6002, and revise these guidelines "from time to time." To date, EPA has issued five procurement guidelines, including one for paper and paper products containing recovered materials, promulgated on June 22, 1988. Much has changed in the papermaking industry over the past three years in terms of technological advancement and the willingness to respond to consumer demand for recycled products. The proposed notice will revise the existing paper procurement guideline by recommending new minimum recycled content standards for various grades of paper. These revised standards will better reflect the capabilities and practices of paper manufacturers and increase the utility of the paper guideline.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
Final Action	12/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 3032.

Agency Contact: Terry Grist, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), Washington, DC 20460, 202 260-8518

RIN: 2050–AD41

3701. GUIDELINE FOR FEDERAL PROCUREMENT OF HYDRAULIC MULCH PRODUCTS

Legal Authority: 42 USC 6912(a)/RCRA 6002

CFR Citation: 40 CFR 249

Legal Deadline: None

Abstract: RCRA Section 6002(e) requires EPA to prepare guidelines for use by procuring agencies in complying with the requirements of section 6002. The guidelines must first designate items that are or can be produced with recovered materials for which a federal procurement guideline is appropriate. Second, the guidelines must provide product information concerning the availability and performance of products produced with recovered materials. Third, the guidelines are to set forth recommended procurement practices to aid procuring agencies in complying with section 6002. After the date specified in an applicable guideline, section 6002(c) requires each procuring agency which procures any item designated in a guideline to procure the item composed of the highest percentage of recovered materials practicable except in statutorily specified circumstances. To date, EPA has issued five procurement guidelines. This action will designate hydraulic mulch products as products for which the procurement requirement of RCRA section 6002 applies.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: SAN No. 3182.

Agency Contact: Kim Carr, Environmental Protection Agency, Solid Waste and Emergency Response,

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(OS-301), Washington, DC 20460, 202 260-7600

RIN: 2050–AD71

3702. GUIDELINE FOR FEDERAL PROCUREMENT OF GEOTEXTILE AND RELATED PRODUCTS

Legal Authority: 42 USC 6912(a)/RCRA 6002

CFR Citation: 40 CFR 249

Legal Deadline: None

Abstract: RCRA section 6002(e) requires EPA to prepare guidelines for use by procuring agencies in complying with the requirements of section 6002. The guidelines must first designate items that are or can be produced with recovered materials for which a Federal procurement guideline is appropriate. Second, the guidelines must provide product information concerning the availability and performance of products produced with recovered materials. Third, the guidelines are to set forth recommended procurement practices to aid procuring agencies in complying with section 6002. After the date specified in an applicable guideline, section 6002(c) requires each procuring agency which procures any item designated in a guideline to procure the item composed of the highest percentage of recovered materials practicable except in statutorily specified circumstances. To date, EPA has issued five procurement guidelines. This action will designate geotextiles and related products as products for which the procurement requirement of RCRA section 6002 apply.

Timetable:

Action	Date	FR Cite
NPRM	07/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: SAN No. 3181.

Agency Contact: Kim Carr, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), Washington, DC 20460, 202 260-7600

RIN: 2050–AD72

3703. GUIDELINE FOR FEDERAL PROCUREMENT OF STRUCTURAL AND DECORATIVE FIBERBOARD

Legal Authority: 42 USC 6912(a)/RCRA 6002

CFR Citation: 40 CFR 248

Legal Deadline: None

Abstract: RCRA section 6002(e) requires EPA to prepare guidelines for use by procuring agencies in complying with the requirements of section 6002. The guidelines must first designate items that are or can be produced with recovered materials for which a Federal procurement guideline is appropriate. Second, the guidelines must provide product information concerning the availability and performance of products produced with recovered materials. Third, the guidelines are to set forth recommended procurement practices to aid procuring agencies in complying with section 6002. After the date specified in an applicable guideline, section 6002(c) requires each procuring agency which procures any item designated in a guideline to procure the item composed of the highest percentage of recovered materials practicable except in statutorily specified circumstances. To date, EPA has issued five procurement guidelines. This action will designate structural and decorative fiberboard products as products for which the procurement requirement of RCRA section 6002 apply.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: SAN No. 3120.

Agency Contact: Kim Carr, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), Washington, DC 20460, 202 260-7600

RIN: 2050–AD83

3704. CLARIFY LENDER LIABILITY FOR UNDERGROUND STORAGE TANKS

Significance: Regulatory Program

Legal Authority: 42 USC 6991/RCRA 9001; 42 USC 6991/RCRA 9003

CFR Citation: 40 CFR 280

Legal Deadline: None

Abstract: This regulation will clarify the liability of secured creditors ("lenders") regarding contaminated properties they hold as collateral. The clarification is needed to remove a current barrier to the financing of underground storage tank (UST) facilities and increase the amount of capital available to UST owners. Without adequate financing, many UST owners will be unable to make the improvements to their facilities necessary to comply with environmental regulations. EPA committed to preparing this rule under a similar rule promulgated under CERCLA (57 FR 18344) on April 29, 1992. This rule should help both private and public entities in obtaining financing for their UST-related activities.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
Final Action	05/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3149.

Agency Contact: Shelley Fudge, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410 WF), Washington, DC 20460, 703 308-8886

RIN: 2050–AD67

3705. UNDERGROUND STORAGE TANKS CONTAINING HAZARDOUS SUBSTANCES - FINANCIAL RESPONSIBILITY REQUIREMENTS

Legal Authority: 42 USC 6991/RCRA 9003

CFR Citation: 40 CFR 280

Legal Deadline: None

Abstract: This regulation will establish, under Subtitle I of RCRA (as amended by SARA), requirements for demonstrating financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by releases from underground storage tanks (USTs) containing hazardous substances. An ANPRM was published to help gather data (e.g., frequency of releases from such USTs, costs of corrective action and third-party damages, and the regulated community's financial condition and use of financial assurance mechanisms) needed for the development of a proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/88	53 FR 3818
NPRM	09/00/93	
Final Action	09/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Additional Information: SAN No. 2465.

Agency Contact: Sammy K. Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410WF), Washington, DC 20460, 703 308-8882

RIN: 2050–AC15

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Resource Conservation and Recovery Act (RCRA)

Final Rule Stage

3706. REVISIONS TO THE OIL POLLUTION PREVENTION REGULATIONS

Significance: Regulatory Program

Legal Authority: 33 USC 1321/CWA 311(j)(l)(C)

CFR Citation: 40 CFR 112

Legal Deadline: None

Abstract: Following a major inland oil spill with substantial environmental impacts (i.e., Ashland Oil in Floreffe, PA, in January, 1988) an interagency task force reviewed the adequacy of existing EPA regulations concerning the prevention and control of oil spills (40 CFR 112). The task force recommended a number of steps to improve and extend the regulations. The final rule implements some of the task force recommendations. It will clarify that many provisions of the existing regulations that may be interpreted as recommended practices by the regulated community are in fact required practices.

Timetable:

Action	Date	FR Cite
NPRM	10/22/91	56 FR 54612
Final Action	08/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2634.

Agency Contact: Monica Chatman-McEaddy, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington, DC 20460, 703 603-8725

RIN: 2050–AC62

3707. • PROCEDURES FOR PLANNING AND IMPLEMENTING OFF-SITE RESPONSE ACTIONS

Significance: Regulatory Program

Legal Authority: 42 USC 9604(c)/CERCLA 104(c); 42 USC 9621(d)(3)/CERCLA 121(d)(3); 33 USC 1321(c)(2)/CWA 311(c)(2); 42 USC 9605/CERCLA 105

CFR Citation: 40 CFR 300.440

Legal Deadline: None

Abstract: This rule interprets 1) the requirements of Section 112(d)(3) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) and codifies the revised off-site policy directive (November 13, 1987). CERCLA Section 121(d)(3) and the directive describe procedures that must be followed when conducting a response action funded under CERCLA or dealing with CERCLA wastes. Section 121(d)(3) specifies that wastes from removal or remedial actions under CERCLA that se transferred off-site only be transferred to: 1) facilities that are in compliance with Sections 3004 and 3005 of the Resource Conservation and Recovery Act (RCRA) and other applicable Federal laws and State requirements, and 2) facilities where receiving land disposal units are not leaking and where releases from other (non-receiving units) are under a corrective action program. The rule prescribes procedures whereby affected facilities may ask EPA for review of the off-site acceptability determinations.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48218
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 2538.

Agency Contact: Ellen Epstein, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-520), Washington, DC 20460, 202 260-4849

RIN: 2050–AD94

3708. • LAND DISPOSAL RESTRICTIONS FOR IGNITABLE AND CORROSIVE CHARACTERISTIC WASTES WHOSE TREATMENT STANDARDS WERE VACATED

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924:; 42 USC 6926

CFR Citation: 40 CFR 268; 40 CFR 271

Legal Deadline: Final, Statutory, May 8, 1990.

Abstract: EPA is promulgating treatment standards for certain ignitable and corrosive wastes pursuant to the September 25, 1992 decision of the U.S. Court of Appeals in Chemical Waste Management v. EPA, 976 F. 2d (D.C. Cir. 1992). The underlying rule at issue in the court opinion was signed on May 8, 1990, and published June 1, 1990 (55 FR 22520). Because land disposal of these wastes would be prohibited if

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no treatment standards were in place, EPA must promulgate standards for the vacated standards to avoid an absolute ban on land disposal of these wastes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. not yet assigned.

Agency Contact: Rhonda Craig, Environmental Protection Agency, Solid Waste and Emergency Response, OS-322W, Washington, DC 20460, 703 308-8771

RIN: 2050–AD96

3709. MODIFICATIONS OF THE HAZARDOUS WASTE RECYCLING REGULATIONS: UNIVERSAL WASTES

Legal Authority: 42 USC 6905/RCRA 1004; 42 USC 6921 to 6928/RCRA 3001 to 3008

CFR Citation: 40 CFR 261; 40 CFR 266

Legal Deadline: None

Abstract: This rulemaking will propose to modify the regulatory program for hazardous waste recycling. A number of specific modifications may address activities such as battery recycling, and management of recalled pesticides. These proposed changes would address a number of specific problem areas in the current regulations, while the Agency considers whether more fundamental changes are warranted.

Timetable:

Action	Date	FR Cite
NPRM	02/11/93	58 FR 8102
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2870.

Agency Contact: Mitch Kidwell, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 260-8551

RIN: 2050–AD19

3710. NO-MIGRATION VARIANCE FOR PROHIBITED HAZARDOUS WASTE LAND DISPOSAL

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6921/RCRA 3001; 42 USC 6924/RCRA 3004

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: The Agency is considering a regulation that further specifies the process for operators to apply for and receive variances that would allow the land disposal of untreated hazardous wastes that have been prohibited from land disposal under 40 CFR 268. The variance would be available for surface land disposal units that demonstrate that there will be no migration of hazardous constituents from the unit for as long as the waste remains hazardous.

Timetable:

Action	Date	FR Cite
NPRM	08/11/92	57 FR 35940
NPRM Comment Period End	10/23/92	57 FR 44545
Final Action	08/00/94	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 2524.

Accompanying draft guidance manual will be made available concurrent with publication of proposal. Guidance will assist facility owners and operators in characterizing environmental media of concern and environmental pathways along which constituent migration may occur.

Agency Contact: Dave Reeves, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460, 703 308-8652

RIN: 2050–AC44

3711. TEST METHODS FOR EVALUATING SOLID WASTE (MANUAL SW846 THIRD EDITION) INCORPORATION BY REFERENCE AND GOOD LABORATORY PRACTICES—UPDATE 1

Legal Authority: 42 USC 6912/RCRA 2002

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270

Legal Deadline: None

Abstract: This action proposes to update testing methods in the RCRA testing regulation including recommended quality assurance and control procedures to permit persons to use the latest (3rd) edition of Test Methods for Evaluation Solid Waste (SW-846).

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3212
NPRM (Supplemental)	02/08/90	55 FR 4440
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2507.

Agency Contact: Charles Sellers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-331), Washington, DC 20460, 202 260-4761

RIN: 2050–AC32

3712. HAZARDOUS WASTE MANAGEMENT SYSTEM, AMENDMENT TO SUBPART C RULEMAKING PETITIONS: USE OF GROUNDWATER DATA IN DELISTING DECISIONS

Legal Authority: 42 USC 6903/RCRA 1004; 42 USC 6921/RCRA 3001

CFR Citation: 40 CFR 260.22

Legal Deadline: None

Abstract: This amendment as proposed will generally require those who submit delisting petitions for hazardous wastes to provide groundwater monitoring data as part of their petition. The amended regulations will clarify the Agency's existing authority to consider the impact of a petitioned waste on groundwater and deny a petition based on groundwater contamination. EPA is seeking this amendment to clarify its authority to request and consider such data in delisting decisions.

Timetable:

Action	Date	FR Cite
NPRM	10/12/89	54 FR 41930
Final Action	06/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2622.

Agency Contact: Narendra Chaudhari, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, 202 260-4787

RIN: 2050–AC65

3713. SUSPENSION OF THE TOXICITY CHARACTERISTIC RULE FOR NON-UNDERGROUND STORAGE TANK PETROLEUM CONTAMINATED MEDIA

Legal Authority: 42 USC 6921/RCRA 3001; 42 USC 6912/RCRA 2002

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This action proposes to suspend the Toxicity Characteristic (TC) rule in States with adequate petroleum response programs, as it applies to non-UST petroleum contaminated media and debris, for a period of three years. This action would generally be consistent with the UST deferral in the TC rule. During this period the Agency would collect additional data, perform additional analyses, and explore other administrative and legal options and issues in preparation for making a final decision as to the appropriate RCRA regulatory treatment for these materials.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61542
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAN No. 3085.

Agency Contact: Dave Fagan, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460, 703 308-8621

RIN: 2050–AD64

3714. FINAL DETERMINATION OF THE APPLICABILITY OF THE TOXICITY CHARACTERISTIC RULE TO UNDERGROUND STORAGE TANKS CONTAMINATED MEDIA AND DEBRIS

Legal Authority: 42 USC 6921/RCRA 3001

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: In the final hazardous waste Toxicity Characteristic (TC) rule, EPA decided to temporarily defer a final decision on the application of the TC rule to media and debris contaminated with petroleum from underground storage tanks (USTs) that are subject to UST corrective action requirements under 40 CFR Part 280. The Agency believed the UST regulations governing cleanups at these sites would be adequate in the interim. The application of the TC rule to UST cleanups was temporarily delayed so that the Agency could evaluate the extent and nature of these impacts and alternative mechanisms for implementing UST cleanups. The Agency has completed studies of the characteristics of UST corrective action sites, and current practices for management of media and debris under subtitle I State programs. After evaluation of public comments on the studies, EPA will make a final determination, through the issuance of a proposed and final rule, regarding the applicability of the TC rule to UST petroleum-contaminated media and debris.

Timetable:

Action	Date	FR Cite
NPRM	02/12/93	58 FR 8504
Final Action	12/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: SAN No. 3189.

Agency Contact: John Heffelfinger, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410W), Washington, DC 20460, 703 308-8881

RIN: 2050–AD69

3715. IMPORTS AND EXPORTS OF HAZARDOUS WASTE: IMPLEMENTATION OF THE OECD DECISION FOR RECYCLABLE WASTES

Legal Authority: 22 USC 2656; 42 USC 6901/RCRA 3001

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 266

Legal Deadline: None

Abstract: On March 30, 1992, the Organization for Economic Cooperation and Development (OECD) adopted the Council's Final Decision on the Control of Transfrontier Movements of Wastes Destined for Recovery Operations. The United States, a member of the OECD, supported the Decision, which is legally binding. The Decision establishes a graduated system of procedural controls for the export and import of wastes for recovery, depending on whether a waste is included in the green, amber, or red lists. Green waste are subject only to controls imposed in normal international commercial shipments. Amber and red wastes that are considered hazardous are subject to additional controls regarding notification to and consent from the exporting, importing, and transit countries; contracts, tracking documents; and recordkeeping. These provisions are being codified in a final rule which will replace the current RCRA export/import regulations for hazardous waste destined for recovery within the OECD. (cont)

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3114.

ABSTRACT CONT: These changes do not affect the RCRA export/import regulations for hazardous wastes moving for treatment or disposal within the OECD or moving for treatment, disposal or recovery purposes to other countries outside the OECD.

Agency Contact: Denise Wright, Environmental Protection Agency, Solid Waste and Emergency Response,

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(OS-332), Washington, DC 20460, 202 260-3519

RIN: 2050–AD87

3716. • REGULATORY DETERMINATION ON CERTAIN WASTES FROM THE COMBUSTION OF FOSSIL FUELS

Legal Authority: 42 USC 6921(b)(3)(C)/RCRA 3001(b)(3)(C)

CFR Citation: 40 CFR Not yet determined

Legal Deadline: Final, Judicial, April 1, 1998.

Abstract: As required by consent decree, the Agency determined that it will undertake additional study of the remaining fossil fuel combustion wastes before making Final Regulatory Determination on these wastes. The phrase "remaining wastes" refers to (1) fly ash, bottom ash, boiler slag, and flue gas emission control wastes from the combustion of coal by electric utility power plants when such wastes are mixed with, co-disposed, co-treated, or otherwise co-managed with other wastes generated in conjunction with the combustion of coal or other fossil fuels, and (2) any other wastes subject to section 8002(N) of RCRA other than fly ash, bottom ash, boiler slag and flue gas emission control wastes that are not mixed with, co-disposal, co-treated, or otherwise co-managed with other wastes generated in conjunction with the combustion of coal or other fossil fuel. The additional studies will be completed by September 30, 1997, and will be followed by a Final Regulatory Determination by April 1, 1998.

Timetable:

Action	Date	FR Cite
Notice of Data Availability	04/00/93	
Four Fossil Fuel Wastes		
Report to Congress	04/00/93	
Regulatory Determination	08/00/93	
Remaining Fossil Fuel Wastes		
Report to Congress	09/00/97	
Regulatory Determination	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3201.

Agency Contact: Patricia Whiting, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-305), Washington, DC 20460, 703 308-8421

RIN: 2050–AD91

3717. • EXCLUSION OF FLUORESCENT LAMPS FROM THE HAZARDOUS WASTE MANAGEMENT SYSTEM

Legal Authority: 42 USC 6905; 42 USC 6912; 42 USC 6921; 42 USC 6922; 42 USC 6938

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This action is deregulatory. Currently, used fluorescent lamps often test hazardous under the Toxicity Characteristic because of their mercury content. However, available information Indicates that these lamps may not create an environmental problem when disposed in municipal landfills. In addition, there are substantial environmental benefits from using fluorescent lamps, primarily due to energy savings. Therefore, the Agency is looking at options for exempting fluorescent lamps from the Toxicity Characteristic.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3237.

Agency Contact: David Layland, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-331), Washington, DC 20460, 202 260-4796

RIN: 2050–AD93

3718. AMENDMENTS TO GROUNDWATER MONITORING REQUIREMENTS AT HAZARDOUS WASTE FACILITIES

Legal Authority: 42 USC 6924 to 6927/RCRA 3004 to 3007

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: This action will change the subpart F groundwater monitoring regulations. The following is a summary of the changes the Agency is considering: (a) require use of site-specific data and modeling predictions on containment fate and transport for groundwater monitoring variances; (b) clarify the definition of waste management area and provide flexibility in determining the appropriate monitoring or response programs for individual areas; (c) allow flexibility in schedules for submittal of the information upon approval by the Regional Administrator (RA); (d) clarify the RA's authority to require monitoring of any flow pathway in the uppermost aquifer and unsaturated zone; (e) clarify the RA's authority to designate supplemental monitoring wells when justified by complicated monitoring situations; and (f) allow a return to detection or compliance monitoring as appropriate; (g) add quality assurance and quality control requirements for groundwater monitoring devices and methods.

Timetable:

Action	Date	FR Cite
NPRM	07/26/88	53 FR 28160
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2277.

Agency Contact: Hugh Davis, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-5303), Washington, DC 20460, 703 308-8633

RIN: 2050–AB20

3719. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924/RCRA 3004(u), 3004(v)

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: These regulations set forth the technical and procedural requirements for conducting corrective action to clean up significant releases to air, surface water, groundwater and soil at solid waste management units (SWMUs) at operating, closed, or closing RCRA facilities. The regulations will be used to define the structure of the program, and the requirements for implementing remedial action, remedy selection and corrective measures. Currently, the permitting agencies must make case-by-case decisions using a scant regulatory framework. This regulation may be issued in two phases.

Timetable:

Action	Date	FR Cite
NPRM	07/27/90	55 FR 30798
Final Action (Phase I)	02/16/93	58 FR 8658
Final Action	12/00/93	
Final Action (Phase II)	12/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2390.

Agency Contact: David Fagan, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460, 703 308-8620

RIN: 2050–AB80

3720. RCRA SUBTITLE C FINANCIAL TEST CRITERIA (REVISION)

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 280; 40 CFR 761

Legal Deadline: None

Abstract: This amendment will revise financial test criteria that must be satisfied by TSDF owners and operators employing the test to demonstrate RCRA financial responsibility requirements. The anticipated revisions will adjust test criteria so as to increase availability of this assurance mechanism to financially viable and stable firms and increase sensitivity to bankruptcy prediction.

Timetable:

Action	Date	FR Cite
NPRM	07/01/91	56 FR 30201
Final Action (3rd Party Liability; Closure/Post Closures)	09/16/92	57 FR 42832
Final Action (Corporate Financial Test)	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2647.

Agency Contact: Ed Coe, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460, 703 308-8624

RIN: 2050–AC71

3721. TREATMENT, STORAGE, AND DISPOSAL FACILITY—RCRA AIR EMISSION STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 6924/RCRA 3004, 3007

CFR Citation: 40 CFR 264 subpart X; 40 CFR 264 subpart AA; 40 CFR 264 subpart BB; 40 CFR 264 subpart CC; 40 CFR 265 subpart I; 40 CFR 265 subpart J; 40 CFR 265 subpart AA; 40 CFR 265 subpart BB; 40 CFR 265 subpart CC

Legal Deadline: Final, Statutory, May 1987. Final, Judicial, November 1994.

Abstract: The purpose of this action is to investigate the health and environmental impacts of non-combustion source air emissions from hazardous waste treatment, storage, and disposal facilities and to develop standards for monitoring and control as needed. Sources include surface impoundments, landfills, waste piles, land treatment operations and wastewater treatment facilities. Pollutants to be considered by such standards would include volatile organic compounds, particulate matter, specific toxic substances, or a combination of these. The mandate for standards development under RCRA is to protect human health and the environment. The Agency has adopted a three-phase approach, with Phase I concerning organic emission leaks and vents, Phase II concerning hazardous waste storage tanks impoundments, and Phase III dealing with residual risks from particular hazardous organic constituents.

Timetable:

Action	Date	FR Cite
Phase I Leaks and Vents		
NPRM	02/05/87	(52 FR 3748)
Final Action	06/21/90	(55 FR 25454)
Phase II Tanks and Impoundments		
NPRM	07/22/91	(56 FR 33490)
Final Action	10/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2240.

Agency Contact: W. Fred Dimmick, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5261

RIN: 2050–AD62

3722. EXTENSION OF STATES INTERIM AUTHORIZATION OPTION TO CARRY OUT POST-HSWA REGULATIONS

Legal Authority: 42 USC 6926/RCRA 3006(g)

CFR Citation: 40 CFR 271.24

Legal Deadline: None

Abstract: This action will extend the interim authorization option available to States beyond January 1, 1993. Interim authorization allows a State which has been granted RCRA base program authorization to carry out post-HSWA regulations once it has submitted evidence that these regulations are substantially equivalent to the federal requirements. The Agency proposes to extend the availability of interim authorization to January 1, 2003.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/18/92	57 FR 60129
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3094.

Agency Contact: Robert Roberts, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-5303W), Washington, DC 20460, 703 308-8761

RIN: 2050–AD57

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ENVIRONMENTAL PROTECTION AGENCY (EPA)
Resource Conservation and Recovery Act (RCRA)

Completed Actions

3723. MODIFICATIONS TO FINAL MANAGEMENT STANDARDS FOR WOOD PRESERVING FACILITIES

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Completed:

Reason	Date	FR Cite
Final Action	12/24/92	57 FR 61492

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Carver, 202 260-6775

RIN: 2050–AD35

3724. FINAL REGULATORY DETERMINATION ON FLY ASH, BOTTOM ASH, BOILER SLAG, AND FLUE GAS EMISSION CONTROL WASTES FROM THE COMBUSTION OF COAL BY ELECTRIC UTILITY POWER PLANTS

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn - combined with RIN 2050-AD91	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Whiting, 703 308-8421

RIN: 2050–AD76

3725. DISPOSAL OF CONTAINERIZED LIQUIDS IN HAZARDOUS WASTE LANDFILLS

Significance: Regulatory Program

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 271

Completed:

Reason	Date	FR Cite
Final Action	11/18/92	57 FR 54452
Final Action Effective	05/18/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Ken Shuster, 202 260-2214

RIN: 2050–AA34

3726. • CORRECTIVE ACTION MANAGEMENT UNITS (CAMUS) AND TEMPORARY UNITS; CORRECTIVE ACTION PROVISIONS UNDER SUBTITLE C

Legal Authority: 42 USC 6924/RCRA 3004(u), 3004(y), 3008(h)

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: EPA has finalized regulations that provide for the use of corrective action management units (CAMUs) and temporary units when cleaning up sites under RCRA and Superfund. These provisions are expected to address the difficulties associated with management of remediation wastes that current Subtitle C regulations have created for the management of remediation wastes. Under this final rule, placement (or replacement) of hazardous wastes into a CAMU will not automatically trigger land disposal restrictions (LDRs) and/or minimum technology requirements (MTRs). The temporary unit provisions allow EPA to modify Subtitle C design, operating and closure standards for tanks and container storage used for remediation wastes for a period of one year. Under the rule, appropriate treatment plan for a particular site. This is expected to result in more expeditious cleanups, and will promote the use of new, innovative treatment technologies.

Timetable:

Action	Date	FR Cite
NPRM	07/27/90	55 FR 30798
Final Action	02/16/93	58 FR 8658

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 3206.

Agency Contact: Anne Price, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460, 202 260-8657

RIN: 2050–AD95

3727. UNDERGROUND STORAGE TANKS CONTAINING PETROLEUM - FINANCIAL RESPONSIBILITY REQUIREMENTS: FINANCIAL TEST FOR SELF-INSURANCE FOR LOCAL GOVERNMENT ENTITIES

Significance: Regulatory Program

CFR Citation: 40 CFR 280

Completed:

Reason	Date	FR Cite
Final Action	02/18/93	58 FR 9026

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Sammy K. Ng, 703 308-8882

RIN: 2050–AC67

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Air Act (CAA)

Prerule Stage

3728. NAAQS: CARBON MONOXIDE (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408/CAA 108; 42 USC 7409/CAA 109

CFR Citation: 40 CFR 50.8

Legal Deadline: Final, Statutory, December 31, 1980.
Review by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reviewing the health and welfare information that has become available since the last review of the CO NAAQS was completed in September 1985. The Agency will revise the standard if needed to protect the public health and welfare.

Timetable:

Action	Date	FR Cite
Decision on Revision	11/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2762.

Agency Contact: John Haines, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5533

RIN: 2060–AA63

EPA—CAA

Prerule Stage

3729. NAAQS: NITROGEN DIOXIDE (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408/CAA 108; 42 USC 7409/CAA 109

CFR Citation: 40 CFR 50.11

Legal Deadline: Final, Statutory, December 31, 1980.
Reviews by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reviewing the health and welfare information (criteria document) that has become available since the last review of the NO2 NAAQS was completed in June 1985. The criteria document will be reviewed by the Clean Air Scientific Advisory Committee (CASAC). The Agency will revise the standard if needed to protect the public health and welfare.

Timetable:

Action	Date	FR Cite
CASAC Review of Draft Criteria Document	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 1004.

Agency Contact: John Haines, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, N.C. 27711, 919 541-5533

RIN: 2060–AC06

3730. • REPORT TO CONGRESS AND REGULATORY AGENDA FOR VOCS FROM CONSUMER AND COMMERCIAL PRODUCTS

Legal Authority: Clean Air Act as amended in 1990, Section 183(e)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The use of consumer and commercial products has been identified as a potential source of VOC emissions. Section 183(e) of the Clean Air Act, as amended in 1990, requires that EPA conduct a study of VOC emissions from consumer and commercial products. The objectives of the study are (1) to determine the potential of these products to contribute to ozone nonattainment; and (2) to establish criteria for selecting categories of products for regulation under Section 183(e). Not later then November 1993, EPA must submit a report to Congress that documents the results of the study. Upon submission of the report to Congress, EPA must list those categories of consumer and commercial products that have been determined, based on the study, to account for at least 80 percent of the VOC emissions from consumer and commercial products. This list, which is to be divided into four groups by priority according to the selection criteria, will comprise the regulatory agenda.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3037.

Agency Contact: Bruce Moore, Environmental Engineer, Environmental Protection Agency, Air and Radiation, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, 919 541-5460

RIN: 2060–AE24

3731. ACCELERATED PHASEOUT OF CLASS I CHEMICALS

Significance: Regulatory Program

Legal Authority: 42 USC 4526/CAA 606

CFR Citation: 40 CFR 82

Legal Deadline: Other, Statutory, May 31, 1992.
Response to Petition, May 31, 1992.

Abstract: Section 606 requires the Agency to grant or deny petitions received to promulgate regulations to accelerate the phaseout of Class I chemicals (CFCs, methyl chloroform, carbon tetrachloride) within 180 days of receipt. If the Agency grants a petition and proposed regulations accelerating the phaseout, it must promulgate a final rule one year after the proposal. The Agency has received two petitions to date requesting the acceleration of the phaseout, the first of which was submitted on December 3, 1991.

Timetable:

Action	Date	FR Cite
NPRM	03/18/93	58 FR 15014
Response to Petition	04/00/93	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 3157.

Agency Contact: Sue Stendebach, Environmental Protection Agency, Air and Radiation, (6202J), Washington, DC 20460, 202 233-9117

RIN: 2060–AD91

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Air Act (CAA)

Proposed Rule Stage

3732. REVISION OF RULES FOR PREVENTION OF SIGNIFICANT DETERIORATION (PSD) AND NEW SOURCE REVIEW (NSR)

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments, Title I

CFR Citation: 40 CFR 51.160 to 51.166; 40 CFR 51, appendix S; 40 CFR 52.21; 40 CFR 52.24

Legal Deadline: None

Abstract: The purpose of this action is to amend EPA's existing new source review regulations, including prevention of significant deterioration, and associated requirements for best available control technology. In addition, certain other revisions will be made to improve the clarity of the existing regulatory language. This rulemaking will satisfy obligations under Exhibit B of the settlement agreement in Chemical Manufacturers vs. EPA, No. 79-112 (D.C. Cir.). The

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regulations contain procedures for reviewing, permitting, and specifying controls for the construction and modification of major air pollution sources in attainment and nonattainment areas. Several new source review regulations will be affected, including the State implementation requirements for the review of new sources and modifications (40 CFR 51.160-166 and Appendix S), the Federal prevention of significant deterioration program (40 CFR 52.21), and Federal restrictions on new source construction (40 CFR 54.24).

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
Final Action	08/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2909.

Agency Contact: David Solomon, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5375

RIN: 2060–AD13

3733. ENHANCED MONITORING PROGRAM

Significance: Regulatory Program

Legal Authority: PL 101-549, Sec 504(b), Sec 702

CFR Citation: 40 CFR 70; 40 CFR 71

Legal Deadline: Final, Statutory, November 1992.

Abstract: Regulations will be developed to provide guidance on the appropriate enhanced monitoring protocols, recordkeeping and reporting requirements for major sources and area sources.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	04/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2942.

Agency Contact: Keith Brown, Environmental Protection Agency, Air and Radiation, (EN-341W), Washington, DC 20460, 703 308-8694

RIN: 2060–AD18

3734. CALIFORNIA CLEAN-FUELS PILOT PROGRAM - OPT IN, VEHICLE STANDARDS, SALES REQUIREMENTS, AND FUEL AVAILABILITY

Significance: Regulatory Program

Legal Authority: 42 USC 7589

CFR Citation: 40 CFR 88

Legal Deadline: Final, Statutory, November 1992.

Abstract: The Clean Air Act Amendments of 1990 mandate that EPA establish a pilot program in the State of California to demonstrate the effectiveness of clean-fuel vehicles in controlling air pollution in ozone non-attainment areas. As part of this program, EPA must promulgate regulations establishing light-duty clean-fuel vehicle standards, manufacturer sales requirements, clean-fuel availability guidance for the State of California, and a voluntary opt-in program for other States with serious, severe or extreme ozone nonattainment areas.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	05/00/94	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 2957.

Agency Contact: Bryan Manning, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 741-7832

RIN: 2060–AD31

3735. CLEAN-FUEL FLEET PROGRAMS

Significance: Regulatory Program

Legal Authority: 42 USC 7586; 42 USC 7582; 42 USC 7587

CFR Citation: 40 CFR 88

Legal Deadline: Final, Statutory, November 1991. Other, Statutory, November 1992.
The deadline for a final rule for Credits and TCM Exemptions is November 1991. The deadline for a final rule for Conversions and Standards is November 1992.

Abstract: These rulemakings will establish uniform provisions for state programs to require certain centrally fueled fleets to include some clean-fuel vehicles in their new vehicle purchases. Two rulemakings are involved. The first establishes guidelines for a clean-fuel fleet credit program, regulations governing transportation control measures exemptions for clean-fuel fleet vehicles, and provisions affecting Federal Fleet Facilities. The second includes regulations governing the conversion of conventional vehicles to meet clean-fuel fleet vehicle requirements, heavy-duty standards for all vehicle/engine classes, and general provisions for state implementation of the Clean-Fuel Fleet program.

Timetable:

Action	Date	FR Cite
NPRM Credits and TCM Exemptions (SAN 2951)	10/03/91	56 FR 50196
Final Credits and TCM Exemptions (SAN 2951)	03/01/93	58 FR 11888
NPRM Vehicle Conversion Regulation (SAN 3070)	05/00/93	
Final Vehicle Conversion Regulation (SAN 3070)	04/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2951 and 3070.

Agency Contact: Bryan Manning, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 741-7832

RIN: 2060–AD32

3736. LOCOMOTIVE EMISSIONS STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 7547

CFR Citation: 40 CFR 86

Legal Deadline: Final, Statutory, November 1995.

Abstract: The Clean Air Act Amendments of 1990 require EPA to promulgate emission standards for railroad locomotives. It is likely that railroad locomotives are significant contributors of pollution in some areas of the country for some pollutants. This rulemaking may allow for uniform control of locomotive emissions on the national level.

Timetable:

Action	Date	FR Cite
NPRM	06/00/94	
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 2961.

Agency Contact: Peter Hutchins, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8340

RIN: 2060–AD33

3737. IN-USE URBAN BUS TEST PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 7554

CFR Citation: 40 CFR 86

Legal Deadline: Final, Statutory, May 15, 1992.

Abstract: The Clean Air Act Amendments of 1990 require EPA to conduct in-use testing of model year 1994 and later buses to determine whether these vehicles are meeting applicable emission standards throughout their useful life. This advisory circular will establish procedures for conducting the testing program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2956.

Agency Contact: Chris Lieske, Environmental Protection Agency, Air and Radiation, (EN-340), Ann Arbor, MI, 48105, 313 668-4584

RIN: 2060–AD38

3738. ACID RAIN OPT-IN REGULATION

Significance: Regulatory Program

Legal Authority: PL 101-549; Clean Air Act Amendments of 1990, title IV

CFR Citation: 40 CFR 74

Legal Deadline: Final, Statutory, May 15, 1992.

Abstract: Section 410 of the Clean Air Act Amendments allows sources not affected by Title IV to "opt-in" Title IV. The regulation will provide the necessary procedures for opting in to the acid rain program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/94	
Final Action	03/00/95	
Combustion Sources		
NPRM	05/00/93	
Final	03/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Additional Information: SAN No. 3009.

Agency Contact: Julie Rosenberg, Environmental Protection Agency, Air and Radiation, (6204J), Washington, DC 20460, 202 233-9154

RIN: 2060–AD43

3739. DETERMINATION OF SIGNIFICANCE AND EMISSION STANDARDS FOR NONROAD COMPRESSION IGNITION ENGINES AT OR ABOVE 50 HP

Legal Authority: 42 USC 7/CAA 213

CFR Citation: 40 CFR 89

Legal Deadline: Final, Statutory, November 15, 1992.

Abstract: The Clean Air Act Amendments of 1990 include provisions which mandate emission standards be established for nonroad engine categories that are determined to be significant contributors to emission inventories based on an EPA nonroad emission inventory study completed in November 1991. This action will determine the significance for nonroad engine categories and establish emission standards for 1996 and later model year nonroad diesel engines rated at or greater than 50 horsepower.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 3112.

Agency Contact: Debbie Wood, Certification Division, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Rd, Ann Arbor, MI 4819, 313 741-7900

RIN: 2060–AD54

3740. PROHIBITION OF LEADED GASOLINE FOR HIGHWAY USE

Significance: Regulatory Program

Legal Authority: 42 USC 7545

CFR Citation: 40 CFR 80

Legal Deadline: Final, Statutory, December 31, 1995.

Abstract: After December 31, 1995, it shall be unlawful for any person to sell, offer for sale, supply, offer for supply, dispense, transport, or introduce into commerce, for use as fuel in any motor vehicle any gasoline which contains lead or lead additives.

Timetable:

Action	Date	FR Cite
NPRM	07/01/93	
Final Action	03/01/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3111.

Agency Contact: James W. Caldwell, Environmental Protection Agency, Air and Radiation, (6406J), Washington, DC 20460, 202 233-9020

RIN: 2060–AD55

3741. • MOBILE-STATIONARY SOURCE TRADING PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 7502(c)(6)/CAA 172(c)(6); 42 USC 7511a(g)(4)/CAA 182(g)(4)

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: The Clean Air Act requires States to reduce emissions to meet air-

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quality standards. Under this initiative, EPA will produce guidance for States which clarifies how the CAA requirements can be met by trading emission reductions among mobile and stationary sources. This guidance will encourage States to consider these trading opportunities as they develop their implementation plans for air-quality management. The guidance will also detail any restriction on the ability to trade among these source categories.

Timetable:

Action	Date	FR Cite
Interim Guidance	02/23/93	58 FR 11134
NPRM	00/00/00	
Final Guidance	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Additional Information: SAN No. not yet assigned.

Agency Contact: Terri Wilsie, Environmental Protection Agency, Air and Radiation, (ANR-443), Washington, DC 20460, 202 260-1360

RIN: 2060–AD85

3742. • NEW SOURCE REVIEW NONATTAINMENT REQUIREMENTS

Significance: Regulatory Program

Legal Authority: Clean Air Act as amended in 1990, Title I

CFR Citation: 40 CFR 51.160 - 51.166; 40 CFR 52.24

Legal Deadline: None

Abstract: To comply with the more stringent requirements in the Clean Air Act as amended in 1990 for preconstruction review of new and modified major sources in areas that have been designated by EPA as failing to attain one or more of the national ambient air quality standards, EPA plans to amend its new source review rules.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	
Final Action	09/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3259.

In order to expedite the completion of the nonattainment new source review (NSR) rulemaking, this action has been split from broader NSR rulemaking (RIN: 2060-AD13).

Agency Contact: David Solomon, Acting Chief, New Source Review Section, Environmental Protection Agency, Air and Radiation, U.S. Environmental Protection Agency, MD-15, Research Triangle Park, NC 27711, 919 541-5375

RIN: 2060–AE11

3743. • AMENDMENTS TO THE EMISSION DEFECT REPORTING REQUIREMENTS

Legal Authority: 42 USC 1857 f-6(a); 42 USC 1857 g(a)

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: These amendments to the regulations will update and clarify the emission defect reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/94	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3265.

Agency Contact: Cliff Dean, Manufacturers Operations Division, Environmental Protection Agency, Air and Radiation, 401 M Street SW., Mail Code 6405J, Washington, DC 20460, 202 233-9240

RIN: 2060–AE16

3744. • INSPECTION/MAINTENANCE PROGRAM REQUIREMENTS - ONBOARD DIAGNOSTIC CHECKS

Legal Authority: 42 USC 7401, Clean Air Act Amendments of 1990

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action establishes requirements for checking onboard diagnostic systems as part of the Inspection/Maintenance program pursuant to Clean Air Act Amendments of 1990. Test procedures and state implementation plan requirements are established.

Timetable:

Action	Date	FR Cite
NPRM	09/15/93	
Final Action	07/15/94	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3264.

Agency Contact: Eugene J. Tierney, Chief, Inspection Maintenance Section, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4456

RIN: 2060–AE19

3745. • PERFORMANCE WARRANTY AND INSPECTION/MAINTENANCE TEST PROCEDURES

Legal Authority: 42 USC 7541; 42 USC 7601

CFR Citation: 40 CFR 51; 40 CFR 85

Legal Deadline: None

Abstract: This action establishes a new short test procedure for use in I/M programs required by the Clean Air Act Amendments of 1990. Vehicles that are tested and failed using this procedure and that meet eligibility requirements established by the act would be eligible for free warranty repair from the manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	09/15/93	
Final Action	09/15/94	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3263.

Agency Contact: Eugene J. Tierney, Chief, Inspection Maintenance Section, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4456

RIN: 2060–AE20

3746. • INSPECTION/MAINTENANCE PROGRAM REQUIREMENTS - PROVISIONS FOR REDESIGNATION

Legal Authority: 42 USC 7511 (A)(2)(b) and (A)(2)(b)(2)

CFR Citation: 40 CFR 51

Legal Deadline: None
Changes necessary to allow timely redesignations.

Abstract: This action specifies requirements for SIP approval as it relates to Inspection/Maintenance requirements when a state submits a request to be redesignated to attainment for one of the national ambient air quality standards.

Timetable:

Action	Date	FR Cite
NPRM	07/15/93	
Final Action	03/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3261.

Agency Contact: Eugene J. Tierney, Chief, Inspection/Maintenance Section, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4456

RIN: 2060–AE21

3747. • INSPECTION/MAINTENANCE RECALL REQUIREMENTS

Legal Authority: 42 USC 7511 (A)(2)(b) and (A)(2)(b)(2)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action specifies requirements for enhanced I/M programs to establish a program to ensure compliance with recall notices. This is pursuant to the Clean Air Act Amendments of 1990.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
Final Action	09/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3262.

Agency Contact: Eugene J. Tierney, Chief, Inspecion/Maintenance Section, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4456

RIN: 2060–AE22

3748. NAAQS: LEAD (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408/CAA 108; 42 USC 7409/CAA 109

CFR Citation: 40 CFR 50.12

Legal Deadline: Final, Statutory, December 31, 1980.
Reviews due by December 31, 1980 and at 5-year intervals.

Abstract: EPA is reassessing the health and welfare information that has become available since the promulgation of the standard. The Agency has prepared a staff paper which has been reviewed and approved by the Clean Air Scientific Advisory Committee (CASAC).

Timetable:

Action	Date	FR Cite
CASAC Closure Completed	01/11/90	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 1919.

Docket No. A-83-22.

Agency Contact: John Haines, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5533

RIN: 2060–AA95

3749. • REVISE CAPTURE EFFICIENCY GUIDELINES

Significance: Regulatory Program

Legal Authority: 42 USC 7410/CAA 110

CFR Citation: 40 CFR Not applicable

Legal Deadline: None

Abstract: In order to determine compliance with the volatile organic compounds rules for certain types of printing and coating operations, it is necessary to determine the effectiveness of the system for collecting the vapors to be ducted to a control device, referred to as capture efficiency (CE). EPA is undertaking a 12-month study to investigate less expensive ways of using the current CE guidance, as well as possible alternatives for determining CE. EPA will issue alternative CE methods guidance followed by rulemaking to incorporate CE methods into EPA regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3016.

Agency Contact: David Cole, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5565

RIN: 2060–AD84

3750. MEDICAL WASTE INCINERATORS

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments of 1990, sec 129

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, November 1992.

Abstract: The EPA is developing new source performance standards (NSPS) and emission guidelines (EG) for existing sources under Sections 111 and 129 of the Clean Air Act. The NSPS is to reflect the maximum degree of reductions in emissions that have been demonstrated for new units. The EG may be less stringent than the standards for new units. States must submit plans for implementing and enforcing the guidelines. Section 129 requires emission limits be established for particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans.

Timetable:

Action	Date	FR Cite
NPRM	03/00/94	
Final Action	08/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2719.

Agency Contact: Fred Porter, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5251

RIN: 2060–AC62

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3751. NSPS: MUNICIPAL WASTE COMBUSTION—PHASE II AND PHASE III

Significance: Regulatory Program

Legal Authority: 42 USC 4111/Clean Air Act Amendments of 1990, Section 129

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, November 1991.
Final deadline for Phase II/Large MWCs is November 1991. Final deadline for Phase III/Small MWCs is November 1992.

Abstract: The Clean Air Act Amendments of 1990 direct EPA to set standards of performance and emission guidelines for new and existing municipal waste combustors under Sections 111 and 129; to base these standards and guidelines on maximum achievable control technology; and to include emission limits for particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, mercury, lead, cadmium, and dioxins and dibenzofurans. The standards for both large and small municipal waste combustors have been combined into one set of standards.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2916.

Agency Contact: Fred Porter, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5251

RIN: 2060–AD00

3752. NSPS: REVIEW OF SUBPART DA—ELECTRIC UTILITY STEAM GENERATING UNITS (SO2)

Significance: Regulatory Program

Legal Authority: 42 USC 7411/CAA 111; Clean Air Act Amendments of 1990, sec 403

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, November 1993.

Abstract: Subpart Da of 40 CFR part 60 applies to large electric utility steam generating facilities. EPA is revising this NSPS, pursuant to Section 403 of the Clean Air Act Amendments of 1990. This section requires the SO2 emission limitations be revised to reflect changes in Section 111. The revised emission limitations are to result in emissions compliance with the existing NSPS. A regulatory schedule is currently under development.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3106.

Agency Contact: Kenneth R. Durkee, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5425

RIN: 2060–AD04

3753. NESHAP: ASBESTOS—MACT REVISIONS

Significance: Regulatory Program

Legal Authority: 42 USC 7412/CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: The Agency is considering revising the asbestos NESHAP under Section 112 of the Clean Air Act Amendments of 1990 to require maximum achievable control technology standards. A screening study is under way to identify if other hazardous air pollutants listed under Section 112 are emitted from the same emission sources. A new schedule may be developed when this study is completed.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2892.

Agency Contact: Sims Roy, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5263

RIN: 2060–AB51

3754. NESHAP: CHROMIUM—INDUSTRIAL COOLING TOWERS

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Chromium compounds are among the pollutants listed as hazardous air pollutants in Section 112 of the Clean Air Act Amendments of 1990. Industrial process cooling towers that use chromate-based water treatment programs have been identified by EPA as potentially significant sources of chromium air emissions and, as such, a source category for which national emission standards may be warranted. Emission standards would substantially reduce the amount of chromium discharged to the atmosphere from industrial process cooling towers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	04/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2386.

Agency Contact: Phil Mulrine, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5289

RIN: 2060–AC12

3755. NESHAP: CHROMIUM—ELECTROPLATING

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Chromium compounds are among the pollutants listed as hazardous under Section 112 of the Clean Air Act Amendments of 1990. The EPA will propose to develop standards for chromium emissions from electroplating operations. Hard, decorative, and anodizing operations may be affected. The standards could require the use of maximum achievable control technology pursuant to the Clean Air Act Amendments of 1990.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
Final Action	10/00/94	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2841.

Agency Contact: Lalit Banker, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5420

RIN: 2060–AC14

3756. NESHAP: ETHYLENE OXIDE FROM COMMERCIAL STERILIZATION

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This standard would control ethylene oxide emissions from sterilization chambers (other than hospital sterilizers).

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	06/00/94	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2484.

Agency Contact: David Markwordt, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-0837

RIN: 2060–AC28

3757. NESHAP: ORGANIC SOLVENT DEGREASING

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Consent Decree to propose by 11/15/93; promulgate within 12 months of proposal.

Abstract: An NSPS was proposed for this source category in 1980. Subsequently, in 1987, the Agency solicited public participation in information gathering in preparation for a decision on whether to regulate this source category under the NESHAP program, the NSPS program, or both. The NESHAP regulations are being developed and would apply to new and existing organic halogenated solvent cleaners (degreasers) using any of the hazardous air pollutants listed in the Clean Air Act, as amended. By consent decree, the Agency has to propose a rule for this project by November 15, 1993, and promulgate the rule within twelve (12) months of the proposal.

Timetable:

Action	Date	FR Cite
Notice (Public Participation)	08/17/87	52 FR 29548
NPRM	10/00/93	
Final Action	10/00/94	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 1695.

Agency Contact: Paul Almodovar, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-0283

RIN: 2060–AC31

3758. GENERAL PROVISIONS FOR MAJOR AND AREA SOURCES OF AIR TOXICS

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1992.

Abstract: General provisions are being developed for 40 CFR part 63 which will include standards for categories of stationary sources that emit 189 hazardous air pollutants to be regulated under Section 112 of the Clean Air Act Amendments of 1990. These provisions contain specific requirements that will apply to all sources regulated under Section 112. The general provisions are effective for a particular source category after promulgation of a standard for that category.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2918

Agency Contact: Michele Dubow, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-3803

RIN: 2060–AC98

3759. NESHAP: PULP AND PAPER

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This standard would control air emissions of hazardous air pollutants from pulp and paper mills. The regulation could address air emissions from process vents, storage tank vents, spills, kraft, soda, sulfite, and semichemical mills, and wastewater collection and treatment associated with the following noncombustion mill areas: pulping, turpentine recovery, oil recovery, pulp washing, prebleaching, bleaching, evaporation, and paper making. This regulation may also control air emissions from units associated with the liquor recovery cycle such as the recovery of furnace, lime kiln, causticizing tanks, and smelt tanks. Air emission standards for noncombustion sources at kraft, soda, sulfite, and semichemical mills are being integrated with the Clean Water Act effluent guideline limitations under development for these mills (see RIN 2040-AB53). The standards for this industry will be proposed and promulgated on a phased schedule.

Timetable:

Action	Date	FR Cite
NPRM for Noncombustion Sources	10/00/93	
NPRM for Combustion Sources	10/00/94	
Final Action for All Sources	09/00/95	
Chemi-Thermo-Mechanical/Chemi-Mechanical, Groundwood,...		
NPRM	11/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

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Additional Information: SAN No. 2914 (Noncombustion); SAN No. 3105 (Combustion).

Agency Contact for Combustion Sources: Jeff Telavder, U.S. EPA (MD-13), Research Triangle Park, NC 27711, (919) 541-5427.

Agency Contact: Penny Lassiter, (Noncombustion Sources), Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5396

RIN: 2060–AD03

3760. GUIDANCE FOR THE IMPLEMENTATION OF SECTION 112(G) - MODIFICATIONS

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments of 1990, sec 112(g)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, May 1992.

Abstract: Guidance is being developed in accordance with the requirements of Section 112(g) of the Clean Air Act Amendments of 1990. This guidance may set de minimis levels for the 189 listed hazardous air pollutants and establish a ranking for determinations of offsets.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	10/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2932.

Agency Contact: Jane Caldwell-Kenkel, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-0328

RIN: 2060–AD06

3761. PROTECTION OF STRATOSPHERIC OZONE: SAFE ALTERNATIVES

Significance: Regulatory Program

Legal Authority: PL 101-549; Clean Air Act Amendments of 1990, sec 612

CFR Citation: 40 CFR 82

Legal Deadline: Final, Statutory, November 15, 1992.

Abstract: As mandated by Section 612, this regulation will: (1) make unlawful the replacement of any Class I or Class II substance with any substitute that the Administrator determines may present adverse health or environmental effects where an alternative with lower relative risk is available (sec. 612(c)), (2) establish a process for publishing a list of acceptable and unacceptable substitutes for specific Class I substances (612(c)), (3) set forth guidance on how a person may petition the Administrator to add a substance to the lists under subsection (c) or to remove a substance from either of such lists (612(d)), and (4) establish a program to require submission of unpublished health and safety studies on new or existing substitutes not less than 90 days before being introduced into interstate commerce for significant new uses as substitutes for a Class I substance (612(e)).

Timetable:

Action	Date	FR Cite
ANPRM	01/16/92	57 FR 1994
NPRM	04/00/93	
Final Action	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2991.

Agency Contact: Drusilla Hufford, Environmental Protection Agency, Air and Radiation, (6202)), Washington, DC 20460, 202 233-9101

RIN: 2060–AD48

3762. NESHAP FOR WOOD FURNITURE MANUFACTURING

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This regulation would control emissions of hazardous air pollutants from wood furniture manufacturing plants. The Agency is currently gathering background information on the industry and its emission sources. A decision on the scope of this regulation will be made when this work is completed.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. not yet assigned.

Agency Contact: Gale Bonanno, Environmental Protection Agency, Air and Radiation, (ANR-460W), Washington, DC 20460, 703 233-9219

RIN: 2060–AD60

3763. RADIONUCLIDE MAJOR SOURCE DEFINITION

Significance: Agency Priority

Legal Authority: 42 USC 7607/CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Section 112(a) of the CAA Amendments of 1990 defines major source as any source that emits 10 tons or more per year of any hazardous air pollutant (HAP) or 25 tons or more per year of any combination of HAP. The ton quantities are inappropriate for radionuclides, as very small emissions of radiation may be extremely hazardous. The statute authorizes different criteria to be established for radionuclides. This rulemeking will establish these criteria.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. not yet assigned.

Agency Contact: Gale Bonanno, Environmental Protection Agency, Air and Radiation, (ANR-460W), Washington, DC 20460, 703 233-9219

RIN: 2060–AD60

3764. NESHAP: STAGE I GASOLINE DISTRIBUTION FACILITIES

Significance: Agency Priority

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994.
EPA is required to promulgate 25% of the listed source categories by November 15, 1994. EPA is planning to promulgate this action by that date to satisfy part of this statutory obligation.

Abstract: Gasoline vapors contain about ten of the hazardous air pollutants HAPs listed in Section 112 of the Clean Air Act Amendments of 1990. These HAP emissions occur during transferring and storage operations. Facilities being analyzed are bulk gasoline terminals and plant pipe facilities, and gasoline service stations. Control alternatives of major sources of emissions (large size terminals and pipeline facilities) are the only alternatives being considered. Costs average about eighteen million dollars per year with benefits of about two thousand tons of HAP reduced, and about forty thousand tons of volatile organic compounds.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
Final Action	10/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3169.

Agency Contact: Stephen A. Shedd, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5397

RIN: 2060–AD93

3765. NESHAP: PETROLEUM REFINERIES

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994.
EPA is required to promulgate 25% of the listed source categories by November 15, 1994. EPA plans to promulgate this standard by that date to satisfy part of this statutory obligation.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires EPA to develop emission standards for 189 hazardous air pollutants (HAPs). Petroleum refining is among the potential source categories to be regulated under Section 112 of the CAA. Sources of emissions within petroleum refineries include process vents, equipment leaks, wastewater collection and treatment facilities, transfer operations and storage vessels.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
Final Action	11/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3168.

Agency Contact: James F. Durham, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5622

RIN: 2060–AD94

3766. NESHAP: PRINTING/ PUBLISHING INDUSTRY

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994.
EPA is required to promulgate 25% of the listed source categories by November 15, 1994. EPA plans to promulgate this action by that date to satisfy part of this statutory obligation.

Abstract: This regulation would control hazardous air pollutant emissions from printing/publishing facilities. The Agency is currently gathering background information on the rotogravure, flexography, offset lithography, screen printing, letterpress and other parts of the printing/ publishing industry. The Agency will make a decision on the scope of this regulation once this work is completed.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
Final Action	11/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3167.

Agency Contact: David Salman, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-0859

RIN: 2060–AD95

3767. NESHAP: POLYMERS AND RESINS, GROUP I

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994.
EPA is required to promulgate 25% of the listed source categories by November 15, 1994. EPA plans to promulgate this standard by that date to satisfy part of this statutory obligation.

Abstract: The regulation under development would control emissions of hazardous air pollutants (HAPs) from the manufacture of the butyl rubber, epichlorobydrin elastomer, ethylene propylene rubber, Hypalon (TM), neoprene, nitrite butadiene rubber, polybutadiene rubber, polysulfide rubber and styrene butadiene rubber and latex. Emissions from process vents, equipment leaks, wastewater and storage will be addressed by this regulation for both new and existing sources.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	
Final Action	01/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3166.

Agency Contact: Leslie Evans, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5410

RIN: 2060–AD96

3768. NESHAP: POLYMERS AND RESINS

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994.
EPA is required to promulgate 25% of the listed source categories by November 15, 1994. EPA plans to promulgate this standard by that date

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to satisfy part of this statutory obligation.

Abstract: This regulation could control emissions of hazardous air pollutants (HAPs) from epoxy resin production and anon-nylon polyamide resin production processes. These processes were included on the list of categories of sources that was published by the EPA in July 1992. Emissions from process vents equipment leaks, wastewater and storage will be addressed by this regulation for both new and existing facilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
Final Action	11/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3165.

Agency Contact: Randy McDonald, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5402

RIN: 2060–AD97

3769. NESHAP: SURFACE COATING OPERATIONS IN SHIPBUILDING AND SHIP REPAIR

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994.
EPA is required to promulgate 25% of the listed source categories by November 15, 1994. EPA plans to promulgate this standard by that date to satisfy part of this statutory obligation.

Abstract: This regulation would control emissions of hazardous air pollutants from shipbuilding and ship repair operations related to painting. Emission may come from painting and coating and the associated cleanup and surface preparation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
Final Action	11/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3164.

Agency Contact: Laurel Driver, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-2859

RIN: 2060–AD98

3770. NESHAP: MAGNETIC TAPE MANUFACTURING INDUSTRY

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994.
EPA is required to promulgate 25% of the listed source categories by November 15, 1994. EPA plans to promulgate this standard by that date to satisfy part of this statutory obligation.

Abstract: EPA is developing a NESHAP for the major source category of magnetic tape manufacturing. This industry manufactures audio video and computer tape by coating a plastic substrate (tape) with a solvent-based magnetic coating. The primary HAPs used in this industry are methyl ethyl ketone, methyl isobutyl ketone, and toluene. These are used both as a solvent for heating and as a cleaning solution for cleaning operations. EPA promulgated an NSPS for this industry in 1988. The standards for the NESHAP are to be technology-based and are to require the maximum achievable control technology (MACT) as described in section 112 of the CAA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
Final Action	11/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3163.

Agency Contact: Mary Torn Kissell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-4516

RIN: 2060–AD99

3771. ESTABLISHMENT OF GUIDANCE FOR IMPLEMENTING CLEAN AIR ACT, SECTION 112(J) PROVISIONS FOR MAKING MACT DETERMINATIONS WHEN EPA FAILS TO PROMULGATE A FEDERAL STANDARD

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments of 1990, sec 112(j)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, May 1992.

Abstract: In the event that EPA fails to promulgate MACT standards on time, States are required by the Clean Air Act to establish case-by-case MACT compliance limits for every major source of emissions that would have been subject to the MACT standard. This guidance is intended to aid the States in making those compliance determinations which the CAA specifies be equivalent to what MACT standards would have required. The guidance is intended to resolve technical issues concerning overlap with other Section 112 programs, and will provide a basis for uniform determinations to be made across a regulated industry. The MACT determinations will be enforced through the Title V permitting process.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: SAN No. 3205.

Agency Contact: Kathy Kaufman, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-0102

RIN: 2060–AE00

3772. APPROVAL AND DELEGATION OF FEDERAL AIR TOXICS PROGRAMS TO STATE AND LOCAL AGENCIES

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1991.

Abstract: The legal authority to delegate Federal Title III - Air Toxics to State and local agencies for implementation and enforcement is contained in Section 112(l). This section also gives EPA authority to approve State and local programs that are at least as stringent as the Federal program. EPA is undertaking this rulemaking to develop guidance for State and local agencies seeking approval or delegations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: SAN No. 3161.

Agency Contact: Timothy Ream, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-0491

RIN: 2060–AE01

3773. NESHAP: AEROSPACE INDUSTRY

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994.
EPA is required to promulgate 25% of the listed source categories by November 15, 1994. EPA plans to promulgate this standard by that date to satisfy part of this statutory obligation.

Abstract: This NESHAP will be based on maximum achievable control technology (MACT). The NESHAP will address all hazardous air pollutants (HAPs) emitted by all processes associated with the manufacture and rework of military and commercial aircraft, subassemblies, and aircraft parts. The majority of HAP emissions from the category come from solvent usage (i.e. MEK, MIBK, toluene, methylene chloride, etc.).

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
Final Action	11/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3160.

Agency Contact: Vickie Boothe, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5426

RIN: 2060–AE02

3774. NESHAP: SECONDARY LEAD SMELTERS

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994.
EPA is required to promulgate 25% of the listed source categories by November 15, 1994. EPA plans to promulgate this standard by that date to satisfy part of this statutory obligation.

Abstract: Secondary lead smelters are a major source of hazardous air pollutants, and are listed as such on the source category list. Potential pollutants from this industry include lead compounds, antimony compounds, other toxic metals, hydrogen chloride, benzene, dioxins, furans, and other organic compounds.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	
Final Action	02/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3159.

Agency Contact: Eric L. Crump, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5032

RIN: 2060–AE05

3775. NESHAP FOR SOLID WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994.
EPA is required to promulgate 25% of the listed source categories by November 15, 1994. EPA is planning to promulgate this action by that date to satisfy part of this statutory obligation.

Abstract: This rule will specify maximum control technology (MACT) for facilities that treat, store, dispose of, recycle, recover and/or rerefine solid waste received from off-site. These facilities include commercial waste treatment facilities, used oil rerefining solvent recovery plants, transfer stations, and industrial landfills. Regulatory alternatives and cost/benefit analyses have not yet been developed.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	
Final Action	02/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3159.

Agency Contact: Eric L. Crump, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5032

RIN: 2060–AE05

3776. • STANDARDS OF PERFORMANCE FOR HAZARDOUS AIR POLLUTANTS FOR THE MINERAL WOOL PRODUCTION INDUSTRY

Legal Authority: 42 USC 1857 et. seq.; 44 USC 350 et. seq.; 4 USC 605; EO 12291

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act, as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emissions standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the

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mineral wool production industry may reasonably be anticipated to emit several of the 189 HAPs listed in Section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the mineral wool production industry to promulgate emission standards within 10 years of enactment of the Clean Air Act Amendments.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3215.

Agency Contact: Mary K. Johnson, Environmental Engineer, Environmental Protection Agency, Air and Radiation, U.S. Environmental Protection Agency, Emission Standards Division (MD-13), Research Triangle Park, NC 27711, 919 541-5025

RIN: 2060–AE08

3777. • SEQUENCE OF APPLICATION OF MANDATORY SANCTIONS UNDER SECTION 179

Significance: Agency Priority

Legal Authority: Clean Air Act as amended in 1990, Section 179

CFR Citation: 40 CFR 52

Legal Deadline: Final, Statutory, April 22, 1993.
EPA issued initial findings under section 179 on October 22, 1991. Consequently, it may be necessary to impose the first sanctions 18 months from that date.

Abstract: Section 179 of the CAA mandates the imposition of certain sanctions. These sanctions follow one of three types of findings: (1) finding of failure to submit a required SIP, (2) finding of SIP disapproval, or (3) finding of nonimplementation. The two available sanctions are highway funding restriction and a 2-to-1 emission offset requirement for major new or modified stationary sources. Section 179(a) requires EPA to select one of these two sanctions after 18 months from a finding if the deficiency prompting the finding is not corrected, and the second sanction 6 months later if the deficiency remains uncorrected. The purpose of this action is to streamline, to the extent possible, the process of deciding the order of sanction application under section 179 by promulgating a rule which states, as a general matter, the order in which EPA would apply the sanctions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3251.

Agency Contact: Eric Ginsburg, Chief, Policy and Guidance Section, Environmental Protection Agency, Air and Radiation, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, 919 541-0877

RIN: 2060–AE09

3778. STANDARDS FOR TANK VESSEL LOADING OPERATIONS

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments of 1990, sec 183

CFR Citation: 40 CFR 90

Legal Deadline: Final, Statutory, November 1992.

Abstract: This regulation will control volatile organic compounds (VOCs) and hazardous air pollutants (HAPs) emissions from tank vessel loading operations. A regulation is required by Section 183 of the Clean Air Act Amendments of 1990. Approximately 65,000 megagrams of VOCs and 8,000 megagrams of HAPs are emitted annually from tank vessel loading operations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
Final Action	08/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3104.

Agency Contact: David Markwordt, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-0837

RIN: 2060–AD02

3779. REVISED LIGHT-DUTY DURABILITY PROCEDURES FOR MODEL YEAR 1996 AND LATER

Significance: Regulatory Program

Legal Authority: 42 USC 7521/CAA 202; 42 USC 7525/CAA 301; 42 USC 7601/CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will establish procedures under which vehicle manufacturers will demonstrate durability of their emission control systems during certification of passenger cars and light-duty trucks beginning with the 1996 model year. Under a separate action (SAN 2949), EPA is promulgating revised light-duty durability procedures for certification of model years 1994 and 1995, in line with revised useful life levels mandated by the Clean Air Act Amendments of 1990. The long term durability program will translate into regulation ongoing efforts by the EPA and vehicle manufacturers to develop durability procedures that will more accurately predict the emission deterioration of vehicles in actual use.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	02/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3023.

Agency Contact: Jim McCargar, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313 668-4244

RIN: 2060–AE06

3780. • COLD TEMPERATURE CARBON MONOXIDE EMISSIONS AVERAGING

Legal Authority: 42 USC 7521/CAA 202(j)

CFR Citation: 40 CFR 86 subpart A

Legal Deadline: None

Abstract: In the Cold Temperature Carbon Monoxide Emissions notice of proposed rulemaking published September 17, 1990 (55 FR 38250), EPA solicited and subsequently received comments regarding a cold temperature CO emissions averaging program, although it did not propose such a program. In the Final Rule, promulgated July 17, 1992 (57 FR 31888), EPA stated that it would publish a proposal regarding an averaging program in the near future, taking the comments received into consideration. The Agency intends to propose an averaging, banking and trading program modelled after such programs already in place for other mobile source pollutants and vehicle classes. Such a program would allow manufacturers additional flexibility to optimize their emission control systems, thus potentially reducing control costs while achieving emission reductions essentially equivalent to those required by the non-averaged standards. The expected effective model year is 1996, which is the first year the current regulations require 100% compliance with the cold temperature CO standards.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
Final Action	05/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3191.

Agency Contact: Christine Mikolajczyk & Lisa Snapp, Environmental Protection Agency, Air and Radiation, National Vehicle and Fuel Emissions Lab, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4200

RIN: 2060–AE13

3781. • REGULATIONS FOR ENFORCEMENT OF CROSS-BORDER SALES

Legal Authority: Clean Air Act sections 202, 203(a), 301(a)

CFR Citation: 40 CFR Part 86

Legal Deadline: None

Abstract: The interest in adopting California emission requirements by other States under section 177 of the Clean Air Act has raised critical implementation and enforcement questions. These questions will affect manufacturers, dealers, and distributors who sell cars in section 177 and their bordering States. Basically, a system must be developed which will allow section 177 State dealers to sell Federal cars and for dealers in those surrounding States to sell California cars, as long as these cars are primarily used in the correct state. A general solution will be similar to the system for enforcing high and low altitude sales (40 CFR Part 86.091-30).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3266.

Agency Contact: Mitch Greenberg, Office of Mobile Sources, Environmental Protection Agency, Air and Radiation, 401 M Street SW., Mail Code 6405j, Washington, DC 20460, 202 233-9269

RIN: 2060–AE15

3782. AMENDMENTS TO REGULATIONS GOVERNING THE IMPORTATION OF NONCONFORMING VEHICLES

Significance: Agency Priority

Legal Authority: 42 USC 7522/CAA 203; 42 USC 7525/CAA 206; 42 USC 7541/CAA 207; 42 USC 7542/CAA 208; 42 USC 7601/CAA 301; 42 USC 7522/CAA 203; 42 USC 7550/CAA 216; 42 USC 7601/CAA 301

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action will consider amendments to the regulations in 40 CFR part 85, Subpart P to allow entry into the U.S. of vehicles which are originally sold in Canada and which are identical to their U.S. counterparts, to be certified as commercial supporters without obtaining a certificate of conformity from EPA. This action is in response to a petition for review of import rules. EPA will also clarify and change certain other issues in part 85, subpart P and subpart R, including: 1) formalizing a longstanding EPA policy regarding the importation of owned vehicles that are proven to be identical to a vehicle certified for sale in the U.S., 2) establishing new emission standards applicable to imported nonconforming vehicles, 3) clarifying the regulatory language that concerns exclusions and exemptions from meeting Federal emission requirements, and 4) providing several clarifications to the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2665.

Agency Contact: Lenny Lazarus, Environmental Protection Agency, Air and Radiation, (6405-J), Washington, DC 20460, 202 233-9281

RIN: 2060–AC58

3783. AMENDMENT CONCERNING THE LOCATION OF SELECTIVE ENFORCEMENT AUDITS OF FOREIGN MANUFACTURED VEHICLES AND ENGINES

Legal Authority: 42 USC 7525/CAA 206(b)

CFR Citation: 40 CFR 86 subpart G (Revision); 40 CFR 86 subpart K (Revision)

Legal Deadline: None

Abstract: This action would consider an amendment to the existing regulations to include ports of entry as a location for EPA selection of foreign produced vehicles and engines for SEA emissions testing at laboratories in the U.S. While the regulations do not specify EPA authority to conduct such port selections, the increased flexibility provided by port selections warrants amending the regulations. Presently, EPA must travel oversees to conduct SEA audits of foreign manufactured vehicles and engines, even though most manufacturers now have access to laboratory facilities in the U.S. The benefits include a reduction in Agency cost since fewer overseas trips would be necessary. Also, EPA would be able to conduct more audits of foreign manufactured vehicles and engines.

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Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3139.

Agency Contact: John Guy, Environmental Protection Agency, Air and Radiation, (6405-J), Washington, DC 20460, **202 233-9250**

RIN: 2060–AD90

3784. NONCONFORMANCE PENALTIES FOR 1998 MODEL YEAR EMISSION STANDARDS FOR HEAVY-DUTY ENGINES AND VEHICLES

Legal Authority: 42 USC 7525/CAA 206

CFR Citation: 40 CFR 86.1105

Legal Deadline: None

Abstract: This action will address the availability of nonconformance penalties (NCPs) and specific upper limits and penalty rates for 1998 and later emission standards for heavy-duty vehicles (HDVs) and engines (HDEs). The availability of NCPs will allow a manufacturer of HDVs and HDEs whose vehicle engines fail to conform to certain applicable emission standards, but do not exceed designated upper limits, to be issued a certificate of conformity upon payment of a monetary penalty. The issues involving NCPs, the administration of NCPs, and production compliance audits may be addressed.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	
Final Action	11/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3097.

Agency Contact: Leo Breton, Environmental Protection Agency, Air and Radiation, (6405J), Washington, DC 20460, **202 233-9245**

RIN: 2060–AE07

3785. EMISSION DESIGN AND DEFECT WARRANTY AND PARTS LIST

Legal Authority: 42 USC 7541/CAA 207

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action may add a previously reserved subpart U to 40 CFR 85 to set forth a list of covered parts, definitions, warranty claim procedures, warranty remedies, and replacement requirements of automobile manufacturers for emission design and defect warranty coverage.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2727.

Agency Contact: Robert Kenney, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, **202 233-9021**

RIN: 2060–AD56

3786. REVISIONS TO REGULATIONS ON REGISTRATION OF FUEL AND FUEL ADDITIVES

Legal Authority: 42 USC 7545/CAA 211

CFR Citation: 40 CFR 79

Legal Deadline: None

Abstract: This action would revise the current program governing the registration of fuel and fuel additives. The revisions would update the regulations to cover certain new fuels and fuel additives that are entering the market or likely to enter the market in the near future.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2728.

Agency Contact: James W. Caldwell, Environmental Protection Agency, Air and Radiation, (6406J), Washington, DC 20460, **202 233-9020**

RIN: 2060–AC74

3787. CONTROL OF AIR TOXICS FROM MOTOR VEHICLES

Significance: Regulatory Program

Legal Authority: 42 USC 7545/CAA 211; 42 USC 7521/CAA 202

CFR Citation: 40 CFR 80; 40 CFR 86

Legal Deadline: Final, Statutory, May 15, 1995.

Abstract: The Clean Air Act Amendments of 1990 require EPA to study the need for and feasibility of controlling toxic air pollutants associated with motor vehicles and fuels. Based on this study, EPA must promulgate standards containing reasonable requirements to control such toxic emissions, applying at a minimum to benzene and formaldehyde.

Timetable:

Action	Date	FR Cite
NPRM	05/00/94	
Final Action	05/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2769.

Agency Contact: Judy Gray, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, **313 668-4231**

RIN: 2060–AC75

3788. PROTECTION OF STRATOSPHERIC OZONE: LISTING OF CLASS I CHEMICALS

Significance: Regulatory Program

Legal Authority: 42 USC 7524/CAA 602(c)

CFR Citation: 40 CFR 82

Legal Deadline: Other, Statutory, 00/00/00.
Obligation to respond to petition within 180 days, and list, if warranted, within one year, Section 602(e).

Abstract: Section 602 requires the Agency to list any chemical that has an ozone depleting potential greater than 0.2. EPA received a petition to list methyl bromide on December 3, 1991.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3174.

Agency Contact: Sue Stendebach, Environmental Protection Agency, Air and Radiation, (6202J), Washington, DC 20460, **202 233-9117**

RIN: 2060–AD92

3789. PROTECTION OF STRATOSPHERIC OZONE: FEDERAL PROCUREMENT

Significance: Regulatory Program

Legal Authority: PL 101-549; Clean Air Act Amendments of 1990, sec 613

CFR Citation: 40 CFR 82

Legal Deadline: Final, Statutory, May 15, 1992.

Abstract: EPA is required to develop, in consultation with the General Services Administration and the Department of Defense, procurement regulations requiring each department, agency and instrumentality of the United States to conform its procurement regulations to the policies and requirements of title XI and to maximize the substitution of safe alternatives to ozone depleting substances.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 2899.

Agency Contact: Peter Voigt, Environmental Protection Agency, Air and Radiation, (6202J), Washington, DC 20460, **202 233-9200**

RIN: 2060–AD51

3790. FEDERAL OPERATING PERMIT RULES

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments of 1990, title V

CFR Citation: 40 CFR 71

Legal Deadline: None

Abstract: Title V of the Clean Air Act Amendments of 1990 requires EPA to promulgate regulations setting forth requirements for States to develop and implement operating permits programs for major stationary sources of air pollutants regulated under the Clean Air Act. These regulations were promulgated on July 21, 1992 (57 FR 32250). Title V also requires EPA to establish where States fail to submit an appropriate State program. These regulations are described in this notice. These regulations would be applied only in those cases where States failed to submit an appropriate State program, and would require sources to submit Federal operating permit applications containing a schedule of compliance. EPA would approve applications and issue Federal operating permits, as well as enforce the program.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	
Final Action	11/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3172.

Agency Contact: Kirt Cox, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, **919 541-5399**

RIN: 2060–AD68

3791. GASOLINE DETERGENT ADDITIVES REGULATION

Significance: Regulatory Program

Legal Authority: 42 USC 7545

CFR Citation: 40 CFR 80

Legal Deadline: Final, Statutory, November 15, 1992.

Abstract: The Clean Air Act Amendments of 1990 mandate EPA to promulgate regulations requiring the use of additives in gasoline beginning in 1995 to prevent the accumulation of deposits in the engine or fuel supply systems. The establishment of such a requirement should ensure the use of additives in the 10 to 25 percent of fuel projected not to contain additives by 1995, as well as the proper amount and type of additives to have the desired effect without causing negative side effects. Controlling engine and fuel supply system deposits is expected to result in better vehicle performance, a significant reduction in in-use emissions, and the potential for significant economic advantages due to e decreased need for premium gasoline use.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
Final Action	10/00/94	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3018

Agency Contact: Jeffrey Herzog, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, **313 668-4227**

RIN: 2060–AD71

3792. REGULATIONS GOVERNING AWARDS UNDER SECTION 113(F) OF THE CLEAN AIR ACT

Legal Authority: 42 USC 7413(f)

CFR Citation: 40 CFR 65

Legal Deadline: None

Abstract: Section 113(f) of the Clean Air Act granted to the Administrator authority to pay an award to any person who furnishes information or services which lead to a criminal conviction or a civil penalty for any violation of Title I, III, IV, V, or VI of the Act enforced under section 113. Section 113(f) authorizes the Administrator to prescribe, by regulation, additional criteria for eligibility for such an award. EPA intends that the rule set forth such additional criteria for making requests for consideration for an award, including what consideration, and describes criteria for assessing the value of information and services. The rule will also provide an assurance of confidentiality to those who provide information or services on a confidential basis. Furthermore, to implement the goal of the program, the rule will provide direction for providing information or services to the Agency.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2939.

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Agency Contact: Clara Poffenberger, Environmental Protection Agency, Air and Radiation, (EN-341W), Washington, DC 20460, 703 308-8709

RIN: 2060–AD81

3793. ADMINISTRATION OF THE CLEAN AIR ACT AND THE CLEAN WATER ACT WITH RESPECT TO CONTRACTS, GRANTS, AND LOANS - LIST OF FACILITIES INELIGIBLE FOR FEDERAL PROCUREMENT AND NONPROCUREMENT PROGRAMS

Legal Authority: 42 USC 7401 et seq, 42 USC 1251 et seq

CFR Citation: 40 CFR 15

Legal Deadline: None

Abstract: The existing regulations at 40 CFR part 15 establish a special enforcement-related program under the Clean Air Act (CAA) and Clean Water Act (CWA), commonly referred to as the "Contractor Listing Program." The Contractor Listing Program authorizes EPA to bar facilities from federal contracts, grants or loans as a consequence of criminal or civil violations of the CAA or CWA. The draft proposed revisions to these regulations incorporate new authority granted by the CAA amendments of 1990. The amendments expand the criminal violations for which a facility may be listed and also give EPA the discretion to list other facilities of the owner or operator.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3221.

Additional Contact: Tom Seaton, LE-133, 202-260-6931

Agency Contact: Marie M. Muller, Environmental Protection Agency, Air and Radiation, (EN-341W), Washington, DC 20460, 703 308-8684

RIN: 2060–AD83

3794. FIELD CITATION PROGRAM

Legal Authority: 42 USC 7413(d)/CAAA 113(d)

CFR Citation: 40 CFR 28; 40 CFR 59

Legal Deadline: None

Abstract: The Clean Air Act Amendments gives EPA the authority to issue on-the-spot field citations for minor violations of the Clean Air Act, with penalties of up to $5,000 per day of violation. Section 113(d) of the Act requires the field citation program to be implemented through regulations which provide the informal hearing procedures. These hearing procedures are not required to be as rigorous as those imposed by the Administrative Procedures Act (APA), but nevertheless must provide due process. Agency guidance providing appropriate penalties for specific minor violations will be prepared for EPA employees and made available to the regulated community. Training on the issuance of field citations will also be developed.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	04/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3220.

Agency Contact: Jane Engert, Environmental Protection Agency, Air and Radiation, (EN-341W), Washington, DC 20460, 703 308-8677

RIN: 2060–AD82

3795. "SUBSTANTIALLY SIMILAR" DEFINITION FOR DIESEL FUELS

Significance: Regulatory Program

Legal Authority: 42 USC 7545/CAAA 211(f)

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: Section 211(f)(1)(A) of the Clean Air Act prohibits for use in light-duty vehicles, fuels and fuel additives which are not "substantially similar" to fuels or additives used to certify vehicles to emissions standards. Section 211(f)(1)(B) expands these prohibitions to all motor vehicles. Since the term "substantially similar" is not defined in the Act, the intent of this rulemaking is to interpret the term "substantially similar" in regard to diesel fuel and diesel fuel additives and thus make more explicit which products are prohibited by section 211(f)(1)(B). The definition of "substantially similar" enables manufacturers to determine whether their fuels or fuel additives are covered by, or excluded from, the section 211(f)(1)(B) prohibitions.

Timetable:

Action	Date	FR Cite
ANPRM	05/30/91	56 FR 24362
NPRM	06/00/93	
Final Action	01/00/94	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3091.

Agency Contact: David J. Kortum, Environmental Protection Agency, Air and Radiation, (6406J), Washington, DC 20460, 202 233-9022

RIN: 2060–AD77

3796. RESTRICTIONS ON MOTOR VEHICLE AND NON-ROAD ENGINES

Significance: Regulatory Program

Legal Authority: 42 USC 7545/CAAA 218

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: These regulations will prohibit the manufacture, sale or introduction into commerce after December 31, 1992, any motor vehicle engine or nonroad engine which requires leaded gasoline for use in 1993 or later model year vehicles or equipment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3175.

Agency Contact: James W. Caldwell, Environmental Protection Agency, Air and Radiation, (6406J), Washington, DC 20460, 202 233-9020

RIN: 2060–AD72

3797. REGULATIONS GOVERNING PRIOR NOTICE OF CITIZEN SUITS BROUGHT UNDER SECTION 304 OF THE CLEAN AIR ACT

Legal Authority: 42 USC 7604

CFR Citation: 40 CFR 54

Legal Deadline: None

Abstract: Section 304 of the Clean Air Act grants to citizens the authority to bring suits for violations of the Clean Air Act. This proposal amends the existing citizen suit notice provisions to: 1) reflect changes made to Section 304 in the 1990 Amendments, including the express inclusion of notice requirements for suits against the Administrator alleging Agency action unreasonably delayed; 2) clarify, for each type of citizen action requiring notice, the timing of such notice; and 3) conform CAA notice practice more closely to the practice under other, more recent citizen suit notice regulation promulgated pursuant to other Federal environmental statutes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2940.

Additional Contact: Clara Poffenberger, Mail Code EN-341W, 703-308-8709.

Agency Contact: Steven Viggiani, Environmental Protection Agency, Air and Radiation, (LE-134A), Washington, DC 20460, 202 260-2842

RIN: 2060–AD80

3798. INDIVIDUAL CONSTITUENTS STANDARDS - PHASE III OF RCRA AIR EMISSION STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 6924/RCRA 3004; 42 USC 6927/RCRA 3007

CFR Citation: 40 CFR 264; 40 CFR 265

Legal Deadline: Final, Statutory, May 1987.

Abstract: Under RCRA, the Agency is required to promulgate standards for monitoring and control of air emissions from hazardous waste treatment, storage, and disposal facilities (TSDF), as necessary to protect human health and environment. Phases I and II of the TSDF project limit organic air emissions as a class at TSDF that are subject to regulation under Subtitle of RCRA. Phase I and Phase II actions are covered under a separate item in this Agenda entitled "Treatment, Storage, and Disposal Facility Area Source Air Emissions -- RCRA Standards." The residual risk values following Phases I and II are higher than the historical RCRA range. The Phase III project will use new data on TSDF to perform site-specific modeling of high risk facilities. Possible outcomes include the following: (1) additional RCRA 3004(n) standards for particular hazardous organic constituents; (2) a guidance document for RCRA permit writers; or (3) no additional action.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 2857

Agency Contact: Martha Smith, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-2421

RIN: 2060–AC90

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Clean Air Act (CAA)

3799. ALTERNATIVE FUEL CORPORATE AVERAGE FUEL ECONOMY LABELING REQUIREMENTS

Legal Authority: PL 100-494; 15 USC 2013

CFR Citation: 40 CFR 600

Legal Deadline: None

Abstract: This action implements specific actions taken by Congress with respect to the alternative fuel vehicles in the Corporate Average Fuel Economy (CAFE) program. This includes revising the current CAFE regulations to incorporate CAFE credits and labeling requirements and establishing fuel economy test update procedures and calculations for alternative fuel vehicles.

Timetable:

Action	Date	FR Cite
NPRM	03/01/91	56 FR 8856
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2726.

Agency Contact: Kenneth Zerafa, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4331

RIN: 2060–AC78

3800. PROTECTION OF STRATOSPHERIC OZONE: RECYCLING

Significance: Regulatory Program

Legal Authority: PL 101-549, Sec 608Clean Air Act Amendments of 1990

CFR Citation: 40 CFR 82

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: EPA must promulgate regulations establishing standards and requirements regarding the use and disposal of Class I substances during the service, repair, or disposal of appliances and industrial process refrigeration. As required by Section 608, these regulations shall include requirements that maximize the recapture and recycling of such substances during service, repair, and disposal.

Timetable:

Action	Date	FR Cite
ANPRM	05/01/90	55 FR 18256
NPRM	12/10/92	57 FR 58644
Final Action	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2793.

Agency Contact: Debbie Ottinger, Environmental Protection Agency, Air and Radiation, (6202J), Washington, DC 20460, 202 233-9149

RIN: 2060–AC80

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3801. REORGANIZATION OF 40 CFR PART 86, SUBPART A

Legal Authority: 42 USC 7521; 42 USC 7522; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7549; 42 USC 7550; 42 USC 7601

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will reorganize subpart A of 40 CFR part 86 to be consistent with the other subparts of Part 86. This action will not amend Subpart A in any substantive way; the stringency of standards, test procedures, and recordkeeping burden will remain unchanged. Due to the minor nature of this action, a direct final rule is being considered.

Timetable:

Action	Date	FR Cite
Direct Final	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2849.

Agency Contact: Jim McCargar, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4244

RIN: 2060–AC94

3802. REVISION OF GASOLINE VOLATILITY ENFORCEMENT PROCEDURES

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7601

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: This regulation will address aspects of the volatility regulations pertaining to presumptively liable parties, the use of fuels for research, and other special projects, and test methods for determining volatility.

Timetable:

Action	Date	FR Cite
NPRM	10/18/91	56 FR 52316
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2830.

Agency Contact: Joseph Sopata, Environmental Protection Agency, Air and Radiation, (6406J), Washington, DC 20460, 202 233-9034

RIN: 2060–AC97

3803. REFORMULATED GASOLINE

Significance: Regulatory Program

Legal Authority: 42 USC 7545

CFR Citation: 40 CFR 80

Legal Deadline: Final, Statutory, November 15, 1991.

Abstract: The Clean Air Act Amendments of 1990 require that gasoline sold in the nine worst ozone nonattainment areas be reformulated to be less polluting. Other ozone nonattainment areas may opt in to this program. EPA may delay opt-in depending on sufficiency of supply and distribution capacity. The NPRM published on 7/15/91 (56 FR 31176) also contains provisions requiring EPA to adopt anti-dumping rules for all gasoline sold outside of covered areas. Credit marketing and trading provisions will be decided in the program. The Clean Air Act Amendments contain specific formula requirements for reformulated gasoline as well as performance standards to reduce ozone-forming and toxics emissions. This additional NPRM (published 2/26/93) proposes revisions to the proposed reformulated gasoline simple model and antidumping provisions. Also included are the Agency's proposed complex model and associated revised enforcement provisions, as well as the Phase II performance standards for the year 2000.

Timetable:

Action	Date	FR Cite
NPRM	07/15/91	56 FR 31176
Supplemental Proposal for Reformulated Gasoline	04/16/92	57 FR 13416
Proposal for Reformulated Gasoline Including Complex Model	02/26/93	58 FR 11722
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 2959 and 3116.

Agency Contact: Paul Machiele, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4264

RIN: 2060–AD27

3804. PHASEOUT OF LEAD IN GASOLINE AND TEST PROCEDURE FOR LEAD SUBSTITUTES

Significance: Regulatory Program

Legal Authority: 42 USC 7545

CFR Citation: 40 CFR 80

Legal Deadline: Final, Statutory, November 15, 1991.

Abstract: Since the late seventies, EPA has had a program to phase down lead in gasoline. This was a result of evidence that lead from automotive emissions, an air toxic, poses a serious health threat to the public. The Clean Air Act Amendments of 1990 ban the use of leaded gasoline in all motor vehicles beginning in January 1996. Additionally, it is required that a test procedure for determining lead substitute additives' ability to reduce valve wear and to identify other effects be established along with procedures for lead substitutes additive registration. These latter provisions are intended to assure availability of non-lead additives that can be used to protect valves in older engines designed for leaded fuel.

Timetable:

Action	Date	FR Cite
NPRM	07/19/91	56 FR 33229
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 2955.

Agency Contact: James W. Caldwell, Environmental Protection Agency, Air and Radiation, (6406J), Washington, DC 20460, 202 233-9020

RIN: 2060–AD29

3805. MOTOR VEHICLE CERTIFICATION SHORT TEST AND PERFORMANCE WARRANTY PROCEDURES

Significance: Regulatory Program

Legal Authority: 42 USC 7525

CFR Citation: 40 CFR 85; 40 CFR 86

Legal Deadline: Final, Statutory, November 15, 1991.

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Abstract: The Clean Air Act Amendments of 1990 require EPA to revise the vehicle certification program to incorporate so-called short tests. Vehicles which cannot pass the short test will not be certified to be sold. In addition, the short test procedures for use in I/M procedures may be amended.

Timetable:

Action	Date	FR Cite
NPRM	01/08/93	58 FR 3380
Final Action	11/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 2950.

Agency Contact: Lisa Snapp, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4282

RIN: 2060–AD34

3806. URBAN BUS PARTICULATE MATTER (PM) STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 7554

CFR Citation: 40 CFR 86

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: In recognition of the contribution of diesel engines to the nation's air quality problems, EPA promulgated emission standards for all categories of on-highway diesel engines, including those for urban buses. In the Clean Air Act Amendments of 1990, Congress revised these standards and added new requirements. The amendments revised the particulate matter (PM) standards for diesel bus engines. Within twelve months of enactment, EPA must promulgate these standards as well as retrofit-rebuild requirements for urban bus engines for cities with populations greater than 750,000.

Timetable:

Action	Date	FR Cite
NPRM	05/29/91	56 FR 24242
Bus Particulate Stnd. & Heavy-Duty Engine Stnds. (SAN2954/2962)		
Final	03/24/93	(58 FR 15781)
Urban Bus Rebuild/Retrofit Program (SAN 2954)		
Final	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 2954/2963.

Agency Contact: Phil Carlson, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4270

RIN: 2060–AD37

3807. ACID RAIN PHASE I RESERVE/ PHASE II ALLOWANCE ALLOCATIONS SUBPART

Significance: Regulatory Program

Legal Authority: PL 101-549; Clean Air Act Amendments of 1990, title IV

CFR Citation: 40 CFR 73, subpart B

Legal Deadline: NPRM, Statutory, December 31, 1991. Final, Statutory, December 31, 1992.

Abstract: The Clean Air Act Amendments provide for EPA to calculate and publish sulfur dioxide emission allowance allocations for Phase II affected utility units based on Sections 403, 404, 405, and 406 of the Act. The allocations are the basis for the allowance trading program.

Timetable:

Action	Date	FR Cite
NPRM	07/07/92	57 FR 29939
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Additional Information: SAN No. 3031.

Agency Contact: Kathy Barglaki, Environmental Protection Agency, Air and Radiation, (6204J), Washington, DC 20460, 202 233-9074

RIN: 2060–AD42

3808. • EMISSION STANDARDS FOR GASEOUS-FUELED VEHICLES AND CERTIFICATION PROCEDURES FOR AFTERMARKET CONVERSIONS

Significance: Regulatory Program

Legal Authority: 42 USC 7521(a); 42 USC 754(C); 42 USC 7601(A)

CFR Citation: 40 CFR 85; 40 CFR 86; 40 CFR 600

Legal Deadline: None

Abstract: There are currently no emission standards for motor vehicles operating on gaseous fuels (i.e., natural gas and liquified petroleum). Also, there are no certification procedures for aftermarket conversions. In order to put gaseous-fueled vehicles on an equal footing with other vehicles, EPA has proposed emission standards and certification procedures for gaseous-fueled vehicles which are largely the same as those currently in place for other vehicles. Also, EPA has proposed certification procedures for aftermarket conversions based on the small-volume manufacturers certification procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/05/92	57 FR 52912
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. not yet assigned.

Agency Contact: John Mueller, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4275

RIN: 2060–AD86

3809. • CONFORMITY OF GENERAL FEDERAL ACTIONS TO STATE IMPLEMENTATION PLANS

Significance: Agency Priority

Legal Authority: 42 USC 7506(c)

CFR Citation: 40 CFR 51, Subpart U; 40 CFR 68

Legal Deadline: Final, Statutory, November 15, 1991.

Abstract: The regulation provides a framework for ensuring that Federal actions conform to the appropriate State air quality plan. The regulation sets criteria and procedures to assure that Federal agencies do not take or support actions which are inconsistent with States' efforts to achieve the national ambient air quality standards. The regulation applies to Federal actions other than actions by the Federal Highway Administration or the Federal Transit Authority.

Timetable:

Action	Date	FR Cite
NPRM	03/18/93	58 FR 13836
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

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Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3207.

Agency Contact: Doug Grano, Environmental Protection Agency, Air and Radiation, U.S. Environmental Protection Agency, MD-15, Research Triangle Park, NC 27711, 919 541-3292

RIN: 2060–AE10

3810. • NEW SOURCE REVIEW - PM10 INCREMENTS FOR PSD AREAS

Significance: Agency Priority

Legal Authority: 42 USC 7476

CFR Citation: 40 CFR 51.166; 40 CFR 52.21

Legal Deadline: Final, Judicial, May 15, 1993.

Abstract: The purpose of this action is to complete rulemaking in establishing increments for PM10 under the prevention of significant deterioration (PSD) program. This rulemaking will satisfy obligations under a court agreed upon deadline of May 15, 1993. Under the action, increments would be established for Class I areas (certain national parks and wilderness areas) as well as Class II and III areas. Increments are the amount of pollution allowed in an area from the baseline date established in the rule.

Timetable:

Action	Date	FR Cite
NPRM	10/05/89	54 FR 41218
NPRM Comment Period End	12/05/89	
Final Action	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3247.

As a result of litigation, this action has been separated from a broader rulemaking on new source review (RIN: 2060-AD13) in order to expedite its completion.

Agency Contact: Daniel DeRoeck, Environmental Engineer, Environmental Protection Agency, Air and Radiation, U.S. Environmental Protection Agency, MD-15, Research Triangle Park, NC 27711, 919 541-5593

RIN: 2060–AE12

3811. • FINAL APPROVAL OF COLORADO'S PETITION TO RELAX THE FEDERAL REID VAPOR PRESSURE VOLATILITY STANDARD FOR COLORADO IN 1992 AND 1993

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7607(a); 42 USC 7607

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: This action will relax the Federal summertime volatility standard from 7.8 psi to 9.0 psi for the Denver - Boulder non-attainment area. This relaxation is restricted to the summers of 1992 and 1993, from May 1 to September 15.

Timetable:

Action	Date	FR Cite
ANPRM	05/12/92	42 FR 20234
Interim Final Rule	05/12/92	57 FR 20702
ANPRM Comment Period End	06/26/92	42 FR 20234
Final Action	04/00/93	
Final Action Effective	05/00/93	
Colorado Petition to Relax the Reid Vapor Pressure		
Temporary Direct Final	05/12/92 (57 FR 20202)	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3093.

Agency Contact: Michael L. Ball, Environmental Protection Agency, Air and Radiation, Office of Mobile Sources, Mail Code 6406J, Washington, DC 20460, 202 233-9005

RIN: 2060–AE18

3812. DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Legal Authority: 42 USC 7407(d)(3)/CAA 107(d)(3)

CFR Citation: 40 CFR 81

Legal Deadline: Final, Statutory, Section 107(d)(3) provides that EPA must promulgate a redesignation no later than 240 days after notification of the affected Governor that the designation should be revised.

Abstract: Section 107(d)(3) of the amended CAA authorizes EPA to notify the Governor of an affected State that, on the basis of air quality data, planning and control considerations or any other air quality-related considerations EPA deems appropriate, EPA believes the designation of an area with respect to the national ambient air quality standards should be revised. EPA has notified the Governors of several States that certain areas should be redesignated as nonattainment for PM-10 (particulate matter with an aerodynamic diameter less than 10 micrometers) and sulfur dioxide (SO2). The affected States have responded with their recommendations concerning the designations and boundaries for these areas. Section 107(d)(3) provides that EPA is to promulgate the revised designations, making such modifications to the States' recommendations that it deems necessary. EPA proposed its redesignations for these areas in September 1992. This rule will revise the nonattainment designations for PM-10 and SO2 in 40 CFR part 81 for the affected areas.

Timetable:

Action	Date	FR Cite
NPRM	09/22/92	57 FR 43846
Final Action	05/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: SAN No. 3171.

Agency Contact: Andy Smith, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5398

RIN: 2060–AE03

3813. NAAQS: SULFUR OXIDES (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7409/CAA 109

CFR Citation: 40 CFR 50.4; 40 CFR 50.5

Legal Deadline: Final, Judicial, April 15, 1993.

Abstract: On April 26, 1988, EPA announced its proposed decision not to revise the current standards. The notice also solicited comment on the alternative of adding a new 1-hour standard and certain other revisions. On or before April 15, 1993, EPA is to announce final decision on secondary standard portion of the 1988 proposal. A schedule has not been established for completing review of the primary standard.

EPA—CAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	10/02/79	44 FR 56730
NPRM	04/26/88	53 FR 14926
Final Action	00/00/00	
Primary Standards		
Final 00/00/00		
Secondary Standard		
Final 04/15/93		

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 1002 (Primary Standard); SAN No. 3248 (Secondary)

Docket No. A-84-25.

Agency Contact: John Haines, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5533

RIN: 2060–AA61

3814. CRITERIA FOR IMPOSING DISCRETIONARY SANCTIONS UNDER TITLE I

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments of 1990, sec 110(m)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This rulemaking action would set forth the criteria required under Section 110(m) of the Clean Air Act (established under Title I of the Clean Air Act Amendments of 1990) for exercising the EPA Administrator's authority for discretionary application of sanctions listed in Section 179(b) of the CAA to ensure that during the 24-month period following a finding, disapproval, or determination under Section 179(a) of the CAA, such discretionary sanctions are not applied on a statewide basis where one or more political subdivisions covered by the applicable implementation plan are principally responsible for such deficiency.

Timetable:

Action	Date	FR Cite
NPRM	09/28/92	57 FR 44534
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2930.

Agency Contact: Ted Creekmore, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5699

RIN: 2060–AD10

3815. NSPS: SOCMI REACTOR PROCESSES

Legal Authority: 42 USC 7411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The scope of the Synthetic Organic Chemical Manufacturing Industry (SOCMI) reactor processes includes all reactor processes (other than air oxidation reactor processes) used to manufacture 173 synthetic organic chemicals. These large-volume chemicals account for about 90 percent of the total domestic chemical production from the SOCMI.

Timetable:

Action	Date	FR Cite
NPRM	06/29/90	55 FR 26953
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 1931.

Agency Contact: Sheila Milliken, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-2625

RIN: 2060–AB55

3816. NSPS: MUNICIPAL SOLID WASTE LANDFILLS

Significance: Regulatory Program

Legal Authority: 42 USC 7411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The purpose of this action is to develop standards for regulating emissions from new and modified municipal solid waste landfills under Section 111(b). Pollutants to be regulated could include one or more designated pollutants (pollutants not regulated under Sections 108 or 112 of the CAA) thus invoking Section 111(d). Section 111(d) requires States to develop emission standards for existing landfills based on EPA guidelines.

Timetable:

Action	Date	FR Cite
NPRM	05/30/91	56 FR 24468
Final Action	05/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2535.

Agency Contact: Dennis Doll, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5693

RIN: 2060–AC42

3817. NESHAP: HAZARDOUS ORGANIC

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 1992.

Abstract: This regulation would control emissions of hazardous organic chemicals for synthetic organic chemical manufacturing plants. The regulation will propose to address emissions from storage tanks, process vents, equipment leaks, transfer operations, and wastewater treatment.

Timetable:

Action	Date	FR Cite
NPRM	12/31/92	57 FR 62608
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2363.

Agency Contact: Jan Meyer, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5254

RIN: 2060–AC19

3818. NESHAP: PERCHLOROETHYLENE DRY CLEANING

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

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EPA—CAA

Final Rule Stage

Legal Deadline: NPRM, Judicial, November 15, 1991. Final, Judicial, July 15, 1993.

Abstract: Perchloroethylene is one of the pollutants listed as hazardous under Section 112 of the Clean Air Act Amendments of 1990. Standards are being developed which may apply to industrial, commercial, and coin-operated dry cleaning machines and could also address auxiliary equipment and work practices.

Timetable:

Action	Date	FR Cite
NPRM	12/09/91	56 FR 64382
Final Action	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2360

Agency Contact: Fred Porter/George Smith, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5251

RIN: 2060–AC27

3819. NATIONAL EMISSION STANDARDS FOR COKE OVEN BATTERIES

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, December 31, 1992.

Abstract: The Clean Air Act requires standards for maximum achievable control technology (MACT) for existing sources, lowest achievable emissions rate (LAER) for existing sources, MACT for new sources and work practices. When considering limits for these standards, the use of luting compounds and non-recovery technologies should be considered. Section 112 requires EPA to set allowable emission limits for coke oven doors, lids, offtakes, and seconds of charging by December 31, 1992. Existing coke oven batteries must comply with MACT by December 31, 1995, and new batteries must comply with MACT for new sources upon start-up. LAER for existing sources must be complied with by January 1, 1998. Work practice regulations will be met by November 15, 1993. Section 112(f) also requires EPA to promulgate residual risk standards by the year 2000 to be complied with by December 31, 2003. Those who meet the LAER limits by January 1, 1998 can defer residual risk until 2020. A coke oven standard has been negotiated with environmental groups, industry, associations, States and regions.

Timetable:

Action	Date	FR Cite
NPRM	12/04/92	57 FR 57534
Final Action	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3025.

Agency Contact: Amanda Agnew, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5268

RIN: 2060–AD67

3820. • NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS; NATIONAL EMISSION STANDARDS FOR RADON EMISSIONS FROM THE DISPOSAL OF URANIUM MILL TAILINGS

Legal Authority: 42 USC 7607(d)(7)(B)/CAA 112

CFR Citation: 40 CFR 61 Subpart T; 40 CFR 192 Subpart D

Legal Deadline: None

Abstract: In accordance with Section 112(d)(9) of the Clean Air Act Amendments of 1990, EPA may rescind 40 CFR Part 61, Subpart T as it applies to Nuclear Regulatory Commission (NRC) licensees pursuant to a finding that the NRC regulatory program protects the public health with an ample margin of safety. In October 1991, EPA and NRC (and the affected NRC Agreement States) executed a Memorandum of Understanding (MOU) to address the actions to be undertaken by EPA and NRC to eliminate regulatory redundancy and to ensure uranium mill tailings disposal sites are closed as expeditiously as practicable considering technological feasibility. The Agency plans to propose to amend the environmental regulations pertaining to uranium mill tailings disposal sites at 40 CFR Part 192, Subpart D pursuant to Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978. These amendments supplement Subpart D by ensuring timely emplacement of a permanent radon barrier and by requiring appropriate monitoring for non-operational uranium mill tailings disposal sites that are licensed by NRC or one of its Agreement States. The Agency anticipates amending 40 CFR Part 192, Subpart D (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/31/91	56 FR 67569
NPRM	12/31/91	56 FR 67561
Interim Final Rule	12/31/91	56 FR 67537
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3093.

ABSTRACT CONT: by October 30, 1993 and rescind 40 CFR Part 61, Subpart T by June 30, 1994.

Agency Contact: Gale Bonanno, Attorney Advisor, Environmental Protection Agency, Air and Radiation, 401 M Street SW., ORIA - 6602J, Washington, DC 20460, 202 233-9219

RIN: 2060–AE23

3821. GUIDELINE ON AIR QUALITY MODELS (REVISION)

Legal Authority: 42 USC 2475(e)/CAA 165(e); 42 USC 7601(a)/CAA 301(a); 42 USC 7620/CAA 320

CFR Citation: 40 CFR 51.166(e); 40 CFR 52.21(m)

Legal Deadline: None

Abstract: EPA issued a Notice of Proposed Rulemaking (NPRM) that: (1) proposes to amend 40 CFR 51.166 and 52.21 to incorporate Supplement B to the "Guideline on Air Quality Models (Revised)"; (2) identifies new or updated pages, denoted as Supplement B to the revised guideline, that show additions and changes being made; and (3) proposes to amend 40 CFR 51.46, 51.63, 51.112, 51.117, 51.150 and 51.160 to codify the Guideline as the basis by which air quality models are to be used in all air impact analyses for criteria air pollutants. A public hearing on this NPRM was held on March 19-20, 1991, as part of the Fifth Conference on Air Quality Modeling. The public comment period closed on May 6, 1991.

EPA—CAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/13/91	56 FR 5900
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2557.

Agency Contact: Joseph Tikvart, Environmental Protection Agency, Air and Radiation, (MD-14), Research Triangle Park, NC 27711, 919 541-5561

RIN: 2060–AC43

3822. ECONOMIC INCENTIVE PROGRAM RULES AUTHORIZED UNDER TITLE I OF THE CAA

Significance: Regulatory Program

Legal Authority: Clean Air Act as amended in 1990, sec. 182(g)(4)

CFR Citation: 40 CFR 51, subpart U, sec. 51.490 to 51.494; 40 CFR 51, app W

Legal Deadline: Final, Statutory, November 15, 1992.

Abstract: In serious, severe, and extreme ozone nonattainment areas and serious carbon monoxide areas, the Clean Air Act provides for the establishment by a State of an economic incentive program where the State fails to meet a required progress milestone. Section 182(g)(4) requires the EPA to publish rules or States to follow in developing an economic incentive program for reducing ozone precursors.

Timetable:

Action	Date	FR Cite
NPRM	02/23/93	58 FR 11110
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2964.

Agency Contact: Karen Martin, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5274

RIN: 2060–AD58

3823. CONTROL TECHNIQUES GUIDELINES

Significance: Regulatory Program

Legal Authority: Clean Air Act Amendments of 1990, sec 183(a)

CFR Citation: Not applicable

Legal Deadline: Final, Statutory, November 1993.

Abstract: The Clean Air Act Amendments of 1990 require EPA to issue control techniques guidelines (CTG) for 13 including two specifically named source categories within three years of enactment. Currently, CTGs are being developed for chemical manufacturing distillation operations, chemical plant reactor processes, wood furniture manufacturing, coating of plastic parts, offset lithography, industrial wastewater treatment, volatile organic liquid storage tanks, batch processes, aerospace coating operations, and shipbuildings and repair. The wood furniture, aerospace, and shipbuilding projects are on a later schedule than the others due to a need to coordinate with Section 112 hazardous air pollutant standards being developed for the same source categories. CTGs were also being developed for automobile refinishing and cleanup solvents. Automobile refinishing well now be addressed by a federal rule, and cleanup solvents will now be addressed by an available control technology (ACT) document.

Timetable:

Action	Date	FR Cite
Final Notice and Document (for all except wood furniture, aerospace, shipbuilding)	11/00/93	
Final Notice and Document (for wood furniture, aerospace, shipbuilding)	11/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3029.

Agency Contact: Susan Wyatt, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5605

RIN: 2060–AD05

3824. EMISSIONS STANDARDS FOR NEW MOTOR VEHICLES AND MOTOR VEHICLE ENGINES FUELED WITH COMPRESSED NATURAL GAS OR LIQUIFIED PETROLEUM GAS

Legal Authority: 42 USC 7521/CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will establish exhaust emissions standards and test procedures for all classes of motor vehicles and motor vehicle engines fueled with compressed natural gas or liquified petroleum gas.

Timetable:

Action	Date	FR Cite
NPRM	11/05/92	57 FR 52912
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2763.

Agency Contact: John Mueller, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4275

RIN: 2060–AC79

3825. NONCONFORMANCE PENALTIES FOR 1994 MODEL YEAR EMISSION STANDARDS FOR HEAVY-DUTY VEHICLES AND ENGINES

Legal Authority: 42 USC 7525/CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will address the availability of nonconformance penalties (NCPs) and specific upper limits and penalty rates for 1994 and later emission standards for heavy-duty vehicles (HDVs) and engines (HDEs). The availability of NCPs will allow a manufacturer of HDVs or HDEs, whose vehicles or engines fail to conform to certain applicable emission standards but which do not exceed a designated upper limit, to be issued a certificate of conformity upon payment of a monetary penalty. This action also addresses issues related to the selection of vehicle or engine configurations for production compliance audits (PCAs), eligibility criteria for PCAs, the measurement of emission results during PCA testing.

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Timetable:

Action	Date	FR Cite
NPRM	05/29/92	50 FR 22675
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2801.

Agency Contact: Anthony Erb, Environmental Protection Agency, Air and Radiation, (EN-340F), Washington, DC 20460, 202 260-6538

RIN: 2060–AC96

3826. ALTERNATIVE TEST PROCEDURE FOR THE VOLUNTARY AFTERMARKET PART CERTIFICATION PROGRAM

Legal Authority: 42 USC 7541(b)/CAA 207(b)

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action would adopt an alternative testing procedure to be used in the voluntary aftermarket part certification program for certifying aftermarket parts. Currently only the full Federal Test Procedure and Emission Critical Parameters for Specified Parts are acceptable test procedures for this program. A proposed rulemaking was published on August 8, 1989. Based on the public comments received and further analysis, EPA developed a supplemental notice of proposed rulemaking which was published on January 30, 1991. Analysis of all public comments are complete and work on the final rulemaking is under way.

Timetable:

Action	Date	FR Cite
NPRM	08/08/89	54 FR 32598
NPRM (Supplemental)	01/30/91	56 FR 3746
Final Action	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 2637.

Agency Contact: John L. Wehrly, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4286

RIN: 2060–AC50

3827. • WAIVER OF PREEMPTION OF CALIFORNIA FOR NONROAD ENGINE AND VEHICLE STANDARDS

Significance: Agency Priority

Legal Authority: 42 USC 7543(e)

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: The Clean Air Act Amendments of 1990 require EPA to issue regulations to implement section 209(e), which addresses the state adoption of emission standards for new nonroad vehicles and engines. This rulemaking clarifies the categories of equipment that are preempted from state regulations. The rule also sets forth criteria to be used for nonroad engine waivers.

Timetable:

Action	Date	FR Cite
NPRM	09/06/91	56 FR 45866
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: SAN No. 2952.

Agency Contact: Janice Raburn, Environmental Protection Agency, Air and Radiation, Manufacturers Operations Division, 401 M Street, SW (Mail Code 6405J), Washington, DC 20460, 202 233-9294

RIN: 2060–AE17

3828. FUEL AND FUEL ADDITIVES: REGISTRATION REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 7545(e)/CAA 211(e)

CFR Citation: 40 CFR 79; 40 CFR 80

Legal Deadline: Final, Statutory, August 7, 1978.
NPRM, Consent Decree, April 1, 1992
Final, Consent Decree, June 1, 1993

Abstract: General Registration requirements for Motor Vehicles fuels and fuel additives have been in effect since 1975. The current ordered regulatory action will implement the additional registration requirements contained in Section 211(e) of the Clean Air Act. These provisions require that the manufacturers of fuels currently in use and new fuel information regarding composition of emissions produced by these products, their effects on vehicle emissions and their effect on public health and welfare.

Timetable:

Action	Date	FR Cite
ANPRM	08/07/90	55 FR 32218
NPRM	04/15/92	57 FR 13168
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2365.

Agency Contact: Judith Gray, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4231

RIN: 2060–AC10

3829. ACID RAIN NITROGEN OXIDES CONTROL REGULATION

Significance: Regulatory Program

Legal Authority: PL 101-549, sec. 407; Clean Air Act Amendments of 1990, Title IV

CFR Citation: 40 CFR 76

Legal Deadline: Final, Statutory, May 15, 1992. Other, Statutory, January 1, 1997.
Final deadline for Group I boilers is May 15, 1992. Final deadline for Group II boilers is January 1, 1997.

Abstract: This regulatory action establishes NOx emission limitations for Phase I tangentially-fired, dry bottom wall-fired boilers (Group I - Section 407(b)(1)) which must be met by January 1, 1995. Emissions limits for a second group of boilers (Group II - Section 407(b)(2)), including cyclones and wet bottom wall-fired units, will be effective in 2000 and will be set in a later rulemaking. Boilers from both groups that are listed under Phase II will be subject to their relevant emissions limits after 2000. In addition, the rule will determine conditions of applications for emission averaging and alternative emission limits for both groups of boilers.

Timetable:

Group I Boilers		
NPRM	11/25/92	(57 FR 228)
Final Action	10/00/93	
Group II Boilers		
NPRM	04/00/96	
Final Action	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Analysis: Regulatory Impact Analysis

Additional Information: SAN No. 2888.

Agency Contact: Larry Kertcher/Doris Price, Environmental Protection Agency, Air and Radiation, (6204J), Washington, DC 20460, 202 233-9180

RIN: 2060–AD45

3830. DEVELOPMENT OF A SCHEDULE FOR REGULATING SOURCE CATEGORIES OF HAZARDOUS AIR POLLUTANTS SUBJECT TO SECTION 112 OF THE CLEAN AIR ACT AMENDMENTS OF 1990

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: Not applicable

Legal Deadline: Final, Statutory, November 15, 1992.

Abstract: This action complies with the requirements of Section 112(e) of the 1990 Clean Air Act Amendments to publish a schedule for the promulgation of emission standards for sources of hazardous air pollutants.

Timetable:

Action	Date	FR Cite
NPRM	09/25/92	57 FR 44147
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2791.

This action is split from RIN:2060-AC87.

Agency Contact: Charles French, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-0467

RIN: 2060–AD66

3831. RADON PROFICIENCY PROGRAM USER FEES

Significance: Regulatory Program

Legal Authority: 15 USC 2665/Section 305 Indoor Radon Abatement Act

CFR Citation: Not applicable

Legal Deadline: None

Abstract: Section 305 of the Indoor Radon Abatement Act of 1988 authorizes the Administrator to impose fees for certain voluntary proficiency and training programs. The fees will be deposited into a special account with amounts in the account to be appropriated for administering and establishing these programs. Fees will be charged for the National Radon Measurement Proficiency (RMP) Program and the National Radon Contractor Proficiency Program (RCPP).

Timetable:

Action	Date	FR Cite
NPRM	12/06/90	55 FR 50492
Final Action	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local

Sectors Affected: Multiple

Additional Information: SAN No. 2690.

Agency Contact: Stephany Descisciolo, Environmental Protection Agency, Air and Radiation, 6604J, Washington, DC 20560, 202 233-9390

RIN: 2060–AC66

3832. TREATMENT, STORAGE, AND DISPOSAL FACILITY - RCRA AIR EMISSION STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 6924/RCRA 3004, 3007

CFR Citation: 40 CFR 264 subpart X; 40 CFR 264 subpart AA; 40 CFR 264 subpart BB; 40 CFR 264 subpart CC; 40 CFR 265 subpart I; 40 CFR 265 subpart J; 40 CFR 265 subpart AA; 40 CFR 265 subpart BB; 40 CFR 265 subpart CC

Legal Deadline: Final, Statutory, May 1987. Final, Judicial, November 1994.

Abstract: The purpose of this action is to investigate the health and environmental impacts of non-combustion source air emissions from hazardous waste treatment, storage, and disposal facilities and to develop standards for monitoring and control as needed. Sources include tanks, surface impoundments, landfills, waste piles, land treatment operations and wastewater treatment facilities. Pollutants to be considered by such standards would include volatile organic compounds, particulate matter, specific toxic substances, or a combination of these. The mandate for standards development under RCRA is to protect human health and the environment. The Agency has adopted a three-phase approach: Phase I regulates organic emissions from equipment leaks and process vents; Phase II will address tanks, containers, surface impoundments, and miscellaneous units; and Phase III will address residual risks from particular hazardous organic constituents.

Timetable:

Phase I Leaks and Vents		
NPRM	02/05/87	(52 FR 3748)
Final Action	06/21/90	(55 FR 25454)
Phase II Tanks and Impoundments		
NPRM	07/22/91	(56 FR 33490)
Final Action	07/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2240.

Agency Contact: Michele Aston, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-2363

RIN: 2060–AB94

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Air Act (CAA) — **Completed Actions**

3833. REQUIREMENTS FOR THE ENHANCED MONITORING OF OZONE AND OZONE PRECURSORS

Significance: Agency Priority

CFR Citation: 40 CFR 58

Completed:

Reason	Date	FR Cite
Final Action	02/12/93	58 FR 8452

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Geri Dorosz, 919 541-5492

RIN: 2060–AD11

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3834. HEAVY-DUTY ENGINE STANDARDS

Significance: Regulatory Program

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	03/24/93	58 FR 15781

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Phil Carlson, 313 668-4270

RIN: 2060–AD26

3835. CALIFORNIA CLEAN FUELS PILOT PROGRAM—CREDITS PROGRAM

Significance: Regulatory Program

CFR Citation: 40 CFR 88

Completed:

Reason	Date	FR Cite
Final Action	12/17/92	57 FR 60038

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Peter Caffrey, 313 741-7829

RIN: 2060–AD30

3836. REVISED LIGHT-DUTY DURABILITY PROCEDURES FOR MODEL YEARS 1994 AND 1995

Significance: Regulatory Program

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	01/12/93	58 FR 3994

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jim McCargar, 313 668-4244

RIN: 2060–AD36

3837. ACID RAIN ALLOWANCE SYSTEM REGULATION

Significance: Regulatory Program

CFR Citation: 40 CFR 73

Completed:

Reason	Date	FR Cite
Final Action	01/11/93	58 FR 3590

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Renee Rico, 202 233-9170

RIN: 2060–AD40

3838. ACID RAIN CONTINUOUS EMISSIONS MONITORING REGULATION

Significance: Regulatory Program

CFR Citation: 40 CFR 75

Completed:

Reason	Date	FR Cite
Final Action	01/11/93	58 FR 3590

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Larry Kertcher, 202 233-9180

RIN: 2060–AD44

3839. CLARIFICATION OF BEST AVAILABLE CONTROL TECHNOLOGY REGULATORY DEFINITION

Significance: Agency Priority

CFR Citation: 40 CFR 51.166; 40 CFR 52.27

Completed:

Reason	Date	FR Cite
Combined with RIN 2060-AD13	04/15/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Solomon, 919 541-5375

RIN: 2060–AD61

3840. APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS; PARTIAL DISAPPROVAL OF NEW JERSEY IMPLEMENTATION PLAN FOR OZONE

Significance: Regulatory Program

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	10/20/92	57 FR 47769

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Al Mannato, 202 233-9308

RIN: 2060–AD78

3841. REQUIREMENTS FOR BASIC AND ENHANCED INSPECTION/ MAINTENANCE PROGRAMS

Significance: Regulatory Program

CFR Citation: 40 CFR 51

Completed:

Reason	Date	FR Cite
Final Action	11/05/92	57 FR 52950

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Eugene J. Tierney, 313 668-4456

RIN: 2060–AD89

3842. NAAQS: OZONE (REVIEW)

Significance: Regulatory Program

CFR Citation: 40 CFR 50.9

Completed:

Reason	Date	FR Cite
Final Action	03/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Haines, 919 541-5533

RIN: 2060–AA96

3843. NSPS REVISION FOR GAS TURBINES

CFR Citation: 40 CFR 60.330

Completed:

Reason	Date	FR Cite
Withdrawn	04/15/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David F. Painter, 919 341-5515

RIN: 2060–AD70

3844. COMPLIANCE EXTENSIONS FOR EARLY REDUCTION OF HAZARDOUS AIR POLLUTANTS

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	12/29/92	57 FR 61970

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: David Beck, 919 541-5421

RIN: 2060–AC89

3845. STATEMENT OF POLICY AND PROCEDURES REGARDING PETITIONS UNDER SECTION 112 OF TITLE III OF THE CLEAN AIR ACT AMENDMENTS OF 1990

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Withdrawn - informal guidance will be issued instead of a rule	04/15/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Nancy Pate, 919 541-5347

RIN: 2060–AC91

3846. NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS; POLONIUM-210 EMISSIONS FROM ELEMENTAL PHOSPHORUS PLANTS

CFR Citation: 40 CFR 61, subpart K

Completed:

Reason	Date	FR Cite
Final Action	12/19/91	56 FR 65934

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Craig Conklin, 703 308-8755

RIN: 2060–AD59

3847. AMENDMENTS TO NATIONAL EMISSION STANDARDS FOR BENZENE WASTE OPERATIONS

CFR Citation: 40 CFR 61. 340 to 61.358

Completed:

Reason	Date	FR Cite
Final Action	01/07/93	58 FR 3072

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Robert Lucas, 919 541-0884

RIN: 2060–AD63

3848. MOTOR VEHICLE TEST PROCEDURES FOR EVAPORATIVE EMISSIONS (REVISION)

Significance: Agency Priority

CFR Citation: 40 CFR 86 and 80

Completed:

Reason	Date	FR Cite
Final Action	03/24/93	58 FR 16002

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Don Kopinski, 313 741-7805

RIN: 2060–AC64

3849. ON-BOARD VEHICLE BASED DIAGNOSTIC SYSTEM REQUIREMENT

Significance: Regulatory Program

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	02/19/93	58 FR 9468

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Todd Sherwood, 313 668-4405

RIN: 2060–AC65

3850. ACID RAIN PERMITS REGULATION

Significance: Regulatory Program

CFR Citation: 40 CFR 72

Completed:

Reason	Date	FR Cite
Final Action	01/11/93	58 FR 3590

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Mike Kalinoski, 202 233-9151

RIN: 2060–AD46

3851. PROTECTION OF STRATOSPHERIC OZONE: PRODUCT BAN

Significance: Regulatory Program

CFR Citation: 40 CFR 82

Completed:

Reason	Date	FR Cite
Final Action	01/15/93	58 FR 4768

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Matt Dinkel, 202 233-9194

RIN: 2060–AD49

3852. PROTECTION OF STRATOSPHERIC OZONE: LABELING

Significance: Regulatory Program

CFR Citation: 40 CFR 82

Completed:

Reason	Date	FR Cite
Final Action	02/11/93	58 FR 8136

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Kate Van Slyck, 202 233-9742

RIN: 2060–AD47

3853. ACID RAIN EXCESS EMISSIONS REQUIREMENTS REGULATION

Significance: Regulatory Program

CFR Citation: 40 CFR 77

Completed:

Reason	Date	FR Cite
Final Action	01/11/93	58 FR 3590

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Mike Kalinoski, 202 233-9151

RIN: 2060–AD53

3854. GUIDELINES FOR OXYGENATED GASOLINE OXYGEN CREDIT PROGRAMS UNDER SECTION 211(M) OF THE CLEAN AIR ACT AS AMENDED

Significance: Regulatory Program

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action Availability Notice	10/29/92	57 FR 47853

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Al Mannato, 202 233-9308

RIN: 2060–AD74

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Completed Actions

3855. GUIDANCE ON ESTABLISHMENT OF CONTROL PERIODS BY AREA UNDER SECTION 211(M) OF THE CLEAN AIR ACT AS AMENDED

Significance: Regulatory Program

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action Availability Notice	10/20/92	57 FR 47853

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Al Mannato, 202 233-9308

RIN: 2060–AD75

3856. LABELING REGULATIONS FOR OXYGENATED GASOLINE UNDER SECTION 211(M) OF THE CLEAN AIR ACT AS AMENDED

Significance: Regulatory Program

CFR Citation: 40 CFR 80

Completed:

Reason	Date	FR Cite
Final Action	10/20/92	57 FR 47769

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Al Mannato, 202 233-9038

RIN: 2060–AD79

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Superfund (CERCLA)

Proposed Rule Stage

3857. RISK MANAGEMENT PLANS FOR CHEMICAL ACCIDENTAL RELEASE PREVENTION

Significance: Regulatory Program

Legal Authority: PL 101-549; Clean Air Act Amendments of 1990

CFR Citation: 40 CFR 68

Legal Deadline: Final, Statutory, November 15, 1993.

Abstract: EPA must promulgate reasonable regulations and appropriate guidance to provide for the prevention and detection of accidental releases from stationary sources. The regulations must require stationary sources where a regulated substance is present in quantities greater than a threshold amount to implement a risk management plan for detection and prevention of accidental releases.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	11/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2979.

Agency Contact: Lyse Helsing, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-120), Washington, DC 20460, **202 260-6128**

RIN: 2050–AD26

3858. DESIGNATION UNDER CERCLA AND REPORTABLE QUANTITY ADJUSTMENTS OF NEW CLEAN AIR ACT HAZARDOUS AIR POLLUTANTS

Legal Authority: 42 USC 9602/CERCLA 102(a)

CFR Citation: 40 CFR 302.4

Legal Deadline: None

Abstract: This rule will list under 40 CFR Part 302 as CERCLA Hazardous Substances the previously non-CERCLA Hazardous Air Pollutants added to Section 112 of the Clean Air Act (CAA) by the CAA Amendments of 1990. This rule will also adjust the Statutory Reportable Quantities of these hazardous air pollutants.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	05/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 3000.

Agency Contact: Gerain H. Perry, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington, DC 20460, **703 603-8732**

RIN: 2050–AD33

3859. DELETION OF SACCHARIN FROM THE LIST OF HAZARDOUS WASTES UNDER RCRA AND THE LIST OF HAZARDOUS SUBSTANCES UNDER CERCLA

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921/RCRA 3001; 42 USC 6938; 42 USC 9602

CFR Citation: 40 CFR 261.33(f); 40 CFR 261 app VIII; 40 CFR 302.4

Legal Deadline: None

Abstract: This proposed rule would remove saccharin from the list of hazardous wastes under Section 3001 of the Resource Conservation and Recovery Act (RCRA) and from the list of hazardous substances under Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This regulatory action is in response to a petition to remove saccharin from regulation under RCRA and CERCLA. The petition is based on recent studies that dispute previous scientific findings that saccharin is a possible carcinogen. It is anticipated that the proposed action would result in annual new cost savings to both government and the regulated community because saccharin would no longer be subject to regulation under RCRA and CERCLA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

EPA—CERCLA

Proposed Rule Stage

Sectors Affected: 20 Food and Kindred Products

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3050.

Agency Contact: Wanda L. Levine, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, **202 260-7458**

RIN: 2050–AD45

3860. NATIONAL CONTINGENCY PLAN-SUBPART K: A ROADMAP TO THE NCP FOR FEDERAL FACILITIES

Legal Authority: 42 USC 9605/CERCLA 105; 42 USC 9620/CERCLA 120

CFR Citation: 40 CFR 300

Legal Deadline: None

Abstract: Subpart K of the NCP, entitled "Federal Facilities," is a roadmap to the entire NCP for Federal facilities, and it consolidates in one subpart of the NCP references to the requirements in the other subparts that Federal agencies must follow when conducting CERCLA response actions where the release is on, or where the sole source of the release is from, their facility. It also codifies certain other provisions of Section 120 of CERCLA relating to Federal facilities.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	07/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2650.

Agency Contact: Rick Colbert, Environmental Protection Agency, Solid Waste and Emergency Response, (5502G), Washington, DC 20460, **703 603-8932**

RIN: 2050–AC76

3861. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES: PROPOSED RULES

Legal Authority: 42 USC 9605(a)(8)(b)/CERCLA 105(a)(8)(B)

CFR Citation: 40 CFR 300.425

Legal Deadline: Other, Statutory. Annual update.

Abstract: This action proposes to revise the National Priorities List (NPL) for uncontrolled waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that heve been cleaned up. By court order, several sites in updates 14 and 15 must be finalized by 7/15/93.

Timetable:

Action	Date	FR Cite
NPRM	07/29/91	56 FR 35840
Update 12		
NPRM	02/07/92	(57 FR 4824)
Update 13		
NPRM	10/14/92	(57 FR 47204)
Update 14		
NPRM	04/00/93	
Update 15		
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. not yet assigned.

Agency Contact: Robert Myers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-230), Washington, DC 20460, **202 260-3412**

RIN: 2050–AD47

3862. PROCEDURES FOR REIMBURSEMENT PETITIONS UNDER SECTION 106(B) OF CERCLA

Legal Authority: 42 USC 9606(b)/CERCLA 106(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: EPA is considering proposing a rule to set out a uniform process of review of petitions for reimbursement filed by parties who have been ordered to clean up Superfund sites. A uniform process would facilitate EPA consideration of these petitions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2855.

Agency Contact: Fred Zimmerman, Environmental Protection Agency, Solid Waste and Emergency Response, (5502G), Washington, DC 20460, **703 603-9063**

RIN: 2050–AD11

3863. REVISIONS TO THE NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

Significance: Regulatory Program

Legal Authority: 33 USC 1321/CWA 311(d)(1), as amended by the Oil Pollution Act

CFR Citation: 40 CFR 300

Legal Deadline: Final, Statutory, August 18, 1991.

Abstract: Under the Oil Pollution Act of 1990, EPA will prepare and publish revisions to the National Oil and Hazardous Substances Contingency Plan for the removal of oil and hazardous substances. EPA has initiated an inter-agency review process to make changes needed to implement the requirements of the Oil Pollution Act of 1990. The revised NCP will address a number of new elements including, but not limited to, response to worst case discharges and discharges that may pose a substantial threat to public health and welfare, a Fish and Wildlife Plan, and Area Contingency Plans.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2882.

Agency Contact: Rich Norris, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington, DC 20460, **703 603-8780**

RIN: 2050–AD24

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3864. NATIONAL OIL AND HAZARDOUS SUBSTANCES CONTINGENCY PLAN (TECHNICAL REVISIONS)

Legal Authority: 42 USC 9601-9657; 33 USC 1321(c)(2)

CFR Citation: 40 CFR 300

Legal Deadline: None

Abstract: In carrying out the revised National Oil and Hazardous Substances Pollution Contingency Plan (NCP), EPA has identified several provisions that may be interpreted differently than the Agency intended. In order to avoid any confusion, and to better inform the public, EPA is proposing clarifications to four sections of the NCP. None of these changes are intended to be substantive.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3126.

Agency Contact: Hugo Paul Fleischman, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington, DC 20460, 703 603-8769

RIN: 2050–AD73

3865. AMENDMENTS TO THE EXTREMELY HAZARDOUS SUBSTANCES LIST UNDER SECTION 302 OF THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Legal Authority: PL 99-499/SARA Title III

CFR Citation: 40 CFR 355

Legal Deadline: None

Abstract: EPA is correcting errors found in the Extremely Hazardous Substances List under Section 302 of the Emergency Planning and Community Right-To-Know Act of 1986. The list became final in the Federal Register on April 22, 1987 (52 FR 13378). This rulemaking is to amend the list based upon errors found in the studies used to place the chemicals on the list.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	06/00/94	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Additional Information: SAN No. 3036.

Agency Contact: John Ferris, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-120), Washington, DC 20460, 202 260-4043

RIN: 2050–AD50

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Superfund (CERCLA)

3866. LIST OF REGULATED SUBSTANCES AND THRESHOLDS FOR ACCIDENTAL RELEASE PREVENTION; REQUIREMENTS FOR PETITIONS UNDER SECTION 112(R)(3) OF THE CAAA OF 1990

Significance: Regulatory Program

Legal Authority: PL 101-549; Clean Air Act Amendments of 1990

CFR Citation: 40 CFR 68

Legal Deadline: Final, Statutory, November 15, 1992.

Abstract: EPA must promulgate an initial list of at least 100 substances that, in the event of accidental release, are known to cause or may reasonably be anticipated to cause death, injury or serious adverse human health or environmental effects. EPA must establish by rule, a threshold quantity for each substance listed considering toxicity, reactivity, volatility, dispersibility, combustibility or flammability, the amount known to cause death, injury, or serious adverse human health effects. EPA must establish procedures for the addition and deletion of substances from the list.

Timetable:

Action	Date	FR Cite
NPRM	01/19/93	58 FR 5102
Final Action	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2972.

Agency Contact: Vanessa Rodriquez, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-120), Washington, DC 20460, 202 260-7913

RIN: 2050–AD25

3867. REPORTING EXEMPTIONS FOR FEDERALLY PERMITTED RELEASES OF HAZARDOUS SUBSTANCES

Significance: Regulatory Program

Legal Authority: 42 USC 9602/CERCLA 102

CFR Citation: 40 CFR 117; 40 CFR 302; 40 CFR 355

Legal Deadline: None

Abstract: This regulation will clarify the definition of "federally permitted release" in Section 101(10) of CERCLA. Federally permitted releases of hazardous substances are exempt from reporting under Section 103 of CERCLA and from CERCLA liability.

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27268
Supplemental Notice	07/11/89	54 FR 29306
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2394.

For Further Information Contact: RCRA/Superfund 800-424-9346; in Washington, DC area dial 703-920-9810. The Telecommunications Device for the Deaf (TDD) Hotline number is 800-553-7672; in the Washington, DC area it is 703-486-3323.

Agency Contact: Barbara A. Hostage, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington, DC 20460, 703 603-8732

RIN: 2050–AB82

EPA—CERCLA — Final Rule Stage

3868. REPORTABLE QUANTITY ADJUSTMENTS FOR PETROLEUM REFINERY PRIMARY TREATMENT SLUDGES

Legal Authority: 42 USC 9602; 42 USC 9603; 42 USC 9604; 33 USC 1321; 33 USC 1361

CFR Citation: 40 CFR 302; 40 CFR 302.4; 40 CFR 261.31

Legal Deadline: None

Abstract: This action will adjust the reportable quantities (RQs) for waste streams FO37 and FO38 (sludges from petroleum refinery separation processes) under CERCLA, as amended.

Timetable:

Action	Date	FR Cite
NPRM	03/27/91	56 FR 12826
Final Action	05/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2868.

For further information contact the RCRA/Superfund Hotline at 800-424-9346; in the Washington, DC area call 703-920-9810. The Telecommunications Device for the Deaf (TDD) Hotline number is 800-553-7672; in the Washington, DC area it is 703-486-3323.

Agency Contact: Gerain Perry, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington, DC 20460, 703 603-8732

RIN: 2050–AD15

3869. REPORTABLE QUANTITY ADJUSTMENTS OF LEAD, LEAD COMPOUNDS, LEAD-CONTAINING HAZARDOUS WASTE STREAMS, AND METHYL ISOCYANATE

Legal Authority: 42 USC 9602/CERCLA 102

CFR Citation: 40 CFR 302; 40 CFR 355; 40 CFR 117

Legal Deadline: Final, Statutory, April 30, 1988. NPRM, Judicial, April 30, 1992. Final, Judicial, April 30, 1993.

Abstract: EPA is adjusting the reportable quantities of lead metal, lead compounds, and lead-containing hazardous waste streams, and methyl isocyanate.

Timetable:

Action	Date	FR Cite
NPRM	04/30/92	57 FR 20014
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 3233.

Agency Contact: Gerain H. Perry, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington, DC 20460, 703 603-8732

RIN: 2050–AD16

3870. COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT (CERCLA) COST RECOVERY

Legal Authority: 42 USC 9615/CERCLA 115

CFR Citation: 40 CFR 300; 40 CFR 308

Legal Deadline: None

Abstract: Under CERCLA, potentially responsible parties defined under Section 107(a) are liable for the cost of cleanup of Superfund sites. It is Agency policy to pursue potentially responsible parties in court for costs expended if a cleanup settlement is not reached. This rulemaking will define the specific recoverable costs and describe the documentation sufficient to support EPA's cost recovery efforts. This proposed regulation will also address other related aspects, in EPA's interpretation of certain businesses statute of limitation provisions. The proposed regulation is designed to make the cost recovery process more efficient and less burdensome from a litigation standpoint.

Timetable:

Action	Date	FR Cite
NPRM	08/06/92	57 FR 34742
NPRM Comment Period End	11/05/92	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2702.

Agency Contact: Filomena Chau, Environmental Protection Agency, Solid Waste and Emergency Response, (5502G), Washington, DC 20460, 703 603-8966

RIN: 2050–AC98

3871. ADMINISTRATIVE REPORTING EXEMPTIONS UNDER CERCLA FOR RELEASES OF RADIONUCLIDES FROM FOUR SOURCE CATEGORIES

Legal Authority: 42 USC 9602/CERCLA 103

CFR Citation: 40 CFR 302.6(c); 40 CFR 355.40(a)(2)(vi)

Legal Deadline: None

Abstract: This rulemaking will codify administrative reporting exemptions from the requirements of section 103 of the Comprehensive Environmental Response, Compensation, and Liebility Act (CERCLA) for radionuclide release from: (1) large land holdings; (2) disturbances of land for purposes other than mining; (3) the dumping of coal and coal ash at utility and industrial facilities with coal-fired boilers; and (4) coal and coal ash piles at utility and industrial facilities with coal-fired boilers. This regulatory action is in response to a court decision specified in The Fertilizer Institute v. EPA (935 F. 2nd 1303 (1991)). It is anticipated that the proposed action would result in annual net cost savings to both government and the regulated community because facilities that receive the administrative reporting exemptions would no longer be subject to the reporting requirements of CERCLA section 103.

Timetable:

Action	Date	FR Cite
NPRM	11/30/92	57 FR 56726
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 49 Electric, Gas, and Sanitary Services; 16 Heavy Construction Other Than Building Construction-Contractors; 01 Agricultural Production-Crops

Additional Information: SAN No. 3054.

Agency Contact: Gerain H. Perry, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington, DC 20460, 703 603-8732

RIN: 2050–AD46

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Final Rule Stage

3872. AMENDMENT TO THE NCP APPENDIX: OSWER PROCEDURES FOR CONTRACT LABORATORY PROGRAM INVESTIGATIONS

Legal Authority: 42 USC 9605/CERCLA 105

CFR Citation: 40 CFR 300

Legal Deadline: None

Abstract: This proposed rule describes procedures for EPA to deal consistently with Contract Laboratory Program (CLP) labs under investigation for alleged fraud. It is designed to protect the authenticity and reliability of CLP data and the validity of EPA decisions made using CLP data.

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	40 FR 21576
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2976.

Agency Contact: Hans Crump, Environmental Protection Agency, Solid Waste and Emergency Response, (5204G), Washington, DC 20460, 703 603-6621

RIN: 2050–AD34

3873. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES: FINAL RULES

Legal Authority: 42 USC 9605/CERCLA 105

CFR Citation: 40 CFR 300.425

Legal Deadline: Other, Statutory. Deadline is for annual update.

Abstract: This action finalizes sites proposed for inclusion on the National Priorities List (NPL) for uncontrolled waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substance releases and to delete sites that have been cleaned up.

Timetable:

Final 11
Final Action 10/14/92 (57 FR 47180)
Final 12
Final Action 06/00/93
Final 13
Final Action 12/00/93
Final 14
Final Action 06/00/94
Final 15
Final Action 12/00/94

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. not yet assigned.

Agency Contact: Robert Myers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-230), Washington, DC 20460, 703 603-8851

RIN: 2050–AD75

3874. FACILITY RESPONSE PLANNING

Significance: Regulatory Program

Legal Authority: 33 USC 1321/CWA 311(j)(5), as amended by the Oil Pollution Act

CFR Citation: 40 CFR 112

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: The Oil Pollution Act of 1990 (OPA) expands the scope of public and private planning and response activities associated with discharges of oil. The rule implements an OPA requirement that facility owners and operators prepare response plans to respond to a worst case discharge of oil. These plans apply to facilities that, because of their location, reasonably could be expected to cause substantial harm to the environment by a discharge of oil into or on navigable waters, adjoining shorelines, or the exclusive economic zone.

Timetable:

Action	Date	FR Cite
NPRM	02/17/93	58 FR 8824
Final Action	10/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAN No. 2923.

Agency Contact: Bobbie Lively-Diebold, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington, DC 20460, 703 356-8774

RIN: 2050–AD30

3875. ADMINISTRATIVE HEARING PROCEDURES FOR CLASS II PENALTIES UNDER CERCLA AND EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Legal Authority: 42 USC 9609/11045

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: This rule will govern the conduct of administrative hearings for all penalties to be assessed under CERCLA Section 109 and SARA Section 325. The rule provides the procedures for these penalty assessments. The action is expected to have a negligible economic impact on consumers, industries, or governmental agencies, but will provide the benefit of uniform procedures for assessing penalties.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/89	54 FR 21174
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2512.

Agency Contact: Sandra Connors, Environmental Protection Agency, Office of Enforcement, (LE-134S), Washington, DC 20460, 202 260-3110

RIN: 2050–AC39

3876. PRIOR NOTICE OF CITIZEN SUITS UNDER CERCLA

Legal Authority: 42 USC 9659/CERCLA 310

CFR Citation: 40 CFR 373

Legal Deadline: None

Abstract: These regulations are promulgated under section 310 of CERCLA. They govern the notice required to be given 60 days prior to the filing of a citizen suit.

Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3918
Final Action	04/00/93	

Small Entities Affected: None

EPA—CERCLA

Final Rule Stage

Government Levels Affected: Local, State, Federal

Additional Information: SAN No. 2615.

Agency Contact: Patricia Sims, Environmental Protection Agency, Office of Enforcement, (LE-134S), Washington, DC 20460, 202 260-2860

RIN: 2050–AC70

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Superfund (CERCLA)

Completed Actions

3877. DESIGNATION OF EXTREMELY HAZARDOUS SUBSTANCES AS CERCLA HAZARDOUS SUBSTANCES

Significance: Regulatory Program

CFR Citation: 40 CFR 302

Completed:

Reason	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerain H. Perry, 703 603-8732

RIN: 2050–AB62

3878. REPORTABLE QUANTITY ADJUSTMENTS OF EXTREMELY HAZARDOUS SUBSTANCES

Significance: Regulatory Program

CFR Citation: 40 CFR 302; 40 CFR 355; 40 CFR 117

Completed:

Reason	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerain H. Perry, 703 603-8732

RIN: 2050–AC14

3879. NATIONAL PRIORITIES LIST (NPL) FOR UNCONTROLLED HAZARDOUS WASTE SITES—UPDATES

CFR Citation: 40 CFR 300.425

Completed:

Reason	Date	FR Cite
Included in RIN 2050-AD75	02/26/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Myers, 703 603-8851

RIN: 2050–AD22

3880. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES —PROPOSED UPDATE XII

CFR Citation: 40 CFR 300.425

Completed:

Reason	Date	FR Cite
Action included in RIN 2050-AD75	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Myers, 703 603-8851

RIN: 2050–AD23

3881. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES: UPDATE 14

CFR Citation: 40 CFR 300.425

Completed:

Reason	Date	FR Cite
Withdrawn - included in RIN 2050-AD75 and 2050-AD47	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Myers, 202 260-8851

RIN: 2050–AD52

3882. RESPONSE CLAIMS PROCEDURES FOR THE HAZARDOUS SUBSTANCES SUPERFUND

CFR Citation: 40 CFR 307

Completed:

Reason	Date	FR Cite
Final Action	01/21/93	58 FR 5459

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William O. Ross, 703 603-8798

RIN: 2050–AA90

3883. ADMINISTRATIVE HEARING PROCEDURE FOR SUPERFUND CLAIMS

CFR Citation: 40 CFR 305

Completed:

Reason	Date	FR Cite
Final Action	02/08/93	58 FR 7704

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hugo Paul Fleischman, 703 603-8769

RIN: 2050–AC26

3884. CIVIL PENALTY PROVISIONS FOR ALL THE OIL POLLUTION PREVENTION REGULATIONS

CFR Citation: 40 CFR 112.6; 40 CFR 114.1

Completed:

Reason	Date	FR Cite
Interim Final Rule	11/04/92	57 FR 52704

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cecilia Smith, 703 603-8943

RIN: 2050–AD51

3885. REIMBURSEMENT OF LOCAL GOVERNMENTS FOR EMERGENCY RESPONSE TO HAZARDOUS SUBSTANCE RELEASES

CFR Citation: 40 CFR 310

Completed:

Reason	Date	FR Cite
Final Action	01/15/93	58 FR 4816

Small Entities Affected: None

Government Levels Affected: Local

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EPA—CERCLA — Completed Actions

Agency Contact: Local Gov't Reimbursement Coordinator, 202 260-3382

RIN: 2050–AC11

Completed:

Reason	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: John Ferris, 202 260-4043

RIN: 2050–AD02

3886. ADDITION OF CHEMICALS TO THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES BASED ON THEIR PHYSICAL PROPERTIES

Significance: Regulatory Program

CFR Citation: 40 CFR 355, apps A and B

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

General

3887. PROCUREMENT INTEGRITY

Legal Authority: 41 USC 423

CFR Citation: 48 CFR 1503

Legal Deadline: None

Abstract: The proposed rule will implement Federal Acquisition Regulation (FAR) guidance concerning procurement integrity.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3098.

Agency Contact: Nan Parry, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 260-0900

RIN: 2030–AA25

3888. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: 33 USC 1251 et seq; 42 USC 7401 et seq; 42 USC 300(f) et seq; 7 USC 136 et seq; 15 USC 2601 et seq; 42 USC 9601 et seq; 20 USC 4011 et seq; 33 USC 1401 et seq

CFR Citation: 40 CFR 31

Legal Deadline: None

Abstract: This is a revision to a common rule designed to establish uniform administrative rules for Federal grants and cooperative agreements and subawards to State, local, and Indian tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3100.

Agency Contact: Richard Mitchell or Ellen Haffa, Environmental Protection Agency, Administration and Resource Management, (PM-216F), Washington, DC 20460, 202 260-5268

RIN: 2030–AA27

3889. • SOURCE SELECTION PROCEDURES

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1515

Legal Deadline: None

Abstract: This action will revise EPA's source selection procedures.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3255.

Agency Contact: Nan Parry, Environmental Protection Agency, Administration and Resource Management, (PM-214E), Washington, DC 20460, 202 260-0900

RIN: 2030–AA29

3890. • MISCELLANEOUS REVISIONS OF ORGANIZATIONAL TITLES AND AUTHORITY

Legal Authority: 41 USC 418B, sec 22 OFPP Policy Act; OFPP Policy Act, sec 22

CFR Citation: 48 CFR 1501; 48 CFR 1503; 48 CFR 1506; 48 CFR 1514; 48 CFR 1515; 48 CFR 1516; 48 CFR 1517; 48 CFR 1522; 48 CFR 1530; 48 CFR 1531; 48 CFR 1532; 48 CFR 1536; 48 CFR 1545

Legal Deadline: None

Abstract: This rule will amend the EPA Acquisition Regulation to reflect changes in the Agency's contracting organization.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3256.

Agency Contact: Louise Senzel, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 260-6204

RIN: 2030–AA30

EPA—GENERAL — Proposed Rule Stage

3891. AMENDMENTS TO PART 22 CONSOLIDATED PROCEDURAL RULES

Legal Authority: 7 USC 136l; 15 USC 2615(a); 15 USC 2647; 33 USC 1319(g); 33 USC 1415(a); 33 USC 1418; 42 USC 6912; 42 USC 7413(d)(1); 42 USC 7601; 42 USC 7607(a); 42 USC 9609; 42 USC 11045; 42 USC 300g-3(b)

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: The Agency is proposing amendments to the Consolidated Rules of Practice under 40 CFR part 22. These amendments will include technical amendments correcting the address to which penalty payments are sent, lengthening the period to file an appeal, and modifying the specified procedures for service of process. The Agency will also propose more substantive amendments regarding handling Confidential Business Information, default judgments, and burden of proof on penalty assessments. In addition, part 22 will be amended to implement the 1990 CAA amendments, which will permit civil penalties to be assessed in administrative enforcement hearings.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2662.

Agency Contact: Helene Ambrosimo, Environmental Protection Agency, Office of Enforcement, (LE-134P), Washington, DC 20460, 202 260-0239

RIN: 2020–AA13

3892. CONFIDENTIALITY REGULATIONS: SPECIAL RULES GOVERNING CERTAIN INFORMATION UNDER FIFRA (REVISION)

Legal Authority: 5 USC 552/Freedom of Information Act ; 7 USC 136h/FIFRA 10

CFR Citation: 40 CFR 2.307

Legal Deadline: None

Abstract: This action would make changes in EPA's procedures for handling business information under FIFRA to reflect amendments to Section 10 of the Act. It would also clarify existing regulations on the treatment of confidential business information under FIFRA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAN No. 2195.

Agency Contact: Rafael Deleon, Environmental Protection Agency, Office of Enforcement, (LE-132G), Washington, DC 20460, 202 260-4550

RIN: 2020–AA06

3893. • PRIVACY ACT OF 1974; PROPOSED ALTERATION OF EXISTING NEW SYSTEM OF RECORDS

Legal Authority: 42 USC 552a

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The Privacy Act of 1974 provides that Congress and the Office of Management and Budget be notified of proposed systems of records and that the public be given a 30-day period in which to comment on the routine uses of the system. EPA provided such notice for a new system of records named "Criminal Investigative Index and Files" on April 25, 1986, 51 FR 15830. EPA is proposing altering this system because of statutory changes in the enforcement provisions implemented by EPA as well as organizational changes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAN No. not yet assigned.

Agency Contact: Bruce G. Bellin, Environmental Protection Agency, Office of Enforcement, (LE-134X), Washington, DC 20460, 202 260-9668

RIN: 2020–AA18

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

General

3894. GENERAL REGULATION FOR ASSISTANCE PROGRAMS FOR OTHER THAN STATE AND LOCAL GOVERNMENTS

Legal Authority: Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 202 of 1970, EO 11541

CFR Citation: 40 CFR 30

Legal Deadline: None

Abstract: This revision is necessary to implement proposed changes to OMB's Circular A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations." When OMB publishes the revised Circular A-110, this regulation will be updated accordingly.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	56 FR 7305
Interim Final Rule	01/00/94	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no

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EPA—GENERAL **Final Rule Stage**

paperwork burden associated with this action.

Additional Information: SAN No. 3101.

Agency Contact: Vince Martin, Environmental Protection Agency, Administration and Resource Management, (PM-216F), Washington, DC 20460, 202 260-9294

RIN: 2030–AA28

3895. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS RECEIVING FINANCIAL ASSISTANCE FROM THE EPA (REVISION)

Legal Authority: 42 USC 6101/Age Discrimination Act of 1979

CFR Citation: 40 CFR 7

Legal Deadline: None

Abstract: This action is necessary to add age as a basis for nondiscrimination to EPA's Federally-Assisted Nondiscrimination Regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/09/81	46 FR 2306
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAN No. 2218.

Agency Contact: Nereid Maxey, Environmental Protection Agency, Office of the Administrator, Office of Civil Rights, (A-105), Washington, DC 20460, 202 260-4567

RIN: 2090–AA09

3896. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: PL 101-121; 33 USC 1251 et seq; 42 USC 7401 et seq; 42 USC 6901 et seq; 42 USC 300f et seq; 7 USC 136 et seq; 15 USC 2601 et seq; 42 USC 9601 et seq; 20 USC 4011 et seq; 33 USC 1401 et seq

CFR Citation: 40 CFR 34

Legal Deadline: None

Abstract: This is a common rule designed to implement the Anti-Lobbying Act passed October 23, 1989. The common rule prohibits the use of Federal funds for lobbying by grantees and applicants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: SAN No. 3219.

Agency Contact: Richard Mitchell, Environmental Protection Agency, Administration and Resource Management, (PM-216F), Washington, DC 20460, 202 260-6077

RIN: 2030–AA24

3897. INSTRUCTIONS FOR PREPARATION OF COST OR PRICING PROPOSALS

Legal Authority: PL 98-377/Section 302

CFR Citation: 48 CFR 1515; 48 CFR 1552

Legal Deadline: None

Abstract: This proposed rule will request additional information from offerors to allow EPA to more quickly and accurately evaluate cost or pricing proposals submitted in response to solicitations and will require that cost or pricing information be submitted on computer disks as well as hard copy.

Timetable:

Action	Date	FR Cite
NPRM	02/20/90	55 FR 5948
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 2791.

Agency Contact: Edward N. Chambers, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 260-6028

RIN: 2030–AA20.

ENVIRONMENTAL PROTECTION AGENCY (EPA) **Completed Actions**

General

3898. EVALUATION PROCEDURE FOR AWARD OF FIXED PRICE CONTRACTS FOR COMMERCIAL SUPPLIES AND SERVICES

CFR Citation: 48 CFR 1515; 48 CFR 1552

Completed:

Reason	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Louise Senzel, 202 260-6204

RIN: 2030–AA09

[FR Doc. 93-7921 Filed 04-23-93; 8:45 am]

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Federal Register

Monday
April 26, 1993

Part XXIII

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission is publishing its semiannual regulatory agenda pursuant to Executive Order 12291, 3 CFR, 1981 Comp., p.127, and the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The agenda contains all regulations which are scheduled for review or development during the next 12 months.

FOR FURTHER INFORMATION CONTACT: Irene L. Hill, Assistant Legal Counsel for Coordination, Office of the Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-4689.

SUPPLEMENTARY INFORMATION: The Commission identified eight current and projected rulemakings for inclusion in the agenda. Two have been published as ANPRMs. Two have been published as NPRMs. Two are currently under development or review by Commission staff. Two items indicate that the Commission anticipates no further regulatory activity.

Signed in Washington, DC, this 24th day of March 1993.
For the Commission.
Evan J. Kemp, Jr.,
Chairman.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3899	Early Retirement Plans	3046-AA36
3900	Possible Revisions to Interpretations Relating to Benefits Under Employee Benefit Plans	3046-AA37
3901	Procedures for Handling Complaints of Employment Discrimination Under the Government Employee Rights Act of 1991	3046-AA45
3902	Discrimination Because of Religion Under Title VII of the Civil Rights Act of 1964 as Amended	3046-AA47

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3903	Pension Accruals and Contributions Under ADEA	3046-AA31
3904	Procedures for Handling Complaints of Employment Discrimination on the Basis of Disability Filed Under the Americans with Disabilities Act and the Rehabilitation Act of 1973	3046-AA42

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3905	Uniform Guidelines on Employee Selection Procedures	3046-AA00
3906	Uniform Guidelines on Employee Selection Procedures	3046-AA24

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Prerule Stage

3899. EARLY RETIREMENT PLANS

Legal Authority: 29 USC 628

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The ADEA prohibits discrimination on the basis of age with respect to an employee's compensation, terms, conditions, or privileges of employment. In light of recent amendments to the ADEA and several cases dealing with early retirement, questions have arisen regarding the legality of early retirement plans in general and of specific plans. Since the use of early retirement has expanded greatly in recent years, the Commission deems it appropriate to consider the issuance of regulatory guidance in the area. The ANPRM seeks comment on issues such as voluntariness, plan structuring and eligibility to participate. The Commission is reassessing this project in light of the Supreme Court's decision in Public Employees Retirement System of Ohio v. Betts, 492 U.S. 158 (1989), and the enactment of the Older Workers Benefit Protection Act, Pub. L. 101-433 (Oct. 16, 1990).

Timetable:

Action	Date	FR Cite
ANPRM	07/15/88	53 FR 26789

EEOC — **Prerule Stage**

Action	Date	FR Cite
ANPRM Comment Period End	10/13/88	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507, 202 663-4690

RIN: 3046–AA36

3900. POSSIBLE REVISIONS TO INTERPRETATIONS RELATING TO BENEFITS UNDER EMPLOYEE BENEFIT PLANS

Legal Authority: 29 USC 628

CFR Citation: 29 CFR 1625.10

Legal Deadline: None

Abstract: The current interpretive regulations at 29 CFR 1625.10 were framed in 1979. Since that time the ADEA has been amended in a manner that necessitates considering revisions to the regulations, for example, the lifting of the age 70 cap. Accordingly, the Commission requested public comment to determine whether revisions are necessary and, if so, the nature and scope of any such revision. The continuing viability of this project is being assessed in light of the Supreme Court's decision in Public Employees Retirement System of Ohio v. Betts, 492 U.S. 158 (1989), and the enactment of the Older Workers Benefit Protection Act, Pub. L. 101-433 (Oct. 16, 1990).

Timetable:

Action	Date	FR Cite
ANPRM	07/15/88	53 FR 26788
ANPRM Comment Period End	10/13/88	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507, 202 663-4690

RIN: 3046–AA37

3901. PROCEDURES FOR HANDLING COMPLAINTS OF EMPLOYMENT DISCRIMINATION UNDER THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991

Legal Authority: 2 USC 1220 Government Employee Rights Act of 1991; 42 USC 2000e et seq Title VII of the Civil Rights Act; 29 USC 633 Age Discrimination in Employment Act; 42 USC 12112 to 12114 Americans with Disabilities Act

CFR Citation: 29 CFR 1603

Legal Deadline: None

Abstract: Under the Civil Rights Act of 1964 certain staff members of State and local elected officials were exempt from protection against employment discrimination. Section 321 of the Government Employee Rights Act of 1991 extends protections to the employment of persons who have been chosen or appointed by a State or local elected public official to serve on his or her personal staff, to serve the elected official on the policy-making level, or to serve as an immediate advisor with respect to the exercise of the constitutional or legal powers of the official's office. Section 320 of the Government Employee Rights Act of 1991 extends protections to certain presidential appointees who are not otherwise protected under section 17 of title VII of the Civil Rights Act of 1964. Section 320 does not cover individuals whose appointment is made by and with the advice and consent of the Senate, advisory committee members or members of the uniformed services.

These are procedural regulations for processing such complaints of discrimination by previously exempt or uncovered individuals.

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507, 202 663-4670

RIN: 3046–AA45

3902. DISCRIMINATION BECAUSE OF RELIGION UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 AS AMENDED

Legal Authority: 42 USC 2000e Title VII, Civil Rights Act of 1964 as amended

CFR Citation: 29 CFR 1605

Legal Deadline: None

Abstract: The Equal Employment Opportunity Commission is proposing a revision to section 1605.2(c)(2) of its Guidelines on Discrimination Because of Religion. These revisions will reflect Supreme Court precedent in Ansonia Board of Education v. Philbrook 479 U.S. 60 (1986) on religious accommodation. If adopted, this revision will clarify an employer's duty of religious accommodation and will prevent an employee or prospective employee from being discriminated against and unnecessarily penalized because of his or her religious practices.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dianna B. Johnston, Assistant Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507, 202 663-4679

RIN: 3046–AA47

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Final Rule Stage

3903. PENSION ACCRUALS AND CONTRIBUTIONS UNDER ADEA

Significance: Agency Priority

Legal Authority: 29 USC 628 The Age Discrimination in Employment Act of 1967; PL 99-509, Sec 9204

CFR Citation: 29 CFR 1625.10

Legal Deadline: Final, Statutory, February 1, 1988.

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EEOC — Final Rule Stage

Rule will be completed when the Department of the Treasury completes its regulatory review.

Abstract: Regulations, as may be necessary, to carry out congressional enactments regarding pension accruals and contributions under ADEA.

Timetable:

Action	Date	FR Cite
NPRM	11/27/87	52 FR 45360
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507, **202 663-4690**

RIN: 3046–AA31

3904. PROCEDURES FOR HANDLING COMPLAINTS OF EMPLOYMENT DISCRIMINATION ON THE BASIS OF DISABILITY FILED UNDER THE AMERICANS WITH DISABILITIES ACT AND THE REHABILITATION ACT OF 1973

Legal Authority: 42 USC 12101 et seq; PL 101-336 The Americans with Disabilities Act (ADA)

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, January 26, 1992.

Abstract: Section 107(b) of the ADA requires that agencies with enforcement authority for actions which allege employment discrimination under the ADA and section 504 of the Rehabilitation Act of 1973 must develop procedures that ensure that administrative complaints filed under the ADA or the Rehabilitation Act are processed in a manner which avoids duplication of effort and prevents the imposition of inconsistent or conflicting standards by EEOC and the Department of Justice.

These regulations will contain procedures and standards to ensure that complaints are processed in an effective manner, and that consistent standards are applied to the same requirements imposed by both statutes.

Timetable:

Action	Date	FR Cite
NPRM	04/21/92	57 FR 14630
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth M. Thornton, Deputy Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507, **202 663-4689**

RIN: 3046–AA42

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Completed Actions

3905. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Significance: Agency Priority

CFR Citation: 29 CFR 1607

Completed:

Reason	Date	FR Cite
No Further Action Anticipated	03/23/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas J. Schlageter, 202 663-4670

RIN: 3046–AA00

3906. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Significance: Regulatory Program

CFR Citation: 29 CFR 1607

Completed:

Reason	Date	FR Cite
No Further Action Anticipated	03/23/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Lyons, 202 663-4417

RIN: 3046–AA24

[FR Doc. 93-7455 Filed 04-23-93; 8:45 am]
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Federal Register

Monday
April 26, 1993

Part XXIV

Federal Emergency Management Agency

Semiannual Regulatory Agenda

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FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Semiannual agenda.

SUMMARY: The Federal Emergency Management Agency publishes its semiannual regulatory agenda in April and October to inform interested parties of progress on FEMA regulations. The agenda is published under section 5 of Executive Order 12291 "Federal Regulation." The agenda lists regulations that will be under development or review during the period April 1, 1993, to September 30, 1993.

ADDRESSES: For information about specific regulations, please contact the person listed as the agency contact in the agenda.

FOR FURTHER INFORMATION CONTACT: For general information on FEMA's regulatory agenda, contact H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3340.

SUPPLEMENTARY INFORMATION: Executive Order 12291 "Federal Regulation" directs each executive agency to adopt procedures to improve existing and future regulations. Publication of an agenda of regulations is called for at least semiannually in order to give the public adequate notice of agency rulemaking activities; also, publication of a regulatory flexibility agenda concerning rules likely to have a significant impact on a substantial number of small entities must be published in accordance with 5 U.S.C. 601 *et seq.*

In fulfillment of the requirements of Executive Order 12291 and 5 U.S.C. 601 *et seq.*, this agenda describes current and projected regulations and regulations which will be under review or development during the period April 1, 1993, to September 30, 1994. This agenda also contains information on regulations on which action was completed since the last FEMA semiannual agenda was published November 3, 1992, at 57 FR 52128 to 52136.

Public comment on the agenda, including comments by State and local governments, is invited and should be submitted to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472; FAX (202) 646-4536. Please refer to the title and the Regulation Identifier Number (RIN) of the rule about which you are inquiring or commenting.

The agenda is not limited to major or significant rules and contains information concerning all FEMA regulations to be developed, reviewed, or published in the next 6 months except for routine flood elevation determinations, listings of eligible communities under the National Flood Insurance Program and the National Crime Insurance Program, listings of suspended communities and similar designations under the National Flood Insurance Program, and FEMA organizational and management matters.

Dated: March 10, 1993.

Spence W. Perry,

Acting General Counsel.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
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FEMA

Final Rule Stage

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3927	New Restrictions on Lobbying	3067-AB64
3928	National Flood Insurance Program; General Provisions and Insurance Coverage	3067-AB71
3929	Disaster Assistance—Public Assistance Insurance Requirements	3067-AB77
3930	National Earthquake Hazards Reduction Program; Criteria for Acceptance of Gifts, Bequests, or Services	3067-AB84
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3932	Disaster Assistance—Public Assistance Eligibility	3067-AB86
3933	Disaster Assistance; Public Elementary and Secondary School Facilities	3067-AB97
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3935	Organization, Functions, and Delegations of Authority	3067-AC06
3936	Mandatory Declassification Review Procedures	3067-AC09
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3938	List of Jurisdictions Eligible for the Sale of Crime Insurance	3067-AB87
3939	Collection of Debts by the Government Under the Debt Collection Acts	3067-AC04
3940	Disaster Assistance; Policy for Disaster Assistance Funding	3067-AC05

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Proposed Rule Stage

3907. REVIEW AND APPROVAL OF STATE AND LOCAL EMERGENCY RESPONSE PLANS

Legal Authority: 50 USC app 225g; EO 12148

CFR Citation: 44 CFR 350

Legal Deadline: None

Abstract: Updates existing regulation governing policies and procedures for review and approval of State and local emergency plans and preparedness for the offsite effects of a radiological emergency which might occur at a commercial nuclear power plant.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Vern Wingert, Chief, Program Development Branch, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-2872

RIN: 3067–AA76

3908. RADIOLOGICAL EMERGENCY PLANNING AND PREPAREDNESS

Legal Authority: EO 12148; EO 12241

CFR Citation: 44 CFR 351

Legal Deadline: None

Abstract: Updates regulations which set out Federal agency roles and assigns tasks regarding Federal assistance to States and local governments in their radiological emergency planning and preparedness activities connected with radiological accidents at commercial nuclear power plants.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Vern Wingert, Chief, Program Development Branch, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-2872

RIN: 3067–AA77

3909. COMPREHENSIVE COOPERATIVE AGREEMENT (CCA) POLICIES, PROCEDURES, AND ASSOCIATED PROGRAMS

Legal Authority: 50 USC 2286; 50 USC 2251; 42 USC 5121; 42 USC 5151; 42 USC 7701; 42 USC 4001; PL 95-224; PL 96-295; PL 99-499; PL 93-288; PL 95-124; PL 90-488; PL 93-234; PL 90-577; EO 12148

CFR Citation: 44 CFR 305; 44 CFR 302; 44 CFR 360; 44 CFR 301; 5 CFR 900

Legal Deadline: None

Abstract: The comprehensive aspect of the CCA process itself was not created by legislation or even by regulation; Presidential emphasis on grants consolidation and FEMA policy on integrating programs created the CCA. The cooperative agreement aspect of

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the CCA process is based on PL 95-224, the Federal Grant and Cooperative Agreement Act of 1977. Cooperative agreements are used when stimulating a public purpose (the multiple programs delivered in each CCA are aimed at stimulating public purposes, primarily civil defense). The Federal Civil Defense Act of 1950, as amended, authorizes the major portion of CCA programs and assistance dollars, and is therefore the major legislative authority underpinning the CCA process. Various Civil Preparedness Guides, primarily CPG 1-38 and CPG 1-3 address the CCA process and associated programs. However, a regulation would provide complete notice to States and interested parties and complete the policy and procedural requirements identified by the Office of General Counsel. Specific quantitative estimates cannot be cited.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sylvia A. Carroll, Program Analyst, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3503

RIN: 3067–AB18

3910. NATIONAL FLOOD INSURANCE PROGRAM CHANGES FOR STRUCTURES ON LAND SUBJECT TO IMMINENT COLLAPSE OR SUBSIDENCE

Legal Authority: 42 USC 4002 et seq; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 60; 44 CFR 61; 44 CFR 62

Legal Deadline: None

Abstract: Section 544 of the Housing and Community Development Act of 1987 provided a new benefit to National Flood Insurance Program policyholders: Payment for demolition or relocation of an insured structure if it is located "along the shore of a lake or other body of water and is certified by appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels." FEMA published interim regulations on this subject on September 23 and November 2, 1988, and commissioned an investigation through the National Academy of Sciences to provide a basis for further regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Donald L. Collins, Assistant Administrator, IPATS, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3419

RIN: 3067–AB42

3911. USE OF CIVIL DEFENSE PERSONNEL, MATERIALS, AND FACILITIES FOR NATURAL DISASTER PURPOSES

Legal Authority: 50 USC app 2253

CFR Citation: 44 CFR 312.5

Legal Deadline: None

Abstract: This rule is proposed to clarify the use of civil defense personnel in times of natural disasters. The rule would permit 30 days' use of civil defense personnel on disaster operations, at the discretion of State officials, with the possibility of extension of that period upon request to the Regional Director or Associate Director for State and Local Programs and Support.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: C. Dwight Poe, Program Analyst, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3492

RIN: 3067–AB48

3912. MACHINE TOOL TRIGGER ORDER PROGRAM GUIDANCE

Legal Authority: 50 USC app 2061 et seq; EO 10480; EO 12656

CFR Citation: 44 CFR 340

Legal Deadline: None

Abstract: Provides guidance on use of DPA authorities to reduce lead time for acquiring machine tools by defense contractors and therefore reduce production for needed military items.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Richard Marilley, Acting Chief, Mobilization Policy and Plans Division,, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3003

RIN: 3067–AB63

3913. GUIDANCE FOR SECTOR STUDIES AND PRODUCTION BASE ANALYSES (CIVILIAN AGENCIES)

Legal Authority: 50 USC 404; EO 12148; EO 12656

CFR Citation: 44 CFR 339

Legal Deadline: None

Abstract: The production base analyses rule is designed to give guidance and set minimum standards for civilian agencies in collecting data and conducting the analyses.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James Grichar, Senior Economist, Office of Mobilization Preparedness/NP, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3054

RIN: 3067–AB72

3914. INDIVIDUAL ASSISTANCE REGULATIONS

Significance: Regulatory Program

Legal Authority: PL 93-288, as amended

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: FEMA is undertaking a comprehensive review of its policies and procedures for assistance to individual disaster victims. FEMA's intent is to simplify program requirements, standardize program definitions where possible, revise procedures for compliance with floodplain management regulations, simplify procedures to prevent duplication of benefits, provide easier access to programs, and streamline State involvement in the disaster assistance programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Additional Information: RINs 3067-AB43 and 3067-AB52 have been incorporated into this action.

Agency Contact: Charles D. Robinson, Senior Program Officer, Disaster Assistance Program, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-4262

RIN: 3067–AB73

3915. RELEASE OF MATERIALS FROM THE NATIONAL DEFENSE STOCKPILE

Legal Authority: 50 USC 98f; 50 USC 404; EO 12148; EO 12656

CFR Citation: 44 CFR 328

Legal Deadline: None

Abstract: Procedures for releasing strategic and critical materials from the stockpile. The release authority has been retained by the President.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard F. Marilley, Acting Chief, Mobilization Policy and Plans Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3003

RIN: 3067–AB75

3916. DISASTER ASSISTANCE—COASTAL BARRIER RESOURCES ACT

Significance: Agency Priority

Legal Authority: 16 USC 3501; 42 USC 5121

CFR Citation: 44 CFR 206.340

Legal Deadline: None

Abstract: This proposed rule incorporates into the existing regulation for disaster assistance within the Coastal Barrier Resources System changes made by the Coastal Barrier Improvement Act of 1990 (PL 101-591).

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
NPRM Comment Period End	10/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Charles B. Stuart, Program Officer, Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3691

RIN: 3067–AB78

3917. ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS

Legal Authority: 31 USC 3801-12

CFR Citation: 44 CFR 19

Legal Deadline: None

Abstract: The Program Fraud and Civil Remedies Act (the Act) enacted on October 21, 1986, and codified at 31 USC 3801 through 3812, establishes an administrative remedy against any person who makes a false claim or written statement to certain Federal agencies, including the Federal Emergency Management Agency. Any person who makes a false, fictitious, or fraudulent claim or written statement to an affected agency may be liable for a penalty up to $5,000 and an assessment up to double the amount falsely claimed. This proposed rule would comply with the Act's requirement that affected Federal agencies implement its provisions through regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul J. Lillis, Assistant Inspector General for Investigations, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-2885

RIN: 3067–AB80

3918. NATIONAL FLOOD INSURANCE PROGRAM - WRITE YOUR OWN PROGRAM CHANGES

Significance: Agency Priority

Legal Authority: 42 USC 4002 et seq; EO 12127

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: Changes financial audit procedures for Write Your Own (WYO) companies with fewer than 25,000 flood insurance policies in force; adds procedures for companies unable to carry out their WYO obligations; and adds a provision to allow a special expense provision to WYO companies meeting marketing goals in States with low market penetration.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	
Final Action	05/00/94	
Final Action Effective	10/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Collins, Assistant Administrator, Federal

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FEMA — **Proposed Rule Stage**

Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, **202 646-3422**

RIN: 3067–AB99

3919. NATIONAL FLOOD INSURANCE PROGRAM REPETITIVE LOSSES

Legal Authority: 42 USC 4002 et seq; EO 12127

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: Amends standard flood insurance policy to provide for a claims co-payment or an increased deductible for any property sustaining repetitive flood losses.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	
Final Action	05/00/94	
Final Action Effective	10/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Collins, Assistant Administrator, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, **202 646-3422**

RIN: 3067–AC00

3920. POLICY AND PROCEDURES ON THE USE OF STANDBY AGREEMENTS AND EDUCATIONAL ORDERS

Legal Authority: EO 12656

CFR Citation: 44 CFR 342

Legal Deadline: None

Abstract: FEMA proposes to add 44 CFR 342 to implement national security emergency preparedness policy under E.O. 12656, to support the initiation, development, and implementation of national security emergency preparedness programs and plans among the Federal departments and agencies. Part 342 would provide policy and procedural guidance on the use of Standby Agreements and Educational Orders designed to provide a rapid transition from routine to emergency operations and to use effectively the period after initial warning of possible national security emergencies.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard F. Marilley, Acting Chief, Mobilization Policy & Plans Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, **202 646-3003**

RIN: 3067–AC07

3921. FEMA; UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: 31 USC 1111; 31 USC 503

CFR Citation: 44 CFR 13

Legal Deadline: None

Abstract: FEMA proposes to adopt revisions to "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," previously published at 53 FR 8078, 3/11/88, 44 CFR 13.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles F. McNulty, Chief, Assistance Standards Branch, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, **202 646-2976**

RIN: 3067–AC08

3922. • CIVIL DEFENSE; STATE AND LOCAL EMERGENCY MANAGEMENT ASSISTANCE PROGRAM (EMA)

Significance: Agency Priority

Legal Authority: 50 USC app 2251 et seq; EO 12148

CFR Citation: 44 CFR 302

Legal Deadline: None

Abstract: This proposed rule would establish population standards for eligibility of political subdivisions to become subgrantees under the Emergency Management Assistance (EMA) Program. The rule is proposed to encourage States to provide EMA funds to jurisdictions or groupings of jurisdictions that have the necessary resource bases to establish viable agency emergency management organizations and capabilities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	10/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: C. Dwight Poe, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, **202 646-3492**

RIN: 3067–AC11

3923. • DISASTER ASSISTANCE; PUBLIC ASSISTANCE ELIGIBILITY

Significance: Agency Priority

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would remove permanent beach and related restoration work that occurs within coastal high hazard areas from eligibility for funding under the Stafford Act, PL 93-288, as amended.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Charles B. Stuart, Program Officer, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, **202 646-3691**

RIN: 3067–AC12

FEMA — **Proposed Rule Stage**

3924. • DISASTER ASSISTANCE; SEISMIC SAFETY STANDARDS IN NEW BUILDING CONSTRUCTION

Significance: Agency Priority

Legal Authority: 42 USC 5121 et seq; EO 12699

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would require jurisdictions to have in place, or to adopt prior to project approval, building codes that include seismic safety provisions in order to receive funding for new building construction under the Stafford Act, 42 USC 5121 et seq. The seismic safety provisions would be required to exceed or substantially equal the seismic guidelines of the most recent or immediately preceding edition of the National Earthquake Hazards Reduction Program Recommended Provisions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
NPRM Comment Period End	11/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Paul Tertell, Civil Engineer, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, **202 646-3935**

RIN: 3067–AC13

3925. • DISASTER ASSISTANCE; ADJUSTMENTS AND LOANS OF NON-FEDERAL SHARES OF ASSISTANCE

Significance: Agency Priority

Legal Authority: EO 12148; EO 12673

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would establish guidelines for processing requests for adjustments to the cost share ratio established under the Stafford Act, 42 USC 5121, as amended. The revision to established guidance for processing loan requests of the non-Federal share is being undertaken to make this section consistent with the provisions of Title V (the Credit Reform Act of 1990) of the Omnibus Budget Reconciliation Act of 1990, PL 101-508.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Pauline Campbell, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, **202 646-3606**

RIN: 3067–AC14

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — **Final Rule Stage**

3926. NATIONAL DEFENSE EXECUTIVE RESERVE GUIDANCE

Legal Authority: 50 USC 404; 50 USC app 2061 et seq; EO 12656

CFR Citation: 44 CFR 337

Legal Deadline: None

Abstract: Provides guidance and procedures for those Federal departments and agencies delegated authority under Executive Order 11179 to sponsor reserve units under National Defense Executive Reserve Program.

Timetable:

Action	Date	FR Cite
NPRM	02/15/90	55 FR 5476
NPRM Comment Period End	04/16/90	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Richard F. Marilley, Acting Chief, Mobilization Policy and Plans Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, **202 646-3003**

RIN: 3067–AB51

3927. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352

CFR Citation: 44 CFR 18

Legal Deadline: None

Abstract: FEMA, with other Government agencies, is issuing this common rule which, generally, prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying in connection with a specific contract, grant, or loan.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Charles F. McNulty, Chief, Assistance Standards Branch, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, **202 646-3718**

RIN: 3067–AB64

3928. NATIONAL FLOOD INSURANCE PROGRAM; GENERAL PROVISIONS AND INSURANCE COVERAGE

Legal Authority: 42 USC 4002 et seq; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 61

Legal Deadline: None

Abstract: Changes the National Flood Insurance Program Policy Forms, including adding new policy forms for condominiums; adds a definition of elevated building to the policy forms; and makes other changes in the policy forms.

Timetable:

Action	Date	FR Cite
NPRM	07/30/92	57 FR 33669
NPRM Comment Period End	09/30/92	
Final Action	04/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

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FEMA — **Final Rule Stage**

Agency Contact: Donald L. Collins, Assistant Administrator, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3419

RIN: 3067–AB71

3929. DISASTER ASSISTANCE—PUBLIC ASSISTANCE INSURANCE REQUIREMENTS

Significance: Agency Priority

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206.250

Legal Deadline: None

Abstract: This interim rule addresses requirements for purchase of flood and other hazard insurance for receipt of disaster assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (PL 93-288, as amended). A previous interim rule with request for comments was published March 26, 1989, at 54 FR 11639. In response to comments, a second interim rule was published with a request for comments, December 11, 1991, 56 FR 64558.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/11/91	56 FR 64558
Final Action	09/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Karen Forbes, Program Specialist, Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3807

RIN: 3067–AB77

3930. NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM; CRITERIA FOR ACCEPTANCE OF GIFTS, BEQUESTS, OR SERVICES

Legal Authority: PL 101-614

CFR Citation: 42 CFR 362

Legal Deadline: None

Abstract: This regulation will establish policy and provide criteria for the acceptance of gifts, bequests, and donations by the Director of FEMA or his designee, for the National Earthquake Hazard Reduction Program (NEHRP) under the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701, et seq., Section 9, Acceptance of Gifts).

Timetable:

Action	Date	FR Cite
NPRM	07/09/92	57 FR 30455
NPRM Comment Period End	09/07/92	
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary S. Taylor, Emergency Management Specialist, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3079

RIN: 3067–AB84

3931. DISASTER ASSISTANCE; PUBLIC ASSISTANCE ELIGIBILITY OF COSTS

Significance: Agency Priority

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206.228

Legal Deadline: None

Abstract: This proposed rule will change the eligibility of costs which may be claimed for disaster assistance under the Stafford Act, Public Law 93-288, as amended.

Timetable:

Action	Date	FR Cite
NPRM	04/30/92	57 FR 18442
NPRM Comment Period End	06/29/92	
Final Action	05/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Charles B. Stuart, Program Officer, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3691

RIN: 3067–AB85

3932. DISASTER ASSISTANCE—PUBLIC ASSISTANCE ELIGIBILITY

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206.221

Legal Deadline: None

Abstract: This proposed rule will change the definition of private nonprofit facilities eligible for disaster assistance under the Stafford Act, Public Law 93-288, as amended.

Timetable:

Action	Date	FR Cite
NPRM	04/30/92	57 FR 18441
NPRM Comment Period End	06/29/92	
Final Action	05/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Agency Contact: Charles B. Stuart, Program Officer, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3691

RIN: 3067–AB86

3933. DISASTER ASSISTANCE; PUBLIC ELEMENTARY AND SECONDARY SCHOOL FACILITIES

Significance: Agency Priority

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule will permit FEMA to grant assistance to public schools in major disasters without having to make an exception in each case where there is an overlap of the authority of the U. S. Department of Education and FEMA. This rule will eliminate overlap of FEMA and U.S. Department of Education programs.

Timetable:

Action	Date	FR Cite
NPRM	07/01/92	57 FR 29856
NPRM Comment Period End	09/01/92	
Final Action	09/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Charles Stuart, General Engineer, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3691

RIN: 3067–AB97

3934. ORGANIZATIONS, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Significance: Agency Priority

Legal Authority: 31 USC 501 et seq

CFR Citation: 44 CFR 2

Legal Deadline: None

Abstract: This rule amends the organization, functions, and delegations of authority of the Chief Financial Officer of FEMA under the Chief Financial Officers Act.

Timetable:

Action	Date	FR Cite
Final Action	08/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Arthur E. Curry, Financial Policy Officer, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3718

RIN: 3067–AC01

3935. ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Legal Authority: 5 USC 552; Reorganization Plan No. 3 of 1978; EO 12127; EO 12148, as amended

CFR Citation: 44 CFR 2

Legal Deadline: None

Abstract: This rule reflects a reorganization of the U.S. Fire Administration at the FEMA National Emergency Training Center, Emmitsburg, MD.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald P. Face, Jr., Director, Office of NETC Operations and Support, U.S. Fire Administration, Federal Emergency Management Agency, 16825 South Seton Avenue, Emmitsburg, MD 21727, 301 447-1223

RIN: 3067–AC06

3936. • MANDATORY DECLASSIFICATION REVIEW PROCEDURES

Significance: Agency Priority

Legal Authority: 31 USC 9701; EO 12356

CFR Citation: 44 CFR 8

Legal Deadline: None

Abstract: This rule will require the Federal Emergency Management Agency to develop procedures to process requests for the mandatory review of classified information, and to implement declassification reviews. This amended rule makes minor changes to existing regulations.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mary K. Getter, Chief, Information Security Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-3125

RIN: 3067–AC09

3937. • FEE FOR SERVICES TO SUPPORT THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S OFFSITE RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

Significance: Agency Priority

Legal Authority: PL 102-389

CFR Citation: 44 CFR 354

Legal Deadline: Final, Statutory, September 30, 1993.
PL 102-389 grants authority to collect such fees only for fiscal year 1993 (October 1, 1992 - September 30, 1993).

Abstract: This interim rule provides the structure for assessing fees to Nuclear Regulatory Commission (NRC) licensees to recover costs of services that the Federal Emergency Management Agency provides to NRC licensees for the implementation of the Radiological Emergency Preparedness Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vern Wingert, Chief, Policy Development Branch, Office of Technological Hazards, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202 646-2872

RIN: 3067–AC10

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Completed Actions

3938. LIST OF JURISDICTIONS ELIGIBLE FOR THE SALE OF CRIME INSURANCE

CFR Citation: 44 CFR 81

Completed:

Reason	Date	FR Cite
Final Action	11/04/92	57 FR 52592
Final Action Effective	12/05/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kimber A. Wald, 202 646-3440

RIN: 3067–AB87

3939. COLLECTION OF DEBTS BY THE GOVERNMENT UNDER THE DEBT COLLECTION ACTS

Significance: Agency Priority

CFR Citation: 44 CFR 11

Completed:

Reason	Date	FR Cite
Final Action	11/20/92	57 FR 54713
Final Action Effective	12/21/92	

Small Entities Affected: Businesses

Government Levels Affected: None

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FEMA **Completed Actions**

Agency Contact: Richard S. Buck, 202 646-4091

RIN: 3067–AC04

3940. DISASTER ASSISTANCE; POLICY FOR DISASTER ASSISTANCE FUNDING

Significance: Agency Priority

CFR Citation: 44 CFR 206

Completed:

Reason	Date	FR Cite
No further action anticipated	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Geneva A. Jeter, 202 646-3090

RIN: 3067–AC05

[FR Doc. 93-6064 Filed 04-23-93; 8:45 am]

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federal register

Monday
April 26, 1993

Part XXV

General Services Administration

Semiannual Regulatory Agenda

VOL 58 ISS 78 APR 26 1993 UMI

GENERAL SERVICES ADMINISTRATION (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 1, 101, 105, 201, 301, 302, 303, and 304

48 CFR Ch. 5

Unified Agenda of Federal Regulations

AGENCY: General Services Administration (GSA).

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those actions that were completed since November 1992. This agenda was developed under the guidelines in an Office of Management and Budget memorandum dated December 9, 1992. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: Rodney P. Lantier, Chief, Directives and Correspondence Management Branch, (202) 501-0666.

SUPPLEMENTARY INFORMATION: None of the regulations listed is considered a major rule under Executive Order 12291 "Federal Regulation."

Dated: March 4, 1993.

Dennis J. Fischer,

Acting Administrator of General Services.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3941	Nondiscrimination on the Basis of Race, Color, National Origin, and, Where Applicable, Sex	3090-AC49
3942	Definition of "Equivalent Level of Safety"	3090-AE93
3943	Proposal To Amend the Management of Buildings and Grounds	3090-AE95

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3944	Agency Protest Procedures (5-348A)	3090-AE58
3945	Multiple Awards Schedule Improvement Project (GSAR 5-348)	3090-AE79
3946	Warranty Clause (5-380)	3090-AE85
3947	Performance Incentives in Fixed-Price Contracts (5-350)	3090-AE86
3948	Disclosure of Procurement-Sensitive Information to Non-Government Evaluators (5-379)	3090-AE87
3949	Phase I - Regulation Review Project (5-376)	3090-AE88
3950	Debarment and Suspension Factfinding (GSAR 5-347)	3090-AE89
3951	Reissuance of the General Services Administration Acquisition Regulation (GSAR)	3090-AE90
3952	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	3090-AE32
3953	Publicity and Credit Sales Policies Concerning the Disposal of Certain Surplus Government-Owned Real Property	3090-AE40
3954	Non-Federal Interim Use of Certain Government-Owned Real Property	3090-AE41
3955	Federal Excess and Surplus Real Property Containing Lead-Based Paint	3090-AE76
3956	Update of Transportation Documentation and Audit Regulations	3090-AE77
3957	Clarify Requirements for Obtaining Delegations of Procurement Authority	3090-AE71
3958	Clarify FIRMR Delegations of Procurement Authority Provisions for 8(a) Program Acquisitions and Provision Regarding GSA Nonmandatory Schedules	3090-AE74
3959	Revise FIRMR Provisions To Reflect Changes in GSA Programs and To Clarify GSA Intent	3090-AE75

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3960	Provisions and Clauses (Design-Build Service Contracts) (GSAR 5-303)	3090-AE02
3961	Equitable Adjustments Clause (GSAR 5-255)	3090-AE05
3962	New Restrictions on Lobbying	3090-AE25
3963	Multiyear Contracting Under Federal Supply Service (FSS) and Multiple Award Schedule Program (5-288)	3090-AE54
3964	Submission of Multiple Award Schedule (MAS) Pricelist (5-336)	3090-AE70
3965	Administrative Records for Debarment and Suspension (5-322)	3090-AE72
3966	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs	3090-AC48
3967	Federal Travel Regulation (FTR) Amendment (Unassigned), Acceptance of Payment From a Non-Federal Source for Travel Expenses	3090-AE19
3968	Federal Travel Regulation (FTR) Amendment (Unassigned), Relocation Income Tax Allowance (RIT) Payments for Transfers to and From Puerto Rico and the U.S. Possessions	3090-AE46

GSA

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3969	Federal Travel Regulation (FTR) Amendment (Unassigned), Title Requirements for Reimbursement of Real Estate Transaction Expenses	3090-AE48
3970	Federal Travel Regulation (FTR) Amendment 29, Maximum Per Diem Rates	3090-AE78
3971	Federal Travel Regulation (FTR) Amendment (Unassigned), Use of Government Aircraft and Government-Negotiated Rental Agreement Automobiles	3090-AE82
3972	Federal Travel Regulation (FTR) Amendment 28	3090-AE64
3973	Federal Travel Regulation (FTR) Amendment (Unassigned), Increase in Maximum Reimbursement Limitation for Real Estate Sale and Purchase Expenses	3090-AE92
3974	Federal Property Management Regulation Part 101-18, Acquisition of Real Property	3090-AE43
3975	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	3090-AE96

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3976	General Services Administration Acquisition Regulation (GSAR), NIB/NISH Purchasing Procedures (GSAR Case No. 5-64/190)	3090-AD92
3977	Real Property Leasing Clauses CHGE 41 (GSAR 5-313 and GSAR 5-314)	3090-AE06
3978	Incorporation of AC-90-2 and AC-91-2 Into the GSAR CHGE 42 (GSAR 5-342)	3090-AE26
3979	Real Property Leasing Clauses CHGE 41 (GSAR 5-313 and GSAR 5-314)	3090-AE31
3980	Ethical Standards for Contractor Employees (5-317)	3090-AE52
3981	Incorporation of AC-90-2 and AC-91-2 Into the GSAR 5-342	3090-AE56
3982	Collecting Subcontracting Data From Lower-Tier Subcontractors (5-338)	3090-AE60
3983	Use and Exercise of Options (5-340)	3090-AE63
3984	Miscellaneous Changes (GSAR 5-345)	3090-AE91
3985	Property for Homeless Assistance Purposes	3090-AE30
3986	Utilization, Donation, Sale, Abandonment or Destruction of Hazardous Materials	3090-AA42
3987	Submission of Rated On-Board Bills of Lading for Ocean Shipments	3090-AD89
3988	Federal Travel Regulation (FTR) Amendment 27, Increase in Maximum Reimbursement Limitations for Real Estate Sale and Purchase Expenses	3090-AE69
3989	Governmentwide Real Property Asset Management	3090-AD43
3990	Federal Property Management Regulations Part 101-21, Federal Buildings Fund	3090-AE28

GENERAL SERVICES ADMINISTRATION (GSA) — Prerule Stage

OFFICE OF ADMINISTRATION

3941. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, AND, WHERE APPLICABLE, SEX

Legal Authority: 40 USC 476; 42 USC 2000d-1; 20 USC 1681

CFR Citation: 41 CFR 101-8.2

Legal Deadline: None

Abstract: The General Services Administration proposes this regulation to implement all of the above cited Federal laws. These statutes prohibit discrimination, in whole or in part, so that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program activity receiving Federal assistance from the General Services Administration. In addition, the objectives of the regulation are to streamline certain administrative procedural requirements by consolidating prohibitions of discrimination into one regulation and to make requirements clear and convenient for applicants and recipients to comply with, as well as making the regulation manageable for GSA to administer.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas E. Henderson, EEO Specialist (AKC), General Services Administration, 18th and F Streets NW., Washington, DC 20405, **202 501-1368**

RIN: 3090–AC49

PUBLIC BUILDINGS SERVICE

3942. • DEFINITION OF "EQUIVALENT LEVEL OF SAFETY"

Legal Authority: PL 102-522, sec 108

CFR Citation: Not yet determined

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GSA — Prerule Stage

Legal Deadline: Final, Statutory, October 26, 1994.

Abstract: Title I - United States Fire Administration, section 108 (1922) amends the Fire Prevention and Control Act of 1974 to require sprinklers, or an "equivalent level of safety," in all new Federal Employee Office Buildings and during renovations of such buildings if they are six stories or higher. Sprinklers (or an "equivalent level of safety") and hard-wired smoke detectors are required in federally assisted multifamily housing. The General Services Administration, the National Institute of Standards and Technology, and the Department of Defense, must issue regulations defining "equivalent level of safety." This regulation will define "equivalent level of safety" and the procedures for determining it.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Donald G. Bathurst, Chief, Fire Protection Engineering Branch (PFSM), General Services Administration, 18th & Streets NW., Washington, DC 20405, 202 501-1271

RIN: 3090–AE93

3943. • PROPOSAL TO AMEND THE MANAGEMENT OF BUILDINGS AND GROUNDS

Legal Authority: PL 94-541; Sec 205(c), 63 Stat 390; 40 USC 486(c)

CFR Citation: 41 CFR 101-20

Legal Deadline: None

Abstract: The proposed changes to FPMR, subchapter D, 101-20, reflect clarification of provisions of the Public Buildings Cooperative Use Act of 1976 (PL 94-541) to provide that certain occasionally used areas in public buildings may be made available to persons, firms, or organizations engaged in cultural, educational, or recreational activities, provided the use is not inappropriate for a public building.

There should be no additional costs associated with the implementation of the proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/93	
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Mark C. Ramsey, Senior Assistant General Counsel (L), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-0430

RIN: 3090–AE95

GENERAL SERVICES ADMINISTRATION (GSA) — Proposed Rule Stage

OFFICE OF ACQUISITION POLICY

3944. AGENCY PROTEST PROCEDURES (5-348A)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 533

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would revise section 533.103 to establish special procedures for considering protests to the agency regarding procurements under the Multiple Award Schedule (MAS) program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th & F Street NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE58

3945. MULTIPLE AWARDS SCHEDULE IMPROVEMENT PROJECT (GSAR 5-348)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 515; 48 CFR 538; 48 CFR 552

Legal Deadline: None

Abstract: The Multiple Award Schedule (MAS) Improvement Project was initiated by the GSA Administrator in late 1990. As part of that project, GSA developed (and is currently testing) revised Discount Schedule and Marketing Data (DSMD) submission requirements for MAS offerors. One key aspect of the revised DSMD seeks to minimize the offerors' paperwork burden by ensuring that offerors submit only that information relevant to the GSA contracting officer's evaluation of the offers. After evaluation of the test usage of those revised DSMD, a decision may be made to adopt the revisions for the entire MAS Program or further revise the DSMD. As part of the ongoing MAS Improvement Project, revisions to several other elements of the MAS Program are under consideration. It is likely that some of those revisions will be formally proposed as MAS Program changes during the next several months. Such revisions will be coordinated with Federal customer agencies, MAS contractors and potential offerors. As required by the Paperwork Reduction Act and the Regulatory Flexibility Act, appropriate clearances and approvals will be obtained before adoption of revisions.

Timetable:

Action	Date	FR Cite
NPRM	04/15/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th and F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE79

GSA — Proposed Rule Stage

3946. • WARRANTY CLAUSE (5-380)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation (GSAR) would revise the text of the Warranty-Multiple Award Schedule at 552.246-73 to provide for greater consistency with the multiple award schedule (MAS) policy of buying commercial products under commercial conditions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th and F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE85

3947. • PERFORMANCE INCENTIVES IN FIXED-PRICE CONTRACTS (5-350)

Legal Authority: 40 USC 486(e)

CFR Citation: 48 CFR 516

Legal Deadline: None

Abstract: The regulations do not currently provide for the use of incentives in fixed-price contracts. In connection with the implementation of the Quality Contractor Program, GSA proposes to revise the regulations to provide for the use of monetary incentives in fixed-price contracts as a contractual mechanism for rewarding contractors that perform at levels which exceed the minimum required by the contract.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th and F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE86

3948. • DISCLOSURE OF PROCUREMENT-SENSITIVE INFORMATION TO NON-GOVERNMENT EVALUATORS (5-379)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 515

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would revise section 503.104-5 to authorize the release of proprietary information to non-Government employees in certain circumstances; to revise section 503.104-10 to prescribe a new contract clause entitled "Restrictions on Disclosure of Information" for use in service contracts when the contractor will be authorized access to use proprietary information in the performance of the contract; to add sections 515.413 and 515.413-2 to implement section 15.413-2 of the Federal Acquisition Regulation by establishing agency procedures for releasing proposals outside the Government for evaluation and to add section 552.203-74 to provide the text of the Restriction on Disclosure of Information clause.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE87

3949. • PHASE I - REGULATION REVIEW PROJECT (5-376)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501

Legal Deadline: None

Abstract: The Office of GSA Acquisition Policy recently conducted a review of the agency's acquisition regulatory/directive system. One of the objectives of the review effort was to identify regulatory material which was unnecessary or duplicative of the Federal Acquisition Regulation (FAR). This proposed change deletes a number of provisions of the GSAR that were found to be unnecessary or duplicative of the FAR.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE88

3950. • DEBARMENT AND SUSPENSION FACTFINDING (GSAR 5-347)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 509

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Legal Deadline: None

Abstract: This proposed rule would modify the GSA regulation to limit the factfinding role for debarment and suspension to provide for consistency with the FAR.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE89

3951. • REISSUANCE OF THE GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501

Legal Deadline: None

Abstract: GSA proposes to revise and reissue chapter 5 in its entirety. The reissuance will represent the culmination of the Total Quality Management project to review GSA's acquisition regulation/directive system.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE90

OFFICE OF ADMINISTRATION

3952. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 41 CFR 101-8

Legal Deadline: None

Abstract: The General Services Administration (GSA) proposes this regulation to implement the above cited law. This regulation would amend GSA's regulation for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs of activities to include a cross-reference to the Uniform Federal Accessibility Standards.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Myrtle K. Cook, EEO Specialist, Office of Ethics and Civil Rights (AK), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-1368

RIN: 3090–AE32

FEDERAL PROPERTY RESOURCES SERVICE

3953. PUBLICITY AND CREDIT SALES POLICIES CONCERNING THE DISPOSAL OF CERTAIN SURPLUS GOVERNMENT-OWNED REAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.304-4

Legal Deadline: None

Abstract: The General Services Administration is amending its regulations to provide improved publicity and credit sales policies concerning the disposal of certain Government-owned surplus real property.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marjorie L. Lomax, Director, Policy Analysis and Planning Division (DRP), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-0052

RIN: 3090–AE40

3954. NON-FEDERAL INTERIM USE OF CERTAIN GOVERNMENT-OWNED REAL PROPERTY

Significance: Agency Priority

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.203-9; 41 CFR 101-47.312

Legal Deadline: None

Abstract: The General Services Administration is amending its regulations concerning the non-Federal interim use of Government-owned excess and surplus real property.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Marjorie L. Lomax, Director, Policy Analysis and Planning Division (DRP), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-0052

RIN: 3090–AE41

3955. FEDERAL EXCESS AND SURPLUS REAL PROPERTY CONTAINING LEAD-BASED PAINT

Significance: Agency Priority

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-202.2; 41 CFR 101-47.202-7; 41 CFR 101-47.304; 41 CFR 101-47.307-2

Legal Deadline: None

Abstract: The General Services Administration is amending its regulations to provide procedures for reporting excess Government-owned real property and disposing of such property which may contain lead-based paint.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Marjorie L. Lomax, Director, Policy Analysis and Planning Division (DRP), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-0052

RIN: 3090–AE76

FEDERAL SUPPLY SERVICE

3956. UPDATE OF TRANSPORTATION DOCUMENTATION AND AUDIT REGULATIONS

Significance: Agency Priority

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This regulation will update the policy and procedures governing the audit of payments for domestic and foreign freight transportation services furnished for the account of the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John W. Sandfort, Deputy Director, Regulations and Program Development Division (FWPD), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 219-3164

RIN: 3090–AE77

INFORMATION RESOURCES MANAGEMENT SERVICE

3957. CLARIFY REQUIREMENTS FOR OBTAINING DELEGATIONS OF PROCUREMENT AUTHORITY

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: FIRMR users have mentioned some confusion regarding the interpretation of provisions regarding delegation of procurement authority thresholds. Specific concerns involve the applicability of the thresholds to certain General Service Administration (GSA) programs. GSA is examining FIRMR provisions dealing with delegations thresholds to determine their adequacy. GSA is also reviewing agency acquisition action to determine the impact of FIRMR provisions. A FIRMR amendment will be developed to make appropriate changes. The proposed amendment is expected to improve government efficiency by clarifying regulation provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	04/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Anne Horth, Procurement Analyst, Regulation Analysis Division (KMR), General Services Administration, Information Resources Management Service, Washington, DC 20405, 202 501-3194

RIN: 3090–AE71

3958. CLARIFY FIRMR DELEGATIONS OF PROCUREMENT AUTHORITY PROVISIONS FOR 8(A) PROGRAM ACQUISITIONS AND PROVISION REGARDING GSA NONMANDATORY SCHEDULES

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: The FIRMR is being amended to clarify provisions regarding delegations of procurement authority issued under the Small Business Administration 8(a) Program and justification for other than full and open competition when using the General Services Administration's nonmandatory schedule contracts. The proposed amendment is expected to improve government efficiency by clarifying regulatory provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Anne Horth, Procurement Analyst, Regulation Analysis Division (KMR), General Services Administration, Information Resources Management Service, Washington, DC 20405, 202 501-3194

RIN: 3090–AE74

3959. REVISE FIRMR PROVISIONS TO REFLECT CHANGES IN GSA PROGRAMS AND TO CLARIFY GSA INTENT

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: The Purchase of Telephones and Services (POTS) Program will no longer be a GSA mandatory for use Program. FIRMR provisions will be amended to reflect its new status. Changes will also be made to reflect GSA organizational changes and to clarify FIRMR provisions (e.g., regarding the use of Government telephones).

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ann Horth, Procurement Analyst, Regulation Analysis Division (KMR), General Services Administration, Information Resources Management Service, Washington, DC 20405, 202 501-3194

RIN: 3090–AE75

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GENERAL SERVICES ADMINISTRATION (GSA)

Final Rule Stage

OFFICE OF ACQUISITION POLICY

3960. PROVISIONS AND CLAUSES (DESIGN-BUILD SERVICE CONTRACTS) (GSAR 5-303)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 510; 48 CFR 516; 48 CFR 528; 48 CFR 536; 48 CFR 543; 48 CFR 548; 48 CFR 549; 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would revise the prescription for use of several provisions and clauses, revise the text of other provisions and clauses, and add new clauses as well as a matrix in order to provide for the use of design-build service contracts.

Timetable:

Action	Date	FR Cite
NPRM	06/26/91	56 FR 29207
NPRM Comment Period End	07/26/91	56 FR 29207
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: All

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: The underlying information collection is imposed by the Federal Acquisition Regulation.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE02

3961. EQUITABLE ADJUSTMENTS CLAUSE (GSAR 5-255)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 515; 48 CFR 543; 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would amend the title and text of the Equitable Adjustments clause at 552.243-71 prescribed for use in construction contracts. Additionally, the proposed change would provide instructions to contractors for completing the SF-1411 for submission in connection with construction contracts.

Timetable:

Action	Date	FR Cite
NPRM	04/01/91	56 FR 13301
NPRM Comment Period End	05/01/91	56 FR 13301
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: The underlying information collection is imposed by the Federal Acquisition Regulation.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy, General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE05

3962. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; PL 101-121, sec 319; 40 USC 486(c)

CFR Citation: 41 CFR 105-69

Legal Deadline: None

Abstract: The Agency will join 28 other Executive agencies in issuing a final common rule for the purpose of implementing new statutory prohibitions and disclosure requirements with regard to certain influencing activities.

Timetable:

Action	Date	FR Cite
OMB Interim Final Guidance	12/20/89	54 FR 52306
Interim Final Rule	02/26/90	55 FR 6753
Interim Final Rule Effective	02/26/90	55 FR 6753
Further OMB Guidance	06/15/90	55 FR 24540
Further OMB Guidance	01/15/92	57 FR 1771

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE25

3963. MULTIYEAR CONTRACTING UNDER FEDERAL SUPPLY SERVICE (FSS) AND MULTIPLE AWARD SCHEDULE PROGRAM (5-288)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 505; 48 CFR 516; 48 CFR 538; 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would provide policy and procedures concerning the use of multiyear contracting in the Federal Supply Service's (FSS) Multiple Award Schedule (MAS) Program. Additionally, the change prescribes a clause and alternates, which permit new offerors to submit proposals and current contractors to add new items during specific 30-day periods ("open seasons") of the particular multiyear schedule solicitation. A second clause is prescribed for the limited circumstance when the multiyear solicitation will not provide for at least one open season.

Timetable:

Action	Date	FR Cite
NPRM	03/13/92	57 FR 8854
NPRM Comment Period End	04/13/92	57 FR 8854
Final Action	04/00/93	
Final Action Effective	04/00/93	

GSA

Final Rule Stage

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Sectors Affected: Multiple

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy, General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE54

3964. SUBMISSION OF MULTIPLE AWARD SCHEDULE (MAS) PRICELIST (5-336)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 538; 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation (GSAR) would amend the GSAR to incorporate a new clause that would require contractor submission of the authorized GSA Schedule Pricelist on electronic media, for inclusion on the Multiple Award Schedule Contract Information (MASKI), which is a new on-line GSA information system.

Timetable:

Action	Date	FR Cite
NPRM	11/16/92	57 FR 54036
Interim Final Rule	04/00/93	
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE70

3965. ADMINISTRATIVE RECORDS FOR DEBARMENT AND SUSPENSION (5-322)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 509

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation (GSAR) would establish procedures for providing copies of documents contained in the administrative record, upon request, to parties proposed for debarment or suspension, thereby minimizing the use of Freedom of Information Act procedures.

Timetable:

Action	Date	FR Cite
NPRM	03/26/92	57 FR 10454
NPRM Comment Period End	04/29/92	57 FR 10454
Final Action	04/15/93	
Final Action Effective	04/15/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE72

OFFICE OF ADMINISTRATION

3966. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY CONDUCTED PROGRAMS

Legal Authority: PL 95-602, Sec 119

CFR Citation: 41 CFR 105-8

Legal Deadline: None

Abstract: The General Services Administration proposes this regulation to implement the above cited law. This statute prohibits discrimination on the basis of handicap as it applies to any programs or activities conducted by GSA.

Timetable:

Action	Date	FR Cite
NPRM	03/22/89	54 FR 11750
NPRM Comment Period End	07/20/89	

Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: Regulation published as a final rule March 8, 1991. This regulation was forwarded to the Department of Justice (DOJ) for approval as final rule on May 9, 1990.

Agency Contact: Myrtle K. Cook, Equal Employment Opportunity Specialist (AKC), General Services Administration, 18th and F Streets NW., Washington, DC 20405, 202 501-1368

RIN: 3090–AC48

FEDERAL SUPPLY SERVICE

3967. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES

Legal Authority: 5 USC 5701 to 5709; EO 11609, 36 FR 13747, 3 CFR 1971 to 1975 Comp, p 586; 31 USC 1353; 40 USC 486(c)

CFR Citation: 41 CFR 301-1; 41 CFR 304-1

Legal Deadline: None

Abstract: This amendment constitutes the final rule governing the acceptance of payment for travel, subsistence and related expenses from a non-Federal source. This rule supersedes Interim Rule 4, published at 57 FR 53283, November 9, 1992, with request for comments. The economic impact of this amendment is favorable on all Federal agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/92	57 FR 53283
Final Action	09/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief Regulatory Policy Branch (FBXR), Transportation Management Division,

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GSA — **Final Rule Stage**

General Services Administration, Federal Supply Service, Washington, DC 20406, 703 305-5745

RIN: 3090–AE19

3968. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), RELOCATION INCOME TAX ALLOWANCE (RIT) PAYMENTS FOR TRANSFERS TO AND FROM PUERTO RICO AND THE U.S. POSSESSIONS

Legal Authority: 5 USC 5721 to 5734; 20 USC 905(a); EO 11609, 36 FR 13747, 3 CFR 1971 to 1975 comp, p 586; EO 12466, 49 FR 7349, 3 CFR 1984 comp, p 165

CFR Citation: 41 CFR 302-11

Legal Deadline: None

Abstract: This amendment authorizes payment of a relocation income tax (RIT) allowance to employees who transfer to, from, or between points in Puerto Rico, the Northern Mariana Islands, or the U.S. possessions. This amendment also adjusts the RIT allowance calculation to consider all situations where double taxation by States occurs. The estimated economic impact of this amendment for all Federal agencies is $0.72 million.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/87	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert A. Clauson, Staff Accountant, Regulatory Policy Branch (FBXR), General Services Administration, Federal Supply Service, Washington, DC 20406, 703 305-5745

RIN: 3090–AE46

3969. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), TITLE REQUIREMENTS FOR REIMBURSEMENT OF REAL ESTATE TRANSACTION EXPENSES

Legal Authority: 5 USC 5721 to 5734; 20 USC 905(a); EO 11609, 36 FR 13747, 3 CFR 1971 to 1975 Comp, p 586

CFR Citation: 41 CFR 302-1; 41 CFR 302-6

Legal Deadline: None

Abstract: This amendment broadens the scope of employees who meet the FTR title requirements to qualify for real estate sale/purchase expense reimbursement. The economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	09/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulatory Policy Branch (FBXR), Transportation Management Division, General Services Administration, Washington, DC 20406, 703 305-5745

RIN: 3090–AE48

3970. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT 29, MAXIMUM PER DIEM RATES

Significance: Agency Priority

Legal Authority: 5 USC 5702; 5 USC 5707; EO 11609, 36 FR 13747, 3 CFR 1971-1975 comp, p 586

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: Pursuant to the 1992 meal and lodging cost survey, appendix A at the end of 41 CFR chapter 301 is revised to reflect changes in the listing formerly published in 57 FR 6678 et seq., February 27, 1992. The economic impact of this amendment on all Federal agencies is $47.1 million.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Donna L. Cooke, Program Analyst, Program Analysis Branch (FBXP), General Services Administration, Federal Supply Service, Washington, DC 20406, 703 305-5745

RIN: 3090–AE78

3971. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), USE OF GOVERNMENT AIRCRAFT AND GOVERNMENT-NEGOTIATED RENTAL AGREEMENT AUTOMOBILES

Significance: Agency Priority

Legal Authority: 5 USC 5701 to 5709; 31 USC 1353; 40 USC 486(c); EO 11609, 36 FR 13747, 3 CFR 1971 to 1975 Comp, p 586

CFR Citation: 41 CFR 301-1; 41 CFR 301-2; 41 CFR 301-3

Legal Deadline: None

Abstract: This amendment implements provisions of Office of Management and Budget (OMB) Circular A-126, revised May 26, 1992, 57 FR 22150, to allow authorization of Federal civilian employee travel by government aircraft in the conduct of official business. The amendment also modifies the FTR to reflect that the government car rental program is governed by a negotiated car rental agreement instead of contract. The estimated economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/92	57 FR 54305
Final Action	09/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulatory Policy Branch (FBXR), Transportation Management Division, General Services Administration, Federal Supply Service, Washington, DC 20406, 703 305-5745

RIN: 3090–AE82

3972. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT 28

Significance: Agency Priority

Legal Authority: 5 USC 5721 to 5734; 20 USC 905(a); EO 11609, 36 FR 13747, 3 CFR 1971 to 1975 Comp, p 586; EO 12466, 49 FR 7349, 3 CFR 1984 Comp, p 165

CFR Citation: 41 CFR 302-11

Legal Deadline: None

Abstract: This amendment provides the annual update to the State and Federal

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tax tables used in computing relocation income tax (RIT) allowance payments for Federal employees.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/93	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert A. Clauson, Staff Accountant, Regulatory Policy Branch (FBXR), General Services Administration, Federal Supply Service, Washington, DC 20406, 703 305-5745

RIN: 3090–AE84

3973. • FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), INCREASE IN MAXIMUM REIMBURSEMENT LIMITATION FOR REAL ESTATE SALE AND PURCHASE EXPENSES

Legal Authority: 5 USC 5721 to 5734; 20 USC 905(a); EO 11609, 36 FR 13747

CFR Citation: 41 CFR 302-6

Legal Deadline: Final, Statutory, October 1, 1993.

Abstract: This amendment increases the maximum reimbursement limitations for allowable real estate sale and purchase expenses incident to a change of official station. The economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	09/00/93	
Final Action Effective	10/01/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulatory Policy Branch (FBXR), Transportation Management Division, General Services Administration, Federal Supply Service, Washington, DC 20406, 703 305-5745

RIN: 3090–AE92

PUBLIC BUILDINGS SERVICE

3974. FEDERAL PROPERTY MANAGEMENT REGULATION PART 101-18, ACQUISITION OF REAL PROPERTY

Significance: Agency Priority

Legal Authority: 40 USC 471; 40 USC 490; 40 USC 304C; 40 USC 601 to 615; 42 USC 4201 to 4244; 40 USC 531 to 535; 42 USC 3601; EO 12072

CFR Citation: 41 CFR 101-18

Legal Deadline: None

Abstract: This final rule sets forth the basic policy under which the General Services Administration (GSA) leases or delegates to other agencies the authority to lease space in privately owned buildings. It lists certain categories of special-purpose space which may be leased for up to 20 years by any agency without specific authorization from the Administrator of GSA. It designates certain types of space which may be acquired for lease terms of up to 20 years by designated agencies without further specific authorization from the Administrator of GSA. There are no major changes to this final rule as a result of agency comments on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	12/09/91	56 FR 64221
NPRM Comment Period End	02/07/92	56 FR 64221
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Hilary W. Peoples, Director, Real Estate Programs Division (PQRU), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-4084

RIN: 3090–AE43

3975. • UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Significance: Agency Priority

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 105.71-1

Legal Deadline: None

Abstract: This action adopts common regulations establishing consistency and uniformity among Federal agencies in the administration of grants and cooperative agreements to State, local, and federally recognized Indian tribal governments. The General Services Administration has determined that this rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Ada I. Rairigh, Chief, Contracts Branch, Office of Procurement (PP), General Services Administration, 18th & F Streets NW., Room 7314, Washington, DC 20405, 202 501-0907

RIN: 3090–AE96

GENERAL SERVICES ADMINISTRATION (GSA) — Completed Actions

3976. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR), NIB/NISH PURCHASING PROCEDURES (GSAR CASE NO. 5-64/190)

CFR Citation: 48 CFR 508

Completed:

Reason	Date	FR Cite
Withdrawn	01/15/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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Agency Contact: Marjorie Ashby, 202 501-3822

RIN: 3090–AD92

3977. REAL PROPERTY LEASING CLAUSES CHGE 41 (GSAR 5-313 AND GSAR 5-314)

CFR Citation: 48 CFR 501; 48 CFR 503; 48 CFR 505; 48 CFR 519; 48 CFR 532; 48 CFR 552; 48 CFR 553; 48 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	08/21/92	57 FR 37889
Final Action Effective	10/01/92	57 FR 37889

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, 202 501-3822

RIN: 3090–AE06

3978. INCORPORATION OF AC-90-2 AND AC-91-2 INTO THE GSAR CHGE 42 (GSAR 5-342)

CFR Citation: 48 CFR 525; 48 CFR 552

Completed:

Reason	Date	FR Cite
Final Action	09/16/92	57 FR 42708
Final Action Effective	09/22/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, 202 501-3822

RIN: 3090–AE26

3979. REAL PROPERTY LEASING CLAUSES CHGE 41 (GSAR 5-313 AND GSAR 5-314)

CFR Citation: 48 CFR 501; 48 CFR 503; 48 CFR 505; 48 CFR 519; 48 CFR 532; 48 CFR 552; 48 CFR 553; 48 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	08/21/92	57 FR 37889
Final Action Effective	10/01/92	57 FR 37889

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, 202 501-3822

RIN: 3090–AE31

3980. ETHICAL STANDARDS FOR CONTRACTOR EMPLOYEES (5-317)

CFR Citation: 48 CFR 503; 48 CFR 552

Completed:

Reason	Date	FR Cite
Withdrawn	01/15/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, 202 501-3822

RIN: 3090–AE52

3981. INCORPORATION OF AC-90-2 AND AC-91-2 INTO THE GSAR 5-342

CFR Citation: 48 CFR 552

Completed:

Reason	Date	FR Cite
Final Action	09/16/92	57 FR 42708
Final Action Effective	09/22/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, 202 501-3822

RIN: 3090–AE56

3982. COLLECTING SUBCONTRACTING DATA FROM LOWER-TIER SUBCONTRACTORS (5-338)

CFR Citation: 48 CFR 519

Completed:

Reason	Date	FR Cite
Withdrawn	01/15/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, 202 501-3822

RIN: 3090–AE60

3983. USE AND EXERCISE OF OPTIONS (5-340)

CFR Citation: 48 CFR 517; 48 CFR 552

Completed:

Reason	Date	FR Cite
Final Action	12/17/92	57 FR 59938
Final Action Effective	12/15/92	57 FR 59938

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, 202 501-3822

RIN: 3090–AE63

3984. • MISCELLANEOUS CHANGES (GSAR 5-345)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501; 48 CFR 502; 48 CFR 504; 48 CFR 508; 48 CFR 510; 48 CFR 515; 48 CFR 530; 48 CFR 533

Legal Deadline: None

Abstract: This change to the General Services Administration Acquisition Regulation (GSAR) modified the training requirements under the Contracting Officer Warrant Program, revised section 501.670-4 to modify the requirements for legal review of contract modifications; revised section 504.803 to provide for maintaining evidence of submission of award data

in the contract file; revised section 515.406-1 to eliminate the exception for utility contracts from use of the uniform contract format; revised section 515.414-70 to provide for use of the GSA Form 3503 in utility contracts; added section 533.104 to clarify from whom the notice of a protest after award must be received and the number of days refers to calendar days.

Timetable:

Action	Date	FR Cite
Final Action	12/28/92	57 FR 61583
Final Action Effective	01/01/93	57 FR 61583

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th & F Streets NW., Washington, DC 20405, 202 501-3822

RIN: 3090–AE91

3985. PROPERTY FOR HOMELESS ASSISTANCE PURPOSES

Significance: Agency Priority

CFR Citation: 41 CFR 101-47

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie L. Lomax, 202 501-0052

RIN: 3090–AE30

3986. UTILIZATION, DONATION, SALE, ABANDONMENT OR DESTRUCTION OF HAZARDOUS MATERIALS

CFR Citation: 41 CFR 101-42 to 101-46; 41 CFR 101-48; 41 CFR 101-49

Completed:

Reason	Date	FR Cite
Final Action	08/28/92	57 FR 39121
Final Action Effective	08/28/92	57 FR 39121

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Lester D. Gray, Jr., 703 305-7240

RIN: 3090–AA42

3987. SUBMISSION OF RATED ON-BOARD BILLS OF LADING FOR OCEAN SHIPMENTS

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Sandfort, 202 501-4563

RIN: 3090–AD89

3988. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT 27, INCREASE IN MAXIMUM REIMBURSEMENT LIMITATIONS FOR REAL ESTATE SALE AND PURCHASE EXPENSES

CFR Citation: 41 CFR 302-6

Completed:

Reason	Date	FR Cite
Final Action	09/30/92	57 FR 45001
Final Action Effective	10/01/92	57 FR 45001

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert A. Clauson, 703 305-5253

RIN: 3090–AE69

3989. GOVERNMENTWIDE REAL PROPERTY ASSET MANAGEMENT

Significance: Regulatory Program

CFR Citation: 41 CFR 16; 41 CFR 17; 41 CFR 47

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James M. Cayce, 202 501-0507

RIN: 3090–AD43

3990. FEDERAL PROPERTY MANAGEMENT REGULATIONS PART 101-21, FEDERAL BUILDINGS FUND

Significance: Regulatory Program

CFR Citation: 41 CFR 101-21

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Manfred van der Walde, 202 501-1954

RIN: 3090–AE28

[FR Doc. 93-6065 Filed 04-23-93; 8:45 am]

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Part XXVI

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Semiannual agenda of regulations.

SUMMARY: NASA's regulatory agenda describes those regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of a knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESSES: Director, Management Operations Division (Code JM), Office of Management Systems and Facilities, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring, (202) 358-2264.

SUPPLEMENTARY INFORMATION: OMB guidelines dated December 9, 1992, "April 1993 Unified Agenda of Federal Regulations," Executive Order 12291 "Federal Regulation," and NASA Management Instruction 1410.10 "**Federal Register**: Delegation of Authority and Requirements for Publication of NASA Documents" require a regulatory agenda of those regulations under development and review be published in the **Federal Register** each April and October.

Dated: February 16, 1993.

John W. Gaff,

Director, Management Operations Division

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3991	Uniform Administrative Requirements for Grants and Cooperative Agreements	2700-AA95

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3992	NASA Research Grant Handbook Directive 92-1	2700-AB30
3993	NASA Research Grant Handbook	2700-AB31
3994	NASA FAR Supplement Coverage on Uncompensated Overtime	2700-AB40
3995	Increasing Contractor Liability	2700-AB41
3996	Cost Plus Award Fee (CPAF) Contracting	2700-AB43
3997	NASA Supplemental Standards of Ethical Conduct Regulations Jointly Issued With the Office of Government Ethics	2700-AB44
3998	Special Policy on Small, Self-Contained Payloads by Domestic Educational Institutions	2700-AB45
3999	Procedures for NASA Drug Testing and Alcohol Testing Programs	2700-AB46
4000	Standards of Conduct Subpart G - Administrative Enforcement Procedures for Alleged Violations of 18 USC 207	2700-AB47
4001	Standards of Conduct Subpart H - Post-Employment Regulations	2700-AB48

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4002	Tracking and Data Relay Satellite System (TDRSS); Use and Reimbursement Policy for Non-U.S. Government Users	2700-AA29
4003	Streamlined Source Selection	2700-AB03
4004	NASA Astronaut Candidate Recruitment and Selection Program	2700-AB05
4005	New Restrictions on Lobbying	2700-AB06
4006	Indemnification	2700-AB12
4007	NASA FAR Supplement Directive (NFSD) 89-13	2700-AB26
4008	"Made in America" Labels	2700-AB29
4009	NASA FAR Supplement Directive (NFSD) 89-14	2700-AB35
4010	NASA FAR Supplement Directive (NFSD) 89-15	2700-AB36
4011	NASA FAR Supplement Directive (NFSD) 89-16	2700-AB37
4012	NASA FAR Supplement Directive (NFSD) 89-17	2700-AB38
4013	Streamlining the Major System Acquisition Process	2700-AB39
4014	Specifying Procurement Line Items (PLI) Within NASA Contracts	2700-AB42

NASA

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4015	General Provisions Regarding Space Shuttle Flights of Cargo-Bay Payloads for Non-U.S. Government Reimbursable Customers	2700-AA14
4016	Delegation of Authority for Certain Civil Rights Compliance Responsibilities for Elementary and Secondary Schools and Institutions of Higher Education to the Department of Education	2700-AA47
4017	Nondiscrimination in Federally-Assisted Programs of NASA	2700-AA50
4018	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Assistance by NASA	2700-AA69
4019	NASA FAR Supplement Directive (NFSD) 89-11	2700-AB15
4020	NASA FAR Supplement Directive (NFSD) 89-12	2700-AB25
4021	Space Shuttle; Use of Small Self-Contained Payloads (SSCP's)	2700-AB28
4022	NASA FAR Supplement Directive (NFSD) 89-15	2700-AB32
4023	NASA FAR Supplement Directive (NFSD) 89-14	2700-AB33
4024	NASA FAR Supplement Coverage on Uncompensated Overtime	2700-AB34

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Prerule Stage

3991. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: PL 97-258; 31 USC 6301 et seq

CFR Citation: 14 CFR 1270

Legal Deadline: None

Abstract: Common rule for grants administration replacing NASA implementation of OMB Circular A-110.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 214
Begin Review	04/01/91	
End Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, **202 358-2105**

RIN: 2700–AA95

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Proposed Rule Stage

3992. NASA RESEARCH GRANT HANDBOOK DIRECTIVE 92-1

Legal Authority: 31 USC 6301 et seq

CFR Citation: 14 CFR 1260

Legal Deadline: None

Abstract: Miscellaneous changes to the NASA Research Grant Handbook.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Office of Procurement, Code HP, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, **202 358-0476**

RIN: 2700–AB30

3993. NASA RESEARCH GRANT HANDBOOK

Legal Authority: 31 USC 6301 et seq

CFR Citation: 14 CFR 1260

Legal Deadline: None

Abstract: Revision and retitling of NASA Grant and Cooperative Agreement Handbook.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, **202 358-0476**

RIN: 2700–AB31

3994. NASA FAR SUPPLEMENT COVERAGE ON UNCOMPENSATED OVERTIME

Significance: Agency Priority

Legal Authority: 42 USC 24732(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: NASA FAR Supplement coverage provides guidance on uncompensated overtime.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

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NASA — Proposed Rule Stage

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-0476

RIN: 2700–AB40

3995. INCREASING CONTRACTOR LIABILITY

Significance: Agency Priority

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: The proposed clause increases contractor liability under cost type contracts beyond the current level of liability--cases involving fraud, willful misconduct, or lack of good faith on the part of management.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-0476

RIN: 2700–AB41

3996. COST PLUS AWARD FEE (CPAF) CONTRACTING

Significance: Agency Priority

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: NSF coverage revises and expands guidance pertaining to the structuring and administration of CPAF contracts to increase consistency and strengthen administration of this type of contract across the NASA Centers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-0476

RIN: 2700–AB43

3997. NASA SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT REGULATIONS JOINTLY ISSUED WITH THE OFFICE OF GOVERNMENT ETHICS

Significance: Agency Priority

Legal Authority: 5 USC app Ethics in Government Act of 1978, titles I and IV; EO 12674; EO 12731; 5 CFR 2635, (New & Revision)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The NASA supplemental executive agency standards of ethical conduct regulations, to be issued jointly with the Office of Government Ethics (OGE) in a new chapter of 5 CFR, after OGE approval, will supplement the new OGE executive branch standards of ethical conduct, codified at 5 CFR part 2635. The supplemental regulations, to be issued in accordance with sections 201(a) and 301(a) of EO 12674, as modified by EO 12731, will set forth NASA-specific provisions under applicable law and regulation which are needed to round out the executive branch-wide ethical standards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: James L. Hoffman, Senior Attorney, Code G, National Aeronautics and Space Administration, NASA Headquarters, 300 E Street SW., Washington, DC 20654, 202 358-2465

RIN: 2700–AB44

3998. • SPECIAL POLICY ON SMALL, SELF-CONTAINED PAYLOADS BY DOMESTIC EDUCATIONAL INSTITUTIONS

Legal Authority: 42 USC 2473; PL 85-568

CFR Citation: 14 CFR 1214.10

Legal Deadline: None

Abstract: The goal of NASA's policy on "Use of Small, Self-Contained Payloads," as stated in subpart 1214.9, is to stimulate and encourage the use of space by a wide range of users, particularly those associated with education. For a payload for flight as a domestic educational institution payload, the applying institution must be a U.S. public or nonprofit educational institution; the payload must be certified by an authorized official of the institution to be part of an educational or research project that is principally for the benefit of students, rather than nonstudents, such as faculty or research staff, payload experiments should involve students in all phases of the project, including concept development, initial planning, design, conduct, and analysis of the results of the experiments. Involvement of faculty or other professionals in a supervisory, advisory, or consultative relationship with the students is necessary. Projects may include applied research, basic research and/or other activities which have further educational uses beyond the immediate research effort.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Malcom Phelps, Chief, Technology and Evaluation Branch, Code FET, National Aeronautics and Space Administration, NASA Headquarters, 300 E Street SW., Washington, DC 20546, 202 358-1540

RIN: 2700–AB45

NASA — Proposed Rule Stage

3999. • PROCEDURES FOR NASA DRUG TESTING AND ALCOHOL TESTING PROGRAMS

Legal Authority: 42 USC 2473; EO 12564; 5 USC 552(a)

CFR Citation: 14 CFR 1272 (New)

Legal Deadline: NPRM, Statutory, June 1993. Final, Statutory, June 1994.

Abstract: This regulation proposes to implement the Civil Space Employee Testing Act of 1991 which requires NASA to establish an employee alcohol testing program and changes the employee drug testing program to include preemployment testing and split sample collection method.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	06/00/94	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Joan S. Peterson, Chief, Agency Personnel Policy, Code FPP, National Aeronautics and Space Administration, NASA Headquarters, 300 E Street, SW., Washington, DC 20546, 202 358-1218

RIN: 2700–AB46

4000. • STANDARDS OF CONDUCT SUBPART G - ADMINISTRATIVE ENFORCEMENT PROCEDURES FOR ALLEGED VIOLATIONS OF 18 USC 207

Significance: Agency Priority

Legal Authority: 18 USC 207

CFR Citation: 14 CFR 1207; 14 CFR 1207.700; 14 CFR 1207.701; 14 CFR 1207.702; 14 CFR 1207.703; 14 CFR 1207.704

Legal Deadline: None
Self-imposed 07/30/93.

Abstract: NASA will amend subpart G of Part 1207, Sections 1207.700 - 1207.704 to reflect recent amendments to 18 USC 207.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Adam Greenstone, Attorney Advisor, Code G, National Aeronautics and Space Administration, NASA Headquarters, 300 E Street, SW., Washington, DC 20546, 202 358-2465

RIN: 2700–AB47

4001. • STANDARDS OF CONDUCT SUBPART H - POST-EMPLOYMENT REGULATIONS

Legal Authority: 18 USC 201 to 219

CFR Citation: 14 CFR 1207; 14 CFR 1207.800; 14 CFR 1207.801

Legal Deadline: None
Self-imposed deadline of 07/30/93.

Abstract: NASA will amend subpart H of Part 1207, Sections 1207.800 and 1207.801 to reflect recent amendments to 18 USC, Section 207.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Adam Greenstone, Attorney Advisor, Code G, National Aeronautics and Space Administration, NASA Headquarters, 300 E Street, SW., Washington, DC 20546, 202 358-2465

RIN: 2700–AB48

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Final Rule Stage

4002. TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS); USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

Legal Authority: PL 85-568 Sec 203; 42 USC 2473

CFR Citation: 14 CFR 1215

Legal Deadline: None

Abstract: Annual revision of Appendix A to reflect each Calendar Year rate change for TDRSS services.

Timetable:

Action	Date	FR Cite
Final Action for CY 1993 Rate Change	05/15/92	57 FR 20746
Final Action for CY 1994 Rate Change	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene Ferrick, Office of Space Communications, Code OX, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2030

RIN: 2700–AA29

4003. STREAMLINED SOURCE SELECTION

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1870

Legal Deadline: None

Abstract: Techniques for improving the timeliness for evaluating proposals by the Source Evaluation Board Method.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-0476

RIN: 2700–AB03

4004. NASA ASTRONAUT CANDIDATE RECRUITMENT AND SELECTION PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 2473; 47 USC 721(b)

CFR Citation: 14 CFR 1214 subpart 1214.11

Legal Deadline: None

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Abstract: NASA is currently revising this regulation concerning the Astronaut Candidate Recruitment and Selection Program to include selection requirements for Space Station Freedom Station Operator and Station Scientist Astronaut candidates.

Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Robert L. Tucker, Director, Policy and Plans, Code MB, National Aeronautics and Space Administration, NASA Headquarters, 300 E Street SW., Washington, DC 20546, 202 358-2347

RIN: 2700–AB05

4005. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; PL 101-121, Sec 319; 31 USC 9301; PL 97-258

CFR Citation: 12 CFR 1271

Legal Deadline: None

Abstract: This interim rule is in response to section 319 of Public Law 101-121. Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive and legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guarantee a loan, must disclose lobbying.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6748
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-0476

RIN: 2700–AB06

4006. INDEMNIFICATION

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: This regulation will bring procurement matters into line with Agency regulations proposed as 14 CFR 1266--Cross-Waiver of Liability--55 FR No. 72, page 13912 (April 13, 1990) and improve the process flow of contractor requests.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-0476

RIN: 2700–AB12

4007. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-13

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-0476

RIN: 2700–AB29

4008. "MADE IN AMERICA" LABELS

Significance: Agency Priority

Legal Authority: 42 USC 2473 (c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Implements Public Law 102-195, which makes ineligible for NASA contracts and subcontracts persons who misuse "Made in America" labels.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/09/92	57 FR 8279
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-0476

RIN: 2700–AB26

4009. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-14

Significance: Agency Priority

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

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Timetable:

Action	Date	FR Cite
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-2105

RIN: 2700–AB35

4010. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-15

Significance: Agency Priority

Legal Authority: 42 USC 1473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-2105

RIN: 2700–AB36

4011. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-16

Significance: Agency Priority

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-2105

RIN: 2700–AB37

4012. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-17

Significance: Agency Priority

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-2105

RIN: 2700–AB38

4013. STREAMLINING THE MAJOR SYSTEM ACQUISITION PROCESS

Significance: Agency Priority

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: NASA FAR Supplement coverage provides for selection/down selection between phases of a major system acquisition utilizing a streamlined approach which eliminates the current NASA requirement to provide a new, formal solicitation for each phase of the acquisition.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-2105

RIN: 2700–AB39

4014. SPECIFYING PROCUREMENT LINE ITEMS (PLI) WITHIN NASA CONTRACTS

Significance: Agency Priority

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: NASA's Associate Administrator for Procurement will begin requiring contracts to specify contract deliverables at the Procurement Line Item (PLI) level. PLI information normally includes data such as the item number, item description, unit of measure, unit price, quality, and line item amount.

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Timetable:

Action	Date	FR Cite
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck, Chief, Policy Development Branch A, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 358-2105

RIN: 2700–AB42

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Completed Actions

4015. GENERAL PROVISIONS REGARDING SPACE SHUTTLE FLIGHTS OF CARGO-BAY PAYLOADS FOR NON-U.S. GOVERNMENT REIMBURSABLE CUSTOMERS

CFR Citation: 14 CFR 1214.1

Completed:

Reason	Date	FR Cite
Final Action	09/14/92	57 FR 41854

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert L. Tucker, 202 358-2347

RIN: 2700–AA14

4016. DELEGATION OF AUTHORITY FOR CERTAIN CIVIL RIGHTS COMPLIANCE RESPONSIBILITIES FOR ELEMENTARY AND SECONDARY SCHOOLS AND INSTITUTIONS OF HIGHER EDUCATION TO THE DEPARTMENT OF EDUCATION

CFR Citation: 14 CFR 1204.508; 14 CFR 42.401 to 42.415

Completed:

Reason	Date	FR Cite
Withdrawn - no longer required	02/02/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewin S. Warren, 202 453-2163

RIN: 2700–AA47

4017. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF NASA

CFR Citation: 14 CFR 1250

Completed:

Reason	Date	FR Cite
Withdrawn - no longer required due to reorganization	02/02/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewin S. Warren, 202 358-1289

RIN: 2700–AA50

4018. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM ASSISTANCE BY NASA

CFR Citation: 14 CFR 1253

Completed:

Reason	Date	FR Cite
Withdrawn - action transferred to the Department of Justice	02/02/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewin S. Warren, 202 358-1289

RIN: 2700–AA69

4019. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-11

CFR Citation: 48 CFR 18

Completed:

Reason	Date	FR Cite
Final Action	09/08/92	57 FR 40851

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William J. Maraist, 202 358-2105

RIN: 2700–AB15

4020. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-12

CFR Citation: 48 CFR 18

Completed:

Reason	Date	FR Cite
Final Action	12/14/92	57 FR 58718

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William J. Maraist, 202 358-2105

RIN: 2700–AB25

4021. SPACE SHUTTLE; USE OF SMALL SELF-CONTAINED PAYLOADS (SSCP'S)

CFR Citation: 14 CFR 1214.9

Completed:

Reason	Date	FR Cite
Final Action	09/09/92	57 FR 41077
Final Action Effective	09/09/92	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Robert L. Tucker, Jr., 202 358-2347

RIN: 2700–AB28

4022. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-15

Completed:

Reason	Date	FR Cite
Duplicate of RIN 2700-AB36	02/10/93	

RIN: 2700–AB32

4023. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-14

Completed:

Reason	Date	FR Cite
Duplicate of RIN 2700-AB35	02/10/93	

RIN: 2700–AB33

4024. NASA FAR SUPPLEMENT COVERAGE ON UNCOMPENSATED OVERTIME

Completed:

Reason	Date	FR Cite
Duplicate of RIN 2700-AB40	02/10/93	

RIN: 2700–AB34

[FR Doc. 93-6066 Filed 04-23-93; 8:45 am]

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Part XXVII

National Archives and Records Administration

Semiannual Regulatory Agenda

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: National Archives and Records Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since October 1992. This agenda was developed under the guidelines in OMB's Memorandum for Regulatory Contacts at Executive Departments and Establishments, dated December 9, 1992. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to provide a systematic means of monitoring regulatory activity in NARA. None of the regulations listed in the agenda are considered major under Executive Order 12291 "Federal Regulation."

FOR FURTHER INFORMATION CONTACT: John A. Constance, Director, Program Planning and Congressional Liaison Division, (202) 501-5110.

Dated: February 26, 1993.

Raymond A. Mosley,

Acting Archivist of the United States.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4025	NARA Facilities	3095-AA06
4026	Restrictions on Access to Archival Records	3095-AA21
4027	Administrative Requirements for Grants and Cooperative Agreements	3095-AA23
4028	Federal Records Centers	3095-AA27
4029	NARA Exhibition Loan Standards	3095-AA37
4030	National Historical Publications and Records Commission; Grant Procedures	3095-AA43
4031	Creation and Maintenance of Records; Adequate and Proper Documentation	3095-AA45
4032	Agency Program Evaluations	3095-AA48
4033	Records Disaster Prevention and Recovery; Vital Records	3095-AA51
4034	Public Use of Records and Donated Historical Materials	3095-AA53
4035	Implementation of John F. Kennedy Assassination Records Collection Act of 1992	3095-AA54
4036	Domestic Distribution of United States Information Agency Materials in the Custody of the National Archives	3095-AA55

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4037	NARA Regulations; General Provisions	3095-AA01
4038	Audiovisual Records Management	3095-AA18
4039	Micrographics Records Management	3095-AA22

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4040	Demonstrations at the National Archives Building	3095-AA50

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Proposed Rule Stage

4025. NARA FACILITIES

Legal Authority: 44 USC 2104(a); 44 USC 2110

CFR Citation: 36 CFR 1280

Legal Deadline: None

Abstract: NARA is updating its regulations on the use of NARA facilities and property to remove obsolete material and to clarify existing provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John A. Constance, Director, Program Planning and Congressional Liaison Division, National Archives and Records Administration, Washington, DC 20408, **202 501-5110**

RIN: 3095–AA06

NARA — Proposed Rule Stage

4026. RESTRICTIONS ON ACCESS TO ARCHIVAL RECORDS

Legal Authority: 44 USC 2108(a); 44 USC 2104(a)

CFR Citation: 36 CFR 1256.40

Legal Deadline: None

Abstract: This rule will amend specific agency restrictions on the use of certain accessioned archival records. The restrictions will be in conformity with the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
NPRM Comment Period End	11/00/93	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. Kurtz, Acting Assistant Archivist, Office of National Archives, National Archives and Records Administration, Washington, DC 20408, **202 501-5300**

RIN: 3095–AA21

4027. ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 44 USC 2104; 44 USC 2504

CFR Citation: 36 CFR 1207

Legal Deadline: None

Abstract: This action proposes updating and replacing implementation of OMB Circulars and the agencywide common rule regarding the administration of grants and cooperative agreements.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Comment Period End	01/03/89	53 FR 44716
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John A. Constance, Director, Program Planning and Congression Liaison Division, National Archives and Records Administration, Washington, DC 20408, **202 501-5110**

RIN: 3095–AA23

4028. FEDERAL RECORDS CENTERS

Legal Authority: 44 USC ch 21; 44 USC ch 29; 44 USC ch 31

CFR Citation: 36 CFR 1228

Legal Deadline: None

Abstract: NARA is updating regulations in subpart I of Part 1228 relating to transfer of records to Federal records centers to clarify provisions and to remove outdated material.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John A. Constance, Director, Program Planning and Congressional Liaison Division, National Archives and Records Administration, Washington, DC 20408, **202 501-5110**

RIN: 3095–AA27

4029. NARA EXHIBITION LOAN STANDARDS

Legal Authority: 44 USC 2104a; 44 USC 2109

CFR Citation: 36 CFR 1284

Legal Deadline: None

Abstract: To make the permanently valuable records of the U.S. Government more widely available, NARA may lend for exhibition purposes original records (in sufficiently good condition to withstand the rigors of travel and exhibition) to qualified institutions that will provide care for the borrowed items in accordance with NARA's minimum loan requirements and any additional requirements that are deemed appropriate for particular records. This regulation notifies interested institutions of this program and provides some basic information including where to obtain the necessary technical criteria.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Linda N. Brown, Assistant Archivist, Office of Public Programs, National Archives and Records Administration, Washington, DC 20408, **202 501-5200**

RIN: 3095–AA37

4030. NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION; GRANT PROCEDURES

Legal Authority: 44 USC 2104(a); 44 USC 2501 to 2506

CFR Citation: 36 CFR 1206

Legal Deadline: None

Abstract: To update the program descriptions; to revise appointment procedures for state historical advisory boards; to cite audit requirements of OMB Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Organizations; and to notify grantees of the lobbying certification requirement for grants of $100,000 or more.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	
Final Action	09/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: Governmental Jurisdictions, Organizations

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NARA — Proposed Rule Stage

Government Levels Affected: Local, State

Agency Contact: John A. Constance, Director, Program Planning and Congressional Liaison Division, National Archives and Records Administration, Washington, DC 20408, 202 501-5110

RIN: 3095–AA43

4031. CREATION AND MAINTENANCE OF RECORDS; ADEQUATE AND PROPER DOCUMENTATION

Legal Authority: 44 USC 2904; 44 USC 3101; 44 USC 3102

CFR Citation: 36 CFR 1222

Legal Deadline: None

Abstract: This rule expands the guidance on the identification of personal materials, including a new requirement for the creation and maintenance of a comprehensive inventory of all documentary materials. It also includes a more extensive discussion of the removal of documentary materials, including requirements that agencies develop written procedures to ensure that departing officials do not remove Federal records from agency custody and that agencies create a record of the removal of documentary materials.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Frank B. Evans, Deputy Assistant Archivist for Records Administration, National Archives and Records Administration, Washington, DC 20408, 202 501-6000

RIN: 3095–AA45

4032. AGENCY PROGRAM EVALUATIONS

Legal Authority: 44 USC 2906

CFR Citation: 36 CFR 1220.50; 36 CFR 1220.52; 36 CFR 1220.54; 36 CFR 1220.56

Legal Deadline: None

Abstract: This change is intended to update the regulations regarding NARA's inspections of agency records management programs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marilyn McLennan, Director, Agency Services Division (NIA), National Archives and Records Administration, Washington, DC 20408, 202 501-6000

RIN: 3095–AA48

4033. RECORDS DISASTER PREVENTION AND RECOVERY; VITAL RECORDS

Legal Authority: 44 USC 2104(a); 44 USC 2904(a); 44 USC 3101; 44 USC 3102; 44 USC 3105

CFR Citation: 36 CFR 1236

Legal Deadline: None

Abstract: This change updates NARA's regulations regarding agency vital records programs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marilyn McLennan, Director, Agency Services Division (NIA), National Archives and Records Administration, Washington, DC 20408, 202 501-6000

RIN: 3095–AA51

4034. PUBLIC USE OF RECORDS AND DONATED HISTORICAL MATERIALS

Legal Authority: 44 USC 2101 to 2118; 5 USC 552; EO 12600

CFR Citation: 36 CFR 1252; 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating its regulations concerning use of archival records and donated historical materials to clarify definitions and other provisions relating to research room and reference service procedures and to remove outdated material.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John A. Constance, Director, Program Planning and Congressional Liaison Division, National Archives and Records Administration, Washington, DC 20408, 202 501-5110

RIN: 3095–AA53

4035. • IMPLEMENTATION OF JOHN F. KENNEDY ASSASSINATION RECORDS COLLECTION ACT OF 1992

Legal Authority: PL 102-526

CFR Citation: 36 CFR 1255

Legal Deadline: None

Abstract: This rule will establish procedures to be followed by NARA in responding to requests for access to records contained in the President John F. Kennedy Assassination Records Collection.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ronan, Director, Access Staff, National Archives and Records Administration, Washington, DC 20408, 202 501-5313

RIN: 3095–AA54

4036. • DOMESTIC DISTRIBUTION OF UNITED STATES INFORMATION AGENCY MATERIALS IN THE CUSTODY OF THE NATIONAL ARCHIVES

Legal Authority: PL 101-246, sec 202

CFR Citation: 36 CFR 1256

Legal Deadline: None

NARA — Proposed Rule Stage

Abstract: This rule will establish procedures for making available USIA produced motion pictures, films, videotapes, and other materials when the materials become eligible for domestic dissemination.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
NPRM Comment Period End	11/00/93	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Michael J. Kurtz, Acting Assistant Archivist, Office of the National Archives, National Archives and Records Administration, Washington, DC 20408. 202 501-5300

RIN: 3095–AA55

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Final Rule Stage

4037. NARA REGULATIONS; GENERAL PROVISIONS

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1200; 36 CFR 1201

Legal Deadline: None

Abstract: NARA is establishing a new part in 36 CFR Chapter XII to contain administrative regulations. This regulation will provide a delegation of authority from the Archivist of the United States to other NARA officials. As part of the rulemaking, current regulations on the use of NARA seals will be moved to a new Part 1201.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John A. Constance, Director, Program Planning and Congressional Liaison Division, National Archives and Records Administration, Washington, DC 20408, 202 501-5110

RIN: 3095–AA01

4038. • AUDIOVISUAL RECORDS MANAGEMENT

Legal Authority: 44 USC 2104(a); 44 USC 2904; 44 USC 3101

CFR Citation: 36 CFR 1232

Legal Deadline: None

Abstract: The National Audiovisual Center has been renamed to the Multimedia and Publications Distribution Division/National Archives Fulfillment Center as a result of a reorganization effective October 1, 1992. This regulation updates the name change only. No substantive changes are being made.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda N. Brown, Assistant Archivist, Office of Public Programs, National Archives and Records Administration, Washington, DC 20408, 202 501-5200

RIN: 3095–AA18

4039. MICROGRAPHICS RECORDS MANAGEMENT

Legal Authority: 44 USC 2907; 44 USC 3302; 44 USC 3312

CFR Citation: 36 CFR 1230

Legal Deadline: None

Abstract: NARA is revising its regulations on micrographics to update micrographics standards that are incorporated by reference in the regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/02/92	57 FR 57042
NPRM Comment Period End	02/01/93	57 FR 57042
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John A. Constance, Director, Program Planning and Congressional Liaison Division, National Archives and Records Administration, Washington DC 20408, 202 501-5110

RIN: 3095–AA22

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Completed Actions

4040. DEMONSTRATIONS AT THE NATIONAL ARCHIVES BUILDING

CFR Citation: 36 CFR 1280.30

Completed:

Reason	Date	FR Cite
Withdrawn	02/10/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John A. Constance, 202 501-5110

RIN: 3095–AA50

[FR Doc. 93-5041 Filed 04-23-93; 8:45 am]

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Part XXVIII

National Endowment for the Arts

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NATIONAL ENDOWMENT FOR THE ARTS (NEA)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Agenda of Regulations

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Publication of the semiannual agenda.

SUMMARY: Pursuant to Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 605), the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine A. Stevens, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 682-5418.

Laurence Baden,

Deputy Chairman for Management, National Endowment for the Arts.

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Proposed Rule Stage

4041. COLLECTION OF CLAIMS

Significance: Agency Priority

Legal Authority: PL 97-365; 31 USC 3711; 31 USC 3716 to 3718; 5 USC 5514; 5 USC 552a; 31 USC 3701

CFR Citation: 45 CFR 1150

Legal Deadline: None

Abstract: The proposed rule amends the National Endowment for the Arts regulation for collecting debts. Principally, the amendments implement the Debt Collection Act of 1982 (PL 97-365), which amended the Federal Claims Collection Act of 1966 (31 USC 3711, 3716-3718) to authorize among other things, charging of interest penalties and administrative costs, and the use of administrative offset, private collection agencies and credit agencies by the Government. The amendments also implement governmentwide regulations issued by the Department of Justice and the General Accounting Office (49 FR 8889) and Office of Personnel Management (49 FR 27470).

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: RIN 3135-AA04 was merged with RIN 3135-AA01 on 01/29/91.

Agency Contact: Catherine A. Stevens, General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue NW., Washington, DC 20506, **202 682-5418**

RIN: 3135–AA01

4042. NONDISCRIMINATION ON THE BASIS OF AGE

Significance: Agency Priority

Legal Authority: 42 USC 6101 et seq

CFR Citation: 45 CFR 1156

Legal Deadline: None

Abstract: This rule prohibits discrimination on the basis of age in programs and activities receiving assistance from the National Endowment for the Arts. These regulations are proposed pursuant to the requirements of the Age Discrimination Act and consistent with the general governmentwide regulations issued by the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
NPRM	10/02/79	44 FR 56725
NPRM Comment Period End	11/15/79	
Second NPRM	04/00/93	
Second NPRM Comment Period End	06/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Catherine A. Stevens, General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue NW., Washington, DC 20506, **202 682-5418**

RIN: 3135–AA03

4043. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Significance: Agency Priority

Legal Authority: Budget and Accounting Act of 1921, as amended; Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; EO 11541; 31 USC 6301 to 6308; Pres. Memo. for Heads of Exec. Depts & Agencies (Mar. 12, 1987)

CFR Citation: 45 CFR 1157

Legal Deadline: None

Abstract: This action proposes a common rule to be published by various agencies establishing consistency and uniformity in the administration of grants and cooperative agreements to State, local, and federally recognized Indian tribal governments, as well as institutions of higher education, hospitals, and other nonprofit organizations, and commercial or for-profit entities.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44718
NPRM Comment Period End	01/03/89	
Second NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Catherine A. Stevens, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, **202 682-5418**

RIN: 3135–AA06

NEA — Proposed Rule Stage

4044. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES; EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Legal Authority: 42 USC 2000d to 2000d-4

CFR Citation: 45 CFR 1140

Legal Deadline: None

Abstract: This proposed rule would implement title VI of the Civil Rights Act of 1964 (42 USC 2000d to 2000-4) and the Civil Rights Restoration Act of 1987 (Pub. L. 100-259, 102 Stat 28). It replaces existing regulations that implement title VI for both the National Endowment for the Arts and the National Endowment for the Humanities (45 CFR 1110) and applies to the National Endowment for the Arts only.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Catherine A. Stevens, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Room 522, Washington, DC 20506, **202 682-5418**

RIN: 3135–AA10

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Final Rule Stage

4045. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; PL 101-121, sec 319; 20 USC 959

CFR Citation: 45 CFR 1158

Legal Deadline: None

Abstract: This rule is for the purpose of implementing section 319 of the Interior and Related Agencies Appropriation Act for Fiscal Year 1990, which establishes certain prohibitions and disclosure requirements with respect to lobbying.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Catherine A. Stevens, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, **202 682-5418**

RIN: 3135–AA07

4046. COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT

Significance: Agency Priority

Legal Authority: 42 USC 4371 et seq; 42 USC 7609; 40 CFR 1500 to 1508; EO 11514; EO 11991

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The proposed rule provides Endowment procedures to supplement and comply with 42 USC 4371 et seq. and 40 CFR parts 1500-1508. The proposed rule sets out the types of projects funded by the Endowment which may require environmental assessments and the agency procedures for reviewing such assessments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine A. Stevens, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, **202 682-5418**

RIN: 3135–AA08

[FR Doc. 93-5042 Filed 04-23-93; 8:45 am]

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National Endowment for the Humanities

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NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Ch. XI

Unified Agenda of Regulations

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Publication of the unified agenda of regulations.

SUMMARY: Pursuant to the Regulatory Flexibility Act, Public Law 96-354, and Executive Order 12291 "Federal Regulation," dated February 17, 1981, the National Endowment for the Humanities is required to publish, in April and October of each year, an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Victoria F. Phillips, Assistant General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 606-8322.

Jerry L. Martin,
Acting Chairman.

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Prerule Stage

4047. STANDARDS OF CONDUCT OF EMPLOYEES

Legal Authority: 5 CFR 735, 5 CFR 2635 (Proposed Revision); EO 12674; 18 USC 207 to 209; Ethics Reform Act of 1989

CFR Citation: 45 CFR 1105

Legal Deadline: None

Abstract: To repeal affected portions of agency regulation superseded by governmentwide OGE standards of ethical conduct and to supplement, as necessary.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Victoria F. Phillips, Assistant General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202 606-8322

RIN: 3136–AA16

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Proposed Rule Stage

4048. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Legal Authority: 42 USC 2000(d) to 2000(d)(4)

CFR Citation: 45 CFR 1110; 45 CFR 1173

Legal Deadline: None

Abstract: This proposed regulation implements title VI of the Civil Rights Act of 1984, which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs and activities, with respect to programs and activities receiving Federal financial assistance from the National Endowment for the Humanities

Programs and activities receiving Federal financial assistance from the National Endowment for the Humanities are currently covered by a regulation implementing title VI that was issued by the National Foundation on the Arts and the Humanities in 1973 (45 CFR 1110). The proposed rule will remove NEH programs from the coverage of the earlier rule and replace it with a new part applicable only to NEH-assisted programs and activities. Programs and activities assisted by the National Endowment for the Arts remain covered under the existing regulation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret Horne, EEO Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Room 817, Washington, DC 20506, 202 606-8399

RIN: 3136–AA11

4049. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: 20 USC 959(a)(1)

CFR Citation: 45 CFR 1174

Legal Deadline: None

Abstract: To propose a common rule to be implemented by various agencies to establish uniformity and consistency in the administration of grants and cooperative agreements to State and local governments.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44710
NPRM Comment Period End	01/03/89	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Victoria F. Phillips, Assistant General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202 606-8322

RIN: 3136–AA17

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Final Rule Stage

4050. IMPLEMENTATION OF TITLE IX OF THE EDUCATION ACT AMENDMENTS OF 1972

Legal Authority: 20 USC 1681

CFR Citation: 41 CFR 1171

Legal Deadline: None

Abstract: The proposed regulation implements title IX of the Education Act Amendments of 1972, which prohibit discrimination or denial of benefits on the basis of sex under any educational program or activity receiving Federal financial assistance.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Horne, EEO Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Room 817, Washington, DC 20506, 202 606-8399

RIN: 3136–AA14

4051. GOVERNMENT GUIDANCE FOR RESTRICTIONS ON INFLUENCING ACTIVITIES

Significance: Regulatory Program

Legal Authority: PL 101-121, sec 319

CFR Citation: 45 CFR 1158

Legal Deadline: None

Abstract: Section 319 generally prohibits recipients of Federal contracts, grants and loans from using appropriation funds for influencing the Executive or Legislative Branches.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Victoria F. Phillips, Assistant General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202 606-8322

RIN: 3136–AA15

[FR Doc. 93-6067 Filed 04-23-93; 8:45 am]
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National Science Foundation

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NATIONAL SCIENCE FOUNDATION (NSF)

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Regulatory Agenda

AGENCY: National Science Foundation

ACTION: Regulatory agenda.

SUMMARY: The National Science Foundation is publishing its April 1993 regulatory agenda pursuant to Executive Order 12291 "Federal Regulation," 3 CFR, 1981 Comp., p.127; the Regulatory Flexibility Act, 5 U.S.C. 601-612; and the Office of Management and Budget Memorandum for Regulatory Contacts at Executive Departments and Establishments (December 9, 1992).

FOR FURTHER INFORMATION CONTACT: For additional information on a particular item, call or write the individual identified as agency contact. General comments or inquiries about this agenda may be directed to Vicki De Hullu, Office of the General Counsel, National Science Foundation, Washington, DC 20550, (202) 357-9435.

Dated: February 19, 1993.

Vicki L. De Hullu,

Legal Office Administrator

NATIONAL SCIENCE FOUNDATION (NSF) — Proposed Rule Stage

4052. CONFLICT OF INTEREST/ ETHICS STANDARDS, REPORTING REQUIREMENTS, TRAINING

Legal Authority: 5 USC 7351; 5 USC 7353; 5 USC app III; 5 USC app IV; EO 12674, 5 CFR 2634; 5 CFR 2635; 5 CFR 2638

CFR Citation: 45 CFR 680 to 685

Legal Deadline: None

Abstract: NSF regulations governing its Conflicts of Interest/Ethics Program will be revised to conform to anticipated revised regulations from the Office of Government Ethics.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Charles S. Brown, Assistant General Counsel, National Science Foundation, 1800 G Street NW., Room 501, Washington, DC 20550, **202 357-9435**

RIN: 3145–AA20

NATIONAL SCIENCE FOUNDATION (NSF) — Final Rule Stage

4053. MEASURES TO CONTROL DISCHARGE AND DISPOSAL OF HARMFUL POLLUTANTS IN ANTARCTICA; POLLUTION CONTROL PERMITTING REQUIREMENTS

Significance: Agency Priority

Legal Authority: 42 USC 1970; 16 USC 2405; 16 USC 2407, 16 USC 2408, 16 USC 2409; 16 USC 2411

CFR Citation: 45 CFR 671

Legal Deadline: None

Abstract: This action will amend NSF's regulations by adding a new part 671 (45 CFR 671), entitled "Waste Regulations." The Antarctic Conservation Act of 1978 requires NSF to issue regulations designating any substance that, if introduced in Antarctica may create hazards to human health, harm living resources or marine life, damage amenities, or interfere with other legitimate uses of Antarctica. The Act also requires NSF to establish regulations and permitting procedures that prevent or control the discharge of such pollutants for any source within Antarctica

Timetable:

Action	Date	FR Cite
ANPRM	04/20/90	55 FR 14980
Public Hearing	06/18/90	
NPRM	07/31/92	57 FR 33918
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Miriam Leder, Assistant General Counsel, National Science Foundation, 1800 G Street, NW., Room 501, Washington, DC 20550, **202 357-9435**

RIN: 3145–AA15

4054. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352, PL 100-121, sec 319

CFR Citation: 45 CFR 604

Legal Deadline: None

Abstract: Section 1352 of title 31 of the United States Code, enacted on October 23, 1989, imposes limitations on the use of appropriated funds to influence certain Federal contracting and financial transactions. National Science Foundation regulations implementing that statute will follow the governmentwide model now being developed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sherrye McGregor, Grant & Contract Specialist, National Science Foundation, 1800 G Street, NW., Room 1140, Washington, DC 20550, **202 357-7880**

RIN: 3145–AA17

[FR Doc. 93-5043 Filed 04-23-93, 8:45 am]

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Office of Government Ethics

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OFFICE OF GOVERNMENT ETHICS (OGE)

OFFICE OF GOVERNMENT ETHICS

5 CFR Ch. XVI

Semiannual Regulatory Agenda, April 1993

AGENCY: Office of Government Ethics

ACTION: Semiannual agenda of substantive regulations.

SUMMARY: The following Office of Government Ethics (OGE) substantive regulations are scheduled for development or review during the period from April 1, 1993, through March 31, 1994. This agenda fulfills OGE's responsibility to publish a semiannual regulatory agenda under Executive Order 12291 "Federal Regulation" and has been prepared in accordance with guidance received from the Office of Management and Budget. None of the OGE regulations in this April 1993 agenda will have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. chapter 6. In addition, none of the listed OGE regulatory actions are major rules under E.O. 12291 nor procurement-related. Furthermore, the organizational and procedural rules of OGE are not listed herein (see section 1(a)(3) of E.O. 12291).

This publication in the **Federal Register** does not impose a binding obligation on the Office of Government Ethics with respect to any particular item on its agenda. The dates shown for the future steps of each action are estimates and not commitments to act by the date shown. Moreover, other substantive OGE regulatory actions, in addition to the entries listed, are not precluded.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; telephone (202/FTS) 523-5757, FAX (202/FTS) 523-6325.

Approved: March 18, 1993

Stephen D. Potts,

Director, Office of Government Ethics

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4055	Standards of Ethical Conduct for Employees of the Executive Branch	3209-AA04
4056	Interpretation of 18 U.S.C. 209, the Constraint Against Private Supplementation of Salaries of Executive Branch Officials and Employees	3209-AA12
4057	Interpretation of 18 U.S.C. 208, Acts Affecting a Personal Financial Interest	3209-AA11

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4058	Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees	3209-AA00
4059	Public Financial Disclosure, Conflicts of Interest, and Certificates of Divestiture for Executive Branch Officials	3209-AA06
4060	Executive Agency Supplemental Financial Disclosure Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA16
4061	Executive Agency Supplemental Standards of Ethical Conduct Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA15
4062	Limitations on Outside Employment and Prohibition of Honoraria; Confidential Reporting of Payments to Charities in Lieu of Honoraria	3209-AA13
4063	Executive Agency Ethics Training Programs	3209-AA07
4064	Interests Exempt From Coverage of Restrictions of 18 USC 208(a) by Rule Pursuant to 18 USC 208(b)(2) and Guidance on Issuance of Ad Hoc Waivers Pursuant to 18 USC 208(b)(1) and 208(b)(3)	3209-AA09
4065	Post-Employment Conflict of Interest Restrictions	3209-AA14

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4066	Guidance on Issuance of Ad Hoc Waivers Pursuant to 18 U.S.C. 208(b)(1) and 208(b)(3)	3209-AA10

OFFICE OF GOVERNMENT ETHICS (OGE)

Proposed Rule Stage

4055. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

Significance: Agency Priority

Legal Authority: 5 USC 7301; 5 USC 7351; 5 USC 7353; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2635 (New & Revision)

Legal Deadline: None

Abstract: New regulation implementing certain provisions of Executive Order 12674 on Principles of Ethical Conduct, as modified by EO 12731, and the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended, has, effective February 3, 1993, superseded executive branch employee conduct and gifts rules of prior 5 CFR part 735, subparts A (except old section 735.106, separately superseded along with subpart D thereof -- see RIN 3209-AA00), B, and C, and the interim gifts rule at old 5 CFR 2635.101, as well as pertinent portions of agency conduct regulations issued thereunder.

Timetable:

Action	Date	FR Cite
NPRM	07/23/91	56 FR 33778
NPRM Comment Period End	09/20/91	
Final Overall Regulation on Standards of Ethical Conduct	08/07/92	57 FR 35006
Correction	10/27/92	57 FR 48557
Correction	11/04/92	57 FR 52583
NPRM on Participation in Professional Associations	12/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Leslie L. Wilcox, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA04

4056. INTERPRETATION OF 18 U.S.C. 209, THE CONSTRAINT AGAINST PRIVATE SUPPLEMENTATION OF SALARIES OF EXECUTIVE BRANCH OFFICIALS AND EMPLOYEES

Significance: Agency Priority

Legal Authority: 5 USC app (Ethics in Government Act of 1978, title IV); EO 12674; EO 12731

CFR Citation: 5 CFR 2639 (New)

Legal Deadline: None

Abstract: Proposed regulation to interpret section 209 of title 18, U.S.C., prohibiting the private supplementation of the Government salary of executive branch officers and employees.

Timetable:

Action	Date	FR Cite
NPRM	01/00/94	
NPRM Comment Period End	03/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen J. McCleary, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA12

4057. INTERPRETATION OF 18 U.S.C. 208, ACTS AFFECTING A PERSONAL FINANCIAL INTEREST

Significance: Agency Priority

Legal Authority: 5 USC app (Ethics in Government Act of 1978, title IV); EO 12674; EO 12731

CFR Citation: 5 CFR 2640 (New)

Legal Deadline: None

Abstract: Proposed regulation to interpret section 208(a) of title 18, U.S.C., which prohibits officers and employees of the executive branch from officially participating personally and substantially in a particular matter in which there is a personal financial interest or a financial interest of a related person or organization (absent a waiver under 18 U.S.C. 208(b)).

Timetable:

Action	Date	FR Cite
NPRM	06/00/94	
NPRM Comment Period End	08/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marilyn L. Glynn, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA11

OFFICE OF GOVERNMENT ETHICS (OGE)

Final Rule Stage

4058. FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE FOR EXECUTIVE BRANCH EMPLOYEES

Significance: Agency Priority

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 26 USC 1043; EO 12674; EO 12731

CFR Citation: 5 CFR 2634 (New & Revision); 5 CFR 735.106 (Revision); 5 CFR 735.401 to 735.412 (Revision)

Legal Deadline: None

Abstract: Regulation revising the executive branch public and confidential financial disclosure report systems for high-level officials and certain midlevel employees, respectively, in light of the changes to the Ethics in Government Act effected by the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended, including by Pub. L. 101-280 and sections 313 and 314 of Pub. L. 102-90. The new disclosure provisions apply to reports filed since January 1, 1991. Subpart I of the regulation has, effective October 5, 1992, superseded prior 5 CFR part 735, subpart D (and 5 CFR 735.106), along with executive agency regulations thereunder, and establish a revised system of confidential reporting, modeled generally on the public reporting system, for executive branch agency midlevel employees with sensitive duties and special Government employees.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359

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Final Rule Stage

Action	Date	FR Cite
Interim Final Rule	04/07/92	57 FR 11800
Correction	05/22/92	57 FR 21854
Correction	12/31/92	57 FR 62605
Revised Interim Final Rule	05/00/93	
Final Action	02/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: G. Sid Smith, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA00

4059. PUBLIC FINANCIAL DISCLOSURE, CONFLICTS OF INTEREST, AND CERTIFICATES OF DIVESTITURE FOR EXECUTIVE BRANCH OFFICIALS

Significance: Agency Priority

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 26 USC 1043

CFR Citation: 5 CFR 2634.1001 to 2634.1004

Legal Deadline: None

Abstract: Regulation implementing a provision of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended by Pub. L. 101-280, providing for tax deferral if sale of property by an executive branch official (or related person) is deemed necessary to comply with conflict of interest requirements pursuant to a certificate of divestiture to be issued by the Office of Government Ethics.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/18/90	55 FR 14407
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Norman B. Smith, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA06

4060. EXECUTIVE AGENCY SUPPLEMENTAL FINANCIAL DISCLOSURE REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS

Significance: Agency Priority

Legal Authority: 5 USC 7301; 5 USC app (Ethics in Government Act of 1978); 26 USC 1043; EO 12674; EO 12731; 5 CFR 2634.104

CFR Citation: 5 CFR 2634; 5 CFR ch XXI et seq

Legal Deadline: None

Abstract: The supplemental executive agency financial disclosure regulations, to be issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, will supplement the new OGE executive branch financial disclosure regulations, to be codified in 5 CFR part 2634. The supplemental regulations, to be issued in accordance with sections 201(d) and 301(a) of EO 12674, as modified by EO 12731, will set forth those agency-specific provisions as are needed under particular laws and regulations in order to complement the executive branch-wide financial disclosure provisions.

Timetable:

Action	Date	FR Cite
Final Action	10/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: G. Sid Smith, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA16

4061. EXECUTIVE AGENCY SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS

Significance: Agency Priority

Legal Authority: 5 USC 7301; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731; 5 CFR 2635.105

CFR Citation: 5 CFR 2635; 5 CFR ch XXI et seq

Legal Deadline: None

Abstract: The supplemental executive agency standards of ethical conduct regulations, to be issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, will supplement the new OGE executive branch standards of ethical conduct, once those standards are finally adopted and codified at 5 CFR part 2635. The supplemental regulations, to be issued in accordance with section 201(a) and 301(a) of EO 12674, as modified by EO 12731, will set forth those agency-specific provisions under applicable law and regulation, such as restrictions on holding certain financial interests and designation of departmental subunits, which are needed to round out the executive branch-wide ethical standards.

Timetable:

Action	Date	FR Cite
Final Action	02/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Leslie L. Wilcox, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA15

4062. LIMITATIONS ON OUTSIDE EMPLOYMENT AND PROHIBITION OF HONORARIA; CONFIDENTIAL REPORTING OF PAYMENTS TO CHARITIES IN LIEU OF HONORARIA

Significance: Agency Priority

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12671

CFR Citation: 5 CFR 2636

Legal Deadline: None

Abstract: Regulation implementing the prohibition on honoraria as well as the new limitations on outside employment, as provided in the Ethics in Government Act, as amended by the 1989 Ethics Reform Act (Pub. L. 101-194) and Pub. L. 101-280, effective January 1, 1991, and section 314(b) of Pub. L. 102-90, effective January 1, 1992. A separate provision (not yet effective) of the regulation will govern reports by executive branch officials of payments, in lieu of honoraria, donated to charities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/17/91	56 FR 1721
Deferral of Effective Date of 5 CFR 2636.205	05/10/91	56 FR 21589
Deferral of Effective Date of 5 CFR 2636.205	10/11/91	56 FR 51319
Revision of Honorarium Definition in 5 CFR 2636.203(a)	01/08/92	57 FR 601
Deferral of Effective Date of 5 CFR 2636.205	02/14/92	57 FR 5369
Make 5 CFR 2636.205 Effective	11/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Leslie L. Wilcox, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA13

4063. EXECUTIVE AGENCY ETHICS TRAINING PROGRAMS

Significance: Agency Priority

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2638.701 to 2638.704 (New)

Legal Deadline: None

Abstract: Regulation specifying the responsibilities of executive branch agencies and their designated agency ethics officials to develop and implement orientation and annual ethics training courses and to distribute appropriate guidance materials to their employees under sections 301(b) and (c) of E.O. 12674, as modified by E.O. 12731. Also requires agencies to submit annual ethics training plans to the Office of Government Ethics for review.

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38335
NPRM Comment Period End	11/17/90	
Final Rule on Executive Agency Ethics Training Programs	04/07/92	57 FR 11886
Correction	04/27/92	57 FR 15219
Amendment	12/10/92	57 FR 58399
Correction	12/28/92	57 FR 61612
Amendment	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John C. Condray, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA07

4064. INTERESTS EXEMPT FROM COVERAGE OF RESTRICTIONS OF 18 USC 208(A) BY RULE PURSUANT TO 18 USC 208(B)(2) AND GUIDANCE ON ISSUANCE OF AD HOC WAIVERS PURSUANT TO 18 USC 208(B)(1) AND 208(B)(3)

Significance: Agency Priority

Legal Authority: 18 USC 208; 5 USC app (Ethics in Government Act of 1978, title IV); EO 12674; EO 12731

CFR Citation: 5 CFR 2640 (New)

Legal Deadline: None

Abstract: Regulation will list and describe interests which are considered to be too remote or too inconsequential to affect the integrity of the services of executive branch officers or employees, in accordance with 18 U.S.C. 208(b)(2). Such interests will be exempt from the restrictions of 18 U.S.C. 208(a), generally requiring disqualification. The regulation will also provide guidance to executive branch agencies as to the kinds of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from an employee and which, therefore, may be waived from the general rule of disqualification under 18 U.S.C. 208(a) pursuant to 18 U.S.C. 208(b)(1). In addition, guidance will be provided concerning the issuance of waivers to special Government employee advisory committee members pursuant to 18 U.S.C. 208(b)(3).

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: RIN 3209-AA10 was merged into this regulation on March 2, 1993.

Agency Contact: Marilyn L. Glynn, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA09

4065. POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

Significance: Agency Priority

Legal Authority: 5 USC app (Ethics in Government Act of 1978, secs. 402 & 404); 18 USC 207; EO 12674; EO 12731

CFR Citation: 5 CFR 2641; 5 CFR 2637 (Continuation)

Legal Deadline: None

Abstract: Interpretive regulation giving guidance for the executive branch on the various substantive restrictions of the current version of the post-Government employment conflict of interest statute 18 U.S.C. 207, which became effective January 1, 1991, pursuant to title I of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Parts of the regulation, dealing with procedures for waivers by the Office of Government Ethics of certain senior official constraints (based on executive agency hardship), designated senior employees and separate agency designations, have already been published in the Federal Register. The Office of Government Ethics also has continued to publish in the CFR the interpretive regulation, 5 CFR part 2637 (but now without the no-longer-effective former Senior Employee and old agency component designation listings), under the lifetime bar of the prior version of the post-employment law which still applies to executive branch employees who left the Government before January 1, 1991.

Timetable:

Action	Date	FR Cite
Interim Final Rule - RIN 3209-AA08 Now Merged Herein	02/01/91	56 FR 3951

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Action	Date	FR Cite
Designation of Senior Employees and Separate Agency Components	01/28/92	57 FR 3115
Designation of Additional Separate Agency Component	04/07/92	57 FR 11673
Amendment to Prior Post-employment Regulation (Part 2637)	12/31/92	57 FR 62467
Amendment to Interim Final Rule (Part 2641)	05/00/93	
Interim Final Rule	11/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Julia Loring Eirinberg, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA14

OFFICE OF GOVERNMENT ETHICS (OGE) — Completed Actions

4066. GUIDANCE ON ISSUANCE OF AD HOC WAIVERS PURSUANT TO 18 U.S.C. 208(B)(1) AND 208(B)(3)

Significance: Agency Priority

Legal Authority: 18 USC 208; 5 USC app (Ethics in Government Act of 1978, title IV); EO 12674; EO 12731

CFR Citation: 5 CFR 2640 (New)

Legal Deadline: None

Abstract: Regulation will provide guidance to executive branch agencies as to the kinds of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from an employee and which, therefore, may be waived from the general rule of disqualification under 18 U.S.C. 208(a) pursuant to 18 U.S.C. 208(b)(1). Guidance will also be provided concerning the issuance of waivers to special Government employee advisory committee members pursuant to 18 U.S.C. 208(b)(3).

Timetable:

Action	Date	FR Cite
Merged into RIN 3209-AA09	03/02/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn L. Glynn, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA10

[FR Doc. 93-7028 Filed 04-23-93; 8:45 am]
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Part XXXII

Office of Management and Budget

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OFFICE OF MANAGEMENT AND BUDGET (OMB)

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III and 48 CFR Ch. 99

Federal Regulations; OMB Circulars, OFPP Policy Letters, and CASB Cost Accounting Standards Included in the Semiannual Agenda of Federal Activities

AGENCY: Office of Management and Budget

ACTION: Publication of semiannual agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities for OMB Circulars, Office of Federal Procurement Policy (OFPP) Policy Letters, and Cost Accounting Standards Board (CASB) Cost Accounting Standards.

OMB Circulars and OFPP Policy Letters are published in accordance with OMB's internal procedures for implementing Executive Order No. 12291. OMB policy guidelines are issued under authority derived from several sources including: Subtitles I, II, and V of title 31, United States Code; Executive Order No. 11541; and other specific authority as cited. OMB Circulars and OFPP Policy Letters communicate guidance, instructions, and information of a continuing nature to executive branch agencies. As such, OMB Circulars and OFPP Policy Letters are not regulations. Nonetheless, because these issuances are typically of public interest, they are generally published in the **Federal Register** in both proposed (for public comment) and final stages. For this reason, they are presented below in the standard format of "prerule," "proposed rule," and "final rule" stages.

CASB Cost Accounting Standards are issued under authority derived from 41 U.S.C. 422. Cost Accounting Standards are rules governing the measurement, assignment, and allocation of costs to contracts with the United States Government.

For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President's budget and legislative programs and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact John B. Arthur, (202) 395-7250, at the above address.

Dated: March 24, 1993.

John B. Arthur,

Assistant Director for Administration

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4067	Performance of Commercial Activities (Circular No. A-76)	0348-AA45
4068	Unfunded Pension Costs	0348-AB18
4069	Recognition and Pricing of Changing Capital Asset Values Resulting From Mergers and Business Combinations	0348-AB20
4070	Accounting for the Pricing of Fully Funded Defined Benefit Pension Plans in Government Contracts	0348-AB21

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4071	Audit Followup (Circular No. A-50)	0348-AB09
4072	A Guide for Writing and Administering Performance Statements of Work for Service Contracts (OFPP Pamphlet No. 4)	0348-AA34
4073	Cost Principles for State and Local Governments (Circular No. A-87)	0348-AA83
4074	Major System Acquisitions (Circular No. A-109)	0348-AA97
4075	Cost Principles for Nonprofit Organizations (Circular No. A-122)	0348-AB01
4076	Internal Control Systems (Circular No. A-123)	0348-AB02
4077	Audits of State and Local Governments (Circular No. A-128)	0348-AA90
4078	Statistical Policy Directives	0348-AA43
4079	Thresholds for Cost Accounting Standards Coverage	0348-AB17

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4080	Policies on Government Publications (Circular No. A-3)	0348-AA77
4081	Cost Principles for Educational Institutions (Circular No. A-21)	0348-AA93
4082	Federal Government User Charges Policy (Circular No. A-25)	0348-AA41

OMB

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4083	Policy Governing Charges for Rental Quarters and Other Facilities (Circular No. A-45)	0348-AA85
4084	Indirect Cost Rates, Audit and Audit Followup at Educational Institutions (Circular No. A-88)	0348-AB07
4085	Uniform Requirements for Assistance to State and Local Governments (Circular No. A-102)	0348-AA96
4086	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations (Circular No. A-110)	0348-AA98
4087	Management of Federal Audiovisual Activities (Circular No. A-114)	0348-AA84
4088	Federal Participation in the Development and Use of Voluntary Standards (Circular No. A-119)	0348-AA99
4089	Guidelines for the Use of Advisory and Assistance Services (Circular A-120)	0348-AB00
4090	Financial Management Systems (Circular No. A-127)	0348-AA89
4091	Policies on Management of Federal Information Resources (Circular No. A-130)	0348-AA76
4092	Value Engineering (Circular No. A-131)	0348-AB10
4093	Application of Cost Accounting Standards to Colleges and Universities	0348-AB16
4094	Automated Procurement Systems (OFPP Policy Letter)	0348-AB11
4095	Management Oversight of Service Contracting (OFPP Policy Letter)	0348-AB13

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4096	Office of Management and Budget's Directives System to Executive Departments and Agencies (Circular No. A-1)	0348-AA91
4097	Federal Credit Policy (Circular No. A-70)	0348-AA94
4098	Guideline and Discount Rates for Benefit-Cost Analysis of Federal Programs (Circular No. A-94)	0348-AB08
4099	Managing Federal Credit Programs (Circular A-129)	0348-AB04
4100	Procurement of Environmentally Sound and Energy Efficient Products and Services (OFPP Policy Letter)	0348-AB15

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Prerule Stage

4067. PERFORMANCE OF COMMERCIAL ACTIVITIES (CIRCULAR NO. A-76)

Legal Authority: 31 USC 503(b); 31 USC 1111; 31 USC 1114(a); 41 USC 405(a), sec 6(a), The OFPP Act, as amended; EO 8248, sec 2, as amended; Reorganization Plan No. 2 of 1970; EO 11541, sec 1, as amended; EO 12615, sec 2

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-76, last revised in August 1983, sets forth the policy of acquiring commercial products and services from the private sector, and provides guidance on the development of performance work statements and on comparing the cost of Government performance with contractor performance. This Circular is currently under revision to incorporate changes including those recommended by the President's Council for Management Improvement.

Timetable:

Action	Date	FR Cite
Under Review	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David C. Childs, Policy Analyst, Office of Management and Budget, General Management Division, Washington, DC 20503, 202 395-6104

RIN: 0348–AA45

4068. UNFUNDED PENSION COSTS

Legal Authority: 41 USC 422

CFR Citation: 48 CFR ch 99

Legal Deadline: None

Abstract: This rule deals with the treatment of pension costs attributable to unfunded government contractor pension plans.

Timetable:

Action	Date	FR Cite
ANPRM	01/25/93	58 FR 6103
ANPRM Comment Period End	04/12/93	58 FR 6103
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Robert Lynch, Project Director, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-3254

RIN: 0348–AB18

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Prerule Stage

4069. RECOGNITION AND PRICING OF CHANGING CAPITAL ASSET VALUES RESULTING FROM MERGERS AND BUSINESS COMBINATIONS

Legal Authority: 41 USC 422

CFR Citation: 48 CFR ch 99

Legal Deadline: None

Abstract: This rule deals with the measurement and assignment of the costs resulting from the recognition of changing capital asset values established subsequent to mergers and business combinations by Government contractors.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rein Abel, Director of Research, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-3254

RIN: 0348–AB20

4070. ACCOUNTING FOR THE PRICING OF FULLY FUNDED DEFINED BENEFIT PENSION PLANS IN GOVERNMENT CONTRACTS

Legal Authority: 41 USC 422

CFR Citation: 48 CFR ch 99

Legal Deadline: None

Abstract: This rule deals with the measurement and assignment of the costs of defined benefit pension plans, to Government contracts, in situations in which plan funding has been subject to certain limitations prescribed in the Internal Revenue Code under the Omnibus Budget Reconciliation Act of 1987, PL 100-203, 101 Stat 1330-1331, as well as the 1986 Tax Reform Act, PL 99-514, 100 Stat 2085.

Timetable:

Action	Date	FR Cite
ANPRM	01/26/93	58 FR 6103
ANPRM Comment Period End	04/12/93	58 FR 6103

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Robert Lynch, Project Director, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-3254

RIN: 0348–AB21

OFFICE OF MANAGEMENT AND BUDGET (OMB)

Proposed Rule Stage

4071. AUDIT FOLLOWUP (CIRCULAR NO. A-50)

Legal Authority: PL 100-504, Amending the Inspector General Act of 1978

CFR Citation: None

Legal Deadline: None

Abstract: The revision of Circular A-50 is to incorporate management reporting requirements and definitions contained in P.L. 100-504.

Timetable:

Action	Date	FR Cite
Proposed Revision	04/00/93	
Final Revision	06/30/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kathleen Turco, Management Analyst, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503, 202 395-6911

RIN: 0348–AB09

4072. A GUIDE FOR WRITING AND ADMINISTERING PERFORMANCE STATEMENTS OF WORK FOR SERVICE CONTRACTS (OFPP PAMPHLET NO. 4)

Legal Authority: 31 USC 1112; 31 USC 1114; 41 USC 401 et seq

CFR Citation: None

Legal Deadline: None

Abstract: Proposed revision of A-76 no longer includes this as part of its mandatory documentation. OFPP Pamphlet No. 4 will be withdrawn upon publication of the revised OMB Circular A-76.

Timetable:

Action	Date	FR Cite
To Be Withdrawn	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Linda Mesaros, Management Analyst, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-4821

RIN: 0348–AA34

4073. COST PRINCIPLES FOR STATE AND LOCAL GOVERNMENTS (CIRCULAR NO. A-87)

Legal Authority: 31 USC 1111; PL 101-576, sec 503(a) and (b), CFO Act of 1990

CFR Citation: None

Legal Deadline: None

Abstract: This review will update the circular.

Timetable:

Action	Date	FR Cite
Proposed Revision	06/00/93	
Final Revision	01/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Palmer Marcantonio, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503, 202 395-3993

RIN: 0348–AA83

OMB

Proposed Rule Stage

4074. MAJOR SYSTEM ACQUISITIONS (CIRCULAR NO. A-109)

Legal Authority: 31 USC 1111; 41 USC 405

CFR Citation: 48 CFR 1

Legal Deadline: None

Abstract: OMB Circular No. A-109 is intended to ensure the effectiveness and efficiency of the Major System Acquisition Process. The Circular is being revised to incorporate statutory, policy and management changes that have occurred since it was first issued in 1976.

Timetable:

Action	Date	FR Cite
Request for Public Comment on Existing Circular	07/03/91	56 FR 30601
Publish Proposed Rule for Comment	06/00/93	
Issue Revised Circular	09/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Wayne Amchin, Management Analyst, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-4908

RIN: 0348–AA97

4075. COST PRINCIPLES FOR NONPROFIT ORGANIZATIONS (CIRCULAR NO. A-122)

Legal Authority: PL 101-576, sec 503(a) and (b), CFO Act of 1990

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This review will update the Circular.

Timetable:

Action	Date	FR Cite
Proposed Revision	06/00/93	
Final Revision	10/00/93	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Jack Sheehan, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503, 202 395-3993

RIN: 0348–AB01

4076. INTERNAL CONTROL SYSTEMS (CIRCULAR NO. A-123)

Legal Authority: PL 97-255 Federal Managers' Financial Integrity Act; 31 USC 3512

CFR Citation: Not applicable

Legal Deadline: None

Abstract: OMB Circular A-123 implements the Federal Managers' Financial Integrity Act (FMFIA) and establishes policies and procedures for internal control reviews. The Circular will be reviewed for opportunities to simplify the internal control process.

Timetable:

Action	Date	FR Cite
Proposed Revision	05/30/93	
Final Revision	07/31/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Wendy Zenker, Management Analyst, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503, 202 395-6911

RIN: 0348–AB02

4077. AUDITS OF STATE AND LOCAL GOVERNMENTS (CIRCULAR NO. A-128)

Legal Authority: 31 USC 7501; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This Circular establishes requirements for audits of State and Local Governments.

Timetable:

Action	Date	FR Cite
Proposed Revision	06/00/93	
Final Revision	10/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Palmer Marcantonio, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503, 202 395-3993

RIN: 0348–AA90

4078. STATISTICAL POLICY DIRECTIVES

Legal Authority: 31 USC 1104(d); 44 USC 3504(d)(4)

CFR Citation: None

Legal Deadline: None

Abstract: The Directives give general policies for gathering, compiling, analyzing, publishing, and disseminating statistical information by the agencies in the Executive Branch of the Federal Government. A draft Circular was issued for public comment on January 20, 1988. The public comment period was subsequently extended to July 15, 1988. A revised draft circular is planned to be issued for public comment by April 1994. The final circular is planned for December 1994

Timetable:

Action	Date	FR Cite
Draft Circular for Public Comment	01/20/88	53 FR 1542
Revised Draft for Public Comment	04/00/94	
Final Circular	12/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katherine Wallman, Chief, Statistical Policy, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, 202 395-3093

RIN: 0348–AA43

4079. THRESHOLDS FOR COST ACCOUNTING STANDARDS COVERAGE

Legal Authority: 41 USC 422

CFR Citation: 48 CFR ch 99

Legal Deadline: None

Abstract: This rule will adjust thresholds for the application of the Cost Accounting Standards to negotiated government prime contracts and subcontracts.

Timetable:

Action	Date	FR Cite
ANPRM	10/16/92	57 FR 47438
ANPRM Comment Period End	12/15/92	57 FR 47438
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

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OMB — Proposed Rule Stage

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard C. Loeb, Executive Secretary, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-3254

RIN: 0348–AB17

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Final Rule Stage

4080. POLICIES ON GOVERNMENT PUBLICATIONS (CIRCULAR NO. A-3)

Legal Authority: 44 USC 1108

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-3, "Government Publications", last revised in May 1985, prescribes policies and procedures for approving funding for government periodicals to fulfill the requirements of 44 USC 1108, and for reporting periodicals and non-recurring publications. OMB is proposing to incorporate this Circular, with revisions, into OMB Circular No. A-130, "Management of Federal Information Resources." On August 18, 1989, OMB issued OMB Bulletin No. 89-15 which effected certain revisions to Circular A-3 in reporting requirements. OMB Bulletin No. 90-09, issued July 31, 1990, repeated these revisions to Circular No. A-3. On March 4, 1991, OMB published plans for revising Circular No. A-130, of which Circular No. A-3 will become part.

Timetable:

Action	Date	FR Cite
Begin Review	01/04/88	
Advance Proposal to Replace Circular	01/04/89	54 FR 214
Comment Period End	04/10/89	
Second Advance Proposal To Replace Circular	06/15/89	54 FR 25554
Third Advance Proposal To Replace Circular	03/04/91	56 FR 9026
Notice of Rescission	10/01/91	56 FR 49824
Proposed Rescission of Circular, Incorporation Into Circular No. A-130	04/29/92	57 FR 18296
Final Rescission	04/30/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter N. Weiss, Senior Policy Analyst, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, 202 395-4814

RIN: 0348–AA77

4081. COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS (CIRCULAR NO. A-21)

Significance: Agency Priority

Legal Authority: PL 101-576, sec 503(a) and (b), CFO Act of 1990

CFR Citation: Not applicable

Legal Deadline: None

Abstract: OMB Circular A-21 establishes Governmentwide accounting principles for the direct and indirect (allocated overhead) costs of Federal grants and contracts with colleges and universities. The Circular divides allocated overhead costs into seven "cost pools" that form the basis of a university's indirect cost rate. Four of these pools are for administrative costs. In Fiscal Year (FY) 1989 estimated Federal payments for university overhead were about $2.5 billion of an estimated $9.2 billion for direct scientific research. The problem of rising overhead costs has been the subject of continuing and extensive debate.

Timetable:

Action	Date	FR Cite
Final Revision No. 1	10/01/91	56 FR 50224
Publish Draft for Comment	12/09/92	57 FR 58394
Final Revision No. 2	04/00/93	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Jack Sheehan, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503, 202 395-3993

RIN: 0348–AA93

4082. FEDERAL GOVERNMENT USER CHARGES POLICY (CIRCULAR NO. A-25)

Legal Authority: 31 USC 9701

CFR Citation: None

Legal Deadline: None

Abstract: General policies for Federal agencies on administering user charges and formulating legislative proposals regarding user charges are set forth in OMB Circular No. A-25. Public comments have been received on a revised draft of the Circular. Currently pending final approval.

Timetable:

Action	Date	FR Cite
Draft Published for Comment	01/21/92	57 FR 2293
Public Comment Period End	02/15/92	57 FR 2293
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Deborah M. Saunders, Financial Economist, Office of Management and Budget, Budget Analysis and Systems Division, Washington, DC 20503, 202 395-3673

RIN: 0348–AA41

4083. POLICY GOVERNING CHARGES FOR RENTAL QUARTERS AND OTHER FACILITIES (CIRCULAR NO. A-45)

Legal Authority: 5 USC 5911(f); EO 11609, Sec 9

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-45 was issued to provide policy guidance regarding charges for rental quarters and other Government facilities. OMB is reviewing this Circular pursuant to the provisions of paragraph 9 of the Circular, dated March 28, 1984. Public comments have been analyzed and a final draft of the circular is being coordinated.

Timetable:

Action	Date	FR Cite
NPRM	11/22/91	57 FR 58935
Draft Published for Comment	11/22/91	56 FR 58935
NPRM Comment Period End	12/23/91	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard A. Ong, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-7209

RIN: 0348–AA85

OMB — Final Rule Stage

4084. INDIRECT COST RATES, AUDIT AND AUDIT FOLLOWUP AT EDUCATIONAL INSTITUTIONS (CIRCULAR NO. A-88)

Legal Authority: 31 USC 1111; PL 101-576, Chief Financial Officers Act of 1990

CFR Citation: None

Legal Deadline: None

Abstract: This Circular provides policies for:

(a) establishing indirect cost rates;

(b) auditing;

(c) correcting systems deficiencies; and

(d) resolving questioned cost.

This Circular will be rescinded.

Timetable:

Action	Date	FR Cite
Notice of Rescission	10/01/91	56 FR 49824
Rescission	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Palmer Marcantonio, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503, 202 395-3993

RIN: 0348–AB07

4085. UNIFORM REQUIREMENTS FOR ASSISTANCE TO STATE AND LOCAL GOVERNMENTS (CIRCULAR NO. A-102)

Legal Authority: 42 USC 4212 et seq; 41 USC 401 et seq

CFR Citation: None

Legal Deadline: None

Abstract: The purpose of the review is to update the Circular to include statutory changes passed since the issuance of the Circular on March 11, 1988.

Timetable:

Action	Date	FR Cite
Proposed Revision	08/05/92	57 FR 34599
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Palmer Marcantonio, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503, 202 395-3993

RIN: 0348–AA96

4086. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS (CIRCULAR NO. A-110)

Legal Authority: 41 USC 401 et seq

CFR Citation: None

Legal Deadline: None

Abstract: The proposed changes will update the administrative requirements contained in the Circular.

Timetable:

Action	Date	FR Cite
Proposed Revision	09/27/92	57 FR 39018
Final Revision	05/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Palmer A. Marcantonio, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503, 202 395-3993

RIN: 0348–AA98

4087. MANAGEMENT OF FEDERAL AUDIOVISUAL ACTIVITIES (CIRCULAR NO. A-114)

Legal Authority: 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-114 was issued to produce policies governing the consolidation, use, and management of federal audiovisual resources.

Timetable:

Action	Date	FR Cite
Proposed Incorporation Into A-130	04/29/92	57 FR 18296
Final Rescission	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: The principal policies in OMB Circular No. A-114, "Management of Audiovisual Activities" will be consolidated into a revised OMB Circular No. A-130, "Management of Federal Information Resources." OMB Circular No. A-114 will then be canceled.

Agency Contact: Linda Mesaros, Management Analyst, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-4821

RIN: 0348–AA84

4088. FEDERAL PARTICIPATION IN THE DEVELOPMENT AND USE OF VOLUNTARY STANDARDS (CIRCULAR NO. A-119)

Legal Authority: 31 USC 1111

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This Circular encourages Federal participation in the development of voluntary standards, and the use of such standards in procurement, regulatory and other applications. Consideration will be given to revising the Circular to strengthen provisions relating to agency implementation, and other appropriate improvements.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/91	
Revision Published for Comment	03/20/92	57 FR 9749

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Action	Date	FR Cite
Promulgate Revised Circular	04/00/93	
End Review	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Chris Jordan, Policy Analyst, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-6810

RIN: 0348–AA09

4089. GUIDELINES FOR THE USE OF ADVISORY AND ASSISTANCE SERVICES (CIRCULAR A-120)

Legal Authority: 41 USC 405; 31 USC 1111

CFR Citation: 48 CFR 1

Legal Deadline: None

Abstract: Circular A-120 defines advisory and assistance services, establishes management controls, and assigns responsibilities to the agency head for the effective use of these services. A new more comprehensive approach-- in the form of an OFPP Policy Letter on the "Management Oversight of Service Contracting" -- is being developed to replace A-120. The Policy Letter provides specific guidance on what constitutes good management practices to prevent abuses in the use of service contracting.

Timetable:

Action	Date	FR Cite
Development of Draft Policy Letter	07/30/91	
Internal OMB Clearance	08/23/91	
Obtain Agency Comments	09/13/91	
Publish Draft for Comment	12/20/91	56 FR 66091
Publish Proposed Rescission Notice	12/20/91	56 FR 66089
Comment Period End	02/18/92	
Issue Final Policy Letter And Rescission Notice	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Linda G. Williams, Deputy Associate Administrator for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-3302

RIN: 0348–AB00

4090. FINANCIAL MANAGEMENT SYSTEMS (CIRCULAR NO. A-127)

Legal Authority: 31 USC 3512, Federal Managers' Financial Integrity Act; PL 101-576, Chief Financial Officers Act of 1990

CFR Citation: None

Legal Deadline: None

Abstract: Circular A-127 provides guidance to the Executive Branch on the development and operation of financial management systems. Issued December 19, 1984, the Circular is being revised to: (1) reflect passage of the Chief Financial Officers Act; and (2) clarify policy guidance concerning financial management systems.

Timetable:

Action	Date	FR Cite
Proposed Revision	01/22/93	58 FR 5776
Final Revision	05/28/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jean Holcombe, Office of Federal Financial Management, Office of Management and Budget, Washington, DC, 20503, 202 395-6903

RIN: 0348–AA89

4091. POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (CIRCULAR NO. A-130)

Legal Authority: 44 USC 3504; 5 USC 552a; 40 USC 759; 40 USC 487

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-130, "Management of Federal Information Resources," issued December 12, 1985, establishes policy for the management of Federal information resources, and provides certain procedural and analytic guidelines for implementing specific aspects of these policies. OMB is reviewing the Circular for consistency with the Computer Security Act of 1987 (PL 100-235) and the Computer Matching and Privacy Protection Act of 1988. On April 29, 1992, OMB published the first of two proposed revisions to the Circular.

Timetable:

Action	Date	FR Cite
Begin Review	01/04/88	
Advance Proposal of Changes	01/04/89	54 FR 214
Comment Period End	04/10/89	
Second Advance Proposal To Replace Circular	06/15/89	54 FR 25554
Third Advance Proposal To Replace Circular	03/04/91	56 FR 9026
Proposal To Replace Circular	04/29/92	57 FR 18296
Finalize Phase I Revisions, Propose Phase II Revisions	04/30/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter N. Weiss, Senior Policy Analyst, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, 202 395-4814

RIN: 0348–AA76

4092. VALUE ENGINEERING (CIRCULAR NO. A-131)

Legal Authority: 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This Circular was issued in January 1988 to require the use of value engineering, when appropriate, to identify and reduce nonessential procurement and program costs. The Circular is being revised to foster agency implementation and greater use of value engineering techniques.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/91	
Publish Revised Circular for Comment	09/10/92	57 FR 41524
End Review	11/30/92	
Issue Revised Circular	04/00/93	

Small Entities Affected: None

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Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Wayne Amchin or Chuck Clark, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-6803

RIN: 0348–AB10

4093. APPLICATION OF COST ACCOUNTING STANDARDS TO COLLEGES AND UNIVERSITIES

Significance: Agency Priority

Legal Authority: 41 USC 422

CFR Citation: 48 CFR ch 99

Legal Deadline: None

Abstract: The Cost Accounting Standards Board is considering the development of Cost Accounting Standards and an applicable disclosure statement for application to colleges and universities that receive federal contracts.

Timetable:

Action	Date	FR Cite
ANPRM	06/02/92	57 FR 23189
ANPRM Comment Period End	08/03/92	57 FR 23189
NPRM	12/21/92	57 FR 60503
NPRM Comment Period End	03/05/93	57 FR 60503
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Rudolph Schuhbauer, Project Director, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-3254

RIN: 0348–AB16

4094. AUTOMATED PROCUREMENT SYSTEMS (OFPP POLICY LETTER)

Legal Authority: 41 USC 405

CFR Citation: None

Legal Deadline: None

Abstract: Proposed Policy Letter, "Automated Procurement Data Systems" establishes policies for improving the management and control of automated data systems. The Policy Letter requires agencies to utilize appropriate internal management controls to obtain accurate, complete, and timely reporting of data on Federal contracting. It also requires agencies to minimize duplication associated with designing and developing automated procurement systems.

Timetable:

Action	Date	FR Cite
Draft for Public Comment	04/27/92	57 FR 15338
Comment Period End	06/26/92	
Issue Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Linda G. Williams, Deputy Associate Administrator for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-3302

RIN: 0348–AB11

4095. MANAGEMENT OVERSIGHT OF SERVICE CONTRACTING (OFPP POLICY LETTER)

Legal Authority: 41 USC 405

CFR Citation: 48 CFR 1

Legal Deadline: None

Abstract: Proposed Policy Letter, "Management Oversight of Service Contracting", focuses on specific types of service contracting problems and mandates greater management controls in the acquisition and use of such contracts. A series of questions are provided as guidelines for agencies to use in improving controls in the five areas that require increased managerial attention: inherently governmental functions, competition,control, cost effectiveness, and conflicts of interest.

Timetable:

Action	Date	FR Cite
Draft for Public Comment	12/20/91	56 FR 66091
Comment Period End	02/18/92	
Issue Final Rule	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Linda G. Williams, Deputy Associate Administrator for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-3302

RIN: 0348–AB13

OFFICE OF MANAGEMENT AND BUDGET (OMB)

Completed Actions

4096. OFFICE OF MANAGEMENT AND BUDGET'S DIRECTIVES SYSTEM TO EXECUTIVE DEPARTMENTS AND AGENCIES (CIRCULAR NO. A-1)

Legal Authority: See preamble

CFR Citation: Not applicable

Legal Deadline: None

Abstract: OMB Circular A-1 describes the OMB directives system used to convey policy, provide guidance, and communicate instruction to executive departments and agencies.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/91	
No Further Action Expected	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: Darrell A. Johnson, Deputy Assistant Director for Administration, Office of Management and Budget, Washington, DC 20503, 202 395-7250

RIN: 0348–AA91

4097. FEDERAL CREDIT POLICY (CIRCULAR NO. A-70)

Legal Authority: PL 93-344, The Congressional Budget and Impoundment Act of 1974; PL 101-508, title XIII, section 13201(a)

CFR Citation: Not applicable

Legal Deadline: None

Abstract: OMB Circular No. A-70 provides guidance to Federal agencies in reviewing or proposing credit program legislation, and other credit program policies and procedures, including the measurement of the subsidy element of Federal Credit Programs. Circular A-70 policies will be incorporated into Circular A-129, "Managing Federal Credit Programs", which is being revised. Circular A-70 will be terminated upon final issuance of A-129.

Timetable:

Action	Date	FR Cite
Notice of Rescission	10/01/91	56 FR 49824
Final Action Effective	01/11/93	
Final Action - Circular A-70 was rescinded/replaced by A-129, as revised	01/22/93	58 FR 5765

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Kim Burke, Office of Management and Budget, Budget Analysis and Systems Division, Washington, DC 20503, 202 395-3930

RIN: 0348–AA94

4098. GUIDELINE AND DISCOUNT RATES FOR BENEFIT-COST ANALYSIS OF FEDERAL PROGRAMS (CIRCULAR NO. A-94)

Legal Authority: 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-94 includes guidance for the conduct of benefit-cost and cost-effectiveness analysis. It also includes guidelines for lease purchase analysis that were formerly covered by OMB Circular A-104, which has been rescinded. Circular A-94 sets a standard 7-percent real discount rate for use in benefit-cost and cost-effectiveness analysis. It specifies use of Treasury borrowing rates for lease-purchase analysis.

Timetable:

Action	Date	FR Cite
Proposed Revision	11/05/91	56 FR 56673
Public Comment Period End	02/28/92	
Revised Draft for Comment	08/10/92	57 FR 35613
Public Comment Period End	09/01/92	
Final Action - Issued Final Circular No. A-94	11/10/92	57 FR 53519

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Joseph J. Minarik, Associate Director for Economic Policy, Office of Management and Budget, Executive Office of the President, Washington, DC 20503, 202 395-5873

RIN: 0348–AB08

4099. MANAGING FEDERAL CREDIT PROGRAMS (CIRCULAR A-129)

Legal Authority: 31 USC 1111

CFR Citation: Not applicable

Legal Deadline: None

Abstract: OMB Circular A-129 prescribes policies and procedures for managing Federal Credit Programs. It was last revised November 25, 1988. Revision will: (1) eliminate detailed operating guidance already provided to Executive Branch Agencies through the Department of Treasury's TFM (Treasury Financial Manual); (2) incorporate relevant portions of OMB Circular A-70, "Federal Credit Policy" (which will be terminated after final action on A-129); and (3) incorporate policy guidance on the management of guaranteed loans from OMB Bulletin 91-05 (November 26, 1990). The text of a proposed agreement between Federal agencies and private lenders participating in guaranteed loan programs will also be published. The agreement will reflect the requirements and standards in the revised circular.

Timetable:

Action	Date	FR Cite
Final Action - Issued Final Circular No. A-129	01/22/93	58 FR 5765

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: ADDITIONAL AGENCY CONTACT: Kim Burke, Office of Management and Budget, Budget Analysis and Systems Division, Washington, DC 20503, (202) 395-3930.

Agency Contact: Thomas Stack, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503, 202 395-3066

RIN: 0348–AB04

4100. PROCUREMENT OF ENVIRONMENTALLY SOUND AND ENERGY EFFICIENT PRODUCTS AND SERVICES (OFPP POLICY LETTER)

Legal Authority: 42 USC 6902; 41 USC 405

CFR Citation: 48 CFR 23

Legal Deadline: None

Abstract: This Policy Letter will establish governmentwide policies and procedures to foster the acquisition and use of environmentally sound products and services. The Policy Letter will supersede OFPP Policy Letter 76-1, "Federal Procurement Policy concerning Energy Conservation", dated August 6, 1976 and OFPP Policy Letter 77-1, "Procurement of Products that Contain Recycled Material", dated February 2, 1977.

Timetable:

Action	Date	FR Cite
Draft for Public Comment	03/24/92	57 FR 10194
Final Action - Issued Final Policy Letter	11/09/92	57 FR 33362

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Linda Mesaros and Cyndi Vallina, Management Analysts, Office of Management and Budget.

Office of Federal Procurement Policy, Washington, DC 20503, 202 395-4821

RIN: 0348–AB15

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Part XXXIII

Office of Personnel Management

Semiannual Regulatory Agenda

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OFFICE OF PERSONNEL MANAGEMENT (OPM)

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Office of Personnel Management regulations are scheduled for development or review from April 1, 1993, through March 31, 1994. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12291 "Federal Regulation" and the Regulatory Flexibility Act (5 U.S.C. chapter 6). This publication in the Federal Register does not impose a binding obligation on the Office of Personnel Management with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded.

FOR FURTHER INFORMATION CONTACT: JoAnn G. Blackler, (202) 606-1973.

U.S. Office of Personnel Management.

Patricia W. Lattimore,

Acting Director.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4101	Stay-in-School Program	3206-AE52
4102	Availability of Official Information	3206-AF42
4103	Use of Private Sector Temporaries	3206-AE80
4104	Amendment to Selective Service Registration Requirements	3206-AD68
4105	Employment of Individual Experts and Consultants	3206-AF37
4106	Senior Executive Service Recertification	3206-AF44
4107	Repayment of Student Loans	3206-AE51
4108	Rulemaking to Implement the HRD Policy Initiatives on Needs Assessment	3206-AF05
4109	Pay Under the General Schedule; Locality-Based Comparability Payments	3206-AF39
4110	Pay Under the General Schedule; Locality-Based Comparability Payments	3206-AF46
4111	Lump-Sum Payments for Annual Leave	3206-AF38
4112	Pay Administration Under the FLSA: Compliance	3206-AA40
4113	Allowances and Differentials; Uniform Allowances	3206-AE36
4114	Allowances and Differentials; Cost-of-Living Allowance and Post Differential - Nonforeign Areas	3206-AF40
4115	Allowances and Differentials; Cost-of-Living Allowance and Post Differential - Nonforeign Areas	3206-AF41
4116	Pay Administration (Allowances); Allowance Based on Duty at Remote Worksites	3206-AF15
4117	Absence and Leave; Sick Leave	3206-AE95
4118	Federal Equal Opportunity Recruitment Program	3206-AE05
4119	Disabled Veterans Affirmative Action Program (DVAAP)	3206-AE07
4120	Political Activity of Federal Employees	3206-AA47
4121	Retirement; Cost-of-Living Adjustments	3206-AF31
4122	Retirement; Credit and Deposits for Military Service	3206-AB73
4123	Retirement; Debt Collection	3206-AE72
4124	Retirement; Credit for Military Service	3206-AD87
4125	Federal Employees' Group Life Insurance Program; Merging of Parts of CFR Pertaining to Life Insurance	3206-AF32
4126	Federal Employees Health Benefits Program; Legal Actions on Changes to Disputed Claims Provisions	3206-AF18
4127	Federal Employees Health Benefits Program; Reserves	3206-AF33
4128	Federal Employees Health Benefits Program; Miscellaneous Amendments	3206-AF45
4129	Voting Rights Program	3206-AD98
4130	Miscellaneous Federal Employees Health Benefits Acquisition Regulation (FEHBAR) Amendments	3206-AE67
4131	OPM Procurement Regulations	3206-AB28

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4132	Federal Employees' Health Benefits Program; Continuation of Coverage for Temporary Employees on OWCP	3206-AF17
4133	Claims Collection Standards; Debt Collection Act of 1982; Administrative Offset	3206-AF28
4134	Claims Collection Standards; Debt Collection Act of 1982; Salary Offset	3206-AF29
4135	Implementation of the Program Fraud Civil Remedies Act of 1986	3206-AF43
4136	Organization of the Government for Personnel Management, Personnel Management in Agencies	3206-AA66
4137	Amendment to Veterans' Readjustment Appointment Regulations	3206-AE59
4138	Senior Executive Service Reassignments and Pay Setting	3206-AE77
4139	Advance Certification To Participate in Retraining and Placement Assistance Programs	3206-AF00

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Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4140	Job Listings; Full Consideration of Displaced Defense Employees	3206-AF36
4141	Promotion and Internal Placement	3206-AF09
4142	Reduction in Force—Permissive Temporary Exception	3206-AF04
4143	Executive, Management, and Supervisory Development	3206-AC12
4144	Pay Rates and Systems (General); Aggregate Limitation on Pay	3206-AE21
4145	Metric Conversion	3206-AE88
4146	Wage Area Redefinition	3206-AF12
4147	Pay Administration (General); Advance Payments for New Employees	3206-AE30
4148	Payments During an Evacuation	3206-AF25
4149	Hazard Pay for General Schedule Employees; Exposure to Asbestos	3206-AE18
4150	Pay Administration (General); Pay for Duty Involving Physical Hardship or Hazard	3206-AE31
4151	Processing Garnishment Orders for Child Support and/or Alimony	3206-AB42
4152	Processing Garnishment Orders for Child Support and/or Alimony	3206-AE54
4153	Allowances and Differentials; Cost-of-Living Allowance and Post Differential - Nonforeign Areas	3206-AF13
4154	Suitability—Suitability Disqualification/Rating Actions	3206-AC19
4155	Personnel Security and Related Programs	3206-AC21
4156	Investigations	3206-AB92
4157	Retirement; Disability Retirement	3206-AF24
4158	Retirement; Disability Retirement	3206-AB77
4159	Retirement; Children's Survivor Benefits Based on Student Status	3206-AE40
4160	Retirement; Reemployment of Annuitants	3206-AD60
4161	Retirement; FERS Basic Annuity	3206-AE73
4162	Retirement; FERS Coverage Elections	3206-AE01
4163	Federal Employees' Group Life Insurance; Change in Employee Contribution and Open Enrollment Period	3206-AE65
4164	Federal Employees' Group Life Insurance Program and Federal Employees Health Benefits Program; Benefits for Hostages in Iraq, Kuwait, and Lebanon	3205-AF20
4165	FEGLI; Option Coverage Within 60 Days of a Divorce or Death of a Spouse	3206-AE64
4166	Federal Employees Health Benefits Program: Limitation on Inpatient Hospital Charges and FEHB Program Payments; OBRA of 1990 Provision	3205-AE90
4167	Federal Employees Health Benefits Program; An Opportunity to Change to a Family Enrollment	3206-AF19
4168	Debarments, Civil Monetary Penalties, and Assessments Imposed Against Providers	3206-AD76
4169	Federal Employees' Group Life Insurance Acquisition Regulation	3206-AE04

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4170	Amendment to Excepted Service Appointing Authorities and to Noncompetitive Conversion Privilege	3206-AF06
4171	Schedule A Authorities for Temporary, Seasonal, and Intermittent Employment	3206-AF07
4172	Privacy Procedures for Personnel Records	3206-AF03
4173	Temporary and Term Appointments	3206-AF08
4174	Election to Retain SES Benefits	3206-AE06
4175	Performance Management and Recognition System	3206-AE76
4176	Performance-Based Reduction in Grade and Removal Actions; Adverse Actions	3206-AE96
4177	Pay Rates and Systems (General); Special Salary Rate Schedules for Recruitment and Retention	3206-AE22
4178	Release of Data Collectors	3206-AF01
4179	Special Schedule	3206-AF16
4180	Prevailing Rate Systems	3206-AF26
4181	Prevailing Rate Systems (Nonappropriated Fund)	3206-AF27
4182	Wage Area Redefinition	3206-AE84
4183	Pay Cap Exception/Special Rates	3206-AE99
4184	Wage Area Redefinition	3206-AF11
4185	Pay Administration Under the Fair Labor Standards Act; Overtime Pay Provisions	3206-AE32
4186	Allowances and Differentials; Cost-of-Living Allowance and Post Differential—Nonforeign Areas	3206-AF02
4187	Employee Responsibilities and Conduct	3206-AE93
4188	Agency Administrative Grievance System	3206-AD96
4189	Retirement; Definition of Employee	3206-AF22

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Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4190	Retirement; Debt Collection	3206-AF23
4191	Retirement; FERS Partial Survivor Elections	3206-AE70
4192	Retirement; Disability Retirement	3206-AF21
4193	Retirement; Federal Employees' Retirement System Act of 1986	3206-AE89
4194	Federal Employees Health Benefits (FEHB) Program; Letter of Credit Provisions	3206-AE68
4195	Federal Employees Health Benefits Program; Reenrollment of Certain Annuitants	3206-AD23
4196	Federal Employees Health Benefits Program; Reenrollment of Certain Annuitants	3206-AE91
4197	Federal Employees Health Benefits (FEHB) Program; Letter of Credit Provisions	3206-AE66

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Proposed Rule Stage

4101. STAY-IN-SCHOOL PROGRAM

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 213.3102; 5 CFR 575.103

Legal Deadline: None

Abstract: The Office of Affirmative Recruiting and Employment (OARE) is proposing to revise the Stay-in-School regulations. This revision will include a Schedule B work-study component which will enable students to enter public service after obtaining on-the-job training in their chosen field of study.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	06/30/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Helen Lee, Career Entry Group, Affirmative Recruiting and Employment, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0870

RIN: 3206–AE52

4102. • AVAILABILITY OF OFFICIAL INFORMATION

Legal Authority: 5 USC 552

CFR Citation: 5 CFR 294

Legal Deadline: None

Abstract: This proposed rulemaking makes a number of editorial changes and updates to subpart A of 5 CFR 294, Availability of Official Information. In particular, the section on fees has been rearranged and edited to improve the flow of information. These changes are designed to better ensure that OPM's Freedom of Information Act implementing regulations are clear and understandable.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Ronald Trueworthy, Chief, Information Policy Branch, Office of Information Resources Management, Office of Personnel Management, Administration Group, 1900 E St. NW., CHP 500, Washington, DC 20415, 703 908-8550

RIN: 3206–AF42

4103. USE OF PRIVATE SECTOR TEMPORARIES

Legal Authority: 5 USC 552; 5 USC 1103(a)(5); 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 300, subpart E

Legal Deadline: None

Abstract: We plan to revise the rule based on comments we will receive from Federal agencies, temporary help service firms, and other interested parties.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Thomas O'Connor, Career Entry Group, Staffing Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0960

RIN: 3206–AE80

4104. AMENDMENT TO SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Legal Authority: 5 USC 3328

CFR Citation: 5 CFR 300, subpart G

Legal Deadline: None

Abstract: We will issue revised proposed and final rules delegating authority to agencies to determine whether a Federal job applicant's failure to register with the Selective Service was knowing and willful. This change was authorized by an amendment to 5 U.S.C. 3328 which imposes the selective service registration requirement as a condition of employment in Federal executive agencies. The delegation will permit faster agency decisions for interested job seekers and reduce paperwork.

Timetable:

Action	Date	FR Cite
NPRM	04/29/88	53 FR 15400
Second NPRM	04/00/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas O'Connor, Career Entry Group, Staffing Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0960

RIN: 3206–AD68

OPM

Proposed Rule Stage

4105. • EMPLOYMENT OF INDIVIDUAL EXPERTS AND CONSULTANTS

Legal Authority: 5 USC 3109

CFR Citation: 5 CFR 304

Legal Deadline: None

Abstract: As required by recent statute, OPM is prescribing criteria for the employment and pay of experts and consultants by Federal agencies under 5 U.S.C. 3109, and provisions to ensure compliance.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas O'Connor, Career Entry Group, Staffing Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0960

RIN: 3206–AF37

4106. • SENIOR EXECUTIVE SERVICE RECERTIFICATION

Legal Authority: 5 USC 3393a

CFR Citation: 5 CFR 317

Legal Deadline: None

Abstract: Under the law, career Senior Executive Service (SES) members must be recertified every 3rd calendar year (CY) if they have 156 weeks of continuous service in the SES. The first recertification cycle occurred in CY 1991. Based on experience in that cycle, we intend to revise existing regulations in preparation for the CY 1994 cycle.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neal Harwood, Human Resources Development Group, Office of Executive and Management Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-1610

RIN: 3206–AF44

4107. REPAYMENT OF STUDENT LOANS

Legal Authority: 5 USC 5379

CFR Citation: 5 CFR 537

Legal Deadline: None

Abstract: We plan to issue proposed and final regulations which will permit agencies to repay all or part of an outstanding student loan in order to recruit or retain highly qualified professional, technical or administrative personnel. This is a new provision contained in the National Defense Authorization Act for Fiscal Year 1991, Pub. L. 101-510. Agencies may pay up to a maximum of $6,000 per employee in a calendar year, or $40,000 overall. In return, the employee must agree to remain with the agency for at least 3 years.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christina Gonzales, Career Entry Group, Staffing Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0960

RIN: 3206–AE51

4108. RULEMAKING TO IMPLEMENT THE HRD POLICY INITIATIVES ON NEEDS ASSESSMENT

Legal Authority: 5 USC 410

CFR Citation: 5 CFR 410

Legal Deadline: None

Abstract: OEDPP is proposing to issue new regulations in part 410, "Training," in the area of needs assessment. The needs assessment regulations will require agencies to implement a systematic process for linking organizational and employee training needs. The regulations also amend section 410.302 by inserting the word "disabled" to ensure that agencies provide safeguards against unjustified denial of developmental opportunities for employees with disabilities. The term "Other Development" is introduced in subparts B and C reflecting the view that options other than formal training should be considered in establishing developmental activities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Fox, Human Resources Development Group, Policy and Curriculum Initiatives Division, Office of Personnel Management, 1121 Vermont Ave. NW., Washington, DC 20044, 202 632-9768

RIN: 3206–AF05

4109. • PAY UNDER THE GENERAL SCHEDULE; LOCALITY-BASED COMPARABILITY PAYMENTS

Significance: Regulatory Program

Legal Authority: 5 USC 5304(i)

CFR Citation: 5 CFR 531, subpart F

Legal Deadline: NPRM, Statutory, January 1, 1994.
Agencies must begin making locality-based comparability payments in January 1994.

Abstract: To implement a provision of the Federal Employees Pay Comparability Act of 1990 (FEPCA), regulations are needed to establish rules governing administration of locality-based comparability payments.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Belva MacDonald, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2858

RIN: 3206–AF39

4110. • PAY UNDER THE GENERAL SCHEDULE; LOCALITY-BASED COMPARABILITY PAYMENTS

Significance: Regulatory Program

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Legal Authority: 5 USC 5304(i)

CFR Citation: 5 CFR 531, subpart F

Legal Deadline: NPRM, Statutory, January 1, 1994.
Current law (the Federal Employees Pay Comparability Act of 1990) provides that agencies begin making locality-based comparability payments in January 1994.

Abstract: To implement a provision of the Federal Employees Pay Comparability Act of 1990 (FEPCA), regulations are needed to establish rules governing administration of locality-based comparability payments.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Belva MacDonald, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2858

RIN: 3206–AF46

4111. • LUMP-SUM PAYMENTS FOR ANNUAL LEAVE

Legal Authority: 5 USC 5553

CFR Citation: 5 CFR 550, subpart I.

Legal Deadline: None

Abstract: The Technical and Miscellaneous Civil Service Amendments Act of 1992 (Pub. L. 102-378, 10/02/92) created a new provision, for 5 U.S.C 5553, to provide OPM with regulatory authority for administering lump-sum payments for annual leave

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	
Final Action	03/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerome D. Mikowicz, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2858

RIN: 3206–AF38

4112. PAY ADMINISTRATION UNDER THE FLSA: COMPLIANCE

Legal Authority: 29 USC 204(f); 5 USC 1103(a)(5)

CFR Citation: 5 CFR 551, subpart F

Legal Deadline: None

Abstract: Proposed new regulation covering the FLSA Compliance Program and simplifying the FLSA claims handling process.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie A. Marks, Chief, Family Programs and Employee Relations Division, OLRWP, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E St. NW., Washington, DC 20415, 202 606-2920

RIN: 3206–AA40

4113. ALLOWANCES AND DIFFERENTIALS; UNIFORM ALLOWANCES

Legal Authority: 5 USC 591

CFR Citation: 5 CFR 591, subpart A

Legal Deadline: Final, Statutory, May 4, 1991.

Abstract: The proposed regulations would establish a higher initial maximum uniform allowance rate for civilian Federal employees in certain situations where the typical basic uniform required by a Federal agency involves a high initial outlay of funds.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane Kuhl, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2858

RIN: 3206–AE36

4114. • ALLOWANCES AND DIFFERENTIALS; COST-OF-LIVING ALLOWANCE AND POST DIFFERENTIAL -.NONFOREIGN AREAS

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591, subpart B

Legal Deadline: None

Abstract: Executive Order 10,000 requires OPM to review nonforeign area cost-of-living allowances from time to time. This review is conducted by means of annual surveys. Under 5 CFR 591.205(d), OPM is required to publish proposed revisions in allowance rates in the FEDERAL REGISTER for comment, along with a detailed description of the calculation of each allowance rate. Although reductions in allowance rates are currently prohibited by a provision in Pub. L. 102-141 (October 28, 1991), OPM is required to publish the results of the summer 1992 and winter 1993 surveys and the proposed new rates if these surveys indicate that any increases in allowance rates are justified.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phyllis G. Foley, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-3710

RIN: 3206–AF40

4115. • ALLOWANCES AND DIFFERENTIALS; COST-OF-LIVING ALLOWANCE AND POST DIFFERENTIAL - NONFOREIGN AREAS

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591, subpart B

Legal Deadline: None

Abstract: Executive Order 10,000 and section 591.211 of title 5, Code of Federal Regulations, require OPM to review post differentials established for nonforeign areas at least annually. If this review results in any changes in allowance rates, the Administrative Procedure Act requires that OPM

publish the proposed changes in the Federal Register for comment, followed by publication of a final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phyllis G. Foley, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-3710

RIN: 3206–AF41

4116. PAY ADMINISTRATION (ALLOWANCES); ALLOWANCE BASED ON DUTY AT REMOTE WORKSITES

Legal Authority: 5 USC 5942

CFR Citation: 5 CFR 591, subpart C

Legal Deadline: None

Abstract: To implement provisions of section 1206(g) of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101-510, November 5, 1990) amending 5 USC 5942. Regulatory revision is needed to allow adjustment of the maximum payable remote worksite allowance, now $10 per day (established by law in 1971 and never adjusted).

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane R. Kuhl, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2858

RIN: 3206–AF15

4117. ABSENCE AND LEAVE; SICK LEAVE

Significance: Regulatory Program

Legal Authority: 5 USC 6311

CFR Citation: 5 CFR 630

Legal Deadline: None

Abstract: The proposed regulations would permit employees to use up to 3 workdays of sick leave each year (or in the case of a part-time employee or an employee with an uncommon tour of duty, 60 percent of the average number of hours of work in the employee's scheduled tour of duty each week) to: (1) provide care for a child, spouse, or parent as a result of sickness, injury, pregnancy, or childbirth; and (2) make arrangements necessitated by the death of a child, spouse, or parent. In addition, the proposed regulations would remove the 3-year break-in-service limitation on the recredit of sick leave.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerome Mikowicz, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2858

RIN: 3206–AE95

4118. FEDERAL EQUAL OPPORTUNITY RECRUITMENT PROGRAM

Legal Authority: 5 USC 7201

CFR Citation: 5 CFR 720, subpart B

Legal Deadline: None

Abstract: The Office of Affirmative Recruiting and Employment (OARE) is proposing to amend its regulations on the Federal Equal Opportunity Recruitment Program (FEORP) to streamline and strengthen them to achieve workforce diversity.

Timetable:

Action	Date	FR Cite
NPRM	05/31/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Randall, Career Entry Group, Affirmative Recruiting and Employment, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0870

RIN: 3206–AE05

4119. DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP)

Legal Authority: 38 USC 101(2); 38 USC 2011(3); 38 USC 2014

CFR Citation: 5 CFR 720, subpart C

Legal Deadline: None

Abstract: The Office of Affirmative Recruiting and Employment (OARE) is proposing to amend its regulations on the Disabled Veterans Affirmative Action Program (DVAAP) to simplify and reduce paperwork requirements and eliminate provisions that are not specifically required by law or are administratively burdensome.

Timetable:

Action	Date	FR Cite
NPRM	05/31/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Randall, Career Entry Group, Affirmative Recruiting and Employment, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0870

RIN: 3206–AE07

4120. POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

Legal Authority: 5 USC 1308; 5 USC 3301; 5 USC 3302; 5 USC 7301; 5 USC 7321 to 7325; 5 USC 7327; 42 USC 2729; EO 10577; 5 USC 7701 et seq; EO 12107

CFR Citation: 5 CFR 733

Legal Deadline: None

Abstract: Prescribes: (1) regulations under the Hatch Act and related provisions of law that restrict the political activity of Federal employees; (2) definitional and structural revisions; and (3) possible addition and/or recision of partial exceptions by the Director for municipalities or political subdivisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

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Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: JoAnn Chabot, Attorney, Office of the General Counsel, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-1920

RIN: 3206–AA47

4121. • RETIREMENT; COST-OF-LIVING ADJUSTMENTS

Legal Authority: 5 USC 8340(g); 5 USC 8344(d)

CFR Citation: 5 CFR 831.702

Legal Deadline: None

Abstract: This regulation is necessary to support OPM's policy in regard to the application of cost-of-living adjustments in the "turnaround" computation which Members of Congress may elect under 5 U.S.C. 8244(d).

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene R. Littleford, Retirement and Insurance Group, Office of Retirement and Insurance Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0299

RIN: 3206–AF31

4122. RETIREMENT; CREDIT AND DEPOSITS FOR MILITARY SERVICE

Legal Authority: PL 97-253, Sec 306(b), PL 98-94, Sec 1257; PL 98-369, Sec 2205

CFR Citation: 5 CFR 831, subparts A, C and U; 5 CFR 842, subpart C

Legal Deadline: None

Abstract: Public Laws 97-253, 98-94, and 98-369 amend the provisions of the retirement law that deal with crediting military service and making deposits for military service. Proposed regulations would update the affected regulations to reflect these changes in law.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Rochester, Retirement and Insurance Group, Office of Retirement and Insurance Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0299

RIN: 3206–AB73

4123. RETIREMENT; DEBT COLLECTION

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 835, subpart E

Legal Deadline: None

Abstract: These regulations will amend the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) regulations by consolidating existing regulations in three different subparts of the CSRS regulations and 5 CFR 845 in the FERS regulations to eliminate duplication of the provisions governing debt collection. This item is for subpart E of the new part 835 which will address collections of Government claims from payments made by OPM.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	57 FR 45753
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Group, Office of Retirement and Insurance Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0299

RIN: 3206–AE72

4124. RETIREMENT; CREDIT FOR MILITARY SERVICE

Legal Authority: 5 USC 88461

CFR Citation: 5 CFR 843, subpart C

Legal Deadline: None

Abstract: These regulations would amend FERS regulations governing entitlement to supplementary annuity in connection with simultaneous and future entitlement to Social Security benefits.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene R. Littleford, Retirement and Insurance Group, Office of Retirement and Insurance Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0299

RIN: 3206–AD87

4125. • FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM; MERGING OF PARTS OF CFR PERTAINING TO LIFE INSURANCE

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870; 5 CFR 871; 5 CFR 872; 5 CFR 873

Legal Deadline: None

Abstract: Regulations to merge and consolidate the four parts of the Code pertaining to FEGLI in order to simplify and facilitate understanding of the FEGLI Program.

Timetable:

Action	Date	FR Cite
NPRM	04/30/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby L. Block, Chief, Insurance Policy Division, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, 1900 E St. NW., Washington, DC 20415, 202 606-0191

RIN: 3206–AF32

4126. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; LEGAL ACTIONS ON CHANGES TO DISPUTED CLAIMS PROVISIONS

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890.107

Legal Deadline: None

Abstract: Regulations to clarify provisions with regard to disputed Federal Employees Health Benefits (FEHB) Program claims.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby L. Block, Chief, Insurance Policy Division, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, 1900 E St. NW., Washington, DC 20415, 202 606-0191

RIN: 3206–AF18

4127. • FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; RESERVES

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to clarify the extent of an underwriter's right to OPM held reserves for claims presented during a run-out period after a carrier changes underwriters or a carrier ceases to participate in the FEHB Program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby L. Block, Chief, Insurance Policy Division, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, 1900 E St. NW., Washington, DC 20415, 202 606-0191

RIN: 3206–AF33

4128. • FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to provide an opportunity to enroll in the FEHB Program or to change enrollment from self to self and family upon the occurrence of a marital separation, and other miscellaneous amendments.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby L. Block, Chief, Insurance Policy Division, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, 1900 E St. NW., Washington, DC 20415, 202 606-0191

RIN: 3206–AF45

4129. VOTING RIGHTS PROGRAM

Legal Authority: 42 USC 1973(a) to 1973(e)

CFR Citation: 45 CFR 801

Legal Deadline: None

Abstract: The Voting Rights Act of 1965 places certain responsibilities on the Office of Personnel Management in order to effectuate the guarantees of the 15th Amendment. OPM is responsible, when so requested by the Attorney General, for opening and staffing examining offices in order to examine applicants to be registered to vote. Accordingly, when the Attorney General determines it is necessary, the Office may be requested to open offices in political subdivisions in various States to examine the qualifications of minorities or non-English speaking citizens to vote.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie J. Peters, Attorney, Office of General Counsel, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-1920

RIN: 3206–AD98

4130. MISCELLANEOUS FEDERAL EMPLOYEES HEALTH BENEFITS ACQUISITION REGULATION (FEHBAR) AMENDMENTS

Legal Authority: 5 USC 8913; 5 USC 486(c)

CFR Citation: 48 CFR ch 16

Legal Deadline: None

Abstract: Regulations to amend certain provisions in the Federal Employees Health Benefits Acquisition Regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Abby L. Block, Chief, Insurance Policy Division, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, 1900 E St. NW., Washington, DC 20415, 202 606-0191

RIN: 3206–AE67

4131. OPM PROCUREMENT REGULATIONS

Legal Authority: 48 CFR ch 1

CFR Citation: 48 CFR ch 17

Legal Deadline: None

Abstract: Regulations to implement and supplement the Federal Acquisition Regulations (FAR). The FAR were effective April 1, 1984.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Alfred F. Chatterton III, Assistant Director for Procurement

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OPM — **Proposed Rule Stage**

Services, Administration Group, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2240

RIN: 3206–AB28

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Final Rule Stage

4132. FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM; CONTINUATION OF COVERAGE FOR TEMPORARY EMPLOYEES ON OWCP

Legal Authority: 5 USC 8906; 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to allow temporary employees to continue FEHB coverage when they go on OWCP, and to allow temporary employees to change health plans if their salary is insufficient to pay the premium withholdings.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby L. Block, Chief, Insurance Policy Division, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, 1900 E St. NW., Washington, DC 20415, 202 606-0191

RIN: 3206–AF17

4133. • CLAIMS COLLECTION STANDARDS; DEBT COLLECTION ACT OF 1982: ADMINISTRATIVE OFFSET

Legal Authority: 31 USC 952; 5 USC 1103; 5 USC 5514; 31 USC 3701; 31 USC 3711; 31 USC 3716; 31 USC 3720A

CFR Citation: 5 CFR 179

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is issuing regulations to govern the collection of debts owed to the United States which arose from transactions involving OPM. These regulations implement the debt collection procedures provided under the Debt Collection Act of 1982.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anna M. Wilson, Office of the Chief Financial Officer, Office of Financial Policy and Oversight, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2106

RIN: 3206–AF28

4134. • CLAIMS COLLECTION STANDARDS; DEBT COLLECTION ACT OF 1982: SALARY OFFSET

Legal Authority: 31 USC 952; PL 95-454; 5 USC 5514

CFR Citation: 5 CFR 179

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is issuing regulations to govern the collection of debts owed to OPM by Federal employees. These regulations implement the debt collection procedures provided under section 5 of the Debt Collection Act of 1982.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anna M. Wilson, Office of the Chief Financial Officer, Office of Financial Policy and Oversight, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2106

RIN: 3206–AF29

4135. • IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

Legal Authority: 31 USC 3801 to 3812

CFR Citation: 5 CFR 185

Legal Deadline: None

Abstract: Establishes administrative procedures to recover damages where the Office of Personnel Management has been defrauded.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Murray Meeker, Attorney, Office of the General Counsel, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-1980

RIN: 3206–AF43

4136. ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT; PERSONNEL MANAGEMENT IN AGENCIES

Legal Authority: 5 USC 1104; 5 USC 1302; 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 230; 5 CFR 250

Legal Deadline: None

Abstract: Transfers the regulations in subpart B of part 230 to part 250, to maintain parallel structure with 5 U.S.C. Changes improve the technical integrity of the CFR by eliminating redundancies and improving the efficiency of OPM's regulations. No change in the coverage or substance of affected regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/20/83	48 FR 22728
NPRM	05/08/91	56 FR 21330
Final Action	04/00/93	

OPM — **Final Rule Stage**

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Oland, Chief, Program Development Division, Agency Compliance and Evaluation, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E St. NW., Washington, DC 20415, 202 606-2458

RIN: 3206–AA66

4137. AMENDMENT TO VETERANS' READJUSTMENT APPOINTMENT REGULATIONS

Legal Authority: 38 USC 4214

CFR Citation: 5 CFR 307

Legal Deadline: None

Abstract: OPM will issue revised regulations to reflect the latest changes to the VRA program enacted by Pub. L. 102-568, approved October 29, 1992, Public Law 102-16, approved March 22, 1991, and Public Law 102-127, approved October 10, 1991.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/03/93	58 FR 12145
Interim Final Rule Effective Date	03/03/93	58 FR 12145
Interim Final Rule Comment Period End	04/03/93	58 FR 12145
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Changes are necessary to conform to statute.

Agency Contact: John Flannery, Career Entry Group, Staffing Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2677

RIN: 3206–AE59

4138. SENIOR EXECUTIVE SERVICE REASSIGNMENTS AND PAY SETTING

Legal Authority: 5 USC 3395; 5 USC 5383

CFR Citation: 5 CFR 317; 5 CFR 534

Legal Deadline: None

Abstract: To implement provisions of the Senior Executive Service Improvements Act (Pub. L. 102-175) regulations are needed to revise rules governing: (1) the restriction on the involuntary reassignment of career SES appointees within 120 days after the appointment of a new agency head, or most immediate noncareer supervisor who has authority to make the initial appraisal for the appointee, when the appointee is on detail during the period; and (2) protection for certain career appointees against pay reductions upon entering the SES from the competitive service.

Timetable:

Action	Date	FR Cite
NPRM	11/30/92	57 FR 56523
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neal Harwood, Human Resources Development Group, Office of Executive and Management Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-1610

RIN: 3206–AE77

4139. ADVANCE CERTIFICATION TO PARTICIPATE IN RETRAINING AND PLACEMENT ASSISTANCE PROGRAMS

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3502; 5 USC 3503

CFR Citation: 5 CFR 330; 5 CFR 351

Legal Deadline: None

Abstract: This regulation would permit agencies to issue employees a Certification of Expected Separation prior to receipt of a specific reduction in force notice. The employees could use the certification, up to 6 months prior to separation, to qualify for services under the Job Training Partnership Act administered by the Department of Labor, and to receive early placement assistance through OPM and agency programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/26/92	57 FR 21883
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Shelkey, Career Entry Group, Staffing Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0960

RIN: 3206–AF00

4140. • JOB LISTINGS; FULL CONSIDERATION OF DISPLACED DEFENSE EMPLOYEES

Legal Authority: 5 USC 3329

CFR Citation: 5 CFR 330; 5 CFR 335

Legal Deadline: Final, Statutory, October 23, 1992.

Abstract: As required by the statute, this regulation would require agencies to report to OPM their announcements of competitive service vacancies for which they will accept applications from outside their own work force. This regulation also would require agencies to give full consideration to job applications of displaced Defense employees for vacancies in the competitive, excepted, and Senior Executive Service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Shelkey, Career Entry Group, Staffing Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0960

RIN: 3206–AF36

4141. PROMOTION AND INTERNAL PLACEMENT

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 335

Legal Deadline: None

Abstract: This regulation would merge existing authorities for temporary and term promotion into a single temporary promotion authority for up to 5 years.

Timetable:

Action	Date	FR Cite
NPRM	10/15/92	57 FR 47279
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Shelkey, Career Entry Group, Staffing Policy Division, Office of Personnel Management, 1900

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E St. NW., Washington, DC 20415, 202 606-0960

RIN: 3206–AF09

4142. REDUCTION IN FORCE—PERMISSIVE TEMPORARY EXCEPTION

Legal Authority: 5 USC 1302; 5 USC 3502; 5 USC 3503

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: This regulation would add permissive temporary exception to the order of release from a competitive level in a reduction in force (RIF). Agency use of this exception would allow an employee to remain on the agency's rolls, past the RIF effective date, in an annual leave status to attain eligibility for an immediate annuity. The regulation also would require agencies to notify employees about eligibility to continue health and life insurance after separation.

Timetable:

Action	Date	FR Cite
NPRM	07/05/92	57 FR 31331
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Shelkey, Career Entry Group, Staffing Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0960

RIN: 3206–AF04

4143. EXECUTIVE, MANAGEMENT, AND SUPERVISORY DEVELOPMENT

Significance: Regulatory Program

Legal Authority: 5 USC 3397

CFR Citation: 5 CFR 412

Legal Deadline: None

Abstract: Regulations pertaining to executive, management, and supervisory development.

Timetable:

Action	Date	FR Cite
NPRM	03/02/93	58 FR 11988
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewis W. Taylor, Human Resources Development Group, Training Policy and Curriculum Division, Office of Personnel Management, Office of Executive and Management Policy, 1900 E St. NW., Washington, DC 20415, 202 606-1890

RIN: 3206–AC12

4144. PAY RATES AND SYSTEMS (GENERAL); AGGREGATE LIMITATION ON PAY

Significance: Regulatory Program

Legal Authority: 5 USC 5307(c)

CFR Citation: 5 CFR 530, subpart B

Legal Deadline: Final, Statutory, May 4, 1991.

Abstract: In implementing provisions of the Federal Employees Pay Comparability Act of 1990, regulations are needed to establish (1) rules governing the EX-1 aggregate limitations on pay and (2) procedures for lump-sum payments of amounts in excess of EX-1.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/28/91	56 FR 12833
Interim Final Rule	01/28/92	57 FR 3113
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernadette Christie, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2858

RIN: 3206–AE21

4145. METRIC CONVERSION

Legal Authority: 5 USC 5343(c); 5 USC 5545(d); 5 USC 5941

CFR Citation: 5 CFR 532; 5 CFR 550; 5 CFR 591

Legal Deadline: None

Abstract: To implement OPM's metric usage policy, it is necessary to change inch-pound measurements to metric measurements in regulations on environmental differentials, hazardous duty pay, and cost-of-living allowances.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2848

RIN: 3206–AE88

4146. WAGE AREA REDEFINITION

Legal Authority: 5 USC 5343(a)(1)(B)(i)

CFR Citation: 5 CFR 532, subpart B

Legal Deadline: None

Abstract: These regulations add Otero County, Colorado, as an area of application to the El Paso, Colorado, nonappropriated fund (NAF) wage area. NAF wage positions are being established in Otero County, requiring the definition of the county to a NAF wage area for pay setting purposes.

Timetable:

Action	Date	FR Cite
NPRM	11/12/92	57 FR 53607
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brenda Roberts, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2848

RIN: 3206–AF12

4147. PAY ADMINISTRATION (GENERAL); ADVANCE PAYMENTS FOR NEW EMPLOYEES

Significance: Regulatory Program

Legal Authority: 5 USC 5524(a)

CFR Citation: 5 CFR 550, subpart B

Legal Deadline: Final, Statutory, May 4, 1991.

Abstract: To implement provisions of the Federal Employees Pay Comparability Act of 1990, regulations are needed to govern advance payments to new employees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/28/91	56 FR 12833
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: JoAnn Perrini, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2858

RIN: 3206–AE30

4148. • PAYMENTS DURING AN EVACUATION

Legal Authority: 5 USC 5527

CFR Citation: 5 CFR 550, subpart D

Legal Deadline: None

Abstract: The final rule will remove the prohibition on making evacuation payments when evacuations are occasioned by a natural disaster within the 48 contiguous States or the District of Columbia.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/01/92	57 FR 40070
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Cahill, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2858

RIN: 3206–AF25

4149. HAZARD PAY FOR GENERAL SCHEDULE EMPLOYEES; EXPOSURE TO ASBESTOS

Legal Authority: 5 USC 5545(d)

CFR Citation: 5 CFR 550, subpart I

Legal Deadline: None

Abstract: The final rule would establish a new hazard pay category for General Schedule employees exposed to asbestos.

Timetable:

Action	Date	FR Cite
NPRM	08/01/90	55 FR 31190
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane Kuhl, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2858

RIN: 3206–AE18

4150. PAY ADMINISTRATION (GENERAL); PAY FOR DUTY INVOLVING PHYSICAL HARDSHIP OR HAZARD

Significance: Regulatory Program

Legal Authority: 5 USC 5545(d)

CFR Citation: 5 CFR 550, subpart I

Legal Deadline: Final, Statutory, May 4, 1990.

Abstract: To implement provisions of the Federal Employees Pay Comparability Act of 1990, regulatory revision is needed to delete "irregular or intermittent duty" as a condition of eligibility for hazard pay employees, and prescribe circumstances (if any) in which hazard pay may be paid when the classification of a position takes into account the degree of physical hardship or hazard involved.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/03/91	56 FR 20343
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane Kuhl, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2858

RIN: 3206–AE31

4151. PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

Legal Authority: 42 USC 659; 42 USC 661; 42 USC 662; 15 USC 1673; EO 12105

CFR Citation: 5 CFR 581

Legal Deadline: None

Abstract: Update regulations in response to a decision issued by the U.S. Court of Appeals for the Federal Circuit.

Timetable:

Action	Date	FR Cite
NPRM	03/05/91	56 FR 9181
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Murray Meeker, Attorney, Office of the General Counsel, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-1980

RIN: 3206–AB42

4152. PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

Legal Authority: 42 USC 659; 42 USC 661 to 662; 15 USC 1673; EO 12105

CFR Citation: 5 CFR 581

Legal Deadline: None

Abstract: Update regulations in response to the Pay Reform Act.

Timetable:

Action	Date	FR Cite
NPRM	06/20/91	56 FR 28350
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Murray Meeker, Attorney, Office of the General Counsel, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-1980

RIN: 3206–AE54

4153. ALLOWANCES AND DIFFERENTIALS; COST-OF-LIVING ALLOWANCE AND POST DIFFERENTIAL - NONFOREIGN AREAS

Significance: Regulatory Program

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591, subpart B

Legal Deadline: None

Abstract: Executive Order 10,000 requires OPM to review nonforeign area cost-of-living allowances from time to time. This review is conducted by means of annual surveys. Under 5 CFR 591.205(d) OPM is required to publish proposed revisions in allowance rates in the FEDERAL REGISTER for comments, along with a detailed description of the calculation of each allowance rate. Although reductions in allowance rates are currently prohibited by a provision in Public Law 102-141 (October 28, 1991), OPM is required to publish the results of the summer 1991

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and winter 1992 surveys and proposed new rates if these surveys indicate that any increases in allowance rates are justified.

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	57 FR 58554
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phyllis G. Foley, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-3710

RIN: 3206–AF13

4154. SUITABILITY—SUITABILITY DISQUALIFICATION/RATING ACTIONS

Significance: Regulatory Program

Legal Authority: 5 USC 3301, 5 USC 3302; 5 USC 7301; EO 10577; EO 11222

CFR Citation: 5 CFR 731, subparts B and C

Legal Deadline: None

Abstract: Comprehensive review of suitability standards. Current revision of personnel security program by Presidential task force will likely result in the need for conforming changes in personnel suitability standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
Interim Final Rule	04/23/91	56 FR 18650
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Lafferty, Deputy Associate Director, Investigations Group, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-1999

RIN: 3206–AC19

4155. PERSONNEL SECURITY AND RELATED PROGRAMS

Significance: Regulatory Program

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

CFR Citation: 5 CFR 732

Legal Deadline: None

Abstract: Comprehensive review of security standards. Current revision of personnel security program by Presidential task force will likely result in the need for conforming changes in personnel security standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
Interim Final Rule	04/23/91	56 FR 18650
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Lafferty, Deputy Associate Director, Investigations Group, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-1999

RIN: 3206–AC21

4156. INVESTIGATIONS

Significance: Regulatory Program

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 5 CFR 736

Legal Deadline: None

Abstract: Review of Governmentwide background investigations standards. Current revision of personnel security program by Presidential task force will likely result in the need for conforming changes in personnel investigations standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
Interim Final Rule	04/23/91	56 FR 18650
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Lafferty, Deputy Associate Director, Investigations Group, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-1999

RIN: 3206–AB92

4157. RETIREMENT; DISABILITY RETIREMENT

Legal Authority: 5 USC 8337; 5 USC 8461

CFR Citation: 5 CFR 831, subpart E; 5 CFR 844, subpart B

Legal Deadline: None

Abstract: This regulation will clarify filing requirements for disability retirements and will conform FERS regulations to CSRS regulations in regard to the withdrawal of disability applications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. T. Newland, Jr., Retirement and Insurance Group, Office of Retirement and Insurance Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC. 20415, 202 606-0299

RIN: 3206–AF24

4158. RETIREMENT; DISABILITY RETIREMENT

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, subpart L

Legal Deadline: None

Abstract: Comprehensive revision of disability retirement regulations to clarify (1) OPM's authority to find a disability annuitant recovered from a disability when the annuitant is reemployed in the Federal service in a position equivalent in grade to the one from which he or she retired, and (2) the rules used to determine whether a disability annuitant has been restored to earning capacity.

Timetable:

Action	Date	FR Cite
NPRM	03/30/90	55 FR 11933
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. T. Newland, Jr., Retirement and Insurance Group, Office of Retirement and Insurance Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0299

RIN: 3206–AB77

4159. RETIREMENT; CHILDREN'S SURVIVOR BENEFITS BASED ON STUDENT STATUS

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831, subpart F; 5 CFR 843, subpart D

Legal Deadline: None

Abstract: These regulations would make minor changes in the rules governing child survivor benefits paid to full-time students between 18 and 22 years of age. For example, the definition of full-time school attendance would be clarified.

Timetable:

Action	Date	FR Cite
NPRM	07/15/92	57 FR 31333
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Group, Office of Retirement and Insurance Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0299

RIN: 3206–AE40

4160. RETIREMENT; REEMPLOYMENT OF ANNUITANTS

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 841, subpart K; 5 CFR 846

Legal Deadline: None

Abstract: Public Law 100-238, enacted January 8, 1988, amended the Federal Employees' Retirement System Act provisions concerning reemployment of FERS annuitants and CSRS annuitants who transfer to FERS. These regulations implement this provision of law.

Timetable:

Action	Date	FR Cite
NPRM	10/09/92	57 FR 46512
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene R. Littleford, Retirement and Insurance Group, Office of Retirement and Insurance Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0299

RIN: 3206–AD60

4161. RETIREMENT; FERS BASIC ANNUITY

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 842, subparts B to G

Legal Deadline: None

Abstract: These final regulations will amend FERS Basic Annuity regulations governing Eligibility (subpart B), Credit for Service (subpart C), Computations (subpart F), and Alternative Forms of Annuities (subpart G). These regulations have been published at various times in interim final form, and have been affected by statutory changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/87	52 FR 2061
Interim Final Rule	01/16/87	52 FR 2067
Interim Final Rule	02/11/87	52 FR 4473
Interim Final Rule	02/11/87	52 FR 4479
Interim Final Rule	05/14/87	52 FR 18193
Interim Final Rule	04/08/88	53 FR 11635
Interim Final Rule	02/09/90	55 FR 4598
Final Rule	12/27/90	55 FR 53136
Interim Final Rule	02/19/91	56 FR 6549
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Rosenblatt, Retirement and Insurance Group, Office of Retirement and Insurance Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0777

RIN: 3206–AE73

4162. RETIREMENT; FERS COVERAGE ELECTIONS

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 846

Legal Deadline: None

Abstract: Regulations to implement the provisions of the Federal Employees Retirement System Act of 1986, as amended, dealing with the election of Federal Employees Retirement System coverage by employees under the Civil Service Retirement System and certain other employees and to allow agencies authorization to accept retroactive FERS elections in specific circumstances.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/87	52 FR 19235
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Group, Office of Retirement and Insurance Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-0299

RIN: 3206–AE01

4163. • FEDERAL EMPLOYEES' GROUP LIFE INSURANCE; CHANGE IN EMPLOYEE CONTRIBUTION AND OPEN ENROLLMENT PERIOD

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870, subpart D; 5 CFR 871, subpart D; 5 CFR 872, subpart D; 5 CFR 873, subpart D

Legal Deadline: None

Abstract: Regulations to reflect new rates for the employee contribution toward the cost of coverage and to announce an open enrollment period.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/02/93	58 FR 11953
Interim Final Rule Comment Period End	04/01/93	58 FR 11953
Interim Final Rule Effective Date	04/01/93	58 FR 11953
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby L. Block, Chief, Insurance Policy Division, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, Washington, DC 20415, 202 606-0191

RIN: 3206–AE65

4164. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM AND FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; BENEFITS FOR HOSTAGES IN IRAQ, KUWAIT, AND LEBANON

Legal Authority: PL 102-138

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CFR Citation: 5 CFR 870, subpart J; 5 CFR 890, subpart L

Legal Deadline: None

Abstract: Regulations to extend coverage under the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program to 60 months after hostage status in Lebanon ended and for as many months after hostage status in Iraq and Kuwait ended.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/18/92	57 FR 43131
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby L. Block, Chief, Insurance Policy Division, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, 1900 E St. NW., Washington, DC 20415, 202 606-1091

RIN: 3206–AF20

4165. FEGLI; OPTION COVERAGE WITHIN 60 DAYS OF A DIVORCE OR DEATH OF A SPOUSE

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 872, subpart B; 5 CFR 873, subpart B

Legal Deadline: None

Abstract: Federal employees who have Basic life insurance coverage may elect Option B and/or Option C coverage upon marriage or acquisition of a child Regulations will allow the same opportunity within 60 days of a divorce or death of a spouse.

Timetable:

Action	Date	FR Cite
NPRM	12/09/92	57 FR 58159
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby L. Block, Chief, Insurance Policy Division, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, 1900 E St. NW., Washington, DC 20415, 202 606-0191

RIN: 3206–AE64

4166. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: LIMITATION ON INPATIENT HOSPITAL CHARGES AND FEHB PROGRAM PAYMENTS; OBRA OF 1990 PROVISION

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None.

Abstract: Regulation to implement the Omnibus Budget Reconciliation Act of 1990 which sets a limit on the charges and FEHB Program benefit payments for certain inpatient hospital services received by a retired enrolled individual.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/27/92	57 FR 10609
Interim Final Rule	01/15/93	58 FR 4569
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby L. Block, Chief, Insurance Policy Division, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, 1900 E St. NW., Washington, DC 20415, 202 606-0191

RIN: 3206–AE90

4167. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; AN OPPORTUNITY TO CHANGE TO A FAMILY ENROLLMENT

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, subpart C

Legal Deadline: None

Abstract: Regulations to allow separating employees to change from a self only to a family enrollment under the Federal Employees Health Benefits Program during the final pay period if the employee or employee's spouse is pregnant in order to assure coverage for the child if it is born before the expiration of the 31-day temporary extension of coverage that follows due to separation from Federal service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/18/92	57 FR 43132
Interim Final Rule Effective	10/19/92	
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby L. Block, Chief, Insurance Policy Division, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, 1900 E St. NW., Washington, DC 20415, 202 606-0191

RIN: 3206–AE90

4168. DEBARMENTS, CIVIL MONETARY PENALTIES, AND ASSESSMENTS IMPOSED AGAINST PROVIDERS

Significance: Regulatory Program

Legal Authority: EO 12549

CFR Citation: 5 CFR 970

Legal Deadline: None

Abstract: These regulations will establish OPM as a signatory to the Non-Procurement Suspension and Debarment Common Rule (issued to implement Executive Order 12549, dated February 18, 1986, and currently being amended to implement Executive Order 12689, dated August 16, 1989), for the purpose of authorizing OPM to exclude from participation in the Federal Employees Health Benefits Program those individuals (other than subscribers) who have already been excluded from Government programs by other Federal agencies. The regulations will also implement title I of Public Law 100-654, the "Federal Employees Health Benefits Amendments Act of 1988," which authorizes OPM to exclude health care providers who are culpable of certain offenses from participation in the FEHBP, and to levy monetary penalties and assessments against individuals who have submitted false claims to FEHBP carriers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/89	54 FR 43939
NPRM	02/04/93	58 FR 7052
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joyce Blalock, Office of the Inspector General, Office of Personnel Management, 2300 Clarendon Blvd., Arlington, VA 22201, 703 908-8688

RIN: 3206–AD76

OPM — Final Rule Stage

4169. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE ACQUISITION REGULATION

Legal Authority: 5 USC 8716; 48 CFR 1.301

CFR Citation: 48 CFR ch 21

Legal Deadline: None

Abstract: Proposed regulations to describe the method by which the U.S. Office of Personnel Management (OPM) implements and supplements the Federal Acquisition Regulation (FAR) for the Federal Employees' Group Life Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	06/10/92	57 FR 24704
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Abby L. Block, Chief, Insurance Policy Division, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, 1900 E St. NW., Washington, DC 20415, 202 606-0191

RIN: 3206–AE04

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Completed Actions

4170. AMENDMENT TO EXCEPTED SERVICE APPOINTING AUTHORITIES AND TO NONCOMPETITIVE CONVERSION PRIVILEGE

CFR Citation: 5 CFR 213; 5 CFR 315

Completed:

Reason	Date	FR Cite
Withdrawn	01/11/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lucy Antone, 202 606-0870

RIN: 3206–AF06

4171. SCHEDULE A AUTHORITIES FOR TEMPORARY, SEASONAL, AND INTERMITTENT EMPLOYMENT

CFR Citation: 5 CFR 213

Completed:

Reason	Date	FR Cite
Withdrawn	03/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tracy Spencer, 202 606-0960

RIN: 3206–AF07

4172. PRIVACY PROCEDURES FOR PERSONNEL RECORDS

CFR Citation: 5 CFR 297, subpart D

Completed:

Reason	Date	FR Cite
Final Action	11/30/92	57 FR 56732
Final Action Effective	12/30/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Sanet, 202 606-1955

RIN: 3206–AF03

4173. TEMPORARY AND TERM APPOINTMENTS

CFR Citation: 5 CFR 316

Completed:

Reason	Date	FR Cite
Withdrawn	03/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tracy Spencer, 202 606-0960

RIN: 3206–AF08

4174. ELECTION TO RETAIN SES BENEFITS

CFR Citation: 5 CFR 317

Completed:

Reason	Date	FR Cite
Final Action	11/20/92	57 FR 54677
Final Action Effective	12/21/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neal Harwood, 202 606-1610

RIN: 3206–AE06

4175. PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

CFR Citation: 5 CFR 430; 5 CFR 432; 5 CFR 540

Completed:

Reason	Date	FR Cite
Final Action	12/22/92	57 FR 60715
Final Action Effective	04/01/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rachel Steed, 202 606-2720

RIN: 3206–AE76

4176. PERFORMANCE-BASED REDUCTION IN GRADE AND REMOVAL ACTIONS; ADVERSE ACTIONS

CFR Citation: 5 CFR 432; 5 CFR 752

Completed:

Reason	Date	FR Cite
Final Action	03/10/93	58 FR 13191
Final Action Effective	04/09/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cynthia L. Field, 202 606-2920

RIN: 3206–AE96

4177. PAY RATES AND SYSTEMS (GENERAL); SPECIAL SALARY RATE SCHEDULES FOR RECRUITMENT AND RETENTION

Significance: Regulatory Program

CFR Citation: 5 CFR 530, subpart C

Completed:

Reason	Date	FR Cite
Final Action	12/15/92	57 FR 59275
Final Action Effective	01/14/93	

Small Entities Affected: None

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Government Levels Affected: None

Agency Contact: William Gualtieri, 202 606-1413

RIN: 3206–AE22

4178. RELEASE OF DATA COLLECTORS

CFR Citation: 5 CFR 532.229; 5 CFR 532.231; 5 CFR 532.233

Completed:

Reason	Date	FR Cite
Final Action	03/23/93	58 FR 15415
Final Action Effective	04/22/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brenda Roberts, 202 606-2848

RIN: 3206–AF01

4179. SPECIAL SCHEDULE

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	03/10/93	58 FR 13193
Final Action Effective	04/09/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, 202 606-2848

RIN: 3206–AF16

4180. • PREVAILING RATE SYSTEMS

Legal Authority: 5 USC 5343; 5 USC 5346; 5 USC 552

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management is deleting Horry County, South Carolina, from the survey area for the Southeastern North Carolina appropriated fund wage area.

Timetable:

Action	Date	FR Cite
Final Action	12/29/92	57 FR 61769
Final Action Effective	01/12/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Fudge, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2848

RIN: 3206–AF26

4181. • PREVAILING RATE SYSTEMS (NONAPPROPRIATED FUND)

Legal Authority: 5 USC 5343; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management is abolishing the Horry County, South Carolina, Nonappropriated Fund (NAF) Wage Area.

Timetable:

Action	Date	FR Cite
Final Action	12/29/92	57 FR 61770
Final Action Effective	01/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brenda Roberts, Personnel Systems and Oversight Group, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, 202 606-2848

RIN: 3206–AF27

4182. WAGE AREA REDEFINITION

CFR Citation: 5 CFR 532, subpart B

Completed:

Reason	Date	FR Cite
Final Action	03/10/93	58 FR 13194
Final Action Effective	04/09/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brenda Roberts, 202 606-2848

RIN: 3206–AE84

4183. PAY CAP EXCEPTION/SPECIAL RATES

CFR Citation: 5 CFR 532 subparts B and H

Completed:

Reason	Date	FR Cite
Final Action	12/08/92	57 FR 57875
Final Action Effective	01/07/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Summers, 202 606-2848

RIN: 3206–AE99

4184. WAGE AREA REDEFINITION

CFR Citation: 5 CFR 532, subpart B

Completed:

Reason	Date	FR Cite
Final Action	03/03/93	58 FR 12146
Final Action Effective	04/02/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brenda Roberts, 202 606-2848

RIN: 3206–AF11

4185. PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT; OVERTIME PAY PROVISIONS

Significance: Regulatory Program

CFR Citation: 5 CFR 551, subpart E

Completed:

Reason	Date	FR Cite
Final Action	12/15/92	57 FR 59277
Final Action Effective	01/14/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James R. Weddel, 202 606-2858

RIN: 3206–AE32

4186. ALLOWANCES AND DIFFERENTIALS; COST-OF-LIVING ALLOWANCE AND POST DIFFERENTIAL—NONFOREIGN AREAS

Significance: Regulatory Program

CFR Citation: 5 CFR 591, subpart B

Completed:

Reason	Date	FR Cite
Final Action	12/09/92	57 FR 58123
Final Action Effective	12/30/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phyllis G. Foley, 202 606-3710

RIN: 3206–AF02

4187. EMPLOYEE RESPONSIBILITIES AND CONDUCT

CFR Citation: 5 CFR 735

Completed:

Reason	Date	FR Cite
Final Action	11/30/92	57 FR 56433
Final Action Effective	02/03/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Nancy Gregg, 202 606-1920

RIN: 3206–AE93

4188. AGENCY ADMINISTRATIVE GRIEVANCE SYSTEM

CFR Citation: 5 CFR 771

Completed:

Reason	Date	FR Cite
Final Action	11/30/92	57 FR 56782
Final Action Effective	12/30/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie A. Marks, 202 606-2920

RIN: 3206–AD96

4189. RETIREMENT; DEFINITION OF EMPLOYEE

CFR Citation: 5 CFR 831, subpart A

Completed:

Reason	Date	FR Cite
Withdrawn	01/08/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, 202 606-0299

RIN: 3206–AF22

4190. RETIREMENT; DEBT COLLECTION

CFR Citation: 5 CFR 835, subpart F

Completed:

Reason	Date	FR Cite
Final Action	12/29/92	57 FR 61771
Final Action Effective	12/29/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, 202 606-0299

RIN: 3206–AF23

4191. RETIREMENT; FERS PARTIAL SURVIVOR ELECTIONS

CFR Citation: 5 CFR 842, subpart F; 5 CFR 843, subpart C

Completed:

Reason	Date	FR Cite
Final Action	11/20/92	57 FR 54678
Final Action Effective	12/21/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, 202 606-0299

RIN: 3206–AE70

4192. RETIREMENT; DISABILITY RETIREMENT

CFR Citation: 5 CFR 844.201

Completed:

Reason	Date	FR Cite
Withdrawn	01/08/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. T. Newland, Jr., 202 606-0299

RIN: 3206–AF21

4193. RETIREMENT; FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

CFR Citation: 5 CFR 844, subpart B

Completed:

Reason	Date	FR Cite
Withdrawn	01/08/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. T. Newland, Jr., 202 606-0299

RIN: 3206–AE89

4194. FEDERAL EMPLOYEES HEALTH BENEFITS (FEHB) PROGRAM; LETTER OF CREDIT PROVISIONS

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	11/16/92	57 FR 53981
Final Action Effective	12/16/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby L. Block, 202 606-0191

RIN: 3206–AE68

4195. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; REENROLLMENT OF CERTAIN ANNUITANTS

CFR Citation: 5 CFR 890, subpart C

Completed:

Reason	Date	FR Cite
Final Action	10/22/92	57 FR 48161
Final Action Effective	11/23/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby L. Block, 202 606-0191

RIN: 3206–AD23

4196. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; REENROLLMENT OF CERTAIN ANNUITANTS

CFR Citation: 5 CFR 890, subpart C

Completed:

Reason	Date	FR Cite
Withdrawn	01/08/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby L. Block, Chief, 202 606-0191

RIN: 3206–AE91

4197. FEDERAL EMPLOYEES HEALTH BENEFITS (FEHB) PROGRAM; LETTER OF CREDIT PROVISIONS

CFR Citation: 48 CFR ch 16

Completed:

Reason	Date	FR Cite
Final Action	11/16/92	57 FR 54000
Final Action Effective	12/16/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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Completed Actions

Agency Contact: Abby L. Block, 202 606-0191

RIN: 3206–AE66

[FR Doc. 93-6068 Filed 04-23-93; 8:45 am]

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Part XXXIV

Office of Special Counsel

Semiannual Regulatory Agenda

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OFFICE OF SPECIAL COUNSEL (OSC)

OFFICE OF SPECIAL COUNSEL

5 CFR Ch. VIII

Regulatory Agenda

AGENCY: Office of Special Counsel.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Office of Special Counsel regulations have been completed. No regulations are scheduled for review or development from April 1993 through March 1994.

FOR FURTHER INFORMATION CONTACT: Cathleen M. Sadlo, (202) 653-6005.

Kathleen Day Koch,

Special Counsel.

OFFICE OF SPECIAL COUNSEL (OSC) — Completed Actions

4198. IMPLEMENTATION OF THE WHISTLEBLOWER PROTECTION ACT

Significance: Agency Priority

Legal Authority: 5 USC 1212; 5 USC 552(a)(3); 5 USC 552(a)(4); 5 USC 552a(f); 29 USC 794

CFR Citation: 5 CFR 1800 to 1850

Legal Deadline: None

Abstract: Regulations implemented the Whistleblower Protection Act of 1989 establishing the Office of Special Counsel as an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	11/16/90	55 FR 47839
Correction of Final Rule	12/11/90	55 FR 50811
Final Action Effective	12/16/90	55 FR 47839

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Cathleen M. Sadlo, Attorney, Office of Special Counsel, Suite 300, 1730 M Street NW., Washington, DC 20036-4505, 202 653-6005

RIN: 3255-AA00

[FR Doc. 93-5044 Filed 04-23-93; 8:45 am]

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Part XXXV

Panama Canal Commission

Semiannual Regulatory Agenda

VOL 58 ISS 78 AP 26 1993 UMI

PANAMA CANAL COMMISSION (PANAMA)

PANAMA CANAL COMMISSION

35 CFR Ch. I

Unified Agenda of Federal Regulations

AGENCY: Panama Canal Commission.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Panama Canal Commission. This information will allow the public to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For information about a particular regulatory project, contact the person listed in the subheading "Agency Contact" for that project. For general information, contact Michael Rhode, Jr., Secretary, Panama Canal Commission, 2000 L Street NW., Suite 550, Washington, DC 20036-4996, (202) 634-6441 TDD; or John L. Haines, Jr., Esquire, General Counsel, Panama Canal Commission, Unit 2300, APO AA 34011-2300.

SUPPLEMENTARY INFORMATION: Executive Order 12291 "Federal Regulation" and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, require that executive agencies publish in the **Federal Register** a semiannual notice of regulations which are under development or review or for which action has been completed. The Panama Canal Commission agenda contains certain regulations which are limited in public impact, but they are included to increase public awareness of Commission activities and to allow for increased public participation in the Agency's regulatory review and development process. This agenda was prepared pursuant to guidelines established by the Office of Management and Budget.

Dated: February 17, 1993.

Michael Rhode, Jr.,

Secretary, Panama Canal Commission.

PANAMA CANAL COMMISSION (PANAMA) — Prerule Stage

4199. RULES FOR MEASUREMENT OF VESSELS

Significance: Agency Priority

Legal Authority: PL 96-70, sec 1601

CFR Citation: 35 CFR 135

Legal Deadline: None

Abstract: In July 1982, 48 nations, representing more than 80 percent of world shipping, began implementing a new uniform method for tonnage determination in accordance with the International Convention on Tonnage Measurement of Ships, 1969. Final implementation is scheduled for July 1994. The present Panama Canal measurement system is based upon the old national tonnage measurement system. The Panama Canal Commission is currently studying the possibility of adapting its tonnage measurement system to one which is compatible with the 1969 Convention. This would eliminate the need for vessels to be measured twice, once under the new system and again under the old system for Panama Canal assessment purposes. While no timetable for rulemaking has been established, tentative plans are to target any possible change to the Panama Canal measurement rules to the July 1994 final implementation of the 1969 Convention by October 1, 1994.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Rhode, Jr., Assistant to the Chairman and Secretary, Panama Canal Commission, 2000 L Street NW., Suite 550, Washington, DC 20036-4996, **202 634-6441**

RIN: 3207–AA23

PANAMA CANAL COMMISSION (PANAMA) — Proposed Rule Stage

4200. PANAMA CANAL COMMISSION ACQUISITION REGULATION

Significance: Agency Priority

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 35

Legal Deadline: None

Abstract: The proposed rule will update the Panama Canal Commission Acquisition Regulation to conform to changes in the Federal Acquisition Regulation and to incorporate minor changes to internal operating procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: Phone number for James N. Doyle in Panama, Republic of Panama, is (507)52-7511.

Agency Contact: James N. Doyle, Assistant Procurement Executive, Panama Canal Commission, Unit 2300, APO AA 34011-2300, **202 634-6441**

RIN: 3207–AA30

PANAMA CANAL COMMISSION (PANAMA) — Final Rule Stage

4201. DANGEROUS CARGOES RADIO COMMUNICATION

Significance: Agency Priority

Legal Authority: 22 USC 3811; EO 12215

CFR Citation: 35 CFR 101; 35 CFR 103; 35 CFR 105; 35 CFR 107; 35 CFR 109; 35 CFR 111; 35 CFR 113; 35 CFR 115; 35 CFR 117; 35 CFR 119; 35 CFR 121; 35 CFR 123

Legal Deadline: None

Abstract: The Panama Canal Commission is proposing to make the following minor technical changes and clarifications:

35 CFR 111.3(m) - The term tank barge means any tank vessel not equipped with means of self-propulsion.

35 CFR 113.4 - Fire hoses with suitable nozzles attached shall be connected to the outlets at all times while in Panama Canal waters.

35 CFR 113.28(c) - If any certificates are invalid, latest issue should be presented, along with plans for current validation of certificates.

35 CFR 113.30 - Direct Reduced Iron - (a) Vessels carrying Direct Reduced Iron in any of its forms shall comply with the Solid Bulk Code, which is incorporated by reference. See Vessel Requirements and 35 CFR 113.25 Cargo Requirements.

(b) Vessels carrying Direct Reduced Iron shall be required to provide the following:

(1) Copy of Certification that Direct Reduced Iron is suitable for loading.

(2) Copy of Certification that Direct Reduced Iron (cont)

(3) Statement from Master or Shipper that IMO precautions as listed in the IMO "Code of Safety Practices for Solid Bulk Cargoes" for cold or hot molded briquettes have been followed.

(4) Copy of procedures to be followed by the vessel to ensure safety of vessel and cargo in the event the cargo gets wet.

(5) Copy of current U.S. Coast Guard permit, if issued.

Reword 35 CFR 123.4(a) GOLF: Is the vessel carrying any explosives or dangerous cargo in bulk as classified in section 113.3? If yes, state the technical name..."

Report flashpoint of cargoes.

Report use of inert gas in cargo and cargo slop tanks.

Tanks claiming to be gas free shall report "cargo tanks including cargo slop tanks are safe for hot work and safe for entry."

List last cargo of empty tanks not gas free.

Reword 35 CFR 123.4(a) HOTEL:

"Transit Operations Divisions" should be "Traffic Management Division."

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: ABSTRACT CONT: conforms to IMO requirements.

Agency Contact: Capt. George T. Hull, Marine Director, Panama Canal Commission, Marine Bureau, Unit 2300, APO AA 34011-2300, **202 634-6441**

RIN: 3207–AA26

[FR Doc. 93-5045 Filed 04-23-93; 8:45 am]

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Part XXXVI

Peace Corps

Semiannual Regulatory Agenda

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PEACE CORPS (PEACE)

PEACE CORPS

22 CFR Ch. III

Executive Order 12291 "Federal Regulation"; Semiannual Agenda of Regulations

AGENCY: Peace Corps of the United States.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 12-month period from April 1, 1993, through March 31, 1994. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Peace Corps' regulations or this semiannual agenda, contact Daniel Bosco, Assistant General Counsel, Peace Corps, 1990 K Street NW., Washington, DC 20526, (202) 606-3114.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 entitled "Federal Regulation" and the Regulatory Flexibility Act (5 U.S.C. 601-612), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year. The regulations being considered by the Peace Corps are not "major" rules within the meaning of Executive Order 12291, and no Regulatory Impact Analysis is required. In addition, the Peace Corps has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The Agency has also determined that the regulations will not impose compliance costs or reporting burdens on the public.

Dated: January 14, 1993.

Stephen Rademaker,

General Counsel

PEACE CORPS (PEACE) — Proposed Rule Stage

4202. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504—HANDICAPPED DISCRIMINATION PROHIBITION

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 312

Legal Deadline: None

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 USC 794) which prohibits discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
NPRM	10/08/91	56 FR 50684
NPRM Comment Period End	12/09/91	56 FR 50684

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Daniel Bosco, Assistant General Counsel, Peace Corps, 1990 K Street NW., Room 8302, Washington, DC 20526, 202 606-3114

RIN: 0420–AA03

PEACE CORPS (PEACE) — Final Rule Stage

4203. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: PL 101-121, sec 319

CFR Citation: 22 CFR 311

Legal Deadline: None

Abstract: The Agency will join 28 other Executive agencies in issuing a final common rule for the purpose of implementing new statutory prohibitions and disclosure requirements with regard to certain influencing activities.

Timetable:

Action	Date	FR Cite
OMB Interim Final Guidance	12/20/89	54 FR 52306
Interim Final Rule	02/26/90	55 FR 6736
Further OMB Guidance	06/15/90	55 FR 24540
Further OMB Guidance	01/15/92	57 FR 1772

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Kirby Mullen, Associate General Counsel, Peace Corps, 1990 K Street NW., Washington, DC 20526, 202 606-3114

RIN: 0420–AA06

PEACE CORPS (PEACE) — Completed Actions

4204. • CLAIMS COLLECTION

Significance: Agency Priority

Legal Authority: 31 USC 3701 to 3719; 5 USC 5514; 22 USC 2503(b); 31 USC 3720A; 4 CFR 101 to 105; 5 CFR 550; 26 CFR 301.6402-6T

CFR Citation: 22 CFR 309

Legal Deadline: None

Abstract: The rule revises Peace Corps Collection of Claims by Administrative Offset. The rule implements the collection procedures authorized by the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 (31 USC 3701 to 3719 and 5 USC 5514) (Pub. L. 97-365, 96 Stat. 1749). The rule also implements 31 USC 3720A, which authorizes Federal agencies to notify the Internal Revenue Service of a past-due legally enforceable debt for the purpose of offsetting the debtor's tax refund. In addition, the rule implements governmentwide regulations issued by the General Accounting Office and the Department of Justice, the Office of Personnel Management, by the Office of Management and Budget in Circular A-129, and by the Internal Revenue Service procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/24/92	57 FR 55202
NPRM Comment Period End	12/24/92	57 FR 55202
Final Action	01/07/93	58 FR 2977
Final Action Effective	01/07/93	58 FR 2977

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel Bosco, Assistant General Counsel, Peace Corps, 1990 K Street NW., Room 8312, Washington, DC 20526, 202 606-3114

RIN: 0420–AA07

[FR Doc. 93-5046 Filed 04-23-93; 8:45 am]

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Part XXXVII

Pennsylvania Avenue Development Corporation

Semiannual Regulatory Agenda

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PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC)

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Ch. IX

Unified Agenda of Federal Regulations

AGENCY: Pennsylvania Avenue Development Corporation (PADC).

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: This document sets forth the Pennsylvania Avenue Development Corporation's regulatory agenda issued under Executive Order 12291 and the Regulatory Flexibility Act. The agenda lists regulations currently under rulemaking review that PADC expects to have as a final rule during the next 12 months.

FOR FURTHER INFORMATION CONTACT: Talbot J. Nicholas II, Attorney, Office of the General Counsel, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue NW., Washington, DC 20004, (202) 724-9088.

Dated: March 9, 1993.

M. J. Brodie,

Executive Director, Pennsylvania Avenue Development Corporation.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC) — Prerule Stage

4205. PROCEDURES AND UNIFORM STANDARDS FOR PUBLIC USE OF PARKS AND PLAZAS

Legal Authority: 40 USC 875(5)

CFR Citation: 36 CFR 912

Legal Deadline: None

Abstract: The Pennsylvania Avenue Development Corporation (PADC) has received an increasing number of requests for public use of parks and plazas within the Pennsylvania Avenue Development Area. The proposed regulations would ensure equality of opportunity for use of PADC parks and plazas while protecting public property, safety, and tranquility.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Madeleine B. Schaller, Deputy General Counsel, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue NW., Washington, DC 20004, 202 724-9088

RIN: 3208–AA01

4206. DEVELOPMENT POLICIES AND PROCEDURES

Legal Authority: 40 USC 875(5)

CFR Citation: 36 CFR 911, (New)

Legal Deadline: None

Abstract: The Corporation is studying ways to apply past experience to update its development policies and procedures.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Madeleine B. Schaller, Deputy General Counsel, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue NW., Washington, DC 20004, 202 724-9088

RIN: 3208–AA06

[FR Doc. 93-6069 Filed 04-23-93; 8:45 am]

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Part XXXVIII

Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

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PENSION BENEFIT GUARANTY CORPORATION (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation (PBGC).

ACTION: Agenda of regulations.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12291 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or that PBGC expects to have under development during the next 12 months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESSES: Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, (202) 778-8850. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's Order on Federal Regulation, Executive Order 12291, 46 FR 13193, each agency is required to publish, in April and October, an agenda of regulations currently or soon to be under development. The Executive order requires that the agenda also include those currently effective regulations that are being reviewed by the Agency pursuant to the Executive order. The Regulatory Flexibility Act, Public Law 98-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4207	Annuity Contracts Distributed by Terminating Plans	1212-AA57

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4208	Mergers and Transfers Between Multiemployer Plans	1212-AA69
4209	Disclosure and Amendment of Records Under the Privacy Act	1212-AA63
4210	Administrative Offset of Debts	1212-AA64
4211	Funds for Administrative Expenses of Section 4049 Trusts	1212-AA65
4212	Submission of Premium-Related Information	1212-AA66
4213	Certain Reporting and Notification Requirements	1212-AA68
4214	Reporting Plan Funding Information	1212-AA70
4215	Payment of Benefits in PBGC-Trusteed Plans	1212-AA35
4216	Payments by PBGC of Unfunded Nonguaranteed Benefits	1212-AA54
4217	Retirement Equity Act Amendments - Valuation of Plan Benefits	1212-AA55

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4218	Plan Rules for Reduction or Waiver of Complete Withdrawal Liability	1212-AA38
4219	Election of Single-Employer Plan Status—Repeal	1212-AA67
4220	Payment of Premiums	1212-AA58
4221	Valuation of Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal	1212-AA61
4222	Miscellaneous SEPPAA/PPA Amendments	1212-AA50

PBGC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4223	Reduction or Waiver of Partial Withdrawal Liability	1212-AA22
4224	Adjustment of Withdrawal Liability for a Withdrawal Subsequent to a Partial Withdrawal	1212-AA37
4225	Determination of Withdrawal Liability Following a Merger	1212-AA39
4226	Notice of Unpaid Contributions	1212-AA62
4227	Distress Terminations of Single-Employer Plans	1212-AA41
4228	Standard Terminations of Single-Employer Plans	1212-AA47

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Prerule Stage

4207. ANNUITY CONTRACTS DISTRIBUTED BY TERMINATING PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b); 29 USC 1341(b)

CFR Citation: 29 CFR 2617

Legal Deadline: None

Abstract: ERISA section 4041(b) requires terminating plans to provide benefits that are payable in annuity form by purchasing and distributing to plan participants (or beneficiaries) irrevocable commitments from an insurer to pay the annuity benefits. Once the final distribution of assets in accordance with section 4041(b) is completed, PBGC's guarantee under ERISA section 4022 is extinguished. Under ERISA section 4041(b), the only specific requirement dealing with irrevocable commitments distributed upon plan termination is that they be purchased from a licensed insurance company. (Such purchases are, of course, subject generally to the fiduciary provisions of Title I of ERISA.) Recent publicity about financial problems within the insurance industry and, specifically, about the serious problems of a few insurers, has sparked concerns about the security of pension annuities that are being, or will be, paid by an insurer pursuant to an irrevocable commitment. PBGC (with the Department of Labor) has been studying this issue. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	06/21/91	56 FR 28642
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: As part of this ongoing study, PBGC issued an ANPRM, in order to solicit comments and suggestions from the public on the following two broad issues: (1) Are current or future retirees, who are (or will be) receiving their benefits from an insurance company pursuant to the insurer's irrevocable commitments, at risk of losing some (or all) of their promised benefits because of the insurer's financial inability to pay the full benefits? (2) If such risk does exist, or can reasonably be expected to exist in the future, what actions, either Federal or nonfederal, can be taken to reduce this risk with respect to plans terminating under Title IV? After reviewing the public comments in response to this ANPRM, as well as the other information available to it, PBGC will decide whether to proceed with this rulemaking by issuing an NPRM.

Agency Contact: Charles W. Vernon, Assistant General Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 2020 K Street NW., Washington, DC 20006, 202 778-1918

RIN: 1212-AA57

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Proposed Rule Stage

4208. • MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1411

CFR Citation: 29 CFR 2672

Legal Deadline: None

Abstract: ERISA section 4231 sets basic guidelines for mergers and transfers between multiemployer plans, including a provision for a 120-day notice to the PBGC. The PBGC's regulation on Mergers and Transfers Between Multiemployer Plans contains implementing rules. Neither the statute nor the regulation makes clear whether or how the merger and transfer rules apply where one or more of the plans involved is terminated. This regulation would amend 29 CFR Part 2672 to clarify its application to mergers and transfers involving one or more terminated multiemployer plans and to specify the criteria that a merger or transfer involving terminated plans must satisfy in order to protect participants and beneficiaries in the affected plans, as well as the PBGC, from risk of loss as a result of the merger or transfer. The regulation would also liberalize the 120-day notice requirement for all multiemployer mergers and transfers so that such transactions can proceed more expeditiously.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
NPRM Comment Period End	01/00/94	

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Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212–AA69

4209. • DISCLOSURE AND AMENDMENT OF RECORDS UNDER THE PRIVACY ACT

Legal Authority: 5 USC 552a

CFR Citation: 29 CFR 2607

Legal Deadline: None

Abstract: The PBGC is dividing one of its systems of records that are subject to the Privacy Act into two systems, and therefore proposes to amend its regulations to describe accurately the pertinent exemption from statutory provisions under the systems of records as so modified. In addition, the PBGC is proposing regulatory amendments to reflect its current organization and to increase its standard copying fee (which has not been modified since 1975). The proposed rule would also include several editorial changes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Neibrief, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212–AA63

4210. • ADMINISTRATIVE OFFSET OF DEBTS

Significance: Agency Priority

Legal Authority: 29 USC 1302(b)(3); 31 USC 3701

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The PBGC currently does not have a program for the administrative offset of debts (i.e., for satisfying debts owed to the PBGC by withholding money that is payable to or held for the debtors by other agencies of the federal government). Administrative offset against moneys owed by other federal agencies might be an effective tool for collecting debts such as premium payment deficiencies, benefit overpayments, and employer liability for underfunding of terminated plans. This regulation would be part of an administrative offset program that would also include entering into agreements with other federal agencies and developing an internal system for selecting and preparing the debts to be collected by offset.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
NPRM Comment Period End	02/00/94	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Catherine B. Klion, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-1955

RIN: 1212–AA64

4211. • FUNDS FOR ADMINISTRATIVE EXPENSES OF SECTION 4049 TRUSTS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341(c)(3)(B) (Supp. IV 1986); 29 USC 1342(i) (Supp. IV 1986); 29 USC 1349(a) (Supp. IV 1986) as amd. by sec. 9312, PL 100-203; 29 USC 1349(d) (Supp. IV 1986)

CFR Citation: 29 CFR 2626

Legal Deadline: None

Abstract: The Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") added to ERISA (in section 4049) a requirement that a "4049 trust" be set up to provide unfunded benefits not guaranteed by the PBGC to participants and beneficiaries of terminated insufficient single-employer plans; SEPPAA also added section 4062(c) to provide for employer liability to a 4049 trust. These provisions were repealed by the Pension Protection Act ("PPA"), but still apply to plans that terminated while they were in effect (roughly 1986-87). PPA also added to section 4049 a requirement that employers liable to a 4049 trust provide funding for administrative expenses of the trust before the section 4062(c) liability is collected, in accordance with regulations to be issued by the PBGC. This regulation would provide a summary procedure for collection of such administrative funding by a 4049 trustee.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Gabriel, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8821

RIN: 1212–AA65

4212. • SUBMISSION OF PREMIUM-RELATED INFORMATION

Significance: Agency Priority

Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307

CFR Citation: 29 CFR 2610

Legal Deadline: None

Abstract: The PBGC's regulation on Payment of Premiums (29 CFR Part 2610) currently requires plan administrators to retain, for six years, all records necessary to support or validate premium payments and to make those records available to the PBGC, upon request, for inspection and photocopying. The PBGC intends to propose an amendment to its premium regulation to provide for the submission to the PBGC of information in those records and for the supplementation of information submitted in premium filings. By improving the PBGC's ability to tailor its decision-making to the variety of situations presented by the administration of premium requirements, the PBGC expects these changes to increase the agency's efficiency and effectiveness.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
NPRM Comment Period End	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Neibrief, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212–AA66

4213. • CERTAIN REPORTING AND NOTIFICATION REQUIREMENTS

Legal Authority: 29 USC 1082(f); 29 USC 1302(b)(3); 29 USC 1343; 29 USC 1365

CFR Citation: 29 CFR 2615

Legal Deadline: None

Abstract: The PBGC's regulation on Certain Reporting and Notification Requirements (29 CFR Part 2615) includes rules for the reporting of "reportable events" under ERISA section 4043. The PBGC is considering several possible changes in this regulation. These changes would help to give the PBGC early warning of situations that may indicate the need to terminate a plan and thus provide possible opportunities for PBGC action to avert or limit increases in PBGC's liability.

Timetable:

Action	Date	FR Cite
NPRM	02/00/94	
NPRM Comment Period End	04/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Neibrief, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212–AA68

4214. • REPORTING PLAN FUNDING INFORMATION

Significance: Agency Priority

Legal Authority: 29 USC 1302(b)(3)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The most significant threat of future claims against the PBGC is from very large plans (both single-employer and multiemployer). This regulation would improve the PBGC's ability to estimate its potential exposure by requiring the plan administrator of each such plan to submit information annually about the plan's funding status (regardless of current funding level). In general, the required information would be readily available to the plan administrator from the plan's actuarial valuation report or the underlying workpapers. The information would be submitted (in most cases) at the same time as the annual premium payment with PBGC Form 1.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
NPRM Comment Period End	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Neibrief, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212–AA70

4215. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Significance: Agency Priority

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1342

CFR Citation: 29 CFR 2624

Legal Deadline: None

Abstract: When the PBGC assumes trusteeship of a terminated pension plan pursuant to sections 4041 and 4042 of ERISA, it pays benefits to participants pursuant to plan provisions and section 4022 of ERISA. Many of the rules and procedures for benefit payments, while of interest to participants, are inappropriate for inclusion in a regulation. The PBGC already provides much of this information to participants in other appropriate forms, such as letters and pamphlets, and will continue to do so. However, rules governing certain aspects of benefit payments are more appropriately established by regulation (or otherwise addressed through a Federal Register issuance). This regulation will enable the PBGC to process and administer PBGC-trusteed plans more efficiently with resultant cost savings by filling gaps in the rules and otherwise clarifying matters that had been handled on a case-by-case basis in the past.

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
NPRM Comment Period End	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Renae R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212–AA35

4216. PAYMENTS BY PBGC OF UNFUNDED NONGUARANTEED BENEFITS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322(c)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Pension Protection Act repealed ERISA sections 4049 and 4062(c). Those provisions established new employer liability to plan participants and beneficiaries in the event of a distress termination or involuntary termination by the PBGC of a plan without sufficient assets to pay all benefit commitments; the section 4049 trust was the vehicle for collecting and distributing these liability amounts. This system proved flawed in several respects, however, and Congress therefore created a new scheme by which to channel employer liability recoveries to plan participants and beneficiaries (amended ERISA section 4022(c)).

Under section 4022(c), participants no longer have a direct claim for employer liability. Instead, the PBGC's claim covers both its shortfall (unfunded guaranteed benefits) and participants' losses (unfunded benefit liabilities in excess of guaranteed benefits). In turn, the PBGC is to pay a portion of its employer liability recovery to participants and beneficiaries. The amount to be paid is based on the PBGC "recovery ratio" (as defined in amended sec. 4022(c)(3)).(cont)

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PBGC — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: This new statutory rule contains several ambiguities and also leaves to the PBGC the development of specific rules and procedures necessary to make this system work. The regulation will, for example, contain rules on how the PBGC will value its employer liability recoveries for purposes of computing the recovery ratio, whether the allocation of amounts payable under this provision will be done as part of the regular section 4044 asset allocation, and whether the PBGC will pay these benefits by increasing the amount of annuity payments it is making to participants or making lump sum payments.

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8885

RIN: 1212–AA54

4217. RETIREMENT EQUITY ACT AMENDMENTS - VALUATION OF PLAN BENEFITS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341

CFR Citation: 29 CFR 2619

Legal Deadline: None

Abstract: The Retirement Equity Act of 1984 ("REA") requires plans to provide certain benefits, prohibits the elimination of benefit options and certain early retirement benefits and retirement type subsidies, and mandates the range of interest rates that may be used in calculating the amount of a non-consensual lump sum benefit. The Tax Reform Act of 1986 ("TRA '86") slightly modified the interest rate restrictions and extended them to the calculation of all lump sum benefits.

These rules necessitate several amendments to the PBGC's valuation of benefits regulation (29 CFR part 2619). The major changes will address the rules on determining the form of benefit to be valued on plan termination and the interest rate rules for lump sum payments in standard terminations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8885

RIN: 1212–AA55

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Final Rule Stage

4218. PLAN RULES FOR REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1387(b)

CFR Citation: 29 CFR 2647 (Amendment)

Legal Deadline: None

Abstract: Under section 4207(a) of ERISA, the PBGC has issued a regulation (29 CFR part 2647) providing for the reduction or waiver of an employer's liability for complete withdrawal upon the employer's resumption of participation under the plan from which it withdrew. The statute also requires the PBGC to prescribe procedures and standards under which multiemployer plans may adopt their own rules abating complete withdrawal liability upon an employer's return to the plan (section 4207(b)).

The purpose of letting plans adopt their own abatement rules is obvious: a specific rule adopted by a plan may well work better under the facts and circumstances of that particular plan than the broad rules adopted by the PBGC. This regulation will permit a plan to fashion the rules it needs to encourage the return of withdrawn employers, while at the same time protecting the plan from the loss of withdrawal liability payments without a compensating resumption of contributions to the plan by a formerly withdrawn employer. The PBGC is unable to (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/23/92	57 FR 48348
NPRM Comment Period End	12/22/92	
Final Action	10/00/93	
Final Action Effective	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: quantify the benefits and costs of this regulation because it cannot predict how many plans will exercise the authority conferred by this regulation.

Agency Contact: Ralph Landy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8881

RIN: 1212–AA38

4219. • ELECTION OF SINGLE-EMPLOYER PLAN STATUS—REPEAL

Legal Authority: 29 USC 1302(b)(3); 29 USC 1453

CFR Citation: 29 CFR 2671 (Repeal)

Legal Deadline: None

Abstract: Under ERISA section 4303 and 29 CFR Part 2671, a plan that became a multiemployer plan solely as a result of the change in definition of such plans under the Multiemployer Pension Plan Amendments Act of 1981 could elect to remain a single-employer plan. To do so, it had to be amended no later than September 26, 1981, to provide that it be treated as a single-employer plan, and had to file a written notice of its election with the PBGC no later than 60 days after the adoption of the amendment. This provision is now obsolete, and its repeal would simplify the PBGC's regulations.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Renae R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212–AA67

PBGC — Final Rule Stage

4220. PAYMENT OF PREMIUMS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307

CFR Citation: 29 CFR 2610

Legal Deadline: None

Abstract: Under sections 4006 and 4007 of ERISA, the PBGC has issued its regulation governing the payment of premiums for pension plans subject to Title IV of ERISA (29 CFR part 2610). PBGC studies of ways to simplify premium calculation and filing and to improve premium processing and accounting by PBGC have yielded suggestions for changes in that regulation. As a result, the PBGC has issued a proposed regulation to implement certain changes, relating mainly to filing due dates, treatment of short plan years, simplification of the alternative calculation method, and premium payment requirements for large plans (including what plans are considered large plans for this purpose). The purpose of the changes would be primarily to simplify the premium payment system for plans and the PBGC.

Timetable:

Action	Date	FR Cite
NPRM	04/10/92	57 FR 12666
NPRM Comment Period End	05/26/92	
NPRM Comment Period Extended to 11/16/92	09/17/92	57 FR 42910
Final Action	10/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel (22500), 2020 K St. NW., Washington, DC 20006, 202 778-8850

RIN: 1212–AA58

4221. VALUATION OF BENEFITS IN SINGLE-EMPLOYER PLANS; VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

Significance: Agency Priority

Legal Authority: 29 USC 1301(a); 29 USC 1301(b)(3); 29 USC 1341; 29 USC 1344; 29 USC 1362; 29 USC 1399(c)(1)(D); 29 USC 1441(b)(1)

CFR Citation: 29 CFR 2619; 29 CFR 2676

Legal Deadline: None

Abstract: Section 4062 of ERISA provides that when a single-employer pension plan terminates with unfunded benefit liabilities, any contributing sponsor of the plan and any member of the contributing sponsor's controlled group shall be liable to the PBGC for the amount of unfunded benefit liabilities as of the plan termination date (and interest thereon). Current 29 CFR 2619 prescribes the rules, including the mortality and interest rate assumptions, to be used to value benefits. The interest and mortality assumptions are selected so that the calculated benefit values will be in line with the market costs for providing the benefits. Similarly, current 29 CFR 2676 prescribes the rules for valuing benefits under multiemployer plans following a mass withdrawal of employers. The PBGC proposes to amend 29 CFR 2619: (1) to update its mortality assumptions to reflect recent actuarial practice, (2) to uncouple the regulation's administrative expense ("loading") assumptions from its interest assumptions, and (3) to replace the interest rate structure with one based on the length of time between the valuation date and the date of each monthly payment. The PBGC proposes at the (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/19/93	58 FR 5128
NPRM Comment Period End	03/22/93	
Final Action	12/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: same time to amend 29 CFR 2676, governing valuation of benefits in multiemployer plans following mass withdrawal, so as to adopt the same mortality, interest, and loading assumptions as would the modified single-employer regulation. This change will result in simplification of calculations under the multiemployer regulation as well as greater consistency of annuity valuations between the two programs. The PBGC anticipates that, for most plans, the amendments would not significantly affect the valuations produced.

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel (22500), 2020 K St. NW., Washington, DC 20006, 202 778-8885

RIN: 1212–AA61

4222. MISCELLANEOUS SEPPAA/PPA AMENDMENTS

Significance: Agency Priority

Legal Authority: 29 USC 1082(f); 29 USC 1301(a)(14); 29 USC 1301(b)(1); 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1322b; 29 USC 1341; 29 USC 1343; 29 USC 1344; 29 USC 1362 to 1364; 29 USC 1365; 29 USC 1367 to 1368

CFR Citation: 29 CFR 2606; 29 CFR 2612; 29 CFR 2615; 29 CFR 2616; 29 CFR 2622; 29 CFR 2623

Legal Deadline: None

Abstract: The Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") and the Pension Protection Act ("PPA") made several changes in Title IV rules and procedures that affect and, in some cases, override portions of several PBGC regulations. For this reason, these regulations--administrative review of agency decisions, trades or businesses under common control, certain reporting and notification requirements, employer liability, and benefit reductions in terminated plans--must be amended to conform them to current law. For

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example, because SEPPAA altered the determinations that the PBGC may make with respect to voluntary plan terminations, the list in 29 CFR 2606.1(b) of determinations subject to agency review must be amended.

Similarly, SEPPAA contained, for distress terminations, specific benefit cutback rules. These rules differ somewhat from those set forth in 29 CFR part 2623 and, therefore, conforming amendments to Part 2623 are required. (Updating the terminology in part 2623 will result in the need for one minor change in part 2616, i.e., the deletion of a sentence in section 2616.4(c).) SEPPAA and the PPA significantly changed (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/14/92	57 FR 59003
NPRM Comment Period End	01/13/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: the rules on employer liability to the PBGC in distress and involuntary terminations. Now, an employer is liable to the PBGC for the total plan underfunding, i.e., for all unfunded benefit liabilities. Further, the 30 percent of net worth limitation is now relevant primarily in determining the amount subject to PBGC's statutory lien and the status of PBGC's claim in bankruptcy. The employer liability regulation needs to be amended to reflect these changes.

Agency Contact: Judith Neibrief, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212–AA50

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Completed Actions

4223. REDUCTION OR WAIVER OF PARTIAL WITHDRAWAL LIABILITY

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1388(e)(3)

CFR Citation: 29 CFR 2640; 29 CFR 2646

Legal Deadline: None

Abstract: Section 4208 of ERISA provides for the reduction or elimination under certain circumstances of an employer's partial withdrawal liability arising from a 70 percent reduction in contribution base units. That section also authorizes the PBGC to prescribe rules for the reduction or elimination of partial withdrawal liability under other conditions. The regulation provides for the abatement of partial withdrawal liability arising from the cessation of the obligation to contribute under a collective bargaining agreement or with respect to a facility. Section 4208 also requires the PBGC to issue a regulation under which a multiemployer plan may adopt rules for the reduction or elimination of partial withdrawal liability. This regulation allows plans to ease the statutory partial withdrawal liability rules where, for example, the rules are harmful to the plan because they discourage an employer from increasing its participation under the plan, or where the statutory rules create administrative burdens which outweigh the protections afforded by the rules.

Timetable:

Action	Date	FR Cite
NPRM	06/05/87	52 FR 21319
NPRM Comment Period End	08/04/87	
Final Action	12/16/92	57 FR 59812
Final Action Effective	01/15/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah Bisco, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8864

RIN: 1212–AA22

4224. ADJUSTMENT OF WITHDRAWAL LIABILITY FOR A WITHDRAWAL SUBSEQUENT TO A PARTIAL WITHDRAWAL

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1386(b)

CFR Citation: 29 CFR 2640; 29 CFR 2649

Legal Deadline: None

Abstract: Under section 4206(b) of ERISA, if an employer partially or completely withdraws from a multiemployer plan subsequent to an earlier partial withdrawal from that plan, the employer's liability for the second withdrawal must be reduced by the amount of its liability for the earlier partial withdrawal. The purpose of this credit is to avoid plans double-charging employers for the same unfunded liabilities. Section 4206(b) also requires the PBGC to prescribe regulations adjusting this credit to ensure that the employer's liability for its second withdrawal properly reflects the employer's share of liability with respect to the plan.

The need for this adjustment to the credit can be seen from the following example. In a plan that uses the rolling-5 allocation method, an employer's withdrawal liability is based on its last five years' participation in the plan. If an employer's second withdrawal occurs more than five years after its partial withdrawal, the liability for the second withdrawal is based solely on plan participation subsequent to the partial (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/06/87	52 FR 37329
NPRM Comment Period End	12/07/87	
Final Action	12/16/92	57 FR 59820
Final Action Effective	01/15/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: withdrawal. Thus, there is no double-charging with respect to the old liabilities and no reason to give the employer a credit against its liability for the second withdrawal. However, without this regulation, the employer would get that credit under the statute. There are many other possible

situations in which the employer's credit should similarly be reduced in order to ensure equitable treatment of the withdrawing employer vis-a-vis the other employers still contributing to the plan.

This regulation results in some shifting of liabilities among employers contributing to a multiemployer plan. An employer that has another withdrawal following a partial withdrawal may incur greater liability for the second withdrawal because of the reduction in the credit for the prior partial withdrawal. However, this increase in liability reduces the unfunded vested benefits allocable to other employers that withdraw thereafter. In the aggregate, the regulation imposes no new costs.

Agency Contact: Deborah Bisco, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8864

RIN: 1212–AA37

4225. DETERMINATION OF WITHDRAWAL LIABILITY FOLLOWING A MERGER

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1391(f)

CFR Citation: 29 CFR 2640; 29 CFR 2642 (Amendment)

Legal Deadline: None

Abstract: The merger of two multiemployer plans creates a problem as to how the successor plan's unfunded vested benefits are to be allocated in order to determine withdrawal liability for post-merger withdrawals. Frequently, the two plans will have been using different allocation methods prior to the merger. Even if they were using the same method, if they had different plan years, that would create different allocations.

For this reason, section 4211(f) of ERISA requires the PBGC to issue regulations prescribing rules for the post-merger allocation of unfunded vested benefits. This regulation establishes rules that parallel the statutory allocation methods: i.e., there is a presumptive allocation method that applies to plans unless they choose otherwise, and plans are permitted to adopt certain modifications to this presumptive method without the PBGC's approval and other more significant modifications with the PBGC's approval. (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/09/87	52 FR 43082
NPRM Comment Period End	01/08/88	
Final Action	12/16/92	57 FR 59808
Final Action Effective	01/15/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: This regulation removes a significant impediment to multiemployer plan mergers by eliminating employers' concern and confusion over how their withdrawal liability is calculated after a merger. Plan mergers are generally to be encouraged since a larger plan is typically a stronger plan because of its broader contribution base, and because portability of benefits is increased. This regulation imposes no new costs.

Agency Contact: Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212–AA39

4226. NOTICE OF UNPAID CONTRIBUTIONS

Legal Authority: 29 USC 1082(f); 29 USC 1302(b)(3); 29 USC 1343; 29 USC 1365

CFR Citation: 29 CFR 2615

Legal Deadline: None

Abstract: The Pension Protection Act added section 302(f) of ERISA and section 412(n) of the Internal Revenue Code to impose a lien on all assets of the contributing sponsor and each member of its controlled group for unpaid contributions totaling in excess of $1 million (including interest). The lien runs in favor of the plan, but can be perfected and enforced only by (or at the direction of) the PBGC. While the statute requires that the PBGC be given notice of payment failures, it does not specify the contents of that notice. This regulation prescribes the use of a specified PBGC form to provide the required notice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/15/91	56 FR 57977
Interim Final Rule Comment Period End	12/16/91	
Interim Final Rule Effective	01/01/92	56 FR 57977
Final Action	10/23/92	57 FR 48317
Final Action Effective	10/23/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Neibrief, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel (22500), 2020 K St. NW., Washington, DC 20006, 202 778-8850

RIN: 1212–AA62

4227. DISTRESS TERMINATIONS OF SINGLE-EMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341(c)

CFR Citation: 29 CFR 2616

Legal Deadline: None

Abstract: The Single-Employer Pension Plan Amendments Act of 1986 substantially revised ERISA section 4041 dealing with the voluntary termination of single-employer pension plans. Under amended section 4041, a plan may voluntarily terminate only if the termination satisfies the statutory conditions for a standard or distress termination. These rules were further modified by the 1987 Pension Protection Act, which increased the benefits that must be provided, or for which the employer maintaining the plan is liable, upon plan termination. Thus, under current law, unless a plan has sufficient assets to satisfy all plan benefit liabilities, it may voluntarily terminate only in a "distress" termination, i.e., a termination in which the plan sponsor and all members of its controlled group are able to demonstrate either such financial hardship or unduly burdensome pension costs that, as a practical matter, they are unable to continue to maintain the plan. (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	52 FR 33318
NPRM Comment Period End	11/02/87	

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PBGC — Completed Actions

Action	Date	FR Cite
Final Action	12/14/92	57 FR 59206
Final Action Effective	01/28/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The statutory rules and procedures for distress terminations are substantially different from the prior rules and procedures for terminating insufficient plans. Therefore, the PBGC's plan termination regulations have been revised to reflect these new rules and procedures. This regulation covering distress terminations and a companion rule covering standard terminations (codified in Part 2617) replace the PBGC's principal termination regulations on notices of intent to terminate and termination of sufficient plans (old Parts 2616 and 2617).

Although the notice of proposed rulemaking for this regulation was issued prior to enactment of the Pension Protection Act, the final rule reflects the relevant statutory changes from that Act.

Agency Contact: Renae Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212–AA41

4228. STANDARD TERMINATIONS OF SINGLE-EMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341(b); 29 USC 1344

CFR Citation: 29 CFR 2617

Legal Deadline: None

Abstract: Under ERISA section 4041, as amended by the Single-Employer Pension Plan Amendments Act of 1986 and the Pension Protection Act, absent a showing of financial hardship or unduly burdensome pension costs that would satisfy the requirements for a distress termination, a single-employer plan may be voluntarily terminated only if it is sufficient for all benefit liabilities (i.e., all benefits provided under the plan on the termination date, whether or not vested). This is referred to as a "standard" termination. SEPPAA also modified many of the termination rules and procedures that applied under prior law, both to increase the protections afforded plan participants and beneficiaries and to simplify and expedite the PBGC's processing of these sufficient plan terminations. It has thus been necessary to promulgate this new regulation implementing the new rules and procedures for standard terminations. This regulation and its companion regulation covering distress terminations (codified in Part 2616) replace the PBGC's principal termination regulations on notices of intent to terminate and termination of sufficient plans (old Parts 2616 and 2617).

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	52 FR 33318
NPRM Comment Period End	11/02/87	
Final Action	12/14/92	57 FR 59206
Final Action Effective	01/28/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Renae Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212–AA47

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federal register

Monday
April 26, 1993

Part XXXIX

Railroad Retirement Board

Semiannual Regulatory Agenda

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RAILROAD RETIREMENT BOARD (RRB)

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board

ACTION: Agenda of regulations under development or review

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next 12 months and regulations that are scheduled to be reviewed in that period.

ADDRESSES: 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, (312) 751-4513.

SUPPLEMENTARY INFORMATION: Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda. Current regulations that are proposed to be modified based on a completed review of the regulations are listed in the agenda.

Dated: February 18, 1993.

By Authority of the Board

Beatrice Ezerski,

Secretary to the Board

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4229	Employers Under the Railroad Retirement Act; Employers Under the Railroad Unemployment Insurance Act	3220-AA51
4230	Computing Employee, Spouse, and Divorced Spouse Annuities	3220-AA58
4231	Survivor Annuity Computations	3220-AA59
4232	Social Security Overall Minimum	3220-AA60
4233	Reduction and Nonpayment of Annuities by Reason of Work	3220-AA61
4234	Duration of Normal and Extended Benefits	3220-AA67
4235	Voluntary Quit	3220-AA75
4236	Employers' Contributions and Contribution Reports	3220-AA79
4237	Representative Payment	3220-AA83
4238	Registration for Railroad Unemployment Benefits	3220-AA96
4239	Determining Disability	3220-AA99
4240	Employee Responsibilities and Conduct	3220-AB00

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4241	Recovery of Overpayments	3220-AA44
4242	Employees Under the Railroad Retirement Act	3220-AA52
4243	Railroad Employers' Reports and Responsibilities; Creditable Railroad Compensation; Employers' Contributions and Contribution Reports	3220-AA87
4244	Collection of Debts by Federal Tax Refund Offset	3220-AB01

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4245	Medicare	3220-AA64

RAILROAD RETIREMENT BOARD (RRB) — Proposed Rule Stage

4229. EMPLOYERS UNDER THE RAILROAD RETIREMENT ACT; EMPLOYERS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Legal Authority: 45 USC 231f, 45 USC 362(l)

CFR Citation: 20 CFR 202; 20 CFR 301

Legal Deadline: None

Abstract: The Board's regulations with respect to employer status have not been updated in recent years and may, in some respects, be obsolete. Parts 202 and 301 are being amended to conform them to current law, delete obsolete provisions, and to simplify and clarify the language of these parts.

RRB — **Proposed Rule Stage**

4230. COMPUTING EMPLOYEE, SPOUSE, AND DIVORCED SPOUSE ANNUITIES

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 226

Legal Deadline: None

Abstract: The Railroad Retirement Board's regulations on the computation of employee, spouse, and divorced spouse annuities must be updated to conform to the Railroad Retirement Act of 1974 and to amendments to the Act made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 40 Railroad Transportation

Agency Contact: **Thomas W. Sadler,** Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA51

4231. SURVIVOR ANNUITY COMPUTATIONS

Legal Authority: 45 USC 231f(f)(5)

CFR Citation: 20 CFR 228

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to add 20 CFR part 228 to describe how survivor annuities are computed in accordance with the Railroad Retirement Act of 1974, and amendments to that Act made in 1981 and 1983.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Thomas W. Sadler,** Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA58

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Thomas W. Sadler,** Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA59

4232. SOCIAL SECURITY OVERALL MINIMUM

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 229

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to add 20 CFR part 229 to describe when the Social Security overall minimum annuity computation applies and how it is computed for retirement annuities under the Railroad Retirement Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	03/25/93	58 FR 16155
NPRM Comment Period End	04/26/93	58 FR 16155
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Thomas W. Sadler,** Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA60

4233. REDUCTION AND NONPAYMENT OF ANNUITIES BY REASON OF WORK

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 230

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to amend 20 CFR Part 230 to explain how annuity deductions on account of work are assessed in accordance with current law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Thomas W. Sadler,** Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA61

4234. DURATION OF NORMAL AND EXTENDED BENEFITS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 336

Legal Deadline: None

Abstract: This proposed amendment will remove obsolete provisions and clarify the meaning of the term extended benefit period as provided for in section 2(c) of the Railroad Unemployment Insurance Act, and explains how an employee may qualify for extended benefits under the Railroad Unemployment Insurance Act after exhausting normal benefits as provided for in this part. (This regulation was titled "Exhaustion of Rights to Benefits" in the 10/91 Agenda.)

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Thomas W. Sadler,** Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA67

4235. VOLUNTARY QUIT

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 328

Legal Deadline: None

Abstract: A new part 328 is being added to explain when unemployment insurance benefits are not payable because the employee voluntarily left employment.

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RRB — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA75

4236. EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 345

Legal Deadline: None

Abstract: Part 345 is being revised to reflect experience rating as provided for in the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, P.L. 100-647.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA79

4237. REPRESENTATIVE PAYMENT

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 266

Legal Deadline: None

Abstract: Part 266 is being revised to more clearly delineate the accounting requirements imposed upon representative payees. This part was previously titled "Incompetence."

Timetable:

Action	Date	FR Cite
NPRM	03/10/93	58 FR 13225
NPRM Comment Period End	04/09/93	58 FR 13225
Final Action	10/00/93	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA83

4238. REGISTRATION FOR RAILROAD UNEMPLOYMENT BENEFITS

Legal Authority: 45 USC 362(i); 45 USC 362(l)

CFR Citation: 20 CFR 325

Legal Deadline: None

Abstract: This amendment to section 325.4 of the Board's regulations allows a claimant additional time to request an unemployment benefit claim form with respect to a subsequent period of unemployment within a benefit year, and clarifies the applicable time limit for filing unemployment benefit claims.

Timetable:

Action	Date	FR Cite
NPRM	03/02/93	58 FR 12005
NPRM Comment Period End	04/01/93	58 FR 12005
Final Action	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312 751-4513

RIN: 3220–AA96

4239. DETERMINING DISABILITY

Legal Authority: 45 USC 231a; 45 USC 231f

CFR Citation: 20 CFR 220.114; 20 CFR 220.170

Legal Deadline: None

Abstract: Section 114 of part 220 will be amended to expand the Board's description of the manner in which symptoms, including pain, are evaluated for purposes of determining disability. Section 170 of part 220 will be amended to redefine "trial work period."

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA99

4240. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: EO 12674

CFR Citation: 20 CFR 360; 5 CFR 7351; 5 CFR 7353; 5 CFR 2635

Legal Deadline: None

Abstract: Part 360 will be amended to conform to regulations promulgated by the Office of Government Ethics.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AB00

RAILROAD RETIREMENT BOARD (RRB) — Final Rule Stage

4241. RECOVERY OF OVERPAYMENTS

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 255

Legal Deadline: None

Abstract: Part 255 is being revised to clarify when and how erroneous payments must be recovered under the Railroad Retirement Act.

Timetable:

Action	Date	FR Cite
NPRM	09/19/91	56 FR 47426
NPRM Comment Period End	10/21/91	56 FR 47426
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA52

4242. EMPLOYEES UNDER THE RAILROAD RETIREMENT ACT

Legal Authority: 45 USC 231f; 45 USC 362(l)

CFR Citation: 20 CFR 203

Legal Deadline: None

Abstract: The Board's regulations with respect to employee status have not been updated in recent years and may, in some respects, be obsolete. Part 203 is being amended to conform it to current law, delete obsolete provisions, and to simplify and clarify the language of this part.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 318
NPRM Comment Period End	02/06/89	54 FR 318
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 40 Railroad Transportation

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA44

4243. RAILROAD EMPLOYERS' REPORTS AND RESPONSIBILITIES; CREDITABLE RAILROAD COMPENSATION; EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

Legal Authority: 45 USC 231f; 45 USC 362(l)

CFR Citation: 20 CFR 209; 20 CFR 211; 20 CFR 345

Legal Deadline: None

Abstract: Amends reporting requirements under the Railroad Retirement and Railroad Unemployment Insurance Acts to permit reporting of compensation for purposes of benefit eligibility on a "when paid" basis.

Timetable:

Action	Date	FR Cite
NPRM	03/01/93	58 FR 11811
NPRM Comment Period End	03/31/93	58 FR 11811
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA87

4244. • COLLECTION OF DEBTS BY FEDERAL TAX REFUND OFFSET

Legal Authority: 45 USC 231f(b)(5); 31 USC 3720A

CFR Citation: 20 CFR 366

Legal Deadline: None

Abstract: The Railroad Retirement Board is amending 20 CFR part 366 to remove section 366.7, the sunset provision, thereby making part 366 a final rule. The Board has determined that it is not necessary to publish this as a proposed rule inviting public comment.

Timetable:

Action	Date	FR Cite
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AB01

RAILROAD RETIREMENT BOARD (RRB) — Completed Actions

4245. MEDICARE

CFR Citation: 20 CFR 238

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months as of	02/03/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, 312 751-4513

RIN: 3220–AA64

[FR Doc. 93-5047 Filed 04-23-93; 8:45 am]

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Part XL

Selective Service System

Semiannual Regulatory Agenda

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SELECTIVE SERVICE SYSTEM (SSS)

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. app. 451 *et seq.*). This information will allow the public to participate in the System's decisionmaking at an early stage.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, DC 20435; telephone (202) 724-1167.

SUPPLEMENTARY INFORMATION: The agenda is published in accord with the requirements of E.O. 12291. Selective Service regulations appear in 32 CFR chapter XVI.

Dated: February 23, 1993.

Robert W. Gambino,

Director of Selective Service

SELECTIVE SERVICE SYSTEM (SSS) — **Prerule Stage**

4246. SELECTIVE SERVICE REGULATIONS

Legal Authority: 50 USC app 451 et seq Military Selective Service Act

CFR Citation: 32 CFR ch XVI

Legal Deadline: None

Abstract: Various sections of 32 CFR chapter XVI will be revised to increase clarity of expression or change procedures for registrant processing.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Henry N. Williams, General Counsel, Selective Service System, 1023 31st Street NW., Washington, DC 20435, 202 724-1167

RIN: 3240-AA01

[FR Doc. 93-5048 Filed 04-23-93; 8:45 am]

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federal register

Monday
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Part XLI

Small Business Administration

Semiannual Regulatory Agenda

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SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Publication of the semiannual agenda of regulations under review or development by the Small Business Administration (SBA).

SUMMARY: This is SBA's 28th semiannual agenda of regulations. Although not a regulatory agency, SBA has attempted to draft agendas that met both the criteria and the spirit of the regulatory review process. This agenda is published pursuant to Executive Order 12291, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and Public Law 96-354, effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the public is encouraged to contact the individual agency official listed for the particular item.

For information concerning SBA's overall Regulatory Review and Development Program or general semiannual agenda questions, contact Martin D. Teckler, Deputy General Counsel, Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 205-6642.

SUPPLEMENTARY INFORMATION: The SBA agenda contains many regulations which are limited in public impact, but they are included to increase public knowledge of all SBA regulatory activities and allow for increased public participation in the review and development process.

Public comments on SBA's previous agendas have been general, and all were positive. None were directed at specific content nor were any changes suggested or recommended.

The agenda format has four parts. Part I, Pre-Rulemaking, includes investigations and reviews to be conducted prior to deciding whether or not to propose a rule or rule change. Part II, Proposed Rules, includes rulemaking which will be proposed during the 12-month period covered by the agenda. Part III, Final Rules, includes proposed rules which will be finalized during the period covered by the agenda. Part IV, Completed Actions, includes regulations completed or withdrawn and reviews completed since the preceding agenda.

Publication of the agenda does not impose any binding obligation on SBA with regard to any specific item in the agenda. Additional regulatory action not listed on the agenda is not precluded.

Dated: March 19, 1993.

Dayton J. Watkins,

Acting Administrator.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4247	Breakout Procurement Center Representation Program	3245-AC99

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4248	Small Business Development Centers	3245-AB17
4249	Loans to State and Local Development Companies	3245-AB35
4250	Nondiscrimination in Federally Assisted Programs	3245-AB36
4251	Nondiscrimination in Financial Assistance Programs	3245-AB37
4252	User Fees for SBA Programs	3245-AB44
4253	Uniform Administrative Requirements for Grants and Cooperative Agreements; Proposed Revision of Circular A-110	3245-AB67
4254	Disadvantaged Business Status Protest and Appeals Procedures Amendments	3245-AC19
4255	Amendments to Administration Regulations	3245-AC20
4256	Minority Small Business and Capital Ownership Development Program	3245-AC27
4257	Minority Small Business and Capital Ownership Development Program	3245-AC28
4258	Minority Small Business and Capital Ownership Development Program	3245-AC30
4259	Small Business Size Regulations	3245-AC31
4260	Minority Small Business and Capital Ownership Development Program	3245-AC33
4261	Small Business Size Standards; Base Maintenance	3245-AC34
4262	Minority Small Business and Capital Ownership Development Program	3245-AC35
4263	Minority Small Business and Capital Ownership Development Program	3245-AC41
4264	Disclosure of Information and Privacy Act of 1974	3245-AC45
4265	Small Business Investment Companies	3245-AC51
4266	Small Business Size Standards—Gas Production and Distribution	3245-AC56
4267	Small Business Size Standards—Combination Electric and Gas and Other Utility Services	3245-AC57
4268	Surety Bond Guarantee; Regulations	3245-AC60
4269	Small Business Size Standards; Adjustment and Collection Agencies	3245-AC64

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Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4270	Small Business Size Standards; Financial, Insurance, and Real Estate Industry Division	3245-AC65
4271	Small Business Size Standards; Retail Trade Industry	3245-AC66
4272	Small Business Size Standards; Services Industry Division	3245-AC67
4273	Small Business Size Standards; Health Care Services Industries	3245-AC68
4274	Business Loan Policy; Media Policy	3245-AC71
4275	Business and Disaster Loans	3245-AC82
4276	Small Business Size Standards; Surety Bond Guarantee	3245-AC84
4277	Small Business Size Regulation	3245-AC87
4278	Small Business Investment Companies; Miscellaneous Amendments	3245-AC91
4279	Disaster - Physical Disaster and Economic Injury Loans	3245-AC92
4280	Small Business Investment Companies; Partial Implementation of PL 102-366	3245-AC93
4281	Small Business Size Standards: Increase Size Standard of Small Business Concerns Eligible for Assistance by Small Business Investment Companies	3245-AC94
4282	Veterans Program	3245-AC95
4283	Supplemental Standards of Ethical Conduct for Employees of the Small Business Administration	3245-AC96
4284	Surety Bond Guarantee Regulations	3245-AC97
4285	Women-Owned Business Definition and Protest and Appeal Process	3245-AC98
4286	Small Business Investment Companies; Participating Securities	3245-AD00
4287	Small Business Investment Companies; Leverage	3245-AD01

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4288	Certificate of Competency	3245-AA74
4289	Small Business Size Regulation	3245-AB88
4290	Small Business Size Standards for Natural Gas Distribution	3245-AB94
4291	Business and Disaster Loans	3245-AB99
4292	Governmentwide Restrictions on Lobbying	3245-AC07
4293	Regulations for the Implementation of New 301(d) SBIC Funding Authority and Terms Contained in Public Law 101-162	3245-AC09
4294	Small Business Size Standards; Computer Services Industries	3245-AC11
4295	Disclosure of Information and Privacy Act of 1974 Amendments	3245-AC18
4296	Small Business Investment Companies; Auditing Procedures	3245-AC24
4297	Small Business Investment Companies	3245-AC50
4298	Administration	3245-AC52
4299	Small Business Size Standards—Environmental Services	3245-AC58
4300	Business Loans; Microloan Demonstration Program	3245-AC73
4301	Small Business Size Standards; Advertising Services Industries	3245-AC76
4302	Loans to State and Local Development Companies; CDC Designations and Valuation of Land	3245-AC79
4303	Business Loan Policy—Limitations on Loan Purposes	3245-AC81
4304	Minority Small Business and Capital Ownership Development; Miscellaneous Amendments	3245-AC86
4305	Disaster—Physical Disaster and Economic Injury Loans	3245-AC89
4306	Small Business Size Regulations; Procurement Automated Source System	3245-AC90

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4307	Minority Small Business and Capital Ownership Development Program	3245-AC36
4308	Minority Small Business and Capital Ownership Development Program	3245-AC37
4309	Minority Small Business and Capital Ownership Development Program	3245-AC38
4310	Minority Small Business and Capital Ownership Development Program	3245-AC39
4311	Minority Small Business and Capital Ownership Development Program	3245-AC40
4312	Loans to State and Local Development Companies; Associate Development Company Program	3245-AC63
4313	Business Loan Policy; Pledging or Sale of Unguaranteed Portion of Loan	3245-AC80

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Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4314	Small Business Investment Company Program	3245-AC83
4315	Small Business Size Standards: Fixed Size Standards Levels	3245-AC88

SMALL BUSINESS ADMINISTRATION (SBA) — Prerule Stage

4247. • BREAKOUT PROCUREMENT CENTER REPRESENTATION PROGRAM

Legal Authority: 15 USC 634(b)(6); 15 USC 644(a)(4); PL 98-577, PL 100-590

CFR Citation: 13 CFR 125; 48 CFR 19

Legal Deadline: None

Abstract: Proposal to clarify the appellate process pertaining to breakout program appeal procedures at the secretarial level.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/93	
NPRM	07/00/93	
Final Action	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: James A. Gambardella, Breakout Program Manager, Office of Prime Contracts, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6471

RIN: 3245–AC99

SMALL BUSINESS ADMINISTRATION (SBA) — Proposed Rule Stage

4248. SMALL BUSINESS DEVELOPMENT CENTERS

Significance: Agency Priority

Legal Authority: PL 96-302; PL 98-395

CFR Citation: 13 CFR 129

Legal Deadline: None

Abstract: Comprehensive regulations governing the Small Business Development Center Program.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: Public Law 102-366, the Small Business Credit and Business Opportunity Enhancement Act of 1992, prohibits the Small Business Administration from publishing any rules or regulations for the Small Business Development Center Program prior to submission to and approval of Congress.

Agency Contact: Monika Edwards Harrison, Associate Administrator for Small Business Development Centers, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 202 205-6766

RIN: 3245–AB17

4249. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: Complete revision of the section 502 local development company rules.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: LeAnn Oliver, Deputy Director, Office of Rural Affairs and Economic Development, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 208 205-6485

RIN: 3245–AB35

4250. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 15 USC 634(b)(6); 42 USC 2000d-1

CFR Citation: 13 CFR 112

Legal Deadline: None

Abstract: Technical amendment to SBA's current regulation to clarify that if recipients of assistance under any of SBA's programs are found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: George Robinson, Director, Equal Employment Opportunity & Compliance, Small Business Administration, 409 Third Street SW., 4th Floor, Washington, DC 20416, 202 205-6750

RIN: 3245–AB36

SBA

Proposed Rule Stage

4251. NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS

Legal Authority: 15 USC 634(b)(6); PL 85-536; 15 USC 633; 15 USC 634; 15 USC 687; 15 USC 1691; 20 USC 1681 et seq; 29 USC 794

CFR Citation: 13 CFR 113

Legal Deadline: None

Abstract: Technical amendment to SBA's current regulation to clarify that if a beneficiary of one of SBA's financial assistance programs is found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance or accelerating a loan.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: George Robinson, Director, Equal Employment Opportunity & Compliance, Small Business Administration, 409 Third Street SW., 4th Floor, Washington, DC 20416, 202 205-6750

RIN: 3245–AB37

4252. USER FEES FOR SBA PROGRAMS

Legal Authority: 15 USC 687(c); 15 USC 687d; 15 USC 687g; 15 USC 694a; 15 USC 694b; 5 USC app 1; 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 631; 15 USC 637(b); 15 USC 636(i); 15 USC 636(j); PL 93-113

CFR Citation: 13 CFR 101; 13 CFR 107; 13 CFR 115; 13 CFR 121; 13 CFR 124; 13 CFR 125; 13 CFR 129

Legal Deadline: None

Abstract: Establishment or modification of user fees for the following: use of SBA's Office of Advocacy database; guaranty of debentures issued by Small Business Investment Companies; guaranty of surety bonds, appeals of size determinations and standard industrial classification code designations; application to the Minority Small Business (Section 8(a)) Program; training sponsored by the Service Corps of Retired Executives (SCORE), SBA's Office of Women's Business Ownership, and SBA's Office of Veterans Affairs; counseling by Small Business Institutes; and application for a Certificate of Competency.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: The promulgation of regulations pertaining to user fees will be determined in fiscal year 1994.

Agency Contact: Ramona Powell, Chief Counsel for Debt Collection and Development Companies, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 202 205-6644

RIN: 3245–AB44

4253. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS; PROPOSED REVISION OF CIRCULAR A-110

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 143

Legal Deadline: None

Abstract: This regulation establishes a uniform administrative rule for the SBA's grants and cooperative agreements.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44710
NPRM Comment Period End	01/03/89	
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Amy Mertz, Attorney Advisor, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 202 205-6645

RIN: 3245–AB67

4254. DISADVANTAGED BUSINESS STATUS PROTEST AND APPEALS PROCEDURES AMENDMENTS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(d); PL 99-661, Sec 1207; PL 100-656; PL 101-37

CFR Citation: 13 CFR 124, subpart B

Legal Deadline: None

Abstract: This rule is an amendment to the program regulations governing the processing of protests and appeals of self-certifications of disadvantaged status made in connection with the 8(d) program, the Small Disadvantaged Business (SDB) program of the Department of Defense and other programs that require SBA to determine disadvantaged status as a condition of eligibility.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith Watts, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6410

RIN: 3245–AC19

4255. AMENDMENTS TO ADMINISTRATION REGULATIONS

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 101

Legal Deadline: None

Abstract: General revision of 13 CFR part 101, Administration.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard L. Osbourn, Director of Personnel, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6782

RIN: 3245–AC20

4256. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC

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637(d); PL 99-661, Sec 1207; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This rule is an amendment to the program regulations governing the "mix" of 8(a) and non-8(a) contracts required for an 8(a) program participant.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith Watts, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6410

RIN: 3245-AC27

4257. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661, Sec 1207; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This proposed rule would amend both eligibility requirements for and contractual assistance provisions within the 8(a) program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: 3245-AC28 now merges 3245-AC36, 3245-AC37, 3245-AC38, 3245-AC39, and 3245-AC40 into one regulation.

Agency Contact: Judith Watts, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6410

RIN: 3245-AC28

4258. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661, Sec 1207; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This rule is an amendment to the program regulations governing appeals of denials of program admission, graduation, and termination actions, and denials of requests for waiver of the requirement that, subject to certain conditions, an 8(a) contract must be performed by the contractor to which it was awarded

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith Watts, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6410

RIN: 3245-AC30

4259. SMALL BUSINESS SIZE REGULATIONS

Legal Authority: 15 USC 634(b)(6); PL 100-590

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule contains revisions to the size regulations to address employee leasing arrangements, altering the jurisdiction of OHA, and other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	08/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Catherine Thomas, Program Manager, Size Determination Program, Office of Procurement Policy and Liaison, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 202 205-6465

RIN: 3245-AC31

4260. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Legal Authority: 15 USC 634(d)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661, Sec 1207; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This rule is an amendment to the program regulations governing the development of an 8(a) participant's business plan and support levels.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith Watts, Associate Administrator for Minority Small Business and Capital Ownership

Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6410

RIN: 3245-AC33

4261. SMALL BUSINESS SIZE STANDARDS; BASE MAINTENANCE

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the size standard for base maintenance. A firm in this industry is presently defined as small if it has $13.5 million or less in receipts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 202 205-6618

RIN: 3245-AC34

4262. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661, Sec 1207; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This rule is an amendment to the program regulations governing the requirement on benefits for an 8(a) participant during each of the stages of program participation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith Watts, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6410

RIN: 3245-AC35

4263. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This rule is an amendment to the program regulations governing 8(a) competition.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith Watts, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6410

RIN: 3245-AC41

4264. DISCLOSURE OF INFORMATION AND PRIVACY ACT OF 1974

Legal Authority: PL 93-579; 5 USC 552(a)

CFR Citation: 13 CFR 102, subpart B

Legal Deadline: None

Abstract: Regulations for the Computer Matching and Privacy Protection Act of 1974 will be added to the Agency's regulations on the Privacy Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: John H. Barnett, Assistant Administrator for Hearings and Appeals, Small Business Administration, 1250 23rd St. NW., Suite 402, Washington, DC 20416, 202 653-7735

RIN: 3245-AC45

4265. SMALL BUSINESS INVESTMENT COMPANIES

Significance: Regulatory Program

Legal Authority: 15 USC 681 et seq; 15 USC 687(c); 15 USC 683; 15 USC 687d; 15 USC 687g; 15 USC 687b; 15 USC 687m; 15 USC 632; 15 USC 634(b)(6); 15 USC 644(a); PL 100-656; PL 100-590; PL 101-162; 15 USC 634(b)(11)

CFR Citation: 13 CFR 107; 13 CFR 121

Legal Deadline: None

Abstract: This rule will revise one of the two possible size standards which must be met by applicant concerns seeking financing from a small business investment company.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Wayne Foren, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6510

RIN: 3245-AC51

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SBA — Proposed Rule Stage

4266. SMALL BUSINESS SIZE STANDARDS—GAS PRODUCTION AND DISTRIBUTION

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the size standard for the industries under the SIC Industry Group 492, except SIC Code 4924 (Natural Gas Distribution). The current size standard is $3.5 million in average annual receipts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6618

RIN: 3245–AC56

4267. SMALL BUSINESS SIZE STANDARDS—COMBINATION ELECTRIC AND GAS AND OTHER UTILITY SERVICES

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the size standard for the three industries in SIC Industry Group 493. The current size standard is $3.5 million in average annual receipts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	12/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6618

RIN: 3245–AC57

4268. SURETY BOND GUARANTEE; REGULATIONS

Significance: Regulatory Program

Legal Authority: 15 USC 687b; 15 USC 694a; 15 USC 694b; 5 USC app 1; PL 100-590

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: The entire program regulations will be revised and reorganized to include substantive policy and procedural modifications which will be implemented. This revision is intended to eliminate inconsistencies, clarify procedures, reflect program experience and industry changes and result in more efficient program operation. The planned regulatory changes, that were indicated in the April 1992 to April 1993 Unified Agenda of Federal Regulations, are included in this proposed revision. Specifically, these include regulations pertaining to both the prior approval and preferred programs, fees and premiums, and claims for losses.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Dorothy D. Kleeschulte, Assistant Administrator for Surety Guarantees, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6540

RIN: 3245–AC60

4269. SMALL BUSINESS SIZE STANDARDS; ADJUSTMENT AND COLLECTION AGENCIES

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the size standard for the Adjustment and Collection Agencies. The current size standard is $3.5 million in gross receipts. The proposal will also address the issue of receipts calculated on a net income or gross income basis.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6618

RIN: 3245–AC64

4270. SMALL BUSINESS SIZE STANDARDS; FINANCIAL, INSURANCE, AND REAL ESTATE INDUSTRY DIVISION

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: A review of size standards for industries within this industry division may lead to a revision of size standards in one or more industries in order to achieve a more equitable relationship among industry size standards within the industry division. Consideration of the impact of inflation on the industry size standards will also be part of this review.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6618

RIN: 3245–AC65

SBA — Proposed Rule Stage

4271. SMALL BUSINESS SIZE STANDARDS; RETAIL TRADE INDUSTRY

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: A review of size standards for industries within this industry division may lead to a revision of the size standards in one or more industries in order to achieve a more equitable relationship among industry size standards within the industry division. Consideration of the impact of inflation on the industry size standards will also be part of this review.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6618

RIN: 3245–AC66

4272. SMALL BUSINESS SIZE STANDARDS; SERVICES INDUSTRY DIVISION

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: A review of size standards for industries within this industry division may lead to a revision of size standards in one or more industries in order to achieve a more equitable relationship among industry size standards within the industry division. Consideration of the impact of inflation on the industry size standards will also be part of this review.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6618

RIN: 3245–AC67

4273. SMALL BUSINESS SIZE STANDARDS; HEALTH CARE SERVICES INDUSTRIES

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise some or all of the 11 size standards within the health care services industries. The current size standard of $3.5 million in average annual receipts applies to each health care industry.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6618

RIN: 3245–AC68

4274. BUSINESS LOAN POLICY; MEDIA POLICY

Significance: Agency Priority

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This rule proposes to amend SBA's regulations with respect to loan eligibility under the media policy rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6490

RIN: 3245–AC71

4275. BUSINESS AND DISASTER LOANS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f); PL 100-590; PL 102-190; PL 102-395

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: Proposal to revise the current definition of "Major Source of Employment." The current definition is (a) a concern which employed 10 percent or more of the entire workforce of a geographically identifiable community, no larger than a county, or (b) a concern which employed 10 percent or more of the total work force in an industry within the major disaster area, or (c) any business firm within the major disaster area which employed 1,000 employees.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Bernard Kulik, Assistant Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6734

RIN: 3245–AC82

4276. SMALL BUSINESS SIZE STANDARDS; SURETY BOND GUARANTEE

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the size standard applicable to surety bond guarantee applicants in construction and services industries. The current size standard is $3.5 million in average annual receipts.

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Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6618

RIN: 3245–AC84

4277. • SMALL BUSINESS SIZE REGULATION

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c); PL 101-574

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Rule to establish procedures for requesting/granting waivers of the nonmanufacturer rule on specific solicitations, based on contracting officer determinations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert J. Moffitt, Associate Administrator for Procurement Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6460

RIN: 3245–AC87

4278. • SMALL BUSINESS INVESTMENT COMPANIES; MISCELLANEOUS AMENDMENTS

Significance: Agency Priority

Legal Authority: 15 USC 637(c); 15 USC 683; 15 USC 687d; 15 USC 687g; 15 USC 687h; 15 USC 687m; 15 USC 681 et seq; PL 100-590; PL 101-162

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This proposed rule would make several changes to SBA's regulation governing the Small Business Investment Act Company (SBIC) program. Included among the proposals would be to permit Licensees to provide financing to small concerns involved in leasing real estate; formally defining the term "commitment"; and authorizing Licensees to purchase securities of eligible small concerns from SBA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Wayne S. Foren, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416, 202 205-6510

RIN: 3245–AC91

4279. • DISASTER - PHYSICAL DISASTER AND ECONOMIC INJURY LOANS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f); PL 102-395

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: Under the Small Business Act, the total amount of disaster assistance a borrower may receive from SBA in connection with any one disaster is limited to $500,000 unless the borrower is a major source of employment in the Disaster Area and SBA, in its discretion, waives the $500,000 limit. This proposed rule provides that SBA will not waive the statutory limit unless the major source of employment's damaged location(s) in the disaster area are out of business or in imminent danger of going out of business as a result of the disaster and the SBA loan is necessary to avoid substantial unemployment in the disaster area.

Timetable:

Action	Date	FR Cite
NPRM	08/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Bernard Kulik, Assistant Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6734

RIN: 3245–AC92

4280. • SMALL BUSINESS INVESTMENT COMPANIES; PARTIAL IMPLEMENTATION OF PL 102-366

Significance: Agency Priority

Legal Authority: 15 USC 681 et seq; 15 USC 687(c); 15 USC 683; 15 USC 687d; 15 USC 687g; 15 USC 687b; 15 USC 687m; PL 102-366

CFR Citation: 13 CFR 107

Legal Deadline: NPRM, Statutory, December 4, 1992.

Abstract: This rule implements the first group of changes mandated by Title IV of PL 102-366 which are operational in nature and include several policy changes that are not mandated by Title IV but are related to its provisions. The major provisions of this rule include expanded sources of private capital, suitability of capital, suitability of management and portfolio valuations, cost of money, regulatory relief for non-leveraged SBICs, and change of ownership transactions. Four miscellaneous changes which were under consideration before PL 102-366 was introduced are also included as well as an amendment to require a limited partnership that applies for a license to have a term that is the longer of ten years or two years following the maturity date of any outstanding leverage.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Wayne S. Foren, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416, 202 205-6510

RIN: 3245–AC93

4281. • SMALL BUSINESS SIZE STANDARDS: INCREASE SIZE STANDARD OF SMALL BUSINESS CONCERNS ELIGIBLE FOR ASSISTANCE BY SMALL BUSINESS INVESTMENT COMPANIES

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 681 et seq; 15 USC 644(c); 15 USC 687(c); 15 USC 683; 15 USC 687d; 15 USC 687g; 15 USC 687b; 15 USC 687m; PL 100-565; PL 100-590; PL 101-162

CFR Citation: 13 CFR 121; 13 CFR 107

Legal Deadline: None

Abstract: This rule will update and expand the primary size standard (SBIC Standard) used to determine the eligibility of applicants under the SBIC program. It would also increase the financial tests in the SBIC standard by increasing the net worth test from $6 million to $18 million, and the net income test from $2 million to $6 million.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Wayne S. Foren, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416, 202 205-6510

RIN: 3245–AC94

4282. • VETERANS PROGRAM

Legal Authority: PL 93-237; 15 USC 634(b)(6)

CFR Citation: 13 CFR 116.2; 13 CFR 116.3

Legal Deadline: None

Abstract: PL 93-237 requires that SBA provide special consideration to veterans, their survivors or dependents in the administration of Agency programs. This rule will amend the current definition of veteran and special consideration.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Leon Bechet, Director, Office of Veterans Affairs, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416, 202 205-6773

RIN: 3245–AC95

4283. • SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE SMALL BUSINESS ADMINISTRATION

Legal Authority: 15 USC 684; 15 USC 637(a)(18); 15 USC 637(a)(19); EO 12674

CFR Citation: 5 CFR ch XLIV

Legal Deadline: None

Abstract: The Small Business Administration and the Office of Government Ethics are jointly issuing this proposed rule which is designed to establish uniform standards of ethical conduct for the officers and employees of the SBA. This proposed rule will be published at 5 CFR ch. XLIV and will supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (57 FR 35006; Aug. 7, 1992). This proposed rule is necessary to supplement the standards issued by OGE because it addresses ethical issues which are unique to SBA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robinson S. Nunn, Chief Counsel for Ethics, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416, 202 205-6644

RIN: 3245–AC96

4284. • SURETY BOND GUARANTEE REGULATIONS

Legal Authority: 15 USC 687b; 15 USC 687c; 15 USC 694a; 15 USC 694b; 5 USC, app 1; PL 100-590; PL 101-574

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: The entire program regulations will be revised and reorganized to include substantive policy and procedural modifications which have been implemented. This revision is intended to eliminate inconsistencies, clarify procedures, reflect program experience and industry changes and result in more efficient operation. Planned regulatory changes include regulations pertaining to both the prior-approval and preferred programs, fees and premiums and claims for losses.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Dorothy D. Kleeschulte, Assistant Administrator for Surety Guarantees, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6540

RIN: 3245–AC97

4285. • WOMEN-OWNED BUSINESS DEFINITION AND PROTEST AND APPEAL PROCESS

Legal Authority: 15 USC 631; 15 USC 632(a); 15 USC 634(b)(6); 15 USC 656; EO 12138

CFR Citation: 13 CFR 126

Legal Deadline: None

Abstract: Executive Order 12138 created a national women's business enterprise policy and prescribed arrangements for developing, coordinating, and implementing a national program for women's business enterprise. This EO states that each department and agency of the Executive Branch "shall take appropriate action to facilitate, preserve, and strengthen" women-owned businesses. SBA is proposing these regulations to establish a definition of "women-owned business" and to provide a process to

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expeditiously resolve challenges to a self-certification of a women-owned business.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Carol White, Deputy Director for Women's Business Ownership, Small Business Administration, 409 Third Street SW., Room 6250, Washington, DC 20416, 202 205-6673

RIN: 3245–AC98

4286. • SMALL BUSINESS INVESTMENT COMPANIES; PARTICIPATING SECURITIES

Significance: Agency Priority

Legal Authority: 15 USC 681 et seq; 15 USC 687(c); 15 USC 683; 15 USC 687d; 15 USC 687g; 15 USC 687b; PL 100-590; PL 102-366 Title IV

CFR Citation: 13 CFR 107

Legal Deadline: NPRM, Statutory, December 4, 1992.

Abstract: This rule implements the second group of changes mandated by Title IV of PL 102-366, specifically sections 402, 403, 404 and 412 which relate to leverage, i.e., participating securities, increased levels of leverage and reduced leverage ratios. This rule also includes several policy changes that are not mandated by Title IV but are related to its provisions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Wayne S. Foren, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416, 202 205-6510

RIN: 3245–AD00

4287. • SMALL BUSINESS INVESTMENT COMPANIES; LEVERAGE

Significance: Agency Priority

Legal Authority: 15 USC 681 et seq; 15 USC 687(c); 15 USC 683; 15 USC 687d; 15 USC 687g; 15 USC 687b; PL 100-590; PL 102-366 Title IV

CFR Citation: 13 CFR 107

Legal Deadline: NPRM, Statutory, December 4, 1992.

Abstract: This rule implements changes mandated by Title IV of PL 102-366, specifically section 414 which permits approvals for leverage to be obligated in one fiscal year and guaranteed or disbursed in the following fiscal year.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Wayne S. Foren, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416, 202 205-6510

RIN: 3245–AD01

SMALL BUSINESS ADMINISTRATION (SBA) — Final Rule Stage

4288. CERTIFICATE OF COMPETENCY

Legal Authority: 15 USC 634(b)(6); PL 99-591; PL 99-661

CFR Citation: 13 CFR 125.5

Legal Deadline: None

Abstract: Overall revision to Certificate of Competency regulations. Additionally, this rule will include guidelines for application of subcontracting limitations imposed by PL 99-591 and PL 99-661.

Timetable:

Action	Date	FR Cite
NPRM	08/21/92	57 FR 37909
NPRM Comment Period End	10/20/92	
Final Action	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: RIN 3245-AB62 has been merged with this rulemaking action.

Agency Contact: Robert J. Moffitt, Associate Administrator for Procurement Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6460

RIN: 3245–AA74

4289. SMALL BUSINESS SIZE REGULATION

Legal Authority: 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: Final, Statutory, August 15, 1989.

Abstract: Rule to establish procedures for requesting/granting waivers to the nonmanufacturers rule for classes of products when there are no small business manufacturers in the Federal market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/90	55 FR 20467
NPRM Comment Period End	06/18/90	
Second NPRM	12/18/90	55 FR 51913
Second NPRM Comment Period End	01/18/91	
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no

paperwork burden associated with this action.

Additional Information: RIN 3245-AC29 has been merged with this rulemaking action.

Agency Contact: Robert J. Moffitt, Associate Administrator for Procurement Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6460

RIN: 3245–AB88

4290. SMALL BUSINESS SIZE STANDARDS FOR NATURAL GAS DISTRIBUTION

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 99-591; PL 99-661

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: SBA is imposing a size standard of 500 employees for the recently deregulated natural gas distribution industry firms which now compete for Federal natural gas contracts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/25/88	53 FR 47663
Final Action	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 202 205-6618

RIN: 3245–AB94

4291. BUSINESS AND DISASTER LOANS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f); 15 USC 636(h); PL 100-590; 31 USC 3717(e)

CFR Citation: 13 CFR 120; 13 CFR 123

Legal Deadline: None

Abstract: This rule would allow SBA to recover its collection costs from borrowers who have failed to satisfy their loan agreements and to assess additional penalties permitted by law.

Timetable:

Action	Date	FR Cite
NPRM	08/28/89	54 FR 35499
NPRM Comment Period End	09/27/89	
Final Action	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 202 205-6490

RIN: 3245–AB99

4292. GOVERNMENTWIDE RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: PL 101-121, sec 319; 15 USC 634(b)(6)

CFR Citation: 13 CFR 146

Legal Deadline: NPRM, Statutory, December 23, 1989.
OMB published governmentwide interim final guidance on this subject December 20, 1989, 54 FR 52305, thereby meeting the statutory deadline.

Abstract: Section 319 of Pub. L. 101-121 generally prohibits recipients of Federal contracts, grants or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guarantee a loan, must disclose lobbying activities. This Office of Management and Budget crafted common rule will implement this law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Interim Final Rule Effective Date	02/26/90	55 FR 6736
Interim Final Rule Comment Period End	04/27/90	55 FR 6736

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Kandace Laisure, Attorney Advisor, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 202 205-6644

RIN: 3245–AC07

4293. REGULATIONS FOR THE IMPLEMENTATION OF NEW 301(D) SBIC FUNDING AUTHORITY AND TERMS CONTAINED IN PUBLIC LAW 101-162

Legal Authority: 15 USC 681 et seq, as amended; PL 100-590; PL 101-162

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule changes the present regulations governing the Small Business Investment Company (SBIC) program in order to implement amendments made to the Small Business Investment Act (15 USC 661 et seq) by Public Laws 100-590 and 101-162 with regard to funds invested in private capital, provisions followed by SBA to buy down leverage in 301(d) SBICs and to set the interest rate on preferred securities purchased by SBA after November 20, 1988.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/10/90	55 FR 28166
Final Action	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Joseph L. Newell, Director, Office of Investment, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 202 205-6510

RIN: 3245–AC09

4294. SMALL BUSINESS SIZE STANDARDS; COMPUTER SERVICES INDUSTRIES

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule revises the size standard for computer-integrated systems design, computer programming services, and other computer-related services to $14.5 million in average annual receipts.

Timetable:

Action	Date	FR Cite
NPRM	08/13/91	56 FR 38364

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Action	Date	FR Cite
NPRM Comment Period End	10/15/91	56 FR 38364
Interim Final Rule	06/23/92	57 FR 27906
Final Action	12/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 202 205-6618

RIN: 3245–AC11

4295. DISCLOSURE OF INFORMATION AND PRIVACY ACT OF 1974 AMENDMENTS

Legal Authority: 5 USC 552; 44 USC 35; 5 USC 552a; 31 USC 1 et seq; 31 USC 67 et seq

CFR Citation: 13 CFR 102

Legal Deadline: None

Abstract: This regulation would make revisions to 13 CFR part 102 dealing with Freedom of Information Act rules. Specifically, this regulation would create predisclosure notification procedures to providers of commercial information under exemption four of the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM	10/21/91	56 FR 52482
Final Action	10/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John H. Barnett, Assistant Administrator for Hearings and Appeals, Small Business Administration, 1250 23rd St. NW., Suite 402, Washington, DC 20416, 202 653-7735

RIN: 3245–AC18

4296. SMALL BUSINESS INVESTMENT COMPANIES; AUDITING PROCEDURES

Legal Authority: 15 USC 681 et seq; PL 100-590; PL 101-162

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This final rule withdraws the proposal to adopt government auditing standards; but clarifies the independent public accountant's reporting responsibility regarding internal control deficiencies, noncompliance with laws and government regulations, and irregularities. Also, this rule finalizes other provisions of the proposed rule that were unrelated to the proposal to adopt the government auditing standards.

Timetable:

Action	Date	FR Cite
NPRM	08/23/90	55 FR 34650
NPRM Comment Period End	09/24/90	
NPRM Comment Period Extended	01/11/91	56 FR 1334
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas C. Bresnan, Staff Accountant, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 202 205-6510

RIN: 3245–AC24

4297. SMALL BUSINESS INVESTMENT COMPANIES

Significance: Agency Priority

Legal Authority: 15 USC 681 et seq; 15 USC 687(c); 15 USC 683; 15 USC 687(d); 15 USC 687(g); 15 USC 687(b); 15 USC 687(m); PL 100-590; PL 101-162; PL 101-574

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: Implementation of the statutory limit of $35 million for aggregate leverage for SBICs under common control.

Timetable:

Action	Date	FR Cite
NPRM	05/10/91	56 FR 21639
NPRM Comment Period End	07/09/91	
Final Action	04/00/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Wayne Foren, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6510

RIN: 3245–AC50

4298. ADMINISTRATION

Legal Authority: 15 USC 633; 15 USC 634; 15 USC 687; 5 USC 552; PL 85-536; PL 85-699; PL 93-386

CFR Citation: 13 CFR 101.2-3

Legal Deadline: None

Abstract: As the result of an Agency reorganization, the Office of Field Management has been retitled the Office of Program Analysis and Quality Assurance. This regulation will implement such reorganization by amending the regulations to include the mission statement of the newly created office.

Timetable:

Action	Date	FR Cite
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rodney Lewis, Director, Office of Program Analysis, Small Business Administration, 409 Third Street SW., 5th Floor, Washington, DC 20416, 202 205-6650

RIN: 3245–AC52

4299. SMALL BUSINESS SIZE STANDARDS—ENVIRONMENTAL SERVICES

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the size standards that apply to the removal and disposal of hazardous waste and other environmental cleanup activities. Currently, several industry size standards may be used depending on the type of activity. The proposal may consider if a new industry classification should be developed for these activities and what size standard is appropriate.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/13/93	58 FR 4074
Final Action	06/00/93	

Small Entities Affected: Businesses

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Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6618

RIN: 3245–AC58

4300. BUSINESS LOANS; MICROLOAN DEMONSTRATION PROGRAM

Significance: Agency Priority

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a)

CFR Citation: 13 CFR 122

Legal Deadline: Other, Statutory, January 28, 1992. Interim Final Rule

Abstract: This rule serves to implement the Microloan Demonstration Program whose purpose is to assist women, low-income and minority entrepreneurs, business owners, and other individuals possessing the capability to operate successful business concerns. In addition, the program is extended to assist small business concerns suffering from a lack of credit due to economic downturn. Under the program, SBA is authorized to make direct loans to intermediary lenders who in turn use the proceeds to make fixed-interest-rate microloans available to businesses.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/92	57 FR 3848
Second Interim Final Rule	10/23/92	57 FR 48309
Final Action	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John Cox, Director, Office of Finance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6490

RIN: 3245–AC73

4301. SMALL BUSINESS SIZE STANDARDS; ADVERTISING SERVICES INDUSTRIES

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule proposes to increase the size standard for four advertising services industries from $3.5 million in annual receipts (defined to include all revenue in whatever form received or accrued from whatever source) to $6 million in annual receipts (excluding amounts remitted to other firms).

Timetable:

Action	Date	FR Cite
NPRM	08/25/92	57 FR 38452
NPRM Comment Period End	09/24/92	
Final Action	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6618

RIN: 3245–AC78

4302. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES; CDC DESIGNATIONS AND VALUATION OF LAND

Legal Authority: 15 USC 687(c); 15 USC 695; 15 USC 696; 15 USC 697a; 15 USC 697b; 15 USC 697c

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: This proposed rule revises the regulations governing the 503 development company program by requiring that SBA approve the designations of new certified 503 companies and proposed changes of designations for existing 503 companies. This rule also would allow the use of land as a 503 company's injection even if the land has a building or other structure.

Timetable:

Action	Date	FR Cite
NPRM	09/18/92	57 FR 43157
NPRM Comment Period End	10/18/92	
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: LeAnn M. Oliver, Deputy Director, Office of Rural Affairs and Economic Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6485

RIN: 3245–AC79

4303. BUSINESS LOAN POLICY—LIMITATIONS ON LOAN PURPOSES

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This proposed regulation would formalize a longstanding SBA practice against making or guaranteeing a loan to an applicant under section 7(a) of the Small Business Act (15 USC 636(a)) if the Agency had previously incurred a loss (which remains outstanding) in connection with an earlier section 7(a) loan or guaranty with respect to the applicant (or its predecessor) or to any business controlled by the same person(s) who control(s) the applicant.

Timetable:

Action	Date	FR Cite
NPRM	09/25/92	57 FR 44346
NPRM Comment Period End	10/26/92	
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6490

RIN: 3245–AC81

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4304. • MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT; MISCELLANEOUS AMENDMENTS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661, PL 100-656; PL 101-37

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This interim final rule addresses two recent decisions of SBA's Office of Hearings and Appeals. In addition, the rule removes general inconsistencies which currently exist between SBA's regulations and the Small Business Act as amended by PL 101-574

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith A. Watts, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6410

RIN: 3245–AC86

4305. • DISASTER—PHYSICAL DISASTER AND ECONOMIC INJURY LOANS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f), PL 102-395

CFR Citation: 13 CFR 123

Legal Deadline: None
The Conference Report accompanying PL 102-395 expressed Congress' expectations that SBA promulgate regulations implementing this provision "under any expedited procedures available by law."

Abstract: This rule implements PL 102-395 which prohibits the use of SBA disaster loan funds for direct loans to homeowners or businesses that wish to voluntarily relocate outside the business area in which a disaster has occurred.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/19/92	57 FR 54504
Final Action	05/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Bernard Kulik, Assistant Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6734

RIN: 3245–AC89

4306. • SMALL BUSINESS SIZE REGULATIONS; PROCUREMENT AUTOMATED SOURCE SYSTEM

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(c)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This regulation provides that prime contractors may rely on the information contained in SBA's Procurement Automated Source System (PASS) as an accurate representation of a concern's size and ownership characteristics for purposes of maintaining a small business source list.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Catherine B. Thomas, Procurement Analyst, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6460

RIN: 3245–AC90

SMALL BUSINESS ADMINISTRATION (SBA) — Completed Actions

4307. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661, Sec 1207; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This rule is an amendment to the program regulations governing the exemption of an 8(a) concern in the developmental stages of participation from any payment and performance bonds required by the Miller Act for, and in connection with, any 8(a) construction contract.

Timetable:

Action	Date	FR Cite
Merged with RIN 3245-AC28	11/06/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith Watts, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6410

RIN: 3245–AC36

4308. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: Public Law 101-574, enacted November 15, 1990, permits SBA to require that a firm have been in business for a minimum period of time as a condition of 8(a) program eligibility only if SBA provides for a waiver to this requirement. The waiver criterion is provided in the statute. Current regulations provide that a firm must have been in business for two full years as evidenced by revenues shown on filed income tax returns in order to be eligible for the program.

This rule is an amendment to the program regulation governing the determination of potential for success as a condition of 8(a) program eligibility.

Timetable:

Action	Date	FR Cite
Merged with RIN 3245-AC28	11/06/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Judith Watts, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6410

RIN: 3245–AC37

4309. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661, Sec 1207; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This rule is an amendment to the program regulations governing the procedures for obtaining and accepting requirements for award under 8(a) program authority.

Timetable:

Action	Date	FR Cite
Merged with RIN 3245-AC28	11/06/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith Watts, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6410

RIN: 3245–AC38

4310. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661, Sec 1207; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: Public Law 101-574 allows a firm owned by a holding company owned by an Indian tribe to be eligible for 8(a) participation. Current regulations are not clear that the statutorily permitted second-tier ownership is allowed. This rule is an amendment to the program regulations governing 8(a) program participation by concerns owned by Indian tribes, including Alaska native corporations.

Timetable:

Action	Date	FR Cite
Merged with RIN 3245-AC28	11/06/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith Watts, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6410

RIN: 3245–AC40

4311. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661, Sec 1207; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: PL 101-574 extends the sunset date and increases the number of opportunities for which an Indian tribe may be eligible for an exemption from the size limitations imposed on joint ventures. This rule is an amendment to the program regulation governing the award of 8(a) contracts to joint ventures partially owned by Indian tribes.

Timetable:

Action	Date	FR Cite
Merged with RIN 3245-AC28	11/06/92	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith Watts, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6410

RIN: 3245–AC40

4312. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES; ASSOCIATE DEVELOPMENT COMPANY PROGRAM

Legal Authority: 15 USC 687(c); 15 USC 695; 15 USC 696; 15 USC 697a; 15 USC 697b; 15 USC 697c

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: This rule revises the regulations governing the 503 Development Company program by requiring a probationary period for

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newly certified 503 companies and providing for a new class of entities, not having full 503 company status, designated as Associate Development Companies.

Timetable:

Action	Date	FR Cite
NPRM	09/18/92	57 FR 43155
NPRM Comment Period End	10/19/92	
Final Action	03/24/93	58 FR 15756
Final Action Effective	03/24/93	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: LeAnn Oliver, Deputy Director, Office of Rural Affairs and Economic Development, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 202 205-6485

RIN: 3245–AC63

4313. BUSINESS LOAN POLICY; PLEDGING OR SALE OF UNGUARANTEED PORTION OF LOAN

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This proposed rule would permit, under prescribed procedures, on a case-by-case basis, and with SBA's prior written consent, both the transfer by some lenders of the unguaranteed portions of SBA guaranteed loans and the pledge by other lenders of the notes which evidence SBA-guaranteed loans for the purpose of financing transactions for the benefit of those lenders.

Timetable:

Action	Date	FR Cite
NPRM	10/09/92	57 FR 46523
Final Action	12/31/92	57 FR 62474
Final Action Effective	12/31/92	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6490

RIN: 3245–AC80

4314. SMALL BUSINESS INVESTMENT COMPANY PROGRAM

Significance: Regulatory Program

Legal Authority: 15 USC 681 et seq, as amended; PL 100-590; PL 101-162; 15 USC 687(d); 15 USC 687(g); 15 USC 687(b); 15 USC 687(m) as amended by PL 100-590; 15 USC 687(c); 15 USC 683 as amended by PL 101-162

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: SBA's Investment Advisory Council's Committee on Regulation and Policies submitted certain recommendations for improving the overall effectiveness and efficiency of the Small Business Investment Company (SBIC) program. SBA will review such recommendations and will issue a proposed rule which will address those ideas the Agency deems appropriate. The proposals being considered include, inter alia, increasing the size standard for small business concerns assisted under the SBIC program; revising the cost of money regulation to permit SBICs to be reasonably compensated for their services; and allowing public pension fund investment in SBICs and, without restriction, their qualification as private capital.

Timetable:

Action	Date	FR Cite
Merged with RIN 3245-AC93	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph L. Newell, Staff Director for Program Development, Investment Division, Small Business Administration, 409 Third Street SW., Washington, DC 20416, 202 205-6512

RIN: 3245–AC83

4315. • SMALL BUSINESS SIZE STANDARDS: FIXED SIZE STANDARDS LEVELS

Legal Authority: 15 USC 632(c); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule proposes to streamline SBA's size standards by revising the number of fixed size standard levels to nine. This would be achieved by retaining the five existing employee-based levels and by establishing four new receipts based levels. Further this rule would adjust for inflation the receipts-based standards.

Timetable:

Action	Date	FR Cite
NPRM	12/31/92	57 FR 62515
Withdrawn	02/19/93	58 FR 9131

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert N. Ray, Acting Director, Size Standards Staff, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, 202 205-6618

RIN: 3245–AC88

[FR Doc. 93-7029 Filed 04-23-93; 8:45 am]
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federal register

Monday
April 26, 1993

Part XLII

Tennessee Valley Authority

Semiannual Regulatory Agenda

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TENNESSEE VALLEY AUTHORITY (TVA)

TENNESSEE VALLEY AUTHORITY

18 CFR Ch. XIII

Regulatory Agenda

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Regulatory agenda

SUMMARY: As a nonregulatory agency, TVA originates few regulations. However, TVA has three regulations under development and has published a notice of proposed rulemaking with regard to a fourth regulation. In addition, TVA has published an interim final common rule with regard to a fifth regulation and will publish a sixth regulation as a final rule. TVA is therefore publishing a regulatory agenda in voluntary compliance with Executive Order No. 12291.

FOR FURTHER INFORMATION CONTACT: For further information, please contact the persons listed.

Edward S. Christenbury,
General Counsel.

TENNESSEE VALLEY AUTHORITY (TVA) — Proposed Rule Stage

4316. PROTECTION OF ARCHAEOLOGICAL RESOURCES

Legal Authority: 16 USC 470aa to 470mm

CFR Citation: 18 CFR 1312

Legal Deadline: None

Abstract: The planned regulations will implement provisions of the Archaeological Resources Protection Act of 1979 by providing protection of archaeological resources on public lands in TVA custody and control. TVA will seek to protect such resources through permits authorizing excavation or removal of resources, through civil penalties for unauthorized excavation or removal, through preservation of archaeological resource collections and data, and through assuring confidentiality of information about resources when disclosure would threaten the resources. The planned regulations will supplement existing uniform regulations by assigning specific responsibilities within TVA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maxwell D. Ramsey, Manager, Cultural Resources, Tennessee Valley Authority, 2C Natural Resources Building, Norris, TN 37828, 615 632-1585

RIN: 3316–AA02

4317. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED EDUCATIONAL PROGRAMS

Legal Authority: 20 USC 1682; 16 USC 831 to 831dd

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation implements 20 USC 1681 which assures nondiscrimination on the basis of sex in educational programs or activities receiving financial assistance from Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Freddie L. Hogan, Manager, Contracts and Community Assistance, Tennessee Valley Authority, CEB 5A-M, Muscle Shoals, AL 35660, 205 386-2049

RIN: 3316–AA13

TENNESSEE VALLEY AUTHORITY (TVA) — Final Rule Stage

4318. PROTECTION OF ARCHAEOLOGICAL RESOURCES; UNIFORM REGULATIONS

Legal Authority: 16 USC 470ii(a)

CFR Citation: 18 CFR 1312

Legal Deadline: None

Abstract: The proposed rule would revise the prohibited acts section of the uniform regulations to conform to recent amendments to the Archaeological Resources Protection Act, thus enabling Federal land managers to assess civil penalties for the attempt to excavate, remove, damage, alter, or otherwise deface archaeological resources. The proposed rule would thus affect persons who make unauthorized use of archaeological resources or attempt to do so.

Timetable:

Action	Date	FR Cite
NPRM	01/29/90	55 FR 2848
NPRM Comment Period End	02/28/90	55 FR 2848
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maxwell D. Ramsey, Manager, Cultural Resources, Tennessee Valley Authority, 2C Natural Resources Building, Norris, TN 37828, 615 632-1585

RIN: 3316–AA14

4319. PROTECTION OF ARCHAEOLOGICAL RESOURCES; UNIFORM REGULATIONS

Legal Authority: 16 USC 470aa to 470mm

CFR Citation: 18 CFR 1312

Legal Deadline: None

Abstract: The proposed rule would amend the sections in the final uniform regulations to implement recent amendments to the Archaeological Resources Protection Act of 1979.

TVA — Final Rule Stage

Principally, these changes address public awareness programs, archaeological surveys and schedules, and guidance to Federal agencies on the disposition of human remains and directly associated objects found at archaeological sites. No direct costs to the public are anticipated, as the proposed rule would deal primarily with management and protection of archaeological resources by Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	09/11/91	56 FR 46259
NPRM Comment Period End	12/10/91	56 FR 46259
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maxwell D. Ramsey, Manager, Cultural Resources, Tennessee Valley Authority, 2C Natural Resources Building, Norris, TN 37828, 615 632-1585

RIN: 3316–AA16

4320. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 16 USC 831 to 831dd; 31 USC 1352

CFR Citation: 18 CFR 1315 (New)

Legal Deadline: None

Abstract: By this regulation the Tennessee Valley Authority adopts a common interim final rule issued in response to Section 319 of Public Law 101-121. Section 319 generally prohibits recipients of Federal contracts, cooperative agreements, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, cooperative agreement, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, cooperative agreement, grant, loan, or a Federal commitment to insure or guarantee a loan must disclose lobbying.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Charles L. Young, Senior Attorney, Office of the General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, TN 37902-1499, 615 632-7305

RIN: 3316–AA17

4321. ADOPTION OF PROCEDURES - PROGRAM FRAUD CIVIL REMEDIES ACT

Legal Authority: 16 USC 831 to 831dd; 31 USC 1352

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: In accordance with the requirements of section 319 of Public Law 101-121, the Tennessee Valley Authority is required to apply certain requirements of the Program Fraud Civil Remedies Act to the imposition and collection of civil penalties under Section 319 for violations of its restrictions on lobbying and its disclosure requirements. These regulations establish administrative procedures for imposition and collection of civil penalties in accordance with the Program Freud Civil Remedies Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles L. Young, Senior Attorney, Office of the General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, TN 37902-1499, 615 632-7305

RIN: 3316–AA18

[FR Doc. 93-6071 Filed 04-23-93; 8:45 am]
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Part XLIII

United States Information Agency

Semiannual Regulatory Agenda

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UNITED STATES INFORMATION AGENCY (USIA)

UNITED STATES INFORMATION AGENCY

22 CFR Ch. V

Unified Agenda of Federal Regulations

AGENCY: United States Information Agency.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the United States Information Agency (USIA) plans for the next 12 months. USIA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of USIA's regulatory plans and to provide a systematic means of monitoring regulatory activity in USIA. None of the regulations listed in the agenda are considered major under Executive Order 12291 "Federal Regulation."

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, Office of General Counsel, (202) 619-6829.

R. Wallace Stuart,

Acting General Counsel.

UNITED STATES INFORMATION AGENCY (USIA) — Final Rule Stage

4322. NEW RESTRICTIONS ON LOBBYING

Legal Authority: PL 101-121, sec 319; 31 USC 1352; 41 USC 701 et seq

CFR Citation: 22 CFR 519

Legal Deadline: None

Abstract: The U.S. Information Agency will join 28 other Executive agencies in issuing a final common rule for the purpose of implementing new statutory prohibitions and disclosure requirements with regard to the use of appropriated funds to influence certain Federal contracting and financial transactions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Georgia K. Hubert, Chief, Policy and Procedures Staff, United States Information Agency, Office of Contracts, 330 C Street, SW., Room 1611, Washington, DC 20547, 202 205-5404

RIN: 3116-AA00

4323. EXCHANGE VISITOR PROGRAM

Significance: Agency Priority

Legal Authority: 22 USC 1431 to 1442; 22 USC 2451 to 2460; EO 12048

CFR Citation: 22 CFR 514.1; 22 CFR 514.2; 22 CFR 514.11 to 514.17; 22 CFR 514.21 to 514.24; 22 CFR 514.31; 22 CFR 514.32

Legal Deadline: None

Abstract: The regulation will set forth a complete revision of 22 CFR 514. Such revision is required as current regulations are dated, contradictory, and confusing and lack both clarity and comprehensiveness. The revision will enhance Agency oversight of the Exchange Visitor Program as well as clarify the duties and obligations of sponsors conducting exchange programs. This action is undertaken pursuant to a thorough review of the Exchange Visitor Program, its enabling legislation, and past history. The revision will ensure that Exchange activities conducted under the aegis of the J-visa conform to United States immigration and labor laws and are consistent with both the Fulbright-Hays Act of 1961 and the Smith-Mundt Act of 1948.

Timetable:

Action	Date	FR Cite
NPRM	10/09/92	57 FR 46676
NPRM Comment Period End	12/08/92	57 FR 46676
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street SW., Washington, DC 20547, 202 619-6829

RIN: 3116-AA01

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federal register

Monday
April 26, 1993

Part XLIV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Federal Acquisition Regulation; Semiannual Regulatory Agenda

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DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council in compliance with Executive Order 12291 "Federal Regulation." This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The FAR Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Fayson, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the Federal Acquisition Regulation (FAR) and prescribe the FAR system. Revisions to the FAR are made through periodic issuance of Federal Acquisition Circulars (FACs). None of the regulations listed in this agenda are considered major under Executive Order 12291 "Federal Regulation."

Dated: March 12, 1993.

Jeremy F. Olson,

Acting Director, Office of Federal Acquisition Policy

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4324	FAR Case 88-56, CBL's under Cost Reimbursement-Type Contracts, Audit by GSA	9000-AC67
4325	FAR Case 88-70, U.S.-Canada Free-Trade Agreement Implementation Act of 1988	9000-AC80
4326	FAR Case 89-12, Pay As You Go Pension Costs	9000-AC90
4327	FAR Case 89-23, Procurement Integrity	9000-AD01
4328	FAR Case 89-31, Title to Property under Progress Payment Clause	9000-AD09
4329	FAR Case 89-42, Liquidated Damages	9000-AD20
4330	FAR Case 89-88, Allowability of Value Engineering Costs	9000-AD71
4331	FAR Case 89-89, Debarment, Suspension, and Ineligibility	9000-AD72
4332	FAR Case 89-93, Implementation of the Anti-Lobbying Statute	9000-AD76
4333	FAR Case 90-17, Exemptions From Cost or Pricing Data	9000-AD89
4334	FAR Case 90-31, Certification Challenge to BAA, TAA Balance of Payments Program Certificate	9000-AE03
4335	FAR Case 90-32, Government Credit Cards	9000-AE04
4336	FAR Case 90-34, Transfer of Government Property	9000-AE06
4337	FAR Case 90-52, Evaluation Factors	9000-AE21
4338	FAR Case 90-53, Contractors' Purchasing System Reviews	9000-AE22
4339	FAR Case 90-54, Defective Pricing	9000-AE23
4340	FAR Case 90-62, Construction Contracting	9000-AE30
4341	FAR Case 91-34, Make-or-Buy Provision	9000-AE40
4342	FAR Case 91-31, Contract Award-Sealed Bidding	9000-AE41
4343	FAR Case 91-32, Specifications, Standards, and Other Purchase Descriptions	9000-AE43
4344	FAR Case 91-27, Performance and Payment Bonds	9000-AE47
4345	FAR Case 91-13, Acquisition of Utility Services	9000-AE48
4346	FAR Case 91-28, Indian-Owned Enterprises	9000-AE52
4347	FAR Case 91-11, Shipments to Ports and Air Terminals	9000-AE57
4348	FAR Case 91-9, Acquisition of Helium	9000-AE58
4349	FAR Case 91-18, Multiyear Contracting	9000-AE65
4350	FAR Case 91-10, Returnable Cylinders and Other Containers	9000-AE66
4351	FAR Case 91-39, Voluntary Refunds	9000-AE68
4352	FAR Case 91-42, Post-Retirement Benefits Transition Costs	9000-AE69
4353	FAR Case 91-20, Notification of Ownership Changes	9000-AE72
4354	FAR Case 90-67, Preproduction Startup Costs	9000-AE75
4355	FAR Case 90-59, Subcontract Pricing	9000-AE78
4356	FAR Case 91-53, Increase in Cost or Pricing Data Threshold	9000-AE79
4357	FAR Case 91-67, Employee Stock Ownership Plans	9000-AE80
4358	FAR Case 91-45, Advance Agreements, Composition of Total Cost, and Accounting for Unallowable Costs	9000-AE81

FAR

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4359	FAR Case 91-61, Small Business Concern Representation	9000-AE84
4360	FAR Case 91-6, Lease with Option to Purchase	9000-AE86
4361	FAR Case 91-58, Reports of Government Property	9000-AE88
4362	FAR Case 91-48, Preference for Commercial Products	9000-AE95
4363	FAR Case 91-62, Alternative Dispute Resolution	9000-AE96
4364	FAR Case 91-75, Buy American Act - Construction	9000-AF00
4365	FAR Case 91-73, Records of Plant Equipment	9000-AF02
4366	FAR Case 92-18, Cost Accounting Standards	9000-AF04
4367	FAR Case 91-85, Service Contracting	9000-AF05
4368	FAR Case 91-50, Nonmanufacturer Rule	9000-AF08
4369	FAR Case 91-52, Final Regulations Implementing Section 605M of the Tax Reform Act of 1986	9000-AF09
4370	FAR Case 91-96, Clarify Increased Cost or Pricing Data Threshold	9000-AF24
4371	FAR Case 89-21, Inspection for Commercial, Off-the-Shelf Supplies	9000-AF26
4372	FAR Case 91-51, Hazardous Warning Labels	9000-AF27

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4373	FAR Case 89-13, Severance Pay, Foreign Nationals	9000-AC91
4374	FAR Case 89-34, Cost Accounting Standards Cost Impact Proposals	9000-AD12
4375	FAR Case 90-12, Thresholds, Part 45	9000-AD84
4376	FAR Case 90-30, Severance Pay for Foreign Nationals	9000-AE02
4377	FAR Case 90-41, Government Property (45.302-3(c))	9000-AE13
4378	FAR Case 91-26, Contractor versus Government Performance	9000-AE42
4379	FAR Case 90-68, Thresholds, Part 22	9000-AE45
4380	FAR Case 91-38, Audits of Institutions of Higher Learning and Other Nonprofit Organizations	9000-AE70
4381	FAR Case 91-49, Bundling of Requirements	9000-AE85
4382	FAR Case 92-608, Notification of Employee Rights Concerning Payment of Union Dues or Fees	9000-AF01
4383	FAR Case 92-611, Metrics	9000-AF06
4384	FAR Case 91-14, Davis-Bacon Act Revisions	9000-AF07
4385	FAR Case 91-69, Standard Forms 254 and 255, Architect-Engineer Questionnaire	9000-AF10
4386	FAR Case 91-55, Threshold Change to FAR 51.106(b)	9000-AF11
4387	FAR Case 91-74, Inventory Schedules	9000-AF12
4388	FAR Case 91-76, Change in Government Specified Source for Strategic and Critical Materials from Excess GSA Inventories	9000-AF13
4389	FAR Case 91-86, General Accounting Office Bid Protest Regulations	9000-AF14
4390	FAR Case 91-80, Use of Small Purchase Procedures for Personal Services	9000-AF15
4391	FAR Case 92-3, Determination and Finding of Nonavailability	9000-AF16
4392	FAR Case 91-65, List of Parties Excluded from Procurement Programs	9000-AF17
4393	FAR Case 91-64, Part 25, Thresholds	9000-AF18
4394	FAR Case 91-81, Contractor Establishment Code	9000-AF19
4395	FAR Case 91-90, Publicizing Subcontract Opportunities	9000-AF20
4396	FAR Case 92-300, Open Bidding on Federal Construction Contracts	9000-AF21
4397	FAR Case 92-621, Additions to the List of Designated Countries	9000-AF22
4398	FAR Case 91-89, Technical Changes to Administrative Matters	9000-AF23
4399	FAR Case 91-79, Prompt Payment for Fresh or Frozen Fish	9000-AF25
4400	FAR Case 91-88, Use of Indicia Mail	9000-AF28

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DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Final Rule Stage

4324. FAR CASE 88-56, CBL'S UNDER COST REIMBURSEMENT-TYPE CONTRACTS. AUDIT BY GSA

Legal Authority: 40 USC 486(c), 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 47, 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR by requiring agencies to ensure that contractors, doing business with the U.S. Government under a cost-reimbursement contract (CRC), submit paid freight bills/ invoices, CBL's and supporting documentation to GSA for audit. The rule clarifies GSA's audit function and establishes procedures for the submission of the above referenced documentation.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45742
NPRM Comment Period End	01/09/89	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AC67

4325. FAR CASE 88-70, U.S.-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION ACT OF 1988

Legal Authority: PL 100-449

CFR Citation: 48 CFR 25, 48 CFR 52

Legal Deadline: Other, Statutory, January 1, 1989.
Other deadline is for interim final rule

Abstract: To amend the FAR to implement the United States-Canada Free-Trade Agreement and the United States-Canada Free-Trade Implementation Act of 1988, which added requirements with respect to acquisitions from Canada.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/30/88	53 FR 53340
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AC80

4326. FAR CASE 89-12, PAY AS YOU GO PENSION COSTS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 30, 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to revise the cost allowability criteria for pension costs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 13022
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AC90

4327. FAR CASE 89-23, PROCUREMENT INTEGRITY

Legal Authority: 41 USC 423

CFR Citation: 48 CFR 1; 48 CFR 3; 48 CFR 4; 48 CFR 9; 48 CFR 15; 48 CFR 37; 48 CFR 43; 48 CFR 52

Legal Deadline: Other, Statutory, July 16, 1989.
Other deadline is for interim final rule.

Abstract: To amend the FAR to implement the procurement integrity requirements of section 27 of the Office of Federal Procurement Policy Act.

Timetable:

Action	Date	FR Cite
NPRM	03/27/89	54 FR 12556
Interim Final Rule	05/11/89	54 FR 20488
Suspension of Interim Final Rule	12/08/89	54 FR 50718
Interim Final Rule - 2nd Publication	09/06/90	55 FR 36782
Interim Final Rule Effective	09/06/90	
Amendment to Interim Final Rule	11/30/90	55 FR 49852
Amendment to Interim Final Rule Effective	12/30/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD01

4328. FAR CASE 89-31, TITLE TO PROPERTY UNDER PROGRESS PAYMENT CLAUSE

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify that the Government takes title in the form of "ownership" rather than a lien when progress payments are made under the progress payments clause at FAR 52.232-16.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	54 FR 18631
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

FAR

Final Rule Stage

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD09

4329. FAR CASE 89-42, LIQUIDATED DAMAGES

Legal Authority: PL 100-656, Sec 304

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to require a prime contractor to pay liquidated damages upon a lack of good faith effort to meet its small business subcontracting goals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/21/89	54 FR 30703
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD20

4330. FAR CASE 89-88, ALLOWABILITY OF VALUE ENGINEERING COSTS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 48.101(b)

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to republish the proposal to revise paragraph (b)(1) of FAR 48.101, General, to provide that under the incentive approach, the contractor develops and submits value engineering change proposals (VECP's) and shares in the savings of any that are accepted. The contract provides for payment of implementation costs if a VECP is accepted. The development costs for accepted and unaccepted VECP's shall be accumulated by VE project and charged indirectly if otherwise allowable in accordance with part 31.

Timetable:

Action	Date	FR Cite
NPRM	12/14/92	57 FR 59274
NPRM Comment Period End	02/12/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD71

4331. FAR CASE 89-89, DEBARMENT, SUSPENSION, AND INELIGIBILITY

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 9

Legal Deadline: None

Abstract: To amend the FAR to address the treatment of orders placed under indefinite delivery type contractual arrangements, basic agreements, and basic ordering agreements for purposes of debarment/suspension.

Timetable:

Action	Date	FR Cite
NPRM	01/04/90	55 FR 416
NPRM Comment Period End	03/05/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD72

4332. FAR CASE 89-93, IMPLEMENTATION OF THE ANTI-LOBBYING STATUTE

Legal Authority: PL 101-121, Sec 319

CFR Citation: 48 CFR 3; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to implement section 319 of PL 101-121, which added a new section 1352 to title 31 USC entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions." Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, or cooperative agreement, in excess of $100,000, or a loan or Federal commitment to insure or guarantee a loan, in excess of $150,000, must disclose lobbying with other than appropriated funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/90	55 FR 3190
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD76

4333. FAR CASE 90-17, EXEMPTIONS FROM COST OR PRICING DATA

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 8; 48 CFR 15; 48 CFR 31; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to address the requirement for claiming and granting catalog price exemptions from

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the requirements for submission of certified cost or pricing data, and the policies regarding price negotiation

Timetable:

Action	Date	FR Cite
NPRM	09/06/90	55 FR 36774
NPRM Comment Period End	11/06/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD89

4334. FAR CASE 90-31, CERTIFICATION CHALLENGE TO BAA, TAA BALANCE OF PAYMENTS PROGRAM CERTIFICATE

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 25

Legal Deadline: None

Abstract: To amend the FAR to require that challenges to an offeror's certification under the Trade Agreements Act be referred to the Treasury Department

Timetable:

Action	Date	FR Cite
NPRM	06/27/90	55 FR 26342
NPRM Comment Period End	08/27/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE03

4335. FAR CASE 90-32, GOVERNMENT CREDIT CARDS

Legal Authority: 40 USC 486(c), 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 13

Legal Deadline: None

Abstract: To amend the FAR to provide general policy guidelines, and prescribe agency responsibilities and conditions for use of Government credit cards in the place of certain purchase orders and imprest funds draw-downs.

Timetable:

Action	Date	FR Cite
NPRM	06/27/90	55 FR 26342
NPRM Comment Period End	08/27/90	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE04

4336. FAR CASE 90-34, TRANSFER OF GOVERNMENT PROPERTY

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: To amend the FAR to ensure that Government property is transferred and documented properly upon termination or completion of a contract.

Timetable:

Action	Date	FR Cite
NPRM	06/27/90	55 FR 26344
NPRM Comment Period End	08/27/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE06

4337. FAR CASE 90-52, EVALUATION FACTORS

Legal Authority: PL 99-661, Sec 924(a)

CFR Citation: 48 CFR 15.605

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are considering a change to FAR 15.605 to state that quality shall be considered in planning every source selection and, if appropriate, included as an evaluation factor. This change will better implement the requirements of Pub. L. 99-661, sec. 924(a).

Timetable:

Action	Date	FR Cite
NPRM	11/07/90	55 FR 46930
NPRM Comment Period End	01/07/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE02

4338. FAR CASE 90-53, CONTRACTORS' PURCHASING SYSTEM REVIEWS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 44.302; 48 CFR 44.304

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to revise FAR 44.302(b) and 44.304(a) and (b) concerning contractors' purchasing systems reviews

(CPSR's). These revisions continue current trend to streamline the acquisition process, reduce contractor oversight, and to eliminate or reduce regulatory burdens on both the contracting officers and contractors.

Timetable:

Action	Date	FR Cite
NPRM	10/23/90	55 FR 42810
NPRM Comment Period End	12/24/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE22

4339. FAR CASE 90-54, DEFECTIVE PRICING

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.804-7

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to revise the policies affecting defective pricing reductions. Review of the Defense Federal Acquisition Regulation Supplement indicated that there were policies which had value beyond use solely within the Department of Defense and which should be made applicable Governmentwide.

Timetable:

Action	Date	FR Cite
NPRM	12/06/90	55 FR 50534
NPRM Comment Period End	02/03/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE23

4340. FAR CASE 90-62, CONSTRUCTION CONTRACTING

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 36.521 to 36.523; 48 CFR 52.236-21; 48 CFR 52.236-26; 48 CFR 52.236-27

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are considering changes to FAR 36.5 by revising 36.521 and adding provisions at 36.522 and 36.523. These proposed changes are intended to include in the FAR two clauses and one provision appropriate for use in fixed-price construction contracts, and in contracts for dismantling, demolition, or removal of improvement, which were found to be beneficial to both contractors and the Department of Defense, and which will similarly benefit civilian agencies and their contractors.

Timetable:

Action	Date	FR Cite
NPRM	01/31/91	56 FR 3954
NPRM Comment Period End	04/01/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE30

4341. FAR CASE 91-34, MAKE-OR-BUY PROVISION

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 52

Legal Deadline: None

Abstract: To amend FAR subpart 15.7 and part 52 regarding make or buy plans. The revisions will permit the contracting officer to request additional data, list the factors for evaluation on the make or buy program and provide the dollar threshold for items to be included in the program.

Timetable:

Action	Date	FR Cite
NPRM	07/23/91	56 FR 33826
NPRM Comment Period End	09/23/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE40

4342. FAR CASE 91-31, CONTRACT AWARD-SEALED BIDDING

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to revise the provision 52.214-19 to include the language regarding unbalanced bidding now contained in the provisions at 52.214-10 and 52.215-16. This will make the language in all three provisions consistent.

Timetable:

Action	Date	FR Cite
NPRM	06/27/91	56 FR 29539
NPRM Comment Period End	08/26/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no

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paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE41

4343. FAR CASE 91-32, SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 10; 48 CFR 52

Legal Deadline: None

Abstract: To revise FAR part 10 to clearly reflect the preference for use of voluntary standards commercial item descriptions and functional performance specifications over design-type specifications.

Timetable:

Action	Date	FR Cite
NPRM	07/11/91	56 FR 31844
NPRM Comment Period End	09/09/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE43

4344. FAR CASE 91-27, PERFORMANCE AND PAYMENT BONDS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 28; 48 CFR 52

Legal Deadline: None

Abstract: To amend parts 28 and 52 to standardize policies governing bonding. The principal revisions include: adding standard clauses when performance or payment bonds are required and a standard form, Performance and Payment Bonds - Other Than Construction.

Timetable:

Action	Date	FR Cite
NPRM	07/09/91	56 FR 31278
NPRM Comment Period End	09/09/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE47

4345. FAR CASE 91-13, ACQUISITION OF UTILITY SERVICES

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 6; 48 CFR 8; 48 CFR 15; 48 CFR 41; 48 CFR 52

Legal Deadline: None

Abstract: To revise FAR coverage currently in subpart 8.3 dealing with acquisition of utility services.

Timetable:

Action	Date	FR Cite
NPRM	05/22/91	56 FR 23982
NPRM Comment Period End	07/23/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE48

4346. FAR CASE 91-28, INDIAN-OWNED ENTERPRISES

Legal Authority: PL 100-442, Sec 7

CFR Citation: 48 CFR 26; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to allow contractors to recover certain costs of subcontracting with Indian organizations and Indian-owned economic enterprises.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/22/91	56 FR 41728
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE52

4347. FAR CASE 91-11, SHIPMENTS TO PORTS AND AIR TERMINALS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: The Defense Acquisition Regulations and Civilian Agency Acquisition Councils are proposing revisions to coverage at 47.305-6, 52.247-51, and Alternate I of 52.247-51 of the FAR to require contracting officers to publish with the solicitation any available information on port handling and ocean charges.

Timetable:

Action	Date	FR Cite
NPRM	05/06/91	56 FR 20573
NPRM Comment Period End	07/05/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR),

GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE57

4348. FAR CASE 91-9, ACQUISITION OF HELIUM

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 8; 48 CFR 52

Legal Deadline: None

Abstract: The Defense Acquisition Regulations and Civilian Agency Acquisition Councils are considering amending FAR Parts 8 and 52 to provide guidance in the procurement of helium. Public Law 86-777, the Helium Act, requires that all major helium requirements be purchased form the Secretary of the Interior. This includes the procurement of helium by Federal agencies as well as by contractors for use in Government contracts. The proposed coverage will assist Government agencies and contractors in complying with the Helium Act (PL 86-777) by ensuring that contracting officers and contractors are aware of the requirement for using Bureau of Mines Helium in Government contracts.

Timetable:

Action	Date	FR Cite
NPRM	05/09/91	56 FR 21532
NPRM Comment Period End	07/08/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE58

4349. FAR CASE 91-18, MULTIYEAR CONTRACTING

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 17; 48 CFR 52

Legal Deadline: None

Abstract: To revise FAR part 17 and corresponding coverage in part 52 to provide special provisions for use in multiyear contracts whereas the FAR now requires contracting officers to develop provisions for use in multiyear solicitations and contracts on an as needed basis. The intent of these changes is to reduce the administrative burden on contracting officers by supplying needed provisions and clauses that were required but not provided.

Timetable:

Action	Date	FR Cite
NPRM	05/03/91	56 FR 20507
NPRM Comment Period End	07/02/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE65

4350. FAR CASE 91-10, RETURNABLE CYLINDERS AND OTHER CONTAINERS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: To amend FAR parts 47 and 52 to establish policy for the Government use and accountability of contractor-owned cylinders.

Timetable:

Action	Date	FR Cite
NPRM	04/08/91	56 FR 14298
NPRM Comment Period End	06/07/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE66

4351. FAR CASE 91-39, VOLUNTARY REFUNDS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 32.6; 48 CFR 42.13

Legal Deadline: None

Abstract: To amend the FAR to add a new subpart 42.13 to provide guidance on solicitation and acceptance of voluntary refunds.

Timetable:

Action	Date	FR Cite
NPRM	08/15/91	56 FR 40716
NPRM Comment Period End	10/15/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE68

4352. FAR CASE 91-42, POST-RETIREMENT BENEFITS TRANSITION COSTS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-6

Legal Deadline: None

Abstract: To amend in the FAR the cost principle on compensation cost to cover transition costs regarding allowability of Post-Retirement Benefits, other than pensions.

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Timetable:

Action	Date	FR Cite
Interim Final Rule	08/22/91	56 FR 41728
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE69

4353. FAR CASE 91-20, NOTIFICATION OF OWNERSHIP CHANGES

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15, 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to establish requirement for certain contractors to notify the Government when ownership of the contractor changes

Timetable:

Action	Date	FR Cite
NPRM	05/23/91	56 FR 23762
NPRM Comment Period End	07/22/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE72

4354. FAR CASE 90-67, PREPRODUCTION STARTUP COSTS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.804-6; 48 CFR 15.804-8; 48 CFR 52.215

Legal Deadline: None

Abstract: To amend the FAR to provide additional guidance on review and negotiation of costs for preproduction, startup, and other nonrecurring activities.

Timetable:

Action	Date	FR Cite
NPRM	05/03/91	56 FR 20506
NPRM Comment Period End	07/02/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE75

4355. FAR CASE 90-59, SUBCONTRACT PRICING

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.806-1(e); 48 CFR 15.806-1(f)

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to revise policies affecting cost analysis as they relate to subcontract cost. Review of the Defense Federal Acquisition Regulation Supplement indicated that there were policies which had value beyond use solely within the Department of Defense and should be made applicable Governmentwide.

Timetable:

Action	Date	FR Cite
NPRM	11/07/91	56 FR 57182
NPRM Comment Period End	01/06/92	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE78

4356. FAR CASE 91-53, INCREASE IN COST OR PRICING DATA THRESHOLD

Legal Authority: 10 USC 2306a

CFR Citation: 48 CFR 15.8

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to revise FAR parts 14, 15, and 52 to increase the threshold for submission of cost or pricing data for the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/30/91	56 FR 67412
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE79

4357. FAR CASE 91-67, EMPLOYEE STOCK OWNERSHIP PLANS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-6(j)(8)

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are considering changes to the Federal Acquisition Regulation (FAR) to amend FAR 31.205-6(j)(8), Employee stock ownership plans, to make it clear that the cost principle applies to all

Employee Stock Ownership Plans (ESOP's) regardless of whether or not an ESOP meets the definition of "pension plan" in FAR 31.205-6(j)(1) (i.e., provides a benefit payable for life).

Timetable:

Action	Date	FR Cite
NPRM	02/04/92	57 FR 4181
NPRM Comment Period End	04/06/92	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE80

4358. FAR CASE 91-45, ADVANCE AGREEMENTS, COMPOSITION OF TOTAL COST, AND ACCOUNTING FOR UNALLOWABLE COSTS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.109; 48 CFR 31.201-1; 48 CFR 31.201-6

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are considering changes to the Federal Acquisition Regulation (FAR) to amend sections 31.109, Advance agreements; 31.201-1, Composition of total cost; and 31.201-6, Accounting for allowable costs. These proposed rule changes represent the first in a series, resulting from the Councils' ongoing review of industry recommendations concerning FAR Part 31, Contract Cost Principles and Procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/04/91	56 FR 43739
NPRM Comment Period End	11/04/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE81

4359. FAR CASE 91-61, SMALL BUSINESS CONCERN REPRESENTATION

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 19.502-4; 48 CFR 52.219-1

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the FAR to clarify language regarding an offeror's size status and to remove the requirements for offerors to certify that all supplies to be furnished will be manufactured in the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/23/92	57 FR 2820
NPRM Comment Period End	03/23/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE84

4360. FAR CASE 91-6, LEASE WITH OPTION TO PURCHASE

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 7.402; 48 CFR 7.404; 48 CFR 52.207-X

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the FAR to include information required to support a decision to use a lease with an option to purchase and outline the Government's right to purchase at any time during the performance of the contract.

Timetable:

Action	Date	FR Cite
NPRM	08/06/91	56 FR 37404
NPRM Comment Period End	10/07/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE86

4361. FAR CASE 91-58, REPORTS OF GOVERNMENT PROPERTY

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 45.505-14

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to revise FAR 45.505-14 which requires contractors to report annually all classifications of Government property in their possession. The revision expands the list of property classifications to include special tooling, special test equipment, material, and agency peculiar property.

Timetable:

Action	Date	FR Cite
NPRM	01/23/92	57 FR 2818
NPRM Comment Period End	03/23/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

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Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE88

4362. FAR CASE 91-48, PREFERENCE FOR COMMERCIAL PRODUCTS

Legal Authority: 40 USC 486(c), 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 10.002

Legal Deadline: Other, Statutory, August 29, 1990.
Other deadline is for interim final rule. This rule is currently at the interim rulemaking stage.

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are considering changes to the Federal Acquisition Regulation to amend FAR 10.001, 10.002, and 10.006(a)(2) to provide an order of preference for the various types of item descriptions used in procurement. It also deletes the requirement for mandatory use of military specifications by the Department of Defense.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/27/91	56 FR 67126
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE95

4363. FAR CASE 91-62, ALTERNATIVE DISPUTE RESOLUTION

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 33.2

Legal Deadline: Other, Statutory, November 15, 1991.
Other deadline is for interim final rule. This rule is currently at the interim rulemaking stage.

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to revise FAR Subpart 33.2 and 52.233-1 to implement recommendations from the Defense Advisory Panel on Government Industry Relations and the Administrative Disputes Resolution Act (Public Law 101-552). The revisions encourage the use of alternative dispute resolution techniques to resolve issues in controversy.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/30/91	56 FR 67412
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE96

4364. FAR CASE 91-75, BUY AMERICAN ACT - CONSTRUCTION

Legal Authority: PL 102-141

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: None

Abstract: To modify the definition of "construction material" to require evaluation of an emergency life safety system as a single construction material under the Buy American Act, regardless of when and how the individual parts or components are delivered to the construction site. This rule implements section 631 of Public Law 102-141, Treasury, Postal Service and General Government Appropriations Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/12/92	57 FR 20372
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF00

4365. FAR CASE 91-73, RECORDS OF PLANT EQUIPMENT

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 45.501; 48 CFR 45.505-5

Legal Deadline: None

Abstract: This proposed rule revises 45.501, Definitions, and 45.505-5(a), Records of plant equipment, to clarify the procedures for use of summary records for plant equipment costing less than $5,000.

Timetable:

Action	Date	FR Cite
NPRM	09/08/92	57 FR 40891
NPRM Comment Period End	11/09/92	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF02

4366. FAR CASE 92-18, COST ACCOUNTING STANDARDS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 25; 48 CFR 30; 48 CFR 52

Legal Deadline: None

Abstract: This interim rule amends the policies on cost accounting standards to be consistent with the requirements of the Cost Accounting Standards Board.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/31/92	57 FR 39586
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF04

4367. FAR CASE 91-85, SERVICE CONTRACTING

Legal Authority: PL 101-510, Sec 834

CFR Citation: 48 CFR 5; 48 CFR 7; 48 CFR 10; 48 CFR 15; 48 CFR 16; 48 CFR 17; 48 CFR 37; 48 CFR 44; 48 CFR 46; 48 CFR 52

Legal Deadline: None

Abstract: This rule proposes changes to FAR Part 37, Service Contracting, to: (1) Implement Office of Federal Procurement Policy Letter 91-2, Service Contracting, published at 56 FR 15112, April 15, 1991; and (2) to clarify and restructure part 37 as a result of recommendations made by members of the public and various Federal agencies. FAR parts 5, 7, 10, 15, 16, 17, 44, 46, and 52 were also affected as a result of these changes to part 37 and are accordingly amended.

Timetable:

Action	Date	FR Cite
NPRM	07/30/92	57 FR 33702
NPRM Comment Period End	09/28/92	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF05

4368. • FAR CASE 91-50, NONMANUFACTURER RULE

Legal Authority: PL 101-574

CFR Citation: 48 CFR 19.001; 48 CFR 19.102

Legal Deadline: Final, Statutory, November 15, 1990.

Abstract: This interim rule revises FAR 19.001 and 19.102 to add a definition for the term "nonmanufacturer rule", addresses the Small Business Administration waiver of the nonmanufacturer rule, adds a reference to 13 CFR 121.2105 for a listing of classes for which SBA has granted a waiver, and to update the partial listing of classes listed in the FAR for which a waiver has been granted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/21/92	57 FR 60570
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Sts. NW., Washington, DC 20405, 202 501-4225

RIN: 9000–AF08

4369. • FAR CASE 91-52, FINAL REGULATIONS IMPLEMENTING SECTION 605M OF THE TAX REFORM ACT OF 1986

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 4.9; 48 CFR 52.204-3

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council (CAAC) and the Defense Acquisition Regulations Council (DARC) have agreed on an interim rule revising subpart 4.9, Information Reporting to the Internal Revenue Service, to ensure the collection and reporting of the Taxpayer Identification Number (TIN) for certain contract modifications occurring on or after April 1, 1990, when the initial contact was entered into before January 1, 1989. In addition, the subpart has been rearranged for clarification and the provision at 52.204-3, Taxpayer Identification, has been revised to update a reference. When the IRS issued its final regulations implementing section 6050M of the Tax Reform Act of 1986 (Pub. L. 99-514), the reporting requirements included the requirement to report certain modifications to contracts that were awarded before January 1, 1989. The Office of Federal Procurement Policy requested that the CAAC and the DARC consider revising the FAR accordingly.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/92	57 FR 44259
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF09

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4370. • FAR CASE 91-96, CLARIFY INCREASED COST OR PRICING DATA THRESHOLD

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.804-2(a)

Legal Deadline: None

Abstract: This rule amends the FAR to clarify the application of the $500,000 threshold for certified cost or pricing data regarding contract modifications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/21/92	57 FR 60570
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF24

4371. • FAR CASE 89-21, INSPECTION FOR COMMERCIAL, OFF-THE-SHELF SUPPLIES

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 46.202-1; 48 CFR 46.301; 48 CFR 46.302

Legal Deadline: None

Abstract: To amend the FAR to more clearly define under what circumstances the Government should rely on inspection and testing by contractors when acquiring commercial or off-the-shelf supplies.

Timetable:

Action	Date	FR Cite
NPRM	04/20/89	54 FR 16094
NPRM Comment Period End	06/19/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: FAR 46.203 provides general criteria for selecting which quality requirements shall be applicable to a particular contract. The criteria to be considered include the technical description of the item, its complexity, and its intended application. Based on these criteria, Government reliance on contractor performed inspection and testing would be sufficient for many procurements of commercial or off-the-shelf supplies. However, FAR 46.301 and 46.302 indicate that Government inspection of such supplies is required when a procurement is expected to exceed the small purchase limit, without regard to the complexity or intended application of the supplies. The proposed changes would make reliance on contractor testing and inspection for commercial off-the-shelf supplies the general rule, with standard inspection or higher-level quality requirements being the exception.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF26

4372. • FAR CASE 91-51, HAZARDOUS WARNING LABELS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 23.302; 48 CFR 23.303; 48 CFR 52.223

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are considering a change to the FAR to revise coverage at Subpart 23.3, Hazardous Material Identification and Material Safety Data, and add a provision and a clause to Part 52, Solicitation Provisions and Contract Clauses, pertaining to hazardous warning labels.

Timetable:

Action	Date	FR Cite
NPRM	11/18/91	56 FR 58296
NPRM Comment Period End	01/17/92	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: The rule requires (1) offerors to submit information on hazardous materials they propose to supply to the Government; (2) the apparently successful offeror to submit a copy of the hazard warning label for any hazardous material that is proposed to be delivered or otherwise furnished under any resultant contract; and (3) the contractor to label individual item packages of hazardous material to be delivered under the contract. These requirements are considered necessary to further ensure that Government employees are advised of on-the-job hazards to which they may be exposed.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF27

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

4373. FAR CASE 89-13, SEVERANCE PAY, FOREIGN NATIONALS

Legal Authority: PL 100-456

CFR Citation: 48 CFR 31; 48 CFR 37; 48 CFR 52

Legal Deadline: Other, Statutory, March 28, 1989.
Other deadline is for interim final rule.

Abstract: To amend the FAR regarding severance payments to foreign nationals employed under a service contract performed outside the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 13022
Final Action Effective	02/19/92	
Final Action - case merged with FAR Case 90-30 (RIN 9000-AE02)	12/21/92	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AC91

4374. FAR CASE 89-34, COST ACCOUNTING STANDARDS COST IMPACT PROPOSALS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify the procedures for submission of cost impact proposals and the authority of the Administrative Contracting Officer to withhold a portion of payments when the contractor does not submit the cost impact proposal in a timely manner.

Timetable:

Action	Date	FR Cite
NPRM	06/16/89	54 FR 25686
Interim Final Rule	08/31/92	57 FR 39586
Case merged with FAR Case 92-18 (RIN 9000-AF04)	08/31/92	57 FR 39586

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: Published as an interim final rule under FAR Case 92-18 in FAC 90-12.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD12

4375. FAR CASE 90-12, THRESHOLDS, PART 45

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 45; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to raise or delete various dollar thresholds that are outdated and to clarify existing policy in FAR Part 45.

Timetable:

Action	Date	FR Cite
NPRM	08/09/90	55 FR 32586
NPRM Comment Period End	10/09/90	
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD84

4376. FAR CASE 90-30, SEVERANCE PAY FOR FOREIGN NATIONALS

Legal Authority: PL 101-189, Sec 311(a)

CFR Citation: 48 CFR 37; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR regarding the costs of severance payments to foreign nationals if the termination of employment is the result of the closing of, or the curtailment of activities at, a U.S. facility in a country at the request of the government of that country.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/21/90	55 FR 52782
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE02

4377. FAR CASE 90-41, GOVERNMENT PROPERTY (45.302-3(C))

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 45.302-3

Legal Deadline: None

Abstract: To amend the FAR to clarify policy regarding fee or profit in the acquisition of general purpose components of special tooling and special test equipment.

Timetable:

Action	Date	FR Cite
NPRM	08/09/90	55 FR 32587
NPRM Comment Period End	10/09/90	
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE13

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4378. FAR CASE 91-26, CONTRACTOR VERSUS GOVERNMENT PERFORMANCE

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 7; 48 CFR 52

Legal Deadline: None

Abstract: To amend FAR subpart 7.3 and part 52 to alert contracting officers to the possibility of performing a cost comparison for the specific reason that commercial prices were believed to be unreasonable and to generalize the language so that future changes to the statutes or regulations concerning cost comparisons will not require further FAR changes. Other changes make the FAR more consistent with OMB Circular A-76

Timetable:

Action	Date	FR Cite
NPRM	06/27/91	56 FR 29556
NPRM Comment Period End	08/26/91	
Final Action	12/21/92	57 FR 60576
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE42

4379. FAR CASE 90-68, THRESHOLDS, PART 22

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 22; 48 CFR 52

Legal Deadline: None

Abstract: To amend FAR parts 22 and 52 regarding compensation for professional employees. The Defense Acquisition Regulations and Civilian Agency Acquisition Councils have agreed to raise the threshold in 22.1103 from $250,000 to $500,000, deleting unnecessary language at 52 222-45 and combining the coverage with the clause at 52.222-46.

Timetable:

Action	Date	FR Cite
NPRM	03/07/91	56 FR 9832
NPRM Comment Period End	05/06/91	
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE45

4380. FAR CASE 91-38, AUDITS OF INSTITUTIONS OF HIGHER LEARNING AND OTHER NONPROFIT ORGANIZATIONS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.106; 48 CFR 52.215-1; 48 CFR 52.215-2

Legal Deadline: None

Abstract: To provide guidance to implement OMB Circular A-133, Audits of Institutions of Higher Learning and Other Nonprofit Organizations

Timetable:

Action	Date	FR Cite
NPRM	07/19/91	56 FR 33330
NPRM Comment Period End	09/17/91	
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE70

4381. FAR CASE 91-49, BUNDLING OF REQUIREMENTS

Legal Authority: PL 101-524, Sec 208

CFR Citation: 48 CFR 19.202-1; 48 CFR 19.402(c)

Legal Deadline: None

Abstract: This final rule amends the FAR to require contracting officers to forward proposed acquisitions meeting specified criteria to Small Business Procurement Centers Representatives for review and to specify reviewing the proposed acquisitions as a procurement center representative duty.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/27/91	56 FR 67126
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE85

4382. FAR CASE 92-608, NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 22

Legal Deadline: None

Abstract: This interim rule implemented EO 12800 of April 13, 1992, concerning notification of employee rights concerning payment of union dues or fees. The rule covers all solicitations and contracts except small purchases covered by part 13 of the FAR and those covered by an exemption granted by the Secretary of Labor entered into, amended, renegotiated or renewed after May 13, 1992. On February 1, 1993, President Clinton signed EO 12836, Revocation of Certain Executive Orders Concerning Federal Contracting. Section 1 of EO No. 12836 revoked EO 12800, Notification of Employee Rights Concerning Payment of Union Dues or Fees, which was deemed to not be in the public interest. As a result, Federal Acquisition Circular 90-17 eliminated this interim rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/12/92	58 FR 12140
Final Action -FAC 90-17 revoked this interim rule as a result of EO 12836	03/02/93	57 FR 40732
Final Action Effective	03/02/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF01

4383. • FAR CASE 92-611, METRICS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 7.103; 48 CFR 10.002(c)

Legal Deadline: None

Abstract: This final rule revises FAR part 7 to encourage the use of the metric system of measurement in Government Procurements.

Timetable:

Action	Date	FR Cite
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF06

4384. • FAR CASE 91-14, DAVIS-BACON ACT REVISIONS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 22.401(b); 48 CFR 22.406-3(b)(1); 48 CFR 22.406-3(b)(4); 48 CFR 52.222-6

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to implement changes necessitated by revised Department of Labor Regulations that allow the expanded use of semi-skilled helpers on federally financed and assisted construction contracts subject to the Davis-Bacon and related acts.

Timetable:

Action	Date	FR Cite
Final Action	09/24/92	57 FR 44258
Final Action Effective	11/23/92	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF07

4385. • FAR CASE 91-69, STANDARD FORMS 254 AND 255, ARCHITECT-ENGINEER QUESTIONNAIRE

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473 (c)

CFR Citation: 48 CFR 53.236-2

Legal Deadline: None

Abstract: This final rule revises Standard Form 254, Architect-Engineer and Related Services Questionnaire, and Standard Form 255, Architect-Engineer and Related Services Questionnaire for Specific Project. The rule deletes the obsolete definition of Architect-Engineer services on the form and refers to the definition in FAR part 36. Corresponding changes are also made to the prescriptive language for the forms at FAR 52.236-2(b) and (c).

Timetable:

Action	Date	FR Cite
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF10

4386. • FAR CASE 91-55, THRESHOLD CHANGE TO FAR 51.106(B)

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 51.106(b)

Legal Deadline: None

Abstract: The Civilian Agency Acquisition and the Defense Acquisition Regulations Councils have agreed on a final rule amending paragraph (b) of FAR 51.106, Title, which raises the threshold listed therein from $1,000 to $5,000. The revision is consistent with the threshold listed in FAR 52.2450-2, Alternate II, and 52.245-5, Alternate I, to which FAR 51.106(b) refers. The revised paragraph will state that if contracts are with educational institutions using the Government Property clause at FAR 52.245-2, Alternate II, or FAR 52.245-5, Alternate I, then title to property having an acquisition cost of less than $5,000 shall vest in the contractor, as provided in the clause. Agencies may provide higher thresholds, if appropriate.

Timetable:

Action	Date	FR Cite
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF11

4387. • FAR CASE 91-74, INVENTORY SCHEDULES

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 45.606-1(b)

Legal Deadline: None

Abstract: This final rule removes language at FAR 45.606-1(b) which was published in Federal Acquisition Circular (FAC) 90-4 at 56 FR 15148, April 15, 1991. The deleted language required that the contractor's inventory schedule certificate be signed by a representative having the authority to commit the contractor in contractual matters.

Timetable:

Action	Date	FR Cite
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF12

4388. • FAR CASE 91-76, CHANGE IN GOVERNMENT SPECIFIED SOURCE FOR STRATEGIC AND CRITICAL MATERIALS FROM EXCESS GSA INVENTORIES

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 8.002(f)

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to revise FAR 8.002(f) to change the Government specified source for excess strategic and critical materials from the General Services Administration to the Department of Defense.

Timetable:

Action	Date	FR Cite
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: FAR 8.002(f) is revised to change the specified Government source for excess strategic and critical materials from the General Services Administration to the Department of Defense, Executive Order 12626, dated February 25, 1988, transferred management of the stockpile from GSA to DOD and designated the Secretary of Defense as national Defense Stockpile Manager. In May 1988, the authority to manage the Stockpile under Executive Order 12626 was delegated to the Assistant Secretary of Defense (Production and Logistics). Authority to operate the Stockpile was further delegated to the National Defense Stockpile Center, Defense Logistics Agency.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF13

4389. • FAR CASE 91-86, GENERAL ACCOUNTING OFFICE BID PROTEST REGULATIONS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 33.104

Legal Deadline: None

Abstract: This final rule revises FAR 33.104 to implement the General Accounting Office's revised bid protest procedures which went into effect on April 1, 1991.

Timetable:

Action	Date	FR Cite
Final Action Effective	04/01/91	
Final Action	12/21/92	57 FR 60570

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF14

4390. • FAR CASE 91-80, USE OF SMALL PURCHASE PROCEDURES FOR PERSONAL SERVICES

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 13.000; 48 CFR 13.101; 48 CFR 13.103(c)

Legal Deadline: None

Abstract: This final rule removes the word "nonpersonal" from FAR 13.000 and from the definitions of "purchase order" and "small purchase" in 13.101. All of the existing statutory and regulatory constraints on acquiring personal services remain in effect.

Timetable:

Action	Date	FR Cite
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF15

4391. • FAR CASE 92-3, DETERMINATION AND FINDING OF NONAVAILABILITY

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 25.108(d)(1)

Legal Deadline: None

Abstract: The FAR is amended to add wire glass to the list at 25.108(d)(1) of articles, materials, and supplies that one or more agencies have determined are not mined, produced, or manufactured in the U.S. in sufficient and reasonably available commercial quantities of a satisfactory quality.

Timetable:

Action	Date	FR Cite
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF16

4392. • FAR CASE 91-65, LIST OF PARTIES EXCLUDED FROM PROCUREMENT PROGRAMS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 9.404(d)

Legal Deadline: None

Abstract: This final rule revised FAR subpart 9.4 to include additional guidance on accessing the List of Parties Excluded from Procurement Programs. The purpose of such guidance is to inform contracting officers and other users of the list of the means of obtaining information from the list.

Timetable:

Action	Date	FR Cite
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF17

4393. • FAR CASE 91-64, PART 25, THRESHOLDS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 25.202

Legal Deadline: None

Abstract: This final rule revises the threshold in FAR 25.202(b) and changes the approval level to allow contracting officers, unless agency regulations preclude otherwise, to make nonavailability determinations.

Timetable:

Action	Date	FR Cite
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF18

4394. • FAR CASE 91-81, CONTRACTOR ESTABLISHMENT CODE

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 4.602(d); 48 CFR 4.603; 48 CFR 52.204-4

Legal Deadline: None

Abstract: This final rule amends the FAR to reflect the new internal Government Contractor Establishment Code numbering system and to delete the solicitation provision which requires offerors to provide their Dun and Bradstreet number.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/92	
Final Action	12/21/92	57 FR 60570

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF19

4395. • FAR CASE 91-90, PUBLICIZING SUBCONTRACT OPPORTUNITIES

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 5.206

Legal Deadline: None

Abstract: This final rules amends FAR 5.206 to stress the importance of prime contractors using the Commerce Business Daily to seek additional small, small disadvantaged and women-owned business subcontracting sources and to meet subcontracting goals.

Timetable:

Action	Date	FR Cite
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF20

4396. • FAR CASE 92-300, OPEN BIDDING ON FEDERAL CONSTRUCTION CONTRACTS

Legal Authority: EO 12818

CFR Citation: 48 CFR 22.5; 48 CFR 36.101(a); 48 CFR 52.222-5

Legal Deadline: None

Abstract: This interim rule implemented EO 12818, Open Bidding on Federal and Federally Funded Construction Projects, by prohibiting inclusion of requirements for affiliation

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with a labor organization as condition for award of any contract or subcontract for construction management services. On February 1, 1993, President Clinton signed Executive Order 12836, Revocation of Certain Executive Orders Concerning Federal Contracting. Section 1 of Executive Order No. 12836 revoked EO 12818, Open Bidding on Federal and Federally Funded Construction Projects, which was deemed to not be in the public interest. As a result, Federal Acquisition Circular 90-17 revokes this interim rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/25/92	57 FR 55470
Final Action	03/02/93	58 FR 12140
Final Action Effective	03/02/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF21

4397. • FAR CASE 92-621, ADDITIONS TO THE LIST OF DESIGNATED COUNTRIES

Legal Authority: EO 12260

CFR Citation: 48 CFR 25.401

Legal Deadline: None

Abstract: This final rule revises the list at 25.401 of Countries subject to the agreement on Government procurement to include Spain, Greece, and Liechtenstein.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/23/92	
Final Action	10/26/92	57 FR 48470

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF23

4398. • FAR CASE 91-89, TECHNICAL CHANGES TO ADMINISTRATIVE MATTERS

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 4.805

Legal Deadline: None

Abstract: This final rule amends the FAR at 4.805, Disposal of Contract Files, for clarification with respect to the retention period for certain contracts.

Timetable:

Action	Date	FR Cite
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF22

4399. • FAR CASE 91-79, PROMPT PAYMENT FOR FRESH OR FROZEN FISH

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 32.905(d); 48 CFR 32.905(e); 48 CFR 52.232-25(a)

Legal Deadline: None

Abstract: This rule revises policies on payment for fish to comply with revisions made to 31 USC 3903(a)(2).

Timetable:

Action	Date	FR Cite
Final Action	09/24/92	57 FR 44258
Final Action Effective	09/24/92	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF25

4400. • FAR CASE 91-88, USE OF INDICIA MAIL

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 42.1404-1; 48 CFR 52.242-11

Legal Deadline: None

Abstract: This case concerns revising 42.1404 and the clause at 52.242-11, to bring the FAR in line with the U.S. Postal Service Domestic Mail Manual. The changes clarify the procedure agencies use to obtain authority for contractors to use indicia mail, and require contracting officers to furnish contractors a completed Postal Service (PS) Form 3601, "Application to Mail Without Affixing Postage Stamps."

Timetable:

Action	Date	FR Cite
Final Action	12/21/92	57 FR 60570
Final Action Effective	02/19/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AF28

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Monday
April 26, 1993

Part XLV

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

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COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

ADDRESSES: Comments should be sent to: Gerry Smith, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254-6090.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

5 U.S.C. 602(a). Accordingly, the Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year, irrespective of their potential impact on small entities.[1]

The Commission's agenda represents its best estimate of significant rules which will be considered over the next 12 months.[2] In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Commission is publishing its April 1993 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulations. The Unified Agenda of Federal Regulations is coordinated by the Office of Management and Budget pursuant to Executive Order 12291. While participation by executive agencies in the Agenda is mandatory, independent agencies, such as the Commission, participate in the Unified Agenda on a voluntary basis.

The Commission's April 1993 regulatory flexibility agenda is set forth below.

Issued in Washington, DC, on March 24, 1993, by the Commission.

Jean A. Webb,

Secretary of the Commission.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4401	Proposed Regulation Prohibiting Dual Trading by Floor Brokers	3038-AA73
4402	Review of Commission Disclosure Requirements Concerning Commodity Pool Operators	3038-AA74
4403	Procedures for Involuntary Bulk Transfers or Liquidations of Customer Accounts	3038-AA77
4404	Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission	3038-AA87
4405	Reports by Futures Commission Merchants, Clearing Members, Foreign Brokers and Traders	3038-AA88
4406	Prohibition Against Insider Trading	3038-AA96
4407	Risk Assessment for Holding Company Systems	3038-AB01
4408	Self-Regulatory Organization Disciplinary Committees and Governing Boards	3038-AB02
4409	Prohibition on Voting by Interested Members	3038-AB03
4410	Rules Relating to Reparation Proceedings	3038-AB05
4411	Regulations Concerning Exemptions Under Section 4(c) of the Commodity Exchange Act	3038-AB06

[1] The Commission has published its definition of small entity to be used by the Commission in connection with rulemaking proceedings. 47 FR 18618 (April 30, 1982). Pursuant to those definitions, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. *See* 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, listing of a rule in this regulatory flexibility agenda should not in any event be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda, which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations.

[2] In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar and, on a weekly basis, an advisory, which lists rules that the Commission is considering or will consider in the near future.

CFTC

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4412	Distribution of "Risk Disclosure Statement" by Futures Commission Merchants and Introducing Brokers	3038-AA64
4413	Contemporaneous Written Records of Orders Placed with Contract Market Members by Other Members Present on the Floor	3038-AA69
4414	Broker Associations	3038-AA71
4415	Revision of Federal Speculative Position Limits	3038-AA81
4416	Prohibition of Certain Transactions Between Commodity Pool Operators and Affiliated Persons	3038-AA83
4417	Temporary Emergency Rule	3038-AA97
4418	Suspension of Registration for Registrants Charged With Felonies	3038-AA98
4419	Registration of Floor Traders	3038-AA99
4420	Ethics Training for Registrants	3038-AB00

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4421	Arbitration or Other Dispute Settlement Procedures	3038-AA78
4422	Application and Closing Out of Offsetting Long and Short Positions; Exception	3038-AA86
4423	Exclusion for Certain Otherwise Regulated Persons From the Definition of the Term "Commodity Pool Operator"	3038-AA89
4424	Exemption From Speculative Position Limits for Positions Which Have a Common Owner, but Which Are Controlled by an Independent Account Controller	3038-AA91
4425	Reports by Persons Holding Hedge Positions and Merchants and Dealers in Cotton	3038-AA92
4426	Regulation of Hybrid Instruments	3038-AB04

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Proposed Rule Stage

4401. PROPOSED REGULATION PROHIBITING DUAL TRADING BY FLOOR BROKERS

Legal Authority: 7 USC 6; 7 USC 6b; 7 USC 6c; 7 USC 6e; 7 USC 6g; 7 USC 6j; 7 USC 7; 7 USC 7a; 7 USC 12a

CFR Citation: 17 CFR 155.5

Legal Deadline: Final, Statutory, July 26, 1993.
270 days after enactment of the 1992 Act (October 28, 1992).

Abstract: The Commission is drafting a proposed new Regulation 155.5, consistent with the mandate of the Futures Trading Practices Act of 1992. Proposed new Regulation 155.5 would define dual trading as the execution of customer orders by a floor broker during the same trading session in which the floor broker executes a transaction in the same contract market for an account in which he has an interest. Dual trading would be prohibited in contract markets with average daily trading volume equal to or in excess of 8,000 contracts, subject to certain exceptions as permitted by contract market rules. The prohibition also would be subject to certain exemption procedures. These procedures would allow contract markets that meet specific trade monitoring standards, or that demonstrate the likelihood of harm to the public interest caused by the dual trading ban, to obtain an exemption from the dual trading prohibition.

Timetable:

Action	Date	FR Cite
NPRM	01/11/90	55 FR 1047
NPRM Comment Period End	07/09/90	55 FR 13288
NPRM	03/09/93	58 FR 13025
NPRM Comment Period End	05/07/93	
Final Action	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: **De'Ana H. Dow,** Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AA73

4402. REVIEW OF COMMISSION DISCLOSURE REQUIREMENTS CONCERNING COMMODITY POOL OPERATORS

Legal Authority: 7 USC 2; 7 USC 6b; 7 USC 6c; 7 USC 6l; 7 USC 6m; 7 USC 6n; 7 USC 6o; 7 USC 12a

CFR Citation: 17 CFR 4.12; 17 CFR 4.21; 17 CFR 4.31; 17 CFR 4.10

Legal Deadline: None

Abstract: The Commission will review its requirements concerning disclosure materials to be provided customers of commodity pool operators with a view toward simplifying the disclosure process, reducing any unnecessary disclosure burdens, and harmonizing the Commission's disclosure requirements with those of other domestic and international regulators. In particular, the Commission is considering whether a bifurcated

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disclosure format should be permissible. This would consist of a brief, basic disclosure document provided by the pool operator, with more extensive disclosure materials available upon request.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
NPRM Comment Period End	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara S. Gold, Assistant Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AA74

4403. PROCEDURES FOR INVOLUNTARY BULK TRANSFERS OR LIQUIDATIONS OF CUSTOMER ACCOUNTS

Legal Authority: 7 USC 6d; 7 USC 6f; 7 USC 6g; 7 USC 6k; 7 USC 12a

CFR Citation: 17 CFR 1.68

Legal Deadline: None

Abstract: The CFTC will undertake a rulemaking proceeding to establish requirements concerning procedures to be followed by futures commission merchants and introducing brokers when bulk transfers or liquidations of customer accounts are made due to cessation or suspension of business or other special circumstances affecting the registrant. Such requirements may address such matters as what constitutes appropriate notice to affected customers, commission arrangements in connection with account transfers, transfers of associated persons, the effect of cessation of business upon guarantee arrangements, and required notices to the Commission.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
NPRM Comment Period End	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AA77

4404. REGULATION CONCERNING CONDUCT OF MEMBERS AND EMPLOYEES AND FORMER MEMBERS AND EMPLOYEES OF THE COMMISSION

Legal Authority: 7 USC 4a(j), 7 USC 12a(5)

CFR Citation: 17 CFR 140.735-1 to 16

Legal Deadline: None

Abstract: Review, modify or revoke as necessary, the Commission's existing regulations concerning standards of ethical conduct of members and employees in order to conform these regulations with those adopted by the Office of Government Ethics prescribing new standards of ethical conduct for officers and employees of the executive branch and new requirements for public and confidential financial disclosures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Gasteiger, Attorney, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-9880

RIN: 3038–AA87

4405. REPORTS BY FUTURES COMMISSION MERCHANTS, CLEARING MEMBERS, FOREIGN BROKERS AND TRADERS

Legal Authority: 7 USC 6a; 7 USC 6c, 7 USC 6d, 7 USC 6f; 7 USC 6g; 7 USC 6l, 7 USC 7, 7 USC 12a, 7 USC 2; 7 USC 4; 7 USC 6k, 7 USC 6m, 7 USC 6n; 7 USC 19, 5 USC 552

CFR Citation: 17 CFR 17, 17 CFR 18

Legal Deadline: None

Abstract: The amendments to parts 17 and 18 will eliminate confusion on the part of those filing reports by establishing that data should be reported in the name of traders controlling futures positions. Currently, the regulations stipulate that data should be filed in the name of those having a financial interest in or control of an account. Additionally, the amendments will limit information provided for controlled accounts and clarify information that must be provided concerning financial interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lamont L. Reese, Statistician, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-3310

RIN: 3038–AA88

4406. • PROHIBITION AGAINST INSIDER TRADING

Significance: Agency Priority

Legal Authority: 7 USC 12a(5)

CFR Citation: 17 CFR 1.59

Legal Deadline: Final, Statutory, October 26, 1993.
360 days after enactment of the Futures Trading Act of 1992.

Abstract: The proposed regulation, which the Commission is required to promulgate under Section 214 of the Futures Trading Practices Act of 1992, would prohibit any employee or governing board member of a self-regulatory organization from willfully and knowingly (a) trading for his own account, or on behalf of another account, in contracts for future delivery or options thereon or (b) disclosing for any purpose inconsistent with the performance of his official duties, any material nonpublic information obtained through special access related to the performance of such duties. The proposed regulation also would prohibit any person from willfully and knowingly trading for his own account, or on behalf of any account, in contracts for future delivery or options thereon, on the basis of material nonpublic information obtained, from a self-regulatory organization employee or governing member. The proposed regulation is a necessary component of the statutory scheme to prosecute insider trading as a felony.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth A. Patterson, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AA96

4407. • RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS

Legal Authority: 7 USC 6f

CFR Citation: 17 CFR 1.13

Legal Deadline: None

Abstract: The Commission is drafting risk assessment regulations which would require futures commission merchants (1) to provide reports to the Commission regarding the activities of affiliated persons that are reasonably likely to affect materially the financial or operational condition of such entities; and (2) to obtain certain information and make and keep certain records concerning their policies, procedures or systems for monitoring and controlling financial and operational risks to it resulting from the activities of affiliated persons. The Commission has held discussions with the Securities and Exchange Commission regarding the operation of their temporary risk assessment regulations in an effort to avoid unnecessary duplication and expects to seek input from other financial regulators.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence T. Eckert, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AB01

4408. • SELF-REGULATORY ORGANIZATION DISCIPLINARY COMMITTEES AND GOVERNING BOARDS

Legal Authority: 7 USC 7a

CFR Citation: 17 CFR 1.64

Legal Deadline: Final, Statutory, July 26, 1993.
270 days after the date of the enactment of the Futures Practices Trading Act of 1992 on October 28, 1992.

Abstract: The regulation will implement the provisions of Section 206 of the Futures Trading Practices Act of 1992 which require contract markets to provide for meaningful representation on the governing board of a diversity of interests, including various member categories, commercial interests, and non-members. The regulation also will address the requirement in Section 206 that there be a diversity of representation on major disciplinary committees sufficient to ensure fairness and prevent special treatment or preference for any person. Among other things, the regulation will provide guidelines on the diverse interests which must be represented on governing boards and persons who would qualify as public members. The regulation also will address the composition of disciplinary committees, including representation by non-members and persons in membership categories different from that of the subject of the proceeding. The action will potentially impact the selection and composition of contract market governing boards and disciplinary committees.

Timetable:

Action	Date	FR Cite
NPRM	03/12/93	58 FR 13565
NPRM Comment Period End	04/12/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AB02

4409. • PROHIBITION ON VOTING BY INTERESTED MEMBERS

Legal Authority: 7 USC 7a(17)

CFR Citation: 17 CFR 1.67

Legal Deadline: None

Abstract: The regulation will implement the provisions of Section 217 of the Futures Trading Practices Act of 1992 which require contract markets to adopt rules to avoid conflicts of interest in deliberations and voting by members of the governing board and disciplinary and other oversight committees. The rulemaking will define the relationships between a named party in interest and a member of the governing board or committee which would require abstention from deliberations and voting. The rulemaking also will provide guidelines on situations which would require a member to abstain from voting on a significant action because of a substantial financial interest in the outcome of the vote based on positions held personally or at an affiliated firm, as well as other matters addressed by the statute. The action will potentially impact the selection and composition of contract market governing boards and committees.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pat Apfelbaum, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AB03

4410. • RULES RELATING TO REPARATION PROCEEDINGS

Significance: Agency Priority

Legal Authority: 7 USC 4a(j); 7 USC 12(a)(5); 7 USC 18

CFR Citation: 17 CFR 12.500

Legal Deadline: Final, Statutory, July 25, 1993.
270 days from enactment (October 28, 1992).

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Proposed Rule Stage

Abstract: The Futures Trading Practices Act of 1992 directs the Commission to propose rules implementing class actions in reparation proceedings. The Commission is to determine whether such rules are necessary, taking into account the resources available to the Commission.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Merry Lynn, Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-9880

RIN: 3038–AB05

4411. • REGULATIONS CONCERNING EXEMPTIONS UNDER SECTION 4(C) OF THE COMMODITY EXCHANGE ACT

Legal Authority: 7 USC 6(c); 7 USC 4a(j); 7 USC 12a(5)

CFR Citation: 17 CFR 1.71; 17 CFR 1.72; 17 CFR 140.97

Legal Deadline: None

Abstract: The regulations will implement section 4(c) of the Commodity Exchange Act which was recently adopted with the passage of the Futures Trading Practices Act of 1992. Section 4(c) authorizes the Commission, under certain circumstances, to exempt any agreement, contract, or transaction from certain provisions of the Act. The regulations will set forth procedures for requesting limited public availability of information contained in applications. Finally, authority will be delegated to the General Counsel to determine whether to grant or deny requests for limited public availability.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Ringle, Attorney, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-7110

RIN: 3038–AB06

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Final Rule Stage

4412. DISTRIBUTION OF "RISK DISCLOSURE STATEMENT" BY FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

Legal Authority: 7 USC 6(b); 7 USC 6b; 7 USC 6g(1); 7 USC 6o; 7 USC 12a(5); 7 USC 24

CFR Citation: 17 CFR 1.55, 17 CFR 30.6; 17 CFR 33.7; 17 CFR 180.3; 17 CFR 190.10

Legal Deadline: None

Abstract: The Commission is considering whether to amend Rule 1.55, its basic rule with respect to risk disclosure by futures commission merchants and introducing brokers. Any such amendments would be designed to further simplify risk disclosure with respect to trading of domestic and foreign futures and options products so as to reduce the number of separate risk disclosure documents required by the Commission, the National Futures Association and other self-regulatory organizations (SROs), including foreign SROs. The CFTC will also review its disclosure requirements concerning futures and options transactions to identify potential means by which new trading systems can be accommodated without creating undue disclosure burdens. The Commission is also considering the necessity for new account documentation in connection with bulk transfers of accounts.

Timetable:

Action	Date	FR Cite
NPRM	10/07/92	57 FR 46101
NPRM Comment Period End	12/07/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AA64

4413. CONTEMPORANEOUS WRITTEN RECORDS OF ORDERS PLACED WITH CONTRACT MARKET MEMBERS BY OTHER MEMBERS PRESENT ON THE FLOOR

Legal Authority: 7 USC 6; 7 USC 6g; 7 USC 7; 7 USC 7a; 7 USC 12a

CFR Citation: 17 CFR 1.35

Legal Deadline: Final, Statutory, July 26, 1993.
270 days after October 28, 1992.

Abstract: Currently, regulation 1.35 (a-1)(3) exempts a member who receives an order from another member on the floor from the requirement that the member must prepare and time stamp an order ticket on receipt of the order. The member who receives the order must note on his trading card or other record the time of execution to the nearest minute. The proposed regulation would implement the statutory directive in Section 203 of the Futures Trading Act of 1992 by requiring that a contemporaneous written record be made, as practicable, of all orders for execution on the floor or subject to the rules of each contract market placed by a member of the contract market who is present on the floor at the time such order is placed.

Timetable:

Action	Date	FR Cite
NPRM	12/30/92	57 FR 62244
NPRM Comment Period End	01/29/93	
Final Action	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lloyd R. Bernard, Attorney - Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AA69

CFTC

Final Rule Stage

4414. BROKER ASSOCIATIONS

Legal Authority: 7 USC 6b; 7 USC 6c; 7 USC 7(b); 7 USC 12a(5)

CFR Citation: 17 CFR 1; 17 CFR 156

Legal Deadline: Final, Statutory, July 26, 1993.
270 days after enactment of the 1992 Act (October 28, 1992).

Abstract: The Commission proposes to develop regulations to assure the availability of adequate information to monitor the trading activity among members of a broker association which may include a definition of such associations and a requirement that exchanges implement registration procedures for such entities. .

Timetable:

Action	Date	FR Cite
NPRM	12/03/92	57 FR 57116
NPRM Comment Period End	01/04/93	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Bowen, Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AA71

4415. REVISION OF FEDERAL SPECULATIVE POSITION LIMITS

Legal Authority: 7 USC 6a; 7 USC 6c; 7 USC 12a (5)

CFR Citation: 17 CFR 150

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission has long established and enforced under its rulemaking authority speculative position limits for futures contracts on various agricultural commodities. The Commission, at the request of the Chicago Board of Trade, will propose several revisions to the structure of Federal speculative position limits based upon its experience in administering these limits.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/91	56 FR 37049
ANPRM Comment Period End	10/01/91	
NPRM	04/13/92	57 FR 12766
NPRM Comment Period End	08/03/92	57 FR 27202
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-6990

RIN: 3038–AA81

4416. PROHIBITION OF CERTAIN TRANSACTIONS BETWEEN COMMODITY POOL OPERATORS AND AFFILIATED PERSONS

Legal Authority: 7 USC 2; 7 USC 6b; 7 USC 6c; 7 USC 6l; 7 USC 6m; 7 USC 6n; 7 USC 6o; 7 USC 12a; 7 USC 23

CFR Citation: 17 CFR 4.20(d)

Legal Deadline: None

Abstract: The Commission is proposing new paragraph (d) of Rule 4.20 which would prohibit a commodity pool operator from using funds or property of a commodity pool it operated to purchase assets of, purchase securities issued by, or to lend money or other property to such commodity pool operator or affiliated persons of such commodity pool operator as that term would be defined in new paragraph (d). Certain limited exceptions would be provided, including an exemption to allow a commodity pool operator to invest funds of a pool it operates in certain affiliated money market funds. The Commission also requested comment on several issues, including whether the proposed rule is warranted or whether the preclusion against self-dealing under basic fiduciary law, coupled with disclosure of transactions between commodity pool operators and affiliated persons thereof, is sufficient.

Timetable:

Action	Date	FR Cite
NPRM	10/03/91	56 FR 50067
NPRM Comment Period End	12/02/91	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: France M.T. Maca, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AA83

4417. • TEMPORARY EMERGENCY RULE

Significance: Agency Priority

Legal Authority: 7 USC 12a; 7 USC 7a(12)

CFR Citation: 17 CFR 1.41; 17 CFR 1.41a; 17 CFR 1.41b

Legal Deadline: Final, Statutory, April 26, 1993.
180 days following enactment of the Futures Trading Practices Act of 1992.

Abstract: Pursuant to Section 213 of the Futures Trading Practices Act of 1992, the Commission is amending its regulation on contract market emergency actions to establish new emergency rule procedures. A contract market would have to make every effort practicable to give the Commission notice of its intention to implement, modify, or terminate a temporary emergency rule before taking action. The Commission then would make a determination either to permit the rule to remain in effect or to suspend the effect of the rule. These amendments would change the emergency rule process and would increase formal Commission involvement in the review of temporary emergency rules.

Timetable:

Action	Date	FR Cite
NPRM	02/04/93	58 FR 7056
NPRM Comment Period End	03/08/93	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Shauna L. Turnbull, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AA97

4418. • SUSPENSION OF REGISTRATION FOR REGISTRANTS CHARGED WITH FELONIES

Significance: Agency Priority

Legal Authority: 7 USC 12a(11)

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CFTC

Final Rule Stage

CFR Citation: 17 CFR 3.56

Legal Deadline: None

Abstract: Pursuant to Section 227 of the Futures Trading Practices Act of 1992, the Commission may suspend or modify the registration of any person registered under the Commodity Exchange Act who is charged with the commission of or participation in a felony that would reflect on the honesty or the fitness of the person to act as a fiduciary, if the Commission determines that continued registration of the person may pose a threat to the public interest or may threaten to impair public confidence in any market regulated by the Commission. The Commission's rule will set forth procedures to govern the suspension of registrants charged with felonies.

Timetable:

Action	Date	FR Cite
NPRM	02/02/93	58 FR 6748
NPRM Comment Period End	03/04/93	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AA98

4419. • REGISTRATION OF FLOOR TRADERS

Legal Authority: 7 USC 6e

CFR Citation: 17 CFR 1.62; 17 CFR 1.66; 17 CFR 3.4; 17 CFR 3.11; 17 CFR 3.21; 17 CFR 3.31; 17 CFR 3.33; 17 CFR 3.40; 17 CFR 3.41; 17 CFR 3.42; 17 CFR 3.43; 17 CFR 3.60; 17 CFR 3.64; 17 CFR 3 app a

Legal Deadline: Final, Statutory, April 26, 1993.
180 days following enactment of the Futures Trading Practices Act on October 28, 1992.

Abstract: Pursuant to Section 207 of the Futures Trading Practices Act of 1992, floor traders (i.e., persons who trade on exchange floors or through electronic trading systems solely for their own account) are required to register under the Commodity Exchange Act for the first time. The central goal of requiring registration of floor traders is to assure that these individuals who may be in a position to help abuse customer orders, are subject to the same background fitness checks as other futures industry professionals and to permit the Commission to act with respect to a floor trader's registration in appropriate cases. Persons currently operating as floor traders will be required to register since the 1992 Act made no provision to "grandfather" such persons. The Commission will amend its existing rules applicable to registration of industry professionals to incorporate floor traders generally under the standards applicable to other registrants.

Timetable:

Action	Date	FR Cite
NPRM	02/02/93	58 FR 6748
NPRM Comment Period End	03/04/93	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AA99

4420. • ETHICS TRAINING FOR REGISTRANTS

Significance: Agency Priority

Legal Authority: 17 USC 6p

CFR Citation: 17 CFR 3.34

Legal Deadline: Final, Statutory, April 26, 1993.
180 days following enactment of the Futures Trading Practices Act of 1992.

Abstract: Pursuant to Section 210 of the Futures Trading Practices Act of 1992, all new individual registrants are required to attend ethics training within six (6) months of registration and periodically thereafter. All other individual registrants must attend ethics training on a periodic basis. Such training is intended to assure that registrants understand their responsibilities to the public, including responsibilities to observe just and equitable principles of trade, Commission and self-regulatory organization rules, and any other applicable federal or state laws. The Commission's role in this area will set forth course content and length, appropriate vendors and required evidence of course attendance.

Timetable:

Action	Date	FR Cite
NPRM	02/02/93	58 FR 6748
NPRM Comment Period End	03/04/93	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038–AB00

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Completed Actions

4421. ARBITRATION OR OTHER DISPUTE SETTLEMENT PROCEDURES

CFR Citation: 17 CFR 180.2(d)(1); 17 CFR 180.5

Completed:

Reason	Date	FR Cite
Final Action	10/07/92	57 FR 46090
Final Action Effective	11/06/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Kurjan, 202 254-8955

RIN: 3038–AA78

CFTC

Completed Actions

4422. APPLICATION AND CLOSING OUT OF OFFSETTING LONG AND SHORT POSITIONS; EXCEPTION

CFR Citation: 17 CFR 1.46

Completed:

Reason	Date	FR Cite
Final Action	11/24/92	57 FR 55082
Final Action Effective	12/24/92	

Small Entities Affected: None

Government Levels Affected. None

Agency Contact: Mary Cademartori, 202 254-8955

RIN: 3038–AA86

4423. EXCLUSION FOR CERTAIN OTHERWISE REGULATED PERSONS FROM THE DEFINITION OF THE TERM "COMMODITY POOL OPERATOR"

CFR Citation: 17 CFR 4.5

Completed:

Reason	Date	FR Cite
Final Action	01/28/93	58 FR 6371
Final Action Effective	03/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald Hobson, 202 254-6990

RIN: 3038–AA89

4424. EXEMPTION FROM SPECULATIVE POSITION LIMITS FOR POSITIONS WHICH HAVE A COMMON OWNER, BUT WHICH ARE CONTROLLED BY AN INDEPENDENT ACCOUNT CONTROLLER

CFR Citation: 17 CFR 150.3(a)(4); 17 CFR 150.3(b)

Completed:

Reason	Date	FR Cite
Final Action	09/28/92	57 FR 44490
Final Action Effective	10/28/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Fenton, 202 254-3310

RIN: 3038–AA91

4425. REPORTS BY PERSONS HOLDING HEDGE POSITIONS AND MERCHANTS AND DEALERS IN COTTON

CFR Citation: 17 CFR 19

Completed:

Reason	Date	FR Cite
Final Action	10/13/92	57 FR 41389
Final Action Effective	10/13/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lamont L. Reese, 202 254-3310

RIN: 3038–AA92

4426. • REGULATION OF HYBRID INSTRUMENTS

Legal Authority: 7 USC 2; 7 USC 6; 7 USC 6c; 7 USC 12a

CFR Citation: 17 CFR 34

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is adopting final regulations concerning certain hybrid instruments that combine equity or debt securities on depository interests with features of either commodity futures or option contracts or both. The final rules establish an exemption from CFTC regulations under the Commodity Exchange Act for these hybrid instruments, based on the limited nature of the instrument's exposure to price movements in the underlying commodity and in reliance on the other applicable regulatory frameworks.

Timetable:

Action	Date	FR Cite
NPRM	11/12/92	57 FR 53618
NPRM Comment Period End	12/28/92	57 FR 58422
Final Action	01/22/93	58 FR 5580
Final Action Effective	02/22/93	58 FR 5580

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory Kuserk, Industry Economist, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-6990

RIN: 3038–AB04

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Part XLVI

Consumer Product Safety Commission

Semiannual Regulatory Agenda

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CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of regulatory flexibility and unified agendas.

SUMMARY: The Regulatory Flexibility Act (RFA) requires each Federal agency to publish, twice each year, a regulatory flexibility agenda listing the rules expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities, including small businesses, small organizations, and small governmental units. In this document, the Commission publishes its semiannual regulatory flexibility agenda.

Additionally, although not required to do so, the Commission has elected to comply voluntarily with those provisions of Executive Order 12291 which require executive agencies to publish an agenda of regulatory actions expected to be under development or review by the agency during the succeeding 12 months and which further provide that such an agenda may be combined with an agency's regulatory flexibility agenda published in accordance with the RFA.

DATES: The Commission welcomes comments on each subject area of the agenda, particularly from small entities. Written comments concerning the agenda should be received in the Office of the Secretary by June 30, 1993.

ADDRESSES: Comments on the regulatory flexibility agenda should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504-0800, and should be titled "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0980. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the RFA (5 U.S.C. 602) requires each agency to publish, twice each year, a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated which is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking. The regulatory flexibility agenda shall also contain the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

Additionally, Executive Order 12291 requires executive agencies to publish, twice each year, a regulatory agenda of proposed regulations under development or current regulations under review and further states that such an agenda may be combined with the agenda published in accordance with the RFA. While the Commission, as an independent regulatory agency, is not required to follow Executive Order 12291, the Commission is complying voluntarily with those provisions concerning publication of a regulatory agenda.

The regulatory flexibility agenda published below lists, for a 12-month period, the regulatory activities expected to be under development or review. These include all such activities, not only those which may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, DC 20207.

Dated: March 5, 1993.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4427	Petition HP 91-2 Requesting Amendment of Requirements for Fuse-Burn Time of Fireworks	3041-AB19
4428	Petition HP 92-1 Requesting Amendment of Requirements for Model Rocket Motors	3041-AB21
4429	Lead in Paint; Regulatory Investigation	3041-AB24
4430	Amendment of Flammability Standards for Children's Sleepwear	3041-AB27
4431	Petition CP 92-1 Requesting Amendment of the Architectural Glazing Standard	3041-AB28
4432	Petition CP 93-1 Requesting Issuance of Safety Standard for Gas-Fired Floor Furnaces	3041-AB29
4433	Petition HP 92-2 Requesting Issuance of a Rule To Ban Baby-Walkers	3041-AB30

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Prerule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4434	Petition CP 93-2 Requesting Issuance of a Rule To Require Warning Labels on Portable Aluminum Ladders	3041-AB31
4435	Petition PP 93-1 Requesting Issuance of Rule To Require Child-Resistant Packaging of Mouthwashes Containing Ethanol	3041-AB32

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4436	Proposed Amendments of Regulations Applicable to Clacker Balls	3041-AB02
4437	Proposed Rules to Require Child-Resistant Packaging for Certain Topical Prescription and Non-Prescription Preparations Containing Lidocaine or Dibucaine	3041-AB03
4438	Rule to Ban Certain Crib Toys	3041-AB06
4439	Proposed Amendment of Labeling Requirements for Charcoal	3041-AB16

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4440	Requirements for the Special Packaging of Household Substances; Revision of Test Protocol for Child-Resistant Packaging	3041-AA22
4441	Proposed Rule To Exempt Electronic Video Games From Electrical Toy Regulations	3041-AA41
4442	Household Substances Containing Methylene Chloride; Status as Hazardous Substances; Proposed Rule	3041-AA59
4443	Proposed Safety Standard for Cigarette Lighters	3041-AA73
4444	Proposed Rule To Require Child-Resistant Packaging of Non-Prescription Drugs Containing Loperamide	3041-AB26

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4445	Choking Hazards Associated With Balloons	3041-AA96
4446	Choking Hazards Associated With Small Balls	3041-AA97
4447	Choking Hazards Associated With Marbles	3041-AA98
4448	Choking Hazards Associated With Toys and Articles Intended for Children Three to Six Years of Age	3041-AA99
4449	Safety Standard for Automatic Residential Garage Door Operators; Recordkeeping and Certification Requirements	3041-AB15
4450	Requirements for Residential Automatic Garage Door Openers	3041-AB18
4451	Rule Review, Citizens Band Antenna Standard	3041-AB22
4452	Petition PP 91-1 Requesting Issuance of Requirements for Child-Resistant Packaging of Spot Removers Containing Naphtha	3041-AB23
4453	Proposed Amendment of Regulations Interpreting Section 37 of the Consumer Product Safety Act	3041-AB25

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Prerule Stage

4427. PETITION HP 91-2 REQUESTING AMENDMENT OF REQUIREMENTS FOR FUSE-BURN TIME OF FIREWORKS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261(q) Federal Hazardous Substances Act; 21 USC 371(e) Federal Food, Drug, and Cosmetic Act

CFR Citation: 16 CFR 1507

Legal Deadline: None

Abstract: Regulations codified at 16 CFR part 1507 establish requirements for fireworks devices, including requirements for the burning time of the fuse of such devices. Provisions of section 1507.3(a)(2) require fireworks to have a fuse that burns at least three seconds but no more than six seconds before ignition of the device. On March 20, 1991, John A. Conkling petitioned the Commission to request amendment

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of section 1507.3(a)(2) to extend the limit for the maximum burn time to nine seconds. In April, 1993, the staff is scheduled to transmit a briefing package to the Commissioners for their consideration when deciding whether to grant or deny the petition. If Commission grants the petition, it will publish an advance notice of proposed rulemaking in the Federal Register to begin the requested rulemaking proceeding.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Neal Gasser, Project Manager, Consumer Product Safety Commission, Health Sciences Laboratory, Washington, DC 20207, 301 443-9420

RIN: 3041–AB19

4428. PETITION HP 92-1 REQUESTING AMENDMENT OF REQUIREMENTS FOR MODEL ROCKET MOTORS

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1261(q) Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500.85

Legal Deadline: None

Abstract: The Federal Hazardous Substances Act defines the term "banned hazardous substance" to include any toy or children's article containing a hazardous substance which is accessible to a child who may receive the product. Model rocket motors are children's articles which contain a flammable hazardous substance. Regulations codified at 16 CFR 1500.85(a)(8) exempt certain model rocket motors from classification as banned hazardous substances under specified conditions. Those conditions include a requirement that the fuel must be contained in a non-metallic tube and a limit on the total impulse of the model rocket motor to 80 newton-seconds. A petition from Aero-Tech, Inc. requests amendment of the exemption regulation to permit the use of metallic fuel containers and to increase the maximum total impulse to 160 newton-seconds. The Commission staff is scheduled to transmit a briefing package concerning this petition to the Commission in March, 1993. A decision by the Commission to grant or deny the petition is expected in April, 1993.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Terrance Karels, Project Manager, Consumer Product Safety Commission, Directorate for Economic Analysis, Washington, DC 20207, 301 504-0962

RIN: 3041–AB21

4429. LEAD IN PAINT; REGULATORY INVESTIGATION

Legal Authority: 15 USC 2051 et seq Consumer Product Safety Act

CFR Citation: 16 CFR 1303

Legal Deadline: None

Abstract: On April 30, 1992, the Commission published a notice in the Federal Register to announce that it has begun a regulatory investigation to obtain information relevant to the issue of whether the maximum permissible level of lead in paint intended for consumer use should be reduced. The notice requested information and comments concerning the maximum allowable limit for lead in paint, exposure to lead-containing paint, and uses of lead containing paint that should be exempted from regulation. In 1977, the Commission issued regulations to ban the sale of paint intended for consumer use having a lead content in excess of 0.06 percent. The maximum level of lead content permitted by the regulations was recommended by the Committee on Environmental Health of the American Academy of Pediatrics in 1972, and affirmed by the National Academy of Sciences in 1973. Recently, the Commission staff has received information indicating that human beings, particularly young children and fetuses, may be more sensitive to adverse health effects from exposure to low levels of lead than was recognized in the early 1970s. In May, 1993, the staff plans to brief the Commission on (cont)

Timetable:

Action	Date	FR Cite
Notice of Regulatory Investigation	04/30/92	57 FR 18418
Comment Period End	07/14/92	57 FR 18418
Staff Briefs Commission	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: the issue of whether the maximum lead content of paint intended for consumer use should be reduced.

Agency Contact: Brian C. Lee, Ph.D., D.A.B.T., Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207, 301 504-0994

RIN: 3041–AB24

4430. • AMENDMENT OF FLAMMABILITY STANDARDS FOR CHILDREN'S SLEEPWEAR

Legal Authority: 15 USC 1193 Flammable Fabrics Act, 15 USC 2079(b) Consumer Product Safety Act

CFR Citation: 16 CFR 1615; 16 CFR 1616

Legal Deadline: None

Abstract: On January 13, 1993, the Commission published an advance notice of proposed rulemaking to begin a proceeding which could result in amendments of the flammability standards for children's sleepwear garments in sizes 0 through 14, and to fabrics intended for use in such garments. The standards were issued to eliminate or reduce unreasonable risks of deaths and burn injuries to children associated with ignition of sleepwear garments. The regulatory alternatives under consideration include amendment of the standards to exclude tight-fitting sleepwear garments and sleepwear garments in infant sizes from the requirements of the standards.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4111

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Action	Date	FR Cite
ANPRM Comment Period End	03/13/93	58 FR 4111
Staff Sends Briefing Package to Commission	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Terrance R. Karels, Project Manager, Consumer Product Safety Commission, Directorate for Economic Analysts, Washington, DC 20207, 301 504-0962

RIN: 3041–AB27

4431. • PETITION CP 92-1 REQUESTING AMENDMENT OF THE ARCHITECTURAL GLAZING STANDARD

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 16 CFR 1201

Legal Deadline: None

Abstract: A petition from O'Keeffe's, Inc. requests the Commission to amend the Safety Standard for Architectural Glazing Materials to remove an exemption from the requirements of that standard for wired glass used in fire doors to comply with Federal, state, or local fire codes. The petition also requests amendment of the definitions of the terms "glass" and "glazing materials" as they are used in the standard to include certain transparent ceramic materials within the scope of the standard. The staff is preparing a briefing package for consideration by the Commissioners of the agency when deciding whether to grant or deny the petition. If the Commission grants the petition, it will publish an advance notice of proposed rulemaking to begin the proceeding requested by the petition.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Z. Fandey, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207, 301 504-0508

RIN: 3041–AB28

4432. • PETITION CP 93-1 REQUESTING ISSUANCE OF SAFETY STANDARD FOR GAS-FIRED FLOOR FURNACES

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 16 CFR 00

Legal Deadline: None

Abstract: By letter dated September 30, 1992, Richard F. Edlich, M.D., Ph.D., petitioned the Commission to issue a safety standard to address risks of contact-burn injuries associated with gas-fired floor furnaces. The Commission staff is preparing a briefing package for consideration by the Commissioners of the agency when deciding whether to grant or deny the petition. If the Commission grants the petition, it will publish an advance notice of proposed rulemaking to initiate the proceeding requested by the petition.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Linda E. Smith, Project Manager, Consumer Product Safety Commission, Directorate for Epidemiology, Washington, DC 20207, 301 504-0470

RIN: 3041–AB29

4433. • PETITION HP 92-2 REQUESTING ISSUANCE OF A RULE TO BAN BABY-WALKERS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1262 Federal Hazardous Substance Act; 15 USC 2079(a) Consumer Product Safety Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: By letter dated August 27, 1992, the Consumer Federation of America and four other organizations petitioned the Commission to issue a rule to ban baby-walkers. A baby-walker is an article consisting of a seat suspended within a wooden or metal frame on wheels. An infant is seated in the baby-walker so that his or her feet can touch the floor. The infant is then able to move along a smooth, hard surface. The petition asserts that unreasonable risks of death and injuries to infants are associated with baby-walkers. These deaths and injuries have resulted primarily from falls down stairs and tip-overs. On March 15, 1993, the staff transmitted a briefing package to the Commissioners of the agency for their consideration when deciding whether to grant or deny the petition. A decision on the petition is expected in April, 1993. If the Commission grants the petition, it will publish an advance notice of proposed rulemaking to initiate the proceeding requested by the petition.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	03/15/93	
Commission Decision	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Terrance R. Karels, Project Manager, Consumer Product Safety Commission, Directorate for Economic Analysis, Washington, DC 20207, 301 504-0962

RIN: 3041–AB30

4434. • PETITION CP 93-2 REQUESTING ISSUANCE OF A RULE TO REQUIRE WARNING LABELS ON PORTABLE ALUMINUM LADDERS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 et seq Consumer Product Safety Act

CFR Citation: 16 CFR 00

Legal Deadline: None

Abstract: A petition from John C. Moghtader requests issuance of a rule to require labeling of portable aluminum ladders to warn of risks of death and injury from electric shock if such ladders contact overhead power lines. The staff is developing a briefing package for consideration by the Commissioners of the agency when

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deciding whether to grant or deny the petition. If the Commission grants the petition, it will publish an advance notice of proposed rulemaking to initiate the requested proceeding.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carolyn Meiers, Project Manager, Consumer Product Safety Commission, Directorate for Epidemiology, Washington, DC 20207, **301 504-0468**

RIN: 3041–AB31

4435. • PETITION PP 93-1 REQUESTING ISSUANCE OF RULE TO REQUIRE CHILD-RESISTANT PACKAGING OF MOUTHWASHES CONTAINING ETHANOL

Legal Authority: 15 USC 1472 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: By letter dated March 2, 1993, the New York Department of Law petitioned the Commission to begin a proceeding for development of a regulation to require child-resistant packaging of mouthwashes containing more than five percent of ethanol. The staff is preparing a briefing package for consideration by the Commissioners of the agency when deciding whether to grant or deny the petition. If the Commission grants the petition, it will publish a notice of proposed rulemaking to begin the proceeding requested by the petition.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacqueline Ferrante, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207, **301 504-0477**

RIN: 3041–AB32

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Proposed Rule Stage

4436. PROPOSED AMENDMENTS OF REGULATIONS APPLICABLE TO CLACKER BALLS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act; 15 USC 2079(d) Consumer Product Safety Act

CFR Citation: 16 CFR 1500.18(a)(7); 16 CFR 1500.86(a)(5)

Legal Deadline: None

Abstract: In June, 1992, the Commission granted a petition from William G. Hones requesting amendment of regulations codified at 16 CFR 1500.18(a)(7) and 1500.86(a)(5) which ban certain toys called "clacker balls." The Commission staff is developing a proposed amendment to revise the provisions of section 1500.18(a)(7) to exclude from the coverage of the banning rule products with suspending members which consist of plastic rods integrally molded to the balls. The proposed amendment under development will also modify provisions of the exemption regulation at section 1500.86(a)(5) relating to specifications for ball weight, cord length, and safety factors. The staff is scheduled to transmit a briefing package concerning the proposed amendments to the Commission in May, 1993.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Scott Heh, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207, **301 504-0494**

RIN: 3041–AB02

4437. PROPOSED RULES TO REQUIRE CHILD-RESISTANT PACKAGING FOR CERTAIN TOPICAL PRESCRIPTION AND NON-PRESCRIPTION PREPARATIONS CONTAINING LIDOCAINE OR DIBUCAINE

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1471 Poison Prevention Packaging Act; 15 USC 2079(a) Consumer Product Safety Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: On August 4, 1992, the Commission proposed rules to require child-resistant packaging for certain prescription and non-prescription topical preparations containing lidocaine or dibucaine. Lidocaine and dibucaine are used in drug products that are applied to the skin or mucous membranes to provide an anesthetic effect. On December 4, 1992, the Commission extended the comment period on the proposed rules until February 16, 1993. In September, 1993, the staff expects to transmit a briefing package to the Commission for consideration by the Commissioners of the agency when deciding whether to issue final rules.

Timetable:

Action	Date	FR Cite
NPRM	08/04/92	57 FR 34274
NPRM Comment Period End	02/16/93	57 FR 57397
Staff Sends Briefing Package to Commission	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Suzanne Barone, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207, **301 504-0477**

RIN: 3041–AB03

CPSC — Proposed Rule Stage

4438. RULE TO BAN CERTAIN CRIB TOYS

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act; 15 USC 2079(a) Consumer Product Safety Act

CFR Citation: 16 CFR 1500.18

Legal Deadline: None

Abstract: In the Federal Register of October 19, 1990, the Commission published an advance notice of proposed rulemaking to begin a proceeding which may result in the issuance of rules banning certain crib toys associated with risks of strangulation deaths and injuries. Crib toys are toys which are intended to be attached to or near a crib or playpen for use by children younger than two years of age. The Commission is aware of about two deaths a year associated with crib toys. In September, 1993, the staff is scheduled to transmit a briefing package to the Commission concerning the issue of whether to publish a notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	10/19/90	55 FR 42402
ANPRM Comment Period End	12/18/90	55 FR 42402
Staff Sends Briefing Package on Proposed Rule to Commission	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Celestine Trainor, Project Manager, Consumer Product Safety Commission, Directorate for Epidemiology, Washington, DC 20207, **301 504-0468**

RIN: 3041–AB06

4439. PROPOSED AMENDMENT OF LABELING REQUIREMENTS FOR CHARCOAL

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1262(b) Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On December 22, 1992, the Commission granted a part of a petition from Barbara Mauk requesting amendment of the regulations which require labeling of containers of charcoal intended for household use. The portion of the petition granted by the Commission requests amendment of the rule codified at 16 CFR 1500.14(b)(6) to include warnings that burning charcoal produces carbon monoxide, and that carbon monoxide has no odor. The Commission directed the staff to draft a notice to propose the amendment.

Timetable:

Action	Date	FR Cite
Commission Decision	12/22/92	
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Laureen Burton, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207, **301 504-0994**

RIN: 3041–AB16

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Final Rule Stage

4440. REQUIREMENTS FOR THE SPECIAL PACKAGING OF HOUSEHOLD SUBSTANCES; REVISION OF TEST PROTOCOL FOR CHILD-RESISTANT PACKAGING

Legal Authority: 15 USC 1472 Poison Prevention Packaging Act; 15 USC 1473 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.20

Legal Deadline: None

Abstract: On January 19, 1983, the Commission published an advance notice of proposed rulemaking (ANPRM) soliciting comments on ways to amend the existing requirements for child-resistant packaging to improve the effectiveness and efficiency of these requirements. On October 5, 1990, the Commission proposed specific revisions of the child test protocol and the adult test protocol. On March 5, 1991, the Commission published a notice in the Federal Register to extend the period for receipt of written comments on the proposed amendments of the test protocols until July 1, 1991. This notice also solicited comments on additional changes to the adult test protocol. Additional testing is being conducted to address issues raised by comments on the proposed amendments. In September, 1993, the staff expects to transmit a briefing package to the Commission concerning publication in the Federal Register of the test results and the revised test protocols.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/83	48 FR 2389
ANPRM Comment Period End	03/21/83	48 FR 2389
NPRM	10/05/90	55 FR 40856
NPRM Comment Period End	07/01/91	56 FR 9181
Staff Briefing Package on Test Data and Revised Protocols	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Suzanne Barone, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207, **301 504-0477**

RIN: 3041–AA22

4441. PROPOSED RULE TO EXEMPT ELECTRONIC VIDEO GAMES FROM ELECTRICAL TOY REGULATIONS

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1505

Legal Deadline: None

Abstract: Regulations codified at 16 CFR 1500.18(b)(1) and Part 1505 establish safety requirements for electrically-operated toys. On October 8, 1992, the Commission proposed an amendment of Part 1505 to exempt video games from the coverage of the

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regulations. In June, 1993, the Commission is expected to decide whether to issue a final amendment exempting video games.

Timetable:

Action	Date	FR Cite
NPRM	10/08/92	57 FR 46349
NPRM Comment Period End	12/22/92	57 FR 46349
Final Rule	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Thome, Project Manager, Consumer Product Safety Commission, Office of Hazard Identification and Reduction, Washington, DC 20207, 301 504-0788

RIN: 3041–AA41

4442. HOUSEHOLD SUBSTANCES CONTAINING METHYLENE CHLORIDE; STATUS AS HAZARDOUS SUBSTANCES; PROPOSED RULE

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500.12(a)(2)

Legal Deadline: None

Abstract: On August 20, 1986, the Commission proposed a rule to declare that household products containing methylene chloride are hazardous substances under the Federal Hazardous Substances Act (FHSA). These products include some paint strippers and spray paints. The Commission's concern arises from animal tests showing that methylene chloride is a carcinogen by inhalation and studies indicating a significant human exposure as a result of reasonably foreseeable use of products containing methylene chloride. The initiation of this rulemaking proceeding granted one part of a petition (HP 85-1) from the Consumer Federation of America. The staff provided an analysis of the comments on the proposed rule to the Commission in June 1987. In August 1987, the Commission determined that there was no uncertainty as to the application of the FHSA to this substance that needed to be resolved by rulemaking. Therefore, the Commission suspended the rulemaking and issued a statement of enforcement policy stating the Commission's view that household products that contain methylene chloride and that expose consumers to significant levels (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/20/86	51 FR 29778
NPRM Comment Period End	10/20/86	51 FR 29778
Policy Published	09/14/87	52 FR 34698
Staff Sends Briefing Package to Commission	02/25/92	
Commission Decision	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: of methylene chloride are subject to the FHSA's labeling requirements. On February 25, 1993, the staff transmitted a briefing package to the Commission discussing options for further Commission action with regard to household products containing methylene chloride. A decision by the Commission is expected in April, 1993.

Agency Contact: Charles A. Nicholls, Project Manager, Consumer Product Safety Commission, Directorate for Epidemiology, Washington, DC 20207, 301 504-0440

RIN: 3041–AA59

4443. PROPOSED SAFETY STANDARD FOR CIGARETTE LIGHTERS

Legal Authority: 15 USC 2051 et seq Consumer Product Safety Act

CFR Citation: 16 CFR 1210

Legal Deadline: None

Abstract: On August 17, 1992, the Commission published a proposed safety standard for disposable and novelty cigarette lighters containing requirements for resistance to operation by children. The proposed standard is intended to reduce risks of deaths and injuries associated with fires started by children younger than five years of age playing with cigarette lighters. The proposed standard includes requirements for labeling, testing, recordkeeping, and reporting by manufacturers and importers of lighters, and restrictions on stockpiling of noncomplying lighters. On October 21, 1992, the Commission conducted a hearing to receive oral presentations on the proposed standard. On February 16, 1993, the Commission published a notice in the Federal Register to announce the availability of a report on tests of child-resistant lighters and to invite submission of written comments on the report until March 18, 1993. In April, 1993, the staff is scheduled to transmit a briefing package to the Commission concerning issuance of final standard.

Timetable:

Action	Date	FR Cite
NPRM	08/17/92	57 FR 36932
Hearing to Receive Oral Presentations	10/21/92	57 FR 36932
NPRM Comment Period End	11/02/92	57 FR 36932
Staff Sends Briefing Package on Final Rule to Commission	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara Jacobson, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207, 301 504-0477

RIN: 3041–AA73

4444. • PROPOSED RULE TO REQUIRE CHILD-RESISTANT PACKAGING OF NON-PRESCRIPTION DRUGS CONTAINING LOPERAMIDE

Legal Authority: 15 USC 553 Administrative Procedure Act; 15 USC 1471 Poison Prevention Packaging Act; 15 USC 2079(a) Consumer Product Safety Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: On October 14, 1992, the Commission proposed a rule to require child-resistant packaging of non-prescription preparations containing loperamide. Loperamide is an anti-diarrheal medication originally marketed as a prescription drug. In 1988, the Food and Drug Administration authorized preparations containing loperamide to be marketed as non-prescription drugs. Non-prescription products containing loperamide are now available in caplet and liquid formulations. In April, 1993, the staff is scheduled to transmit a briefing package to the Commission for consideration by the Commissioners of the agency when deciding whether to issue a final rule.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzanne Barone, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207, 301 504-0477

RIN: 3041–AB26

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) Completed Actions

4445. CHOKING HAZARDS ASSOCIATED WITH BALLOONS

CFR Citation: 16 CFR 00

Completed:

Reason	Date	FR Cite
ANPRM Withdrawn	02/11/93	58 FR 8023

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn L. Wind, 301 504-0477

RIN: 3041–AA96

4446. CHOKING HAZARDS ASSOCIATED WITH SMALL BALLS

CFR Citation: 16 CFR 00

Completed:

Reason	Date	FR Cite
ANPRM Withdrawn	02/11/93	58 FR 8016

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn L. Wind, 301 504-0477

RIN: 3041–AA97

4447. CHOKING HAZARDS ASSOCIATED WITH MARBLES

CFR Citation: 16 CFR 00

Completed:

Reason	Date	FR Cite
ANPRM Withdrawn	02/11/93	58 FR 8020

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn L. Wind, 301 504-0477

RIN: 3041–AA98

4448. CHOKING HAZARDS ASSOCIATED WITH TOYS AND ARTICLES INTENDED FOR CHILDREN THREE TO SIX YEARS OF AGE

CFR Citation: 16 CFR 00

Completed:

Reason	Date	FR Cite
ANPRM Withdrawn	02/11/93	58 FR 8013

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn L. Wind, 301 504-0477

RIN: 3041–AA99

4449. SAFETY STANDARD FOR AUTOMATIC RESIDENTIAL GARAGE DOOR OPERATORS; RECORDKEEPING AND CERTIFICATION REQUIREMENTS

CFR Citation: 16 CFR 1211

Completed:

Reason	Date	FR Cite
Final Action	12/21/92	57 FR 60449
Final Action Effective	01/21/93	57 FR 60449

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael T. Bogumill, 301 504-0400

RIN: 3041–AB15

4450. REQUIREMENTS FOR RESIDENTIAL AUTOMATIC GARAGE DOOR OPENERS

CFR Citation: 16 CFR 1211

Completed:

Reason	Date	FR Cite
Final Action	12/21/92	57 FR 60449
Final Action Effective	01/01/93	57 FR 60449

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael T. Bogumill, 301 504-0400

RIN: 3041–AB18

4451. RULE REVIEW, CITIZENS BAND ANTENNA STANDARD

CFR Citation: 16 CFR 1204

Completed:

Reason	Date	FR Cite
End Review	03/24/93	58 FR 15815

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allen F. Brauninger, 301 504-0980

RIN: 3041–AB22

4452. PETITION PP 91-1 REQUESTING ISSUANCE OF REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF SPOT REMOVERS CONTAINING NAPHTHA

CFR Citation: 16 CFR 1700.14

Completed:

Reason	Date	FR Cite
Petition Withdrawn	11/23/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan C. Aitkin, 301 504-0477

RIN: 3041–AB23

4453. PROPOSED AMENDMENT OF REGULATIONS INTERPRETING SECTION 37 OF THE CONSUMER PRODUCT SAFETY ACT

CFR Citation: 16 CFR 1116

Completed:

Reason	Date	FR Cite
Final Action	03/25/93	58 FR 16119
Final Action Effective	04/26/93	58 FR 16119

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Gidding, 301 504-0626

RIN: 3041–AB25

[FR Doc. 93-6072 Filed 04-23-93; 8:45 am]

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Farm Credit Administration

Semiannual Regulatory Agenda

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FARM CREDIT ADMINISTRATION (FCA)

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Regulations

AGENCY: Farm Credit Administration.

ACTION: Department unified agenda of regulations and review list

SUMMARY: The Farm Credit Administration (FCA), as an independent regulatory agency in voluntary compliance with Executive Order 12291, sets forth the following agenda of regulations which it will have under development and review during the period of April 1993 through October 1993.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. The FCA is an independent regulatory agency that is exempt from the provisions of Executive Order 12291. Additionally, FCA regulations which apply to Farm Credit banks and associations and certain other federally chartered entities generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

While FCA is an independent agency exempt from Executive Order 12291, we believe that participating in this joint publication will further the public interest by including FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations.

Dated: February 25, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4454	Debt Collection Act	3052-AB02
4455	Loan Policies and Operations	3052-AB09
4456	Eligibility and Scope of Financing	3052-AB10
4457	Organization; Reorganization Authorities for System Institutions	3052-AB22
4458	Disclosure to Investors and Shareholders	3052-AB23
4459	Indemnification	3052-AB24
4460	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Investments and Other Funding	3052-AB25
4461	Rules of Practice and Procedure, Procedures for Issuance and Enforcement of Directives	3052-AB27
4462	Accounting and Reporting Requirements	3052-AB32
4463	Personnel Administration; Referral of Crimes and Suspected Crimes	3052-AB33
4464	Loan Policies and Operations; Lending Limits	3052-AB35
4465	General Provisions; Disposition of Obsolete Records	3052-AB36
4466	Disclosure to Shareholders; Association Annual Meeting Information Statement	3052-AB37
4467	General Provisions; Releasing Information	3052-AB39
4468	Disclosure to Shareholders	3052-AB40
4469	Organization; Director Compensation	3052-AB42
4470	General Provisions; Technical Assistance and Financially Related Services	3052-AB43
4471	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations	3052-AB44
4472	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Special Collateral Requirement	3052-AB45

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4473	Miscellaneous Technical Changes	3052-AB41

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4474	Organization; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Title V Conservators and Receivers	3052-AA92
4475	Application for Award of Fees and Other Expenses Under the Equal Access to Justice Act	3052-AB11

FCA

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4476	Assessment and Apportionment of Operating Expenses; General Provisions	3052-AB19
4477	Loan Policies and Operations; Collateral Evaluation Standards	3052-AB34
4478	Employee Responsibilities and Conduct	3052-AB38

FARM CREDIT ADMINISTRATION (FCA)

Proposed Rule Stage

4454. DEBT COLLECTION ACT

Legal Authority: 12 USC 2252(a)(10)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Would establish regulations to implement authorities of the Debt Collection Act of 1982.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: John J. Hays, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB02

4455. LOAN POLICIES AND OPERATIONS

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would clarify existing policies and procedures for the establishment of a funding relationship between the Farm Credit banks and their affiliated direct lending institutions. Would provide uniform guidelines for developing and executing general financing agreements between the banks and associations.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44438
NPRM Comment Period End	12/05/88	53 FR 44438
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Dennis Carpenter, Senior Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB09

4456. ELIGIBILITY AND SCOPE OF FINANCING

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2073; 12 USC 2075; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2129; 12 USC 2143; 12 USC 2243; 12 USC 2252; 42 USC 3601 et seq

CFR Citation: 12 CFR 613

Legal Deadline: None

Abstract: Would clarify existing policies and procedures with respect to borrower eligibility and scope of financing as provided for in the Farm Credit Act 1971, as amended.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: John J. Hays, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB10

4457. ORGANIZATION; REORGANIZATION AUTHORITIES FOR SYSTEM INSTITUTIONS

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; 12 USC 2279aa-5(e); PL 100-233, sec 411; PL 100-233, sec 412

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Would establish regulations under which a bank or large association within the Farm Credit System can terminate its charter as provided for in the Farm Credit Act of 1971, as amended.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/89	54 FR 51763
ANPRM Comment Period End	01/31/90	54 FR 51763
NPRM	03/19/93	58 FR 15099
NPRM Comment Period End	04/19/93	58 FR 15099

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist,

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Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Robert S. Child, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB22

4458. DISCLOSURE TO INVESTORS AND SHAREHOLDERS

Legal Authority: 12 USC 2252; 12 USC 2254; 12 USC 2279aa-11; PL 100-233, Sec 424

CFR Citation: 12 CFR 620

Legal Deadline: None

Abstract: Would establish disclosure requirements for the Farm Credit System's Reports to Investors and would consider other appropriate amendments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Tong-Ching Chang, Staff Accountant, Accounting and Reporting, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4461**

RIN: 3052–AB23

4459. INDEMNIFICATION

Legal Authority: 12 USC 2252

CFR Citation: 12 CFR Not yet determined

Legal Deadline: None

Abstract: Would provide explicit authority for indemnification of directors and employees of Farm Credit institutions under certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: John J. Hays, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB24

4460. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; INVESTMENTS AND OTHER FUNDING

Legal Authority: 12 USC 2013; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154; 12 USC 2160; 12 USC 2202b; ...

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would revise regulations defining eligible investment types and purposes for a Farm Credit institution.

Timetable:

Action	Date	FR Cite
NPRM	12/18/91	56 FR 65691
NPRM Correction	02/13/92	57 FR 5294
NPRM Comment Period End	02/18/92	56 FR 65691
NPRM Comment Period Extension	03/04/92	57 FR 7672
NPRM Comment Period Extension End	05/01/92	57 FR 7672

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Michael LaVerghetta, Financial Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4231**

RIN: 3052–AB25

4461. RULES OF PRACTICE AND PROCEDURE; PROCEDURES FOR ISSUANCE AND ENFORCEMENT OF DIRECTIVES

Legal Authority: 12 USC 2154; 12 USC 2154a; 12 USC 2202a; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2261 to 2273

CFR Citation: 12 CFR 622

Legal Deadline: None

Abstract: Would establish procedures for FCA to issue directives to: (a) a System institution in order to require the institution to achieve and maintain the minimum level of capital as established under section 4.3(a); (b) the board of directors of a System institution in order to require compliance with section 4.3A(d); and (c) a qualified lender in order to require compliance with section 4.14A.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4020**

RIN: 3052–AB27

4462. ACCOUNTING AND REPORTING REQUIREMENTS

Legal Authority: 12 USC 2252; 12 USC 2279aa-11

CFR Citation: 12 CFR 621

Legal Deadline: None

Abstract: Would revise regulations covering general practices in the areas of nonperforming loans and loan performance classification, including high-risk asset accounting practices.

Timetable:

Action	Date	FR Cite
ANPRM	12/14/92	57 FR 58997
ANPRM Comment Period End	02/12/93	57 FR 58997

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Linda C. Sherman, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB32

4463. PERSONNEL ADMINISTRATION; REFERRAL OF CRIMES AND SUSPECTED CRIMES

Legal Authority: 12 USC 2243; 12 USC 2252; 12 USC 2254

CFR Citation: 12 CFR 612; 12 CFR 617

Legal Deadline: None

Abstract: Would revise regulations covering investigations and criminal referrals.

Timetable:

Action	Date	FR Cite
NPRM	10/13/92	57 FR 46819
NPRM Comment Period End	11/12/92	57 FR 46819

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Eric Howard, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB33

4464. LOAN POLICIES AND OPERATIONS; LENDING LIMITS

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would revise various regulations addressing Farm Credit institution revised lending limit provisions for existing and newly created Farm Credit institutions.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44438
NPRM Comment Period End	12/05/88	53 FR 44438
NPRM	01/23/91	56 FR 2452
NPRM Correction	02/15/91	56 FR 6422
NPRM Comment Period End	03/25/91	56 FR 2452
NPRM Public Hearings	05/10/91	56 FR 21637
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Dennis Carpenter, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB35

4485. GENERAL PROVISIONS; DISPOSITION OF OBSOLETE RECORDS

Legal Authority: 12 USC 2013; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2183; 12 USC 2200; 12 USC 2211; 12 USC 2218; 12 USC 2243; 12 USC 2244; ...

CFR Citation: 12 CFR 618

Legal Deadline: None

Abstract: Would revise the list of records maintained by System institutions and clarify their retention periods.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: John J. Hays, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB36

4466. DISCLOSURE TO SHAREHOLDERS; ASSOCIATION ANNUAL MEETING INFORMATION STATEMENT

Legal Authority: 12 USC 2252; 12 USC 2254; 12 USC 2279aa-11; PL 100-233, Sec 424

CFR Citation: 12 CFR 620

Legal Deadline: None

Abstract: Would revise regulations addressing nominations for director positions when mail balloting is used.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Eric Howard, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB37

4467. GENERAL PROVISIONS; RELEASING INFORMATION

Legal Authority: 12 USC 2013; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2183; 12 USC 2200; 12 USC 2211; 12 USC 2218; 12 USC 2243; 12 USC 2244

CFR Citation: 12 CFR 618

Legal Deadline: None

Abstract: Would allow information concerning borrowers and loan applicants to be given for the confidential use of authorized representatives of any State certifying and licensing agency, in contemplation of State certification and licensure.

Timetable:

Action	Date	FR Cite
NPRM	11/10/92	57 FR 53453
NPRM Comment Period End	12/10/92	57 FR 53453

Next Action Undetermined

Small Entities Affected: None

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Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Dennis K. Carpenter, Senior Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB39

4468. • DISCLOSURE TO SHAREHOLDERS

Legal Authority: 12 USC 2252; 12 USC 2254; 12 USC 2279aa-11; PL 100-233, Sec 424

CFR Citation: 12 CFR 620

Legal Deadline: None

Abstract: Would expand the requirement of section 620.2(b)(3) to allow the board of Farm Credit System institutions to designate only one director to certify quarterly reports filed with the Farm Credit Administration on behalf of the entire board.

Timetable:

Action	Date	FR Cite
NPRM	01/12/93	58 FR 3872
NPRM Comment Period End	02/12/93	58 FR 3872

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498

Agency Contact: Tong-Ching Chang, Staff Accountant, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4483**

RIN: 3052–AB40

4469. • ORGANIZATION; DIRECTOR COMPENSATION

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; 12 USC 2279aa-5(e); PL 100-233, sec 411; PL 100-233, sec 412; ...

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Would revise FCA regulations to implement changes made by the Farm Credit Banks and Associations Safety and Soundness Act of 1992.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498

Agency Contact: Linda C. Sherman, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB42

4470. • GENERAL PROVISIONS; TECHNICAL ASSISTANCE AND FINANCIALLY RELATED SERVICES

Legal Authority: 12 USC 2013; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2183; 12 USC 2200; 12 USC 2211; 12 USC 2218; 12 USC 2243; 12 USC 2244; ...

CFR Citation: 12 CFR 618

Legal Deadline: None

Abstract: Would modify 12 CFR 618.8000 to revise and/or remove prior approval requirements and clarify definition of technical assistance and financially related services.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498

Agency Contact: Linda C. Sherman, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB43

4471. • FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

Legal Authority: 12 USC 2013; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154; 12 USC 2160; 12 USC 2202b; ...

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would revise current capital regulations to conform to the Farm Credit Banks and Associations Safety and Soundness Act of 1992.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498

Agency Contact: Robert S. Child, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB44

4472. • FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; SPECIAL COLLATERAL REQUIREMENT

Legal Authority: 12 USC 2013; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154; 12 USC 2160; 12 USC 2202b; ...

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would revise regulations which deal with the requirement of an attorney lien certification on long-term mortgage loans.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist,

Regulation Development Division, Office of Examination, 703-883-4498

Agency Contact: Laurie Rea, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB45

FARM CREDIT ADMINISTRATION (FCA) — Final Rule Stage

4473. • MISCELLANEOUS TECHNICAL CHANGES

Legal Authority: 12 USC 2243; 12 USC 2252; 12 USC 2279aa-11; 5 USC 552; 5 USC 552a(j)(2); 5 USC 552a(k)(2); 12 USC 2246; 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; ...

CFR Citation: 12 CFR 600; 12 CFR 602; 12 CFR 603; 12 CFR 604; 12 CFR 605; 12 CFR 611; 12 CFR 615

Legal Deadline: None

Abstract: The amendments would reflect changes in the Farm Credit Administration internal organization and make other technical changes.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498

Agency Contact: John J. Hays, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB41

FARM CREDIT ADMINISTRATION (FCA) — Completed Actions

4474. ORGANIZATION; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; TITLE V CONSERVATORS AND RECEIVERS

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; 12 USC 2279aa-5(e); PL 100-233, sec 411; PL 100-233, sec 412

CFR Citation: 12 CFR 611; 12 CFR 615; 12 CFR 627

Legal Deadline: None

Abstract: Would amend FCA conservatorship and receivership regulations to reflect the FCSIC's responsibilities as exclusive conservator or receiver of System institutions beginning in January 1993.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43897
NPRM Comment Period End	11/21/88	53 FR 43897
NPRM	06/03/92	57 FR 23348
NPRM Comment Period End	07/06/92	57 FR 23348
Final Action	10/09/92	57 FR 46480
Final Action Effective	02/23/93	58 FR 10945

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4020**

RIN: 3052–AA92

4475. APPLICATION FOR AWARD OF FEES AND OTHER EXPENSES UNDER THE EQUAL ACCESS TO JUSTICE ACT

Legal Authority: 5 USC 504; 12 USC 2252

CFR Citation: 12 CFR 625

Legal Deadline: None

Abstract: Would establish procedures for the submission and consideration of applications for an award of fees and other expenses incurred in adversary adjudications before the Farm Credit Administration pursuant to the Equal Access to Justice Act of 1980, as amended.

Timetable:

Action	Date	FR Cite
NPRM	07/16/92	57 FR 31463
NPRM Comment Period End	08/17/92	57 FR 31463
Final Action	12/18/92	57 FR 60108
Final Action Effective	02/23/93	58 FR 10945

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: William L. Larsen, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4020**

RIN: 3052–AB11

4476. ASSESSMENT AND APPORTIONMENT OF OPERATING EXPENSES; GENERAL PROVISIONS

Legal Authority: 12 USC 2250; 12 USC 2252; 12 USC 3025

CFR Citation: 12 CFR 607; 12 CFR 618

Legal Deadline: None

Abstract: Would establisb procedures for apportionment of FCA's administrative costs by assessmen'

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among Farm Credit System institutions on an equitable basis.

Timetable:

Action	Date	FR Cite
NPRM	04/02/91	56 FR 13424
NPRM Comment Period End	05/02/91	56 FR 13424
Notice of Intent to Negotiate	05/06/92	57 FR 19405
Notice of Meetings of Negotiated Rulemaking Committee	05/22/92	57 FR 21755
Notice of Meetings of Negotiated Rulemaking Committee	06/17/92	57 FR 27006
Notice of Meetings of Negotiated Rulemaking Committee	07/17/92	57 FR 31673
NPRM	10/15/92	57 FR 47288
NPRM Comment Period End	11/16/92	57 FR 47288
Final Action	02/23/93	58 FR 10939
Final Action Effective	03/25/93	58 FR 16104

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Robert S. Child, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB19

4477. LOAN POLICIES AND OPERATIONS; COLLATERAL EVALUATION STANDARDS

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121; ...

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would revise various regulations addressing Farm Credit institution loan collateral appraisal requirements for existing and newly created Farm Credit Institutions.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44438
NPRM Comment Period End	12/05/88	53 FR 44438
NPRM	01/23/91	56 FR 2452
NPRM Correction	02/15/91	56 FR 6422
NPRM Comment Period End	03/25/91	56 FR 2452
NPRM Public Hearings	05/10/91	56 FR 21637
Final Correction (FR)	12/11/92	57 FR 58860
Final Action	12/11/92	57 FR 58860
Final Correction (FCA)	02/25/93	58 FR 11371
Final Action Effective	03/01/93	58 FR 11792

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Dennis Carpenter, Senior Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB34

4478. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: 12 USC 2243; 12 USC 2252

CFR Citation: 12 CFR 601

Legal Deadline: Final, Statutory, February 3, 1993.
EO 12674, as amended by EO 12731 on October 17, 1990 directs OGE to develop uniform standards of conduct and to ensure that there are no inconsistent agency regulations.

Abstract: Would remove provisions of part 601 that are superseded by the Office of Government Ethics standards of conduct regulations at 5 CFR part 2635, which take effect on February 3, 1993.

Timetable:

Action	Date	FR Cite
Final Action	01/25/93	58 FR 5919
Final Action Effective	03/04/93	58 FR 12333

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Examination, 703-883-4498.

Agency Contact: Eric Howard, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, **703 883-4498**

RIN: 3052–AB38

[FR Doc. 93-5050 Filed 04-23-93; 8:45 am]
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Monday
April 26, 1993

Part XLVIII

Federal Communications Commission

Semiannual Regulatory Agenda

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FEDERAL COMMUNICATIONS COMMISSION (FCC)

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulations; April 1993

AGENCY: Federal Communications Commission.

ACTION: Publication of the Unified Agenda of Federal Regulations.

SUMMARY: Twice a year, the Commission publishes a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. The Agenda also provides the CFR citations and legal authorities which govern these proceedings. The Regulatory Flexibility Act (94 Stat. 1167: 5 U.S.C. 605) includes notations on the applicability of the Regulatory Flexibility Act to each item. The Unified Agenda will be published in the **Federal Register** in April and October of each year.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tom Sullivan, Office of Managing Director, (202) 632-0923.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in the FCC rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared an agenda of important proceedings now in progress. OMB will publish the Unified Agenda in the **Federal Register** in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

A Docket Number - is assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry in regard to the matter under consideration. Since January 1, 1978, the Commission has used docket numbers, which consist of the last two digits of the calendar year in which the docket was established plus a sequential number, which begins at 1 with the first docket initiated during a calendar year (e.g., Docket 80-1 or Docket 83-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "MM Docket 79-164," which indicates that the responsible Bureau is the Mass Media Bureau. When a docket number consists of only five digits (e.g., Docket 29622), this indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI) - issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Further Notice of Inquiry (FNOI)

Notice of Proposed Rulemaking (NPRM) - issued by the Commission when it is proposing a specific change to the FCC Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposals.

Further Notice of Proposed Rulemaking (FNPRM)

Memorandum Opinion and Order (MO&O) - issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Rulemaking (RM) Number - assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rulemaking but before the Commission has taken action on the petition.

Report and Order (R&O) - issued by the Commission to state a new or amended rule or state that the FCC Rules will not be changed.

Donna R. Searcy,
Secretary,
Federal Communications Commission.

COMMON CARRIER BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4479	Telephone Company Cable Television Cross-Ownership Rules Sections 63.54-63.56	3060-AE40
4480	Transport Rate Structure and Pricing	3060-AF06
4481	In the Matter of Intelligent Networks	3060-AF08
4482	In the Matter of Suite 12 Group, Petition for Rulemaking for Amendment of Part 21 of Commission's Rules To Reallocate the 27.5-29 5 GHz Band	3060-AF26
4483	Domestic Public Fixed Radio Services	3060-AF27
4484	Revision of Part 22 of the Commission's Rules	3060-AF28
4485	Deregulation of International Receive-Only Earth Stations	3060-AF33
4486	Policy and Rules Governing Interstate Pay-Per-Call Services	3060-AF34

COMMON CARRIER BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4487	Satellite Communications	3060-AD70
4488	Expanded Interconnection With Local Company Facilities	3060-AF04

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COMMON CARRIER BUREAU—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4489	Rules and Policies Regarding Calling Number Identification Services (CC Docket 91-281)	3060-AF07
4490	Reform of the Interstate Rate of Return Represcription and Enforcement Processes	3060-AF12
4491	Telecommunications Services for Individuals With Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990 (CC Docket 90-571)	3060-AF13
4492	Satellite Communications	3060-AF25

COMMON CARRIER BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4493	In the Matter of Amendment of Part 21 of the Rules To Prohibit Settlements in the Multichannel Multipoint Distribution Service	3060-AF09
4494	Regulation of International Common Carrier Services	3060-AF10
4495	Notice of Proposed Rulemaking Regarding Rules and Policies Pursuant to the Telephone Consumer Protection Act of 1991	3060-AF11

OFFICE OF ENGINEERING AND TECHNOLOGY—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4496	Standards for ISM Equipment	3060-AE97
4497	RF Exposure Standard	3060-AF32

OFFICE OF ENGINEERING AND TECHNOLOGY—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4498	Digital LMSS in L-Band Spectrum	3060-AE68
4499	Laboratory Accreditation Program	3060-AF00
4500	Streamline of Equipment Authorization Process	3060-AF29
4501	Amateur Allocation at 219 MHz	3060-AF31
4502	Cable System Compatibility With TV Receivers and VCRs	3060-AF38

OFFICE OF ENGINEERING AND TECHNOLOGY—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4503	Part 15 Measurement Procedures	3060-AE54
4504	Cordless Phone Channel Split	3060-AE61
4505	Personal Communications Services	3060-AE65
4506	Preference Rules To Foster New Technology	3060-AE67
4507	Authorization of Plug-in CPU Cards	3060-AE80
4508	Digital Audio Broadcasting	3060-AE81
4509	Low Earth Orbiting Satellites	3060-AE82
4510	General Satellite Service	3060-AE95
4511	Part 15 Restricted Bands	3060-AF15
4512	Low-Earth Orbiting Satellites (Above 1 GHz)	3060-AF16
4513	Emerging Technology Bands	3060-AF18
4514	MRI Exemption	3060-AF30
4515	Scanners Capable of Receiving Cellular Frequencies	3060-AF35
4516	AM Radio Stereophonic Transmitting Equipment Standard	3060-AF37

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OFFICE OF ENGINEERING AND TECHNOLOGY—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4517	Part 15 Measurement Procedures	3060-AE37
4518	TV Viewer Response System	3060-AE98
4519	EIA and Smart House Petitions	3060-AE99

FIELD OPERATIONS BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4520	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System	3060-AF21

FIELD OPERATIONS BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4521	In the Matter of an Automatic Transmitter Identification System (ATIS) for Radio Transmitting Equipment (Gen. Doc. #86-337)	3060-AE25

FIELD OPERATIONS BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4522	In the Matter of Amendment of Part 2 of the Rules Concerning the Importation of Radio Frequency Devices Capable of Causing Harmful Interference	3060-AF19

MASS MEDIA BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4523	Advanced Television Systems	3060-AE24
4524	Comparative Renewal Criteria	3060-AE27
4525	Transfer of Control of Non-stock Entities	3060-AE31

MASS MEDIA BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4526	Broadcast EEO: Reconsideration	3060-AD73
4527	AM Expanded Band: Reconsideration	3060-AD92
4528	Cable Act: Must Carry/Retransmission Consent	3060-AF39
4529	Cable Act: EEO	3060-AF40
4530	Cable Act: Rate Regulation	3060-AF41

MASS MEDIA BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4531	Satellite Signal Delivery to Noncommercial Educational FM Translators	3060-AE11

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MASS MEDIA BUREAU—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4532	Cable Television Effective Competition	3060-AE71
4533	MMDS: Amend Rules Re MMDS, OFS and ITFS	3060-AE73
4534	Cable Technical Standards: Reconsideration	3060-AF02

PRIVATE RADIO BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4535	Refarming	3060-AF35

PRIVATE RADIO BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4536	Frequency Coordination-Alternatives and Options to the Present Frequency Coordination System	3060-AE60
4537	Amendment of Part 87 To Establish Technical Standards and Licensing for Aircraft Earth Stations	3060-AE91
4538	Amendment of Part 80 of the Commission's Rules Concerning VHF Maritime Operations	3060-AF14
4539	Privatization of Commercial Radio Operator Examinations	3060-AF20

PRIVATE RADIO BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4540	Use of 200 Channels Outside of DFAs	3060-AE62
4541	EMRS From SERS	3060-AF03
4542	MDS Processing Procedures	3060-AF22
4543	Elimination of SMR End User Licensing	3060-AF23
4544	End User and Mobile Licensing Information	3060-AF24

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMMON CARRIER BUREAU

Proposed Rule Stage

4479. TELEPHONE COMPANY CABLE TELEVISION CROSS-OWNERSHIP RULES SECTIONS 63.54-63.56

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 215; 47 USC 218; 47 USC 220; 47 USC 214; 47 USC 521; 47 USC 533; 47 USC 522

CFR Citation: 47 CFR 63.54; 47 CFR 63.55; 47 CFR 63.56; 47 CFR 63.57; 47 CFR 63.58

Legal Deadline: None

Abstract: In this stage of the proceeding, the Commission issued a Second Report and Order that modifies FCC rules and regulatory policy to enable local telephone companies to participate in the video marketplace through video dialtone. The FCC decided that local telephone companies may make available to multiple service providers, on a non-discriminatory common carrier basis, a basic platform that will deliver video programming and other services to end users. Such a policy will advance the FCC's goals of creating an advanced infrastructure, increasing competition in the video marketplace and enhancing the diversity of video services to the American public. The FCC also issued a Recommendation to Congress recommending that the statutory telephone company-cable television cross-ownership restriction be repealed. Further, the Commission solicited comments in a Second Further Notice of Proposed Rulemaking on the issue of whether the rural exemption to the telephone company-cable television cross-ownership restrictions should be raised to 10,000 persons.

Timetable:

Action	Date	FR Cite
NOI	10/06/87	52 FR 34818
FNOI/NPRM	09/29/88	53 FR 38042
First R&O	12/17/91	56 FR 65445
FNPRM/SFNOI	12/17/91	56 FR 65464
Second R&O	09/09/92	57 FR 41106

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Proposed Rule Stage

Action	Date	FR Cite
SFNPRM	09/09/92	57 FR 41109
Reconsideration of 1st R&O		

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Donna Lampert, Attorney, Federal Communications Commission, 202 632-6365

RIN: 3060–AE40

4480. TRANSPORT RATE STRUCTURE AND PRICING

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154 (i); 47 USC 154 (j); 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 218; 47 USC 220; 47 USC 403

CFR Citation: 47 CFR 61; 47 CFR 69

Legal Deadline: None

Abstract: The Commission adopted interim transport rate structure and pricing rules for two years beginning on or about November 1, 1993. The Commission initiated a Second Notice of Proposed Rulemaking seeking comment on long-term rate structure and pricing rules in the context of increasing competition for access services.

Timetable:

Action	Date	FR Cite
NPRM	11/22/91	56 FR 57301
NPRM Comment Period End	01/22/92	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Melissa Newman, Attorney, Federal Communications Commission, Room 544, 202 632-1293

RIN: 3060–AF06

4481. IN THE MATTER OF INTELLIGENT NETWORKS

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 218; 47 USC 403

CFR Citation: 47 CFR 64

Legal Deadline: None

Abstract: Commission opens public debate on the interrelationship of Open Network Architecture (ONA) with Emerging Network Design. Commission seeks comment on ways to encourage development of future Local Exchange Networks that are as open, responsive, and procompetitive as possible consistent with other public interest goals such as ensuring network reliability.

Timetable:

Action	Date	FR Cite
NOI	11/21/91	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian Gordon, Attorney-Advisor, Federal Communications Commission, 202 632-1294

RIN: 3060–AF08

4482. IN THE MATTER OF SUITE 12 GROUP, PETITION FOR RULEMAKING FOR AMENDMENT OF PART 21 OF COMMISSION'S RULES TO REALLOCATE THE 27.5-29.5 GHZ BAND

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 307; 47 USC 553

CFR Citation: 47 CFR 21

Legal Deadline: None

Abstract: The Commission is considering a Notice of Proposed Rulemaking regarding reallocation of the 28 GHz Point-to-Point Microwave Radio Band. Petitioners have requested that the Commission establish rules to make the 28 GHz band available for a wide variety of services.

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	58 FR 6400
NPRM Comment Period End	04/15/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: RM 7872 & RM 7722.

Agency Contact: Susan Magnotti, Senior Attorney, Federal Communications Commission, 2025 M Street NW., Room 6310, Washington, DC 20554, 202 634-1773

RIN: 3060–AF26

4483. DOMESTIC PUBLIC FIXED RADIO SERVICES

Significance: Agency Priority

Legal Authority: 47 USC 301

CFR Citation: 47 CFR 21

Legal Deadline: None

Abstract: The Commission seeks to give applicants greater flexibility in scheduling construction and enable licensees to begin providing service to the public more quickly. The proposed rule may also result in reduced costs for both the licensees and the public. The rule would also help further the Commission's goal of eliminating unnecessary regulation.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Hays, Attorney, Federal Communications Commission, 2025 M Street NW., Room 6310, Washington, DC 20554, 202 634-1798

RIN: 3060–AF27

4484. REVISION OF PART 22 OF THE COMMISSION'S RULES

Significance: Agency Priority

Legal Authority: 47 USC 154 (i); 47 USC 303 (r)

CFR Citation: 47 CFR 22

Legal Deadline: None

Abstract: Revise Part 22 which governs the Public Mobile Services.

Timetable:

Action	Date	FR Cite
NPRM	06/12/92	57 FR 29260
NPRM Comment Period End	10/05/92	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dan Abeyta/Jay Jackson, Federal Communications Commission, 202 632-6450

RIN: 3060–AF28

FCC—CCB

Proposed Rule Stage

4485. • DEREGULATION OF INTERNATIONAL RECEIVE-ONLY EARTH STATIONS

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 721

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: The Commission has proposed eliminating the licensing requirement for most international receive-only earth stations in the Fixed Satellite Service. Earth Stations excluded from this proposal are those operating as satellite terminal stations (i.e., those operationally connected to a domestic common carrier and used to exchange the carrier's common carrier traffic with the Intelsat Satellite System). The Commission proposed instituting a voluntary registration program for international receive-only earth stations seeking interference protection.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Troy F. Tanner, Attorney, Federal Communications Commission, 202 632-7265

RIN: 3060–AF33

4486. • POLICY AND RULES GOVERNING INTERSTATE PAY-PER-CALL SERVICES

Significance: Agency Priority

Legal Authority: PL 102-556; 47 USC 151; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 218

CFR Citation: 47 CFR 64

Legal Deadline: Final, Statutory, July 25, 1993.

Abstract: The Telephone Disclosure and Dispute Resolution Act requires the Commission to adopt new regulations governing interstate pay-per-call services, commonly known as 900 services. The new rules will modify the Commission's existing 900 services rules to conform with the statute and will establish new standards that must be followed by common carriers who transmit pay-per-call programs to telephone subscribers.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Romano, Program Analyst, Federal Communications Commission, 202 632-4887

RIN: 3060–AF34

FEDERAL COMMUNICATIONS COMMISSION (FCC) COMMON CARRIER BUREAU

Final Rule Stage

4487. SATELLITE COMMUNICATIONS

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 553

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: The Commission seeks to develop a record and to solicit comments on the proposed rules. These proposed rules are designed to implement recommendations made by the joint industry/government Advisory Committee on 2 degree satellite spacing; and they will codify basic applications requirements for satellite services. The proposed rules would apply to all entities including small entities who seek authorization under Part 25 of the Commission's rules to construct and operate Fixed-Satellite communications facilities. The proposed rules would establish operational and technical procedures designed to alleviate adjacent satellite interference and may increase the reporting and cost burdens on all satellite licensees. The rules codifying basic applications requirements are codifications of existing policies, will impose no additional burdens, and may, in fact, reduce the burden by eliminating several current requirements. In order to be effective, these rules must apply to all licensees and thus there is no significant alternative.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/87	52 FR 6175
ANPRM Comment Period End	11/01/87	52 FR 6175
R&O	05/26/91	56 FR 24014
Second R&O & FNPRM	01/14/93	58 FR 13417

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Rosalee Gorman or Fern Jarmulnek, Staff Attorneys, Federal Communications Commission, 2025 M Street, NW.; Room 6324, Washington, DC 20554, 202 634-1624

RIN: 3060–AD70

4488. EXPANDED INTERCONNECTION WITH LOCAL COMPANY FACILITIES

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 218; 47 USC 220; 47 USC 404

CFR Citation: 47 CFR 69; 47 CFR 61; 47 CFR 64

Legal Deadline: None

Abstract: Adopted rules for expanded interconnection with local telephone company facilities for special access. Authorized new pricing flexibility for LECs. Seeks comment on expanded interconnection with local telephone company facilities for the provision of switched transport.

Timetable:

Action	Date	FR Cite
NOI/NPRM	06/06/91	56 FR 34159
ANPRM	09/20/91	56 FR 44053
Supplemental NPRM	09/27/91	56 FR 52496
ANPRM Comment Period End	11/06/91	56 FR 34159
R&O/FNPRM	09/17/92	57 FR 54323

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Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	03/09/93	57 FR 58767
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Schlicting, Division Chief, Federal Communications Commission, 202 632-9342

RIN: 3060–AF04

4489. RULES AND POLICIES REGARDING CALLING NUMBER IDENTIFICATION SERVICES (CC DOCKET 91-281)

Significance: Agency Priority

Legal Authority: 47 USC 154(f), 47 USC 201

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission will consider the establishment of uniform national standards for the delivery of interstate caller ID and automatic number identification service. The Commission has tentatively concluded that interstate caller ID is in the public interest and that a national policy should be adopted on interstate caller ID in order to remove undesirable barriers to the efficient entry of the service into the marketplace. The NPRM afforded interested parties the opportunity to comment.

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 57300
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The title of this item was revised when the status was changed from RM 7397 to CC Docket 91-281. The RM was a public notice calling for comments and, upon receipt of comments and replies, was terminated in favor of the NPRM under CC Docket 91-281.

Agency Contact: Olga Madruga-Forti, Attorney, Federal Communications Commission, 2025 M Street NW., Washington, DC 20554, 202 634-1832

RIN: 3060–AF07

4490. REFORM OF THE INTERSTATE RATE OF RETURN REPRESCRIPTION AND ENFORCEMENT PROCESSES

Legal Authority: 47 USC 201; 47 USC 202; 47 USC 204; 47 USC 205; 47 USC 218; 47 USC 403; 47 USC 154; 47 USC 219; 47 USC 220

CFR Citation: 47 CFR 65; 47 CFR 69

Legal Deadline: None

Abstract: The Commission will consider revising the rate of return represcription and enforcement procedures and methodologies set forth in Part 65 of its Rules, 47 CFR 65. During the rulemaking, the Commission will address alternatives for streamlining the represcription and enforcement processes. The Commission will also address the potential costs and benefits of reducing the information that regulatees must submit as well as the extent to which less burdensome procedures can be reconciled with statutory requirements. Quantitative estimates are not possible at this time. The Commission will also consider amending Part 69 of the Rules to permit the National Exchange Carrier Association, Inc. to collect and file with the Commission information needed for the represcription process.

Timetable:

Action	Date	FR Cite
NPRM	07/14/92	57 FR 31994
NPRM Comment Period End	10/13/92	
Final Action	10/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William A. Kehoe III, Senior Attorney, Federal Communications Commission, 2000 L Street NW., Room 257, 202 632-7500

RIN: 3060–AF12

4491. TELECOMMUNICATIONS SERVICES FOR INDIVIDUALS WITH HEARING AND SPEECH DISABILITIES, AND THE AMERICANS WITH DISABILITIES ACT OF 1990 (CC DOCKET 90-571)

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201-5; 47 USC 225; 47 USC 403

CFR Citation: 47 CFR 0; 47 CFR 64

Legal Deadline: Final, Statutory, July 26, 1991. Other, Statutory, July 26, 1993.
Deadline for common carriers to provide TRS in their service areas.

Abstract: This Report and Order and Request for Comments implements Title IV of the Americans with Disabilities Act of 1990 (ADA) which mandates that the Commission prescribe regulations not later than one year after the ADA's enactment date of July 26, 1990. The Report and Order requires each common carrier providing voice transmission services to provide, throughout the area in which it offers service, telecommunications relay services (TRS) for individuals with hearing and speech disabilities, not later than three years after the ADA's enactment. The Report and Order establishes TRS terminology and definitions, prescribes operational, functional, and technical minimum standards required of all TRS providers, and delineates the state certification process. In addition, the Commission asked for specific proposals on cost recovery, and afforded a 60-day comment period and a 30-day reply comment period.

Timetable:

Action	Date	FR Cite
NPRM	12/04/90	55 FR 50037
R&O	07/26/91	56 FR 36729
Request for Comments	07/26/91	56 FR 36729
Comment Period Extended	03/16/92	56 FR 36729
Next Action Undetermined		

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Additional Information: Comment period extended to March 16, 1992 on Interstate Cost Recovery of TRS.

Agency Contact: Linda Dubroof, Senior Staff Attorney, Federal Communications Commission, 2025 M St. NW., Room 6008, 202 634-1808

RIN: 3060–AF13

4492. SATELLITE COMMUNICATIONS

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 308

CFR Citation: 47 CFR 25; 47 CFR 2

Legal Deadline: None

FCC—CCB

Final Rule Stage

Abstract: The Commission seeks to establish rules to govern the provision of low-Earth orbit mobile satellite services in frequency bands below 1 GHz. Several applications to implement such systems have been filed. Technical criteria, selection criteria, and qualification requirements are needed in order to license systems in this service. These systems will provide needed mobile data services to customers throughout the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/14/93	58 FR 14532
R&O	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kristi Kendall, Attorney, Federal Communications Commission, 2025 M Street NW., Room 6324, Washington, DC 20554, 202 634-7058

RIN: 3060–AF25

FEDERAL COMMUNICATIONS COMMISSION (FCC) COMMON CARRIER BUREAU

Completed Actions

4493. IN THE MATTER OF AMENDMENT OF PART 21 OF THE RULES TO PROHIBIT SETTLEMENTS IN THE MULTICHANNEL MULTIPOINT DISTRIBUTION SERVICE

CFR Citation: 47 CFR 21

Completed:

Reason	Date	FR Cite
Final Action - matter dealt with in RIN 3060-AF22 proceeding	01/14/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Susan Magnotti, 202 634-1773

RIN: 3060–AF09

4494. REGULATION OF INTERNATIONAL COMMON CARRIER SERVICES

Significance: Agency Priority

CFR Citation: 47 CFR 63

Completed:

Reason	Date	FR Cite
Final Action - R&O adopted	10/08/92	57 FR 57964
Final Action Effective	03/08/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan O'Connell, 202 632-3214

RIN: 3060–AF10

4495. NOTICE OF PROPOSED RULEMAKING REGARDING RULES AND POLICIES PURSUANT TO THE TELEPHONE CONSUMER PROTECTION ACT OF 1991

Significance: Agency Priority

CFR Citation: 47 CFR 63; 47 CFR 64

Completed:

Reason	Date	FR Cite
Final Action - R&O adopted	10/16/92	57 FR 48333
Final Action Effective	10/23/92	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Federal

Agency Contact: Suzanne Hutchings, 202 634-1802

RIN: 3060–AF11

FEDERAL COMMUNICATIONS COMMISSION (FCC) OFFICE OF ENGINEERING AND TECHNOLOGY

Prerule Stage

4496. STANDARDS FOR ISM EQUIPMENT

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 18

Legal Deadline: None

Abstract: Solicitation of public comments in determining appropriate revisions of the current FCC rules for Part 18 devices in order to conform with recently adopted international standards.

Timetable:

Action	Date	FR Cite
NOI	11/06/91	56 FR 58863
Item Postponed	07/15/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Item postponed due to delay in international standards activities; NOI record inconclusive. 91-313

Agency Contact: Rick Engelman, Federal Communications Commission, 202 653-6288

RIN: 3060–AE97

4497. RF EXPOSURE STANDARD

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 1

Legal Deadline: None

Abstract: RF radiation exposure standard: Inquiry to address the issue as to what RF exposure standard should be used by the FCC in its environmental evaluation process.

Timetable:

Action	Date	FR Cite
NOI	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local

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FCC—OET — Prerule Stage

Agency Contact: Robert Cleveland, Federal Communications Commission, 202 653-8169

RIN: 3060–AF32

FEDERAL COMMUNICATIONS COMMISSION (FCC) OFFICE OF ENGINEERING AND TECHNOLOGY — Proposed Rule Stage

4498. DIGITAL LMSS IN L-BAND SPECTRUM

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Geostar Messaging Corp. petition to establish a Digital Land Mobile Satellite Service in the L-Band maritime-mobile-satellite spectrum. Geostar proposes an exclusively digital LMSS in the 1530-1544/1626.5-1645.5 MHz bands.

Timetable:

Action	Date	FR Cite
NPRM	03/05/90	55 FR 08964
FNPRM	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: RM 6459, 90-56

Agency Contact: Carl Huie, Federal Communications Commission, 202 653-8112

RIN: 3060–AE68

4499. LABORATORY ACCREDITATION PROGRAM

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: None

Abstract: Petition from American Council of Independent Laboratories (ACIL) requesting FCC to establish a laboratory accreditation program for testing digital devices.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: RM 7730

Agency Contact: Art Wall, Federal Communications Commission, 301 725-1585

RIN: 3060–AF00

4500. STREAMLINE OF EQUIPMENT AUTHORIZATION PROCESS

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303; 47 USC 154 (i)

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Review of equipment authorization process: Proposals for revision of Part 2 based on a review of various administrative issues involving equipment authorization, including permissive change requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Rick Engelman, Federal Communications Commission, 202 653-6288

RIN: 3060–AF29

4501. AMATEUR ALLOCATION AT 219 MHZ

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 154 (i)

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Amateur Wideband point-to-point packet data communications: Handling of petition from ARRL for an allocation to the amateur service at 216-220 MHz on a secondary basis for operating wideband point-to-point fixed communications.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David Siddall, Federal Communications Commission, 202 653-8108

RIN: 3060–AF31

4502. • CABLE SYSTEM COMPATIBILITY WITH TV RECEIVERS AND VCRS

Significance: Agency Priority

Legal Authority: 47 USC 624

CFR Citation: 47 CFR 76

Legal Deadline: Other, Statutory, October 4, 1993.
In accordance with the Cable Television Consumer Protection and Competition Act of 1992, Section 17, a report to Congress is mandated by October 1993.

Abstract: Response to Section 17 of the Cable Act, requiring a report to Congress within one year addressing compatibility between cable systems and convenience features of TV receivers and VCRs; and within 160 days after report, issue regulations to ensure compatibility.

Timetable:

Action	Date	FR Cite
NOI	01/29/93	58 FR 7205
NPRM	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 93-7

FCC—OET — Proposed Rule Stage

Agency Contact: Alan Stillwell, Federal Communications Commission, 202 632-7060

RIN: 3060–AF38

FEDERAL COMMUNICATIONS COMMISSION (FCC) OFFICE OF ENGINEERING AND TECHNOLOGY — Final Rule Stage

4503. PART 15 MEASUREMENT PROCEDURES

Significance: Agency Priority

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: In support of the revision of part 15, MP-12 (intentional radiators above 30 MHz); MP-14 (unintentional radiators above 30 MHz); and MPs 1 and 11 (remote control and security devices) will be revised to conform with the new format and prepared as separate NPRMs.

Timetable:

Action	Date	FR Cite
NPRM	06/29/89	54 FR 28690
FNPRM	08/17/92	57 FR 38459
R&O	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 89-116, 89-117, 89-118

Agency Contact: Art Wall, Federal Communications Commission, 301 725-1585

RIN: 3060–AE54

4504. CORDLESS PHONE CHANNEL SPLIT

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Proposal to permit cordless telephone operation on channels that are offset from currently specified channels.

Timetable:

Action	Date	FR Cite
NPRM	01/17/90	55 FR 02852
R&O	01/25/91	56 FR 05658
MO&O Postponed	06/01/92	
MO&O	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Item is subject to cost/benefit analysis. 89-626

Agency Contact: Ray LaForge, Federal Communications Commission, 202 653-8117

RIN: 3060–AE61

4505. PERSONAL COMMUNICATIONS SERVICES

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 22; 47 CFR 90

Legal Deadline: None

Abstract: Initial findings, tentative decisions, proposals for initial service at 2 GHz, and additional inquiry in this proceeding to establish new personal communications and technologies.

Timetable:

Action	Date	FR Cite
NOI	06/28/90	
Policy Statement	10/25/91	56 FR 56937
NPRM	08/14/92	57 FR 40672
Tentative Decision	10/08/92	
R&O	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 90-314 RM 7140, RM 7175, RM 7618

Agency Contact: Fred Thomas, Federal Communications Commission, 202 653-6204

RIN: 3060–AE65

4506. PREFERENCE RULES TO FOSTER NEW TECHNOLOGY

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Geller/Lampert application for review of Chief Engineer's dismissal of a petition seeking to explore changes in the Commission's Rules that could foster introduction and development of new communications technologies by providing preference in licensing to their developers.

Timetable:

Action	Date	FR Cite
NPRM	04/27/90	55 FR 18738
R&O	05/13/91	56 FR 24011
MO&O	02/26/92	57 FR 07879
MO&O	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 90-217

Agency Contact: Rodney Small, Federal Communications Commission, 202 653-8116

RIN: 3060–AE67

4507. AUTHORIZATION OF PLUG-IN CPU CARDS

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: IBM/CBEMA petition for reconsideration of the new part 15 regulations requesting the single authorization of plug-in cards for use in several different computers. Current rules require authorizations for each particular CPU and power supply/enclosure combination.

Timetable:

Action	Date	FR Cite
NPRM	10/01/90	55 FR 39663
FNPRM	07/30/92	57 FR 37755
R&O	05/00/93	

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FCC—OET

Final Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 90-413

Agency Contact: John Reed, Federal Communications Commission, 202 653-6288

RIN: 3060–AE80

4508. DIGITAL AUDIO BROADCASTING

Significance: Agency Priority

Legal Authority: 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Inquiry into the development and implementation of new digital audio broadcasting in the U.S. The Commission is seeking information that will assist it to develop technical standards and regulatory policies for the possible introduction of such new digital radio services.

Timetable:

Action	Date	FR Cite
NOI	08/21/90	55 FR 34940
FNOI/NPRM	11/06/92	57 FR 57049
FNPRM/R&O	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 90-357, RM 7400

Agency Contact: Damon Ladson, Federal Communications Commission, 202 653-8106

RIN: 3060–AE81

4509. LOW EARTH ORBITING SATELLITES

Significance: Agency Priority

Legal Authority: 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 25

Legal Deadline: None

Abstract: Amendment of rules to allocate spectrum to the fixed satellite service and the mobile satellite service for LEOS. Involves consideration of requests for pioneer's preference.

Timetable:

Action	Date	FR Cite
NPRM	10/18/91	56 FR 55484
R&O	01/14/93	58 FR 13630

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: RM 7344, RM 7399, RM 7612 91-280

Agency Contact: Ray LaForge, Federal Communications Commission, 202 653-8117

RIN: 3060–AE82

4510. GENERAL SATELLITE SERVICE

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 25

Legal Deadline: None

Abstract: Respond to Petition from Norris Satellite Communications, Inc. to reallocate 20-30 GHz for a General Satellite Service. Petitioner also requests pioneer's preference.

Timetable:

Action	Date	FR Cite
NPRM	09/04/92	57 FR 42916
R&O	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: RM-7511

Agency Contact: Carl Huie, Federal Communications Commission, 202 653-8112

RIN: 3060–AE96

4511. PART 15 RESTRICTED BANDS

Significance: Agency Priority

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Adjustment to the rules pertaining to the Part 15 restricted bands to provide for technical standards that match the Global Maritime Distress Safety System (GMDSS) protection system.

Timetable:

Action	Date	FR Cite
NPRM	08/12/92	57 FR 37938
R&O	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 92-165

Agency Contact: Rick Engelman, Federal Communications Commission, 202 653-6288

RIN: 3060–AF15

4512. LOW-EARTH ORBITING SATELLITES (ABOVE 1 GHZ)

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Petitions from Constellation, TRW, Ellipsat, AMSC, Motorola and Loral to implement LEOS in bands above 1 GHz; also addresses petitions from CELSAT for a hybrid geostationary satellite and ground cellular network for mobile communications.

Timetable:

Action	Date	FR Cite
NPRM	09/04/92	57 FR 43434
R&O	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: RM 7773, RM 7771, RM 7805, RM 7806, RM 7927, 92-28

Agency Contact: Ray LaForge, Federal Communications Commission, 202 653-8117

RIN: 3060–AF16

4513. EMERGING TECHNOLOGY BANDS

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Proposal to reallocate spectrum in the 1-3 GHz range in order to create a reserve band to meet the future requirements of new services and emerging technologies.

FCC—OET

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/07/92	57 FR 05993
FNPRM	09/04/92	57 FR 42916
R&O/Second FNPRM	10/16/92	57 FR 49020
Second R&O	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: RM 7981, RM 8004, 92-9

Agency Contact: Fred Thomas, Federal Communications Commission, 202 653-6204

RIN: 3060–AF18

4514. MRI EXEMPTION

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303; 47 USC 154 (i)

CFR Citation: 47 CFR 18

Legal Deadline: None

Abstract: Exemption of MRI systems from Part 18 regulations: Handling of petition from Magnetic Resonance Section of the National Electrical Manufacturers Association (NEMA) to exempt non-consumer magnetic resonance diagnostic systems from Part 18 requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/07/92	57 FR 59040
R&O	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: RM 7903, 92-255

Agency Contact: Rick Engelman, Federal Communications Commission, 202 653-6288

RIN: 3060–AF30

4515. • SCANNERS CAPABLE OF RECEIVING CELLULAR FREQUENCIES

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: Other, Statutory, April 26, 1993.
Other deadline is for Report and Order. Action in accordance with the Telephone Disclosure and Dispute Resolution Act.

Abstract: Implementation of a law passed by Congress mandating the FCC deny certification to scanners capable of receiving cellular telephone communications, capable of being modified to receive cellular communications, or capable of converting digital cellular signals to analog voice signals.

Timetable:

Action	Date	FR Cite
NPRM	01/13/93	58 FR 6769
R&O	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 93-1

Agency Contact: David Wilson, Federal Communications Commission, 202 653-8138

RIN: 3060–AF36

4516. • AM RADIO STEREOPHONIC TRANSMITTING EQUIPMENT STANDARD

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: Other, Statutory, October 26, 1993.
Other deadline is for Report and Order in accordance with section 214 of the Telecommunications Authorization Act of 1992, Pub. L. 102-538.

Abstract: Respond to Congressional direction in Fiscal Year 1993 FCC Authorization Act, requiring the Commission to initiate a rulemaking within 60 days for a single AM stereo standard and to adopt such a standard within one year.

Timetable:

Action	Date	FR Cite
NPRM	01/06/93	58 FR 05320
R&O	10/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 92-298

Agency Contact: David Means, Federal Communications Commission, 301 725-1585

RIN: 3060–AF37

FEDERAL COMMUNICATIONS COMMISSION (FCC) OFFICE OF ENGINEERING AND TECHNOLOGY

Completed Actions

4517. PART 15 MEASUREMENT PROCEDURES

Significance: Agency Priority

CFR Citation: 47 CFR 15

Completed:

Reason	Date	FR Cite
Final Action - R&O adopted	05/21/92	57 FR 24989

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Art Wall, 301 725-1585

RIN: 3060–AE37

4518. TV VIEWER RESPONSE SYSTEM

Significance: Agency Priority

CFR Citation: 47 CFR 2; 47 CFR 94

Completed:

Reason	Date	FR Cite
Final Action - MO&O adopted	08/04/92	57 FR 36372

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Damon Ladson, 202 653-8106

RIN: 3060–AE98

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FCC—OET — Completed Actions

4519. EIA AND SMART HOUSE PETITIONS

Significance: Agency Priority

CFR Citation: 47 CFR 15

Completed:

Reason	Date	FR Cite
Final Action - R&O adopted	04/07/92	57 FR 13047

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dave Wilson, 202 653-6288

RIN: 3060–AE99

FEDERAL COMMUNICATIONS COMMISSION (FCC) — Proposed Rule Stage
FIELD OPERATIONS BUREAU

4520. IN THE MATTER OF AMENDMENT OF PART 73, SUBPART G, OF THE COMMISSION'S RULES REGARDING THE EMERGENCY BROADCAST SYSTEM

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: This proceeding is to update and improve the Emergency Broadcast System (EBS) by consolidating Commission proceedings in FO Dockets 91-301 and 91-171. The Commission seeks comment on proposals to substantially modernize the current EBS structure by replacing it with a new emergency alerting system. It also seeks comments on a new generation of EBS equipment.

Timetable:

Action	Date	FR Cite
NPRM	10/09/91	
NPRM/FNPRM	09/17/92	57 FR 53874
SFNPRM	09/30/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Helena Mitchell, Chief, Emergency Broadcast System, Field Operations Bureau, Federal Communications Commission, Room 720, 202 632-3906

RIN: 3060–AF21

FEDERAL COMMUNICATIONS COMMISSION (FCC) — Final Rule Stage
FIELD OPERATIONS BUREAU

4521. IN THE MATTER OF AN AUTOMATIC TRANSMITTER IDENTIFICATION SYSTEM (ATIS) FOR RADIO TRANSMITTING EQUIPMENT (GEN. DOC. #86-337)

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 302; 47 USC 303; 47 USC 403

CFR Citation: 47 CFR 83; 47 CFR 87; 47 CFR 90; 47 CFR 95

Legal Deadline: None

Abstract: This proceeding seeks to establish a means by which all radio emissions might be encoded with a distinct automatically transmitted identifier. Such a system would benefit the orderly management of the spectrum. It would be especially effective in preventing bogus maydays on VHF marine channels, phantom controllers on aircraft channels and general harassment on police and fire channels. While safety channels offer the most dramatic examples of need for automatic identification, other services, including all the land, mobile, and amateur services, have similar needs.

Timetable:

Action	Date	FR Cite
NPRM	08/07/86	51 FR 32223
FNPRM	07/09/87	52 FR 26538
R&O	05/25/90	55 FR 21550
Order	04/30/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John Hudak, Chief, Signal Analysis Branch, Federal Communications Commission, Enforcement Division, Room 744, 1919 M St. NW., Washington, DC 20554, 202 632-6977

RIN: 3060–AE25

FEDERAL COMMUNICATIONS COMMISSION (FCC) — Completed Actions
FIELD OPERATIONS BUREAU

4522. IN THE MATTER OF AMENDMENT OF PART 2 OF THE RULES CONCERNING THE IMPORTATION OF RADIO FREQUENCY DEVICES CAPABLE OF CAUSING HARMFUL INTERFERENCE

Significance: Agency Priority

CFR Citation: 47 CFR 2

Completed:

Reason	Date	FR Cite
Final Action - Order on Reconsideration adopted	07/17/92	57 FR 38285
Final Action Effective	09/24/92	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Dan Emrick, 202 632-6345

RIN: 3060–AF19

FEDERAL COMMUNICATIONS COMMISSION (FCC) — Proposed Rule Stage
MASS MEDIA BUREAU

4523. ADVANCED TELEVISION SYSTEMS

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303(g); 47 USC 303(r); 47 USC 301; 47 USC 403

CFR Citation: 47 CFR 73.610; 47 CFR 73.682; 47 CFR 73.687

Legal Deadline: None

Abstract: Resolved, and in some cases, reconsidered a number of outstanding issues and solicited further comment on other issues fundamental to implementation of an advanced television service in the United States.

Timetable:

Action	Date	FR Cite
Tentative Decision/ FNOI	09/01/88	53 FR 38747
R&O	08/24/90	55 FR 39275
FNPRM	10/24/91	56 FR 58207
Second R&O & FNPRM	04/09/92	57 FR 21744
Third R&O & FNPRM	09/17/92	57 FR 53588
Fourth R&O	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: RM-5811 NOI

Agency Contact: Regina Harrison, Federal Communications Commission, 202 632-7792

RIN: 3060–AE24

4524. COMPARATIVE RENEWAL CRITERIA

Significance: Agency Priority

Legal Authority: 47 USC 311(d); 47 USC 309(e)

CFR Citation: 47 CFR 73.3525; 47 CFR 73.3584

Legal Deadline: None

Abstract: R&O will consider content-independent standard for renewal expectancy and other comparative criteria for use in comparative hearings for license renewal.

Timetable:

Action	Date	FR Cite
FNOI/NPRM	06/23/88	53 FR 31894
Policy Statement	03/30/89	54 FR 22595
FNOI/FNPRM	08/16/90	54 FR 35357
R&O	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: David Horowitz, Federal Communications Commission, 202 632-7792

RIN: 3060–AE27

4525. TRANSFER OF CONTROL OF NON-STOCK ENTITIES

Significance: Agency Priority

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The Commission will consider proposals concerning the treatment of corporations and other organizational structures that are not traditional commercial corporations.

Timetable:

Action	Date	FR Cite
NOI	03/16/89	54 FR 15957
Policy Statement	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: David Horowitz, Federal Communications Commission, 202 632-7792

RIN: 3060–AE31

FEDERAL COMMUNICATIONS COMMISSION (FCC) — Final Rule Stage
MASS MEDIA BUREAU

4526. BROADCAST EEO: RECONSIDERATION

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.2080

Legal Deadline: None

Abstract: The Commission has adopted new Equal Employment Opportunity (EEO) rules and reporting requirements for broadcasters that emphasize a licensee's overall EEO efforts rather than the numerical composition of its workforce. Reconsideration requested.

Timetable:

Action	Date	FR Cite
NPRM	10/31/86	51 FR 43854
R&O	04/16/87	52 FR 26683
MO&O	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: mmb-298 NPRM mm-85-350 FNPRM

Agency Contact: Marcia Glauberman, Federal Communications Commission, 202 632-6302

RIN: 3060–AD73

4527. AM EXPANDED BAND: RECONSIDERATION

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 2.106; 47 CFR 90.17

Legal Deadline: None

Abstract: The Commission adopted a Report and Order which refined and integrated various proposals into a comprehensive plan that will eventually achieve a significantly improved AM service. Reconsideration requested.

Timetable:

Action	Date	FR Cite
NOI	07/16/87	52 FR 31795
FNOI	02/28/88	
NPRM	04/12/90	55 FR 31607
R&O	09/26/91	56 FR 64842
MO&O	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Larry Olson, Federal Communications Commission, 202 254-3394

RIN: 3060–AD92

4528. • CABLE ACT: MUST CARRY/ RETRANSMISSION CONSENT

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 533; 47 USC 531; 47 USC 325

CFR Citation: 47 CFR 76

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FCC—MMB — Final Rule Stage

Legal Deadline: Final, Statutory, April 3, 1993.

Abstract: The new Cable Act (PL 102-385) requires that the Commission adopt new rules regarding mandatory carriage of broadcast signals on cable systems. In this proceeding, the Commission is seeking comment on how the mandatory television broadcast carriage (must carry) for noncommercial and commercial television stations, and retransmission consent provisions of the 1992 Cable Act should be incorporated into its rules.

Timetable:

Action	Date	FR Cite
NPRM	11/05/92	57 FR 56298
R&O	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marcia Glauberman, Federal Communications Commission, 202 632-5414

RIN: 3060–AF39

4529. • CABLE ACT: EEO

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 634; PL 102-385

CFR Citation: 47 CFR 73.2080; 47 CFR 76.61

Legal Deadline: Final, Statutory, July 2, 1993.

Abstract: In accordance with the Cable Television Consumer Protection and Competition Act of 1992 (PL 102-385), the Commission seeks comment on proposed new rules and amendments to existing broadcast and cable EEO rules as mandated by the EEO provisions of Section 22.

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	58 FR 3929
R&O	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lisa Higginbotham, Federal Communications Commission, 202 632-7069

RIN: 3060–AF40

4530. • CABLE ACT: RATE REGULATION

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 532; 47 USC 543

CFR Citation: 47 CFR 76

Legal Deadline: Final, Statutory, April 3, 1993.

Abstract: The Cable Television Consumer Protection and Competition Act of 1992 (PL 102-385) requires the Commission to prescribe rules and regulations for determining reasonable rates. The Commission is proposing and soliciting comment on procedural and substantive alternatives for rate regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	58 FR 48
R&O	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Gina Harrison, Federal Communications Commission, 202 632-7792

RIN: 3060–AF41

FEDERAL COMMUNICATIONS COMMISSION (FCC) MASS MEDIA BUREAU — Completed Actions

4531. SATELLITE SIGNAL DELIVERY TO NONCOMMERCIAL EDUCATIONAL FM TRANSLATORS

Significance: Agency Priority

CFR Citation: 47 CFR 74.1231

Completed:

Reason	Date	FR Cite
Final Action - Second R&O adopted	08/19/92	57 FR 41110

Small Entities Affected: Organizations

Government Levels Affected: Federal

Agency Contact: Judy Herman, 202 632-6302

RIN: 3060–AE11

4532. CABLE TELEVISION EFFECTIVE COMPETITION

Significance: Agency Priority

CFR Citation: 47 CFR 76.33

Completed:

Reason	Date	FR Cite
Final Action - MO&O rendered moot by Cable Law (PL 102-385)	10/05/92	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Marcia Glauberman, 202 632-6302

RIN: 3060–AE71

4533. MMDS: AMEND RULES RE MMDS, OFS AND ITFS

Significance: Agency Priority

CFR Citation: 47 CFR 21; 47 CFR 43; 47 CFR 74; 47 CFR 78; 47 CFR 94

Completed:

Reason	Date	FR Cite
Final Action - MO&O adopted	09/24/92	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: B. Romano, 202 632-5414

RIN: 3060–AE73

4534. CABLE TECHNICAL STANDARDS: RECONSIDERATION

Significance: Agency Priority

CFR Citation: 47 CFR 73

Completed:

Reason	Date	FR Cite
Final Action - MO&O adopted	11/10/92	57 FR 61009

FCC—MMB — Completed Actions

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Barbara Kreisman, 202 632-6993

RIN: 3060–AF02

FEDERAL COMMUNICATIONS COMMISSION (FCC) PRIVATE RADIO BUREAU — Proposed Rule Stage

4535. • REFARMING

Significance: Agency Priority

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: Replacement of Part 90 by Part 88 to revise Private Land Mobile Services and modify policies governing these services.

Timetable:

Action	Date	FR Cite
NPRM	01/08/92	57 FR 54034
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Doron Fertig, Federal Communications Commission, 202 632-6497

RIN: 3060–AF35

FEDERAL COMMUNICATIONS COMMISSION (FCC) PRIVATE RADIO BUREAU — Final Rule Stage

4536. FREQUENCY COORDINATION-ALTERNATIVES AND OPTIONS TO THE PRESENT FREQUENCY COORDINATION SYSTEM

Significance: Agency Priority

Legal Authority: 47 USC 154i

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: Proposals or options to change present frequency coordination system.

Timetable:

Action	Date	FR Cite
NPRM	08/02/89	54 FR 35359
R&O	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Freda Thyden, Federal Communications Commission, 202 632-7125

RIN: 3060–AE60

4537. AMENDMENT OF PART 87 TO ESTABLISH TECHNICAL STANDARDS AND LICENSING FOR AIRCRAFT EARTH STATIONS

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 87

Legal Deadline: None

Abstract: The FCC is proposing technical standards and licensing procedures for Aircraft Earth Stations to provide for the development of aircraft earth station equipment for aeronautical use in mobile satellite operations. This action will foster the rapid introduction of mobile aircraft earth station terminals for use in the newly approved satellite communications system provided for at L-Band.

Timetable:

Action	Date	FR Cite
NPRM	06/14/90	55 FR 28243
NPRM Comment Period End	07/10/90	55 FR 28243
R&O	08/20/92	57 FR 45748
MO&O	07/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Marcus Wolf, Federal Communications Commission, 202 632-7197

RIN: 3060–AE91

4538. AMENDMENT OF PART 80 OF THE COMMISSION'S RULES CONCERNING VHF MARITIME OPERATIONS

Significance: Agency Priority

Legal Authority: 47 USC 2; 47 USC 303

CFR Citation: 47 CFR 80

Legal Deadline: None

Abstract: Amendment of the Maritime Radio Service Rules to encourage growth and improve the regulatory structure in VHF maritime communications.

Timetable:

Action	Date	FR Cite
NOI/NPRM	11/05/92	57 FR 57717
R&O	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Marc Martin, Federal Communications Commission, 202 632-7175

RIN: 3060–AF14

4539. PRIVATIZATION OF COMMERCIAL RADIO OPERATOR EXAMINATIONS

Significance: Agency Priority

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FCC—PRB — Final Rule Stage

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 13

Legal Deadline: None

Abstract: Proceeding to propose rules and solicit comments regarding the implementation of the privatization of commercial radio operator examinations. Congress recently amended the Communications Act in Section 154 (f)(5) to give the Commission authority to privatize the examinations.

Timetable:

Action	Date	FR Cite
NPRM	08/21/92	
R&O	01/14/93	58 FR 9123
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Ana Janckson-Curtis, Attorney-Advisor, Public Service Division, Federal Communications Commission, Room 728, 202 632-7240

RIN: 3060–AF20

FEDERAL COMMUNICATIONS COMMISSION (FCC)
PRIVATE RADIO BUREAU

Completed Actions

4540. USE OF 200 CHANNELS OUTSIDE OF DFAS

Significance: Agency Priority

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
Final Action - R&O adopted	01/14/93	58 FR 12176

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Steve Sharkey, 202 632-6497

RIN: 3060–AE62

4541. EMRS FROM SERS

Significance: Agency Priority

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
Final Action - R&O adopted	01/14/93	58 FR 12177

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Freda Thyden, 202 634-2443

RIN: 3060–AF03

4542. MDS PROCESSING PROCEDURES

Significance: Agency Priority

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 21

Completed:

Reason	Date	FR Cite
Final Action - R&O adopted	01/14/93	58 FR 11795

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Kincaid, 202 634-2443

RIN: 3060–AF22

4543. ELIMINATION OF SMR END USER LICENSING

Significance: Agency Priority

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
Final Action - R&O adopted	08/05/92	57 FR 40850
Final Action Effective	10/08/92	57 FR 40850

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Levin, 202 632-6497

RIN: 3060–AF23

4544. END USER AND MOBILE LICENSING INFORMATION

Significance: Agency Priority

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
Final Action - R&O adopted	09/17/92	57 FR 48738
Final Action Effective	01/26/93	57 FR 48738

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Freda Thyden, 202 632-7125

RIN: 3060–AF24

[FR Doc. 93-5051 Filed 04-23-93, 8:45 am]

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federal register

Monday
April 26, 1993

Part XLIX

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

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FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is hereby publishing items for the April 1993 regulatory agenda. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. Unless otherwise noted, the address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with both the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the FDIC statement of policy entitled "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979; 49 FR 7288, February 28, 1984).

The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) and the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) contain reforms that significantly restructure Federal deposit insurance and the regulation of financial institutions. As a consequence, many of the regulations included in this agenda are in response to FIRREA and FDICIA.

Interested persons may petition the FDIC for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4545	5 CFR 2635 Supplemental Requirements for Standards of Conduct	3064-AA08
4546	12 CFR 327 Assessments	3064-AA37
4547	12 CFR 308 Censure, Suspension, and Debarment of Independent Public Accountants	3064-AA64
4548	12 CFR 346 Foreign Banks	3064-AA78
4549	12 CFR 364 Standards for Safety and Soundness	3064-AB13
4550	12 CFR 325 Risk-Based Capital Standards	3064-AB15
4551	12 CFR 303 Notices Required To Be Filed by Statute or Regulation	3064-AB19

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4552	12 CFR 332 Powers Inconsistent With Purposes of Federal Deposit Insurance Law	3064-AA01
4553	12 CFR 336 Supplemental Requirements for Financial Disclosure	3064-AA07
4554	12 CFR 362 Activities and Investments of Insured State Banks	3064-AA29
4555	12 CFR 303 Notices of Branch Closing	3064-AA53
4556	12 CFR 333 Extension of Corporate Powers	3064-AA55
4557	12 CFR 353 Uniform Criminal Referral Report	3064-AA60
4558	12 CFR 337 Unsafe and Unsound Banking Practices	3064-AA80
4559	12 CFR 363 External Audits	3064-AA83
4560	12 CFR 303 Delegations of Authority	3064-AA84
4561	12 CFR 354 Deposit Liabilities	3064-AA92
4562	12 CFR 356 Insider Transactions—Conflicts of Interest	3064-AA94
4563	12 CFR 330 Deposit Insurance Coverage	3064-AB01
4564	12 CFR 303 Change in Senior Executive Officer or Board of Directors	3064-AB02
4565	12 CFR 334 Contracts Adverse to Safety and Soundness of Insured Depository Institutions	3064-AB06
4566	12 CFR 357 Determination of Economically Depressed Regions	3064-AB08
4567	12 CFR 359 Golden Parachute and Indemnification Payments	3064-AB11

FDIC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4568	12 CFR 333 Extension of Corporate Powers	3064-AA55
4569	12 CFR 325 Capital Maintenance	3064-AA82
4570	12 CFR 365 Real Estate Lending Standards	3064-AB05
4571	00 CFR None Accounting Standards	3064-AB17
4572	12 CFR 325 Capital Maintenance—Presold Residential Construction Loans	3064-AB18

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Proposed Rule Stage

4545. • SUPPLEMENTAL REQUIREMENTS FOR STANDARDS OF CONDUCT

Legal Authority: 5 USC app Ethics in Government Act of 1978; 12 USC 1819; 26 USC 1043; EO 12674; EO 12731

CFR Citation: 5 CFR 2635; 5 CFR 3201; 12 CFR 336

Legal Deadline: Final, Statutory, February 4, 1994.

Abstract: A rule published by the Office of Government Ethics ("OGE") at 5 CFR 2635 will replace all agency ethics rules, including the FDIC's. OGE's rule permits supplemental rules on certain conflicts of interest unique to the FDIC. The FDIC plans to publish such supplemental regulations at 5 CFR 3201 relating to acceptance of gifts, extensions of credit, satisfaction of obligations, restrictions on holding the securities of federally insured depository institutions, restrictions on the purchase of the property of failed federally insured depository institutions, restrictions on the purchase of property from federally insured depository institutions, interest in FDIC decisions, and related matters.

This supplemental rule incorporates provisions from the FDIC Employee Responsibilities and Conduct regulation (12 CFR 336). Subpart C of 12 CFR 336 will remain in effect until February 4, 1994, or until this rule is published in final form, whichever occurs first.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katherine A. Corigliano, Assistant Executive Secretary (Ethics), Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, **202 898-7272**

RIN: 3064–AA08

4546. • ASSESSMENTS

Legal Authority: PL 102-242, Sec 302(a)

CFR Citation: 12 CFR 327

Legal Deadline: NPRM, Statutory, December 31, 1992. Final, Statutory, July 1, 1993.
The mandated effective date for the final rule is 01/01/94.

Abstract: This rulemaking establishes a risk-based assessment system, as required by section 302(a) of FDICIA. The assessment rate applicable to insured institutions would remain unchanged from the rete under the transitional system currently in effect. Other elements of the transitional system will be retained without substantial modification as well. However, this rulemaking does implement several amendments to the transitional system, including limited revision of the review procedure and clarifications regarding supervisory subgroup assignments, capital group assignments for new institutions, and financial data for insured branches of foreign banks.

Timetable:

Action	Date	FR Cite
NPRM	12/31/92	57 FR 62502
NPRM Comment Period End	04/29/93	
Final Action	07/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George French, Associate Director, Division of Research and Statistics, Federal Deposit Insurance Corporation, Washington, DC 20429, **202 898-3929**

RIN: 3064–AA37

4547. CENSURE, SUSPENSION, AND DEBARMENT OF INDEPENDENT PUBLIC ACCOUNTANTS

Legal Authority: PL 102-242, sec 112

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: This regulation implements section 112 of FDICIA, which requires the FDIC, the OCC, the FRB, and the OTS to develop joint rules of practice for the suspension, removal, or debarment of independent public accountants.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Alper, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, **202 898-3720**

RIN: 3064–AA64

4548. FOREIGN BANKS

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815 to 1819; 12 USC 1828; 12 USC 1829; 12 USC 3105; 15 USC 1607

CFR Citation: 12 CFR 346

Legal Deadline: None

Abstract: This regulation implements section 202(h) of FDICIA, which

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provides, in part, that after December 19, 1992, an insured state branch of a foreign bank may not engage in any activity not permissible for a federal branch of a foreign bank unless the FDIC has determined that the activity would pose no significant risk to the deposit insurance fund. This regulation sets forth the application procedures to request the FDIC's permission to engage in, or continue to engage in, an activity not permissible for a federal branch.

Timetable:

Action	Date	FR Cite
NPRM	03/02/93	58 FR 11992
NPRM Comment Period End	05/03/93	58 FR 11992
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles V. Collier, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6850

RIN: 3064–AA78

4549. STANDARDS FOR SAFETY AND SOUNDNESS

Legal Authority: PL 102-242, sec 132

CFR Citation: 12 CFR 364

Legal Deadline: Final, Statutory, August 1, 1993.
Final regulations must be promulgated by 08/01/93, with an effective date no later than 12/01/93.

Abstract: Section 132 of FDICIA requires federal financial institutions regulators, including the FDIC, to prescribe by regulation certain safety and soundness standards for insured depository institutions and depository institution holding companies. Standards must be prescribed in three principal areas: (1) operational and managerial; (2) asset quality, earnings, and stock valuation; and (3) employee compensation. If an insured depository institution does not meet one of these standards, the institution must establish a plan to achieve compliance with the standard that is acceptable to the primary regulator of the institution.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/92	57 FR 31336
ANPRM Comment Period End	09/14/92	
NPRM	05/00/93	
Final Action	08/00/93	
Final Action Effective	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert F. Miailovich, Associate Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6918

RIN: 3064–AB13

4550. RISK-BASED CAPITAL STANDARDS

Legal Authority: PL 102-242, sec 305

CFR Citation: 12 CFR 325

Legal Deadline: Final, Statutory, June 19, 1993.

Abstract: This rule implements section 305 of FDICIA, which requires the FDIC's risk-based capital guidelines to take adequate account of interest rate risk, concentration of credit risk, and the risks of nontraditional activities.

Timetable:

Action	Date	FR Cite
ANPRM	08/10/92	57 FR 35507
ANPRM Comment Period End	10/09/92	
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Curtis L. Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6759

RIN: 3064–AB19

4551. • NOTICES REQUIRED TO BE FILED BY STATUTE OR REGULATION

Legal Authority: PL 101-73

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: This proposal would seek comment on whether the terms "serious risk" and "equity security" in 12 CFR 303 should be conformed to the definitions of those terms in 12 CFR 362. The changes would allow insured state savings associations to conduct activities and make investments without the FDIC's prior approval, provided that the activities and/or investments were permissible under an order or a written interpretation issued by the Office of Thrift Supervision. These changes would place insured state savings associations on a par with insured state banks under FDIC's regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Curtis L. Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3985

RIN: 3064–AB15

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Final Rule Stage

4552. • POWERS INCONSISTENT WITH PURPOSES OF FEDERAL DEPOSIT INSURANCE LAW

Legal Authority: PL 102-242, Sec 303

CFR Citation: 12 CFR 332

Legal Deadline: None

Abstract: The FDIC is eliminating Part 332 of its regulations (12 CFR 332) which, subject to certain exceptions, prohibits an insured state nonmember bank from doing a surety business; insuring the fidelity of others; engaging in the insuring, guaranteeing or certifying of titles to real estate; and guaranteeing the obligations of others. This action is taken because section 303 of FDICIA effectively covers the same area. That section limits the "as principal" activities of insured state banks to the activities permissible for national banks unless a state bank obtains the FDIC's consent.

FDIC — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/29/93	58 FR 6448
NPRM Comment Period End	03/30/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Curtis L. Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6759

RIN: 3064–AA01

4553. SUPPLEMENTAL REQUIREMENTS FOR FINANCIAL DISCLOSURE

Legal Authority: 5 USC app Ethics In Government Act of 1978; 12 USC 1819; 26 USC 1043; EO 12674; EO 12731

CFR Citation: 12 CFR 336; 5 CFR 2633; 5 CFR 2634; 5 CFR 3202

Legal Deadline: None

Abstract: This interim final rule revokes the FDIC's current financial disclosure regulations at 12 CFR 336.24-336.28, and promulgates substantially similar regulations at 5 CFR 3202. The new regulations are designed to supplement the Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture requirements issued by the Office of Government Ethics. The interim final rule will be published jointly by the FDIC and the Office of Government Ethics (OGE).

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katherine A. Corigliano, Assistant Executive Secretary (Ethics), Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-7272

RIN: 3064–AA07

4554. ACTIVITIES AND INVESTMENTS OF INSURED STATE BANKS

Legal Authority: 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1831

CFR Citation: 12 CFR 362

Legal Deadline: Final, Statutory, December 19, 1992.

Abstract: This rule sets forth certain restrictions and prohibitions on the activities and investments of insured state banks. In addition, it is the intent of this part to insure that activities and investments of insured state banks do not present a risk to either of the deposit insurance funds, are safe and sound, and are consistent with the purposes of deposit insurance coverage.

Timetable:

Action	Date	FR Cite
Activities		
NPRM	01/29/93	(58 FR 6452)
Comment Period End	03/30/93	
Final Rule	07/00/93	
Investments		
NPRM	07/09/92	(57 FR 30435)
Comment Period End	08/10/92	
Final Rule	11/09/92	(57 FR 53213)
Final Rule Effective	12/09/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Curtis L. Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6759

RIN: 3064–AA29

4555. NOTICES OF BRANCH CLOSING

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815 to 1819; 12 USC 1828; 12 USC 1831; 15 USC 1607

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: Section 228 of FDICIA requires insured depository institutions to give advance notice of any proposed branch closing to their Federal regulator and the customers of that branch. It is unclear from FDICIA and its legislative history exactly what Congress meant by "branch closings" and exactly how an institution should identify the "customers of a branch." This policy interprets the language of the section to clarify when and how the branch closing notice requirements will apply, and to set forth the procedure that FDIC-insured institutions should follow to comply with the branch closing notice requirements when they do apply.

Timetable:

Action	Date	FR Cite
Proposed Policy Statement	10/19/92	57 FR 47657
Comment Period End	12/18/92	
Final Policy Statement	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Curtis L. Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6759

RIN: 3064–AA53

4556. • EXTENSION OF CORPORATE POWERS

Legal Authority: 12 USC 1816; 12 USC 1818; 12 USC 1819

CFR Citation: 12 CFR 333

Legal Deadline: None

Abstract: This rulemaking eliminates section 333.3 of the FDIC's regulations, which makes certain prohibitions that are applicable to state chartered savings associations applicable to state banks that are members of the Savings Association Insurance Fund (SAIF). SAIF member banks will hereafter be subject to the restrictions in 12 CFR 362 in lieu of the restrictions that are eliminated with section 333.3. This rulemaking subjects SAIF member state banks and state banks that are members of the Bank Insurance Fund (BIF) to the same restrictions.

Timetable:

Action	Date	FR Cite
NPRM	01/29/93	58 FR 6450
NPRM Comment Period End	03/30/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Curtis L. Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6759

RIN: 3064–AA55

4557. UNIFORM CRIMINAL REFERRAL REPORT

Legal Authority: 12 USC 248; 12 USC 625; 12 USC 1818; 12 USC 1844; 12

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Final Rule Stage

USC 1881 to 1884; 12 USC 3401 to 3422

CFR Citation: 12 CFR 353

Legal Deadline: None

Abstract: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration, have formed an interagency task force to design a uniform criminal referral form. The form will facilitate compliance with financial institutions' criminal activity reporting requirements, enhance law enforcement agencies' ability to investigate and prosecute matters reported on the form, and develop and maintain a new interagency database. This form will replace referral forms now used by Federal regulatory agencies and by financial institutions. The purpose of this rule is to create a standardized reporting requirement and a single uniform reporting mechanism.

Timetable:

Action	Date	FR Cite
NPRM	01/08/93	58 FR 3237
NPRM Comment Period End	03/09/93	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Carol A. Mesheske**, Chief, Special Activities Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, **202 898-6750**

RIN: 3064–AA60

4558. • UNSAFE AND UNSOUND BANKING PRACTICES

Legal Authority: 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831

CFR Citation: 12 CFR 337

Legal Deadline: None

Abstract: This rulemaking revises certain definitions used in FDIC regulations governing the acceptance of brokered deposits. The revisions conform those definitions to the definitions used in regulations implementing the prompt corrective action provisions in section 38 of the Federal Deposit Insurance Act.

Timetable:

Action	Date	FR Cite
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **William G. Hrindac**, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, **202 898-6892**

RIN: 3064–AA80

4559. EXTERNAL AUDITS

Legal Authority: 12 USC 1811; PL 102-242

CFR Citation: 12 CFR 363

Legal Deadline: None
There is no legal deadline for publishing a final rule. However, FDICIA requires that the rule apply to the fiscal years of insured institutions beginning after December 31, 1992.

Abstract: Under section 112 of FDICIA, the FDIC must establish regulations requiring all insured depository institutions with assets of $150 million or more to file an annual report with the Corporation. This report will include financial statements audited by an independent public accountant and other statements relating to the institution's management. Institutions must have independent audit committees and notify the FDIC when their independent public accountant changes. This regulation will apply to fiscal years of insured institutions beginning after December 31, 1992.

Timetable:

Action	Date	FR Cite
NPRM	09/15/92	57 FR 42516
NPRM Comment Period End	10/30/92	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Doris L. Marsh**, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, **202 898-8905**

RIN: 3064–AA83

4560. DELEGATIONS OF AUTHORITY

Legal Authority: 12 USC 387; 12 USC 1813; 12 USC 1815 to 1819; 12 USC 1828; 12 USC 1831; 15 USC 1607

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: The FDIC is amending its procedural regulations to expand the authority delegated to Division of Supervision and Legal Division personnel to act on certain enforcement matters; to update terminology to conform with the language of the Federal Deposit Insurance Act; and to preclude the need for future amendments should the titles of personnel change due to internal reorganizations.

Timetable:

Action	Date	FR Cite
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Grovetta Gardineer (Additional Agency Contact), Senior Attorney, (202) 898-3905.

Agency Contact: **Christine C.A. Tullio**, Senior Regional Attorney, Chicago Regional Office, Federal Deposit Insurance Corporation, 30 South Wacker Drive, Suite 3100, Chicago, IL 60606, **312 207-0495**

RIN: 3064–AA84

4561. DEPOSIT LIABILITIES

Legal Authority: 12 USC 1813; 12 USC 1819

CFR Citation: 12 CFR 354

Legal Deadline: None

Abstract: The FDIC issued for public comment a proposed regulation expanding the definition of the term "deposit." The proposed rule would find that a bank's liability on a promissory note, bond, acknowledgement of advance, or similar obligation that is issued or undertaken by the insured bank as a means of obtaining funds is a deposit liability for insurance and assessment purposes.

Timetable:

Action	Date	FR Cite
NPRM	11/25/88	53 FR 47723

FDIC

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	01/24/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Alan J. Kaplan**, Senior Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, **202 898-3734**

RIN: 3064–AA92

4562. INSIDER TRANSACTIONS—CONFLICTS OF INTEREST

Legal Authority: 12 USC 1818; 12 USC 1819; 12 USC 1831(g)

CFR Citation: 12 CFR 356

Legal Deadline: None

Abstract: This rule ensures that business dealings (other than extensions of credit) between insured nonmember banks and state licensed insured branches of foreign banks and their "insiders" are conducted in an arms-length fashion so that insiders do not improperly abuse their position for personal gain.

Timetable:

Action	Date	FR Cite
NPRM	08/08/91	56 FR 37673
NPRM Comment Period End	10/07/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Michael D. Jenkins**, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington DC 20429, **202 898-6896**

RIN: 3064–AA94

4563. DEPOSIT INSURANCE COVERAGE

Legal Authority: 12 USC 1813; 12 USC 1817 to 1822

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: This rule specifies the extent of deposit insurance coverage for deposit accounts in FDIC-insured institutions. Most of the amendments are required by section 311 of FDICIA.

Timetable:

Action	Date	FR Cite
NPRM	10/29/92	57 FR 49026
NPRM Comment Period End	12/28/92	
Final Action	05/00/93,	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Claude A. Rollin**, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, **202 898-3985**

RIN: 3064–AB01

4564. CHANGE IN SENIOR EXECUTIVE OFFICER OR BOARD OF DIRECTORS

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815 to 1819; 12 USC 1828; 12 USC 1829; 15 USC 1607; 12 USC 1831(i); 15 USC 78w; 5 USC 504

CFR Citation: 12 CFR 303; 12 CFR 308

Legal Deadline: None

Abstract: This rule implements section 914 of FIRREA by requiring insured nonmember banks which fall within specified categories to file a notice with the FDIC prior to adding or replacing a member of the board of directors or employing or changing the responsibilities of an individual to a position as a senior executive officer.

Timetable:

Action	Date	FR Cite
Interim Final Rule and Request For Comments	12/27/89	54 FR 53040
Interim Final Rule Effective	12/27/89	
Interim Final Rule Comment Period End	02/26/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Karl R. Krichbaum**, Chief, Special Situations and Applications Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, **202 898-6758**

RIN: 3064–AB02

4565. CONTRACTS ADVERSE TO SAFETY AND SOUNDNESS OF INSURED DEPOSITORY INSTITUTIONS

Legal Authority: 12 USC 1818; 12 USC 1819; 12 USC 1831g

CFR Citation: 12 CFR 334

Legal Deadline: None

Abstract: This rule implements section 225 of FIRREA, which requires the FDIC to prescribe regulations as may be necessary to prevent insured depository institutions from entering into contracts that adversely affect their safety and soundness.

The rule is proposed in two stages. The first stage is a notice of proposed rulemaking on adverse contracts in general. The second stage is an advance notice of proposed rulemaking with request for comment on how to deal with contracts with non-depository affiliates.

Timetable:

Action	Date	FR Cite
Adverse Contracts With Non-depository Affiliates		
ANPRM	04/01/91	(56 FR 13291)
ANPRM Comment Period End	05/31/91	
Adverse Contracts With Outside Vendors		
NPRM	04/01/91	(56 FR 13291)
NPRM Comment Period End	05/31/91	
Both Types of Adverse Contracts		
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Michael D. Jenkins**, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, **202 898-6896**

RIN: 3064–AB06

4566. • DETERMINATION OF ECONOMICALLY DEPRESSED REGIONS

Legal Authority: 12 USC 1823

CFR Citation: 12 CFR 357

Legal Deadline: None

Abstract: This rulemaking designates ten states as "economically depressed regions," as defined in section 13(k)(5)(C) of the Federal Deposit Insurance Act. The ten states are California, Connecticut, the District of Columbia, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. The eight states previously designated as "economically depressed" should no longer receive that designation. The

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FDIC — Final Rule Stage

FDIC is required by 12 USC 1823 to consider proposals for direct financial assistance by SAIF member institutions having offices located in an "economically depressed region," and meeting certain other specified criteria, before grounds exist for the appointment of a conservator or a receiver for such institutions.

Timetable:

Action	Date	FR Cite
NPRM	12/18/92	57 FR 60140
NPRM Comment Period End	02/16/93	
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew Jaske, Financial Economist, Division of Research and Statistics, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6549

RIN: 3064–AB08

4567. GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

Legal Authority: 12 USC 1828

CFR Citation: 12 CFR 359

Legal Deadline: None

Abstract: This proposal would limit golden parachute and indemnification payments made to institution-affiliated parties by depository institutions and depository institution holding companies.

Timetable:

Action	Date	FR Cite
NPRM	10/07/91	56 FR 50529
NPRM Comment Period End	12/06/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey M. Kopchik, Counsel, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, 202 898-3872

RIN: 3064–AB11

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Completed Actions

4568. EXTENSION OF CORPORATE POWERS

Legal Authority: 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828

CFR Citation: 12 CFR 333

Legal Deadline: Final, Statutory, December 19, 1992.

Abstract: This action deletes language in 12 CFR 333.3 which makes certain prohibitions concerning equity investments by savings associations applicable to state banks that are members of the Savings Association Insurance Fund. With that deletion, such banks will be governed by the equity investment provisions of new 12 CFR 362, "Activities and Investments of Insured State Banks."

Timetable:

Action	Date	FR Cite
NPRM	06/09/92	57 FR 30433
NPRM Comment Period End	08/10/92	
Final Action	11/09/92	57 FR 53211
Final Action Effective	11/09/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Curtis L. Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6759

RIN: 3064–AA55

4569. CAPITAL MAINTENANCE

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 3907; 12 USC 3909; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rule revises the treatment of intangible assets under the FDIC's capital maintenance regulation (12 CFR 325). Limited amounts of purchased mortgage servicing rights and purchased credit card relationships are recognized for purposes of calculating Tier 1 capital. However, all other intangible assets are deducted in determining the amount of Tier 1 capital. The aggregate amount of purchased mortgage servicing rights and purchased credit card relationships that could be recognized for regulatory capital purposes is limited to no more than 50 percent of core capital. In addition, the amount of purchased credit card relationships is subject to a sublimit of no more than 25 percent of Tier 1 capital. Certain other conditions, limitations, and restrictions pertaining to these intangibles apply.

Timetable:

Action	Date	FR Cite
NPRM	04/01/92	57 FR 11005
NPRM Comment Period End	05/01/92	
Final Action	01/28/93	58 FR 6363
Final Action Effective	03/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Accounting Section, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-8904

RIN: 3064–AA82

4570. REAL ESTATE LENDING STANDARDS

Legal Authority: PL 102-242, sec 304

CFR Citation: 12 CFR 365

Legal Deadline: Final, Statutory, September 19, 1992.
Uniform regulations must be adopted by 09/19/92, with an effective date no later than 03/19/93.

Abstract: Section 304 of FDICIA requires the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the FDIC, and the Office of Thrift Supervision, to adopt uniform regulations prescribing standards for real estate lending. This final rule, implementing section 304, prescribes real estate lending standards that require each insured depository institution to adopt and maintain comprehensive written real estate lending policies that are consistent with safe and sound banking practices.

FDIC — Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	07/16/92	57 FR 31594
NPRM Comment Period End	08/31/92	
Final Action	12/31/92	57 FR 62890
Final Action Effective	03/19/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert F. Miailovich, Associate Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6918

RIN: 3064–AB05

4571. ACCOUNTING STANDARDS

Legal Authority: PL 102-242, sec 121

CFR Citation: None

Legal Deadline: Final, Statutory, December 19, 1992.

Abstract: This action implements section 121 of FDICIA, which requires that all assets and liabilities, including contingent assets and liabilities, be included in reports of condition and income (call reports) of insured depository institutions. The FDIC had contemplated an amendment to 12 CFR 304 as the means to accomplishing this statutory mandate. However, it was finally decided to implement the mandate simply by changing the call report requirements. This change in call report requirements is effective with the first quarter of 1993.

Timetable:

Action	Date	FR Cite
Final Action - Accomplished Through Nonregulatory Means	12/31/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert F. Storch, Chief, Accounting Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-8906

RIN: 3064–AB17

4572. • CAPITAL MAINTENANCE—PRESOLD RESIDENTIAL CONSTRUCTION LOANS

Legal Authority: PL 102-233, Sec 618(a)

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This amendment to the FDIC's risk-based capital guidelines lowers from 100 percent to 50 percent the risk weight assigned to certain loans to builders to finance the construction of presold one-to-four family residential properties. This amendment implements section 618(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.

Timetable:

Action	Date	FR Cite
NPRM	02/03/92	57 FR 4027
NPRM Comment Period End	03/04/92	
Final Action Effective	12/31/92	
Final Action	03/03/93	58 FR 12149

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert F. Storch, Chief, Accounting Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-8906

RIN: 3064–AB18

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Part L

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

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FEDERAL ENERGY REGULATORY COMMISSION (FERC)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with guidance issued by OMB, the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 24 rulemakings listed, 22 are current and projected rulemakings, and 2 are completed actions.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, changes in priorities, or extensive public comments. See the various dates listed for each specific rulemaking.

ADDRESSES: Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking.

Linwood A. Watson, Jr.,

Acting Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4573	Administrative Dispute Resolution	1902-AB24
4574	New Reporting Requirement Implementing Section 213(b) of the Federal Power Act and Supporting Commission's Regulatory Responsibilities Under the FPA and the Energy Policy Act of 1992	1902-AB37
4575	Charges and Fees for Hydroelectric Projects	1902-AB38
4576	Oil Pipeline Reform	1902-AB41

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4577	Revisions to the Certification Statement and Regulations and to the Basic Financial Statements of FERC Annual Reports for Electric Utilities, Licensees and Natural Gas Companies	1902-AB20
4578	Modification of Steam-Electric Plant Schedules, Hydroelectric Plant Schedules, and Pumped Storage Plant Schedules in the FERC Form No. 1	1902-AB21
4579	Elimination of Unneeded Pages in the FERC Form No. 1	1902-AB33
4580	Revision of the Commission's Preservation of Records Regulations for Public Utilities, Licensees, Natural Gas Companies and Oil Pipeline Companies	1902-AB34
4581	Elimination of Unnecessary Filing Requirements From the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees	1902-AB35

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4582	Regulations Governing Bidding Programs	1902-AA98
4583	Regulations Governing Independent Power Producers	1902-AA99
4584	Administrative Determination of Full Avoided Costs, Sales of Power to Qualifying Facilities and Interconnection Facilities	1902-AB00
4585	Regulations Governing the Public Utility Regulatory Policies Act of 1978	1902-AB07
4586	Revisions to Regulations Governing Authorizations for Construction of Natural Gas Pipeline Facilities	1902-AB15
4587	Revisions to Uniform Systems of Accounts for Allowances Under Clean Air Act Amendments of 1990 and Regulatory-Created Assets and Liabilities to Forms 1, 1-F, 2 and 2-A	1902-AB25
4588	Revisions to Regulations Governing NGPA Section 311 Construction and the Replacement of Facilities	1902-AB26
4589	Policy Statement on Incentive Regulation	1902-AB27
4590	Regulations Governing Blanket Marketer Sales Certificates, Order No. 547	1902-AB29
4591	Streamlining of Regulations Pertaining to Parts II and III of the Federal Power Act and the Public Utility Regulatory Policies Act of 1978	1902-AB32
4592	Filing Requirements and Ministerial Procedures for Persons Seeking Exempt Wholesale Generator Status	1902-AB36
4593	Revision of the Billing Procedures for Annual Charges for Administering Part I of the Federal Power Act	1902-AB39
4594	Post-Employment Benefits Other Than Pensions	1902-AB42

FERC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4595	Order No. 525; Interim Revisions to Regulations Governing Construction of Facilities Pursuant to NGPA Section 311 and Replacement of Facilities	1902-AB17
4596	Streamlining Electric Power Regulation	1902-AB31

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Prerule Stage

4573. ADMINISTRATIVE DISPUTE RESOLUTION

Significance: Agency Priority

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717w; 15 USC 3301 to 3432; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352; 49 USC 1 to 27

CFR Citation: 18 CFR 385

Legal Deadline: None

Abstract: The Commission is reviewing its regulations to determine: (1) how best to implement the Administrative Dispute Resolution Act, signed by the President on November 15, 1990, Pub. L. 101-552, codified at 5 USC sec. 571, et seq., (2) whether changes in the Commission's regulations are necessary or appropriate to facilitate the use of dispute resolution techniques, and (3) whether changes in the Commission's regulations governing settlements are necessary or appropriate. (Docket No. RM91-12-000.)

Timetable:

Action	Date	FR Cite
Notice of Inquiry	04/17/91	56 FR 18789
Notice of Inquiry Comment End	06/24/91	56 FR 18789
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jenifer Lucas, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, **202 208-2005**

RIN: 1902–AB24

4574. • NEW REPORTING REQUIREMENT IMPLEMENTING SECTION 213(B) OF THE FEDERAL POWER ACT AND SUPPORTING COMMISSION'S REGULATORY RESPONSIBILITIES UNDER THE FPA AND THE ENERGY POLICY ACT OF 1992

Significance: Agency Priority

Legal Authority: 16 USC 824m(b)

CFR Citation: 18 CFR 141

Legal Deadline: Final, Statutory, October 24, 1993.

Abstract: The Commission will propose regulations implementing Section 213(b) of the Federal Power Act as added by Section 723 of the Energy Policy Act of 1992. The Proposed Regulations would provide for the submission of information on available transmission capacity and known constraints. (Docket No. RM93-10-000.)

Timetable:

Action	Date	FR Cite
ANPRM	04/30/93	
Final Action	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Bardee, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, **202 208-0626**

RIN: 1902–AB37

4575. • CHARGES AND FEES FOR HYDROELECTRIC PROJECTS

Significance: Agency Priority

Legal Authority: PL 102-486, sec 1701(a) Energy Policy Act of 1992; 16 USC 792 to 823b

CFR Citation: 18 CFR 11; 18 CFR 381

Legal Deadline: None

Abstract: The Federal Energy Regulatory Commission will propose new regulations to implement section 1701(a) of the Energy Policy Act of 1992, Pub. Law No. 102-486. Section 1701(a) provides for the recovery through annual charges of "any reasonable and necessary costs incurred by Federal and State fish and wildlife agencies and other natural and cultural resource agencies in connection with studies or other reviews carried out by such agencies for purposes of administering their responsibilities under" Part I of the Federal Power Act, 16 USC 792-823b. In addition, the Commission will propose various amendments to its existing regulations governing annual charges and fees for hydroelectric projects. These amendments are intended to update, simplify and clarify the Commission's existing regulations. (Docket No. RM93-7-000.)

Timetable:

Action	Date	FR Cite
ANPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Barry Smoler, Deputy Assistant General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, **202 208-1269**

RIN: 1902–AB38

4576. • OIL PIPELINE REFORM

Significance: Agency Priority

Legal Authority: PL 102-486, sec 1801 to 1804; 5 USC 551 to 557; 15 USC 717 to 717w; 15 USC 3301 to 3432;

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FERC — Prerule Stage

31 USC 9701; 42 USC 7101 to 7352; 49 USC 1 to 27

CFR Citation: 18 CFR 341; 18 CFR 344; 18 CFR 345; 18 CFR 347; 18 CFR 352; 18 CFR 360; 18 CFR 361; 18 CFR 385

Legal Deadline: Final, Statutory, October 25, 1993.

Abstract: Pursuant to the mandate in the Energy Policy Act of 1992, the Commission will propose a simplified and generally applicable ratemaking methodology for oil pipelines and streamlined Commission procedures relating to oil pipeline rates.

Timetable:

Action	Date	FR Cite
ANPRM	03/01/93	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Harris Wood, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-0696

RIN: 1902–AB41

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Proposed Rule Stage

4577. REVISIONS TO THE CERTIFICATION STATEMENT AND REGULATIONS AND TO THE BASIC FINANCIAL STATEMENTS OF FERC ANNUAL REPORTS FOR ELECTRIC UTILITIES, LICENSEES AND NATURAL GAS COMPANIES

Significance: Agency Priority

Legal Authority: 15 USC 3301 to 3432; 16 USC 791a to 828c; 16 USC 2601 to 2645; 42 USC 7101 to 7352

CFR Citation: 18 CFR 41; 18 CFR 158

Legal Deadline: None

Abstract: This rulemaking will propose revisions to FERC Annual Report Form Nos. 1, 1-F, 2 and 2-A, by modifying the statements of retained earnings and cash flows to a comparative format, by modifying the balance sheet to be consistent with current reporting conventions, by modifying the notes to the financial statements to require additional disclosures, and by revising the certification statement requirements of the forms and related regulations concerning the timing and format of the certification filings. (Docket No. RM91-6-000.)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph M. Harkins, Accountant, Division of Accounting Systems, Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426, 202 219-2617

RIN: 1902–AB20

4578. MODIFICATION OF STEAM-ELECTRIC PLANT SCHEDULES, HYDROELECTRIC PLANT SCHEDULES, AND PUMPED STORAGE PLANT SCHEDULES IN THE FERC FORM NO. 1

Significance: Agency Priority

Legal Authority: 16 USC 791a to 828c; 16 USC 2601 to 2645; 42 USC 7101 to 7352

CFR Citation: 18 CFR 41

Legal Deadline: None

Abstract: This rulemaking will propose revisions to the Instruction to FERC Form No. 1 to clarify how public utilities report construction costs and production costs for jointly owned and leased generating facilities. (Docket No. RM91-7-000.)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph M. Harkins, Accountant, Division of Accounting Systems, Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426, 202 219-2617

RIN: 1902–AB21

4579. ELIMINATION OF UNNEEDED PAGES IN THE FERC FORM NO. 1

Significance: Agency Priority

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 42 USC 7101 to 7352

CFR Citation: 18 CFR 141

Legal Deadline: None

Abstract: This rulemaking will propose changes to the FERC Form No. 1, Annual Report of Major Electric Utilities, Licensees and Others, to eliminate unneeded pages. (Docket No. RM92-14-000.)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Audrey C. Wong, Accountant, Division of Accounting Systems, Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426, 202 219-3017

RIN: 1902–AB33

4580. REVISION OF THE COMMISSION'S PRESERVATION OF RECORDS REGULATIONS FOR PUBLIC UTILITIES, LICENSEES, NATURAL GAS COMPANIES AND OIL PIPELINE COMPANIES

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717w; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 2601 to 2645; 42 USC 7101 to 7352; 49 USC 1 to 27

CFR Citation: 18 CFR 125; 18 CFR 225; 18 CFR 356

Legal Deadline: None

Abstract: This rulemaking will propose changes to the Commission's regulations governing the preservation of records for public utilities, licensees, natural gas companies and oil pipeline companies. The proposed changes would require jurisdictional entities to develop their own preservation of records program by allowing use of any records storage medium and by no longer requiring the retention of certain types of company records for specified periods. (Docket No. RM92-15-000.)

FERC — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Lynch, Accountant, Division of Accounting Systems, Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426, 202 219-3012

RIN: 1902–AB34

4581. ELIMINATION OF UNNECESSARY FILING REQUIREMENTS FROM THE COMMISSION'S UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES

Significance: Agency Priority

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 42 USC 7101 to 7352

CFR Citation: 18 CFR 101

Legal Deadline: None

Abstract: This rulemaking will propose changes to the Commission's Uniform System of Accounts prescribed for public utilities and licensees subject to the provisions of the Federal Power Act to eliminate unnecessary filing requirements for Accounts 102, 105 and 182.2 and Electric Plant Instruction No. 9D. (Docket No. RM92-16-000.)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James G. Baird, Accountant, Division of Accounting Systems, Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426, 202 219-2613

RIN: 1902–AB35

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Final Rule Stage

4582. REGULATIONS GOVERNING BIDDING PROGRAMS

Significance: Agency Priority

Legal Authority: 16 USC 2601 to 2645; 16 USC 7919 to 8252; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 35; 18 CFR 293

Legal Deadline: None

Abstract: The Commission proposed to adopt regulations providing guidelines for State regulatory authorities and nonregulated electric utilities to implement bidding procedures as a means of establishing rates for power purchases from qualifying facilities (QFs) under section 210 of PURPA. (Docket No. RM88-5-000.)

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 9323
NPRM Comment Period End	06/14/88	53 FR 9323
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel L. Larcamp, Assistant General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-2088

RIN: 1902–AA98

4583. REGULATIONS GOVERNING INDEPENDENT POWER PRODUCERS

Significance: Agency Priority

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717w; 15 USC 3301 to 3432; 16 USC 791a to 828c; 16 USC 2601 to 2645; 42 USC 7101 to 7352; 49 USC 1 to 27

CFR Citation: 18 CFR 38; 18 CFR 382

Legal Deadline: None

Abstract: The Commission proposed to streamline regulation of a class of nontraditional utility suppliers, called independent power producers (IPPs). The proposed regulations would: (1) authorize rates for IPPs to be determined through competitive bidding or rate negotiation subject to a price cap, thereby freeing IPPs from cost-based ratemaking while ensuring that rates fall within a zone of reasonableness; (2) authorize IPPs to file rate schedules without having to provide extensive cost support; (3) exempt IPPs from cost-related accounting, reporting and recordkeeping requirements; (4) streamline the corporate and financial regulation of IPPs; (5) provide blanket prior authorizations to engage in certain corporate activities; and (6) adopt certification procedures to qualify as an IPP. (Docket No. RM88-4-000.)

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 9327
NPRM Comment Period End	06/16/88	53 FR 9327
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel L. Larcamp, Assistant General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-2088

RIN: 1902–AA99

4584. ADMINISTRATIVE DETERMINATION OF FULL AVOIDED COSTS, SALES OF POWER TO QUALIFYING FACILITIES AND INTERCONNECTION FACILITIES

Significance: Agency Priority

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 292

Legal Deadline: None

Abstract: The Commission proposed to amend its regulations governing purchases and sales of electricity between electric utilities and qualifying cogeneration facilities and qualifying small power production facilities (QFs). (Docket No. RM88-6-000.)

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FERC

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 9331
NPRM Comment Period End	06/14/88	53 FR 9331
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel L. Larcamp, Assistant General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-2088

RIN: 1902–AB00

4585. REGULATIONS GOVERNING THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

Significance: Agency Priority

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 292

Legal Deadline: None

Abstract: Under this notice of proposed rulemaking, the Commission proposed to amend its regulations governing the implementation of Title II of the Public Utility Regulatory Policies Act of 1978 (PURPA). This rule addresses problems with the criteria and procedures under Section 201 of PURPA by which qualifying small power production and cogeneration facilities can obtain PURPA benefits. (Docket No. RM88-17-000.)

Timetable:

Action	Date	FR Cite
NPRM	07/29/88	53 FR 31021
NPRM Comment Period End	10/27/88	53 FR 31021
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel L. Larcamp, Assistant General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-2088

RIN: 1902–AB07

4586. REVISIONS TO REGULATIONS GOVERNING AUTHORIZATIONS FOR CONSTRUCTION OF NATURAL GAS PIPELINE FACILITIES

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717z; 15 USC 3301 to 3432

CFR Citation: 18 CFR 2; 18 CFR 154; 18 CFR 157; 18 CFR 284; 18 CFR 375; 18 CFR 380

Legal Deadline: None

Abstract: This final rule amended the Commission's regulations governing the construction and operation of natural gas pipeline facilities. The Commission subsequently postponed the effective date of the rule until 30 days after publication in the Federal Register of an order on rehearing. (Docket No. RM90-1-001.)

Timetable:

Action	Date	FR Cite
NPRM	08/13/90	55 FR 33027
NPRM Comment Period End	10/31/90	55 FR 33027
Reply Comment Period Ended NPRM	11/30/90	55 FR 33027
Final Action	10/18/91	56 FR 52330
Final Action Effective	10/18/91	56 FR 52330
Order Postponing Effective Date of Final Rule	11/22/91	56 FR 58844
Order on Rehearing	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul W. Schach, Supervisory Attorney, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-2246

RIN: 1902–AB15

4587. REVISIONS TO UNIFORM SYSTEMS OF ACCOUNTS FOR ALLOWANCES UNDER CLEAN AIR ACT AMENDMENTS OF 1990 AND REGULATORY-CREATED ASSETS AND LIABILITIES TO FORMS 1, 1-F, 2 AND 2-A

Significance: Agency Priority

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 101; 18 CFR 201

Legal Deadline: None

Abstract: This rulemaking proposes revisions to the Uniform System of Accounts for public utilities, licensees and natural gas companies to establish: (1) uniform accounting requirements for allowances, arising from Title IV of the Clean Air Act Amendments of 1990 (Pub. L. No. 101-549, Title IV, 104 Stat. 2399, 2584 (1990)), for emission of sulfur dioxide; and (2) generic accounts to record assets and liabilities created through the ratemaking actions of regulatory agencies. (Docket No. RM92-1-000.)

Timetable:

Action	Date	FR Cite
NPRM	12/11/91	56 FR 64567
NPRM Comment Period End	04/10/92	56 FR 64567
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Bardee, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-0626

RIN: 1902–AB25

4588. REVISIONS TO REGULATIONS GOVERNING NGPA SECTION 311 CONSTRUCTION AND THE REPLACEMENT OF FACILITIES

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717z; 15 USC 3301 to 3432; 16 USC 792 to 825r; 16 USC 2601 to 2645; 42 USC 4321 to 4361; 42 USC 7101 to 7352; 43 USC 1331 to 1356

CFR Citation: 18 CFR 2; 18 CFR 284

Legal Deadline: None

Abstract: This final rule revised regulations at 18 CFR 2.55(b) and 284.11 to require companies (1) constructing natural gas facilities to transport gas pursuant to NGPA section 311, or (2) replacing facilities pursuant to section 2.55(b) of the Commission's regulations, to notify the Commission at least 30 days prior to commencing construction if the cost of the project exceeds the cost limit applicable to the automatic blanket construction authorization in Column 1 of Table I of section 157.208(d) of the regulations. The advance notification will enable the Commission to review the environmental impact of these activities before construction commences and, where warranted, to intervene. (Docket No. RM92-13-000.)

Timetable:

Action	Date	FR Cite
NPRM	08/10/92	57 FR 35525
NPRM Comment Period End	08/25/92	57 FR 35525
Final Action	10/09/92	57 FR 46487
Final Action Effective	11/09/92	57 FR 46487
Order on Rehearing	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul W. Schach, Supervisory Attorney, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-2246

RIN: 1902–AB26

FERC

Final Rule Stage

4589. POLICY STATEMENT ON INCENTIVE REGULATION

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717w; 16 USC 792 to 825r

CFR Citation: 18 CFR ch I

Legal Deadline: None

Abstract: The Policy Statement defines the essential elements of an incentive ratemaking policy and sets guideiines for utilities to use in fashioning incentive rate proposals for natural gas pipeline and oil pipeline transportation service and wholesale electric service. (Docket No. PL92-1-000.)

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy Statement	03/13/92	57 FR 9703
Policy Statement	10/30/92	57 FR 55231
Order on Rehearing	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Mary Benge, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-1214

RIN: 1902–AB27

4590. REGULATIONS GOVERNING BLANKET MARKETER SALES CERTIFICATES, ORDER NO. 547

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717z; 15 USC 3301 to 3432; 42 USC 7101 to 7352; 43 USC 1331 to 1356

CFR Citation: 18 CFR 284

Legal Deadline: None

Abstract: The final rule issued blanket certificates of public convenience and necessity (Marketing Certificates) to all persons who are not interstate pipelines. These certificates authorize interstate sales for resale of all categories of gas subject to the Commission's jurisdiction. Affiliated marketers are not issued the certificates to engage in transactions involving a particular affiliated pipeline until that pipeline has complied with Order No. 636. The marketing certificates are issued by operation of the rule and do not require an application to be filed. Certificate holders are authorized to make sales of gas at negotiated rates. Request for rehearing pending. (Docket No. RM92-9-000.)

Timetable:

Action	Date	FR Cite
NPRM	08/03/92	57 FR 35766
NPRM Comment Period End	09/24/92	57 FR 35766
Final Action	11/30/92	57 FR 57952
Order on Request for Clarification	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey A. Gollomp, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-2292

RIN: 1902–AB29

4591. STREAMLINING OF REGULATIONS PERTAINING TO PARTS II AND III OF THE FEDERAL POWER ACT AND THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

Significance: Agency Priority

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717w; 15 USC 3301 to 3432; 16 USC 791a to 828c; 16 USC 830 to 837h; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 4321 to 4361; 42 USC 7101 to 7352; 49 USC 1 to 27

CFR Citation: 18 CFR 2; 18 CFR 34; 18 CFR 35; 18 CFR 41; 18 CFR 131; 18 CFR 292; 18 CFR 294; 18 CFR 382; 18 CFR 385

Legal Deadline: None

Abstract: The Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking seeking comment on proposed revisions of the Commission's regulations governing public utilities and qualifying facilities. The proposed rule clarifies Commission policies regarding: rate filings by public utilities under the Federal Power Act; assumption of liabilities and issuances of securities by public utilities; purchases from and sales to qualifying facilities by public utilities and procedural and technical rules governing qualifying facilities.

The Commission is seeking to streamline the processing of its workload and to rationalize or reduce regulatory burdens on the public utilities and qualifying facilities industries. For that reason it is proposing to delete or revise certain of its regulations. (Docket No. RM92-12-000.)

Timetable:

Action	Date	FR Cite
NPRM	11/16/92	57 FR 55176
NPRM Comment Period End	01/15/93	57 FR 55176
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andre Goodson, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-2167

RIN: 1902–AB32

4592. • FILING REQUIREMENTS AND MINISTERIAL PROCEDURES FOR PERSONS SEEKING EXEMPT WHOLESALE GENERATOR STATUS

Significance: Agency Priority

Legal Authority: PL 102-486; 15 USC 79; 15 USC 717 to 717w; 16 USC 791 to 828c; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352; 49 USC 1 to 27

CFR Citation: 18 CFR 365; 18 CFR 381

Legal Deadline: Final, Statutory, October 24, 1993.

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FERC — Final Rule Stage

Abstract: The Commission issued a final rule implementing section 32 of the Public Utility Holding Company Act of 1935 as added by Section 711 of the Energy Policy Act of 1992. The final rule establishes the filing requirements and ministerial procedures for persons seeking exempt wholesale generator status. (Docket No. RM93-1-000.)

Timetable:

Action	Date	FR Cite
NPRM	11/10/92	57 FR 55195
NPRM Comment Period End	12/24/92	57 FR 55195
Final Action	02/10/93	58 FR 8897
Order on Rehearing	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James H. Douglass, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426, 202 208-2143

RIN: 1902–AB36

4593. • REVISION OF THE BILLING PROCEDURES FOR ANNUAL CHARGES FOR ADMINISTERING PART I OF THE FEDERAL POWER ACT

Significance: Agency Priority

Legal Authority: 16 USC 792 to 823b

CFR Citation: 18 CFR 11

Legal Deadline: None

Abstract: The Federal Energy Regulatory Commission is proposing to revise the billing procedures for assessing annual charges for administering Part I of the Federal Power Act, 16 USC 792-823b. Under the revised procedures, the assessment of annual charges would be based on an estimate of the costs that will be incurred by the Commission during the fiscal year in which the annual charges are assessed. After the end of the fiscal year, the assessment would be recalculated based on the costs that were actually incurred during that fiscal year; the actual costs would be compared to the estimated costs; and the difference between the actual and estimated costs would be carried over as an adjustment to the assessment for the subsequent fiscal year. The allocation of costs among the licensees would continue to be based on the data supplied by the licensees with respect to the preceding fiscal year.

The Commission is also proposing to adopt a comparable procedure of current-year billing of the annual charges for the use of tribal land on Indian reservations. (Docket No. RM93-5-000.)

Timetable:

Action	Date	FR Cite
NPRM	12/17/92	57 FR 61850
NPRM Comment Period End	01/28/93	57 FR 61850
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Barry Smoler, Deputy Assistant General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-1269

RIN: 1902–AB39

4594. • POST-EMPLOYMENT BENEFITS OTHER THAN PENSIONS

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717w; 16 USC 792 to 825r; 49 USC 1 et seq

CFR Citation: 18 CFR ch I

Legal Deadline: None

Abstract: The Commission's Statement of Policy addresses the recovery through rates of the cost of post-employment benefits (other than pensions) of employees of natural gas pipeline companies and public utilities, and related accounting issues. The policy statement is premised on the statement of financial accounting standards no. 106, employers' accounting for post-retirement benefits other than pensions. (Docket No. PL93-1-000.)

Timetable:

Action	Date	FR Cite
Request for Public Comment	10/21/92	57 FR 48606
Public Comment Period End	11/12/92	57 FR 48606
Statement on Policy	12/17/92	57 FR 61065
Order on Rehearing	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harris Wood, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-0696

RIN: 1902–AB42

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Completed Actions

4595. ORDER NO. 525; INTERIM REVISIONS TO REGULATIONS GOVERNING CONSTRUCTION OF FACILITIES PURSUANT TO NGPA SECTION 311 AND REPLACEMENT OF FACILITIES

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717z; 15 USC 3301 to 3432

CFR Citation: 18 CFR 2; 18 CFR 284

Legal Deadline: None

Abstract: This interim rule was vacated on procedural grounds by the U.S. Court of Appeals for the D.C. Circuit in Tennessee Gas Pipeline Co. v. FERC, No. 90-1618 (July 14, 1992). It was repromulgated in similar form in Docket No. RM92-13-000, Order No. 544. (Docket No. RM90-14-000.)

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/13/90	55 FR 33011
Order Addressing Request for Clarification	09/13/90	
Order Denying Request for Rehearing on Order No. 525-A	10/31/91	55 FR 47457
Final Action	10/09/92	57 FR 46487

Small Entities Affected: None

Government Levels Affected: None

FERC — Completed Actions

Agency Contact: Paul W. Schach, Supervisory Attorney, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-2246

RIN: 1902–AB17

4596. STREAMLINING ELECTRIC POWER REGULATION

Significance: Agency Priority

Legal Authority: 16 USC 791a to 828c; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 33; 18 CFR 35; 18 CFR 290

Legal Deadline: None

Abstract: The Federal Energy Regulatory Commission revised its electric power regulations to delete regulations that were obsolete or required information that the commission either no longer needs or that is readily available from other sources. (Docket No. RM92-10-000.)

Timetable:

Action	Date	FR Cite
NPRM	05/27/92	57 FR 23171
NPRM Comment Period End	07/02/92	57 FR 23171
Final Action	11/05/92	57 FR 53985

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wayne W. Miller, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 202 208-0466

RIN: 1902–AB31

[FR Doc. 93-5053 Filed 04-23-93; 8:45 am]

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Federal Housing Finance Board

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FEDERAL HOUSING FINANCE BOARD (FHFB)

FEDERAL HOUSING FINANCE BOARD

12 CFR Ch. IX

Agenda of Federal Regulations

AGENCY: Federal Housing Finance Board.

ACTION: Publication of agenda items.

SUMMARY: The Federal Housing Finance Board (Finance Board) hereby publishes items for the Unified Agenda of Federal Regulations. These items reflect the status of the regulatory agenda of the Finance Board as of April 1, 1993. The Finance Board is an independent agency in the executive branch of Government and is the regulator of the Federal Home Loan Bank System and the Financing Corporation. The Finance Board has an ongoing need to adopt various regulations dealing with its internal administration and the Federal Home Loan Bank System.

ADDRESSES: Executive Secretariat, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2837.

FOR FURTHER INFORMATION CONTACT: Brandon B. Straus, Attorney, Office of Legal and External Affairs, Room 113, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2589.

By the Federal Housing Finance Board.

Elaine L. Baker,

Executive Secretary.

FEDERAL HOUSING FINANCE BOARD (FHFB) — Prerule Stage

4597. COMMUNITY INVESTMENT PROGRAM

Significance: Agency Priority

Legal Authority: 12 USC 1422a, 12 USC 1422b; 12 USC 1430(i)

CFR Citation: 12 CFR 961

Legal Deadline: None

Abstract: Pursuant to section 721 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. 101-73, 103 Stat. 423, the Federal Home Loan Banks must establish a Community Investment Program ("Program") which will provide funds, through Bank advances (loans) to a Bank's member institutions at interest rates equal to interest rates on Federal Home Loan Bank consolidated bonds or notes having comparable maturity dates with the advances. These advances will be used by the member institutions to provide funding for community-oriented development projects or housing. These regulations will continue the commitment of the Federal Home Loan Banks to community development lending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sylvia Martinez, Director, Housing Finance Directorate, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, **202 408-2825**

RIN: 3069–AA05

4598. BANK REQUEST FOR INFORMATION

Significance: Agency Priority

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1442

CFR Citation: 12 CFR 934.15

Legal Deadline: None

Abstract: Section 719 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. 101-73, 103 Stat. 422, amended Section 22 of the Federal Home Loan Bank Act (12 USC 1442) and mandates that the Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve System, Office of Thrift Supervision, Comptroller of the Currency, National Credit Union Administration, and the Treasury Department share examination reports or other records or data, in confidence, with the Federal Home Loan Banks at their request. The agency is proposing to promulgate regulations which will establish a procedure regarding the confidentiality of these examination reports and other records or data while in the possession of a Federal Home Loan Bank.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/07/90	55 FR 50545
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Szlenker, Attorney, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, **202 408-2554**

RIN: 3069–AA06

4599. PAPERWORK REDUCTION ACT—COLLECTION OF INFORMATION CONTROL NUMBERS

Significance: Agency Priority

Legal Authority: 5 CFR 1320.7(e)(2)

CFR Citation: 12 CFR 908

Legal Deadline: None

Abstract: The Finance Board will adopt a new part 908 to its general regulations that will display its current information control numbers issued by the Office of Management and Budget for the Finance Board's forms that require the collection of data.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Szlenker, Attorney, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, **202 408-2554**

RIN: 3069–AA25

4600. • AFFORDABLE HOUSING PROGRAM

Significance: Agency Priority

Legal Authority: 12 USC 1422b(a)(1); 12 USC 1430(j)

CFR Citation: 12 CFR 960

Legal Deadline: None

Abstract: The Federal Housing Finance Board is proposing to make technical revisions to its regulation governing the Affordable Housing Program (AHP) in order to simplify and clarify the AHP's requirements for the Federal Loan Banks and their members.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diane E. Dorius, Deputy Director, Housing Finance Directorate, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, **202 408-2576**

RIN: 3069–AA28

FHFB — Prerule Stage

FEDERAL HOUSING FINANCE BOARD (FHFB) — Final Rule Stage

4601. ADVANCES

Significance: Agency Priority

Legal Authority: 12 USC 1422a(a)(3); 12 USC 1422b(a)(1); 12 USC 1426; 12 USC 1429; 12 USC 1430

CFR Citation: 12 CFR 935

Legal Deadline: None

Abstract: The Federal Housing Finance Board is proposing regulations to establish the rules under which the Federal Home Loan Banks shall make loans, called advances to members. The proposed regulations carry forward certain prior regulations, modify certain existing regulatory requirements, and implement provisions in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. 101-73, 103 Stat. 183 which amended the Federal Home Loan Bank Act of 1932.

Timetable:

Action	Date	FR Cite
NPRM	10/01/92	57 FR 45338
NPRM Comment Period End	11/30/92	57 FR 45338
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas D. Sheehan, Assistant Director, District Banks Directorate, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, **202 408-2870**

RIN: 3069–AA08

4602. AVAILABILITY AND CHARACTER OF RECORDS

Significance: Agency Priority

Legal Authority: 5 USC 552; 12 USC 1422b

CFR Citation: 12 CFR 904

Legal Deadline: None

Abstract: The Finance Board proposes to issue a regulation containing the procedures for requesting and receiving information from Finance Board records pursuant to the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM	12/30/91	56 FR 67242
NPRM Comment Period End	01/29/92	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Szlenker, Attorney, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, **202 408-2554**

RIN: 3069–AA10

4603. INFORMATION REGARDING MEETINGS OF THE BOARD OF DIRECTORS OF THE FEDERAL HOUSING FINANCE BOARD

Significance: Agency Priority

Legal Authority: 12 USC 1422b; 5 USC 552b

CFR Citation: 12 CFR 906

Legal Deadline: None

Abstract: The Finance Board proposes to promulgate regulations governing public meetings and notice of meetings for its governing Board of Directors. These regulations are issued pursuant to the requirements of the Government in the Sunshine Act.

Timetable:

Action	Date	FR Cite
NPRM	12/30/91	56 FR 67248
NPRM Comment Period End	01/29/92	56 FR 67248
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Szlenker, Attorney, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, **202 408-2554**

RIN: 3069–AA12

4604. PRIVACY ACT PROCEDURES

Legal Authority: 5 USC 552a; 12 USC 1422b(a)(1)

CFR Citation: 12 CFR 909

Legal Deadline: None

Abstract: The Finance Board proposes to promulgate a regulation implementing the Privacy Act for records held by the Finance Board.

Timetable:

Action	Date	FR Cite
NPRM	12/30/91	56 FR 67250
NPRM Comment Period End	01/29/92	56 FR 67250
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Szlenker, Attorney, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, **202 408-2554**

RIN: 3069–AA15

4605. MINORITY CONTRACTORS OUTREACH PROGRAM

Legal Authority: 12 USC 1422b(a)(1); 12 USC 1833e

CFR Citation: 12 CFR 902

Legal Deadline: None

Abstract: The Finance Board proposes to promulgate a regulation to encourage the maximum participation of minority-owned businesses and women-owned

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businesses in the contracts issued by the Finance Board for the procurement of goods or services. This regulation would implement section 1216 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. 101-73, 103 Stat. 183, 529-30 (1989).

Timetable:

Action	Date	FR Cite
NPRM	12/30/91	56 FR 67239
NPRM Comment Period End	01/29/92	56 FR 67239
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Szlenker, Attorney, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, 202 408-2554

RIN: 3069–AA17

4506. ASSESSMENTS

Legal Authority: 12 USC 1422b(a)(1); 12 USC 1438(b)

CFR Citation: 12 CFR 902

Legal Deadline: None

Abstract: The Finance Board proposes to promulgate a regulation governing the procedures by which it will levy a semiannual assessment on the Federal Home Loan Bank System for its administrative expenses.

Timetable:

Action	Date	FR Cite
NPRM	12/30/91	56 FR 67239
NPRM Comment Period End	01/29/92	56 FR 67239
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Szlenker, Attorney, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, 202 408-2554

RIN: 3069–AA19

4607. SCHEDULE OF CHARGES FOR AGENCY SERVICES

Legal Authority: 12 USC 1422b(a)(1); 31 USC 9701

CFR Citation: 12 CFR 902

Legal Deadline: None

Abstract: The Finance Board proposes to promulgate a regulation to permit it to give a schedule of charges for nongovernment users of certain agency services. The Finance Board is also promulgating a specific schedule of charges in connection with a FAX broadcast service of its Mortgage Interest Rate Survey.

Timetable:

Action	Date	FR Cite
NPRM	12/30/91	56 FR 67241
NPRM Comment Period End	01/29/92	56 FR 67239
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Szlenker, Attorney, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, 202 408-2554

RIN: 3069–AA20

4608. MORTGAGE INTEREST RATE SURVEYS

Legal Authority: 12 USC 1422b(a)(1); 12 USC 1454(a)(2); 12 USC 1717(b)(2)

CFR Citation: 12 CFR 902

Legal Deadline: None

Abstract: The Finance Board proposes to promulgate a regulation governing the method by which it will conduct a monthly survey of the rates and terms on conventional one-family, nonfarm mortgage loans. The survey is used to adjust the limitations on maximum original principal obligations of conventional mortgages purchased by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

Timetable:

Action	Date	FR Cite
NPRM	12/30/91	56 FR 67239
NPRM Comment Period End	01/29/92	56 FR 67239
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Szlenker, Attorney, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, 202 408-2554

RIN: 3069–AA21

4609. MEMBERS OF THE BANKS

Significance: Agency Priority

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1424; 12 USC 1426; 12 USC 1442

CFR Citation: 12 CFR 932; 12 CFR 933

Legal Deadline: None

Abstract: The Finance Board proposes to issue a regulation which revises in its entirety the current regulation concerning membership in the Federal Home Loan Bank System (FHLBank System) in response to changes made to the Federal Home Loan Bank Act (Bank Act) by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). The regulation clarifies membership eligibility requirements and procedures for applicants for membership in the FHLBank System. In addition, it clarifies access to noncredit services provided by the FHLBanks. The regulation also includes several sections of the current regulation concerning the transfer of the Federal Home Loan Bank stock in consolidations and reorganizations of member institutions.

Timetable:

Action	Date	FR Cite
NPRM	12/11/92	57 FR 58732
NPRM Comment Period End	02/09/93	57 FR 58732
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jon E. Boustany, Attorney, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, 202 408-2932

RIN: 3069–AA23

4610. • ADVANCES TO NONMEMBER MORTGAGEES

Significance: Agency Priority

Legal Authority: 12 USC 1422a(a)(3); 12 USC 1422b(a)(1); 12 USC 1430b

CFR Citation: 12 CFR 935

Legal Deadline: None

Abstract: The Federal Housing Finance Board is issuing an interim regulation amending its regulation on Federal Home Loan Bank advances to establish revised and new requirements governing advances to nonmember

mortgagees and to implement provisions of the Housing and Community Development Act of 1992 regarding special advances to qualified nonmember mortgagees that are State housing finance agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James H. Gray, Jr., Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, 202 408-2552

RIN: 3069–AA27

4611. • ELIGIBILITY OF FEDERAL HOME LOAN BANK DIRECTORS

Significance: Agency Priority

Legal Authority: 12 USC 1422b(a)(1); 12 USC 1427

CFR Citation: 12 CFR 932

Legal Deadline: None

Abstract: The Finance Board has adopted certain technical amendments to its regulations governing the eligibility of Federal Home Loan Bank directors. These amendments include changes to the deadlines by which directors must submit Personal Certification and Disclosure Forms to the Finance Board and to the date on which the Finance Board must announce the results of the election of directors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/11/93	58 FR 3487
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brandon B. Straus, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, 202 408-2589

RIN: 3069–AA29

4612. • CLAIMS REGULATION

Significance: Agency Priority

Legal Authority: 12 USC 1422b; 12 USC 1438(b); 12 USC 1833e; 31 USC 3711(e); 31 USC 3721

CFR Citation: 12 CFR 902

Legal Deadline: None

Abstract: The Finance Board is proposing to issue a regulation governing the procedures and standards for the administrative collection, compromise, and termination of agency collection, and the referral of claims to the General Accounting Office of the Department of Justice for litigation of civil claims. The regulation also establishes the Finance Board's procedures and standards governing claims filed against the Finance Board by employees for loss or damage to personal property.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Guy, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, 202 408-2536

RIN: 3069–AA30

FEDERAL HOUSING FINANCE BOARD (FHFB) — Completed Actions

4613. LEVERAGE RATIO ON CONSOLIDATED FEDERAL HOME LOAN BANK DEBT

Significance: Agency Priority

Legal Authority: 12 USC 1422b; 12 USC 1431

CFR Citation: 12 CFR 910.1; 12 CFR 910.6; 12 CFR 910.0

Legal Deadline: None

Abstract: The Finance Board adopted regulations regarding leverage of the Federal Home Loan Bank System (FHLBank System) which expand the definition of debt to include certain senior unsecured liabilities and to increase the permitted debt-to-capital ratio from 12:1 to 20:1. The revised leverage constraints provide meaningful protection to FHLBank System bondholders. The change will increase the availability of housing finance and increase the attractiveness of FHLBank System membership.

Timetable:

Action	Date	FR Cite
NPRM	05/11/92	57 FR 20061
NPRM Comment Period End	07/10/92	57 FR 20061
Final Action	12/30/92	57 FR 62183
Final Action Effective	01/29/93	57 FR 62183

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0

Agency Contact: James H. Gray, Jr., Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, 202 408-2552

RIN: 3069–AA24

4614. EXAMINATION POLICIES AND PROCEDURES

Significance: Agency Priority

Legal Authority: 12 USC 1422b(a)(1); 12 USC 1436 (a); 12 USC 1440; 12 USC 1442

CFR Citation: 12 CFR 934.30 to 934.33

Legal Deadline: None

Abstract: The Finance Board proposes to promulgate rules to establish the procedures and methods for the classification of impaired assets of a Federal Home Loan Bank pursuant to a regulatory examination. The Finance Board will model its classification system after the uniform system utilized by the other Federal financial regulators and will also establish other procedures for its examination staff.

Timetable:

Action	Date	FR Cite
Withdrawn	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

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FHFB — Completed Actions

Agency Contact: Gary B. Townsend, Deputy Director, District Banks Directorate for Examination Division, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, 202 408-2540

RIN: 3069–AA26
[FR Doc. 93-5054 Filed 04-23-93; 8:45 am]
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federal register

Monday
April 26, 1993

Part LII

Federal Maritime Commission

Semiannual Regulatory Agenda

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FEDERAL MARITIME COMMISSION (FMC)

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Unified Regulatory Agenda

AGENCY: Federal Maritime Commission

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to section 5 of E.O. 12291 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission anticipates having under consideration, during the period from April 1, 1993, to March 31, 1994, actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Joseph C. Polking, Secretary, 800 North Capitol Street NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 5 of Executive Order 12291 also requires executive agencies to publish a regulatory agenda; the Commission voluntarily complies with this section. The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's unified regulatory agenda. The agenda does not necessarily include all petitions for rulemakings which are under staff review.

In addition, the Commission maintains a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda. This will be made available to the public, including the press and interested persons.

Joseph C. Polking,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4615	User Fees To Recover Agency Costs	3072-AA70

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4616	Actions To Adjust or Meet Conditions Unfavorable to Shipping in the United States/Korea Trade (Docket No. 91-24)	3072-AB36
4617	Financial Reports of Vessel Operating Common Carriers by Water in Domestic Offshore Trades (Docket No. 91-51 and Petition P1-92)	3072-AB46
4618	Service Contracts (Docket No. 92-31)	3072-AB49
4619	Electronic Filing of Military Rate (Docket No. 93-01)	3072-AB67
4620	Miscellaneous Amendments to Rules of Practice and Procedure (Docket No. 93-02)	3072-AB68
4621	Implementation of Section 502 of Public Law 102-582 (Docket No. 93-03)	3072-AB69

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4622	Tariffs and Service Contracts (Docket No. 90-23)	3072-AA61
4623	Conference Independent Action Provisions (Docket No. 92-16)	3072-AB48
4624	Service Contracts in Foreign-to-Foreign Trades (Docket No. 92-20)	3072-AB51
4625	Marine Terminal Facilities Agreements—Exemption (Docket No. 92-33)	3072-AB53
4626	Regulation of Military Rates Under the Shipping Act of 1984 (Docket No. 92-25)	3072-AB55
4627	Domestic Offshore Financial Filing Regulations, Exemption Under Section 35 of the Shipping Act, 1916 (Docket No. 92-34)	3072-AB56
4628	Notice of Inquiry Concerning Various Regulatory Issues (Docket No. 92-35)	3072-AB58
4629	Reduction of Notice Requirements for Tariff Increases in the Domestic Offshore Trades; Exemption Under Section 35 of the Shipping Act, 1916 (Docket No. 92-36)	3072-AB61
4630	Free Time and Demurrage Charges on Import Property at the Port of New York; Truck Detention at the Port of New York (Docket No. 92-29)	3072-AB62
4631	Financial Responsibility for Non-Vessel-Operating Common Carriers (Docket No. 92-37)	3072-AB63
4632	Unfavorable Conditions in Korea (Docket No. 92-42)	3072-AB64

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Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4633	Unpaid Freight Charges (Docket No. 92-46)	3072-AB65
4634	Financial Responsibility Requirements for Nonperformance of Transportation, Revision of Self Insurance Qualification Standards (Docket No. 92-50)	3072-AB66

FEDERAL MARITIME COMMISSION (FMC)

Prerule Stage

4615. USER FEES TO RECOVER AGENCY COSTS

Significance: Agency Priority

Legal Authority: 5 USC 552 to 553

CFR Citation: 46 CFR 503.43

Legal Deadline: None

Abstract: The Commission is reviewing existing fees for services in order to determine whether they are adequate to recover costs.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5725

RIN: 3072–AA70

FEDERAL MARITIME COMMISSION (FMC)

Final Rule Stage

4616. ACTIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE UNITED STATES/ KOREA TRADE (DOCKET NO. 91-24)

Significance: Agency Priority

Legal Authority: 46 USC app 876; 46 USC app 1710a; 46 CFR 585; Reorg Plan 7 of 1961

CFR Citation: 46 CFR 586.5

Legal Deadline: None

Abstract: Proposed action would impose fees on Korean-flag vessels calling at U.S. ports in response to Korean law and regulations restricting U.S. carriers' trucking and rail sources.

Timetable:

Action	Date	FR Cite
Notice of Petition	03/16/88	53 FR 8679
Notice of Petition	08/26/88	53 FR 32663
NPRM	06/07/91	56 FR 26361
NPRM Comment Period Extended	11/05/91	56 FR 56487
NPRM Comment Period End	05/29/92	56 FR 56487
Second NPRM	07/01/92	57 FR 29259
NPRM Comment Period End	08/12/92	57 FR 29259
Second NPRM Comment Period End	08/12/92	57 FR 29259
Final Rule	11/18/92	57 FR 54318
Final Rule	02/11/93	58 FR 7988
Final Rule Effective	06/01/94	57 FR 54318
Final Rule Effective	06/01/94	58 FR 7988
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5740

RIN: 3072–AB36

4617. FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN DOMESTIC OFFSHORE TRADES (DOCKET NO. 91-51 AND PETITION P1-92)

Legal Authority: 5 USC 553; 46 USC app 817(a); 46 USC app 828; 46 USC app 833a; 46 USC app 841a; 46 USC app 843; 46 USC app 844; 46 USC app 845; 46 USC app 845a; 46 USC app 847

CFR Citation: 46 CFR 502.67; 46 CFR 552

Legal Deadline: None

Abstract: For domestic offshore carrier tariffs and amendments, actions would modify financial reporting procedures and rules of practice and procedure related to rate increases.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/91	56 FR 57298
Notice of Petition	01/23/92	57 FR 2702
ANPRM Comment Period End	05/22/92	57 FR 11705
NPRM	10/28/92	57 FR 48770
NPRM Comment Period End	11/27/92	57 FR 48770
Final Action	04/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Seymour Glanzer, Director, Bureau of Hearing Counsel, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5783

RIN: 3072–AB46

4618. SERVICE CONTRACTS (DOCKET NO. 92-31)

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1702; 46 USC app 1706; 46 USC app 1707; 46 USC app 1712; 46 USC app 1714 to 1716; 46 USC app 1718; 46 USC app 1722

CFR Citation: 46 CFR 581.1

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Final Rule Stage

Legal Deadline: None

Abstract: Public comments and information are solicited on the desirability and feasibility of a rule that would permit two or more shippers to enter into a service contract, regardless of whether the shippers are members of a shippers' association.

Timetable:

Action	Date	FR Cite
ANPRM	06/08/92	57 FR 24220
ANPRM Comment Period End	07/08/92	57 FR 24220
NPRM	11/03/92	57 FR 49665
NPRM Comment Period End	12/03/92	57 FR 49665
Final Action	06/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5740

RIN: 3072–AB49

4619. • ELECTRONIC FILING OF MILITARY RATE (DOCKET NO. 93-01)

Significance: Agency Priority

Legal Authority: 5 USC 552-553; 31 USC 9701; 46 USC app 804-847; 46 USC app 1702-1722; PL 101-92, 103 Stat 601

CFR Citation: 46 CFR 516.3; 46 CFR 514.9; 46 CFR 514.15

Legal Deadline: None

Abstract: Action exempts Military Sealift Command (MSC) tenders from electronic filing under Part 514 on the condition that MSC file these tenders in paper form as is the practice with paper tariffs.

Timetable:

Action	Date	FR Cite
NPRM	01/13/93	58 FR 4137
Correction	01/25/93	58 FR 6167
NPRM Comment Period End	02/12/93	58 FR 4137
Final Action	04/00/93	
Final Action Effective	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Robert Ewers, Deputy Managing Director, Federal Maritime Commission, 800 N. Capitol Street NW., Washington, DC 20573, 202 523-5800

RIN: 3072–AB67

4620. • MISCELLANEOUS AMENDMENTS TO RULES OF PRACTICE AND PROCEDURE (DOCKET NO. 93-02)

Legal Authority: 5 USC 504; 5 USC 551-559; 12 USC 1141j(a); 18 USC 207; 26 USC 501(c)(3); 28 USC 2112(a); 46 USC app 817 et seq; 46 USC app 1705 et seq; EO 11222 of May 8, 1965 (30 FR 6499); 21 USC 853a; PL 89-777 (46 USC app 817d, 817e)

CFR Citation: 46 CFR 502; 46 CFR 505; 46 CFR 510; 46 CFR 540

Legal Deadline: None

Abstract: Action removes ambiguities, deletes outdated or extraneous provisions, and improves the efficient administration of proceedings.

Timetable:

Action	Date	FR Cite
NPRM	02/05/93	58 FR 7199
NPRM Comment Period End	03/22/93	58 FR 7199
Final Action	06/00/93	
Final Action Effective	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 N. Capitol Street NW., Washington, DC 20573, 202 523-5725

RIN: 3072–AB68

4621. • IMPLEMENTATION OF SECTION 502 OF PUBLIC LAW 102-582 (DOCKET NO. 93-03)

Significance: Agency Priority

Legal Authority: 5 USC 552-553; 31 USC 9701; 46 USC app 804 to 847; 46 USC app 1702 to 1722; PL 101-92, 103 Stat 601

CFR Citation: 46 CFR 514.12; 46 CFR 514.20; 46 CFR 514.21; 46 CFR 514 exhibit 2

Legal Deadline: None

Public Law 102-582 contains deadlines for filing of tariff data but none for the issuance or effectiveness of implementation rules.

Abstract: Action amends part 514 in order to implement 46 USC app 1707a, which requires certain tariff data to be electronically filed into the Commission's Automated Tariff Filing and Information System and requires this data to be made available without restriction to the public. Additionally, procedures are devised to implement the new law's requirement that the Commission impose a per-minute fee for secondary (remote) electronic access to the tariff data.

Timetable:

Action	Date	FR Cite
NPRM	02/08/93	58 FR 7501
NPRM Comment Period End	03/10/93	58 FR 7501
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Robert Ewers, Deputy Managing Director, Federal Maritime Commission, 800 N. Capitol Street NW., Washington, DC 20573, 202 523-5800

RIN: 3072–AB69

FEDERAL MARITIME COMMISSION (FMC)

Completed Actions

4622. TARIFFS AND SERVICE CONTRACTS (DOCKET NO. 90-23)

Significance: Agency Priority

Legal Authority: 5 USC 552; 5 USC 553; 31 USC 9701; 46 USC app 804; 46 USC app 812; 46 USC app 814 to 817(a); 46 USC app 820; 46 USC app 833a, 46 USC app 841a; 46 USC app 843 to 845b; 46 USC app 847; 46 USC app 1702 et seq; PL 101-92

FMC

Completed Actions

CFR Citation: 46 CFR 514 (New); 46 CFR 515; 46 CFR 520; 46 CFR 550; 46 CFR 580; 46 CFR 581

Legal Deadline: None

Abstract: The Commission is implementing an automated tariff filing and information system (ATFI), whereby tariff data can be filed, processed, and retrieved electronically. This action provides regulations: adapting the Commission's current CFR parts regarding filing to the electronic system; implementing policy decisions made in interim reports in the proceeding; and prescribing user charges.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/84	
Notice of Intent To Form Advisory Committee	04/12/85	50 FR 14453
Notice of Second Meeting	05/19/86	51 FR 18376
Notice of Third Meeting	10/21/86	51 FR 37347
Notice of Inquiry on System Functionality	12/22/87	52 FR 48504
Further Notice	06/13/88	53 FR 22048
Second Report on System Functionality	12/29/88	53 FR 52785
ANPRM	08/01/90	55 FR 31199
ANPRM Comment Period End	10/29/90	55 FR 42416
Interim Report and Batch Filing Guide	12/26/90	
Notice of Availability of Interim Report and Batch Filing Guide	01/08/91	56 FR 668
End Review	03/26/91	
Notice of Availability of Second Interim Report	03/29/91	56 FR 7316
Notice of Availability of Third Interim Report	07/29/91	56 FR 35847
Notice of Availability of Supp.	08/02/91	56 FR 37069
NPRM	09/09/91	56 FR 46044
Notice of Availability of Fourth Report	10/30/91	56 FR 55860
Interim Final Rule Date (514.21(b), (c), (e) and 514.91)	12/09/91	57 FR 36248
NPRM Comment Period End	12/30/91	56 FR 66006
Supplemental Report Postponing Implementation	02/18/92	57 FR 5884
Interim Final Rule	08/12/92	57 FR 36248
Effective Date of 514.7(m)(2) Stayed Until Further Notice	08/12/92	57 FR 36248
Interim Final Rule Effective Date for Balance of Part 514	09/11/92	57 FR 36248
Interim Final Rule Comment Period End	09/30/92	57 FR 36248
Final Action - Section 514.7(m)(2) is stayed	01/04/93	58 FR 25
Final Action Effective	02/03/93	58 FR 25

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: John Robert Ewers, Deputy Managing Director, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5800

RIN: 3072–AA61

4623. CONFERENCE INDEPENDENT ACTION PROVISIONS (DOCKET NO. 92-16)

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 572.502; 46 CFR 572.801; 46 CFR 572.802

Legal Deadline: None

Abstract: In order to preserve an unencumbered right of independent action (IA) by conference members, as provided for in the 1984 Act, action adds new requirements concerning conference agreement IA provisions, i.e., (1) interpret the term "adopt" as it pertains to the filing of IAs that match an originating carrier's IA; (2) specify the conditions under which conference members could adopt another member's IA time/volume rate (TVR); (3) prohibit conferences from establishing notice periods, other than the notice period required by section 5(b)(8) of the 1984 Act for taking IAs; (4) prohibit conference provisions that provide authority for allocation of costs on a usage basis for publishing and maintaining member lines' IAs; and (5) prohibit conference provisions that authorize automatic expiration dates for IAs.

Timetable:

Action	Date	FR Cite
ANPRM	04/21/92	57 FR 14551
ANPRM Comment Period End	06/22/92	57 FR 14551
NPRM	07/16/92	57 FR 31481
NPRM Comment Period End	08/17/92	57 FR 31481
Final Action	11/19/92	57 FR 54526
Final Action Effective	12/21/92	57 FR 54526

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Trade Monitoring and Analysis, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5787

RIN: 3072–AB48

4624. SERVICE CONTRACTS IN FOREIGN-TO-FOREIGN TRADES (DOCKET NO. 92-20)

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1702; 46 USC app 1706; 46 USC app 1707; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714 to 1716; 46 USC app 1718; 46 USC app 1722

CFR Citation: 46 CFR 581.2

Legal Deadline: None

Abstract: Comments are requested on the voluntary filing of service contracts that include foreign-to-foreign ocean transportation.

Timetable:

Action	Date	FR Cite
ANPRM	05/01/92	57 FR 18855
ANPRM Comment Period End	06/15/92	57 FR 18855
Withdrawn	09/04/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5740

RIN: 3072–AB51

4625. MARINE TERMINAL FACILITIES AGREEMENTS—EXEMPTION (DOCKET NO. 92-33)

Significance: Agency Priority

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Legal Authority: 5 USC 553; 46 USC app 814; 46 USC app 817(a); 46 USC app 820; 46 USC app 821; 46 USC app 833a; 46 USC app 841a; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 560.309; 46 CFR 572.311; 46 CFR 560.601

Legal Deadline: None

Abstract: Action exempts marine terminal facilities agreements among marine terminal operators, and between marine terminal operators and common carriers by water, from the agreement filing requirements of the Shipping Act, 1916, the Shipping Act of 1984, and the Commission's regulations, on condition that certain agreement information be filed in marine terminal operator's tariffs and that terminal operators make copies of such agreements available to requesting parties.

Timetable:

Action	Date	FR Cite
NPRM	06/10/92	57 FR 24569
Correction	06/23/92	57 FR 28011
NPRM Comment Period End	07/10/92	54 FR 24569
Final Action	01/22/93	58 FR 5627
Final Action Effective	01/22/93	58 FR 5627

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Trade Monitoring and Analysis, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5787

RIN: 3072–AB53

4526. REGULATION OF MILITARY RATES UNDER THE SHIPPING ACT OF 1984 (DOCKET NO. 92-25)

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1702 to 1705; 46 USC app 1707; 46 USC app 1710; 46 USC app 1712; 46 USC app 1714 to 1716; 46 USC app 1718; 46 USC app 1722

CFR Citation: 46 CFR 580

Legal Deadline: None

Abstract: Comments are requested on whether military rates should be exempted from the requirements of sections 8 and 10 of the Shipping Act of 1984 or, in the alternative, whether such rates should be made fully subject to the requirements of section 8 of the Act.

Timetable:

Action	Date	FR Cite
ANPRM	06/03/92	57 FR 23368
ANPRM Comment Period End	07/20/92	57 FR 23368
Withdrawn	10/02/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5740

RIN: 3072–AB55

4627. DOMESTIC OFFSHORE FINANCIAL FILING REGULATIONS, EXEMPTION UNDER SECTION 35 OF THE SHIPPING ACT, 1916 (DOCKET NO. 92-34)

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 812; 46 USC app 814; 46 USC app 815; 46 USC app 817; 46 USC app 817(a); 46 USC app 820; 46 USC app 833a; 46 USC app 841a; 46 USC app 843; 46 USC app 844; 46 USC app 845; 46 USC app 845a; 46 USC app 845b; 46 USC app 847

CFR Citation: 46 CFR 550.1; 46 CFR 552.4; 46 CFR 553; 46 CFR 555; 46 CFR 500.211; 46 CFR 514.3

Legal Deadline: None

Abstract: For the domestic offshore trades, action removes 46 CFR part 553, which requires the filing of financial exhibits and schedules of non-vessel-operating common carriers (NVOs), and 46 CFR part 555, which specifies auditing procedures. Parts 550 (tariffs) and 552 (financial reports) are amended accordingly, including the addition of an exemption for NVOs from the investigation and suspension provisions of 46 USC app. 845.

Timetable:

Action	Date	FR Cite
NPRM	06/12/92	57 FR 25005
NPRM Comment Period End	07/13/92	57 FR 25005
Final Action	09/29/92	57 FR 44697
Final Action Effective	09/29/92	57 FR 44697

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Trade Monitoring and Analysis, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5787

RIN: 3072–AB56

4628. NOTICE OF INQUIRY CONCERNING VARIOUS REGULATORY ISSUES (DOCKET NO. 92-35)

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1702; 46 USC app 1706; 46 USC app 1707; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714 to 1716; 46 USC app 1718; 46 USC app 1722

CFR Citation: 46 CFR 581

Legal Deadline: None

Abstract: Comments are solicited on: (1) no longer accepting voluntary filing of tariffs or service contracts covering exempt commodities; (2) simplification of the filing of essential terms; (3) defining "similarly situated shipper"; (4) clarification of carriers' and conferences' duty to deal with shippers' associations and non-vessel-operating common carriers on service contracts; (5) permitting service contracts to be based on a percentage of a shipper's cargo; and (6) requiring every conference to establish an ombudsman for shippers' complaints.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/92	57 FR 26637
ANPRM Comment Period End	07/30/92	57 FR 26637
Withdrawn	11/09/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert A. Ellsworth, Director, Policy, Planning and Analysis, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5911

RIN: 3072–AB58

4629. REDUCTION OF NOTICE REQUIREMENTS FOR TARIFF INCREASES IN THE DOMESTIC OFFSHORE TRADES; EXEMPTION UNDER SECTION 35 OF THE SHIPPING ACT, 1916 (DOCKET NO. 92-36)

Significance: Agency Priority

Legal Authority: 5 USC 504; 5 USC 551; 5 USC 552; 5 USC 553; 5 USC 559; 12 USC 1141j(a); 18 USC 207; 26 USC 501(c)(3); 28 USC 2112(a); 46 USC app 812; 46 USC app 814; 46 USC app 815; 46 USC app 817; 46 USC app 820; 46 USC app 821

CFR Citation: 46 CFR 502.67; 46 CFR 550.1; 46 CFR 550.3; 46 CFR 550.10; 46 CFR 550.17; 46 CFR 514.2; 46 CFR 514.3; 46 CFR 514.4; 46 CFR 514.8; 46 CFR 514.9

Legal Deadline: None

Abstract: Action reduces notice requirements for tariff increases in the domestic offshore trades to 7 workdays and amends the time for protesting such increases.

Timetable:

Action	Date	FR Cite
NPRM	06/16/92	57 FR 26809
NPRM Comment Period End	07/16/92	57 FR 26809
Final Action	09/28/92	57 FR 44504
Final Action Effective	10/28/92	57 FR 44504

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Seymour Glanzer, Director, Bureau of Hearing Counsel, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5783

RIN: 3072–AB61

4630. FREE TIME AND DEMURRAGE CHARGES ON IMPORT PROPERTY AT THE PORT OF NEW YORK; TRUCK DETENTION AT THE PORT OF NEW YORK (DOCKET NO. 92-29)

Legal Authority: 5 USC 553; 46 USC app 816; 46 USC app 841a; 46 USC app 1709; 46 USC app 1716

CFR Citation: 46 CFR 525; 46 CFR 530

Legal Deadline: None

Abstract: Inquiry requests comment on whether current regulations concerning free time and demurrage charges on import property and truck detention at the Port of New York are still necessary.

Timetable:

Action	Date	FR Cite
ANPRM	06/05/92	57 FR 24006
ANPRM Comment Period End	07/06/92	57 FR 24006
NPRM	10/14/92	57 FR 47025
NPRM Comment Period End	11/13/92	57 FR 47025
Final Action	02/23/93	58 FR 10983
Final Action Effective	02/23/93	58 FR 10983

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5796

RIN: 3072–AB62

4631. FINANCIAL RESPONSIBILITY FOR NON-VESSEL-OPERATING COMMON CARRIERS (DOCKET NO. 92-37)

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1702 to 1706; 46 USC app 1707; 46 USC app 1709; 46 USC app 1710; 46 USC app 1712; 46 USC app 1714 to 1716; 46 USC app 1718; 46 USC app 1722

CFR Citation: 46 CFR 514; 46 CFR 580; 46 CFR 581; 46 CFR 583

Legal Deadline: None

Abstract: The action implements the 1990 law that permits the FMC to accept (in addition to bonds) insurance or other surety as proof of the financial responsibility of a non-vessel-operating common carrier (NVOCC).

Timetable:

Action	Date	FR Cite
ANPRM	06/19/92	57 FR 27413
ANPRM Comment Period End	07/20/92	57 FR 27413
NPRM	10/19/92	57 FR 47589
NPRM Comment Period End	11/30/92	57 FR 56539
Final Action	01/22/93	58 FR 5618
Final Action Effective	02/22/93	58 FR 5618

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Trade Monitoring and Analysis, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5787

RIN: 3072–AB63

4632. UNFAVORABLE CONDITIONS IN KOREA (DOCKET NO. 92-42)

Significance: Agency Priority

Legal Authority: 46 USC app 876(1)(b); Reorg Plan 7 of 1961 (75 Stat. 840); 46 CFR 585

CFR Citation: 46 CFR 586.4

Legal Deadline: None

Abstract: Action, in response to a petition under section 19(1)(b) of the 1920 Act for relief from conditions allegedly unfavorable to shipping in the U.S./Korea Trade, imposes sanctions on Korean-, non-U.S. citizen-, owned or controlled ocean freight forwarders and NVOCCs.

Timetable:

Action	Date	FR Cite
Notice of Petition - Direct Container Line	01/29/92	57 FR 3433
NPRM	07/08/92	57 FR 30192
NPRM Comment Period End	08/07/92	57 FR 30192
Final Action - Further Comments in July 1993	11/18/92	57 FR 54311
Final Action Effective	09/01/93	57 FR 54311

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 N. Capitol St. NW., Washington, DC 20573, 202 523-5740

RIN: 3072–AB64

4633. • UNPAID FREIGHT CHARGES (DOCKET NO. 92-46)

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1706; 46 USC app 1707; 46 USC app 1709

CFR Citation: 46 CFR 571.2

Legal Deadline: None

Abstract: Statement of policy in interpretive rule provides that the Commission will not, in the absence of evidence of bad faith or deceit, infer from a shipper's failure to pay ocean freight due that the shipper has obtained or attempted to obtain transportation at less than the applicable rates by an "unjust or unfair device or means" in violation of section 10(a)(1) of the Shipping Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	57 FR 38807
NPRM Comment Period End	09/28/92	57 FR 38807

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Completed Actions

Action	Date	FR Cite
Final Action	02/05/93	58 FR 7190
Final Action Effective	03/08/93	58 FR 7190

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 N. Capitol Street NW., Washington, DC 20573, 202 523-5740

RIN: 3072–AB65

4634. • FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONPERFORMANCE OF TRANSPORTATION, REVISION OF SELF INSURANCE QUALIFICATION STANDARDS (DOCKET NO. 92-50)

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 817e; 46 USC app 841a; 46 USC app 1716

CFR Citation: 46 CFR 540.5

Legal Deadline: None

Abstract: Action provides that operators demonstrating a minimum of 5 years of operation with a satisfactory explanation of any claims for nonperformance need meet only net worth standards to qualify as self-insurers and that operators qualifying for self-insurance may not use the sliding scale provisions to qualify for a Certificate (performance).

Timetable:

Action	Date	FR Cite
NPRM	10/20/92	57 FR 47830
NPRM Comment Period End	11/04/92	57 FR 47830
Final Action	12/31/92	57 FR 62479
Final Action Effective	02/01/93	57 FR 62479

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 N. Capitol Street NW., Washington, DC 20573, 202 523-5796

RIN: 3072–AB66

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Monday
April 26, 1993

Part LIII

Federal Reserve System

Semiannual Regulatory Agenda

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FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period from April 1, 1993, through October 1, 1993. The next semiannual agenda will be published in October 1993.

DATES: Comments about the form or content of the agenda may be submitted any time during the next 6 months.

ADDRESSES: Comments should be addressed to William W. Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its April 1993 agenda as part of the April 1993 Unified Agenda of Federal Regulations, which is coordinated by the Office of Management and Budget under Executive Order 12291. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further.

A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda and which the Board has not completed.

Barbara R. Lowrey,

Associate Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4635	Regulation: A - Extensions of Credit by Federal Reserve Banks	7100-AB56
4636	Regulation: E - Electronic Fund Transfers	7100-AA77
4637	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y - Bank Holding Companies and Change in Bank Control	7100-AB39
4638	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y - Bank Holding Companies and Change in Bank Control	7100-AB41
4639	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y - Bank Holding Companies and Change in Bank Control	7100-AB51
4640	Regulation: K - International Banking Operations	7100-AB58
4641	Regulation: T - Credit by Brokers and Dealers (Docket Number: R-0772)	7100-AB28
4642	Regulation: Y - Bank Holding Companies and Change in Bank Control	7100-AB29
4643	Determinations Under FDICIA Netting Provisions	7100-AB35
4644	Lifeline Accounts	7100-AB40
4645	Risk-Based Capital Standards (Docket Number: R-0764)	7100-AB50
4646	Standards for Safety and Soundness (Docket Number: R-0766)	7100-AB52

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4647	Regulation: B - Equal Credit Opportunity (Docket Number: R-0782)	7100-AB34
4648	Regulation: E - Electronic Fund Transfers (Docket Number: R-0796)	7100-AB47
4649	Regulation: H - Membership of State Banking Institution in the Federal Reserve; Reg. K - International Banking Operations; and Reg. Y - Bank Holding Companies (Docket Number: R-0792)	7100-AB60
4650	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0711)	7100-AB20
4651	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0720)	7100-AB27
4652	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0787)	7100-AB49
4653	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0756)	7100-AB53

FRS

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4654	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0773)	7100-AB55
4655	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0795)	7100-AB57
4656	Regulation: K - International Banking Operations (Docket Number: R-0754)	7100-AB31
4657	Regulation: K - International Banking Operations (Docket Number: R-0793)	7100-AB46
4658	Regulation: O - Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks (Docket Number: R-0785)	7100-AB59
4659	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0652)	7100-AA41
4660	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0686)	7100-AB07
4661	Federal Reserve Bank Services (Docket Number: R-0778)	7100-AB61
4662	Proposals To Modify the Payments System Risk Reduction Program (Docket Numbers: R-0661, R-0668)	7100-AA76
4663	Proposals To Modify the Payments System Risk Reduction Program (Docket Number: R-0693)	7100-AB17

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4664	Regulation: C - Home Mortgage Disclosure (Docket Number: R-0771)	7100-AB36
4665	Regulation: D - Reserve Requirements of Depository Institutions (Docket Number: R-0774)	7100-AB45
4666	Regulation: F - Limitations on Interbank Liabilities (Docket Number: R-0769)	7100-AB37
4667	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0763)	7100-AB38
4668	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0765)	7100-AB42
4669	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0748)	7100-AB30
4670	Regulation: J - Collection of Checks and Other Items and Wire Transfers of Funds by Federal Reserve Banks (Docket Number: R-0722)	7100-AB21
4671	Regulation: Y - Bank Holding Companies and Change in Bank Control; and Rules of Procedure (Docket Number: R-0760)	7100-AB48
4672	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0664)	7100-AB03
4673	Regulation: CC - Availability of Funds and Collection of Checks (Docket Number: R-0723)	7100-AB22
4674	Regulation: DD - Truth in Savings (Docket Number: R-0753)	7100-AB43
4675	Proposal To Modify the Payments System Risk Reduction Program (Docket Number: R-0721)	7100-AB18
4676	Transactions With Affiliates (Docket Number: R-0762)	7100-AB54

FEDERAL RESERVE SYSTEM (FRS)

Proposed Rule Stage

4635. • REGULATION: A - EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Legal Authority: 12 USC 347; 12 USC 248

CFR Citation: 12 CFR 201

Legal Deadline: Final, Statutory, December 19, 1993.

Abstract: Section 142 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Federal Reserve Discount Window Advances) modifies the Federal Reserve Act by placing limitations on Federal Reserve Bank liquidity lending to undercapitalized and critically undercapitalized depository institutions. Within the next four months, the Board will consider issuing for public comment revisions to Regulation A to reflect these changes. The regulations will apply to extensions of credit to all depository institutions (both large and small). The regulation will limit credit to undercapitalized and critically undercapitalized depository institutions, including small depository institutions.

Timetable:

Action	Date	FR Cite
Board is expected to request comment by	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Manley Williams-Stander, Legal Assistant, Federal

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Reserve System, Legal Division, 202 452-5565

RIN: 7100–AB56

4636. REGULATION: E - ELECTRONIC FUND TRANSFERS

Legal Authority: 15 USC 1693 et seq Electronic Fund Transfer Act

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: The Board is conducting a review of Regulation E, which implements the Electronic Fund Transfer Act, and establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfer services and of financial institutions that offer these services (whether or not these institutions hold the consumer's account). The review will consider whether any provisions of the regulation are in need of updating, and whether any substantive changes are necessary because of technological and other developments. The Board will also consider whether to make any legislative recommendations for statutory changes. The Board's consideration of whether to propose special rules to govern the electronic delivery of government benefits is addressed in a separate entry on Regulation E.

Public comment will be requested on any regulatory proposals that may be developed following the review. It is not anticipated that the revisions would have a significant economic impact on a substantial number of small banks.

Timetable:

Action	Date	FR Cite
Board may consider revisions by	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dolores S. Smith, Associate Director, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-2412

RIN: 7100–AA77

4637. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Legal Authority: 12 USC 208; 12 USC 225

CFR Citation: 12 CFR 1831m

Legal Deadline: Final, Statutory, January 3, 1993.

Abstract: During 1992, the Board's staff consulted with the other Federal banking agencies regarding the implementation of section 112, the bank auditing requirements, of the Federal Deposit Insurance Corporation Improvement Act of 1991. The section includes requirements for insured commercial banks to receive audits of their annual reports by independent public accountants, requirements for banks and their auditors to report certain information to the Board, and requirements for independent audit committees for banks. In some cases, these requirements can be satisfied by comparable arrangements at the bank holding company level. The Act generally exempts insured depository institutions from these requirements when their total assets are less than $150 million.

The Federal Deposit Insurance Corporation (FDIC) has primary responsibility for implementing this mandate through regulations, and it issued a draft regulation for comment last year. The FDIC is expected to finalize its regulation by March 31, 1993, which will apply to all FDIC-insured banks and thrifts.

The Board has joint rulemaking authority with the other (cont)

Timetable:

Action	Date	FR Cite
Board may consider amendments to Regulations H and Y by	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: banking agencies regarding the enforcement provisions of section 112. It is expected that the Board and the other agencies will request public comment on proposed regulations on these enforcement matters by year-end.

Agency Contact: Gerald A. Edwards, Jr., Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation, 202 452-2741

RIN: 7100–AB39

4638. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Legal Authority: 12 USC 1831n; 12 USC 1833d

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: Final, Statutory, December 19, 1992.

Abstract: During 1992, the Board's staff consulted with the other Federal banking agencies regarding the implementation of section 121, the bank accounting requirements, of the Federal Deposit Insurance Corporation Improvement Act of 1991. These requirements include the implementation of disclosures of the fair market value of assets, liabilities, and certain projects, which may result in the revision of reporting requirements for banks and bank holding companies. The accounting provisions of the Act do not include exemptions for small institutions. Thus, any changes to regulations and reporting requirements would likely affect smaller state member banks.

The Federal Financial Institutions Examination Council is expected to consider requesting public comment on any proposed reporting requirements within the next four months. During the next four months, the Board is expected to consider requesting comment on certain changes to its regulations in order to implement section 121.

Timetable:

Action	Date	FR Cite
Board may consider amendments to Regulations H and Y by	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gerald A. Edwards, Jr., Assistant Director, Federal Reserve System, Division of Banking

Supervision and Regulation, 202 452-2741

RIN: 7100–AB41

4639. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Legal Authority: 12 USC 3310; 12 USC 3331; 12 USC 3351

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: During the next three months, the Board will consider issuing for public comment proposed amendments to its appraisal standards provisions in Regulations H and Y that would permit appraisers to use the Departure Provision in the Uniform Standards of Professional Appraisal Practice (USPAP) and would eliminate those portions of the Board's appraisal standards that are similar to or duplicative of the USPAP standards. Staff is developing this proposal as part of the Board's ongoing program to reduce regulatory burden on depository institutions, and the proposal is not expected to have a significant economic impact on small institutions.

Timetable:

Action	Date	FR Cite
Board will consider requesting comment by	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ann Misback, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3788

RIN: 7100–AB58

4641. REGULATION: T - CREDIT BY BROKERS AND DEALERS (DOCKET NUMBER: R-0772)

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78h Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220

Legal Deadline: None

Abstract: The Board is conducting a review of Regulation T, which regulates extensions of credit by and to brokers and dealers. The review will consider whether any provisions of the regulation are in need of updating and whether any substantive changes are necessary because of developments in the securities markets, including the development of new products and services and the expansion of global markets. In August 1992, the Board approved a general request for comments to aid in its review (57 FR 37109, August 18, 1992). Following evaluation of the public comments, the Board will again seek comment on any regulatory proposals that may be developed. It is not anticipated that the revisions would have a significant economic impact on the overall lending activities of a substantial number of small brokerage firms.

Timetable:

Action	Date	FR Cite
Board approved requesting comment	08/18/92	57 FR 37109
Further Board action expected by	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Homer, Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation, 202 452-2781

RIN: 7100–AB28

4642. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Legal Authority: 12 USC 1834a; 12 USC 1834b

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: Sections 233 and 234 of the Federal Deposit Insurance Corporation Improvement Act of 1991 require the Board and other regulatory agencies to become involved in an effort to get banks to participate in certain types of lending activities in designated distressed communities. Banks that do the appropriate type of lending in the appropriate "distressed communities" will receive assessment credits for their FDIC insurance premiums. The law requires the Board to receive notice of the banks' intent to involve themselves in these activities, to assist the banks to define and locate the appropriate communities, and to define certain terms by regulation. To accomplish the mandates of the statute, it may be necessary to amend Regulation Y for purposes of receiving notice of the banks' and holding companies' intent to form the types of entities discussed in the law and to do the type of lending intended by the law. It may also be necessary to amend the regulation to

4640. • REGULATION: K - INTERNATIONAL BANKING OPERATIONS

Legal Authority: 12 USC 211

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: Within the next three months, the Board, in consultation with the Secretary of the Treasury, will consider action to implement a portion of section 202(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) with respect to the criteria to be used in evaluating the operations of foreign banks that the Board has determined are not subject to comprehensive supervision or regulation on a consolidated basis. It is undetermined what economic impact this proposal would have on small institutions.

The Board recently implemented another portion of section 202(a) of FDICIA by issuing for public comment a proposed amendment to the Board's Regulation K with respect to the limitation on the Powers of State branches and agencies of foreign banks (see RIN 7100-AB46. A technical amendment to section 214(a) of FDICIA, enacted in October 1992, eliminated the need for rulemaking by the Board with respect to the deposit-taking activities of foreign banks.

Timetable:

Action	Date	FR Cite
Board will consider requesting comment by	05/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Roger T. Cole, Deputy Associate Director, Federal Reserve System, Division of Banking Supervision and Regulation, 202 452-2618

RIN: 7100–AB51

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provide the definitions of "nonprofit organization" and "small business" called for by the statute. It is not expected that any proposed regulation would have a significant economic impact on small institutions. (cont)

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: These provisions only take effect if, and when, Congress appropriates funds to cover the impact they may have on the Bank Insurance Fund. Consequently, the timing is somewhat uncertain.

Agency Contact: Glenn E. Loney, Assistant Director, Federal Reserve System, Division of Consumer and Community Affairs, **202 452-3585**

RIN: 7100–AB29

4643. DETERMINATIONS UNDER FDICIA NETTING PROVISIONS

Legal Authority: 12 USC 4401 et seq

CFR Citation: None

Legal Deadline: None

Abstract: Section 401 et seq of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) contains provisions to validate netting contracts between and among financial institutions for the purpose of improving efficiency and reducing systemic risk in the banking system and financial markets. The FDICIA defines "financial institution" to include securities brokers or dealers, depository institutions, futures commission merchants, and any other institution as determined by the Board, such as broker-dealer affiliates that engage in netting.

The Board will likely seek public comment within the next two months on the criteria under which an expansion of the "financial institution" definition should be made. Small entities will be affected only to the extent that they engage in netting activities in the financial markets and would benefit by being considered financial institutions for purposes of the FDICIA netting provisions.

Timetable:

Action	Date	FR Cite
Board is expected to be considering requesting comment by	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stephanie Martin, Senior Attorney, Federal Reserve System, Legal Division, **202 452-3198**

RIN: 7100–AB35

4644. LIFELINE ACCOUNTS

Legal Authority: 12 USC 1817; 12 USC 1834

CFR Citation: None

Legal Deadline: None

Abstract: Section 232 of the Federal Deposit Insurance Corporation Improvement Act of 1991 requires the Board with the FDIC to establish minimum requirements for "lifeline" transaction accounts. An insured depository institution that chooses to offer accounts that meet these requirements will be assessed deposit insurance premiums on those deposits at a rate of 1/2 the maximum assessment rate. The Act sets forth factors that the Board and the FDIC must consider in setting the account requirements, such as whether the amount of the fee, if any, that is charged for routine transactions does not exceed a minimal level.

It is expected that the Board will seek public comment within the next six months on a proposal to implement section 232. It is not anticipated that implementation of the law, due to its voluntary character, will have a significant impact on a substantial number of small institutions.

Timetable:

Action	Date	FR Cite
Board action expected by	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael S. Bylsma, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, **202 452-3667**

RIN: 7100–AB40

4645. RISK-BASED CAPITAL STANDARDS (DOCKET NUMBER: R-0764)

Legal Authority: PL 102-242

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: Final, Statutory, June 19, 1993.

Abstract: Section 305 of the Federal Deposit Insurance Corporation Improvement Act of 1991 requires each of the Federal banking agencies to revise its risk-based capital standards for the depository institutions it regulates in order to ensure that those standards take adequate account of interest rate risk, concentration of credit risk, and the risks of nontraditional activities. In June 1992, the Board approved an advance notice of proposed rulemaking that seeks comment on a proposed system for incorporating interest rate risk into risk-based capital standards, and seeks suggestions for developing means of incorporating concentration of credit risk and the risks of nontraditional activities (57 FR 35507, August 10, 1992). The proposed system for measuring interest rate risk would attempt to measure interest rate risk at each institution, and would assess a capital charge against institutions with risk that is greater than a threshold level set by the agency. The proposal, if adopted, would require every state member bank, regardless of size, to provide additional information sufficient to allow the Board to measure accurately its interest rate (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	08/10/92	57 FR 35507
Further Board action by	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: risk. Following review of the public comments, the Board is expected to take further action within the next two months.

Agency Contact: James Embersit, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation, **202 452-5249**

RIN: 7100–AB50

4646. STANDARDS FOR SAFETY AND SOUNDNESS (DOCKET NUMBER: R-0766)

Legal Authority: PL 102-242

CFR Citation: 12 CFR ch II

Legal Deadline: Final, Statutory, August 1, 1993.

Abstract: Section 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991 requires each of the Federal banking agencies to prescribe by regulation certain safety and soundness standards for the insured depository institutions and depository institution holding companies for which it is the primary regulator. Standards must be prescribed in three principal areas: (1) operational and managerial; (2) asset quality, earnings, and stock valuation; and (3) employee compensation. If an insured depository institution does not meet one of those standards, the institution is required to establish a plan to achieve compliance with the standard that is acceptable to the primary regulator of the institution. In July 1992, the Board requested public comment on an interagency advance notice of proposed rulemaking (57 FR 31336, July 15, 1992). Subsequently, the Housing and Community Development Act of 1992 amended in three ways the requirement of section 132 that the agencies prohibit and define excessive compensation: (1) by prohibiting the agencies from establishing a level or range of compensation in defining what is excessive; (2) by providing that an institution that pays excessive (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	07/15/92	57 FR 31336
Further Board action expected by	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: compensation need not submit a plan pursuant to section 132; and (3) by expressly preserving all authority to address compensation under existing laws.

It is undetermined what economic impact these proposals would have on small institutions. In developing a final regulation, an overriding issue facing the agencies is how to balance the objectives of the statute relating to safety and soundness standards with the important need to avoid establishing unrealistic and overly burdensome standards that unnecessarily raise costs within the regulated community. Following review of the public comments, the Board is expected to take further action within the next two months.

Agency Contact: Roger T. Cole, Deputy Associate Director, Federal Reserve System, Division of Banking Supervision and Regulation, **202 452-2618**

RIN: 7100–AB52

FEDERAL RESERVE SYSTEM (FRS)

Final Rule Stage

4647. REGULATION: B - EQUAL CREDIT OPPORTUNITY (DOCKET NUMBER: R-0782)

Legal Authority: 12 USC 1691b

CFR Citation: 12 CFR 202

Legal Deadline: None

Abstract: Section 223 of the Federal Deposit Insurance Corporation Improvement Act of 1991 amended the Equal Credit Opportunity Act (ECOA) to require that upon written request a creditor must provide a credit applicant with a copy of the appraisal report used in connection with an application for a loan secured by a lien on residential real property. In addition, the enforcement provisions of the ECOA are amended to require the Federal financial supervisory agencies responsible for enforcing the ECOA to refer certain matters involving credit discrimination to the Department of Justice or the Department of Housing and Urban Development.

In December 1992, the Board issued for public comment proposed revisions to Regulation B that would implement the ECOA amendments (57 FR 57697, December 7, 1992). The proposal is not expected to have a substantial economic impact on small banks. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/07/92	57 FR 57697
Further Board action by	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Adrienne D. Hurt, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, **202 452-2412**

RIN: 7100–AB34

4648. REGULATION: E - ELECTRONIC FUND TRANSFERS (DOCKET NUMBER: R-0796)

Legal Authority: 12 USC 1693 et seq Electronic Fund Transfer Act

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: Regulation E implements the Electronic Fund Transfer Act, which establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfer services and of the institutions (including traditional depository institutions and other entities, whether or not they hold the consumer's account) that offer these services. In February 1993, the Board issued for public comment a proposal that would apply Regulation E to electronic benefit transfer (EBT) programs established by Federal, State, and local agencies to automate the delivery of government benefits to recipients (58 8714, February 17, 1993). EBT programs involve such benefits as Aid to Families with Dependent Children, food stamps, and Supplemental Security Income. The proposal sets forth limited modifications in regard to period account statements, which would not be required if other conditions were met. (The Board's consideration of other revisions to the existing

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regulation, under its Regulatory Improvement Program, is discussed in RIN: 7100-AA77.) This proposal would affect primarily government agencies that administer EBT programs, and would affect only indirectly (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	02/17/93	58 FR 8714
Further Board action by	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: most depository institutions and other private-sector entities. It is not anticipated that the proposed revisions would have a significant economic impact on small banks. Following review of the public comments, the Board is expected to take further action by mid-year.

Agency Contact: Dolores S. Smith, Associate Director, Federal Reserve System, Division of Consumer and Community Affairs, **202 452-2412**

RIN: 7100–AB47

4649. • REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTION IN THE FEDERAL RESERVE; REG.: K - INTERNATIONAL BANKING OPERATIONS; AND REG.: Y - BANK HOLDING COMPANIES (DOCKET NUMBER: R-0792)

Legal Authority: 12 USC 248(a)(1); 12 USC 625; 12 USC 1818; 12 USC 1844(c); 12 USC 3105(b)(2); 12 USC 3106(a); 12 USC 3108(a); 12 USC 3401 to 3422

CFR Citation: 12 CFR 208.20; 12 CFR 211.8; 12 CFR 225.4(g)

Legal Deadline: None

Abstract: In January 1993, an interagency task force of the Federal financial institutions regulatory agencies designed a uniform interagency criminal referral form to facilitate compliance with financial institutions' criminal activity reporting requirements, to enhance law enforcement agencies' ability to investigate and prosecute the matters reported in the criminal referrals, and to develop and maintain a new interagency database. This uniform criminal referral form will replace the various criminal referral forms that are currently being used by financial institutions. The purpose of the proposed rule, which has been issued for public comment, is to create a uniform, criminal referral reporting requirement for all domestic and foreign financial institutions operating in the United States (58 FR 3235, January 8, 1993). The proposed regulation would codify existing Board policy and procedures and would not impose any additional regulatory burden. Following review of the public comments, the Board expects to take further action within the next two months, two months.

Timetable:

Action	Date	FR Cite
Board requested public comment	01/08/93	58 FR 3235
Further Board action expected by	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Herbert A. Biern, Deputy Associate Director, Federal Reserve System, Division of Banking Supervision and Regulation, **202 452-2620**

RIN: 7100–AB60

4650. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0711)

Legal Authority: 12 USC 3331 et seq

CFR Citation: 12 CFR 225, subpart G

Legal Deadline: None

Abstract: In November 1990, the Board issued for public comment a proposed amendment to its real estate appraisal rule that would lower the dollar amount of transactions below which a certified or licensed appraiser would not be required (55 FR 49057, November 26, 1990). Currently, this amount is $100,000; the Board sought comment on a proposal to lower it to $50,000. At that time, the proposal would have conformed the Board's real estate appraisal rule to those of the other Federal financial institutions regulatory agencies. Since then, however, the other federal banking agencies have amended their rules to conform to the Board's $100,000 threshold level.

It is anticipated that the Board will take final action on this rule by April 1993. If the Board maintains the threshold level at $100,000, the impact on small businesses would remain unchanged as a result of final action on this rule. If the Board were to adopt a $50,000 threshold level, the change is expected to increase the costs of federally related transactions having a transaction value between $50,000 and $100,000. These costs will either have to be absorbed by the regulated institutions (cont)

Timetable:

Action	Date	FR Cite
Board requested comment	11/26/90	55 FR 49057
Further Board action by	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: or passed on to their customers.

Agency Contact: Terence P. Browne, Senior Attorney, Federal Reserve System, Legal Division, **202 452-3707**

RIN: 7100–AB20

4651. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0720)

Legal Authority: 12 USC 3331 et seq

CFR Citation: 12 CFR 225, subpart G

Legal Deadline: None

Abstract: In December 1990, the Board, along with the other Federal financial institutions regulatory agencies, issued an interim common rule and request for public comment regarding those applicable provisions of the Uniform Standards of Professional Appraisal Practice (USPAP) that are required to be incorporated into each agency's real estate appraisal rules (55 FR 53609, December 31, 1990). The provisions were published as an interim rule because the agencies' existing appraisal regulations already require compliance with the USPAP, as mandated by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

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The USPAP was undergoing revision when the agencies initially promulgated their appraisal regulations. This proposal will permit the agencies to consider and receive comment on the revisions to USPAP. It is not expected that the proposal will have a significant economic impact on a substantial number of small entities. Following review of the public comments and coordination with affected agencies, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested public comment	12/31/90	55 FR 53609
Further Board action expected by	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Christopher J. Bellini, Attorney, Federal Reserve System, Legal Division, **202 452-3269**

RIN: 7100–AB27

4652. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0787)

Legal Authority: PL 102-233, sec 618(a) RTC Ref., Restruc. & Improv. Act of 1991

CFR Citation: 12 CFR 208, app A; 12 CFR 225, app A

Legal Deadline: NPRM, Statutory, April 10, 1992.

Abstract: In order to lower the risk weight for certain presold residential construction loans from 100 percent to 50 percent so as to more accurately reflect the risk of these assets, the Federal Financial Institutions Examination Council (FFIEC), in February 1992, issued for public comment a proposed change to the instructions to the Reports of Condition and Income (Call Report) to include these loans in the definition of loans secured by one-to-four family residences (57 FR 4027, February 3, 1992). This change would place these assets in the 50 percent risk category under the Board's risk-based capital guidelines. It also would serve to implement section 618(a) of the RTC Refunding Act of 1991, which requires the Federal banking agencies to lower the risk weight on certain presold residential construction loans to 50 percent.

Subsequently, the legal staffs of the other Federal banking agencies have agreed to not amend the Call Report, but to implement the change of risk weight instead through a revision to their respective risk-based capital guidelines. Since the Federal Reserve cannot change the Call Report unilaterally and in (cont)

Timetable:

Action	Date	FR Cite
FFIEC issued proposed changes to Call Report	02/03/92	57 FR 4027
Board adopted interim rule	12/22/92	57 FR 62177
Further Board action by	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: order to achieve consistency with the other agencies, the Board, in December 1992, adopted an interim rule, with request for comment, amending the Board's risk-based capital guidelines to lower the risk weight for these assets and, thereby, implement the statutory requirement.

It is not anticipated that the revision will have a significant impact on a substantial number of small institutions. A lower risk category for presold residential construction loans may help some small organizations with their capital ratios, but the impact will be small. Following review of the public comments, the Board is expected to take further action with the next two months.

Agency Contact: Robert Motyka, Senior Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation, **202 452-3621**

RIN: 7100–AB49

4653. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0756)

Legal Authority: PL 102-233, sec 618(b) RTC Ref., Restruc. & Improv. Act of 1991

CFR Citation: 12 CFR 208, app A; 12 CFR 225, app A

Legal Deadline: NPRM, Statutory, April 10, 1992.

Abstract: In April 1992, the Board issued for public comment proposed modifications to its risk-based capital guidelines (57 FR 14362, April 20, 1992). The first proposed modification will implement section 618(b) of the RTC Refunding Act of 1991 requiring the Federal banking agencies to lower the risk weight for multifamily housing loans from 100 percent to 50 percent. The second proposed modification will lower the risk weight for certain collateralized transactions from 20 percent to 0 percent in order to better reflect the risk of such transactions. The latter proposal would place U.S. banking organizations on a more equal footing with foreign banks subject to the Basle Accord with regard to capital requirements for certain low-risk collateralized transactions.

It is not anticipated that the proposed revisions will have a significant impact on a substantial number of small institutions. A lower risk category for multifamily housing loans and certain collateralized transactions may help some small organizations with their capital ratios, but the impact will be small. Action on the implementation of (cont)

Timetable:

Action	Date	FR Cite
Board requested comment	04/20/92	57 FR 14362
Board adopted one of two modifications	12/30/92	57 FR 62180
Further Board action by	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: section 618(b) is expected within the next two months.

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In December 1992, following review of the public comments, the Board adopted the modification regarding certain collateralized transactions in substantially the form proposed (57 FR 62180, December 30, 1992).

Agency Contact: Robert Motyka, Senior Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation, 202 452-3621

RIN: 7100–AB53

4654. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0773)

Legal Authority: 12 USC 248(i); 12 USC 1844(b)

CFR Citation: 12 CFR 208; 12 CFR 225; 12 CFR 265

Legal Deadline: None

Abstract: In August 1992, the Board approved several proposals to reduce burden that is associated with the process for seeking Board approval for a variety of transactions (57 FR 39641, September 1, 1992). In particular, the Board agreed to: (1) establish certain procedures to limit extension of the pre-acceptance period for applications; (2) permit prospective applicants the opportunity to submit a pre-filing notice of intent to file an application; (3) eliminate the stock redemption notice requirement for bank holding companies that are and would remain well capitalized on a consolidated basis and in generally satisfactory condition following the redemption; (4) expand the authority of Reserve Banks to process all delegable applications without Board staff review; (5) modify the Board's delegation rules that pertain to competition and market concentration; (6) reduce redundant post-acceptance processing of Board action cases; and (7) increase monitoring of cases that require extended processing. In addition, the Board determined to invite comment on a proposal to establish a general consent procedure for investments in bank premises by State member banks. Section 24A of the Federal (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	09/01/92	57 FR 39641
Further Board action by	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Reserve Act requires State member banks to obtain the Board's approval prior to making investments in bank premises that would result in the bank's aggregate level of investments in bank premises to exceed the bank's capital stock account.

Finally, the Board determined to invite public comment on any other ways in which the burdens on applicants under the current regulation may be reduced in a manner consistent with the Board's responsibilities under applicable law.

These proposals are part of the Board's ongoing efforts to reduce regulatory burdens on financial institutions regulated by the Board and should not have a significant economic impact on small entities. Following review of the public comments, the Board is expected to take further action by mid-year.

Agency Contact: Terence F. Browne, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3707

RIN: 7100–AB55

4655. • REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0795)

Legal Authority: 12 USC 1844(b); 12 USC 3909

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: In February 1993, the Board issued for public comment a proposed limitation on deferred tax assets for risk-based and leverage capital purposes (58 FR 8007, February 11, 1993). This proposal is in response to the adoption, by the Financial Accounting Standards Board, of Statement No. 109 (FASB 109) which provides new accounting guidance on deferred tax assets. This proposal will affect the treatment of these assets for capital purposes for all State member banks and bank holding companies regardless of size. However, it is not expected that the proposal will have a significant economic impact on a substantial number of small banking organizations, as the vast majority of small banking organizations currently have very limited amounts of net deferred tax assets as a component of their capital structures. Following review of the public comments, the Board is expected to take further action within the next three months.

Timetable:

Action	Date	FR Cite
Board requested public comment	02/11/93	58 FR 8007
Further Board action by	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald A. Edwards, Jr., Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation, 202 452-2741

RIN: 7100–AB57

4656. REGULATION: K - INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0754)

Legal Authority: 12 USC 3105; 12 USC 3108

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In January 1993, following review of the public comments, the Board issued a final rule implementing sections 202-204 and 206 of title II of the Federal Deposit Insurance Corporation Improvement Act of 1991 which, among other things, require prior approval of the Board for the establishment of branches, agencies, commercial lending companies and representative offices by foreign banks in the United States (58 FR 6348, January 28, 1993). It is not expected that the final rule will have a significant economic impact on small institutions.

The Board also requested additional public comment on those portions of the final rule that deal with representative offices of foreign banks.

Further Board action is expected by mid-year.

Timetable:

Action	Date	FR Cite
Board issued an interim rule	04/15/92	57 FR 12992
Board issued a final rule and request for comment	01/28/93	58 FR 6348
Further Board action by	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann Misback, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3788

RIN: 7100–AB31

4657. REGULATION: K - INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0793)

Legal Authority: 12 USC 3105; 12 USC 3108

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In January 1993, the Board issued for public comment proposed amendments to Regulation K implementing section 202(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) with respect to the limitation on the powers of State branches and agencies of foreign banks (58 FR 513, January 6, 1993). Following review of the public comments and in consultation with the FDIC, the Board is expected to take further action within the next 6 months. It is not expected that a final rule would have a significant economic impact on small institutions.

With respect to implementation of section 214(a) of FDICIA, the President on October 28, 1992, signed a technical amendment to this section with respect to the deposit-taking activities of foreign banks (Pub. L. 102-550, 106 Stat. 3672 (October 28, 1992)). This amendment eliminated the need for rulemaking by the Board at this time.

Timetable:

Action	Date	FR Cite
Board requested public comment	01/06/93	58 FR 513
Further Board action by	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann Misback, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3788

RIN: 7100–AB46

4658. • REGULATION: O - LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS (DOCKET NUMBER: R-0785)

Legal Authority: PL 102-550, sec 955

CFR Citation: 12 CFR 215

Legal Deadline: None

Abstract: In December 1992, the Board issued for public comment a proposal to exempt three categories of collateralized loans from the aggregate insider lending limit under Regulation O and section 22(h) of the Federal Reserve Act (57 FR 61016, December 23, 1992). The exemptions are based on minimal risk of loss to the lending institution. The Board requested comments on these and other similar categories that might be exempted. The purpose of the exemptions is to make the aggregate insider lending limit more consistent with the single borrower lending limit, which contains the proposed exemptions and additional exemptions as well. The exemptions will apply to all member banks, regardless of size. However, for small banks, which may engage in substantial lending to directors, the exemptions may ease lending restraints more frequently. frequently.

In the course of amending Regulation O to implement the aggregate insider lending limit under the Federal Deposit Insurance Corporation Improvement Act of 1991, many commenters noted the discrepancy in the calculation of lending limits, and (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	12/23/92	57 FR 61016
Further Board action expected by	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Following review of the public comments the Board is expected to take further action within the next two months.

Agency Contact: Gordon L. Miller, Attorney, Federal Reserve System, Legal Division, 202 452-2534

RIN: 7100–AB59

4659. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0652)

Legal Authority: 12 USC 1843 Bank Holding Company Act; 12 USC 1844(b) Bank Holding Company Act

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: A provision of Regulation Y permits a State bank subsidiary of a bank holding company to engage through a nonbank subsidiary in any activity that is permissible under State law for the bank subsidiary itself, subject to the same limits as if the bank engages in the activity directly. (A similar rule applies to national bank subsidiaries regarding activities permissible for such banks under Federal law.) The Board received comments on this provision in connection with its general request for comments in May 1983 regarding the proposed revision of Regulation Y. Some of the commenters challenged the Board's authority to issue this provision, although it has been part of Regulation Y since 1971. In taking final action on the revision of Regulation Y, the Board deferred consideration of the comments on this provision and allowed the existing rule to remain in effect in the interim (49 FR 794, January 5, 1984).

In December 1988, the Board requested public comment regarding whether this rule, as it applies to nonbanking companies owned by State banks in a holding company system, continues to be valid and appropriate in light of enactment of the (cont)

Timetable:

Action	Date	FR Cite
Board requested comments	05/25/83	48 FR 23520
Board allows existing rule to remain in effect	01/05/84	49 FR 794
Board requested comments	12/05/88	53 FR 48915
Further Board action to be determined	10/00/93	

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Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Garn-St Germain Act and certain recent court decisions (53 FR 48915, December 5, 1988). The Board also held an informal public hearing on this matter on April 7, 1989. The Board has not proposed revising its current rule regarding subsidiaries of national banks in a holding company. A determination to reverse the Board's State bank rule could have an adverse impact on small banks that are subsidiaries of holding companies because they might be required to restructure their nonbanking activities or to take other action.

The issue of the validity of the Board's State bank rule was recently raised in litigation involving the permissibility of insurance activities of a nonbank subsidiary of Citicorp's Delaware bank. In that case, the U.S. Court of Appeals for the Second Circuit found that the Bank Holding Company Act does not apply to nonbank companies owned by holding company banks. The U.S. Supreme Court subsequently declined to review an appeal on this matter.

The Board has not determined what further action is appropriate.

Agency Contact: Scott G. Alvarez, Associate General Counsel, Federal Reserve System, Legal Division, 202 452-3583

RIN: 7100–AA41

4660. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0686)

Legal Authority: PL 101-73, 103 Stat 183

CFR Citation: 12 CFR 225, subpart H

Legal Deadline: None

Abstract: In February 1990, the Board approved issuing for public comment a proposed regulation, which implements section 914 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, requiring banks and bank holding companies to provide notice to the Federal Reserve System 30 days before adding any individual to the institution's board of directors or employing any individual as a senior executive officer under certain circumstances (55 FR 6787, February 27, 1990). Notice would be required if the institution is failing to meet minimum capital standards or is otherwise in a troubled condition, has undergone a change in control within the past two years, or has received a bank charter within the past two years. The regulation defines "senior executive officer," "troubled condition," and "change in control."

The proposal is not expected to have a significant economic impact on a substantial number of small business entities. State member banks and bank holding companies will be affected if they meet one of the criteria that triggers the notice requirements. Following review of public comments, the Board is expected (cont)

Timetable:

Action	Date	FR Cite
Board approved proposal for comment	02/27/90	55 FR 6787
Further Board action by	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: to take further action by mid-year.

Agency Contact: Robert Frierson, Managing Senior Counsel, Federal Reserve System, Legal Division, 202 452-3711

RIN: 7100–AB07

4661. • FEDERAL RESERVE BANK SERVICES (DOCKET NUMBER: R-0778)

Legal Authority: 12 USC 248(i); 12 USC 240(j); 12 USC 248(o); 12 USC 342; 12 USC 464

CFR Citation: None

Legal Deadline: None

Abstract: In October 1992, the Board requested comment on a proposal to change the opening time for the Fedwire funds transfer service from 8:30 a.m. Eastern Time (ET) to 6:30 a.m. ET (57 FR 47080, October 14, 1992). The earlier opening time would facilitate changes to the settlement practices of the futures and options markets that would reduce risk in those markets, and it would also permit a reduction in the risk associated with the settlement of foreign exchange transactions.

The Board also requested comment on whether the Fedwire securities transfer service should open concurrently with the funds service at 6:30 a.m. ET and on the costs and benefits of extended Fedwire hours for depository institutions, their customers, and the financial markets.

Small entities should not be affected by this proposal, because they would be unlikely to choose to open their Fedwire operations earlier in the morning and would not incur increased costs. Following review of public comments, the Board is expected to take further action by mid-1993.

Timetable:

Action	Date	FR Cite
Board requested public comment	10/14/92	57 FR 47080
Further Board action by	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gayle Brett, Manager, Federal Reserve System, Division of Reserve Bank Operations and Payment Systems, 202 452-2934

RIN: 7100–AB61

4662. PROPOSALS TO MODIFY THE PAYMENTS SYSTEM RISK REDUCTION PROGRAM (DOCKET NUMBERS: R-0661, R-0668)

Legal Authority: 12 USC 221 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In June 1989, the Board requested comment on several proposals that would modify its payments system risk reduction program including pricing and measurement of daylight overdrafts (R-0668). In January 1991, the Board issued a revised proposal on measuring daylight overdrafts (see Docket Number: R-0721). Following review of the public comments, the Board has adopted its pricing proposal, with minor variations, as well as an overdraft measurement procedure (57 FR 47084, October 14, 1992). In addition, in March 1989, the Board requested comment on changes in the way the Federal Reserve Banks treat automated clearing house transactions (ACH) (Docket Number: R-0661, 54 FR 8822, March 2, 1989). The Board is expected to take further action regarding ACH debit transactions and to seek public comment on a new ACH credit transaction proposal within the next four months.

It is not expected that these actions will have a significant economic impact on a substantial number of small entities because small entities do not usually incur large daylight overdrafts, and many small entities are exempt from filing for an (cont)

Timetable:

Action	Date	FR Cite
Board requested comment	06/21/89	54 FR 26090
Board adopted a pricing proposal	10/14/92	57 FR 47084
Further action on ACH proposal by	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: overdraft cap and will be exempt from pricing under the Board's pricing program.

Agency Contact: Florence M. Young, Assistant Director, Federal Reserve System, Division of Federal Reserve Bank Operations and Payment Systems, 202 452-3955

RIN: 7100–AA76

4663. PROPOSALS TO MODIFY THE PAYMENTS SYSTEM RISK REDUCTION PROGRAM (DOCKET NUMBER: R-0693)

Legal Authority: 12 USC 221 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In May 1990, as part of its payments system risk reduction program, the Board requested comment on a proposed risk reduction policy that would prohibit bankers' banks and Edge corporations from incurring funds or book-entry overdrafts on Fedwire (55 FR 22086, May 31, 1990). The Board proposed that Reserve Banks assess a penalty fee when these or other institutions with imposed zero caps incur inadvertent daylight or overnight overdrafts on Fedwire.

It is not expected that these proposals would have a significant economic impact on a substantial number of small entities because they do not usually participate in large-dollar wire transfer systems. Furthermore, this proposal is limited to a small subset of Fedwire participants.

Following review of the public comments, the Board is expected to take further action by mid-year.

Timetable:

Action	Date	FR Cite
Board requested comment	05/31/90	55 FR 22086
Further Board action by	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Martin, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3198

RIN: 7100–AB17

4664. REGULATION: C - HOME MORTGAGE DISCLOSURE (DOCKET NUMBER: R-0771)

Legal Authority: 12 USC 2804; 12 USC 2808

CFR Citation: 12 CFR 203

Legal Deadline: None

Abstract: Section 224 of the Federal Deposit Insurance Corporation Improvement Act of 1991 changes the exemption provisions in section 309 of the Home Mortgage Disclosure Act. Section 224 eliminates the current exemption for nondepository mortgage lenders with assets of $10 million or less; and directs the Board, in consultation with the U.S. Department of Housing and Urban Development, to instead exempt nondepository mortgage lenders that are "comparable within their respective industries" to depository institutions that are exempt. In July 1992, the Board approved issuing for public comment proposed revisions to Regulation C to implement section 224. The Board proposed to amend Regulation C to cover any nondepository mortgage lender that originated 100 or more home purchase loans in the preceding calendar year, even if the lender's assets were $10 million or less.

In December 1992, following review of the public comments, the Board adopted a final rule in substantially the form proposed, except that refinancing of home purchase loans is also included in calculating the 100-loan test (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	08/12/92	57 FR 36024
Board adopted final rule	12/02/92	57 FR 56963

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: (57 FR 56963, December 2, 1992).

The revisions are expected to have an impact on small institutions. Some nondepository mortgage lenders with assets under $10 million that now are exempt will be covered by Regulation C under the final exemption rules, but the number and size of such lenders are not presently known.

Agency Contact: John C. Wood, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-2412

RIN: 7100–AB36

4665. REGULATION: D - RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (DOCKET NUMBER: R-0774)

Legal Authority: 12 USC 461 et seq

CFR Citation: 12 CFR 204

Legal Deadline: None

Abstract: In September 1992, as part of its program to reduce regulatory burden, the Board amended Regulation D to eliminate the requirement for member banks to obtain prior approval before issuing subordinated debt that is considered to be Tier 2 capital rather than a deposit (57 FR 40597, September

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4, 1992). At the same time, in order to ensure that state member banks and bank holding companies fully understand the requirements that would permit subordinated debt and mandatory convertible debt to be considered Tier 2 capital, the Board issued an interpretation of its risk-based capital guidelines in Regulations H and Y. The revisions are not expected to have a significant economic impact on small entities.

Timetable:

Action	Date	FR Cite
Board adopted amendment	09/04/92	57 FR 40587

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patrick J. McDivitt, Attorney, Federal Reserve System, Legal Division, 202 452-3818

RIN: 7100–AB45

4666. REGULATION: F - LIMITATIONS ON INTERBANK LIABILITIES (DOCKET NUMBER: R-0769)

Legal Authority: 12 USC 371b-2

CFR Citation: 12 CFR 206

Legal Deadline: Final, Statutory, December 19, 1992.

Abstract: Section 308 of the Federal Deposit Insurance Corporation Improvement Act of 1991, which adds a new section 23 to the Federal Reserve Act, requires the Board to develop standards to limit the exposure of FDIC-insured depository institutions to other depository institutions. In July 1992, the Board issued for public comment a proposed rule that would have required insured depository institutions to develop and implement internal procedures to evaluate and control exposure to the depository institutions with which they do business. The proposed rule also would have established limits for daily overnight credit exposure to individual depository institutions, with different levels of exposure permitted based on the capital levels of the institutions to which the bank is exposed.

In December 1992, following review of the public comments, the Board adopted a final rule that requires insured depository institutions to develop internal policies and procedures concerning exposure to other depository institutions (57 FR 60086, December 18, 1992). The final rule also limits credit exposure to an individual depository institution that is (cont)

Timetable:

Action	Date	FR Cite
Board requested comment	07/20/92	57 FR 31974
Board adopted proposed rule	12/18/92	57 FR 60086

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: less than adequately capitalized, as defined in the final rule. The rule applies to all FDIC-insured depository institutions, including approximately 8,500 institutions with assets of less than $100 million.

Agency Contact: Oliver Ireland, Associate General Counsel, Federal Reserve System, Legal Division, 202 452-3625

RIN: 7100–AB37

4667. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-0763)

Legal Authority: 12 USC 1831o

CFR Citation: 12 CFR 208

Legal Deadline: Final, Statutory, September 19, 1992.

Abstract: Section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991 requires each Federal banking agency to take prompt regulatory action to address problems at the banks it regulates. Pursuant to statutory requirement, the Board, in July 1992, issued a notice of proposed rulemaking regarding application of prompt corrective action to State member banks. The proposed regulation adopts definitions of the capital measures and capital thresholds that trigger supervisory responses; establishes a schedule for filing and review of capital restoration plans required to be filed by undercapitalized institutions; and establishes procedures for administrative review of discretionary agency actions taken pursuant to prompt corrective action. In September 1992, following review of the public comments, the Board adopted the proposal in substantially the form proposed. The other banking agencies adopted identical rules for the institutions that they regulate. This rule will apply to banks of all sizes, including small banks that have capital levels below the Board's minimum capital (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	07/01/92	57 FR 29226
Board adopted proposals	09/29/92	57 FR 44866

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: adequacy guidelines. However, it is not anticipated that the rule will have a significant economic impact on a substantial number of small banks.

Agency Contact: Scott G. Alvarez, Associate General Counsel, Federal Reserve System, Legal Division, 202 452-3583

RIN: 7100–AB38

4668. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0765)

Legal Authority: 12 USC 371(a); 12 USC 1828(o)

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: Final, Statutory, September 19, 1992.

Abstract: Section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) contains an amendment to the Federal Deposit Insurance Act and a conforming amendment to the Federal Reserve Act requiring the Federal banking agencies to adopt uniform regulations prescribing standards for real estate lending. The FDICIA defines real estate lending as extensions of credit secured by liens on interests in real estate or made for the purpose of financing the construction of a building or other improvements to real estate. The agencies may differentiate among types of loans as may be required by Federal statute, or as may be warranted by risk to the deposit insurance fund, or by safety and soundness considerations. In July 1992, the Board and other banking agencies issued a joint notice of proposed rulemaking. In

December 1992, following review of the public comments, the Board and other agencies decided against adopting specific loan-to-value ratios or ranges in the final regulation. Instead, the agencies adopted a final rule that prescribes a number of standards with regard to real estate lending (57 FR 62889, December 31, 1992). (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	07/16/92	57 FR 31594
Board adopted proposed rules	12/13/92	57 FR 62889

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: In order to supplement and clarify the standards stated in the final rule, the agencies adopted Interagency Guidelines for Real Estate Lending Policies. The Guidelines describe the criteria and specific factors that the agencies expect insured institutions to consider in establishing their real estate lending policies, including guidance on loan-to-value limits for various categories of real estate loans.

With respect to the impact on small institutions, the agencies concluded that the final rule will not have a disparate impact on smaller depository institutions, in part because such lenders are likely to make fewer loans, or a narrower range of loans, than larger institutions.

Agency Contact: Fred Struble, Associate Director, Federal Reserve System, Division of Banking Supervision and Regulation, 202 452-3794

RIN: 7100–AB42

4669. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0748)

Legal Authority: PL 102-242, sec 475 Fed Dep. Ins. Corp. Improvement Act of 1991

CFR Citation: 12 CFR 208, app A; 12 CFR 225, app A

Legal Deadline: None

Abstract: In January 1992, the Board approved issuing for public comment proposed revisions to Regulation H, Appendix A and Regulation Y, Appendix A that will provide guidance on the regulatory capital treatment of identifiable intangible assets for State member banks and bank holding companies (57 FR 6563, February 26, 1992). The proposal, developed in coordination with the FDIC, OCC, and OTS, would implement section 475 of the Federal Deposit Insurance Corporation Improvement Act of 1991, which requires each Federal banking agency to determine the capital treatment of purchased mortgage servicing rights. The proposed revisions also are aimed at achieving uniformity in the treatment of identifiable intangible assets among the Federal banking agencies.

In December 1992, following review of the public comments, the Board adopted the revisions in substantially the form proposed (58 FR 7973, February 11, 1993). It is not anticipated that the proposed revisions will have a significant impact on a substantial number of small institutions, the vast majority of which have few identifiable intangible assets.

Timetable:

Action	Date	FR Cite
Board approved requesting comment	02/26/92	57 FR 65632
Board adopted proposal	02/11/93	58 FR 7973

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Norah Barger, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation, 202 452-2402

RIN: 7100–AB30

4670. REGULATION: J - COLLECTION OF CHECKS AND OTHER ITEMS AND WIRE TRANSFERS OF FUNDS BY FEDERAL RESERVE BANKS (DOCKET NUMBER: R-0722)

Legal Authority: 12 USC 248(i); 12 USC 248(j); 12 USC 248(o); 12 USC 342; 12 USC 360; 12 USC 464; 12 USC 4008

CFR Citation: 12 CFR 210

Legal Deadline: None

Abstract: In January 1991, the Board requested comment on a proposed amendment to Regulation J to require paying banks that receive presentment of checks from a Federal Reserve Bank to make the proceeds of settlement for those checks available to the Reserve Bank by as early as one hour after receipt of the checks. Following review of the public comments, the Board adopted the amendment substantially as proposed (57 FR 46950, October 14, 1992). This amendment is necessary to implement the proposed daylight overdraft measurement procedure under the Board's payments system risk reduction program. (See Docket Number: R-0721.)

It is not expected that this action will have a significant economic impact on a substantial number of small entities because small entities do not usually incur large daylight overdrafts, and many small entities are exempt from filing for an overdraft cap and will be exempt from pricing under the Board's pricing program.

Timetable:

Action	Date	FR Cite
Board requested comment	01/28/91	56 FR 3047
Board adopted amendments	10/14/92	57 FR 46950

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Martin, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3198

RIN: 7100–AB21

4671. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL; AND RULES OF PROCEDURE (DOCKET NUMBER: R-0760)

Legal Authority: 12 USC 552(a)(1)

CFR Citation: 12 CFR 225; 12 CFR 262

Legal Deadline: None

Abstract: The Board's Rules require an applicant to publish public notice for a broad variety of applications, almost all of which are also subject to the Community Reinvestment Act. With few exceptions, notice is statutorily required to be published for these applications. Notice is generally given by publishing in a newspaper of general circulation in the affected community or communities on the

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same day of two consecutive weeks. In June 1992, the Board approved issuing for public comment a proposal to reduce from twice to once the number of times notice must be published in a newspaper. The proposed rule would effectively halve the cost of publishing notice of an application. In addition to the remaining notice of publication in the newspaper, the public would continue to be made aware of pending applications through various other sources including public announcement by the applicant, published notice in the Federal Register, and weekly publications by both the Board and each Reserve Bank which list, at a minimum, the applications received and acted upon involving banking organizations in the respective jurisdictions. (cont)

Timetable:

Action	Date	FR Cite
Board approved proposal for comment	06/29/92	57 FR 28807
Board adopted proposal	09/11/92	57 FR 41641

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: In August 1992, following review of the public comments, the Board adopted the proposed rule with no changes (57 FR 41641, September 11, 1992).

The final rule is not expected to have a significant economic impact on a substantial number of small business entities. The amendments would reduce certain regulatory burdens for all depository institutions, reduce certain burdens for small depository institutions, and have no particular adverse effect on other small entities.

Agency Contact: Deborah M. Awai, Attorney, Federal Reserve System, Legal Division, 202 452-3778

RIN: 7100–AB48

4672. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0664)

Legal Authority: 12 USC 1843(c)(8)

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: In December 1988, the Board requested public comment on an application by a bank holding company to provide armored car transportation services to nonaffiliated customers and on whether the proposed armored car activities may be deemed to be closely related to banking and a proper incident thereto for purposes of section 4(c)(8) of the Bank Holding Company Act (53 FR 50292, December 14, 1988).

The National Armored Car Association submitted comments in opposition to the application and requested a hearing on whether the proposal would meet section 4(c)(8) of the Bank Holding Company Act. A formal, public hearing before a hearing officer was held on June 16 and July 11, 1989, at the offices of the Board in Washington, DC. On January 23, 1990, the hearing officer recommended that the application be denied, based on his determination that the proposed armored car services were not closely related to banking under section 4(c)(8). On June 18, 1990, the Board reversed this finding and remanded the case to the hearing officer for a recommended decision on whether the proposed services were a "proper incident" to banking and (cont)

Timetable:

Action	Date	FR Cite
Board issued proposal for comment	12/14/88	53 FR 50292
Board denied application	02/11/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: whether they constitute illegal branch banking. After two days of additional hearings, the administrative law judge filed a supplemental recommended decision, again recommending denial of the application. In February 1993, the Board denied the application, because the applicant failed to establish that its proposal was a "proper incident" to banking under section 4(c)(8) of the Bank Holding Company Act.

Agency Contact: Katherine H. Wheatley, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3779

RIN: 7100–AB03

4673. REGULATION: CC - AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-0723)

Legal Authority: 12 USC 4008

CFR Citation: 12 CFR 229

Legal Deadline: None

Abstract: In February 1991, the Board published for comment a proposed amendment to Regulation CC to require paying banks to provide same-day settlement for checks presented by 8:00 a.m. local time at specified locations. The Board proposed to eliminate presentment fees for these checks and thereby facilitate their collection, consistent with the provisions of the Expedited Funds Availability Act Following consideration of the public comments, the Board adopted a modified version of its proposal (57 FR 46956, October 14, 1992).

As a secondary effect of the amendment, small banks may experience increased check collection fees, over the long run, as volume shifts from the Federal Reserve to the private sector. However, because the primary purpose of the amendment is to increase the efficiency of the check collection process, to exclude small banks from the requirement of making same-day settlement would be counter to the chief objective of the amendment.

Timetable:

Action	Date	FR Cite
Board requested comment	02/06/91	56 FR 4743
Board adopted proposal	10/14/92	57 FR 46956

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stephanie Martin, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3198

RIN: 7100–AB22

4674. REGULATION: DD - TRUTH IN SAVINGS (DOCKET NUMBER: R-0753)

Legal Authority: 12 USC 4308

CFR Citation: 12 CFR 230

Legal Deadline: Final, Statutory, September 19, 1992.

Abstract: Sections 261-275 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Truth in Savings Act) require depository institutions to provide a schedule of terms, rates and fees for deposit accounts offered by the institution. The law also sets forth rules for advertisements for deposit accounts. In April 1992, the Board published for comment a proposal to implement the law. In September 1992, following review of the public comments, the Board adopted the regulations substantially as proposed, with certain technical modifications (57 FR 43337, September 21, 1992).

The regulations apply to all depository institutions (both large and small). The impact on small institutions will depend upon the extent of the disclosures and the options for compliance offered by the regulations; the regulations include model forms to ease compliance burdens on the institutions somewhat.

Timetable:

Action	Date	FR Cite
Board requested comment	04/13/92	57 FR 12735
Board issued final regulation	09/21/92	57 FR 43337

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Leonard Chanin, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-3667

RIN: 7100–AB43

4675. PROPOSAL TO MODIFY THE PAYMENTS SYSTEM RISK REDUCTION PROGRAM (DOCKET NUMBER: R-0721)

Legal Authority: 12 USC 21 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In January 1991, the Board requested comment on a proposed method for posting debits and credits to depository institutions' accounts at Federal Reserve Banks in order to measure daylight overdrafts accurately under the Board's payments system risk reduction program. Accurate measurement of daylight overdrafts will be necessary in order to assess fees for daylight overdrafts. The overdraft measurement proposal was a revision of the proposal issued for comment in June 1989 (54 FR 26090, June 21, 1989). Following review of public comments, the Board adopted a variation of its 1991 measurement proposal (57 FR 47093, October 14, 1992).

It is not expected that this action will have a significant economic impact on a substantial number of small entities because small entities do not usually incur large daylight overdrafts, and many small entities are exempt from filing for an overdraft cap and will be exempt from pricing under the Board's pricing program.

Timetable:

Action	Date	FR Cite
Board requested comment	01/28/91	56 FR 3098
Board adopted proposal	10/14/92	57 FR 47093

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey C. Marquardt, Assistant Director, Federal Reserve System, Division of Reserve Bank Operations and Payment Systems, 202 452-2360

RIN: 7100–AB18

4676. TRANSACTIONS WITH AFFILIATES (DOCKET NUMBER: R-0762)

Legal Authority: 12 USC 371c(e)(2)

CFR Citation: 12 CFR 250.241

Legal Deadline: None

Abstract: In September 1992, following review of the public comments, the Board adopted a rule to exempt from section 23A of the Federal Reserve Act the transfer of assets and liabilities between affiliated insured depository institutions when the transfer is part of a merger, consolidation or purchase of all or substantially all of the assets of an affiliated insured depository institution (57 FR 41643, September 11, 1992). The proposed exemption would be available only for transactions that are approved by the resulting insured depository institution's primary regulator under the Bank Merger Act The final rule did not require that only one of the insured institutions continue to operate as was proposed in the initial rulemaking.

The proposal is not expected to have a significant economic impact on a substantial number of small business entities. The exemption is available by regulation to affiliated insured depository institutions, and transactions that meet the proposed criteria do not require additional Board review.

Timetable:

Action	Date	FR Cite
Board issued proposal for comment	06/29/92	57 FR 28809
Board adopted proposal	09/11/92	57 FR 41643

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher J. Bellini, Attorney, Federal Reserve System, Legal Division, 202 452-3269

RIN: 7100–AB54

[FR Doc. 93-5056 Filed 04-23-93; 8:45 am]

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Part LIV

Federal Trade Commission

Semiannual Regulatory Agenda

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FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and section 610(c) of the Regulatory Flexibility Act, 5 U.S.C. 610(c). Each projected date reflects an assessment by the FTC staff of the likelihood that the specified event will occur during the coming year. No Commission determination on the need for or the substance of a trade regulation rule or any other procedural option should be inferred from the notation of projected events in this agenda.

Several agenda items concern rulemaking proceedings that may affect a substantial number of small businesses as that term is used in the Regulatory Flexibility Act. Whether any such proceeding is likely to have a significant economic impact on such entities will depend upon the Commission's final determinations respecting the need for and the substance of a trade regulation rule.

Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff based upon information now available. These views should not be regarded as a final staff position nor should they be attributed to the Commission itself. The Commission will independently address the issues presented on the rulemaking record in each proceeding.

Agenda items include the projected timing of certain future actions. In most instances, the dates of future events are listed by month, not by a specific day. Acquisition of new information, change of circumstances, or changes in the law may alter the information set forth in this agenda.

In addition to these agenda items, the Commission has determined to conduct a systematic review of all current FTC regulations and guides on a recurring 10-year cycle. This review will be modeled on the review conducted under the Regulatory Flexibility Act Review process and will be a permanent feature of the Commission's regulatory oversight process.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the agency contact person listed for each particular proceeding.

By direction of the Commission.

Donald S. Clark,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4677	Amended Federal Deposit Insurance Act	3084-AA44
4678	Regulatory Review	3084-AA47

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4679	Review of the Funeral Industry Practices Rule	3084-AA05
4680	Mail Order Merchandise	3084-AA19
4681	Review of the Premerger Notification Rules and Report Form	3084-AA23
4682	Games of Chance in the Food Retailing and Gasoline Industries Rule	3084-AA24
4683	Appliance Labeling Rule—Energy Policy and Conservation Act	3084-AA26
4684	Franchise Rule	3084-AA38
4685	Octane Certification and Posting Rule	3084-AA45
4686	Fair Packaging and Labeling Act Regulations	3084-AA46
4687	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084-AA48
4688	Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992	3084-AA49

FEDERAL TRADE COMMISSION (FTC) — Prerule Stage

4677. AMENDED FEDERAL DEPOSIT INSURANCE ACT

Significance: Agency Priority

Legal Authority: 12 USC 1811 et seq, Federal Deposit Insurance Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On December 19, 1991, the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. No. 102-242, 105 Stat. 2236, 12 USC 1811, was signed into law. This law assigns to the FTC new responsibilities for certain non-federally insured depository institutions (DIs) and private deposit insurers of such DIs. The law imposes certain disclosure requirements on DIs, requires private deposit insurers to obtain annual audits from independent auditors using generally accepted accounting techniques, and requires private deposit insurers to file copies of the annual audit reports with each DI they insure and with each state in which such DIs receive deposits. DIs must also provide copies of their insurer's audit reports to current or prospective customers upon request. The FTC is required to prescribe, by regulation or order, the manner and content of three affirmative disclosures required of DIs that lack Federal deposit insurance. Such DIs must: (1) include in all periodic account statements and certain other documents a notice that the institution is not federally insured and that the Federal government does not guarantee that depositors "will get back their money" if the institution (cont)

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State

Additional Information: ABSTRACT CONT: fails; (2) include such a notice that the DI is not federally insured in all advertising and at each place where deposits are normally received; and (3) receive deposits only for persons who have signed a written acknowledgment that the institution is not federally insured and that the Federal government does not guarantee that such persons "will get back their money" if the institution fails. However, on October 6, 1992, the Departments of Commerce, Justice, and State, The Judiciary, and Related Agencies Appropriations Act, 1993, Pub. L. No. 102-393, 106 Stat. 1828, was signed into law. This law, which contains the Commission's appropriation for fiscal year 1993, provides that none of the funds made available to the Commission shall be available for expenses authorized by Section 151 of the FDICIA, unless legislation amending Section 151 of FDICIA is enacted into law during fiscal year 1993 and only upon notification to the Appropriations Committees. As a result, at present, implementation and enforcement of FDICIA by the Commission are on hold. Section 151 of FDICIA nonetheless continues to be in effect with respect to all affected entities.

Agency Contact: Carole Reynolds, Division of Credit Practices, Federal Trade Commission, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3230

RIN: 3084–AA44

4678. ● REGULATORY REVIEW

Significance: Agency Priority

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 41 et seq

Legal Deadline: None

Abstract: The Commission is conducting a ten-year review of current rules and guides to identify any that should be modified or rescinded. At the beginning of each year, the Commission will publish a notice in the Federal Register listing the specific rules and guides to be reviewed during that year. See 58 FR 11554 (February 26, 1993). During the year, the Commission will publish separate notices in the Federal Register for each such rule or guide, soliciting comments about its costs and benefits and regulatory and economic impact. Where rulemaking timetables have been established for such items, they are included in this Agenda. However, no determination about whether to modify or rescind a rule, regulation, guide or interpretation or any other procedural option should be inferred from the Commission's decision to publish a request for comments. In certain instances, the reviews will also address other specific matters or issues, such as reviews mandated by the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Flexibility Act, 5 USC 601 et. seq.

Agency Contact: Kent Howerton, Division of Enforcement, Federal Trade Commission, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3013

RIN: 3084–AA47

FEDERAL TRADE COMMISSION (FTC) — Proposed Rule Stage

4679. REVIEW OF THE FUNERAL INDUSTRY PRACTICES RULE

Legal Authority: 15 USC 45; 15 USC 46(g); 15 USC 57(a)

CFR Citation: 16 CFR 453

Legal Deadline: None

Abstract: The Funeral Industry Practices Rule, which became fully effective on April 30, 1984, seeks to increase consumer access to accurate information about prices and legal requirements prior to and at the time of purchase of funeral goods and services. The rule: (1) requires funeral directors to provide consumers with written itemized pre-sale disclosures; (2) prohibits misrepresentation of legal and cemetery requirements and the preservative or protective value of embalming, caskets, and vaults; (3) prohibits funeral directors from requiring a casket for cremations, or any other tie-in arrangements; (4) prohibits funeral directors from charging for goods and services not specifically ordered, such as embalming, unless required by law; and (5) requires funeral directors to give, on request, price information over the telephone. The Rule provides that no later than four years after its effective date, the Commission will begin a rulemaking proceeding to determine whether the Rule should be amended or terminated. (cont)

Timetable:

Action	Date	FR Cite
Rule Promulgated	09/24/82	47 FR 42260
Prohibitions Effective Date	01/01/84	
Affirmative Requirements Effective Date	04/30/84	
ANPRM	12/09/87	52 FR 46706
NPRM	05/31/88	53 FR 19864
Hearings Ended	02/03/89	
Staff Report	06/29/90	
FR Notice Inviting Public Comment	07/30/90	55 FR 30925
Presiding Officer's Report	07/30/90	55 FR 30925
Comment Period End	10/15/90	

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Final Staff Recommendation to Commission	06/20/91
Oral Presentation to Commission	11/21/91
Initial Commission Vote	01/28/93
Commission Vote to Promulgate	08/00/93

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The Commission issued the Notice of Proposed Rulemaking for public comment and held public hearings in the cities of Washington, Chicago, and San Francisco. The staff's recommendations and presiding officer's report were published, and public comments on those reports were submitted. The staff submitted its final recommendation to the Commission, which heard oral presentations by interested parties. On January 28, 1993, the Commission tentatively approved the amended Rule. The Commission's action was made tentative to accommodate the staff's need to draft a Statement of Basis and Purpose for publication with the final rule. Once the Commission makes its final decision on the proposed amendments and approves the Statement of Basis and Purpose, they will be published in the Federal Register. The amendments will become effective six months after the date of publication.

Agency Contact: Matthew Daynard, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3291

RIN: 3084–AA05

4680. MAIL ORDER MERCHANDISE

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 435

Legal Deadline: None

Abstract: The Commission's Mail Order Merchandise Rule requires mail order sellers to possess a reasonable basis for any claims made concerning shipping dates and, in the absence of any specifically stated date, to ship the ordered merchandise within thirty (30) days of receipt of an order. In the event of delays in shipment, the rule establishes notification procedures whereby buyers have the option either to agree to the delay or to cancel the order and receive a prompt refund. On October 11, 1989, the Commission commenced a rulemaking to amend the rule to cover orders placed by telephone, and to change the rule's definition of "properly completed order" for credit sales to the time the seller receives sufficient information to charge the buyer's account. The Notice of Proposed Rulemaking was published on November 28, 1989. The deadline for filing written comments was January 29, 1990. Public hearings were held on March 28, 1990, and April 19, 1990. The record closed on September 10, 1991. Both reports recommended that the Commission amend the rule to cover telephone order merchandise and change the definition of "properly completed order" as proposed. On September 10, 1991, interested (cont)

Timetable:

Action	Date	FR Cite
Rule Promulgated	10/22/75	40 FR 49492
Begin Reg Flex Act Review	10/20/83	
End Reg Flex Review	06/10/86	51 FR 20991
ANPRM	10/27/88	53 FR 43448
NPRM Published	11/28/89	54 FR 49060
Staff Report Placed on Public Record	07/19/91	
Notice of Reports and Invitation to Comment	09/10/91	56 FR 46133
Presiding Officer's Report on Public Record	09/10/91	
Post-Record Comments Placed on Public Record	11/08/91	
Final Staff Recommendations to Commission	07/02/92	
Oral Presentation by Interested Parties	11/03/92	
Commission Consideration of Staff Recommendations	11/18/92	
Commission Vote Re Delation of Rebuttable Presumptions	03/01/93	
Staff Submission of Draft Statement of Basis and Purposes	04/00/93	
Final Action	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: parties were invited to comment. Five post-record comments were placed on the public record on November 8, 1991. After summarizing the comments, staff sent its final recommendation to the Commission on July 2, 1992. Two interested parties made oral presentations before the Commission on November 3, 1992. On November 18, 1992, and March 1, 1993, the Commission determined to tentatively amend the Mail Order Rule to cover telephone-order merchandise; to define the term "telephone" to include any direct or indirect use of the telephone to order merchandise; to amend the definition of "receipt of a properly completed order" for credit sales to refer to the time sufficient information is received to charge the buyer's account; to increase the shipment or notice deadline for orders accompanied by applications for first-time credit from 30 to 50 days; to delete the rebuttable presumptions from section 435.1(b)(3); and to direct the staff to prepare within 120 days a draft Statement of Basis and Purposes.

Agency Contact: Joel N. Brewer, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-2967

RIN: 3084–AA19

4681. REVIEW OF THE PREMERGER NOTIFICATION RULES AND REPORT FORM

Significance: Agency Priority

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801 to 803

Legal Deadline: None

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if

consummated, violate the antitrust laws. These rules are continually reviewed in order to improve the program's effectiveness and reduce the paperwork burden on the business community. The Commission plans to propose modifications to the Premerger Notification and Report form during the next fiscal year. In September 1985, The Commission proposed to amend the Rule's treatment of acquisition (cont)

Timetable:

Action	Date	FR Cite
Begin Review	09/30/81	
NPRM – Ordinary Course	09/24/85	50 FR 38742
NPRM Ord. Course	06/00/93	
NPRM – HSR Form	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: of goods or realty made in the ordinary course of business. The Commission will reconsider what action, if any, to take on possible amendments regarding such acquisitions. The consideration of amendments regarding mergers and consolidations of non-profit organizations has been postponed until later this year.

Agency Contact: Roberta S. Baruch, Deputy Assistant Director, Federal Trade Commission, Bureau of Competition, Washington, DC 20580, 202 326-2861

RIN: 3084–AA23

4682. GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES RULE

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 419

Legal Deadline: None

Abstract: The Commission's trade regulation rule concerning games of chance became effective on October 17, 1969. The rule establishes requirements for food and gasoline retailers in conducting and advertising games of chance by requiring disclosure of odds-of-winning and prize information in broadcast and print advertisements, as well as in point of sale information. In January, 1983, the Commission granted a temporary partial exemption to allow supermarkets and gas stations to advertise their games on radio and television without disclosing full information on prizes and odds-of-winning. In addition, the Commission also published an Advance Notice of Proposed Rulemaking on whether to make the broadcast exemption permanent. Finally, the Commission has proposed to reduce the recordkeeping requirements of the rule from three years to one year in keeping with the goals of the Paperwork Reduction Act, and requested public comment on other possible areas where amendments to the rule may be appropriate. The rule benefits consumers by allowing contestants to enter games of chance with full knowledge of all material information to enable equal competition for (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	08/19/69	34 FR 13302
ANPRM	01/04/83	48 FR 265
Temporary Partial Exemption	01/10/83	48 FR 1046
NPRM	07/07/88	53 FR 25503
Presiding Officer's Report	04/00/93	
Staff Report	06/00/93	
Commission Consideration of Staff Recommendations	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: prizes. The major costs to industry are the possible burdensomeness of the electronic media disclosure and recordkeeping provisions of the rule, both of which have been reconsidered. The Commission issued an NPRM on July 7, 1988 to consider amendments that would reduce the burden of the rule's recordkeeping and disclosure requirements.

Agency Contact: John M. Mendenhall, Federal Trade Commission, Cleveland Regional Office, Suite 520A, 668 Euclid Ave., Cleveland, Ohio 44114, 216 522-4207

RIN: 3084–AA24

4683. APPLIANCE LABELING RULE—ENERGY POLICY AND CONSERVATION ACT

Legal Authority: Sec 324 of the Energy Policy and Conservation Act; PL 94-163 (1975)

CFR Citation: 16 CFR 305

Legal Deadline: None

Abstract: The purpose of the Energy Policy and Conservation Act is to enable consumers to conserve energy by comparing the energy use of competing appliances and use that information in purchasing decisions. To achieve this goal, the statute requires the Commission to issue a labeling rule prescribing the disclosure of the estimated annual cost of operation (or another measure of energy use) for at least 13 categories of major household appliances. The statute also requires that the disclosures be based on standardized test procedures prescribed by the Department of Energy (DOE). In 1979, the Commission promulgated the Appliance Labeling Rule, which was amended in 1987 and 1990. The rule covers eight appliance categories: (1) refrigerators, refrigerator-freezers and freezers; (2) dishwashers; (3) clothes washers; (4) water heaters; (5) room air conditioners; (6) furnaces; (7) central air conditioners and heat pumps; and (8) fluorescent lamp ballasts. Five other product categories were exempted. The rule requires that specific energy costs or efficiency information for covered products be disclosed in catalogues and at the point of sale in the form of a (cont)

Timetable:

Action	Date	FR Cite
NPRM (Comprehensive Review)	06/13/88	53 FR 22106
Commission Consid. of NPRM (Pool Heaters)	01/21/93	
Publication of NPRM (Pool Heaters)	02/09/93	58 FR 7652
Commission Consid. of Further Limited NPRM (Comp. Review)	02/16/93	
Publication of Limited NPRM (Comp. Review)	03/05/93	58 FR 12818
Commission Consideration of NPRM (Plumbing Rule)	04/00/93	

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Action	Date	FR Cite
Publication of NPRM (Plumbing Rule)	05/00/93	
Commission Consideration of NPRM (Lamp Rule)	06/00/93	
Publication of NPRM (Lamp Rule)	08/00/93	
Commission Review of Final Recommendations (Comp. Review)	09/00/93	
Publication of Final Rule (Pool Heaters)	11/00/93	
Publication of Final Rule (Comp. Review)	12/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: yellow and black "EnergyGuide" label (fact sheets are required for furnaces, fact sheets or listing in an industry directory are required for central air conditioners and heat pumps, and an encircled "E" logo is required for fluorescent lamp ballasts). The Rule also mandates that energy-use-related advertisements be based on the DOE test procedures. The Commission is considering proposed amendments to the rule to make the rule's energy use disclosure scheme more efficient for consumers and businesses. A proposal to label a new category (pool heaters) and two new types of water heaters has been published for comment. The Energy Policy Act of 1992 requires the Commission to amend the rule to address certain plumbing products (shower heads, faucets, water closets and urinals) by October 24, 1993, and to address certain incandescent and fluorescent lamp products by April 24, 1994.

Agency Contact: James Mills, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3035

RIN: 3084–AA26

4684. FRANCHISE RULE

Legal Authority: 15 USC 41 et seq.; Federal Trade Commission

CFR Citation: 16 CFR 436

Legal Deadline: None

Abstract: On December 21, 1978, the Commission issued a trade regulation rule applicable to franchises and other business opportunity ventures. The Franchise Rule took effect on October 21, 1979. The rule requires franchisors to give pre-sale disclosures to prospective investors before they pay money or become legally bound to pay. The disclosures provide material information and are designed to assure that potential investors have the information they need to investigate the franchise offer so they can make an informed investment decision. The Commission is considering whether to amend its trade regulation rule concerning franchises and business opportunity ventures. In particular, the Commission is considering whether to amend the rule's earnings claim and preemption provisions. On February 5, 1991, the Commission deferred this decision and continues to seek academic and other studies of the impact of streamlined earnings claim disclosure requirements and any inconsistencies in State franchise laws. The record was held open until August 6, 1992 for receipt of this evidence and related comments.

Timetable:

Action	Date	FR Cite
ANPRM	02/16/89	54 FR 7041
Notice of Reopening Record for Additional Evidence	02/13/91	56 FR 5783
Record Closes	08/06/92	
Review of Comments	10/31/92	
Staff Recommendations to Commission	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Craig Tregillus, Franchise Rule Coordinator, Federal Trade Commission, Division of Marketing Practices, Washington, DC 20580, 202 326-2970

RIN: 3084–AA38

4685. • OCTANE CERTIFICATION AND POSTING RULE

Significance: Agency Priority

Legal Authority: Petroleum Marketing Practices Act, PL 95-297

CFR Citation: 16 CFR 306

Legal Deadline: None

Abstract: Section 203(c)(1) of the Petroleum Marketing Practices Act requires the Commission to prescribe, by rule, a uniform method by which the octane rating of automotive gasoline can be certified from the refiner through the chain of distribution, and a uniform method of displaying its octane rating at the point of retail sale. In 1979, the Commission issued the Octane Certification and Posting Rule, which fulfills these requirements. The Rule is intended to enable consumers to buy gasoline with an octane rating that is high enough to prevent inefficient and harmful "engine knock" and to help consumers to avoid buying a gasoline with an octane rating that is needlessly higher than the requirements of their automobiles. The Rule establishes standard procedures for determining, certifying and posting (by means of a label on the fuel dispenser) the octane rating of automotive gasoline intended for sale to consumers. The certification requirement may be satisfied by documents already in use in the industry (shipping receipts, delivery tickets, etc.), on which the octane rating was already being noted, or can be accomplished with a one-time letter of certification. (cont)

Timetable:

Action	Date	FR Cite
Commission Consid. of NPRM (Alt. Fuels and Diesel)	03/23/93	
Publication of NPRM (Alt. Fuels and Diesel)	03/26/93	58 FR 16464
Commission Review of Final Rec. (Alt. Fuels and Diesel	06/00/93	
Publication of Final Rule (Alt. Fuels and Diesel)	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: In addition, the Rule contains recordkeeping requirements that require gasoline refiners and importers to retain octane rating test records and gasoline distributors and retailers to retain octane certification records for one year. Section 1501 of the Energy Policy Act of 1992 directs the Commission to amend the Octane Rule to require certification and posting of octane ratings (or other automotive fuel ratings) for all alternative liquid automotive fuels and gives the Commission the authority to amend the Octane Rule to require the certification and posting of the cetane rating of diesel fuel oils.

Agency Contact: James Mills, Division of Enforcement, Federal Trade Commission, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3035

RIN: 3084–AA45

4686. • FAIR PACKAGING AND LABELING ACT REGULATIONS

Significance: Agency Priority

Legal Authority: Fair Packaging and Labeling Act; PL 89-755, as amended; 15 USC 1451

CFR Citation: 16 CFR 500; 16 CFR 501; 16 CFR 502; 16 CFR 503

Legal Deadline: None

Abstract: The Fair Packaging and Labeling Act (FPLA) requires consumer commodities to be marked with statements of (1) identity, (2) net quantity of contents, and (3) name and place of the business of manufacturer, packer, or distributor. These requirements serve FPLA's stated purpose of "enabling consumers to obtain accurate information as to the quantity of the contents and ... [to] facilitate value comparisons." The FTC is responsible for FPLA enforcement regarding all consumer commodities other than foods, drugs, and cosmetics, and pursuant to Section 6(b) of FPLA, the Commission has promulgated the existing implementing regulations found in 16 CFR Parts 500, 501, 502, and 503. In 1992 FPLA was amended to require the statement of net quantity of contents to be expressed in terms of both customary inch-pound units and SI metric units; these amendments become effective on 02/14/94. At present, FPLA requires net quantity of contents to be expressed in customary inch-pound units, although an accompanying declaration expressed in SI metric units is (cont)

Timetable:

Action	Date	FR Cite
Commission Consideration of NPRM	07/00/93	
Publication in Federal Register of NPRM	10/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: permissible. To implement the 1992 FPLA amendments, the 16 CFR part 500 regulations will have to be rewritten and slight revisions to 16 CFR Parts 501, 502, and 503 will have to be made. Proposed amendments are being developed at the staff level.

Agency Contact: Bret S. Smart, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Boulevard, Ste. 13209, Los Angeles, CA 90024, 312 575-7975

RIN: 3084–AA46

4687. • REGULATIONS UNDER THE COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

Significance: Agency Priority

Legal Authority: 15 USC 4401

CFR Citation: 16 CFR 307

Legal Deadline: None

Abstract: The Comprehensive Smokeless Tobacco Act of 1986 requires health warnings on all packages and advertising for smokeless tobacco. The initial regulations allowed the warning on promotional materials to be rotated on the basis of the date the materials were disseminated, or the date of order or manufacture. In 1991, the Commission amended its regulations to delete the exemption for utilitarian items, and decided to require that the warnings on utilitarian items be rotated according to the date of dissemination, rather than the date of order or manufacture. At the same time, the Commission determined to modify the rotation method for promotional materials to require that the warnings rotate according to dissemination date. On January 15, 1993, the FTC concluded that inadequate public comment was received on the amended rotational plan for promotional items. Thus, the Commission deleted the amended requirements for promotional items, and offered the identical rotational plan for a 30-day public comment period. On November 4, 1986, pursuant to the Comprehensive Smokeless Tobacco Health Education Act of 1986, the Commission issued final regulations implementing (cont)

Timetable:

Action	Date	FR Cite
Rule Promulgated	11/04/86	51 FR 40015
Effective Date of Rule	02/27/87	
NPRM	07/31/89	54 FR 31541
NFRM	03/20/91	56 FR 11662
Effective Date of Amended Rule	04/19/91	
Amendment to Final Rule	01/15/93	58 FR 4874
NPR (Promotional Items)	01/15/93	58 FR 4875
Staff Review of Comments (Promotional Items)	04/00/93	
Comm. Consid. of Staff Rec. (Racing Cars)	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: the requirements for displaying and rotating health warnings on smokeless tobacco packaging and advertising, and exempting utilitarian items. On July 31, 1989, the Commission proposed a method for the display of warning labels on utilitarian items and invited comments. On March 20, 1991, the Commission issued a final rule amending the previous regulations by deleting the exemption for utilitarian objects for personal use. On May 14, 1991, the Coalition on Smoking Or Health petitioned the Commission to enforce the Smokeless Tobacco Act to require smokeless tobacco health warnings on sponsored racing cars, banners, flags and other related objects bearing smokeless tobacco product brand names, logos, or selling messages. Staff is considering this petition and will make an appropriate recommendation to the Commission.

Agency Contact: Phillip Priesman, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, 202 326-2484

RIN: 3084–AA48

4688. • RULE PURSUANT TO THE TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT OF 1992

Significance: Agency Priority

Legal Authority: PL 102-556

CFR Citation: 16 CFR 308

Legal Deadline: Final, Statutory, July 26, 1993.

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FTC — Proposed Rule Stage

Abstract: The Telephone Disclosure and Dispute Resolution Act of 1992, Pub. L. No. 102-556, was signed into law on October 28, 1992. Titles II and III of the Act direct the FTC to promulgate, within 270 days of enactment, a rule governing the advertising and operation of, as well as billing and collection for, pay-per-call services. Pay-per-call services, most commonly provided through 900 telephone numbers, involve a charge to the consumer which is assessed on the basis of the completion of the call and for which the consumer generally is billed on the monthly telephone bill. Title II of the statute requires that disclosure of the cost of a pay-per-call service be made both in advertising and in a preamble message.-Advertisements for pay-per-call services that offer a prize must disclose the odds of receiving the prize. In the case of a pay-per-call service that provides information about a Federal program, both the preamble and advertising must disclose that the service is not authorized, endorsed, or approved by any Federal agency. Pay-per-call services, and advertisements for such services, cannot be directed at children under 12, unless the service is a bona fide (cont)

Timetable:

Action	Date	FR Cite
Publication of NPRM	03/10/93	58 FR 13370
Public Workshop-Conference	04/00/93	
Publication of Final Rule	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: educational service. Advertisements primarily directed at individuals under the age of 18, and the preambles to all pay-per-call services, are required to state that persons under 18 must have parental consent to use the service. Pay-per-call services may not be provided through an 800 telephone number, or any other number designated by the FCC as a toll-free number. Moreover, pay-per-call providers are liable for refunds to consumers who have paid for services that violate regulations prescribed pursuant to the Act. In addition, the Commission is authorized to prescribe other regulations it deems necessary to prevent abusive practices or to prevent evasion of these requirements. Title III of the Act directs the FTC to prescribe rules establishing procedures for the correction of billing errors with respect to telephone-billed purchases.

Agency Contact: Carol Jennings, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, 202 326-3010

RIN: 3084–AA49

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federal register

Monday
April 26, 1993

Part LV

Interstate Commerce Commission

Semiannual Regulatory Agenda

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INTERSTATE COMMERCE COMMISSION (ICC)

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 420; Sub-No. 24]

Semiannual Regulatory Agenda

AGENCY: Interstate Commerce Commission.

ACTION: Notice of semiannual regulatory agenda to be part of a Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to instructions from OMB issued to implement the provisions of section 5 of Executive Order 12291 concerning regulatory agendas, the Commission is publishing an agenda of: (1) Current and projected rulemakings and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: A list of proceedings appears below containing information about subject areas in which the Commission is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda also identifies regulations likely to have a significant economic impact on a substantial number of "small entities." Accordingly, this information will satisfy the requirements of section 602 of the Regulatory Flexibility Act, 5 U.S.C. 602.

Finally, this agenda will comprise part of a Unified Agenda of Federal Regulations compiled by the Office of Management and Budget, which is to be published in a single issue of the **Federal Register** in April 1993. The purpose of the Unified Agenda is to provide the public with more comprehensive documentation of the Federal Government's current regulatory plans and to provide a systematic means of monitoring regulatory activity in each agency.

This notice is issued pursuant to 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: February 12, 1993.
By the Commission, Chairman Philbin, Vice Chairman Simmons, Commissioners Phillips, McDonald, and Walden.

Sidney L. Strickland, Jr.,
Secretary.

INTERSTATE COMMERCE COMMISSION (ICC) — Proposed Rule Stage

4689. EXEMPTION OF DEMURRAGE FROM REGULATION, EX PARTE NO. 462

Significance: Agency Priority

Legal Authority: 49 USC 10505; 49 USC 10750; 49 USC 11121 to 11122; 5 USC 553

CFR Citation: 49 CFR 1033

Legal Deadline: None

Abstract: The Commission proposes to exempt rail carriers' demurrage from all regulation but to retain jurisdiction over the first 24 hours for loading and the first 48 hours for unloading.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/85	50 FR 51565
ANPRM Comment Period End	01/17/86	50 FR 51565
NPRM	04/22/92	57 FR 14689
Extension of Public Comment Period to 07/21/92	05/13/92	57 FR 20442
NPRM Comment Period End	05/22/92	57 FR 14689
Extension of Public Comment Period to 09/21/92	07/27/92	57 FR 33166
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Section of Legal Analysis, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-5660

RIN: 3120–AB35

4690. RATE GUIDELINES—NONCOAL PROCEEDINGS, EX PARTE NO. 347 (SUB-NO. 2)

Significance: Agency Priority

Legal Authority: 49 USC 10301; 49 USC 10321; 49 USC 10326; 49 USC 10701a; 49 USC 10704; 49 USC 10707; 49 USC 11701; 5 USC 553

CFR Citation: None

Legal Deadline: None

Abstract: Proposal to adopt maximum rate reasonableness guidelines for captive noncoal commodities. Request for comments on alternative guidelines for small shippers including small coal shippers.

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy Statement	05/22/86	51 FR 18811
Notice of Intent To Participate Due	06/02/86	
Comments Due	07/21/86	
Begin Review	07/24/87	
End Review	09/30/87	
Comments Under Internal Evaluation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leslie J. Selzer, Assistant to the Director, Interstate Commerce Commission, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-6181

RIN: 3120–AB41

4691. CLASS EXEMPTION FOR THE CONSTRUCTION OF CONNECTING TRACKS UNDER 49 USC 10901, EX PARTE NO. 392 (SUB-NO. 2)

Significance: Agency Priority

Legal Authority: 5 USC 553; 49 USC 10321; 49 USC 10901; 49 USC 10505

CFR Citation: 49 CFR 1150

ICC — Proposed Rule Stage

Legal Deadline: None

Abstract: The Commission proposes to exempt from the prior approval requirements of 49 USC 10901, the construction of rail connecting tracks, except those construction projects that would result in a major market extension as defined at 49 CFR 1180.3(c).

Timetable:

Action	Date	FR Cite
NPRM	07/24/86	51 FR 26563
NPRM Comment Period End	08/25/86	
NPRM	09/16/92	57 FR 42733
NPRM Comment Period End	10/16/92	57 FR 42733
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Section of Legal Analysis, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-5660

RIN: 3120–AB43

4692. CLASS EXEMPTION FOR RAIL CONSTRUCTION, EX PARTE NO. 392 (SUB-NO. 3)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10901; 5 USC 553; 5 USC 559; 5 USC 704

CFR Citation: 49 CFR 1150.35

Legal Deadline: None

Abstract: The Commission is considering whether to exempt from regulation all applications under 49 USC 10901 for construction and operation of new lines of railroad.

Timetable:

Action	Date	FR Cite
ANPRM	06/02/87	52 FR 20632
ANPRM Comment Period End	07/02/87	52 FR 20632
NPRM	09/16/92	57 FR 42733
NPRM Comment Period End	10/16/92	57 FR 42733
Comments Under Evaluation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Commission is also considering application of the proposed exemptions to construction of conventional, high speed, or magnetic levitation (MagLev) passenger lines.

Agency Contact: Joseph H. Dettmar, Deputy Director, Section of Legal Analysis, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-5660

RIN: 3120–AB50

4693. REVISION OF LICENSING APPLICATION FORMS AND CORRESPONDING REGULATIONS, EX PARTE NO. 55 (SUB-NO. 86)

Significance: Agency Priority

Legal Authority: 5 USC 551(a); 5 USC 553; 5 USC 559; 16 USC 1456; 49 USC 10101; 49 USC 10305; 49 USC 10321; 49 USC 10921; 49 USC 10922; 49 USC 10923; 49 USC 10924; 49 USC 10928; 49 USC 11102

CFR Citation: 49 CFR 1003; 49 CFR 1160; 49 CFR 1162; 49 CFR 1166

Legal Deadline: None

Abstract: The Interstate Commerce Commission proposes to revise its standard licensing application form and corresponding regulations concerning application procedures at 49 CFR parts 1003, 1160, 1162, and 1166. The proposal would replace the comprehensive licensing form currently in use with six transportation mode-specific licensing forms to be used respectively by applicants for motor property carrier, motor property "fitness only," motor passenger, property broker, household goods freight forwarder, and water carrier authority. The recommended revisions to the licensing form and procedures are intended to rationalize and simplify the licensing process and will incorporate recent revisions to the Commission's safety fitness policy adopted in Safety Fitness Policy, 8 ICC 2d 123 (1991), petition to reopen denied (not printed), served December 26, 1991, 56 FR 67002 (December 27, 1991). The proposal is expected to reduce significantly the burden hours associated with the licensing application process.

Timetable:

Action	Date	FR Cite
NPRM	08/19/92	57 FR 37761
NPRM Comment Period End	09/21/92	57 FR 37761
Comments Under Review	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Suzanne Higgins O'Malley, Principal Attorney, Section of Legal Counsel, Office of Proceedings, Interstate Commerce Commission, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-5610

RIN: 3120–AB70

4694. BILLS OF LADING, EX PARTE NO. 495

Significance: Agency Priority

Legal Authority: 49 USC 10321; 5 USC 553

CFR Citation: 49 CFR 1035

Legal Deadline: None

Abstract: The Commission proposes to vacate its prescription of railroad and water carrier uniform bills of lading and livestock contracts, which appear at 49 CFR part 1035.

Timetable:

Action	Date	FR Cite
NPRM	12/30/91	56 FR 67269
NPRM Comment Period End	09/16/92	57 FR 25007
Comments Under Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard B. Felder, Deputy Director, Section of Legal Counsel, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-5610

RIN: 3120–AB71

4695. SINGLE STATE INSURANCE REGISTRATION, EX PARTE NO. MC-100 (SUB-NO. 6)

Significance: Agency Priority

Legal Authority: 5 USC 553; 49 USC 10321; 49 USC 11506

CFR Citation: 49 CFR 1023

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ICC — Proposed Rule Stage

Legal Deadline: Other, Statutory, June 18, 1993.
49 USC 11506(c)(1) (enacted December 18, 1991) requires that not later than 18 months after enactment the Commission prescribe amendments to State registration regulations at 49 CFR part 1023.

Abstract: The Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. No. 102-240, enacted December 18, 1991, as pertinent, requires the Commission, within 18 months after enactment, to prescribe amendments to the regulations at 49 CFR part 1023 governing registration of motor carriers by the States. The mandated amendments will replace the "bingo card" system presently in use with a simplified single-State insurance registration system. States no longer will be able to require carriers to register or identify specific vehicles operated. By a Notice of Proposed Rulemaking, the Commission has proposed revised regulations and solicited comments thereon. The amended regulations are expected to reduce significantly the compliance burdens presently confronted by the trucking industry and the States under the existing "bingo card" system.

Timetable:

Action	Date	FR Cite
ANPRM	05/11/92	57 FR 20072
ANPRM Comment Period End	06/10/92	57 FR 20072
NPRM	01/25/93	58 FR 5951
NPRM Comment Period End	02/24/93	58 FR 5951
Comments Under Review	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth H. Schwartz, Attorney, Section of Legal Counsel, Office of Proceedings, Interstate Commerce Commission, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-5316

RIN: 3120–AB74

4696. • RAIL GENERAL EXEMPTION AUTHORITY: EXPORT CORN AND EXPORT SOYBEANS, EX PARTE NO. 346 (SUB-NO. 28)

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10708; 49 USC 10761; 49 USC 10762; 49 USC 11105; 49 USC 11902 to 11904; 5 USC 553

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: The Commission is proposing to exempt from its regulation the rail transportation of export corn and export soybeans.

Timetable:

Action	Date	FR Cite
NPRM	07/16/92	57 FR 31489
NPRM Comment Period End	12/15/92	57 FR 45602
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Section of Legal Analysis, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-5660

RIN: 3120–AB80

4697. • RAIL GENERAL EXEMPTION AUTHORITY: PETITION OF AAR TO EXEMPT RAIL TRANSPORTATION OF SELECTED COMMODITY GROUPS, EX PARTE NO. 346 (SUB-NO. 29)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10708; 49 USC 10761; 49 USC 10762; 49 USC 11105; 49 USC 11902 to 11904; 5 USC 553

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: The Commission is seeking public comment on whether to exempt 31 commodity groups selected by the Association of American Railroads from regulation. The commodities are: crude petroleum, natural gas or gasoline; dimension stone, quarry; crushed or broken stone or riprap; sand (aggregate or ballast); gravel (aggregate or ballast); rock salt, crude, crushed lump or screened; food or kindred products with exceptions; textile mill products; apparel or other finished textile products or knit apparel; lumber or wood products; furniture or fixtures; pulp, paper or allied products with exceptions; printed matter; carbon dioxide; iron chloride, liquid; iron sulphate; ferrous sulphate; paints, enamels, lacquers, shellacs or varnishes, or allied products; salt, common, products of petroleum refining; petroleum coke; coke produced from coal; distillate or residual fuel oil from coal refining; coal or petroleum products; rubber or miscellaneous plastic products with exceptions; leather or leather products; clay concrete, glass or stone products with exceptions; primary metal products including galvanized; fabricated metal products with exceptions; (cont)

Timetable:

Action	Date	FR Cite
NPRM	02/11/93	58 FR 8030
NPRM Comment Period End	02/26/93	58 FR 8030
Request for Further Comments Based on Service List	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: machinery with exceptions; electrical machinery, equipment or supplies with exceptions; instruments; and miscellaneous products.

Agency Contact: Richard B. Felder, Deputy Director, Section of Legal Counsel, Interstate Commerce Commission, Room 2142, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-5610

RIN: 3120–AB81

4698. • RAILROAD RATES ON RECYCLABLES - EXEMPTIONS, EX PARTE NO. 394 (SUB-NO. 10)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10708; 49 USC 10761; 49 USC 10762; 49 USC 11105; 49 USC 11902 to 11904; 5 USC 553

CFR Citation: 49 CFR 1039; 49 CFR 1145

Legal Deadline: None

Abstract: The Commission is considering whether to exempt the rail transportation of recyclable commodities that move at rates returning less than the variable costs of the transportation from its regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/09/92	57 FR 41122

ICC — Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	12/31/92	57 FR 41122
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig M. Keats, Associate General Counsel, Interstate Commerce Commission, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-6046

RIN: 3120–AB82

4699. • REVISION OF TARIFF REGULATIONS - INDEXES, EX PARTE NO. MC-211

Legal Authority: 49 USC 10761(a); 49 USC 10762

CFR Citation: 49 CFR 1312

Legal Deadline: None

Abstract: The Commission is considering whether there is a need to reimpose requirements for tariff indexes, and if so, what kinds of indexes should be required. Because many tariffs now on file contain thousands of pages but no indexes, the rates applicable to particular shipments can be difficult to determine. Indexes may improve the public's ability to determine the rates which are contained in the tariffs and which are therefore applicable by law.

Timetable:

Action	Date	FR Cite
ANPRM	01/05/93	58 FR 3529
ANPRM Comment Period End	03/08/93	58 FR 3529
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	
Final Action	08/00/93	
Final Action Effective	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lawrence C. Herzig, Chief, Section of Rates and Informal Cases, Interstate Commerce Commission, 12th Street & Constitution Avenue NW., Washington, DC 20423, 202 927-5160

RIN: 3120–AB83

4700. • REVIEW OF MOTOR TARIFF REGULATIONS - 1993, EX PARTE NO. MC-212

Legal Authority: 49 USC 10761(a); 49 USC 10762; 5 USC 553

CFR Citation: 49 CFR 1312

Legal Deadline: None

Abstract: Congress has provided the Commission with additional resources to monitor and enforce tariff filing regulations. In conjunction with the increased monitoring program, the Commission is reexamining certain of its tariff regulations to ensure that they continue to advance the basic purposes of tariffs: to inform the public of the services and rates offered by carriers, and fix the legally binding applicable rate for a given shipment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas A. Mongelli, Chief Tariff Examining Branch, Interstate Commerce Commission, Room 4363A, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-5150

RIN: 3120–AB84

INTERSTATE COMMERCE COMMISSION (ICC) — Final Rule Stage

4701. ELECTRONIC FILING OF TARIFFS, EX PARTE NO. 444

Legal Authority: 49 USC 10321; 49 USC 10708; 49 USC 10761; 49 USC 10762; 5 USC 553

CFR Citation: 49 CFR 1312; 49 CFR 1314

Legal Deadline: None

Abstract: The ICC lifted a stay it had previously imposed in this proceeding in order to consider petitions for reconsideration. The result was that regulations which were previously adopted at 54 FR 6403 became effective for rail carriers only. Rail carriers are now permitted to file electronic tariffs as an alternative to printed tariffs. Rail carriers are required to accompany their electronic tariffs with identical printed tariffs until further notice. With respect to other modes, the effective date of the adopted regulations is stayed pending consideration of a petition to reopen.

Timetable:

Action	Date	FR Cite
ANPRM	03/08/83	48 FR 9672
ANPRM Comment Period End	04/26/83	48 FR 18861
NPRM	10/22/87	52 FR 39549
NPRM Comment Period End	02/19/88	53 FR 5022
Final Action	02/10/89	54 FR 6403
Effective Date Stayed	03/13/89	54 FR 10533
Final Action Effective	03/13/89	54 FR 6403
Stay Lifted in Part for Rail Carriers	10/19/89	54 FR 42959
Petition To Reopen Under Review	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Although final rules have been adopted in this proceeding, their effective date has been stayed for all transportation modes except rail pending disposition of a petition to reopen.

Agency Contact: Charles E. Langyher, Chief, Section of Tariffs, Bureau of Traffic, Interstate Commerce Commission, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-5160

RIN: 3120–AA99

4702. • RAILROAD CONSOLIDATION PROCEDURES: CLASS EXEMPTION FOR TRANSACTIONS SUBJECT TO THE STATUTORY CONSOLIDATION PROVISION, EX PARTE NO. 282 (SUB-NO. 15)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 11341; 49 USC 11343 to 11346; 11 USC 1172; 45 USC 904; 45 USC 915; 5 USC 553; 5 USC 559

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ICC — Final Rule Stage

CFR Citation: 49 CFR 1180

Legal Deadline: None

Abstract: The Commission proposes to expand the "nonconnecting carrier" class exemption to embrace all transactions subject to the statutory consolidation provision, except (1) transactions involving the merger or control of at least two class I railroads; (2) transactions involving a reduction in the number of noncommonly-controlled railroads serving any two points; (3) transactions involving a reduction from three to two in the number of noncommonly-controlled railroads serving any interchange point.

Timetable:

Action	Date	FR Cite
NPRM	07/14/92	57 FR 31165
NPRM Comment Period End	08/30/92	57 FR 31165
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Section of Legal Analysis, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-5660

RIN: 3120–AB77

4703. • RAILROAD CONSOLIDATION PROCEDURES: DEFINITION OF, AND REQUIREMENTS APPLICABLE TO, "SIGNIFICANT TRANSACTIONS," EX PARTE NO. 282 (SUB-NO. 17)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 11343 to 11345; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1180

Legal Deadline: None

Abstract: The Commission proposes to revise the definition of "significant transactions" in rail consolidation cases, and to eliminate certain requirements presently applicable to applications seeking approval of significant transactions.

Timetable:

Action	Date	FR Cite
NPRM	08/10/92	57 FR 35559
NPRM Comment Period End	10/09/92	57 FR 39385
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Section of Legal Analysis, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-5660

RIN: 3120–AB78

4704. • RAIL GENERAL EXEMPTION AUTHORITY: USED MOTOR VEHICLES, EX PARTE NO. 346 (SUB-NO. 27A)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10708; 49 USC 10761; 49 USC 10762; 49 USC 11105, 49 USC 11902 to 11904; 5 USC 553

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: The Commission is considering whether to exempt the rail transportation of used motor vehicles from its regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/26/93	58 FR 6104
NPRM Comment Period End	02/25/93	58 FR 6104
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Section of Legal Analysis, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423, 202 927-5660

RIN: 3120–AB79

INTERSTATE COMMERCE COMMISSION (ICC) — Completed Actions

4705. REVIEW OF CAR-HIRE REGULATION, EX PARTE NO. 334 (SUB-NO. 6)

CFR Citation: 49 CFR 1033; 49 CFR 1036

Completed:

Reason	Date	FR Cite
Final Action	11/10/92	57 FR 53450
Final Action Effective	12/28/92	57 FR 61584

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, 202 927-5660

RIN: 3120–AA13

4706. RAILROAD TRANSPORTATION CONTRACTS, EX PARTE NO. 387 (SUB-NO. 964)

CFR Citation: 49 CFR 1039.23; 49 CFR 1313

Completed:

Reason	Date	FR Cite
Final Action	05/27/92	57 FR 40620
Final Action Effective	10/05/92	57 FR 40620

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Greene, 202 927-5597

RIN: 3120–AB72

4707. SINGLE STATE INSURANCE REGISTRATION—1993 RULES, EX PARTE NO. MC-100 (SUB-NO. 7)

Significance: Agency Priority

CFR Citation: 49 CFR 1023

Completed:

Reason	Date	FR Cite
Final Action	10/02/92	57 FR 45751
Final Action Effective	09/30/92	57 FR 45751

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth H. Schwartz, 202 927-5316

RIN: 3120–AB76

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Monday
April 26, 1993

Part LVI

National Credit Union Administration

Semiannual Regulatory Agenda

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NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual agenda of regulations.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of current and projected rulemakings, reviews of existing regulations, and completed actions as of February 24, 1993. NCUA will also include this agenda in the Unified Agenda of Federal Regulations.

DATES: This information is current as of February 24, 1993.

ADDRESSES: National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: For each regulation listed, the person(s) named in the listing at the above address, unless otherwise noted, or listed telephone number.

SUPPLEMENTARY INFORMATION: The purpose of this agenda is to enable credit unions and the public to follow regulatory development and review at NCUA and to enable interested parties to more effectively participate in that process. The agenda is divided into three parts: (1) Actions completed since the last agenda; (2) actions proposed but not completed; and (3) actions planned but not yet proposed by the NCUA Board.

The agenda is published pursuant to NCUA Interpretive Ruling and Policy Statement Number 87-2 ("Developing and Reviewing Government Regulations," 54 FR 35231; September 18, 1987). Executive Order No. 12291 does not require independent executive agencies such as NCUA to publish a regulatory agenda, but NCUA has voluntarily decided to do so by including this agenda in the Office of Management and Budget's next publication of its Unified Agenda of Federal Regulations.

Approved by the NCUA Board on February 24, 1993.

Becky Baker,

Secretary of the Board.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4708	Share Insurance and Appendix	3133-AB15
4709	Golden Parachute and Indemnification Payments	3133-AB28
4710	Special Reserves	3133-AB29
4711	Investment and Deposit Activities	3133-AB41
4712	Flood Insurance	3133-AB43
4713	Chartering and Field of Membership Policy	3133-AB54

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4714	Management Official Interlocks	3133-AA19
4715	Credit Union Service Contracts and Correspondent Services	3133-AA95
4716	Requirements for Insurance	3133-AB31
4717	Supervisory Committee Audits and Verifications	3133-AB52

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4718	Excerpts From the Uniform Standards of Professional Appraisal Practice Applicable to Federally Related Transactions	3133-AB20
4719	Voluntary Liquidations	3133-AB30
4720	Truth-In-Savings	3133-AB40
4721	Community Development Revolving Loan Program	3133-AB44
4722	Public Availability of Meeting Records and Other Documents	3133-AB45
4723	Investment and Deposit Activities	3133-AB49
4724	Share, Share Draft, and Share Certificate Accounts	3133-AB50
4725	Report of Crime or Catastrophic Act and Bank Secrecy Act Compliance	3133-AB51
4726	Advertising	3133-AB56

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Completed Actions

Sequence Number	Title	Regulation Identifier Number
4727	Employee Responsibility and Conduct	3133-AA64
4728	Share, Share Draft, and Share Certificate Accounts	3133-AA82
4729	Real Estate Lending	3133-AB19
4730	Regulatory Review	3133-AB35
4731	Financial and Statistical and Other Reports	3133-AB36
4732	Member Business Loans	3133-AB37
4733	Definitions	3133-AB38
4734	Fees Paid by Federal Credit Unions	3133-AB39
4735	Reimbursement, Insurance, and Indemnification of Officials and Employees	3133-AB42
4736	Federal Credit Union Ownership of Fixed Assets	3133-AB46
4737	Full and Fair Disclosure	3133-AB48
4738	Loans to Members and Lines-of-Credit Members	3133-AB53
4739	Real Estate Appraisal Exceptions In Major Disaster Areas	3133-AB55

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Prerule Stage

4708. SHARE INSURANCE AND APPENDIX

Legal Authority: 12 USC 1766; 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 745

Legal Deadline: None

Abstract: On May 15, 1990, the FDIC issued final rules on deposit insurance (55 FR 20111). The FDIC rules differ in some respects from NCUA's current rules and/or policies. NCUA staff will be analyzing the changes and clarifications to deposit insurance coverage rules made by the FDIC, in order to determine whether changes in NCUA's insurance regulation are warranted. Staff is also reviewing the entire section for a general update.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Engel, Deputy General Counsel, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AB15

4709. GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

Significance: Agency Priority

Legal Authority: 12 USC 1786(t)

CFR Citation: 12 CFR 701.34

Legal Deadline: None

Abstract: The Crime Control Act of 1990 amended the Federal Credit Union Act to strictly limit the use of golden parachute payments and indemnification by credit unions. NCUA staff is considering whether proposed rules are necessary to implement this statutory amendment.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Meltzer, Associate General Counsel, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AB28

4710. SPECIAL RESERVES

Legal Authority: 12 USC 1762(b); 12 USC 1781(b)(6); 12 CFR 741.9(a)(2)

CFR Citation: 12 CFR 702.4

Legal Deadline: None

Abstract: NCUA has the authority, pursuant to the FCU Act, to order individual credit unions to establish special reserves. NCUA staff is considering the advisability of a uniform procedure and a mechanism for credit unions to respond to such procedures.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Schulman, Trial Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AB29

4711. INVESTMENT AND DEPOSIT ACTIVITIES

Legal Authority: 12 USC 1757(7); 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 703.4(e)

Legal Deadline: None

Abstract: The NCUA staff is reviewing the regulation on reverse repurchase transactions to determine the necessity for the limitation on the maturity date of the securities involved in such transactions.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa Henderson, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AB41

4712. FLOOD INSURANCE

Legal Authority: 12 USC 1757; 12 USC 1789; 42 USC 4012a; 42 USC 4106

CFR Citation: 12 CFR 760

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NCUA — Prerule Stage

Legal Deadline: None

Abstract: The Flood Disaster Protection Act has been amended by the imposition of a cap on required flood insurance. To comply with the spirit of the President's January 29, 1992, memorandum on regulatory burden, staff will review the regulation to determine whether the cap should be included.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Lisa Henderson**, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AB43

4713. • CHARTERING AND FIELD OF MEMBERSHIP POLICY

Legal Authority: 12 USC 1757; 12 USC 1759

CFR Citation: None

Legal Deadline: None

Abstract: Staff is reviewing the current Chartering and Field of Membership Policy to determine whether any changes should be made.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **H. Allen Carver**, Region III Director, National Credit Union Administration, 7000 Central Parkway, Suite 1600, Atlanta, GA 30328, **404 396-4042**

RIN: 3133–AB54

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Proposed Rule Stage

4714. MANAGEMENT OFFICIAL INTERLOCKS

Legal Authority: 12 USC 3201 et seq

CFR Citation: 12 CFR 711

Legal Deadline: None

Abstract: The proposed rule incorporates recent changes to the Depository Institution Management Interlocks Act, which prohibits certain overlaps by officials of various financial institutions.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/88	53 FR 41614
ANPRM Comment Period End	01/23/89	53 FR 41614
NPRM	03/08/93	58 FR 12910
NPRM Comment Period End	05/07/93	58 FR 12910
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: No changes to the rule were proposed in response to the request for comments. The proposed rule reflects recent changes to the Interlocks Act.

Agency Contact: **Michael J. McKenna**, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AA19

4715. CREDIT UNION SERVICE CONTRACTS AND CORRESPONDENT SERVICES

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.26

Legal Deadline: None

Abstract: The proposed rule clarifies the limits on the authority for an FCU to provide services and activities to other credit unions. In response to comments, staff is preparing a proposed revision which would permit, and set safety and soundness standards for, correspondent credit union services between credit unions, as well as address the issue of shared branching.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/89	54 FR 48110
ANPRM Comment Period End	02/20/90	
NPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: **Martin E. Conrey**, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AA95

4716. REQUIREMENTS FOR INSURANCE

Significance: Agency Priority

Legal Authority: 12 USC 1757; 12 USC 1766(a); 12 USC 1781 to 1790

CFR Citation: 12 CFR 741

Legal Deadline: None

Abstract: NCUA staff is reviewing requirements for National Credit Union Share Insurance Fund (NCUSIF) insurance as part of its regulatory review process. Staff expects to rewrite part 741 in order to clarify which of the NCUA Regulations currently apply to state-chartered, NCUSIF-insured credit unions. The changes will be informational, rather than substantive.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Linda Groth**, State Program Officer, Office of Examination and Insurance, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9640**

RIN: 3133–AB31

4717. • SUPERVISORY COMMITTEE AUDITS AND VERIFICATIONS

Legal Authority: 12 USC 1761d; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.12

Legal Deadline: None

Abstract: The General Accounting Office recommended, after its two-year study of NCUA and the credit union system, that the NCUA Board require credit unions with assets greater than $50 million to obtain annual CPA audits.

NCUA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Karen Kelbly**, Accounting Officer, Office of Examination & Insurance, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, 202 682-9640

RIN: 3133–AB52

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Final Rule Stage

4718. EXCERPTS FROM THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE APPLICABLE TO FEDERALLY RELATED TRANSACTIONS

Legal Authority: 12 USC 1766; 12 USC 1789; PL 101-73

CFR Citation: 12 CFR 722, app A

Legal Deadline: None

Abstract: The interim common rule, issued jointly with other Federal financial institution regulators (FRB, OTS, RTC, OCC, and FDIC), is designed to ensure that reliable appraisals are rendered in connection with federally related transactions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/90	55 FR 53610
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The Federal financial institutions working group is nearing completion on a final rule, which is expected in the summer of 1993.

Agency Contact: **Michael J. McKenna**, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AB20

4719. VOLUNTARY LIQUIDATIONS

Significance: Agency Priority

Legal Authority: 12 USC 1766(a); 12 USC 1787

CFR Citation: 12 CFR 710

Legal Deadline: None

Abstract: The proposed rule sets forth requirements applicable to Federal credit unions entering voluntary liquidation pursuant to 12 USC 1766.

Timetable:

Action	Date	FR Cite
NPRM	10/21/92	57 FR 47999
NPRM Comment Period End	12/21/92	57 FR 47999
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Jerry Courson**, Special Assistant to the President, Asset Liquidation Management Center, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **512 482-4550**

RIN: 3133–AB30

4720. TRUTH-IN-SAVINGS

Significance: Agency Priority

Legal Authority: 12 USC 4311; PL 102-242

CFR Citation: 12 CFR 701.35; 12 CFR 740.2; 12 CFR 707

Legal Deadline: Final, Statutory, September 19, 1993.
NCUA must issue a final rule within 90 days of the effective date of the Federal Reserve Board's rule, 06/21/93.

Abstract: The Truth in Savings Act of 1991 (TISA) requires the NCUA to promulgate a rule implementing TISA and, with a few exceptions, following the Federal Reserve Board's Regulation DD. Pursuant to TISA, NCUA's rule will apply to all credit unions, whether or not federally insured. The proposed rule requires credit unions to make certain disclosures concerning the dividend rates payable on depository accounts and the fees assessable against depository accounts, and prescribes the circumstances under which such disclosures must be made.

Timetable:

Action	Date	FR Cite
NPRM	11/30/92	57 FR 56686
NPRM Comment Period End	03/01/93	57 FR 56686
NPRM Comment Period Extended to 04/01/93	03/01/93	58 FR 11601
Final Action	06/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: **Margaret Suuberg**, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AB40

4721. COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM

Legal Authority: 12 USC 1757(6); 12 USC 1766(k); PL 97-35; PL 99-609; PL 101-144

CFR Citation: 12 CFR 701.32; 12 CFR 705

Legal Deadline: None

Abstract: The proposed rule is intended to increase the number of participating credit unions, to make the program more accessible to participating credit unions, to provide technical assistance to credit unions that may not receive loans, and to reduce regulatory burden. The amendments, among other things, reduce paperwork requirements, modify the definitions of low income members and participating credit unions, clarify technical assistance issues, and eliminate requirements for a community development committee.

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Timetable:

Action	Date	FR Cite
NPRM	12/01/92	57 FR 56868
NPRM Comment Period End	02/01/93	57 FR 56868
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ron Lewandowski, President, Central Liquidity Facility, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9780**

RIN: 3133–AB44

4722. PUBLIC AVAILABILITY OF MEETING RECORDS AND OTHER DOCUMENTS

Legal Authority: 12 USC 552b

CFR Citation: 12 CFR 791.8

Legal Deadline: None

Abstract: The proposed rule would allow the NCUA Board to delegate to the General Counsel its authority to determine, after a closed meeting, what items or parts thereof, if any, be made available to the public.

Timetable:

Action	Date	FR Cite
NPRM	09/15/92	57 FR 42532
NPRM Comment Period End	11/16/92	57 FR 42532
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Suuberg, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AB45

4723. • INVESTMENT AND DEPOSIT ACTIVITIES

Legal Authority: 12 USC 1757(7); 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 703.5

Legal Deadline: None

Abstract: To make the investment restrictions on Federal credit unions, more consistent with those applicable to other Federal financial institutions, the proposed rule would replace the average life sensitivity test for certain mortgage-related securities, set forth in section 703.5(g) with the average life, average life sensitivity, and price sensitivity tests set forth in the Federal Financial Institutions Examination Council's December 3, 1991, Supervisory Policy Statement on Securities Activities.

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5665
NPRM Comment Period End	03/23/93	58 FR 5665
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa Henderson, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AB49

4724. • SHARE, SHARE DRAFT, AND SHARE CERTIFICATE ACCOUNTS

Legal Authority: 12 USC 1752; 12 USC 1757; 12 USC 1759; 12 USC 1766; 12 USC 1782; 12 USC 1789; PL 102-242

CFR Citation: 12 CFR 701.35

Legal Deadline: Final, Statutory, September 19, 1993.

The proposal would conform section 701.35 to the proposed Truth in Savings rule, which must be final form within 90 days of the effective date of the Federal Reserve Board's Reg. DD, 6/21/93.

Abstract: Current S701.35(c) permits a Federal credit union to determine, among other matters, the types of disclosures that it will make and its policies with regard to crediting of funds. The proposed rule deletes references to that authority, in order to conform with the Truth in Savings Act and the proposed Truth in Savings Rule (12 CFR part 707), which address, among other things, credit union disclosures and crediting of funds.

Timetable:

Action	Date	FR Cite
NPRM	11/30/92	57 FR 56686
NPRM Comment Period End	03/01/93	57 FR 56686
Final Action	06/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martin Conrey, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., WAshington, DC 20456, **202 682-9630**

RIN: 3133–AB50

4725. • REPORT OF CRIME OR CATASTROPHIC ACT AND BANK SECRECY ACT COMPLIANCE

Legal Authority: 12 USC 1766(a); 12 USC 1786(q); 31 USC 5311

CFR Citation: 12 CFR 748.1

Legal Deadline: None

Abstract: The proposed rule is intended to conform NCUA's regulations to the procedures for completion and submission of the new uniform criminal referral form developed by an interagency task force. The purpose of the new form is to improve the reporting of crimes relating to financial institutions.

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5663
NPRM Comment Period End	02/22/93	58 FR 5663
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John K. Ianno, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AB51

4726. • ADVERTISING

Legal Authority: 12 USC 4311; PL 102-242

CFR Citation: 12 CFR 740

Legal Deadline: Final, Statutory, September 19, 1993.

Abstract: The proposed rule adds a reference to the proposed Truth in Savings rule (12 CFR 707.8).

Timetable:

Action	Date	FR Cite
NPRM	11/30/92	57 FR 56686
NPRM Comment Period End	03/01/93	57 FR 56586
Final Action	06/00/93	
Final Action Effective	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Suuberg, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AB56

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) Completed Actions

4727. EMPLOYEE RESPONSIBILITY AND CONDUCT

Legal Authority: EO 11222; 5 CFR 735.104; 12 USC 1766; EO 12674; EO 12731

CFR Citation: 12 CFR 796

Legal Deadline: None

Abstract: This regulation prescribed rules governing the conduct of NCUA employees. The rule did not affect credit unions. The regulation was withdrawn by the NCUA Board because it was superseded by the Office of Government Ethics final rule on Federal employee responsibility, which became effective on February 3, 1993.

Timetable:

Action	Date	FR Cite
NPRM	10/25/88	53 FR 42955
NPRM Comment Period End	01/23/89	53 FR 42955
Withdrawn	02/01/93	57 FR 6605

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Engel, Deputy General Counsel, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AA64

4728. SHARE, SHARE DRAFT, AND SHARE CERTIFICATE ACCOUNTS

Legal Authority: 12 USC 1752; 12 USC 1757; 12 USC 1759; 12 USC 1766; 12 USC 1782; 12 USC 1789

CFR Citation: 12 CFR 701.35

Legal Deadline: None

Abstract: The proposed rule would have clarified that dividends on member share accounts are based on available earnings and are not guaranteed and set forth situations in which notice of that fact would have been required. The proposed rule was withdrawn when the NCUA Board issued its proposed Truth in Savings rule, which addresses this issue.

Timetable:

Action	Date	FR Cite
NPRM	05/05/90	55 FR 21618
NPRM Comment Period End	07/24/90	55 FR 21618
Withdrawn	11/30/92	57 FR 56686

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hattie M. Ulan, Associate General Counsel, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AA82

4729. REAL ESTATE LENDING

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.21(f) and 701.21(g)

Legal Deadline: None

Abstract: NCUA Letter to Credit Unions Number 124, issued in June 1991, addresses some NCUA staff concerns regarding credit union real estate lending. In light of NCUA's concerns, staff is reviewing various issues in real estate lending, including documentation, construction loans, and interest rate risk, to determine whether any changes in the regulation are necessary.

Timetable:

Action	Date	FR Cite
End Review	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Michael Riley, Director, Office of Examination and Insurance, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9640**

RIN: 3133–AB19

4730. REGULATORY REVIEW

Legal Authority: President's memoranda of January 28, 1992, and April 29, 1992; 12 USC 1766; 12 USC 1789

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The NCUA Board sought input on how to reduce the burden of NCUA regulations and the consumer compliance regulations. The 73 comment letters received expressed little concern with NCUA's regulations. A final report was presented to the NCUA Board at its January 14, 1993, open meeting.

Timetable:

Action	Date	FR Cite
Request for Comments	08/03/92	57 FR 34090
End Review	01/14/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hattie M. Ulan, Associate General Counsel, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, **202 682-9630**

RIN: 3133–AB35

4731. FINANCIAL AND STATISTICAL AND OTHER REPORTS

Legal Authority: 12 USC 1756; 12 USC 1766(a); 12 USC 1782

CFR Citation: 12 CFR 741.13

Legal Deadline: None

Abstract: The final rule imposes a quarterly reporting requirement on credit unions with assets over $50 million.

Timetable:

Action	Date	FR Cite
NPRM	08/03/92	57 FR 34091
NPRM Comment Period End	10/02/92	

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Action	Date	FR Cite
Final Action	01/22/93	58 FR 5570
Final Action Effective	03/31/93	58 FR 5570

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Michael J. McKenna, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AB36

4732. MEMBER BUSINESS LOANS

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.21(h)

Legal Deadline: None

Abstract: The final rule allows a credit union to apply for an exemption from the loan-to-value requirements of the business loan rule if it has an existing loan program that meets certain requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/15/92	57 FR 20798
NPRM Comment Period End	06/15/92	
Final Action	09/15/92	57 FR 42486
Final Action Effective	11/16/92	57 FR 42486

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Michael Riley, Director, Office of Examination and Insurance, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, 202 682-9640

RIN: 3133–AB37

4733. DEFINITIONS

Legal Authority: 12 USC 1752(5); 12 USC 1757(6); 12 USC 1766

CFR Citation: 12 CFR 700.1

Legal Deadline: None

Abstract: The final rule excludes certain variable rate investments from the definition of risk assets.

Timetable:

Action	Date	FR Cite
NPRM	05/01/92	57 FR 18836
NPRM Comment Period End	06/30/92	57 FR 24395
Final Action	10/21/92	57 FR 47983
Final Action Effective	12/21/92	57 FR 47983

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Kimberly A. Iverson, Federal Program Officer, Office of Examination and Insurance, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, 202 682-9640

RIN: 3133–AB38

4734. FEES PAID BY FEDERAL CREDIT UNIONS

Legal Authority: 12 USC 1755

CFR Citation: None

Legal Deadline: None

Abstract: The NCUA Board amended the formula for calculating the operating fee assessment by adding a third tier for assets in excess of $1 billion.

Timetable:

Action	Date	FR Cite
Request for Comments	08/03/92	57 FR 34152
Final Action	11/12/92	
Final Action Effective	11/12/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Herbert S. Yolles, Controller, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, 202 682-9600

RIN: 3133–AB39

4735. REIMBURSEMENT, INSURANCE, AND INDEMNIFICATION OF OFFICIALS AND EMPLOYEES

Legal Authority: 12 USC 1757; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.33

Legal Deadline: None

Abstract: The final rule resolves a long-standing issue by establishing authority for Federal credit unions to pay the travel expenses for one immediate family member of each official on credit union business, provided that certain safety and soundness requirements are met.

Timetable:

Action	Date	FR Cite
NPRM	05/01/92	57 FR 18837
NPRM Comment Period End	06/30/92	
Final Action	09/15/92	57 FR 42486
Final Action Effective	12/21/92	57 FR 42486

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martin E. Conrey, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AB42

4736. FEDERAL CREDIT UNION OWNERSHIP OF FIXED ASSETS

Legal Authority: 12 USC 1757; 12 USC 1766

CFR Citation: 12 CFR 701.36

Legal Deadline: None

Abstract: The NCUA staff will analyze whether the asset threshold of section 701.36(c) should be increased and whether an exemption procedure under section 701.36(d) should be added.

Timetable:

Action	Date	FR Cite
End Review	04/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kent Buckham, Director, Department of Supervision, Office of Examination and Insurance, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, 202 682-9640

RIN: 3133–AB46

4737. FULL AND FAIR DISCLOSURE

Legal Authority: 12 USC 1762; 12 USC 1766

CFR Citation: 12 CFR 702.3(c)(2)

Legal Deadline: None

Abstract: The final rule modifies the valuation of the allowance for loan losses to better conform to generally accepted accounting principles. The rule clarifies Letter to Credit Unions Number 126, and provides examiners with further guidance in this area.

NCUA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	06/30/92	57 FR 29050
NPRM Comment Period End	08/31/92	
Final Action	12/22/92	57 FR 60720
Final Action Effective	01/21/93	57 FR 60720

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Kelbly, Accounting Officer, Office of Examination and Insurance, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, 202 682-9640

RIN: 3133–AB48

4738. • LOANS TO MEMBERS AND LINES-OF-CREDIT MEMBERS

Legal Authority: 12 USC 1757; 12 USC 1766

CFR Citation: 12 CFR 701.21(c)(7)

Legal Deadline: None

Abstract: The 18 percent Federal credit union loan rate was scheduled to revert to 15 percent on March 9, 1993, unless otherwise provided by the NCUA Board. A 15 percent ceiling would have restricted certain types of credit and had an adverse effect on the financial condition of many Federal credit unions. The final rule extends the current 18 percent maximum interest rate for Federal credit union loans until September 8, 1994.

Timetable:

Action	Date	FR Cite
Final Action	01/26/93	58 FR 6075
Final Action Effective	03/09/93	58 FR 6075

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lindsay L. Neunlist, Office of Examination & Insurance, National Credit Union Administration, 1775 G Street NW., Washington, DC 20456, 202 682-9640

RIN: 3133–AB53

4739. • REAL ESTATE APPRAISAL EXCEPTIONS IN MAJOR DISASTER AREAS

Legal Authority: PL 102-485, sec 2

CFR Citation: 12 CFR 722

Legal Deadline: None

Abstract: Section 2 of the Depository Institutions Disaster Relief Act of 1992 authorized exceptions to statutory and regulatory requirements relating to appraisals for transactions involving real property in major disaster areas, when the exceptions would facilitate recovery from the disaster and would not be inconsistent with safety and soundness. The rule sets forth the exceptions and their expiration dates.

Timetable:

Action	Date	FR Cite
Final Action	11/17/92	57 FR 54173
Final Action Effective	11/17/92	57 FR 54173

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AB55

[FR Doc. 93-5058 Filed 04-23-93; 8:45 am]

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National Indian Gaming Commission

Semiannual Regulatory Agenda

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NATIONAL INDIAN GAMING COMMISSION (NIGC)

NATIONAL INDIAN GAMING COMMISSION

25 CFR Ch. III

Semiannual Regulatory Agenda

AGENCY: National Indian Gaming Commission.

ACTION: Publication of semiannual regulatory agenda.

SUMMARY: The National Indian Gaming Commission is today publishing an agenda of its open and anticipated rulemaking actions. The agenda is a general announcement to the public intended to provide advance notice of rulemaking actions in which the public may wish to participate. The Commission invites questions and public comment on individual agenda entries.

FOR FURTHER INFORMATION CONTACT: Michael Cox, General Counsel, National Indian Gaming Commission, Suite 250, 1850 M Street NW., Washington, DC 20036, 202-632-7003, ext. 19.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 "Federal Regulation" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish semiannual regulatory agendas in the **Federal Register** in April and October of each year.

The regulations being considered by the Commission are not "major" rules within the meaning of E.O. 12291, and no Regulatory Impact Analysis is required. The Commission also has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities Accordingly, no Regulatory Flexibility Analysis is required.

Anthony J. Hope,
Chairman

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4740	Review of Petitions for Certificate of Self-Regulation Under the Indian Gaming Regulatory Act	3141-AA04
4741	Procedures Under the National Environmental Policy Act	3141-AA06

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4742	Freedom of Information Act Procedures	3141-AA05

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4743	Purpose and Scope; Service; Approval of Class II and Class III Gaming Ordinances; Background Investigations and Gaming Licenses Under the Indian Gaming Regulatory Act; Privacy Act Procedures	3141-AA01
4744	Compliance and Enforcement Procedures Under the Indian Gaming Regulatory Act	3141-AA02
4745	Management Contract Requirements and Procedures Under the Indian Gaming Regulatory Act	3141-AA03

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Proposed Rule Stage

4740. REVIEW OF PETITIONS FOR CERTIFICATE OF SELF-REGULATION UNDER THE INDIAN GAMING REGULATORY ACT

Significance: Agency Priority

Legal Authority: 25 USC 2701 et seq

CFR Citation: 25 CFR 581

Legal Deadline: None

Abstract: This rule will provide procedures for a tribe to petition the Commission for a certificate of self-regulation of class II gaming. The rule will implement the statutory standards that must be met in order for the Commission to grant such a petition. The rule also will implement the Commission's authority to remove a certificate of self-regulation for just cause.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	07/00/93	
Final Action	09/00/93	
Final Action Effective	10/00/93	

Small Entities Affected: None

Government Levels Affected: None

NIGC — Proposed Rule Stage

Agency Contact: Michael Cox, General Counsel, National Indian Gaming Commission, Suite 250, 1850 M St. NW., Washington, DC 20036, 202 632-7003

RIN: 3141–AA04

4741. PROCEDURES UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT

Significance: Agency Priority

Legal Authority: 25 USC 2701 et seq; 42 USC 4321 et seq

CFR Citation: 25 CFR 518

Legal Deadline: None

Abstract: The National Environmental Policy Act establishes national environmental policy and goals for the protection, maintenance, and enhancement of the environment. The Act provides a process for implementing these goals within the Federal agencies. This rule would provide procedures for the Commission to follow in meeting its obligations under the Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
NPRM Comment Period End	05/00/93	
Final Action	07/00/93	
Final Action Effective	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Carletta, Paralegal Specialist, National Indian Gaming Commission, Suite 250, 1850 M Street NW., Washington, DC 20036, 202 632-7003

RIN: 3141–AA06

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Final Rule Stage

4742. FREEDOM OF INFORMATION ACT PROCEDURES

Significance: Agency Priority

Legal Authority: 25 USC 2701 et seq; 5 USC 552

CFR Citation: 25 CFR 517

Legal Deadline: None

Abstract: Under the Freedom of Information Act, a Federal agency must publish, in the Federal Register, procedures by which the public may obtain access to information the agency compiles, creates, and maintains. This rule would provide such procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/24/92	57 FR 55212
NPRM Comment Period End	12/24/92	57 FR 55212
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Carletta, Paralegal Specialist, National Indian Gaming Commission, Suite 250, 1850 M Street NW., Washington, DC 20036, 202 632-7003

RIN: 3141–AA05

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Completed Actions

4743. PURPOSE AND SCOPE; SERVICE; APPROVAL OF CLASS II AND CLASS III GAMING ORDINANCES; BACKGROUND INVESTIGATIONS AND GAMING LICENSES UNDER THE INDIAN GAMING REGULATORY ACT; PRIVACY ACT PROCEDURES

Significance: Agency Priority

Legal Authority: 25 USC 2701 et seq

CFR Citation: 25 CFR 501; 25 CFR 515; 25 CFR 519; 25 CFR 522; 25 CFR 523; 25 CFR 524; 25 CFR 556; 25 CFR 558

Legal Deadline: None

Abstract: This rule implements the Chairman's authority to review and approve tribal ordinances or resolutions governing class II and class III gaming. Also addressed are licensing background investigations; individually owned operations; grandfathered operations; and Privacy Act requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/08/92	57 FR 30346
NPRM Comment Period End	08/24/92	57 FR 30346
Final Action	01/22/93	58 FR 5802
Final Action Effective	02/22/93	58 FR 5802

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Jane Markley, Staff Attorney, National Indian Gaming Commission, Suite 250, 1850 M Street NW., Washington, DC 20036, 202 632-7003

RIN: 3141–AA01

4744. COMPLIANCE AND ENFORCEMENT PROCEDURES UNDER THE INDIAN GAMING REGULATORY ACT

Significance: Agency Priority

Legal Authority: 25 USC 2701 et seq

CFR Citation: 25 CFR 571; 25 CFR 573; 25 CFR 575; 25 CFR 577

Legal Deadline: None

Abstract: This rule provides compliance and enforcement procedures under the Indian Gaming Regulatory Act. The rule addresses notice; monitoring; audits; notices of violation; orders of temporary and permanent closure; civil penalties; hearings and appeals; subpoenas; depositions; and discovery.

Timetable:

Action	Date	FR Cite
NPRM	07/09/92	57 FR 30584

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Action	Date	FR Cite
NPRM Comment Period End	09/08/92	57 FR 30584
Final Action	01/22/93	58 FR 5833
Final Action Effective	02/22/93	58 FR 5833

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neil Stoloff, Staff Attorney, National Indian Gaming Commission, Suite 250, 1850 M St. NW., Washington, DC 20036, 202 632-7003

RIN: 3141–AA02

4745. MANAGEMENT CONTRACT REQUIREMENTS AND PROCEDURES UNDER THE INDIAN GAMING REGULATORY ACT

Significance: Agency Priority

Legal Authority: 25 USC 2701 et seq

CFR Citation: 25 CFR 531; 25 CFR 533; 25 CFR 535; 25 CFR 537; 25 CFR 539

Legal Deadline: None

Abstract: This rule implements the Chairman's authority to review and approve management contracts and collateral agreements for the operation and management of class II and class III gaming. The rule also addresses accounting for gaming operations fees for background investigations, and the requirements of the National Environmental Policy Act.

Timetable:

Action	Date	FR Cite
NPRM	08/19/92	57 FR 37656
NPRM Comment Period End	09/30/92	
Final Action	01/22/93	58 FR 5818
Final Action Effective	02/22/93	58 FR 5818

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Fred Stuckwisch, Chief of Staff, National Indian Gaming Commission, Suite 250, 1850 M St. NW., Washington, DC 20036, 202 632-7003

RIN: 3141–AA03

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Monday
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Part LVIII

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

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NUCLEAR REGULATORY COMMISSION (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual publication of NRC regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual regulatory agenda in accordance with Public Law 96-354 "The Regulatory Flexibility Act" and Executive Order 12291 "Federal Regulation." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on November 3, 1992 (57 FR 51002).

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be hand delivered to the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda.

The agenda and any comments received on any rule listed in the agenda are available for public inspection and copying for a fee at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555. Single copies of the NRC quarterly agenda can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. Customers may call (202) 512-2303 or (202) 512-2249.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact Michael Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 492-7758. Persons outside the Washington, DC, metropolitan area may call, toll-free: (800) 368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: Although publication of the agenda is only required semiannually, in April and October, the NRC has chosen to update and publish its agenda each quarter. However, the information contained in this semiannual publication is updated to reflect any action which has occurred on rules since publication of the last NRC semiannual agenda on November 3, 1992 (57 FR 51002).

Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this agenda has been updated through February 26, 1993. The date for the next scheduled action under the heading "Timetable" is the date the rule is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. The regulatory agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the regulatory agenda.

Rulemakings Approved by the Executive Director for Operations (EDO)

The EDO initiated a procedure for review of the regulations being prepared by staff offices that report to him to ensure that staff resources are allocated most effectively to achieve NRC's regulatory priorities. This procedure requires EDO approval before staff resources may be expended on the development of any new rulemaking. Furthermore, all existing rules must receive EDO approval prior to the commitment of additional resources.

The NRC agenda lists rulemaking actions. Of these, no rulemaking items are considered to be priority or major as defined in section 1(b) of Executive Order 12291.

Eleven rules potentially will have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

Dated at Bethesda, Maryland, this 22nd day of February 1993.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Acting Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4746	Night Firing Qualifications for Security Guards at Nuclear Power Plants	3150-AC88
4747	Codes and Standards for Nuclear Power Plants (ASME Code, Section XI, Division 1, Subsection IWE and Subsection IWL)	3150-AC93
4748	Acceptance of Products Purchased for Use in Nuclear Power Plant Structures, Systems, and Components	3150-AD10
4749	Clarification of Emergency Preparedness Regulations; Exercise Requirements	3150-AD40
4750	Revision of Specific Exemptions	3150-AD83
4751	Design and Performance Criteria for Sealed Sources Used in Well Logging	3150-AE24

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Prerule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4752	Reporting Requirements for Transfer of Products to Persons Exempt From Licensing Requirements	3150-AE28
4753	Consideration of the Possible Effects of Power Reactor Ownership Arrangements on Safety	3150-AE48

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4754	Amendment to 10 CFR 51.51 and 51.52, Tables S-3 and S-4, Addition of Radon-222 and Technetium-99 Radiation Values, and Addition of Appendix B, "Table S-3 Explanatory Analysis"	3150-AA31
4755	Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors	3150-AA86
4756	Criteria for an Extraordinary Nuclear Occurrence	3150-AB01
4757	Revised Rules of Practice for Domestic Licensing Proceedings	3150-AB66
4758	Elimination of Inconsistencies between NRC Regulations and EPA HLW Standards	3150-AC03
4759	Availability of Official Records	3150-AC07
4760	Radioactive Waste Below Regulatory Concern; Generic Rulemaking	3150-AC35
4761	Update of Transportation Regulations To Incorporate New Licensing Information	3150-AC41
4762	Comprehensive Quality Assurance in Medical Use and a Standard of Care	3150-AC42
4763	Reasserting NRC's Sole Authority for Approving Onsite Low-Level Waste Disposal in Agreement States	3150-AC57
4764	Low-Level Waste Manifest Information and Reporting	3150-AD33
4765	Import and Export of Radioactive Wastes	3150-AD36
4766	Reinvestigation of Individuals Granted Unescorted Access to Nuclear Power Plants	3150-AD49
4767	Design Basis Events	3150-AD51
4768	Fracture Toughness Requirements for LWR Pressure Vessels	3150-AD57
4769	License Renewal for Nuclear Power Plants; Scope of Environmental Effects	3150-AD63
4770	Radiological Criteria for Decommissioning of Nuclear Facilities	3150-AD65
4771	Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use	3150-AD69
4772	Physical Protection of Special Nuclear Material in Transit	3150-AE02
4773	Loss of All Alternating Current Power	3150-AE06
4774	Radiography and Radiation Safety Requirements for Radiography Operations	3150-AE07
4775	Emergency Planning for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS)	3150-AE17
4776	Clarification of Reporting of Defects and Noncompliance for Materials Facilities	3150-AE18
4777	Procedures and Criteria for On-Site Storage of Low-Level Radioactive Waste	3150-AE22
4778	Standardized Plant Designs, Early Review of Site Suitability Issues; Clarifying Amendments	3150-AE25
4779	Codes and Standards for Nuclear Power Plants (ASME B&PV Code, 1989/1990/1991 Addenda and 1992 Edition, and the ASME OM Code-1990; Safety-Related Pumps, Valves and Snubbers)	3150-AE26
4780	Specific Licensing of Exports of Certain Alpha-Emitting Radionuclides and Byproduct Material	3150-AE31
4781	Licensing of Source Material	3150-AE33
4782	Licensee Submittal of Data in Computer-Readable Form	3150-AE35
4783	Modifications to Fitness-For-Duty Program Requirements	3150-AE36
4784	Notification of Incidents	3150-AE37
4785	Acceptability of Plant Performance for Severe Accidents; Scope of Consideration in Safety Regulations	3150-AE38
4786	Requalification Examination Requirements	3150-AE39
4787	Clarification of Assessment Requirements for the Siting Criteria and Performance Objectives	3150-AE40
4788	Dose Limits for Patients and Members of the Public	3150-AE41
4789	Removal of Criticality Alarm Requirements for Fresh Fuel	3150-AE43
4790	Administration of Byproduct Material or Radiation to Patients Who May Be Pregnant or Breast-Feeding	3150-AE44
4791	Thermal Annealing of the Reactor Pressure Vessel	3150-AE45
4792	Notification of Spent Fuel Management and Funding Plans by Licensees of Prematurely Shut Down Power Reactors	3150-AE46
4793	Fee Schedules for Facilities and Materials Licenses; FY 1993	3150-AE49
4794	Whistleblower Provisions	3150-AE50
4795	Freedom of Information Act Regulations; Minor Amendment	3150-AE51
4796	Physical Fitness Programs for Security Personnel at Category I Licensee Fuel Cycle Facilities	3150-AE52
4797	Safety Requirements for Reactor Coolant Pump Seals	3150-AE53

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Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4798	Procedures Involving the Equal Access to Justice Act: Implementation	3150-AA01
4799	Day Firing Qualifications for Security Personnel at Category I Licensee Fuel Cycle Facilities	3150-AD30
4800	Requirements for Possession of Industrial Devices Containing Byproduct Material	3150-AD34
4801	Discrimination on the Basis of Sex	3150-AD50
4802	Fitness-for-Duty Requirements for Licensees Who Possess, Use, or Transport Category I Material	3150-AD68
4803	Training and Qualification of Nuclear Power Plant Personnel	3150-AD80
4804	Requirements Concerning the Accessible Air Gap for Generally Licensed Devices	3150-AD82
4805	Timeliness in Decommissioning of Materials Facilities	3150-AD85
4806	Reactor Site Criteria; Including Seismic and Earthquake Engineering Criteria for Nuclear Power Plants	3150-AD93
4807	Decommissioning Recordkeeping and License Termination: Documentation Additions	3150-AD98
4808	Conforming Guidance on Low-Level Waste Disposal Facilities With 10 CFR Part 61	3150-AE00
4809	List of Approved Spent Fuel Storage Casks: Additions	3150-AE15
4810	Self-Guarantee as an Additional Financial Assurance Mechanism	3150-AE16
4811	Licensees' Announcements of Safeguards Inspections	3150-AE27

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Sequence Number	Title	Regulation Identifier Number
4812	NRC Acquisition Regulation (NRCAR)	3150-AC01
4813	Disposal of Waste Oil by Incineration	3150-AC14
4814	Quality Management Program and Misadministrations; NRC Override of OMB Disapproval of NRC Information Collection Request	3150-AC65
4815	Licenses and Radiation Safety Requirements for Irradiators	3150-AC98
4816	Medical Use of Byproduct Material: Training and Experience Criteria	3150-AC99
4817	Iridium-192 Wire for Interstitial Treatment of Cancer	3150-AD46
4818	Emergency Planning Regulations for Part 52 Licensing	3150-AD48
4819	Fitness-for-Duty Programs: NRC Partial Withdrawal of NRC Information Collection Requirements	3150-AD61
4820	Clarification of Statutory Authority for Purposes of Criminal Enforcement	3150-AD62
4821	Export and Import of Nuclear Equipment and Material; Clarifying Amendments	3150-AD64
4822	Change to Part 50 to Update Source Term and Replace Dose Calculation	3150-AD91
4823	Change to Part 100 To Add Site Criteria, Update Appendix A and Remove Dose Calculations; Interim Change to Part 50 To Add Source Term and Dose Calculations	3150-AD92
4824	Receipt of Byproduct and Special Nuclear Material	3150-AE04
4825	Clarification of Physical Protection Requirements at Fixed Sites	3150-AE08
4826	Exclusion of Attorneys From Interviews Under Subpoena	3150-AE11
4827	Departures From Manufacturer's Instructions; Elimination of Recordkeeping Requirements	3150-AE23
4828	Acquisition Regulation (NRCAR): Organizational Conflicts of Interest	3150-AE34
4829	Combined Construction Permits and Operating Licenses: Conforming Amendments	3150-AE42
4830	Conduct of Employees; Conforming Amendments	3150-AE47

NUCLEAR REGULATORY COMMISSION (NRC)

Prerule Stage

4746. NIGHT FIRING QUALIFICATIONS FOR SECURITY GUARDS AT NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Legal Deadline: None

Abstract: The rulemaking would ensure that security force effectiveness at nuclear power plants is not dependent on the time of day. Security guards currently are required to perform night firing for familiarization only. There is no requirement for standards to measure their effectiveness. The rule would require that security guards at nuclear power plants qualify for night firing. The only alternative to rulemaking is to retain the current status.

Part 73, Appendix B, Part IV, will be amended to require reactor security guards to qualify annually in an NRC-approved night firing course with their assigned weapons. The amendment will standardize training and qualification in night firing and prepare power reactor guard forces to respond more effectively in the event of an incident occurring in limited lighting conditions. The cost to industry should be relatively modest since licensees already operate daylight firing training and qualification facilities and programs.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Telford, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3796**

RIN: 3150–AC88

NRC

Prerule Stage

4747. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS (ASME CODE, SECTION XI, DIVISION 1, SUBSECTION IWE AND SUBSECTION IWL)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would incorporate by reference Subsection IWE, "Requirements for Class MC Components of Light-Water Cooled Power Plants," and Subsection IWL, "Requirements for Class CC Concrete Components of Light-Water Cooled Power Plants," of Section XI (Division 1) of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code). Subsection IWE provides the rules and requirements for inservice inspection, repair, and replacement of Class MC pressure retaining components and their integral attachments in light-water cooled power plants. Subsection IWL provides the rules and requirements for inservice inspection and repair of the reinforced concrete and post tensioning systems of Class CC components.

Incorporation by reference of Subsection IWE and Subsection IWL will provide systematic examination rules for containment structure for meeting Criterion 53 of the General Design Criteria (Appendix A of 10 CFR part 50) and Appendix J of 10 CFR part 50. (cont)

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Age-related degradation of containments has occurred, and additional and potentially more serious degradation mechanisms can be anticipated as nuclear power plants age.

If the NRC did not take action to endorse the Subsection IWE and Subsection IWL rules, the NRC position on examination practices for containment structure would have to be established on a case-by-case basis and improved examination practices for steel containment structures might not be implemented. The other alternatives of incorporating these detailed examination requirements into the American National Standard ANSI/ANS 56.8-1981 or into Appendix J are not feasible.

Incorporating by reference the latest edition and addenda of Subsection IWE and Subsection IWL will save applicants/licensees and the NRC staff both time and effort by providing uniform detailed criteria against which the staff can review any single submission. Adoption of the proposed amendment would permit the use of improved methods for containment inservice inspection.

Agency Contact: Wallace E. Norris, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3805**

RIN: 3150–AC93

4748. ACCEPTANCE OF PRODUCTS PURCHASED FOR USE IN NUCLEAR POWER PLANT STRUCTURES, SYSTEMS, AND COMPONENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) would develop regulations requiring enhanced receipt inspection and testing of products purchased for use in nuclear power plant structures, systems, and components. This ANPRM was published to solicit public comments on the need for additional regulatory requirements and to obtain an improved understanding of alternatives to regulatory requirements. Based upon comment analysis, the staff recommended to the Commission that this rule be withdrawn.

Recent inspections and discussions with the industry and licensees indicate that there is still some disagreement between industry and the NRC staff regarding commercial grade procurement and dedication. The NRC staff is currently conducting meetings with the industry and individual licensees to resolve the areas of disagreement. Final issuance of the notice of action will be issued following resolution of the areas of disagreement.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/89	54 FR 9229
ANPRM Comment Period End	07/05/89	
Next Action Undetermined		

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Lief J. Norrholm, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, **301 504-0961**

RIN: 3150–AD10

4749. CLARIFICATION OF EMERGENCY PREPAREDNESS REGULATIONS; EXERCISE REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by clarifying the linkage between the need for "reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency" indicated in Section 50.47(a) and 16 planning standards outlined in Section 50.47(b). In addition, the rulemaking will clarify the term "range of protective" actions. Other issues to be clarified include monitoring of evacuees, actions for recovery and reentry, notification of the public, evacuation time estimates, and exercise frequency.

In a December 23, 1988, memorandum to the EDO from SECY, the staff was directed to review the "...NRC's emergency planning regulations and proposed revisions designed to eliminate ambiguity and clarify the regulations to include what constitutes the exercise scope prior to the full power licensing...." The staff outlined the proposed rulemaking in a

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memorandum from the EDO to the Commission dated June 29, 1989.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael T. Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3918

RIN: 3150–AD40

4750. REVISION OF SPECIFIC EXEMPTIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 0[illegible]

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations pertaining to specific Privacy Act exemptions. This proposed rule would add exemption (j)(2) of the Privacy Act to the regulations that describe exempt systems of records. These amendments would make NRC's regulations consistent with the majority of statutorily appointed Inspectors General and would clearly link each system of records to the specific exemptions(s) of the Privacy Act under which each system is exempt.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sarah Wigginton, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-7752

RIN: 3150–AD83

4751. DESIGN AND PERFORMANCE CRITERIA FOR SEALED SOURCES USED IN WELL LOGGING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 039

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations governing well logging operations. The proposed rule would allow the continued use of sealed sources that were approved by accepted prototype testing before July 14, 1989. The proposed rule would also permit the continued use of previously evaluated and approved sealed sources by NRC well logging licensees. The proposed rule is necessary because the current regulations unintentionally excluded the use of sealed sources previously approved by prototype testing.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Trefethen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3867

RIN: 3150–AE24

4752. REPORTING REQUIREMENTS FOR TRANSFER OF PRODUCTS TO PERSONS EXEMPT FROM LICENSING REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 032

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to reinstate the annual reporting requirement for transfer of products containing small quantities of radioactive material to persons exempt from licensing requirements. Submittal of transfer reports on a 5-year reporting basis has made it difficult for the NRC staff to identify trends in distribution of materials to persons exempt from licensing requirements. Reinstating the annual reporting requirement will provide the NRC with more complete and accurate information on exemptions granted under 10 CFR 30 and improve the Commission's capability to assess potential effects of aggregated exposures to the public from a number of exempted practices. (cont)

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The impact of the proposed rule on licensees is expected to be minor based on the low estimated administrative burden, and on the current potential for the use of electronic data submittal and processing and the NMSS Licensing Management System.

Agency Contact: Frank Cardile, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3774

RIN: 3150–AE28

4753. • CONSIDERATION OF THE POSSIBLE EFFECTS OF POWER REACTOR OWNERSHIP ARRANGEMENTS ON SAFETY

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The NRC is considering amending its regulations to increase assurance that nuclear power reactor licensees will have adequate funds for decommissioning and other safety-related activities. This rulemaking will consider the need for amending the NRC's regulations to require power reactor licensees to either: (1) guarantee any unfunded decommissioning liability with a surety bond letter of credit, or other guarantee method currently allowed in 10 CFR 50.75(e)(1)(iii); (2) provide for a financial test guarantee mechanism similar to the one contained in 10 CFR Part 30, Appendix A; or (3) provide a certification to the NRC from the licensee's rate-making authority that it will allow unfunded decommissioning obligations to be collected in rates, notwithstanding the operating status of the facility.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert S. Wood, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 504-1255

RIN: 3150–AE48

NUCLEAR REGULATORY COMMISSION (NRC) — Proposed Rule Stage

4754. AMENDMENT TO 10 CFR 51.51 AND 51.52, TABLES S-3 AND S-4, ADDITION OF RADON-222 AND TECHNETIUM-99 RADIATION VALUES, AND ADDITION OF APPENDIX B, "TABLE S-3 EXPLANATORY ANALYSIS"

Legal Authority: 42 USC 2011; 42 USC 2201; 42 USC 4321; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 51

Legal Deadline: None

Abstract: The proposed rule amends the Table of Uranium Fuel Cycle Environmental Data (Table S-3) by adding new estimates for releases of technetium-99 and radon-222, and by updating other estimates. The proposed rule's Appendix B to Subpart A (narrative explanation), also describes the basis for the values contained in Table S-3, explains the environmental effects of these potential releases from the LWR Fuel Cycle, and postulates the potential radiation doses, health effects, and environmental impacts of these releases. The proposed rule also amends 10 CFR 51.52 to modify the enrichment value of U-235 and the maximum level of average fuel irradiation (burnup in megawatt-days of thermal power per metric ton of uranium). The narrative explanation also addresses important fuel cycle impacts and the cumulative impacts of the nuclear fuel cycle for the whole nuclear power industry so that it may be possible to consider these impacts generically rather than repeatedly in individual licensing proceedings, thus reducing potential litigation time and costs for both NRC and applicants. (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The proposed revision of 10 CFR 51.51 and the addition of Appendix B was published for public review and comment on March 4, 1981 (46 FR 15154). The final rulemaking was deferred pending the outcome of a suit (Natural Resources Defense Council, et al. v. NRC, No. 74-1486) in the U.S. Circuit Court of Appeals. The U.S. Court of Appeals (D.C. Circuit) decision on April 27, 1982, invalidated the entire Table S-3 rule. The Supreme Court reversed this decision on June 6, 1983.

The proposed rule to provide an explanatory narrative for Table S-3 has been revised to reflect new modeling developments during the time the rulemaking was deferred. Final action on the Table S-3 rule was held in abeyance until new values for radon-222 and technetium-99 could be added to the table and covered in the narrative explanation. The rule is being reissued as a proposed rule because the scope has been expanded to include radiation values for radon-222 and technetium-99 and the narrative explanation has been extensively revised from that published on March 4, 1981 (46 FR 15154).

Agency Contact: Stanley Turel, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3739

RIN: 3150–AA31

4755. PRIMARY REACTOR CONTAINMENT LEAKAGE TESTING FOR WATER-COOLED POWER REACTORS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would update and revise the 1973 criteria for preoperational and periodic pressure testing for leakage of primary containment boundaries of water-cooled power reactors. Problems have developed in application and interpretation of the existing rule. These result from changes in testing technology, test criteria, and a relevant national standard that needs to be recognized. The proposed revisions would make the rule current and improve its usefulness.

The revision is needed to resolve continuing conflicts between licensees and NRC inspectors over interpretations, current regulatory practice which is no longer being reflected accurately by the existing rule, and endorsement in the existing regulation of an obsolete national standard. The proposed rule would eliminate inconsistencies and obsolete requirements and provide a higher degree of confidence in the leak-tight integrity of containment system boundaries under post-loss of coolant accident conditions.

Timetable:

Action	Date	FR Cite
NPRM	10/29/86	51 FR 39538
NPRM Comment Period End	04/24/87	52 FR 2416

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gunter Arndt, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3814

RIN: 3150–AA86

4756. CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Legal Authority: 42 USC 2201; 42 USC 2210; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 140

Legal Deadline: None

Abstract: The proposed rule would revise the criteria for an extraordinary nuclear occurrence (ENO) to eliminate the problems encountered in the Three Mile Island ENO determination. The revised criteria should be established in the event they are needed.

There are no alternatives to this rulemaking, as the current ENO criteria are already codified in Subpart E of 10 CFR Part 140. The only way to modify these criteria, as this rule seeks to do is through rulemaking.

There is no safety impact on public health or safety. The ENO criteria provide legal waivers of defenses. Industry (insurers and utilities) claims that a reduction in the ENO criteria could cause increases in insurance premiums. The final rule will also respond to PRM-140-1.

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 13978
NPRM Comment Period End	09/06/85	

Next Action Undetermined

Small Entities Affected: None

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Government Levels Affected: None

Agency Contact: Alan K. Roecklein, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3740

RIN: 3150–AB01

4757. REVISED RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841; 05 USC 552

CFR Citation: 10 CFR 0; 10 CFR 1; 10 CFR 2; 10 CFR 9; 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would shorten and simplify existing Commission procedural rules applicable to domestic licensing proceedings by comprehensively restating, revising and reorganizing the statement of those rules to reflect current practice. The changes in this proposed rule would enable the Commission, directly and through its adjudicatory offices, to render decisions in a more timely fashion, eliminate the stylistic complexity of the existing rules, and reduce the burden and expense to the parties participating in agency proceedings. In 1987, the Commission deferred consideration of this proposal which would have revised the Commission's procedural rules governing the conduct of all adjudicatory proceedings other than export licensing proceedings under 10 CFR part 110, pending consideration of other, more limited revisions to the rules of practice. In 1989, former Chairman Zech requested that this proposed rule be updated and resubmitted for reconsideration by the Commission.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	09/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lee S. Dewey, Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, DC 20555, 301 492-7787

RIN: 3150–AB66

4758. ELIMINATION OF INCONSISTENCIES BETWEEN NRC REGULATIONS AND EPA HLW STANDARDS

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 60

Legal Deadline: None

Abstract: The proposed rule would eliminate several inconsistencies with the EPA standards to be developed for the disposal of HLW in deep geologic repositories. The Nuclear Waste Policy Act of 1982 (NWPA) directs NRC to promulgate criteria for the licensing of HLW geologic repositories. Section 121(c) of this Act states that the criteria for the licensing of HLW geologic repositories must be consistent with these standards. The proposed rule is needed in order to eliminate several inconsistencies with the EPA standards, thus fulfilling the statutory requirement.

Because the NWPA directs NRC to eliminate inconsistencies between Part 60 and the EPA standard, the alternatives to the proposed action are limited by statute.

The public, industry, and NRC will benefit from eliminating inconsistencies in Federal HLW regulations. NRC resources needed would be several staff-years but will not include contract resources.

Because the Federal Court invalidated the EPA standards, action on this rule is undetermined.

Timetable:

Action	Date	FR Cite
NPRM	06/19/86	51 FR 22288
NPRM Comment Period End	08/18/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Lambert, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3855

RIN: 3150–AC03

4759. AVAILABILITY OF OFFICIAL RECORDS

Legal Authority: 42 USC 2201, 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The proposed amendment would conform the NRC's regulations pertaining to the availability of official records to existing case law and agency practice. The amendment would reaffirm that 10 CFR 2.790(c) provides submitters of information a qualified right to have their information returned upon request. This amendment informs the public of three additional circumstances where information will not be returned to the applicant, i.e., information which has been made available to an advisory committee or was received at an advisory committee meeting, information discussed at an open Commission meeting under the Government in Sunshine Act and information that is subject to a pending Freedom of Information Act request.

The proposed amendment would also address the NRC's procedures for handling copyrighted information, including reproduction and distribution according to normal agency practice. The NRC, in receiving submittals and making its normal distributions, routinely photocopies submittals, makes microfiche of the submittals, and ensures that these fiche are distributed to the Public Document Room, Local Public Document Rooms, (cont)

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	03/08/92	
NPRM	12/23/92	57 FR 61013

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: all appropriate internal offices, and made available to the National Technical Information Service Center. This broad distribution and reproduction is made to increase public understanding of the peaceful uses of atomic energy. The proposed rule would not prevent submitters from applying 10 CFR 2.790(b)(1) procedures to information that contains trade secrets or privileged or confidential commercial or financial information (proprietary information) and it is recognized that some information in those categories may be copyrighted. Proprietary information status exempts this material from public disclosure and is not to be confused with handling pursuant to copyright designation.

Agency Contact: Mary Patricia Siemien, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 504-1565

RIN: 3150–AC07

4760. RADIOACTIVE WASTE BELOW REGULATORY CONCERN; GENERIC RULEMAKING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2; 10 CFR 20

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) sought comments on a proposal to amend NRC regulations to address disposal of radioactive wastes that contain sufficiently low quantities of radionuclides that their disposal does not need to be regulated as radioactive.

The NRC has already published a policy statement providing guidance for filing petitions for rulemaking to exempt individual waste streams (August 29, 1986; 51 FR 30839). It is believed that generic rulemaking could provide a more efficient and effective means of dealing with disposal of wastes below regulatory concern. Generic rulemaking would supplement the policy statement which was a response to Section 10 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (Pub. L. 99-240). The public was asked to comment on 14 questions. The ANPRM requested public comment on several alternative approaches that the NRC could take. The evaluation of public comment together with the results from a research contract and a Below Regulatory Concern consensus building effort will help to determine whether and how NRC should proceed on the matter.

Timetable:

Action	Date	FR Cite
ANPRM	12/02/86	51 FR 43367
ANPRM Comment Period End	03/02/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul Kovach, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3729

RIN: 3150–AC35

4761. UPDATE OF TRANSPORTATION REGULATIONS TO INCORPORATE NEW LICENSING INFORMATION

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 71

Legal Deadline: None

Abstract: The proposed rule would, in conjunction with a corresponding rule change by the U.S. Department of Transportation, update the United States Federal regulations for the safe transportation of radioactive material to incorporate new licensing information developed since 1972. The proposed rule would respond to the need for a: 1) new crush test; 2) new deep immersion test; and 3) new limit on low specific activity material shipments. The action will be handled as a routine updating of NRC transportation regulations. There is no reasonable alternative to rulemaking. Proposed changes to 10 CFR Part 71, based on current IAEA regulations, have been issued for public comment.

Timetable:

Action	Date	FR Cite
NPRM	06/08/88	53 FR 21550
DOT Proposed Rule Published	11/14/89	54 FR 47454
NPRM Comment Period End	02/09/90	54 FR 13528

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald R. Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3784

RIN: 3150–AC41

4762. COMPREHENSIVE QUALITY ASSURANCE IN MEDICAL USE AND A STANDARD OF CARE

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) would amend the Commission's regulations to require a comprehensive quality assurance program for medical licensees using byproduct materials. The purpose of this rulemaking action is to address each source of error that can lead to a misadministration. An ANPRM was published to request public comment on the extent to which in addition to the basic quality assurance procedures (being addressed by another rulemaking action, entitled "Basic Quality Assurance Program for Medical Use of Byproduct Material"), a more comprehensive quality assurance requirement is needed and invites advice and recommendations on about 20 questions that will have to be addressed in the rulemaking process.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/87	52 FR 36949
ANPRM Comment Period End	12/31/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3797

RIN: 3150–AC42

4763. REASSERTING NRC'S SOLE AUTHORITY FOR APPROVING ONSITE LOW-LEVEL WASTE DISPOSAL IN AGREEMENT STATES

Legal Authority: 42 USC 2201; 42 USC 2021; 42 USC 5841

CFR Citation: 10 CFR 150

Legal Deadline: None

Abstract: The proposed rule would establish NRC as the sole authority for approving onsite disposal of very low-level waste at all NRC licensed reactors and at Part 70 facilities. The NRC staff has recommended that this proposed rulemaking be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	08/22/88	53 FR 31860
NPRM Comment Period End	10/21/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry S. Tovmassian, Nuclear Regulatory Commission, Office

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of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3634**

RIN: 3150–AC57

4764. LOW-LEVEL WASTE MANIFEST INFORMATION AND REPORTING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 020; 10 CFR 061

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to: (1) improve information contained in manifests accompanying shipments of waste to low-level waste (LLW) disposal facilities licensed under Part 61; (2) develop a uniform manifest for national use; (3) require that operators of these disposal facilities store manifest information in electronic recordkeeping systems; and (4) require that operators submit, on a machine-readable medium, reports of shipment manifest information.

To ensure safe disposal of LLW, the NRC must understand the mechanisms and rates by which radioactivity can be released from LLW and into the environment. To do this, the NRC must understand the chemical, physical, and radiological characteristics of LLW. This task is greatly complicated by the heterogeneous nature of LLW; it exists in a variety of chemical and physical forms and contains roughly 200 different radionuclides in concentrations that can range from a few microcuries to several hundred curies per cubic foot. Each year there are thousands of shipments to LLW disposal sites. (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/21/92	57 FR 14500
NPRM Comment Period End	07/20/92	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The rulemaking would facilitate the eventual development of a complete, detailed national LLW computer data base, if appropriate, that contains information about waste disposed in all LLW sites, those regulated by NRC as well as by Agreement States. The rulemaking, through development of a uniform manifest, would also improve safe and expeditious movement of LLW from generators through processors or collectors to disposal facilities. Emergency accident procedures would be enhanced through use of a single uniform manifest.

The NRC does not expect that the rulemaking will increase disposal costs. The final rule is dependent upon a coordinated rulemaking effort with the Department of Transportation.

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3877**

RIN: 3150–AD33

4765. IMPORT AND EXPORT OF RADIOACTIVE WASTES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 110

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's licensing requirements to strengthen the Commission's controls over radioactive waste coming into and leaving the United States by requiring specific NRC licensing of radioactive waste imports and exports. The proposed rule would help ensure that the transactions are subject to the approval of the U.S. Government and the consent of other involved parties. The proposed amendment would conform U.S. policies with the decision of the General Conference of the International Atomic Energy Agency in September 1990, approving a voluntary Code of Practice to guide Nation States in the development and harmonization of policies and laws on the transboundary shipments of radioactive waste. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	02/07/90	55 FR 4181
ANPRM Comment Period End	04/24/90	55 FR 10786
NPRM	04/28/92	57 FR 17859
NPRM Comment Period End	07/13/92	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT: (cont)

Sixteen letters of comment were received from several different sources in response to the proposed rule. These comments are being reviewed by the NRC as it begins to develop the final amendments to the NRC's licensing regulations pertaining to the export and import of radioactive wastes.

Agency Contact: Ronald D. Hauber, Nuclear Regulatory Commission, Office of International Programs, Washington, DC 20555, **301 504-2344**

RIN: 3150–AD36

4766. REINVESTIGATION OF INDIVIDUALS GRANTED UNESCORTED ACCESS TO NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require periodic updates of FBI fingerprint checks for reinvestigation of individuals granted unescorted access to nuclear power plants or access to safeguards information. The proposed rule would require that licensees who operate a nuclear power plant submit fingerprint cards for applicable personnel to the NRC for criminal history checks every 5 years. Authorization for unescorted access would be retained by an individual pending results of the criminal history check on that individual's fingerprints. The NRC staff has recommended that this rulemaking be terminated.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3773**

RIN: 3150–AD49

4767. DESIGN BASIS EVENTS

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 060

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning additional preclosure regulatory requirements for high-level waste geologic repositories. Several issues associated with preclosure regulatory requirements have been raised due to different interpretations of the rulemaking record for 10 CFR Part 60. These involve: (1) the lack of clearly prescribed requirements for the establishment of a controlled use area intended to protect public health and safety in the event of a postulated radionuclide release and (2) the definition of structures, systems, and components important to safety for which certain design and quality assurance criteria apply. In order to meet the milestones mandated by the Nuclear Waste Policy Act of 1982, as amended, and milestones pertaining to DOE's production schedule in the Mission Plan amendments, guidance is needed from NRC on these matters to enable DOE to proceed with the siting of a geologic repository. (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	02/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The proposed amendments would require the establishment of a controlled use area, based on radiation dose criteria, for the siting of geologic repositories. In addition, a new definition of structures, systems, and components important to safety would be added that would be similar to one in 10 CFR part 72.

Agency Contact: Mysore Nataraja, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 504-3459**

RIN: 3150–AD51

4768. FRACTURE TOUGHNESS REQUIREMENTS FOR LWR PRESSURE VESSELS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning fracture toughness requirements to resolve issues that have resulted from technological improvements and from other issues. The "Pressurized Thermal Shock (PTS) rule" (10 CFR 50.61), was modified in 1991 to be consistent with the embrittlement correlations given in Regulatory Guide 1.99, Revision 2. However, the need for further clarifications to the PTS rule has been identified.

Appendix G to 10 CFR Part 50 provides fracture toughness requirements for feritic materials of pressure-retaining components of the reactor coolant boundary of light-water nuclear power reactors.

Appendix H to 10 CFR Part 50 contains requirements for RPV material surveillance programs that are intended to monitor fracture toughness property changes in RPV materials due to irradiation embrittlement.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
Final Action	08/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allen L. Hiser, Jr., Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3988**

RIN: 3150–AD57

4769. LICENSE RENEWAL FOR NUCLEAR POWER PLANTS; SCOPE OF ENVIRONMENTAL EFFECTS

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 051

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to establish new requirements for environmental review of applications for renewal of nuclear power plant operating licenses. The proposed rule would define the number and scope of environmental issues which would need to be addressed as part of a license renewal application.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/90	55 FR 29964
ANPRM Comment Period End	10/22/90	
NPRM	09/17/91	56 FR 47016
NPRM Comment Period End	03/16/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald P. Cleary, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3936**

RIN: 3150–AD63

4770. RADIOLOGICAL CRITERIA FOR DECOMMISSIONING OF NUCLEAR FACILITIES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 020

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to codify the basic principles and radiological criteria which would allow decommissioned lands and structures to be released for unrestricted public use. In the final rule on General Requirements for Decommissioning Nuclear Facilities (53 FR 24018) dated June 27, 1988, the need and urgency for guidance with respect to residual contamination criteria was expressed. At that time, it was anticipated that an interagency working group organized by the Environmental Protection Agency would develop necessary Federal guidance. However, in the absence of significant progress by the interagency working group, the Commission has directed that the NRC expedite rulemaking because the requirements, once final, will provide licensees with an incentive to complete site decommissionings. The rule would establish basic radiological criteria for release of lands and structures. Measurables, in the form of surface and volume radioactivity concentrations and site radioactivity inventory values, would be provided in supporting regulatory guidance. (cont)

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

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NRC

Proposed Rule Stage

Additional Information: ABSTRACT CONT: These combined activities should benefit the public, industry and the NRC by providing a risk-based framework upon which decommissioning activities and license terminations can be accomplished. The framework will ensure adequate protection of public health and safety and identify residual radioactivity criteria upon which licensees can confidently develop reasonable and responsible decommissioning plans.

Agency Contact: James Malaro, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3764

RIN: 3150–AD65

4771. PREPARATION, TRANSFER FOR COMMERCIAL DISTRIBUTION, AND USE OF BYPRODUCT MATERIAL FOR MEDICAL USE

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: The proposed rule would examine the Commission's regulations related to the compounding of radiopharmaceuticals, the use of biologics containing byproduct material, and the medical research uses of radiopharmaceuticals. This rulemaking will also address a petition for rulemaking from Amersham Corporation (PRM-35-8) and American college of Nuclear Physicians and the Society of Nuclear Medicine (PRM-35-9).

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3797

RIN: 3150–AD69

4772. PHYSICAL PROTECTION OF SPECIAL NUCLEAR MATERIAL IN TRANSIT

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations for the transport of Category I materials to provide a level of protection for these materials while in transit comparable to that provided by the U.S. Department of Energy. This amendment would reduce reliance on DOE's Safe Secure Trailer program for secure shipments of Category I material.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Violet C. Crossman, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 504-2403

RIN: 3150–AE02

4773. LOSS OF ALL ALTERNATING CURRENT POWER

Legal Authority: 42 USC 2201; 42 USC 2237; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would require licensees to test and monitor the reliability of emergency diesel generators (EDG) against criteria that are consistent with the EDG target levels selected for compliance with the requirements for station blackout. The reliability of onsite emergency alternating current sources is a major factor in assuring acceptable safety at light-water-cooled nuclear power plants.

Timetable:

Action	Date	FR Cite
NPRM	04/21/92	57 FR 14514
NPRM Comment Period End	07/06/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Aleck Serkiz, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3942

RIN: 3150–AE06

4774. RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHY OPERATIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 034

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations on licenses for radiography and radiation safety requirements for radiographic operations. The proposed rule would revise 10 CFR Part 34 to clarify the requirements in section 34.27 and conform Part 34 with the approach developed by the Conference of Radiation Control Program Directors, Inc. (Part E of the "Suggested State Regulations for Control of Radiation"), and the State of Texas in Part 31 of the Texas Regulations for Control of Radiation. Comments and suggestions from regulatory groups, users, and manufacturers will be considered in the overall revision and Canadian atomic energy control regulations that relate to radiography will be consulted. The proposed rule is necessary because of frequent misinterpretations of the provisions of Part 34 and the need to clarify the requirements of 10 CFR 34.27. The staff is currently preparing an options paper which will examine the issues, set priorities, and provide direction for the proposed rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	01/00/94	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Donald Nellis, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3628

RIN: 3150–AE07

4775. EMERGENCY PLANNING FOR INDEPENDENT SPENT FUEL STORAGE FACILITIES (ISFSI) AND MONITORED RETRIEVABLE STORAGE FACILITIES (MRS)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 072

Legal Deadline: None

NRC

Proposed Rule Stage

Abstract: The proposed rule would amend the Commission's regulations to provide, as directed by the Nuclear Waste Policy Act of 1982, for the emergency planning licensing requirements for Independent Spent Fuel Storage Facilities and Monitored Retrievable Storage Facilities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael T. Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3918

RIN: 3150–AE17

4776. CLARIFICATION OF REPORTING OF DEFECTS AND NONCOMPLIANCE FOR MATERIALS FACILITIES

Legal Authority: 42 USC 2201; 42 USC 5846

CFR Citation: 10 CFR 021

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning the reporting of defects and noncompliance to clarify the applicability of these provisions to materials and fuel cycle licensees. Because of the wide diversity in the types of licensees covered under these regulations, the requirements have been misinterpreted by the licensees. The proposed rule would clearly define the applicability of these provisions to the different types of licensees and would take into account the differences between different classes of licensees. The proposed rule is being developed in response to an NRC internal audit and to a parallel review of these regulations as they apply to materials licensees. The proposed rule would relax certain requirements on small licensees and, therefore, would result in some cost savings to them.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	02/00/94	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Markley L. Au, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3749

RIN: 3150–AE18

4777. PROCEDURES AND CRITERIA FOR ON-SITE STORAGE OF LOW-LEVEL RADIOACTIVE WASTE

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 070; 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations for reactor, material, fuel cycle, and independent spent fuel storage licensees. The proposed rule would establish a regulatory framework containing the procedures and criteria that will apply to on-site storage of low-level radioactive waste (LLW), beyond January 1, 1996. The Commission has determined, under the authority of the Atomic Energy Act of 1954, as amended, that these charges are required because of potential health and safety concerns associated with the increased reliance upon on-site storage of LLW. The proposed rule is intended to support the goals that have been established by the Low-Level Radioactive Waste Policy Amendments Act of 1985.

Timetable:

Action	Date	FR Cite
NPRM	02/02/93	58 FR 6730
NPRM Comment Period End	04/05/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Nelson, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 504-2004

RIN: 3150–AE22

4778. STANDARDIZED PLANT DESIGNS, EARLY REVIEW OF SITE SUITABILITY ISSUES; CLARIFYING AMENDMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050; 10 CFR 052; 10 CFR 140

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by deleting Appendices M, N, O, and Q from 10 CFR Part 50. The NRC is also proposing to make clarifying changes to 10 CFR Parts 52 and 140 to make clear that licensees are required to submit accurate and complete information to the NRC, and that its Price-Anderson requirements apply to combined license holders.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Geary S. Mizuno, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 504-1639

RIN: 3150–AE25

4779. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS (ASME B&PV CODE, 1989/1990/1991 ADDENDA AND 1992 EDITION, AND THE ASME OM CODE-1990; SAFETY-RELATED PUMPS, VALVES AND SNUBBERS)

Legal Authority: 42 USC 2201; 42 USC 5846

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to incorporate by reference the 1989 Addenda, 1990 Addenda, 1991 Addenda, and 1992 Edition of Section III, Division I, of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME B&PV Code); the 1989 Addenda, 1990 Addenda, 1991 Addenda, and 1992 Edition of Section XI, Division 1, of the ASME B&PV Code; and the ASME OM Code-1990. The ASME B&PV Code provides rules for the construction of light-water-cooled nuclear power plant components in Section III, Division 1, and rules for the inservice inspection of those components in Section XI, Division 1. The ASME OM Code provides rules for the inservice testing of pumps, valves, and snubbers. This

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proposed amendment would permit the use of improved methods for the construction, inservice inspection, and inservice testing of nuclear power plant components. Expansion of the scope of Section 50.55a to include all safety-related pumps, valves, and snubbers would ensure that these components are tested to qualify standards commensurate with the importance of the safety functions to be performed.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
Final Action	10/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT: (cont) Further, these actions would save applicants/licensees and the NRC staff both time and effort by providing uniform detailed criteria against which the NRC staff could review any single submission. There is no reasonable alternative to rulemaking action.

Agency Contact: Wan Cheng (Winston) Liu, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3822**

RIN: 3150–AE26

4780. SPECIFIC LICENSING OF EXPORTS OF CERTAIN ALPHA-EMITTING RADIONUCLIDES AND BYPRODUCT MATERIAL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 110

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to conform with the export control guidelines of the multilateral Nuclear Suppliers Group (NSG) and of the International Atomic Energy List of the Coordinating Committee for Multilateral Export Controls (COCOM), in which the United States participates, and treaty obligations between the United States and Canada. The proposed rule would amend general license regulations for the export of dispersed tritium, bulk tritium, americium-242m, californium-249, californium-251, curium-245, curium-247, and 16 different alpha-emitting radionuclides, including compounds and mixtures containing these radionuclides with a total alpha activity of 1 curie per kilogram or greater. In regard to the radionuclides, devices containing less than 100 millicuries of alpha activity per device would be exempt. Other exports of these alpha-emitting radionuclides would continue to be generally licensed for member states of the NSG, but would require specific licensing to other countries. (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/17/93	58 FR 14344
NPRM Comment Period End	04/16/93	58 FR 14344
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: ABSTRACT: (CONT) Each exporter covered by these regulations would have to meet the new requirements, as well as existing regulations.

The proposed rule would also clarify Appendix A to Part 110, covering nuclear reactor equipment under the NRC licensing authority, to aid exporters and U.S. export regulators in determining the reactor equipment under NRC jurisdiction.

Agency Contact: Elaine O. Hemby, Nuclear Regulatory Commission, Office of International Programs, Washington, DC 20555, **301 504-2341**

RIN: 3150–AE31

4781. LICENSING OF SOURCE MATERIAL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 040

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) describes contemplated amendments to the Commission's regulations governing the licensing of source material and mill tailings. The contemplated rulemaking would consider revisions to improve the control of source material through more specific regulation and to incorporate the revised standards for protection against radiation. This ANPRM is being issued to solicit comments and recommendations from interested parties on the preliminary issues that have been identified as candidates for consideration in rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	10/28/92	57 FR 48749
ANPRM Comment Period End	01/26/93	
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3838**

RIN: 3150–AE33

4782. LICENSEE SUBMITTAL OF DATA IN COMPUTER-READABLE FORM

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 040; 10 CFR 072; 10 CFR 074; 10 CFR 075; 10 CFR 150

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require that licensees' submittals related to special nuclear material transactions be in computer readable form. Affected licensees are those possessing reportable quantities of special nuclear material. The purpose of this amendment is to increase the efficiency of the data collection process and at the same time reduce costs.

Timetable:

Action	Date	FR Cite
NPRM	01/26/93	58 FR 6098
NPRM Comment Period End	04/26/93	
Final Action	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard H. Gramann, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, **301 504-2456**

RIN: 3150–AE35

4783. MODIFICATIONS TO FITNESS-FOR-DUTY PROGRAM REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 026

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission is amending its regulations to modify the current Fitness-for-Duty Program (FFD) requirements. The proposed amendments would apply to all licensees authorized to construct or operate a nuclear power reactor and all licensees authorized to possess or transport Category I nuclear material. The proposed rule is intended to improve the effectiveness of licensees FFD Programs, reduce unnecessary burdens, and ensure continued protection of public health and safety.

Timetable:

Action	Date	FR Cite
NPRM	03/24/93	58 FR 15810
NPRM Comment Period End	06/22/93	58 FR 15810
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Loren Bush, Jr., Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, **301 504-2944**

RIN: 3150–AE36

4784. NOTIFICATION OF INCIDENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to add incident reporting requirements to Part 72 to make it consistent with other regulations in 10 CFR Chapter I. On August 16, 1991 (56 FR 40757), the Commission published a final rule that deleted certain incident reporting requirements from Part 20 and replaced them with new incident reporting requirements in Parts 30, 40, and 70. However, incident reporting requirements were not added to Part 72. The only alternative to this rulemaking that would assure that the specified incidents are reported is to impose these reporting requirements by order or license condition. However, establishing reporting requirements by rulemaking is necessary to provide consistency throughout the Commission's regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Naiem S. Tanious, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3878

RIN: 3150–AE37

4785. • ACCEPTABILITY OF PLANT PERFORMANCE FOR SEVERE ACCIDENTS; SCOPE OF CONSIDERATION IN SAFETY REGULATIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) would amend the Commission's regulations to decouple source term and dose calculations from reactor siting and to permit the use of updated source term insights for future light water reactors. The NRC is presently in the process of reviewing advanced reactor designs. The DOE has also indicated that it intends to seek review for an early site permit, as permitted by 10 CFR Part 52, by early 1993. The only alternative to rulemaking would be to continue present staff practice utilizing an outdated source term formulation derived from Technical Information Document (TID) 14844, issued in 1962, coupled with the use of the guideline dose values in 10 CFR Part 100, not only for reactor siting, but for plant design as well. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	09/28/92	57 FR 44513
ANPRM Comment Period End	12/28/92	
NPRM	08/00/93	
Final Action	08/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

This rulemaking action comprises two phases. The first phase is described in the proposed rule titled, "Reactor Site Criteria; Including Seismic and Earthquake Engineering Criteria for Nuclear Power Plants (3150-AD93)." The second phase will consist of the issuance of an advance notice of proposed rulemaking (ANPRM), followed by a final revision of 10 CFR Part 50 to incorporate updated source term and severe accident research insights into plant design requirements for future light water reactors. The intent of this second phase of rulemaking is expected to provide additional requirements for future light water reactors regarding severe accident prevention and mitigation, and is expected to substantially reduce the risks from these events.

Agency Contact: Leonard Soffer, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3916**

RIN: 3150–AE38

4786. • REQUALIFICATION EXAMINATION REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 055

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to: (1) delete the requirement that each licensed individual pass an NRC-administered requalification examination during the term of license; (2) require that facility licensees submit to the NRC their annual requalification operating tests and comprehensive requalification written examinations 30 days prior to the conduct of these tests and examinations; and (3) include facility licenses in the "Scope" of Part 55. The proposed rule would also improve operational safety at each facility by redirecting NRC examiners to inspect and oversee facility requalification programs rather than conducting requalification examinations, while reducing both licensee and NRC costs to administer the program.

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NRC

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rajender Auluck, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-3794

RIN: 3150–AE39

4787. • CLARIFICATION OF ASSESSMENT REQUIREMENTS FOR THE SITING CRITERIA AND PERFORMANCE OBJECTIVES

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 060

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning regulatory requirements for licensing of high-level waste geologic repositories. The relationship described in Section 60.21 of the siting criteria in Section 60.122 (defined in terms of potentially adverse and favorable conditions) and the performance objectives in Sections 60.112 and 60.113 has been the subject of conflicting interpretations. The proposed rule would resolve the conflicting interpretations of the terms "adequately investigated" and "adequately evaluated" which are used with reference to the potentially adverse conditions in Section 60.122. In addition, the proposed rule would resolve the conflicting interpretations of the relationship of performance assessment and potentially adverse conditions. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/00/93	
Final Action	10/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT:

The proposed rule would also revise Sections 60.21 and 60.122 by removing the analysis requirements from Section 60.122 and placing them in Section 60.21. This would be consistent with other technical aspects of 10 CFR Part 60. These sections would also be revised to clarify that siting criteria must be appropriately considered in the compliance demonstration for the performance objectives of Sections 60.112 and 60.113. Separate acceptability assessments for individual potentially adverse conditions are not required.

Agency Contact: Mark Delligatti, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 504-2430

RIN: 3150–AE40

4788. • DOSE LIMITS FOR PATIENTS AND MEMBERS OF THE PUBLIC

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 020; 10 CFR 035

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to revise the patient release criteria contained in 10 CFR 35.75, and the applicability of the dose limits for members of the public in 10 CFR 20.1301. The Commission has received two petitions for rulemaking, PRM-20-20 and PRM-35-10, to amend its regulations regarding radiation exposure that members of the public may receive from patients who have been medically administered radioactive materials, and the criteria under which this patient may be released from confinement. The petitioners believe that the current requirements of Parts 20 and 35 would cause patients to be confined unnecessarily beyond the time needed for medical reasons. Therefore, if the Commission concludes that the dose limits and other restrictions should be relaxed, it will proceed with this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	
Final Action	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stewart Schneider, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3588

RIN: 3150–AE41

4789. • REMOVAL OF CRITICALITY ALARM REQUIREMENTS FOR FRESH FUEL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 070

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to eliminate the need for licensees to request an exemption for criticality monitors for new reactor fuel. An exemption for this requirement is routinely granted when requested by a licensee. The proposed rule would allow reactor licensees to dispense with unneeded criticality monitors without having to request an exemption.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	05/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry E. Jackson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3923

RIN: 3150–AE43

4790. • ADMINISTRATION OF BYPRODUCT MATERIAL OR RADIATION TO PATIENTS WHO MAY BE PREGNANT OR BREAST-FEEDING

Legal Authority: 42 USC 2111; 42 USC 2112; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2282

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning the medical use of byproduct material. The proposed rule would add requirements for medical use licensees to have policies and procedures to avoid unintended radiation exposures to an embryo, fetus, or a nursing infant. The proposed rule would also require reporting of these events.

NRC

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Samuel Z. Jones, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3738

RIN: 3150–AE44

4791. • THERMAL ANNEALING OF THE REACTOR PRESSURE VESSEL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to define and clarify the requirements on thermal annealing of reactor vessels to mitigating neutron irradiation embrittlement. The proposed rule would reduce the potential for confusion stemming from addressing thermal annealing in two rules and would result in a clear and more definitive regulatory process. The proposed rule would also address the following requirements for thermal annealing: (1) the procedural aspects of requesting permission to anneal the pressure vessel and to return to operation after the annealing process; and (2) the general analysis, testing, and inspection issues that would be considered by the Director, Office of Nuclear Reactor Regulation, in reviewing licensing submittals requesting permission to anneal to return to operation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
Final Action	08/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Al Taboada, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3838

RIN: 3150–AE45

4792. • NOTIFICATION OF SPENT FUEL MANAGEMENT AND FUNDING PLANS BY LICENSEES OF PREMATURELY SHUT DOWN POWER REACTORS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to clarify the timing of notification to the NRC of Spent Fuel Management and Funding Plans by licensees of those nuclear power reactors that have been shut down before the expected end of their operating lives. The proposed rule would require that a licensee submit its notification either within 2 years after permanently ceasing operation of its reactor or no later than 5 years before the reactor operating license expires, whichever event occurs first.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wood, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 504-1255

RIN: 3150–AE46

4793. • FEE SCHEDULES FOR FACILITIES AND MATERIALS LICENSES; FY 1993

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 170; 10 CFR 171

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning the licensing, inspection, and annual fees charged to its applicants and licensees. The proposed rule would establish the fees charged to Commission licensees in Fiscal Year 1993. The proposed rule is necessary to implement the Omnibus Budget Reconciliation Act of 1990 which requires the NRC to collect approximately 100 percent of its budget authority through fees for fiscal years (FY 1991-1995). There is no suitable alternative to rulemaking for this action.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	05/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: C. James Holloway, Jr., Nuclear Regulatory Commission, Office of the Controller, Washington, DC 20555, 301 492-4301

RIN: 3150–AE49

4794. • WHISTLEBLOWER PROVISIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 019; 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 060; 10 CFR 061; 10 CFR 070; 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by revising certain sections to conform with the nuclear whistleblower protection provisions of the Energy Policy Act of 1992. The new nuclear whistleblower protection provisions of the Energy Policy Act of 1992, which was enacted on October 24, 1992, amend Section 210 of the Energy Reorganization Act of 1974. The legislation extends the period in which to file a claim and extends protection to new classes of employees and employers. Because there were two Section 210's in the Energy Reorganization Act, the new legislation renumbers the whistleblower protection provision as Section 211. In addition, the new legislation requires that employers post the whistleblower protection provisions in a prominent place at the work site. The additional requirements and the expanded scope of protection are reflected in the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	
Final Action	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lieberman, Nuclear Regulatory Commission, Office

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of Enforcement, Washington, DC 20555, 301 504-2741

RIN: 3150–AE50

4795. • FREEDOM OF INFORMATION ACT REGULATIONS; MINOR AMENDMENT

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 009

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission is amending its regulations pertaining to public records to revise the fees NRC charges for clerical search, review, and duplication of agency records. The amendment is being made to reflect a lower agency salary average for clerical employees. The amendment will provide a benefit to Freedom of Information Act requesters who are assessed fees.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sarah Wigginton, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-7752

RIN: 3150–AE51

4796. • PHYSICAL FITNESS PROGRAMS FOR SECURITY PERSONNEL AT CATEGORY I LICENSEE FUEL CYCLE FACILITIES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to include a standardized physical fitness training program and fitness standards for security personnel. Current regulations specify that security personnel have no physical weaknesses that would adversely affect their performance of assigned job duties. However, regulatory standards ensuring that security personnel are physically fit to perform their duties do not exist. Requirements for a physical fitness program and fitness standards at Category I fuel cycle facilities for security personnel need to be added to the regulations in order to provide a uniform, enforceable program. Guidance will be developed to ensure that such a program will not, at the same time, endanger the health of those participating in it. (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
Final Action	05/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT:

Alternatives to the rulemaking would be to allow the status quo to continue. Physical fitness training programs would incur moderate costs to the licensees in the area of personnel time and limited physical fitness equipment.

Agency Contact: Harry S. Tovmassian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3634

RIN: 3150–AE52

4797. • SAFETY REQUIREMENTS FOR REACTOR COOLANT PUMP SEALS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require PWR plants to treat reactor coolant pump (RCP) seal assembly as a component of the safety-related reactor coolant pressure boundary. The proposed rule would provide RCP manufacturer-recommended instrumentation and procedures for monitoring RCP seal performance and detecting incipient RCP seal failures. The proposed rule would also provide RCP seal cooling during off-normal conditions such as station blackout and loss of component coolant water (CCW) or service water (SW) or provide full scale test results verifying acceptable seal performance under worst case loss of all seal cooling conditions.

Excessive leakage resulting from a RCP seal failure may occur as a result of loss of seal cooling or mechanical failures. In addition to the mechanical failures caused by the lack of adequate seal cooling, mechanical failures may result from other causes such as excessive pump vibration; defective parts; introduction of contaminants; secondary seal failure; pressure, temperature or flow transients; improper maintenance; and faulty assembly, installation, or adjustment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/93	
Final Action	12/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT:

The RCP seal failures which have occurred to date have not resulted in a direct threat to the health and safety of the public. However, the potential does exist for seal failures which could have significant safety consequences. Seal failures have occurred in which the loss of primary coolant to the containment was greater than the normal make-up capacity of the plant. The potential, therefore, exists for seal failures which can result in a small loss-of-coolant accident.

Alternatives to the rulemaking would be to allow the status quo to continue.

In addition to development of a rule, the NRC staff intends to prepare a regulatory guide that will provide the methods acceptable for complying with the proposed RCP seal rule.

Agency Contact: Syed K. Shaukat, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3934

RIN: 3150–AE53

4798. PROCEDURES INVOLVING THE EQUAL ACCESS TO JUSTICE ACT: IMPLEMENTATION

Legal Authority: 5 USC 504

CFR Citation: 10 CFR 001; 10 CFR 002

Legal Deadline: None

Abstract: The proposed rule would implement the Equal Access to Justice Act (EAJA) by providing for the payment of fees and expenses to certain eligible individuals and businesses that prevail in agency adjudications when the agency's position is determined not to have been substantially justified. This proposed regulation is modeled after rules issued by the Administrative Conference of the United States (ACUS) and has been modified to conform to NRC's established rules of practice. The proposed rule would further the EAJA's intent to develop government-wide, "uniform" agency regulations and would describe NRC procedures and requirements for the filing and disposition of EAJA applications. A draft final rule was sent to the Commission in June 1982, but Commission action was suspended pending a decision by the Comptroller General on the availability of funds to pay awards to intervenor parties. This issue was also the subject of litigation in Business and Professional People for the Public Interest v. NRC, 793 F.2d 1366 (D.C. Cir. 1986). (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/28/81	46 FR 53189
NPRM Comment Period End	11/28/81	46 FR 53189

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Additionally, in August 1985, the President signed into law, Pub. L. No. 99-80, an enactment renewing and revising the EAJA after its expiration under a statutory sunset requirement. The rule is being reevaluated to determine the agency adjudications that fall within the EAJA's coverage.

Agency Contact: John Cho, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 504-1585

RIN: 3150–AA01

4799. DAY FIRING QUALIFICATIONS FOR SECURITY PERSONNEL AT CATEGORY I LICENSEE FUEL CYCLE FACILITIES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to include day firing qualification courses for each type of required weapon for security personnel. Current regulations require day firing qualification using a national police course or equivalent for handguns and an NRC or nationally recognized course for semi-automatic weapons. The firing course specified for shotguns is in need of revision. Recent amendments to Part 73 added a requirement for night firing qualification using specific, designated firing courses. To ensure uniformity, the current day firing requirements should be compatible.

Alternatives to the rulemaking would be to allow the status quo to continue. Standardization of day firing courses to be consistent with those established for night firing would be of negligible cost to the affected licensees and to the NRC because day firing qualification using a variety of firing courses is already being done.

Timetable:

Action	Date	FR Cite
NPRM	12/13/91	56 FR 65024
NPRM Comment Period End	03/13/92	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry Tovmassian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3634

RIN: 3150–AD30

4800. REQUIREMENTS FOR POSSESSION OF INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Legal Authority: 42 USC 2111; 42 USC 2114; 42 USC 2201

CFR Citation: 10 CFR 031; 10 CFR 032

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations for the possession of industrial devices containing byproduct material to require device users to report to the NRC initially and then on a periodic basis. The report would indicate that the device is still in use or to whom the device has been transferred. The proposed rule would be the most efficient method, considering the number of general licensees and the number of devices currently in use, for assuring that devices are not improperly transferred or inadvertently discarded. The proposed rule is necessary to avoid unnecessary radiation exposure to the public that may occur when an improperly discarded device is included in a batch of scrap metal for reprocessing. The proposed rule would also avoid the unnecessary expense involved in retrieving the manufactured items fabricated from contaminated metal. The proposed rule would impose a small burden on device users and the NRC.

Timetable:

Action	Date	FR Cite
NPRM	12/27/91	56 FR 67011
NPRM Comment Period End	03/12/92	
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Joseph J. Mate, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3795

RIN: 3150–AD34

4801. DISCRIMINATION ON THE BASIS OF SEX

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002; 10 CFR 019

Legal Deadline: None

Abstract: The final rule would amend the Commission's regulations dealing with discrimination against persons who, on the grounds of sex, are excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity licensed by the NRC. The Commission has decided that Section 401 of the Energy Reorganization Act,

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which prohibits sex discrimination, applies only to the Commission and does not apply to NRC licensees and/or applicants. Because this decision invalidates 10 CFR 19.32 and 10 CFR 2.111, action is being taken to amend these sections and to incorporate appropriate language to clarify that these sections do not apply to licensee employees.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Markley L. Au, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3749**

RIN: 3150–AD50

4802. FITNESS-FOR-DUTY REQUIREMENTS FOR LICENSEES WHO POSSESS, USE, OR TRANSPORT CATEGORY I MATERIAL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 026

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to include Category I material licensees and transporters in the fitness-for-duty programs. This action is necessary to ensure fitness for duty of employees: (1) who have direct access to large quantities of special nuclear material; (2) who are responsible for the protection of the material; and (3) who transport the material. The proposed rule is expected to lead to compatibility with equivalent DOE programs.

The central issue for Category I material licensees and transporters is the risk of theft or diversion of highly enriched SNM due to drug-related causes which, in turn, could pose a significant risk to the health, safety, or security of a large population. Current regulations only cover nuclear power plants and need to be expanded to include Category I material licensees and transporters with requirements reflecting the differences between the nuclear power plants and the Category I material licensees and transporters. There is no alternative to rulemaking which would accomplish the objectives of the rulemaking. (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/30/92	57 FR 18415
NPRM Comment Period End	07/27/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The rulemaking will address the fitness-for-duty programs as they pertain to the type of facility or mode of shipment. The rulemaking will address the following aspects of the fitness-for-duty programs–general performance objectives, program elements and procedures, records and reports, audits, and enforcement. The costs to industry would include chemical testing and operating costs.

Agency Contact: Stanley Turel, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3739**

RIN: 3150–AD68

4803. TRAINING AND QUALIFICATION OF NUCLEAR POWER PLANT PERSONNEL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050; 10 CFR 052

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require each applicant for and holder of a license to operate a nuclear power plant to establish and use a systems approach in developing training programs for management, supervisory, professional, and technical workers who have an inpact on the health and safety of the public. The objective of the proposed rule is to meet the directives contained in Section 306 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425). The proposed rule generally reflects current industry practice.

Timetable:

Action	Date	FR Cite
NPRM	01/07/92	57 FR 537
NPRM Comment Period End	03/09/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rajender Auluck, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3794**

RIN: 3150–AD80

4804. REQUIREMENTS CONCERNING THE ACCESSIBLE AIR GAP FOR GENERALLY LICENSED DEVICES

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232, 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 031; 10 CFR 032

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to prevent unnecessary radiation exposure to individuals resulting from the use of gauging devices containing radioactive sources. These devices are routinely used for measuring material density, level, weight, moisture, and thickness. The proposed rule would provide for additional regulatory control over devices with both an accessible air gap and radiation levels that exceed specified values.

Timetable:

Action	Date	FR Cite
NPRM	11/27/92	57 FR 56287
NPRM Comment Period End	03/29/93	
Final Action	11/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3784**

RIN: 3150–AD82

4805. TIMELINESS IN DECOMMISSIONING OF MATERIALS FACILITIES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 070; 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require timely decontamination and decommissioning of materials facilities within a fixed period of time (e.g., 2-3 years) after cessation of operations. This requirement would be accompanied by a provision that the licensee seek a variance if completion of decontamination or decommissioning within the required time is not technically achievable or if delaying decontamination or decommissioning would reduce risk to public health and safety or the environment.

The rulemaking would result in publication of specific criteria for timeliness in the decontamination and decommissioning of material facilities. This rulemaking would provide a more substantial planning base for the industry and result in timely decontamination and decommissioning of material facilities. The resulting timely decontamination and decommissioning of materials facilities will reduce the potential radiological risk to the public and the environment from contaminated materials sites. The rulemaking is not expected to substantially affect licensee costs.

Timetable:

Action	Date	FR Cite
NPRM	01/13/93	58 FR 4099
NPRM Comment Period End	03/29/93	
Final Action	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Kovach, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3729**

RIN: 3150–AD85

4806. REACTOR SITE CRITERIA; INCLUDING SEISMIC AND EARTHQUAKE ENGINEERING CRITERIA FOR NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050; 10 CFR 052; 10 CFR 100

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to update the criteria used in decisions regarding power reactor siting, including geologic, seismic, and earthquake engineering considerations for future nuclear power plants. The proposed rule would allow NRC to benefit from experience gained in the application of the procedures and methods set forth in the current regulation and to incorporate the rapid advancements in the earth sciences and earthquake engineering. The proposed rule primarily consists of two separate changes, namely, the source term and dose considerations, and the seismic and earthquake engineering considerations of reactor siting.

A second phase of this rulemaking action is described in the proposed rule titled, "Acceptability of Plant Performance for Severe Accidents; Scope of Consideration in Safety Regulations (RIN 3150-AE38)."

The Commission is also proposing to deny the remaining issue in a petition for rulemaking (PRM-50-20) filed by Free Environment, Inc., et al. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/20/92	57 FR 47802
NPRM Comment Period End	02/17/93	
Final Action	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Note: This rulemaking was inadvertently deleted from the last regulatory agenda.

Agency Contact: Leonard Soffer, Nuclear Regulatory Commission; Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3916**

RIN: 3150–AD93

4807. DECOMMISSIONING RECORDKEEPING AND LICENSE TERMINATION: DOCUMENTATION ADDITIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 070; 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule, in conjunction with the decommissioning rule published on June 27, 1988 (53 FR 24018), would modify the Commission's decommissioning regulations to make them more specific and more easily implemented. Current regulations require recordkeeping provisions as well as termination plans or their equivalent to be filed with the Commission at cessation of operations. However, the current rules do not specify a listing of the land, structures, and equipment of the licensed facility or the submittal of an operating history of the facility. This type of information is important to ensure that all features and aspects of the facility and its attendant activities that could have the potential for resulting in radioactive contamination have been dealt with in the decommissioning process and that a record exists that can be stored for future reference which contains the relevant features of the license termination process requirements. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/07/91	56 FR 50524
NPRM Comment Period End	12/23/91	
Final Action	04/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: ABSTRACT CONT: There does not appear to be any reasonable alternative to rulemaking action. However, based on the recordkeeping requirements contained in the June 27, 1988 final rule, it is expected that most of the information explicitly required in in the proposed amendments will be available with minimal effort. While proposed amendments would affect all licensees, it is anticipated that the requirements would place minimal burden on them. Moreover, ensuring that the information is explicitly available should help expedite NRC approval of licensee decommissioning activities and may reduce the overall licensee and NRC efforts required to terminate a license.

Agency Contact: Carl Feldman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3883**

RIN: 3150–AD98

4808. CONFORMING GUIDANCE ON LOW-LEVEL WASTE DISPOSAL FACILITIES WITH 10 CFR PART 61

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 061

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require the applicant for a low-level

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radioactive waste (LLW) disposal facility license to provide information on the "quality assurance (QA) program, tailored to LLW disposal," that is planned for the facility instead of the "quality control (QC) program." The proposed rule would also amend Part 61 to clarify that above-ground disposal methods such as above-ground vaults are included within the regulatory scope of Part 61. The rulemaking will also correct an administrative error in section 61.80(i)(1) which directs licensees to submit copies of the required annual report to the Director, Division of High-Level Waste Management, rather than the Director, Division of Low-Level Waste Management and Decommissioning. (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/06/92	57 FR 8093
NPRM Comment Period End	04/06/92	
Final Action	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The Commission has determined that these changes are needed to reduce regulatory uncertainty or confusion in the current regulation. These amendments will codify existing NRC positions or correct administrative errors and are not extensive. The proposed changes should simplify LLW disposal facility licensing interactions for NRC, the Agreement States, and potential applicants for LLW disposal licenses.

Agency Contact: Janet Lambert, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3857**

RIN: 3150–AE00

4809. LIST OF APPROVED SPENT FUEL STORAGE CASKS: ADDITIONS

Legal Authority: 42 USC 2201; 42 USC 5846

CFR Citation: 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations governing the storage of spent fuel at nuclear power reactor sites in NRC-certified casks under a general license. Four spent-fuel storage casks have been certified and are currently listed in 10 CFR 72.214. The proposed rule would approve and list two additional casks: Cask TN-24 from Transnuclear Inc. and Cask VSC-24 from Pacific Sierra Nuclear Associates. A Safety Evaluation Report has been completed for each of these casks. An operating nuclear power reactor licensee may choose from any of the listed casks to store spent fuel at the reactor site under a general license.

Timetable:

Action	Date	FR Cite
NPRM	06/26/92	57 FR 28645
NPRM Comment Period End	09/09/92	
Final Action	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gordon Gundersen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3803**

RIN: 3150–AE15

4810. SELF-GUARANTEE AS AN ADDITIONAL FINANCIAL ASSURANCE MECHANISM

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 070; 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by revising the current decommissioning financial assurance requirements to allow non-electric utility reactor licensees who meet stringent financial criteria tests to provide self-guarantee as a means to comply with the decommissioning regulations. Under the current decommissioning regulations, non-electric utility reactor licensees are permitted to provide financial assurance of decommissioning funds through (1) prepayment or external sinking fund in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities; (2) surety method or insurance in the form of a surety bond, letter of credit, or line of credit; or (3) parent company guarantee. These funding methods do not permit non-electric utility reactor licensees to provide financial assurance by submitting a self-guarantee that meets or exceeds the criteria for a qualifying parent company guarantee.

Timetable:

Action	Date	FR Cite
NPRM	01/11/93	58 FR 3515
NPRM Comment Period End	03/29/93	
Final Action	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Clark Prichard, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3734**

RIN: 3150–AE16

4811. LICENSEES' ANNOUNCEMENTS OF SAFEGUARDS INSPECTIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073; 10 CFR 074

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to ensure that the presence of NRC safeguards inspectors at certain fuel cycle facilities is not announced or otherwise communicated to licensees and contractor personnel without the expressed request to do so by the inspector. Affected sites are limited to fuel cycle facilities using or possessing formula quantities of strategic special nuclear material The purpose of this amendment is to increase the effectiveness of unannounced safeguards inspections and to enable an inspector to get a more accurate view of normal operations at affected facilities.

Timetable:

Action	Date	FR Cite
NPRM	11/03/92	57 FR 49656
NPRM Comment Period End	02/01/93	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Priscilla A. Dwyer, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, **301 504-2478**

RIN: 3150–AE27

4812. NRC ACQUISITION REGULATION (NRCAR)

Legal Authority: 42 USC 2201; 41 USC 401

CFR Citation: 48 CFR 020

Legal Deadline: None

Abstract: The final rule amends the Nuclear Regulatory Commission Acquisition Regulation (NRCAR) to establish requirements for the procurement of goods and services within the NRC to satisfy the particular needs of the agency. This rule expands the existing NRCAR to implement and supplement the government-wide Federal Acquisition Regulation (FAR). This rule also completes action on the proposed rule entitled, "Acquisition Regulation (NRCAR): Organizational Conflicts of Interest," (See RIN No. 3150-AE34).

Timetable:

Action	Date	FR Cite
Final Action	12/23/92	57 FR 61152
Final Action Effective	01/22/93	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: William H. Foster, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, **301 492-8770**

RIN: 3150–AC01

4813. DISPOSAL OF WASTE OIL BY INCINERATION

Legal Authority: 42 USC 2201; 42 USC 2167; 42 USC 2073

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: The final rule permits the onsite incineration of contaminated waste oils generated at licensed nuclear power plants without amending existing operating licenses. This final rule will help to ensure that the limited capacity of licensed regional low-level waste disposal facilities is used more efficiently while maintaining releases from operating nuclear power plants at levels which are "as low as is reasonably achievable." This rule constitutes partial granting of a petition for rulemaking (PRM-20-15) submitted by Edison Electric Institute and Utility Nuclear Waste Management Group.

Timetable:

Action	Date	FR Cite
Final Action	12/07/92	57 FR 57649
Final Action Effective	01/06/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3638**

RIN: 3150–AC14

4814. • QUALITY MANAGEMENT PROGRAM AND MISADMINISTRATIONS; NRC OVERRIDE OF OMB DISAPPROVAL OF NRC INFORMATION COLLECTION REQUEST

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: The Commission has voted to override the Office of Management and Budget (OMB) disapproval of the information collection requirements imposed in the final rule entitled, "Quality Management Program and Misadministrations" (July 25, 1991; 58 FR 34104). As part of this final rule, the Commission is amending its regulations to reflect OMB's assignment of a new control number to these information collection requirements. The Commission reevaluated the need for this final rule and the information collection requirements it contains. The Commission continues to believe that its requirements for written quality management programs and misadministration reports, if complied with, have a reasonable likelihood of decreasing misadministrations (e.g., wrong dose or wrong patient) with a small incremental cost to licensees. Without the reporting requirements, it would not be possible to implement and enforce these regulations effectively.

Timetable:

Action	Date	FR Cite
Final Action	09/10/92	57 FR 41376
Final Action Effective	09/10/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony N. Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3797**

RIN: 3150–AC65

4815. LICENSES AND RADIATION SAFETY REQUIREMENTS FOR IRRADIATORS

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 019; 10 CFR 020; 10 CFR 030; 10 CFR 036; 10 CFR 040; 10 CFR 050; 10 CFR 070; 10 CFR 170

Legal Deadline: None

Abstract: The final rule establishes a new Part 36 to the Nuclear Regulatory Commission's regulations. Part 36 specifies radiation safety requirements and licensing requirements for the use of licensed radioactive materials in irradiators.

Timetable:

Action	Date	FR Cite
Final Action	02/09/93	58 FR 7715
Final Action Effective	07/01/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stephen A. McGuire, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3757**

RIN: 3150–AC98

4816. MEDICAL USE OF BYPRODUCT MATERIAL: TRAINING AND EXPERIENCE CRITERIA

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) discussed amending Commission regulations concerning training and experience criteria for individuals involved in the medical use of byproduct material. Public comments on this ANPRM have been received and reviewed; a contractor has prepared a study of training, accreditation, and certification programs now in place; and in July 1990, the Office of Nuclear Material Safety and Safeguards

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provided their analysis and proposed course of action to the Advisory Committee on Medical Uses of Isotopes (ACMUI) for consideration and response. Based on the results of the foregoing actions, the EDO approved the withdrawal of this ANPRM on August 5, 1991.

Timetable:

Action	Date	FR Cite
Withdrawn	10/09/92	57 FR 46522

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Camper, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 504-3417

RIN: 3150–AC99

4817. IRIDIUM-192 WIRE FOR INTERSTITIAL TREATMENT OF CANCER

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: The proposed rule presented amendments to the Commission's regulations governing the medical uses of byproduct material that would permit the use of iridium-192 wire for the interstitial treatment of cancer without a license amendment. This proposed action has been incorporated into the proposed rule entitled, "Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use" (RIN 3150-AD69).

Timetable:

Action	Date	FR Cite
Incorporated into RIN 3150-AD69	10/01/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony N. Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3797

RIN: 3150–AD46

4818. EMERGENCY PLANNING REGULATIONS FOR PART 52 LICENSING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule presented amendments to the Commission's regulations concerning those portions of emergency plans which cannot be exercised prior to issuance of a Part 52 combined license. This rulemaking is being terminated by EDO memorandum to the Commission dated November 25, 1992.

Timetable:

Action	Date	FR Cite
Terminated	11/25/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael T. Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3918

RIN: 3150–AD48

4819. FITNESS-FOR-DUTY PROGRAMS: NRC PARTIAL WITHDRAWAL OF NRC INFORMATION COLLECTION REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 026

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations by withdrawing information collection requirements that were disapproved by OMB. On May 26, 1992, the NRC received partial approval of the information collection requirements contained in Section 26.71(d) of the final rule entitled, "Fitness-for-Duty Programs" (August 26, 1991; 56 FR 41922). The Commission is withdrawing the remaining portion of Section 26.71(d) because there is no compelling need for the additional data at this time.

Timetable:

Action	Date	FR Cite
Final Action	11/25/92	57 FR 55443
Final Action Effective	12/28/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene McPeek, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 504-3210

RIN: 3150–AD61

4820. CLARIFICATION OF STATUTORY AUTHORITY FOR PURPOSES OF CRIMINAL ENFORCEMENT

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 011; 10 CFR 019; 10 CFR 020; 10 CFR 021; 10 CFR 025; 10 CFR 026; 10 CFR 030; 10 CFR 031; 10 CFR 032; 10 CFR 033; 10 CFR 034; 10 CFR 035; 10 CFR 039; 10 CFR 040; 10 CFR 050; ...

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations by revising the authority citations accompanying some of the regulations in order to eliminate uncertainty concerning the authority for application of criminal sanctions under Title 10.

Timetable:

Action	Date	FR Cite
Final Action	11/24/92	57 FR 55062
Final Action Effective	12/24/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Geoffrey Cant, Nuclear Regulatory Commission, Office of Enforcement, Washington, DC 20555, 301 504-3283

RIN: 3150–AD62

4821. EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL; CLARIFYING AMENDMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 110

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations in Subparts A through E of Part 110 governing the import and export of nuclear equipment and material. The Commission has reviewed its processing of nuclear export license applications and has determined that the following do not raise issues that require Commission review: (1) license applications for the export of any quantity of heavy water to Canada, and (2) license applications for the export of low-enriched uranium to EURATOM and Japan for enrichment to no more than 5% U-235. The Executive Branch agencies also reviewed their processing of nuclear export license applications and have determined that Executive Branch review will not be required for these license applications. Iran, Iraq, and Libya would be added to the list of embargoed destinations.

In addition, the NRC has identified other minor changes that are warranted. These proposed changes would:'(1) permit the expedited import and export of certain nuclear material where no significant proliferation risks are involved, (cont)

Timetable:

Action	Date	FR Cite
Final Action	03/09/93	58 FR 12999
Final Action Effective	03/09/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: (2) clarify the wording of the coverage of some nuclear commodities to emphasize the distinction between general and specific licenses, (3) delete from the list of restricted destinations those countries that recently have signed the Non-Proliferation Treaty, or have been added to the embargoed destinations, (4) add definitions for terms not currently defined, and (5) make minor necessary editorial changes. The rule should benefit the NRC, industry, and the public by making the regulations easier to understand, implement, and enforce and by expediting the review process for certain kinds of applications.

Agency Contact: Elaine O. Hemby, Nuclear Regulatory Commission, Office of International Programs, Washington, DC 20555, 301 504-2341

RIN: 3150–AD64

4822. CHANGE TO PART 50 TO UPDATE SOURCE TERM AND REPLACE DOSE CALCULATION

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) described contemplated amendments to the Commission's regulations to decouple source term and dose calculations from reactor siting and to permit the use of updated source term insights for future light water reactors. This contemplated action has been incorporated into an advance notice of proposed rulemaking, "Acceptability of Plant Performance for Severe Accidents; Scope of Consideration in Safety Regulations" (RIN 3150-AE38).

Timetable:

Action	Date	FR Cite
Incorporated into RIN 3150-AE38	01/29/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard Soffer, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3916

RIN: 3150–AD91

4823. CHANGE TO PART 100 TO ADD SITE CRITERIA, UPDATE APPENDIX A AND REMOVE DOSE CALCULATIONS; INTERIM CHANGE TO PART 50 TO ADD SOURCE TERM AND DOSE CALCULATIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050; 10 CFR 100

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to decouple source term and dose calculations from reactor siting and the use of updated source term insights for future light water reactors. This proposed rulemaking is being incorporated into a proposed rule entitled "Reactor Site Criteria; Including Seismic and Earthquake Engineering Criteria for Nuclear Power Plants" (RIN No. 3150-AD93).

Timetable:

Action	Date	FR Cite
Incorporated into RIN 3150-AD93	12/01/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard Soffer, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3916

RIN: 3150–AD92

4824. RECEIPT OF BYPRODUCT AND SPECIAL NUCLEAR MATERIAL

Legal Authority: 42 USC 2132; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations governing the conditions of licenses for protection and utilization facilities to allow a reactor licensee to receive back byproduct and special nuclear material that is produced by operating the reactor after that material has been sent off-site for processing, such as compaction of incineration.

Timetable:

Action	Date	FR Cite
Final Action	10/21/92	57 FR 47978
Final Action Effective	11/20/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lemoine J. Cunningham, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-1086

RIN: 3150–AE04

4825. CLARIFICATION OF PHYSICAL PROTECTION REQUIREMENTS AT FIXED SITES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to clearly indicate that section 73.40(a) is intended as a general statement of the need for physical protection and that the detailed physical protection requirements for each class of licensed facility or material are provided in other sections of Part 73. The final rule also amends section 73.60 to provide a regulatory basis for requiring protection against radiological sabotage at nonpower reactors authorized to operate at two or more megawatts to protect the public health and safety.

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Timetable:

Action	Date	FR Cite
NPRM	05/29/92	57 FR 22670
NPRM Comment Period End	08/12/92	
Final Action	03/15/93	58 FR 13699
Final Action Effective	04/14/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra D. Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3773

RIN: 3150–AE08

4826. EXCLUSION OF ATTORNEYS FROM INTERVIEWS UNDER SUBPOENA

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 019

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to provide for the exclusion of an attorney from an interview of a subpoenaed witness when that attorney represents multiple interests and there is concrete evidence that the counsel's presence at the interview would obstruct and impede the investigation.

Timetable:

Action	Date	FR Cite
Final Action	12/29/92	57 FR 61780
Final Action Effective	03/01/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger K. Davis, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 504-1606

RIN: 3150–AE11

4827. DEPARTURES FROM MANUFACTURER'S INSTRUCTIONS; ELIMINATION OF RECORDKEEPING REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 035

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations concerning the preparation and use of radiopharmaceuticals. The final rule eliminates recordkeeping requirements related to the justification for and a precise description of the departure, and the number of departures from the Food and Drug Administration approved manufacturer's instructions.

Timetable:

Action	Date	FR Cite
Final Action	10/02/92	57 FR 45566
Final Action Effective	10/02/92	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Samuel Z. Jones, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3738

RIN: 3150–AE23

4828. ACQUISITION REGULATION (NRCAR): ORGANIZATIONAL CONFLICTS OF INTEREST

Legal Authority: 41 USC 418(b); 42 USC 2201; 42 USC 5841

CFR Citation: 48 CFR 020

Legal Deadline: None

Abstract: The proposed rule presented amendments to the Nuclear Regulatory Acquisition Regulation (NRCAR). This proposed rule contains only the regulations that would set forth the NRC's policy on organizational conflicts of interest. This rule was incorporated into the final rule entitled, "NRC Acquisition Regulation (NRCAR)," which was published in the Federal Register on December 23, 1992 (RIN No. 3150-AC01).

Timetable:

Action	Date	FR Cite
Incorporated into RIN 3150-AC01	12/23/92	57 FR 61152

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: William H. Foster, Nuclear Regulatory Commission, Office of Administrtion, Washington, DC 20555, 301 492-8770

RIN: 3150–AE34

4829. • COMBINED CONSTRUCTION PERMITS AND OPERATING LICENSES: CONFORMING AMENDMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 052

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations governing the issuance of combined construction permits and operating licenses for nuclear power plants. The final rule incorporates all the changes to these provisions that are necessary because of the enactment of licensing reform legislation.

Timetable:

Action	Date	FR Cite
Final Action	12/23/92	57 FR 60975
Final Action Effective	01/22/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: L. Michael Rafky, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 504-1606

RIN: 3150–AE42

4830. • CONDUCT OF EMPLOYEES; CONFORMING AMENDMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 000

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations governing the conduct of NRC employees. This amendment removes provisions which have been superseded by recently issued Office of Government Ethics regulations, which take effect on February 3, 1993.

Timetable:

Action	Date	FR Cite
Final Action	01/12/93	58 FR 3825
Final Action Effective	02/03/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: L. Michael Rafky, Nuclear Regulatory Commission, Office

of the General Counsel, Washington, DC 20555, 301 504-1606

RIN: 3150–AE47

[FR Doc. 93-5060 Filed 04-23-93; 8:45 am]

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Part LIX

Resolution Trust Corporation

Semiannual Regulatory Agenda

VOL 58 ISS 78 AP 26 1993 UMI

RESOLUTION TRUST CORPORATION (RTC)

RESOLUTION TRUST CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Resolution Trust Corporation.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The Resolution Trust Corporation (RTC) is hereby publishing items for the April 1993 regulatory agenda. The agenda contains information about the RTC's current and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. Except as indicated, the address for all staff identified in the agenda is Resolution Trust Corporation, 801 17th Street NW., Washington, DC 20434-0001.

SUPPLEMENTARY INFORMATION: The RTC was created on August 9, 1989, as an instrumentality of the United States by title V of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). Under FIRREA, the RTC was given powers to adopt such rules, regulations, standard policies, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out its mission. Twice each year, the RTC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Interested persons may petition the RTC for the issuance, amendment, or repeal of any regulations by submitting a written petition to the Secretary, Resolution Trust Corporation, Washington, DC 20434. Petitioners should include complete and concise statements of their interest in the subject matter and why the petitions should be granted.

Dated: February 22, 1993.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

RESOLUTION TRUST CORPORATION (RTC) — Proposed Rule Stage

4831. QUALIFIED FINANCIAL CONTRACTS

Significance: Agency Priority

Legal Authority: 12 USC 1821(d)(1); 12 USC 1821(d)(4)

CFR Citation: 12 CFR 1622

Legal Deadline: None

Abstract: This regulation will provide a "safe harbor" for qualified financial contracts (QFCs) with respect to the "written agreement" requirements of the Federal Deposit Insurance Act; will require RTC, as receiver, to notify, within a prescribed timeframe, the counterparties to QFCs of the transfer of their contracts, and that doing so would prevent the counterparties from exercising their liquidation or acceleration rights; and to impose upon the depository institutions that enter into QFCs certain recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
NPRM Comment Period End	08/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc Goldstrom, Counsel, Resolution Trust Corporation, 801 17th St. NW., Washington, DC 20434, 202 736-3104

RIN: 3205–AA12

RESOLUTION TRUST CORPORATION (RTC) — Final Rule Stage

4832. AFFORDABLE HOUSING DISPOSITION PROGRAM

Significance: Agency Priority

Legal Authority: 12 USC 1441a(c)

CFR Citation: 12 CFR 1609

Legal Deadline: None

Abstract: This regulation will amend the existing regulation to conform it to the recently enacted amendments to the Federal Home Loan Bank Act of 1991, Public Law No. 102-233. In addition, the regulation will clarify and resolve some outstanding issues relating to the marketing and sale of affordable housing properties.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/06/92	57 FR 19500
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Agency Contact: Barry Wides, Financial Coordinator, Affordable Housing and Disposition Program, Resolution Trust Corporation, 801 17th St NW., Washington, DC 20434, 202 416-7138

RIN: 3205–AA03

4833. MINORITY- AND WOMEN-OUTREACH AND CONTRACTING PROGRAM

Significance: Agency Priority

Legal Authority: 12 USC 1833e

CFR Citation: 12 CFR 1617

Legal Deadline: None

Abstract: The regulations set forth the RTC's outreach program for minority- and women-owned businesses; and minority- and women-owned law firms with respect to maximizing the inclusion of those businesses and firms in RTC's contracting efforts for outside services.

RTC — Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/10/92	56 FR 40484
Interim Final Rule Effective	08/10/92	56 FR 40484
Comment Period End	10/09/92	56 FR 40484
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Johnnie B. Booker, Director, Office of Minority and Women Programs, Resolution Trust Corporation, 801 17th St. NW., Washington, DC 20434, 202 416-6925

RIN: 3205–AA08

4834. SUSPENSION AND EXCLUSION OF REGISTERED CONTRACTORS AND RESCISSION OF CONTRACTS

Significance: Agency Priority

Legal Authority: 12 USC 1441a(b)(10); 12 USC 1441a(b)(12); 12 USC 1441a(p)

CFR Citation: 12 CFR 1618

Legal Deadline: None

Abstract: This regulation will provide for suspension and exclusion of registered contractors and rescission of contracts where contractor has engaged in various forms of misconduct.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/91	56 FR 30836
Interim Final Rule Effective	07/05/91	56 FR 30836
Comment Period End	10/30/91	56 FR 30836
Final Action	05/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Loveless, Senior Ethics Specialist, Resolution Trust Corporation, 801 17th St. NW., Washington, DC 20434, 202 416-4396

RIN: 3205–AA09

4835. PROCEDURES APPLICABLE TO RTC INVESTIGATIONS

Significance: Agency Priority

Legal Authority: 12 USC 1441a(b)(12); 12 USC 1818(n); 12 USC 1821(d)(2)(I); 12 USC 1441a(b)(4); 12 USC 1823(d)(3)(A)

CFR Citation: 12 CFR 1625

Legal Deadline: None

Abstract: This regulation will govern the conduct of investigations by the RTC which involve the issuance of investigative subpoenas.

Timetable:

Action	Date	FR Cite
NPRM	07/27/92	57 FR 33133
NPRM Comment Period End	08/26/92	
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzanne Rigby, Senior Attorney, Resolution Trust Corporation, 1717 H St. NW., Washington, DC 20434, 202 736-0314

RIN: 3205–AA11

4836. PROGRAM FRAUD CIVIL REMEDIES AND PROCEDURES

Significance: Agency Priority

Legal Authority: 31 USC 3809; 12 USC 1441a

CFR Citation: 12 CFR 1626

Legal Deadline: None

Abstract: The proposed regulation will provide procedures for assessing monetary penalties against persons or businesses that make false statements or claims to the RTC. The regulation should save money for the taxpayer by deterring fraud or misrepresentations.

Timetable:

Action	Date	FR Cite
NPRM	11/18/92	57 FR 54337
NPRM Comment Period End	12/18/92	57 FR 54337
Final Action	04/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Carl Gold, Counsel, Resolution Trust Corporation, 1717 H Street NW., Washington, DC 20434, 202 736-0728

RIN: 3205–AA18

4837. • SERVICE OF PROCESS UPON THE RESOLUTION TRUST CORPORATION

Significance: Agency Priority

Legal Authority: 12 USC 1441a(b)(4)(A); 12 USC 1441a(b)(9)(E); 12 USC 1441a(b)(11)(A); 12 USC 1821(d)(2)

CFR Citation: 12 CFR 1627

Legal Deadline: None

Abstract: RTC functions in distinct capacities when acting as receiver or conservator for a savings association and when acting in its Corporate capacity. To recognize this functional distinction and to provide for service of process on those RTC officials who are most likely to be able to facilitate a prompt and constructive response, the regulation designates RTC's agents for service of process when acting in its various capacities. The action will impose no cost upon the public or the agency, since legal process must already be served upon some agent. It will confer a benefit by clarifying the manner of serving RTC in its various capacities and facilitating a prompt response.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregg H. S. Golden, Counsel, Resolution Trust Corporation, RTC Litigation Section, 1717 H Street, NW., Room 10070, Washington, DC 20434-0001, 202 736-3042

RIN: 3205–AA19

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RESOLUTION TRUST CORPORATION (RTC)

Completed Actions

4838. DISCLOSURE OF INFORMATION

Significance: Agency Priority

Legal Authority: 5 USC 552

CFR Citation: 12 CFR 1615

Legal Deadline: None

Abstract: This regulation will describe the procedures by which the RTC will implement the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/24/92	57 FR 32881
Final Action	10/29/92	57 FR 48949

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Phil Lindenmuth, FOIA Attorney, Resolution Trust Corporation, International Place, 1735 North Lynn Street, Rosslyn, VA 22209, 703 908-6132

RIN: 3205–AA07

4839. PRIVACY ACT REGULATIONS

Significance: Agency Priority

Legal Authority: 5 JSC 552a

CFR Citation: 12 CFR 1616

Legal Deadline: None

Abstract: This rule will implement the Privacy Act of 1974.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/22/92	57 FR 43607
Interim Final Rule Effective	09/22/92	
Comment Period End	11/23/92	
Final Action Effective	12/21/92	
Final Action	01/06/93	58 FR 00476

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard White, Privacy Act Attorney, Resolution Trust Corporation, International Place, 1735 North Lynn Street, Rosslyn, VA 22209, 703 908-6137

RIN: 3205–AA14

4840. UNCLAIMED DEPOSITS

Significance: Agency Priority

Legal Authority: 12 USC 1822(e); 12 USC 1821(d)(1)

CFR Citation: 12 CFR 1623

Legal Deadline: None

Abstract: This regulation provides for acquiring institutions to return unclaimed deposits to the RTC in order to preclude application of state escheat laws.

Timetable:

Action	Date	FR Cite
Withdrawn	02/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Flanigan, Attorney, Resolution Trust Corporation, 801 17th St. NW., Washington, DC 20434, 202 736-3085

RIN: 3205–AA16

4841. REAL ESTATE APPRAISALS

Significance: Agency Priority

Legal Authority: 12 USC 1441a(b)(12)

CFR Citation: 12 CFR 1608

Legal Deadline: None

Abstract: This regulation amends the present regulation by eliminating the requirement for regulated institutions to obtain appraisals by certified or licensed appraisers for real estate-related financial transactions of $100,000 or less and by permitting regulated institutions to use appraisals prepared for loans insured or guaranteed by an agency of the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	09/18/91	56 FR 47164
NPRM Comment Period End	11/18/91	
Final Action	11/02/92	57 FR 49382
Final Action Effective	12/02/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Wiley, Senior Asset Specialist, Resolution Trust Corporation, 801 17th Street NW., Washington, DC 20434, 202 416-2136

RIN: 3205–AA17

[FR Doc. 93-5061 Filed 04-23-93; 8:45 am]

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Part LX

Securities and Exchange Commission

Semiannual Regulatory Agenda

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SECURITIES AND EXCHANGE COMMISSION (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33-6981, 34-31968, 35-25758, 39-2302, IC-19319, IA-1365; File No. S7-10-93]

Regulatory Flexibility Agenda

AGENCY: Securities and Exchange Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: The Securities and Exchange Commission is publishing an agenda of its open and anticipated rulemaking actions, pursuant to chapter 6 of the Administrative Procedure Act and according to guidance given by the Office of Management and Budget. The agenda is a general announcement to the public intended to provide advance notice of rulemaking actions which may have a significant economic impact on a substantial number of small entities. Information in the agenda is believed to be accurate as of February 25, 1993, the date on which compilation of the data was completed for transmittal to the Regulatory Information Service Center. The Commission invites questions and public comment on individual agenda entries.

DATES: Public comments are due by June 30, 1993.

ADDRESSES: Persons wishing to submit written comments should file three copies of their comments with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Room 6184, Stop 6-9, Washington, DC 20549. All submissions should refer to File No. S7-10-93 and will be available for public inspection and copying at the Commission's Public Reference Room, Room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT: Kevin M. Kirchoff, Senior Counsel, Office of the General Counsel, Securities and Exchange Commission, 450 5th Street NW., Room 6148, Stop 6-6, Washington, DC 20549, (202) 272-2428. Each specific item on the agenda indicates the names and addresses of persons to contact with regard to such item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA)[1] requires each Federal agency, during April and October of each year, to publish in the **Federal Register** an agenda identifying rules which the agency expects to propose or adopt that are likely to have a significant economic impact on a substantial number of small entities.[2]

The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter which is included in the agenda.[3] The inclusion of a rule in the Commission's agenda reflects only its staff's preliminary judgment that the rule, if adopted or as it exists, may have significant economic impact on a substantial number of small entities.[4] This preliminary judgment may be changed after further analysis.

The Commission's staff completed the compilation of data for this edition of the agenda in February 1993, immediately prior to transmittal of the data to the Regulatory Information Service Center for inclusion in the Unified Agenda. Information in the Commission's agenda, therefore, is believed to be accurate as of February 26, 1993. The agenda includes new entries, entries carried over from previous publications, and rulemaking actions which have been completed (or withdrawn) since publication of the October 1992 agenda. New entries are indicated with a bullet next to their Sequence Number. Priority items are identified under the heading "Significance," followed by the words "Agency Priority."

The Commission's April 1993 regulatory flexibility agenda is set forth below. The Commission invites public comment on the individual entries in its agenda.

Dated: March 9, 1993.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4842	17 CFR 230.482 Tax Exempt Money Market Fund Rule Proposals	3235-AE17
4843	17 CFR 240.17a-3 Designation of Orders as "Solicited" and "Unsolicited"	3235-AE18
4844	17 CFR 240.17Ad-16 Notice of Assumption or Termination of Transfer Agent Services	3235-AE20
4845	17 CFR 210 Multijurisdictional Disclosure with the United Kingdom	3235-AE23
4846	17 CFR 240.19h-1 Notice By SRO of Proposed Admission to or Continuance in Membership With Any Person Subject to a Statutory Disqualification	3235-AE39
4847	17 CFR 230.482 Amendments to Investment Company Registration Form N-1A and Other Forms	3235-AE46
4848	17 CFR 230 American Depositary Receipts	3235-AE57
4849	17 CFR 270.31a-1 Investment Company Books and Records Requirements	3235-AE94
4850	17 CFR 240.10b-6 Prohibitions Against Trading by Persons Interested in a Distribution	3235-AF52
4851	17 CFR 240.10b-2 Solicitation of Purchases on an Exchange to Facilitate Distribution of Securities	3235-AF53

[1] Pub. L. 96-354, 94 Stat. 1164 (September 19, 1980).

[2] 5 U.S.C. 602(a).

[3] 5 U.S.C. 602(d).

[4] The agenda relies on the definitions of the term "small entity" for purposes of the RFA, which were adopted by the Commission for the various categories of regulated entities. *See* Securities Act Release No. 6?80 (January 28, 1982) [47 FR 5215].

SEC

Prerule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4852	17 CFR 240.10b-6 Prohibitions Against Trading by Persons Interested In a Distribution; Stabilizing to Facilitate a Distribution; Distributions Through Rights	3235-AF54
4853	17 CFR 210.6-10 Disclosure of Investment Portfolio Securities	3235-AF61
4854	17 CFR 240.16a-1 to 240.16a-11 Ownership Reports and Trading by Officers, Directors, and Principal Security Holders	3235-AF66
4855	17 CFR 229 Amendments to the Multijurisdictional Disclosure System	3235-AF75
4856	17 CFR 240.15b7-1 Requirement of Broker-Dealers to Comply with SRO Qualification Standards	3235-AF76
4857	17 CFR 230 Simplification of Registration Procedures for Securities Offerings by Foreign Private Issuers	3235-AF83
4858	17 CFR 240.10b-10 Amendments to Confirmation Requirements of Rule 10b-10	3235-AF84
4859	17 CFR 240.15(c)(6) Settlement of Securities Transactions Between Brokers and Dealers on the Third Day After the Trade	3235-AF85

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4860	17 CFR 239.16 Simplification of Registration Statements Filed by, and Advertising Rules for, Unit Investment Trusts	3235-AA47
4861	17 CFR 240.14a-1 to 240.14a-102 Revision of Investment Company Proxy Rules	3235-AA69
4862	17 CFR 274.11A Technical Amendments to Rules 24f-1 and 24f-2	3235-AC25
4863	17 CFR 270.6c-12(New) Proposed Rule 6c-12 Under the Investment Company Act of 1940	3235-AC84
4864	17 CFR 275 Revisions to the Registration and the Annual Supplement Forms Used by Investment Advisers	3235-AD21
4865	17 CFR 240.14e-5 Debt Tender Offers	3235-AD69
4866	17 CFR 210.3-20 Reporting Currency in Financial Statements Under Rule 3-20 of Regulation S-X	3235-AD70
4867	17 CFR 240.3b-3 Definition of "Short Sale"	3235-AE41
4868	17 CFR 270.3a-5 Exemption for Subsidiaries Organized to Finance Operations of Domestic or Foreign Companies	3235-AE95
4869	17 CFR 270.17f-5 Rule 17f-5 Under the Investment Company Act of 1940	3235-AE98
4870	17 CFR 270.18f-3(New) Issuance of Multiple Classes of Securities by Registered Open-End Investment Companies	3235-AF00
4871	17 CFR 200.30-5 Procedures for Exemptive Orders	3235-AF56
4872	17 CFR 270.15a-4 Temporary Exemption for Certain Investment Advisers	3235-AF57
4873	17 CFR 230.482 Off-the-Page Prospectuses for Open-End Management Investment Companies	3235-AF58
4874	17 CFR 270.12b-1 Amendments to Rules 12b-1 and 17d-3 Under the Investment Company Act of 1940.	3235-AF62
4875	17 CFR 240.17a-11 Rule 17a-11 Early Warning Rule	3235-AF67
4876	17 CFR 270.3a-8 Certain Research and Development Companies	3235-AF69
4877	17 CFR 270.17f-2 Rule 17f-2 Under the Investment Company Act—Custody of Investments by Registered Management Investment Company	3235-AF70
4878	17 CFR 240.24c-1(New) Access to Nonpublic Information in the Commission's Possession	3235-AF72
4879	17 CFR 240.17a-5 Reports to be Made by Certain Brokers and Dealers	3235-AF73
4880	17 CFR 229 Asset-Backed Securities Disclosure	3235-AF74
4881	17 CFR 250.54 Effect of Exempt Wholesale Generators on Other Transactions	3235-AF77
4882	17 CFR 250.55 Exemption for Certain Acquisitions of One or More Foreign Utility Companies	3235-AF78
4883	17 CFR 250.56 Exemption for Subsidiary Companies of Registered Holding Companies Formed to Hold Interests in Foreign Companies	3235-AF79
4884	17 CFR 250.57 Notices and Reports To Be Filed Under Section 33	3235-AF80
4885	17 CFR 270.30f-1 Applicability of Section 30(f) of the Investment Company Act of 1940 to Certain Affiliated Persons of an Investment Adviser to a Registered Closed-End Investment Company	3235-AF81
4886	17 CFR 250.53 Certain Registered Holding Company Financings in Connection With the Acquisition of One or More Exempt Wholesale Generators	3235-AF82

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4887	17 CFR 240.15c2-10 Rule 15c2-10	3235-AC94

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Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4888	17 CFR 240.13d-1 Regulation 13D-G	3235-AD09
4889	17 CFR 240.13d-101 Disclosure of Significant Equity Participants in Control Transactions	3235-AD42
4890	17 CFR 230.801(New) Rule 801 and Registration Forms for Rights Offerings	3235-AD44
4891	17 CFR 240.15c3-3 Customer Protection Reserves and Custody of Securities	3235-AD60
4892	17 CFR 240.15c3-1 Net Capital Requirements for Brokers or Dealers	3235-AD62
4893	17 CFR 270.31a-2 Amendment to Rule 31a-2 Under the Investment Company Act of 1940	3235-AD66
4894	17 CFR 240.12g3-2(b) Forms for Furnishing Information Pursuant to Rule 12g3-2(b) Under the Securities Exchange Act of 1934	3235-AD72
4895	17 CFR 240.15c3-1 Net Capital Requirements for Brokers or Dealers	3235-AD79
4896	17 CFR 274.11A Disclosure and Analysis of Mutual Funds' Performance Information; Portfolio Manager Disclosure	3235-AD81
4897	17 CFR 230 Summary Prospectuses	3235-AD90
4898	17 CFR 240.15c2-11 Initiation or Resumption of Quotations Without Specific Information	3235-AD94
4899	17 CFR 210.3-19 Special Provisions as to Age of Financial Statements for Foreign Private Issuers Under Regulation S-X	3235-AD96
4900	17 CFR 200 International Tender and Exchange Offers	3235-AD97
4901	17 CFR 240.10b-7 Stabilizing to Facilitate a Distribution	3235-AE11
4902	17 CFR 240.3b-10 Definitions Principally Relating to International Transactions	3235-AE15
4903	17 CFR 240.13h-1 Large Trader Reporting System	3235-AE42
4904	17 CFR 270.12d3-1 Proposed Amendments to Rule 12d3-1 Under the Investment Company Act of 1940	3235-AE47
4905	17 CFR 240.31-1 Securities Transactions Exempt From Transaction Fees	3235-AE52
4906	17 CFR 230.601 Rules 603(a) and 606 of Regulation E	3235-AE96
4907	17 CFR 270.6c-10 Rule 6c-10 Under the Investment Company Act of 1940 and Amendment to Item 2 of Form N-1A Under the Securities Act of 1933	3235-AE97
4908	17 CFR 270.2a19-2 Investment Company General Partners Not Deemed Interested Persons; Investment Company Limited Partners Not Deemed Affiliated Persons	3235-AF01
4909	17 CFR 250.45 Revision of Registered Public Utility Company Financing Rules	3235-AF49
4910	17 CFR 240.10b-6 Periodic Repurchases by Closed-End Management Investment Companies; Redemptions by Open-End Management Investment Companies at Periodic Intervals or With Extended Payment	3235-AF50
4911	17 CFR 270.10f-3 Revision of Certain Annual Review Requirements of Investment Company Boards of Directors	3235-AF60
4912	17 CFR 228 Additional Small Business Initiatives	3235-AF63
4913	17 CFR 250.7 Proposals To Update Rules and Forms Under the Public Utility Act	3235-AF68

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4914	17 CFR 239.14 Amendments to Form N-2	3235-AB40
4915	17 CFR 200 Rulemaking for Operational EDGAR System	3235-AC48
4916	17 CFR 230.415 Simplification of Registration Procedures for Primary Securities Offerings	3235-AD67
4917	17 CFR 270 Rulemaking for Investment Company Filing on Operational EDGAR System	3235-AD92
4918	17 CFR 250 Rulemaking for Public Utility Holding Companies Filing on Operational EDGAR System	3235-AD98
4919	17 CFR 240 Proxy Rules	3235-AE12
4920	17 CFR 240.10b-7 Stabilizing to Facilitate a Distribution	3235-AE43
4921	17 CFR 240.17h-1T Temporary Risk Assessment Recordkeeping and Reporting Requirements for Brokers and Dealers	3235-AE44
4922	17 CFR 240.15b1-2 Statement of Financial Condition to be Filed with Application for Registration as a Broker or Dealer, Application of Broker or Dealer	3235-AE54
4923	17 CFR 229.402 Disclosure of Executive Compensation	3235-AF34
4924	17 CFR 270.3a-7 Exclusion From the Definition of Investment Company for Certain Structured Financings	3235-AF47
4925	17 CFR 230.144A Private Resales of Securities to Institutions	3235-AF51
4926	17 CFR 202.3a Filing Fees Paid to the Lockbox Depository	3235-AF55
4927	17 CFR 270.17f-1 Rules 17f-1, 17f-2, and 17f-4 Under the Investment Company Act of 1940	3235-AF59

SECURITIES AND EXCHANGE COMMISSION (SEC)

Prerule Stage

4842. TAX EXEMPT MONEY MARKET FUND RULE PROPOSALS

Significance: Agency Priority

Legal Authority: 15 USC 80a-2(a)(41); 15 USC 80a-6(c); 15 USC 80a-33(b)(1); 15 USC 80a-34(b); 15 USC 80a-38(a); 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77s; 15 USC 78m; 15 USC 78n; 15 USC 78w; 15 USC 80a-37

CFR Citation: 17 CFR 230.482; 17 CFR 239.15A; 17 CFR 270.34b-1; 17 CFR 274.11A; 17 CFR 274.11c; 17 CFR 270.2a-7

Legal Deadline: None

Abstract: The proposals would address the problems caused by developments in the money markets since 1983. The Division of Investment Management will be reviewing the conditions of Rule 2a-7 applicable to tax exempt funds and considering whether any recommendations should be made to the Commission to modify those conditions. In connection with this project, the Division will also make a recommendation to the Commission concerning proposed amendments to Rules 134, 436, and 482 under the Securities Act of 1933. The amendments, if adopted, would permit money market funds to use in their prospectuses a security rating assigned by a nationally recognized statistical rating organization (NRSRO) without first obtaining the NRSRO's consent to being named pursuant to section 7 of the Securities Act.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: **Kenneth J. Berman**, Deputy Office Chief, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, **202 272-2107**

RIN: 3235–AE17

4843. DESIGNATION OF ORDERS AS "SOLICITED" AND "UNSOLICITED"

Legal Authority: 15 USC 78q

CFR Citation: 17 CFR 240.17a-3; 17 CFR 240.17a-4

Legal Deadline: None

Abstract: The Division of Market Regulation anticipates recommending that the Commission propose amendments to Rules 17a-3 and 17a-4 that would require records relating to customer brokerage orders and dealer transactions to be marked to reflect whether they are "solicited" or "unsolicited." The proposed amendments would provide the Commission and securities self-regulatory organizations with information that would facilitate the enforcement of cases involving penny stock fraud and serve generally to promote compliance with customer suitability requirements and facilitate supervision by securities firms of sales practices.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: **Robert L. D. Colby**, Chief Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, **202 504-2418**

RIN: 3235–AE18

4844. NOTICE OF ASSUMPTION OR TERMINATION OF TRANSFER AGENT SERVICES

Legal Authority: 15 USC 78c; 15 USC 78q; 15 USC 78q-1; 15 USC 78w(a)

CFR Citation: 17 CFR 240.17Ad-16

Legal Deadline: None

Abstract: The Commission proposed for comment Rule 17Ad-16 under the Securities Exchange Act of 1934. Rule 17Ad-16, if adopted, would require a transfer agent to provide written notice to securities depositories when terminating or assuming transfer agent services on behalf of an issuer or when changing its name or address. The proposed rule would address a continuing problem affecting prompt securities certificate transfer and increase the efficiency of the National System for the Clearance and Settlement of Securities Transactions as set forth in section 17A of the Act. Transfer agents with no name or address changes and with no change in the issues for which they provide services will not be affected by this rule and will not need to file a notice. The Division expects a majority of small transfer agents and in-house transfer agents to fall into this category. Compliance costs would be minimal for transfer agents even when the rule applies. A transfer agent that changes its name or address or terminates or assumes transfer agent services on behalf of an issue need only file a short notice with one of three registered securities depositories explaining the change.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 1128
ANPRM Comment Period End	06/00/93	
NPRM Comment Period End	07/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: **Ester Saverson**, Attorney, Branch of Transfer Agent Regulation, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, **202 272-2775**

RIN: 3235–AE20

4845. MULTIJURISDICTIONAL DISCLOSURE WITH THE UNITED KINGDOM

Legal Authority: 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 77ddd; 15 USC 77eee; 15 USC 77fff; 15 USC 78c(b); 15 USC 78j; 15 USC 78l; 15 USC 78m; 15 USC 78w; 15 USC 78x

CFR Citation: 17 CFR 210; 17 CFR 230; 17 CFR 240; 17 CFR 249; 17 CFR 260

Legal Deadline: None

Abstract: The Division of Corporation Finance is engaged in preliminary discussions with officials from the International Stock Exchange with a view towards possibly recommending to the Commission a proposal for a multijurisdictional disclosure system with the United Kingdom similar to that adopted for Canada.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: **Richard M. Kosnik**, Chief, International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, **202 272-3246**

RIN: 3235–AE23

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SEC

Prerule Stage

4846. NOTICE BY SRO OF PROPOSED ADMISSION TO OR CONTINUANCE IN MEMBERSHIP WITH ANY PERSON SUBJECT TO A STATUTORY DISQUALIFICATION

Legal Authority: 15 USC 78f; 15 USC 78o; 15 USC 78o-3; 15 USC 78o-4; 15 USC 78q; 15 USC 78q-1; 15 USC 78g; 15 USC 78w

CFR Citation: 17 CFR 240.19h-1

Legal Deadline: None

Abstract: The Division of Market Regulation anticipates recommending to the Commission amendments to Rule 19h-1, which requires self-regulatory organizations ("SROs") to submit to the Commission filings whenever a person subject to a statutory disqualification, as defined in section 3(a)(39) of the Securities Exchange Act of 1934, seeks to become associated with or to continue his/her association with a broker-dealer that is a member of an SRO. Congress recently amended the definition of statutory disqualification to include, among other things, convictions for any felony within the last ten years and disciplinary actions taken by foreign governmental entities and SROs. The proposed amendments will address the recent changes in the definition of statutory disqualification and other areas of the rule that experience has shown can be simplified and improved

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard E. Pullano, Senior Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549, 202 504-2510

RIN: 3235–AE39

4847. AMENDMENTS TO INVESTMENT COMPANY REGISTRATION FORM N-1A AND OTHER FORMS

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 230.482; 17 CFR 239.15; 17 CFR 274.11; 17 CFR 239.23; 17 CFR 239.15A; 17 CFR 274.11A; 17 CFR 239.17a; 17 CFR 274.11b; 17 CFR 239.17b; 17 CFR 274.11c

Legal Deadline: None

Abstract: The Division of Investment Management is reviewing the requirements of Form N-1A, the registration form for all open-end management investment companies registering under the 1933 and 1940 Acts. The review will focus on ways to update and improve the disclosure requirements of the form, particularly for money market funds. The Division will also be addressing the incorporation by reference rules in the investment company registration forms as a result of questions raised by the district court for the Southern District of New York.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Martha H. Platt, Senior Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107

RIN: 3235–AE46

4848. AMERICAN DEPOSITARY RECEIPTS

Significance: Agency Priority

Legal Authority: 15 USC 77b; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78c; 15 USC 78i; 15 USC 78j; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78q

CFR Citation: 17 CFR 230; 17 CFR 239; 17 CFR 240

Legal Deadline: None

Abstract: The Commission issued a release requesting information and comment with regard to the functioning and characteristics of the American depositary receipt marketplace, various regulatory issues under the Federal securities laws, including whether any changes to the registration process are necessary or appropriate, and duplication of depositary receipt facilities. The Commission received a large number of comment letters in response to the release.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/91	56 FR 24420
ANPRM Comment Period End	09/30/91	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard M. Kosnik, Chief, International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2585

RIN: 3235–AE57

4849. INVESTMENT COMPANY BOOKS AND RECORDS REQUIREMENTS

Significance: Agency Priority

Legal Authority: 15 USC 80a-31(a); 15 USC 80a-37(a); 15 USC 80a-39

CFR Citation: 17 CFR 270.31a-1; 17 CFR 270.31a-2

Legal Deadline: None

Abstract: The staff has commenced a comprehensive review of the books and records requirements under the Investment Company Act to update certain requirements relating to the portfolio transaction records of investment companies. In particular, current requirements under rules 31a-1 and 31a-2 may need to be revised to enhance identification of securities in investment company portfolios. The primary objective of the proposals would be to improve the staff's abilities to conduct meaningful and efficient examinations of investment companies.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Peter L. Smith, Branch Chief, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-7812

RIN: 3235–AE94

4850. PROHIBITIONS AGAINST TRADING BY PERSONS INTERESTED IN A DISTRIBUTION

Significance: Agency Priority

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78i(a); 15 USC 78j(b); 15 USC 78m(e); 15 USC 78o(c)

CFR Citation: 17 CFR 240.10b-6

Legal Deadline: None

Abstract: Rule 10b-6 prohibits persons engaged in a distribution of securities from bidding for or purchasing, or inducing others to purchase, such securities, any security of the same class and series as those securities, or any right to purchase any such security, until they have completed their participation in the distribution. On October 29, 1992, the Commission proposed for public comment a new exception to Rule 10b-6 and a new companion rule, Rule 10b-6A(T) under the Securities Exchange Act of 1934 to permit "passive market making" in connection with certain distributions of securities quoted on NASDAQ during the period when Rule 10b-6 would otherwise prohibit such activity. The new provisions would apply to a firm commitment distribution of securities that qualify for the two business day "cooling-off" period of Rule 10b-6 and are designated as "national market system" securities. A passive market maker's bids would be limited by the level of bids of market makers who are not participating in the distribution. The proposal was made in response to a petition for rulemaking filed by the National Association of Securities Dealers.

Timetable:

Action	Date	FR Cite
NPRM	10/29/92	57 FR 49039
NPRM Comment Period End	12/15/92	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy J. Sanow, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2848

RIN: 3235–AF52

4851. SOLICITATION OF PURCHASES ON AN EXCHANGE TO FACILITATE DISTRIBUTION OF SECURITIES

Legal Authority: 15 USC 78j

CFR Citation: 17 CFR 240.10b-2

Legal Deadline: None

Abstract: Subject to certain exceptions, Rule 10b-2 prohibits any person participating or otherwise financially interested in a distribution of securities from compensating any person for soliciting another person to purchase on a national securities exchange, any security of the same issuer whose securities are the subject of the distribution. In view of the significant changes that have taken place in the securities markets since the rule's adoption and the coverage of other antifraud and anti-manipulation provisions of federal securities laws, particularly Rules 10b-5 and 10b-6 under the Securities Exchange Act of 1934, the Commission proposed that Rule 10b-2 be rescinded.

Timetable:

Action	Date	FR Cite
NPRM	12/04/92	57 FR 57397
NPRM Comment Period End	01/04/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2848

RIN: 3235–AF53

4852. PROHIBITIONS AGAINST TRADING BY PERSONS INTERESTED IN A DISTRIBUTION; STABILIZING TO FACILITATE A DISTRIBUTION; DISTRIBUTIONS THROUGH RIGHTS

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78i(a); 15 USC 78j(b); 15 USC 78m(e); 15 USC 78o(c)

CFR Citation: 17 CFR 240.10b-6; 17 CFR 240.10b-7; 17 CFR 240.10b-8

Legal Deadline: None

Abstract: Rule 10b-6 prohibits persons engaged in a distribution of securities from bidding for or purchasing, or inducing others to purchase, such securities, any security of the same class and series as those securities, or any right to purchase any such security, until they have completed their participation in the distribution. Rule 10b-7 governs stabilizing activities to facilitate distributions of securities and Rule 10b-8 governs certain activities during distributions of securities through rights. The Commission has proposed a comprehensive review of Rules 10b-6, 10b-7, and 10b-8. This review will examine both the domestic application of those rules and well as the extraterritorial effect of their application on multinational securities distributions. This review also would address such issues as distribution and stabilization practices in the U.S. and abroad, and the impact of the rules on activities that are customary and lawful in foreign jurisdictions.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy J. Sanow, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2848

RIN: 3235–AF54

4853. DISCLOSURE OF INVESTMENT PORTFOLIO SECURITIES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 80a-8; 15 USC 80a-24; 15 USC 80a-30; 15 USC 80a-37a

CFR Citation: 17 CFR 210.6-10; 17 CFR 210.12-12; 17 CFR 270.30G 2-1; 17 CFR 270.30d-1; 17 CFR 239.15A; 17 CFR 274.11A; 17 CFR 239.11A; 17 CFR 274.11G

Legal Deadline: None

Abstract: The Division of Investment Management is considering changes to Regulation S-X and certain investment company registration statement forms that would permit open-end investment companies to provide an abbreviated listing of portfolio securities with their financial statements under certain circumstances. The complete list of portfolio securities would continue to be available upon request.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathleen K. Clarke, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2097

RIN: 3235–AF61

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SEC — Prerule Stage

4854. OWNERSHIP REPORTS AND TRADING BY OFFICERS, DIRECTORS, AND PRINCIPAL SECURITY HOLDERS

Legal Authority: 15 USC 78n(d); 15 USC 78p(a); 15 USC 78p(b); 15 USC 78p(c); 15 USC 78w(a)

CFR Citation: 17 CFR 240.16a-1 to 240.16a-11; 17 CFR 240.16b-1 to 240.16b-11

Legal Deadline: None

Abstract: The Division is considering whether to recommend to the Commission proposed amendments to rules under section 16 of the Securities Exchange Act of 1934 designed to streamline reporting by a public company's officers, directors and significant shareholders of transactions in the company's securities.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard P. Konrath, Special Counsel, Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2589

RIN: 3235–AF56

4855. • AMENDMENTS TO THE MULTIJURISDICTIONAL DISCLOSURE SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78c; 15 USC 78dA; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78w

CFR Citation: 17 CFR 229; 17 CFR 230; 17 CFR 239; 17 CFR 240

Legal Deadline: None

Abstract: The Division of Corporation Finance is considering whether to recommend to the Commission proposed amendments to revise rules and forms relating to the multijurisdictional disclosure system for Canadian issuers, including revisions which would (1) modify the eligibility requirements for use of certain forms, (2) recognize investment grade ratings by securities rating organizations recognized by Canadian securities regulators for purposes of the eligibility requirements under Forms F-9 and 40-F, (3) continue the requirement that financial statements included in filings on Forms F-10 and 40-F include a reconciliation to U.S. generally accepted principles, and (4) permit unallocated shelf registrations for filings under the system.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard M. Kosnik, Chief, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3246

RIN: 3235–AF75

4856. • REQUIREMENT OF BROKER-DEALERS TO COMPLY WITH SRO QUALIFICATION STANDARDS

Significance: Agency Priority

Legal Authority: 15 USC 78o, 15 USC 78w

CFR Citation: 17 CFR 240.15b7-1

Legal Deadline: None

Abstract: The Division is recommending that the Commission propose a rule under Section 15(b)(7) of the Exchange Act prohibiting registered broker-dealers from effecting any securities transaction unless the associated person effecting such transaction is in compliance with the qualification requirements established under the rules of any self-regulatory organizations of which the broker dealer is a member or to which it is subject.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew S. Margulin, Staff Attorney, Office of Chief Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 504-2418

RIN: 3235–AF76

4857. • SIMPLIFICATION OF REGISTRATION PROCEDURES FOR SECURITIES OFFERINGS BY FOREIGN PRIVATE ISSUERS

Significance: Agency Priority

Legal Authority: 15 USC 77f, 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s

CFR Citation: 17 CFR 230; 17 CFR 249

Legal Deadline: None

Abstract: The Division of Corporation Finance is considering whether to recommend to the Commission proposed amendments to rules and forms under the Securities Act of 1933 designed to provide foreign private issuers greater flexibility and efficiency in accessing the U.S. public securities markets. The proposals would extend the availability of the short-form registration statements for foreign private issuers to additional issuers and result in the extension of the shelf registration procedures to additional issuers. In addition, the revisions would allow registration on Form F-3 without specific allocation of offering amounts among categories of securities and extend the use of Form F-3 for registration in connection with offerings to existing security holders.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard M. Kosnik, Chief, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3246

RIN: 3235–AF83

4858. • AMENDMENTS TO CONFIRMATION REQUIREMENTS OF RULE 10B-10

Legal Authority: 15 USC 78c, 15 USC 78i; 15 USC 78j, 15 USC 78k, 15 USC 78o, 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.10b-10

Legal Deadline: None

Abstract: The Commission is proposing to amend Rule 10b-10, the Commission's confirmation rule. The proposed amendments to Rule 10b-10 would: (i) add a preliminary note to the Rule indicating that the Rule's disclosure requirements do not limit disclosure necessary under the antifraud provisions; (ii) clarify the Rule's application to introducing and clearing firms; (iii) require disclosure of mark-ups and mark-down for riskless principal transactions in debt securities other than U.S. Savings Bonds or municipal securities; (iv) require disclosure of mark-ups and mark-down in NASDAQ and exchange-listed securities; (v) require disclosure of investment company sales charges; (vi) codify existing staff interpretations allowing quarterly confirmation procedures for dividend reinvestment plans; (vii) require disclosure whether customer accounts are carried by broker-dealers that are members of the Securities Investor Protection Corporation; (viii) clarify the application of the Rule to repurchase and reverse repurchase transactions; (ix) clarify the requirements of the Rule with respect to distributions of securities subject to contingencies;(cont)

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: (x) require yield and call information for transactions in municipal securities; and (xi) modify the yield disclosure requirements with respect to certain collateralized debt securities.

Agency Contact: C. Dirk Peterson, Attorney, Office of Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 504-2418

RIN: 3235–AF84

SEC — Prerule Stage

4859. • SETTLEMENT OF SECURITIES TRANSACTIONS BETWEEN BROKERS AND DEALERS ON THE THIRD DAY AFTER THE TRADE

Legal Authority: 15 USC 15(c)(6)

CFR Citation: 17 CFR 240.15(c)(6)

Legal Deadline: None

Abstract: The proposed rule is designed to reduce the risk inherent in settling securities transactions by reducing the number of trades to be settled; enhancing the liquidity of the corporate securities markets by permitting sellers to move from these to other markets on a more timely basis; bringing the market for corporate securities into closer conformity with the government securities and derivatives markets; and increasing harmonization with international markets. Among several alternatives, the following were considered: retaining T+3 settlement but requiring a daily mark-to-market; and requiring their participants to settle trades by T+3. Although these alternatives were considered, the gravity of the change to T+3 requires an affirmative statement by the Commission. The change to T+3 may result in an increase in a broker-dealer's cost of financing the purchase of customer securities until the broker-dealer receives payment from its customers, and conversion to T+3 will require large and small broker-dealers to upgrade their computer systems.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Sonia Burnett, Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC. 20549, 202 272-7474

RIN: 3235–AF85

SECURITIES AND EXCHANGE COMMISSION (SEC) — Proposed Rule Stage

4860. SIMPLIFICATION OF REGISTRATION STATEMENTS FILED BY, AND ADVERTISING RULES FOR, UNIT INVESTMENT TRUSTS

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 239.16; 17 CFR 274.12

Legal Deadline: None

Abstract: On March 9, 1987, the Commission reproposed for public comment Form N-7, a new form for registering unit investment trusts (UITs) and their securities under the Investment Company Act of 1940 and the Securities Act of 1933. Form N-7 was originally proposed by the Commission on May 14, 1985. Adoption of Form N-7 would: (1) codify the disclosure requirements for UITs into one form; (2) codify the disclosure standards that have been developed for UITs; and (3) shorten and simplify the prospectus used in connection with the sale of units in both the initial offering and in the secondary market maintained by the sponsor. The requirement for audited financial statements would be eliminated under certain circumstances. Under the reproposal, the requirement that registrants include certain third-party financial statements in the registration statement would be extended to insurers as well as guarantors of portfolio securities of the trust.

The Division of Investment Management is also undertaking to develop for recommendation to the Commission a rule proposal setting forth a uniform method of computing UIT yields. (cont)

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	07/31/85	
Reproposing Release	03/17/87	52 FR 8268
Comment Period End	05/18/87	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: ABSTRACT CONT: Currently, UITs advertise their performance by means of an "estimated current return," which shows estimated cash flow. However, in a market environment characterized by fluctuating interest rates, estimated current return may not accurately convey the yield of UITs. A uniform method of computation would permit investors to make more informed investment decisions by enabling them to compare the performance of different trusts. The staff is studying a proposal for a uniform method of computing UIT yields submitted by the Investment Company Institute.

Agency Contact: Kenneth J. Berman, Deputy Office Chief, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-3021

RIN: 3235–AA47

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4861. REVISION OF INVESTMENT COMPANY PROXY RULES

Legal Authority: 15 USC 78n; 15 USC 78w; 15 USC 80a-20; 15 USC 80a-37

CFR Citation: 17 CFR 240.14a-1 to 240.14a-102; 17 CFR 240.14b-1; 17 CFR 240.14c-1 to 240.14c-101; 17 CFR 270.20a-1 to 270.20a-3

Legal Deadline: None

Abstract: Absent an exception, every solicitation of a proxy, authorization or consent with respect to any security issued or to be issued by a registered investment company is subject to rules adopted pursuant to the Securities Exchange Act of 1934 and the Investment Company Act of 1940 concerning solicitations of proxies. Solicitations to which the rules apply may not commence unless each person solicited is furnished or has previously been furnished with a proxy statement containing specified information prepared in accordance with certain rules and the material has been filed with the Commission. The existing proxy rules were adopted in piecemeal fashion and have been the subject of frequent changes. This has led to some duplicative and, in certain cases, complex requirements. To the extent that a proxy statement contains repetitive material or is overly complicated and difficult to read, it may not effectively perform its intended function of communicating meaningful information to security holders in order that they may make informed voting decisions. In order to update the proxy regulations and, in doing so, improve the (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: readability of proxy statements and eliminate unnecessary disclosure costs, the Division of Investment Management has commenced a comprehensive review of the proxy regulations as they relate to investment companies. There does not currently exist a basis upon which to quantify the reduced costs and burdens of the revisions, if any, that might result from the staff review. However, if revisions were proposed that applied to all registered investment companies soliciting proxies, unless the solicitation is excepted, such revisions could have a significant economic impact on a substantial number of small entities.

Agency Contact: Kathleen Clarke, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107

RIN: 3235–AA69

4862. TECHNICAL AMENDMENTS TO RULES 24F-1 AND 24F-2

Legal Authority: 15 USC 80a-8; 15 USC 80a-58; 15 USC 80a-24

CFR Citation: 17 CFR 274.11A; 17 CFR 270.24f-1; 17 CFR 270.24f-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering changes in rules 24f-1 and 24f-2, the rules that permit certain investment companies to register securities sold in excess of the number of shares included in a registration statement, to clarify the rules' operation with respect to the measurement of time periods and filing requirements in the context of investment company reorganizations.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Courtney S. Thornton, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-5287

RIN: 3235–AC25

4863. PROPOSED RULE 6C-12 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.6c-12(New)

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose a rule that would codify many exemptions from provisions of the Investment Company Act granted to two-tier real estate limited partnerships. Exemptions pursuant to section 6(c) of the Act have generally been granted where: 1) The two-tier partnership invests in limited partnerships engaged in the development and building of housing for low- and moderate-income persons; 2) the limited partnership interests are sold only to suitable investors; and 3) requirements for fair dealing by the general partner of the issuer with the limited partners of the issuer are included in the basic organizational documents of the partnership. The regulation would reduce the number of exemptive relief applications received by the Office of Investment Company Regulation.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Diane C. Blizzard, Deputy Chief of Office, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2707

RIN: 3235–AC84

4864. REVISIONS TO THE REGISTRATION AND THE ANNUAL SUPPLEMENT FORMS USED BY INVESTMENT ADVISERS

Legal Authority: 15 USC 78o(b)(1); 15 USC 78w(a); 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-6A; 15 USC 80b-11

CFR Citation: 17 CFR 275; 17 CFR 279

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission revise Form ADV, the investment adviser registration form, and related rules to: (1) request information related to the Commission's recently expanded enforcement authority, (2) enhance disclosure of information about the advisory relationship provided to clients and prospective clients, and (3) require annual amendment of the form. The enhanced disclosure would include specific requirements regarding "wrap fee" programs and additional requirements regarding "soft-dollar" allocations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Eric Freed, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107

RIN: 3235–AD21

4865. DEBT TENDER OFFERS

Legal Authority: 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77aa(12); 15 USC 781; 15 USC 78o(d); 15 USC 78w; 15 USC 78(e)

CFR Citation: 17 CFR 240.14e-5

Legal Deadline: None

Abstract: The Divisions of Corporation Finance and Market Regulation are jointly considering whether to recommend that the Commission issue proposals to amend its rule applicable to debt tender offers.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The agency contact for the Division of Market Regulation is Nancy J. Sanow, Assistant Director, Office of Trading Practices, 202 272-2848.

Agency Contact: David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3097

RIN: 3235–AD69

4866. REPORTING CURRENCY IN FINANCIAL STATEMENTS UNDER RULE 3-20 OF REGULATION S-X

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77aa(25); 15 USC 77aa(26); 15 USC 781; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e; 15 USC 79n; 15 USC 79k(a); 15 USC 80a-8; ...

CFR Citation: 17 CFR 210.3-20

Legal Deadline: None

Abstract: The Division of Corporation Finance is considering whether to recommend that the Commission propose revisions to Rule 3-20 of Regulation S-X that would clarify provisions allowing a foreign private issuer to state its financial statements in a currency other than that of the country in which it is incorporated or organized. In lieu of that rule's present reference to the issuer's primary economic environment, the revised rule would identify characteristics of the issuer that would guide the selection of a reporting currency.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: 15 USC 80a-29

Agency Contact: Robert A. Bayless, Chief Accountant, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2553

RIN: 3235–AD70

4867. DEFINITION OF "SHORT SALE"

Significance: Agency Priority

Legal Authority: 15 USC 78b; 15 USC 78j(a); 15 USC 78dd(a)

CFR Citation: 17 CFR 240.3b-3; 17 CFR 240.10a-1

Legal Deadline: None

Abstract: The Division of Market Regulation recommended that the Commission amend Rule 10a-1, which prohibits short sales under certain circumstances. The proposals would provide an exception to permit specialists to equalize the opening price of a foreign security on a U.S. exchange with its price in the principal foreign market, to exclude from application of the rule transactions in nonconvertible corporate bonds effected on an exchange, and to codify a no-action position relating to certain liquidations of index arbitrage positions. The proposed amendments redesignate certain current provisions of Rule 10a-1. The amendments, if adopted, also would clarify Rule 3b-3's definition of ownership of a security.

Timetable:

Action	Date	FR Cite
NPRM	06/09/92	57 FR 24415
NPRM Comment Period End	08/10/92	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M. Blair Corkran, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2848

RIN: 3235–AE41

4868. EXEMPTION FOR SUBSIDIARIES ORGANIZED TO FINANCE OPERATIONS OF DOMESTIC OR FOREIGN COMPANIES

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-5

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose amendments to rule 3a-5 to permit finance subsidiaries of United States banks and insurance companies to rely on the rule. Expanding the coverege of the exemptive rule could reduce regulatory burdens otherwise present.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Edward J. Rubenstein, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20459, 504 272-2408

RIN: 3235–AE95

4869. RULE 17F-5 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-5

Legal Deadline: None

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Abstract: Rule 17f-5 permits U.S.-registered investment companies to maintain certain securities and other assets in the custody of an "eligible foreign custodian," as that term is defined in the rule. In response to comments that the present definition of eligible foreign custodian and other provisions of the rule are too restrictive, the staff is considering whether to recommend that the Commission propose amendments to the rule. This matter is a reconsideration of an item that was previously on the Unified Agenda and withdrawn (see prior RIN 3235-AC85).

Timetable:

Action	Date	FR Cite
NPRM	06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Matthew M. O'Toole, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 504-2834

RIN: 3235–AE98

4870. ISSUANCE OF MULTIPLE CLASSES OF SECURITIES BY REGISTERED OPEN-END INVESTMENT COMPANIES

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.18f-3(New); 17 CFR 274.11A; 17 CFR 230.482

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose (i) a rule that would define the conditions under which an open-end management investment company may issue multiple classes of securities representing interests in the same portfolio, and (ii) certain related disclosure requirements. The Commission granted several exemptions from provisions of the Investment Company Act to permit open-end investment companies to issue multiple classes of securities, with each class subject to a different distribution arrangement. The Division is considering whether to codify elements of prior exemptive orders. The rule, if adopted, might reduce the number of exemptive relief applications received by the Office of Investment Company Regulation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Roseanne Harford, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2048

RIN: 3235–AF00

4871. PROCEDURES FOR EXEMPTIVE ORDERS

Significance: Agency Priority

Legal Authority: 15 USC 6(c); 15 USC 37(a); 15 USC 78d-1

CFR Citation: 17 CFR 200.30-5; 17 CFR 270.0-5

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose for comment amendments to Rule 0-5 under the Investment Company Act of 1940. The amendments to Rule 0-5 would provide a procedure for the expedited treatment of certain types of applications. The Commission is also considering whether to propose for comment amendments to Rule 30-5 of the Rules Delegating Functions to the Division Directors, Regional Administrators and the Secretary of the Commission. The amendments would expand the Division's delegated authority to remove unnecessary delays in the consideration of certain types of applications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Matthew M. O'Toole, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 504-2834

RIN: 3235–AF56

4872. TEMPORARY EXEMPTION FOR CERTAIN INVESTMENT ADVISERS

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.15a-4

Legal Deadline: None

Abstract: The Division is considering whether to amend Rule 15a-4 to permit an adviser conditionally to serve at contract fee during a short interim period, prior to shareholder approval of the new contract and following an "unforeseeable" or "uncontrollable" assignment of the advisory contract, e.g., triggered by an acquisition of the parent company of the adviser where the fund and adviser are not informed sufficiently in advance to obtain shareholder approval.

Timetable:

Action	Date	FR Cite
NPRM	09/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Diane C. Blizzard, Deputy Chief of Office, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2048

RIN: 3235–AF57

4873. OFF-THE-PAGE PROSPECTUSES FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES

Significance: Agency Priority

Legal Authority: 15 USC 77j(b); 15 USC 77s(a)

CFR Citation: 17 CFR 230.482

Legal Deadline: None

Abstract: The staff is considering recommending that the Commission propose amendments to Rule 482 under the Securities Act of 1933, 17 CFR 230.482, containing requirements for the use of an advertisement that would allow investors the option of purchasing shares directly from an open-end investment company by completing an application form included with the advertisement. The advertisement would be a prospectus for purposes of liability under section 12(2) of the Securities Act, 15 USC 771(2), and would be required to

contain core information about the investment company.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Robert G. Bagnall, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2048

RIN: 3235–AF58

4874. AMENDMENTS TO RULES 12B-1 AND 17D-3 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-12(b); 15 USC 80a-17(d); 15 USC 80a-22(c); 15 USC 80a-37(a); 15 USC 80a-39

CFR Citation: 17 CFR 270.12b-1; 17 CFR 270.17d-3

Legal Deadline: None

Abstract: The Commission has proposed, and received comments on, amendments to rules 12b-1 and 17d-3 under the Investment Company Act of 1940. The proposed amendments to rule 12b-1 would clarify and enhance standards for the approval or continuation of Rule 12b-1 distribution plans, place limits on certain practices that have developed under the rule, and prohibit funds using these plans from holding themselves out as no-load funds. The proposed amendments to rule 17d-3 would allow a mutual fund, under certain conditions, to enter into joint distribution agreements with affiliated funds, other affiliated persons, and the fund's principal underwriter. The Division of Investment Management withdrew the proposal from the Unified Agenda to consider it in the context of a comprehensive study of the Act. The Division now is reconsidering the proposal, in light of the study's recommendations, as a separate rulemaking proposal.

Timetable:

Action	Date	FR Cite
NPRM	06/13/88	53 FR 23258
NPRM Comment Period End	12/14/88	53 FR 35830

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: L. Bryce Stovell, Senior Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2048

RIN: 3235–AF62

4875. • RULE 17A-11 EARLY WARNING RULE

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78l; ...

CFR Citation: 17 CFR 240.17a-11

Legal Deadline: None

Abstract: Rule 17a-11 requires a broker dealer to give notice and transmit supplemental reports to the Commission and other regulatory bodies when its net capital declines below certain specified levels, or in other instances that indicate the existence of financial or operational difficulties. The proposed amendments would among other things, eliminate the requirement that a broker-dealer submit the supplemental reports now required by Rule 17a-11

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger G. Coffin, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-3881

RIN: 3235–AF67

4876. • CERTAIN RESEARCH AND DEVELOPMENT COMPANIES

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-8

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose a rule that would exempt from the definition of investment company under the Investment Company Act certain companies that invest excess funds in securities pending their use to finance research and development activities. The rule would clarify the status of certain companies, such as biotechnology companies, that are not primarily engaged in the investment company business.

Timetable:

Action	Date	FR Cite
NPRM	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: L. Bryce Stovell, Senior Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2048

RIN: 3235–AF69

4877. • RULE 17F-2 UNDER THE INVESTMENT COMPANY ACT—CUSTODY OF INVESTMENTS BY REGISTERED MANAGEMENT INVESTMENT COMPANY

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose amendments to Rule 17f-2 under the Investment Company Act of 1940, which governs the circumstances under which the securities and similar investments of a registered management investment company may be maintained in the custody of such company. Such amendments would respond to complaints that the rule is outdated, particularly its provisions requiring that a company's securities be physically examined by an independent accountant at least three times a year.

Timetable:

Action	Date	FR Cite
NPRM	.06/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rochelle G. Kauffmen, Senior Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street

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NW., Washington, DC 20549, 202 272-2038

RIN: 3235–AF70

4878. • ACCESS TO NONPUBLIC INFORMATION IN THE COMMISSION'S POSSESSION

Legal Authority: 15 USC 78w; 15 USC 78x

CFR Citation: 17 CFR 240.24c-1(New)

Legal Deadline: None

Abstract: The Commission is publishing for public comment Rule 24c-1 under the Securities Exchange Act of 1934. Under a recent amendment of the Exchange Act, Section 24(c) permits the Commission, in its discretion and upon a showing that such information is needed, to provide information in its possession to such persons, domestic and foreign, as the Commission by rule deems appropriate if the person receiving such information provides such assurances of confidentiality as the Commission deems appropriate. The proposed rule is intended to complement the Commission's current access program and to implement Section 24(c). It would designate categories of domestic and foreign governmental authorities, self-regulatory organizations and other specified persons now participating in the Commission's current program as persons who may be provided access to nonpublic information in the Commission's possession.

Timetable:

Action	Date	FR Cite
NPRM	11/30/92	57 FR 57710
NPRM Comment Period End	01/21/93	57 FR 57710

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Nash, Senior Special Counsel, Securities and Exchange Commission, Office of The General Counsel, 450 5th Street NW., Washington, DC 20549, 202 272-2070

RIN: 3235–AF72

4879. • REPORTS TO BE MADE BY CERTAIN BROKERS AND DEALERS

Legal Authority: 15 USC 78q(a)(l)

CFR Citation: 17 CFR 240.17a-5

Legal Deadline: None

Abstract: The proposed amendments will shift to Designated Examining Authorities the responsibility for extensions of time for the filing of FOCUS reports and audited annual financial reports or for approval of changes of the date as of which the audited financial report must be dated.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julius R. Leiman-Carbia, Senior Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2824

RIN: 3235–AF73

4880. • ASSET-BACKED SECURITIES DISCLOSURE

Significance: Agency Priority

Legal Authority: 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 229; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Division of Corporation Finance is considering whether to recommend to the Commission proposed amendments to revise rules and forms which would specify disclosure requirements for asset-backed securities transactions.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael H. Mitchell, Senior Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2573

RIN: 3235–AF74

4881. • EFFECT OF EXEMPT WHOLESALE GENERATORS ON OTHER TRANSACTIONS

Significance: Agency Priority

Legal Authority: 15 USC 79(t)

CFR Citation: 17 CFR 250.54

Legal Deadline: None

Abstract: The proposed rule is intended to provide a safe harbor for the financing of transactions by a registered holding company other than the acquisition of an exempt wholesale generator when the registered holding company holds an interest in one or more exempt wholesale generators.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Karen McMillan, Staff Attorney, Office of Public Utility Regulation, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 504-3387

RIN: 3235–AF77

4882. • EXEMPTION FOR CERTAIN ACQUISITIONS OF ONE OR MORE FOREIGN UTILITY COMPANIES

Significance: Agency Priority

Legal Authority: 15 USC 79(t); 15 USC 79(n)

CFR Citation: 17 CFR 250.55; 17 CFR 259.5s(Revision)

Legal Deadline: None

Abstract: The proposed rule is intended to provide a safe harbor for the acquisition of one or more foreign utility companies by a registered holding company. The amendment to Form U5S provides for the reporting of those acquisitions and/or acquisitions of exempt wholesale generators.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Karen McMillan, Staff Attorney, Office of Public Utility Regulation, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 504-3387

RIN: 3235–AF78

4883. • EXEMPTION FOR SUBSIDIARY COMPANIES OF REGISTERED HOLDING COMPANIES FORMED TO HOLD INTERESTS IN FOREIGN COMPANIES

Significance: Agency Priority

Legal Authority: 15 USC 79(t)

CFR Citation: 17 CFR 250.56

Legal Deadline: None

Abstract: The proposed rule clarifies that a subsidiary of a registered holding company which is engaged exclusively in the business of owning an interest in one or more foreign utility companies will be exempt from the Public Utility Holding Company Act of 1935. Registered holding companies may acquire these entities without the approval of the Commission.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen McMillan, Staff Attorney, Office of Public Utility Regulation, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 504-3387

RIN: 3235–AF79

4884. • NOTICES AND REPORTS TO BE FILED UNDER SECTION 33

Significance: Agency Priority

Legal Authority: 15 USC 79(n); 15 USC 79(t)

CFR Citation: 17 CFR 250.57

Legal Deadline: None

Abstract: The proposed rule specifies the information to be provided to the Commission under P.L. 102-406, Sec. 715. The rule also provides for the reporting of acquisition of foreign utility companies by exempt holding companies.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Karen McMillan, Staff Attorney, Office of Public Utility Regulation, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 504-3387

RIN: 3235–AF80

4885. • APPLICABILITY OF SECTION 30(F) OF THE INVESTMENT COMPANY ACT OF 1940 TO CERTAIN AFFILIATED PERSONS OF AN INVESTMENT ADVISER TO A REGISTERED CLOSED-END INVESTMENT COMPANY

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37; 15 USC 80a-29(f)

CFR Citation: 17 CFR 270.30f-1

Legal Deadline: None

Abstract: The Commission expects to issue a release requesting public comment on a proposed amendment to Rule 30f-1 under the Investment Company Act of 1940 which would relieve certain affiliated persons of an investment adviser to a registered closed-end investment company from the filing requirements under Section 16 of the Securities Exchange Act of 1934, made applicable by Section 30(f) of the Investment Company Act. The proposed amendment is intended to exempt affiliated persons of an investment adviser that are not in a position to obtain confidential information about the registered closed-end investment company or to influence or effect a change in the company's policies, consistent with the purposes of Section 30(f) and Section 16 of the Securities Exchange Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Julia S. Ulstrup, Senior Counsel, Office of Chief Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2030

RIN: 3235–AF81

4886. • CERTAIN REGISTERED HOLDING COMPANY FINANCINGS IN CONNECTION WITH THE ACQUISITION OF ONE OR MORE EXEMPT WHOLESALE GENERATORS

Significance: Agency Priority

Legal Authority: 15 USC 79(t); 15 USC 79(n)

CFR Citation: 17 CFR 250.53; 17 CFR 259.5s(Revision)

Legal Deadline: None

Abstract: The proposed rule is intended to provide a safe harbor for the financing of acquisitions of exempt wholesale generators by registered holding companies. The amendment to Form U5S provides for the reporting of those acquisitions and of acquisitions of foreign utility companies by registered holding companies.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Karen McMillan, Staff Attorney, Office of Public Utility Regulation, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 504-3387

RIN: 3235–AF82

SECURITIES AND EXCHANGE COMMISSION (SEC) — Final Rule Stage

4887. RULE 15C2-10

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78k-1; 15 USC 78o(c); 15 USC 78w(a); 15 USC 78q; 15 USC 78q-1

CFR Citation: 17 CFR 240.15c2-10

Legal Deadline: None

Abstract: The Commission has proposed for comment a rule that would govern the operation of proprietary securities trading systems that are not operated as facilities of a national securities association or exchange.

Timetable:

Action	Date	FR Cite
NPRM	04/18/89	54 FR 15429
NPRM Comment Period End	08/02/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gordon K. Fuller, Special Counsel, Securities and Exchange Commission, Division of

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Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2414

RIN: 3235–AC94

4888. REGULATION 13D-G

Legal Authority: 15 USC 78m(d); 15 USC 78m(g); 15 USC 78m(a)

CFR Citation: 17 CFR 240.13d-1; 17 CFR 240.13d-2; 17 CFR 240.13d-7; 17 CFR 240.13d-101; 17 CFR 240.13d-102

Legal Deadline: None

Abstract: The Commission has proposed revisions to Regulation 13D to change the disclosure to investors of filings on Schedule 13D, while at the same time reducing the reporting obligations of noninstitutional investors that have a passive investment purpose.

Timetable:

Action	Date	FR Cite
NPRM	03/14/89	54 FR 10552
NPRM Comment Period End	05/15/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3097

RIN: 3235–AD09

4889. DISCLOSURE OF SIGNIFICANT EQUITY PARTICIPANTS IN CONTROL TRANSACTIONS

Legal Authority: 15 USC 78c(b); 15 USC 78m(d); 15 USC 78n; 15 USC 78v

CFR Citation: 17 CFR 240.13d-101; 17 CFR 240.13e-100; 17 CFR 240.14a-102; 17 CFR 240.14d-100

Legal Deadline: None

Abstract: The Commission is considering proposed amendments to Exchange Act Schedules, which are intended to require disclosure of information concerning the identity and background of limited partners and other participants holding significant investments in limited partnerships or other closely held entities or groups of such entities involved with major acquisitions of securities, tender offers, proxy contests and going private transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/13/89	54 FR 10360
NPRM Comment Period End	05/12/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3097

RIN: 3235–AD42

4890. RULE 801 AND REGISTRATION FORMS FOR RIGHTS OFFERINGS

Significance: Agency Priority

Legal Authority: 15 USC 77c(b); 15 USC 77s

CFR Citation: 17 CFR 230.801(New)

Legal Deadline: None

Abstract: The Commission has proposed a small issue exemptive rule that would provide an exemption from the registration requirements of the Securities Act of 1933 for certain rights offerings and a Securities Act registration form for certain non-exempt rights offerings. The Commission also proposed amendments to Form F-3 to permit certain foreign private issuers reporting under the Securities Exchange Act of 1934 to register certain offerings, including rights offerings, without meeting the reporting history and public float eligibility requirements of that form.

Timetable:

Action	Date	FR Cite
NPRM	06/14/91	56 FR 27564
NPRM Comment Period End	09/09/91	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard M. Kosnik, Chief, International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3246

RIN: 3235–AD44

4891. CUSTOMER PROTECTION RESERVES AND CUSTODY OF SECURITIES

Legal Authority: 15 USC 78o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.15c3-3

Legal Deadline: None

Abstract: Because the borrowing of government securities plays an important role in the government securities market, the Commission believes that, for purposes of the customer protection rule, the categories of instruments that broker-dealers can provide to customer lenders of government securities should be expanded to include certain instruments currently not listed in the rule. Therefore, the Commission has proposed an amendment to the customer protection rule that would allow broker-dealers to provide, in addition to the instruments currently listed in the rule, certain other securities as the collateral in government securities borrowings.

Timetable:

Action	Date	FR Cite
NPRM	03/15/89	54 FR 10680
NPRM Comment Period End	05/01/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Jamroz, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2372

RIN: 3235–AD60

4892. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Legal Authority: 15 USC 78o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: In response to the October 1987 market break and as a part of its comprehensive market break study, the Division of Market Regulation examined the specialist financial responsibility rules and specialist financial surveillance systems of the various exchanges. As a result, the Commission has proposed amendments to the net capital rule that, among other things, will make the rule applicable to certain specialists that are now exempt from the rule. In addition to the consequential overall financial accountability and discipline that results from the application of the net capital rule, the Commission believes it would be desirable to have a uniform measure whereby it may review the financial health and liquidity of all specialists at all exchanges.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 315
NPRM Comment Period End	04/03/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael Macchiaroli, Assistant Director, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2904

RIN: 3235–AD62

4893. AMENDMENT TO RULE 31A-2 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-31(a); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.31a-2

Legal Deadline: None

Abstract: Rule 31a-2 specifies where and how long books and records, required to be maintained by U.S.-registered investment companies and other persons, must be preserved. The Commission has proposed for public comment an amendment to the rule that is intended to remove uncertainty regarding the location and language aspects of the recordkeeping requirements for U.S.-registered investment companies, particularly those investment companies investing in foreign securities.

Timetable:

Action	Date	FR Cite
NPRM	10/09/90	55 FR 41100
NPRM Comment Period End	12/10/90	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rochelle G. Kauffman, Senior Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2048

RIN: 3235–AD66

4894. FORMS FOR FURNISHING INFORMATION PURSUANT TO RULE 12G3-2(B) UNDER THE SECURITIES EXCHANGE ACT OF 1934

Significance: Agency Priority

Legal Authority: 15 USC 78l; 15 USC 78w

CFR Citation: 17 CFR 240.12g3-2(b); 17 CFR 249

Legal Deadline: None

Abstract: The Commission has proposed forms for use by persons furnishing information under Rule 12g3-2(b).

Timetable:

Action	Date	FR Cite
NPRM	06/06/91	56 FR 27612
NPRM Comment Period End	09/09/91	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard M. Kosnik, Chief, International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3246

RIN: 3235–AD72

4895. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Significance: Agency Priority

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: In response to the October 1987 market break and as a part of its comprehensive market break study, the Division of Market Regulation examined the appropriate levels of minimum net capital required of registered broker-dealers. As a result, the Commission has proposed amendments to the net capital rule that, among other things, would raise the minimum net capital required of various classes of registered broker-dealers. The Commission believes that these higher levels of required net capital are justified based upon the risks posed by undercapitalized firms to customers and to the securities system as a whole. On November 24, 1992, the Commission amended the net capital rule to raise the absolute minimum net capital required of certain registered broker-dealers. The increases to the minimum net capital levels are to be implemented over a period of eighteen months. In addition, the two methods of computing deductions for equity securities positions, or haircuts, were standardized. Certain changes were also made to the computation of aggregate indebtedness.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	54 FR 40395
NPRM Comment Period End	12/18/89	
Interim Final Rule	11/24/92	57 FR 59693

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger G. Coffin, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-7375

RIN: 3235–AD79

4896. DISCLOSURE AND ANALYSIS OF MUTUAL FUNDS' PERFORMANCE INFORMATION; PORTFOLIO MANAGER DISCLOSURE

Significance: Agency Priority

Legal Authority: 15 USC 80a-29(b); 15 USC 80a-37(a); 15 USC 80a-30

CFR Citation: 17 CFR 274.11A; 17 CFR 230.485(b); 17 CFR 270.34b-1; 17 CFR 270.31a-1; 17 CFR 270.31a-2; 17 CFR 239.23

Legal Deadline: None

Abstract: The Commission has proposed amendments to the disclosure requirements for mutual funds that would include alternative amendments for providing investors information about the investment results achieved by funds. The first proposal would require management to discuss and analyze the mutual fund's performance during its previous fiscal year and the techniques used to achieve that performance in light of the fund's

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objectives. The second proposal would require a comparison of fund performance over certain time periods to the performance of an appropriate securities index over the same periods. The proposed amendments also would require disclosure about persons who significantly contribute to the investment advice relied on by funds. Finally, the proposed amendments would shorten and simplify the per-share table contained in the prospectus.

Timetable:

Action	Date	FR Cite
NPRM	01/16/90	55 FR 1460
NPRM Comment Period End	03/12/90	
Final Action	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Robert E. Plaze, Assistant Director, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107

RIN: 3235–AD81

4897. SUMMARY PROSPECTUSES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s

CFR Citation: 17 CFR 230; 17 CFR 239

Legal Deadline: None

Abstract: The Commission has proposed amendments to Rule 431 under the Securities Act of 1933 which would revise the issuer criteria and pre-filing requirements for use of summary prospectuses. Further, the information requirements applicable to summary prospectuses are proposed to be amended to include a summary of management's discussion and analysis of the issuer's financial condition and results of operations and disclosure regarding the risks associated with investment in the securities being offered.

Timetable:

Action	Date	FR Cite
NPRM	06/27/90	55 FR 26212
NPRM Comment Period End	09/15/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martin Dunn, Attorney Adviser, Office of Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2573

RIN: 3235–AD90

4898. INITIATION OR RESUMPTION OF QUOTATIONS WITHOUT SPECIFIC INFORMATION

Significance: Agency Priority

Legal Authority: 15 USC 78w; 15 USC 78c; 15 USC 78j(b); 15 USC 78o(c); 15 USC 78q(a); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15c2-11

Legal Deadline: None

Abstract: Rule 15c2-11 governs the submission or publication of quotations by brokers or dealers for certain over-the-counter securities. Currently, the rule applies principally to the initiation or resumption of quotations in the National Daily Quotation Service, which is also known as the "pink sheets." The Commission has proposed amendments to the rule that would substantially narrow the piggyback exception so that self-piggybacking would be excepted under defined conditions and every broker-dealer generally would be required to obtain and review the specified information before submitting a quotation for a covered security. An additional amendment would encourage the creation of one or more central information repositories by permitting broker-dealers, under certain conditions, to rely on the presence of required issuer information in such a repository instead of maintaining those files internally. The amendments would further the Commission's efforts to combat fraud and manipulative conduct in the penny stock market.

Timetable:

Action	Date	FR Cite
NPRM	04/25/91	56 FR 19158
NPRM Comment Period End	01/01/92	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2848

RIN: 3235–AD94

4899. SPECIAL PROVISIONS AS TO AGE OF FINANCIAL STATEMENTS FOR FOREIGN PRIVATE ISSUERS UNDER REGULATION S-X

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77a(25); 15 USC 77a(26); 15 USC 78l; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79k(a); 15 USC 80a-8

CFR Citation: 17 CFR 210.3-19

Legal Deadline: None

Abstract: The Commission has proposed revisions to Rule 3-19 of Regulation S-X which would accommodate offerings of securities by foreign issuers that customarily prepare financial information only on a semi-annual basis.

Timetable:

Action	Date	FR Cite
NPRM	06/14/91	56 FR 27562
NPRM Comment Period End	07/15/91	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: 15 USC 80a-29

Agency Contact: Robert A. Bayless, Chief Accountant, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2553

RIN: 3235–AD96

4900. INTERNATIONAL TENDER AND EXCHANGE OFFERS

Significance: Agency Priority

Legal Authority: 15 USC 77b; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77sss; 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w; 15 USC 79t; 15 USC 80a-37

CFR Citation: 17 CFR 200; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 260

Legal Deadline: None

Abstract: The Commission issued for comment rule proposals to facilitate the extension of international tender offers to U.S. holders. The proposed rules would provide exemptions from the tender offer rules, securities registration and reporting requirements, and trust indenture provisions, as well as allow the registration of foreign exchange offers on the basis of foreign disclosure.

Timetable:

Action	Date	FR Cite
ANPRM	06/12/90	55 FR 23751
ANPRM Comment Period End	09/21/90	
NPRM	06/14/91	56 FR 27582
NPRM Comment Period End	09/09/91	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: David Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3097

RIN: 3235–AD97

4901. STABILIZING TO FACILITATE A DISTRIBUTION

Legal Authority: 15 USC 78i(a)(6); 15 USC 78j(b); 15 USC 78q(a); 15 USC 78w(a); 15 USC 78dd(a)

CFR Citation: 17 CFR 240.10b-7

Legal Deadline: None

Abstract: The Commission has proposed amendments to Rule 10b-7, which regulates stabilizing activities to facilitate an offering. The proposed amendments would permit the stabilizing price in an offering of a foreign security to reflect the price of the security in the foreign market that is the principal market for such security, if the stabilizing activity otherwise complies with the rule. Adjustments of stabilizing bids based on exchange rate fluctuations between the currencies of the markets on which the security is being stabilized would also be permitted. The amendments would also deem foreign stabilizing transactions during an offering of a foreign security in the United States made in compliance with comparable foreign regulations not to be in violation of Rule 10b-7.

Timetable:

Action	Date	FR Cite
NPRM	01/09/91	56 FR 814
NPRM Comment Period End	02/25/91	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2848

RIN: 3235–AE11

4902. DEFINITIONS PRINCIPALLY RELATING TO INTERNATIONAL TRANSACTIONS

Legal Authority: 15 USC 78b; 15 USC 78c(b); 15 USC 78w(a)

CFR Citation: 17 CFR 240.3b-10

Legal Deadline: None

Abstract: The Commission has proposed Rule 3b-10, which defines certain terms principally relating to international transactions, because the Commission believes it is advisable and appropriate to adopt general definitions of terms relevant to the increasing internationalization of world securities markets rather than adopt identical definitions in the context of individual rulemaking proposals.

Timetable:

Action	Date	FR Cite
NPRM	01/09/91	56 FR 820
NPRM Comment Period End	02/25/91	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2848

RIN: 3235–AE15

4903. LARGE TRADER REPORTING SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77s; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78s; 15 USC 78w

CFR Citation: 17 CFR 240.13h-1

Legal Deadline: None

Abstract: The Commission has released for comment proposed Rule 13h-1 pursuant to the Market Reform Act of 1990. Rule 13h-1 would require large traders to disclose accounts and affiliations to the Commission, and would require broker-dealers to maintain and report large trader account and transaction records to the Commission.

Timetable:

Action	Date	FR Cite
NPRM	08/28/91	56 FR 42550
NPRM Comment Period End	01/06/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: 15 USC 78x; 15 USC 79q; 15 USC 79t; 15 USC 80a-29; 15 USC 80a-37

Agency Contact: Nicholas T. Chapekis, Special Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-3115

RIN: 3235–AE42

4904. PROPOSED AMENDMENTS TO RULE 12D3-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.12d3-1

Legal Deadline: None

Abstract: The Commission had proposed, and received comments on, amendments to Rule 12d3-1 that would facilitate the acquisition by investment companies of the equity securities of foreign securities firms. The Division of Investment Management withdrew the proposal (RIN 3235-AD19) from the Unified Agenda to consider it in the context of a comprehensive study of the Investment Company Act of 1940. After again considering the proposal as a separate rulemaking proposal, the Commission has proposed revised amendments to Rule 12d3 1 that would

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permit registered investment companies more flexibility, than under the current rule or the prior proposal, to purchase the securities of securities-related businesses by eliminating the rule's marginability and investment grade conditions for such acquisitions.

Timetable:

Action	Date	FR Cite
NPRM - Proposed Amendments to Rule 12d3-1 under the Inv. Co. Act 1940	08/11/89	54 FR 33027
NPRM	01/08/93	58 FR 3243
NPRM Comment Period End	03/09/93	
Final Action	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: L. Bryce Stovell, Senior Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, **202 272-2048**

RIN: 3235–AE47

4905. SECURITIES TRANSACTIONS EXEMPT FROM TRANSACTION FEES

Legal Authority: 15 USC 78a et seq; 15 USC 77c et seq

CFR Citation: 17 CFR 240.31-1; 17 CFR 240.31-1(g)

Legal Deadline: None

Abstract: The proposal provides an exemption from the payment of fees for certain securities transactions. Many transactions occurring after regular trading hours involve portfolio trades. These transactions when executed overseas, currently may be exempt from section 31 transaction fees pursuant to Rule 31-1(e). The amendment to Rule 31-1, as proposed by the Commission, would provide a limited exemption from the payment of section 31 fees for sales involving 15 securities or more at one aggregate price occurring on or off an exchange in listed securities after regular trading hours. By aligning the fee exemption for after-hours portfolio trading to match the treatment for overseas trading, the proposal should promote the public interest and equal protection of markets because it will remove an incentive for executing these trades overseas.

Timetable:

Action	Date	FR Cite
NPRM	06/03/91	56 FR 25056
NPRM Comment Period End	07/03/91	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Beth Stekler, 202 272-2376.

Agency Contact: Sandy Sciole, Special Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, **202 272-7379**

RIN: 3235–AE52

4906. RULES 603(A) AND 606 OF REGULATION E

Legal Authority: 15 USC 77c(c); 15 USC 80a-37

CFR Citation: 17 CFR 230.601; 17 CFR 230.602; 17 CFR 230.603(a); 17 CFR 230.605; 17 CFR 230.606; 17 CFR 230.609

Legal Deadline: None

Abstract: The Commission has proposed amendments to Regulation E to: (1) increase from $5 million to $15 million the aggregate offering price of all securities of small business investment companies that may be sold within a 12-month period; and (2) increase the aggregate offering price of securities of a small business investment company or a business development company that may be sold by a security holder from $100,000 to $1.5 million.

Timetable:

Action	Date	FR Cite
NPRM	03/20/92	57 FR 9825
NPRM Comment Period End	05/19/92	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathleen K. Clarke, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, **202 272-2107**

RIN: 3235–AE96

4907. RULE 6C-10 UNDER THE INVESTMENT COMPANY ACT OF 1940 AND AMENDMENT TO ITEM 2 OF FORM N-1A UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-22; 15 USC 80a-37(a); 15 USC 80a-39; 15 USC 77a et seq

CFR Citation: 17 CFR 270.6c-10; 17 CFR 239.15A

Legal Deadline: None

Abstract: The Commission had proposed, and received comments on, new Rule 6c-10 under the Investment Company Act of 1940 which would provide a registered open-end management investment company, other than a registered insurance company separate account, and certain related persons with exemptions from the Act to the extent necessary to permit the fund to impose sales loads on a deferred basis. The Commission had also proposed amendments to Form N-1A, the registration statement for funds, to accommodate the deferred sales loads that would be permitted if Rule 6c-10 is adopted. The Division of Investment Management withdrew the proposal (previous RIN: 3235-AD18) from the Unified Agenda to consider it in the context of a comprehensive study of the Act. The staff is now reconsidering the proposal as a separate rulemaking proposal.

Timetable:

Action	Date	FR Cite
NPRM	11/02/88	53 FR 45275
NPRM Comment Period End	01/09/89	
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: L. Bryce Stovell, Senior Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, **202 272-2048**

RIN: 3235–AE97

4908. INVESTMENT COMPANY GENERAL PARTNERS NOT DEEMED INTERESTED PERSONS; INVESTMENT COMPANY LIMITED PARTNERS NOT DEEMED AFFILIATED PERSONS

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.2a19-2; 17 CFR 270.2a3-1

Legal Deadline: None

Abstract: The Commission proposed rules providing, under appropriate conditions, comparable treatment for investment companies organized as limited partnerships as for investment companies organized as corporations. Proposed Rule 2a19-2 would exempt certain general partners of an investment company organized as a limited partnership from being considered "interested persons" of the investment company, its investment adviser, or its principal underwriter, solely on the basis of their status as partners or co-partners. Proposed Rule 2a3-1 would exempt certain limited partners of an investment company organized as a limited partnership from being considered "affiliated persons" of the investment company, other partners of the investment company, its investment adviser, or its principal underwriter, solely on the basis of their status as partners or co-partners. This item is a reconsideration of an item that was previously on the Unified Agenda and withdrawn (see prior RIN 3235-AD83). These rules, if adopted, should eliminate the need for certain limited partnership investment companies to file (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/28/92	57 FR 34726
NPRM Comment Period End	10/06/92	
Final Action	04/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: individual exemptive applications, and their attendant costs, and make it easier for venture capital funds and other pooled investment vehicles to function as limited partnership investment companies under the Investment Company Act.

Agency Contact: Edward J. Rubenstein, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, **202 272-2048**

RIN: 3235–AF01

4909. REVISION OF REGISTERED PUBLIC UTILITY COMPANY FINANCING RULES

Legal Authority: 15 USC 79c; 15 USC 79f(b); 15 USC 79i(c)(3); 15 USC 79t; 15 USC 79l

CFR Citation: 17 CFR 250.45; 17 CFR 250.52

Legal Deadline: None

Abstract: The proposed amendments are intended to further ease the regulatory and paperwork burden associated with seeking Commission approval for routine financings by registered holding companies and their subsidiary companies.

Timetable:

Action	Date	FR Cite
NPRM PUHCA of 1935	07/07/92	57 FR 31156
NPRM Comment Period End	10/13/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian Spires, Staff Attorney, Office of Public Utility Regulation, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, **202 272-7688**

RIN: 3235–AF49

4910. PERIODIC REPURCHASES BY CLOSED-END MANAGEMENT INVESTMENT COMPANIES; REDEMPTIONS BY OPEN-END MANAGEMENT INVESTMENT COMPANIES AT PERIODIC INTERVALS OR WITH EXTENDED PAYMENT

Significance: Agency Priority

Legal Authority: 15 USC 78a; 15 USC 78i(a); 15 USC 78j(b); 15 USC 78m(e); 15 USC 78n(d); 15 USC 78n(e); 15 USC 78w; 15 USC 80a-6(c); 15 USC 80a-22(c); 15 USC 80a-23(c); 15 USC 80a-33(b); 15 USC 80a-37(a)

CFR Citation: 17 CFR 240.10b-6; 17 CFR 240.13e-4; 17 CFR 240.14e-6; 17 CFR 270.0-1; 17 CFR 270.22c-1; 17 CFR 270.22e-3; 17 CFR 270.23c-3; 17 CFR 270.27c-2; 17 CFR 274.11A; 17 CFR 274.11a-1; 17 CFR 274.11b; 17 CFR 274.11c

Legal Deadline: None

Abstract: The Commission proposed new rules and rule amendments under the Investment Company Act to provide that closed-end investment companies may repurchase their shares at periodic intervals at net asset value and that open-end investment companies and registered separate accounts may take up to 31 days to pay redemption proceeds and/or may redeem only at periodic intervals. Amendments to rules and a new rule under the Securities Exchange Act would apply to closed-end periodic repurchases. The proposals would permit greater investment in less liquid securities than is permitted for open-end companies and would permit insurance companies to use investment vehicles that are more consistent with the long-term nature of variable insurance contracts.

Timetable:

Action	Date	FR Cite
NPRM	07/28/92	57 FR 34701
NPRM Comment Period End	11/04/92	
Final Action	06/00/93	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert G. Bagnall, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington DC 20549, **202 272-2048**

RIN: 3235–AF50

4911. REVISION OF CERTAIN ANNUAL REVIEW REQUIREMENTS OF INVESTMENT COMPANY BOARDS OF DIRECTORS

Significance: Agency Priority

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-10(f); 15 USC 80a-17(e); 15 USC 80a-17(f); 15 USC 80a-22(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.10f-3; 17 CFR 270.17-7; 17 CFR 270.17e-1; 17 CFR 270.17F-4; 17 CFR 270.22c-1

Legal Deadline: None

Abstract: The Commission has proposed for public comment amendments to rules 10f-3, 17a-7, 17e-1, 17f-4, and 22c-1 under the Investment Company Act of 1940. The proposed amendments would eliminate requirements in these rules that directors annually review certain arrangements and procedures, and

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require instead that directors make and approve changes only as the board deems necessary. The proposals are intended to substitute more meaningful requirements for the current annual review requirements, which are not necessary to further the purposes of the rules or to protect investors.

Timetable:

Action	Date	FR Cite
NPRM	12/30/92	58 FR 2999
NPRM Comment Period End	03/08/93	
Final Action	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Edward J. Rubenstein, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2048

RIN: 3235–AF60

4912. ADDITIONAL SMALL BUSINESS INITIATIVES

Significance: Agency Priority

Legal Authority: 15 USC 77b; 15 USC 77c(b); 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 78l; 15 USC 78m; 15 USC 78o(d); 15 USC 78p(a); 15 USC 78w(a); 15 USC 77sss

CFR Citation: 17 CFR 228; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249; 17 CFR 260

Legal Deadline: None

Abstract: The proposal would revise the Commission's rules to facilitate financings by small business issuers under the Securities Act of 1933 and their compliance with the reporting requirements of the Securities Exchange Act of 1934.

Timetable:

Action	Date	FR Cite
NPRM	07/29/92	57 FR 36502
NPRM Comment Period End for Rule 504a	09/14/92	
NPRM Comment Period End for Other Items	09/29/92	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Martin Dunn, Attorney Adviser, Office of Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2573

RIN: 3235–AF63

4913. • PROPOSALS TO UPDATE RULES AND FORMS UNDER THE PUBLIC UTILITY ACT

Legal Authority: 15 USC 79b(a)(3); 15 USC 79b(a)(4); 15 USC 79t; 15 USC 79n; 15 USC 79o; 15 USC 79c(d); 15 USC 79e(c); 15 USC 79i(c)(3); 15 USC 79l(c); 15 USC 79f(b); 15 USC 79l(d); 15 USC 79l(f); 15 USC 79aa(a); 15 USC 79l(e); 15 USC 79l(i); ...

CFR Citation: 17 CFR 250.7; 17 CFR 250.26; 17 CFR 250.27; 17 CFR 250.29; 17 CFR 250.40(a)(5); 17 CFR 250.14(c); 17 CFR 250.42(b); 17 CFR 250.43(b); 17 CFR 250.44(b); 17 CFR 250.49; 17 CFR 250.62; 17 CFR 250.63; 17 CFR 250.65(b)(2); 17 CFR 250.71(b); 17 CFR 250.83(d); ...

Legal Deadline: None

Abstract: The proposals are intended generally to modernize the rules under the Act and, in particular, to reduce undue regulatory burdens on companies in a registered holding company system. The amendments would also broaden the exemption from regulation for companies that are primarily engaged in nonutility businesses.

Timetable:

Action	Date	FR Cite
NPRM	11/16/92	57 FR 54025
NPRM Comment Period End	01/15/93	57 FR 54025
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: CFR CITATION CONT: 17 CFR 259.55; 17 CFR 259.212a; 17 CFR 259.212b; 17 CFR 259.313

LEGAL AUTHORITY CONT: 15 USC 79m(b)

Agency Contact: Brian Spires, Staff Attorney, Office of Public Utility Regulation, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-7688

RIN: 3235–AF68

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4914. AMENDMENTS TO FORM N-2

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 239.14; 17 CFR 274.11a-1

Legal Deadline: None

Abstract: Form N-2 is the registration statement form under the Investment Company Act of 1940 and the Securities Act of 1933 for closed-end management investment companies other than small business investment companies and companies that issue periodic payment plan certificates or are sponsors or depositors of companies issuing such certificates. Included within the registration statement are the companies' prospectuses used in offering their securities to the public. The Commission approved a simplified three-part form because prospectuses had become too cumbersome for the average investor to understand and requirements resulted in the disclosure of much information that was not necessarily material to an investment decision.

Timetable:

Action	Date	FR Cite
NPRM	08/11/89	54 FR 32993
NPRM Comment Period End	10/20/89	
Final Action	11/20/92	57 FR 56826
Final Action Effective	01/01/93	57 FR 56826

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Courtney Thornton, Attorney, Securities and Exchange Commission, Division of Investment

Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107

RIN: 3235–AB40

4915. RULEMAKING FOR OPERATIONAL EDGAR SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 77a to 77aa; 15 USC 78a to 78ii; 15 USC 79 to 79z-6; 15 USC 77aaa to 77bbb; 15 USC 80a-1 to 80a-52

CFR Citation: 17 CFR 200; 17 CFR 201; 17 CFR 202; 17 CFR 210; 17 CFR 228; 17 CFR 229; 17 CFR 230; 17 CFR 232; 17 CFR 239; 17 CFR 240; 17 CFR 249; 17 CFR 260; 17 CFR 269

Legal Deadline: None

Abstract: The Commission has adopted rule changes necessary to accommodate electronic filing in the operational EDGAR system, as well as to update the rules to take advantage of the efficiencies of electronic filing and processing.

Timetable:

Action	Date	FR Cite
ANPRM	07/02/86	51 FR 24155
ANPRM Comment Period End	09/05/86	
NPRM	08/06/92	57 FR 35070
NPRM Comment Period End	10/06/92	
Interim Final Rule	02/23/93	58 FR 14848
Interim Final Rule Effective	04/26/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Effective date for financial data schedules is 11/01/93.

Agency Contact: Barbara Smith Jacobs, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2589

RIN: 3235–AC48

4916. SIMPLIFICATION OF REGISTRATION PROCEDURES FOR PRIMARY SECURITIES OFFERINGS

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 230.415; 17 CFR 239 13; 17 CFR 230.457; 17 CFR 230.462; 17 CFR 230.430A; 17 CFR 230.424; 17 CFR 249.208a; 17 CFR 240.12b-23; 17 CFR 239.25

Legal Deadline: None

Abstract: The Commission has adopted revisions to rules and forms under the Securities Act of 1933 and the Securities Exchange Act of 1934 designed to provide issuers greater flexibility and efficiency in accessing the public securities markets. The revisions expand the availability of Form S-3, the short-form registration statement under the Securities Act, to additional issuers and classes of transactions. The changes also result in the extension of Rule 415, the shelf registration rule, to a greater variety of offerings, including investment-grade asset-backed securities. The initiatives also include other revisions to Form S-3 to enhance its efficiencies, as well as revisions to other Securities Act and Exchange Act rules to facilitate the registration process.

Timetable:

Action	Date	FR Cite
NPRM	07/16/92	57 FR 32461
NPRM Comment Period End	09/01/92	
Final Action	10/22/92	57 FR 48970
Final Action Effective	10/22/92	57 FR 48970

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Meredith Cross, Chief Counsel, Office of Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2573

RIN: 3235–AD67

4917. RULEMAKING FOR INVESTMENT COMPANY FILING ON OPERATIONAL EDGAR SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 77a to 77aa; 15 USC 78a to 78jj; 15 USC 80a-1 to 80a-52; 15 USC 80b-1 to 80b-21

CFR Citation: 17 CFR 270; 17 CFR 274; 17 CFR 275; 17 CFR 249

Legal Deadline: None

Abstract: The Commission adopted rule and form amendments to implement the operational phase of the EDGAR System to the extent EDGAR involves filings by investment companies, business development companies, and institutional investment managers.

Timetable:

Action	Date	FR Cite
NPRM	07/31/92	57 FR 35202
NPRM Comment Period End	10/06/92	
Interim Final Rule	02/23/93	58 FR 14848
Interim Final Rule Effective	04/26/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Effective date for financial data schedules is 11/01/93.

Agency Contact: Ruth Sanders, Attorney, Office of Disclosure Policy and Review, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-7714

RIN: 3235–AD92

4918. RULEMAKING FOR PUBLIC UTILITY HOLDING COMPANIES FILING ON OPERATIONAL EDGAR SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 79c; 15 USC 79t

CFR Citation: 17 CFR 250; 17 CFR 259

Legal Deadline: None

Abstract: The Commission adopted rule and form amendments to implement the operational phase of the EDGAR System to the extent EDGAR involves filings under the Public Utility Holding Company Act of 1935.

Timetable:

Action	Date	FR Cite
NPRM	07/23/92	57 FR 35431
NPRM Comment Period End	10/06/92	
Interim Final Rule	02/23/93	58 FR 14999
Interim Final Rule Effective	04/26/93	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Effective date for financial data schedules is 11/01/93.

Agency Contact: Richard T. Miller, Attorney, Office of Public Utility Regulation, Securities and Exchange Commission, Division of Investment

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Management, 450 5th Street NW., Washington, DC 20549, **202 504-2268**

RIN: 3235–AD98

4919. PROXY RULES

Significance: Agency Priority

Legal Authority: 15 USC 78n; 15 USC 78w

CFR Citation: 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: On October 16, 1992 the Commission adopted amendments to its proxy rules. The revisions to the proxy rules are intended to facilitate shareholder communications and consultations on matters presented to a shareholder vote and to reduce the costs of engaging in a regulated proxy solicitation.

Timetable:

Action	Date	FR Cite
NPRM	06/25/91	56 FR 28987
NPRM Comment Period Extended	07/10/91	56 FR 31349
NPRM Comment Period End	08/09/91	
NPRM Comment Period Extended to	09/23/91	
Reproposed NPRM	07/02/92	57 FR 29564
Reproposed NPRM Comment Period End	09/01/92	
Final Action	10/22/92	57 FR 48278
Final Action Effective	11/23/92	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, **202 272-3097**

RIN: 3235–AE12

4920. STABILIZING TO FACILITATE A DISTRIBUTION

Legal Authority: 15 USC 78i(a)(6); 15 USC 78j(b); 15 USC 78q(a); 15 USC 78w(a); 15 USC 78dd(a)

CFR Citation: 17 CFR 240.10b-7

Legal Deadline: None

Abstract: The Division of Market Regulation anticipates recommending that the Commission publish for comment a release proposing amendments to Rule 10b-7, which governs stabilizing to facilitate an offering. The proposed amendments would modify the distinction that the rule makes between securities for which the principal market is a securities exchange and securities traded in the over-the-counter market. The release would also codify certain interpretive positions regarding the persons who may rely on the rule and the type of offerings covered by the rule. Finally, the provisions of the rule would be restructured and simplified.

Timetable:

Action	Date	FR Cite
Withdrawn - incorporated into another rulemaking action	01/16/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, **202 272-2848**

RIN: 3235–AE43

4921. TEMPORARY RISK ASSESSMENT RECORDKEEPING AND REPORTING REQUIREMENTS FOR BROKERS AND DEALERS

Significance: Agency Priority

Legal Authority: 15 USC 78c; 15 USC 78j; 15 USC 78o; 15 USC 78q; 15 USC 78w; 15 USC 78dd

CFR Citation: 17 CFR 240.17h-1T; 17 CFR 240.17h-2T

Legal Deadline: None

Abstract: On July 15, 1992, the Commission adopted Rules 17h-1T and 17h-2T pursuant to the risk assessment provision of the Market Reform Act of 1990. Rule 17h-1T sets forth the recordkeeping requirements for brokers and dealers with respect to certain of their associated persons. Rule 17h-2T sets forth the reporting requirements for brokers and dealers regarding their material affiliates.

Timetable:

Action	Date	FR Cite
NPRM	09/06/91	56 FR 44014
Final Action	07/17/92	57 FR 32159
Final Action Effective	09/30/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger G. Coffin, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, **202 272-7375**

RIN: 3235–AE44

4922. STATEMENT OF FINANCIAL CONDITION TO BE FILED WITH APPLICATION FOR REGISTRATION AS A BROKER OR DEALER, APPLICATION OF BROKER OR DEALER

Significance: Agency Priority

Legal Authority: 15 USC 78o; 15 USC 78o-4; 15 USC 78o-5; 15 USC 78q

CFR Citation: 17 CFR 240.15b1-2; 17 CFR 240.15Ca2-2; 17 CFR 240.15Ba2-2(b); 17 CFR 240.15b1-1; 17 CFR 240.15b1-3; 17 CFR 240.15Ba2-4; 17 CFR 240.15Ba2-6; 17 CFR 240.15B3-1; 17 CFR 240.15Ca1-1; 17 CFR 240.15Ca2-1; 17 CFR 240.15Ca2-2; 17 CFR 240.15Ca2-3

Legal Deadline: None

Abstract: In connection with the Commission's plan to coordinate the broker-dealer registration process with the Central Registration Depository (CRD), the Commission has adopted amendments to Rules 15b1-2, 15Ca2-2 and 15Ba2-2(b) under the Securities Exchange Act of 1934. The amendments eliminate the requirement that applicants for broker-dealer registration file a statement of financial condition and representations regarding their financial resources as part of their applications on Form BD. The rules of the self-regulatory organizations currently require broker-dealers to file a statement of financial condition (or to otherwise demonstrate their financial ability to conduct business as a broker-dealer) with their applications for membership. To implement the CRD plan, the Commission also has adopted several amendments to its broker-dealer registration and reporting rules, including amendments to Form BD.

Timetable:

Action	Date	FR Cite
NPRM	07/31/92	57 FR 34048
Final Action	01/04/93	58 FR 11
Final Action Effective	01/25/93	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Belinda Blaine, Branch Chief, Office of Chief Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, **202 504-2418**

RIN: 3235–AE54

4923. DISCLOSURE OF EXECUTIVE COMPENSATION

Significance: Agency Priority

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w; 15 USC 77e; 15 USC 77aa(25); 15 USC 77aa(26); 15 USC 77ddd; 15 USC 77eee; ...

CFR Citation: 17 CFR 229.402; 17 CFR 240.14a-101; 17 CFR 229.403; 17 CFR 228.402; 17 CFR 228.403; 17 CFR 228.601; 17 CFR 249.310(b); 17 CFR 229.601; 17 CFR 249.310

Legal Deadline: None

Abstract: The Commission has adopted amendments to executive compensation disclosure requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/02/92	57 FR 29582
NPRM Comment Period End	08/31/92	
Final Action	10/21/92	57 FR 48125
Final Action Effective	10/21/92	57 FR 48125

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: LEGAL AUTHORITY CONT: 15 USC 77ggg; 15 USC 77hhh; 15 USC 77jjj; 15 USC 77nnn; 15 USC 77sss; 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-30; 15 USC 80a-37; 15 USC 80b-11

Agency Contact: Catherine Dixon, Chief, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, **202 272-2589**

RIN: 3235–AF34

4924. EXCLUSION FROM THE DEFINITION OF INVESTMENT COMPANY FOR CERTAIN STRUCTURED FINANCINGS

Significance: Agency Priority

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-7

Legal Deadline: None

Abstract: Rule 3a-7 excludes issuers that pool income-producing assets and issue securities backed by those assets ("structured financings") from the definition of investment company in section 3(a) of the Investment Company Act of 1940. Without the exclusion, a structured financing must rely on an exception or receive an exemption under the Act, or be sold in private placements or outside the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/29/92	57 FR 23960
NPRM Comment Period End	08/04/92	
Final Action - Rule 3a-7 adopted	11/19/92	
Final Action Effective	11/27/92	57 FR 56248

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Rochelle G. Kauffman, Senior Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, **202 272-2048**

RIN: 3235–AF47

4925. PRIVATE RESALES OF SECURITIES TO INSTITUTIONS

Significance: Agency Priority

Legal Authority: 15 USC 77b; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77sss; 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w; 15 USC 78ll(d); 15 USC 79t

CFR Citation: 17 CFR 230.144A

Legal Deadline: None

Abstract: Rule 144A, which was adopted in 1990, provides a safe harbor exemption from the registration requirement of the Securities Act of 1933 for offers and sales of securities exclusively to "qualified institutional buyers," the rule's term for substantial institutional purchasers. The Commission has adopted amendments that recognize several categories of such purchasers that are in legal forms not previously recognized within the relevant definition. These are commingled trust funds holding employee benefit plan monies and unregistered insurance company separate accounts. The amendments also allow the inclusion of U.S. government securities in the calculation of qualifying amounts of securities investments.

Timetable:

Action	Date	FR Cite
NPRM	07/16/92	57 FR 32458
NPRM Comment Period End	09/01/92	
Final Action	10/22/92	57 FR 48721
Final Action Effective	10/28/92	57 FR 48721

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Michael Hyatte, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, **202 272-3246**

RIN: 3235–AF51

4926. FILING FEES PAID TO THE LOCKBOX DEPOSITORY

Legal Authority: 15 USC 77s; 15 USC 77t; 15 USC 78d-1; 15 USC 78u; 15 USC 78w; 15 USC 78ll(d); 15 USC 79r; 15 USC 79t; 15 USC 77sss; 15 USC 77nnn; 15 USC 80a-37; 15 USC 80a-41; 15 USC 80b-9; 15 USC 80b-11

CFR Citation: 17 CFR 202.3a; 17 CFR 260.7a-10

Legal Deadline: None

Abstract: The Commission has adopted a revision of Rule 3a of its Rules Relating to Informal and Other Procedures and new Rule 7a-10 of its General Rules and Regulations under the Trust Indenture Act of 1939, both of which require that registrants filing on the Electronic Data Gathering and Retrieval ("EDGAR") system pay associated filing fees to the lockbbx depository maintained by Mellon Bank in Pittsburgh, PA.

Timetable:

Action	Date	FR Cite
Final Action	03/18/93	58 FR 15009
Final Action Effective	04/26/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jessica L. Kole, Special Counsel, Securities and Exchange Commission, Office of the

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SEC — Completed Actions

Executive Director, 450 5th Street NW., Washington, DC 20549, 202 272-2706

RIN: 3235–AF55

4927. RULES 17F-1, 17F-2, AND 17F-4 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-1; 17 CFR 270.17f-2; 17 CFR 270.17f-4

Legal Deadline: None

Abstract: The staff is no longer considering recommending to the Commission that it propose amendments to Rules 17f-1, and 17f-4, but is considering a separate rulemaking proposal to amend Rule 17f-2 (RIN 3235-AF70).

Timetable:

Action	Date	FR Cite
Withdrawn	01/06/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth R. Krentzman, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2048

RIN: 3235–AF59

[FR Doc. 93-6074 Filed 04-23-93; 8 45 am]
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federal register

Monday
April 26, 1993

Part LXI

Thrift Depositor Protection Oversight Board

Semiannual Regulatory Agenda

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THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD (OB)

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

12 CFR Ch. XV

Unified Regulatory Agenda

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Publication of agenda items.

SUMMARY: The Thrift Depositor Protection Oversight Board, established pursuant to section 21A(a)(1) of the Federal Home Loan Bank Act, as amended, 12 U.S.C. 1441a(a)(1), is hereby publishing items for the April 1993 Unified Agenda of Federal Regulations.

ADDRESSES: Comments should be addressed to the Secretary, Thrift Depositor Protection Oversight Board, 1777 F Street NW., Washington, DC 20232.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated below.

Dated: February 26, 1993.
Thrift Depositor Protection Oversight Board.
Peter H. Monroe,
President.

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD (OB) — Proposed Rule Stage

4928. MINIMUM STANDARDS OF COMPETENCE, EXPERIENCE, INTEGRITY, AND FITNESS

Significance: Agency Priority

Legal Authority: 12 USC 1441a(a)(13); 12 USC 1441a(n)(6)

CFR Citation: 12 CFR 1504

Legal Deadline: None

Abstract: The Oversight Board is required by statute to provide regulations establishing procedures for ensuring that any individual who is performing, directly or indirectly, any function or service on behalf of the Resolution Trust Corporation meets minimum standards of competence, experience, integrity, and fitness. Existing regulations are included in rules governing employee responsibilities and conduct, which were superseded for the most part, effective February 3, 1993, by the governmentwide rule issued by the Office of Government Ethics. Although the existing minimum standards, codified at 12 CFR 1505.40, remain in effect, the Thrift Depositor Protection Oversight Board will prescribe a new separate rule under its independent statutory authority.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	
Final Action	06/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, 1777 F Street NW., Washington, DC 20232, 202 786-9681

RIN: 3203–AA07

4929. SUPPLEMENTAL REGULATIONS ON EMPLOYEE STANDARDS OF CONDUCT

Significance: Agency Priority

Legal Authority: EO 12674; 12 USC 1441a(a)(13); 12 USC 1441a(n)(2)

CFR Citation: 5 CFR 2635

Legal Deadline: None

Abstract: The Oversight Board is required by statute to promulgate regulations governing conflict of interest, ethical responsibilities, and post-employment restrictions applicable to members, officers, and employees that are no less stringent than those applicable to the Federal Deposit Insurance Corporation. Pursuant to this requirement, the Board will issue regulations supplementing the governmentwide standards of conduct rule issued by the Office of Government Ethics, which superseded the Oversight Board's existing rule on February 3, 1993.

Timetable:

Action	Date	FR Cite
NPRM	05/00/93	
NPRM Comment Period End	06/00/93	
Final Action	06/00/93	
Final Action Effective	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, 1777 F Street NW., Washington, DC 20232, 202 786-9681

RIN: 3203–AA08

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD (OB) — Final Rule Stage

4930. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: 12 USC 1441a

CFR Citation: 12 CFR 1505

Legal Deadline: Final, Statutory, February 5, 1990.

Abstract: The final rule issued by the Office of Government Ethics establishing uniform standards of ethical conduct for officers and employees of the government, effective February 3, 1993, superseded most of the Thrift Depositor Protection Oversight Board's interim final rule.

Timetable:

Action	Date	FR Cite
NPRM	01/09/90	55 FR 820
NPRM Comment Period End	02/08/90	
Interim Final Rule	02/14/90	55 FR 5358
To Be Repealed	06/00/93	

Small Entities Affected: None

OB — Final Rule Stage

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, 1777 F Street NW., Washington, DC 20232, 202 786-9681

RIN: 3203–AA03

4931. EXEMPTION OF SYSTEM OF RECORDS FROM PRIVACY ACT PROVISIONS

Significance: Agency Priority

Legal Authority: 5 USC 552a; 12 USC 1441a(a)(2); 12 USC 1441a(a)(13)

CFR Citation: 12 CFR 1503.13

Legal Deadline: None

Abstract: Addition to the Privacy Act rule of the Oversight Board of the specific exemption that may be promulgated pursuant to 5 USC 552a(k)(5).

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61342
NPRM Comment Period End	01/25/93	57 FR 61342
Final Action	05/00/93	
Final Action Effective	05/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, 1777 F Street NW., Washington, DC 20232, 202 786-9681

RIN: 3203–AA09

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD (OB) — Completed Actions

4932. AVAILABILITY OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

Legal Authority: 12 USC 1441a; 5 USC 552

CFR Citation: 12 CFR 1502

Legal Deadline: None

Abstract: The Thrift Depositor Protection Oversight Board is considered to be an agency for that portion of title 5 of the United States Code that contains the Freedom of Information Act. That Act requires agencies to promulgate implementing regulations. The cost of this action is undetermined.

Timetable:

Action	Date	FR Cite
NPRM	06/16/92	57 FR 26789
NPRM Comment Period End	08/17/92	
Final Action	11/09/92	57 FR 53238
Final Action Effective	11/09/92	57 FR 53238

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, 1777 F Street NW., Washington, DC 20232, 202 786-9681

RIN: 3203–AA00

4933. PRIVACY ACT PROCEDURES

Legal Authority: 12 USC 1441a; 5 USC 552a

CFR Citation: 12 CFR 1503

Legal Deadline: None

Abstract: The Thrift Depositor Protection Oversight Board is required to establish procedures concerning the maintenance of records on individuals.

Timetable:

Action	Date	FR Cite
NPRM	06/12/92	57 FR 24994
NPRM Comment Period End	08/11/92	
Final Action	12/24/92	57 FR 61251
Final Action Effective	12/24/92	57 FR 61251

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, 1777 F Street NW., Washington, DC 20232, 202 786-9681

RIN: 3203–AA05

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INDEX TO ENTRIES THAT MAY AFFECT SMALL ENTITIES

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for the **Unified Agenda of Federal Regulations**.

The following index lists the regulatory actions that agencies in the Unified Agenda believe may have effects on small businesses, small governmental jurisdictions, or small organizations. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition of the Agenda. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in Part II of this issue.

Small Businesses

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485	Proposed Rule To Require Certain Fish From Mexico To Retain Heads and Tails Intact In Order To Protect the Endangered Totoaba
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529	Secretarial Fishery Management Plan for Sharks of the Atlantic Ocean
530	Amendment 15 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Amendment 20 to the FMP for the Groundfish Fishery of the Gulf of Alaska
535	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping and Observer Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels; Pacific Coast Groundfish
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553	Regulatory Amendment To Establish Pacific Halibut Bycatch Mortality Limits for Trawl and Non-trawl Gear
555	Pacific Halibut Regulations for 1993
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568	Amendment 16 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands and Amendment 21 to the FMP for Groundfish of the Gulf of Alaska
569	Amendment 18 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands and Amendment 23 to the FMP for the Groundfish Fishery of the Gulf of Alaska
570	Amendment 6 to the Pacific Coast Groundfish Fishery Management Plan

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Small Businesses—Cont.

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645	Drug-Free Workforce (DAR Case 88-083)
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The following index lists the regulatory actions that agencies in the Unified Agenda believe may have effects on local, State, or Federal levels of government. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition of the Agenda. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in Part II of this issue.

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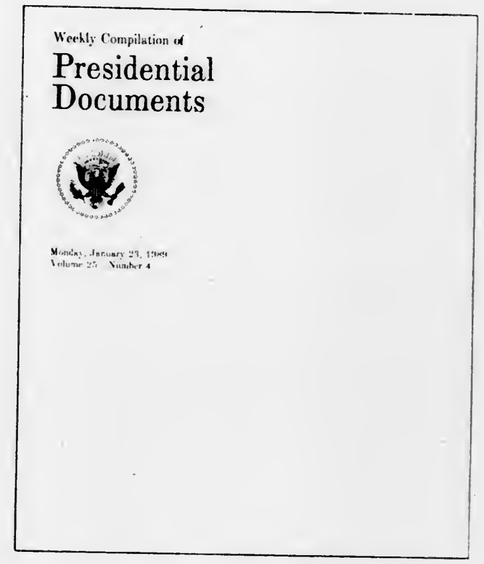

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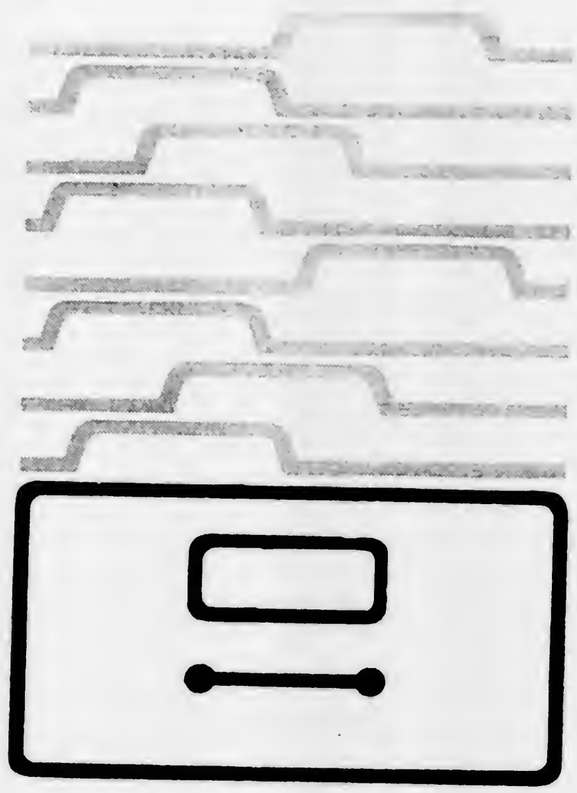

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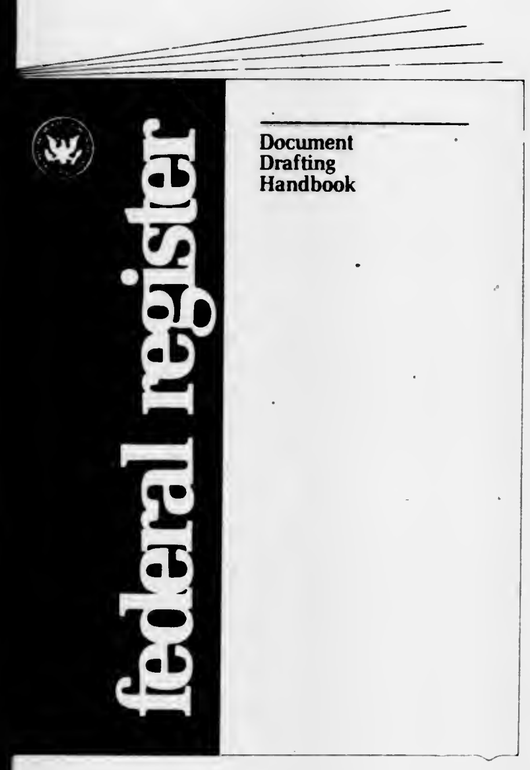

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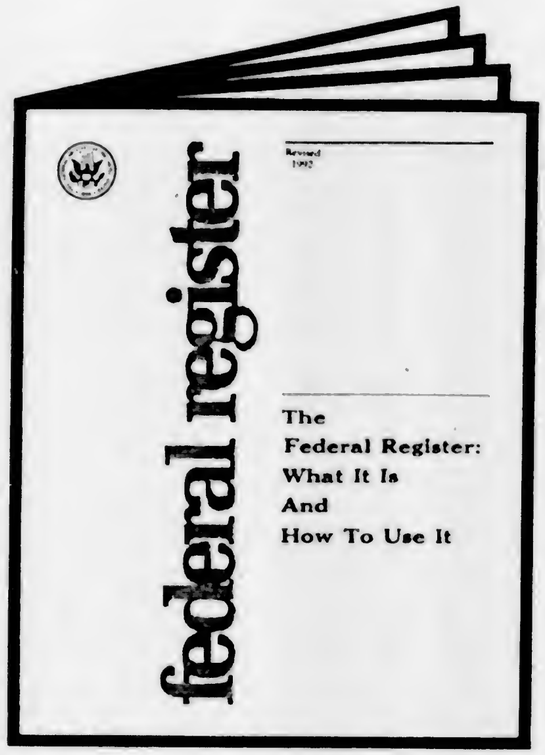

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Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and a list of Clinton Administration officials is available on 202–275–1538 or 275–0920.

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Presidential Documents

Title 3—

The President

Proclamation 6547 of April 22, 1993

National Credit Education Week, 1993

By the President of the United States of America

A Proclamation

Consumer credit is an integral part of the free enterprise economy of the United States. The vast array of credit products has expanded opportunities for consumers. At the same time, this trend has increased consumers' need for simple, understandable information about their options. Informed consumers who know their choices, rights, and responsibilities are better able to choose and use credit wisely. The prudent use of credit increases economic stability and enhances market competition.

The theme of this year's observance, "Good Credit—Unlimited Opportunities," recognizes that consumers, with careful budgeting and planning, can benefit from increased choices and opportunities in today's marketplace. Credit education is crucial to helping the public use credit wisely and responsibly. A good credit record can help a consumer obtain a job, finance a child's education, and obtain a mortgage to buy a home.

Tests of adults and high school students across the Nation show that consumers in the United States are not prepared adequately to deal with complex consumer credit choices. Even though the rights of consumers in credit transactions are guaranteed in Federal and State laws, most consumers have little understanding of their rights or of the agencies responsible for protecting these rights. Consumers clearly can benefit a great deal from expanded consumer credit education efforts.

In recognition of the importance of the prudent use of credit, the Congress, by Public Law 102–483, has designated the week beginning April 18, 1993, as "National Credit Education Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the week beginning April 18, 1993, as National Credit Education Week. I encourage all Americans—particularly business people, educators, public officials, consumer advocates, community organizations, and members of the media—to observe this week with appropriate programs and activities to educate and inform consumers about their credit rights and responsibilities and about the benefits of the wise use of credit.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of April, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93–9931
Filed 4–23–93; 12:18 pm]
Billing code 3195–01–P

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Presidential Documents

Proclamation 6548 of April 23, 1993

Nancy Moore Thurmond National Organ and Tissue Donor Awareness Week, 1993

By the President of the United States of America

A Proclamation

On April 14, 1993, the promising life of Nancy Moore Thurmond was taken in an auto accident. In the heartbreaking moments after her death, Nancy's parents, Senator Strom Thurmond and his wife Nancy, made the decision that their daughter's organs should be donated to others. Through this selfless act, the Thurmonds redeemed the promise of Nancy Moore Thurmond's youth and helped to sustain the lives of other human beings. In memory of Nancy, we commit ourselves this week to understanding what the donation of organs can mean.

In the history of medicine, few advances have been more awe-inspiring than successful organ and tissue transplants. In recent years we have seen the miracle of terminally ill patients receiving a second chance at life with a new heart, liver, lung, or kidney. We have seen children with leukemia regain their health through bone marrow transplants; we have witnessed the restoration of sight to the blind through new corneas; and we have seen thousands of Americans resuming normal lives after receiving a transplanted organ or tissue. But many others still wait, and many die waiting for a suitable organ to become available.

Today there are more than 30,000 patients on the national transplant waiting list, and a new patient is added to the list every 20 minutes. The need for organs far surpasses the number donated each year. We must increase public awareness of the successes of transplantation and the urgent need for increased donation. The American public needs to know that by completing an organ donor card and carrying it, and by making their families aware of their wishes to donate, they may give the gift of life to others.

Americans are a caring and giving people. Many Americans who have lost their loved ones in tragic accidents have found some measure of comfort in knowing that despite their loss, others may live. The Thurmond family can take solace in the knowledge that their beautiful daughter, Nancy Moore Thurmond, gave life to others.

To honor Nancy Moore Thurmond, and to focus public attention on the desperate need for organ donors, the Congress, by Senate Joint Resolution 66, has designated the week beginning April 18, 1993, as "Nancy Moore Thurmond National Organ and Tissue Donor Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the week of April 18 through April 24, 1993, as Nancy Moore Thurmond National Organ and Tissue Donor Awareness Week. I urge all health care professionals, educators, the media, public and private organizations concerned with organ donation and transplantation, and all Americans to join me in supporting this humanitarian action. In the memory of their loved ones, and in the life they have shared with others, Nancy Thurmond and all other organ donors will live on.

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IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of April, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93-10002
Filed 4-23-93; 4:28 pm]
Billing code 3195-01-P

Presidential Documents

Proclamation 6549 of April 23, 1993

Cancer Control Month, 1993

By the President of the United States of America

A Proclamation

Last year, more than 1.1 million Americans were likely to develop cancer. Another 520,000 were likely to die from the disease.

Cancer remains the second leading cause of death among women in the United States, accounting for approximately 245,000 deaths in 1992. Breast cancer is now the leading cause of death in women ages 40 to 44. Prostate cancer accounted for approximately 132,000 new cases of cancer in men in 1992 and is second only to lung cancer as the leading cause of death for men. No one of any race, age, gender, or socioeconomic status is immune to the many forms of this deadly disease.

The National Cancer Institute, through its nationwide Cancer Information Service, and the American Cancer Society, through its national programs and many local offices, reach millions of people with information about disease prevention. Community service and outreach efforts promote early detection of breast and cervical cancer and increase awareness of the risks of skin cancer.

Every American should understand that the ability to destroy cancer relies on detection in its early stages. Outreach efforts are also vital in informing our citizens of the dangers of tobacco use, of the importance of a healthy diet, and of the need to maintain a desirable weight.

Fewer Americans smoke now than in 1965, and between 1964 and 1987, three-quarters of a million smoking-related deaths were avoided. The general population has become increasingly aware of the dangers of environmental exposure, poor dietary habits, and not seeking periodic examinations for early detection and treatment.

We are fortunate to live at a time when early detection techniques are improving rapidly. By investing in science and technologies, we all will benefit from medical and scientific advances in disease prevention and treatment. Even the development of a vaccine to prevent cancer may be possible in the future.

Although significant progress has been made in combatting the disease, we must renew our commitment to the work that still must be done. Through an integrated system of public education and research, we can constantly improve cancer prevention and control.

In 1938, the Congress of the United States passed a joint resolution (52 Stat. 148; 36 U.S.C. 150) requesting the President to issue an annual proclamation declaring April as "Cancer Control Month."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the month of April 1993 as Cancer Control Month. I invite the Governors of the 50 States and the Commonwealth of Puerto Rico, the Mayor of the District of Columbia, and the appropriate officials of all other areas under the American flag to issue similar proclamations. I also ask health care professionals, private industry, community groups, insurance companies, and all other interested organizations and

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individual citizens to unite to publicly reaffirm our Nation's continuing commitment to controlling cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of April, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93-10003
Filed 4-23-93; 4:29 pm]
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Editorial note: For the President's remarks at the American National Cancer Society Courage Awards presentation ceremony, see issue 16 of the *Weekly Compilation of Presidential Documents*.

Rules and Regulations

Federal Register
Vol. 58, No. 79
Tuesday, April 27, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

Regulations G, T, U and X; Securities Credit Transactions; List of Marginable OTC Stocks; List of Foreign Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks (OTC List) is composed of stocks traded over-the-counter (OTC) in the United States that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List of Foreign Margin Stocks (Foreign List) is composed of foreign equity securities that have met the Board's eligibility criteria under Regulation T. The OTC List and the Foreign List are published four times a year by the Board. This document sets forth additions to or deletions from the previous OTC List. There are no additions to or deletions from the previous Foreign List. Both Lists were last published on February 1, 1993 (58 FR 6602) and effective on February 10, 1993.

EFFECTIVE DATE: May 10, 1993.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452-2781, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452-3544.

SUPPLEMENTARY INFORMATION: Listed below are additions to or deletions from the OTC List. This supersedes the last OTC List which was effective February 8, 1993. Additions and deletions to the OTC List were last published on February 1, 1993 (58 FR 6602). A copy of the complete OTC List is available from the Federal Reserve Banks.

The OTC List includes those stocks that meet the criteria in Regulations G, T and U (12 CFR parts 207, 220 and 221, respectively). This determination also affects the applicability of Regulation X (12 CFR part 224). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The OTC List also includes any OTC stock designated under a Securities and Exchange Commission (SEC) rule as qualified for trading in the national market system (NMS security). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable upon the effective date of their NMS designation. The names of these stocks are available at the Board and the SEC and will be incorporated into the Board's next quarterly publication of the OTC List.

There are no new additions, deletions or changes to the Board's Foreign List, which was last published February 1, 1993 (58 FR 6602) and effective February 8, 1993. This notice serves as republication of that List with a new effective date of May 10, 1993. The Foreign List includes those securities that meet the criteria in Regulation T and are eligible for margin treatment at broker-dealers on the same basis as domestic margin securities. A copy of the complete Foreign List is available from the Federal Reserve Banks.

Public Comment and Deferred Effective Date

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Lists specified in 12 CFR 207.6(a) and (b), 220.17(a), (b), (c) and (d), and 221.7(a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of these Lists as soon as possible. The Board has responded to a request by the public and allowed approximately a two-week delay before the Lists are effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6 (Regulation G), 12 CFR 220.2(u) and 220.17 (Regulation T), and 12 CFR 221.2(j) and 221.7 (Regulation U), there is set forth below a listing of deletions from and additions to the OTC List.

Deletions From the List of Marginable OTC Stocks

Stocks Removed for Failing Continued Listing Requirements

Alpha 1 Biomedicals, Inc.
  Class B, warrants (expire 06-30-95)
American Steel and Wire Corporation
  $.20 par common
ARIX Corporation
  $.01 par common
B.M.J. Financial Corporation
  Rights (expire 03-15-93)
Calendar Capital, Inc.
  $.01 par common
Cherokee Inc.
  $.01 par common

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Circle Fine Art Corporation
$.10 par common
Cortech, Inc.
Rights (expire 05–24–94)
Crest Industries, Inc.
$.01 par common
Everex Systems, Inc.
$.001 par common
First Federal Savings Bank (Puerto Rico)
$1.00 par common
First Seismic Corporation
$.01 par common
Green Isle Environmental Services Inc.
$.18¾ par common
Hunter Environmental Services Inc.
$.10 par common
Imagine Films Entertainment, Inc.
Warrants (expire 07–30–93)
Jefferson National Bank (New York)
$1.00 par common
Main St. & Main Inc.
Warrants (expire 09–04–96)
Millfeld Trading Co., Inc.
Class A, warrants (expire 09–04–96)
NDE Environmental Corporation
$.001 par common
NESB Corporation
$.01 par common
Old Stone Corporation
$1.00 par common, Series B, 12% preferred
Pacific International Services Corp.
No par common
Pentair Inc.
$1.50 par cumulative convertible preferred
Ramtron Holdings Limited
American Depositary Receipts
RCM Technologies Inc.
$.05 par common
Receptech Corporation
$.01 par common
Sage Analytics International Inc.
$.001 par common
Southern Educators Life Insurance Co.
$.50 par common
Tele-Communications Inc.
Series A, $1.00 par 12¾% cumulative compounding redeemable preferred
USBancorp Inc.
Series A, $2.125 par convertible preferred
Washington Mutual Savings Bank
$1.00 par preferred stock

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

ADVO, Inc.
$.01 par common
Alden Press Company
$.01 par common
Allmerica Property & Casualty Companies, Inc.
$1.00 par capital
Applied Biosystems Inc.
No par common
Armstrong Pharmaceuticals, Inc.
$.08 par common
Clinical Homecare Ltd.
$.01 par common
Colonial Companies, Inc.
Class B, non-voting, $1.00 par common
DFSoutheastern, Inc.
$1.00 par common
Diversco, Inc.
$.01 par common
Dominion Bankshares Corporation
$5.00 par common
ELM Financial Services, Inc.
$.01 par common
Fedfirst Bancshares Inc.
$.01 par common
First Chattanooga Financial Corp.
$1.00 par common
First Federal Savings & Loan Association of Fort Myers
$.01 par common
First Federal Savings Bank (Utah)
$1.00 par common
Flagler Bank Corporation
Class A, $.10 par common
Fremont General Corporation
$1.00 par common
Genesis Health Ventures
$.02 par common
Glamis Gold Ltd.
No par common
Harmonia Bancorp Inc.
$.01 par common
Health Images, Inc.
$.01 par common
Heekin Can, Inc.
$.01 par common
Imagine Films Entertainment, Inc.
$.01 par common
Inforum, Inc.
$.01 par common
Integra Financial Corporation
$5.00 par common
KCS Energy, Inc.
$.01 par common
Lincoln Financial Corporation
No par common, $10.00 stated value
Mercantile Bancorporation Inc.
$5.00 par common
Montclair Bancorp Inc.
$.01 par common
National Savings Bank of Albany
$1.00 par common
New York Bancorp Inc.
$.01 par common
Piccadilly Cafeterias, Inc.
No par common
Pioneer Savings Bank (Washington)
$1.00 par common
Puget Sound Bancorp
$5.00 par common
Security Financial Holding Co.
$.01 par common
South Carolina Federal Corp.
$1.00 par common
United American Healthcare Corp.
No par common
Valley National Corporation
$2.50 par common

Additions to the List of Marginable OTC Stocks

Airsensors, Inc.
$.001 par common Warrants (expire 03–10–96)
Alamo Group, Inc.
$.10 par common
Alltrista Corporation
No par common
Amcor Limited
American Depositary Receipts
American Federal Bank, FSB (South Carolina)
$1.00 par common
Amtrol Inc.
$.01 par common
Applied Signal Technology, Inc.
No par common
Argosy Gaming Company
$.01 par common
Arkansas Best Corporation
Series A, $.01 par cumulative convertible exchangeable preferred
ASECO Corporation
$.01 par common
Autoimmune Inc.
$.01 par common
Avecor Cardiovascular Inc.
$.01 par common
AVID Technology, Inc.
$.01 par common
Bancfirst Corporation (Oklahoma)
$1.00 par common
Bancinsurance Corporation
No par common
BHC Financial, Inc.
$.001 par common
Biosurface Technology, Inc.
$.01 par common
BKC Semiconductor Incorporated
No par common
BOCA Research, Inc.
$.01 par common
Brock Candy Company
Class A, $.01 par common
Brock Control Systems, Inc.
No par common
Brookstone, Inc.
$.001 par common
Bruno's, Inc.
Convertible debentures (due 09–01–2009)
Campo Electronics Appliances & Computers Inc.
$.10 par common
Cannon Express, Inc.
Class B, non-voting, $.01 par common
Cascade Savings Bank, FSB (Washington)
$1.00 par common
Casino America, Inc.
$.01 par common
Casino Data Systems
No par common
Catalytica, Inc.
$.001 par common
CB Bancshares, Inc. (Hawaii)
$1.00 par common
Cell Genesys, Inc.
$.001 par common
Champion Industries, Inc.
$1.00 par common
Chesapeake Energy Corporation
$.01 par common
Chico's Fas, Inc.
$.01 par common
Cocensys, Inc.
$.001 par common
Commerce Bank (Virginia)
$.01 par common
Community Bancorp, Inc. (New York)
7.25% Series B, cumulative convertible preferred
Community Health Computing Corporation
$.001 par common
Computer Outsourcing Services, Inc.
$.01 par common
Comverse Technology, Inc.
$.01 par common
Coral Gables Fedcorp, Inc.
$.01 par common
Cree Research, Inc.
$.01 par common
Cryolife, Inc.
$.01 par common
Cyberonics, Inc.

$.01 par common
Davidson & Associates, Inc.
$10.00 par common
DF&R Restaurants, Inc.
$.01 par common
Education Alternatives, Inc.
$.01 par common
Energy Biosystems Corporation
$.01 par common
Envirotest Systems, Inc.
Class A, $.01 par common
Equicredit Corporation
$.01 par common
Ethical Holdings Limited
American Depositary Receipts
Excel Technology, Inc.
Series 1, $.001 par redeemable convertible preferred, Warrants (expire 09–30–97)
Fastcomm Communications Corporation
$.01 par common
Fed One Savings Bank, F.S.B. (West Virginia)
$.10 par common
Financial Institutions Insurance Group, Ltd.
$1.00 par common
First Family Bank, FSB (Florida)
$1.00 par common
First Federal Savings Bank of Brunswick, Georgia
$1.00 par common
First Shenango Bancorp, Inc. (Pennsylvania)
$.10 par common
First Southern Bancorp, Inc. (North Carolina)
No par common
Possil, Inc.
$.01 par common
Framingham Savings Bank (Massachusetts)
Warrants (expire 01–31–96)
Funco, Inc.
$.01 par common
General Nutrition Companies, Inc.
$.01 par common
Gilat Satellite Networks Ltd.
Ordinary shares (NIS .01)
Global Industries, Ltd.
$.01 par common
Global Spill Management, Inc.
$.001 par common
Gupta Corporation
$.01 par common
Gymboree Corporation, The
$.001 par common
Hahn Automotive Warehouse, Inc.
$.01 par common
Hamilton Bancorp, Inc. (New York)
$.01 par common
Hollywood Park, Inc.
Depositary shares
IBC Electronics Corp.
$.01 par common
INCO Homes Corporation
$.01 par common
Incomnet Inc.
No par common
Independence Federal Savings Bank (Washington, D.C.)
$.01 par common
Independent Entertainment Group, Inc.
$.0001 par common
Intel Corporation
Warrants (expire 03–07–98)
Intelligent Surgical Lasers, Inc.
No par common
Intervisual Books, Inc.
No par common
Intuit Inc.
$.01 par common
Jackpot Enterprises, Inc.
Warrants (expire 01–31–96)
Jackson County Federal Bank, a Federal Savings Bank (Oregon)
Series A, $5.00 non-cumulative convertible preferred
Jefferson Savings Bancorp, Inc. (Missouri)
$.01 par common
JMAR Industries, Inc.
$.01 par common, Warrants (expire 02–17–98)
Kenfil Inc.
$.01 par common
Kinder-Care Learning Centers, Inc.
$.01 par common, Warrants (expire 04–01–97)
L.S.B. Bancshares, Inc. of South Carolina
$2.50 par common
Landstar System, Inc.
$.01 par common
Leasing Solutions, Inc.
No par common
Liberty Technologies, Inc.
$.01 par common
Lomak Petroleum, Inc.
$.01 par common
Lukens Medical Corporation
$.01 par common
Magal Security Systems Ltd.
Ordinary shares
Marcum Natural Gas Services, Inc.
$.01 par common
Marion Capital Holdings, Inc.
No par common
Mason-Dixon Bancshares, Inc.
$10.00 par common
Mathsoft, Inc.
$.01 par common
McGew, Inc.
$.001 par common
Medical Resources, Inc.
$.01 par common
Microchip Technology, Inc.
$.001 par common
Molecular Dynamics, Inc.
$.01 par common
Molten Metal Technology, Inc.
$.01 par common
Mothers Work, Inc.
$.01 par common
Nathan's Famous, Inc.
$.01 par common
National Convenience Stores Incorporated
$.01 par common
NFO Research, Inc.
$.01 par common
Norand Corporation
$.01 par common
Northrim Bank (Alaska)
$1.00 par common
NSA International, Inc.
$.05 par common
NUBCO, Inc.
No par common
Orchard Supply Hardware Stores Corporation
$.01 par common
Orthologic Corporation
$.0005 par common
Pacific Sunwear of California, Inc.
$.01 par common
Parallan Computer, Inc.
No par common
Patrick Petroleum Company
Series B, $1.00 par convertible preferred
Penn Central Bancorp, Inc. (Pennsylvania)
$1.25 par common
Pennsylvania Gas and Water
Depositary preferred shares
Peoples Bancorp Inc. (Ohio)
$1.00 par common
Perceptron, Inc.
$.01 par common
Petersburg Long Distance Inc.
No par common
Philip Environmental Inc.
No par common
Physician Corporation of America
$.01 par common
Physicians Health Services, Inc.
Class A, $.01 par common
Pikeville National Corporation
$5.00 par common
PMR Corporation
$.01 par common
Powersoft Corporation
$.00167 par common
Preferred Health Care Ltd.
$.01 par common
Proxima Corporation
$.001 Par common
Quantum Corporation
6¾% convertible subordinated debentures due 2002
Recovery Engineering, Inc.
$.01 par common
Regent Bancshares Corp. (Pennsylvania)
Series A, $.10 par convertible preferred
Resound Corporation
$.01 par common
Rocky Shoes & Boots, Inc.
No par common
Roosevelt Financial Group, Inc.
6½% non cumulative convertible preferred
Rouse Company, The
Series A, convertible preferred stock
RPM, Inc.
Liquid yield option notes due 2012
S3 Incorporated
$.0001 par common
Sage Alerting Systems, Inc.
$.01 par common
Savoy Pictures Entertainment, Inc.
$.01 par common
Shaman Pharmaceuticals, Inc.
$.01 par common
Shared Technologies Inc.
$.001 par common
Shoe Carnival, Inc.
$.01 par common
Southern Energy Homes, Inc.
$.0001 par common
Specialty Paperboard, Inc.
$.001 par common
Standard Management Corporation
No par common
Staples, Inc.
5% convertible subordinated debentures
Stephan Company, The
$.01 par common
Sumitomo Bank of California, The
Depositary shares
Sun Bancorp, Inc. (Pennsylvania)
$2.50 par common
Sunrise Bancorp, Inc. (New York)
$.10 par common
Superconductor Technologies Inc.
$10.00 par common
Suprema Specialties, Inc.
$.01 par common
Tecnomatix Technologies Ltd.

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Ordinary shares (NIS .01 par value)
Tencor Instruments
No par common
Tide West Oil Company
$.01 par common
Tricord Systems, Inc.
$.01 par common
U.S. Can Corporation
$.01 par common
Union Bankshares, Ltd. (Colorado)
$.0001 par common
Universal Electronics Inc.
$.01 par common
Vical Incorporated
$.01 par common
Virginia First Savings Bank, F.S.B.
$1.00 par common
Wall Data Incorporated
No par common
Washington Homes, Inc.
$.01 par common
Watson Pharmaceuticals, Inc.
$.0033 par common
WCT Communications, Inc.
No par common
Wordstar International Corporation
Warrants (expire 03-26-96)

By order of the Board of Governors of the Federal Reserve System, acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.7(f)(10)), April 20, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-9746 Filed 4-26-93; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-168-AD; Amendment 39-8551; AD 93-08-04]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737-100, -200, and -200C series airplanes, that requires structural inspections of older airplanes. This amendment is prompted by reports of incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their economic design service goal. The actions specified by this AD are intended to prevent degradation of the structural capabilities of the affected airplanes. This amendment relates to the recommendations of the Airworthiness Assurance Task Force assigned to review Model 737 series airplanes, which indicate that, to assure long term continued operational safety, various structural inspections should be accomplished.

DATES: Effective May 27, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 27, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Rodriguez, Aerospace Engineer, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2779; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737-100, -200, and -200C series airplanes was published in the **Federal Register** on October 30, 1992 (57 FR 49151). That action proposed to require structural inspections of older airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

One commenter requests that a statement in the Summary section of the proposal be clarified to state that the incidents prompting issuance of this AD are due to fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their "economic design service goal" rather than their "design life goal" as stated in the proposal. The FAA concurs. The final rule has been revised accordingly.

This same commenter notes that the Discussion section of the proposal stated that certain service difficulties warranted mandatory inspections rather than mandatory modifications of the airplane, and that these service difficulties could be controlled safely by inspection alone. This commenter regards this discussion as inconsistent, since the modifications described in the service bulletins identified in the referenced Boeing Document are required by AD 90-06-02, Amendment 39-6489 (55 FR 8372, March 7, 1990). The FAA does not concur. While it is true that these service difficulties warranted mandatory inspections, as well as mandatory modifications, and that these service difficulties cannot be controlled safely by inspection alone, the subject of this AD is to require inspections only. The modifications are made mandatory by separate rulemaking action as noted by the commenter. Therefore, no change to the final rule is necessary.

One commenter requests that all references to the service bulletins identified in the Boeing Document be deleted from paragraphs (a) and (b) of the proposal, since the Boeing Document specifies fully the details for accomplishment of the inspections, as well as the thresholds for the initial inspections and the intervals for the repetitive inspections. This commenter notes that all information for the specified inspections, including thresholds and intervals, should be obtained from the Boeing Document to avoid confusion. The FAA concurs. Since the possibility for confusion exists, paragraphs (a) and (b) of the final rule have been revised to clarify that the Boeing Document is to be used as the primary source of service information.

Two commenters object to the proposed compliance times because they are too stringent. One commenter objects to the compliance times for both the initial and repetitive inspections. This commenter notes that the required inspections can be accomplished only at a maintenance facility where special equipment and trained maintenance personnel will be available during "heavy" maintenance ("C" checks), but the proposed repetitive inspection intervals do not coincide with pre-established operators' maintenance schedules. One operator objects only to the proposed initial compliance times because accomplishing the proposed inspection would impose a tremendous hardship due to of the size of its fleet. The FAA infers that the commenters request that the compliance times be extended.

The FAA concurs in part. After further review of Boeing Document Number D6-38505, "Aging Airplane Service Bulletin Structural Modification and Inspection Program," Revision F, dated April 23, 1992 (referenced in the proposal as the appropriate source of service information), the FAA now considers that the initial compliance times for five of the inspections in the Boeing Document are too stringent. This

especially is true for those cases in which the airplane has exceeded the threshold specified in the Boeing Document. Therefore, for airplanes for which the phase-in period will establish the applicable compliance time, paragraph (b)(2) of the final rule has been revised to extend the initial compliance time 15 months to provide all operators at least that amount of planning time to accomplish the required inspections. However, the FAA does not concur with the commenter's observation that the compliance times for the repetitive inspections must coincide with the operators' maintenance schedules. The FAA has determined that the compliance time for the repetitive inspections, as proposed, represents the maximum interval of time allowable for the affected airplanes to continue to operate prior to accomplishing the required inspections without compromising safety. Since maintenance schedules vary from operator to operator, there would be no assurance that the inspections will be accomplished during that time. Further, the FAA has verified that accomplishment of the proposed inspections does not necessitate a main base facility and, therefore, would not necessarily have to be carried out only during "heavy" maintenance ("C" checks).

This same commenter requests that, prior to issuance of the final rule, the Model 737 Structures Working Group (SWG) be given the opportunity to review the compliance times specified in the service bulletins identified in the Boeing Document. The FAA does not concur with this commenter's request. After conferring with the Chair and Co-Chair of the SWG, the FAA has determined that all aspects of the 16 service bulletins identified in the Boeing Document, including the compliance times specified in those service bulletins, were reviewed comprehensively at the SWG meetings conducted previously. Consequently, the FAA proceeded with rulemaking action to implement the SWG's recommendations to make mandatory the structural inspections described in those service bulletins at the times specified in the Boeing Document.

One commenter requests that repairs/modifications be accomplished in accordance with Federal Aviation Regulation (FAR) 43 because many of the repairs/modifications contained in the service bulletins identified in the Boeing Document have been deemed ineffective as permanent repairs. The commenter notes that without the flexibility afforded by FAR 43, maintenance facilities would be impacted severely and a tremendous burden would be imposed on them because of the out-of-service time necessary to accomplish the repair/modifications. The FAA does not concur. The FAA has not received any evidence to support this commenter's allegation that the permanent repairs/modifications that are specified in the service bulletins identified in the Boeing Document are ineffective in permanently repairing/modifying findings of discrepancies. After consideration of all the available information, the FAA finds that the repairs/modifications described in the service bulletins provide an acceptable level of safety. Furthermore, under the provisions of paragraph (e) of the final rule, the FAA may approve requests for alternative methods of compliance if data is submitted that substantiates that such methods would provide an acceptable level of safety.

One commenter notes that, in accordance with the recommendations of the SWG, the service bulletins identified in the Boeing Document should have been placed in either Section 4.0 (inspection only) or Section 3.0 (modification only), but not in both sections of the Boeing Document. The FAA does not concur. The FAA has reconfirmed with the SWG Chairman and Co-Chairman that the intent of the SWG was not to preclude the possibility for service bulletins to be placed in both sections of the Boeing Document. Further, the FAA has determined that long term continued operational safety for Boeing Model 737 series airplanes can be ensured best by requiring inspections (Sections 4.0), as well as modifications [(Section 3.0) required by AD 90-06-02], of these older airplanes as they approach or exceed their economic design service goal.

One commenter requests that the term "phase-in period," as used in paragraph (b)(2) of the proposal, be defined. The FAA concurs that clarification is necessary. A note has been added to paragraph (b)(2) of the final rule to state that the initial inspection may be accomplished at the allowable period when the required threshold specified in paragraph (b)(1) is imminent or has elapsed.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 1,144 Model 737-100, -200, and -200C series airplanes of the affected design in the worldwide fleet. The FAA estimates that 464 airplanes of U.S. registry will be affected by this AD, that it will take approximately 496 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $12,657,920, or $27,280 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

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§39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-08-04 Boeing: Amendment 39-8551. Docket 92-NM-168-AD.

Applicability: Model 737-100, -200, and -200C series airplanes, as listed in Section 4 and Appendices A.4 and B.4 of Boeing Document D6-38505, "Aging Airplane Service Bulletin Structural Modification and Inspection Program," Revision F, dated April 23, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent degradation of the structural capability of the airplane, accomplish the following:

(a) Accomplish the inspections specified in Section 4 and Appendices A.4 and B.4 of Boeing Document D6-38505, "Aging Airplane Service Bulletin Structural Modification and Inspection Program," Revision F, dated April 23, 1992, within the times specified in paragraph (b) of this AD, and thereafter at intervals not to exceed those specified in the Boeing Document for each inspection.

(b) The maximum initial inspection times for the inspections contained in Section 4 and Appendices A.4 and B.4 of Boeing Document D6-38505, "Aging Airplane Service Bulletin Structural Modification and Inspection Program," Revision F, dated April 23, 1992, shall be the later of the times specified in either paragraph (b)(1) or (b)(2) of this AD:

(1) The threshold for inspection time for the inspection specified in the Boeing Document, measured as a total (flight cycles, time-in-service, as appropriate) accumulated on the airplane; or

(2) The phase-in period for the inspection specified in the Boeing Document, measured from a date 15 months after the effective date of this AD.

Note: The "phase-in period," for the purposes of this AD, is defined as the allowable period to accomplish the initial inspection when the required threshold specified in paragraph (b)(1) of this AD is imminent or has elapsed.

(c) If any of the discrepant conditions identified in the service bulletins are found as a result of the inspections required by this AD, the corresponding corrective action specified in the service bulletins must be accomplished prior to further flight.

(d) The terminating action for each inspection required by paragraph (a) of this AD consists of the accomplishment of the modification specified in the corresponding service bulletin.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The inspections shall be done in accordance with Boeing Document No. D6-38505, "Aging Airplane Service Bulletin Structural Modification and Inspection Program," Revision F, dated April 23, 1992, which contains the following list of effective pages:

Page No.	Rev sym shown on page	Date shown on page
a	F	April 23, 1992.
c, d.4, d.5, d.6, e, 2.0.1, 2.0.2, 3.0.1, 3.1.3, 3.2.1, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 4.0.1, 4.1.1, 4.1.2, 4.2.1, 4.2.2, 5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.1.5, 5.1.6, B.1.1, B.1.2, B.2.1, B.3.1, B.4.1.	F	(These pages are not dated.)
b, d.3, 3.1.1, A.1.1, A.1.2, A.2.1, A.3.1, A.4.1	E	(These pages are not dated.)
d.1, 3.1.2, 3.2.5, 3.3.2, 3.4.1	B	(These pages are not dated.)
d.2, f, 3.4.2, 3.5.1, 5.0.1	C	(These pages are not dated.)
1.0.1, 1.0.2, 1.0.3	Blank	(These pages are not dated.)

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on May 27, 1993.

Issued in Renton, Washington, on April 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-9722 Filed 4-26-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 92-NM-136-AD; Amendment 39-8549; AD 93-08-02]

Airworthiness Directives; Rigging Innovations, Inc., Skyhook Reserve Pilotchutes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Skyhook reserve pilotchutes, that requires testing the pilotchutes to verify their spring tension, and modification of the pilotchutes, if necessary. This amendment is prompted by an incident of total pack closure of the reserve pilotchute. The actions specified by this AD are intended to ensure safe descent of the parachutist.

DATES: Effective May 27, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 27, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Rigging Innovations, Inc., 236-C East 3rd Street, Perris, California 92570 This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mauricio J. Kuttler, Aerospace Engineer, Systems and Equipment Branch, ANM-131L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (310) 988-5355; fax (310) 988-5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Skyhook Reserve Pilotchutes was published in the **Federal Register** on January 15, 1993 (58 FR 4600). That action proposed to require testing the pilotchutes to verify their spring tension, and modification of the pilotchutes, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 3,194 Skyhook reserve pilotchutes of the affected design in the worldwide fleet. The FAA estimates that 2,750 pilotchutes of U.S. registry will be affected by this AD, that it will take approximately 1.5 workhours per pilotchute to accomplish the required actions, and that the average labor rate is $55 per workhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $226,875, or $83 per pilotchute. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-08-02 Rigging Innovations, Inc.: Amendment 39-8549. Docket 92-NM-136-AD.

Applicability: Skyhook reserve pilotchutes, part number 2233-(), serial numbers 2405 through 5551, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure safe descent of the parachutist, accomplish the following:

(a) Within 120 days after the effective date of this AD, conduct a field pilotchute spring test, testing procedure TP-19F001, in accordance with Rigging Innovations Service Bulletin 1513, Revision A, dated June 22, 1992. The minimum spring tension allowable for passing the test is 18 lbs.

(1) If the pilotchute passes the test, mark "SB-1513A" on the cap in indelible ink, along with the date of the test. The pilotchute may then be returned to service.

(2) If the pilotchute fails the test, the pilotchute must be removed from service. Prior to any further use of the pilotchute, it must be modified according to Rigging Innovations Product Modification Procedure PMP-1213. Once it is modified, it may be returned to service.

(b) Within 10 days after completion of the test required by paragraph (a) of this AD, the operator must notify Rigging Innovations, Inc., of all test results. The following information is to be included: Serial number of the Skyhook pilotchute, results of the test including the tension of the spring, date of the test, and name and qualification of the person performing the test. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The test shall be done in accordance with Rigging Innovations Service Bulletin 1513, Revision A, dated June 22, 1992, which includes Attachment A to Service Bulletin 1513, Revision A, June 22, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rigging Innovations, Inc., 236-C East 3rd Street, Perris, California 92570. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 27, 1993.

Issued in Renton, Washington, on April 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-9723 Filed 4-26-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 92-NM-198-AD; Amendment 39-8550; AD 93-08-03]

Airworthiness Directives; de Havilland, Inc. Model DHC-8-100 and -300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain de Havilland Model DHC-8-100 and -300 series airplanes. This amendment requires inspection of the upper drag strut trunnion fittings of the nose landing

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gear to detect cracks, inspection of the fitting attachment bolts to verify tightness, and replacement of the fittings or fasteners, if necessary. This amendment is prompted by reports of cracked trunnion fittings. The actions specified by this AD are intended to prevent failure of the upper drag strut trunnion fittings of the nose landing gear, which could lead to collapse of the nose landing gear.

DATES: Effective May 27, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 27, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, Airframe Branch, ANE-172, FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; telephone (516) 791-6220; fax (516) 791-9024.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain de Havilland Model DHC-8-100 and -300 series airplanes was published in the **Federal Register** on December 29, 1992 (57 FR 61845). That action proposed to require inspection of the upper drag strut trunnion fittings of the nose landing gear to detect cracks, inspection of the fitting attachment bolts to verify tightness, and replacement of the fittings or fasteners, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

Another commenter requests that the FAA clarify the requirements for fastener replacement in paragraph (a)(4) of the proposal. The commenter notes that proposed paragraph (a)(4) states, "If any fastener, replaced in accordance with this AD, is found to be loose * * *" The commenter believes that as it is currently worded, the proposal implies that only fasteners replaced previously will require subsequent repetitive inspections. The commenter does not believe that this is the intent of the proposed AD. Rather, the commenter believes that the statement should be revised to read, "If any fastener is found to be loose during repetitive inspections * * *" The FAA concurs that clarification is necessary. This AD requires an initial inspection, at which time the fasteners are checked for proper torque. If the fasteners are found to be loose, they must be replaced to ensure that no hidden damage has occurred. Subsequent inspections are required at intervals of no more than 1,000 landings. If fasteners are found to be loose during these inspections, they must be re-tightened to the proper value; they do not need to be replaced. If any fastener is not replaced during the initial inspection, then any fastener found to be loose during subsequent inspections must be re-tightened to the value specified in the service bulletin. Accordingly, paragraph (a)(4) of the final rule has been revised to state, "If any fastener is found to be loose during any repetitive inspection required by this AD, prior to further flight, tighten the bolt to the value specified in the service bulletin."

Since issuance of the proposal, de Havilland has issued Revision 'B' of DHC-8 Alert Service Bulletin S.B. A8-53-40, dated February 24, 1993. This revision of the service bulletin is essentially identical to the original issue, but provides clarified instructions for the torque check of the bolts. Transport Canada Aviation has classified this revised service bulletin as mandatory. Accordingly, the FAA has revised paragraph (a) of the final rule to cite Revision 'B' of that service bulletin as an additional source for service information.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 125 de Havilland Model DHC-8-100 and -300 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $6,875, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-08-03 De Havilland, Inc.: Amendment 39-8550. Docket 92-NM-198-AD.

Applicability: Model DHC-8-102, -103, -301, -311, and -314 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the upper drag strut trunnion fittings of the nose landing gear, which could lead to collapse of the nose landing gear, accomplish the following:

(a) Within 500 landings after the effective date of this AD, unless accomplished within the last 500 landings, conduct a visual inspection of both upper drag strut trunnion fittings of the nose landing gear to detect cracks; and inspect the fitting attachment bolts to verify tightness; in accordance with de Havilland DHC-8 Alert Service Bulletin S.B. A8-53-40, Revision 'A', dated June 12, 1992; or Revision 'B', dated February 24, 1993.

(1) If no crack is detected in the upper drag strut trunnion fittings of the nose landing gear, and no looseness is detected in the fitting attachment bolts, repeat the inspections at intervals not to exceed 1,000 landings.

(2) If any crack is detected on either fitting, prior to further flight, replace both fittings with confirmed crack-free fittings in accordance with the service bulletin. After such replacement, the inspections required by this paragraph must continue at intervals not to exceed 1,000 landings.

(3) If any fitting attachment bolt is found to be loose during the initial inspection, prior to further flight, replace the fastener securing the fitting (nut, washer, and bolt) in accordance with the service bulletin. After such replacement, the inspections required by this paragraph must continue at intervals not to exceed 1,000 landings.

(4) If any fastener is found to be loose during any repetitive inspection required by this AD, prior to further flight, tighten the bolt to the value specified in the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), ANE-170, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspections, replacements, and bolt tightening shall be done in accordance with de Havilland DHC-8 Alert Service Bulletin S.B. A8-53-40, Revision 'A', dated June 12, 1992, or de Havilland DHC-8 Alert Service Bulletin S.B. A8-53-40, Revision 'B', dated February 24, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 27, 1993.

Issued in Renton, Washington, on April 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-9724 Filed 4-26-93; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 92-NM-191-AD; Amendment 39-8548; AD 93-08-01]

Airworthiness Directives; Fokker Model F27 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F27 series airplanes, that requires a one-time inspection to detect cracks in the lower skin near the ribs at certain wing stations, and repair, if necessary. This amendment is prompted by reports of fatigue cracks found in the lower skin at the runout of stringers 2 and 10 near wing station 6490 on two of these airplanes. The actions specified by this AD are intended to prevent reduced structural capability of the wings.

DATES: Effective May 27, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 27, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Timothy J. Dulin, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2145; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Fokker Model F27 series airplanes was published in the **Federal Register** on February 2, 1993 (58 FR 6743). That action proposed to require a one-time inspection to detect cracks in the lower skin near the ribs at certain wing stations, and repair, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 58 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $9,570, or $165 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the amendment

Accordingly, pursuant to the authority delegated to me by the

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Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-08-01 Fokker: Amendment 39-8548. Docket 92-NM-191-AD.

Applicability: Model F27 series airplanes in post-Fokker Service Bulletin F27/57-9 configuration; serial numbers 10115, 10126 through 10684, inclusive; 10686, 10687, and 10689 through 10692, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural capability of the wings, accomplish the following:

(a) Inspect the lower skin at the runout of stringers 2 and 10 near wing stations 6490, 5330, and 6100 to detect cracks, in accordance with Fokker Service Bulletin F27/57-69, dated April 6, 1992, at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable:

(1) For airplanes that have accumulated less than 20,000 total landings as of the effective date of this AD: Prior to the accumulation of 20,000 total landings, or within 1 year after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 20,000 or more total landings, but less than 30,000 total landings, as of the effective date of this AD: Prior to the accumulation of 30,000 total landings, or within 5 months after the effective date of this AD, whichever occurs later.

(3) For airplanes that have accumulated 30,000 or more total landings as of the effective date of this AD: Within 2 months after the effective date of this AD.

(b) If any crack is found as a result of the inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(c) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, report positive findings of cracks to Fokker, in accordance with Fokker Service Bulletin F27/57-69, dated April 6, 1992. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The inspection and report shall be done in accordance with Fokker Service Bulletin F27/57-69, dated April 6, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on May 27, 1993.

Issued in Renton, Washington, on April 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-9725 Filed 4-26-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 92-NM-196-AD; Amendment 39-8552; AD 93-08-05]

Airworthiness Directives; Fokker Model F27 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Fokker Model F27 series airplanes, that requires an inspection of the noise filter capacitors mounted on the rotary flap actuator to detect damage and to determine the manufacturer and part number; and replacement, if necessary. This amendment is prompted by a recent report of damage to the aileron cable on a Model F27 series airplane, which occurred when one of two noise filter capacitors on the flap actuators became detached from its bracket, causing damage to the lower aileron cable due to electrical arcing between the capacitor and the aileron cable. The actions specified by this AD are intended to prevent reduced aileron roll control authority.

DATES: Effective May 27, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 27, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Dulin, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2145; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to all Fokker Model F27 series airplanes was published in the **Federal Register** on February 2, 1993 (58 FR 6745). That action proposed to require an inspection of the noise filter capacitors mounted on the rotary flap actuator to detect damage and to determine the manufacturer and part number; and replacement, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 25 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,375, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-08-05 Fokker: Amendment 39-8552. Docket 92-NM-196-AD.

Applicability: All Model F27 series airplanes, excluding Model F27 Mark 050 airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of an aileron control cable and subsequent reduced aileron roll control authority, accomplish the following:

(a) Within 500 hours time-in-service or 2 months after the effective date of this AD, whichever occurs first, inspect the noise filter capacitors mounted on the rotary flap actuator to detect damage and to determine the manufacturer and part number, in accordance with Fokker Service Bulletin F27/27-135, dated June 1, 1992.

(1) If no damaged capacitor is found, and if no capacitor manufactured by John E. Fast Company and having part number A-16446 is installed, no further action is required by this AD.

(2) If any damaged capacitor is found, or if any capacitor manufactured by John E. Fast Company and having part number A-16446 is found, prior to further flight, replace that capacitor with either a capacitor manufactured by P.R. Mallory Company and having part number CA275X, or a capacitor manufactured by Potter Company and having part number 1136-5004, in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspection and replacement shall be done in accordance with Fokker Service Bulletin F27/27-135, dated June 1, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 27, 1993.

Issued in Renton, Washington, on April 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-9726 Filed 4-26-93; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 775

[Docket No. 930344-3044]

Exports to the Science-Based Industrial Park in Hsinchu, Taiwan: Establishment of Import Certificate/ Delivery Verification (IC/DV) Procedure

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to include new requirements based on the implementation of Import Certificate/Delivery Verification (IC/DV) procedures for the Science-based Industrial Park, an entity of the National Science Council of Taiwan, located in Hsinchu, Taiwan.

The authorities on Taiwan have committed to implement an island-wide COCOM-comparable export control system. The IC/DV system at the Science-based Industrial Park is an interim step toward such a system. Because of the assurances and commitments that the IC/DV procedure in the Science-based Industrial Park represent, the Office of Export Licensing expects to be able to accelerate the processing of export license applications accompanied by the Park's IC for exports to enterprises located in the Park.

DATES: *Effective date:* This rule is effective April 27, 1993.

Grace period: In lieu of the 45 day grace period provided in 15 CFR 775.10(b)(2), a 60 day grace period will apply to the requirement to obtain the Hsinchu Science-based Industrial Park Import Certificate to support an export license application. During the grace period, applications will be accepted when supported by either a Form BXA-629P (Statement by Ultimate Consignee and Purchaser) or a Hsinchu Science-based Industrial Park Import Certificate.

FOR FURTHER INFORMATION CONTACT: Rod Joseph, Office of Technology and Policy Analysis, Bureau of Export Administration, U.S. Department of Commerce, Telephone: (202) 482-4253.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Export Administration (BXA) requires a foreign importer to file an International Import Certificate (IC) in support of individual validated license applications to export certain

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commodities controlled for national security reasons to specified destinations. The commodities are identified by the code letter "A" following the Export Control Classification Number on the Commerce Control List, which identifies those items subject to Department of Commerce export controls. By issuing an IC, the government of the importing destination confirms that it will exercise control over the disposition of those commodities covered by an IC.

BXA also requires a Delivery Verification Certificate (DV) on a selective basis, as described in 15 CFR 775.3(i). By issuing a DV, the government of a destination to which an export has been made confirms that the exported commodities have either entered the export jurisdiction of that destination or are otherwise accounted for by the importer.

New documentation requirements and guidelines for compliance adopted by the Government of Taiwan for the Hsinchu Science-based Industrial Park warrant the inclusion of that area in the IC/DV procedure. This rule amends the EAR by adding the Hsinchu Science-based Industrial Park to the list of destinations for which International Import Certificates may be issued and by adding the name and address of the Hsinchu Science-based Industrial Park to the authorities in the list of foreign offices that administer the IC/DV systems.

Rulemaking Requirements

1. This rule complies with Executive Order 12291 and Executive Order 12661.

2. The Import Certificate/Delivery Verification (IC/DV) requirement set forth in part 775 supersedes the requirement for Form BXA–629P, Statement by Ultimate Consignee and Purchaser (approved by the Office of Management and Budget under control number 0694–0021) to accompany certain license applications for exports and reexports (approved under OMB control numbers 0694–0005 and 0694–0010 respectively) to the Science-based Industrial Park located in Hsinchu, Taiwan. The International Import Certificate issued by the Park Administration does not constitute a collection of information under the Paperwork Reduction Act of 1989. As a result of this rule, there will be a decrease in the number of Statements by Ultimate Consignee, Form BXA–629P, and an increase in the number of Delivery Verifications, Form BXA–647P (approved by OMB under control number 0694–0016).

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States. This rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Accordingly, it is issued in final form. However, comments from the public are always welcome. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 775

Exports, Reporting and recordkeeping requirements.

Accordingly, part 775 of the Export Administration Regulations (15 CFR parts 730–799) is amended as follows:

PART 775—[AMENDED]

1. The authority citation for 15 CFR part 775 is revised to read as follows:

Authority: Public Law 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Public Law 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Public Law 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Public Law 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended (extended by Public Law 103–10, 107 Stat. 40); Executive Order 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; Executive Order 12058 of May 11, 1978 (43 FR 20947, May 18, 1978); Executive Order 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); Executive Order 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (56 FR 44649, September 28, 1992); and Executive Order 12735 of November 16, 1990 (55 FR 48587, November 20, 1990) as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992).

§ 775.1 [Amended]

2. The table in § 775.1(b) is amended in entry 1 by adding "Taiwan (Hsinchu Science-based Industrial Park)," immediately after "Switzerland," in the column titled "And the country of destination is".

3. Section 775.3(b) is revised to read as follows:

§ 775.3 International import certificate and delivery verification certificate.

* * * * *

(b) *Destinations.* The following destinations are subject to the International Import Certificate/Delivery Verification Certificate requirements.[1]

Australia
Austria
Belgium
Denmark
Finland
France
Germany
Greece
Hong Kong
Ireland, Republic of
Italy
Japan
Korea, Republic of
Liechtenstein
Luxembourg
Netherlands
New Zealand
Norway
Pakistan
Portugal
Singapore
Spain
Sweden
Switzerland
Taiwan (Hsinchu Science-based Industrial Park)
Turkey
United Kingdom

Note 1: See Supplement No. 1 to this part 775 for the list of addresses in the above destinations where foreign importers may obtain International Import Certificates.

Note 2: In the case of Taiwan, only those shipments to the Hsinchu Science-based Industrial Park are subject to the IC/DV procedures described in this section. Shipments to other destinations in Taiwan continue to require a Form BXA–629P, Statement by Ultimate Consignee and Purchaser, as described in § 775.2.

Note 3: The provisions of this § 775.3 do not apply to any overseas territories of the destinations in this paragraph unless such territories are specifically listed.

* * * * *

4. Supplement No. 1 to part 775 is amended by revising the phrase "Germany, Federal Republic of" to read "Germany" under the "Country" heading and by adding a new entry for "Taiwan (Hsinchu Science-based Industrial Park)" immediately after the entry for "Switzerland", to read as follows:

[1] See § 775.6 for People's Republic of China End-User Certificate requirements, § 775.7 for Indian Import Certificate requirements, and § 775.8 for Polish, Hungarian, or Czechoslovak Import Certificate requirements.

SUPPLEMENT NO. 1—AUTHORITIES ADMINISTERING IMPORT CERTIFICATE/DELIVERY VERIFICATION SYSTEM IN FOREIGN COUNTRIES [1]

[See footnotes at end of table]

Country	IC/DV authorities	System administered [2]
•	•	•
Taiwan (Hsinchu Science-based Industrial Park).	Science-based Industrial Park Administration, No. 2 Hsin Ann Road, Hsinchu, Taiwan R.O.C.	IC/DV.
•	•	•

[1] Facsimiles of Import Certificates and Delivery Verifications issued by each of these countries may be inspected at the Bureau of Export Administration Western Regional Office, 3300 Irvine Avenue, suite 345, Newport Beach, California 92660–3198 or at any U.S. Department of Commerce District Office (see listing in Commerce Office Addresses section of the GPO publication entitled "U.S. Export Administration Regulations", available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402) or at the Office of Export Licensing, room 1099D, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

[2] IC—Import Certificate and/or DV—Delivery Verification.

Dated: April 20, 1993.

Iain S. Baird,

Acting Assistant Secretary for Export Administration.

[FR Doc. 93–9679 Filed 4–26–93; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM93–13–000 and Order No. 533]

Revision of Form of Notice Requirements for Rate Schedule and Tariff Filings

Issued April 21, 1993.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: The Commission is revising the form of notice requirements for natural gas rate and tariff filings under the Commission's regulations. The final rule establishes requirements for filing a diskette copy of the notice in order to speed the process of noticing such filings.

EFFECTIVE DATE: May 27, 1993.

ADDRESSES: Requests for Rehearing must be filed in Docket No. RM93–13–000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: David Tishman, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–0515.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy of the contents of this document during normal business hours in room 3104, 941 North Capitol Street NE., Washington, DC 20426. The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in Wordperfect format may also be purchased from the Commission's copy contractor, LaDorn Systems Corporation, also located in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

[Order No. 553]

I. Introduction

Before Commissioners: Elizabeth Anne Moler, Chair; Jerry J. Langdon and Branko Terzic.

The Federal Energy Regulatory Commission (Commission) is revising the form of notice requirements for natural gas rate schedule and tariff filings in § 154.28 of the Commission's regulations.[1] The revised procedures establish requirements for filing a diskette copy of the notice.

II. Reporting Requirements

There will be no impact on the public reporting burden from requiring submission on a diskette of information that currently must be submitted in hard copy form.

III. Background and Discussion

Under section 4 of the Natural Gas Act every natural-gas company must file schedules showing all rates and charges from any transportation or sale of natural gas subject to the jurisdiction of the Commission and the classifications, practices, rules and regulations affecting such rates, charges and services together with all contracts in any manner relating thereto. Changes to these schedules and related contracts can be made by a natural gas company only through a filing with the Commission that gives notice of the proposed changes to the Commission and to the public. Whenever a company makes such filing the company must file a form of notice of the filing suitable for publication in the **Federal Register** in the form specified in § 154.28. In this final rule, the Commission is revising § 154.28 of its regulations to require that the company also submit a copy of its notice on a separate 3½" diskette in ASCII format marked with the name of the company and the words "notice of filing." This revision of the notice requirements of § 154.28 will enable the Commission to speed up the process by which notice of filings is provided through publication in the **Federal Register** and, especially, through the

[1] 18 CFR 154.28.

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Commission Issuance Posting System (CIPS), an electronic bulletin board service that requires that text be in ASCII format in order for it to provide electronic access to the text information.

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA)[2] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. Most, if not all, of the companies required to comply with this final rule are interstate pipelines which do not fall within the RFA's definition of small entity. Further, most, if not all, companies already have this material on a disk and therefore, forwarding the disk to the Commission would not be a burden.

The Commission certifies that promulgating this rule does not represent a major Federal action having a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis is required.

V. Information Collection Statement

The Office of Management and Budget's (OMB) regulations[3] require that OMB approve certain information collection requirements imposed by agency rule. Since this order does not impose new information collection requirements and has no impact on current information collections there is no need to obtain OMB approval.

VI. National Environmental Policy Act Analysis

The Commission concludes that promulgating this rule does not represent a major Federal action having significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act.[4] This rule is procedural in nature and does not substantially change the effect of the regulation being amended. Therefore, this rule falls within the categorical exemptions provided in the Commission's regulations.[5] Consequently, neither an environmental impact statement nor an environmental assessment is required.

VII. Administrative Findings and Effective Date

This final rule is a matter of agency organization, procedure, or practice. Since this rule does not itself alter the substantive rights or interests of any interested persons, prior notice and comment are unnecessary under section 4 of the Administrative Procedure Act.[6]

This final rule is effective on May 27, 1993.

List of subjects in 18 CFR Part 154

Alaska, Natural gas, Pipelines, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends part 154, chapter I, title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 154—RATE SCHEDULES AND TARIFFS

1. The authority citation for part 154 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. In § 154.28 the introductory text is revised to read as follows:

§ 154.28 Form of notice for Federal Register.

The company must file a form of notice suitable for publication in the **Federal Register**. The company must also submit a copy of its notice on a separate 3½" diskette in ASCII format. Each diskette must be clearly marked with the name of the company and the words "notice of filing." The notice must be in the following form:

* * * * *

[FR Doc. 93–9782 Filed 4–26–93; 8:45 am]

BILLING CODE 6717–01–M

[2] 5 U.S.C. 601–612.
[3] 5 CFR part 1320
[4] 42 U.S.C. 4332.
[5] 18 CFR 380.4(a)(2)(ii).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 5, 5c, 12, 54, and 602

[T.D. 8474]

RIN 1545–AQ99

Removal of Final and Temporary Regulations Relating Primarily to Provisions of Prior Law

AGENCY: Internal Revenue Service, Treasury.

ACTION: Removal of final and temporary regulations.

SUMMARY: This document removes final and temporary regulations under 26 CFR parts 1, 5, 5c, 12, 54, and 602 relating primarily to provisions of prior law. This action is taken in response to the Regulatory Burden Reduction Initiative.

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Paul C. Feinberg of the Office of the Associate Chief Counsel (Domestic), within the Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, Attention: CC:DOM, (202) 622–3325, not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

On April 2, 1992, the Internal Revenue Service published in the **Federal Register** the Request for Comments on Regulatory Burden Reduction Initiative (57 FR 11277), in which the Treasury Department and the Internal Revenue Service solicited public comment on a program to:

(1) Close certain regulations projects that are no longer needed or will not be pursued in the foreseeable future;

(2) withdraw certain proposed regulations which there are no current plans to finalize; and

(3) redesignate certain regulations as relating to prior law in light of subsequent changes to the law.

Section III of that document listed regulations identified as relating primarily to provisions of prior law. Those final and temporary regulations which did not receive any comments or which received only comments favorable to the program are removed. Accordingly, pursuant to the announcement in the **Federal Register** (57 FR 11277), this document removes the final and temporary regulations set forth below from the Code of Federal Regulations system.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Paul C. Feinberg, Office of

[6] 5 U.S.C. 553(b)

Associate Chief Counsel (Domestic), within the Office of the Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing the regulations.

List of Subjects

26 CFR 1.46–1 through 1.50–1

Income taxes, Investments, Reporting and recordkeeping requirements.

26 CFR 1.161–1 through 1.250–1

Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.301–1 through 1.358–5

Income taxes, Reporting and recordkeeping requirements, Securities.

26 CFR 1.381(a)–1 through 1.383–3

Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.421–1 through 1.425–1

Income taxes, Securities.

26 CFR 1.451–1 through 1.458–10

Accounting, Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.531–1 through 1.537–3

Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.591–1 through 1.596–1

Banking, Banks, Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.611–0 through 1.617–4

Income taxes, Natural resources, Reporting and recordkeeping requirements.

26 CFR 1.856–0 through 1.860–5

Income taxes, Investments, Trusts and trustees.

26 CFR 1.891–1 through 1.897–9T

Aliens, Foreign investments in United States, Income taxes.

26 CFR 1.1101–1 through 1102–3

Banking, Banks, Holding companies, Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.1231–1 through 1.1297–3T

Income taxes.

26 CFR 1.1502–2 through 1.1502–27

Income taxes.

26 CFR 1.1551–1 through 1.1564–1

Reporting and recordkeeping requirements.

26 CFR 1.6031–1 through 1.6074–3

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 5

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 5c

Accounting, Banking, Banks, Income taxes, Reporting and recordkeeping requirements, Savings and loan associations.

26 CFR Part 12

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 54

Excise taxes, Pensions, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1, 5, 5c, 12, 54, and 602 are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 is amended in part by removing the entries for sections "1.807–1", "1.817–5", and "1.6045–3T" to read as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. 26 CFR part 1 is amended as set forth in the table that follows:

Section	Description of amendment
1.46–3(e)(3)(iii)	Removed and Reserved.
1.47–1(e)(4)	Removed and Reserved.
1.48–1(e)	Removed and Reserved.
1.48–1(o)	Removed and Reserved.
1.48–7	Removed.
1.48–8 (including the authority citation immediately following the section).	Removed.
1.167(j)–1 through 1.167(j)–7	Removed.
1.167(k)–1 through 1.167(k)–4	Removed.
1.185–1 through 1.185–3	Removed.
1.191–1 through 1.191–3	Removed.
1.213–2	Removed.
1.250–1	Removed.
1.301–1(n)	Removed and Reserved.
1.305–1	Removed.
1.311–1 and 1.311–2	Removed.
1.333–1 through 1.333–6	Removed.
1.334–1(c)	Removed.
1.334–2	Removed.
1.336–1	Removed.
1.337–1 through 1.337–6	Removed.
1.358–5	Removed.
1.382–0	Removed.
1.382–1A	Removed.
1.382–2A	Removed.
1.382–3A	Removed.
1.382–4A	Removed.
1.424–1 and 1.424–2	Removed.
1.453C–0T through 1.453C–10T.	Removed.
1.534–4	Removed.
1.593–9	Removed.
1.613–3, paragraphs (b) through (l) and paragraph designation (a).	Removed.
1.856–9 (including the authority citation immediately following).	Removed.
1.897–4 (including the authority citation immediately following).	Removed.
Undesignated centerheading immediately preceding § 1.1101–1 "Distributions Pursuant to Bank Holding Company Act of 1956".	Removed.
1.1101–1 through 1.1101–4	Removed.
1.1102–1 through 1.1102–3	Removed.
1.1256(h)–1T through 1.1256(h)–3T (including the OMB Control Number and the authority citation after each section).	Removed.
1.1502–7	Removed.
1.1502–25	Removed.
1.1561–1A	Removed.
1.1561–2A	Removed.
1.1561–3A	Removed.
1.6045–3T	Removed.

PART 5—TEMPORARY INCOME TAX REGULATIONS UNDER THE REVENUE ACT OF 1978

Par. 3. The authority citation for part 5 is revised to read as follows:

Authority: 26 U.S.C. 7805.

§ 5.852–1 [Removed]

Par. 4. Section 5.852–1 is removed.

§ 5.857–1 [Removed]

Par. 5. Section 5.857–1 is removed.

PART 5c—TEMPORARY INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981

Par. 6. The authority citation for part 5c is revised to read as follows:

Authority: 26 U.S.C. 168(f)(8)(G) and 7805.

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§ 5c.1256–1 through 5c.1256–3 [Removed]

Par. 7. Sections 5c.1256–1 through 5c.1256–3 (including the authority citation immediately following each section) are removed.

PART 12—TEMPORARY INCOME TAX REGULATIONS UNDER THE REVENUE ACT OF 1971

Par. 8. The authority citation for part 12 is revised to read as follows:

Authority: 26 U.S.C. 167, 263, and 7805.

§ 12.5 [Removed]

Par. 9. Section 12.5 is removed.

PART 54—PENSION EXCISE TAXES

Par. 10. The general authority citation for part 54 is revised to read as follows:

Authority: 26 U.S.C. 7805. • • •

§ 54.6071–1T [Removed]

Par. 11. Section 54.6071–1T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 12. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 13. Section 602.101(c) is amended by removing the following entries from the table:

CFR part or section where identified and described	Current OMB control number
[Removed]	
1.48–7	1545–0808
1.48–8	1545–0155
1.167(j)–3	1545–0172
1.167(k)–3	1545–0074
1.167(k)–4	1545–0074
1.185–3	1545–0152, 1545–0172
1.250–1	1545–0132
1.333–3	1545–0123
1.333–6	1545–0123
1.337–5	1545–0123
1.337–6	1545–0123
1.358–5	1545–0123
1.856–9	1545–0123
1.897–4	1545–0123
1.1101–4	1545–0074
1.1102–2	1545–0123
1.1256(h)–1T	1545–0644
1.1256(h)–2T	1545–0644
1.1256(h)–3T	1545–0644
1.1561–3A	1545–0123
1.6045–3T	1545–0715, 1545–0997, 1545–1085
5.852–1	1545–0123
54.6071–1T	1545–0575

Shirley D. Peterson,

Commissioner of Internal Revenue.

Approved: November 5, 1992.

Fred T. Goldberg, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 93–9694 Filed 4–26–93; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD7 93–28]

Special Local Regulations: 3rd Annual International Submarine Race, Fort Lauderdale, South Beach Park, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for the 3rd International Submarine Races. This event will be held on June 16, 1993 until June 27, 1993, from 7 a.m. EDT (Eastern Daylight Time) until 5 p.m. EDT, each day. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on June 16, 1993 and terminate on June 27, 1993, from 7 a.m. EDT until 5 p.m. EDT, each day.

FOR FURTHER INFORMATION CONTACT: LTJG M. RUDNINGEN, Coast Guard Group Miami, (305) 535–4536.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The information to hold the event was not received until March 9, 1993, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LT J.M. LOSEGO, Project Attorney, Seventh Coast Guard District Legal Office, and LTJG M.W. RUDNINGEN, Project Officer, Coast Guard Group Miami.

Discussion of Regulations

There will be approximately fifty (50) teams in race submarines, ranging in size from 10 to 15 feet, participating in the Florida Atlantic University 3rd International Submarine Races. Ten (10) to twenty (20) spectator craft are also expected. The event will take place in the Atlantic Ocean ¼ mile east of South Beach Park at a depth of approximately twenty (20) feet. Only competing and official vessels will be allowed to enter the regulated area because of the nature of the racing event. To ensure the safety of swimmers and divers, no propeller engines will be permitted in the regulated area. A large stable platform will be provided for vessel support, staging and testing.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2.08 of Commandant Instruction M16475.1B, and this proposal has been determined to be categorically excluded. Specifically, the Coast Guard has consulted with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service regarding the environmental impact of this event, and it was determined that the event does not jeopardize the continued existence of protected species.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35–T0728 is added to read as follows:

§ 100.35–T0728 3rd Annual International Submarine Race.

(a) *Regulated area.* A regulated area is established for all navigable waters of the Atlantic Ocean east of South Beach Park, Florida, bounded by the following four points: 26–06′–48″N, 80–06′–15″W, at the northwest corner; 26–06′–48″N, 80–05′–57″W, at the northeast corner; 26–06′–36″N, 80–06′–15″W, at the southwest corner; and, 26–06′–36″N, 80–05′–57″W, at the southeast corner.

(b) *Special local regulations.* (1) Entry into the regulated area, by other than event participants and official vessels, is prohibited, unless authorized by the Patrol Commander.

(2) All vessels near the regulated area will follow the directions of the Patrol Commander and will proceed at no more than 5 MPH when passing the regulated area.

(3) A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any nonparticipating vessel to stop immediately. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(4) After the termination of the 3rd International Submarine Races for each respective day, all vessels may resume normal operation.

(c) *Effective dates.* These regulations become effective on June 16, 1993 and terminate on June 27, 1993, from 7 a.m. EDT until 5 p.m. EDT, each day. These times are effective, unless the regulated area is sooner terminated by the Patrol Commander.

Dated: April 7, 1993.

W.P. Leahy,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 93–9841 Filed 4–26–93; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 09–93–04]

Special Local Regulations: International Bay City River Roar, Saginaw River, Bay City, MI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for the International Bay City River Roar. This event will be held on the Saginaw River on the 25th, 26th and 27th of June 1993, with an alternate date of June 28, 1993, if the weather is inclement on June 27, 1993.

EFFECTIVE DATE: These regulations become effective from 9:00 a.m. until 4:30 p.m. on June 25, 1993, from 9:00 a.m. until 6:00 p.m. on June 26, 1993 and from 9:00 a.m. until 5:30 p.m. on June 27, 1993.

FOR FURTHER INFORMATION CONTACT: William A. Thibodeau, Marine Science Technician Second Class, U.S. Coast Guard, Aids to Navigation & Waterways Management Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199–2060, (216) 522–3990.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rule Making has not been published for these regulations. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District, until March 22, 1993, and there was not sufficient time remaining to publish proposed rules in advance of the event.

Drafting Information

The drafters of this regulation are William A. Thibodeau, Marine Science Technician Second Class, U.S. Coast Guard, project officer, Aids to Navigation & Waterways Management Branch and M. Eric Reeves, Commander, U.S. Coast Guard, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The International Bay City River Roar will be conducted on the Saginaw River between the Liberty Bridge and the Veterans Memorial Bridge on the 25th, 26th and 27th of June 1993. This event will have an estimated 70 hydroplanes which could pose hazards to navigation in the area. Any vessel desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer in Charge, U.S. Coast Guard Station Saginaw River, MI.).

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the event. This should have a favorable impact on commercial facilities providing services to the spectators. Any impact on commercial traffic in the area will be negligible.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Temporary Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35–T0963 is added to read as follows:

§ 100.35—T0963 International Bay City River Roar, Saginaw River, Bay City, MI

(a) *Regulated area.* That portion of the Saginaw River from the Liberty Bridge on the north to the Veterans Memorial Bridge on the south.

(b) *Special local regulations.* (1) The Coast Guard will be regulating vessel navigation and anchorage by all vessel traffic in the above area from 9 a.m. (EDST) until 4:30 p.m. (EDST) on June 25, 1993, from 9 a.m. (EDST) until 6 p.m. (EDST) on June 26, 1993, from 9 a.m. (EDST) until 5:30 p.m. (EDST) on June 27, 1993. When determined appropriate by the Coast Guard Patrol Commander, vessel traffic will periodically be permitted to transit the regulated area between race heats and during breaks. Commercial vessel traffic will have priority passage.

(2) If the weather on June 27, 1993 is inclement, the river closure will be postponed until 9 a.m. (EDST) to 5:30 p.m. (EDST) on June 28, 1993. If postponed, notice will be given on June 27, 1993 over the U.S. Coast Guard Radio Net.

(3) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Any vessel not authorized to participate in the event desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Transiting vessels will be operated at bare steerageway, and will exercise a high degree of caution in the area.

(4) The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Any vessel so signaled shall stop and shall comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

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(5) The Patrol Commander may establish vessel size and speed limitations, and operating conditions.

(6) The Patrol Commander may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

(7) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

Dated: April 14, 1993.

G. A. Pennington,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 93-9844 Filed 4-26-93; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7-92-26]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Sarasota/Manatee Metropolitan Planning Council Organization (MPO) and the Florida Department of Transportation (FDOT), the bridge owner, the Coast Guard is modifying the regulations of the Cortez Drawbridge, mile 87.4, at Bradenton by changing the existing 15 minute opening schedule to a year round 20 minute opening schedule and extending the periods of daily regulation. This change is being made because periods of peak vehicular traffic have changed. This action will reduce traffic congestion and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Ian MacCartney, Project Manager, Bridge Section, at (305) 536-4103.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Ian MacCartney, Project Manager, and LT. J.M. Losego, Project Counsel.

Regulatory History

On May 8, 1992, the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulations in the **Federal Register** (57 FR 19834). The Coast Guard received 90 letters commenting on the proposal. A public hearing was not requested and one was not held.

Background and Purpose

This drawbridge presently opens on signal except that from 9 a.m. to 6 p.m. on Saturdays, Sundays and federal holidays the draw need open only on the hour, quarter-hour, half-hour and three-quarter hour. From December 1 to May 31, Monday through Friday, from 9 a.m. to 6 p.m., the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour. The MPO and the bridge owner requested that the bridge be allowed to open only on the hour and half-hour from 7 a.m. to 6 p.m. weekdays and from 9 a.m. to 6 p.m. on weekends. A Coast Guard evaluation of the proposal concluded that highway traffic levels and frequency of bridge openings did not justify the 30 minute opening schedule for a drawbridge on the Gulf Intracoastal Waterway.

Extending the existing 20 minute schedule to be effective from 7 a.m. to 6 p.m. daily throughout the year was proposed as an alternative by the Coast Guard in the notice of proposed rulemaking.

Discussion of Comments and Changes

In response to our public notice, we received 90 comments. Ten commenters were in favor of the 20 minute schedule. Eighty commenters wanted a 30 minute schedule, but did not provide any additional information to support this proposal. Several of these commenters recommended a staggered 30 minute schedule for this bridge and the Anna Maria Drawbridge which is located 1.8 miles to the north. A 60 day test of the proposed 20 minute schedule was conducted from December 1, 1992, to January 31, 1993. The results confirmed highway traffic delays were reduced while actually improving vessel movement between the Cortez and Anna Maria Drawbridges. Analysis of this temporary 20 minute schedule indicated many sailing vessels which had been unable to transit between the two bridges within the existing 15 minute schedule were no longer delayed by bridge closures. Analysis of the proposed 30 minute staggered schedule indicated vessels would be impacted similarly to the existing 15 minute schedule which will be avoided by implementing the 20 minute schedule. This change will also eliminate the extended openings thereby reducing vehicular delays and traffic congestion.

Regulatory Evaluation

This rule is not major under Executive Order 12291 and not significant under the Department of Transportation regulatory policies and procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the rule exempts tugs with tows.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Since tugs with tows are exempt from this rule, the economic impact is expected to be so minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this rule, if adopted, will not have a significant impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.g.(5) of Commandant Instruction M16475.1B, promulgation of operating requirements or procedures for drawbridges is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, 33 CFR part 117 is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. In § 117.287, paragraph (d)(1) is revised to read as follows:

§ 117.287 Gulf Intracoastal Waterway.

* * * * *

(d)(1) The draw of the Cortez (SR 684) bridge, mile 87.4, shall open on signal; except that from 7 a.m. to 6 p.m., the draw need open only on the hour, twenty minutes past the hour and forty minutes past the hour.

* * * * *

Dated: April 5, 1993.

William P. Leahy,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 93-9843 Filed 4-26-93; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AG17

Dependency and Indemnity Compensation Reform Act of 1992

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations concerning the formula for the payment of dependency and indemnity compensation (DIC) to surviving spouses and children of veterans who died from service-connected causes. These amendments are necessary to implement recently enacted legislation. The intended effect of these amendments is to bring the regulations into conformance with the new statutory requirements.

EFFECTIVE DATE: These amendments are effective January 1, 1993, the date provided by Public Law 102-568.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 1310, VA pays DIC to surviving spouses of veterans who died from disease or injury incurred or aggravated during active military service. Prior to January 1, 1993, 38 U.S.C. 1311(a) provided that the surviving spouse's basic DIC rate be determined by the deceased veterans's military pay grade. The Dependency and Indemnity Compensation Reform Act of 1992, section 102 of the Veterans' Benefits Act of 1992, Public Law 102-568, amended 38 U.S.C. 1311(a) to provide surviving spouses eligible for DIC with a basic monthly rate of $750, without regard to the deceased veteran's military pay grade. This basic rate is increased by $165 monthly in the case of a veteran who at the time of death was receiving or entitled to receive compensation for a service-connected disability evaluated as totally disabling for a continuous period of at least eight years immediately preceding death. In determining the eight year period, only periods during which the veteran was married to the surviving spouse will be considered.

Under the statute, beneficiaries have no option to elect DIC benefits as provided prior to the enactment of Public Law 102-568. Surviving spouses of veterans who die before January 1, 1993, will receive DIC either based upon the veteran's military pay grade or under the new formula, whichever provides the greater benefit. Surviving spouses of veterans who die on or after January 1, 1993, will receive DIC only under the formula provided by Public Law 102-568. VA is amending 38 CFR 3.5(e) (1) and (2) to implement these new statutory provisions.

Public Law 102-568 also amended 38 U.S.C. 1311(b) to increase the additional amount of DIC payable to a surviving spouse with dependent children of the deceased veteran to $100 monthly for each dependent child beginning January 1, 1993; to $150 monthly during Fiscal Year 1994; and to $200 monthly thereafter.

VA is issuing a final rule to implement the statutory amendments contained in section 102 of Public Law 102-568. Because this amendment implements statutory changes, publication as a proposal for public notice and comment is unnecessary.

Since a notice of proposed rulemaking is unnecessary and will not be published, this amendment is not a "rule" as defined in and made subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601(2). In any case, this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA, 5 U.S.C. 601-612. This amendment will not directly affect any small entity.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program number is 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: February 12, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.5, paragraph (e)(1) and (e)(2) and their authority citation are revised to read as follows:

§ 3.5 Dependency and indemnity compensation.

* * * * *

(e) *Surviving spouses' rate.* (1) When death occurred on or after January 1, 1993, the monthly rate of dependency and indemnity compensation for a surviving spouse shall be amount set forth in 38 U.S.C. 1311(a)(1). This rate shall be increased by the amount set forth in 38 U.S.C. 1311(a)(2) in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was evaluated as totally disabling for a continuous period of at least eight years immediately preceding death. In determining the eight year period, only periods during which the veteran was married to the surviving spouse shall be considered. The resulting rate is subject to increase as provided in paragraphs (e) (3) and (4) of this section.

(2) The monthly rate of dependency and indemnity compensation for a surviving spouse when the death of the veteran occurred prior to January 1, 1993, is based on the "pay grade" of the veteran, unless the formula provided in paragraph (e)(1) of this section results in a greater monetary benefit. The Secretary of the concerned service department will certify the "pay grade" of the veteran and the certification will

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be binding on the Department of Veterans Affairs. The resulting rate is subject to increase as provided in paragraphs (e) (3) and (4) of this section.

(Authority: 38 U.S.C. 1311(a) and 1321)

* * * * *

[FR Doc. 93-9736 Filed 4-26-93; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 3

RIN 2900-AF72

Exchange of Evidence; Social Security Administration and Department of Veterans Affairs

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations concerning the exchange of evidence between the Social Security Administration (SSA) and VA. This amendment is necessary because VA's General Counsel had determined that the wording of the prior regulation was overbroad. The intended effect of this amendment is to assure that the regulations accurately reflect the statutory conditions under which evidence received by SSA is also considered evidence received by VA.

EFFECTIVE DATE: This amendment is effective May 27, 1993.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: VA published a proposal to amend 38 CFR 3.201(a) in the **Federal Register** of June 9, 1992 (57 FR 24446). Interested persons were invited to submit written comments, suggestions or objections on or before July 9, 1992. We received one comment.

The commenter suggested that this amendment would be contrary to a recent finding by the United States Court of Veterans Appeals (COVA) that assuming a claimant has submitted a well-grounded claim for VA benefits, and there is evidence that the claimant has filed a claim with SSA, VA must request information from SSA as part of the duty to assist claimants imposed by 38 U.S.C. 5107(a). It is unclear whether the commenter objects to the fact that the proposed regulation applied to claims for dependency and indemnity compensation (DIC) only or is expressing concern with the language in the proposed rule indicating that the claimant would have the option "to request" that VA obtain a specific record from SSA.

In the COVA case at issue (see *Murincsak* v. *Derwinski*, U.S. Vet. App. No. 90-222 (April 24, 1992)), the appellant had been denied a 100% service-connected disability evaluation on the basis of unemployability. He contended that SSA had evidence which would support his claim and argued that under 38 CFR 3.201(a), VA had constructive notice of SSA records and was therefore deemed to have received them as of the date SSA received them. COVA, however, dismissed that argument, which takes the first sentence of § 3.201(a) out of context, and held that this regulation applies only to claims for DIC for service-connected deaths. The enabling statute for this regulation, 38 U.S.C. 5105, refers to joint applications for social security claims under 42 U.S.C. 401 et seq., and claims under chapter 13 of 38 U.S.C., which deals exclusively with DIC benefits.

COVA held that although VA was required to request records from SSA in this case, it was not the regulatory language at § 3.201(a), but actual notice of records in the possession of SSA that had triggered VA's duty to assist.

In order to prevent any confusion over the applicability of § 3.201(a), VA has amended the regulation to clearly specify that it applies to claims for DIC benefits only. This amendment does not, and in fact cannot, obviate VA's duty to assist under the provisions of 38 U.S.C. 5107(a) once VA has actual notice of records that might have a bearing on the adjudication of a well-grounded claim for VA benefits. For the sake of clarity, we have also amended the proposed regulatory language by removing any suggestion that the claimant would have to request that VA obtain information from SSA.

VA appreciates the comment submitted in response to the proposed rule, which is now adopted with the above described amendment.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program number is 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: March 3, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 105 Stat. 386; 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.201, paragraph (a) and the authority citation at the end of the section are revised to read as follows:

§ 3.201 Exchange of evidence; Social Security and Department of Veterans Affairs.

(a) A claimant for dependency and indemnity compensation may elect to furnish to the Department of Veterans Affairs in support of that claim copies of evidence which was previously furnished to the Social Security Administration or to have the Department of Veterans Affairs obtain such evidence from the Social Security Administration. For the purpose of determining the earliest effective date for payment of dependency and indemnity compensation, such evidence will be deemed to have been received by the Department of Veterans Affairs on the date it was received by the Social Security Administration.

* * * * *

(Authority: 38 U.S.C. 501(a) and 5105)

[FR Doc. 93-9732 Filed 4-26-93; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 3

RIN 2900-AG18

Exclusions From Income

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations concerning exclusions from countable income under the Improved Pension program. This amendment is necessary to implement recently enacted legislation. The intended effect of this amendment is to bring the regulations into conformance with the new statutory requirements.

EFFECTIVE DATE: These amendments are effective November 4, 1992, the date that Public Law 102-585 was signed into law.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: 38 U.S.C. 1718 previously provided that payments as a result of participation in a VA therapeutic or rehabilitation activity be considered a donation from a public or private relief or welfare organization and not countable as income for pension purposes. Section 401 of the Veterans' Health Care Act of 1992, Public Law 102-585, amended 38 U.S.C. 1718 to consider payments to a veteran as a result of participation in a program of rehabilitative services provided as part of the care furnished by a State home and which is approved by VA as conforming to standards for activities under 38 U.S.C. 1718 to be a donation from a public or private relief or welfare organization, and, therefore, excluded from countable income under the Improved Pension program. VA is amending 38 CFR 3.272(l) to implement this new statutory provision.

VA is issuing a final rule to implement the statutory amendment contained in section 102 of Public Law 102-585. Because this amendment implements statutory changes, publication as a proposal for public notice and comment is unnecessary.

Since a notice of proposed rulemaking is unnecessary and will not be published, this amendment is not a "rule" as defined in and made subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601(2). In any case, this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA, 5 U.S.C. 601-612. This amendment will not directly affect any small entity.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program number is 64.104.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: February 12, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependence and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.272, paragraph (l) and its authority citation are revised to read as follows:

§ 3.272 Exclusions from income.

* * * * *

(l) Distributions of funds under 38 U.S.C. 1718. Distributions from the Department of Veterans Affairs Special Therapeutic and Rehabilitation Activities Fund as a result of participation in a therapeutic or rehabilitation activity under 38 U.S.C. 1718 and payments from participation in a program of rehabilitative services provided as part of the care furnished by a State home and which is approved by VA as conforming to standards for activities under 38 U.S.C. 1718 shall be considered donations from a public or private relief or welfare organization and shall not be countable as income for pension purposes.

(Authority: 38 U.S.C. 1718(l))

* * * * *

[FR Doc. 93-9733 Filed 4-26-93; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 3

RIN 2900-AG15

Veterans' Radiation Exposure Amendments of 1992

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations concerning presumptive service connection for certain diseases resulting from exposure to ionizing radiation during military service. These amendments are necessary because Congress has added to the list of conditions for which presumptive service connection is authorized and repealed the requirement that the listed diseases must manifest themselves within a specified time after the veterans' last exposure to radiation. The intended effect of these amendments is to bring the regulations into conformance with the revised statutory requirements.

EFFECTIVE DATE: These amendments are effective October 1, 1992, the date provided by Public Law 102-578.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: Section 2 of the Veterans' Radiation Exposure Amendments of 1992, Public Law 102-578, amended 38 U.S.C. 1112(c) to repeal the requirement that, to be presumed service connected, specified diseases of veterans who participated in a radiation-risk activity become at least 10 percent disabling within 40 years after the veterans' last exposure to radiation. Public Law 102-578 also added cancer of the salivary gland and cancer of the urinary tract to the list of conditions for which presumptive service connection is authorized for veterans who participated in a radiation-risk activity. VA is amending 38 CFR 3.309(d) to implement these revised statutory provisions.

VA is issuing a final rule to implement the specified statutory amendments contained in Public Law 102-578. Because this amendment implements statutory changes,

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publication as a proposal for public notice and comment in unnecessary.

Since a notice of proposed rulemaking is unnecessary and will not be published, this amendment is not a "rule" as defined in and made subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601(2). In any case, this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA, 5 U.S.C. 601–612. This amendment will not directly affect any small entity.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employments, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: February 11, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows.

Authority: 105 Stat. 386, 38 U.S.C. 501(a), unless otherwise noted.

§ 3.309 [Amended]

2. In § 3.309(d)(1), remove the words "to a degree of 10 percent or more within the presumptive period specified in paragraph (d)(3) of this section".

3. In § 309, add paragraphs (d)(2)(xiv) and (xv) to read as follows:

§ 3.309 Disease subject to presumptive service connection.

* * * * *

(d) * * *

(xiv) Cancer of the salivary gland.

(xv) Cancer of the urinary tract.

* * * * *

4. In § 3.309, remove paragraph (d)(3) and redesignate paragraph (d)(4) as paragraph (d)(3).

[FR Doc. 93–9737 Filed 4–26–93; 8:45 am]

BILLING CODE 8320–01–M

38 CFR Part 3

RIN 2900–AF89

Radiation Exposure Compensation Act of 1990

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations regarding entitlement to compensation and dependency and indemnity compensation (DIC) benefits. These amendments are necessary to implement the provisions of the Radiation Exposure Compensation Act of 1990 (RECA) which authorize payments by the Department of Justice (DOJ) to certain individuals for disability or death due to specific radiogenic diseases. The intended effect of these amendments is to bring VA regulations into conformance with this new law.

EFFECTIVE DATE: This amendment is effective October 15, 1990, the date Public Law 101–426 was signed into law.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–3005.

SUPPLEMENTARY INFORMATION: VA published a proposal to add new § 3.715 to 38 CFR part 3 and to amend 38 CFR 3.500 in the **Federal Register** of September 3, 1992 (57 FR 40424–25). Interested persons were invited to submit written comments, suggestions or objections on or before October 5, 1992. Since no comments, suggestions or objections were received, the amendments have been adopted as proposed with only a minor technical change.

The Secretary hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that these regulatory amendments are non-major for the following reasons:

(1) They will not have an annual effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: February 4, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.500, add new paragraph (x) to read as follows:

§ 3.500 General.

* * * * *

(x) *Radiation Exposure Compensation Act of 1990 (§ 3.715).* (Compensation or dependency and indemnity compensation only). Last day of the month preceding the month in which payment under the Radiation Exposure Compensation Act of 1990 is issued.

3. Add new § 3.715 and its authority citation to read as follows:

§ 3.715 Radiation Exposure Compensation Act of 1990.

Payment to any individual under the provisions of the Radiation Exposure Compensation Act of 1990 (Pub. L. 101–426 as amended by Public Law 101–510) based upon disability or death resulting from a specific disease shall bar payment, or further payment, of compensation or dependency and indemnity compensation to or on behalf of that individual based upon disability or death resulting from the same disease.

(Authority: 42 U.S.C. 2210 note)

Cross Reference: See § 3.500(x) for effective date of discontinuance.

[FR Doc. 93–9734 Filed 4–26–93; 8:45 am]

BILLING CODE 8320–01–M

38 CFR Part 17

RIN 2900–AG43

Home Improvement and Structural Alterations (HISA); Increase in the Limit for Home Improvement and Structural Alterations (HISA)

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations that govern expenditures for home improvements or structural alterations for veterans. The Veterans' Medical Programs Amendments Act of 1992 authorized increases for home improvements or structural alterations from $2,500 to $4,100 for service-connected veterans and from $600 to $1,200 for nonservice-connected veterans. This amendment will make the regulation consistent with the law.

EFFECTIVE DATE: This amendment is effective October 9, 1992.

FOR FURTHER INFORMATION CONTACT: Monica J. Wilkins, Policies and Procedures Division (161B2), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; Phone: (202) 535–7439.

SUPPLEMENTARY INFORMATION: The Veterans' Medical Programs Amendments Act of 1992, Public Law 102–405 enacted October 9, 1992, amended 38 U.S.C. 1717, by increasing the amount of the benefit payable to veterans for home improvements and structural alterations. This law applies to veterans who filed a claim for home improvements and structural alterations benefits on or after January 1, 1990. VA is, for good cause, promulgating this amendment as a final regulation without obtaining notice and comment. Because the amendment is simply making the regulation consistent with the law, there is no need to obtain public comment.

This regulatory amendment will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effects on the economy. Consequently, this amendment does not meet the criteria for a major rule as that term is defined by Executive Order 12291.

This amendment is not subject to the Regulatory Flexibility Act, 5 United States Code 601–612. The Secretary certifies that this regulation will not have a significant economic impact on the substantial number of small entities as they are defined in the Regulatory Flexibility Act. Any economic impact on small entities will be the result of the law, not this regulatory amendment.

The Catalog of Federal Domestic Assistance Number is 64.011.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Veterans.

Approved: March 18, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 17 is amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501.

§ 17.60 [Amended]

2. Section 17.60(f) is amended by removing "$2,500" and adding in its place "$4,100" and by removing "$600" and adding in its place "$1,200".

[FR Doc. 93–9738 Filed 4–26–93; 8:45 am]

BILLING CODE 8320–01–M

38 CFR Part 21

RIN 2900–AF15

Veterans' Education; Verification of Pursuit and Continued Enrollment

AGENCY: Department of Veterans Affairs.

ACTION: Delay of effective date.

SUMMARY: This document contains a delay of the effective date for final regulations which were published Wednesday, August 26, 1992. The regulations provided new rules for release of payments of educational assistance under VEAP (Post-Vietnam-Era Veterans' Educational Assistance Program).

EFFECTIVE DATE: The effective date for regulations published at 57 FR 38611 is delayed to August 1, 1999.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202–233–2092.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published in the **Federal Register**, amendments to § 21.5130, § 21.5131, § 21.5133 and § 21.5200 require that a veteran enrolled in a course leading to a standard college degree must verify monthly that he or she is still pursuing a program of education before VA (Department of Veterans Affairs) will pay that month's educational assistance.

These regulations were published with a future effective date of August 1, 1993. At the time the final regulations appeared in the **Federal Register**, VA planned on having a new verification processing system in place by August 1, 1993. However, due to limited resources, the department has found that it will be unable to begin the new verification system by that date. Accordingly, these final regulations will not become effective until August 1, 1999.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

For the reasons set forth in the preamble, the effective date for the regulations published at 57 FR 38611 affecting §§ 21.5130, 21.5131, 21.5133 and 21.5200 is delayed to August 1, 1999.

Approved: April 20, 1993.

Michael B. Berger,

Director, Records Management Service.

[FR Doc. 93–9741 Filed 4–26–93; 8:45 am]

BILLING CODE 8320–01–M

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL-35-5658; FRL-4608-6]

Approval of State Implementation Plans; Alabama: Approval of the Visible Emission Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving revisions to the Alabama State Implementation Plan (SIP). These revisions were submitted to EPA by the State of Alabama through the Alabama Department of Environmental Management on June 11, 1979. The revisions being approved incorporate the visible emission regulations into the Alabama SIP.

EFFECTIVE DATES: This action will be effective June 28, 1993 unless notice is received by May 27, 1993 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the State's submittal are available for review during normal business hours at the following locations:

Public Information Reference Unit, ATTN: Jerry Kurtzweg (AN 443), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Region IV Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365.

Air Division, Alabama Department of Environmental Management, 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur of the EPA Region IV Air Programs Branch at (404) 347-2864 and at the above address.

SUPPLEMENTARY INFORMATION: On June 11, 1979, the Alabama Department of Environmental Management submitted amendments to the SIP pertaining to Visible Emissions (VE) and nitric acid. The VE regulations revise the Alabama regulation to incorporate EPA reference method 9 (40 CFR part 60, appendix A). These amendments were adopted by the Alabama Air Pollution Control Commission on June 5, 1979. Originally, EPA did not officially approve or disapprove the revision due to the inclusion of a "Director's Discretion" clause in the regulation. On September 10, 1992, the Alabama Department of Environmental Management submitted a letter clarifying the role of "Director's Discretion." This clarification specified the method which would be used to approve an alternative and stated that any alternative would be subject to EPA review through the Title V permit process. Therefore, EPA is today approving the VE regulation. The Alabama Department of Environmental Management in the September 10, 1992, letter indicated the nitric acid regulation was no longer relevant. Therefore EPA is not acting on this amendment.

Final Action

The Agency has determined that the aforementioned changes are consistent with Agency policies. Therefore, EPA is today approving this amendment to the Alabama SIP. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective June 28, 1993. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

If no adverse or critical comments are received by EPA under section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 28, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule of action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2) of the Clean Air Act, 42 U.S.C. 7607(b)(2)).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any State Implementation Plan. Each request for revision to the State Implementation Plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

The Agency has reviewed this request for revision of the federally approved State Implementation Plan for conformance with the provisions of the 1990 Amendments of the Clean Air Act enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 22, 1993.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart B—Alabama

2. Section 52.50 is amended by adding paragraph (c)(60) to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

(60) Provisions for visible emissions were submitted by the Alabama Department of Environmental Management on June 11, 1979.

(i) Incorporation by reference.

(A) 335-3-4.01 Visible Emissions, adopted May 17, 1989.

(ii) Other material.

(A) None.

[FR Doc. 93-9821 Filed 4-26-93; 8:45 am]

BILLING CODE 6560-50-P

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40 CFR Part 81

[IL64-2-5807; FRL-4617-5]

Approval and Promulgation of Designation of Areas for Air Quality Planning Purposes; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule; correction; reopening of the public comment period; delay of the effective date.

SUMMARY: On March 5, 1993, USEPA approved a request by Illinois to revise area designations for Total Suspended Particulate (TSP) from nonattainment to attainment. The approval document listed the areas being redesignated. Unfortunately, five areas were inadvertently omitted from the list of areas being redesignated to attainment. Further, the revisions to the Illinois TSP designation table were omitted from the final rulemaking. This rule corrects these omissions from the earlier rule.

DATES: The comment period on this rule is reopened until May 27, 1993. The effective date is delayed until June 28, 1993, unless notification is received that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the redesignation request and other materials relating to this rulemaking are available at the following address for review: (It is recommended that you telephone David Pohlman at (312) 886-3299, before visiting the Region 5 office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AR-18J), Chicago, Illinois 60604.

Written comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of this redesignation is also available by contacting: Jerry Kurtzweg (ANR-443), U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Regulation Development Branch, Regulation Development Section (AR-18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-3299.

SUPPLEMENTARY INFORMATION: In FR Doc. 93-5105, in the Federal Register of March 5, 1993, on page 12541, in the second column, the list of Cook County areas being redesignated should have read as follows:

Cook County: Berwyn Township (Twp.), Bloom Twp., Calumet Twp., Cicero Twp., Elk Grove Twp., Hyde Park Twp., Jefferson Twp., Lake Twp., Lakeview Twp., Leyden Twp., Maine Twp., Niles Twp., No. Stickney Twp., North Town Twp., Northfield Twp., Norwood Park Twp., Palatine Twp., Proviso Twp., River Forest Twp., Riverside Twp., Rogers Park Twp., South Stickney Twp., South Town Twp., Thorton Twp., West Town Twp., Wheeling Twp., and Worth Twp., but not including the area bounded on the north by 79th Street, on the west by Interstate 57 between Sibley Boulevard and Interstate 94 and by Interstate 94 between Interstate 57 and 79th Street, on the south by Sibley Boulevard, and on the east by the Illinois/Indiana State line.

USEPA regrets any inconvenience these errors may have caused.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: April 14, 1993.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, 40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

2. Section 81.314 is amended by revising the attainment status designation table for TSP to read as follows:

§ 81.314 Illinois.

ILLINOIS—TSP

Designated area	Does not meet primary	Does not meet secondary	Cannot be classified	Better than national standards
Cook County:				
a. Lyons Township	X	X		
b. The area bounded on the north by 79th Street, on the west by Interstate 57 between Sibley Boulevard and Interstate 94 and by Interstate 94 between Interstate 57 and 79th Street, on the south by Sibley Boulevard, and on the east by the Illinois/Indiana State line	X	X		
LaSalle County:				
Those portions of LaSalle Township located in the following Townships, ranges, and sections: T33N, R1E, S24; T33N, R1E, S25; T33N, R2E, S30; T33N, R2E, S31; and T33N, R1E, S36	X	X		
Those portions of Deer Park Township located in the following Townships, ranges, and sections: T32N, R1E, S1; T32N, R2E, S6; T33N, R1E, S24; T33N, R1E, S25; T33N, R2E, S30; T33N, R2E, S31; and T33N, R1E, S36		X		

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ILLINOIS—TSP—Continued

Designated area	Does not meet primary	Does not meet secondary	Cannot be classified	Better than national standards
Madison County: Granite City Township and Nameoki Township	X	X		
All other portions of Illinois counties				X

. . . . .

[FR Doc. 93-9664 Filed 4-26-93; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7568]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 457, Lanham, MD 20706, (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: James Ross MacKay, Acting Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 11291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

§ 64.6 LIST OF ELIGIBLE COMMUNITIES

State	Community name	County	Community number	Effective date
Region V:				
Minnesota	Center City, city of	Chisago	270685	March 15, 1993, suspension withdrawn.
Do	Duluth, city of	St. Louis	270421	Do
Do	Hermantown, city of	St. Louis	270708	Do

§ 64.6 LIST OF ELIGIBLE COMMUNITIES—Continued

State	Community name	County	Community number	Effective date
Do	Isanti county	Isanti	270197	Do
Do	Rosemount, city of	Dakota	270113	Do
Do	Warroad, city of	Lake of the Woods	270415	Do

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: April 16, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93-9769 Filed 4-26-93; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CC Docket No. 92-26; FCC 93-131]

Formal Complaints Against Common Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted this Report and Order to amend rules governing the procedures to be followed when formal complaints are filed against common carriers. The rule changes are intended to improve the record created in formal complaint cases, minimize procedural disputes and delays, and promote more timely resolution of formal complaints.

EFFECTIVE DATE: July 26, 1993.

FOR FURTHER INFORMATION CONTACT: Mary Romano, Enforcement Division, Common Carrier Bureau, 202-632-4887.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in CC Docket No. 92-26 [FCC 93-131], adopted March 2, 1993 and released April 2, 1993. The full text of the Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, NW., Washington, DC. The full text of the Report and Order may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800.

SUMMARY OF REPORT AND ORDER

I. Background

1. On March 12, 1992, the Commission released a Notice of Proposed Rulemaking (NPRM) 57 FR 9528, March 19, 1992 proposing changes to the rules that govern formal complaints against common carriers. 7 FCC Rcd 2042 (1992). Twenty comments and 11 reply comments regarding the proposed revisions were filed by parties who have participated in the formal complaint process as complainants, defendants, or counsel. On April 2, 1993, the commission released a Report and Order (R&O), FCC 93-131, summarized here, which amends Part 1 of the Commission's rules by adopting some of the changes to the formal complaint rules that were proposed in the NPRM.

II. Discussion

A. General Pleading Requirements (Section 1.720)

2. The Commission amended general pleading requirements (Section 1.720) to explicitly require that "all statements purporting to summarize or explain Commission orders or policies must cite, in standard legal form, the Commission ruling upon which such statements are based." However, the Commission declined to further amend pleading requirements in the manner suggested by one commenter so that parties to formal complaints would be required to include with their pleadings all documents which would be used to support assertions of fact. Considering objections voiced by other commenters, the Commission concluded that such a requirement would add a new area of potential dispute to the complaint process and place an undue burden on formal complaint parties and Commission staff.

B. Answers (Section 1.724)

3. The Commission decided against cutting ten days from the deadline for a defendant to file an answer to a formal complaint as was proposed in the NPRM. The proposed 20 day deadline would have coincided with that imposed by the Federal Rules of Civil Procedure. However, most commenters opposed the proposal, arguing that there are significant differences between the complaint process conducted in federal district court and the complaint process before the Commission that warrant different deadlines for parallel pleadings. The Commission concluded that commenters demonstrated that a reduction in the answer deadline would unreasonably impair a defendant's ability to answer fully a complainant's allegations without yielding a benefit sufficient to mitigate the added burden. Thus, the 30 day answer deadline was retained.

C. Replies (Section 1.726)

4. The Commission adopted a rule prohibiting complainants from filing replies to a defendant's answer to a complaint except when an answer presents specifically captioned affirmative defenses. (Section 1.724, pertaining to answers, was amended to specify the requirement that all affirmative defenses must be specifically captioned as such). In such instances, a complainant will have a right, but not an obligation, to file a reply. Noting other rule changes ensuring an opportunity to file briefs in formal complaint cases, the Commission concluded that discontinuation of routine replies should simplify the record in formal complaint cases without impinging upon a complainant's ability to meet its burden of proof.

D. Motions (Section 1.727)

5. In the NPRM, the Commission proposed several rule changes intended to curb the proliferation of motions that either address procedural issues of minimal significance or repeat substantive allegations contained in major pleadings. In general, however, most commenters opposed the proposed amendments regarding formal complaint motion practice. Even most of those parties who did not apparently quarrel with the goal of reducing the number of motions filed in formal complaint cases, believe that proposed rule changes could be counterproductive while at the same time unduly restricting a party's ability to prosecute or defend a formal complaint. The Commission was largely convinced by such objections and declined to adopt proposed rules which would have significantly altered the filing window during which motions may be submitted. However, the Commission did conclude that

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elimination of replies to oppositions to motions would promote compilation of a more concise record for resolution. Accordingly, that pleading opportunity was discontinued.

E. Interrogatories to Parties (Section 1.729); Other Forms of Discovery . (Section 1.730); Confidentiality of Information Produced Through Discovery (Section 1.731)

6. The Commission considered several proposals, presented in the NPRM, which were designed to simplify and expedite discovery.

1. Self-Executing Discovery

7. The Commission decided against adopting a rule whereby no discovery could be undertaken absent an affirmative order by the Commission. Although the Commission still expressed the view that discovery is not strictly necessary in all cases, it concluded that requiring affirmative action by the Commission before discovery can begin would not actually promote expedition but, instead, simply add another area of dispute and potential for delay. Thus, the Commission retained its rule permitting opposing parties to serve, without any Commission authorization, up to 30 interrogatories which must be answered within 30 days unless objections are made.

2. Discovery Timetable

8. The Commission declined to adopt proposals presented in the NPRM which would have (1) altered the time during which discovery can be initiated; (2) set the deadline for responding to interrogatories at 20 days after service instead of 30 days; (3) set the deadline for objections to the breadth of discovery at 10 days after service, rather than along with the answers to interrogatories; and (4) set the deadline for filing motions to compel discovery at 5 days, rather than 15 days, after the answer deadline or the date objections are filed. In declining to adopt such changes, the Commission was persuaded by the majority of commenters who contended the proposals would thwart the effective use of various discovery tools and increase burdens on the parties without yielding significant or demonstrable time-savings. Thus, the Commission left its discovery rules unchanged except to adjust time frames to account for the fact that replies to answers to complaints will no longer be routinely filed and to cut the time available for parties to seek Commission approval for any discovery beyond the 30 automatic self-executing interrogatories. The Commission concluded that requiring requests for additional discovery to be filed 15 days after answers to self-executing interrogatories are served, instead of the 30 days currently allowed, would not unduly hamper parties' abilities to review answers to discovery and determine whether and/or what further discovery might be necessary.

3. Bifurcation of Discovery

9. In the NPRM, the Commission asked parties to address whether the delays and expenses of protracted discovery could be ameliorated by postponing any discovery regarding damages until after a ruling on liability has been issued. The premise underlying this proposal was that the considerable time and effort expended by the parties and the Commission staff on damages discovery is effectively wasted if no violation or liability is found. Both parties supporting the general proposition of deferring damages discovery and those opposing any such bifurcated discovery plan raised concerns regarding the operation of such a system. Several parties suggested that deferring damages discovery could have the unintended effect of discouraging early settlement efforts since parties may not be adequately informed as to what the case is "worth." Considering the concerns raised by the parties and the delay which would almost certain to be experienced if two rounds of discovery should be necessary, the Commission concluded that bifurcation is not appropriate for all cases. Accordingly, the Commission adopted a rule explicitly affirming its discretion to conduct bifurcated proceedings but declined to mandate a bifurcated approach for all cases.

4. Objections Based on Relevance; Admissions Through Discovery

10. In the NPRM, the Commission solicited comment on the desirability of removing relevance as a permissible objection to discovery. The Commission had asked parties to consider the advantages and disadvantages of a system whereby parties could refuse to answer interrogatories seeking information they believed to be irrelevant. Such a refusal to answer would be deemed to be an admission, relevant only for purposes of resolving the complaints, of allegations contained in the interrogatory. Commenters were virtually unanimous in their vigorous opposition to such a system and the Commission concluded that they had demonstrated that abandoning the relevancy standard and employing the proposed admission process would transform the discovery process from its legitimate purpose as a means to gather the necessary factual information to "fishing expeditions" through which parties seek to obtain a wide range of information possibly having little bearing on the allegations of the complaint. Accordingly, the Commission kept its rule limiting discovery to those matters relevant to the complaint.

5. Treatment and Filing of Discovered Materials

11. Noting generally enthusiastic endorsement by commenters, the Commission adopted a rule providing for the confidential treatment of materials exchanged by the parties during formal complaint discovery. The rule is modeled on private protective agreements entered by parties in past complaint cases and specifically limits the manner in which an opposing party may use, duplicate, and disseminate proprietary materials obtained through discovery. The provision is available to parties who believe in good faith that materials subject to discovery fall within an exemption to disclosure contained in the Freedom of Information Act and is intended to replace the time-consuming practice of negotiating private protective agreements with uniform confidentiality standards. The Commission also adopted an NPRM proposal eliminating the requirement that materials exchanged through discovery must be filed with the Commission. Although some parties contended that the Commission should continue the filing requirement in the interests of compiling a complete documentary record and encouraging cooperative discovery, the Commission determined that ending the routine submission of materials would neither impede the establishment of a factual record necessary for resolution nor discourage parties from complying with legitimate discovery requests. The Commission noted that under the amended formal complaint rules, both complainants and defendants will be free to file briefs summarizing the factual evidence supporting their cases which has been gleaned through discovery. The Commission concluded that it has neither the need nor the resources to thoroughly review all discovered materials to ferret out what information may be of decisional significance when briefs summarizing that information may be filed.

F. Other Required Written Submissions (Section 1.732)

12. The Commission agreed with commenters who argued that parties should be accorded an automatic right to file briefs and reply briefs. Thus, the Commission amended its rules to grant parties an opportunity to file briefs in all formal complaint cases. Although the rules establish the submission of briefs as voluntary, the Commission specifically noted that it retains discretion to require submission of briefs in any case when they are determined to be necessary to the full and fair consideration of the issues. In cases where no discovery has been conducted, the Commission established a default schedule for the submission of briefs; initial briefs will be due within 90 days after service of a complaint. However, when discovery is conducted the Commission concluded that there are too many possible variables to adopt uniform filing deadlines. Thus, when discovery is conducted, the Commission staff will set a deadline for the submission of initial briefs, generally 30 days after the completion of discovery. Reply briefs will be due within 20 days after the filing deadline for initial briefs, regardless of whether discovery is conducted.

13. Responding to the concerns of various commenters, the Commission extended the page limits for briefs beyond those proposed in the NPRM. When discovery is conducted, initial briefs will be limited to 50 pages; reply briefs to 30 pages. When discovery has not been conducted, initial briefs shall not exceed 35 pages; reply briefs 20 pages.

14. The Commission also adopted a rule incorporating one commenter's suggestion that when a brief incorporates material discovered subject to protective provisions, an additional five days be allowed for submission of a redacted version to the Commission. Redacted versions are submitted to the Commission solely for the purpose of inclusion in the public file. The extra time afforded for filing of redacted briefs should ensure that proper deletions of confidential information are not overlooked in the rush to complete the brief.

G. Status Conference (Section 1.733)

15. The Commission amended its rule regarding status conferences to include explicit authorization for the staff to use status conferences with the parties to issue oral rulings on interlocutory matters. However, in response to concerns raised by commenters, the Commission altered the NPRM proposal to specify that compliance deadlines will not be calculated from the date of the oral ruling, but from the date of the written confirmation of such ruling. The Commission concluded that such a provision was necessary to ensure that the parties are afforded an opportunity to pursue their appeal rights prior to the compliance deadline.

H. Copies; Service; Separate Filings Against Multiple Defendants (Section 1.735)

16. The Commission amended this procedural rule to clarify fee and filing requirements that have been changed, pursuant to statute, since the formal complaint rules were last revised. The new rule specifies that formal complaints must be filed in accordance with fee regulations contained in 47 CFR 1.1105(1)(c) and that single complaints against multiple defendants constitute separate actions for which separate fees must be paid.

I. Miscellaneous

17. The Commission ruled on various suggestions for changes in the formal complaint rules that were made by commenters but had not been addressed in any specific NPRM proposal.

18. The Commission declined to adopt a proposal permitting complainants to serve their complaints directly on defendants, thus commencing the 30 day answer period earlier than when service is accomplished by the Commission. Although the Commission agreed that some time savings would result from self-service, it rejected such a system since it would deprive the Commission of making threshold judgments as to whether a complaint should even be served (*i.e.*, whether it states a cause of action and otherwise meets the Commission's minimal filing requirements).

19. The Commission also declined to adopt a rule deferring either the answer deadline or initiation of discovery until any substantive motions have been decided. The Commission concluded that pleading and discovery deadlines were postponed until the Commission ruled on all substantive motions, defendants would be able to hold proceedings hostage simply by filing certain motions, regardless of whether they are justified by the facts or law.

20. The Commission rejected a proposal to add a process whereby parties can obtain admissions of fact as a standard part of the complaint process. The Commission agreed with commenters opposing the proposal that such a process is unnecessary given existing pleading requirements and rule provisions, and would simply add another area of dispute and layer of delay.

21. The Commission concluded that it is unnecessary to amend the formal complaint rules to address involvement by Administrative Law Judges (ALJs) in the resolution of formal complaints. While the Commission reiterated its authority to order evidentiary hearings in formal complaint cases, it emphasized the long-standing practice of designating formal complaints for hearing before an ALJ only when oral testimony or cross-examination is required. The Commission concluded that no purpose would be served by creating a rule to set particular guidelines for ALJ involvement.

22. Some commenters urged the Commission to adopt procedures whereby frivolous complaints would be dismissed at the earliest possible time. The Commission rejected as outside of the scope of this proceeding a proposal that a rule be adopted requiring the immediate dismissal of complaints that allege unreasonably high rates or overearnings when the rates and sharing mechanisms at issue are in compliance with relevant price cap requirements. With respect to dismissal generally, the Commission found that existing rules already provide for swift dismissal of flawed complaints. The Commission instructed the staff to pay particular attention to such matters in reviewing incoming complaints. Nonetheless, the Commission noted that while some complaints may not be as thoroughly pleaded as it might prefer, most formal complaints meet the minimal standards of the rules.

23. Although the Commission expressed a desire to discourage improper practices by attorneys in formal complaint proceedings, it concluded that adoption of sanctions specifically tailored to the formal complaint process is unnecessary given broad sanction authority under existing rules. Furthermore, the Commission noted that accusations of frivolous or abusive practice sometimes are themselves interposed for frivolous and abusive purposes. Formal complaint sanction rules could only encourage such charges and require Commission involvement in disputes that could prolong ultimate resolution of the underlying complaint.

24. Finally, the Commission rejected a proposal to add to the formal complaint rules a provision modeled after the Federal pre-trial procedures contained in Rule 16 of the Federal Rules of Civil Procedure. The Commission concluded that the existing rule regarding status conferences

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already incorporates many of the functions covered by Rule 16, but was specifically adapted to the formal complaint process where trials are not held.

III. Paperwork Reduction

25. Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, Paperwork Reduction Project (3060–0411), Washington DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060–0411), Washington, DC 20503.

IV. Conclusion

26. With this R&O, the Commission has adopted rules designed to improve the records compiled in formal complaint cases and expedite resolution of such cases. Specifically, the Commission has adopted rules which should ensure the confidentiality of materials exchanged through discovery. An absolute right to file briefs and uniform standards applicable to such pleadings have been established. In addition, certain unnecessary pleadings have been discontinued and the staff has been authorized to issue oral rulings on interlocutory matters.

V. Ordering Clauses

27. Accordingly, *it is ordered*, pursuant to sections 1, 4(i), 201(b), 208 and 403 of the Communications Act, as amended, 47 U.S.C. 151, 154(i), 201(b), 208 and 403, that § 1.720 *et seq.* of the Commission's rules, 47 CFR 1.720 *et seq.* is amended as set forth below.

28. *It is further ordered* that this Report and Order will be effective ninety (90) days after publication of a summary thereof in the **Federal Register**.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure; Communications common carriers.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Final Rules

Part 1 of title 47 of the Code of Federal Regulations is amended to read as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority for part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

2. In § 1.720, paragraph (i) is added to read as follows:

§ 1.720 General pleading requirements.

* * * * *

(i) All statements purporting to summarize or explain Commission orders or policies must cite, in standard legal form, the Commission ruling upon which such statements are based.

3. In § 1.724, paragraph (e) is added to read as follows:

§ 1.724 Answers.

* * * * *

(e) Affirmative defenses to allegations contained in the complaint shall be specifically captioned as such and presented separately from any denials made in accordance with paragraph (c) of this section.

4. Section 1.726 is revised to read as follows:

§ 1.726 Replies.

Within 10 days after service of an answer containing affirmative defenses presented in accordance with § 1.724(e), a complainant may file and serve a reply, which shall be responsive to only those allegations contained in affirmative defenses.

5. In § 1.727, paragraph (e) is revised and paragraph (f) is added to read as follows:

§ 1.727 Motions.

* * * * *

(e) Oppositions to motions may be filed within ten days after the motion is filed. Oppositions shall be limited to the specific issues and allegations contained in the motion; when a motion is incorporated in an answer to a complaint, an opposition to the motion shall not address any issues presented in the answer that are not also specifically raised in the motion.

(f) No reply may be filed to an opposition to a motion.

6. In § 1.729, paragraphs (a) and (d) are revised, the last sentence of paragraph (c) is revised, and new paragraph (e) is added to read as follows:

§ 1.729 Interrogatories to parties.

(a) During the time period beginning with service of the complaint and ending 30 days after the date an answer is due to be filed, any party may serve any other party written interrogatories, to be answered in writing by the party served or, if the party served is a public or private corporation or partnership or association, by any officer or agent who shall furnish such information as is available to the party. All interrogatories served on an opposing party shall be filed with the Commission at the time of service. Parties shall propound no more than 30 single interrogatories without prior Commission approval. Subparts of an interrogatory will be counted as separate interrogatories for purposes of compliance with this limit. This procedure may be used for the discovery of any nonprivileged matter which is relevant to the pleadings. Interrogatories may not be employed for the purpose of delay, harassment or to obtain information which is beyond the scope of permissible inquiry relating to the subject matter of the pleadings.

* * * * *

(c) * * * Alternately, the party may request that answers to interrogatories be discussed during a status conference, pursuant to § 1.733.

(d) Answers to interrogatories shall not be filed with the Commission unless so ordered by the Commission or its staff.

(e) The Commission may in its discretion limit the scope of permissible inquiry so that matters pertaining solely to the amount or computation of damages are not addressed until after a finding of liability has been made against the complainant. Inquiries that relate dually to liability and damages will be permitted during initial discovery conducted during the liability phase. If a bifurcated framework is implemented and a finding of liability is made, the parties shall, within 5 working days, inform the Commission whether they wish to defer damages discovery in order to enter negotiations for the purpose of settling their dispute. If the parties commence settlement negotiations, damages discovery shall not be undertaken prior to 20 days after release of the liability order.

7. In § 1.730, paragraph (c) is revised and paragraph (d) is added to read as follows:

§ 1.730 Other forms of discovery.

* * * * *

(c) Motions seeking discovery may be filed only during the period beginning with the service of a complaint and ending 30 days after the date an answer is filed or 15 days after responses to interrogatories under § 1.729 are filed, whichever period is longer, except where the movant demonstrates that the need for such discovery could not, even with due diligence, have been ascertained within this period.

(d) Documents produced through discovery shall not be filed with the Commission unless so ordered by the Commission or its staff.

§§ 1.731–1.734 [Redesignated as §§ 1.732–1.735]

8. Sections 1.731 through 1.734 are redesignated as §§ 1.732 through 1.735 and new § 1.731 is added to read as follows:

§ 1.731 Confidentiality of information produced through discovery.

(a) Any materials generated or provided by a party in response to discovery may be designated as proprietary by that party if the party believes in good faith that the materials fall within an exemption to disclosure contained in the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(1)–(9). Any party asserting confidentiality for such materials shall so indicate by clearly marking each page, or portion thereof, for which a proprietary designation is claimed. If a proprietary designation is challenged, the party claiming confidentiality shall have the burden of demonstrating, by a preponderance of the evidence, that the material designated as proprietary falls under the standards for nondisclosure enunciated in the FOIA.

(b) Materials marked as proprietary may be disclosed solely to the following persons, only for use in prosecuting or defending a party to the complaint action, and only to the extent necessary to assist in the prosecution or defense of the case:

(1) Counsel of record representing the parties in the complaint action and any support personnel employed by such attorneys;

(2) Officers or employees of the opposing party who are named by the opposing party as being directly involved in the prosecution or defense of the case;

(3) Consultants or expert witnesses retained by the parties;

(4) The Commission and its staff; and

(5) Court reporters and stenographers in accordance with the terms and conditions of this section.

(c) These individuals shall not disclose information designated as proprietary to any person who is not authorized under this section to receive such information, and shall not use the information in any activity or function other than the prosecution or defense in the case before the Commission. Each individual who is provided access to the information shall sign a notarized statement affirmatively stating that the individual has personally reviewed the Commission's rules and understands the limitations they impose on the signing party.

(d) No copies of materials marked proprietary may be made except copies to be used by persons designated in paragraph (b) of this section. Each party shall maintain a log recording the number of copies made of all proprietary material and the persons to whom the copies have been provided.

(e) Upon termination of a formal complaint proceeding, including all appeals and petitions, all originals and reproductions of any proprietary materials, along with the log recording persons who received copies of such materials, shall be provided to the producing party. In addition, upon final termination of the complaint proceeding, any notes or other work product derived in whole or in part from the proprietary materials of an opposing or third party shall be destroyed.

9. In newly redesignated § 1.732, a new sentence is added to the end of paragraph (a); paragraph (b) is redesignated and republished as paragraph (g); and new paragraphs (b), (c), (d), (e), and (f) are added to read as follows:

§ 1.732 Other required written submissions.

(a) * * * Absent an order by the Commission that briefs be filed, the parties may voluntarily submit briefs in accordance with the provisions of paragraphs (b) through (e) of this section.

(b) In cases when discovery is not conducted, briefs shall be filed concurrently by both complainant and defendant within 90 days from the date a complaint is served. Such briefs shall be no longer than 35 pages.

(c) In cases when discovery is conducted, briefs shall be filed concurrently by both complainant and defendant at such time designated by the staff, typically within 30 days after discovery is completed. Such briefs shall be no longer than 50 pages.

(d) Reply briefs may be submitted by either party within 20 days from the date initial briefs are due. Reply briefs shall be no longer than 20 pages in cases when discovery is not conducted, and 30 pages in cases when discovery is conducted.

(e) Briefs containing information which is claimed by an opposing or third party to be proprietary under § 1.731 shall be submitted to the Commission in confidence pursuant to the requirements of § 0.459 of this chapter and clearly marked "Not for Public Inspection." An edited version removing all proprietary data shall also be filed with the Commission for inclusion in the public file. Edited versions shall be filed within five days from the date the unedited brief is submitted, and served on opposing parties.

(f) Either on its own motion or upon proper motion by a party, the Commission may establish other deadlines or page limits for briefs.

(g) The Commission may require the parties to submit any additional information it deems appropriate for a full, fair, and expeditious resolution of the proceeding, including affidavits and exhibits.

10. In newly redesignated § 1.733, paragraph (a) introductory text is republished; paragraphs (a)(5) and (b) are revised; paragraphs (c) and (d) are redesignated as paragraphs (d) and (e), respectively; and new paragraph (c) is added to read as follows:

§ 1.733 Status conference.

(a) In any complaint proceeding, the Commission may in its discretion direct the attorney and/or the parties to appear before it for a conference to consider:

* * * * *

(5) The necessity and extent of discovery, including objections to interrogatories or requests for production of documents;

* * * * * *

(b) While a conference normally will be scheduled after the answer has been filed, any party may request that a conference be held at any time after the complaint has been filed.

(c) During a status conference, the Commission staff may issue oral rulings pertaining to a variety of interlocutory matters relevant to the conduct of a formal complaint proceeding including, *inter alia*, procedural matters, discovery, and the submission of briefs or other evidentiary materials. These rulings will be promptly memorialized in writing and served on the parties. When such rulings require a party to undertake affirmative action not subject to deadlines established by another provision of this subpart, such action will be required within 10 days from the date of the written memorialization

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unless the staff designates a later deadline.

* * * * *

11. In newly redesignated § 1.735, paragraph (b) is revised to read as follows:

§ 1.735 Copies; service; separate filings against multiple defendants.

* * * * *

(b) The complainant must file an original plus three copies of the complaint, accompanied by the correct fee, in accordance with subpart G of this part. See 47 CFR 1.1105(1)(c). However, if a complaint is addressed against multiple defendants, complainant shall pay separate fee and supply three additional copies of the complaint for each additional defendant.

* * * * *

[FR Doc. 93-9452 Filed 4-26-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2 and 15

[ET Docket No. 93-1; FCC 93-201]

Radio Scanners That Receive Cellular Telephone Transmissions

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Report and Order implements new regulations that deny equipment authorization to radio scanners capable of receiving transmissions in the Domestic Public Cellular Radio Telecommunications Service. This action is taken in response to the Telephone Disclosure and Dispute Resolution Act. The intended effect of this action is to help ensure the privacy of cellular telephone conversations.

EFFECTIVE DATE: April 26, 1993.

FOR FURTHER INFORMATION CONTACT: David Wilson, Office of Engineering and Technology, (202) 653-8138.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in ET Docket No. 93-1, FCC 93-201, adopted April 19, 1993, and released April 22, 1993. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's duplicating contractor, International Transcription Services at (202) 857-3800 or 2100 M Street, NW., suite 140, Washington, DC 20037.

Paperwork Reduction

The paperwork burden estimated in the Notice of Proposed Rule Making has been adjusted to reflect changes that are being adopted in this Report and Order. The adjusted paperwork burden is pending OMB approval.

Summary of the Report and Order

1. By this action, the Commission amends 47 CFR parts 2 and 15 to prohibit the manufacture and importation of radio scanners capable of receiving frequencies allocated to the Domestic Public Cellular Radio Telecommunications Service. This action implements statutory requirements set forth in the Telephone Disclosure and Dispute Resolution Act (TDDRA), Public Law 102-556. The rules being adopted are intended to increase the privacy protection of cellular telephone users without unduly restricting legitimate uses of scanners.

2. The Domestic Public Cellular Radio Telecommunications Service ("Cellular Radio Service") provides telephone service to mobile customers. Cellular telephones use frequencies in the bands 824-849 MHz and 869-894 MHz to connect their users to other cellular system users and to the Public Switched Telephone Network.

3. As defined within our rules, scanning receivers, or "scanners," are radio receivers that can automatically switch between four or more frequencies anywhere within the 30-960 MHz band. In order to control their potential to cause harmful interference to authorized radio communications, the rules require that scanners receive an equipment authorization (certification) from the Commission prior to marketing.

4. On October 28, 1992, the President signed the TDDRA into law. Section 403 of the TDDRA amends section 302 of the Communications Act of 1934 (47 U.S.C. 302(d)(1) and (2)) by requiring that by April 26, 1993 (180 days after enactment of the TDDRA), the Commission prescribe and make effective regulations denying equipment authorization for any scanning receiver that is capable of: (1) Receiving transmissions in the frequencies allocated to the domestic cellular radio service; (2) readily being altered by the user to receive transmissions in such frequencies; or, (3) being equipped with decoders that convert digital cellular transmissions to analog voice audio.

Further, section 302(d)(2), as amended by the TDDRA, provides that, beginning one year after the effective date of the regulations adopted pursuant to paragraph (d)(1), no receiver having such capabilities shall be manufactured in the United States or imported for use in the United States.

5. In accordance with the TDDRA, we adopted a Notice of Proposed Rule Making (Notice) proposing to deny equipment authorization to scanning receivers that: (1) Tune frequencies used by cellular telephones; (2) can be readily altered by the user to tune such frequencies; or (3) can be equipped with decoders that convert digital cellular transmissions to analog voice audio. See Notice of Proposed Rule Making in ET Docket No. 93-1, 59 FR 06769, February 2, 1993. The Notice requested comment on a proposed definition of "readily altered by the user." The Notice also proposed to deny equipment authorization (notification) to frequency converters that tune, or can be readily altered by the user to tune, cellular telephone frequencies. To assist us in determining compliance with these requirements, we proposed to require applicants for certification of scanners, and for notification of frequency converters used with scanners, to include in their applications a statement stating that the device cannot be easily altered to enable a scanner to receive cellular transmissions.

6. Some 46 parties filed comments on the *Notice* and 6 parties filed reply comments. A large number of commenters, presumably most of them scanner enthusiasts, oppose adoption of any rules that would restrict the tuning capabilities of scanners. Manufacturers of scanners and cellular service providers in general support the Commission's proposed changes. However, several commenters ask for clarification or expansion of the rules.

7. In accordance with TDDRA, we are adopting new rules restricting scanners and associated frequency converters generally as proposed in the *Notice*. Based on the comments, we are adopting several minor changes to the rules as proposed.

8. The Final Regulatory Flexibility Analysis is contained in the text of the Notice.

9. The TDDRA requires that the rules adopted in this proceeding become effective on or before April 26, 1993. Accordingly, due to the limited time available to meet this requirement, we find good cause for the rules adopted herein to become effective upon publication in the **Federal Register**. See 5 U.S.C. 553(d).

10. Accordingly, *It is ordered* that under the authority contained in sections 4(i), 302 and 303 of the Communications Act of 1934, as amended, and the Telephone Disclosure and Dispute Resolution Act, 47 CFR parts 15 and 2 are amended as set forth below. These rules and regulations are effective upon publication in the **Federal Register**. It is further ordered that this proceeding is terminated.

11. For further information on this proceeding, contact David Wilson, Technical Standards Branch, Office of Engineering and Technology, at 202-653-8138.

List of Subjects in 47 CFR Parts 2 and 15

Communications equipment, wiretapping and electronic surveillance

Parts 2 and 15 of title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for 47 CFR part 2 continues to read as follows:

Authority: Sec. 4, 302, 303 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 154(i), 302, 303, 303(r) and 307.

2. 47 CFR 2.975 is amended by adding a new paragraph (a)(8) to read as follows:

§ 2.975 Application for notification

(a) * * *

(8) Applications for the notification of receivers contained in frequency converters designed or marketed for use with scanning receivers shall include a statement describing the methods used to comply with the design requirements of § 15.121(a) of this chapter or the marketing requirements of § 15.121(b) of this chapter.

* * * * *

3. 47 CFR 2.1033 is amended by adding a new paragraph (b)(12) to read as follows:

§ 2.1033 Application for certification.

* * * * *

(b) * * *

(12) Applications for the certification of scanning receivers shall include a statement describing the methods used to comply with the design requirements of § 15.121(a) of this chapter or the marketing requirements of § 15.121(b) of this chapter.

* * * * *

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for 47 CFR part 15 continues to read as follows:

Authority: Sec. 4, 302, 303, 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303 and 307.

2. 47 CFR 15.37 is amended by adding a last sentence to paragraph (b), and adding a new paragraph (f), to read as follows:

§ 15.37 Transition provisions for compliance with the rules.

* * * * *

(b) * * * In addition, receivers are subject to the provisions in paragraph (f) of this section.

* * * * *

(f) The manufacture or importation of scanning receivers, and frequency converters designed or marketed for use with scanning receivers, that do not comply with the provisions of § 15.121 shall cease on or before April 26, 1994. Effective April 26, 1993, the Commission will not grant equipment authorization for receivers that do not comply with the provisions of § 15.121 of this part. This paragraph does not prohibit the sale or use of authorized receivers manufactured in the United States, or imported into the United States, prior to April 26, 1994.

3. 47 CFR § 15.121 is added to subpart B to read as follows:

§ 15.121 Scanning receivers and frequency converters designed or marketed for use with scanning receivers.

(a) Except as provided in paragraph (b) of this section, scanning receivers, and frequency converters designed or marketed for use with scanning receivers, must be incapable of operating (tuning), or readily being altered by the user to operate, within the frequency bands allocated to the Domestic Public Cellular Radio Telecommunications Service in part 22 of this Chapter (cellular telephone bands). Receivers capable of "readily being altered by the user" but are not limited to, those for which the ability to receive transmissions in the cellular telephone bands can be added by clipping the leads of, or installing, a simple component such as a diode, resistor and/or jumper wire; replacing a plug-in semiconductor chip; or programming a semiconductor chip using special access codes or an external device, such as a personal computer. Scanning receivers, and frequency converters designed or marketed for use with scanning receivers, must also be incapable of converting digital cellular transmissions to analog voice audio.

(b) Scanning receivers, and frequency converters designed or marketed for use with scanning receivers, that are manufactured exclusively for, and marketed exclusively to, entities described in 18 U.S.C. 2512(2) are not subject to the requirements of paragraph (a) of this section.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-9847 Filed 4-23-93; 10:58 am]

BILLING CODE 6712-01-M

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Proposed Rules

Federal Register
Vol. 58, No. 79
Tuesday, April 27, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1097

[Docket Nos. AO–219–A46; DA–93–05]

Milk in the Memphis, TN Marketing Area; Proposed Termination of Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed termination of rule.

SUMMARY: This document invites written comments on the proposed termination of the order regulating the handling of milk in the Memphis, Tennessee, marketing area. A proposed amended Memphis, Tennessee, order failed to receive the required three-fourths approval in a recent producer referendum. Since the Department has determined that the provisions of the proposed amended order are necessary to effectuate the declared policy of the applicable statutory authority, it is necessary to consider terminating the present order.

DATES: Comments are due May 12, 1993.

ADDRESSES: Comments should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities Pursuant to 5 U.S.C. 605(B), the administrator of the agricultural marketing service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would eliminate the regulatory impact of the order on dairy farmers and regulated handlers.

This proposed action has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This proposed termination order has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. If adopted, this proposed action will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the termination of the order regulating the handling of milk in the Memphis, Tennessee, marketing area is being considered.

All persons who want to send written data, views or arguments about the proposed termination should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 15th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 15 days because a longer period would not provide the time needed to complete the required procedures and coordinate the termination with amendatory action being taken on milk orders for neighboring markets. The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed action would terminate the order regulating the handling of milk in the Memphis, Tennessee, marketing area.

On February 5, 1993, the Department issued a final decision on proposed amendments to all Federal milk orders, which was published March 5, 1993 (58 FR 12634). The final decision document contained proposed amended orders for all marketing areas, including the Memphis order. The document also included a referendum order for the Memphis order, and several other orders, to ascertain whether producers approve the issuance of the amended order. The final decision concluded that amended orders were needed to effectuate the declared policy of the applicable statutory authority.

The enabling statute requires that at least three-fourths of the producers participating in a referendum must approve the individual handler pool Memphis order before it can be put into effect.

In the referendum conducted on the Memphis order, less than 20 percent of the producers participating in the referendum approved the issuance of the proposed amended order. In these circumstances, where it has been concluded that the order should be amended to effectuate the enabling statute and that the enabling statute requires approval by three-fourths of the producers, it appears that continuation of the existing Memphis order would not be in conformity with the applicable statutory authority. Therefore, it is necessary to consider terminating the present order.

List of Subjects in 7 CFR Part 1097

Milk marketing orders.

The authority citation for 7 CFR part 1097 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Dated: April 20, 1993.

L.P. Massaro,

Acting Administrator.

[FR Doc. 93–9728 Filed 4–26–93; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1098

[Docket Nos. AO–184–A55; DA–93–10]

Milk in the Nashville, TN, Marketing Area; Proposed Termination of Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed termination of rule.

SUMMARY: This document invites written comments on the proposed termination of the order regulating the handling of milk in the Nashville, Tennessee, marketing area. A proposed amended Nashville, Tennessee, order failed to receive the required two-thirds approval in a recent producer referendum. Since the Department has determined that the provisions of the proposed amended order are necessary to effectuate the declared policy of the applicable statutory authority, it is necessary to consider terminating the present order.

DATES: Comments are due May 12, 1993.

ADDRESSES: Comments should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Order Formulation Branch, USDA/AMS/Dairy Division, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, 202–720–4829.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would eliminate the regulatory impact of the order on dairy farmers and regulated handlers.

This proposed action has been reviewed by the Department in accordance with Departmental Regulations 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This proposed termination order has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. If adopted, this proposed action will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act, as amended (7 U.S.C. 601–674) ("the Act"), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Act, the termination of the order regulating the handling of milk in the Nashville, Tennessee, marketing area is being considered.

All persons who wish to send written data, views or arguments concerning the proposed termination should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 15th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 15 days because a longer period would not provide the time needed to complete the required procedures and coordinate the termination with amendatory action being taken on milk orders for neighboring markets. The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed action would terminate the order regulating the handling of milk in the Nashville, Tennessee, marketing area.

On February 5, 1993, the Department issued a final decision on proposed amendments to all Federal milk orders, which was published on March 5, 1993 (58 FR 12634). The final decision document contained proposed amended orders for all marketing areas, including the Nashville order. The document also included a referendum order for several orders, including the Nashville order, to ascertain whether producers approved the issuance of the amended orders. The final decision concluded that amended orders were needed to effectuate the declared policy of the applicable statutory authority.

The Act requires that, with respect to an order with a marketwide pool—such as the Nashville order—at least two-thirds of the producers participating in a referendum must approve the order before it can be put into effect.

In the referendum conducted on the Nashville order, less than two-thirds of the producers who participated in the referendum approved the issuance of the proposed amended order. In these circumstances, where it has been concluded that the order should be amended to effectuate the declared policy of the Act, and the Act requires approval by two-thirds of the producers, it appears that continuation of the existing Nashville order would not be in conformity with the applicable statutory authority. Therefore, it is necessary to consider terminating the present order

List of Subjects in 7 CFR Part 1098

Milk marketing orders.

The authority citation for 7 CFR part 1098 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Dated: April 20, 1993.

L.P. Massaro,

Acting Administrator.

[FR Doc. 93–9729 Filed 4–26–93; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1099

[Docket No. AO–183–A45; DA–93–08]

Milk in the Paducah, KY Marketing Area; Proposed Termination of Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed termination of rule.

SUMMARY: This document invites written comments on the proposed termination of the order regulating the handling of milk in the Paducah, Kentucky, marketing area. A proposed amended Paducah, Kentucky, order failed to receive the required two-thirds approval in a recent producer referendum. Since the Department has determined that the provisions of the proposed amended order are necessary to effectuate the declared policy of the applicable statutory authority, it is necessary to consider terminating the present order.

DATES: Comments are due May 12, 1993.

ADDRESSES: Comments should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456.

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SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(B), the administrator of the agricultural marketing service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would eliminate the regulatory impact of the order on dairy farmers and regulated handlers.

This proposed action has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This proposed termination order has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. If adopted, this proposed action will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the termination of the order regulating the handling of milk in the Paducah, Kentucky, marketing area is being considered.

All persons who want to send written data, views or arguments about the proposed termination should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 15th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 15 days because a longer period would not provide the time needed to complete the required procedures and coordinate the termination with amendatory action being taken on milk orders for neighboring markets. The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed action would terminate the order regulating the handling of milk in the Paducah, Kentucky, marketing area.

On February 5, 1993, the Department issued a final decision on proposed amendments to all Federal milk orders, which was published March 5, 1993 (58 FR 12634). The final decision document contained proposed amended orders for all marketing areas, including the Paducah order. The document also included a referendum order for the Paducah order, and several other orders, to ascertain whether producers approve the issuance of the amended order. The final decision concluded that amended orders were needed to effectuate the declared policy of the applicable statutory authority.

The enabling statute requires that at least two-thirds of the producers participating in a referendum must approve the marketwide pool Paducah order before it can be put into effect.

In the referendum conducted on the Paducah order, less than 20 percent of the producers participating in the referendum approved the issuance of the proposed amended order. In these circumstances, where it has been concluded that the order should be amended to effectuate the enabling statute and that the enabling statute requires approval by two-thirds of the producers, it appears that continuation of the existing Paducah order would not be in conformity with the applicable statutory authority. Therefore, it is necessary to consider terminating the present order.

List of Subjects in 7 CFR Part 1099

Milk marketing orders.

The authority citation for 7 CFR part 1099 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Dated: April 20, 1993.

L.P. Massaro,

Acting Administrator.

[FR Doc. 93–9730 Filed 4–26–93; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20 and 61

Low-Level Waste Shipment Manifest Information and Reporting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) has proposed to amend its regulations to improve low-level waste (LLW) information and reporting [57 FR 14500, dated April 21, 1992]. In a letter dated August 18, 1992, following the closure of the comment period on the proposed rule, the Low-Level Radioactive Waste Forum suggested that, to produce a more effective rule, NRC sponsor a public meeting to further discuss concerns raised in the comment letters and thereby clarify the purpose of the rule. In response to this request, NRC will hold a public meeting with interested parties on June 15, 1993.

DATES: The public meeting is scheduled to be held on June 15, 1993, from 9 a.m. to 3:45 p.m.

As discussed later in this notice, the meeting will focus on the issues, comments, and needs for clarification identified in the 40 comment letters received on the proposed rule.

ADDRESSES: The meeting will be held in room P–110 at the NRC Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: William Lahs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–2569; or Mark Haisfield, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3877.

SUPPLEMENTARY INFORMATION:

Background

In a proposed rule that was published in the **Federal Register** on April 21, 1992 (57 FR 14500), the NRC sought to improve the low-level waste manifest information and reporting currently required in 10 CFR parts 20 and 61. In attempting to accomplish this goal, the NRC staff and others recognized the public health and safety interests and other multi-faceted needs that are served by manifest information: Specifically, the transportation safety interests of the U.S. Department of Transportation; the LLW disposal site performance assessment interests of NRC and Agreement States; the interests

of the States or Compacts charged with the responsibility of developing LLW disposal sites; and the interests of LLW disposal facility operators. Although many of the comments on the proposed rule addressed issues entirely within the purview of NRC, others were directed at features of the rule, manifest forms, or manifest instructions that evolved as a result of other information needs.

The Low-level Radioactive Waste Forum (an association of representatives of States and Compacts established to facilitate implementation of the Low-Level Radioactive Waste Policy Amendments Act of 1985 and to promote the objectives of low-level radioactive waste regional compacts) had advocated the development of the "uniform manifest" rulemaking from its inception and had constituted a Manifest Tracking Working Group to monitor NRC's development activities. Discussions between members of the Working Group and some affected parties in the private sector led to the suggestion for a meeting that was made in the August 18, 1992 letter from the Forum to the Chairman of the NRC.

With the intent of providing an opportunity to openly discuss issues and comments on the proposed rule, the NRC staff has decided to hold a public meeting on this rulemaking action. The staff will use the meeting as a forum to summarize significant issues raised by comment letters, provide background information, and seek individual comment from interested persons. The meeting is not for the purpose of reaching consensus advice for NRC action.

The Meeting and Proposed Agenda

The meeting will be held on June 15, 1993, in room P–110 at the NRC's Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland. The meeting will start at 9 a.m. and end about 3:45 p.m. By copy of this notice, the NRC has specifically invited all parties who provided comments on the proposed rule. The staff encourages all interested parties to attend, including those who did not comment on the proposed rule but have interests in the format and content of the LLW manifests and accompanying requirements. Please register in advance of the meeting by calling or writing to either the listed contacts.

The staff is seeking to identify those parties who will be attending the meeting who would like to speak about this rulemaking. If feasible, the staff will attempt to physically arrange the meeting room to facilitate comment from such parties. The staff is also seeking input from meeting attendees on any specific issues suitable for discussion that are not identified in the proposed agenda, described below. Notwithstanding the staff's desire to focus the meeting on those issues raised by the comments on the proposed rule, all meeting attendees will have an opportunity to comment on any applicable issue. A transcript of the meeting will be taken and will be considered together with the previously received comment letters as the NRC staff develops the final rule.

Based on review of comments on the proposed rule, the NRC has identified a variety of issues about the proposed requirements. These issues, with the exception of the general issues involving the establishment and operation of a national LLW data base, have been included in the agenda for the public meeting. The excluded issues are not immediately germane to this rulemaking and will be addressed at a later date. The tentative agenda for the meeting follows:

Agenda

9 a.m.–9:20 a.m. Introduction and Discussion of Meeting Agenda
9:20 a.m.–10 a.m.
- —Brief Summary of Rulemaking and Manifest Objectives
- —Manifest Reporting Burdens; Recent Developments
- —Distribution of Completed Manifest Forms
- —Description of Issues Raised by Commenters
- —Additional Issues From Meeting Attendees

10 a.m.–10:30 a.m. Public Comments on Policy Issues
- —What are health and safety benefits of rulemaking?
- —When will requirement for manifest be imposed?
- —Who must complete manifest?
- —Material vs. waste
- —Shipments to processors
- —Shipments to processors returned to original shipper for interim storage
- —Shipments to decontamination facilities
- —Will collection of additional information be allowed?
- —Does rule expand authorities of States or Compacts?
- —To what extent must LLW be described on manifest?
- —Duplications in reporting
- —Radionuclides and activities, lower limits of detection
- —Waste descriptors
- —Units
- —Other identified issues

10:40 a.m.–10:55 a.m. Break
10:55 a.m.–11:55 a.m. Continuation of Public Comment and Discussion of Policy Issues
11:55 a.m.–1 p.m. Lunch
1 p.m.–1:20 p.m. Continuation of Public Comment and Discussion of Policy Issues
1:20 p.m.–2:45 p.m. Public Comment on Manifest and Instructions—Format, Information, and Implementation Issues
- —Definition of terms
- —Control of transfers, tracking and paperwork needed in transport vehicle
- —Assignment of generator numbers
- —Additions or deletions of manifest information
- —Corrections and modifications
- —Other identified issues

2:45 p.m.–3 p.m. Break
3:00 p.m.–3:30 p.m. Continuation of Public Comment on Manifest and Instructions
3:30 p.m.–3:45 p.m. Closing Remarks and Discussion of Rulemaking Schedule

Copies of the public comment letters received on this rulemaking and the most current proposed versions of the manifests and supporting instructions can be obtained through the aforementioned information contacts.

Dated at Rockville, MD, this 20th day of April 1993.

For the Nuclear Regulatory Commission.

Melvin Silberberg,

Chief, Waste Management Branch, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 93–9760 Filed 4–26–93; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–211–AD]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to all British Aerospace Model ATP series airplanes, that would have required an inspection to detect cracking of the aft end of the wing rib boom angles on the left and right engine, and repair or replacement of the wing rib boom angle assemblies, if necessary. That proposal was prompted by the detection of cracks in the engine outboard rib boom angles at the main

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landing gear (MLG) actuator attachment point. This action revises the proposed rule by adding a repetitive inspection, and including a more detailed compliance schedule for necessary replacement of cracked rib boom angle assemblies. The actions specified by this proposed AD are intended to prevent structural failure of the actuator attachment point, which could lead to collapse of the MLG.

DATES: Comments must be received by June 7, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-211-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041-6029. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-211-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-211-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to add an airworthiness directive (AD), applicable to all British Aerospace Model ATP series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on December 28, 1992 (57 FR 61587). That NPRM would have required an inspection to detect cracking of the aft end of the wing rib boom angles on the left and right engine, and repair or replacement of the wing rib boom angle assemblies, if necessary. That NPRM was prompted by the detection of cracks in the engine outboard rib boom angles at the main landing gear (MLG) actuator attachment point. That condition, if not corrected, could result in structural failure of the actuator attachment point, which could lead to collapse of the MLG.

Since the issuance of that notice, additional fatigue cracking has been detected in the engine outboard rib boom angles at the MLG actuator attachment point. These cracks were detected on British Aerospace Model ATP series airplanes that had been inspected in accordance with British Aerospace Service Bulletin ATP-57-13, dated September 18, 1992. (This service bulletin was referenced in the notice.) Fatigue cracking will reduce the strength of the attachment of the MLG actuator support structure to the airframe. This condition, if not detected and corrected, could result in structural failure of the actuator attachment point, which could lead to collapse of the MLG.

Based on information received as a result of the one-time visual inspection (as recommended in the original version of the service bulletin), the manufacturer has determined that cracking may occur on these airplanes as they accumulate additional hours time-in-service. Therefore, in order to detect such cracking, the manufacturer recommends a repetitive detailed visual inspection. British Aerospace (now Jetstream Aircraft Limited) has issued British Aerospace Service Bulletin ATP-57-13, Revision 1, dated January 15, 1993. This revised service bulletin adds a repetitive detailed visual inspection to detect cracking of the aft end of the engine outboard rib boom angles under the wing rib immediately outboard of the left and right engine. Revision 1 also describes procedures for replacement of cracked rib boom angle assemblies, and recommends a detailed compliance schedule for necessary replacement. The recommended compliance schedule for replacement varies, depending on crack location and size and whether cracks are detected on one or both rib boom angles. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, has classified this service bulletin as mandatory.

Since cracks have been detected on airplanes that already have been inspected in accordance with the inspection requirement proposed in the notice, the FAA has determined that the proposed rule must be revised in order to ensure that such cracks are detected in a timely manner, and so that necessary repair or replacement can be accomplished in order to ensure continued operational safety.

This supplemental notice revises the proposed rule to add a requirement for repetitive inspections and to cite British Aerospace Service Bulletin ATP-57-13, Revision 1, dated January 15, 1993, as the appropriate source of service information.

In addition, this supplemental notice includes selective compliance schedules for replacement of cracked rib boom angle assemblies, depending on whether cracking is detected on one or both rib boom angles; in certain cases, the compliance time for such replacement would be reduced from what was proposed previously. This proposed compliance schedule is identical to the one recommended in Revision 1 to the service bulletin.

The FAA also has determined that, in order to ensure that operators have a reasonable amount of time to accomplish the initial detailed visual inspection in a timely manner on all Model ATP series airplanes, including those that will be more than 12 months old as of the effective date of this AD, the proposed compliance time for this inspection must be revised somewhat. The compliance time has been revised to specify that the initial inspection would be required within 400 hours time-in-service after the effective date of the final rule, or within 12 months since airplane manufacture, whichever occurs later.

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Since the issuance of the notice, the corporate name for the company that manufactures Model ATP series airplanes has been changed from British Aerospace to Jetstream Aircraft Limited. The FAA notes, however, that the identification data plate installed on these airplanes continues to identify the manufacturer of the Model ATP as British Aerospace. Therefore, this supplemental notice continues to refer to these airplanes as British Aerospace Model ATP series airplanes.

In addition, this supplemental notice clarifies the description of the specific inspection area. The more accurate description of the inspection area is "engine outboard rib boom angles." The wording in the proposal has been revised accordingly.

The FAA estimates that 9 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $990, or $110 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 92-NM-211-AD.

Applicability: All Model ATP series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure of the main landing gear actuator attachment point, which could lead to collapse of the main landing gear, accomplish the following:

(a) Within 400 hours time-in-service after the effective date of this AD, or within 12 months since airplane manufacture, whichever occurs later, conduct a detailed visual inspection to detect cracking of the aft end of the engine outboard rib boom angles under the wing rib outboard of the left and right engine, in accordance with British Aerospace Service Bulletin ATP-57-13, Revision 1, dated January 15, 1993.

(b) If no crack is detected, repeat the detailed visual inspection at intervals not to exceed 3,000 landings or 12 months, whichever occurs first.

(c) If any crack is detected on only one rib boom angle during any inspection required by paragraphs (a) or (b) of this AD, and that crack does not extend beyond bolt hole X, accomplish either paragraph (c)(1), (c)(2), or (c)(3) of this AD.

Note: Procedures for addressing cracks found in both rib boom angles are contained in paragraphs (f), (g), and (h) of this AD.

(1) Prior to further flight, repair the rib boom angle in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(2) Prior to further flight, replace the rib boom angle assembly in accordance with the service bulletin.

(3) At intervals not to exceed 300 hours time-in-service, reinspect the rib boom angle for crack propagation, in accordance with British Aerospace Service Bulletin ATP-57-13, Revision 1, dated January 15, 1993.

(i) If no additional crack propagation is detected during any of the repetitive inspections, within 6 months after discovery of the crack, either repair the rib boom angle in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate; or replace the rib boom angle assembly in accordance with the service bulletin.

(ii) If any of the repetitive inspections reveal that crack propagation has reached or exceeded the limits specified in paragraph (e) of this AD, prior to further flight, either repair the rib boom angle in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate; or replace the rib boom angle assembly in accordance with the service bulletin.

(d) If any crack is detected on only one rib boom angle during any inspection required by paragraphs (a) or (b) of this AD, and that crack extends beyond bolt hole X, but not beyond bolt hole Y or down towards bolt hole A, accomplish either paragraph (d)(1), (d)(2), or (d)(3) of this AD.

(1) Prior to further flight, repair the rib boom angle in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(2) Prior to further flight, replace the rib boom angle in accordance with the service bulletin.

(3) At intervals not to exceed 100 hours time-in-service, reinspect the rib boom angle for additional crack propagation, in accordance with British Aerospace Service Bulletin ATP-57-13, Revision 1, dated January 15, 1993.

(i) If no additional crack propagation is detected during any of the repetitive inspections, within 6 months after discovery of the crack, either repair the rib boom angle in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate; or replace the rib boom angle assembly in accordance with the service bulletin.

(ii) If any of the repetitive inspections reveal that crack propagation has reached or exceeded the limits specified in paragraph (e) of this AD, prior to further flight, either repair that rib boom angle in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate; or replace the rib boom angle assembly in accordance with the service bulletin.

(e) If any crack is detected on only one rib boom angle during any inspection required by paragraphs (a) or (b) of this AD, and that crack extends beyond bolt hole Y or into bolt hole A, accomplish either paragraph (e)(1), (e)(2), or (e)(3) of this AD.

(1) Prior to further flight, repair the rib boom angle in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(2) Prior to further flight, replace the rib boom angle assembly in accordance with the service bulletin.

(3) At intervals not to exceed 50 hours time-in-service, reinspect the rib boom angle for additional crack propagation, in

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accordance with British Aerospace Service Bulletin ATP-57-13, Revision 1, dated January 15, 1993.

(i) If no additional crack propagation is detected during any of the repetitive inspections, within 1 month after discovery of the crack, either repair the rib boom angle in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate; or replace the rib boom angle assembly in accordance with the service bulletin.

(ii) If any of the repetitive inspections reveal that crack propagation has reached or exceeded the limits specified in paragraph (e) of this AD, prior to further flight, either repair the rib boom angle in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate; or replace the rib boom angle assembly in accordance with the service bulletin.

(f) If any crack is detected on both rib boom angles during any inspection required by paragraphs (a) or (b) of this AD, and cracks do not extend beyond bolt hole X, accomplish either paragraph (f)(1), (f)(2), or (f)(3) of this AD.

(1) Prior to further flight, repair the rib boom angles in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(2) Prior to further flight, replace the rib boom angle assembly in accordance with the service bulletin.

(3) At intervals not to exceed 100 hours time-in-service, reinspect the rib boom angles for crack propagation, in accordance with British Aerospace Service Bulletin ATP-57-13, Revision 1, dated January 15, 1993.

(i) If no additional crack propagation is detected during any of the repetitive inspections, within 3 months after discovery of the cracks, either repair the rib boom angles in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate; or replace the rib boom angle assembly in accordance with the service bulletin.

(ii) If any of the repetitive inspections reveal that crack propagation has reached or exceeded the limits specified in paragraph (h) of this AD, prior to further flight, either repair the rib boom angle in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate; or replace the rib boom angle assembly in accordance with the service bulletin.

(g) If any crack is detected on both rib boom angles during any inspection required by paragraphs (a) or (b) of this AD, cracks extend beyond bolt hole X, but not beyond bolt hole Y or down towards bolt hole A, accomplish either paragraph (g)(1), (g)(2), or (g)(3) of this AD.

(1) Prior to further flight, repair the rib boom angles in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(2) Prior to further flight, replace the rib boom angle assembly in accordance with the service bulletin.

(3) At intervals not to exceed 50 hours time-in-service, reinspect the rib boom angles for additional crack propagation, in accordance with British Aerospace Service Bulletin ATP-57-13, Revision 1, dated January 15, 1993.

(i) If no additional crack propagation is detected during any of the repetitive inspections, within 1 month after discovery of the cracks, either repair the rib boom angles in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate; or replace the rib boom angle assembly in accordance with the service bulletin.

(ii) If any of the repetitive inspections reveal that crack propagation has reached or exceeded the limits specified in paragraph (h) of this AD, prior to further flight, either repair the rib boom angles in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate; or replace the rib boom angle assembly in accordance with the service bulletin.

(h) If any crack is detected on both rib boom angles during any inspection required by paragraphs (a) or (b) of this AD, and cracks extend beyond bolt hole Y or into hole A, accomplish either paragraph (h)(1) or (h)(2) of this AD.

(1) Prior to further flight, repair the rib boom angles in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(2) Prior to further flight, replace the rib boom angle assembly in accordance with the service bulletin.

(i) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(j) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 21, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-9743 Filed 4-26-93; 8:45 am]

BILLING CODE 4910-13-P

FEDERAL TRADE COMMISSION

16 CFR Part 306

Octane Posting and Certification

AGENCY: Federal Trade Commission.

ACTION: Extension of time in which to submit comments on proposed amendments to the Octane Rule.

SUMMARY: The Federal Trade Commission is seeking public comment on proposed amendments to the Octane Rule that were published on March 26, 1993. The time for filing such comments has been extended by the Presiding Officer from April 26, 1993, to May 10, 1993.

DATES: Written comments will be accepted until May 10, 1993.

ADDRESSES: Comments should be sent to Henry B. Cabell, Presiding Officer, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW.,[1] Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Neil Blickman, Attorney, 202-326-3038, Enforcement Division, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: By notice of March 26, 1993,[1] the Commission announced it was seeking public comment on a proposal to add alternative liquid automotive fuels (including diesel fuel oil) to the coverage of the Commission's Octane Rule. Under the Energy Policy Act of 1992, the Commission must issue the final rule in this proceeding by July 21, 1993. On April 20, 1993, the American Petroleum Institute filed a request that the comment period be extended until May 26, 1993. The Presiding Officer has extended the period for the receipt of such comments to May 10, 1993. Because of the statutorily-mandated deadline to issue a final rule by July 21, 1993, however, there will be no further extensions of the comment period.

Lewis F. Parker,

Chief Presiding Officer.

[FR Doc. 93-9775 Filed 4-26-93; 8:45 am]

BILLING CODE 6750-01-M

[1] 58 FR 16464.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM93-4-000]

Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations

Issued April 21, 1993.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of informal conference.

SUMMARY: The Federal Energy Regulatory Commission (Commission) will be holding an informal conference pursuant to the Notice of Informal Conferences issued on March 10, 1993. The purpose of the conference is to receive a briefing on ANSI X12 standards and Electronic Data Interchange.

DATES: Friday, April 30, 1993, beginning at 8:30 a.m.

ADDRESSES: Natural Gas Supply Association, Main Conference Room, suite 300, 1129 20th Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT:

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-1283.

Brooks Carter, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-0666.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200 or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208-1781. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Informal Conference

Take notice that pursuant to the Notice of Informal Conferences issued on March 10, 1993,[1] Commission staff will convene an informal conference in this matter on Friday, April 30, 1993. The purpose of the conference is to receive a briefing on, and to discuss, ANSI X12 standards and Electronic Data Interchange.

The conference will begin at 8:30 a.m. on April 30, 1993 and will be held at: Natural Gas Supply Association, Main Conference Room, suite 300, 1129 20th Street, NW., Washington, DC 20036.

All interested persons are invited to attend. For additional information, or to indicate intent to participate in the conference, such persons should contact Marvin Rosenberg at (202) 208-1283 or Brooks Carter at (202) 208-0666.

Lois D. Cashell,

Secretary.

[FR Doc. 93-9780 Filed 4-26-93; 8:45 am]

BILLING CODE 6717-01-M

[1] 58 FR 14530, March 18, 1993.

18 CFR Part 284

[Docket No. RM93-8-000]

Revisions to Regulations Implementing Section 5 of the Outer Continental Shelf Lands Act

April 21, 1993.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend certain regulations and remove certain other regulations which were promulgated to implement section 5 of the Outer Continental Shelf Lands Act (OCSLA). Section 5 of the OCSLA requires open access, nondiscriminatory transportation of natural gas on the Outer Continental Shelf (OCS).

Among other things, the Commission is proposing to remove the regulations governing the OCSLA capacity allocation program, and the regulation which provides for abandonment authority. In Order No. 636, the Commission established a capacity release program which is applicable for all transportation services provided by interstate pipelines that hold a Part 284 blanket transportation certificate, including OCS transactions. Hence, the Commission proposes to remove the Order No. 509 capacity allocation regulations.

DATES: Comments are due no later than June 21, 1993. Reply comments are due no later than July 21, 1993.

ADDRESSES: An original and 14 copies of the comments on this proposed rule must be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 and should refer to Docket No. RM93-8-000.

FOR FURTHER INFORMATION CONTACT: Connie Caldwell, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-1022.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208-1781. The full text of this rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend certain regulations and remove certain other regulations which were promulgated to implement section 5 of the Outer Continental Shelf Lands Act (OCSLA).[1] Section 5 of the OCSLA requires open access, nondiscriminatory transportation of natural gas on the Outer Continental Shelf (OCS). The pertinent regulations are contained in subpart K of part 284 of the

[1] 43 U.S.C. 1334.

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Commission's regulations.[3] They are promulgated in Order No. 509, issued on December 9, 1988.[3]

Among other things, the Commission is proposing to remove the regulations governing the OCSLA capacity allocation program,[4] and the regulation which provides for abandonment authority.[5] In Order No. 636,[6] the Commission established a capacity release program which is applicable for all transportation services provided by interstate pipelines that hold a part 284 blanket transportation certificate, including OCS transactions. Hence, the Commission proposes to remove the Order No. 509 capacity allocation regulations.

A companion order to this Notice of Proposed Rulemaking (NOPR) will be issued, in Docket Nos. RP89–84–007 and RP89–228–037, which will respond to a related court order remanding certain orders to the Commission for further consideration.[7] In the three Commission orders which were remanded, the Commission applied the subpart K regulations to an interstate pipeline, Tennessee Gas Pipeline Company (Tennessee). The companion order determines that the matters remanded to the Commission are resolved by this rulemaking. However, Tennessee is directed in the companion order to inform the Commission, in its comments to this NOPR, if remaining matters need to be resolved.

II. Reporting Requirements

The proposed rule, if adopted, would eliminate regulations that the Commission preliminary believes are no longer appropriate and would reduce filing burdens in several areas of Commission regulation. The Commission's proposed rule will reduce the public reporting burden by an estimated 10,320 hours for FERC–545 (1902–0154). This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The reduction in burden is based on an estimated 43 copy filings related to the transportation of natural gas on the OCS. Each filing is expected to average 240 hours to prepare. Total reporting burden under FERC–545 is related to the Commission's Order No. 636. With the burden reduction proposed herein, the total burden under FERC–545 will be reduced to estimated 160,265 hours annually. Send comments regarding this burden estimate by contacting the Federal Energy Regulatory Commission, 941 North Capitol Street NE., Washington, DC 20426 [Attention: Michael Miller, Information Policy and Standards Branch, (202) 208–1415] and to the FERC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

III. Background

A. Promulgation of the OCSLA Regulations

In 1988, the Commission promulgated regulations to implement section 5 of the OCSLA.[8] The Commission's OCSLA regulations provided every interstate natural gas pipeline transporting natural gas on or across the OCS with a blanket transportation certificate under subpart G of part 284 of the commission's regulations. This certificate authorized and required nondiscriminatory transportation of natural gas on behalf of others, established a capacity allocation program, and required each of these pipelines to file tariffs to reflect the part 284 blanket certificate authorization, among other things.

The Order No. 509 certificates differed from a standard part 284 blanket transportation certificate[9] in that the certificate holder was given abandonment authority for certain transportation services provided under individual certificates issued under part 157 of the regulations. Also, the OCSLA regulations provided for a capacity allocation program in order to encourage the pipelines and their customers to rely on the pipeline's new blanket certificate for transportation authorization in lieu of their individually-issued part 157 certificates.

B. Application of the Regulations

Tennessee Gas Pipeline Company (Tennessee) filed tariff sheets to comply with the then newly-adopted OCSLA regulations in Docket Nos. RP89–84 and RP89–228. The Commission issued three orders addressing these tariff filings.[10] Tennessee subsequently filed an appeal of the Commission's orders which applied these regulations to the tariff filings made by Tennessee. On August 14, 1992, the United States Court of Appeals for the District of Columbia Circuit remanded this case to the Commission for further consideration.[11]

C. Order No. 636

On April 8, 1992, the Commission issued Order No. 636. In Order No. 636, the Commission established a capacity release program applicable to all open access pipelines, among other things. By establishing a uniform capacity release program applicable to all open access pipelines, the Commission intended to create a nationwide program which would supersede all existing capacity brokering, capacity release, and upstream pipeline capacity assignment programs.

Consequently, the Commission issued a companion order to Order No. 636 which required the modification of all pre-Order No. 636 capacity brokering, capacity release, and upstream pipeline capacity assignment programs to bring those programs into conformance with the Order No. 636 capacity release program.[12]

[T]he Commission believes that the goal of Order No. 636, to place all natural gas sellers on an equal competitive footing, can only be achieved if all capacity reallocations are undertaken on the same general basis on all pipelines. Because most markets are served

[3] 18 CFR 284.301–284.305.

[4] Order No. 509, Interpretation of, and Regulations Under Section 5 of the Outer Continental Shelf Lands Act (OCSLA) Governing Transportation of Natural Gas Pipelines on the Outer Continental Shelf, FERC Stats. & Regs. Preambles ¶ 30,842 (1988), 53 FR 50925 (Dec. 9, 1988), order on rehearing, Order No. 509–A, FERC Stats. & Regs. Preambles ¶ 30,847 (1988), 54 FR 8301 (Feb. 17, 1989).

[5] 18 CFR 284.304.

[6] 18 CFR 284.303(c)(3).

[7] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 57 FR 13267 (April 16, 1992), III FERC Stats. & Regs. Preambles ¶ 30,939 (April 8, 1992); order on reh'g, Order No. 636–A, 57 FR 36128 (August 12, 1992), III FERC Stats. & Regs. Preambles ¶ 30,950 (August 3, 1992), order on reh'g, Order No. 636–B, 57 FR 57911 (December 8, 1992), 61 FERC ¶ 61,272 (1992).

[8] *Tennessee Gas Pipeline Company* v. *FERC*, 972 F.2d 376 (D.C. Cir. 1992).

[9] Order No. 509, *supra*.

[10] Part 284 blanket transportation certificates were established pursuant to section 7 of the Natural Gas Act in Order No. 436. Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436, 50 FR 42408 (Oct. 18, 1985), FERC Stats. & Regs. [Regulations Preambles 1982–1985] ¶ 30,665 (1985), *vacated and remanded, Associated Gas Distributors* v. *FERC*, 824 F.2d 981 (D.C. Cir. 1987), *cert. denied*, 485 U.S. 1006 (1988), *readopted on an interim basis*, Order No. 500, 52 FR 30334 (Aug. 14, 1987), FERC Stats. & Regs. [Regulations Preambles, 1986–1990] ¶ 30,761 (1987), *remanded, American Gas Association* v. *FERC*, 888 F.2d 136 (D.C. Cir. 1989), *readopted*, Order No. 500–H, 54 FR 52344 (Dec. 21, 1989), FERC Stats. & Regs. [Regulations Preambles 1986–1990] ¶ 30,867 (1989), *reh'g granted in part and denied in part*, Order No. 500–I, 55 FR 6605 (Feb. 26, 1990), FERC Stats. & Regs. [Regulations Preambles 1986–1990] ¶ 30,880 (1990), *aff'd in part and remanded in part*, *American Gas Association* v. *FERC*, 912 F.2d 1496 (D.C. Cir. 1990), *cert. denied*, 111 S. Ct. 957 (1991).

[11] For a detailed description of these Tennessee orders and the Tennessee proceedings in general, see the companion order being issued in Docket Nos. RP89–84–007 and RP89–228–037.

[12] *Tennessee Gas Pipeline Company* v. *FERC*, 972 F.2d (D.C. Cir. 1992).

[13] Algonquin Gas Transmission Company, *et al.*, 59 FERC ¶ 61,032, at p. 61,095 (1992).

[14] 18 CFR 284.304.

[15] 18 CFR 284.303(c)(3).

by more than one pipeline, and any given pipeline serves multiple markets, only by mandating generally uniform national capacity reallocation mechanisms can the Commission prevent any pipeline or firm shipper from achieving an undue advantage or incurring an undue disadvantage compared to firm shippers on other pipelines from the operation of a particular pipeline's capacity brokering program.[13]

The Algonquin order quoted above resolved any disparity between the Order No. 636 capacity release program and existing programs which had been authorized in Commission orders. However, the OCS capacity allocation program, which was established by rulemaking as opposed to Commission order, remained intact.

IV. Overview of the Proposed Revisions

It is important to note initially that the Commission is not proposing to rescind or alter the requirement that interstate pipelines that transport natural gas on the OCS offer open access transportation under a part 284 blanket transportation certificate. That requirement will continue to be imposed on all OCS pipelines, as required by Commission policy and in order to ensure that the open access, nondiscriminatory standard for OCS transportation required by section 5 of the OCSLA is maintained.

However, the Commission is proposing to remove the regulations governing the OCSLA capacity allocation program,[14] and the regulation which provides for abandonment authority.[15] As stated earlier, in Order No. 636 the Commission established a capacity release program which is applicable for all transportation services provided by interstate pipelines that hold a part 284 blanket transportation certificate, including OCS transactions. As a result of the implementation of the Order No. 636 capacity release program, the OCSLA capacity allocation program becomes redundant. Further, since the Order No. 636 capacity release program is applicable to all interstate transactions, including those offshore, a conflict arises as to which program applies to OCS transactions. The Commission believes that one uniform capacity release program applicable to all interstate transactions, offshore and onshore, will best serve the public interest. Hence, the Commission proposes to remove the Order No. 509 capacity allocation regulations.

The Commission also proposes to remove the Order No. 509 regulations governing rate filings for OCS pipelines with blanket transportation certificates issued in Order No. 509.[16] Since all OCS interstate pipelines now have rates on file for transportation service under a blanket certificate, the Order No. 509 regulations are no longer needed. Additionally, the Commission is proposing to revise the remaining Subpart K regulations in order to conform with the removal of the regulations discussed above.

VI. Discussion

Review of the Commission's changes to its open access regulations in Order No. 636, the Tennessee orders, and the Court's remand order, has culminated in this proposal to revise the OCSLA regulations.

A. Capacity Reallocation Program

The OCSLA required that interstate pipelines provide open access transportation on the OCS. In order to implement that mandate the Commission issued Part 284 blanket transportation certificates to all OCS pipelines, as defined in § 284.302. Since certain interstate gas transportation was being provided under individually-issued Part 157 certificates, a means for the pipelines to convert the part 157 services to part 284 services was needed.

Therefore, the Commission formulated the capacity reallocation program discussed above and adopted the regulations found in § 284.304 to effectuate that program.[17] This program was not provided solely as a means for initial implementation of open access, nondiscriminatory transportation on the OCS, although it was required for that initial implementation to take place smoothly. The program also was established as an ongoing program applicable to OCS transactions occurring after initial implementation. Essentially, this program allowed shippers to relinquish unneeded capacity on an OCS pipeline to other shippers. In this way, the pipeline's capacity would be reallocated to shippers who most needed the capacity. Further, the reallocation could occur without the need for further transaction-specific regulatory approval.

At the time these regulations were adopted, the Order No. 509 capacity allocation program was needed to ensure that the requirements of section 5 of the OCSLA were met. However, under Order No. 636, the Commission established a capacity release program which is applicable for all transportation services provided by interstate pipelines that hold a part 284 blanket transportation certificate. The Order No. 636 capacity releasing program will operate as follows:

The firm capacity holder will inform the pipeline that it wants to release capacity on a permanent or temporary basis, the specific quantity to be released, the period of time, and any other conditions of the release. For example, the releasing customer might state that it will release a specified amount of capacity only so long as the temperature remains above a specified degree. That is, the firm shipper may release firm capacity on an interruptible basis. In addition, the releasing customer can bring to the pipeline for posting a pre-arranged deal for releasing capacity. If no better offer is received, the pipeline must contract with the replacement shipper found by the releasing customer. If a better offer is forthcoming, the pipeline must give the replacement shipper found by the releasing customer an opportunity to match the better offer. If the replacement shipper matches the better offer, the pipeline must contract with the replacement shipper found by the releasing customer. If the releasing customer's designated replacement shipper does not match the better offer, the pipeline must contract with the person who made the better offer.

The pipeline must immediately post the capacity releasing information on its electronic bulletin board for a reasonable period of time during which applicants for capacity can agree to the releasing customer's terms and conditions. * * * [T]he pipeline may take other action to market any released capacity.

The pipeline will be required to resell that capacity under part 284 to the applicant meeting the releasing customer's specifications. The replacement shipper must, of course, satisfy all of the pipeline's tariff provisions governing shipper eligibility before it can contract with the pipeline for the capacity. Unless the pipeline otherwise agrees (such as where there is a permanent reallocation of annual capacity), the releasing customer will remain liable on its contract but will receive a credit against its bill for the capacity resold. The pipeline itself should be indifferent to the substitution because its total contract demand will remain unchanged.[18]

The Order No. 636 capacity release program reflects the current needs of the natural gas market.[19]

[16] 18 CFR 284.305.

[17] 18 CFR 284.304.

[18] Order No. 636, III FERC Stats. & Regs. Preambles at 30,418–419.

[19] As we stated in Order No. 636–A, III FERC Stats. & Regs. Preambles at 30,526: the Commission found [in Order No. 636] that the pre-Order No. 636 regulatory structure of the pipeline industry has, and will continue to have, a harmful impact on all segments of the natural gas industry and on the Nation. The Commission concluded that it was appropriate to take remedial action to improve the competitive structure of the natural gas industry to further the creation of an efficient national wellhead market for gas without adversely affecting the quality and reliability of the service provided by pipelines to their custom ers. The Commission

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On the other hand, the Order No. 509 capacity allocation program was designed to meet the requirements of the OCSLA and is applicable only to interstate pipelines which operate on the OCS. Since an industry-wide capacity reallocation program has been established through Order No. 636, continued existence of the Order No. 509 capacity allocation program raises the question of which capacity reallocation program applies to OCS transactions. Because of this conflict in authorizations and in furtherance of our goal to implement a uniform capacity release program applicable to all interstate pipelines, the Commission is proposing to remove the regulations, found in § 284.304, which established the Order No. 509 capacity allocation program.

The Commission believes that uniform application of the Order No. 636 capacity reallocation program to all part 284 transportation service is essential to the successful restructuring of the industry under Order No. 636. In light of the development of the Order No. 636 capacity release program, which is applicable to all part 284 transportation (including transportation under the Order No. 509 transportation blankets), the Commission believes that the Order No. 509 capacity allocation program is no longer needed.

This proposed change in the regulations is consistent with the Commission's intent in promulgating the Order No. 509 regulations. While it seemed reasonable to anticipate that the onshore blanket transportation certificates and the Order No. 509 blanket transportation certificates would operate harmoniously, this did not prove to be the case. Certainly, this was the goal sought by the Commission, since "the fundamental purpose of both the OCSLA and [Order No. 509] is to ensure open access transportation of OCS gas to someplace other than another part of the OCS."[20] Even though the offshore blanket transportation certificates vary somewhat from the onshore blanket transportation certificates, due to the requirements of the OCSLA, the Commission's stated intent was to "mirror the onshore open access as closely as possible."[21] In this way, transportation from the OCS to all points onshore could occur without unnecessary regulatory interference. Therefore, the proposed revisions to the regulations would serve to further the Commission's efforts to ensure open access transportation on the OCS.

believes that its action will result in a modern, viable natural gas industry specifically fashioned to the needs of all gas consumers and the Nation for an adequate and reliable supply of clean and abundant natural gas at reasonable prices.

[20] *Id.* at 31,281.

[21] Order No. 509-A, FERC Stats. & Regs. Preambles at 31,338.

B. Rate Filings

The Commission also proposes to remove the Order No. 509 regulations governing rate filings for OCS pipelines with blanket transportation certificates issued in Order No. 509.[22] These regulations required the filing of Part 284 rates for service under the Order No. 509 blankets and were necessary to effectuate the Order No. 509 blanket certificates.[23] However, now that all OCS interstate pipelines have filed rates for transportation service under the certificates issued in Order No. 509, these regulations are no longer required. Additionally, the Commission is proposing to revise § 284.303 of the regulations to conform with the removal of this section.

C. New OCS Pipelines

The only remaining matter which arises out of the revisions to the regulations proposed here is the treatment of any new OCS pipelines, particularly with regard to the OCSLA requirement that interstate pipelines which transport natural gas on the OCS offer open access transportation. The Commission is not proposing to rescind or alter that requirement. Instead, revised § 284.303 would require every OCS pipeline to provide open access, nondiscriminatory transportation service pursuant to a Part 284, Subpart G blanket transportation certificate.

This provision will continue to be imposed on all OCS pipelines, new and existing, in order to ensure that the open access, nondiscriminatory standard for OCS transportation required by section 5 of the OCSLA is maintained. As a result, in order to build new facilities on the OCS and participate in OCS transactions, a part 157 certificate normally would be required for the construction of the facilities, and a part 284 blanket transportation certificate would be required in order to provide service on the new facilities.

This provision would also be imposed in a situation where the ownership of existing OCS pipeline facilities is transferred to a new party. In that event, the new owner of the facilities would be required to obtain a part 157 certificate to operate the facilities as well as part 284 blanket certificate to provide transportation service.

This provision is consistent with Commission policy, as well. The Commission recently enunciated a new policy with regard to authorizations to provide service under part 157:

> We recognize that our denial of case-specific service [part 157] authority constitutes a change in our previous policy in this regard. Pursuant to that policy, we have granted case-specific transportation certificates, even though the services could be performed by the applicants under their blanket certificates, where we were also approving construction of facilities. Because of the investments in facilities, we concluded that case-specific authority was appropriate to ensure long-term authority for the transportation services. [Citation omitted.]
>
> In the past, this policy was appropriate to facilitate pipelines' efforts to obtain construction financing by ensuring that their transportation authority would be of sufficient duration to recover their facilities' costs. The policy also ensured the customers in those proceedings that their pipelines would continue to have transportation authority, regardless of whether the pipelines continued open-access transportation. However, in view of the role played by open-access transportation in today's market, these assurances are no longer needed in every instance where construction authority is sought. More importantly, it would be counter to our open-access transportation policy to add major new facilities to the interstate system that are not subject to open access.[24]

Therefore, even without the requirement proposed in § 284.303, new OCS pipelines would be required to provide open access transportation service under Commission policy. Nevertheless, because the OCSLA requires open access transportation on the OCS and

[22] 18 CFR 284.305.

[23] Section 4(c) of the NGA, rates for any certificated transportation service must be on file with the Commission before that particular service may commence.

[24] Blue Lake Gas Storage Co., *et al.*, 59 FERC ¶ 61,118, 61,456 (1992), *reh'g denied*, 61 FERC ¶ 61,264 (1992), *order on reh'g pending. See also*, Texas Eastern Transmission Corporation, 62, FERC ¶ 61,019 (1993) (where the Commission denied an application for case-specific transportation authorization and required that service be provided under blanket transportation authorization, based on the policy announced in *Blue Lake*, above); Algonquin LNG, Inc., *et al.*, 61 FERC ¶ 61,292 (1992) (where the Commission denied a request to extend the term of a limited-term, case-specific certificate and required that service be provided under blanket transportation authorization, based on the policy announced in *Blue Lake*, above). *But see* Algonquin Gas Transmission Company, 60 FERC ¶ 61,125 (1992) (where the Commission issued a case-specific certificate for construction of approximately 1.9 miles of looping facilities to provide firm transportation service for one customer); Eastern Shore Natural Gas Company, 60 FERC ¶ 61,270 (1992) (where the Commission amended the service requirements of a previously issued case-specific certificate); Transcontinental Gas Pipe Line Corporation, 60 FERC ¶ 61,271 (1992) (where the Commission allowed the amendment of a case-specific certificate rather than requiring performance under a Part 284 certificate, since an incremental rate specifically based on the incremental facilities would be charged).

the ensure continued compliance with the OCSLA mandate, the Commission will impose the open access transportation requirement on OCS pipelines through our regulations, instead of on a case-by-case basis.

VII. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any Commission action that may have a significant adverse effect on the human environment.[25] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[26] The action taken here will not have a significant adverse impact on the human environment and falls within the categorical exemptions provided in the Commission's regulations. Therefore, an environmental assessment is unnecessary and was not prepared in this rulemaking.

VIII. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act of 1980 (RFA)[27] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA is intended to ensure careful and informed agency consideration of rules that may significantly affect small entities and to encourage consideration of alternative approaches to minimize harm or burdens on small entities. Given the nature of this proposed rule, the Commission concludes that there will not be a significant impact on a significant number of small entities. Therefore, pursuant to section 605(b) of the RFA,[28] the Commission hereby certifies that the proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities, and that, even if the rule were to have a significant impact on a substantial number of small entities, it would be to their benefit. Accordingly, no regulatory flexibility analysis is required.

IX. Information Collection Requirement

The Office of Management and Budget's (OMB) regulations require that OMB approve certain information and recordkeeping requirements imposed by agency rules.[29] The information collection requirements in this proposed rule are contained in FERC–545 "Gas Pipeline Rates: Rate Change (Non-Formal) (1902–0154).

The Commission uses the data collected in these information requirements to carry out its regulatory responsibilities pursuant to the OCSLA and the NGA. The Commission's Office of Pipeline and Producer Regulation uses the data to ensure that all rates and charges in proposed tariff sheets are just and reasonable in light of transportation activities authorized for OCS pipelines.

The Commission is submitting to the Office of Management and Budget a notification that these collections of information will no longer be required or have been modified. Interested persons may obtain information on these reporting requirements by contacting the Federal Energy Regulatory Commission, 941 North Capitol Street, NE., Washington, DC 20426 [Attention: Michael Miller, Information Policy and Standards Branch, (202) 208–1415]. Comments on the requirements of this rule can be sent to the FERC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

X. Comment Procedures

The Commission invites interested persons to submit written comments on the matters proposed in this notice, including any related matters or alternative proposals that commenters may wish to discuss. An original and 14 copies of the initial comments to this notice must be filed with the Commission no later than June 21, 1993. An original and 14 copies of any reply comments must be filed no later than July 21, 1993. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, and should refer to Docket No. RM93–8–000.

Written comments will be placed in the public files of the Commission and will be available for inspection during regular business hours at the Commission's Public Reference Room, room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

List of Subjects in 18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission proposes to amend part 284, chapter I, title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Lois D. Cashell,

Secretary.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

1. The authority citation for part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352; 43 U.S.C. 1331–1356.

2. Section 284.303 is revised to read as follows:

§ 284.303 OCS blanket certificates.

Every OCS pipeline (as that term is defined in § 284.302(b)) is required to provide open access, nondiscriminatory transportation service pursuant to a blanket transportation certificate issued under subpart G of this part.

§§ 284.304 and 284.305 [Removed]

3. Sections 284.304 and 284.305 are removed.

[FR Doc. 93–9781 Filed 4–26–93; 8:45 am]

BILLING CODE 6717–01–M

[25] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles ¶ 30,783 (1987).

[26] 18 CFR 380.4(a)(27).

[27] 5 U.S.C. §§ 601–612.

[28] 5 U.S.C. 605(b).

[29] 5 CFR part 1320.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[CO–53–92]

RIN 1545–AR37

Withdrawal of Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Withdrawal of proposed regulations.

SUMMARY: This document withdraws proposed regulations under 26 CFR part 1. This action is taken in response to the Regulatory Burden Reduction Initiative.

DATES: These proposed rules are withdrawn April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Paul C. Feinberg of the Office of the Associate Chief Counsel (Domestic), within the Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, attention: CC:DOM, (202) 622–3325, not a toll-free number.

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SUPPLEMENTARY INFORMATION:

Background

On April 2, 1992, the Internal Revenue Service published in the **Federal Register** the Request for Comments on Regulatory Burden Reduction Initiative (57 FR 11277), in which the Treasury Department and the Internal Revenue Service solicited public comment on a program to:

(1) Close certain regulations projects that are no longer needed or will not be pursued in the foreseeable future;

(2) Withdraw certain proposed regulations which there are no current plans to finalize; and

(3) Redesignate certain regulations as relating to prior law in light of subsequent changes to the law.

Section II of that document listed proposed regulations to be withdrawn. Those proposed regulations which did not receive any comments or which received only comments favorable to the program are withdrawn. Accordingly, pursuant to the announcement in the **Federal Register** (57 FR 11277), this document withdraws the proposed regulations set forth below from the **Federal Register** system.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Paul C. Feinberg of the Office of Associate Chief Counsel (Domestic), within the Office of the Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing the regulations.

List of Subjects

26 CFR 1.46–1 Through 1.50–1

Income taxes, Investments, Reporting and recordkeeping requirements.

26 CFR 1.101–1 Through 1.133–1T

Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.401–0 Through 1.419A–2T

Bonds, Employee benefit plans, Income taxes, Pensions, Reporting and recordkeeping requirements, Securities, Trusts and trustees.

26 CFR 1.451–1 Through 1.458–10

Accounting, Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.501(a)–1 Through 1.505(c)–1T

Income taxes, Nonprofit organizations, Reporting and recordkeeping requirements.

26 CFR 1.851–1 Through 1.860–5

Reporting and recordkeeping requirements.

26 CFR 1.1231–1 Through 1.1297–3T

Income taxes.

Withdrawal of Proposed Amendments to the Regulations

Accordingly, under the authority of 26 U.S.C. 7805, proposed amendments to 26 CFR part 1 are withdrawn as listed in the following table:

PART 1—[AMENDED]

Proposed regs. sec.	FR cite and project No.	Subject
1.48–7	52 FR 35438 (9/21/87) (LR–183–82).	Basis adjustment to reflect investment tax credit.
1.116–3, 1.854–1, 1.857–6, 1.1232–3A	47 FR 5902 (2/9/82) (LR–83–80)	Partial exclusion of dividends and interest received by individuals.
1.414(m)–5, 1.414(m)–6, 1.414(n)–1 through 1.414(n)–4, 1.414(o)–1(c) through 1.414(o)–1(k)(1), 1.414(o)–1(k)(3), 1.414(o)–1(k)(4).	52 FR 32502 (8/27/87) (LR–111–82).	Affiliated service groups, employee leasing, and other arrangements.
1.451–3	51 FR 401 (1/6/86) (LR–121–85)	Accounting for long term contracts.
1.501(c)(12)–2	49 FR 1244 (1/10/84) (LR–17–81)	Rules clarifying the regulations with respect to computation of gross income of an electric cooperative.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 93–9695 Filed 4–26–93; 8:45 am]

BILLING CODE 4830–01–4

identify this notice (CGD1 93–008) and the specific section of the proposal to which their comment applies, and give reason for each comment. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Boating Safety Division at the address under **ADDRESSES**. If it determine that the opportunity for oral presentations will aid this rule making, the Coast Guard will hold a public hearing at a time and place announced by a later in the **Federal Register**.

Drafting Information

The drafters of this notice are LT E.G. Westerberg, Project Manager, First Coast Guard District, and LCDR J.D. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Background and Purpose

On December 18, 1992 the sponsor, New Jersey Offshore Powerboat Racing Association submitted a request to hold an offshore power boat race in the Atlantic Ocean on the New Jersey coast. Two Special Local Regulations currently exist which regulate the event. The Coast Guard proposes to revise the permanent regulation, 33 CFR 100.505 and remove 33 CFR 100.109. The regulation would establish a temporary regulated area in the Atlantic Ocean and Manasquan Inlet for this event known as the "New Jersey Offshore Power Boat Race." The proposed regulation would provide specific guidance to control vessel movement during the limited duration of the race.

This event will include up to 90 powerboats competing on a triangular course at speeds approaching 100 m.p.h. Due to the inherent dangers of a race of this type, vessel traffic will be temporarily restricted to promote safe navigation.

The sponsor, New Jersey Offshore Powerboat Racing Association, conducted this event along the New Jersey coast in 1992. This year's race will follow a similarly marked course as in the previous year. However, the regulated area will be extended to include Manasquan Inlet.

Discussion of Proposed Amendments

The Coast Guard proposes to rewrite the existing Special Local Regulations to better regulate the event. The regulated area will include specified waters of the Atlantic Ocean adjacent to Manasquan Inlet and Seaside Park, New Jersey. Specified portions of Manasquan Inlet are included to better regulate vessel traffic in the vicinity of the race course. The Special Local Regulation will close the regulated area to all traffic from 9 a.m. to 6 p.m. on July 17, 1993 with a rain date July 18, 1993. This closure is needed to protect spectators and participants from the hazards that accompany a high speed powerboat race.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard believes the economic impact of this proposal to be minimal and that a Regulatory Evaluation is unnecessary due to the limited duration of the race, the extensive advisories that have been and will be made, and the fact that the event is taking place on a Saturday, which is normally a light volume day for commercial marine traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard expects the impact of this proposal to be minimal. For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.c of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulations

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.505 is revised to read as follows:

§ 100.505 New Jersey Offshore Power Boat Race, Spring Lake and Seaside Heights, NJ

(a) *Regulated Area.* The regulated area includes:

(1) The coastal Atlantic waters between the Towns of Spring Lake and Seaside Heights, with a Northern boundary of an east to west line at latitude 40–10–00 North, a Southerly boundary of an east to west line at latitude 39–55–00 North, an Easterly boundary of a line drawn parallel to, and one and one-half (1½) miles seaward from the New Jersey coast between the north and south boundaries of the regulated area, and a Western boundry of the New Jersey shoreline between the north and south boundaries of the regulated area.

(2) The Manasquan River: From the New Jersey Transit Railroad Bridge to the mouth of the Manasquan Inlet.

(b) *Special Local Regulations.* (1) Commander, U.S. Coast Guard Group Sandy Hook reserves the right to delay, modify or cancel the race as conditions or circumstances require.

(2) The regulated area will be closed to all traffic except participants, patrol craft, and those vessels authorized by the New Jersey Offshore Powerboat Racing Association. The Commanding Officer, Coast Guard Group Sandy Hook or designee may, at his discretion, allow vessels to enter the regulated area between races. Transiting and spectating

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD1 93–008]

Special Local Regulation: New Jersey Offshore Powerboat Race, Manasquan, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard proposes to amend the existing special local regulation for the New Jersey Offshore Powerboat Race. The race will be held on Saturday, July 17, 1993, in the waters of the Atlantic Ocean between Spring Lake and Seaside Park, New Jersey. This regulation is needed to protect the boating public from the hazards associated with high speed power boat racing in confined waters.

DATES: Comments must be received June 11, 1993.

ADDRESSES: Comments should be mailed to the Commander, First Coast Guard District, Boating Safety Division, 408 Atlantic Ave., Boston, MA 02110–3350, or may be delivered to room 428 at the address listed above, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant E.G. Westerberg, Chief, Boating Safety Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking process by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses,

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vessels are exempted from this requirement as follows:

(i) Vessels exiting the Manasquan Inlet must proceed in a northerly direction only: Navigation in any other direction is prohibited. Coast Guard patrol vessels will be present to direct exiting vessels to proceed north within one-quarter (¼) mile of the shore until clear of the regulated area in the vicinity of Spring Lake, NJ.

(ii) Spectator Vessels. The spectator fleet will remain northeast of the northern edge of the race adjacent to Manasquan Inlet. The sponsor shall provide a readily identifiable means to mark the spectator area. Vessels will not be allowed to observe the race from any other location within the regulated area.

(3) No vessel shall proceed at a speed greater than six (6) knots while in Manasquan Inlet during the effective period of regulation.

(4) Race participants must remain on the course when racing. Any participating vessel straying from the race course must reduce speed and return to the course at headway speed. Only disabled race boats will be allowed to enter the spectator area. If a contestant enters the spectator area for any other reason, they will be automatically disqualified and the race may be terminated.

(5) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(6) In the event of an emergency or as directed by the Coast Guard patrol commander, the sponsor shall immediately cease racing activities. At the discretion of the patrol commander, any violation of the provisions contained within this regulation shall be sufficient grounds to terminate the event.

(c) *Effective period.* This regulation will be effective from 9 a.m. through 6 p.m. on July 17, 1993 and annually thereafter as published in the **Federal Register**. In case of inclement weather, this regulation will be effective from 9 a.m. through 6 p.m. on July 18, 1993.

§ 100.109 [Removed]

3. Section 100.109 is removed.

Dated: April 21, 1993.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, First Coast Guard District.

[FR Doc. 93-9842 Filed 4-26-93; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

34 CFR Chapter VI

The Higher Education Amendments of 1992; Negotiated Rulemaking

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of additional meetings to conduct negotiated rulemaking.

SUMMARY: The Acting Assistant Secretary for Postsecondary Education of the United States Department of Education (Department) will convene a group to participate in a negotiated rulemaking session. This is the second of two negotiated rulemaking sessions convened to implement certain provisions of the Higher Education Amendments of 1992 that relate to student financial assistance programs.

DATES: The two meetings are scheduled from April 26 through 30, 1993 and from June 14 through 18, 1993. Each full day of negotiations will begin at 9 a.m.

ADDRESSES: Both meetings will be held at the Woodfin Suites Hotel, 1380 Piccard Drive, Rockville, Maryland. Telephone number: 301/590-9880. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1-800-877-8339 between 8 a.m. and 7 p.m., Eastern time.

FOR FURTHER INFORMATION CONTACT: If you have any questions, please contact Mr. Robert W. Evans at 202/708-8242. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1-800-877-8339 between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION:

The group of negotiators will include individuals representing students, legal assistance organizations that represent students, institutions of higher education, guaranty agencies, lenders, secondary markets, loan services, guaranty agency services, and collection agencies. This group will convene twice, once in April and again in June. The Acting Assistant Secretary, by dividing the negotiations in two meetings, hopes to provide negotiators with sufficient time to confer and get feedback from a variety of interested parties. This group will review draft proposed regulations for certain sections of parts B, G, and H of title IV of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1992, that were not reviewed in the earlier negotiated rulemaking session. These sections deal with student assistance general provisions in 34 CFR part 668, subparts A and B; third-party servicers and consultants; ability-to-benefit; and the State postsecondary review program. The draft proposed regulations for these sections were developed following regional meetings throughout the country at which issues related to these regulations were discussed.

The Department has arranged for mediators from the private sector to mediate the upcoming negotiated-rulemaking session. The mediators will not be involved with the substantive development of the proposed regulations. Their role is to:

- Chair the negotiations;
- Help the negotiating process run smoothly;
- Help participants define issues and reach consensus.

The meetings are open to members of the public who wish to observe the process.

Issues for Negotiation

The student financial assistance issues that will be negotiated are those in certain sections of parts B, G, and H of title IV of the Higher Education Act where the Secretary has the authority to set policy. The Secretary published a selective list of these issues in the **Federal Register** notice announcing the regional meetings (57 FR 38639, August 26, 1992).

Background

Section 492 of part G of title IV of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1992, contains procedural requirements the Department is to follow in developing and issuing regulations to govern parts B, G, and H. The statute further requires that participants in this negotiated rulemaking process be chosen by the Secretary from individuals nominated by groups participating in the regional meetings that preceded the negotiating sessions. The statute requires the Secretary to select individuals as negotiators who reflect the "diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets." The Department announced that it would hold regional meetings (57 FR 38639, August 26, 1992) and convened these meetings in

San Francisco, CA; New York City, NY; Kansas City, MO; and Atlanta, GA, between September 14 and September 30, 1992.

Groups participating in these regional meetings nominated more than 275 individuals to serve as negotiators.

Participants

The following is a list of the participants whom the Department has invited to participate in the negotiated rulemaking. The list also includes the names of mediators and Federal negotiators. The Department may add additional negotiators to this list. Each participant represents one of the groups specified in the statute (section 492(a)1)). The Department has attempted to invite from among those individuals nominated by the groups represented at the regional meetings a range of individuals representing the various viewpoints of the interest groups specified in the statute and the various geographic areas of the nation.

Negotiators For Group 1: Student Assistance General Provisions, 34 CFR Part 668, Subparts A & B; Third-Party Servicers; and Consultants

Robert W. Evans, Director, Division of Policy Development, Policy, Training & Analysis Service, U.S. Department of Education, 400 Maryland Avenue, SW., ROB-3, room 4310, DC
Kenneth W. Babcock, Directing Attorney, Public Counsel, CA
Joan Berkes, Associate Director for Professional Development, National Association of Student Financial Aid Administrators, DC
Ellen V. Blackmun, Vice President, Student Finance Education Management Corporation/Art Institute International, PA
Mary F. Bushman, Vice President Government Relations, AFSA Data/Fleet Financial Group, IL
Mary J. Calais, Director Public Policy, National Association of College and University Business Officers, DC
Carol Cataldo, Executive Director of CATDS, DC
Nancy Coolidge, Office of the President, University of California, Oakland, CA
Mary L. Dover, Director of Financial Aid, Johnson County Community College, KS
Gary Frazier, Vice President of Sales, Unger & Associates, Inc., TX
Jean S. Frohlicher, President, National Council of Higher Education Loan Programs, Inc., DC
Joshua Grabel, Associated Students of the University of Arizona, AZ
Robert S. Inglis, Vice President, Servicing, Policy & Compliance, Student Loan Marketing Association, VA
David S. Levy, Director of Financial Aid, California Institute of Technology, CA
Douglas Morrow, California Student Association of Community Colleges, CA
Barmak Nassirian, Assistant Director, Federal Relations, American Association of State Colleges and Universities, DC
Edward E. Pollack, Executive Vice President/Chief Operating Officer, USA Funds, Inc., IN
Sheila M. Ryan, Director of Planning & Development, Nellie Mae, MA
Robert Zier, Senior Vice President, Manager of Government Relations and Compliance, Wachovia Student Financial Services, Inc., NC

Negotiators For Group 2: Ability-to-Benefit and State Postsecondary Review

Brian Kerrigan, Acting Director, Policy, Training, & Analysis Service, U.S. Department of Education, 400 Maryland Avenue, SW., ROB-3, room 4310, DC
Carol Sperry, Acting Director, Institution Participation and Oversight Service, U.S. Department of Education, 400 Maryland Avenue, SW., ROB-3, room 3919, DC
Judith Flink, Director of Student Financial Services, University of Illinois-Chicago, IL
Elizabeth M. Imholz, Attorney, Legal Services for New York City, CA
Susan Lipsmeyer, Director of Financial Aid, Grossmont College, CA
Dr. Dallas Martin, President, National Association of Student Financial Aid Administrators, DC
Kenneth A. Miller, Executive Director, Council for Private Postsecondary & Vocational Education, CA
Carolyn Moffet, President, Superior Career Institute, Inc., NY
A. Jack Moore, President, City College, Inc., OK
Carol A. Mowbray, Coordinator, Student Benefits & Support Services, Northern Virginia Community College, VA
Mark L. Pelesh, Legal Counsel, Accrediting Commission for Trade & Technical Schools, Cohn & Marks, DC
Dr. John Petersen, Executive Director, Accrediting Commission for Community & Junior Colleges, Western Association of Schools and Colleges, CA
Arliss L. Roaden, Executive Director, Tennessee Higher Education Commission, TN
Phillip H. Roush, Commissioner, Indiana Commission on Proprietary Education, IN
Jeanne Russell, Administrator, Accrediting Bureau of Health Education Schools, IN
Patty Sullivan, Senior Policy and Legislative Officer, National Governors' Association, DC
Dr. Jane A. Stockdale, Chief, Division of Veteran/Military Education, Pennsylvania Department of Education, PA
Mike Van Ryn, Assistant Commissioner for Quality Assurance, Board of Regents, New York State Education Department, NY
Jane Wellman, Vice President for Government Relations, National Association of Independent Colleges & Universities, DC
Brian J. Williams, United Council of the University of Wisconsin Student Government, Inc., WI

Dated: April 21, 1993.

Maureen A. McLaughlin,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 93-9865 Filed 4-23-93; 9:30 am]

BILLING CODE 4000-01-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL 4618-2]

Public Meeting of the Hazardous Waste Manifest Rulemaking Committee

AGENCY: Environmental Protection Agency.

ACTION: Public meeting.

SUMMARY: As required by the Federal Advisory Committee Act, we are giving notice of the next public meeting of the Hazardous Waste Manifest Rulemaking Committee. The meeting is open to the public without advance registration.

The purpose of the meetings is to continue work on revising the uniform national hazardous waste manifest form and rule.

DATES: The Committee meeting will be held on May 10, from 10 am to 6 pm, and on May 11, 1993 from 8:30 am to 4 pm.

ADDRESSES: The meeting will be held at Resolve-World Wildlife, 1250 Twenty-fourth Street NW., Fifth Floor, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on the substantive matters of the rule should contact Rick Westlund, Regulatory Management Division, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-2745. Persons needing further information on procedural or logistical matters should call Deborah Dalton, Consensus and Dispute Resolution

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Program, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–5495, or the Committee's facilitator, Suzanne Orenstein, Resolve, 1250 24th Street, NW., suite 500, Washington, DC 20037, (202) 778–9533.

Dated: April 22, 1993.

Deborah S. Dalton,

Deputy Director, EPA Consensus and Dispute Resolution Program, Office of Regulatory Management and Evaluation.

[FR Doc. 93–9949 Filed 4–26–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–97, RM–8203]

Radio Broadcasting Services; Norway, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Zephyr Broadcasting Inc., proposing the substitution of Channel 232C3 for Channel 232A at Norway, Michigan, and modification of the license for Station WZNL (FM) to specify operation on the higher class channel. Canadian concurrence will be requested for this allotment at coordinates 45–46–29 and 87–55–22. We shall propose to modify the license for Station WZNL (FM) in accordance with § 1.420(g) of the Commission's Rules and will not accept competing expressions of interest for the use of the channel or require petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before June 11, 1993, and reply comments on or before June 28, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel as follows: Brian M. Madden, Laventhal, Senter & Lerman, 2000 K Street, NW., suite 600, Washington, DC 20006–1809.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–97, adopted March 26, 1993, and released April 20, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–9690 Filed 4–26–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–96, RM–8207]

Radio Broadcasting Services; Rushford, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Wheeler Broadcasting of Minnesota, Inc., requesting the substitution of Channel 257C3 for Channel 257A at Rushford, Minnesota, and modification of the license for Station KWNO–FM to specify operation on Channel 257C3. The coordinates for Channel 247C3 are 43–50–51 and 91–42–11. We shall propose to modify the license for Station KWNO–FM in accordance with § 1.420(g) of the Commission's Rules and will not accept competing expressions of interest for the use of the channel or require petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before June 11, 1993, and reply comments on or before June 28, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Ray L. Wheeler, Chairman, Wheeler Broadcasting of Minnesota, Inc., 216 Center Street, Winona, Minnesota 55987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–98, adopted March 26, 1993, and released April 20, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–9691 Filed 4–26–93; 8:45 am]

BILLING CODE 6712–01–M

47 FR Part 73

[MM Docket No. 93–100, RM–8175]

Radio Broadcasting Services; Cleveland and Ebenezer, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Radio Cleveland, Inc. and JimBar Enterprises, proposing the substitution of Channel 280C3 for Channel 280A at Cleveland, Mississippi, and modification of the license for Station WCLD–FM and deletion of vacant Channel 280A at Ebenezer to accommodate the upgrade of Cleveland. The coordinates for Channel 280C3 at Cleveland are 33–43–59 end 90–41–38. We shall propose to modify the license for Station WCLD–FM for Channel 280A in accordance with § 1.420(g) of the Commission's Rules and will not accept competing expressions of interest for the use of the channel or require petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties. Should interest be expressed for retention of Channel 280A in Ebenezer, a new filing window would be opened for that channel and Station WCLD–FM could not be upgraded to Channel 280C3.

DATES: Comments must be filed on or before June 11, 1993, and reply comments on or before June 28, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Frank R. Jazzo, Fletcher, Heald & Hildreth, 1300 N. 17th Street, 11th Floor, Rosslyn, Virginia 22079.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–100, adopted March 29, 1993, and released April 20, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For more information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Review Division, Mass Media Bureau.

[FR Doc. 93–9688 Filed 4–26–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–99, RM–8202]

Radio Broadcasting Services; Moberly, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by FM 105, Inc. proposing the substitution of Channel 288C2 for Channel 288C3 at Moberly, Missouri, and modification of the construction permit for Station KZZT(FM) to specify operation on Channel 288C2. The coordinates for Channel 288C2 at Moberly are 39–25–45 and 92–22–49.

DATES: Comments are due on or before June 11, 1993, and reply comments on or before June 28, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel as follows: John R. Wilner, Bryan Cave, 700 Thirteenth Street, NW., suite 700, Washington, DC 20005–3960.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–99, adopted March 26, 1993, and released April 20, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Medio Bureau.

[FR Doc. 93–9689 Filed 4–26–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–92, RM–8205]

Radio Broadcasting Services; Howe, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Maple Communications Limited Partnership, permittee of Station KHYI–FM, Channel 237A, Howe, Texas, proposing the substitution of Channel 237C3 for Channel 237A at Howe and modification of its authorization to specify operation on the higher powered channel. Channel 237C3 can be allotted to Howe in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.0 kilometers (7.5 miles) south to accommodate Maple's desired site. The coordinates for Channel 237C3 are 33–23–58 and 96–35–51. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest for use of Channel 237C3 at Howe or require petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before June 11, 1993, and repiy comments on or before June 28, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Margaret M. Graves, Esq., Latham & Watkins, 1001 Pennsylvania Avenue, NW., suite 1300, Washington, DC 20004 (Counsel for petitioner).

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FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Medical Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–92, adopted March 25, 1993, and released April 20, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–9692 Filed 4–26–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–91, RM–8197]

Radio Broadcasting Services; Berlin, De Forest and Wautoma, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by De Forest Broadcasting Company requesting the allotment of Channel 226A to De Forest, Wisconsin, as that community's first local transmission service. The coordinates for Channel 226A are 43–16–08 and 89–20–09. There is a site restriction 1.9 kilometers (1.2 miles) north of the community. To accommodate the allotment at De Forest, we shall also propose the substitution of Channel 272A for Channel 226A at Wautoma, Wisconsin, and Channel 284A for Channel 272A at Berlin, Wisconsin. Channel 272A is licensed to Station WISS–FM, Berlin. Channel 284A can be allotted to Berlin at the licensed site for Station WISS–FM (43–56–55 and 88–59–09). Wautoma Radio Company is the sole applicant for Channel 226A at Wautoma. Channel 272A can be allotted to Wautoma at the applicant's specified site for Channel 226A (44–04–18 and 89–17–30).

DATES: Comments must be filed on or before June 11, 1993, and reply comments on or before June 28, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel as follows: Richard J. Hayes, Jr., 13809 Black Meadow Road, Greenwood Plantation, Spotsylvania, Virginia 22553.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making and Order to Show Cause, MM Docket No. 93–91, adopted March 25, 1993, and released April 20, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–9693 Filed 4–26–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 1-year Finding for a Petition To List Four Plant Species Under the Endangered Species Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 1-year petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service), under the Endangered Species Act of 1973, as amended (Act), announces a 1-year finding on a petition to add four plant species, *Amsinckia carinata* (Malheur Valley fiddleneck), *Eriogonum crosbyae* (Crosby's buckwheat), *Ivesia rhypawra* var. *rhypara* (grimy ivesia), and *Senecio ertterae* (Erter's senecio), to the List of Endangered and Threatened Plants. After review of all available scientific and commercial information, the Service determines that listing is not warranted for any of the four species under consideration at this time.

The limited distribution of these plants could make them vulnerable to mining or grazing; however, these activities are not imminent threats to the plants at this time. *Ivesia rhypora* var. *rhypara* and *Senecio ertterae* are the subject of conservation agreements with the Bureau of Land Management in Oregon. In the event that the protective measures envisioned by the conservation agreements and by the land managing agencies are not successful, the Service could list these species at a later date.

DATES: The finding announced in this notice was made on April 21, 1993. Comments and information may be submitted until further notice.

ADDRESSES: Comments and materials regarding the petition finding may be submitted to the Field Supervisor, Boise Field Office, U.S. Fish and Wildlife Service, 4696 Overland Road, room 576, Boise, Idaho 83705. The petition, finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert L. Parenti, at the above address (208/334–1931).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act), for any petition to revise

the Lists of Endangered and Threatened Wildlife and Plants that presents substantial scientific and commercial information, the U.S. Fish and Wildlife Service (Service) is required to make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Section 4(b)(3)(C) requires that petitions for which the requested action is found to be "warranted but precluded" should be treated as though resubmitted on the date of such finding, i.e., requiring a subsequent finding to be made within 12 months.

On October 8, 1991, the Service received a petition dated October 7, 1991, from Stu Garrett, to list *Amsinckia carinata, Eriogonum crosbyae, Ivesia rhypara* var. *rhypora*, and *Senecio ertterae* as endangered. A 90-day finding that the petition presented substantial information that the requested action may be warranted was announced on the Federal Register on November 19, 1992 (57 FR 54547).

On the basis of the best available scientific and commercial information, the Service finds that listing *Amsinckia carinata, Eriogonum crosbyae, Ivesia rhypara* var. *rhypara*, and *Senecio ertterae* as endangered is not warranted at the present time.

Amsinckia carinata is a synonym of *A. vernicosa* ssp. *vernicosa*, a species that the Service considers too widespread and abundant for consideration for Federal listing (55 FR 6187). *Eriogonum crosbyae, Ivesia rhypara* var. *rhypara*, and *Senecio ertterae* may face threats from mining, grazing, and other factors; however, the risks to these three species from these threats are currently low. Although mining claims exist, they are not as extensive as originally thought. The declining trend in mining activity is expected to continue as claim holding fees have been raised, and mineral exploration has become less profitable. In addition, the petitioned species occur on substrates that possess low mineral potential.

Grazing occurs at *Ivesia rhypara* var. *rhypara* and *Senecio ertterae* sites in Oregon; however, no information indicates that impacts from grazing are extensive enough to affect the survival of the species at the present time. The Service does not expect mining, grazing, or other factors to occur so quickly or extensively, as to pose substantial, immediate threats to the three species in question.

The Service currently considers threats to *Eriogonum crosbyae, Ivesia rhypara* var. *rhypara*, and *Senecio ertterae* to be low. Listing these species as either endangered or threatened is not appropriate at this time because they are not presently in danger of extinction or expected to become so in the foreseeable future. In the event that conditions change and the species become imperiled due to factors mentioned in the petition or other unforeseen factors, the Service could list these species as endangered or threatened under the Act. The Service will continue to provide technical assistance to State and Federal agencies to address the conservation needs of the above species.

Authors

The primary authors of this notice are Robert Parenti and Diana Hwang (See ADDRESSES section above).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: April 21, 1993.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–9803 Filed 4–26–93; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AB42

Endangered and Threatened Wildlife and Plants; Proposed Determination of Endangered Status for Argali in Kyrgyzstan, Mongolia, and Tajikistan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine endangered status for the argali (*Ovis ammon*), a wild sheep, in Kyrgyzstan, Mongolia, and Tajikistan. The species currently is classified as threatened in those three countries and as endangered in all other parts of its range. The threatened classification, and a current special rule governing trophy importation from Kyrgyzstan, Mongolia, and Tajikistan, now appear inadequate to provide for the protection of the species. The Service seeks relevant data and comments from the public. The comments and other available information will be evaluated, and such review may lead to withdrawal or to a final rule that differs substantially from this proposal. In particular, should sufficient data be received, the final rule could maintain threatened status for the argali in one or more of the involved countries, and incorporate a revised special rule providing for limited importation.

DATES: Comments must be received by October 25, 1993. Public hearing requests must be received by June 11, 1993.

ADDRESSES: Comments, information, and questions should be submitted to the Chief, Office of Scientific Authority; Mail Stop: Arlington Square, room 725; U.S. Fish and Wildlife Service; Washington, DC 20240 (Fax number 703–358–2276). Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; room 750, 4401 North Fairfax Drive; Arlington, Virginia 22203). Comments and materials received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address (phone 703–358–1708).

SUPPLEMENTARY INFORMATION:

Background

The argali (*Ovis ammon*) is the largest species of wild sheep. Its historic range includes Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, southern Siberia, Mongolia, north-central and western China including Tibet, Nepal, and the Himalayan portions of Afghanistan, Pakistan, and India. In a final rule published pursuant to the endangered Species Act of 1973 (Act) in the Federal Register of June 23, 1992 (57 FR 28014–28024), and becoming effective on January 1, 1993, the Service classified the argali as endangered throughout its range, except in Kyrgyzstan, Mongolia, and Tajikistan, where it was designated as threatened. A special rule provided for the limited importation into the United States of argali trophies taken legally in Kyrgyzstan, Mongolia, and Tajikistan, once the Service had received from the governments of those countries properly documented and verifiable certification that: (1) Argali populations are sufficiently large to sustain sport hunting; (2) regulating authorities have the capability to obtain sound data on these populations; (3) regulating authorities recognize these populations as a valuable resource and

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have the legal and practical means to manage them as such; (4) the habitat of these populations is secure; (5) regulating authorities can ensure that the involved trophies have in fact been legally taken from the specified populations; and (6) funds derived from the involved sport hunting are applied substantially to argali conservation. Extension of this special rule to argali populations in certain other countries, together with reclassification of such populations to threatened status, was stated to be a future possibility.

In connection with its new regulation of June 23, 1992, the Service noted that the argali (exclusive of the subspecies *O. a. hodgsoni*) is on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and thus until the effective date of the regulation could be imported into the U.S. upon presentation of a proper CITES export permit from the country of origin. Section9(c)(2) of the Act provides that the otherwise lawful importation of wildlife that is not an endangered species listed pursuant to section 4 of the Act, but that is on Appendix II of CITES, shall be presumed, under certain circumstances, to be in compliance with provisions of the Act and implementing regulations. There had been some question as to whether this provision of the Act might automatically require allowing the importation of a species that is both listed as threatened and on Appendix II, and preclude the issuance of more restrictive special rules covering importation. However, in a detailed discussion in the background to the final rule of June 23, 1992, the Service concluded that such special rules may be issued to provide for the conservation of the involved species.

It was emphasized that the Service's interpretation of Section 9(c)(2) was a key factor in the assignment of threatened, rather than endangered, status to the argali in Kyrgyzstan, Mongolia, and Tajikistan. Had the Service been unable to issue a special rule restricting importation of trophies from those countries, and if therefore importation could have proceeded without assurances of adequate population status and management, such a situation would have become a contributory element to factor "D" of section 4(a)(1) of the Act, "the inadequacy of existing regulatory mechanisms," and likely would have been sufficient to warrant endangered classification of the involved populations. The decision to assign threatened, rather than endangered, status to those populations was made by a very narrow margin. In the final rule of June 23, 1992, the Service reported that the various problems confronting those populations were such that reclassification to endangered status remained under active consideration. It was noted that reclassification might become especially advisable if the Service found itself unable to adequately regulate the situation pursuant to a threatened classification.

In promulgating the final rule the Service acted in accordance with the requirement of section 4(d) of the Act that special rules issued for threatened species be "necessary and advisable to provide for the conservation of such species." The Service recognized that there was a reasonable argument for the proposition that controlled sport hunting may provide economic incentives contributing to the conservation of certain wildlife populations. During the periods of review and comment prior to the final rule, various interests had argued that sport hunting programs, with consequent exportation of trophies, might encourage and provide necessary funds for the conservation of the argali. Consideration of such interests, and allowance for their development and submission of information supporting their position, was a factor in the unusual length of the argali rulemaking process. There was a notice of a review on November 24, 1989 (54 FR 48723), a notice of intent to propose a rule on May 23, 1990 (55 FR 21207), a proposed rule on October 5, 1990 (55 FR 40890–40896), an extension of the comment period on February 8, 1991 (56 FR 5192), an extension of the deadline for a final rule on October 25, 1991 (56 FR 55266–55267), another reopening of the comment period on January 8, 1992 (57 FR 659), and the final rule of June 23, 1992. Throughout this publication process, and in extensive supplemental correspondence and announcements, the Service emphasized that the importation of argali trophies was feasible, provided that substantive data were made available showing that such activity was beneficial to the conservation of the overall species. The Service solicited these data from appropriate foreign governments and many other concerned parties, and gave ample opportunity for them to respond. Even upon the final rule, the effective date was set back more than six months so as not to interfere with the coming hunting season and to allow still further opportunity for response to the rule's requirement for the properly documented and verifiable certifications listed above. Moreover, as suggested in the final rule, the Service is now funding its own surveys that may help meet this requirement for certain of the involved argali populations.

Regardless of the above considerations, on January 4, 1993, just after the final rule became effective, the Service was challenged in two separate lawsuits. The plaintiffs include a number of hunting organizations and businesses. They contend, among other things, that the Service failed to give adequate notification of the argali special rule and that section 9(c)(2) of the Act does require that argali trophies be allowed to enter the United States simply upon presentation of a CITES export permit from the country or origin. These contentions, coming after the extensive opportunity offered for comment and presentation of data on the argali situation, suggest to the Service that the plaintiffs do not consider that the conditions of the final rule can be met and/or that they do not wish to assist in any effort to do so. There actions illustrate a lack of support for the conservation purposes that were a basis for the protective regulations in the final rule.

These regulations were not intended to disrupt ongoing sport hunting programs in Kyrgyzstan, Mongolia, and Tajikistan, but rather to work in conjunction with such programs, provided that adequate documentation could be produced, showing that these programs were in keeping with the six factors listed above. It is regrettable that the intention of the protective regulations was misinterpreted by the plaintiffs. The regulations created a special opportunity for the three named countries to continue export of sport-taken trophies to the United States. As noted repeatedly in the final rule of June 23, 1992, the fundamental prerequisite for allowing this opportunity was provision of the required documentation. This prerequisite has yet to be satisfied with respect to any of the named countries, though the Service is developing its own surveys in Kyrgyzstan and Mongolia.

The Service is convinced of the validity of its final rule and protective regulations, but recognizes that there is legal uncertainty regarding compliance with the special rule for the three threatened populations. The Service might find itself in the position, as described above, of not being able to adequately regulate argali importation. Therefore, the current legal situation gives increased weight to factor "D" of section 4(a)(1) of the Act, "the inadequacy of existing regulatory mechanisms." This inadequacy would increase substantially should the Services's interpretation of section

9(c)(2) be set aside. The potential for such a situation, together with the many other problems of the argali, as described in the final rule of June 23, 1992, is sufficient to warrant a reclassification of the argali in Kyrgyzstan, Mongolia, and Tajikistan from threatened to endangered. By proposing such reclassification, the Service both emphasizes the present need for adequate regulation of the species and is in a better position to avoid a break in such regulation.

The final rule of June 23, 1992, presented a discussion of the "Summary of Factors Affecting the Species" (57 FR 28018–28022). That discussion, as modified by the above discussion regarding Factor D, applies to this proposed rule to reclassify the argali as endangered in Kyrgyzstan, Mongolia, and Tajikistan. The Service will, at the time of announcing its decision on this proposal, summarize any new substantive information on the status of the affected argali populations.

Notwithstanding the above, the Service continues to await and to seek the properly documented and verifiable certification that could enable the importation of argali trophies as provided in the original final rule of June 23, 1992. Should such data be received, and should the legal conditions warrant, the Service could withdraw this proposal or, if there already is a new final rule, could propose to reinstate the original final rule. Alternatively, a new final rule could maintain threatened status for the argali in one or more of the three involved countries, and could establish a modified special rule, based on any new data that are received, providing for limited importation.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages conservation measures by Federal, international, and private agencies, groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate their actions that are to be conducted within the United States or on the high seas, with respect to any species that is proposed or listed as endangered or threatened and with respect to its proposed or designated critical habitat (if any). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a proposed Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. No such actions are currently known with respect to the species covered by this proposal.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species, and to provide assistance for such programs, in the form of personnel and the training of personnel. Pursuant to these provisions of the Act, the Service now is funding surveys of the status of the argali in Kyrgyzstan and Mongolia. This effort may eventually form part of a larger project involving other forms of assistance and cooperative funding from additional organizations.

Section 9 of the Act, and implementing regulations found at 50 CFR 17.21 and 17.31, set forth a series of general prohibitions and exceptions that apply to all endangered and threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (within the United States or on the high seas), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered or threatened wildlife. It also is illegal to possess, sell, deliver, transport, or ship any such wildlife that has been taken in violation of the Act. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered and threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance propagation or survival, or for incidental take in connection with otherwise lawful activities. The importation of a personal trophy, taken through a carefully managed sport hunting program that provides an economic incentive for the general conservation for the involved species, may in some cases be considered to enhance the survival of that species. For threatened species, there also are permits available for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, comments and suggestions concerning any aspect of this proposed rule are hereby solicited from the public, concerned governmental agencies, the scientific community, industry, private interests, and other parties. Comments particularly are sought concerning the following:

(1) Biological, commercial, or other relevant data concerning any threat (or lack thereof) to the subject species, including data regarding the six points, as listed in the above "Background," for which the Service now is seeking documented certification;

(2) Information concerning the distribution of this species;

(3) Current or planned activities in the involved areas, and their possible effect on the subject species; and

(4) Details on the laws, regulations, and management programs covering each of the affected populations of this species, particularly with regard to their adequacy in providing for sport-hunting that may enhance the survival of these populations.

Final promulgation of the regulation on the subject species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of final regulations that differ substantially from this proposal. The Service emphasizes that it is actively seeking and evaluating information on the argali, and that this review could lead to withdrawal of this proposal, to retention of threatened status for the argali in one or more of the three involved countries, and/or to a modified special rule providing for limited importation. Interested parties are urged to consider such alternatives when examining the proposal and preparing their comments.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed by 45 days from the date of publication in the **Federal Register** of the proposal, should be in writing, and should be directed to the party named in the above **ADDRESSES** section.

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National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** of October 25, 1983 (48 FR 49244).

Author

The primary author of this proposed rule is Ronald M. Nowak, U.S. Fish and Wildlife Service (OSA), Washington, DC 20240 (703–358–1708).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulations Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Public Law 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.11(h) by removing the two entries under MAMMALS for the "Argali" and by adding in their place a new entry to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
Argali	*Ovis ammon*	Afghanistan, China, India, Kazakhstan, Kyrgyzstan, Mongolia, Nepal, Pakistan, Russia, Tajikistan, Uzbekistan.	Entire	E	15,475,___	NA	NA

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§ 17.40 [Amended]

3. It is proposed to amend § 17.40, "Special rules—mammals," by removing paragraph (j).

Dated: April 12, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93-9804 Filed 4-26-93; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register

Vol. 58, No. 79

Tuesday, April 27, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 93-041-1]

Availability of List of U.S. Veterinary Biological Product and Establishment Licenses and U.S. Veterinary Biological Product Permits Issued, Suspended, Revoked, or Terminated

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to veterinary biological product and establishment licenses and veterinary biological product permits that were issued, suspended, revoked, or terminated by the Animal and Plant Health Inspection Service, during the month of February 1993. These actions have been taken in accordance with the regulations issued pursuant to the Virus-Serum-Toxin Act. The purpose of this notice is to inform interested persons of the availability of a list of these actions and advise interested persons that they may request to be placed on a mailing list to receive the list.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine Kitto, Program Assistant, Veterinary Biologics, BBEP, APHIS, USDA, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8245. For a copy of this month's list, or to be placed on the mailing list, write to Ms. Kitto at the above address.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 102, "Licenses For Biological Products," require that every person who prepares certain biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 102 also require that each person who prepares biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold a U.S. Veterinary Biologics Establishment License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 104, "Permits for Biological Products," require that each person importing biological products shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product Permit. The regulations set forth the procedures for applying for a permit, the criteria for determining whether a permit shall be issued, and the form of the permit.

The regulations in 9 CFR parts 102 and 105 also contain provisions concerning the suspension, revocation, and termination of U.S. Veterinary Biological Product Licenses, U.S. Veterinary Biologics Establishment Licenses, and U.S. Veterinary Biological Product Permits.

Each month, the Veterinary Biologics section of Biotechnology, Biologics, and Environmental Protection prepares a list of licenses and permits that have been issued, suspended, revoked, or terminated. This notice announces the availability of the list for the month of February 1993. The monthly list is also mailed on a regular basis to interested persons. To be placed on the mailing list you may call or write the person designated under. **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 22nd day of April 1993.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93-9801 Filed 4-26-93; 8:45 am]

BILLING CODE 3410-34-P

Forest Service

Environmental Impact Statement for the Six Rivers National Forest Land and Resource Management Plan

AGENCY: Forest Service, USDA.

ACTION: Notice of revised availability dates for the draft and final Environmental Impact Statement.

SUMMARY: The Six Rivers National Forest is revising the projected availability dates of the draft and final Environmental Impact Statement (EIS) for the Land and Resource Management Plan.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this EIS should be directed to Laura Chapman, Assistant Forest Planner, Six Rivers National Forest, 1330 Bayshore Way, Eureka, California, 95501, (707) 441-3637.

SUPPLEMENTARY INFORMATION: On December 12, 1990, a Notice of Intent (NOI) to prepare a draft and final EIS was published in the **Federal Register** (55 FR 51127-51138). The NOI indicated the draft EIS was scheduled to be filed with the Environmental Protection Agency (EPA) and available for public review by December 1991. Due to the need for additional time to complete the analysis, it is now expected to be available for review by May 1993. At that time the EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The final EIS was scheduled to be completed by September 1992. It is now expected to be completed by April 1994.

Dated: March 1, 1993.

Martha Ketelle,

Acting Forest Supervisor.

[FR Doc. 93-9697 Filed 4-26-93; 8:45 am]

BILLING CODE 3410-11-M

Suitability Studies for 22 Wild and Scenic Rivers, Tahoe National Forest, Placer, Yuba, Eldorado, Sierra, and Nevada Counties, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) to study the suitability of 22 rivers in the Tahoe National Forest in California for inclusion in the National Wild and Scenic Rivers System. All 22 of the rivers are located within or form the boundary of the Tahoe National Forest. Two of the 22 rivers, Canyon Creek and the Rubicon River, are located on a shared

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administrative boundary with the Eldorado National Forest (Rubicon River) and the Plumas National Forest (Canyon Creek). This study also includes 22 miles of the South Yuba River beyond the National Forest boundary which is administered by the Bureau of Land Management. The Tahoe National Forest will evaluate all 22 rivers in one EIS and will develop a range of suitability alternatives from "no rivers suitable" to "all rivers suitable and recommended for designation". The agency gives notice of this study to solicit comments from interested and affected people on the scope and findings of the analysis. The proposed study will be implemented during fiscal years 1993 and 1994.

DATES: Comments on the scope of the study should be received by August 1, 1993.

ADDRESSES: Send written comments and suggestions concerning the suitability of the rivers to John Skinner, Forest Supervisor, Tahoe National Forest, P.O. Box 6003, Nevada City, CA 95959, (916) 265–4531.

FOR FURTHER INFORMATION CONTACT: John Bradford, Wild and Scenic River Analysis Interdisciplinary Team Leader, P.O. Box 6003 Nevada City, CA 95959, (916) 265–4531.

SUPPLEMENTARY INFORMATION: This study proposes to evaluate the suitability of 22 rivers for designation as Wild and Scenic Rivers. A suitability study is the last administrative step in the Wild and Scenic Rivers process before a recommendation is made to Congress for designation. Only rivers found eligible for Wild and Scenic River status are evaluated in the suitability study.

In 1991, the Tahoe National Forest engaged in a process for determining Wild and Scenic River eligibility. At the close of the process 31 rivers were determined eligible for Wild and Scenic River status. At that point in the process, the Forest Supervisor directed that Wild and Scenic River values and classification standards be protected for the 31 eligible rivers until such time as the suitability studies are completed and new management emphasis is developed.

The EIS will address the suitability of 22 of the original 31 rivers together to maintain consistency across the western half of the Forest and complete the work efficiently. The area of consideration for each river is a minimum ¼ mile from each bank for the entire length of the eligible portion of the river. Eight of the remaining nine rivers will be addressed in a separate, "eastside rivers" suitability study in cooperation with the Bureau of Reclamation. The remaining river, the Middle Fork American River will be addressed in a separate study in cooperation with the Bureau of Reclamation's Phase III of the American River Water Resources Investigation. The 22 considered in this process are as follows:

North Yuba Ranger District: Pauley Creek, Lavezzola Creek, Empire Creek, Canyon Creek (Common boundary with the Plumas NF), Downie River, North Yuba River, Oregon Creek, and New York Ravine.

Nevada City Ranger District: Humbug Creek, Middle Yuba River, Macklin Creek, East Fork Creek, Fordyce Creek, South Yuba River, Big Granite Creek, North Fork of the the North Fork American River, and Little Granite Creek.

Truckee Ranger District: Rubicon River (Common boundary with the Eldorado NF).

Forest Hill Ranger District: Grouse Creek, Screwauger Canyon, New York Canyon, and North Fork of the Middle Fork American River.

Public participation will be especially important at several points during the analysis. The first point is the scoping process (40 CFR 1501.7). The Forest Service has and is seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement.

There will be an opportunity to learn more about the rivers and the process through periodic newsletters and public workshops to be held in May, June, and July of 1993. The tentative workshop locations are Auburn, Foresthill, Nevada City, and Downieville. Additional meetings may be held at other locations as needed. A notice of these meetings will be sent to people on the rivers planning mailing list and to the news media located in the Auburn, Grass Valley, Nevada City, Marysville, and Sacramento areas. Written comments or suggestions are encouraged throughout the planning process and during the public meetings.

The Tahoe National Forest is the lead Forest for the Study. The Eldorado and Plumas National Forests will provide administrative cooperation throughout the process. The Bureau of Land Management is a joint preparer of the EIS.

The draft EIS is scheduled to be completed in February of 1994. The comment period on the draft EIS will be 90 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F. 2D 1016, 1022 (9TH Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 90-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS of the merits of the alternatives formulated and discussed in the statement. Reviewer's may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The Secretary of Agriculture will consider the comments, responses, environmental consequences discussed in the final EIS and applicable laws, regulations, and policies in making his recommendation to the President regarding the suitability of these rivers for inclusion in the National Wild and Scenic Rivers System. The decision on inclusion of a river in the National Wild and Scenic Rivers System rests with the United States Congress through legislative designation.

John Skinner, Forest Supervisor, Tahoe National Forest, Highway 49 & Coyote St, Nevada City, CA 95959, is the responsible official for the suitability study. Michael Espy, Secretary of Agriculture, U.S. Department of Agriculture, room 200–A, Adm. Bldg, Washington, DC 20250, is the responsible official for recommendations for Wild and Scenic river designation within National Forest boundaries.

Dated: April 20, 1993.

Thomas J. Mills,

Associate Deputy Chief.

[FR Doc. 93–9699 Filed 4–26–93; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Human Nutrition Information Service

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

National Nutrition Monitoring Council: Notice of Meeting

SUMMARY: The National Nutrition Monitoring Advisory Council will hold its fourth meeting on May 18, 1993, 9 a.m. to 5 p.m. and May 19, 1993, 9 a.m. to 1 p.m. at the Ramada Inn, located at 8400 Wisconsin Avenue, Bethesda, MD 20814. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Alanna J. Moshfegh, Co-Executive Secretary to the Council from USDA, Human Nutrition Information Service, U.S. Department of Agriculture, 6505 Belcrest Road, room 366, Hyattsville, MD 20782, (301) 436–8457; or Linda Meyers, Ph.D., Co-Executive Secretary to the Council from HHS, Public Health Service, Office of Disease Prevention and Health Promotion, room 2132, Switzer Building, 330 C Street SW., Washington, DC 20201, (202) 205–9007.

SUPPLEMENTARY INFORMATION: The responsibilities of the National Nutrition Monitoring Advisory Council are to evaluate the scientific and technical quality of the ten-year comprehensive plan and the effectiveness of the coordinated National Nutrition Monitoring and Related Research Program and to provide guidance to the Secretaries of USDA and HHS. This Council is also required by Public Law 101–445 to prepare annual reports to the Secretaries of both USDA and HHS that include recommendations for improvement of the Program.

The Council meeting agenda will include nutrition monitoring presentations and in-depth discussion on state level data uses and needs. The Council will also discuss its strategy for evaluating the Ten-Year Plan. The public may file statements with the Council before or after the meeting by addressing them to either of the contact persons listed above.

Done at Washington, DC this 19 day of April, 1993.

David A. Rust,

Acting Administrator, Human Nutrition Information Service, U.S. Department of Agriculture.

J. Michael McGinnis,

Deputy Assistant Secretary for Health, (Disease Prevention and Health Promotion), U.S. Department of Health and Human Services.

[FR Doc. 93–9793 Filed 4–26–93; 8:45 am]

BILLING CODE 3410–KE–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Bethesda, Maryland on Tuesday and Wednesday, May 11–12, 1993 at the times and location noted below.

DATES: The schedule of events is as follows:

Tuesday, May 11, 1993

9–10:30 a.m. Special Orientation Session for New Board Members on Proposed Accessibility Guidelines for State and Local Government Facilities (closed session)

10:45–11:45 a.m. Planning and Budget Committee

1:15–5 p.m. Rulemaking Group (closed meeting)

Wednesday, May 12, 1993

9–12 p.m. Rulemaking Work Group (closed meeting)

1:30–3 p.m. Board Meeting

ADDRESSES: The meetings will be held at: Hyatt Regency, One Bethesda Metro Center, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434 ext. 14.

SUPPLEMENTARY INFORMATION: At its business meeting, the Access Board will consider the following agenda items:

- Approval of the Minutes of the March 10 and January 13, 1993 Board Meetings.
- Executive Director's Report.
- Status Report on Technical Program Projects.
- Fiscal Year 1993 Budget Reprogramming.
- Status Report on Fiscal Year 1994 Budget.
- Preliminary Discussion on Fiscal Year 1995 Budget.
- Status Report on Pending Rulemaking (closed).
- Major Issues for State and Local Government Facilities (closed).
- Report of Extraordinary Work.
- Complaint Status Report.
- Recreation Advisory Committee.

Some meetings or items may be closed to the public as indicated above. All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 93–9824 Filed 4–26–93; 8:45 am]

BILLING CODE 8150–01–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). A prompt review has been requested.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Antarctic Marine Living Resources Conservation and Management Measures.

Agency Form Numbers: NOAA 88–211, 88–211A, 88–211B, and 88–211C.

OMB Approval Number: 0648–0194.

Type of Request: Revision of a currently approved collection.

Burden: 63 hours.

Number of Respondents: 5 (several responses per respondent).

Avg Hours Per Response: 46 minutes.

Needs and Uses: As a member of the Convention which governs the Antarctic marine living resources, the United States has agreed to adhere to conservation measures for this region. At the Commission's last meeting, a number of reporting requirements were adopted, which impose new of expanded data requirements on vessels. The changes include: Reporting requirements for trawl fisheries, institution of monthly and five-day catch and effort reporting for certain species, and new measures for reporting research data.

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Affected Public: Individuals.
Frequency: On occasion, weekly, monthly and every five days.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Ron Minsk, (202) 395–3084.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Ron Minsk, OMB Desk Officer, room 3019, New Executive Office Building, Washington, DC 20503.

Dated: April 21, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–9721 Filed 4–26–93; 8:45 am]

BILLING CODE 3510-CW-F

Economic Development Administration

Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance; Sholdt Jewelers, Inc., et al.

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

Firm name	Address	Date petition accepted	Product
Sholdt Jewelers, Inc	1424 Fourth Avenue, Suite 331, Seattle, WA 98101.	03/18/93	Jewelry.
Jan-R Corporation	2191 Rhodes Road, Sero Wooley, WA 98284.	03/22/93	Machine and equipment—Burglar alarms.
Craneveyor Corp	1524 N. Potrero Avenue, S. Elmonte, CA 91733.	03/22/93	Machine and equipment—Crane/hoist systems for material handling.
Adcom	11 Elkins Road, East Brunswick, NJ 08816.	03/23/93	Electronics—Electric power amplifiers.
Sewtec Manufacturing Co., Inc	263 Brook Street, New Bedford, MA 02745.	03/25/93	Shorts: made mostly from cotton, polyester and linen.
Sea Cure Technology Inc	1600 Kentucky Street, Suite A1, Bellingham, WA 98226.	03/25/93	Machine and equipment—Marine parts.
Federal Bronze Casting Industries, Inc.	9 Backus Street, Newark, NJ 07105	03/29/93	Bronze sand castings manufactured to various specifications for use in various industries.
Eagle-Picher Industries, Inc	580 Walnut Street, Cincinnati, OH 45201.	03/29/93	Germanium.
Dolan-Bullock Co	75 Oxford Street, Providence, RI 02901.	03/30/93	Men's jewelry.
George Pocock Racing Shells, Inc	2212 Pacific Avenue, Everett, WA 98201–4524.	03/30/93	Fiberglass canoes.
Powerex, Inc	Hillis Street, Youngwood, PA 15607	03/30/93	High-power semi-conductor devices and AC and DC motor controls.
American Brass & Iron Foundry (The).	7825 San Leandro Street, Oakland, CA 94621.	04/02/93	Pipe fittings, gym weights and municipal castings: covers, meter boxes, etc.
Blom Industries, Inc	25551 Joy Boulevard, Mt. Clemens, MI 48046–0486.	04/06/93	Metal brake pedals, engine lift hooks, transmission mounts and parts used in motor vehicles.
Nordon Tool & Mold Inc	691 Exchange Street, Rochester, NY 14608.	04/06/93	Plastic roller assemblies for copiers and plastic shock absorbers for the automotive industry.
All Fab, Inc	Building C–19, Pane Field, Everett, WA 98204.	04/06/93	Airplane parts.
Electrol Manufacturing Company	1100 East Elm Avenue, Fullerton, CA 92631.	04/06/93	Precision gears.
Tromley Industrial Holdings, Inc	12505 Southwest Herman Road, Tualatin, OR 97062.	04/06/93	Foundry molding equipment.
Maxximum Company, Inc. (The)	205 South 20th Street, Nampa, ID 83686.	04/06/93	Yokes and rudder pedals for computer flight simulation or games.
Target-Rock Corporation	1966 East Broadhollow Road, E. Farmingdale, NY 11735.	04/07/93	Commercial valves.
Duchess Footwear Corporation	3 Norton Street, South Berwick, ME 03908.	04/07/93	Women's casual shoes.
Texas Steel Company	3901 Hemphill, Fort Worth, TX 76110.	04/07/93	Steel castings—Mining equipment parts.
Par Technology Corporation	220 Seneca Turnpike, New Hartford, NY 13413.	04/07/93	Point-of-sale terminal type case register and vision inspection systems—x-ray.
J.M L. Optical Industries, Inc	690 Portland Avenue, Rochester, NY 14621–5196.	04/07/93	Optical lenses.
Labelow Corporation	10 Chapin Street, Canadaigua, NY 14424.	04/07/93	Facsimile paper, films and stationary fasteners and rubber stamp kits.
Rennsport USA, Inc	20 Russell Blvd., P.O. Box 652, Bradford, PA 16701.	04/07/93	Adult trides and hand-eez grips.
Pure Castings Company	2110 E. 4th Street, Austin, TX 78702.	04/08/93	Metal products—Steel castings.
Bob Allen Companies, Inc. (The)	214 S.W. Jackson Street, Des Moines, IA 50302.	04/08/93	Apparel—Sporting good bags, men's and women's outerwear, and carrying cases for firearms, etc.

Firm name	Address	Date petition accepted	Product
Ortho-Kinetics, Inc	W220 N 507 Springdale Road, Waukesha, WI 53187.	04/09/93	3-wheeled electric mobility scooters, reclining chairs with electric lift base, etc.
Gerber Systems Corporation	83 Gerber Road West, South Windsor, CT 06074.	04/09/93	Misc.—Photoplotters, cim product, spare parts, graphic art products, drafting products.
Cyclonaire Corporation	2922 N. Division Avenue, York, NE 68467.	04/09/93	Machine and equipment—Pneumatic conveying systems.
Accurate, Inc	746 E. Milwaukee Street, Whitewater, WI 53190.	04/09/93	Machine and equipment—Dry material handling equipment.
Caratron Industries, Inc	27955 College Park Drive, Warren, MI 48093.	04/09/93	Gears, part of turboject or turbopropeller aircraft engines, parts of aircraft gas turbines, etc.
Clifton Shirt Company, Inc	529 Main Street, Loveland, OH 45140.	04/09/93	Apparel—Men's and women's shirts of man-made fibers and of wool.
Union Tank Works, Inc	12065 44th Place South, Seattle, WA 98178–0069.	04/12/93	Metal products—Steel pressure containers.
Milwaukee Bearing and Machining, Inc.	9532 West Carmen Avenue, Milwaukee, WI 53225.	04/13/93	Babbitt-lined bearings: metal bearings lined with a softer material that reduces friction.
Gulf Coast Wire Products, Inc	P.O. Box 68, Kaplan, LA 70548	04/13/93	PVC fluidized wire and plastic.
Triplett Corporation	One Triplett Drive, Bluffton, OH 45817.	04/15/93	Machine and equipment—Test and measurement equipment for use in electrical industry.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for hearing must be received by the Trade Adjustment Assistance Division, room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: April 20, 1993.

David L. McIlwain,

Acting Deputy Assistant Secretary for Program Operations.

[FR Doc. 93–9777 Filed 4–26–93; 8:45 am]

BILLING CODE 3510-24-M

Foreign-Trade Zones Board

[Order No. 634]

Resolution and Order Approving With Restriction the Application of the St. Joseph County Airport Authority for Special-Purpose Subzone Status Fairmont Homes, Inc./Gulf Stream, Inc.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the St. Joseph County Airport Authority, grantee of FTZ 125, filed with the Foreign-Trade Zones (FTZ) Board (the Board) on November 6, 1991, requesting special-purpose subzone status at the manufactured housing and recreational vehicle (RV) manufacturing facilities of Fairmont Homes, Inc., and its subsidiary Gulf Stream, Inc. (Fairmont/Gulf Stream), in Elkhart County, Indiana, the Board, finding that the requirements of the Foreign-Trade Zones Act and the Board's regulations would be satisfied, and that the proposal would be in the public interest provided approval is subject to certain conditions, approves the application, subject to the following conditions:

1. Fairmont/Gulf Stream shall elect privileged foreign status on all foreign components admitted to the subzone for use in the production of manufactured housing (mobile homes and prefabricated housing), trailers and vehicles other than Class A and Class C RVs.

2. With respect to Class A and Class C RVs, Fairmont/Gulf Stream shall elect privileged foreign status on foreign components except for pickup cab/chassis, chassis/suspension components, mufflers, pumps, filters, windshields, mirrors, electronic components, audio components, switches, refrigerators, panelling, hardware and fixtures.

3. With respect to micro-mini Class C RV production, Fairmont/Gulf Stream shall elect privileged foreign status on shipments of foreign pickup cab/chassis which exceed 5,000 units in a calendar year.

The approval is subject to the FTZ Act and the FTZ Board's regulations (as revised, 56 FR 50790–50808, 10/8/91), including Section 400.28. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry.

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the St. Joseph County Airport Authority, Inc., grantee of Foreign-Trade Zone 125, for authority to establish a special-purpose subzone for the manufactured housing and recreational vehicle manufacturing plants of Fairmont Homes, Inc., and its subsidiary, Gulf Stream, Inc. (Fairmont/Gulf Stream), located in Elkhart County, Indiana, was filed by the Board on November 6, 1991 (FTZ Docket 82–91, 57 FR 40, 1–2–92); and,

Whereas, the Board has found that the requirements of the Act and the Board's

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regulations would be satisfied and that the proposal would be in the public interest if approval were given subject to restriction;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 125C) for the production of manufactured housing and recreational vehicles at the Fairmont/Gulf Stream facilities in Elkhart County, Indiana, at the locations described in the application, subject to the FTZ Act and the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), including section 400.28, and subject to the following conditions:

1. Fairmont/Gulf Stream shall elect privileged foreign status on all foreign components admitted to the subzone for use in the production of manufactured housing (mobile homes and prefabricated housing), trailers and vehicles other than Class A and Class C RVs.

2. With respect to Class A and Class C RVs, Fairmont/Gulf Stream shall elect privileged foreign status on foreign components except for pickup cab/chassis, chassis/suspension components, mufflers, pumps, filters, windshields, mirrors, electronic components, audio components, switches, refrigerators, panelling, hardware and fixtures.

3. With respect to micro-mini Class C RV production, Fairmont/Gulf Stream shall elect privileged foreign status on shipments of foreign pickup cab/chassis which exceed 5,000 units in a calendar year. Restriction requiring that privileged foreign status (19 CFR 146.41) shall be elected on shipments of foreign pickup cab/chassis should shipments on such items exceed 5,000 units in a calendar year.

Signed at Washington, DC, this 19th day of April, 1993, pursuant to Order of the Board.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.

[FR Doc. 93-9836 Filed 4-26-93; 8:45 am]

BILLING CODE 3510-DS-P

[Order No. 635]

Approval for Expansion of Manufacturing Activity (Vessels) Within Foreign-Trade Subzone 2G, Trinity Marine Group/Equitable Shipyard, New Orleans, LA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u) (the Act), and the Foreign-Trade Zones (FTZ) Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board (the Board) adopts the following order.

Whereas, § 400.28(a)(2) of the Board's regulations, requires approval of the Board prior to commencement of new manufacturing/processing activity within existing zone facilities;

Whereas, on April 10, 1992, the Board authorized subzone status on behalf of the Trinity Marine Group, Inc. (TMG), at the Equitable Shipyard shipbuilding facility, New Orleans, Louisiana, on a temporary basis (to 4/1/94) for the completion of construction of a vessel subject to the standard shipyard subzone restrictions (Subzone 2G, Board Order 573, 57 FR 13695, 4/17/92);

Whereas, the Board of Commissioners of the Port of New Orleans (the Port), grantee of FTZ 2 and Subzone 2G, New Orleans, Louisiana, has requested authority under § 400.32(b)(1) of the Board's regulations on behalf of TMG to expand the scope of temporary subzone authority to include the construction of additional vessels under zone procedures (filed 4/6/93, A(32b1)-1-93; Doc. 12-93, assigned 4/12/93);

Whereas, pursuant to § 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has authority to act for the Board in making decisions on new manufacturing/processing activity under certain circumstances, including situations where the proposed activity is the same in terms of products involved, to activity recently approved by the Board under similar circumstances (§ 400.32(b)(1)(i)); and,

Whereas, the FTZ Staff has reviewed the proposal, taking into account the criteria of § 400.31, and the Executive Secretary has recommended approval;

Now, Therefore, the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation and hereby approves the request subject to the Act and the Board's Regulations (as revised, 56 FR 50790–50808, 10/8/91), including § 400.28, and subject to the special restrictions (standard shipyard restrictions) and time limit described in Board Order 573.

Signed at Washington, DC, this 19th day of April, 1993, pursuant to Order of the Board.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 93-9837 Filed 4-26-93; 8:45 am]

BILLING CODE 3510-DS-P

International Trade Administration

[A-427-801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews and partial termination of administrative reviews.

SUMMARY: In response to requests from interested parties, the Department of Commerce has conducted administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France. The classes or kinds of merchandise covered by these orders are ball bearings (BBs), cylindrical roller bearings (CRBs), and spherical plain bearings (SPBs). The reviews cover seven manufacturers/exporters and the period May 1, 1991 through April 30, 1992. Although we initiated reviews for three other manufacturers/exporters, we are terminating these reviews because the requests for review were timely withdrawn. As a result of these reviews, the Department has preliminarily determined the weighted-average dumping margins for the reviewed firms to range from 0.00 to 66.42 percent for BBs, from 0.00 to 18.37 percent for CRBs, and 0.00 for SPBs.

We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Joanna Schlesinger (Dassault Industries), Michael Diminich (SKF France), Joseph Fargo (SNECMA), Maureen McPhillips (SNR Roulements S.A., Valeo S.A.), Anna Snider (SNFA), Carlo Cavagna (Turbomeca), or Richard Rimlinger; Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 20902) the antidumping duty orders on BBs, CRBs, SBPs and parts thereof from France.

On July 6, 1992, in accordance with 19 CFR 353.22(c), we initiated administrative reviews of those orders for the period May 1, 1991 through April 30, 1992 (57 FR 29701). The Department is now conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). These reviews cover the following firms and classes or kinds of merchandise:

Name of firm	Class or kind
Dassault Industries (Dassault).	BBs, CRBs, SPBs
SKF France (including all relevant affiliates).	BBs, CRBs, SPBs
SNFA	BBs, CRBs
SNR Roulements, S.A. (SNR).	BBs, CRBs
Societe Nationale d'Etude et de Construction de Motaurs d'Aviation (SNECMA).	BBs, CRBs
Turbomeca	BBs, CRBs, SPBs
Valeo	BBs

Subsequent to the publication of our initiation notice, we received timely withdrawal requests for Eurocopter Deutschland GmbH (formerly Messerschmitt-Boelkow-Blohm (MBB)), Eurocopter France (formerly Aerospatiale Division Helicopteres (ADH)), and ITT Jabsco. Because there were no other requests for review of these companies from any other interested parties, we are terminating the reviews with respect to these companies, in accordance with 19 CFR 353.22(a)(5).

The Department allowed certain companies to submit abbreviated questionnaire responses if they sold exclusively from published price lists and were able to demonstrate that all price list prices, with rare exceptions, were adhered to. In lieu of a detailed sales listing, firms that qualified for the price list option were permitted to provide all applicable price lists and aggregate cost and adjustment data. In these reviews, Dassault and SNECMA qualified for, and opted to use, this price list option.

Best Information Available

In accordance with section 776(c) of the Tariff Act, we have preliminarily determined that the use of best information otherwise available (BIA) is appropriate for certain firms. The Department's regulations provide that we may take into account whether a party refuses to provide information (19 CFR 353.37(b)). For purposes of these reviews, we have used the most adverse BIA—generally the highest rate for any company for the same class or kind of merchandise from the less-than-fair-value (LTFV) investigation or prior administrative reviews—whenever a company refused to cooperate with the Department or otherwise significantly impeded the proceeding.

Because SNFA and Valeo failed to respond to the Department's questionnaire, we have used the highest rate ever found for each class or kind of merchandise.

Scope of Reviews

The products covered by these reviews are antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof (AFBs), and constitute the following classes or kinds of merchandise:

1. Ball Bearings and Parts Thereof

These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: Antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

2. Cylindrical Roller Bearings and Parts Thereof

These products include all AFBs that employ cylindrical rollers as the rolling element. Imports of these products are classified under the following categories: Antifriction rollers, all cylindrical roller bearings (including split cylindrical roller bearings) and parts thereof, and housed or mounted cylindrical roller bearing units and parts thereof.

Imports of these products are classified under the following HTS subheadings: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

3. Spherical Plain Bearings and Parts Thereof

These products include all spherical plain bearings that employ a spherically shaped sliding element. Imports of these products are classified under the following HTS subheadings: 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8485.90.00, 8708.99.50.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

United States Price

In calculating United States price (USP), the Department used purchase price (PP) or exporter's sales price (ESP), as defined in section 772 of the Tariff Act, as appropriate.

Due to the extremely large number of transactions that occurred during the period of review (POR) and the resulting administrative burden involved in calculating individual margins for all of these transactions, we sampled sales to calculate USP, in accordance with section 777A of the Tariff Act. When a firm made more than 2000 ESP sales transactions to the United States for a particular class or kind of merchandise, we reviewed sales during sample weeks. We selected one week from each two-month period in the review period, for a total of six weeks, and analyzed each transaction made in those six weeks. The sample weeks included May 1–5, 1991; July 1–7, 1991; October 21–27, 1991; December 16–22, 1991; February 17–23, 1992, and March 2–8, 1992. We reviewed all PP sales transactions during the POR because there were few PP sales.

USP was based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, from PP and ESP for movement expenses, discounts, and rebates.

We made additional deductions from ESP for direct selling expenses, indirect selling expenses, and repacking in the United States.

We made an addition to USP for value-added taxes (VAT) in accordance with section 772(d)(1)(C) of the Tariff Act. However, as noted in the FMV section of this notice, we followed the instructions of the Court of Appeals for the Federal Circuit in *Zenith Electronics Corp.* v. *United States*, 92–1043 (Zenith) and did not make a circumstance of sale adjustment for VAT taxes. Furthermore, the Department is now examining the Zenith decision in detail and is considering the proper methodology for making this tax adjustment. Interested parties are invited to comment upon this issue.

With respect to subject merchandise to which value was added in the United

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States, e.g., parts of bearings that were imported and further processed into finished bearings by U.S. affiliates of foreign exporters prior to sale to unrelated U.S. customers, we deducted any increased value in accordance with section 772(e)(3) of the Tariff Act.

We consider those bearings otherwise subject to the order that are incorporated into nonbearing products, which collectively comprise less than one percent of the value of the finished products sold to unrelated customers in the United States, to be outside the scope of the antidumping orders on AFBs and not subject to assessment of antidumping duties. In Roller Chain, Other Than Bicycle, From Japan (48 FR 51801; November 14, 1983), roller chain, which was subject to an antidumping duty order, was imported by a related party and incorporated into finished motorcycles. The finished motorcycles were the first articles of commerce sold by the subject producer to unrelated purchasers in the United States. Since the roller chain did not constitute a significant percentage of the value of the completed product, the Department found that a USP could not reasonably be determined for the roller chain, and the product was therefore excluded from the scope of the order in such circumstances. We have applied this principle to these reviews with respect to certain sales made by Dassault and Turbomeca.

Foreign Market Value

The home market was viable for all companies and all classes or kinds of merchandise except for Dassault. To calculate foreign market value (FMV) for SPBs from Dassault, we used sales to a third country, the United Kingdom. The Department used home market price, third country price, or constructed value (CV) as defined in section 773 of the Tariff Act, as appropriate, to calculate FMV.

Due to the extremely large number of transactions that occurred during the POR and the resulting administrative burden involved in examining all of these transactions, we sampled sales to calculate FMV, in accordance with section 777A of the Tariff Act. When a firm had more than 2000 home market or third country sales transactions for a particular class or kind of merchandise, we selected sales from sample months that corresponded to the sample weeks selected for U.S. sales sampling. The sample months included April, May, July, October, and December of 1991, and February, March, and June of 1992.

In general, the Department relies on monthly weighted-average prices in the calculation of FMV in administrative reviews. Because of the significant volume of home market sales involved in these reviews, we examined whether it was appropriate to average, in accordance with section 777A of the Tariff Act, all of respondents' home market sales data that we collected. In this case, the use of POR weighted-average prices results in significant time and resource savings for the Department. To determine whether a POR weighted-average price was representative of the transactions under consideration, we performed a three-step test.

We first compared the monthly weighted-average home market price for each model with the weighted-average POR price of that model. We calculated the proportion of each model's sales whose POR weighted-average price did not vary meaningfully (*i.e.*, within plus or minus 10 percent) from the monthly weighted-average prices. We did this for each model within each class or kind of merchandise. We then compared the volume of sales of all models within each class or kind of merchandise whose POR weighted-average price did not vary meaningfully from the monthly weighted-average price with the total volume of sales of that class or kind of merchandise. If the POR weighted-average price of at least 90 percent of sales in each class or kind of merchandise did not vary meaningfully from the monthly weighted-average price, we considered the POR weighted-average prices to be representative of the transactions under consideration. Finally, we tested whether there was any correlation between fluctuations in price and time for each model. Where the correlation coefficient was less than 0.05 (where a coefficient approaching 1.0 means a direct relation between price and time, *i.e.*, that prices consistently rise from month to month, and a coefficient approaching zero means no relation between prices and time), we concluded that there was no significant relation between price and time. We calculated a weighted-average POR FMV only for those classes or kinds that satisfied our three-step test for the factors of price, volume, and time.

We compared U.S. sales with sales of such or similar merchandise in the home market. We considered all non-identical products within a bearing family to be equally similar. As defined in the questionnaire, a bearing family consists of all bearings within a class or kind of merchandise that share the following physical characteristics: Load direction, bearing design, number of rows of rolling elements, precision rating, dynamic load rating, and physical dimensions.

Home market prices were based on the packed, ex-factory or delivered prices to related or unrelated purchasers in the home market. Where applicable, we made adjustments for movement expenses, differences in cost attributable to differences in physical characteristics of the merchandise and differences in packing. We also made adjustments for differences in circumstances of sale in accordance with 19 CFR 353.56. For comparisons to PP sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we deducted home market direct selling expenses. Due to the Court of Appeals' decision in *Zenith Electronics Corp.* v. *United States*, 92–1043, we made no adjustments for differences in the VAT taxes. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in PP and ESP calculations and to offset U.S. indirect selling expenses deducted in ESP calculations, but not exceeding the amount of the indirect U.S. expenses.

Third country prices were based on the delivered prices to unrelated purchasers. Where applicable, we made adjustments for movement expenses, direct selling expenses, differences in cost attributable to differences in physical characteristics of the merchandise, and differences in packing. We also made adjustments, where applicable, for third country indirect selling expenses to offset U.S. indirect selling expenses deducted in ESP calculations, but not exceeding the amount of the indirect U.S. expenses.

We used sales to related customers only where we determined such sales were made at arm's length, *i.e.*, at prices comparable to prices at which the firm sold identical merchandise to unrelated customers.

Where we found home market sales below the cost of production in the previous administrative review period, as in the case of BBs from SKF, we initiated a cost investigation. In addition, based on allegations submitted by Federal-Mogul in this administrative review, we initiated a cost investigation with respect to BBs sold by SNR.

In accordance with section 773(b) of the Tariff Act, in determining whether to disregard home market sales made at prices below the cost of production, we examined whether such sales were made in substantial quantities over an extended period of time. When less than 10 percent of the home market sales of a particular model were at prices below the cost of production, we did not disregard any sales of that model. When 10 percent or more, but not more than 90 percent of the home market sales of a particular model were determined to be below cost, we excluded the below-cost home market sales from our calculation of FMV provided that these below cost sales were made over an extended period of time. When more than 90 percent of the home market sales of a particular model were made below cost over an extended period of time, we disregarded all home market sales of that model from our calculation of FMV.

To determine if sales below cost had been made over an extended period of time, we compared the number of months in which sales below cost had occurred for a particular model to the number of months in which the model was sold. If the model was sold in three or fewer months, we did not disregard below-cost sales unless there were sales below cost of that model in each month sold If the model was sold in more than three months, we did not disregard below-cost sales unless there were sales below cost in at least three of the months in which the model was sold.

Since none of the respondents has submitted information indicating that any of its sales below cost were at prices which would have permitted "recovery of all costs within a reasonable period of time in the normal course of trade," within the meaning of section 773(b)(2) of the Tariff Act, we were unable to conclude that the costs of production of such sales were recovered within a reasonable period. As a result, we disregarded below-cost sales of BBs made by SKF and SNR over an extended period of time.

Home market sales of obsolete merchandise and distress sales were not disregarded in our cost analysis unless there was documented information on the record demonstrating that such sales were outside the ordinary course of trade.

In accordance with section 773(a)(2) of the Tariff Act, we used constructed value as the basis for FMV when there were no sales of such or similar merchandise for comparison in the home market or third country.

We calculated constructed value in accordance with section 773(e) of the Tariff Act. We included the cost of materials, fabrication, general expenses, profit and packing. We also included: (1) actual general expenses, or the statutory minimum of 10 percent of materials and fabrication, whichever was greater; (2) actual profit or the statutory minimum of 8 percent of materials, fabrication costs and general expenses, whichever was greater; and (3) packing costs for merchandise exported to the United States. Where appropriate, we made adjustments to CV in accordance with 19 CFR 353.56, for differences in circumstances of sale. For comparisons to PP sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we deducted home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in PP and ESP calculations. For comparisons involving ESP transactions, we made further deductions to constructed value for indirect selling expenses in the home market, capped by the indirect selling expenses incurred on ESP sales in accordance with 19 CFR 353.56(b)(2).

Preliminary Results of Reviews

As a result of our reviews, we preliminarily determine the weighted-average dumping margins for the period May 1, 1991 through April 30, 1992 to be:

Company	BBs	CRBs	SPBs
Dassault	0.00	0.00	0.00
SKF	5.29	(1)	0.00
SNFA	66.42	18.37	(2)
SNR	2.98	0.00	(2)
SNECMA	23.82	10.98	(2)
Turbomeca	0.00	0.51	(1)
Valeo	66.42	18.37	(2)

[1] No U.S. sales during the review period.
[2] No review requested.

Parties to this proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of the date of publication of this notice. A general issues hearing, if requested, will be held on May 24, 1993, in HCHB Auditorium, at 9 a.m. Any hearing regarding issues related solely to France, if requested, will be held on May 27, 1993, in room 1617–M–4, at 2 p.m.

General issues briefs and/or written comments from interested parties may be submitted not later than May 12, 1993. General issues rebuttal briefs and rebuttals to written comments, limited to the issues raised in the initial briefs and comments, may be filed not later than May 19, 1993. Case briefs and comments and all rebuttal briefs regarding issues related solely to France are due no later than May 17 and May 24, 1993, respectively. The Department will subsequently publish the final results of these administrative reviews, including the results of its analysis of issues raised in any such written comments or hearings.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Because sampling prevents us from doing entry-by-entry assessments, we will calculate an importer-specific *ad valorem* appraisement rate for each class or kind of merchandise based on the ratio of the total value of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total value of antidumping duties, which are calculated by taking the difference between statutory FMV and statutory USP, by the total statutory USP value of the sales compared, and adjusting the result by the average difference between USP and customs value for all merchandise examined during the POR.) Where we do not have entered customs value to calculate an *ad valorem* rate, we will calculate an average per-unit dollar amount of antidumping duty based on all sales examined during the review period. We will instruct the Customs Service to assess this average amount on all units included in each entry made by the particular importer during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of these reviews.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies will be those rates established in the final results of these reviews; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of these administrative reviews. This rate represents the highest rate for any firm with shipments in these administrative

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reviews, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: April 14, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-9827 Filed 4-26-93; 8:45 am]

BILLING CODE 3510-DS-P

[A-428-801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews and partial termination of administrative reviews.

SUMMARY: In response to requests from interested parties, the Department of Commerce has conducted administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany. The classes or kinds of merchandise covered by these orders are ball bearings (BBs), cylindrical roller bearings (CRBs), and spherical plain bearings (SPBs). The reviews cover six manufacturers/exporters and the period May 1, 1991 through April 30, 1992 (the POR). Although we initiated reviews for nine other manufacturers/exporters, we are terminating the reviews because the requests for review were timely withdrawn. As a result of these reviews, the Department has preliminarily determined the weighted-average dumping margins for the reviewed firms to ranging from 0.08 percent to 19.42 percent on BB, from 8.51 percent to 24.42 percent on CRBs from 7.57 percent to 8.71 percent on SPBs.

We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: April 21, 1993.

FOR FURTHER INFORMATION CONTACT: Carlo Cavagna (Fichtel & Sachs AG), Michael Diminich (FAG Kugelfischer George Schaefer KgaA), J. David Dirstine (SKF GmbH, George Mueller Nurnberg, AG), David Levy (NTN Kugellagerfabrik (Deutschland) GmbH), Maureen McPhillips (INA Walzlager Schaeffler KG), or Richard Rimlinger; Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-4733.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 20900) the antidumping duty orders on ball bearings (BBs), cylindrical roller bearings (CRBs) and spherical plain bearings (SPBs) and parts thereof from Germany. On July 6, 1992, in accordance with 19 CFR 353.22(c), we initiated administrative reviews of those orders for the period May 1, 1991 through April 30, 1992 (57 FR 29700). The Department is now conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). These reviews cover the following firms and classes or kinds of merchandise:

Name of firm	Class or kind
FAG Kugelfischer George Schaefer KGaA (FAG).	BBs, CRBs, SPBs
Fichtel & Sachs AG	BBs
Georg Mueller Nurnberg, AG (GMN).	BBs
INA Walzlager Schaeffler KG (INA).	BBs, CRBs, SPBs
NTN Kugellagerfabrik (Deutschland) GmbH (NTN).	BBs, CRBs, SPBs
SKF GmbH (including all relevant affiliates).	BBs, CRBs, SPBs

Subsequent to the publication of our initiation notice, we received timely withdrawal requests for Durbal GmbH & Co., Eurocopter Deutschland GmbH (formerly Messerschmitt-Boelkow-Blohm (MBB)), Eurocopter France (formerly Aerospatiale Division Helicopteres (ADH)), ITT Jabsco, Kugelfabrik Schute GmbH & Co., Neuweg Fertigung GmbH (NWG), Societe Nouvelle de Roulements (SNR), Universal-Kugellager-Fabrik GmbH, and Volkswagen AG. Because there were no other requests for review of these companies from any other interested parties, we are terminating the reviews with respect to these companies, in accordance with 19 CFR 353.22(a)(5).

Scope of Reviews

The products covered by these reviews are antifriction bearings (other than tapered roller bearings), and parts thereof (AFBs), and constitute the following "class or kinds" of merchandise:

1. Ball Bearings and Parts Thereof

These products include all antifriction bearings that employ balls as the rolling element.

Imports of these products are classified under the following categories: Antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

2. Cylindrical Roller Bearings and Parts Thereof

These products include all AFBs that employ cylindrical rollers as the rolling element. Imports of these products are classified under the following categories: antifriction rollers, all cylindrical roller bearings (including split cylindrical roller bearings) and parts thereof, and housed or mounted cylindrical roller bearing units and parts thereof.

Imports of these products are classified under the following HTS subheadings: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

3. Spherical Plain Bearings and Parts Thereof

These products include all spherical plain bearings that employ a spherically shaped sliding element.

Imports of these products are classified under the following HTS subheadings: 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8485.90.00, 8708.99.50.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

United States Price

In calculating United States price (USP), the Department used purchase price (PP) or exporter's sales price (ESP), as defined in section 772 of the Tariff Act, as appropriate.

Due to the extremely large number of transactions that occurred during the POR and the resulting administrative burden involved in calculating individual margins for all of these transactions, we sampled sales to calculate USP, in accordance with section 777A of the Tariff Act. When a firm made more than 2000 ESP sales transactions to the United States for a particular class or kind of merchandise, we reviewed sales in sample weeks. We selected one week from each two-month period in the review period, for a total of six weeks, and analyzed each transaction made in those six weeks. The sample weeks included May 1–5, 1991; July 1–7, 1991; October 21–27, 1991; December 16–22, 1991; February 17–23, 1992, and March 2–8, 1992. We reviewed all PP sales transactions during the POR because there were few PP sales.

United States price was based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, from PP and ESP for movement expenses, discounts and rebates.

We made additional deductions from ESP for direct selling expenses, indirect selling expenses, and repacking in the United States.

We made an addition to USP for value-added taxes (VAT) in accordance with section 772(d)(1)(C) of the Tariff Act. However, as noted in the FMV section of this notice, we followed the instructions of the Court of Appeals for the Federal Circuit in *Zenith Electronics Corp.* v. *United States*, 92-1043 (Zenith) and did not make a circumstance of sale adjustment for VAT taxes. Furthermore, the Department is now examining the Zenith decision in detail and is considering the proper methodology for making this tax adjustment. Interested parties are invited to comment upon this issue.

With respect to subject merchandise to which value was added in the United States, *e.g.*, parts of bearings that were imported and further processed into finished bearings by U.S. affiliates of foreign exporters, prior to sale to unrelated U.S. customers, we deducted any increased value in accordance with section 772(e)(3) of the Tariff Act.

We consider those bearings otherwise subject to the order that are incorporated into nonbearing products, which collectively comprise less than one percent of the value of the finished products sold to unrelated customers in the United States, to be outside the scope of the antidumping orders on AFBs and not subject to the assessment of antidumping duties. In Roller Chain, Other Than Bicycle, from Japan (48 FR 51801; November 14, 1983), roller chain, which was subject to an antidumping duty order, was imported by a related party and incorporated into finished motorcycles. The finished motorcycles were the first articles of commerce sold by the subject producer to unrelated purchasers in the United States. Since the roller chain did not constitute a significant percentage of the value of the completed product, the Department found that a USP could not reasonably be determined for the roller chain, and the product was therefore excluded from the scope of the order in such circumstances. We have applied this same principle to these reviews.

Foreign Market Value

The home market was viable for all companies and all classes or kinds of merchandise. The Department used home market prices or constructed value (CV) as defined in section 773 of the Tariff Act, as appropriate, to calculate foreign market value (FMV).

Due to the extremely large number of transactions that occurred during the POR and the resulting administrative burden involved in examining all of these transactions, we sampled sales to calculate FMV, in accordance with section 777A of the Tariff Act. When a firm had more than 2000 home market or third-country sales transactions for a particular class or kind of merchandise, we reviewed sales from sample months that corresponded to the sample weeks selected for U.S. sales sampling. The sample months included April, May, July, October, and December of 1991, and February, March, and June of 1992.

In general, the Department relies on monthly weighted-average prices in the calculation of FMV in administrative reviews. Because of the significant volume of home market sales involved in these reviews, we examined whether it was appropriate to average, in accordance with section 777A of the Tariff Act, all of respondents' home market sales data that we collected. In this case, the use of POR weighted-average prices results in significant time and resource savings for the Department. To determine whether a POR weighted-average price was representative of the transactions under consideration, we performed a three-step test.

We first compared the monthly weighted-average home market price for each model with the weighted-average POR price of that model. We calculated the proportion of each model's sales whose POR weighted-average price did not vary meaningfully (*i.e.*, within plus or minus 10 percent) from the monthly weighted-average prices. We did this for each model within each class or kind of merchandise. We then compared the volume of sales of all models within each class or kind of merchandise whose POR weighted-average price did not vary meaningfully from the monthly weighted-average price with the total volume of sales of that class or kind of merchandise. If the POR weighted-average price of at least 90 percent of sales in each class or kind of merchandise did not vary meaningfully from the monthly weighted-average price, we considered the POR weighted-average prices to be representative of the transactions under consideration. Finally, we tested whether there was any correlation between fluctuations in price and time for each model. Where the correlation coefficient was less than 0.05 (where a coefficient approaching 1.0 means a direct relation between price and time, *i.e.*, that prices consistently rise from month to month, and a coefficient approaching zero means no relation between prices and time), we concluded that there was no significant relation between price and time. We calculated a weighted-average POR FMV only for those classes or kinds that satisfied our three-step test for the factors of price, volume, and time.

We compared U.S. sales with sales of such or similar merchandise in the home market. We considered all non-identical products within a bearing family to be equally similar. As defined in the questionnaire, a bearing family consists of all bearings within a class or kind of merchandise that share the following physical characteristics: Load direction, bearing design, number of rows of rolling elements, precision rating, dynamic load rating, and physical dimensions.

Home market prices were based on the packed, ex-factory or delivered prices to related or unrelated purchasers in the home market. Where applicable, we made adjustments for movement expenses, differences in cost attributable

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to differences in physical characteristics of the merchandise and differences in packing. We also made adjustments for differences in circumstances of sale in accordance with 19 CFR 353.56. For comparisons to PP sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we deducted home market direct selling expenses. Due to the Court of Appeals' decision in *Zenith Electronics Corp.* v. *United States*, 92–1043, we made no adjustments for differences in the VAT taxes. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in PP and ESP calculations and to offset U.S. indirect selling expenses deducted in ESP calculations, but not exceeding the amount of the indirect U.S. expenses.

We used sales to related customers only where we determined such sales were made at arm's length, *i.e.*, at prices comparable to prices at which the firm sold identical merchandise to unrelated customers.

Where we found home market sales below the cost of production in the previous administrative review period, we initiated cost investigations. We conducted cost investigations with respect to BBs, CRBs, and SPBs for SKF, BBs for GMN, BBs and CRBs for FAG, and BBs and CRBs for INA.

In accordance with section 773(b) of the Tariff Act, in determining whether to disregard home market sales made at prices below the cost of production, we examined whether such sales were made in substantial quantities over an extended period of time. When less than 10 percent of the home market sales of a particular model were at prices below the cost of production, we did not disregard any sales of that model. When 10 percent or more, but not more than 90 percent of the home market sales of a particular model were determined to be below cost, we excluded the below-cost home market sales from our calculation of FMV provided that these below-cost sales were made over an extended period of time. When more than 90 percent of the home market sales of a particular model were made below cost over an extended period of time, we disregarded all home market sales of that model from our calculation of FMV.

To determine if sales below cost had been made over an extended period of time, we compared the number of months in which sales below cost had occurred for a particular model to the number of months in which the model was sold. If the model was sold in three or fewer months, we did not disregard below-cost sales unless there were sales below cost of that model in each month sold. If a model was sold in more than three months, we did not disregard below-cost sales unless there were sales below cost in at least three of the months in which the model was sold.

Since none of the respondents has submitted information indicating that any of its sales below cost were at prices which would have permitted "recovery of all costs within a reasonable period of time in the normal course of trade," within the meaning of section 773(b)(2) of the Tariff Act, we were unable to conclude that the costs of production of such sales were recovered within a reasonable period. As a result, we disregarded below-cost sales over an extended period of time for FAG (BBs and CRBs), GMN (BBs), INA (BBs and CRBs), and SKF (BBs, CRBs, and SPBs).

Home market sales of obsolete merchandise and distress sales were not disregarded from our cost analysis unless there was documented information on the record demonstrating that such sales were outside the ordinary course of trade.

In accordance with section 773(a)(2) of the Tariff Act, we used constructed value as the basis for FMV when there were no usable sales of such or similar merchandise for comparison.

We calculated constructed value in accordance with section 773(e) of the Tariff Act. We included the cost of materials, fabrication, general expenses, profit and packing. We also included: (1) Actual general expenses, or the statutory minimum of 10 percent of materials and fabrication, whichever was greater; (2) actual profit or the statutory minimum of 8 percent of materials, fabrication costs and general expenses, whichever was greater; and (3) packing costs for merchandise exported to the United States. Where appropriate, we made adjustments to CV in accordance with 19 CFR 353.56, for differences in circumstances of sale. For comparisons to PP sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we deducted home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in PP and ESP calculations. For comparisons involving ESP transactions, we made further deductions to constructed value for indirect selling expenses in the home market, capped by the indirect selling expenses incurred on ESP sales in accordance with 19 CFR 353.56(b)(2).

Effective November 20, 1990, FAG acquired a group of bearings manufacturers located in the former German Democratic Republic (GDR). For purposes of these reviews, the Department followed the decision made in the last administrative reviews and did not require FAG to include in its response the home market sales or cost data of these former GDR manufacturers. The former GDR manufacturers made no U.S. sales during the POR. Given the extraordinary circumstances of the merger of the two countries, one market-oriented and the other a nonmarket economy, a reasonable administration of the Tariff Act calls for a reasonable period of time to convert the records and business practices of the former GDR manufacturers to reflect the new economic environment. The Department's position is outlined in a proprietary decision memorandum dated September 23, 1992, from Joseph A. Spetrini, Deputy Assistant Secretary for Compliance, to Alan M. Dunn, Assistant Secretary for Import Administration.

Preliminary Results of Reviews

As a result of our reviews, we preliminarily determine the weighted-average dumping margins for the period May 1, 1991 through April 30, 1992 to be:

Company	BBs	CRBs	SPBs
FAG	19.42	24.42	8.71
Fichtel & Sachs	6.21	(2)	(2)
GMN	0.08	(2)	(2)
INA	17.67	13.20	(2)
NTN	0.29	(1)	(1)
SKF	16.82	8.51	7.57

[1] No U.S. sales during the review period.
[2] No review requested.

Parties to this proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of the date of publication of this notice. A general issues hearing, if requested, will be held on May 24, 1993, in the Main Auditorium, at 9 a.m. Any hearing regarding issues related solely to Germany, if requested, will be held on May 27, 1993, in room 1617–M–4 at 9 a.m.

General issues briefs and/or written comments from interested parties may be submitted not later than May 12, 1993. General issues rebuttal briefs and rebuttals to written comments, limited to the issues raised in the case briefs and comments, may be filed not later than May 19, 1993. Case briefs and comments and all rebuttal briefs regarding issues related solely to Germany are due no later than May 17 and May 24, 1993, respectively. The Department will subsequently publish the final results of these administrative reviews, including the results of its analysis of issues raised in any such written comments or a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Because sampling prevents calculation of duties on an entry-by-entry basis, we will calculate an importer-specific *ad valorem* appraisement rate for each class or kind of merchandise based on the ratio of the total value of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total value of antidumping duties, which are calculated by taking the difference between statutory FMV and statutory USP, by the total statutory USP value of the sales compared, and adjusting the result by the average difference between USP and customs value for all merchandise examined during the POR.) Where we do not have entered customs value to calculate an *ad valorem* rate, we will calculate an average per-unit dollar amount of antidumping duty based on all sales examined during the POR. We will instruct the Customs Service to assess this average amount on all units included in each entry made by the particular importer during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of these reviews.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies will be those rates established in the final results of these reviews; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of these administrative reviews. This rate represents the highest rate for any firm with shipments in these administrative reviews, other than those firms receiving a rate based entirely on best information available. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: April 19, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–9828 Filed 4–26–93; 8:45 am]

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[A–475–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews and partial termination of administrative reviews.

SUMMARY: In response to requests from interested parties, the Department of Commerce has conducted administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Italy. The classes or kinds of merchandise covered by these orders are ball bearings (BBs) and cylindrical roller bearings (CRBs). The reviews cover four manufacturers/exporters and the period May 1, 1991 through April 30, 1992. Although we initiated reviews for three other manufacturers/exporters, we are terminating the reviews because their requests for review were timely withdrawn. As a result of these reviews, the Department has preliminarily determined the weighted-average dumping margins for the reviewed firms to range from 1.26 to 28.25 percent for BBs, and from 0.00 to 29.92 percent for CRBs.

We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Carlo Cavagna (Meter S.p.A.), Michael Diminich (SKF Industrie S.p.A.), Joe Fargo (SNECMA), Anna Snider (FAG Italia S.p.A.), or Richard Rimlinger; Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 20903) the antidumping duty orders on ball bearings (BBs) and cylindrical roller bearings (CRBs) and parts thereof from Italy. On July 6, 1992 in accordance with 19 CFR 353.22(c), we initiated administrative reviews of those orders for the period May 1, 1991 through April 30, 1992 (57 FR 29700).

The Department is now conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). These reviews cover the following firms and classes or kinds of merchandise:

Name of firm	Class or kind
FAG Italia S.p.A. (FAG-Italy)	BBs, CRBs
Meter S.p.A. (Meter)	BBs
SKF—Industrie S.p.A. (including all relevant affiliates) (SKF-Italy).	BBs, CRBs
Societé Nationale d'Etude et de Construction de Moteurs d'Aviation (SNECMA).	BBs, CRBs

Subsequent to the publication of our initiation notice, we received timely withdrawal requests for Eurocopter France (formerly Aerospatiale Division Helicopteres (ADH)), ITT Jabsco, and OMCG, s.r.l. Because there were no other requests for review of these companies from any other interested parties, we are terminating the reviews with respect to these companies, in accordance with 19 CFR 353.22(a)(5).

The Department allowed certain companies to submit abbreviated questionnaire responses if they sold

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exclusively from published price lists and were able to demonstrate that all price list prices, with rare exceptions, were adhered to. In lieu of a detailed sales listing, firms that qualified for the price list option were permitted to provide all applicable price lists and aggregate cost and adjustment data. In these reviews, SNECMA qualified for, and opted to use, this price list option.

Scope of Reviews

The products covered by these reviews are antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof (AFBs), and constitute the following classes or kinds of merchandise:

1. Ball Bearings and Parts Thereof

These products include all AFBs which employ balls as the roller element. Imports of these products are classified under the following categories: Antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedule (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

2. Cylindrical Roller Bearings and Parts Thereof

These products include all AFBs which employ cylindrical rollers as the rolling element. Imports of these products are classified under the following categories: Antifriction rollers, all cylindrical roller bearings (including split cylindrical roller bearings) and parts thereof, and housed or mounted cylindrical roller bearing units and parts thereof.

Imports of these products are classified under the following HTS subheadings: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

Size or precision grade of a bearing does not influence whether the bearing is covered by the orders. The HTS item numbers are provided for convenience and Customs purposes. They are not determinative of the products subject to the orders. The written description remains dispositive.

United States Price

In calculating United States price (USP), the Department used purchase price (PP) or exporter's sales price (ESP), as defined in section 772 of the Tariff Act, as appropriate.

Due to the extremely large number of transactions that occurred during the period of review (POR) and the resulting administrative burden involved in calculating individual margins for all of these transactions, we sampled ESP sales to calculate USP, in accordance with section 777A of the Tariff Act. When a firm made more than 2000 ESP sales transactions to the United States for a particular class or kind of merchandise, we reviewed sales in sample weeks. We selected one week from each two-month period in the review period, for a total of six weeks, and analyzed each transaction made in those six weeks. The sample weeks included May 1–5, 1991; July 1–7, 1991; October 21–27, 1991; December 16–22, 1991; February 17–23, 1992, and March 2–8, 1992. We reviewed all PP sales transactions during the POR because there were relatively few PP sales.

United States price was based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, from PP and ESP for movement expenses, discounts and rebates.

We made additional deductions from ESP for direct selling expenses, indirect selling expenses, and repacking in the United States.

We made an addition to USP for value-added taxes (VAT) in accordance with section 772(d)(1)(C) of the Tariff Act. However, as noted in the FMV section of this notice, we followed the instructions of the Court of Appeals for the Federal Circuit in *Zenith Electronics Corp.* v. *United States*, 92–1043 (Zenith) and did not make a circumstance of sale adjustment for consumption taxes. Furthermore, the Department is now examining the Zenith decision in detail and is considering the proper methodology for making this tax adjustment. Interested parties are invited to comment upon this issue.

With respect to subject merchandise to which value was added in the United States, e.g., parts of bearings that were imported and further processed into finished bearings by U.S. affiliates of foreign exporters prior to sale to unrelated U.S. customers, we deducted any increased value in accordance with section 772(e)(3) of the Tariff Act.

We consider those bearings otherwise subject to the order that are incorporated into nonbearing products, which collectively comprise less than one percent of the value of the finished products sold to unrelated customers in the United States, to be outside the scope of the antidumping orders on AFBs and not subject to the assessment of antidumping duties. In Roller Chain, Other Than Bicycle, from Japan (48 FR 51801; November 14, 1983), roller chain, which was subject to an antidumping duty order, was imported by a related party and incorporated into finished motorcycles. The finished motorcycles were the first articles of commerce sold by the subject producer to unrelated purchasers in the United States. Since the roller chain did not constitute a significant percentage of the value of the completed product, the Department found that a USP could not reasonably be determined for the roller chain, and the product was therefore excluded from the scope of the order in such circumstances. We have applied this same principle to these reviews.

Foreign Market Value

The home market was viable for all companies and all classes or kinds of merchandise. The Department used home market price or constructed value (CV) as defined in section 773 of the Tariff Act, as appropriate, to calculate foreign market value (FMV). In the case of SNECMA, which sells Italian-origin bearings to the United States from France, we applied the four criteria set forth in 19 CFR 353.47 regarding exportation from an intermediate country. This section provides that if (1) a reseller in an intermediate country purchases the merchandise from a producer in a covered country, (2) the producer (at the time of the sale to that reseller) does not know where the reseller will export the merchandise, (3) the merchandise enters the commerce of the intermediate country but is not substantially transformed in that country, and (4) the merchandise is subsequently exported to the United States, the intermediate country will be considered the home market for purposes of establishing FMV. Using these criteria, we determined that France is the appropriate home market for sales of Italian-origin AFBs by SNECMA.

Due to the extremely large number of transactions that occurred during the POR and the resulting administrative burden involved in examining all of these transactions, we sampled sales to calculate FMV, in accordance with section 777A of the Tariff Act. When a firm had more than 2000 home market or third country sales transactions for a particular class or kind of merchandise, we reviewed sales from eight sample

months that corresponded to the sample weeks selected for U.S. sales sampling. The sample months included April, May, July, October, and December of 1991, and February, March, and June of 1992.

In general, the Department relies on monthly weighted-average prices in the calculation of FMV in administrative reviews. Because of the significant volume of home market sales involved in these reviews, we examined whether it was appropriate to average, in accordance with section 777A of the Tariff Act, all of respondents' home market sales data that we collected. In this case, the use of POR weighted-average prices results in significant time and resource savings for the Department. To determine whether a POR weighted-average was representative of the transactions under consideration, we performed a three-step test.

We first compared the monthly weighted-average home market price for each model with the weighted-average POR price of that model. We calculated the proportion of each model's sales whose POR weighted-average price did not vary meaningfully (*i.e.*, within plus or minus 10 percent) from the monthly weighted-average prices. We did this for each model within each class or kind of merchandise. We then compared the volume of sales of all models within each class or kind of merchandise whose POR weighted-average price did not vary meaningfully from the monthly weighted-average price with the total volume of sales of that class or kind of merchandise. If the POR weighted-average price of at least 90 percent of sales in each class or kind of merchandise did not vary meaningfully from the monthly weighted-average price, we considered the POR weighted-average prices to be representative of the transactions under consideration. Finally, we tested whether there was any correlation between fluctuations in price and time for each model. Where the correlation coefficient was less than 0.05 (where a coefficient approaching 1.0 means a direct relation between price and time, *i.e.*, that prices consistently rise from month to month, and a coefficient approaching zero means no relation between prices and time), we concluded that there was no significant relation between price and time. We calculated a weighted-average POR FMV only for those classes or kinds that satisfied our three-step test for the factors of price, volume, and time.

We compared U.S. sales with sales of such or similar merchandise in the home market. We considered all non-identical products within a bearing family to be equally similar. As defined in the questionnaire, a bearing family consists of all bearings within a class or kind of merchandise that share the following physical characteristics: Load direction, bearing design, number of rows of rolling elements, precision rating, dynamic load rating, and physical dimensions.

Home market prices were based on the packed, ex-factory or delivered prices to related or unrelated purchasers in the home market. Where applicable, we made adjustments for movement expenses, differences in cost attributable to differences in physical characteristics of the merchandise and differences in packing. We also made adjustments for differences in circumstances of sale in accordance with 19 CFR 353.56. For comparisons to PP sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we deducted home market direct selling expenses. Due to the Court of Appeals' decision in *Zenith Electronics Corp.* v. *United States*, 92–1043, we made no adjustments for differences in the VAT taxes. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in PP and ESP calculations and to offset U.S. indirect selling expenses deducted in ESP calculations, but not exceeding the amount of the indirect U.S. expenses.

We used sales to related customers only where we determined such sales were made at arm's length (*i.e.*, at prices comparable to prices at which the firm sold identical merchandise to unrelated customers).

Where we disregarded sales below the cost of production in the previous administrative review period, or where we received adequate allegations of sales below cost in this review, we initiated cost investigations. We conducted cost investigations with respect to BBs and CRBs from SKF-Italy and from FAG-Italy.

In accordance with section 773(b) of the Tariff Act, in determining whether to disregard home market sales made at prices below the cost of production, we examined whether such sales were made in substantial quantities over an extended period of time. When less than 10 percent of the home market sales of a particular model were at prices below the cost of production, we did not disregard any sales of that model. When 10 percent or more, but not more than 90 percent of the home market sales of a particular model were determined to be below cost, we excluded the below-cost home market sales from our calculation of FMV provided that these below cost sales were made over an extended period of time. When more than 90 percent of the home market sales of a particular model were made below cost over an extended period of time, we disregarded all home market sales of that model from our calculation of FMV.

To determine if sales below cost had been made over an extended period of time, we compared the number of months in which sales below cost had occurred for particular models to the number of months in which the model was sold. If the model was sold in three or fewer months, we did not disregard below cost sales unless there were sales below cost of that model in each month sold. If a model was sold in more than three months, we did not disregard below cost sales unless there were sales below cost in at least three of the months in which the model was sold.

Since none of the respondents has submitted information indicating that any of its sales below cost were at prices which would have permitted "recovery of all costs within a reasonable period of time in the normal course of trade," we were unable to conclude that the costs of production of such sales were recovered within a reasonable period. As a result, we disregarded below-cost sales made by SKF-Italy and FAG-Italy over an extended period of time.

Home market sales of obsolete merchandise and distress sales were not disregarded in our cost analysis unless there was documented information on the record demonstrating that such sales were outside the ordinary course of trade.

In accordance with section 773(a)(2) of the Tariff Act, we used constructed value as the basis for FMV when there were no usable sales of such or similar merchandise for comparison.

We calculated constructed value in accordance with section 773(e) of the Tariff Act. We included the cost of materials, fabrication, general expenses, profit and packing. We also included: (1) Actual general expenses, or the statutory minimum of 10 percent of materials and fabrication, whichever was greater; (2) actual profit or the statutory minimum of 8 percent of materials, fabrication costs and general expenses, whichever was greater; and (3) packing costs for merchandise exported to the United States. Where appropriate, we made adjustments to CV in accordance with 19 CFR 353.56, for differences in circumstances of sale. For comparisons to PP sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we

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deducted home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in PP and ESP calculations. For comparisons involving ESP transactions, we made further deductions to constructed value for indirect selling expenses in the home market, capped by the indirect selling expenses incurred on ESP sales in accordance with 19 CFR 353.56(b)(2).

Preliminary Results of Reviews

As a result of our reviews, we preliminarily determine the weighted-average dumping margins for the period May 1, 1991 through April 30, 1992 to be:

Company	BBs	CRBs
FAG-Italy	9.64	29.92
Meter	1.26	(1)
SKF-Italy	5.90	0.00
SNECMA	28.25	10.32

[1] No U.S. sales during the review period.

Parties to this proceeding may request disclosure and interested parties may request a hearing within 10 days of the date of publication of this notice. A general issues hearing, if requested, will be held on May 24, 1993, in the Main Auditorium, at 9 a.m. Any hearing regarding issues related solely to Italy, if requested, will be held on May 26, 1993, in room 3708, at 2 p.m.

General issues briefs and/or written comments from interested parties may be submitted not later than May 12, 1993. General issues rebuttal briefs and rebuttals to written comments, limited to the issues raised in the case briefs and comments, may be filed not later than May 19, 1993. Case briefs and comments and all rebuttal briefs regarding issues related solely to Italy are due no later than May 14, 1993, and May 21, 1993, respectively. The Department will subsequently publish the final results of these administrative reviews, including the results of its analysis of issues raised in any such written comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Because sampling prevents us from doing entry-by-entry assessments, we will calculate an importer-specific *ad valorem* appraisement rate for each class or kind of merchandise based on the ratio of the total value of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total value of antidumping duties, which are calculated by taking the difference between statutory FMV and statutory USP, by the total statutory USP value of the sales compared, and adjusting the result by the average difference between USP and customs value for all merchandise examined during the POR.) Where we do not have entered customs value to calculate an *ad valorem* rate, we will calculate an average per-unit dollar amount of antidumping duty based on all sales examined during the POR. We will instruct the Customs Service to assess this average amount on all units included in each entry made by the particular importer during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of these reviews.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies will be those rates established in the final results of these reviews; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of these administrative reviews. This rate represents the highest rate for any firm with shipments in these administrative reviews, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: April 19, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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[A-588-804]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Japan; Preliminary Results of Antidumping Duty, Administrative Reviews and Partial Termination of Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews and partial termination of administrative reviews.

SUMMARY: In response to requests from interested parties, the Department of Commerce has conducted administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Japan. The classes or kinds of merchandise covered by these orders are ball bearings (BBs), cylindrical roller bearings (CRBs), and spherical plain bearings (SPBs). The reviews cover sixteen manufacturers/exporters and the period May 1, 1991 through April 30, 1992. Although we initiated reviews for one other manufacturer/ exporter, we are terminating these reviews because the request for reviews for this firm was withdrawn. As a result of the remaining reviews, the Department has preliminarily determined the weighted-average dumping margins for the reviewed firms to range from 0.54 to 14.73 percent for BBs, from 0.00 to 11.57 percent for CRBs, and from 0.00 to 1.47 percent for SPBs.

We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith (Honda Motor Co. Ltd., Nachi-Fujikoshi Corp., Showa Pillow Block Mfg., Ltd., Takeshita Seiko Co.), Kris Campbell (Izumoto Seiko Co. Ltd., Tottori Yamakei Bearing Seisakusho Ltd.), David Levy (Nippon Seiko K.K., NTN Corp.), Philip Marchal (Fujino Iron Works Co., Ltd., Nakai Bearing Co., Ltd., Nankai Seiko Bearing Co., Ltd., Nippon Pillow Block Sales Co., Ltd., Osaka Pump Co., Ltd.), Joseph Hanley (Asahi Seiko Co., Ltd., Inoue Jikuuke Kogyo Co., Koyo Seiko Co., Ltd.), or Michael Rill, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-4733.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 20904) the antidumping duty orders on BBs, CRBs, and SPBs and parts thereof from Japan. On July 6, 1992, in accordance with 19 CFR 353.22(c), we initiated administrative reviews of those orders for the period May 1, 1991, through April 30, 1992 (57 FR 29700). The Department is now conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). These reviews cover the following firms and classes or kinds of merchandise:

Name of firm	Class or kind
Asahi Seiko Co., Ltd. (Asahi)	BBs.
Fujino Iron Works Co., Ltd. (Fujino).	BBs.
Honda Motor Co., Ltd. (Honda)	BBs, CRBs, SPBs.
Inoue Jikuuke Kogyo Co., Ltd., (IJK).	BBs, CRBs.
Izumoto Seiko Co. Ltd., (Izumoto).	BBs.
Koyo Seiko Co., Ltd., (Koyo)	BBs, CRBs, SPBs.
Nachi-Fujikoshi Corp. (Nachi)	BBs, CRBs.
Nakai Bearing Co., Ltd. (Nakai)	BBs.
Nankai Seiko Co., Ltd. (Nankai).	BBs.
Nippon Pillow Block Sales Co. Ltd.(NPB).	BBs.
Nippon Seiko K.K. (NSK)	BBs, CRBs, SPBs.
NTN Corp. (NTN)	BBs, CRBs, SPBs.
Osaka Pump Co., Ltd. (Osaka Pump).	BBs.
Showa Pillow Block Mfg., Ltd. (Showa).	BBs.
Takeshita Seiko Co. (Takeshita).	BBs.
Tottori Yamakai Bearing Seisakusho (Tottori).	BBs.

Subsequent to the publication of our initiation notice, we received a timely withdrawal request for Eurocopter Deutschland GmbH. Because there were no other requests for review for this company from any other interested parties, we are terminating the reviews with respect to Eurocopter Deutschland in accordance with 19 CFR 353.22(a)(5).

The Department allowed certain companies to submit abbreviated questionnaire responses if they sold exclusively from published price lists and were able to demonstrate that all price list prices, with rare exceptions, were adhered to. In lieu of a detailed sales listing, firms that qualified for the price list option were permitted to provide all applicable price lists and aggregate cost and adjustment data. In these reviews, Honda qualified for and opted to use this price list option.

Scope of Reviews

The products covered by these reviews are antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof (AFBs), and constitute the following "classes or kinds" of merchandise:

1. Ball Bearings and Parts Thereof

These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

2. Cylindrical Roller Bearings and Parts Thereof

These products include all AFBs that employ cylindrical rollers as the rolling element. Imports of these products are classified under the following categories: antifriction rollers, all cylindrical roller bearings (including split cylindrical roller bearings) and parts thereof, and housed or mounted cylindrical roller bearing units and parts thereof.

Imports of these products are classified under the following HTS subheadings: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

3. Spherical Plain Bearings and Parts Thereof

These products include all spherical plain bearings that employ a spherically shaped sliding element, and parts thereof, and include spherical plain rod ends.

Imports of these products are classified under the following HTS subheadings: 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8485.90.00, 8708.99.50.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

United States Price

In calculating United States price (USP), the Department used purchase price (PP) or exporter's sales price (ESP), both as defined in section 772 of the Tariff Act, as appropriate.

Due to the extremely large number of transactions that occurred during the period of review (POR) and the resulting administrative burden involved in calculating individual margins for all of these transactions, we sampled sales to calculate USP, in accordance with section 777A of the Tariff Act. When a firm made more than 2000 ESP sales transactions to the United States for a particular class or kind of merchandise, we reviewed sales during sample weeks. We selected one week from each two-month period in the review period, for a total of six weeks, and analyzed each transaction made in those six weeks. The sample weeks included May 1-5, 1991; July 1-7, 1991; October 21-27, 1991; December 16-22, 1991; February 17-23, 1992; and March 2-8, 1992. We reviewed all PP sales transactions during the POR because there were few PP sales.

USP was based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, from PP and ESP for movement expenses, discounts and rebates.

We made additional deductions from ESP for direct selling expenses, indirect selling expenses, and repacking in the United States.

We made an addition to USP for consumption taxes in accordance with section 772(d)(1)(C) of the Tariff Act. However, as noted in the FMV section of this notice, we followed the instructions of the Court of Appeals for the Federal Circuit in *Zenith Electronics Corp. v. United States*, 92-1043 (Zenith)

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and did not make a circumstance of sale adjustment for consumption taxes. Furthermore, the Department is now examining the Zenith decision in detail and is considering the proper methodology for making this tax adjustment. Interested parties are invited to comment upon this issue.

With respect to subject merchandise to which value was added in the United States, e.g., parts of bearings that were imported and further processed into finished bearings by U.S. affiliates of foreign exporters prior to sale to unrelated U.S. customers, we deducted any increased value in accordance with section 772(e)(3) of the Tariff Act.

We consider those bearings otherwise subject to the order that are incorporated into nonbearing products, which collectively comprise less than one percent of the value of the finished products sold to unrelated customers in the United States, to be outside the scope of the antidumping orders on AFBs and not subject to the assessment of antidumping duties. In Roller Chain, Other Than Bicycle, from Japan (48 FR 51801; November 14, 1983), roller chain, which was subject to an antidumping finding, was imported by a related party and incorporated into finished motorcycles. The finished motorcycles were the first articles of commerce sold by the subject producer to unrelated purchasers in the United States. Since the roller chain did not constitute a significant percentage of the value of the completed product, the Department found that a USP could not reasonably be determined for the roller chain, and the product was therefore excluded from the scope of the finding in such circumstances. We have applied this same principle to these reviews.

Foreign Market Value

The home market was viable for all companies and all classes or kinds of merchandise except for Showa Pillow Block Mfg., Co. The Department used home market price or constructed value (CV) as defined in section 773 of the Tariff Act, as appropriate, to calculate foreign market value (FMV). With respect to Showa Pillow Block, the Department used sales to a third country or CV as defined in section 773 of the Tariff Act, as appropriate, to calculate FMV.

Due to the extremely large number of transactions that occurred during the POR and the resulting administrative burden involved in examining all of these transactions, we sampled sales to calculate FMV, in accordance with section 777A of the Tariff Act. When a firm had more than 2000 home market or third country sales transactions for a particular class or kind of merchandise, we reviewed sales from eight sample months that corresponded to the sample weeks selected for U.S. sales. The sample months included April, May, July, October, and December of 1991, and February, March, and June of 1992.

In general, the Department relies on monthly weighted-average prices in the calculation of FMV. Because of the significant volume of home market sales involved in these reviews, we examined whether it was appropriate to average, in accordance with section 777A of the Tariff Act, all of respondents' home market sales data that we collected. In this case, the use of POR weighted-average prices results in significant time and resource savings for the Department. To determine whether a POR weighted-average price was representative of the transactions under consideration, we performed a three-step test.

We first compared the monthly weighted-average home market price for each model with the weighted-average POR price of that model. We calculated the proportion of each model's sales whose POR weighted-average price did not vary meaningfully (i.e., within plus or minus 10 percent) from the monthly weighted-average prices. We did this for each model within each class or kind of merchandise. We then compared the volume of sales of all models within each class or kind of merchandise whose POR weighted-average price did not vary meaningfully from the monthly weighted-average price with the total volume of sales of that class or kind of merchandise. If the POR weighted-average price of at least 90 percent of sales in each class or kind of merchandise did not vary meaningfully from the monthly weighted-average price, we considered the POR weighted-average prices to be representative of the transactions under consideration. Finally, we tested whether there was any correlation between fluctuations in price and time for each model. Where the correlation coefficient was less than 0.05 (where a coefficient approaching 1.0 means a direct relation between price and time, *i.e.*, that prices consistently rise from month to month, and a coefficient approaching zero means no relation between prices and time), we concluded that there was no significant relation between price and time. We calculated a weighted-average POR FMV only for those classes or kind that satisfied our three-step test for the factors of price, volume, and time.

We compared U.S. sales with sales of such or similar merchandise in the home market. We considered all non-identical products within a bearing family to be equally similar. As defined in the questionnaire, a bearing family consists of all bearings within a class or kind of merchandise that share the following physical characteristics: Load direction, bearing design, number of rows of rolling elements, precision rating, dynamic load rating, and physical dimensions.

Home market prices were based on the packed, ex-factory or delivered prices to related or unrelated purchasers in the home market. Where applicable, we made adjustments for movement expenses, differences in cost attributable to differences in physical characteristics of the merchandise and differences in packing. We also made adjustments for differences in circumstances of sale in accordance with 19 CFR 353.56. For comparisons to PP sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we deducted home market direct selling expenses. Due to the Court of Appeals' decision in *Zenith Electronics Corp.* v. *United States*, 92–1043, we made no adjustments for differences in the consumption taxes. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in PP and ESP calculations and to offset U.S. indirect selling expenses deducted in ESP calculations, but not exceeding the amount of the indirect U.S. expenses.

Where we disregarded sales below cost in the previous administrative review period, or where we received adequate allegations of sales below cost in this review period, we initiated cost investigations. We conducted cost investigations with respect to BBs, CRBs, and SPBs from NTN; BBs and CRBs from Koyo, Nachi, and NSK; and BBs from Asahi Seiko, Fujino Iron Works, and Nankai Seiko.

In accordance with section 773(b) of the Tariff Act, in determining whether to disregard home market sales made at prices below the cost of production, we examined whether such sales have been made in substantial quantities over an extended period of time. When less then 10 percent of the home market sales of a particular model were at prices below the cost of production, we did not disregard any sales of that model. When 10 percent or more, but not more than 90 percent of the home market sales of a particular model were determined to be below cost, we excluded the below-cost home market sales from our calculation of FMV provided that these below cost sales were made over an extended period of time. When more than 90 percent of the home market sales of a particular model were made below cost over an extended period of time, we disregarded all home market sales of that model from our calculation of FMV.

To determine whether sales below cost had been made over an extended period of time, we compared the number of months in which sales below cost occurred for a particular model to the number of months in which that model was sold. If the model was sold in three or fewer months, we did not disregard below-cost sales unless there were below-cost sales of that model in each month sold. If a model was sold in more than three months, we did not disregard below-cost sales unless there were sales below cost in at least three of the months in which the model was sold.

Since none of the respondents has submitted information indicating that any of its sales below cost were at prices which would have permitted "recovery of all costs within a reasonable period of time in the normal course of trade," we are unable to conclude that the costs of production of such sales have been recovered within a reasonable period. As a result of our investigation, we disregarded below-cost sales over an extended period of time for BBs, CRBs, and SPBs from NTN; BBs and CRBs from Koyo, Nachi, and NSK; and BBs from Asahi Seiko, Fujino Iron Works, and Nankai Seiko.

Home market sales of obsolete merchandise and distress sales were not disregarded from our cost analysis unless there was documented information on the record demonstrating that such sales were outside the ordinary course of trade.

In accordance with section 773(a)(2) of the Tariff Act, we used constructed value as the basis for FMV when there were no usable sales of such or similar merchandise for comparison.

We calculated constructed value in accordance with section 773(e) of the Tariff Act. We included the cost of materials, fabrication, general expenses, profit and packing. We also included: (1) Actual general expenses, or the statutory minimum of 10 percent of materials and fabrication, whichever was greater; (2) actual profit or the statutory minimum of 8 percent of materials, fabrication costs and general expenses, whichever was greater; and (3) packing costs for merchandise exported to the United States. Where appropriate, we made adjustments to CV in accordance with 19 CFR 353.56, for differences in circumstances of sale. For comparisons to PP sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we deducted home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in PP and ESP calculations. For comparisons involving ESP transactions, we made further deductions to constructed value for indirect selling expenses in the home market, capped by the indirect selling expenses incurred on ESP sales in accordance with 19 CFR 353.56(b)(1).

Preliminary Results of Reviews

As a result of our reviews, we preliminarily determine the weighted-average dumping margins for the period May 1, 1991 through April 30, 1992 to be:

Company	BBs	CRBs	SPBs
Asahi	0.54	(2)	(2)
Fujino	1.58	(2)	(2)
Honda	0.81	1.30	1.47
IJK	2.33	0.00	(2)
Izumoto	8.21	(2)	(2)
Koyo	9.81	11.57	0.00
Nachi	11.89	2.55	(2)
Nakai	6.19	(2)	(2)
Nankai	13.17	(2)	(2)
NPB	7.47	(2)	(2)
NSK	1.98	8.28	(1)
NTN	2.01	0.75	0.25
Osaka Pump	1.06	(2)	(2)
Showa	14.73	(2)	(2)
Takeshita	5.00	(2)	(2)
Tottori	1.05	(2)	(2)

[1] No U.S. sales during the review period.
[2] No review requested.

Parties to this proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. A general issues hearing, if requested, will be held on Monday, May 24, 1993, in the Department's auditorium, at 9:00 am. Any hearing regarding issues related solely to Japan, if requested, will be held on Friday, May 28, 1993, in room 3708, at 9:00 am.

General issues briefs and/or written comments from interested parties may be submitted not later than May 12, 1993. General issues rebuttal briefs and rebuttals to written comments, limited to the issues raised in the case briefs and comments, may be filed not later than May 19, 1993. Case briefs and comments and all rebuttal briefs regarding issues related solely to Japan are due no later than May 18, 1993, and May 25, 1993, respectively. The Department will subsequently publish the final results of these administrative reviews, including the results of its analysis of issues raised in any such written comments or hearings.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Because sampling prevents us from doing entry-by-entry assessments, we will calculate an importer-specific *ad valorem* appraisement rate for each class or kind of AFBs based on the ratio of the total value of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total value of antidumping duties, which are calculated by taking the difference between statutory FMV and statutory USP, by the total statutory USP value of the sales compared, and adjusting the result by the average difference between USP and customs value for all merchandise examined during the POR.) Where we do not have entered customs value to calculate an *ad valorem* rate, we will calculate an average per-unit dollar amount of antidumping duty based on all sales examined during the POR. We will instruct the Customs Service to assess this average amount on all units included in each entry made by the particular importer during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of these reviews.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies will be those rates established in the final results of these reviews; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of these administrative reviews. This rate represents the highest rate for any firm with shipments in these administrative

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reviews, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's regulations (19 CFR 353.22(c)(5)).

Dated: April 19, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-9830 Filed 4-26-93; 8:45 am]

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[A-559-801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Singapore; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests from interested parties, the Department of Commerce has conducted an administrative review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from Singapore. The class or kind of merchandise covered by this order is ball bearings (BBs). The review covers one manufacturer/exporter and the period May 1, 1991, through April 30, 1992. As a result of this review, the Department has preliminarily determined the weighted-average dumping margin for the reviewed firm to be 4.50 percent.

We invite interested parties to comment on this preliminary result.

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: David S. Levy or Michael R. Rill, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-4733.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 20907) the antidumping duty order on ball bearings (BBs) and parts thereof from Singapore. On July 6, 1992, in accordance with 19 CFR 353.22(c), we initiated an administrative review of this order for the period May 1, 1991, through April 30, 1992 (57 FR 29700). The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). This review covers sales of BBs manufactured by NMB Singapore Ltd. (NMB) and Pelmec Industries (Pte.) Ltd. (Pelmec). Since NMB and Pelmec are related companies we are treating them as one entity (hereinafter referred to as NMB) for purposes of this review.

Scope of Review

The products covered by this review are antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof (AFBs), and constitute the following "class or kind" of merchandise:

1. Ball Bearings and Parts Thereof

These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: Antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

United States Price

In calculating United States price (USP), the Department used exporter's sales price (ESP), as defined in section 772 of the Tariff Act.

Due to the extremely large number of transactions that occurred during the period of review (POR) and the resulting administrative burden involved in calculating individual margins for all of these transactions, we sampled sales to calculate USP, in accordance with section 777A of the Tariff Act. When a firm made more than 2000 ESP sales transactions to the United States for a particular class or kind of merchandise, we reviewed sales during sample weeks. We selected one week from each two-month period in the review period, for a total of six weeks, and analyzed each transaction made in those six weeks. The sample weeks included May 1–5, 1991; July 1–7, 1991; October 21–27, 1991; December 16–22, 1991; February 17–23, 1992; and March 2–8, 1992.

USP was based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in the United States. We made deductions, as appropriate, from ESP for billing adjustments, discounts, movement expenses, direct selling expenses, indirect selling expenses, and repacking in the United States.

Foreign Market Value

The home market was viable for NMB with respect to its sales of BBs. As a result, the Department used home market price or constructed value (CV) as defined in section 773 of the Tariff Act, as appropriate, to calculate foreign market value (FMV).

In general, the Department relies on monthly weighted-average prices in the calculation of FMV. Because of the significant volume of home market sales involved in these reviews, we examined whether it was appropriate to average, in accordance with section 777A of the Tariff Act, all of respondents' home market sales data that we collected. In this case, the use of POR weighted-average prices results in significant time and resource savings for the Department. To determine whether a POR weighted-average price was representative of the transactions under consideration, we performed a three-step test.

We first compared the monthly weighted-average home market price for each model with the weighted-average POR price of that model. We calculated the proportion of each model's sales whose POR weighted-average price did not vary meaningfully (*i.e.*, within plus or minus 10 percent) from the monthly weighted-average prices. We did this for

each model within each class or kind of merchandise. We then compared the volume of sales of all models within each class or kind of merchandise whose POR weighted-average price did not vary meaningfully from the monthly weighted-average price with the total volume of sales of that class or kind of merchandise. If the POR weighted-average price of at least 90 percent of sales in each class or kind of merchandise did not vary meaningfully from the monthly weighted-average price, we considered the POR weighted-average prices to be representative of the transactions under consideration. Finally, we tested whether there was any correlation between fluctuations in price and time for each model. Where the correlation coefficient was less than 0.05 (where a coefficient approaching 1.0 means a direct relation between price and time, *i.e.*, that prices consistently rise from month to month, and a coefficient approaching zero means no relation between prices and time), we concluded that there was no significant relation between price and time. We calculated a weighted-average POR FMV only for those classes or kinds that satisfied our three-step test for the factors of price, volume, and time.

We compared U.S. sales with sales of such or similar merchandise in the home market. We considered all non-identical products within a bearing family to be equally similar. As defined in the questionnaire, a bearing family consists of all bearings within a class or kind of merchandise that share the following physical characteristics: load direction, bearing design, number of rows of rolling elements, precision rating, dynamic load rating, and physical dimensions.

Home market prices were based on the packed, ex-factory or delivered prices to unrelated purchasers in the home market. Where applicable, we made adjustments for billing adjustments, movement expenses, direct selling expenses, differences in cost attributable to differences in physical characteristics of the merchandise, and differences in packing. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions and to offset U.S. indirect selling expenses deducted in ESP calculations but not exceeding the amount of those U.S. expenses.

Because we disregarded sales below cost in the previous administrative review period, we initiated a cost investigation with respect to BBs for NMB.

In accordance with section 773(b) of the Tariff Act, in determining whether to disregard home market sales made at prices below the cost of production, we examined whether such sales have been made in substantial quantities over an extended period of time. When less than 10 percent of the home market sales of a particular model were at prices below the cost of production, we did not disregard any sales of that model. When 10 percent or more, but not more than 90 percent of the home market sales of a particular model were determined to be below cost, we excluded the below-cost home market sales from our calculation of FMV provided that these below cost sales were made over an extended period of time. When more than 90 percent of the home market sales of a particular model were made below cost over an extended period of time, we disregarded all home market sales of that model from our calculation of FMV.

To determine whether sales below cost had been made over an extended period of time, we compared the number of months in which sales below cost occurred for a particular model to the number of months in which that model was sold. If the model was sold in three or fewer months, we did not disregard below-cost sales unless there were below-cost sales of that model in each month sold. If a model was sold in more than three months, we did not disregard below-cost sales unless there were sales below cost in at least three of the months in which the model was sold.

Since NMB did not submit information indicating that any of its sales below cost were at prices which would have permitted "recovery of all costs within a reasonable period of time in the normal course of trade," we are unable to conclude that the costs of production of such sales have been recovered within a reasonable period. As a result of our investigation, we disregarded below-cost sales made by NMB over an extended period of time.

In accordance with section 773(a)(2) of the Tariff Act, we used constructed value as the basis for FMV when there were no usable sales of such or similar merchandise for comparison.

We calculated constructed value in accordance with section 773(e) of the Tariff Act. We included the cost of materials, fabrication, general expenses, profit and packing. We included: (1) Actual general expenses or the statutory minimum of 10 percent of materials and fabrication, whichever was greater; (2) actual profit or the statutory minimum of 8 percent of materials, fabrication costs and general expenses, whichever was greater; and (3) packing costs for merchandise exported to the United States. Where appropriate, we made adjustments to constructed value in accordance with 19 CFR 353.56, for differences in circumstances of sale. For comparisons to U.S. sales, we deducted home market direct selling expenses and made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions. We made further deductions to constructed value for indirect selling expenses in the home market, capped by the indirect selling expenses incurred on ESP sales in accordance with 19 CFR 353.56(b)(2).

Preliminary Results of Reviews

As a result of our review, we preliminarily determine the weighted-average dumping margins for the period May 1, 1991, through April 30, 1992 to be:

Company and BBs

NMB—4.50

Parties to this proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. A general issues hearing, if requested, will be held on May 24, 1993, in the Commerce auditorium at 9 a.m. Any hearing regarding issues related solely to Singapore, if requested, will be held on May 24, 1992, in room 3708, at 2 p.m.

General issues briefs and/or written comments from interested parties may be submitted not later than May 12, 1993. General issues rebuttal briefs and rebuttals to written comments, limited to the issues raised in the case briefs and comments, may be filed not later than May 19, 1993. Case briefs and comments and all rebuttal briefs regarding issues related solely to Singapore are also due no later than May 12, and May 19, 1993, respectively. The Department subsequently will publish the final results of these administrative reviews, including the results of its analysis of issues raised in any such written comments or hearings.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Because sampling prevents us from doing entry-by-entry assessments, we will calculate an importer-specific *ad valorem* appraisement rate for each class or kind of AFBs based on the ratio of the total value of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the

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POR. (This is equivalent to dividing the total value of antidumping duties, which are calculated by taking the difference between statutory FMV and statutory USP, by the total statutory USP value of the sales compared, and adjusting the result by the average difference between USP and customs value for all merchandise examined during the POR.) Where we do not have entered customs value to calculate an *ad valorem* rate, we will calculate an average per-unit dollar amount of antidumping duty based on all sales examined during the POR. We will instruct the Customs Service to assess this average amount on all units included in each entry made by the particular importer during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of these reviews.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be that rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of this administrative review. This rate represents the highest rate for any firm with shipments in this administrative review, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's regulations (19 CFR 353.22(c)(5)).

Dated: April 19, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-9832 Filed 4-26-93; 8:45 am]

BILLING CODE 3510-DS-P

[A-401-801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Sweden; Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews.

SUMMARY: In response to requests from interested parties, the Department of Commerce has conducted administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Sweden. The classes or kinds of merchandise covered by these orders are ball bearings (BBs), and cylindrical roller bearings (CRBs). The reviews cover one manufacturer/exporter and the period May 1, 1991 through April 30, 1992 (the POR). As a result of these reviews, the Department has preliminarily determined the weighted-average dumping margins for the reviewed firm to be 4.97 percent for BBs, and 5.65 percent for CRBs.

We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo, Michael Diminich, or Richard Rimlinger; Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-4733.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 20900) the antidumping duty orders on ball bearings (BBs) and cylindrical roller bearings (CRBs) and parts thereof from Sweden. On July 6, 1992, in accordance with 19 CFR 353.22(c), we initiated administrative reviews of those orders for the period May 1, 1991 through April 30, 1992 (57 FR 29791). The Department is now conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). These reviews cover SKF Sverige and its sales of BBs and CRBs.

Scope of Reviews

The products covered by these reviews are antifriction bearings (other than tapered roller bearings), and parts thereof (AFBs), and constitute the following "classes or kinds" of merchandise:

1. Ball Bearings and Parts Thereof

These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: Antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

2. Cylindrical Roller Bearings and Parts Thereof

These products include all AFBs that employ cylindrical rollers as the rolling element. Imports of these products are classified under the following categories: Antifriction rollers, all cylindrical roller bearings (including split cylindrical roller bearings) and parts thereof, and housed or mounted cylindrical roller bearing units and parts thereof.

Imports of these products are classified under the following HTS subheadings: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

United States Price

In calculating United States price (USP), the Department used exporter's sales price (ESP), as defined in section 772 of the Tariff Act.

Due to the extremely large number of transactions that occurred during the period of review (POR) and the resulting administrative burden involved in calculating individual margins for all of these transactions, we sampled sales to calculate USP, in accordance with section 777A of the Tariff Act. When a firm made more than 2000 ESP sales transactions to the United States for a particular class or kind of merchandise, we reviewed sales in sample weeks. We selected one week from each two-month period in the review period, for a total of six weeks, and analyzed each transaction made in those six weeks. The sample weeks included May 1-5, 1991; July 1-7, 1991; October 21-27, 1991; December 16-22, 1991; February 17-23, 1992, and March 2-8, 1992.

USP was based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in the United States. We made deductions, as appropriate, from ESP for movement expenses, discounts and rebates. We made additional deductions from ESP for direct selling expenses, indirect selling expenses, and repacking in the United States.

We made an addition to USP for value-added taxes (VAT) in accordance with section 772(d)(1)(C) of the Tariff Act. However, as noted in the FMV section of this notice, we followed the instructions of the Court of Appeals for the Federal Circuit in *Zenith Electronics Corp.* v. *United States*, 92-1043 (Zenith) and did not make a circumstance of sale adjustment for VAT taxes. Furthermore, the Department is now examining the Zenith decision in detail and is considering the proper methodology for making this tax adjustment. Interested parties are invited to comment upon this issue.

Foreign Market Value

The home market was viable for SKF with respect to its sales of BBs. However, with respect to its sales of CRBs, there was no viable home market.

The Department used home market price or constructed value (CV) as define in section 773 of the Tariff Act, as appropriate, to calculate foreign market value (FMV) for BBs. With respect to CRBs, the Department used sales to Germany or CV, as appropriate, to calculate FMV.

Due to the extremely large number of transactions that occurred during the POR and the resulting administrative burden involved in examining all of these transactions, we sampled sales to calculate FMV, in accordance with section 777A of the Tariff Act. When a firm had more than 2000 home market or third country sales transactions for a particular class or kind of merchandise, we selected sales from sample months that corresponded to the sample weeks selected for U.S. sales sampling. The sample months included April, May, July, October, and December of 1991, and February, March, and June of 1992.

In general, the Department relies on monthly weighted-average prices in the calculation of FMV in administrative reviews. Because of the significant volume of home market sales involved in these reviews, we examined whether it was appropriate to average, in accordance with section 777A of the Tariff Act, all of respondent's home market sales data that we collected. In this case, the use of POR weighted-average prices results in significant time and resource savings for the Department. To determine whether a POR weighted-average price was representative of the transactions under consideration, we performed a three-step test.

We first compared the monthly weighted-average home market price for each model with the weighted-average POR price of that model. We calculated the proportion of each model's sales whose POR weighted-average price did not vary meaningfully (*i.e.*, within plus or minus 10 percent) from the monthly weighted-average prices. We did this for each model within each class or kind of merchandise. We then compared the volume of sales of all models within each class or kind of merchandise whose POR weighted-average price did not vary meaningfully from the monthly weighted-average price with the total volume of sales of that class or kind of merchandise. If the POR weighted-average price of at least 90 percent of sales in each class or kind of merchandise did not vary meaningfully from the monthly weighted-average price, we considered the POR weighted-average prices to be representative of the transactions under consideration. Finally, we tested whether there was any correlation between fluctuations in price and time for each model. Where the correlation coefficient was less than 0.05 (where a coefficient approaching 1.0 means a direct relation between price and time, *i.e.*, that prices consistently rise from month to month, and a coefficient approaching zero means no relation between prices and time), we concluded that there was no significant relation between price and time. We calculated a weighted-average POR FMV only for those classes or kinds that satisfied our three-step test for the factors of price, volume, and time.

We compared U.S. sales with sales of such or similar merchandise in the home market. We considered all non-identical products within a bearing family to be equally similar. As defined in the questionnaire, a bearing family consists of all bearings within a class or kind of merchandise that share the following physical characteristics: Load direction, bearing design, number of rows of rolling elements, precision rating, dynamic load rating, and physical dimensions.

Home market prices were based on the packed, ex-factory or delivered prices to related or unrelated purchasers in the home market. Where applicable, we made adjustments for movement expenses, differences in cost attributable to differences in physical characteristics of the merchandise and differences in packing. We also made adjustments for differences in circumstances of sale in accordance with 19 CFR 353.56. For comparisons to ESP sales, we deducted home market direct selling expenses. Due to the Court of Appeals' decision in *Zenith Electronics Corp* v. *United States*, 92-1043, we made no adjustments for differences in the VAT taxes. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions and to offset U.S. indirect selling expenses deducted in ESP calculations, but not exceeding the amount of the indirect U.S. expenses.

Third country price was based on the delivered prices to unrelated purchasers in Germany. Where applicable, we made adjustments for movement expenses, direct selling expenses, differences in cost attributable to differences in physical characteristics of the merchandise, and differences in packing. We also made adjustments, where applicable, for third country indirect selling expenses to offset U.S. indirect selling expenses deducted in ESP calculations but not exceeding the amount of those U.S. expenses.

We used sales to related customers only where we determined such sales were made at arm's length, *i.e.*, at prices comparable to prices at which the firm sold identical merchandise to unrelated customers.

Because we found home market sales below the cost of production for both classes or kinds of merchandise in the previous administrative review period, we initiated cost investigations with respect to BBs and CRBs for SKF.

In accordance with section 773(b) of the Tariff Act, in determining whether to disregard home market sales made at

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prices below the cost of production, we examined whether such sales were made in substantial quantities over an extended period of time. When less than 10 percent of the home market sales of a particular model were at prices below the cost of production, we did not disregard any sales of that model. When 10 percent or more, but not more than 90 percent of the home market sales of a particular model were determined to be below cost, we excluded the below-cost home market sales from our calculation of FMV provided that these below cost sales were made over an extended period of time. When more than 90 percent of the home market sales of a particular model were made below cost over an extended period of time, we disregarded all home market sales of that model from our calculation of FMV.

To determine if sales below cost had been made over an extended period of time, we compared the number of months in which sales below cost had occurred for a particular model to the number of months in which the model was sold. If the model was sold in three or fewer months, we did not disregard below-cost sales unless there were sales below cost of that model in each month sold. If a model was sold in more than three months, we did not disregard below-cost sales unless there were sales below cost in at least three of the months in which the model was sold.

Since SKF did not submit information that any of its sales below cost were at prices which would have permitted "recovery of all costs within a reasonable period of time in the normal course of trade," within the meaning of section 773(b)(2) of the Tariff Act, we are unable to conclude that the costs of production of such sales have been recovered within a reasonable period. As a result, we disregarded below-cost sales made by SKF over an extended period of time.

Home market sales of obsolete merchandise and distress sales were not disregarded from our cost analysis because SKF failed to provide documented information on the record demonstrating that such sales were outside the ordinary course of trade.

In accordance with section 773(a)(2) of the Tariff Act, we used constructed value as the basis for FMV when there were no usable sales of such or similar merchandise for comparison.

We calculated CV in accordance with section 773(e) of the Tariff Act. We included the cost of materials, fabrication, general expenses, profit and packing. We included: (1) Actual general expenses, or the statutory minimum of 10 percent of materials and fabrication, whichever was greater; (2) actual profit or the statutory minimum of 8 percent of materials, fabrication costs and general expenses, whichever was greater; and (3) packing costs for merchandise exported to the United States. Where appropriate, we made adjustments to CV in accordance with 19 CFR 353.56, for differences in circumstances of sale. For comparisons to U.S. sales, we deducted home market direct selling expenses and made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions. We made further deductions to CV for indirect selling expenses in the home market, capped by the indirect selling expenses incurred on U.S. sales in accordance with 19 CFR 353.56(b)(2).

Preliminary Results of Reviews

As a result of our reviews, we preliminarily determine the weighted-average dumping margins for the period May 1, 1991 through April 30, 1992 to be:

Company	BBS	CRBs
SKF	4.97	5.65

Parties to this proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any general issues hearing, if requested, will be held on May 24, 1993, in the Department auditorium, at 9 a.m. Any hearing regarding issues related solely to Sweden, if requested, will be held on May 25, 1993, in room 3708, at 2 p.m.

General issues briefs and/or written comments from interested parties may be submitted not later than May 12, 1993. General issues rebuttal briefs and rebuttals to written comments, limited to the issues raised in the case briefs and comments, may be filed not later than May 19, 1993. Case briefs and comments and all rebuttal briefs regarding issues related solely to Sweden are due no later than May 13, and May 20, 1993, respectively. The Department will subsequently publish the final results of these administrative reviews, including the results of its analysis of issues raised in any such written comments or hearings.

The Department shall determine, and the Customs shall assess, antidumping duties on all appropriate entries. Because sampling prevents us from doing entry-by-entry assessments, we will calculate an importer-specific *ad valorem* appraisement rate for each class or kind of merchandise based on the ratio of the total value of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total value of antidumping duties, which are calculated by taking the difference between statutory FMV and statutory USP, by the total statutory USP value of the sales compared, and adjusting the result by the average difference between USP and customs value for all merchandise examined during the POR.) Where we do not have entered customs value to calculate an *ad valorem* rate, we will calculate an average per-unit dollar amount of antidumping duty based on all sales examined during the POR. We will instruct the Customs Service to assess this average amount on all units included in each entry made by the particular importer during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of these reviews.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies will be those rates established in the final results of these reviews; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other rate" established in the final results of these administrative reviews. This rate represents the highest rate for any firm with shipments in these administrative reviews, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the next administrative reviews.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: April 19, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-9833 Filed 4-26-93; 8:45 am]

BILLING CODE 3510-DS-P

[A-549-801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Thailand; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty Administrative Review.

SUMMARY: In response to requests from interested parties, the Department of Commerce is conducting an administrative review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from Thailand. The class or kind of merchandise covered by this order is ball bearings (BBs). The review covers one manufacturer/exporter and the period May 1, 1991, through April 30, 1992. As a result of this review, the Department has preliminarily determined the weighted-average dumping margin for the reviewed firm to be 0.13 percent.

DATES: We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: David S. Levy or Michael R. Rill, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-4733.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 20909) the antidumping duty order on ball bearings (BBs) and parts thereof from Thailand. On July 6, 1992, in accordance with 19 CFR 353.22(c), we initiated an administrative review of this order for the period May 1, 1991, through April 30, 1992 (57 FR 29700). The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). This review covers NMB Thai Ltd. and Pelmec Thai Ltd. (Pelmec) and its sales of BBs. Since NMB and Pelmec are related companies, we are treating them as one entity (hereinafter referred to as NMB) for purposes of this review.

Scope of Review

The products covered by this review are antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof (AFBs), and constitute the following "class or kind" of merchandise:

1. Ball Bearings and Parts Thereof

These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: Antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

United States Price

In calculating United States price (USP), the Department used purchase price (PP) or exporter's sales price (ESP), as defined in section 772 of the Tariff Act, as appropriate.

USP was based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, from PP and ESP for movement expenses, discounts, and billing adjustments.

We made additional deductions from ESP for direct selling expenses, indirect selling expenses, and repacking in the United States.

We made an addition to USP for value-added taxes (VAT) in accordance with section 772(d)(1)(C) of the Tariff Act. However, as noted in the FMV section of this notice, we followed the instructions of the Court of Appeals for the Federal Circuit in *Zenith Electronics Corp.* versus *United States*, 91-1043 (Zenith) and did not make a circumstance of sale adjustment for VAT taxes. Furthermore, the Department is now examining the Zenith decision in detail and is considering the proper methodology for making this tax adjustment. Interested parties are invited to comment upon this issue.

Foreign Market Value

The home market was viable for NMB with respect to its sales of BBs. As a result, the Department used home market price or constructed value (CV) as defined in section 773 of the Tariff Act, as appropriate, to calculate foreign market value (FMV).

In general, the Department relies on monthly weighted-average prices in the calculation of FMV. Because of the significant volume of home market sales involved in these reviews, we examined whether it was appropriate to average, in accordance with section 777A of the Tariff Act, all of respondents' home market sales data that we collected. In this case, the use of POR weighted-average prices results in significant time and resource savings for the Department. To determine whether a POR weighted-average price was representative of the transactions under consideration, we performed a three-step test.

We first compared the monthly weighted-average home market price for each model with the weighted-average POR price of that model. We calculated the proportion of each model's sales whose POR weighted-average price did not vary meaningfully (*i.e.*, within plus or minus 10 percent) from the monthly weighted-average prices. We did this for each model within each class or kind of merchandise. We then compared the volume of sales of all models within each class or kind of merchandise whose POR weighted-average price did not vary meaningfully from the monthly weighted-average price with the total volume of sales of that class or kind of merchandise. If the POR weighted-average price of at least 90 percent of sales in each class or kind of merchandise did not vary meaningfully from the monthly weighted-average

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price, we considered the POR weighted-average prices to be representative of the transactions under consideration. Finally, we tested whether there was any correlation between fluctuations in price and time for each model. Where the correlation coefficient was less than 0.05 (where a coefficient approaching 1.0 means a direct relation between price and time, *i.e.*, that prices consistently rise from month to month, and a coefficient approaching zero means no relation between prices and time), we concluded that there was no significant relation between price and time. We calculated a weighted-average FOR FMV only for those classes or kinds that satisfied our three-step test for the factors of price, volume, and time.

We compared U.S. sales with sales of such or similar merchandise in the home market. We considered all non-identical products within a bearing family to be equally similar. As defined in the questionnaire, a bearing family consists of all bearings within a class or kind or merchandise that share the following physical characteristics: Load direction, bearing design, number of rows of rolling elements, precision rating, dynamic load rating, and physical dimensions.

Home market prices were based on the packed, ex-factory or delivered prices to related or unrelated purchasers in the home market. Where applicable, we made adjustments for movement expenses, differences in cost attributable to differences in physical characteristics of the merchandise and differences in packing. We also made adjustments for differences in circumstances of sale in accordance with 19 CFR 353.56. For comparisons to PF sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we deducted home market direct selling expenses. Due to the Court of Appeals' decision in *Zenith Electronics Corp. v. United States*, 92–1043, we made no adjustments for differences in the VAT taxes. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in PP and ESP calculations and to offset U.S. indirect selling expenses deducted in ESP calculations, but not exceeding the amount of the indirect U.S. expenses.

We disregarded sales to related customers. We could not determine that such sales were made at arm's length, *i.e.*, at prices comparable to prices at which the firm sold such merchandise to unrelated customers, because no products were sold to both related and unrelated customers.

In accordance with section 773(a)(2) of the Tariff Act, we used constructed value as the basis for FMV when there were no usable sales of such or similar merchandise for comparison.

We calculated constructed value in accordance with section 773(e) of the Tariff Act. We included the cost of materials, fabrication, general expenses, profit and packing. We also included: (1) Actual general expenses, or the statutory minimum of 10 percent of materials and fabrication, whichever was greater; (2) actual profit or the statutory minimum of 8 percent of materials, fabrication costs and general expenses, whichever was greater; and (3) packing costs for merchandise exported to the United States. Where appropriate, we made adjustments to CV in accordance with 19 CFR 353.56, for differences in circumstances of sale. For comparisons to PP sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we deducted home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in PP and ESP calculations. For comparisons involving ESP transactions, we made further deductions to constructed value for indirect selling expenses in the home market, capped by the indirect selling expenses incurred on ESP sales in accordance with 19 CFR 353.56(b)(2).

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margin for the period May 1, 1991, through April 30, 1992, to be:

Company and BBs
NMB—0.13

Parties to this proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. A general issue hearing, if requested, will be held on May 24, 1993, in the Commerce auditorium, at 9 a.m. Any hearing regarding issues related solely to Thailand, if requested, will be held on May 25, 1993, in room 1617–M–4, at 10 a.m.

General issues briefs and/or written comments from interested parties may be submitted not later than May 12, 1993. General issues rebuttal briefs and rebuttals to written comments, limited to the issues raised in the case briefs and comments, may be filed not later than May 19, 1993. Case briefs and comments and all rebuttal briefs regarding issues related solely to Thailand are due no later than May 13, and May 20, 1993, respectively. The Department will subsequently publish the final results of these administrative reviews, including the results of its analysis of issues raised in any such written comments or hearings.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Because sampling prevents us from doing entry-by-entry assessments, we will calculate an importer-specific *ad valorem* appraisement rate for each class or kind of AFBs based on the ratio of the total value of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total value of antidumping duties, which are calculated by taking the difference between statutory FMV and statutory USP, by the total statutory USP value of the sales compared, and adjusting the result by the average difference between USP and customs value for all merchandise examined during the POR.) Where we do not have entered customs value to calculate an *ad valorem* rate, we will calculate an average per-unit dollar amount of antidumping duty based on all sales examined during the POR. We will instruct the Customs Service to assess this average amount on all units included in each entry made by the particular importer during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of these reviews.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be that rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of this administrative review. This rate represents the highest rate for any firm with shipments in this administrative review, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations (19 CFR 353.22(c)(5)).

Dated: April 16, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–9834 Filed 4–26–93; 8:45 am]

BILLING CODE 3510–DS–P

[A–412–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the United Kingdom; Preliminary Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Notice of Intent To Revoke Order (In Part)

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews, partial termination of administrative reviews, and notice of intent to revoke order (in part).

SUMMARY: In response to requests from interested parties, the Department of Commerce has conducted administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from the United Kingdom. The classes or kinds of merchandise covered by these orders are ball bearings (BBs) and cylindrical roller bearings (CRBs). The reviews cover four manufacturers/exporters for the period May 1, 1991 through April 30, 1992.

We initiated reviews for two other manufacturers/exporters, ITT Jabsco and SKF (U.K.), but are terminating them because the requests for review were timely withdrawn. Additionally, Societe Nouvelle de Roulements (SNR) withdrew its request for a review of its BB sales. Therefore, we are reviewing SNR's sales only.

We are also announcing our intent to revoke the order covering CRBs from the United Kingdom with respect to Cooper Bearings Ltd. As a result of these reviews, the Department has preliminarily determined that the weighted-average dumping margins for the reviewed firms range from 9.50 to 55.79 percent for BBs, and from 0.00 to 48.97 percent for CRBs.

We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Amy Beargie (The Barden Corporation (U.K.) Ltd.), Carlo Cavagna (RHP Bearings Ltd.), Maureen McPhillips (Societe Nouvelle de Roulements), Joanna Schlesinger (Cooper Bearings Ltd.), Anna Snider (FAG (U.K.) Ltd.), or Richard Rimlinger; Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 20910) the antidumping duty orders on BBs and CRBs and parts thereof from the United Kingdom. On July 6, 1992, in accordance with 19 CFR 353.22(c), we initiated administrative reviews of those orders for the period May 1, 1991 through April 30, 1992 (57 FR 29700).

The Department is now conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). These reviews cover the following firms and classes or kinds of merchandise:

Name of firm	Class or kind
Barden Corporation (Barden) ...	BBs, CRBs
Cooper Bearings Ltd. (Cooper)	CRBs
FAG (U.K.) Ltd. (FAG-U.K.)	BBs, CRBs
RHP Bearings (RHP)	BBs, CRBs
Societe Nouvelle de Roulements (SNR).	CRBs

Since Barden and FAG-U.K. are related companies, we are treating them as one entity (hereinafter referred to as Barden/FAG) for purposes of this review.

Subsequent to the publication of our initiation notice, we received timely withdrawal requests for ITT Jabsco and SKF (UK) Ltd. We also received a partial withdrawal request with respect to ball bearings sold by SNR. Because there were no other requests for reviews of these companies from any other interested parties, we are terminating the reviews with respect to these requests, in accordance with 19 CFR 353.22(a)(5).

Cooper Bearings Ltd. submitted a request, in accordance with 19 CFR 353.25(b), to revoke the order covering its CRBs from the United Kingdom. The request was accompanied by Cooper's certification that it has not sold CRBs at less than fair value during the period from the date of the original investigation through the present and will not do so in the future. Since we preliminarily determine that Cooper has not sold at less than fair value in this review, and has never sold the subject merchandise at less than fair value, we intend to revoke the order with respect to Cooper's sales of CRBs.

Scope of Reviews

The products covered by these reviews are antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof (AFBs), which constitute the following "classes or kinds" or merchandise:

1. Ball Bearings and Parts Thereof

These products include all AFBs that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70 8708.50.50, 8708.60.50, 8708.99.50.

2. Cylindrical Roller Bearings and Parts Thereof

These products include all AFBs that employ cylindrical rollers as the rolling element. Imports of these products are classified under the following categories: antifriction rollers, all

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cylindrical roller bearings (including split cylindrical roller bearings) and parts thereof, and housed or mounted cylindrical roller bearing units and parts thereof.

Imports of these products are classified under the following HTS subheadings: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

United States Price

In calculating United States price (USP), the Department used purchase price (PP) or exporter's sales price (ESP), as defined in section 772 of the Tariff Act, as appropriate.

Due to the extremely large number of ESP transactions that occurred during the period of review (POR) and the resulting administrative burden involved in calculating individual margins for all of these transactions, we sampled ESP sales to calculate USP, in accordance with section 777A of the Tariff Act. When a firm made more than 2000 ESP sales transactions to the United States for a particular class or kind of merchandise, we reviewed sales in sample weeks. We selected one week from each two-month period in the review period, for a total of six weeks, and analyzed each transaction made in those six weeks. The sample weeks included May 1–5, 1991; July 1–7, 1991; October 21–27, 1991; December 16–22, 1991; February 17–23, 1992, and March 2–8, 1992. We reviewed all PP sales transactions during the POR because there were relatively few PP sales.

USP was based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, from PP and ESP for movement expenses, discounts and rebates.

We made additional deductions from ESP, where applicable, for direct selling expenses, indirect selling expenses, commissions, and repacking in the United States.

We made an addition to USP for value-added taxes (VAT) in accordance with section 772(d)(1)(C) of the Tariff Act. However, as noted in the FMV section of this notice, we followed the instructions of the Court of Appeals for the Federal Circuit in *Zenith Electronics Corp.* v. *United States*, 92–1043 (Zenith) and did not make a circumstance of sale adjustment for VAT taxes. Furthermore, the Department is now examining the Zenith decision in detail and is considering the proper methodology for making this tax adjustment. Interested parties are invited to comment upon this issue.

With respect to subject merchandise to which value was added in the United States, *e.g.*, parts of bearings that were imported and further processed into finished bearings by U.S. affiliates of foreign exporters prior to sale to unrelated U.S. customers, we deducted any increased value in accordance with section 772(e)(3) of the Tariff Act.

We consider those bearings otherwise subject to the order that are incorporated into nonbearing products, which collectively comprise less than one percent of the value of the finished products sold to unrelated customers in the United States, to be outside the scope of the antidumping orders on AFBs and not subject to the assessment of antidumping duties. In Roller Chain, Other Than Bicycle, from Japan (48 FR 51801; November 14, 1983), roller chain, which was subject to an antidumping duty order, was imported by a related party and incorporated into finished motorcycles. The finished motorcycles were the first articles of commerce sold by the subject producer to unrelated purchasers in the United States. Since the roller chain did not constitute a significant percentage of the value of the completed product, the Department found that a USP could not reasonably be determined for the roller chain, and the product was therefore excluded from the scope of the order in such circumstances. We have applied this same principle to these reviews.

Foreign Market Value

The home market was viable for all companies and all classes or kinds of merchandise. The Department used home market prices or constructed value (CV), as defined in section 773 of the Tariff Act, as appropriate, to calculate foreign market value (FMV).

Due to the extremely large number of transactions that occurred during the POR and the resulting administrative burden involved in examining all of these transactions, we sampled sales to calculate FMV, in accordance with section 777A of the Tariff Act. When a firm had more than 2000 home market sales transactions for a particular class or kind of merchandise, we reviewed sales from eight sample months that corresponded to the sample weeks selected for U.S. sales sampling, and analyzed each transaction made in those months. The sample months included April, May, July, October, and December of 1991, and February, March, and June of 1992.

In general, the Department relies on monthly weighted-average prices in the calculation of FMV. Because of the significant volume of home market sales involved in these reviews, we examined whether it was appropriate to average, in accordance with section 777A of the Tariff Act, all of respondents' home market sales data that we collected. In this case, the use of POR weighted-average prices results in significant time and resource savings for the Department. To determine whether a POR weighted-average price was representative of the transactions under consideration, we performed a three-step test.

We first compared the monthly weighted-average home market price for each model with the weighted-average POR price of that model. We calculated the proportion of each model's sales whose POR weighted-average price did not vary meaningfully (*i.e.*, within plus or minus 10 percent) from the monthly weighted-average prices. We did this for each model within each class or kind of merchandise. We then compared the volume of sales of all models within each class or kind of merchandise whose POR weighted-average price did not vary meaningfully from the monthly weighted-average price with the total volume of sales of that class or kind of merchandise. If the POR weighted-average price of at least 90 percent of sales in each class or kind of merchandise did not vary meaningfully from the monthly weighted-average price, we considered the POR weighted-average prices to be representative of the transactions under consideration. Finally, we tested whether there was any correlation between fluctuations in price and time for each model. Where the correlation coefficient was less than 0.05 (where a coefficient approaching 1.0 means a direct relation between price and time, *i.e.*, that prices consistently rise from month to month, and a coefficient approaching zero means no relation between prices and time), we concluded that there was no significant relation between price and time. We calculated a weighted-average POR FMV only for those classes or kinds that satisfied our three-step test for the factors of price, volume, and time.

We compared U.S. sales with sales of such or similar merchandise in the home market. We considered all non-identical products within a bearing family to be equally similar. As defined in the questionnaire, a bearing family consists of all bearings within a class or kind of merchandise that share the following physical characteristics: Load direction, bearing design, number of rows of rolling elements, precision rating, dynamic load rating, and physical dimensions.

Home market prices were based on the packed, ex-factory or delivered prices to related or unrelated purchasers in the home market. Where applicable, we made adjustments for movement expenses, differences in cost attributable to differences in physical characteristics of the merchandise and differences in packing. We also made adjustments for differences in circumstances of sale in accordance with 19 CFR 353.56. For comparisons to PP sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we deducted home market direct selling expenses. Due to the Court of Appeals' decision in *Zenith Electronics Corp.* v. *United States*, 82–1043, we made no adjustments for differences in the VAT taxes. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in PP and ESP calculations and to offset U.S. indirect selling expenses deducted in ESP calculations, but not exceeding the amount of the indirect U.S. expenses.

We used sales to related customers only where we determined such sales were made at arm's length (*i.e.*, at prices comparable to prices at which the firm sold identical merchandise to unrelated customers).

We initiated a cost investigation with respect to BBs and CRBs sold by RHP because we found home market sales below the cost of production for this company and these classes or kinds of merchandise in the previous administrative review period. In addition, based on allegations submitted by Federal-Mogul in this administrative review, we initiated a cost investigation with respect to BBs sold by Barden/FAG.

In accordance with section 773(b) of the Tariff Act, in determining whether to disregard home market sales made at prices below the cost of production, we examined whether such sales were made in substantial quantities over an extended period of time. When less than 10 percent of the home market sales of a particular model were at prices below the cost of production, we did not disregard any sales of that model. When 10 percent or more, but not more than 90 percent of the home market sales of a particular model were determined to be below cost, we excluded the below-cost home market sales from our calculation of FMV provided that these below cost sales were made over an extended period of time. When more than 90 percent of the home market sales of a particular model were made below cost over an extended period of time, we disregarded all home market sales of that model from our calculation of FMV.

To determine if sales below cost had been made over an extended period of time, we compared the number of months in which sales below cost had occurred for a particular model to the number of months in which the model was sold. If the model was sold in three or fewer months, we did not disregard below-cost sales unless there were sales below cost of that model in each month sold. If a model was sold in more than three months, we did not disregard below-cost sales unless there were sales below cost in at least three of the months in which the model was sold.

Since neither RHP nor Barden/FAG has submitted information indicating that any of its sales below cost were at prices which would have permitted "recovery of all costs within a reasonable period of time in the normal course of trade," we were unable to conclude that the costs of production of such sales were recovered within a reasonable period. As a result, we disregarded below-cost sales made by RHP (BBs and CRBs) and Barden/FAG (BBs) over an extended period of time.

Home market sales of obsolete merchandise and distress sales were not disregarded from our cost analysis unless there was documented information on the record demonstrating that such sales were outside the ordinary course of trade.

In accordance with section 773(a)(2) of the Tariff Act, we used CV as the basis for FMV when there were no usable sales of such or similar merchandise for comparison.

We calculated constructed value in accordance with section 773(e) of the Tariff Act. We included the cost of materials, fabrication, general expenses, profit and packing. we also included: (1) Actual general expenses, or the statutory minimum of 10 percent of materials and fabrication, whichever was greater; (2) actual profit or the statutory minimum of 8 percent of materials, fabrication costs and general expenses, whichever was greater; and (3) packing costs for merchandise exported to the United States. Where appropriate, we made adjustments to CV in accordance with 19 CFR 353.56, for differences in circumstances of sale. For comparisons to PP sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we deducted home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in PP and ESP calculations. For comparisons involving ESP transactions, we made further deductions to constructed value for indirect selling expenses in the home market, capped by the indirect selling expenses incurred on ESP sales in accordance with 19 CFR 353.56(b)(2).

Preliminary Results of Reviews

As a result of our reviews, we preliminarily determine the weighted-average dumping margins for the period May 1, 1991 through April 30, 1992 to be:

Company	BBs	CRBs
Barden/FAG	9.50	0.00
Cooper Bearings	(2)	0.00
RHP Bearings	55.59	48.97
SNR	(3)	0.00

[1] No. U.S. sales during the review period.
[2] No. review requested.
[3] Request for review withdrawn.

Parties to this proceeding may request disclosure within 5 days and interested parties may request a hearing within 10 days of the date of publication of this notice. A general issues hearing, if requested, will be held on May 24, 1993, in the Main Auditorium, at 9 a.m. Any hearing regarding issues related solely to the United Kingdom, if requested, will be held on May 28, 1993, in room 3708, at 2 p.m.

General issues briefs and/or written comments from interested parties may be submitted not later than May 12, 1993. General issues rebuttal briefs and rebuttals to written comments, limited to the issues raised in the case briefs and comments, may be filed not later than May 19, 1993. Case briefs, comments and rebuttal briefs regarding issues relating solely to the United Kingdom are due not later than May 18, 1993, and May 25, 1992, respectively. The Department will subsequently publish the final results of these administrative reviews, including the results of its analysis of the issues raised in any such written comments or a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Because sampling prevents us from doing entry-by-entry assessments, we will calculate an importer-specific *ad valorem* appraisement rate for each class or kind of merchandise based on the ratio of the total value of antidumping duties calculated for the examined sales made during the POR to

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the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total value of antidumping duties, which are calculated by taking the difference between statutory FMV and statutory USP, by the total statutory USP value of the sales compared, and adjusting the result by the average difference between USP and customs value for all merchandise examined during the review period.) Where we do not have entered customs value to calculate an *ad valorem* rate, we will calculate an average per-unit dollar amount of antidumping duty based on all sales examined during the POR. We will instruct the Customs Service to assess this average amount on all units included in each entry made by the particular importer during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of these reviews.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies will be those rates established in the final results of these reviews; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of these administrative reviews. This rate represents the highest rate for any firm with shipments in these administrative reviews, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(5).

Dated: April 19, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-9835 Filed 4-26-93; 8:45 am]

BILLING CODE 3510-DS-P

[A-485-801]

Ball Bearings and Parts Thereof From Romania; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests from interested parties, the Department of Commerce has conducted an administrative review of the antidumping duty order on ball bearings and parts thereof from Romania. The review covers Tehnoimportexport (TIE), and the period May 1, 1991 through April 30, 1992. We have preliminarily determined that there were no shipments of the subject merchandise by TIE to the United States during the period of review.

We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Michael Diminich or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-4733.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 20906) an antidumping duty order on ball bearings and parts thereof from Romania. On July 6, 1992, in accordance with section 353.22(c) of the Department's regulations, we initiated an administrative review of that order for the period May 1, 1991 through April 30, 1992 (57 FR 29700). The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

This review covers ball bearings and parts thereof exported by TIE.

Scope of Review

The products covered by this review are ball bearings, mounted or unmounted, and parts thereof. These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

Preliminary Results of the Review

Because TIE made no shipments during the review period May 1, 1991 through April 30, 1992, we based the cash deposit rate on the last margin found for ball bearings and parts thereof from Romania. We preliminary determine that the cash deposit rate shall continue to be 0.0 percent.

Parties to this proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of the date of publication of this notice. A general issues hearing, if requested, will be held on May 24, 1993, in the Main Auditorium, at 9 a.m. Any hearing regarding issues related solely to Romania, if requested, will be held on May 26, 1993, in room 1617-M-4, at 10 a.m.

General issues briefs and/or written comments from interested parties may be submitted not later than May 12, 1993. General issues rebuttal briefs and rebuttals to written comments, limited to the issues raised in the case briefs and comments, may be filed not later than May 19, 1993. Case briefs and comments and all rebuttal briefs regarding issues related solely to Romania are due no later than May 14 and May 21, 1993, respectively. The Department will subsequently publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or hearings.

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be that rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of this administrative review. This rate represents the rate for TIE in this administrative review. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: April 16, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-9831 Filed 4-26-93; 8:45 am]

BILLING CODE 3510-DS-P

Sanctions for Violation of Administrative Protective Order

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: This is a notice of the status of an investigation into charges of the violation of an administrative protective order in an antidumping duty proceeding.

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell, Chief Counsel for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-8916.

SUPPLEMENTARY INFORMATION: The International Trade Administration, United States Department of Commerce (ITA), wishes to remind those members of the bar who appear before it in antidumping and countervailing duty proceedings of the extreme importance of protecting the confidentiality of business proprietary information obtained pursuant to administrative protective order (APO) during the course of those proceedings. In order that the gravity with which the ITA views violations of its APO's might be better appreciated, ITA is publishing the following report on a recent allegation that the provisions of an ITA APO have been violated.

An individual employed by a firm allowed proprietary information protected by an APO to become available to an individual at the law firm who was not authorized by the APO to have access to the information. Following an investigation by the ITA, this individual was held responsible for this violation of the APO.

In this case, the individual involved was (1) required to conduct a seminar at the individual's law firm about handling APO protected information; (2) required to submit to the ITA a written copy of the firm's APO handling procedures; and (3) issued a private reprimand which warned that future violations could result in much graver sanctions.

We consider these sanctions to be appropriate for the following reasons: First, the violation appears to have been inadvertent; second, the named individual cooperated fully with the ITA's investigation; and, third, no apparent harm resulted from the violation.

Serious harm can result from the failure to properly safeguard proprietary information obtained under APO. The ITA will continue to investigate vigorously allegations that the provisions of APOs have not been faithfully observed, and is prepared to impose sanctions commensurate with the nature of the violations, including letters of reprimand, denial of access to proprietary information, or disbarment from practice before the ITA.

This notice is published pursuant to 19 CFR 354.15(e) of the Department's regulations.

Editorial Note: This document was received by the Office of the Federal Register on April 22, 1993.

Dated: January 19, 1993.

William Piez,

Deputy Assistant Secretary for Planning.

[FR Doc. 93-9838 Filed 4-26-93; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

Visiting Committee on Advanced Technology; Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Institute of Standards and Technology Visiting Committee on Advanced Technology will meet Wednesday, June 9, 1993, from 8:30 a.m. to 5 p.m. The Visiting Committee on Advanced Technology is composed of nine members appointed by the Director of the National Institute of Standards and Technology who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include presentations on the strategic planning of the Chemical Science and Technology Laboratory; management and planning of the Advanced Technology Program; review of the Non-Volatile Electronics, Inc., venture under the Advanced Technology Program; Boulder site issues; the NIST strategic vision, the Manufacturing Extension Partnership; NIST budget update; and a laboratory tour.

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DATES: The meeting will convene June 9, 1993, at 8:30 a.m. and will adjourn at 5 p.m. on June 9, 1993.

ADDRESSES: The meeting will be held in Conference Room 1103, Radio Building, National Institute of Standards and Technology, Boulder, Colorado.

FOR FURTHER INFORMATION CONTACT: Dale E. Hall, Visiting Committee Executive Director, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2158.

Dated: April 21, 1993.

Raymond G. Kammer,

Acting Director.

[FR Doc. 93–9839 Filed 4–26–93; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Issuance of Scientific Research Permit No. 827 (P278D).

SUMMARY: On November 16, 1992, notice was published in the **Federal Register** (57 FR 54051) that a request for a scientific research permit to take marine mammals (P278D) had been submitted by Dr. Brent S. Stewart, Hubbs-Sea World Research Institute, 1700 South Shores Road, San Diego, CA 92109, to conduct scientific research on pinnipeds in the Channel Islands over a five-year period.

Notice is hereby given that on April 20, 1993, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 part 216), the Fur Seal Act of 1966 (16 U.S.C. 1151–1187), the Endangered Species Act (16 U.S.C. 1531–1543), and the regulations governing endangered fish and wildlife (50 CFR parts 217–222), the National Marine Fisheries Service issued the requested Permit for the above activities subject to the Special Conditions set forth therein.

The Permit and other related documentation are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, room 7330, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802, (310/980–4016).

Dated: April 20, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–9745 Filed 4–26–93; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Joint Advisory Committee on Nuclear Weapons Surety

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Joint Advisory Committee (JAC) on Nuclear Weapons Surety will meet in closed session on May 10–12, 1993, at Albuquerque, NM.

The mission of the Joint Advisory Committee is to advise the Secretary of Defense, Secretary of Energy, and the Joint Nuclear Weapons Council on nuclear weapons systems surety matters. At this meeting, the Joint Advisory Committee will receive classified briefings on the surety aspects of the nuclear weapons systems in the enduring nuclear weapons stockpile.

In accordance with section 19(d) of the Federal Advisory Committee Act Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this Joint Advisory Committee meetings concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: April 22, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–9771 Filed 4–26–93; 8:45 am]

BILLING CODE 5000–04–M

Department of the Navy

CNO Executive Panel; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Domestic Issues Task Force will meet May 6-7, 1993, from 9 a.m. to 5 p.m. in Alexandria, Virginia.

The purpose of this meeting is to continue efforts to forecast emerging demographic and sociological trends and their effect on the Navy of the future. The agenda of the meeting will consist of discussions of key issues related to domestic changes in response to demographic, sociological, cultural, and political phenomena, with emphasis on managing and capitalizing on diversity within the workforce.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, Room 601, Alexandria, VA 22302-0268, Phone (703) 756-1205.

Dated: April 20, 1993.

Michael P. Rummel

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-9706 Filed 4-26-93; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1933–005 California]

Southern California Edison Co.; Availability of Environmental Assessment

April 21, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed an application to amend the license for the Santa Ana River No. 1 & 2 Water Power Project to relocate the 33 kV transmission line between Santa Ana River Project 1, 2, and 3. The project's are located on the Santa Ana River in San Bernardino County, California. The transmission line will consist of 16 H-framed steel structures and 5 tubular steel structures, and will be approximately four miles long. The proposed action is necessary to allow the project to continue to operate. The existing transmission line will be inundated with the construction of the Seven Oaks Dam. Relocating the transmission line to a route above high water will allow Southern California Edison Company to continue to provide reliable power to the public. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, the staff concludes that relocating the transmission line would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's

Offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9709 Filed 4–26–93; 8:45 am]

BILLING CODE 6717–01–M

[FERC Nos. JD93–04541T, JD93–04589T, JD93–04590T, and JD93–04591T; Texas–112—Texas–115]

Railroad Commission of Texas, Tight Formation Determinations for the Vicksburg Formation; Informal Conference

April 21, 1993.

Take notice that an informal conference will be covened in the above-referenced proceedings on Tuesday, May 4, 1993, at 9 a.m. The conference will be held in room 6200 at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

For further information, contact Janet Ardinger at (202) 208–0895.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9708 Filed 4–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–295–000]

Arkla Energy Resources Co. and Natural Gas Pipeline Co. of America; Application

April 21, 1993.

Take notice that on April 14, 1993, Arkla Energy Resources Company (AER), 525 Milam Street, Shreveport, Louisiana 71101 and Natural Gas Pipeline Company of America (NGPL), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP93–295–000, a joint application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation and exchange service provided pursuant to AER's Rate Schedule XE–39 and NGPL's Rate Schedule X–45, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that by order issued March 19, 1974, in Docket Nos. CP74–117 (AER) and CP74–156 (NGPL), AER, successor-in-interest to Arkansas Louisiana Gas Company and Arkla Energy Resources, a division of Arkla, Inc., and NGPL were authorized to exchange natural gas pursuant to an agreement dated August 21, 1973. It is stated that the agreement provided for the exchange of natural gas in the Northwest Mooreland Field, Harper County, Oklahoma, delivered by AER to NGPL at a point of interconnection in Woodward County, Oklahoma and redelivered by NGPL to AER at points of interconnection in Beckham County, Oklahoma or Grady County, Oklahoma. AER and NGPL state that this arrangement is no longer necessary or beneficial to the parties and has been terminated pursuant to mutual written agreement of the parties.

No facilities are proposed to be abandoned herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 12, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for AER and NGPL to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9710 Filed 4–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RS92–63–000]

Great Lakes Gas Transmission Limited Partnership; Compliance Filing

April 21, 1993.

Take notice that on April 15, 1993, Great Lakes Gas Transmission Limited Partnership filed with the Commission its revised Order No. 636 compliance filing. Parties desiring to comment on the filing should file their comments with the Commission on or before May 6, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9707 Filed 4–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–296–000]

Sea Robin Pipeline Co.; Application

April 21, 1993.

Take notice that on April 14, 1993, Sea Robin Pipeline Company (Sea Robin), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed an application with the Commission in Docket No. CP93–296–000 pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon a transportation service for CNG Transmission Corporation (CNG), all as more fully set forth in the application which is open to public inspection.

Sea Robin proposes to abandon a firm transportation service performed under its FERC Rate Schedule X–24 for CNG.[1] Sea Robin is authorized to transport for CNG up to 18,000 Mcf of natural gas per day produced in South Marsh Island Blocks 142 and 143, offshore Louisiana, from a subsea tap on Sea Robin's pipeline system in South Marsh Island Block 127, offshore Louisiana, to a point onshore near Erath, Vermilion Parish, Louisiana. CNG has notified Sea Robin that it wishes to terminate the transportation agreement when the primary term expires on August 1, 1993.

No facilities would be abandoned in this proposal.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 12, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will

[1] See the Commission order issued July 31, 1978, in Docket No. CP78–298 (4 FERC ¶ 61,096).

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be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Sea Robin to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93-9711 Filed 4-26-93; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 93-35-NG]

Meridian Marketing & Transmission Corp.; Application for Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on March 25, 1993, of an application filed by Meridian Marketing & Transmission Corp. (Meridian) requesting blanket authorization to export up to 36 Bcf of natural gas per year to Mexico over a two-year period beginning with the date of first delivery of the exported volumes. Meridian states it would use existing pipeline facilities to transport the gas and would advise DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene or notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time May 27, 1993.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW. Washington, DC 20585 (202) 586–9478.

FOR FURTHER INFORMATION CONTACT:

Stanley C. Vass, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3H–087, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9482.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Meridian, a Delaware corporation with its principal place of business in Pittsburgh, Pennsylvania, is a marketer of natural gas. Meridian would export the gas purchased from U.S. suppliers under short-term and spot market transactions, either on its own behalf or as the agent for others. All sales would result from arms-length negotiations and the prices would be competitive. The requested authorization does not involve the construction of new pipeline facilities.

All parties should be aware that it DOE approves this requested blanket export authorization, it would designate a total authorized volume for the two-year term rather than set an annual limitation in order to maximize Meridian's flexibility of operation.

Meridian's export application will be reviewed under section 3 of the NGA and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. Meridian asserts there is no current need for the domestic gas that would be exported under the proposed agreement. Parties opposing this application bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Anyone who wants to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from person who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issue. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Meridian's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 20, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-9808 Filed 4-26-93; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $636,856, plus accrued interest, in refined petroleum product violation amounts obtained by the DOE pursuant to a June 6, 1986 Remedial Order issued to Metropolitan Petroleum Company, Inc. and Metropolitan Fuel Oil Company (Metropolitan), Case No. LEF–0032. The OHA has determined that the funds obtained from Metropolitan, plus accrued interest, will be distributed to customers who purchased gasoline from Metropolitan during the period March 1, 1979 through July 31, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2094 (Mann); 586–2383 (Klurfeld).

DATE AND ADDRESSES: Applications for Refund must be filed in duplicate, addressed to "Metropolitan Special Refund Proceeding," and sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

Applications should display a prominent reference to case number "LEF–0032" and be postmarked by September 30, 1993.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute to eligible claimants $636,856, plus accrued interest, obtained by the DOE pursuant to a June 6, 1986 Remedial Order. In the Remedial Order, the DOE found that, during the period March 1, 1979 through July 31, 1979, Metropolitan had sold motor gasoline at prices in excess of the maximum lawful selling price, in violation of Federal petroleum price regulations.

The OHA has determined to distribute the funds obtained from Metropolitan in two stages. In the first stage, we will accept claims from identifiable purchasers of gasoline from Metropolitan who may have been injured by overcharges. The specific requirements which an applicant must meet in order to receive a refund are set out in Section III of the Decision. Claimants who meet these specific requirements will be eligible to receive refunds based on the number of gallons of gasoline which they purchased from Metropolitan. The DOE has obtained information indicating the number of gallons purchased by Metropolitan customers during the Remedial Order period. This information will be made available to applicants, and may be used in place of an applicant's own records to document a refund claim.

If any funds remain after valid claims are paid in the first stage, they may be used for indirect restitution in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07.

Applications for Refund must be postmarked by September 30, 1993. Instructions for the completion of refund applications are set forth in the Decision that immediately follows this notice. Applications should be sent to the address listed at the beginning of this notice.

Unless labelled as "confidential," all submissions must be made available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 21, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 21, 1993.

Decision and Order of the Department of Energy

Names of Firms: Metropolitan Petroleum Company, Inc., Metropolitan Fuel Oil Company

Date of Filing: April 18, 1991

Case Number: LEF–0032

On April 18, 1991, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA), to distribute the funds which Metropolitan Petroleum Company, Inc. and Metropolitan Fuel Oil Company (hereinafter referred to collectively as Metropolitan) remitted to the DOE pursuant to a June 6, 1986 Remedial Order. Metropolitan has remitted $636,856 pursuant to the order, to which $58,491 in interest has accrued as of March 31, 1993. In accordance with the provisions of the procedural regulations at 10 CFR part 205, subpart V (subpart V), the ERA requests in its Petition that the OHA establish special procedures to make refunds in order to remedy the effects of regulatory violations set forth in the Remedial Order. This Decision and Order establishes the procedures which OHA will employ to distribute these funds.

I. Background

During the period relevant to this proceeding, Metropolitan was engaged, *inter alia*, in the business of purchasing and selling motor gasoline. These sales were made to gasoline retailers and to end-users or ultimate consumers in south Florida. The ERA issued a Proposed Remedial Order (PRO) to Metropolitan on February 24, 1982. The PRO alleged that, during the period March 1, 1979 through July 31, 1979, Metropolitan sold motor gasoline at prices in excess of the maximum lawful selling price, in violation of Federal petroleum price regulations. After considering and rejecting the firm's objections to the PRO, the DOE issued a final Remedial Order on June 3, 1986. *Metropolitan Petroleum Company, Inc.*, 14 DOE ¶ 83,026 (1986). The Remedial Order was appealed to the Federal Energy Regulatory Commission and was affirmed on July 2, 1987. *Metropolitan Fuel Oil Co.*, 40 FERC ¶ 61,013 (1987). On December 28, 1989, the United States sought enforcement of the Remedial Order in the United States District Court for the Southern District of Florida. The court granted plaintiff's motion for summary judgment and ordered Metropolitan to remit the amount of the overcharges, $173,239.09, plus pre-judgment and post-judgment interest. *United States* v. *Metropolitan Petroleum Company, Inc.*, 743 F. Supp. 820 (S.D. Fla. 1990). Metropolitan has fully complied with the court order by remitting $636,856, to which $58,491 in

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interest has since accrued as of March 31, 1993, making available a total of $695,347 (the Metropolitan Remedial Order fund) for distribution through subpart V.

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, see *Petroleum Overcharge Distribution and Restitution Act of 1986*, 15 U.S.C. 4501 et seq., *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

We have considered the ERA's petition that we implement a Subpart V proceeding with respect to the Metropolitan Remedial Order fund and have determined that such a proceeding is appropriate. This Decision and Order sets forth the OHA's plan to distribute this fund.

III. Refund Procedures

On November 27, 1992, OHA issued a Proposed Decision and Order (PD&O) establishing tentative procedures to distribute the Metropolitan Remedial Order fund. That PD&O was published in the **Federal Register**, and a 30-day period was provided for the submission of comments regarding our proposed refund plan. See 57 FR 57451 (December 4, 1992). More than 30 days have elapsed and the OHA has received no substantive comments concerning the proposed procedures for the distribution of the Metropolitan Remedial Order fund.[1] Consequently, the procedures will be adopted as proposed.

We will implement a two-stage refund procedure for distribution of the Metropolitan Remedial Order fund by which purchasers of gasoline from Metropolitan during the period covered by the Remedial Order may submit Applications for Refund in the initial stage. From our experience with Subpart V proceedings, we expect that potential applicants generally will fall into the following categories: (i) end-users; (ii) regulated entities, such as public utilities, and cooperativns; and (iii) refiners, resellers and retailers.

A. First Stage Refund Procedures

In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of gasoline from Metropolitan during the period covered by the Remedial Order. If the gasoline was not purchased directly from Metropolitan, the claimant must establish that the gasoline originated with Metropolitan. Additionally, a refiner, reseller, or retailer claimant, except one who chooses to utilize the injury presumptions set forth below, will be required to make a detailed showing that it was injured by Metropolitan's overcharges. This showing will generally consist of two distinct elements. First, a refiner, reseller, or retailer claimant will be required to show that it had "banks" of unrecouped increased product costs in excess of the refund claimed.[2] Second, because a showing of banked costs alone is not sufficient to establish injury, the claimant must additionally provide evidence that market conditions during the remedial order period precluded it from increasing its prices to pass through the additional costs associated with the overcharges. See *Vickers Energy Corp./Hutchens Oil Co.*, 11 DOE ¶ 85,070 at 88,105 (1983). Such a showing could consist of a demonstration that a firm suffered a competitive disadvantage as a result of its purchases from Metropolitan. See *National Helium Co./Atlantic Richfield Co.*, 11 DOE ¶ 85,257 (1984), *aff'd sub nom. Atlantic Richfield Co.* v. *DOE*, 618 F. Supp. 1199 (D. Del. 1985).

Our experience also indicates that the use of certain presumptions permits claimants to participate in the refund process without incurring inordinate expense and ensures that refund claims are evaluated in the most efficient manner possible. See, e.g., *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986) (*Marathon*). Presumptions in refund cases are specifically authorized by the applicable Subpart V regulations at 10 CFR 205.282(e). Accordingly, we will adopt the presumptions set forth below.

1. Calculation of Refunds

First, we will adopt a presumption that the overcharges were dispersed equally in all of Metropolitan's sales of gasoline during the period covered by the Remedial Order. In accordance with this presumption, refunds are made on a pro-rata or volumetric basis.[3] In the absence of better information, a volumetric refund is appropriate because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

Under the volumetric approach, a claimant's "allocable share" of the Remedial Order fund is equal to the number of gallons purchased from Metropolitan during the period covered by the Remedial Order times the per gallon refund amount. In the present case, the per gallon refund amount is $0.0463. We derived this figure by dividing the amount of the Remedial Order fund, $636,856, by 13,746,905 gallons, the volume of gasoline which Metropolitan sold from March 1, 1979 through July 31, 1979. A firm that establishes its eligibility for a refund will receive all or a portion of its allocable share plus a pro-rata share of the accrued interest.[4]

In addition to the volumetric presumption, we will also adopt a number of presumptions regarding injury for claimants in each category listed below.

2. End-Users

In accordance with prior Subpart V proceedings, we will adopt the presumption that an end-user or ultimate consumer of gasoline purchased from Metropolitan whose business is unrelated to the petroleum industry was injured by the overcharges resolved by the Remedial Order. See, e.g., *Texas Oil and Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984) (*TOGCO*). Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the period covered by the Remedial Order, and were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the overcharges on the final prices of goods and services produced by members of this group would be beyond the scope of the refund proceeding. *Id.* Accordingly, end-users of gasoline purchased from Metropolitan need only document their purchase volumes from Metropolitan during the period covered by the Remedial Order to make a sufficient showing that they were injured by the overcharges.

3. Regulated Firms and Cooperatives

In order to receive a full volumetric refund, a claimant whose prices for goods and services are regulated by a governmental agency, e.g., a public utility, or an agricultural cooperative which is required by its charter to pass through cost savings to its member-purchasers, need only submit documentation of purchases used by itself or, in the case of a cooperative, sold to its members. However, a regulated firm or a cooperative will also be required to certify that it will pass any refund received through to its customers or member-customers, provide us with a full explanation of how it plans to accomplish the restitution, and certify that it will notify the appropriate regulatory body or membership group of the receipt of the refund. See *Marathon*, 14 DOE at 88,514–15. This requirement is based upon the presumption that, with respect to a regulated firm, any overcharges would have been routinely passed through to its customers. Similarly, any refunds received should be passed through to its customers. With respect to a cooperative, in general, the cooperative agreement which controls its business operations would ensure that the overcharges, and similarly refunds, would be passed through to its member-customers. Accordingly, these firms will not be required to make a detailed demonstration of injury.[5]

4. Refiners, Resellers and Retailers

a. *Small Claims Presumption.* We will adopt a "small claims" presumption that a firm which resold gasoline purchased from Metropolitan and requests a small refund was injured by the overcharges. Under the small claims presumption, a refiner, reseller or retailer seeking a refund of $10,000 or less, exclusive of interest, will not be required to submit evidence of injury beyond documentation of the volume of gasoline it purchased from Metropolitan during the period covered by the Remedial Order. This presumption is based on the fact that there may be considerable expense involved in gathering the types of data necessary to support a detailed claim of injury; for small claims the expense might possibly exceed the potential refund. Consequently, failure to allow simplified refund procedures for small claims could deprive injured parties of their opportunity to obtain a refund.[6] Furthermore, use of the small claims presumption is desirable in that it allows the OHA to process the large number of routine refund claims expected in an efficient manner.[7]

b. *Mid-Level Claim Presumption.* In addition, a refiner, reseller or retailer claimant whose allocable share of the refund pool exceeds $10,000, excluding interest, may elect to receive as its refund either $10,000 or 40 percent of its allocable share, up to $50,000, whichever is larger.[8] The use of this presumption reflects our conviction that these larger, mid-level claimants were likely to have experienced some injury as a result of the overcharges. See *Marathon*, 14 DOE at 88,515. In some prior special refund proceedings, we have performed detailed analyses in order to determine product-specific levels of injury. See, e.g., *Getty Oil Co.*, 15 DOE ¶ 85,064 (1986). However, in *Gulf Oil Corp.*, 16 DOE ¶ 85,381 at 88,737 (1987), we determined that based upon the available data, it was more accurate and efficient to adopt a single presumptive level of injury of 40 percent for all mid-level claimants, regardless of the refined product that they purchased, based upon the results of our analyses in prior proceedings. We believe that approach generally to be sound, and we will therefore adopt a 40 percent presumptive level of injury for all mid-level claimants in this proceeding. Consequently, an applicant in this group will only be required to provide documentation of its purchase volumes of gasoline from Metropolitan during the Remedial Order period in order to be eligible to receive a refund of 40 percent of its total allocable share, up to $50,000, or $10,000, whichever is greater.[9]

c. *Spot Purchasers.* Finally, we will adopt a rebuttable presumption that a refiner, reseller, or retailer that made only spot purchases from Metropolitan did not suffer injury as a result of those purchases. As we have previously stated, spot purchasers generally had considerable discretion as to the timing and market in which they made their purchases, and therefore would not have made spot market purchases from a firm at increased prices unless they were able to pass through the full amount of the firm's selling price to their own customers. See, e.g., *Vickers*, 8 DOE at 85,396–97. Accordingly, a spot purchaser claimant must submit specific and detailed evidence to rebut the spot purchaser presumption and to establish the extent to which it was injured as a result of its spot purchases from Metropolitan.[10]

B. Refund Applicotion Requirements

To apply for a refund from the Metropolitan Remedial Order fund, a claimant should submit an Application for Refund containing all of the following information:

(1) Identifying information including the claimant's name, current business address, business address during the refund period, taxpayer identification number, a statement indicating whether the claimant is an individual, corporation, partnership, sole proprietorship, or other business entity, the name, title, and telephone number of a person to contact for any additional information, and the name and address of the person who should receive any refund check.[11] If the applicant operated under more than one name or under a different name during the price control period, the applicant should specify these names;

(2) The applicant's use of gasoline purchased from Metropolitan: e.g., consumer (end-user), reseller, cooperative, or public utility;

(3) A monthly purchase schedule covering the period March 1, 1979 through July 31, 1979. The applicant should specify the source of this gallonage information. In calculating its purchase volumes, an applicant should use actual records from the refund period, if available. If these records are not available, the applicant may submit estimates of its gasoline purchases, but the estimation methodology must be reasonable and must be explained in detail;[12]

(4) If the applicant was a direct purchaser from Metropolitan, it should provide its customer number. If the applicant was an indirect purchaser from Metropolitan (e.g., it purchased Metropolitan gasoline through another supplier), it should submit the name, address, and telephone number of its immediate supplier and should specify why it believes that the gasoline claimed was originally sold by Metropolitan;

(5) If the applicant is a regulated utility or a cooperative, certifications that it will pass on the entirety of any refund received to its customers, will notify its state utility commissinn, other regulatory agency, or membership body of the receipt of any

[1] The OHA received submissions from two parties, both indicating the number of gallons of gasoline each party purchased from Metropolitan during the Remedial Order period. In order for these claimed purchases to be considered for refunds in this proceeding, each party must submit Applications for Refund in accordance with the requirements set forth in Section III B of this Decision and Order.

[2] Claimants who have previously relied upon their banked costs in order to obtain refunds in other special refund proceedings should subtract those refunds from any cost banks submitted in this refund proceeding. See *Husky Oil Co./Metro Oil Products, Inc.*, 16 DOE ¶ 85,090, at 88,179 (1987). Additionally, a claimant attempting to show injury may not receive a refund for any month in which it has a negative accumulated cost bank (for gasoline) or for any prior month. See *Standard Oil Co. (Indiana)/Suburban Propane Gas Corp.*, 13 DOE ¶ 85,030, at 88,082 (1985). If a claimant no longer has records showing its banked costs, the OHA may use its discretion to permit the claimant to approximate those cost banks. See, e.g., *Gulf Oil Corp./Sturdy Oil Co.*, 15 DOE ¶ 85,187 (1986).

[3] If a claimant believes that it was injured by more than its volumetric share, it may elect to forego this presumption and file a refund application based upon a claim that it suffered a disproportionate share of Metropolitan's overcharges. See, e.g., *Mobil Oil Corp./Atchison, Topeka and Santa Fe Railroad Co.*, 20 DOE ¶ 85,788 (1990); *Mobil Oil Corp./Marine Corps Exchange Service*, 17 DOE ¶ 85,714 (1988). Such a claim will only be granted if the claimant makes a persuasive showing that it was "overcharged" by a specific amount, and that it absorbed those overcharges. See *Panhandle Eastern Pipeline Co./Western Petroleum Co.*, 19 DOE ¶ 85,705 (1989). To the degree that a claimant makes this showing, it will receive an above-volumetric refund.

[4] As in previous cases, we will establish a minimum refund amount of $15. In this determination, any potential claimant purchasing less than 324 gallons of gasoline from Metropolitan would have an allocable share of less than $15. We have found through our experience that the cost of processing claims in which refunds for amounts less than $15 are sought outweighs the benefits of restitution in those instances. See *Exxon Corp.*, 17 DOE ¶ 85,590, at 89,150 (1988) (*Exxon*).

[5] A cooperative's purchases of gasoline from Metropolitan which were resold to non-members will be treated in a manner consistent with purchases made by other resellers. See *Total Petroleum, Inc./Farmers Petroleum Cooperative, Inc.*, 19 DOE ¶ 85,215 (1989).

[6] In many prior proceedings, we have used a $5,000 small claims threshold. However, we have found that an increase in the threshold amount is warranted where a large volumetric refund amount would place many applicants who purchased relatively small volumes over the $5,000 threshold. See, e.g., *Texaco, Inc.*, 20 DOE ¶ 85,147 (1990). Because of the relatively large volumetric amount in this proceeding, $0.0463 per gallon, we are setting the small claims threshold at $10,000. *Id.*

[7] In order to qualify for a refund under the small claims presumption, a refiner, reseller, or retailer must have purchased less than 215,983 gallons of gasoline from Metropolitan during the settlement agreement period.

[8] Under the mid-level presumption, a claimant which purchased between 215,983 gallons and 539,956 gallons of gasoline from Metropolitan would be eligible to receive a principal refund, exclusive of interest, of $10,000. A claimant purchasing between 539,957 gallons and 2,699,784 gallons of petroleum products would be eligible for a principal refund equal to 40 percent of its allocable share, and an applicant with a purchase volume in excess of 2,699,784 gallons would be eligible for a principal refund of $50,000.

[9] A claimant who attempts to make a detailed showing of injury in order to obtain 100 percent of its allocable share but, instead, provides evidence that leads us to conclude that it passed through all of the overcharges, or that it was injured in an amount less that the presumed level refund, may not necessarily receive a full presumption-based refund. Instead, such a claimant may receive a refund which reflects the level of injury established in its application.

[10] In prior proceedings, we have stated that refunds will be approved for spot purchasers who demonstrated that: (1) they made the spot purchases for the purpose of ensuring a supply for their base period customers rather than in anticipation of financial advantage as a result of those purchases, and (2) they were forced by market conditions to resell the product at a loss that was not subsequently recouped through the draw down of banks. See, e.g., *Texaco Inc.*, 20 DOE ¶ 85,147 at 88,321 (1990); *Quaker State Oil Refining Corp./Certified Gasoline Co.*, 14 DOE ¶ 85,465 (1986).

[11] Under the Privacy Act of 1974, the submission of a social security number by an individual applicant is voluntary. An applicant that does not wish to submit a social security number must submit an employer identification number if one exists. This information will be used in processing refund applications, and is requested pursuant to our authority under the Petroleum Overcharge Distribution and Restitution Act of 1986 and the regulations codified at 10 CFR part 205, subpart V. The information may be shared with other Federal agencies for statistical, auditing or archiving purposes, and with law enforcement agencies when they are investigating a potential violation of civil or criminal law. Unless an applicant claims confidentiality, this information will be available to the public in the Public Reference Room of the Office of Hearings and Appeals.

[12] In the course of its audit of Metropolitan's books, the ERA obtained information indicating the number of gallons purchased by Metropolitan customers during the Remedial Order period. This information will be made available to applicants, and may be used in place of an applicant's own records to document a refund claim.

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refund, and a brief description as to how the refund will be passed along;

(6) If the applicant is a retailer, reseller, or refiner whose allocable share exceeds $10,000 (i.e., whose purchases equal or exceed 107,992 gallons), it must indicate whether it elects to rely on the appropriate reseller injury presumption and receive the larger of $10,000 or 40% of its allocable share. If it does not elect to rely on the injury presumption, it must submit a detailed showing that it absorbed Metropolitan's overcharges. *See* Section III.A.4 *supra*;

(7) A statement as to whether the applicant or a related firm has filed, or has authorized any individual to file on its behalf, any other application in the Metropolitan refund proceeding. If so, an explanation of the circumstances of the other filing or authorization should be submitted;

(8) A statement as to whether the applicant is or was in any way affiliated with Metropolitan. If the applicant is or was so affiliated, it should explain this affiliation, including the time period in which it was affiliated; [13]

(9) A statement as to whether the ownership of the applicant's firm changed during or since the refund period. If an ownership change occurred, the applicant should list the names, addresses, and telephone numbers of any prior or subsequent owners. The applicant should also provide copies of any relevant Purchase and Sale Agreements, if available. If such written documents are not available, the applicant should submit a description of the ownership change, including the year of the sale and the type of sale (e.g., sale of corporate stock, sale of company assets);

(10) A statement as to whether the applicant has ever been a party in a DOE enforcement action or a private Section 210 action. If so, an explanation of the case and copies of relevant documents should also be provided;

(11) The statement listed below signed by the individual applicant or a responsible official of the firm filing the refund application:

I swear (or affirm) that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and clearly labeled "Metropolitan Special Refund Proceeding, Case No. LEF-0034." Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish for this information to be publicly disclosed, it must submit an original application, clearly designated "confidential," containing the confidential information, and two copies of the application with the confidential information deleted. All refund applications should be postmarked no later than September 30, 1993, and sent to: Metropolitan Special Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585.

In addition, we will adopt the following procedures relating to refund applications filed on behalf of applicants by "representatives," including refund filing services, consulting firms, accountants, and attorneys. *See Texaco Inc.*, 20 DOE ¶ 85,147 (1990). Each such filing service shall, contemporaneously with its first filing in the Metropolitan proceeding, submit a statement indicating its qualifications for representing refund applicants and containing a detailed description of the solicitation practices and application procedures that it has used and plans to use.[14] This statement should contain the following information: [15]

(1) A description of the procedures used to solicit refund applications in the Metropolitan proceeding and copies of any solicitation materials mailed to prospective Metropolitan applicants;

(2) A description of how the filing service obtains authorization from its clients to act as their representative, including copies of any type of authorization form signed by refund applicants;

(3) A description of how the filing service obtains and verifies the information contained in refund applications;

(4) A description of the procedures used to forward refunds to its clients;

(5) A description of the procedures used to prevent and check for duplicate filings.

Upon receipt of this information, we may suggest alteration of a filing service's procedures if they do not conform to the procedural requirements of 10 CFR Part 205 and this proceeding.

Secondly, we will require strict compliance with the filing requirements as specified in 10 CFR § 205.283, particularly the requirement that applications and the accompanying certification statement be signed by the applicant.

Thirdly, in any case where an application has been signed and dated before the issuance of this Decision and Order in this proceeding, we will require a certification statement, signed and dated by the applicant after the date of the issuance of this Decision and Order. This certification should state that the applicant has not filed and will not file any other Application for Refund in the Metropolitan proceeding and that, after having been provided a copy of this Decision and Order, it still authorizes that filing service to represent it.

Fourthly, we will require from each representative a statement certifying that it maintains a separate escrow account at a bank or other financial institution for the deposit of all refunds received on behalf of applicants, and that its normal business practice is to deposit all Subpart V refund checks in that account within two business days of receipt and to disburse refunds to applicants within 30 calendar days thereafter. Unless such certification is received by the OHA, all refund checks approved will be made payable solely to the applicant. Representatives who have not previously submitted an escrow certification form to the OHA may obtain a copy of the appropriate form by contacting: Marcia B. Carlson, HG-13, Chief, Docket & Publications Division, Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Finally, the OHA reiterates its policy to closely scrutinize applications filed by filing services. Applications submitted by a filing service must contain all of the information indicated in this Decision and Order.

C. Distribution of Funds Remaining After First Stage

Any funds that remain after all first stage claims have been decided shall be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. §§ 4501-07. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. The Secretary has delegated these responsibilities to the OHA, and any funds in the Metropolitan Remedial Order fund that the OHA determines will not be needed to effect direct restitution to injured customers will be distributed in accordance with the provisions of PODRA.

It Is Therefore Ordered That:

(1) Applications for Refund from the funds remitted by Metropolitan Petroleum Company, Inc. and Metropolitan Fuel Oil Company, pursuant to the Remedial Order dated June 6, 1986, may now be filed.

(2) Applications for Refund must be postmarked no later than September 30, 1993.

Dated: April 21, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 93-9809 Filed 4-26-93; 8:45 am]

BILLING CODE 6450-01-P

[13] Affiliates of firms that have remitted overcharge funds to the DOE are generally not entitled to share in those funds. If an affiliate of Metropolitan was granted a refund, Metropolitan would be indirectly compensated from a Remedial Order fund remitted to settle its own violations. *See Propane Industrial, Inc. v. Department of Energy*, No. 8-23, slip op. at 3 (Temp. Emer. Ct. App. January 8, 1993). In addition, Metropolitan presumably would not have sold petroleum products to an affiliate if such a sale would have placed the purchaser at a competitive disadvantage. *See Marathon Petroleum Co./Pilot Oil Corp.*, 16 DOE ¶ 85,611 (1987), *amended claim denied*, 17 DOE ¶ 85,291 (1988), *reconsideration denied*, 20 DOE ¶ 85,236 (1990).

[14] This statement should be submitted under separate cover and reference the Metropolitan refund proceeding, Case No. LEF-0034.

[15] This information with regard to some filing services has already been requested and received by this Office. Therefore, any filing service that has had more than 10 Applications for Refund approved before the issuance of the Proposed Decision and Order in this proceeding (November 27, 1992) need not submit this information if it has already done so in another proceeding. Instead, such a filing service need only include a copy of the previous submission(s) responsive to items (1)-(5) and provide an update if its response to any of these questions has changed since it first submitted its information. However, in light of the importance of this information, it is prudent for all filing services to review their practices and inform the OHA of any alterations or improvements that may have been made.

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4616-9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Environmental Radiation Ambient Monitoring System (ERAMS) (EPA ICR No. 877.04; OMB No. 2060-0015). This ICR requests renewal of the existing clearance.

Abstract: States and some local governments collect samples of air, pasteurized milk, rain water, surface water and ground water at certain intervals. These samples are sent to EPA's ERAMS, and are tested for radioactive contamination. EPA's ERAMS uses these data to estimate ambient levels of radioactive pollutants in the environment, to recognize trends in radiation levels, to assess the impact of fallout, and other intrusions of radioactive materials.

Burden Statement: Public reporting burden for this collection of information is estimated to average 70 minutes per response including time for reviewing instructions, searching existing data sources, gathering the data needed, and completing the collection of information.

Respondents: States and some local governments.

Estimated Number of Respondents: 313.

Estimated Total Annual Burden on Respondents: 9,201 hours.

Frequency of Collection: Quarterly, monthly, twice weekly, and on occasion.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460.

and

Ron Minsk, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: April 20, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93-9822 Filed 4-26-93; 8:45 am]

BILLING CODE 6560-60-F

[FRL-4618-3]

Availability of Draft Model Title V Operating Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The EPA is announcing a series of draft model operating permits under title V of the Clean Air Act (Act) and is asking for public comment. A number of draft model permits are available for public comment; others will be available in coming months.

FOR FURTHER INFORMATION CONTACT: For general information regarding model permits, contact Ray Vogel at (919) 541-3153, Permits Support Section, Mail Drop 15, Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711. For information on specific model permits, contact the person shown on the list in today's notice.

ADDRESSES: Send comments on specific model permits to the contact person identified for that model permit in today's notice. Include the name and mail drop number shown on the list and send to the Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: Under title V of the Act, States are required to submit permits programs by November 15, 1993 governing the issuance of operating permits to major stationary sources of air pollution.[1] Under that program, permitting agencies will issue operating permits to major sources. As part of its assistance to permitting agencies, the EPA is developing "model permits" that provide example permit terms and conditions. In general, the model permits reflect Federal emissions requirements that apply to particular categories of sources. Where no Federal emissions requirements exist, the model permits allow States to insert State-specific requirements. Permitting agencies may use these model permits as is, modifying them to suit their needs, or use their own permits that meet Federal requirements. States are not required to use the EPA model permits.

All title V permits must contain certain elements set forth in 40 CFR part 70, Operating Permits Program; Final Rule, 57 FR 32250, July 21 1992.[2] These elements include assuring compliance with all "applicable requirements,"[3] which are emissions standards and requirements that apply to the permitted sources under the Act. Permits must also comply with all part 70 requirements.

The EPA's model permits are of two types: specific conditions and general conditions. Specific conditions model permits contain specific applicable requirements that apply to source categories affected by a specific requirement. For example, a volatile organic compounds (VOC) model permit for asphalt plants contains only the VOC requirements, and the particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10) model permits contain only the PM-10 requirements.

The general conditions model permit contains the part 70 requirements and expresses them as permit terms and conditions. By integrating the general conditions permit with one or more of the specific conditions permits, State

[1] "Major source" means any source with the potential to emit 100 tons per year (tpy) or more of VOC, carbon monoxide, nitrogen oxides (NOx), SO2, lead, or PM-10, or with the potential to emit 10 tpy individually or 25 tpy in combination of any hazardous air pollutant. These limits apply nationwide. In certain nonattainment areas, lower limits may apply for VOC, NOx, or PM-10 sources. "Potential to emit" means the maximum capacity of a source to emit air pollutants, considering any control equipment and any federally-enforceable limitations restricting its emitting capability.

[2] The requirements for permit content are contained in § 70.4, 70.6, and 70.7.

[3] "Applicable requirements" are defined in § 70.2. Examples of "applicable requirements" include State implementation plan requirements, terms and conditions of new source review and prevention of significant deterioration permits, NESHAP requirements, maximum achievable control technology requirements, and acid rain requirements.

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permitting agencies may assemble a complete permit for a facility.

Specific conditions model permits have been or are being developed to cover many source categories that are subject to applicable requirements, including VOC reasonably available control technology (RACT) guidelines, national emissions standards for hazardous air pollutants (NESHAP), PM–10, lead, and sulfur dioxide (SO2) requirements. Although many model permits have already undergone extensive review by affected industries and State and local permitting agencies, EPA wants to assure review of these permits by seeking comments from all interested parties.

In the following list, the model permits are grouped by source category. The list shows if a draft model permit is available for a source category, or when it is expected to become available for public review.

STATUS OF MODEL PERMITS

	When draft is available
I. VOC Model Permits Contact: David Sanders (MD–15) (919) 541–3356	
1. Graphic arts	Now.
2. Petroleum storage in fixed roof tanks.	Now.
3. Petroleum refineries	Now.
4. Coating sources (can, coil, paper, fabric, vinyl, metal furniture, large appliances, magnet wire, and misc. metal parts).	Now.
5. Gasoline dispensing (stage I vapor recovery).	Now.
6. Bulk gasoline terminals	Now.
7. Bulk gasoline plant	Now.
8. Leaks from gasoline tank trucks.	Now.
9. Auto and light-duty truck coating operations.	Now.
10. Leaking sources (petroleum refinery, natural gas/gasoline processing, synthetic organic chemical, and polymer and resin manufacturing).	Now.
11. Cutback and emulsified asphalt.	Now.
12. Pneumatic rubber tire manufacturing.	Now.
13. Petroleum storage in external floating roof tanks.	Now.
14. Synthesized pharmaceutical products manufacturing.	Now.
15. High-density polyethylene, polypropylene, and polystyrene resins.	Now.
16. SOCMI—Air oxidation	Now.
17. Petroleum solvent dry cleaners.	Now.
18. Solvent metal cleaning (degreasing).	Now.

STATUS OF MODEL PERMITS—Continued

	When draft is available
19. Flat wood paneling coating.	Now.
II. NESHAP Model Permits Contact: Warren Johnson (MD–13) (919) 541–5124	
1. Beryllium	Fall 1993.
2. Beryllium rocket motor firing.	Fall 1993.
3. Mercury	Now.
4. Vinyl chloride	Now.
5. Leaks of benzene	Fall 1993.
6. Benzene from coke by-product recovery plants.	April 1993.
7. Inorganic arsenic from glass manufacturing plants.	Now.
8. Inorganic arsenic from primary copper smelters.	April 1993.
9. Inorganic arsenic from arsenic trioxide and metallic arsenic.	Fall 1993.
10. Equipment leaks	Fall 1993.
11. Benzene from benzene storage vessels.	April 1993.
12. Benzene from benzene transfer operations.	April 1993.
13. Benzene waste operations.	Fall 1993.
III. PM–10 Model Permits Contact: Charlene Spells (MD–15) (919) 541–5255	
1. Hot mix asphalt plants	April 1993.
2. Nonmetallic metals processing.	April 1993.
3. Grain milling	April 1993.
4. Marine grain elevators	April 1993.
5. Nonprocess fugitive emissions sources.	April 1993.
6. Portland cement plants (lead included).	April 1993.
7. Lime kilns	April 1993.
8. Gypsum processing and products.	April 1993.
9. Primary aluminum plants	April 1993.
10. Pulp mills	April 1993.
11. Elemental phosphorus plants.	April 1993.
12. Petroleum refineries	April 1993.
13. Utility boilers	April 1993.
14. Glass manufacturing (lead included).	April 1993.
15. Nonferrous smelters (lead included).	April 1993.
16. Steel mills (sources with new source performance standards) (lead included).	April 1993.
17. Paint manufacturing (lead included).	April 1993.
IV. Lead Model Permits Contact: Charlene Spells (MD–15) (919) 541–5255	
1. Lead acid battery manufacturing.	April 1993.
2 Secondary lead smelting and refining plants.	April 1993.
3. Secondary lead remelting and consuming plants.	April 1993.

STATUS OF MODEL PERMITS—Continued

	When draft is available
V. SO_2 Model Permits Contact: Laura McKelvey (MD–15) (919) 541–5497	
1. Utility boilers	Spring 1993.
2. Petroleum refineries	Summer 1993.
3. Nonferrous smelters	Summer 1993.
4. Pulp and paper mills	Summer 1993.
5. Portland cement plants	Summer 1993.
6. Industrial boilers	Summer 1993.
7. Sulfuric acid/sulfur recovery plants.	Summer 1993.
8. Natural gas processing	Summer 1993.
9. Coke ovens	Summer 1993.
VI. General Conditions Model Permit Contact: Ray Vogel (MD–15) (919) 541–3153	Summer 1993.
VII. General Permits Contact: Jeff Herring (MD–15) (919) 541–3153	
1. Dry cleaners	Summer 1993.
2. Storage tanks	Summer 1993.
3. Small boilers	Summer 1993.
4. Sheet-fed printers	Summer 1993.
5. Degreasers	Summer 1993.

Additional model permits not listed above may be developed in the future as new requirements and standards are promulgated. Copies of the model permits may be obtained from the Technology Transfer Network (TTN) bulletin board of the Office of Air Quality Planning and Standards. Contact the TTN systems operator at (919) 541–5384 for information on accessing the bulletin board. Persons who are not able to access the bulletin board may obtain copies from the contact person identified at the top of each model permit group.

The public is invited to comment on the draft model permits. Comments should be submitted to the EPA contact persons. Comments must be in writing and, if possible, should also be submitted on an IBM-compatible computer disk in WordPerfect format.

For draft model permits available now, comments will be accepted until 180 days after today's date. For draft model permits available after today's date, comments will be accepted 180 days after the date on which the draft becomes available. Those dates will be posted on the TTN bulletin board. The EPA will review each comment and make revisions to the model permits where appropriate. No response to individual comments is planned.

Dated: April 21, 1993.

Michael Shapiro,

Acting Assistant Administrator.

[FR Doc. 93–9823 Filed 4–26–93; 8:45 am]

BILLING CODE 6560–50–P

[FRL 4617–9]

Clean Air Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has contracted with the Bionetics Corporation ("Bionetics") of Hampton, Virginia, and JACA Corporation ("JACA") of Fort Washington, Pennsylvania, to provide assistance in the development and enforcement of regulatory requirements under title II and VI of the Clean Air Act ("the Act"). Both contractors have been authorized access to information submitted to the Agency under sections 114, 208 and 307(a) of the Act. Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: This notice is effective May 4, 1993.

FOR FURTHER INFORMATION CONTACT: Robert E. Kenney, Senior Staff Attorney, Field Operations and Support Division (6406J), Office of Mobile Sources, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Telephone: (202) 233–9021.

SUPPLEMENTARY INFORMATION: Two contractors have been authorized access to information submitted to EPA under sections 114, 208 and 307(a) of the Clean Air Act. Some of this information may be claimed or determined to be CBI.

Under contract number 68D20172, the Bionetics Corporation, Tenth Floor, suite 1000, Harbour Centre Building, 2 Eaton Street, Hampton, Virginia 23669, provides enforcement support to the Field Operations and Support Division, Office of Mobile Sources, in a number of activities related to Titles II and VI of the Act. These activities include:

- Inspections of fuel and fuel additive dispensing facilities;
- Inspections of fuel and fuel additive refining, importing and distribution facilities;
- Motor vehicle tampering inspections;
- Motor vehicle air conditioning repair inspections;
- Lead phasedown audits;
- Audits of fuel refiner and importer baselines;
- Laboratory analysis of fuel samples;
- Litigation support; and
- Audits of aftermarket catalytic converter warranty cards.
- Bionetics may be assisted in these activities by two subcontractors, Patterson and Associates of Houston, Texas (subcontract number C206–001) and AutoResearch Laboratories, Inc. of Chicago, Illinois (subcontract number C206–002).

Under contract number 68D10114, JACA Corporation, 550 Pinetown Road, Fort Washington, Pennsylvania 19034, provides economic and technical support to the Field Operations and Support Division, Office of Mobile Sources, for the development, implementation and enforcement of regulatory programs under Title II of the Act. General types of economic and technical support under this contract include:

- Analyses of the financial operations and financial accountability of fuel refiners, importers, distributors, and retailers, particularly evaluations of their ability to pay civil penalties for violations of fuels regulations;
- Analyses of the effects that possible regulatory or policy changes will have on the economics and operations of the fuel refining, transportation, and distribution industries, including summaries and evaluations of the technical and economic implications of public comments made in response to proposed regulatory or policy changes;
- Support to obtain information for problem identification, guidelines, regulatory development, and resource requirements; and
- General support for investigations or inspections and court reporting for field use.

JACA may be assisted in these contractual support activities by the one or more of the following subcontractors: Consad Research of Pittsburgh, Pennsylvania; Sobotka and Co. of Washington, DC; Michael Walsh of Washington, DC; James Patterson of Houston, Texas; Christopher Weaver of Sacramento, California; Paul Hagstrom of Henderson, Nevada; Roger Ellefson of Wilmington, Delaware; and various court reporting and process serving companies.

In accordance with 40 CFR 2.301(h)(2), EPA has determined that disclosure of confidential business information to Bionetics (and its subcontractors) under contract number 68D20172 and to JACA (and its subcontractors) under contract number 68D10114 is necessary for these entities to carry out the work required by these contracts (and subcontracts issued thereunder). EPA is issuing this notice to inform all submitters of information to the Field Operations and Support Division, Office of Mobile Sources, under section 114, 208, and 307(a) of the Clean Air Act that the Agency may provide access to CBI contained in such submittals to Bionetics and JACA as necessary to carry out work under these contracts. Disclosure of CBI under these contracts may continue until September 30, 1995, for Bionetics and September 30, 1994, for JACA.

As required by 40 CFR 2.301(h)(2), both the Bionetics and JACA contracts include provisions to assure the appropriate treatment of CBI disclosed to contractors and subcontractors.

Dated: April 19, 1993.

Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93–9820 Filed 4–24–93; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–140208; FRL–4578–2]

Access To Confidential Business Information to Certain Contractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA intends to transfer confidential business information (CBI) collected from the pulp, paper, and paperboard manufacturing industry to four contractors. Transfer of the information will allow the contractors to assist EPA in developing regulations for the land application of sludge from pulp and paper mills using chlorine and chlorine-derivative bleaching processes under section 6 of the Toxic Substances Control Act (TSCA). The information being transferred was collected under the authority of section 308 of the Clean Water Act (CWA), section 114 of the Clean Air Act (CAA), and section 3007 of the Resource Conservation and Recovery Act (RCRA). Interested persons may submit comments on this intended transfer of information to the addresses noted below.

DATES: Comments on the transfer of data are due May 7, 1993.

ADDRESSES: Comments on transfer of data collected under section 308 of the CWA, section 114 of the CAA, and section 3007 of RCRA may be sent to Lynne Blake-Hedges, Regulatory Impacts Branch, Economic Exposure and Technical Division (TS–779), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lynne Blake-Hedges at (202) 260–7241 for general information and Scott Sherlock at (202) 260–1536 for information regarding uses of CBI under TSCA authority.

SUPPLEMENTARY INFORMATION: EPA intends to transfer information, including CBI, to four contractors: Eastern Research Group, Inc. (ERG), 110

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Hartwell Ave., Lexington, MA 02173–3198; Abt Associates (Abt), 4800 Montgomery Lane, Suite 500, Bethesda, MD 20814 and 55 Wheeler St., Cambridge, MA 02138–1168; Radian Corporation, 2455 Horsepen Road, Suite 250, Herndon, VA 22071; and RCG/Hagler Bailly, Inc. (RCG), P.O. Drawer O, Boulder, CO 80306.

More specifically, the information being transferred to the contractors includes the following information collected under the authority of section 114 of the CAA, section 308 of the CWA, and section 3007 of RCRA: Information collected through questionnaires and surveys of the industry; all joint EPA industry studies; site visit reports; monitoring and test data; test reports and sampling episodes reports; and analytical summaries of this information and data.

EPA also intends to transfer to ERG, Abt, Radian and RCG all information listed above (including CBI) that may be collected or developed in the future under the authorities listed above. This information is necessary to enable ERG, Abt, Radian, and RCG to carry out the work required by their contracts to support EPA's development of regulations for the pulp, paper, and paperboard industry under section 6 of TSCA. The contractors, contract numbers, and type of support to be provided to EPA are listed in the following table:

EPA Office Receiving Support	Contractor	Contract No.	Type of Support
OPPTS/OPPT/EETD	ERG, Lexington, MA	68–D2–0175	Economic
OPPTS/OPPT/EETD	Abt, Bethesda, MD	68–D2–0175	Economic
OPPTS/OPPT/EETD	Abt, Cambridge, MA	68–D2–0175	Economic
OPPTS/OPPT/EETD	Radian, Herndon, VA	68–D2–0175	Economic
OPPTS/OPPT/EETD	RCG, Boulder, CO	68–D2–0175	Economic

In the case of information claimed to be proprietary and, therefore, confidential, all regulations and confidentiality agreements apply. This transfer would not affect the status of this information as information claimed to be proprietary. The relevant contracts contain all confidentiality provisions required by EPA's confidentiality regulations. Need for access to the information shall continue until September 30, 1993.

In accordance with those regulations, companies who have submitted information claimed to be confidential have until May 7, 1993 to comment on EPA's proposed transfer of this information to ERG and ABT for the proposed outlined above.

Dated: April 19, 1993.

George A. Bonina,

Acting Director, Information Management Division.

[FR Doc. 93–9812 Filed 4–26–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–140209; FRL–4580–2]

Access to Confidential Business Information by Versar, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Versar, Inc. (VER), of Springfield, Virginia, and Versar's subcontractors, General Science Corporation (GSC) of Laurel, Maryland, and Syracuse Research Corporation (SYR) of Syracuse, New York for access to information which has been submitted to EPA under sections 4, 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than May 7, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under contract number 68–D3–0013, contractor VER of 6850 Versar Center, Springfield, VA, and its subcontractors GSC of 6100 Chevy Chase Drive, Laurel, MD, and SYR of Merrill Lane, Syracuse, NY will assist the Office of Pollution Prevention and Toxics (OPPT) in providing exposure assessment support for both new and existing chemicals.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–D3–0013, VER, GSC, and SYR will require access to CBI submitted to EPA under sections 4, 5, 6, and 8 of TSCA to perform successfully the duties specified under the contract. VER, GSC, and SYR personnel will be given access to information submitted to EPA under sections 4, 5, 6, and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

In a previous notice published in the **Federal Register** of October 15, 1992 (57 FR 47336), VER, GSC, and SYR were authorized for access to CBI submitted to EPA under sections 4, 5, 6, and 8 of TSCA. EPA is issuing this notice to extend VER, GSC, and SYR's access to TSCA CBI under the new contract number 68–D3–0013.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, and 8 of TSCA that EPA may provide VER, GSC, and SYR access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters, at VER's Springfield, VA site, and at SYR's Syracuse, NY site only.

VER and SYR will be authorized access to TSCA CBI at their facilities under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. GSC will be authorized access to TSCA CBI at EPA Headquarters only. Before access to TSCA CBI is authorized at VER and SYR's sites, EPA will approve their security certification statements, perform the required inspection of their facilities, and ensure that the facilities are in compliance with the manual. Upon completing review of the CBI materials, VER, GSC, and SYR will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until March 1, 1996.

VER, GSC, and SYR personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: April 14, 1993.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–9814 Filed 4–26–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Proceeding

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
A. Concord-Carlisle Regional School District (WIQH (FM)); Concord, MA.	BPED–860424MC	93–115
B. Technology Broadcasting Corporation (WMBR (FM)); Cambridge, MA.	BPED–920326IA	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. 307(b) Noncommercial Educational—Both
2. Ultimate—Both

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037; telephone (202) 857–3800.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 93–9687 Filed 4–26–93; 8:45 am]

BILLING CODE 6712–01–M

Licensee Order To Show Cause

The Chief, Mass Media Bureau, has before him the following matter:

Applicant, City and State	MM docket No.
H. Gibbs Flanders, Jr., Trustee, Licensee of WJHH(AM); Soperton, GA	93–110

(Regarding the silent status of Station WJHH(AM).)

Pursuant to section 312(a) (3) and (4) of the Communications Act of 1934, as amended, H. Gibbs Flanders, Jr., Trustee, has been directed to show cause why the license for Station WJHH(AM) should not be revoked, at a proceeding in which the above-matter has been designated for hearing concerning the following issues:

1. To determine whether H. Gibbs Flanders, Jr., Trustee, has the capability and intent to expeditiously resume broadcast operations of WJHH(AM) consistent with the Commission's Rules.

2. To determine whether H. Gibbs Flanders, Jr., Trustee, has violated sections 73.1740 and/or 73.1750 of the Commission's Rules.

3. To determine, in light of the evidence adduced pursuant to the forgoing issues, whether H. Gibbs Flanders, Jr., Trustee, is qualified to be and remain the licensee of Station WJHH(AM).

A copy of the complete Show Cause Order and HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Docket Branch (room 320), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., suite 140, Washington, DC 20037 (telephone 202–857–3800).

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 93–9684 Filed 4–26–93; 8:45 am]

BILLING CODE 6712–01–M

Application for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM Station:

Applicant, City and State	File No.	MM docket
A. KR Partners; Waimea, HI.	BPH–911001MB	93–53
B. KES Communications, Inc.; Waimea, HI.	BPH–911003MH	
C. Lori Lynne Forbes; Waimea, HI.	BPH–911004MH	

Issue Heading and Applicants

1. Financial Qualifications—A
2. Comparative—A, B, C
3. Ultimate—A, B, C

Applicant, City and State	File No.	MM docket
A. Board of Visitors of James Madison University; Crozet, VA.	BPED–911101MA	93–52
B. Community Educational Service Council, Inc.; Crozet, VA.	BPED–920511MB	

Issue Heading and Applicants

1. Comparative Noncommercial Educational FM—A, B
2. Ultimate—A, B

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth above. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used above to signify whether the issue in question applies to that particular applicant.

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete test may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., Suite 140, Washington, DC 20037 (telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 93–9685 Filed 4–26–93; 8:45 am]

BILLING CODE 6712–01–M

Licensee Order To Show Cause

The Chief, Mass Media Bureau, has before him the following matter:

Applicant, City and State	MM docket No.
Honus Shain, Licensee of WKLO(AM); Danville, KY	93–109

(Regarding the silent status of Station WKLO(AM)).

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Pursuant to section 312(a)(3) and 4 of the Communications Act of 1934, as amended, Honus Shain has been directed to show cause why the license for Station WKLO(AM) should not be revoked, at a proceeding in which the above matter has been designated for hearing concerning the following issues:

1. To determine whether Honus Shain has the capability and intent to expeditiously resume broadcast operations of WKLO(AM) consistent with the Commission's Rules.

2. To determine whether Honus Shain has violated sections 73.1740 and/or 73.1750 of the Commission's Rules.

3. To determine, in light of the evidence adduced pursuant to the forgoing issues, whether Honus Shain is qualified to be and remain the licensee of Station WKLO(AM).

A copy of the complete Show Cause Order and HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 320), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., suite 140, Washington, DC 20037 (telephone 202–857–3800).

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 93–9686 Filed 4–26–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pilot Reinsurance Program

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice; Additional comment period.

SUMMARY: On February 3, 1993, the Federal Deposit Insurance Corporation (FDIC) published in the **Federal Register** a notice requesting public comment on all aspects of a planned Pilot Reinsurance Program (Pilot Program) for a 60-day comment period which ended on April 5, 1993. Due to the variety and complexity of issues for comment, the FDIC is now providing an additional 30-day period for public comment. The FDIC is publishing the notice in a form identical to that published on February 3, 1993, with one exception: as a result of providing an additional 30-day period for public comment, the FDIC does not intend to begin actual reinsurance coverage pursuant to the Pilot Program until the semiannual assessment period beginning July 1, 1994. The dates for engaging in the Pilot Program have been amended accordingly.

DATES: Written comments must be received on or before May 27, 1993.

ADDRESSES: Written comments shall be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments may be hand-delivered to room F–402, 1776 F Street, NW., Washington, DC on business days between 8:30 a.m. and 5 p.m. Comments may also be inspected in the FDIC's Reading Room, room 7118, 550 17th Street NW., between 8:30 a.m. and 5 p.m. on business days. [FAX number (202) 898–3838]

FOR FURTHER INFORMATION CONTACT: Arthur J. Murton, Deputy Director, Division of Research and Statistics, (202) 898–3938; Jennifer L. Eccles, Senior Financial Analyst, Division of Research and Statistics, (202) 898–8537; or Lisa M. Stanley, Senior Attorney, (202) 898–7494.

SUPPLEMENTARY INFORMATION: On February 3, 1993, the FDIC published a notice in the **Federal Register** (58 FR 6966) requesting public comment on all aspects of a planned Pilot Program. A number of commenters expressed the opinion that the FDIC should provide additional time for consideration of the issues involved in the Pilot Program. In light of these concerns and in view of the variety and complexity of issues to be analyzed, the FDIC is providing an additional 30-day period for public comment on this notice.

As before, the FDIC is soliciting public comment on all aspects of the planned Pilot Program, including the reinsurance process, the terms and conditions of participation by private reinsurers, and the appropriate criteria for determining which insured depository institutions may be included in the Program. As before, the FDIC is also soliciting public comment on alternate methods of structuring a Pilot Program.

In the request for comment published on February 3, 1993, the FDIC stated its intention to commence actual reinsurance coverage pursuant to the Pilot Program beginning January 1, 1994. As a result of providing an additional 30-day comment period, the FDIC does not intend to commence actual reinsurance coverage pursuant to the Pilot Program until the semiannual assessment period beginning July 1, 1994. This request for comment has been amended in accordance with this new date.

I. Background and Authority

Section 322 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Public Law 102–242, requires the Board of Directors of the FDIC, in consultation with the Secretary of the Treasury and individuals from the private sector with expertise in private insurance, private reinsurance, depository institutions, or economics, to conduct a study of the feasibility of establishing a private reinsurance system. The study must include a demonstration project consisting of a simulation, by a sample of private reinsurers and insured depository institutions, of the activities required for a private reinsurance system. These activities include—

(1) Establishing a pricing structure for risk-based premiums;

(2) Formulating insurance or reinsurance contracts; and

(3) Identifying and collecting information necessary for evaluating and monitoring risks in insured depository institutions.

Section 322(a)(3) of FDICIA authorizes the FDIC to engage in actual reinsurance transactions as part of the demonstration project. As part of the new risk-based assessment system required by section 302(a) of FDICIA, the FDIC is authorized to obtain private reinsurance covering not more than 10 percent of any loss the FDIC incurs with respect to an insured depository institution and to base that institution's semiannual assessment, wholly or partially, on the cost of the reinsurance. Pursuant to section 302(g) of FDICIA, the new risk-based assessment system will become effective no later than January 1, 1994.

The FDIC intends to conduct a Pilot Reinsurance Program (Pilot Program) in 1993 through 1995 with reinsurance coverage to commence with the semiannual assessment period beginning July 1, 1994. The FDIC may consider reinsurance information in making assessment risk classification assignments.

Before June 19, 1993, the FDIC must submit to the Congress a report on the study which must include—

(1) An analysis and review of the demonstration project;

(2) Conclusions regarding the feasibility of a private reinsurance system;

(3) Recommendations regarding whether—

(A) A private reinsurance system should be restricted to depository institutions over a certain asset size;

(B) Similar reinsurance systems are feasible for depository institutions or groups of such institutions with total assets below any recommended asset size restriction; and

(C) Public policy goals can be satisfied by such reinsurance systems; and

(4) Recommendations for administrative and legislative action as may be necessary to establish such reinsurance systems.

Before June 19, 1993, the FDIC intends to submit to the Congress a report on the study. After completion of the Pilot Program, the FDIC intends to submit an additional report to the Congress based on the results of the Pilot Program.

II. Description of Pilot Reinsurance Program

Section 322 of FDICIA requires the FDIC to conduct a private reinsurance study which must include a demonstration project and may include actual reinsurance transactions. In order to ascertain whether establishing a private reinsurance system is feasible, the FDIC has determined to engage in a Pilot Program.[1] The goal of the Pilot Program would be to determine whether private reinsurance may be a useful supplement to federal deposit insurance without compromising the public policy objectives of deposit insurance. The FDIC solicits comments on all aspects of the Pilot Program described below.

Private reinsurers would be invited to participate in the Pilot Program for the purpose of deriving market-based deposit reinsurance prices for eligible insured depository institutions. Participating reinsurers would be required to enter into contracts with the FDIC which set the terms and conditions of participation. The FDIC intends to develop a "Request for Proposal" (RFP) delineating the terms and conditions of participation based in part on comments received in response to this request for comment. Reinsurers would then submit bids or price quotes to the FDIC for reinsurance of selected institutions. The FDIC would select reinsurers to engage in actual reinsurance transactions.

A reinsurer would participate in the reinsurance transactions by agreeing to be liable for some portion of the loss or cost of assistance incurred by the FDIC in connection with an insured depository institution that fails or is provided assistance during the period for which reinsurance coverage is in effect. A reinsurer would assume liability for individual insured depository institutions. All reinsurers would operate under uniform terms with the FDIC and charge the FDIC premiums for assuming risk.

[1] Actual reinsurance transactions would commence with the semiannual assessment period beginning July 1, 1994. Section 7(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(b), will authorize the FDIC to obtain private reinsurance in connection with the new risk-based assessment system beginning January 1, 1994.

III. Description of Proposed Process

The Pilot Program would commence in 1993, with reinsurance coverage to commence with the semiannual assessment period beginning on July 1, 1994. The Pilot Program would be divided into three phases. The first phase would include the selection of participating reinsurers. The FDIC would issue an RFP to solicit participation in the Pilot Program by all interested reinsurers. The RFP would include detailed terms and conditions of participation in the Pilot Program. Interested reinsurers would be required to demonstrate that they meet the eligibility criteria established by the FDIC. In order to participate in the Pilot Program, a reinsurer must enter into a contractual agreement with the FDIC binding the reinsurer to a set of uniform terms and conditions of participation.

During the second phase of the Pilot Program, participating reinsurers would be provided with approximately six months during which to complete their analysis of insured depository institutions deemed eligible by the FDIC for reinsurance. This phase would culminate in submission of a reinsurance bid to the FDIC by each participating reinsurer. The bid would include prices for each insured depository institution the participating reinsurer is willing to reinsure and a statement of the total volume of reinsurance business desired. All other terms and conditions of reinsurance would have been established previously by the participation contract. The FDIC would assign reinsurance on the basis of price, among other possible factors, for each insured depository institution to be reinsured. Reinsurance would be allocated until the desired volume of business based on total exposure per reinsurer is reached.

The FDIC intends to set a maximum acceptable reinsurance price for all insured depository institutions deemed eligible by the FDIC for reinsurance. The FDIC is interested in receiving comments concerning how a maximum acceptable reinsurance price should be determined and what maximum is appropriate.

During the third phase of the Pilot Program, a separate reinsurance contract would be signed by each reinsurer for each insured depository institution to be reinsured. Reinsurance coverage would be provided for the second semiannual assessment period during 1994 and the first semiannual assessment period during 1995.

The FDIC is considering requiring each participating reinsurer to assume a fixed dollar amount of liability for a particular insured depository institution. The amount of liability would be determined at the time of entering into the contract. Alternatively, the FDIC is considering ceding reinsurance equal to a percentage of the FDIC's loss from the resolution of an insured depository institution with reinsurance or the FDIC's cost of assistance.

The FDIC intends to solicit bids for participation through an RFP during the Summer of 1993. Reinsurers would be selected for participation shortly thereafter. Final Pilot Program participation contracts would be signed during the Fall of 1993. Reinsurers would begin the pricing analysis and submit prices to the FDIC by a deadline in the Spring of 1994. Actual reinsurance transactions would commence with the semiannual assessment period beginning July 1, 1994.

IV. Participants

All segments of the insurance industry and other financial firms would be eligible for participation. One requirement for selection would be the approval of the reinsurer's primary regulator. This requirement would ensure that a participant has adequate financial capacity to participate and that the type of business is authorized by the participant's primary regulator. The FDIC may establish certain financial criteria for participation including a minimum capital requirement. Furthermore, participants would be required to agree to and be bound by the terms and conditions established in the participation contract. These terms and conditions may include a strict confidentiality agreement and provisions relating to conflicts of interest.

The Pilot Program may be difficult to manage if the FDIC seeks reinsurance coverage for all insured depository institutions. Therefore, it may be necessary to select a limited group of insured institutions for which the FDIC will seek coverage. The FDIC is considering limiting the Pilot Program to insured depository institutions with assets over a given asset size, perhaps $1 billion. An alternative under consideration is to select a random sample of insured institutions. The FDIC believes that selecting institutions on the basis of financial condition or

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allowing institutions to opt out of the Pilot Program could severely bias the results of the study. The FDIC seeks comments on the appropriate manner of limiting the number of insured depository institutions in the Pilot Program.

Insured depository institution subsidiaries of a depository institution holding company which meet the criteria established for inclusion in the Pilot Program would be reinsured separately from affiliated insured depository institutions.

V. Process Issues

The FDIC is interested in receiving comments on alternate methods of structuring a Pilot Program. Additionally, the FDIC is interested in receiving comments on all general process issues relating to the Pilot Program under consideration, including:

1. How should the pricing information received by the FDIC during the Pilot Reinsurance Program affect an insured depository institution's assessment rate, if at all?

2. What should be the effect of an insured depository institution being considered "unreinsurable" as determined based on the bids received from participating reinsurers?

3. Should participating reinsurers be reimbursed for development costs? If so, should reinsurers be reimbursed fully or should development costs be shared between the FDIC and reinsurers? How should any reimbursement for development costs factor into the FDIC's acceptance of bids?

4. Should the FDIC accept only one bid for reinsurance for each insured depository institution or accept multiple bids for reinsurance up to the total amount of reinsurance desired?

VI. Issues Related to Terms and Conditions of Participation by Private Reinsurers

The FDIC is interested in receiving comments relating to establishing appropriate terms and conditions of participation in the Pilot Program by private reinsurers, including the following possible terms and conditions:

1. *General terms:* Reinsurance contracts would be entered into between the FDIC and participating reinsurers. An insured depository institution deemed eligible for reinsurance by the FDIC would not be a party to the reinsurance contract.

All reinsurers would be required to agree to a uniform set of terms and must enter into identical participation contracts with the FDIC. Terms and conditions of participation in the Pilot Program and for actual reinsurance would be set forth in contracts prepared by the FDIC. Commenters may wish to recommend specific contract language for consideration by the FDIC. Reinsurers would be required to enter into separate contracts for participation in the Pilot Program and for reinsurance of individual insured depository institutions. Separate reinsurance contracts identifying the insured depository institution to be reinsured and setting the reinsurance premium would be signed for each transaction. Reinsurers would be excluded from any participation in the supervision, resolution, and liquidation processes.

The FDIC intends to reserve the right to cancel a reinsurance contract at any time during the term of the contract. The FDIC does not intend to permit reinsurers to cancel reinsurance during the term of the contract.

2. *Duration:* The FDIC envisions an appropriate term for reinsurance contracts as a period of one to two years. The FDIC requests comments on whether one year or some longer term is appropriate for such contracts.

3. *Pricing:* The FDIC would determine a maximum acceptable reinsurance price for all eligible insured depository institutions. The FDIC would not enter into reinsurance contracts in which the premium quoted exceeds the maximum acceptable reinsurance price, as determined by the FDIC. All bids received with reinsurance prices in excess of this maximum amount would be rejected. Each reinsurer would charge the FDIC directly for the reinsurance premium.

4. *Repricing:* The FDIC seeks comments on whether reinsurers should be permitted to adjust premiums during the term of the reinsurance contract. If so, should there be a cap on the amount of repricing permitted?

5. *Exposure:* The FDIC is considering setting a fixed dollar amount of reinsurer liability for the cost of resolution or assistance at the time of entering into reinsurance contracts. Alternatively, the FDIC is considering ceding reinsurance equal to 1 percent of the FDIC's loss from the resolution of an insured depository institution with reinsurance or the FDIC's cost of assistance. This alternative may be subject to a stop-loss provision whereby the maximum loss exposure to a reinsurer would be tied to the size of the institution. The FDIC requests comment on the appropriate percentage of loss to cede for reinsurance and the appropriate stop-loss provisions.

6. *Information requirements:* Most data necessary for determining reinsurance premiums would be generated based on the quarterly consolidated reports of condition and income and other publicly available information.

The FDIC requests comments on whether access to reports of examination is essential to providing reinsurance. If access to examination reports were permitted for the purpose of formulating a reinsurance bid, such access would be subject to appropriate privacy safeguards, confidentiality agreements, and the receipt of express permission of the appropriate Federal banking agency.

The FDIC is also interested in receiving comments concerning the anticipated burden on insured depository institutions of possible contacts from reinsurers interested in submitting a reinsurance bid for a particular insured depository institution.

7. *Bidding requirements:* Each participating reinsurer would be required to submit a list of reinsurance prices to the FDIC by a deadline established by the FDIC for receipt of bids. Each such reinsurer would be required to specify which insured depository institutions it is willing to reinsure, under the terms previously established by the participation contract. The bid must also state the total volume of reinsurance exposure that the reinsurer is willing to accept, based on the price and exposure established per insured depository institution.

8. Conflicts of interest: The FDIC intends to require interested reinsurers to disclose to the FDIC all potential conflicts of interest prior to entering into the participation contract.

9. *Captive insurance companies:* Insured depository institutions may own or control a subsidiary engaged in insurance or reinsurance activities. The FDIC intends to prohibit such "captive" insurance companies from reinsuring affiliated insured depository institutions.

10. *Eligibility:* The FDIC may require the approval of a reinsurer's regulator in order to affirm that the reinsurer is in sound financial condition and authorized by the regulator to engage in reinsurance business. The FDIC is considering establishing certain minimum financial criteria for participating reinsurers such as a minimum capital requirement to be maintained throughout the duration of the Pilot Program. The FDIC is interested in receiving comments concerning whether minimum financial criteria for participating reinsurers are feasible, and, if so, how the appropriate minimum requirements should be determined.

VII. Issues Related to Eligibility of Insured Depository Institutions To Be Included in the Pilot Reinsurance Program

The FDIC is interested in receiving comments relating to establishing appropriate criteria for eligibility of insured depository institutions to be included in the Pilot Program.

1. *Insured depository institutions:* All insured depository institutions would be eligible for reinsurance, except insured branches of foreign banks. To make the Pilot Program manageable, the FDIC intends to select a limited group of insured institutions for which the FDIC will seek coverage. As discussed earlier, the FDIC is seeking comments on the appropriate manner of limiting the number of insured depository institutions in the Pilot Program.

2. *Depository institution holding companies:* Insured depository institution subsidiaries of a depository institution holding company which meet the criteria that may be established for inclusion in the Pilot Program would be reinsured separately from affiliated insured depository institutions.

By order of the Board of Directors. Dated at Washington, DC this 20th day of April, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93-9779 Filed 4-26-93; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-3097-EM]

Georgia; Amendment To Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of Georgia, (FEMA-3097-EM), dated March 15, 1993, and related determinations.

EFFECTIVE DATE: April 3, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, verbally on April 3, 1993, and in a letter dated April 5, 1993, to former Acting Director William C. Tidball, the President amended the emergency declaration of March 15, 1993, under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the emergency conditions in certain areas of the State of Georgia, resulting from severe snowfall and a winter storm on March 13, 1993, and continuing, are of sufficient severity and magnitude to warrant the expansion of the assistance authorized in my declaration of March 15, 1993, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act").

You are authorized under Title V of the Stafford Act to provide reimbursement for debris removal and emergency protective measures in the affected areas, in addition to the assistance for opening critical emergency access on collector roads and streets, and on minor and principal arterial roads for emergency vehicles, authorized for five days.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act will be limited to 75 percent of the total eligible costs.

All other conditions specified in the original declaration remain the same.

Please notify the Governor of the State of Georgia and the Federal Coordinating Officer of this amendment to my emergency declaration.

I do hereby determine the following areas of the State of Georgia to have been affected adversely by this declared emergency:

The counties of Banks, Barrow, Bartow, Carroll, Catoosa, Chattooga, Cherokee, Clayton, Cobb, Dade, Dawson, DeKalb, Douglas, Elbert, Forsyth, Franklin, Fulton, Fannin, Floyd, Gilmer, Gordon, Gwinnett, Habersham, Hall, Hart, Haralson, Jackson, Lumpkin, Murray, Paulding, Pickens, Polk, Rabun, Rockdale, Stephens, Towns, Union, White, Whitfield, and Walker for debris removal and emergency protective measures. (Already designated for assistance for required emergency measures for a period of five (5) days beginning on March 13 for opening critical emergency access on collector roads and streets, and on minor and principal arterial roads for emergency vehicles).

The counties of Appling, Bacon, Bulloch, Camden, Chatham, Coffee, Glynn, Lowndes, Thomas, Ware, and Wayne for debris removal and emergency protective measures, in addition to the assistance for opening critical emergency access on collector roads and streets, and on minor and principal arterial roads for emergency vehicles, authorized for five days beginning on March 13.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 93-9768 Filed 4-26-93; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Aruba Bonaire Curacao Liner Association; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010950-010.

Title: Aruba Bonaire Curacao Liner Association.

Parties:

Genesis Container Line Ltd.
King Ocean Service de Venezuela S.A.
Kirk Line, Ltd.
Sea-Land Service, Inc.
Crowley American Transport, Inc.

Synopsis: The proposed amendment revises the space chartering provisions to the Agreement.

Dated: April 21, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93-9698 Filed 4-26-93; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Britton & Koontz Capital Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 21, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Britton & Koontz Capital Corporation, Natchez, Mississippi; to acquire Natchez First Federal Savings Bank, Natchez, Mississippi, and thereby engage in operating a savings institution pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted in the State of Mississippi.

Board of Governors of the Federal Reserve System, April 20, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-9755 Filed 4-26-93; 8:45 am]

BILLING CODE 6210-01-F

Centura Banks, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 17, 1993.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Centura Banks, Inc., Rocky Mount, North Carolina; to engage *de novo* through its subsidiary, CFS Venture Corporation, Rocky Mount, North Carolina, in providing data processing and transmission services to bank trust departments and other providers of fiduciary services pursuant to § 225.25(b)(7); and providing consulting services to banks and other depository institutions regarding the management and operation of their trust departments and the design of computer software and systems pursuant to § 225.25(b)(11) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 20, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-9756 Filed 4-26-93; 8:45 am]

BILLING CODE 6210-01-F

Hollandale Capital Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 21, 1993.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Hollandale Capital Corporation, Hollandale, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Hollandale, Hollandale, Mississippi.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Twin River Financial Corporation, Lewiston, Idaho; to become a bank holding company by acquiring 100 percent of the voting shares of Twin River National Bank, Lewiston, Idaho.

Board of Governors of the Federal Reserve System, April 20, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-9758 Filed 4-26-93; 8:45 am]

BILLING CODE 6210-01-F

George W. Marti; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than May 17, 1993.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. George W. Marti, Cleburne, Texas; to acquire 69.67 percent of the voting shares of Community Bank, Cleburne, Texas.

Board of Governors of the Federal Reserve System, April 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-9752 Filed 4-26-93; 8:45 am]

BILLING CODE 6210-01-F

Mobile National Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 21, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Mobile National Corporation, Mobile, Alabama; to merge with South Alabama Bancorporation, Inc., Brewton, Alabama, and thereby indirectly acquire First National Bank of Brewton, Brewton, Alabama.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. FEO Investments, Inc., Hoskins, Nebraska; to acquire 100 percent of the voting shares of Elkhorn Valley Bank, Norfolk, Nebraska, a *de novo* bank.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. First Bancorp of Louisiana, Inc., West Monroe, Louisiana; to acquire 100 percent of the voting shares of Southern National Bank at Tallulah, Tallulah, Louisiana.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. MCB Financial Corporation, San Rafael, California; to become a bank holding company by acquiring 100 percent of the voting shares of Marin Community Bank, National Association, San Rafael, California.

Board of Governors of the Federal Reserve System, April 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-9753 Filed 4-26-93; 8:45 am]

BILLING CODE 6210-01-F

Bruce B. Morgan, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 17, 1993.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Bruce B. Morgan, Kansas City, Missouri; to acquire 25.87 percent; A. Major Hull, as trustee for the A.M. Hull Revocable Trust, Kansas City, Missouri, to acquire 10.78 percent; Winton A. Winter, Jr., Lawrence, Kansas, to acquire 5.99 percent; Peoples Savings, Inc., Ottawa, Kansas, to acquire 4.89 percent; Frank C. Sabatini, IRA, Topeka, Kansas, to acquire 5.92 percent; Sabatini Company, Inc., Pension Plan, Topeka, Kansas, to acquire 4.89 percent; and David O. Smith, Louisburg, Kansas, to acquire 10.82 precent of the voting shares of Valley Bancshares, Inc., Atchison, Kansas, and thereby indirectly acquire Valley State Bank, Atchison, Kansas.

Board of Governors of the Federal Reserve System, April 20, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-9759 Filed 4-26-93; 8:45 am]

BILLING CODE 6210-01-F

NationsBank Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound

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banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 17, 1993.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *NationsBank Corporation*, Charlotte, North Carolina; to engage *de novo* through NationsBank Capital Markets, Inc., Charlotte, North Carolina, in debt and equity securities underwriting and dealing activities pursuant to Board order. *J.P. Morgan & Co., Inc., The Chase Manhattan Corporation, Bankers Trust New York Corporation, Citicorp, and Security Pacific Corporation*, 75 Federal Reserve Bulletin 192 (1989).

Board of Governors of the Federal Reserve System, April 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-9754 Filed 4-26-93; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 03-29-93 AND 04-09-93

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
W.R. Grace & Co., Union Carbide Corporation, UOP	93-0467	03/29/93
W.R. Grace & Co., Allied-Signal Inc., UOP	93-0468	03/29/93
Chiron Corporation, Fujisawa Pharmaceutical Company, Fujisawa Pharmaceuticals, Inc	93-0741	03/29/93
Hanson PLC, The Ray and Nadine Watt Family Trust, Watt/Hancock Homes of Arizona, Inc	93-0749	03/29/93
Minorco, PacifiCorp, Pikes Peak Mining Company	93-0750	03/29/93
The RTZ Corporation PLC, PacifiCorp, NERCO, Inc	93-0751	03/29/93
Cominco Ltd., Cominco Ltd., Cominco Fertilizers Nitrogen Partnership	93-0787	03/29/93
Blockbuster Entertainment Corporation, Spelling Entertainment Group Inc., Spelling Entertainment Group Inc	93-0792	03/29/93
Philip Morris Companies Inc., United Biscuits (Holdings) plc, Callard & Bowser (USA) Inc	93-0793	03/29/93
Georges Marciano, Farah Incorporated, Farah Incorporated	93-0799	03/29/93
Gerald W. Schwartz, Adrian VanderStarre, R.J. Tower Corporation	93-0805	03/29/93
Craig O. McCaw, Craig O. McCaw, Modesto Cellular Partnership	93-0812	03/29/93
Vinten Group plc, Incentive AB, Bogen Photo Corp	93-0815	03/29/93
PepsiCo, Inc., Darrell J. Valenti, Valenti Southeast, Inc. and Bay Food Brokers Inc	93-0816	03/29/93
Fund American Enterprises Holdings, Inc., Zurich Insurance Company, Zurich Reinsurance Centre Holdings, Inc	93-0818	03/29/93
Warburg, Pincus Capital Company, L.P., Richard J. Rice, Long Distance Service of Washington, Inc	93-0821	03/29/93
Healthtrust, Inc.—The Hospital Company, Healthtrust, Inc.—The Hospital Company, Woodland Heights Medical Center, L.P	93-0825	03/29/93
Cardinal Distribution, Inc., Solomons Company, Solomons Company	93-0826	03/29/93
Enron Corp., The Williams Companies, Inc., Louisiana Resources Company, Louisiana Gas	93-0734	03/30/93
Loving Enterprises, Inc., Exxon Corporation, Exxon Corporation	93-0756	03/30/93
Koninklijke Van Ommeren NV, Exxon Corporation, Exxon Corporation	93-0757	03/30/93
Great Lakes Chemical Corporation, Grow Group, Inc., Grow Group (Acqua Chem Division)	93-0784	03/30/93
ERLY Industries Inc., American Rice, Inc., American Rice, Inc	93-0765	03/30/93
Cabot Oil & Gas Corporation, President and Fellows of Harvard College, Harken Anadarko Partners, L.P	93-0790	03/30/93
International Paper Company, Ingram & Company, Ingram & Company	93-0804	03/31/93
Merry-Go-Round Enterprises, Inc., Melville Corporation, Rosedale Chess King, Inc	93-0822	03/31/93
The RTZ Corporation PLC, Sun Company, Inc., Cordero Mining Co	93-0758	04/01/93
Cross Timbers Oil Company, L.P., Royal Dutch Petroleum Company, Shell Oil Company	93-0811	04/02/93
Horizon Cellular Telephone Company, L.P., ACC Corp., Danbury Cellular Telephone Co.	93-0835	04/02/93
FS Equity Partners II, L.P., EnviroSource, Inc., EnviroSource, Inc	93-0837	04/02/93
Hoechst AG, Publicker Industries Inc., American Cryogas Industries, Inc	93-0782	04/07/93
American Express Company, Atlantic States Bankcard Association, Inc., Atlantic States Bankcard Association, Inc	93-0808	04/07/93
United Meridian Corporation, Saratoga Partners, L.P., Norfolk Holdings, Inc	93-0824	04/07/93
CS Holding, Swiss Volksbank, Swiss Volksbank	93-0830	04/07/93
American Financial Corporation, Robert Dyson, Leader National Insurance Company	93-0841	04/07/93
Allied Clinical Laboratories, Inc., Washoe Health Systems, Inc., Sierra Nevada Laboratories, Inc	93-0783	04/09/93
Gerald W. Schwartz, Alberto Ardissone, ASAA International, Inc., N.V	93-0802	04/09/93
Leandro P. Rizzuto, Southwestern Bell Corporation, Southwestern Bell Telecommunications, Inc	93-0834	04/09/93
American Greetings Corporation, Morton Nyman, Al Nyman & Son, Inc	93-0854	04/09/93
The Community Mutual Insurance Company, Phoenix Home Life Mutual Insurance Company, Home Life Financial Assurance Corporation	93-0859	04/09/93

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 03-29-93 AND 04-09-93—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
The Rival Company, Odyssey Partners, L.P., Pollenex Corporation	93-0865	04/09/93
Universal Foods Corporation, ACX Technologies, Inc., ZeaGen, Inc	93-0871	04/09/93
John Hancock Mutual Life Insurance Company, Leucadia National Corporation, Colonial Penn Annuity and Life Insurance Company	93-0873	04/09/93

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay
or
Rènee A. Horton, Contact Representatives
Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93-9776 Filed 4-26-93; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletins FTR 6, Supplement 4 and FTR 7, Supplement 3]

Federal Travel Regulation; Reimbursement for Actual Subsistence Expenses in Presidentially Declared Disaster Areas of Florida

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of bulletins.

SUMMARY: The attached bulletins inform agencies of a modification to, and the extension for an additional 30-day period of, the special actual subsistence expense ceiling for official travel to certain Florida localities designated Presidentially declared disaster areas as a result of Hurricane Andrew.

EFFECTIVE DATES: The extended period applies to official travel performed during April 21, 1993 through May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703-305-5745.

SUPPLEMENTARY INFORMATION: The Administrator of General Services, pursuant to 41 CFR 301-8.3(c) and at the official request of the Acting Director of the Federal Emergency Management Agency (FEMA), has extended for an additional 30 days the period during which agencies may approve a higher maximum daily rate for the reimbursement of actual subsistence expenses of Federal employees on official travel to any one of the Presidentially declared disaster areas in Florida named in GSA Bulletins FTR 6 and 7. During this period agencies may approve actual and necessary subsistence expense reimbursement for lodging only not to exceed 300 percent of the lodging portion of the applicable maximum locality per diem rate. The attached GSA Bulletin FTR 6, Supplement 4 and GSA Bulletin FTR 7, Supplement 3 are issued to extend the effective dates for these four Florida counties.

Dated: April 20, 1993.

Allan W. Beres,

Assistant Commissioner, Transportation and Property Management.

2 Attachments

ATTACHMENT 1

[GSA Bulletin 6, Supplement 4]

April 20, 1993

To: Heads of Federal agencies

Subject: Reimbursement for actual subsistence expenses in Presidentially declared disaster areas of Florida.

1. *Purpose.* This supplement informs agencies of a modification to, and the extension for an additional 30-day period of, the special actual subsistence expense ceiling described in GSA Bulletin FTR 6 (57 FR 40466, Sept. 3, 1992), as extended by Supplement 1 (57 FR 44751, Sept. 29, 1992), Supplement 2 (57 FR 54793, Nov. 20, 1992), and Supplement 3 (58 FR 5730, Jan. 22, 1993) for official travel to certain Florida localities designated Presidentially declared disaster areas as a result of Hurricane Andrew.

2. *Explanation of change.* The Administrator of General Services, pursuant to 41 CFR 301-8.3(c) and at the official request of the Acting Director of the Federal Emergency Management Agency (FEMA), has extended for an additional 30 days the period during which agencies may approve, in accordance with paragraph 3 of GSA Bulletin FTR 6, a higher maximum daily rate for the reimbursement of actual subsistence expenses of Federal employees on official travel to a Presidentially declared disaster area in Florida named in paragraph 4 of GSA Bulletin FTR 6. For Florida counties named in GSA Bulletin FTR 6, the extended period covers April 21, 1993 through May 20, 1993. During this period agencies may approve actual and necessary subsistence expense reimbursement for *lodging only* not to exceed 300 percent of the lodging portion of the applicable maximum locality per diem rate.

3. *Expiration date.* This supplement expires on August 31, 1993.

4. *For further information contact.* Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703-305-5745.

By delegation of the Commissioner, Federal Supply Service.

Allan W. Beres,

Assistant Commissioner, Transportation and Property Management.

ATTACHMENT 2

[GSA Bulletin FTR 7, Supplement 3]

April 20, 1993

To: Heads of Federal agencies

Subject: Reimbursement for actual subsistence expenses in Presidentially declared Florida disaster area.

1. *Purpose.* This supplement informs agencies of a modification to, and the extension for an additional 30-day period of, the special actual subsistence expense ceiling described in GSA Bulletin FTR 7 (57 FR 44751, Sept. 29, 1992), as extended by Supplement 1 (57 FR 54793, Nov. 20, 1992) and Supplement 2 (58 FR 5730, Jan. 22, 1993) for official travel to Collier County, Florida, designated a Presidentially declared disaster area as a result of Hurricane Andrew.

2. *Explanation of change.* The Administrator of General Services, pursuant to 41 CFR 301-8.3(c) and at the official request of the Acting Director of the Federal Emergency Management Agency (FEMA), has extended for an additional 30 days the period during which agencies may approve, in accordance with paragraph 3 of GSA Bulletin FTR 7, a higher maximum daily rate for the reimbursement of actual subsistence

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expenses of Federal employees on official travel to the Presidentially declared disaster area of Collier County, Florida named in paragraph 4 of GSA Bulletin FTR 7. For Collier County, Florida the extended period covers April 21, 1993 through May 20, 1993. During this period agencies may approve actual and necessary subsistence expense reimbursement for *lodging only* not to exceed 300 percent of the lodging portion of the applicable maximum locality per diem rate.

3. *Expiration date.* This supplement expires on August 31, 1993.

4. *For further information contact.* Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

By delegation of the Commissioner, Federal Supply Service.

Allan W. Beres,

Assistant Commissioner, Transportation and Property Management.

[FR Doc. 93–9720 Filed 4–26–93; 8:45 am]

BILLING CODE 6820–34–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Solicitation of Nominations for Membership on the U.S. Advisory Board on Child Abuse and Neglect

Purpose

Pursuant to the terms of the Child Abuse Prevention and Treatment Act (the Act), the Department of Health and Human Services is soliciting nominations for seven vacancies (seats) on the U.S. Advisory Board on Child Abuse and Neglect (the Board).

Membership

The Board consists of 15 members appointed by the Secretary of Health and Human Services (the Secretary). Thirteen are appointed from the general public and two from the Federal Government. In making all 15 appointments, the Secretary is required by the Act to ensure that ethnic and racial minorities and diverse geographic areas are represented.

All 15 persons appointed must possess general knowledge about child maltreatment (i.e., policy; prevention; intervention; treatment; and research). In addition, among the 13 members from the general public, each of 11 must represent one of the following areas:

- The legal aspects of child maltreatment;
- The psychological aspects;
- The social services aspects;
- The medical aspects;
- The role of State and local government in the prevention and treatment of child abuse and neglect;
- The role of organizations providing services to disabled persons;
- The role of organization providing services to adolescents;
- The role of elementary and secondary school teaching;
- The role of parent self-help organizations;
- The role of parent's groups; and
- The role of voluntary groups.

In order to qualify for selection as such a representative, each individual must possess specific knowledge in the area which he/she represents.

Responsibilities and Duties

Among the responsibilities the Act requires the Board to perform is the preparation of an annual report to the Secretary of Health and Human Services, appropriate committees of the Congress, and the Director of the National Center on Child Abuse and Neglect. In addition, the Board holds hearings, conducts symposia, and issues position papers.

In its annual reports, the Board is charged with evaluating the nation's efforts to accomplish the purposes of CAPTA and developing recommendations about ways that those efforts can be improved. The 1990 report of the Board is entitled, Child Abuse and Neglect: Critical First Steps in Response to a National Emergency; the 1991 report, Creating caring communities: Blueprint for an Effective Federal Policy on Child Abuse and Neglect; and the 1992 report, The Continuing Child Protection Emergency: A Challenge to the Nation.

The Board usually meets three times each year, and, occasionally, four times. Meetings last three to four days. Between meetings, much of its work is accomplished by conference call. Service on the Board is extremely demanding of both time and effort.

Duties of Board members are:

- To serve as the Board authority in one or more areas of expertise, keeping current on developments in those areas;
- To be conversant with the extensive array of background information provided to members prior to meetings and conference calls;
- To attend meetings;
- To participate in conference calls;
- To suggest materials to staff for distribution as background information;
- To author portions of Board publications;
- To edit Board publications; and
- To avoid all possible conflicts of interest between Board membership and non-Board activities.

Terms of Office

The length of the terms to which persons from the general public are appointed is a maximum of four years. When an appointment is made to replace a member who has resigned before the end of his/her term, the term of the newly appointed member will expire on the date on which the original appointment would have expired. Once appointed, a person from the general public may be reappointed to one additional term at the discretion of the Secretary.

Nomination

The Department is soliciting nominations for the seven seats to be occupied by members possessing specific expertise in:

- The legal aspects of child maltreatment;
- The psychological aspects;
- The medical aspects;
- The role of organizations providing services to disabled persons;
- The role of organizations providing services to adolescents;
- The role of parent self-help organizations; and
- The role of parents' groups.

Two of the seven seats to be filled are or will be vacant as a result of resignations. The term of the seat for the person with expertise in the psychological aspects of child maltreatment will expire on May 29, 1995. The term of the seat for the person with expertise in the role of parents' groups in the prevention and treatment of child abuse and neglect will expire on May 29, 1996. The terms of the other five seats will expire on May 29, 1997.

Nominations may be made for one's self or for someone else. The same individual may be nominated for a seat in more than one category. Nominations should be made in the form of a letter which indicates the seat or seats for which the nominee is being nominated and provides information about the qualifications for office of the nominee. A current curriculum vita for the nominee should be attached to the letter. (If the nominee is not the person submitting the nomination, a letter from the nominee indicating a willingness to serve should be attached). All nominations will be evaluated. To assist in that evaluation, persons submitting nominations may wish to provide the following kinds of information about the nominee's qualifications:

- What general knowledge about child maltreatment (i.e., policy; prevention; intervention; treatment; and research) does the nominee possess and how has he/she gained that knowledge?
- What specific knowledge does the nominee possess about the aspect of child maltreatment which he/she is being nominated to represent on the Board and how has he/she gained that knowledge? (If the individual is being nominated for more than one seat, separate answers should be provided setting forth the individual's specific knowledge in connection with each seat).
- What materials has the nominee authored, what presentations has he/she made, what meetings has he/she planned, et cetera, which shed light on both the general and/or specific knowledge of the nominee?
- What skills does the nominee possess which will allow him/her to contribute substantially to the conduct of Board business and what highlights and achievements in the nominee's career shed light on such skills?
- Does the nominee possess other abilities which are relevant to his/her appointment to the Board?
- Will the nominee's schedule permit him/her to devote a significant segment of time to Board activities?
- Is the nominee's ethnic or racial background that of an American Indian or Alaskan Native, Asian or Pacific Islander, African-American, or Hispanic?

Each letter of nomination should be accompanied by at least one but no more than three letters of reference attesting to the nominee's qualifications for office. Authors of reference letters may include but are not limited to: Elected officials (Federal, State, or local); persons in the field of child maltreatment; and persons in the subject area of the seat being sought.

The Secretary will select the seven persons to be named to the Board from among those individuals either who are nominated in response to this announcement or who are otherwise qualified to serve. After the Secretary reaches a decision, those persons selected to serve will receive a letter of invitation. Service will begin on September 24, 1993 with the new members in attendance as invited observers during the fifteenth Board meeting on September 21–23, 1993.

Nomination packages (letter of nomination; attachment(s); and accompanying letter(s) of reference) must be postmarked no later than May 21, 1993. Packages received with a postmark later than May 21, 1993 will not be considered.

Nominations should be sent to the: U.S. Advisory Board on Child Abuse and Neglect, room 303–D, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Contact person for more information: Marilyn J. Gosdeck, Special Projects Specialist, U.S. Advisory Board on Child Abuse and Neglect, Room 303–D, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, Telephone: (202) 690–8604.

Dated: April 20, 1993.

Preston Bruce,

Acting Executive Director, U.S. Advisory Board on Child Abuse and Neglect.

[FR Doc. 93–9792 Filed 4–26–93; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

[Docket No. 93N–0019]

TPC Products, Inc.; Proposal to Withdraw Approval of New Animal Drug Applications; Opportunity for Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing an opportunity for hearing on a proposal to withdraw approval of three new animal drug applications (NADA's) because the applicant, TPC Products, Inc., has failed to submit required annual reports.

DATES: Requests for hearing, including data, information, and analyses relied on to justify a hearing are to be submitted by May 27, 1993.

ADDRESSES: Requests for hearing in response to this notice should be identified with Docket No. 93N–0019 and sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Keller, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8722.

SUPPLEMENTARY INFORMATION: An applicant is required to report periodically to FDA concerning each of its approved NADA's in accordance with 21 CFR 510.300. TPC Products, Inc., P.O. Box 4308, 2021 North Grove St., Fort Worth, TX 76106 (last known address), previously (pre-1982) known as Texas Phenothiazine Co., holds three approved NADA's: (1) NADA 3808 for the use of phenothiazine drench in cattle, (2) NADA 5224 for the use of phenothiazine and lead arsenate drench in sheep and goats, and (3) NADA 13–685 for the use of trichlorfon and phenothiazine as a parasiticide in horses. TPC Products, Inc., has not submitted annual reports for the NADA's held by the firm and has not responded to the agency's requests by certified mail for submission of these reports.

Therefore, notice is given to TPC Products, Inc., and to all other interested persons that the Director, Center for Veterinary Medicine, proposes to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(e)) withdrawing approval of the NADA's and all amendments and supplements thereto on the ground that the applicant has failed to submit the reports required under 21 CFR 510.300. Upon withdrawal of NADA 13–685, the corresponding regulation (21 CFR 520.2520h) will be revoked.

In accordance with section 512 of the act and the regulations promulgated under it (21 CFR parts 510 and 514), the applicant is hereby given an opportunity for a hearing to show why approval of the NADA's should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug products named above.

An applicant who decides to seek a hearing shall file on or before May 27, 1993, a written notice of appearance and request for hearing, including data, information, and analyses relied on to justify a hearing as specified in 21 CFR 514.200.

The failure of an applicant to file a timely written notice of appearance and request for hearing as required by 21 CFR 514.200 constitutes an election by the applicant not to make use of the opportunity for a hearing concerning the action proposed for the drug product and constitutes a waiver of any contentions about the legal status of the drug product. The drug product may not thereafter lawfully be marketed, and FDA will begin appropriate regulatory action to remove it from the market. Any new animal drug product marketed without an approved NADA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that justifies a hearing. Reports submitted to remedy the deficiencies must be complete in all respects in accordance with 21 CFR 510.300. If the submission is not complete or if a request for hearing is not made in the required format or with the required reports, the Commissioner of Food and Drugs will enter summary

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judgment against the person(s) who requests a hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice must be filed in two copies. Except for information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (section 512(e) (21 U.S.C. 360b(e))) and under authority delegated to the Director, Center for Veterinary Medicine (21 CFR 5.84).

Dated: April 20, 1993.

Richard H. Teske,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 93-9778 Filed 4-26-93; 8:45 am]

BILLING CODE 4160-01-F

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below have potential uses in the treatment or diagnosis of cancer, as well as in other health care fields. The inventions are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to Ms. Marjorie D. Hunter, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, Maryland 20892 (telephone 301/496-7735; fax 301/402-0220). A signed Confidentiality Agreement will be required to receive copies of the patent applications. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

05/895,082 . Anti-Neoplastic 4,4-Bis-(Substituted Aminoalkyl Amino)-Anthraquinones.

05/928,252 . 7-O(2,6-Dideoxy-a-L-Lyxo-Hexopyranosyl)-Daunomycinone, Desmethoxy Daunomycinone Adriamycinone and Carminomycinone (U.S. Patent No. 4,201,773).

06/050,100 . Anti-Neoplastic 1,4-Bis-(Substituted Aminoalkyl Amino)-Anthraquinones (U.S. Patent No. 4,310,666).

06/180,373 . Nitroimidazoles of Low Toxicity and High Activity as Radiosensitizers of Hypoxic Tumor Cells (U.S. Patent No. 4,371,540).

06/182,632 . Method for Producing 3,6-Bis(Carboethoxcyamino)-2,5-Diaziridinyl 1,4-Benzoquinone (U.S. Patent No. 4,337,196).

06/243,775 . Synthesis of Ethyl-4(3'-Methoxypenyl)-1-Methyl Piperdine-3-Carboxylate (U.S. Patent No. 4,435,572).

06/294,368 . Process for the Production of 2-B-D-Robofuranosylthiazole-4-Carboxamide (U.S. Patent No. 4,451,648).

06/317,056 . 5-Iminodoxorubicin (U.S. Patent No. 4,353,894).

06/341,123 . Carbamate Compounds (U.S. Patent No. 4,686,304).

06/408,942 . 2-halo Derivatives of Daunomycin, Desmethoxy Daunomycin, Adriamycin, and Carminomycin (U.S. Patent No. 4,427,664).

06/468,950 . 2',5'-Riboadenylate-Morpholinoadenylate Nucleotides (U.S. Patent No. 4,515,781).

06/906,353 . Leukoregulin, An Antitumor Lymphokine, and Its Therapeutic Uses (U.S. Patent No. 4,849,506.

07/069,867 . Anti-Human Ovarian Cancer Immunotoxins and Methods of Use Thereof (U.S. Patent No. 4,958,009).

07/182,222 . Flavone 8-Acetic Acid and Interleukin-2 for Cancer Therapy (U.S. Patent No. 5,096,707).

07/279,186 . Acylaminoalkylpyridine- amides as Inhibitors of Metastasis (U.S. Patent No. 5,030,642).

07/281,951 . Monoclonal Antibody Specific for Bombesin (U.S. Patent No. 5,109,115).

07/289,723 . Method and Kit for Detecting Human Exposure to Genotoxic Agents (U.S. Patent No. 5,096,808).

07/355,744 . Therapeutic Application of an Anti-Invasive Compound (U.S. Patent No. 5,132,315).

07/360,363 . Platinum Complexes Derived From B-Silyamines.

07/437,819 . SCL Gene, and a Hematopoietic Growth and Differentiation Factor Encoded Thereby (U.S. Patent No. 5,132,212).

07/539,287 . Method of Administering Suramin Sodium in the Treatment of Cancers.

07/556,420 . The PDQ Cancer Treatment Information System.

07/649,182 . Cancer Therapy Using Interleukin-2 and Flavone Compounds (U.S. Patent No. 5,126,129).

07/655,502 . Non-Mitogenic Competitive HGF Antagonist.

07/695,004 . Human SCLC Autocrine Growth Factors and Monoclonal Antibody Blocking the Same.

07/695,024 . Recombinant Virus Expressing Human Carcinoembryonic Antigen and Methods of Use Thereof.

07/764,695 . Oncoimmunins.

07/767,331 . Recombinant Immunotoxin.

07/770,026 . Blockage of Cell Adhesion Molecules.

07/775,081 . Method of Diagnosing Cancer Susceptibility or Metastatic Potential.

07/789,652 . Method for Quantitatively Meesuring Collagenase.

07/822,042 . Blockage of Cell Adhesion Molecules.

07/822,043 . Autotaxin: Motility Stimulating Protein Useful in Cancer Diagnosis and Therapy.

07/826,470 . SCL Gene, and A Hematopoietic Growth and Differentiation Factor Encoded Thereby.

07/827,043 . AAMP-1.

07/835,637 . Novel Antitumor Compound Compositions and Method of Use.

07/869,933 . Isolation, Characterization, and Use of the Human B Subunit of the High Affinity Receptor for Immunoglobulin E.

07/875,438 . 06-Substituted Guanine Derivatives Possessing 06-Alkylguanine-DNA Alkyltransferase Depleting Activity for Use in Enhancing the Therapeutic Effectiveness of Chemotherapeutic Alkylating Agents.

07/877,523 . Phosphorothioate Derivatives of Cyclic AMP Analogues.

07/879,649 . Recombinant Virus Expressing Human Carcinoembryonic Antigen and Methods of Use Thereof.

07/880,525 . Method for Designing Cancer Treatment Regimens and Methods and Pharmaceutical Compositions for the Treatment of Cancer.

07/882,223 . Use of Inhibitors of 3-Hydroxy-3-Methylglutaryl Coenzyme A Reductase as a Modality in Cancer Therapy.

07/888,292 . Use of Purinergic Receptor Agonists as Antineoplastic Agents.

07/894,891 . Signal Transduction Inhibitor Compounds.

07/901,261 . A Method for the Treatment of Cancer by Use of the Cooper Complex of S-(Methylthio)-DL-Homocysteine or the L-Enantiomorph Thereof.

07/903,588 . MET Expression is a Prognostic Indicator in Human Breast Cancer Progression.

07/914,630 . Hepatic Growth Factor Receptor is the MET Proto-Oncogene.

07/916,250 . Tumoricidal Activity of Benzoquinonoid Ansamycins Against Prostate Cancer and Other Primitive Neural Malignancies.

07/925,762 . 7,8-Dihydroxy-Isoquinoline-3-Carboxylates as Protein Kinase Inhibitors.

07/946,061 . MET Functions in Alteration of Cell-to-Cell Interactions Scatter Factor/HGF.

07/949,266 . Human MU-Crystallin: A Novel Protein Expressed in Human Retina.

07/952,796 . DNA Clones for the Expression of Pigment Epithelium Derived Factor and Related Proteins.

Dated: April 13, 1993.

Reid G. Adler,

Director, Office of Technology Transfer.

[FR Doc. 93-9713 Filed 4-26-93; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meeting of the National Advisory Child Health and Human Development Council

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, June 7-8, 1993. The meeting will be held in Building 31, Conference Room 10, National Institutes of Health, Bethesda, Maryland. The meeting of the Subcommittee on Planning will be held on June 7 in Building 31, Room 2A03.

The Council meeting will be open to the public on June 7 from 9:30 a.m. until 5 p.m. The agenda includes a report by the Director, NICHD, an overview of the Method to Extend Research in Time (MERIT) Award mechanism, and a report by the Division of Epidemiology, Statistics, and Prevention Research, NICHD. The meeting will be open on June 8 immediately following the review of applications if any policy issues are raised which need further discussion. The Subcommittee meeting will be open on June 7 from 8 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

In accordance with the provision set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting of the full Council will be closed to the public on June 8 from 8 a.m. to completion of the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plummer, Executive Secretary, NICHD, 6100 Executive Boulevard, room 5E03, National Institute of Health, Bethesda, Maryland 20892, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information. Individuals who plan to attend the open session and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Plummer.

(Catalog of Federal Domestic Assistance Program Nos. 93.864, Population Research, and 93.865, Research for Mothers and Children, National Institutes of Health)

Dated: April 20, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93-9712 Filed 4-26-93; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Neurological Disorders and Stroke; Meeting

Pursuant to Public Law 92-463, notice is hereby given of meetings of committees of the National Institute of Neurological Disorders and Stroke (NINDS). These meetings will be open to the public to discuss program planning, program accomplishments and special reports or other issues relating to committee business as indicated in the notice.

The Council meeting will be open to the public on June 3, 1993, as listed below. The agenda includes a report by the Director, NINDS, a report by the Special Assistant for Extramural Activities, NINDS, and a scientific presentation by an NINDS grantee. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of meetings, rosters of committee members, and other information pertaining to the meetings can be obtained from the Executive Secretary or the Scientific Review Administrator indicated. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary or the Scientific Review Administrator listed for the meeting.

Name of Committee: The Planning Subcommittee of the National Advisory Neurological Disorders and Stroke Council.

Date: June 2, 1993.

Place: National Institutes of Health, Bldg. 31, Conference room 8A28, 9000 Rockville Pike, Bethesda, MD 20892.

Open: 1 p.m.-3 p.m.

Closed: 3 p.m.—recess.

Name of Committee: National Advisory Neurological Disorders and Stroke Council.

Dates: June 3-4, 1993.

Place: National Institutes of Health, Building 1, Wilson Hall, 9000 Rockville Pike, Bethesda, MD 20892.

Open: June 3, 9 a.m.-1 p.m.

Closed: June 3, 1 p.m.—recess; June 4, 8:30 a.m.—adjournment.

Executive Secretary: Constance W. Atwell, Ph.D., Special Assistant for Extramural Activities, NINDS, National Institutes of Health, Bethesda, MD 20892, Telephone: (301) 496-9248.

Name of Committee: Neurological Disorders Program Project Review A Committee.

Dates: June 16, 17 & 18, 1993.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Open: June 16, 1993, 7:30 p.m.-8 p.m.

Closed: June 16, 8 p.m.—recess, June 17, 1993, 8:30 a.m.—recess, June 18, 8:30 a.m.—adjournment.

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Scientific Review Administrator: Dr. Katherine Woodbury, Federal Building, room 9C–14, National Institutes of Health, Bethesda, MD 20892, Telephone: (301) 496–9223.

Name of Committee: Training Grant and Career Development Review Committee.

Dates: June 17, 18, 1993.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Open: June 17, 8 a.m.–8:30 a.m.

Closed: June 17, 8:30—recess, June 18, 8 a.m.—adjournment.

Scientific Review Administrator: Dr. Herbert Yellin, Federal Building, room 9C–14, National Institutes of Health, Bethesda, MD 20892, Telephone: (301) 496–9223.

Name of Committee: Neurological Disorders Program Project Review B Committee.

Dates: June 24–26, 1993.

Place: Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Open: June 24, 7 p.m.–7:30 p.m.

Closed: June 24, 7:30 p.m.—recess, June 25, 8:30 a.m.—recess, June 26, 8:30 a.m.—adjournment.

Scientific Review Administrator: Dr. Paul Sheehy, Federal Building, room 9C–10, National Institutes of Health, Bethesda, MD 20892, Telephone: (301) 496–9223.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: April 20, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–9714 Filed 4–26–93; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–060–03–4332–03]

Battle Mountain District Advisory Council Meeting in Battle Mountain, NV

SUMMARY: Notice is hereby given in accordance with Public Law 94–579 and CFR part 1780 that a meeting of the Battle Mountain District Advisory Council will be held on May 19 and 20, 1993. The meeting will begin on May 19 at 2:15 p.m. at the Battle Mountain District Office. The afternoon will include a tour of the newly constructed District Office. The meeting will reconvene at 8 a.m. on May 20. The agenda will include: An address by the State Director; budget, position management, and program emphasis update; mine shaft hazard abatement; commercial OHV recreational events on public lands; issues concerning Austin Grazing Allotment.

The meeting is open to the public. Interested persons may make statements beginning at 11:30 a.m. If you wish to make an oral statement, please contact James D. Currivan by May 14, 1993.

FOR FURTHER INFORMATION CONTACT: James D. Currivan, District Manager, P.O. Box 1420, Battle Mountain, Nevada, 89820 or phone (702) 635–4000.

Dated: April 15, 1993.

James D. Currivan,

District Manager, Battle Mountain District.

[FR Doc. 93–9696 Filed 4–26–93; 8:45 am]

BILLING CODE 4310–HC–M

[AZ–920–03–4212–13; AZA 22643]

Arizona, Exchange of Public and Private Lands; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction, notice of issuance of exchange documents.

SUMMARY: On March 17, 1993, a notice of issuance of exchange documents was published in 58 FR 14421. In the 2d paragraph under **SUPPLEMENTARY INFORMATION**, the number of acres conveyed by Mr. Menges to the United States is 160.00 (not 548.64). The correct acreage was given in the **SUMMARY** paragraph.

FOR FURTHER INFORMATION CONTACT: Evelyn Stob, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 650–0353.

Mary Jo Yoas,

Chief, Branch of Lands Operations

[FR Doc. 93–9731 Filed 4–26–92; 8:45 am]

BILLING CODE 4310–84–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–381]

T & P Railway Abandonment—In Shawnee, Jefferson and Atchison Counties, KS

AGENCY: Interstate [1] Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts, under 49 U.S.C. 10505, from the prior approval requirements of 49 U.S.C. 10903–10904 the abandonment by T And P Railway, Inc. of its 41-mile line between Topeka and Parnell, KS, subject to environmental, historic preservation, and public use conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 27, 1993. Formal expressions of intent to file an offer [2] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by May 7, 1993, petitions to stay must be filed by May 12, 1993, and petitions to reopen must be filed by May 24, 1993.

ADDRESSES: Send pleadings referring to Docket No. AB–381 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Fritz R. Kahn, Suite 700, The McPherson Building, 901 15th Street, NW, Washington, DC 20005–2301.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927–5610 [TDD for hearing impaired: (202) 927–5721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359.

Decided: April 8, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden. Vice Chairman Simmons dissented with a separate expression.

Sidney L. Strickland, Jr.,

Secretary

[FR Doc. 93–9800 Filed 4–26–93; 8:45 am]

BILLING CODE 7032–01–P

[1] This decision includes Docket No. AB–381 (Sub-No. 1X), T And P Railway—Abandonment Exemption—In Shawnee, Jefferson, and Atchison Counties, KS.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d (1987).

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to CERCLA

In accordance with section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9622(d)(2), as well as Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Amendment to Consent Decree in *United States* v. *Harris Corporation*, No. 91–624–CIV–ORL–19, was lodged with the United States District Court for the Middle District of Florida on April 15, 1993. Under this amendment, the definition of Operable Unit #1 ("OU #1") under the Consent Decree entered by the Court on October 25, 1991, is changed to include additional property at the Harris Corporation Superfund Site ("Site") located in Palm Bay, Brevard County, Florida.

Under a remedial action plan for the Site, approved by the State of Florida under a state consent order, Harris is to expand the existing on-site groundwater withdrawal and treatment system to include additional Site property known as the Building #100 property. The proposed amendment to the Consent Decree adopts these changes and requires Harris to expand the current groundwater extraction and treatment system to include the Building #100 property.

The Department of Justice will receive for a period of (30) days from the date of this publication, comments relating to the proposed Amendment to Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Harris Corporation, DOJ* #90–11–3–620.

The Amendment to Consent Decree may be examined at the offices of the United States Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, and at the Consent Decree Library, 1120 G Street, NW. 4th Floor, Washington, DC (20005). 202–624–0892. A copy of the proposed Amendment to Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC (20005). In requesting a copy, please enclose a check in the amount of $1.50 (25 cents per page reproduction costs) payable to Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–9703 Filed 4–26–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–134a (IPACT–I)

Notice is hereby given that, on January 14, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–134a ("IPACT–I"), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership. The notification was filed for the purpose of maintaining the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

As of November 12, 1992, Schering-Plough Corporation's membership in IPACT–I ended. No other changes have been made in the membership, objectives, or planned activities of IPACT–I.

On August 7, 1990, IPACT–I filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 6, 1990 (55 FR 36710).

The last notification was filed with the Department on February 28, 1992, identifying changes in its membership. A notice was published in the **Federal Register** on May 5, 1992 (57 FR 19310).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–9704 Filed 4–26–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–227 (IPACT–II)

Notice is hereby given that, on January 14, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–227 ("IPACT–II"), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership. The notification was filed for the purpose of maintaining the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

As of November 12, 1992, Schering-Plough Corporation's membership in IPACT–II ended. No other changes have been made in the membership, objectives, or planned activities of IPACT–II.

On February 21, 1992, IPACT–II filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on April 2, 1991 (56 FR 13489).

The last notification was filed with the Department on February 7, 1992, identifying changes in its membership. A notice was published in the **Federal Register** on March 11, 1992 (57 FR 8675).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–9705 Filed 4–26–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–27,804]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

Anadrill (a division of Schlumberger Technology Corporation) a/k/a The Analysts, Inc., headquartered in Sugarland, Texas and operating out of the following locations:

TA–W–27,804A	Anchorage, AK
TA–W–27,804B	Bakersfield, CA
TA–W–27,804C	Houma, LA
TA–W–27,804D	Lafayette, LA
TA–W–27,804E	New Orleans, LA
TA–W–27,804F	Hobbs, NM
TA–W–27,804G	Williston, ND
TA–W–27,804H	Oklahoma City, OK
TA–W–27,804I	Alice, TX
TA–W–27,804J	Kilgore, TX
TA–W–27,804K	Houston, TX
TA–W–27,804L	Odessa, TX
TA–W–27,804M	Casper, WY

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 25, 1992, applicable to the workers of the subject firm.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show that the claimants' wages were paid under a predecessor unemployment insurance (UI) account number bearing the name: The Analysts, Inc.

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Accordingly, the Department is amending the certification to properly reflect the correct UI tax status for the above certified worker group.

The amended notice applicable to TA-W-27,804 is hereby issued as follows:

All workers engaged in employment related to exploration and drilling at Anadrill, a Division of Schlumberger Technology Corporation, also known as (a/k/a) The Analysts, Inc., headquartered in Sugarland, Texas (TA-W-27,804) and operating out of the below cited locations who became totally or partially separated from employment on or after August 28, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TA-W-27,804A Anchorage, AK
TA-W-27,804B Bakersfield, CA
TA-W-27,804C Houma, LA
TA-W-27,804D Lafayette, LA
TA-W-27,804E New Orleans, LA
TA-W-27,804F Hobbs, NM
TA-W-27,804G Williston, ND
TA-W-27,804H Oklahoma City, OK
TA-W-27,804I Alice, TX
TA-W-27,804J Kilgore, TX
TA-W-27,804K Houston, TX
TA-W-27,804L Odessa, TX
TA-W-27,804M Casper, WY

Signed at Washington, DC, this 19th day of April 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-9787 Filed 4-26-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,078]

Beaver Dam Products, Beaver Dam, WI; Negative Determination on Reconsideration

On April 7, 1993, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Beaver Dam Products in Beaver Dam, Wisconsin. This notice was published in the **Federal Register** on April 16, 1993 (58 FR 19846).

Investigation findings show that the Beaver Dam Products is a subsidiary of the Chrysler Corporation. The workers produce automotive components for Chrysler cars. All of Beaver Dam's auto component production in 1991 and 1992 went to Chrysler's assembly plant at Belvidere, Illinois where they are used in the production of automobiles.

The union states that Canadian components have replaced those of Beaver Dam's because Chrysler's New Yorker and 5th Avenue cars formerly produced at Belvidere are now being assembled in Canada and imported into the U.S.

In order for component workers to be certified for trade adjustment assistance there must be increased imports of articles like or directly competitive to the component produced at the worker's firm which contributed importantly to decreased employment, sales or production. Since there are no company imports of Beaver Dam's components, the only way the workers can be certified is if there was a reduced demand for their production by a parent or controlling firm which produces an article and whose workers are independently certified for trade adjustment assistance and the reduced demand for the components must relate directly to the decreased employment, sales and/or production at Beaver Dam. These conditions have not been met. There are no Chrysler plants producing the New Yorker or 5th Avenue cars which have workers who are currently under a worker group certification.

Findings on reconsideration show that Chrysler will not need Beaver Dam's production in the 1994 model year (MY) because of the introduction of new models. A new model called the Neon will go into production at Belvidere in September, 1993 for which Belvidere will produce its own components. Production of the New Yorker is being transferred to Canada. The 94MY New Yorker is a different car from its 93 model counterpart. The 94 model is built on a different chassis requiring different components. Other findings show that the production of the 5th Avenue is being discontinued at the end of the 93MY.

Conclusion

After reconsideration, I affirm the original notice of negative determination to apply for adjustment assistance to workers and former workers of Beaver Dam Products in Beaver Dam, Wisconsin.

Signed at Washington, DC, this 16th day of April 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93-9788 Filed 4-26-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,286]

Cox Exploration Co., Corpus Christi and Dallas, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Cox Exploration Company, Corpus Christi, Texas and Dallas, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued:

Signed at Washington, DC this 19th day of April, 1993.

Marvin M. Fooks,

Director, Office of Adjustment Assistance.

[FR Doc. 93-9789 Filed 4-26-93; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Koch Gathering Systems et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 12th day of April, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles producted
Koch Gathering Systems (Wkrs)	Wichita, KS	04/12/93	04/01/93	28,531	Gathers natural gas.
'Totes', Inc, Distribution Cnt (Wkrs)	Lancaster, PA	04/12/93	04/02/93	28,532	Distribution center.
TRW Vehicle Safety Systems (UAW)	Washington, MI	04/12/93	04/01/93	28,533	Seat belt components.
University of Oklahoma FAA/ATC Div (Wkrs).	Oklahoma City, OK	04/12/93	03/24/93	28,534	Air traffic control training center.
Thomson Co (Co)	Gibson, GA	04/12/93	03/29/93	28,535	Men's and boys' slacks.
Shenango, Inc (Wkrs)	Sharpsville, PA	04/12/93	03/30/93	28,536	Ingot molds and stools.
Pierce Corp (Wkrs)	Eugene, OR	04/12/93	03/24/93	28,537	Irrigation systems.
Outokumpu Copper (USWA)	Kenosha, WI	04/12/93	03/26/93	28,538	Copper alloy products.
Apparel Service Industries (Wkrs)	Hialeah Gardens, FL.	04/12/93	03/30/93	28,539	Women's apparel.
South Buffalo Railroad (Wkrs)	Lackawanna, NY	04/12/93	03/29/93	28,540	Railroad maintenance.
Cable Electric Products, Inc (Co)	Providence, RI	04/12/93	03/30/93	28,541	Electric lights.
Hamilton Digital Controls, Inc (Wkrs)	Utica, NY	04/12/93	04/01/93	28,542	Magnetic tape heads.
Planters/Lifesavers Co (BCTW)	Amsterdam, NY	04/12/93	03/22/93	28,543	Packaging equipment.
NERCO Minerals Co (Co)	Portland, OR	04/12/93	03/30/93	28,544	Precious metals.
NERCO, Inc (Co)	Portland, OR	04/12/93	03/31/93	28,545	Oil, gas, precious metals and coal.
OSRAM Sylvania (Wkrs)	Wellsboro, PA	04/12/93	03/31/93	28,546	Ceramic floor tiles.
3M Telecom Resources Division (Co)	Eatontown, NJ	04/12/93	04/07/93	28,547	Fiber optic cables and connectors.
Crown Cork & Seal Co., Inc (SMW)	North Bergen, NJ	04/12/93	03/26/93	28,548	Metal cans.
Conner Fence, Inc (Wkrs)	Odessa, TX	04/12/93	03/18/93	28,549	Chainlink fencing.
Bolen Leather Products (Wkrs)	Springfield, TN	04/12/93	03/22/93	28,550	Leather pouches and aprons.
Alta Products (Wkrs)	Williamsport, PA	04/12/93	03/29/93	28,551	Bedroom slippers.
Act II, dba Arctic Coiled Tubing (Co)	Anchorage, AK	04/12/93	03/29/93	28,552	Downhole oil services.
NERCO Coal Corp (Co)	Portland, OR	04/12/93	03/31/93	28,553	Coal.
Smith Energy Services (Co)	Farmington, NM	04/12/93	03/31/93	28,554	Oil services.
Smith Energy Services (Co)	Midland, TX	04/12/93	03/31/93	28,555	Oil services.
Smith Energy Services (Co)	Longmont, CO	04/12/93	03/31/93	28,556	Oil services.
Smith Energy Services (Co)	Vernal, UT	04/12/93	03/31/93	28,557	Oil services.
Smith Energy Services (Co)	Casper, WY	04/12/93	03/31/93	28,558	Oil services.
Smith Energy Services (Co)	Denver, CO	04/12/93	03/31/93	28,559	Oil services.
Smith Energy Services (Co)	Houston, TX	04/12/93	03/31/93	28,560	Oil services.

[FR Doc. 93-9790 Filed 4-26-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,173]

Texaco Exploration and Production, Inc., Midland Division (West Texas), Midland, TX; Revised Determination on Reconsideration

On April 16, 1993, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Texaco Exploration and Production, Inc., Midland Division, Midland, Texas. This notice will soon be published in the **Federal Register**.

The company claims that the Department was inconsistent in its determinations by certifying the workers at Texaco Exploration and Production in Velma, Oklahoma (TA-W-28,249) and denying the workers at Texaco Exploration and Production in Midland, Texas.

The investigation files show that a predominant portion of the crude oil and natural gas produced by Midland is sold internally.

The findings also show that the production of both crude oil and natural gas at Midland decreased in 1991 compared to 1990 and in the first 10 months of 1992 compared to the same period in 1991. Significant worker separations began in 1992 and will continue into 1993.

Findings on reconsideration show increased company imports of crude oil in 1991 compared to 1990 and in the first 10 months of 1992 compared to the same period in 1991.

Conclusion

After careful review of the additional facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with crude oil and natural gas produced at the Midland Division of Texaco Exploration and Production, Inc., in Midland, Texas contributed importantly to the decline in sales or production and to the total or partial separation of workers at Texaco Exploration and Production, Inc. in Midland, Texas. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of Texaco Exploration and Production, Inc., Midland, Texas and operating at various locations in the Midland Division (West Texas) who became totally or partially separated from employment on or after December 12, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

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Signed at Washington, DC, this 20th day of April 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 93-9791 Filed 4-26-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27,461; TA-W-27,462]

Transco Energy Corp. Aviation Department, Houston, TX and Transco Energy Corp. Administration, Houston, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 24, 1992, applicable to the workers of the subject firms except the Transcontinental Gas Pipe Line Corporation in Houston, Texas.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firms. The investigation findings show that the claimants' wages for all the above firms were reported under the Transcontinental Gas Pipe Line Corporation Unemployment Insurance (UI) tax account.

Accordingly, the Department is amending the certification to properly reflect the correct UI tax status for the above certified worker groups.

The amended notice applicable to TA-W-27,461 and TA-W-27,462 is hereby issued as follows:

All workers of Transco Exploration and Production Company a/k/a Transcontinental Gas Pipe Line Corporation, headquartered in Houston, Texas (TA-W-27,462A) and operating at various other locations in Colorado (TA-W-27,462B; Louisiana (TA-W-27,462C) and Texas (TA-W-27,462D) engaged in the exploration and production of crude oil and natural gas who became totally or partially separated from employment on or after November 28, 1992 and

All workers of Transco Energy Corporation, Administration (TA-W-27,462) and the Aviation Department (TA-W-27,461) a/k/a Transcontinental Gas Pipe Line Corporation, Houston, Texas engaged in the support for the exploration and production of crude oil and natural gas who became totally or partially separated from employment on or after June 8, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

I further determine that all workers at Transco Gas Pipe Line Corporation, headquartered in Houston, Texas (TA-W-27,462E) engaged in the transportation of natural gas and natural gas liquids are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 19th day of April 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-9786 Filed 4-26-93; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Full Committee Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on May 11-12, 1993, at the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., room S-3215A and B, Washington, DC. The meeting is open to the public and will begin at 9 a.m. on each day.

The agenda for this meeting includes work group reports; OSHA status reports on rulemaking activity regarding hazardous waste operations training, scaffolds, fall protection, steel erection, lead, asbestos, air contaminants and the incorporation by reference of national consensus standards; the incorporation of general industry (part 1910) standards in part 1926; and OSHA reports on the proposed rule for occupational exposure to glycol ethers and on targeting inspections at construction workplaces. The Advisory Committee will also discuss the use of joint labor-management committees to address safety and health issues.

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs, at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Persons who request the opportunity to address the Advisory Committee may be allowed to speak, as time permits, at the discretion of the Chairman of the Advisory Committee.

FOR ADDITIONAL INFORMATION CONTACT: Toni Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, room N-3647, 200 Constitution Avenue NW., Washington, DC 20210, Telephone 202-219-8615. An official record of the meeting will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, DC this 22nd day of April 1993.

David C. Zeigler,

Acting Assistant Secretary of Labor.

[FR Doc. 93-9826 Filed 4-26-93; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefits Administration

[Application No. D-9357, et al.]

Proposed Exemptions; Day Runner, Inc. 401(k) Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be aversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at lenst three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N-5649, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Day Runner, Inc. 401(k) Plan (the Plan); Located in Fullerton, California

[Application No. D-9357]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale by the Plan to Day Runner, Inc. (the Employer), the sponsor of the Plans, of a guaranteed investment certificate (the GIC) issued by Mutual Benefit Life Insurance Company of New Jersey (Mutual Benefit); provided that (1) the sale is a one-time transaction for cash; (2) the Plan does not suffer any loss or incur any expenses in the transaction; and (3) the Plan receives no less than the fair market value of the GIC at the time of the transaction.

Summary of Facts and Representations

1. The Plan is a defined contribution pension plan with a cash or deferred compensation arrangement intended to meet the requirements of section 401(k) of the Code. The Plan provides for individual participant accounts (the Accounts) and participant-directed investment of the Accounts. As of December 31, 1992, there were approximately 385 participants and total assets of $492,229 in the Plan. The Employer is a California publicly-held corporation engaged in the manufacture and distribution of Day Runner personal organizers, with its headquarters in Fullerton, California. The trustees of the Plan are Dennis Marquardt and Lee Coffey (the Trustees), each of whom is an officer of the Employer.

2. The Plan document authorizes the Employer to select the investment options offered to Plan participants. After the Employer selects such investment vehicles, the Plan participants direct the investment of their Accounts among the selected options. From January 1, 1991, the effective date of the Plan, until July 16, 1991, all Accounts were solely invested in four different investment funds (the Funds) offered and managed by Mutual Benefit under a group annuity contract. The Funds include a guaranteed certificate account (the GCA Fund) which invests in guaranteed investment certificates issued by Mutual Benefit. The sole asset of the GCA Fund is the GIC, a benefit-responsive guaranteed investment certificate issued by Mutual Benefit with respect to the Plan's investments in the GCA Fund during 1991. The terms of the GIC provide that principal deposits made during 1991 earn interest at the rate of 8.25 percent (the Contract Rate) through the GIC's maturity date of March 31, 1996, at which time a final payment (the Maturity Payment) is due in the amount of total principal deposits plus interest at the Contract Rate, less previous withdrawals. Pre-maturity withdrawals from the GIC are allowed to enable the GCA Fund to effect benefit distributions, in-service withdrawals, participant loans, and participant-directed transfers of Account balances to other Funds (collectively, the Withdrawal Events). As of December 31, 1992, the GIC had an accumulated book value of $34,141.07, representing total principal deposits plus interest at the Contract Rate, less previous withdrawals, and constituting approximately 7.45 percent of the total assets of the Plan as of that date.

3. On July 16, 1991, Mutual Benefit was placed in conservatorship and rehabilitation by the insurance commissioner of the State of New Jersey (the Commissioner).[1] Since the commencement of the conservatorship, payments on all Mutual Benefit guaranteed investment certificates, including the GIC, have been suspended.[2] Consequently, the GCA Fund has been and remains unable to withdraw amounts from the GIC for Withdrawal Events. The Commissioner and Mutual Benefit are developing a plan of rehabilitation with respect to all of Mutual Benefit's guaranteed investment certificate obligations outstanding as of the commencement of the conservatorship. On July 16, 1991, the GCA Fund ceased making deposits under the GIC, and shortly thereafter the Employer contracted with Fidelity Institutional Retirement Services Company (Fidelity) to replace Mutual Benefit in providing investment options for Plan participants. Since July 16, 1991, all contributions to the Plan have been invested, pursuant to Participant directions, among five funds offered and managed by Fidelity.

The Employer represents that it is unknown whether, when, or under what circumstances Mutual Benefit will resume payments for Withdrawal Events, or whether it will make the Maturity Payment, with respect to the GIC. In order to eliminate risk associated with continued investment in the GIC, and to allow GCA Fund assets invested under the GIC to be transferred to Fidelity management, the Employer proposes to purchase the GIC from the Plan, and is requesting an exemption for such transaction under the terms and conditions described herein.

[1] The Department notes that the decisions to acquire and hold the GIC are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, the Department herein is not proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GIC.

[2] On August 7, 1991, the Superior Court of New Jersey removed restrictions on withdrawals from Mutual Benefit's "separate accounts", which enabled the Trustees to withdraw all the Funds from the Mutual Benefit group annuity contract except the GCA Fund.

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4. The Employer proposes to purchase the GIC from the Plan by paying the Plan cash in the amount of the GIC's accumulated book value, representing total principal deposits plus interest at the Contract Rate less previous withdrawals, as of the date of the purchase. The Plan will not incur any expenses with respect to the transaction. The Trustees represents that they have determined that the purchase price of the GIC, at its accumulated book value, is in excess of the GIC's fair market value, due to the financial instability of Mutual Benefit. The Trustees also represent that the sale of the GIC to the Employer under the terms proposed will be in the best interests of the participants and beneficiaries of the Plan because it will eliminate the risk of loss on the Plan's investment in the GIC and will allow the Trustees to place the GCA Fund assets under new management.

5. In summary, the applicant represents that the transaction satisfies the criteria of section 408(a) of the Act for the following reasons: (1) The transaction enables the Plan to avoid any risk associated with continued holding of the GIC and to redirect the GCA fund's assets to new management; (2) The Plan will receive cash for the GIC in the amount of the accumulated book value as of the sale date, which the Trustees have determined to be in excess of the fair market value of the GIC; (3) The Plan will not incur any expenses or experience any loss with respect to the transaction; and (4) The Trustees have determined that the Plan's sale of the GIC to the Employer on the basis of the GIC's book value is in the best interests of the participants and beneficiaries of the Plan.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Aldrich, Eastman, & Waltch, L.P. and Aldrich, Eastman & Waltch, Inc. (collectively, AEW) Located in Boston, Massachusetts

[Application No. D–8324]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Part I—Exemption for Payment of Certain Fees to AEW

The restrictions of section 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to the payment of certain initial investment fees (the Investment Fee) and disposition fees (the Disposition Fee) to AEW by employee benefit plans for which AEW provides investment management services (the Client Plans), pursuant to an investment management agreement (the Agreement) entered into between AEW and the Client Plans either individually, through the establishment of a single client separate account (Single Client Account), or collectively as participants in a multiple client commingled account (Multiple Client Account), provided that the conditions set forth below in Part III are satisfied.

Part II—Exemption for Investments in a Multiple Client Account

The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to any investment by a Client Plan in a Multiple Client Account (collectively, the Accounts) managed by AEW, provided that the conditions set forth below in Part III are satisfied.

Part III—General Conditions

(a) The investment of plan assets in a Single or Multiple Client Account, including the terms and payment of any Investment Fee and Disposition Fee, shall be approved in writing by a fiduciary of a Client Plan which is independent of AEW and its affiliates and, in the case of a Multiple Client Account for which ultimate investment discretion is exercised by a bank trustee, a fiduciary which is independent of the bank trustee and AEW and its affiliates (the Independent Fiduciary). Notwithstanding the foregoing, AEW may authorize the transfer of cash from a Single Client Account to a Multiple Client Account provided that: (1) The Multiple Client Account has similar investment objectives and the identical fee structure as the Single Client Account; (2) the Agreement governing the Single Client Account authorizes AEW to invest in a Multiple Client Account; (3) AEW receives no additional fees from the Single Client Account for cash invested in the Multiple Client Account and no additional Investment Fee is paid with respect to cash transferred to the Multiple Client Account; and (4) the transfer occurs within six months of the Independent Fiduciary's decision to allocate assets to the Single Client Account or, in the event AEW's binding commitment to make the transfer occurs more than six months after such Fiduciary's decision, AEW obtains an additional authorization from the Independent Fiduciary.

(b) The terms of any investment in an Account and of any Investment Fee or Disposition Fee shall be at least as favorable to the Client Plans as those obtainable in arm's-length transactions between unrelated parties.

(c) At the time any Account is established and at the time of any subsequent investment of assets (including the reinvestment of assets) in such Account:

(1) Each Client Plan shall have total net assets with a value in excess of $50 million; and

(2) No Client Plan shall invest, in the aggregate, more than five percent (5%) of its total assets in any Account or more than ten percent (10%) of its assets in all Accounts established by AEW.

(d) Prior to making an investment in any Account, the Independent Fiduciary of each Client Plan investing in an Account shall receive offering materials from AEW which disclose all material facts concerning the purpose, structure and operation of the Account, including any fee arrangements.

(e) With respect to its ongoing participation in an Account, each Client Plan shall receive the following written information from AEW:

(1) Audited financial statements of the Account prepared by independent public accountants selected by AEW no later than 90 days after the end of the fiscal year of the Account;

(2) Quarterly and annual reports prepared by AEW relating to the overall financial position and operating results of the Account and, in the case of a Multiple Client Account, the value of each Client Plan's interest in the Account. Each such report shall include a statement regarding the amount of fees paid to AEW during the period covered by such report;

(3) Annual appraisals indicating the fair market value of the Account's assets as established by an MAI licensed real estate appraiser independent of AEW and its affiliates which is approved by the Client Plan prior to investing in the Account; and

(4) In the case of any Multiple Client Account, a list of all other investors in the Account.

(f) The total fees paid to AEW shall constitute no more than reasonable compensation.

(g) The Investment Fee shall be equal to a specified percentage of the net value of the Client Plan assets allocated to the Account which shall be payable either:

(1) At the time assets are deposited (or deemed deposited in the case of reinvestment of assets) in the Account; or

(2) In periodic installments, the amount (as a percentage of the aggregate Investment Fee) and timing of which have been specified in advance based on the percentage of the Client Plan's assets invested in real property as of the payment date; provided that (i) the installment period is no less than three months, and (ii) if the percentage of the Client Plan assets which have actually been invested by a payment date is less than the percentage required for the aggregate Investment Fee to be paid in full through that date (both determined on a cumulative basis), the Investment Fee paid on such date shall be reduced by the amount necessary to cause the percentage of the aggregate Investment Fee paid to equal only the percentage of the Client Plan assets actually invested by that date. The unpaid portion of such Investment Fee shall be deferred to and payable on a cumulative basis on the next scheduled payment date (subject to the percentage limitation described in the preceding sentence).

(h) The Disposition Fee shall be payable after the Client Plan has received distributions from the Account in excess of an amount equal to 100% of its invested capital plus a pre-specified annual compounded cumulative rate of return (the Threshold Amount), except that in the case of AEW's removal or resignation, AEW shall be entitled to receive a Disposition FEE payable either at the time of removal or, in the event of AEW's resignation, upon termination of the Account subject to the requirements of paragraph (k) below, as determined by a deemed distribution of the assets of the Account based on an assumed sale of such assets at their fair market value (in accordance with independent appraisals), only to the extent that the Client Plan would receive distributions from the Account in excess of an amount equal to the Threshold Amount at the time of AEW's removal or resignation. Both the Threshold Amount and the amount of the Disposition Fee, expressed as a percentage of the amount distributed (or deemed distributed) from the Account in excess of the Threshold Amount, shall be established by the Agreement and agreed to by the Independent Fiduciary of the Client Plan.

(i) The Threshold Amount for any Disposition Fee shall include at least a minimum rate of return to the Client Plan, as defined below in Part IV(f).

(j) For any sale of property in an Account which shall give rise to the payment of a Disposition Fee to AEW prior to the termination of the Account, the sales price of the property shall be at least equal to a target amount (the Target Amount), as defined in Part IV(g), in order for AEW to sell the property and receive its Disposition Fee. If the proposed sales price of the property is less than the Target Amount, the proposed sale shall be disclosed to and agreed to by the Independent Fiduciary for a Single Client Account or the responsible independent fiduciaries of Client Plans and other authorized persons acting for investors in a Multiple Client Account (the Responsible Independent Fiduciaries), as defined in Part IV(e) below. If the proposed sales price is less than the Target Amount and the Independent Fiduciary's or Responsible Independent Fiduciaries' approval is not obtained, AEW shall still have the authority to sell the property, if the Agreement provides AEW with complete investment discretion for the Account, provided that the Disposition Fee which would have been payable to AEW is paid only at the termination of the Account.

(k) In the event AEW resigns as investment manager for an Account, the Disposition Fee shall be calculated at the time of resignation as described above in paragraph (h) and allocated to each property based upon the relationship that the appraised value of such property bears to the total appraised value of the Account. Each amount arrived at through this calculation shall be multiplied by a fraction, the numerator of which shall be the actual sales price received by the Account on disposition of the property (or in the case of a property which has not been sold prior to the termination of the Account, the appraised value of the property as of the termination date) and the denominator of which shall be the appraised value of the property which was used in connection with determining the Disposition Fee at the time of resignation, provided that this fraction shall never exceed 1.0. The resulting amount for each property shall be the Disposition Fee payable to AEW upon termination of the Account.

(l) AEW or its affiliates shall maintain, for a period of six years, the records necessary to enable the persons described in paragraph (m) of this Part III to determine whether the conditions of this exemption have been met, except that: (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of AEW or its affiliates, the records are lost or destroyed prior to the end of the six year period; and (2) no party in interest, other than AEW, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (m) below.

(m) (1) Except as provided in paragraph (m)(2) and notwithstanding any provisions of sections 504(a)(2) and (b) of the Act, the records referred to in paragraph (1) of this Part III shall be unconditionally available at their customary location for examination during normal business hours by:

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(ii) Any fiduciary of a Client Plan or any duly authorized employee or representative of such fiduciary;

(iii) Any contributing employer to a Client Plan or any duly authorized employee or representative of such employer; and

(iv) Any participant or beneficiary of a Client Plan or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described above in paragraph (m)(1)(ii)–(iv) shall be authorized to examine the trade secrets of AEW and its affiliates or any commercial or financial information which is privileged or confidential.

Part IV—Definitions

(a) An *affiliate* of a person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative of, or partner of any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term *control* means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term *management services* means:

(1) Development of an investment strategy for the Account and identification of suitable real estate-related investments;

(2) Directing the investments of the assets of the Account, including the determination of the structure of each investment, the negotiation of its terms and conditions and the performance of all requisite due diligence;

(3) Timing and directing the disposition of any assets of the Account and directing the liquidation of the Account;

(4) Administration of the overall operation of the investments of the

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Account, including all applicable leasing, management, financing and capital improvement decisions;

(5) Establishing and maintaining accounting records of the Accounts and distributing reports to Client Plans as described in Part III; and

(6) Selecting and directing all services providers of ancillary services as defined in this Part IV.

(d) The term *ancillary services* means:

(1) Legal services;

(2) Services of architects, designers, engineers, hazardous materials consultants, contractors, leasing agents, real estate brokers, and others in connection with the acquisition, construction, improvement, management and disposition of investments in real property;

(3) Insurance brokerage and consultation services;

(4) Services of independent auditors and accountants in connection with auditing the books and records of the Accounts and preparing tax returns;

(5) Appraisal and mortgage brokerage services; and

(6) Services for the development of income-producing real property.

(e) The term *Responsible Independent Fiduciaries* means with respect to a Multiple Client Account the Independent Fiduciary of each Client Plan invested in the Account and other authorized persons acting for investors in the Account which are not employee benefit plans as defined under section 3(3) of the Act (such as governmental plans, university endowment funds, etc.) that are independent of AEW and its affiliates and are persons other than the bank trustee for the Account, that collectively hold at least 50% of the interests in the Account.

(f) The term "Threshold Amount" means with respect to any Disposition Fee an amount which equals all of a Client Plan's capital invested in an Account plus a pre-specified annual compounded cumulative rate of return that is at least a minimum rate of return determined as follows:

(1) A non-fixed rate which is at least equal to the rate of change in the consumer price index (CPI) during the period from the deposit of the Client Plan's assets in the Account until distributions of the Client Plan's assets from the Account equal or exceed the Threshold Amount; or

(2) A fixed rate which is at least equal to the rate of change in the CPI over some period of time specified in the Agreement, which shall not exceed 10 years.

(g) The term "Target Amount" means a value assigned to each property in the Account established by AEW either (1) at the time the property is acquired, by mutual agreement between AEW and the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account, or (2) pursuant to an objective formula approved by such fiduciaries at the time the Account is established. However, in no event will such value be less than the acquisition price of the property.

The availability of this exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transactions which are the subject of the exemption.

Effective Date: If granted, this exemption will be effective as of the date this notice of proposed exemption appears in the **Federal Register**.

Summary of Facts and Representations

1. AEW is a privately-owned real estate investment management company, located in Boston, Massachusetts, and is an investment adviser registered under the Investment Advisers Act of 1940. AEW manages approximately $4 billion worth of assets for a variety of clients, including employee benefit plans. Most of AEW's investment management business has been shifted to a Delaware limited partnership, AEW, L.P. In this regard, AEW is the general partner of AEW Holdings, L.P., which is the general partner of AEW, L.P. AEW's client accounts consist of either separate accounts for a single client or commingled accounts for multiple clients.

2. AEW will offer the investment arrangement described below involving the payment of an Investment Fee or a Disposition Fee (collectively, the Fees) to Client Plans that seek to invest in real estate and have aggregate net plan assets with a fair market value in excess of $50 million.[3] AEW will serve as an investment manager for all Single Client Accounts and for most Multiple Client Accounts. In general, AEW will have complete discretion for identifying appropriate investments, making investment decisions, and managing and disposing of the properties acquired for the Accounts. However, with respect to certain Single Client Accounts, AEW will not exercise absolute investment discretion and will be required to obtain approval for certain investment decisions from the Independent Fiduciary of the Client Plan. Such approvals will typically be obtained from the Client Plan sponsor or an investment committee appointed by the Client Plan sponsor. With respect to Multiple Client Accounts, ultimate investment discretion will be exercised by either AEW or a bank trustee of the Account which is unrelated to AEW and its affiliates (the Bank Trustee).

3. Single Client Accounts will be established pursuant to Agreements negotiated with the Client Plans. The terms of AEW's compensation will be established in the Agreement governing the Single Client Account and will be fully disclosed to the Independent Fiduciary prior to the investment of assets of the Client Plan in the Single Client Account. If agreed to by the Independent Fiduciary, the compensation arrangement involving the payment of the Fees (as described in Item 6 below) will be included in the Agreement.[4] The term of each Account will be predetermined in the Agreement and approved by the Independent Fiduciary of the Client Plan (see Item 9 below).

Multiple Client Accounts will be organized either as a group trust as defined in IRS Revenue Ruling 81–100, as a limited partnership, or as a common law trust.[5] In the case of a Multiple Client Account that is a group trust, the Account could be structured in one of two ways. First, the group trust could be maintained by a totally independent Bank Trustee which has discretionary investment control over the assets of the trust. In this situation, AEW would serve as a non-discretionary investment adviser to the Bank Trustee. The Bank Trustee would

[3] In the case of multiple plans maintained by a single employer or a single controlled group of employers, the assets of which are invested on a commingled basis (e.g. through a master trust), this $50 million threshold will be applied to the aggregate assets of all such plans.

[4] Section 404 of the Act requires, among other things, that a plan fiduciary act prudently and solely in the interest of the plan's participants and beneficiaries. Thus, the Department expects a plan fiduciary, prior to entering into any performance-based compensation arrangement with an investment manager, to fully understand the risks and benefits associated with the compensation formula following disclosure by the investment manager of all relevant information pertaining to the proposed arrangement. In addition, a plan fiduciary must be capable of periodically monitoring the actions taken by the investment manager in the performance of its duties and must consider, prior to entering into the arrangement, whether such plan fiduciary is able to provide adequate oversight of the investment manager during the course of the arrangement.

[5] The applicant represents that in some instances a Client Plan's investment in a Multiple Client Account that is a common or collective trust fund maintained by a bank will be exempt from the restrictions of section 406(a) of the Act by reason of section 408(b)(8). The Department expresses no opinion herein whether all of the conditions of section 408(b)(8) will be satisfied in such transactions

select AEW and have the power to remove AEW with the approval of Client Plans invested in the Account, pursuant to the terms of the Agreement governing the Account (as discussed below). However, AEW would not have such powers with respect to the Bank Trustee. Second, AEW could organize a non-bank maintained group trust for which AEW would serve as the discretionary investment manager with the Bank Trustee serving as a directed trustee. AEW would have the power to select and remove the Bank Trustee. In the case of a Multiple Client Account organized as a common law trust, AEW would serve as the investment manager and, in most cases, AEW would appoint a Bank Trustee to act as a directed trustee. However, in some cases, an affiliate of AEW may be approved to act as the trustee by the Client Plans investing in the Account, pursuant to the terms of the Agreement. In the case of a Multiple Client Account organized as a limited partnership, AEW would serve as the general partner with investment discretion for assets held in the partnership.

For any Multiple Client Account, various decisions regarding the Account other than investment management decisions for the Account (such as the initial decision to allocate Client Plan assets to the Account, the decision to reinvest income or proceeds in the Account, decisions with respect to the removal of AEW or the termination of the Account) will be made by the Responsible Independent Fiduciaries. AEW represents that in all instances the Responsible Independent Fiduciaries will be acting for Account investors that collectively hold at least 50% of the interests in the Account. The exact percentage required for such decisions will be specified in the governing documents of the Account. In addition, AEW states that in no case will the Bank Trustee be deemed a Responsible Independent Fiduciary for purposes of decisions which are required to be made by such fiduciaries under the documents governing the Account.

The decision to invest assets of a Client Plan in any Multiple Client Account will be made by the Independent Fiduciary of such Client Plan, based upon full written disclosure of the compensation arrangement involving the Fees prior to such investment. Notwithstanding the foregoing, AEW may authorize the transfer of cash from a Single Client Account to a Multiple Client Account where: (i) The Multiple Client Account has similar investment objectives and the identical fee structure as the Single Client Account; (ii) the Agreement governing the Single Client Account authorizes AEW to invest in a Multiple Client Account; (iii) AEW receives no additional fees from the Single Client Account for cash invested in the Multiple Client Account and no additional Investment Fee is paid for cash transferred to the Multiple Client Account; and (iv) the transfer occurs within six months of the Independent Fiduciary's decision to allocate assets to the Single Client Account or, in the event the transfer would occur after six months, AEW obtains an additional authorization from the Independent Fiduciary. AEW states that the six month period for the Client Plan's authorization to make a transfer of cash to the Multiple Client Account would relate to AEW's decision to make a binding commitment to invest such cash in the Multiple Client Account, rather than the actual date the cash is transferred to the Account. AEW represents that its commitment to invest the cash would normally occur within six months of the Independent Fiduciary's decision to allocate assets to the Single Client Account. However, if more than six months has transpired since the Independent Fiduciary's decision to invest the assets in the Single Client Account, AEW will obtain an additional authorization from such fiduciary. The approval will occur following written disclosure to the Independent Fiduciary of AEW's binding commitment to make a cash transfer to the Multiple Client Account which will be deemed approved unless such fiduciary objects within a reasonable time.

AEW may not receive an Investment Fee for cash invested by AEW in the Multiple Client Account if the Investment Fee was previously paid for such assets when the Client Plan invested in the Single Client Account. Otherwise, after a transfer of cash, the fee structure for the Multiple Client Account will govern all fees received by AEW for such Client Plan assets. The precise terms of AEW's compensation arrangement will be established as part of the documents pursuant to which the Multiple Client Account is organized and can be amended only with the approval of the Responsible Independent Fiduciaries.

4. The applicant represents that the investment objectives of each Account will be to obtain current income and capital appreciation, primarily through the purchase of real estate-related assets, including fee interests, leaseholds, joint venture participations, partnership interests, options with respect to real estate, mortgage loans and interests in any of the foregoing. The Accounts may be designed as either "blind" accounts for which AEW will select the real estate investments after the Client Plans have invested therein or "pre-identified property" accounts for which AEW identifies particular properties for investment prior to the Client Plans' investments in the Accounts.

5. AEW will provide management services, as defined in Part IV(c) above, to the Accounts. In some cases, AEW and the Independent Fiduciary acting on behalf of the Client Plan may agree in advance that in addition to management services, AEW will also provide all day to day property management services required to maintain the properties. AEW represents that day-to-day property management services will include all locally performed services related to property maintenance and repair, rent collection, leasing and tenant relations, supervision of capital improvements, and payment of local expenses such as real estate taxes and utilities. In the event AEW provides day-to-day property management services, the percentage used in determining AEW's on-going management fee (as discussed in Item 6 below) will be increased to reflect the additional services to be provided by AEW (either directly or by independent contractors retained by AEW at its expense). Alternatively, AEW and the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account may agree that management services provided by AEW for an Account will not include day to day property management services, in which event such services will be provided by independent contractors selected and supervised by AEW at the expense of the Account, the Client Plans, or the plan sponsors, as determined by the parties prior to the investment in the Account.

AEW will not provide any ancillary services, as defined in Part IV(d) above. Ancillary services are those services provided in connection with the acquisition, construction, improvement, management and disposition of investments in real property, such as services provided by attorneys, architects, designers, engineers, hazardous materials consultants, contractors, leasing agents and real estate brokers. Independent service providers will be retained by AEW to provide all ancillary services at the expense of the Account, the Client Plan or the plan sponsor, as determined by the parties prior to investment in the Account.

6. AEW proposes to have the Client Plans pay for investment management

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services rendered to the Accounts based upon a multi-part fee structure which will be approved in advance by the Independent Fiduciaries of the Client Plans. In addition to an on-going investment management fee (the Management Fee) paid to AEW typically quarterly by the Client Plan, the fee structure may include the following fees: (i) The Investment Fee, a one-time initial fee paid at the time the Client Plan's assets are invested in the Account either as a lump-sum or in periodic installments as discussed below; and (ii) the Disposition Fee, a fee payable upon a distribution (or a deemed distribution) of the assets from the Account after the Client Plan has received (or would receive) a return of all its invested capital plus a certain pre-specified rate of return on its investments in the Account. AEW requests an exemption for the payment by Client Plans of the Investment Fee and the Disposition Fee under circumstances described below.

With respect to the Investment Fee, such fee will be a one-time fee intended to cover the expense of organizing the Account, identifying suitable investments, and completing the initial purchases of properties for the Account, based on the assets allocated by the Client Plan to the Account. If additional assets are allocated to the Account at a later date at the express direction of a Client Plan (including amounts which are reinvested in the Account rather than distributed to the Client Plan), an Investment Fee will be paid for such additional assets. However, an additional Investment Fee will not be paid for any cash of a Single Client Account which is transferred by AEW to a Multiple Client Account pursuant to the Agreement (as described above in Item 3).

The Investment Fee will be equal to a pre-specified percentage of the net value of the Client Plan assets which are allocated to the Account. The exact percentages to be used in determining the Investment Fee will be negotiated between AEW and the Client Plan prior to the initial investment of any assets of the Client Plan in an Account.

The Investment Fee will be payable either: (a) at the time assets are deposited (or deemed deposited in the case of a reinvestment) in the Account;[6] or (b) in periodic installments, the amount (calculated as a percentage of the aggregate Investment Fee) and timing of which have been specified in advance based on the percentage of the Client Plan's assets invested in real property as of the payment date.[7] AEW states that the installment period will never be less than three months. In addition, if the percentage of the Client Plan assets which have actually been invested by a payment date is less than the percentage required for the aggregate Investment Fee to be paid in full through that date (both determined on a cumulative basis), the Investment Fee paid on such date will be reduced by the amount necessary to cause the percentage of the aggregate Investment Fee paid to equal only the percentage of the Client Plan assets actually invested by that date. The unpaid portion of such Investment Fee will be deferred to and payable on a cumulative basis on the next scheduled payment date (subject to the percentage limitation described in the preceding sentence).[8]

With respect to the Management Fee, such fee will be paid throughout the term of the Account on a pre-specified periodic basis. The amount of this fee will be based on a percentage of the net fair market value of the Client Plan assets in the Account (i.e. without regard to any leveraged amounts) as of the last day of each period, and will be pro-rated for any partial periods. The exact percentages to be used in determining the Management Fee will be negotiated between AEW and the Client Plan prior to the initial investment of any Plan assets in the Account. As described above, the Management Fee may or may not cover day-to-day property management services.

The Management Fee will be based upon property values as determined at least annually by an MAI licensed real estate appraiser independent of AEW and its affiliates. For any appraisal of a property used to determine the Management Fee, AEW will initially notify in writing the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account regarding the identity of the appraiser whom AEW proposes to retain to value the property. The Independent Fiduciary or the Responsible Independent Fiduciaries will have an opportunity to approve or disapprove the suggested appraiser with an approval being deemed to have occurred unless such fiduciaries object to the appraiser within a reasonable time. Once approved, the appraiser could perform all future valuations of the particular property unless either (i) the Independent Fiduciary or Responsible Independent Fiduciaries affirmatively withdraw the prior approval of the appraiser, or (ii) AEW suggests a different appraiser, in which case an approval by such fiduciaries would again be required. AEW states that if there have been capital improvements to a property since the date of the most recent appraisal, the cost of such capital improvements will be added to the appraisal in determining the property's value. In addition, AEW states that if any internal appraisal by AEW results in a lower value than the most recent independent appraisal (as adjusted in either case for subsequent capital improvements), the fee will be based on the lower valuation.

In lieu of either or both the Investment Fee and/or the Management Fee, AEW and Independent Fiduciaries of the Client Plans may agree to an alternative fee arrangement for an Account (the Alternative Fee) which is based upon either a fixed amount or amounts or an objective formula to be negotiated (in either case) between AEW and the Client Plan prior to the initial investment of any Client Plan assets in the Account. Any such Alternative Fees are not covered by the requested exemption.[9]

The Disposition Fee will be payable either: (i) After the Client Plan has actually received distributions from the Account, or (ii) in the case of the removal or resignation of AEW, based on deemed distributions from the Account (as discussed in Item 8 below), equal to its invested capital plus a pre-specified annual compounded rate of return (i.e. the Threshold Amount). The Disposition Fee will be equal to a fixed percentage (or several fixed percentages) of all amounts distributed from an Account in excess of the Threshold Amount (or several Threshold Amounts). In this regard, AEW represents that there is a possibility that several Threshold Amounts may be established with different percentages being utilized to determine the Disposition Fee depending upon which Threshold Amount has been exceeded. AEW states that this structure will allow a Client Plan to negotiate an arrangement pursuant to which the amount of the Disposition Fee will increase as the level of investment performance increases.[10] Both the annual rate of return used in determining the Threshold Amount(s) and the percentage(s) used to determine the amount of the Disposition Fee will be negotiated between, and agreed to by, AEW and the Client Plan prior to the Client Plan's initial investment in the Account.

With respect to the determination of the Threshold Amount, AEW represents that all amounts invested by a Client Plan in an Account will have to earn a pre-specified rate of return, which is at least equal to the minimum rate of return specified in Part IV(f) above, for the entire period such assets are in the Account and must actually be distributed (or deemed distributed) back to the Client Plan in order for the Threshold Amount to be reached. AEW states that a bookkeeping account will be maintained for each Client Plan which will show the amount required to be distributed from the Account to satisfy the Threshold Amount. When a certain amount is invested in the Account on a particular date, this bookkeeping account will initially equal the invested amount and will thereafter be increased to reflect the threshold rate of return compounded on an annual basis. Whenever a distribution (whether it arises from income, sale of assets, or otherwise) is made from the Account to the investing Client Plans, the amount of this bookkeeping account will be reduced by the full amount of the distribution. Thereafter, the required return will be added to this reduced amount until the next distribution is made when the bookkeeping account will be reduced to reflect the amount of that distribution. Only when this bookkeeping account is reduced to zero will the Threshold Amount be satisfied. At this time, the Disposition Fee will be payable to AEW on all further distributions from the Account.

AEW states that for any sale of property in an Account which causes the payment of a Disposition Fee and which occurs prior to the termination of the Account, the sales price for the property will be at least equal to a Target Amount in order for AEW to be able to sell the property and receive its Disposition Fee. The Target Amount for each property in an Account will be established by AEW either at the time the property is acquired, by mutual agreement between AEW and the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account, or pursuant to a formula approved by such fiduciaries at the time the Account is established. If the proposed sales price of the property is less than the Target Amount, the proposed sale will be disclosed to the Independent Fiduciary or Responsible Independent Fiduciaries for approval in order for AEW to receive its Disposition Fee as a result of the sale. Such approval will be deemed to have occurred unless the Independent Fiduciary or Responsible Independent Fiduciaries object to the sale within a reasonable time prior to the transaction. If the proposed sales price is less than the Target Amount and the Independent Fiduciary's or Responsible Independent Fiduciaries' approval is not obtained, AEW will still have the authority to sell the property in situations where the Agreement provides AEW with complete investment discretion for the Account. However, in such instances and in all other circumstances where the sales price is less than the Target Amount and the Independent Fiduciary's or Responsible Independent Fiduciaries' approval is not obtained (such as where a Bank Trustee has ultimate investment discretion for the Account), the Disposition Fee which would have been payable to AEW will be paid only at the termination of the Account.

7. All income and proceeds from the sale of the assets of the Account will be applied first to pay expenses of the Account. These expenses will include the maintenance of reasonable reserves in connection with Account assets, whether such reserves are for repayment of existing or anticipated obligations or for contingent liabilities. Subject to the written approval of the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries (as defined herein) for a Multiple Client Account, all income and proceeds in excess of the amount required to pay the Account's expenses may be reinvested in the Account, provided that such Account fiduciaries: (i) Approve the reinvestment of income and/or proceeds from the sale of the Client Plans' assets in the Account no more than ninety (90) days before such assets become available for distribution; and (ii) approve the payment to AEW of the Investment Fee on the amounts reinvested in the Account.

If the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account do not consent to the reinvestment of the income and proceeds of the Account, in excess of the amount reasonably necessary for Account purposes, then such amounts will be distributed from the Account to the Client Plans. Only actual distributions from an Account, and not any amounts reinvested as described above, will be included in calculating whether the Threshold Amount has been reached for purposes of the payment of the Disposition Fee.

8. AEW may be removed as the investment manager for an Account at any time, without cause, upon the delivery of a notice of removal to AEW by the Independent Fiduciary for a Single Client Account or by the Responsible Independent Fiduciaries for a Multiple Client Account. AEW may resign as investment manager of an Account at any time, without cause, upon written notice to the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account.

With respect to a Single Client Account, such removal or resignation will not become effective until a successor investment manager is appointed by the Independent Fiduciary for the Account.

With respect to a Multiple Client Account, the removal of AEW will become effective when either: (i) A successor investment manager is appointed by the Responsible Independent Fiduciaries; or (ii) sixty (60) elapse, whichever is sooner. Any resignation by AEW for a Multiple Client Account will become effective when either: (i) A successor investment

[6] Under this approach, the value of the assets in the Account, for purposes of determining the amount of the Investment Fee, would be equal to the total dollar amount the Client Plan invested in the Account.

[7] Under this approach, the value of the assets in the Account will be determined by the acquisition price of the property less any debt assumed by the Account with respect to the property. Therefore, if AEW purchases a property for the Account for $50 million and assumes a mortgage on the property in the amount of $20 million, the net asset value of the Account for the property would be $30 million. AEW's Investment Fee would be a pre-specified percentage of $30 million.

[8] For example, the Agreement governing the Account might provide that the Investment Fee would be payable at the end of a six, twelve, eighteen and twenty-four month period after the date on which the Account was established. If at the end of six months 25% or more of the assets of the Account had been invested, 25% of the Investment Fee would be paid. If at the end of twelve months fifty percent (50%) or more of the assets had actually been invested, the next 25% of the Investment Fee would be paid, and so on. Alternatively, if at the end of the six month period only fifteen percent (15%) of the assets in the Account had been invested, only 15%, rather than 25%, of the Investment Fee would be paid at the end of the six month period. The remaining ten percent (10%) of the Investment Fee would be deferred to the next period, in this case twelve months, and added to the additional 25% that would be payable at the end of twelve months. If at the end of the twelve month period 50% of the assets of the Account had been invested, 35% of the Investment Fee would be payable (i.e., the original 25% plus the 10% left over from the preceding six month period). This process will continue at six month increments until 100% of the assets in the Account have been invested.

[9] AEW represents that both the Management Fee and the Alternative Fee would be covered by section 408(b)(2) of the Act and the regulations thereunder (see 29 CFR 2550.408b–2). However, the Department expresses no opinion as to whether the payment of such fees, as described herein, would meet the conditions of section 408(b)(2) of the Act.

[10] For example, a Client Plan could negotiate a Disposition Fee whereby AEW would receive 10% of all distributions from the Account once an initial Threshold Amount (i.e. return of all invested capital plus an 8% annual return) has been achieved and 20% of all distributions once a second Threshold Amount (i.e. return of all invested capital plus a 12% annual return) has been achieved.

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manager is appointed by Responsible Independent Fiduciaries; or (ii) 180 days elapse, whichever is sooner.

Upon removal of AEW as investment manager, AEW will be entitled to receive a Disposition Fee is the Client Plans would receive distributions from the Account in excess of an amount equal to the Threshold Amount at the time of AEW's removal. Such Disposition Fee will be determined by a deemed distribution of the assets of the Account based on an assumed sale of such assets at their fair market value, in accordance with appraisals by an independent MAI appraiser mutually agreed upon by AEW and the Client Plans. If AEW and the Client Plans cannot agree on an appraiser, then the fair market value of such assets for the assumed sale will be equal to the average of the two closest appraisals generated by three independent MAI appraisers—one selected by AEW, one selected by the Client Plans, and the third selected by the two appraisers chosen by the parties.

Upon AEW's resignation as investment manager, AEW will not receive a Disposition Fee until the Account is terminated. The amount of the Disposition Fee will be based upon a deemed distribution of the assets of the Account at their fair market value at the time of such resignation, as determined by an independent MAI appraiser mutually agreed to by AEW and the Client Plans. However, if AEW and the Client Plans cannot agree on an MAI appraiser, the procedure described above will be followed.

The Disposition Fee will be calculated at the time of resignation and allocated to each property based upon the relationship that the appraised value of such property bears to the total appraised value of the Account. However, the amount of the Disposition Fee for each property will be multiplied by a fraction, the numerator of which will be the actual sales price received by the Account on the disposition of the property (or in the case of a property which has not been sold prior to termination of the Account, the appraised value of the property as of the termination date) and the denominator of which will be the appraised value of the property which was used in connection with determining the Disposition Fee at the time of resignation, provided that this fraction will never exceed 1.0. The resulting amount for each property will be the Disposition Fee payable to AEW upon termination of the Account. Thus, even if the values of the properties decline after AEW's resignation, AEW will still receive the Disposition Fee for the period of time that it acted as an investment manager for the Account if the Client Plans would have received distributions from the Account (based on an assumed sale of the assets at their fair market value) in excess of an amount equal to the Threshold Amount at the time of AEW's resignation, subject to the operation of the fraction discussed above. The fraction ensures that an appropriate reduction in the Disposition Fee will be made upon termination of the Account if the value of any property in the Account declines after AEW resigns as the investment manager.

9. A Single Client Account will terminate upon expiration of the period of years specified as the term for the Account in the Agreement or upon the removal or resignation of AEW. However, the period of years specified in the Agreement may be extended by the Independent Fiduciary of the Client Plan. In addition, a Single Client Account may be terminated at any time by the Independent Fiduciary of the Client Plan upon ninety (90) days written notice to AEW.

A Multiple Client Account will terminate upon the occurrence of any of the following events: (i) The affirmative decision of the Responsible Independent Fiduciaries; (ii) the failure of the Responsible Independent Fiduciaries to appoint a successor investment manager; or (iii) upon expiration of the period of years specified as the term of the Account in the Agreement, provided that the period of years is not extended by the Responsible Independent Fiduciaries.

Upon termination of a Single Client Account, the assets of the Account will be distributed to the Client Plan in cash or in kind as agreed to by AEW and the Independent Fiduciary. However, in the case of a Multiple Client Account, such distributions will be agreed to by the Responsible Independent Fiduciaries for the Account.

AEW will be entitled to the Disposition Fee upon termination of the Account for all remaining distributions made from the Account if the Threshold Amount has been or would be reached at such time. In the case of in kind distributions of assets of the Account, the Disposition Fee will be based on the fair market value of the assets of the Account as determined by an independent MAI appraiser mutually agreed to by AEW and the Client Plans. If AEW and the Client Plans cannot agree on an appraiser, then the same procedure discussed in Item 8 above will be followed.

10. Each Client Plan will receive throughout the term of an Account the following information:

(a) Quarterly and annual reports prepared by AEW relating to the overall financial position and operating results of the Account and, in the case of a Multiple Client Account, the balance of each Client Plan's interest in the Account. In addition, such reports will include a statement regarding the amount of all fees paid to AEW during the period covered by the report.

(b) Annual appraisals indicating the current fair market value of all properties owned by the Account as established by an independent MAI appraiser.

(c) In the case of a Multiple Client Account, a list of the investors in the Account.

(d) Audited financial statements prepared by independent public accountants selected by AEW, within 90 days of the end of the Account fiscal year.

The Independent Fiduciary for the Client Plan, as well as other authorized persons described above in paragraph (m)(1) of Part III, will have access during normal business hours to AEW's records for the Accounts in which the Client Plan has an interest.

11. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act because, among other things:

(a) Each investment is authorized in writing by an Independent Fiduciary of a Client Plan and, in the case of a Multiple Client Account for which ultimate investment discretion is exercised by a Bank Trustee, an Independent Fiduciary which is independent of such Bank Trustee and AEW and its affiliates;

(b) No Client Plan may establish a Single Client Account or invest in a Multiple Client Account unless the Client Plan has total net assets with a value in excess of $50 million. In addition, a Client Plan may not invest, in the aggregate, more than five percent (5%) of its total assets in any one Account or more than ten percent (10%) of its total assets in all Accounts established by AEW;

(c) Prior to making an investment in any Account, an Independent Fiduciary for each Client Plan will receive offering materials disclosing all material facts concerning the purpose, structure and operation of the Account, including any fee arrangements;

(d) AEW will provide each Independent Fiduciary of a Client Plan with periodic written disclosures with respect to the financial condition of the Account, the fees paid to AEW, the balance of each Client Plan's interest in the Account, annual independent appraisals of the Account's assets and, in the case of a Multiple Client Account, a list of other investors in the Account;

(e) The total fees paid to AEW will constitute no more than reasonable compensation; and

(f) The timing and formula for determining the Fees will be established and agreed to by the Independent Fiduciary for each Client Plan prior to the Client Plan's investment in the Account and will be based on pre-specified percentages of the Client Plan's assets invested in the Account or distributed (or deemed distributed) from the Account.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams or Ms. Lyssa Hall of the Department, telephone (202) 219–8883 or 219–8971. (These are not toll-free numbers.)

Citizens First National Bank of New Jersey Employee Stock Ownership Plan (the Plan) Located in Glen Rock, New Jersey

[Application No. D–9271]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (a) the past acquisition by the Plan of certain transferable subscription rights (the Rights) for the purchase of common stock of Citizens First Bancorp, Inc. (CFB), a party in interest with respect to the Plan, which were issued to shareholders of record, as of August 26, 1992, pursuant to a stock rights offering (the Rights Offering), and (b) the holding and exercise of the Rights by the Plan during the subscription period, provided that (1) the acquisition of the Rights occurred in connection with the Rights Offering made available to all shareholders of CFB, (2) all holders of the common stock of CFB were treated in the same manner with respect to the Rights Offering, including the Plan, and (3) all decisions regarding the acquisition, holding, and disposition of the Rights by the Plan was exercised by a qualified, independent fiduciary of the Plan, which made all determinations as to whether and how the Plan should exercise or sell the Rights received by the Plan through the Rights Offering.

EFFECTIVE DATE: This proposed exemption, if granted, will be effective as of August 26, 1992.

Summary of Facts and Representations

1. Citizens First National Bank of New Jersey (the Employer), the sponsoring employer of the Plan, is a national banking association organized in 1920, which is a full service commercial bank providing a broad spectrum of personal, commercial, and trust services, including secured and unsecured personal and business loans, real estate financing, and letters of credit. The Employer operates 43 banking offices located in the northern New Jersey counties of Bergen, Hudson, Morris, and Passaic and 7 offices in Ocean City County in southern New Jersey.

CFB is a bank holding company incorporated in New Jersey and registered under the Bank Holding Company Act of 1956, as amended. As of June 30, 1992, the Consolidated Financial Statements of CFB had total assets of $2.4 billion, total deposits of $2.3 billion, and total shareholder's equity of $88.6 million. CFB commenced business in 1982 when it acquired all the outstanding capital stock of the Employer. The Employer accounts for substantially all of the consolidated assets, revenues, and operating results of CFB.

2. The Plan is an employee stock ownership plan within the meaning of section 407(d)(6) of the Act. It has 761 participants, of which 551 participants have account balances, and total assets of $3,217,293, as of December 31, 1991. Less than 1 percent of the assets of the Plan is held in cash or cash equivalents. The remainder of the assets of the Plan consist of common stock issued by CFB.

The Plan is administered by a Committee, as named fiduciary, consisting of three individuals appointed by the Board of Directors of the Employer, who are outside Directors of both the Employer and CFB. The Committee directs the administration of the Plan in accordance with its terms and possesses all powers necessary to carry out the terms of the Plan, including the appointment of investment managers to manage the acquisition and disposition of any assets of the Plan.

The current trustee (the Trustee) of the Plan is the Employer, which is subject to written instructions from the Committee.

3. On August 26, 1992, (the Record Date), CFB issued Rights to the holders of record of its common stock (the Common Stock), enabling such shareholders to purchase additional shares of the Common Stock for a price of $2.50 per share (the Subscription Price). Shareholders of record of CFB received one Right for each share of the Common Stock held by them as of the close of business on the Record Date. The Rights Offering expired on September 23, 1992, after which date, if not exercised, the Rights expired and became worthless.

Each Right entitled the registered holder of the Common Stock on the Record Date to subscribe for one share of the Common Stock (The Basic Subscription Privilege) at the Subscription Price. Each Right also included the right to subscribe (the Oversubscription Privilege) at the Subscription Price for an unlimited number of shares of the Common Stock that are not otherwise purchased pursuant to the exercise of the Basic Subscription Privilege, subject to reduction by CFB in certain circumstances and subject to proration.[11] Only owners of the Common Stock that purchased at least one share of the Common Stock pursuant to the exercise of the Basic Subscription Privilege were entitled to exercise the Oversubscription Privilege.

In addition, CFB entered into purchase agreements (the Standby Purchase Agreements) with 14 institutional investors which agreed to purchase at the Subscription Price of $2.50 per share a total of 18,289,191 shares of the Common Stock offered but not subscribed for in the Rights Offering. Also, pursuant to the Standby Purchase Agreements the Directors of CFB and the Directors of the Employer were committed to purchase up to 3,136,082 shares of the Common Stock under the Rights Offering.

The Common Stock issued by CFB, is listed and traded on the American Stock Exchange. During the Rights Offering both the Rights and the Common Stock were traded on the American Stock Exchange.

A total of 28,394,932 shares of the Common Stock were sold pursuant to the Rights Offering. Of this total, 21,425,273 shares were purchased through the exercise of Rights: 19,149,680 through the Basic Subscription Privilege and 2,275,593 shares through the Oversubscription Privilege. The Standby Agreements generated the sale of 6,937,193 shares to the institutional investors and the sale of 32,466 shares to the Directors of CFB. The gross proceeds generated for CFR

[11] CFB did not limit any purchase of the Common Stock pursuant to the Rights Offering.

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from the Rights offering totalled $70,987,330. All sales of the Common Stock were made at the Subscription Price of $2.50 per share.

The Plan received 981,787 Rights from the Rights Offering and, in four different transactions during September 1992, sold 748,253 Rights through the services of Shearson Lehman American Express (Shearson) on the American Stock Exchange for an average price of $.80 per Right, netting a return to the Plan, after brokerage commissions, of $583,835. The proceeds from the sale of the Rights were used by the Plan to exercise the remaining 233,534 Rights it held in order to purchase at the Subscription Price an additional 233,534 shares of the Common Stock.[12]

4. Prior to the commencement of the Rights Offering, amendments were made to the Plan and Trust documents to allow the Plan to participate in the Rights offering and to allow for the appointment of an independent fiduciary to make all decisions for the Plan with respect to the receipt, holding, and disposition of the Rights issued to the Plan by CFB.

On August 11, 1992, the Committee retained U.S. Trust Company of California, N.A. (U.S. Trust) as the independent fiduciary for the Plan with respect to the Right Offering. U.S. Trust was organized in 1978 as a non-deposit trust company, located in Los Angeles, California. In 1991, following a change in the banking laws of California and the acquisition of a Los Angeles bank, U.S. Trust gained the ability to take deposits and became a full-service trust company. U.S. Trust is one of six subsidiaries wholly-owned by U.S. Trust Corporation. U.S. Trust Corporation, which was incorporated in New York in December 1977 and became a bank holding company under the Bank Holding Company Act of 1956, as amended, has total assets of approximately $2.9 billion, total deposits of approximately $2.1 billion, and shareholders' equity of approximately $182 million, as of December 31, 1991.

As independent fiduciary for the Plan, U.S. Trust had the power, authority, and responsibility to make all decisions for the Plan regarding the receipt, holding, and disposition of the Rights under the Rights Offering.

5. U.S. Trust represents that it was an active participant with respect to the Rights Offering throughout August and September 1992. In addition, U.S. Trust represents that, although not formally retained prior to August 11, 1992 by the Committee, it began performing due diligence for the Plan approximately one week prior to August 11, 1992, and was involved in negotiations with CFB regarding all aspects of the impact of the Right Offering upon the Plan. Prior to the Rights Offering on August 26, 1992, negotiations with CFB on behalf of the Plan were undertaken by U.S. Trust to obtain possible alternatives to the Rights Offering in an attempt to avoid a possible violation of the prohibited transaction provisions of the Act. Legal counsel determined that the federal and state statutes pertaining to the Rights Offering required CFB to treat the Plan in the same manner as all other shareholders of the Common Stock.

U.S. Trust represents that, recognizing that the Plan is required to primarily invest in securities of the Employer, it conducted extensive due diligence and financial analysis to determine the prudent disposition of the Rights. A determination was made that, in order to maximize the value of the Rights for the benefit of the Plan, a portion of the Rights should be sold and the proceeds used to exercise the Rights in order to obtain additional shares of the Common Stock. U.S. Trust used a number of computer generated models to determine the appropriate numbers of Rights to sell and the proper timing for the sales.

U.S. Trust represents that it acted throughout the Rights Offering in a prudent manner and in the best interests of the participants of the Plan, enabling the Plan to add substantial value to its assets without risking other assets of the Plan.

Furthermore, U.S. Trust represents that under the Rights Offering the best interests of the Plan and its participants and beneficiaries were served and the rights of the participants and beneficiaries were protected as required under the Act.

6. In summary, the applicant represents that the transactions satisfied the statutory criteria of section 408(a) of the Act for the following reasons: (a) The acquisition of the Rights by the Plan resulted from an independent act by CFB as a corporate entity and all holders of the common Stock were treated in a like manner, including the Plan; (b) all decisions regarding the acquisition, holding, and exercise or other disposition of the Rights by the Plan were made by an independent fiduciary, including the determinations as to whether and how the Plan would exercise or sell the Rights acquired through the Rights Offering; (c) the Rights and the Common Stock were both traded on a national securities exchange from which current price information was readily ascertainable, and the terms and conditions of the Rights Offering were readily ascertainable from public documents distributed to Common Stock shareholders, including the Plan, and filed with the U.S. Securities and Exchange Commission and the national securities exchanges; and (d) other than brokerage commissions to Shearson, the Plan paid no commissions or other expenses in connection with the receipt, holding and disposition of the Rights, or the application for exemption from the prohibited transaction provisions of the Act.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Bentley Nevada Corporation Profit Sharing 401(k) Plan (the Plan) Located in Minden, Nevada

[Application No. D–9265]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale (the Sale) by the Plan of certain parcels of real property (the Property) to Mr. Donald E. Bentley (Mr. Bentley), President and Chief Executive Officer and sole owner of the sponsoring employer (the Employer), a party in interest with respect to the Plan, provided that (a) the Plan receives not less than the fair market value of the Property as determined by a qualified, independent appraiser on the date of the Sale, and (b) the Plan will not incur any expenses incident to the Sale.

Summary of Facts and Representations

1. The Employer, the Bentley Nevada Corporation, is a Nevada corporation, which is wholly owned by Mr. Bentley. It has manufacturing and product development facilities in Minder, Nevada, Houston, Texas, and Warrington, England. Also, it has sales and service offices throughout many parts of the world. Approximately 1,252 individuals are employed by the

[12] On January 27, 1993, the closing price of the Common Stock on the American Stock Exchange was $5.25 per share, yielding an aggregate value of $1,226,053.50 for the 233,534 shares acquired by the Plan from exercising its Rights obtained from the Rights Offering.

Employer in capacities involving product development, manufacturing, sales, services, and administration. The Employer is a worldwide engineering/manufacturing organization in the design and application of proximity systems for the measurement of high-speed rotating machinery.

2. The Plan is a profit sharing 401(k) plan with 960 participants and total assets of approximately $16,860,320, as of June 30, 1992. Recently the Plan was amended to provide for participant directed accounts for both the salary deferral accounts and the profit sharing accounts. The current fiduciaries of the Plan are Messrs. Raymond J. Case (Chief Financial Officer of the Employer), Donald W. Tally (Controller of the Employer), and Donald E. Halvorson (Manager of Revenue and Service Accounting of the Employer). Mr. Halvorson replaced Mr. Roger G. Harker as a fiduciary of the Plan on July 1, 1991. Sanwa Bank acted as custodial trustee for the assets of the Plan, with the exception of the Property, from 1988 until July 1, 1991, when the current fiduciaries took over all trust responsibilities for the Plan.

3. The Property consists of undeveloped land located in Churchill County, Nevada (the Churchill Parcel) and in Douglas County, Nevada (the Douglas Parcels) that was acquired from unrelated persons with respect to the Plan, the Employer, and Mr. Bentley. The Churchill Parcel was purchased on December 8, 1977, and The Douglas Parcels was purchased on December 8, 1978. The purchase price of the Property totalled $833,405, and the Plan expended from 1979 through 1992 the sum of $92,542 for property taxes. Also, the Plan incurred an expense of $9,362 on the Douglas Parcels for engineering costs for water rights and parceling.

The Property was purchased by the Plan in anticipation of realizing capital gains from marketing the Property when nearby properties were developed as the local population and the tourist activity grew. The fiduciaries of the Plan were represented by the applicant to have been expecting at the time of the purchase of the Churchill Parcel the construction of a nearby hotel that would employ 6,000 people, resulting in new construction of commercial and residential facilities in the area of the Property. Neither the anticipation nor the expectations of the fiduciaries have materialized, and neither the anticipation or the expectations of the fiduciaries are forseeable in the near future.

The applicant represents that neither the Churchill Parcel nor the Douglas Parcels are located near or adjoining to land owned by the Employer or Mr. Bentley. In addition, the applicant represents that neither the Churchill Parcel nor the Douglas Parcels had been leased to nor used by any party in interest with respect to the Plan.

Mr. Jerry W. Thran, a Certified General Appraiser, State of Nevada (#125) from Minden, Nevada, determined that the fair market value of the Douglas Parcels was $1,400,000, as of August 7, 1992, and the fair market value of the Churchill Parcel was $29,500, as of August 31, 1992.

The Douglas Parcels are described by the independent appraiser to consist of 800.15 acres of 30 vacant lots/sites located on U.S. Highway 395 South, approximately 16 miles south of Gardnerville, Nevada and 6 miles north of Topaz Lake on the California/Nevada state line.

The appraiser described the highest and best use currently of the Douglas Parcels is vacant lands for grazing, and the highest and best use of the Douglas Parcels in the future is single family ranchette sites of 2.45 acres to 327 acres. Future changes and development is described by the appraiser as a slow change over the next 5 to 15 years. Water and sewer services are described as available for the Douglas Parcels through private wells and septic/leach line systems.

The Churchill Parcel is described by the appraiser to consist of 589.56 acres of vacant land located approximately 10 miles east of Fernley and 1.5 miles north of Interstate Highway 80.

The appraiser described the highest and best use for the Churchill Parcel as a potential trade with the Bureau of Land Management for other lands in other Nevada communities. The Churchill Parcel is described by the appraiser as having no access except over adjoining land and no dedicated easements from a public road.

4. The applicant represents that the fiduciaries of the Plan desire to sell the Property to Mr. Bentley. This proposed Sale of the Property is to be undertaken in order to replace the Property with more beneficial and liquid investments and to overcome the illiquid impediment that the Property causes. In addition, the fiduciaries of the Plan represent that it is not in the best interests of the Plan or its participants and beneficiaries to incur additional expenses and risks in an attempt to develop the Property now or in the foreseeable future.

The Applicant represents that several unrelated persons during 1990 and 1991 have expressed interest and/or made offers to purchase the Douglas Parcels from the Plan. However, none of them could be accepted by the Plan because either they lacked sufficient, independent financing and required an exchange with the Plan of undesirable properties and/or required the Plan to accept promissory notes as partial payment of consideration. All of the offers were for less than the current fair market value as determined by the independent appraiser.

In a letter, dated February 22, 1993, Marsha L. Tomerlin of ITILDO, Inc., Realtors, an independently owned and operated member of Coldwell Banker Residential Affiliates, Inc., located at Minden, Nevada, represents that she is familiar with the Douglas Parcels and has attempted to market the Douglas Parcels on a number of occasions. Miss Tomerlin also represents that there are two chronic problems with marketing the Douglas Parcels: (a) The inability of the prospective purchaser to increase the permitted housing density on the property, and (b) the inability of the prospective purchaser to finance the transaction or to obtain financing for the purchase price. In addition, Miss Tomerlin reiterates that the Douglas Parcels not only lacks owner financing but easy development potential which are both essential for marketing of large properties.

Mr. Bentley is offering to purchase the Property for the total sum of $1,435,000 in cash with no expenses being incurred by the Plan from the transaction. Mr. Bentley represented that the transaction will be helpful to the Plan and at the same time be a diversification and long term investment for his estate.

The applicant represents that proposed transaction will be in the best interests of the Plan and its participants and beneficiaries because the Plan will not continue to hold an illiquid investment which has proven difficult to sell, and the funds generated from the Sale can be put to better use to fund the participant directed investments. Also, the applicant represents that the rights of the participants and beneficiaries will be protected because the Sale will be a one-time transaction for cash with the Plan incurring no expenses, and the purchase price will be determined by an independent, qualified appraiser on the date of the Sale.

5. In summary, the applicant represents that the proposed Sale will satisfy the criteria of section 408(a) of the Act because (a) the Sale of the Property involves a one-time transaction; (b) the Plan will not incur any expenses incidental to the Sale; (c) the Sales price will be determined from appraisals of the Property prepared by a qualified, independent appraiser; (d) the Sale will permit the Plan to realize

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liquid funds that can be reinvested at the direction of the participants in more liquid assets; and (e) the Plan will not have to risk its assets in the development of the Property.

FOR FURTHER INFORMATION CONTACT: Mr. C.E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 22nd day of April 1993.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 93–9784 Filed 4–26–93; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 93–26; Exemption Application No. D–8978, et al.]

Grant of Individual Exemptions; United Company Profit Sharing and Retirement Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

United Company Profit Sharing and Retirement Plan (the Plan) Located in Bristol, Virginia

[Prohibited Transaction Exemption 93–26; Exemption Application No. D–8978]

Exemption

The restrictions of section 406(a)(1)(A) through (D) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply retroactively to a series of loans (the Past Loans) [1] made on a revolving basis by the Plan to the Employer in accordance with the following conditions:

(1) The terms and conditions of the Past Loans were at least as favorable to the Plan as those obtainable by the Plan under similar circumstances in arm's length transactions with unrelated third parties;

(2) The exemption applies to the Past Loans up to an aggregate amount of the outstanding balances of such loans that did not exceed twenty-five percent (25%) of the assets of the Plan;

(3) Within sixty (60) days of the grant of this proposed exemption, the Employer will file with the Internal Revenue Service (IRS) the Form 5330, and will pay excise tax, if any is then deemed to be due and owing with respect to the amounts above twenty-five percent (25%) of the assets of the Plan borrowed by the Employer under the Past Loans.

(4) An independent fiduciary, on behalf of the Plan, negotiated, reviewed, and approved the terms and conditions of the Past Loans prior to entering into such Past Loans;

(5) An independent fiduciary, on behalf of the Plan, monitored the Employer's compliance with the terms of the Past Loans to ensure that the Plan and its participants and beneficiaries were protected throughout the duration of such Past Loans;

(6) The Past Loans were at all times secured by collateral which was valued at not less than 200 percent (200%) of the aggregate balance of all outstanding Past Loans from the Plan to the Employer;

(7) The Plan incurred no fees, commissions, or other charges as a result of the Past Loans; and

(8) The Plan suffered no loss as a result of the Past Loans.

EFECTIVE DATES: This exemption is effective beginning August 31, 1990, through December 29, 1991, the date by which all of the Past Loans were repaid.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 18, 1993, at 58 FR 8989.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Mid-Hudson Medical Group P.C. Profit Sharing Trust (the Plan) Located in Fishkill, New York

[Prohibited Transaction Exemption 93–27; Exemption Application No. D–9153]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the continued leasing (the Lease) of certain improved real property (the Property) by the Plan to Mid-Hudson Medical Group, P.C. (the Employer), a party in interest with respect to the Plan, provided the following conditions are satisfied: (a) The Property represents no more than 25% of the value of the Plan's assets; (b) the terms of the Lease are, and will remain, at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party; (c) the fair market rental value of the Property has been, and will continue to be determined on an annual basis by a qualified, independent appraiser; (d) the Plan's independent fiduciary has determined, as of June 30, 1992, that the transaction is appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries; (e) the Plan's independent fiduciary will continue to monitor the transaction and the conditions of the exemption and take whatever action is necessary to enforce the Plan's rights under the Lease; and (f) the Employer will pay to the Internal Revenue Service all applicable excise taxes due by reason of the Lease during the period from July 1, 1984 through June 29, 1992 within 90 days of the publication in the **Federal Register** of this notice of grant of the exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on February 24, 1993 at 58 FR 11251.

EFFECTIVE DATE: This exemption is effective June 30, 1992.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

International Rectifier Corporation Profit Sharing and Retirement Plan (the Plan) Located in El Segundo, California

[Prohibited Transaction Exemption 93–28; Exemption Application No. D–8747]

Exemption

The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply (1) effective September 30, 1988, to the past leasing of two parcels of real property (the Properties) from the Plan to International Rectifier Corporation (the Employer), a party in interest with respect to the Plan, and (2) to the proposed sale for cash of the Properties from the Plan to the Employer, in accordance with the following conditions:

(1) The terms and conditions of the past leasing of the Properties were at least as favorable to the Plan as those obtainable under similar circumstances in arm's-length transactions with unrelated third parties;

(2) The exemption for the past leasing of the Properties applies with respect to twenty-five percent (25%) of the Plan's assets only, as determined by reference to the combined fair market values of the Properties;

(3) The terms and conditions of the leases were reviewed, approved and monitored by an independent fiduciary on behalf of the Plan;

(4) Within 60 days of the grant of this exemption, the Employer will file with the Internal Revenue Service the Form 5330 and will pay an excise tax if any is deemed to be due with respect to the amounts above 25 percent of the assets of the Plan involved in the leases of the Properties to the Employer on or after September 30, 1988;

(5) The sale of the Properties will be for cash and the Plan will receive no less than the greater of $2,150,000 or the fair market value of the Properties at the time of sale;

(6) The fair market value of the Properties will be established by a real estate appraiser independent of the Employer; and

(7) The Plan will pay no commissions or other expenses in regard to the sale.

EFFECTIVE DATE: This exemption is effective as of September 30, 1988.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on February 18, 1993, at 58 FR 8993.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

[1] On August 8, 1989, the Department received an exemption application (D–8146) from the United Company (the Employer) requesting prospective relief for a series of loans to the Employer by the Plan on a revolving basis for a term of five (5) years. The Notice of proposed exemption for D–8148 was published in the Federal Register on January 29, 1990, 55 FR 2903. The granted exemption for D–8146 was published as PTE 90–17 in the Federal Register on April 6, 1990, at 55 FR 12968.

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Signed at Washington, DC, this 22nd day of April, 1993.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 93-9783 Filed 4-26-93; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before June 11, 1993. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Justice, Executive office for United States Trustees (N1-60-92-5). Case files and related records.

2. Department of State (N1-59-93-6). Routine administrative records of the Bureau of International Organization Affairs, Office of the Chief of Protocol, Records Management Division, and Automated Data Processing Division.

3. Department of State, Foreign Service Posts (N1-84-93-8). Case files on voluntary agency employees.

4. Defense Contract Audit Agency (N1-372-93-1). Committee Files.

5. Defense Logistics Agency (N1-361-93-4). Records relating to the Host Enrollee Program and energy market research.

6. Federal Emergency Management Agency (N1-311-92-5). Source materials consisting of duplicate copies of FEMA records used by the agency historian.

7. Federal Emergency Management Agency (N1-311-92-6). Outputs from the Capability and Hazard Identification Program with the Fiscal Management Information System.

8. National Oceanic and Atmospheric Administration, National Weather Service (N1-27-93-1). Manuscript charts and maps, 1948-1960; storm studies, 1819-1965; and cooperative project files, 1947-1975.

9. Office of Secretary of Defense (N1-330-92-10). Facilitative and background records relating to drug enforcement activities.

10. Railroad Retirement Board (N1-184-93-7). Administrative and facilitative records of the Bureau of Unemployment and Sickness Insurance.

11. Tennessee Valley Authority, Generating Group (N1-142-93-3). Reduction of retention periods for recording instrument charts for fossil and hydroelectric generating plants.

Dated: April 19, 1993.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 93-9797 Filed 4-26-93; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

April 22, 1993.

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45, part 670 of the Code of Federal Regulations. This is the required notice of permit application received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by May 24, 1993. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Office of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Thomas F. Forhan at the above address or (202) 357-7817.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the

Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. The application received is as follows:

1. Applicant

Wayne Z. Trivelpiece, Old Dominion University, P.O. Box 955, Bolinas, CA 94924.

Activity for Which Permit Requested

Taking. Importation into the U.S. Enter Site of Special Scientific Interest. As part of a continuing study to the behavioral ecology and population biology of penguins and their principal avian predators, the applicant proposes banding of up to 6,000 penguins, use of tracking equipment on up to 150 penguins; all birds are released unharmed after capture. The investigator's principal study site has been SSSI #8, and a permit to continue research within that area is requested. A permit to import salvaged carcasses and skeletons of penguins and Antarctic flying birds is requested, the specimens would be returned to the applicant's university for educational purposes.

Location

South Shetland Islands, Antarctica

Dates

10/01/93-04/01/94.

Thomas F. Forhan,

Permit Office, Office of Polar Programs.

[FR Doc. 93-9798 Filed 4-26-93; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:*

10 CFR Part 74—Material Control and Accounting of Special Nuclear Material

NUREG 1065—Acceptance Criteria for the Low Enriched Uranium Reform Amendments

NUREG/CR 5734—Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low-Enriched Uranium Enrichment Facilities, and

NUREG 1280—Standard Format and Content Acceptance Criteria for the Material Control and Accounting (MC&A) Reform Amendment

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* Submission of the material control and accounting plan and the fundamental nuclear material control plan are one-time requirements which have been completed by all current licensees. Specified inventory and material status reports are required annually or semiannually. Other reports are submitted as events occur.

5. *Who will be required or asked to report:* Persons licensed under 10 CFR parts 70 or 72 who possess and use certain forms and quantities of special nuclear material.

6. *An estimate of the number of responses annually:* 22.

7. *An estimate of the total number of hours needed annually to complete the requirement or request:* 52,811 hours (an average of 406 hours per response plus 4,876 hours per recordkeeper).

8. *An indication of whether section 3504(h), Public Law 96-511 applies:* Not applicable.

9. *Abstract:* 10 CFR part 74 establishes requirements for material control and accounting of special nuclear material, and specific performance-based regulations for licensees authorized to possess and use strategic special nuclear material, or to possess and use, or produce, special nuclear material of low strategic significance. The information is used by NRC to make licensing and regulatory determinations concerning material control and accounting of special nuclear material. Submission or retention of the information is mandatory for persons subject to the requirements. The revision reflects an increase in burden because of the addition of requirements for enrichment plants, added by a rulemaking previously approved by OMB.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150-0123), NEOB-3019, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 16th day of April, 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93-9765 Filed 4-26-93; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. *Type of submission, new revision, or extension:* Revision.

2. *The title of the information collection:* NRC Form 313—Application or Material License.

3. *The form number if applicable:* NRC Form 313.

4. *How often the collection is required:* Applications for new licenses and amendments may be submitted at any time. Applications for renewal are submitted every five years.

5. *Who will be required or asked to report:* Persons desiring a specific license to possess, use, or distribute byproduct or source material.

6. *An estimate of the number of responses annually:* 4,340.

7. *An estimate of the total number of hours needed annually to complete the requirement or request:* 39,060 (an average of nine hours per response).

8. *An indication of whether Section 3504(h), Public Law 96-511 applies:* Not applicable.

9. *Abstract:* Applicants must submit NRC Form 313 to obtain a specific license to possess, use, or distribute byproduct or source material. The

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information is reviewed by the NRC to determine whether the applicant is qualified by training and experience and has equipment, facilities, and procedures which are adequate to protect the health and safety of the public and minimize danger to life or property.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150–0120), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 16th day of April, 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–9766 Filed 4–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–409]

La Crosse Boiling Water Reactor; Relocation of Local Public Document Room

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent to relocate the local public document room (LPDR) collection for the La Crosse Boiling Water Reactor.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) intends to relocate the LPDR collection for records pertaining to the La Crosse Boiling Water Reactor (BWR) from the La Crosse Public Library, La Crosse, Wisconsin, to another location (to be determined). The La Crosse Public Library, which has maintained the LPDR collection since 1972, has asked that the document collection be relocated due to the decline in its use since the facility is no longer operating. The collection currently consists of approximately 30 linear feet of paper copy records, one seven drawer and two ten drawer microfiche storage cabinets, and a microfiche reader printer with table. The paper copy records include documents pertaining only to the La Crosse BWR dated prior to 1981 and collection reference materials. The microfiche covers all NRC publicly available documents since 1981. The purpose of this notice is to invite public comment on possible LPDR sites.

DATES: Comment period expires May 27, 1993. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before this date.

ADDRESSES: Written comments may be submitted to Mr. David L. Meyer, Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Ms. Jona L. Souder, LPDR Program Manager, Freedom of Information Act/Local Public Document Room Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number 301–492–4344, or toll-free 1–800–638–8081.

SUPPLEMENTARY INFORMATION: Among the factors the NRC will consider in selecting a location for the collection are:

(1) Whether the institution is an established document repository with a history of impartially serving the public;

(2) The physical facilities available, including shelf space, patron work space, and copying and micrographic equipment;

(3) The willingness and ability of the library staff to maintain the LPDR collection and assist the public in locating records;

(4) The public accessibility of the library, including parking, ground transportation, and hours of operation, particularly evening and weekend hours;

(5) The accessibility of the library to the handicapped;

(6) The proximity of the library to the La Crosse BWR located in Genoa, Wisconsin.

Public comments are requested on libraries in the vicinity of the La Crosse BWR that might be considered for selection as the location for this NRC local public document room collection.

Dated at Bethesda, Maryland, this 21 day of April, 1993.

For the Nuclear Regulatory Commission,

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 93–9761 Filed 4–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–412]

Duquesne Light Co.; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–73, issued to Duquesne Light Company (DLC, the licensee), for operation of the Beaver Valley Power Station, Unit 2 located in Shippingport, Pennsylvania.

The proposed amendment would modify Table 4.3–1 of the Technical Specifications (TS) to add a footnote which states: "Complete verification of OPERABILITY of the manual reactor trip switch circuitry shall be performed prior to startup from the first shutdown MODE 3 occurring after April 6, 1993."

On April 5, 1993, DLC discovered a testing inadequacy for the manual reactor trip function in TS 4.3.1.1.1. The testing inadequacy was discovered as a result of DLC's review of NRC Information Notice 93–15 which alerted licensees to the potential testing inadequacy. Although there was strong evidence indicating that the manual trip system was fully functional, the TS action required by TS 3.0.3 and 4.0.3 would require plant shutdown until the test inadequacy was corrected. The licensee requested the NRC to exercise discretionary enforcement to permit continued operation until the next scheduled or unscheduled shutdown into MODE 3 operation, at which time the manual trip functional test would be performed using a corrected procedure. The NRC determined that this course of action involved minimum or no safety impact. On April 6, 1993, the NRC verbally granted discretionary enforcement, which was documented in a letter to DLC on April 9, 1993.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The probability or consequences of an accident previously evaluated is not significantly increased. The reactor trip breaker shunt and undervoltage trip actuation circuitry is redundant and reliable. Should the manual actuation of the shunt trip fail to operate, the diversity and redundancy of the reactor protection system would enable it to perform its design function. If a manual reactor trip signal did not reach the shunt trip coil, the de-energization of the undervoltage relay would cause the reactor trip breakers to open. Additionally, when the undervoltage relay is de-energized, the auto shunt trip relay (STA) also is de-energized. This action closes a contact which will energize the shunt trip coil and open the reactor trip breakers.

An additional back-up to the manual reactor trip function is contained in the Emergency Operating Procedures. These procedures direct the plant operators to perform the following actions in the event that the reactor trip breakers do not open when required:

1. Manually inserting control rods, and
2. Initiation of an emergency boration, and
3. Local opening of the reactor trip breakers and de-energization of the motor generator sets.

Therefore, since the response of the plant to an accident is unchanged, there is no significant increase in either the probability or consequences of an accident previously evaluated as a result of this proposed change.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not affect the operation or response of any plant equipment or introduce any new failure mechanisms. The current accident analyses are unchanged and bound all expected plant transients.

Therefore, this proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The ability of the Solid State Protection System (SSPS) to initiate a reactor trip via the undervoltage coil and indirectly energize the shunt trip coil has been verified. Should a reactor trip be required, this is the portion of the reactor trip system which would likely function to open the reactor trip breakers. It is unlikely that a manual reactor trip would be required. In the unlikely event that the operator wes required to initiate a manual reactor trip and the signal did not reach the shunt trip coil, the de-energization of the undervoltage coil would cause the reactor trip breakers to open. Additionally, when the undervoltage coil is de-energized, the auto shunt trip relay (STA) is also de-energized. This action closes a contact which will energize the shunt trip coil and open the reactor trip breakers.

The reactor trip system will continue to function as designed with no adverse impact as a result of the delay in performing the Operating Surveillance Test (OST) on the reactor trip breakers. Since the response of the plant is unchanged, there is no significant safety impact resulting from the delay in performing the surveillance testing.

The reactor trip breakers and reactor trip bypass breakers are fully functional and capable of opening in response to a Main Control Board manual trip actuation. Therefore, the proposed license amendment does not impact accident analyses or the associated radiological consequences nor does it impact systems associated with the control of radiological or non-radiological effluents.

Therefore, this proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examinedat the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of request for hearing and petitions for leave to intervene is discussed below.

By May 27, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's

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property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Dr. Walter R. Butler: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 14, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, located at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Dated at Rockville, Maryland, this 20th day of April 1993.

For the Nuclear Regulatory Commission.

Gordon E. Edison,

Senior Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–9763 Filed 4–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–250]

Florida Power and Light Co.; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–31 issued to the Florida Power and Light Company (the licensee) for operation of the Turkey Point Nuclear Generating Unit 3 located in Dade County, Florida.

The proposed amendment would revise the Technical Specifications (TS) 3.3.3.2 relating to the Moveable Incore Detector System to reduce the minimum number of operable detector thimbles from 38 to 25 and to increase the minimum number of detector thimbles per quadrant from two to three whenever the number of operable thimbles is less than 38. To compensate for this reduction in the number of detector thimbles, TS 3/4.2.2, Heat Flux Hot Channel Factor—$F_Q(Z)$ and TS 3/4.2.3, Nuclear Enthalpy Rise Hot Channel Factor—F(delta)H, and their associated bases would also be revised to increase their measurement uncertainty factors. The proposed amendment would be applicable to Turkey Point Unit 3 only for the remaining period of its Cycle 13.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different king of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR

50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment allows operation with a fewer number of operable incore detector thimbles [than] currently permitted by the Technical Specifications. These detectors are used to monitor peaking factors; and the number of operable detectors have no impact on the probability or consequences of an accident previously evaluated. An increase in the Fq measurement uncertainty to accommodate a decrease in the number of operable detector thimbles reduces the operational margin to the Technical Specifications limit of 2.32. The 2.32 Fq limit is not affected by this proposed amendment and the results of the Loss of Coolant Accident (LOCA) analyses for Turkey Point remain valid. The increase in the F[delta]H measurement uncertainty to accommodate the decrease in operable detector thimbles reduces the operational margin to the Technical Specification limit of 1.62. The 1.62 F[delta]H limit measurement is not affected by this proposed amendment and the results of the non-Loca (DNBR) analyses remain valid.

An increase in the measured peaking factor uncertainties representing a reduction in the margin to the Technical Specifications limit is applied to ensure that the reduction in the number of operable detector thimbles conservatively calculates the limiting peaking factors in the core, thus ensuring that the monitoring duty of the incore detector system is met. This proposed amendment is only applicable to the current cycle (i.e., Cycle 13) for Turkey Point Unit 3 and sufficient margin exists to ensure that the Technical Specifications are not violated. The proposed amendment does not involve a significant increase in the probability of an accident previously evaluated since the proposed amendment does not change the Turkey Point Unit 3 plant design or operation of the facility as previously evaluated by the NRC.

The increase in uncertainties applied to F[delta]H and Fq does not change the limiting peaking factors used in the UFSAR Chapter 14 safety analyses. By maintaining the Technical Specifications limits of 2.32 and 1.62 Fq and F[delta]H respectively, FPL can assure that the consequences to all LOCA and non-LOCA accident analyses will not change and are bound by the safety analyses for Turkey Point. Therefore, the consequences of any accident previously evaluated have not changed.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operation of the facility in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated since the proposed change will not affect plant safety analysis assumptions or the physical design of the facility. No new failure mode is introduced as a result of the reduction in the minimum required number of operable incore detector thimbles.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The operation and physical characteristic of the facility is unchanged by this proposed Technical Specification amendment. By increasing the measurement uncertainties with increasing number of failed detector thimbles the margin of safety is not reduced by the reduction in the number of operable detector thimbles. The increased uncertainty factors ensures that the margin of safety assumed in the Technical Specification limits of 2.32 and 1.62 on Fq and F[delta]H is not exceeded.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petition for leave to intervene is discussed below.

By May 27, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Florida International University, University Park, Miami, Florida 33199. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the

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petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in providing the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to reply to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Herbert N. Berkow, petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, and supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 13, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Florida International University, University Park, Miami, Florida 33199.

Dated at Rockville, Maryland, this 20th day of April 1993.

L. Raghaven,

Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of the Nuclear Reactor Regulation.

[FR Doc. 93–9764 Filed 4–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority, Sequoyah Nuclear Plant, Units 1 and 2; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by the Tennessee Valley Authority (licensee) for an amendment to Facility Operating License Nos. DPR–77 and DPR–78 issued to the licensee for operation of the Sequoyah Nuclear Plant, Units 1 and 2, located in Soddy Daisy, Tennessee. Notice of Consideration of Issuance of this amendment has not been published in the **Federal Register**.

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to increase the allowed outage time specified for the centrifugal charging pumps for 3 days to 7 days with one charging pump inoperable.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated April 20, 1993.

By May 27, 1993, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC., 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, and to the Office of the General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated August 28, 1991, and (2) the Commission's letter to the licensee dated April 20, 1993.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 20th day of April 1993.

For the Nuclear Regulatory Commission.

David E. LaBarge,

Acting Director, Project Directorate II–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–9762 Filed 4–26–93; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued April 21, 1993.

Before Commissioners: George W. Haley, Chairman; John W. Crutcher; W. H. "Trey" LeBlanc, III; H. Edward Quick, Jr.; Wayne A. Schley.

Docket Number: A93–15

Name of Affected Post Office: Lodi, Texas 75564

Name(s) of Petitioner(s): J.C. McKnight and others

Type of Determination: Closing

Date of filing of appeal papers: April 19, 1993

Categories of Issues Apparently Raised:

1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

2. Effect on the community [39 U.S.C. 404(b)(2)(A)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioners. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before May 4, 1993.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

April 19, 1993: Filing of Petition

April 21, 1993: Notice and Order of Filing of Appeal

May 14, 1993: Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)]

May 24, 1993: Petitioners' Participant Statement or Initial Brief [see 39 CFR 3001.115(a) and (b)]

June 14, 1993: Postal Service Answering Brief [see 39 CFR 3001.115(c)]

June 29, 1993: Petitioners' Reply Brief should Petitioners choose to file one [see 39 CFR 3001.115(d)]

July 6, 1993: Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116]

August 17, 1993: Expiration of 120-day decisional schedule [see 39 U.S.C. 404(b)(5)]

[FR Doc. 93–9727 Filed 4–26–93; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32185; File No. SR–Amex–93–10]

Self-Regulatory Organizations; Filing and Order Granting Temporary Accelerated Approval to Proposed Rule Change by American Stock Exchange, Inc., Relating to an Extension of a Pilot Program Which Permits Specialists to Grant Stops in a Minimum Fractional Change Market

April 21, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 12, 1993, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend amendments to Amex Rule 109 for an additional three months until July 20, 1993.[3] The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 17, 1992, the Commission approved amendments to Exchange Rule 109 for a one-year pilot program.[4] The amendments permit a specialist, upon request, to grant to stop[5] in a minimum fractional change market[6] for any order of 2,000 shares or less, up to a total of 5,000 shares for all stopped orders, without obtaining prior Floor Official approval. A Floor Official,

[3] The Amex originally requested a one-year extension of its Rule 109 pilot program. The Commission, however, believes that additional information is necessary before the Commission can review the Amex's proposal and determine whether the program should be extended for such a period. To allow the pilot to continue while this information is being gathered and evaluated, the Amex has agreed to a three-month extension. Letter from Claudia Crowley, Special Counsel, Legal & Regulatory Policy Division, Amex, to Diana Luka-Hopson, Branch Chief, Division of Market Regulation, SEC, dated April 19, 1993 ("Amendment No. 1").

[4] See Securities Exchange Act Release No. 30603 (April 17, 1992), 57 FR 15340 (April 27, 1992) (File No. SR–Amex–91–05) ("1992 Approval Order"). Commission approval of these amendments expires on April 20, 1993. The Exchange seeks accelerated approval of the proposed rule change in order to allow the pilot program to continue without interruption.

[5] When a specialist agrees to a floor broker's request to "stop" a market order, the specialist is obligated to execute the order at the best bid or offer, or better if obtainable. See Amex Rule 109(a).

[6] Amex Rule 127 sets forth the minimum fractional changes for securities traded on the Exchange.

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however, must authorize a greater order size or aggregate share threshold.

During the course of the pilot program, the Exchange has monitored compliance with the rule's requirements; analyzed the impact on orders on the specialist's book resulting from the execution of stopped orders at a price that is better than the stop price; and reviewed market depth in a stock when a stop is granted in a minimum fractional change market. The Exchange believes that the amendments to Rule 109 have provided a benefit to investors by providing an opportunity for price improvement, while increasing market depth and continuity without adversely affecting orders on the specialist's book. The Exchange's findings in this regard have been forwarded to the Commission under separate cover.[7]

The Exchange is proposing to extend the pilot program for an additional three month period,[8] in order to provide an opportunity for the Exchange and the Commission to further study and monitor the effects of the pilot program.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes that the proposed amendments to Rule 109 are consistent with these objectives in that they provide a market mechanism which contributes to continuity and depth in the markets for exchange-traded securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-93-10 and should be submitted by May 18, 1993.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with section 6(b)(5)[9] and section 11(b)[10] of the Act. The Commission believes that the amendments to Rule 109 should further the objectives of section 6(b)(5) and section 11(b) through pilot program procedures designed to allow stops, in minimum fractional change markets, under limited circumstances that provide for the possibility of price improvement to customers whose orders are granted stops.[11]

In its order approving the pilot procedures,[12] the Commission asked the Amex to study the effects of stopping stock in a minimum fractional change market. Specifically, the Commission expressed interest in (1) the percentage of stopped orders executed at the stop price, versus the percentage of such orders receiving a better price; (2) whether limit orders on the specialist's book were being bypassed due to the execution of stopped orders at a better price; (3) market depth, including a comparison of the size of stopped orders to the size of the opposite side of the quote and to any quote size imbalance; and (4) specialist compliance with the pilot program's procedures.

On March 12, 1993, the Exchange submitted to the Commission its monitoring report regarding the amendments to Rule 109.[13] The Commission believes that, although this monitoring report provides certain useful information concerning the operation of the pilot program, the Amex must provide further data before the Commission can fairly and comprehensively evaluate the Amex's use of the pilot procedures. To allow such additional information to be gathered and reviewed, without compromising the benefit that investors might receive under Rule 109, the Commission believes that it is reasonable to extend the pilot program for an additional three months. During this extension, the Commission expects the Amex to respond fully to the concerns set forth below.

First, the monitoring report indicates that 54.9% of orders stopped in minimum fractional change markets received price improvement. The Commission, therefore, believes that the pilot procedures provide a benefit to investors by offering the possibility of price improvement to customers whose orders are granted stops in minimum fractional change markets. Assuming that most stopped orders fall within Rule 109's size parameters, the amendments would mainly affect small public customer orders, which the Commission envisioned could most benefit from professional handling by the specialist.

During the pilot extension, the Commission requests that the Amex continue to monitor the percentage of stopped orders executed at the stop price, as compared to the percentage of such orders receiving a better price. To determine who receives the benefit of price improvement, the Amex should also calculate, for the same sample of orders, the percentage of stopped orders which are for 2,000 shares or less.[14]

In terms of how the pilot program affected customer limit orders existing on the specialist's book,[15] the Amex

[7] See letter from Claudia Crowley, Special Counsel, Legal & Regulatory Policy Division, Amex, to Diana Luka-Hopson, Branch Chief, Division of Market Regulation, SEC, dated March 11, 1993 ("monitoring report").

[8] See Amendment No. 1, *supra*, note 3.

[9] 15 U.S.C. 78f (1988).

[10] 15 U.S.C. 78k (1988).

[11] For a description of Amex procedures for stopping stock in minimum fractional change markets, and of the Commission's rationale for approving those procedures on a pilot basis, see 1992 Approval Order, *supra*, note 4. The discussion in the aforementioned order is incorporated by reference into this order.

[12] See, *supra*, note 4.

[13] See, *supra*, note 7.

[14] The Commission believes that an effective compliance program should include continuous surveillance of how often stopped orders fall within the pilot's size parameters.

[15] When stock is stopped, book orders on the opposite side of the market that are entitled to immediate execution lose their priority. If the stopped order then receives an improved price, limit orders at the stop price are bypassed and, if the market turns away from that limit, may never be executed.

As for book orders on the same side of the market as the stopped stock, the Commission believes that Rule 109's requirements make it unlikely that these limit orders would not be executed. Under the Amex's pilot program, an order can be stopped if and only if a substantial imbalance exists on the opposite side of the market. See, *infra*, text accompanying notes 20–23. Given that non-discretionary requirement, the stock would probably trade away from the large imbalance, resulting in execution of orders on the book.

[16] See, *e.g.*, SEC, Report of the Special Study of the Securities Markets of the Securities and Exchange Commission, H.R. Doc. No. 95, 88th Cong., 1st Sess. Pt. 2 (1963).

[17] In the past, the Amex has stated that it does not have the electronic display book technology necessary to make this determination. Telephone conversation between William Iommi, Executive Director, Trading Analysis Division, Amex, and Beth Stekler, Attorney, Division of Market Regulation, on April 6, 1993. However, use of such a display book on the Amex floor is expected to begin on April 26, 1993. See Securities Exchange Act Release No. 32140 (April 14, 1993) (File No. SR-Amex-92-46). The Amex has stated that the electronic book will be phased in, floor-wide, over the remainder of this year. Telephone conversation between William Iommi, Executive Director, Trading Analysis Division, Amex, and Beth Stekler, Attorney, Division of Market Regulation, on April 19, 1993. The Commission expects that the Amex will thereafter be able to assess whether the relevant limit orders had, as of the close, been executed, cancelled or remained on the book.

[18] In this regard, the Commission would like the Amex to submit the documentation the Amex is relying upon to support its conclusions about the final disposition of these limit book orders. See, *infra*, note 19.

[19] As explained in *supra* note 17.

report merely states that "in virtually all cases" such orders were executed at their limit price. The Commission historically has been concerned that book orders may get bypassed when stock is stopped.[16] To reassure the Commission that Rule 109 does not harm public customers with orders on the specialist's book, the Amex should provide detailed facts supporting its conclusion that the pilot's impact on book orders is "minimal."

The Commission therefore requests that the Amex conduct a more rigorous review of this issue. Specifically, the Amex should attempt to measure how often limit orders on the opposite side of the market from a stopped order are entitled to, but do not receive, immediate execution. At a minimum, the Amex should determine how often such limit orders are executed by the close of the day's trading.[17] Finally, the Amex should conduct a one-day review of all book orders in the five stocks receiving the greatest number of stops, and should submit to the Commission both raw trade data for,[18] and a description of the final disposition of,[19] each such order.

Third, the Amex's monitoring report found that market depth increased when stopped orders received price improvement. According to the report, however, there was little, if any, increase in depth when such orders were executed at the stop price. From the Commission's perspective, this response does not directly or fully address the substantive issues raised by the pilot program. The Amex has stated, both to the Commission[20] and to its members,[21] that specialists can only stop stock in a minimum fractional change market when (1) an imbalance exists on the opposite side of the market and (2) such imbalance is of sufficient size to suggest the likelihood of price improvement. Commission approval of this pilot program turned, in large part, on such representations. However, based on the Exchange's monitoring report, it does not appear that the Amex has established a formal system for routinely measuring, in some quantitative way, the size of the market imbalance and the sufficiency of that imbalance.

The Commission, therefore, wishes to emphasize strongly that Rule 109 can only be implemented when it is clear that the imbalance on the opposite side of the market from the order being stopped is of sufficient size to suggest the likelihood of price improvement. No other market condition (no matter how great the likelihood of price improvement) justifies a specialist's stopping stock in a minimum fractional change market. In summary, the Commission believes that the requirement of a sufficient market imbalance is the most critical aspect of the pilot program.[22] Strict adherence to this standard is necessary to ensure that stops are only granted, in a minimum fractional change market, when the benefit (*i.e.*, price improvement) to orders being stopped far exceeds the potential of harm to orders on the specialist's book.[23]

To evaluate how this standard is being applied in practice, the Commission requests that the Amex conduct a comprehensive quantitative analysis of market depth.[24] In its next monitoring report, the Amex should compare the size of the stopped order to the size of the opposite side of the quote and to any quote size imbalance.[25] The Amex should break individual orders down as follows: 2,000 shares or less; 2,001 to 5,000 shares; 5,001 to 10,000 shares; and over 10,000 shares. The Amex should provide the requested information in the form of an average for all buy orders stopped, and then for all sell orders stopped, in each of the above size ranges. Furthermore, when a Floor Official approves a stop that causes the total number of stopped shares to exceed 5,000 shares, the Amex should provide the Commission with information comparing the aggregate size of all orders stopped to the size of the opposite side of the quote and to any quote size imbalance.[26] The Amex should provide the requested information in the form of an average for multiple buy orders, and then for multiple sell orders, which require such Floor Official approval. Finally, the Amex should calculate, as of the time a stop is granted, the ratio of the size of the bid to the size of the offer.[27] The Amex should provide the requested information in the form of an average for all buy orders stopped, and then for all sell orders stopped, in each of the aforementioned order size ranges.[28]

Finally, the Amex report describes its efforts regarding compliance with the pilot procedures. According to the Exchange, every order that exceeded Rule 109's parameters received Floor Official approval. In this regard, the Commission believes that the Exchange has sufficient means to determine whether a specialist complied with the amendments' order size and aggregate share thresholds and, if not, whether Floor Official approval was obtained for

[20] See letter from Claire P. McGrath, Senior Counsel, Legal & Regulatory Policy Division, Amex, to Mary Revell, Branch Chief, Division of Market Regulation, SEC, dated January 6, 1992 (Amendment No. 1 to File No. SR-Amex-91-05). Amendment No. 1 formally incorporated the requirement that the indicia of market depth discussed below must, without exception, be satisfied before a specialist is permitted to stop stock in a minimum fractional change market.

[21] See Amex Information Circular Nos. 92-74 (April 24, 1992) and 93-333 (April 7, 1993).

[22] Recently, in approving a comparable proposal by the New York Stock Exchange, the Commission placed similar emphasis on the critical nature of the sufficient size standard. See Securities Act Release No. 32031 (March 22, 1993), 58 FR 16563 (March 29, 1993) (File No. SR-NYSE-93-18).

[23] See, *supra*, text accompanying notes 15–19.

[24] The Commission believes that an effective compliance program should include surveillance of the indicia of market depth discussed below, see *infra* text accompanying notes 25–28, for every stopped order.

[25] Every time a specialist stops a market order to buy, the size of that stopped order should be compared (1) to the size of the offer side of the quote and (2) to the quote size imbalance, *i.e.*, the difference between the size of the offer and the size of the bid.

Every time a specialist stops a market order to sell, the size of that stopped order should be compared (1) to the size of the bid side of the quote and (2) to the quote size imbalance, *i.e.*, the difference between the size of the bid and the size of the offer.

[26] As explained in *supra* note 25.

[27] Every time a specialist stops a market order to buy, the Amex should calculate the size of the bid as a percentage of the size of the offer.

Every time a specialist stops a market order to sell, the Amex should calculate the size of the offer as a percentage of the size of the bid.

[28] See, *supra*, text accompanying note 25.

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larger parameters. The Commission also notes the Amex's on-going effort to keep its specialists properly informed about the pilot program's requirements. In this context, the Amex has distributed Information Circulars [29] and held continuing educational sessions on the pilot program and its requirements for stopping stock in minimum fractional change markets.

During the pilot extension, the Commission requests that the Amex continue to monitor closely specialist compliance with Rule 109's procedures. As before, the Amex should determine how often orders requiring Floor Official approval to be stopped do not receive such approval. In so doing, the Amex should distinguish between instances where the specialist did not ask for permission and those where it was denied (and, if so, on what grounds). If Amex surveillance reveals violations of this or any other requirement of the pilot (especially the requirement of a sufficient market imbalance, as discussed above),[30] the Amex should gather information about the frequency of such non-compliance and the market conditions prevailing at the time of each instance thereof. The Commission also requests that the Amex report on the action taken by the Exchange in response to each instance of specialist non-compliance with the pilot procedures.

The Commission requests that the Amex report its findings on these matters by June 20, 1993. In addition, if the Exchange determines to request an extension of the pilot program beyond July 20, 1993, the Commission requests that the Amex also submit a proposed rule change by June 20, 1993.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposes to continue using are the identical procedures that were published in the Federal Register for the full comment period and were approved by the Commission.[31]

It is therefore ordered, pursuant to section 19(b)(2)[32] that the proposed rule change (SR-Amex-93-10) is hereby approved for a three-month period until July 20, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[33]

Margaret H. McFarland,

Deputy Secretary.

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[29] *See, supra*, note 21.

[30] *See, supra*, text accompanying notes 20-23.

[31] No comments were received in connection with the proposed rule change which implemented these procedures. *See* 1992 Approval Order, *supra*, note 4.

[32] 15 U.S.C. 78s(b)(2) (1988).

[33] 17 CFR 200.30-3(a)(12) (1991).

[Release No. 34-32177; File No. SR-NASD-93-8]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Clarifying NASD Authority To Suspend or Terminate Nasdaq National Market System Securities When the Issuer Has Filed for Bankruptcy or Announces Liquidation

April 20, 1993.

On February 28, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder.[2] The proposal amends Part III, Section 4(d) of Schedule D to the By-Laws ("Section 4(d)")[3] to clarify the NASD's authority to suspend or terminate Nasdaq National Market System ("Nasdaq NMS") securities when the issuer files for bankruptcy or announces liquidation.

Notice of the proposed rule change, together with its terms of substance, appeared in the Federal Register on March 16, 1993.[4] The Commission received no comments on the proposal. This order approves the rule change.

Schedule D applies different delisting criteria for Nasdaq Small-Cap and Nasdaq NMS companies filing for bankruptcy. Part II, Section 3(a) of Schedule D[5] provides that the Association "may" suspend or delist an otherwise qualified Nasdaq Small-Cap security when the issuer files for protection under the federal bankruptcy laws. Section 4(d) applies a similar requirement to Nasdaq NMS securities and provides that securities of a Nasdaq NMS issuer filing for bankruptcy or announcing liquidation "shall not remain designated" unless the NASD determines that investor protection and the public interest warrant continued designation.

In practice, however, the NASD applies the same standard for Nasdaq Small-Cap and NMS issuers filing for bankruptcy protection or announcing liquidation. Specifically, a Nasdaq Small-Cap or NMS company filing for bankruptcy or announcing liquidation must notify the NASD, which may institute a trading halt or suspend quotations in the security in Nasdaq, pending review of the company's financial condition. The company must then provide the NASD with current financial information, including a balance sheet and statement of operations, and the NASD then determines whether the company's securities satisfy the NASD's continued maintenance criteria or whether the company has a credible plan for returning to compliance with the NASD's continued maintenance criteria. Requests for exceptions to the delisting of a Nasdaq Small-Cap or NMS security are reviewed by the NASD on a case-by-case basis. If the NASD determines that the public interest and the protection of investors warrant continued designation, a "Q" symbol is attached to the trading symbol of the company's securities to disclose to the public that the issuer has filed for bankruptcy protection or plans to liquidate.

The NASD believes that the term "shall" in section 4(d) implies that the filing for bankruptcy or the announcement of liquidation by a Nasdaq NMS issuer will effect an automatic delisting of the issuer's securities without recourse to a case-by-case NASD review, as currently provided to issuers of both Nasdaq Small-Cap and NMS securities. The NASD, therefore, is amending section 4(d) to preplace the term "shall" with the term "may," to eliminate any such misinterpretation of current language.

The Commission believes that the rule change will clarify for investors that when a Nasdaq NMS issuer files for bankruptcy or announces its intent to liquidate, its securities are not automatically delisted, but instead, the NASD commences a review of the company to determine the action that best serves the public interest and the protection of investors.

For these reasons, and for the reasons above, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1992).

[3] NASD Manual, (CCH) ¶ 1811

[4] Securities Exchange Act Release No. 31973 (March 10, 1993), 58 FR 14232.

[5] NASD Manual, (CCH) ¶ 1805.

15A(b)(6) of the Act.[6] Section 15A(b)(6) requires that the NASD's rules be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing and settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the instant rule change be, and hereby is, approved, effective within 45 days.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

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[6] 15 U.S.C. 78o-3(b)(12).

[7] 17 CFR 200.30-3(a)(12).

[Release No. 34-32178; File No. SR-PSE-92-20]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc. to Supplement the Provisions of Section 15(f) of the Securities Exchange Act of 1934 and the Insider Trading and Securities Fraud Enforcement Act of 1988

April 20, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 14, 1992, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE is submitting to the Commission a rule change that supplements the provisions of section 15(f) of the Act and the Insider Trading and Securities Fraud Enforcement Act of 1988 ("ITSFEA"). The text of the proposed rule change is available at the Compliance Department of the PSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

Proposed Rule 2.6(e) is intended to supplement section 15(f) of the Act and the ITSFEA, by requiring every member of the Exchange to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of material, non-public information by such member and any person associated with the member. In addition, Rule 2.6(e) mandates that all members that are required to file SEC Form X-17A-5 ("FOCUS Reports") with the Exchange on an annual basis must submit with their FOCUS Reports an attestation of compliance with the Rule. Finally, the proposed Rule establishes minimum standards for compliance with the record-keeping requirements of the Rule and the Act, and requires disclosure by members, and associated persons, to the Exchange's Surveillance Department of any possible misuse of material, non-public information.

The proposed Rule contains four Commentaries. Commentary .01 describes conduct that would constitute the misuse of material, non-public information. Specifically, such conduct would include, but is not limited to: (1) Trading in any securities, or in any related securities, options or other derivative securities of a corporation while in possession of material, non-public information concerning that corporation; (2) trading in an underlying security or related options or other derivative securities while in possession of material, non-public information concerning imminent transactions in the underlying security or related securities; and (3) disclosing to another person or entity information described in (1) or (2) for the purpose of facilitating the possible misuses of such material, non-public information.

The scope of the aforementioned definition is intended to be consistent with the intended goal of section 15(f) of the Act and ITSFEA: To prevent the misuse of material, non-public information. This definition should be broad enough to encompass frontrunning, trading on the basis of material corporate inside information, tipping and misappropriating material corporate inside information.

Commentary .02 would define the term "associated person" or "person associated with a member" as any partner, officer, director, or branch manager of a member (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a member, or any employee of a member. The purpose of this Commentary is to provide a definition that is consistent with the definition of "associated person" in section 3(a)(21) of the Act.

Commentary .03 would require members to establish, maintain and enforce certain policies and procedures pursuant to Rule 2.6(e). Specifically, members would be required to: (1) Advise all associated persons in writing of the prohibition against the misuse of material, non-public information; (2) maintain for at least three years, the first two years in an easily accessible place, signed attestations from the member, and all associated persons of the member, affirming their awareness of, and agreement to abide by, the above-mentioned prohibitions; (3) maintain for at least three years, the first two years in an easily accessible place, records of all brokerage accounts in which an associated person either has a direct or indirect interest or makes investment decisions; (4) periodically review all such brokerage accounts for the purpose of detecting the possible misuse of material non-public information; and (5) identify and document business dealings the member may have with publicly traded corporations that may result in the member receiving material non-public information.

The standards contained in this Commentary are intended to be minimum standards for compliance with the record-keeping requirement of the Act and the Rule. Adherence to these standards will not necessarily constitute compliance with the Act and the Rule for all members. The adequacy of any one member's policies and procedures will depend on the nature of that member's business.

Commentary .04 and the Bulletin (Exhibit B to the proposed rule change) describes a set of forms, denominated as the "Sample ITSFEA Compliance

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Procedures" (Exhibit C to the proposed rule change), which may be used by certain "eligible members" to satisfy the record-keeping and filing requirements of the Act and the Rule. "Eligible members" are member organizations and sole PSE members that do not carry or introduce customer accounts and for whom the Exchange is the Designated Examining Authority.

Specifically, the Sample ITSFEA Compliance Procedures require: (1) All associated persons to disclose each securities account in which they have a direct or indirect financial interest, or make investment decisions; (2) all associated persons to disclose whether they are an officer, director or 10% shareholder in a company whose shares are publicly traded; (3) written affirmation by all associated persons that they understand and will abide by the prohibition against the misuse of material, non-public information; (4) written affirmation by a senior officer, partner or sole proprietor that such person ensures that all of the ITSFEA compliance procedures are being followed, including the regular review of all accounts and trading activities of associated persons. The Sample ITSFEA Forms are intended to constitute the minimum policies and procedures required by the Act and the Rule; their use does not ensure compliance with the record-keeping and filing requirements.

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular, in that it prevents fraudulent and manipulative acts and practices and promotes just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer periods to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-92-20 and should be submitted by May 18, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-9715 Filed 4-26-93; 8:45 am]

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[Release No. 34-32175; International Series Release No. 534; File No. SR-PHLX-92-20]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to New Foreign Currency Options Floor Procedure Advice (FF-17) Defining the Perimeters of the Trading Pit Areas

April 20, 1993.

On August 6, 1992, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposal to amend its rules by adding a new Foreign Currency Options Floor Procedure Advice ("OFPA") FF-17 entitled "Foreign Currency Options ("FCO") Trades to be Effected in the Pit."

The proposed rule change was published for comment in Securities Exchange Act Release No. 31143 (September 3, 1993), 57 FR 41535. No comments were received on the proposed rule change.

The proposal requires each bid and offer represented for execution on the FCO floor to be voiced loudly and audibly in the option's trading pit. For purposes of OFPA FF-17, the proposal defines "trading pit" as "the common area immediately in front of the respective option post and, in case of an active trading crowd, all common areas immediately adjacent thereto necessary to contain such crowd."

In addition, for any trading segment,[3] the proposal authorizes a floor official to extend the boundaries of a trading pit to include other common areas available on the floor for trading, except booth spaces and the aisles between the booth spaces. The OFPA includes the following fine schedule for violations of its provisions: (1) $100 for the first occurrence; (2) $500 for the second occurrence; and (3) a sanction discretionary with the Exchange's Business Conduct Committee ("BCC") for the third occurrence and any occurrence thereafter.

The PHLX explains that the proposal, which originated with the night trading session, is designed to: (1) Define the perimeters of the trading pit areas, (2) provide for compliance with the perimeters through the PHLX's minor disciplinary plan procedures; and (3) reconcile the controversy between traders situated in the common pit areas fronting the rows of broker booths who may be at risk of missing orders which emanate from the floor broker booths and floor brokers who want to remain on the telephone with a customer while an order is being represented. Although the proposal will restrict the execution of orders from broker booths, the PHLX notes that floor brokers may shout their orders to two-dollar brokers who can represent their orders in the crowd.

The Commission finds that the proposed rule change is consistent with

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1992).

[3] The PHLX expanded its foreign currency options trading hours on September 20, 1990, in order to coincide with the afternoon business hours in Japan and the Far East. The Exchange's foreign currency options trading hours are 18 hours in duration, lasting from 7 p.m. to 11 p.m. (EDT) and 12:30 a.m. to 2:30 p.m. (EDT). See Securities Exchange Act Release No. 28470 (September 25, 1990), 55 FR 40253.

the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6.[4] Specifically, the Commission finds that the OFPA is designed to facilitate transactions in securities, perfect the mechanism of a free and open market, and protect investors and the public interest by enhancing the fair, orderly and efficient operation of the PHLX's markets. By providing for specific trading pit areas and requiring that all FCO orders be voiced loudly and audibly in their respective trading pit areas, the Commission believes it will be easier for all market participants to hear all open interest in the crowd and equally participate and represent their orders. Accordingly, the Commission believes the proposal will help to ensure that all FCO orders are represented adequately and allowed to interact fully with one another, thereby, in turn, helping to ensure the best execution of customers' orders.

In addition, the Commission believes that the OFPA's definition of trading pit as "the common area immediately in front of the respective option post and, in case of an active trading crowd, all common areas immediately adjacent thereto necessary to contain such crowd," should reduce confusion on the trading floor, facilitate the orderly functioning of the PHLX's markets and help to ensure the efficient execution of transactions by identifying the trading pit for a given option so that bids and offers may be placed in a limited and clearly specified area. At the same time, the provision allowing a floor official to extend the boundaries of a trading pit should help the PHLX to accommodate the needs of market participants. For example, the provision will allow a floor official to extend the trading area during times when there are relatively few participants on the Exchange's floor, such as the night trading session. In addition, should a particular foreign currency option be in a "break-out" situation with extreme volume and volatility, the floor official would be able to expand the size of the pit to accommodate those market participants who decide to trade the option.

Moreover, the Commission also believes that it is appropriate for the Exchange to establish a fine schedule consistent with its Minor Infraction Rule Plan for minor infractions of its trading pit perimeter and order announcement rules.[5] Specifically, the Commission believes that the use of the fine schedule will enable Exchange officials to impose sanctions for minor infractions of the trading pit perimeter and order announcement rules in a timely manner. The Commission also believes that this streamlined disciplinary process will help the Exchange to ensure that members of the foreign currency options trading crowds abide by the Exchange's rules governing the establishment of trading pit areas and the announcement of orders.

Finally, the Commission finds that the OFPA's fine schedule and the inclusion of the violations in the PHLX's minor rule plan will provide a fair and effective means to enforce compliance with the rule consistent with the requirements of section 6(b)(6) and 6(b)(7) of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (SR-PHLX-92-20) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-9716 Filed 4-26-93; 8:45 am]

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[Release No. 34-32174; File No. SR-PHLX-92-22]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval to a Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to an Extension and Expansion of the Pilot Program for Position Limit Exemptions for Hedged Equity Options Positions

April 20, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 19, 1992, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

On May 24, 1988, the Commission approved the PHLX's proposal to adopt Exchange Rule 1001, Commentary .07, on a two-year pilot basis.[1] Commentary .07 provides a limited exemption from equity option position limits for the four most commonly used hedge positions: (i) Long call and short stock; (ii) short call and long stock; (iii) long put and long stock; and (iv) short put and short stock. The PHLX proposes to extend the pilot program through November 17, 1993, and to expand Commentary .07 to include convertible securities. Specifically, Commentary .07, as amended, will exempt from position and exercise limits stock options hedged by 100 shares of stock or securities convertible into the stock. The text of the proposal is available at the Office of the Secretary, PHLX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[4] 15 U.S.C. 78F (1982).

[5] Even though the Exchange has proposed that violations of the trading pit perimeter and order announcement rules for foreign currency options be sanctioned according to the PHLX's Minor Infraction Rule Plan, violations of these rules do not necessarily have to be subject to the Minor Infraction Rule Plan. For instance, for egregious violations, the Commission would expect that these matters would be handled under the PHLX's full disciplinary procedures.

[6] 15 U.S.C. 78s(b)(2) (1982).

[7] 17 CFR 200.30-3(a)(12) (1992).

[1] See Securities Exchange Act Release No. 25738 (May 24, 1988), 53 FR 20201 (order approving File Nos. SR-Amex-87-13, SR-CBOE-87-27, and SR-PHLX-87-32) ("Pilot Approval Order"). See also Securities Exchange Act Release Nos. 29436 (July 12, 1991) 56 FR 33317 (order approving File No. SR-NYSE-91-19, relating to extension of pilot programs for position limit exemptions for hedged equity option and index option positions and expansion of the pilot program to allow the underlying hedged portfolio to include securities that are readily convertible into common stock); 27326 (October 2, 1989), 54 FR 42121 (order approving File No. SR-Amex-89-20, extending and expanding the exchange's index hedge exemption pilot program to include convertible instruments in the "equivalent" positions that may be eligible to serve as the basis for the underlying exemption); and 27322 (September 29, 1989), 54 FR 41889 (order approving File No. CBOE-89-08, extending and expanding exchange's index hedge exemption program to include in qualified stock portfolios securities readily convertible into stock and, for convertible bonds, those that are economically convertible into common stock).

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(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, Exchange Rule 1001, Commentary .07, which was approved by the Commission on a two-year pilot basis on May 24, 1988,[2] provides a limited exemption from equity option position limits for the four most commonly used hedge positions: (i) Long call and short stock; (ii) short call and long stock; (ii) short call and long stock; (iii) long put and long stock; and (iv) short put and short stock. The PHLX proposes to amend Commentary .07 to extend the pilot program through November 17, 1993, to clarify that the hedge exemption applies to exercise limits as well as position limits, and to expand Commentary .07 to include convertible holdings (securities convertible into the stock) as the underlying basis for the exemption. To help ensure that the pilot's expiration is not overlooked, paragraph (b) of Commentary .07 will state that the equity hedge exemption pilot program has been authorized by the Commission through November 17, 1993.

Currently, Commentary .07's hedge exemption applies only to stock options where each option contract is hedged by 100 shares of stock. The PHLX proposes to add convertible securities to the securities eligible to serve as the underlying basis for the exemption.[3] The Exchange believes that such convertible securities are an appropriate hedge against equity options because they represent the same economic interest. For example, the price of the convertible security moves with the stock and such security represents the right to receive the same security as that underlying the option at a future date.

The Exchange believes that the proposed addition will provide greater depth and liquidity to the PHLX's equity options market and will afford investors the opportunity to effectively hedge their stock portfolios without increasing the possibility of manipulation in the options markets or in the underlying stock market. The PHLX states that it has not experienced any significant problems with the operation of the pilot and will continue to monitor the effects of the hedge exemption on the market to ensure that problems do not arise due to the increased position and exercise limits authorized by the exemption.

[2] See Pilot Approval Order, *supra* note 1.

[3] The PHLX notes that the Chicago Board Options Exchange ("CBOE") has submitted a similar proposal. See File No. SR–CBOE–91–43.

The PHLX believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.[4]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirement of section 6(b)(5) thereunder.[5] Specifically, the Commission concludes, as it did when approving the commencement of the pilot, as well as similar programs by the other options exchanges,[6] that the PHLX's proposal to provide for increased position and exercise limits for equity options in circumstances where those excess positions are fully hedged with offsetting stock positions will provide greater depth and liquidity to the market and allow investors to hedge their stock portfolios more effectively, without significantly increasing concerns regarding intermarket manipulations or disruptions of either the options markets or the underlying stock market.

In addition, with respect to the Exchange's proposal to expand the types of securities eligible to serve as the basis for the underlying hedge position to include convertible securities, the Commission believes such an expansion is consistent with the Act because it will allow investors to use equity options more efficiently and effectively to hedge positions in instruments that are economically equivalent to stocks.[7] Specifically, because the value of a convertible security likely will fluctuate in tandem with the value of the security that it is convertible into, the Commission believes investors with positions in convertible securities should be able to hedge their positions with equity options to the same extent that investors with long or short positions in the underlying security can. Moreover, as with the original pilot program, the Commission believes the expansion of the pilot program to include convertible securities likely will enhance the depth and liquidity in the Exchange's options markets. In addition, because the pilot program still requires the positions in the convertible securities and the corresponding options to be fully hedged, the Commission believes the expansion will not significantly increase concerns regarding intermarket manipulations or disruptions of either the options markets or the underlying stock market. Lastly, the Commission notes that the hedged position limit pilot programs of the other options exchanges have been expanded to include convertible securities.[8] Accordingly, the Commission believes it is appropriate and consistent with the Act to expand the pilot program to include convertible securities.

The Commission also notes that before the pilot program can be approved on a permanent basis the PHLX must provide the Commission with a report on the operation of the pilot.[9] Specifically, the PHLX must provide the Commission with details on: (1) The frequency with which the exemptions have been used; (2) the types of investors using the exemptions; (3) the size of the positions established pursuant to the pilot program; (4) what types of convertible securities are being used to hedge positions and how frequently convertible securities have been used to hedge; (5) whether the Exchange has received any complaints on the operation of the pilot program; (6) whether the Exchange has taken any disciplinary action against, or commenced any investigations, examinations, or inquiries concerning, any of its members for any violation of any term or condition of the pilot program; (7) the market impact, if any, of the pilot program; and (8) how the Exchange has implemented surveillance procedures to ensure compliance with the terms and conditions of the pilot program.

[4] See letter from Theresa McCloskey, Assistant Vice President, Market Surveillance, PHLX, to Yvonne Fraticelli, Staff Attorney, Options, Branch, Division of Market Regulation, Commission, dated January 7, 1993.

[5] 15 U.S.C. 78f(b)(5) (1982).

[6] See note 1, *supra*.

[7] The Commission expects the Exchange to determine on a case-by-case basis whether an instrument that is being used as the basis for the underlying hedged position is readily and immediately convertible into the security underlying the corresponding option position. In this regard, the Commission specifically finds that an instrument which will become convertible into a security at a future date, but which is not presently convertible, is not a "convertible" security for purposes of the equity hedge exemption pilot program until the date it becomes convertible.

[8] See note 1, *supra*.

[9] The Commission also expects the PHLX to monitor the pilot as outlined below and to inform the Commission of the results of any surveillance investigations undertaken for apparent violations of the provisions of the hedge exemption rule.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** so that the pilot program may continue. As noted above, the hedge exemption pilot programs of the other options exchanges have been expanded to include convertible securities.[10] In addition, the Commission notes that notice of the original pilot program appeared in the **Federal Register** and that the Commission received no comments. Because there have been no adverse comments concerning the pilot program during the initial comment period or since its implementation and because of the importance of maintaining the quality and efficiency of the pHLX's markets, the Commission believes good cause exists to approve the extension and expansion of the pilot program on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 18, 1993.

It is therefore Ordered, pursuant to section 19(b)(2) of the Act [11] that the proposed rule change (SR–PHLX–92–22) is approved, and thereby that the equity hedge exemption pilot program is extended until November 17, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–9717 Filed 4–26–93; 8:45 am]

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[10] See note 1, *supra*.

[11] 15 U.S.C. 78s(b)(1982).

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1991).

[3] The Exchange submitted an amendment to the filing on April 28, 1992. This amendment clarifies how the opening price parameters are established for equity options and index options. See letter from Gerald D. O'Connell, Vice President, Market Surveillance, PHLX, to Thomas Gira, Branch Chief, Division of Market Regulation, SEC, dated April 21, 1992.

[Release No. 34–32179; File No. SR–PHLX–91–34]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Option Floor Procedure Advice A–14—Equity and Index Option Opening Price Parameters

April 20, 1993.

On October 21, 1991, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to add Options Floor Procedure Advice ("OFPA") A–14 relating to equity and index option opening price parameters.[3] The proposal mirrors existing Commentary .15 to PHLX Rule 1014 regarding the obligations of specialists upon opening an options series for trading. The OFPA also adds a fine schedule under the Exchange's Minor Infraction Rule Plan for violations of the parameters by specialists.

The proposed rule change was published for comment in Securities Exchange Act Release No. 30387 (February 19, 1992), 57 FR 6632. No comments were received on the proposed rule change. This order approves the proposal.

The Exchange proposes to add OFPA A–14 in connection with Exchange Rules 1014 and 1020. Proposed OFPA A–14 mirrors Commentary .15 to PHLX Rule 1014 which provides that an opening transaction in an options series may not occur at a price which falls outside of the previous trading session's closing quote in that options series by more than the difference between the preceding session's closing sale price for the underlying instrument and the present sessions's opening sale price for the underlying instrument.[4] Specialists would be required to observe opening price parameters for equity and index options where the underlying stock opens on firm quotes. In the event that a stock or index is quoted significantly away from the prior trading session's closing value, however, OFPA A–14 would permit a floor official to approve the opening of the option outside the stated parameters.

The purpose in creating OFPA A–14 to mirror Commentary .15 is to provide a fine schedule for violations of the opening price parameter guideline, and, thereby, permit violations of the guideline to be imposed pursuant to the Exchange's Minor Infraction Rule Plan.[5] In particular, the proposed fine schedule is as follows: (1) $50 fine for the first violation; (2) $100 fine for the second violation; (3) $200 fine for the third violation; and (4) sanctions determined by the Business Conduct Committee ("BCC") for further violations.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5), 6(b)(6) and 6(b)(7) under the Act and the rules and regulations thereunder. The Commission believes that sanctioning members for violations of the opening price parameter guidelines found in Commentary .15 to PHLX Rule 1014 pursuant to the Phlx's Minor Infraction Rule Plan promotes just and equitable principles of trade by maintaining

[4] See Securities and Exchange Act Release No. 18480 (February 10, 1982), 47 FR 7355 (original order approving Commentary .15 to PHLX Rule 1014).

[5] Pursuant to paragraph (c)(1) of Rule 19d–1, an SRO is required to file promptly with the Commission notice of any "final" disciplinary action taken by the SRO. Pursuant to paragraph (c)(2) of Rule 19d–1, any disciplinary action taken by the SRO for violation of an SRO rule that has been designated a minor rule violation pursuant to the plan shall not be considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies. By deeming unadjudicated minor violations as not final, the Commission permits the SRO to report violations on a periodic (quarterly), as opposed to immediate, basis.

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consistency in the application of these important pricing guidelines. Moreover, the Commission believes that it is appropriate for the Exchange to establish a fine schedule consistent with its Minor Infraction Rule Plan for minor infractions of the opening price parameter guidelines.[6]

Specifically, the Commission believes that the use of the fine schedule will enable Exchange officials to impose sanctions for minor infractions of the guidelines in a timely manner. The Commission also believes that this streamlined disciplinary process will help the Exchange to ensure that PHLX specialists in equity and index options abide by the Exchange's rule governing opening price parameters for options series. In addition, the Commission further finds that the fine schedule provides for suitable sanctions for minor violations of the opening price parameter guidelines, and is consistent with section 6(b)(6) and 6(b)(7) of the Act, which requires exchanges to have appropriate sanctions and proceedings to discipline members for violations of exchange rules.

It Is Therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (SR–PHLX–91–34) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–9795 Filed 4–26 –93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19420; 811–5633]

J.W. Gant Fund, Inc.; Application

April 20, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANTS: J.W. Gant Fund, Inc. (the "Fund"), and William A. Fox.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicants seek an order declaring that the Fund has ceased to be an investment company under the Act.

FILING DATE: The application on Form N–8F was filed on March 5, 1992 and amended on October 26, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 14, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants: the Fund, Harlequin Plaza South, 7600 East Orchard Road, suite 201, Englewood, CA 80111; William A. Fox, 5651 Northeast 16th Avenue, Fort Lauderdale, FL 33334.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Staff Attorney, (202) 272–2190, or Barry D. Miller, Senior Special Counsel, (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Fund is an open-end diversified management company incorporated under the laws of Maryland. On August 10, 1988, the Fund registered under the Act and filed a registration statement pursuant to section 8(b) of the Act. On that date, the Fund also filed a registration statement pursuant to the Securities Act of 1933, which registered an indefinite number of shares of common stock. The registration statement became effective on November 15, 1988.

2. On December 2, 1991, the Fund's board of directors approved a plan of liquidation and dissolution (the "Plan") and recommended that the Plan be submitted to the Fund's shareholders for their approval. The Fund filed copies of the preliminary proxy materials relating to the proposed dissolution with the Commission on December 19, 1991 and definitive proxy materials on January 21, 1992. On or after January 21, 1992, the Fund mailed the proxy material concerning the Plan to its shareholders. The Fund's shareholders approved the Plan at a special shareholders' meeting held on February 10, 1992.

3. In December 1991 and January 1992, the Fund sold its debt holdings held in its portfolio through its underwriter, J.W. Gant & Associates, on an agency basis. These assets were readily marketable securities and were sold at market prices. In February of 1992, the Fund sold its remaining equity asset, which was not readily marketable, through an unaffiliated broker-dealer. No commission costs were incurred in these transactions.

4. Pursuant to the Plan, the Fund's adviser, Louis Anthony Advisory Group, Inc., agreed to pay all expenses incurred in connection with the liquidation and dissolution of the Fund.

5. On March 3, 1992, the Fund mailed to its public shareholders of record on such date a liquidating distribution, in cash, equal to their *pro rata* portion of the remaining assets of the Funds. Each shareholder received $1.37 per share representing the remaining net asset value per share. On March 4, 1992, the Fund made a liquidating distribution with respect to the initial shares held by J.W. Gant Financial, Inc., the parent of the Fund's adviser and underwriter. Such liquidating distribution was reduced by the amount of unamortized organizational expenses remaining on February 10, 1992 of $16,179.

6. On March 27, 1992 the Fund filed Articles of Dissolution with the Maryland Department of Assessments and Taxation to effect the complete statutory dissolution of the Fund upon receipt of such articles.

7. As of the date of the application, the Fund had no assets, debts, liabilities or securityholders, and was not a party to any litigation or administrative proceeding.

8. The Fund is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding up of its affairs.

9. Mr. William A. Fox is the former president and a former director of the Fund, the former president, treasurer, and a director of the Fund's adviser, and under section 3–410 of the Maryland General Corporation Law, a former trustee of the assets of the Fund for purposes of liquidating such assets.

10. As a condition for the Commission issuing an order, pursuant to section 8(f) of the Act, declaring that the Fund has ceased to be an investment company, Mr. Fox will retain and preserve all of the records of the Fund that rules 31a–1 and 31a–2 under the Act require a registered investment company to maintain for a two year period beginning from the date the Commission issues such an order pursuant to section 8(f) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Secretary.

[FR Doc. 93–9718 Filed 4–26–93; 8:45 am]

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[6] Even though the Exchange has proposed that violations of the opening price parameter guidelines be sanctioned according to the PHLX's Minor Infraction Rule Plan, violations of the guidelines do not necessarily have to be subject to the Minor Infraction Rule Plan. For instance, for egregious violations, the Commission would expect that these matters will be handled directly under the Phlx's full disciplinary proceedings.

[7] 15 U.S.C. 78s(b)(2) (1982).

[8] 17 CFR 200.30–3(a)(12) (1991).

[Rel. No. IC–19424; 812–8334]

Shearson Daily Dividend Inc., et al.; Notice of Application

April 21, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Shearson Daily Dividend Inc. (which does business as American Express Daily Dividend Fund), Shearson Government and Agencies Inc. (which does business as American Express Government and Agencies Fund), Shearson Daily Tax-Free Dividend Inc. (which does business as American Express Municipal Money Market Fund), American Express New York Municipal Money Market Fund, American Express California Municipal Money Market Fund (collectively, the "Funds"), The Trust for TRAK Investments ("TRAK"), Shearson Lehman Brothers Inc. ("Shearson"), Smith, Barney Advisers, Inc. ("SBA"), and Mutual Management Corp. ("Mutual Management").

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from section 15(a) of the Act and rule 15a–4 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order that would permit two separate actions. First, the order would permit the temporary implementation, without shareholder approval, of (a) new investment advisory agreements between the Funds and the non-money market series of TRAK and a wholly owned subsidiary of Smith Barney, Inc. called the Greenwich Street Advisors Division of Mutual Management; (b) a new investment advisory agreement between the money market series of TRAK and The Consulting Group, which will become a division of either Mutual Management or SBA ("Consulting"); and (c) with respect to the money market series of TRAK, a new sub-advisory agreement between Standish, Ayer & Wood, Inc. ("Standish") and Consulting. This relief would cover an interim period no longer than 120 days after the date Smith Barney, Harris Upham & Co. Incorporated ("Smith Barney") acquires certain businesses of Shearson. Second, the order would permit Thorsell, Parker Partners Inc. ("Thorsell") to serve as subinvestment adviser to the Small Capitalization Value Equity Investments sub-trust of TRAK (the "Value Equity Series of TRAK") until the earlier of (a) August 12, 1993 or (b) the date of shareholder approval or disapproval of its sub-investment advisory agreement (the "Thorsell Sub-Advisory Agreement").

FILING DATE: The application was filed on April 2, 1993. By supplemental letter dated April 20, 1993, counsel, on behalf of applicants, agreed to file an amendment during the notice period to make certain technical changes. This notice reflects the changes to be made to the application by such further amendment.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 12, 1993, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants: The Funds, TRAK, and Shearson, Two World Trade Center, New York, New York 10048. SBA and Mutual Management, 1345 Avenue of the Americas, New York, New York 10105.

FOR FURTHER INFORMATION CONTACT: John V. O'Hanlon, Staff Attorney, at (202) 272–3922, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds and TRAK are open-end management investment companies registered under the Act. The Funds and the money market series of TRAK (collectively, the "Money Market Funds") are money market funds that value their portfolio securities on the basis of amortized cost consistent with rule 2a–7 under the Act. Each Fund has entered into an investment advisory agreement with Shearson acting through Shearson Lehman Advisors, a unit of the Investment Management Group of the SLB Asset Management Division of Shearson, pursuant to which Shearson provides investment advisory and management services, subject to the general supervision of the Board of Directors or Board of Trustees ("Governing Board") of the Funds.

2. Shearson's Consulting Group is the investment adviser of the money market series of TRAK. The Consulting Group has entered into a sub-investment advisory agreement with Standish pursuant to which Standish provides sub-investment advisory services to the series, subject to the general supervision of its Governing Board and Shearson. For purposes of the application, Shearson acting as investment adviser or manager through its Shearson Lehman Advisors unit or its Consulting Group is referred to as the "Adviser."

3. The Value Equity Series of TRAK is one of twelve series offered by TRAK. Prior to January 13, 1993, Dremen Value Management, L.P. ("Dreman") served as the investment adviser to the Value Equity Series of TRAK. On January 13, 1993, with the prior approval of TRAK's Governing Board in accordance with rule 15a–4, the Value Equity Series entered into a new interim advisory agreement (the "Interim Agreement") with Thorsell pursuant to which Thorsell assumed responsibility for the management of the Series' assets as of such date for a period of 120 days. The Interim Agreement contains substantially the same terms and conditions, including fees, as the previous agreement with Dreman. Thorsell is a newly formed entity controlled by Richard Thorsell and Lewis Parker, both of whom formerly were employed by Dreman, where they were responsible for, among other things, the management of the assets of the Value Equity Series of TRAK.

4. In addition to serving (through an advisory group) as investment adviser or manager of the Funds and TRAK, Shearson is a broker-dealer registered under the Securities Exchange Act of 1934. Shearson serves as the principal underwriter for the Funds and TRAK. Shearson is an indirect wholly owned subsidiary of American Express Company. The Adviser is registered as an investment adviser under the

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Investment Advisers Act of 1940, as amended (the "Advisers Act").

5. Mutual Management, a wholly owned subsidiary of Smith Barney Inc., is an investment adviser registered under the Advisers Act. Mutual Management currently acts as investment adviser to five registered investment companies. Smith Barney is a wholly owned subsidiary of Smith Barney Inc., which is in turn a wholly owned subsidiary of Primerica Corporation ("Primerica").

6. On March 12, 1993, Shearson entered into a purchase agreement with Primerica and Smith Barney providing for the sale to Smith Barney and its designated affiliates of substantially all of the assets of the Shearson Lehman Brothers Division and the SLB Asset Management Division of Shearson, including Shearson's advisory business with respect to the Funds, TRAK, and other investment company clients (the "Transaction").

7. The closing of the Transaction is subject to certain conditions, including the condition that new investment advisory contracts with Smith Barney or a wholly owned subsidiary of Smith Barney (the "New Advisers") shall have been approved by (a) the boards of the Money Market Funds and of registered investment companies (and any series thereof) other than the Money Market Funds for which Shearson or its affiliates serve as investment adviser (collectively, the "Non-Money Market Funds"), including in each case a majority of the independent board members; and (b) the shareholders of the Non-Money Market Funds who, as of February 28, 1993, represented at least 75% of all of the assets of the Non-Money Market Funds.

8. On April 7, 1993, the Governing Board of the Money Market Funds approved the new agreements for the Money Market Funds providing for advisory and sub-advisory services after the Transaction. The Money Market Funds will present the agreements for shareholder approval and ratification at shareholder meetings currently scheduled for June 1 or 23, 1993.

9. Applicants anticipate that the Transaction will be consummated on or about July 4, 1993, assuming that all of the conditions to consummation of the Transaction will have been fulfilled prior to that date.

10. The Transaction would result in the termination of advisory and/or sub-advisory agreements for the Funds, TRAK, and Non-Money Market Funds advised by the Adviser. Faced with a desire to consummate the Transaction expeditiously, it was agreed that the consummation of the Transaction would be contingent upon approval of the new advisory contracts by shareholders of the Non-Money Market Funds but not upon approval by the shareholders of the Money Market Funds. Shares of the Money Market Funds are held beneficially by more than 2,278,000 shareholders. Although the Money Market Funds are currently preparing proxy materials, and have scheduled special meetings of shareholders to be held prior to the Transaction, there may not be an adequate solicitation period reasonably to assure a quorum of shareholders present at those meetings. Applicants assert that it is generally more difficult to obtain proxies from shareholders of money market funds than from shareholders of other investment companies.

11. Because of the difficulties described above, applicants seek relief from section 15(a) in the event applicants are unable to obtain a quorum of shareholders of the Money Market Funds prior to the scheduled July 4, 1993 closing of the Transaction. This temporary relief would cover an interim period no longer than 120 days after the date of the Transaction (the "Interim Period").

12. Each Money Market Fund's new investment advisory agreement that will be implemented during the Interim Period will contain the same terms and conditions as its current investment advisory agreement, and the new sub-advisory agreement that will be implemented during the Interim Period with respect to the money market series of TRAK will contain the same terms and conditions as the current sub-advisory agreement, except in all cases, the names of the parties and the dates of commencement and termination of the agreements.

13. The Thorsell Sub-Advisory Agreement has been approved by the Governing Board of TRAK, including a majority of the independent board members. Under the terms of rule 15a-4 under the Act, Thorsell will be able to serve as sub-adviser to the Value Equity Series of TRAK until May 13, 1993 without shareholder approval of the Thorsell Sub-Advisory Agreement. A notice of meeting and draft proxy statement were prepared and filed with the Commission for review and comment in anticipation of mailing them to shareholders of the Value Equity Series of TRAK on or about March 24, 1993. While the process of completing the proxy statement was underway, the Transaction was announced. Applicants soon recognized that any approval of the Thorsell Sub-Advisory Agreement at the scheduled May 6, 1993 meeting of shareholders would be rendered moot at the closing of the Transaction because, since the Adviser was proposed to be a party to the Thorsell Sub-Advisory Agreement, the Agreement would terminate at the closing of the Transaction and a second shareholders meeting would be required to reconsider the Agreement. Therefore, applicants also seek relief to present the Thorsell Sub-Advisory Agreement to the shareholders of the Value Equity Series of TRAK along with proposals relating to the Transaction at a shareholder meeting scheduled for June 1, 1993.

Applicants' Legal Analysis

1. Applicants request an order pursuant to section 6(c) exempting applicants from the provisions of section 15(a) and rule 15a–4 thereunder to the extent necessary (a) to permit the implementation during the Interim Period of the new advisory agreements and the new sub-advisory agreement without shareholder approval; (b) to permit the relevant New Adviser to receive from each Money Market Fund all fees earned under new advisory agreements implemented during the Interim Period if and to the extent approved and ratified by the shareholders of the Money Market Fund; (c) to permit Consulting to pay to Standish any and all fees earned by Standish under the sub-advisory agreement implemented during the Interim Period; and (d) to permit Thorsell to serve as sub-investment adviser to the Value Equity Series of Trak until the earlier of August 12, 1993 or the date on which shareholder approval or disapproval of the Thorsell Sub-Advisory Agreement is obtained.

2. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as investment adviser of a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of such registered investment company. Section 15(a) further requires that such written contract provide for automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a contract by the assignor.

3. Rule 15a–4 provides, among other things, that if an investment advisory contract with an investment company is terminated by assignment, a person may act as investment adviser for a period of up to 120 days after termination pursuant to a written contract that has not been approved by the investment company's shareholders, provided that the new contract is approved by the

board of directors of the investment company (including a majority of the non-interested directors), the compensation to be paid under the new contract does not exceed the compensation which would have been paid under the contract most recently approved by shareholders of the investment company, and neither the investment adviser nor any controlling person of the adviser directly or indirectly receive money or other benefit in connection with the assignment.

4. Upon completion of the Transaction, Smith Barney (or another direct or indirect wholly owned subsidiary of Smith Barney) is expected to own substantially all of the advisory business of the Adviser. The Transaction will result in an "assignment" within the meaning of section 2(a)(4) of the Act of the existing advisory agreements between the Adviser and the Money Market Funds, terminating each such investment advisory agreement, and the sub-advisory agreement between the Adviser and Standish, pursuant to its terms. Applicants cannot rely on rule 15a–4 because of the benefits to Shearson arising from the transaction.

5. Nonetheless, applicants assert that the granting of the requested exemption would be within the spirit of rule 15a–4. The release proposing rule 15a–4 indicates that the rule was designed to provide relief in cases where the assignment of an advisory contract occurs by virtue of an occurrence which may not be reasonably foreseeable, in order to avoid serious adverse consequences from the gap in an investment company's receipt of advisory services. Applicants submit that the situation at hand is similar to other types of assignments that are not reasonably foreseeable. In practical terms, the rapid culmination of the negotiations of the purchase agreement may not present, and the form of transaction deemed most appropriate by the parties to the purchase agreement may not permit, an opportunity to secure prior approval of new advisory and sub-advisory agreements by shareholders of the Money Market Funds, despite diligent attempts to do so.

6. Applicants assert that it is reasonable to permit the New Advisers to provide investment advisory services to the Money Market Funds without shareholder approval of the new advisory contracts for up to 120 days from the closing of the Transaction. This number of days will allow for reasonable adjournments of the shareholder meetings if necessary to obtain sufficient shareholder response to the solicitations in order to obtain the required approval as set forth in section 2(a)(42) of the Act.

7. Applicants submit that to deprive the New Advisers of fees for the Interim Period for no reason other than the fact that the Transaction may result in an assignment of the Money Market Funds' existing investment advisory agreements would be a harsh result and an unreasonable penalty to attach to the Transaction and would serve no useful purpose. This is particularly true where the parties have sought, to the extent reasonably practicable, to comply with section 15(a) of the Act by making a good faith attempt to obtain shareholder approval prior to the Transaction. Moreover, fees earned by the New Advisers and paid by a Money Market Fund or, in the case of the money market series of TRAK, by Consulting to Standish during the Interim Period will be maintained in an interest-bearing escrow account. Amounts in the account (including interest) will be paid to the relevant New Adviser or, in the case of the money market series of TRAK, to Standish, only upon approval by the shareholders of that Money Market Fund. In the absence of such approval, amounts in the escrow account will be paid to the respective Money Market Fund.[1]

8. The fees to be paid during the Interim Period would be at the same rate as the fees currently payable by the Money Market Funds, which fees have been approved by the Governing Board of the Money Market Funds (including the independent board members) in accordance with their obligations under the Act. Moreover, the investment advisory agreement of each of the Money Market Funds was approved by its public shareholders.

9. Applicants submit that a 90-day extension of the time period provided by rule 15a–4 is in the best interests of the Value Equity Series of TRAK and its shareholders because it will permit the Thorsell Sub-Advisory Agreement to be implemented at a single meeting with a singly proxy solicitation. Holding one meeting on June 1, 1993 instead of the two that would be required were the May 6 meeting to be followed in short order by a June meeting necessitated by the Transaction will be both less costly to the Value Equity Series of TRAK and less confusing to its shareholders. Applicants also assert that it would be beneficial to shareholders to consider the Thorsell Sub-Advisory Agreement at the same time as it considers a new investment advisory agreement with Consulting. Because events may develop that might preclude adherence to this time frame, applicants are seeking an extension until August 12, 1993.

10. For the reasons set forth above, applicants assert that the relief requested from the provisions of section 15(a) of the Act and rule 15a–4 thereunder is reasonable, necessary, and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Applicants' Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by the application that:

1. (a) The new advisory agreements to be implemented during the Interim Period will have the same terms and conditions as the existing advisory agreements; (b) the new sub-advisory agreement to be implemented during the Interim Period will have the same terms and conditions as the existing sub-advisory agreement; and (c) the Thorsell Sub-Advisory Agreement will have the same terms and condition as the Interim Agreement, except in each case for the names or identities of the parties, and the commencement and termination dates.

2. The Governing Board of each Money Market Fund will have approved each investment advisory or sub-investment advisory agreement with the relevant New Adviser in accordance with section 15(c) of the Act.

3. Fees earned by the New Advisers and paid by a Money Market Fund or, in the case of the money market series of TRAK, by Consulting to Standish during the Interim Period in accordance with the terms of a new advisory agreement or the new sub-advisory agreement will be maintained in an interest-bearing escrow account, and amounts in the account (including interest) will be paid (a) to the relevant New Adviser or, in the case of the money market series of TRAK, to Standish only upon approval by the shareholders of that Money Market Fund, or (b) in the absence of such approval, to the respective Money Market Fund.

4. The Money Market Funds will hold meetings of shareholders to vote on approval of the new investment

[1] The staff notes that applicants do not propose to escrow fees earned by Thorsell under the Thorsell Sub-Advisory Agreement. Because no money or other benefit was received by an investment adviser or a controlling person thereof in connection with the termination of the prior advisory agreement with Dreman, Thorsell was able to rely on rule 15a–4, which permits the payment of interim fees. In contrast, the fees earned by the New Advisers, or paid by Consulting to Standish, could not be paid under rule 15a–4 at any time.

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advisory agreements ant the new sub-advisory agreement (and, in the case of TRAK, the Thorsell Sub-Advisory Agreement) on June 1 and 23, 1993, which meetings may be adjourned for a reasonable period for legitimate business purposes in accordance with applicable state law.

5. Shearson and Smite Barney will share evenly the costs of preparing and filing the application and the costs relating to the solicitation of stockholder approval of the Money Market Funds' shareholders necessitated by the Transaction.

6. The New Adviser will take all appropriate steps so that the scope and quality of advisory and other services provided to the Money Market Funds during the Interim Period will be at least equivalent, in the judgment of the respective Governing Boards, including a majority of the independent board members, to the scope and quality of services previously provided. In the event of any material change in personnel providing services pursuant to the advisory or sub-advisory agreements, the New Advisers will apprise and consult with the Governing Board of the affected Money Market Funds in order to assure that they, including a majority of the independent board members, as satisfied that the services provided will not be diminished in scope or quality.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-9796 Filed 4-26-93; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1782]

Shipping Coordinating Committee, International Maritime Organization (IMO) Legal Committee; Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open public meeting at 10 a.m., on Tuesday, May 18, 1993, in room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The primary purpose of this meeting is to report on the results of the 68th Session of the International Maritime Organization (IMO) Legal Committee, held March 15 through March 19, 1993, in London, and the Diplomatic Conference on Maritime Liens and Mortgages, held in Geneva, April 19 through May 7, 1993.

To facilitate the attendance of those participants who may be interested in only certain aspects of the public meeting, the first subject addressed will be the various issues before the IMO Legal Committee with particular focus on the draft Convention on Liability and Compensation for Damages Arising from the Maritime Carriage of Hazardous and Noxious Substances (the HNS Convention). The second subject, which will be considered at approximately 12:30 p.m., will be a discussion on the results of the April Diplomatic Conference on Maritime Liens and Mortgages.

By way of background, since 1987, the Legal Committee has been working to develop a draft HNS Convention which was originally intended to apply to catastrophes caused by substances other than oil. While today's draft HNS Convention would still cover catastrophes, it would also extend to smaller incidents caused by a broader range of substances and currently would include oil pollution damage to the extent not already covered by the international oil pollution liability regimes.

The draft HNS Convention would impose strict liability upon the shipowner for damages arising from hazardous substances up to a yet-to-be-determined limit of liability with a second-tier international fund available to provide compensation for catastrophic damages or when the shipowner, for one reason or another, could not pay. The second-tier international fund, modeled after the International Oil Pollution Compensation Fund, may be financed by levies imposed upon hazardous cargo shipments or by postincident collections.

The draft convention would provide compensation for environmental damage as well as personal injury and property damage. Compensation for damage caused by a broad range of substances including oils (those not covered under the oil regimes), bulk liquid cargo, bulk solid cargo, bulk gases, packaged cargo, and flammable residues are all within the scope of the draft convention as presently written.

Important questions remain to be decided which include: (1) Whether the two-tier system is workable and can be implemented with an acceptable balance between equity and practicality; (2) which substances would be included within the scope of the convention's coverage for purposes of both compensating damage as well as for contributing to the financing of the second-tier fund; (3) how the levy amounts imposed upon cargo would be determined; (4) how the levies would be collected; (5) whether postincident funding of the second-tier fund is appropriate in some cases; and (6) whether the second-tier fund should be separated into multiple accounts for different sectors of the industry.

The views of the public, and particularly those of affected maritime commercial and environmental interests, are requested. While the views of the public and affected interests are encouraged on all relevant issues underlying the draft HNS Convention, comment is specifically requested regarding the following subjects: (1) The definition of "HNS" (those substances to which the draft HNS Convention would apply for purposes of shipowner liability as described in document LEG 67/3, Article 1(5)(d)); the definition of "contributing cargo" (those substances to which the draft HNS Convention would apply for purposes of financing the second-international fund as described in document LEG 67/3 Article 1(10)); the definition of "shipper" (the party responsible for levy payment in Article 1(4)); the definition of "carriage by sea" (defining when the convention would be applicable in Article 1(9)); whether postincident funding of the second-tier fund is appropriate in some cases; and whether the second-tier fund should be separated into multiple accounts for different sectors of the industry (see, for example, document LEG 68/4/4 proposing four separate accounts and postincident funding).

By way of background on the draft convention on Maritime Liens and Mortgages, the April Diplomatic Conference is the culmination of work commenced by an International Subcommittee of the Comite' Maritime Internationale (from 1972 through 1984) and a joint group of experts (JIGE) from IMO and the United Nations Conference on Trade and Development (UNCTAD) to revise the 1967 Convention on Maritime Liens and Mortgages (from 1986 through 1989).

The U.S. Shipping Coordinating Committee discussed the draft Maritime Liens and Mortgages Convention at its last two meetings (March 10, 1993 and November 19, 1992). The May meeting will focus on the results of the Diplomatic Conference.

Copies of the draft texts and other relevant documents have been distributed previously by way of regular mailings. Persons requesting to be added to the mailing list should contact Lieutenant Lee Handford at the telephone/fax numbers below.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room.

For further information or to submit views concerning the SHC meeting, contact either Captain David J. Kantor or Lieutenant Lee Handford, U.S. Coast Guard (G-LMI), 2100 Second Street, SW., Washington, DC 20593, telephone (202) 267-1527, telefax (202) 267-4496. For information regarding the Maritime Liens and Mortgages Convention, contact Lieutenant Commander Mark J. Yost, U.S. Coast Guard (G-LGL), telephone (202) 267-0059, telefax (202) 267-4163.

Dated: April 15, 1993.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 93-9702 Filed 4-26-93; 8:45 am]

BILLING CODE 4710-07-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Modification of Sanctions With Respect to the European Community Pursuant to Title VII of the Omnibus Trade and Competitiveness Act of 1988

AGENCY: Office of the United States Trade Representative.

ACTION: Postponement of implementation of prohibition of awards of contracts by federal agencies for products and services from Member States of the European Community until further notice.

SUMMARY: On April 22, 1993, the United States Trade Representative announced that the effective date of the prohibition on awards of contracts by federal agencies for products and services of some or all member states of the European Community (EC), scheduled to go into effect on that date, was being postponed in light of the agreement reached in principle with the EC on April 21, 1993 that will eliminate EC discrimination in the heavy electrical sector. An announcement of sanctions modified to reflect that agreement will be made shortly.

FOR FURTHER INFORMATION CONTACT: Mark Linscott, Office of GATT Affairs (202-395-3063), or Laura B. Sherman, Office of the General Counsel (202-395-7203), Office of the United States Trade Representative, 600 Seventeenth Street, NW., Washington, DC 20506.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Counsel.

[FR Doc. 93-9944 Filed 4-26-93; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Seattle-Tacoma International Airport, Seattle, WA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Seattle-Tacoma International Airport (SEA) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the Seattle-Tacoma International Airport noise exposure maps is April 15, 1993.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM-611, 1601 Lind Avenue, SW., Renton, Washington, 98055-4056.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps for Seattle-Tacoma International Airport are in compliance with applicable requirements of part 150, effective April 15, 1993. Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (herein after referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by SEA. The specific maps under consideration are Exhibit 4A and 4B in the submission. The FAA has determined that these maps for Seattle-Tacoma International Airport are in compliance with applicable requirements. This determination is effective on April 15, 1993. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of the FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Independence Avenue, SW, room 615, Washington, DC.

Federal Aviation Administration, Airports Division, ANM-600, 1601 Lind Avenue, SW., Renton, Washington, 98055-4056.

Seattle-Tacoma International Airport, Seattle, Washington.

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Questions may be directed to the individual named above under the heading, FOR FURTHER INFORMATION CONTACT.

Issued in Renton, Washington, April 15, 1993.

David A. Field,

Acting Manager, Airports Division, ANM-600, Northwest Mountain Region.

[FR Doc. 92-9773 Filed 4-26-93; 8:45 am]

BILLING CODE 4910-13-M

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Federal Aviation Administration Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on May 12, 1993, at 9 a.m. Arrange for oral presentations by May 5, 1993.

ADDRESSES: The meeting will be held at the Loew's L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-9683; fax number (202) 267-5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Executive Committee to be held on May 12, 1993, at the Loew's L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC. The agenda will include:

- A discussion of revisions to the proposed working group procedures.
- A discussion of revisions to the committee operating procedures.
- Status reports on issues.

Attendance is open to the interested public but will be limited to the space available. The public must make arrangements by May 5, 1993, to present oral statements at the meeting. The public may present written statements at the meeting. The public may present written statements to the executive committee at any time by providing 20 copies to the Executive Director, or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading FOR FURTHER INFORMATION CONTACT.

Issued in Washington, DC, on April 20, 1993.

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 93-9774 Filed 4-26-93; 8:45 am]

BILLING CODE 4910-03-M

Intent To Rule on Application Passenger Facility Charge (PFC); Fort Collins-Loveland Municipal Airport, Loveland, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Fort Collins-Loveland Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 27, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager, Denver Airport District Office, DEN-ADO, Federal Aviation Administration, 5440 Roslyn, Suite 300; Denver, CO 80216-6026.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to the Fort Collins—Loveland Municipal Airport, Loveland, Colorado, at the following address: 4824 Earhart Road, Loveland, Colorado 80538.

Air carriers and foreign air carriers must submit copies of written comments previously provided to the Fort Collins-Loveland Municipal Airport, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 286-5525; Denver Airports District Office, DEN-ADO; Federal Aviation Administration; 5440 Roslyn; suite 300; Denver, Colorado 80216-6026. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Fort Collin-Loveland Municipal Airport, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 19, 1993, the FAA determined that the application to impose and use a PFC submitted by the City of Loveland and the City of Fort Collins was substantially complete within the requirements of § 158.25 of part 159. The FAA will approve or disapprove the application, in whole or in part, no later than July 22, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3 00

Proposed charge effective date: October 1, 1993

Proposed charge expiration date: May 31, 1996

Total estimated PFC revenue: $207,857.00

Brief description of proposed project: Expand aircraft parking apron; modify taxiway guidance signs; terminal building expansion; construct ARFF building; groove runway 15/33; update airport master plan; rehabilitate aircraft parking apron.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application is person at the FAA office listed above under FOR FURTHER INFORMATION CONTACT and at the FAA regional Airports office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM-600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055-4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Fort Collins-Loveland Municipal Airport.

Issued in Renton, Washington, on April 19, 1993.

Matthew J. Cavanaugh,

Assistant Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 93-9772 Filed 4-26-93; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[FRA Docket No. H-92-1]

Addendum to the Petition for Waiver for Test Program, National Railroad Passenger Corporation

In accordance with 49 CFR part 211, notice is hereby given that the National Railroad Passenger Corporation (Amtrak) has requested an addendum to a previously granted temporary waiver of compliance with certain requirements of 49 CFR 231.12 in order to conduct a limited demonstration of a passenger trainset, the X2000. The previously granted waiver pertains to the operation of the X2000 without handbrakes, side and end handholds and uncoupling levers. The demonstration programs described in this notice would, if approved, involve a number of major cities in which Amtrak provides passenger service. Amtrak anticipates that the X2000 train sets will be on static display, but does not totally eliminate the possibility of some demonstration runs with the possibility of limited revenue service. The X2000 demonstration program would tentatively commence in June 1993 and terminate by August 31, 1993. The X2000 train set is electric powered, and will be moved to the various locations over non electrified railroads by a new General Electric Company built AMD-103 diesel-electric locomotive. The X2000 trainset will be equipped with a special coupler at the power car end to facilitate the coupling to a standard locomotive. The movements would be by mutual agreement between the various railroads and Amtrak with the foreknowledge of the Federal Railroad Administration (FRA).

The cities tentatively identified by Amtrak are as follows:

Harrisburg, Pennsylvania
Albany, New York
Chicago, Illinois
Dearborn, Michigan
Orlando, Florida
Portland, Oregon
Pittsburgh, Pennsylvania
Cleveland, Ohio
Milwaukee, Wisconsin
Birmingham, Alabama
Seattle, Washington
Los Angles, California.

The five corridors identified by Amtrak are as follows:

Los Angeles to San Diego or San Francisco, California
Seattle to Vancouver, Canada
New York City to Albany and/or Buffalo, New York
Chicago to Milwaukee or St. Louis, Missouri
Chicago to Dearborn

The X2000 demonstration train set will be composed of a power car (locomotive), four trailer coaches and a control driving trailer (in effect, a cab-control car for reverse running). This equipment is representative of the fleet of similar trainsets operated on a daily basis by Stevens Järnvägar (SJ), the Swedish State Railways. The distinguishing feature of this trainset in normal operation is that the coaches are tilted hydraulically on curves to compensate for centrifugal force. The presence of curved track, including acuteness of curvature, along with specific amounts of superelevaton, is sensed by instrumentation which actuates the carbody tilting mechanism.

The X2000 trainset operates in daily revenue service in Sweden at up to 9 inches of cant deficiency and has been successfully operated during tests in Europe at up to 12 inches of cant deficiency. In movement between various locations the X2000 will operate without the tilting system operative. Further, the train will be operated with a cant deficiency limited to 3 inches or less and at a maximum speed of 79 mph or less.

During the off-corridor demonstration period, Amtrak will notify all operating personnel, before their first encounter, that the X2000 trainset is not equipped with hand brakes, side or end handholds or uncoupling levers and to exercise caution. Although Amtrak will be hauling the entire train set around the country, the X2000 power car [locomotive] will be dead. It is being included because it is an integral part of the train set and is needed to condition the auxiliary power that will be supplied from the hauling locomotive.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., FRA Docket No. H-92-1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, DC 20590.

Communications received before May 25, 1993 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC on April 21, 1993.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 93-9807 Filed 4-26-93; 8:45 am]

BILLING CODE 4910-06-M

Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of 49 CFR Part 236

Pursuant to 49 CFR part 235 and 49 U.S.C. app. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Block Signal Application (BS-AP)—No. 3227

Applicant: Chicago and NorthWestern Transportation Company, Mr. D.E. Waller, Vice President—Engineering and Materials, One NorthWestern Center, Chicago, Illinois 60606.

The Chicago and NorthWestern Transportation Company seeks approval of the proposed modification of the traffic control system, on the single main track, between Manly, Iowa, milepost 224.9 and Albert Lea, Minnesota, milepost 253.03, on the Owatonna Subdivision; consisting of the relocation of 15 automatic block signals and the discontinuance and removal of controlled signals L82, L84, R82, and R84.

The reason given for the proposed changes is to maximize efficiency and safety of train operations by replacing aging pole line with modern solid state coded track circuitry, and the controlled signals are no longer warranted due to removal of the switches and control point.

BS-AP-No. 3228

Applicant: Consolidated Rail Corporation, Mr. J.F. Noffsinger, Chief Engineer—C&S, 15 North 32nd Street, Philadelphia, Pennsylvania 19104-2849.

The Consolidated Rail Corporation seeks approval of the proposed signal changes on the Bailey Avenue Branch, Sycamore Street Branch, and Belt Line Branch, at Buffalo, New York, on the Albany Division, consisting of the following:

1. The discontinuance and removal of the traffic control system on the two main tracks of the Bailey Avenue Branch between Bailey Avenue, milepost 0.0 and "CP-T" Interlocking,

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milepost 0.7, and operate the tracks as yard tracks;

2. The discontinuance and removal of the traffic control system on the single main track of the Sycamore Street Branch between Bailey Avenue, milepost 0.0 and "CP Sycamore" Interlocking, milepost 1.2, and operate the tracks as yard tracks; and

3. The discontinuance and removal of automatic singles 21, 24, 29, and 59 on the two main tracks of the Belt Line Branch.

The reason given for the proposed changes is to retire facilities no longer required for present day operation.

BS–AP–No. 3229

Applicant: Montana Rail Link, Inc., Mr. Richard L. Keller, Chief Engineer, P.O. Box 8779, Missoula, Montana 59807.

The Montana Rail Link, Incorporated seeks approval of the proposed modification of the signal system, on the single main track, between milepost 186.3 and milepost 194.2, near Toston, Montana, on the Second Subdivision; consisting of the relocation of signals 1926 and 1906 to the opposite side of the track, the relocation of signals 1889 and 1888 from milepost 188.9 to milepost 188.5, and the discontinuance and removal of signals 1873 and 1974, in connection with the installation of coded track circuits.

The reason given for the proposed changes is to upgrade the signal system and improve train operations.

BS–AP–No. 3230

Applicant: Burlington Northern Railroad Company, Mr. W.G. Peterson, Director Control Systems Engineering, Engineering Department, 373 Inverness Drive South, Englewood, Colorado 80112.

The Burlington Northern Railroad Company seeks approval of the proposed modification of the traffic control system, on the single main track, between Brookfield, Missouri, milepost 109.1 and Maxwell, Missouri, milepost 173.9, on the Galesburg Division, Brookfield Subdivision; consisting of the discontinuance and removal of 26 automatic signals and the installation of 44 automatic signals.

The reason given for the proposed changes is to respace and relocate signals at the time of a pole line elimination project.

BS–AP–No. 3231

Applicant: Wisconsin Central Limited, Mr. Glenn J. Kerbs, Vice President Engineering, P.O. Box 5062, Rosemont, Illinois 60017–5062.

The Wisconsin Central Limited (WC) seeks approval of the following proposed modifications of the traffic control system near Fond Du Lac, Wisconsin, on the Chicago Subdivision and Neenah, Wisconsin, on the Neenah Subdivision, associated with the installation of three new control points and track rearrangement:

1. The discontinuance and removal of existing control point "Fond Du Lac East", milepost CM157.38, on the Chicago Subdivision, consisting of the removal of three controlled signals and conversion of the power-operated switch to hand operation;

2. The discontinuance and removal of existing control point "Fond Du Lac West", milepost CM159.54, on the Chicago Subdivision, consisting of the removal of four controlled signals and conversion of the power-operated switch to hand operation;

3. The discontinuance and removal of existing control point "Neenah East", milepost CM184.86, on the Neenah Subdivision, consisting of the removal of three controlled signals and conversion of the power-operated switch to hand operation; and

4. The discontinuance and removal of two automatic block signals near milepost CM180.9 and two automatic block signals near milepost CM183.2, on the Neenah Subdivision.

The reason given for the proposed changes is to route the main line around the Fond Du Lac Yard and increase the length of the siding to accommodate increased rail traffic.

BS–AP–No. 3232

Applicant: Burlington Northern Railroad Company, Mr. W. G. Peterson, Director Control Systems Engineering, Engineering Department, 373 Inverness Drive South, Englewood, Colorado 80112.

The Burlington Northern Railroad Company seeks approval of the proposed modification of the traffic control system, on the single main track, between Huben, Missouri, milepost 192.5 and Teed, Missouri, milepost 233.5, on the Springfield Division, Cuba Subdivision; consisting of the discontinuance and removal of 23 automatic signals and 6 controlled signals, and the installation of 24 automatic signals and 5 controlled signals.

The reason given for the proposed changes is to respace and relocate signals at the time of a pole line elimination project.

BS–AP–No. 3233

Applicants: Montana Western Railway Company, Mike Greene, General Manager, 700½ Railroad Street, Butte, Montana 59701.

Union Pacific Railroad Company, Mr. P. M. Abaray, Chief Engineer—Signals, 1416 Dodge Street, room 920, Omaha, Nebraska 68179.

Rarus Railway Company, Mr. William T. McCarthy, President, P. O. Box 1070, Anaconda, Montana 59711.

The Montana Western Railway Company (MWRR), Union Pacific Railroad Company (UP), and Rarus Railway Company (RAWR) jointly seek approval of the proposed discontinuance and removal of the interlocking signal system, near milepost 7.0, at Silver Bow, Montana, where a single main track of the MWRR cross at grade a single main track of the RAWR and UP; consisting of the removal of four controlled signal and two approach signals, and the installation of stop signs on the RAWR and UP trackage on each side of the grade crossing.

The reason given for the proposed changes is due to operational changes the system is no longer required for safe train movements over the crossing.

BS–AP–No. 3234

Applicant: Duluth Missabe and Iron Range Railway Company, Mr. W. H. Harrison, Chief Engineer, Engineering Department, 329 Second Street, Proctor, Minnesota 55810–1091.

The Duluth Missabe and Iron Range Railway Company seeks approval of the proposed discontinuance and removal of the automatic block signal system, on the single main track between Carson, Minnesota, milepost 12.3 and Sax, Minnesota, milepost 51.0 and the discontinuance and removal of the traffic control system, on the single main track, between Sax, Minnesota, milepost 51.0 and Forbes, Minnesota, milepost 58.6, on the Missabe Division, a combined distance of approximately 46.3 miles, and operate via Computerized Track Warrant Control.

The reasons given for the proposed changes are the safety of Computerized Track Warrant Control, the trackage in the application area is relatively flat, train traffic in the area has been declining, the low train density over the trackage, and to eliminate maintenance costs.

BS–AP–No. 3235

Applicant: Montana Rail Link, Inc., Mr. Richard L. Keller, Chief Engineer, P. O. Box 8779, Missoula, Montana 59807.

The Montana Rail Link, Inc. seeks approval of the proposed modification of the signal system, on the single main track, between Austin, Montana, milepost 12.9 and Elliston, Montana,

milepost 25.5, on the Third Subdivision; consisting of the discontinuance and removal of automatic block signals 132, 139, 145, 146, 169, 170, 196, and 230, and the discontinuance and removal of controlled signals 55L, 55R, 53L, 53R, and 45L in conjunction with the installation of coded track circuits.

The reason given for the proposed changes is to upgrade the signal system and improve train operations.

BS–AP–No. 3236

Applicant: Burlington Northern Railroad Company, Mr. William G. Peterson, Director Control Systems Engineering, 9401 Indian Creek Parkway, P.O. Box 29136, Overland Park, Kansas 66201–9136.

The Burlington Northern Railroad Company seeks approval of the following proposed signal modifications, on the single main track, between Lyndale Jct., Minnesota, milepost 14.0 and Darwin, Minnesota, milepost 69.9, on the Minnesota Division, Wayzata Subdivision:

1. The discontinuance and removal of 35 automatic block signals;

2. The installation of 30 automatic block signals; and

3. The discontinuance and removal of "Cokato" control point, milepost 59.6, including the discontinuance and removal of three controlled signals and conversion of the power-operated switch to electrically locked hand operation.

The reasons given for the proposed changes are due to a pole line elimination project associated with the installation of electronic coded track circuits, and previously made track changes at Cokato make the control point unnecessary.

BS–AP–No. 3237

Applicant: Consolidated Rail Corporation, Mr. J.F. Noffsinger, Chief Engineer—C&S, 15 North 32nd Street, Philadelphia, Pennsylvania 19104–2849.

The Consolidated Rail Corporation seeks approval of the proposed modification of the traffic control system, on Track No. 1, milepost 197.7, near Union City, Ohio, on the Indianapolis Line, Indianapolis Division, consisting of the discontinuance and removal of automatic signal 1972.

The reason given for the proposed changes is to retire facilities no longer required for present operations.

BS–AP–No. 3238

Applicant: Consolidated Rail Corporation, Mr. J. F. Noffsinger, Chief Engineer—C&S, 15 North 32nd Street, Philadelphia, Pennsylvania 19104–2849.

The Consolidated Rail Corporation seek approval of the proposed modification of the traffic control system, on the two and three main tracks of the Chicago Line, between "CP 5" Interlocking, milepost 5.4, near Buffalo, New York and "CP 285" Interlocking, milepost 285.4, near Vickers, Ohio, on the Albany, Pittsburgh, and Darborn Divisions, associated with the installation of electronic coded track circuits. The changes include the following:

1. The discontinuance and removal of interlockings "CP 32," milepost 32.7, "CP 117," milepost 117.0, and "CP 145," milepost 145.2; consisting of the removal of all controlled signals and the conversion of all remaining switches to hand operation, equipped with an electric lock;

2. The discontinuance and removal of 63 existing automatic block signals; and

3. The installation of 45 new automatic block signals.

The reason given for the proposed changes is replacement of pole line retire associated with the installation of electronic track circuits allowing for respacing of signals for improved train operations and follow block capability.

Rules Standards & Instructions Application (RS&I–AP) No. 1087

Applicant: Union Pacific Railroad Company, and Missouri pacific Railroad Company, Mr. A. L. Shoener, Executive Vice president—Operations, 1416 Dodge Street, room 1206, Omaha, Nebraska 68179.

The Union Pacific Railroad Company (UP) and Missouri Pacific Railroad Company jointly seek relief from the requirement of the Rules, Standard and Instructions, 49 CFR part 236 in its entirety for the UP coded cab signal system on locomotives and in its track regulated pursuant to 49 CFR part 236 and related rules, in those locations where UP has a federally regulated wayside automatic signal system in place.

Applicant's justification for relief: Where both the wayside signal system and the coded cab signal-safety control system (CCS–CS) are in place there is a high level of redundancy. The wayside signal system is highly regulated and tested. Most of the UP system has only a wayside signal system in place. UP's efforts to enhance its operations with the CCS–CS have been impaired by FRA's denial of waivers and field interpretations and have resulted in a burdensome and costly system disadvantaging the UP as compared to other railroads without the CCS–CS.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street SW., Washington, DC 20590 within 45 calendar days of the date of issuance of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on April 21, 1993.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 93–9806 Filed 4–26–93; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

[Docket No. 93–28; Notice 1]

Ford Motor Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

Ford Motor Company (Ford) of Dearborn, Michigan, has determined that some of its vehicles fail to comply with the labeling requirements of 49 CFR 571.105, Federal Motor Vehicle Safety Standard (FMVSS) No. 105, "Hydraulic Brake Systems," and has filed an appropriate report pursuant to 49 CFR part 573. Ford has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) On the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

During the period of May 9, 1989, through March 18, 1993, Ford manufactured approximately 16,800 F53 Basic Chassis incomplete vehicles which, when completed by manufacturers other than Ford, may not

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meet the brake fluid warning label requirements of Standard No. 105. The brake fluid warning label required by Standard No. 105 is present, but may not be "located so as to be visible by direct view" as required. In the incomplete vehicle manual provided with the subject vehicles, Ford indicated that the vehicle, when completed, would conform to Standard No. 105 provided no alterations or modifications were made to the brake system reservoir labeling.

In Standard No. 105, Paragraph S5.4.3 *Reservoir labeling* states that "[e]ach vehicle shall have a brake fluid warning statement that reads as follows, in letters at least one-eighth of an inch high: 'WARNING, Clean filler cap before removing. Use only—fluid from a sealed container.' (Inserting the recommended type of brake fluid as specified in 49 CFR 571.116, e.g. 'DOT 3').' The lettering shall be * * * (b) [l]ocated so as to be visible by direct view, either on or within four inches of the brake fluid reservoir filler plug or cap."

On the subject vehicles, the lettering is embossed on the top surface of the master cylinder mounted reservoir and also on the reservoir cap. When installed in the chassis, the reservoir is located approximately four inches below the vehicle floor in the area just forward of the driver's seat. The master cylinder/reservoir assembly is serviceable through the left front wheel-well area, but neither the statement on the cap, nor the statement on the top surface of the reservoir is visible, in entirety, by direct view. However, the information provided on both the reservoir and the cap is correct, and the correct information also is provided in the owner's manual which accompanies each chassis and in Ford's service manuals.

Ford supports its petition for inconsequential noncompliance with the following:

It is important to note that the master cylinder reservoir on the Ford chassis is sufficiently transparent to allow the brake fluid level to be checked without removal of the cap. Consequently, the only time the cap should need to be removed is when it is necessary to add brake fluid, which should not occur in normal service because (1), as required by FMVSS No. 105, the reservoir capacity is sufficient to operate the brakes from a new lining, fully retracted position, to a fully worn, fully applied position, and (2), the fluid is not consumed in use. Rather, it should be necessary to add brake fluid only when the system is being bled to evacuate air during service to replace worn brake system components, or if a leak should occur, which requires repair to the system and bleeding to evacuate air. These kinds of brake system service are of the type likely to be performed only by trained and experienced personnel familiar with proper brake system servicing procedures, and [with] the need to use the correct type of brake fluid and avoid contamination.

Further increasing the likelihood that servicing the brake system in these vehicles will only be performed by knowledgeable personnel is the construction of the vehicle and location of the master cylinder and reservoir. The master cylinder and brake fluid reservoir must be serviced via the left front wheel-well either by turning the front wheels all the way to the left to create access, or by raising the vehicle on a hoist.

Ford believes that the likelihood that only trained personnel will be servicing the brake system, along with the less frequent need to remove the brake reservoir cap in these chassis because of the transparent reservoir, reduces considerably the likelihood that contaminants or incorrect brake fluid will be introduced into the brake system. With respect to the potential for brake fluid contamination, we find merit and submit the argument included in the [General Motors] petition [Docket No. 92–56] regarding the anomalous nature of this part of the warning statement concerning contamination, which in the practical sense is unnecessary if the area around the cap is clean, and may not be visible or may be illegible if the cap area is dirty.

This anomaly notwithstanding, Ford believes, based on the above information, that the ability to directly view the part of the warning statement addressing contamination in these chassis is somewhat less critical than in some other vehicles. With respect to usage of the proper type of brake fluid, adding fluid is not possible without removing the cap, and once the cap is removed, the statement on the cap is in fact "visible by direct view" by whomever removes the cap. We therefore believe that the likelihood of using incorrect brake fluid in these vehicles, particularly considering they are most likely to be serviced by knowledgeable personnel, is minimal, and noncompliance related to the part of the warning statement addressing the use of the proper brake fluid is especially inconsequential to motor vehicle safety.

In summary, in spite of the fact that the brake fluid reservoir warning statement on the affected Ford chassis may not be "visible by direct view," in entirety, as required by FMVSS No. 105, Ford does not believe there is a risk that contaminants would be introduced into the brake fluid reservoir, nor that incorrect fluid would be added. In addition, we are aware of no complaints, accidents, or injuries related to the brake fluid reservoir statement not being "visible by direct view."

Interested persons are invited to submit written data, views, and arguments on the petition of Ford, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: May 27, 1993.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: April 22, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–9805 Filed 4–26–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

[Treasury Directive Number: 16–24]

Distributions of Foreign Claims Funds to Awardees; Authority Delegation

Dated: April 13, 1993.

1. Delegation.

By virtue of the authority delegated to the Fiscal Assistant Secretary by Treasury Order (TO) 101–05, I hereby delegate to the Commissioner, Financial Management Service, the authority to determine the pro rata distributions of awards under the War Claims Act of 1948, as amended, and the International Claims Settlement Act of 1949, as amended, that are certified to the Secretary of the Treasury by the Foreign Claims Settlement Commission.

2. Cancellation

Treasury Directive 16–24, "Distributions of War Claims Funds to Awardees," dated September 22, 1986, is superseded.

3. Authority.

a. TO 101–05, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury."

b. 50 U.S.C. App. 2017*l*.

c. 22 U.S.C. 1626 et seq.

d. 31 CFR part 250, part 251, and part 253.

4. Office of Primary Interest

Office of the Fiscal Assistant Secretary.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 93–9478 Filed 4–26–93; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Commercial Activities, Performance; Cost Comparison Schedules (OMB A–76 Implementation)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In order to apprise the public of cost comparison studies which the Department of Veterans Affairs will conduct for the purposes of 38 U.S.C. 8110, the Department of Veterans Affairs serves notice to the public that the schedule of cost comparisons within the Veterans Health Administration (VHA) published on pages 43626–43628 of the **Federal Register** of October 28, 1985, has been changed. A number of cost comparison studies scheduled to begin earlier have been rescheduled to begin in 1993, due to extensive construction, replacement initiatives, and other management requirements. The following comprehensive list of the Department of Veterans Affairs cost comparison studies scheduled includes rescheduled start dates for some of the previously published VHA cost comparisons and approved schedules to re-study activities.

EFFECTIVE DATE: January 4, 1993.

FOR FURTHER INFORMATION CONTACT: Brodie C. Covington, Office of Policy and Planning, Management Analysis and Reports Service (008B3), Department of Veterans Affairs Central Office, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–2487. Questions relating to specific cost comparisons or local "service-contracting" should be referred to the Director of the VA facility concerned.

COST COMPARISON SCHEDULES

Field facility/activity	FTE	Schedule date
VA MEDICAL CENTERS (VAMC)		
Laundry and Dry Cleaning Services:		
St. Louis, MO (GOCO).	19.0	Jan 1993.
Tuskegee, AL (GOCO–COCO).	19.0	Mar 1993.
Portland, OR (GOCO).	12.0	Mar 1993.
Phoenix, AZ (GOCO).	14.0	Mar 1993.
Denver, CO (GOCO)	14.0	Sept 1993.
Alexandria, LA (COCO).	12.0	May 1993.
Lyons, NJ (COCO) ..	23.0	Jun 1993.
Albany, NY (GOCO)	15.0	Jul 1993.
St. Louis, MO (GOCO).	19.0	Aug 1993.
Minneapolis, MN (GOCO).	25.0	Sept 1993.
Kerrville, TX (COCO).	09.0	Aug 1993.
Palo Alto, CA (GOCO).	30.0	Jun 1993.
Madison, WI (GOCO).	10.0	Jun 1993.
Oklahoma City, OK (GOCO).	10.0	May 1993.
Pittsburgh, PA (GOCO).	32.0	Jul 1993.
Milwaukee, WI (GOCO).	14.0	Aug 1993.
Marion, IN (GOCO) .	34.0	Sept 1993.
Houston, TX (GOCO).	17.0	Jun 1993.
Dallas,TX (GOCO) ..	20.0	Jul 1993.
Brockton, MA (GOCO).	36.0	Aug 1993.
American Lake, WA (GOCO).	23.0	Sept 1993.
Sioux, SD (GOCO) .	08.0	Sept 1993.

COST COMPARISON SCHEDULES—Continued

Field facility/activity	FTE	Schedule date
Fire Protection Services:		
Coatesville, PA	15.0	Mar 1993.
Hot Springs, SD	15.0	Aug 1993.
American Lake, WA	15.0	Aug 1993.
Canadaigua, NY	15.0	Sept 1993.
Chauffeur Service:		
East Orange, NJ	10.0	Jun 1993.
Pittsburgh (UD), PA	11.0	Aug 1993.
W. Los Angeles, CA	39.0	Aug 1993.
Dayton, OH	15.0	Jul 1993.
Little Rock, AR	12.0	Mar 1993.
Battle Creek, MI	14.0	Jun 1993.
Augusta, GA	08.0	May 1993.
Grounds Maintenance Service:		
Coatesville, PA	12.0	Jun 1993.
Biloxi, MS	09.0	May 1993.
West Los Angeles, CA.	25.0	Aug 1993.
Houston, TX	10.0	May 1993.
Martinsburg, WV	15.0	Jun 1993.
Perry Point, MD	18.0	Aug 1993.
Design/Drafting/Printing:		
Boston, MA	11.0	Aug 1993.
Brockton, MA	05.0	Sept 1993.
Switchboard Services:		
Bronx, NY	09.0	Nov 1993.
Brooklyn, NY	08.0	Jul 1993.
Hines, IL	10.0	Jul 1993.
Minneapolis, MN	08.0	Feb 1993.
West Los Angeles, CA.	11.0	Jul 1993.
Richmond, VA	10.0	Sept 1993.
Transcription Service:		
Pittsburgh (UD), PA	13.0	Jul 1993.
Salisbury, NC	09.0	Aug 1993.
Portland, OR	11.0	Sept 1993.
Dallas, TX	14.0	Jun 1993.
Ann Arbor, MI	08.0	Jul 1993.
Mail/Messenger:		
West Los Angeles, CA.	13.0	Sept 1993.
Hines, IL	08.0	Jul 1993.
Long Beach, CA	05.0	Aug 1993.

Dated: April 16, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 93–9739 Filed 4–26–93; 8:45 am]

BILLING CODE 8320–01–M

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Sunshine Act Meetings

Federal Register
Vol. 58, No. 79
Tuesday, April 27, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION

Notice of Meeting

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, May 6, 1993.

The Commission was established pursuant to Public Law 99-647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7 p.m. at the Whitin Middle School, Granite Street, Uxbridge, MA, for the following reasons:

1. Introduction of new Corridor video
2. Report of Executive Committee on Budget and Administration
3. Report on status of boundary expansion effort
4. Report of Legislative Leadership Committee
5. Public Comment period

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to James Pepper, Executive Director, Blackstone River Valley National Heritage Corridor Commission, P.O. Box 730, Uxbridge, MA 01569. Telephone: (508) 278-9400.

Further information concerning this meeting may be obtained from James Pepper, Executive Director, Blackstone River Valley National Heritage Corridor Commission, P.O. Box 730, Uxbridge, MA 01569.

James R. Pepper,

Executive Director, Blackstone River Valley National Heritage Corridor Commission.

[FR Doc. 93-9938 Filed 4-23-93; 12:51 pm]

BILLING CODE 4310-70-M

Corrections

Federal Register
Vol. 58, No. 79
Tuesday, April 27, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL TRADE COMMISSION

16 CFR Part 400

Advertising and Labeling as to Size of Sleeping Bags

Correction

Proposed rule document 93-9092 beginning on page 21095 in the issue of Monday, April 19, 1993 was inadvertently published in the Rules section. It should have appeared in the Proposed Rules section.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-42-92]

RIN 1545-AQ77

Certain Cash or Deferred Arrangements Under Employee Plans

Correction

In proposed rule document 92-31188 beginning on page 43 in the issue of Monday, January 4, 1993, make the following corrections:

§ 1.401(k)-1 [Corrected]

On page 44, in the 2d column, in § 1.401(k)-1, in paragraph (g)(1)(iii), in the 1st line, "(a)" should read "(A)"; and in the 15th line, insert "collective" after "single".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL-941-86; INTL-656-87; INTL-704-87]

RIN 1545-AI33; RIN 1545-AC06; RIN 1545-AL35

Treatment of Shareholders of Certain Passive Foreign Investment Companies

Correction

In proposed rule document 92-6705 beginning on page 11024 in the issue of Wednesday, April 1, 1992, make the following corrections:

1. On page 11025:

a. In the first column, in the last complete paragraph, in the fifth line, "1.1291-10(2)(vii)" should read "1.1291-10(d)(2)(vii)".

b. In the second column, under **Background**, in the fifth line, "These" was misspelled.

c. In the same column, in the last complete paragraph, in the fifth line from the end, "subject" should have been capitalized.

d. In the third column, in the third line, "special" was misspelled and in the eighth line, "PFTC" should read "PFIC".

2. On page 11026, in the third column, in the second complete paragraph, in the eighth line from the end, "the" was misspelled the first time it appears, and in the last line insert "a" before "pedigreed".

3. On page 11027:

a. In the first column, in the sixth line, "prior PFIC" was misspelled.

b. In the same column, in the third complete paragraph, in the ninth line, "section" was misspelled.

c. In the second column, in the first line, "exceed" was misspelled.

d. In the same column, in the second complete paragraph, in the third line, "if" should read "in".

e. In the same column, in the third complete paragraph, in the second line, "generally" was misspelled and in the seventh line, "earnings" was misspelled.

f. In the same column, in the last line, "income sections" should read "income under section".

4. On page 11028:

a. In the first column, in the first complete paragraph, in the fourth line, "shareholder's" was misspelled.

b. In the same column, in the seventh line from the bottom, "§ 1.1291-2(f)(6)" should read "§ § 1.1291-2(f)(6)".

c. In the 2d column, under Indirect Dispositions, in the 6th line, "virtue" was misspelled and in the 12th line, "latter" was misspelled.

d. In the third column, above the last paragraph, "Transfers With" should read "Transfers Within".

5. On page 11029, in the first column, in the third full paragraph, in the third line, after "The" delete "tax" the first time it appears.

6. On the same page, in the same column, in the last full paragraph, in the eighth line from the end, "distribution" was misspelled.

7. On the same page, in the third column, in the last full paragraph, in the fifth line from the end, "transferee" was misspelled.

8. On page 11030:

a. In the first column, in the first full paragraph, in the fifth line, "gets" was misspelled and in the seventh line, "distribution" was misspelled.

b. In the same column, in the second full paragraph, in the fourth line, after "1291" insert "fund".

c. In the second column, in the first paragraph, in the fourth line from the end, "gain" was misspelled.

d. In the third column, in the second full paragraph, in the fifth line, "make" should read "made".

9. On page 11031, in the second column, in the eighth line, "mark-to-market" was misspelled.

§ 1.367(a)-1T [Corrected]

10. On the same page, in § 1.367(e)-1T(d)(4), in the last line, "§ 1.1291-(c)(1)." should read "§ 1.1291-1(c)(1)."

§ 1.367(e)-2T [Corrected]

11. On the same page, in § 1.367(e)-2T(c)(3)(iv), in the third line, after "to" insert "a".

§ 1.1291-1 [Corrected]

12. On page 11034, in the second column, in § 1.1291-1(b)(6), in the fourth line, "representation" was misspelled.

13. On page 11035, in the second column, in § 1.1291-1(h)(3), in the *Example*, beginning in the fifth line from the end, "§ 1.1291-1(H)(3)" should read "§ 1.1291-1(h)(3)".

14. On the same page, in the third column, in § 1.1291-1(h)(4)(i)(B), in the last line, "predecessor" was misspelled

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15. On page 11036, in the first column, in § 1.1291-1(i), in the tenth line, "corporation" was misspelled.

§ 1.1291-2 [Corrected]

16. On page 11037:

a. In the first column, in § 1.1291-2(b)(3)(i), in the second line, "and" should read "any".

b. In the same column, in § 1.1291-2(b)(3)(i), in the *Example*, in the seventh line from the end, "§ 1.1291-2(b)(3)(1)" should read "§ 1.1291-2(b)(3)(i)".

c. In the same column, in § 1.1291-2(c)(1), in the sixth line from the end "section" was misspelled and in the second line from the end "distribution" was misspelled.

d. In the same column, in § 1.1291-2(c)(2), in the first line, "*distribution*" was misspelled.

e. In the second column, in § 1.1291-2(c)(2)(iii), in the sixth line, "during" was misspelled.

17. On page 11038, in the third column, in § 1.1291-2(d)(5)(i)(A), in the second line, "fund" was misspelled.

18. On page 11040:

a. In the first column, in § 1.1291-2(e)(4)*Example 2*(ii), in the first line, "shareholder" should read "PFIC".

b. In the same column, in § 1.1291-2(e)(4)*Example 2*(iii), in the sixth line, "$150,00" should read "$150,000", and in the second line after the table, insert "year" after "prePFIC".

c. In the same column, in § 1.1291-2(e)(4)*Example 3*(iii), in the second line, "Block #1" was misspelled.

d. In the third column, in § 1.1291-2(f)(1)*Example*(iii), in the fifth line, "$801" should read "$80".

19. On page 11041, in the first column, in § 1.1291-2(f)(6), in the sixth line, "paragraph" was misspelled.

§ 1.1291-3 [Corrected]

20. On page 11041:

a. In the second column, in § 1.1291-3(b)(1), in the eighth line, "transfer" was misspelled.

b. In the same column, in § 1.1291-3(c), in the last line, "disposition" was misspelled.

c. In the third column, in § 1.1291-3(d)(1), in the tenth line, "paragraph" was misspelled.

d. In the same column, in § 1.1291-3(d)(6), in the fourth line from the end, "secure" was misspelled.

21. On page 11042:

a. In the first column, in § 1.1291-3(d)(7), in *Example 1*, in the fifth line from the end, "pledged" was misspelled.

b. In the same column, in § 1.1291-3(d)(7), in *Example 2*, in the second line, "*Example*" should read "*Example 1*", and in the eighth line, "disposition" was misspelled.

c. In the same column, in § 1.1291-3(e)(2)(i), in the last line, "in" should read "under".

d. In the same column, in § 1.1291-3(e)(2)(iii), in the seventh line, "ownership" was misspelled.

e. In the second column, in § 1.1291-3(e)(3)*Example 1*, in the second line from the end, "§ 1.1291-3(e)(iii)" should read "§ 1.1291-3(e)(2)(iii)".

f. In the same column, in § 1.1291-3(e)(3)*Example 3*, in the second line from the end, before "pursuant" insert "and therefore is an indirect disposition of the FYZ stock," and "§ 1.1291-3(e)(2(iii)" should read "§ 1.1291-3(e)(2)(iii)".

g. In the third column, in § 1.1291-3(e)(4)(iii), in the fifth line, "the" was misspelled, and in the second line from the end, "paragraph" was misspelled.

22. On page 11043, in the second column, in § 1.1291-3(j), in the eighth line, "section" was misspelled.

§ 1.1291-4 [Corrected]

23. On the same page, in the third column, in § 1.1291-4(d)(2), in the seventh line, "section 453(c)" should read "section 453A (c)".

24. On page 11044, in the first column, in § 1.1291-4(e)*Example 2*(ii), beginning in the tenth line, "§ 1.291-3(e)(5)" should read "1.1291-3(e)(5)".

§ 1.1291-5 [Corrected]

25. On page 11046, in the first column, in § 1.1291-5(c)(vi), in the second line, "tentative" was misspelled.

26. On the same page, in the same column, in § 1.1291-5(c)(vii), in the second line, "foreign" was misspelled.

27. On page 11047, in the second column, in § 1.1291-5(3)(viii), in the fifth line from the end, after "$30.62" insert "(1987 general limiation FTC limitation) and $23.73".

28. On the same page, in the same column, in § 1.1291-5(d), in the third line from the end, after "apply to" insert "a".

§ 1.1291-6 [Corrected]

29. On page 11048, in the 2d column, in § 1.1291-6(b)(4)(iv), in the 11th line, "dividend" was misspelled.

30. On page 11049:

a. In the first column, in § 1.1291-6(c)(2)(ii), in the fourth line, "section 358(b)" should read "section 368(b)".

b. In the second column, in § 1.1291-6(c)(2)(vi)(A), in the third line, "pursuant" was misspelled.

c. In the same column, in § 1.1291-6(c)(3)(i), in the third line, "disposition" was misspelled.

d. In the same column, in § 1.1291-6(c)(3)(ii), in the second line, "*partnership*" and "recognized" were misspelled.

31. On page 11050, in the first column, in § 1.1291-6(e), in the first line, "*nonqualifying*" was misspelled.

32. On the same page, in the second column, in § 1.1291-6(f)*Example 3*, in the third line from the end, "or" should read "of".

§ 1.1291-8 [Corrected]

33. On page 11052, in the third column, in § 1.1291-8(f), in the seventh line, "federal" should not have been capitalized.

34. On the same page, in the same column, in § 1.1291-8(g)(1)(i), in the sixth line, "or" should read "of".

§ 1.1291-9 [Corrected]

35. On page 11053, in the first column, in § 1.1291-9(a)(2)(i), in the third line, after "profits" delete "and".

§ 1.1295-1 [Corrected]

36. On page 11055, in the second column, in § 1.1295-1(b)(2)(i), in the fourth line, after "QEF." delete the comma.

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the Federal Register

Tuesday
April 27, 1993

Part II

Environmental Protection Agency

40 CFR Parts 260, et al.

Wood Surface Protection; Identification and Listing of Hazardous Waste; Testing and Monitoring Activities; Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 264, 265, 270 and 302

[FRL–4596–6]

RIN 2050–AD60

Wood Surface Protection; Identification and Listing of Hazardous Waste; Testing and Monitoring Activities; Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to amend the regulations for hazardous waste management under the Resource Conservation and Recovery Act (RCRA) by proposing to list as hazardous certain wastes from the use of chlorophenolic formulations in the wood surface protection industry. The Agency is proposing to list these wastes if the user's in-process formulation contains a concentration greater than 100 ppb pentachlorophenate. This action proposes various testing, analysis, recordkeeping requirements and management standards for wood surface protection plants. Related to the testing requirement, the Agency proposes to amend SW–846 ("Test Methods for Evaluating Solid Waste, Physical/Chemical Methods") to include Method 4010 (Immunoassay Test for the Presence of Pentachlorophenate). This action also proposes to modify the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) list of hazardous substances to reflect the newly proposed listing. This action proposes to add six hazardous constituents to appendix VIII of 40 CFR part 261 and to amend appendix VII of 40 CFR part 261 by adding F033 and the hazardous constituents found in the wastes on which the listing determination is based. Finally, this action also requests comment on the option not to list as hazardous wastes from the surface protection processes which would fall within the scope of this proposed listing. The "no-list" option is being considered by the Agency because future generation of these wastes is expected to rapidly diminish and because the results from risk analysis show that risk from the dominant exposure pathways is relatively modest assuming the widespread use of chlorophenolics does not resume. The intended effect of this proposed listing will be to insure that wastes generated from surface protection processes covered under this listing will be properly managed.

DATES: EPA will accept public comments on this proposed rule until June 28, 1993. Comments postmarked after this date will be marked "late" and may not be considered. Requests for extensions will not be granted due to judicial deadlines for the promulgation of a final rule. Any person may request a public hearing on this proposal by filing a request with Mr. David Bussard, whose address appears below, by May 11, 1993.

ADDRESSES: The official record of this rule-making is identified by Docket Number F–93–F33P–FFFFF and is located at the following address: EPA RCRA Docket Clerk, room 2427 (OS–332), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The docket is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (202) 260–9327. The public may copy 100 pages from the docket at no charge; additional copies are $0.15 per page. Copies of materials relevant to the CERCLA portions of this rulemaking also are located in room 2427 at the above address.

To request a public hearing on this proposal file a request with Mr. David Bussard (OW–330), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline, at (800) 424–9346 (toll-free) or (703) 920–9810, in the Washington, DC metropolitan area. The TDD Hotline number is (800) 553–7672 (toll-free) or (703) 486–3323, locally. For technical information on the proposed listing, contact Mr. David J. Carver at (202) 260–6775, Office of Solid Waste (OS–333), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

For technical information on the CERCLA aspects of this rule, contact: Ms. Gerain H. Perry, Response Standards and Criteria Branch, Emergency Response Division (5202–G), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (703) 603–8732.

SUPPLEMENTARY INFORMATION: To assist the public in its review of critical documents, the Agency has provided copies of all relevant background documents to the following affected National trade groups: American Forest & Paper Association, and the National Furniture Manufacturers Association. These documents are also available for public review in the docket for this rulemaking. The contents of this preamble are listed in the following outline:

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B. Cost of Proposed F033 No-List Option
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E. Cost Effectiveness Analysis
XIII. Regulatory Requirements
A. Regulatory Flexibility Act
B. Paperwork Reduction Act

I. Legal Authority

These regulations are being promulgated under the authority of sections 2002(a) and 3001(b) and (e)(1) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6921(b) and (e)(1), and 6922 (commonly referred to as RCRA), and section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9602(a).

II. Background

A. History of the Regulation

Section 3001(e) of RCRA as amended by the Hazardous and Solid Waste Amendments (HSWA) requires EPA to determine whether to list as hazardous wastes containing chlorinated dioxins and chlorinated dibenzofurans. As part of this mandate, the Agency in 1988 initiated an investigation of dioxin-containing wastes from wood surface protection and wood preserving processes.

On December 30, 1988, EPA proposed four hazardous waste listings pertaining to wastes from wood preserving and surface protection, as well as a set of standards for the management of these wastes (53 FR 53282). The Agency finalized three generic hazardous waste listings for wastes from wood preserving processes and promulgated standards in 40 CFR parts 264/265, Subpart W for the management of these wastes on drip pads on December 6, 1990 (55 FR 50450). (The Agency subsequently modified those listings on December 24, 1992 (57 FR 61492).) In the December 6, 1990 final rule, the Agency deferred listing wastes from the surface protection industry because of a need for additional data on these wastes to determine whether they should be listed as hazardous wastes.

In accordance with a proposed consent decree signed by the EPA and the Environmental Defense Fund (EDF), EPA has agreed to promulgate a final listing determination for chlorophenolic wastes generated by the wood surface protection industry by the end of December, 1993.

B. Summary of Additional Information Collection

Since 1990, the Agency has acquired a substantial amount of new information on the surface protection industry and its waste generation. This new information was obtained, in part, from questionnaire responses which the Agency received from 134 plants under the authority of RCRA section 3007. The information obtained includes a history of past use of the chlorophenolic surface protectants and information on the duration of their use, as well as production information, process information, and waste generation and management information.

In addition to the information collected through the questionnaires, the Agency visited and interviewed personnel at various plant sites throughout the Nation. The majority of the plants selected for on-site interviews used, at the time of the visit, chlorophenolic formulations to protect the surface of lumber. All process types and varying production sizes were observed. These visits assisted the Agency in selecting appropriate initial sampling locations, as well as in obtaining information about process layouts, terrain, and proximity to groundwater wells. In addition, the Agency studied waste management and pollution prevention practices. Subsequent site visits included familiarization sampling which was used to estimate present waste content prior to record sampling which followed during subsequent site visits. The site selection process was not a random selection process. The Agency conducted on-site studies at 19 different operating plants. From information collected at these on-site visits, combined with extensive research and industry trade group assistance, the Agency determined that it could obtain better, more realistic information on the wastes generated by the sawmill industry if it chose specific sites, instead of using a random selection process. The Agency used various parameters to select the five chosen sites for record analysis. A more detailed discussion as to site selection can be found in the background document for this rulemaking. However, the Agency believed that the following variables affected waste generation to the largest degree: (1) Process type, (2) production quantity, (3) current management practices, (3) current or past user status (along with time period since last used a chlorophenolic), (4) degree for potential groundwater contamination as expressed by a drastic score analysis, and (5) whether or not a plant cleaned out equipment prior to switching over to a substitute product. Video and still photography captured much of the on-site work. Information was also collected from plant personnel. The Agency also collected information from EPA Regional Offices, State and local agencies, and other federal agencies including the U.S. Forest Service, the Department of Commerce, the Internal Revenue Service, and the U.S. Customs Service. All information related to this proposal for which a Confidential Business Information (CBI) claim has not been made is available for public review in the docket for this rulemaking. For more information about the Agency's CBI protection, please refer to 40 CFR part 2, subpart B. The Agency requests comment on the information gathered to support this proposal, including information gathered from sawmill sites across the country.

Based on the additional data collected, the Agency examined potential human health pathways, ecological effects, and performed new risk modeling to simulate the flow of waste drippage to ground water and to nearby streams. Both waste and environmental media samples were taken to obtain true soil concentrations for the purpose of running the risk models. Also, additional damage incidents were identified to provide additional data for this listing determination. The details of the Agency's risk assessment and health effects analysis are discussed in section VI.(C) of the preamble.

III. Description of the Industry and Surface Protection Processes

A. Defining Surfoce Protection

The wood surface protection industry consists primarily of sawmills that cut rough lumber and timber. United States manufacturers produced a total of 43.13 billion board feet of lumber in 1989. Of the total production, the top 10 lumber producers manufactured 13.71 billion board feet, about 28 percent of the total U.S. output. Small sawmill operations account for the remaining volume (72%) of the lumber produced in the U.S.

The types of wood that are cut are divided into two main classes, softwoods and hardwoods. Softwoods are those obtained from such coniferous trees as pines, spruces, hemlocks, and firs; hardwoods come from deciduous trees, and include such trees as oaks, ashes, maples, basswood, poplars, gums, as well as many tropical trees. Softwoods are used more extensively in building construction and hardwoods

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are used for furniture, interior finish, and for products where special wood structure is desired.

The surface protection industry protects wood against sapstaining that may occur during temporary lumber storage. Sapstaining of freshly cut lumber will occur in humid conditions, typically when the water content inside the wood is greater than 19% water. Sapstain does not attack the structural components of the wood, however, the affected surface becomes colored with dark blue or black stains. This discoloration is often objectionable to the buyer and may decrease the value of the wood. Following one day of storage, the stain can usually be planed away; however, stains that remain on lumber for a longer period usually cannot be planed away without excessive wood loss. To avoid staining, many plants coat lumber with chemicals to prevent the occurrence of stain. This practice is accomplished on-site at sawmills throughout the country, during various periods of the year, depending on the regional climate. The Agency believes that there are approximately 3200 sawmills operating in the U.S. today. Out of that number, approximately 980 mills perform some surface protection activities.

The Agency believes that other industries, including furniture manufacturing and lumber export, are or have been engaged in surface protection operations. The Agency requests information on the extent or absence of this practice (both past and current) within these and other industries. It is important to note that because the Agency is proposing a non-specific source hazardous waste listing (F waste code), all industries performing surface protection operations are potentially subject to this proposed regulation, not just sawmills. Based on any information received during the comment period and from further EPA investigations before promulgation of the final rule, EPA will modify the risk and cost estimates as appropriate to account for other potentially affected facilities.

The surface protection of wood involves the application of sapstain control agents by spraying or dipping. Historically, chlorophenolic formulations used for anti-stain purposes consisted of sodium pentachlorophenate, which is an aqueous solution produced by dissolving pentachlorophenol in sodium hydroxide (NaOH). The active ingredient in the formulation, depending upon the pH of the system, may exist as pentachlorophenol or as sodium pentachlorophenate.

The trade names of the chlorophenolic formulations used in wood surface protection include Permatox 101, Permatox 181, and Permatox 10S, all of which were made by Chapman Chemicals and are no longer being produced. By the time today's proposal is promulgated as a final rule, the Agency does not expect there will be any users of full-strength chlorophenolic formulations within the surface protection industry. ("Full-strength" formulations are those having a typically recommended chlorophenolic content by the manufacturer of approximately 0.4 percent pentachlorophenate.) Many plants, however, use, and will continue to use for some time, formulations with lower concentrations of pentachlorophenate.

As a result of increased environmental concerns and more stringent regulation involving pentachlorophenol and related chemicals, alternative formulations have been developed to replace sodium pentachlorophenate. The Agency requests information on substitute chemicals sold in the U.S. that can be used in place of the chlorophenolic formulations with which this proposed listing is concerned. Information on alternate use will be incorporated into a manual detailing pollution prevention methods currently being developed by the Agency to benefit the lumber industry.

B. Process Description

Sawmill cutting operations are typically the same at all plants. Raw logs are cut into cants that are trimmed into rough lumber. In some cases, cants are cut to specific lengths or further finished depending on the final destination of the lumber product. Not all sawmills conduct surface protection operations. Surface protection is typically conducted at mills that process hardwoods; however, soft woods cut for export may also be surface protected.

An estimation of process "cutting" production rates is important in estimating surface protection waste generation rates. For this purpose, the Agency grouped mills into three categories, by production rate: Small mill production (less than 5 million board feet (mbf) per year), medium mill production (between 5 and 25 mbf/year), and large mill production (more than 25 mbf/year). The Agency studied these groups to determine if particular management standards or practices are related to mill size. The Agency conducted on-site interviews and sampling at mills in all three production categories. After the wood is cut, it is stacked and prepared for surface protection. The large mills in the western U.S. export much of their product and treat their lumber with surface protectants all year, while smaller plants or large plants that do not typically export, only treat their lumber with surface protectants during humid months depending on the region of the country in which they operate. Often, wood that is prepared for export is treated with surface protectants because ship transit often subjects the wood to high humidity. Usually, only high grade wood is treated with surface protectants.

Once the wood has been cut at a sawmill, it is typically surface protected unless it is low quality, or will be preserved later at a different facility (i.e., by the customer). Although surface protection is usually accomplished at the sawmill, the Agency recognizes, as noted above, that other types of facilities (particularly furniture manufacturers) may perform this process. The Agency assumes that the types of processes used at sawmills (described below) are the same as those used by furniture manufacturers or other types and that the quantities of waste generated are also similar. This assumption is based on the Agency's in-depth knowledge of wood surface protection. The processes described in this section are, to the Agency's knowledge, the only types of processes available for wood surface protection, and, therefore, are the only processes likely to be used by any industry which surface protects wood.

There are three major processes used by sawmills for applying anti-stain formulation to wood: the dip process, the spray process, and the green chain process. The Agency was unable to obtain information on the treatment of wood by furniture manufacturers or exporting firms and requests information on this.

Typically, a sawmill will use only one process to surface protect; however, the Agency realizes that some plants use a combination of processes to treat lumber at different locations throughout a mill. Dipping is a batch process; green chain and spray operations are continuous processes. The process type influences the amount of control a plant has on waste which it generates.

Dip operations offer the best opportunity to control drippage since an owner or operator has the capability of keeping the wood over the tank until it stops dripping. In actuality, however, dipping operations can lead to more drippage when mills do not allow the treated loads to stop dripping before the next load is dipped. Lumber is dipped in horizontal bundles, as a result, surface protectant is often trapped within the bundles (referred to as "entrained" liquid). When forklifts remove the lumber, large quantities of protectant can drip from the wood if the lumber is tipped.

Unlike the dipping operation, the spray operation is a continuous operation. Individual pieces of lumber are fed end-to-end by chain, roller, or conveyor belt system through a spray box, which is often equipped with flexible brushes or curtains at both ends to isolate the formulation spray and minimize drippage.

Green-chain systems represent another type of continuous operation. The green-chain is so-named because chains drag fresh cut (or "green") lumber through a tank of protectant formulation and back out again for sorting and grading. After the wood is cut, it is transferred to the green chain. A dip vat containing anti-stain formulation is typically located at the head of the green chain and the wood falls into this vat from the cutting operations. Some systems utilize wheels or rollers just above the formulation surface to force the wood pieces completely into the solution. As the wood is drawn from the vat and along the green chain, excess formulation is released from the wood pieces. Green-chain operations are typically the least controllable operation with respect to drippage.

IV. Summary of the Proposed Regulation

A. Overview of Proposed Hazardous Waste Listing

The Agency is proposing to add one group of wastes from the wood surface protection industry to the list of hazardous wastes from non-specific sources (40 CFR 261.31). This listing, if made final, would carry the F033 waste code and includes the following specific wastestreams:

F033: Process residuals, wastewaters that come in contact with protectant, discarded spent formulation, and protectant drippage from wood surface protection processes at plants that use surface protection chemicals having an in-process formulation concentration of pentachlorophenate (expressed as pentachlorophenol during analysis) exceeding 0.1 ppm. (T)

As noted in the language of the listing description, the Agency proposes to list as hazardous only those wastes from wood surface protection processes using protectant formulations that have a pentachlorophenate concentration greater than 0.1 ppm. Under this concentration trigger, the F033 listing may cover owners or operators who have switched to an alternate, non-chlorophenolic formulation (so-called "transitional users") and who did not clean out their equipment prior to switch-over. The Agency considers the wastes generated by such transitional users to be included within the scope of this proposed listing if their formulations exceed the proposed concentration. It is possible, however, that wastes generated by a transitional user may not meet the listing description if product switch-over either occurred long enough ago so that all the chlorophenolics have been consumed in the process or if the tank was cleaned out thoroughly prior to switch-over.

To minimize future risks to human health and the environment from the release of wastes, EPA has set a maximum level of pentachlorophenate in a formulation of 0.1 ppm (100 ppb) as the level above which the proposed listing applies. An owner/operator using formulations containing pentachlorophenate at or below 0.1 ppm does not generate wastes that meet the proposed F033 listing. As described later, the Agency's risk assessment suggests that the use of surface protection formulations containing chlorophenolics at concentrations greater than 0.1 ppm may pose risks to human health and the environment.

Formulations with penta-chlorophenate concentrations at or below the 0.1 ppm threshold established in the proposed listing description would result in levels of pentachlorophenate that reach ground water that are below health-based levels of concern. The 0.1 level was calculated using a Maximum Contaminant Level (MCL) of 0.001 ppm and a risk analysis using the Agency's Multi-med model. Multi-med simulates the risk to groundwater from specific sources, and for this proposal, it incorporated variables which are specific to sawmill conditions. The Agency's analysis approximated the dilution of pentachlorophenate from the time the waste contacts the ground to when it reaches a ground water well. The Agency's selection of the 0.1 ppm formulation concentration level generates risk levels to human health from groundwater contamination ranging from a high end individual risk range of 5×10^{-7} to 7×10^{-6} to a central tendency individual risk of 2×10^{-8}. The Agency considers these risks to lie within the acceptable risk range. The Agency did not arrive at the 0.1 ppm level by applying a dilution attenuation factor (DAF) of 100 (as the Agency has done in other circumstances) to the MCL. Indeed, the Agency is not taking a position, in this proposal, about the use of DAFs in calculating acceptable risk levels for any constituents. A detailed discussion of the Agency's modeling assumptions and actual parameters used to generate risk approximations can be found in the docket for this proposed rule.

This calculated level of 0.1 ppm for the pentachlorophenate formulation content is also consistent with levels used in the Agency's RCRA hazardous waste delisting program (see 40 CFR 260.22). In making delisting determinations, the Agency compares leachable levels of the constituents of concern associated with a particular waste with health based levels for those constituents. The model used (the Composite Model for Landfills, or CML) in making delisting determinations generates Dilution Attenuation Factors (DAFs) in a range from 10 to 100. Where a particular waste's volume is not known, a conservative DAF of 10 is used. The CML-generated DAF is then used to determine constituent levels for delisting. A typical level for which wastes may be delisted for leachable pentachlorophenol constituents is between 1×10^{-2} to 0.1 ppm. A typical level for pentachlorophenate constituents would be the same, because the leachable pentachlorophenate would be expressed in analysis as pentachlorophenol. Thus, the pentachlorophenate concentration level of 0.1 for in-process formulations in the proposed listing is consistent with the delisting level.

The Agency notes that industry has been voluntarily switching to alternate non-chlorophenolic substitutes. By listing wastes generated from formulations whose pentachlorophenate concentration is above 0.1 ppm, the Agency hopes to contribute to these voluntary measures and to create an impetus for switching away from the use of chlorophenolic compounds. In order to achieve a pentachlorophenate level at or beneath 0.1 ppm, a plant that at one point used a chlorophenolic formulation must typically clean its equipment. The Agency has determined that sandblasting the formulation tank is one effective method for cleaning equipment to reduce penta-chlorophenate levels. The Agency has also found that formulation tank sandblasting followed by coating the tank with epoxy coating will reduce both pentachlorophenate levels and dioxin levels. This is because dioxin tends to bind to the walls of equipment and the coating provides a physical barrier to cross-contamination. Because of the added environmental benefits of reducing levels of dioxin in the formulation (and this reducing possible dioxin contamination in process area

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soils due to drippage), the Agency recommends, but is not requiring, that formulation tanks be cleaned by sandblasting followed by epoxy coating. Further information on the Agency's findings, including a discussion equipment cleaning field testing conducted during the development of this proposal can be found in the docket associated with this rulemaking.

The Agency is also proposing to require that those surface protection plants that do not generate an F033 hazardous waste because their in-process formulation is equal to or less than 0.1 ppm pentachlorophenate to test their formulations using a method found in SW–846 (Test Methods for Evaluating Solid Waste, Physical/Chemical Methods). Several appropriate methods can be found in SW–846, including methods 8040 and 8270. This notice also proposes to add Method 4010 (Immunoassay Test for Determining the Presence of Pentachlorophenate) to SW–846. The testing analysis must be performed by a laboratory qualified to perform the analysis. The Agency also proposes to require that either a licensed professional engineer or a responsible company official sign a certification stating the sampling location, the laboratory used with address, the date the analysis was performed, the type of analysis used and the analysis results.

The Agency notes that the proposed testing requirement does not affect the requirement of 40 CFR 262.11 that every generator of a solid waste determine whether that waste is a hazardous waste. Maintaining a signed certification, as described above, will, however, establish a presumption that the plant has complied with 40 CFR 262.11.

Although EPA has not, in the past, imposed an affirmative testing requirement in connection with the listing of other hazardous wastes, the Agency feels that the testing requirement proposed today is both reasonable and appropriate. Unlike other listed hazardous wastes, F033, as proposed, includes in its regulatory listing description a specific numerical concentration component. Without testing and analysis requirements it would be difficult for an Agency inspector to determine whether the surface protectant formulation at a given plant is at or beneath the proposed threshold level: The level of pentachlorophenate in formulations level cannot be determined by observation alone. It is important to note that concentration testing is not required for *wastes;* rather, the concentration of pentachlorophenate in the in-process formulation defines, in part, the scope of the proposed listing, thus making testing appropriate. The Agency requests comment on the appropriateness of imposing this testing requirement.

The importance of the proposed concentration trigger in the proposed listing description cannot be overemphasized. Only processes using formulations with a concentration of pentachlorophenate exceeding the standard in the proposed listing would generate F033 wastes and, thus, be subject to the requirements proposed today. It is important to note that all wood surface protection plant owner and/or operators that have used chlorophenolics in the past who wish to transition from the use of chlorophenolic to non-chlorophenolic formulations in order to avoid handling their wastes as F033 hazardous wastes will be required to test their in-process formulations. Plants whose formulations test at or below 0.1 ppm pentachlorophenate would not generate F033 wastes. Under today's proposal, however, these plants must maintain records of this analysis and comply with other one-time provisions of proposed subpart T (§ 264.561(a) and § 264.562).

If a plant elects to not handle its wastes as F033 hazardous waste, and believes that its in-process formulation is at or beneath the proposed pentachlorophenate concentration level, the plant owner/operator must sample and analyze the in-process product formulation used to protect the surface of lumber. Such sampling must be conducted immediately following operation (and consistent with safe plant operations), and must be conducted by the owner/operator utilizing the guidance found in chapter 9 (sampling plan) and chapter 10 (sampling methods) of EPA's Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW–846). Analysis of the formulation will require the utilization of a qualified analytical laboratory. Sampling must be performed immediately after operation to ensure a true characterization of the formulation, since it is the formulation, agitated by use during operation, that drips from treated wood as waste. The results of this analysis must be maintained on-site as long as the plant is in operation. EPA is proposing that laboratories must use test methods found in SW–846. Methods 8040 and 8270, which appear in SW–846 are appropriate for this analysis. The Agency believes that method 4010, which is presently in draft form and not a part of SW–846, is also appropriate for the determination of pentachlorophenate content. EPA is proposing to add method 4010 to SW–846.

Method 4010 is an immunoassay test for the presence of pentachlorophenate. It does not provide an exact concentration, but determines whether a sample is above or below a set limit (like the 0.1 ppm level proposed today). The detection limit for this test is 0.005 ppm. Method 4010 is presently in draft status and this action proposes its incorporation in SW–846.

Other methods for the determination of pentachlorophenate as pentachlorophenol are SW–846 Methods 8270 and 8040. Method 8270 (entitled Semi-Volatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS)) uses a mass spectrometer to perform analytical measurements. Another SW–846 method, EPA Method 8040 (entitled Phenols by Gas Chromatography), utilizes a flame ionization technique or an electron capture procedure to obtain pentachlorophenate concentrations. EPA requests data on other test methods that may be equally effective in detecting pentachlorophenate.

B. Proposed Hazardous Waste Management Standards

The EPA has found that the wastes proposed for listing today contain toxic constituents, some of which are carcinogenic. These wastes, when mismanaged, pose a substantial threat to human health and the environment. Based on its study of the industry, the Agency considers waste mismanagement to include drippage, spillage, or other releases onto soil as well as disposal of tank sludge into sawdust piles to be carried off as boiler fuel. The Agency considers the burning of sawdust contaminated by sludges heavily laden with pentachlorophenate and dioxin to be an example of mismanagement of this waste when the plants which burn the sawdust usually do not follow 40 CFR part 266, subpart H under the Boiler and Industrial Furnace ("BIF") Rule or 40 CFR parts 264/265, subpart O which covers incinerator operation requirements. If, however, a plant was classified as a boiler or an industrial furnace and is in compliance with applicable regulations, then the burning of these sludges would not be an example of mismanagement. In addition, the Agency has compiled information showing that certain constituents found in these wastes are persistent and mobile in the environment surrounding surface protection plants. Wastes from this industry are also water-soluble and can be carried by precipitation run-off over and down through soil. These

constituents are capable of reaching sensitive environmental systems in harmful concentrations. Information that supports these claims is described in detail in section VI(C) of this preamble and additional supporting information can be found in the docket for this rulemaking.

In support of the F033 listing proposed today, EPA is proposing to amend appendices VII and VIII of part 261, Basis for Listing Hazardous Waste and Hazardous Constituents, respectively. These appendices are amended to add the hazardous constituents that form the basis for listing proposed hazardous waste No. F033 (appendix VII), as well as other hazardous constituents contained in the proposed F033 waste streams (appendix VIII).

The Agency is proposing to require wood surface protectors whose wastes fall within the scope of this listing to comply with certain specific management standards proposed today as subpart T of parts 264 and 265. In addition, surface protectors must operate and maintain their plants in accordance with all otherwise applicable RCRA requirements to minimize the extent to which the wastes contaminate the environment. The Agency believes that existing methods for managing hazardous waste under EPA's regulations are available to many surface protection plants and can adequately protect human health and the environment from the risks posed by the waste streams which the Agency is proposing to list as hazardous. Examples of such regulatory programs are the hazardous waste tank regulations in 40 CFR parts 264/265, subpart J and the standards for drip pads in 40 CFR parts 264/265, subpart W. The Agency is proposing to require plants that generate F033 wastes to manage their F033 wastes in units that satisfy either subpart J or subpart W requirements.

Under today's proposed hazardous waste listing, the Agency would consider surface protection plants who have formulations with pentachlorophenate concentrations greater than 0.1 ppm to be potential generators of F033 hazardous waste under the RCRA program. There is no RCRA requirement that generators, solely due to their status as generators, obtain permits for operation under subpart W or J. However, generators are required, at times, to obtain permits if they store generated wastes on-site for time periods which exceed their RCRA storage allowances based on the amount of waste generated. For example, if a plant generated greater than 100 but less than 1000 kg of waste in any one calendar month and complied with certain conditions, it would be allowed to store hazardous wastes on-site for up to 180 days without obtaining a RCRA permit. See 40 CFR 262.34(d), (f). If a plant generates more than 1000 kg of hazardous waste in any one calendar month (considered a large quantity generator), then the plant would be allowed to store hazardous wastes on-site for up to 90 days without a permit. See 40 CFR 262.34(a).

Because both wood preserving and surface protection processes treat lumber with chlorophenolic formulations, a short description of the differences between the two industries and their waste generation is necessary. The Agency considers a "wood preserving process" to be any process intended to preserve wood from structural attack. A wood surface protection process is a process merely intended to prevent surface discoloration. The distinction, therefore, is not based on the type of process used, i.e., pressure treatment or non-pressure dip treatment, but on the intent of the treatment itself. Therefore, "dipping" operations are not excluded from wood preserving if the intent of the operation is to preserve wood. As the Agency stated in its initial proposed wood preserving hazardous waste listing, that wood preservatives are used to delay deterioration and decay of wood caused by organisms such as insects, fungi, and marine borers. Surface discoloration (sapstaining) during short term storage can be adequately controlled by a superficial application of preservative, but for long lasting effectiveness, penetration of preservative to a uniform depth is required. This deep penetration is usually accomplished by forcing preservative into the wood under pressure, so that "pressure treated" is often used as a synonym for "preserved". (53 FR 53282, December 30, 1988).

Typically, sodium penta-chlorophenate is used for sapstain control on lumber following cutting. Sapstain control is considered surface protection, not wood preserving. However, if a plant is treating wood with sodium pentachlorophenate with the intent of preserving the wood, it would be considered a wood preserving operation, and the wastes generated would be chlorophenolic wastes from a wood preserving plant (noted as a facility in the wood preserving regulations) designated as F032. The Agency believes that it would be very unlikely that a wood preserving facility would use sodium pentachlorophenate to preserve wood, since the preserving solution is aqueous and would wash off the treated wood and render the treatment ineffective, since it is the intent of wood preserving to obtain a long term protection of the wood.

As noted recently in the Final Modifications to Wood Preserving Regulations (57 FR 61492, December 24, 1992), incidental drippage at active wood preserving plants is not considered illegal disposal of a hazardous waste if it is removed from the storage yard and managed appropriately within 24 hours (or 72 hours) of occurrence, depending on whether the plant was in operation when the drippage occurred. Wood preserving incidental drippage occurs due to "kickback" of preservative following treatment of wood under pressure. This is not the case with surface protection. There is no "kickback" occurring in this industry because protectant is applied to the surface without pressure. However, protectant drippage does occur from newly treated wood at surface protection plants. Additional drippage may occur from surface-protected wood in storage, due either to liquid entrained in the wood bundles or precipitation coming in contact with the wood.

Plants using surface protection formulations with concentrations of pentachlorophenate greater than 0.1 ppm are subject to the proposed subpart T requirements. All drippage from treated wood, including any drippage that may occur as a result of any liquid entrainment within a packed bundle, must cease before it is transferred to the storage yard. For purposes of containing the drippage in the process area, an owner/operator must employ either a tank system, such as a sump, or a drip pad beneath the process area. If a plant has a sump system for removal of drippage in the process area, that system is subject to the tank standards in 40 CFR parts 264/265, subpart J. Likewise, if an owner/operator installs a drip pad for collection of process drippage, the drip pad standards in Subpart W are applicable.

For those plants which generate F033 wastes, the Agency is proposing to require owner/operators of those surface protection plants to develop and implement a contingency plan for immediate response to protectant drippage in storage yards. The Agency does not expect plants within the scope of the proposed listing to experience drippage in the storage yard because the proposed subpart T requires that drippage cease prior to removing wood from the process area. However, the Agency recognizes the possibility that some incidental drippage may, nonetheless, occur after wood is

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removed to the storage yard. This contingency plan requirement would not apply to drippage in the process area, where other subpart T requirements would apply.

The requirement is proposed to be the same as the contingency plan requirement promulgated for wood preserving facilities in the December 24, 1992 final rule. In that rule, the Agency clarified what it meant by the term "immediate response" (57 FR 61494). With respect to the word "immediate," EPA intends that owner/operators respond to storage yard drippage that occurs while a plant is in operation within one consecutive working day. A facility is considered to be in operation any day on which it is treating wood. For plants that are not in operation during a storage yard drippage event, the Agency expects the plant to clean up the drippage within 72 hours of occurrence. It is important to note that the timing of response to drippage is based on when the drippage actually occurs, rather than when the drippage is detected in the storage yard. The approach proposed today, like the approach promulgated for wood preserving plants, places the responsibility for checking storage yards for drippage on the plant owner/operator. Regular checks of storage yards, particularly following the initial storage of newly treated wood, will allow owner/operators to respond to drippage in accordance with today's proposal.

With respect to the word "response," EPA intends this term to include cleanup and removal of protectant drippage from the storage yard. For purposes of today's proposal, cleanup of visible drippage from the treated lumber in the storage yard will satisfy the requirements for immediate response. The proposed requirements for the contingency plan are also the same as those finalized in the wood preserving rule. Owner/operators must prepare and maintain a written plan that describes how the plant will respond to storage yard drippage. At a minimum, the plan must describe how the owner/operator will accomplish the following:

(i) Clean up the drippage;
(ii) Document the cleanup of drippage;
(iii) Retain this documentation for three years; and
(iv) Manage the contaminated media in a manner consistent with Federal regulations.

With regard to the requirement to document the cleanup of drippage, the Agency will consider an annual certification, signed by either a registered professional engineer or a responsible company official of proper authority on company letterhead, that the owner/operator has cleaned up drippage in accordance with these rules, to be adequate documentation.

The Agency is proposing to require plants that store wood on-site in areas unprotected from precipitation to cover the treated wood bundles to minimize the quantities of surface protectant that run off the wood into the environment. The chlorophenolic formulations used by the wood surface protection industry are water-soluble, and storage yards are easily contaminated with protectant from precipitation run-off. This cover requirement, and the contingency plan requirement, are being proposed to minimize further contamination of the environment.

C. Historical Soil Contamination

The standards proposed today should substantially decrease any future environmental contamination that would otherwise result from continued generation of these waste streams. There is, however, a considerable amount of soil (process area and storage yard) and water (ground and surface) that already has been contaminated as a result of past surface protection practices.

EPA generally protects human health and the environment against the risks associated with contaminated soil via the "contained-in" policy. The "contained-in" policy states that media containing a listed hazardous waste are themselves considered listed hazardous wastes when they are actively managed (*e.g.*, excavated). See *Chemical Waste Management, Inc.* v *E.P.A.*, 869 F.2d 1526, 1539–40 (D.C. Cir. 1989). The media, henceforth, are regulated as hazardous wastes until such time as the media no longer "contain" the originally listed hazardous waste.

The Agency is in the process of examining issues related to contaminated media and reviewing existing policy on these issues. EPA recently proposed to exempt media contaminated with petroleum wastes. See 57 FR 61542 (Dec. 24, 1992) (materials not regulated under the Underground Storage Tank Program) and 58 FR 8562 (Feb. 12, 1993) (materials regulated under the Underground Storage Tank program). EPA also is involved in an on-going dialogue with interested parties as part of the rulemaking process specifically related to the Hazardous Waste Identification Rule (HWIR), proposed on May 20, 1992 (57 FR 21450) and subsequently withdrawn on October 30, 1992 (57 FR 49280). Since its withdrawal, a national and multi-sectoral outreach program has been initiated.

Because of the historical soil contamination associated with the surface protection industry, the F033 listing proposed today raises issues concerning the regulation and management of contaminated soils. The proposed listing potentially effects actions taken at several thousand sites that are past users of pentachlorophenate. While this proposed listing, coupled with application of the "contained-in" policy to these sites, assures government jurisdiction if such soils are actively managed, it does not, on its own, compel corrective action. It may, in fact, serve to impede or slow site clean-ups as well as other minor activities that, on their own, pose no significant environmental risks, if those activities result in the generation of contaminated soils that must be handled as hazardous wastes. In light of these issues, EPA is requesting data and comment on the "contained-in" policy as it pertains to the wood surface protection industry. Such data and comment might consider:

(1) The appropriateness of subjecting these soils to all requirements of the Subtitle C program when actively managed;
(2) The level of contamination in process area and storage yard soils as well as groundwater; and
(3) The risks posed by these soils.

The Agency acknowledges that a substantial number of plants that previously used chlorophenolic formulations have contaminated their equipment with dioxin, an impurity found in the formulation. Sampling data show that dioxin is, indeed, found in the protectant formulations and wastes from plants that have switched over to non-chlorophenolic formulations, indicating that there has been cross-contamination by previous chlorophenolic use. The original proposal of December 30, 1988 (53 FR 53282) proposed that all cross-contaminated wastes would be included within the scope of the listing unless an equipment-cleaning procedure was used to decontaminate the equipment and prevent the further cross-contamination of product and waste. Today's proposal differs substantially from the 1988 proposal with respect to cross-contaminated wastes. The Agency has determined that a plant must have greater than 0.1 ppm pentachlorophenate (expressed as pentachlorophenol during analysis) in their formulation to generate an F033 waste. There may be plants whose formulations are cross-contaminated due to previous, and now abandoned, use of chlorophenolics, but whose formulations have concentrations of pentachlorophenate less than or equal to 0.1 ppm. Information collected subsequent to the 1988 proposal supports the Agency's findings that wastes from such plants pose what the Agency considers to be an acceptable lifetime excess cancer risk from pentachlorophenate contamination in ground water of 3×10^{-6}, as derived from the carcinogenic slope factor (CSF). A detailed discussion of the Agency's risk assessment is contained in section VI(C) of this preamble, as well as in the docket associated with this rulemaking.

V. Options Considered by the Agency

The Agency carefully considered all the analysis described in Section VII of this preamble in developing today's proposal. The Agency acknowledges that factors in this analysis argue both for listing wood surface protection wastes as well as for not listing these wastes as hazardous. The Agency has decided to list these wastes as hazardous (for reasons described below), but EPA specifically requests comments on the option to not list these wastes as hazardous.

A. Not Listing Wood Surface Protection Wastes as Hazardous

As indicated above, there is some information which suggests that the Agency should not list wood surface protection wastes as hazardous. First, the use of full-strength chlorophenolics has rapidly declined, and is not expected to increase. As indicated in section III, the Agency knows of only two sawmills currently using chlorophenolic formulations to surface protect lumber. Chapman Chemicals (the sole recent producer of chlorophenolic formulations) ceased production of its chlorophenolic formulations in January 1992 and soon after voluntarily filed for product registration cancellation. A notice describing this action was published for public review in the Federal Register notice (see 57 FR 23401 (June 3, 1992)). Following a comment period for this action, a final cancellation order was sent to Chapman Chemicals with an effective date of September 14, 1992. This cancellation notice cancelled the following products produced by Chapman Chemicals: Permatox 181, 10S, and 101, and Mitrol G–ST. Any manufacturer would have to obtain a new registration before these chemicals could be re-introduced and be made available for use in wood surface protection.

Second, the risk associated with surface protection wastes is estimated to be, for some exposure pathways, at or below the range of what the Agency considers acceptable. This is the first hazardous waste listing proposal which uses the Agency's risk characterization guidance (U.S. Environmental Protection Agency. Guidance for Risk Assessment. Risk Assessment Council, November 1991). The purpose of the risk assessment, which is described in detail in section VI of this preamble, was to determine to what extent these wastes pose a threat to human health and the environment. For this proposal, the Agency performed a multifaceted study of how these wastes have been and are currently distributed to the environment. The two principal areas of risk associated with surface protection wastes are:

(1) Drinking water contamination associated with groundwater sources contaminated by the current and past use of chlorophenolics; and

(2) Ingestion of fish and shellfish tissues and ingestion of soils contaminated over a long period of time by PCDDs and PCDFs ("dioxins").

To make a listing determination, the Agency applies a "weight-of-evidence" approach, examining risk associated with all potential human health and environmental exposure pathways. By listing wastes from the use of surface protection formulations that contain 0.1 ppm PCP or above, the Agency would effect a change in the risk associated with the cross-contamination of non-chlorophenolic formulations with PCP and dioxins. The risk reduction achieved by cleaning tanks and equipment to a level below 0.1 ppm, i.e., the incremental risk, is relatively modest. The Agency's risk analysis indicates that the incremental risks attributed to this regulation are as follows:

	High end individual risk estimate	Central tendency individual risk estimate	Population risk estimate [1]
Groundwater Consumption	1×10^{-5} to 2×10^{-4}	5×10^{-7}	0.005
Fish/Shellfish Consumption	1×10^{-8} to 4×10^{-7}	8×10^{-10}	0.2
Soil Ingestion	2×10^{-6} to 2×10^{-5}	7×10^{-7}	0.0004

[1] Best estimate for 70 year lifetime.

A listing is expected to have little or no effect on the risk associated with contaminated soils and ground water that has already occurred due to usage of chlorophenolics in the past. Only remediation of existing contamination would address this risk. Site remediation is not required by the mere listing of the wastes. Site remediation is also not expected to occur to any significant degree as a consequence of the management of contaminated media incidental to general facility operations.

The damage cases described later indicate damages from past usage of chlorophenolics. Damages of this magnitude may not occur in the future unless use of full strength chlorophenolics resumes.

Finally, the Agency is aware that the proposed listing could, in fact, accelerate environmental contamination by encouraging plants to dispose of any chlorophenolic-bearing formulations on-site prior to the effective date of a Final Rule, in an attempt to avoid generating F033 hazardous waste. By not listing wood surface protection wastes as hazardous, this accelerated contamination would not likely occur. However, the Agency notes that if contaminated soils are actively managed following the effective date of a Final Rule, such wastes may be subject to the Agency's contained-in policy. The "contained-in" policy states that media containing a listed hazardous waste are themselves considered listed hazardous wastes when they are actively managed (*e.g.*, excavated). See *Chemical Waste Management, Inc.* v *E.P.A.*, 869 F.2d 1526, 1539–40 (D.C. Cir. 1989). The media, henceforth, are regulated as hazardous wastes until such time as the media no longer "contain" the originally listed hazardous waste.

If a manufacturer of pentachlorophenate wanted to resume its production, it would be required to meet all of the requirements under FIFRA for registering a new chemical.

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This requires prior completion of health and environmental effects data sets that EPA uses to determine if the chemical poses an unreasonable risk. EPA requests comment on whether FIFRA requirements would meet RCRA concerns.

B. Rationale for Proposing To List Wood Surface Protection Wastes as Hazardous

The Agency elected to propose the listing of these wastes as hazardous for several reasons. First, the Agency's analysis suggests that, even when chlorophenolic formulations are no longer used by a plant (as is currently the case with a majority of surface protectors), contamination of soils and ground water will continue to occur. This is because "transitional users" typically have not cleaned their equipment and elevated levels of pentachlorophenates still remain in their formulation. Drippage onto the ground following treatment of lumber is a normal occurrence in the surface protection process. The chlorophenolic formulations used by sawmills are aqueous solutions that contain both carcinogenic and systemic constituents, including dioxin.

The risks from these wastes may be comparable to those from other listed wastes. As a comparison, the population risk from the groundwater ingestion pathway for the recently promulgated wood preserving wastes listing was lower than risks from wood surface protection wastes (zero excess case over 300 years). However, the Agency listed wood preserving wastes because of the high levels of constituents of concern and significant number of damage cases including 54 NPL sites. Although the central tendency and high-end risks determined for these surface protection wastes seem to be near the low end of concern, the constituents of concern in the waste are in high enough concentrations that these wastes would have been listed under the previously used methodology employed for listing determinations.

Second, EPA is very concerned about potential risks that may occur if chlorophenolic formulations are put back into use. As indicated above, the cancellation of this formulation's FIFRA registration was voluntary. Following the voluntary action, EPA cancelled the registration. Registration of pesticides are governed by section 3 of FIFRA. The Agency's regulations governing the registration process can be found at 40 CFR part 152, subpart C. If the cancelled chlorophenolic formulations are re-instated for use in wood surface protection operations, the risks associated with the use of pentachlorophenate and dioxin can be expected to increase significantly. The Agency believes that listing these wastes as hazardous will provide additional barrier to the use of these formulations beyond the FIFRA registration process. As noted above, EPA requests comment on whether FIFRA would meet RCRA concerns.

In addition, the Agency has information concerning 21 damage cases that document the presence of, and threats to human health and the environment posed by the past use of pentachlorophenate (PCP) and tetrachlorophenate (TCP) at surface protection plants in ground water, surface water, and soil. Significant concentrations of PCP, often orders of magnitude above the water Health-Based Level (HBL), were detected in the ground water of many sawmills. The sampling and analysis data which contribute to these damage incidents were collected during on-going surface protection operations at a time when chlorophenolic formulations were actively used, and EPA believes they are indicative of damages that could occur in the event that production and widespread use of chlorophenolics resume in the future.

Furthermore, as discussed above, the "no-list" option, if adopted in the final rule, would necessarily rely on the FIFRA cancellation of the chlorophenolic formulations in order to minimize unacceptable adverse impacts on human health and the environment. The Agency may take into consideration the impact of other statutory and regulatory requirements when making hazardous waste listing determinations under RCRA (as it has done here, with respect to the impact of the FIFRA cancellation on the anticipated future volume of wastes generated). However, the regulations governing the listing of hazardous wastes at 40 CFR § 260.10 specify a wide range of factors, not all of which will necessarily be adequately addressed by other statutory or regulatory schemes, such as those administered under FIFRA. Therefore, the Agency is reluctant to rely solely on other statutes to accomplish the goals of EPA's hazardous waste listing program.

Finally, today's listing is unique in that it sets a level of pentachlorophenate of 0.1 ppm in formulations as the level above which the listing would apply. This allows plants to clean their equipment such that their formulation is beneath the 0.1 ppm regulatory level, thus reducing the number of plants that would be affected by this rule. The Agency acknowledges, as discussed above, that there is concern about potential one-time waste disposal prior to the effective date of the final rule. However, EPA believes there may be disincentives to such one-time disposal. The economic value of chlorophenolic formulations may discourage disposal. In addition, potential liability under either the Agency's RCRA contained-in policy (discussed in section IV(c) of this preamble) and/or the Comprehensive Environmental Response Compensation and Liability Act (CERLCA, or Superfund) may deter unsafe on-site waste disposal.

For the above reasons, the Agency is proposing to list wood surface protection wastes as hazardous, but is seeking comment on the option to "not list" these wastes in the final rulemaking. The Agency specifically requests comment and supporting information on the risks posed by these wastes.

VI. Description of Wastes Generated

A. Types of Wastes Included in This Proposal

This section describes the waste streams that are generated by the use of surface protection formulations containing chlorophenolics. Two types of primary waste streams are typically generated: process residuals and drippage. Secondary waste streams include spent formulation and wastewaters.

Process residuals are tank sludges that accumulate in the dip tank and/or mix tank as the lumber passes through for treatment. Some plants use spray systems that generate a sludge when recovered formulation is filtered. Periodically, the accumulated sludge must be removed and is typically placed on sawdust or wood chip piles on-site. The ultimate destination of the sludge is dependent on the management of the sawdust piles. Plants have reported burning the sawdust on-site or shipping it off-site for use as boiler feed for energy recovery. Depending on the particle size, some of these wood chips may be shipped to a pulp or paper mill.

Some plants generate little or no tank sludge as a result of certain process variations. Dip tank operations sometimes utilize an internal circulation system to enhance mixing and promote penetration into the packed bundles. The agitation does not allow any particulates to settle, and when the bundles are removed, some of the suspended solids are also removed. Green chain operations sometimes use a system of rollers that are partially submerged into the dip tank. These rollers force the pieces of lumber under the surface of the formulation to ensure thorough coverage of the exposed surfaces. Forcing the lumber deeper into the tank physically drags the lumber through any sludge that has settled in the tank and this sludge leaves the tank with the treated lumber. This system may agitate the formulation within the tank and achieve the same result as an internal circulation system. These practices are described in more detail in the waste management section of this preamble.

Another wastestream is excess formulation drippage from freshly treated lumber. Excess drippage can fall on the ground when the wood is transported from the dip tank or green chain to stacking and packaging. The Agency has observed that spray operations tend to result in less excess formulation on the wood than either the dipping or green-chain operations. Some plants utilize simple recovery systems to minimize the loss of formulation. Pack dip operations hold the wood over the dip tank at an angle to collect excess formulation prior to transfer to storage. Green chain and spray operations may utilize a collection pan under the conveyor to collect formulation as the freshly treated lumber runs along the green chain. The treated wood is then stored on-site or immediately shipped off-site to the buyer.

Other wastes generated by surface protection processes and included in today's proposed listing are wastewaters and discarded spent formulation. Wastewaters are typically not generated by this industry since it is not desirable to wet freshly treated lumber. Untreated logs awaiting cutting are sometimes kept wet to reduce the risk of fire and mold formation. These wastewaters would not be included within the scope of this proposed listing unless they contacted formulation. The Agency has found that larger plants which operate indoors perform "good housekeeping" measures, including the washdown of floors and equipment. The wastewaters generated from these activities, if they contact formulation within the scope of the proposed listing, would be a listed hazardous waste. Discarded spent formulation includes any discarded formulation that a plant disposes of as a result of a change in product formulation.

B. Quantities of Waste Generated

The Agency believes that there are three distinct user groups within the surface protection industry generating this proposed F033 waste: sawmills, furniture manufacturers, and exporters of wood. The Agency has been unable to acquire information on the extent of use within the furniture manufacturing and export industries and requests such data. The Agency has obtained, as earlier mentioned, a substantial amount of new information on the saw mill industry. The quantity of wastes generated by this industry is described in the following paragraphs.

Based on current industry directories, the Agency estimates that there are approximately 3200 operating sawmills in the United States. The Agency further estimates that approximately 980 (one-third) of these mills perform surface protection operations. Of these 980 mills, the EPA estimates that about 50% of the lumber cut at these plants is actually surface-protected. These percentage estimates may be high for smaller mills and low for the larger mills, but the Agency believes, on weighted average, that they are sufficiently accurate for purposes of estimating waste generation quantities and for performing risk modeling.

Based on the above, quantities of waste generated on a national level can be estimated. Formulation drippage and precipitation run-off from storage yards are the two types of waste generated at surface protection plants that the Agency believes can result in substantial human exposure. These are the highest volume waste streams generated by the industry and are included within the scope of the proposed listing.

The Agency has estimated from on-site field sampling and interviews regarding typical solution concentrations, that the amount of process area drippage that can occur at mills throughout the U.S. is between 1000 and 4000 gallons per one million board feet of lumber treated. Given the number of sawmill plants in operation throughout the country, the number of process types and set-ups, and the type of management practices, the Agency assumes that approximately 2000 gallons of drippage infiltrate soil per one million board feet of lumber surface-protected.

The other type of waste that presents significant human exposure risk is storage yard run-off. Depending on market conditions, lumber may remain in the yard following surface protection for longer than a month. During this period, precipitation may carry formulation into nearby bodies of water or further contaminate soils throughout the yard. The Agency is aware that larger mills often package their wood or otherwise keep their wood protected from weather for better resale. The Agency notes that, given the variability in plant size, location, climate, and management practices, there is a high uncertainty in estimating the amount of storage yard run-off from this industry. A study performed in British Columbia, Canada provides information about run-off from an on-site two-day rain event. A copy of this study is in the docket for today's rulemaking. The formula used to derive the actual concentration of chlorophenolic in run-off for use in making risk assessments is discussed later in the preamble.

Sludges removed from process tanks or filters are generated infrequently and never in large quantities by this industry. Indeed, many small plants have never removed sludge because it has not caused a problem and the system is continuously replenished. Other plants, because of their process, generate sludge, but all of it leaves the plant with the treated wood product.

C. Waste Management Practices

The Agency has found that wastes generated by this industry are managed by any of the following methods: (1) Burned on-site as fuel, (2) shipped off-site for use as boiler fuel, (3) land disposed on-site, (4) land disposed off-site, or (5) dripped or placed onto soil. The majority of mills allow formulation to drip directly onto the ground and dispose of sludge in sawdust piles. The Agency has seen very little evidence of management of these wastes that would be in compliance with RCRA requirements, were this proposed listing finalized. However, EPA notes that there are some plants that dispose of these wastes in what would constitute a proper manner for hazardous wastes. The details of the Agency's findings regarding waste management practices can be found in the docket for this rulemaking.

D. Pollution Prevention and Recycling Practices

The Agency is currently preparing a separate guidance manual recommending voluntary pollution prevention and waste minimization techniques for the lumber industry. The manual will be completed prior to expected promulgation of a final F033 hazardous waste listing rule in December 1993. Some recommended strategies for pollution prevention in the surface protection industry are described in this section. Further information will be included in the manual.

The ultimate goal of pollution prevention is to reduce present and future threats to human health and the environment. Pollution prevention (also referred to as source reduction) is the use of materials, processes, or practices that reduce or eliminate the quantity and/or toxicity of wastes at the source

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of generation. Pollution prevention is the first step in a hierarchy of options for reducing the generation of waste. The first recommended pollution prevention option is to replace chemical treatment with another type of treatment to achieve surface protection. One alternate is to dry the wood to reduce water content (high water content leads to sapstain). The Agency is aware that this option may not be economically viable for a smaller mill. If such a system cannot be feasibly employed, it would be preferable for a user of chlorophenolic-containing formulations to switch to an alternate formulation that does not generate a hazardous waste.

Because the proposed F033 listing includes a concentration standard for treatment formulations, a plant could avoid generating a hazardous waste by ensuring that its formulation is at or beneath this concentration standard (0.1 ppm pentachlorophenate). The Agency performed field testing on a dip tank formulation following the cleaning of the tank (the plant was switching from a chlorophenolic formulation to a non-chlorophenolic formulation) by sandblasting and found that sandblasting effectively reduces chlorophenolic contamination to acceptable levels. This is the only method that has been field tested by the Agency. The Agency requests comment and data on the effectiveness of other cleaning procedures, e.g. steam cleaning, etc. Another pollution prevention option is the use of high velocity spray systems that generate fewer process residuals and less drippage. Again, however, a small production volume may not favor this option since spray systems require a larger flow of wood through the system to be economically or technically feasible.

Other pollution prevention strategies for use within the surface protection industry: (1) Local and general ventilation within the cutting process area to reduce dust which would accumulate on wood; (2) blowing wood with air to further reduce sawdust on wood prior to surface protection; and (3) the use of drainage collection devices (gutters) on roof tops to keep rainwater away from process wastes. For wastes that cannot be reduced at the source, generators may consider recycling as the next best option. Pollution prevention practices are very critical in plant operations that produce a hazardous waste since they can reduce the amount of hazardous waste generated. Recycling activities, when safely operated and maintained, are next best because they take what would have been termed hazardous waste generated from the process and reuse it to reduce actual hazardous waste generation that is destined for disposal.

VII. Analysis Supporting This Proposal

In support of this proposed rulemaking, the Agency has:

(1) Performed sampling and analysis of various surface protection sites which include actual waste and soil sampling;

(2) Studied the management of these wastes;

(3) Obtained examples of previous incidents of environmental contamination (known as damage cases), and

(4) Performed a rigorous risk assessment which uses actual sampling and site data to model the effects of past and present contamination and to estimate the risks that the contaminants pose to human health and the environment as a result of chlorophenolic use.

A. Recorded Incidents of Environmental Contamination

The extent of pentachlorophenate contamination in plant process area soils is well documented. The damage cases do not provide data on sediment contamination in nearby streams, but they do support the mobility property of a "chlorophenolic" (such as pentachlorophenate) to ground and surface waters. Ten of the 21 damage cases showed on-site ground-water contamination with PCP above the HBL of 0.001 ppm. Eleven of the 21 plants showed surface water contamination with PCP at levels above the HBL.

B. Waste Characterization and Constituents of Concern

Because the sampling sites were not randomly selected, one cannot draw accurate conclusions about all sawmills from this small sampling population. However, the waste characterization data obtained from the sample population is appropriate and useful in making a determination on the waste itself, although it may be of limited use in characterizing the entire industry. All three waste streams encompassed by the proposed listing contain the following proposed Appendix VIII constituents of concern: Pentachlorophenol, tetrachlorophenol, total equivalence of 2,3,7,8 substituted dibenzo-p-dioxins (PCDDs) and total equivalence of 2,3,7,8-substituted dibenzofurans (PCDFs). Analysis of samples collected at five plants show that process area residuals are not hazardous wastes under the Toxicity Characteristic Leachate Procedure (TCLP, 40 CFR 261.24). Analysis of samples taken at these five plants show that contaminated storage yards (which represent the largest area of a mill) contain low levels of dioxin (at or below 1 ppb) and non-detectable levels of pentachlorophenate. Such dioxin concentrations are below concentrations that would generally trigger a Superfund clean-up (1 ppb). By comparison, process area soils have been found to contain high levels of dioxin and very low to non-detectable levels of pentachlorophenate.

SAMPLE ANALYSIS

Waste stream dioxin	Current user of PCP		Max. Penta (ppm)	Past user of PCP		Median TEF (ppb)
	Penta Conc. (ppm)	TEF dioxin (ppb)		Median penta (ppm)	Max TEF dioxin (ppb)	
Sludge	1722	88	247	28	15.36	3.95
Formulation	290	0.01	8.3	2.6	2.14	0.0085
Process soil	0.17	0.94	1.4	1.0	4.09	2.13
Storage yard	0.09	0.07	Non-Detect	Non-Detect	0.96	0.05
Sediment/drain	No Analysis	No Analysis	0.97	0.03	0.034	0.017

To compare these figures with the corresponding health based levels (HBLs') for each of the constituents in soil and formulation, one can use a HBL (pentachlorophenate in soil)= 9 ppm and a HBL(pentachlorophenate in water)= 0.001 ppm. For the dioxin constituent, on should use HBL (dioxin in soil)= .007 ppb and a HBL (dioxin in water) = 0.000030 ppb.

C. Health and Ecological Effects

1. Toxicity of Constituents

A variety of toxic effects with implications for human health and the environment have been associated with the chemical constituents found in chlorophenolic surface protection formulations. These constituents include pentachlorophenol, 2,3,4,6-tetrachlorophenol, and other chlorophenols, as well as numerous polychlorinated dibenzodioxins and polychlorinated dibenzofurans. Pentachlorophenol is classified as a probable human carcinogen based on sufficient evidence in laboratory animals. In addition, pentachlorophenol exhibits non-cancer pathological effects on the liver and kidneys. 2,3,4,6–Tetrachlorophenol is a systemic toxicant which also has adverse effects on the liver and kidneys at low doses. As a group, polychlorinated dibenzodioxins and dibenzofurans exhibit a wide range of toxic effects at exceptionally low doses. The most studied congener, 2,3,7,8-tetrachlorodibenzo-p-dioxin, is classified as a probable human carcinogen, a teratogen, and an immunotoxin.

a. Human health criteria and effects. EPA uses health-based levels, or HBLs, as a means for evaluating levels of concern of toxic constituents in various media. In establishing HBLs, EPA evaluates a wide variety of health effects data and existing standards and criteria. EPA uses any Maximum Contaminant Level (MCL) promulgated under the Safe Drinking Water Act as an HBL for contaminants in water. For other media, or if there is no MCL, EPA uses an oral reference dose (RfD), an inhalation reference concentration (RfC), and/or a carcinogenic slope factor (CSF) to derive the HBL, in conjunction with various exposure assumptions and, for carcinogens, a risk level of concern. The risk level of concern may vary, but for the purpose of deriving the health-based levels in the following discussion, the risk is taken as 10^{-6} (i.e., one in a million). A given constituent may have an RfD, an RfC, and/or a CSF, depending on the variety and nature of the toxic effects exhibited. The RfD is an estimate (with uncertainty spanning perhaps an order of magnitude) of a daily exposure to the human population, including sensitive subgroups, that is likely to be without appreciable risk of deleterious effects during a lifetime. The CSF is an estimate of the upper bound confidence limit of the lifetime risk of developing cancer, per unit dose, which results from the application of a low-dose extrapolation procedure. When available, EPA uses RfDs, RfCs, and CSFs that have been verified by the Agency's Reference Dose/Reference Concentration (RfD/RfC) Work Group or CRAVE (Carcinogen Risk Assessment Verification Endeavor) Work Group. If no verified values exist, other estimates of RfDs, RfCs, and CSFs are examined to determine if they are appropriate for use in establishing HBLs. HBLs are intended to be protective of human health under a wide variety of exposure conditions. Health-based levels in water and soil, and the criteria used to establish them, are shown in Table 1 for the constituents of concern in chlorophenolic surface protection formulations.

TABLE 1.—HEALTH BASED LEVELS AND CRITERIA FOR CONSTITUENTS OF CONCERN

Constituent	Health based levels		Criteria		
	Water (mg/L)	Soil (mg/kg)	MCL (mg/L)	RfD (mg/kg/d)	CSF $(mg/kg/d)^{-1}$
Pentachlorophenol	0.001	9.0	0.001	0.03	0.12
2,3,4,6-Tetrachlorophenol	1.0	2000		0.03	
2,3,7,8-TCDD	0.00000003	0.000007	0.00000003	0.000000001	160000

Pentachlorophenol has an HBL in water of 0.001 mg/L, based on the MCL. For a person who drinks 2 liters of water containing pentachlorophenate at the HBL each day for 70 years, this corresponds to a risk of 3×10^{-6}, as derived from the CSF. The HBL at a risk level of 10^{-6} in soil is 9 mg/kg, based on the CSF and a soil ingestion rate of 200 mg/day in children (from one year of age to age six).[1] Pentachlorophenol has been classified as a B_2 carcinogen (i.e., a probable human carcinogen) on the basis of statistically significant increases in the incidence of multiple biologically significant tumor types in mice, including hepatocellular carcinomas, malignant pheochromocytomas, and hemangiosarcomas. Pathology of the liver and kidneys, other than carcinomas and sarcomas, has been reported in rats.

2,3,4,6-Tetrachlorophenol has an HBL in water of 1 mg/L based on the RfD and a drinking water ingestion rate of 2 L/day. The HBL in soil is 2000 mg/kg, based on the RfD and a soil ingestion rate in children of 200 mg/day. In laboratory studies, rats exhibited significant increases in liver and kidney weight and centrilobular hypertrophy. 2,3,4,6-Tetrachlorophenol has not been evaluated for carcinogenicity.

2,3,7,8-Tetrachlorodibenzo-p-dioxin has an HBL in water of 30 pg/L (or 30 parts per quadrillion), based on the MCL. For a person who drinks 2 liters of water containing PCDDs and PCDFs at the HBL (in terms of 2,3,7,8-TCDD toxicity equivalent) each day for 70 years, this corresponds to a risk of 1×10^{-4}, as derived from the CSF.[2] The MCL is also consistent with the oral RfD for 2,3,7,8–TCDD, again assuming an intake rate 2 L/day.[3] The HBL at a risk level of 10^{-6} in soil is 7 ng/kg (or 7 parts per trillion), based on the CSF and a soil ingestion rate of 200 mg/day in children (from one year of age to age six). 2,3,7,8-TCDD has been demonstrated to be a potent carcinogen in animals and has been classified as a

[1] This presumes that exposure associated with incidental soil ingestion for individuals over six years old is low relative to childhood exposure.

[2] EPA is currently conducting a scientific reassessment of the risks of exposures to 2,3,7,8,-tetrachlorodibenzo-p-dioxin and related compounds. A major objective of the reassessment is the development of a biologically based dose-response model to reflect significant advances that have been made in understanding the mechanisms of dioxin toxicity. Health assessment and exposure assessment documents are being updated and revised. This will be followed by a public review process, which will also involve EPA's Science Advisory Board (57 FR 37158). Completion of this review process is anticipated to occur in mid-1993.

[3] Although the oral RfD for 2,3,7,8-TCDD has been withdrawn by the Agency's Office of Research and Development pending completion of the reassessment of the health effects of dioxins and related compounds, until such time as a revised RfD for non-cancer effects is established, the Agency believes that the withdrawn RfD continues to be a useful toxicological benchmark.

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B_2 carcinogen.[4] Hepatocellular carcinomas and carcinomas of the thyroid, tongue, hard palate, and lung have been observed in rats. Hepatocellular carcinomas have also been observed in mice. In addition, 2,3,7,8-TCDD has been shown to exhibit a wide variety of other effects. Teratogenesis has been observed, including such frank effects as cleft palate and hydronephrotic kidneys in mice and internal organ hemorrhage in rats. Severe reproductive effects (e.g., spontaneous abortion) have been found in monkeys. Suppression of immune system function has been reported in monkeys, mice, and other species.

Other polychlorinated dibenzodioxin (PCDD) and polychlorinated dibenzofuran (PCDF) congeners differ in the number and position of chlorine atoms they contain. Of the limited number of congeners that have been adequately tested, only a mixture of 1,2,3,6,7,8- and 1,2,3,7,8,9-hexachlorodibenzo-p-dioxin has been shown to be carcinogenic in laboratory animals. This mixture of 2,3,7,8-substituted HxCDD congeners is classified as a B_2 carcinogen based on a chronic exposure study in which statistically significant increases were observed in the incidence of hepatocellular carcinomas in mice and rats. Other symptoms of "dioxin toxicity," such as general weight loss and toxic hepatitis, were also observed.

However, a much larger body of data is available from both short-term in vivo and a variety of in vitro studies covering a wide variety of end points (e.g., developmental toxicity, cell transformation, and enzyme induction) which can be used to supplement the comparative lack of long-term in vivo results. This information reveals a strong structure-activity relationship. Specifically, congeners in which the lateral 2, 3, 7, and 8 positions on the dibenzodioxin and dibenzofuran molecules are occupied by chlorine atoms are much more biologically active than the non-2,3,7,8-substituted congeners. Furthermore, the relative potency of the various congeners is generally consistent from one end point to another. Because these compounds generally occur in the environment as a complex mixture, it is appropriate to consider them as a group and to draw conclusions about their toxicity as a group of compounds with related effects. These observations serve as the basis for the "toxicity equivalency factor" concept in which the concentration of a given PCDD or PCDF congener can be translated into an equivalent concentration of 2,3,7,8-TCDD. A subgroup of the North Atlantic Treaty Organization Committee on the Challenges of Modern Society (NATO/CCMS) has approved in principle the adoption of the TEFs for the 2,3,7,8-substituted congeners listed in Table 2.

TABLE 2.—TOXICITY EQUIVALENCY FACTORS (TEFS) FOR PCDD AND PCDF CONGENERS

Dibenzodioxin	TEF	Dibenzofuran	TEF
2,3,7,8-Tetrachlorodibenzo-p-dioxin	1	2,3,7,8-Tetrachlorodibenzofuran	0.1
1,2,3,7,8-Pentachlorodibenzo-p-dioxin	0.5	1,2,3,7,8-Pentachlorodibenzofuran	0.05
2,3,4,7,8-Pentachlorodibenzo-p-dioxin	0.5	2,3,4,7,8-Pentachlorodibenzofuran	0.5
2,3,7,8-Hexachlorodibenzo-p-dioxins	0.1	2,3,7,8-Hexachlorodibenzofurans	0.1
2,3,7,8-Heptachlorodibenzo-p-dioxins	0.01	2,3,7,8-Heptachlorodibenzofurans	0.01
Octachlorodibenzo-p-dioxin	0.001	Octachlorodibenzofuran	0.001

Source: U.S. Environmental Protection Agency. 1989 Update to the Interim Procedures for Estimating Risks Associated with Exposures to Mixtures of Chlorinated Dibenzo-p-Dioxins and -Dibenzofurans (CDDs and CDFs). Washington, D.C.: Risk Assessment Forum, March, 1989.

Other constituents found in chlorophenolic surface protection formulations include 2,4,5-trichlorophenol and 2,4,6-trichlorophenol. 2,4,5-Trichlorophenol, which has an RfD of 0.1 mg/kg/day, has been observed to cause mild diuresis and slight degenerative changes in the liver and kidneys in a subchronic oral study in rats. 2,4,6-Trichlorophenol, which has been classified as a B_2 carcinogen, has a CSF of 0.011 $(mg/kg/day)^{-1}$. 2,4,6-Trichlorophenol has been shown to cause an increase in lymphomas and leukemias in rats and hepatocellular carcinomas in mice. However, both these compounds are found at relatively low concentrations in surface protection formulations, when present at all.

b. Constituents proposed for addition to appendix VIII. A number of the constituents of concern that are present in wastes generated from wood surface protection processes with chlorophenols do not appear on the list of hazardous constituents at 40 CFR part 261, appendix VIII. The Agency is proposing to add six hazardous constituents to appendix VIII: Sodium pentachlorophenate, potassium pentachlorophenate, the sodium salt of 2,3,4,6-tetrachlorophenol, the potassium salt of 2,3,4,6-tetrachlorophenol, octachlorodibenzo-p-dioxin (OCDD) and octachlorodibenzofuran (OCDF).

Sodium and potassium pentachlorophenate are the sodium and potassium salts of pentachlorophenol. As a result of gastric secretions following ingestion, the sodium and potassium salts of pentachlorophenol and 2,3,4,6-tetrachlorophenol are readily converted to the corresponding phenols by acidification. Therefore, the sodium and potassium salts are expected to elicit the same health effects as the corresponding phenols. For this reason, EPA proposes to add these four compounds to the list of hazardous constituents in appendix VIII.

The other two compounds proposed for addition to appendix VIII, OCDD and OCDF, are members of the large family of polychlorinated dioxins and furans (PCDDs and PCDFs). Certain of these compounds, most notably, 2,3,7,8-TCDD, have been shown to be extraordinarily toxic, as discussed elsewhere in today's notice. EPA's Risk Assessment Forum has evaluated toxicity data for many chlorinated dibenzo-p-dioxins and dibenzofurans in order to establish interim procedures for estimating risks associated with exposures to mixtures of these compounds.[6] These data indicate that 2,3,7,8-substituted congeners of chlorinated dibenzo-p-dioxin and dibenzofurans have toxic effects similar to 2,3,7,8-tetrachlorodibenzo-p-dioxin. Data available from in vivo and in vitro studies reveal a strong structure-activity relationship, in which the 2,3,7,8-substituted congeners are much more biologically active than other congeners. Both OCDD and OCDF are 2,3,7,8-substituted congeners. The data also show that the relative responses of different PCDDs and PCDFs are generally consistent across a variety of toxicity end points.

In regard to OCDD specifically, test animals exhibited initial signs of "dioxin toxicity" in a subchronic study of mice exposed to OCDD at low levels.[6] These data suggest that when exposed for long periods, animals absorb and accumulate sufficient amounts of OCDD to manifest dioxin-like effects. Furthermore, rat hepatoma data from in vitro studies demonstrate a form of enzyme induction for OCDD that is characteristic of dioxins. Structure-activity relationships suggest that similar effects would be expected for OCDF (although no confirmatory experimental data are available). Therefore, EPA has concluded that there is sufficient evidence to show that octachlorodibenzo-p-dioxin (OCDD) and octachlorodibenzofuran (OCDF) are hazardous constituents which should be added to appendix VIII of 40 CFR part 261. The Agency specifically solicits comment on the addition of OCDD and OCDF as hazardous constituents to appendix VIII.

c. Potential human exposure pathways. Human exposure to the hazardous constituents found in wastes generated by the use of chlorophenols for surface protection can occur by a wide variety of pathways. These pathways are identified by the nature of the release of the contaminants into the environment, the subsequent fate and transport within the environment (which depends on the physical, chemical, and biological properties of the hazardous constituents), and the routes of human exposure to contaminated media. The primary media of concern are soils, ground water, surface water, and air. However, biological media (such as fish and shellfish, beef and dairy products, and food crops) may also act as significant reservoirs of contamination from which dietary exposures can occur. The major routes of human exposure are ingestion, inhalation, and dermal absorption. Fate and transport processes include sorption onto soils, infiltration to ground water, runoff to surface water, soil erosion to rivers and streams, suspension of soil and dust particles in air, volatilization, translocation and deposition to plants, and bioaccumulation in aquatic and terrestrial organisms. Processes which can lead to changes in the chemical identity of the constituents include photolysis, hydrolysis, microbial degradation, and biological metabolism within the food chain.

A major source of contamination at sawmills is drippage of excess formulation from treated wood. This can occur directly onto bare soils or onto a pad (on which the equipment is supported) from which infiltration or runoff occurs. Another significant source is precipitation wash-off from treated lumber in storage yards, which can run off to surface waters, infiltrate into ground water, or be retained in the soil column.

Of the many possible human exposure pathways, the Agency has focused its assessment on three principle pathways for which data are available. These pathways are: direct ingestion of contaminated soil; infiltration to ground water and ingestion as drinking water; and soil erosion followed by bioaccumulation in fish and shellfish and subsequent dietary ingestion. The Agency's assessment of risk to human health via these three pathways is discussed elsewhere in today's notice.

d. Ecological effects. At one time pentachlorophenol was one of the most widely used biocides in the United States, having been registered for use as an insecticide, fungicide, molluscicide, herbicide, algicide, and general disinfectant. Therefore, it is not surprising that pentachlorophenol has also been found to cause a variety of ecological effects. Even at relatively low concentrations, pentachlorophenol has been shown to be extremely toxic to aquatic life. Among species of fish, salmonoids appear to be the most sensitive, commonly having LC_{50} values below 100 µg/L.[7] However, some non-salmonoid species of fish also display LC_{50} values in this range. Although pentachlorophenol does not appear to bioaccumulate in aquatic organisms, there is some evidence that certain of its metabolites may bioaccumulate. EPA has established ambient water quality criteria for pentachlorophenol for the protection of freshwater aquatic organisms, as a function of pH. At a surface water pH of 6.8, the criterion is 5 µg/L, measured as a four-day average. At lower pH's, the ambient water quality criteria are somewhat lower. However, these criteria may not be protective of the most sensitive species, e.g., juvenile salmonolds, for which lower criteria may be appropriate.[8]

Because process wastewaters, excluding material storage yard runoff (see 40 CFR 429.11(c)), are prohibited from being discharged directly by the effluent guideline regulations for the sawmill portion of the timber products industry (40 CFR part 429), contamination of surface waters with pentachlorophenol from sawmills is expected to occur only from stormwater run-off. Considerable dilution occurs in water courses during rain events, thereby minimizing the possibility that concentrations of pentachlorophenol could be high enough to be harmful to aquatic life. Therefore, EPA does not believe that surface protection operations pose a significant risk to aquatic ecosystems, if transfer of chlorophenolics to the soil and groundwater is prevented, in the absence of unlawful discharge of chlorophenolic surface protection formulations.

Pentachlorophenol is also toxic to terrestrial animals and plants. It has been used as a nonspecific herbicide, defoliant, and crop desiccant and therefore exhibits toxic effects in many species of plants. Pentachlorophenol has been reported to be poisonous to a variety of domestic animals, including cats, horses, pigs, and poultry. Wildlife have also been killed by the use of pentachlorophenol as a pesticide.

Less information is available on the toxicity of 2,3,4,6-tetrachlorophenol in the environment. Although it has not been tested in salmonoid species of fish, it is acutely toxic to bluegill, having an LC_{50} slightly above 100 µg/L. 2,3,4,6-Tetrachlorophenol has also been shown to be acutely toxic to certain species of zooplankton at sub-part per million leveis.

2,3,7,8-Tetrachlorodibenzo-p-dioxin is extremely toxic to mammals, birds, and fish. Exposure to 2,3,7,8-TCDD has been associated with acute and delayed

[4] However, recently published epidemiological studies of occupationally exposed individuals report statistically significant increases in mortality from both lung cancer and from all other cancers combined. EPA is currently evaluating these studies as part of its scientific reassessment of 2,3,7,8-TCDD and related compounds.

[6] U.S. Environmental Protection Agency. 1989 Update to the Interim Procedures for Estimating Risks Associated with Exposures to Mixtures of Chlorinated Dibenzo-p-Dioxins and -Dibenzofurans (CDDs and CDFs). Washington, DC: Risk Assessment Forum, March, 1989. EPA/625/3-89/016.

[6] Couture, L.A., M.R. Elwell, and L.S. Birnbaum. Dioxin-like effects observed in male rats following exposure to octachlorodibenzo-p-dioxin (OCDD) during a 13 week study. Toxicology and Applied Pharmacology, Vol. 93, pp 31-46, 1988.

[7] LC_{50} is the concentration in water at which 50 percent mortality is observed in the species test.

[8] U.S. Environmental Protection Agency. Ambient Water Quality Criteria for Pentachlorophenol—1986. Washington, DC: Office of Water Regulations and Standards, September, 1986. EPA-440/5-86-009.

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mortality and with carcinogenic, teratogenic, reproductive, histopathologic, and immunotoxic effects in a variety of animal species.[9] Although data on ecological effects are generally available only for 2,3,7,8-TCDD, the effects of other dioxin and furan congeners are probably determined by a structure-activity relationship similar to the one elucidated for effects on human health.

Acute oral toxicity studies involving 2,3,7,8-TCDD indicate that LD_{50} values for certain wildlife species are as low as, or lower than, those of some laboratory animals.[10] For example, the LD_{50} value for bobwhite quail is 15 µg/kg, whereas for domestic chickens, LD_{50} values lie in the range of 25 to 50 µg/kg. At lower doses, below 10 µg/kg, domestic chickens exhibit signs of chick edema disease and liver pathology. 2,3,7,8-TCDD is also associated with poor reproduction in herring gulls. Eggshell thinning appears to be the most common reproductive effect in avian species. Acute effects in aquatic organisms show an unusual pattern of delayed response, whereby acute effects show a similarity to chronic effects. Among aquatic organisms, fish appear to be the most sensitive to 2,3,7,8-TCDD. For example, the LC_{50} value for rainbow trout has been estimated to be below 40 pg/L. The most commonly reported nonlethal effect in fish is growth retardation of yolk sac fry.

2,3,7,8-TCDD has been shown to bioaccumulate in the food chain. Therefore, among aquatic species, the highest concentrations and most pronounced effects are expected in the largest predators. In terrestrial species, 2,3,7,8-TCDD has been shown to be bioaccumulated in the earthworm by a factor of three relative to the concentration in soil. Therefore, high exposures are expected in terrestrial species whose diet includes a large proportion of earthworms (e.g., robins, woodcocks, and shrews). As part of an ecological assessment of the risks associated with the land disposal of pulp and paper sludge (56 FR 21802), EPA concluded that levels of 2,3,7,8-TCDD in soil as low as 3 parts per trillion could cause adverse effects to terrestrial wildlife (not including adjustments for uncertainties in the underlying toxicity data). Because levels of 2,3,7,8-TCDD toxicity equivalents in sawmill soils are well above these levels, some adverse effects on terrestrial wildlife may occur. However, the relatively small areas of contaminated soils at sawmills could mitigate these effects. Furthermore, significant effects on wildlife populations would appear to be unlikely. The same assessment found minimal risk to aquatic organisms from run-off of 2,3,7,8-TCDD contaminated soils.

2. Resource Damage Incidents

EPA has assembled a substantial body of information on environmental contamination at sawmill facilities associated with the use of chlorophenols for the surface protection of wood. EPA obtained much of its information from the Oregon Department of Environmental Quality, the California Department of Toxic Substances Control, and California's Regional Water Quality Control Boards. To supplement the information from Oregon and California, EPA conducted a search of the open literature and searched its own CERCLIS data base. CERCLIS is EPA's central repository of information on Superfund site assessments, emergency removals, and site remediation activities.[11]

a. Contaminated media. Altogether, EPA has obtained information on levels of media contamination for 21 sawmill facilities. The preponderance of the data are for pentachlorophenol and 2,3,4,6-tetrachlorophenol in ground water, soils, and surface water.[12] A small amount of data are also available for PCDDs and PCDFs in soils, expressed as 2,3,7,8-TCDD toxicity equivalents (TEQ). The data on soils represent soil in the immediate vicinity of the process area where wood was being treated with chlorophenols or had formerly been treated. The surface water data generally represent water in drainage ditches, catchment basins, or other conveyances on-site. These data, presented as the range of the maximum measured concentrations from among the various sites, are summarized in Table 3.[13]

TABLE 3.—RESOURCE DAMAGE INCIDENT MEDIA CONCENTRATIONS

Media	Ground water			Process soil			Surface water		
Constituent	Low (mg/L)	High (mg/L)	N	Low (mg/kg)	High (mg/kg)	N	Low (mg/L)	High (mg/L)	N
Pentachlorophenol	<0.001	45	14	<9	50,000	17	0.002	0.76	11
2,3,4,6-Tetrachlorophenol	<1	<1	7	<2000	14,000	13	<1	1.1	8
2,3,7,8-TCDD TEQ	N/A	N/A	0	0.004	0.15	3	N/A	N/A	0

N=number of facilities with data available.
N/A=data not available.
Only values that are above health based levels are given.

As shown in Table 3, pentachlorophenol has been found above health based levels in ground water, surface water, and soils. Of the 14 facilities with ground water data, 10 facilities show levels above the MCL of 0.001 mg/L. All 11 facilities with on-site surface water data have levels above the MCL. In addition, measurements of pentachlorophenol at one facility show levels of 50 mg/L in water being discharged from an underground seep into surface waters. This discharge is believed to have originated in the process area. Although not shown in Table 3, of five facilities for which surface water data are available off-site, in streams and rivers, four show pentachlorophenol levels above the MCL; these data range from 0.03 mg/L to 0.1 mg/L. In soils, of 17 facilities with soil data, 16 facilities show pentachlorophenol levels above the health based level of 9 mg/kg. Also not shown in the table are data on subsurface soils, i.e., soils below about six inches from the surface. Of eight facilities with data available, seven show levels in subsurface soils above the health based level; these data range from 90 mg/kg to 4200 mg/kg. More than 15 years after usage of chlorophenols ended at one facility, pentachlorophenol levels still exceed the health based level to depths as great as six feet.

The damage incident data show that, in none of the seven cases for which ground-water data are available, do the levels for 2,3,4,6-tetrachlorophenol exceed the MCL of 1 mg/L. In only one case out of eight do levels in surface water on-site exceed the MCL, and only by a small amount. Although not shown in Table 3, of four cases with surface water data off-site, in streams and rivers, none show levels above the MCL. However, measurements of 2,3,4,6-tetrachlorophenol taken at one facility show levels of 340 mg/L in water being discharged from an underground seep into surface waters, a discharge which is believed to have originated in the process area. In soils, of 13 cases for which data are available, only three show 2,3,4,6-tetrachlorophenol levels above the health based level of 2000 mg/kg. Although not shown in Table 3, of five cases for which subsurface soil data are available, only one is above the health based level. Noteworthy about this case is that the sample, for which a value of 4800 mg/kg is reported, was taken six years after usage of chlorophenols ended at the site.

Data on PCDDs and PCDFs from the resource damage incidents are limited to soils in the process area. Of the three cases for which data are available, all exceed the health based level of 0.000007 mg/kg (7 parts per trillion) by three orders of magnitude or more. In addition, as part of its own sampling and analysis activities, EPA has acquired data on PCDDs and PCDFs in subsurface process soils at two sites and in stream and drainage ditch sediments at four sites. These data are not included in Table 3 but are discussed elsewhere in today's notice. The data on subsurface process soils, which range from 0.00001 mg/kg (10 parts per trillion) to 0.00027 mg/kg (270 parts per trillion), indicate that health based levels can be exceeded to depths of three feet or more. The sediment data, which range from 0.000009 mg/kg (9 parts per trillion) to 0.000034 mg/kg (34 parts per trillion), also exceed the health based level for soil.

b. Discussion. The levels of pentachlorophenol, 2,3,4,6-tetrachlorophenol, PCDDs, and PCDFs in contaminated media at sawmill facilities frequently reach levels of concern, based on the information obtained from resource damage incident reports.[14] Pentachlorophenol has commonly been found at levels of concern across all media (with the exception of air). Compared to pentachlorophenol, 2,3,4,6-tetrachlorophenol tends to be found at similar levels across the same media. However, given that the corresponding health based levels are substantially higher, 2,3,4,6-tetrachlorophenol is generally of lesser concern.[15] Although the sodium and potassium salts of these compounds are highly mobile in water, the data show that following the cessation of usage of chlorophenols for surface protection, significant levels can be retained in soils for time periods of ten years or more. However, the degree of retention in soil appears to be highly site-specific. In addition, pentachlorophenol and 2,3,4,6-tetrachlorophenol are known to biodegrade. The rate at which biodegradation actually occurs in soils can be expected to be highly variable, depending on local environmental conditions. In contrast, PCDDs and PCDFs bind strongly to soils and are quite resistant to biodegradation, indicating that these compounds can be expected to persist at levels of concern for long periods of time. Nevertheless, these compounds appear to exhibit some mobility in the environment, as evidenced by measurements of elevated levels in soils at depths to three feet or more and by both on-site and off-site measurements of elevated levels in sediments.

EPA has limited direct evidence of damage to ecosystems that can be attributed specifically to the usage of chlorophenols for surface protection. One Swedish study documents an extensive fish kill associated with the discharge to an adjacent stream of a chlorophenol solution from a sawmill surface protection operation. Two weeks following this incident, fish collected six kilometers downstream exhibited liver tissue concentrations of 5 parts per million total chlorophenols. Fish collected 15 kilometers downstream exhibited increasing concentrations in liver tissue, reaching a level of 2 parts per million two months after the discharge. This study, which illustrates that chlorophenols are readily distributed in aquatic ecosystems, suggests that chlorophenols can be accumulated in higher organisms through the food chain.

3. Assessment of Risk from Usage of Chlorophenolic Formulations

The resource damage incidents discussed in the previous section demonstrate that soil, ground-water, and surface water resources at sawmill facilities have been damaged due to on-site contamination by hazardous constituents from chlorophenolic surface protection formulations. However, in the context of non-occupational exposures, these damages pose a threat to public health only if the contamination migrates off-site or if on-site exposure occurs as a consequence of a change in land use. To address these scenarios, EPA performed a risk assessment to quantify the potential risks to human health. This assessment focuses on risk associated with exposure to contaminated ground water and soils and risk associated with dietary exposures from fish and shellfish ingestion due to their uptake of contaminated surface water sediments.

a. *Source characterization.* EPA estimates that approximately 3200 sawmills are currently operating in the United States and that approximately one-third of these surface-protect. EPA believes that of the sawmills that surface protect, nearly all have used chlorophenols at some time. An unknown number of additional sawmills that do not currently surface-protect may have done so in the past using chlorophenols.

Although a number of wastes are generated by surface protection operations, the most important in terms of potential human exposure are drippage of excess formulation in the process area and precipitation wash-off in the storage yard. These are by far the highest volume wastes generated at sawmill facilities. The volume of waste is a major factor in determining the potential risk to human health. Process drippage and precipitation wash-off are frequently disposed of directly onto unprotected soils. Process area and storage yard soils that become contaminated as a result of drippage and wash-off then become additional sources of potential human exposures.

1. *Process drippage.* Process drippage is generated whenever excess formulation drips from the wood once it has been treated. Although the drippage

[9] Eisler, R. Dioxin Hazards of Fish, Wildlife, and Invertebrates: A Synoptic Review. U.S. Fish and Wildlife Services, 1986. Biological Report 85.

[10] LD_{50} is the dose (on a unit body weight basis) at which 50 percent mortality is observed in the species tested.

[11] EPA also searched a data base of State bans and advisories on the consumption of fish and shellfish which is maintained by EPA's Office of Water as a special forum of the Nonpoint Source Information Exchange Computer Bulletin Board System (NPS BBS). Although 120 bans and advisories for dioxins were identified, none could be attributed specifically to discharges from sawmills.

[12] Sodium and potassium pentachlorophenate and the sodium and potassium salts of 2,3,4,6-tetrachlorophenol are measured and reported as the corresponding phenols.

[13] EPA's own sampling and analysis data, which are discussed elsewhere in today's notice, are not included in Table 3.

[14] This conclusion is corroborated in part by EPA's own sampling and analysis data, as discussed elsewhere in today's notice.

[15] In this regard, however, the Agency notes that 2,3,4,6-tetrachlorophenol has not been evaluated for carcinogenicity.

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may be collected and returned to the process, typically there is little or no effective collection system. In dip tank operations, the amount of drippage generated depends on the length of time the lumber is allowed to drain over the tank before it is transferred from the process area. Process drippage may drip directly onto soils in the vicinity of the tank or onto a concrete pad from which runoff occurs. The runoff may subsequently infiltrate into the subsurface environment or be conveyed to surface waters.

Based on drippage measurements made during a field experiment, EPA estimates that the amount of drippage generated is between 1000 and 4000 gallons for every one million board feet of treated lumber. This compares to an estimate of approximately 10,000 gallons of formulation used per million board feet of lumber treated.[16] Measurements of the amount absorbed by the wood vary widely. However, EPA believes that absorption accounts for no more than about 1500 gallons per million board feet. Based on these figures, the drippage and absorption combined do not appear to account for the amount of formulation actually used. Although measurement error may account for much of the disparity, some portion may be attributable to leaks and spills. In spite of the uncertainty, the Agency is assuming for the purpose of characterizing risk that 2400 gallons infiltrate into soils for every one million board feet of lumber that are treated. The Agency believes that this value is well within the range of uncertainty of the data. EPA requests comment on the validity and reliability of this assumption.

Estimates of the strength of the formulation solution range from 0.2 percent to 2 percent, as total chlorophenols. However, chlorophenolic formulations differ substantially in the proportion of pentachlorophenate and 2,3,4,6-tetrachlorophenate salts from one product to another. Some formulations are composed primarily of sodium or potassium salts of pentachlorophenate while others contain a high proportion of salts of 2,3,4,6-tetrachlorophenate. Drippage consists of undiluted excess formulation; therefore, the strength and composition of the drippage is the same as that of the formulation. For the purpose of characterizing risk associated with the usage of chlorophenols for surface protection, the Agency is assuming that the concentration of chlorophenols in the drippage is 0.4 percent, or 4000 parts per million.[17] For the purpose of characterizing the incremental risk associated with the cross-contamination of non-chlorophenolic formulations, the Agency is assuming based on its record sampling that the residual concentration of chlorophenols in the drippage is approximately 3 parts per million. This estimate is based on sampling and analysis data on levels in the formulation of users of non-chlorophenolics who previously used chlorophenols.

2. *Storage yard wash-off.* Wash-off is generated whenever precipitation contacts treated wood. Although this can occur anywhere that treated wood is handled outdoors, most wash-off is generated at sawmills in uncovered storage yards. While generated only intermittently, these wastes are high in volume. The volume generated depends on the size of the storage yard and the amount of rainfall. However, the concentrations of waste constituents in wash-off are relatively low compared to the concentrations in process drippage. Although storage yards may be paved with asphalt, more typically they are situated on unprotected compacted soil or are overlaid with gravel. In most situations, some portion of the wash-off is expected to infiltrate into the ground, the amount depending on the particular site and the specific conditions at the time. The Agency is assuming for the purpose of characterizing risk that 25 percent of the wash-off infiltrates into the ground.

Studies conducted in British Columbia by Environment Canada show that leaching from treated lumber begins after as little as one millimeter of continuous precipitation and occurs even after extended periods of drying.[18] The Environment Canada study collected data on the concentrations of chlorophenols in storage yard runoff as a function of rainfall intensity. EPA evaluated these data, which include several rain events of one to two days duration each. For the purpose of characterizing risk associated with chlorophenolic usage, the Agency took the average runoff concentrations that were reported for the individual rain events and weighted them by the corresponding cumulative rainfall totals to estimate an overall average runoff concentration. This concentration, which is approximately 7 mg/L, represents the average concentration in the wash-off over several cycles of precipitation and subsequent drying. For the purpose of characterizing the incremental risk associated with cross-contamination of non-chlorophenolic formulations, the Agency reduced this concentration by the same factor that the concentration in drippage was reduced, as described above. The Agency requests comment on whether this approach is appropriate and requests additional data to assist in refining this estimate.

3. *Process area and storage yard soils.* For the purpose of characterizing risk related to soil contamination, EPA collected soil samples from the process area and storage yard at five sawmill facilities, one of which was a current user of chlorophenolics. Each sample was collected by a six inch auger inserted to a depth of six inches. In order to collect representative samples of the areas of soil contamination, a team consisting of a hydrogeologist and chemical engineer made a careful assessment of the sampling locations. The samples were analyzed for PCDDs and PCDFs.[19] The sampling and analysis results demonstrate the presence of PCDDs and PCDFs in both the process area and storage yard. The concentrations of the storage yard samples collected by EPA, which range from 0.014 µg/kg (parts per billion) to 0.96 µg/kg (parts per billion) have a mean value of 0.22 µg/kg (parts per billion), expressed as 2,3,7,8-TCDD toxicity equivalents (TEQ). Two process area soil samples collected by EPA have concentrations of 0.94 µg/kg (parts per billion) and 4.1 µg/kg (parts per billion), expressed as 2,3,7,8-TCDD toxicity equivalents (TEQ), giving a mean value of 2.5 µg/kg (parts per billion).[20]

The levels measured in the process area samples represent the accumulation of PCDDs and PCDFs in soil from drippage over an extended, though unknown, period of time. The Agency lacks adequate historical data

[16] Total usage is based on a manufacturer's estimate.

[17] The concentration of chlorophenols is based on a manufacturer's estimate of what is typically used in the industry.

[18] Environment Canada. Assessment of Storm Water Related Chlorophenol Releases from Wood Protection Facilities in British Columbia. Pacific and Yukon Region. August, 1987. Regional Program Report 87-13.

[19] EPA also analyzed the soil samples for chlorophenols. However, neither pentachlorophenol nor 2,3,4,6-tetrachlorophenol were detected in the soil samples. These results differ with the results from the resource damage incident reports, as discussed elsewhere in today's notice, which show pentachlorophenol and 2,3,4,6-tetrachlorophenol in process soils in the part per million range (and above). Such site to site differences are not unexpected and are probably related to variations in soil types and the soil's ability to bind chlorophenols from aqueous solutions of their salts or other site-specific factors.

[20] EPA notes that the limited data on concentrations of PCDDs and PCDFs in process area soils from the resource damage incident reports, as discussed elsewhere in today's notice, are generally higher than the concentrations discussed here.

on the levels of PCDDs and PCDFs in chlorophenolic surface protection formulations to relate to the observed soil concentrations. Therefore, with the data available, it is not possible to accurately quantify the process area soil contamination that would result from any given level of PCDDs and PCDFs in the formulation. The situation is made even more difficult with respect to storage yard soils because the mechanism by which the contamination occurs is not known. Any one or a combination of the following mechanisms could be involved: (1) Residual drippage in the storage yard (though this has not actually been observed by the Agency); (2) precipitation wash-off from treated lumber (though no actual measurements of PCDDs and PCDFs in wash-off are available); (3) phototransformation of soil pentachlorophenol to octachlorodibenzo-p-dioxin (OCDD) in situ and subsequent photolytic dechlorination to other PCDDs, which has been observed in the laboratory; or (4) phototransformation of phenoxyphenols (i.e., "predioxins," which are co-contaminants of chlorophenolic formulations) to various PCDDs and PCDFs, which appears to require the presence of a strong hydrogen donor. For the purpose of analyzing soil-related exposure pathways, the Agency believes that due to the complexity and uncertainty involved, direct measurement of PCDDs and PCDFs in soils is the best approach for characterizing the source of the contamination.

For characterizing risk associated with existing levels of soil contamination from historical usage of chlorophenolic formulations, the levels measured in soils may be used directly. However, cross-contamination of non-chlorophenolic formulations will continue to contribute to soil contamination with PCDDs and PCDFs. In order to characterize the baseline risks associated with cross-contamination by PCDDs and PCDFs of current non-chlorophenolic formulations, the Agency attempted to estimate the level of soil concentration which would occur from usage of cross-contaminated non-chlorophenolic formulations. A comparison of available data on the levels of these compounds in chlorophenolic and cross-contaminated non-chlorophenolic formulations suggests that concentrations of PCDDs and PCDFs may have dropped by about a factor of four. In the absence of any other information, the Agency believes it is reasonable to expect correspondingly lower levels of PCDDs and PCDFs in soils attributable to such cross-contamination than the levels indicated by direct measurement. Therefore, the measured soil concentrations were reduced by a factor of four to estimate the soil concentrations which would result solely from cross-contamination. EPA requests comment on whether this approach is appropriate to use to estimate the baseline soil concentration for non-chlorophenolic users.

b. *Exposure pathway analyses*—1. *Ground-water ingestion.* This exposure pathway is based on the premise that contaminated ground water in shallow, unconfined aquifers may be used as a drinking water supply. A mathematical model is used to describe ground water flow and pollutant transport in unsaturated soils (i.e., the vadose zone) and unconfined ground water aquifers (i.e., the saturated zone). This model, known as the MULTIMED model, is based on many of the same analytical and numerical solution techniques that have been used by the Agency for other rulemakings, including the Toxicity Characteristic revisions (March 29, 1990; 55 FR 11798).[21] A significant difference in the analysis conducted for this proposal is the simulation of ground water transport in the transient mode; no "infinite source" or steady-state assumption is made in performing the transport calculations. However, important simplifying assumptions of the model remain. These include the assumption that the properties of the saturated, porous medium are isotropic and homogeneous. Fractured media, aquicludes, and multiple aquifers are not simulated. Ground water flow is assumed to be steady and uniform. The sorbed and aqueous phases are assumed to be in equilibrium; sorption is further assumed to follow a linear isotherm.

Initially, EPA used the MULTIMED model to perform screening analyses to identify the constituents that are likely to migrate through ground water at appreciable rates, the model input parameters to which the modeling results are most sensitive, and the sources of ground water contamination that are most important. The screening analyses show that, as expected, PCDDs and PCDFs do not migrate significantly in ground water. The screening analyses also show that drippage in the process area is considerably more important than wash-off in the storage yard as a source of ground water contamination. Parameters to which the modeling results are sensitive include: (1) The initial source concentration; (2) the source infiltration rate; (3) the recharge rate; (4) the various sorption parameters, including the soil:water partition coefficient and the fraction of organic carbon in the vadose zone and the aquifer; (5) the hydraulic conductivity of the aquifer and the vadose zone; and (6) the distance from the source area to the nearest drinking water well. The hydraulic conductivity and the organic carbon fraction are related to the type of geologic materials of which the aquifer and the unsaturated zone are comprised. A variety of other parameters also influence the modeling results. Values of the important parameters used for the ground water analysis are found in Table 4 below.

[21] The reader is referred to the docket for today's proposal for a detailed description of the MULTIMED model and its application for this proposal.

TABLE 4.—PARAMETERS VALUES FOR GROUND WATER INGESTION PATHWAY

Parameter	Central tendency value	High end value
Source Concentration: Chlorophenolic Usage (ppm)	4000	4000
Baseline (ppm)	2.8	2.8
Residual (ppm)	0.1	0.1
Facility Size (MMBF)	20	100
Distribution Coefficient (Kd):		
Pentachlorophenol (mL/g)	1068	412
2,3,4,6-Tetrachlorophenol (mL/g)	966	87
Precipitation (inches/year)	48	40
Recharge Rate (meters/year)	0.24	0.20
Infiltration Rate (meters/year)	0.32	1.14
Vadose Zone:		
Total Thickness (meters)	3.0	1.5
Soil Type (-)	loam	sand
Hydraulic Conductivity (cm/hr)	1.04	29.7
Organic Carbon (percent)	.....	.....
Layer 1	1.1	0.6
Layer 2	0.2	0.1
Aquifer:		
Thickness (meters)	30	15
Hydraulic Conductivity (m/yr)	5000	10000
Organic Carbon Fraction (-)	0.002	0.001
pH	6.2	7.9
Hydraulic Gradient (-)	0.002	0.004
Distance to Well (feet)	500	100
Ingestion Rate (L/day)	1.4	1.4
Exposure Duration (years)	9	9

A discussion of the various ground water modeling assumptions and the values of the input parameters is found

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in the risk assessment background document for today's proposal.

2. *Direct soil ingestion.* This exposure pathway is based on the premise that young children may be exposed to hazardous constituents that are present in contaminated soils while playing outdoors, as a result of normal hand to mouth behavior. Such exposure could occur if the site where the contaminated soils are located is converted to residential housing, in the absence of soil remediation.[22] The Agency assumes that adult exposures associated with incidental soil ingestion are generally low when compared to childhood exposures.

Limited sampling and analysis data collected by EPA have identified soils in the process area and storage yard of sawmills that are contaminated with PCDDs and PCDFs. These compounds are highly persistent and can be expected to remain in the soil for many years to come. EPA used actual measurements of these compounds in soil in conjunction with various exposure assumptions to estimate potential childhood exposures to PCDDs and PCDFs if sawmill sites were converted to residential use without prior soil remediation. These assumptions are detailed in Table 6 below and in the risk assessment background document for today's proposal.

TABLE 5.—PARAMETERS VALUES FOR DIRECT SOIL INGESTION PATHWAYS

Parameter	Central tendency value	High end value
Soil Concentration (µg/kg)	0.218	0.96
Soil Ingestion Rate (g/day)	0.1	0.2
Exposure Duration (days)	800	1825
Absorption Fraction (-)	0.3	1.0

As discussed previously, for the baseline risk the Agency reduced the measured values by a factor of four in making estimates of soil concentrations resulting from cross-contamination. With regard to chlorophenols, however, the Agency's own data indicate an absence of significant soil contamination. For this reason, EPA has not attempted to characterize quantitatively, the potential risks associated with childhood exposures to chlorophenols via direct soil ingestion.[23]

[22] The agency recognizes that the very presence of contaminated soils is a factor that could also discourage residential development of former sawmill sites.

[23] The Agency noted that data from the resoure damage incidents described elsewhere in today's notice suggest that process soils could pose a threat to human health due to contamination with chlorophenols, primarily pentachlorophenol. The data are insufficient to draw any conclusions regarding chlorophenols in storage yard soils. However, any risks posed by soils contaminated with chlorophenols are contingent on residential redevelopment, without prior remediation.

3. *Fish and shellfish ingestion.* Most sawmills are located adjacent to or in close proximity to rivers and streams. This fact, combined with the results of actual sediment measurements, indicate a high probability that PCDDs and PCDFs have migrated into surface water sediments, presumably by soil erosion. Once river and stream sediments are contaminated, biological uptake may occur by freshwater organisms. This is of particular concern to human health in the case of freshwater fish which are consumed as part of the diet. Uptake of the more highly chlorinated PCDDs and PCDFs, such as those found in soils at sawmills, has been documented in laboratory studies of young fish exposed to contaminated riverine sediments.[24] Furthermore, estuarine fish and shellfish may also be subject to uptake of PCDDs and PCDFs when contaminated sediments are naturally discharged into bays and estuaries.

EPA used a methodology for fish and shellfish ingestion which is similar to one used in the proposed rule for land application of chlorine-bleached pulp and paper mill sludge (56 FR 21802). This approach uses the USDA's Universal Soil Loss Equation to estimate the ratio of the rate of erosion of soils from a contaminated site to the rate of erosion in the watershed as a whole. The ratio represents the dilution of sediments from a site by sediments from the entire drainage basin. Applying this ratio (or "dilution" factor) to the concentration in soils from a contaminated site gives the average sediment concentration in the watershed to which fish and shellfish may be exposed. To determine the average watershed acreage per sawmill, EPA mapped the location of over 2500 sawmills to determine the number of sawmills in each of over 2000 hydrologic cataloguing units in the continental United States, as defined by the U.S. Geological Survey.[25] Parameters for biological uptake are established using an empirically-derived sediment: fish bioaccumulation factor. Data from a USDA national food consumption survey are then used to estimate human exposure in the general population. In addition, data from other surveys are used to estimate exposures among recreational fishers. Values of the important parameters used in the analysis are summarized in Table 6 below.

TABLE 6.—PARAMETER VALUES FOR FISH AND SHELLFISH INGESTION PATHWAY

Parameter	Central tendency value	High end value
Site Area (hectares)	1.9	16.2
Ratio of Site Slope to Basin Slope (-)	1.0	1.0
Site Delivery Ratio (-)	0.80	0.62
Soil Concentration (µg/day)	0.218	0.96
Sites per Basin Area (ha) - 1	2.79×10^{-6}	1.03×10^{-5}
Cover Factor (-)	0.04	0.004
Bioaccumulation Factor (-)	0.008	0.1
Consumption Rate (g/day)		
Recreational Fishers	30	140
General Population	5.9	38
Ratio of TCDD-TEQ in fish filet to whole body (-)	0.5	0.5
Diet Fraction (-)	0.4	0.4

A detailed description of the methodology for the fish and shellfish exposure pathway is found in the background document for today's proposal.

c. *Characterization of risk from usage of chlorophenolic formulations.*

For today's proposal, EPA is taking a generic approach to the characterization of risk from the land disposal of certain wastes generated by the surface protection of wood at sawmill facilities, specifically process drippage and storage yard wash-off. A generic approach is necessary due to a lack of adequate data to perform site-specific risk assessments for a representative sample of sites.[26] With this approach, a generic scenario is developed in order to represent a prototypical sawmill site.

[24] Kuehl, D.W., P.M. Cook, A.R. Batterman, D. Lothenbach, and B.C. Butterworth. Bioavailability of polychlorinated dibenzo-p-dioxins and dibenzofurans from contaminated Wisconsin River sediment to carp. Chemosphere, Vol. 16, pp 667-679, 1987.

[25] The mapping results indicate that among cataloguing units where sawmills are located, there is one sawmill on average for every 270,000 acres, or approximately three sawmills per cataloguing unit. EPA estimates that approximately a third of these sawmills currently surface protect, or about one sawmill on average per cataloguing unit.

[26] EPA notes that a generic approach to risk characterization complements the site-specific data on media contamination from resource damage incidents, as described elsewhere in today's notice. Although useful for judging the reasonableness of the generic assessment, the resource damage incidents do not of themselves provide an adequate basis for characterizing risk.

The prototypical site is characterized in terms of size, waste generation, waste characterization, waste management practices, hydrogeologic characteristics, and drainage basin characteristics based on industry responses to questionnaires, EPA site visits, sampling and analysis data, and other information available to the Agency. The development of this scenario involves the evaluation of each of the parameters that is required in order to characterize human exposure and the selection of specific values for each of those parameters. Each of the exposure pathways described previously was analyzed using this approach.

If the values for all the exposure parameters are selected to represent what is typical (as indicated by the mean or median values for the parameters), then the corresponding risk from such an exposure scenario represents a central tendency estimate. On the other hand, if the values of all the parameters are selected to represent the high end at the same time, then the corresponding risk represents a bounding estimate; such estimates are generally useful only for eliminating certain exposure scenarios from further consideration. In theory, one can generate a distribution of individual risk in a population from the joint distribution of the various exposure parameters. The Agency has determined that EPA risk assessments should, at a minimum, include both central tendency and high-end estimates of individual risk, where the high end represents conceptually the 90th percentile of the population distribution and above. High end estimates are intended to exclude estimates, such as bounding estimates, that are likely to be above the risk to the most exposed individual in the actual population.

In order to characterize the high end risk, the various exposure parameters are first evaluated individually and high-end values for the parameters are selected based on the 90th to 95th percentile of the distribution of the values, or on some less precise measure of the high end where detailed data are not available. For this analysis, one estimate of the high end risk is made by setting each parameter to its high end value, one parameter at a time, and taking the highest of the estimates from this group of scenarios. A second estimate of the high end risk for this analysis is made by setting the exposure parameters to their high end values, two parameters at a time (resulting in a large matrix of exposure scenarios), and taking the highest of the risk estimates from this group of scenarios. These two estimates are intended to represent the lower and upper ends of the high end range of the distribution of risk. EPA requests comment on this approach for making high end risk estimates.

1. *Individual risk from usage of chlorophenolic formulations.* This section presents the results of the Agency's assessment of individual risk associated with the uncontrolled land disposal of process drippage and storage yard run-off from the use of chlorophenols for the surface protection of wood.

For the carcinogenic waste constituents (i.e., pentachlorophenol, PCDDs, and PCDFs), individual risk is described in terms of a lifetime excess cancer risk. The lifetime excess cancer risk represents the estimated upper bound of the 95th percentile confidence interval of the probability that an individual will contract cancer over his or her lifetime due to exposure to a particular substance. The results for PCDDs and PCDFs are combined in terms of 2,3,7,8-TCDD toxicity equivalents (TEQ) by using the toxicity equivalency factors discussed elsewhere in today's notice. For 2,3,4,6-tetrachlorophenol, which is classified as neither a human nor a probable human carcinogen, individual risk is described in terms of a hazard quotient. The hazard quotient is the ratio of the concentration to which an individual is exposed to the media concentration corresponding to the reference dose (otherwise referred to as the health-based level). The higher the hazard quotient, the greater the likelihood that adverse health effects will be observed in an individual and the greater the severity of those effects.

The risk results for the ground water pathway are given in Table 4. These results are broken out separately for drippage in the process area and wash-off in the storage yard. Risks from cross-contaminated non-chlorophenolic formulations would be lower by about a factor of 1400.

TABLE 7.—INDIVIDUAL RISK FROM USAGE OF CHLOROPHENOLIC FORMULATIONS FROM GROUND WATER INGESTION

Constituent	Central tendency	High end
Pentachlorophenol †	7×10^{-4}	2×10^{-2} to 3×10^{-1}
Tetrachlorophenol *	$1\times10^{+1}$	$2\times10^{+2}$ to $2\times10^{+3}$

† Upper bound excess lifetime cancer risk.
* Hazard quotient.

The expected increased risk to a typically exposed individual is 7×10^{-4}, or a chance of seven in ten thousand of contracting cancer over a lifetime. The assumption is made here that ground water is ingested at the rate of 1.4 liters per day for 9 years. Nine years is typical of the length of time an individual dwells at any one residence and, therefore, of the average duration of exposure to contaminated ground water. The risk calculation assumes that the individual's nine year residency period occurs during the peak nine year exposure segment over the modeling period. Of course, these results are based on the premise that ground water down-gradient of the source of contamination may be used for drinking water. As part of the RCRA section 3007 survey of 166 surface protection facilities, facilities were asked to provide the distance to the nearest ground water well. The survey data indicates that the median distance reported by the 68 responding facilities is 500 feet. Four of the 68 facilities report wells being as close as 100 feet. The further assumptions are made that the well is used for drinking water, is located down-gradient of the facility on the centerline of the plume, and draws from the top of the surficial aquifer. However, since sawmills are often located near rivers and streams, the contaminated ground water plume may be intercepted at least in part by surface water drainages, thereby reducing both the magnitude and likelihood of human exposures. Furthermore, the contaminated plume may not reach a drinking water well for many decades, raising the possibility that biodegradation in situ could significantly lower concentrations in the ground water aquifer. However, the toxicities of the many possible metabolites that may result from

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biodegradation have not been characterized and may not be inconsequential. The Agency requests comment on these individual risk estimates.

The risk results for the direct soil ingestion pathway are given in Table 5. Risks from soils contaminated only by cross-contaminated non-chlorophenolic formulations would be lower by about a factor of four. These results are broken out separately for the process area and the storage yard.

TABLE 8.—INDIVIDUAL RISK FROM USAGE OF CHLOROPHENOLIC FORMULATIONS FROM DIRECT SOIL INGESTION

Source	Process area		Storage yard	
	Central tendency	High/End	Central tendency	High/End
Constituent:				
2,3,7,8-TCDD TEQ †	2×10^{-5}	5×10^{-5} to 2×10^{-4}	2×10^{-6}	9×10^{-6} to 2×10^{-5}

† Upper bound excess lifetime cancer risk.

The results in Table 5 suggest that the risk from direct soil ingestion by children is considerably smaller than the risk from ground water ingestion. A child exposed to contaminated storage yard soils under typical conditions would be subject to an increased cancer risk of 2×10^{-6} over a lifetime, or a chance of only two in a million. These risk estimates assume soil ingestion rates in the range of 100 mg/day to 200 mg/day from normal hand to mouth behavior. Children who exhibit pica behavior may consume much larger quantities of soil; these children, therefore, could be subject to proportionately higher risks.

Finally, the risk results for the fish and shellfish ingestion pathway are given in Table 6 for two different population groups, recreational fishers and the general population. Risks from this exposure pathway from soils contaminated only by cross-contaminated non-chlorophenolic formulations would be lower by about a factor of four.

TABLE 9.—INDIVIDUAL RISK FROM USAGE OF CHLOROPHENOLIC FORMULATIONS FROM FISH AND SHELLFISH INGESTION

Population	Recreational fishers		General population	
	Central tendency	High/End	Central tendency	High/End
Constituent:				
2,3,7,8-TCDD TEQ †	1×10^{-8}	2×10^{-7} to 2×10^{-6}	4×10^{-9}	3×10^{-8} to 3×10^{-7}

† Upper bound excess lifetime cancer risk.

Because storage yard soils represent by far the largest area of contamination at sawmill facilities (the process area being relatively small by comparison), the results in Table 6 are based on PCDD and PCDF levels in storage yard soils only. The risk estimates for the general population and the central tendency risk estimates for recreational fishers have been adjusted by the proportion of hydrologic cataloguing units in which sawmills are located in order to account for the proportion of the market basket of fish and shellfish that could be contaminated by sediment from sawmills. This proportion is estimated to be 40 percent. EPA requests comment on the appropriateness of this methodology.

The results suggest that human exposures through this pathway are of relatively little concern to any particular individual. For a typically exposed individual in the general population, the risk of contracting cancer is increased by only 4×10^{-9}, or a chance of four in a billion. In fact, the estimated concentrations of PCDDs and PCDFs in fish tissues are substantially lower than levels which have been characterized by some investigators as "background" levels, which suggests that sawmills are not one of the more important sources of PCDDs and PCDFs in the aquatic food chain. However, as described elsewhere in today's notice, the methodology EPA used for the fish and shellfish ingestion pathway is based on average sediment concentrations in an entire drainage basin, which can represent thousands of square miles. Concentrations in sediments immediately downstream of contaminated sites would be expected to greatly exceed the average sediment concentration, suggesting the possibility of the existence of significant localized risks which have not been quantified. Also, despite the estimated risks to any one individual not being very high, the overall contribution of PCDDs and PCDFs from surface protection operations to the aquatic environment is of concern because of the large number of facilities and the enormous size of the population potentially exposed via dietary consumption of fish and shellfish. Human exposure to these compounds from a variety of sources are already at sufficiently high levels that any increase in exposure is cause for concern.

2. *Population risk from usage of chlorophenolic formulations.* Population risk represents the number of persons in a given population which may be expected to exhibit adverse health effects, either in terms of morbidity or mortality. Although population risk can be estimated by summing individual risks across the entire population, in practice detailed information on the distribution of individual risk is rarely available. However, for carcinogens which are assumed to exhibit a linear dose-response relationship, an estimate of population risk can be made by multiplying the central tendency estimate of individual risk by the size of the exposed population. This estimate, which represents the number of cases over a lifetime, can be divided by the period of time over which the population is exposed to calculate an "annual average" number of cases during the 70 year period of maximum exposure. An estimate of this type is made with the implicit assumption that larger risks to more highly exposed individuals in the population are offset by smaller risks to less exposed individuals. For noncarcinogenic effects, population risk can be estimated by multiplying the proportion of the population that receives an exposure which exceeds the reference dose (RfD) by the size of the exposed population. An estimate of this type obviously requires some knowledge of the distribution of individual risk in the exposed population (as measured by the hazard quotient, for example). This estimate also can be converted to an annual average as discussed above.[27]

Estimates of population risks associated with existing environmental contamination for the ground water ingestion pathway, the fish and shellfish ingestion pathway, and the soil ingestion pathway are given in Table 7. Incremental risk associated with the cross-contamination of non-chlorophenolic formulations is discussed in the benefits section of today's proposal. Note that population risk estimates are not made for pentachlorophenol and 2,3,4,6-tetrachlorophenol for the soil-based pathways (i.e., direct soil ingestion and fish and shellfish ingestion) and for 2,3,7,8-TCDD for the ground water pathway, for the reasons cited earlier.

TABLE 10.—POPULATION RISK FROM USAGE OF CHLOROPHENOLIC FORMULATIONS BY EXPOSURE PATHWAY

Pathway	Ground water	Fish and shellfish	Soil
Constituent:			
Pentachlorophenol †	9×10^{-2}	NA	NA
2,3,4,6-Tetrachlorophenol *	$2\times10^{+2}$	NA	NA
2,3,7,8-TCDD TEQ †	NA	1×10^{-2}	2×10^{-5}

† Cancer cases, annual average during 70 year period of maximum exposure.
* Non-cancer cases, annual average during 70 year period of maximum exposure.

For the ground-water pathway, the population risk estimates are based on an estimated exposed population of approximately 17000 individuals over 70 years. This is derived by adjusting the number of sawmills which currently engage in surface protection operations by the proportion of sawmills reporting the presence of a ground water well and making the assumption of one household per well. The residence time or turnover period is assumed to be 9 years, resulting in eight exposed households (or cohorts) over 70 years. The exposed households are assumed to obtain their drinking water from wells which are located 500 feet directly down-gradient of the surface protection operation and draw from the top of a shallow, contaminated surficial aquifer. The rationale for making these particular assumptions is discussed in the risk assessment background document for today's proposal. Because the assumption that each well is located directly down-gradient of the surface protection operation and is used as a drinking water supply is probably quite conservative (particularly given the frequency with which sawmills are located near surface waters that are likely to intercept at least some portion of the contaminated ground water plume), the population risk estimate could be characterized as a bounding estimate. However, the degree of conservatism is reduced by having not considered that other households at farther distances could also be exposed. Also, sawmills that are not currently conducting surface protection operations may have done so in the past and, if so, would most likely have used chlorophenolic formulations. These would represent additional sites that have the potential for human exposure to contaminated ground water. Although community wells would not be expected to draw from very shallow aquifers, such wells could become contaminated to the extent that the surficial aquifer and the water-bearing aquifer are hydraulically connected. If this occurs, the actual population risk could be much higher. However, because the Agency lacks adequate data on the location of community wells relative to sawmills, EPA regards the existence of contaminated community wells as a matter of speculation only, particularly where community water systems are required to comply with the MCL (the maximum contaminant level established under the Safe Drinking Water Act) for pentachlorophenol.

For the fish and shellfish ingestion pathway, the population risk estimates are based on the entire U.S. population, approximately 250 million people, along with the previously discussed assumption that 40 percent of the commercial freshwater and estuarine fish and shellfish come from regions where sawmills that surface protect are located. As presented previously, a central tendency estimate of individual risk was made for the general population. The assumption made here is that all persons in the general population of the U.S. are potentially exposed. EPA believes that this is a reasonable assumption when one considers that the greatest production of lumber occurs in the regions of the U.S. which also produce the highest commercial fish and shellfish catches, in particular the Gulf Coast and the Pacific Northwest regions. EPA requests comment on these assumptions.

For the direct soil ingestion pathway, an estimate of population risk can be made by estimating the number of children that could be exposed to contaminated soils assuming a change in land use from industrial to residential. This could occur where a sawmill is abandoned and, without prior soil remediation, is later developed for residential housing or is sold to a developer or prospective homeowner. As discussed earlier, the population risk can be estimated by multiplying the exposed population by the central tendency estimate of individual risk. However, because the storage yard is so much larger than the process area, only the individual risk value for the storage yard is used in this calculation. Ideally, one would examine local land-use patterns and land values to ascertain the location of sawmills that are likely candidates for residential development. However, this type of information is not readily available to the Agency. Instead, a bounding estimate can be made by assuming an immediate change in land use to rural

[27] Another way of estimating the number of annual cases for non-carcinogenic health effects is to estimate the rate at which individuals are exposed to levels above the reference dose.

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residential and estimating the number of potentially exposed children based on rural residential population densities, age demographic data, and estimated turnover times of child-bearing households (i.e., the time period from when one child-bearing household is replaced with another child-bearing household). Taking this approach, a bounding estimate of the size of the exposed population is approximately 500 children over a 70year period. While this can be characterized as a bounding estimate, it does not consider the possibility that a sawmill site located close to an expanding urban area could be converted to high density single family or multifamily housing. Even if only a small number of sawmills were to be developed for high-density housing, the potential population of exposed children could be larger than EPA's estimate.

VIII. Applicability of the Land Disposal Restrictions

RCRA requires EPA to make land disposal prohibition determinations for hazardous wastes that are newly identified or listed in 40 CFR part 261 after November 8, 1984, within six months of the date of final listing (RCRA section 3004(g)(4), 42 U.S.C. 6924(g)(4)). EPA is also required to set levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and longterm threats to human health and the environment are minimized (RCRA section 3004(m)(1), 42 U.S.C. 6924(m)(1)). Land disposal of wastes that meet treatment standards thus established by EPA is not prohibited.

A general overview of the Agency's approach in performing analysis of the how to develop treatment standards for hazardous wastes can be found in greater detail in section III.A.1. of the preamble to the final rule for Third Third wastes (55 FR 22535, June 1, 1990). The framework for the development of the entire Land Disposal Restrictions program was promulgated in the Solvents and Dioxins rule (51 FR 40572, November 7, 1986).

Treatment standards typically are established based on performance data from the treatment of the listed waste or wastes with similar chemical and physical characteristics or similar concentrations of hazardous constituents. Treatment standards also are established for both wastewater and nonwastewater forms on a constituent-specific basis. The constituents selected for regulation under the Land Disposal Restriction Program are not necessarily limited to those identified as present in the F033 wastes in today's notice, but include those constituents or parameters that will ensure that the technologies are operated properly.

Wherever feasible, the Agency anticipates transferring BDAT treatment standards for both wastewater and nonwastewater forms of the proposed F033 wastes from the list of treatment standards for F039, the listing for multi-source leachate, promulgated in the Third Third final rule (see 40 CFR 268.43). Those treatment standards, in fact, should be generally achievable. If F033 wastes have constituents present that are not currently regulated in these wastes, EPA will develop treatment standards for these constituents and may then propose to add them to the treatment standards for F039. (The Final BDAT Background Document for U and P Wastes/Multi-source Leachate is available from NTIS (National Technical Information Service), 5285 Port Royal Road, Springfield, Virginia 22161, (703) 487–4600. The NTIS numbers for the three-volume set are PB90–234337, PB90–234345, and PB90–234352.

Although data on waste characteristics and current management practices for the proposed F033 wastes have been gathered as part of the administrative record for today's rule, the Agency has not completed its evaluation of the usefulness of these data for developing specific treatment standards or assessing the capacity to treat (or recycle) these wastes.

Available treatment performance data for wastes believed as difficult to treat as F033 show that incineration, chemical dechlorination, and biological treatment are potentially applicable to F033. These technologies have shown some promise in the treatment of dioxin-containing wastes. EPA is, in fact, evaluating the feasibility of developing concentration-based treatment standards based on the performance of chemical dechlorination technologies demonstrated on wood preserving wastes or unspent commercial chemical products used in the formulation of solutions that are precursors to the generation of F033 or F032 (wood preserving waste). These data are also under review for the purpose of developing treatment standards for F033. A collection of the available treatment information has been placed in the docket for today's rule.

EPA intends to propose treatment standards for F033 in a separate rulemaking. However, EPA specifically is soliciting comment and data on the following as they pertain to the proposed listing of F033 wastes identified in today's notice:

(1) Technical descriptions of the treatment systems that are or could potentially be used for these wastes;

(2) Descriptions of alternative technologies (such as bioremediation) that might be currently available or anticipated as applicable;

(3) Performance data for the treatment of these or similar wastes (in particular, constituent concentrations in both treated and untreated wastes, as well as equipment design and operating conditions);

(4) Information on known or perceived difficulties in analyzing treatment residues or specific constituents;

(5) Quality assurance/control information for all data submissions;

(6) Factors affecting on-site and off-site treatment capacity;

(7) Information on the potential costs for set-up and operation of any current and alternative treatment technologies for these wastes; and

(8) Information on waste minimization approaches.

IX. State Authority

A. Applicability of Final Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. (See 40 CFR part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under sections 3007, 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility.

Before the Hazardous and Solid Waste Amendments of 1984 (HSWA) amended RCRA, a State with final authorization administered its hazardous waste program entirely in lieu of the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any plants located in the State with permitting authorization. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

By contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to implement those requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the Federal HSWA requirements apply in authorized States in the interim.

B. Effect on State Authorizations

1. HSWA Provisions

Because this proposel (with the exception of the proposed CERCLA reportable quantity) will be promulgated pursuant to HSWA, a State submitting a program modification is able to apply to receive either interim or final authorization under section 3006(g)(2) or 3006(b), respectively, on the basis of requirements that are substantially equivalent or equivalent to EPA's requirements. The procedures and schedule for State program modifications under section 3006(b) are described in 40 CFR 271.21. It should be noted that all HSWA interim authorizations are currently scheduled to expire on January 1, 2003 (see 57 FR 60129, February 18, 1992).

2. Modification Deadlines

Section 271.21(e)(2) of EPA's state authorization regulations (40 CFR part 271) requires that States with final authorization must modify their programs to reflect Federal program changes and submit the modifications to EPA for approval. The deadline by which the States must modify their programs to adopt this proposed regulation, if it is adopted as a final rule, will be determined by the date of promulgation of a final rule in accordance with § 271.21(e)(2). If the proposal is adopted as a final rule, Table 1 at 40 CFR 271.1 will be amended accordingly. Once EPA approves the modification, the State requirements become RCRA Subtitle C requirements.

States with authorized RCRA programs already may have regulations similar to those in today's proposed rule. These State regulations have not been assessed against the Federal regulations being proposed today to determine whether they meet the tests for authorization. Thus, a State would not be authorized to implement these regulations as RCRA requirements until State program modifications are submitted to EPA and approved, pursuant to 40 CFR 271.21. Of course, States with existing regulations that are not less stringent than current Federal regulations may continue to administer and enforce their regulations as a matter of State law.

It should be noted that authorized States are required to modify their programs only when EPA promulgates Federal standards that are more stringent or broader in scope than existing Federal standards. Section 3009 of RCRA allows States to impose standards more stringent than those in the Federal program. For those Federal program changes that are less stringent or reduce the scope of the Federal program, States are not required to modify their programs. (See 40 CFR 271.1(i).) This proposed rule, if finalized, is neither less stringent than nor a reduction in the scope of the current Federal program and, therefore, States would be required to modify their programs to retain authorization to implement and enforce these regulations.

X. Proposed Amendment of SW–846 (Test Methods for Evaluating Solid Waste, Physical/Chemical Methods)

The Agency is proposing to require that certain wood surface protection plants test the pentachlorophenate concentration of their formulations (see discussion in section IV(B) above) using the analytical and test methods found in SW–846 (Test Methods for Evaluating Solid Waste, Physical/Chemical Methods). In connection with this proposed testing requirement, the Agency is today proposing to add method 4010 (Immunoassay Test for the Presence of Pentachlorophenate) to the Second and Third Editions of SW–846.

SW–846 contains the analytical and test methods that EPA has evaluated and found to be among those acceptable for testing under subtitle C of the Resource Conservation and Recovery Act, as amended (RCRA). These methods are intended to promote accuracy, sensitivity, specificity, precision, and comparability of analyses and test results.

Several of the hazardous waste regulations under subtitle C of RCRA require that specific testing methods described in SW–846 be employed for certain applications. For the convenience of the reader, the Agency lists below a number of the sections currently found in 40 CFR parts 260 through 270 that require the use of a specific method for a particular application, or the use of appropriate SW–846 methods in general. If today's proposal is adopted in final form, the proposed pentachlorophenate testing requirement would be added to this list.

(1) Section 260.22(d)(1)(i)—Submission of data in support of petitions to exclude a waste produced at a particular plant (i.e., delisting petitions);

(2) Section 261.22(a)(1) and (2)—Evaluation of waste against the corrosivity characteristic;

(3) Section 261.24(a)—Leaching procedure for evaluation of waste against the toxicity characteristic;

(4) Sections 264.190(a), 264.314(c), 265.190(a), and 265.314(d)—Evaluation of waste to determine if free liquid is a component of the waste;

(5) Section 266.112(b)(1)—Certain analyses in support of exclusion from the definition of a hazardous waste of a residue which was derived from burning hazardous waste in boilers and industrial furnaces;

(6) Section 268.32(i)—Evaluation of a waste to determine if it is a liquid for purposes of certain land disposal prohibitions;

(7) Sections 268.40(a), 268.41(a), and 268.43(a)—Leaching procedure for evaluation of waste to determine compliance with Land Disposal treatment standards;

(8) Sections 270.19(c)(1)(iii) and (iv), and 270.62(b)(2)(i)(C) and (D)—Analysis and approximate quantification of the hazardous constituents identified in the waste prior to conducting a trial burn in support of an application for a hazardous waste incineration permit; and

(9) Sections 270.22(a)(2)(ii)(B) and 270.66(c)(2)(i) and (ii)—Analysis conducted in support of a destruction and removal efficiency (DRE) trial burn waiver for boilers and industrial furnaces burning low risk wastes, and analysis and approximate quantitation conducted for a trial burn in support of an application for a permit to burn hazardous waste in a boiler and industrial furnace.

In situations where hazardous waste regulations under subtitle C of RCRA require that specific testing methods described in SW–846 be employed for certain applications, methods contained in the Second Edition of SW–846, as amended, currently must be utilized. See 40 CFR 260.11 and 270.6(a). In a separate rulemaking, EPA has proposed to require the use of the Third Edition of SW–846, as amended by update I, in lieu of the Second Edition of SW–846, as amended, in situations where the use of SW–846 methods are specifically mandated. See 54 FR 3212 (January 23, 1989).

In other situations, any reliable analytical method may be used to meet other requirements in 40 CFR parts 260 through 270. SW–846 functions in those situations as a guidance document setting forth acceptable, although not required, methods to be implemented by

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the user, as appropriate, in responding to RCRA-related sampling and analysis requirements.

In today's proposed rule, the Agency is proposing to require that certain wood surface protection plants test the pentachlorophenate concentration of their formulations using the analytical and test methods found in SW–846. The proposal does not, however, require the use of any one specific SW–846 method. Because the Agency believes that method 4010 is appropriate for the testing requirements proposed today, it is proposing to add that method to SW–846. Method 4010, including its protocol and documentation supporting this proposal can be found in the docket for this rulemaking.

If the portion of the proposed rule referenced above (54 FR 3212 (January 23, 1989)) that would require the use of SW–846 Third Edition methods in lieu of SW–846 Second Edition methods is promulgated and, thereafter, the Agency determines, after reviewing comments submitted, that SW–846 test methods should be required for the proposed pentachlorophenate testing requirement and that Method 4010 should be added to SW–846, the Agency is proposing that Method 4010 be added only to the Third Edition of SW–846 as Update IIA to that edition. If, on the other hand, a final rule replacing the Third Edition of SW–846 for the Second Edition of SW–846 in situations where the use of SW–846 methods is specifically mandated is not promulgated prior to promulgation of a rule finalizing the proposals discussed above in this section, the Agency will consider adding Method 4010 to the Second and Third Editions of SW–846 so that it will be available for use regardless of which edition is mandated.

SW–846 is a document that will change over time as new information and data are developed. Advances in analytical instrumentation and techniques are continually reviewed by the Agency and periodically incorporated into SW–846 to support changes in the regulatory program and to improve method performance. This proposed addition represents such an incorporation. Therefore, although only comments related to the proposals referenced above will be considered in connection with today's proposed rule, EPA also solicits any available data and information that may affect the usefulness of SW–846.

XI. CERCLA Designation and Reportable Quantities

All hazardous wastes listed under RCRA and codified in 40 CFR 261.31 through 261.33, as well as any solid waste that exhibits one or more of the characteristics of a RCRA hazardous waste (as defined in §§ 261.21 through 261.24), are hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. See CERCLA section 101(14)(c). CERCLA hazardous substances are listed in Table 302.4 at 40 CFR 302.4 along with their reportable quantities (RQs). Accordingly, the Agency is proposing to:

(1) List the proposed F033 hazardous waste as a CERCLA hazardous substance in Table 302.4 of 40 CFR 302.4; and

(2) Establish an adjusted CERCLA RQ of one pound for F033.

Reporting Requirements

Under CERCLA section 103(a), the person in charge of a vessel or plant from which a hazardous substance has been released in a quantity that is equal to or exceeds its RQ shall immediately notify the National Response Center of the release as soon as that person has knowledge thereof. See 40 CFR 302.6. The toll free number of the National Response Center is 1–800–424–8802; in the Washington, D.C. metropolitan area, the number is (202) 426–2675. In addition to this reporting requirement under CERCLA, section 304 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) requires owners or operators of certain plants to report the release of a CERCLA hazardous substance to State and local authorities. EPCRA section 304 notification must be given immediately after the release of an RQ or more to the community emergency coordinator of the local emergency planning committee for each area likely to be affected by the release, and to the State emergency planning commission of any state likely to be affected by the release. If today's proposal is promulgated as a final rule, releases of one pound or more of F033 waste will be subject to the requirements described above.

Adjustment of RQs

Under Section 102(b) of CERCLA, all hazardous substances newly designated under CERCLA have a statutory RQ of one pound unless and until adjusted by regulation. The Agency's methodology for adjusting RQs of individual hazardous substances begins with an evaluation of the intrinsic physical, chemical, and toxicological properties of each hazardous substance. (For more detailed information on this methodology, see the preamble to an RQ adjustment final rule published on August 14, 1989 (54 FR 33426).) The intrinsic properties examined, called "primary criteria," are aquatic toxicity, mammalian toxicity (oral, dermal, and inhalation), ignitability, reactivity, chronic toxicity, and potential carcinogenicity. Generally, for each intrinsic property, the Agency ranks hazardous substances on a scale, associating a specific range of values on each scale with an RQ of 1, 10, 100, 1000, or 5000 pounds. The data for each hazardous substance are evaluated using various primary criteria; each hazardous substance may receive several tentative RQ values based on its particular intrinsic properties. The lowest of the tentative RQs becomes the "primary criteria RQ" for that substance.

After the primary criteria RQs are assigned, substances are further evaluated for their susceptibility to certain degradative processes, which are used as secondary adjustment criteria. These natural degradative processes are biodegradation, hydrolysis, and photolysis (BHP). If a hazardous substance, when released into the environment, degrades relatively rapidly to a less hazardous form by one or more of the BHP processes, its RQ (as determined by the primary RQ adjustment criteria) is generally raised one level. (No RQ level increase based on BHP occurs if the primary criteria RQ is already at its highest possible level [100 pounds for potential carcinogens and 5000 pounds for all other types of hazardous substances except radionuclides].) This adjustment is made because the relative potential for harm to public health or welfare or the environment posed by the release of such a substance is reduced by the degradative processes. Conversely, if a hazardous substance degrades to a more hazardous product after its release, the original substance is assigned an RQ equal to the RQ of the more hazardous substance, which may be one or more levels lower than the RQ for the original substance. The downward adjustment is appropriate because the hazard posed by the release of the original substance is increased as a result of the BHP.

The methodology summarized above is applied to adjust the RQs of individual hazardous substances. An additional process applies to RCRA listed wastes, which contain individual hazardous substances as constituents. As the Agency has stated (54 FR 33440; August 14, 1989), to assign an RQ to a RCRA waste, the Agency determines the RQ for each constituent of the waste and then assigns the lowest of these constituent RQs to the waste itself.

Under the proposed definition of the F033 waste, its constituents may include 2,3,7,8-tetrachlorodibenzo-p-dioxin, which has an adjusted RQ of one pound (the lowest RQ). Therefore, the Agency is proposing a one-pound adjusted RQ for F033.

XII. Compliance Costs Associated With the Rule

A. Executive Order 12291

Executive Order 12291 requires EPA to conduct a Regulatory Impact Analysis (RIA) for all "major" rules. A major rule is defined as one that is likely to result in:

(1) An annual impact on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant impacts on competition, unemployment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in domestic or export markets.

EPA has determined that the F033 Listing Proposal is not a major rule, as defined by the above criteria. Nevertheless, the Agency has prepared an abbreviated RIA or "Economic Assessment" (EA) in order to examine costs and benefits likely to occur as a result of this action. The EA is in the public docket for this notice. A brief summary of the Economic Assessment findings is presented below for both the no-list and list option.

B. Cost of Proposed F033 No-List Option

Facilities may choose to take some remedial action as a result of publicity surrounding this action. However, no specific action will be required under this option. As a result, incremental cost impacts to the regulated community are expected to be zero under the no-list option.

C. Cost of Proposed F033 List Option

a. Methodology

i. *General approach.* The objective of the cost analysis was to determine the social cost of the actions potentially regulated firms would take to comply with the proposed F033 listing. The principle used to determine the actions firms would take is that they would undertake the lowest cost alternative available that would satisfy rule requirements.

Facilities have several alternative compliance strategies available to them:

(1) Treat waste as hazardous;

(2) Use a non-PCP formulation and take actions necessary to ensure that concentrations of PCP in surface protection formulations are at or below 0.1 ppm;

(3) Replace equipment and use a non-PCP formulation; or

(4) Go out of business.

Using the least-cost alternative principle, EPA projects that all potentially regulated facilities would choose number two above; use a non-PCP formulation and clean their equipment to ensure that PCP concentrations are less than or equal to 0.1 ppm. Under this scenario, facilities are assumed to test their formulation, clean equipment and test again following cleaning to insure compliance. Furthermore, although not required, facilities are assumed to avoid liability concerns through the added costs associated with offsite disposal of wastes generated during the cleaning process.

ii. *Identification of potentially regulated community.* Any entity that generates wastes from wood surface protection processes containing levels of pentachlorophenate above 0.1 ppm is potentially subject to the proposed rule. Because sapstain can begin to form on wood within hours after it is cut, sawmills are in the best position to apply the anti-stain chemicals. Nevertheless, there are isolated cases in which downstream facilities such as furniture manufacturers and flooring companies prefer to surface-protect wood after they receive it. EPA has learned from industry representatives, however, that few, if any, such facilities would be affected by an F033 listing. Therefore, the Economic Assessment (EA) focuses exclusively on sawmills, for this proposal.

As described elsewhere in this preamble, EPA estimates that there are over 3,200 sawmills currently operating in the United States, of which approximately 980 surface protect at least some portion of their wood. The three primary methods of surface protection are dip tank, green chain, and spray chamber.

iii. *General assumptions.* The following assumptions underlie the Agency's projection of what facilities would do in response to an F033 listing and the resulting cost of these actions:

(1) No facility will be using sodium pentachlorophenate upon promulgation of a final rule;

(2) All current users of sapstain control chemicals were once users of sodium pentachlorophenate;

(3) Sodium pentachlorophenate will not be used again by any facility in the future; and

(4) All affected facilities (980) would currently generate wastes that meet the listing description (i.e., have formulations with pentachlorophenate concentrations greater than 0.1 ppm).

The first three of these assumptions reflect the best information available. The last assumption is conservative. Many facilities may currently have formulations with concentrations of pentachlorophenate at or below 0.1 ppm (the approximate number is unknown). Facilities are known to routinely clean their equipment, or did so when they switched formulations.

b. Results

i. *Per facility costs.* Costs of the projected compliance action are assumed to vary across facilities depending on the type of surface protection equipment used and the quantity of lumber processed. Estimated one-time per facility costs range from a low of $1,960 for a sawmill using a spray chamber and producing less than 100 million board feet per year, to as high as $9,350 for a facility using a dip tank and producing more than 100 million board feet per year. Labor, testing and waste disposal are the primary cost factors. Waste disposal costs represent anywhere from six to 70 percent of total estimated facility compliance costs, depending upon equipment used and facility size. In addition, testing costs may vary widely and contribute to the overall range. Labor costs reflect best professional judgment of the estimated hours necessary for a thorough "high pressure" water spray cleaning. These costs also vary based on facility size.

ii. *Total cost estimation.* The total social cost of the proposed rule was calculated by multiplying the number of mills in each industry classification (based on the type of equipment employed and volume of lumber produced) by the per facility cost estimated for that classification.

The aggregate social cost of the proposed F033 listing is estimated to range from $3.5 to $4.5 million. All costs are expected to be incurred entirely within the first year after promulgation of the rule. Forty percent of the facilities sampled were found to have existing PCP levels below the proposed regulatory cutoff (i.e., have formulations with pentachlorophenate concentrations at or below 0.1 ppm). Extrapolating to the total cost figure results in an aggregate low cost estimate of approximately $2.3 million (including affirmative testing for the 40 percent).

This action may also result in classification of certain soils as hazardous, resulting in subtitle C management costs, if they are actively managed. Soil management costs would vary significantly, depending upon the amount of contaminated soil actually

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managed and the technology used to dispose of the soil. These factors are difficult to quantify. In practice, the expense of added soil management costs likely would discourage many firms from disturbing (building on, excavating, etc.) areas of contaminated soils. However, even though firms are likely to avoid disturbing contaminated soil areas, some affected facilities may choose to implement stricter soil management requirements out of human health and/or liability concerns. Any estimates of the costs associated with future management of contaminated soils could be only speculative, and are not included in this analysis.

Opportunity costs associated with restricted property use may result from this action. These costs would be reflected in reduced property values. The presence of PCP-contaminated soils may reduce the value of the land by compelling clean-up actions, or through the lost use of restricted areas. These costs are assumed to be reflected in the market value of the property. Furthermore, the Agency feels that most reductions in the market value of property results from past contamination. Opportunity costs, therefore, may be attributable, in many cases, to existing State and Federal laws.

iii. *Agency preferred cleaning option.* Sand blasting and epoxy coating is not required to satisfy rule requirements. However, the Agency recognizes this as the most effective cleaning method available and recommends its use in meeting the required 0.1 ppm PCP concentration level. Sand blasting and epoxy coating would cost approximately $2,500 per facility for the average dip tank and green chain operation. Spray chamber facilities would not be able to employ this method. The most effective alternative for these facilities would be to replace their equipment at costs ranging from $40,000 to $60,000 per facility. None of the above estimates include testing or waste disposal costs.

While sand blasting and epoxy coating (equipment replacement for spray operations) is preferred to ensure the most effective cleaning possible, the Agency recognizes that industry will logically choose the least cost cleaning method available to meet rule requirements. As a result, final cost estimates presented in section C.(b) reflect this assumption.

D. Benefits of Proposed F033 Listing

a. Methodology

i. *Overview.* The objective of the benefits analysis was to estimate the number of cancer cases that could be avoided as a result of the implementation of the proposed rule. To derive this estimate, EPA identified the constituents of concern, identified the exposure pathways, determined the risk to individuals associated with each of the pathways, and correlated the individual risk to the population as a whole by multiplying by the estimated number of exposed persons.

When estimating the potential benefits of the proposed rule, it is important to distinguish between risks that result from past practices and risks from future actions. Because the proposed rule, by its own terms, will not require remediation of existing contamination, it will affect only future actions and will not mandate action with respect to contamination from past practices. The risk analysis conducted in support of this proposed rule examined both risk from past practices as well as incremental risk from action affected by the proposed rule. This proposal addresses only incremental risks, as a result, only the incremental risks are discussed in this section of today's notice.

ii. *Identification of constituents of concern and the measurement of their risks.* The constituents of concern used in the risk assessment include pentachlorophenol (PCP), polychlorinated dibenzo-p-dioxins (PCDD), and polychlorinated dibenzofurans (PCDF). Because of limited quantitative data on the toxicity of the specific isomers and congeners of the latter two constituents, PCDDs and PCDFs were modeled using quantitative values for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), an isomer of dioxin. Tetrachlorophenol (TeCP) is also a constituent of chlorophenolic formulations and was included in the full risk analysis. However, because it is not a carcinogen, results for this constituent are not discussed in this section of today's notice.

As PCP and TCDD are both Class B_2 carcinogens (probable human carcinogens), the magnitude of their risks was measured using carcinogenic slope factors. The slope factors for PCP and TCDD are 1.2×10^{-1} $(mg/kg/d)^{-1}$ and $1.56\times10^{+5}(mg/kg/d)^{-1}$ respectively.

iii. *Identification of exposure pathways and population risks.* EPA modeled risks for three pathways: Ground water ingestion, fish and shellfish ingestion, and soil ingestion. There are also potential exposures from surface water ingestion, soil and dust inhalation, and dermal exposure to soil, but preliminary analysis suggested that these pathways were unlikely to pose significant risks. The exposure scenarios for each of the modeled pathways are as follows:

(A) *Ground-water ingestion.* Hazardous constituents from surface protection wastes can migrate through the soil to ground water. People can be exposed to the contaminated ground water when it is used for drinking water. PCP was used as the constituent of concern for the ground-water analysis because it is more mobile through the soil column than dioxins, which tend to bind to the soil. Contamination of the upper aquifer, from which residential wells might be drawn, was modeled. Thus the potentially exposed population consists of people drinking contaminated water from residential wells located near the source of the contamination. The lower aquifer, from which community wells might be drawn, was not modeled because of the lack of site-specific information on the location of community wells near sawmill facilities.

Standard exposure assumptions used to translate the estimated constituent concentrations in ground water into health risks included ingestion of 1.4 liters of contaminated ground water per day by a 70 kg adult for an average of nine years. The excess lifetime cancer risk to an individual drinking contaminated ground water was estimated to be 5×10^{-7}. This means that an individual exposed to the contamination would have a one in 2,000,000 incremental risk of contracting cancer over his or her lifetime.

To calculate population risk, the Agency assumed that one residential well serving a family of four would be located directly downgradient of each potentially regulated facility. In addition, the population risk estimate was calculated for eight cohorts of individuals consuming contaminated water over a 70 year period. Because cancer cases were not discounted, the exact timing of the onset of cancer was not important. Under these assumptions, an estimated 17,000 individuals would be exposed to contaminants from ground water consumption. The population risk estimate also assumes that exposed individuals would be drinking contaminated ground water during the 70 years that constituent concentrations are at their highest.

(B) *Fish and shellfish ingestion.* Wastes from surface protection processes can be carried into streams and rivers located near potentially regulated sawmills through soil runoff. The Agency assumed that dioxins, which tend to bind with soil, would be present in the runoff.

Risks from fish ingestion were estimated using a five step process.

First, the Agency estimated the expected soil concentrations of dioxins that would be released through cross contamination. Second, it estimated constituent concentrations in stream sediment resulting from erosion of contaminated soils based on erosion rates for the entire drainage basin in which the sawmill is located. Third, using fish-to-sediment bioaccumulation factors, the concentrations of constituents in fish tissue were estimated. Fourth, human exposure to contaminants were estimated based on assumptions about consumption of freshwater and estuarine fish and shellfish. Finally, the carcinogenic slope factor for TCDD was multiplied by the rate of ingestion of TCDD to estimate risk of cancer from ingestion of contaminated fish.

Based on data from the Department of Agriculture 1977–1978 National Food Consumption Survey (NFCS), it was assumed that each person in the US consumes freshwater and estuarine fish and shellfish at a rate of 5.9 grams per day. It was further assumed that consumption of fish would occur for 25,550 days (70 years). The excess lifetime cancer risk from individuals eating contaminated fish was estimated to range from 9.6×10^{-11} to 4.4×10^{-9}, depending upon analytical approach. The Agency's best estimate for this pathway is 8.0×10^{-10}.

Because sawmills are located in the drainage basins that drain into the primary areas for freshwater and estuarine commercial fishing and because commercial fish landings are marketed nationally, it was assumed that the total population of the US would be exposed to contaminated fish and that 24 percent of the commercial fish and shellfish would be contaminated. (The 24 percent figure is based on the assumptions that sawmills which surface protect are located in 40 percent of the drainage basins and that 60 percent of those sawmills will be affected by the rule.) Thus, to estimate population risk, the general population risk was multiplied by the estimated population of the US (250 million).

(C) *Soil ingestion.* Direct human ingestion of contaminated soil, usually by young children, is another potential exposure route. Such exposure would most likely occur under a scenario in which the land on which the sawmill is located is converted to residential use, without significant cleanup of the contaminated soil. Again, the Agency assumed that dioxins would be present in the soil, while PCP would not. The Agency assumed that all facilities would be converted to residential use and that remediation of soil contamination would not take place prior to construction of the residential units. The excess lifetime cancer risk to children eating contaminated soil was estimated to range from 1×10^{-7} to 2×10^{-6}, depending on the analytical approach. The Agency's best estimate for this pathway is 7×10^{-7}.

In estimating population risk, it was assumed that 540 children would be exposed over a 70 year period. The derivation of this population estimate is lengthy and is discussed in the risk assessment background document for today's proposal.

b. Results

EPA estimated the expected decrease in the number of cancer cases that would result from implementation of the proposed rule for each exposure pathway. The best estimate for risks from the ingestion of fish and shellfish (0.2 cancer cases) are substantially higher than risks from ground water and soil ingestion. The results are shown in Table 1 below.

TABLE 1.—ESTIMATED INCREMENTAL CANCER CASES AVOIDED AS A RESULT OF THE PROPOSED RULE

Exposure pathway	Estimated statistical cancer cases avoided over 70 year lifetime
Ground water ingestion	0.005
Fish and shellfish ingestion (general population)	0.200
Soil ingestion	0.0004
Total	0.2054

E. Cost Effectiveness Analysis

a. Results

One measure EPA uses to determine the cost-effectiveness of its regulations is the cost per cancer case avoided. The proposed rule would lead to reduction of an estimated 0.2054 cancer cases (this is a statistical estimate and therefore does not have to be a whole number) at a total cost ranging from $2.3 to $4.5 million. Thus, the cost per cancer case avoided ranges from $10.2 to $21.8 million, using the Agency's best estimate for the fish and shellfish pathway. Alternative analytical approaches for determination of the fish and shellfish pathway result in a cost effectiveness range from $2.1 to $152.4 million. The soil ingestion and ground water pathways have a very minor impact on overall cost effectiveness.

b. Caveats

The cost-effectiveness estimate is very sensitive to the assumptions used to estimate the benefits of the proposed rule. The primary factor leading to overestimation of benefits is that the analysis assumes that *all* of the contaminants remaining in the surface protection equipment will be eliminated as a result of the proposed F033 listing. However, this is likely not to be the case because:

(i) The performance test measures PCP not dioxin, the constituent of concern in the fish and shellfish pathway. Facilities that pass the PCP test may still have small amounts of dioxin remaining in the equipment.

(ii) Facilities would not be required to dispose of the wastes from the cleaning process as F033 hazardous waste prior to the effective date of the final rule. As such, facilities can legally avoid the costs of disposing of any cleanup wastes as F033 hazardous wastes. The Agency believes, however, that facilities will choose to manage wastes from the cleaning process as Subtitle C wastes prior to the effective date of the rule, as reflected in the cost analysis. The Agency recognizes the possibility that this listing determination could, in some cases, actually expedite the contamination process, not prevent it, should facilities choose to discard wastes on-site prior to the effective date of the rule.

The results of the analysis may also underestimate the benefits of the proposed rule, and thus the cost-effectiveness. The primary factor leading to a potential underestimate is the fact that all potential exposure pathways were not included in the final benefits estimate. Exposure pathways not estimated include fish ingestion by subsistence fishers whose intake may be much higher than the general population.

XII. Regulatory Requirements

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et. seq.) requires that whenever an agency publishes a notice of rulemaking, it must prepare a Regulatory Flexibility Analysis (RFA) that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). EPA has prepared such an analysis and a copy is in the public docket for this notice. A brief summary of the analysis follows.

1. Definition of Small Entity

For the purposes of this analysis, EPA has defined a small entity as a sawmill

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that produces less than 100 million board feet of lumber annually. No other small organizations or governmental jurisdictions are believed to be affected by the proposed rule. The definition is designed to be consistent with the classifications used in the cost analysis and as inclusive as possible.

2. Sales Test

One way the Agency determines whether regulatory impacts are significant is to conduct a sales test. Facilities are assumed to pass this test if compliance costs are projected to be less than one percent of their annual gross sales. The compliance costs used are the same as those in the EA. Sales are estimated by multiplying the number of board feet produced by $0.20 per board foot, a low-end estimate of the price of lumber. All potentially regulated facilities pass the sales test. According to the analysis, the most adversely affected facilities would be those that own dip tanks and produce less than five million board feet per year. These facilities are estimated to incur cost impacts of approximately 0.89 percent of sales.

3. Profits Test

A second way the Agency determines whether regulatory impacts are significant is to conduct a profits test. Facilities are assumed to pass this test if compliance costs are projected to be less than 10 percent of average annual profits. Profits were assumed to be 1.8 percent of sales based on data from Robert Morris Associates, an often used source of such information.

Facilities producing over five million board feet per year pass the profits test. Those producing less than five million, approximately 400 facilities, nationwide, do not. Compliance costs could be equivalent to as much as 55% of annual profits for some of these entities.

It should be noted that in practice small businesses may not be as adversely affected as the analysis suggests because both estimates of compliance costs and sales are considered conservative. In addition, compliance costs would be incurred only in the first-year, rather than on an annual basis.

B. Paperwork Reduction Act

The information collection requirements in today's proposed rule has been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et. seq. An Information Collection Request document has been prepared by EPA (ICR No. 1638.1) and a copy may be obtained from Sandy Farmer, Information Policy Branch, EPA, 401 M Street, SW., (PM–223Y), Washington, DC 20460 or by calling (202) 260–2740.

A revised public reporting burden for this collection of information is estimated to average between six and twenty-six hours per facility, including time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223Y, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

List of Subjects

40 CFR Part 260

Administrative practice and procedure, Confidential business information, Hazardous waste, Incorporation by reference.

40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

40 CFR Part 264

Hazardous materials, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal.

40 CFR Part 265

Air pollution control, Hazardous materials, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal, Water supply.

40 CFR Part 270

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 302

Air pollution control, Chemicals, Emergency Planning and Community Right-to-Know Act, Extremely hazardous substances, Hazardous chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Pesticides and pests, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: March 31, 1993.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, it is proposed to amend title 40 of the Code of Federal Regulations as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

Subpart B—Definitions

2. Section 260.11 is amended by revising the "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" reference of paragraph (a) to read as follows:

§ 260.11 References.

(a) • • •

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846 (Third Edition (November, 1986), as amended by Updates I, II and IIA). The Third Edition of SW–846 and Updates I, II, and IIA (document number 955–001–00000–1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

• • • • • •

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

3. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6934, and 6938.

4. In § 261.31, in the table in paragraph (a), add the F033 listing, as follows:

§ 261.31 Hazardous wastes from non-specific sources.

(a) • • •

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
•	•	•
F033	Process residuals, wastewaters that come in contact with protectant, discarded spent formulation, and protectant drippage from wood surface protection processes at operations that use surface protection chemicals having an in-process formulation concentration of pentachlorophenate [expressed as pentachlorophenol during analysis) exceeding 0.1 ppm.	(T)
•	•	•

5. Add the following entries in numerical order to appendix VII of part 261:

APPENDIX VII TO PART 261—BASIS FOR LISTING HAZARDOUS WASTE

EPA hazardous waste No.	Hazardous constituents for which listed
•	•
F033	Pentachlorophenol, 2,3,4,6-tetrachlorophenol, 2,4,6-trichlorophenol, tetra-, penta-, hexa-, heptachlorodibenzo-p-dioxins, tetra-, penta-, hexa-, heptachlorodibenzofurans.
•	•

6. Add the following hazardous constituents (with CAS Numbers) in alphabetical order, to appendix VIII of part 261:

APPENDIX VIII TO PART 261—HAZARDOUS CONSTITUENTS

Common name	Chemical abstracts name	Chemical abstracts No.	Hazardous waste No.
•	•	•	•
Octachlorodibenzofuran	Same	39001–02–0	
Octachlorodibenzo-p-dioxin	Same	3268–87–9	
Potassium pentachlorophenate	Pentachlorophenol, potassium salt	7778–73–6	
2,3,4,6-tetrachlorophenol, potassium salt	Potassium tetrachlorophenate	53535–27–6	
Sodium pentachlorophenate	Pentachlorophenol, sodium salt	131–52–2	
2,3,4,6-tetrachlorophenol, sodium salt	Sodium tetrachlorophenate	25567–55–9	
•	•	•	•

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

7. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

8. Add subpart T to part 264 to read as follows:

Subpart T—Surface Protection Plants

Sec.

264.560 Applicability.
264.561 Formulation analysis and recordkeeping requirements.
264.562 Operating requirements.

Subpart T—Surface Protection Plants

§ 264.560 Applicability.

(a) Owners and operators of wood surface protection operations using in-process protectant formulations that contain (by design or cross-contamination) a pentachlorophenate concentration equal to or less than 0.1 ppm and who do not handle their wastes as F033 wastes are subject to § 264.561.

(b) Owners and operators of wood surface protection operations using in-process protectant formulations that contain (by design or cross-contamination) a pentachlorophenate concentration greater than 0.1 ppm are subject to § 264.562 and are required to manage their wastes in accordance with the requirements of either subpart J or subpart W of this part.

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§ 264.561 Formulation analysis and recordkeeping requirements.

(a) Owners and operators must sample and test their surface protectant formulations to determine the concentration of pentachlorophenate (expressed as pentachlorophenol during analysis) contained therein, using a method found in EPA Publication SW–846. The formulation sample to be tested must be taken immediately following operation. Such testing must be conducted by a qualified analytical laboratory. If analysis shows that the concentration of pentachlorophenate in an operation's formulation is equal to or less than 0.1 ppm, the owner/operator must sign the following certification:

I certify, under penalty of law, that the surface protection formulation used by [insert name of operation] has been sampled and tested using a method found in EPA Publication SW–846 and the samples analyzed by [insert name of laboratory and address]. The results of this analysis indicated that the concentration of pentachlorophenate (expressed as pentachlorophenol during analysis) in the in-process surface protection formulation is [insert the results of the analysis]. I am aware that there are significant penalties for submitting false information, including the possibility of fine and/or imprisonment.

This certification may be provided by a responsible official of the operation or by a registered, professional engineer.

(b) Owners and operators must maintain records on-site until operations cease. These records must include the following:

(1) A description of the method used for sampling and testing;

(2) Results of the analysis conducted in accordance with § 264.561(a); and

(3) A copy of the signed certification required under § 264.561(a).

§ 264.562 Operating requirements.

(a) Owners and operators must hold newly treated wood in the process area after treatment to allow excess drippage of surface protectant to cease and to allow all entrained liquids (from dipping operations) to be removed prior to transfer of the wood to the storage yard. Treated wood must not be removed from the process area until all free liquid drainage has ceased.

(b) Owners and operators of surface protection operations that store treated wood in areas unprotected from precipitation must cover the tops of the wood bundles prior to a precipitation event to prevent precipitation from mobilizing pentachlorophenol constituents into the environment.

(c) Owners and operators of surface protection operations must develop and maintain a contingency plan for immediate response to protectant drippage in the storage yard. In the event of storage yard drippage, the owner/operator must implement this contingency plan by:

(1) Cleaning up the drippage;

(2) Documenting the cleanup and retaining this documentation for three years; and

(3) Managing the contaminated media in accordance with all applicable RCRA regulations.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

9. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6935.

10. Add Subpart T to part 265 to read as follows:

Subpart T—Surface Protection Plants

Sec.
265.435 Applicability.
265.436 Formulation analysis and recordkeeping requirements.
265.437 Operating requirements.

Subpart T—Surface Protection Plants

§ 265.435 Applicability.

(a) Owners and operators of wood surface protection operations using in-process protectant formulations that contain (by design or cross-contamination) a pentachlorophenate concentration equal to or less than 0.1 ppm and who do not handle their wastes as F033 wastes are subject to § 265.436.

(b) Owners and operators of wood surface protection operations using in-process protectant formulations that contain (by design or cross-contamination) a pentachlorophenate concentration greater than 0.1 ppm are subject to § 265.437 and are required to manage their wastes in accordance with the requirements of either subpart J or subpart W of this part.

§ 265.436 Formulation analysis and recordkeeping requirements.

(a) Owners and operators must sample and test their surface protectant formulations to determine the concentration of pentachlorophenate (expressed as pentachlorophenol during analysis) contained therein, using a method found in EPA Publication SW–846. The formulation sample to be tested must be taken immediately following operation. Such testing must be conducted by a qualified analytical laboratory. If analysis shows that the concentration of pentachlorophenate in an operation's formulation is equal to or less than 0.1 ppm, the owner/operator must sign the following certification:

I certify, under penalty of law, that the surface protection formulation used by [insert name of operation] has been sampled and tested using a method found in EPA Publication SW–846 and the samples analyzed by [insert name of laboratory and address]. The results of this analysis indicated that the concentration of pentachlorophenate [expressed as pentachlorophenol during analysis] in the in-process surface protection formulation is [insert the results of the analysis]. I am aware that there are significant penalties for submitting false information, including the possibility of fine and/or imprisonment.

This certification may be provided by a responsible official of the operation or by a registered, professional engineer.

(b) Owners and operators must maintain records on-site until operations cease. These records must include the following:

(1) A description of the method used for sampling and testing;

(2) Results of the analysis conducted in accordance with § 265.436(a); and

(3) A copy of the signed certification required under § 265.436(a).

§ 265.437 Operating requirements

(a) Owners and operators must hold newly treated wood in the process area after treatment to allow excess drippage of surface protectant to cease and to allow all entrained liquids (from dipping operations) to be removed prior to transfer of the wood to the storage yard. Treated wood must not be removed from the process area until all free liquid drainage has ceased.

(b) Owners and operators of surface protection operations that store treated wood in areas unprotected from precipitation must cover the tops of the wood bundles prior to a precipitation event to prevent precipitation from mobilizing pentachlorophenol constituents into the environment.

(c) Owners and operators of surface protection operations must develop and maintain a contingency plan for immediate response to protectant drippage in the storage yard. In the event of storage yard drippage, the owner/operator must implement this contingency plan by:

(1) Cleaning up the drippage;

(2) Documenting the cleanup and retaining this documentation for three years; and

(3) Managing the contaminated media in accordance with all applicable RCRA regulations.

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

11. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C., 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

Subpart B—Permit Application

12. Section 270.6 (a) is revised to read as follows:

§ 270.6 References.

(a) When used in part 270 of this chapter, the following publications are incorporated by reference:

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846 [Third Edition (November, 1986), as amended by Updates I, II, and IIA]. The Third Edition of SW–846 and Updates I, II, and IIA (document number 955–001–00000–1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

* * * * *

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

13. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

14. Section 302.4 is amended by adding an entry for F033 in Table 302.4 to read as follows. The appropriate footnotes to Table 302.4 are republished without change.

§ 302.4 Designation of hazardous substances.

* * * * *

TABLE 302.4.—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

Hazardous substance	CASRN	Regulatory synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA waste No.	Category	Pounds (Kg)
*	*	*	*	*	*	*	*
F033 Process residuals, wastewaters that come in contact with protectant, discarded spent formulation, and protectant drippage from wood surface protection processes at operations that use surface protection chemicals having an in-process formulation concentration of pentachlorophenate [expressed as pentachlorophenol during analysis] exceeding 0.1 ppm. (T).	.....	.....	1*	4	F033	X	1(0.454)
*	*	*	*	*	*	*	*

† Indicates the statutory source as defined by 1, 2, 3, 4 or below.

[4] Indicates that the statutory source for designation of this hazardous substance under CERCLA is RCRA Section 3001.
[1]* Indicates that the 1-pound RQ is a CERCLA statutory RQ.

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Part III

Department of the Interior

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics; Notice

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Tribal Consultation Meetings.

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct consultation meetings to obtain oral and written comments concerning potential issues in Indian education programs. The potential issues which will be set forth in a tribal consultation booklet to be issued prior to the meetings are as follows:

1. Programs available for American Indian and Alaska Native students funded by the Bureau of Indian Affairs and other Federal Agencies, including school operations.
2. Tribal Consultation Dates.
3. Inclusion of Indian School Equalization Program and tribally Controlled Community College funds in Tribal Self-Governance Compacts.
4. The Indian School Equalization Program (ISEP) Formula.

DATES: July 26, 28, & 30, 1993, for all locations listed below, except, Anchorage, AK, which will be held May 27, 1993. Scheduling of an earlier date for the Alaska meeting is in response to requests of tribal participants at previous consultation meetings in Anchorage. All meetings will begin at 8 a.m. and continue until 3 p.m. (local time) on the dates scheduled. Written comments concerning the consultation meeting items must be received no later than August 23, 1993.

ADDRESSES:

Location	Local contact	Telephone
May 27, 1993		
1. Alaska, Anchorage	Robert Pringle	907/271–4115
July 26, 1993		
1. Nevada, Las Vegas	Fayetta Babby	916/978–4680
2. New Mexico, Gallup	Larry Holman	505/786–6150
3. Minnesota, Mahmomen	Betty Walker	612/373–1090
4. Oklahoma, Tulsa	Jim Baker	405/945–6051
July 28, 1993		
1. Washington, Seattle	Van Peters	503/230–5682
2. New Mexico, Albuquerque	Val Cordova	505/966–3034
3. Virginia, Arlington	Lena Mills	703/235–3233
4. South Dakota, Rapid City	Jim Davis	701/477–6471
July 30, 1993		
1. Arizona, Phoenix	Beverly Mestes	602/562–3557
2. Montana, Billings	Larry Parker	406/657–6375

Written comments should be mailed, to be received, on or before August 23, 1993, to the Bureau of Indian Affairs, Office of Indian Education Programs, MS 3512 MIB, 1849 C Street, NW., Washington, DC 20240, Attn: Dr. John Tippeconnic; or may be hand delivered to room 3512 at the same address.

FOR FURTHER INFORMATION CONTACT: John Tippeconic or Jim Martin at the above address or call 202/208–6123 or 208–3550.

SUPPLEMENTARY INFORMATION: The meetings are a followup to similar twice-a-year meetings conducted by the BIA since 1990. The purpose of the consultation, as required by 25 U.S.C. 2010(b), is to provide Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on potential issues raised during previous consultation meetings or being considered by the BIA regarding Indian education programs. A consultation booklet for the July meetings is being distributed to Federally recognized Indian tribes, Bureau Area and Agency Offices and Bureau-funded schools. The booklets will also be available from local contact persons and at each meeting.

Dated: April 16, 1993.

Eddie F. Brown,

Assistant Secretary, Indian Affairs.

[FR Doc. 93–9575 Filed 4–26–93; 8:45 am]

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April 27, 1993

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered Status Determination for the Cave Crayfish, Three Puerto Rican Plants, the Duskytail Darter, Palezone Shiner, and Pygmy Madtom; Endangered or Threatened Status for Seven Central Florida Plants; Rules

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB56

Endangered and Threatened Wildlife and Plants; Endangered Status Determined for the Cave Crayfish Cambarus Aculabrum

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the cave crayfish, *Cambarus aculabrum*, to be an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act). This freshwater crayfish is currently known from two caves in Benton County, Arkansas. Groundwater pollution represents the major threat to the species. This determination implements the protection of the Act for *Cambarus aculabrum*.

EFFECTIVE DATE: May 27, 1993.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jackson Field Office, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, suite A, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT: Paul Hartfield at the above address (telephone 601/965–4900).

SUPPLEMENTARY INFORMATION:

Background

Cambarus aculabrum was described from two cave streams in Benton County, Arkansas by H.H. Hobbs, Jr. and A.V. Brown (1987). It is a small, white, obligate cave-dwelling (troglobitic) crayfish with an overall body length reaching about 48 millimeters (1.8 inches). This species is distinguished from related surface species by a total lack of pigment, and by reduced eyes. It is distinguished from its closest troglobitic relatives by an acute or subacute apex of the anteromedian lobe of the epistome (mouthpart). First form males (those with fully formed and hardened first pleopods, or reproductive appendages) are further separated from the closely related troglobitic species, *Cambarus setosus* and *C. tartarus*, by the absence of a transverse groove separating the proximolateral lobe from the shaft on the fist pleopod. It differs from first form males of another closely related cave species, *C. zophanastes*, by a longer central projection of the first pleopod that also has a shallow subapical notch (Hobbs and Brown 1987). Recent studies indicate that *Camabrus aculabrum* is genetically distinct from the other cave crayfish species (Koppelman 1990).

The type locality, Logan Cave, is an Ozarkian solution channel located in the Mississippian cherty-limestone Boone Formation of the Springfield Plateau (Hobbs and Brown 1987). A stream flows through the entire length of the cave, approximately 2000 meters (m) [6000 feet(ft)]. Logan Cave also contains a lake approximately 200 m (600 ft) long, 2–6 m (6–18 ft) wide, and 2–3 m (6–9 ft) deep that was formed by the collapse of the cave roof. Water exits the cave approximately 300 m (900 ft) from the lake. *Cambarus aculabrum* is usually observed along the walls of the pool, or along the stream edges. Population numbers appear to be very small in Logan Cave. As many as six crayfish have been seen during one survey, but often none are evident (Hobbs and Brown 1987). In 14 visits to the cave, Brown observed crayfish on only three occasions (Brown *in litt.*, 1987). During a 1990 search of the cave lake and stream by Service biologists, only three *Cambarus aculabrum* were seen, one of which was dead. The U.S. Fish and Wildlife Service purchased 123.9 acres at Logan Cave, including the property that contains the cave's entrances, in 1989. The cave's recharge area covers 30.15 square kilometers (11.64 square miles), most of which is privately owned (Aley and Aley 1987).

Cambarus aculabrum is also known from Bear Hollow Cave, located approximately 38 kilometers (23 miles) from Logan Cave. Bear Hollow Cave is also a solution tunnel in the Boone Formation and contains a small stream approximately 200 m (600 ft) long and 0.2 m (8 inches) deep (Hobbs and Brown 1987). Although there is less available habitat in Bear Hollow Cave than in Logan Cave, as many as nine crayfish have been seen during a single visit (Hobbs and Brown 1987). As in Logan Cave, however, numbers of crayfish observed may vary dramatically between visits. In the Service's 1990 survey, only a single crayfish was found in the Bear Hollow Cave stream. The extent of the Bear Hollow Cave recharge area is unknown. The cave's entrance and surrounding property are privately owned.

In general, very little is known about the ecology and natural history of cave crayfish, and only limited observations have been made of this species. First form males have been collected during the months of January, February, October and December. Females carrying eggs and young *C. aculabrum* have not been observed.

On July 15, 1988, the Service was petitioned by Dr. Arthur Brown, the University of Arkansas, to list *Cambarus aculabrum* as an endangered species. A finding of insufficient information to indicate the petitioned action was warranted was published by the Service in the Federal Register (53 FR 52745) on December 28, 1988. The finding noted that at the time of the petition there were 29 caves within the Springfield Plateau that were known to harbor cave crayfish, and in only seven of these had the species of crayfish been determined. Recent cave crayfish surveys (Smith 1984, Figg and Lister 1990) and an electrophoretic investigation (Koppelman 1990) have resulted in the identification of these cave crayfish populations, and confirmed the restricted distribution of *Cambarus aculabrum*. The proposed rule to list the cave crayfish, *Cambarus aculabrum*, as an endangered species was published on May 26, 1992 (57 FR 21929).

Summary of Comments and Recommendations

In the May 26, 1992, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in The Northwest Arkansas Times, Fayetteville, Arkansas, on June 14, 1992.

A total of 13 individuals, agencies or organizations commented on the proposed rule: 3 were opposed to the listing action; 4 were in support; 1 stated no objection to the listing; and 5 expressed no position. The Missouri Department of Conservation supported the listing, and noted that groundwater pollution is a threat to many cave organisms. The Arkansas Game and Fish Commission expressed no objection to the listing action.

Opposing comments of a similar nature or point have been grouped into several general issues. These issues and the Service's response to each are discussed below:

Issue 1: Cave waters are poliuted by bat waste, not poultry and swine waste.

Response: A large colony of bats occupy Logan Cave during the summer months. The areas where they roost are very localized within the cave. Some of the roosts are over water, some are not. Water quality may be affected locally and for a distance below a bat roost over water. However, bats and bat guano are a natural component of the cave ecosystem. Bat guano provides an energy source within a cave environment and a foundation for bacterial and fungal growth. Crayfish and other cave organisms can move within and around guano piles and exploit the organisms associated with them for food. While water quality may be locally affected by bat guano, areas of higher water quality are also available for reproduction and other essential life history functions. However, the improper disposal of animal waste can result in water degradation throughout the aquifer which may result in the mortality or impaired reproduction of cave crayfish (see Factor A, below).

Issue 2: Two commenters noted that there are currently eight swine and poultry operations within the immediate recharge area of Logan Cave, not 85 as cited in the proposed rule. They believe that operations peripheral to the recharge area should not be considered as a threat. They consider the contamination potential from poultry and swine farms within the recharge area of Logan Cave to be minimal.

Response: The proposed rule's source for the number of animal confinement areas is Aley and Aley (1987). This document considered individual buildings, not operations, that were used to confine swine or poultry as potential point sources of water contamination. Operations within the recharge area were known to have from one to 12 swine and poultry confinement areas, and a total of 85 confinement buildings were identified from 1980 aerial photographs. While these numbers have probably changed since 1980, indications are that the number of confinement areas are likely to have increased. In fact, one commenter noted that five new poultry confinement areas have been recently constructed, and five others are under construction in the vicinity.

Swine and poultry operations outside of the recharge area are not considered as point source contamination areas. However, wastes from these operations may be applied to agricultural land within the recharge area as fertilizer, and contribute to non-point source contamination.

The Service considers poultry and swine operations in the vicinity of the Logan Cave recharge area as a principal potential source for both point and non-point source groundwater contamination. However, proper waste management, which includes strict adherence to Arkansas Department of Pollution Control and Ecology regulations for the application of animal wastes, can significantly reduce the threat of contamination.

Issue 3: Subterranean habitat for the crayfish is likely to exist that is inaccessible for surveying. Therefore, the size and scope of the species' population and habitat has not been adequately assessed to warrant listing as endangered.

Response: While inaccessible subterranean habitat does occur in the vicinity of the two known populations, this habitat will be affected by the same factors impacting accessible cave habitat. The cave surveys cited in the rule, as well as more recent unpublished survey efforts by Service, State, and private agencies and individuals, support the rarity and restricted distribution of *Cambarus aculabrum*. Although the existence of an unknown population is possible, such a discovery would not offset the magnitude of the activities that threaten the species.

Issue 4: One commenter noted that a 1988 Service response to a petition to list *Cambarus aculabrum* as an endangered species found insufficient evidence to warrant listing. The commenter expressed an opinion that this was still the case.

Response: The Service's finding of insufficient evidence to list *Cambarus aculabrum* was based on a lack of information. The finding noted that at the time of the petition there were 29 caves within the Springfield Plateau that were known to harbor cave crayfish, and in only seven of these had the species of crayfish been determined. Additional survey work since the petition, however, has resulted in the identification of these unknown populations, none of which were determined to be *Cambarus aculabrum* (see Background, above). This new information supported the restricted distribution of *Cambarus aculabrum* as presented in this rule.

Issue 5: One commenter questioned the reliability of the Aley and Aley (1987) study cited in the proposed rule that delineated the Logan Cave recharge area, as well as the competence of the principal investigator, Thomas Aley.

Response: Thomas Aley has performed a number of groundwater drainage studies throughout the country and is widely recognized for his competence and professionalism.

Issue 6: The proposed rule did not document a decline of the species, or provide other proof that the cave crayfish is endangered. There is insufficient evidence that listing is warranted.

Response: While a decline in the species has not been demonstrated, the Service considers endangered status warranted for *Cambarus aculabrum* due to the existence of only two known populations and the immediacy and severity of threats facing both populations.

Issue 7: Service studies on the Ozark cavefish in Logan Cave may threaten *Cambarus aculabrum*.

Response: The Ozark cavefish study in Logan Cave was designed to minimize risk to *Cambarus aculabrum*. Fish drift traps that were used for a short period of time within the cave stream are no longer in use. Drift nets in the stream below the cave entrance are set every two weeks for a 48 hour period. These are checked every 24 hours for cave organisms. No cave crayfish have been taken in these traps.

Issue 8: Listing would result in undue economic hardship for poultry and swine producers. The economic impact of listing *Cambarus aculabrum* should be considered.

Response: The Service is required to base decisions regarding endangered or threatened status solely on biological information and is prohibited from allowing economic or nonbiological factors to affect such decisions. However, the actual extent and limits of listing effects on socioeconomic conditions are usually not as great as many people fear. For example, the Ozark cavefish is a threatened species that also occurs in the Logan Cave drainage. It is unlikely that any additional restrictions will be placed on poultry and swine producers within the recharge drainage as a result of listing *Cambarus aculabrum* that are not already enforced due to the presence of the Ozark cavefish.

Issue 9: Listing may cause rerouting of the proposed U.S. Highway 412, causing increased taxpayer expense.

Response: As noted above, economic factors may not be considered during the listing process. However, since the publication of the proposed rule, the Arkansas Highway and Transportation Department has selected an alternative route for U.S. Highway 412 that will avoid impact to Logan Cave and its recharge area.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the cave crayfish, *Cambarus aculabrum*, should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and

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regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the cave crayfish, *Cambarus aculabrum*, are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Water quality degradation represents the major threat to *Cambarus aculabrum*. Crayfish must have dissolved oxygen in the water for respiration. Severe water contamination by sewage, animal waste, gasoline, or a number of other materials results in seriously depleted oxygen concentrations and suffocation of cave crayfish. Contamination by toxic compounds, including heavy metals, many organic chemicals, and pesticides can destroy aquatic cave fauna, including crayfish. Sedimentation damages or destroys breeding habitat and invertebrates upon which crayfish feed.

The discrete recharge area of Logan Cave has been delineated (Aley and Aley 1987), and the principal point sources of water contamination within the recharge area have been identified as poultry and hog operations. Using 1980 aerial photos, Aley and Aley identified 85 hog or poultry confinement areas (buildings) adjacent to, or within the cave groundwater recharge area. Sixty-three of these pollution sources were in high to extremely high hazard areas (lands known or presumed to lie within the cave groundwater recharge area, or lands that contribute water exclusively to the cave spring). Since their study, one additional poultry operation has been constructed within a few hundred meters of the cave's sinkhole entrance, and a hog confinement area has become operational within one kilometer of the cave. The principal non-point source of water contamination identified by the Aley and Aley study (1987) was the use of liquid animal waste from the livestock operations to fertilize pasture lands in the Logan Cave recharge area. Runoff from improper applications of liquid waste, or heavy precipitation following applications, can rapidly enter the groundwater and result in oxygen depletion.

The Aley and Aley study (1987) also identified residential development as a potential source of water contamination in the Logan Cave aquifer. Although the Logan Cave recharge area is lightly populated at the present, 8 of 11 springs sampled indicated contamination by sewage. In view of the rapid population growth of Benton County, Arkansas, future residential land development represents a potential threat to Logan Cave water quality.

A well has been recently drilled in the immediate recharge area of Logan Cave for agricultural purposes. Water withdrawal through this well could affect flows in the cave during late summer low flow conditions. Exploitation of this portion of the aquifer for future agricultural expansion, commercial or residential development would significantly effect the cave stream flows and the cave crayfish.

Site selection alternatives for the Northwest Arkansas Regional Airport in Benton County include a location within the Logan Cave recharge area. Airport construction activities and airport operation would threaten this population through construction activities, siltation, fuel and oil spills, storm runoff, sewage treatment, and development of associated service industries.

Residential development is the primary threat to the Bear Hollow Cave crayfish population. Residential development may cause water quality degradation in caves due to leakage from sewage disposal systems and solid waste landfills, sedimentation, increased storm runoff, lawn fertilizers, herbicides, and pesticides. Residential growth also attracts secondary developments such as roads and gasoline stations, which contribute to water quality degradation (Aley and Aley 1987).

Bear Hollow Cave lies on the northern edge of Bella Vista Village, a large retirement development. The cave entrance is a large sinkhole at the base of a ridge, and surface runoff in the vicinity of the cave drains into the sinkhole. The hills above the cave entrance have been subdivided for residential use, but many of the lots including those adjacent to the cave have not yet been developed. Currently, the population of Bella Vista Village is approximately 9000. Sewage disposal is by septic tanks. Although current impact to the cave aquifer is not known, the potential impact is significant. Over 36,000 lots have been sold in the community, including all of the lots in the subdivisions adjacent to, or in the vicinity of, Bear Hollow Cave, and the population is expected to increase by 1000/year into the foreseeable future (Jim Medin, General Manager, Property Owners Association, Bella Vista Village, Arkansas, pers. comm., 1990).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The species is currently not of commercial value; however, albinistic cave species are often viewed as items of curiosity and intrigue. Bear Hollow Cave is heavily used by humans, as evidenced by a well-marked trail, extensive graffiti on the cave walls, and a large amount of litter inside the cave. The crayfish population of Bear Hollow Cave is subject to take from human curiosity and for aquarium pets. The entrances to Logan Cave have been purchased by the Service, and access is restricted.

C. Disease or Predation

Diseases are not known for cave crayfish. Predation of crayfish by the Ozark cavefish has been documented by Poulson (1961). The Ozark cavefish occurs in Logan Cave, but is not known from Bear Hollow Cave. Predation by naturally occurring predators is a normal aspect of the population dynamics of a species, and is not considered a threat to an otherwise healthy population of *Cambarus aculabrum*.

D. The Inadequacy of Existing Regulatory Mechanisms

Arkansas requires a scientific collecting permit for collecting any species, except taking for fish bait under other State regulations. Troglobitic species are further protected from possession and sale by Arkansas State law. This affords very limited protected owing to the difficulty of apprehending violators and limited resources for law enforcement. The species is not recognized or protected by any other existing Federal or State regulation.

E. Other Natural or Manmade Factors Affecting its Continued Existence

The limited distribution of *Cambarus aculabrum*, with only two known populations, leaves the species vulnerable to localized environmental degradation. Population numbers in both caves are likely to be very small. The maximum number of crayfish observed from either cave at a single sighting has been 19. Small troglobitic crayfish population size appears to result from food limitation in cave habitats (Culver 1982). Other adaptations that have been noted in cave crayfish and other troglobitic species include lower metabolic rates, increased longevity, delayed maturity and reproduction, and decreased fecundity. One cave crayfish's life span has been estimated from 37 to 176 years, and sexual maturity was reached in 35 years on average (Culver 1962). The life span and other population parameters of *Cambarus aculabrum* are unknown, but it is likely they follow those known for other cave species. These characteristics would make the populations of *Cambarus aculabrum* more vulnerable to environmental pollution, bioaccumulation of toxins, and take, and limit the species' ability to recover from, or adapt to, environmental impacts.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the cave crayfish, *Cambarus aculabrum*, as endangered. Endangered status is appropriate because of the species' limited distribution and the vulnerability and isolation of the only two known populations. An endangered species, as defined by the Act, is threatened with extinction throughout all or a significant portion of its range. Critical habitat is not being designated for reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service's regulations (50 CFR 424.12(a)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species; or, (2) such designation of critical habitat would not be beneficial to the species. The Service finds that designation of critical habitat is not prudent for reasons discussed below.

Section 7 of the Act requires Federal agencies to consult with the Service if any action they authorize, fund or conduct is likely to jeopardize the continued existence of a listed species or result in destruction or adverse modification of critical habitat, if designated. The primary benefit of designating critical habitat lies in the protection of portions of a species' habitat that may be destroyed or adversely modified without the survival of the species being jeopardized. This crayfish, however, is only known to occur in two caves, and has never been reported from any other cave systems despite substantial surveys. With such a limited range, any activity that would destroy or adversely modify either of these caves' habitats would also jeopardize the continued existence of the species. In addition, Logan Cave is owned and protected by the Service as a part of the National Refuge System. Designation of this cave as critical habitat would not afford any additional increment of protection not already afforded by Service ownership. Bear Hollow Cave is privately owned and is easily accessed by the public. The crayfish population in this cave is extremely vulnerable to any vandalism that may occur from its designation as critical habitat. The Service believes that no appreciable benefits would accrue from critical habitat designation that are not afforded by the jeopardy standard and by the protection already afforded to Logan Cave by Service ownership. Protection will be afforded through the section 7 jeopardy standard and by prohibitions against take in section 9. Therefore, it is now prudent to designate critical habitat for *Cambarus aculabrum*.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify any designated critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal involvement is expected to include the Environmental Protection Agency through the Clean Water Act's provisions for pesticide registration and waste management actions. The Corps of Engineers will include this species in project planning and operation and during the permit review process. The Federal Highway Administration will consider impacts of bridge and road construction when known habitat may be impacted. Continuing urban development within the drainage basins may involve the Farmers Home Administration and their loan programs. The Soil Conservation Service will consider the species under their farmer's assistance programs.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. Since this species is not in trade, no permits are expected.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

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Author

The primary author of this rule is Paul D. Hartfield (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) for animals by adding the following, in alphabetical order under "CRUSTACEANS", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CRUSTACEANS							
*	*	*	*	*	*	*	*
Crayfish (no common name).	*Cambarus aculabrum.*	U.S.A. (AR)	NA	E	499	NA	NA
*	*	*	*	*	*	*	*

Dated: February 26, 1993.

Richard N. Smith,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 93–9747 Filed 4–26–93; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AB83

Endangered and Threatened Wildlife and Plants; Endangered or Threatened Status for Seven Central Florida Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status pursuant to the Endangered Species Act of 1973 as amended (Act) for the following five plants: *Cladonia perforata* (Florida perforate cladonia), *Crotalaria avonensis* (Avon Park harebells), *Nolina brittoniana* (Britton's beargrass), *Polygala lewtonii* (Lewton's polygala), and *Polygonella myriophylla* (sandlace). The Service determines threatened status for two plants: *Clitoria fragrans* (pigeon wings) and *Eriogonum longifolium* var. *gnaphalifolium* (scrub buckwheat). All seven plants are found in Highlands and Polk Counties in central Florida; four of the species range farther to the north or east, into Hernando, Lake, Osceola, Orange, and Marion Counties. One plant occurs on a barrier island in Okaloosa County, northwest Florida. Loss of habitat, mainly to citrus groves and residential development, is the primary threat to these species. This rule extends the Act's protection and recovery provisions to these seven species.

EFFECTIVE DATE: May 27, 1993.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, suite 120, Jacksonville, Florida 32216.

FOR FURTHER INFORMATION CONTACT: Michael M. Bentzien, Assistant Field Supervisor, at the above address (telephone: 904–232–2580).

SUPPLEMENTARY INFORMATION:

Background

The seven plants determined to be endangered or threatened inhabit dry upland vegetation (including scrub, high pine, or intermediate "turkey oak barrens") in central peninsular Florida; one, the lichen *Cladonia perforata*, also occurs in coastal scrub in northwestern Florida.

Scrub is "a xeromorphic shrub community dominated by a layer of evergreen, or nearly evergreen oaks * * * or Florida rosemary (*Ceratiola ericoides*), or both, with or without a pine overstory, occupying well drained, infertile, sandy soils" (Myers 1990, pp. 154–155). The usual pine species in scrub is sand pine (*Pinus clausa*). Scrub is the habitat of the Florida scrub jay (*Aphelocoma coerulescens coerulescens*), a threatened species. Scrub occurs on dune ridges along Florida's Gulf and Atlantic coasts and on older inland sand ridges. Endemic plant species (species with limited geographic distributions) occur in scrub in various parts of Florida, with the largest concentration of endemics on the southernmost high interior ridge, the Lake Wales Ridge, northwest of Lake Okeechobee. Plants endemic to the Lake Wales Ridge are concentrated in scrub dominated by Florida rosemary on sites where the sand is apparently particularly devoid of nutrients; sites with slightly better nutrient status usually have dense stands of oaks, hickory, and sand pines (Myers 1990).

The scrub ecosystem is maintained by infrequent high intensity fires, with fires occurring as often as once a decade to less than once a century in sparsely-vegetated rosemary scrub (Myers 1990).

High pine (also called sandhills vegetation) is the other major type of natural vegetation on dry uplands in central Florida. It once was a very widespread forest type in the southeastern United States from Virginia to Texas (Myers 1990, citing several authors). High pine is longleaf pine forest with an open, grassy understory of wiregrass (*Aristida stricta*) and other grasses, numerous herbs, and deciduous turkey oaks (*Quercus laevis*) or bluejack oaks (*Q. incana*) that tolerate being burned to the ground. Frequent low-intensity fires maintained the grassy understory and prevented hardwoods from becoming canopy trees. In central Florida, high pine is intermingled with scrub; and "turkey oak barrens," intermediate between the two types of vegetation, exist in Polk and Highlands Counties (Christman 1988). Most of the "barrens" that are in evidence today may represent the results of logging of longleaf pine, followed by fire suppression, which allowed turkey oaks to reach tree size, and allowed evergreen oaks to invade, but Christman considers some of the barrens to be much older.

On central Florida's Lake Wales Ridge, the great majority of high pine was converted to citrus groves many years ago. Today, scrub is being converted to groves. Urban development is also destroying large areas of upland vegetation. Of approximately 546,800 acres of xeric upland vegetation originally in Highlands and Polk Counties, only approximately 15% remains intact (S. Freidman and J. Fitzpatrick 1992).

Because scrub and high pine in central Florida have many endemic plant taxa (species, subspecies, and varieties) Muller et al. 1989), the Service has responded by listing 13 plants from this region (50 FR 45616, Nov. 1, 1985; 52 FR 2227, Jan. 21, 1987; 52 FR 42068, Nov. 2, 1987). The Service has also listed scrub animals, two lizards (52 FR 42658, Nov. 6, 1987) and the Florida scrub jay (52 FR 20715, June 3, 1987). Other plant species are candidates for listing, including: *Schizachyrium niveum* (scrub bluestem), a species whose northern range limit is imperfectly known; it has been collected as far north as Aluchua County, Florida; *Calamintha ashei* (Ashe's savory, a mint) which has an unusual distribution, occurring in central Florida and southeast Georgia; and *Panicum abscissum* (cutthroat grass) which inhabits moist seeps near scrub and high pine.

Conservation measures that are underway to conserve the central Florida upland flora include:

(1) The State of Florida's Conservation and Recreation Lands program (CARL) is buying land in Highlands and Polk Counties. A completed acquisition, the Arbuckle State Forest and Park (13,700 acres), includes excellent examples of scrub vegetation. Acquisitions in progress in Polk County include Catfish Creek (1,100 acres acquired, 5,200 remaining) and Saddle Blanket Lakes (78 acres acquired, 800 remaining); and in Highlands County, Placid Lakes (negotiations underway). In these two counties, a massive Lake Wales Ecosystems proposal now under consideration incorporates most of the intact scrub and high pine in reasonably large tracts on the Lake Wales Ridge, totalling 32,000 acres (FL Dept. Natural Resources 1992).

(2) The Nature Conservancy has acquired preserves at Tiger Creek and Lake Apthorpe. This private organization has also purchased land at other locations, is assisting State and Federal land projects, and is working on fire management and other management issues for biological preserves.

(3) The Fish and Wildlife Service has proposed to create a Lake Wales Ridge National Wildlife Refuge, totalling about 10,000 acres, for endangered species that inhabit scrub vegetation. The 12 sites that might be acquired overlap with those in State projects. A large tract at Carter Creek (Sebring Highlands subdivision), Highlands County, is tentatively a high priority for acquisition, if funds become available.

Further information on conservation of these plants is provided below, under "Available Conservation Measures".

Discussion of the Seven Species

Cladonia perforata (Florida perforate cladonia) is a conspicuous lichen, "forming large dense clusters 20–60 mm (0.8–2.5 inches) tall" (Hilsenbeck and Muller 1991). *Cladonia* and similar lichens (family Cladoniaceae) are probably the most commonly collected lichens (Evans 1952). *Cladonia subtenuis* or *Cladonia evansii* are used as miniature shrubbery in architectural models and floral arrangements. The latter species is characteristic of scrub (T. Hendrickson, pers. comm., 1992).

The branches of *Cladonia* lichens differ from those of other branched (fruticose) lichens in that the *Cladonia* branches (podetia) are developmentally derived from spore-producing structures, rather than from the vegetative body (thallus) of the fungus that makes up the basic structure of a typical lichen. For *Cladonia perforata*, the vegetative body is not in evidence, and "the podetia, which grow in intricate tufts, are pale yellowish grey, and the surface appears more or less glossy. Individual podetia are mostly 40–60 mm. (1–1.5 inches) in height and their larger axes measure 3–6 mm. in diameter" (Evans 1952, p. 326). The podetia branch dichotomously (i.e., they fork), or they form whorls (splitting into three or more branches). "Wherever a branching takes place a circular opening is formed in the axil (just above the branch), and the larger of these openings measure 1–1.5 mm (0.06 inches) in diameter" (Evans 1952). Toward the top of the plant, where the branches are smaller, the openings are smaller, too. The surfaces of the podetia are uniform. The podetial wall's interior surface, facing the central canal, consists of loosely woven hyphae (fungal strands). "This species is also one of the few lichens that produces the *para*-depside squamatic acid. Although no medicinal or other useful properties for squamatic acid are currently known, this natural product has not been studied in this regard. (Other lichen products *do* have medicinal applications). Squamatic acid is found in nature only in lichens and there only in a few species * * *" (W.L. Culberson, Duke University, *in litt.*, Nov. 1992).

Cladonia unicialis, which is very similar to *Cladonia perforata*, has podetial surfaces with more or less distinct greenish areolae, rather than appearing uniform. *Cladonia uncialis* does not have a perforation in every axil, and its podetial walls have a solid layer of cartilaginous tissue on the interior (Evans 1952). Although Evans reported *C. uncialis* from southwestern Florida, Moore (1968) did not find it in Florida.

Cladonia leporina, which is common in Florida, is very similar to *Cladonia perforata* except that it has no holes in the podetia and the podetia have red tips consisting of spore-producing tissue (apothecia). *Cladonia perforata* has larger, more regularly branched podetia, with perforations. *Cladonia perforata* is illustrated in Hale (1983, p. 18) and in Buckley and Hendrickson (1988).

Cladonia perforata was first collected by George Llano in 1945 on Santa Rosa Island, and was named by Evans (1952). Llano and Evans both stated the site was in Escambia County, but Wilhelm and Burkhalter (1990) showed that the site was really in Okaloosa County, and had been paved over sometime between 1945 and the mid 1950's, when Llano revisited the area. The lichen was not collected again until Moore (1968)

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found it in Highlands County, central Florida during her massive survey of Florida lichens in which she examined nearly 6,000 specimens, most of them collected by herself from 1964 through 1967. Buckley and Hendrickson (1988) relocated the remnants of Moore's population, and searched the surrounding area, including Archbold Biological Station, whose well-mapped vegetation contains 84 "rosemary balds", small hills of excessively drained sand (Archbold soil series) occupied by Florida rosemary, an array of smaller vascular plants (many of them endemic, including *Hypericum cumulicola* and *Eryngium cuneifolium*), and often a blanket of reindeer lichens. Buckley and Hendrickson (1988) found *Cladonia perforata* on six rosemary balds, and they report that ecologist Ann Johnson found the lichen on a seventh bald. They extended the search beyond Archbold Biological Station, but could find *Cladonia perforata* only in a six square mile area south and west of the station.

Wilhelm and Burkhalter (1990) relocated the lichen near its original locality on Santa Rosa Island (Eglin Air Force Base, Okaloosa County) but could not find it elsewhere on the barrier islands in an extensive search from Gulf Shores, Alabama, to Grayton Beach, Florida (Wilhelm and Burkhalter 1990).

By 1989, *Cladonia* and similar lichens had been collected throughout Florida; both Evans and Moore had conducted a great deal of field work. The Alexander W. Evans Herbarium is now at the Smithsonian Institution. It contains the type specimen of *Cladonia perforata* and more recent collections by Barbara Moore, Ann Buckley, Theodore Hendrickson, Gerould Wilhem and James Burkhalter, and a recent voucher specimen from Eglin Air Force Base made by Lt. Col. Douglas Ripley. The Smithsonian has no specimens from localities other than those reported above, and this indirect evidence suggested that "the range and occurrences of this lichen are truly limited" (Mason E. Hale, Jr. and Sherry K. Pittam, Botany, Smithsonian Institution, *in litt.*, Dec. 1989).

Hilsenbeck and Muller (1991) with several collaborators conducted a survey for *Cladonia perforata*, searching rosemary scrub at 111 sites throughout Florida. They enlisted James Allison and Thomas Patrick (Georgia Freshwater Wetlands and Heritage Inventory) to search similar areas in southeast Georgia (15 sites in 8 counties). Separately, as part of coastal inventories for the Florida Natural Areas Inventory, Ann Johnson and collaborators searched coastal scrubs along the lower east coast of Florida (Martin, Palm Beach, and St. Lucie Counties).

Hilsenbeck and Muller assembled the existing data to show that the lichen had been found at only 12 sites (including 6 on Archbold Biological Station). Earlier estimates of up to 15 sites were mistaken. In Okaloosa County, they confirmed the two known sites on Santa Rosa Island. They found that one site had recently been destroyed in Highlands County, but failed to find any new sites. They concluded that the lichen is indeed rare, with an estimated total of at least 26,000 individuals: 17,000 on one private site, 3,000 on another private site, 4,400 on Archbold Biological Station, and only 1,300 individuals on Santa Rosa Island. The largest site with *Cladonia perforata* is protected by its private owner; neither State nor Federal acquisition of the two private sites is presently contemplated.

In addition to the sites reported by Hilsenbeck and Muller, the Lake Apthorpe Preserve in Highlands County, owned by The Nature Conservancy, has *Cladonia perforata* (G. Babb, The Nature Conservancy, pers. comm., 1991; voucher specimen by Eric Menges at Archbold Biological Station). In January 1993, a biologist with the Archbold Biological Station discovered an additional population near the coast in southeast Florida in Martin County.

Both the central and panhandle Florida habitats of *Cladonia perforata* are rich in endemic vascular plant species that are associated with Florida rosemary. Several species or pairs of closely-related species have disjunct distributions between the two areas, much like *Cladonia perforata*. They include: *Lupinus aridorum* and *L. westianus*, *Paronychia chartacea*, and *Conradina brevifolia* and *C. canescens*.

Clitoria fragrans (pigeon wings) (Fanz 1979) is a member of the pea family (Fabaceae or Leguminosae). It is one of three species of the genus occurring in the southeastern states. The others are the butterfly pea, *Clitoria mariana*, and a species escaped from cultivation, *C. ternata*.

Clitoria fragrans is an erect perennial herb, 15–50 cm (6–20 inches) tall, with one or a few stems growing from a thick horizontal root that may be more than 2 m (6 feet) long. The stems are wiry (1–2 mm or 0.04–0.08 inch thick) and somewhat zigzag. The leaves have 3 rather leathery leaflets. Leaflets of the upper leaves are linear (lower leaves somewhat wider) and are obtuse (blunt) at the tip. The leaflets of *Clitoria mariana* are wider and are acute (pointed) at the tip.

Clitoria fragrans has two types of flowers: chasmogamous (showy insect pollinated) and cleistogamous (small, lacking petals, self-pollinating). Chasmogamous flowers are usually borne in pairs. The flowers are inverted so that the anthers and stigma touch the backs of visiting insects (the only other legume genus with inverted flowers is *Centrosema*, with two species in central Florida). The corolla has one large petal, the standard petal, 3.5–4.5 cm (1.5–2 inches) long (Fanz 1977) or 4.5–5 cm long (Isely 1990), colored lilac. The keel is small and white. The common name, pigeon wings, refers to the appearance of the flower. It was suggested by McFarlin on a herbarium specimen and adopted by Fanz (1979). Flowers with petals appear from May to June, with a few petalless (cleistogamous) flowers borne as late as September. Small thought the flowers were fragrant. Fanz (1977) detected only a very faint fragrance, but noted a heavy scent of flowering saw palmettos at the locality where Small collected the plant. The seed pod is borne on a stipe (stalk) that projects from the dried calyx (Isely 1990, p. 153; Fanz 1977, pp. 696–698; Mabberley 1987, p. 131).

Clitoria fragrans is easily distinguished from *C. mariana* by its purplish, glaucous stems, non-twining habit (it is an upright herb, not a vine), narrower leaflets, smaller flowers, and long-stipitate fruits (Fanz 1977, p. 702). The flowers of *Centrosema* differ from those of *Clitoria* by having shorter calyx tubes. *Centrosema arenicola* is restricted to much the same habitats as *Clitoria fragrans*, but has a somewhat larger range.

Clitoria fragrans was described by J.K. Small (1926) from specimens he collected near Sebring, Highlands County. McFarlin applied the name *Clitoria pinetorum* to specimens he collected, but he never published the name (Fanz 1977). Small (1933, p. 722) transferred the North American species of *Clitoria* to a new genus, *Martiusia*, but Fanz (1977) returned them to *Clitoria*.

Clitoria fragrans is distributed mainly on the Lake Wales Ridge in Highlands and Polk Counties (Fanz 1977, Wunderlin et al. 1980a, Christman 1988). On the Ridge, it is protected at Arbuckle State Forest and Park, Archbold Biological Station (private), Lake Apthorpe and Tiber Creek (The Nature Conservancy), and at Saddle Blanket Lakes (State acquisition project). It is also present at several sites that may be acquired by the State and/or Fish and Wildlife Service, including Carter Creek (Sebring Highlands) and a tract south of Lake Placid. It is reported to occur at the Avon Park Air Force Range (on the Bombing Range Ridge, a separate landform from the Lake Wales Ridge) (Florida Natural Areas Inventory). It can be considered protected there. Fanz (1977) notes a collection made in Leesburg, Lake County in 1910, and a 1964 collection from Osceola County, 12 miles south of Holopaw via US 441. This site is on one of a series of low ridges with scrub vegetation in ranching country.

Clitoria fragrans occurs in scrub vegetation, turkey oak barrens, and at least at the edges of high pine (Christman and Judd 1990); it appears to have habitat preferences similar to *Eriogonum longifolium* var. *gnaphalifolium* and *Polygala lewtonii*, although its range does not extend as far north as these species. Fanz (1979) considers it a species of white sand soils, while the other two species tend to occur on yellow sand. Christman (pers. comm., 1992) considers it a species of yellow sand.

Crotalaria avonensis (Avon Park harebells) is also a member of the pea family. It was first collected by Ray Garrett of Avon Park in 1950; his specimen was assigned to *Crotalaria maritima* (=*C. rotundifolia*) by D.B. Ward in 1967. This specimen was not examined by Windler (1974) for his revision of the genus. Subsequently, K. DeLaney collected the plant in 1986 and, with R. Wunderlin, described it as a new species distinct from *Crotalaria rotundifolia*, a variable species that ranges from Virginia to Panama (DeLaney and Wunderlin 1989).

Crotalaria avonensis is a perennial herb. A vertical tap root produces flowering stems that originate as much as 10 cm (4 inches) below the surface, grow upright for only a few centimeters above the surface, and terminate in flowering racemes. The leaves are roughly 1–2 cm (0.5–1 inch) long, rounded, somewhat succulent, and coated with white or yellowish-white hairs. The racemes are both terminal and on short secondary branches opposite leaves. The flower, shaped like a typical pea flower, has a yellow corolla about 8–9 mm (0.3–0.4 inch) long. The keel petal (at the bottom of the corolla) is shorter than the wing petals (in *C. rotundifolia*, the wing petals are shorter). The seed pods are inflated, tan to gray to maroon, hairless or nearly so, 14–25 mm (.56–1.0 inch) long, and contain up to 18 seeds per pod. The pods can be nearly as long as the upright flower stalks that hold them in place. Flowering begins in mid-March and continues profusely until June. After flowering, the plants enter a vegetative phase, forming clusters of stems that give a clumped or rosette appearance. The plants are dormant from late fall or early winter until March. *Crotalaria rotundifolia* does not have a pronounced reproductive cycle, flowering most of the year (DeLaney and Wunderlin 1989).

Crotalaria avonensis is one of the most narrowly distributed of the Lake Wales Ridge endemics, currently known only from three sites, including the Saddle Blanket Lakes and Carter Creek tracts that might be protected through acquisition (K. DeLaney, *in litt.*, 1991). It typically grows in full sun on bare white sand or in association with clumps of reindeer lichens of the genus *Cladonia*, but many individuals occur in partial shade of other plants (DeLaney and Wunderlin 1989).

Scrub buckwheat is in the genus *Erigonum*, included in the Polygonaceae (jointweed family). This genus lacks the sheathing stipules (ocreae) that are typical of the family. *Eriogonum* includes about 150 species, mostly in western North America. Florida has only two species, both native to high pine: *Eriogonum tomentosum* is common throughout the northern part of the state, as far south as Highlands County. The second species, named *Eriogonum floridanum* by J.K. Small (1903), is restricted to central Florida (Small 1933, p. 445). Subsequent publications on Florida's flora have consistently adopted Small's treatment of *E. floridanum* as a full species (Kral 1983, p. 445; Ward 1979, p. 86; Wunderlin 1982, p. 169). This is a reasonable approach because *E. floridanum* is separated by hundreds of miles from the most similar taxa. However, James Reveal (1968), the expert on the genus, prefers an alternative approach. He treats the Florida plants as a variety of *Eriogonum longifolium*, a widespread, variable species that is represented east of the Mississippi by var. *harperi* (a candidate for Federal listing) in northern Alabama, Tennessee, and Kentucky (Kral 1983 and Kentucky heritage program data), and by *Eriogonum longifolium* var. *gnaphalifolium* Gandoger. Gandoger's (1906) name for the plant was based on a specimen collected near Eustis, Florida by "Hitchcock", evidently the eminent grass systematist A.S. Hitchcock. The Service accepts Reveal's taxonomic treatment in recognition of his expertise in this complex genus, while acknowledging that there are differences of opinion among botanists as to how to apply nomenclatural ranks to geographically isolated, morphologically distinguishable plant populations.

Scrub buckwheat is a perennial herb with a single stem that grows from a stout, woody root. Most of the leaves are at the base of the stem. They are 15–20 cm (6–8 inches) long, narrowly oblanceolate, entire, and green or bronze-green above, densely white-wooly beneath. Leaves on the stem are smaller and arranged alternately. The stem is erect, up to 1 m (3 feet) tall, and terminates in an open panicle. Each branch of the panicle ends in a cup-shaped involucre, with 5–8 teeth about 5 mm (0.2 inch) long. Within each involucre, 15–20 flowers form a cluster, with the stalk of each flower starting out erect, then reflexing so the flower hangs down below the involucre. Each flower is 6–8 mm (0.2–0.3 inch) long, with 6 linear sepals. The involucre and flowers are silvery, silky-pubescent. The only other species of *Eriogonum* in Florida, *E. tomentosum*, has leafy bracts in the racemes and the flowering stem has opposite leaves (Ward 1979, Wunderlin 1982). Both plants are illustrated in Rickett (1967). Because scrub buckwheat is a large, conspicuous plant that can not be mistaken for any other, its distribution is accurately known.

Scrub buckwheat "occurs in habitats intermediate between scrub and sandhills [high pine], and in turkey oak barrens from Marion County to Highlands County" (Christman 1988, p. 136). Other plants, including *Polygala lewtonii*, *Chionanthus pygmaeus*, and *Prunus geniculata*, occur in the same places. The northern range limit for scrub buckwheat is in Ocala National Forest and areas of mixed scrub and high pine south of Ocala in Marion County; suitable habitat and possibly the plant extend south into northern Sumter County. Scrub buckwheat historically occurred near Eustis in Lake County (there are no recent records), and it still occurs near Clermont in remnants of high pine with *Polygala lewtonii* and several endangered plant species. Scrub buckwheat occurs at other scattered localities, including Southwest Orange county, the northwest corner of Osceola County, and on the Lake Wales Ridge in Polk and Highlands Counties, as far south as Archbold Biological Station, south of Lake Placid. Most of the recent records for the species are from Polk and Highlands Counties, partly because intensive biological surveys of scrub vegetation have been conducted in those counties (Christman 1988; pers. comm. by K. DeLaney and E. Menges, 1991). Scrub buckwheat may once have occurred in the Tampa area, if a specimen cited by Gandoger as the type specimen of "*E. longifolium* var. *floridana*" should be assigned to this variety. An upland in southern Marion County where this species occurs

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extends into Sumter County, and the plant's range may extend into Sumter, too.

Scrub buckwheat is protected in the Ocala National Forest, Lake Arbuckle State Forest and State Park, and Nature Conservancy preserves at Tiger Creek and Lake Apthorpe. Scrub buckwheat is likely to be protected at Catfish Creek and several other tracts if State or Federal land acquisition occurs as planned.

Nolina brittoniana (scrub beargrass) was collected and described by G.V. Nash (1895). H.H. Bartlett (1909) reviewed the genus in the Southeast and described the only other species of *Nolina* in Florida, *Nolina atopocarpa*, a candidate for Federal listing that occurs in the panhandle and in the peninsula from St. Augustine south to Charlotte County. The genus *Nolina* belongs to the Agavaceae (agave family), which includes century plants and yuccas. The genus is centered in southwestern North America (Mabberley 1987). The Agavaceae are often included in the Liliaceae (lily family), in the broad sense.

Nolina brittoniana is a perennial growing from a short, thick, fleshy, bulblike rootstock. The leaves are 1–2 meters long (3–6 feet) and 6–13 mm (0.2–0.5 inch) wide, forming a rosette with the youngest leaves upright and the oldest lying nearly flat on the ground. The flowering stem, usually solitary, grows at least 2 meters (6 feet) high from the rosette in April. The inflorescence is a panicle with about 6 branches; when in bloom, the branches are covered with small white six-parted flowers, making the plant very conspicuous (Kral 1983, Wunderlin et al. 1980b). Individual plants appear to usually have all male or all female flowers. The plants bear abundant seed, which is easily germinated, and the plant is not difficult to propagate (S. Wallace, Bok Tower Gardens, pers. comm., 1990). In nature, this species occurs as scattered specimens, and rarely if ever forms large colonies. *Nolina atopocarpa*, a species of dry flatwoods, may occur in the vicinity of *Nolina brittoniana*; this species has shorter leaves, greenish flowers, and asymmetric fruits (*N. brittoniana* has symmetrical fruits, triangular in cross section).

Nolina brittoniana occurs in scrub, high pine, and even occasionally in hammocks (Christman 1988). Its range is from the south end of the Lake Wales Ridge in Highlands County north to Orange County (Orlando) and northern Lake County. An apparently isolated locality was reported from Hernando County, north of Tampa.

On the Lake Wales Ridge, *Nolina brittoniana* occurs in both Highlands and Polk Counties, where it occurs in most of the tracts that are targeted for acquisition by the State or by the Fish and Wildlife Service. Northeast of Polk County, *Nolina brittoniana* occurred in the northwest corner of Osceola County and western Orange County (where it was collected in 1958). The plant probably still exists in Orange County, but remaining habitat is being destroyed very rapidly. In Lake County, *Nolina brittoniana* occurs in remnants of high pine on hills west of Lake Apopka, near Clermont. Also in Lake County, the type specimens of *Nolina brittoniana* were collected near Eustis in 1894, and the plant was collected near Tavares in 1941. Robert McCartney (pers. comm., 1990), a knowledgeable field worker, considers the northern range limit for *Nolina brittoniana* to be northern Lake County; however, to the north, a specimen was collected on "low ground" near Belleview, Marion County in 1928. Christman (1988) doubts this locality, but suitable habitat does exist in the vicinity. The plant was collected in a "much disturbed, old white sand scrub with hardwood intrusion" north of Tampa in Hernando County, in 1961. Larger scrubs in the same area have probably not been searched for rare plants.

Polygala lewtonii (Lewton's polygala) is a member of the Polygalaceae (milkwort family). It was first collected near Frostproof, Florida by F.L. Lewton in 1894, and was named by Small (1898). Further information on plants named by Small is provided in Austin 1987. The status of *Polygala lewtonii* as a distinct species was affirmed by Blake (1924) and James (1957). The genus has since been reviewed by Miller (1970) and Saulmon (1971).

Polygala lewtonii is a perennial with a taproot. Each plant produces one to several annual stems, which are spreading, upward-curving, or erect, and are often branched. The leaves are small, sessile, rather succulent, broader toward the tip, and are borne upright, tending to overlap along the stem, like shingles. The normally opening flowers are in erect, loosely flowered racemes up to 1.5 cm (0.6 inch) long. They are about 0.5 cm long and bright pink (Wunderlin et al. 1981) or "attractive purplish-red" (Ward and Godfrey 1979). Each flower is about 3.5 mm (0.14 inch) long. Two of the five sepals are enlarged and wing-like, between which the largest of the three petals forms a keel that ends in a tuft of finger-like projections (Ward and Godfrey 1979). This species is closely related to *Polygala polygama*, a widespread species that tends to form larger clumps and has a longer root, narrower leaves, and differently shaped wing sepals. *Polygala polygama* has short branches that hug the ground, bearing inconspicuous self-pollinating (cleistogamous) flowers. *Polygala lewtonii* is inferred to have similar cleistogamous flowers (James 1957 cited in Ward and Godfrey 1979), but Wunderlin et al. (1981) are not clear that they have been observed.

Polygala lewtonii occurs most frequently in habitats intermediate between high pine and scrub (turkey oak barrens), as well as in both habitats (Christman 1988, Wunderlin et al. 1981). It has been collected in Highlands, Polk Osceola, Lake, and Marion Counties. In Highlands County, it was collected at two sites near Sebring in 1945 and 1955, but was not seen again (Wunderlin et al. 1981) until recently, when it was found in turkey oak barrens northeast of Sebring (J. Fitzpatrick, Archbold Biological Station, pers. comm., 1992).

In Polk County, *Polygala lewtonii* is currently known to occur in Arbuckle State Forest and Park, the State's Catfish Creek land acquisition project (G. Babb, The Nature Conservancy, *in litt.*, 1991), The Nature Conservancy's Tiger Creek Preserve (Wunderlin et al. 1981), at a site near Davenport that was partly bulldozed in 1991, and in the Poinciana residential development (N. Bissett, *in litt.*, 1991). It also occurs at a site with the endangered Florida ziziphus (*Ziziphus celata*) (DeLaney et al. 1989).

In Osceola County, *Polygala lewtonii* was collected in 1974 at the northwest corner of the county, on a dry prairie above Lake Davenport. In Lake County, the plant has been collected in scrub four miles north of Astatula and from at least five sites in the hills between Lake Apopka and Clermont. These hills were once covered with high pine that had a significant number of scrub plant species, including the endangered *Prunus geniculata* (scrub plum), *Nolina brittoniana* (Wunderlin et al. 1981), and *Warea amplexifolia* (wide-leaf mustard) (Judd 1980). *Polygala lewtonii* was collected once near Eustis (James 1957, cited in Wunderlin et al. 1981). The plant was collected from Ocala National Forest (Marion County) in firebreaks near Juniper Springs, 1949, and apparently not again until 1991, when it was found in scrub (C. Greenberg, Univ. of FL, pers. comm., 1992).

Polygonella myriophylla, a member of the Polygonaceae (jointweed family), was first collected by J.K. Small and DeWinkler on a scrub ridge south of Frostproof, Polk County, Florida. Small (1924) described it as a new species, *Dentoceras myriophylla*. Horton (1963) combined two of Small's genera with the genus *Polygonella*, making this species *Polygonella myriophylla*. The common name of sandlace comes from Christman (1988); other possibilities are Small's jointweed (Florida Natural Areas Inventory) or woody wireweed (Wunderlin 1982).

Polygonella myriophylla is a sprawling shrub that, as G.L. Webster noted on a herbarium specimen, has the habit of the popular landscaping plant creeping juniper, *Juniperus horizontalis* (cited in Wunderlin et al. 1980c). The shrub's many branches zigzag along the ground and root at the nodes, forming low mats. The lower parts of the creeping branches have reddish-brown bark that cracks and partly separates in long, flat, interlacing strips. The short lateral branches are upright, leafy, and end in flowering racemes. *Polygonella myriophylla* has the distinctive sheathing stipules (ocreae and ocreolae) typical of the jointweed family. The leaves are needle-like, fleshy, 3–10 mm (0.1–0.4 inch) long. The small flowers have white (or pink or yellow) petal-like sepals up to 3–4 mm (0.1 inch) long. Because this shrub's appearance is so unique, information on its distribution and abundance is particularly complete and accurate.

Polygonella myriophylla is, curiously, absent from the southern tip of the Lake Wales Ridge. Its range extends from Archbold Biological Station northward along the Lake Wales Ridge to the Davenport-Poinciana area in northern Polk County. Further northeast, it occurs at one site in Osceola County and three in western Orange County where it occurs with the endangered scrub lupine *Lupinus aridorum* (Wunderlin 1984). The Orange County sites are at Vineland, a rapidly developing portion of the Orlando metropolitan area. A report of *Polygonella myriophylla* from Lake County was based on a misidentification (Wunderlin et al. 1980c, Christman 1988). Kral's (1983) distribution map places this plant in DeSoto County, based on a specimen collected by J.K. Small and J.B. DeWinkler in 1919, before Highlands County was created in 1921 (specimen cited in Wunderlin et al. 1980c).

Polygonella myriophylla occurs within scrubs that cover about 25,000 acres (Christman 1988). It is currently protected at Archbold Biological Station (where it is rare), Saddle Blanket Lakes and Catfish Creek (State acquisition projects), and Lake Apthorpe (The Nature Conservancy). It is abundant in several tracts that are proposed for acquisition by the State or the Service.

Previous Federal Action

Federal government actions on four of the seven plants began as a result of section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to the Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report as a petition in the context of section 4(c)(2) (now section 4(b)(3)) of the Act, as amended, and of its intention to review the status of the plant taxa contained within. *Nolina brittoniana, Polygala lewtonii, and Polygonella myriphylla* were included in these documents as endangered species, and *Clitoria frangrans* as a threatened species.

On June 16, 1976, the Service published a proposal in the **Federal Register** (42 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. This proposal included *Nolina brittoniana, Polygala lewtonii*, and *Polygonella myriophylla*. General comments on the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal of the June 16, 1976, proposal.

On December 15, 1980, the Service published a notice of review for plants (45 FR 82480). This notice included *Clitoria fragrans, Eriogonum longifolium* var. *gnaphalifolium* (under the name *Eriogonum floridanum*), and *Polygala lewtonii* as category 1 candidates, and *Nolina brittoniana* and *Polygonella myriophylla* as category 2 candidates. Category 1 candidates are those for which the Service currently has on file substantial information on biological vulnerability and threats to support preparation of listing proposals, while category 2 candidates are those for which data in the Service's possession indicate listing is possibly appropriate, but for which substantial data on biological vulnerability and threats are not currently known or on file to support proposed rules. On November 28, 1983, the Service published in the **Federal Register** a supplement to the notice of review (48 FR 53640); the notice changed *Eriogonum longifolium* var. *gnaphalifolium* to a category 2 species. Another updated notice of review published September 27, 1985 (50 FR 39526), changed *Polygonella myriophylla* to a category 3C species (no longer a candidate for Federal listing), based on a status survey that gave the impression that the plant was secure because it is locally abundant. Christman (*in litt.* 1987, 1988) pointed out that this was a mistake: *Polygonella myriophylla* is "much rarer, and more endangered, than several federally-listed scrub species, including *Paronychia chartacea, Chionanthus pygmaeus, Polygonella basiramia, Prunus geniculata*, for example."

On February 21, 1990 (55 FR 6184), the plant notice was again revised, assigning category 1 candidate status to all five plants that had previously been candidates, based on an abundance of new survey information. The 1990 notice assigned category 2 status to *Crotalaria avonensis* and to *Cladonia perforata*. Since then, a status survey on *Cladonia perforata* has been completed and further information on *Crotalaria avonensis* has been received from Mr. Kris Delaney, qualifying these species for category 1 status.

Based on the Service's system for ranking candidate species for listing, which has a range of 1 to 12, the listing priority number for each of the five endangered species in this rule was 2. *Clitoria fragrans* and *Eriogonum longifolium* var. *gnaphalifolium*, the two threatened species, were assigned a listing priority number of 8 and 9, respectively. A complete explanation of the Service's listing and recovery priority guidelines was published in the **Federal Register** of September 21, 1983 (48 FR 43098).

Petitions

The Service was petitioned to list the lichen *Cladonia perforata* by Ms. Ann Buckley in a letter received June 5, 1989. The Service found the action requested by the petition to be warranted, but precluded by work on other species having higher priority for listing (55 FR 31610, August 3, 1990). An administrative finding of "warranted but precluded" was repeated in October 1991, as discussed below, in connection with the Service's annual review of recycled petitions.

Section 4(b)(3)(B) of the Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires that all

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petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Clitoria fragrans, Nolina brittoniana, Polygala lewtonii,* and *Polygonella myriophylla* because the Service had accepted the 1975 Smithsonian report as a petition. In each October from 1983 through 1991, the Service found that the petitioned listing of these species was warranted but precluded by other listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. Publication of a listing proposal on September 30, 1992 (57 FR 45020) constituted the final petition finding for these five species. The September 30, 1992, proposal also included *Eriogonum longifolium* var. *gnaphalifolium* and *Crotalaria avonensis,* for which no petition had been received.

Summary of Comments and Recommendations

In the September 30, 1992, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice which invited general public comment was published on October 18, 1992, in the Sebring News-Sun newspaper (Highlands County) and on October 20, 1992, in the Hernando Times (Hernando County), Daily Commercial (Leesburg, Lake County), Ocala Star-Banner (Marion County), Daily News (Fort Walton Beach, Okaloosa County), The Orlando Sentinel (Orange County), and the Highlander (Lake Wales, Polk County). Comments were received from a member of the Polk County Board of County Commissioners and seven individuals. All commenters supported the proposal.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Cladonia perforata, Crotalaria avonensis, Nolina brittoniana, Polygala lewtonii,* and *Polygonella myriophylla* should be classified as endangered species, and that *Clitoria fragrans* and *Eriogonum longifolium* var. *gnaphalifolium* should be classified as threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cladonia perforata* A.W. Evans (Florida perforate cladonia), *Clitoria fragrans* Small (pigeon wings), *Crotalaria avonensis* DeLaney & Wunderlin (Avon Park harebells), *Eriogonum longifolium* Nuttall var. *gnaphalifolium* Gandoger (=*Eriogonum floridanum* Small) (scrub buckwheat), *Nolina brittoniana* Nash (Britton's beargrass), *Polygala lewtonii* Small (Lewton's polygala), and *Polygonella myriophylla* (Small) Horton (sandlace) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

All seven plants have already suffered serious loss of habitat to agriculture (citrus groves and pastures) and residential development, and all are threatened by future development. The Lake Wales Ridge in Polk and Highlands Counties originally had 250,000 acres of xeric upland vegetation (scrub and high pine), of which 27,500 acres remain. Because the plant species endemic to scrub or high pine in central Florida had much narrower local distributions within the Ridge (each species is likely to be found in only a fraction of seemingly suitable habitat), the loss of habitat for particular species has often been more severe than the overall figures indicate.

Citrus groves are being expanded rapidly on the southern Lake Wales Ridge because the area escaped the worst effects of severe freezes during the 1980's, especially December 1989. Development of a citrus grove recently caused the destruction of one population of *Cladonia perforata,* and other significant recent losses of scrub habitat have been documented from aerial photography by scientists at Archbold Biological Station. Property taxation in most Florida counties favors agricultural land use and penalizes leaving land "idle" in native vegetation. These policies may change; Polk County already has "preservation" zoning to protect natural vegetation.

The population of the Lake Wales Ridge is increasing as retirees and other immigrants to Florida, as well as retirees from within Florida, are attracted to areas with low costs of living and the perception of few urban problems. It is anticipated that immigration into central Florida will continue. This threatens the seven plants because most of them (*Cladonia perforata* and *Polygala lewtonii* appear to be exceptions) occur in subdivisions with unimproved lots without streets or utilities. The lack of streets discouraged building; the divided ownerships of these subdivisions and the high prices for which lots were originally sold discouraged the conversion of these subdivisions to citrus. As a result, these subdivisions have unintentionally protected the native vegetation, and several may be acquired as biological preserves, despite the difficulty of purchasing land on a lot-by-lot basis. There may be little time available to begin land acquisition at the largest subdivision under consideration for acquisition, Sebring Highlands (Carter Creek), where assessments collected from landowners have built up to a large enough sum to pave the main road through the subdivision. An electric line has already been built, so with the road paved, widespread construction of houses can be anticipated.

Funding for State or Federal land acquisition to conserve central Florida plants is not yet assured. Existing land acquisition plans by the Service focus on purchasing and managing scrub rather than high pine; this leaves *Eriogonum longifolium* var. *gnaphalifolium* and *Polygala lewtonii* unprotected. The State intends to purchase high pine, but funding for land management could be limited.

The largest populations of the lichen *Cladonia perforata* are on private land; the principal landowner intends to protect the lichen, but it is necessary to be cautious about the long-term conservation of this area.

In the counties north of Highlands and Polk, the pressures of residential development are generally severe, and historic populations of plants in the Orlando (Orange County area), as well as Eustis and Clermont (Lake County) areas, are known to have disappeared.

Clitoria fragrans occurs on Avon Park Air Force Range and has been collected on a low ridge with scrub in southern Osceola County, in a region of large ranches. The plant's habitat is appropriately managed on the Air Force Range, and conservations with range conservationists with the Soil Conservation Service indicate that scrub is quite likely to remain intact on ranches. Similarly, *Eriogonum longifolium* var. *gnaphalifolium* and *Polygala lewtonii* are probably secure in Ocala National Forest, although evaluation is needed of the distribution and management of these two species in the Forest. The relative security of these two species in parts of their range is the primary reason for classifying them as threatened rather than endangered.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

There is little commercial trade in these seven plants, although *Nolina brittoniana* and *Polygonella myriophylla* are propagated and sold on a limited scale (Association of Florida Native Nurseries 1989). Commercial trade in these species should not adversely affect them, provided that nursery operators abide by State law and the Florida Native Plant Society's policy on transplanting native plants from the wild (Schwartz and Young 1992).

C. Disease or Predation

Not applicable.

D. The Inadequacy of Existing Regulatory Mechanisms

Nolina brittoniana and *Polygala lewtonii* are listed as endangered species, and *Clitoria fragrans* and *Eriogonum longifolium* var. *gnaphalifolium* are listed as threatened species under the Preservation of Native Flora of Florida law (section 581.185–187, Florida Statutes), which regulates taking, transport, and sale of plants but does not provide habitat protection. The Endangered Species Act will provide additional protection through the consultation requirements of section 7, recovery planning, and the prohibitions of section 9, which include the Act's additional penalties for taking of plants in violation of Florida law. The Florida law provides for automatic addition of federally listed plants to the State's list as endangered species.

Efforts by the Service to protect the threatened Florida scrub jay may benefit other plants and animals of the scrub. The scrub jay inhabits much of the scrub vegetation on the Lake Wales Ridge. The Endangered Species Act's prohibition against take of listed animals (section 9(a)(1)(B)) means that landowners seeking to destroy scrub habitat upon which scrub jays depend run the risk of a "taking" violation unless they obtain a section 10(a)(2) permit, which the Service can issue only if the landowner submits or participates in an acceptable conservation plan for the scrub jay.

As explained in the background section, 13 plant species from central Florida scrub and high pine habitat are already federally listed and recovery plans have been prepared (Fish and Wildlife Service 1987a, 1990). A final rule is in preparation to list a fourteenth species, the shortleaved rosemary *Conradina brevifolia.* Efforts already underway to conserve the 13 plants should benefit most of the species in this rule.

E. Other Naturol or Manmade Factors Affecting Its Continued Existence

Fire occurs in scrub vegetation at irregular intervals. For all of the plants listed in this rule, other than the lichen *Cladonia perforata,* fire is probably beneficial. For the lichen, however, fire seems to be entirely destructive. The largest populations of the lichen are in the largest existing rosemary balds, which seem to have been affected by fires at extremely long intervals; the area "supports an uneven-aged stand of sand pines, with the oldest trees approaching 100 years" (Myers 1990). At the neighboring Archbold Biological Station, *Cladonia perforata* probably benefited from many years of fire suppression, which also left the Station grounds susceptible to wildfire. Today, the Station is implementing a prescribed fire program that probably offers the best long-term chance to maintain rosemary balds with *Cladonia* lichens, but there is a real possibility that lichen populations may be harmed by fires.

Human activities, including off road vehicle use, trash dumping, and inadvertent trampling during outdoor recreation activities, threaten most of these plants. The lichen *Cladonia perforata* appears to be vulnerable to public use on Eglin Air Force Base, Santa Rosa Island.

Hurricane storm surges may wash over the lichen populations on Santa Rosa Island.

The limited geographic distribution of each of the seven species, the fragmentation of remaining habitat into small segments isolated from each other, and the small sizes of populations of some species, especially *Cladonia perforata* and *Polygala lewtonii,* exacerbate the threats faced by these species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Crotalaria avonensis, Nolina brittoniana, Polygala lewtonii,* and *Polygonella myriophylla* as endangered species, and *Clitoria fragrans* and *Eriogonum longifolium* var. *gnaphalifolium* as threatened. Each of the species listed as endangered is likely to become extinct in a significant portion of its range within the foreseeable future, meeting the Act's requirements for listing as an endangered species. The two species listed as threatened are likely to become endangered species if effective conservation measures are not taken, meeting the Act's definition of threatened species.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for these species. Except for the relatively few protected sites with one or more of these species, the populations of these species are on unprotected private land where they would gain no added protection from designation of critical habitat, and where such a designation might motivate landowners to extirpate the plants. Designation of critical habitat might also attract persons wishing to collect plants for horticultural purposes, with or without the written permission of the landowner that is required by Florida law. For these reasons, it would not be prudent to determine critical habitat for the seven plant species. The State and The Nature Conservancy are working to acquire lands to conserve these plants. Many private owners of scrub habitat occupied by the threatened Florida scrub jay have been, or will be, contacted by the Service as part of its efforts to prevent take of the bird without permit (including destruction of nests or of occupied habitat). As a result, these landowners are aware of the importance of scrub habitat, if not of individual plant species. Protection of the plant species will be addressed through the recovery process and through the section 7 consultation process. For these reasons, the Service considers designation of critical habitat not to be prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibition against certain activities involving listed plants are discussed, in part, below.

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Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Conservation of *Eriogonum longifolium* may require ensuring that use of herbicides in forestry or road right-of-way maintenance does not jeopardize this plant. It is not clear whether restrictions on herbicide use would be necessary to protect *Clitoria fragrans*, which occurs on grazing lands. The other species appear not to occur in situations where herbicide restrictions would be warranted. Implementation of any such restrictions would involve the Environmental Protection Agency (EPA).

Cladonia perforata occurs on a Gulf barrier island that is part of Eglin Air Force Base; *Clitoria fragrans* occurs on Avon Park Air Force Range, and *Eriogonum longifolium* var. *gnaphalifolium* occurs in the Ocala National Forest. The Service is currently aware of no ongoing or pending Federal actions (except for possible EPA involvement noted above) either on these lands or elsewhere that would affect these plants.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered species, and 17.71 and 17.72 for threatened species, set forth a series of general prohibitions and exceptions that apply to all listed plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 and 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale these species in interstate or foreign commerce, or to remove and reduce to possession these species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. In addition, for endangered plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulations. This protection may apply to threatened plants once revised regulations are promulgated. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62, 17.63, and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered and threatened species under certain circumstances.

It is anticipated that few trade permits will be sought or issued because the seven plant species are of limited horticultural interest, and only two (*Nolina brittoniana* and *Polygonella myriophylla*) may be in commerce across state lines. Requests for copies of the regulations on listed plants and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, room 432, Arlington, Virginia 22203 (703/358–2104).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References

A complete list of all references cited herein, as well as others, is available upon request from the Service's Jacksonville Field Office (see **ADDRESSES** section).

Author

The primary author of this rule is Mr. David Martin (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Agavaceae—Agave family:						
Nolina brittoniana	Britton's beargrass	U.S.A. (FL)	E	500	NA	NA
Cladoniaceae—Reindeer moss family:						
Cladonia perforata	Florida perforate cladonia	U.S.A. (FL)	E	500	NA	NA

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Fabaceae—Pea family:						
Clitoria fragrans	Pigeon wings	U.S.A. (FL)	T	500	NA	NA
Crotalaria avonensis	Avon Park harebells	U.S.A. (FL)	E	500	NA	NA
Polygalaceae—Milkwort family:						
Polygala lewtonii	Lewton's polygala	U.S.A. (FL)	E	500	NA	NA
Polygonaceae—Buckwheat family:						
Eriogonum longifolium var. *gnaphalifolium* (=*Eriogonum floridanum*).	Scrub buckwheat	U.S.A. (FL)	T	500	NA	NA
Polygonella myriophylla	Sandlace	U.S.A. (FL)	E	500	NA	NA

Dated: April 8, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–9748 Filed 4–26–93; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AB33

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Three Puerto Rican Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Aristida chaseae, Lyonia truncata* var. *proctorii* and *Vernonia proctorii* to be endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. These plants, including two shrubs and one grass species, are endemic to Puerto Rico, and all are restricted to the southwestern part of the island. With the exception of one site on the Cabo Rojo National Wildlife Refuge, the habitat of all three species is threatened with modification and loss due to various types of development. *Aristida chaseae* may also be affected by competition from introduced grass species. This final rule will implement the Federal protection and recovery provisions afforded by the Act for *Aristida chaseae, Lyonia truncata* var. *proctorii* and *Vernonia proctorii*.

EFFECTIVE DATE: May 27, 1993.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours, at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622; and at the Service's Southeast Regional Office, suite 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Silander at the Caribbean Field Office address (809/851–7297) or Mr. Dave Flemming at the Atlanta Regional Office address (404/331–3580).

SUPPLEMENTARY INFORMATION:

Background

Aristida chaseae (no common name) was discovered by Agnes Chase near Boquerón in 1913. It was known only from the type collection for many years, until it was discovered by Paul McKenzie in 1987 on the Cabo Rojo National Wildlife Refuge. This new population, which contains from 150 to 175 plants, is approximately 8 km to the south of the type locality. The species apparently has been eliminated from the type location, possibly as a result of competition from vigorous, introduced grass species (McKenzie et al. 1989; Proctor 1991).

Later in 1987, McKenzie and Dr. George Proctor located a third population on the rocky, exposed upper slopes of Cerro Mariquita in the Sierra Bermeja, a range of hills also found within the municipality of Cabo Rojo. This range of hills is the oldest geologic formation in Puerto Rico and is known for its high plant endemism. Additional localities on ridges to the west within the Sierra Bermeja were found in 1988. In these hills, it occurs at elevations between 150 and 300 meters (McKenzie et al. 1989; Proctor 1991).

Aristida chaseae is a perennial grass with densely tufted, wide-spreading culms which may reach from 50 to 60 cm in length. The leaf blades are involute, 2 to 3 mm wide and 10 to 15 mm long. The panicles are narrow and may be from 10 to 15 cm in length. The glumes are equal, 10 to 13 mm long and acuminate or awn-tipped. The lemma is approximately 12 mm long, narrowed at the summit but scarcely beaked and scaberulous of the upper half. The callus is 1 mm long and densely pilose. The awns are equal, somewhat

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divergent, flat at the base, not contorted except with age and approximately 2 cm long.

Lyonia truncata var. *proctorii* was discovered in September of 1987 by Dr. George Proctor and described by Dr. Walter Judd in 1990 (Judd 1990). It is only known from the type locality, the upper slopes and summits of Cerro Mariquita (elevations of 250 to 300 m) in the Sierra Bermeja. Approximately 63 individual plants have been reported from two locations: 18 to the northwest of the summit and 45 just to the east of the summit (Proctor 1991).

Lyonia truncata var. *proctorii* is an evergreen shrub which may reach up to 2 meters in height. The leaves are alternate, elliptic to ovate, coriaceous, and from 0.9 to 4.5 cm long and 0.4 to 2.3 cm wide. The leaf margins may be toothed and the lower surface is sparsely to moderately lepidote and moderately to densely pubescent. The inflorescences are fasciculate with from 2 to 15 flowers. Pedicels are from 2 to 5 mm in length and sparsely pubescent. Flowers are small (0.7 to 1.6 mm in length), white, and urn-shaped. The fruit is a dry capsule, 3 to 4.5 mm in length and 2.5 to 4 mm in width, sparsely pubescent, and contain seeds approximately 2.5 mm in length.

Vernonia proctorii was discovered in September of 1987 by Dr. George Proctor, Dr. Horst Haneke and Paul McKenzie. It is known to occur only on the summit of Cerro Mariquita in the Sierra Bermeja of southwestern Puerto Rico at elevations between 270 and 300 meters. Plants are scattered throughout a scrub woodland which covers several acres. The population has been estimated at approximately 950 individual plants at this one known location (Proctor 1991).

Vernonia proctorii is a small erect shrub which may reach a height of 1.5 meters. The stems and trunk are densely pubescent with silvery uniseriate hairs and with a knobby appearance due to the persistent petiole bases. Leaves are alternate, ovate to orbicular, subsessile or with the petioles appressed to the stem, and from 1.5 to 3.5 cm long and 1.0 to 2.6 cm wide. The upper blade surface is green to olive-green and moderately strigose with scattered glistening globular trichomes. The lower surface is grayish-green, sometimes becoming rusty with age, and densely sericeous. The leaf margins are densely ciliate with silvery hairs. Flowers are borne in terminal clusters of 2 to 5 heads, each approximately 3 mm in length, and bright purple in color. Achenes are from 2 to 3 mm long and sericeous with silvery hairs.

Aristida chaseae, *Lyonia truncata* var. *proctorii* and *Vernonia proctorii* were recommended for listing by Dr. George Proctor during a September 1988 meeting concerning the revision of the candidate plant species list in Puerto Rico and the U.S. Virgin Islands. They were subsequently included as category 1 species (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in the notice of review for plants published February 21, 1990 (55 FR 6184). A proposal to list the three species as endangered was published in the **Federal Register** of September 3, 1992 (57 FR 40429).

Summary of Comments and Recommendations

In the September 3, 1992, proposed rule and associated notifications, all interested parties were requested to submit factual reports of information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting general comment was published in the San Juan Star on September 20, 1992, and in El Día on October 2, 1992. Nine letters of comment were received and are discussed below. A public hearing was neither requested nor held.

The Cabo Rojo National Wildlife Refuge, Fish and Wildlife Service, supported the listing of the three species. The Refuge biologist indicated that *Aristida chaseae*, found on the Refuge, was apparently suffering from the effects of competition from exotic vegetation.

Four letters were received from different areas within the Puerto Rico Department of Natural Resources that supported the listing of the three species. The Forest Service area of the Department expressed interest in the propagation of the species. Two letters originating from the Research area recommended that *Aristida chaseae* and *Lyonia truncata* var. *proctorii* be listed as threatened rather than endangered. The Department's primary response, however, emphasized the threat to the species' habitat, stating that the high scenic value of the area would attract developers and that current zoning regulations did not provide strong protection to the range of hills. The Service believes that development is a significant threat and that considering the highly restricted distribution of these species, a classification of endangered is more appropriate than threatened.

The Department of Biology of the University of Puerto Rico, Mayaguez Campus, supported the listing of the three species, emphasizing the threat that development poses to the Sierra Bermeja. Both the "Servicios Cientificos y Tecnicos" of Puerto Rico (Scientific and Technical Services), in two letters, and The Conservation Agency in Rhode Island provided letters of support for the listing of the species as endangered. The latter also recommended the designation of critical habitat. The Service's reasons for not designating critical habitat are discussed in detail under a subsequent section of this rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that these species should be classified as endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Aristida chaseae* Hitchcock, *Lyonia truncata* Urban var. *proctorii* Judd, and *Vernonia proctorii* Urbatsch are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

All three species are found on privately owned land currently subject to intense pressure for agricultural, rural and tourist development. The land is currently being cleared for grazing by cattle and goats. Adjacent land is being subdivided for sale in small farms, some destined for tourist and urban developments. Only *Aristida chaseae* occurs outside of the Sierra Bermeja, on the nearby Cabo Rojo National Wildlife Refuge, where the population occurs within and along a little used roadway.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Taking for these purposes has not been a documented factor in the decline of these species.

C. Disease or Predation

Disease and predation have not been documented as factors in the decline of these species.

D. The Inadequacy of Existing Regulatory Mechanisms

The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Aristida chaseae*, *Lyonia truncata* var. *proctorii* and *Vernonia proctorii* are not yet on the Commonwealth list. Federal listing would provide immediate protection and, if the species are ultimately placed on the Commonwealth list, enhance their protection and possibilities for funding needed research.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

One of the most important factors affecting the continued survival of these species is their limited distribution. Because so few individuals are known to occur in a limited area, the risk of extinction is extremely high. Wildfires are a frequent occurrence in this extremely dry portion of southwestern Puerto Rico. McKenzie et al. (1989) indicate that *Aristida chaseae* may have once extended throughout sandy coastal areas and rocky hillsides in southwestern Puerto Rico, but that competition from vigorous, introduced grasses such as *Brachiaria subquadripara* may have eliminated the species from the majority of this area.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Aristida chaseae*, *Lyonia truncata* var. *proctorii* and *Vernonia proctorii* as endangered. *Lyonia truncata* var. *proctorii* and *Vernonia proctorii* are known to occur only on the upper slopes and ridges of the Sierra Bermeja. *Aristida chaseae* is currently known from only two areas. Deforestation for rural, agricultural, and tourist development are imminent threats to the survival of the species. *Aristida chaseae* appears to be threatened also by competition from introduced grasses. Therefore, endangered rather than threatened status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for these species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service's regulations (50 CFR 424.12(a)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

The Service finds that designation of critical habitat is not prudent for these species. The number of individuals of *Aristida chaseae*, *Lyonia truncata* var. *proctorii* and *Vernonia proctorii* is sufficiently small that vandalism and collection could seriously affect the survival of the species. Taking is an activity that is difficult to control, and it is only regulated by the Act with respect to endangered plants in cases of (1) removal and reduction to possession of these plants from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up, or damaging or destroying these plants in knowing violation of any State law or regulation, including State criminal trespass law. Publication of critical habitat descriptions and maps in the **Federal Register** would only increase the likelihood of such activities and would not provide offsetting benefits. No Federal involvement outside of the Cabo Rojo National Wildlife Refuge is known or anticipated at this time. The Service believes that any future Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting these species' habitat. Protection of these species' habitat will also be addressed through the recovery process and through the section 7 jeopardy standard.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for these three species, as discussed above. Federal involvement is anticipated only for the population of *Aristida chaseae* located on the Cabo Rojo National Wildlife Refuge.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. In addition, for endangered plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any Commonwealth law or regulation, including Commonwealth criminal trespass law. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits for these three species will ever be sought or issued, since the species are not known to be in cultivation and are uncommon in the wild. Requests for

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copies of the regulations on listed plants and inquiries regarding prohibitions and permits should be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, room 432, Arlington, Virginia 22203 (703/358–2104).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

Judd, W.S. 1990. A new variety of *Lyonia* (Ericaceae) from Puerto Rico. Jour. Arnold Arb. 71:129–133.

McKenzie, P.M., R.E. Noble, L.E. Urbatsch, and G.R. Proctor. 1989. Status of *Aristida* (Poaceae) in Puerto Rico and the Virgin Islands. Sida 13(4):423–447.

Proctor, G.R. 1991. Status report on *Aristida chaseae* Hitchcock. *In* Publicación Científica Miscelánea No. 2, Departamento de Recursos Naturales de Puerto Rico. 196 pp.

Proctor, G.R. 1991. Status report on *Lyonia truncata* Urban var. *proctorii* Judd. *In* Publicación Científica Miscelánea No. 2, Departamento de Recursos Naturales de Puerto Rico. 196 pp.

Proctor, G.R. 1991. Status report on *Vernonia proctorii* Urbatsch. *In* Publicación Científica Miscelánea No. 2, Departamento de Recursos Naturales de Puerto Rico 196 pp.

Author

The primary author of this proposed rule is Ms. Susan Silander, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851–7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulations Promulgation

Accordingly part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations is amended as set forth below:

Part 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend 17.12(h) by adding the following, in alphabetical order under Asteraceae, Ericaceae and Poaceae, to the list of Endangered and Threatened Plants:

§ 17.12 Endangered and Threatened Plants.

* * * * *

(h) * * *

Species						
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
*	*	*	*	*	*	*
Asteraceae—Aster family:						
*	*	*	*	*	*	*
Vernonia proctorii	None	U.S.A. (PR)	E	501	NA	NA
*	*	*	*	*	*	*
Ericaceae—Heath family:						
*	*	*	*	*	*	*
Lyonia truncata var. *proctorii*	None	U.S.A. (PR)	E	501	NA	NA
*	*	*	*	*	*	*
Poaceae—Grass family:						
*	*	*	*	*	*	*
Aristida chaseae	None	U.S.A. (PR)	E	501	NA	NA
*	*	*	*	*	*	*

Dated: April 9, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–9749 Filed 4–26–93; 8:45 am]

BILLING CODE 4310–55–P

50 CFR Part 17

RIN 1018–AB56

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Duskytail Darter, Palezone Shiner and Pygmy Madtom

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service determines endangered status for three fishes—the duskytail darter (*Etheostoma* (*Catonotus*) sp.), palezone shiner (*Notropis* sp., cf. *procne*), and pygmy madtom (*Noturus stanauli*)—under the Endangered Species Act of 1973, as amended (Act). The duskytail darter is presently known to inhabit only five short stream reaches—the Little River, Blount County, Tennessee; Citico Creek, Monroe County, Tennessee; Big South Fork Cumberland River, Scott County, Tennessee; and Copper Creek and Clinch River, Scott County, Virginia. Two other historic duskytail darter populations are extirpated. The palezone shiner is presently known from only two stream

reaches—the Paint Rock River, Jackson County, Alabama, and the Little South Fork Cumberland River, Wayne and McCreary Counties, Kentucky. Two other historic palezone shiner populations are extirpated. The pygmy madtom has been collected from only two short river reaches—the Duck River, Humphreys County, Tennessee, and the Clinch River, Hancock County, Tennessee. The madtom may no longer exist in the Duck River. All three fishes presently coexist with other federally listed species in all stream reaches, except the Duck River. All these fishes and their habitats are impacted by deteriorated water quality, primarily resulting from poor land use practices. The limited distribution of these fishes also makes them very vulnerable to toxic chemical spills.

EFFECTIVE DATE: May 27, 1993.

ADDRESSES: The complete file of this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Asheville Field Office, 330 Ridgefield Court, Asheville, North Carolina 28806.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Biggins at the above address (704/665–1195, Ext. 228).

SUPPLEMENTARY INFORMATION:

Background

The duskytail darter (*Etheostoma* (*Catonotus*) sp.) is being scientifically described by Robert Jenkins (Roanoke College, *in litt.*, 1992).This small (2-inch) fish, which coexists with other federally listed species in all stream reaches it inhabits, is straw to olivaceous in color. It inhabits rocky areas in gently flowing shallow pools and eddy areas of large creeks and moderately large rivers in the Tennessee and Cumberland River systems (Starnes and Etnier 1980; Burkhead and Jenkins, in press; Layman, in press; Clyde Voigtlander, Tennessee Valley Authority, *in litt.*, 1991). Historically, the duskytail was likely more widespread. However, it presently has a very fragmented distribution (Etnier and Starnes, in press; Jenkins and Burkhead, in press). The Tennessee Wildlife Resources Agency and the Tennessee Heritage Program of the Tennessee Department of Environment and Conservation recognize this fish as a threatened species (Starnes and Etnier 1980). The species is recognized as an endangered species by the Virginia Department of Game and Inland Fisheries (Sue Bruenderman, Virginia Department of Game and Inland Fisheries, *in litt.*, 1992).

Although the fish fauna of the Tennessee and Cumberland River systems has been extensively surveyed, the duskytail has been collected from only seven short river reaches—Little River, Blount County, Tennessee; Citico Creek, Monroe County, Tennessee; Big South Fork Cumberland River, Scott County, Tennessee; Abrams Creek, Blount County, Tennessee; South Fork Holston River, Sullivan County, Tennessee; and Copper Creek and Clinch River, Scott County, Virginia. The duskytail is apparently extirpated from Abrams Creek and South Fork Holston River, as it has not been found in either area in recent years (Jenkins and Burkhead, in press).

The Little River population inhabits about 9 river miles (Layman, in press). Layman (in press) stated that the duskytail in the lower reaches of the Little River was undoubtedly lost when the area was impounded. This population is potentially threatened by water withdrawal and increasing residential and commercial development in the watershed (Clyde Voigtlander, *in litt.*, 1991).

The duskytail exists downstream of U.S. Forest Service lands in about 0.5 river mile of Citico Creek (Peggy Shute, Tennessee Valley Authority, personal communication, 1991). Although the majority of the Citico Creek watershed is controlled by the Forest Service, much of the populated reach is privately owned, and stream-side habitat destruction has been observed in the area (Clyde Voigtlander, *in litt.*, 1991).

The duskytail inhabits about 17 river miles of Copper Creek. Although the duskytail is characterized as generally rare or uncommon in Copper Creek (Burkhead and Jenkins, in press), this creek may support the largest population of the fish (Clyde Voigtlander, *in litt.*, 1991). According to the Virginia Department of Game and Inland Fisheries (Bud Bristow, *in litt.*, 1991), this population is threatened by siltation, riparian erosion, and agricultural pollution. Jenkins (Roanoke College, *in litt.*, 1992) stated that, during three visits to Copper Creek in 1992, the fish was very rare at sites where the largest numbers were found in the early 1970s. He further stated, "This doesn't look good for the species or Copper Creek."

One duskytail specimen was collected from the Clinch River in 1980, about 1 river mile below the mouth of Copper Creek (Burkhead and Jenkins, in press). This area has been well sampled since 1980, but not additional specimens have been encountered. This one fish may represent periodic downstream movement from Copper Creek, and a viable dusktail population may not exist in the Clinch River.

Duskytail darters have been taken from only one site on the Big South Fork of the Cumberland River. Although other collections have been made in the Big South Fork, no other populations have been found (Jack Collier, National Park Service, personal communication, 1990; Melvin Warren, Southern Illinois University, personal communication, 1990). This population, although within the Big South Fork National Recreational Area (BSFRA), is potentially threatened by runoff from coal mines in the upper watershed above the BSFRA (Jack Collier, personal communication, 1990).

The duskytail darter populations are threatened by the general deterioration of water quality resulting from siltation and other pollutants from poor land use practices, coal mining, and waste discharges. Etnier and Starnes (in press) stated that this darter "* * * and other darters dependent upon silt-free, rocky pools in large streams and rivers, such as the ashy darter, have apparently suffered more from the effects of siltation than have darters typical of swift riffles."

The palezone shiner (*Notropis* sp., cf. *procne*) is being scientifically described by Melvin Warren (personal communication, 1990). This small (2-inch), slender fish, which coexists with other federally listed species in all stream reaches it inhabits, has a translucent and straw-colored body with a dark midlateral stripe. It occurs in large creeks and small rivers in the Tennessee and Cumberland River systems and inhabits flowing pools and runs with sand, gravel, and bedrock substrates (Warren and Burr 1990).

The fish is listed by the Kentucky State Nature Preserves Commission (Kentucky State Nature Preserves Commission 1991) as an endangered species. In Alabama, the species is considered threatened (Pierson 1990). Although the species is believed to be extirpated from Tennessee, the Tennessee Wildlife Resources Agency and the Tennessee Heritage Program of the Tennessee Department of Environment and Conservation recognize this fish as a species in need of management (Starnes and Etnier 1980).

Although numerous and extensive fish collections have been made in the Tennessee and Cumberland River systems, the palezone shiner has been taken from only four rivers—the Paint Rock River, Jackson County, Alabama; the Little South Fork Cumberland River, Wayne and McCreary Counties, Kentucky; Marrowbone Creek,

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Cumberland County, Kentucky; and Cove Creek, Clinch River drainage, Campbell County, Tennessee (Starnes and Etnier 1980; Warren and Burr 1990; Richard Hannan, Kentucky State Nature Preserves Commission, *in litt.*, 1990). Based on the results of a recent status survey (Warren and Burr 1990), only two palezone populations remain. No palezone shiners were found in either Marrowbone or Cove Creek. However, the fish still exists in about 3 river miles of the Paint Rock River and in about 30 river miles of the Little South Fork Cumberland River.

The palezone shiner's distribution has apparently been reduced by such factors as impoundments and the general deterioration of water quality from siltation and other pollutants contributed by coal mining, poor land use practices, and waste discharges. Richard Hannan (*in litt.*, 1990) stated that the palezone possibly inhabited the main stem of the Cumberland River in Kentucky prior to impoundment. Warren and Burr (1990) reported that diversity and density of the benthic fish community in the Little South Fork of the Cumberland River has been severely reduced. Anderson (1989) found that nearly all freshwater mussels in the lower third of the South Fork were eliminated in the 1980s; he attributed the loss to toxic runoff from surface coal mines. Warren and Burr (1990) stated, "The limited distribution of the species in the Paint Rock River definitely appears correlated with increasing agriculture and associated increase in stream siltation * * *" Clyde Voigtlander (*in litt.*, 1992) stated that the Tennessee Valley Authority (TVA) had identified that the Paint Rock River palezone shiner population was in the timber-sourcing area for three proposed wood-chip mills. He further stated, "Subsequent analysis of potential effects of large-scale timber harvesting (clear-cutting) led us (TVA) to conclude that the palezone shiner would likely experience population-level effects, i.e., effects on individuals and populations of the species, but not the species as a whole."

The pygmy madtom (*Noturus stanauli*) was described by Etnier and Jenkins (1980). This species, which is known from two populations separated by about 600 river miles, was once likely more widespread (O'Bara 1991). However, like some other catfish in the genus *Noturus*, the pygmy madtom is presently rare and has a fragmented distribution (Etnier and Jenkins 1980). The pygmy madtom is the smallest (maximum length 1.5 inches) of the known madtoms (Etnier and Jenkins 1980). It has a very distinctive pigmentation pattern; it is very dark above the body midline and light below. The species is found in moderate to large rivers on shallow pea-size gravel shoals with moderate to strong current. The Tennessee Wildlife Resources Agency and the Tennessee Heritage Program of the Tennessee Department of Environment and Conservation recognize this fish as a threatened species (Starnes and Etnier 1980).

The fish fauna of the Tennessee River valley has been extensively surveyed (O'Bara 1991); however, the pygmy madtom has been collected from only two short river reaches. It has been taken from the Duck River, Humphreys County, Tennessee, and from the Clinch River, Hancock County, Tennessee. Based on the results of recent surveys (O'Bara 1991), the fish still exists in the Clinch River, and it is possibly extirpated from the Duck River. Five specimens were taken at one of the two known historic sites in the Clinch River by O'Bara (1991) in the fall of 1990. O'Bara (1991) did not find the species in the Duck River during his 1990 survey and reported that the species had not been taken from the Duck River since 1974.

Etnier and Jenkins (1980), in their description of this species, report that it has been taken in only about one-half of the collections made at the Clinch River sites and only about one-fourth of the collections at the Duck River site. Thus, although the species has not been taken in recent years in the Duck River, it may still survive there.

The pygmy madtom, which coexists with other federally listed species in the Clinch River, is threatened by the general deterioration of water quality from siltation and other pollutants associated with poor land use practices and waste discharges. The section of the Duck where the species has historically been taken is being seriously threatened by stream-bank erosion. The aquatic resources of the Clinch River are potentially threatened by increased urbanization, coal mining, and poorly managed agricultural practices. Because the pygmy madtom may exit in only one short river reach, this population could easily be lost from a single toxic chemical spill.

In the Service's notice of review for animal candidate species, published in the Federal Register of January 6, 1989 (56 FR 58840), September 18, 1985 (50 FR 37958), and December 30, 1982 (47 FR 58454), the palezone shiner and pygmy madtom were indicated to be category 2 candidates. A category 2 species is one that is being considered for possible addition to the Federal lists of endangered and threatened wildlife and plants, but for which conclusive data on biological vulnerability and threat are not currently available to support a proposed rule. During October and November of 1990, the Service mailed 138 notification letters to potentially affected government agencies and interested individuals requesting comments regarding the possible listing of these three fishes. None of the commenters expressed opposition, and some provided additional information on the species' status and distribution. In early 1991, based on all available information, the Service concluded that each of these fishes qualified as a category 1 species, with the palezone shiner and pygmy madtom being assigned a listing priority of 2, and the duskytail darter a priority of 5 (see Federal Register of September 21, 1983 (48 FR 43098) for a discussion of the Service's listing priority guidelines). All three species were proposed for listing as endangered in the Federal Register of July 8, 1992 (57 FR 30191).

Summary of Comments and Recommendations

In the July 8, 1992, proposed rule and associated notifications, all interested parties were requested to submit factual reports and information that might contribute to the development of a final rule. Appropriate Federal and State agencies, county governments, scientific organizations, and interested parties were contacted by letter dated July 14, 1992, and requested to comment. Legal notices were published in the following newspapers: News-Democrat, Waverly, Tennessee, July 24, 1992; Huntsville Times-News, Huntsville, Alabama, July 24, 1992; Kingsport Times-News, Kingsport, Tennessee, July 26, 1992; McCreary Record, Whitley, Kentucky, July 28, 1992; and The Morning Daily Times, Maryville, Tennessee, July 28, 1992.

Five written comments were received. Four were from various government agencies (Tennessee Valley Authority, Virginia Department of Game and Inland Fisheries, Kentucky State Nature Preserves Commission, and Tennessee Wildlife Resources Agency), and one was from an individual. None expressed opposition to the proposed rule. All additional pertinent information provided by these commenters has been incorporated into the final rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the duskytail darter, palezone shiner and pygmy madtom should be classified as endangered species. Procedures found a section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the duskytail darter (*Etheostoma* (*Catonotus*) sp.), palezone shiner (*Notropis* sp., cf. *procne*), and the pygmy madtom (*Noturus stanauli*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

The Tennessee and Cumberland Rivers previously supported one of the world's richest assemblages of temperate freshwater river fishes (Starnes and Etnier 1986), but these rivers are now two of our most severely altered river systems. Most of the main stem of both rivers and many of the tributaries are impounded (over 2,300 river miles, or about 20 percent, of the Tennessee River and its tributaries with drainage areas of 25 square miles or greater are impounded (Tennessee Valley Authority 1971)). In addition to the loss of riverine habitat within impoundments, most impoundments also seriously alter downstream aquatic habitat.

Coal mining-related siltation and associated toxic runoff have adversely impacted many stream reaches. Numerous streams have experienced fish kills from toxic chemical spills, and poor land use practices have fouled many waters with silt. The runoff from large urban areas has degraded water and substrate quality. Because of the extent of habitat destruction, the aquatic faunal diversity in many of the basins' rivers has declined significantly. Many species that once existed throughout major portions of these basins now exist only as isolated remnant populations (Neves and Angermeier 1990). Because of this destruction of riverine habitat, 8 fishes and 24 mussels in the Tennessee and Cumberland River basins have already required Endangered Species Act protection, and numerous other aquatic species in these two basins are currently considered candidates for Federal listing.

The fish fauna of the Tennessee and Cumberland River systems have been extensively surveyed (Ronald Cicerello, Kentucky State Nature Preserves Commission; David Etnier, University of Tennessee; Robert Jenkins, Roanoke College; Christopher O'Bara, Tennessee Technological University; Charles Saylor, Tennessee Valley Authority; Melvin Warren and Brooks Burr, Southern Illinois University; personal communications, 1990). Yet, only a few isolated populations of the duskytail darter, palezone shiner, and pygmy madtom remain (see "Background" section for a discussion of the current and historic distribution of and threats to the remaining populations). These fishes have been and are presently adversely impacted by the factors described above. Unless steps are taken to protect these fishes, the number and size of their populations are expected to decline.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The specific areas inhabited by these fishes are presently unknown to the general public. As a result, their overutilization has not been a problem. However, vandalism could pose a problem, especially if the specific inhabited reaches were to be revealed, such as through the designation of critical habitat. Most of the stream reaches inhabited by these fishes are extremely short and could easily be lost through the act of vandals using readily available toxic chemicals. Although scientific collecting is not presently identified as a threat, take by private and institutional collectors could pose a threat if left unregulated. Federal protection of these species will help to minimize illegal or inappropriate take.

C. Disease or Predation

Although these fishes are undoubtedly consumed by predators, there is no evidence that predation is a threat to them.

D. The Inadequacy of Existing Regulatory Mechanisms

States within these species' ranges prohibit the taking of fishes and wildlife for scientific purposes without a State collecting permit. However, the species are generally not protected from other threats. Federal listing will provide additional protection for the species under the Endangered Species Act by requiring Federal permits to take the species and by requiring Federal agencies to consult with the Service when projects they fund, authorize, or carry out may adversely affect the species.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Because the existing duskytail darter, palezone shiner, and pygmy madtom populations inhabit short river reaches, they are vulnerable to extirpation from accidental toxic chemical spills. As the populated stream reaches of all three fish species are isolated from each other by impoundments, recolonization of any extirpated population would not be possible without human intervention. The absence of natural gene flow among populations of these fishes leaves the long-term genetic viability of these isolated populations in question.

Additionally, several madtom species have, for still unexplained reasons, been extirpated from portions of their range. Etnier and Jenkins (1980) speculated that this may "* * * in addition to visible habitat degradation, be related to their being unable to cope with olfactory 'noise' being added to riverine ecosystems in the form of a wide variety of complex organic chemicals that may occur only in trace amounts." If madtoms are adversely impacted by increased concentrations of complex organic chemicals, an increase in these materials could be a problem for the pygmy madtom.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these three fishes in determining to make this rule final. Based on this evaluation, the preferred action is to list the duskytail darter (*Etheostoma* (*Catonotus*) sp.), palezone shiner (*Notropis* sp., cf. *procne*), and pygmy madtom (*Noturus stanauli*) as endangered. Presently, the duskytail darter inhabits only five short stream reaches, the palezone shiner is known from only two stream reaches, and the pygmy madtom possibly occurs in only one short stream reach. All three fishes and their habitat have been and continue to be impacted by water quality deterioration resulting from poor land use practices and by water pollution. The limited distribution of these fishes also makes them vulnerable to toxic chemical spills. Because of the restricted nature of these populations and their vulnerability, endangered status appears to be the most appropriate classification for the species. (See **Critical Habitat** section for a discussion of why critical habitat is not being designated for these fishes.)

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Section 7(a)(2) of the Act, and regulations codified at 50 CFR part 402, require Federal agencies to insure, in

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consultation with and with the assistance of the Service, that activities they authorize, fund or conduct are not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat, if designated. The Service's regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species; or (2) such designation of critical habitat would not be beneficial to the species. Such a determination would result in no known benefit to these three species.

As part of the development of this final rule, Federal and State agencies were notified of these fishes' distributions, and they were requested to provide data on proposed Federal actions that might adversely affect the species. Should any future project be proposed in areas inhabited by these fishes, the involved Federal agency will already have the distributional data needed to determine if the species may be impacted by their action. Each of these species occupies a very limited range, and any adverse modification of any inhabited river reach would likely jeopardize the species' continued existence. Therefore, habitat protection for these species can be accomplished through the section 7 jeopardy standard and the section 9 prohibitions against take. Thus, no additional benefits would accrue from critical habitat designation that would not also accrue from the listing of these species.

In addition, as these species are very rare, with populations restricted to extremely short stream reaches, unregulated taking for any purpose could threaten their continued existence. The publication of critical habitat maps in the **Federal Register** and local newspapers, and other publicity accompanying critical habitat designation, could increase the collection threat and increase the potential for vandalism, especially during the often controversial critical habitat designation process. (See the "Summary of Factors Affecting the Species" section, Part B, "Overutilization for commercial, recreational, scientific, or educational purposes," for a further discussion of threats to the species from vandals.) The locations of populations of these species have consequently been described only in general terms in this final rule. Precise locality data are available to appropriate Federal, State, and local government agencies and individuals from the Service office described in the "**ADDRESSES**" section.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals The Endangered Species Act provides for possible land acquisition and cooperation with the States, and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Service notified Federal agencies that might have programs affecting these species. Three projects that could impact the palezone shiner were identified. Three wood-processing companies have applied to the Nashville District, U.S. Army Corps of Engineers (Corps), for permits under section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act and to TVA for shoreline leases and section 26–A permits to construct and operate wood-chip mills located between Bridgeport, Alabama, and New Hope, Tennessee. The construction of the facilities will not impact the palezone shiner. However, the potential timber-harvest area for the wood-chip mills encompasses the reach of the Paint Rock River that is populated by the palezone shiner (TVA 1992). The Service has recently conducted a formal conference with TVA and the Corps regarding the potential impact of the wood-chip mills to the palezone shiner. The Service concluded that harvesting logs for the wood-chip mills in the Paint Rock River watershed would likely jeopardize the continued existence of the palezone shiner. However, the Service offered a reasonable and prudent alternative involving controls on timber-harvest methods that would avoid the likelihood of jeopardy to the palezone shiner.

Additional Federal activities that could occur and impact the species include, but are not limited to, the carrying out or the issuance of permits for hydroelectric facility construction and operation, coal mining, reservoir construction, stream alterations, wastewater facility development, pesticide registration, and road and bridge construction. It has been the experience of the Service, however, that nearly all section 7 consultations can be resolved so that the species is protected and the project objectives are met.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are found at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. These species are not in trade, and such permit requests are not expected.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this final rule is Richard G. Biggins, U.S. Fish and Wildlife Service, Asheville Field Office, 330 Ridgefield Court, Asheville, North Carolina 28806 (704/665–1195, Ext. 228).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under Fishes, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
FISHES							
*	*	*	*	*	*		*
Darter, duskytail	*Etheostoma (Catonotus)* sp..	U.S.A. (TN and VA)	Entire	E	502	NA	NA
*	*	*	*	*	*		*
Madtom, pygmy	*Noturus stanauli*	U.S.A. (TN)	Entire	E	502	N/A	NA
*	*	*	*	*	*		*
Shiner, palezone	*Notropis* sp.	U.S.A. (AL, KY, and TN).	Entire	E	502	NA	
*	*	*	*	*	*		*

Dated: April 12, 1993.

Richard N. Smith,

Director, Fish and Wildlife Service.

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Part V

Department of Transportation

Coast Guard

33 CFR Part 168

Escort Requirements for Vessels in the Navigable Waters of the United States; Proposed Rule

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 168

[CGD 91-202a]

RIN 2115-AE-10

Escort Requirements for Vessels in the Navigable Waters of the United States

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In this advance notice of proposed rulemaking (ANPRM), the Coast Guard seeks comment on where an escort should be required for vessels navigating in the waters of the United States and which vessels should be required to comply with an escort rule. Recommendations are also sought on what the escort vessel should be expected to do.

DATES: Comments must be received on or before June 28, 1993.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 91-202a), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001 or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Captain Gerald T. Willis, Project Manager, Oil Pollution Act (OPA 90) Staff, (202) 267-6732.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD XX-XXX) and the specific section of this proposal to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound materials is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period and any late comments to the extent practicable. It may change this proposal in view of the comments.

Drafting Information

The principal persons involved in drafting this document are Captain Gerald T. Willis, Project Manager, and Ms. Joan Tilghman, Project Counsel, OPA 90 Staff.

Background and Purposes

The Coast Guard has been delegated broad authority to control vessel movement in the navigable waters of the United States under the Ports and Waterways Safety Act of 1972 (PWSA) (Pub. L. 92-340) as amended by the Port and Tanker Safety Act of 1978 (Pub. L. 95-474), found at 33 U.S. Code 1221-1236. Under section 1223(a)(4), the Coast Guard may control vessel traffic in areas determined to be hazardous by, among other things, establishing vessel size, speed, and draft limitations and vessel operating conditions. In accordance with section 1224, prior to imposing such controls, various factors, including the following, are to be considered:

1. The scope and degree of the risk or hazard involved;
2. Vessel traffic characteristics and trends, including traffic volume, sizes and types of vessels involved, and the presence of unusual cargoes;
3. Port and waterway configurations and variations in local conditions of geography, climate, and other similar factors;
4. Environmental factors; and
5. Economic impact.

Specific, but limited, authority regarding escort of certain tankers also exists in the Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101-380). Section 4116(c) of OPA 90 requires the Coast Guard, as delegated by the Secretary of Transportation, to define areas where single hull tankers over 5,000 gross tons (GT) transporting oil in bulk must be escorted by at least two towing vessels, or by some other vessel which the Secretary considers appropriate. These defined areas must include Prince William Sound, Alaska, and Rosario Strait and Puget Sound, Washington (including those portions of the Strait of Juan de Fuca east of Port Angeles, Haro Strait, and the Strait of Georgia subject to United States jurisdiction). On July 7, 1992, the Coast Guard proposed a rule to implement section 4116(c) in Prince William Sound and Puget Sound (57 FR 30058). The comment period was reopened on March 26, 1993, to obtain additional information 958 FR 16391).

In the NPRM, the Coast Guard sought comment on whether to extend the applicability of the OPA 90 escort rule to other areas and to other kinds of vessels, and stated that there would be a separate rulemaking to address these issues. An option presented for expanding an escort rule beyond section 4116(c) of OPA 90 was to use Coast Guard authority under the PWSA.

This ANPRM solicits further comment on applying an escort rule to other areas of the navigable waters of the U.S. and other vessels. Before it can issue workable and effective national escort rules, the Coast Guard must decide what the escort vessels are expected to accomplish, so that the regulatory approach results in reducing the risk of harm in the event of a vessel casualty. To establish a sensible approach, it is necessary to assess what existing escort vessels can do, given current technological capability and design of the escort vessel and the characteristics of the vessel being escorted.

Why there is a need for providing escorts for certain vessels. A principal focus of OPA 90 is reducing the risk of spills of oil and hazardous substances, and the injury to human health and damage to the environment resulting from such spills. The PWSA focuses on broad preventive measures to improve vessel navigation in U.S. waterways to reduce the risk of collision or grounding. With the introduction of supertankers, as well as the increased shipment of hazardous substances by vessel, the risk of a serious pollution incident as the result of a marine casualty has increased. Traffic volumes in confined harbors and narrow channels has increased; larger vessels are less maneuverable than smaller ones used in earlier years.

Although OPA 90 focuses on minimizing the risks of casualties from vessels carrying oil as cargo, oil tankers are not the only types of vessels which may pose a substantial risk of collisions or groundings, with resultant environmental damage. Many other vessels pose a risk of high-consequence environmental or public health incidents because of the quantity of bunker oil (fuel) they carry, or the vessel's transit near congested areas, sensitive environmental areas, or in confined waterways. Vessels carrying hazardous materials, hazardous substances, or other dangerous cargo also pose a potential risk of harm from spills, and a vessel which itself does not pose a risk may be the cause of a spill from an oil tanker or other vessel carrying dangerous cargo.

Which vessels should require an escort. Several comments to the NPRM suggested that the Coast Guard include the following vessels in the escort rule: All single or double-hull oil tankers, irrespective of tonnage; all vessels over 5,000 gross tons (GTs); and all ships over 10,000 long tons displacement. Some comments stated that the Coast Guard should consider the character of the area the vessel is transiting in determining whether to require an escort. For example, any ship transiting an area defined as a "marine sanctuary" would require an escort.

The Coast Guard seeks further comment on the criteria it should use to determine if any vessels, in addition to those covered by section 4116(c) of OPA 90, should have an escort. Should the type of cargo carried, the vessel size or configuration, the proximity to areas where serious consequences may result from a spill, or a combination of these factors, determine which vessels must be escorted? Is there some other principle which should be applied to make this determination?

What should an escort vessel be expected to do. A paramount question is what should an escort vessel be expected to do. In making this decision, the Coast Guard must decide what it means "to escort," and whether there are vessels in service that are capable of escorting.

The meaning of "escort." Tugboats (tugs) have traditionally been used in ship handling to assist larger vessels when maneuvering at slow speeds in confined waters, such as during berthing. OPA 90 contemplates that escorts should be required when oil tankers are transiting in more open waters at higher speeds.

The demands placed on escort vessels have increased commensurately. There are expectations that in the event of a casualty on the vessel being escorted, the escorting vessel will be able to control the movement of the escorted vessel sufficiently to avoid a collision or grounding, as well as the traditional assistance in berthing. Some newer tugs are highly maneuverable and can perform these services for escorted vessels at speeds higher than that achievable by a conventional tug. In addition, there are expectations that the escorting vessel should be capable of assisting in spill containment and cleanup and possibly have firefighting capability.

The question arises whether providing an escort means: being available to facilitate transit through narrow or confined waterways at other than slow speeds and berth a vessel; steer or tow the vessel in the event of a propulsion or steering failure, either running free or made fast to the vessel; and provide spill mitigation and firefighting in the aftermath of a casualty. The Coast Guard envisions that in the most basic definition, "escorting" must encompass the ability to render timely assistance to a disabled ship to prevent a grounding or collision, as well as perform the traditional services of facilitating slow speed transit and berthing.

In some circumstances, a timely response must be accomplished in minutes (e.g., a steering gear failure at a critical moment when the vessel is negotiating a narrow channel). In this situation, a timely response may be possible only if the escorted ship is traveling at a relatively slow speed and the escort vessel already is tethered to the ship.

In other circumstances, an assist may take hours and still be satisfactory (e.g., a propulsion failure in the middle of Prince William Sound thirty miles from the nearest shore). In that circumstance, an escort vessel might be free-running nearby or ready to get underway from a strategic location within the sound.

In any event, the question must be addressed concerning which tugs can render service in an emergency to prevent a grounding or collision. A conventional tug, with forward and astern propulsion thrust, generally has stability characteristics to tolerate only moderate transverse towline forces. Further, the amount of force it can generate is largely proportionate to its horsepower and propeller configuration. Horsepower and tug configuration are factors in setting the speed at which the tug escort can travel safely relative to the speed of the ship it escorts. Because it maneuvers with some difficulty in close quarters at speeds greater than 6 knots, a conventional tug may be incapable of providing the type of emergency service which the Coast Guard believes is inherent in all phases of "escorting."

Tractor tugs have a propulsion configuration which allows these vessels to thrust throughout 360 degrees from the tug's fore and aft axis. In addition to the traditional duties of straight ahead pushing or pulling, tractor tug design offers another potential advantage. The hull form and stability characteristics permit the vessel to operate with high transverse towline forces.

Should the Coast Guard prescribe specifications for escort service? If so, should they be design or performance specifications? Alternatively, should the Coast Guard set forth specific items for vessel owners or operators to consider when selecting an escort? Are there simulator programs which could aid in verifying escort vessel performance? How should weather and sea conditions be accounted for in setting specifications for escorts? Should the performance or design requirements for escort vessels be tailored to the environment in which the vessel will serve? Should the escort vessels be subject to any type of inspection for verification of physical capabilities such as towing gear, hull attachments, horsepower, stability, or other operating parameters? What other factors should be considered in setting specifications for the escort vessel?

Should vessels subject to escort regulations be required to have specific towing connections? The Coast Guard published proposed rules concerning removal equipment requirements in the **Federal Register** on September 29, 1992 (57 FR 44912), which would require that certain tankers entering U.S. waters be fitted with an emergency towing arrangement. Which, if any, of the vessels not subject to the removal equipment requirements proposed regulation, should be required to have similar equipment? Should the regulations require that these vessels be able to deploy an emergency towline from a "dead ship" with minimal crew member assistance? Should these vessels be required to conduct periodic emergency towing drills?

Other than Prince William Sound, Alaska, and Puget Sound, Washington, in what areas should the Coast Guard require escorts? An approach the Coast Guard has considered is to require escorts in areas designated as "environmentally sensitive" by Area Committees established under OPA 90. However, there are other approaches that could be used. Comments to the NPRM suggested defining escort areas by the volume of traffic carrying hazardous cargo, the amount of tanker and barge traffic, or the presence of single hull tankers transporting bulk oil or vessels transporting chemicals. Are there other approaches for determining where to require escorts? What is the relative merit of the various approaches? Is there a single standard for defining other areas or should each waterway be assessed individually? Which of the various factors contained in section 1224 of the PWSA are relevant?

Comments to both the NPRM and this ANPRM will be considered during development of any rule. Commenters to this notice are requested to address in which specific areas of the United States, other than Prince William Sound and Puget Sound, tug escorts should be required and the rationale for those

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requirements. Comments should be as specific as possible on why tug escorts are needed for each geographic area. What is the expected benefit for that particular area? The discussion should include hazards, sensitive areas, economic benefits or disadvantages and any other factors considered appropriate for the Coast Guard to consider.

Regulatory Evaluation

The Coast Guard anticipates that any proposed rule would be non-major under Executive Order 12291 and would not be significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979); however, the Coast Guard cannot quantify the economic impact at this stage of the process, because it has yet to choose an option.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether the proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because the ANPRM is not proposing any particular rules, considering small entity impacts is premature. However, the Coast Guard welcomes preliminary information and data on the expected small entity impact of any of the options discussed.

Collection of Information

There have been no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) identified at this stage of the rulemaking.

Federalism

The Coast Guard has analyzed this ANPRM under the principles and criteria contained in Executive Order No. 12612. It does not have enough information to determine whether this proposal has sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has concluded that it is premature to make an assessment of the environmental impact of any rules that might be adopted, because there is no action proposed right now. The Coast Guard will conduct any required assessment under the National Environmental Policy Act if it develops a notice of proposed rulemaking.

Dated: April 21, 1993.

A. Cattalini,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 93-9640 Filed 4-26-93; 8:45 am]

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federal register

Tuesday
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Part VI

The President

Executive Order 12846—Additional Measures With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro)

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Title 3—

The President

Executive Order 12846 of April 25, 1993

Additional Measures With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro)

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and section 301 of title 3, United States Code, in view of United Nations Security Council Resolution No. 757 of May 30, 1992, No. 787 of November 16, 1992, and No. 820 of April 17, 1993, and in order to take additional steps with respect to the actions and policies of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the national emergency described and declared in Executive Order No. 12808 and expanded in Executive Order No. 12810 and No. 12831,

I, WILLIAM J. CLINTON, President of the United States of America, hereby order:

Section 1. Notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before the effective date of this order, except to the extent provided in regulations, orders, directives, or licenses which may hereafter be issued pursuant to this order:

(a) All property and interests in property of all commercial, industrial, or public utility undertakings or entities organized or located in the Federal Republic of Yugoslavia (Serbia and Montenegro), including, without limitation, the property and interests in property of entities (wherever organized or located) owned or controlled by such undertakings or entities, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are hereby blocked;

(b) All expenses incident to the blocking and maintenance of property blocked under Executive Order Nos. 12808, 12810, 12831 or this order shall be charged to the owners or operators of such property, which expenses shall not be met from blocked funds. Such property may also be sold or liquidated and the proceeds placed in a blocked interest-bearing account in the name of the owner;

(c) All vessels, freight vehicles, rolling stock, aircraft and cargo that are within or hereafter come within the United States and are not subject to blocking under Executive Order Nos. 12808, 12810, 12831 or this order, but which are suspected of a violation of United Nations Security Council Resolution Nos. 713, 757, 787 or 820, shall be detained pending investigation and, upon a determination by the Secretary of the Treasury that they have been in violation of any of these resolutions, shall be blocked. Such blocked conveyances and cargo may also be sold or liquidated and the proceeds placed in a blocked interest-bearing account in the name of the owner;

(d) No vessel registered in the United States or owned or controlled by United States persons, other than a United States naval vessel, may enter the territorial waters of the Federal Republic of Yugoslavia (Serbia and Montenegro); and

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(e) Any dealing by a United States person relating to the importation from, exportation to, or transshipment through the United Nations Protected Areas in the Republic of Croatia and those areas of the Republic of Bosnia-Hercegovina under the control of Bosnian Serb forces, or activity of any kind that promotes or is intended to promote such dealing, is prohibited.

Sec. 2. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by the International Emergency Economic Powers Act and the United Nations Participation Act as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate the authority set forth in this order to other officers and agencies of the Federal Government, all agencies of which are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order, including suspension or termination of licenses or other authorizations in effect as of the date of this order.

Sec. 3. Nothing in this order shall apply to activities related to the United Nations Protection Force, the International Conference on the Former Yugoslavia, and the European Community Monitor Mission.

Sec. 4. The definitions contained in section 5 of Executive Order No. 12810 apply to the terms used in this order.

Sec. 5. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 6. This order shall not affect the provisions of licenses and authorizations issued pursuant to Executive Order Nos. 12808, 12810, 12831 and in force on the effective date of this order, except as such licenses or authorization may hereafter be terminated, modified or suspended by the issuing federal agency.

Sec. 7. (a) This order shall take effect at 12:01 a.m. Eastern Daylight Time, April 26, 1993.

(b) This order shall be transmitted to the Congress and published in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
April 25, 1993.

[FR Doc. 93-10012
Filed 4-26-93; 9:55 am]
Billing code 3195-01-P

Editorial note: For the President's message to Congress on these additional economic measures against Serbia and Montenegro, see issue 17 of the *Weekly Compilation of Presidential Documents.*

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200 and 240

[Release No. 34-32191]

RIN 3235-AF44

Risk Assessment Rules

AGENCY: Securities and Exchange Commission.

ACTION: Final rule and technical amendments.

SUMMARY: The Securities and Exchange Commission (the "Commission") is amending Rule 30-3 of the Rules of Practice and Investigations to delegate authority to the Director of the Division of Market Regulation to designate Reporting Brokers or Dealers and to grant or deny exemptions from Rules 17h-1T and 17h-2T. The amendments are intended to conserve the resources of the Commission and will expedite the handling of requests by broker-dealers to be designated as Reporting Brokers or Dealers. This document also contains a correction to the risk assessment rules that were published on July 21, 1992 (57 FR 32159).

EFFECTIVE DATE: The amendments become effective on April 28, 1993.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, (202) 272-2904 or Roger G. Coffin, (202) 272-7375, Division of Market Regulation, 450 Fifth Street, NW., 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

On July 16, 1992, the Commission adopted Rules 17h-1T and 17h-2T under the Securities Exchange Act of 1934 (the "Exchange Act"), which together with Form 17-H, establish a risk assessment recordkeeping and reporting system for registered broker-dealers concerning certain of their associated persons.[1] The Rules were adopted pursuant to the authority granted to the Commission by the Market Reform Act of 1990,[2] and are designed to provide the Commission with information concerning the financial and securities activities of those associated persons of the broker-dealer whose business activities are reasonably likely to have a material impact on the registered broker-dealer.

Rule 17h-1T is a recordkeeping rule, which sets forth the records and other information broker-dealers are required to maintain with respect to their Material Associated Persons. Rule 17h-2T is a reporting rule, which requires broker-dealers to file a quarterly summary of the information required to be kept by Rule 17h-1T with the Commission on Form 17-H.

In this release, the Commission is by order designating 58 broker-dealers as Reporting Brokers or Dealers under the risk assessment rules, and conditionally exempting two other broker-dealers.[3]

II. Delegation of Authority to the Director of the Division of Market Regulation

Paragraph (d)(4) of Rule 17h-1T and paragraph (b)(4) of Rule 17h-2T state that the Commission may, upon written application by a Reporting Broker or Dealer, exempt any of its affiliated brokers or dealers, either unconditionally or on specified terms and conditions. The Commission also has the authority, under Section 17(h) of the Exchange Act, to exempt, by rule or by order, broker-dealers from the Rules. In the absence of a delegation of authority, the Commission would be required to issue an order as to each exemptive request.

Therefore, Rule 30-3 of the Rules of Fair Practice and Investigations (17 CFR 200.30-3), will be amended to delegate the authority to perform these functions to the Director of the Division of Market Regulation (the "Director"). A delegation of authority to the Director to grant or deny exemptions and to designate Reporting Brokers or Dealers will conserve the resources of the Commission and will expedite the handling of these requests. Notwithstanding these delegations of authority, the Division will bring any requests for exemptions that raise serious questions to the Commission for consideration.

Therefore, the Commission is amending Rule 30-3 by adding new paragraph (a)(52) to Rule 30-3, which delegates authority under section 17(h) of the Exchange Act to the Director to: (1) Designate broker-dealers as Reporting Brokers or Dealers under paragraph (d)(4) of Rule 17h-1T and paragraph (b)(4) of Rule 17h-2T; (2) grant or deny exemptions from the risk assessment rules pursuant to section 17(h) of the Exchange Act; and (3) determine to withhold information in such exemptive orders from the public pursuant to section 17(h) of the Exchange Act.[4]

The Commission finds, in accordance with section 553(b)(A) of the Administrative Procedure Act,[5] that this amendment relates solely to agency organization, procedure, or practice, and does not relate to a substantive rule. Accordingly, notice and opportunity for public comment are unnecessary, and publication of the amendment 30 days before its effective date is also unnecessary.

III. Technical Amendment

The Commission is adopting one technical amendment to the Rules. A cross-reference in paragraph (a)(1) of Rule 17h-1T to the exemptive provision in Rule 17h-1T is being changed from "paragraph (c)" to "paragraph (d)".

IV. Statutory Analysis

Pursuant to the Securities Exchange Act of 1934 and particularly section 17 thereof, 15 U.S.C. 78q, the Commission is adopting amendments to §§ 240.17h-1T and 240.17h-2T, to title 17 of the Code of Federal Regulations in the manner set forth below.

List of Subjects

17 CFR Part 200

Administrative practice and procedure; Authority delegations

[1] Securities Exchange Act Release No. 30929, (July 15, 1992), 57 FR 32159, (July 21, 1992).

[2] Market Reform Act of 1990, Pub. L. 101-432, § 4, 104 Stat. 963, 966-973 (1990).

[3] With respect to the orders being issued herein pursuant to section 17(h) of the Exchange Act, the Commission has determined that the identifying information in the orders should be withheld from the public.

[4] Consistent with the Commission's practice in this regard, the Director would have delegated authority to make similar determinations.

[5] 15 U.S.C. 553(b)(A).

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(Government agencies); Organizations and functions.

17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of the Amendments

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart A—Organization and Program Management

1. The general authority citation for part 200, subpart A, continues to read, in part, as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78*ll*(d), 79t, 77sss, 80a–37, 80b–11, unless otherwise noted.

* * * * *

2. Section 200.30–3 is amended by adding paragraph (a)(52) to read as follows:

§ 200.30–3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(52) Pursuant to Rules 17h–1T and 17h–2T of the Act (§§ 240.17h–1T and 240.17h–2T of this chapter):

(i) To designate certain broker-dealers as Reporting Brokers or Dealers; *or and*

(ii) To grant or deny an exemption, conditionally or unconditionally, to a broker or dealer pursuant to section 17(h) of the Act.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITY EXCHANGE ACT OF 1934

3. The authority citation for part 240 continues to read, in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78*l*, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3 80b–4, and 80b–11, unless otherwise noted.

* * * * *

Section 240.17h–1T also issued under 15 U.S.C. 78q.

§ 240.17h–1T [Amended]

4. In § 240.17h–1T, paragraph (a)(1) is amended by replacing the phrase "paragraph (c)" with the phrase "paragraph (d)".

Dated: April 22, 1993.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–9923 Filed 4–27–93; 8:45 am]

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DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 251

RIN 1510–AA23

Payment of Unclaimed Interest on Certain Awards of the Mixed Claims Commission, United States and Germany

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This document removes the regulation governing the payment of unclaimed interest on awards of the Mixed Claims Commission. This regulation is obsolete. No applications for payments have been filed against this fund in at least 5 years by the awardholders or their successors in interest. The effect of this document is to remove an unnecessary regulation.

EFFECTIVE DATE: May 28, 1993.

FOR FURTHER INFORMATION CONTACT: Mia Abeya, 202–874–8740.

SUPPLEMENTARY INFORMATION:

Background

This regulation was issued pursuant to the Settlement of War Claims Act of 1928, 45 Stat. 254, as amended, to establish a trust fund for unclaimed interest on awards of the Mixed Claims Commission. No claims have been made against this fund for at least 5 years by awardholders or their successors in interest. Therefore, this regulation is no longer necessary.

The notice of proposed rulemaking was published November 27, 1992 (57 FR 56292). No comments were received during the 30 day comment period. There are no substantive differences between the proposed and final rules.

It has been determined that this document is not a major regulation as defined in E.O. 12291 and a regulatory impact analysis is not required. The removal of this unused regulation will have little or no effect on the economy or consumers. It is hereby certified that removal of this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The removal of this unused regulation will have little or no effect on small entities.

This final rule is issued in accordanre with 31 U.S.C. 321(b)(1), which describes the Secretary of Treasury's power to issue regulations.

List of Subjects in 31 CFR Part 251

War claims, Germany.

For the reasons set out in the preamble, 31 CFR part 251 is removed as follows:

PART 251—[REMOVED]

Part 251 is removed.

Russell D. Morris,

Commissioner.

[FR Doc. 93–9862 Filed 4–27–93; 8:45 am]

BILLING CODE 4810–35–M

31 CFR Part 253

RIN 1510–AA24

Payment Under the Act of Congress Approved August 30, 1962, on Unpaid Balances of Awards of Philippine War Damage Commission

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This document removes the regulation governing payment of unpaid balances of awards of the Philippine War Damage Commission. This regulation is obsolete. The time for applying for payment, and making the payment, have passed. The effect of this document is to remove an unnecessary regulation.

EFFECTIVE DATE: May 28, 1993.

FOR FURTHER INFORMATION CONTACT: Mia Abeya, 202–874–8740.

SUPPLEMENTARY INFORMATION:

Background

This regulation was issued pursuant to the Act of August 30, 1962, Public Law 87–616, 76 Stat. 412, as amended, to govern disbursal of payments directed by the Foreign Claims Settlement Commission, which was evaluating unpaid balances of awards made by the Philippine War Damage Commission under Title I of the Philippine Rehabilitation Act of 1946. Under section 2 of Public Law 87–616, applications for payment were to be filed by October 30, 1963, and the Foreign Claims Settlement Commission was to take final action by October 30, 1964. No directions for disbursal are currently outstanding, and none are expected. Therefore, this regulation's guidelines for payment are no longer necessary.

The notice of proposed rulemaking was published November 27, 1992. No

comments were received during the 30 day comment period. There are no substantive differences between the proposed rule and final rule. This action is in accordance with § 253.2, which authorizes the withdrawal or amendment of any or all of the provisions of the regulations in this part.

It has been determined that this document is not a major regulation as defined in Executive Order 12291 and a regulatory impact analysis is not required. The removal of this unused regulation will have little or no effect on the economy or consumers. It is hereby certified that removal of this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The removal of this unused regulation will have little or no effect on small entities.

List of Subjects in 31 CFR Part 253

War claims, Philippines.

For the reasons set out in the preamble, 31 CFR part 253 is removed as follows:

PART 253—[REMOVED]

Part 253 is removed.

Russell D. Morris,

Commissioner.

[FR Doc. 93–9864 Filed 4–27–93; 8:45 am]

BILLING CODE 4810–35–M

31 CFR Part 254

RIN 1510–AA25

Payments on Account of Awards and Appraisals in Favor of Nationals of the United States on Claims Against the Government of Mexico

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This document removes this regulation governing payments to United States nationals on their claims against the Government of Mexico. This regulation is obsolete. No claims have been made in more than 5 years and all efforts to contact all awardholders have been exhausted. The effect of this notice is to remove an unnecessary regulation.

EFFECTIVE DATE: May 28, 1993.

FOR FURTHER INFORMATION CONTACT: Mia Abeya, 202–874–8740.

SUPPLEMENTARY INFORMATION:

Background

The regulations governing payments of awards and appraisals due American nationals on their claims against the Mexican government were issued under authority contained in section 161 of the Revised Statutes (5 U.S.C. 22), the act of April 10, 1935 (49 Stat. 149), the Joint Resolution of August 25, 1937 (50 Stat. 783), and the Settlement of Mexican Claims Act of 1942 (56 Stat. 1058; 22 U.S.C. 661–672).

This program has been ongoing since 1943, and all efforts to contact awardholders have been exhausted. Approximately 97 percent of the awardholders have been paid out of the amount that was available for distribution and no payments have been made in more than 5 years. Awards that remain unpaid are to individuals whose whereabouts are unknown. The notice of proposed rulemaking was published November 27, 1992 (57 FR 56293). No comments were received during the 30 day comment period. There are no substantive differences between the proposed rule and final rule. This action is in accordance with § 254.6 which authorizes the revocation or amendment of any part of the current rules at any time.

It has been determined that this document is not a major regulation as defined in E.O. 12291 and a regulatory impact analysis is not required. The removal of this unused regulation will have little or no effect on the economy or consumers. It is hereby certified that removal of this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The removal of this unused regulation will have little or no effect on small entities.

List of Subjects in 31 CFR Part 254

Foreign claims, Mexico.

For the reasons set out in the preamble, 31 CFR part 254 is removed as follows:

PART 254—[REMOVED]

Part 254 is removed.

Russell D. Morris,

Commissioner.

[FR Doc. 93–9861 Filed 4–27–93; 8:45 am]

BILLING CODE 4810–35–M

31 CFR Part 290

RIN 1510–AA27

Loans to Public or Private Agencies Under the Refugee Relief Act of 1953

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This document removes the regulation governing loans to public and private agencies of the United States under the Refugee Relief Act of 1953. This regulation is obsolete because the terms of the Act require the loans to mature not later than June 30, 1963. The effect of this notice is to remove an unnecessary regulation.

EFFECTIVE DATE: May 28, 1993.

FOR FURTHER INFORMATION CONTACT: Mia Abeya, 202–874–8740.

SUPPLEMENTARY INFORMATION: This regulation was issued pursuant to section 16 of the Refugee Relief Act of 1953 ("Act"), 67 Stat. 406 (August 7, 1953), and E.O. 10487 (September 22, 1953). The Act authorized issuance of special nonquota immigrant visas. It also authorized the Department of the Treasury to make loans to public and private agencies of the United States for use in paying the immigrants' transportation from ports of entry within the United States to their places of resettlement. The loans were restricted to those immigrants with visas issued under the Act. The loans were to mature not later than June 30, 1963. Therefore, this regulation is no longer necessary.

The notice of proposed rulemaking was published November 27, 1992 (57 FR 56294). No comments were submitted during the 30 day comment period. There are no substantive differences between the proposed and final rule. This action is in accordance with § 290.7(c) which authorizes the withdrawal or amendment of any or all of the provisions of the regulations in this part.

It has been determined that this document is not a major regulation as defined in E.O. 12291 and a regulatory impact analysis is not required. The removal of this unused regulation will have little or no effect on the economy or consumers. It is hereby certified that removal of this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The removal of this unused regulation will have little or no effect on small entities.

List of Subjects in 31 CFR Part 290

Loan programs-social programs, Refugees, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 31 CFR part 290 is removed as follows:

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PART 290—[REMOVED]

Part 290 is removed.

Russell D. Morris,

Commissioner.

[FR Doc. 93-9863 Filed 4-27-93; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 213, 372a, and 390a

Removal of Parts

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: The Department of Defense hereby removes 32 CFR part 213 concerning DoD Cooperation with Civilian Law Enforcement Officials, part 372a concerning Armed Forces Radio and Television Service, and part 390a concerning Armed Forces Institute of Pathology. These parts have served the purpose for which they were intended and are no longer valid.

EFFECTIVE DATE: April 28, 1993.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum (703) 697-4111, Correspondence and Directives Directorate, 1155 Defense Pentagon, Washington, DC 20301-1155.

SUPPLEMENTARY INFORMATION: An updated version of DoD Directive 5525.5 (previously part 213), DoD Directive 5120.20 (previously part 372a), and DoD Directive 5154.24 (previously part 390a) is available, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

List of Subjects

32 CFR Part 213

Intergovernmental relations, Law enforcement.

32 CFR Parts 372a and 390a

Organization and functions (government agencies).

PARTS 213, 372a and 390a—[REMOVED]

Accordingly, by the authority of 10 U.S.C. 131, 32 CFR parts 213, 372a, and 390a are removed.

Dated: April 22, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-9770 Filed 4-27-93; 8:45 am]

BILLING CODE 5000-04-M

ENVIRONMENTAL PROTECTION AGENCY

[TN-096-1-5639; FRL-4616-4]

40 CFR Part 52

Approval and Promulgation of Implementation Plans; Knox County: Approval of Revision to Add Prevention of Significant Deterioration (PSD) Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA approves a revision to the Knox County portion of the Tennessee State Implementation Plan (SIP). The State of Tennessee, through the Tennessee Department of Conservation, submitted revisions to the Knox County portion of the SIP on January 29, 1992, and June 15, 1992. This revision adds a new section, Regulation 45.0—Prevention of Significant Deterioration (PSD), to the Knox County portion of the SIP.

DATES: This action will be effective June 28, 1993, unless notice is received by May 28, 1993, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the material submitted by the State of Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, ATTN: Jerry Kurtzweg (AN 443), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Region IV Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365.

Division of Air Pollution Control, Tennessee Department of Conservation and Environment, L&C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243-1531.

Knox County Department of Air Pollution Control, City/County Building, Suite 459, 400 Main Avenue, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur, of the EPA Region IV Air Programs Branch at 404-347-2864 and at the above address.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 required states to include in their SIPs permit regulations for PSD. The Knox County Air Pollution Control Board provided a draft submission of Knox County Air Pollution Control Regulation 45.0, Prevention of Significant Deterioration, on May 31, 1991. This regulation was reviewed and found to have many deficiencies. Comments were made and incorporated before the official submittal by the State. The Tennessee Department of Environment and Conservation submitted this regulation for inclusion in the Knox County portion of the SIP on January 29, 1992. A letter from Douglas Neeley to Harold Hodges on March 13, 1992, identified deficiencies in the proposed Knox County regulation. The Tennessee Department of Conservation resubmitted the revisions on June 15, 1992, that corrected all the deficiencies in the January 29, 1992, submittal.

A brief description of the added regulation follows. This regulation is more fully discussed in the official SIP submittal that is available at the Region IV office listed under the "**ADDRESSES**" section of this notice.

Section 45.0, Prevention of Significant Deterioration, was added to provide permitting requirements for attainment areas where existing air quality is better than the National Ambient Air Quality Standards (NAAQS). This Section meets all of the PSD requirements of 40 CFR part 51.

Final Action

EPA is today approving Section 45.0, Prevention of Significant Deterioration, of the Knox County regulations. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective June 28, 1993. However, if notice is received by May 28, 1993, that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 28, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any State Implementation Plan. Each request for revision to the State Implementation Plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not for profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and Subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Editorial Note: This document was received by the Office of the Federal Register on April 23, 1993.

Dated: February 23, 1993.

Donald Guinyard,

Acting, Regional Administrator.

Part 52 of chapter I, Title 40 of the *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401-7671q.

Subpart—RR

2. Section 52.2220 is amended by adding paragraph (c)(109) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(109) Addition of Section 45, Prevention of Significant Deterioration to the Knox County portion of the Tennessee SIP, submitted and revised on January 29, 1992 and June 15, 1992, respectively.

(i) Incorporation by reference.

(A) Amendments to Section 45.0 of the Knox County regulations were adopted on June 10, 1992.

(ii) Other material. None.

[FR Doc. 93-9950 Filed 4-27-93; 8:45 am]

BILLING CODE 6560-50-P

[TN-096-2-5642; FRL-4616-2]

40 CFR Part 52

Approval and Promulgation of Implementation Plans; Knox County: Approval of Revisions to the Volatile Organic Compound (VOC) Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA approves revisions to the Knox County portion of the State Implementation Plan (SIP) which corrects the deficiencies identified in the November 1989 SIP call. On January 4, 1991, January 29, 1992, and June 15, 1992, the State of Tennessee submitted revisions to the Knox County portion of the SIP regarding Volatile Organic Compounds (VOCs). The revisions were submitted in response to the November 1989 SIP call to areas in Tennessee which were not achieving the National Ambient Air Quality Standards (NAAQS) for ozone and carbon monoxide.

DATES: This action will be effective on June 28, 1993 unless notice is received by May 28, 1993 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the material submitted by the State of Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, ATTN: Jerry Kurtzweg (AN 443), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Region IV Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365.

Division of Air Pollution Control, Tennessee Department of Conservation and Environment, L&C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243-1531.

Knox County Department of Air Pollution Control, City/County Building, Suite 459, 400 Main Avenue, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur, of the EPA Region IV Air Programs Branch at 404-347-2864 and at the above address.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 provided that states should attain the ozone and carbon monoxide National Ambient Air Quality Standards (NAAQS) by December 31, 1982. However, states could seek an extension of the attainment date to as late as December 31, 1987. When the ambient air quality data was reviewed at the end of 1988 for all areas, it was determined that Knoxville had violated the ozone standard in the summer of 1988. Under the 1977 Act, EPA designated Knoxville as an attainment area. However, Tennessee adopted statewide Reasonably Available Control Technology (RACT) rules applicable to attainment, as well as, nonattainment areas. The Knox County Department of Air Pollution Control then adopted VOC RACT rules applicable to the Knox County attainment area. Subsequently, the Governor of Tennessee was notified by EPA on November 8, 1989, that Knox County was not attaining the standard. A December 5, 1989, letter from Bruce Miller to Terry Harris identified several VOC deficiencies in the Knox County regulations. Three sets of revisions to the Knox County regulations were submitted in response to the SIP call letter. A January 4, 1991, submittal addressed some, but not all of the deficiencies. The agency was notified on September 5, 1991, of the remaining

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deficiencies in the Knox County regulations. Together, the January 4, 1991, January 29, 1992, and March 19, 1992, submittals correct all of the deficiencies.

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAAA) were enacted. Pub. L. 101–549, 101 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The amended Act superseded the SIP call and established the RACT requirements for nonattainment areas. Under the amended Act, marginal areas that were pre-enactment nonattainment areas are required to correct their RACT rules to include RACT as required by the pre-amended Act. In addition, areas that were designated nonattainment as of enactment and that were not classified under section 181 are required to adopt RACT rules pursuant to section 172(c)(1) of the amended Act. Knoxville was classified as a new marginal nonattainment area under section 181. EPA believes that the amended Act does not require any additional RACT requirements for areas that are newly designated as marginal ozone nonattainment areas under the amended Act. Therefore no RACT requirements beyond those pursuant to the 1989 SIP call are applicable to Knox County. (See 57 FR 13498, 13503 (April 16, 1992).) Although Knoxville was not subject to the requirements of section 182(a)(2)(A), to correct RACT as it was required under pre-amended section 172(b), these revisions are consistent with pre-enactment guidance.[1]

EPA is approving the following revisions to the Knoxville portion of the Tennessee SIP. These revisions are more fully discussed in the official SIP submittal that is available at the Region IV office listed under the "ADDRESSES" Section of this notice.

Section 26.5–B, Monitoring, Recording, and Reporting of Source Emissions, was amended to require explicitly that sources keep records needed to assess compliance for the time frame specified in the rule. It also gives reporting schedules and reporting formats.

Section 27.2, Source Sampling and Analysis, was amended to incorporate language stating that the Director may specify or approve, in specific cases, the use of a reference method with minor changes in methodology and that only the EPA Administrator can approve equivalent or alternative methods.

Section 13.15, Definitions, and Section 46.4–B.7, Alternate Emission Standard, were amended and added, respectively, to state that VOC emission limit equivalency calculations will be performed on a solids applied basis.

Section 27.2–A, Source Sampling and Analysis, was amended to add Reference Method 23 and Reference Method 26.

Section 28.1–A.4, Variances—General, was amended to state that any cross-line averaging must be submitted as a source specific SIP revision and must meet the provisions of EPA's December 4, 1986, Emissions Trading Policy Statement (ETPS).

Section 46.1–B, Purpose and General Provisions, was added to allow the Director and a source to mutually agree to establish an emission limit more restrictive than otherwise specified in this Section.

Section 46.2–A.7, Definitions, was amended to make it clear that coating lines that do not contain bake ovens are not exempt.

Section 46.2–A.34, Definitions, was amended to revise the definition of VOC to exempt those organic compounds identified by the Administrator as compounds which do not participate in atmospheric photochemical reactions. This Section was also amended to include VOC measuring methods for purposes of determining compliance with emission limits.

Section 46.4–B.8, Alternate Emission Standard, and Section 46.11–B.5, Surface Coating of Miscellaneous Metal Parts and Products, were added to clarify that exempt solvents, as well as water, are excluded from compliance calculations.

Section 46.4–I, Alternate Emission Standard, was added to state that any cross-line averaging must be submitted as a source specific SIP revision and must meet the provisions of EPA's December 4, 1986, Emissions Trading Policy Statement (ETPS).

Section 46.4–B.9, Alternate Emission Standard, Section 46.6–D.8, Petroleum Liquid Storage in External Floating Roof Tanks, and Section 46.8–B.1.d, Bulk Gasoline Terminals, were added to revise Director's Discretion clauses approving alternate control systems to specify that the alternate means of control is comprised solely of hardware.

Section 46.6–D.7, Petroleum Liquid Storage in External Floating Roof Tanks, was amended to state that records were to be maintained as specified in new Section 46.20.

Section 46.11–B.6, Surface Coating of Miscellaneous Metal Parts and Products, was added to specify a compliance time frame associated with the emission limit.

Section 46.17–D, General Provisions for Test Methods and Procedures, was amended to specify that all alternate compliance plans must be submitted to EPA for approval as a source specific SIP revision unless the alternate means of control is comprised solely of hardware.

Section 46.19, Compliance Certification, Recordkeeping, and Reporting Procedures for Coating Sources, and Section 46.20, Compliance Certification, Recordkeeping, and Reporting Procedures for Non-Coating Sources, were added to clarify methods of recordkeeping, reporting, and compliance certification.

Section 46.21, was added to make it clear that any existing controls on VOC sources, required by any section of the Knox County Air Pollution Control Regulations, must be retained unless otherwise approved by EPA.

The Approval of these revisions completes the correction of all identified deficiencies in the Knoxville VOC regulations. The revisions are consistent with Agency policy and guidance.

Final Action: EPA is today approving the aforementioned revisions to the Knoxville VOC regulations. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no adverse comments on them.

The public should be advised that this action will be effective on June 28, 1993. However, if notice is received by May 28, 1993 that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 28, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and Subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. Section 7410(a)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 22, 1993.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40 of the Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7671q.

Subpart—RR

2. Section 52.2220 is amended by adding paragraph (c)(110) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(110) Revisions to the VOC portion of the Knox County portion of the Tennessee SIP to correct deficiencies, which were submitted on January 4, 1991, January 29, 1992, and June 15, 1992, respectively.

(i) Incorporation by reference.

(A) Amendments to the following Sections of the Knox County regulations—13.15, 46.1–B, 46.4–B.7, 46.4–B.8, 46.4–B.9, 46.4–I, 46.6–D.6, 46.8–B.1.d, 46.11–B.5, 46.11–B.6—were adopted on December 13, 1990.

(B) Amendments to the following Sections of the Knox County regulations—27.2–A and 46.2—were adopted on November 13, 1991.

(C) Amendments to the following Sections of the Knox County regulations—26.5–B, 27.2, 28.1–A.4, 46.2–A.7, 46.2–A.34, 46.8–D.7, 46.17–D, 46.19, 46.20, and 46.21—were adopted on June 10, 1992.

(ii) Other material.

(A) Letter of January 4, 1991, from the Tennessee Department of Conservation and Environment.

(B) Letter of January 29, 1992, from the Tennessee Department of Conservation and Environment.

(C) Letter of June 15, 1992, from the Tennessee Department of Conservation and Environment.

[FR Doc. 93–9951 Filed 4–27–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 180

[OPP–300274A; FRL–4576–5]
RIN 2070–AB78

Sodium Bisulfate; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of sodium bisulfate (CAS Registry No. 7681-38-1) when used as an inert ingredient (acidifying/buffering agent) in pesticide formulations applied to growing crops only. This regulation was requested by the American Cyanamid Co.

EFFECTIVE DATE: This regulation becomes effective April 28, 1993.

ADDRESSES: Written objections, identified by the document control number, [OPP–300274A], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm. M3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (H7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Floor, Arlington, VA 22202, (703)-308-8320.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 17, 1993 (58 FR 8729), a document was issued giving notice that the American Cyanamid Co., Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540, had submitted pesticide petition (PP) 2E4160 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of sodium bisulfate (CAS Reg. No. 7681-38-1) when used as an inert ingredient (acidifying/buffering agent) in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

As part of the EPA policy statement on inert ingredients published in the

[1] Among other things, the pre-amendment guidance consists of the VOC RACT portions of the Post-87 policy, 52 FR 45044 (Nov. 24, 1987); the Bluebook, "Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (of which notice of availability was published in the **Federal Register** on May 25, 1988); and the existing CTGs.

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Federal Register of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, the tolerance exemption is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 12, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) table is amended by adding and alphabetically inserting the inert ingredients, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Sodium bisulfate (CAS Registry No. 7681-38-1)		Acidifying/buffering agent
* * *	* * *	* * *

* * * * *

[FR Doc. 93-9817 Filed 4-27-93; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[OPP-300271A; FRL-4576-4]

RIN 2070-AB78

Ethoxylated Polyarylalkylphenols; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes exemptions from the requirement of a tolerance for residues of certain ethoxylated polyarylalkylphenols when used as inert ingredients (surfactants) in pesticide formulations applied to growing crops only. This regulation was requested by Rhone-Poulenc, Inc.

EFFECTIVE DATE: This regulation becomes effective April 28, 1993.

ADDRESSES: Written objections, identified by the document control number, [OPP-300271A], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm. M3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (H7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8320.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 17, 1993 (58 FR 8728), a document was issued giving notice that Rhone-Poulenc, Inc., CN 7500, Cranbury, NJ 08512-7500, had submitted pesticide petition (PP) 1E4003 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene); alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]omega-hydroxy poly(oxyethylene), mixture of monohydrogen and dihydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, potassium, sodium and zinc salts; alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene) sulfate, and the corresponding ammonium, calcium, magnesium, potassium, sodium, and zinc salts; and alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene) poly(oxypropylene) copolymer, when used as inert ingredients (surfactants) in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemptions will protect the public health. Therefore, the tolerance exemptions are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 12, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) table is amended by adding and alphabetically inserting the inert ingredients, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene); mixture of monohydrogen and dihydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, potassium, sodium and zinc salts, the poly(oxyethylene) content averages 4-150 moles).	Not more than 15% of the formulation.	Surfactant
Alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene) poly(oxypropylene) copolymer, the poly(oxypropylene) content averages 2-8 moles, the poly(oxyethylene) content averages 16-30 moles, and the average molecular weight is 1,500.	Not more than 15% in the pesticide formulation.	Surfactant
Alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene) sulfate, and the corresponding ammonium, calcium, magnesium, potassium, sodium, and zinc salts, the poly(oxyethylene content averages 4-150 moles.	Not more than 15% of the pesticide formulation.	Surfactant
Alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene), the poly(oxyethylene) content averages 4-150 moles).	Not more than 15% of the formulation.	Surfactant
* * *	* * *	* * *

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[FR Doc. 93-9818 Filed 4-27-93; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 180

[OPP-300276A; FRL-4576-6]

RIN 2070-AB78

Acrylic Acid-Sodium Acrylate-Sodium-2-Methylpropanesulfonate Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of acrylic acid-sodium acrylate-sodium-2-methylpropanesulfonate copolymer (CAS No. 97953-25-8) when used as an inert ingredient (dispersing agent) in pesticide formulations applied to growing crops only. This regulation was requested by the Petrolite Corp.

EFFECTIVE DATE: This regulation becomes effective April 28, 1993.

ADDRESSES: Written objections, identified by the document control number, [OPP-300276A], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (H7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8320.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 3, 1993 (58 FR 12199), a document was issued giving notice that the Petrolite Corp., 369 Marshall Ave., St. Louis, MO 63119-1897, had submitted a request that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of acrylic acid-sodium acrylate-sodium-2-methylpropanesulfonate copolymer when used as an inert ingredient (dispersing agent) in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, the tolerance exemption is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 12, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) table is amended by adding and alphabetically inserting the inert ingredients, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Acrylic acid-sodium acrylate-sodium-2-methylpropanesulfonate copolymer (minimum average molecular weight 4,500); CAS No. 97953-25-8.		Dispersing agent
* * * * *		

* * * * *

[FR Doc. 93-9816 Filed 4-27-93; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 180

[PP 2F4040/R1178; FRL-4185-2]

RIN 2070-AB78

Spod-X Bioinsecticide; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of the microbial pest control agent *Spodoptera exigua* nuclear polyhedrosis virus in or on all raw agricultural commodities. The product Spod-X is an insecticidal virus product containing the polyhedral inclusion bodies of *Spodoptera exigua* nuclear polyhedrosis virus (Family: Baculoviridae). This exemption was requested by Crop Genetics International. This rule eliminates the need to establish a maximum permissible level for residues of *Spodoptera exigua* nuclear polyhedrosis virus.

EFFECTIVE DATE: Effective on April 28, 1993.

ADDRESSES: Written objections, identified by the document control number [PP 2F4040/R1178], may be submitted to the Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708M, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Philip O. Hutton, Product Manager (PM) 18, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 213, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 11, 1992 (57 FR 8658), EPA issued a notice that announced Espro, Inc., (subsequently acquired by Crop Genetics International, 7170 Standard Drive, Hanover, MD 21076), had submitted pesticide petition (PP) 2F4040 to EPA under section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), proposing that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the insecticide Spod-X containing the polyhedral inclusion bodies of *S. exigua* nuclear polyhedrosis virus in or on all raw agricultural commodities when used to control the beet armyworm.

There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

Residue Chemistry Data and Toxicology Data

Although Spod-X bioinsecticide will be applied on a variety of vegetable and floriculture crops at rates varying from 2 to 50 grams per acre, residue chemistry data were not required. Such data were determined to be necessary only if the submitted toxicology studies indicated that additional Tier II or III toxicology data would be required as specified in 40 CFR 158.165(e). The submitted toxicology data for this use indicated that the product is of low mammalian toxicity; therefore, Tier II or III data were not required.

The toxicological data considered in support of this exemption from the requirements of a tolerance included an acute oral toxicity/pathogenicity study in the rat, an acute pulmonary toxicity/pathogenicity study in the rat, an acute intraperitoneal toxicity/pathogenicity study in the rat, and a primary eye irritation study in the rabbit. A dermal toxicty study was submitted and considered supplemental data. The results of the toxicity/pathogenicity studies showed no toxic, pathogenic, or adverse effects.

Reference Dose (RfD) and maximum permissible intake (MPI) considerations are not relevant to this petition because of the low toxicity and lack of pathogenicity or infectivity observed in the submitted studies.

Based on the information cited above, the Agency has determined that the potential acute toxicity/pathogenicity of *Spodoptera exigua* nuclear polyhedrosis virus is sufficiently low to support the proposed exemption from the requirements of a tolerance on all raw agricultural commodities. Thus, a tolerance for the active ingredient *Spodoptera exigua* nuclear polyhedrosis virus is not necessary to protect the public health. Therefore, 40 CFR part 180 is amended as set forth below.

Any person adversely affected by this regulation may, within 30 days after the date of publication of this document in the **Federal Register**, file written objections and/or a request for a hearing with the Hearing Clerk at the address given above. 40 CFR 178.20. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. 40 CFR 178.25. Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector. 40 CFR 178.27. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: there is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested. 40 CFR 178.32.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or food additive regulations or raising tolerance levels or food additive regulations or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

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List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: April 8, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. In subpart D, by adding new § 180.1118, to read as follows:

§ 180.1118 Spodoptera exigua nuclear polyhedrosis virus; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for the microbial pest control agent *Spodoptera exigua* nuclear polyhedrosis virus when used as a pesticide control agent on all raw agricultural commodities.

[FR Doc. 93-9810 Filed 4-27-93; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 431, 483

[BPD-661-CN]

RIN 0938-AE49

Medicare and Medicaid Programs; Preadmission Screening and Annual Resident Review

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule; correction.

SUMMARY: In the November 30, 1992 issue of the **Federal Register**, we established requirements for preadmission and annual review of individuals with mental illness or mental retardation who are applicants to or residents of nursing facilities that are certified for Medicaid. We also established an appeals system for individuals who may be transferred or discharged from facilities or who wish to dispute a determination made in the preadmission screening and annual review process. This notice corrects typographical errors made in that document.

EFFECTIVE DATE: This correction notice is effective on January 29, 1993.

FOR FURTHER INFORMATION CONTACT: Jan Earle, (410) 966-0103.

SUPPLEMENTARY INFORMATION: The final rule, Preadmission Screening and Annual Resident Review, published in the **Federal Register** on November 30, 1992 at 57 FR 56450, contained several typographical errors, as indicated below:

§ 431.206 [Corrected]

1. On page 56505, in column two, § 431.206(c)(2), line three, "his" is corrected to read "his or her".

§ 431.213 [Corrected]

2. On page 56505, in column three, § 431.213(h), line three, the cross-reference to "§ 483.12(a)(4)(ii)" is revised to read "§ 483.12(a)(5)(ii)", and the cross-reference to "§ 483.12(a)(4)(i)." in line five is corrected to read "§ 483.12(a)(5)(i)."

§ 431.621 [Corrected]

3. On page 56506, in column two, § 431.621(c)(4), the cross-reference to "§§ 431.112(c) and 483.114(c)" in the fourth line of the subparagraph is corrected to read, "§§ 483.112(c) and 483.114(c)".

§ 483.102 [Corrected]

4. We make the following corrections to § 483.102:

a. On page 56507, in column one, § 483.102(a) is corrected by removing the phrase "and regardless of the source of payment for the NF services," in lines seven and eight of that paragraph.

b. On page 56507, in column two, § 483.102(b)(2), line five, "Revised" is corrected to read "revised".

§ 483.106 [Corrected]

5. We make the following corrections to § 483.106:

a. On page 56508, in column one, § 483.106(d) introductory text, line four, "requires," is corrected to read "requires".

b. On page 56508, in column two, § 483.106(e)(3), line two, "MR" is corrected to read "MI".

c. On page 56508, in column two, § 483.106(e)(3), line twelve, a period is added at the end of the sentence.

§ 483.110 [Corrected]

6. On page 56508, in column three, § 483.110(a), line eight, the cross-reference to "§ 431.52(b)(1)." is corrected to read "§ 431.52(b)."

§ 483.128 [Corrected]

7. On page 56510, in column three, § 483.128(i)(3), line five, the cross-reference to "paragraph (g)(4)" is corrected to read "paragraph (i)(5)".

§ 483.130 [Corrected]

8. We make the following corrections to § 483.130:

a. On page 56511, in column two, § 483.130(d)(3), line eleven, "active treatment;" is corrected to read "specialized services;".

b. On page 56511, in column three, § 483.130(f), line seven, the cross-reference to "§ 483.120(d)(4)–(6)." is corrected to read "§ 483.130(d)(4)–(6)."

§ 483.136 [Corrected]

9. On page 56513, in column three, § 483.136(c)(2) introductory text, lines ten and eleven, "State mental health authority" is corrected to read "State mental retardation authority".

§ 483.204 [Corrected]

10. On page 56514, column two, § 483.204(b), line four, "subchapter." is corrected to read "chapter."

Authority: Sections 1819(e) and 1919(e) of the Social Security Act (42 U.S.C. 1395i-3(e) and 1396r(e))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; Medicare—Supplementary Medical Insurance Program)

Dated: April 20, 1993.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 93-9858 Filed 4-27-93; 8:45 am]

BILLING CODE 4120-01-P

Proposed Rules

Federal Register

Vol. 58, No. 80

Wednesday, April 28, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

GENERAL ACCOUNTING OFFICE

Personnel Appeals Board

4 CFR Parts 27 and 28

Procedural Regulations

AGENCY: General Accounting Office Personnel Appeals Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The General Accounting Office Personnel Appeals Board is proposing to revise its procedural regulations. The changes are intended to clarify the meaning of some sections, to fine-tune certain procedures, to correct a few errors in the prior regulations and to bring the regulations into conformity with the Civil Rights Act of 1991.

DATES: Comments must be submitted on or before June 30, 1993.

ADDRESSES: All comments concerning these regulations should be addressed to Dora Patton, Clerk of the Board, Personnel Appeals Board, U.S. General Accounting Office, Union Center Plaza II, suite 830, 441 G St., NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Dora Patton, Clerk of the Board, 202-512-6137.

SUPPLEMENTARY INFORMATION: The General Accounting Office Personnel Appeals Board hears and decides cases brought by GAO employees concerning various personnel matters including adverse or performance-based actions, claims of discrimination, alleged prohibited personnel practices and labor-management relations. The Board's current procedural regulations appear at 4 CFR parts 27 and 28. The Board is proposing to revise and reissue these regulations. The changes are intended to clarify the meaning of some sections, to fine-tune certain procedures, to correct a few errors in the prior regulations and to bring the regulations into conformity with the Civil Rights Act of 1991. Since the Board's jurisdiction is confined to personnel practices at the General Accounting Office (GAO), the Board is distributing copies of its proposed regulations, along with an explanation of the proposed changes, directly to employee groups and management officials within GAO. The text of the proposed regulations is not being published in the **Federal Register** because it is not likely to be of interest outside of the GAO community. However, any individual or group interested in receiving a copy of the Board's proposed regulations, along with an explanation of the proposed changes, may do so by contacting the Clerk of the Board at the address and telephone number listed above. All comments on the proposed regulations must be received by the Clerk of the Board (address above) on or before June 30, 1993. The full text of the final revised regulations will be published in the **Federal Register** prior to the effective date of the new regulations.

List of Subjects

4 CFR Part 27

Government employees, organization and functions (government agencies).

4 CFR Part 28

Administrative practice and procedure, equal employment opportunity, government employees, labor-management relations.

Authority: 31 U.S.C. 753(d).

Alan S. Rosenthal,

Chairman, Personnel Appeals Board, U.S. General Accounting Office.

[FR Doc. 93-9872 Filed 4-27-93; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1150

[DA-93-09]

Dairy Promotion Program; Notice of Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of referendum.

SUMMARY: This document announces that a referendum will be held to determine whether milk producers favor the continuation of the National Dairy Promotion Program, which was established by the Dairy and Tobacco Adjustment Act of 1983. This action is in response to a request by a large number of producers for the opportunity to vote on the producer-funded program. In order for it to be continued, the Promotion Program must be approved by a majority of the producers who vote in the referendum.

DATES: The referendum will be held during August 1993.

FOR FURTHER INFORMATION CONTACT: Eugene Krueger, Referendum Agent, USDA/AMS/Dairy Division, room 2968 South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-4128.

SUPPLEMENTARY INFORMATION: This document announces that a referendum will be conducted among producers for the purpose of determining whether the Dairy Promotion and Research Order should be continued. Pursuant to section 116(b) of the Dairy and Tobacco Adjustment Act of 1983, such order shall remain in effect if the Secretary determines that continuance of the order is favored by a majority of the producers voting in a referendum who during a representative period (as determined by the Secretary) were engaged in the production of milk for commercial use.

The month of April 1993 is hereby determined to be the representative period for the conduct of such referendum.

Eugene Krueger is hereby designated as the agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda in connection with the Dairy Promotion and Research Order (7 CFR 1150.200 *et seq.*).

Such referendum shall be held during the month of August 1993.

List of Subjects in 7 CFR Part 1150

Dairy products, Reporting and recordkeeping requirements, Research.

(Pub. L. 98-180, 97 Stat. 1128)

Dated: April 22, 1993.

L.P. Massaro,

Acting Administrator.

FR Doc. 93-9866 Filed 4-27-93; 8:45 am]

BILLING CODE 3410-02-M

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Rural Electrification Administration

7 CFR Part 1788

REA Fidelity and Insurance Requirements for Electric and Telephone Borrowers

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: As part of its ongoing program of updating and streamlining its regulations, the Rural Electrification Administration (REA) is considering revising its regulation concerning the fidelity and insurance requirements for electric and telephone borrowers. To assist the Agency in this endeavor, comments are requested concerning any aspect covered by the regulation.

DATES: Written comments and recommendations must be received by REA by June 28, 1993.

ADDRESSES: Written comments should be addressed to F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Rural Electrification Administration, room 2234, 14th and Independence Avenue, SW., Washington, DC 20250–1500. REA requires a signed original and three copies of all comments (7 CFR 1700.30(e)). All comments received will be made available for public inspection at room 2234-S (address as above) during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, room 2234-S, at the above address. Telephone: (202) 720–0736.

SUPPLEMENTARY INFORMATION: Advance notice is given that REA is considering the revision of 7 CFR part 1788, REA Fidelity And Insurance Requirements For Electric And Telephone Borrowers. Interested parties are invited to submit written comments concerning this advance notice. The submittal of comments from other lenders which have made loans to REA borrowers is particularly desired.

Background

Part 1788 was published in 1986 and has never been amended or revised. REA is interested in ensuring that the regulation remains current and compatible with industry practice. Consequently, comments will be considered on any issue covered by the regulation. REA is particularly interested in information on the insurance requirements of other lenders serving electric and telephone utilities.

Authority: 7 U.S.C. 901 *et seq.*, 7 U.S.C. 1921 *et seq.*

Dated: April 22, 1993.

Robert Peters,

Acting Under Secretary, Small Community and Rural Development.

[FR Doc 93–9943 Filed 4–27–93; 8:45 am]

BILLING CODE 3410–15–F

Animal and Plant Health Inspection Service

9 CFR Part 112

[Docket No. 92–098–1]

Viruses, Serums, and Toxins and Analogous Products; Packaging and Labeling

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations pertaining to packaging and labeling of veterinary biological products by prohibiting final containers of product packaged at licensed establishments in cartons or other containers from being repackaged for sale or distribution. The proposed rule also clarifies that, unless otherwise authorized, labeling may only be performed at a licensed establishment and amends the "Applicability" statement to clarify its intent.

The proposed action is necessary in order to assure that, because of incomplete, unclear, misleading, or inappropriate labeling, veterinary biological products are not rendered worthless, contaminated, dangerous, or harmful. The effect of the proposed rule would be to prohibit the repackaging, for sale or distribution, of final containers of veterinary biological products that are packaged in multiple container cartons or other containers.

DATES: Consideration will be given only to comments received on or before June 28, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development Staff, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 92–098–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Deputy Director, Veterinary Biologics, BBEP, APHIS, USDA, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, telephone number (301)–436–8245.

SUPPLEMENTARY INFORMATION:

Background

The Virus-Serum-Toxin Act (21 U.S.C. 151–159; hereinafter the Act), as amended by 1985 Food Security Act, prohibits the shipment of veterinary biological products anywhere in or from the United States that are worthless, contaminated, dangerous or harmful. It also prohibits such shipment of products unless they are prepared pursuant to USDA regulations in an establishment licensed by USDA. The term "preparation", as it is defined in the regulations, includes packaging and labeling. The 1985 amendments granted additional rulemaking authority to implement the requirements of the Act. Under the Act and regulations, the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture grants licenses for veterinary biological products which are pure, safe, potent, and efficacious when used according to label instructions. Complete labeling (either on the product or accompanying the product) must be reviewed and approved by APHIS in accordance with 9 CFR 112.5 prior to their use.

Recently, it has come to APHIS' attention that certain licensed veterinary biological products have been repackaged and sold after they had been removed from the licensed establishment where they were produced. This repackaging has resulted in products being sold without accompanying USDA approved labeling which was applied or included as part of product preparation. Such repackaging raises the issue of the safety and efficacy of the licensed product and of its use. It is also contrary to the statutory requirement that veterinary biological products must be "prepared" in a USDA licensed establishment.

There has been at least one recent case of the death and injury of dogs as a result of the use of such repackaged veterinary biological products.

Recent examples of repackaging which has resulted in false and misleading labeling which rendered the licensed product worthless and harmful are (1) the use of product labels for a product that were intended or approved for another licensed product; (2) the deletion or omission of approved directions for use, indications, warnings, or cautions from repackaged labels; (3) the alteration of directions for use on repackaged labels which rendered vaccination ineffective; and (4) the preparation of an unlicensed combination product resulting from the unauthorized repackaging of two licensed products from different manufacturers.

Part 112 of the regulations prohibits labeling which is false or misleading in any particular (see 9 CFR 112.1(a)). Section 112.1(c) states that biological products shall be withheld from the market if such labels have been altered, mutilated, destroyed, obliterated, or removed. Section 112.2(a)(5) requires full label instructions for the proper use of the product, including vaccination schedules, warnings, cautions, and the like. Section 112.4 further requires that labels used by distributors comply with requirements for review, approval, and filing of labels used for licensed biological products distributed and sold by licensees.

The current regulations, however, do not address directly the issue of repackaging of licensed veterinary biologics, except for poultry products in § 112.6(c)(1–4). The rationale for prohibiting repackaging of poultry products was to ensure that 1,000 dose packages of poultry product remained intact with the appropriate amount of diluent for use with automatic vaccinating systems which dispense large numbers of doses over a relatively short period of time. Prohibiting the repackaging of such a product assures that the proper amount of diluent is supplied with the multiple dose product for use with automatic dispensers and minimizes the loss of potency that would occur with time after reconstitution with diluent were the product to be administered manually as individual doses. These regulations, however, do not directly address the current safety and efficacy issues posed by the repackaging of multiple container cartons of other veterinary biological products.

In order to assure the safety and efficacy of biological products after they have been shipped from a licensed establishment, APHIS is proposing to amend its regulations by adding § 112.6 (e) and (f) which would prohibit the repackaging of final containers of product which had been packed in multiple container cartons or other containers by the licensee unless each final container of product has affixed thereto, or is accompanied by, complete approved labeling applied or included by the producer during preparation of the product. Repackaging after a product has been shipped from a licensed establishment has led, in many cases, to removal and alteration of approved label instructions. Such actions can render the product worthless, contaminated, dangerous, or harmful and result in product preparation that is in violation of the Act and regulations (see 21 U.S.C. 151). APHIS thus proposes to prohibit the repackaging of final containers of product (either single or multiple dose containers) packed in multiple container cartons if the carton label or enclosure is required to complete the labeling for the container.

Proposed paragraphs (a) through (d) of § 112.1 of the regulations would clarify that preparation, which includes labeling, of veterinary biological products shall only be done in a licensed establishment (see proposed § 112.1(a)), and that labeling which is altered, mutilated, destroyed, obliterated, or removed at any time prior to marketing of the product would render the veterinary biological product in violation of the regulations (see proposed § 112.1(c)). The regulations under proposed paragraphs (a) through (d) of § 112.1 would be applicable generally to any person and would not be restricted to licensees.

Proposed § 112.4 (introductory paragraph) would be revised to indicete that labeling used by subsidiaries, divisions, distributors, and permittees shall be prepared only in a licensed establishment and affixed by the licensee.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, it has been determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and would not have a significant adverse effect on competition, employment, investment , productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed rule would prohibit the repackaging of multiple container cartons of veterinary biological products which would result in (1) preparation, including labeling, of a veterinary biological product in violation of the Act and regulations; and (2) the removal or alteration of approved labeling, thereby compromising the safety and efficacy of the biological product. In the absence of approved labeling, the safe and effective use of the veterinary biological product cannot be assured. The proposed action would benefit users in that it would assure that users are provided with a product that is properly labeled with approved directions, indications, and cautions for use.

The intent of the action is to provide greater assurance to consumers that licensed veterinary biological products are prepared only with approved labeling with adequate directions for use. The prohibition against repackaging outside of licensed facilities would ensure that cases involving unapproved labeling of biological products such as those which resulted in the recent death and injury of dogs are avoided in the future. Given limited resources, APHIS believes that safety to animal health can best be assured by restricting to licensed facilities the preparation, which includes packaging and labeling, of veterinary biological products.

Distributors who are currently in the business of breaking apart multiple container cartons and repackaging them for sale as individual final containers of product would be provided notice that their actions are in violation of the Act and regulations. Distributors would still be able to purchase from licensed manufacturers products that are already individually packaged and labeled in accordance with part 112 rather than purchasing multiple container cartons that must be broken apart and repackaged to provide a single dose final container package for distribution. This action would not prohibit the distribution of "private label" products as long as the product was produced in a licensed establishment under an approved Outline of Production with approved labeling. Thus persons currently repackaging and distributing a licensed product could seek to have a licensee produce the product for distribution under a distributor label.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative proceedings which must be exhausted prior to any judicial challenge to the provisions of this rule.

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Paperwork Reduction Act

The proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials (see 7 CFR part 3015, subpart V).

List of Subjects in 9 CFR Part 112

Animal biologics.

Accordingly, 9 CFR part 112 is amended as follows:

PART 112—PACKAGING AND LABELING

1. The authority citation for 9 CFR part 112 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 112.1 would be revised to read as follows:

§ 112.1 General.

(a) Unless otherwise authorized or directed by the Administrator, each biological product prepared at a licensed establishment or imported shall be packaged and labeled as prescribed in this part before it is removed from the licensed establishment or presented for importation: *Provided*, That biological products to be imported for research and evaluation shall be subject to packaging and labeling requirements in § 112.9. *Provided further*, That unless otherwise exempted, all preparation, including packaging and labeling, of biological products shall only be done in a licensed establishment under an approved Outline of Production.

(b) No person shall apply or affix to or include with, or cause to be applied or affixed to or included with, any carton or final container of a biological product, any label, stamp, mark or statement that is false or misleading in any particular, is not in compliance with the regulations, or is not approved by APHIS.

(c) No person shall alter, mark or remove any approved labeling affixed to or included with any biological product prior to selling or otherwise distributing such product. In addition, no person shall mark any carton, other container, or final container of a biological product so as to falsify the labeling, make it misleading, or cause it to be illegible.

(d) Labels that are stamped, printed or glued directly on cartons, other containers, or final containers shall be legible throughout the dating period. Biological products bearing labels, which have been altered, mutilated, destroyed, obliterated or removed, shall be withheld from the market.

3. In § 112.4, the introductory paragraph is revised to read as follows:

§ 112.4 Subsidiaries, divisions, distributors, and permittees.

Labels used by subsidiaries, divisions, distributors, and permittees shall be affixed by the licensee in a licensed establishment where the product is produced. Such labels shall comply with requirements for their review, approval, and filing as provided in this section.

* * * * *

4. In § 112.6, new paragraphs (e) and (f) are added to read as follows:

§ 112.6 Packaging biological products.

* * * * *

(e) Final containers of biological product packaged at a licensed establishment in cartons or other containers shall not be removed from such cartons or containers and repackaged for sale or distribution unless each final container bears or is accompanied by complete and approved labeling which is affixed to or included with each container by the licensed establishment producing the product.

(f) Labels which are affixed to or included with a biological product shall not be removed or altered in any manner.

Done in Washington, DC, this 21st day of April 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–9889 Filed 4–27–93; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Proposed Placement of Methcathinone Into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking is issued by the Administrator of the Drug Enforcement Administration (DEA) to place methcathinone into Schedule I of the Controlled Substances Act (CSA). This proposed action by the DEA Administrator is based on data gathered and reviewed by the DEA. If finalized, this proposed action would impose the regulatory control mechanisms and criminal sanctions of Schedule I on the manufacture, distribution and possession of methcathinone.

DATES: Comments must be submitted on or before May 28, 1993.

ADDRESSES: Comments and objections should be submitted to the Administrator, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537. Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: On May 1, 1992, the Administrator of the DEA published a final rule in the **Federal Register** (57 FR 18824) temporarily placing methcathinone into Schedule I of the CSA using the temporary scheduling provisions of the CSA (21 U.S.C. 811(h)). This final rule, which became effective on the date of publication, was based on a finding by the Administrator that the temporary scheduling of methcathinone was necessary to avoid an imminent hazard to the public safety. Section 201(h)(2) of the CSA (21 U.S.C. 811(h)(2)) requires that the temporary scheduling of a substance expires at the end of one year from the effective date of the order. However, if proceedings to schedule a substance pursuant to 21 U.S.C. 811(a)(1) have been initiated and are pending, the temporary scheduling of a substance may be extended for up to six months. Under this provision, the temporary scheduling of methcathinone which would expire on May 1, 1993, may be extended to November 1, 1993. This extension is being ordered by the DEA Administrator in a separate action.

The DEA has gathered and reviewed the available information regarding the actual base and relative potential for abuse for methcathinone. The DEA, in conjunction with the National Institute on Drug Abuse (NIDA), has provided for the synthesis and biological testing of methcathinone. By letter, the Administrator has submitted data which the DEA has gathered regarding methcathinone to the Assistant Secretary for Health, Department of Health and Human Services. In accordance with 21 U.S.C. 811(b), the DEA Administrator also requested a

scientific and medical evaluation and a scheduling recommendation for methcathinone from the Assistant Secretary for Health.

Methcathinone has a chemical structure and pharmacological profile similar to that of methamphetamine and cathinone. All forms of methamphetamine have been controlled in Schedule II of the CSA since 1971. As a result of prior control of cathinone in Schedule I of the 1971 Convention on Psychotropic Substances and in response to a recommendation received by the Administrator from the Assistant Secretary for Health and Human Services, cathinone was placed into Schedule I of the CSA on February 14, 1993.

In preclinical studies, methcathinone hydrochloride produces pharmacological effects and appears to have an abuse potential similar to that of psychomotor stimulants such as the amphetamines. In a manner similar to that of other amphetamines, methcathinone hydrochloride increases spontaneous rodent locomotor activity, potentiates the release of radiolabelled dopamine from dopaminergic nerve terminals in the brain and causes appetite suppression. In drug discrimination studies, methcathinone hydrochloride evokes either (+)-amphetamine or cocaine induced appropriate responding. When examined in particular pharmacological assays for psychomotor stimulant-like activity, both the d and the l enantiomeric forms of methcathinone hydrochloride have been found to be pharmacologically active. In these assays, the l-form of methcathinone is more active than either d-methcathinone or (+)-amphetamine. Racemic methcathinone hydrochloride is intravenously self-addressed by baboons, thus indicating that methcathinone produces reinforcing effects in this laboratory animal and suggesting that this drug has a potential for abuse in the human population.

To date, the distribution and abuse of methcathinone has been documented in Michigan and Wisconsin. Abuse of methcathinone has been known since at least January 1991. Since that time, the abuse of methcathinone has increased substantially in the upper peninsula of Michigan and, more recently, in Wisconsin. The principal form of methcathinone distributed and abused is the hydrochloride salt of the 1-enantiomer, which exists as a white to off-white, chunky powdered material. It is usually sold as itself under such street names as "Cat" and "Goob". Less often it is passed off as methamphetamine under such names as "Crank" or "Speed". The most common route of administration is via nasal insufflation. Other routes of administration include oral ingestion, intravenous injection and smoking. Methcathinone is abused in binges lasting two to six days. During this time, methcathinone is repeatedly administered, resulting in the daily administration of amounts surpassing one or two grams. The methcathinone binge resembles amphetamine binges in that the abuser does not sleep or eat and takes in little in the way of liquids. The methcathinone binge is followed by a "crash" characterized by long periods of sleep, excess eating and possibly depression.

Methcathinone is abused for its psychomotor stimulant effects. It is reported by abusers to produce such effects as a "burst of energy", "headrush", "bodyrush", a "speeding of the mind", an "increased feeling of self-confidence" and "euphoria". Abusers have also reported that methcathinone produces unpleasant effects such as paranoia, hallucinations, anxiety, tremor, insomnia, malnutrition, weight loss, dehydration, sweating, stomach pains, noise bleeding and body aches. Following the crash, some individuals have experienced depression with or without thoughts of suicide.

Methcathinone hydrochloride is produced for street distribution in clandestine laboratories. Between June, 1991 and February, 1993, 19 active or clandestine methcathinone laboratories were seized by Federal, state and local law enforcement officials in Michigan. In August 1991 a clandestine methcathinone laboratory was seized in Seattle, Washington. Since January, 1993, at least two clandestine methcathinone laboratories have been encountered in Wisconsin.

Methcathinone has been encountered by law enforcement officials in Michigan and Wisconsin. Michigan State Police obtained the first street sample of methcathinone in February 1991. Since that time there have been over 50 encounters of methcathinone by Federal, state and law enforcement officials in Michigan. Methcathinone was first encountered in Wisconsin in March 1992. Since October 1992, there have been more than twenty Federal, state or local law enforcement encounters of methcathinone in Wisconsin. With the exception of the seizure of a single clandestine methcathinone laboratory in Washington, the DEA is not aware of any other law enforcement encounters of methcathinone within the United States, other than those in Michigan and Wisconsin.

Health officials in Michigan and Wisconsin have encountered abusers of methcathinone. There have been a number of documented emergency room cases involving the purported abuse of methcathinone. Drug abuse treatment centers in Marquette and Iron Mountain, Michigan, as well as several psychiatric treatment centers in Wisconsin have reported encounters with methcathinone abusers.

Sigma Chemical Company is the only known commercial manufacturer and supplier of methcathinone in the United States. The Food and Drug Administration (FDA) has notified the DEA that there are no exemptions or approvals in effect under section 505 of the Federal Food, Drug and Cosmetic Act for methcathinone. A search of the scientific and medical literature revealed no indications of current medical use of methcathinone in the United States.

The DEA Administrator, based on the information gathered and reviewed by his staff and after consideration of the factors in 21 U.S.C. 811(c), believes that sufficient data exists to propose and to support that methcathinone be placed into Schedule I of the CSA pursuant to 21 U.S.C. 811(a). The specific findings required pursuant to 21 U.S.C. 811 and 812 for a substance to be placed into Schedule I are as follows:

(1) The drug or other substance has a high potential for abuse.

(2) The drug or other substance has no currently accepted medical use in treatment in the United States.

(3) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

Before issuing a final rule in this matter, the DEA Administrator will take into consideration the scientific and medical evaluation and scheduling recommendation of the Secretary of the Department of Health and Human Services in accordance with 21 U.S.C. 811(b). The recommendations of the Secretary regarding scientific and medical matters are binding on the Administrator and if the Secretary recommends that a substance should not be controlled, the DEA Administrator will not control it. The Administrator will also consider relevant comments from other concerned parties.

Interested persons are invited to submit their comments, objections or requests for a hearing in writing with regard to this proposal. Requests for a hearing should state with particularity the issues concerning which the person desires to be heard. All correspondence regarding this matter should be submitted to the Administrator, Drug

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Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative. In the event that comments, objections or requests for a hearing raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall order a public hearing by notice of the **Federal Register**, summarizing the issues to be heard and setting the time for hearing.

The Administrator of the DEA hereby certifies that the proposed placement of methcathinone into Schedule I of the CSA will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This action involves the control of a substance with no currently approved medical use or manufacture in the United States.

This proposed rulemaking is not a major rule for the purposes of Executive Order 12291 (46 FR 13193) of February 17, 1981. It has been determined that drug scheduling matters are not subject to review by the Office of Management and Budget (OMB) pursuant to the provisions of Executive Order 12291. Accordingly, this drug scheduling action is not subject to the provisions of Executive Order 12778 which are contingent upon review by OMB.

This action has been analyzed in accordance with the principles and criteria in Executive Order 12612, and it has been determined that this proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of the DEA by Department of Justice regulations (28 CFR 0.100), the Administrator hereby proposes that 21 CFR part 1308 be amended as follows:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871b, unless otherwise noted.

2. Section 1308.11 is amended by adding paragraph (f)(6) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(f) * * *

(6) Methcathinone (Some other names: 2-(methylamino)-propiophenone, alpha (methylamino)-propiophenone, 2-(methylamino)-1-phenylpropan-1-one, alpha-N-methylaminopropiophenone, monomethylpropion, ephedrone, N-methylcathinone, methycathinone, AL-464, AL-422, AL-463 and UR1431) its salts, optical isomers and salts of optical isomers . . . 1237.

3. § 1308.11 is further amended by removing and reserving paragraph (g)(3).

Dated: April 22, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93-9945 Filed 4-27-93; 8:45 am]

BILLING CODE 4410-09-M

21 CFR Part 1308

Schedules of Controlled Substances Proposed Transfer of Levo-alphacetylmethadol From Schedule I into Schedule II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administrator of the Drug Enforcement Administration (DEA) is issuing this notice of proposed rulemaking to transfer the Schedule I narcotic, levo-alphacetylmethadol (LAAM), to Schedule II of the Controlled Substances Act (CSA) in accordance with 21 U.S.C. 801 *et seq.* This action is initiated upon receipt of a letter from the Acting Assistant Secretary for Health, Department of Health and Human Services (DHHS), recommending that LAAM be transferred from Schedule I to Schedule II upon approval of a New Drug Application (NDA) for LAAM. As a result of this proposed rule, if finalized, the regulatory controls and criminal sanctions of Schedule II will be applicable to the manufacture, distribution, importation and exportation of LAAM. Additionally, the use of LAAM for the treatment of narcotic addiction will be subject to compliance with the requirements of the Narcotic Addict Treatment Act of 1974 and regulations concerning narcotic treatment programs.

DATES: Comments must be submitted on or before May 28, 1993.

ADDRESSES: Comments should be submitted to the Administrator, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: On March 12, 1993, the Acting Assistant Secretary for Health, on behalf of the Secretary of the DHHS, sent the Administrator of the DEA a letter recommending that levo-alphacetylmethadol be transferred to Schedule II of the CSA once it is approved for marketing. Enclosed with the letter was a document prepared by the Food and Drug Administration (FDA) entitled "Basis for the Recommendation for Transferring of Levo-alpha-acetylmethadol (LAAM) from Schedule I to II of the Controlled Substances Act." The document contained a review of the factors which the CSA requires the Secretary to consider (21 U.S.C. 811(b) and 811(c)) and the summarized recommendations regarding the transfer of LAAM. The factors considered by the Acting Assistant Secretary for Health with respect to LAAM are:

(1) Its actual or relative potential for abuse;

(2) Scientific evidence of its pharmacological effects, if known;

(3) The state of the current scientific knowledge regarding the drug or other substance;

(4) Its history and current pattern of abuse;

(5) The scope, duration, and significance of abuse;

(6) What, if any, risk there is to the public health;

(7) Its psychic or physiological dependence liability; and

(8) Whether the substance is an immediate precursor of a substance already controlled under this title.

The FDA has received and reviewed substantial evidence on the effectiveness and safety of LAAM. The FDA's scientific and medical evaluation shows that LAAM has a potential for abuse and physical and psychological dependence liability similar to other μ-opioid agonists which are in Schedule II of the CSA. Upon approval of the NDA for treatment of narcotic addiction, LAAM will have met DEA's criteria for currently accepted medical use in treatment in the United States. These criteria were discussed at length in the matter of the Marijuana Rescheduling Petition, 57 FR 10499, 10503-10507 (1992). This transfer will apply to the *levo* isomer of alphacetylmethadol while all other isomers of alphacetylmethadol will remain in Schedule I.

Interested persons are invited to submit their comments or objections in writing regarding this proposal. If a person believes that one or more issues warrant a hearing, the reasons for such belief should be stated and summarized. If the Administrator finds that the written responses to this proposal warrant a hearing, the Administrator will order a public hearing. A notice of the hearing will be published in the **Federal Register** summarizing the issues to be heard and setting a time for the hearing that will be at least 30 days after the publication of the notice. If no objections presenting grounds for a hearing on this proposal are received within the time limitation or if interested parties waive or are deemed to have waived their opportunity for a hearing or to participate in a hearing, the Administrator, after giving consideration to written comments and objections, will issue his final order pursuant to 21 CFR 1308.46 without a hearing. DEA's final decision concerning the relative abuse potential of LAAM will take into account the Acting Assistant Secretary's recommendation and any information received in response to this proposal.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the transfer of LAAM, as proposed herein, will have no significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96-354). Many of the regulatory requirements imposed on Schedule II substances are similar to those imposed on Schedule I substances. Additionally, substances in Schedule II may be used in medical treatment in the United States.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to require the preparation of a Federalism Assessment.

In accordance with the provisions of 21 U.S.C. 811(a), this proposel to transfer LAAM from Schedule I to Schedule II is a formal rulemaking "on the record after opportunity for hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and as such have been exempted from the consultation requirements for Executive Order 12291 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs, Reporting and Record keeping requirements.

Based on the scientific and medical evaluation and the recommendation of the Acting Assistant Secretary for Health, the Administrator of the DEA, pursuant to 21 U.S.C. 811(a) and 811(b), finds that:

(1) Based on all available information, LAAM has a high potential for abuse.

(2) LAAM, upon final approval of a NDA by the FDA, will meet the criteria for currently accepted medical use in treatment in the United States.

(3) Abuse of this substance may lead to severe psychological or physical dependence.

Therefore, under the authority vested in the Attorney General (21 U.S.C. 811(a)) and delegated to the Administrator of the DEA by the Department of Justice regulations (28 CFR 0.100), the Administrator hereby proposes that 21 CFR Part 1308 be amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. Section 1308.11 is proposed to be amended by revising paragraph (b)(4) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(b) * * *

(4) Alphacetylmethadol (except Levo-alphacetylmethadol (LAAM))—9603

* * * * * *

3. Section 1308.12 is proposed to be amended by redesignating the existing paragraphs (c)(11) through (c)(25) as (c)(12) through (c)(26) respectively and adding a new paragraph (c)(11) to read as follows:

§ 1308.12 Schedule II.

* * * * *

(c) * * *

(11) Levo-alphacetylmethadol (LAAM)—9648

* * * * * *

Dated: April 22, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93-9946 Filed 4-27-93; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 52

[PS-89-91]

RIN 1545-AQ23

Exports of Chemicals That Deplete the Ozone Layer; Special Rules for Certain Medical Uses of Chemicals That Deplete the Ozone Layer; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancelletion of a public hearing on proposed regulations relating to taxes imposed on exports of chemicals that deplete the ozone layer, taxes imposed on ozone-depleting chemicals used as medical sterilants or propellants in metered-dose inhalers, and floor stocks taxes on ozone-depleting chemicals.

DATES: The public hearing originally scheduled for Thursday, May 27, 1993, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-8452 or (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 4681 and 4682 of the Internal Revenue Code. A notice of proposed rulemaking and public hearing appearing in the **Federal Register** for Friday, January 15, 1993, (58 FR 4625), announced that the public hearing on the proposed regulations would be held on Thursday, May 27, 1993, beginning at 10 a.m., in the Commissioner's Conference Room, room 3313, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

The public hearing scheduled for Thursday, May 27, 1993, has been cancelled.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93-9854 Filed 4-27-93; 8:45 am]

BILLING CODE 4830-01-U

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300281; FRL-4576-2]

RIN No. 2070-AC18

Cross-Linked Polyurea-Type Encapsulating Polymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of cross-linked polyurea-type encapsulating polymer when used as an inert ingredient (encapsulating agent) in pesticide formulations applied to growing crops only. This regulation replaces the current exemption for cross-linked polyurea-type encapsulating polymer when used as an encapsulating material in pesticide formulations applied prior to planting under 40 CFR 180.1039. This proposed regulation was requested by ICI Americas, Inc.

DATES: Comments, identified by the document control number [OPP-300281], must be received on or before May 28, 1993.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, Crystal Mall Bldg. #2, 1921 Jefferson Davis Highway Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI).

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (H7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, Arlington, VA 22202, (703)-308-8320.

SUPPLEMENTARY INFORMATION: ICI Americas, Inc., Wilmington, DE 19897, has submitted pesticide petition (PP) 2E4146 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of cross-linked polyurea-type encapsulating polymer when used as an inert ingredient (encapsulating agent) in pesticide formulations applied to growing crops only. This regulation replaces the current exemption from the requirement of a tolerance for this chemical under 40 CFR 180.1039. Because neither the amount nor the use in the formulation has any bearing on the exemption, reference to a specific amount has been dropped.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in support of the current exemption and also the data submitted in this petition have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk. The Agency has decided that any additional data normally required to support the proposed tolerance exemption for cross-linked polyurea-type encapsulating polymer will not need to be submitted. The rationale for this decision is described below:

In the case of certain chemical substances which are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Cross-linked polyurea-type encapsulating polymer conforms to the definition of a polymer given in 40 CFR 723.250(b)(11) and meets the following criteria which are used to identify low-risk polymers:

1. The minimum average molecular weight of the above-mentioned polymer is 5×10^{13}. Substances with molecular weights greater than 400 are generally not readily absorbed through the intact skin and substances with molecular weights greater than 1,000 are generally not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract are generally incapable of eliciting a toxic response.

2. The above-mentioned polymer is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

3. The above-mentioned polymer does not contain less than 32.0 percent by weight of the atomic element carbon.

4. The above-mentioned polymer contains as an integral part of its composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. The above-mentioned polymer does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(3)(ii).

6. The above-mentioned polymer is not a biopolymer, a synthetic equivalent of a biopolymer, or a derivative or modification of a biopolymer that is substantially intact.

7. The above-mentioned polymer is not manufactured from reactants containing, other than as impurities, halogen atoms or cyano groups.

8. The above-mentioned polymer does not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

9. The above-mentioned polymer is not designed or reasonably anticipated to substantially degrade, decompose, or depolymerize. Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health.

Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300281]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic effect on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: April 8, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

Part 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) table is amended by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
. . .	. . .	. . .
Cross-linked polyurea-type encapsulating polymer		Encapsulating agent
. . .	. . .	. . .

* * * * *

§ 180.1039 [Removed]

3. By removing § 180.1039 *Cross-linked polyurea-type encapsulating polymer; exemption from the requirement of a tolerance.*

[FR Doc. 93-9819 Filed 4-27-93; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 82

[FRL-4618-9]

Extension of the Deadline for Submission of Comments on the Amended Schedule for the Phaseout of Ozone-Depleting Substances and Request for Comment on the Allowance Level for 1995 of Class I, Group I Substances

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period and request for comment.

SUMMARY: Through this action, EPA is extending the deadline for the submission of comments on the proposed regulation on the amended schedule on the phaseout of ozone-depleting substances. Further, EPA is specifically seeking comment on the 1995 reduction level in allowable production and consumption of class I, group I substances proposed on March 18, 1993.

DATES: This action extends the deadline for the submission of comments on the proposed rule published on March 18, 1993 at (58 FR 15014) to May 18, 1993. Comments on this proposed rule should be submitted to EPA no later than May 18, 1993.

ADDRESSES: Comments on the notice of proposed rulemaking and on this notice should be submitted in duplicate to the attention of Air Docket No. A-92-13 at: U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460. A copy should also be sent to Peter Voigt at the address indicated below. The Docket is located in room M-1500, First Floor Waterside Mall.

FOR FURTHER INFORMATION CONTACT: Peter Voigt, U.S. EPA, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation, 6205J, 401 M Street SW., Washington, DC, 20460, (202) 233-9185.

SUPPLEMENTARY INFORMATION:

Background

On March 18, 1993, EPA issued a proposed rule affecting the phaseout of a number of ozone-depleting substances (58 FR 15014). Specifically, the notice proposes to amend the phaseout schedule for specified ozone-depleting substances under section 606 of the Clean Air Act Amendments, responds to several petitions submitted to EPA under section 602, and proposes to implement amendments and adjustments to the Montreal Protocol agreed to by the Parties at their November 1992 meeting. EPA held a public hearing on the proposal on April 2, 1993. At that hearing, the Methyl Bromide Working Group (MBWG) requested that EPA extend the public comment period and provide for a second public hearing after ninety days from the date of the proposal. This would effectively extend the public comment period to 120 days, since the comment period must remain open for thirty days following a public hearing

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under the Clean Air Act section 307(d)(5). The MBWG confirmed this request in a letter to the docket dated April 6, 1993, and referred to the reasons for the request provided at the public hearing. At the public hearing, the MBWG explained that it needs the additional time to assemble and evaluate pertinent scientific and economic information and to prepare its written comments; that 45 days is an inadequate period of time for these tasks; that a public meeting to be held after submission of the written comments; that 45 days is an inadequate period of time for these tasks; that a public meeting to be held after submission of these written comments will allow interested parties to address issues others have raised; and that there is no compelling reasons for the Agency to promulgate a final rule listing methyl bromide at the expense of informed public review and comment.

In response to the MBWG's request, EPA has decided to allow an additional fifteen days for public comment. The comment period for this proposed rule will now close on May 18, 1993. EPA believes that this comment period of 60 days is adequate time for interested parties to prepare comments on this proposed rule. EPA notes that the MBWG has been aware of the petition filed with EPA to list methyl bromide for more than a year prior to the proposal. Further, EPA believes that the interested parties had sufficient opportunity at the April 2 public hearing or in their own written comments to address the issues others have raised in written comments. Therefore, EPA does not believe that a second public hearing is warranted.

As a part of the proposal on the phaseout of ozone-depleting substances, EPA had specified an interim reduction of 85 percent of the allowable baseline of production and consumption for class I, group I substances (CFCs) for the control period beginning on January 1, 1995. Comments received by EPA have raised concerns regarding the viability of the 85 percent interim reduction and EPA is specifically seeking comment on the advantages and disadvantages of changing this reduction to 75 percent of the allowable baseline. This would allow greater availability prior to the complete phaseout. Comments on this issue should also be submitted to the Agency prior to the close of the comment period on May 18, 1993.

Dated: April 22, 1993.

Michael H. Shapiro,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 93-10056 Filed 4-27-93; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MM Docket No. 93-114, FCC 93-187]

Radio Broadcast Services; Low Power Television Service; Application Acceptance Standard; Definition of Major Changes; Four-letter Call Signs

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission, by this Notice of Proposed Rulemaking (Notice) seeks comments on proposals to amend the rules governing the low power television (LPTV) service in three respects. The Notice first solicits comment on proposals to relax the strict acceptance standard for new and major change applications including the expansion of the waiver policy regarding terrain shielding. Second, the Notice solicits comment on a proposal to narrow the definition of a major change. Last, in response to a Petition for Rulemaking filed by the Community Broadcasters Association, the Notice seeks comment on two proposals for making licensed low power television stations eligible to apply for conventional four-letter call signs.

DATES: Comments are due by June 18, 1993, and reply comments are due by July 16, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Keith A. Larson, Mass Media Bureau, Video Services Division, Low Power Television Branch, (202) 632-3894.

SUPPLEMENTAL INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking in MM Docket. No. 93-114, adopted on April 9, 1993, and released on April 22, 1993. The complete text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center, room 239, at the Federal Communications Commission, 1919 M Street, NW., Washington, DC, 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Synopsis of the Notice of Proposed Rulemaking

1. Since the inception of the LPTV service in 1982, the Commission has employed a strict approach known as the "complete and sufficient" acceptance standard for new and major change LPTV and TV translator applications. See 47 CFR 73.3564(a). Under this approach applications must be letter perfect at the time they are filed and are subject to dismissal for minor defects and omissions. The Commission adopted a strict standard at the time in order to process an extremely large number of pending applications on file. However, the backlog of pending LPTV applications has since decreased; at the same time the quality of the applications received has increased. Therefore, the Commission believes it may now be possible to relax the application acceptance standard without causing an undue delay in processing applications or in authorizing service to the public.

2. Accordingly, the Commission proposes to employ the "substantially complete" acceptance standard, used in full service television, for new and major change applications filed in the LPTV service. Under this proposed standard, an application would be dismissed with no opportunity for reinstatement only if it were patently defective. A determination of substantially incomplete is made when an application, viewed as a whole, cannot be processed. Under this proposed approach, applications found to be substantially complete, but containing minor defects or omissions other than those related to fee matters or the timeliness of an application, would not be returned. Rather, applicants would be sent a deficiency letter and afforded a 30-day opportunity to cure all defects specified in the letter.[1] Corrective amendments would have to be minor amendments and otherwise acceptable in all respects.

3. The Notice also proposes an alternative mid-level acceptance standard which, while not as lenient as substantially complete, would be less strict than the present complete and sufficient standard. Under this hybrid approach, not only would applications be returned for deficiencies which would fail the substantial completeness test, but applications would also be subject to dismissal, without an

[1] Consistent with this approach, applicants could submit corrective amendments to eliminate predicted interference.

opportunity for a corrective amendment, for certain specified defects. Adoption of this approach would require specification of the defects which would be considered so serious or time-consuming that correction should not be allowed.

4. The Commission seeks comment on its proposals to modify its LPTV acceptance standards. Further, the Notice also solicits comment on the practicality of permitting corrective amendments for applications that are defective due to predicted interference and whether there are alternatives to the approaches outlined therein that would be consistent with the twin goals of application quality and processing efficiency.

5. Further, for the same reasons which permit consideration of relaxing the application acceptance standard, the Commission proposes removing the current restrictions regarding the acceptance of waiver requests based on terrain shielding. Pursuant to Commission Policy Regarding Terrain Shielding ("Policy Statement"), 53 FR 15557, May 2, 1988, *recon. granted in part*, 54 FR 1174, January 12, 1989, the Commission waives its interference protection rules when it is apparent that, due to intervening terrain, interference to another facility would not be caused by an applicant's proposed operation. However, under the present policy, the Commission limits consideration of terrain shielding waivers to applications that are not mutually exclusive with any other application submitted during the same filing window.[2] The Notice proposes to no longer limit consideration of applications with terrain shielding waivers to those which are not mutually exclusive.

6. Under the Commission's proposal, applicants whose proposed operations are predicted to cause interference to another application filed during the same filing window could submit detailed terrain profiles prepared in the manner specified in the Policy Statement demonstrating that terrain shielding would prevent actual interference. Further, the proposal also provides that, in accordance with the Policy Statement permitting applicants to submit letters of assent from potentially affected stations stating that interference would not occur due to terrain shielding, applicants could resolve mutual exclusivity among themselves by agreement. In addition, the Notice proposes to consider terrain shielding when raised for the first time by applicants in amendments responding to deficiency letters issued under the proposed new acceptance standard. The Notice seeks comments on the Commission's proposal to extend its terrain shielding waiver policy.

7. Next, the Commission's rules define certain modifications to authorized facilities as major changes. See 47 CFR 73.3572(a). In the case of LPTV and TV translator stations, major changes generally include changes in frequency (output channel), operating power, transmitting antenna system, antenna height and antenna location exceeding 200 meters. However, such changes are not considered major if the resulting signal range of the station would not increase in any horizontal direction. In other words, changes in facilities are considered to be "minor", provided that the station's protected service contour, as modified, lies completely within its unmodified service contour. Major changes were defined in a broad manner when the service was established. The Commission's experience, however, leads it to believe that a more precise definition of the rule can be devised which could enhance the ability of LPTV and TV translator operators to make necessary modifications to their facilities without causing an undue burden upon the staff. The Commission believes that the modifications it is proposing to allow are minor with respect to the rights of other operators and the public.

8. Accordingly, the Commission proposes that any modification to an existing authorization, other than a change in channel be considered a minor change, provided that three conditions are met. First, the proposal must be in compliance with the low power television interference protection rules. Second, the application must not be mutually exclusive with any previously filed application. Third, the protected contour resulting from the modification must be entirely enclosed by a circle, centered at the previously authorized site coordinates, and of radius equal to the largest distance between those coordinates and the protected contour resulting from the existing authorization. The Notice proposes to limit this proposal to authorized facilities and, therefore, not to extend it to pending applications.

9. Under this proposal, stations using directional antennas would be permitted to increase the extent of their footprints in particular directions. In these cases, the LPTV interference protection standards would subsequently be applied to the larger service contour due to the minor change; the bounding circle itself would not be protected against interference. As a result, situations could arise where minor change applications, which may be filed outside of filing windows, might become entangled in interference conflicts with later-filed applications; for example, "new and major change" applications tendered in a filing window. In order to continue authorizing minor changes relatively quickly, the Commission wishes to prevent such applications from being mutually exclusive and involved in the lottery process. Therefore, the Notice proposes to consider minor change applications cutoff on the date filed.

10. The Commission recognizes that this policy could adversely affect some prospective applicants whose later-filed application proposals might conflict with, and be considered untimely filed to, a minor change application having cut off status. Moreover, prospective applicants for new facilities might design a proposed operation to avoid prohibited signal contour overlap within the existing protected contour overlap of another facility, but would not anticipate such overlap with the latter facility's slightly larger protected contour resulting from its pending minor change application. However, the Commission believes that the relatively few instances in which these situations are likely to occur could be resolved through minor amendments. Nevertheless, the Notice proposes to delay implementation of the broader allowance for minor changes until after the close of the first LPTV filing window following adoption of these proposals. Additionally, the Notice proposes to permit minor change applications to be filed during filing windows. However, those applications which increase a station's protected contour in a horizontal direction and are found to be mutually exclusive with other applications in that window would be reclassified as major change applications and processed accordingly.

11. The Commission seeks comment on whether the present distinction between major and minor changes should be modified, including our suggested approach, and whether there are alternatives that could accomplish the Commission's objective. Further, the Notice asks for comment on the proposal to cut off minor change applications on the date filed, as well as whether the proposal to broaden the definition of a minor change should be limited to authorized facilities.

12. Finally, in its Petition for rulemaking (RM-7772), the Community Broadcasters Association (CBA) stated

[2] The Commission accepts new and major change applications only during designated filing windows.

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that the difficulty low power television stations already face in making ADI-wide ratings report due to their smaller coverage area, is exacerbated by the fact that ratings services generally have difficulty determining the audience levels that view these stations.[3] Accordingly the Commission believes that the assignment of four-letter call signs to low power television stations may benefit an industry struggling to reach sufficient audience share levels to be economically viable, by more readily enabling viewers to recognize the low power stations as television stations.

13. Therefore, the Commission proposes to allow licensed low power television stations to apply for four-letter call signs. The Notice sets forth two options for implementing this proposal. Under the first option, as suggested by the CBA, only low power television stations which operate a minimum number of hours, provide a certain amount of locally originated programming and abide by the nonengineering rules for conventional television stations would be eligible to receive four-letter call signs. Under the second option, which the Commission tentatively favors, all licensed low power television stations would be entitled to apply for four-letter call signs, irrespective of the nature or extent of their programming.

14. The Notice seeks comment on these two proposals, and whether low power television licensees, in general, should be eligible to apply for four-letter call signs. Further, the Commission is interested in what effect, if any, this proposal would have on full service television broadcasters and any other suggestions which might assist it in implementing this proposal.

Administrative Matters

Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, the Commission finds:

15. *Reason for the Action:* The Commission is initiating this rulemaking to consider whether to make its low power television and television translator rules more lenient with respect to: The acceptance and amendment of defective applications; the definition of major change applications; and the assignment of four-letter call signs. Consideration of these changes is prompted by recent favorable changes in the quality and quantity of these applications and in response to a petition for rulemaking by the Community Broadcasters Association.

16. *Objective of the Action:* The Commission seeks public comment on its tentative conclusions that the strict complete and sufficient processing procedures are no longer necessary; that a relaxes definition of major changes will allow operators increased flexibility to make facilities changes without having to await a filing window, and thereby expedite service to the public; and that four-letter call signs will be beneficial to the LPTV industry by enhancing viewer recognition.

17. *Legal Basis:* Authority for the actions proposed in the Notice may be found in sections 4, 301 and 303 of the Communications Act of 1934, as amended, 47 CFR 154, 301 and 303.

18. *Reporting, Recordkeeping, and Other Compliance Requirements:* The Notice proposes no new requirements.

19. *Federal Rules Which Overlap Duplicate or Conflict With the Proposed Rule:* None.

20. *Description, Potential Impact and Number of Small Entities Involved:* The Commission believes that the adoption of the proposals set forth in this Notice would benefit small entities interested in acquiring new low power television and television translator licenses and small entities already licensed for low power television and television translator facilities who wish to modify their current authorizations. This proposal would also allow such applicants a limited opportunity to amend defective applications to correct errors.

21. *Any Significant Alternatives Minimizing the Impact on Small Entities and Consistent With the Stated Objectives:* The purpose of the Notice is to seek comment on issues including alternatives that would minimize the impact on small entities.

22. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an initial regulatory flexibility analysis (IFRA) of the expected impact of these proposed policies and rules on small entities. Written public comments are requested on the IFRA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of the Notice, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981).

Ex Parte

23. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.1203 and 1.1206(a).

Comments

24. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 18, 1993, and reply comments on or before July 16, 1993. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comment and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, room 239, Federal Communications Commission, 1919 M. Street, NW., Washington, DC 20554.

List of Subjects

47 CFR Part 73

[Television broadcasting]

47 CFR Part 74

Television broadcasting.

Federal Communications Commission.

Donna R. Search,

Secretary.

[FR Doc. 93–9857 Filed 4–27–93; 8:45 am]

BILLING CODE 6712–01–M

[3] Presently, LPTV stations are awarded a five alpha-numeric character call sign consisting of the initial letter K or W followed by the channel number assigned to the station and two additional letters. See 47 CFR Section 74.783(d).

Notices

Federal Register
Vol. 58, No. 80
Wednesday, April 28, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers To Be Used for Publication of Legal Notice of Appealable Decisions for Southern Region; Alabama, Kentucky, Georgia, Tennessee, Florida, Louisiana, Mississippi, Virginia, West Virginia, Arkansas, Oklahoma, North Carolina, South Carolina, Texas, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Deciding Officers in the Southern Region will publish notice of decisions subject to administrative appeal under 36 CFR part 217 in the legal notice section of the newspapers listed in the **SUPPLEMENTARY INFORMATION** section of this notice. As provided in 36 CFR 217.5(d), the public shall be advised, through **Federal Register** notice, of the principal newspaper to be utilized for publishing legal notices of decisions. Newspaper publication of notices of decisions is in addition to direct notice of decisions to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

DATES: Use of these newspapers for purpose of publishing legal notices of decisions subject to appeal under 36 CFR part 217 shall begin on or after the date of this publication.

FOR FURTHER INFORMATION CONTACT: Jean Paul Kruglewicz, Regional Appeals Coordinator, Southern Region, Planning and Budget, 1720 Peachtree Road, NW., Atlanta, Georgia 30367–9102, Phone: 404–347–4867.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Southern Region will give legal notice of decisions subject to appeal under 36 CFR part 217 in the following newspapers which are listed by Forest Service administrative unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the principal newspaper that will be utilized for publishing the legal notices of decisions. Additional newspapers listed for a particular unit are those newspapers the Deciding Officer expects to use for purposes of providing additional notice. The timeframe for appeal shall be based on the date of publication of the legal notice of the decision in the principal newspaper.

Southern Regional Forester Decisions affecting National Forest System lands in more than one state of the 13 states of the Southern Region and the Commonwealth of Puerto Rico.

Atlanta Journal, published daily in Atlanta, GA

Southern Regional Forester Decision affecting National Forest System lands in only one state of the 13 states of the Southern Region and the Commonwealth of Puerto Rico will appear in the principal paper elected by the National Forest(s) of that state.

National Forests in Alabama, Alabama

Forest Supervisor Decisions

Montgomery Advertiser, published daily in Montgomery, AL

District Rangers Decisions

Bankhead Ranger District: Northwest Alabamian, published weekly (Monday & Thursday) in Haleyville, AL

Conecuh Ranger District: The Andalusia Star, published daily (Tuesday through Saturday) in Andalusia, AL

Brewton Standard, published daily in Brewton, AL

Oakmulgee Ranger District: The Tuscaloosa News, published daily in Tuscaloosa, AL

Shoal Creek Ranger District: The Anniston Star, published daily in Anniston, AL

Talladega Ranger District: The Daily Home, published daily in Talladega, AL

Tuskegee Ranger District: Tuskegee News, published weekly (Thursday) in Tuskegee, AL

Caribbean National Forest, Puerto Rico

Forest Supervisor Decisions

El Nuevo Dia, published daily in Spanish in San Juan, PR

San Juan Star, published daily in San Juan, PR

District Ranger Decisions

El Horizonte, published Weekly (Wednesday) in Fajardo, PR

Chattahoochee-Oconee National Forest, Georgia

Forest Supervisor Decisions

The Times, published daily in Gainesville, GA

District Ranger Decisions

Armuchee Ranger District: Walker County Messenger, published bi-weekly (Wednesday & Friday) in LaFayette, GA

Toccoa Ranger District: The News Observer published weekly (Wednesday) in Blue Ridge, GA

Chestatee Ranger District: Dahlonega Nugget, published weekly (Thursday) in Dahlonega, GA

Brasstown Ranger District: North Georgia News, published weekly (Tuesday) in Blairsville GA

Towns County Herald, published weekly (Tuesday) in Hiawesse, GA

Tallulah Ranger District: Clayton. Tribune, published weekly (Wednesday) in Clayton, GA

Chattooga Ranger District: Northeast Georgian, published weekly (Wednesday) in Clarksville, GA

Toccoa Record, published weekly (Thursday) in Toccoa, GA

The Telegraph, published weekly (Wednesday) in Cleveland, GA

Cohutta Ranger District: Chatsworth Times, published weekly (Tuesday) in Chatsworth, GA

Oconee Ranger District: Monticello News, published weekly (Thursday) in Monticello, GA

Cherokee National Forest, Tennessee

Forest Supervisor Decisions

Knoxville News Sentinel, published daily in Knoxville, TN (covering McMinn, Monroe, and Polk Counties)

Johnson City Press, published daily in Johnson City, TN (covering Carter, Cocke, Greene, Johnson, Sullivan, Unicoi and Washington Counties)

District Rangers Decisions

Ocoee Ranger District: Polk County News, published weekly (Wednesday) in Benton, TN

Hiwassee Ranger District: Daily Post-Athenian, published daily (Monday–Friday) in Athens, TN

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Tellico Ranger District: Monroe County Advocate, published weekly (Thursday) in Sweetwater, TN
Nolichucky Ranger District: Greeneville Sun, published daily (Monday–Saturday) in Greeneville, TN
Unaka Ranger District: Johnson City Press, published daily in Johnson City, TN
Watauga Ranger District: Elizabethton Star, published daily (Sunday–Friday) in Elizabethton, TN

Daniel Boone National Forest, Kentucky

Forest Supervisor Decisions

Lexington Herald-Leader, published daily in Lexington, KY

District Rangers Decisions

Morehead Ranger District: Morehead News, published bi-weekly (Tuesday and Friday) in Morehead, KY
Stanton Ranger District: The Clay City Times, published weekly (Thursday) in Clay City, KY
Berea Ranger District: Jackson County Sun, published weekly (Thursday) in McKee, KY
London Ranger District: The Sentinel-Echo, published tri-weekly (Monday, Wednesday, and Friday) in London, KY
Somerset Ranger District: Commonwealth-Journal, published daily (Sunday through Friday) in Somerset, KY
Stearns Ranger District: McCreary County Record, published weekly (Tuesday) in Whitley City, KY
Redbird Ranger District: Manchester Enterprise, published weekly (Thursday) in Manchester, KY

National Forests in Florida, Florida

Forest Supervisor Decisions

The Tallahassee Democrat, published daily in Tallahassee, FL

District Rangers Decisions

Apalachicola Ranger District: The Weekly Journal, published weekly (Wednesday) in Bristol, FL
Lake George Ranger District: The Ocala Star Banner, published daily in Ocala, FL
Osceola Ranger District: The Lake City Reporter, published daily (Monday–Saturday) in Lake City, FL
Seminole Ranger District: The Daily Commercial, published daily in Leesburg, FL
Wakulla Ranger District: The Tallahassee Democrat, published daily in Tallahassee, FL

Francis Marion & Sumter National Forest, South Carolina

Forest Supervisor Decisions

The State, published daily in Columbia, SC

District Rangers Decisions

Enoree Ranger District: Newberry Observer, published tri-weekly (Monday, Wednesday and Friday) Newberry, SC
Andrew Pickens Ranger District: Seneca Journal and Tribune, published bi-weekly (Wednesday and Friday) in Seneca, SC
Long Cane Ranger District: Index-Journal, published daily (Sunday through Friday) in Greenwood, SC
Wambaw Ranger District: News and Courier, published daily in Charleston, SC
Witherbee Ranger District: News and Courier, published daily in Charleston, SC
Tyger Ranger District: The State, published daily in Columbia, SC
Edgefield Ranger District: Augusta Herald, published daily in Augusta, GA

George Washington National Forest, Virginia

Forest Supervisor Decisions

Daily News Record, published daily in Harrisonburg, VA

District Rangers Decisions

Lee Ranger District: Shenandoah Valley Herald, published weekly (Wednesday) in Woodstock, VA
Warm Springs Ranger District: The Recorder, published weekly (Thursday) in Monterey, VA
Pedlar Ranger District: News-Gazette, published weekly (Wednesday) in Lexington, VA
James River Ranger District: Virginian Review, published daily in Covington, VA
Deerfield Ranger District: Daily News Leader, published daily in Staunton, VA
Dry River Ranger District: Daily News Record, published daily in Harrisonburg, VA

Jefferson National Forest, Virginia

Forest Supervisor Decisions

Roanoke Times & World-News, published daily in Roanoke, VA

District Rangers Decisions

Blacksburg Ranger District: Roanoke Times & World-News, published daily in Roanoke, VA
Monroe Watchman, published weekly (Thursday) in Union, WV (only for those decisions in West VA—notice will be published in the Roanoke Times and Monroe Watchman.)
Glenwood Ranger District: Roanoke Times & World-News, published daily in Roanoke, VA
New Castle Ranger District: Roanoke Times & World-News, published daily in Roanoke, VA
Monroe Watchman, published weekly (Thursday) in Union, WV (only for those decisions in West VA—notice will be published in the Roanoke Times and Monroe Watchman.)
Mount Rogers National Recreation Area: Bristol Herald Courier, published daily in Bristol, VA
Clinch Ranger District: Kingsport-Times News, published daily in Kingsport, TN
Wythe Ranger District: Southwest Virginia Enterprise, published bi-weekly (Wednesday and Saturday) in Wytheville, VA

Kisatchie National Forest, Louisiana

Forest Supervisor Decisions

Alexandria Daily Town Talk, published daily in Alexandria, LA

District Ranger Decisions

Caney Ranger District: Minden Press Herald, published daily in Minden, LA
Homer Guardian Journal, published weekly (Wednesday) in Homer, LA
Catahoula Ranger District: Alexandria Daily Town Talk, published daily in Alexandria, LA
Colfax Chronicle, published weekly (Wednesday) in Colfax, LA
Evangeline Ranger District: Alexandria Daily Town Talk, published daily in Alexandria, LA
Kisatchie Ranger District: Natchitoches Times, published bi-weekly (Sunday and Wednesday) in Natchitoches, LA
Vernon Ranger District: Leesville Leader, published daily in Leesville, LA
Winn Ranger District: Winn Parish Enterprise, published weekly (Wednesday) in Winnfield, LA

National Forests in Mississippi, Mississippi

Forest Supervisor Decisions

Clarion-Ledger, published daily in Jackson, MS

District Ranger Decisions

Bienville Ranger District: Clarion-Ledger, published daily in Jackson, MS
Biloxi Ranger District: Clarion-Ledger, published daily in Jackson, MS
Black Creek Ranger District: Clarion-Ledger, published daily in Jackson, MS

Bude Ranger District: Clarion-Ledger, published daily in Jackson, MS
Chickasawhay Ranger District: Clarion-Ledger, published daily in Jackson, MS
Delta Ranger District: Clarion-Ledger, published daily in Jackson, MS
Holly Springs Ranger District: Clarion-Ledger, published daily in Jackson, MS
Homochitto Ranger District: Clarion-Ledger, published daily in Jackson, MS
Strong River Ranger District: Clarion-Ledger, published daily in Jackson, MS
Tombigbee Ranger District: Clarion-Ledger, published daily in Jackson, MS
Ashe-Erambert Project: Clarion-Ledger, published daily in Jackson, MS

National Forests in North Carolina, North Carolina

Forest Supervisor Decisions

The Asheville Citizen-Times, published daily in Asheville, NC

District Ranger Decisions

Cheoah Ranger District: Graham Star, published weekly (Thursday) in Robbinsville, NC
Croatan Ranger District: The Sun Journal, published weekly (Sunday through Friday) in New Bern, NC
French Broad District: The Ashville Citizen-Times, published daily in Asheville, NC
Grandfather District: McDowell News, published daily in Marion, NC
Highlands Ranger District: The Highlander, published weekly (May-Oct Tues & Fri; Oct-April Tues only) in Highlands, NC
Pisgah Ranger District: The Asheville Citizen-Times, published daily in Asheville, NC
Toecane Ranger District: The Asheville Citizen-Times, published daily in Asheville, NC
Tusquitee Ranger District: Cherokee Scout, published weekly (Wednesday) in Murphy, NC
Uwharrie Ranger District: Montgomery Herald, published weekly (Wednesday) in Troy, NC
Wayah Ranger District: The Franklin Press, published tri-weekly (Monday, Wednesday, and Friday) in Franklin, NC

Ouachita National Forest, Arkansas, Oklahoma

Forest Supervisor Decisions

Arkansas Democrat-Gazette, published daily in Little Rock, AR

District Ranger Decisions

Caddo Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Cold Springs Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Fourche Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Jessieville Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Mena Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Oden Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Poteau Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Winona Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Womble Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Choctaw Ranger District: Tulsa World, published daily in Tulsa, OK
Kiamichi Ranger District: Tulsa World, published daily in Tulsa, OK
Tiak Ranger District: Tulsa World, published daily in Tulsa, OK

Ozark-St. Francis National Forest: Arkansas

Forest Supervisor Decisions

Courier-Democrat, published daily (Sunday through Friday) in Russellville, AR

District Ranger Decisions

Sylamore Ranger District: Stone County Leader, published weekly (Tuesday) in Mountain View, AR
Buffalo Ranger District: Newton County Times, published weekly (Wednesday) in Jasper, AR
Bayou Ranger District: Courier-Democrat, published daily (Sunday through Friday) in Russellville, AR
Pleasant Hill Ranger District: Johnson County Graphic, published weekly (Wednesday) in Clarksville, AR
Boston Mountain Ranger District: Southwest Times Record, published daily in Fort Smith, AR
Magazine Ranger District: Southwest Times Record, published daily in Fort Smith, AR
St. Francis Ranger District: The Daily World, published daily (Sunday through Friday) in Helena, AR

National Forests in Texas, Texas

Forest Supervisor Decisions:

The Lufkin Daily News, published daily in Lufkin, TX

District Rangers Decisions:

Angelina Ranger District: The Lufkin Daily News, published daily in Lufkin, TX
San Jacinto Ranger District: The Houston Post, published daily in Houston, TX
Neches Ranger District: The Lufkin Daily News, published daily in Lufkin, TX
Ravon Ranger District: The Courier, published daily in Conroe, TX
Tenaha Ranger District: The Lufkin Daily News, published daily in Lufkin, TX
Trinity Ranger District: The Lufkin Daily News, published daily in Lufkin, TX
Yellowpine Ranger District: The Beaumont Enterprise, published daily in Beaumont, TX
Caddo-LBJ Ranger District—Caddo-LBJ National Grassland: Denton Record-Chronicle, published daily in Denton, TX

Dated: April 20, 1993.

Ralph F. Mumme,

Acting Deputy Regional Forester.

[FR Doc. 93–9900 Filed 4–27–93; 8:45 am]

BILLING CODE 3410–11–M

Suitability Study for Nine Streams and Rivers Being Considered for National Wild and Scenic River Status, Tahoe National Forest, Placer, Yuba, Eldorado, Sierra, and Nevada Counties, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare a legislative environmental impact statement (EIS) and wild and scenic river study report to determine the suitability or non-suitability of the approximately 70 miles of nine eligible streams and rivers on the Tahoe National Forest and the Lake Tahoe Basin Management Unit for inclusion in the National Wild and Scenic Rivers System. In addition, the agency gives notice of the environmental analysis and decisionmaking process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the suitability of these rivers must be received by May 31, 1993.

ADDRESSES: Submit written comments and suggestions to Terry B. Randolph, Planning Team Leader, P.O. Box 640, Carson City, Nevada 89701.

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FOR FURTHER INFORMATION CONTACT:

Terry Randolph, Planning Team Leader, P.O. Box 640, Carson City, Nevada 89701 or telephone (702) 882–3436.

SUPPLEMENTARY INFORMATION: The Tahoe National Forest Plan and the Lake Tahoe Basin Management Unit Forest Plan determined the eligibility of the approximately 70 miles of the rivers located within the Tahoe Basin and the Truckee River drainage. The eligible rivers are:

1. Upper Truckee River from its headwaters below Carson Pass to Christmas Valley near the south shore of Lake Tahoe
2. Truckee River from Tahoe City to Truckee
3. Martis Creek
4. Cold Stream
5. Alder Creek
6. Sagehen Creek
7. Perazzo Creek
8. Little Truckee River
9. Upper Independence Creek

The planned EIS completes considering these streams and rivers for inclusion in the wild and scenic rivers system.

The suitability study and EIS will consider approximately 70 miles of the nine eligible rivers. The area of consideration for each river is a minimum of ¼ mile from each bank for the entire length of the eligible portion of the river within the Tahoe National Forest and Lake Tahoe Basin Management Unit boundaries.

Public participation will be especially important at several points during the analysis. The first point is the scoping process (40 CFR 1501.7). The Forest Service has and is seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement.

Informal open houses will be held at Truckee, Tahoe City, and South Lake Tahoe, California in the early stages of the analysis to inform the public of the analysis process and to provide for public participation and involvement. Federal, State, and local agencies, user groups, and other organizations who would be interested in the study will be invited to participate in scoping the issues that should be considered.

The comment period on this draft environmental impact statement will be 90 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested in the suitability of the streams for inclusion in the National Wild and Scenic Rivers system participate at this time.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC*, 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Suppl. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 90-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement.

John Skinner, Forest Supervisor, Tahoe National Forest, P.O. Box 6003, Nevada City, California 95959–6003, and Robert Harris, Forest Supervisor, Lake Tahoe Basin Management Unit, 870 Emerald Bay Road, Suite 1, South Lake Tahoe, California 96150 are the responsible officials for the suitability study. Michael Epsy, Secretary of Agriculture, U.S. Department of Agriculture, room 200–A, Adm. Bldg., Washington, DC 20250, is the responsible official for recommendations for wild and scenic river designation.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by December 31, 1993. At that time the EPA will publish a notice of availability of the draft EIS in the **Federal Register**.

Dated: April 20, 1993.

Thomas J. Mills,

Associate Deputy Chief.

[FR Doc. 93–9959 Filed 4–27–93; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges

In the Matter of: Reza Zandian, also known as Golamreza Zandianjazi, with addresses at—

5 Hillsborough, Newport Beach, California 92660
and
c/o Iran Business Machines, USA, 600 Anton Boulevard, Costa Mesa, California 92626
Charles Robert Reger, 9582 Erskine Drive, Huntington Beach, California 92646
Iran Business Machines, No. 50 Molla Sadra Avenue, 14357 Tehran, Iran
Iran Business Machines, USA, 600 Anton Boulevard, Costa Mesa, California 92626
Lucach Corporation, and its division, Computerworld North America, also known as Computer World, 17526–B Von Karman, Irvine, California 92714
and
Computerworld Europe, also known as Computer World and C.E.P.A.T., Rue Jean-Grandel, BP 12–95102 Argenteuil, France,
Respondents.

Order Modifying Temporary Denial Order

On April 16, 1993, pursuant to the provisions of § 788.19 of the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1992)) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401–2420 (1991, Supp. 1992, and Pub. L. No. 103–10)) (the Act), I issued an order temporarily denying all United States export privileges of Reza Zandian, also known as Golamreza Zandianjazi (Zandian); Charles Robert Reger (Reger); Iran Business Machines; Iran Business Machines, USA; Lucach Corporation and its division, Computerworld North America, also known as Computer World (Lucach); and Computerworld Europe, also known as Computer World and C.E.P.A.T. (Computerworld Europe) (hereinafter collectively referred to as respondents). In addition to denying respondents' U.S. export privileges for a period of 180 days from the date of issuance,[1] the Order also named several companies, including Optima Technology Corporation, 17526 Von Karman, Irvine, California 92714 (Optima), as persons related to one or more of the respondents. Accordingly, Optima and the other named related persons were made subject to the provisions of the Order as related persons.

The Office of Export Enforcement, Bureau of Export Administration, U.S. Department of Commerce (Department), and Optima have jointly moved, based on evidence presented to the Department by Optima, to modify the temporary denial order by deleting Optima as a person related to one or more of the respondents.

Based on the submission by the Department and Optima, I hereby grant the motion to modify the temporary denial order. Accordingly, the temporary denial order entered against respondents on April 16, 1993, is modified to read as follows:

Accordingly, *it is hereby Ordered:*

I. All outstanding individual validated licenses in which any of the respondents appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of respondents' privileges of participating, in any manner or capacity, in any special licensing procedures, including, but not limited to, distribution licenses, are hereby revoked.

II. For a period of 180 days from the date of entry of this order, Reza Zandian, also known as Golamreza Zandianjazi, with addresses at 5 Hillsborough, Newport Beach, California 92660 and c/o Iran Business Machines, USA, 600 Anton Boulevard, Costa Mesa, California 92626; Charles Robert Reger, 9582 Erskine Drive, Huntington Beach, California 92646; Iran Business Machines, No. 50 Molla Sadra Avenue, 14357 Tehran, Iran; Iran Business Machines, USA, 600 Anton Boulevard, Costa Mesa, California 92626; Lucach Corporation, and its division, Computerworld North America, also known as Computer World, 17526–B Von Karman, Irvine, California 92714; and Computerworld Europe, also known as Computer World and C.E.P.A.T., Rue Jean-Grandel, BP 12–95102 Argenteuil, France, and all their successors, assignees, officers, partners, representatives, agents, and employees, hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 788.3(c), any person, firm, corporation, or business organization related to respondents by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order. Based on the showing made by the Department, I have determined that the following companies are related to one or more of the respondents by affiliation, ownership, or control in the conduct of trade and related services and, accordingly, are hereby made subject to this Order:

Optima Technology Europe, also known as O.T.E., Rue Jean-Grandel, BP 12–95102 Argenteuil, France
Optima Technology Middle East, also known as O.T.M.E., 132 Felestin Avenue, Tehran, Iran
Computerworld Middle East, No. 50 Molla Sandra Avenue, 14357 Tehran, Iran
AS/TEQ Corporation, 17526 Von Karman, Irvine, California 92714
U.S. Business Machines Corporation, 17526 Von Karman, Irvine, California 92714
RISQ Technology Corporation, 17526 Von Karman, Irvine, California 92714
and
ICSAA Trade Company with addresses at—
7502 Mar Avenue, La Jolla, California 92037
and
P.O. Box 27082, 1395 Marine Drive, West Vancouver, British Columbia, V7T2X8 Canada

IV. As provided by § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. In accordance with the provisions of § 788.19(e) of the Regulations, any respondent may, at any time, appeal this temporary denial order by filing with the Office of the Administrative Law Judge, U.S. Department of Commerce/Export Control, room H–4017, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support of the appeal. Any related person may appeal the finding that it is related to one or more of the denied parties, but may not appeal the underlying issuance of the temporary denial order.

VI. This amended order is effective immediately and shall remain in effect until October 13, 1993.

VII. In accordance with the provisions of § 788.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose a request to renew this temporary denial order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

[1] The temporary denial order is effective until October 13, 1993, which is 180 days from April 16, 1993.

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A copy of this order shall be served on each respondent and each named related person. This order shall be published in the **Federal Register**.

Dated: April 23, 1993.

Douglas E. Lavia,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 93-10057 Filed 4-27-93; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 353.22 or 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review: Not later than May 31, 1993, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in May for the following periods:

	Period
Antidumping Duty Proceedings	
Argentina: Light-Wall Welded Rectangular Carbon Steel Tubing (A-357-802)	05/01/92-04/30/93
Brazil: Certain Carbon Steel Butt-Weld Pipe Fittings (A-351-602)	05/01/92-04/30/93
Brazil: Certain Iron Construction Castings (A-351-503)	05/01/92-04/30/93
Brazil: Frozen Concentrated Orange Juice (A-351-605)	05/01/92-04/30/93
Dominican Republic: Portland Cement, Other Than White, Nonstaining Portland Cement (A-247-003)	05/01/92-04/30/93
France: Ball Bearings, Cylindrical Roller Bearings, Spherical Plain Bearings, and Parts Thereof (A-427-801)	05/01/92-04/30/93
Germany: Ball Bearings, Cylindrical Roller Bearings, Spherical Plain Bearings, and Parts Thereof (A-428-801)	05/01/92-04/30/93
India: Certain Welded Carbon Steel Standard Pipes and Tubes (A-533-502)	05/01/92-04/30/93
Italy: Ball Bearings, Cylindrical Roller Bearings, and Parts Thereof (A-475-801)	05/01/92-04/30/93
Japan: Ball Bearings, Cylindrical Roller Bearings, Spherical Plain Bearings, and Parts Thereof (A-588-804)	05/01/92-04/30/93
Japan: Impression Fabric (A-588-066)	05/01/92-04/30/93
Japan: Portable Electric Typewriters (A-588-087)	05/01/92-04/30/93
Japan: Gray Portland Cement and Clinker (A-588-815)	05/01/92-04/30/93
Romania: Ball Bearings and Parts Thereof (A-485-801)	05/01/92-04/30/93
Singapore: Ball Bearings and Parts Thereof (A-559-801)	05/01/92-04/30/93
Sweden: Ball Bearings, Cylindrical Roller Bearings, and Parts Thereof (A-401-801)	05/01/92-04/30/93
Taiwan: Certain Circular Welded Carbon Steel Pipes and Tubes (A-583-008)	05/01/92-04/30/93
Taiwan: Malleable Cast-Iron Pipe Fittings, Other Than Grooved (A-583-507)	05/01/92-04/30/93
Thailand: Ball Bearings and Parts Thereof (A-549-601)	05/01/92-04/30/93
The People's Republic of China: Certain Iron Construction Castings (A-570-502)	05/01/92-04/30/93
The Republic of Korea: Malleable Cast Iron Pipe Fittings, Other Than Grooved (A-580-507)	05/01/92-04/30/93
The United Kingdom: Ball Bearings, Cylindrical Roller Bearings, and Parts Thereof (A-412-801)	05/01/92-04/30/93
Turkey: Welded Carbon Steel Standard Pipe and Tube Products (A-489-501)	05/01/92-04/30/93
Countervailing Duty Proceedings	
Brazil: Certain Heavy Iron Construction Castings (C-351-504)	01/01/92-12/31/92
Mexico: Ceramic Tile (C-201-003)	01/01/92-12/31/92
Singapore: Antifriction Bearings (Other Than Tapered Rollered Bearings) and Parts Thereof (C-559-802)	01/01/92-12/31/92
Sweden: Viscose Rayon Staple Fiber (C-401-056)	01/01/92-12/31/92
Thailand: Ball Bearings and Parts Thereof (C-549-802)	01/01/92-12/31/92

In accordance with sections 353.22(a) and 355.22(a) of the Commerce regulations, an interested party may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping Compliance, Attention: Thomas Futtner, in room 3069-A of the main Commerce Building. Further, in accordance with section 353.31(g) or 355.31(g) of the Commerce Regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by May 31, 1993.

If the Department does not receive, by May 31, 1993, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: April 21, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93-9954 Filed 4-27-93; 8:45 am]

BILLING CODE 3510-DS-M

[A-201-802]

Gray Portland Cement and Clinker From Mexico; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On January 26, 1993, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The review covers two manufacturers/exporters of the subject merchandise to the United States and the review period April 12, 1990, through August 31, 1991.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received and the correction of certain clerical errors, we have revised the preliminary rates. The final dumping margins range from 30.44 percent to 53.26 percent.

EFFECTIVE DATE: April 28, 1993.

FOR FURTHER INFORMATION CONTACT: Marina McClelland, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-4852.

SUPPLEMENTARY INFORMATION:

Background

On January 26, 1993, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 6113) the preliminary results of its administrative review of the antidumping duty order on gray portland cement and clinker from Mexico (August 19, 1990, 58 FR 6113). The Department has now completed that review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

The products covered by this review are gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than of being ground into finished cement.

Gray portland cement is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2523.29, and cement clinker is currently classifiable under number 2523.10. Gray portland cement has also been entered under number 2523.90 as "other hydraulic cements." The HTS subheadings are provided for convenience and U.S. Customs Service purposes only. The written description remains dispositive as to the scope of the product coverage.

The review covers two manufacturers/exporters of the subject merchandise to the United States and the period April 12, 1990 through August 31, 1991. One manufacturer/exporter, Apasco, S.A. de C.V. (Apasco), made no shipments during the period of review (POR). As a result, the Department has retained as the cash deposit for Apasco the margin percentage calculated for Apasco in the final determination of sales at less than fair value.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from the Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement and the National Cement Company of California (the petitioners), and one respondent, CEMEX, S.A. (CEMEX). On March 19, 1993, we held a public hearing.

Comment 1: Relying on section 773(a)(5) of the Act of 1930, as amended, petitioners allege that through different movements in the prices of Types I and II cement in the home market, CEMEX created a fictitious market in order to reduce or eliminate the dumping margin on Type II cement. Petitioners state that the foreign market value (FMV) of Type II cement decreased while the FMV of Type I increased slightly after the issuance of the antidumping duty order on Mexican cement. Petitioners add that although Type I and Type II cement are interchangeable for most purposes, the relative quantities of Type I and Type II cement sold changed little during the period of the pricing movements.

In making this allegation, petitioners insist that the price movements relevant to a fictitious market are the movements of net, ex-factory price or FMV, rather than movements in gross price or delivered price. Moreover, petitioners argue that the statute does not require that the sales evidencing a fictitious market be non-bona fide sales.

Petitioners explain that because CEMEX sells primarily Type I cement and relatively little Type II cement in the home market, the lowering of FMV of Type II cement does not measurably affect home market revenue, while it does decrease CEMEX's financial burden of exporting goods which are assessed a large antidumping duty. Consequently, petitioners argue, the Department should reject CEMEX's home market sales of Type II cement as the basis for FMV and should instead use home market sales of Type I cement to calculate FMV. Petitioners add that under the statute, CEMEX's "plausible business reasons" are no defense against an allegation of a fictitious market.

CEMEX asserts that petitioners erroneously base their fictitious market allegation on net prices (*i.e.*, FMV). CEMEX argues that the petitioners must prove their claim of fictitious market by showing the existence of non-bona fide Type II cement sales in the home market. CEMEX also insists that the statute requires the Department to examine only the price paid by the customer, minus discounts and rebates.

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CEMEX states that these principles are clearly stated in the statute and its legislative history and are reflected in the Department's approach to previous fictitious market allegations.

CEMEX argues that there is no evidence in the record of any non-bona fide sales. In addition, CEMEX maintains that any conceivable anomaly in price movements vanishes when the price paid by the customer is examined.

CEMEX further argues that petitioners have not made any realistic challenge to CEMEX's claim that its pricing behavior resulted from good faith decision-making both before and after the antidumping duty order was issued. According to CEMEX, following the relocation of production of Type II cement to northern Mexico and an increase in rail freight rates, CEMEX made a business decision to assume responsibility for, rather than pass on, much of the resulting additional freight costs in order to retain its Type II cement customers. In addition, CEMEX decided to lower its prices of Type II cement near Chihuahua, Mexico, due to new U.S. cement competition resulting from the Mexican Government's elimination of duties on cement imported into Mexico from the United States. Therefore, CEMEX claims that any theoretical anomaly in Type II cement FMV resulted from CEMEX's legitimate business decisions to retain Type II cement customers in Mexico.

Department's Position: We disagree with petitioners' contention that the Department should disregard Type II cement sales as the basis for FMV under section 773(a)(5) of the Tariff Act. In our preliminary results of review, we found that the evidence in the record was not sufficient to establish that CEMEX had created a fictitious market (see Gray Portland Cement and Clinker from Mexico; Preliminary Results of Antidumping Duty Administrative Review, 58 FR 6113 (January 26, 1993)). After reviewing the case and rebuttal briefs, the Department continues to hold that the evidence does not warrant the finding of a fictitious market.

In reaching this conclusion, the Department does not accept CEMEX's argument that petitioners must show non-bona fide Type II cement sales. Prior to 1988, section 773(a)(1) of the Act was the only provision in the statute addressing fictitious markets. Under that provision, the analysis the Department was to undertake arguably focused only on the existence of non-bona fide sales, as the required examination addressed only the existence of pretended sales or offers for sale, or sales or offers for sale intended to establish a fictitious market. See *Monsanto v. United States*, 698 F. Supp. 275, 279 (CIT 1988); H.R. Conf. Rep. No. 79, 67th Cong., 1st Sess. at 11 (1921). However, with the addition of section 773(a)(5) to the statute in 1988, language was added to the statute expressly allowing for examination of the price movements of different forms of the subject merchandise when assessing the existence of a fictitious market. As a result, the Department clearly need not require the existence of non-bona fide sales in establishing the existence of a fictitious market. Rather, accepting all sales as legitimate, the Department can look at the price movements of the multiple forms of the subject merchandise and, depending on the nature of those price movements, find that a respondent has established a fictitious market (see Tubeless Steel Disc Wheels from Brazil; Final Results of Antidumping Duty Administrative Review, 56 FR 14083, 14085 (April 5, 1991) (Steel Wheels from Brazil); Cyanuric Acid and its Chlorinated Derivatives from Japan; Final Results of Antidumping Duty Administrative Review, 55 FR 1690, 1691 (January 18, 1990) (Cyanuric Acid from Japan); S. Rep. No. 71, 100th Cong., 1st Sess. at 126 (1987)).

In fact, section 773(a)(5) of the Act states that in determining the existence of a fictitious market, the Department may consider evidence of movements in the prices at which different forms of the subject merchandise are sold after the issuance of an antidumping duty order. The Department examines the prices paid by the customers and determines what effect the movements of those prices have on the FMV of the subject merchandise. If the price movements appear to reduce the amount by which the FMV of the merchandise exceeds the United States price (USP) of the merchandise, the Department may consider the price movements to be evidence of a fictitious market. As the legislative history of section 773(a)(5) explains:

> It has come to the Committee's attention that fictitious markets may be created relatively easily when merchandise is produced and sold in multiple forms. If a foreign manufacturer or producer exports only one of such forms to the United States and has been found to be dumping that form, he may artificially set his home market prices of the different forms to reduce the amount by which the foreign market value of the identical merchandise exceeds the U.S. price of such merchandise. If only sales of the identical merchandise are used in determining the foreign market value, the net effect of such artificial pricing may be to eliminate any finding of dumping even though the average home market price of the different forms of the merchandise may still exceed the U.S. price of the imported merchandise.
>
> For example, a chemical product may be produced and sold in powder and granular forms, both of which have similar uses and production costs. If a foreign manufacturer who produces and sells both products in his home market is found to be dumping the powder product in the United States, the only form that the manufacturer exports, he can minimize any antidumping duties finally assessed, and avoid a finding of sales at less than fair value during any review under section 751, by lowering his home market price for the powder product while maintaining or raising his home market price for the granular product.

See S. Rep. No. 71, 100th Cong., 1st Sess. at 126 (1987). See also Steel Wheels from Brazil and Cyanuric Acid from Japan.

However, contrary to petitioners' assertions, the existence of a fictitious market is not necessarily established merely on the basis of price movements without regard to the reasons that may have caused those price movements. The presence of commercial factors other than the existence of an antidumping duty order is relevant in determining whether a fictitious market exists. Thus, we have found it appropriate to consider the business justifications offered by the respondent in determining whether a fictitious home market exists. In Cyanuric Acid from Japan, the Department considered the respondent's "plausible reasons" for the price movements at issue and rejected the petitioner's fictitious market allegation.

In this case, the POR is April 12, 1990 through August 31, 1991. The Department published the antidumping duty order on August 19, 1990. After issuance of the order, and until the end of the POR, the price to the customer of CEMEX's Type I and Type II cement followed similar patterns, increasing only with the rate of inflation. However, while the FMV of Type I cement meanwhile remained steady, increasing only with the rate of inflation, the FMV of Type II cement decreased twice after issuance of the order. The net effect of the decrease in the FMV for Type II cement was a reduction in the amount by which the FMV of the merchandise exceeded the USP of this merchandise.

The decrease of the FMV of Type II cement resulted in large part from a business decision made by CEMEX not to pass on to its Type II customers certain transportation expenses that CEMEX incurred upon consolidating its Type II production. The changes in the FMV of Type II cement coincided generally with the relocation of CEMEX's production of Type II cement to a single plant in northern Mexico and a general increase in rail cargo rates. Before the issuance of the antidumping duty order, CEMEX planned to consolidate its production of Type II cement to a plant in northern Mexico. This plant is not only more efficient, but it also better facilitates sales to the United States, CEMEX's largest Type II cement market. In the spring of 1990, CEMEX began to move production of Type II cement to its northern Mexico plant. The freight charges associated with sales to most Type II customers in Mexico rose because the physical distances between plant and customer increased. In addition, in October of 1990, there was a fifteen percent increase in rail cargo rates which increased further the freight expenses for Type II cement sales.

The price of Type I cement was less affected by the general rail freight increase because CEMEX continued to produce Type I cement in all regions of the country. With many production sites, CEMEX does not depend as heavily on rail transportation of its Type I cement sales as it does for its Type II cement sales. As a result, the FMV of Type I cement was not significantly affected by the general increase in rail freight rates.

Rather than risk losing its Type II customers, CEMEX decided to assume responsibility for much of the increased freight costs resulting from the relocation of the production of Type II cement to northern Mexico and the increase in rail rates. CEMEX therefore increased only slightly the price paid by its Type II cement customers.

In addition, the FMV of Type II cement decreased as a result of CEMEX's efforts to meet the added competition in Chihuahua from U.S. exporters of Type II cement. This increase in U.S. competition resulted from the Mexican government elimination of duties on cement imported into Mexico from producers on the U.S. side of the frontier zone.

Given these facts, and in the absence of information to rebut them, the Department accepts the business reasons offered by CEMEX in this case as an explanation of the different movements of prices, unrelated to establishing a fictitious market. We do not find that CEMEX's pricing of Type I and II cement has resulted in a fictitious market.

Comment 2: Addressing the Department's cost of production (COP) calculation, petitioners contend that only the interest income specifically recorded in CEMEX's short-term interest income account should be allowed as an offset to CEMEX's interest expense; other financial income should not be allowed as an offset since it cannot be tied to short-term investments.

CEMEX contends that because of the fungibility of interest income, such income should be treated symmetrically (i.e., netted) with interest expense. Accordingly, the Department should not disregard any financial income. If, however, the Department decides to disregard CEMEX's long-term interest income, CEMEX argues that the Department should continue to disregard the monetary losses associated with that income.

Department's Position: We agree with petitioners. The Department has a well-established practice of disallowing long-term interest income offsets to interest expense because such activities are generally considered by the Department to be income-producing activities unrelated to the product under review (See Department's Position to Comment 9, Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review, 56 FR 56189, 56192 (November 1, 1991)); see also Final Determination of Sales at Less Than Fair Value; Steel Wire Rope from Korea, 58 FR 11029, 11035 (February 23, 1993)). However, the Department typically allows short-term interest income offsets to interest expense if that income can be attributed to the production of the product under review. Because CEMEX's sub-account 6421 was the only portion of interest income that we verified to be short-term, we disallowed all of CEMEX's other interest income. Given that the disallowance of long-term interest income affected the monetary correction adjustment to CEMEX's corporate financial expense, we made a corresponding adjustment to CEMEX's reported monetary correction (see our response to Comment 4 for explanation of monetary correction).

Comment 3: Petitioners contend that in calculating the cost of production, it is the Department's established practice to adjust corporate financial expense only for foreign exchange gains and losses specifically related to the cost of manufacturing the subject merchandise. Petitioners argue that because foreign exchange gains realized by certain CEMEX subsidiaries are not related to the manufacture of the subject merchandise, such gains should not be permitted to offset CEMEX's foreign exchange losses.

CEMEX contends that the Department correctly offset CEMEX's interest expense with all of CEMEX's foreign exchange gains.

Department's Position: We agree with petitioners and have made the appropriate changes in our final results. The Department has long upheld the position that foreign exchange gains and losses not specifically incurred as a cost of producing the subject merchandise should not be allowed as an offset to cost of manufacture (see Certain Stainless Steel Cooking Ware from the Republic of Korea, 58 FR 9560, 9561 (February 22, 1993)); see also Final Results of Antidumping Duty Administrative Review; Color Television Receivers, Except for Video Monitors, from Taiwan, 56 FR 31378, 31385 (July 10, 1991) and Final Determination of Sales at Less Than Fair Value: Certain Small Business Telephone Systems and Subassemblies Thereof from Korea, 54 FR 53141, 53149 (December 27, 1989)).

CEMEX's foreign exchange gains and losses largely resulted from foreign-held monetary assets and liabilities. Although many of these assets and liabilities were held by CEMEX to finance the company's general cement-producing operations, the gains and losses were not attributable to production inputs of products under review and, as such, have been disallowed in our final results. Given that the disallowance of foreign exchange gains and losses affected the monetary correction adjustment to CEMEX's corporate financial expense, we made a corresponding adjustment to CEMEX's reported monetary correction (see Comment 4 below for explanation of monetary correction.)

Comment 4: Citing Steel Wheels from Brazil, 52 FR 8947 (March 20, 1989), Paint Filters and Strainers from Brazil, 52 FR 19181, 19183 (May 21, 1987), and Frozen Concentrated Orange Juice from Brazil, 52 FR 8324, 8329 (March 17, 1987), petitioners contend that a monetary correction adjustment due to inflation should not be made to CEMEX's reported corporate financial expense because such an adjustment is contrary to Departmental precedent, would distort CEMEX's actual cost of production during the period of review, and largely results from related party transactions.

Petitioners also argue that an adjustment for monetary correction should be rejected because such an adjustment violates both Mexican and United States generally accepted accounting principles (GAAP). For example, petitioners contend that an adjustment for monetary correction violates the "matching principle" in which costs incurred during a particular period are matched with their associated revenues. Although petitioners concede that Bulletin B–10 of Mexican GAAP requires Mexican companies to report the effects of

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inflation on their monetary assets and liabilities, petitioners contend that Bulletin B–10's monetary correction provision should not be applied in this review since its purpose is to facilitate year-to-year comparisons of financial statements, not to calculate production costs. Likewise, petitioners contend that Financial Accounting Standards Board Statement of Financial Accounting Standard 89 (FASB–89), promulgated under U.S. GAAP, excludes purchasing power gains and losses from income from continuing operations.

Alternatively, petitioners argue that if the Department departs from its past practice and allows an adjustment for monetary correction to interest expense, only the portion of monetary position gain attributable to the cost of producing the subject merchandise should be allowed to offset interest expense.

CEMEX contends that the Department correctly included monetary gains and losses in the calculation of net financing expenses. CEMEX contends that the Department's adjustment for monetary position gains and losses due to inflation (*i.e.*, monetary correction) is consistent with Departmental policy and accurately reflects CEMEX's actual cost of financing in a non-distortive manner. CEMEX also contends that CEMEX's adjustment for monetary correction is consistent with the cost/revenue matching principle and is not a result of related-party transactions.

Department's Position: We disagree with petitioners and agree with respondent. The Department has a well-established practice of recognizing the effects of inflation on companies' reported costs. In Brazil, for example, a country the Department considers to be hyperinflationary, Brazilian GAAP recognizes the effects of inflation by requiring companies to index their debt principal. We also reflect the effects of inflation by calculating monthly costs of production. Our use of monthly current costs, however renders further monetary correction unnecessary.

This is not the case with Mexico. Because we do not consider Mexico to have been hyperinflationary during the period of review, we have not used monthly current costs of production in our final results. Nonetheless, Mexico did experience significant inflation during the period of review. Given that monetary correction under Mexican GAAP pertains solely to the holding of monetary assets and liabilities, not accounting for the effects of inflation, which are recognized by CEMEX's adjustment for monetary correction, would distort CEMEX's corporate financial expense and income.

Petitioners have cited the first administrative review of Porcelain-on-Steel Cookware from Mexico (Cookware), 55 FR 39186 (September 25, 1990), as precedent for disallowing adjustments for monetary correction. While the Department denied the respondent an adjustment for monetary correction in the first administrative review of Cookware, the Department accepted the adjustment in the second and third reviews. An adjustment for monetary correction was also a factor in our decision to initiate the sales-below-cost investigation of CEMEX in this review.

Citing New Minivans from Japan; Final Determination of Sales at Less Than Fair Value, 57 FR 21937 (May 26, 1992), petitioners contend that the Department does not always rely on the respondent country's GAAP when calculating cost of production. Although we agree with petitioners that the Department sometimes deviates from another country's GAAP, such deviations are usually made when adherence to that country's GAAP materially distorts a respondent's actual production costs. Given the significant inflation experienced by Mexico during the period of review, we believe that deviating from Mexican GAAP by not allowing for the monetary correction would lead to distortions in CEMEX's costs of production.

We disagree with petitioners' contention that an adjustment for monetary correction violates the "matching" of CEMEX's costs and revenues. Contrary to petitioners' assertion, the monetary correction is not simply a year-end adjustment to CEMEX's corporate financial expense. Rather, it is the sum of all corrections to financial expenses made throughout the year. Accordingly, it is an integral component of CEMEX's corporate financial expense which, if not reflected in CEMEX's corporate financial expense, would lead to distortions in CEMEX's reported cost of production.

We also disagree with petitioners' alternative assertion that monetary position gains should be limited to the portion that can be specifically tied to the cost of producing the subject merchandise. The Department has long upheld the position that financing expenses are fungible. Accordingly, consistent with past Departmental practice, we do not distinguish whether interest expense is related or unrelated to the merchandise under review (see Final Determination of Sales at Less Than Fair Value; Steel Wire Rope from Korea, 58 FR 11035 (February 23, 1993)). Therefore, we have adjusted CEMEX's interest expense for monetary correction and allocated the adjustment amount over the cost of goods sold for all products.

Petitioners' assertion that CEMEX's monetary gains result largely from related party transactions is incorrect. The financial statement footnotes to which petitioners refer apply to CEMEX's unconsolidated corporate financial statements. In accordance with Department practice, we used CEMEX's consolidated corporate financial statements in determining corporate financial expense. As stated in the footnotes to CEMEX's consolidated financial statements, all intercompany related party transactions have been eliminated.

Comment 5: CEMEX argues that the Department incorrectly adjusted the home market price for sales that CEMEX termed "anticipated" sales by adding an imputed credit revenue. These sales included a minimal number of home market sales for which CEMEX was paid in advance of shipment. CEMEX argues that the Department has had a practice of not recognizing "opportunity benefits" in USP and FMV calculations and should, therefore, reject this additional imputed credit revenue. CEMEX cites Carbon Steel Wire Rod from Brazil; Final Determination of Sales at Less than Fair Value, 48 FR 43202, 43204 (September 22, 1983), and Certain Steel Pipes and Tubes from Japan; Preliminary Determination of Sales at Less than Fair Value, 47 FR 37263, 37265 (August 25, 1982).

Petitioners claim that CEMEX financially benefitted, at the annual rate of short-term investments, from these advance payments. Therefore, petitioners argue, the Department correctly determined the number of days between receipt of payment and shipment of the cement, and then multiplied this number by CEMEX's reported home market interest rate, in order to derive an imputed credit revenue.

Department's Position: We disagree with the respondent. The Department's current practice is to recognize "opportunity benefits" in FMV calculations (see, *e.g.*, Fuel Ethanol from Brazil; Final Results of Sales at Less than Fair Value, 51 FR 5,572, 5,576 (February 14, 1986)). In Large Power Transformers from Italy; Final Results of Antidumping Duty Administrative Review, 52 FR 46806 (December 10, 1987), for example, the Department determined that if a respondent manufacturer receives payment before shipping the merchandise, the credit calculation should reflect a credit income because the respondent had use of the money prior to shipment.

Similarly, in this case, CEMEX had use of the pre-paid money prior to shipment. Therefore, the Department determines that it correctly adjusted FMV for credit revenue on pre-paid sales.

Comment 6: Petitioners argue that the Department should not deduct CEMEX's pre-sale freight expenses from its plant to its terminals in calculating FMV. Petitioners disagree with the Department's policy of deducting pre-sale freight costs from FMV. Petitioners explain that while the statute requires the Department to deduct pre-sale freight expenses from USP in both purchase price (PP) and exporter's sales price (ESP) sales, the statute contains no similar provision authorizing such deductions in the calculation of FMV.

CEMEX argues that the Department correctly followed its policy of deducting pre-sale freight expenses. CEMEX points out that this policy recently was approved by the Court of International Trade (CIT) in *Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement* v. *United States*, 787 F. Supp. 208, 213 (CIT 1992), which concerned the Department's final determination in the investigation of this case.

Department's Position: We disagree with petitioners. Since the final determination in the investigation in this case, we have followed a policy of deducting home market pre-sale freight expenses when calculating FMV for PP sales or ESP sales. This ensures an apples-to-apples comparison. See Gray Portland Cement and Clinker from Mexico; Final Determination of Sales at Less than Fair Value, 55 FR 29244 (July 18, 1990), Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Review, 56 FR 26054 (June 6, 1991); Red Raspberries from Canada; Final Results and Termination in Part of Antidumping Duty Administrative Reviews, 56 FR 677 (January 8, 1991). Further, as CEMEX notes, in the appeal of the final determination of the investigation in this case, the CIT approved the Department's policy of deducting pre-sale freight expenses when calculating FMV for PP sales.

Comment 7: Petitioners contend that it was appropriate for the Department to calculate cost of production on a monthly basis. However, because of aberrations in CEMEX's December 1990 costs of manufacture for Type II cement, best information available should be used for that month's costs.

CEMEX contends that, as verified by the Department, its December 1990 costs of manufacture for Type II cement are accurate. However, CEMEX contends that the Department should calculate CEMEX's cost of production on an annual basis rather than a monthly basis.

Department's Position: We agree with respondent. During our verification of CEMEX, we determined that the "aberrations" referred to by petitioners were the result of normal year-end adjustments recorded in CEMEX's December accounting records. Our use of monthly costs of production in our preliminary results caused the December 1990 costs for some of CEMEX's facilities to appear aberrational. We have calculated and used annual 1990 and 1991 cost of production figures in our final results.

Comment 9: Petitioners argue that the Department should apply the "arm's length test" described in Certain Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Preliminary Determination of Sales at Less Than Fair Value (Steel Flat-Rolled Products from Argentina), 58 FR 7066, 7069 (Appendix II, Section A) (February 4, 1993), in determining whether to accept related party sales for purposes of calculating FMV. According to petitioners, when that test is applied in this case, some sales made by CEMEX to related parties must be disregarded. Petitioners apply the test by disregarding sales where the weighted-average net price for an individual related party for a particular month is not equal to or greater than all unrelated customer weighted-average net prices for that month.

CEMEX disagrees with the petitioners' proposed treatment of related party transactions in the calculation of FMV. CEMEX argues that petitioners' comparison of a specific net prices of sales to a related party to an average net prices of sales to all unrelated parties from all terminals is not a valid comparison. Further, CEMEX argues that there is no legal basis for selective exclusion of related-party transactions when the sales to a particular related party are excluded in one month and then included in the next month. CEMEX asserts that the established practice by the Department is either to find all sales to a particular related party to be unreliable and exclude them all from FMV calculations, or to accept the arms-length nature of the sales to that party and include them all in the calculations. CEMEX argues finally that if petitioners had compared net prices on a terminal-specific basis and had not analyzed the sales on a monthly basis, petitioners would have discovered that net prices of sales to related customers are, on the whole, equal to or greater than the unrelated customer net prices.

Department's Position: We disagree with petitioners. The Department is currently accepting comments from interested parties on the application of the "arm's length" test described in the preliminary determination of Steel Flat-Rolled Products from Argentina. Due to the preliminary nature of the "arm's length" test used in Steel Flat-Rolled Products from Argentina, the Department used a test based on our past practice. See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts thereof from France; Final Results of Antidumping Duty Administrative Reviews, 57 FR 28393 (June 24, 1992). Upon examination, we used sales to related customers only where we determined such sales were made at arm's length, *i.e.*, at prices comparable to prices at which the firm sold identical merchandise to unrelated customers.

Comment 10: Petitioners argue that best information available (BIA) should be used to account for invoice No. CA–1528 because CEMEX incorrectly instructed the Department prior to verification to delete this invoice from the U.S. sales data base. Petitioners contend that this sale should have been included in the U.S. sales data base because the record shows that it is an ESP sale and that this sale occurred during the POR.

CEMEX argues that BIA should not be used because CEMEX reported all requested data and merely pointed out to the Department that the sale at issue should not legally be included in the antidumping calculation. CEMEX further explains that liquidation of the entry for this sale had not been suspended by the U.S. Customs Service. CEMEX states that the statute makes it clear that entries whose liquidation had not been suspended are not subject to an administrative review.

Department's Position: The Department has examined the information pertaining to the entry which was prematurely liquidated. Although the entry was liquidated, we have decided that inclusion of the sale in our analysis is appropriate in order to determine the estimated antidumping duty (cash deposit) for CEMEX. Therefore, we have included this transaction in our calculations, using the information CEMEX provided to determine the appropriate classification and adjustments.

Comment 11: Petitioners assert that certain sales reported as purchase price sales should be treated as ESP sales, because there is no evidence that these sales were made prior to the date of

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importation. According to the statute, a purchase price sale is identified as a sale that occurs prior to importation. An ESP sale may occur either before or after importation into the United States depending on certain factors. Petitioners claim that because the cement was shipped from Mexico well in advance of the reported dates of sale and CEMEX did not report the date of importation, importation likely occurred prior to the reported dates of sale and the sales, therefore, must be considered ESP sales.

CEMEX argues that the sales were correctly classified as PP sales, and that petitioners' argument is evidentiary in nature. According to CEMEX, petitioners can, at most, establish that the sales were made after exportation, but that, in itself, provides no evidence of whether a sale is ESP. CEMEX asserts that petitioners would have to show that the sales were made after importation. Without that evidence, CEMEX insists that the Department should accept CEMEX's representation, through CEMEX's classification of these sales as PP sales, that these sales were made prior to importation. CEMEX adds that petitioners' argument is based on an assumption rather than factual evidence.

Department's Position: We agree in part with petitioners. In order for the Department to determine the classification of the sales in question, the Department requested that CEMEX provide the entry documents for those sales. CEMEX provided the requested information. Upon evaluation of this and other information in the record, the Department determines that some of the sales recorded as PP sales are ESP sales because the date of importation occurred before the date of sale. Consequently, for those sales misclassified as PP sales, the Department has treated them as ESP sales. Further, because the Department does not have adequate information on which to determine the correct adjustments for these ESP sales, we have used BIA as the basis for the deductions. Treating CEMEX essentially as a cooperative respondent, the Department used a weighted-average of the ESP expenses reported in the original ESP response as BIA for these ESP sales. We purposely did not attempt to alter these expenses when analyzing the re-classified ESP sales.

Comment 12: CEMEX states that the "roller chain" principle should be applied to sales where less than 1% of the value of the product sold in the United States is of the imported merchandise.

Petitioners state that the "roller chain" principle is not applicable to any U.S. sales of cement during the period of review. Further, petitioners argue that the principle should not extend to any U.S. sales for which the Department uses BIA to calculate U.S. price.

Department's Position: We agree with petitioners. Under the so-called "roller chain" principle, the Department eliminates the assessment of duties on a product if the imported product forms less than 1 percent of the value of the further manufactured product sold in the United States. The Department articulated this approach in Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts thereof from France, 57 FR 28360 (June 24, 1992), and Roller Chain, Other than Bicycle, from Japan, 48 FR 51801 (November 14, 1983). In this case, the value of the product imported in both BIA and non-BIA further manufactured sales exceeds 1 percent. Accordingly, the Department will not apply the "roller chain" principle in this case.

Comment 13: CEMEX argues that the Department incorrectly added the adjustment for uncollected taxes to the U.S. net price in calculating the profit on U.S. further manufactured sales. According to CEMEX, the home market value added tax, real or imputed, bears no relationship to CEMEX's profit on sales of concrete in the United States, and the Department's further manufacturing methodology does not make use of the adjustment for uncollected home market taxes. CEMEX cites to the methodology used by the Department in New Minivans from Japan; Final Determination of Sales at Less than Fair Value (57 FR 21937, 21939, May 26, 1992), as an example to calculate profit on further manufactured sales in the United States.

Department's Position: We agree with CEMEX. In New Minivans from Japan, in calculating the profit on U.S. further manufactured sales, the Department deducted all value added to the minivan after importation, pursuant to section 772(e)(3) of the Act. The value added consisted of the portion of the minivan further manufactured in the United States as well as a proportional amount of profit attributable to the value added. Profit was calculated by deducting from the sales price of the minivan all production and selling costs which the company incurred with respect to the minivan. The resulting profit (or loss) amount was then allocated proportionally to all components of cost, and then only the profit (or loss) attributable to the value added was deducted in arriving at the profit (or loss) on the U.S. further manufactured sales. Consistent with this methodology, the Department does not increase the profit on a further manufactured transaction by the amount of uncollected taxes because those taxes do not contribute to the increased value resulting from further processing in the United States. Accordingly, we made the appropriate changes for our final results.

Comment 14: Petitioners contend that inventory carrying costs should not be added to home market prices when determining sales below cost.

Department's Position: We agree with petitioners and have made the appropriate change in our final results.

Comment 15: Petitioners contend that, as a result of CEMEX's refusal to provide profit data on pozzolanic cement, the Department should use BIA in calculating the profit to be used in constructed value.

CEMEX contends that the Department did not require the company to report home market sales of pozzolanic cement, that pozzolanic cement was specifically excluded from the scope of petitioners' antidumping petition, and that including profit from pozzolanic cement is irrelevant since the Department does not have to resort to constructed value in determining its final results.

Department's Position: Because we never resorted to constructive value (CV) for model match purposes, this issue is not relevant to this case.

Comment 16: Petitioners contend that the Department should use a more adverse BIA for the 1991 concrete materials costs at Sunward Materials's Tucson Division. Petitioners maintain that CEMEX misled the Department in failing to notify it that it did not calculate product-specific costs for its 1991 Tucson Division concrete materials costs. Petitioners contend that the appropriate BIA to be used for such costs should be based on the highest calculated materials cost from Sunward's Phoenix Division.

CEMEX contends that the Department's application of BIA for added material cost was unnecessary, erroneous, and excessive. CEMEX also contends that the adverse BIA proposed by petitioners is inappropriate because it is based on the costs of another division. CEMEX also contends that the approach taken by the Department in the preliminary results whereby the Tucson Division's 1990 concrete materials costs were used as BIA for 1991 Tucson Division concrete materials is already sufficiently adverse.

Department's Position: We disagree with both petitioners and respondent. CEMEX's U.S. subsidiary, Sunward Materials, did not calculate product-specific costs for any products

manufactured at Sunward's Tucson Division during 1991. Instead, respondent applied a single adjustment factor to the 1990 Tucson Division product-specific costs to reflect changes in cost from 1990 to 1991.

Respondent also did not calculate product-specific materials costs for certain types of concrete at Sunward's Tucson and Phoenix Divisions. Rather, Sunward calculated product-specific materials costs for the majority of concrete products manufactured at those two divisions and used an average cost for the remaining products at each division, respectively.

As in our preliminary results, we have had to use BIA for all products for which Sunward did not report product-specific materials costs. For the Phoenix Division, BIA was based on the highest individually calculated materials costs from the Phoenix Division. The same approach was applied to those costs not specifically calculated at the Tucson Division (*i.e.*, the Tucson Division's highest calculated cost was used). Petitioners' contention that we should apply the highest calculated cost from the Phoenix Division to the 1991 costs at the Tucson Division could be distortive in that the Phoenix Division's cost experience would not necessarily have any relation to the Tucson Division's cost experience. Accordingly, we have not changed our application of BIA to materials cost for these final results.

Comment 17: Respondent contends that the Department erred in disregarding all sales found to be below cost of production without considering whether CEMEX recovers its costs over a reasonable period of time. Respondent also contends that its home market sales were profitable during the period of review and that the costs of specific below-cost sales were recovered.

Petitioners point out that CEMEX concedes that below-cost sales were made over an extended period of time and in substantial quantities. Moreover, petitioners contend that CEMEX did not recover its costs on Type II sales.

Department's Position: We agree that CEMEX's sales below cost were made over an extended period of time without fully recovering cost. Section 773(b) of the Act provides that the Department will determine whether sales are made at less than the cost of producing the subject merchandise. If such sales are not at prices which permit recovery of all costs within a reasonable period of time, such sales shall be disregarded in the determination of FMV. Review of the legislative history regarding this provision indicates that Congress recognized that certain industries have enormous start-up costs which might cause initial sales to be below the COP. These industries, such as the commercial airliner industry mentioned in the House and Senate reports, may incur large research and development or technology costs which are not immediately recovered by sales (see, *e.g.*, House Report No. 571, 93rd Cong., 1st Sess. 71 (1973)). However, because it is clear that these costs benefit future sales, Congress would not have the Department disregard the below-cost sales if the costs would be recovered, by those future sales, in a reasonable period of time.

The Mexican cement industry is a mature industry, and CEMEX is an established manufacturer. We determined through our analysis that between 10% and 90% of CEMEX's home market sales were made at prices below cost. Given the lack of information on record to support a belief that CEMEX experienced high start-up costs, or other unusually high expenses in the review period, which would have been recovered by, and benefitted, future sales, we eliminated from our analysis those sales found to be below cost over an extended period of time.

Comment 18: CEMEX argues that inventory carrying expenses should not be subtracted in the calculation of net U.S. purchase price.

Petitioners state that this issue is moot because all sales reported by CEMEX as PP sales are actually ESP sales.

Department's Position: We agree with CEMEX. For those sales determined to be PP sales, the Department has corrected the net PP calculation, excluding inventory carrying costs from the final calculation.

Comment 19: CEMEX argues that the Department incorrectly removed handling and packing revenues from home market prices for comparison to the cost of production in the Department's sales-below-cost test.

Petitioners assert that the Department was correct in excluding handling and packing revenues from the sales-below-cost equation because handling and packing revenues were not included in the cost of production calculation. Consequently, handling and packing revenues are properly not part of the home market net price equation.

Department's Position: We agree with CEMEX. The equation for home market net price used in the preliminary results contained a clerical error. Unlike imputed revenue, handling and packing revenues are properly part of the home market net price equation because they represent actual revenues derived from sales. Accordingly, we have made the appropriate changes for our final results.

Comment 20: CEMEX claims that the Department incorrectly subtracted, rather than added the field SPECIALE in both the profit and the net U.S. price calculations. Because the field SPECIALE represents actual income realized from Sunward's further manufactured sales, CEMEX contends that it should be added to, rather than subtracted from, price to reach net price.

Petitioners argue that the Department was correct to subtract the field SPECIALE in calculating net U.S. price and profit on sales by Sunward because CEMEX failed to explain in the record what is included in the field SPECIALE and how it should be treated in calculating Sunward's net U.S. price and profit.

Department's Position: We agree with CEMEX. The Department examined the field SPECIALE during its verification of sales made by Sunward. The field SPECIALE represents extra income realized for special charges for coloring, Sunday deliveries, etc. Therefore, the Department has made the necessary correction in the final results.

Uncollected Taxes: On March 19, 1993, the United States Court of Appeals for the Federal Circuit, in affirming the decision in *Zenith Electronics Corp.* v. *United States* (*Zenith Electronics* v. *United States*), Appeals 92–1043, –1044, –1045, –1046 (Fed. Cir. March 19, 1993), ruled that section 772(d)(1)(C) of the Act provides for an addition to U.S. price to account for taxes which the exporting country would have assessed on the merchandise had it been sold in the home market, and that section 773(a)(4)(B) of the Act does not allow circumstance-of-sale adjustments to FMV for differences in taxes. Accordingly, we have chenged our practice and will no longer calculate a hypothetical tax on the U.S. product, but will, for the time being, add to the U.S. price the absolute amount of tax on the comparison merchandise sold in the country of exportation. By adding the amount of home market tax to U.S. price, absolute dumping margins are not inflated or deflated by differences between taxes included in FMV and those added to U.S. price.

In addition, we will propose a change in 19 CFR 353.2(f)(2) to provide that we will calculate weighted-average dumping margins by dividing the aggregated dumping margins, calculated as described above, by the aggregated U.S. prices net of taxes. This change would result in weighted-average dumping margin rates which are neither inflated nor deflated on account of our

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methodology of accounting for taxes paid in the home market but rebated or not collected by reason of exportation. We are in the process of drafting this proposed change, and we will begin the rule making process as soon as possible.

Clerical Errors: The Department corrected certain clerical errors which petitioners and respondent noted, as well as clerical errors the Department identified in completing its final results.

Final Results of Review

As a result of our review, we determine the weighted-average dumping margins for the period April 12, 1990, through July 31, 1991, to be:

Company	Margin Percentage
CEMEX, S.A.	30.44
Apasco, S.A. de C.V	[1]53.26

[1]For the period April 12, 1990 – July 31, 1991, Apasco, S.A. de C.V. made no shipments. In the final determination of sales at less than fair value, the Department determined a margin percentage of 53.26% for Apasco, S.A. de C.V.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of these final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse for consumption, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be the rates as listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate of 30.74 percent. This rate represents the highest rate for any firm with shipments in this review, other than those firms receiving a rate based entirely on best information available.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 21, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–9958 Filed 4–27–93; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of receipt of applications for four scientific research and enhancement permits (P503E,F,G,H).

Notice is hereby given that the Idaho Department of Fish and Game (IDFG) has applied in due form for scientific research and enhancement permits to take endangered and threatened species as authorized by the Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531–1543) and the National Marine Fisheries Service (NMFS) regulations governing endangered fish and wildlife permits (50 CFR Parts 217–227). These applications involve the artificial propagation of Pacific salmon species listed under the ESA.

Artificial Propagation of Pacific Salmon Under the ESA

In determining whether to issue Pacific salmon enhancement permits, NMFS will rely heavily on its Interim Policy on Artificial Propagation of Pacific Salmon under the ESA (58 FR 17573). The policy provides guidance on the use of artificial propagation in the conservation of listed Pacific salmon species. The use of artificially propagated Pacific salmon in recovery programs depends on available information regarding the similarity of the naturally and artificially propagated fish in genetic, phenotypic, and life-history traits, and in habitat characteristics. Artificial propagation of listed salmon species for recovery must attempt to avoid risks by preserving the genetic and ecological distinctiveness of the listed species. Artificial propagation of a listed salmon species is not a substitute for eliminating the factors causing or contributing to the species' decline.

Use of Hatchery Population Under ESA Enhancement Permits

Whether a natural population is considered distinct and hence a "species" under the ESA is determined solely by the two criteria that define an evolutionarily significant unit (ESU)—its reproductive isolation and its contribution to the biological species' evolutionary legacy. Genetic resources important to the species' evolutionary legacy may reside in hatchery fish as well as in natural fish, in which case the hatchery fish can be considered part of the biological ESU in question.

If available information indicates that existing hatchery fish can be considered part of the biological ESU, then these hatchery fish could be considered for use in recovery efforts. In this case, integration of natural broodstock of the listed species into the existing hatchery population is possible under an enhancement permit. If the hatchery population is managed for purposes other than ESA recovery efforts, directed take of natural fish from the listed species for broodstock would be prohibited.

If available information indicates that either: (1) The hatchery population in question is of a different genetic lineage than the listed natural populations, (2) artificial propagation has produced appreciable changes in the hatchery population in characteristics that are believed to have a genetic basis, or (3) there is substantial uncertainty about the relationship between existing hatchery fish and the natural population, the existing hatchery fish will not be considered part of the biological ESU. In this case, direct take of fish from the listed species for broodstock would not be permitted.

Summary of Applications

The IDFG requests authorization to conduct four (4) one-year hatchery programs in the Snake River Basin involving research on and enhancement of Snake River spring/summer chinook salmon: (1) Pahsimeroi River summer chinook salmon at Pahsimeroi Fish Hatchery (FH) (P503E); (2) South Fork of the Salmon River summer chinook salmon at McCall Fish Hatchery (P503F); (3) East Fork Salmon River (EFSR) spring chinook salmon at Sawtooth Fish Hatchery (P503G); and (4) Headwaters of the Salmon River spring chinook salmon at Sawtooth Fish Hatchery (P503H).

NMFS has made a preliminary determination that the Pahsimeroi River hatchery population cannot be considered part of the biological ESU and therefore cannot be considered for use in enhancement programs (Schiewe, 1993). NMFS has also made a preliminary determination that the South Fork Salmon River stock of spring/summer chinook salmon held at McCall FH, the headwaters of the Salmon River stock of spring/summer salmon held at Sawtooth FH, and the EFSR stocks of spring/summer chinook salmon held at Sawtooth FH, can be considered part of the biological ESU and therefore can be considered for use in enhancement programs (Schiewe, 1993). However, NMFS notes that there is considerable controversy regarding the return rate of Sawtooth FH fish. NMFS believes it is likely that this program has adversely affected the natural population by taking broodstock to support an unsuccessful hatchery operation. However, monitoring and evaluation efforts have not been adequate to fully resolve this issue. It is essential that this be remedied if further artificial propagation under the ESA is contemplated for Sawtooth FH (Schiewe, 1993).

IDFG estimates adult broodstock takes for enhancement (mitigation production) of listed Snake River spring/summer chinook salmon as follows: 570 for Pahsimeroi FH, 760 for McCall FH, 5 for Sawtooth FH (EFSR), and 21 for Sawtooth FH (headwaters of Salmon River). In addition, as part of the research (supplementation studies), IDFG proposes to release a certain percentage of the returns to the weirs upstream to spawn naturally, 33 percent in the Pahsimeroi FH, McCall FH, and Sawtooth FH (headwaters of Salmon River) programs and 50 percent in the Sawtooth FH (EFSR) program. Proposals to release progeny of the broodstock will be submitted separately.

Written data or views, or requests for a public hearing on these applications, should be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., room 8268, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on any of these particular applications would be appropriate. The holding of such hearings is at the discretion of the Assistant Administrator for Fisheries.

Documents submitted in connection with the above applications, the NMFS Interim Policy on Artificial Propagation under the ESA (58 FR 17573), and NMFS' preliminary determinations on the relationship of the hatchery populations to the natural population in the ESU of the listed species (Schiewe, 1993) are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 8268, Silver Spring, MD 20910 (301/713–2322); and

Environmental and Technical Services Division, National Marine Fisheries Service, 911 North East 11th Ave., room 620, Portland, OR 97232 (503/230–5400).

Dated: April 22, 1993.

Herbert W. Kaufman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

[FR Doc. 93–9902 Filed 4–27–93; 8:45 am]

BILLING CODE 3510–22–M

Endangered Species; Modification to Scientific Research Permit No. 777; Coastal Ecology Group, Environmental Laboratory, Waterways Experiment Station, U.S. Army Corps of Engineers

Notice is hereby given that pursuant to the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA) and the regulations governing endangered fish and wildlife (50 CFR parts 217–222), and the Conditions hereinafter set out, Scientific Research Permit No. 777, issued to the U.S. Army Corps of Engineers' Coastal Ecology Group, on April 27, 1992 (57 FR 15286), has been modified to add an increased number of takes of those species previously authorized, in order to conduct telemetric studies.

This modification grants authority for an increased directed take of up to 15 loggerhead sea turtles and 5 Kemp's ridleys to be fitted with backpack-mounted satellite tags for the purpose of monitoring the turtles' seasonal movements into and out of U.S. East coast channels coast via the ARGOS satellite. Two-hundred-fifty loggerhead and twenty-five Kemp's ridley sea turtles may be taken by trawler, equipped with radio and depth sensitive sonic tags, and monitored to assess the baseline behavior and the relocation behavior of sea turtles in dredged channels of the Southeastern United States. Trawling tests for determining sea turtle abundance in channels will be evaluated concurrently.

This modification became effective upon signature.

Documents pertaining to this Modification and the original Permit are available for review in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Hwy., room 7324, Silver Spring, Maryland 20910; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702.

Dated: April 22, 1993.

William W. Fox, Jr.,

Dirctor, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–9903 Filed 4–27–93; 8:45 am]

BILLING CODE 3510–22–M

Endangered Species; Permits

AGENCY: National Marine Fisheries Service, (NMFS) NOAA, Commerce.

ACTION: Issuance of Permit; Oregon Department of Fish and Wildlife (P211C).

On September 14, 1992, notice was published (57 FR 41921) that an application had been filed by Oregon Department of Fish and Wildlife, to take listed spring/summer chinook salmon (*Oncorhynchus tshawytscha*) for the purposes of scientific research as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife (50 CFR parts 217–222).

Notice is hereby given that on April 22, 1993, as authorized by the provisions of the ESA (16 U.S.C. 1531–1543), NMFS issued Permit Number 818 for the above taking subject to certain conditions set forth therein.

Issuance of this Permit, as required by the ESA, was based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the listed species which is the subject of this Permit; (3) is consistent with the purposes and policies set forth in Section 2 of the ESA. This Permit was also issued in accordance with and is subject to Parts 217–222 of Title 50 CFR, the NMFS regulations governing listed species permits.

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The application, Permit, and supporting documentation are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Suite 8268, Silver Spring, MD 20910 (301/713–2322); and

Environmental and Technical Services Division, National Marine Fisheries Service, 911 North East 11th Ave., Room 620, Portland, OR 97232 (503/230–5400).

Dated: April 22, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–9904 Filed 4–27–93; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Receipt of Application for a Scientific Research Permit (P394C).

Notice is hereby given that Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, AK 99826–0140, Alaska 99603, requests authorization to approach, up to 15 times each, up to 200 humpback whales (*Megaptera novaeangliae*) annually over a five-year period during the course of photo-identification studies in Alaskan waters. Authorization is also being requested to conduct opportunistic photographic identification of approximately 20 minke whales (*Balaenoptera acutorostrata*) and 200 killer whales (*Orcinus orca*) during the proposed humpback whale studies.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, NOAA, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices (by appointment):

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713–2289); and

Director, Alaska Region, National Marine Fisheries Service, NOAA, Federal Annex, 9109 Mendenhall Mall Rd., suite 6, Juneau, AK 99802 (907/586–7221).

Dated: April 22, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–9899 Filed 4–27–93; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Receipt of application for a scientific research permit (P538).

Notice is hereby given that Mr. Jan Ostman-Lind and Ms. Ania Driscoll-Lind, P.O. Box 4044, Kailua-Kona, Hawaii 96745, request authorization to approach up to 2300 spinner dolphins (*Stenella longirostris*) up to 25 times each annually, up to 7000 spotted dolphins (*Stenella attenuata*) up to 50 times each annually, and up to 2000 bottlenose dolphins (*Tursiops truncatus*) up to 50 times each annually, over a five-year period during the course of photo-identification studies. Activities will be carried out in Hawaiian waters.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, NOAA, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices (by appointment):

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4016).

Dated: April 22, 1993.

Herbert W. Kaufman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–9898 Filed 4–27–93; 8:45 am]

BILLING CODE 3510–22–M

COMMODITY FUTURES TRADING COMMISSION

Financial Products Advisory Committee; Fourth Renewal

The Commodity Futures Trading Commission has determined to renew for a period of two years its advisory committee designated as the "Commodity Futures Trading Commission Financial Products Advisory Committee." As required by section 14(a)(2)(A) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, section 14(a)(2)(A), and 41 CFR 101–6.1007 and 101–6.1029, the Commission has consulted with the Committee Management Secretariat of the General Services Administration, and the Commission certifies that the renewal of the advisory committee is in the public interest in connection with duties imposed on the Commission by the Commodity Exchange Act, 7 U.S.C. 1, *et seq.*, as amended.

The objectives and scope of activities of the Financial Products Advisory Committee are to conduct public meetings and submit reports and recommendations on issues concerning individuals and industries interested in or affected by financial markets regulated by the Commission.

Commissioner Sheila C. Bair serves as Chairman and Designated Federal Official of the Financial Products Advisory Committee. The Committee's membership represents a cross-section of interested and affected persons and groups including representatives of newer institutional market participants, such as broker-dealers, pension sponsors and investment companies; traditional market participants, such as futures commission merchants, commodity pool operators and commodity trading advisors; and representatives of the academic, legal and accounting communities and other appropriate public participants.

Interested persons may obtain information or make comments by writing to the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

Issued in Washington, DC, on April 23, 1993, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–9924 Filed 4–27–93; 8:45 am]

BILLING CODE 6351–01–M

Agricultural Advisory Committee Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, Section 10(a) and 41 CFR 101–6.1015(b), that the Commodity Futures Trading Commission's Agricultural Advisory Committee will conduct a public meeting in the Hearing Room on the basement level of the Commission's Washington, DC headquarters, 2033 K Street, NW., Washington, DC on May 17, 1993, beginning at 8:30 a.m. and lasting until 1:30 p.m. The agenda will consist of:

Agenda

I. Introductory remarks, Commissioner Joseph B. Dial;
II. Discussion of delivery issues, points, and specifications;
III. Discussion of contracts under consideration and/or being discussed by various industry groups (weaned calf, boxed beef, dairy);
IV. Discussion of speculative position limits;
V. Discussion of CFTC reauthorization issues;
VI. Enforcement presentation—investigation of futures trading;
VII. Discussion of single regulator theory;
VIII. Discussion of *Arkonsas Best*;
IX. Discussion of a Risk Management Symposium for 1995;
X. Other Committee Business; and
XI. Closing Remarks by Commissioner Joseph B. Dial.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on agricultural issues. The purposes and objectives of the Advisory Committee are more fully set forth in the May 6, 1991 fourth renewal charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Joseph B. Dial, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Training Commission Agricultural Advisory Committee c/o Kimberly N. Griles, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should also inform Ms. Griles in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duretion.

Issued by the Commission in Washington, DC on April 22, 1993.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–9855 Filed 4–27–93; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Amend Systems of Records

AGENCY: Department of the Army, DOD.

ACTION: Amend systems of records.

SUMMARY: The Department of the Army is amending five systems of records notices in its existing inventory of records system subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on May 28, 1993, unless comments are received which result in a contrary determination.

ADDRESS: U.S. Army Information Systems Command, ATTN: ASOP-MP, Fort Huachuca, AZ 85613–5000.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Turner at (602) 538-6856 or DSN 879-6856.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of the provision of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered system reports.

Dated: April 20, 1993.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

AMENDMENTS

A0040–66aDASG

SYSTEM NAME:

Medical Staff Credentials File *(February 22, 1993, 58 FR 10063).*

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add 'and medical malpractice case files' after 'clinical performance.'

* * * * *

RETENTION AND DISPOSAL:

Add 'Medical malpractice case files are destroyed after 10 years' to entry.

* * * * *

A0040–66aDASG

SYSTEM NAME:

Medical Staff Credentials File.

SYSTEM LOCATION:

Medical treatment facilities at Army commands, installations and activities. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals performing clinical practice in medical treatment facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents reflecting delineation of clinical privileges and clinical performance and medical malpractice case files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 10 U.S.C. 1071; and E.O. 9397.

PURPOSE(S):

To determine and assess capability of practitioner's clinical practice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In specific instances, clinical privileged information from this system

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of records may be provided to civilian and military medical facilities, Federation of State Medical Boards of the United States, State Licensure Authorities and other appropriate professional regulating bodies for use in assuring high quality health care.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are maintained in areas accessible only to the medical treatment facility commander and credentials committee members.

RETENTION AND DISPOSAL:

Records are retained in medical treatment facility of individual's last assignment. Records of military members are transferred to individual's Military Personnel Records Jacket upon separation or retirement. Records on civilian personnel are destroyed 5 years after employment terminates.

Medical malpractice case files are destroyed after 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Surgeon General, Headquarters, Department of the Army, 5109 Leesburg Pike, Falls Church, VA 22041–3258.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the commander of the medical treatment where practitioner provided clinical service. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

For verification purposes, the individual should provide the full name, Social Security Number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the commander of the medical treatment where practitioner provided clinical service. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

For verification purposes, the individual should provide the full name, Social Security Number, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Interviewer, individual's application, medical audit results, other administrative or investigative records obtained from civilian or military sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0040–905DASG

SYSTEM NAME:

Privately Owned Animal Record Files *(February 22, 1993, 58 FR 10066).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Veterinary service at medical facilities on Army installations and activities. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Persons who own animals authorized medical care, i.e., persons enrolled in the Defense Enrollment/Eligibility Reporting System (DEERS).'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Name, Social Security Number, home address and telephone number of animal's owner; record of treatment of animal; and related information.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3010, 5013, and 8013; and E.O. 9397'.

PURPOSE(S):

Change 'Veterinary Animal Disease Prevention and Control Facility in connection with the Veterinary Preventive Medicine and Zoonotic Disease Control Program.' to read 'Veterinary Treatment Facility.

Add a new paragraph 'Used by veterinarians and health care authorities to identify the animal, verify ownership, record history, and to insure veterinary care, treatment and immunizations provided to animals of authorized owners is recorded; to compile statistical data; conduct research; teach; assist in law enforcement, to include investigation and litigation; and evaluate the care provided.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with 'The information may be disclosed to aid in preventive health and communicable disease control programs, report medical conditions required by law to Federal, state, and local agencies.'

* * * * *

STORAGE:

Add 'and other computerized or machine readable media' after 'folders'.

RETRIEVABILITY:

Add 'and Social Security Number' after 'name'.

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Destroy upon death of the animal, transfer of owner, or 2 years after last entry in the record.'

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Office of the Surgeon General, Headquarters, Department of the Army, ATTN: DASG-VCS, 5109 Leesburg Pike, Falls Church, VA 22041–3258.'

* * * * *

A0040–905DASG

SYSTEM NAME:

Privately Owned Animal Record Files.

SYSTEM LOCATION:

Veterinary service at medical facilities on Army installations and activities. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons whose privately owned animals receive veterinary care.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, home address and telephone number of animal's owner; record of treatment of animal; and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3010, 5031 and 8012; and E.O. 9397.

PURPOSE(S):

To record registration, vaccination, and/or treatment of animals; to compile statistical data; and to identify animals registered with the Veterinary Treatment Facility.

Used by veterinarians and health care authorities to identify the animal, verify ownership, record history, and to insure veterinary care, treatment and immunizations provided to animals of authorized owners is recorded; to compile statistical data; conduct research; teach; assist in law enforcement, to include investigation and litigation; and evaluate the care provided.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information may be used to aid in preventive health and communicable disease control programs, report medical conditions required by law to Federal, state, and local agencies.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and other computerized or machine readable media.

RETRIEVABILITY:

By name and Social Security Number of the animal's owner.

SAFEGUARDS:

Records are maintained in buildings which are locked when unattended and are accessed only by authorized personnel having an official need-to-know.

RETENTION AND DISPOSAL:

Destroy upon death of the animal, transfer of owner, or 2 years after last entry in the record.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Surgeon General, Headquarters, Department of the Army, ATTN: DASG-VCS, 5109 Leesburg Pike, Falls Church, VA 22041–3258.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the veterinary facility at the installation where the animal was treated or euthanized. Official mailing addresses are published in the Army's compilation of record systems notices.

Animal owner should provide the full name, Social Security Number, home address and telephone number and the animal's rabies vaccination number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the veterinary facility at the installation where the animal was treated or euthanized. Official mailing addresses are published in the Army's compilation of record systems notices.

Animal owner should provide the full name, Social Security Number, home address and telephone number and the animal's rabies vaccination number. Personal visits may be made to the veterinary facility where animal was treated. Owner must provide personal identification such as a valid military identification card or driver's license.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the animal owner, veterinarian reports, and similar or related documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0095–1TRADOC

SYSTEM NAME:

Individual Flight Records Folder *(February 22, 1993, 58 FR 10073).*

CHANGES:

* * * * *

SYSTEM IDENTIFIER:

Change system identifier to 'A0095–1aTRADOC'.

SYSTEM LOCATION:

Delete entry and replace with 'Records are located at flight operations sections and contractor facilities at fixed Army airfields and other aviation units for all personnel on whom flight records are maintained. Including activities who approve contractor aircraft flight and ground operations procedures or use contractor personnel who operate aircraft for the government.

In addition to above locations, copies of individual flight records are maintained for active Army and Army Reserve officers at U.S. Total Army Personnel Command, ATTN: TAPC-OPE-V, 200 Stovall Street, Alexandria, VA 22332–0400;

Active Army warrant officers at U.S. Total Army Personnel Command, ATTN: TAPC-OPW-AV, 200 Stovall Street, Alexandria, VA 22332–0400;

Active Army Medical Service Corps (MSC) officers at Headquarters, Department of the Army (HQDA), ATTN: DASG-HCO-A, Skyline Place, Building 6, Falls Church, VA 22041–3258.

Army reservists not on extended active duty at U.S. Army Reserve Personnel Center, St. Louis, MO 63132–5200; National Guard Personnel at the National Guard Bureau, Aberdeen Proving Grounds, MD 21005–5000; Contractor personnel by the designated Government Flight Representative (GFR) at the contractor facility.'

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'DA Forms 759 and 759–1 (Individual Flight and Flight Certificate Army, Section I, II, and III); DA Form 4186 (Medical Recommendation for Flying Duty); DA Form 4507 (Standard Evaluation/Training Gradeslip); DD Form 1821 (Contractor - Crewmember Record); Name, Social Security Number, home address, date of birth, security clearance data, education, waivers, qualifications, disqualifications, re-qualifications, training, proficiency, and experience data, medical and physiological data, approvals to operate Government aircraft, requests for approval of contractor flight crewmember and contractor qualification training, and similar relevant documents.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add 'Army Regulation 95–20, Contractor Flight Operations'.

PURPOSE(S):

Add at end of sentence 'and to monitor and manage individual contractor flight and ground personnel records.'

STORAGE:

Delete entry and replace with 'Paper records in file folders, notebooks, and selected data automated on computer tapes and discs for management purposes.'

RETRIEVABILITY:

Delete entry and replace with 'Manual records are retrieved by individual surname.

Automated records are retrieved by name, plus any numeric identifier such as date of birth, Social Security Number, or Army serial number.'

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SAFEGUARDS:

Add at end of sentence 'Automated systems employ computer hardware/software safeguard features and controls which meet the administrative, physical, and technical safeguards of Army Regulation 380–19, Information Systems Security.'

RETENTION AND DISPOSAL:

Delete entry and replace with 'Active paper records are retained by the Flight Operations Facility until individual is transferred or separated. The records are transferred with the military personnel records jacket or civilian personnel folders, as appropriate.

Upon separation or retirement of individual, the records are retired to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St Louis, MO 63118 and U.S. Army Personnel Center (Military Personnel Records), and U.S. Army Reserve Components Personnel and Administration Center (Reserve Personnel), 9700 Page Boulevard, St. Louis, MO 63132–5200; retained for 75 years after date of birth or 60 years after date of earliest document in the folder if date of birth cannot be ascertained.

If determined by the contracting officer, contractor flight personnel records with definite legal and administrative value to or required by the Army will be preserved with Army records to which they pertain and destroyed when no longer needed. Automated management information at system locations is retained until no longer needed for current operations.'

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with 'Individuals seeking to determine if information about themselves is contained in this record system should send written inquiries to the Flight Operations Section of their current unit or contractor facility; if not on active duty, send written inquiries to addresses listed in 'system location' or to Commander, U.S. Army Aviation Center, ATTN: ATZQ-ESO, Fort Rucker, AL 36362–5000.

Individual should provide the full name, Social Security Number, details which will help locate the records, current address, and signature.'

RECORD ACCESS PROCEDURES:

Delete entry and replace with 'Individuals seeking access to records about themselves contained in this record system may visit or send written inquiry to the Flight Operations Section of their current unit or contractor facility; if not on active duty, send written inquiries to addresses listed in 'system location' or to Commander, U.S. Army Aviation Center, ATTN: ATZQ-ESO, Fort Rucker, AL 36362–5000.

Individual should provide the full name, Social Security Number, details which will help locate the records, current address, and signature.'

* * * * *

A0095–1aTRADOC

SYSTEM NAME:

Individual Flight Records Folder.

SYSTEM LOCATION:

Records are located at flight operations sections and contractor facilities at fixed Army airfields and other aviation units for all personnel on whom flight records are maintained. Including activities who approve contractor aircraft flight and ground operations procedures or use contractor personnel who operate aircraft for the government.

In addition to above locations, copies of individual flight records are maintained for active Army and Army Reserve officers at U.S. Total Army Personnel Command, ATTN: TAPC-OPE-V, 200 Stovall Street, Alexandria, VA 22332–0400;

Active Army warrant officers at U.S. Total Army Personnel Command, ATTN: TAPC-OPW-AV, 200 Stovall Street, Alexandria, VA 22332–0400;

Active Army Medical Service Corps (MSC) officers at Headquarters, Department of the Army (HQDA), ATTN: DASG-HCO-A, Skyline Place, Building 6, Falls Church, VA 22041–3258.

Army reservists not on extended active duty at U.S. Army Reserve Personnel Center, St. Louis, MO 63132–5200;

National Guard Personnel at the National Guard Bureau, Aberdeen Proving Grounds, MD 21005–5000;

Contractor personnel by the designated Government Flight Representative (GFR) at the contractor facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army aviators who are members of the Active and Reserve Components and qualified and current in the aircraft to be flown; civilian employees of Government agencies and Government contractors who have appropriate certifications or ratings, flight surgeons or aeromedical physicians' assistants in aviation service, enlisted crew chief/crew members, aerial observers, personnel in non-operational aviation positions, and those restricted or prohibited by statute from taking part in aerial flights.

CATEGORIES OF RECORDS IN THE SYSTEM:

DA Forms 759 and 759–1 (Individual Flight and Flight Certificate Army (Sections I, II, and III); DA Form 4186 (Medical Recommendations for Flying Duty), DA Form 4507 (Standard Evaluation/Training Gradeslip), DD Form 1021 (Contractor - Crewmember Record); Name, Social Security Number, home address, date of birth, security clearance data, education, waivers, qualifications, disqualifications, re-qualifications, training, proficiency, and experience data, medical and physiological data, approvals to operate Government aircraft, requests for approval or contractor flight crewmember and contractor qualification training, and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 10 U.S.C. 3013; E.O. 9397; and Army Regulation 95–20, Contractor Flight Operations.

PURPOSE(S):

To record the flying experience and qualifications data of each aviator, crew member, and flight surgeon in aviation service; and to monitor and manage individual contractor flight and ground personnel records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be disclosed to the Federal Aviation Agency and/or the National Transportation Safety Board.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of system of record notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, notebooks, and selected data automated on computer tapes and discs for management purposes.

RETRIEVABILITY:

Manual records are retrieved by individual surname.

Automated records are retrieved by name, plus any numeric identifier such as date of birth, Social Security Number, or Army serial number.

SAFEGUARDS:

Records are maintained in secure areas available only to designated persons having official need for the record.

Automated systems employ computer hardware/software safeguard features and controls which meet the administrative, physical, and technical safeguards of Army Regulation 380–19, Information Systems Security.

RETENTION AND DISPOSAL:

Active paper records are retained by the Flight Operations Facility until individual is transferred or separated. The records are transferred with the military personnel records jacket or civilian personnel folders, as appropriate.

Upon separation or retirement of individual, the records are retired to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St Louis, MO 63118 and U.S. Army Personnel Center (Military Personnel Records), and U.S. Army Reserve Components Personnel and Administration Center (Reserve Personnel), 9700 Page Boulevard, St Louis, MO 63132–5200; retained for 75 years after date of birth or 60 years after date of earliest document in the folder if date of birth cannot be ascertained.

If determined by the contracting officer, contractor flight personnel records with definite legal and administrative value to or required by the Army will be preserved with Army records to which they pertain and destroyed when no longer needed. Automated management information et system locations is retained until no longer needed for current operations.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Training and Doctrine Command, ATTN: ATIM-SR, Fort Monroe, VA 23651–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Flight Operations Section of their current unit or contractor facility; if not on active duty, send written inquiries to addresses listed in 'system location' or to Commander, U.S. Army Aviation Center, ATTN: ATZQ-ESO, Fort Rucker, AL 36362–5000.

Individual should provide the full name, Social Security Number, details which will help locate the records, current address, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system may visit or address written inquiries to the Flight Operations Section of their current unit or contractor facility; if not on active duty, furnishing full name and Social Security Number; if not on active duty, send written inquiries to addresses listed in 'system location' or to Commander, U.S. Army Aviation Center, ATTN: ATZQ-ESO, Fort Rucker, AL 36362–5000.

Individual should provide the full name, Social Security Number, details which will help locate the records, current address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Federal Aviation Administration, flight surgeons, evaluation reports, proficiency and readiness tests, and other relevant records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0095–2dTRADOC-ATC

SYSTEM NAME:

Air Traffic Controller Records *(February 22, 1993, 58 FR 10074).*

CHANGES:

SYSTEM NAME:

Delete entry and replace with 'Air Traffic Controller/Maintenance Technician Records'.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Air Traffic Controllers and Air Traffic Control Maintenance Technicians employed by the Department of the Army.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Name, Social Security Number, Air Traffic Controller and Maintenance Technician qualifications and certifications, training, proficiency data and ratings, date assigned to current facility, and similar relevant documents.'

* * * * *

PURPOSE(S):

Delete entry and replace with 'To determine proficiency of Air Traffic Controllers and Air Traffic Control Maintenance Technicians and the reliability of the Air Traffic Control system operations within the Department of the Army.'

* * * * *

STORAGE:

Delete entry and replace with 'Paper records in file folders and on cards. Selected data is automated on tapes and discs for management purposes.'

* * * * *

SAFEGUARDS:

Delete entry and replace with 'Records are maintained in secure areas available only to designated persons having official need for the record. Automated systems employ computer hardware/software safeguard features and control which meet the administrative, physical, and technical safeguards of Army Regulation 380–19, Information Systems Security.'

RETENTION AND DISPOSAL:

Delete entry and replace with 'Active paper records are retained by the Air Traffic Control facility until individual is transferred. The records are transferred with the military personnel records jacket (MPRJ) or civilian personnel folders, as appropriate.

Upon separation or retirement of individual, the records are retired to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St Louis, MO 63118 and U.S. Army Personnel Center, and U.S. Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132–5200; retain for 75 years after date of birth or 60 years after date of earliest document in the folder if date of birth cannot be ascertained. Automated management information at the primary location is retained until no longer needed for current operations.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'From the individual, individual's supervisor, Army and Federal Aviation Administration physicians, Air Traffic Control Facility Personnel Status Report (DA Form 3479–6–R), and Air Traffic Control Maintenance Personnel Certification Record.'

* * * * *

A0095–2dTRADOC-ATC

SYSTEM NAME:

Air Traffic Controller/Maintenance Technician Records.

SYSTEM LOCATION:

Primary system is at U.S. Army Aviation Center, Fort Rucker, AL 36362–5000.

Segments are located at Army Air Traffic Control facilities at fixed Army airfields and other aviation units

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requiring Air Traffic Control personnel. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Traffic Controllers and Air Traffic Control Maintenance Technicians employed by the Department of the Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, Air Traffic Controller and Maintenance Technician qualifications and certifications, training and proficiency data and ratings, date assigned to current facility, and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Aviation Act of 1958, 49 U.S.C. 313, 601, 1354, and 1421; and E.O. 9397.

PURPOSE(S):

To determine proficiency of Air Traffic Controllers and Air Traffic Control Maintenance Technicians and the reliability of the Air Traffic Control system operations within the Department of the Army.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be disclosed to the Federal Aviation Administration, the National Transportation Safety Board, and similar authorities in connection with aircraft accidents, incidents, or traffic violations.

The 'Blanket Routine Uses' published at the beginning of the Army's compilation of system of record notices also apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on cards. Selected data is automated on tapes and discs for management purposes.

RETRIEVABILITY:

Manually by individual surname; automated records are retrieved by name, plus any numeric identifier such as date of birth, Social Security Number, or Army serial number.

SAFEGUARDS:

Records are maintained in secure areas available only to designated persons having official need for the record. Automated systems employ computer hardware/software safeguard features and controls which meet the administrative, physical, and technical safeguards of Army Regulation 380–19, Information Systems Security.

RETENTION AND DISPOSAL:

Active paper records are retained by the Air Traffic Control facility until individual is transferred. The records are transferred with the military personnel records jacket or civilian personnel folders, as appropriate.

Upon separation or retirement of individual, the records are retired to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St Louis, MO 63118 and U.S. Army Personnel Center, and U.S. Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St Louis, MO 63132–5200; retained for 75 years after date of birth or 60 years after date of earliest document in the folder if date of birth cannot be ascertained. Automated management information at the primary location is retained until no longer needed for current operations.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Training and Doctrine Command, ATTN: ATIM-SR, Fort Monroe, VA 23651–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Air Traffic Control facility where assigned or to Commander, U.S. Army Aviation Center, Fort Rucker, AL 36362–5000.

Individual should provide the full name, Social Security Number, details which will facilitate locating the records, current address and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Air Traffic Control facility where assigned or to Commander, U.S. Army Aviation Center, Fort Rucker, AL 36362–5000.

Individual should provide the full name, Social Security Number, details which will help locate the records, current address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, individual's supervisor, Army or Federal Aviation Administration physicians, Air Traffic Control Facility Personnel Status Reports (DA Form 3479–6–R), and Air Traffic Control Maintenance Personnel Certification Record.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0405–10bCE

SYSTEM NAME:

Homeowners Assistance Case Files *(February 22, 1993, 58 FR 10130).*

CHANGES:

SYSTEM IDENTIFIER:

Change system identifier to read 'A0405–10qCE'.

SYSTEM LOCATION:

Delete entry and replace with 'Chief of Engineers, Headquarters U.S. Army Corps of Engineers, ATTN: CERE-R, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000.

Segments of this system are also at Corps of Engineers Major Subordinate Commands and District Commands. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Eligible federal civilian employees and military personnel who submit personal and financial information to apply for homeowners assistance benefits.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Line 4, after i.e., add 'applicant's name; Social Security Number; property address;'.

Line 19, after appraisal reports, add 'appraisal price, purchase price, benefits,'.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add two new paragraphs 'Internal Revenue Service (IRS) to determine tax liability for sale of property to the Government.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this record system.'

STORAGE:

At the end of the entry, add 'and weekly print outs.'

RETRIEVABILITY:

Delete entry and replace with 'By applicant's name; Social Security Number; application number; street address; service and type of employment i.e. civilian or armed services member and installation name.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Chief of Engineers, Headquarters U.S. Army Corps of Engineers, ATTN: CERE-R, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000.'

NOTIFICATION PROCEDURE:

Delete the first sentence and replace with 'Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief of Engineers, Headquarters U.S. Army Corps of Engineers, ATTN: CERE-R, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000.'

* * * * *

A0405–10qCE

SYSTEM NAME:

Homeowners Assistance Case Files.

SYSTEM LOCATION:

Chief of Engineers, Headquarters U.S. Army Corps of Engineers, ATTN: CERE-R, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000.

Segments of this system are also at Corps of Engineers Major Subordinate Commands and District Commands. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eligible federal civilian employees and military personnel who submit personal and financial information to apply for homeowners assistance benefits

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to the application of persons sustaining losses in real estate because of closure or reduction of military bases; e.g., applicant's name; Social Security Number; property address; employment verification; income and expense figures; information concerning offer to sell real property or similar written offer; negotiator's report; title evidence and opinions; surveys, leases; Certificate of Inspection and Possession; Payment and Closing Sheet and Receipt for US Treasurer's check; market impact data; insurance and tax data; Disclaimer by Person of Possession; DD Form 1607 (Application for Homeowners' Assistance); FHA Form 1174 (Transmittal of Recorded Deed and Title Assembly-Military Acquisition); appraisal reports, appraisal price, purchase price, benefits, docket sheets, questionnaires, copies of deeds and mortgages, mortgage settlement data, evidence of proof of ownership and occupancy of residence, applicant appeals and final decisions thereon, comparable forms and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1013, Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89–754, 80 Stat. 1290 (1966), (42 U.S.C. 3374), as amended; and E.O. 9397.

PURPOSE(S):

To process applications for homeowners assistance benefits and consider appeals; to review market studies and appraisals; to review final title assemblies of deeds of conveyance to the Government for properties acquired under the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Department of Housing and Urban Development/FHA when assuming custody of acquired homes, to manage and dispose of such properties on behalf of the Secretary of Defense.

FHA/Department of Veterans Affairs in accepting subsequent purchaser in private sales when property is encumbered by a mortgage loan guaranteed or insured by them.

Department of Justice to review final title and deeds of conveyance to the Government for properties acquired under the program, pursuant to their responsibilities under Pub L. 91–393.

Internal Revenue Service (IRS) to determine tax liability for sale of property to the Government.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tapes/disks; cards and weekly print outs.

RETRIEVABILITY:

By applicant's name; Social Security Number; application number; street address; type of employment i.e. civilian or armed services member; and installation name.

SAFEGUARDS:

All information is protected by physical security devices which include guards to the buildings and limited access only to authorized personnel having official need therefor. Access or update of information in automated media is by a system of passwords, thereby preserving integrity of the data.

RETENTION AND DISPOSAL:

Files are destroyed 10 years after final action or decision on appeals, as applicable.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Engineers, Headquarters U.S. Army Corps of Engineers, ATTN: CERE-R, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief of Engineers, Headquarters U.S. Army Corps of Engineers, ATTN: CERE-R, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000.

Individuals must provide their full name, current address and telephone number, Social Security Number, name and location of the installation closed or announced for closure, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Chief of Engineers, Headquarters U.S. Army Corps of Engineers, ATTN: CERE-R, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000.

Individuals must provide their full name, current address and telephone number, Social Security Number, name and location of the installation closed or announced for closure, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the systems manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 93–9849 Filed 4–27–93; 8:45 am]

BILLING CODE 5000–04–F

Defense Logistics Agency

Privacy Act of 1974; Amend a Record System

AGENCY: Defense Logistics Agency, DOD

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58
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ACTION: Amend a record system.

SUMMARY: The Defense Logistics Agency proposes to amend an existing system of records in the DLA inventory of systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on May 28, 1993, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Administrative Management Branch, Planning and Resource Management Division, Defense Logistics Agency, Room 5A120, Cameron Station, Alexandria, VA 11304–6100.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 617–7583.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Logistics Agency record system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, can be obtained from the address listed above.

The amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which requires the submission of an altered system report. The specific changes to the record system being amended are set forth below followed by the system notice as amended, in its entirety.

Dated: April 21, 1993.

L. M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

Amendment

S322.01 DMDC

SYSTEM NAME:

Defense Outreach Referral System (DORS) *(February 22, 1993, 58 FR 10870).*

CHANGES:

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CATEGORIES OF INDIVIDUALS COVERED:

Add a new paragraph 'Individuals covered under Pub. L. 102-484, who have applied for public employment.'

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add 'Pub. L. 102-484' to entry.

PURPOSE(S):

Change first paragraph, fourth line 'Federal' to 'public'. Delete second paragraph.

Add a new paragraph 'For former military members covered under Pub. L. 102-484, the information will be used to track the participants public employment and to verify the participant's public employment history for DoD retirement and pay eligibility.'

• • • • •

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with 'The 'Blanket Routine Uses' set forth at the beginning of DLA's compilation of systems of records notices apply to this system.'

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RETENTION AND DISPOSAL:

Change 'one year' to 'five years'.

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S322.01 DMDC

SYSTEM NAME:

Defense Outreach Referral System (DORS).

SYSTEM LOCATION:

W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93940–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Defense military and civilian personnel and their spouses, who have applied for participation in the job placement program.

Individuals covered under Pub. L. 102-484, who have applied for public employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized records consisting of name, Social Security Number, correspondence address, branch of service, date of birth, separation status, travel availability, U.S. citizenship, occupational interests, geographic location work preferences, pay grade, rank, last unit of assignment, educational levels, dates of military or civilian service, language skills, flying status, security clearances, civilian and military occupation codes, and self reported personal comments for the purpose of providing prospective employers with a centralized system for locating potential employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, 1143, 1144, 2358; Pub. L. 102-484; and E.O. 9397.

PURPOSE(S):

The purpose of this system is to facilitate the transition of military and civilian Defense personnel, and their spouses, to private industry and public employment in the event of a downsizing of the Department of Defense.

For former military members covered under Pub. L. 102-484, the information will be used to track the participants public employment and to verify the participant's public employment history for DoD retirement and pay eligibility.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage.

RETRIEVABILITY:

Retrieved by Social Security Number or occupational or geographic preference of the individual.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, administrative procedures (e.g., fire protection regulations).

Access to personal information is restricted to those who require the records in the performance of their official duties, and to the individuals who are the subject of the record or their authorized representative. Access to personal information is further restricted by the use of passwords which are changed periodically.

RETENTION AND DISPOSAL:

Records are maintained on-line for five years and then are archived as an historical data base.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Manpower Data Center, 1600 Wilson Boulevard, Suite 400, Arlington, VA 22209–2593.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Director, Defense Manpower Data Center, 1600 Wilson Boulevard, Suite 400, Arlington, VA 22209–2593.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this record system should address written inquiries to the Director, Defense Manpower Data Center, 1600 Wilson Boulevard, Suite 400, Arlington, VA 22209–2593.

Written requests for information should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license, or military or other identification card.

CONTESTING RECORD PROCEDURES:

The DLA rules for access to records and for contesting contents and appealing initial determination are contained in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The Military Services, DOD Components, and from the subject individual via application into the program.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 93–9848 Filed 4–27–93; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

[CFDA No. 84.116J]

Fund for the Improvement of Postsecondary Education—Special Focus Competition (Invitational Priority: Higher Education Collaboration and Exchange Between the United States and the European Community); Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: To provide grants or enter into cooperative agreements to improve postsecondary education opportunities.

Eligible Applicants: Institutions of higher education or combinations of such institutions and other public and private nonprofit institutions and agencies.

Deadline for Transmittal of Applications: July 20, 1993.

Deadline for Intergovernmental Review: September 18, 1993.

Applications Available: May 20, 1993.

Available Funds: It is estimated that approximately $1,500,000 will be available for an estimated 30 new awards under this competition.

Estimated Range of Awards: $42,000 to $51,000.

Estimated Average Size of Awards: $50,000.

Estimated Number of Awards: 30.

Note: The Department is not bound by any estimates in this notice.

Project Period: 24 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, and 86, with the exceptions noted in 34 CFR 630.4(b); and (b) the regulations for this program in 34 CFR part 630.

Priorities

Absolute Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 630.11(b)(1) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects addressing a particular problem area or improvement approach in postsecondary education.

Invitational Priority: Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. Under 34 CFR 75.105(c)(1), however, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects to develop new types of collaboration and exchange between institutions of higher education in the United States and their counterparts in the 12 member states of the European Community.

Selection Criteria

In evaluating applications for grants under this program competition, the Secretary uses the following selection criteria chosen from those listed in 34 CFR 630.32:

(a) *Significance for Postsecondary Education.* The Secretary reviews each proposed project for its significance in improving postsecondary education by determining the extent to which it would—

(1) Address an important problem or need;

(2) Represent an improvement upon, or important departure from, existing practice;

(3) Involve learner-centered improvements;

(4) Achieve far-reaching impact through improvements that will be useful in a variety of ways and in a variety of settings; and

(5) Increase the cost-effectiveness of services.

(b) *Feasibility.* The Secretary reviews each proposed project for its feasibility by determining the extent to which—

(1) The proposed project represents an appropriate response to the problem or need addressed;

(2) The applicant is capable of carrying out the proposed project, as evidenced by, for example—

(i) The applicant's understanding of the problem or need;

(ii) The quality of the project design, including objectives, approaches, and evaluation plan;

(iii) The adequacy of resources, including money, personnel, facilities, equipment, and supplies;

(iv) The qualifications of key personnel who would conduct the project; and

(v) The applicant's relevant prior experience;

(3) The applicant and any other participating organizations are committed to the success of the proposed project, as evidenced by, for example—

(i) Contribution of resources by the applicant and by participating organizations;

(ii) Their prior work in the area; and

(iii) The potential for continuation of the proposed project beyond the period of funding (unless the project would be self-terminating); and

(4) The proposed project demonstrates potential for dissemination to or adaptation by other organizations, and shows evidence of interest by potential users.

(c) *Appropriateness of funding projects.* The Secretary reviews each application to determine whether support of the proposed project by the Secretary is appropriate in terms of availability of other funding sources for the proposed activities.

The Secretary gives equal weight to the selection criteria on significance, feasibility, and appropriateness. Within each of these criteria, the Secretary gives equal weight to each of the subcriteria listed above. In applying the criteria, the Secretary first analyzes an application in terms of each individual criterion and subcriterion. The Secretary then bases the final judgment of an application on an overall assessment of the degree to which the applicant addresses all selection criteria.

FOR APPLICATIONS OR INFORMATION CONTACT: Fund for the Improvement of Postsecondary Education (FIPSE), U.S. Department of Education, 400 Maryland Avenue, SW., room 3100, ROB–3, Washington, DC 20202–5175. Telephone: (202) 205–0082 to order applications; or (202) 708–5750 for information. Hearing-impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339

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(in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1135–1135a–11.

Dated: April 20, 1993.

Maureen A. McLaughlin,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 93–9860 Filed 4–27–93; 8:45 am]

BILLING CODE 4000–01–U

National Education Commission on Time and Learning; Meeting

AGENCY: National Education Commission on Time and Learning, Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming public Meeting of the National Education Commission on Time and Learning. This notice also describes the functions of the Commission. Notice of this Meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE, TIME AND LOCATION: May 13, 1993 from 1 p.m. to 4:30 p.m. Washington Marriott Hotel, 1221 22nd Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Julia Anna Anderson, Deputy Executive Director, 1255 22nd Street, NW., suite 502, Washington, DC 20202–7591. Telephone: (202) 653–5063.

SUPPLEMENTARY INFORMATION: The National Education Commission on Time and Learning is established under section 102 of the Education Council Act of 1991 (20 U.S.C. 1221–1). The Commission is established to examine the quality and adequacy of the study and learning time of elementary and secondary students in the United States, including issues regarding the length of the school day and year, how time is being used for academic subjects, the use of incentives, how time is used outside of school, the extent and role of homework, year-round professional opportunities for teachers, the use of school facilities for extended learning programs, a model for adopting a longer day or year (if appropriate), suggested changes for state laws and regulations, and an analysis and estimate of the additional costs.

The Meeting of the Commission is open to the public. The proposed agenda for May 13 includes: Presentations by and discussions with representatives of curriculum standard-setting organizations. Records are kept of all Commission proceedings, and are available for public inspection at the Office of the Commission at 1255 22nd Street, NW., suite 502, Washington, DC 20202–7591 from the hours of 9 a.m. to 5:30 p.m.

Dated: April 22, 1993.

John Hodge Jones,

Chairman, National Education Commission on Time and Learning.

[FR Doc. 93–9941 Filed 4–27–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Environmental Restoration and Waste Management

Interim Mixed Waste Inventory Report: Waste Streams, Treatment Capacities and Technologies

AGENCY: Office of Environmental Restoration and Waste Management, DOE.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) has prepared an Interim Mixed Waste Inventory Report on Waste Streams, Treatment Capacities and Technologies (Report). The Report responds to the requirement of section 105(a) of the Federal Facility Compliance Act of 1992 (Pub. L. 102–386) (the Act) that the Department prepare a mixed waste inventory report within 180 days of enactment.

The Act requires that this report be submitted to the Administrator of the Environmental Protection Agency and the Governor of each State in which the DOE stores or generates mixed waste. There are currently 50 sites in 22 States that store, generate, or are expected to generate in the next five years, DOE-managed mixed wastes covered by the Act. Mixed wastes are wastes that contain both hazardous waste, regulated by the Resource Conservation and Recovery Act, and source, special nuclear or by-product material subject to the Atomic Energy Act of 1954.

Comments on the content of the Report will be considered from interested persons, organizations, and agencies in the development of the final Report.

DATES: Written comments to DOE should be received by July 26, 1993.

ADDRESSES: The report will be available to the public in late April in the following DOE Reading Rooms:

Albuquerque Operations Office, U.S. Department of Energy, National Atomic Museum, Building 20358, Wyoming Blvd, PO Box 5400, Albuquerque, New Mexico 87115

Boston Support Office, Chicago Operations Office, U.S. Department of Energy, 10 Causeway Street, Room 1197, Boston, MA 02222–1035

Headquarters, U.S. Department of Energy, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585

Bartlesville Project, Office/National, Institute for Petroleum and Energy Research (NIPER) Library, U.S. Department of Energy, 220 N. Virginia Avenue, PO Box 2128, Bartlesville, OK 74003

Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

INEL Technical Library, 1776 Science Center Drive, PO Box 1625, Idaho Falls, ID 83415–2300.

Morgantown Energy Tech Ctr Library, 3610 Collins Ferry Road, PO Box 880, Morgantown, WV 26507-0880

Oak Ridge Operations Office, U.S. Department of Energy, Office of Chief Counsel, 200 Administration Road, PO Box 2001, Oak Ridge, TN 37831-8510

Richland Operations Office, U.S. Department of Energy, 825 Jadwin Avenue, PO Box 1970, A1–65, Richland, Washington 99352

Public Reading Room, U.S. Department of Energy, 1333 Broadway Wells Fargo Bldg, Oakland, California 94612

Nevada Operations Office, U.S. Department of Energy, 2753 South Highland Drive, PO Box 98518, Las Vegas, Nevada 98518

Pittsburgh Energy Tech Ctr, U.S. Department of Energy, Cochran Mill Road, Bldg 95, PO Box 10940, Pittsburgh, PA 15236-0940

Rocky Flats Area Office, c/o Front Range Community College, 3645 West 112 Avenue, Westminster, Colorado 80030

Gregg-Granite Library, Savannah River Operations Office, University of South Carolina-Aiken, 171 University Parkway, Aiken, South Carolina 29801

Southeastern Power Administration, U.S. Department of Energy, Legal Library, Samuel Elbert Building, Public Square, Elberton, Georgia 30635

The Report can also be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The Executive Summary of the report and other summary information can be requested by calling (301) 903–7488.

Comments should be sent to: U.S. Department of Energy, Director, Office of Technical Support, EM–35, ATTN: Inventory Report, Trevion II Building, Washington, DC 20585-0002.

FOR FURTHER INFORMATION CONTACT: The Office of Technical Support (301) 903–7488.

SUPPLEMENTARY INFORMATION: As specifically required by section 105(a) of the Act, the Report contains the following information: (1) A national inventory of all mixed wastes in the DOE system, including waste currently in storage and wastes expected to be generated over the next five years; and (2) a national inventory of mixed waste treatment capacities and technologies.

The Act requires that the Administrator of the Environmental Protection Agency and the States provide any comments they might have within 90 days of issuance of the Report.

The Act also requires that DOE publish a schedule for submitting site treatment plans for the development of treatment technologies and capacities. This schedule was published in the **Federal Register** on April 6, 1993 (58 FR 17875).

The mixed waste inventory contains specific waste stream information by State for each of the sites, in the form of waste profile sheets (WPS) for each mixed waste stream in storage or expected to be generated over the next five years. The mixed waste treatment capacity inventory contains descriptions and locations of existing and proposed treatment facilities, an estimate of the available treatment capacity for each waste described in the report, and a description of the technological approaches the DOE anticipates will need to be developed for wastes with no existing treatment technology.

The Report is comprised of several volumes, including an overview volume, four State and site-specific volumes, and an Appendix volume. Volume I contains a discussion of the Report's scope and organization; an overview of DOE-managed mixed wastes and treatment facilities, existing and planned; and an overview of the technology development program for the management of these wastes. The overview also provides a guide to State and site-specific information, including waste profile sheets (WPS). Volumes II–V contain specific information for each site in the 22 States in which DOE stores or generates mixed wastes. Information in these volumes is organized alphabetically by State. Volume II contains site-specific information for California through Iowa; Volume III for Kentucky through New York; Volume IV for Ohio through South Carolina; and Volume V for Tennessee through Washington. The Appendix contains the text of the Act; detailed information on the technology development program; a description of materials not characterized as mixed waste by sampling and analysis, including radioactive low-level waste and spent nuclear fuel; and a glossary of terms.

The Report provides specific information on the following 50 sites which are located in 22 States:

California
- Energy Technology Engineering Center (ETEC)
- General Atomics
- General Electric Vallecitos Nuclear Center
- Lawrence Berkeley Laboratory
- Lawrence Livermore National Laboratory
- Laboratory for Energy-Related Health Research
- Mare Island Naval Shipyard
- Sandia National Laboratories—California

Colorado
- Grand Junction Project Office
- Rocky Flats Plant

Connecticut
- Knolls Atomic Power Laboratory—Windsor

Florida
- Pinellas Plant

Hawaii
- Pearl Harbor Naval Shipyard

Idaho
- Argonne National Laboratory-West
- Idaho National Engineering Laboratory

Illinois
- Argonne National Laboratory-East
- Site A/Plot M Palos Forest Preserve

Iowa
- Ames Labortory

Kentucky
- Paducah Gaseous Diffusion Plant

Maine
- Portsmouth Naval Shipyard

Missouri
- Kansas City Plant
- University of Missouri
- Weldon Spring Site Remedial Action Project

Nevada
- Nevada Test Site

New Jersey
- Middlesex Sampling Plant
- Princeton Plasma Physics Laboratory

New Mexico
- Inhalation Toxicology Research Institute
- Los Alamos National Laboratory
- Sandia National Laboratories—New Mexico
- Waste Isolation Pilot Plant (WIPP)

New York
- Brookhaven National Laboratory
- Colonie Interim Storage Site
- Knolls Atomic Power Laboratory
- Knolls Atomic Power Laboratory—Kesselring
- West Valley Demonstration Project

Ohio
- Battelle Columbus Laboratories Decommissioning Project
- Fernald Environmental Management Project
- Mound Plant
- Portsmouth Gaseous Diffusion Plant
- RMI Titanium Incorporated

Pennsylvania
- Bettis Atomic Power Laboratory

South Carolina
- Charleston Naval Shipyard
- Savannah River Site

Tennessee
- Oak Ridge K–25 Site
- Oak Ridge National Laboratory
- Oak Ridge Y–12 Plant

Texas
- Pantex Plant

Virginia
- Norfolk Naval Shipyard

Washington
- Hanford
- Puget Sound Naval Shipyard

The Report is approximately 4,000 pages in length. Due to the distribution complexity and high reproduction and postage costs associated with providing the Report in its entirely, DOE is encouraging interested persons, organizations, and agencies to either review the report at DOE Reading Rooms, purchase a copy of the Report through NTIS, or utilize the summary information which can be provided through the Inventory Report Information telephone number listed above.

Issued in Washington, DC, on April 22, 1993.

Paul D. Grimm,

Acting Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 93–10096 Filed 4–96–93; 2:22 pm]

BILLING CODE 6450–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Application for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

April 22, 1993.

The above named national securities exchange has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following security:

TIG Holding Inc.
Common Stock, $.01 Par Value (File No. 10506)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 17, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

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For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-9888 Filed 4-27-93; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER93-157-000, et al.]

Puget Sound Power & Light Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Puget Sound Power & Light Company

[Docket No. ER93-157-000]

April 20, 1993.

Take notice that on April 12, 1993, Puget Sound Power & Light Company (Puget) tendered for filing a Certificate of Concurrence and Cost Support Information related to the sale of the output of the Skookumchuck Hydroelectric Project to Puget Sound Power and Light.

Copies of this agreement have been served on the distribution list, as included in the filing.

Comment date: May 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Puget Sound Power & Light Company

[Docket No. ER93-183-000]

April 20, 1993.

Take notice that on April 12, 1993, Puget Sound Power & Light Company (Puget) tendered for filing an amendment in the above-referenced docket.

Comment date: May 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. West Penn Power Company

[Docket No. ER93-515-000]

April 20, 1993.

Take notice that on April 9, 1993, West Penn Power Company tendered for filing an amendment to its original filing filed in this docket on March 31, 1993.

Comment date: May 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Central Louisiana Electric Company

[Docket No. ER93-498-000]

April 20, 1993.

Take notice that on April 2, 1993, Central Louisiana Electric Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Union Electric Company

[Docket No. ER93-420-000]

April 20, 1993.

Take notice that on April 9, 1993, Union Electric Company (UE) tendered for filing Amendment—Certificate of Concurrence to filing of the Service Area Boundary Agreement dated March 12, 1991 and Amendment—Certificate of Concurrence to filing of the Interchange Agreement dated August 2, 1990 both between Arkansas Power and Light Company and UE. UE asserts that the purpose of the amendments is to allow for assignment of rate schedule designations.

Comment date: May 3, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Consumers Power Company

[Docket No. ER93-481-000]

April 20, 1993.

Take notice that on March 22, 1993, Consumers Power Company (Consumers) tendered for filing a Notice of Termination of Consumers' Rate Schedule FERC Nos. 64 and 65 and a Notice of Termination of PSI Energy, Inc.'s Rate Schedule FERC Nos. 243 and 244.

Comment date: May 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Electric Energy, Inc.

[Docket No. ER93-236-001]

April 20, 1993.

Take notice that on March 30, 1993, Electric Energy, Inc. (EEInc.) tendered for filing its compliance refund report in the above-referenced docket.

Comment date: May 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. The Montana Power Company

[Docket No. ER93-207-000]

April 20, 1993.

Take notice that on April 14, 1993, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 a supplement to its original filing of Amendments No. 1 and No. 2, as well as various Revised Exhibits, to Rate Schedule FERC No. 148, a Contract for Interconnections, Transmission Service and Inter-Utility Operations Between The Montana Power Company and the Western Area Power Administration. This supplemental filing provides additional information requested through a deficiency letter issued under this docket.

Copies of the filing were served upon the Western Area Power Administration.

Comment date: May 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Consolidated Edison Company of New York, Inc.

[Docket No. ER93-349-000]

April 20, 1993.

Take notice that on April 12, 1993, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing revised proposed supplements to its Rate Schedule FERC No. 96 and FERC No. 92.

The revised proposed supplement No. 7 to Rate Schedule FERC No. 96 increases the rates and charges for electric delivery service furnished to public customers of the New York Power Authority (NYPA) by $24,495,000 annually based on the 12-month period ending March 31, 1994.

The revised proposed supplement No. 8 to Rate Schedule FERC No. 96, applicable to electric delivery service to NYPA's non-public, economic development customers, and the revised proposed supplement No. 4 to Rate Schedule FERC No. 92, applicable to electric delivery service to commercial and industrial economic development customers of the County of Westchester Public Service Agency (COWPUSA) and the New York City Public Utility Service (NYCPUS), increase the rates and charges for the service by $582,000 annually based on the 12-month period ending March 31, 1994.

These supplements would supersede proposed supplements No. 7 and 8 to Rate Schedule FERC No. 96 and proposes supplement No. 4 to Rate Schedule FERC No. 92 which Con Edison tendered to the Commission on January 29, 1993. These supplements have never been made effective and should be deemed superseded upon grant of the relief requested in the present filing.

Con Edison seeks permission to make the rate increases to NYPA, COWPUSA and NYCPUS effective as of April 1, 1993.

A copy of this filing has been served on NYPA, COWPUSA, NYCPUS, and the New York Public Service Commission.

Comment date: May 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Consumers Power Company

[Docket Nos. ER92-331-000 and ER92-332-001]

April 21, 1993.

Take notice that on April 8, 1993, Consumers Power Company (Consumers) tendered for filing a supplemental filing in the above-referenced dockets.

Comment date: May 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Central Power and Light Company

[Docket No. ER93-562-000]

April 21, 1993.

Take notice that on April 13, 1993, Central Power and Light Company (CPL) tendered for filing a Letter Agreement dated March 12, 1993 between CPL and Magic Valley Electric Cooperative, Inc. (MVEC). Under the Letter Agreement CPL egreed to install temporary metering facilities in order to assist MVEC in providing continuous service to its customers while it completed a transmission construction project.

CPL requests that the Commission waive its notice requirements and permit the Letter Agreement to become effective as of March 22, 1993, the date on which the temporary metering point was installed at MVEC's request.

Copies of the filing have been sent MVEC and the Public Utility Commission of Texas, which regulates MVEC's rates for retail sales. Copies of this transmittal letter only have been sent to CPL's other wholesale requirements customers to advise them of the present for waiver of the notice requirements.

Comment date: May 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Louisiana Energy and Power Authority v. Central Louisiana Electric Company, Inc.

[Docket No. EL93-33-000]

April 21, 1993.

Take notice that on April 16, 1993, the Louisiana Energy and Power Authority (LEPA), on behalf of the Cities of Boyce and Elizabeth, Louisiana, tendered for filing a complaint against Central Louisiana Electric Company, Inc. (CLECO) requesting the initiation of an investigetion to determine whether CLECO's present rates for wholesale firm power to Boyce and Elizabeth, contained in CLECO's FERC Rate Schedule Nos. 22 and 23, respectively, are unjust, unreasonable and unduly discriminatory and, if so, to modify those rates to a just, reasonable and non-unduly discriminatory level. LEPA also requests that the Commission set a refund effective date of not more than 60 days after the filing of the complaint and to consolidate this docket with Docket No. ER93-498-000.

Comment date: May 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. Louis A. Simpson

[Docket No. ID-2780-000]

April 21, 1993.

Take notice that on March 25, 1993, Louis A. Simpson (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Director—Potomac Electric Power Company
Director—Salomon Inc.

Comment date: May 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

14. Southern California Edison Company

[Docket No. ER93-552-000]

April 21, 1993.

Take notice that on April 8, 1993, Southern California Edison Company (Edison) tendered for filing the following agreements between Edison and the State of California Department of Water Resources (CDWR) which have been executed concurrently on February 24, 1993:

Amendment No. 2 (Amendment) to the Power Contract Between Southern California Edison Company and State of California, Department of Water Resources
Devil Canyon, Additional Facilities and Firm Transmission Service Agreement (Agreement) Between Southern California Edison Company and State of California, Department of Water Resources

Comment date: May 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

15. Central Illinois Public Service Company

[Docket No. ER93-418-000]

April 21, 1993.

Take notice that on April 18, 1993, Central Illinois Public Service Company (CIPS) tendered for filing an amendment to its March 2, 1993 filing in this docket.

Comment date: May 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

16. Louisville Gas and Electric Company

[Docket No. ER92-533-001]

April 21, 1993.

Take notice that Louisville Gas and Electric Company (LG&E), tendered for filing on April 7, 1993 the following revised rate schedules: (1) Generation Sales Service (Rate Schedule GSS) and (2) Coordination Transmission Service (Rate Schedule CT).

In the filing, Rate Schedule GSS is modified to make the interest rate used for the determination of late payment charges (paragraph 6.1) consistent with Rate Schedules CT and T, pursuant to the Commission's Order dated January 14, 1993, and Rate Schedule CT is modified to clarify the use of an umbrella agreement.

A copy of the filing was served upon the Kentucky Public Service Commission and the Indiana Utility Regulatory Commission.

Comment date: May 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-9881 Filed 4-27-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PL92-1-001]

Incentive Ratemaking for Interstate Natural Gas Pipelines, Oil Pipelines, and Electric Utilities; Order Denying Rehearing

Issued April 22, 1993.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing.

SUMMARY: The Commission issued a policy statement in this proceeding on October 30, 1992, addressing incentive regulation as an alternative to traditional cost-of-service regulation for companies with market power. A number of parties filed requests for

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rehearing and clarification of the policy statement. This order denies the requests for rehearing and clarification.

EFFECTIVE DATE: This order will become effective on the date of issuance, April 22, 1993.

FOR FURTHER INFORMATION CONTACT: Mary E. Benge, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (202) 208–1214.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Order Denying Rehearing

Before Commissioners: Elizabeth Anne Moler, Chair; Jerry J. Langdon and Branko Terzic.

On October 30, 1992, the Commission issued a policy statement in the instant docket, which defined the essential elements of an incentive ratemaking policy and set guidelines for experimental incentive rate proposals for natural gas and oil pipelines and investor-owned electric utilities.[1] In the policy statement, the Commission did not prescribe any particular incentive rate mechanism that should be implemented by utilities wishing to propose an incentive plan; rather, the Commission suggested a range of mechanisms so that specific proposals can be flexibly adjusted to address the particular circumstances of particular utilities. The Commission stated that it would consider proposals for an experimental period, during which the Commission would consider and evaluate the success of incentive rate proposals on a case-by-case basis.

A number of parties have filed comments requesting either rehearing or clarification of the Commission's October 30, 1992 policy statement. Rather than address these requests at this time, the Commission deems it more appropriate to develop and refine its policies concerning incentive regulation in individual cases, based on the records in those cases, rather than further addressing these issues in this policy statement proceeding. This approach will provide the Commission the most latitude to assess both the merits of incentive rate proposals in the context of the facts of a specific case and the Commission's ongoing effort to streamline its regulatory oversight.

As a policy statement, this proceeding did not establish any binding norms, but merely announced the Commission's tentative intentions for future consideration of rate proposals.[2] An agency cannot apply or rely on a general statement of policy as law, but must justify its actions in individual cases based on the records in those cases. Thus, when, as here, the Commission acts through a policy statement, its contemplation is that it will develop and refine its policies on a case-by-case basis. That is particularly true in this instance, since the purpose of the policy statement was not to establish any generic incentive rate mechanism, but to encourage utilities to develop and propose incentive plans tailored to the needs of individual utilities. The Commission believes that its new policies concerning incentive regulation are best developed and refined in individual cases, where the Commission can consider the various issues in light of concrete factual circumstances.

The Commission orders: The requests for rehearing are denied.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9909 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

[1] 61 FERC ¶ 61,168 (1992); 57 FR 55231, November 24, 1992.

[2] *Pacific Gas & Electric Co. v. FPC*, 506 F.2d 33, 38 (D.C. Cir. 1974).

[Docket Nos. CP93–301–000, et al.]

United Gas Pipe Line Co., et al.; Natural Gas Certificate Filings

April 20, 1993.

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Company

[Docket No. CP93–301–000]

Take notice that on April 16, 1993, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP93–301–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to install 206 feet of 4-inch pipeline, and to construct and operate a sales tap which includes a 4-inch meter station, a 2-inch regulator station and flow computer to enable United to transport natural gas to serve United Gas Services Company (UGS) in St. James Parish, Louisiana, under the certificate issued to United in Docket No. CP82–430–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that United is authorized to provide natural gas transportation service, on an interruptible basis, to UGS under a transportation agreement dated December 19, 1990. It is further stated that the proposed facilities are required to comply with the terms of the interruptible transportation agreement to enable United to deliver 60,000 MMBtu per day of natural gas to UGS to serve Occidental's Convent Chemical Plant in St. James Parish, Louisiana. United estimates the cost of the facilities to be $105,220, which will be reimbursed by UGS.

Comment date: June 4, 1993, in accordance with Standard Paragraph F at the end of this notice.

2. Arkla Energy Resources Company

[Docket No. CP93–298–000]

Take notice that on April 15, 1993, Arkla Energy Resources Company (AER), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP93–298–000 a request pursuant to §§ 157.205, 157.211 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211, 157.212) for authorization to construct and operate certain facilities under AER's blanket certificate issued in Docket No. CP82–384–000, et al. pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

AER proposes to upgrade an existing meter station to facilitate increased deliveries of natural gas to Arkansas Louisiana Gas Company (ALG) for resale to domestic customers. AER states that the existing 1-inch meter station on Line S, originally installed to serve ALG's domestic customer, J.A. Lowe in Bossier Parish, Louisiana, would be upgraded to a 1-inch U-Shape meter station to serve domestic customers on ALG's new Rural Extension No. 1318. AER advises that the annual and peak day volumes of delivered gas would be about 1,700 Mcf and 30 Mcf, respectively. AER states that ALG would reimburse it for all construction costs, estimated to be $11,000.

Comment date: June 4, 1993, in accordance with Standard Paragraph F at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP93–300–000]

Take notice that on April 15, 1993, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77251–1478, filed a prior notice request with the Commission in Docket No. CP93–300–000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to install pipeline, metering and regulating facilities, and communications equipment for an interruptible transportation service to United Gas Services Company (UGS), under United's blanket certificates issued in Docket Nos. CP82–430–000 and CP88–6–000, all as more fully set forth in the application which is open to public inspection.

United proposes to install approximately 90 feet of 6-inch pipe, a four-inch tap, a four-inch meter station, a three-inch regulator station, and a flow computer to provide interruptible transportation service to UGS on its existing 20-inch City Service pipeline in Calcasieu Parish, Louisiana, in order to deliver 20,000 MMBtu of natural gas per day for UGS' account to the Occidental Chemical Company's Lake Charles Chemical Plant. UGS would reimburse United for the $154,028 estimated construction cost of the proposed facilities. United states that its tariff does not prohibit the proposed modification of facilities. United also states that it would transport gas for UGS under United's FERC Rate Schedule ITS.

Comment date: June 4, 1993, in accordance with Standard Paragraph F at the end of this notice.

4. United Gas Pipe Line Company

[Docket No. CP93–299–000]

Take notice that on April 15, 1993, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP93–299–000 a request pursuant to §§ 157.205 and 157.211(a)(2) of the Regulations under the Natural Gas Act for authorization to construct and install a one-inch sales tap through which United will make natural gas deliveries in Copiah County, Mississippi to Entex, Inc. (Entex) a jurisdictional sales customer under United's DG Rate Schedule, pursuant to United's blanket certificate issued in Docket No. CP82–430–000. United makes such request, all as more fully set forth in its request which is on file with the Commission and open to public inspection.

United states that it currently makes natural gas sales to Entex in its Brookhaven billing area pursuant to a service agreement dated October 1, 1991. United states that it is authorized in Docket Nos. CP91–1669–000 and RP91–126–000 to provide Entex's natural gas requirements for resale and distribution through its Brookhaven billing area. United further states that the volumes proposed to be delivered to Entex at the new tap would be within the currently effective entitlements of 20,501 MMBtu per day for the Brookhaven billing area.

United further states it would revise, construct and operate the proposed facilities in compliance with 18 CFR, part 157, subpart F, and that the proposed activities would not affect United's ability to serve its other existing customers.

Comment date: June 4, 1993, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9908 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–02860T Wyoming–39]

State of Wyoming; NGPA Amended Notice of Determination by Jurisdictional Agency Designating Tight Formation

April 22, 1993.

Take notice that on April 19, 1993, the Wyoming Oil and Gas Conservation Commission (Wyoming) amended its notice of determination that was filed in the above-referenced proceedings on January 8, 1993 pursuant to § 271.703(c)(3) of the Commission's regulations. The January 8, 1993 notice determined that the Lance Formation underlying a portion of Sublette County, Wyoming, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978.

The amended notice of determination reduces the geographical area recommended for tight formation designation to 46,080 acres. The amended area covers only Townships 28 and 29 North, Range 108 West.

The notice of determination also contains Wyoming's and the Bureau of Land Management's findings that the referenced portion of the Lance Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18

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CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9878 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RS93–2–000]

Algonquin LNG, Inc.; Change in FERC Docket Number and Compliance Filing With Order No. 636

April 23, 1993.

Take notice that on February 1, 1993, Algonquin LNG, Inc. (ALNG) tendered for filing the following proposed tariff sheets to its FERC Gas Tariff:

First Revised Volume No. 1:
Original Sheet No. 1 through Original Sheet No. 200
Fourth Revised Volume No. 2:
Original Sheet No. 1 through Original Sheet No. 103

This filing was previously noticed on February 11, 1993, under Docket Nos. CP92–166–002 and CP92–166–001. The notice appeared in the **Federal Register** on February 17, 1993 (58 FR 8938). Details of this filing may be found in that notice. This filing has now been redocketed under Docket No. RS93–2–000.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 30, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9911 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–45–003]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

April 22, 1993.

Take notice that on April 16, 1993, ANR Pipeline Company ("ANR") tendered for filing with the Federal Energy Regulatory Commission ("Commission") Second Substitute Eighth Revised Sheet No. 570 under Rate Schedule X–64 of Original Volume No. 2 of its FERC Gas Tariff to be effective for refund purposes for the period January 1, 1992 through December 31, 1992.

ANR states that this compliance filing is being made to reduce the monthly charge under Rate Schedule X–64 to reflect the final depreciation rate in HIOS Docket No. RP92–50. The reduction to the monthly charge is in accordance with the Commission's Letter Orders dated October 26, 1992 and January 8, 1993 in Docket Nos. RP92–45–001 and RP92–45–002, respectively.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before April 29, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9875 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG93–45–000]

Belize Electric Co. Ltd.; Application for Commission Determination of Exempt Wholesale Generator Status

April 21, 1993.

On April 14, 1993, Belize Electric Company Limited ("BECOL") filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

BECOL, a Belizean corporation, is owned in part by Dominion Energy Central America, Inc., a Belizean corporation and a wholly-owned subsidiary of Dominion Energy, Inc. ("DEI"), which is a wholly-owned subsidiary of Dominion Resources, Inc. ("Dominion"). DEI and Dominion are Virginia corporations.

BECOL is constructing and will own a 24 MW hydroelectric eligible facility on the Mecal River in Cayo District, Belize, Central America.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before May 7, 1993 and must be served on the applicant (c/o Michael W. Maupin, Esq., Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219). Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9880 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–4–000]

Mississippi River Transmission Corp.; Informal Settlement Conference

April 22, 1993.

Take notice that an informal settlement conference will be convened in this proceeding on May 10, 1993, at 1 p.m., and continue on May 11, 1993 at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of issues in the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined in 18 CFR 385.102(b), is invited to attend. Persons working to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Warren C. Wood at (202) 208–2091 or John J. Keating at (202) 208–0762.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9873 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–103–000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

April 22, 1993.

Take notice that on April 19, 1993, National Fuel Gas Supply Corporation (National) tendered for filing, as a rate decrease, Third Revised Volume No. 1, First Revised Sheet Nos. 5 and 6, to be effective on the date National's restructuring filing at Docket No. RS92–21–000 is made effective.

National states that the purpose of these tariff sheets is to decrease National's rates to the limited extent necessary to reflect the end of National's gas acquisition function. National states that as a consequence of National's implementation of Order No. 636 and the resulting elimination of the gas acquisition function within National, this function will be transferred on the effective date of National's restructuring to National's affiliate, National Fuel Gas Distribution Corporation.

National states that copies of the letter are being mailed to each of National's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 29, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9877 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR93–9–000]

Seagull Shoreline System; Petition for Rate Approval

April 23, 1993.

Take notice that on April 13, 1993, Seagull Shoreline System filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of 9.06 cents per MMBtu for transportation of natural gas under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Seagull Shoreline's petition states that it owns an intrastate pipeline extending approximately fifty-three miles from state tract MAT Block 624 to a Texas onshore interconnection with Houston Pipe Line Company and then extending thirteen miles to interconnections with Valero Transmission, L.P. and Texas Eastern Transmission Corporation. Seagull Shoreline's previous rate was 7.5 cents per MMBtu and was approved by the Commission in Docket No. PR90–5–000 on January 23, 1991.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before May 11, 1993. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9913 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–492–000]

South Carolina Electric & Gas Co.; Filing

April 23, 1993.

Take notice that on March 23, 1993, South Carolina Electric & Gas Company (SCEG) tendered for filing an amendment to its original filing filed in this docket on March 5, 1993.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 4, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9912 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–162–006]

Superior Offshore Pipeline Co.; Compliance Filing

April 23, 1993.

Take notice that Superior Offshore Pipeline Company (SOPCO) on March 9, 1993, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets reflecting the new rates for Firm and Interruptible transportation services Upstream and Downstream of the Lowry Gas Plant:

Second Revised Sheet No. 5
Second Revised Sheet No. 6

SOPCO states that the revised tariff sheets are being filed pursuant to the Stipulation and Agreement as filed on December 29, 1992 and approved by Commission's letter order issued February 24, 1993.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before April 30, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9910 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP86–119–028, RP92–220–004, RP86–119–031, and RP92–220–000]

Tennessee Gas Pipeline Co.; Compliance Filing

April 22, 1993.

Take notice that on April 15, 1993, Tennessee Gas Pipeline Company ("Tennessee"), P.O. Box 2511, Houston, Texas 77252, filed the following tariff sheets:

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To be effective July 1, 1992

Substitute Original Sheet No. 94
Substitute Original Sheet No. 103
Substitute Original Sheet No. 111
First Revised Sheet No. 142
First Revised Sheet No. 147
2nd Substitute Original Sheet No. 293

To be effective October 1, 1992

Substitute First Revised Sheet No. 94
Substitute First Revised Sheet No. 103
Substitute First Revised Sheet No. 111

The purpose of this filing is to comply with the Commission's Order on Compliance Filing in this docket issued on March 17, 1993. The Commission ordered Tennessee to file revised tariff sheets to: (1) Include the methodology used to determine the applicable fuel rate for Tennessee's storage rate schedules, (2) revise the interruption provision of its Rate Schedule FSST to be consistent with the revisions made to Rate Schedule SST, and (3) revise the Excuse of Performance provision of its tariff to eliminate certain language that created ambiguity.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before April 29, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9876 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP93–56–001 and RP93–86–001]

Transwestern Pipeline Co.; Compliance Filing

April 22, 1993.

Take notice that Transwestern Pipeline Company (Transwestern) on April 15, 1993, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Effective April 1, 1993

Substitute Alternate 100th Revised Sheet No. 5
Substitute 6th Revised Sheet No. 5A
Substitute 2nd Revised Sheet No. 5A.01
Substitute 2nd Revised Sheet No. 5A.02
Substitute 2nd Revised Sheet No. 5A.03
Substitute 2nd Revised Sheet No. 5A.04
Substitute 7th Revised Sheet No. 87
Substitute 8th Revised Sheet No. 87

Transwestern states that the above-referenced tariff sheets and the Mcf-miles allocation methodology information are being filed to comply with the Commission's Order issued March 31, 1993 in Docket Nos. RP93–56–000 and RP93–86–000. The Order required Transwestern to refile revised tariff sheets within fifteen (15) days of the date of the order to state in § 25.1(b) of the General Terms and Conditions that Section 25.9 applies to the described TCR mechanism. Transwestern states it is also submitting corrected rate sheets which reflect Transwestern's transportation rates filed on January 29, 1993 and approved in Docket No. RS92–87.

The Order also directed Transwestern to provide its customers with all information necessary to allow those customers to assess the impact of its change in allocation methodology from Mcf-miles to an exit-point volumetric surcharge. Transwestern further states that it is submitting a study which calculates the TCR C surcharge rates using the Mcf-miles allocation methodology. The Order permitted parties to file comments with the Commission within 45 days of the date of the order.

Transwestern states that copies of the filing were served on its jurisdictional customers, interested state commissions, and all parties to this proceeding.

Any person desiring to file comments on the filing or protest said filing should file comments and/or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such comments and/or protests should be filed on or before May 17, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9879 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–2–43–000]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 22, 1993.

Take notice that Williams Natural Gas Company (WNG) on April 19, 1993 tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Second Revised Fourteenth Revised Sheet No. 6
Second Revised Fifteenth Revised Sheet No. 6A
First Revised Fifteenth Revised Sheet No. 9

WNG states that it is filing an Out-of-Cycle Purchased Gas Adjustment filing to increase its rates effective April 1, 1993 to reflect an increase of $.2157 in the Cumulative Adjustment consistent with its revised service agreements approved July 17, 1992 in Docket No. GT92–21–000.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 29, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–9874 Filed 4–27–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 4618–8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 28, 1993.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Response Action Contractor Indemnification; EPA ICR #1595.02. This ICR requests approval of a new collection.

Abstract: Section 119(c) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, 1980 and 1986) provides that the Federal Government may indemnify Response Action Contractors (RACs) for negligent actions that cause the release of a hazardous substance, pollutant or contaminant from a Superfund site. Before government indemnificaton, the government must determine that the liability coverage in an indemnification agreement exceeds or is not covered by insurance available at a fair and reasonable price.

This ICR identifies the minimum information needed for the government to determine that a RAC has made a diligent effort to locate pollution liability insurance to cover third-party liability. The information collected also forms the basis for the government's determination of whether or not the insurance is adequate and whether or not the premium is fair and reasonable.

The following information must be submitted to EPA in writing before the government will consider providing indemnification under CERCLA section 119:

(1) A copy of the declaration page from a current pollution liability insurance policy; or

(2) Letters from three pollution liability insurance vendors indicating that such pollution liability insurance is not available and why; or

(3) A written quotation for pollution liability insurance. The quotation must be in the form of a letter from an insurance broker indicating that the broker contacted three different insurance companies. The quotation should include the following information: Name of insurer, type of policy, policy period, premium, projected annual receipts, retroactive date, limits, deductibles, major exclusions, services covered, and expiration date of contract.

Burden Statement: The estimated annual reporting burden for this collection of information is estimated to average between 275 hours and 591 hours per response, and to require three hours of recordkeeping. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing and reviewing the collection of information. The burden for providing this information will vary, depending on whether the RAC already has a pollution liability insurance policy in place, the RAC works through an insurance broker, or the RAC submits separate insurance applications to three different insurance vendors.

Estimated No. of Respondents: 312 prime or subcontractors.

Estimated Total Annual Burden on Respondents: 130,776 hours.

Frequency of Collection: varies; RACs with site-specific contracts will only have to locate pollution liability insurance once; RACs with multi-site contracts may be required to make an effort to locate insurance on an annual basis, and every time remedial action work begins at a new site.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460,
and
Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: April 22, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–9955 Filed 4–27–93; 8:45 am]

BILLING CODE 6560–60–M

[FRL–4618–4]

Science Advisory Board, Ecological Processes and Effects Committee, Biological Criteria Subcommittee; Open Meeting

May 13–14, 1993.

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Biological Criteria Subcommittee (the Subcommittee) of the Ecological Processes and Effects Committee of the Science Advisory Board will meet on May 13–14, 1993, at the Quality Inn Capitol Hill, 415 New Jersey Avenue, NW., Washington, DC 20001. The meeting is open to the public, and will begin on both days at 8:30 a.m. and end no later than 4:30 p.m. on May 14. Seating at the meeting will be on a first come basis.

Background

The Subcommittee will meet to review the draft document "Biological Criteria: Technical Guidance for Streams and Small Rivers." As part of the Charge to the Subcommittee, the Agency has requested the SAB to evaluate the adequacy of the proposed methodology in four areas:

1. Will the recommended multimetric approach to evaluating aquatic communities adequately characterize the resource?

2. Does the recommended approach to sampling frequency adequately account for seasonal variability?

3. Are the options presented for selecting reference conditions scientifically sound?

4. Does the recommended approach to selection and aggregation of biological information provide a sound basis for the development of biological criteria?

Availability of Documents and Information

Single copies of the draft guidance document and background materials provided to the Subcommittee for this review are available from Dr. George Gibson, U.S. EPA, Office of Science and Technology, Health and Ecological Criteria Division, 401 M Street, SW. (WH–586), telephone (202) 260–7580. For additional information concerning this meeting or to obtain a draft agenda, please contact Ms. Stephanie Sanzone, Designated Federal Official, or Mrs. Marcia Jolly, Staff Secretary, at (202) 260–6552, Ecological Processes and Effects Committee, Science Advisory Board (A–101F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Anyone wishing to make a presentation at the meeting must notify Mrs. Jolly and forward twenty-five copies of a written statement to her no later than May 3, 1993. Oral comments to the Subcommittee will be limited to five minutes per individual, and should not be repetitive of previously submitted written statements.

Dated: April 15, 1993.

A.R. Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 93–9953 Filed 4–27–93; 8:45 am]

BILLING CODE 6560–60–P

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[OPP-30336B; FRL-4582-4]

Ciba-Geigy Corp.; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Ciba-Geigy Corporation to conditionally register the pesticide products Primo and Cimectacarb Technical containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Product Manager (PM) 23, Registration Division (H7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-305-7850).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of May 29, 1992 (57 FR 22749), which announced that Ciba-Geigy Corp., PO Box 18300, Greensboro, NC 27419, had submitted an application to register the pesticide product Primo (EPA File Symbol 100-TEO) containing 12 percent of the active ingredient cimectacarb 4-(cyclopropyl-alpha-hydroxy-methylene)-3,5-dioxo-cyclohexanecarboxylic acid ethyl ester, an active ingredient not included in any previously registered product.

EPA also received an application from Ciba-Geigy to register the product *Cimectacarb Technical* (EPA File Symbol 100-TET), which was inadvertently omitted from the notice that published in the **Federal Register** of May 29, 1992. The product contains 92 percent of the same active ingredient as listed above. However, since the notice of receipt of application for *Cimectacarb Technical* was not published in the **Federal Register**, as required by section 3(c)(4) of FIFRA, as amended, interested parties may submit written comments within 30 days from the date of publication of this notice for this product only.

These applications were approved on February 11, 1993 as Primo (EPA Registration Number 100-729) for managing growth, improving quality, and edging of warm and cool season turfgrasses and Cimectacarb Technical (EPA Registration Number 100-727) for formulating into end use turf growth regulators intended for use in managing growth of warm and cool season turfgrasses.

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirements, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects on the environment; and that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of cimectacarb 4-(cyclopropyl-alpha-hydroxy-methylene)-3,5-dioxo-cyclohexanecarboxylic acid ethyl ester, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of cimectacarb 4-(cyclopropyl-alpha-hydroxy-methylene)-3,5-dioxo-cyclohexanecarboxylic acid ethyl ester during the period of conditional registration is not expected to cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

Consistent with section 3(c)(7)(C), the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

More detailed information on these conditional registrations is contained in the EPA Pesticide Fact Sheet, Number 239, for cimectacarb 4-(cyclopropyl-alpha-hydroxy-methylene)-3,5-dioxo-cyclohexanecarboxylic acid ethyl ester.

A copy of the fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, rm. 1128, CM #2, Arlington, VA 22202 (703-305-5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: April 19, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93-9811 Filed 4-27-93; 8:45 am]

BILLING CODE 6560-50-F

[OPP-30328A; FRL-4580-5]

Sandoz Agro, Inc.; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Sandoz Agro, Inc., to conditionally register the pesticide products Frontier Herbicide and San 582H, containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division (H7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-305-5540).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of December 11, 1991 (56 FR 64624), which announced that Sandoz Crop Protection Corp., 1300 East Touhy Avenue, Des Plaines, IL 60018, had submitted applications to register the pesticide products San 582 7.5L Herbicide and San 582H (EPA File Symbols 55947-RUN and 55947-RUR) containing the active ingredient 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)acetamide at 78.5 and 94 percent respectively, an active ingredient not included in any previously registered products.

These applications were approved on March 5, 1993, as Frontier Herbicide (formerly San 582H 7.5L Herbicide), for weed control in field corn (EPA Registration Number 55947-140) and San 582H for manufacturing use only (EPA Registration Number 55947-141).

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirements, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects on the environment; and that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of dimethenamid 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of dimethenamid 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide during the period of conditional registration is not expected to cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

Consistent with section 3(c)(7)(C), the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

More detailed information on these conditional registrations is contained on an EPA Pesticide Fact Sheet for dimethenamid 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide.

A copy of the fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, rm. 1128, CM #2, Arlington, VA 22202 (703-305-5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: April 12, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93-9815 Filed 4-27-93; 8:45 am]

BILLING CODE 6560-50-F

[OPP-180891; FRL 4584-2]

Receipt of Application for Emergency Exemption to Use Tebuconazole; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the South Carolina Department of Fertilizer and Pesticide Control, Clemson University (hereafter referred to as the "Applicant") for use of the pesticide tebuconazole (CAS No. 107534-96-3) to control Rhizoctonia limb rot and Southern stem rot on up to 14,000 acres of peanuts in South Carolina. In accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before May 12, 1993.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP-180891," should be submitted by mail to: Public Response and Human Resource Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan Stanton, Registration Division (H7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, Crystal Station I, 2800 Jefferson Davis Highway, Arlington, VA 22202 (703-308-8327).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of the fungicide, tebuconazole, available as Folicur 3.6F from Miles, Inc., to control Southern stem rot and Rhizoctonia limb rot on up to 14,000 acres of peanuts in South Carolina. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, Southern stem rot, caused by the fungus, *Sclerotium rolfsii*, is responsible for statewide yield losses of between 3 and 10 percent in South Carolina peanut

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fields, with losses of 50 to 60 percent in some fields. Rhizoctonia limb rot, caused by the fungus, *Rhizoctonia solani*, has emerged as another important disease of peanuts in the southeastern U.S., causing statewide yield losses in South Carolina of 1.5 percent annually, with losses of up to 40 percent in some field tests in recent years. According to the Applicant, no registered pesticides or alternative practices are available that will adequately control these two diseases. If tebuconazole is not available for use, economic losses of more than $4 million are expected due to stem rot and limb rot.

Under the proposed exemption, up to 4 ground applications of Folicur 3.6F would be made at 0.5 pint of product (0.225 pounds a.i.) per acre. A maximum of 2.0 pints of product (0.9 pounds a.i.) would be applied per acre per season. No applications would be made within 14 days of harvest. A maximum of 3,500 gallons of product (12,600 pounds a.i.) would be needed to treat up to 14,000 acres of peanuts.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide) (40 CFR 166.24 (a)(1)). Tebuconazole is a new chemical. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above. The Agency will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the South Carolina Department of Fertilizer and Pesticide Control.

Dated: April 14, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–9813 Filed 4–27–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4616–7]

Labat-Anderson, Inc.; Access to Trade Secret Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized Labat-Anderson, Incorporated of Arlington, Virginia, for access to information submitted to EPA pursuant to sections 303, 311, 312, 313, and 322 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), also known as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). Specifically, access concerns trade secrecy claims by industry under sections 303, 311, 312, and 313.

DATES: Access to the trade secret information submitted to EPA will occur on May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Dorothy McManus, Chemical Emergency Preparedness and Prevention Office (CEPPO), Office of Solid Waste and Emergency Response, OS–120, Environmental Protection Agency, Rm. 3101B, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–8606.

SUPPLEMENTARY INFORMATION: Under Title III, facilities must send trade secrecy claims regarding their Section 303, 311, 312, and 313 submittals to EPA.

Under contract number 68–WO–0022, awarded to ICF Incorporated, Labat-Anderson, Incorporated under Subcontract No. EPA–99–03 will continue to assist the Chemical Emergency Preparedness and Prevention Office (Office of Solid Waste and Emergency Response) in receiving and processing the information submitted by industry. EPA has determined that Labat-Anderson, Incorporated will require access to trade secret information, and in so doing, Labat-Anderson, Incorporated will follow all required security procedures.

EPA is issuing this notice to inform all submitters of trade secret information under the aforementioned Title III sections that EPA will provide Labat-Anderson, Incorporated access to these trade secret materials. Upon termination of their contract, or prior to termination of their contract at EPA's request, Labat-Anderson, Incorporated will return all material to EPA.

EPA announced clearance to access to EPCRA trade secret information by Labat-Anderson, Incorporated in a notice published in the **Federal Register** of August 8, 1988 (53 FR No. 152). Pursuant to this notice, access to clearance to EPCRA trade secret information under this contract is extended and expected to expire on September 30, 1993.

Dated: April 21, 1993.

Richard J. Guimond,

Assistant Surgeon General, USPHS, Acting Assistant Administrator.

[FR Doc. 93–9952 Filed 4–27–93; 8:45 am]

BILLING CODE 6560–50–P

[FRL–4618–5]

Notice of Proposed Administration Settlement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given that a proposed administrative cost recovery settlement concerning the Old City of York Site, York County, PA was issued by the Agency on April 12, 1993. The settlement resolves an EPA claim under section 107 of CERCLA, 42 U.S.C. 9607, against the City of York, PA. The settlement requires the City of York to pay a principal payment of $615,000 over a five year period, and an interest payment of $137,942.02 to the Hazardous Substances Superfund.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

DATES: Comments must be submitted on or before May 28, 1993.

Availability

The proposed settlement and additional background information relating to the settlement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. A copy of the proposed settlement may be obtained from Susanne Canning, U.S. Environmental Protection Agency, Regional Docket Clerk (3RC00), 841 Chestnut Building, Philadelphia, PA 19107. Comments should reference the "Old City of York Site" and "EPA Docket No. III–92–37 DC" and should be forwarded to Suzanne Canning at the above address.

FOR FURTHER INFORMATION CONTACT: Patricia C. Miller (3RC22), Assistant Regional Counsel, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597–3440.

Dated: April 20, 1993.

Stanley L. Laskowski,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. 93–9956 Filed 4–27–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 22, 1993.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0009.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License.

Form Number: FCC Form 316.

Action: Revision of a currently approved collection.

Respondents: State or local governments, non-profit institutions, and businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 920 responses; 3.25 hours average burden per response; 2,990 hours total annual burden.

Needs and Uses: Filing of FCC Form 316 is required when applying for authority for assignment of a radio broadcast station construction permit or license, or for consent to transfer control of corporation holding radio broadcast station construction permit or license where there is a little change in the relative interest or disposition of its interests; where transfer of interest is not a controlling one; where there is no substantial change in the beneficial ownership of the corporation; where the assignment is less than a controlling interest in a partnership; and where there is an appointment of an entity qualified to succeed to the interest of a deceased or legally incapacitated individual permittee, license or controlling stockholder. The data is used by FCC staff to determine if the applicant is qualified to become a Commission licensee or permittee of a commercial or noncommercial broadcast station.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–9856 Filed 4–27–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3097–EM]

Georgia; Amendment to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Georgia (FEMA–3097–EM), dated March 15, 1993, and related determinations.

EFFECTIVE DATE: April 7, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the State of Georgia dated March 15, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 15, 1993: Assistance for required emergency measures for a period of five (5) days beginning on March 13 for opening critical emergency access on collector roads and streets, minor and principal arterial roads for emergency vehicles. In addition, assistance is authorized for debris removal and emergency protective measures in the counties of: Colquitt, Houston, Liberty, Newton, Screven, and Upson.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–9916 Filed 4–27–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–3097–EM]

Georgia; Amendment to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Georgia, (FEMA–3097–EM), dated March 15, 1993, and related determinations.

EFFECTIVE DATE: April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the State of Georgia dated March 15, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 15, 1993: Assistance for required emergency measures for a period of five (5) days beginning on March 13 for opening critical emergency access on collector roads and streets, minor and principal arterial roads for emergency vehicles. In addition, assistance is authorized for debris removal and emergency protective measures in the counties of: Baldwin, Bibb, Fayette, Henry, Oconee, and Walton.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–9917 Filed 4–27–93; 8:45 a.m.]

BILLING CODE 6718–02–M

[FEMA–983–DR]

Nebraska; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

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ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Nebraska, (FEMA–983–DR), dated April 2, 1993, and related determinations.

EFFECTIVE DATE: April 19, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Nebraska dated April 2, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 2, 1993: Adams and Hall Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–9915 Filed 4–27–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–3095–EM]

Tennessee; Amendment to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of Tennessee (FEMA–3095–EM), dated March 14, 1993, and related determinations.

EFFECTIVE DATE: March 29, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of an emergency for the State of Tennessee dated March 14, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 14, 1993: Assistance for required emergency measures for a period of five (5) days beginning on March 13 for opening critical emergency access on collector roads and streets, minor and principal arterial roads for emergency vehicles in the counties of: Bedford, Lawrence, Lincoln, Moore, Rutherford, and Wilson.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–9914 Filed 4–27–93; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 3396
Name: SCAC California Inc.
Address: 9133 LaCienega Blvd., Ste. 250, Inglewood, CA 90301
Date Revoked: August 31, 1992
Reason: Surrendered license voluntarily.

License Number: 2594
Name: Federal Container Line, Inc.
Address: 291 Broadway, New York, NY 10007
Date Revoked: March 7, 1993
Reason: Failed to furnish a valid surety bond.

License Number: 3287
Name: Cargo Express International, Inc.
Address: 46 Seller Street, Kearny, NJ 07032
Date Revoked: March 13, 1993
Reason: Failed to furnish a valid surety bond.

License Number: 3354
Name: C. Kramer & Associates, Inc.
Address: 500A S. Douglas St., El Segundo, CA 90245
Date Revoked: March 18, 1993
Reason: Failed to furnish a valid surety bond.

License Number: 3488
Name: Southside Shipping Ltd.
Address: 500 Metropolitan Ave., Brooklyn, NY 11211
Date Revoked: March 18, 1993
Reason: Failed to furnish a valid surety bond.

License Number: 44
Name: Pace Shipping Co., Inc.
Address: 19 Rector Street, New York, NY 10006
Date Revoked: March 26, 1993
Reason: Failed to furnish a valid surety bond.

License Number: 3399
Name: Oceanbridge Shipping International, Inc.
Address: 22431 So. Vermont Ave., Torrance, CA 90502
Date Revoked: March 30, 1993
Reason: Failed to furnish a valid surety bond.

License Number: 3049
Name: Total Cargo Services, Inc.
Address: 6231 NE 112th Ave., Portland, OR 97220
Date Revoked: April 6, 1993
Reason: Surrendered license voluntarily.

License Number: 2891
Name: John G. Grillet dba J. Grillet International
Address: P.O. Box 35935, Houston, TX 77235
Date Revoked: April 15, 1993
Reason: Surrendered license voluntarily.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 93–9919 Filed 4–27–93; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 3396
Name: SCAC California Inc.
Address: 9133 LaCienega Blvd., Ste. 250, Inglewood, CA 90301
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Reason: Failed to furnish a valid surety bond.

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Date Revoked: March 18, 1993
Reason: Failed to furnish a valid surety bond.

License Number: 44
Name: Pace Shipping Co., Inc.
Address: 19 Rector Street, New York, NY 10006
Date Revoked: March 26, 1993
Reason: Failed to furnish a valid surety bond.

License Number: 3399
Name: Oceanbridge Shipping International, Inc.
Address: 22431 So. Vermont Ave., Torrance, CA 90502
Date Revoked: March 30, 1993
Reason: Failed to furnish a valid surety bond.

License Number: 2891
Name: John G. Grillet dba J. Grillet International
Address: P.O. Box 35935, Houston, TX 77235
Date Revoked: April 15, 1993
Reason: Surrendered license voluntarily.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 93–9883 Filed 4–27–93; 8:45 am]

BILLING CODE 6730–01–M

SeaWay Forwarding Corp. and Danzas Seaway; Correction

By notice published in the **Federal Register** on Wednesday, February 17, 1993 (58 FR 8761) Seaway Forwarding Corporation and Danzas Seaway, Division of Seaway Forwarding Corporation was listed as having its ocean freight forwarder license (No. 1185) revoked because of a failure to furnish a valid bond. This is incorrect. Seaway Forwarding Corporation and Danzas Seaway, Division of Seaway Forwarding Corporation did not have its license revoked due to its failure to furnish a bond. Rather, Seaway Forwarding Corporation and Danzas Seaway, Division of Seaway Forwarding Corporation voluntarily surrendered its license for revocation.

Dated: April 23, 1993.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 93–9918 Filed 4–27–93; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

U.S. International Transport, Inc., 6508 N.W. 82nd Ave., Miami, FL 33166. Officers: Eduard Fabelo, President, Manuel Orestes Fabelo, Secretary, Zenaida Rodriquez, Vice President

Americargo International Forwarders, Inc., 5495 N.W. 72nd Avenue, Miami, FL 33166. Officers: Marc W. Machon, President, Arcadio Hernandez, Vice President

Bacarella Transportation Services, Inc., 225 Masarik Ave., Stratford, CT 06497. Officers: Anthony Bacarella, President, Rosario Bacarella, Vice President

Aero Expediting Inc., 29205 Airport Drive, Romulus, MI 48174. Officers: Colleen E. Taylor, President, Kathleen A. Raymor, Vice President, David M. Opra, Vice President International

Shipping International, 19811 Misty Pines Drive, Humble, TX 77346, William Eric Carroll, Sole Proprietor

Central Forwarding Inc., 1600 West Loop 340, Waco, TX 76712–0817. Officers: James H. Alexander, President/Treasury/Director, Philip L. Hering, Vice President

Ultra Cargo, Inc., 1540 Meridian Ave., Miami, FL 33139. Officers: Luis Parody, President, Teresita Parody, Vice President

Dated: April 22, 1993.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–9884 Filed 4–27–93; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N–0139]

Food Labeling; Foods Derived From New Plant Varieties

AGENCY: Food and Drug Administration, HHS.

ACTION: Request for data and information.

SUMMARY: The Food and Drug Administration (FDA) is announcing a request for data and information on certain labeling issues pertaining to the agency's recent statement of policy concerning foods derived from new plant varieties that appeared in the **Federal Register** of May 29, 1992 (57 FR 22984). This request will provide an opportunity for interested persons to present data and other information on these specific issues.

DATES: Written comments by July 27, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Center for Food Safety and Applied Nutrition (HFS–13), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4359.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of May 29, 1992 (57 FR 22984), FDA published a document entitled "Statement of Policy: Foods Derived from New Plant Varieties" that clarifies the agency's interpretation of the Federal Food, Drug, and Cosmetic Act (the act) with respect to foods derived from new plant varieties. This policy statement was issued to ensure that relevant scientific, safety, and regulatory issues are resolved prior to the introduction of such foods into the marketplace. In that notice, FDA invited interested persons to submit written comments on or before August 27, 1992. In response to a request, FDA reopened the comment period for an additional 30 days (to October 15, 1992) by a notice in the **Federal Register** of September 15, 1992 (57 FR 42588).

FDA's preliminary review of the comments reflects that several issues were raised frequently with respect to the policy statement, such as: (1) Appropriate labeling of foods derived from new plant varieties developed using "genetic engineering" techniques; (2) the potential allergenicity of foods derived from "genetically engineered" plants; (3) the need for premarket notification to FDA, or agency approval, of all new plant varieties developed using "genetic engineering" techniques; and (4) appropriate testing of foods derived from new plant varieties developed using "genetic engineering" techniques.

FDA seeks to foster public dialogue on issues related to the policy statement so that any needed refinement in the policy can be based on all relevant information and views. One set of issues raised by the comments concerns how foods derived from plants developed via "genetic engineering" should be labeled; FDA believes that this set of issues warrants further dialogue. Because this set of issues raises complex scientific and legal questions, FDA is

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announcing this request for additional data and factual information relative to the labeling of foods derived from "genetically engineered" plants. FDA intends to evaluate the data and information received in response to this request to identify specific issues to be discussed at a public forum to be announced in a future issue of the **Federal Register**. FDA's goal is to foster substantive dialogue on how the legal principles under the act apply to the complex issues raised by the comments.

In the near future, FDA intends to engage the scientific community on the question of the potential for food allergy raised by foods derived from new plant varieties, and the agency will announce its plans regarding this question in a future issue of the **Federal Register**. If, upon further review of the comments and other relevant information, FDA determines that the resolution of other issues raised by the comments on the policy statement would benefit from additional information and public discussion, FDA will initiate appropriate proceedings to resolve those issues.

II. Requirements for Labeling

The act provides FDA with the authority to regulate the labeling of foods, including foods derived from new plant varieties. It is in the context of this legal authority that the labeling issues set out below in section III. of this document should be addressed. Here, FDA discusses the labeling requirements of the act and provides some examples to illustrate how the legal principles have been applied to require the disclosure of certain information in labeling for a food.

The requirements for food labeling are in section 403 of the act (21 U.S.C. 343). Under section 403(a)(1) of the act, a food is misbranded if its labeling is false or misleading. Under section 201(n) of the act (21 U.S.C. 321(n)), labeling is misleading if it fails to reveal all facts that are "material in light of • • • representations or material with respect to consequences which may result from the use of the article to which the labeling • • • relates under the conditions of use prescribed in the labeling • • • or under such conditions of use as are customary or usual."

Section 403(i) of the act and regulations promulgated thereunder require that a food product be described by its common or usual name or, in the absence thereof, an appropriately descriptive term (21 CFR 101.3). Section 403(i) of the act also requires that, in the case of foods fabricated from two or more ingredients, a food product bear on the label the common or usual name of each ingredient.

Many consumers commented that they had a right or desire to know that a food had been derived from a plant developed by "genetic engineering." Comments also requested that multi-ingredient foods that contain one or more ingredients developed by "genetic engineering" be so labeled. The principal legal theory that might support such a requirement is that such information is material within the meaning of section 201(n) of the act. In support of these requests, comments cited language in the final rule on food irradiation (April 18, 1986, 51 FR 13376), in which FDA stated:

> Whether information is material under section 201(n) of the act depends not on the abstract worth of the information but on whether consumers view such information as important and whether the omission of label information may mislead a consumer.

Historically, FDA has generally limited the scope of the materiality concept in section 201(n) of the act to information about the attributes of the food itself. With respect to the process of irradiation, FDA concluded that irradiation could cause changes in organoleptic properties of the finished food and that, without special labeling, consumers might assume that such foods were unprocessed (51 FR 13376, April 18, 1986). The fact that a food had been irradiated was, therefore, deemed to be material information that under section 201(n) of the act was required to be in labeling for the food. Importantly, however, FDA concluded (December 30, 1988, 53 FR 53176 at 53205) that the fact that an ingredient of a food had been irradiated was not material information required on the label of foods that contain such ingredient because:

> [T]he act does not require that the label declare details of processing for each ingredient. • • • FDA had no evidence that irradiation of an ingredient would affect the characteristics of a multiple ingredient food in any significant way. Therefore, the agency concluded that the labeling requirements for irradiated ingredients should be the same as for any other processed ingredients, namely, to declare them by their common or usual name without any requirement for stating whether they were processed • • •.

Proposed and final labeling requirements for protein hydrolysates also illustrate how the agency has applied section 201(n) of the act in conjunction with the requirement in section 403(i) of the act that each ingredient in a food be listed by its common or usual name. The agency recently promulgated a final rule requiring the common or usual name of a protein hydrolysate to include the identity of the food source from which the protein was derived (§ 102.22 (21 CFR 102.22)). The agency determined that, because the source of a protein hydrolysate has a significant effect on the product's composition and function, it must be identified in the common or usual name to describe adequately the basic nature of the ingredient, as required by § 102.5(a) (21 CFR 102.5(a)). (See the proposed rule on declaration of ingredients (56 FR 28592 at 28599, June 21, 1991) and the final rule on declaration of ingredients (58 FR 2850 at 2867, January 6, 1993)). For example, "hydrolyzed soy protein" is an acceptable name, but "hydrolyzed vegetable protein" is not (21 CFR 102.22(a)).

The agency also recognized that, for religious or cultural reasons, consumers are interested in being able to identify the source of a protein hydrolysate and determined that for these consumers the protein source of a protein hydrolysate is a material fact (56 FR 28592 at 28600; 58 FR 2850 at 2866). The agency determined, however, that more detailed source declarations, such as the identification of hydrolyzed casein as a milk-derived ingredient, were not necessary to inform consumers about the nature of the protein hydrolysate, although consumers requested the information based in part on religious or cultural dietary concerns (58 FR 2850 at 2867; 56 FR 28592 at 28600). The agency also rejected the suggestion that limiting the required declaration to "animal" or "vegetable" would be sufficient to address religious or cultural concerns, because such generic source labeling would not describe the basic nature of the protein hydrolysate and so would not fully comply with § 102.5(a) (58 FR 2850 at 2867).

At the same time as it issued the final rule requiring protein source declarations, the agency proposed to require the phrase "(contains glutamate)" to be part of the common or usual name of certain protein hydrolysates (58 FR 2950, January 6, 1993). Although consumers had expressed interest in this information for health reasons, the agency determined that no public health basis existed for imposing the requirement, and stated that its tentative decision to require the declaration was not based on any failure of labeling to reveal material facts regarding consequences that may result from the customary or usual use of the hydrolyzed protein (58 FR 2950 at 2951). Rather, the agency tentatively concluded that existing labeling of protein hydrolysates was not sufficiently informative and that the phrase "(contains glutamate)" is

necessary to describe adequately the basic nature or characterizing properties of certain protein hydrolysates and should therefore be part of their common or usual name under section 403(i)(1) of the act.

The agency's conclusion that the food source of a protein hydrolysate is information that must be revealed in labeling was reached in the context of the addition to food of food ingredients directly derived from animal or microbial sources (such as an animal protein hydrolysate or autolyzed yeast extract). That situation is different from the biotechnology context, which involves the presence in a plant chromosome of deoxyribonucleic acid (DNA) that was originally derived from an animal or microorganism but is now an inherent constituent of a plant. When using recombinant DNA techniques, scientists do not infuse the plant with the original genes that were removed from the animal. The animal genes are used to produce copies in the laboratory. Once the copies are transferred to the plant, they become an integral part of its genetic information, just like thousands of other genes that are present in the plant chromosome. There is a scientific basis to conclude that such genetic alterations do not change the essential nature of the plant, nor do they confer "animal-like" characteristics to the plant. For example, a tomato does not become "fish-like" following the addition of a copy of a fish gene that causes the production of a freeze-tolerant protein. This difference in context may bear directly on whether special labeling should be required for such "genetically engineered" products. Thus, in section III. of this document, FDA requests specific data and information that bear on these issues.

In developing the May 1992 policy statement, FDA was not aware of any information to suggest that the application of recombinant DNA techniques, commonly referred to as "genetic engineering," to the development of new plant varieties would result in foods which, as a class, exhibit attributes different from foods derived by other methods of plant breeding. Further, FDA notes that plant breeding methods are applied in the earliest stages of development of new plant varieties and are not processes applied to the finished food. Thus, in the May 1992 policy statement, FDA stated that the method of development of a new plant variety, including plants developed via "genetic engineering," is not information that is material under section 201(n) of the act and would not be required in labeling for the food (57 FR 22984 at 22991). This conclusion is consistent with the agency's historic interpretation of section 201(n) of the act, in that the method of plant breeding is not required to be disclosed in labeling.

III. Data and Information Requested

The subject of this request for data and information is limited to the labeling of foods derived from "genetically engineered" plants. While most of the comments on the policy statement raised the issue of labeling of foods derived from "genetically engineered" plants, most comments did not define "genetic engineering" or discuss characteristics that would distinguish a food derived from a "genetically engineered" plant from another food and, thus, might warrant labeling. Thus, FDA is soliciting additional data and factual information to define further "genetic engineering" as used in the comments; to clarify under what circumstances such labeling is believed to be necessary; to address how foods derived from "genetically engineered" plants differ from plants developed by other methods of plant breeding; to specify how such labeling, if required, would be accomplished as a practical matter; and other issues discussed in this notice.

FDA requests data and factual information that bear on whether certain labeling should be required under the act in the areas identified in sections III.A.1. through III.A.5. of this document and on labeling voluntarily placed on a food in the areas identified in section III.B. of this document. In addition, FDA invites data and information on other labeling issues for foods derived from "genetically engineered" plants that would be appropriate topics for the agency's consideration. Material submitted previously as comments on the policy statement will be reviewed by FDA in its deliberation on this topic. Therefore, FDA requests that such material not be resubmitted in response to this notice.

A. Required Labeling

1. Should All Foods Derived From New Plant Varieties Developed Using "Genetic Engineering" Techniques be Required to be Labeled as Such?

To explore this issue, FDA specifically seeks data and factual information on the following questions:

(a) How should "genetic engineering" be defined? For example, should "genetic engineering" be restricted to recombinant deoxyribonucleic acid (rDNA) techniques, or should the term include a broad range of genetic manipulation techniques, such as cell fusion, somaclonal variation, and embryo rescue?

(b) What specific characteristics of foods derived from "genetically engineered" plants distinguish such foods from other foods, and thus, such foods might warrant special labeling? Are there foods derived from "genetically engineered" plants that are without such characteristics and, thus, would not warrant labeling disclosing the method of production on the food? Does the purpose or intended technical effect of the genetic modification have any bearing on whether such disclosure labeling should be required?

The following are some examples of modifications of foods for which FDA requests additional data and factual information to help distinguish changes in foods derived from plants developed by "genetic engineering" from parallel changes in foods derived from plants developed using other methods of plant breeding:

(1) Foods that contain proteins not previously found in food, even if present in food at minute concentrations;

(2) Foods that contain proteins new to a particular food, but present in other foods;

(3) Foods that contain higher or lower concentrations of proteins native to that food;

(4) Foods that contain newly introduced but unexpressed genetic material;

(5) Foods that have improved nutritional or food processing characteristics;

(6) Food ingredients that are chemically unchanged as a result of the genetic modification of the plant (e.g., vegetable oil or food starch) because the genetic modification does not introduce new substances into the finished ingredient.

(c) What labeling should be required based on the form of the food at the time of sale? For example, is labeling appropriate for fresh produce, processed foods, or both? Why? In the case of processed foods, should labeling be required for all processed food? Why?

(d) What labeling, if any, should be required for a food derived from a plant that contains multiple traits that originated from different lines? What are the reasons for such a requirement?

(e) What labeling, if any, should be required for plant cultivars developed by traditional techniques (such as cross hybridization), when one (or both) parent line(s) was developed using "genetic engineering" techniques, or when one (or both) parent line(s) is derived from a progenitor line that was

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developed using "genetic engineering" techniques? What are the reasons for such a requirement?

(f) What is the suggested text of any labeling for "genetically engineered" foods? Should different types of products or different modifications have different labeling texts?

(g) Are test methods available to permit FDA to enforce such labeling requirements?

(h) Can such labeling requirements be enforced, as a practical matter?

2. Should Labeling the Source of Introduced DNA be Required?

Several comments discussed the potential problems posed by fruits and vegetables modified to contain genetic material originally derived from animals, including the potential difficulties in maintaining a diet in accordance with religious, ethical, or health considerations. Some comments cited as reason for concern experiments in which copies of human genes have been introduced into plants and animals. Other comments requested that foods derived from plants using "genetic engineering" techniques be labeled to identify the source of any DNA, e.g., bacterial, viral, or animal, transferred to plants across natural mating barriers.

To explore this issue, FDA specifically seeks data and factual information on the following questions:

(a) What criteria could be used as a basis for source labeling for foods derived from new plant varieties? For example, should source labeling be required if the introduced substance (gene or its product):

(1) Has been taken directly from an animal?

(2) Has been derived originally from an animal, even though it is a bacterial or plant copy of the animal gene?

(3) Confers "animal-like" characteristics on the food?

(b) As a result of evolutionary conservation, plants, animals (including humans), and microorganisms share certain genes in common. Is this relevant to determining whether source labeling should be required?

(c) Should special criteria apply to copies of human genes that are introduced into food source organisms?

(d) What text should be used for source labeling?

(e) What test methods are available to enable enforcement if the source of a transferred gene is required to be disclosed in labeling?

(f) As a practical matter, could FDA enforce a requirement that the source of transferred DNA be disclosed in labeling?

3. Under What Circumstances is Ingredient Labeling Appropriate?

Some comments asserted that substances added to food using "genetic engineering" techniques are ingredients of foods and should be identified on the food's label consistent with section 403(i) of the act. Historically, ingredients are considered to be substances from which a food is fabricated. FDA has not previously considered new constituents of plants introduced via breeding to be ingredients. For example, most commercially produced tomatoes have introduced genetic traits derived from related weedy species which traits are designed to combat fungal disease.

To explore this issue further, FDA specifically seeks data and factual information on the following issues:

(a) Whether there is a basis in science to differentiate between constituents added by one type of genetic technique (such as rDNA) and constituents added by another type of genetic technique (such as cross-hybridization)?

(b) What criteria should be used to classify constituents as native or added, and the types and availability of data bases for various crops needed to evaluate and classify constituents?

(c) Are there circumstances in which a constituent that results from genetic engineering would constitute an ingredient? If so, what are those circumstances?

(d) Should such labeling be required on whole foods? On processed foods? What are the reasons for such a requirement?

4. How Can Required Labeling for Food Allergy be Accomplished?

As discussed above, the agency intends to engage the scientific community on technical issues associated with food allergy. Therefore, FDA intends to defer the discussion of the technical aspects of allergenicity until that time. Some examples of these issues include what foods should be considered "commonly allergenic;" whether testing for the presence and allergenic potential of transferred antigenic determinants is technically feasible; whether the allergenicity of proteins not currently consumed or not derived from a commonly allergenic food can be predicted; and whether data bases of food allergens can and should be established to aid in the identification of proteins that are allergenic.

FDA is aware that there are experimental plants currently under development that contain genes derived from foods known to be commonly allergenic to consumers (e.g., genes from fish and tree nuts). Under FDA's policy, such foods will be required to be labeled to alert consumers to potential allergenic substances derived from commonly allergenic foods, unless the developer can demonstrate scientifically that the introduced substance is not allergenic in the new food. Therefore, FDA requests data and factual information on how labeling to disclose potential allergenicity could be accomplished, when deemed necessary, for whole foods, processed foods, and fabricated foods.

Many consumers who are allergic to a variety of common fruits, vegetables, and grains expressed a concern that point-of-sale labeling would not protect them from allergens "hidden" in food consumed in restaurants or at social functions. FDA specifically seeks information from the food industry that responds or otherwise relates to this concern.

5. What are the Practical Difficulties and Economic Impact of Labeling "Genetically Engineered" Foods?

Representatives of various segments of the food industry such as developers of new plant varieties, distributors of raw agricultural commodities, food processors, grocery and specialty stores, restaurants, and trade associations representing these various segments of the food industry also submitted comments on the policy. Several of these comments described the practical difficulties of labeling foods derived from "genetically engineered" commodities (such as wheat or corn) at every stage of the food chain which extends from the farm to the grocery store. Restaurateurs, among other purveyors of food, expressed concern that inadequate labeling would not allow them to choose the foods that their customers desired, particularly in the case of customers who adhere to certain dietary restrictions.

To explore these issues, FDA specifically seeks information on the following issues:

(a) The feasibility and cost of labeling throughout the food chain "genetically engineered" commodities such as corn, soybeans, and wheat.

(b) The feasibility and cost of labeling throughout the food chain "genetically engineered" vegetables, such as tomatoes and squash, including packaged fresh produce, unpackaged fresh produce, and processed foods.

(c) The feasibility and cost of labeling throughout the food chain food ingredients derived from "genetically engineered" plants, such as vegetable oils and food starch.

B. Voluntary Labeling

FDA expects that in some circumstances producers and distributors of foods derived from "genetically engineered" commodities may decide to apply special labeling to their food on their own initiative. FDA requests information on current industry plans for such labeling.

After the publication of the policy statement, the Office of Technology Assessment of the U.S. Congress published a report (Ref. 1) that discussed options for labeling food products in which new methods of plant breeding, such as rDNA techniques, were used to develop the food crops. One option was that "Congress, through research and extension agencies, could encourage niche markets to be established to satisfy the concerns of those willing to pay high prices for labeled food signifying that it does not contain genetically engineered food." FDA specifically seeks information on the following questions that relate to these "niche" markets:

(1) Could niche markets satisfy consumer needs?

(2) Would such niche markets include fresh produce, processed foods, or both?

(3) What standards should apply to such niche markets, and what technical and monitoring issues would accompany such standards?

(4) What role should FDA, using its authority under the act, have in such a system (e.g., by monitoring for truth in labeling)?

(5) Would such labeling imply that products with such labeling are superior?

IV. Notice of Request

Individuals and organizations submitting data and information in response to this request should submit two copies of the information to the Dockets Management Branch (address above) by July 27, 1993. Each submission should be identified with the docket number found in brackets in the heading of this document. Submissions received may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

V. Reference

The following reference has been placed on display Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. U.S. Congress, Office of Technology Assessment, "A New Technological Era for American Agriculture," OTA–F–474, pp. 348–349, U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington DC 20402–9328, 1992.

Dated: April 22, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–9846 Filed 4–27–93; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Final Funding Priorities and Special Consideration for Grants for Residency Training in General Internal Medicine and General Pediatrics

The Health Resources and Services Administration (HRSA) announces final funding priorities and special consideration for Grants for Residency Training in General Internal Medicine and General Pediatrics authorized under section 748 (previously section 784), title VII of the Public Health Service (PHS) Act, as amended by the Health Professions Education Extension Amendments of 1992, Public Law 102–408, dated October 13, 1992.

Approximately $12.8 million will be available in FY 1993 for this program. Total continuation support recommended is $6.3 million. It is anticipated that $8.5 million will be available to support 37 competing awards averaging $175,000 each.

Purpose

Section 748 authorizes the award of grants for planning, developing operating or participating in approved professional training programs (including approved residencies or internship programs) in the fields of internal medicine or pediatrics for medical (M.D. or D.O.) students, interns (including interns in internships in osteopathic medicine), residents or practicing physicians, which training program emphasizes training for the practice of general internal medicine or general pediatrics. In addition, section 748 authorizes assistance in meeting the cost of supporting medical students, interns, residents, practicing physicians or other medical personnel, who are participants in any such training program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics. A separate grant program is in effect for the faculty development component of this authority.

Since this program was announced in FY 1992, the Health Professions Education Extension Amendments of 1992, Public Law 102–408, were passed by the Congress and signed by the President. This legislation resulted in the following changes for this program:

Section 784 has been renumbered section 748 of the PHS Act. Support of training in general internal medicine and general pediatrics, which was restricted to residency and faculty training has been broadened to also cover training of undergraduate medical students and practicing physicians.

Section 791(a) of the Act, as amended, includes a general funding preference for selected grant programs under title VII, including section 748, Grants for Residency Training in General Internal Medicine and General Pediatrics. Section 791(b) includes new information requirements for applicants under this program.

Statutory General Funding Preference

Under section 791(a) of the Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

Preference will be given only for applications ranked above the 20th percentile of applications that have been recommended for approval by the appropriate peer review group. The Secretary may not give an applicant preference if the proposal of the applicant is ranked in or below the 20th percentile of proposals that have been recommended for approval by peer review groups.

Additional information concerning the implementation of this preference has been developed and a separate notice was published in the **Federal Register** dated February 22, 1993, at 58 FR 9570, establishing the final methodology for implementation of this new statutory funding preference, for this program, in FY 1993.

New Information Submission Requirement

Under section 791(b) of the Act, the Secretary may make an award under the Grants for Residency Training in General Internal Medicine and General Pediatrics program only if the applicant for the award submits to the Secretary information regarding the programs of the applicant. The provision for this new requirement was not implemented in FY 1993. Further information will be provided in program materials in any future cycles.

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Final Funding Priorities and Special Consideration for FY 1993

Proposed funding priorities and a special consideration were published in the **Federal Register** dated September 21, 1992, 57 FR 43464, for public comment. No comments were received during the 30-day comment period. Therefore, as proposed the final funding priorities and special consideration will be retained as follows:

In making awards for fiscal year 1993, a funding priority will be given to:

1. Education Linkages to Medically Underserved Communities

Applications that propose to provide educational experiences to demonstrate to residents the provision of primary care services to underserved populations. These experiences must include substantial training involving one or more of the following entities:

(A) Underserved Geographical Area

Inpatient or outpatient health care facilities located in a Health Professional Shortage Area (HPSA), PHS Act, section 332, or in a Medically Underserved Area (MUA) designated under provisions of PHS Act, section 330(b)(3);

(B) Facilities Whose Purpose is Care of Underserved

Community Health Centers currently supported under PHS Act, section 330, Medically Underserved Population, defined under PHS Act, section 330(a)(3), Migrant Health Centers currently supported under PHS Act, section 329, Homeless Health Centers supported under PHS Act, section 340, facilities that have formal arrangements to provide primary health services to public housing communities, hospitals or other health care facilities of the Indian Health Service and/or facilities operated by State or local health departments.

(C) Underserved Patient Populations

Facilities which do not qualify under (A) and (B) above can qualify for up to a full priority score based on the percentage of their patient visits/hospital admissions that are uncompensated or are compensated under the State Medicaid Program or local programs designed to reimburse health providers for services to indigent populations.

2. Minorities/Low-Income Populations

Programs which demonstrate either substantial progress over the last 3 years or a significant experience of 10 or more years in enrolling and graduating trainees from those minority or low-income populations identified as at-risk of poor health outcomes.

3. HIV/AIDS/Substance Abuse Activities

Applications that (1) Document collaboration with a Regional HIV/AIDS Educational Training Center and have implemented, or plan to implement no later than academic year 1993–94, a comprehensive training experience for all residents which includes counseling in the prevention of HIV infection, direct patient care and clinical management of HIV-infected individuals, and (2) provide all residents with an organized clinical experience in the diagnosis, counseling, treatment and referral of substance abuser patients/families or present plans for the implementation of such a curriculum no later than academic year 1993–94.

4. Clinical Preventive Services

Applications that demonstrate sufficient curricular time and offerings devoted to teaching all residents about the screening, counseling and immunization services recommended by the U.S. Preventive Services Task Force.

Final Special Consideration

Special consideration will be given to the extent to which applicants enroll and graduate trainees from underserved areas.

Additional Information

If additional programmatic information is required, contact: Ms. Sara Kearney, Residency Training Section, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, room 4C–04, Rockville, Maryland 20857, Telephone (301) 443–6820, FAX: (301) 443–8890.

This program is listed at 93.884 in the *Catalog of Federal Domestic Assistance*. Applications submitted in response to this announcement are not subject to the provisions of Executive order 12372, Intergovernmental Review of Federal Programs, (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: April 21, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–9929 Filed 4–27–93; 8:45 am]

BILLING CODE 4160–60–P

Final Funding Priorities and Special Consideration for Graduate Training in Family Medicine

The Health Resources and Services Administration (HRSA) announces the final funding priorities and special consideration for Grants for Graduate Training in Family Medicine authorized under section 747, (previously section 786(a)), title VII of the Public Health Service (PHS) Act, as amended by the Health Professions Education Extension Amendments of 1992, Pub. L. 102–408, dated October 13, 1992.

Approximately $12.8 million will be available in FY 1993 for this program. Total continuation support recommended is $10.1 million. It is anticipated that $2.7 million will be available to support 18 competing awards averaging $110,000.

Purpose

Section 747 of the PHS Act authorizes the Secretary to award grants to assist in meeting the costs of planning, developing and operating or participating in approved graduate training programs in the field of family medicine. In addition, section 747 authorizes assistance in meeting the cost of supporting trainees in such programs who plan to specialize or work in the practice of family medicine.

Since this program was announced on September 14, 1992, the Health Professions Education Extension Amendments of 1992, Public Law 102–408, were passed by the Congress and signed by the President.

Public Law 102–408 makes the following revisions to this program. Section 786 has been renumbered section 747 of the PHS Act. The authority for this program, which includes authority for Grants for Faculty Development in Family Medicine and Grants for Predoctoral Training in Family Medicine, has been combined with the authority for section 747(b), Grants for Departments of Family Medicine (previously section 780 of the PHS Act). A new statutory funding preference has been established and is outlined below. Under section 791(b), an information requirement provision has also been established.

Statutory Funding Preference

Preference will be given to qualified applicants that:(1) Have a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (2) have achieved, during the 2-year period preceding the fiscal year for which such an award is sought, a significant increase in the rate of placing graduates in such settings.

This preference will only be applied to applications that rank above the 20th percentile of applications that have been recommended for approval by peer review groups under section 798(a) of the PHS Act, as amended.

Additional information concerning the implementation of this preference has been published in the **Federal Register** at 58 FR 9570, dated February 22, 1993.

Information Requirements Provision

Under section 791(b) of the Act, the Secretary may make an award under the Grants for Graduate Training in Family Medicine only if the applicant for the award submits to the Secretary information regarding the programs of the applicant. The provision for this new requirement was not implemented in FY 1993. Further information will be provided in program materials in any future cycles.

Final Funding Priorities and Special Consideration for FY 1993

Proposed funding priorities and a special consideration were published in the **Federal Register** dated September 14, 1992, 57 FR 41944, for public comment. No comments were received during the 30-day comment period. Therefore, as proposed, the following final funding priorities and special consideration will be retained:

Funding priority will be given to:

1. Educational Linkages to Medically Underserved Communities

Applications that propose to provide educational experiences to demonstrate to residents the provision of primary care services to underserved populations. These experiences must include substantial training involving one or more of the following eligible entities:

(A) Underserved Geographical Area

Inpatient or outpatient health care facilities located in a Health Professional Shortage Area (HPSA), PHS Act, section 332, or in a Medically Underserved Area (MUA), designated under provisions of the PHS Act, section 330(b)(3);

(B) Facilities Whose Purpose is Care of the Underserved

Community Health Centers currently supported under PHS Act, section 330, Migrant Health Centers currently supported under PHS Act, section 329, Homeless Health Centers supported under PHS Act, section 340, facilities that have formal arrangements to provide primary health services to public housing communities, hospitals or other health care facilities of the Indian Health Service and/or facilities operated by State or local health departments.

(C) Underserved Patient Populations

Facilities which do not qualify under (A) and (B) above can qualify for up to a full priority score based on the percentage of their patient visits/hospital admissions that are uncompensated or are compensated under the State Medicaid Program or local programs designed to reimburse health providers for services to indigent populations.

2. Minorities/Low Income Populations

Programs which demonstrate either substantial progress over the last 3 years or a significant experience of 10 or more years in enrolling and graduating residents from the minority or low-income populations identified as at risk of poor health outcomes. Consideration will also be given to the extent to which enrolled and graduating residents are from underserved areas.

3. HIV/AIDS/Substance Abuse Activities

Applications that (1) Document collaboration with a Regional HIV/AIDS Educational Training Center and have implemented, or plan to implement no later than academic year 1993–94, a comprehensive training experience for all residents which includes counseling in the prevention of HIV infection, direct patient care and clinical management of HIV-infected individuals; and (2) provide all residents with an organized clinical experience in the diagnosis, counseling, treatment and referral of substance abuser patient/families or present plans for the implementation of such a curriculum no later than academic year 1993–94.

4. Clinical Preventive Services

Applications that demonstrate sufficient curricular time and offerings devoted to teaching all residents about the screening counseling and immunization services recommended by the U.S. Preventive Services Task Force.

Special consideration will be given to the extent to which applicants enroll and graduate trainees from underserved areas.

Additional Information

If additional programmatic information is needed, contact: Ms. Elsie Quinones, Program Specialist, Primary Care Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 4C–04, Parklawn Building, Rockville, Maryland 20782, Telephone: (301) 443–6820, FAX: (301) 443–8890.

This program is listed at 93.379 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: April 22, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–9928 Filed 4–27–93; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Public Advisory Group; Meeting

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior announces a public meeting of the Exxon Valdez Oil Spill Public Advisory Group to be held on May 25, 1993, at 9 a.m., in the first floor conference room, 645 "G" Street, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Affairs, 1689 "C" Street, suite 119, Anchorage, Alaska (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska*, Civil Action No. A91–081 CV. This meeting will include: (1) A discussion of the continuing role of the Public Advisory Group in advising the Exxon Valdez Oil Spill Trustee Council; (2) a discussion of the draft Restoration Plan alternatives; and (3) a discussion of the 1994 Work Plan.

Dated: April 22, 1993.

Jonathan P. Deason,

Director, Office of Environmental Affairs.

[FR Doc. 93–9882 Filed 4–27–93; 8:45 am]

BILLING CODE 4310–RG–M

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Bureau of Land Management

[OR-135-4191-3; GP3-206; WMP-130-89-019B-3809]

Intent To Prepare an Environmental Impact Statement Supplement to the Kettle River Key Project Expansion FEIS—The Proposed Lamefoot Mine

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement Supplement to the Kettle River Key Project Expansion FEIS—The Proposed Lamefoot Mine.

SUMMARY: Pursuant to section 102 (2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management Spokane District will be the lead Federal agency and will direct the preparation of an EIS Supplement by a third party contractor. The EIS Supplement will evaluate the impacts of a proposed gold mining and processing operation located on private and public lands in northern Ferry County, Washington. This notice initiates the scoping process for this EIS Supplement.

DATES: Written comments will be accepted until June 7, 1993. A public scoping meeting will be held from 3:30 p.m. to 7:30 p.m. on May 20, 1993, at the Frontier Motel in Republic, Washington. Additional briefing meetings will be considered as appropriate.

ADDRESSES: Comments should be sent to the District Manager, Bureau of Land Management, East 4217 Main Avenue, Spokane, Washington 99202 ATTN: Lamefoot Mine.

FOR FURTHER INFORMATION CONTACT: Ann Aldrich, Border Resource Area Manager, East 4217 Main Avenue, Spokane, Washington 99202 (509) 353-2570.

SUPPLEMENTARY INFORMATION: The Kettle River Project has had a series of environmental reviews. In 1988, a Final Environmental Impact Statement, prepared by the Department of Ecology, was completed for the Overlook and Kettle River underground mines and the Key Mill and tailings storage facilities. This first EIS addressed the total tailings facility, although only one segment has actually been constructed.

In 1992, an Environmental Assessment was completed by the Bureau of Land Management to evaluate the effects of an exploration project on private and public land at the Lamefoot site about four miles northwest of the Overlook and Key Mines. The Lamefoot operations involved surface drilling and development of underground workings for subsurface exploration.

Also in 1992, the Forest Service, BLM, Department of Ecology and Department of Natural Resources completed the Kettle River Key Project Expansion FEIS. This FEIS analyzed the effects of expanding the Project to include development of the two open pit Key Mines. Exploration activities, including the Lamefoot site, were considered in the FEIS as part of the cumulative impacts. The potential for future development of the Lamefoot mine and related mill facilities was addressed as a reasonably foreseeable future action.

However, this speculative future action depended on information that was unknown at the time because exploration was needed to establish the presence and extent of mineralization and the feasibility of mining. Additional environmental review is necessary for an actual mining proposal. Therefore, because the underground Lamefoot Mine would become part of the Kettle River Project mining and processing operations, it was decided to Supplement the existing EIS to address the possible effects.

The mining phase of the Lamefoot Mine would involve excavating ore by a long hole open stoping mining technique, and transporting the ore via State and county roads to the previously permitted Key Mill. About seventy percent of the underground mining would take place on private land and thirty percent would occur on public land administered by the BLM. Total surface disturbance at the Lamefoot Mine would be about 45 acres (38 acres private, 7 acres public). Cumulative disturbance for the Kettle River Project would be about 409 acres (373 acres private (91%), 36 acres Federal (9%)).

The ore would be processed by the conventional carbon in leach method at the Key Mill. After extraction of gold, tailings would be permanently stored in a zero discharge lined tailings facility. The tailings impoundment is located on private land, operating under permits from the State of Washington, and is scheduled for enlargement in 1993 through 1995. Process waters are treated in a cyanide destruction circuit before discharge to the tailings impoundment and recycling for use in the milling circuit.

The Bureau of Land Management's scoping process for the EIS will include: (1) Identification of issues to be addressed; (2) Identification of viable alternatives; and (3) Notifying interested groups, individuals and agencies so that additional information concerning these issues can be obtained.

Joseph Buesing,

District Manager.

[FR Doc. 93-9901 Filed 4-27-93; 8:45 am]

BILLING CODE 4310-33-M

[UT-920-93-4120-01]

Utah and Colorado: Uinta Southwestern Utah Regional Coal Team Meeting

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of Regional Coal Team Meeting.

SUMMARY: In accordance with responsibilities outlined in the Federal Coal Management Regulations (43 CFR part 3400), the Regional Coal Team (RCT) for the decertified Uinta Southwestern Utah Federal Coal Production Region will hold a meeting to discuss and make recommendations concerning coal leasing and development in the Region. The RCT will review pending coal lease applications under the "Leasing by Application" (LBA) program and discuss any additional coal-related activities appropriate at this time. Members of the public, coal companies and interested agencies are invited to make comments at the meeting.

SUPPLEMENTARY INFORMATION: A total of eight coal lease applications are pending in the region, including seven in Utah and one in Western Colorado. The RCT will be reviewing the applications and where appropriate making recommendations to the BLM concerning processing the applications. Pending applications in the Region include:

State	Applicant	Coal field	Est. acreage
Utah			
	Mining & Energy Res. Inc	Wasatch Plateau	3,431
	Coastal States Energy	Wasatch Plateau	2,020

State	Applicant	Coal field	Est. acreage
Colorado	Sage Point Coal Co	Book Cliffs	1,104
	Sage Point Coal Co	Book Cliffs	2,098
	PacifiCorp Electric Oper	Wasatch Plateau	7,865
	Genwal Coal Co	Wasatch Plateau	3,384
	Genwal Coal Co	Wasatch Plateau	4,052
	Mountain Coal	Paonia/Summerset	1,012

DATES: The Regional Coal Team meeting will be May 27, 1993 at 10 a.m.

ADDRESSES: The meeting will be held at Bureau of Land Management, Utah State Office, BLM Conference Room, No. 302, 324 South State Street, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Max Nielson, Uinta Southwestern Utah Coal Project Manager, Utah State Office, P.O. Box 45155, Salt Lake City, Utah, 84145-0155. (Telephone 801-539-4038).

Dated: April 16, 1993.

James M. Parker,

State Director, Utah.

[FR Doc. 93-9851 Filed 4-27-93; 8:45 am]

BILLING CODE 4310-DQ-M

[ID-010-03-4210-05; IDI-28382]

Sale of Public Land in Owyhee County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—IDI-28382.

SUMMARY: The following described public land has been determined to be suitable for disposal by direct sale pursuant to section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1713) at no less than appraised fair market value. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register.**

Boise Meridian, Idaho

T. 6 S., R. 4 E.
Sec. 4: NE¼SE¼, E½E½NW¼SE¼
Containing 50 acres, more or less, in Owyhee County.

DATES: Interested parties may submit comments to the District Manager, Boise District, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705 on or before June 14, 1993. Objections will be reviewed by the State Director, who may sustain, modify, or vacate this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of Interior. Upon publication of this notice in the **Federal Register**, the lands described above will be segregated from appropriation under the public land laws, including the mining laws, except for sale under the provisions of FLPMA. The segregation will end upon issuance of patent or 270 days from the date of publication, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: John Sullivan, Realty Specialist, at the above address or (208) 384-3338.

SUPPLEMENTARY INFORMATION: This land is being offered by direct sale to Owyhee County for construction and use as a refuse transfer station. Acceptance of the sale offer will constitute an application for conveyance of that portion of the mineral estate of no known value. A separate non-returnable fee of $50.00 will be required from the purchaser for conveyance of the mineral interests.

The reservations, terms and conditions of this sale are as follows:

Excepting and Reserving to the United States

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

2. All oil, gas, and geothermal resources, together with the right to prospect for, mine, and remove the same.

3. A Federal Aid Highway right-of-way granted to the Idaho Transportation Department by right-of-way IDI-03082, under the authority of the Act of November 9, 1921 (42 Stat. 0216).

4. A right-of-way thereon for public access to adjacent public lands.

Subject to

5. Those rights for telephone line purposes granted to Gem State Utilities Corporation, its successors or assigns, by right-of-way no. IDI-15494, under the authority of the Act of October 21, 1976 (43 U.S.C. 1761).

6. Those rights for access road purposes granted to Lincoln C. Mackay, his heirs or assigns, by right-of-way no. IDI-20989, under the authority of the Act of October 21, 1976 (43 U.S.C. 1761).

Dated: April 22, 1993.

Barry C. Cushing,

Acting District Manager.

[FR Doc. 93-9961 Filed 4-27-93; 8:45 am]

BILLING CODE 4310-GG-M

[UT-020-93-4210-05; U-70288]

Realty Action; Application to Purchase Federally Owned Mineral Interests

AGENCY: Bureau of Land Management, Salt Lake District Office, Interior.

ACTION: Application to purchase federally owned mineral interest.

SUMMARY: Notice is hereby given that pursuant to section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719), an application has been filed for the purchase of all federally owned mineral interests, within the following land description:

Salt Lake Meridian, Utah

T. 2 S., R. 4 E.
Section 10, lots 15, 16
Section 11, lot 11
Containing 0.820 acres

The sale is consistent with the Bureau's planning system. It has been determined that there are no known mineral values in the subject lands. The mineral estate will not be offered for sale until 60 days after the date of this notice. The mineral estate is proposed to be offered for sale to the United Park City Mines Company of Park City, Utah.

Publication of this notice in the **Federal Register** segregates the mineral interests owned by the United States from appropriation under the mining and mineral leasing laws. The segregative effect shall terminate 270 days from the publication of this notice or upon final disposition of this action, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interest parties may submit comments to the District Manager, Bureau of Land Management, 2370 South 2300 West, Salt Lake City, Utah 84119. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final

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determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Janice MaChipiness, Bear River Resource Area Realty Specialist, 2370 South 2300 West, Salt Lake City, Utah 84119, or call at (801) 977–4300.

Dated: April 20, 1993.

Gary Weiser,

Acting District Manager.

[FR Doc. 93–9939 Filed 4–27–93; 8:45 am]

BILLING CODE 4310–DQ–M

National Park Service

Mississippi River Coordinating Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for a forthcoming meeting of the Mississippi River Coordinating Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

The agenda for the meeting consists of continued Commission review and discussion of the draft comprehensive management plan and draft environmental impact statement for the Mississippi National River and Recreation Area. It is anticipated the commission will vote on a resolution to release the draft plan for public review and comment. Public statements will be heard from 4:00 p.m. to 5:00 p.m., as well as in advance of any commission vote.

DATES: May 22, 1993, 12 p.m. to 5 p.m.

ADDRESSES: Earle Brown Continuing Education Center, University of Minnesota-St. Paul Campus, 1890 Buford Avenue, St. Paul, Minnesota 55108.

FOR FURTHER INFORMATION CONTACT: Superintendent, Mississippi National River and Recreation Area, 175 East Fifth Street, suite 418, St. Paul, MN 55101 (612/290–4160).

SUPPLEMENTARY INFORMATION: The Mississippi River Coordinating Commission was established by Public Law 100–696, November 18, 1988.

Dated: April 16, 1993.

Don H. Castleberry,

Regional Director.

[FR Doc. 93–9853 Filed 4–27–93; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 17, 1993. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by May 13, 1993.

Beth L. Savage,

Acting Chief of Registration, National Register.

ALABAMA

Calhoun County

East Anniston Residential Historic District (Anniston MRA), Roughly, along Leighton and Christine Aves. from 11th St. to 22nd Sts. and Woodstock Ave. from 11th St. to Rocky Hollow, Anniston, 93000418

Colbert County

Chambers-Robinson House, 910 Montgomery Ave., Sheffield, 93000419

Mobile County

Cleveland, U.J., House, 551 Charles St., Mobile, 93000420

Wilcox County

Beck, William King, House, AL 28 N side, 3.2 mi. N of jct. with AL 10, Camden vicinity, 93000421

ARKANSAS

Greene County

National Bank of Commerce Building, 200 S. Pruett St., Paragould, 93000423

COLORADO

Custer County

Willows School, Willows Ln. (Co. Rd. 141) between Muddy Ln. (Co. Rd. 155) and Schoolfield Rd. (Co. Rd. 328), Westcliffe vicinity, 93000413

GEORGIA

Banks County

Homer Historic District (Boundary Increase), Off U.S. 41 on E end of existing district adjacent to southern boundary, Homer, 93000422

IOWA

Polk County

Wallace, Henry, House, 756 16th St., Des Moines, 93000412

MINNESOTA

Hennepin County

Healy Block Residential Historic District, 3101–3145 2nd Ave. S. and 3116–3124 3rd Ave. S., Minneapolis, 93000417

UTAH

Grand County

Star Hall, 159 E. Center St., Moab, 93000416

Millard County

Partridge, Edward and Elizabeth, House, 10 S. 200 W., Fillmore, 93000414

Salt Lake County

U.S. Post Office—Sugar House, 2155 S. Highland Dr., Salt Lake City, 93000409

Utah County

Springville High School Mechanical Arts Building, 443 S. 200 E., Springville, 93000415

Washington County

Enterprise Meetinghouse (Mormon Church Buildings in Utah MPS), Approximately 24 S. Center St., Enterprise, 93000410

Wayne County

Torrey Log Church—Schoolhouse (Mormon Church Buildings in Utah MPS), Approximately 49 E. Main St., Torrey, 93000411

WASHINGTON

Clark County

Washington School for the Blind, 2214 E. 13th St., Vancouver, 93000370

[FR Doc. 93–9852 Filed 4–27–93; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Reclamation

Central Valley Project Contracting Program, California

AGENCY: Bureau of Reclamation (Interior).

ACTION: Notice of cancellation of draft environmental impact statements.

SUMMARY: The Bureau of Reclamation (Reclamation) is canceling three draft environmental impact statements (DEIS's) for the Central Valley Project (CVP), California: Sacramento River Service Area (SRSA) Water Contracting Program, American River Service Area (ARSA) Water Contracting Program, and Delta Export Service Area (DESA) Water Contracting Program. These DEIS's were filed with the Environmental Protection Agency (EPA) on December 29, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Kleinsmith, Bureau of Reclamation, Mid-Pacific Region, 2800 Cottage Way, Sacramento CA 95825–1898; telephone: (916) 978–5121; or Mr. Darrell Cauley, Bureau of Reclamation, Denver Federal Center, Denver CO 80225; telephone: (303) 236–0511.

SUPPLEMENTARY INFORMATION: Reclamation published a notice of intent (NOI) to prepare an environmental impact statement (EIS) for the SRSA Contracting Program in the **Federal Register** (50 FR 19495), dated May 8, 1985. The DEIS for the SRSA was filed with the EPA on December 29, 1988, and the notice of availability (NOA) was published in the **Federal Register** (54 FR 197), dated January 4, 1989.

Reclamation published a NOI to prepare an EIS for the ARSA Water Contracting Program in the **Federal Register** (51 FR 41544), dated November 17, 1987. The DEIS for the ARSA was filed with EPA on December 29, 1988, and the NOA was published in the **Federal Register** (54 FR 195), dated January 4, 1989.

Reclamation published a NOI to prepare an EIS for the DESA Water Contracting Program in the **Federal Register** (52 FR 19599), dated May 26, 1987. The DEIS for the DESA was filed with EPA on December 29, 1988, and the NOA was published in the **Federal Register** (54 FR 196), dated January 4, 1989.

The purpose of the SRSA, ARSA, and DESA Water Contracting Programs was to resume long-term contracting of what was considered at that time to be available and uncommitted water from the CVP. Reclamation is canceling the SRSA, ARSA, and DESA Water Contracting Program DEIS's because the basic assumptions of the amount of available and uncommitted CVP water are no longer valid and because of requirements of Public Law 102–575, the Central Valley Project Improvement Act.

Since the DEIS's were filed, there have been significant changes in the allocation of the water supply from the CVP in California. The most significant change in the allocation was the enactment of Public Law 102–575 in 1992. This law prohibits, with a few exemptions, Reclamation from entering into any new short-term, temporary, or long-term contracts for CVP water for any purpose, except for fish and wildlife, until a series of environmental restoration and enhancement measures are implemented for the Central Valley and Trinity River basins. The law commits 800,000 acre-feet of annual CVP yield for these restoration measures. Public Law 102–575 also requires a programmatic EIS to be prepared within 3 years that will address its implementation.

A more accurate calculation of the yield of the CVP, and expected restrictions on CVP water operations from the State Water Resources Control Board, have reduced the possible amount of water which Reclamation anticipated contracting in 1988.

Dated: April 22, 1993.

J. William McDonald,

Assistant Commissioner Resources Management.

[FR Doc. 93–9895 Filed 4–27–93; 8:45 am]

BILLING CODE 4310–09–M

Proposed Water Service Contract, Sacramento County and San Juan Suburban Water District, Sacramento County, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of scoping meeting and notice of intent to prepare a draft environmental impact statement/environmental impact report for proposed water service contracts to Sacramento County Water Agency and San Juan Suburban Water District from the Central Valley Project, California.

SUMMARY: Pursuant to Public Law 101–514 (104 Stat. 2087), and section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (as amended), and section 21002 of the California Environmental Quality Act (CEQA), the Bureau of Reclamation (Reclamation), the Sacramento County Water Agency (Agency), and San Juan Suburban Water District (SJSWD) intend to prepare a joint environmental impact statement/environmental impact report (EIS/EIR) for a water service contract from the Central Valley Project (CVP), California.

The proposed project consists of water supply contracts for agencies within Sacramento County. The Agency, in conjunction with the city of Folsom, and SJSWD have entered into discussions with Reclamation to negotiate long-term water supply contracts from the American River Division, CVP.

DATES: Comments are requested on this notice concerning the scope of analysis of the draft EIS/EIR. Input concerning issues related to the proposed water service contracts should be received by May 28, 1993.

Two public scoping meetings for this project will be held:

May 18, 1993, 7 p.m., Sacramento County Board of Supervisors Hearing Room, 700 H Street, Sacramento, California.

May 19, 1993, 1 p.m., Sacramento County Board of Supervisors Hearing Room, 700 H Street, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Please address scoping comments or information requests to Donna Dean, Senior Civil Engineer, Sacramento County Water Agency, Sacramento County Public Works Department, 827 7th Street, room 301, Sacramento, CA 95814; telephone: (916) 440–6851. Reclamation's environmental representative is James Frederick, Environmental Specialist, Bureau of Reclamation, Mid-Pacific Region, 2800 Cottage Way, Sacramento, CA 95825–1898; telephone: (916) 978–5134.

SUPPLEMENTARY INFORMATION: The contracts to be negotiated have been authorized and directed by the United States Congress as part of Public Law 101–514. These contracts have been excluded from the prohibition on new contracting found in Public Law 102–575.

Public Law 101–514 directs the Secretary of the Interior to enter into long-term municipal and industrial water supply contracts to meet the immediate water needs of Sacramento and El Dorado Counties. The law directs the Secretary of the Interior to enter into contracts for up to 22,000 acre-feet annually with the Agency, 13,000 acre-feet annually with SJSWD, and 15,000 acre-feet annually with El Dorado County Water Agency. These water service contracts are intended as the first phase of a contracting program to meet the long-term water supply needs of Sacramento and El Dorado Counties.

El Dorado County Water Agency and Reclamation have initiated negotiations on a water service contract under Public Law 101–514 and are preparing NEPA/CEQA environmental documentation under a separate notice of intent. The El Dorado County Water Agency water service contract is not part of the Sacramento County water service contract project.

The Sacramento County Water Agency may enter into a subcontract with the city of Folsom for delivery of up to 7,000 acre-feet annually to the city of Folsom from the water allocated to the Agency. The city of Folsom water supply subcontract, if executed, will be pursuant to the general authority and purposes of the Sacramento County Water Agency.

Public Law 101–514 directs that water taken by SJSWD and the city of Folsom be diverted from the American River at Folsom Dam. The law also requires that water diverted by the Agency be taken at or near the confluence of the American and the Sacramento Rivers.

Sacramento County Water Agency plans on using the acquired surface water in the south county area known as the Near Term Zone 40 Service Area and within areas immediately adjacent to Zone 40 that are under consideration as new development areas in Sacramento County's 1992 draft General Plan. These areas are located 12 miles south of downtown. The surface water will replace groundwater as the primary water source for the Zone 40 Area.

SJSWD plans on using the surface water acquired for municipal and industrial use in the portion of their

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service area located within Sacramento County. The SJSWD's major source of water is Folsom Lake.

The city of Folsom plans on using the acquired surface water to serve presently approved developments within the existing city limits. The city of Folsom is primarily residential, with an increasing amount of industry. The existing water supply to the city of Folsom is entirely surface water from Folsom Lake.

The EIS/EIR will focus on impacts to the physical environment from diversion, distribution, and use of the contracted water. The documentation will include analysis of the potential impacts to the natural environment; i.e., aquatic, wetland, and riparian communities including any effect on special status species. Secondary growth impacts associated with the water delivery and secondary impacts associated with the construction of water delivery facilities used to divert, treat, and distribute the contracted water will be investigated. The draft EIS/EIR is expected to be completed and available for review and comment in winter of 1994.

Scoping

One element of the EIS/EIR process is scoping. Scoping activities are initiated early in the process to: Identify reasonable alternatives that should be evaluated in the draft EIS/EIR, identify significant environmental issues related to the proposed projects, determine the depth of analysis for issues addressed in the documentation, and identify resource issues that are not important and that do not require detailed study. Scoping meetings have been scheduled to solicit public input to help identify issues and possible alternative actions within the framework for delivery and use of the contracted water.

Note: Disabled persons requiring special services should contact Reclamation's Equal Employment Office at (916) 978–4311. Please notify this office as far in advance of the meetings as possible and no later than May 11, 1993, to enable Reclamation to secure the needed services. If a request cannot be honored, the requester will be notified. A telephone device for the hearing impaired (TDD) is not available.

Dated: April 22, 1993.

J. William McDonald,

Assistant Commissioner, Resources Management.

[FR Doc. 93–9896 Filed 4–27–93; 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32248]

Hanson Natural Resources Co.; Non-Common Carrier Status; Petition for a Declaratory Order

AGENCY: Interstate Commerce Commission.

ACTION: Extension of comment due date.

SUMMARY: By decision served March 1, 1993 (58 FR 12052, March 2, 1993), the Commission sought public comment by March 22, 1993, on a petition for declaratory order filed by Hanson Natural Resources Company (HNRC), that HNRC will not, upon consummation of certain anticipated transactions, become a common carrier by railroad. By subsequent decisions of which the latest was served April 20, 1993 (58 FR 21595, April 22, 1993), the Commission extended the comment due date to April 23, 1993. By motion filed April 22, 1993, HNRC requests a further extension of the comment due date to April 30, 1993. HNRC states the extension is needed to finalize discussions with Chaco Energy Company (Chaco) and to continue drafting certain documents in order to finalize an agreement. HNRC states that Santa Fe Entities joins in this request. HNRC maintains an extension will prejudice no one. The request will be granted.

DATES: Comments must be filed by April 30, 1993.

ADDRESSES: Send an original and 15 copies of comments, referring to Finance Docket No. 32248 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

In addition, send one copy to HNRC's representative: C. Michael Loftus, Slover & Loftus, 1224 Seventeenth St., NW., Washington, DC 20036. (202) 374–7170.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for hearing impaired: (202) 927–5721].

Decided: April 23, 1993.

By the Commission, Sidney L. Strickland, Jr., Secretary.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–9960 Filed 4–27–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on March 5, 1993, Johnson Matthey Inc., Custom Pharmaceuticals Department, 2002 Nolte Drive, West Deptford, New Jersey 08066, made written request to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Hydromorphone (9150)	II
Morphine (9300)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Director, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR) and must be filed no later than 30 days from publication.

Dated: April 15, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–9947 Filed 4–27–93; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 20, 1993, James Prust, 5900 31st Avenue, Kenosha, Wisconsin 53144, made application to the Drug Enforcement Administration to be registered as an importer of marihuana (7360) a basic class of controlled substance listed Schedule I. This application is exclusively for the importation of marihuana seed which will be rendered non-viable and used as bird seed.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Director, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than 30 days from publication.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Director of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 15, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–9948 Filed 4–27–93; 8:45 am]

BILLING CODE 4410–09–M

MARTIN LUTHER KING, JR., FEDERAL HOLIDAY COMMISSION

Meeting

AGENCY: Martin Luther King, Jr., Federal Holiday Commission.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Act, Public Law 92–463, as amended, the Martin Luther King, Jr. Federal Holiday Commission announces a forthcoming meeting of the Commission.

DATES: May 3, 1993.

TIME: 10:30 a.m.–12 noon.

LOCATION: U.S. House of Representatives, Cannon House Office Building, room 311, Washington, DC. The public is invited.

FOR FURTHER INFORMATION CONTACT: Al Boutin, Director of Operations, telephone 404–730–3155 (Atlanta, GA).

Dated: April 21, 1993.

Al Boutin,

Director of Operations.

[FR Doc. 93–9894 Filed 4–27–93; 8:45 am]

BILLING CODE 4210–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93–032]

Advisory Committee on the Redesign of the Space Station; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Advisory Committee on the Redesign of the Space Station (hereinafter referred to as the "Advisory Committee").

DATES: May 3, 1993, 12:30 p.m. to 6 p.m.

ADDRESSES: Crystal Gateway Marriot, Arlington Ballroom Number 3, 1700 Jefferson Davis Highway, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. John McCarthy, Code R, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–4599.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public on May 3 up to the seating capacity of the room, which is approximately 430 persons including Advisory Committee members and other participants. The agenda for the meeting is as follows:

—Requirements Assessment Process Update
—Option Development Status and Plans
—Preliminary Schedule and Cost Assessment
—Briefings as Appropriate

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants, and in order for the Committee to complete its report by June.

Dated: April 26, 1993.

Danalee Green,

Chief, Management Controls Office, National Aeronautics and Space Administration.

[FR Doc. 93–10094 Filed 4–27–93; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Notice of Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, of the ACNW, and the ACNW Working Groups the following preliminary schedule is published to reflect the current situation, taking into account additional meetings that have been scheduled and meetings that have been postponed or cancelled since the last list of proposed meetings was published March 25, 1993 (58 FR 16214). Those meetings that are firmly scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS and ACNW full Committee meetings designated by an asterisk (*) will be closed in whole or in part to the public. The ACRS and ACNW full Committee meetings begin at 8:30 a.m. and ACRS Subcommittee and ACNW Working Group meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS and ACNW full Committee meetings, and when ACRS Subcommittee and ACNW Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the May 1993 ACRS and ACNW full Committee meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committees (telephone: 301/492–4600 (recording) or 301/492–7288, Attn: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., (EDT).

ACRS Subcommittee Meetings

Probabilistic Risk Assessment, May 11, 1993, Bethesda, MD. The Subcommittee will discuss the report of the PRA Working Group that summarizes activities of this Group and provides guidance for the staff regarding the application of PRA.

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Joint Thermal Hydraulic Phenomena/ Core Performance, May 12, 1993, Bethesda, MD. The Subcommittees will continue their review of the issues pertaining to BWR core power stability. Also, they will discuss the status of issues associated with BWR vessel water level instrumentation.

Planning and Procedures, May 12, 1993, Bethesda, MD (3 p.m.–5:30 p.m.). The Subcommittee will discuss proposed ACRS activities and related matters. Qualifications of candidates nominated for appointment to the ACRS will also be discussed. Portions of this meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Planning and Procedures, June 9, 1993, Bethesda, MD (3 p.m.–5:30 p.m.). The Subcommittee will discuss proposed ACRS activities and related matters. Qualifications of candidates nominated for appointment to the ACRS will also be discussed. Portions of this meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Advanced Boiling Water Reactors, June 17, 1993, San Jose, CA. The Subcommittee will review matters related to the General Electric Nuclear Energy Standard Safety Analysis Report related to the ABWR design.

Regulatory Policies and Practices, July 7, 1993, Bethesda, MD (1 p.m.–5 p.m.). The Subcommittee will discuss the report of the NRC Regulatory Review Group.

Planning and Procedures, July 7, 1993, Bethesda, MD (3 p.m.–5:30 p.m.). The Subcommittee will discuss proposed ACRS activities and related matters. Qualifications of candidates nominated for appointment to the ACRS will also be discussed. Portions of this meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Thermal Hydraulic Phenomena, July 22–23, 1993, Bethesda, MD. The Subcommittee will begin its review of both the Westinghouse analytical and separate effects programs being conducted in support of the AP600 design certification effort.

Advanced Boiling Water Reactors, October 26–27, 1993, Bethesda, MD. The Subcommittee will continue its review of the GE ABWR Standard Safety Analysis Report and the associated NRC staff's Final Safety Evaluation Report.

Advanced Boiling Water Reactors, November 16–17, 1993, Bethesda, MD. The Subcommittee will continue its review of the GE ABWR Standard Safety Analysis Report and the associated NRC staff's Final Safety Evaluation Report.

ACRS Full Committee Meetings

397th ACRS Meeting, May 13–15, 1993, Bethesda, MD. During this meeting, the Committee plans to consider the following:

A. *Proposed Resolution of Generic Issue 105, "Interfacing Systems LOCA in LWRs"*—Review and comment on the NRC staff's proposed resolution of Generic Issue 105. Representatives of the NRC staff and the industry will participate, as appropriate.

B. *PRA Working Groups Activities*—Review and comment on a draft report on the proposed application of PRA prepared by the PRA Working Group. Representatives of the NRC staff and the industry will participate, as appropriate.

C. *Proposed NRC Staff Plan for Comparing Safety Goals with Regulations*—Review and comment on a proposed NRC Staff Plan for using the Safety Goal Policy to judge the effectiveness of the NRC regulations. Representatives of the NRC staff and the industry will participate, as appropriate.

D. *Boiling Water Reactor Core Power Stability*—Review and comment on the NRC staff's review of the approaches proposed by the BWR Owners Group for resolving the issue of BWR core power stability. Representatives of the NRC staff and the industry will participate, as appropriate.

E. *SECY–93–067, Final Policy Statement on Technical Specifications Improvements*—Review and comment on the staff's proposed final policy statement on technical specifications improvements. Representatives of the NRC staff and the industry will participate, as appropriate.

F. *Advanced Reactor Schedules*—Hear a briefing by and hold discussions with representatives of the NRC staff on the schedules for the NRC review of advanced reactor designs.

G. *Form and Content of Combined Operating License*—Hear a briefing by and hold discussions with representatives of the NRC staff regarding requirements for preparation and submittal of documents with regard to a Combined Operating License. Representatives of the industry will participate, as appropriate.

H. *Need for Amending the Backfit Rule (Tentative)*—Discuss the need for the NRC to amend the Backfit Rule. Representatives of the NRC staff and the industry will participate, as appropriate.

I. *Meeting the NRC Commissioners*—Meet with the NRC Commissioners to discuss items of mutual interest.

J. *Meeting with the Director of the Office of Nuclear Reactor Regulation*—Meet with the Director of the Office of Nuclear Reactor Regulation to discuss items of mutual interest.

K. *Future ACRS Activities*—Discuss topics proposed for consideration by the full Committee.

L. *Resolution of ACRS Recommendations*—Discuss responses from the NRC Executive Director for Operations to recent ACRS comments and recommendations.

M. *ACRS Subcommittee Activities*—Hear reports and hold discussions regarding the status of ACRS subcommittee activities, including status of issues associated with the BWR vessel water level instrumentation and use of advanced computer graphics in nuclear power plant design process.

*N. *Appointment of ACRS Members*—Discuss qualifications of candidates proposed for appointment as ACRS members. Portions of this session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

O. *Miscellaneous*—Discuss miscellaneous matters related to the conduct of Committee activities and complete discussion of topics that were not completed during previous meetings as time and availability of information permit.

398th ACRS Meeting, June 10–12, 1993, Bethesda, MD. Agenda to be announced.

399th ACRS Meeting, July 8–10, 1993, Bethesda, MD. Agenda to be announced.

400th ACRS Meeting, August 5–7, 1993, Bethesda, MD. Agenda to be announced.

401st ACRS Meeting, September 9–11, 1993, Bethesda, MD. Agenda to be announced.

402nd ACRS Meeting, October 7–9, 1993, Bethesda, MD. Agenda to be announced.

403rd ACRS Meeting, November 4–6, 1993, Bethesda, MD. Agenda to be announced.

404th ACRS Meeting, December 9–11, 1993, Bethesda, MD. Agenda to be announced.

ACNW Full Committee and Working Group Meetings

53rd ACNW Meeting, May 19–20, 1993, Bethesda, MD. During this meeting, the Committee plans to consider the following:

A. *Revised Draft HLW Research Program Plan*—Review and comment on the revised Draft HLW Research Program Plan, NUREG–1406, and associated technical assistance. Representatives of the NRC staff will participate.

*Closed

B. *Standard Review Plan for the Review of Remedial Action of Inactive Mill Tailings Sites*—Review and comment on Revision 1 of the Standard Review Plan for use in reviewing the Remedial Action of Inactive Mill Tailings Sites Under Title I of the Uranium Mill Tailings Radiation Control Act. Representatives of the NRC staff will participate.

C. *DOE Site Characterization Progress Reports*—Hear briefings by and hold discussions with representatives of the NRC staff on NRC's responses and follow-up to the DOE Site Characterization Progress Reports for the Proposed Yucca Mountain repository. Also, discuss the revised procedures for evaluating the DOE study plans. Representatives of DOE will participate, as appropriate.

D. *Systematic Regulatory Analysis*—Hear briefings by and hold discussions with representatives of the NRC staff and the Center for Nuclear Waste Regulatory Analyses (CNWRA) on the current status of the Systematic Regulatory Analysis, conducted by CNWRA, and products resulting from this initiative, including technical assistance efforts and the development of the License Application Review Plan.

E. *Standard Review Plan*—Hear a briefing by and hold discussions with representatives of the NRC regarding a proposed NRC staff Standard Review Plan for use in reviewing the DOE Study Plans.

F. *Committee Activities*—Discuss anticipated and proposed Committee activities, future meeting agenda, and organizational matters, as appropriate.

G. *Miscellaneous*—Discuss miscellaneous matters related to the conduct of Committee activities and complete discussion of topics that were not completed during previous meetings as time and availability of information permit.

54th ACNW Meeting July 21–22, 1993, Bethesda, MD. Agenda to be announced.

55th ACNW Meeting August 25–26, 1993, Bethesda, MD. Agenda to be announced.

56th ACNW Meeting September 22–23, 1993, Bethesda, MD. Agenda to be announced.

57th ACNW Meeting October 27–28, 1993, Bethesda, MD. Agenda to be announced.

58th ACNW Meeting November 22–23, 1993, Bethesda, MD. Agenda to be announced.

59th ACNW Meeting December 15–16, 1993, Bethesda, MD. Agenda to be announced.

Dated: April 22, 1993.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93–9907 Filed 4–27–93; 8:45 am]

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UNITED STATES NUCLEAR REGULATORY COMMISSION

Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from April 5, 1993, through April 16, 1993. The last biweekly notice was published on April 14, 1993.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By May 28, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular

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facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: April 1, 1993

Description of amendments request: The proposed amendments would revise Technical Specification (TS) 3/4.1.2 "Boration Systems." The proposed changes will separate the requirements for mitigating small break loss-of-coolant accidents (SBLOCA) from the requirements for providing emergency boration. The requested changes are administrative in nature in that they do not add, revise, or delete any of the existing TS requirements. The changes provide needed clarification to ensure that the appropriate boration lineups are operable during the applicable mode of operation. The TS Bases Section, 3/4.1 "Reactivity Control Systems," will also be revised to support the proposed amendments.

The specific changes and clarification proposed to separate the requirements for mitigating a SBLOCA from the requirements for providing emergency boration are:

TS 3.1.2.6 Boric Acid Pumps - Operating, Limiting Condition for Operation (LCO), will be changed to include a reference to TS 3.1.2.8 Charging Pump Emergency Core Cooling (ECCS) Subsystems:

TS 3.1.2.8 Charging Pump ECCS Subsystems will be changed to only contain the requirements which need to be met to mitigate a SBLOCA. This LCO will continue to be applicable to Mode 1 when greater than 80% of rated thermal power. The previous requirements for providing emergency boration capability are moved to TS 3.1.2.9 Borated Water Sources - Operating.

The footnote on TS 3.1.2.9, Borated Water Sources - Operating, which makes the LCO applicable to Mode 1 when greater than or equal to 80% of rated thermal power is removed. The LCO, as changed, will be applicable in Modes 1 through 4 to assure the requirements needed for emergency boration are available.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Boration System provides borated water to the Reactor Coolant System to ensure that negative reactivity control is available during each Mode of Operation and during transient conditions. The current Technical Specifications combine the requirements for providing emergency boration and for mitigating a small break loss-of-coolant (SBLOCA). The proposed change will separate the requirements for emergency boration from those for a SBLOCA. The change does not add, revise, or delete any of the existing requirements, nor does it affect the safety function of the Boration System.

Separating the Boration System Technical Specifications to distinguish between the requirements for emergency boration purposes and the requirements to mitigate a SBLOCA will have no effect on the probability of an accident previously evaluated. These changes are administrative in nature and only clarify the existing requirements.

The proposed changes to the Boration System Technical Specifications will have no effect on the consequences of an accident previously evaluated. They will clarify the alignment of systems currently required to be operable. Therefore, this change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different type of accident from any accident previously evaluated.

The proposed changes to the Boration System Technical Specifications are administrative in nature and, therefore, do not represent a significant change in the configuration or operation of the plant. Specifically, no new hardware is being added to the plant as part of the proposed change, no existing equipment is being modified, nor are any different types of operations being introduced. The proposed change will only clarify existing Technical Specifications. Therefore, this change would not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Would not involve a significant reduction in the margin of safety.

The proposed changes to the Boration System Technical Specifications are administrative in nature and, as such, will maintain the existing margin of safety. Clarifying these Technical Specifications will distinguish between what borated water sources and flowpaths are required for emergency boration purposes and which ones are required to mitigate a SBLOCA. Therefore, the proposed change would not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Robert A. Capra

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendment: March 11, 1993

Description of amendments request: The proposed amendments would revise the Technical Specifications by relocating the procedural details of the radiological effluent/radiological environmental monitoring program and solid waste program to the Offsite Dose Calculation Manual (ODCM) and the Process Control Program (PCP).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes only alter the format and location of procedural details and administrative controls of the radioactive effluents, radiological environmental monitoring and solid radioactive waste programs. The changes are administrative in nature and do not involve any change to the configuration or operation of plant equipment. The Radiological Effluent Technical Specifications (RETS) procedural details are being moved to the Offsite Dose Calculation Manual (ODCM), and the Process Control Program (PCP). However, the contents of the RETS are not being changed. The purpose of the RETS is to assure that the proper controls for the radiological effluent system are in place. The programs containing the procedural details of RETS will continue to perform the same functions. Any future changes to the programs containing the RETS procedural details would require an onsite review and approval. Therefore, the RETS will continue to receive a high level of consideration even though they will no longer be part of the Technical Specifications. All the current provisions of the RETS are being retained, so none of the assumptions used in the accident analysis will be affected. Based on this evaluation, it has been determined that the changes do not affect the probability or consequences of a previously evaluated accident.

2. The procedural requirements of the RETS will be maintained in the ODCM and the PCP. Operation of the plant will not be altered by the changes proposed to the administration of the RETS. This change will not place the plant in any new condition or introduce any mode of operation not previously analyzed. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes relocate the procedural details and bases of RETS from the Technical Specifications to the ODCM or PCP. The RETS procedural details and bases will be maintained by these programs. Changes to these programs will require an onsite review. In addition, new administrative controls have been added to the Technical Specifications which assure the proper control and maintenance of these documents and provide an equivalent level of assurance that activities involving radioactive effluents, solid radioactive waste, and radiological environmental monitoring are conducted in full compliance with regulatory requirements. Therefore, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

NRC Project Director: James E. Dyer

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: January 29, 1992

Description of amendment request: The proposed amendment would modify the Fermi 2 Technical Specifications for surveillance testing of activated charcoal samples from the Control Room Emergency Filtration System (CREFS) and the Standby Gas Treatment System (SGTS). Specifically, laboratory analysis of a representative charcoal sample from the CREFS and SGTS are required at least every 18 months, after 720 hours of operation, following structural maintenance on filter or charcoal adsorber housings, and following painting, fire or chemical release in any ventilation zone communicating with the CREFS or SGTS. The licensee proposes to update the standards used to evaluate the

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surveillances in accordance with previous commitments to the NRC.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

By providing an improved procedure for charcoal analysis the proposal provides greater assurance that the installed charcoal can perform its design function and, thus, the consequences of evaluated accidents are valid. The method of laboratory analysis has no effect upon how the plant is operated, including the method of sample removal. Therefore, the probability of any evaluated accident is unchanged.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

As described in 1) above, the proposal has no effect on the manner of plant operation. The proposal does not involve any change to the plant design. Therefore, the change creates no new accident modes.

(3) Involve a significant reduction in a margin of safety.

By providing an improved procedure for charcoal analysis the proposal acts to maintain existing safety margins.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226

NRC Project Director: L. B. Marsh

Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: February 19, 1993

Description of amendment request: The proposed amendment would modify Specifications 3.4.9.1, 3.4.9.2 and 4.4.9.2. The changes would specify a 72-hour time limit for an engineering evaluation if an out-of-limit condition is reached, compared to no time limit currently existing. The changes also reformat the action statement into a list of actions. Pressurizer differential spray temperature would be monitored every 30 minutes instead of every 12 hours. In addition, for Unit 2 only, the pressurizer spray water differential temperature limit would be reduced to 320°F (from 625°F), and an auxiliary spray water differential temperature limit of 380°F would be specified.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed amendment modifies Specifications 3.4.9.1 and 3.4.9.2 by incorporating the STS [Standard Technical Specifications] action requirements in addition to clarification of the limiting condition for operation and surveillance requirements. This change was first initiated to revise the BV-2 pressurizer spray differential temperature limit by replacing the 625°F limit with the 320°F limit. The pressurizer spray differential temperature limit was identified as a concern during investigation into the BV-2 pressurizer surge line thermal stratification issue and the leak-before-break analysis associated with the large bore snubber removal. Additional changes were also included following review of the STS for clarification of the action statements for Specifications 3.4.9.1 and 3.4.9.2.

The current BV-2 auxiliary spray differential temperature limit was incorporated in Specification 3.4.9.2 to provide the maximum value consistent with the pressurizer equipment specification. The fatigue analysis for the pressurizer surge line provides for a limited number of cycles above 320°F, however, the design analysis has been verified to account for auxiliary spray operation with a differential temperature limit of 380°F. Therefore, to ensure the equipment meets the acceptance criteria for the design life of the plant, the normal spray differential temperature limit has been reduced to 320°F and an auxiliary spray differential temperature limit of 380°F has been added. The BV-2 piping adjacent to the pressurizer spray nozzle is equipped with a thermal sleeve which allows the higher limit. BV-1 doesn't have this design, therefore, the 380°F differential temperature doesn't apply for BV-1. The proposed change establishes a more conservative limit and does not affect the [Updated Final Safety Analysis Report] UFSAR, therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The action statements for these specifications have been revised to incorporate the STS requirements in intent, but the format has been changed to separate each of the individual actions and to incorporate a 72 hour action time to perform the engineering evaluation. The current action statements are consistent with the original STS.

Later revisions to the STS modified the wording to more clearly define the type of review required (engineering evaluation) and to ensure the correct subject is evaluated (structural integrity). Reformatting the action statements was done to more clearly present the action requirements and to provide a time period in which to perform the engineering evaluation since none is specified in the STS. The 72 hours is based on typical technical specification action times for performing certain actions prior to beginning a plant shutdown. These are administrative changes that are reasonable, safe and do not affect the UFSAR, therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The format of Surveillance Requirement 4.4.9.2.2 has been revised for both units into separate surveillance 4.4.9.2.1 and 4.4.9.2.2 to provide the surveillance in a clear format and add surveillance 4.4.9.2.3 for auxiliary spray water differential temperature. Normal pressurizer spray is supplied from the RCS and is not expected to exceed the maximum spray water differential temperature limit during power operation, but during heatup and cooldown operations the differential temperature may approach the limit at low RCS temperatures. Therefore, Surveillance Requirement 4.4.9.2.2 is applied to normal spray and requires verifying the differential temperature is within the limit at least once per 30 minutes during heatup and cooldown operations. This frequency is consistent with 4.4.9.2.1 for verification of the pressurizer temperature also required during heatup and cooldown operations. Surveillance Requirement 4.4.9.2.3 is applied to auxiliary spray operation with verification of the differential temperature at least once per 30 minutes when auxiliary spray is used. Since auxiliary spray may be used at times other than during heatup and cooldown operations, it has been separated from normal spray. These changes reflect the analysis assumptions and are consistent with the operation of the pressurizer sprays, therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The requirements of BV-2 Specification 3.4.9.2 will continue to govern the operability of the pressurizer and incorporates more conservative spray water differential temperature limits that are consistent with the analysis. The proposed change does not introduce any new mode of plant operation or require any physical modification to the plant, therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The revised action statement for Specifications 3.4.9.1 and 3.4.9.2 is consistent with the intent of the STS and will ensure an engineering evaluation is performed when required to ensure the structural integrity of the RCS and the pressurizer is acceptable for continued plant operation. Changing the format separates the individual action requirements into individual actions. Adding the 72 hour action time to perform the engineering evaluation is consistent with other action requirements which provide a typical action time to perform an action function prior to plant shutdown. These changes do not reduce the limiting condition for operation or action requirements, therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated in the UFSAR.

Surveillance Requirement 4.4.9.2 for both units has been separated into individual surveillances 4.4.9.2.1 and 4.4.9.2.2. Surveillance Requirement 4.4.9.2.1 requires verification of the pressurizer temperatures at least once per 30 minutes during system heatup and cooldown operations. This is consistent with the current surveillance requirement. Surveillance Requirement 4.4.9.2.2 requires verification of the normal spray water temperature differential at least once per 30 minutes during system heatup and cooldown operations. This includes changing the surveillance requirement to apply to normal spray, replaces the 12 hour frequency with 30 minutes, and changes the application of this surveillance requirement to system heatup or cooldown operations. Surveillance Requirement 4.4.9.2.3 has been added for verification of the auxiliary spray water temperature differential at least once per 30 minutes during auxiliary spray operation. These changes specify frequency and application requirements similar to Specification 4.4.9.2.1 where a parameter is verified under the conditions when that parameter may approach the limit. These changes provide for reasonable verification of the required parameters at a consistent frequency and are applied when required to verify system operability, therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The BV-2 625°F auxiliary spray differential temperature limit was incorporated in Specification 3.4.9.2 to provide the maximum value consistent with the pressurizer equipment specification, however, this only provided for a limited number of cycles. By incorporating a conservative reduction in the limit to 320°F for normal spray and 380°F for auxiliary spray the analysis assumptions are satisfied and the equipment meets the acceptance criteria for the design life of the plant. Therefore, overall plant safety is enhanced and the margin of safety is not reduced.

Changing the action statements to specify an engineering evaluation in lieu of an analysis is acceptable since the engineering evaluation can be performed in a reasonable period of time to ensure those parameters that may be affected are consistent with the analysis assumptions. The engineering evaluation provides adequate assurance that the structural integrity of the RCS and pressurizer are acceptable for continued operation and is consistent with the STS, therefore, these changes will not reduce the margin of safety.

Normal pressurizer spray during heatup and cooldown operations and auxiliary spray operation when using auxiliary spray are the limiting conditions for the use of these systems, therefore, the changes to Surveillance Requirement 4.4.9.2 emphasize verification of the differential temperature when these conditions apply. Reducing the frequency to once per 30 minutes provides additional assurance that the differential temperature is adequately monitored and maintained within the specified limits. These changes ensure the required parameters are verified during the applicable conditions and on a consistent frequency, therefore, these changes will not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Walter R. Butler

Florida Power and Light Company, et al., Docket No. 50-335 St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: March 19, 1993

Description of amendment request: The proposed amendment allows a reduction in Reactor Coolant System (RDS) design flowrate from the current value of 370,000 gpm to 355,000 gpm in Technical Specifications (TS) Figure 2.1-1, and Tables 2.2-1 and 3.2-1.

The purpose of the proposed change is to accommodate future steam generator tube plugging (SGTP) up to 25% (average). Though not expected, it is possible that SGTP performed during the upcoming refueling outages may eliminate any remaining margin between the actual number of plugged tubes and that used in existing safety analyses assumptions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Pursuant to 10 CFR 50.92, a determination may be made that a proposed license amendment involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Each standard is discussed as follows:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment would permit full power operation of St. Lucie Unit 1 with a decreased value of design reactor coolant flow. It is postulated that this steady state RCS flow decrease would occur as a result of an increased level of steam generator tube plugging. No increase in the probability of any accident previously analyzed is likely to occur because no changes are being made to the plant's required mode of operation or to any active plant component. By their nature, steam generator tube plugs are passive components and this amendment does not change the nature or type of plugs which may be used.

Florida Power and Light Company (FPL) has submitted the results of a safety evaluation which concludes that potential radiological consequences of previously analyzed accidents remain within their established acceptance criteria when including the values of increased steam generator tube plugging or reduced RCS flow consistent with this proposed amendment. This conclusion is supported by reanalysis of relevant limiting events in several accident categories, as appropriate.

Therefore, operation of the facility in accordance with this amendment would not involve a signficant increase in the probability or consequences of any accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

This amendment does not result in a change to any active plant component or in the mode of operation of the plant. The design function of the Reactor Coolant System, Steam Generators, Emergency Core Cooling System and other systems will not change. The designed excess capacity of the steam generators can accommodate the potential reduction in primary to secondary heat transfer area caused by increased tube plugging without significantly impacting the plant's dynamic behavior. The presence of plugged steam generator tubes is not changed by this proposed amendment. Therefore, operation of the facility in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The impact of the proposed change on available margin to the acceptance criteria for Specified Acceptable Fuel Design Limits (SAFDL), primary and secondary overpressurization transients, 10 CFR 50.46(b) criteria, peak containment pressure, potential radioactive dose releases and to existing Limiting Conditions for Operation has been examined as part of the safety

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evaluation submitted by FPL in support of this amendment. After considering the proposed steam generator tube plugging level and resultant RCS flow, a comparison of limiting events to the acceptance criteria listed above shows that a conservative safety margin to the acceptable limits remains available. For this reason, FPL has concluded that there is no significant reduction in a margin of safety as a result of this proposed license amendment.

Based on the discussions presented above and on the supporting technical justifications, FPL has concluded that this proposed license amendment involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: April 8, 1993

Description of amendment request: The proposed amendments would revise the Technical Specifications (TSs) to change the value of the peak containment pressure (P_a) calculated for design basis accidents. The value would be changed from 45 psig to 37 psig in TSs 4.6.1.1.c, 3.6.1.2.a, 3.6.1.2.b, 4.6.1.2.a, 4.6.1.2.d, 3.6.1.3.b, 4.6.1.3.a, and 4.6.1.3.b.

Basis for proposed no significant hazards consideration determination: On March 22, 1993, the NRC issued Amendments 60 (Unit 1) and 39 (Unit 2) which modified the Vogtle Licenses and TSs by increasing maximum core power level from 3411 megawatts thermal to 3565 megawatts thermal. To support these previous amendments, the licensee provided revised analyses of design basis loss-of-coolant accidents (LOCAs) and main steam line break (MSLB) accidents. The revised analyses benefited from several changes, including a more accurate accounting of heat sinks inside containment, an improved mass and energy evaluation model (WCAP-10325-P-A), credit for the full number of containment coolers required to be available by TSs (4 of 8), and an initial containment pressure of 3.0 psig required by TSs rather than 0.3 psig. The results showed that the highest P_a would occur for a LOCA rather than a MSLB and reach a maximum value of 36.5 psig. The NRC staff found the revised analyses acceptable in the Safety Evaluation accompanying Amendments 60 and 39.

The calculated peak containment pressure is used for leak testing the containment, containment isolation valves, and containment penetrations, including the containment airlock, in accordance with 10 CFR 50 Appendix J. The proposed amendments would recognize the revised, accepted value of 36.5 psig, rounded up to 37 psig, as the basis for these tests.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The revision of pressure for containment leak testing does not involve a significant increase in the probability or consequences of an accident previously evaluated. Utilization of the revised pressure will not cause any design or analysis acceptance criteria to be exceeded because the containment will continue to be tested at a pressure greater than or equal to the highest pressure associated with any design basis accident. The structural and functional integrity of plant systems is unaffected. Furthermore, this change does not affect the initiators for any transient. Therefore, the probability of occurrence is not affected.

The change to the pressure for containment leak testing does not affect the integrity of the fission product barriers utilized for mitigation of radiological dose consequences as a result of an accident. In addition, the offsite mass releases used as input to the dose calculations are unchanged from those previously assumed. Therefore, the offsite dose predictions remain within the acceptance criteria for each of the transients affected. Since it has been determined that the transient results are unaffected by the change in pressure for containment leak testing it is concluded that the consequences of an accident previously evaluated are not increased.

2. The change in pressure for containment leak testing does not create the possibility of a new or different kind of accident from any accident previously evaluated. The change in pressure does not affect accident initiation sequences. No new operating configuration is being imposed by the reduction in pressure that would create a new failure scenario. In addition, no new failure modes are being created for any plant equipment. Therefore, the types of accidents defined in the Final Safety Analysis Report (FSAR) continue to represent the credible spectrum of events to be analyzed which determine safe plant operation.

3. The margin of safety associated with the change in the pressure for containment leak testing has been demonstrated by the results of the accident analyses. The analyses confirm that the peak containment pressure calculated as a result of LOCA and steam line break does not challenge the containment design pressure of 52 psig. The relationship of the test pressure to the peak calculated pressure remains the same; therefore, the required margin of safety regulated for each affected safety analysis is maintained. Since the revised Technical Specification value continues to be less than the containment design pressure and greater than or equal to the peak calculated containment pressure, the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308

NRC Project Director: David B. Matthews

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: April 16, 1992

Description of amendment request: The proposed amendment would change Clinton Power Station Technical Specification Figure 3.1.5-1, "Weight Percent Sodium Pentaborate Solution as a Function of Net Tank Volume," to show the reduction in net tank volume that results from raising the Standby Liquid Control System storage tank level instrument zero to prevent potential air entrainment in the pump suction piping due to vortexing. Additionally the Technical Specification Bases which describe this curve would be revised to reflect the changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) As discussed previously, increasing the instrument zero elevation reduces the total available volume of sodium pentaborate solution above the revised instrument zero. However, the low-level and high-level alarm setpoints were also revised to account for the revised instrument zero such that the net volume of sodium pentaborate solution corresponding to each of these setpoints does not change. As a result, sufficient sodium pentaborate solution will continue to be available to shut down the reactor in the event of an ATWS event. In addition, revisions have been made to the figure to provide additional understanding and less confusion in the use of the figure. Since these changes do not impact the ability of the system to perform its function, this request does not result in a significant increase in the consequences of any accident previously evaluated. With respect to the probability of occurrence of any accident previously evaluated, the [standby liquid control] SLC system is designed to mitigate the consequences of transients/accidents in the event of a failure to scram. Operation of the SLC system and the impact of the proposed changes on the SLC system have no impact on the probability of occurrence of those transients/accidents.

(2) This request does not result in any change to the plant design or operation beyond the change to the instrument zero for the SLC storage tank level instrumentation. The proposed change does not involve any changes to the plant design other than that specifically described and impacts no other systems or components. In fact, the proposed changes ensure the design requirements of the system are achieved. As a result, no new failure modes are introduced, and the request will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed request does not adversely impact the reliability of the SLC system as the reliability of the SLC system operation is in fact increased by preventing potential air entrainment in the pump suction piping due to vortexing. Since this request does not involve an adverse impact to system operation or reliability, and since SLC system reactivity control capability is not affected by the proposed change, this request does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: James E. Dyer

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: February 17, 1993

Description of amendment request: The proposed amendment would 1) increase the minimum fuel storage requirements for the emergency diesel generators, 2) revise alternate train testing requirements for the emergency diesel generators, 3) revise the monthly emergency diesel generator load testing requirement, 4) add a requirement to perform a semi-annual demonstration of the emergency load capability test of the emergency diesel generators, 5) revise the Remedial Actions to be taken if more than one of the required electrical sources becomes unavailable when the reactor is critical, 6) remove a restriction placed on 115 kV power to the station by a previous Amendment, 7) revise or add the Basis associated with each item, 1 through 6, above, and 8) make minor editorial changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to Technical Specifications (TS) 3.12.A and B neither alter plant systems or components, nor directly affect system or component maintenance. The proposed changes would improve safe operation of the plant.

Increasing minimum diesel fuel storage requirements ensures compliance with American National Standards Institute (ANSI) N195-1976, which specifies that stored fuel oil be sufficient to supply the emergency diesel generators for 7 continuous days of operation.

Removing the operational restriction on the 115 kV Surowiec line reflects the increased reliability of this source due to the operability of the associated capacitor bank.

Remedial Action 2 to TS 3.12.B is revised to prevent loss of the second (alternate train) emergency diesel generator during testing, when one train becomes inoperable and the cause of the inoperabililty is not due to a common mode failure.

Remedial Action 3 to TS 3.12.B provides a reasonable time to restore the required 115 kV incoming line and an inoperable emergency diesel generator--including the emergency buses and dc distribution cabinets associated with the emergency diesel generator--should these sources become inoperable.

The change to TS 4.5.A revises the monthly surveillance requirement for the emergency diesel generators by specifying the loading range and power factor to be used during the test. (An editorial change makes it clear that during the test, operation of the fuel oil transfer pump for the running emergency diesel generator must be verified). In addition, a new, semi-annual test of the emergency diesel generators will demonstrate their ability to start and deliver power at the maximum expected emergency loading.

Technical Specification 4.5.B, Station Batteries, is revised by dividing it into three separate requirements, based on frequency of performance. The change is editorial. There is no change to technical requirements.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed amendment makes no hardware modifications or creates any unique operating conditions. Technical Specification 3.12 wouldincrease the diesel fuel oil storage requirement, remove a now unnecessary restriction on use of the 115 kV Surowiec supply line, prevent the loss of both emergency diesel generators through unnecessary testing when only one is operable, and provide a reasonable time to restore the required 115 kV incoming line and an inoperable emergency diesel generator--including the emergency buses and dc distribution cabinets associated with the emergency diesel generator.

Technical Specification 4.5.A would specify the load range and power factor to be used during the monthly emergency diesel generator surveillance test; establish a new, semi-annual emergency diesel generator surveillance test; and make two clarifying editorial changes. The change to TS 4.5.B reorganizes battery testing requirements; no technical changes are made.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change to TS 3.12 would make this specification consistent with current administrative controls, which are more restrictive than the present requirements of TS 3.12. The proposed monthly surveillance requirement of TS 4.5.A.1 would clearly specify the load to which the emergency diesel generators are to be tested (90 to 100% of their continuous rating), while TS 4.5.A.3 adds a semi-annual load test at the maximum expected emergency loading values. The change to TS 4.5.B is editorial only; no technical changes are made.

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Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Attorney for licensee: Mary Ann Lynch, Esquire, Maine Yankee Atomic Power Company, 83 Edison Drive, Augusta, Maine 04336

NRC Project Director: Walter R. Butler

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: April 7, 1993

Description of amendment request: The proposed Technical Specification (TS) changes would revise TS Section 3/4.1.3.5, "Control Rod Scram Accumulators." Action a.2.a for Limiting Condition for Operation 3.1.3.5 would be revised to allow the reactor operator 20 minutes to restart at least one control rod drive pump if more than one accumulator is inoperable, the control rod associated with any inoperable accumulator is withdrawn, and reactor pressure is greater than or equal to 900 psig. If reactor pressure is less than 900 psig, the operator would be required to place the reactor mode switch in the shutdown position. The proposed changes would also delete the surveillance requirement of TS 4.1.3.5.b.2, which requires scram accumulator check valve testing at least once per 18 months. Testing of the scram accumulator check valves would continue to be demonstrated during each refueling outage in accordance with TS 4.0.5, which requires inservice testing of ASME Code Class 1, 2, and 3 components.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to Action a.2.a of LCO [Limiting Condition for Operation] 3.1.3.5 provide additional operating flexibility where plant safety is not an immediate concern and prevent plant operation in a condition when the accumulators are required to support the scram function. Removal of the 18 month leak test specified by SR [Surveillance Requirement] 4.1.3.5.b.2 does not affect the reliability of the check valves because operability of the scram accumulator check valves is assured by TS Section 4.0.5 which requires that inservice testing of the check valves comply with ASME Code, Section XI. In addition, the proposed changes will not affect nor change any plant hardware, plant design or plant system operation from that already described in the USAR [Updated Safety Analysis Report]. Therefore, the proposed changes do not modify or add any initiating parameters that would significantly increase the probability or consequences of any accident previously analyzed.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The safety function of the scram accumulator is to assist in control rod insertion when reactor pressure alone is insufficient. Prompt operator action is still required to prevent circumstances where more than one scram accumulator is inoperable and reactor pressure might be insufficient to scram the plant. The capability of the control rods to perform their safety function and provide proper reactivity insertion within the required time will not be affected by the proposed changes.

The proposed additions to the LCO 3.1.3.5 action statement will assure the scram capability of all control rods and reduce the probability of unnecessary forced shutdowns and the associated demands on safety systems. The additional LCO Action proposed (i.e., shutdown if reactor pressure is less than 900 psig) provides for prompt operator action to prevent reactor operation in a condition where the accumulators are required to support the scram function. Removal of SR 4.1.3.5.b.2 does not eliminate testing and maintenance of the scram accumulator check valves. Testing and operation of the scram accumulator check valves will continue to be demonstrated by the TS required IST [Inservice Testing] Program.

In addition, the proposed changes do not represent a change in the plant or the design bases as described in the NMP2 [Nine Mile Point Nuclear Station, Unit 2] USAR. The proposed changes do not modify any equipment nor do they create any potential initiating events that would create any new or different kind of accident. As such, the plant initial conditions utilized for the design basis accident analyses are still valid. The current USAR will remain accurate with respect to its discussion of the licensing basis events and its analysis of plant response and consequences. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

At normal reactor pressure (i.e., greater than 900 psig), reactor pressure alone is sufficient to scram the control rods. The proposed TS changes allow the plant operator 20 minutes to restart at least one CRD [Control Rod Drive] pump if there is more than one inoperable scram accumulator and reactor pressure is equal to or greater than 900 psig. Control rod scram accumulators and accumulator check valves are required to support the scram function only at reactor pressures less than 600 psig. To prevent approaching the 600 psig limit, the proposed TS requires plant operators to immediately scram the reactor if there is more than one inoperable scram accumulator and there is not a CRD pump operating when reactor pressure is less than 900 psig. The proposed removal of SR 4.1.3.5.b.2 does not affect the reliability of the scram accumulator check valves because operability of these valves is assured by TS 4.0.5 which requires inservice testing per Section XI of the ASME Code.

The control rod system is designed to bring the reactor subcritical at a rate fast enough to prevent fuel thermal parameters from exceeding their respective safety limits during limiting plant events. The safety function of the scram accumulators is to assist in control rod insertion when reactor pressure alone is insufficient. The proposed changes do not affect the capability of the control rods to perform their safety function and provide proper reactivity insertion within the required time. Therefore, the fuel cladding integrity safety limit will not be affected as the MCPR [Minimum Critical Power Ratio] limit will continue to be met.

For the reasons stated above, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied.

Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Robert A. Capra

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: March 22, 1993

Description of amendment request: The proposed amendment would revise Section 6.9.1.9, "Core Operating Limits Report," of the Technical Specifications (TS) to permit use of the SAFER/GESTR-LOCA methodology which has been approved by the NRC staff for accident analyses. TS Bases Section 3/4.2 would also be revised to reflect the addition of the SAFER/GESTR-LOCA

methodology as well as several editorial changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

SAFER/GESTR-LOCA uses a realistic approach to calculate peak cladding temperatures with margin substantiated by statistical considerations. The use of SAFER/GESTR-LOCA methodology was approved by the Staff in their Safety Evaluation on Amendment 13 to GESTAR II. In the Safety Evaluation, the Staff concluded that SAFER/GESTR-LOCA satisfies the requirements of 10CFR 50.46 and Appendix K. The Staff stated that SAFER/GESTR-LOCA is acceptable as a basis for and reference in license applications so long as the material contained in SAFER/GESTR-LOCA is applicable to the specific plant involved. Niagara Mohawk has confirmed the applicability of SAFER/GESTR-LOCA to NMP2 [Nine Mile Point Nuclear Station, Unit 2]. The SAFER/GESTR-LOCA methodology conservatively calculates peak cladding temperatures such that USAR [Updated Safety Analysis Report] accident analyses remain bounding for the new methodology. Therefore, operation of Nine Mile Point Unit 2, in accordance with this proposed change, will not involve a significant increase in the probability or consequences of any accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

SAFER/GESTR-LOCA uses a realistic application approach to calculate peak cladding temperatures with margin substantiated by statistical considerations. The peak cladding temperatures calculated with SAFER/GESTR-LOCA are in accordance with Appendix K and remain bounding for all operating conditions and evolutions. The use of SAFER/GESTR-LOCA methodology was approved by the Staff in their Safety Evaluation on Amendment 13 to GESTAR II. Incorporation of SAFER/GESTR-LOCA is only a change to analytical techniques and does not affect plant operating modes or any system operation. Thus, the proposed change does not adversely affect the response of any component or system to previously analyzed accidents. The response to previously evaluated accidents remains within previously assessed limits of temperature and pressure. Further, all safety-related systems and components remain within their applicable design limits. Thus, system and component performance is not adversely affected by this change, thereby assuring that the design capabilities of those systems and components are not challenged in a manner not previously assessed so as to create the possibility of a new or different kind of accident.

Therefore, operation of Nine Mile Point Unit 2, in accordance with the proposed change, will not create the possibility of a new or different kind of accident from any previously assessed.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

SAFER/GESTR-LOCA is an improved ECCS [emergency core cooling system] evaluation methodology which uses a realistic approach to calculate peak cladding temperatures. LOCA events are analyzed with nominal values for inputs and correlations. The Staff has previously determined that SAFER/GESTR-LOCA methodology conforms to 10CFR 50.46 and Appendix K and may be used in lieu of the currently referenced SAFE/REFLOOD methodology. Therefore, the peak cladding temperatures calculated with SAFER/GESTR-LOCA are applicable. The Staff stated that SAFER/GESTR-LOCA is acceptable so long as the material contained in SAFER/GESTR-LOCA is applicable to the specific plant involved.

Niagara Mohawk has reviewed GESTAR II and confirmed the applicability of SAFER/GESTR-LOCA to NMP2. Thus, the proposed changes do not affect the basis for any Technical Specification and previously established safety limits remain valid. Therefore, the operation of Nine Mile Point Unit 2, in accordance with the proposed change, will not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Robert A. Capra

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: April 7, 1993

Description of amendment request: The proposed Technical Specification (TS) changes would revise TS Section 3.1.5, "Standby Liquid Control System," to remove the requirement for the Standby Liquid Control System to be operable in Operational Condition 5 (Refueling) with any control rod withdrawn. The proposed TS changes are consistent with the requirements of NUREG-1434, "Standard Technical Specifications - General Electric Plants, BWR/6."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The purpose of the SLC [Standby Liquid Control] System is to bring the reactor to and maintain it in a cold shutdown condition from normal power operations following failure to scram with the control rods event. Initiation of the SLC System is not a precursor to any accident. Therefore, inoperability of the SLC System cannot increase the probability of an accident previously evaluated. The SLC System was not designed to provide shutdown capability during OPERATIONAL CONDITION 5. Since the SLC System's purpose is to shut the reactor down following a failure to scram during power operation, the USAR [Updated Safety Analysis Report] takes no credit for the operability of the SLC System in OPERATIONAL CONDITION 5. Therefore, the SLC System not being operable in OPERATIONAL CONDITION 5 will not involve a significant increase in the consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

This request does not involve a physical change in any system's configuration and no new modes of operation are introduced. The SLC System's only purpose is to mitigate the consequences of a failure to scram during power operation; it neither causes nor prevents an accident from occurring. Furthermore, in OPERATIONAL CONDITION 5 the SLC System has no analyzed function. Therefore, this change will not create the possibility of a new or different kind of accident from any previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The purpose of the SLC System is to bring the reactor to and maintain it in a cold shutdown condition from normal power operations following a failure to scram during power operations. Initiation of the SLC System is not designed to terminate an inadvertent criticality during OPERATIONAL CONDITION 5. SDM [Shutdown Margin], either demonstrated or analytically determined, in conjunction with Technical Specifications and procedural controls, will assure that an inadvertent criticality event will not occur during refueling operations. In addition, the RPS [Reactor Protection

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System] and Control Rod System, which are extremely reliable, will provide protection in the unlikely event that an inadvertent criticality does occur. Therefore, this change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Robert A. Capra

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: March 30, 1993

Description of amendment request: The proposed Technical Specifications (TS) changes would revise TS 4.8.1.1.2.e.4 and 4.8.1.1.2.e.8, "AC Sources - Operating." The current TS require that a simulated loss of offsite power (LOOP) test be performed within 5 minutes of completing a 24-hour full load emergency diesel generator test run. The proposed TS changes would separate the requirements for the 24-hour run from the LOOP test.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

As stated in Regulatory Guide 1.108, the performance of the LOOP test of Technical Specification 4.8.1.1.2.e.4.a) and .b) immediately following the 24-hour load test demonstrates that the diesel generator can start and accept the required loads in the prescribed time when the diesel generator is at its full load operating temperature. This provides assurance that the diesel generator is capable of responding to a Loss-of-Off-Site Power as assumed in the accident analysis. Because the purpose of performing the LOOP test immediately following the 24-hour run is to demonstrate the functional capability of the diesel generator at full load temperature conditions, establishing full load temperature conditions with other than a 24-hour run provides the necessary initial conditions for the LOOP testing. Diesel generator design and function remain as previously analyzed. Diesel generator response during accident conditions are not affected by these changes. Therefore, no significant increase in the probability or consequences of an accident previously evaluated results from these changes.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

This request does not involve a physical change in any system's configuration and no new modes of operation are introduced. These changes will not reduce any required testing and will not affect diesel generator reliability. Additionally, the surveillances proposed will establish the same initial conditions as those required by the current Technical Specification. Testing of the diesel generators in accordance with these changes will assure that diesel generator responses remain as previously analyzed for all required conditions. Therefore, these changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

Allowing the diesel generators to reach full temperature conditions by other than the 24-hour load test required by Technical Specification 4.8.1.1.2.e.8.a and .b will satisfy the intent of conducting the test following the 24-hour load test. These changes will not result in any reduction in testing and will not affect diesel generator reliability. As proposed, the changes will adequately demonstrate the diesel generator's functional capability at full load temperature conditions, thus ensuring the design margin of safety in the diesel generator's ability to start and accept the required loads in the prescribed time. Therefore, these changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Robert A. Capra

North Atlantic Energy Service Corporation, Docket No. 50-443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: February 26, 1993

Description of amendment request: The proposed amendment would modify Technical Specification (TS) 3/4 7.3 applicable to the primary component cooling water system. Limiting Condition for Operation (LCO) 3/4.7.3 would be revised to require one operable pump in each primary component cooling water (PCCW) loop vice two pumps. The amendment also would delete Actions b. and c., and Surveillance Requirement 4.7.3 b.2 which would no longer be applicable with the requirement for one operable pump per loop.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because even with the proposed LCO change, two operable PCCW loops would be required and the single failure criterion still would be met. The PCCW system is designed to perform its safety functions assuming a single failure of any component. This is accomplished with two independent redundant loops. Each of the PCCW loops contains two 100% capacity pumps. The required safety functions can be accomplished with one pump operating in one PCCW loop. The second operable loop with at least one operable pump provides the redundancy necessary to meet the single failure criterion. The proposed changes to the action statement and the surveillance requirements merely reflect the proposed change to the LCO.

B. The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the PCCW system would continue to meet the single failure criterion. The proposed changes do not affect the manner by which the facility is operated or involve equipment or features which affect the operational characteristics of the facility.

C. The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the proposed changes do not affect the

manner by which the facility is operated or involve equipment or features which affect the operational characteristics of the facility. Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Attorney for licensee: Thomas Dignan, Esquire, Ropes & Grey, One International Place, Boston Massachusetts 02110-2624.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: April 1, 1993

Description of amendment request: The licensee has requested that technical specifications be changed to permit prelubrication and warmup of emergency diesel generators before surveillance testing.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant hazards consideration based on the following:

1. The relocation of the footnote to encompass all aspects of diesel surveillance requirements will not increase the probability or consequences of an accident previously evaluated.

Each diesel's primary function is to provide power to mitigate the consequences of an accident when offsite power is lost. Therefore, the probability of an accident is not affected. Prelubing is performed to decrease engine wear which will extend diesel life. Ultimately, prelubing reduces the number of maintenance intervals, thereby increasing the availability of the diesels.

2. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

There are no new failure modes associated with the proposed change. Since the plant will continue to operate as designed, the proposed changes will not modify the plant response and is not considered a new accident.

3. The proposed changes do not involve a significant reduction in the margin of safety.

The proposed changes do not have any adverse impact on the margin of safety afforded the diesel generators. This change will prevent engine wear and ultimately extend the life of the diesels. The operability of the diesels is not dependent upon the prelube system and therefore, the margin of safety is not affected.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: December 31, 1992

Description of amendment request: The proposed amendment would revise Surveillance Requirement 4.13.B.1.e, "Fire Suppression Water System," by changing the American Society for Testing and Materials (ASTM) specification which is followed when performing required sampling of the diesel fire pump fuel oil supply.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The diesel fire pump sampling specification to be used is not a factor in any accident analysis and this change is primarily administrative in nature. Use of the proposed ASTM specifications will provide the same level of assurance of diesel fire pump fuel oil quality as the old ASTM specifications. Diesel fire pump reliability and operability will not be degraded. Therefore, this amendment does not involve an increase in the probability or consequences of any previously analyzed accident.

b. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

No safety-related equipment, safety function, or plant operations (other than the methodology for drawing the fuel oil sample) will be altered as a result of the proposed amendment. Therefore, the proposed amendment does not in any way create the possibility of a new or different kind of accident from any accident previously evaluated.

c. The proposed amendment will not involve a significant reduction in the margin of safety.

Use of the proposed ASTM specifications will provide the same level of assurance of diesel fire pump fuel oil quality as the old ASTM specifications. Diesel fire pump reliability and operability will not be degraded. Therefore, the proposed amendment does not involve any reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: L. B. Marsh

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: December 31, 1992

Description of amendment request: The proposed amendment would revise Surveillance Requirement 4.13.B.1.e, "Fire Suppression Water System," by changing the American Society for Testing and Materials (ASTM) specification which is followed when performing required sampling of the diesel fire pump fuel oil supply.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The diesel fire pump sampling specification to be used is not a factor in any accident analysis and this change is primarily administrative in nature. Use of the proposed ASTM specifications will provide the same level of assurance of diesel fire pump fuel oil quality as the old ASTM specifications. Diesel fire pump reliability and operability will not be degraded. Therefore, this amendment does not involve an increase in the probability or consequences of any previously analyzed accident.

b. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

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No safety-related equipment, safety function, or plant operations (other than the methodology for drawing the fuel oil sample) will be altered as a result of the proposed amendment. Therefore, the proposed amendment does not in any way create the possibility of a new or different kind of accident from any accident previously evaluated.

c. The proposed amendment will not involve a significant reduction in the margin of safety.

Use of the proposed ASTM specifications will provide the same level of assurance of diesel fire pump fuel oil quality as the old ASTM specifications. Diesel fire pump reliability and operability will not be degraded. Therefore, the proposed amendment does not involve any reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: L. B. Marsh

Pennsylvania Power and Light Company, Docket No. 50-388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: April 5, 1993

Description of amendment request: The proposed amendment would revise the Susquehanna Steam Electric Station (SSES), Unit 1, Technical Specifications to change the isolation signal for suppression pool cleanup line valves HV-15766 and HV-15768 from reactor vessel low water level 3 (+13") or high drywell pressure to reactor vessel low water level 2 (-38") or high drywell pressure. The same change was approved for SSES, Unit 2, by Amendment No. 92, issued on October 29, 1992.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not:

1. Involve an increase in the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety as previously evaluated.

This conclusion is based on the consideration that the isolation signal change from level 3 to 2 does not degrade the operation of any equipment or system. Furthermore, the Agastat relays and level switches to be used for the level 2 isolation signals are identical in design, material, and construction to those currently used for level 3.

The modification does not alter or degrade the ability of the two cleanup line valves to isolate the cleanup line following those LOCAs inside containment that require isolation. The isolation system design will always result in its actuation at level 2. The design requirement for isolation at level 2 remains satisfied, and in compliance with NUREG-0800 (Standard Review Plan) and NUREG-0776 (Safety Evaluation Report, SSES).

During transients that result in reactor vessel water levels between 2 & 3, the modification will permit the cleanup line to be used, if necessary, to lower the suppression pool water level. Manual control the filter pump has not been changed. Operation of the cleanup line following these transients is permissible because a LOCA inside containment has not occurred.

Since the cleanup line isolation signal remains in compliance with the design requirements established by General Electric, it is concluded that the consequences of an accident have not been increased.

The probability of a malfunction of equipment important to safety has not been increased by the modification. The relay room panels, where both the level 2 & 3 relays are located, will have minor changes to the internal wiring. Seismic qualification of the equipment will be unaltered. Valve operation remains unchanged, except for the level of reactor vessel water that initiates a containment isolation signal.

The loading on the suppression pool structure, and submerged components in the pool, following safety/relief valve operation, has not been increased. Since higher water levels result in higher loads, the loading following the modification would either be less than or equal to the existing loading depending on whether the filter pump is operating.

The modification does not result in an increase in consequences assuming a malfunction of equipment important to safety. The consequences of failing to isolate containment following a LOCA inside containment or preventing the suppression pool from performing its function are not influenced by the modification.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The modification uses spare terminals on existing relays to receive an input from a level 2 switch. These relays are identical to those used to receive the level 3 input signal. The actuation logic remains single failure proof. A new possibility has not been created for those LOCAs inside containment that require isolation to occur without isolation of the cleanup line.

The modification does not create the possibility of a malfunction of the suppression pool structure and submerged components in the pool. The use of the cleanup line serves to lower the pool water level which decreases the loading during a LOCA or safety/relief valve operation.

3. Involve a reduction in the margin of safety.

The NRC provided their review of containment isolation signals in Section 6.2.4 of the Safety Evaluation Report (NUREG-0776). Reactor vessel water level 2 was found to be acceptable and therefore defines the basis for the margin of safety.

It is therefore concluded that since the proposed modification changes a containment isolation setpoint to a previously accepted value, a reduction in the margin of safety will not occur.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, D.C. 20037

NRC Project Director: Charles L. Miller

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: March 12, 1993

Description of amendment request: The licensee commenced operating on a 24-month fuel cycle, instead of the previous 18-month fuel cycle, with fuel cycle 9. Fuel cycle 9 started in August 1992. In order to accommodate operation on a 24-month cycle, the licensee requested a Technical Specifications (TS) amendment to incorporate the changes listed below:

(1) The licensee proposed changing the frequency of high pressure water fire protection system testing (specified in TS Section 4.12.A.1) to accommodate operation on a 24-month cycle.

(2) The licensee proposed changing the frequency of fire pump diesel engine testing (specified in TS Section 4.12.A.2) to accommodate operation on a 24-month cycle.

(3) The licensee proposed changing the frequency of electrical tunnel, diesel generator building, and containment fan cooler fire protection spray and/or sprinkler system testing (specified in TS Section 4.12.B.1) to accommodate operation on a 24-month cycle.

(4) The licensee proposed changing the frequency of fire detection system testing (specified in TS Section 4.12.D.1) to accommodate operation on a 24month cycle.

(5) The licensee proposed changing the frequency of fire hose station testing (specified in TS Section 4.12.E.1) to accommodate operation on a 24-month cycle.

(6) The licensee proposed changing the frequency of CO_2 fire protection system testing (specified in TS Section 4.12.G.1) to accommodate operation on a 24-month cycle.

(7) The licensee proposed changing the frequency of fire barrier penetration seal inspection (specified in TS Section 4.12.C.1) to accommodate operation on a 24-month cycle.

These proposed changes follow the guidance provided in Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle," as applicable.

In addition, the licensee proposed reformatting TS Section 4.12 in its entirety and proposed several administrative changes for clarity.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the criteria of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of any accident previously evaluated?

Response:

Since the proposed change to extend the surveillance test intervals for High Pressure Water Fire Protection System, Fire Pump Diesel Engine, Electrical Tunnel, Diesel Generator Building and Fan Cooler Fire Protection Spray and/or Sprinkler System, Fire Detection System, Fire Hose Station, CO_2 Fire Protection System and Fire Barrier Penetration Seal inspection does not involve changes in equipment/system functions and does not adversely affect system operability, the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response:

Since the proposed changes [to extend the surveillance test intervals for High Pressure Water Fire Protection System, Fire Pump Diesel Engine, Electrical Tunnel, Diesel Generator Building and Fan Cooler Fire Protection Spray and/or Sprinkler System, Fire Detection System, Fire Hose Station, CO_2 Fire Protection System and Fire Barrier Penetration Seal inspection] only increase the surveillance interval to be consistent with the operating cycle and do not involve changes in equipment/system functions or adversely affect system operability, the proposed changes do not create the possibility of a new or different kind of accident from any previously analyzed.

(3) Does the proposed amendment involve a significant reduction in the margin of safety?

Response:

The proposed changes [to extend the surveillance test intervals for High Pressure Water Fire Protection System, Fire Pump Diesel Engine, Electrical Tunnel, Diesel Generator Building and Fan Cooler Fire Protection Spray and/or Sprinkler System, Fire Detection System, Fire Hose Station, CO_2 Fire Protection System and Fire Barrier Penetration Seal inspection] only extend the surveillance interval. Evaluation of the past performance of the equipment indicates that the effects of extending the surveillance test intervals would not involve a significant reduction in the margin of safety. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: April 5, 1993

Description of amendment request: The licensee has requested an amendment to the Technical Specifications (TS) to revise Section 6.0 (Administrative Controls). Specifically, the plant staff requirement (specified in TS 6.2.2.i) would be revised to remove the condition that the operations manager must hold a senior reactor operator (SRO) license and replace it with the requirements that the assistant operations manager must hold an SRO license and that the operations manager must hold or have held an SRO license at the facility. In addition, the plant staff qualifications requirement (specified in TS 6.3.1) would be modified to reflect that the operations manager shall meet or exceed the qualification requirements of ANSI N18.1-1971 (Selection and Training of Nuclear Plant Personnel) except for the SRO license requirement.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the criteria of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

The proposed changes do not involve an increase in the probability or consequences of a previously analyzed accident because Shift Supervisors and Reactor Operators will still be required to maintain a current SRO [senior reactor operator] license. This ensures that shift activities are directed by persons holding SRO licenses. The Shift Supervisors will report directly to an individual with an SRO license and qualifications of an "Operations Manager" per ANSI N18.1-1971. The Operations Manager will continue to be a knowledgeable and qualified individual.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because they do not affect plant configuration or plant design. Senior Reactor Operators and Shift Supervisors are still required to maintain a knowledge of current plant configuration and operation through SRO license requalification training. This ensures that shift activities will be directed by persons holding SRO licenses. Additionally, the Shift Supervisors will report directly to an individual with an SRO license and qualifications of an "Operations Manager" per ANSI N18.1-1971 and the Operations Manager will continue to be a knowledgeable and qualified individual.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

The proposed amendment does not involve a significant reduction in a margin of safety because Shift Supervisors and Senior Reactor Operators will still be required to maintain a current SRO license. This ensures that shift activities are directed by persons holding SRO licenses. Additionally, the Shift Supervisors will report directly to an individual with an SRO license and qualifications of an "Operations Manager" per ANSI N18.1-1971 and the Operations Manager will continue to be a knowledgeable and qualified individual. These changes are expected to enhance the Operations Manager's ability to effectively carry out the primary responsibilities of that position, and to have an overall positive effect on the safe and efficient operation of Indian Point 3.

The NRC staff has reviewed the licensee's analysis and, based on this

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review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: February 5, 1993

Description of amendment request: The proposed amendment revises Salem Nuclear Generating Station, Units 1 and 2 Technical Specifications 2.2 Limiting Safety System settings and 3/4.1.1 Reactor Trip System Instrumentation. The proposed changes eliminates the Steam/Feedwater Flow Mismatch and Low Steam Generator Water Level Reactor Trip due to the installation of the digital feedwater control system incorporating a median signal selector.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Removing the steam flow/feed flow mismatch and low steam generator level reactor trip does not increase the probability of an accident previously evaluated because the trip does not cause an accident: therefore, the trip can not effect the probability of an accident. The consequences are not effected because no credit is taken for the trip when the accidents are evaluated. Therefore, the proposed amendment will not increase the probability or consequences of any accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

Removal of the steam flow/feed flow mismatch and low steam generator level trip does not create the possibility of a new or different kind of accident than previously evaluated because the trip cannot create an accident. Therefore, the proposed amendment cannot create the possibility of any accident.

3. Involve a significant reduction in a margin of safety.

The circuitry can only create an inadvertent trip which is bounded by a required trip or failure to trip which is acceptable because no credit is taken for the trip in accident evaluation. Therefore, the proposed amendment will not reduce the margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C., 20005-3502

NRC Project Director: Charles L. Miller

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: April 1, 1993

Description of amendment request: The licensee's proposed amendment would extend the surveillance test intervals and allowed out-of-service times for the emergency core cooling system (ECCS) and reactor core isolation cooling (RCIC) system actuation instrumentation. This change is based on the technical information contained in the General Electric Company (GE) Licensing Topical Report (LTR) NEDC-30936P-A, Parts 1 and 2 (December, 1988) and GE LTR GENE-770-06-2-A (December 1992).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

PSE&G has, pursuant to 10 CFR 50.92, reviewed the proposed amendment to determine whether the request involves a significant hazards consideration. We have determined that operation of the Hope Creek Generating Station in accordance with the proposed changes:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to the ECCS and RCIC actuation instrumentation were judged to potentially affect core damage frequency through their impact on the water injection function (WIF) failure frequency. The generic analyses contained in Licensing Topical Report (LTR) NEDC-30936P-A and LTR GENE-770-06-2-A assessed the impact of changing ECCS and RCIC surveillance test intervals (STIs) and allowed out-of-service times (AOTs) on the WIF failure frequency. The analyses contained in these LTRs demonstrate that the proposed changes have an insignificant effect on the WIF failure frequency, and when all contributing factors are considered, the net impact of the proposed changes is to improve plant safety. These generic analyses have been shown to be applicable to the HCGS as indicated in Section III [of the licensee's April 1, 1993 submittal]. Since the proposed changes do not significantly affect the WIF failure frequency and have a beneficial impact on plant safety when all factors are considered, the proposed changes will not significantly increase the probability or consequences of a previously analyzed accident.

2. Will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Increasing the AOTs and STIs for the ECCS and RCIC instrumentation does not alter the function of the emergency core cooling system (ECCS) or reactor core isolation cooling system (RCIC) nor involve any type of plant modification. Additionally, no new modes of plant operation are involved with these changes. The proposed changes therefore will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will not involve a significant reduction in a margin of safety.

The proposed changes to the ECCS and RCIC actuation instrumentation were judged to potentially affect core damage frequency through their impact on the WIF failure frequency. As requested by the BWR Owners' Group, GE performed analyses to evaluate the effect of the proposed changes on the WIF failure frequency. The NRC staff has reviewed and approved the generic study contained in LTRs NEDC-30936P-A and GENE-770-06-2-A and has concurred with the BWR Owners' Group that the proposed changes do not significantly affect the WIF failure frequency. Furthermore, the overall level of plant safety will be improved by the proposed changes as indicated in Section II [of the licensee's April 1, 1993 submittal]. A plant specific evaluation was conducted for HCGS, as indicated in Section III [of the licensee's April 1, 1993 submittal] which demonstrated applicability of the generic conclusions to HCGS. It can therefore be concluded that the proposed changes will not significantly reduce a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: M. J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Charles L. Miller

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: April 13, 1993

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3/4.8.1, "A. C. Sources." This proposed change will provide a one-time exception to TS 4.8.1.1.1.a to allow replacement of the 480V transformers B04X and B06X during the Units 2 and 3 Cycle 7 refueling outages.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The purpose of maintaining redundant offsite power sources is to prevent a loss of offsite power. This proposed change allows a one-time exception to Technical Specification 4.8.1.1.1.a to allow the tie-breakers to the opposite unit cross-tie to be OPERABLE while the associated load centers B04 and B06 are INOPERABLE. This will allow replacement of the 480V transformers. While the replacement is performed, a charger will be attached to the associated battery bank and will be connected to the temporary non-class 1E power sources. The associated battery bank will be maintained OPERABLE by performance of TS 3/4.8.2.2 ACTION b. The cross-tie will remain OPERABLE and able to perform its function of providing a second source of A. C. power to the companion Unit. Therefore, there is no increase in probability or consequences of a loss of offsite power or any other accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any previously evaluated?

Response: No

This proposed change allows a one-time exception to Technical Specification 4.8.1.1.1.a to allow the tie breakers to the opposite unit cross-tie to be OPERABLE while the associated load centers B04 and B06 are INOPERABLE. This will allow replacement of the 480V transformers. While the replacement is performed, a charger will be attached to the associated battery bank and will be connected to the temporary non-class 1E power sources. The associated battery bank will be maintained OPERABLE by performance of TS 3/4.8.2.2 ACTION b. The cross-tie will remain OPERABLE and able to perform its function of providing a second source of A. C. power to the companion Unit. Therefore, there is no significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

TU Electric Company, Docket Nos. 50-445 and 50-446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: October 19, 1992, as supplemented by letter dated March 17, 1993.

Description of amendment request: The proposed amendment would revise Technical Specification 3/4.1.2.5, 3/4.1.2.6, 3/4.5.1, and 3/4.5.4 by increasing the boron concentrations for the refueling water storage tank (RWST) and the emergency core cooling system (ECCS) accumulators. These changes enable the use of extended reload cycles.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The proposed change would not increase the probability or consequences of a previously evaluated accident.

The proposed changes are related to the boron concentration in the RWST and ECCS accumulators. This increased concentration does not constitute a change expected to increase the probability of a previously evaluated accident. The means by which the proposed changes might result in increased radiological consequences of various accidents are discussed below.

The higher boron concentrations may result in increased probability of equipment failure due to in-containment or in-process equipment being exposed to an environment more severe than that to which it is qualified. A review of the general chemistry properties of the slightly higher boron concentration fluid indicates no mechanism that would result in an appreciable increase in the in-line component failure rate. While the corrosive nature of the fluid will increase, this increase will be only minimal. Thus, there is no significant increase in the consequences of any accident due to an increase in the probability of equipment failure.

The changes in containment spray and sump solution pH may change the radioisotope removal and partition characteristics. A review indicates that while the relevant characteristics are affected, the resulting limiting coefficient values associated with the pH changes are bounded by the values used in Comanche Peak design calculations. Thus, no adverse impact on the radiological consequences arising from this mechanism has been identified.

The impact of the containment spray, with a lower pH, upon the combustible gas production rate was also evaluated. No mechanism for increased combustible gas production was identified.

The higher boron concentration could have an adverse impact on the inadvertent actuation of the ECCS event. Although the timing of the sequence of events may be affected, the departure from nucleate boiling ratio continues to increase from its initial value throughout the event. Based on a review of this event, no changes in the event probability or consequences are anticipated; however, the continued validity of this conclusion will be reconfirmed on a cycle-specific basis.

2. The proposed change would not create the possibility of a new or different kind of accident from any previously evaluated.

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The proposed change is a passive change associated with fluid boron concentration. No new or different accident sequences have been identified. Furthermore, a review of heat tracing requirements indicates that there are no additional requirements resulting from the boron concentration increase. There are no previously unconsidered failure mechanisms.

3. The proposed change would not involve a significant reduction in the margin of safety.

The decrease in the containment spray and sump solution pH could be expected to result in higher airborne iodine concentrations. The accident source terms could be impacted by variations in the iodine spray removal and partition factors. A comparison of the coefficients for the minimum equilibrium containment sump solution pH to those used in the CPSES design analyses, indicated that the expected coefficient values would remain bounded by the values in the previous analyses. Thus, no significant reduction in the margin of safety has been identified as associated with this phenomena.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P. O. Box 19497, Arlington, Texas 76019

Attorney for licensee: George L. Edgar, Esq., Newman and Holtzinger, 1615 L Street, N.W., Suite 1000, Washington, D.C. 20036

NRC Project Director: Suzanne C. Black

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: March 26, 1993

Description of amendment request: The proposed amendment would update Technical Specification (TS) Section 6.0 to add and revise NRC-approved methodologies which will be used to generate the cycle-specific limits in the Vermont Yankee Core Operating Limits Report (COLR) for Cycle 17.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change will not involve any significant increase in the probability or consequences of an accident because the change only updates a table in the Technical Specifications to include previously approved methods and, therefore, is administrative in nature. It also does not affect plant operation and will not weaken or degrade the facility.

2. The proposed change will not create the possibility of a new or different kind of accident because the change is administrative in nature and no physical alterations of any plant configuration, changes to setpoints, or operating parameters are proposed.

3. The proposed change will not involve a significant reduction in a margin of safety because the change involves an update to Section 6.0, "Administrative Controls," of the Technical Specifications and does not affect any operating practices, limits, or safety-related equipment, and, therefore, is administrative. The NRC-approved [Yankee Atomic Electric Company] YAEC methodologies will be used to perform a [Loss of Coolant Accident] LOCA analysis for Vermont Yankee in accordance with 10 CFR [Part] 50, Appendix K and to demonstrate compliance with the [Emergency Core Cooling Systems] ECCS limits specified in 10 CFR 50.46.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301

Attorney for licensee: John A. Ritsher, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110-2624

NRC Project Director: Walter R. Butler

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: March 10, 1993

Description of amendment request: The proposed amendment would modify the Technical Specifications (TS) to implement replacement of the existing grab sampler and noble gas monitor for Reactor Building post-accident sampling with an on-line monitor that would sample stack effluents directly. In addition, the proposed change would include a one time exclusion from TS 3.0.4 that would allow startup from the 1993 refueling outage with the on-line monitor inoperable to allow calibration of the monitor.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The staff's evaluation of the licensee's analysis for the change to the effluent grab sample and noble gas monitoring capability is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed amendment would replace the current grab sample and noble gas radiation monitor with a single system capable of continuous monitoring and analysis of all currently analyzed radioactive iodines and particulates in plant gaseous effluents following an accident. The intent of the monitoring and analysis functions is to evaluate the radioactive releases following an accident to guide mitigative and emergency response actions. The accident is assumed to have already occurred before the samples affected by this TS change request are required. As such, the monitor is not an accident initiator and is not likely to contribute to the probability of an accident previously evaluated. The in-line, continuous monitor provides at least equivalent, and in the case of the grab sample, enhanced analysis capability, and will provide a more immediate indication of the release of effluents following an accident through the reactor building elevated release. Further, it will provide a more timely indication of a release impact over a period of time. More timely input of such data will allow a more deliberate and accurate response to plant events. Mitigation actions can then be based on a better knowledge of the release. A better knowledge base from which to direct accident mitigation and emergency response efforts should lead to more effective response to accidents, which should lead to a decrease in the consequences of an accident.

The one time exception to TS 3.0.4., which would allow startup with the new effluent monitoring system inoperable, provides the means to align and calibrate the system under actual operating conditions. During this maximum of a 30 day period during which the new effluent monitoring system will be considered inoperable until the calibration is complete, the licensee will use a pre-planned alternative method of monitoring off-site releases that uses in-containment monitors and off-site dose assessment procedures. This alternate method is currently used during emergency conditions to determine mitigative and emergency response actions, since the grab sampler would be inaccessable post-accident. This alternate method is intended for use post-accident, and does not affect the probability of any accidents previously evaluated, since the accident is assumed to have already occurred before the samples are required. There will be no impact on the consequences of an accident, since the alternate method is the method currently used under emergency conditions.

Based on this analysis, the staff concludes that the changes proposed by the licensee will not significantly increase the probability or consequences of an accident previously evaluated.

2. Does the amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The monitor performs a passive function that follows and monitors plant events after an accident is assumed to have occurred. The requested exception to TS 3.0.4. would use the existing pre-planned alternate method of determining effluents, again after an accident is assumed to have occurred. These proposed changes have no automatic control function, and thus do not affect accident initiation. The proposed amendment does not, therefore, create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the amendment involve a significant reduction in a margin of safety?

The existing grab-sample method provided time-delayed results that identified specific isotopes off-line. The current noble gas monitor only provides indication of gross gamma radiation. The new monitor provides information on actual concentrations of specific isotopes in the reactor building effluent on a real time basis, which will provide more timely information from which to base mitigative and emergency response actions on than that presently provided by the grab sample system. Therefore, the margin of safety created by the existence and use of the grab sample system is increased by the proposed replacement with the in-line system. Therefore, the in-line system does not reduce any margins of safety.

The NRC staff has determined based on its analysis that it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Duquesne Light Company, et al., Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: November 2, 1992

Description of amendment request: The proposed amendment would modify the Appendix A Technical Specifications (TSs) to allow for increasing the number of spent fuel assemblies that may be stored in the spent-fuel pool. The changes would allow for the storage of fuel with U-235 enrichment up to 5.0% (weight). The proposed amendment would effect TS sections 3/4 9.14, 5.6.1, and 5.6.3, and Table 3.9-1.

Date of publication of individual notice in **Federal Register:** February 2, 1993 (58 FR 7161).

Expiration date of individual notice: March 8, 1993

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendment: November 30, 1992

Brief description of amendment: This amendment revises Technical Specifications Tables 3.3-3, 3.3-4, and 4.3-2 where they apply to the Emergency Bus Undervoltage Protection Devices and will permit improvements to be made in the undervoltage protective relaying scheme.

Date of issuance: April 12, 1993

Effective date: April 12, 1993

Amendment No.: 121

Facility Operating License No. DPR-67: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 21, 1993 (58 FR 5431). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 12, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of application for amendment: May 19, 1992, as supplemented November 30, 1992, January 29, and February 12, 1993.

Brief description of amendment: The amendment deletes portions of the TMI-1 Radiological Environmental Technical Specifications (RETS) and relocates them to controlled programs in accordance with the guidance contained in NRC Generic Letter 89-01, dated January 31, 1989.

Date of issuance: April 5, 1993

Effective date: April 5, 1993

Amendment No.: 173

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 23, 1992 (57 FR 61112) The January 29, and February 12, 1993 letters provided errata pages that did not change the initial no significant hazards consideration determination. The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 5, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania,

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Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: September 20, 1991 and supplemented by letters dated August 17, 1992, and February 17, 1993

Description of amendment request: The amendment revised both surveillance test intervals and allowed out-of-service times for Reactor Protection System, Emergency Core Cooling System, Control Rod Block System, and Containment and Reactor Vessel Isolation Control System Instrumentation contained in the Clinton Power Station Technical Specifications (TS). In addition, several administrative changes to the TS are contained in this TS change.

Date of issuance: April 9, 1993

Effective date: Immediately, to be implemented within 30 days.

Amendment No.: 71

Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 26, 1991 (56 FR 66921) The August 17, 1992, and February 17, 1993, submittals consisted of revisions/clarifications which did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: December 15, 1992

Brief description of amendment: The amendment modifies Technical Specifications 3/4.7.1.1, "Shutdown Service Water System (Loops A, B, C)," and 3/4.7.2, "Control Room Ventilation System," to add exceptions to Technical Specification 3.0.4 to permit tensioning and detensioning of the reactor pressure vessel head with one of the required divisions of the systems addressed by these Technical Specifications inoperable.

Date of issuance: April 9, 1993

Effective date: April 9, 1993

Amendment Nos.: 72

Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 3, 1993 (58 FR 6999)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy, Center, Linn County, Iowa

Date of application for amendment: December 19, 1991 and supplemented by additional information on August 25, October 8, and November 24, 1992.

Brief description of amendment: The amendment revised the Technical Specifications by incorporating extended allowable out-of-service times and surveillance test intervals for reactor protection system, isolation actuation system, emergency core cooling system and control rod block function instrumentation. Additional changes for clarity and consistency were also made.

Date of issuance: April 14, 1993

Effective date: April 14, 1993

Amendment No.: 193

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 22, 1992 (57 FR32573) The August 25, October 8, and November 24, 1992 letters provided clarifying information only and did not affect the NRC's origianl determination of no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 14, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S. E., Cedar Rapids, Iowa 52401.

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: May 1, 1992

Brief description of amendments: The amendments change the number of containment thermistor fire detectors listed in Table 3.3-10 (Unit 1) and Table 3.3-11 (Unit 2) to reflect as-built conditions.

Date of issuance: April 8, 1993

Effective date: April 8, 1993

Amendment Nos.: 172 and 155

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 8, 1992 (57 FR 30250)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 8, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: February 1, 1993

Brief description of amendment: The amendment revised the Technical Specifications (TS) to (1) incorporate the NRC Staff position on leak detection per the guidance of Generic Letter (GL) 88-01 and its supplement, (2) incorporate the NRC Staff position on inservice inspection schedules, methods, personnel, and sample expansion per the guidance of GL 88-01 and its supplement, and (3) make administrative changes wherein certain system names are replaced by system names which are more consistent with those used in other portions of the TS.

Date of issuance: April 14, 1993

Effective date: April 14, 1993

Amendment No.: 161

Facility Operating License No. DPR-46. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 3, 1993 (58 FR 12264)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 14, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebreska 68305.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: November 20, 1990, as superseded February 7, 1992, as supplemented June 22, 1992, January 29, 1993, February 18, 1993, and March 29, 1993.

Brief description of amendment: The amendment revises Technical Specifications (TSs) 3.2.7.1, 3.3.3, 4.3.3, and 3.3.4 and associated Bases to update these TSs to conform to the requirements of 10 CFR Part 50, Appendix J, and NRC Safety Evaluations, dated May 6, 1988, and November 9, 1988.

Date of issuance: April 12, 1993

Effective date: April 12, 1993

Amendment No.: 140

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** February 6, 1991 (56 FR 4866) and renoticed April 1, 1992 (57 FR 11111)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 12, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

North Atlantic Energy Service Corporation, Docket No. 50-443, Seabrook Station, Unit No. 1, Seabrook, New Hampshire

Date of amendment request: August 17, 1992.

Description of amendment request: The amendment revises the Appendix A Technical Specifications relating to Reactor Coolant System heatup and cooldown limitations. Specifically, Figures 3.4-2 and 3.4-3 are modified to show applicability of the curves up to 11.1 equavalent full-power years (EFPY), to provide revised RT_{NDT} values at 11.1 EFPY at 1/4 and 3/4 thickness, and to indicate the copper content of the controlling material.

Date of issuance: April 7, 1993

Effective date: April 7, 1993

Amendment No.: 19

Facility Operating License No. NPF-86. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 9, 1992 (57 FR 58247).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 7, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: July 17, 1992, as supplemented December 23, 1992

Brief description of amendment: The amendment revised the Technical Specifications to incorporate the following changes:

(1) The containment isolation system automatic actuation testing frequency (specified in TS Table 4.1-3) was revised to accommodate operation on a 24-month fuel cycle.

(2) The containment isolation valve testing frequency (specified in TS Section 4.4.E.1) was revised and the acceptance criteria for the combined containment leakage rate (specified in TS Section 4.4.E.2) was reduced to 0.5 L_a to accommodate operation on a 24-month fuel cycle.

(3) The containment spray system testing frequency (specified in TS Section 4.5.A.2.a) was revised to accommodate operation on a 24-month fuel cycle.

(4) The spray additive valves testing frequency (specified in TS Section 4.5.B.2.a) was revised to accommodate operation on a 24-month fuel cycle.

(5) The sensitive leakage rate testing frequency (specified in TS Section 4.4.C.3) was revised to clarify that the maximum test interval is 3 years.

(6) The Basis of TS Section 4.1 (Operational Safety Review) was revised to specify that the phrase "at least," when referring to surveillance periodicity, does not negate the 25% extension time allowed by TS Definition 1.12.

These changes followed the guidance provided in Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle."

Date of issuance: April 9, 1993

Effective date: April 9, 1993

Amendment No.: 129

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 2, 1992 (57 FR 40219)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: October 8, 1992

Brief description of amendment: Updates the auxiliary electrical systems Technical Specifications with instrument bus operability provisions by adding Specifications, Action Statements, Surveillance Requirements and Basis sections relative to the operation of the vital instrument buses.

Date of issuance: April 13, 1993

Effective date: April 13, 1993

Amendment No.: 51

Facility Operating License No. DPR-18: Amendment revised the Appendix A Technical Specifications.

Date of initial notice in **Federal Register:** December 9, 1992 (57 FR 58251)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 13, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: October 2, 1992

Brief description of amendments: The licensee proposes to revise License Condition 2.C.(19)i for San Onofre Unit 2 and License Condition 2.C.(17)d for San Onofre Unit 3, "Post-Accident Sampling System (NUREG-0737 Item II.B.3)," to remove conditions already complied with, and to revise four Post-Accident Sampling System requirements.

Date of issuance: April 6, 1993

Effective date: April 6, 1993

Amendment Nos.: 103 and 92

Facility Operating License Nos. NPF-10 and NPF-15: The amendments revised the Operating Licenses.

Date of initial notice in **Federal Register:** February 17, 1993 (58 FR 8782)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 6, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: September 10, 1992 (TS 323)

Brief description of amendment: These license amendments revise the

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Browns Ferry Nuclear Plant Technical Specifications by restoring the operability requirements of the Control Room Emergency Ventilation System that were temporarily modified by previous license amendments issued on September 18, 1989. These license amendments also remove a list of dampers in accordance with Generic Letter 91-08, "Removal of Component Lists From Technical Specifications," and revises associated Bases.

Date of issuance: April 9, 1993

Effective date: April 9, 1993

Amendment Nos.: 193, 208, and 165

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** October 28, 1992 (57 FR 48829)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Tennessee Valley Authority, Docket Nos. 50-259, 50-260, and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of application for amendments: October 9, 1992, as supplemented March 31, 1993 (TS 324)

Brief description of amendments: The amendments provide a revised definition of core alterations for refueling operations, revise surveillance requirements for infrequently used refueling equipment, revise refueling core reactivity monitoring requirements, and revise administrative requirements for supervision of refueling operations.

Date of issuance: April 9, 1993

Effective date: April 9, 1993Amendment Nos. 194, 209, and 166

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68:

Date of initial notice in **Federal Register:** November 25, 1992 (57 FR 55592)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1993.

No significant hazards consideration comments received: None

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: October 29, 1992 supplemented February 17, 1993.

Brief description of amendment: The amendment revised Technical Specification (TS) 5.3.1, "Fuel Assemblies," to be consistent with the model TS wording included in Supplement 1 to Generic Letter 90-02, "Alternative Requirements for Fuel Assemblies in the Design Features Section of Technical Specifications."

Date of issuance: April 7, 1993

Effective dote: April 7, 1993

Amendment No. 179

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 25, 1992 (57 FR 55594) The supplemental letter of February 17, 1993 withdrew the phrase "zirconium alloy," reverting to the term "zircaloy" for describing fuel rod cladding. This change did not significantly change the request or affect the staff's notice of the request.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 7, 1993.

No significant hazards consideration comments received:

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Washington Public Power Supply System, Docket No. 50-397, Washington Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: April 1, 1993

Brief description of amendment: The amendment adds a footnote to TS 3.7.3, "Reactor Core Isolation Cooling System," that allows plant operation to continue with the Reactor Core Isolation Cooling (RCIC) automatic transfer of the suction path to the suppression pool disabled until May 17, 1993, or the beginning of the 1993 refueling outage, whichever comes first.

Date of issuance: April 9, 1993

Effective date: April 9, 1993

Amendment No.: 114

Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated April 9, 1993.Public comments on proposed no significant hazards consideration comments received: No.

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington - 99352 NRC

Project Director: Theodore R. Quay

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: December 7, 1989

Brief description of amendments: The amendments eliminated the requirements for testing components in the opposite train when certain components in a train are out of service. These components are safety injection pumps, residual heat removal pumps, containment spray pumps, and containment accident pumps. The change also eliminates testing redundant valves in safety injection, residual heat removal, and containment spray systems when a valve is inoperable.

Date of issuance: April 16, 1993

Effective date: April 16, 1993

Amendment Nos.: 138 and 142

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 10, 1991 (56 FR 31415)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 16, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: December 22, 1992

Brief description of amendment: The amendment consists of a revision to Technical Specification Table 4.8-1, Diesel Generator Test Schedule, which eliminates the requirement to increase the testing frequency upon experiencing five or more failures in the last 100 valid tests. The provision for increased testing based upon the last 20 valid tests has been retained.

Date of issuance: April 6, 1993.

Effective date: April 6, 1993, to be implemented within 30 days of issuance.

Amendment No.:

Amendment No. 62

Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 3, 1993 (58 FR 7008).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 6, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room Locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent, Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By May 28, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

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Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (**Project Director**): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Consolidated Edison Company of New York, Inc., Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: April 8, 1993, as supplemented on April 12, 1993, and April 14, 1993.

Brief description of amendment: The amendment revises (Technical Specifications (TS) Section 3.3.D (Weld Channel and Penetration Pressurization System) to permit disconnecting a portion of the weld channel system if that portion became inoperable and repairs to that portion of the system were determined to be not practicable. The amendment also revises the associated TS Bases.

Date of issuance: April 14, 1993

Effective date: April 14, 1993

Amendment No.: 162

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment and final no significant hazards consideration determination are contained in a Safety Evaluation dated April 14, 1993.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Mr. Brent L. Brandenburg, Assistant General Counsel, Consolidated Edison Company of New York, Inc., 4 Irving Place - 1822, New York, New York 10003.

NRR Project Director: Robert A. Capra, Director

Virginia Electric and Power Company, et al., Docket No. 50-339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of application for amendment: March 31, 1993

Brief description of amendment: The amendment suspends the manual engineered safety features functional test of safety injection input to the reactor trip breakers for the remainder of the NA-2 operating Cycle 9.

Date of issuance: April 12, 1993

Effective date: April 12, 1993

Amendment No.: 150

Facility Operating License No. NPF-7: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. On March 26, 1993, the staff granted an enforcement discretion to be in effect until the amendment was issued.

The Commission's related evaluation of the amendments, consultation with the State of Virginia and final no significant hazards determination are contained in a safety evaluation dated April 12, 1993.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: December 30, 1992

Description of amendment request: The proposed amendments would modify the Technical Specifications and Bases to allow sleeving at the steam generator tube support plate and tubesheet regions in accordance with processes performed by the vendors, Babcock & Wilcox and Westinghouse.Date of publication of individual notice in **Federal Register:** April 6, 1993 (58 FR 17912).

Expiration date of individual notice: May 6, 1993

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: March 27, 1992, as supplemented May 11, May 28, September 8 and October 8, 1992; February 18 and April 1, 1993.

Description of amendment request: The proposed amendment would increase the storage capacity of the spent fuel pool from its present 1386 storage cells to 2091 storage cells. This would be accomplished by replacing the present medium density fuel racks with 12 free-standing, self-supporting, high density rack modules constructed of stainless steel and a neutron absorber material (boron carbide and aluminum-composite sandwich, product name "boral"). In addition, the proposed amendments would add controls affecting the fuel arrangement and spacing of fuel in the spent fuel pool, revise related surveillance requirements, address controls for fuel movement over the cask loading area of the spent fuel pool, revise the operability requirements of the crane interlocks and physical stops, address additional fuel storage capacity in the cask loading area, and incorporate other related information.

Date of publication of individual notice in **Federal Register:** June 24, 1992 (57 FR 28217)

Expiration date of individual notice: July 24, 1992

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmentel assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document rooms for the particular facilities involved.

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, IllinoisDocket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: April 15, 1992, as supplemented November 23, 1992.

Brief description of amendments: The amendments revise the Technical Specifications to incorporate the results of the Setpoint Reconcilation Program.

Date of issuance: April 13, 1993

Effective date: April 13, 1993

Amendment Nos.: 53, 53, 42, and 42

Facility Operating License Nos. NPF-37, NPF-66, NPF-72 and NPF-77: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 10, 1992 (57 FR 24666) The November 23, 1992, submittal provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 13, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station Units 1 and 2, Lake County, Illinois

Date of application for amendments: November 5, 1992

Brief description of amendments: The amendments revise the Technical Specifications by deleting the requirements to perform additional surveillance testing when the associated redundant components and/or subsystems have been found to be inoperable.

Date of issuance: April 7, 1993

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 144 and 133

Facility Operating License Nos. DPR-39 and DPR-48. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 3, 1993 (58 FR 12258)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 7, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of application for amendments: December 8, 1992

Brief description of amendments: The amendments (1) extend the time interval between Reactor Protection System (RPS) instrument channel tests from a month to 45 days on a staggered time basis, (2) define "staggered time basis," and (3) remove the time limitation on placing one RPS channel in bypass and one channel in the tripped condition.

Date of issuance: April 8, 1993

Effective date: April 8, 1993

Amendment Nos.: 199, 199, and 196

Facility Operating License Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 3, 1992 (58 FR 12259)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 8, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

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Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: November 2, 1992

Brief description of amendments: The amendments revise the Appendix A Technical Specifications (TSs) relating to reactor containment building penetrations. The amendments permit containment penetrations to be closed using a device that is functionally equivalent to an isolation valve, blind flange, or manual valve during core alterations or movement of irradiated fuel within containment.

Date of issuance: April 6, 1993

Effective date: As of date of issuance and to be implemented within 60 days of issuance

Amendment Nos.: 170 for Unit 1 - 50 for Unit 2

Facility Operating License Nos. DPR-66 and NPF-73. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 21, 1993 (58 FR 5429).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 6, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Dated at Rockville, Maryland, this 20th day of April 1993.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects - I/II Office of Nuclear Reactor Regulation

[FR Doc. 93-9767 Filed 4-27-93; 8:45 am]

BILLING CODE 7590-01-F

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-335]

Florida Power and Light Co.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Florida Power & Light Company (the licensee) to withdraw its December 17, 1992 application for proposed amendment to Facility Operating License No. DPR-67 for St. Lucie, Unit 1, located in St. Lucie County, Florida.

The proposed amendment would have revised the Technical Specifications to allow certain monitoring functions to be performed with a reduced number of operable incore detector locations.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 21, 1993 (58 FR 5432). However, by letter dated March 31, 1993, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated December 17, 1992, and the licensee's letter dated March 31, 1993, which withdrew the application for licensee amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003.

Dated at Rockville, Maryland this 20th day of April, 1993.

For the Nuclear Regulatory Commission.

Jan A. Norris,

Project Manager, Project Directorate II-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93-9906 Filed 4-27-93; 8:45 am]

BILLING CODE 7590-01-M

PHYSICIAN PAYMENT REVIEW COMMISSION

Commission Meeting

AGENCY: Physician Payment Review Commission.

ACTION: Notice of public meeting.

SUMMARY: The Commission will hold its next public meeting on May 6, 1993 at the Embassy Suites Hotel—Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC, 202-362-9300, in the Tenley Town Meeting Room (third level). The meeting will begin at 9:30 a.m. The Commission will review its budget recommendations presented to the Congress, its upcoming report and recommendations on setting volume performance standards, and its reports on access and beneficiary financial liability. The Commission may also discuss further work on health system reform.

ADDRESSES: The Commission is located at 2120 L Street, NW., in Suite 510, Washington, DC The telephone number is 202/653-7220.

FOR FURTHER INFORMATION, CONTACT: Annette Hennessey, Executive Assistant or Lauren LaRoy, Deputy Director at 202/653-7220.

SUPPLEMENTARY INFORMATION: Information on the exact agenda for the public meetings can be obtained on Friday, April 30, 1993. Copies of the agenda will be mailed at that time. Please direct all requests for the agenda to the Commission's receptionist.

Paul B. Ginsburg,

Executive Director.

[FR Doc. 93-9859 Filed 4-27-93; 8:45 am]

BILLING CODE 8820-SE-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-32190; International Series No. 537 File No. S7-8-90]

Options Price Reporting Authority; Filing of Amendment to the National Market System Plan

April 21, 1993.

Pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on March 18, 1993, the Options Price Reporting authority ("OPRA")[1] submitted to the Securities and Exchange Commission ("Commission") an amendment to its National Market System Plan for the purpose of providing separate "unbundled" last sale and quotation services for foreign currency and index options.[2] The Commission is publishing this notice to solicit comments from interested persons on the amendment.

I. Description and Purpose of the Amendment

The OPRA Plan is being amended to provide for the separation of the OPRA system into three services covering equity options, index options and foreign currency options. As the variety and number of option products traded has increased, so too has the desire of the individual exchanges to exercise more control over the products in which they specialize. To this end, the parties negotiated an agreement which forms the substance of this proposed amendment. The amendment was approved by the parties in accordance with the OPRA Plan at a meeting held by telephone conference on March 17, 1993.

Revenues

The amendment includes revisions to OPRA's fee schedule that provide for separate fees for access to each of these separate services. Foreign currency option fees would be set by those exchanges that trade foreign currency options. Fees for the index option service would be set by those exchanges offering that product but could not be raised above a level equal to two-thirds of the fee for equity options as set by those exchanges trading equity options. For all three services a weighted majority of those exchanges offering the service will be required to approve any changes in fees. The revenues derived from the fees for each service shall be allocated to each exchange that offers that service according to the relative number of compared trades submitted.

Costs

The amendment also provides for the allocation among the three separate services of costs and expenses associated with the receipt, processing and distribution of information relating to the options included in each service, as well as the costs of developing, operating and administering each service.

Specifically, costs directly attributable solely to the development, operation or administration of a single service shall be allocated entirely to that service. Costs and expenses of OPRA's processor, the Securities Industry Automation Corporation ("SIAC"), attributable to more than one service shall be allocated among such services in the same proportion as the processor's line output capacity is available to each such service. Incremental costs associated with the operation of one or more services outside of regular trading hours will also be allocated on the basis of OPRA's line output capacity available to each service at that time. Costs and expenses directly related to billing and collection of OPRA fees (exclusive of bad debt expense, which shall be allocated to the service to which the bad debt is attributed) shall be allocated among all three services in proportion to the relative number of accounts maintained by OPRA in respect of each service. The amendment provides for the further allocation of such costs and expenses according to the relative number of compared trades handled by each exchange offering that service.

Other

Finally, the amendment includes a few nonsubstantive editorial changes to clarify the language of the Plan. In all other respects, action taken by OPRA would continue to be voted upon by all of the parties to the OPRA plan.

II. Implementation of the Plan

These changes will require certain systems modifications by SIAC. It also requires advance notice to OPRA's vendors and subscribers of the changes to OPRA's fees and specifications in accordance with OPRA's agreements with those persons. OPRA will also have to modify its various agreements with vendors and end-users of options information to reflect the unbundling of OPRA's services. Amendments to these agreements will be the subject of one or more separate filings under Rule 11Aa3-2.

In light of the time needed to implement the changes described above, OPRA is planning to implement the proposed amendment in two phases. Separate reporting of foreign currency information will begin on September 1, 1993. Equity and index options will continue to be offered only on a bundled basis until January 1, 1994, after which separate reporting of index and equity options will commence. However, a previously negotiated fee for both services is not due to expire until January 1, 1996. In order to permit the separation of services to go forward on January 1, 1994, the parties have agreed to separate rate structures that will not result in any overall increase in fees during the two year period. After that time, the parties will be free to set their own rates subject only to the two-thirds limitation mentioned above.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Commentators are asked to address whether they believe the proposed amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of a national market system, or otherwise in furtherance of the purposes of the Act.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available at the offices of OPRA. All submissions should refer to File No. S7-8-90 and should be submitted by May 19, 1993.

For the Commission by the Division of Market Regulation, by delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-9886 Filed 4-27-93; 8:45 am]

BILLING CODE 8010-01-M

[1] OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3-2. Securities Exchange Act Release No. 17638 (Mar. 18, 1981). OPRA is a plan for the collection and dissemination of last sale and quotation information on options that are traded on the five member exchanges. The five exchanges which agreed to the OPRA Plan are the Philadelphia Stock Exchange ("PHLX"), the Chicago Board Options Exchange ("CBOE"), the American Stock Exchange ("AMEX"), the Pacific Stock Exchange ("PSE"), and the New York Stock Exchange ("NYSE").

The OPRA plan was agreed to in response to directives of the SEC that provision be made for the consolidated reporting of transactions in eligible options contracts listed and traded on national securities exchanges.

[2] The proposed amendment was approved by OPRA in accordance with the OPRA Plan at a meeting held by conference telephone on March 17, 1993.

Self-Regulatory Organizations; Application for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

April 22, 1993.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following security:

TIG Holding Inc.
Common Stock, $.01 Par Value (File No. 10507)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 17, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

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For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-9887 Filed 4-27-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32176; File Nos. SR-PHLX-90-23 and 91-07]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Changes Relating to Dual Affiliations of Floor Members and Other Market Participants

On July 31, 1990 and March 20, 1991, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] proposed rule changes relating to dual affiliations. Specifically, as discussed in more detail below, in File No. SR-PHLX-90-23, the PHLX proposes to adopt Options Floor Procedure Advice ("OFPA") F-9 ("Advice"), entitled "Dual Affiliations," which relates to the practice of dual or multiple affiliations between Registered Options Traders ("ROTs") and floor brokerage firms. The Exchange is also proposing to add a fine schedule for OFPA F-9 and allow violations to be sanctioned pursuant to the PHLX's Minor Infraction Rule Plan.[3] In addition, in File No. SR-PHLX-91-07, the Exchange proposes an amendment to PHLX Rule 793 which would add dual affiliations of associated persons of PHLX members/participant organizations to the list of dual affiliations that must be disclosed to the Office of the Secretary of the Exchange. In general, the proposed rule changes recognize the practice of ROTs and floor brokers having multiple and/or dual affiliations, thereby requiring compliance with existing PHLX Rules 793, 1014, 1020 and 1064(c). The proposals set forth specific requirements and trading restrictions that must be followed by floor members and other market participants who have dual affiliations.

The proposed rule changes were published for comment in Securities Exchange Act Release Nos. 28838 (January 30, 1991), 56 FR 5044 and 29071 (April 12, 1991), 56 FR 16146, respectively. No comments were received on the proposed rule changes. This order approves the proposals.

Proposed OFPA F-9 contains three parts. First, Part (i) reiterates the requirement contained in PHLX Rule 793 that dual affiliations must be filed in writing with the Exchange's Office of the Secretary.[4] In addition, Part (i) to OFPA F-9 provides that submissions made pursuant to Rule 793 must also disclose all agreed upon forms of compensation between either dual affiliate firm and the individual floor member/participant and between the two firms. In the case of "soft dollar" compensation, the Exchange proposes that a good faith dollar value be estimated. The PHLX has indicated that it will make every effort to determine whether a particular "soft dollar" arrangement constitutes an improper application of the exempt credit treatment for specialists under Regulation T to an off-floor trading entity.[5] Second, Part (ii) of OFPA F-9 prohibits an ROT from receiving communications about trading interests or orders from an affiliated floor broker's customers prior to the respective trading crowd receiving the same information. Part (ii) also prohibits an ROT from answering telephones at an affiliate's post, except an ROT may access a telephone at his affiliate's post to communicate with associates of his ROT firm.[6]

Lastly, Part (iii) of OFPA F-9 provides that the respective trading crowd must be informed of any exchange of interests to trade between an ROT and an affiliated floor brokerage unit. In particular, the proposed OFPA would require the application of PHLX Rule 1064(c) when an exchange of trading interest between an ROT and an affiliated floor brokerage unit occurs.[7] Therefore, the same information that is exchanged between the two participants must also be communicated to the trading crowd. In addition, OFPA F-9 contains a fine schedule for violations of the provisions of the OFPA and will be added to the list of rules that can be sanctioned under Phlx's Minor Infraction Rule Plan.[8] Specifically, a fine of $250 will be assessed for the first occurrence of a violation; $500 for the second occurrence; and a sanction within the discretion of the Exchange's Business Conduct Committee ("BCC") for the third occurrence and any occurrence thereafter.

Finally, the PHLX proposes to amend PHLX Rule 793 to broaden the categories of dual affiliations that must be disclosed and approved by the Exchange to include dual affiliations of associated persons of members/participant organizations. Currently, Rule 793 only requires disclosure of dual affiliations involving general/limited partners, officers, directors and stockholders of members/participant organizations.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5). More specifically, the Commission believes that providing the PHLX with the authority to require associated persons of members/participant organizations to disclose their dual affiliation arrangements will protect investors and the public interest, as well as remove impediments to and perfect the mechanism of a free and open market. Moreover, the Commission believes that this expansion of the scope of Rule 793 will more realistically address the types of dual affiliations that typically occur on the Exchange floor. By requiring disclosure and approval of these types of arrangements, the Commission believes the Exchange will be in a better position to detect collusive trading and minimize potential conflicts of interest, thereby protecting investors in furtherance of the Act.

The Commission further believes that requiring the disclosure of all agreed upon forms of compensation involved in a dual affiliation arrangement, including all "soft dollar" compensation, will enable the Exchange to determine better whether an affiliation is consistent with Exchange standards enumerated in Rule 793.[9] In addition, through the disclosure of all compensation arrangements, the Exchange will be able to determine and detect whether the specialist exempt credit treatment under Regulation T is being improperly applied to an off-floor trading entity and, thereby, will be better able to prevent such improper use of good faith margin.

The Commission also believes that prohibiting ROTs from receiving communications about trading interests or orders from an affiliated floor broker's customers prior to the respective crowd receiving the same information and providing that respective trading crowds must be informed of any exchange of interests to trade between an ROT and an affiliated floor brokerage unit promotes just and equitable principles of trade on the PHLX trading floor. In this regard, the Commission also believes that these restrictions, in addition to the restrictions that an ROT cannot answer the telephone at an affiliated floor broker's post except to contact associates of his ROT firm, will serve as reasonable means to prevent the misuse by ROTs of information concerning orders and trading interests of customers of affiliated floor brokerage units.

Moreover, the Commission believes that it is appropriate for the Exchange to establish a fine schedule consistent with its Minor Infraction Rule Plan for infractions of OFPA F-9.[10] Specifically, the Commission believes that the use of the fine schedule will enable Exchange officials to impose sanctions for minor infractions of the Advice. The Commission also believes that this streamlined disciplinary process will help the Exchange to ensure that PHLX members/participant organizations abide by the Exchange's rule governing dual affiliations. In addition, the Commission further finds that the fine schedule provides for suitable sanctions for violations of the Advice, and is consistent with sections 6(b)(6) and 6(b)(7) of the Act, which requires exchanges to have appropriate sanctions and procedures for the fair disciplining of members for violations of the rules of an exchange.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[11] that the proposed rule changes (SR-PHLX-90-23 and 91-07) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-9885 Filed 4-27-93; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1991).

[3] See note 8, *infra*.

[4] Specifically, Part (i) of proposed OFPA F-9 is based on PHLX Rule 793, Commentary .01 to Rule 793 requires a member or participant organization to file with the Office of the Secretary of the Exchange notice of a multiple affiliation detailing the business purpose of this arrangement, the person at each organization who will supervise the conduct of the dually affiliated member/participant for compliance with PHLX by-laws and rules, and sufficient information for the Exchange to determine whether one person has registered with more than one organization. This notice must also contain each organization's written approval of the affiliation.

[5] See letter from Gerald D. O'Connell, Vice President, Market Surveillance, PHLX, to Thomas Gira, Branch Chief, Division of Market Regulation, SEC, dated April 21, 1992.

[6] PHLX Rule 1014(e) prohibits an ROT from initiating an options transaction while on the floor of the Exchange in any account in which he has an interest and at the same time executing as a floor broker an off-floor order in the same option during the same trading session.

[7] PHLX Rule 1064(c) provides that when an order is presented to the trading crowd which arose out of an expression of trading interest between two broker-dealers away from the crowd, the solicited order must be shown to the crowd along with any information given to the solicited member. In addition, participants in the trading crowd must be given a reasonable opportunity to respond to the order.

[8] Phone conversation between Richard Zack, Branch Chief, Options Regulation, SEC, and Edith Hallahan, Market Surveillance, Phlx, on April 16, 1993. Pursuant to paragraph (c)(1) of Rule 19d-1, an SRO is required to file promptly with the Commission notice of any "final" disciplinary action taken by the SRO. Pursuant to paragraph (c)(2) of Rule 19d-1, any disciplinary action taken by the SRO for violation of an SRO rule that has been designated a minor rule violation pursuant to the plan shall not be considered "final" for purposes of section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies. By deeming unadjudicated minor violations as not final, the Commission permits the SRO to report violations on a periodic (quarterly), as opposed to immediate, basis.

[9] Pursuant to PHLX 793, the Exchange may disapprove dual or multiple affiliations which are inconsistent with Exchange standards of financial responsibility, operational capability, or compliance responsibility.

[10] Even though the Exchange intends that violations of the dual affiliation provisions be sanctioned according to the PHLX's Minor Infraction Rule Plan, violations of the Advice do not necessarily have to be subject to the Minor Infraction Rule Plan. For instance, for egregious violations, the Commission would expect that these matters will be handled directly by the Exchange's BCC.

[11] 15 U.S.C. 78s(b)(2) (1982).

[12] 17 CFR 200.30-3(a)(12) (1991).

[Rel. No. IC-19426; 812-8318]

Equitable Capital Partners, L.P., et al.; Application

April 22, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Equitable Capital Partners, L.P., Equitable Capital Partners (Retirement Fund), L.P. (each a "Partnership," and together the "Partnerships"), Equitable Capital Management Corporation ("Equitable Capital"), and Alliance Corporate Finance Group Incorporated ("Alliance Incorporated").

RELEVANT ACT SECTIONS: Order requested to amend (1) an order under section 6(c) that granted an exemption from sections 2(a)(19) and 2(a)(3)(D) of the Act, and (2) an order under section 57(i) of the Act and rule 17d-1 thereunder that permitted certain joint transactions.

SUMMARY OF APPLICATION: Applicants seek an order that would amend two prior orders. When the prior orders were issued, Equitable Capital served as investment adviser to and managing general partner of the Partnerships. The order would permit the Partnerships to continue to operate under the terms of the prior orders following a corporate reorganization in which Alliance Incorporated would replace Equitable Capital as investment adviser to and managing general partner of the Partnerships.

FILING DATE: The application was filed on March 18, 1993, and amended on April 12, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 17, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants (except for Alliance Incorporated), 1285 Avenue of the Americas, New York, New York 10019; and Alliance Incorporated, 1345 Avenue of the Americas, New York, New York 10105.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504-2283, or C. David Messman, Branch Chief, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each Partnership is a Delaware limited partnership that has elected to operate as a business development company under the Act. The Partnerships primarily invest in subordinated debt and related equity securities issued in conjunction with the "mezzanine financing" of privately-structured leveraged buyouts. Equitable Capital, a wholly-owned subsidiary of The Equitable Life Assurance Society of the United States ("Equitable Life"), is the managing general partner of and the

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investment adviser to each of the Partnerships.

2. In 1988, the Partnerships and Equitable Capital received an order (the "2(a)(19) Order") under section 6(c) of the Act determining that (i) the independent general partners of a Partnership are not "interested persons" (as defined in section 2(a)(19) of the Act) of the Partnership or Equitable Capital by virtue of being general partners of the Partnerships and co-partners of Equitable Capital, and (ii) limited partners who own a less than a 5% limited partnership interest in a Partnership are not "affiliated persons" (as defined in section 2(a)(3) of the Act) of the Partnership or its partners solely by reason of their status as limited partners.[1]

3. In 1990, the Partnerships and Equitable Capital received an exemptive order (the "17d–1 Order") under section 57(i) of the Act and rule 17d–1 thereunder amending a previous order and (i) permitting purchases of securities by the Partnerships in joint transactions with each other or in transactions in which an affiliate of Equitable Capital is a participant; (ii) permitting certain affiliated persons of Equitable Life or any of its subsidiaries to serve as directors of Equitable Capital notwithstanding a condition to the prior order; (iii) permitting Equitable Life and certain other affiliated persons of Equitable Capital to invest as limited partners in certain limited partnerships that invest in entities in which the partnerships also invest; and (iv) amending and restating the conditions and undertakings contained in the previous order.[2] The 2(a)(19) Order and the 17d–1 Order are referred to as the Existing Orders.

4. Alliance Capital Management L.P. ("Alliance") is a Delaware limited partnership that is registered as an investment adviser. Alliance's sole general partner is Alliance Capital Management Corporation, an indirect wholly-owned subsidiary of Equitable Life. Alliance's partnership interests are represented by units, which are publicly-traded on the New York Stock Exchange. Currently, a wholly-owned subsidiary of Equitable Life owns approximately 54.7% of Alliance's units, public shareholders own approximately 33.8%, and employees of Alliance own approximately 11.5%.

5. On February 23, 1993, Equitable Capital, Alliance and Equitable Investment Corporation[3] entered into a transfer agreement providing for the transfer of substantially all of the assets and liabilities comprising Equitable Capital's business to Alliance and its subsidiaries in exchange for newly issued units representing limited partnership interests in Alliance (the "Combination"). Under the transfer agreement, Equitable Capital may receive additional units as incentive fees. Upon completion of the Combination, Equitable Life will own directly and indirectly up to approximately 63% of the units of Alliance.

6. In connection with the Combination, applicants anticipate that key personnel in Equitable Capital's corporate finance department will become employees of Alliance Incorporated, a registered investment adviser that is an indirect wholly-owned subsidiary of Alliance. The corporate finance department of Equitable Capital has had primary responsibility for providing investment management and other services to the Partnerships.

7. Upon completion of the Combination, which is subject to a number of closing conditions, the Partnerships' existing investment advisory agreements with Equitable Capital will terminate by operation of law. Applicants expect that, subject to approval by each Partnership's independent general partners and limited partners, Alliance Incorporated will become the investment adviser to the Partnerships without any substantive change in the terms and conditions under which Equitable Capital now serves as adviser. Applicants also expect that Equitable Capital will withdraw from the Partnerships and assign its interest as general partner of each Partnership to Alliance Incorporated, and, subject to approval by each Partnership's limited partners, that Alliance Incorporated will succeed Equitable Capital as managing general partner.

8. Applicants request that the Existing Orders be amended to permit the Partnerships to operate under the terms of such orders in the event that Alliance Incorporated replaces Equitable Capital as investment adviser to and managing general partner of the Partnerships. If the transfer agreement is terminated prior to the completion of the Combination, the Combination will not take place, the Equitable Capital personnel that advise the Partnerships will not become employees of Alliance Incorporated and Equitable Capital will remain as investment adviser to and managing general partner of the Partnerships.

9. A joint special meeting of limited partners has been scheduled to consider (i) a proposal to approve as to each Partnership a new investment advisory agreement between the Partnership and Alliance Incorporated; and (ii) a proposal to admit Alliance Incorporated as successor managing general partner of each Partnership. Approval of each proposal is a precondition to the approval of the other. Accordingly, if either proposal is not approved by the limited partners, neither proposal will have been approved. The independent general partners of the Partnership then will make such arrangements for the management of the Partnership and its investments as they believe appropriate and in the best interests of the limited partners.

Applicants' Legal Analysis

1. Applicants believe that the relief requested is reasonable, necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Alliance Incorporated will comply with the conditions and undertakings in the Existing Orders Currently applicable to Equitable Capital as the investment adviser to and managing general partner of the Partnerships.

2. In particular, the 17d–1 Order is subject to several conditions relating to the operations of the Partnerships and to coinvestments by the Partnerships with each other and with "Equitable Affiliates," which is defined to include Equitable Life (and its subsidiaries other than Equitable Capital); funds with investment objectives similar to the Partnerships that may be sponsored by Equitable Capital; and Equitable Capital advisory accounts that have similar investment objectives. Alliance Incorporated will comply with all such conditions as they currently apply to Equitable Capital. In addition, the proposed amendment provides that, upon consummation of the Combination, the term "Equitable Affiliate" also will include funds with investment objectives similar to the Partnerships that may be sponsored by Alliance Incorporated or Alliance as well as Alliance Incorporated or Alliance advisory accounts that have similar investment objectives, but will not include Alliance Incorporated or Alliance.[4]

[1] Investment Company Act Rel. Nos. 16404 (May 18, 1988) (notice) and 16444 (June 21, 1988) (order).

[2] Investment Company Act Rel. Nos. 17894 (Dec. 5, 1990) (notice) and 17925 (Dec. 31, 1990) (order).

[3] Equitable Investment Corporation is an indirect wholly-owned subsidiary of Equitable Life.

[4] The 17d–1 Order permits the Partnerships to purchase certain securities in joint transactions with each other and with the Equitable Affiliates, which as noted above does not include Equitable Capital. Applicants will continue to comply with this condition. In addition, because Alliance Incorporated is expected to replace Equitable Capital as investment adviser to and managing general partner of the Partnerships, Alliance Incorporated and its parent company, Alliance, will be excluded from the term "Equitable Affiliates"—thereby not permitting them to invest in the joint transactions.

3. The replacement of Equitable Capital with Alliance Incorporated as investment adviser and managing general partner, if approved by the limited partners of the Partnerships, is not expected to result in any significant change in the operations of the Partnerships or in the services provided to the Partnerships.

4. With respect to the 2(a)(19) Order, applicants note that, as a practical matter, the order applies to the independent general partners rather than Equitable Capital and that the individuals presently serving as independent general partners will continue to serve in these roles. Accordingly, the terms of the 2(a)(19) Order will not be affected by the Combination.

5. Applicants believe that it is appropriate to seek amendments to the Existing Orders to ensure that the Existing Orders remain in effect after the consummation of the Combination.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–9920 Filed 4–27–93; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 19427; 812–8282]

Overland Express Funds, Inc., et al.; Application for Exemption

April 22, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Overland Express Funds, Inc. ("Overland"), Stagecoach Funds, Inc. ("Stagecoach"), Cash Investment Trust ("CIT"), WellsFunds Inc. ("WellsFunds"), and all existing and future series thereof (other than the Overland Sweep Fund series of Overland or any other series hereafter established that seeks to accomplish its investment objective by investing all of its assets in the shares of another investment company) (collectively, the "Funds"); Wells Fargo Bank, N.A. ("Wells Fargo"), and any entity controlling, controlled by, or under common control (as defined in section 2(a)(9) of the Act) with Wells Fargo that serves as investment adviser to the Portfolios or to any investment company or portfolio thereof hereinafter referenced (the "Adviser"); and any future investment companies and series thereof that are advised by Wells Fargo or by any entity controlling, controlled by, or under common control (as defined in section 2(a)(9) of the Act), with Wells Fargo (collectively, with the Funds, the "Portfolios").

RELEVANT ACT SECTIONS: Exemptive relief requested pursuant to section 17(d) and rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek a conditional order permitting the Portfolios to pool their uninvested cash balances in one or more joint accounts (the "Account"), and to use the daily balance of the Account to enter into one or more repurchase agreements having a maturity of not more than seven days.

FILING DATE: The application was filed on February 18, 1993 and amended on March 30, 1993 and April 21, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 17, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issue contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Wells Fargo, 111 Sutter Street, 11th Floor, San Francisco, California 94163. Other applicants, 111 Center Street, Little Rock, Arkansas 72201.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Staff Attorney, at (202) 272–5287, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Overland, Stagecoach and WellFunds are registered, open-end management investment companies, each of which consists of several series. CIT is a registered, open-end management investment company whose shares are not publicly offered or registered under the Securities Act of 1933.

2. Wells Fargo acts as investment adviser to all of the series of Overland, Stagecoach, CIT, and WellsFunds,[1] with the exception of Overland Sweep Fund, which invests all of its assets in CIT and, accordingly, has no direct adviser.[2] Stephens Inc. is the sponsor, distributor, and administrator for all series of Overland, Stagecoach and WellsFunds, and acts as the placement agent for CIT.

3. Each Fund has a custodial relationship with Wells Fargo or Wells Fargo Institutional Trust Company, N.A., but any of the Portfolios may use another custodian or a sub-custodian selected and qualified under section 17(f) of the Act (collectively, the "Custodians") if they deem it in their best interest to do so.

4. On any given day, each of the Portfolios has, or may be expected to have, cash balances held by its Custodian, which otherwise would not be invested in portfolio securities by the Adviser at the end of the trading day. Ordinarily, the Adviser would invest such cash in short-term investments authorized by the Portfolio's investment policy to earn additional income for the Portfolio. Applicants propose to establish with their respective Custodians one or more Accounts, which will be used exclusively to pool excess cash of the Portfolios participating in such Account to purchase one or more repurchase agreements.

5. Under the proposed arrangement, each repurchase transaction would be entered into by the Adviser calling one of the previously approved counterparties of repurchase agreements, indicating the size of the desired repurchase transaction, and negotiating the rate of interest. Master repurchase agreements with the approved counterparties establish minimum collateral levels, the securities eligible to be held as collateral, and the maximum term of a transaction. To facilitate repurchase

[1] Wells Fargo Nikko Investment Advisors, an affiliate of Wells Fargo, serves as investment sub-adviser to several of the series of Stagecoach and WellsFunds. However, Wells Fargo will be responsible for all activities of these series with regard to the Account.

[2] Overland Sweep Fund will not participate directly in the Account.

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transactions and to help obtain more attractive rates, the Custodian may enter into third-party arrangements for custody of assets and collateral securities with banks that report to the New York Federal Reserve Bank. The term of a repurchase transaction would typically be overnight (or over a holiday or weekend) and in no event more than seven days.

6. After the size of a repurchase transaction has been agreed to, the Custodian would be notified and, prior to releasing funds, would be required to verify that eligible collateral securities of sufficient value had been received. These securities would be either (a) wired to the account of the Custodian (or third-party custodian) at the appropriate Federal Reserve Bank, or (b) physically transferred to a segregated account of the Custodian (or third-party custodian).

7. All joint repurchase transactions would be effected in accordance with the established standards and procedures of the Funds and with the guidelines set forth in Investment Company Act Release No. 13005 (Feb. 2, 1983). If necessary, the Portfolios would modify their systems and standards to comply with any positions the SEC or its staff may take with respect to repurchase agreements by rule, interpretive release, no-action letter, any release adopting any new rule, or any release adopting any amendments to any existing rule.

8. Applicants believe that the proposed Account would have the following benefits for the Portfolios:

(a) The Portfolios would collectively save significant fees and expenses by reducing the number of transactions in which they would engage, compared with the number of transactions the Portfolios would engage in through separate accounts;

(b) Under normal market conditions, it is possible to negotiate a rate on return on large repurchase agreements that is greater than the rate of return that can be negotiated for small repurchase agreements. Thus, the Portfolios would benefit from a greater rate of return than would be available for repurchase agreements negotiated individually by each Portfolio;

(c) The reduction in the number of trade tickets written by each counterparty to a repurchase agreement will simplify the transaction for the parties involved and reduce the opportunities for errors.

Applicants' Legal Conclusions

1. Each Portfolio, by participating in the proposed Account, and the Adviser, by managing the proposed Account, could be deemed to be joint participants in a transaction within the meaning of section 17(d), and the proposed Account could be deemed to constitute a joint enterprise or other type of joint arrangement within the meaning of rule 17d–1. Furthermore, under the definition of "affiliated person" set forth in section 2(a)(3), each of the applicants could be deemed an affiliated person of each other applicant.

2. Applicants represent that the proposed method of operating the Account would not result in any conflicts of interest among any of the Portfolios, or between a Portfolio and an Adviser. Applicants also have determined that there does not appear to be any basis upon which to predicate greater benefits to one Portfolio than to another, because the daily uninvested cash balance of any one Portfolio on any given day is neither a function of the size of the Portfolio nor the particular securities in which it invests, but is rather a function of other factors, such as portfolio management decisions, shareholder purchases and redemptions or the timing of settlement of trades. Although the Adviser would gain some benefit through administrative convenience and some possible reduction in clerical costs, the primary beneficiaries would be the Portfolios and their shareholders, because the Account would provide a more efficient and productive way of administering daily investment transactions.

3. Applicants believe that it would be desirable to permit participation by future Portfolios without the necessity of applying for an amendment to the requested order. Future Portfolios would be required to participate in the Account on the same terms and conditions as the existing Funds.

4. Applicants believe that, because the Account will invest in repurchase agreements that (a) typically will have an overnight, over-the-weekend or holiday duration, and in no event will have a duration in excess of seven days, (b) by their nature are held to maturity, and (c) have no trading market, the value of the repurchase agreements held in the Account would be best reflected by the amortized cost method of valuation.

5. Rule 17d–1(b) under the Act provides that, in passing upon applications under rule 17d–1, the SEC will consider whether each party's participation in the proposed joint arrangement is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Applicants believe that, for the reasons set forth above and in light of the conditions set forth below, the criteria for issuance of an order under section 17(d) of the Act and rule 17d–1 thereunder are met.

Applicants' Conditions

Applicants will operate the Account subject of the following conditions:

1. The Account will be established as one or more separate cash accounts on behalf of the Portfolios at the Custodian. The Portfolios may deposit daily all or a portion of their uninvested net cash balances into the Account.

2. Cash in the Account will be invested solely in repurchase agreements (which typically will have an overnight or over-the-weekend duration, and in no event will have a duration of more than seven days), collateralized by suitable U.S. Government obligations (i.e., obligations issued or guaranteed as to principal or interest by the Government of the United States or by any of its agencies or instrumentalities), and satisfying the uniform standards set by the Portfolios for such investments.

3. All repurchase agreements entered into by the Account will be valued on an amortized cost basis. Each Portfolio that relies upon rule 2a–7 will use the average dollar weighted maturity of such repurchase agreements for the purpose of computing the Portfolio's average portfolio maturity with respect to the portion of its assets held in such Account.

4. In order to ensure that there will be no opportunity for one Portfolio to use any part of a balance of the Account credited to another Portfolio, no Portfolio will be allowed to create a negative balance in the Account for any reason, although each Portfolio will be permitted to draw down its *pro rata* share of the entire balance at any time. Each Portfolio's decision to invest through the Account will be solely at the Portfolio's option, and no Portfolio will be obligated to invest through, or to maintain any minimum balance in, the Account. In addition, each Portfolio will retain the sole rights of ownership of any of its assets, including interest payable on such assets, invested in the Account. Each Portfolio's investment in the Account will be documented daily on the books of the Portfolio as well as on the respective Custodian's books.

5. Each Portfolio will participate in the income earned or accrued in the Account, including all investments held by such Account, on the basis of the percentage of the total amount in such Account on any day represented by its share of such Account.

6. The Adviser will administer, manage and invest the cash balance in the Account in accordance with the terms of its management contracts with the Portfolios, and will not collect any additional or separate fee for the administration of the Account.

7. The Portfolios and the Adviser will enter into an agreement to govern the arrangements in accordance with the foregoing principles.

8. The administration of the Account will be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g–1 thereunder.

9. The board of each Portfolio participating in the Account will evaluate the Account arrangements annually and will authorize the continued participation of the Portfolio in the Account only if it determines that there is a reasonable likelihood that such continued participation will benefit the Portfolio and its shareholders.

10. Substantially all repurchase transactions will have an overnight, over-the-weekend or over a holiday maturity, and in no event will a transaction have a maturity of more than seven days.

11. The Account will not be distinguishable from any other accounts maintained by a Portfolio with its Custodian except that cash from the various Portfolios will be deposited in the Account on a commingled basis. The Account will not have any separate existence with indicia of a separate legal entity. The sole function of the Account will be to provide a convenient way of aggregating individual transactions that would otherwise require daily management and investment by each Portfolio of its cash balances.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–9922 Filed 4–27–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19428; File No. 812–8270]

The Variable Annuity Life Insurance Co. et al.

April 22, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: The Variable Annuity Life Insurance Company ("VALIC"), The Variable Annuity Life Insurance Company Separate Account A ("Separate Account A"), and The Variable Annuity Marketing Company ("VAMCO") (collectively, the "Applicants").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) of the 1940 Act for exemptions from sections 22(e), 27(c)(1), and 27(d).

SUMMARY OF APPLICATION: Applicants seek an order with respect to certain variable annuity contracts ("Contracts") participating in Separate Account A to the extent necessary to comply with the Optional Retirement Program of the State University System of Florida ("Florida ORP") as administered by the Division of Retirement of the Florida Department of Management Services ("Division").

FILING DATE: The Application was filed on February 12, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m., on May 17, 1993, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Cynthia A. Toles, Esq., The Variable Annuity Life Insurance Company, 2929 Allen Parkway, Houston, Texas 77019. Copies to Diane E. Ambler, Esq., Freedman, Levy, Kroll & Simonds, 1050 Connecticut Avenue, NW., Suite 825, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Thomas E. Bisset, Senior Attorney, at (202) 272–2058, or Micheal Wible, Special Counsel, on (202) 272–2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application. The complete Application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. VALIC is a Texas stock life insurance company, the predecessor of which was organized under the laws of the District of Columbia in 1955. VALIC transacts business in all fifty states and the District of Columbia and has total assets exceeding $17.4 billion. VALIC is the depositor of Separate Account A, which was established by VALIC's Board of Directors on April 18, 1979 in accordance with the Texas Insurance Code. Separate Account A funds variable annuity contracts, including the Contracts, issued by VALIC. VAMCO, a Texas corporation organized in 1970, is the principal underwriter for the variable annuity contracts issued by VALIC and Separate Account A, including the Contracts.

2. Separate Account A is registered as a unit investment trust under the 1940 Act and invests solely in portfolios of the American General Series Portfolio Company. Units of interest under the Contracts are registered under the Securities Act of 1933. The Contracts are also qualified under section 403(b) of the Internal Revenue Code of 1986, as amended ("Code").

3. The Florida ORP is a defined contribution plan designed to provide retirement and death benefits to participants through individual or group annuity contracts, which may be fixed or variable, or combination fixed and variable. The Florida ORP is available to certain faculty members within the State University System of Florida ("Florida University System"), as well as to persons holding certain administrative and professional staff positions within the Florida University System (collectively, "Eligible Employees" or "Participants"). The Florida ORP is an alternative to the Florida Retirement System, a defined benefit retirement plan, and Eligible Employees have the option of participating in the Florida Retirement System or the Florida ORP. A statutory presumption deems any employee who becomes eligible to participate on or after January 1, 1993 to have elected to participate in the Florida ORP, unless such employee specifically elects membership in the Florida Retirement System.

4. Under the Florida ORP, the universities in the Florida University System provide for employee retirement benefits by contributing a percentage of each Participant's gross compensation regardlese of service to purchase an annuity when the employee retires. The Division has designated five companies from which annuity contracts may be purchased under the Florida ORP. In addition to VALIC, these companies include the Teachers Insurance and Annuity Association of America and the College Retirement Equities Fund, Capitol Life Insurance Company, Great American Reserve Insurance Company and The Independent Life and Accident Company.

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5. Participants in the Florida ORP may themselves contribute, by way of salary reduction, a percentage of their respective gross compensation (not to exceed the percentage amount contributed by the employer). Payment of Participant contributions are made by the financial officer of the employer to the Division, which in turn forwards the contribution to a designated company or companies contracting for payment of benefits for the Participant under the Florida ORP.

6. In correspondence with VALIC, dated December 9, 1992, the Division informed VALIC that it will require VALIC to withdraw the Contracts from the Florida ORP unless it amends the Contracts to reflect certain restrictions based on the Division's administrative interpretations applicable to employer contributions made pursuant to the Florida ORP. The Division has administratively prohibited distributions of employer contributions under the Florida ORP to a Participant on a lump sum basis (other than upon the Participant's death) or exclusively on the basis of a period certain. These restrictions apply only to employer contributions and do not limit access to Participant contributions. (Participant contributions under the Contracts are, however, subject to the restrictions on distributions under section 403(b)(11) of the Code.) Participants are also free to transfer both employer and Participant contributions among the fixed or variable investment options available under the Contracts and to substitute entirely a qualified contract offered by any of the other companies designated under the Florida ORP.

7. The Division has required VALIC, in order to continue to participate as a designated company under the Florida ORP, to prepare an endorsement to the Contracts (the "Endorsement") applying to accumulations based on employer contributions which provides that: (1) Benefits based on employer contributions are payable only upon the Participant's death, retirement or termination of employment (as defined in section 121.021(39) of the Florida Statutes); (2) benefit payments will not be made based solely on a period certain; (3) accumulations based on employer contributions are not subject to withdrawal or surrender and may not be rolled over other than to a designated company or companies contracting for payment of benefits for the Participant under the Florida ORP; and (4) accumulations are not subject to loan, assignment, execution or attachment.

Applicants' Legal Analysis and Conditions

1. Section 22(e) of the 1940 Act provides that "no registered investment company shall suspend the right of redemption, or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption," except in certain prescribed circumstances. Section 27(c)(1) of the 1940 Act makes it unlawful "for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security." Section 27(d) of the 1940 Act makes it unlawful "for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate" and receive an amount equal to the account value plus excess sales load.

2. Applicants request exemptions from the provisions of sections 22(e), 27(c)(1) and 27(d) of the 1940 Act to the extent necessary to permit compliance with the Florida ORP, as administered by the Division with respect to the Contracts.

3. Applicants submit that the exemptive relief requested is consistent with Rule 6c–7 under the 1940 Act, which provides exemptions from sections 22(e), 27(c)(1) and 27(d) of the 1940 Act for registered separate accounts, and depositors of or underwriters for such separate accounts, to the extent necessary to permit compliance with certain restrictions on redemptions involving variable annuity contracts issued to certain employees participating in the Texas Optional Retirement Program ("Texas ORP"). The Texas ORP permits distributions to participants only upon death, retirement or termination of employment.

4. applicants further submit that the exemptive relief requested is also consistent with the position taken by the Commission staff in a 1988 letter to the American Council of Life Insurance, in which the staff advised that it would not recommend enforcement action to the Commission if registered separate accounts issuing variable annuity contracts as funding vehicles for retirement plans meeting the requirements of section 403(b) of the Code comply with the restrictions imposed by subsection (11) of that section.[1] In addition, the relief requested is consistent with exemptive relief more recently granted involving the Louisiana Optional Retirement Plan.[2]

5. The Division's administration of the Florida ORP, and its requirement that VALIC amend the Contracts to specifically restrict certain rights of redemption or cease participating in the Florida ORP program, present a direct conflict with the 1940 Act's redemption provisions. The terms of the Endorsement, as required by the Division in its administration of the Florida ORP, clearly permit payment of contract benefits only in the event of death, retirement, or termination of employment and are substantially identical to the Texas ORP limitations.

6. The legislative purpose of the Florida ORP is similar to that of the statutes discussed above. In each case, the constraints or redeemability are designed to ensure that the annuity contract is used for the principal purpose of long-term retirement accumulation.

Moreover, the Division has required VALIC to obtain the relief requested as a condition to continuing as a designated company under the Florida ORP. Thus, persons participating in the Florida ORP could be denied the opportunity to select the Contracts as a funding medium for their retirement benefits.

Furthermore, the limited restrictions on redemption would be voluntarily assumed by Participants (i.e., Eligible Employees may elect not to participate in the Florida ORP), were not formulated or suggested by Applicants, and are reasonable in light of the benefits of participating in the Florida ORP. In addition, consistent with the precedents cited above, Participants are able to transfer their account value among the investment alternatives available under the Contracts (including the fixed alternative funded through the General Account of VALIC) and to qualified contracts of other companies designated under the Florida ORP.

7. As noted above, the requested exemptive relief is substantially identical to that requested and obtained

[1] American Counsel of Life Insurance, [1989 Transfer Binder] Fed. Sec. L. Rep. (CCH) Section 78,904 (November 28, 1988).

[2] Nationwide Life Insurance Company, (File No. 812–7457), Investment Company Act Release No. 17615 (July 25, 1990), 55 Fed. Reg. 31,278 (Aug. 1, 1990) (Notice); Investment Company Act Release No. 17693 (Aug. 22, 1990) (Order).

in connection with similar constraints or redeemability imposed by other governing authorities. Applicants submit that the relief requested raises no novel issues of law or fact.

8. Applicants will ensure that appropriate disclosure is made to Eligible Employees, informing them of the restrictions stated in the Endorsement. Applicants represent that they will:

a. Include appropriate disclosure regarding the restrictions on redemption imposed by the Division in each registration statement, including the prospectus, relating to the Contracts issued in connection with the Florida ORP;

b. Include appropriate disclosure regarding the restrictions on redemption imposed by the Division in any sales literature used in connection with the offer of Contracts to Eligible Employees;

c. Instruct salespeople who solicit Eligible Employees to purchase the Contracts specifically to bring the restrictions on redemption imposed by the Division to the attention of the Eligible Employees;

d. Obtain from each Participant in the Florida ORP who purchases a Contract, prior to or at the time of such purchase, a signed statement acknowledging the Participant's understanding: (i) of the restrictions on redemption imposed by the Division, and (ii) that other investment alternatives are available under the Florida ORP, to which the Participant may elect to transfer his or her Contract values; and

e. Include in any registration statement filed in connection with the Contracts a representation that this exemptive application is being relied upon and that the provisions of sub-paragraphs (a) through (d) above have been complied with.

Conclusion

Applicants submit that the exemptive relief requested is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–9921 Filed 4–27–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Small Business Innovation Research Program Policy Directive

AGENCY: Small Business Administration.

ACTION: Publication of policy directive.

SUMMARY: On October 28, 1992, Public Law 102–564, 106 Stat. 4249, authorized the Small Business Technology Transfer (STTR) Pilot Program. The Small Business Administration (SBA) is hereby publishing the policy directive for the STTR pilot program. This policy directive provides guidance to the participating Federal agencies for the general conduct of the STTR pilot program. Additional instructions may be issued by the SBA as a result of public comment or experience. Such instructions will be issued as additional or replacement pages for this directive.

DATES: Public comment on this policy directive must be received no later than May 28, 1993.

ADDRESSES: Written comments should be submitted to Richard J. Shane, Assistant Administrator, Office of Innovation, Research and Technology, U.S. Small Business Administration, 409 Third Street, SW., suite 8500, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Jack Sweeney, Deputy Assistant Administrator, Office of Innovation, Research and Technology, (202) 205–6450.

SUPPLEMENTARY INFORMATION: On October 28, 1992, the Small Business Technology Transfer Act of 1992 (the Act), title II of Public Law 102–564 (106 Stat. 4256), authorized the Small Business Technology Transfer (STTR) Pilot Program. Section 202(b)(3) of the Act defines the term "Small Business Technology Transfer Program" or "STTR" as "a pilot program under which a portion of a Federal agency's extramural research or research and development effort is reserved for award to small business concerns for cooperative research and development through a uniform process having * * * a first phase, * * * a second phase, * * * and where appropriate, a third phase * * *." The term "cooperative research and development" means research or research and development conducted jointly by a small business concern and a research institution.

Under the Act, the first phase of an STTR program is to determine, to the extent possible, the scientific, technical, and commercial merit and feasibility of ideas submitted pursuant to STTR program solicitations. The second phase of an STTR program is to further develop proposed ideas to meet particular program needs, in which awards shall be made based upon the scientific, technical, and commercial merit and feasibility of the idea, as evidenced by the first phase and by other relevant information. Finally, the third phase of an STTR program is to facilitate the funding of commercial applications of STTR-funded R/R&D, by non-Federal sources of capital, or, for products or services intended for use by the Federal Government, by follow-on, non-STTR Federal Funding awards. Additionally, awards from non-STTR Federal funding sources which are used for the continuation of R/R&D that has been competitively selected using peer review or scientific review criteria would be considered in the third phase of an STTR program.

The Act authorizes Federal agencies to establish STTR Pilot Programs if their Fiscal Years 1994, 1995, or 1996 extramural budgets for research or research and development (R/R&D) exceed $1 billion. If a Federal agency's extramural budget for R/R&D meets the threshold requirement, the agency is authorized to expend the following amounts with small business concerns: (a) Not less than 0.05% of such budget in FY 1994; (b) not less than 0.1% in FY 1995; and (c) not less than 0.15% in FY 1996. The Act prohibits the use of a Federal agency's STTR budget for administrative costs of the program, including costs associated with salaries and expenses.

Section 202(c) of the Act charges SBA with the responsibility of issuing a policy directive which provides for the general conduct of the STTR Pilot Program, including six specific areas: (1) Simplified, standardized, and timely STTR solicitations; (2) a simplified, standardized funding process; (3) minimizing regulatory burdens associated with participation in the STTR programs; (4) guidelines for a model agreement, to be used by all agencies for allocating between small business concerns and research institutions, intellectual property rights, and rights, if any, to carry out follow-on research, development, or commercialization; (5) procedures to ensure that recipients of STTR awards meet SBA's definition of a small business concern, as defined in section 3 of the Small Business Act (15 U.S.C. 631 *et seq.*) and the small business concern exercises management and control of the performance of the STTR funding agreement; and (6) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small

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business concern under an STTR program enters into follow-on, non-STTR funding agreements with the small business concern for research, development, or production.

Pursuant to the Act, SBA has developed this policy directive with the above areas of concern in mind, and after consultation with the heads of the Federal agencies required to establish STTR programs, the Commissioner of Patents and Trademarks, and the Director of the Office of Federal Procurement Policy. Those Federal agencies who are required to establish STTR programs are: The Department of Defense, the Department of Energy, the Department of Health and Human Services, the National Aeronautics and Space Administration, and the National Science Foundation.

SBA is issuing this policy directive with a 30 day comment period. SBA will consider all comments carefully before issuing the policy directive in final form, as required by the Act, no later than July 31, 1993.

Richard J. Shane,

Assistant Administrator, SBA Office of Innovation, Research and Technology.

Small Business Technology Transfer Program Policy Directive

To the Heads of Executive Departments and Establishments

Subject: Small Business Research and Development Enhancement Act of 1992 Small Business Technology Transfer (STTR) Pilot Program

1. *Purpose.* To provide a policy directive for the general conduct of the Small Business Technology Transfer (STTR) Pilot Programs within the Federal government.

2. *Authority.* This policy directive is issued pursuant to the authority contained in 15 U.S.C. 638(j)—Small Business Research and Development Enhancement Act of 1992 (Pub. L. 102–564).

3. *Procurement Regulations.* It is recognized that the Federal Acquisition Regulation (FAR) may need to be modified to conform to the requirements of The Small Business Research and Development Enhancement Act of 1992 and this policy directive. Agencies responsible for these procurement regulations are encouraged to initiate such changes. Regulatory provisions pertaining to areas of SBA responsibility, as established by Public Law 102–564, will require approval of the SBA Administrator or designee. The SBA Office of Innovation, Research and Technology is the appropriate office for coordinating such regulatory provisions.

4. *Personnel Concerned.* All Federal government personnel who are involved in the administration, funding agreements and technical process of the Small Business Technology Transfer (STTR) Pilot Program.

5. *Distribution.* Federal government agencies and departments with Small Business Technology Transfer (STTR) Pilot Programs as authorized by Public Law 102–564.

6. *Originator.* U.S. Small Business Administration, Office of Innovation, Research and Technology.

Richard J. Shane,

Assistant Administrator, SBA Office of Innovation, Research and Technology.

Dayton J. Watkins,

Acting Administrator, U.S. Small Business Administration.

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1. Purpose

a. Section 9(p) of the Small Business Act (15 U.S.C. 638, as amended by P.L. 102–564) requires that the Small Business Administration issue a policy directive for the general conduct of the STTR Pilot Programs within the Federal government.

b. This policy directive fulfills the statutory obligation of the legislation and provides guidance to the participating Federal agencies for the general conduct of the STTR Pilot Program. Additional instructions may be issued by the Small Business Administration (SBA) as a result of public comment or experience. These instructions will be issued as additional or replacement pages for this directive.

2. Summary of Legislative Provisions

a. *The Small Business Research and Development Enhancement Act of 1992,* Public Law 102–564, that became law on October 28, 1992, amends Section 9 of the Small Business Act (15 U.S.C. 638).

Title II of this legislation is the "Small Business Technology Transfer Act of 1992" (the Act) for the establishment of the Small Business Technology Transfer Pilot Program.

(1) The Act authorizes Federal agencies to establish STTR Pilot Programs if their FY 1994, 1995, or 1996 extramural budgets for research or research and development (R/R&D) exceed stated threshold figures ($1 billion).

(2) The statutory requirements are aimed at assisting small business concerns by establishing a uniform, simplified process for the operation of the STTR Pilot Program while allowing the participating agencies flexibility in the content and operation of their individual STTR Pilot Programs.

(3) The Act authorizes each participating agency to establish an STTR Pilot Program by reserving a statutory percentage of its extramural budget to be awarded to small business concerns for R/R&D through a uniform, three-phase process.

(a) The first two phases will help agencies meet R/R&D and commercialization objectives.

(b) The third phase, where appropriate, is:

(1) To pursue commercial applications from the government-funded R/R&D in order to stimulate technological innovation and provide for the national return on investment from R/R&D and/or

(2) For further contracting or grant activities with Federal agencies through non-STTR funding agreements.

(4) The Act mandates that each agency authorized to have an STTR Pilot Program is to report annually to SBA. The Act also requires agencies with STTR Pilot Programs to report annually to the Office of Science and Technology Policy.

b. On October 28, 1992, the President signed P.L. 102–564 which authorizes the STTR Pilot Program for the fiscal years 1994, 1995, and 1996.

(1) Effective March 31, 1985, section 2732(a) of Title VII of the Competition in Contracting Act of 1984, Public Law 98–369, must be read in conjunction with the procurement notice publication requirements of section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

Therefore, the notice publication requirements of the law apply to agencies participating in the STTR Pilot Program which use contracts as their STTR funding agreements.

(a) Any Federal Executive agency intending to solicit a proposal for contract for property or services valued above $25,000 is required to submit a notice of the impending solicitation for publication in the Commerce Business Daily. No agency shall issue its solicitation for at least 15 days from the date of the publication of the notice. The agency may not establish a deadline for submission of proposals in response to such solicitation that is earlier than 30 days after the date on which the solicitation was issued.

(b) The Competition in Contracting Act also requires that any executive agency awarding a contract for property or services valued at more than $25,000 submit a notice for publication to the Secretary of Commerce announcing such an award for publication if a subcontract is likely to result from such contract.

(2) The following are exemptions from the notice publication requirements:

(a) In the case of agencies intending to solicit Phase I proposals for contracts in excess of $25,000, the head of the agency may exempt a particular solicitation from the notice publication requirements if he/she makes a written determination, with the consultation of the Administrator of the Office of Federal Procurement Policy and the Administrator of the Small Business Administration, that it is inappropriate or unreasonable to publish a notice before issuing a solicitation.

(b) The STTR Phase II awards process is exempted.

3. Minimizing Regulatory Burden

a. Important objectives in implementing STTR Pilot Program procedures are to:

(1) Minimize the creation of new or complex regulations.

(2) Ensure that the program's requirements are met.

(3) Simplify and standardize application of existing regulations related to the program. The explicit nature of the STTR legislation concerning certain recognized acquisition procedures provides a strong base of authority for streamlining the process for obtaining R/R&D from small highly innovative business concerns.

(a) The above includes funding allocations, centralized STTR technology management, and routine operational implementation.

(b) Where not contrary to existing statutory requirements, each agency is authorized to establish financial procedures and financing mechanisms that it deems necessary to properly implement the STTR Pilot Program, including, but not limited to, obligating funds solely on the basis of proposal merit without regard to the purpose for which funds were originally appropriated, and transferring assessed funds to a single account to facilitate financial management, reporting, and oversight.

(c) The participating agencies are encouraged to initiate or continue their development of simplified procedures that may be used on STTR actions and to submit information concerning simplified procedures to the SBA for possible general program improvements.

b. No participating agency may promulgate a rule or regulation that is contrary to or inconsistent with the STTR legislation or this policy directive.

4. Definitions

a. *Small Business Technology Transfer Pilot Program (STTR).* A pilot program under which a portion of a Federal agency's extramural research or research and development effort is reserved for award to small business concerns for cooperative research and development through a uniform process having three phases. The program is described in this directive.

b. *Research or Research and Development (R/R&D).* Any activity that is:

(1) A systematic, intensive study directed toward greater knowledge or understanding of the subject studied.

(2) A systematic study directed specifically toward applying new knowledge to meet a recognized need.

(3) A systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

c. *Cooperative Research and Development.* For the purposes of the STTR Program this means research and development conducted jointly by a small business concern and a research institution in which not less than 40 percent of the work is performed by the small business concern, and not less than 30 percent of the work is performed by the research institution.

d. *Extramural Budget.* The sum of the total obligations for R/R&D minus amounts obligated for R/R&D activities by employees of the agency in or through government-owned, government-operated facilities.

e. *Federal Agency.* An executive agency as defined in 5 U.S.C. 105, or a military department as defined in 5 U.S.C. 102 except that it does not include any agency within the Intelligence Community as defined in Executive Order 12333, section 3.4(f), or its successor orders.

f. *Funding Agreement.* Any contract, grant, or cooperative agreement entered into between any Federal agency and any small business concern for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government.

g. *Research Institution.* A research organization that is:

(1) A contractor-operated federally funded research and development center, as identified by the National Science Foundation in accordance with the government-wide Federal Acquisition Regulation issued in accordance with section 35(c)(1) of the Office of Federal Procurement Policy Act (or any successor legislation thereto), or

(2) A non-profit research institution as defined in section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980, or,

(3) A non-profit university.

h. *Subcontract.* Any agreement, other than one involving an employer-employee relationship, entered into by a Federal government funding agreement awardee calling for supplies or services required solely for the performance of the original funding agreement.

i. *Socially and Economically Disadvantaged Small Business Concern.* A socially and economically disadvantaged small business concern:

(1) Is one that is at least 51 percent owned by (i) an Indian tribe or a native Hawaiian organization, or (ii) one or more socially and economically disadvantaged individuals, and

(2) Whose management and daily business operations are controlled by one or more socially and economically disadvantaged individuals.

j. *Socially and Economically Disadvantaged Individual.* A member of any of the following groups:

(1) Black Americans
(2) Hispanic Americans
(3) Native Americans
(4) Asian-Pacific Americans
(5) Subcontinent Asian Americans
(6) Other groups designated from time to time by SBA to be socially disadvantaged; or
(7) Any other individual found to be socially and economically disadvantaged by SBA pursuant to section 8(a) of the Small Business Act, 15 U.S.C. 637(a).

k. *Small Business Concern.* A small business concern is one that, at the time

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of award of Phase I and Phase II funding agreements, meets the following criteria:

(1) Is independently owned and operated, is not dominant in the field of operation in which it is proposing, has its principal place of business located in the United States and is organized for profit;

(2) Is at least 51 percent owned, or in the case of a publicly owned business, at least 51 percent of its voting stock is owned by United States citizens or lawfully admitted permanent resident aliens;

(3) Has, including its affiliates, a number of employees not exceeding 500, and meets the other regulatory requirements found in 13 CFR part 121. Business concerns, other than investment companies licensed, or state development companies qualifying under the Small Business Investment Act of 1958, 15 U.S.C. 661, *et seq.*, are affiliates of one another when either directly or indirectly:

(a) One concern controls or has the power to control the other; or

(b) A third party or parties controls or has the power to control both.

Control can be exercised through common ownership, common management, and contractual relationships. The term "affiliates" is defined in greater detail in 13 CFR part 121. The term "number of employees" is also defined in 13 CFR part 121. Business concerns include, but are not limited to, any individual, partnership, corporation, joint venture, association or cooperative.

l. *Women-Owned Small Business Concern.* A small business concern that is at least 51 percent owned by a women or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

m. *Program Solicitation.* A formal solicitation of proposals whereby a Federal agency notifies the small business community of its R/R&D needs and interests in selected areas and requests proposals in response to these needs from small business concerns. Announcements in the **Federal Register** or the Commerce Business Daily are not to be considered substitutes for an STTR Program solicitation.

n. *United States.* The 50 states, the territories and possessions of the U.S., the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia.

o. *Commercialization.* The process of developing markets and producing and delivering products for sale (whether by the origination party or by others); as used here, commercialization includes both government and commercial (private sector) markets.

5. Participating Federal Agency Expenditures for the STTR Program

a. Each Federal agency which has an extramural budget for R/R&D in excess of $1,000,000,000 for FY 1994, 1995, or 1996, is authorized to expend with small business concerns not less than .05% of such budget in fiscal year 1994; not less than .1% of each budget in fiscal year 1995; and not less than .15% of such budget in fiscal year 1996, specifically in connection with STTR Programs which meet the requirements of the Small Business Research and Development Enhancement Act of 1992, this policy directive, and regulations issued thereunder.

b. Funding agreements with small business concerns for research or research and development which result from competitive or sole source selections other than an STTR Program shall not be considered to meet any portion of the percentage required under the STTR Program.

6. Limitations of Participation

a. A Federal agency shall not use any of its STTR budget for the purpose of funding administrative costs of the program including costs associated with budgetary salaries and expenses, or in the case of a small business concern or a research institution, costs associated with salaries, expenses and administrative overhead other than those direct or indirect costs allowable under guidelines of the Office of Management and Budget and the governmentwide Federal Acquisition Regulation issued in accordance with section 25(c)(1) of the Office of Federal Procurement Policy Act.

b. Awards resulting from other than an STTR Program may not be counted toward meeting STTR Program funding levels or achievement.

c. Voluntary participation in the STTR Programs by Federal agencies not otherwise qualified for such participation may be permitted under this policy directive.

Federal agencies seeking to participate in STTR need to submit their requests to SBA. Voluntary participation requires the written approval of the SBA Assistant Administrator for Innovation, Research and Technology subsequent to review of the request.

7. Small Business Technology Transfer Pilot Program

a. The STTR Program is a phased process uniform throughout the Federal government of soliciting proposals and awarding funding agreements for R/R&D to meet stated agency needs or missions.

b. Each participating agency shall at least annually issue an STTR solicitation that sets forth a substantial number of R/R&D topic and subtopic areas consistent with stated agency needs or missions. Both the list of topics and the description of the topics and subtopics shall be sufficiently comprehensive to provide a wide range of opportunity for small business concerns to participate in the agency R/R&D program. Topics and subtopics shall emphasize the need for proposals with advanced concepts to meet specific agency R/R&D needs. Each topic and subtopic shall describe the needs in sufficient detail so as to assist small business concerns in providing on-target responses, but shall not involve detailed specifications to prescribed solutions of the problems.

Unsolicited proposals or proposals not responding to stated topics or subtopics are not eligible for STTR awards.

c. Research or research and development in the STTR Program is to be conducted jointly by a small business concern and a non-profit research institution. Not less than 40 percent of the work conducted under an STTR award is to be performed by the small business concern, and not less than 30 percent of the work is to be performed by the non-profit research institution.

Also, for both Phase I and Phase II, the R/R&D work must be performed by the small business concern in the United States, as defined in paragraph 4.n. of this policy directive.

d. To stimulate and foster scientific and technological innovation, including increasing commercialization of Federal R/R&D, the STTR Program must follow a uniform competitive process of three phases:

(1) *Phase I.* Phase I involves a solicitation of proposals to conduct feasibility related experimental or theoretical R/R&D related to described agency requirements. The object of this phase is to determine the scientific, technical and commercial merit and feasibility of the proposed cooperative effort and the quality of performance of the small business concern with a relatively small agency investment before consideration of further Federal support in Phase II.

(a) Several different proposed solutions to a given problem may be funded.

(b) Proposals will be evaluated on a competitive basis. Agency criteria used to evaluate STTR proposals shall give primary consideration to the scientific and technical merit of the proposal along with its potential for commercialization. Secondary considerations may include program balance or critical agency requirements.

(c) Agencies may include a provision requiring submission of a Phase II proposal as a deliverable item under Phase I.

(d) Efforts shall be taken by agencies to reduce the procurement time frame for Phase II awards. Agencies are encouraged to develop gap-funding methods and to address the duration of Phase II award cycles.

(2) *Phase II.* The object of Phase II is to continue the R/R&D effort from Phase I. Only awardees in Phase I are eligible to participate in Phase II. Phase I awardees are eligible for consideration of Phase II STTR funding agreements only at the Federal participating agency which awarded Phase I of the project. Funding shall be based upon the results of Phase I and the scientific and technical merit and commercial potential of the Phase II proposal. Phase II awards may not necessarily complete the total research and development that may be required to satisfy commercial or Federal needs beyond the STTR Program. Completion of the research and development may be through Phase III. The government is not obligated to fund any specific Phase II proposal. The STTR Phase II award decision process requires, among other things, consideration of a proposal's commercial potential as evidenced by:

(a) The small business concern's record of commercializing STTR or other research,

(b) The existence of second phase funding commitments from private sector or non-STTR funding sources,

(c) The existence of third phase follow-on commitments for the subject of the research, and

(d) The presence of other indicators of commercial potential of the idea.

(3) *Phase III.* The term third phase agreement means a follow-on, non-STTR funded award as described in 1, 2 and 3 below. A Federal agency may enter into a third phase agreement with a small business concern for additional work to be performed during or after the second phase period. The second phase funding agreement with the small business concern may, at the discretion of the agency awarding the agreement, set out the procedures applicable to third phase agreements. The competition for Phase I and Phase II awards satisfies any competition requirement of the Competition in Contracting Act.

(a) Where appropriate, there will be a third phase which is funded by:

1. Non-Federal sources of capital for commercial applications of STTR funded research or research and development,

2. The Federal government by follow-on non-STTR awards for STTR derived products and processes for use by the Federal government,

3. Non-STTR Federal sources for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria.

(b) Agencies which intend to pursue research, research and development or production of a technology developed by a small business concern under the STTR Program will give special acquisition preference such as sole source awards to the STTR company which developed the technology. The Phase III funding agreement will be with non-STTR funds.

8. Unilateral Actions of Participating Agencies and Departments

a. The Act requires each participating agency to:

(1) Unilaterally determine the categories of projects to be included in its STTR Program.

(2) Release STTR solicitations in accordance with the SBA/STTR master schedule.

(3) Subject to paragraph 12, unilaterally determine research topics within its STTR solicitation(s) giving special consideration to broad research topics and to topics that further one or more critical technologies, as identified by:

(a) The National Critical Technologies Panel (or its successor) in the 1991 report required under section 603 of the National Science and Technology Policy Organization and Priorities Act of 1976, and in subsequent reports issued under that authority, or

(b) The Secretary of Defense in the 1992 report issued in accordance with section 2522 of title 10, United States Code, and in subsequent reports issued under that authority.

(4) Unilaterally receive and evaluate proposals resulting from STTR solicitations and make awards.

(5) Unilaterally select awardees for its STTR funding agreements.

(6) Administer its own STTR funding agreements or delegate such administration to another agency; and inform each awardee under such agreement, to the extent possible, of the costs of the awardee that will be allowable under the funding agreement.

(7) Each funding agreement under the STTR Program shall include provisions setting forth the respective rights of the United States and the small business concern with respect to intellectual property rights and with respect to any right to carry out follow-on research.

(8) Make payments to recipients of STTR funding agreements on the basis of progress toward or completion of the funding agreement requirements and in all cases make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of such requirements.

(9) Make an annual report on the STTR Program to SBA and to the Office of Science and Technology Policy.

(10) Develop a model agreement, not later than July 31, 1993, to be approved by SBA, for allocating between small business concerns and research institutions intellectual property rights and rights if any, to carry out follow-on research, development or commercialization.

(11) Develop, in consultation with the Office of Federal Procurement Policy and the Office of Government Ethics, procedures to ensure that federally funded research and development centers that participate in STTR agreements:

(a) Are free from organizational conflicts of interests relative to the STTR Program;

(b) Do not use privileged information gained through work performed for an STTR agency or private access to STTR agency personnel in the development of an STTR proposal; and

(c) Use outside peer review as appropriate.

(12) Develop no later than July 31, 1993, procedures for assessing the commercial merit and feasibility of STTR proposals. These procedures should consider:

(a) The small business concern's record of successfully commercializing STTR or other research;

(b) The existence of second phase funding commitments from private sector or non-STTR funding sources;

(c) The existence of third phase follow-on commitments for the subject of the research; and

(d) The presence of other indicators of the commercial potential of the idea.

9. SBA/STTR Source File

a. *SBA Small Business Technology Transfer (STTR) Program Source File.* The SBA will develop and maintain an STTR mailing list of interested small business concerns. In maintaining this list, SBA will adhere to the provisions of The Freedom of Information Act, The Privacy Act of 1974, 13 CFR 102.20 and 13 CFR 102.3(j). Labels from this list will be available to the Federal participating agencies for STTR

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solicitation purposes. Written requests containing justification for the need of labels from this mailing list should be submitted to the Office of Innovation, Research & Technology, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416. A two-week period is required to fill these requests.

b. *SBA Procurement Automated Source System (PASS).* SBA's Office of Procurement Assistance has a Procurement Automated Source System (PASS) that maintains capability profiles of small businesses interested in Federal government procurement opportunities. This system is used by Federal agencies and major prime contractors to identify small business concerns with capabilities needed by the agencies or prime contractors. Agencies interested in accessing PASS should contact their nearest SBA Procurement Assistance Office.

c. *Federal Procurement Data System (FPDS).* Participating agencies should review FPDS data that identify small business awardees of R/R&D contracts as a potential supplement to their existing source data base.

d. *Other Sources.* Agencies may maintain their own mailing lists or use other sources.

10. SBA Coordination of National Critical Technologies

a. SBA will annually obtain information on the current critical technologies from both the National Critical Technologies Panel (or its successor) and the Secretary of Defense and provide such information to the participating Federal agencies and potential STTR participants.

b. The SBA Office of Innovation, Research and Technology will contact the panel and the Department of Defense and request this data in *June* of each year. The data received will then be submitted by letter to each of the participating Federal agencies.

11. SBA Coordination of STTR Solicitation Schedules

a. The Act requires issuance of STTR (Phase I) Program solicitations in accordance with a master schedule coordinated between SPA and the Federal participating agency. The SBA organization responsible for coordination is: Office of Innovation, Research and Technology, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

b. For maximum participation by interested small business concerns, it is important that the planning, scheduling and coordination of agency STTR solicitation release dates be completed as early as practicable in order to accommodate the commencement of the fiscal year on October 1. Bunching of agency STTR solicitation release and closing dates may prohibit small business concerns from the preparation and timely submission of proposals for more than one STTR project. SBA's coordination of agency schedules will minimize the bunching of proposed release and closing dates. Participating agencies may elect to publish multiple solicitations within a given fiscal year to facilitate in-house agency proposal review and evaluation scheduling.

c. To accomplish the MASTER SCHEDULE coordination process, the following procedure will be followed:

(1) The SPA may publish STTR Pre-Solicitation Announcements annually. However, the STTR Pre-Solicitation Announcement will not be published for any period in which participating agencies are not soliciting proposals. The STTR solicitation release date shall not be prior to *10 days* after publication of the Pre-Solicitation Announcement (PSA) which contains notice of that specific STTR solicitation.

(2) Each agency representative will notify SBA in writing of its proposed STTR solicitation release and proposal due dates for the next fiscal year on or before *August 1.* The SBA and the agency representatives will coordinate the resolution of any conflicting agency solicitation dates by the second week of August. In all cases, final decisions will be made by SBA's Office of Innovation, Research and Technology.

12. SBA (Phase I) STTR Program Pre-Solicitation Announcements

a. *SBA Publication.* The SBA, as required by public law, shall prepare and publish STTR Phase I Pre-Solicitation Announcements (PSAs) covering all participating Federal agencies. Any agency solicitation announcement changes that occur prior to or after the release of the STTR PSA must immediately be reported in writing to the SBA by the agency STTR representative. If possible, announcement amendments will be released reflecting such changes. Each issue of the STTR PSA will be based upon data received from the participating agencies. However, the agencies are advised that:

(1) The publication of the STTR PSA is not intended to restrict or prohibit application of customary or other internal agency procedures designed to obtain publicity for its R/R&D programs.

(2) The STTR PSA publications by SBA shall not be interpreted as a substitute or relief vehicle for existing statutory and regulatory publication requirements related to individual or specific procurement/grant actions.

b. *STTR Pre-Solicitation Announcement (PSA) Content.* The STTR PSA will include sufficient data to effectively apprise interested small business concerns throughout the Nation of forthcoming STTR Program solicitions—thereby assisting the participating agencies in identifying prospective responsible sources. The agencies shall provide the required information to SBA no later than 30 days prior to the PSA release date in accordance with the master schedule. The following information is required:

(1) The list of topics upon which R/R&D proposals will be sought. Each R/R&D topic shall have up to 10 words in its title.

(2) Agency address and/or phone number from which STTR Program solicitations can be obtained.

(3) Names, addresses, and phone numbers of agency contact points where STTR-related inquires may be directed.

(4) Release date(s) of program solicitation(s).

(5) Closing date(s) for receipt of proposals.

(6) Estimated number and average dollar amounts or level of effort of Phase I awards to be made under the solicitation.

c. For those agencies which use both general topic and more specific subtopic designations in their STTR solicitations, the topic data to be submitted for purposes of the STTR PSA publication should accurately describe the research solicited. Rather than just announcing topic information characterized as "Chemistry" or "Aerodynamics," summarize the subtopic statements and, where appropriate, utilize National Critical Technologies.

d. The STTR PSA will also include notices of STTR conferences and seminars. Only STTR conferences/seminars sponsored by the STTR Federal participating agencies or STTR conferences/seminars sponsored or co-sponsored by the U.S. Small Business Administration will be considered for publication in the STTR Pre-Solicitation Announcement (PSA).

13. Simplified, Standardized and Timely STTR Program Solicitations

a. *Instructions for STTR Program Solicitation Preparation.* The Small Business Act requires "• • • simplified, standardized and timely STTR solicitations" (Section 9(p)(2)(A)). Further, the Act requires the STTR Programs of participating agencies to use a "simplified, standardized funding process" and that the regulatory burden of participating in the STTR Programs be minimized.

b. Therefore, the instructions in the appendix to this policy directive purposely depart from normal government solicitation format and requirements. STTR Program solicitations shall be prepared according to the attached appendix.

c. Agencies shall provide the SBA Office of Innovation, Research and Technology, 5 copies of each solicitation and any modifications thereto no later than the date of release of the solicitation or modification to the public.

d. *Non-STTR R/R&D-Related Actions.* It is not intended that the STTR Program solicitation replace or be used as a substitute for unsolicited proposals or R/R&D awards to small business concerns authorized by existing regulations; or, are the STTR Program solicitation procedures intended to prohibit other agency R/R&D actions with small business concerns that are carried on in accordance with applicable statutory/regulatory authorizations.

14. Simplified and Standardized STTR Funding Process

In its requirement for the establishment of a "simplified, standardized funding process," the STTR legislation requires that specific attention be given to the following areas of STTR Program administration:

a. *Timely Receipt and Review of Proposals.*

(1) Participating agencies shall establish firm schedules and review formats for appropriate distribution of the proposals for reviewing recommendations and submission to the STTR Program manager for award determinations.

(a) All activities related to Phase I proposal reviews shall normally be completed and awards made within 6 months from the closing date of the STTR solicitation.

(b) The STTR Program solicitations for Phase I will establish proposal submission dates. Related to Phase II activity, an agency may establish set proposal submission dates. However, it is anticipated that each agency will negotiate mutually acceptable proposal submission dates with individual Phase I performers, accomplish proposal reviews expeditiously, and proceed with awards.

While it is recognized that Phase II arrangements between the agency and proposer may require more detailed negotiations to establish terms acceptable to both parties, the agencies must not sacrifice the R/R&D momentum created under Phase I by engaging in unnecessarily protracted Phase II proceedings.

(c) It can be anticipated that STTR participants will submit duplicate or similar proposals to more than one soliciting agency when the work projects appear to involve similar topics or requirements which are within the expertise and capability levels of the small business proposer. To the extent reasonably feasible, interagency funding duplications related to acquiring similar technology under the STTR or other Federal programs should not occur.

For this purpose, the standardized STTR Program solicitation will require the proposer to indicate the name and address of the agencies to which duplicate or similar proposals were made and to identify by subject the projects for which the proposal was submitted and the dates submitted. The same information will be required for any previous Federal government awards.

To assist in avoiding duplicate funding, each agency shall provide SBA and each participating STTR agency with a listing of Phase I and Phase II awardees including the complete address and title of the project. This information should be distributed no later than release of contract award information to the public.

b. *Review of STTR Proposals.* Agencies are encouraged to use their normal review process for STTR proposals whether internal or external evaluation is used. A more limited review process may be used for Phase I due to the larger number of proposals anticipated. Where appropriate, "peer" reviews, that are external to the agency, are authorized by the STTR legislation. Participating agencies are cautioned that all review procedures shall be formulated to minimize any possible conflict of interest as it pertains to proposer proprietary data. The standardized STTR solicitation will advise potential proposers that proposals may be subject to an established external review process, but that the proposer may include company designated proprietary information in its proposal.

c. *Proprietary Information Contained in Proposals.* In preparation of the standardized STTR Program solicitation as described in the Appendix of this policy directive, provisions will be included requiring confidential treatment of proprietary information to the extent permitted by law. Offerors will be discouraged from submitting information considered proprietary unless it is deemed essential for proper evaluation of the proposal. The solicitation will require that all proprietary information be clearly identified and marked with a prescribed legend. Agencies may elect to require proposers to limit proprietary information to that essential to the proposal and to have such information submitted on a separate page or pages keyed to the text.

d. *Selection of Awardees.* Participating agencies shall establish a proposal review cycle wherein successful and unsuccessful proposers shall be notified of final award decisions within 6 months of the agency's Phase I proposal closing date.

(1) The standardized STTR Program solicitation shall:

(a) Advise Phase I proposers that additional information may be requested by the awarding agency to evidence awardee responsibility for project completion.

(b) Contain information advising potential offerors of basic proposal evaluation criteria for Phase I and Phase II.

(2) Phase II proposal submissions, review, and selections shall be managed by arrangements between the agency and each Phase I awardee considered for Phase II award.

Within 30 days of the date of award of funding agreements—three copies of the Technical Abstract (containing all information described in the Appendix Paragraph III, C 1–6) for Phase I and Phase II awards shall be submitted to the SBA.

e. *Certification of Size of Firm.* The Act requires that participating agencies ensure that only small business concerns are recipients of STTR awards.

Awarding documents are to include a signed statement by the awardee that the definition of a small business concern as described in Section 4 of this policy directive is met.

f. *Management of the STTR Project.* The small business concern, and not the non-profit research institution, is to provide satisfactory evidence that it will exercise management direction and control of the performance of the STTR funding agreement. Regardless of the proportion of the work or funding of each of the performers under the contract, the small business concern is to be primary contractor or grantee with overall responsibility for its performance.

All agreements between the small business concern and the research institution cooperation in the STTR projects, or any business plans reflecting agreements and responsibilities between the parties during performance of Phase I or II of STTR, or for the commercialization of the resulting

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technology, should reflect the controlling position of the small business concern.

g. *Rights in Data Developed Under STTR Funding Agreement.* The STTR legislation provides for "retention of rights in data generated in the performance of the contract by the small business concern".

(1) The intent of the statute is to provide authority for the participating agency to protect technical data generated under the funding agreement, and to refrain from disclosing such data to competitors of the small business concern or from using the information to produce future technical procurement specifications that could harm the small business concern that discovered and developed the innovation until the small business concern has a reasonable chance to seek patent protection, if appropriate.

(2) Therefore, except for program evaluation, participating agencies shall protect such technical data for a period of not less than 4 years from the completion of the project from which the data were generated unless the agencies obtain permission to disclose such data from the contractor or grantee. The government shall retain a royalty-free license for government use of any technical data delivered under an STTR funding agreement whether patented or not.

h. *Allocation of Rights:* A small business concern, before receiving an STTR award, must submit a written agreement between the small business concern and the research institution allocating intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization. The participating agency may accept an existing agreement between the two parties if it is fair to the small business concern and does not conflict with the interests of the Federal government.

In those instances where a small business concern requests assistance in developing a written agreement, the participating agency will provide a model agreement to be used as guidance by the small business in the development of an agreement.

The model agreement provided to the small business concern should direct the parties, as a minimum, to:

(1) State specially the degree of responsibility, and ownership of any product, process, or other invention or innovation resulting from the cooperative research. The degree of responsibility shall include responsibility for expenses and liability, and the degree of ownership shall also include the specific rights to revenues and profits.

(2) State which party may obtain U.S. or foreign patents or otherwise protect any inventions resulting from the cooperative research.

(3) State which party has the right to any continuation of research including non-STTR follow-on awards.

The Federal government will not normally be a party to any agreement between the small business concern and the research institution. Nothing in the agreement is to conflict with any provisions setting forth the respective rights of the United States and the small business concern with respect to intellectual property rights and with respect to any right to carry out follow-on research.

i. *Title Transfer of Agency Provided Property.* Under STTR legislation, title to equipment purchased in relation to project performance with funds provided under STTR funding agreements may be transferred to the awardee where such transfer would be more cost effective than recovery of the property by the government.

j. *Continued Use of Government Equipment.* STTR legislation directs that a small business concern participating in the third phase of the STTR Program be given continued use, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase of an STTR Program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program.

k. *Cost Sharing.* (1) Cost participation could serve the mutual interest of the participating agencies and certain STTR awardee by helping to assure the efficient use of available resources. Cost-sharing, however, shall not normally be encouraged except where required by other statutes.

(2) Except where required by other statutes, participating agencies shall not, as a general policy, request or require cost sharing on Phase I projects. The standardized STTR Program solicitation (Appendix) will, however, provide information to prospective STTR performers concerning cost-sharing. Cost participation will not be a consideration factor in evaluation of Phase I proposals except where required by other statutes.

l. *Payment Schedules and Cost Principles.*

All STTR funding agreements shall use, as appropriate, current cost principles and procedures authorized for use by the participating agencies. At the time of award, agencies shall inform each STTR awardee, to the extent possible, of the applicable Federal regulations and procedures which refer to the costs that generally will be allowed under funding agreements.

m. *Funding Agreement Types and Fee or Profit.* The legislative requirements for uniformity and standardization require that there be consistency in application of STTR Program provisions among participating agencies. This consistency must consider, however, the need for flexibility by the various agencies in missions and needs as well as the wide variance in funds required to be devoted to STTR Programs in the agencies. The following guidelines are for the purpose of meeting these requirements:

(1) *Funding Agreement.* The choice of type of funding agreement (contract, grant, or cooperative agreement) rests with the awarding agency but must be consistent with the guidelines in Public Law 95–224 (41 U.S.C. 501), as amended by Public Law 97–258 (31 U.S.C. 6301–6308).

(2) *Fee or Profit.* Unless expressly excluded by statute, awarding agencies are to provide for a reasonable fee or profit on STTR funding agreements, including grants, consistent with normal profit margins provided to profit-making firms for R/R&D work.

n. *Periods of Performance and Extensions.*

(1) In keeping with the legislative intent to make a large number of relatively small awards, modification of funding agreements to extend periods of performance, increase the scope of work, or to increase the dollar amount should be minimized, except for options in the original Phase I or Phase II awards.

(2) *Phase I.* Period of performance should normally be approximately 1 year except where agency needs or research plans require otherwise. Exceptions should be minimized.

(3) *Phase II.* Period of performance under Phase II is the subject of negotiations between the selected Phase I recipient and the awarding agency. However, the duration of Phase II should normally be approximately 2 years. Exceptions should be minimized.

o. *Dollar Value of Awards.*

(1) The STTR legislation establishes 1-year awards for the first phase of an STTR program generally not to exceed $100,000, and 2-year awards for the second phase of an STTR program generally not to exceed $500,000.

(2) After award of any funding agreement exceeding $100,000 for Phase I or $500,000 for Phase II, the agency STTR representative shall provide SBA with written justification of such action. The justification shall be submitted with the STTR Annual Report data. Similar justification is required for any dollar increase of a funding agreement which would bring the cumulative dollar amount to a total in excess of the aforestated amounts.

p. *Grant Authority.* The STTR legislation does not, in and of itself, convey grant authority. Each participating agency must secure grant authority in accordance with its normal procedures.

q. *Conflicts of Interest.* Participating agencies are cautioned that awards made to firms owned by or employing current or previous Federal government employees could create conflicts of interest for those employees in violation of the Ethics in Government Act of 1978 (Pub. L. 95–521, as amended). Each participating agency should refer to the standards of conduct review procedures currently in effect for its agency to ensure that such conflicts of interest do not arise.

15. STTR Program Annual Report to SBA

The STTR legislation requires an annual report from the participating agencies in the program. The following paragraphs cite the dates such reports are due, the kinds of information to be included, and the number of copies to be submitted to SBA.

a. *Reporting Dates to SBA.*

Reporting shall be on an annual basis and will be for the period ending September 30 of each fiscal year. The report is due to SBA by December 31 of each year. Example: The report for FY 1994 (October 1, 1993—September 30, 1994) should be submitted to SBA by December 31, 1994.

b. *Small Business Technology Transfer (STTR) Program*

(1) Agency total fiscal year, for FY 1994 and each year thereafter, extramural research and research and development total obligations as reported to the National Science Foundation pursuant to the annual Budget of the United States Government.

(2) STTR Program total fiscal year dollars derived by applying the statute per centum to the agencies' extramural research and research and development total obligations.

(3) STTR Program fiscal year dollars obligated through STTR Program funding agreements for Phase I and Phase II.

(4) Number of STTR individual solicitations released during the fiscal year and the number of topics and subtopics contained in each solicitation.

(5) Number of copies of each STTR solicitation distributed by the participating agency.

(6) Number of proposals received by the agency for each topic and subtopic in each STTR solicitation.

(7) For both Phase I and Phase II, the STTR awardee's name and address, research institution's name and address, dollar and percent of award performed by the small business concern and the research institution, solicitation topic and subtopic, solicitation number, project title, and total dollar amount of funding agreement. Identify minority small business, women-owned small business and Phase II awardees with a follow-on funding commitment.

(8) The names and addresses of small business concerns for whom the Phase I process exceeded the 6-month period from the closing date of the STTR solicitation to award of the funding agreement. (See 14.a.(1)(a) of this policy directive.)

(9) For an agency Phase III award using non-STTR Federal funds, to continue a Phase II project, the agency shall provide the name, address, project title and dollar amount obligated.

(10) Report the number of National Critical Technology topic or subtopic funding agreements, the percentage by number and dollar amount of total STTR awards to such National Critical Technologies.

16. SBA Program to Monitor and Survey STTR Activity

a. *Examples of STTR Areas To Be Monitored by SBA.*

(1) *STTR Funding Allocations.* Of major significance to the success of the STTR Program is the magnitude and nature of the agencies' funding allocations identified for fiscal year STTR applications. The STTR legislation explicitly relates to both the definition of the STTR effort, R/R&D (as defined in the Act and OMB Circular A–11), and the mathematical methodology for determining fiscal year participation levels for all work categorized within the statutory definitions. SBA will monitor these allocations.

(2) *STTR Program Solicitation and Award Status.* The accomplishment of scheduled STTR events, such as the release of STTR Program solicitation and the award of contract, grant, or cooperative agreement award, is critical to meeting statutory mandates and to operating an effective, useful program. SBA plans to monitor these and other operational features of STTR Program implementation including the status of awards taking longer than the 6-month period set forth in 14.a.(1)(a) of this policy directive.

Except in instances where SBA assistance is required related to a specific STTR project, contract, etc., SBA does not intend to monitor administration of the awards.

(3) *Follow-on Funding Commitments.* SBA may monitor whether follow-on non-Federal funding commitments obtained by Phase II awardees for Phase III were considered in the evaluation of Phase II proposals as required by the Act.

(4) *Agency Rules and Regulations.* It is essential that no implementing regulation be promulgated by the participating agencies that is inconsistent with or contradicts either the letter or intent of the legislation and this directive. SBA's monitoring activity will include review of rules and regulations and procedures generated to facilitate intra-agency STTR Program implementation.

17. Socially and Economically Disadvantaged Small Business Concerns and Women-Owned Small Business Concerns

To foster and encourage participation by socially and economically disadvantaged small business concerns in scientific and technological innovation, the legislation establishes as a purpose to improve the Federal government's dissemination of information concerning the Small Business Technology Transfer Program, particularly with regard to program participation by women-owned small business concerns and by socially and economically disadvantaged small business concerns.

a. To carry out this purpose of the statute, SBA and the Federal participating agencies will make outreach efforts to find and place innovative women-owned small business concerns and socially and economically disadvantaged small business concerns in the STTR Program information system.

b. The SBA will develop, participate in, and, when appropriate and feasible, sponsor seminars for innovative women-owned small business concerns and socially and economically disadvantaged small business concerns to inform them of the STTR Program.

c. The SBA will inform women-owned small business concerns and socially and economically disadvantaged small business concerns of Federal and commercial assistance and services available for STTR Program participants.

d. While these small business concerns will be required to compete for STTR awards on the same basis as all

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other small business concerns, participating agencies are encouraged to work independently and cooperatively with SBA to develop methods to encourage qualified women-owned small business concerns and socially and economically disadvantaged small business concerns to participate in their STTR Programs.

Appendix—Instructions for STTR Pilot Program Solicitation Preparation

Section 9(p) of the Small Business Act (The Act) (15 U.S.C. 638(p), as amended by Public Law 102–564) requires "• • • simplified, standardized and timely STTR solicitations" (Section 9(p)(2)(A)). Further, the Act requires the STTR Programs of participating agencies to utilize a "uniform process" (15 U.S.C. 638(e)(6), as amended) and that the regulatory burden of participating in the STTR Programs be minimized. Therefore, the following instructions purposely depart from normal government solicitation formats and requirements. STTR solicitations will be prepared and issued a program solicitations in accordance with the following instructions.

Limitation in Size of Solicitation

In the interest of meeting the legislative requirement for simplified and standardized solicitations, the entire STTR solicitation with the exception of section VIII "Research Topics," described below, shall be limited to 23 pages. There is no page limit on Section VIII, "Research Topics."

Format

STTR Program solicitations will be prepared in a simplified, standardized, easily read and understand format including a cover sheet, a table of contents and the following sections in the order listed (content of each section is discussed below):

I. Program Description
II. Definitions
III. Proposal Preparation Instructions and Requirements
IV. Method of Section and Evaluation Criteria
V. Considerations
VI. Submission of Proposals
VII. Scientific and Technical Information Sources
VIII. Research Topics
IX. Submission Forms and Certifications

Cover Sheet

The cover sheet or title page of an STTR Program Solicitation shall clearly identify the solicitation as a Small Business Technology Transfer (STTR) Program Solicitation, identify the agency releasing the solicitation, specify date (or dates) on which proposals are due under the solicitation, and state the solicitation number.

Instructions for Preparation of STTR Program Solicitation Sections I through IX

I. Program Description

A. Summarize in narrative form the invitation to submit proposals and the objectives of the STTR Program.

B. Describe in narrative form the agency's STTR Program including a description of the three phases. Note in your description that the solicitation is for Phase I proposals only.

C. Describe program eligibility, as follows:

Eligibility. Each concern submitting a proposal must qualify as a small business concern for R/R&D purposes at the time of award. The small business concern will submit a proposal for cooperative research and development with a non-profit research institution as defined in section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701), and which includes Federally Funded Research and Development Centers as identified by the National Science Foundation in accordance with the governmentwide Federal Acquisition Regulations.

For both Phase I and Phase II, the R/R&D work must be performed in the United States.

D. List name, address and telephone number of agency contacts for general information on the STTR Program solicitation.

II. Definitions

Whenever terms are used that are unique to either the STTR Program, a specific STTR solicitation or a portion of a solicitation, they will be defined in a separate section entitled "Definitions." As a minimum, the definitions of "small business concern", "socially and economically disadvantaged small business concern", "cooperative research", "research institution", "women-owned small business concern", and "subcontract" as stated in Paragraph 4 of this policy directive shall be included.

III. Proposal Preparation Instructions and Requirements

The purpose of this section is to inform the proposer on what to include in his or her proposal and to set forth limits on what may be included. It should also provide guidance to assist proposers in improving the quality and acceptance of proposals particularly to firms that may not have previous government experience.

A. *Limitations on Length of Proposal.* Include at least the following information:

1. STTR Phase I proposals shall not exceed a total of 25 pages, including cover page, budget, and all enclosures or attachments. Pages should be of standard size (8½" x 11"; 21.6 cm x 27.9 cm) and should conform to the standard formatting instructions; in particular, 2.5 cm (1 inch) margins and type no smaller than 10 point font size.

2. A notice that no additional attachments, appendices or references beyond the 25-page limitation shall be considered in proposal evaluation and that proposals in excess of the 25-page limitation shall not be considered for review or award.

B. *Proposal Cover Sheet.* Every proposer will be required to include at least the following information on the first page of proposals. Items 9 and 11 are for statistical purposes only.

1. Agency and solicitation number.
2. Topic Number.
3. Subtopic Number.
4. Topic Area.
5. Project Title.
6. Name and Complete Address of Firm.
7. Name and address of research institution.
8. Small Business Certification as follows:

"The above concern certifies it is a small business concern and meets the definition as stated in this solicitation."

9. Socially and Economically Disadvantaged Small Business Concern Certification as follows:

"The above concern certifies that it ____ does ____ does not qualify as a socially and economically disadvantaged small business concern and meets the definition as stated in this solicitation."

10. The small business concern will certify that at least 40 percent of the work is to be performed by the small business concern and at least 30 percent of the work is to be performed by the research institution as follows:

"The above concern certifies that it will perform ____ percent of the work and the research institution will perform ____ percent of the work under this funding agreement."

11. Women-owned Small Business Concern Certification as follows:

The above concern certifies that it ____ does ____ does not qualify as a women-owned small business concern and meets the definition as stated in this solicitation.

12. A disclosure permission statement such as follows may be included at the discretion of the funding agency:

"Will you permit the government to disclose the title and technical abstract page of your proposed project, plus the name, address, and telephone number of the corporate official of your concern, if your proposal does not result in an award, to concerns that may be interested in contacting you for further information?"
Yes ____ No ____

13. Signature of a company official of the proposing small business concern and that individual's typed name, title, address, telephone number, and date of signature.

14. Signature of Principal Investigator or Project Manager and that individual's typed name, organization, title, address, telephone number, and date of signature.

15. Legend for proprietary information as described in the "Considerations" section of this program solicitation if appropriate.

C. *Abstract or Summary.* Proposers will be required to include a one-page project summary of the proposed R/R&D including at least the following:

1. Name and address of small business concern.
2. Name and address of cooperative research institution.
3. Name and title of principal investigator or project manager.
4. Agency name, solicitation number, solicitation topic and subtopic.
5. Title of project.
6. Technical abstract, limited to two hundred words.
7. Summary of the anticipated results and implications of the approach (both Phases I and II).
8. Summary of the potential commercial applications of the research.

D. *Technical Content.* STTR Program solicitations shall require as a minimum the following to be included in proposals submitted thereunder:

1. *Identification and Significance of the Problem or Opportunity.* A clear statement of the specific technical problem or opportunity addressed.

2. *Phase I Technical Objectives.* State the specific objectives of the Phase I research and development effort, including the technical questions it will try to answer to determine the feasibility of the proposed approach.

3. *Phase I Work Plan.* A detailed description of the Phase I R/R&D plan. The plan should indicate what will be done, where it will be done and how the R/R&D will be carried out. Phase I R/R&D should address the objectives and the questions cited in D.2. above. The methods planned to achieve each objective or task should be discussed in detail. The work plan will specifically address the amount and type of work to be performed by the small business concern and by the research institution.

4. *Related Research or Research and Development.* Describe significant R/R&D that is directly related to the proposal including any conducted by the project manager/principal investigator or by the proposing small business concern. Describe how it relates to the proposed effort, and any planned coordination with outside sources. The proposer must persuade reviewers of his or her awareness of key recent R/R&D conducted by others in the specific topic area.

5. *Key Personnel and Bibliography of Directly Related Work.* Identify key personnel involved in Phase I including their directly related education, experience, and bibliographic information. Where vitae are extensive, summaries that focus on the most relevant experience or publications are desired and may be necessary to meet the proposal size limitation.

6. *Relationship with Future Research or Research and Development.*

a. State the anticipated results of the proposed approach if the project is successful (Phase I and II).

b. Discuss the significance of the Phase I effort in providing a foundation for the Phase II R/R&D effort.

7. *Facilities.* A detailed description, availability and location of instrumentation and physical facilities proposed for Phase I should be provided.

8. *Consultants.* Involvement of consultants in the planning and research stages of the project is permitted.

a. If such involvement is intended, it should be described in detail.

9. *Potential Post Applications.* Briefly describe:

a. Whether and by what means the proposed project appears to have potential commercial application.

b. Whether and by what means the proposed project appears to have potential use by the Federal government.

10. *Similar Proposals or Awards.* A firm may elect to submit proposals for essentially equivalent work under other Federal program solicitations, or may have received other Federal awards for essentially equivalent work. In these cases, a statement must be included in each such proposal indicating:

a. The name and address of the agencies to which proposals were submitted or from which awards were received.

b. Date of proposal submission or date of award.

c. Title, number, and date of solicitations under which proposals were submitted or awards received.

d. The specific applicable research topics for each proposal submitted or award received.

e. Titles of research projects.

f. Name and title of project manager or principal investigator for each proposal submitted or award received.

E. *Cost Breakdown/Proposed Budget.* The solicitation will require the submission of simplified cost or budget data.

F. *Allocation of Rights.* The solicitation will require that a small business concern submit a written agreement between the small business concern and the research institution allocating intellectual property rights and rights, if any, to carry out follow-on research, development or commercialization.

G. *Written Cooperative Agreement.* The proposing small business concern is to provide an original of the agreement between the small business concern and the research institution. The agreement is to include the signature of an official of the small business concern and the signature of an official of the research institution.

IV. Method of Selection and Evaluation Criteria

A. *Standard Statement.* Essentially the following statement shall be included in all STTR Program solicitations:

All Phase I and II proposals will be evaluated and judged on a competitive basis. Proposals will be initially screened to determine responsiveness. Proposals passing this initial screening will be technically evaluated by engineers or scientists to determine the most promising technical and scientific approaches. Each proposal will be judged on its own merit. The agency is under no obligation to fund any proposal or any specific number of proposals in a given topic. It also may elect to fund several or none of the proposed approaches to the same topic or subtopic.

Phase II proposals may only be submitted by Phase I award winners within the same agency.

B. *Evaluation Criteria.*

1. The agency in its evaluation process shall develop a standardized method that will consider as a minimum the following factors:

a. The technical approach and the anticipated agency and commercial benefits that may be derived from the research.

b. The adequacy of the proposed effort and its relationship to the fulfillment of requirements of the research topic or subtopics.

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c. The soundness and technical merit of the propose approach and its incremental progress toward topic or subtopic solution.

d. Qualifications of the proposed principal/key investigators supporting staff and consultants.

e. In Phase II, evaluations of proposals require, among other things, consideration of a proposal's commercial potential as evidenced by:

(1) The small business concern's record of commercializing STTR or other research,

(2) The existence of second phase funding commitments from private sector or non-STTR funding sources,

(3) The existence of third phase follow-on commitments for the subject of the research, and,

(4) The presence of other indicators of commercial potential of the ideal.

2. The factors in subparagraph B.1. and other approprate evaluation criteria, if any, shall be specified in the "Method of Selection" section of STTR Program solicitations.

C. *Peer Review.* If it is contemplated that as a part of STTR proposal evaluation external peer review will be used, the program solicitation must so indicate.

D. *Release of Proposal Review Information.* After final award decisions have been announced, the technical evaluations of the proposer's proposal may be provided to the proposer. The identify of the reviewer shall not be disclosed.

V. Considerations

This section shall include, as a minimum, the following information:

A. *Awards,* Indicate the estimated number and type of awards anticipated under the particular STTR Program solicitation in question including:

1. Approximate number of Phase I awards expected to be made.

2. Type of funding agreement, i.e., contract, grant or cooperative agreement.

3. Whether fee or profit will be allowed.

4. Cost basis of funding agreement, e.g., grant, firm-fixed-price, cost reimbursement, or cost-plus-fixed fee.

5. Information on the approximate average dollar value of awards for Phase I and Phase II.

B. *Reports.* Describe the frequency and nature of reports that will be required under Phase I funding agreements. Interim reports should be brief letter reports.

C. *Payment Schedule.* Specify the method and frequency of progress and final payment under Phase I and Phase II agreements.

D. *Innovations, Inventions and Patents.*

1. *Limited Rights Information and Data.*

a. *Proprietary Information.* Essentially the following statement shall be included in all STTR solicitations:

Information contained in unsuccessful proposals will remain the property of the proposer. The government may, however, retain copies of all proposals. Public release of information in any proposal submitted will be subject to existing statutory and regulatory requirements.

If proprietary information is provided by a proposer in a proposal which constitutes a trade secret, proprietary commercial or financial information, confidential personal information or data effecting the national security, it will be treated in confidence, to the extent permitted by law, provided this information is clearly marked by the proposer with the term "confidential proprietary information" and provided the following legend appears on the title page of the proposal:

"For any purpose other than to evaluate the proposal, this data shall not be disclosed outside the government and shall not be duplicated, used, or disclosed in whole or in part, provided that if a funding agreement is awarded to this proposer as a result of or in connection with the submission of this data, the government shall have the right to duplicate, use, or disclose the data to the extent provided in the funding agreement. This restriction does not limit the government's right to use information contained in the data if it is obtained from another source without restriction. The data subject to this restriction are contained on pages ____ of this proposal."

Any other legend may be unacceptable to the government and may constitute grounds for removing the proposal from further consideration and without assuming any liability for inadvertent disclosure. The government will limit dissemination of such information to within official channels.

b. *Alternative To Minimize Proprietary Information.* Agencies may elect to instruct proposers to:

(1) Limit proprietary information to only that absolutely essential to their proposal.

(2) Provide proprietary information on a separate page with a numbering system to key it to the appropriate place in the proposal.

c. *Rights in Data Developed Under STTR Funding Agreements.* To notify the small business concern of the policy stated in Para. 14.g. of this policy directive, essentially the following statement will be included in all STTR Program solicitations:

"These STTR data are furnished with STTR rights under Contract No. ____ (and subcontract ____ if appropriate). For a period of 4 years after acceptance of all items to be delivered under this contract, the government agrees to use these data for government purposes only, and they shall not be disclosed outside the government (including disclosure for procurement purposes) during such period without permission of the contractor, except that, subject to the foregoing use and disclosure prohibitions, such data may be disclosed for use by support contractors. After the aforesaid 4-year period the government has a royalty-free license to use, and to authorize others to use on its behalf, these data for government purposes, but is relieved of all disclosure prohibitions and assumes no liability for unauthorized use of these data by third parties. This Notice shall be affixed to any reproductions of these data, in whole or in part."

d. *Copyrights.* Include an appropriate statement concerning copyrights and publications; for example:

"With prior written permission of the contracting officer, the awardee normally may copyright and publish (consistent with appropriate national security considerations, if any) material developed with (agency name) support. (Agency name) receives a royalty-free license for the Federal government and requires that each publication contain an appropriate acknowledgement and disclaimer statement."

e. *Patents.* Include an appropriate statement concerning patents; for example:

"Small business concerns normally may retain the principal worldwide patent rights to any invention developed with government support. The government receives a royalty-free license for Federal government use, reserves the right to require the patentholder to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must normally manufacture it domestically. To the extent authorized by 35 U.S.C. 205, the government will not make public any information disclosing a government-supported invention for a four-year period to allow the awardee a reasonable time to pursue a patent."

E. *Cost-Sharing.* Unless in conflict with another statute, include a statement essentially as follows:

"Cost-sharing is permitted for proposals under this program solicitation; however, cost-sharing is not required. Cost-sharing will not be an evaluation factor in consideration of your Phase I proposal."

Where cost-sharing is required by statute, include an appropriate statement.

F. *Profit or Fee.* Include a statement on the payment of profit or fee on awards made under the STTR Program solicitation.

G. *Joint Ventures or Limited Partnerships.* Include essentially the following language:

"Joint ventures and limited partnerships are eligible to participate provided the entity created qualifies as a small business as defined in this program solicitation."

H. *Research and Analytical Work.* Include essentially the following statement:

"The STTR Pilot program is a cooperative research or research and development effort conducted jointly by a small business concern and a research institution in which not less than 40 percent of the work is performed by the small business concern and not less than 30 percent of the work is performed by the research institution."

I. *Contractor Commitments.* To meet the legislative requirement that STTR solicitations be simplified, standardized and uniform, clauses expected to be in or required to be included in STTR funding agreements shall not be included in full or by reference in STTR Program solicitations. Rather, proposers shall be advised that they will be required to make certain legal commitments at the time of execution of funding agreements resulting from STTR Program solicitations. Essentially, the following statement shall be included in the "Consideration" section of STTR Program solicitations:

"Upon award of a funding agreement, the awardee will be required to make certain legal commitments through acceptance of numerous clauses in Phase I funding agreements. The outline that follows is illustrative of the types of clauses to which the contractor will be committed. This list should not be understood to represent a complete list of clauses to be included in Phase I funding agreements, or to be specific wording of such clauses. Copies of complete terms and conditions are available upon request."

J. *Summary Statements.* The following are illustrative of the type of summary statements to be included immediately following the statement in the subparagraph I. These statements are examples only and may vary depending upon the type of funding agreement.

1. *Standards of Work.* Work performed under the funding agreement must conform to high professional standards.

2. *Inspection.* Work performed under the funding agreement is subject to government inspection and evaluation at all times.

3. *Examination of Records.* The Comptroller General or other Federal auditor organization shall have the right to examine any directly pertinent records of the awardee involving transactions related to this funding egreement.

4. *Default.* The government may terminate the funding agreement if the contractor fails to perform the work contracted.

5. *Termination for Convenience.* The STTR funding agreement may be terminated at any time by the government if it deems termination to be in its best interest, in which case the awardee will be compensated for work performed and for reasonable termination costs.

6. *Disputes.* Any dispute concerning the funding agreement which cannot be resolved by agreement shall be decided by the contracting officer with right of appeal.

7. *Contract Work Hours.* The awardee may not require an employee to work more than eight hours a day or forty hours a week unless the employee is compensated accordingly (e.g., overtime pay).

8. *Equal Opportunity.* The awardee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

9. *Affirmative Action for Veterans.* The awardee will not discriminate against any employee or application for employment because he or she is a disabled veteran or veteran of the Vietnam era.

10. *Affirmative Action for Handicapped.* The awardee will not discriminate against any employee or applicant for employment because he or she is physically or mentally handicapped.

11. *Officials Not To Benefit.* No government official shall benefit personally from the STTR funding agreement.

12. *Covenant Against Contingent Fees.* No person or agency has been employed to solicit or secure the funding agreement upon an understanding for compensation except bonafide employees or commercial agencies maintained by the awardee for the purpose of securing business.

13. *Gratuities.* The funding agreement may be terminated by the government if any gratuities have been offered to any representative of the government to secure the contract.

14. *Patent Infringement.* The awardee shall report each notice or claim of patent infringement based on the performance of the funding agreement.

K. *Additional Information.* Information pertinent to an understanding of the administration requirements of STTR proposals and funding agreements not included elsewhere shall be included in this section. As a minimum, statements essentially as follows shall be included under "Additional Information" in STTR Program solicitations:

1. This program solicitation is intended for informational purposes and reflects current planning. If there is any inconsistency between the information contained herein and the terms of any resulting STTR funding agreement, the terms of the funding agreement are controlling.

2. Before award of an STTR funding agreement, the government may request the proposer to submit certain organizational, management, personnel, and financial information to assure responsibility of the proposer.

3. The government is not responsible for any monies expended by the proposer before award of any funding agreement.

4. This program solicitation is not an offer by the government and does not obligate the government to make any specific number of awards. Also, awards under the STTR Program are contingent upon the availability of funds.

5. The STTR Program is not a substitute for existing unsolicited proposal mechanisms. Unsolicited proposals shall not be accepted under the STTR Program in either Phase I or Phase II.

6. If an award is made pursuant to a proposal submitted under this STTR Program solicitation, the contractor or grantee or party to a cooperative agreement will be required to certify that he or she has not previously been, nor is currently being, paid for essentially equivalent work by any agency of the Federal government.

VI. Submission of Proposals

A. This section shall clearly specify the closing date on which all proposals are due to be received.

B. This section shall specify the number of copies of the proposal that are to be submitted.

C. This section shall clearly set forth the complete mailing and/or delivery address(es) where proposals are to be submitted.

D. This section may include other instructions such as the following:

1. *Bindings.* Please do not use special bindings or covers. Staple the pages in the upper left corner of the cover sheet of each proposal.

2. *Packaging.* All copies of a proposal should be sent in the same package.

VII. Scientific and Technical Information Sources

Wherever descriptions of research topics or subtopics include reference to publications, information on where such publications will normally be available shall be included in a separate

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section of the solicitation entitled "Scientific and Technical Information Sources."

VIII. Research Topics

Describe the R/R&D topics and subtopics for which proposals are being solicited sufficiently to inform the proposer of technical details of what is desired while leaving sufficient flexibility in order to obtain the greatest degree of creativity and innovation consistent with the overall objectives of the STTR Programs.

IX. Submission Forms and Certifications

Up to three copies each of proposal preparation forms necessary to the contracting and granting process may be required. This section may include Proposal Summary, Proposal Cover, Budget, Checklist, and other forms the sole purpose of which is to meet the mandate of law or regulation and simplify the submission of proposals.

This section may also include certifying forms required by legislation, regulation or standard operating procedures, to be submitted by the proposer to the contracting or granting agency. This would include certifying forms such as those for the protection of human and animal subjects.

[FR Doc. 93-9905 Filed 4-27-93; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

(Public Notice 1799)

Advisory Committee on Historical Diplomatic Documentation; Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet May 20-21, 1993, at 9:30 a.m. in the Department of State.

The Committee will meet in open session from 9:30 a.m. on the morning of Thursday, May 20, 1993, until noon of that day, in room 1408, Main State. The remainder of the Committee's sessions, until the end of this meeting on Friday, May 21, at 4 p.m., will be closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), and will be held in room 1205, Main State. It has been determined that discussion during these portions of the meeting will involve consideration of matters not subject to public disclosure under 5 U.S.C. 552b (c)(1), and that the public interest requires that such activities will be withheld from disclosure.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC, 20520, telephone (202) 663-1123.

Dated: April 22, 1993.

William Z. Slany,

Executive Secretary.

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 21, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0057
Form Numbers: ATF F 487-B (5107.7)
Type of Review: Extension
Title: Application and Permit to Ship Liquors and Articles of Puerto Rican Manufacture Taxpaid.
Description: ATF F 487-B (5107.7) is used to document the shipment of tax paid Puerto Rican liquors and articles into the United States. The form is verified by Puerto Rican and U.S. Treasury officials to certify that products are either taxpaid or deferred under an appropriate bond. Serves as method of protection of the revenue.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 20
Estimated Burden Hours Per Respondent: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 100 hours

OMB Number: 1512-0167
Form Number: ATF F 3072 (5210.14)
Type of Review: Extension
Title: Transportation in Bond, and Notice of Release of Puerto Rican Cigars, Cigarette Papers, or Cigarette Tubes.
Description: ATF 3072 (5210.14) is used to document the shipment of taxable tobacco products brought into the United States in bond from Puerto Rico. The form documents certification by ATF to account for the tax liability as well as any adjustments assessed to the bonded licensee. The form also describes the shipment and identification of licensee who receives the products.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 50
Estimated Burden Hours Per Respondent: 15 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 200 hours

OMB Number: 1512-0171
Form Number: ATF F 3373 (5220.3)
Type of Review: Extension
Title: Inventory—Export Warehouse Proprietor.
Description: This form is necessary to establish the contingent tax liability on tobacco products on the bonded premises of an export tobacco warehouse. The inventory occurs at the beginning and closing of the business and upon the request of ATF.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 10
Estimated Burden Hours Per Respondent: 5 hours
Frequency of Response: On occasion
Estimated Total Reporting Burden: 50 hours

OMB Number: 1512-0493
Form Number: ATF F 5300.3
Type of Review: Extension
Title: Letterhead Request for Information in Regard to Federal Firearms Dealer's Records (Dealer's Records of Acquisition, Disposition and Supporting Data).
Description: This letter gives the user a simplified format to list the required information ATF needs to perform its functions in regard to the law. The respondent saves time because the questions are simple and a return address is supplied. The form is used to maintain a current status of firearms licensees.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 28,000
Estimated Burden Hours Per Respondent: 5 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 2,380 hours
Clearance Officer: Robert N. Hogarth, (202) 927-8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93-9891 Filed 4-27-93; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 22, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0004
Form Number: IRS Form SS-8
Type of Review: Revision
Title: Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax Withholding
Description: This form is used by employers and workers to furnish information to IRS in order to obtain a determination as to whether a worker is an employee for purposes of Federal employment taxes and income tax withholding. IRS uses the information on Form SS-8 to make the determination.
Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents/ Recordkeepers: 9,730
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—34 hours, 41 minutes
Learning about the law or the form—6 minutes
Preparing and sending the form to the IRS—40 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 344,831 hours
Clearance Officer: Garrick Shear, (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93-9890 Filed 4-27-93; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 21, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0129
Form Number: None
Type of Review: Extension
Title: Change in Status of Transaction
Description: The person submitting a request for a ruling in connection with a Customs transaction should advise Customs in writing when a transaction described as prospective becomes current. This is essential so that the field office concerned is advised of the fact that the ruling is pending.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 40
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: On occasion
Estimated Total Reporting Burden: 1 hour
Clearance Officer: Ralph Meyer (202) 927-1552, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-9892 Filed 4-27-93; 8:45 am]

BILLING CODE 4820-02-M

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Sunshine Act Meetings

Federal Register
Vol. 58, No. 80
Wednesday, April 28, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

DATE: Week of April 26, 1993.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Tuesday, April 27, 1993

10:00 a.m., the Commission will hear oral argument on the following in open session:

Air Products & Chemicals, Inc., Docket No. PENN 91-1488-R (Issues include whether Air Product's coal handling facilities at the Cambria Co-Generation Facility are subject to the jurisdiction of the Federal Mine Safety and Health Act of 1977.)

Immediately following oral argument, the Commission will consider and act upon this matter. This meeting will be closed pursuant to 5 U.S.C. § 552b(c)(10).

Wednesday, April 28, 1993

10:00 a.m., the Commission will hear oral argument on the following in open session:

Twentymile Coal Co., Docket No. WEST 91-449 (Issues include whether the judge erred in finding that Twentymile's violation of 30 CFR 70.100(a) was of a significant and substantial nature.)

Immediately following oral argument, the Commission will consider and act upon this matter. This meeting will be closed pursuant to 5 U.S.C. § 552b(c)(10).

Thursday, April 29, 1993

10:00 a.m., the Commission will hear oral argument on the following in open session:

Asarco, Inc., Docket No. WEST 92-624-RM (Issues include whether the judge erred in finding that Asarco violated 30 CFR 57.3360 by failing to provide adequate ground support.)

Immediately following oral argument, the Commission will consider and act upon this matter. This meeting will be closed pursuant to 5 U.S.C. § 552b(c)(10).

Any person wishing to attend any of these oral arguments who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay/1-800-877-8339 for toll free.

Dated: April 19, 1993.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 93-10034 Filed 4-26-93; 11:01 am]

BILLING CODE 6735-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 19874, April 16, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Approximately 11:00 a.m., Wednesday, April 21, 1993, following a recess at the conclusion of the open meeting.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Briefing on bank examination policy.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: April 26, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10099 Filed 4-26-93; 2:08 pm]

BILLING CODE 6210-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:30 a.m., Monday, May 3, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10054 Filed 4-26-93; 11:19 am]

BILLING CODE 6210-01-M

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Record of Vote of Meeting Closure

(Public Law 94-409)

(5 U.S.C. Sec. 552b)

I, Edward F. Reilly, Jr., Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at approximately nine-thirty a.m. on Monday, April 19, 1993 at the Commission's Central Office, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide fourteen appeals from National Commissioners' decisions pursuant to 28 C.F.R. Section 2.27. Further, also discussed was the approval of parole hearing examiner appointments. Five Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Edward F. Reilly, Jr., Carol Pavilack Getty, Jasper Clay, Jr., Vincent Fechtel, Jr., and John R. Simpson.

IN WITNESS WHEREOF, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: April 19, 1993.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 93-10100 Filed 4-26-93; 2:08 pm]

BILLING CODE 4410-01-M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Open Forum on Children and Youth Services: Redefining the Federal Role for Libraries

DATE AND TIME: May 4, 1993-1:00-4:30 p.m.; May 5, 9 a.m.-4:30 p.m.

PLACE: Boston Public Library, Rabb Lecture Hall, 666 Boylston Street, Boston, MA 02117.

STATUS: Open.

Purpose: Open forum on the changing role of the Federal government in support of library and information services, and literacy programs for children and youth. The forum provides an opportunity for representatives from school library media centers, public libraries, academic libraries, educational, literacy, and information services organizations, companies, associations, and institutions to offer comments, observations, and suggestions related to Federal roles and responsibilities for library and information services, and literacy programs offered to children and youth.

Parties interested in presenting oral or written statements should notify Kim Miller or Peter Young at NCLIS, 1110 Vermont Avenue, NW., Suite 820, Washington, DC 20005 (202-606-9200) by 30 April 1993. Written statements must be received at the NCLIS office by 15 June 1993.

To request further information or to make special arrangements for physically challenged persons, contact Barbara Whiteleather, NCLIS, no later than one week in advance of the forum.

Dated: April 15, 1993.

Peter R. Young,

Executive Director.

[FR Doc. 93-10122 Filed 4-26-93; 4:00 pm]

BILLING CODE 7527-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [58 FR 21775 April 26, 1993].

STATUS: Open meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, April 16, 1993.

CHANGE IN THE MEETING: Time/Room change.

An open meeting scheduled for Tuesday, April 27, 1993, at 3:30 p.m. has been changed to 2:30 p.m., in Room 6059.

Commissioner Schapiro, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Kramer at (202) 272-2000.

Dated: April 26, 1993.

Margaret McFarland,

Deputy Secretary.

[FR Doc. 93-10119 Filed 4-26-93; 4:00 pm]

BILLING CODE 8010-01-M

Corrections

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Corrections

Federal Register
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This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1160

[DA-92-29]

RIN 0581-AA44

Fluid Milk Promotion Program; Invitation To Submit Comments and Notice of Public Meeting

Correction

In proposed rule document 93-9282 beginning on page 21512 in the issue of Wednesday, April 21, 1993, make the following correction:

§ 1160.501 [Corrected]

1. On page 21518, in the third column, in § 1160.501(a), in the fifth line, "1990O(c)" should read "1999O(c)".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 365

[Docket No. RM93-1-001; Order No. 550-A]

Filing Requirements and Ministerial Procedures for Persons Seeking Exempt Wholesale Generator Status; Order Addressing Motions for Rehearing, Reconsideration and Clarification; Amending Regulations; and Interpreting PUHCA Section 32(a)(1)

Correction

In rule document 93-9178 beginning on page 21250 in the issue of Tuesday, April 20, 1993, the Docket No. should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER93-538-000, et al.]

PacifiCorp, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Correction

In notice document 93-9021 beginning on page 21149 in the issue of Monday, April 19, 1993, make the following corrections:

1. On page 21149, in the third column, under **5. City of Albany**, "[Docket No. EG93-30-000]" should read "[Docket No. EL93-30-000]".

2. On page 21150, in the second column, under **12. Gulf States Utilities Co.**, "[Docket No. ER93-31-000]" should read "[Docket No. ES93-31-000]".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TQ93-6-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

Correction

In notice document 93-9144 appearing on page 21301 in the issue of Tuesday, April 20, 1993, in the first column, following the heading, "April 15, 1993." should read "April 14, 1993.".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-09; Notice 28]

RIN 2127-AE28

Federal Motor Vehicle Safety Standards; Child Restraint Systems

Correction

In rule document 93-8793 beginning on page 19776 in the issue of Friday, April 16, 1993, make the following corrections:

§ 571.213 [Corrected]

1. On page 19779, in the third column, in paragraph number 5., in the firt line, insert "S5.1.3.1" in front of "(introductory text)".

2. On page 19780, in the first column, in paragraph number 7., in the first line, "S5.2.2.2(a)" should read "S5.2.2.2(a)(2)".

3. On the same page, in the second column, in the third line, "restrain" should read "restraint".

BILLING CODE 1505-01-D

federal register

Wednesday
April 28, 1993

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 876

Gastroenterology-Urology Devices; Effective Date of the Requirement for Premarket Approval of the Penile Inflatable Implant; Proposed Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. 92N–0445]

Gastroenterology-Urology Devices; Effective Date of the Requirement for Premarket Approval of the Penile Inflatable Implant

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; opportunity to request a change in classification.

SUMMARY: The Food and Drug Administration (FDA) is proposing to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the penile inflatable implant, a medical device. The agency is also summarizing its proposed findings regarding the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the statute's approval requirements, and the benefits to the public from the use of the device. In addition, FDA is announcing an opportunity for interested persons to request that the agency change the classification of the device based on new information.

DATES: Written comments by June 28, 1993; requests for a change in classification by May 13, 1993. FDA intends that if a final rule is issued, based on this proposed rule, PMA's will be required to be submitted within 90 days of the effective date of the final rule.

ADDRESSES: Written comments or requests for a change in classification to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mark D. Kramer, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1194.

SUPPLEMENTARY INFORMATION:

I. Background

Section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) requires the classification of medical devices into one of three regulatory classes: Class I (general controls), class II (special controls), and class III (premarket approval). Generally, devices that were on the market before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295), and devices marketed on or after that date that are substantially equivalent to such devices, have been classified by FDA. For the sake of convenience, this preamble refers to both the devices that were on the market before May 28, 1976, and the substantially equivalent devices that were marketed on or after that date as "preamendments devices."

Section 515(b)(1) of the act (21 U.S.C. 360e(b)(1)) establishes the requirement that a preamendments device that FDA has classified into class III is subject to premarket approval. A preamendments class III device may be commercially distributed without an approved PMA or declared completed PDP until 90 days after FDA's promulgation of a final rule requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the act, whichever is later. Also, a preamendments device is not required to have an approved investigational device exemption (IDE) (21 CFR part 812) contemporaneous with its interstate distribution until the date identified by FDA in the final rule requiring the submission of a PMA for the device.

Section 515(b)(2)(A) of the act provides that a proceeding to promulgate a final rule to require premarket approval shall be initiated by publication, in the **Federal Register**, of a notice of proposed rulemaking containing:

(1) The proposed rule;

(2) Proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or declared completed PDP and the benefit to the public from the use of the device;

(3) An opportunity for the submission of comments on the proposed rule and the proposed findings; and

(4) An opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(2)(B) of the act provides that if FDA receives a request for a change in the classification of the device within 15 days of the publication of the notice, FDA shall, within 60 days of the publication of the notice, consult with the appropriate FDA advisory committee and publish a notice denying the request for change of classification or announcing its intent to initiate a proceeding to reclassify the device under section 513(e) of the act. If FDA does not initiate such a proceeding, section 515(b)(3) of the act provides that FDA shall, after the close of the comment period on the proposed rule and consideration of any comments received, promulgate a final rule to require premarket approval, or publish a notice terminating the proceeding. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the act, unless the reason for termination is that the device is a banned device under section 516 of the act (21 U.S.C. 360f).

If a proposed rule to require premarket approval for a preamendments device is made final, section 501(f)(2)(A) of the act (21 U.S.C. 351(f)(2)(A)) requires that a PMA or notice of completion of a PDP for any such device be filed within 90 days of the date of promulgation of the final rule or 30 months after final classification of the device under section 513 of the act, whichever is later. If a PMA or notice of completion of a PDP is not filed by the later of the two dates, commercial distribution of the device is required to cease. The device may, however, be distributed for investigational use if the manufacturer, importer, or other sponsor of the device complies with the IDE regulations. If a PMA or notice of completion of a PDP is not filed by the later of the two dates, and no IDE is in effect, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the act, and subject to seizure and condemnation under section 304 of the act (21 U.S.C. 334) if its distribution continues. Shipment of the device in interstate commerce will be subject to injunction under section 302 of the act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the act (21 U.S.C. 333). FDA has in the past requested that manufacturers take action to prevent the further use of devices for which no PMA or notice of completion of a PDP has been filed and may determine that such a request is appropriate for penile inflatable implants.

The act does not permit an extension of the 90-day period after promulgation of a final rule within which an application or a notice is required to be filed. The House Report on the amendments states that "the thirty month 'grace period' afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigations necessary to support an application for premarket approval." (H. Rept. 94–853, 94th Cong., 2d sess. 42 (1976).)

A. Classification of the Penile Inflatable Implant

In the **Federal Register** of November 23, 1983 (48 FR 53023), FDA issued a final rule classifying the penile inflatable implant into class III (21 CFR 876.3350). The preamble to the proposal to classify the device (46 FR 7577, January 23, 1981) included the recommendation of the Gastroenterology-Urology Devices Advisory Panel (the Panel), an FDA advisory committee, which met on September 26 and 27, 1976, regarding the classification of the device. The Panel recommended that the device be in class III, and identified certain risks to health presented by the device. FDA agreed with the Panel's recommendation and proposed that the penile inflatable implant be classified into class III. The proposal stated that the agency believed that insufficient information existed to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device, or to establish a performance standard to provide this assurance. The proposal stated that premarket approval is necessary for this device because it presents a potential unreasonable risk of injury due to: (1) Additional surgery that might be required as a result of a malfunction of the device; (2) infection resulting from defects in the design, construction, packaging, or processing of the device; and (3) adverse tissue reaction and erosion. In support of its proposal to strengthen regulatory surveillance of the device, FDA cited references supporting the proposed classification.

The preamble to the November 23, 1983 final rule (48 FR 53012) classifying the device into class III advised that the earliest date by which PMA's for the device could be required was June 30, 1986, or 90 days after promulgation of a rule requiring premarket approval for the device, whichever occurs later.

In the **Federal Register** of January 6, 1989 (54 FR 550), FDA published a notice of intent to initiate proceedings to require premarket approval of 31 preamendments class III devices assigned a high priority by FDA for the application of premarket approval requirements. Among other things, the notice described the factors FDA takes into account in establishing priorities for proceedings under section 515(b) of the act for promulgating final rules requiring that preamendments class III devices have approved PMA's. Although the penile inflatable implant was not included in this list of 31 devices, the agency has received more than 6,500 Medical Device Reports (MDR's) for this device since 1984. Additionally, the types of problems identified in these reports are similar to those identified during the classification proceedings of the device. Therefore, FDA has determined that the penile inflatable implant identified in 21 CFR 876.3350 has a high priority for initiating a proceeding to require premarket approval. Accordingly, FDA is commencing a proceeding under section 515(b) of the act to require that the penile inflatable implant has an approved PMA or a declared completed PDP.

B. Dates New Requirements Apply

In accordance with section 515(b) of the act, FDA is proposing to require that a PMA or notice of completion of a PDP be filed with the agency for the penile inflatable implant within 90 days after promulgation of any final rule based on this proposal. An applicant whose device was in commercial distribution before May 28, 1976, or has been found by FDA to be substantially equivalent to such a device, will be permitted to continue marketing the penile inflatable implant during FDA's review of the PMA or notice of completion of the PDP. FDA intends to complete the review of any PMA for the device within 180 days and a notice of completion of a PDP within 90 days. FDA cautions that, under section 515(d)(1)(B)(i) of the act, FDA may not enter into an agreement to extend the review period for a PMA beyond 180 days unless the agency finds that "* * * the continued availability of the device is necessary for the public health."

FDA intends that, under § 812.2(d) (21 CFR 812.2(d)), the preamble to any final rule based on this proposal will state that, as of the date on which a PMA or notice of completion of a PDP is required to be filed, the exemptions in § 812.2 (c)(1) and (c)(2) from the requirements of the IDE regulations for preamendments class III devices will cease to apply to any penile inflatable implant which is: (1) Not legally on the market on or before that date, or (2) legally on the market on or before that date but for which a PMA is not filed by that date, or for which PMA approval has been denied or withdrawn.

If a PMA or notice of completion of a PDP for the penile inflatable implant is not filed with FDA within 90 days after the date of promulgation of any final rule requiring premarket approval for the device, commercial distribution of the device must cease. The device may be distributed for investigational use only if the requirements of the IDE regulations regarding significant risk devices are met. The requirements for significant risk devices include submitting an application to FDA for its review and approval. An approved IDE is required to be in effect before an investigation of the device may be initiated or continued. FDA, therefore, cautions that IDE applications should be submitted to FDA at least 30 days before the end of the 90-day period to avoid interrupting investigations.

C. Description of the Device

A penile inflatable implant is a device that consists of two inflatable cylinders implanted in the penis, connected to a reservoir filled with radiopaque fluid implanted in the abdomen, and a subcutaneous manual pump implanted in the scrotum. These devices may be constructed from silicone or polyurethane elastomers and some models also contain silicone gel. Also included within this device classification are those models of the penile inflatable implant that have the reservoir and the pump combined into one component that is implanted within the scrotum, or that have a reservoir and pump combined within each of the two cylinders. When the cylinders are inflated, they provide rigidity to the penis. These devices are used in the treatment of erectile impotence.

The proposed rule to require premarket approval of penile inflatable implants applies to legally marketed penile inflatable implants identified above that were commercially distributed before May 28, 1976, and to devices introduced into commercial distribution since that date that have been found to be substantially equivalent to such penile inflatable implants.

D. Proposed Findings With Respect to Risks and Benefits

As required by section 515(b) of the act, FDA is publishing its proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring the penile inflatable implant to have an approved PMA, and (2) the benefits to the public from the use of the device.

E. Degree of Risk

After considering the information discussed by the Panel during the classification proceedings, as well as the published literature and MDR's, FDA has evaluated the risks associated with the penile inflatable implant. FDA now believes that the following are significant risks associated with the use of the penile inflatable implant:

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1. Infection

Infection, a risk of any surgical implant procedure, is associated with the use of penile inflatable implants (Refs. 1 through 7). It is one of the most serious potential complications of implantation and can cause significant patient morbidity (Refs. 3 through 6). Infections usually result in removal of the device and may result in an inability to replace the device due to corporeal fibrosis and cavernositis (Refs. 1 and 6 through 8). Occasionally, infections lead to genital gangrene and extensive tissue loss (Refs. 1 and 9). As in any implantation procedure, compromised device sterility and surgical techniques may be major contributing factors to this risk (Refs. 1 and 2). Additionally, a life-long risk for hematogenously seeded infection probably exists for these patients and antibacterial prophylaxis for subsequent dental and surgical procedures may be needed (Refs. 1, 3, and 7).

2. Migration and Extrusion of the Penile Inflatable Implant

Migration, in general, is the movement of the penile inflatable implant within the body. Extrusion is the specific type of migration where the penile inflatable implant occupies an abnormal external position (Ref. 10). Implant extrusion is usually associated with concurrent wound dehiscence at the incision site (Refs. 2, 4, 7, and 11 through 15), but proximal migration has also been reported (Refs. 2, 7, and 16). Migration of the reservoir intra-abdominally, either shifting to an open space or over an organ; movement of the pump to midscrotum; and movement of the cylinder to the site of perforation (e.g., extrusion in the urethra), posteriorly into the buttocks, and from one corpus cavernosum to the opposite side have all been reported. Component migration increases the risk of pressure necrosis and, in some cases, of erosion (Refs. 2, 14, and 17 through 20). Migration and extrusion of the penile inflatable implant sometimes requires surgical intervention (Refs. 2, 14, 17, 19, and 21).

3. Erosion of the Penile Inflatable Implant

Erosion is the destruction of tissue (Ref. 10) which, with penile inflatable implants, usually occurs distally through the urethra on the glans penis by the cylinders (Refs. 2, 17, 20, 22, and 23). Erosion has also been reported through adjacent visceral structures (bowel, bladder, ileal conduit, etc.) by the reservoir and through the scrotal wall by the pump (Refs. 12, 16, and 22). Erosion through the urethra has been associated primarily with intermittent and/or indwelling catheterization (Ref. 23). In addition, erosion into the tunica albuginea by the cylinders has been noted (Refs. 2, 24, and 25). Skin erosion has been reported following implantation of the penile inflatable implant due to the insertion of an oversized device (Ref. 26), vigorous dilatation of the cavernosa or supporting structures at the time of implantation (Refs. 2 and 7), aggressive dissection of the subdartos pocket (Refs. 2 and 27), or other iatrogenic injury to the urethra. Skin erosion may result in subsequent infection or device extrusion.

4. Fibrous Capsule Formation

Fibrous capsules form around the various components of penile inflatable implants (Refs. 1, 2, and 28 through 30). The formation of fibrous encapsulations around the reservoir and/or pump may prevent complete deflation of the cylinders (Refs. 5, 19, 29, and 31) or cause spontaneous inflation of the cylinders (Ref. 32). If leakage occurs from the reservoir, the fibrous capsule becomes much thicker and, if adhesions form to adjacent structures, rupture of the fibrous capsule during reinflation of the reservoir can cause damage to adjacent structures (Ref. 30). Problems due to encapsulation may sometimes be corrected by device manipulation (Refs. 31 and 32), but corrective surgery may also be required (Refs. 19, 32, and 33). Additionally, the fibrous capsule that forms may cause genital changes which are not reversed by explantation of the device (Ref. 31).

The formation of fibrous capsules has been reported to be related to a foreign body reaction (Refs. 1 and 28) and a reaction to silicone (Ref. 31).

5. Mechanical Malfunctions

Mechanical problems with the cylinders of penile inflatable implants are the most frequently cited cause of device failure (Ref. 34). Cylinder leaks can occur as a result of trauma to the cylinders during implantation (Ref. 35), either at the point of connection with the inflation tubing or as a result of friction when the tubing is positioned against the cylinder (Refs. 35 through 39). Cylinder ruptures (Ref. 41), buckling (Refs. 42 through 44) and aneurysms have various etiologies and result when the cylinders spontaneously inflate (Ref. 42), over-inflate, under-inflate, or when inflation is not uniform (Refs. 7, 35, and 45 through 48). Asymmetrical distention of the cylinders can result in penile angulation and a gradual loss of penile rigidity (Ref. 2).

Tubing leaks and kinks can occur when nonreinforced silicone tubing is used or when the tubes separate from the cylinder (Ref. 4). Positioning of the tubing in the mobile scrotum may increase tubing stress, resulting in premature tubing wear (Ref. 4). Folds and kinks can occur in the tubing from the reservoir to the pump when the pump migrates from the scrotum, causing excess tubing length (Refs. 32, 39, and 49). Connector leaks and separations have also been reported (Refs. 4, 50, and 51).

Hypersensitive valves or valve failures that result in inadequate inflation or premature deflation during sexual activity have been reported in the literature (Refs. 39 and 52). Mechanical problems associated with the pump include pump noise, abnormal pump position (e.g., intussusception (Ref. 5), migration (Refs. 32, 39, and 49), and difficulty with inflation/deflation (Refs. 53 and 54). Fibrous encapsulation of the reservoir, which prevents complete cylinder deflation (Ref. 5), has also been documented (Refs. 41, 55, and 56). Fluid leaks from the reservoir result in fluid loss from the device and may result in the need for reoperation (Refs. 40, 42, and 57). Finally, material fatigue will eventually cause most hydraulic penile inflatable implants to malfunction (Ref. 37).

Device malfunctions may require replacement or revision (Ref. 34). When replacement of a malfunctioning device is required, the complication rate is increased (Ref. 4). Multiple revision procedures significantly increase the risk of irreversible fibrotic complications, such as corporeal fibrosis, which decreases penile length and penile function, and partial or complete denervation, which decreases penile sensation (Refs. 2 and 4).

6. Iatrogenic Disorders

Improper device handling (including cutting or nicking of the device), inadequate or vigorous dilatation (Refs. 2, 4, and 7), aggressive dissection (Refs. 2 and 27), malpositioning of the device (Refs. 2, 58, and 59), cylinder suturing (Ref. 58), cylinder cross-over (Refs. 7 and 20), and cylinder missizing (Refs. 26, 52, and 60) are among the preventable complications caused as a result of surgical technique. Iatrogenic causes may be responsible for various adverse conditions (e.g., product damage or failure, "SST deformity," where the glans forms a ventral chordee-like angulation relative to the shaft of the penis (Ref. 2), aneurysm, perforation, erosion, migration, rupture of the corporeal body, infection, sensory loss, and gangrene (Refs. 1, 2, 4, 7, 9, 24, 26, 45, 55, 59 through 64)), necessitating device removal and/or replacement.

7. Patient Dissatisfaction

Patient dissatisfaction with penile inflatable implants results in a high reoperation rate (Ref. 34). Dissatisfaction occurs due to surgical complications such as infection, unresolved pain or fibrotic changes that can result in sensory loss (Refs. 2 and 4), as well as disappointment in cosmetic appearance (Refs. 5 and 70), concealability, (Refs. 39, 52, and 53), rigidity/firmness (Refs. 53, 54, and 66) and decreased sensation (Refs. 54 and 67). Dissatisfaction can result when the patient and/or his partner have unrealistic expectations about the size of the penis after surgery (Ref. 67) (e.g., inadequate penile length and girth (Refs. 5, 54, and 66)), or are unaware of available alternative treatments (Refs. 53, 54, and 66). Dissatisfaction with the device also occurs when the patient has not had proper training in the use of the device or is unwilling and/or unable to follow proper inflation/deflation procedures (Ref. 18).

8. Human Carcinogenicity

Carcinogenesis has been widely discussed as a reputed risk secondary to implantation of any material. Evidence from the literature indicates that, in animal studies, different forms of silicone have been associated with various types of cancer (Refs. 68 through 72). Cases of several types of cancer in humans have been reported in association with various forms of implanted silicone (Refs. 73 through 76).

9. Human Reproductive and Teratogenic Effects

The effect of certain silicone compounds on the reproductive potential of the male is largely unknown. Le Vier and Jankowiak report that at least one form of organosiloxane, which is known to be present in some silicone gels, mimics estrogens in the male rat, leading to rapid testicular atrophy (Ref. 77).

Teratogenesis includes the origin or mode of production of a malformed fetus and the disturbed growth processes involved in the production of a malformed fetus. Studies using silicone fluid in animals have been minimal, and yield contradictory and inconclusive results (Refs. 78 through 80). Prolonged contact with either silicone elastomer, or silicone gel-filled membrane in devices containing silicone gel, presents a potential risk of teratogenicity in humans. Additionally, the theoretical risk of abnormalities appearing later in life in normally appearing offspring also warrants investigation.

10. Immune Related Connective Tissue Disorders—Immunological Sensitization

Immunological sensitization may be a serious risk associated with the implantation of a penile inflatable implant. Immune related connective tissue disorders have been reported in women who have silicone gel-filled devices or who have had silicone injections in augmentation mammoplasty. There are clinical reports of several patients who have undergone augmentation mammoplasty with silicone gel-filled breast prostheses and later presented with connective tissue disease-like syndromes (Ref. 81). Because penile inflatable implants may consist of similar silicone elastomers and gels, further study of the potential risk of immune related connective tissue disorders in humans with these implants is warranted.

11. Biological Effects of Silica

Amorphous (fumed) silica is bound to the silicone in the elastomer of the penile inflatable implant, and may be fibrogenic and immunogenic. Fumed silica and the silicone elastomer each elicit cellular responses in rats (Ref. 82). The biological effects of silica, particularly the immunologic component of these reactions, present a potential risk and need to be examined.

12. Silicone Particle Shedding, Silicone Gel Leakage and Associated Migration

Silicone particle shedding and subsequent migration have been reported with genitourinary prosthetic devices, including penile inflatable implants (Ref. 28). Silicone gel leakage and migration from the silicone elastomer envelope, either from rupture of the envelope or by leaking of the gel through the envelope (gel "bleed"), are also significant risks of penile inflatable implants containing silicone gel. Rupture of the envelope with gel leakage and subsequent migration may be secondary to surgical technique, or may result from mechanical stresses such as device usage, trauma, and wear on the envelope, and necessitates removal of the implant. In addition, silicone gel-filled breast implants are reported to "bleed" micro amounts of silicone through the intact silicone elastomer shell into the surrounding tissues (Refs. 83 through 92). Although diffusion of silicone gel through the elastomer envelope and silicone particle shedding have not specifically been measured in the penile inflatable implant, particle shedding and gel bleed continue to be potential risks with this device and need to be evaluated. Migration of the particles and gel into the human body presents the potential for development of adverse effects such as granulomas or lymphadenopathy (Refs. 28, 73, and 74). The ultimate fate of migrating silicone particles or silicone gel within the body is currently not well understood.

The following potential risk is associated only with those penile inflatable implants that contain polyurethane elastomer.

13. Degradation of Polyurethane Elastomer

The polyurethane elastomer materials, which have been used to cover some penile inflatable implants, may degrade over time and release degradation products such as methylene diamine or toluene diamine, which are potential carcinogens in animals (Refs. 93 and 94).

14. Other Reported Complications

The following are among the additional risks which have also been reported with penile inflatable implants: Hematomas/seromas (Refs. 2, 8, 15, 25, and 42), discomfort/pain (Refs. 2, 15, 21, 29, 31, 32, 42, 54, and 95), penile and scrotal pain (Refs. 5, 13, and 37), scrotal swelling (Ref. 5), scrotal erythema (Ref. 42), scrotal abscess (Ref. 50), scrotal heaviness (Ref. 13), edema (Refs. 2, 5, and 42), adhesions requiring lysis (Ref. 23), inflammatory hydrocele (Ref. 23), ulceration (Ref. 58), necrosis (Refs. 5 and 42), vascular compromise (Refs. 58 and 96), ventral chordee and penile curvature (Refs. 1, 29, 31, and 97), ventral band formation (Ref. 1), ischemia (with resultant loss of tissue) (Ref. 31), genital change (Ref. 31), scarring (Ref. 29), urinary retention (Refs. 95 and 98), inguinal hernia (Ref. 35), difficulty with ejaculation (Ref. 54), phimosis (Ref. 58), allergic reaction to contrast medium (Ref. 40), and deformity (Ref. 54).

F. Benefits of the Device

The penile inflatable implant is intended to provide rigidity to the penis upon demand to simulate an erection, and is indicated in subjects who have lost the ability to produce or maintain an erection sufficient for intromission. Device implantation is a discretionary surgical procedure performed for reasons related to quality of life, rather than medical reasons.

Implants have been used to treat impotence resulting from diabetes mellitus, spinal cord injury, Peyronie's disease, pelvic surgery, priapism, hypertension, coronary artery disease.

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and other medical conditions. These devices also have been implanted in men with psychological impotence (Ref. 53).

The loss of sexual function can result in social and psychological problems for the impotent male. Feelings of frustration and despair, the loss of self-esteem, and a sense of being unmasculine often accompany the loss of normal sexual function (Refs. 46, 65, and 99). Such psychological problems can also lead to associated physical manifestations such as hypertension, and some men contemplate suicide (Ref. 65). For single men, impotence may cause the subject to cease normal social interactions (Ref. 11). The partner of the impotent male also suffers, and impotence can be damaging to marriages and relationships (Refs. 46, 65, and 100). Some women feel that their partner's condition is due to their lack of femininity or some sexual failing on their part (Ref. 100).

Implantation of a penile inflatable implant can help to alleviate feelings of inadequacy in impotent males, thereby improving their quality of life (Refs. 46, 54, and 65). Published studies indicate that the recipients of penile inflatable implants exhibit a moderately high degree of satisfaction with respect to sexual function and overall quality of life (Refs. 44, 46, 53, 54, 62, 65, 101, and 102). The literature also notes a positive impact on the partners of males who have received penile implants and on the relationship as a whole (Refs. 46, 65, 101, and 102).

In addition, because device implantation allows for improved intromission, natural methods of conception (as opposed to alternate methods such as artificial insemination) can be utilized to father children by the male who has normal ejaculatory function and semen quality prior to and after implantation.

G. Need for Information for Risk/Benefit Assessment of the Device

As the above sections indicate, there is reasonable knowledge of the risks and benefits associated with the penile inflatable implant. There is, however, insufficient valid scientific evidence to permit FDA to perform a risk/benefit analysis. Therefore, FDA is now seeking further information on the following safety and effectiveness issues associated with the penile inflatable implant:

(1) Long-term safety and effectiveness data for the device is needed. The incidence of implant failure and attendant causes, as well as the incidence of reoperations required, have not been clearly identified. Such device failures include, but are not limited to: Cylinder rupture, leakage, and aneurysm; tubing leakage, wear, and kinking; pump and valve failure; reservoir leakage; and implant migration, extrusion, and erosion. Also, the incidence rates of infection, pain/discomfort, hematoma, edema, ulceration, necrosis, scarring, iatrogenic injury, penile curvature, sensory loss, and patient dissatisfaction secondary to implantation of the penile inflatable implant are poorly understood and need to be studied.

(2) It is unknown for which subgroups of the population with erectile dysfunction the benefits of implantation of penile inflatable implants outweigh the attendant risks. Factors which may increase the rate of complications include the etiology and duration of impotence, concomitant medical conditions, various anatomical abnormalities, patient and/or partner manual dexterity, and prior treatments for the disorder, including prior surgery. An appropriate benefit/risk analysis is needed for each subgroup for whom the device will be indicated.

(3) The required presurgical workup of patients prior to device implantation must be clarified. Because the adverse events that may occur following implantation of the device may not be reversible, investigation is needed to determine which prior conservative therapies a patient should have failed before being considered an appropriate candidate for a penile inflatable implant.

(4) The anatomical and physiological effects of implantation of penile inflatable implants need to be examined. Patient dissatisfaction with penile length and/or girth and rigidity/firmness leading to reoperation need to be factored into the benefit/risk analysis. In addition, the ability of the device to provide adequate rigidity to permit coitus must be substantiated.

(5) The immediate postsurgical and long-term psychological benefits of the device, as compared to presurgical levels, need to be examined and quantified. In order to document the benefits of restoration of erectile function with penile inflatable implants, such factors as patient and partner satisfaction, improved self-image, and improved psychological outlook, need to be studied using well-established standardized tests.

(6) The effect of penile inflatable implant use on future male fertility is poorly understood. The benefits of the ability to conceive naturally as a result of improved intromission following device implantation need to be examined and quantified.

(7) The effect of device implantation on future medical diagnoses and treatments needs to be examined. It is not well understood whether the device's presence may interfere with the ability to diagnose and treat disorders affecting organs or structures in proximity to the implant components.

(8) The incidence and types of problems associated with fibrous capsular formation must be clarified. It is not clear what methods are used in the prevention and treatment of problems arising from capsular formation in patients with penile inflatable implants, nor is it clear how these approaches may reduce the risks associated with use of this device.

(9) The potential risks associated with silicone particle shedding and silicone gel leakage and the subsequent migration of the particles and gel need further clarification. This would include consideration of gel cohesiveness, envelope thickness/strength, diffusion of the gel through the envelope (gel "bleed"), and the role that physical, mechanical, and chemical characteristics of silicone elastomers and gels play in the immediate or long-term rupture of penile inflatable implants.

(10) The potential long-term adverse effects of penile inflatable implants, such as cancer, immune related connective tissue disorders, reproductive and teratogenic effects, and later effects in offspring, are unknown. Likewise, in the polyurethane elastomer covered penile inflatable implant, the long-term effects of the degradation of polyurethane elastomer (such as mechanical integrity and carcinogenicity) are also not understood. The agency notes that neither the silicone particles, which may be shed from the device (Refs. 28, 103, and 104), nor the chemical forms of silicone monomers or other additives, which may leach from the device, have been characterized, and their metabolic fates are not known (Ref. 79). Furthermore, no satisfactory independent study has thoroughly evaluated the chronic long-term toxicology of cross-linked silicone polymers of different molecular sizes. Because young adult males are among the potential recipients of these implants, information regarding the chronic toxic effects including possible reproductive and teratogenic effects of silicone could be of substantial importance in determining the risk to these patients and their offspring.

(11) The malfunction rate and longevity reported for penile inflatable implants have generally not reflected the predictions of preclinical testing. Further investigation is warranted to determine how the laboratory and animal studies can be designed to predict more accurately device reliability under actual conditions of use.

FDA believes, therefore, that the penile inflatable implant should undergo premarket approval to obtain valid scientific evidence in order for FDA to determine whether the risks of using the device are adequately balanced by its benefits.

II. PMA Requirements

Any PMA for the device must include the information required by section 515(c)(1) of the act and the implementing provisions under 21 CFR 814.20. Such a PMA shall include a detailed discussion, accompanied by the results of applicable preclinical and clinical studies, of the above identified risks and the effectiveness of the device. In particular, the PMA shall include all known or otherwise available data and other information regarding: (1) Any risks known to the applicant that have not been identified in this document, and (2) the effectiveness of the specific penile inflatable implant that is the subject of the application. Valid scientific evidence, as defined in 21 CFR 860.7, addressing the safety and effectiveness of the device should be presented, evaluated and summarized in a section or sections of the PMA separate from known or otherwise available safety and effectiveness information that does not constitute valid scientific evidence (e.g., isolated case reports, random experiences, etc.).

A. Manufacturing Information

All manufacturing information for the device should be completely described. The information should include, but is not necessarily limited to, the chemical formulation and manufacturing procedures and processes, presented in a step-by-step manner from the starting materials to finished product, including, but not limited to, all nonreactants and reactants (including intermediate precursors) for the cylinders, pumps, reservoirs, tubing, and all internal components, adhesives, colorants, and filling agents (e.g., gel, saline, contrast medium, etc.). A complete master list of the common chemical names and alternate names (manufacturer's trade name or code) for all nonreactants, reactants (including intermediate precursors) and products should be provided. Chemical characterization of the elastomer intermediates, outer shell of the cylinders, pump, and reservoir, and internal gel (if applicable) sufficient to demonstrate control of the chemical processing of the device materials should be provided. This should be based on lot-to-lot comparisons (10 consecutive lot minimum) of the following information: (1) The molecular weight distribution, expressed as weight average molecular weight (Mw), number average molecular weight (Mn), peak molecular weight (Mp), polydispersity (MWD), and viscosity average molecular weight (Mv) of these precursors; (2) the results of analyses for residual levels of volatile and nonvolatile cyclic compounds (where applicable); (3) a comparison of viscosity, number average molecular weight, and percent volatiles on a single graph (where applicable); and (4) isocyanate content, acidity, isomer ratios, hydroxyl number, water content, acid number, and peroxide content (where applicable). Documentation establishing the extent of cross-linking (where applicable) in the materials of the cylinders, pumps, reservoirs, tubing, and all internal components and filling agents, or the silicone-hydride and vinyl content of cross-linked materials of the cylinders, pumps, reservoirs, tubing, and all internal components and filling agents, as well as the particle size and surface area of the silica if present in the cylinders, pumps, reservoirs, tubing, and all internal components and filling agents, or gel should be provided. A complete description of the medium used to inflate the device (saline, contrast medium, etc.) and whether and how the implant will be prefilled must also be provided.

The standard operating procedures for sterility and materials qualifications must be provided. Sterilization information should include the method of sterilization; the detailed sterilization validation protocol and results; the sterility assurance level; the type of packaging; the packaging validation protocol and results; residual levels of ethylene oxide, ethylene glycol, and ethylene chlorohydrin remaining on the device after the sterilization quarantine period, if applicable; and the radiation dose, if applicable. Because the penile inflatable implant comes into contact with the bloodstream, procedures for routine pyrogen testing also must be provided.

A complete description of the functional testing of subassemblies and finished products performed during the manufacturing process and during quality assurance/quality control (QA/QC) testing must be provided. Functional testing performed during manufacturing and QA/QC procedures should detect any device flaws that could lead to short-term failure and should demonstrate functional integrity of the device. A QA/QC plan that demonstrates how raw materials, components, subassemblies, and any filling agents will be received, stored, and handled in a manner designed to prevent damage, mixup, contamination, and other adverse effects must be provided. This plan shall specifically include, but not necessarily be limited to, a record of raw material, component, subassembly, and filling agent acceptance and rejection, visual examination for damage, and inspection, sampling and testing for conformance to specifications.

Written procedures for finished device inspection to assure that device specifications are met must be provided. These procedures shall include, but are not limited to, the requirement that each production run, lot or batch be evaluated and, where necessary, tested for conformance with device specifications prior to release for distribution. A representative number of samples shall be selected from a production run, lot or batch and tested under simulated use conditions and to any extremes to which the device may be exposed. Appropriate functional testing should also be performed at the component, subassembly, and final assembly levels (e.g., valve checks; valve release limits; joint checks; minimum, nominal and maximum pressure ratings; pressure decay rate; device firmness; leak tests; and any other appropriate tests) to detect any deficiencies that could compromise functional integrity.

Furthermore, the QA/QC procedures must include appropriate visual testing of the packaging, packaging seal, and product. Sampling plans for checking, testing, and release of the device shall be based on an acceptable statistical rationale (21 CFR 820.80 and 820.160).

B. Preclinical Data

Complete identification and quantification of all chemicals, including residual amine containing components, volatile and nonvolatile silicone cyclics and oligomers below a molecular weight of 1,500 exhaustively extracted from each of the individual structural components (cylinders, pump, reservoir, tubing, and any other materials or filling agents) as they are found in the final sterilized device should be reported. The solvents used for extraction should have varying polarities and should include, but not be limited to, ethanol, ethanol/saline (1:9), and dichloromethane. Other, more contemporary extraction techniques, such as analytical-scale supercritical fluid extraction, may also be useful, at least for exhaustive extraction of the

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silicone materials. Experimental evidence must be provided establishing that exhaustive extraction is achieved with one of the selected solvents, and the percent recovery, especially for the more volatile components, must be reported. The molecular weight distribution of the extract should also be provided along with the number and weight average molecular weight, and polydispersity. All experimental methodology must be described, and raw data (including instrument reports) must be provided along with all chromatographs, spectrograms, etc. The limit of detection (2X noise level) must be provided when the analyte of interest is not detected. Laboratory test methods and animal experiments used in the characterization of the physical, chemical (other than exhaustive extraction) and mechanical properties of the device should be applicable to the intended use of the device in humans. Data on the distribution and metabolic fate of amine containing components, silicone, and any other materials used in the manufacturing of the device should be supplied.

Biocompatibility testing data must be provided for all materials (cylinder, pump, reservoir, tubing, filling agents, gel, and any other materials) in the penile inflatable implant, including all color additives (ink, dyes, markings, etc.) used to fabricate the penile inflatable implant. FDA guidance on biocompatibility testing is available in the document entitled "Tripartite Biocompatibility Guidance for Medical Devices." A copy may be obtained upon request from the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Biocompatibility evaluation should follow the methodology of tests for blood contacting, long-term internal devices.

Toxicological effects (e.g., cytotoxicity, mutagenicity, suppression of the immune system, allergenicity, and reproductive and developmental toxicity) and hemocompatibility should be identified. Complete mutagenicity testing of each chemical extracted from the finished, sterilized components of the device should include the following tests: Bacterial mutagenicity, mammalian mutagenicity, DNA damage, and cell transformation assay.

Acute, subchronic, and chronic toxicity studies using the chemicals recovered by the above exhaustive extraction processes should be provided in the evaluation of the long-term biocompatibility of the device, including dose response and time to response as well as gross and histopathological findings in tissues both surrounding implants and distal to implant sites (lymph nodes, prostate, bladder, testes, liver, kidneys, lungs, etc.). Animal studies of carcinogenicity, reproductive toxicity, teratogenicity and later effects on offspring must be performed using scientifically justified test methods. These studies must include animal testing of the individual compounds extracted from the final sterilized device. In particular, a subset of these studies must test the compounds extracted from the materials of the sterilized device for estrogen-like antigonadotropic activity in an appropriate animal model using scientifically valid methods. Teratology/reproductive testing of the final sterilized device and extractables should be performed in an appropriate species using validated methods.

Pharmacokinetic/biodegradation studies of all materials contained in the finished device should be reported. Of special concern are questions regarding the ultimate fate, quantities, sites/organs of deposition, routes of excretion, and potential clinical significance of silicone shedding, retention, and migration.

Animal testing should also be conducted to study the effect of implantation upon device function and material integrity. Complete device chemical characterization and mechanical testing should be performed after devices have been implanted in an appropriate animal model for an appropriate length of time. Of special concern is the material integrity of the cylinders, reservoir, pump, tubing, joints, etc., which should be functionally tested and investigated using electron microscopy. The results of this testing should be compared to the failure rates noted in vitro testing and clinical studies in order to demonstrate that the animal model and study duration chosen are appropriate.

For the penile inflatable implant designs that contain silicone gel, the gel bleed performance of the device, as determined from the results of measurements using a standard diffusion cell maintained at a temperature simulating physiologic conditions, using stirred, physiologic saline as a receptacle medium for the bleed, must be reported. Each variation in device thickness or design must be measured to accurately determine diffusion coefficients (with appropriate time dependencies). The chemical identification of the bleed product, including, but not limited to, amine containing components, volatile and nonvolatile silicone cyclics and oligomers below a molecular weight of 1500, and molecular weight distribution, must be reported.

For designs using polyurethane elastomers, in vivo implant studies must be performed to identify and determine the bioabsorption, distribution, and elimination of the polyurethane elastomers (as well as their degradation products) in experimental animals. It is also important to identify and determine the mechanism and rate of degradation, as well as the quantity of degradation products generated by the breakdown of polyurethane elastomers after prolonged exposure under physical conditions in animals. Additionally, the agency recommends that retrospective epidemiological and prospective clinical studies be designed to assess the potential of cancer and other long-term complications related to polyurethane penile inflatable implants in humans. The agency suggests that these preclinical and epidemiological studies be conducted as a separate subset of penile inflatable implant safety studies.

In vitro testing should be conducted at the component, subassembly, and final device levels and must examine all aspects of device design, construction, and operation. This testing should also demonstrate how the device design and manufacturing processes address the failure mode and effects analysis. The failure mode and effects analysis should be provided. Copies of the original data sheets from all tests must be included in the PMA. All device failures must be completely described, and the corrective actions taken to eliminate or minimize further recurrence should also be identified.

A statistically valid number of samples of each model should be tested. If marketing approval is sought for multiple device versions, each version requires its own set of preclinical tests and results. If sample devices of each available size are not tested, it must be clearly indicated which device sizes were used for each test. The absence of testing on each size must be justified by analysis demonstrating that the results from the tested devices will accurately predict results for the untested device sizes.

The test conditions and acceptance criteria for all tests should be completely explained and justified. All tests should be performed in an environment simulating the possible range of anticipated in vivo conditions (temperatures, pressures, forces, stress, etc.), including capsular formation, where possible. All methods used to determine the condition of the device after testing, e.g., visual examination, electrical continuity, electron microscope examination, functional testing, etc., must be discussed and justified.

All data collected from in vitro and animal testing, regarding the useful lifetime or long-term reliability of the device, must be compared to data from clinical studies (prospective and/or retrospective) where the useful lifetime of the device has been determined. This comparison must validate the ability of the in vitro and animal tests to accurately predict the useful lifetime of an implanted device.

Testing should be performed on final sterilized devices exposed to accelerated aging to simulate implanted device conditions. The accelerated aging process should be completely described, and the calculations showing expected aging should be provided. In addition, all tests should be performed on devices and components sterilized under the final validated sterilization procedure.

All physical, chemical and functional properties of the device should be completely characterized and the design specifications must be adequately justified. Chemical characterization should include, where applicable, molecular weight and molecular weight distribution, cross-linked density, infrared analysis (free isocyanate content, side reaction products), and thermal analysis. The physical tests should include, but are not necessarily limited to, tensile, fatigue and shear strengths, elastic modulus of the sterilized finished device, and the tests discussed below.

Testing should include the following specific methods or their equivalents: ASTM Test Method D412 to measure ultimate elongation and total energy to rupture of the cylinders, pump, reservoir, tubing, and bulk of the finished product; ASTM Test Method D624 to determine tear and abrasion resistance of all components; applied pressure at the rate of 1 Hertz in air versus number of cycles (S/N) curve, constructed on the basis of cyclical compression testing of intact sterilized devices; and ASTM Test Method F703 (section 7.2) to test integrity of adhered or fused joints. A complete report of the cohesivity testing of the gel must also be reported for the devices containing silicone gel. The results of these tests must be compared to the energy, forces, etc., that the device will encounter in vivo.

Life testing should demonstrate that the device is sufficiently durable to withstand the demands of use while maintaining operational characteristics sufficient for intercourse throughout the expected operational lifetime of the penile inflatable implant, as stated in the physician and patient labeling. Life testing should include measurements of all component and material wear and bond strength after the device is cycled between inflated and deflated conditions. Horizontal and vertical motions of inflated and deflated devices over the expected operational lifetime of the device must also be evaluated. A discussion comparing the rate of cycling performed in each test to the approximate maximum rate of cycling of the device in vivo and to the expected longevity of the implant should be included.

Appropriate "downtimes" at predetermined cyclical intervals should be included in the life tests to evaluate relevant performance characteristics and conformance to design specifications. Material characteristics indicative of material degradation that could induce device malfunction should be completely evaluated. Cyclical testing beyond the expected longevity of the implant and recording of failure mode must also be included as part of the life tests.

Filling agent permeability from the reservoir and body of the device must be evaluated to demonstrate that fluid loss due to osmosis will be acceptable over the expected life of the penile inflatable implant.

Component-specific tests are also necessary. Reliability over the expected life of the device, proper operation, and conformance to predetermined operational specifications must be demonstrated for each component. Resistance of each component to abrasion, tears, crazing, fracture, material fatigue (including wear between each component), change of position (e.g., valve seats), and permanent deformation also must be demonstrated.

Cylinder characterization and testing should include, but not be limited to:

(1) Maximum expansion capability;

(2) Measurement of stiffness and rigidity, including resistance to buckling;

(3) Resistance to aneurysms;

(4) Confirmation of concentricity;

(5) Inflation and deflation characteristics; and

(6) Wear characteristics if a fold in the cylinder develops.

Pump characterization and testing should include, but not be limited to: Volume displaced per stroke, pressure generated per stroke, force required per pump stroke, squeeze force versus fluid displacement, fluid displacement versus pressure generated, pressure generated versus squeeze force, etc. (provided in graphic representation of data); pump efficiency; buckling characteristics; filling time and number of pump strokes required for full inflation; and objective confirmation of uniform pump discharge to both penile cylinders.

Valve characterization and testing should include, but not be limited to: Activation and deactivation pressure; pressure required for valve failure; fluid and pressure loss between each component at maximum operating pressure; and prevention of spontaneous inflation and deflation under movements and loads simulating those expected to be sustained by the implanted device in both inflated and deflated states. Long-term pressure drop of an erect device in an animal model may also be useful in demonstrating adequacy of the valve and permeability of the device.

Reservoir characteristics should be evaluated and should include, but not be limited to: Volume capacity; pressures generated over the inflation/deflation cycle; rate of maximum fluid outflow and inflow; and wear characteristics if a fold in the reservoir envelope occurs.

Tubing testing should include, but not be limited to: Tensile characteristics (with and without tubing connectors, if any); tear rupture and kink resistance; wear characteristics if a fold in the tubing develops; and ability of the tubing to remain intact under loads simulating and exceeding those expected in vivo.

Testing to demonstrate the inflation/deflation characteristics of the device should include, but not be limited to: Amount of pressure generated during inflation in the penile cylinder; amount of pressure drop (deflation) and rise (inflation) per unit time; ability to maintain the cylinder diameter; and time to deflate from a specified starting pressure equal to the fully inflated penile cylinder.

All bonds within the device and between components should undergo appropriate testing including, but not limited to, measurement of bond shear and tensile strength. Bond strength should exceed the loads expected during device handling and after implantation.

Other components of the inflatable penile implant or accessories such as tubing connectors, extension adapters, and specialized tools used during the insertion procedure should be evaluated appropriately. Testing of these components or accessories should reflect the anticipated conditions of use. For example, extension adapters and tubing connectors should be demonstrated to be able to maintain connection to the device for the expected life of the device.

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C. Clinical Data

Valid scientific evidence, as defined in 21 CFR 860.7, should include information from well-controlled clinical studies, with statistically justified sample size and detailed long-term followup, in order to provide reasonable assurance of the safety and effectiveness of the penile inflatable implant. Detailed protocols for the clinical trials, with explicit patient inclusion/exclusion criteria and a well-defined followup schedule, should be specified. FDA believes that 5-year followup data are necessary in order to characterize the safety and effectiveness of the device over its expected lifetime; however, appropriately justified alternate followup schedules will be considered. Any deviations from the protocol should be stated and justified. Time course presentations of patient/partner satisfaction with and psychological benefit from the implantation of this device, as well as information on the anatomical and physiological effects of the penile inflatable implant (including all adverse events), should be provided. Full patient accounting should be reported, including: (1) Theoretical followup (the number of patients that would have been examined if all patients were examined according to their followup schedules); (2) patients lost to followup, including the measures taken to minimize such events (with all information obtained on patients lost to followup); (3) time course of revisions, including all explant and repair data; and (4) time course of deaths (stating the cause of death, including the reports from any postmortem examinations). As part of this patient accounting, each clinical report should clearly state the date that the data base was closed to the addition of new information. Detailed patient demographic analyses and characterizations should be presented, and should show that the patients enrolled in the study are representative of the population for whom the device is intended.

A statistical demonstration, based on the number of patients who complete the required study period, should show that the sample size of the clinical study is adequate to provide accurate measures of the safety and effectiveness of this device. The statistical demonstration should identify the effect criteria, reasonable levels for Type I (alpha) and Type II (beta) errors, and anticipated variances of the response variables. The statistical demonstration should also provide any assumptions or statistical formulas with copies of any references used and all calculations made. A complete description of all patient randomization techniques used, and how these techniques were employed to exclude potential sources of bias, should be provided. Statistical justifications for pooling across several variables such as the etiology and duration of impotence, anatomical abnormalities of the genitalia, the number and type of treatments (if any) attempted to restore potency prior to device implantation, device usage (initial implantation versus revision), the frequency of device use postimplantation, degree of manual dexterity, investigational site, surgeon experience and technique, and incision site should be provided. The data collected and reported should include all possible relevant variables in order to permit stratification and analysis of the study data. This is necessary in order to evaluate the risk/benefit ratio for each unique subpopulation of patients.

Appropriate control/comparison groups should be included and justified and, if not, their absence must be justified. All hypotheses to be tested must be clearly stated. Appropriate statistical techniques must be employed to test these hypotheses and support claims of safety and effectiveness. For each relevant subgroup, a sufficient number of patients need to be followed for a sufficient length of time to adequately support all claims (explicit and implied) in any PMA submission.

To evaluate the risks to the patient from the penile inflatable implant, such studies should include time course presentations of clinical data demonstrating the presence or absence of device leakage, tube bending/kinking or disconnection, cylinder aneurysm or rupture, valve failure, spontaneous inflation/deflation, component migration, extrusion, skin erosion, infection, iatrogenic injury, hematoma, excessive fibrous capsular growth, pain, sensory loss, patient dissatisfaction leading to surgical removal, or any other device malfunction or adverse health event, including any effects on the immune system (both local to the device and systemic) and the reproductive system, without regard to the device relatedness of the event. The diagnostic criteria for each type of immunological and allergic phenomenon should be defined at the beginning of the study, and all cases should be well documented utilizing these criteria. Patients must be regularly monitored for the occurrence of such adverse events for a minimum of 5 years postimplantation.

FDA recognizes that the primary benefit of the penile inflatable implant is the restoration of penile erectile function. The effectiveness of the device can probably be measured by assessing: (1) The ability of the device in vivo to provide adequate rigidity (as well as length/girth enhancement, if such claims are made) to the penis to permit coitus; (2) the degree of maintenance or enhancement of a male's psychological well-being postimplantation; (3) partner satisfaction with the device; and (4) the enhancement of the male's ability to conceive naturally, as a result of the improved intromission provided by the implant (provided that the patient's semen quality was sufficient for conception prior to implantation); all of which can be balanced against any risk of illness or injury from the use of the device. FDA understands that evaluation of the degree of benefit involves, in part, an assessment of patient satisfaction and psychological well-being, particularly in light of the function of the device. Such evaluation includes subjective factors, relates to patient expectations, and may be transient in nature. Device effectiveness is also dependent upon the degree of partner satisfaction with the implant's performance, since partner satisfaction can directly relate to the patient's own self image. Assessments of enhanced fertility and penile rigidity, length, and girth postimplantation, on the other hand, should provide some objective measure of device effectiveness.

The evaluation parameters for this portion of the clinical study should be structured for an objective and standardized recording/measurement of: (1) The psychological benefit of the device to the implant recipient (as well as to his sexual partner), including any improvement in quality of life; (2) the quality of the erection provided by the implant; and (3) any increase in the rate of conception (in those patients interested in future fertility). The primary requirements for an acceptable scientific documentation of psychological benefits of the device (to both the implant recipient and his partner) are the use of (1) prospective research designs, including pre and postsurgical repeated measures; (2) appropriate control/comparison groups; and (3) standardized test questions rather than informal, yet-validated questionnaires. Any questionnaire utilized in the documentation of the psychological consequences of penile inflatable implants must be shown to provide a scientifically valid measure of the psychological effects of impotency upon males and their partners. Documentation of these psychological consequences shall include (1) presurgical baseline assessment of psychological status, including measures of the perceived loss that these subjects experience and their expectations for improvement with the device; (2) postsurgical followup of any changes in psychological status for at least 5 years; (3) statistical comparison of postsurgical psychological test scores with presurgical test scores within the group of treated patients; (4) statistical comparison of psychological test scores of treated patients with untreated control patients at all pre and postsurgical assessment intervals; and (5) correlation of the psychological data with the physical outcomes of the implant procedure.

Documentation of the anatomical and physiologic outcomes of implantation of a penile inflatable implant shall include:

(1) Regular postsurgical evaluations of the inflation, dimensional, rigidity/stiffness, and deflation characteristics of the device for at least 5 years postimplantation; and

(2) Patient/partner assessments of the mechanical function of the implant (such as ease of inflation, quality of the erection, ability of the device to operate and function reliably, etc.) during this followup period (which may be influenced by the manual dexterity of the patient and/or partner).

Documentation of the effect of the penile inflatable implant upon the fertility of the male shall include:

(1) An assessment of the conception rate among those implant recipients who are interested in future fertility; and

(2) Comparison of this rate to either the conception rate of this patient cohort prior to receiving the implant, or to the rate of conception in an appropriate control population.

Any PMA for the penile inflatable implant should separately analyze the degree of device safety and efficacy by the following variables: (1) Etiology of erectile dysfunction; (2) frequency of device usage postimplantation; and (3) degree of sexual therapy provided to the subject postoperatively. Furthermore, for each explantation procedure performed on the study subjects, the following information must be provided: (1) The mode of failure of the removed device; (2) whether or not the explanted device was replaced with a new device; and (3) either the manufacturer, type, and model of the new device (if another penile implant was implanted), or the type of treatment (if any) that the patient received for his impotence (if revision surgery was not performed). Additionally, the effect of the presence of these implants upon future medical diagnoses/treatments involving the lower pelvic region in recipients of penile inflatable implants must be analyzed. Furthermore, any accessories that are sold with the penile inflatable implant (such as corporal dilators, suturing tools, etc.) must be shown to have been effectively used in implant procedures without adverse effects. Finally, each clinical investigation should validate the physician and patient instructions for use (labeling) that were utilized.

For polyurethane elastomer implants, the following additional information needs to be presented:

(1) The kinetics of the end products formation generated from the degradation of the polyurethane material (in vivo); and

(2) The neoplasticity of the material, as well as its general toxicity, including neurological, physiological, biochemical, and hematological effects, as well as pathology following prolonged and repeated exposure to polyurethane penile inflatable implants.

Any epidemiological studies submitted should contain enough subjects to permit detection of a small but significant increase in one or more connective tissue diseases (especially scleroderma) that may be associated with the use of the device.

The agency believes that insufficient time has elapsed to permit a direct evaluation of the risks of cancer and immune related connective tissue disorders posed by the presence of silicone in the human body and that insufficient epidemiological and experimental animal data are available to make a reasonable and fair judgment of these risks. Therefore, the agency will require long-term postapproval followup for any penile inflatable implant permitted to continue in commercial distribution. Well-designed clinical prospective studies with long-term followup together with experimental animal studies will be considered essential to the determination of the safety and effectiveness of the device. Further, these clinical studies must collect long-term data on the reproductive/teratogenic effects of the device as well as on the later effects on offspring.

The risk/benefit assessment (as with the entire PMA) must rely on valid scientific evidence as defined in 21 CFR 860.7(c)(2) from well-controlled studies as described in 21 CFR 860.7(f) in order to provide reasonable assurance of the safety and effectiveness of the penile inflatable implant in the treatment of erectile dysfunction in the male.

D. Labeling

Copies of all proposed labeling for the device, including any information, literature, or advertising that constitutes labeling under section 201(m) of the act (21 U.S.C. 321(m)), should be provided. The general labeling requirements for medical devices are contained in 21 CFR part 801. These regulations specify the minimum requirements for all devices. Additional guidance regarding device labeling can be obtained from FDA's publication "Labeling: Regulatory Requirements for Medical Devices," and from the Office of Device Evaluation's "Device Labeling Guidance"; both documents are available upon request from the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Highlighted below is additional guidance for some of the specific labeling requirements for penile inflatable implants.

The intended use statement should include the specific indications for use and identification of the target populations. Specific indications and target populations must be completely supported by the clinical data described above. For example, it may be necessary to restrict the intended use to patients who have failed prior less invasive therapies and/or to patients with specific etiologies of impotence in whom safety and effectiveness have been demonstrated.

The directions for use should contain comprehensive instructions regarding the preoperative, perioperative and postoperative procedures to be followed. This information includes, but is not necessarily limited to: (1) A description of any preimplant training necessary for the surgical team; (2) a description of how to prepare the patient (e.g., prophylactic antibiotics), operating room (e.g., what supplies must be on hand), and penile inflatable implant (e.g., handling instructions, resterilization instructions) for device implantation; (3) instructions for implantation, including surgical approach, sizing, fluid adjustment (including what filling solutions may be used and how they must be prepared), device handling, and intraoperative test procedures to ensure implant functionality and proper placement; and (4) instructions for followup, including whether antibiotic prophylaxis is recommended during the postimplant period and/or during any subsequent dental or other surgical procedures, how to determine when patients are ready to attempt intercourse and begin periodic

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activation, and how to evaluate, and how often to evaluate, proper functionality and placement. The directions should instruct caregivers to specifically question patients prior to surgery for any history of allergic reaction to any of the device materials or filling agents. Troubleshooting procedures should be completely described. The directions for use should incorporate the clinical experience with the implant, and should be consistent with those provided in other company-provided labeling.

The labeling should include both implant and explant forms to allow the sponsor to adequately monitor device experience. The explant form should allow collection of all relevant data, including the reason for the explant, any complications experienced and their resolution, and any action planned (e.g., replacement with another implant).

Patient labeling must be provided which includes the information needed to give prospective patients realistic expectations of the benefits and risks of device implantation. Such information should be written and formatted so as to be easily read and understood by most patients and should be provided to patients prior to scheduling implantation, so that each patient has sufficient time to review the information and discuss it with his physician(s) and sexual partner. Technical terms should be kept to a minimum and should be defined if they must be used. Patient information labeling should not exceed the seventh grade reading comprehension level.

The patient labeling should provide the patient with the following information: (1) The indications for use and relevant contraindications, warnings, precautions and adverse effects/complications should be described using terminology well known and understood by the average layman; (2) the anticipated benefits and risks associated with the device must be provided to give patients realistic expectations of device performance and potential complications. The known, suspected and potential risks of device implantation should be identified and the consequences, including possible methods of resolution, should be described. The patient should be advised that penile length and/or width reductions may occur, and that any latent erectile capability will be impaired by implantation of a penile inflatable implant; (3) alternatives available to the use of the device, including less invasive treatments, should be identified, along with a description of the associated benefits and risks of each. The patient should be advised to contact his physician for more information on which of these alternatives might be appropriate given his specific condition; (4) instructions for how to use the device must be provided to the patient. This information should include the expected length of recovery from surgery and when to resume intercourse following implantation, whether and how often the device should be periodically inflated (if applicable), warnings against certain actions (e.g., repeated flexing) that could damage the device, how to identify conditions that require physician intervention, who to contact if questions arise, and other relevant information; (5) the fact that the implant should not be considered a "lifetime" implant must be emphasized. Where possible, the patient labeling should provide information on the approximate number of revisions necessary for the average patient, and indicate the average longevity of each implant so that patients are fully aware that additional surgery for device modification, replacement, or removal may be necessary. This information must be supported by the clinical experience (i.e., not merely bench studies) with the implant or by published reports of experience with similar devices.

The physician's labeling should instruct the urologist or implanting surgeon to provide the implant candidate with the patient labeling prior to surgery to allow each patient sufficient time to review and discuss this information with his physician(s) and sexual partner.

The adequacy and appropriateness of the instructions for use provided to physicians and patients should be verified as part of the clinical investigations.

Applicants should submit any PMA in accordance with FDA's "Premarket Approval (PMA) Manual." The manual is available upon request from the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

III. Request for Comments With Data

FDA is providing a 60-day period for interested persons to submit to the Dockets Management Branch (address above) written comments regarding this proposal and its findings. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Comments are encouraged to discuss all aspects of the proposed findings regarding the:

(1) Degree of risk, illness, or injury associated with the use of the penile inflatable implant;

(2) Laboratory, animal, and human studies required in a PMA for the device in order to assess its safety and effectiveness;

(3) Feasibility of these studies within the time permitted by the act, etc.; and

(4) Benefits to the public from the use of the device.

The comments must discuss in detail, for example, the reasons why important new information on the safety and effectiveness of the device could not feasibly be submitted within the time permitted, or why animal studies may not be available to assess long-term effects such as connective tissue disorders, or that carefully designed epidemiological studies may not be available to evaluate the long-term silicone related illnesses, etc.

The Center for Devices and Radiological Health staff are available to provide guidance to manufacturers on any proposed laboratory, animal, or epidemiological studies needed in a PMA.

IV. Opportunity To Request a Change in Classification

Before requiring the filing of a PMA or notice of completion of a PDP for a device, FDA is required by section 515(b)(2)(A)(i) through (b)(2)(A)(iv) of the act and 21 CFR 860.132 to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. Any proceeding to reclassify the device will be under the authority of section 513(e) of the act.

A request for a change in the classification of the penile inflatable implant is to be in the form of a reclassification petition containing the information required by § 860.123 (21 CFR 860.123), including new information relevant to the classification of the device, and shall, under section 515(b)(2)(B) of the act, be submitted by May 13, 1993.

The agency advises that to assure timely filing of any such petition, any request should be submitted to the Dockets Management Branch (address above) and not to the address provided in § 860.123(b)(1). If a timely request for a change in the classification of the penile inflatable implant is submitted, the agency will, by June 28, 1993, after consultation with the appropriate FDA advisory committee and by an order published in the **Federal Register**, either deny the request or give notice of its intent to initiate a change in the classification of the device in accordance with section 513(e) of the act and 21 CFR 860.130.

V. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

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VI. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Economic Impact

FDA has examined the economic consequences of this proposed rule in accordance with the criteria in section 1(b) of Executive Order 12291 and finds that this proposal would not be a major rule as specified in the Order. The agency believes that only a small number of firms will be affected by this proposed rule, and the agency certifies under the Regulatory Flexibility Act (Pub. L. 96–354) that the proposed rule will not have a significant economic impact on a substantial number of small entities. An assessment of the economic impact of any final rule based on this proposal has been placed on file in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

VIII. Comments

Interested persons may, on or before June 28, 1993, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Interested persons may, on or before May 13, 1993, submit to the Dockets Management Branch a written request to change the classification of the penile inflatable implant. Two copies of any requests are to be submitted, except that individuals may submit one copy. Comments or requests are to be identified with the docket number found in brackets in the heading of this document. Received comments and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Comments are encouraged to discuss all aspects of the proposed findings and the recommended PMA Contents.

List of Subjects in 21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 876 be amended as follows:

PART 876—GASTROENTEROLOGY-UROLOGY DEVICES

1. The authority citation for 21 CFR part 876 is revised to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 522, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 3601, 371).

2. Section 876.3350 is amended by revising paragraph (c) to read as follows:

§ 876.3350 Penile inflatable implant.

* * * * * *

(c) *Date PMA or notice of completion of a PDP is required.* A PMA or notice of completion of a PDP is required to be filed with FDA on or before (insert date 90 days after the effective date of a final rule based on this proposed rule), for any penile inflatable implant that was in commercial distribution before May 28, 1976, or that has on or before (insert date 90 days after the effective date of a final rule based on this proposed rule), been found to be substantially equivalent to the penile inflatable implant that was in commercial distribution before May 28, 1976. Any other penile inflatable implant shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: April 21, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–9845 Filed 4–27–93; 8:45 am]

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Part III

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Food and Drug Administration

21 CFR 312 et al.
Retention of Bioavailability and Bioequivalence Testing Samples; Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 312, 314, and 320

[Docket No. 89N-0367]

RIN 0905-AC94

Retention of Bioavailability and Bioequivalence Testing Samples

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing final regulations to amend its current bioavailability/bioequivalence regulations to require the retention for a specified period of reserve samples of the drug products used to conduct certain bioavailability or bioequivalence studies submitted in support of the approval of new drug applications (NDA's) and abbreviated new drug applications (ANDA's), and when specifically requested, to release the reserve samples to FDA. The requirement applies to manufacturers who conduct in-house bioavailability and bioequivalence testing and to testing facilities who conduct such testing under contract for a drug manufacturer. The requirement also applies to foreign manufacturers who conduct their own studies for new drug product approval and to foreign testing facilities under contract for a U.S. manufacturer or foreign manufacturer. This action is intended to help ensure bioequivalence between generic drugs and their brand-name counterparts and to help the agency investigate more fully instances of possible fraud in bioavailability and bioequivalence testing. This final rule adopts the interim rule published in the **Federal Register** of November 8, 1990, with minor changes based on comments the agency received on the interim rule.

DATES: Effective May 28, 1993. Submit information on the Economic Impact section of this document (section III.) by May 28, 1993.

ADDRESSES: Submit information on the Economic Impact section of this document to the Dockets Management Branch (HFA-305) Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Watson, Center for Drug Evaluation and Research (HFD-360), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8038.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 8, 1990 (55 FR 47034), FDA published interim regulations to require the retention for a specified period of reserve samples of the drug products used to conduct bioavailability or bioequivalence studies of drug products, and when specifically requested, to release the reserve samples to FDA. The interim regulations were effective on the date of publication. FDA provided 60 days for public comment. The final rule incorporates all of the main provisions of the interim rule; the agency has made a number of minor clarifying changes in response to the comments received on the interim rule.

Highlights of the final rule are summarized below, followed by a summary and discussion of the comments.

I. Highlights of the Final Rule

In the November 8, 1990, interim rule, the agency codified requirements regarding the retention of bioavailability and bioequivalence testing samples as part of the bioavailability/bioequivalence regulations existing at that time by adding §§ 320.32 and 320.63 (21 CFR 320.32 and 320.63), and by adding conforming amendments to § 320.31 (21 CFR 320.31) and to FDA's investigational new drug application (IND) and NDA regulations, new §§ 312.57(c), 314.125(b)(17), and 314.150(b)(9) (21 CFR 312.57(c), 314.125(b)(17), and 314.150(b)(9)). The purpose of these new requirements is to make available to FDA reserve samples of tested products for analysis to ensure that the bioequivalence and bioavailability results upon which FDA bases approval of NDA's and ANDA's are reliable. The rule also permits the agency the discretion to refuse to approve and to withdraw approval of an application if an applicant or testing laboratory refuses to permit an inspection of the facilities or records relevant to a bioavailability or bioequivalence study or to release to FDA reserve samples when requested.

In the **Federal Register** of July 10, 1989 (54 FR 28872 at 28911), FDA proposed changes in the regulations in existing 21 CFR part 320. Those proposed changes would, among other things, remove subpart C and those regulations that apply to establishing a bioequivalence requirement, move to subpart B the remaining regulations under existing subpart C, and where appropriate, combine the remaining regulations with the existing subpart B regulations. In the **Federal Register** of April 28, 1992 (57 FR 17950 at 17997), the proposed new subpart B structure was issued as a final rule. The agency is now conforming this rule to the new subpart B structure.

A. Scope

The final rule applies to domestic and foreign sponsors and applicants (hereinafter called a study sponsor) who perform in-house bioavailability or bioequivalence testing for new drug product approval under an NDA, ANDA, or supplemental application and to any domestic and foreign testing facility that performs such bioavailability or bioequivalence testing under contract (contract research organization) for a study sponsor.

B. Sample Retention Requirement

A study sponsor or contract research organization, whoever performs bioavailability or bioequivalence testing for new drug product approval, must retain a reserve sample of each test article and reference standard used to perform in vivo bioavailability or in vivo or in vitro bioequivalence studies that is representative of each batch of the test article and of the reference standard provided by the study sponsor for the testing. The final rule clarifies the types of in vivo bioavailability and bioequivalence studies for which reserve samples are to be retained. The study sponsor or contract research organization will retain a sufficient quantity of each reserve sample of the test article and of the reference standard to permit FDA to perform five times all of the release tests required in the NDA, ANDA, or supplemental application. In addition, each reserve sample is required to be: (1) Adequately identified so that it can be positively identified as having come from the same sample as used in the specific bioavailability or bioequivalence study, (2) stored under specified conditions, and (3) retained for a specified period. An ambiguity in the interim rule regarding storage conditions has been clarified to accurately reflect the agency's intent. In addition, the final rule also includes a provision for the transfer of reserve samples when a contract research organization goes out of business.

C. Collection of Samples

Ordinarily, the reserve samples, or a portion of the reserve samples, will be collected by an FDA investigator at the place of storage during a preapproval inspection of the facilities involved in manufacturing the test article and of any contract testing facility that conducts bioavailability or bioequivalence testing for the study sponsor. Where FDA has reason to believe fraud was involved in performing a bioavailability or bioequivalence study that was conducted by a foreign testing facility, the facility may be asked to consent to FDA inspection or to submit to FDA reserve samples of the products used in the study.

Because access to test samples and related records may be essential to assess the validity and reliability of the results of a required bioavailability or bioequivalence study, the final rule, like the interim rule, adds as a reason for refusing to approve an application and as a circumstance under which FDA has discretion to withdraw approval of an application, refusal to permit an inspection of the facilities or records relevant to a bioavailability or bioequivalence study contained in an application or to submit or release reserve samples when requested by the agency.

II. Comments

FDA received 27 comments on the interim rule. The comments came from pharmaceutical manufacturers, trade associations, a professional group, and contract testing facilities. Most of the comments raised questions or concerns about the reserve sample retention period, quantity of the samples to be retained, and storage requirements for the samples. Several comments requested clarification of the types of in vivo bioavailability studies for which test samples would have to be retained under the new rule. Comments also were received in response to the agency's questions about whether additional requirements were necessary to ensure that the integrity of the reserve samples is not compromised during the retention period.

A. Definition of an "NDA Biobatch" and an "ANDA Biobatch"

1. A number of comments requested clarification of the types of bioavailability studies from which test samples would have to be retained. The comments asked whether the many types of clinical pharmacology, pharmacokinetic, and pharmacodynamic studies in which blood samples are routinely collected for analysis would be considered bioavailability studies for purposes of this rule. Some of the comments suggested that reserve samples be retained only from studies which define the absolute or relative bioavailability of a new drug and studies necessary to demonstrate the bioequivalence of a new formulation to that which was previously studied in clinical trials.

One comment asserted that sample retention should be limited to the lot of test and reference formulations used in the pivotal bioequivalence study. The comment stated that, in the case of an NDA, this would be the lot of the product used in the study or studies conducted to demonstrate equivalence between the investigational formulation(s) and the formulation proposed for marketing. For an ANDA or supplemental application, this would be the study conducted to demonstrate equivalence between the currently marketed form and that proposed for marketing.

Two comments asked whether reserve samples should be kept for all in vivo "biostudies," whether or not the studies were submitted in support of the approval of an application or only for those studies required for approval of an application. The comments' question was based on a perceived conflict between the language of the interim rule at § 320.32(a) (requires retention of samples used in an in vivo bioavailability study "required for approval of the application or supplemental application"), §§ 312.57(c) and 320.31(d)(1) (requires sponsors of all IND's for "biostudies" and persons conducting such studies under an exemption from the IND requirements to retain samples of the products tested, "in accordance with * * * § 320.32"), and § 320.63 (retention of samples is required for products used in an in vivo or in vitro bioequivalence study "required for approval of, or submitted in support of the approval of, the full or abbreviated application or supplemental application * * * in accordance with * * * § 320.32." The comments further asked whether the requirements apply to in vitro studies, noting that § 320.63 refers to sample retention for certain in vitro studies in accordance with § 320.32, but § 320.32 does not apply to in vitro studies.

The agency's Compliance Program 7346.832 [1] defines "NDA biobatches" as those NDA batches comparing the product planned for marketing with that studied during clinical trials to establish their equivalence. Generic product biobatches are ANDA batches that are compared to the originator/reference product to establish their equivalence. (See Compliance Program 7346.832, Part III, page 2, footnote 2.) Consistent with these definitions, the final rule applies to the following types of bioavailability/bioequivalence studies:

a. *NDA.* (i) If the formulation of the applicant's proposed drug product (test article) is the same as the formulation(s) used in the pivotal clinical studies, the applicant would retain a reserve sample from the batch of the test article used to conduct an in vivo bioavailability study comparing the test article to a reference oral solution, suspension, or injection. A reserve sample of the reference standard (oral solution, suspension, or injection), which is usually made up when needed for a study, would not be retained. If the bioavailability study needs to be repeated, the reference standard would be prepared at the time of the study. For purposes of this rule, pivotal clinical studies are those adequate and well-controlled studies necessary to establish the safety and effectiveness of the test article for its claimed indications.

(ii) If the formulation of the test article differs from the formulation(s) used in conducting the pivotal clinical studies, the applicant would retain a reserve sample of the test article and of the reference standard from the batches used to conduct an in vivo bioequivalence study comparing the test article to the formulation(s) (reference standard) used in the pivotal clinical studies.

(iii) For a new formulation, new dosage form, or a new salt or ester of an active drug ingredient or therapeutic moiety that has been approved for marketing, a reserve sample of the test article and of the reference standard would be retained from the batches used to conduct an in vivo bioequivalence study comparing the test article to a marketed product (reference standard) that contains the same active drug ingredient or therapeutic moiety.

For an NDA, test article means the drug product for which the applicant is seeking approval. Reference standard has the same meaning as the term reference material in § 320.25.

b. *ANDA.* Reserve samples of the test article and reference standard would be retained from those batches used to conduct an in vivo bioavailability or an in vitro study comparing the test article to the approved drug product upon which the applicant relies for approval of its proposed product to establish their equivalence.

For an ANDA, test article means the drug product for which the applicant is seeking approval. Reference standard means an approved drug product identified by FDA as the drug product upon which an applicant relies in seeking approval of its ANDA and is usually the innovator product.

The agency has revised the final rule at §§ 312.57(c) and 320.38 (§ 320.32 in the interim rule) to clarify the in vivo bioavailability studies from which reserve samples are to be retained. With

[1] Compliance Program 7346.832 is available at cost from the Freedom of Information Staff (HFI-35), Food and Drug Administration, rm. 12A-30, 5600 Fishers Lane, Rockville, MD 20857.

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respect to the reference to in vitro studies in § 320.63, but not in § 320.32 of the interim rule, FDA included the two new sections such that they would conform to the then existing structure of 21 CFR part 320. Former subpart B of part 320 addressed procedures for determining the in vivo bioavailability of drug products whereas former subpart C of part 320 addressed bioequivalence requirements, which may be an in vivo or an in vitro test. Section 505(j) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(j)) requires that an ANDA include information to show that the drug product for which the applicant is seeking approval is bioequivalent to the approved drug product upon which the applicant relies in seeking approval of its abbreviated application. Bioequivalence may be demonstrated by in vivo or in vitro bioequivalence methods as determined by the agency. Thus, the reference to an in vitro study in § 320.63 was necessary to accommodate ANDA's submitted under section 505(j) of the act. Because the rule applies to bioavailability and bioequivalence studies required for approval of an NDA and an ANDA, § 320.63 has been revised to delete the wording "or submitted in support of the approval of." Section 320.63 also has been revised to remove the reference to a full application which is covered by § 320.38.

Section 320.31 exempts from the requirements of part 312 many bioequivalence and bioavailability studies. The interim rule added as a condition for such an exemption that the sponsor, or any contract research organization to whom the sponsor delegates responsibility to conduct a bioequivalence or bioavailability study, retain reserve samples of the test article and reference standard and release them upon request to FDA (55 FR 47034 at 47036 and 47038). In finalizing the new subpart B structure of 21 CFR part 320, FDA inadvertently omitted this provision. Therefore, FDA has revised § 320.31 to retain the requirements set forth in the interim rule and to clarify the in vivo bioavailability studies from which reserve samples are to be retained.

2. One comment requested that the regulations at §§ 314.125(b)(17) and 320.63 be revised to clarify that the regulations apply only to a pivotal bioequivalence study. The comment also asserted that § 320.32 (§ 320.38 in this final rule) be deleted because a "pivotal" bioavailability study is technically a bioequivalence study and retention of samples from this study is discussed in § 320.63.

The agency agrees with the comment regarding § 314.125(b)(17) and has revised the final rule accordingly. The agency's conclusions on the types of bioavailability and bioequivalence studies for which the requirements apply and its revisions to §§ 320.38 and 320.63 are discussed in section II.A.1.

3. One comment suggested that, in the case of multiple "biostudies" usually conducted in sequence for a single NDA or ANDA (i.e., a sustained release product) using the same lot of a product, the regulations specify that one supply of retention samples be provided to the testing facility in sufficient quantity for all studies. The comment also asked whether, if additional supplies of the product are needed, the full amount of retention samples also must be supplied again.

FDA believes that the comment misunderstood the interim rule with respect to how the reserve sample is obtained by a contract testing facility. If bioavailability or bioequivalence testing is performed under contract, the study sponsor provides the testing facility with a supply of the test article and of the reference standard sufficient for the testing facility to conduct the study or studies and to remove a portion of the test article and of the reference standard for retention as reserve samples. FDA did not intend that the study sponsor separate out the reserve samples of the test article and reference standard prior to sending the batches to the testing facility. This is to ensure that the reserve samples in fact are representative of the same batches provided by the study sponsor for the testing.

The study sponsor should provide to the testing facility batches of the test product and of the reference standard packaged such that the reserve samples can be randomly selected to ensure that they are in fact representative of the batches provided by the study sponsor and that they are retained in the study sponsor's original container. Because a study sponsor may provide a testing facility with a variety of container sizes and packaging, FDA intends to be flexible in applying the representativeness requirement. For example, the following random sampling techniques should be used by the testing facility for the container size and packaging described:

a. If a single container of the test article and of the reference standard is provided to the testing facility, the testing facility should remove a quantity of the test article and of the reference standard from their respective container sufficient to conduct the study; the remainder of each container would be retained as the reserve sample in the original container.

b. If multiple containers of the test article and of the reference standard are provided to the testing facility, the testing facility should randomly select enough containers of the test article and of the reference standard to conduct the study; the remaining containers of the test article and of the reference standard would be retained as the reserve sample in the original containers.

c. If the test article and reference standard are provided to the testing facility in unit dose packaging, the testing facility should randomly select a quantity of unit doses of the test article and of the reference standard sufficient to conduct the study; the remaining unit doses of the test article and of the reference standard would be retained as the reserve samples in the original unit dose packaging. Providing the test article and reference standard in unit dose packaging for conducting the study and in bulk containers for all of the reserve samples would not be acceptable because it prevents the testing facility from randomly selecting the reserve samples. However, as an alternative for the reserve samples, the study sponsor may provide the testing facility with a quantity of unit doses of the test article and of the reference standard equal to at least 24 dose units and the remaining quantity sufficient to retain the "five times quantity" in bulk containers.

d. If the study is to be blinded and the test article and reference standard are provided to the testing facility in unit dose packaging, with each unit dose labeled with a randomization code, the study sponsor must provide the testing facility with a labeled set of the test article and reference standard sufficient to conduct the study and with additional, identically labeled sets sufficient to retain the "five times quantity." The testing facility should randomly select a labeled set to conduct the study; the remaining labeled sets would be retained in their unit dose packaging as the reserve samples. For a blinded study, the study sponsor should also provide to the testing facility a sealed code for use by FDA should it be necessary to break the code.

If the same batches of the test article and of the reference standard initially provided to the testing facility are used in performing more than one study, only one reserve sample of the test article and reference standard in sufficient quantity need be retained. The reserve samples must be identified as having come from the same batches as used in each specific study. However, if additional supplies of the test article and of the reference standard are needed by a testing facility for performing additional studies, the testing facility must retain the required reserve samples from the subsequent shipment regardless of whether the shipment is from the same batch as that previously provided to the testing facility. This is to ensure that the reserve samples are, in fact, representative of the batch provided by the study sponsor to the testing facility.

4. One comment stated that FDA may request additional "biostudies" after submission of an ANDA and a firm may want to use the same lot of test and reference products as was used in conducting the original study. The comment argued that under the strict retention sample requirement, the firm could not conduct these biostudies without depletion of the retention samples.

In the situation described by the comment, the study sponsor would need to use a different batch of the test and reference products to conduct additional studies if supplies of the batches used to conduct the original studies are depleted. The regulations do not permit a study sponsor or contract research organization to use its reserve samples to conduct the additional studies.

5. Several comments requested clarification of the regulations about who is responsible for reserve sample retention. One comment argued that the logical responsible party for long-term retention of samples should be the applicant because the applicant is responsible for the manufacture, packaging, testing, and release of the sample of the test article and minimally the packaging, identification testing, and release of the reference standard. The comment stated that it is not practical to sufficiently control the conditions of storage, sample stability, and sample retention at a contract facility after the completion of a study. One comment argued that some outside testing facilities such as universities, hospitals, and clinics do not have the space or proper environment to hold the reserve samples at all or to hold them at the study location, and many do not have the authority to hold certain reserve samples such as controlled substances. Another comment suggested that the regulations provide for the use of independent, third party organizations for the storage of reserve samples. Still another comment stated that the applicant should have the option of storing reserve samples at a company facility rather than at a contract laboratory.

The agency reaffirms that reserve sample retention is the responsibility of the entity performing the bioavailability or bioequivalence study. If the study sponsor performs the study, it is responsible for reserve sample retention for that study; if a study is performed under contract, the contract research organization retains the reserve samples. The purpose of this requirement is to eliminate the possibility for sample substitution by the study sponsor or to preclude a study sponsor from altering a reserve sample from a study conducted by a contract research organization prior to release of the reserve sample to FDA. In several instances, FDA has found that a study sponsor provided the contract testing facility with disguised innovators' products rather than its own proposed product as the test product in certain bioequivalence studies. The reserve samples collected by FDA must have come from the batches provided by the study sponsor to the testing facility for performing a bioavailability or bioequivalence study.

The agency advises that a contract research organization may contract with an independent, third party to provide storage for reserve samples if the contract research organization does not have facilities to store the samples under conditions consistent with product labeling. In this situation, the contract research organization shall provide to the study sponsor, for submission in the bioavailability or bioequivalence study data, the name and address of the facility at which the reserve samples will be stored. A new paragraph (h) is added to § 320.38 to include this provision. The agency notes that hospitals and clinics may wish to consider using their pharmacies for storage of the reserve samples.

With respect to retention of reserve samples that are controlled substances, the burden is on the person who is responsible for retaining the samples to comply with all applicable requirements of the Controlled Substances Act (21 U.S.C. 801) and its implementing regulations.

6. One comment asked who had responsibility for reserve sample retention when a contract research organization administers the drug and collects biological samples, but the biological samples are then returned to the applicant for analysis.

For purposes of this regulation, the agency would consider the contract research organization to have conducted the study and to be responsible for retaining the reserve samples. Similarly, if one contract research organization administers the drug and another contract research organization performs an analysis of the biological samples, the contract research organization that administers the drug would retain the reserve samples.

B. Reserve Sample Retention Period

7. Numerous comments addressed the length of the sample retention period. The interim rule requires that reserve samples be retained for a period of at least 5 years following the date on which the application or supplemental application is approved, or, if such application or supplemental application is not approved, at least 5 years following the date of completion of a bioavailability or bioequivalence study. The interim rule specifically requested comment on the appropriateness of the retention period.

Most of the comments expressed concern that most reserve samples would not exhibit the stability necessary to maintain strength, quality, and purity over such a prolonged period of time, and, therefore, there could be no guarantee that the samples would be appropriate for evaluation by FDA as intended by the interim rule. Requiring special storage conditions, e.g., refrigeration or dehumidification, to prolong a product's stability beyond its normal shelf life would result in a significant expenditure to the applicant or contract research organization responsible for sample retention. Some comments noted that the 5-year period only begins when the application is approved and, in terms of real time, this could be 6 to 8 years for a generic drug product and 7 to 12 years for a new chemical entity. One comment suggested 3 years rather than 5 years as an appropriate retention period; another comment suggested 2 years past submission of an application or supplement, or until the application is approved, whichever occurs first. One comment suggested that FDA make the sample retention period consistent with the good laboratory practice regulations in 21 CFR 58.195(b) and (c). Another comment suggested a retention period of 5 years from the date the bioavailability or bioequivalence study was completed, arguing that NDA and ANDA approval dates are not routinely communicated to a contract testing facility due to potential conflicts of interest.

The 5-year reserve sample retention period is intended to permit flexibility by FDA in its collection and testing of retention samples. Ordinarily, the reserve samples, or a portion of the reserve samples, will be collected by FDA personnel directly from the study sponsor or contract research organization at the storage site during a

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preapproval inspection. FDA's priorities for preapproval inspection and sample collection include narrow therapeutic range drugs, new chemical entities, and generic versions of the 200 most prescribed drugs. For drug products not represented in one of these priority categories, a preapproval inspection would be triggered when the applicant's manufacturing facility is new or has not been recently inspected, and when the NDA or ANDA is the initial application for the applicant. In those cases where preapproval inspections were not conducted and reserve samples were not collected prior to approval of an application or abbreviated application, retention of the reserve samples for the 5-year period would permit their availability for collection and testing after approval. Thus, any retention period that would not continue beyond the approval date of an application, as suggested by some comments, would be unacceptable because it would not provide for the availability of the samples in those situations where a preapproval inspection and sample collection were not conducted or where questions arose after approval about a study sponsor's bioequivalence or bioavailability data.

The agency recognizes that a product retained beyond its normal shelf life may not exhibit the stability necessary to maintain its identity, strength, quality, and purity. However, certain types of analyses can be performed on a product to determine that the test article was indeed used in performing a bioavailability or bioequivalence study and that there was no substitution of the reference standard for the test article. Generally, the formulation of the test article and reference standard will differ. For example, different excipients such as binders, fillers, and lubricants may be used; and products may contain tracer ingredients that are unique to the identification of a particular product. Appropriate analyses can be performed on a product retained beyond its expiration date to detect these differences.

8. One comment asked that FDA clarify in the rule that the retention samples may be kept in any appropriate container and need not necessarily duplicate the containers for the products used in the "biostudy." The comment stated that, in many studies, the drug supplied is packaged in individual unit doses or small bottles containing a single day's supply for each study participant. In such cases, if 500 doses are needed for the retention sample, an appropriately packaged bottle of 500 should be allowed, i.e., not 500 unit doses. Another comment recommended that solution dosage forms, parenterals, inhalation aerosols, biologicals, and other specialized delivery devices where storage, stability, and security could be problematic be excluded from retention status.

FDA does not agree that retention samples be kept in any appropriate container. The reserve samples should be retained in the same container/closure system in which the study sponsor provides to the testing facility the supplies of the test article and reference standard. This will provide to FDA evidence as to how the supplies of the test article and reference standard were received by the testing facility. As noted in section II.A.3, the study sponsor should provide to the testing facility supplies of the test article and of the reference standard packaged such that the reserve samples can be randomly selected by the testing facility and retained in the study sponsor's container/closure system.

The agency disagrees with the comment suggesting that certain dosage forms be excluded from the reserve sample retention requirement. The agency must have adequate assurance that the bioavailability and bioequivalence results upon which FDA bases approval of an application are reliable. Therefore, reserve samples of all products used to conduct the types of bioavailability or bioequivalence studies described in this rule must be available for later examination/analysis by FDA.

9. One comment suggested that reserve samples be stored according to the approved labeling and that this be clarified in the rule. Another comment stated that, for new development compounds, appropriate storage information is not always available during the early stages of development, or if it is, such storage conditions are usually limited or restricted. In such a case, storage is usually in accordance with the sponsor's storage requirements.

The agency did not intend that special storage conditions be provided to prolong a product's stability beyond its normal shelf life. All reserve samples are to be retained and stored under conditions consistent with product labeling. The agency believes that, for the types of bioavailability and bioequivalence studies described above for which reserve samples are to be retained, appropriate storage information will be available in the product's labeling. Section 320.38(e) of this final rule (§ 320.32(c) of the interim rule) has been revised to require storage under conditions consistent with product labeling.

10. One comment argued that, for a contract research organization, determining the starting date for sample retention is often a problem because the contract research organization does not have direct knowledge or control over such events as discontinuance of a compound's development, submission of an application for approval, or approval of an application for marketing, which initiates the 5-year retention period.

The agency believes that a contract research organization can make arrangements with a study sponsor regarding notification of the status of the application for which a bioavailability or bioequivalence study has been conducted, and that it is the responsibility of the contract research organization to obtain such information in order to comply with the sample retention requirements of this rule. There is nothing in the regulations that prevents the inclusion, in the contract between a study sponsor and a contract research organization, of a condition requiring the study sponsor to notify the contract research organization of those regulatory actions about a test article that are necessary for a contract research organization to comply with this rule, e.g., discontinuance of the development of a drug, submission of an application for approval, or date of approval of an application for the test article. Thus, the agency recommends that all contract research organizations insist on the inclusion of such a condition in their contract with the study sponsor.

11. One comment stated that the reference standard used for determining bioavailability is usually a solution or suspension that is made up especially for the study, which would rarely be expected to be stable for more than 6 years. The comment suggested an exemption from the sample retention requirements for these reference standards.

As discussed under section II.A.1.a.(i), a reserve sample of the reference standard from the batch used to conduct a bioavailability study comparing the test product to a reference oral solution, suspension, or injection need not be retained. If the study needs to be repeated, the reference standard would be prepared at the time of the study.

12. One comment asked if the 5-year sample retention requirement would apply if, after receiving a not approvable letter from the agency, the applicant decides to withdraw the NDA.

The final rule, like the interim rule, requires that if an application or supplemental application is not approved, reserve samples be retained at least 5 years following the date of

completion of the bioavailability or bioequivalence study in which the sample, from which the reserve sample was obtained, was used. A decision by the applicant to withdraw its application in response to a not approvable letter is without prejudice to refiling. Therefore, because an applicant may resubmit its application, data from previously conducted bioavailability studies could be used for approval of the resubmitted application. Thus, in the situation described by the comment, the reserve samples must be retained for the required time period. The agency believes, however, that in some cases, given the time that may elapse between the conduct of a study and the completion of FDA's review of an application, the 5-year period following the date of completion of a bioavailability study will have expired.

13. One comment asked if the agency would grant a waiver reducing the reserve sample amounts if sufficient quantities of a drug product were not available due to production restrictions such as high product costs or high potency compounds.

The agency does not intend to grant waivers from the requirements of this rule. FDA must be assured that the bioavailability and bioequivalence results upon which FDA bases approval are reliable. Therefore, samples of the products used to conduct the types of bioavailability and bioequivalence studies described in this rule must be available for FDA's analysis. An applicant should consider the requirements of this rule in determining its production quantities.

C. Quantity of Reserve Samples

14. The interim rule required that a sufficient quantity of the reserve samples be retained to permit FDA to perform five times all of the release tests required in the application or supplemental application.

Several comments argued that the quantity of both the test article and reference standard seemed excessive, and asked the agency to reconsider the retention sample size requirement in light of the intended uses for the retained samples. Some comments suggested that the regulations be modified to reflect either the requirement of twice the quantity needed for release testing under the current good manufacturing practice (CGMP) regulations, or the NDA methods validation requirement in 21 CFR 314.50(e) of three times the quantity necessary to perform each test. Two comments argued that samples of the reference standard usually are obtained from the marketplace, and it can be extremely difficult to find in large quantities a single lot of a product sufficient to conduct the study and to retain a portion for the reserve sample. One of the comments suggested retention of two intact bottles of the reference standard sample for identification of lot number, expiry, strength, etc., for 3 years.

One comment asserted that acquiring large quantities of material, if available, for no purpose other than satisfying an excessive retention requirement is an unnecessary economic cost. In addition, the comment suggested that, in assessing potential uses, the agency consider that: (1) the materials to be tested may have been well into their anticipated shelf life at the time of the bioavailability or bioequivalence testing, and (2) the materials will inevitably continue to deteriorate over time such that many potential tests of the retained material (e.g., rerun of release tests or of the "biostudy" itself) could well be meaningless even if those retests are conducted during the application review process. Another comment asserted that the regulation will cause an economic impact in that additional storage space will need to be obtained and existing space modified in order to meet unique and long-term storage requirements. One comment stated that it may not be practical to retain the five times quantity for special dosage forms in limited supply such as early development lots for bioavailability studies.

FDA's experience in the testing of reserve samples of drug products used in a bioavailability or bioequivalence study is that the five times quantity required for the test article and the reference standard is needed to perform necessary testing. Although the interim rule required a "sufficient quantity to permit FDA to perform five times all of the release tests required in the application or supplemental application," FDA does not intend to perform release tests on the reserve samples. The five times quantity standard is intended to provide a yardstick for the retention of a sufficient quantity of the samples by all study sponsors and contract research organizations. The reserve samples of the test article and of the reference standard are used by FDA to conduct a chemical and physical examination of the samples to assure the identity and composition of the test article and reference standard. This is necessary to detect fraudulent substitution of the reference standard for the test article in conducting a bioavailability or bioequivalence study. Although generic drugs are expected to be functionally equivalent to their brand-name counterparts, they are not expected to be identical in all physical and chemical aspects because of differences in, for example, identity and proportions of excipients. These differences are used by FDA to determine if fraudulent substitution has occurred. Any remaining reserve sample is held by FDA in the event that additional testing is necessary. For example, FDA may need to repeat the bioavailability or bioequivalence testing or to perform other appropriate analyses such as content uniformity and dissolution testing on the samples.

The agency agrees that, for some reference standards, only limited quantities may be available in the marketplace. However, FDA believes that sufficient quantities are available to conduct the necessary "biostudies" and to provide the required reserve samples.

The agency continues to believe that the five times quantity standard is an appropriate standard for the reserve sample of the test article and of the reference standard and is retaining that standard in this final rule. However, a study sponsor or contract research organization may consult with the agency if it believes certain dosage forms present unreasonable storage problems. If a contract research organization is unsure of what quantity constitutes the five times quantity, it should contact the study sponsor.

15. One comment asked if the requirement to retain a sufficient quantity of reserve sample to allow FDA to perform five times all of the release tests required in the application or supplemental application provides enough sample for FDA to repeat the bioavailability or bioequivalence testing or perform other appropriate testing, if necessary. Another comment asked if the required retention sample size included sufficient material to allow for a so-called "split" sample so that the applicant could independently verify any tests conducted by the agency on the retained material.

The quantity of sample required to be retained is sufficient for all testing by FDA including a repeat of a bioavailability or bioequivalence study, if necessary. No additional samples beyond the five times quantity need be retained by the study sponsor or contract research organization. However, the required retention sample size does not provide sufficient material for independent testing by the study sponsor.

16. One comment asked for clarification of the sample retention requirement with respect to products that are manufactured in a dry form and

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need to be reconstituted just prior to use in a study.

For purposes of the sample retention requirement in this rule, the reserve sample would consist of the product in the dry form, not the reconstituted form.

17. Two comments requested clarification of the effective date of the interim rule with respect to ongoing studies. One comment argued that testing programs already underway as of November 8, 1990, the effective date of the interim rule, should not have to be restarted because insufficient material is available to satisfy the sample retention requirement in addition to that necessary to conduct the required tests. The comment further stated that even if additional material from the same product lots were available, it could not be "representative" of the material submitted for the "biostudies" unless it had been submitted to the testing laboratory at the same time as the original material. One comment argued that, at a minimum, the new requirements should be deemed to be satisfied, in the case of ongoing studies, by the retention of as much material as is available after the testing is complete. This would also apply to study programs which commenced prior to November 8, 1990, if subsequent studies were planned to use the same limited lots of test or reference drugs.

The requirements established in the interim rule apply only to bioavailability and bioequivalence studies that were initiated on or after November 8, 1990.

18. One comment addressed the provisions of §§ 314.125(b)(17) and 314.150(b)(9), which state that FDA may refuse to approve, or to withdraw approval of, an application if an applicant or contract research organization refuses to permit an inspection of its facilities or records, or refuses to submit to FDA reserve samples when requested. The comment asked that when a contract research organization, without the knowledge or approval of the applicant, refuses to permit an FDA inspection of facilities or records relevant to a study or to submit to FDA reserve samples of drug products used in the study, the rule provide for notification to the applicant with an opportunity to intervene before any agency action to refuse to approve, or to withdraw the approval of, an application.

The agency advises that the regulations concerning FDA's action to refuse to approve an application or to withdraw the approval of an application are set forth under §§ 314.120 and 314.150, respectively. Thus, an applicant will have an opportunity to respond to any agency action by the procedures for denying or withdrawing the approval of an application. The agency emphasizes that, because actions or inactions of a contract research organization may affect the status of an applicant's application, the applicant may well wish to assure that the obligation to permit inspection and to release or submit to FDA reserve samples is included in any contract.

19. One comment suggested that the written assurance that the reserve samples came from the same samples as used in the specific bioavailability or bioequivalence study required under § 320.32(e) of the interim rule be modeled after 21 CFR 10.20(i), which requires that submissions to the Dockets Management Branch include a statement that, to the best of the knowledge, information, and belief of the person making the submission, the statements made in the submission are true and accurate. The comment argued that due to the extended period of time that samples must be retained and potential personnel turnover during that time, the person executing the written assurance may not have firsthand knowledge of the history of the sample being released to the agency, and may have to rely on company documentation. The comment further argued that an assurance provided under the interim rule would subject an individual to potential criminal liability under 18 U.S.C. 1001, based upon whether the statement is true or not, even though the person may not have direct personal knowledge of its falsity. Another comment asked in what form the written assurance should be. One comment asserted that both the sponsor and testing laboratory should certify that the reserve samples are those used in the specific bioavailability or bioequivalence studies submitted to FDA, and that copies of the certification statements should be held by both parties and be made available to FDA upon request.

The agency agrees that the person executing the written assurance may not have firsthand knowledge of the history of the samples and may have to rely on records of the applicant or contract research organization. Therefore, FDA has revised § 320.38(g) (§ 320.32(e) in the interim rule) to require that the applicant or contract research organization provide a written assurance that, to the best knowledge and belief of the individual executing the assurance, the reserve samples came from the same samples as used in the specific bioavailability or bioequivalence study identified by the agency. The written assurance may be in the form of a certification or other appropriate form. Because it is the contract research organization that separates out the reserve samples from the supplies of the test article and reference standard provided by the study sponsor rather than the study sponsor, FDA does not believe that the study sponsor can assure that the reserve samples came from the same batch as used in a specific bioavailability or bioequivalence study. Therefore, FDA does not agree with the assertion that both the study sponsor and testing laboratory certify with respect to the reserve sample.

20. Two comments asked that the requirement in § 320.32(b) of the interim rule, which requires that samples be positively identified as having come from the same sample as used in the specific bioavailability or bioequivalence study, be more specific as to what is expected.

The agency believes that specific ways to identify reserve samples and the study in which they were used should be left to the study sponsor or contract research organization responsible for retaining the samples. Therefore, the agency declines to provide specificity in the regulation. Appropriate identification may, however, consist of, but not be limited to, including on the sample container and in the study report, the product name, lot number, and study number.

21. One comment suggested that for inhalants that require exhaustive number of dosage units to be tested for release and require large storage space, a definitive number of retention samples, for example, 10 to 20 units, should be sufficient.

As discussed in section II.C.14, FDA does not intend to perform release testing on the reserve samples. Nevertheless, the agency does not agree that 10 to 20 units of an inhalant dosage form are sufficient for FDA's analysis and testing. As also discussed in section II.C.14, the reserve samples ordinarily will be used by FDA to perform a chemical and physical examination of the samples. The agency may also need to perform analyses such as content uniformity and dissolution for solid oral dosage forms and may need to repeat the bioavailability or bioequivalence testing. The agency concludes that the quantity of the reserve sample of an inhalant test article and of the reference standard needed for testing and analyses must be at least 50 units.

D. Need For Additional Requirements

22. In the preamble to the interim rule, FDA stated it was considering whether additional requirements were

necessary to ensure the integrity of the reserve samples and invited comment on questions relating to storage area, need for a sample custodian, and packaging of the reserve samples. Seventeen comments responded to the agency's questions or otherwise addressed the issue of the need for additional requirements.

Two comments recommended that, under CGMP regulations, applicants be required to adopt written procedures for selection of samples from drug lots used in bioavailability or bioequivalence testing and for secure transmission of these samples to internal facilities or contract research organizations for "biotesting" and storage. Additional written procedures should establish the security measures to be followed for retained samples, including requirements for the storage area, sample custodian, and packaging of the samples to ensure that sample integrity is not compromised. Most of the comments recommended that the reserve samples be stored in an area where access is controlled and that is separate from the testing area. One comment, however, asked for a clarification of the wording "separate from" arguing that it is not necessary to require separation from the testing area so long as the storage area is segregated and access is controlled. A majority of the comments suggested that the need for a sample custodian should be left up to the applicant or testing facility and not be required by regulation. Responses to the questions of how the reserve samples should be packaged during the retention period to ensure that sample integrity is not compromised and to prevent tampering varied among the responders. Some comments recommended that the packaging of the reserve samples be in the same container/closure as that provided to the testing facility or a normal marketed package; other comments suggested using tamper-resistant packaging, using a sealed protective container such as glass, taking appropriate measures to prevent tampering, or that there is no need for specific packaging requirements if there is appropriate documentation based on written operating procedures.

FDA agrees with those comments recommending that reserve samples be stored in an area separate from the testing area and with controlled access. Accordingly, § 320.38(e) (§ 320.32(c) in the interim rule) has been revised to require that each reserve sample be stored in an area segregated from the area where testing is conducted and with access limited to authorized personnel. The agency has used the phrase "segregated from" rather than "separate from" because it is not intended that the storage area necessarily be in a different room, building, or facility. The requirement is intended to ensure that enough physical separation be employed by the study sponsor or contract research organization as is necessary to ensure that the integrity of the reserve sample is not compromised during the retention period.

The agency is not including other additional requirements at this time. If, based on FDA's inspectional experience and collection of reserve samples, the agency believes additional requirements are needed to ensure the integrity of the samples, it will propose appropriate revisions to this rule. The rule does not preclude study sponsors from adopting written procedures for the selection and transmission to the testing facility or contract research organization of the test article and reference standard for testing and storage of the reserve samples.

E. Other Comments

23. One comment noted that the interim rule did not address the situation where a contract testing laboratory goes out of business or is otherwise not in a position to continue to meet its obligations under the rule. The comment suggested that, under such circumstances, the sponsor should be allowed to recover from the contractor any retained samples from the studies it sponsored because sponsors are already required under the interim rule to maintain samples for studies conducted in-house. This would obviate the need for special procedures to deal with the insolvency of contractors or other potential problems with third party custodians, and would greatly simplify FDA's ability to obtain the samples because they would be readily available from the sponsor even for studies conducted by contract testing laboratories in foreign countries.

The agency agrees that the rule should provide for the transfer of reserve samples if a contract research organization goes out of business, but does not agree that the samples should be transferred to the sponsor or applicant for whom the contract research organization conducted the bioavailability or bioequivalence study. Rather, to preclude the possibility for sample substitution by a study sponsor or to preclude a study sponsor from altering a reserve sample, FDA concludes that the reserve samples should be transferred to an appropriate, independent third party, e.g., a commercial storage facility or a university. Therefore, a new paragraph (i) is added to § 320.38 (§ 320.32 in the interim rule), which states that when a contract research organization conducting a bioavailability or bioequivalence study requiring reserve sample retention goes out of business, it shall transfer its reserve samples to an appropriate, independent third party and shall notify in writing the sponsor of the study and provide the sponsor with the name and address of the facility to which the reserve samples have been transferred. Because the comment did not describe the circumstances in which a contract research organization "is otherwise not in a position to continue to meet its obligations under the rule," no further revision of the rule has been made.

24. One comment suggested that after the retention period is up, samples should be returned to the sponsor for proper accountability and destruction as required under CGMP's.

The agency advises that this final rule, like the interim rule, does not preclude such an approach. The study sponsor may wish to include in the contractual agreement with the contract research organization provisions for handling of the reserve samples after the retention period has expired. It should be noted, however, that the CGMP regulations do not address disposition of outdated reserve samples required to be retained under those regulations.

25. One comment suggested using a standardized photographic archiving procedure to show the drug product at the time of dosing for the bioavailability or bioequivalence study. This photographic record could be retained beyond the expiration date of the product, and would demonstrate the product's physical appearance.

The agency does not intend to require a photographic archiving procedure in this final rule; however, this does not preclude a testing facility from adopting such a procedure. FDA intends, as part of its physical analysis of a product that is a solid oral dosage form, to photograph each strength of each product to clearly document its shape, color, and distinctive markings. These photographs will be retained by FDA for later use in comparing subsequent batches of the test article or in comparing the test article to the reference standard.

26. Several comments addressed a statement in the preamble to the interim rule that states "in vitro and animal in vivo bioequivalence and bioavailability studies are within the scope of the good laboratory practice regulations." The comments argued that animal bioequivalence and bioavailability studies have not previously been

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considered within the scope of 21 CFR part 58 except when conducted as part of a toxicology protocol or when conducted to directly support a toxicology protocol. The comments asked that FDA further clarify the scope of the preamble statement and this rule.

The agency believes the regulations at 21 CFR part 58 are ambiguous with respect to in vitro and animal in vivo bioavailability and bioequivalence studies required for approval of an NDA or ANDA; however, it is understood that no one considers those regulations to apply to the types of studies subject to this rule. Therefore, the requirements of this rule do not affect the reserve sample retention requirements under 21 CFR part 58.

III. Economic Impact

FDA has examined the economic consequences of the changes implemented by the final rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354). This final rule more clearly defines the types of in vivo bioavailability studies for which reserve samples are to be retained. Although this rule has been in place as an interim regulation, the agency is not aware that it has imposed any undue costs. Nevertheless, because several comments to the record alluded to potential costs, the agency has conducted a Threshold Assessment of the final rule, which is on file with the Dockets Management Branch (HFA–305), rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

The agency's assessment presents costs of retaining samples for an estimated 360 marketing applications per year. The study addressees both the additional storage costs and the acquisition costs of the test articles and reference standards. Storage costs were estimated on the basis of each sample requiring 0.5 square feet of storage for 5 years, and amounted to about $2,800. These costs would be roughly proportionate to the duration of the retention period. Acquisition costs of about $94,000 for reference samples were obtained from a survey of average retail prices of 16 well-prescribed medicines. Although individual circumstances may arise where storage or acquisition costs for a particular sample could rise substantially above these estimates, the agency believes that, on average, the annual costs of this rule will be about $100,000. FDA believes that these costs will likely be more than offset by the societal benefits of this rule, i.e., the added assurance that FDA's drug approval process functions effectively to ensure that only safe and effective drug products enter the marketplace. Accordingly, the agency concludes that this final rule is not a major rule as defined by Executive Order 12291, and certifies that the final rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act.

Notwithstanding the above agency assessment, FDA believes that it would be desirable to have available specific data with respect to various sample retention periods and quantities of samples to be retained. Therefore, the agency is soliciting information on the following areas:

(1) The incremental costs of retention of samples for 3 years relative to 4 years, and 4 years relative to 5 years;

(2) The incremental costs of retention of a "4 times quantity" of samples relative to a "5 times quantity"; and

(3) Any information on the incremental benefits of either retaining greater quantities of samples, or of retaining samples for greater periods of time.

Interested persons may, on or before May 28, 1993 submit to the Dockets Management Branch (address above) information on these areas. Two copies of any information should be submitted, except that individuals may submit one copy. Information submitted is to be identified with the docket number found in brackets in the heading of this document. Information received may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

IV. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 312

Drugs, Exports, Imports, Investigations, Labeling, Medical research, Reporting and recordkeeping requirements, Safety.

21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

21 CFR Part 320

Drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 312, 314, and 320 are amended as follows:

PART 312—INVESTIGATIONAL NEW DRUG APPLICATION

1. The authority citation for 21 CFR part 312 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371); sec. 351 of the Public Health Service Act (42 U.S.C. 262).

2. Section 312.57 is amended by revising paragraph (c) to read as follows:

§ 312.57 Recordkeeping and record retention.

* * * * *

(c) A sponsor shall retain reserve samples of any test article and reference standard identified in, and used in any of the bioequivalence or bioavailability studies described in, § 320.38 or § 320.63 of this chapter, and release the reserve samples to FDA upon request, in accordance with, and for the period specified in § 320.38.

* * * * *

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

3. The authority citation for 21 CFR part 314 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371, 376).

4. Section 314.125 is amended by revising paragraph (b)(17) to read as follows:

§ 314.125 Refusal to approve an application or abbreviated antibiotic application.

* * * * *

(b) * * *

(17) The applicant or contract research organization that conducted a bioavailability or bioequivalence study described in § 320.38 or § 320.63 of this chapter that is contained in the application or abbreviated antibiotic application refuses to permit an inspection of facilities or records relevant to the study by a properly authorized officer or employee of the Department of Health and Human Services or refuses to submit reserve samples of the drug products used in the study when requested by FDA.

* * * * *

5. Section 314.127 is amended by revising paragraph (b) to read as follows:

§ 314.127 Refusal to approve an abbreviated new drug application.

* * * * *

(b) FDA may refuse to approve an abbreviated application for a new drug if the applicant or contract research organization that conducted a bioavailability or bioequivalence study described in § 320.63 of this chapter that is contained in the abbreviated new drug application refuses to permit en inspection of facilities or records relevant to the study by a properly authorized officer of employee of the Department of Health and Human Services or refuses to submit reserve samples of the drug products used in the study when requested by FDA.

6. Section 314.150 is amended by revising paragraph (b)(9) to read as follows:

§ 314.150 Withdrawal of approval of an application or abbreviated application.

* * * * *

(b) * * *

(9) That the applicant or contract research organization that conducted a bioavailability or bioequivalence study described in § 320.38 or § 320.63 of this chapter that is contained in the application or abbreviated application refuses to permit an inspection of facilities or records relevant to the study by a properly authorized officer or employee of the Department of Health and Human Services or refuses to submit reserve samples of the drug products used in the study when requested by FDA.

* * * * *

PART 320—BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

7. The authority citation for 21 CFR part 320 continues to read as follows:

Authority: Secs. 201, 501, 502, 505, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 355, 357, 371).

8. Section 320.31 is amended by revising paragraph (c), by adding new paragraph (d), and by removing paragraphs (e) and (f) to read as follows:

§ 320.31 Applicability of requirements regarding an "Investigational New Drug Application."

* * * * *

(c) The provisions of parts 50, 56, and 312 of this chapter are applicable to any bioavailability or bioequivalence study in humans conducted under an IND.

(d) A bioavailability or bioequivalence study in humans other than one described in paragraphs (a) through (c) of this section is exempt from the requirements of part 312 of this chapter if the following conditions are satisfied:

(1) If the study is one described under § 320.38(b) or § 320.63, the person conducting the study, including any contract research organization, shall retain reserve samples of any test article and reference standard used in the study and release the reserve samples to FDA upon request, in accordance with, and for the period specified in, § 320.38; and

(2) An in vivo bioavailability or bioequivalence study in humans shall be conducted in compliance with the requirements for institutional review set forth in part 56 of this chapter, and informed consent set forth in part 50 of this chapter.

9. Section 320.38 is revised to read as follows:

§ 320.38 Retention of bioavailability samples.

(a) The applicant of an application or supplemental application submitted under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act, or, if bioavailability testing was performed under contract, the contract research organization shall retain an appropriately identified reserve sample of the drug product for which the applicant is seeking approval (test article) and of the reference standard used to perform an in vivo bioavailability study in accordance with and for the studies described in paragraph (b) of this section that is representative of each sample of the test article and reference standard provided by the applicant for the testing.

(b) Reserve samples shall be retained for the following test articles and reference standards and for the studies described:

(1) If the formulation of the test article is the same as the formulation(s) used in the clinical studies demonstrating substantial evidence of safety and effectiveness for the test article's claimed indications, a reserve sample of the test article used to conduct an in vivo bioavailability study comparing the test article to a reference oral solution, suspension, or injection.

(2) If the formulation of the test article differs from the formulation(s) used in the clinical studies demonstrating substantial evidence of safety and effectiveness for the test article's claimed indications, a reserve sample of the test article and of the reference standard used to conduct an in vivo bioequivalence study comparing the test article to the formulation(s) (reference standard) used in the clinical studies.

(3) For a new formulation, new dosage form, or a new salt or ester of an active drug ingredient or therapeutic moiety that has been approved for marketing, a reserve sample of the test article and of the reference standard used to conduct an in vivo bioequivalence study comparing the test article to a marketed product (reference standard) that contains the same active drug ingredient or therapeutic moiety.

(c) Each reserve sample shall consist of a sufficient quantity to permit FDA to perform five times all of the release tests required in the application or supplemental application.

(d) Each reserve sample shall be adequately identified so that the reserve sample can be positively identified as having come from the same sample as used in the specific bioavailability study.

(e) Each reserve sample shall be stored under conditions consistent with product labeling and in an area segregated from the area where testing is conducted and with access limited to authorized personnel. Each reserve sample shall be retained for a period of at least 5 years following the date on which the application or supplemental application is approved, or, if such application or supplemental application is not approved, at least 5 years following the date of completion of the bioavailability study in which the sample from which the reserve sample was obtained was used.

(f) Authorized FDA personnel will ordinarily collect reserve samples directly from the applicant or contract research organization at the storage site during a preapproval inspection. If authorized FDA personnel are unable to collect samples, FDA may require the applicant or contract research organization to submit the reserve samples to the place identified in the agency's request. If FDA has not collected or requested delivery of a reserve sample, or if FDA has not collected or requested delivery of any portion of a reserve sample, the applicant or contract research organization shall retain the sample or remaining sample for the 5-year period specified in paragraph (e) of this section.

(g) Upon release of the reserve samples to FDA, the applicant or contract research organization shall provide a written assurance that, to the best knowledge and belief of the individual executing the assurance, the reserve samples came from the same samples as used in the specific bioavailability or bioequivalence study identified by the agency. The assurance shall be executed by an individual authorized to act for the applicant or contract research organization in releasing the reserve samples to FDA.

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(h) A contract research organization may contract with an appropriate, independent third party to provide storage of reserve samples provided that the sponsor of the study has been notified in writing of the name and address of the facility at which the reserve samples will be stored.

(i) If a contract research organization conducting a bioavailability or bioequivalence study that requires reserve sample retention under this section or § 320.63 goes out of business, it shall transfer its reserve samples to an appropriate, independent third party, and shall notify in writing the sponsor of the study of the transfer and provide the study sponsor with the name and address of the facility to which the reserve samples have been transferred.

10. Section 320.63 is revised to read as follows:

§ 320.63 Retention of bioequivalence samples.

The applicant of an abbreviated application or a supplemental application submitted under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act, or, if bioequivalence testing was performed under contract, the contract research organization shall retain reserve samples of any test article and reference standard used in conducting an in vivo or in vitro bioequivalence study required for approval of the abbreviated application or supplemental application. The applicant or contract research organization shall retain the reserve samples in accordance with, and for the period specified in, § 320.38 and shall release the reserve samples to FDA upon request in accordance with § 320.38.

Dated: March 3, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-9927 Filed 4-27-93; 8:45 am]

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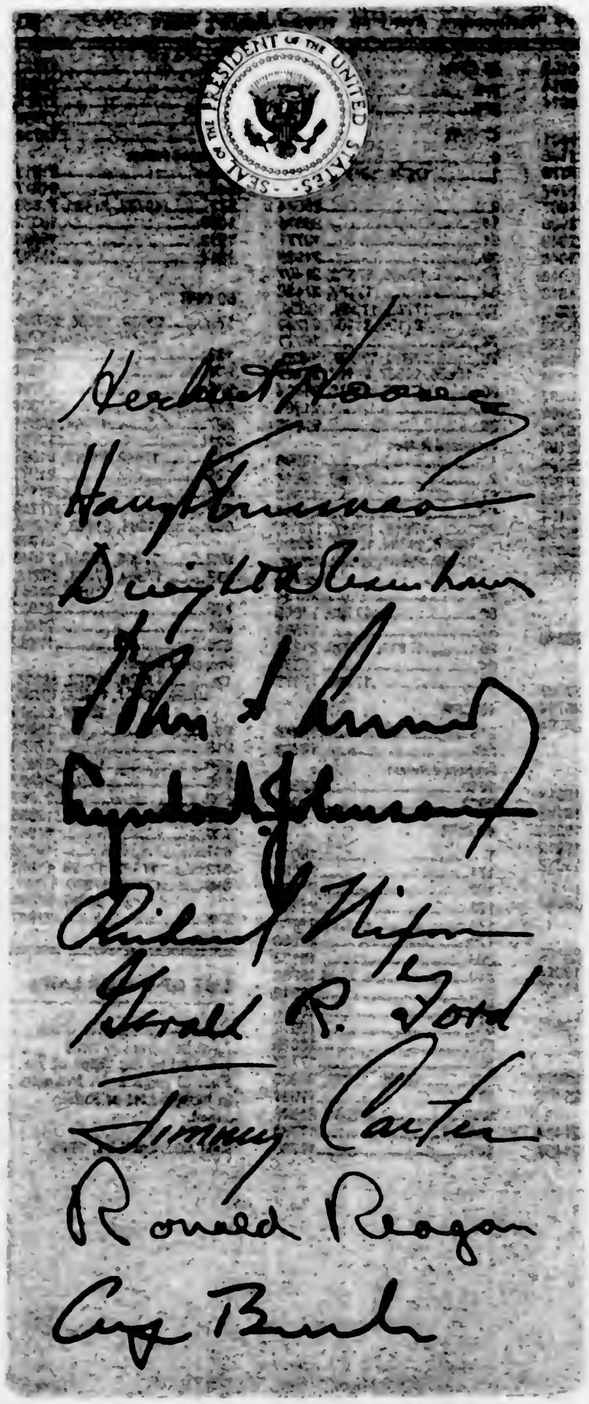

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RESERVATIONS: Federal Information Center 1-800-347-1997

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations; Size Standards Table and Size Standards Under Section 8(d) Subcontracting Program

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is revising its Size Standard Table, Standard Industrial Classification (SIC) Code 8711, and its Size Standards Under SBA's Section 8(d) Subcontracting Program, in order to comply with the National Energy Policy Act of 1992. The National Energy Policy Act of 1992 states that for purposes of contracts and subcontracts requiring engineering services awarded under this Act the applicable size standard shall be that established for military and aerospace equipment and military weapons. This final rule amends the size standard table and the regulations regarding the Subcontracting Program to indicate that engineering contracts and subcontracts awarded under the National Energy Policy Act have the same size standard as established at SIC code 8711 for "Engineering Services: Military and Aerospace Equipment and Military Weapons."

EFFECTIVE DATE: This rule is effective April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Catherine Thomas, Size Determinations Program Manager, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416 (202) 205–6460.

SUPPLEMENTARY INFORMATION: The SBA has an established size standard table at 13 CFR 121.601 which classifies and defines activities by industry categories. The size standard (either number of employees or annual receipts) for each industry indicates the maximum allowed for a concern to be considered small. The SBA also further defines a small business for the purposes of subcontracts under $10,000 at 13 CFR 121.910. Section 3021 (b)(1) of Public Law 102–486, the National Energy Policy Act of 1992 (106 Stat. 2776, 3133), states that "for purposes of contracts and subcontracts requiring engineering services [awarded under this Act] the applicable size standard shall be that established for military and aerospace equipment and military weapons." Absent this statutory requirement, such engineering services would be classified under SIC code 8711 having the size standard established for "Engineering Services: Other Engineering Services," which is annual receipts of $2.5 million, or for subcontracts valued at $10,000 or less, a size standard of 500 persons. However, the language of the law specifically states that such contracts are to have the same size standard as "Engineering Services: Military and Aerospace Equipment and Military Weapons;" thus, the size standard for engineering contracts and subcontracts awarded under the National Energy Policy Act of 1992 is annual receipts of $13.5 million.

Compliance With Regulatory Flexibility Act, Executive Orders 12291, 12612, 12778 and the Paperwork Reduction Act

SBA certifies that this final rule is not a major rule within the meaning of Executive Order 12291 and will not have a significant economic impact on a substantial number of entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This change to the size regulations only clarifies how contracts and subcontracts awarded under the National Policy Act of 1992 (Pub. L. 102–486) are to be classified and does not change the size standard or impact the dollar amounts to be awarded.

For purposes of Executive Order 12612, SBA certifies that this rule will not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

For purposes of the Paperwork Reduction Act of 1980, 44 U.S.C., ch. 35, SBA certifies that this rule contains no new reporting or recordkeeping requirements.

SBA is publishing this rule as a final rule without notice and an opportunity for public comment pursuant to section 553 (b)(B). Since we are adding statutorily required language, it is unnecessary to provide such notice and opportunity for public comment.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs-business, Loan programs-business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth above, SBA is amending part 121 of title 13, Code of Federal Regulations, as follows:

PART 121—[AMENDED]

1. The authority citation for part 121 is revised to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a), 644(c); and Pub. L. 102–486, 106 Stat. 2776, 3133.

2. Section 121.601, Standard Industrial Classification codes and size standards, is amended by revising the entry for 8711 in the table to read as follows:

§ 121.601 Standard Industrial Classification codes and size standards

* * * * *

SIC	Description (N.E.C.=not elsewhere classified)	Size
* * * * *		
Major Group 87—Engineering, Accounting, Research Management, and Related Services		
8711[2] ..	Engineering Services: Military and Aerospace Equipment and Military Weapons and Contracts and Subcontracts for Engineering Services awarded under the National Energy Policy Act of 1992.	$13.5
* * * * *		

[1] Size standards in number of employees o millions of dollars.
[2] New SIC Code in 1987, not used in 1972

3. Section 121.910, Size standards under SBA's Section 8(d) Subcontracting Program, is amended by revising paragraph (a) to read as follows

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§ 121.910 Size standards under SBA's Section 8(d) Subcontracting Program.

* * * * *

(a) In connection with subcontracts of $10,000 or less which relate to Government procurements, if its number of employees (including its affiliates) does not exceed 500 persons. However, subcontracts for engineering services awarded under the National Energy Policy Act of 1992, in accordance with Public Law 102–486 (106 Stat. 2776, 3133), are to be classified as SIC code 8711 and have the same size standard as Military and Aerospace Equipment and Military weapons and Contracts; and

* * * * *

Dated: April 19, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–9785 Filed 4–28–93; 8:45 am]

BILLING CODE 8025–01–M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1316

TVA Contracts

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: The Tennessee Valley Authority (TVA) hereby issues certain general conditions and certifications which may be included by reference in TVA contract documents or actions. Such inclusion by reference will allow reduction of the length of TVA contract documents. TVA is taking this action to improve administrative efficiency, not to impose any regulatory changes.

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Mary Carol Campbell, Procurement Specialist, 615–751–2731.

SUPPLEMENTARY INFORMATION: To help streamline TVA contract procedures, TVA intends in some cases to include certain general conditions and certifications by reference instead of reproducing the full text of such provisions in each contract action. Issuing such provisions as a final rule is simply for ease of such inclusion by reference, and does not involve any substantive policy change. The provisions issued here are not automatically incorporated in all contract documents (generally, they will be incorporated only as specified in a given action). Because this rule simply issues common contract provisions, no notice of proposed rulemaking or comment period is necessary, and the Regulatory Flexibility Act does not apply. This rule is not a major rule for the purposes of Executive Order No. 12291. No information collections are involved.

List of Subjects in 18 CFR Part 1316

Government contracts.

For the reasons set out in the preamble, 18 CFR Chapter XIII is amended by adding part 1316 to read as follows:

PART 1316—GENERAL CONDITIONS AND CERTIFICATIONS FOR INCORPORATION IN CONTRACT DOCUMENTS OR ACTIONS

Subpart A—General Information

Sec.

1316.1 Applicability.

Subpart B—Text of Conditions and Certifications

Sec.

1316.2 Affirmative action and equal opportunity.
1316.3 Anti-kickback procedures.
1316.4 Buy American Act supply contracts.
1316.5 Clean Air and Water Acts.
1316.6 Discrimination on the basis of age.
1316.7 Drug-free workplace.
1316.8 Employee protected activities.
1316.9 Nuclear energy hazards and nuclear incidents.
1316.10 Officials not to benefit.

Authority: 16 U.S.C. 831–831dd.

Subpart A—General Information

§ 1316.1 Applicability.

This part sets out the text of certain conditions and certifications which may be included by reference in certain TVA contract documents or actions. The provisions set out in this part are not automatically incorporated in all TVA actions.

Subpart B—Text of Conditions and Certifications

§ 1316.2 Affirmative action and equal opportunity.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Affirmative Action and Equal Opportunity

(a) To the extent applicable, contract incorporates the following provisions: "Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era" clause, 41 CFR 60–250.4; the "Affirmative Action for Handicapped Workers" clause, 41 CFR 60–741.4; and the "Equal Opportunity" clause, 41 CFR 60–1.4. Contractor complies with applicable regulatory requirements, including information reports and affirmative action programs.

(b) *Certification of Nonsegregated Facilities:* (1) By submission of its offer, the offeror certifies that it does not and will not maintain or provide for employees any segregated facilities at any of its establishments, and that it does not and will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract.

(2) As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, or housing facilities provided to employees which are segregated by explicit directive or are in fact segregated on the basis of race, religion, color, or national origin, because of habit, local custom, or otherwise.

(3) Contractor further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) identical certifications will be obtained from proposed subcontractors prior to the award of subcontractors exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause; that it will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities. A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provision of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

(4) **Note:** The penalty for making false statements in offers is prescribed in Title 18 U.S.C. 1001.

(End of clause)

§ 1316.3 Anti-kickback procedures.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Anti-Kickback Procedures

Contractor shall comply with the following:

(a) Definitions. As used in this clause, terms shall have the meanings defined in the Anti-Kickback Act of 1986 (41 U.S.C. 51–58) (the Act).

(b) The Act prohibits any person from—

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime contractor to TVA or in the contract price charged by the subcontractor to a prime contractor or higher tier subcontractor.

(c)(1) Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in section (b) of this clause in its own operations and direct business relationships.

(2) When Contractor has reasonable grounds to believe that a violation described in section (b) of this clause may have occurred, Contractor shall promptly report in writing the possible violation. Such reports shall be made to the TVA Inspector General.

(3) Contractor shall cooperate fully with TVA or any other Federal agency investigating a possible violation described in section (b) of this clause.

(4) (i) Regardless of the contract tier at which a kickback was provided, accepted, or charged under the contract in violation of section (b) of this clause, the Contracting Officer may—

(A) Offset the amount of the kickback against any monies owed by TVA under this contract; and/or

(B) Direct that Contractor withhold from sums owed the subcontractor the amount of the kickback.

(ii) The Contracting Officer may order that monies withheld under subsection (c)(4)(i)(B) of this clause be paid over to TVA unless TVA has already offset those monies under subsection (c)(4)(i)(A) of this clause. In the latter case, Contracting shall notify the Contracting Officer when the monies are withheld.

(5) Contractor agrees to incorporate the substance of this clause, including this subsection (c)(5), in all subcontracts under this contract.

(End of clause)

§ 1316.4 Buy American Act supply contracts.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Buy American Act Supply Contracts

(a) In TVA's acquisition of end products, the Buy American Act (41 U.S.C. 10a–10d) provides that preference be given to domestic end products. A domestic end product means:

(1) An unmanufactured end product which has been mined or produced in the United States; and

(2) An end product manufactured in the United States if the cost of components thereof which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components.

(b) Contractor agrees that there will be delivered under this contract only domestic end products, except end products:

(1) Which are for use outside the United States;

(2) Which TVA determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(3) As to which TVA determines the domestic preference to be inconsistent with the public interest; or

(4) As to which TVA determines the cost to be unreasonable.

(End of clause)

§ 1316.5 Clean Air and Water Acts.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Clean Air and Water Acts

(a) If performance of this contract would involve the use of facilities which have given rise to a conviction under section 113(c)(1) of the Clean Air Act (42 U.S.C. 7413) or section 309(c) of the Federal Water Pollution Control Act (33 U.S.C. 1319), offeror shall include in its offer a statement clearly setting forth the facts and circumstances of said conviction and shall list the facilities which gave rise to said conviction. If no such statement is submitted, submission of an offer constitutes certification by the offeror that performance of this contract will not involve the use of facilities which have given rise to a conviction under section 113(c)(1) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act. As used in this clause "facilities" shall have the meaning set forth in 40 CFR 15.4.

(b) TVA will not award a contract to any offeror whose performance would involve the use of any facility or facilities which have given rise to a conviction as set forth in paragraph (a) of this clause except to the extent TVA, in its sole judgment, determines that such contract is exempt at the time of contract award from the provisions of 40 CFR part 15 as set forth therein.

(c) A condition of award of this contract is that contractor shall notify the Contracting Officer in writing of the receipt of any communication from the U.S. Environmental Protection Agency (EPA) indicating that a facility to be utilized for this contract is under consideration to be listed on the EPA List of Violating Facilities. Prompt notification shall be required prior to contract award.

(End of clause)

§ 1316.6 Discrimination on the basis of age.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Discrimination On The Basis Of Age

Executive Order 11141, 3 CFR, 1964–1965 Comp., p. 179, states that it is the policy of the Executive Branch of the United States that: Contractors and subcontractors engaged in the performance of Federal contracts shall not, in connection with the employment, advancement, or discharge of employees, or in connection with the terms, conditions, or privileges of their employment, discriminate against persons because of their age except upon the basis of a bona fide occupational qualification, retirement plan, or statutory requirement; and that contractors and subcontractors, or persons acting on their behalf, shall not specify, in solicitations or advertisements for employees to work on Government contracts, a maximum age limit for such employment unless the specified maximum age limit is based upon a bona fide occupational qualification, retirement plan, or statutory requirement.

(End of clause)

§ 1316.7 Drug-free workplace.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Drug-Free Workplace

(a) Definitions. As used in this provision:

Controlled substance means a controlled substance in schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulations at 21 CFR 1308.11 through 1308.15

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

Drug-free workplace means a site, including TVA premises, for the performance of work done in connection with a specific contract at which employees of Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

Employee means an employee of a contractor directly engaged in the performance of work under a Government contract.

Individual means an offeror/contractor that has no more than one employee, including the offeror/contractor.

(b) Offerors Other than Individuals. By submission of its offer, the offeror, if other than an individual, who is making an offer that equals or exceeds $25,000, certifies and agrees that, with respect to all employees of the offeror to be employed under a contract resulting from this solicitation, it will—

(1) Publish a statement notifying such employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish a drug-free awareness program to inform such employees about—

(i) The dangers of drug abuse in the workplace;

(ii) Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by paragraph (b)(1) of this section;

(4) Notify such employees in the statement required by paragraph (b)(1) of this section that, as a condition of continued employment

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on the contract resulting from this solicitation, the employee will—

(i) Abide by the terms of the statement; and

(ii) Notify Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(5) Notify the Contracting Officer within 10 days after receiving notice under paragraph (b)(4)(ii) of this section from an employee or otherwise receiving actual notice of such conviction;

(6) Within 30 days after receiving notice under subsection (b)(4) of this section of a conviction, impose the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace:

(i) Take appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(7) Make a good-faith effort to maintain a drug-free workplace through implementation of subsections (b)(1) through (b)(6) of this provision.

(c) Individuals. By submission of its offer, the offeror, if an individual who is making an offer of any dollar value, certifies and agrees that the offeror will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the performance of the contract resulting from this solicitation.

(d) Enforcement. Failure of the offeror to provide the certification required by section (b) or (c) of this provision, renders the offeror unqualified and ineligible for award. Failure of Contractor to comply with the requirements of subsections (b)(1) through (b)(7) or section (c) shall constitute a material breach of contract entitling TVA to suspend payments, terminate the contract, suspend or debar Contractor from Government contracting in accordance with subsection 5152(b)(2) of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701(b)(2)), or take such other action as may be in accordance with law or the contract.

(e) In addition to other remedies available to the Government, the certification in sections (b) and (c) of this provision concerns a matter within the jurisdiction of an agency of the United States, and making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under 18 U.S.C. 1001.

(End of clause)

§ 1316.8 Employee protected activities.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Employee Protected Activities

(Applicable to contracts for goods or services delivered to nuclear facilities or otherwise relating to Nuclear Regulatory Commission (NRC) licensed activities.)

(a) Contractor shall comply with Section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851), as amended, which prohibits discrimination against employees for engaging in certain protected activities. The Secretary of Labor has determined that "discrimination" means discharge or any other adverse actions that relate to compensation, terms, conditions, and privileges of employment; the term "protected activities" includes, among other things, employees raising nuclear safety or quality controls complaints either internally to their employer or to the NRC. Contractor shall aggressively pursue any employee allegation of discrimination and shall fully investigate such allegations. Contractor shall notify the TVA Concerns Resolution Staff Site Representative of such allegation or complaint in writing, together with a copy of any complaint. Contractor shall provide TVA any investigative reports that it may prepare and shall also provide to TVA a full written description of any management action taken in response to any such allegation or complaint. In circumstances where any such allegation or complaint also charges TVA employees with involvement in any discriminatory activities, contractor shall cooperate fully with TVA counsel in its representation.

(b) Contractor shall ensure that no agreement affecting compensation, terms, conditions, and privileges of employment, including, but not limited to, any agreement to settle a complaint filed by an employee or former employee of the Contractor with the Department of Labor pursuant to Section 211 of the Energy Reorganization Act of 1974, as amended, may contain any provision which would prohibit, restrict, or otherwise discourage an employee or former employee from participating in any protected activity as described in the "Employee Protection" regulations of NRC, 10 CFR 50.7, including, but not limited to, providing information to NRC on potential violations of the NRC's regulations or other matters within NRC's regulatory responsibilities.

(c) Any breach of this provision shall be a material breach of the contract. In the event NRC imposes a civil penalty against TVA as a result of a breach of this provision, such a civil penalty is considered by the parties to be direct and not special or consequential damages.

(d) Contractor agrees to place this provision, along with the flow-down requirement of this sentence, in all subcontracts of any tier entered into pursuant to this contract.

(End of clause)

§ 1316.9 Nuclear energy hazards and nuclear incidents.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Nuclear Energy Hazards and Nuclear Incidents

(Applicable only to contracts for goods or services delivered to nuclear plants.)

(a) Prior to, or at the time of shipment of the first nuclear fuel to the TVA nuclear facility, TVA will furnish nuclear liability protection in accordance with Section 170 of the Atomic Energy Act (42 U.S.C. 2210) and applicable regulations of the Nuclear Regulatory Commission. Should this system of protection be repealed or changed, TVA would undertake to maintain in effect during the period of operation of the plant, to the extent available on reasonable terms, liability protection which would not result in a material impairment of the protection afforded to Contractor and its suppliers under existing system.

(b) TVA waives any claim it might have against Contractor or its subcontractors because of damage to, loss of, or loss of use of any property at the site of the TVA nuclear facility resulting from nuclear energy hazards or nuclear incidents. This provision shall not affect Contractor's obligation under the "Warranty" provision of this contract.

(c) TVA will indemnify Contractor and its subcontractors and save them harmless from any claims, losses, or liability arising as a result of damage to, loss of, or loss of use of any property at the site of the TVA nuclear facility resulting from nuclear energy hazards or nuclear incidents. In return for this indemnification, Contractor waives any claim it might have against any third party because of damage to, loss of, or loss of use of its property at the site of the TVA nuclear facility resulting from nuclear energy hazards or nuclear incidents.

(d) The foregoing waiver and indemnification provisions will apply to the full extent permitted by law and regardless of fault. The subcontractors referred to above include any of Contractor's suppliers of material, equipment, or services for the work, regardless of tier.

(e) For purposes of these provisions, the following definitions shall apply: Nuclear energy hazards shall mean the hazardous properties of nuclear material. Hazardous properties shall include radioactive, toxic, or explosive properties of nuclear material. Nuclear material shall include source material, special nuclear material or by-product material as those are defined in the Atomic Energy Act (42 U.S.C. 2014). Nuclear incident shall have the meaning given that term in the Atomic Energy Act (42 U.S.C. 2014(q)).

(End of clause)

§ 1316.10 Officials not to benefit.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Officials Not To Benefit

No member of or delegate to Congress or Resident Commissioner, or any officer, employee, special Government employee, or agent of TVA shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom unless it be made with a corporation for its general benefit; nor shall Contractor offer or give, directly or indirectly, to any officer, employee, special Government employee, or agent of TVA, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, except as provided in 5 CFR part 2635. Breach of this clause shall constitute a material breach of this contract, and TVA shall have the right to exercise all remedies provided in this contract or at law.

(End of clause)

Dated: April 8, 1993.

Victor H. King,

Vice President, Purchasing.

[FR Doc. 93-10025 Filed 4-28-93; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 101 and 122

[T.D. 93-32]

Customs Service Field Organization Vicksburg, MS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations governing the Customs Field organization by changing the boundaries of the Port of Vicksburg, Mississippi, which lies within the South Central Region. The current port boundaries are being expanded to encompass the user fee airport at Jackson, Mississippi and the neighboring counties of Hinds, Rankin and Madison. This change is being made to reflect the changing nature of the international trade in the area from the river to the airport. By expanding the port limits, Customs will move into the center of the trade area. Through this change, the public and importers will be better served and Customs personnel and resources will be more efficiently utilized.

EFFECTIVE DATE: June 28, 1993.

FOR FURTHER INFORMATION CONTACT: Bob Jones, Office of Workforce Effectiveness and Development, Office of Inspection and Control, U.S. Customs Service, (202) 927-0456.

SUPPLEMENTARY INFORMATION:

Background

As part of its continuing program to obtain more efficient use of its personnel, facilities and resources, and to provide better service to carriers, importers and the public, Customs is amending § 101.3, Customs Regulations (19 CFR 101.3), to expand the boundaries of the port of Vicksburg, Mississippi, in the South Central Region. The expansion of the port will add the counties of Hinds, Rankin and Madison, in Mississippi to the existing limits which are Warren County in Mississippi and Madison Parish in Louisiana.

The present port of Vicksburg generates little Customs activity. However, the volume of international traffic at the user fee airport at Jackson, Mississippi, which was established in 1989, has become increasingly significant. The facts clearly indicate that the customs activity in the area is not occurring within Vicksburg's present port limits, but rather at the airport and in the neighboring counties which are served by the airport. Accordingly, Customs has determined that the port limits should be expanded to include the three neighboring counties and Jackson International Airport. By including the Jackson International Airport within the limits of the port of entry, Customs will convert the airport's status from a user fee airport to a landing rights airport. It is not anticipated that this change will have any adverse financial impact on either the agency or the community.

Comments

Customs published a Notice of Proposed Rulemaking in the **Federal Register** on June 16, 1992 (57 FR 26805) which invited the public to comment on this change to the port limits. No comments were received in response to that invitation. Accordingly, the amendment is being published in final as it was proposed. Because the amendment incorporates the Jackson Municipal Airport within the boundaries of the port of entry, it will cease to be a user fee airport. Accordingly, part 122 of the regulations is also being amended to remove the Jackson Municipal Airport from the list of user fee airports.

The revised port limits are as follows:

The geographic limits of the port of entry of Vicksburg, Mississippi, comprise all of the territory within Madison Parish, Louisiana, and Warren, Hinds, Rankin and Madison counties, Mississippi.

Regulatory Flexibility Act

This document is not subject to the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12291

Because this document relates to agency organization and management, it is not subject to E.O. 12291.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and function (Government agencies).

19 CFR Part 122

Airports, Aircraft, Customs duties and inspection, Imports, Drug traffic control, Security measures.

Amendments to the Regulations

Accordingly, Parts 101 and 122 of the Customs Regulations (19 CFR Parts 101 and 122) are amended as set forth below:

PART 101—GENERAL PROVISIONS

1. The authority citation for part 101 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 2, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624, unless otherwise noted.

§ 101.3 [Amended]

2. The list of Customs regions, districts and ports of entry in § 101.3(b) is amended in the following manner:

In the South Central Region under the column headed "ports of entry" in the entry for "Vicksburg, Miss." remove "T.D. 84-126" and insert "T.D. 93-32".

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1459, 1590, 1594, 1624, 1644; 49 U.S.C. App. 1509.

§ 122.15 [Amended]

2. Section 122.15 is amended by removing from the list of user fee airports in paragraph (b) the words "Jackson, Mississippi" and "Jackson Municipal Airport".

Approved: April 8, 1993.

Michael H. Lane,

Deputy Acting Commissioner of Customs

John P. Simpson,

Assistant Secretary of the Treasury.

[FR Doc. 93-9963 Filed 4-28-93; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Extension of Temporary Placement of Methcathinone into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration (DEA) to extend the temporary scheduling of methcathinone in Schedule I of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). The temporary scheduling of methcathinone is due to expire on May 1, 1993. This notice will extend the temporary scheduling of methcathinone for six months or until rulemaking proceedings pursuant to 21 U.S.C. 811(a) are completed, whichever occurs first.

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: On May 1, 1992, the Administrator of the DEA published a final rule in the **Federal Register** (57 FR 18824) amending § 1308.11(g) of title 21 of the Code of Federal Regulations to temporarily place methcathinone into Schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). This final rule, which became effective on the date of publication, was based on findings by the Administrator that the temporary scheduling of methcathinone was necessary to avoid an imminent hazard to the public safety. Section 201(h)(2) of the CSA (21 U.S.C. 811(h)(2)) requires that the temporary scheduling of a substance expires at the end of one year from the effective date of the order. However, during the pendency of proceedings under 21 U.S.C. 811(a)(1) with respect to the substance, temporary scheduling of that substance may be extended for up to six months. Proceedings for the scheduling of a substance under 21 U.S.C. 811(a) may be initiated by the Attorney General (delegated to the Administrator of the DEA pursuant to 28 CFR 0.100) on his own motion, at the request of the Secretary of Health and Human Services, or on the petition of any interested party. Such proceedings regarding methcathinone have been initiated by the Administrator.

Therefore, the temporary scheduling of methcathinone, which is due to expire on May 1, 1993, may be extended until November 1, 1993, or until proceedings initiated in accordance with 21 U.S.C. 811(a) are completed, whichever occurs first.

Pursuant to 21 U.S.C. 811(h)(2) the Administrator hereby orders that the temporary scheduling of methcathinone be extended until November 1, 1993, or until the conclusion of scheduling proceedings initiated in accordance with 21 U.S.C. 811(a), whichever occurs first. The Administrator of the DEA hereby certifies that extension of the temporary placement of methcathinone into Schedule I of the CSA will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This action involves the extension of temporary control of a substance with no currently approved medical use or manufacture in the United States.

This final rule is not a major rule for the purposes of Executive Order 12291 (46 FR 13193) of February 17, 1981. It has been determined that drug scheduling matters are not subject to review by the Office of Management and Budget (OMB) pursuant to the provisions of Executive Order 12291. Accordingly, this extension of temporary scheduling is not subject to the provisions of Executive Order 12778 which are contingent upon review by OMB.

This action has been analyzed in accordance with the principles and criteria in Executive Order 12612, and it has been determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Dated: April 22, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93-9994 Filed 4-28-93; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. 89-16, Notice No. 3]

RIN 2125-AC34

Design Standards for Highways; Interstate System

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the design standards which apply to Interstate highway projects. A revised publication of the American Association of State Highway and Transportation Officials (AASHTO) entitled "A Policy on Design Standards—Interstate System" is being adopted by the FHWA and will constitute the FHWA's policy on geometric design for all projects on the Interstate highway system.

Prior to the completion of this rulemaking process, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 was passed. That act retains without changes the existing statutory provisions for geometric and construction standards for the Interstate system. In addition, it provides that, similar to the previous statutory provision, the Secretary of Transportation, in cooperation with the States, shall establish design and construction standards for projects on the National Highway System (NHS). As defined in the 1991 ISTEA, the interim NHS consists of the Interstate system and other principal arterials.

The FHWA has reviewed this rulemaking in view of the new provisions and has concluded that, because the changes in the Federal-aid highway system definitions do not effect the Interstate system and the existing statutory authority for standards is not changed, there is no effect on this rulemaking.

EFFECTIVE DATE: The final rule is effective June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Seppo I. Sillan, Geometric and Roadside Design Branch, Federal-aid and Design Division, Office of Engineering (202) 366–1327 or Vivian Philbin, Office of Chief Counsel (202) 366–0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: The standards, policies and standard specifications that have been approved by the FHWA are incorporated by reference in 23 CFR 625.4. Those provisions that apply to roadway geometric design and are the subject of this rulemaking are listed in 23 CFR 625.4(a).

The AASHTO is an organization which represents the 50 State highway and transportation agencies as well as the District of Columbia and Puerto Rico. Its members consist of the duly constituted heads and other chief directing officials of those 52 agencies. The Secretary of the United States Department of Transportation (DOT) is an ex-officio member.

Among other functions, the AASHTO develops and issues standards, specifications, policies, guides, and related materials for use by the States on highway projects in the nation. Due to the AASHTO's recognized expertise and representation of all State highway and transportation agencies, the FHWA has assisted AASHTO over the years in the development of design standards pursuant to the provisions of Federal law (title 23, U.S.C.) which direct the FHWA to consult and cooperate with the States in that regard. Many of the standards, policies, and guides approved by the FHWA and incorporated in 23 CFR part 625 were developed and issued by the AASHTO. Revisions made to such documents by the AASHTO are independently reviewed and adopted by the FHWA through the rulemaking process before they are applied to Federal-aid projects.

Background

On July 18, 1989, the FHWA published a notice of proposed rulemaking (NPRM) at 54 FR 30095 requesting comments on the proposal to include the new AASHTO publication "A Policy on Design Standards—Interstate System," 1991 in 23 CFR 625.4(a). The NPRM proposed the substitution of a revised publication entitled "A Policy on Design Standards—Interstate System" (hereafter referred to as the "Standards") for a previous version last revised June 20, 1967. As stated in the NPRM, the primary reasons for development of the revised standards are to establish up-to-date standards for design of highways on the Interstate System and to update the previous standards to incorporate the latest design criteria. A more detailed discussion of the changes in the Standards is included in the NPRM of July 18, 1990.

The FHWA extended the original 60-day comment period by 60 days (54 FR 38388, September 18, 1989) from September 18, 1989, to November 17, 1989, in order to provide interested parties additional time to respond to the NPRM. The July 18 notice also announced procedures that would be followed leading to publication of this final rule. These procedures involved four steps:

1. The FHWA through this notice is proposing to approve the Standards for use on Federal-aid Interstate projects. Comments on the design criteria contained in the document are requested.
2. The FHWA will analyze all comments. Based on that analysis and its own independent review, the FHWA will furnish AASHTO with those modifications that may be required to make the Standards acceptable for use on Federal-aid Interstate projects.
3. If AASHTO makes the necessary modifications or if no modifications are required, the FHWA will adopt the Standards for use on Federal-aid projects on the Interstate System and incorporate it by reference into 23 CFR part 625.
4. If there are any unresolved differences, the FHWA will issue a final rule conditionally adopting the document for Federal-aid Interstate projects by incorporating it in 23 CFR part 625 and officially indicating the extent of material not acceptable to FHWA and, if necessary, alternative criteria would be listed for Federal-aid Interstate projects.

In accordance with these procedures, the AASHTO was furnished copies of comments received to the docket. Based on those comments, concerns expressed by the FHWA, and its own further review of the Standards, the AASHTO revised the 1988 Standards. These revised Standards were published in 1991 by AASHTO. The 1991 Standards include revisions to the 1988 Standards which address comments received to the FHWA docket. The FHWA has decided to adopt the 1991 Standards as now presented because the FHWA believes the 1991 Standards adequately address the comments received and incorporate changes consistent with the FHWA's concerns about the 1988 Standards. The revisions to the 1988 Standards will be discussed later in this final rule.

Discussion of Comments on the 1988 Standards

A number of comments indicated confusion as to how the standards were to be interpreted to resolve discrepancies between these standards and the geometric standards published in "A Policy on the Geometric Design of Highways and Streets" (GDHS) AASHTO 1984. The 1984 GDHS has also been revised and the FHWA is in the rulemaking process of adopting the 1990 version. Also, the AASHTO has revised the 1988 Standards to remove any discrepancies between the 1990 GDHS and the 1991 Standards. Other comments which would have required expanding the document beyond its intended purpose will not be discussed individually herein.

Nine commenters responded to the NPRM issued on July 18, 1989. Comments were received from the following: Four State transportation agencies, one local government agency, one manufacturer, one consultant, one public interest group and one individual. All the comments expressed disagreement with at least a portion of the Standards but only one suggested total rejection.

Five of the comments were of a general nature.

Comment: The Standards do not provide sufficient specific values and criteria.

Response: These Standards are not intended to be a "stand alone" document but only contain and highlight the major features for the Interstate System. For detailed design information, other publications, such as the GDHS are referenced.

Comment: The GDHS should be cross-referenced more often throughout the publication.

Response: While the GDHS could be referenced more, it is cited sufficiently so that a reader knows to seek information from that publication for additional specific details.

Comment: The need for this publication is questioned.

Response: The Interstate System is a national system of limited access highways intended to connect the major urban areas of the United States. It is a system of highways designed to provide for a consistently high level of service and safety. In order to accomplish this and to comply with 23 U.S.C. 109(b), a separate set of standards is needed.

Comment: The standards should be advisory rather than mandatory.

Response: In order to achieve uniformity in certain design features, it is necessary that mandatory standards be provided for the Interstate System. Otherwise, the design would not be uniform nationwide and a consistently high level of service and safety may not be achieved.

Comment: Safety is not stressed sufficiently.

Response: Considering the limited purpose of this document, as previously indicated, it is felt that safety is sufficiently emphasized. For example on page 3 the Policy indicates: "Each

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section of Interstate highway shall be designed to serve safely and efficiently the volumes of vehicles, buses, trucks, including tractor-trailer and semitrailer combinations and corresponding military equipment estimated for the design year." On page 1 it is emphasized that values approaching minimum should only be used under unusual specified conditions. On page 2 full control of access is required on the entire system. On page 5 it is indicated that a clear recovery area beyond the shoulder should be provided free of fixed objects, or if there are objects that cannot be moved they should be breakaway or be appropriately shielded. There are many other examples that could be cited indicating that safety is a primary concern of the Standards.

There were four specific comments on the "General" section.

Comment: Interstate highways should provide for "predicted" or "expected" traffic rather than "possible" growth in traffic.

Response: The commenter's words better describe how Interstate highways are designed. The 1991 Standards are changed to "predicted growth in traffic" as recommended.

Comment: The sentence "The standards for horizontal alignment, vertical alignment and cross-sectional elements for resurfacing, restoration and rehabilitation (RRR) projects may be the AASHTO Interstate standards that were in effect at the time of the original construction" should be omitted. The FHWA cannot approve the use of obsolete Interstate Standards for RRR work.

Response: The purpose of this provision in the section titled "General" is to eliminate needless paperwork associated with design exceptions required because of relatively minor changes in standards over the years. For example, slightly longer vertical curves are required to meet changes in the way stopping sight distance is determined. To lengthen the vertical curves would require removing existing pavement for the length of the vertical curve just to lower the surface of the highway anywhere from a few feet to several inches. This would not be cost-effective and if the State requested an exception to the Standards because of the above circumstance it would likely be granted. The standards for cross-section dimensions, vertical and horizontal alignment have not changed significantly over the years. Therefore, the FHWA does not agree that the provision be eliminated. However, the term "cross-sectional elements" is changed in the 1991 Standards to specify the "widths of median, traveled way, and shoulders" only. This change was made at least in part because of the FHWA's concern that there could be RRR projects that do not meet current roadside safety requirements. The revision satisfies the FHWA's concern. Also, "or inclusion into the Interstate System" is added to clarify how existing Interstate highways that were incorporated into the system are to be treated.

Comment: There should be a requirement that minimum values shall not be used in combination.

Response: The present wording discouraging the use of minimum values is adequate to protect design and safety of the system.

There were a number of comments on the section on "Design Traffic."

Comment: Interstate highways should be built "at least 20 years beyond that which the plans, specifications and estimate for construction of the section are approved."

Response: The 1991 Standards are revised accordingly.

Comment: The sentence "In those extraordinary instances where environmental and/or political decisions intervene, the design year and resulting traffic will be consistent with that decision" should not be included. Because any new or major reconstructed Interstate highway will have major environmental and or political involvement, this statement allows almost any design year. Furthermore, every effort should be made to use a design year of 20 years and if extraordinary conditions occur a design exception should be processed. The previous sentence has already introduced flexibility and this sentence only encourages "abusive exceptions to the 20-year rule."

Response: This sentence reflects present practice and recognition of common constraints. There are reasons why a sufficient number of lanes cannot be provided in all cases to serve traffic predicted for 20 years in the future.

Comment: Design should be for the 10th highest hourly volume of the design year rather than the 30th highest hour.

Response: The use of the 30th highest hour is in keeping with current practice and in most cases it would not be practical to use the 10th highest hourly volume. Such change would require designing for a much higher volume, almost the highest occurring volume, which might occur during a year. The reason that some highways become congested soon after they are opened is not because they were designed on the basis of the 30th highest hourly volume, but because traffic growth is greater than expected or for some reason the number of lanes that could be provided was less than the design volume would indicate.

There were 12 comments on the section on right-of-way.

Comment: The first paragraph should be omitted or it should be recognized that right-of-way should be sufficient for a facility designed for a future year. Another similar comment was that the right-of-way should be sufficient to accommodate the expected growth in traffic.

Response: The FHWA has determined that the paragraph should be retained. However, the words "in the design year and for known future improvements" are added in the 1991 Standards. This indicates that sufficient right-of-way should be obtained for future highway needs.

Comment: Guidance should be provided on acceptable and optimal designs for control-of-access where frontage roads interface with Interstate facilities.

Response: This guidance is beyond the scope of this publication and the GDHS should be referred to for guidance on this subject.

Comments: There were four comments on the extension of control-of-access beyond the ramp terminal: (1) The control-of-access should be extended 800 feet in urban areas and 1200 feet in rural areas; (2) The control-of-access should be extended 300 feet in urban areas and 600 feet in rural areas; (3) The lengths specified should be reduced in the case of major reconstruction projects; and (4) separate guidance should be provided for the case where there are auxiliary lanes along the crossroad.

Response: Over the years the lengths of 100 feet and 300 feet have proven to be reasonable and practical distances and should continue to be required for both new and major reconstruction projects. Providing separate guidance for the case where there are auxiliary lanes along the crossroad is beyond the scope of this publication.

Comment: There are 100 to 200 permitted legal at-grade access points (locked gates) in Arizona. Concern was expressed that their elimination would cause a serious problem because alternative, much more expensive means of access would have to be provided.

Response: The control-of-access section of the Standards does not apply to existing locked-gate access points. New locked gate access points would be permitted by obtaining approval of a new point-of-access.

Comment: The last paragraph in this control-of-access section should be clarified to better state how at-grade intersections of driveways are to be eliminated.

Response: This is mainly an editorial comment. However, to clarify the intent, the second sentence in the 1991 Standards has been revised to read as follows: "At-grade intersections shall not be allowed."

There were 8 individual comments on the section on "Geometric Controls and Criteria."

Comment: A sentence should be added indicating that the design speed of a new or reconstructed highway shall exceed the posted speed limit.

Response: This is unnecessary since the design speed does not necessarily have to exceed the posted speed, although the design speed will invariably exceed the posted speed on Interstate highways.

Comment: The phrase "And depending on the nature of the terrain and development" should be eliminated from the first sentence of the first paragraph.

Response: This is mainly an editorial comment. This paragraph is completely revised in the 1991 Standards to clarify its meaning as follows: "A design speed of 70 miles per hour should be used in rural areas. Where terrain is mountainous, a design speed of 60 miles per hour or 50 miles per hour which is consistent with design expectancy, may be used. A design speed of 60 miles per hour is acceptable in rolling terrain. In urban areas the design speed shall be at least 50 miles per hour."

Comment: There is no provision for 60 mph for rolling terrain in the GDHS. Highways in other than mountainous terrain should have a minimum 70 mph design speed.

Response: Since this provision will not effect highway design to any great extent as almost all highways in nonurban areas are designed for 70 mph in rolling terrain, it is accepted.

Comment: There is a discrepancy between the maximum possible grade allowed in the Standards and the GDHS. Six percent is the maximum permitted in the GDHS while 7 percent could be permitted by these Standards.

Response: The gradients permitted in the 1991 Standards are revised to agree with those in the GDHS.

Comment: "Shall" should be substituted for "should" regarding the use of the upper range of values for stopping sight distance established in the current edition of AASHTO's GDHS.

Response: The FHWA concurs that the upper range of values for stopping sight distance should be used in almost all cases for the Interstate System. However, it is felt the wording in the standards will accomplish this and there is no need to require a change in the existing wording.

Comment: It was suggested that the curvature, superelevation and allied features "shall" be correlated with the design speed in accordance with the GDHS rather than "should" be correlated.

Response: The FHWA was also concerned with this wording and the Standards have been revised as suggested by this comment.

The section on "Cross Section Elements" received approximately 30 comments. The majority of the comments were editorial and are not discussed in this rulemaking.

Comment: The actual level-of-service should be provided or the reference should be to the "Highway Capacity Manual" (HCM) (23 CFR 625.5(a)(6)) rather than the GDHS.

Response: The new revised GDHS (which the FHWA is in the rulemaking process of adopting) incorporates material from the HCM to include specific level-of-service criteria and does not need to be repeated in this publication.

Comment: Left shoulders on four lane highways should have a paved width of 10 feet rather than 4 feet.

Response: On four lane highways 4-foot left shoulders have proved to be adequate and it would not be economically justified to require 10 feet.

Comment: Shoulder width should not be reduced in mountainous terrain.

Response: In mountainous terrain traffic volumes may be low and because of terrain, the provision of full shoulders could add considerably to the cost. Therefore, the reduction in shoulder widths is considered justified in mountainous areas.

Comment: Minimum shoulder widths should be reduced in urban areas in order to allow for provision of additional traffic lanes.

Response: Because of greater traffic volumes, shoulders are needed more in urban areas. Any justified reduction in shoulder widths will be handled on an exception basis.

Comment: The maximum shoulder slope should be 4 percent rather than 6 percent.

Response: There are some cases where a 6 percent slope is necessary and desirable, particularly in areas subject to heavy rainfall. This slope should not create a hazard since vehicles entering or using the shoulder intentionally should be traveling at lower speeds.

Comment: The shoulder slope should be uniform for the entire shoulder width.

Response: There are situations where it may be desirable to provide slope which is not uniform over the entire shoulder width. These situations occur on the outside of superelevated curves. An expanded discussion of this is beyond the intended scope of this publication.

Comment: The maximum foreslopes should be a ratio of 6:1 rather than 4:1 and preferably be 10:1.

Response: The slopes indicated in the Standards agree with recommended minimum safety requirements in the "Roadside Design Guide," AASHTO, 1989, incorporated by reference at 23 CFR 625.5(a)(3).

Comment: The foreslope requirements are too restrictive.

Response: As indicated above, the slopes presented in the Standards agree with the recommended safety requirements in the "Roadside Design Guide."

Comment: The term "wherever feasible" should be omitted from the paragraph on "sideslopes."

Response: The term "wherever feasible" has been omitted from the 1991 Standards.

Comment: The minimum median width should be 8 feet rather than 10 feet in urban areas.

Response: The 10-foot minimum median width is necessary to accommodate the two 4-foot shoulders plus a barrier, if required.

Comment: All medians including those on highways in mountainous terrain and in urban areas should be at least 36 feet wide plus width for barriers.

Response: It would not be economically feasible in many cases in urban and mountainous areas to require a 36-foot wide median. A narrower median with an appropriately designed barrier is often appropriate.

Comment: Medians in rural areas should be at least 46 feet wide and medians in urban and mountainous areas should be at least 14 feet wide.

Response: While it generally is desirable to provide as wide a median as possible on freeways, for economic and environmental reasons it is not always feasible. The FHWA believes the minimum widths presented in the Standards are reasonable.

Comment: All medians between parallel bridges should be decked when the median is 30 feet wide or less. An analysis should be required for median openings between 46 to 30 feet to determine if they also should be decked

Response: A median width of 30 feet is considered appropriate for the possible decking of a median. The alternative is to provide a crashworthy

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barrier next to the roadways in order to prevent vehicles from entering the opening between the structures. While this is not as desirable as covering the opening, it should not adversely affect safety. Decking the entire median for widths of medians greater than 30 feet generally would not be cost effective.

Comment: There should be a requirement for median barriers in all medians of 26 feet or less. Wider medians should be analyzed to determine if a barrier is required.

Response: The AASHTO "Roadside Design Guide" does not indicate a need for barriers in all medians 26 feet or less. There is no need for these Standards to go beyond this guidance.

Comment: A minimum 30 foot clear recovery area should be specified in all cases. Another comment was to provide at least a 20-foot clear recovery area.

Response: The "Roadside Design Guide" suggests different widths of recovery area depending on design speed, traffic volumes, side slopes, etc. Therefore, no standard minimum width should be specified.

Comment: Barrier curbs should not be allowed under any conditions.

Response: The 1991 Standards indicate that "barrier curbs shall not be used."

Comment: Barrier curbs should be permitted along existing facilities.

Response: The FHWA does not agree that this statement should be included in the Standards. They have been found to cause drivers to lose control of their vehicles and do not provide necessary redirection for out-of-control vehicles.

Comment: Mountable curbs should not be used in conjunction with traffic barriers or attenuators.

Response: The "Roadside Design Guide" indicates that curbs may not be desirable in front of traffic barriers, but does not prohibit them when used flush with or behind a barrier. This is included in the 1991 Standards.

Only one commenter provided comments on the section on "Interchanges."

Comment: (1) All movements should be provided at all interchanges; (2) The GDHS should be referenced regarding design of ramps; and (3) No direct access should be allowed to malls and residential developments.

Response: There is now an indication in the 1991 Standards that each interchange shall provide for all traffic movements. The GDHS is already referenced in the "General" section and does not need to be referenced again. In light of the first sentence of this section, there is no need to single out malls and residential areas as land uses that should not be provided direct access.

There were a number of comments on the section on "Bridges and other Structures."

Comment: There should be no reduction in width allowed for long bridges.

Response: While this would be possible, it usually is not economically desirable.

Comment: The offset to the parapet rail on long bridges should be 3 feet rather than 4 feet for new bridges.

Response: Three feet would be less than required in previous standards for new bridges and 4 feet is considered the minimum width that should be provided.

Comment: All tunnels should have a width of no less than the desirable width cited in the Standards and that all tunnels should have at least a 16-foot vertical clearance.

Response: The FHWA has determined that such a requirement is not always economically desirable and should not be required in the Standards.

In conclusion, the FHWA intends to adopt the 1991 Standards. The revisions to the 1988 Standards are now included in the 1991 Standards and make them acceptable to the FHWA for use in the design of highways on the Interstate System.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not major within the meaning of Executive Order 12291 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. This determination is based on the fact that although the new Policy contains new material, the basic criteria remain essentially the same. For all practical purposes, the new Policy reflects the criteria which, for the most part, have been in use in designing Interstate highways for the last several years.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 605(b)), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirements for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—Transportation, Highways and roads, Incorporation by reference, Reporting and recordkeeping requirements.

Issued on: April 20, 1993.

E. Dean Carlson,

Executive Director.

In consideration of the foregoing, the FHWA is amending chapter I of Title 23, Code of Federal Regulations, part 625 as set forth below.

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The authority citation for part 625 continues to read as follows:

Authority: 23 U.S.C. 109, 315 and 402; 49 CFR 1.48(b).

2. In § 625.4, paragraph (a)(2) is revised to read as follows:

§ 625.4 Standards, policies, and standard specifications.

• • • • • •

(a) • • •

(2) A Policy on Design Standards—Interstate System, AASHTO, 1991. [3]

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[FR Doc. 93–9930 Filed 4–28–93; 8:45 am]

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23 CFR Part 625

[FHWA Docket No. 90–13]

RIN 2125–AC22

Design Standards for Highways; Geometric Design Policy

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the design standards which apply to construction and reconstruction of projects on the National Highway System (NHS). A revised publication of the American Association of State Highway and Transportation Officials (AASHTO) entitled "A Policy on Geometric Design of Highways and Streets" is being adopted by the Federal Highway Administration (FHWA) and will constitute the FHWA's policy on geometric design as applicable to projects on the NHS.

The FHWA will issue implementing instructions outlining how certain criteria contained in the new Policy will be applied, as discussed above and later in this final rule.

Prior to the completion of this rulemaking process, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 was passed. That act provides that, similar to the previous statutory provisions, the Secretary of Transportation, in cooperation with the States, shall establish design and construction standards for projects on the NHS. As defined in the 1991 ISTEA, the interim NHS consists of the Interstate system and other principal arterials.

The FHWA has reviewed this rulemaking in light of the new provisions and concluded that, because of the changes in the Federal-aid highway system definitions and the applicability of national design standards, the effect on this rulemaking is that the criteria contained in the functional chapter on collector roads and streets (Chapter 6 of the "A Policy on Geometric Design of Highways and Streets") are not applicable to projects on the NHS (but may be applied to non-NHS projects at the option of the State).

EFFECTIVE DATE: The final rule is effective June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Seppo I. Sillan, Geometric and Roadside Design Branch, Federal-aid and Design Division, Office of Engineering (202) 366–1327, or Ms. Vivian Philbin, Office of Chief Counsel (202) 366–0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The standards, specifications, policies, guides and references that have been approved by the FHWA for use on Federal-aid projects are incorporated by reference in 23 CFR part 625.

Those provisions that apply to roadway geometric design and are the subject of this rulemaking are listed in 23 CFR 625.4(a)(1).

AASHTO is an organization which represents the 50 State highway and transportation agencies as well as the District of Columbia and Puerto Rico. Its members consist of the duly constituted heads and other chief directing officials of those 52 agencies. The Secretary of the United States Department of Transportation (DOT) is an ex-officio member.

Among other functions, the AASHTO develops and issues standards, specifications, policies, guides, and related materials for use by the States on all highway projects in the nation. Due to the AASHTO's recognized expertise and representation of all State highway and transportation agencies, the FHWA has assisted AASHTO over the years in the development of design standards pursuant to the provisions of 23 U.S.C. 109. Many of the standards, policies, and guides approved by the FHWA and incorporated in 23 CFR part 625 were developed and issued by the AASHTO. Revisions made to such documents by the AASHTO are independently reviewed and adopted by the FHWA before they are applied to Federal-aid projects.

Background

On December 3, 1990, the FHWA published a notice of proposed rulemaking (NPRM) at 55 FR 49903 requesting comments on the use of the geometric design standards contained in "A Policy on Geometric Design of Highways and Streets, 1990." Specifically, that publication would be substituted for the previous version dated 1984. The primary reasons for development of the 1990 Policy were to update the previous publication and to incorporate the latest design criteria. A more detailed discussion of the changes in the Policy is included in the notice of proposed rulemaking.

Discussion of Comments

Thirteen commenters responded to the NPRM issued on December 3, 1990. Comments were received from eight State transportation agencies, one local government agency, two public interest groups, one consultant and one association.

The majority of 13 of the commenters expressed support for adoption of the Policy. Only two commenters expressed overall opposition. Eight of the commenters expressed concern or opposition to a particular issue as covered in the Policy including those who supported adoption of the Policy. For instance, one commenter supported adoption of the Policy, but had concerns with the minimum lengths of acceleration and deceleration lanes.

A discussion of the specific comments on the proposed rule follows. Unspecific comments, editorial comments, and comments providing general discussions of various transportation issues which were not specific to this rulemaking are not included in this discussion. Also, there were a number of comments on the local roads and streets criteria and the criteria for collector roads and streets. Local roads and streets were never eligible for Federal-aid funding and therefore it was not the intent of the rulemaking process to adopt standards for their construction or reconstruction. Furthermore, as indicated previously as a result of the ISTEA, criteria contained in the functional chapter on collector roads and streets are not applicable to projects on the NHS. Therefore, comments on criteria for highways classified as local roads and streets and collectors are not included in the following discussions. Finally, as was done with the comments on the 1984 Policy rulemaking, all comments including those pertaining to local roads and streets and collectors will be provided to the AASHTO Geometric Design Task Force for its consideration in preparing the next revision of the Policy.

Comment: "A Guide for Development of Bicycle Facilities" (Bike Guide) recently revised by AASHTO should be incorporated into this document (Policy) rather than be a separate publication, and FHWA should adopt the Bike Guide at the same time as this Policy.

Response: While the Policy does not contain all the information needed to

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design a bicycle path or a separate bicycle facility, it does contain information on designing streets and highways to accommodate bicyclists. The FHWA believes that having two publications is more workable. It provides designers with a separate, easy to use publication with information for designing bicycle facilities. The FHWA will issue appropriate rulemaking as soon as possible to incorporate the new Bike Guide into 23 CFR part 625 as a publication to be used for the design of bicycle facilities constructed with Federal-aid highway funds and make an effort to adopt the Bike Guide near the same time as the 1990 Policy is adopted.

Comment: The Policy has no nationally-controlled interface between chosen driver characteristics and explicit design principles, and driver behavior assumptions used to justify design practices are unsupported.

Response: Based on careful review of the research publications on the subject, the assumptions pertaining to driver behavior are considered to be the best available at this time. There are a number of research studies underway in the area of driver behavior, particularly that of elderly drivers. Results from these studies should be available before the next revision of the Policy and will be considered in its development.

Comment: There were a number of comments pertaining to the lack of information on passenger car equivalents of longer trucks and work zone pedestrian considerations.

Response: The Policy is not intended to cover in detail this type of information, but only to provide a brief introduction and a reference. The Highway Capacity Manual (Transportation Research Board Report 209, 1985) deals with passenger car equivalents. If new information needs to be developed on passenger car equivalents, it should be done in the context of revising that particular technical manual and not the Policy. Other publications such as "Planning Design and Maintenance of Pedestrian Facilities," FHWA Publication Number FHWA IP–88–019, 1988, and the "Standards for Work Zone Traffic Control" (American Traffic Safety Services Association, 1988), cover operations through work zones.

Comment: The assumed driver reaction time is too short to accommodate elderly drivers.

Response: Present research indicates that the existing assumed reaction time will accommodate most elderly drivers. However, further research is underway and the results will be considered during future revision of the Policy.

Comment: The stopping sight distances are too short because they do not consider the elderly driver and are based on dry weather conditions.

Response: The friction factors used are based on wet weather conditions and, based on currently available information, reaction times do consider the elderly drivers.

Comment: The passing sight distances are too short for the passing of longer trucks.

Response: The Policy's passing sight distance values (almost ½ mile for a 70 mph design speed) are approaching the limit where drivers can judge distances.

Passing sight distance is an operational feature affecting capacity. No minimum required amounts of passing sight distance are prescribed in the Policy or in any of its predecessor documents.

Comment: The assumed eye height is too high at 3.5 feet.

Response: A National Cooperative Highway Research Program (NCHRP) project currently underway is investigating the procedures for determining various stopping sight distance requirements. The study includes the height of eye determination. Any necessary adjustments of the stopping sight distance model and the height of eye will be made when this research is completed.

Comment: There is no guidance for superelevation for curves on downgrades.

Response: The FHWA agrees that there needs to be some guidance in this area. In recognition of this, research is included on a list of needed research suggested by the AASHTO Task Force on Geometric Design. However, at this time there is no specific information available to develop definite criteria on when and what superelevation should be used with various grade and curvature combinations.

Comment: More up to date information should be provided for side friction.

Response: A recent study cited on page 152 of the Policy, "Side Friction for Superelevation on Horizontal Curves," FHWA Report Number FHWA RD–86–024, 1985, confirms the use of the current values.

Comment: The Policy should favor the use of spirals more than it does.

Response: The FHWA agrees that there are advantages to using spirals in many instances, and will continue to encourage their use. However, the FHWA has no basis for concluding that their use in lieu of circular curves is so critical as to require mandating that spirals be used.

Comment: Width of turning roadways should be sufficient to accommodate two WB–114 or WB–96 design vehicles.

Response: It is not practical or necessary to design all turning roadways to accommodate trucks of this size. To do so would result in two lane pavement widths up to and over 50 or 60 feet resulting in obvious operational and safety problems. Therefore, the design tables are a compromise to accommodate combinations of different types of vehicles, but not necessarily the largest ones at the same time.

Comment: A chart should be included for acceleration of trucks on grades.

Response: The FHWA agrees and this will be considered as an addition to a future issue of the Policy.

Comment: A number of commenters were opposed to the suggestion in the Policy that shoulder use by vehicles being passed may be permitted or that bicycles are not a consideration in deciding whether such use could or should be permitted.

Response: The Policy only refers to such use of shoulders in some States and the text includes many precautions. Although such use has been successful under some circumstances, the FHWA, nevertheless, will not endorse it as a national policy and will so state in its implementation memorandum.

Comment: Circular curves rather than parabolic vertical curves should be used for designing vertical curves because parabolic curves do not provide as much sight distance.

Response: The FHWA disagrees. Parabolic vertical curves, almost exclusively, have been used for vertical curve design. They provide essentially the same sight distance as circular vertical curves and are considerably easier to calculate.

Comment: There also were a number of other comments concerning the length of crest vertical curves and stopping sight distances.

Response: As indicated previously, an NCHRP study is just beginning to examine stopping sight distance and design of vertical curves. Therefore, FHWA believes any change in sight distance criteria and design of vertical curves should await the completion of this comprehensive study.

Comment: The section on utilities should cite the "Roadside Design Guide" and other related studies.

Response: The Policy cites two AASHTO publications dealing with utilities. The FHWA believes that the coverage of utilities is adequate. For more specific information, one should refer to the cited AASHTO publications: "A Policy on the Accommodation of Utilities Within Freeway Right-of-Way" and a "Guide for Accommodating Utilities Within Highway Right-of-Way."

Comment: The vertical clearance requirement should allow for a *minimum* of 6 inches for future resurfacing and not only "*up to* 6 inches."

Response: The FHWA agrees that in most cases it is desirable to provide at least a 6-inch allowance for future resurfacing. However, provision for additional clearance above and beyond the minimum required for possible future overlays has always been a recommendation. The only requirement is that the minimum vertical clearance (14 or 16 feet) is to be provided and maintained.

Comment: All corner sight distances are too short for trucks and a corner sight distance of 200 feet is too short for any vehicle.

Response: Intersection sight distance is to be studied as an NCHRP project. When the results from this study become available, they will be evaluated and considered in revising the Policy.

Comment: Minimum design speed of 40 mph is too low for arterial highways.

Response: Because of terrain and other constraints, a 40 mph minimum design speed may be the maximum that can be obtained. The 40 mph design speed has been added to provide geometric design criteria just for those instances. There are no Federal mandates for specific design speed on any project other than that the design speed has to be equal to or exceed the posted or regulatory speed limit.

Comment: The superelevation rates for rural arterials are set too low.

Response: The superelevation rates are consistent with those that have been used successfully for a considerable number of years. They are coordinated with the maximum allowed curvature and are the same as in the 1984 Policy. Snow and ice conditions as well as slow speed operation, especially by high centered vehicles, on steeply superelevated curves is a factor which is considered.

Comment: Full shoulders should be continued over bridges longer than 200 feet.

Response: Although the FHWA agrees that full shoulders on all bridges would be ideal, there may be a number of instances where traffic volumes are low or costs of providing them are such that full shoulders on some longer bridges might not be appropriate. The 1990 Policy continues the flexibility provided by all prior policies on geometric design.

Comment: Eight-foot shoulders are too narrow for arterials with design hour volumes (DHV's) over 200 because that width does not provide adequate off-the-travel-lane refuge for 102-inch wide trucks.

Response: The commenter correctly noted that 8-foot wide shoulders do not allow a 102-inch wide vehicle to use the shoulders without encroaching on the travel lane. However, the 8-foot wide shoulder is quite adequate for use by the predominant vehicles on the road, such as passenger cars, pickup trucks and vans. It is not reasonable to design all shoulders for the widest possible vehicle regardless of its relatively low frequency in the traffic stream. Therefore, the FHWA will accept the 8-foot shoulder dimension in question. This does not preclude the use of wider shoulders when and where appropriate.

Comment: Eleven-foot lanes should not be permitted on arterial highways used by large trucks.

Response: The most prevalent travelled way width specified for arterials is 24 feet. Twenty-two feet (11-foot lanes) are provided for only in the lower volume and speed combinations. Also, 11-foot lanes may be retained on reconstructed arterials only if the alignment and safety record is satisfactory. Since the types of highways on the Designated Network are typically required to have 12-foot lanes, use by large trucks is obviously a factor that is considered. The FHWA will emphasize that as well as the need for 12-foot lanes for roads on the Designated Network in its implementing instructions.

Comment: The minimum stopping sight distances for arterials are too short.

Response: As indicated previously, an NCHRP research project is investigating stopping sight distance criteria and any change should await the results of this project.

Comment: Auxiliary lane pavements on divided arterials should not have a cross slope of 3 percent.

Response: A permissible cross slope of 3 percent is consistent with the general criteria discussed in Chapter IV for multiple lane pavements and will provide the means to improve pavement drainage. Main line cross slope remains at 2 percent. Also, at only 1 percent, the cross slope rollover is well within accepted limits. The commenter noted that the FHWA failed to list this change from the 1984 Policy in its notice of proposed rulemaking. The commenter was correct in pointing out this unintentional oversight by the FHWA. There was no attempt by FHWA to list all changes and revisions, but only those that appeared to be of some significance or possible interest.

Comment: For urban arterials with barrier curbs at the edge of the shoulder, a 6-foot shoulder is not adequate for 102-inch wide trucks.

Response: The commenter is correct. However, as discussed above in regards to 8-foot shoulders on rural arterials, shoulder widths to accommodate the predominant vehicles is more appropriate than trying to always provide for a relatively infrequent situation. Nevertheless, a 6-foot shoulder, although adequate, is somewhat marginal under the above discussed conditions. Therefore, although the FHWA will accept 6-foot shoulders as a minimum, it will recommend in the implementing instructions that when shoulders with curbs are used on urban arterials, a preferred shoulder width is 8 feet. As indicated in the Policy, when no curbs are used, the rural shoulder criteria should be used.

Comment: The 1.5-foot recommended clearance for urban arterials from the curb face to obstructions is inadequate.

Response: While it is desirable to obtain a greater clearance where possible, and the Policy so indicates, often it is not possible on urban streets. As the commenter points out, 1.5 feet provides no better impact mitigation than a location directly at the edge of the curb. The reason for specifying the 1.5-foot offset is not to provide a "clear zone" in the context of clear roadside concept but to provide some lateral clearance for overhang of trucks and buses.

Comment: Several comments were made concerning intersection sight distance. One commenter indicated that it should not be assumed that the main line traffic will slow down when determining required intersection sight distance. Another commenter indicated that it should be assumed that the main line traffic will slow down to more than 85 percent of the design speed. Another commenter indicated there was not sufficient consideration given to trucks.

Response: As indicated previously, an NCHRP study will investigate intersection sight distance criteria. When the results of this study become available, the intersection sight distance criteria will be reevaluated to determine what, if any, changes to the Policy might be needed.

Comment: There were a number of comments concerning the section on "Railroad Grade Crossings." One commenter indicated that larger trucks are not considered sufficiently in determining needed sight distances. Another commenter indicated that the suggestions regarding horizontal and vertical alignments at railroad-highway intersections should be more positive and that the provision of active warning

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devices should not be related to sight distance. Also, the surface of the roadway should be no lower than 3 inches below the railroad rather than the 6 inches suggested in the Policy. At the railroad highway intersection there should be an indication that highway intersections should not be near the railroad crossing or if there is a possibility of a backup onto the railroad, escape areas and interconnected highway signals should be provided as well as other signing.

Response: A 65-foot truck is sufficiently representative for most railroad-highway grade crossings. Longer trucks should be dealt with as special cases and necessary sight distances computed using the formulas in the Policy instead of the table values which are clearly identified as being for 65-foot vehicles only. The comments suggesting that statements regarding other nearby highway intersections and vertical and horizontal alignment relative to the railroad highway grade crossings should be more positive will be considered for the next revision of the Policy. The FHWA believes the current statements regarding use of active warning devices and sight distances are adequate in the Policy.

Comment: It is suggested that the language from the 1984 Policy which states that a curve with a radius of 1000 feet or more for a length of 200 feet should be provided in advance of the acceleration lane that is contiguous to the through lanes (i.e., in advance of a parallel type acceleration lane) should be continued in the 1990 Policy.

Response: The FHWA believes that this comment has merit and intends to consider it further. As stated above the comment will be shared with AASHTO for its continuing efforts to revise and improve the Policy on Geometric Design of Highways and Streets.

Comment: There were several comments expressing the opinion that the lengths of acceleration lanes have been made too short.

Response: The actual tabulated acceleration lengths are unchanged from previous criteria. Also unchanged is how the actual lengths available for acceleration are measured, i.e., how much of the approach to the merge can be used. Although, the 1984 Policy had a conflict between the recommendation made in the text and the dimensions shown in a drawing, it nevertheless provided for a minimum of 600 feet for combined length of full width acceleration lane and taper for parallel-type acceleration lanes. The 1990 Policy has the same minimum criteria. For the taper-type entrance, the 1990 Policy retains the 50:1 to 70:1 tapers of the 1984 Policy.

Comment: The selection of specific design speed number is inappropriately based on unquantifiable subjective factors, not on formulae based on verifiable scientific values.

Response: Design speed is a concept by which coordination of the various physical design elements is achieved. The selection of a design speed is subjective and depends, for example, on topography, land use, functional classification of the highway and expected speed limits. It is not a physical design feature or a concept that lends itself to precise scientific formulae. Judgment of present and future conditions and needs, not arbitrary guesswork as implied by the commenter, is expected and the Policy has considerable guidance for making such judgments.

Comment: Discussion of truck climbing speeds does not recognize grandfathered or permitted divisible loads of up to 134,000 pounds.

Response: The criteria for truck climbing lanes is based on the more typical vehicles in the traffic stream, not the relatively infrequent heavier vehicles. The data available at the time of this revision indicated that the weight to horsepower ratio of 300 lb/hp is a reasonable assumption for typical conditions.

Comment: Placement of curbs and dikes in front of barriers is not acceptable.

Response: The Policy does not advocate placement of curbs or dikes in front of barriers. Additionally, the FHWA currently recommends that if curbs must be used in conjunction with traffic barriers on high speed highways, they be no higher than 4 inches or be placed behind the barrier as suggested by the commenter. (FHWA "Guidelines for Application of the AASHTO Roadside Design Guide for Federal-aid Highway Projects," 1990.)

Comment: Figure IV–9 on bridge railings depicts, and implies acceptance of, a bridge railing and high curb combination known to be dangerous.

Response: The FHWA agrees. This figure was in the 1984 Policy but does not appear in the 1990 version. For all new and replacement roadside barrier installations on Federal-aid projects, including bridge rails, the FHWA already requires testing and evaluation in accordance with NCHRP Report 230, "Recommended Procedures for the Safety Performance Evaluation of Highway Appurtenances," 1981, and where curbs or sidewalks are involved, the testing is to be with the curb or sidewalk in place.

Comment: The recommendations for the tunnel cross section in the 1990 Policy conflict with the recommendations in the proposed AASHTO Interstate Design Policy. The commenter also indicated that the Interstate Policy should be altered to conform with the more desirable Policy recommendations.

Response: The FHWA has compared the cross-section criteria in each of the noted documents and finds them to be identical in their recommended cross-section dimensions and the expressed preference to use the desirable criteria instead of the minimum.

Comment: The 30th highest hour for design hourly volume is too low e design index.

Response: The commenter referred the FHWA to a previously submitted similar comment in response to another FHWA rulemaking docket which suggested that the 10th highest hourly volume of the design year be used. It would not be practical to do so. Such change would require designing for much higher volume, almost the highest occurring volume, which might occur during a year. The reason that some highways become congested soon after they are opened is not because they were designed on the basis of the 30th highest hourly volume, but because the traffic growth is greater than expected, or for some reason the number of lanes is restricted to less than the design volume would indicate.

Comment: The new Policy does not contain sufficient information in the intersection chapter for a vehicle larger than a WB–62 design vehicle.

Response: Although the minimum edge-of-pavement design tables do not have detailed layout information for trucks bigger than a WB–62, other sections of the Policy have more than adequate information on the turning paths of several larger sizes of trucks to allow designing for them when appropriate. Inclusion of such information in the intersections chapter can be considered in the next revision which is presently underway by AASHTO.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not major within the meaning of Executive Order 12291 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. This determination is based on the fact that although the new Policy contains new material, the basic criteria remain essentially the same. For all practical purposes, the new Policy reflects the criteria which, for the most part, have been in use in designing Federal-aid highways for the last several years.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 605(b)), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain collection of information requirements for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—Transportation, Highways and roads, Incorporation by reference.

Issued on: April 20, 1993.

E. Dean Carlson,

Executive Director.

In consideration of the foregoing, the FHWA is amending 23 CFR part 625 as follows:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The authority citation for part 625 continues to read as follows:

Authority: 23 U.S.C. 109, 315 and 402; 49 CFR 1.48(b).

2. In § 625.4, paragraph (a)(1) is revised to read as follows:

§ 625.4 Standards, policies, and standard specifications.

* * * * *

(a) *Roadway and appurtenances.* (1) A Policy on Geometric Design of Highways and Streets, AASHTO 1990. [3]

* * * * *

Appendix A to Part 625 [Amended]

3. Appendix A to part 625 is amended in paragraph 1 by removing the word "in" following "Register" and adding in its place the words ", 800 North Capitol Street, NW., suite 700,".

[FR Doc. 93–9932 Filed 4–28–93; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 270

RIN 1510–AA31

Availability of Records

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The Financial Management Service (FMS) is revising its regulations to provide more accurate information to the public concerning where to send requests for information and the fees that will be charged for services. This revision also includes editorial changes for clarity and address changes.

EFFECTIVE DATE: June 1, 1993.

FOR FURTHER INFORMATION: Rita Franklin, Manager, Programs Branch, Financial Management Service, 3700 East-West Highway, Hyattsville, Maryland 20782, (202) 874–8300.

SUPPLEMENTARY INFORMATION: The Department of the Treasury has statutory responsibilities, with respect to the general public, to implement uniformly and consistently the Freedom of Information Act (5 U.S.C. 552) and to provide maximum allowable disclosure of agency records upon request by any individual. To fulfill these responsibilities, FMS is clarifying its instructions for submitting requests for information and consolidating its fee schedule with the Department of Treasury regulations found at 31 CFR part 1 (52 FR 26302–01, July 14, 1987). The proposed rule also will clarify that some sections of the Treasury Financial Manual do not affect the public, and therefore, may not be made available.

In addition, claims for the redemption of mutilated currency of the United States now shall be submitted to the Bureau of Engraving and Printing pursuant to 31 CFR part 100 (47 FR 32044, July 23, 1982, as amended at 56 FR 10170, Mar. 11, 1991). The proposed rule was published in the **Federal Register** on September 9, 1992. No comments on the proposed rule were received. There are no substantive differences between the proposed rule and the final rule.

This rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, and a regulatory impact analysis is not required. As explained above, this revision merely updates and clarifies existing practices. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

List of Subjects in 31 CFR Part 270

Freedom of information.

For the reasons set forth in the preamble, title 31 part 270 of the Code of Federal Regulations, is revised to read as set forth below:

PART 270—AVAILABILITY OF RECORDS

Sec.

270.1 Rules governing availability of information.
270.2 Materials available for inspection and copying.
270.3 Requests for identifiable records.
270.4 Fees for services.

Authority: 5 U.S.C. 552.

§ 270.1 Rules governing availability of information.

The records of the Financial Management Service required by 5 U.S.C. 552 to be made available to the

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public shall be made available in accordance with the definitions, procedures and other provisions of the regulations on the Disclosure of Records of the Office of the Secretary and of other bureaus and offices of the Department issued under 5 U.S.C. 552 and published as part 1 of title 31 of the Code of Federal Regulations, except as provided in these regulations.

§ 270.2 Materials available for inspection and copying.

(a) *Materials available.* The materials in the Financial Management Service which are required by 5 U.S.C. 552(a)(2) to be made available for public inspection and copying are the following:

(1) Final opinions, as well as orders, made in the adjudication of cases. These will include final dispositions of claims on Government checks which are of a precedential nature. Generally, however, the Financial Management Service does not issue orders in the adjudication of cases.

(2) Statements of policy and interpretations which have been adopted by the Service and are not published in the **Federal Register**.

(3) Administrative staff manuals and instructions to staff that affect a member of the public. These materials include sections of the Treasury Financial Manual and such Department Circulars applicable to Financial Management Service operations, that have been determined by the agency to affect a member of the public, and have not been incorporated into that manual or published as parts of title 31 of the Code of Federal Regulations.

(4) Current indices for the foregoing materials.

(b) *Location.* The materials listed in paragraph (a) of this section issued on or after the effective date of these regulations are available for inspection and copying during office hours in the public reading room of the Treasury Department, 15th Street and Pennsylvania Avenue, NW., Washington, DC 20220. Materials issued prior thereto are available in the public reading room to the extent feasible. If not so available, they may be requested as identifiable records.

§ 270.3 Requests for identifiable records.

(a) *Procedure.* A written request for an identifiable record shall be addressed to: Freedom of Information Disclosure Officer, Financial Management Service, 401 14th Street, SW., Washington, DC 20227.

(b) *Determination of request.* Determination as to the disclosure of a record request shall be made, subject to appeal to the Commissioner of the Financial Management Service, by the head of the division in which the record belongs and by the Disclosure Officer of the agency. The decision of the Commissioner shall constitute final agency action, unless the Commissioner refers the appeal to the Fiscal Assistant Secretary, in which case the decision of the Fiscal Assistant Secretary shall constitute final agency action.

§ 270.4 Fees for services.

Fees for services performed by the Financial Management Service will be imposed and collected as set forth in part 1 of title 31 of the Code of Federal Regulations.

Michael T. Smokovich,

Acting Commissioner

[FR Doc. 93-10085 Filed 4-28-93; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect a determination by the Judge Advocate General of the Navy that USS RHODE ISLAND (SSBN 740), USS MAINE (SSBN 741), USS WYOMING (SSBN 742), and USS LOUISIANA (SSBN 743) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as naval submarines. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 14, 1993.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Rossi, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS RHODE ISLAND (SSBN 740), USS MAINE (SSBN 741), USS WYOMING (742), and USS LOUISIANA (SSBN 743) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c) pertaining to the location and arc of visibility of the sternlight; Annex 1, section 2(a)(i), pertaining to the height of masthead light; Annex I, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex I, section 3(b), pertaining to the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessels. The Judge Advocate General of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS RHODE ISLAND (SSBN 740), USS MAINE (SSBN 741), USS WYOMING (SSBN 742), and USS LOUISIANA (SSBN 743) are members of the SSBN 726 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of section 706.3, are equally applicable to USS RHODE ISLAND (SSBN 740), USS MAINE (SSBN 741), USS WYOMING (SSBN 742), and USS LOUISIANA (SSBN 743).

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessels' ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table One of § 706.2 is amended by adding the following vessels:

Vessels	No.	Distance in meters of forward masthead light below minimum required height, § 2(a)(i)
USS Rhode Island	SSBN 740	3.70
USS Maine	SSBN 741	3.70
USS Wyoming	SSBN 742	3.70
USS Louisiana	SSBN 743	3.70

§ 706.2 [Amended]

3. Table Three of § 706.2 is amended by adding the following vessels:

TABLE THREE

Vessel	No.	Masthead light arc of visibility rule 21 (A)	Side lights arc of visibility rule 21 (B)	Stern lights arc of visibility rule 21 (C)	Side lights distance inboard of ship sides in meters annex I section 3 (b)	Stern lights distance forward of stern in meters rule 21 (C)	Forward anchor lights height above hull in meters annex I section 2 (k)	Anchor lights relationship of aft light to forward light in meters annex I sec. 2(k)
USS Rhode Island.	SSBN 740	.....	.....	209	5.3	9.0	3.8	4.0 below
USS Maine	SSBN 741	.....	.....	209	5.3	9.0	3.8	4.0 below
USS Wyoming	SSBN 742	.....	.....	209	5.3	9.0	3.8	4.0 below
USS Louisiana	SSBN 743	.....	.....	209	5.3	9.0	3.8	4.0 below

Dated: April 14, 1993.

Approved:

W. L. SCHACHTE, Jr.,

Rear Admiral, JAGC, U.S. Navy, Acting Judge Advocate General.

[FR Doc. 93-10021 Filed 4-28-93; 8:45 am]

BILLING CODE 3810-AE-P

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS CURTIS WILBUR (DDG 54) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval destroyer. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 14, 1993.

FOR FURTHER INFORMATION CONTACT: Captain R.R. ROSSI, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS CURTIS WILBUR (DDG 54) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights; Annex I, section 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions; and, Annex I, section 3(c) pertaining to placement of task lights not less than 2 meters from the fore and aft centerline of the ship in the athwartship direction; without interfering with its special function as a Navy ship. The Judge Advocate General has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

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§ 706.2 [Amended]

Authority: 33 U.S.C. 1605.

2. Table Four of section 706.2 is amended by:

a. Adding the following vessel to Paragraph 15:

Vessel	No.	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
USS Curtis Wilbur	DDG 54	1.90 meters.

b. Adding the following vessel to Paragraph 16:

Vessel	No.	Obstruction angle relative ship's headings
USS Curtis Wilbur	DDG 54	89.78 thru 106.65 degree.

§ 706.2 [Amended]

3. Table Five of § 706.2 is amended by adding the following vessel:

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I sec. 2(f)	Forward masthead light not in forward quarter of ship Annex I sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light Annex I, sec. 3(a)	Percentage horizontal separation attained
USS Curtis Wilbur	DDG 54	X	X	X	12.3

Dated: April 14, 1993.

Approved:

W.L. Schachte, Jr.,

Rear Admiral, JAGC, U.S. Navy, Acting Judge Advocate General.

[FR Doc. 93-10022 Filed 4-28-93; 8:45 am]

BILLING CODE 3810-AE-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Baltimore, MD Regulation 93-05-07]

Safety Zone Regulation: Chesapeake Bay, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard Marine Safety Office Baltimore is establishing 2 safety zones for the U.S. Army Corps of Engineers wreck removal operation of two charted wrecks in the Chesapeake Bay. The Army Corps of Engineers diving operations will be using explosive charges to clear and remove obstructions northeast of Smith Point, Virginia. These 2 safety zones are needed to control commercial and recreational vessel traffic and to provide for the safety of life and property on U.S. navigable waters. Entry into these safety zones is prohibited unless authorized by the Captain of the Port, Baltimore.

EFFECTIVE DATE: This regulation becomes effective on April 26, 1993, at 7 a.m. and terminates at 7 p.m. June 04, 1993. These safety zones will be in effect on the above dates, from 7 a.m. to 7 p.m. daily.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Mark Williams, U.S. Coast Guard Marine Safety Office Baltimore, U.S. Custom House, 40 South Gay Street, Baltimore, Maryland 21202-4022, (410) 962-5104.

SUPPLEMENTARY INFORMATION: In accordance with Title 5 United States Code (U.S.C.) section 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of Federal Register publication. Specifically, the U.S. Army Corps of Engineers requested Coast Guard assistance on March 30, 1993, leaving insufficient time to publish a Notice of Proposed Rulemaking (NPRM) in advance of the event. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent property damage, and personal injuries which could result from the use of explosives in the safety zones.

Drafting Information

The drafters of this regulation are Lieutenant Junior Grade Mark Williams, project officer for the Captain of the Port, Baltimore, Maryland and Lieutenant Commander Keith B. Letourneau, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

On March 30, 1993, the Army Corps of Engineers requested Coast Guard assistance in establishing safety zones during the removal of 2 obstructions to navigation, northeast of Smith Point, Virginia, Chesapeake Bay. These obstructions will be removed by the Army Corps of Engineers between April 26 to June 04, 1993. The operation will include the removal of two charted wrecks which are located northeast of Smith Point in the Chesapeake Bay along the western edge of the outbound shipping channel. The safety zones will consist of a circle with a 200 yard radius drawn from the center of each wreck site. The center of the first wreck site is located at approximately Latitude 37 degrees, 57.9 minutes North; Longitude 076 degrees, 11.9 minutes West. The Center of the second wreck site is located at approximately Latitude 37 degrees 55.2 North; Longitude 076 degrees 11.2 minutes West. The Army Corps of Engineers survey vessel LINTHICUM will remain on station and monitor channel 13 VHF-FM. This regulation is issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for Title 33 CFR part 165.

Regulatory Evaluation

This regulation is not considered major under Executive Order 12291 and is also not considered significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

Federalism Assessment

This action has been analyzed in accordance with the principals and criteria contained in Executive Order 12612. This temporary final rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart F of part 165 of title 33, Code of Federal Regulations is amended as follows:

PART 165—AMENDED

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A new temporary section 165.T0518 is added to read as follow:

§ 165.T0518 Safety zones: Chesapeake Bay, MD

(a) *Location:* Two safety zones are hereby established northeast along the western edge of the outbound channel, off of Smith Point, VA. The following 2 areas are safety zones. The center of the first wreck site is located at approximately Latitude 37 degrees, 57.9 minutes North; Longitude 076 degrees, 11.9 minutes West. The center of the second wreck site is located at approximately Latitude 37 degrees 55.2 North; Longitude 076 degrees 11.2 minutes West. The safety zones will consist of a circle with a 200 yard radius drawn from the center of each wreck site.

(b) *Effective dates:* This regulation becomes effective on April 26, 1993, at 7 a.m. and terminates at 7 p.m. June 04, 1993. These safety zones will be in effect on the above dates, from 7 a.m. to 7 p.m. daily, unless sooner terminated by the Captain of the Port, Baltimore.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into each of the safety zones is prohibited unless authorized by the Captain of the Port or his designated representative.

(2) The operator of any vessel which enters into or operates in either of these safety zones shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard Ensign.

(d) *Definitions.* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port, Baltimore, Maryland to act on his behalf.

(e) The Captain of the Port and the Duty Officer at the Marine Safety Office, Baltimore, Maryland may be contacted at telephone number (410) 962-5105.

The Coast Guard Patrol Commander and each Coast Guard vessel enforcing the safety zone may be contacted on VHF-FM channels 13 and 16.

Dated: April 20, 1993.

D.B. Crawford,

Commander, U.S. Coast Guard, Acting Captain of the Port, Baltimore, Maryland.

[FR Doc. 93-10046 Filed 4-28-93; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6966

[CA-940-4210-06; CACA 7569]

Partial Revocation of Secretarial Order Dated September 14, 1942; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Secretarial order insofar as it affects 10 acres of public land withdrawn for the Bureau of Reclamation's Central Valley Project, American River Investigations. The land is no longer needed for reclamation purposes, and the revocation is needed to permit disposal of the land through land exchange under section 206 of the Federal Land Policy and Management Act of 1976. This action will open the land to surface entry and mining, unless closed by overlapping withdrawals or temporary segregations of record. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: June 1, 1993.

FOR FURTHER INFORMATION CONTACT: John Beck, BLM California State Office, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, 916-978-4820.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Secretarial Order dated September 14, 1942, which withdrew lands from operation of the public land laws, for the Bureau of Reclamation's Central Valley Project, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 11 N., R. 9 E.,
Sec. 12, NW¼NE¼SE¼.

The area described contains 10 acres in El Dorado County.

2. At 10 a.m. on June 1, 1993, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 1, 1993 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on June 1, 1993 the land will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no

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rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: April 19, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93-10017 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-40-M

43 CFR Public Land Order 6967

[OR-943-4210-06; GP2-458; OR-45401]

Withdrawal of Public Lands for the New River Area of Critical Environmental Concern; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 882.98 acres of public lands from surface entry and mining for a period of 20 years for the Bureau of Land Management to protect the New River Area of Critical Environmental Concern. An additional 80.43 acres of non-Federal land, when acquired by the United States, would also be withdrawn by this order. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Donna Kauffman, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208-2965, 503-280-7162.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the unique geological, cultural, botanical, recreational, and biological resources within the area:

Willamette Meridian

T. 30 S., R. 15 W.,
Sec. 2, W½SW¼, and those portions of lots 3 and 4 described as follows:
Beginning at a point on the North line of Sec. 2, T. 30 S., R. 15 W., said point being 904.55 feet Westerly of the North ¼ corner of said Sec. 2; Thence S. 11°52'11" W., 213.74 feet; Thence S. 33°17'37" W., 255.02 feet; Thence S. 28°05'29" W., 204.30 feet; Thence S. 02°21'58" E., 210.46 feet; Thence S. 13°53'04" E., 110 feet, more or less, to the North bank of Lower Four Mile Creek; Thence running Westerly along the North bank of said Four Mile Creek to a point on the West line of said Sec. 2, said point being located 250 feet, more or less, South of the Northwest corner of said Sec. 2; Thence North along the said West line of Sec. 2, 250 feet, more or less, to the Northwest corner of said Sec. 2; Thence Easterly along the North line of said Sec. 2, 1,736 feet, more or less, to the point of beginning; and EXCLUDING that portion described as follows: Beginning at the ¼ corner (North) of said Sec. 2; Thence N. 89°40'46" W. along the North line of said Sec. 2, 904.55 feet to the true point of beginning; Thence N. 89°40'46" W., 62.82 feet; Thence S. 9°29'14" W., 192.11 feet; Thence S. 30°54'40" W., 270.94 feet; Thence N. 83°13' W., 594.73 feet; Thence S. 28°19'14" W., 190.00 feet; Thence S. 00°19'14" W., 425.86 feet to the North edge of Four Mile Creek; Thence Easterly along the North edge of Four Mile Creek, 744 feet, more or less, to the East boundary of the property conveyed to Oregon Shores Associated and recorded on Microfilm Number 73-6-86449-51, County Courthouse Deed Records; Thence Northerly along said Easterly boundary to the point of beginning;
Sec. 3, lots 3 and 4;
Sec. 10, lots 1, 2, 3, and 4, E½NE¼, and SW¼SE¼;
Sec. 11, NW¼NW¼ EXCLUDING that portion described as follows:
Beginning at the Southeast corner of the said NW¼NW¼ and running thence North 122.0 feet; Thence N. 76°20' W. 180.0 feet to a ¾ inch pipe post; Thence N. 82°23' W. and 257.0 feet passing through a ½ inch pipe post and continuing the same course a total distance of 512.0 feet; Thence South 225.0 feet, more or less, to the South boundary of the NW¼NW¼ of said Sec. 11; Thence along said South boundary East 894.0 feet to the place of beginning; AND those portions of the S½NW¼ described as follows: Beginning at a point in the center of a road which is 631.8 feet South and 315.12 feet East of the Southeast corner of the NW¼NW¼ of Sec. 11, and running Thence South 610.0 feet to the East and West quarter line of said Sec. 11; Thence West 500.82 feet to a point which is 1,137.0 feet East of the West ¼ corner of said Sec. 11; Thence North 660.0 feet to the center of a road; Thence along the center of said road Southeasterly 550.0 feet to the place of beginning; EXCLUDING an easement for a road 20 feet wide along the North boundary of the foregoing described parcel; AND: Beginning at the quarter section corner on the line between Secs. 10 and 11; Thence East 1,137 feet along the quarter section line; Thence North 1,320 feet to the sixteenth section line; Thence West 1,137 feet along said sixteenth section line to the section line between Secs. 10 and 11; Thence South 1,320 feet to the place of beginning;
Sec. 15, lots 1, 2, 3, and 4, and NW¼NE¼;
Sec. 21, lot 2;
Sec. 22, lots 1 and 2, and NW¼SW¼;
Sec. 28, lots 2 and 3, and SE¼NE¼;
Sec. 32, lot 1;
Sec. 33, lot 2.

Including any accretion of lands, the areas described aggregate 882.98 acres in Coos and Curry Counties.

2. The following described non-Federal land is within the exterior boundary of the New River Area of Critical Environmental Concern. When the United States subsequently acquires this land, the land will be subject to the terms and conditions of this withdrawal:

Willamette Meridian

T. 30 S., R. 15 W.,
Sec. 21, lot 1;
Sec. 28, lot 4.

Including any accretion of lands, the area described contains 80.43 acres in Coos and Curry Counties.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

4. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: April 19, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93-9982 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-33-M

43 CFR Public Land Order 6970

[AK-932-4210-06; A-027005]

Revocation of Public Land Order No. 1127, as Amended, for Selection of Land by the State of Alaska; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in its entirety a public land order as it affects approximately 740 acres of National Forest System land withdrawn for use by the Forest Service, Department of Agriculture, for the Snug Harbor Road public service site. The land is no longer needed for the purpose for which it was withdrawn. This action also opens the land for selection by the State of Alaska, if such land is otherwise available. Any land described herein that is not conveyed to the State will be subject to the terms and conditions of the national forest reservation and any other withdrawal of record.

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 1127, as amended, which withdrew National Forest System land for use as a public service site, is hereby revoked insofar as it affects the following described land:

Seward Meridian

Chugach National Forest

A strip of land 25 chains (1,650 feet) in width paralleling the southwest shore of Kenai Lake, located within:

T. 4 N., R. 2 W., unsurveyed,
Secs. 19, 29, 30, 31, and 32.
T. 4 N., R. 3 W., unsurveyed,
Sec. 24.

The area described contains approximately 740 acres.

2. Subject to valid existing rights, and any other withdrawal of record, the land described above is hereby opened for selection by the State of Alaska under the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1988).

3. The State of Alaska application for selection made under section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1988), becomes effective without further action by the State upon publication of this public land order in the **Federal Register**, if such land is otherwise available. Land not conveyed to the State will be subject to the terms and conditions of the Chugach National Forest reservation and any other withdrawal of record.

Dated: April 19, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93-10015 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-JA-M

43 CFR Public Land Order 6973

[OR-943-4214-10; GP2-392; OR-46538]

Withdrawal of Public Lands for Coos Bay North Spit Special Recreation Management Area; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 1,972.28 acres of public lands from mining for a period of 5 years for the Bureau of Land Management to protect the Coos Bay North Spit Special Recreation Management Area. An additional 227.13 acres of non-Federal lands, when acquired by the United States, would also be withdrawn by this order. The public lands have been and remain open to surface entry and mineral leasing.

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Donna Kauffman, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208-2965, 503-280-7162.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect a recreation management area:

Willamette Meridian

T. 25 S., R. 13 W.,
Sec. 4, N½NW¼;
Sec. 5, fractional NW¼NW¼;
Sec. 6, lots 1 to 4, inclusive, SE¼NE¼, and E½SE¼;
Sec. 7, lots 2 to 8, inclusive, NE¼, SE¼NW¼, E½SW¼, and fractional SW¼SW¼;
Sec. 18, lots 7 and 8, E½NW¼, fractional W½NW¼, and fractional NW¼SW¼.
T. 25 s., R. 14 W.,
Sec. 12, lot 1;
Sec. 13, lots 1 to 4, inclusive, and E½SE¼;
Sec. 23, lot 1;
Sec. 24, lots 6 to 13, inclusive, W½NE¼, and NE¼SW¼;
Sec. 25, lot 3;
Sec. 26, lots 8, 9, and 10.

The areas described aggregate 1,972.28 acres in Coos County.

2. The following described non-Federal lands are within the exterior boundary of the Coos Bay North Spit Special Recreation Management Area. When the United States subsequently acquires these lands, the lands will be subject to the terms and conditions of this withdrawal:

Willamette Meridian

T. 25 S., R. 13 W.,
Sec. 5, SW¼NE¼;
Sec. 8, lot 3;
Sec. 18, lots 3 and 4, and NE¼SW¼;
Sec. 19, lot 4.
T. 25 S., R. 14 W.,
Sec. 24, lot 4;
Sec. 25, lot 1.

Including any accretion of lands, the areas described aggregate 227.13 acres in Coos County.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

4. This withdrawal will expire 5 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: April 19, 1993

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93-10016 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-33-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-226; RM-8082]

Radio Broadcasting Services; Seminole, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of One Ten Broadcast Group Inc., substitutes Channel 290A for Channel 288A at Seminole, Oklahoma and modifies Station KIRC's license to specify operation on the alternate Class A channel to enable the station to improve its facilities to 6 kW. See 57 FR 49056, October 29, 1992. Channel 290A can be allotted to Seminole in compliance with the Commission's minimum distance separation requirements at Station KIRC's licensed site, at coordinates North Latitude 35-12-53 and West Longitude 96-44-26. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 7, 1993.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-226, adopted April 5, 1993, and released April 23, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor,

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International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 288A and adding Channel 290A at Seminole.

Federal Communications Commission

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–9989 Filed 4–28–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–315; RM–8141]

Radio Broadcasting Services; Starbuck, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 247C2 to Starbuck, Minnesota, as that community's first local broadcast service in response to a petition filed by Starbuck Broadcasters. See 58 FR 6201, January 27, 1993. The coordinates for Channel 247C2 are 45–33–44 and 95–34–15. There is a site restriction 6.7 kilometers (4.2 miles) southwest of the community. With this action, this proceeding is terminated.

DATES: Effective June 7, 1993. The window period for filing applications for Channel 247C2 at Starbuck will open on June 8, 1993, and close on July 8, 1993.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 92–315, adopted March 31, 1993, and released July 8, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by adding Starbuck, Channel 247C2.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–9990 Filed 4–28–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 94

[PR Docket No. 90–260; FCC 93–189]

Reinstatement of Grandfathering Provisions Applicable to Licensees on Multiple Address Station Frequencies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to various petitions for reconsideration of our Report and Order in PR Docket No. 90–260, the grandfathering provisions for multiple address stations ("MAS") licensed after January 1, 1981, and on or before May 11, 1988, operating on bandwidths of 25 kHz or more, are reinstated.

EFFECTIVE DATE: June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Tatsu Kondo, Land Mobile and Microwave Division, Private Radio Bureau, (202) 632–7125.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in PR Docket No. 90–260, FCC 93–189, adopted April 9, 1993, and released April 23, 1993, 56 FR 30698 (July 5, 1991). The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The full text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., 2100 M St. NW., Washington, DC 20037, (202) 857–3800.

Summary of the Memorandum Opinion and Order

1. On reconsideration of the Report and Order, PR Docket 90–260, 6 FCC Rcd 3721 (1991), 56 FR 30698, July 5, 1991, the Commission rescinded the rule adopted in the Report and Order requiring MAS stations licensed after January 1, 1981, and on or before May 11, 1988, and operating on 25–50 kHz bandwidth, to conform to a spectrum review plan to justify the need for greater than 12.5 kHz bandwidth at the time of their first license renewal after June 1, 1996. These stations therefore will continue to retain their grandfathered status as proposed in the Notice of Proposed Rule Making, 5 FCC Rcd 3079 (1990), 55 FR 22038, May 31, 1990.

2. *Final Regulatory Flexibility Analysis*

Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis is as follows:

3. *Need and Purpose of the Action*

This Memorandum Opinion and Order retains the rules that "grandfather" stations licensed after January 1, 1981, and on or before May 11, 1988, operating on bandwidths of 25 kHz or more. This action provides effective and adaptive regulation for communications, while lessening the impact on licensees' investment in new equipment.

4. *Issues Raised in Response to the Initial Regulatory Flexibility Analysis*

There were no comments submitted in response to the Initial Regulatory Flexibility Anelysis.

5. *Significant Alternatives Considered and Rejected*

The initial Report and Order adopted a spectrum review plan for MAS stations licensed between January 1, 1981, and May 11, 1988, and operating between 25–50 kHz bandwidth. The spectrum review plan would have required these stations to convert to 12.5 kHz bandwidth operations during their first license renewal after June 1, 1996, unless justification for use of a wider bandwidth was made concurrent with the license application and approved. On reconsideration, we return to the proposal made in the Notice of Proposed Rule Making to continue to grandfather these stations at their current bandwidth.

List of Subjects in 47 CFR Part 94

Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amendatory Text

Part 94 of title 47 of the Code of Federal Regulations is amended to read as follows.

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

1. The authority citation continues to read as follows:

Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, unless otherwise noted.

2. 47 CFR 94.65 is amended by revising paragraph (a)(1) to read as follows:

§ 94.65 Frequencies.

* * * * *

(a) * * *

(1) *Multiple address system frequencies.* Multiple address system (MAS) frequencies are available for the point-to-multipoint transmission of a licensee's products or services, excluding video entertainment material, to a licensee's customer or for its own internal communications. The paired frequencies listed in this section shall be used for two-way interrogate/response communications between a master station and remote stations. Each master station operating on these frequencies is required to serve a minimum of four separate active remote stations. Ancillary one-way communications on paired frequencies are permitted on a case-by-case basis. Ancillary communications between interrelated master stations are permitted on a secondary basis. The normal channel bandwidth assigned will be 12.5 kHz. Upon adequate justification, however, channels with bandwidths up to 50 kHz may be authorized. Tables 2, 4, and 6 list frequencies with 25 kHz bandwidth channels. When licensed for a larger bandwidth, the system still is required to use equipment which meets the ±0.00015 percent tolerance requirement. (See § 94.67). Systems licensed for frequencies in these MAS bands prior to August 1, 1975, may continue to operate as authorized until June 11, 1996, at which time they must comply with current MAS operations based on the 12.5 kHz channelization set forth in this paragraph. Systems licensed between August 1, 1975, and January 1, 1981, inclusive, were permitted to operate as authorized until January 1, 1991, at which time they were required to comply with the grandfathered 25 kHz standard bandwidth and channelization requirements set forth in this paragraph. Systems originally licensed after January 1, 1981, and on or before May 11, 1988, with bandwidths of 25 kHz and above, will be grandfathered indefinitely.

* * * * *

[FR Doc. 93–9988 Filed 4–28–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 95

[PR Docket 91–2; FCC 93–197]

Private Radio Services

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: The Private Radio Bureau has adopted a Second Memorandum Opinion and Order in response to Petitions for Reconsideration from the Campaign to Preserve Statutory Fees (CPSF) and Radio Telecom and Technology, Inc. (RTT). CPSF and RTT sought reconsideration of certain decisions made in this proceeding concerning the IVDS rules and policies. By this action, the Commission granted the CPSF petition concerning the IVDS application fee and denied in part and dismissed in part the RTT petition concerning the IVDS application process.

EFFECTIVE DATE: June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Marc S. Martin, (202) 632–6497, Private Radio Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Private Radio Bureau's Second Memorandum, Opinion and Order, FCC 93–197, adopted April 13, 1993; and released April 23, 1993. The full text of this Second Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Center, room 230, 1919 M Street, NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor. International Transcription Service, 1919 M Street, room 246, Washington, DC 20554, telephone (202) 337–1433.

Summary of Second Memorandum Opinion and Order

1. On January 16, 1992, the Commission adopted a Report and Order (*Report*) in this proceeding that, *inter alia*, established a frequency allocation and service rules for the Interactive Video and Data Service (IVDS). The purpose of the Report was to make available an allocation of radio spectrum that licensees could use to provide a variety of radio-based interactive services to the public. In response to six petitions which requested reconsideration of certain aspects of the Report, a Memorandum Opinion and Order (*MO&O*) variously granted and dismissed those requests. Following the adoption of the *MO&O*, the Petition for Further Reconsideration of Radio Telecom and Technology, Inc (RTT) and the Petition for Reconsideration of Mr. William E. Zimsky and the Committee to Preserve Statutory Fees (jointly referred to as CPSF), were filed requesting that we reconsider certain decisions in the *MO&O*. This Second Memorandum Opinion and Order grants the CPSF and denies in part and dismisses in part the RTT petitions for reconsideration. In addition, it makes minor editorial clarifications to the IVDS rules.

2. In granting the CPSF petition, the Commission deleted the requirement for IVDS applicants to apply initially and submit payment for a minimum number of 40 call signs for each of the cell transmitter station (CTS) base stations. Rather, an IVDS licensee may submit its application for a blanket license under one call sign, regardless of the number of CTS base stations it intends to construct. Therefore, the new application fee for an IVDS system license will be $35, and one call sign will be awarded. Applications that require special administrative review, due to antenna height for example, must be individually licensed through the filing of separate Form 574s.

3. As a result of this action, IVDS applications that included at least $35 but were dismissed for failure to be accompanied by the $1,400 IVDS application fee will be reinstated. Further, IVDS applicants that submitted an IVDS application fee based on the 40 CTS requirement shall be refunded the amount greater than the basic $35 per call sign fee. This minor rule change, however, does not affect the IVDS filing windows previously announced in Public Notices.

4. In addition, the Commission denied in part and dismissed in part the Petition for Reconsideration of Radio Telecom and Technology, Inc. (RTT). In denying the RTT request, the Commission reconfirmed that prospective IVDS applicants electing to use unique technology that needs higher antenna heights with no reduction in power in order to operate efficiently must submit a waiver request with their applications. Lastly, the Commission noted that RTT's concern relating to the 48 hour application deadline for tentative selectees pertains to a decision in the IVDS Report and Order and not

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in the *MO&O*. Therefore, the Commission dismissed RTT's petition concerning this decision as untimely under our procedural rules. Further, the Commission made minor editorial clarifications to the IVDS rules.

5 Accordingly, *It is Ordered* That part 95 of the Commission's Rules is amended as set forth below; effective thirty days after publication in the Federal Register.

List of Subjects in 47 CFR Part 95

Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Final Rule

Part 95 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 95—PERSONAL RADIO SERVICES

1. The authority citation for part 95 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 95.813 is amended by revising paragraph (a)(3) and adding a new paragraph (a)(4) to read as follows:

§ 95.813 Eligibility.

(a) • • •

(3) The entity is a corporation organized under the laws of the United States of America; or

(4) The entity is a trust and no beneficiary is a representative of a foreign government.

• • • • •

3. Section 95.815 is amended by revising paragraph (e) to read as follows:

§ 95.815 License application.

• • • • •

(e) Each IVDS system license is licensed for an unlimited number of CTSs that meet the 6.1 meter (20 foot) criteria

• • • • •

[FR Doc. 93-9986 Filed 4-28-93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 675

[Docket No. 921185-3021]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific Ocean perch in the Bering Sea subarea (BS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the Pacific Ocean perch total allowable catch (TAC) in the BS.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), April 26, 1993, until 12 midnight, A.l.t., December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governing by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii) the Pacific Ocean perch TAC for the BS was established by the final groundfish specifications (58 FR 8703, February 17, 1993) as 2,831 metric tons (mt).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the Pacific Ocean perch TAC in the BS soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 2,331 mt, with consideration that 500 mt will be taken as incidental catch in directed fishing for other species in the BS. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific Ocean perch in the BS, effective from 12 noon, A.l.t., April 26, 1993, until 12 midnight, A.l.t., December 31, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and complies with E.O. 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 26, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93-10055 Filed 4-26-93; 2:22 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 58, No. 81
Thursday, April 29, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 362

RIN 3064-AB20

Activities and Investments of Insured State Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Petition for rulemaking; request for comments.

SUMMARY: The FDIC is seeking comment on whether to amend its regulations governing insurance underwriting by well-capitalized insured state banks and their subsidiaries to provide that excepted insurance underwriting activities may only take place in the state in which the bank is chartered and in the state in which the bank's insurance underwriting subsidiary is incorporated. If this change would be made, the exception for insurance underwriting activities would be narrowed.

DATES: Comments must be received by June 28, 1993.

ADDRESSES: Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments may be hand delivered to room F-402, 1776 F Street NW., Washington, DC on business days between 8:30 a.m. and 5 p.m. [FAX number: (202) 898-3838.] Comments may also be inspected in the FDIC's Reading Room, room 7118, 550 17th Street NW. between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Curtis L. Vaughn, Examination Specialist, (202) 898-6759, Division of Supervision, FDIC, 550 17th Street NW., Washington, DC 20429; Pamela E.F. LeCren, Counsel, (202) 898-3730, or Grovetta N. Gardineer, Senior Attorney, (202) 898-3905, Legal Division, FDIC, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: On December 19, 1991, President George Bush signed into law the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) (Pub. L. 102-242, 105 Stat. 2236). Section 303 of FDICIA added section 24 to the Federal Deposit Insurance Corporation Act, "Activities of Insured State Banks" (FDI Act) (12 U.S.C. 1831a). With certain exceptions, section 24 of the FDI Act limits the activities and equity investments of state chartered insured banks (insured state banks) to the activities and equity investments that are permissible for national banks. Well-capitalized insured state banks and their subsidiaries that were lawfully providing insurance as principal in a state on November 21, 1991 may continue to provide insurance of the same type to residents of the state, individuals employed in the state and any other person to whom insurance was provided without interruption since such person resided in or was employed in the state. (Section 24(d)(2)(B), 12 U.S.C. 1831a(d)(2)(B)).

On June 16, 1992, the FDIC's Board of Directors adopted a proposed regulation implementing the above described insurance underwriting provisions of section 24. (12 CFR part 362, "Activities and Investments of Insured State Banks", 57 FR 30435, July 9, 1992.) The preamble accompanying the proposed regulation indicated that it was the FDIC's intention to construe the reference to "in a state" as excepting insurance underwriting activities by an insured state bank only in the state in which the bank was chartered as of November 21, 1991 and as limiting the subsidiary of the bank to insurance underwriting activities to the state in which the subsidiary was incorporated and doing business as of November 21, 1991. The following explanation was given for the FDIC's position:

The FDIC believes that this reading of section 24 is consistent with the provision's legislative history which, among other things, clearly indicates that the exception was intended to lapse if any changes in an insured state bank's underwriting capability within its own state occurred. (See, 137 Cong. Rec. S17316 (daily ed. November 21, 1991) (remarks of Sen. Graham)). The legislative history also indicates that the provision was intended to close a loophole in the law that permitted one state to be used as a base for nationwide insurance underwriting and the language did so by limiting the activities to the state that authorized it but nowhere else. (See, 137 Cong. Rec. S18619 (daily ed. November 21, 1991) (remarks of Sen. Dodd)). The construction of the exception adopted by the proposal somewhat narrowly circumscribes the exception and is also consistent with one of the basic tenets of statutory construction which provides that exceptions should be narrowly construed within the purpose of the overall provision. In view of the overall indication that insurance underwriting activities that are not permissible for national banks are inappropriate for insured state banks, it is in the FDIC's view appropriate to adopt a narrow reading of the exception. 57 FR 30443, July 9, 1992.

On October 27, 1992 the Board of Directors adopted part 362 in final. (57 FR 53213, November 9, 1992.) The final regulation did not limit the geographic scope of the insurance underwriting exception to the bank's home state and the subsidiary's state of incorporation. Under part 362 as adopted in final, the insurance underwriting exception is understood by the FDIC to extend to any state in which the bank or its subsidiary was underwriting insurance on November 21, 1991. The change of position was a result of information brought to the FDIC's attention during the comment period. The following explanation for the change of position appeared in the **Federal Register**.

Fourteen comments, several of which were from members of Congress, criticized the proposed rule because of the interpretation of the phrase "in a state" which excepted insurance underwriting activities by an insured state bank only in the state in which the bank was chartered as of November 21, 1991 and the insurance underwriting activities of a subsidiary of the bank only in the state in which the subsidiary was incorporated and doing business as of November 21, 1991. These comments urged the FDIC to be guided by the clear, unambiguous language of section 24(d)(2)(B) which did not limit the exception as the FDIC indicated. In short, "a state" did not mean "in the home state". The comments pointed out that if the FDIC felt compelled to review the legislative history of the provision, a careful reading of that legislative history demonstrates that Congress specifically rejected the approach the FDIC is now advocating by regulation. According to these comments, there was a managers' amendment to the bill on the Senate floor which changed the language in the proposed bill limiting insurance underwriting activities of a state bank from "in *that* State" to "in *a* State" (emphasis added)(See, 137 Cong. Rec. S16683-85 (daily ed. Nov. 14, 1991)). Only two changes of note were

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subsequently made: the insertion of the requirement that the bank be well-capitalized and the elimination of a transition rule that was designed to allow banks and their subsidiaries to phase-out activities that would no longer be permissible. The latter was pointed to as evidence that Congress anticipated that all existing insurance underwriting activities would be grandfathered and that there was therefore no need for a transition rule. Senator Roth described the provision as enacted on the Senate floor as grandfathering all existing activities of state banks and their subsidiaries. "Apparently, the grandfather clause, which was drafted originally to exclude Delaware, did not and does not limit its protection to the home State, so to speak, but rather covers any State in which the bank was providing insurance it underwrites. Thus, when Delaware was included within the grandfather clause, its banks obtained the same rights as others.

Those rights are described as the "continuation of existing activities" in the head note preceding the text in the Senate bill " " " [T]he conference agreement preserves the rights of State banks authorized to underwrite insurance to continue to underwrite the same type of insurance in any State in which they provided such insurance as of November 21, 1991." (Cong. Rec. S18626, November 27, 1991, remarks of Senator Roth). Lastly, it was pointed out that the exchange between Senator Graham and Senator Garn cited by the FDIC in the preamble accompanying the proposed regulation pertained to interstate insurance sales restrictions that had been contained in the Senate bill and that the FDIC had taken from those remarks an incorrect inference.

After carefully reviewing the comments and reexamining the legislative history of section 24(d)(2)(B), the FDIC is persuaded that its initial reading of the provision was flawed. 57 FR 53226 (November 9, 1992).

The FDIC has been petitioned pursuant to section 553(e) of the Administrative Procedure Act (5 U.S.C. 553(e)) to repeal that portion of part 362 construing the phrase "in a state" and to seek further comment before adopting any provision concerning insurance underwriting by insured state banks. According to the petitioners, the FDIC's original position was correct and should not have been changed. The Board of Directors acknowledges that the issue of the proper construction of the phrase "in a state" is a complex one and that discerning legislative intent can be difficult in the case of a controversial, hotly debated exception particularly where it is the result of congressional compromise. The Board also acknowledges that the rulemaking process undertaken to date did bring matters to the FDIC's attention on the issue of congressional intent which were previously unconsidered by the FDIC. Although the Board of Directors is of the opinion that the agency has adopted the correct position based upon what is known at this time, it is possible that further comment will shed additional light on the issue which the FDIC should give due consideration. In view thereof, the Board of Directors has voted to reopen the "in a state" issue for further comment.

The FDIC will accept comment for sixty days on whether § 362.4 of the FDIC's regulations should continue to read as it is presently worded or whether the provision should be amended to read as it had originally been proposed. It should be understood that the regulation continues in effect as written until and unless the FDIC, following notice and comment, determines to amend part 362. The FDIC also wishes to make clear that the agency is not soliciting additional comment due to some procedural flaw in the original rulemaking but is doing so rather to satisfy itself that the agency has considered all relevant information that may shed light on congressional intent in this instance.

The language of § 362.4, Notification of exempt insurance activities, currently reads as follows:

Any insured state bank that was lawfully underwriting insurance in a state on November 21, 1991, and any insured state bank that has a subsidiary that was lawfully underwriting insurance in a state on November 21, 1991, shall submit a notice to the regional director for the Division of Supervision for the region in which the bank's principal office is located not later than 60 days from December 9, 1992, if those insurance underwriting activities would not be permissible for a national bank or a subsidiary of a national bank. The notice requirement does not apply in the case of an insured state bank described in § 362.3(b)(7)(ii). The notice shall contain the following information:

(a) The name of the bank and/or subsidiary;

(b) The state or states in which the bank and/or its subsidiary was underwriting insurance on November 21, 1991;

(c) A recitation of the authority for the bank or subsidiary to conduct insurance underwriting activities;

(d) A list of the types of insurance that the bank and/or subsidiary provided to the public as of November 21, 1991 in the states(s) identified in paragraph (b) of this section. For purposes of this list, various lines of insurance are considered to be distinct types of insurance.

If the FDIC decides to amend § 362.4, notification of exempt insurance activities, as requested by the petitioners, it would read as it had originally been proposed in the July 9, 1992 solicitation of public comment. The text of that section reads as follows:

Any insured state bank that was lawfully providing insurance as principal in a state on November 21, 1991, and any insured state bank that has a subsidiary that was lawfully providing insurance as principal in a state on November 21, 1991, shall submit a notice to the regional director for the Division of Supervision for the region in which the bank's principal office is located not later than 60 days from [December 9, 1992]. The notice requirement does not apply in the case of an insured state bank described in § 362.3(b)(7)(ii). The notice shall contain the following information:

(a) The name of the bank/or subsidiary;

(b) The state in which the bank is chartered;

(c) If applicable, a recitation of the authority for the bank or subsidiary to conduct insurance underwriting activities;

(d) The state in which the subsidiary is incorporated; and

(e) A description of the insurance policies and other insurance products that the bank and/or subsidiary provided to the public as of November 21, 1991 in the states(s) identified in paragraphs (b) and (d) of this section.

Regulatory Flexibility Analysis

The Board of Directors has concluded after reviewing the request for comment that if the proposed amendments are adopted they will not impose a significant economic hardship on small institutions. The proposal does not necessitate the development of sophisticated recordkeeping or reporting systems by small institutions nor will small institutions need to seek out the expertise of specialized accountants, lawyers, or managers in order to comply with the regulation. The Board of Directors therefore hereby certifies pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the proposal, if adopted, will not have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

By Order of the Board of Directors.

Dated at Washington, DC, this 20th day of April, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93-9850 Filed 4-28-93; 8:45 am]

BILLING CODE 6714-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-29-AD]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Industrie Model A320 series airplanes. This proposal would require modification of the nose landing gear (NLG) wheels. This proposal is prompted by reports of deteriorating NLG wheel bearings; such deterioration caused damage to the sliding tube/integral axle assembly of the NLG wheel. The actions specified by the proposed AD are intended to prevent reduced directional control due to loss of the NLG wheel during taxiing or landing.

DATES: Comments must be received by June 23, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-29-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2140; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-NM-29-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-29-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A320 series airplanes. The DGAC advises that there have been two reports of damage to the sliding tube/integral axle assembly on the nose landing gear (NLG) on these airplanes. Damage was caused by the deterioration of NLG wheel bearings. This condition, if not corrected, could cause rupture of the bearings in the NLG front wheel, which could lead to reduced directional control due to loss of the NLG wheel during taxiing or landing.

Airbus Industrie has issued Service Bulletin No. A320-32-1061, Revision 3, dated October 19, 1992, that describes procedures for modification of the NLG wheel. This modification entails rework of the inner and outer wheel half, and adding an aluminum spacer and two phenolic spacers at the level of each nose wheel axle. This modification will increase the stiffness of the NLG wheel assembly installation. This service bulletin refers to BF Goodrich Service Bulletin No. 3-1470-32-1, for additional service information. The DGAC classified the Airbus Industrie service bulletin as mandatory and issued French Airworthiness Directive 92-164-026(B), August 19, 1992, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the NLG wheels. The actions would be required to be accomplished in accordance with the Airbus Industrie service bulletin described previously.

The FAA estimates that 52 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $14,300, or $275 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 93–NM–29–AD.

Applicability: Model A320–111, –211, and –231 series airplanes, as listed in Airbus Industrie Service Bulletin No. A320–32–1061, Revision 3, dated October 19, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced directional control due to loss of the nose landing gear wheel during taxiing or landing, accomplish the following:

(a) Within 4 months after the effective date of this AD, modify the nose landing gear wheels in accordance with Airbus Industrie Service Bulletin No. A320–32–1061, Revision 3, dated October 19, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 23, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–10031 Filed 4–28–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–NM–27–AD]

Airworthiness Directives; Boeing Model 737–200, –300, –400, and –500 Series Airplanes Equipped With BFGoodrich Evacuation Slides

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–200, –300, –400, and –500 series airplanes. This proposal would require modification of the evacuation slide valise. This proposal is prompted by three reports indicating that inflation pressure of the evacuation slides was lost due to failure of the aspirator to close and seal after ingesting the battery test lead, disabling the evacuation slide and making it unusable. The actions specified by the proposed AD are intended to prevent passengers from being unable to exit the airplane in the event of an emergency evacuation.

DATES: Comments must be received by June 23, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–27–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from BFGoodrich Aircraft Evacuation Systems, 3414 South 5th Street, Phoenix, Arizona 85040. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425.

FOR FURTHER INFORMATION CONTACT: Andrew Gfrerer, Aerospace Engineer, Systems and Equipment Branch, ANM–131L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5338; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–27–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–27–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The FAA has received three reports that, following deployment of evacuation slides installed in Boeing Model 737 series airplanes, inflation pressure was lost. These incidents occurred due to failure of the aspirator to close and seal after ingesting the battery test lead, disabling the evacuation slide and making it unusable. This condition, if not corrected, could prevent passengers from being able to exit the airplane in the event of an emergency evacuation.

The FAA has reviewed and approved BFGoodrich Service Bulletin 101658/659/660–25–257, dated November 20, 1992, that describes procedures for modification of the evacuation slide valise. Modification of the valise involves installation of a pocket/tunnel to anchor and route the battery test lead and wire coil. This pocket/tunnel restrains the test lead and wire coil from coming near the aspirator during slide deployment and provides a route for the test lead to the bottom left (open end) of the valise. In addition, a nameplate is added to the slide assembly for permanent identification.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modification of the evacuation slide valise. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 600 BFGoodrich evacuation slides installed on Boeing Model 737–200, –300, –400, and –500 series airplanes of the affected design in the worldwide fleet. The actual number of Model 737–200, –300, –400, and –500 series airplanes on which these evacuation slides are installed is unknown. However, the FAA has confirmed that none of the affected slides are installed on Model 737–200, –300, –400, or –500 series airplanes of U.S. registry; therefore, no airplanes of U.S. registry would be affected by this proposed AD. If an affected airplane were to be placed on the U.S. Register in the future, the FAA estimates that it would take approximately 1 work hour per slide to accomplish the proposed actions, at an average labor rate of $55 per work hour. Required parts would be provided to operators by the evacuation slide manufacturer at no charge. Based on these figures, the total cost impact of the proposed AD is estimated to be $55 per slide.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12812, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 93–NM–27–AD.

Applicability: Model 737–200, –300, –400, and –500 series airplanes equipped with BFGoodrich evacuation slides, as listed in BFGoodrich Service Bulletin 101658/659/660–25–257, dated November 20, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent passengers from being unable to exit the airplane in the event of an emergency evacuation, accomplish the following:

(a) Within 3 years after the effective date of this AD, modify the evacuation slide valise in accordance with BFGoodrich Service Bulletin 101658/659/660–25–257, dated November 20, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 23, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplone Directorate, Aircraft Certification Service.

[FR Doc. 93–10030 Filed 4–28–93; 8:45 am]

BILLING CODE 4910–13–P

Coast Guard

33 CFR Part 100

[CGD1 93–007]

Special Local Regulation: Gateway Powerboat Regatta, Greenwich, CT and Port Chester, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary special local regulation for the Gateway Powerboat Regatta. The regatta will be held on Saturday, August 28, 1993, in the waters of Long Island Sound adjacent to the harbors of Greenwich, Connecticut and Port Chester, NY. This regulation is needed to protect the boating public from the hazards associated with high speed powerboat racing in confined waters.

DATES: Comments must be received on or before July 10, 1992.

ADDRESSES: Comments should be mailed to the Commander, First Coast Guard District, Boating Safety Division, 408 Atlantic Ave., Boston, MA 02110–3350, or may be delivered to Room 428 at the address listed above, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant E. G. Westerberg, Chief, Boating Safety Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD1 93–007) and the specific section of the proposal to which their comment applies, and give reason for each comment. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public

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hearing by writing to the Boating Safety Division at the address under "ADDRESSES". If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Drafting Information

The drafters of this notice are LT E. G. Westerberg, Project Manager, First Coast Guard District, and LCDR J. D. Stiob, Project Attorney, First Coast Guard District, Legal Office.

Background and Purpose

On February 8, 1993 the sponsor, Gateway Powerboat Association, Inc., submitted a request to hold an offshore powerboat race on Long Island Sound. The Coast Guard is considering establishing a temporary regulation in Long Island Sound for this event known as the "Gateway Powerboat Regatta." The proposed regulation would establish a regulated area in Long Island Sound and provide specific guidance to control vessel movement during the race.

This event will include up to 40 powerboats competing on a rectangular course at speeds approaching 100 m.p.h. Due to the inherent dangers of a race of this type, vessel traffic will be temporarily restricted to provide for the safety of the spectators and participants.

The sponsor, Gateway Powerboat Association, Inc. has previously conducted this event in Long Island Sound in 1987, 1988, and 1992. This year's race will follow a similarly marked course and the same regulations as set forth in the previous years.

Discussion of Proposed Amendments

The Coast Guard proposes to establish a Special Local Regulation on specified waters of Long Island Sound adjacent to the harbors of Greenwich, Connecticut and Port Chester, New York. The event will close the regulated area to all traffic from 10 a.m. to 3 p.m. on August 28, 1993. In case of inclement weather, the event will close the regulated area to all traffic from 10 a.m. to 3 p.m. on August 29, 1993. This regulation is needed to protect spectators and participants from the hazards that accompany a high speed powerboat race.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. Minimal impact is expected due to the limited duration of the race, the extensive advisories that have been and will be made to the affected maritime community, and the fact that the event is taking place on a Saturday afternoon, which is normally a very light volume day for commercial marine traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard expects the impact of this proposal to be minimal. For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulations

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section, 100.35T01–007 is added to read as follows:

§ 100.35T01–007 Gateway Powerboat Regatta, Greenwich, CT and Port Chester, NY

(a) *Regulated area.* The regulated area will include all waters within the following points:

Latitude	Longitude
40°56.1' N	73°37.4' W
40°57.9' N	73°33.2' W
40°58.4' N	73°33.9' W
40°56.9' N	73°38.4' W

(b) *Special local regulations.*

(1) Commander, U.S. Coast Guard Group Long Island Sound reserves the right to delay, modify or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area during the effective period of regulation unless participating in the event as authorized by the sponsor or the Coast Guard. The Patrol Commander, as delegated by the Commander, Coast Guard Group Long Island Sound, will attempt to minimize any delays for commercial vessels transiting the area and will monitor channel 16 VHF–FM.

(3) All persons and vessels shall comply with the instructions of the Commander, U.S. Coast Guard Group Long Island Sound or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* This regulation will be effective from 10 a.m. through 3 p.m. on August 28, 1993. In case of inclement weather, this regulation will be effective from 10 a.m. through 3 p.m. on August 29, 1993.

Dated: April 26, 1993.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 93–10047 Filed 4–28–93; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 168

[CGD 91–202]

RIN 2115–AE10

Escort Vessels for Certain Oil Tankers

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearings.

SUMMARY: The Coast Guard published a notice of proposed rulemaking (NPRM) on July 7, 1992 (57 FR 30058), and reopened the comment period in a notice on March 26, 1993 (58 FR 16391), to define areas in Prince William Sound, Alaska, and Rosario Strait and Puget Sound, Washington, where at least two escort vessels will be required for certain tankers. This document gives notice of public hearings in Anchorage and Valdez, Alaska, and Seattle, Washington, which will take comments on defining those areas. At these hearings, the Coast Guard is also encouraging comment on standards for escort vessels, other appropriate requirements for tanker escort operations, and other navigable waters of the United States where escorts may be required.

DATES: The hearings will be held on Thursday, June 3, 1993, at 6 p.m. in Anchorage, Alaska; Saturday, June 5, 1993, at 6 p.m. in Valdez, Alaska; and Monday, June 7, 1993, at 6 p.m. in Seattle, Washington.

ADDRESSES: The Anchorage, Alaska hearing will be held at the Anchorage Museum of History and Art, Main Auditorium, 121 West 7th Avenue, Anchorage, AK 99501; the Valdez, Alaska hearing will be held at the City Council Chambers, Fairbanks Street, Valdez, AK 99686; the Seattle, Washington hearing will be held at the National Oceanic and Atmospheric Administration Sand Point, Building 9 Auditorium, 7600 Sand Point Way, NE, Seattle, WA 98115–0070.

Interested parties should note that the Anchorage and Valdez hearings will be teleconferenced to other communities in the Exxon Valdez impact area. A notice of locations participating in the teleconferences will be given in those communities prior to the hearing.

Correspondence concerning these public hearings may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD–91–202), U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593–0001 or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477

The Executive Secretary maintains the public docket for this rulemaking. Correspondence concerning these public hearings will become part of this docket and will be available for inspection or copying in room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Capt. Gerald T. Willis, Project Manager, Oil Pollution Act (OPA 90) Staff (G–MS(d)), at (202) 267–6732 between 8:30 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Dated: April 22, 1993.

A. Cattalini,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 93–10048 Filed 4–28–93; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 215 and 217

Review and Comment and Appeal Procedures for National Forest Planning and Project Decisions; Requesting Review of National Forest Plans and Project Decisions

AGENCY: Forest Service, USDA.

ACTION: Notice; extension of public comment period.

SUMMARY: On April 14, 1993, at 58 FR 19369, the Forest Service published a proposed rule, with request for comment, which revises the current process for administrative review of decisions concerning the management of National Forest System lands. The public comment period ends April 29, 1993. Several organizations and individuals have indicated that the 15 day review period was not sufficient time to review and analyze the draft regulations and the impacts on their organizations, and have requested additional time to prepare comments on the proposed rule. In response the Forest Service has decided to extend the comment period to June 1, 1993. Any comments received after the initial comment deadline and prior to this notice of extension will be considered in adoption of the final guidelines.

DATES: Comments must be received in writing and postmarked no later than June 1, 1993.

ADDRESSES: Comments should be addressed to: Deputy Chief, National Forest System (1570), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

FOR FURTHER INFORMATION CONTACT: Susan Yonts-Shepard, Staff Assistant, Operations, Office of the Deputy Chief, National Forest System, telephone (202) 205–1519.

Dated: April 23, 1993.

George M. Leonard,

Associate Chief.

[FR Doc. 93–10043 Filed 4–28–93; 8:45 am]

BILLING CODE 3410–11–M

POSTAL SERVICE

39 CFR Part 20

Proposed Amendment of International Mail Manual Part 790

AGENCY: Postal Service.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to its authority under 39 U.S.C. 401(2), the Postal Service proposes to amend International Mail Manual part 790 to clarify when mailings posted in foreign countries are by or on behalf of a resident of the United States and to provide for the collection of U.S. domestic postage on certain mailings posted by or on behalf of a foreign mailer in a country other than the country where the mailer resides.

DATES: Comments on the proposed amendments must be received on or before June 1, 1993.

ADDRESSES: Written comments should be directed to the Manager, Mailing Standards, U.S. Postal Service, Washington, DC 20260–2419. Copies of all written comments will be available for public inspection and photocopying between the hours of 9 a.m. and 4 p.m., Monday through Friday in room 8430, 475 L'Enfant Plaza West, SW., Washington, DC 20260–2419.

FOR FURTHER INFORMATION CONTACT: Walter J. Grandjean, (202) 268–5180.

SUPPLEMENTARY INFORMATION: The United States is a member of the Universal Postal Union (UPU). By virtue of that membership, the U.S. Postal Service receives compensation, called terminal dues, from other postal administrations for delivering their U.S. destinating mail. Under the basic UPU system of compensation, which is largely influenced by small and developing countries' small volumes and their need for administrative simplicity, the Postal Service receives a fixed rate per kilogram of mail regardless of the number of items in that kilogram. Under the UPU system for higher-volume mail exchanges, the Postal Service receives one fixed rate per kilogram of letters and a different, lower fixed rate per kilogram of other

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articles. The higher-volume system has a mechanism for adjusting the level of compensation if the average number of items per kilogram in a particular mail exchange is sufficiently greater than the world average on which the terminal dues charge is based, but this has not worked well in practice.

These flaws in the UPU compensation system have led to the diversion of heavier-weight items from the international mails, and the Postal Service and a number of other postal administrations negotiating different terminal dues arrangements that more accurately reflect the costs they incur for both light-weight and heavier-weight items. As we explain below, however, the flaws in the UPU system make it possible for foreign mailers to avoid paying foreign international postage rates that include terminal dues charges that cover the costs of the Postal Service in delivering foreign origin mail. Finally, the flaws in the UPU system have created opportunities for U.S. domestic mailers to avoid paying U.S. domestic postage.

"International remail" is a practice whereby a mailer transports mail from the country where he resides to another country for mailing. There are three kinds of remail. ABA remail is where a mailer who resides in country A transports mail to country B for mailing to addressees back in country A. ABB remail is where a mailer who resides in country A transports mail to country B for mailing to addressees in country B. ABC remail is where a mailer who resides in country A transports mail to country B for mailing to addressees in a third country, country C.

International remail, particularly ABA and ABC remail, can adversely affect the economic and financial stability of postal administrations. This is because these kinds of remail are based largely on taking advantage of the flaws in the UPU terminal dues systems. In the case of the United States, when U.S. residents take ½ ounce items to UPU terminal dues countries for mailing back to the U.S. the Postal Service can receive as little as 6¢ per item in compensation instead of 29¢ domestic postage.

Similarly, when a foreign mailer in a cost-based terminal dues country takes ½ ounce items to a UPU terminal dues country for mailing, the Postal Service can receive as little as 6¢ per item instead of the 23¢ per item it would have received under a cost-based terminal dues system. Since the Postal Service is required to break even financially, and all international costs must be covered by international revenues, the losses caused by remail have to be made up by charging higher rates to users of U.S. international mail services. In the view of the Postal Service, this is manifestly unfair.

International Mail Manual (IMM) part 790 authorizes the Postal Service to collect U.S. domestic postage on mailings addressed to the U.S. which are posted in foreign countries by or on behalf of U.S. residents or firms which have a place of business in the U.S. if (1) the foreign postage is lower than U.S. postage or (2) there are 1000 or more items in the mailing. These provisions are based on paragraphs 1, 2, and 3 of article 25 of the Universal Postal Convention, which authorizes postal administrations to collect domestic postage on mail posted in foreign countries by or on behalf of their residents. Neither article 25 nor IMM 790 defines who are residents or when a mailing is by or on behalf of a resident. This has resulted in a number of instances where U.S. residents have established overseas firms and joint ventures for the sole or main purpose of evading the application of IMM 790 and the payment of U.S. postage. The Postal Service proposes to stop this abuse by amending IMM 790.

The Postal Service first proposes adopting a broad definition of U.S. resident that would ensure not only that firms which are organized in the U.S. or have a place of business in the U.S. will pay U.S. postage, but also that any firm that has a sufficiently substantial connection with U.S. firms or individuals to act as their alter egos will pay U.S. postage. This proposed definition would include foreign firms and joint ventures in which firms organized in the U.S. or individuals who are residents of the U.S. have, directly or indirectly, a twenty percent or greater interest. The Postal Service believes that a twenty percent interest is generally enough to exercise control of a firm. The proposed definition would also include as U.S. residents foreign firms and joint ventures which have, directly or indirectly, a twenty percent interest in U.S. subsidiaries or firms. In this case, the Postal Service believes that the presence in the U.S. of a firm controlled by a foreign firm establishes a sufficient nexus with the U.S. to warrant treatment of the foreign firm as a U.S. resident. The proposed definition would also include foreign firms that have a presence in the U.S. but no fixed place of business. These firms, for example, have more or less permanent representatives in the U.S. that travel from city to city and conduct business in hotels. The Postal Service proposes that firms of this kind that are in the U.S. 180 days a year be considered U.S. residents for postage collection purposes. Finally, the proposed definition would specifically exclude firms whose only presence in the U.S. consists of a non-exclusive agent for receiving orders and remittances and for distributing goods exported to the U.S.

The Postal Service proposes to define "mailing by or on behalf of a U.S. resident" as a mailing from which a U.S. resident seeks or expects to derive economic benefit or advantage. This definition focuses on the party that is truly interested in a mailing, not the nominal mailer. It also focuses on the prospective nature of mail. Economic benefit or advantage would include sale of goods or services, or the collection of money owed.

IMM 790 does not presently apply to ABC remail, although paragraph 4 of article 25 of the Universal Postal Convention provides that postal administrations are not obliged to deliver mail posted in a country other than the one where the mailer resides. Until the development of cost-based terminal dues systems, it did not matter whether mail was posted in any particular country because the Postal Service would receive the same compensation regardless of where the mail was posted. With the advent of cost-based terminal dues, where mail is posted can mean the difference between foreign mailers paying the full cost of delivering their mail in the U.S. and U.S. mailers having to pay the cost of delivery. The Postal Service therefore proposes to extend the application of IMM 790 to mail posted in UPU terminal dues countries by or on behalf of residents of countries with which the Postal Service has negotiated cost-based terminal dues arrangements.

The Postal Service proposes to define country of residence as the country in which a firm has its principal place of business, where it is organized, or where the owners of a fifty percent interest in the firm reside. This is different from the definition of resident of the U.S. for a number of reasons. The definition of U.S. resident is based on finding a sufficient nexus with the U.S. to require payment of U.S. domestic postage regardless of where else a firm might be considered a resident or how many places a firm might be considered to reside. The definition of resident of a foreign country recognizes that firms may be present in many countries, but that only one or a few of those countries should be considered as any particular firm's residence for ABC remail postage collection purposes. Which criterion would apply in any particular case would depend on all the facts and circumstances.

The Postal Service proposes to define mailing by or on behalf of a resident of a cost-based terminal dues country as a mailing from which a firm seeks or expects to derive economic benefit or advantage related to activities conducted in any cost-based terminal dues country. This proposed definition takes into account that a firm can have operations in many countries, some of which may not be party to a cost-based terminal dues arrangement. A firm's reasons for being in any particular country may have nothing to do with the abuse with which the Postal Service is concerned: the migration of mail from countries that pay cost-based terminal dues to countries that do not, which results in subsidy of foreign mailers by users of U.S. international mail services. If a mailing benefits a resident of a cost-based terminal dues country and relates to activities conducted in any of the cost-based terminal dues countries, it should not be subsidized by U.S. mailers.

By the same token, it does not matter to the Postal Service whether a mailing is posted in the cost-based terminal dues country of residence or some other cost-based terminal dues country. With few exceptions, the compensation the Postal Service would receive would be the same. Moreover, particularly in Europe, a multinational firm may choose to mail in one country rather than several, and for non-postage reasons may choose to mail in a country other than the one of which it is a resident. The Postal Service therefore proposes that U.S. postage be collected only on mail posted in UPU terminal dues countries by or on behalf of residents of cost-based terminal dues countries. It should be noted that a firm can be both a resident of the U.S. and a resident of a foreign country. In such cases, the definitions applicable to both will be applied. Thus, a firm might not be required to pay U.S. postage as a resident of a cost-based terminal dues country, but could be required to pay U.S. postage as a U.S. resident.

This amendment of International Mail Manual Part 790 is not intended to tell persons or firms how to do business or to penalize them for how they do business. However, the Postal Service is required to fairly apportion costs to the users of mail services. The proposed rule will apportion costs to those mailers using the mail services.

List of Subjects in 39 CFR Part 20

Foreign relations.

Although the Postal Service is exempt from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553(b), (c)) by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed revisions of the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

Stanley F. Mires,

Chief Counsel Legislative.

790 Items Mailed Abroad by or on Behalf of Senders in the U.S. and Certain Other Countries

791 Postage Payment Required

Payment of United States postage is required to secure delivery of mail described in 792 under the following circumstances:

a. The mailing is by or on behalf of a person or firm that resides in the United States and the foreign rate of postage applied to such items is lower that the comparable United States domestic rate of postage, or 1000 or more such items are mailed in a 30 day period regardless of whether the foreign postage is lower than the comparable United States postage; or

b. The mailing is by or on behalf of a person or firm that resides in a country listed in Exhibit 791.1, is posted in a country not listed in Exhibit 791.1, and 1000 or more items are mailed in a 30 day period.

792 Mailings Affected

792.1 Special Conditions. The special conditions apply to items of mail which are posted in foreign countries:

a. By or on behalf of persons or firms who reside in the United States; or

b. By or on behalf of persons or firms who reside in one of the countries listed in Exhibit 791.1.

792.2 Residency

792.21 Criteria for U.S. Residency. A firm is a resident of the United States if it meets the following criteria:

a. It has a place of business in the United States; or

b. It is incorporated or otherwise organized in the United States, its territories, or possessions; or

c. It is twenty percent or more owned, directly or indirectly, by persons who reside in the United States, its territories, or possessions, or by firms incorporated or otherwise organized in the United States, its territories, or possessions; or

d. It owns, either singly or in combination with other firms in which it has a twenty percent or more interest, twenty percent or more of a firm incorporated or otherwise organized in the United States, its territories, or possessions.

792.22 Criteria for Countries Listed in Exhibit 791.1. A firm is a resident of a country listed in Exhibit 791.1 if it meets the following criteria:

a. It has its principal place of business in that country; or

b. It is incorporated or otherwise organized in that country, its territories, or possessions; or

c. It is fifty percent or more owned, directly or indirectly, by a person or persons who reside in that country, its territories, or possessions or by a firm or firms which are incorporated or otherwise organized in that country, its territories, or possessions.

792.3 By or on Behalf

792.31 United States Resident. A mailing is by or on behalf of a person or firm who resides in the United States if such a person or firm seeks or expects to derive economic benefit or advantage from that mailing.

79232. Resident of a Country Listed in Exhibit 971.1. A mailing is by or on behalf of a person or firm who resides in a country listed in Exhibit 791.1 if such a person or firm seeks or expects to derive economic benefit or advantage from that mailing related to operations physically conducted in any of those countries. These operations include, but are not limited to, selling goods manufactured in those countries and selling services provided in those countries.

792.4 Place of Business. A place of business in the United States is any location in the United States, its territories, or possessions where a firm's employees or agents regularly have personal contact with other individuals for the purpose of conducting the firm's business. For the purposes of this section, a firm whose employees or agents have personal contact with others for the purpose of conducting the firm's business in different places in the United States for short periods of time, e.g., at hotels in different cities for one or two days at a time, has a place of business in the United States if the aggregate amount of time spent in the United States is 180 days or more during a one year period.

792.5 Agents. The use of non-exclusive agent in the United States for the sole purposes of accepting orders and remissions for transmission to a firm in another country or of distributing merchandise manufactured in another country and shipped to the United States in bulk does not by itself constitute establishment of a place of business in the United States.

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793 Advance Payment Required

793.1 Sample of Envelope. Senders affected by 791 must submit a sample of the proposed mailing (envelope and contents) with (1) a statement as to the number of items to be mailed, (2) when and where the mailing will take place, and (3) a check, made payable to the U.S. Postal Service, to cover the amount of the applicable U.S. postage, to the: MANAGER, BUSINESS MAIL ACCEPTANCE, CUSTOMER SERVICE SUPPORT, US POSTAL SERVICE, 475 L'ENFANT PLAZA SW., WASHINGTON, DC 20260–6808.

793.2 Headquarters Notification. Notification of postage acceptance and approval of the mailing will be given by Headquarters to the sender and to the appropriate U.S. receiving exchange office. This will permit the items in the mailing to go forward to the addresses without delay when the items reach the United States.

794 Treatment if Advance Payment Not Made

794.1 Return or Disposal of Items. Items may be returned to origin or disposed of in accordance with postal regulations if U.S. postage is not paid.

794.2 Mailings Received Without Advance Payment. A mailing subject to 791 received without advance payment of U.S. domestic postage will be held at the receiving exchange office. The exchange office will report all such mailings to the: MANAGER, BUSINESS MAIL ACCEPTANCE, CUSTOMER SERVICE SUPPORT, US POSTAL SERVICE, 475 L'ENFANT PLAZA SW., WASHINGTON, DC 20260–6808.

Reports must contain (1) title and/or nature of the items, (2) identity of sender, (3) number of items detained, (4) weight of a single item, (5) foreign postage paid per item, and (6) office of mailing. The exchange office will be advised to release the mail when the applicable postage has been paid.

795 Report of Mailings

Any mail appearing to be subject to the conditions of this section must be reported to Business Mail Acceptance, at USPS Headquarters, by the U.S. receiving exchange office.

Exhibit 791.1

Canada
Denmark
Finland
France
Germany
Great Britain and Northern Ireland
Iceland
Ireland
Italy
Luxembourg
Netherlands
Norway
Spain
Sweden

[FR Doc. 93–9940 Filed 4–28–93; 8:45 am]
BILLING CODE 7710–12–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 93–116; FCC 93–188]

Power Limits for Paging Stations Operating in the 931 MHz Band in the Public Land Mobile Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission proposes to amend its regulations on Public Mobile Service. The proposed amendments are necessary to permit higher effective radiated power for facilities authorized in the 931 MHz band. The intent of this proposal is to allow 3500 watt operation of all stations in the 931 MHz frequency band without requiring existing surrounding transmitters. This will be in the public interest since it will afford the benefits of higher power operation without unduly increasing the risks of interference. A waiver was granted to Skytel Corporation to operate transmitters on frequency 931.4375 MHz at 3500 watts effective radiated power, without first constructing facilities limited to 100 watts effective radiated power.

DATES: Comments must be submitted on or before June 17, 1993. Reply comments must be submitted on or before July 2, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Carmen Borkowski or Jay Jackson, 202–632–6450.

SUPPLEMENTARY INFORMATION: The following is a summary of the Commission's Notice of Proposed Rule Making in CC Docket No. 93–116, adopted April 9, 1993 and released April 23, 1993. The full texts of all Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington DC. The complete text of this decision may be purchased from the Commission's copy contractor, International Transcription Services, at (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Summary of the Notice of Proposed Rule Making

1. In this Notice, the Federal Communications Commission proposes to amend 47 CFR part 22. The rules in part 22 govern the Public Mobile Services. These amendments are proposed in order to allow 3500 watt operation of all stations in the 931 MHz frequency band without requiring existing surrounding transmitters operated at a lower power. This change is in the public interest since it will afford the benefits of higher power operation without unduly increasing the risks of interference because the potential for interference is not increased with the operation of fewer transmitters at higher power. Increased power limits will allow for greater flexibility for these paging systems since they could use fewer transmitters to cover the same geographic area with the concomitant result in efficiencies of scale, reduction in costs, and resulting benefits for consumers.

2. The proposal is to allow all stations in the 931 MHz band to be initially operated with any effective radiated power up to a maximum of 3500 watts. The height-power limits contained in 22.505(b) will be eliminated, 47 CFR 22.505(b). Carriers must maintain the geographic separation criteria for co-channel stations. 47 CFR 22.503(d). Stations in this band will continue to be classified according to antenna height above average terrain and maximum effective radiated power. 47 CFR 22.502(c). Reliable service area and interference area parameters established in the current rules are being maintained in the proposals. Additional transmitters can be built in accordance with § 22.117(b). 47 CFR 22.117(b).

3. Comments on these proposals are being sought, including the potential for adjacent channel interference resulting from these power increases. Furthermore, comment is being sought on whether the separation distances in our rules are adequate to protect future and existing stations from co-channel interference. This would include the co-channel interference potential to Canada and Mexico.

4. The Commission granted Skytel Corporation a waiver of various rules to operate transmitters on frequency 931.4375 MHz at 3500 watts effective radiated power. Skytel seeks to integrate its paging facilities on this frequency, with its nationwide paging network. The waiver is in the public interest because it will increase the capacity available for nationwide network paging service. During the pendency of this rule making other waiver requests to increase power will be entertained. Requests must comply with the requirements of § § 22.19, 22.502(c) and 22.504(b)(2) of the Rules and demonstrate the lack of interference to co-channel stations. A waiver request filed by American Paging Inc. was denied because it did not demonstrate that it would not cause interference to co-channel stations in proximity to its system.

Initial Regulatory Flexibility Analysis

5. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's Initial Regulatory Flexibility Analysis follows:

6. Reason for action and objective. The Commission is proposing to amend Title 47, part 22 of the Code of Federal Regulations to reexamine the rules regarding effective radiated power for facilities authorized in the 931 MHz band. This rule making proceeding is initiated to obtain comment regarding changes in the power limit rules for Public Land Mobile paging station operated in the 931 MHz band. The objective of this proposal is to provide effective and adaptive regulation for communications. The proposed rules will enhance the efficiency of operations because fewer transmitters would be needed to cover the same geographic area. In addition, building penetration will be increased.

7. Legal Basis. Authority for this notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, 47 U.S.C. 154(i) and 303(r).

8. Reporting, Recordkeeping and Other Compliance Requirements. The proposed rules would retain existing reporting, recordkeeping and other compliance requirements.

9. Federal rules that overlap, duplicate or conflict with these rules. None.

10. Description, potential impact and number of small entities affected. There are approximately 8,600 licensees subject to the rules in Part 22. A substantial portion of these are small entities. There are also a number of small entities whose business is consulting or providing other services in connection with part 22. The rule change in this proceeding would benefit providers of paging services in the 931 MHz frequency band, by reducing costs. A number of these providers are small entities.

11. Significant alternatives minimizing impact on small entities and consistent with stated objectives. The proposals contained in this Notice are meant to simplify and ease the regulatory burden on all Public Mobile Services applicants and licensees consistent with the Commission's established public interest objectives. We have determined no specific alternatives that would allow for high power operation of paging stations in the 931 MHz frequency band.

12. The Chief Counsel for Advocacy of the Small Business Administration will be served with a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Analysis, in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

13. Accordingly, *It is Ordered,* That pursuant to the authority contained in sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303, this Notice of Proposed Rule Making *Is Issued.*

14. *It is further ordered* That the waiver petition filed by Skytel Corporation *Is Granted* to the extent indicated in the Order Granting Petition for Waiver and the waiver petition filed by American Paging, Inc. *Is Denied.*

List of Subjects in 47 CFR Part 22

Communications common carriers.

Federal Communications Commission.
Donna R. Searcy,
Secretary.

Amendatory Text

Proposed Rules

Title 47 of the Code of Federal Regulations, part 22, is proposed to be amended as follows:

PART 22—PUBLIC MOBILE SERVICE

1. The authority citation for part 22 continues to read as follows:

Authority: Sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 and 303.

2. Section 22.505 is amended by removing and reserving paragraphs (b) (including table) and (c)(2):

§ 22.505 Antenna height power limit.

* * * * *

(b) [Reserved].

(c) * * *

(2) [Reserved]

* * * * *

3. Section 22.506 is amended by removing and reserving paragraph (f)(2) and revising paragraph (e) to read as follows:

§ 22.506 Power.

* * * * *

(e) *931–932 MHz Band.* Base stations in the 931–932 MHz band must not exceed 3500 watts effective radiated power.

(f) * * *

(2) [Reserved].

* * * * *

[FR Doc. 93–9987 Filed 4–28–93; 8:45 am]
BILLING CODE 6712–01–M

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Notices

Federal Register
Vol. 58, No. 81
Thursday, April 29, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 23, 1993.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested, (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

- National Agricultural Statistics Service

Agricultural Labor Survey
Quarterly
Farms; Businesses or other for-profit; 64,520 responses; 15,890 hours
Larry Gambrell, (202) 720–5778

Extension

- National Agricultural Statistics Service

Stocks Report
Quarterly
Farms; Businesses or other for-profit; 50,586 responses; 15,081 hours
Larry Gambrell, (202) 720–5778

- Food and Nutrition Service

Emergency Food Stamp Assistance for Victims of Disasters
FNS–447
On Occasion
Individuals or households; State or local governments; 12,453 responses; 2,789 hours
Peggy Hickman, (703) 305–2496

Reinstatement

- Farmers Home Administration

7 CFR 1900—B, Adverse Decisions and Administrative Appeals
FmHA 1900–1
On occasion
Individuals or households; State or local governments; Farms; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 10,863 responses; 3,241 hours
Jack Holston (202) 720–9736.

- Farmers Home Administration

7 CFR 1980–I, Community Programs Guaranteed Loans
FmHA 1980–10
On occasion
State or local governments; Non-profit institutions; 1,355 responses; 22,012 hours
Jack Holston (202) 720–9736

- Farmers Home Administration

Application for FmHA Services
FmHA 410–10
On occasion
Individuals or households; Farms; Businesses or other for-profit; Small businesses or organizations; 29,444 responses; 29,444 hours
Jack Holston (202) 720–9736

Larry K. Roberson,

Deputy Department Clearance Officer.

[FR Doc. 93–10009 Filed 4–28–93; 8:45 am]

BILLING CODE 3410–01–M

Federal Grain Inspection Service

Designation of the Central Illinois (IL) and Plainview (TX) Agencies

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: FGIS announces the designation of Central Illinois Grain Inspection, Inc. (Central Illinois), and Plainview Grain Inspection and Weighing Service, Inc. (Plainview), to provide official inspection services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: June 1, 1993.

ADDRESSES: Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the October 30, 1992, **Federal Register** (57 FR 49166), FGIS announced that the designations of Central Illinois and Plainview end on May 31, 1993, and asked persons interested in providing official services within the specified geographic areas to submit an application for designation. Applications were due by November 30, 1992.

Central Illinois and Plainview, the only applicants, each applied for the entire area currently assigned to them. FGIS named and requested comments on the applicants for designation in the January 28, 1993, **Federal Register** (58 FR 6383). Comments were due by March 1, 1993. FGIS received one comment from a grain firm asking to be served by Amarillo instead of Plainview to reduce costs.

FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and according to Section 7(f)(1)(B), determined that Central Illinois and Plainview are able to provide official services in the geographic areas for which they applied.

Effective June 1, 1993, and ending May 31, 1996, Central Illinois and Plainview are designated to provide official inspection services in the geographic areas specified in the October 30, 1992, **Federal Register**. Interested persons may obtain official services by contacting Central Illinois at 309–827–7121 and Plainview at 806–293–1364.

Authority: Public Law 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 20, 1993.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 93–9869 Filed 4–28–93; 8:45 am]

BILLING CODE 3410–EN–F

Request for Comments on the Applicants for Designation in the Geographic Areas Currently Assigned to the Central Iowa (IA) Agency and the States of Maine and Montana

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: FGIS requests interested persons to submit comments on the applicants for designation to provide official services in the geographic areas currently assigned to Central Iowa Grain Inspection Service, Inc. (Central Iowa), the Maine Department of Agriculture, Food and Rural Resources (Maine), and the Montana Department of Agriculture (Montana).

DATES: Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by May 31, 1993.

ADDRESSES: Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36HDUNN]. ATTMAIL and FTS2000MAIL users may respond to !A36HDUNN. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202–720–1015, attention: Homer E. Dunn. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the March 2, 1993, **Federal Register** (58 FR 12022), FGIS asked persons interested in providing official services in the geographic areas assigned to Central Iowa, Maine, and Montana to submit an application for designation. Applications were due by March 31, 1993. There were four applicants. Central Iowa, Maine, and Montana each applied for designation in the entire area currently assigned to them. The D. R. Schaal Agency, Inc. (Schaal), applied for designation to serve part of the Central Iowa area: Farmers Co-op Elevator Company, Chapin, Franklin County; Hampton Farmers Co-op Company, Hampton, Franklin County; and Farmers Community Co-op, Inc., Rockwell, Cerro Gordo County, Iowa, in addition to the area they are already designated to serve. Central Iowa and Schaal are contiguous official agencies.

FGIS is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. FGIS will publish notice of the final decision in the **Federal Register**, and FGIS will send the applicants written notification of the decision.

Authority: Public Law 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 20, 1993.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 93–9871 Filed 4–28–93; 8:45 am]

BILLING CODE 3410–EN–F

Request for Applications from Persons Interested in Designation to Provide Official Services in the Geographic Areas Presently Assigned to the Hastings (NE) Agency and the State of New York

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designations of Hastings Grain Inspection, Inc. (Hastings), and the New York State Department of Agriculture and Markets (New York) will end October 31, 1993, according to the Act, and FGIS is asking persons interested in providing official services in the specified geographic areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before May 31, 1993.

ADDRESSES: Applications must be submitted to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. Telecopier (FAX) users may send their application to the automatic telecopier machine at 202–720–1015, attention: Homer E. Dunn. If an application is submitted by telecopier, FGIS reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes FGIS' Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

FGIS designated Hastings, main office located in Hastings, Nebraska, and New York, main office located in Albany, New York, to provide official grain inspection services under the Act on November 1, 1990.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act. The designations of Hastings and New York end on October 31, 1993.

The geographic area presently assigned to Hastings, in the State of Nebraska, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Nebraska State line from the western Sioux County line east to the eastern Knox County line;

Bounded on the East by the eastern and southern Knox County lines; the eastern Antelope County line; the northern Madison County line east to U.S. Route 81; U.S. Route 81 south to the southern Madison County line; the southern Madison County line; the eastern Boone, Nance, and Merrick County lines; the Platte River southwest; the eastern Hamilton County line; the

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northern and eastern Fillmore County lines; the southern Fillmore County line west to U.S. Route 81; U.S. Route 81 south to State Highway 8; State Highway 8 west to the County Road 1 mile west of U.S. Route 81; the County Road south to southern Nebraska State line;

Bounded on the South by the southern Nebraska State line, from the County Road 1 mile west of U.S. Route 81, west to the western Dundy County line; and

Bounded on the West by the western Dundy, Chase, Perkins, and Keith County lines; the southern and western Garden County lines; the southern Morrill County line west to U.S. Route 385; U.S. Route 385 north to the southern Box Butte County line; the southern and western Sioux City County lines north to the northern Nebraska State line.

The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment: Farmers Coop, and Big Springs Elevator, both in Big Springs, Deuel County (located inside Denver Grain Inspection's area); and Farmers Cooperative Grain Company, and Wagner Mills, Inc., both in Columbus, Platte County (located inside Fremont Grain Inspection Department, Inc.'s, area).

The geographic area presently assigned to New York, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation, is the entire State of New York, except those export port locations within the State which are serviced by FGIS.

Interested persons, including Hastings and New York, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic areas is for the period beginning November 1, 1993, and ending October 31, 1996. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Public Law 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 20, 1993.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 93–9870 Filed 4–28–93; 8:45 am]

BILLING CODE 3410–EN–F

Proposed Amendment of Amarillo's Geographic Area, Request for Comments on the Need for Official Services in the Fort Worth Region, and Request for Applications from Persons Interested in Designation to Provide Official Services in the Fort Worth (TX) Region

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: The Amarillo Grain Exchange, Inc. (Amarillo), asked FGIS to amend its geographic area to delete the Fort Worth portion, due to the low volume of requests for official inspection services. FGIS proposes to amend Amarillo's assigned geographic area to delete the Fort Worth portion effective July 31, 1993, and is requesting comments on the need for official inspection services in the Fort Worth region. FGIS also is requesting persons interested in providing official services in the Fort Worth region to submit an application for designation.

DATES: Applications and comments must be postmarked on or sent by telecopier (FAX) by May 31, 1993.

ADDRESSES: Applications and comments must be submitted to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. Telecopier (FAX) users may send applications and comments to the automatic telecopier machine at 202–720–1015, attention: Homer E. Dunn. If an application is submitted by telecopier, FGIS reserves the right to request an original application. All applications and comments will be made available for public inspection at this address at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the United States Grain Standards Act, as amended (Act), authorizes FGIS' Administrator, after determining that there is a need for official services, to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act.

FGIS designated Amarillo, headquartered in Amarillo, Texas, to provide official inspection services for the period beginning December 1, 1992, and ending November 30, 1995.

Amarillo subsequently asked FGIS to amend its assigned geographic area to delete the Fort Worth portion. Amarillo is requesting that the counties of Bell, Bosque, Brown, Coleman, Collin, Comanche, Cooke, Dallas, Denton, Eastland, Ellis, Erath, Falls, Fannin, Grayson, Hamilton, Hill, Hood, Hunt, Jack, Johnson, Lamar, Limestone, McLennan, Milam, Montague, Parker, Palo Pinto, Red River, Somervell, Stephens, Tarrant, Young, and Wise, Texas, be deleted from its geographic area. FGIS is proposing to amend Amarillo's designation accordingly effective July 31, 1993. Persons wishing to obtain official inspection services in these counties after July 31, 1993, should contact FGIS' Plainview Field Office at 806–293–4482 (FAX: 806–293–9365).

FGIS is requesting comments on the need for official inspection services in the counties listed above. At the same time FGIS is requesting persons interested in providing official services in the Fort Worth region to submit an application for designation.

FGIS will not designate an applicant unless it determines that there is a need for official services in the Fort Worth region.

The region currently assigned to Amarillo, in the State of Texas, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, if there is a need for official services, is as follows: Bell, Bosque, Brown, Coleman, Collin, Comanche, Cooke, Dallas, Denton, Eastland, Ellis, Erath, Falls, Fannin, Grayson, Hamilton, Hill, Hood, Hunt, Jack, Johnson, Lamar, Limestone, McLennan, Milam, Montague, Parker, Palo Pinto, Red River, Somervell, Stephens, Tarrant, Young, and Wise Counties, Texas.

Interested persons are hereby given an opportunity to submit comments on the need for official inspection services in the region specified above, and to apply for designation under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the Fort Worth, Texas, area is for a period not to exceed 3 years beginning about October 1, 1993. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated after the FGIS determines that there is a need for official services in the Forth Worth region.

Authority: Public Law 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 20, 1993

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 93–9867 Filed 4–28–93; 8:45 am]

BILLING CODE 3410–EN–F

Forest Service

Exemption of West Buffalo Salvage and Rehabilitation Project From Appeal

AGENCY: USDA Forest Service, Northern Region.

ACTION: Notification that a timber salvage and rehabilitation project designed to recover insect- and winter-killed timber is exempt from appeal under the provisions of 36 CFR part 217.

SUMMARY: In 1989, a severe winter following several years of drought led to mortality and weakening of coniferous trees in the West Buffalo and Clear Creek drainages. This condition led to an epidemic of Douglas-fir bark beetle, and the weakened trees have died. In 1993, the Lincoln District Ranger proposed a recovery of damaged sawtimber using a salvage timber sale and reforestation of harvested areas to rehabilitate affected lands.

The District Ranger has determined, through an environmental analysis documented in the West Buffalo Salvage and Rehabilitation Project file and Decision Memo, that there is good cause to expedite these actions in order to rehabilitate National Forest System lands and recover damaged resources. Salvage of commercial sawtimber within the area affected must be accomplished quickly to avoid further deterioration of sawtimber and reduce the risk of catastrophic wildfire or of a Douglas-fir bark beetle infestation in adjacent health timber stands.

EFFECTIVE DATE: Effective on April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Joel Marshik; Lincoln District Ranger; Helena National Forest; P.O. Box 219; Lincoln, MT 59639.

SUPPLEMENTARY INFORMATION: During February of 1989, on unseasonably warm week was followed by a severe and rapid drop in temperature which caused foliage to freeze and dessicate (commonly referred to as "Red Belt") and stressed, severely damaged and/or killed coniferous trees on approximately 7,300 acres within the Lincoln Ranger District. The degree of damage varied from a few trees per acre to near total mortality to both the overstory and understory vegetation. Within the immediate area of the proposed West Buffalo Timber Sale an estimated 900 acres were affected. This damaged and/or killed timber is located within lands designated as suitable for timber management assigned to management areas T1, T2, T3, and T5 (Helena National Forest Plan, September 1987).

The Helena National Forest identified the need to quickly respond to the winter-kill situation. Stands were prioritized for salvage, and 1990 timber sale offerings were comprised almost entirely of the dead and damaged timber. Timber stands in the West Buffalo area did not appear to be as seriously affected as other areas and were not proposed for treatment in the 1990 salvage program. However, stand conditions continued to deteriorate, leading the Lincoln District Ranger to propose the Sheldon Gulch Timber Sale in 1991 to salvage 188 acres of dead timber in West Buffalo and harvest 92 acres of green timber in the adjacent Sheldon Gulch drainage. The decision was appealed and subsequently the decision was withdrawn.

Timber stand conditions have continued to deteriorate, and additional mortality has occurred within the last year. The Lincoln District Ranger proposed salvage and restoration of 220 acres of dead and dying timber in the West Buffalo area. This proposal is designed to meet the following needs: (1) Recover dead and dying timber before it loses its commercial value; (2) rehabilitate the affected timber stands through site preparation and planting, provide big game hiding cover, accelerate visual and hydrologic recovery; and (3) reduce the potential for wildfire by reducing fuel loading. Unless the material is salvaged soon, the opportunities for initiation of activities to promote long-term site recovery will be lost. The analysis of environmental effects conducted for this proposed action is based upon information developed for the 1991 Sheldon Gulch timber sale proposal. Two alternatives were developed, and a no-action alternative was analyzed. This information is incorporated by reference in the project file and was the basis for the interdisciplinary team's analysis and recommendation to the District Ranger to proceed with the West Buffalo Salvage and Rehabilitation Project.

The selected alternative would salvage 600 MBF of dead, dying, and disease-infected timber from approximately 220 acres. No permanent road construction is required to implement this project. There will be approximately 3,200 feet of temporary roads required to access landings within harvest units.

The sale and accompanying work is designed to accomplish the objectives as quickly as possible to minimize the risk of catastrophic wildfire, to reforest productive timber growing sites, and to recover merchantable sawtimber before it becomes infeasible. To expedite implementation of the decision, the procedures outlined in 36 CFR 217.4(a)(11) are being followed. Under this Regulation the following may be exempt from appeal:

Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

Based upon the analysis documented in the West Buffalo Salvage and the Rehabilitation Project file and the District Ranger's Decision Memo for this project, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project will not be subject to review under 36 CFR part 217.

Dated: April 21, 1993.

Christopher D. Risbrudt,

Deputy Regional Forester, Northern Region.

[FR Doc. 93–9897 Filed 4–28–93; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Intent To Prepare an Environmental Impact Statement; Creek Watershed, Kansas

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy

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Act of 1969, the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Upper Delaware and Tributaries Watershed, Atchison, Brown, Jackson, and Nemaha Counties, Kansas.

FOR FURTHER INFORMATION CONTACT: James N. Habiger, State Conservationist, Soil Conservation Service, 760 South Broadway, Salina, Kansas 67401, telephone 913–823–4565.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause local, regional, or national impacts on the environment. As a result of these findings, James N. Habiger, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

Water quality is impaired by suspended solids, phosphorus, fecal bacteria, and organic waste. Fish and wildlife assessments have been made at several potential floodwater retarding dam sites. Habitat losses have been identified as well as alternative mitigation measures.

The project concerns a plan for flood prevention and water quality improvement. Alternatives under consideration to reach these objectives include systems for conservation land treatment, riparian and other woodland treatment, treatment associated with livestock waste, floodwater retarding dams, and a multipurpose dam with water supply and recreational facilities.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. As a part of preparing this impact statement, scoping notices have been provided to state and federal agencies for comment. This scoping process provided a basis for identifying issues to be addressed and for determining the degree of significance of the issues.

The Soil Conservation Service invites the participation and consultation of those interested in the scoping and preparation of the draft impact statement. Further information on the proposed actions or preparation of the impact statement may be obtained from James N. Habiger, State Conservationist, at the above address or telephone 913–823–4565.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: April 19, 1993.

James N. Habiger,

State Conservationist.

[FR Doc. 93–10038 Filed 4–28–93; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Georgia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 3 p.m. and adjourn at 5 p.m. on Friday, May 14, 1993, at the NationsBank Tower, 600 Peachtree Street, 52nd Floor, Conference Room A, Atlanta, Georgia 30308. The purpose of this meeting is: (1) To discuss the status of the SACs and the Commission; (2) to hear a report on civil rights progress and/or problems in the State and Nation; and (3) to discuss the affirmative action and equal opportunity plans of the Atlanta Committee for the Olympic Games (ACOG) as they relate to minorities and women.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dale M. Schwartz, 404–657–8097, or Bobby D. Doctor, Director of the Southern Regional Office, 404–730–2476 (TDD 404–730–2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 20, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–9962 Filed 4–28–93; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Eddie Haak and Haly BVDA and Haly Invest NV and S H C NV Also Known as Second Hand Computers

In the matter of: Eddie Haak, Bosstraat 74, 9111 Sint-Niklaas, Belgium [1] and Haly BVDA Bosstraat 66, 9111 Sint-Niklaas, Belgium, and Haly Invest NV, Bosstraat 74, 9111 Sint-Niklaas, Belgium, and S H C NV also known as Second Hand Computers, Bosstraat 74, 9111 Sint-Niklaas, Belgium.

Related Party Order

On September 25, 1991, Iain S. Baird, Director, Office of Export Licensing, issued an Order denying Eddie Haak (Haak) permission to apply for or use any export license until May 19, 1999. 56 FR 50847 (October 9, 1991). The Order was based on Haak's May 19, 1989 conviction for violating the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401–2420 (1991, Supp. 1992, and Pub. L. 103–10)) (the Act).

Section 11(h) of the Act provides that any person related, through affiliation, ownership, control, or position of responsibility, to a person who has been denied export privileges because of his conviction for violating the Act may also be denied export privileges. On February 22, 1993, Haly BVDA, Haly Invest NV, and S H C NV, also known as Second Hand Computers, were notified that the Bureau of Export Administration, U.S. Department of Commerce, had information that they were related to Haak through affiliation, ownership, control, or position of responsibility. They were also advised that, after consulting with the Director, Office of Export Enforcement, I intended to deny them permission to apply for or use any export license, including any general license, because of their relationship with Haak, as provided by the Act and § 770.15(h) of the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1992)) (the Regulations).

The notification to the named companies also advised them of their right to request a hearing concerning their relationship with Haak within 20 days of their receipt of the notification letter. Although all three companies received the notification, none of them

[1] The initial order entered against Haak identified his address as "Bos Straat 74, 9180 (St. Niklaas) Belsel, Belgium." As a result of the information the Department obtained regarding the addresses for the related persons, the Department is amending the address for Haak to conform to the address for the related persons that are located at the same address as Haak.

requested a hearing concerning any of the matters set forth in the notice.

Accordingly, I hereby find that Haly BVDA, Bosstraat 66, 9111 Sint-Niklaas, Belgium, Haly Invest NV, Bosstraat 74, 9111 Sint-Niklaas, Belgium, and S H C NV, also known as Second Hand Computers, Bosstraat 74, 9111 Sint-Niklaas, Belgium, are related to Eddie Haak, a person denied all U.S. export privileges until May 19, 1999, through affiliation, ownership, control, or position of responsibility.

Accordingly, the Order of September 25, 1991 denying Eddie Haak permission to apply for or use any export license, including any general license, is hereby amended as follows:

Ordered

I. All outstanding individual validated licenses in which Eddie Haak or any of the related persons, Haly BVDA, Haly Invest NV, and S H C NV, also known as Second Hand Computers, appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Haak's, Haly BVDA's, Haly Invest NV's, and S H C NV's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until May 19, 1999, Eddie Haak, Bosstraat 74, 9111 Sint-Niklaas, Belgium, and the related persons, Haly BVDA, Bosstraat 66, 9111 Sint-Niklaas, Belgium; Haly Invest NV, Bosstraat 74, 9111 Sint-Niklaas, Belgium; and S H C NV, also known as Second Hand Computers, Bosstraat 74, 9111 Sint-Niklaas, Belgium, hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, paritication, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to Haak, Haly BVDA, Haly Invest NV, or S H C NV, also known as Second Hand Computers, by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until May 19, 1999.

VI. A copy of this Order shall be delivered to Haak and each of the related persons, Haly BVDA, Haly Invest NV, and S H C NV, also known as Second Hand Computers. This Order shall be published in the **Federal Register**.

Dated: April 22, 1993.

Eileen Albanese,

Acting Director, Office of Export Licensing.

[FR Doc. 93–10058 Filed 4–28–93; 8:45 am]

BILLING CODE 3510–DT–M

Minority Business Development Agency

[Project I.D. No. 06–10–93007–01]

Business Development Center Applications: Laredo MBDC

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as $165,000 in Federal funds. An audit fee of $4,125 has been added to the Federal amount. The total funding breakdown is as follows: $169,125 Federal and $29,846 non-Federal for a total of $198,971. The period of performance will be from September 1, 1993 to August 1, 1994. The MBDC will operate in the Laredo, Texas MSA geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application

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must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

If the MBDC performs satisfactorily, it may continue to operate after the initial competitive year for up to 2 additional budget periods. An MBDC with year-to-date "commendable" and "excellent" performance ratings (28 consecutive months) may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal Laws and Department of Commerce policies, regulations, and procedures applicable to Federal assistance financial awards.

Consistent with OMB Circular A-129, "Policies for Federal Credit Programs and Non-tax Receivables," no award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to DoC are made.

Notification that a false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are currently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's managements honesty or financial integrity. Notification that if applicants incur any costs prior to an award being made they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Public Law 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreement" and CD-511, the "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" is required in accordance with section 319 of Public Law 101-121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. Recipients shall require applicant/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered by Transactions and Lobbying".

CLOSING DATE: The closing date for applications is June 11, 1993. Applications must be postmarked on or before June 11, 1993. This solicitation may be cancelled based on satisfactory performance of current operator.

ADDRESSES: Please mail completed application to the following address: Dallas Regional Office, 1100 Commerce St., room 7B23, Dallas, Texas 75242.

FOR ADDITIONAL INFORMATION REGARDING THIS SOLICITATION: Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara, (214) 767-8001.

Requests for application kit must be in writing.

A pre-bid conference will be held on May 14, 1993 in the Earl Cabell Federal Building, room 7B23, on 1100 Commerce Street, Dallas, Texas at 10 a.m.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(Catalog of Federal Domestic Assistance 11.800 Minority Business Development)

Dated: April 23, 1993.

Melda Cabrera,

Regional Director, Dallas Regional Office.

[FR Doc. 93-10027 Filed 4-28-93; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of decision.

On March 5, 1993, the Secretary of Commerce (Secretary) issued a decision in the consistency appeal of Jorge L. Guerrero-Calderon (Appellant). The Appellant had applied to the U.S. Army Corps of Engineers (Corps) for a permit to construct a wooden pier with mooring pilings and buoys on Culebra Island, Puerto Rico. In conjunction with the Federal permit application, the Appellant submitted to the Corps a certification that the proposed activity is consistent with Puerto Rico's federally approved Coastal Management Program (CMP). The Puerto Rico Planning Board (PRPB), the Commonwealth of Puerto Rico's coastal management agency, reviewed the certification pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(A).

On February 9, 1989, the PRPB objected to the Appellant's consistency certification for the proposed project on

the ground that the proposed project is not in accordance with Puerto Rico's CMP policies that protect sea turtle habitat. Under CZMA section 307(c)(3)(A) and 15 CFR 930.131, the PRPB's consistency objection precludes the Corps from issuing a permit for the activity unless the Secretary finds that the activity is either consistent with the objectives or purposes of the CZMA (Ground I) or necessary in the interest of national security (Ground II). The Appellant based his appeal on Ground I.

Upon consideration of the information submitted by the Appellant, the PRPB and several Federal agencies, the Secretary made the following findings pursuant to 15 CFR 930.121(b): The proposed pier will cause adverse effects on the resources of the coastal zone, when performed separately or in conjunction with other activities, substantial enough to outweigh its contribution to the national interest. Because the second element of Ground I was therefore not met, it was unnecessary to examine the other three elements. Accordingly, the proposed project is not consistent with the objectives or purposes of the CZMA.

Because the Appellant's proposed project failed to satisfy all of the requirements of Ground I, the Secretary did not override the Commonwealth's objection to the Appellant's consistency certification. Consequently, the proposed project may not be permitted by Federal agencies. Copies of the decision may be obtained from the contact person listed below.

FOR ADDITIONAL INFORMATION CONTACT: Glenn E. Tallia, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, 1305 East-West Highway, suite 6110, Silver Spring, Maryland 20910; (301) 713-2967.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: April 22, 1993.

James W. Brennan,

Acting General Counsel.

[FR Doc. 93-9965 Filed 4-28-93; 8:45 am]

BILLING CODE 3510-08-M

Endangered and Threatened Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of a revision to application P507B for a scientific research permit.

On September 22, 1992 notice was published (57 FR 43706) that an application has been filed by Washington Department of Fisheries (WDF) for a Permit to take adult listed Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) for the purposes of scientific research, as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing listed fish and wildlife (50 CFR parts 217-222).

Notice is hereby given that WDF has revised their application for a Permit as authorized by the ESA and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217-227).

WDF requests authorization for the following changes: (1) To radio tag an additional 35 listed adult Snake River fall chinook salmon at Ice Harbor Dam; and (2) to release all radio-tagged listed adult Snake River fall chinook salmon upstream of Ice Harbor Dam, instead releasing half upstream and half below the dam, as in 1992.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, room 8268, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in the application and revision request summaries are those of the Applicant and do not necessarily reflect the views of NMFS.

Documents submitted in connection with the above application and revision are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Suite 8268, Silver Spring, MD 20910 (301/713-2322); and

Environmental and Technical Services Division, National Marine Fisheries Services, 911 North East 11th Avenue, room 620, Portland, OR 97232 (503/230-5400).

Dated: April 22, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93-10036 Filed 4-28-93; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

NTIS Advisory Board; Meeting

AGENCY: National Technical Information Service, Technology Administration, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app 2, notice is hereby given that the National Technical Information Service Advisory Board will meet Thursday, May 27, 1993, from 9:30 a.m. to 4 p.m. and on Friday, May 28, 1993, from 9 a.m. to 3 p.m. The NTIS Advisory Board is composed of five members appointed by The Secretary of Commerce who are eminent in such fields as information resources management, information technology, and library and information services. The purpose of this meeting is to review and make recommendations regarding general policies and operations of NTIS, including policies in connection with fees and charges for its services. The agenda will include presentations on NTIS modernization, a review of fiscal data, an update on the proposed new facility, and a review of the progress with FedWorld. The NTIS Advisory Board was established by statute (Pub. L. 100-519) on October 24, 1988, and received its charter on September 15, 1989.

DATES: The meeting will convene May 27, 1993, at 9:30 a.m. and will adjourn at 3 p.m. on May 28, 1993.

ADDRESSES: The meeting will be held in room 1412, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

PUBLIC PARTICIPATION: The meeting will be open to public participation. Approximately thirty minutes each day will be set aside for oral comments or questions as indicated in the agenda. Seats will be available for the public and for the media. Seats will be available on a first-come, first-served basis. Any member of the public may submit written comments concerning the Board's affairs at any time before and after the meeting. Copies of the minutes of the meeting will be available within thirty days from the address given below.

FOR FURTHER INFORMATION CONTACT: Barbara Hull, NTIS Advisory Board Secretary, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. Telephone: 703-487-4612; by fax 703-487-4093.

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Dated: April 23, 1993.

Ronald E. Lawson,

Acting Director.

[FR Doc. 93-9964 Filed 4-28-93; 8:45 am]

BILLING CODE 3810-04-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts' next meeting is scheduled for 20 May 1993 at 10 a.m. in the Commission's offices in the Pension Building, suite 312, Judiciary Square, 441 F Street NW., Washington, DC 20001 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call (202) 504-2200.

Dated in Washington, DC, 23 April 1993.

Charles H. Atherton,

Secretary.

[FR Doc. 93-10024 Filed 4-28-93; 8:45 am]

BILLING CODE 6330-01-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 93-C0006]

Polly Gaz International Corp., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a settlement agreement under the Federal Hazardous Substances Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Federal Hazardous Substances Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e)-(h). Published below is a provisionally-accepted Settlement Agreement with Polly Gaz International Corp., a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by May 14, 1993.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 93-C0006, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Earl A. Gershenow, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0626.

SUPPLEMENTARY INFORMATION: (attached)

Settlement Agreement and Order

1. Polly Gaz International Corp. (hereinafter, "Polly Gaz"), a corporation, enters into this Settlement Agreement (hereinafter, "Agreement") with the staff of the Consumer Product Safety Commission, and agrees to the entry of the Order described herein. The purpose of the Agreement and Order is to settle the staff's allegations that Polly Gaz knowingly caused the introduction into interstate commerce of certain banned hazardous toys, in violation of section 4(a) of the Federal Hazardous Substances Act, 15 U.S.C. 1263(a).

I. Jurisdiction

2. The Commission has jurisdiction over Polly Gaz and the subject matter of this Settlement Agreement pursuant to section 30(a) of the Consumer Product Safety Act (hereinafter, "CPSA"), 15 U.S.C. 2079(a), and sections 2(f)(1)(D), 4(a), and 5(c) of the Federal Hazardous Substances Act (hereinafter, "FHSA"), 15 U.S.C. 1261(f)(1)(d), 1263(a), and 1264(c).

II. The Parties

3. The "staff" is the staff on the Consumer Product Safety Commission, an independent regulatory commission of the United States established pursuant to section 4 of the CPSA, 15 U.S.C. 2053.

4. Polly Gaz is a corporation organized and existing under the laws of the State of Florida, with its principal corporate offices located at 230 Fifth Avenue, New York, New York 10001. Polly Gaz is engaged in the business of importing, exporting, and selling children's toys in the United States and Mexico.

III. Allegations of the Staff

15. Between February 25, 1991, and September 16, 1992, Polly Gaz caused the introduction into interstate commerce of approximately 16,422 toys intended for use by children under three years of age, which are identified and described below:

CPSC sample No. product ID	Description customs entry No.	CPSC collection/customs entry date	Quantity
M-800-3423, E20	Pretty Mate Tea Set, 0019416-6	02/25/91	150
M-800-3424, H-25-9	Infant cap, entry No. not available	09/12/91	240
M-800-3428, 1055	Baby on swimming ring, 0017830-0	09/12/91	5040
M-862-2550, ES-355	Turtle and blocks, 027-2107781-2	04/10/91	720
P-800-1464, 3060PH	Doll in a bag, H78-0025778-1	01/15/92	4320
P-800-1465, 3073A	Little Amy, H78-0025778-1	01/15/92	2592
P-800-1850, 72391	Doll set, H78-002334-5	09/29/91	1440
P-800-3125, 7005	Education funny train H780031036-6	09/16/92	1920

6. The toys identified in paragraph five above are subject to, but failed to comply with, the Commission's Small Parts Regulation, 16 CFR part 1501, in that when tested under the "use and abuse" test methods specified in 16 CFR 1500.51 and 1500.52, (a) one or more parts of each tested toy separated and (b) one or more of the separated parts from each of the tested toys fit completely within the test cylinder, as set forth in 16 CFR 1501.4.

7. Because separated parts fit completely within the test cylinder as described in paragraph six above, each of the toys identified in paragraph five presents a "mechanical hazard" within the meaning of section 2(s) of the FHSA, 15 U.S.C. 1261(s) (choking, aspiration and/or ingestion of small parts).

8. Each of the toys identified in paragraph five above is a "hazardous substance" pursuant to section 2(f)(1)(D) of the FHSA, 15 U.S.C. 1261(f)(1)(D).

9. Each of the toys identified in paragraph five above is a "banned hazardous substance" pursuant to (a) section 2(q)(1)(A) of the FHSA, 15 U.S.C. 1261(q)(1)(A) (any toy or other article intended for use by children which bears or contains a hazardous substance); and (b) 16 CFR 1500.18(a)(9).

10. Polly Gaz knowingly caused the introduction into interstate commerce of the aforesaid banned hazardous toys, in violation of section 4(a) of the FHSA, 15 U.S.C. 1263(a), for which a civil penalty may be imposed pursuant to section 5(c) of the FHSA, 15 U.S.C. 1264(c).

IV. Response of Polly Gaz

11. Polly Gaz denies the allegations of the staff set forth in paragraphs five through ten above that it has knowingly caused the introduction into commerce of the aforesaid banned hazardous toys, or that it has violated the FHSA as alleged by the staff.

V. Agreement of the Parties

12. The Consumer Product Safety Commission has jurisdiction over Polly Gaz and the subject matter of this Settlement Agreement and Order under the following acts: Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.*, and the Federal Hazardous Substances Act, 15 U.S.C. 1261 *et seq.*

13. Polly Gaz agrees to pay to the Commission a civil penalty in the amount of Thirty Thousand and 00/100 Dollars ($30,000.00), in twelve (12) consecutive monthly installment payments of Twenty-Five Hundred and 00/100 ($2,500.00) commencing within thirty (30) days after service of the Final Order of the Commission accepting this Settlement Agreement. The date of the first payment shall constitute the anniversary date for all future monthly installment payments. Payment of the full amount of the civil penalty shall settle fully the staff's allegations set forth in paragraphs five through ten above that Polly Gaz violated the FHSA. Any late installment payment under thirty (30) days in duration shall be charged interest at the federal legal rate of interest in effect during the period that the payment is overdue. Any late payment over thirty (30) days duration shall make the entire outstanding balance due and payable with interest at the federal legal rate of interest in effect during the period that the outstanding balance is overdue.

14. The Commission does not make any determination that Polly Gaz knowingly violated the FHSA. The Commission and Polly Gaz agree that this Agreement is entered into for the purposes of settlement only.

15. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, Polly Gaz knowingly, voluntarily and completely, waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Polly Gaz failed to comply with the FHSA as aforesaid, and (4) to a statement of findings of fact and conclusions of law.

16. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had issued; and, the Commission may publicize the terms of the Settlement Agreement and Order.

17. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e)-(h). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**.

18. The parties further agree that the Commission shall issue the attached Order incorporated here in by reference; and that a violation of the Order shall subject Polly Gaz to appropriate legal action.

19. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

20. The provisions of the Settlement Agreement and Order shall apply to Polly Gaz and each of its successors and assigns.

Respondent Polly Gaz Trading Corporation.

Dated: November 24, 1992.

Morris Aboudi,

Vice-President, Polly Gaz International Corp., 230 Fifth Avenue, New York, New York 10001.

Commission Staff.

David Schmeltzer,

Assistant Executive Director, Office of Compliance and Enforcement.

Eric L. Stone,

Acting Director, Division of Administrative Litigation, Office of Compliance and Enforcement.

Dated: March 8, 1993.

Earl A. Gershenow,

Trial Attorney, Division of Administrative Litigation, Office of Compliance and Enforcement.

Dated: March 8, 1993.

Dennis C. Kacoyanis,

Trial Attorney, Division of Administrative Litigation, Office of Compliance and Enforcement.

Order

Upon consideration of the Settlement Agreement entered into between respondent Polly Gaz International Corp., a corporation, and the staff of the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Polly Gaz International Corp.; and it appearing that the Settlement Agreement is in the public interest, it is

Ordered, That the Settlement Agreement be and hereby is accepted, as indicated below; and it is

Further Ordered, That upon final acceptance of the Settlement Agreement, Polly Gaz International Corp. shall pay to the Commission a civil penalty in the amount of Thirty Thousand and 00/100 dollars ($30,000.00), in twelve (12) consecutive monthly installment payments of Twenty-Five Hundred and 00/100 ($2,500.00) commencing within thirty (30) days after service of the Final Order of the Commission accepting this Settlement Agreement. The date of the first payment shall constitute the anniversary date for all future installment payments. Payment of the full amount of the civil penalty shall settle fully the staff's allegations set forth in paragraphs five through ten of the Settlement Agreement that Polly Gaz violated the FHSA. For any late installment payment under thirty (30) days in duration, Polly Gaz shall be charged interest, payable to the Commission, in accordance with the rate and method of calculation of interest set forth in 28 U.S.C. 1961 (a) and (b), during the period that the payment is overdue. Any late payment over thirty (30) days duration, shall make the entire outstanding balance due and payable with interest in accordance with 28 U.S.C. 1961 (a) and (b) as set forth above, during the period that the outstanding balance is overdue.

Provisionally accepted and Provisional Order issued on the 22d day of April 1993.

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By Order of the Commission.
Sheldon D. Butts,
Acting Secretary, Consumer Product Safety Commission.
Dated: April 22, 1993.
Sheldon D. Butts,
Acting Secretary.
[FR Doc. 93–10023 Filed 4–28–93; 8:45 am]
BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Government-owned Inventions; Availability for Licensing

AGENCY: Department of the Navy, DoD.
ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $3.00 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.95 each ($10.95 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted form the copies of patent applications sold to avoid premature disclosure.

DATES: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research (Code OOCCIP), Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Patent 5,120,479: Method of preparing castable, insensitive energetic compositions; filed 15 January 1991; patented 9 June 1992.

Patent 5,123,616: High efficiency, low weight and volume energy absorbent seam; filed 9 September 1991; patented 23 June 1992.

Patent 5,124,481: Synthesis of unsymmetric allyl (alkyl) tellurides; filed 29 April 1991; patented 23 June 1992.

Patent 5,127,945: Effervescent cationic film forming corrosion inhibitor material for use in torpedo launcher tubes; filed 5 August 1991; patented 7 July 1992.

Patent 5,129,800: Single screw interputed thread positive displacement mechanism; filed 17 July 1991; patented 14 July 1992.

Patent 5,130,890: Cable connector/adapter support for multi-terminal data processors; filed 10 September 1991; patented 14 July 1992.

Patent 5,131,328: Safety and arming system for tube launched projectile; filed 13 December 1991; patented 21 July 1992.

Patent 5,132,396: Phthalonitrile monomers containing imide and/or phenoxy linkages, and polymers thereof; filed 30 April 1990; patented 21 July 1992.

Patent 5,132,586: Microchannel electron source; filed 8 February 1991; patented 21 July 1992.

Patent 5,137,776: Metal-coated, ordered void piezoelectric ceramic material; filed 27 September 1990; patented 11 August 1992.

Patent 5,138,325: Shipboard sensor exerciser apparatus; filed 1 April 1983; patented 11 August 1992.

Patent 5,140,559: Low flow noise conformal fiber optical hydrophone; filed 21 February 1991; patented 18 August 1992.

Patent 5,140,560: Pressure compensated transducer system with constrained diaphragm; filed 29 July 1988; patented 18 August 1992.

Patent 5,140,636: Interferometric optical fiber data link; filed 2 May 1985; patented 18 August 1992.

Patent 5,142,250: High power microwave generator; filed 14 January 1992; patented 25 August 1992.

Patent 5,142,645: Method and apparatus for generating frauhofer line laser source using stimulated raman scattering; filed 16 May 1991; patented 25 August 1992.

Patent 5,142,651: Uninterrupted, enhanced-rate, event-line recorder with mixed-speed counter modules; filed 9 October 1991; patented 25 August 1992.

Patent 5,143,047: Material and method for fast generation of hydrogen gas and steam; filed 20 June 1991; patented 1 June 1992.

Patent 5,144,322: Large aperture sparse array antenna system of moderate bandwidth for multiple emitter location; filed 25 November 1988; patented 1 September 1992.

Patent 5,144,643: Improved visual aid for VLF MSK signals; filed 26 June 1990; patented 1 September 1992.

Patent 5,144,889: Apparatus for forming negatively buoyant high-density trash slugs; filed 25 June 1991; patented 8 September 1992.

Patent 5,145,320: Mass loaded composite for vibro-acoustic application; filed 28 August 1990; patented 8 September 1992.

Patent 5,145,435: Metal-glass composite field-emitting arrays; filed 1 November 1990; patented 8 September 1992.

Patent 5,145,506: Method of bonding metal carbides in non-magnetic alloy matrix; filed 5 July 1984; patented 8 September 1992.

Patent 5,145,755: Method of making tetrachloroaluminate + sulfur dioxide electrolytes in which hydrolysis products are removed; filed 29 August 1991; patented 8 September 1992.

Patent 5,146,541: Signal phase pattern sensitive neural network system and method; filed 19 June 1989; patented 8 September 1992.

Patent 5,146,863: Air cushion displacement hull water vehicle; filed 21 October 1991; patented 15 September 1992.

Patent 5,147,731: Stabilized zirconia/cocraly high temperature coating; filed 11 September 1991; patented 15 September 1992.

Patent 5,147,975: Remotely settable, multi-output, electronic time fuze and method of operation; filed 20 April 1981; patented 15 September 1992.

Patent 5,148,180: Method and apparatus for passive direction finding with sideband determination; filed 15 July 1991; patented 15 September 1992.

Patent 5,149,346: Apparatus for the reduction of vibration in liquid-injected gas compressor system; filed 13 June 1991; patented 22 September 1992.

Patent 5,149,818: Synthesis of aminonitrobenzodifuroxan; filed 1 October 1990; patented 22 September 1992.

Patent 5,149,908: Combustion instability suppression in regenerative liquid propellant gun; filed 19 August 1991; patented 22 September 1992.

Patent 5,149,911: Flexible sheet explosive; filed 6 February 1991; patented 22 September 1992.

Patent 5,150,043: An apparatus and method for non-contact surface voltage probing by scanning photoelectron emission; filed 11 February 1991; patented 22 September 1992.

Patent 5,150,336: Frequency disbursive transmitting array; filed 3 September 1991; patented 22 September 1992.

Patent 5,150,450: Methods and circuits for neuron perturbation in artificial neural network modification; filed 1 October 1990; patented 22 September 1992.

Patent 5,151,262: Pyrite cathode material for a thermal battery; filed 7 February 1991; patented 29 September 1992.

Patent 5,151,407: Method of producing bi-sr-ca-cu-o superconducting materials in cast form, filed 28 February 1990; patented 29 September 1992.

Patent 5,151,746: Optical tracking of charged particle beams; filed 1 April 1991; patented 29 September 1992.

Patent 5,152,211: In-line hydraulic dashpot; filed 25 March 1991; patented 6 October 1992.

Patent 5,152,366: Sound absorbing muffler; filed 28 March 1991; patented 6 October 1992.

Patent 5,153,369: Safe and arm device with expansible element in liquid explosive; filed 28 August 1991; patented 6 October 1992.

Patent 5,153,370: Safe and arm device with variable arming delay by liquid explosive; filed 30 August 1991; patented 6 October 1992.

Patent 5,154,537: Barrier curtain; filed 28 May 1991; patented 13 October 1992.

Patent 5,155,281: Preparing dichloroformals; filed 1 June 1984; patented 13 October 1992.

Patent 5,155,288: Aircraft controlled launched container for multiple stores; filed 20 August 1991; patented 13 October 1992.

Patent 5,155,298: Thermally activated case venting safety apparatus; filed 30 September 1991; patented 13 October 1992.

Patent 5,155,322: Compact metallic bellows; filed 21 October 1991; patented 13 October 1992.

Patent 5,155,707: Omni-directional hydrophone; filed 26 November 1991; patented 13 October 1992.

Patent 5,156,357: Micro-T telemetry system; filed 2 August 1982; patented 20 October 1992.

Patent 5,157,225: Controlled fragmentation warhead; filed 19 April 1983; patented 20 October 1992.

Patent 5,157,154: Tetra(organyl) tellurium compounds and process for preparing same; filed 6 February 1990; patented 20 October 1992.

Patent 5,157,337: Dielectric constant measurement probe assembly and apparatus and method; filed 3 October 1990; patented 20 October 1992.

Patent 5,157,342: Precision digital phase lock loop circuit; filed 30 August 1991; patented 20 October 1992.

Patent 5,158,203: Segmented composite cylinder assembly; filed 21 February 1992; patented 27 October 1992.

Patent 5,158,251: Aerodynamic surface tip vortex attenuation system; filed 16 November 1990; patented 27 October 1992.

Patent 5,162,972: Liquid filled variable capacitor; filed 30 March 1982; patented 10 November 1992.

Patent 5,164,361: Method to produce ceramic superconducting filaments bonded to metals; filed 30 June 1989; patented 17 November 1992.

Patent 5,166,643: Remotely controlled C band signal generator; filed 25 February 1992; patented 24 November 1992.

Patent 5,168,749: Apparatus and methods for determining balance of cylindrical vehicle; filed 28 August 1991; patented 8 December 1992.

Patent 5,166,643: Remotely controlled C band signal generator; filed 25 February 1992; patented 24 January 1992.

Patent 5,173,871: Method for providing Emi-emp hardening and breakdown protection in composite materials; filed 20 June 1990; patented 22 December 1992.

Patent 5,174,235: Apparatus for pressurizing a submarine launch tube; filed 25 June 1992; patented 29 December 1992.

Patent 5,174,236: Submarine torpedo tube athwartship motion weapon restrainer; filed 29 June 1992; patented 29 December 1992.

Patent 5,177,997: Dynamic test apparatus for electro-phenological fluids; filed 16 September 1991; patented 12 January 1993.

Patent 5,178,559: Stress relief backshell assembly; filed 26 June 1992; patented 12 January 1993.

Patent Application 801,248: Plasma physics and transportation and use of positively charged particle beams; filed 13 December 1991.

Patent Application 850,370: Certain di-phthalonitrile resins; filed 12 March 1992.

Patent Application 867,862: Plasma reflectors for electronic beam steering in radar systems; filed 7 April 1992.

Patent Application 868,806: Color center laser with transverse auxiliary illumination; filed 15 April 1992.

Patent Application 875,955: Liquid flow reactor and method of using; filed 30 April 1992.

Patent Application 882,230: Method and system for electron beam lithography; filed 13 May 1992.

Patent Application 882,721: Booster explosive rings; filed 14 May 1992.

Patent Application 884,813: Damped linkage for torpedo steering actuator; filed 18 May 1992.

Patent Application 889,885: Method and apparatus for a high resolution, flat panel cathodoluminescent display screen; filed 29 May 1992.

Patent Application 891,027: Improved thrust expansion engine; filed 1 June 1992.

Patent Application 892,068: Underwater sound source with timed actuator; filed 3 June 1992.

Patent Application 892,914: Nonlinear optical composites of metal cluster laden polymers; filed 3 June 1992.

Patent Application 901,618: High melting amino aromatic nitrate esters; filed 15 June 1992.

Patent Application 902,262; Three position power cylinder; filed 22 June 1992.

Patent Application 906,649: Heterodyne array for measurement of target velocity; filed 30 June 1992.

Patent Application 908,986: Towed underwater acoustic speed sensor; filed 2 July 1992.

Patent Application 914,669: Multifilamentary superconducting cable and a method of manufacturing it; filed 7 July 1992.

Dated: April 20, 1993.
Michael P. Rummel,
LCDR, JAGC, USN, Federal Register Liaison Officer.
[FR Doc. 93–9975 Filed 4–28–93; 8:45 am]
BILLING CODE 3810–AE–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting.

Name of Committee: Army Science Board (ASB).
Date of Meeting: 18–19 May 1993.
Time of Meeting: 0800–1700, each day.
Place: Pentagon, 3E385.
Agenda: The Army Science Board's 1993 Summer Study Panel on "Innovative Acquisition Strategies for the 90s" will meet to discuss future Army acquisition strategies and technology opportunities given probable funding constraints. This meeting will be closed to the public in accordance with section 552b. (c) of title 5, U.S.C., specifically subparagraph (1) thereof and title 5, U.S.C. Appendix 2, subsection 10(d). The classified and unclassified information to be discussed will be so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,
Administrative Officer, Army Science Board.
[FR Doc. 93–10035 Filed 4–28–93; 8:45 am]
BILLING CODE 3710–08–M

U.S. Court of Military Appeals Code Committee Meeting

AGENCY: Department of Defense.
ACTION: Notice of public hearing.

SUMMARY: This notice announces the forthcoming public meeting of the Code Committee established by Article 146(a), Uniform Code of Military Justice, 10 U.S.C. 946(a), to be held at 3:15 p.m. on May 14, 1993, in The Senate Caucus Room, Senate Russell Office Building, Delaware Avenue and First Street, Northeast, Washington, DC 20510. The agenda for this meeting will include

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consideration of the proposed changes to the Manual for Courts-Martial, United States, 1984; as well as other matters relating to the operation of the Uniform Code of Military Justice throughout the Armed Services.

DATES: May 14, 1993.

FOR FURTHER INFORMATION CONTACT: Thomas F. Granahan, Clerk of Court, United States Court of Military Appeals, 450 E Street, Northwest, Washington, DC 20442–0001, telephone (202) 272–1448.

Dated: April 26, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–10052 Filed 4–28–93; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary

Telecommunications Service Priority (TSP) System Oversight Committee

AGENCY: National Communications System, DoD.

ACTION: Notice of meeting.

A meeting of the Telecommunications Service Priority (TSP) System Oversight Committee will convene Friday, June 4, 1993, from 9 a.m. to 4:30 p.m. The meeting will be held at the Sheraton Premiere at Tysons Corner, 8661 Leesburg Pike, Vienna, Virginia. The agenda is as follows:

—Opening/Administrative Remarks

—Review January 21–22, 1993 Meeting Summary and Status of Actions

—TSP Program Office Update

—TSP Ad Hoc Working Group Report

—Review of Action Items

—Old Business/New Business

Anyone interested in attending or presenting additional information to the Committee, please contact the National Communications System TSP Program Office, Bernard Farrell (703) 746–5375 or Susan Flint (703) 692–0040, by May 24, 1993.

Dated: April 26, 1993.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–10053 Filed 4–28–93; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Lower Snake River Juvenile Salmon Biological Drawdown Test

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Corps of Engineers and the National Marine Fisheries Service (NMFS) as joint-lead agencies, intend to prepare an Environmental Impact Statement (EIS) to investigate conducting a biological test of reservoir drawdown. Alternatives will consider various test designs to evaluate the potential of increasing juvenile salmon survival by using pool elevations below normal minimum levels to increase flow velocities through the lower Snake River reservoirs. The lower Snake river reservoir projects, including Lower Granite, Little Goose, Lower Monumental, and Ice Harbor, are located between Lewiston, Idaho and Pasco, Washington.

There is regional interest for developing plans to alter the operations of Corps' water resources projects during the salmon migration period as a potential means of increasing salmon survival. The reservoir drawdown biological tests identified in this EIS are necessary to advance current level of understanding about biological effects of different operating regimes in the reservoirs and at the dams and to develop information that will support decisions on long-term actions. Data from the test may include travel time and survival for juvenile salmon, upstream passage and survival of adult salmon, and effects on resident fish, wildlife, bottom dwelling organisms and water quality. The joint-lead agencies are developing alternatives to assess the full range of biological impacts from reservoir drawdown. The alternatives will be comprised of numerous elements for biological reservoir drawdown testing, including a variety of options for methodology, location, timing, reservoir elevation, and duration. One or more of the alternatives may include reservoir drawdowns to prototype test equipment that will be used to bypass salmon through the dams during a drawdown operation. Alternatives will be limited to those that do not require major structural modifications to the dams on the lower Snake River. Alternatives currently considered include: No action; drawdown on one or more reservoirs on the lower Snake River; and other alternatives identified during scoping.

The information obtained from a biological drawdown test may be used to modify ongoing, long-term studies such as the Snake River Salmon Recovery Plan to be issued by NMFS, Columbia River Salmon Mitigation Analysis System Configuration Study (CRSMA SCS), and the Columbia River System Operation Review (SOR). This action is being considered in response to a need to protect stocks of Snake River salmon that have been listed as threatened or endangered under the Endangered Species Act. The U.S. Army Corps of Engineers, Walla Walla District, and the U.S. Department of Commerce, National Marine Fisheries Service, Northwest Region, are joint-leaders in preparation of this EIS. Cooperating agencies may be identified during the scoping process.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by: Mr. Peter F. Poolman, Department of the Army, Walla Walla District, Corps of Engineers, CENPW–PL–ER, Building 603, Walla Walla, Washington 99362–9265, (509) 522–6619.

SUPPLEMENTARY INFORMATION: The proposed action is being considered in response to the listing of the Snake River sockeye salmon as an endangered species, and the Snake River spring/summer and fall chinook as threatened under the Endangered Species Act. The NMFS identified hydropower development in the Columbia River Basin as one of the factors considered to be contributing to the decline of the salmon populations. The alternative actions are being considered under the authority of the Endangered Species Act, the Fish and Wildlife Coordination Act, section 216 of the 1970 Flood Control Act, sections 103, 105, and 905 of the 1986 Water Resources Development Act, and the authorizing legislation for the respective projects potentially involved in the proposed action.

The EIS will select a plan of action which is within the authority of the joint lead and cooperating agencies to perform and is implementable in the near future. Measures which require additional congressional authority, involve major construction activities requiring several years to complete, or require extended analysis of the effects on salmon and the environment, are being pursued in the SOR and CRSMA SCS. The SOR, which was initiated in July 1990, is a joint effort by the Corps, Bonneville Power Administration, and the Bureau of Reclamation to review the multiple-purpose management of Federal projects in the Columbia River Basin, and develop a system operating strategy that considers river uses including the needs of salmon. The CRSMA SCS is evaluating structural modifications or additions to the existing projects which would be necessary to change system operation or which would improve migration conditions for salmon.

Based on preliminary consideration to date, the following have been identified as some of the significant issues requiring analysis in the EIS:

a. Travel time and survival changes for downstream migrating salmonid juveniles;

b. Changes in upstream passage, timing, and survival of adult salmon;

c. Effects on resident fish, wildlife, bottom-dwelling organisms, water quality;

d. Effects on recreation, navigation, cultural resources;

e. Effects on dams, operating equipment, and reservoir structures.

The Corps and NMFS and any cooperating agencies will share responsibilities for determining and evaluating impacts within their respective areas of jurisdiction and expertise. The joint lead agencies welcome input to the EIS from affected Federal, State and local agencies, Indian Tribes, and other interested organizations and parties. Other agencies desiring status as cooperating parties should submit written requests to the Corps and/or NMFS.

The normal range of environmental review and consultation in accordance with other environmental statutes, rules, and regulations shall apply to the proposed action. Of primary importance will be compliance with the Endangered Species Act. Compliance may include preparation of one or more Biological Assessments and formal consultation with NMFS and U.S. Fish and Wildlife Service. The Corps and NMFS plan to conduct a series of public scoping meetings in May 1993, to present information on the proposed Environmental Impact Statement actions. Scoping meetings will be held in Lewiston, Idaho, Boise, Idaho, Pasco, Washington, and Portland, Oregon. Specific meeting dates, times, and locations will be provided to the public at a later time. The DEIS is tentatively scheduled for release to the public and agencies for review in September 1993.

Robert D. Volz,

LTC, EN, Commanding.

[FR Doc. 93–10044 Filed 4–28–93; 8:45 am]

BILLING CODE 3710–GC–M

Department of the Navy

CNO Executive Panel; Meeting

Notice was published Thursday, April 8, 1993, at 58 FR 18208, that the Chief of Naval Operations Executive Panel Future Naval Forces Task Force, was to meet on April 22-23, 1993, from 9 a.m. to 5 p.m., in Alexandria, Virginia. That meeting has been rescheduled and will be held on April 29, 1993. That session will be open to the public. The April 30, 1993 session will be closed to the public. All other information in the previous notice remains effective. In accordance with 5 U.S.C. 552b(e)(2), the meeting change is publicly announced at the earliest time.

For further information concerning this meeting contact: J. Kevin Mattonen, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: April 20, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–9976 Filed 4–28–93; 8:45 am]

BILLING CODE 3810–AE–F

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Stealth and Stealth Countermeasures Task Force will meet May 13, 1993, from 2 p.m. to 3 p.m. in the Pentagon, room 4E630. This session will be closed to the public.

The purpose of this meeting is to do the final out brief for the Task Force on Stealth and Stealth Countermeasures. Matters to be considered will consist of discussions of key issues related to stealth, stealth countermeasures, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and, are in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, VA 22302-0268, Phone (703) 756-1205.

Dated: April 19, 1993.

Michael P. Rummel.

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–9973 Filed 4–28–93; 8:45 am]

BILLING CODE 3810–AE–F

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Emerging Technologies Task Force will meet May 20-21, 1993, from 8 a.m. to 5 p.m., at Newport News Shipbuilding Corporation and at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to address naval technological response to changes in military warfare. The entire agenda for the meeting will consist of discussion of key issues regarding direction of technology and technologies necessary for Naval Forces in the role envisioned for them by . . . From the Sea. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the Executive Panel, 4401 Ford Avenue, room 601, Alexandria, VA 22302-0268, Phone (703) 756-1205.

Dated: April 19, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–9972 Filed 4–28–93; 8:45 am]

BILLING CODE 3810–AE–F

Board of Advisors to the President Naval War College; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Board of Advisors to the President, Naval War College, will meet on May 26-27, 1993, in room 210, Conolly Hall, Naval War College, 686 Cushing Road, Newport, Rhode Island.

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The meeting will commence at 8:30 a.m. on May 26, and terminate at approximately 12:30 p.m. on May 27. The purpose of the meeting is to elicit the advice of the Board of educational, doctrinal, and research policies and programs. The agenda will consist of presentations and discussions on the curriculum, programs and plans of the College, and is open to the public.

For further information concerning this meeting, contact: Mrs. Mary Estabrooks, Assistant to the Dean of Academics, Naval War College, 686 Cushing Road, Newport, RI 02841-1207, Telephone Number (401) 841-3589.

Dated: April 20, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-9974 Filed 4-28-93; 8:45 am]

BILLING CODE 3810-AE-F

Office of the Secretary of the Army

Record of Decision (ROD) for the Construction and Operation of Life Sciences Test Facility at U.S. Army Dugway Proving Ground, Utah

AGENCY: Department of Defense, United States Army.

ACTION: Notice of availability.

SUMMARY: The Department of the Army, as Executive Agent for the Department of Defense, is responsible for research, development, testing, and evaluation of equipment and procedures for biological defense. In a 1988 Draft Environmental Impact Statement (FR Vol. 53, No. 28, pp. 3768–3769, February 9, 1988), the Army initially proposed to construct a Biological Aerosol Test Facility (BATF) at Dugway Proving Ground, Utah, designed to biosafety level 4 (BL–4) standards. Following extensive evaluation and public comment, the Army concluded that the construction of a consolidated Life Sciences Test Facility (LSTF) with a BL–3 aerosol test capability would meet Army needs. This new alternative action was addressed in a November 1990 Supplement to the Draft Environmental Impact Statement (FR Vol. 55, No. 228, pp. 49328–49329, November 27, 1990). All comments submitted in writing or in public hearings in response to the Supplemental Draft were addressed in a March 1992 Final Environmental Impact Statement (FR Vol. 57, No. 84, pp. 18470–18471, April 30, 1992).

The Department of the Army announces the ROD for the construction and operation of Life Sciences Test Facility at U.S. Army Dugway Proving Ground, Utah, is available.

As part of the Biological Defense Research Program, the LSTF will support DOD activities in testing and evaluating protective equipment, detection devices, and decontamination techniques. The facility will also provide analytical and environmental support for tests on smoke and obscurants and chemical and biological simulants.

The proposed LSTF would be designed to accommodate administrative functions, general analytical test support activities, and microbiological operations requiring BL–1 through BL–3 containment. Technical support for the non-biological testing programs includes characterization, analysis, and monitoring of smoke, obscurant, and chemical simulants as an adjunct to field tests. Other activities under this program are non-biological protection factor testing, preparation of NEPA documentation for testing activities, and environmental monitoring. Biological defense testing support includes developmental testing of equipment, test methodology development, non-medical assessment of suspected biological threat agents and their impacts, and operational testing. Developmental testing includes the evaluation of biological hazard detectors, protective devices, and decontamination systems, and the ability of equipment to survive decontamination. Because the most realistic biological threat is the delivery of hazardous agents by aerosol, testing procedures focus on this route.

Once the LSTF is fully operational, 15 support buildings and 6 structures in the Baker area, which are neither economically repairable nor needed for future use, would be demolished. Any biological defense-related activity currently being conducted in these buildings and/or structures would be transferred to the LSTF. Use of the other area buildings, including Baker Test Facility, would cease upon completion of the LSTF.

Dated: April 23, 1993.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, (Environmental, Safety & Occupational Health) OASA (I, L&E).

[FR Doc. 93-9979 Filed 4-28-93; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before June 1, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 708–5174. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: April 23, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Revision
Title: Fulbright-Hays Training Grants: Faculty Research Abroad and Doctoral Dissertation Research Abroad Programs
Frequency: Annually
Affected Public: Individuals or households; state or local governments; non-profit institutions
Reporting Burden:
Responses: 815
Burden Hours: 10,600
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by State Educational agencies to apply for grants under the Fulbright-Hays Faculty Research Abroad and Doctoral Dissertation Research Abroad Programs. The Department will use the information to make grant awards.

[FR Doc. 93-10006 Filed 4-28-93; 8:45 am]

BILLING CODE 4000-01-M

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES AND TIMES: June 17, 1993, 9 a.m.–4 p.m. and June 18, 1993, 9 a.m.–Noon.

ADDRESSES: 555 New Jersey Avenue, NW., room 326, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Barbara Marenus, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, room 400A, Washington, DC 20208–7575, telephone: (202) 219–1839.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under section 406(c)(1) of the Education Amendments of 1974, Public Law 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement and is responsible for advising on standards to insure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. The meeting of the Council is open to the public.

The proposed agenda includes the following:

- Report on March 1993 ACES resolutions
- Ethics training for Council members
- NAEP 1992 mathematics release
- New approaches to data dissemination
- Options for linking technical review panels to ACES
- Council Business

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue NW., room 400A, Washington, DC 20208–7575.

Emerson Elliott,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 93-10008 Filed 4-28-93; 8:45 am]

BILLING CODE 4000-01-M

National Assessment Governing Board; Meetings

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

Date: May 13–15, 1993.

Time: May 13, Design and Analysis Committee Meeting, 3 p.m.-6 p.m, (open); Subject Area committee #2, 4 p.m.-6 p.m., (open). May 14, Executive Committee Meeting, 7 a.m.-9 a.m., (open); Full Board, 9 a.m.-10:30 a.m., (open); Reporting and Dissemination Committee, (open), Subject Area Committee #1 (open); Achievement Levels Committee (closed), 10:30 a.m.-12 noon; Full Board, 12 noon to 1:30 p.m., (closed), 1:30-4:45 p.m., (open). May 15, Full Board, 9 a.m. to 11:30 a.m., (open), 11:30 a.m. to 12 noon (closed).

Location: Madison Hotel, 15th and M Streets, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC, 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III–C of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297), (20 U.S.C. 1221e–1).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

On May 13, the Design and Analysis Committee will meet in open session from 3 p.m. to 6 p.m. to review policies on linking, sampling modifications for future state assessments, and to hear a report from the National Center for Education Statistics on compliance with the NAGB item review policy. The Subject Area Committee #2 will meet in open session from 4 to 6 p.m. to hear a presentation on the Dutch visual arts examination system. Also, the committee will be briefed on the NAEP arts education consensus project and the recently completed 1993 field tests in math and science.

On May 14, the Executive Committee will meet in open session from 7 a.m. to 9 a.m. The agenda items for this meeting include consideration of a request for a foreign language version of NAEP; revision of the NAGB by-laws; and, review of the 1994 budget request.

The full Board will convene in open session from 9 a.m. to 10:30 a.m.; the agenda will be reviewed, the Executive Director's report and a progress briefing on the NAEP project will be presented. The Board will recess at 10:30 a.m. for committee meetings.

From 10:30 a.m. to 12 noon, the Reporting and Dissemination Committee, the Subject Area Committee #1, and the Achievement Levels Committee will be in session.

Meeting in open session will be the Reporting and Dissemination Committee. The committee will review the NAGB policy on the reporting of assessment information, and, hear a report from the National Center for

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Education Statistics on the plan for releasing the 1992 reading and writing assessment results. The Subject Area Committee #1, also will meet in open session. The committee will hear a presentation on the California integrated arts assessment, followed by an update on the national history standards project.

Meeting in closed session will be the Achievement Levels Committee. The Committee will discuss the 1992 reading achievement level results, and the 1992 writing achievement levels. The discussions will include references to specific items for the assessment, the disclosure of which might significantly frustrate implementation of the NAEP. This meeting must be closed to the public because reference may be made to data which may be misinterpreted, incorrect, or incomplete. Premature disclosure of this data might significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption 9(B) of section 552b(c) of title 5 U.S.C.

At 12 noon, the full Board will reconvene. From 12 noon to 1:30 p.m., the board will meet in closed session to hear a briefing on the 1992 NAEP Reading Results by the NAEP contractor. The presentation and discussion will include references to specific items for the assessment, the disclosure of which might significantly frustrate implementation of the NAEP. This session must be closed to the public because reference may be made to data which may be misinterpreted, incorrect, or incomplete. Premature disclosure of this data might significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption 9(B) of section 552b(c) of title 5 U.S.C.

From 1:30 p.m. to adjournment, 4:45 p.m., the full Board meeting will be open to the public. The agenda for the open portion includes a symposium on linking test results, and a presentation on the British Arts Assessment.

On May 15, the full Board will meet from 9 a.m. until 11:30 a.m., in open session, and 11:30 a.m. to 12 noon, in closed session.

During the open portion, the Board will hear a panel presentation on possible extensions of the NAEP project, and reports from the NAGB committees: Subject Area Committees #1, Subject Area Committee #2, Reporting and Dissemination Committee, Design and Analysis Committee, and the Executive Committee.

In the closed portion (11:30 a.m. to 12 noon), the Board will hear the Achievement Levels Committee report pertaining to the 1992 reading achievement levels, and the 1992 writing achievement levels. The discussion will include references to specific items for the assessment, the disclosure of which may significantly frustrate implementation of the NAEP. This session must be closed to the public because reference may be made to data which may be misinterpreted, incorrect, or incomplete. Premature disclosure of this data might significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption 9(B) of section 552b(c) of title 5 U.S.C.

A summary of the activities of the closed sessions and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b, will be available to the public within 14 days after the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, suite 825, 800 North Capitol Street, NW., Washington, DC, from 8:30 a.m. to 5 p.m.

Dated: April 23, 1993.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 93-9978 Filed 4-28-93; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No.: 84.116F]

Fund for the Improvement of Postsecondary Education—Innovative Projects for Community Service Competition; Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: Provides grants to encourage students to participate in community service activities.

Eligible Applicants: Institutions of higher education, combinations of those institutions, and other public and private, nonprofit institutions and agencies.

Deadline for Transmittal of Applications: June 15, 1993.

Deadline for Intergovernmental Review: August 15, 1993.

Applications Available: April 30, 1993.

Available Funds: $1,436,416.

Estimated Range of Awards: $10,000—$70,000.

Estimated Average Size of Awards: $50,000.

Estimated Number of New Awards: 20.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 to 24 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, and 86; and (b) the regulations for this program in CFR part 630. (**Note:** Paragraph (a)(1) of the selection criteria does not include a reference to 34 CFR 630.11, since that section, as it applies to the Innovative Projects for Community Service program, has been overridden by the 1992 statutory amendments to the Higher Education Act.)

Selection Criteria: In evaluating applications for grants under this program competition, the Secretary uses the following selection criteria chosen from those listed in 34 CFR 630.32.

(a) *Significance for Postsecondary Education.* The Secretary reviews each proposed project for its significance in improving postsecondary education by determining the extent to which it would—

(1) Achieve the purpose of the Innovative Projects for Community Service Program.

(2) Address an important problem or need;

(3) Represent an improvement upon, or important departure from, existing practice; and

(4) Achieve far-reaching impact through improvements that will be useful in a variety of ways and a variety of settings.

(b) *Feasibility.* The Secretary reviews each proposed project for its feasibility by determining the extent to which—

(1) The proposed project represents an appropriate response to the problem or need addressed;

(2) The applicant is capable of carrying out the proposed projects as evidenced by, for example—

(i) The applicant's understanding of the problem or need;

(ii) The quality of the project design, including objectives, approaches, and evaluation plan;

(iii) The adequacy of resources, including money, personnel, facilities, equipment, and supplies;

(iv) The qualifications of key personnel who would conduct the project; and

(v) The applicant's relevant prior experience;

(3) The applicant and any other participating organizations are committed to the success of the proposed project, as evidenced by, for example

(i) Contribution of resources by the applicant and by participating organizations;

(ii) Their prior work in the area; and

(iii) The potential for continuation of the proposed project beyond the period of funding (unless the project would be self-terminating);

(4) The proposed project demonstrates potential for dissemination to or adaptation by other organizations, and shows evidence of interest by potential users.

(c) *Appropriateness of funding projects.* The Secretary reviews each application to determine whether support of the proposed project by the Secretary is appropriate in terms of the availability of other funding sources for the proposed activities.

The Secretary will give equal weight to each of the subcriteria. In applying the criteria the Secretary first analyzes an application in terms of each individual criterion. The Secretary then bases the final judgement of an application on an overall assessment of the degree to which the applicant addresses all selection criteria.

For Applications or Information Contact: Fund for the Improvement of Postsecondary Education (FIPSE), U.S. Department of Education, 400 Maryland Avenue SW., room 3100, ROB-3, Washington, DC 20202-5175. Telephone: (202) 205-0082 to order applications; or (202) 708-5750 for information. Individuals who are hearing-impaired may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1137-1137a.

Dated: April 23, 1993.

Maureen A. McLaughlin,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 93-10007 Filed 4-28-93; 8:45 am]

BILLING CODE 4000-01-U

DEPARTMENT OF ENERGY

Office of Fossil Energy

[Docket No. FE C&E 93-09; Certification Notice—119]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant; Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Kamine/Besicorp Allegany L.P. has submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection upon request in the Office of Fuels Programs, Fossil Energy, room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586-9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 et seq.), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) on the day it is filed with the Secretary. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owner/operator of a proposed new baseload powerplant has filed a self-certification in accordance with section 201(d).

Owner: Kamine/Besicorp Allegany L.P.
Operator: Stewart & Stevenson Operations, Inc.
Location: Allegany County, New York
Plant Configuration: Combined cycle cogeneration
Capacity: 55 megawatts
Fuel: Natural gas
Purchasing Utilities: Rochester Gas and Electric Corporation
Expected In-Service Date: November 1, 1994.

Issued in Washington, DC, on April 21, 1993.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-10097 Filed 4-28-93; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 233-047, et al.]

Hydroelectric Applications [Pacific Gas & Electric Co., et al.]; Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for p·blic inspection:

1 a. *Type of Application:* Amendment of license.

b. *Project No:* 233-047.

c. *Date Filed:* March 10, 1993.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of Project:* Pit 3, 4, and 5.

f. *Location:* Lake Britton on the Pit River in Shasta County, California.

g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Mr. Steve Christ, Pacific Gas and Electric Company, 201 Mission Street, Room 1011P, P.O. Box 770000, Mail P10A, San Francisco, CA 94177, (415) 973-2629.

i. *FERC Contact:* Mr. Steve Hocking, (202) 219-2656.

j. *Comment Date:* June 7, 1993.

k. *Description of Project:* Pacific Gas and Electric Company has filed a license amendment request to temporarily raise the normal maximum surface elevation of Lake Britton by 1 foot during the following dates: October 1, 1993 to March 1, 1994, and October 1, 1994 to March 1, 1995.

The purpose of this test is to evaluate the environmental effects of the increase for possible recommendation to make the increase permanent. All increases in lake levels, either temporary or permanent, must be approved by the Commission.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

2 a. *Type of Application:* New Major License.

b. *Project No.:* 2376-001.

c. *Date filed:* December 13, 1991.

d. *Applicant:* Appalachian Power Company.

e. *Name of Project:* Reusens.

f. *Location:* On the James River in the City of Lynchburg, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. B. H. Bennett, Assistant Vice President, American Electric Power, Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215, (614) 223-2930.

i. *FERC Contact:* Mr. Hector Perez, (202) 219-2843

j. *Comment Date:* Sixty days from the date of issuance of this notice. June 1, 1993.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D9.

l. *Description of Project:* The peaking project consists of: (1) A 25-foot-high, 416-foot-long concrete dam and spillway section topped with eight 16¾-foot-high flood gates; (2) a 25-foot-high, 125-foot-long curved auxiliary spillway section topped with 7¼-foot-high

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flashboards; (3) a 500-acre impoundment; (4) two powerhouses, one containing three generating units with a total installed capacity of 7,500 kW, and one containing two generating units with a total installed capacity of 5,000 kW; and (5) appurtenant facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The average annual generation for the project is 37,280 MWh.

m. *Purpose of Project.* All energy generated by the project would be utilized by the customers of the Appalachian Power Company.

n. This notice also consists of the following standard paragraphs: D9.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the Appalachian Power Company, located at 40 Franklin Road, Roanoke, Virginia 24022, or by calling Mr. B. H. Bennett at (614) 223–2930.

3 a. *Type of Application:* New Major Licenses

b. *Project Nos.:* 2436–007, 2447–008, 2448–011, 2449–007, 2450–005, 2453–003.

c. *Date Filed:* December 19, 1991.

d. *Applicant:* Consumers Power Company.

e. *Name of Project:* Foote (Project No. 2436–007), Alcona (Project No. 2447–008), Milo (Project No. 2448–011), Loud (Project No. 2449–007), Cooke (Project No. 2450–005), Five Channels (Project No. 2453–003).

f. *Location:* On the Au Sable River within the Huron National Forest in Iosco, Alcona and Oscoda, Counties, Michigan

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillac, MI 49601, (616) 775–0176.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814

j. *Comment Date:* See paragraph D9. June 1, 1993.

k. *Status of Environmental Analysis:* These applications are ready for environmental analysis at this time—see attached paragraph D9.

l. *Description of Projects:*

Foote—The licensed project would consist of: (1) A 3,800-foot-long earth embankment dam; (2) a reservoir with a surface area of 1,702 acres and a storage capacity of 32,380 acre-feet; and, (3) a total rated capacity of 9 MW.

Alcona—The licensed project would consist of: (1) A 4,820-foot-long earth embankment dam; (2) a reservoir with a surface area of 1,006 acres and a storage capacity of 12,547 acre-feet; and, (3) a total rated capacity of 8 MW.

Milo—The licensed project would consist of: (1) A 2,120-foot-long earth embankment dam; (2) a reservoir with a surface area of 661 acres and a storage capacity of 6,061 acre-feet; and, (3) a total rated capacity of 5 MW.

Loud—The licensed project would consist of: (1) A 2,000-foot-long earth embankment dam; (2) a reservoir with a surface area of 743 acres and a storage capacity of 6,987 acre-feet; and, (3) a total rated capacity of 4 MW.

Cooke—The licensed project would consist of: (1) A 700-foot-long earth embankment dam; (2) a reservoir with a surface area of 1,627 acres and a storage capacity of 26,749 acre-feet; and, (3) a total rated capacity of 9 MW.

Five Channels—The licensed project would consist of: (1) A 620-foot-long earth embankment dam; (2) a reservoir with a surface area of 212 acres and a storage capacity of 3,419 acre-feet; and, (3) a total rated capacity of 6 MW.

The existing projects would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

A joint Offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service and the Michigan State Historic Preservation Officer was filed with the Commission on December 17, 1992, and was supplemented on March 25, 1993.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A4 and D9.

o. *Available Location of Application:* A copy of the application and the Offer of Settlement Agreement are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (616) 775–0176.

4. a. *Type of Application:* New Major Licenses.

b. *Project Nos.:* 2451–004, 2452–007, 2468–003.

c. *Date filed:* December 19, 1991.

d. *Applicant:* Consumers Power Company.

e. *Name of Project:* Rogers (Project No. 2451–004), Hardy (Project No. 2452–007), Croton (Project No. 2468–003).

f. *Location:* On the Muskegon River within the Mainstee National Forest in Mecosta and Newaygo Counties, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillac, MI 49601, (616) 775–0176.

i. *FERC Contact:* Ms. Julie Bernt, ,202) 219–2814.

j. *Comment Date:* See paragraph D9. June 1, 1993.

k. *Status of Environmental Analysis:* These applications are ready for environmental analysis at this time—see attached paragraph D9.

l. Description of Projects:

Rogers—The licensed project would consist of: (1) a 600-foot-long earth embankment dam; (2) a reservoir with a surface area of 449 acres and a storage capacity of 4,678 acre-feet; and, (3) a total rated capacity of 6.7 MW.

Hardy—The licensed project would consist of: (1) a 2,600-foot-long earth embankment dam; (2) a reservoir with a surface area of 3,902 acres and a storage capacity of 134,973 acre-feet; and, (3) a total rated capacity of 30 MW.

Croton—The licensed project would consist of: (1) a 370-foot-long earth embarkment dam; (2) a reservoir with a surface area of 1,209 acres and a storage capacity of 21,932 acre-feet; and, (3) a total rates capacity of 8.8 MW.

The existing projects would also be subject to Federal takeover under Sections 14 and 15 of the Federal Power Act.

A joint Offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service and the Michigan State Historic Preservation Officer was filed with the Commission on December 17, 1992, and was supplemented on March 25, 1993.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A4 and D9.

o. *Available Location of Application:* A copy of the application and the Offer of Settlement Agreement are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by

calling (202) 208–1371. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (816) 775–0176.

5 a. *Type of Application:* Material Amendment of License Application.

b. *Project No.:* 4715–006.

c. *Date Filed:* December 30, 1992.

d. *Applicont:* Felts Mills Energy Partners, L.P.

e. *Name of Project:* Felts Mills.

f. *Location:* On the Black River in Jefferson County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mary E. Leonard, 12 Groton Avenue, P.O. Box 787, Cortland, NY 13045, (607) 753–3551.

i. *FERC Contact:* Charles T. Raabe (tag) (202) 219–2811.

j. *Deadline Date:* June 1, 1993.

k. *Status of Environmental Analysis:* This application has previously been declared ready for environmental analysis.

l. *Description of Project:* The proposed project would consist of a Lower Dam development and an Upper Dam development. The two developments are about 1.1 miles apart. The existing Middle Dam, except the submerged wood crib dam, would be demolished. The existing abandoned mill at the Lower Dam would be demolished.

(A) The Lower Dam development would consist of: (1) an about 2,160-foot-long and 25.5-foot-high concrete gravity dam, consisting of a right bank section, a fuse plug dike section, an auxiliary gated spillway section, a powerhouse section, and a left bank retaining wall section; (2) a reservoir with water surface area of 142 acres, a gross storage capacity of 850 acre-feet, and a normal water surface elevation of 588.5 feet USGS; (3) a forebay approximately 70 feet long, 70 feet wide, and 36 feet deep; (4) a powerhouse containing two generating units with a total installed capacity of 8,133 kW; (5) a tailrace approximately 600 feet long and 70 feet wide; (6) a powerhouse yard with security fence; (7) an about 260-foot-long access road to the powerhouse; (8) a rockfill embankment on the south shore; (9) a 13.8–kV transmission line, approximately 1.600 feet long; and (10) appurtenant facilities.

(B) The Upper Dam development would consist of: (1) an about 510-foot-long and 26.5-foot-high concrete gravity dam, consisting of an existing modified spillway section with canoe chute, a new gated spillway section, an approach channel spillway section, a gated ice sluice section, and a powerhouse section; (2) a reservoir with a water surface area of 220 acres, a gross storage capacity of 1,100 acre-feet, and a water surface elevation of 608.9 feet USGS; (3) an about 390-foot-long, 70-foot-wide, and 50-foot-deep power canal with trash boom and security fence; (4) a powerhouse containing two generating units with a total installed capacity of 5,030 kW; (5) a tailrace, approximately 100 feet long and 70 feet wide; (6) an about 140-foot-long access road to the powerhouse; (7) an about 90-foot span bridge across the power canal; (8) a 13.8-kV transmission line approximately 10,560 feet long; and (9) appurtenant facilities.

The project would have a total installed capacity of 13,163 kW. The applicant estimates that the average annual generation would be 62,570,000 kWh.

m. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

n. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371, and at the Office of Ruthig & Leonard, 12 Groton Avenue, Cortland, New York 13045.

6 a. *Type of Application:* Surrender of Exemption (5MW or Less).

b. *Project No.:* 6219–002.

c. *Date filed:* April 6, 1993.

d. *Applicant:* Warren Hydro Company.

e. *Nome of Project:* Warren Hydro Project.

f. *Location:* On the Mad River near the town of Warren, in Washington County, Vermont.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C., 791(a)–825(r).

h. *Applicant Contact:* Mr. L. Macrae Rood, Warren Hydro Company, Box 142, Warren, VT 05674, (802) 496–5200.

i. *FERC Contact:* Etta Foster, (202) 219–2679.

j. *Comment Date:* June 7, 1993.

k. *Description of Proposed Action:* The existing project for which the exemption is being surrendered consists of: (1) An 80-foot-long, 18-foot-high crib dam with 24-inch-high flashboards; (2) a 2.5-acre pond at a surface elevation of 896 feet Mean Sea Level; (3) a 30-foot-long intake channel; (4) a 4-foot-diameter, 60-foot-long steel penstock; (5) a powerhouse containing two generating units with a total rated capacity of 80 kW; (6) a 15-foot-long tailrace; (7) a 500-foot-long transmission line; and (8) appurtenant facilities.

The exemptee is requesting surrender of its exemption because the project is not economically feasible.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

7 a. *Type of Application:* Changes to Project Design.

b. *Project No:* 9088–017.

c. *Date Filed:* March 30, 1993.

d. *Applicant:* Southern N. H. Hydroelectric Development Corp.

e. *Name of Project:* Lower Village Water Power Project.

f. *Location:* On the Sugar River near the town of Claremont, in Sullivan County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John Webster, President, Southern N. H. Hydroelectric Corp., P.O. Box 178, 293 Main Street, South Berwick, ME 03908, (207) 384–5334.

i. *FERC Contact:* Mohamad Fayyad, (202) 219–2665.

j. *Comment Date:* June 7, 1993.

k. *Description of Amendment:* Licensee proposes to modify project's design as follows: (1) Re-aligning the 250-foot-long concrete spillway wall; (2) removing the existing 95-foot-long concrete weir, and the 75-foot-long wing wall. Due to the spillway wall alignment the surface area of the impoundment would be about 0.68 acre, and its storage capacity would be about 5 acre-foot. The reservoir water surface elevation would remain at 423.1 feet msl.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

8 a. *Type of Application:* Preliminary Permit.

b. *Project No.* 11366–000.

c. *Date filed:* December 14, 1992.

d. *Applicant:* French Creek Hydroelectric Company.

e. *Name of Project:* French Creek Hydroelectric Project.

f. *Location:* On French Creek in Marion County, Oregon, near the town of Detroit. T. 9S., R. 5E, sections 28, 27, 26, and 35. Willamette Meridian and Base.

The project would occupy lands within the Willamette National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicont Contact:*

Mr. Mike Hayford, P.E., Consulting Engineer, 1201 S.W. 12th Avenue, Suite 415, Portland, OR 97205, (503) 222–0190

Steve P. Barrish, Project Engineer, 1004 SE 97th Avenue, Vancouver,

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WA 98664, (206) 254–2423.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Comment Date:* June 3, 1993.

k. *Description of Project:* The proposed project would consist of: (1) An intake structure at elevation 2,320 feet msl; (2) a 48-inch-diameter, 17,400-foot-long penstock; (3) a powerhouse containing a single generating unit with an installed capacity of 2,800 kW, producing an estimated average annual energy output of 22,982 MWh; (4) a tailrace; and (5) a 1,400-foot-long, 69–kV transmission line tying into an existing line.

The applicant estimates the cost of the studies to be conducted under the preliminary permit at $25,000. No new roads will be needed for the purpose of conducting these studies.

l. *Purpose of Project:* Project power would be sold to a local utility or a state municipality.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

9a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11387–000.

c. *Date filed:* February 23, 1993.

d. *Applicant:* Cascade Energy Limited Partnership.

e. *Name of Project:* Lewis River Pumped Storage Project.

f. *Location:* On the Lake Merwin section of the Lewis River, approximately 19 miles southeast of the city of Longview, in Cowlitz and Clark Counties, Washington. Sections 9, 10, 15, 16, 22, 33, and 34 in T6N, R3E; sections 3 and 4 in T5S, R3E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert D. Looper, Cascade Energy Limited Partnership, 1555 Shoreline Dr., Suite 200, Boise, Idaho 83702, (208) 338–2604.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* June 3, 1993.

k. *Description of Project:* The applicant is exploring two alternative schemes for the proposed pumped storage project. Both alternatives would utilize PacifiCorp's existing Lake Merwin (FERC Project No. 935) as a lower reservoir. The first alternative would also consist of: (1) A 240-foot-high dam and 105-acre upper reservoir; (2) a 26-foot-diameter, 6,800-foot-long penstock; (3) a powerhouse containing four generating units with a total installed capacity of 700 MW; (4) two 26-foot-diameter, 1,500-foot-long tailraces; and (5) appurtenant facilities.

The second alternative would also consist of: (1) a 150-foot-high dam, a 100-foot-high dam, and an 84-acre upper reservoir; (2) a 24-foot-diameter, 3,800-foot-long penstock; (3) a powerhouse containing three generating units with a total installed capacity of 500 MW; (4) two 24-foot-diameter, 1,350-foot-long tailraces; and (5) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be $1,000,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

10 a. *Type of Application:* Minor License.

b. *Project No.:* 11402–000.

c. *Date filed:* April 2, 1993.

d. *Applicant:* City of Crystal Falls.

e. *Name of Project:* Crystal Falls.

f. *Location:* On the Paint River in the City of Crystal Falls, Iron County, Michigan.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* W.E. Hagglund, 401 Superior Avenue, Crystal Falls, MI 49920, (906) 875–3212.

i. *FERC Contact:* Charles T. Raabe (dt) (202) 219–2811.

j. *Comment Date:* Within 60 days of the date filed shown in paragraph (c). (June 1, 1993).

k. *Description of Project:* The existing, operating facility consists of a dam, a reservoir, and a powerhouse with an installed capacity of 1,000–kW.

l. With this notice, we are initiating consultation with the *STATE HISTORIC PRESERVATION OFFICER (SHPO)*, as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR, at § 800.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, SHPO, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

Standard Paragraphs

A3. *Development Application*—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. *Development Application*—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit will be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D9. *Filing and Service of Responsive Documents*—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (June 1, 1993 for Project Nos. 2371–001, 2436, *et al.*, and 2451–004, *et al.*). All reply comments must be filed with the Commission within 105 days from the date of this notice. (July 14, 1993 for Project Nos. 2371–001, 2436, *et al.*, and 2451–004, *et al.*).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: April 26, 1993, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10098 Filed 4–28–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–563–000]

Massachusetts Electric Co.; Filing

April 23, 1993.

Take notice that on April 14, 1993, Massachusetts Electric Company (MECo) tendered for filing a Notice of Partial Termination for the Service Agreement for Borderline Sales, dated July 9, 1992, between MECo and Western Massachusetts Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10004 Filed 4–28–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–572–000]

Northern States Power Co. (Minnesota) and Northern States Power Co. (Wisconsin); Filing

April 23, 1993.

Take notice that on April 16, 1993, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly "NSP Companies") tendered for filing certain Transmission Service Agreements entered into by the NSP Companies pursuant to the NSP Companies FERC Electric Tariff Original Volume No. 1.

The NSP Companies request acceptance for filing of one standard form Transmission Service Agreements under the Original Tariff with Interstate Power Company effective May 1, 1993. The NSP Companies request acceptance for filing of a standard form Transmission Service Agreements under the Settlement Tariff with Wisconsin

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Public Service Corporation effective April 19, 1993. The NSP Companies request any waiver necessary to allow the agreements to be accepted for filing on the dates requested.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10005 Filed 4–28–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4619–4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3502 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Notification of Episodic Releases of Oil and Hazardous Substances, EPA ICR # 1049.06. This ICR requests renewal of a currently approved collection (OMB #2050–0046).

Abstract: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) establishes broad Federal authority to respond to releases of hazardous substances from vessels and facilities. The term "hazardous substance" is defined in section 101(14) of CERCLA by reference to other environmental statutes, including Clean Water Act (CWA) sections 311 and 307; Clean Air Act (CAA) section 112; the Resource Conservation and Recovery Act (RCRA) section 3001; the Toxic Substances Control Act (TSCA) section 7; and CERCLA section 102(a). There are currently 793 CERCLA hazardous substances, approximately 1,500 radionuclides, and an unspecified number of unlisted RCRA hazardous wastes that are also considered CERCLA hazardous substances. The most recent addition to the CERCLA list of hazardous substances is the 51 hazardous air pollutants listed pursuant to CAA section 112.

Each CERCLA hazardous substance is assigned an 'RQ' which is the quantity of hazardous substance that, when released into the environment, triggers CERCLA section 103 reporting requirements. Section 103(a) requires the person in charge of a facility to immediately notify the National Response Center (NRC) of any hazardous substance release that equals or exceeds its RQ. The information that must be provided to the NRC in the notification includes general background information, such as the location of the incident and the name and address of the discharger, as well as more detailed information about the circumstances surrounding the release, including the type of material(s) released, environmental medium(a) affected, and cause(s) and source(s) of the release. Notification under CERCLA section 103(a) is intended to ensure that Federal authorities receive prompt notification of hazardous substance releases for which a timely response may be necessary to protect public health or welfare or the environment.

Burden Statement: The estimated annual public reporting burden for this collection of information is estimated to average 4.1 hours per release, including time for reviewing regulatory requirements, gathering the required release information, contacting the NRC about the release, and keeping a log.

Respondents: Anyone in charge of a facility or vessel from which a hazardous substance was spilled or released into the environment in quantities greater than its RQ.

Estimated No. of Respondents: 52,100 release reports.

Estimated Total Annual Burden on Respondents: 213,700 hours.

Frequency of Collection: On occasion—when a release above the RQ occurs.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460; and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530

Dated: April 23, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–10064 Filed 4–28–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4619–6]

Effluent Guidelines Task Force; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Effluent Guidelines Task Force, an EPA advisory committee, will hold a meeting to discuss improvements to the Agency's Effluent Guidelines Program. The meeting is open to the public.

DATES: The meeting will be held on May 18, 1993, from 8:30 a.m. to 5 p.m., and May 19, 1993, from 8:30 a.m. to 3 p.m.

ADDRESSES: The meeting will take place at the Sheraton National Hotel, Columbia Pike at South Orme Street, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Eric Strassler, Effluent Guidelines Task Force Staff Director, Office of Water (WH–552), 401 M Street SW., Washington, DC 20460; telephone 202–260–7150, fax 202–260–7185.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), the Environmental Protection Agency gives notice of a meeting of the Effluent Guidelines Task Force (EGTF). The EGTF is a subcommittee of the Technology Innovation and Economics Committee, under the National Advisory Council for Environmental Policy and Technology (NACEPT), the external policy advisory board to the Administrator of EPA.

The EGTF was established in July of 1992 to advise EPA on the Effluent Guidelines Program, which develops regulations for dischargers of industrial wastewater pursuant to title III of the Clean Water Act (33 U.S.C. 1251 *et seq.*).

The Task Force consists of members appointed by EPA from industry, citizen groups, state and local government, the academic and scientific communities, and EPA regional offices.

The meeting agenda will include reports from Task Force work groups on specific problem areas, including: selection criteria and methodology for preliminary industry studies, the role of non-water quality impacts and pollution prevention in effluent guidelines, and redesigning the data collection and/or rulemaking processes for effluent guidelines.

The meeting will be open to the public. Limited seating for the public is available on a first-come, first-served basis. The public may submit written comments for the Task Force to Eric Strassler at the above address. Comments submitted by May 11 will be considered by the Task Force at or subsequent to the meeting.

Dated: April 23, 1993.

Gordon Schisler,

Acting NACEPT Designated Federal Official.

[FR Doc. 93–10078 Filed 4–28–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4619–1]

Interim Report on TCDD Aquatic Risks; Availability

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Office of Research and Development has prepared a report titled *Interim Report on Data and Methods for the Assessment of 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) Risks to Aquatic Organisms and Associated Wildlife* (EPA/600/R–932/055): The report is not a risk assessment. Rather, it provides data and describes exposure, bioaccumulation and toxic effects relationships for evaluating specific TCDD contamination problems.

ADDRESSES: To obtain a single copy of this report, interested parties should contact the U.S. EPA Office of Research and Development Publications Office, CERI, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, Telephone: (513) 569–7562. Please provide your name, mailing address, and EPA document number EPA/600/R–932/055. The document will be distributed from the Cincinneti office only.

The Interim report also will be available for public inspection at the ORD Public Information Shelf, EPA Headquarters Library, Waterside Mall, 401 M Street, SW., Washington, DC 20460, between the hours of 10 a.m. and 4 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: For further information on this **Federal Register** notice or technical aspects of the interim report, contact Philip M. Cook, U.S. Environmental Protection Agency, Environmental Research Laboratory, 6201 Congdon Boulevard, Duluth, MN 55804, Telephone: (218) 720–5553.

SUPPLEMENTARY INFORMATION: In April 1991, EPA Administrator William K. Reilly announced that the Agency would conduct a scientific reassessment of human health risks associated with exposure to 2,3,7,8,-TCDD and similar chemicals present in the environment. The reassessment plan includes a component on the risks of TCDD to aquatic life and associated wildlife.

Research to provide needed exposure and effects information to better characterize these risks was initiated in September 1991. Because the results of this research effort will not be complete until June 1995, this interim report was prepared to critically review and evaluate existing data and models for analyzing TCDD exposure to, and effects on, aquatic wildlife, and to identify major uncertainties. The report addresses TCDD exposure to and bioaccumulation in aquatic organisms, TCDD toxic effects on aquatic life and wildlife, and comments on aspects of risk characterization to exemplify approaches and applicability of current information.

The report will serve as a background document for a peer panel meeting of scientists and risk assessment experts on use of the data and methods in the report to assess dioxin-related ecological risks. This meeting will be announced in the **Federal Register** later this year. Interested members of the public will be invited to attend as observers.

Dated: April 5, 1993.

Gary J. Foley,

Acting Assistant Administrator for Research and Development.

[FR Doc. 93–10063 Filed 4–28–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 22, 1993.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–0276. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0457.

Title: Amendment of Part 22 of the Commission's Rules to Establish Standards for Conducting Comparative Cellular Renewal Proceedings (CC Docket No. 90–358).

Action: Revision of a currently approved collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 70 responses; 18.43 hours average burden per response; 1,290 hours total annual burden.

Needs and Uses: The Federal Communications Commission has revised certain rules governing the conduct of comparative renewal proceedings in the cellular radio service. The proposed revisions are necessary to define the standards that a renewal applicant must meet in order to obtain a renewal expectancy, which is the most significant preference awarded in a comparative renewal proceeding, and to streamline hearing procedures for such proceedings. The intent of these revisions is to promote efficiency in licensing of the cellular radio service and to provide excellent service to the public in an uncomplicated, timely, and courteous manner. The information will be used by Commission staff to conduct comparative renewal proceedings pursuant to section 309 of the Commissions Act. The rules and requirements have been designed to

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prevent possible abuses by speculative applicants who might file competing applications against renewal applications solely to extract payments from the existing licenses. With these rules we intend to deter the filing of speculative applications by thinly or noncapitalized entities having little interest in providing cellular service. These rules will also maximize the utilization of the Commission's resources.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-9985 Filed 4-28-93; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

James Willis Covington, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 19, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. James Willis Covington, McComb Mississippi; to acquire up to 20.89 percent of the voting shares of First Southwest Corporation, McComb, Mississippi, and thereby indirectly acquire First Bank, McComb, Mississippi.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. William Hanford, II, Geneseo, Illinois; to acquire 11.1 percent of the voting shares of Farmers National Bancorp, Inc., Geneseo, Illinois and thereby indirectly acquire Farmers National Bank of Geneseo, Geneseo, Illinois.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Dennis C. Romero, Taos, New Mexico; to acquire an additional 7.0 percent of the voting shares of Centinel Bank Shares, Inc., Taos, New Mexico, for a total of 28.6 percent, and thereby indirectly acquire Centinel Bank of Taos, Taos, New Mexico.

2. Floyd J. and Florence P. White, Kanapolis, Kansas, to acquire 11.6 percent; Everett White, Kanapolis, Kansas, to acquire 11.6 percent; Independent Salt Company, Kanapolis, Kansas, to acquire 9.9 percent; Donald J. and Ilene R. Kozisek, Holyrood, Kansas, to acquire 11.6 percent; Britton Bancshares, Inc., Employee Stock Ownership Plan, Ellsworth, Kansas, Lewis E. McAtee, David W. Brownback and Heather Y. Barta, trustees, to acquire an additional 2.5 percent for a total of 24.6 percent; Carol J. Heber, Salina, Kansas, to acquire 9.2 percent; Randy V. Mills, Florence, Kansas, to acquire 5.8 percent; Richard and Machelle Connally, Ellsworth, Kansas, to acquire 2.2 percent; James A. Pavlich, Kansas City, Kansas, to acquire 3.7 percent; John and Judy Sherman, Ellsworth, Kansas, to acquire 1.2 percent; Gregory and Nancy Hoffman, Ellsworth, Kansas, to acquire 1.2 percent; Ronnie and Patricia Svaty, Ellsworth, Kansas, to acquire 1.2 percent; David W. Brownback, Ellsworth, Kansas, to acquire 1.1 percent; Beverly J. Connally, Ellsworth, Kansas, to acquire 1.1 percent; Lewis E. McAtee, Ellsworth, Kansas, to acquire 1.5 percent; Svaty, Sherman and Hoffman 401(k) Plan, Ellsworth, Kansas, to acquire 0.9 percent; and Heather Y. Barta, Ellsworth, Kansas, to acquire 1.1 percent of the voting shares of Britton Bancshares, Inc., Ellsworth, Kansas, and thereby indirectly acquire Citizens State Bank and Trust co., Ellsworth, Kansas, and First National Bank of Holcomb, Holcomb, Kansas.

Board of Governors of the Federal Reserve System, April 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10059 Filed 4-28-93; 8:45 am]

BILLING CODE 6210-01-F

Fidelity Southern Corporation; Acquisition of Company Engaged in Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) or (f) of the Board's Regulation Y (12 CFR 225.23(a) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 19, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Fidelity Southern Corporation, Decatur, Georgia; to engage *de novo* through its subsidiary, Fidelity National Capital Investors, Inc., Decatur, Georgia, in providing management consulting services to depository institutions pursuant to § 225.25(b)(11), and arranging commercial real estate equity financing pursuant to § 225.25(b)(14) of the Board's Regulation Y.

In addition, Applicant proposes to engage, through Fidelity National Capital Investors, Inc., in underwriting and dealing in bank ineligible debt securities (*J.P. Morgan & Co., Incorporated, New York, New York, et al.*, 75 Federal Reserve Bulletin 192 (1989); private placement and riskless principal transactions (*Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989) and *J.P. Morgan & Co., Incorporated*, 76 Federal Reserve Bulletin 26 (1990); underwriting and dealing in equity securities (*J.P. Morgan & Co., Incorporated, et al.*, 75 Federal Reserve Bulletin 192 (1989); and underwriting and dealing in municipal revenue bonds (*Citicorp, J.P. Morgan & Co., Incorporated, Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 473 (1987); *Citicorp, Morgan, Bankers Trust, aff'd sub nom., Securities Industry Association v. Board of Governors of the Federal Reserve System*, 839 F.2d 47 (2d Cir. 1988), *cert. denied*, 108 S. Ct. 2830 (1988); as modified by *order Approving Modifications to Section 20 Orders*, 75 Federal Reserve Bulletin 751 (1989). The proposed activities will be conducted throughout the State of Georgia.

Board of Governors of the Federal Reserve System, April 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10061 Filed 4-28-93; 8:45 am]

BILLING CODE 6210-01-F

First Hawaiian, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 24, 1993.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. First Hawaiian, Inc., Honolulu, Hawaii; to acquire Pioneer Fed BanCorp, Inc., Honolulu, Hawaii, and thereby engage in lending and deposit-taking activities of a federal savings bank pursuant to § 225.25(b)(9); the provision of certain services for such federal savings bank pursuant to § 225.25(a)(2), and certain credit-related insurance activities pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. These activities will be conducted in the State of Hawaii.

Board of Governors of the Federal Reserve System, April 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10062 Filed 4-28-93; 8:45 am]

BILLING CODE 6210-01-F

Susquehanna Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 24, 1993.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Susquehanna Bancshares, Inc., Lititz, Pennsylvania; to merge with Central Financial Corporation, Columbia, Pennsylvania, and thereby indirectly acquire Farmers First Savings Bank, Columbia, Pennsylvania, formerly known as Central Savings and Loan Association.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Nowata Bancshares, Inc., Nowata, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Nowata, Nowata, Oklahoma.

2. Pinnacle Bancorp, Inc., Central City, Nebraska; to acquire 100 percent of the voting shares of Centennial Bancorporation, Inc., Thermopolis, Wyoming, and thereby indirectly acquire First National Bank at Thermopolis, Thermopolis, Wyoming.

3. Pinnacle Bancorp, Inc., Central City, Nebraska; to acquire 100 percent of the voting shares of Colorado National Bank - Glenwood, Glenwood Springs, Colorado, and Colorado National Bank - Grand Junction, Grand Junction, Colorado.

Board of Governors of the Federal Reserve System, April 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10060 Filed 4-28-93; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 912-3369]

Griffin Bacal, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a New York advertising agency from misrepresenting any performance characteristic of any toy it promotes. In addition, in any demonstrations or tests used in the

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packaging or advertising for the toys, the respondent would be prohibited from falsely representing that the demonstration or test proves or confirms any material feature of the toy.

DATES: Comments must be received on or before June 28, 1993

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Rosemary Rosso or Toby Levin, FTC/S–4002, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580. (202) 326–2174 or 326–3156.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Griffin Bacal, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed, By and between Griffin Bacal, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Griffin Bacal, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 130 Fifth Avenue, New York, New York 10011.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusion of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access To Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint here attached.

6. The agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any rights it may have to any other manner of service.

The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered, That respondent Griffin Bacal Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any toy, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. In connection with any advertisement depicting a demonstration, experiment or test, making any representation, directly or by implication, that the demonstration, picture, experiment or test depicted in the advertisement proves, demonstrates or confirms any material quality, feature or merit of any toy when such demonstration, picture, experiment or test does not prove, demonstrate or confirm the representation for any reason, including but not limited to:

1. The undisclosed use or substitution of a material mock-up or prop;

2. The undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or

3. The undisclosed use of a visual perspective or camera, film, audio or video technique;

That, in the context of the advertisement as a whole, materially misrepresents a material characteristic of the advertised toy or any other material aspect of the demonstration or depiction.

Provided, however, that notwithstanding the foregoing, nothing in this Order shall be deemed to otherwise preclude the use of fantasy segments or prototypes which use otherwise is not deceptive.

Provided further, however, that it shall be a defense hereunder that the respondent neither knew nor had reason to know that the demonstration, experiment or test did not prove, demonstrate or confirm the representation.

B. Misrepresenting, directly or by implication, any performance characteristic of any Battle Copter toy or any other toy.

II

It is further ordered, That respondent Griffin Bacal, Inc. shall distribute a copy of this Order to each of its operating divisions and to each officer, agent and personnel responsible for the preparation, review or placement of advertising, or other materials covered by this Order and shall secure from each such person a signed statement acknowledging receipt of this Order.

III

It is further ordered, That for three (3) years after the date of the last dissemination of any representation covered by this Order, respondent, its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying the following records:

A. Any and all videotapes, in complete and unedited form, and any and all still photographs taken during the production of any advertisement depicting a demonstration, experiment, or test; and

B. Any and all affidavits or certifications submitted by an employee, agent or representative of respondent to a television network or to any other individual or entity, other than counsel for respondent, which affidavit or certification affirms the accuracy or integrity of a demonstration or demonstration techniques contained in an advertisement.

In addition, respondent, its successors and assigns, for three (3) years after the date of service of this Order, shall maintain and, within thirty (30) days of any written request, make available to the Federal Trade Commission for inspection and copying all signed statements obtained pursuant to section II, above.

IV

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporation which may affect compliance obligations arising out of this Order, including but not limited to any change in corporate name or address, dissolution, assignment or sale resulting in the emergence of a successor corporation, and the creation or dissolution of subsidiaries.

V

It is further ordered, That respondent shall, within sixty (60) days after service of this Order, and at such other time as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Griffin Bacal, Inc. ("Griffin Bacal").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint in this matter charges Griffin Bacal with engaging in deceptive and unfair practices in connection with the advertising of the Battle Copter and Eco-Warrior toys, manufactured by Hasbro, Inc. According to the complaint, television advertisements for the Battle Copter toy represented that the demonstrations of these toys hovering and flying in the air were unaltered and the results shown accurately represent the performance of actual, unaltered Battle Copter toys under the depicted conditions. This representation is alleged to be false and misleading. According to the complaint, the Battle Copter toys depicted in the advertisement were suspended from monofilament wire attached to poles, which were moved by humans to create the flying and hovering effect, and battery-operated motors were installed into the Battle Copter toy to make their rotors spin around while they were being held in place or moved on the monofilament wire attached to poles.

The complaint also alleges that the advertisements for the Battle Copter toy represented that Battle Copter toys can hover and can fly in a sustained and directed manner. This representation is also alleged to be false and misleading.

The consent order contains provisions designed to remedy the violations charged and to prevent Griffin Bacal from engaging in similar deceptive and unfair acts and practices in the future.

Part I.A of the order prohibits Griffin Bacal from misrepresenting that a demonstration, picture, experiment or test depicted in an advertisement proves, demonstrates or confirms a material quality, feature or merit of any toy when such demonstration, picture, experiment or test does not do so. Part I.A enumerates examples of such misrepresentations, including:

1. The undisclosed use or substitution of a material mock-up or prop;

2. The undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or

3. The undisclosed use of a visual perspective or camera, film, audio or video technique;

That in the context of the advertisement as a whole, materially misrepresents a material characteristic of the advertised toy or any other material aspect of the demonstration or depiction.

Part I.A does not preclude the use of fantasy segments or prototypes which use is otherwise not deceptive. Part I.A provides Griffin Bacal with a defense to liability if it neither knew nor had reason to know that the demonstration, experiment or test did not prove, demonstrate or confirm the representation.

Part I.B prohibits Griffin Bacal from misrepresenting any performance characteristics of any Battle Copter toy or any other toy.

Part II requires Griffin Bacal to distribute copies of the order to certain company officials and employees and certain other representatives and agents of the company, and to secure from each such person a signed statement acknowledging receipt of the order

Part III requires Griffin Bacal to maintain copies of certain materials relating to advertisements covered by this order and to make such documents available for FTC inspection.

Part IV requires Griffin Bacal to notify the Commission of any changes in the corporate structure that might affect compliance with the order.

Part V requires Griffin Bacal to file with the Commission one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way

Donald S. Clark,

Secretary.

[FR Doc. 93–10033 Filed 4–28–93, 8 45 am]

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[File No. 912 3360]

Hasbro, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Rhode Island-based toy corporation from misrepresenting any performance characteristic of any toy it manufactures or promotes. In addition, in any demonstrations or tests used in the packaging or advertising for the toys, the respondent would be prohibited from falsely representing that the demonstration or test proves or confirms any material feature of the toy.

DATES: Comments must be received on or before June 28, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Rosemary Rosso or Toby Levin, FTC/S–4002, 6th St. & PA. Ave., NW., Washington, DC 20580, (202) 326–2174 or 326–3156.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Hasbro, Inc., a corporation ("Hasbro" or "proposed respondent") and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed, By and between Hasbro, by its duly authorized officer, and its attorney and counsel for the Federal Trade Commission that:

1. Proposed respondent Hasbro is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island with its office and principal place of business located at 1027 Newport Avenue, Pawtucket, Rhode Island 02861.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusion of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access To Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any rights it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered, That respondent Hasbro, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labelling, advertising, promotion, offering for sale, sale, or distribution of any toy in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. In connection with any advertisement or package depicting a demonstration, experiment or test, making any representation, directly or by implication, that the demonstration, picture, experiment or test depicted in the advertisement or package proves, demonstrates or confirms any material quality, feature or merit of any toy when such demonstration, picture, experiment or test does not prove, demonstrate or confirm the representation for any reason, including but not limited to:

1. The undisclosed use or substitution of a material mock-up or prop;

2. The undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or

3. The undisclosed use of a visual perspective or camera, film, audio or video technique;

that, in the context of the advertisement as a whole, materially misrepresents a material characteristic of the advertised toy or any other material aspect of the demonstration or depiction.

Provided, however, that notwithstanding the foregoing, nothing in this Order shall be deemed to otherwise preclude the use of fantasy segments or prototypes which use otherwise is not deceptive.

B. Misrepresenting, directly or by implication, any performance characteristic of any Eco-Warriors action figure toy, Battle Copter toy or any other toy.

II.

It is further ordered, That respondent Hasbro, Inc. shall distribute a copy of this Order to each of its operating divisions and to each officer, agent and personnel responsible for the preparation, review or placement of advertising, packaging or other materials covered by this Order and shall secure from each such person a signed statement acknowledging receipt of this Order.

III.

It is further ordered, That for three (3) years after the last date of dissemination of any representation covered by this Order, respondent, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation;

B. Any and all videotape, in complete as well as unedited form, and any and all still photographs taken during the production of any advertisement depicting a demonstration, experiment or test;

C. Any and all affidavits or certifications submitted by an employee, agent or representative of respondents to a television network or to any other individual or entity, which affidavit or certification affirms the accuracy or integrity of a demonstration or demonstration techniques contained in an advertisement; and

D. Any toy as well as the packaging for any toy involved in such representation.

In addition, for three (3) years after the date of service of this Order, respondent, or its successors and assigns, shall maintain and, within thirty (30) days of any written request, make available to the Federal Trade Commission for inspection and copying all signed statements obtained pursuant to section II above.

IV.

It is further ordered, That respondent Hasbro, Inc., shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in its corporate structures, including but not limited to, dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, the planned filing of a bankruptcy petition, or any other corporate change that may affect compliance obligations arising out of this Order.

V.

It is further ordered, That respondent Hasbro, Inc., shall, within sixty (60) days after service upon it of this Order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth, in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Hasbro, Inc. ("Hasbro"). In addition, the Federal Trade Commission has approved a district court consent decree from Hasbro settling allegations that Hasbro engaged in unfair or deceptive acts or practices with actual knowledge that the Commission, in a prior proceeding, had determined that such conduct is unfair or deceptive and is unlawful.

The proposed administrative consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed administrative order.

The Commission's complaint in this matter charges Hasbro with engaging in deceptive and unfair practices in connection with the advertising of its Battle Copter and Eco-Warrior toys. According to the complaint, Hasbro's television advertisements for the Battle Copter toy represented that the demonstrations of these toys hovering and flying in the air were unaltered and the results shown accurately represent the performance of actual, unaltered Battle Copter toys under the depicted conditions. This representation is alleged to be false and misleading. According to the complaint, the Battle Copter toys depicted in the advertisements were suspended from monofilament wire attached to poles, which were moved by humans to create the flying and hovering effect, and battery-operated motors were installed into the Battle Copter toys in order to make their rotors spin around while they were being held in place or moved on the monofilament wire attached to poles.

The complaint also alleges that Hasbro's advertisements and packages for the Battle Copter toy represented that Battle Copter toys can hover and can fly in a sustained and directed manner. This representation is also alleged to be false and misleading.

The complaint also alleges that through statements and a depiction of the Toxo-Viper figure found on packaging for its Eco-Warrior action figures, Hasbro represented that the depiction on the packaging of the Toxo-Viper figure bearing a large patch of bright yellow color extending from the top of the figure's head, through the torso and belt and covering the upper legs is an unaltered depiction that accurately represents the color change that results when the Toxo-Viper figure is squirted with or dipped into water. This representation is alleged to be false and misleading. Among other things, the color change depicted was achieved by painting a photograph of the Toxo-Viper figure with yellow paint that is significantly different in color and extensiveness than the "battle damage" color change that occurs for the Toxo-Viper figure after it is squirted with or dipped into water.

The consent order contains provisions designed to remedy the violations charged and to prevent Hasbro from engaging in similar deceptive and unfair acts and practices in the future.

Part I.A of the order prohibits Hasbro from misrepresenting that a demonstration, picture, experiment or test depicted in an advertisement or package proves, demonstrates or confirms a material quality, feature or merit of any toy when such demonstration, picture, experiment or test does not do so. Part I.A enumerates examples of such misrepresentations, including:

1. The undisclosed use or substitution of a material mock-up or prop;

2. The undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or

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3. The undisclosed use of a visual perspective or camera, film, audio or video technique;

that in the context of the advertisement as a whole, materially misrepresents a material characteristic of the advertised toy or any other material aspect of the demonstration or depiction.

Part I.A does not preclude the use of fantasy segments or prototypes which use is otherwise not deceptive.

Part I.B of the order prohibits Hasbro from misrepresenting any performance characteristic of any Eco-Warriors action figure, any Battle Copter toy or any other toy.

Part II requires Hasbro to distribute copies of the order to certain company officials and employees and certain other representatives and agents of the company, and to secure from each such person a signed statement acknowledging receipt of the order.

Part III requires Hasbro to maintain copies of all materials relating to advertisements and packaging covered by this order and all documents relating to substantiation of advertising claims covered by this order, and to make those documents available for FTC inspection.

Part IV requires Hasbro to notify the Commission of any changes in the corporate structure that might affect compliance with the order.

Part V requires Hasbro to file with the Commission one or more reports detailing compliance with the order.

In addition to the administrative matter, the United States district court complaint charges that in 1976, Hasbro was notified that the Commission, in Ideal Toy Corp., 64 F.T.C. 297 (1964), had determined that it is unfair or deceptive and unlawful under Section 5 of the FTC Act to misrepresent the performance of a toy. Hasbro also was notified of its potential liability for civil penalties if it engaged in acts or practices which the Commission had determined to be unfair or deceptive. In June 1978, the United States District Court for the District of Rhode Island entered a consent judgment ordering Hasbro to pay civil penalties for allegedly misrepresenting the performance of two toys with actual knowledge that the Commission, in a prior proceeding, had determined that such conduct was unfair or deceptive, and permanently enjoying Hasbro from misrepresenting the performance of a toy.

This district court complaint here alleges that Hasbro misrepresented the performance of its Battle Copter and Eco Warrior toys with actual knowledge that the Commission, in a prior proceeding, had determined that such conduct was unfair or deceptive and in violation of Section 5 of the FTC Act. In settlement of this complaint, Hasbro has agreed to pay a civil penalty in the amount of $175,000.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way.

Donald S. Clark,

Secretary.

[FR Doc. 93–10032 Filed 4–28–93; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC Advisory Committee on the Prevention of HIV Infection (CDC ACPHI): Subcommittee on Promoting Knowledge of Serostatus (Counseling, Testing, Referral, Partner Notification): Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee meeting.

Name: CDC ACPHI Subcommittee on Promoting Knowledge of Serostatus (Counseling, Testing, Referral, Partner Notification).

Time and Dates: 8 a.m.–5 p.m., May 24–25, 1993.

Place: Holiday Inn Decatur Conference Plaza, 130 Clairemont Avenue, Decatur, Georgia 30030.

Status: Open to the public, limited only by the space available.

Purpose: This is the initial meeting of this subcommittee. The subcommittee and consultants will be provided an orientation on counseling, testing, referral, and partner notification policies, programs, and services. The meeting will also include a discussion of the purpose and process for the external review.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Connie Granoff, Committee Assistant, Office of the Associate Director for HIV/AIDS, CDC, 1600 Clifton Road, NE., Mailstop E–40, Atlanta, Georgia 30333, telephone 404/639–2918.

Dated: April 23, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–10026 Filed 4–28–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 93D–0134]

Animal Drug User Fee Study; Request for Information and Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's Center for Veterinary Medicine (CVM), as directed by the Prescription Drug User Fee Act of 1992, is conducting an animal drug user fee study. Information and comments are being solicited from drug manufacturers and other interested persons.

DATES: Written comments by June 15, 1993.

ADDRESSES: Submit written information and comments on the animal drug user fee study to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Information and comments should be identified with the docket number found in brackets in the heading of this document. A copy of received information and comments is available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David Lynch, Center for Veterinary Medicine (HFV–11), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8743.

SUPPLEMENTARY INFORMATION: CVM is conducting a study on animal drug user fees as required by section 108 of the Prescription Drug User Fee Act of 1992 (Pub. L. 102–571). The statute provides for the study to evaluate whether, and under what conditions, to impose user fees to supplement appropriated funds in order to improve the process of reviewing applications (including abbreviated and supplemental applications) for new animal drugs (as provided by section 512 of the Federal Food, Drug, and Cosmetic Act). The study must include: (1) An assessment of the overall review process for animal drugs including the number of applications received and the average time for interim and final decisions on each type of application; (2) examination of the current allocation of funds to the review process; (3) recommendations for the goals for decisionmaking times on applications and for additional resources required to meet the goals; and (4) recommendations for supplementing the resources for the animal drug review process through user fees. The study also will include means of making the overall review process for animal drugs more efficient.

The law directs the agency to consult with animal drug manufacturers and other interested persons on the study. CVM is providing this opportunity for interested persons to submit information and comments germane to the study. CVM also seeks suggestions for goals to improve the new animal drug application review process. Comments and information received will be used in developing a proposal regarding the assessment of user fees for animal drug applications. Pub. L. 102–571 requires that the results of the study be presented to specified congressional committees by January 4, 1994.

Interested persons may, on or before June 15, 1993, submit written comments on the animal drug user fee study to the Dockets Management Branch (address above). Comments should be submitted in duplicate (except that individuals may submit one copy), identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 23, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–9991 Filed 4–28–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93D–0119]

FIS Program User Reference Guide and Installation Manual; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a manual entitled "FIS Program User Reference Guide and Installation Manual." FIS stands for "File Interchange System." This manual is intended to enable new drug application sponsors and FDA to exchange biopharmaceutic data. This will aid in FDA's review of the biopharmaceutic data.

DATES: Written comments by July 28, 1993.

ADDRESSES: The "FIS Program User Reference Guide and Installation Manual" and the program disks may be ordered from National Technical Information Service.(NTIS), U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161. Orders must reference NTIS order number PB 93–502649 and include payment of $140 for each copy of the document and the program disks. Payment may be made by check, money order, charge card (American Express, VISA, or MasterCard), or billing arrangements made with NTIS. Charge card orders must include the charge card account number and expiration date. For telephone orders or further information on placing an order, call NTIS at 703–487–4650. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Comments should be identified with the docket number found in brackets in the heading of this document. The "FIS Program User Reference Guide and Installation Manual" and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: See-Yan Lam, Center for Drug Evaluation and Research (HFD–426), 5600 Fishers Lane, Rockville, MD 20857, 301–443–1640.

SUPPLEMENTARY INFORMATION: A biopharmaceutics task force comprised of members of FDA and the Pharmaceutical Manufacturers Association has developed a system called FIS for exchanging and manipulating data. The first of its two components is the FIS file specifications. The second, also referred to as FIS, is the program that enables the firm to create an FIS file and the FDA reviewer to extract and manipulate the data.

Members of FDA's Division of Biopharmaceutics, Center for Drug Evaluation and Research, and the Pharmaceutical Manufacturers Association's Drug Metabolism subsection worked for 3 years to develop FIS. It was created to facilitate the use of FIS files as a conduit to exchange biopharmaceutics data between pharmaceutical companies and FDA reviewers using a standardized format. The FIS program copyright has been transferred to FDA with full privilege to use and distribute.

Currently, FIS is designed so that biopharmaceutic data can be developed by a sponsor or third party without considering interfacing or adapting to FDA's environment in which it will be used. In addition, FIS was created to be available, affordable, and usable to any company without regard to size, resources, or computer sophistication.

The task force was aware of the array of computer skills among the people who would be using the system and designed it to be user-friendly, able to accept any data, hardware, software, and operating system. FIS can, therefore, accept any type of information contained in a file if the construction follows the specifications of the program.

The "FIS Program User Reference Guide and Installation Manual" defines specifically how to construct files. It also tells how to include comments in the file, which can provide further descriptive information. Therefore, a file conforming to FIS can be entirely self-documenting.

Interested persons may, on or before July 28, 1993, submit written comments to the Dockets Management Branch (address above) on the "FIS Program User Reference Guide and Installation Manual." FDA is requesting comments pertaining to the application and use of FIS files and the usability of the manual. FDA will consider these comments in determining whether further amendments to, or revisions of, the manual are warranted. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Dated: April 22, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–9992 Filed 4–28–93; 8:45 am]

BILLING CODE 4160–01–F

Conference on the FDA Medical Products Reporting Program; Notice of Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the Commissioner's Conference on *MEDWatch*:the FDA Medical Products Reporting Program. The Commissioner of Food and Drugs will announce FDA's new approach to reporting adverse events and product problems.

DATES: The conference will be held on Thursday, June 3, 1993, 10 a.m. to 5 p.m.

ADDRESSES: The conference will be held at the Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Peter H. Rheinstein, Office of Health Affairs (HFY–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5470. Those persons interested in attending this conference, who have not already registered, should call the contact person listed above or fax their

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registration, including firm name, address, and telephone number to 301–443–2446. It is suggested that interested persons register by May 21, 1993, because conference space is limited.

SUPPLEMENTARY INFORMATION: Reports from health professionals of adverse events or product quality problems are essential to ensuring the postmarketing safety of drugs, biologics, medical devices, and other products regulated by FDA. Because many health professionals may not appreciate how vital these reports are to protecting the public health, this is an area that warrants change. The purpose of the June 3, 1993, conference, will be for the Commissioner of Food and Drugs, in partnership with leaders of organizations representing health professionals and industry, to introduce MEDWatch, FDA's new reporting program. One component will be the use of a new single reporting form, a draft of which was published in the **Federal Register** of February 26, 1993 (58 FR 11768 at 11770 and 11771).

Dated: April 23, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–10051 Filed 4–28–93; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Kidney and Urologic Diseases Advisory Board, National Institute of Diabetes and Digestive and Kidney Diseases, May 3–5, 1993, Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland which was published in the **Federal Register** on April 12, 1993 (58 FR 19137).

This committee is extending their meeting dates to include May 2, 1993. On Sunday May 2, the Executive Committee of the Board will meet from 7 p.m. until approximately 9 p.m. to discuss the future direction of the Board. This portion of the meeting is open to the public and is limited to space available.

Dated: April 23, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–10142 Filed 4–28–93; 8:45 am]

BILLING CODE 4140–01–M

Social Security Administration

[Social Security Acquiescence Ruling 93-1(4)]

Branham v. Heckler; Flowers v. U.S. Department of Health and Human Services; What Constitutes an Additional and Significant Work-Related Limitation of Function

AGENCY: Social Security Administration, HHS.

ACTION: Notice of revised Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Principal Deputy Commissioner of Social Security gives notice of a revision to Social Security Acquiescence Ruling 92-3(4) through the issuance of Social Security Acquiescence Ruling 93-1(4).

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION: Darlynda K. Bogle, Esq., Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965-4237.

SUPPLEMENTARY INFORMATION: We are publishing this revision to Social Security Acquiescence Ruling 92-3(4) in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

On March 10, 1992, Acquiescence Ruling 92-3(4) was published in the **Federal Register** (57 FR 8463) to reflect the holdings in *Branham* v. *Heckler*, 775 F.2d 1271 (4th Cir. 1985) and *Flowers* v. *U.S. Department of Health and Human Services*, 904 F.2d 211 (4th Cir. 1990). The Acquiescence Ruling applied to claims involving allegations of mental impairment in which the claimant had a valid IQ score in the range of 60 through 69, where the claimant also had a physical or other mental impairment which prevented performance of past relevant work. Claimants meeting these conditions were considered under the Acquiescence Ruling to have established disability under section 12.05C of the Listing of Impairments.

On December 12, 1990, subsequent to the court's decisions, but before publication of Acquiescence Ruling 92-3(4), the Secretary revised his regulations at 20 CFR part 404, subpart P, appendix 1, Listing 12.05C, to extend the IQ Listing range from "60 through 69" to "60 through 70." (55 FR 51230) Because the current Ruling, AR 92-3(4), specifies that it applies to claimants who have IQ scores of 60 to 69 inclusive, and thus did not apply to claimants who have an IQ score of 70, we are revising the current Ruling, AR 92-3(4) to reflect the regulatory change We also have made several technical corrections in connection with this substantive revision.

We will apply the holding of the Court of Appeals decision as explained in this revised Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Fourth Circuit. This revised Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after April 29, 1993. If we made a determination or decision on your application for benefits between November 4, 1985, the date of the Court of Appeals' decision in *Branham* and April 29, 1993, the effective date of this Social Security Acquiescence Ruling, you may request application of the Social Security Acquiescence Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b) or 416.1485(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e), or 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c) or 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security - Disability Insurance; 93.803 Social Security - Retirement Insurance; 93.805 Social Security Survivors Insurance; 93.806 - Special Benefits for Disabled Coal Miners; 93.807 - Supplemental Security Income.)

Louis D. Enoff

Principal Deputy Commissioner of Social Security.

Acquiescence Ruling 93-1(4)

Branham v. *Heckler*, 775 F.2d 1271 (4th Cir. 1985); *Flowers* v. *U.S. Department of Health and Human Services*, 904 F.2d 211 (4th Cir. 1990)—What constitutes an additional and significant work-related limitation of function—Titles II and XVI of the Social Security Act.

Issue

Whether a claimant for disability insurance benefits or for supplemental security income benefits based on disability who has an IQ score in the range covered by Listing 12.05C and who cannot perform his or her past relevant work because of a physical or other mental impairment has *per se* established the additional and significant work-related limitation of function requirement of Regulations 20 CFR part 404, subpart P, appendix 1, section 12.05C.

Statute/Regulation/Ruling Citation

Sections 223(d)(2)(A) and 1614(a)(3)(B) of the Social Security Act (42 U.S.C. 423(d)(2)(A) and 1382c(a)(3)(B); 20 CFR part 404, subpart P, appendix 1, section 12.05C.

Circuit

Fourth (Maryland, North Carolina, South Carolina, Virginia, West Virginia); *Branham* v. *Heckler*, 775 F.2d 1271 (4th Cir. 1985); *Flowers* v. *U.S. Department of Health and Human Services*, 904 F.2d 211 (4th Cir. 1990).

Applicability of Ruling

This ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, administrative law judge (ALJ) hearing and Appeals Council).

Description of Case

Branham

The plaintiff, Larry R. Branham, filed his claim for disability benefits following a work-related injury allegedly sustained in October 1979, for which he received Workers' Compensation benefits. Mr. Branham claimed great back, hip, and neck pain associated with the injury; and he also complained of chest pain, disorientation, and bronchitis. The plaintiff had also been diagnosed as having a generalized anxiety disorder. He was taking medication for all of his ailments.

Mr. Branham's claim for disability benefits was denied initially and on reconsideration. After a hearing, the ALJ found that although the plaintiff could not return to his past relevant work, he had the ability to engage in light work and thus was not disabled. The ALJ therefore denied his request for benefits and the Appeals Council upheld the denial.

Upon review by the district court, the plaintiff submitted and the court accepted additional evidence of his emotional problems and vocational abilities, including the results of a test indicating an IQ of 63. The court remanded the case for further proceedings.

On remand, a second ALJ heard the plaintiff's claim and granted Mr. Branham benefits under section 12.05C of appendix 1 of 20 CFR part 404, subpart P. The ALJ found that Mr. Branham's IQ fit within this section, but referring to the finding of the first ALJ, held that the plaintiff's physical problems held no significant work-related limitation of function since Mr. Branham had the ability to do light work. The second ALJ did find, however, that Mr. Branham's psychotic disorder, agoraphobia, significantly limited his ability to work and was a mental impairment within section 12.05C. The ALJ consequently decided that the plaintiff was disabled as of January 15, 1983, the date the ALJ found the plaintiff's agoraphobia began. The Appeals Council adopted the decision of the second ALJ, awarding benefits on the basis of the plaintiff's IQ and mental impairment.

On review, the district court modified the Secretary's decision, changing the onset date of the plaintiff's disability from January 15, 1983 to December 17, 1982, the date the claimant took his first IQ test. The court found that Mr. Branham satisfied the physical impairment requirement of section 12.05C on account of the 1979 back injury which led to the termination of his employment and said that the claimant's inability to perform his past relevant work as a laborer constituted a significant work-related limitation of function. Mr. Branham appealed the onset date of disability set by the district court, alleging that he met the IQ requirement of section 12.05C prior to the time that he took his first IQ test.

Holding

The Court of Appeals held that the plaintiff's inability to do his past relevant work established the additional and significant work-related limitation of function required by the regulation and determined the onset of disability to be October 1979, the date of the injury to Mr. Branham's back.

The court stated that the additional and significant work-related limitation of function specified in section 12.05C need not be disabling in and of itself, reasoning that if the claimant's physical impairment were required to be independently disabling, section 12.05C would be rendered meaningless. The court affirmed the finding of the lower court that the plaintiff's back impairment was a significant work-related limitation of function and remanded the case for an award of benefits. The court cited for support an earlier decision, *Rainey* v. *Heckler*, 770 F.2d 408 (4th Cir. 1985).

Flowers

The plaintiff, Stroun A. Flowers, Jr., was born August 4, 1944. He completed the seventh grade. From 1970 to 1971, he worked as a flag man for a construction company and for the next seven years was a timberjack driver. He had not worked since July 15, 1978. Mr. Flowers filed a claim for supplemental security income payments. He alleged that he was disabled due to seizures and a hip problem and that he met the requirements of section 12.05C. The plaintiff had a verbal IQ of 72, a performance IQ of 66, and a full scale IQ of 68. Following the denial of his claim at the initial and reconsideration levels, the plaintiff requested and received a hearing before an ALJ. The ALJ agreed that the plaintiff met the first part of Listing 12.05C, i.e., he had an IQ between 60 and 69;[1] but he found that the plaintiff's seizure disorder did not satisfy the "significant work-related limitation of function" element. The ALJ also found that the plaintiff's low IQ and seizure disorder did not prevent him from performing his former work and, therefore, denied the plaintiff's request for supplemental security income. The denial was upheld by the district court.

Holding

The Court of Appeals held that the ALJ's finding that the plaintiff's seizure disorder did not prevent him from performing his former work was not supported by substantial evidence. In its holding, the Court of Appeals stated that it was following the Fourth Circuit rule announced in *Branham* that if a claimant cannot return to his past relevant work, he has established a work-related limitation of function that meets the requirement of section 12.05C. Accordingly, the court vacated the decision of the district court and remanded the case for an award of benefits.

Statement as to How Branham and Flowers Differ From Social Security Policy

At issue in *Branham* and in *Flowers* is the meaning of the term "additional and significant work-related limitation of function," as contained in section 12.05C. What constitutes a significant work-related limitation of function is not defined in the Secretary's

[1] At the time the ALJ issued his decision, Listing 12.05C was applicable to claimants with IQ scores of 60 to 69 inclusive.

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regulations. Agency policy is that the adjudicator in each case decides whether an impairment constitutes a significant work-related limitation of function based on all evidence, including the requirements of a claimant's past work. The fact that a mentally retarded claimant has an IQ in the range specified in section 12.05C of the Listing of Impairments and is also unable to perform his or her past relevant work may or may not mean that the claimant is disabled. It depends upon the facts of the particular case. In the Fourth Circuit, the rule has evolved that an inability to do one's past relevant work due to the additional impairment meets the "additional and significant work-related limitation of function" requirement of section 12.05C of the regulations.

Explanation of How SSA Will Apply Branham and Flowers Within The Fourth Circuit

This ruling applies only where the claimant resides in Maryland, North Carolina, South Carolina, Virginia or West Virginia at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, ALJ hearing or Appeals Council review. A claimant who is mentally retarded and has a valid verbal, performance, or full scale IQ in the range specified by section 12.05C of the Listing of Impairments and also has a physical or other mental impairment which prevents him or her from performing his or her past relevant work will be considered to have established the requirements of section 12.05C of the Listing of Impairments.

[FR Doc. 93-9980 Filed 4-28-93; 8:45 am]

BILLING CODE 4190-29-F

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill; Amendment of Public Advisory Group Charter

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of amendment to public advisory group charter—*Exxon Valdez* Oil Spill.

SUMMARY: This notice is published in accordance with 41 CFR part 101-6, § 101-6.1031, Amendments to advisory committee charters.

Following the recommendation of the Exxon Valdez Oil Spill Public Advisory Group (the Public Advisory Group), and as approved by the Exxon Valdez Oil Spill Trustee Council, the Secretary of the Interior hereby amends the Public Advisory Group Charter to provide for the designation of an alternate to substitute for, and represent, a Public Advisory Group member at a meeting.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Affairs, 1689 C Street, Suite 119, Anchorage, Alaska, (907) 271-5011.

SUPPLEMENTARY INFORMATION: On March 24, 1989, the T/V *Exxon Valdez* ran aground on Bligh Reef in Prince William Sound in Alaska spilling approximately 11 million gallons of North Slope crude oil. Oil moved into the Gulf of Alaska, along the Kenai coast to Kodiak Island and the Alaska Peninsula—some 600 miles from Bligh Reef. Massive clean-up and containment efforts were initiated and continued to 1992. On October 8, 1991, an agreement was approved by the United States District Court for the District of Alaska that settled claims of the United States and the State of Alaska against the Exxon Corporation and the Exxon Shipping Company for various criminal and civil violations. Under the civil settlement, Exxon companies agreed to pay to the governments $900 million over a period of 10 years.

The Exxon Valdez Oil Spill Trustee Council was established to manage the funds obtained from the civil settlement of the *Exxon Valdez* Oil Spill. The Trustee Council is composed of three State of Alaska trustees (Attorney General; Commissioner, Department of Environmental Conservation; and Commissioner, Department of Fish and Game) and three Federal representatives appointed by the Federal Trustees (Secretary, U.S. Department of Agriculture; the Administrator of the National Oceanic and Atmospheric Administration; and the Secretary, U.S. Department of the Interior).

The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska*, Civil Action No. A91-081 CV. The Public Advisory Group was chartered by the Secretary of the Interior in 1992 and functions solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1988)).

The Public Advisory Group was established to advise the Trustee Council, and began functioning in October 1992. The Public Advisory Group consists of 17 members representing the following principal interests: sport hunting and fishing, environmental, public-at-large (5), recreation users, local government, science/academic, conservation, subsistence, commercial fishing, aquaculture, commercial tourism, forest products, and Native landowners. Members were appointed to serve a two-year term.

To carry out its advisory role, the Public Advisory Group makes recommendations to, and advises, the Trustee Council in Alaska on the following matters:

All decisions related to injury assessment, restoration activities, or other use of natural resource damage recovery monies obtained by the governments, including all decisions regarding:

a. Planning, evaluation and allocation of available funds;

b. Planning, evaluation and conduct of injury assessment; and

c. Planning, evaluation and conduct of restoration activities.

Trustee Council intentions regarding the importance of obtaining a diversity of viewpoints is stated in the Public Advisory Group Background and Guidelines (March 1993): "The Trustee Council carefully selected the members of the Public Advisory Group so that a wide spectrum of views and interests are available for the Council to consider as it evaluates, develops, and implements restoration activities. It is the Council's intent that the diversity of interests and views held by the Public Advisory Group members contribute to wide ranging discussions that will be of benefit to the Trustee Council."

In order to ensure that a broad range of public viewpoints are represented at Public Advisory Group meetings, the number of members required for a quorum was set at 12 of 17. Many members live and work in communities without road access to the principal meeting place in Anchorage, and they are sometimes unable to reach Anchorage to attend a meeting. Sometimes members are unable to attend meetings due to personal or business reasons. In order to best meet the intentions of the Trustee Council for obtaining information about the range of public input on restoration issues, the Public Advisory Group believes that the official designation of alternate members will assist in ensuring achievement of this goal.

The Public Advisory Group Charter, as it is currently filed, does not provide for the designation of alternate members. This amended Charter includes such a provision. The process for appointing alternates will follow that used for selection of the official members.

Certification

I hereby certify that the amendment to the Charter of the Public Advisory Group, an advisory committee to make recommendations to and advise the *Exxon Valdez* Oil Spill Trustee Council in Alaska, is necessary and in the public interest in connection with the performance of duties mandated by the settlement of *United States* v. *State of Alaska*, No. A91-081 CV, and is in accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended and supplemented.

Dated: April 22, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93-10039 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[AZ-050-03-4333-01]

Arizona: Availability of the Ehrenberg-Cibola Recreation Area Management Plan and Environmental Assessment, Yuma District

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Ehrenbert-Cibola Recreation Area Management Plan and Environmental Assessment, Yuma District.

SUMMARY: In compliance with the Federal Land Policy and Management Act of 1976 and section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has prepared a Draft Recreation Area Management and Environmental Assessment for the Ehrenberg-Cibola Special Recreation Management Area. The plan describes the recreation management practices the BLM intends to implement in the Ehrenberg-Cibola Special Recreation Management Area.

DATES: The review period will begin on May 1, 1993, and will run until May 31, 1993. After the review period, the comments received will be incorporated into a final plan and environmental assessment. Comments may be offered in writing to the Yuma Resource Area Office.

ADDRESSES: Send Comments to: Area Manager, Yuma Resource Area Office, Bureau of Land Management, 3150 Winsor Avenue, Yuma, Arizona 85365.

FOR FURTHER INFORMATION CONTACT: Outdoor Recreation Planner Todd Suess, Yuma Resource Area, Bureau of Land Management, 3150 Winsor Avenue, Yuma, Arizona 85365, telephone (602) 726-6300.

SUPPLEMENTARY INFORMATION: The Draft Ehrenber-Cibola Recreation Area Management Plan involves approximately 209,400 acres of land along the Colorado River in southeastern Arizona and California. The land lies within Imperial and Riverside Counties, California, and La Paz County, Arizona.

Among the management ections prescribed in the draft plan are off-highway route designations and 12 BLM project plans for redevelopment of current facilities and development of new facilities. The new facilities include a campground, two boat ramps, hiking trail systems, a Back Country Byway, interpretive overlooks, and fishing access. The plan also recognizes the need for open space and wildlife habitat.

Dated: April 19, 1993.

Michael A. Taylor,

Acting District Manager.

[FR Doc. 93-10018 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-32-M

[NV-930-4210-05; Nev-065256]

Reconveyance and Opening Order; Nevada

April 16, 1993.

AGENCY: Bureau of land management, Interior.

ACTION: Notice.

SUMMARY: This notice identifies certain lands reconveyed to the United States and provides for opening the lands as specified below.

EFFECTIVE DATE: Upon publication of this notice in the **Federal Register**, a portion of the lands will be open only to disposal pursuant to secs. 203 and 209 of the Federal Land Policy and Management Act (43 U.S.C. 1713 and 1719). On June 1, 1993, the remainder of the reconveyed lands will be open to the operation of the public land laws and the mining laws.

FOR FURTHER INFORMATION CONTACT: Mary Clark, BLM Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520, 702-785-6530.

SUPPLEMENTARY INFORMATION: The following described lands were conveyed to Washoe County for recreation purposes on July 23, 1965, pursuant to the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 to 869-4):

Mount Diablo Meridian, Nevada

T. 32 N., R. 23 E.,
sec. 15, lot 2;
sec. 16, lot 1, NE¼NE¼.

The area described contains 103.06 acres in Washoe County, Nevada. The lands are no longer needed for recreation purposes and they have been reconveyed to the United States. The Gerlach General Improvement District has expressed an interest in acquiring a portion of the reconveyed land pursuant to secs. 203 and 209 of the Federal Land Policy and Management Act (43 U.S.C. 1713 and 1719). That land, comprising 5 acres, is described as follows:

Mount Diablo Meridian, Nevada

T. 32 N., R. 23 E.,
sec. 16, S½SE¼NE¼NE¼.

At 10 a.m. on April 29, 1993, the above described land will be open only to disposal pursuant to secs. 203 and 209 of the Federal Land Policy and Management Act (43 U.S.C. 1713 and 1719), subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

At 10 a.m. on June 1, 1993, the remainder of the reconveyed lands will be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 1, 1993, shall be considered as simultaneously filed at that time.

Those received thereafter shall be considered in the order of filing. At 10 a.m. on June 1, 1993, the remainder of the reconveyed lands will also be open to location under the United States mining laws. Appropriation of the lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

All of the reconveyed lands described above have been and will remain open to the mineral leasing and material sale laws.

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 93-9981 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-HC-M

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[AK-932-4210-06-P; A-060041; AA-76684]

Transfer of Administrative Jurisdiction; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This Notice provides official publication of the transfer of administrative jurisdiction of a parcel of land known as the Indian Point Rescue Station, near Auke Bay, Alaska, from the United States Coast Guard to the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA).

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

SUPPLEMENTARY INFORMATION: Subject to valid existing rights, the administrative jurisdiction of the following described parcel of land withdrawn by Public Land Order No. 3850, dated October 11, 1965, was transferred from the United States Coast Guard to NOAA, pursuant to Public Law 102-241, dated December 19, 1991. The transfer of land was accepted by NOAA and became effective on February 10, 1993.

Copper River Meridian

U.S. Survey No. 3811, Lot 2.

The area described contains 28.16 acres.

The terms and conditions of Public Land Order No. 3850 remain otherwise unchanged. The land described above remains withdrawn from all forms of appropriation under the public land laws, including the mining laws, but not from leasing under the mineral leasing laws.

Dated: April 9, 1993.

Sue A. Wolf

Chief, Branch of Land Resources

[FR Doc. 93-9983 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-JA-P

[MT-030-4210-05]

Realty Action, Sale of Public Land in North Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, sale of public land in North Dakota.

SUMMARY: The following lands have been found suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at not less than the estimated Minimum Bid Price.

DATES: June 30, 1993.

ADDRESSES: 2933 Third Avenue West; Dickinson, North Dakota 58601.

FOR FURTHER INFORMATION CONTACT: William C. Monahan, Dickinson District Office, 701-225-9148.

SUPPLEMENTARY INFORMATION:

Parcel	Legal description fifth principal meridian
NDM82057	T. 154 N., R. 75 W., sec. 18: Lot 4, 38.22 acres, McHenry County, Minimum Bid Price $1,340.
NDM82058	T. 154 N., R. 75 W., sec. 18: SESW, 40.0 acres, McHenry County, Minimum Bid Price $1,400.
NDM82059	T. 154 N., R. 76 W., sec. 25: S2NE, 80.0 acres, McHenry County, Minimum Bid Price $2,800.
NDM82060	T. 154 N., R. 76 W., sec. 25: N2SE, 80.0 acres, McHenry County, Minimum Bid Price $2,800.
NDM82061	T. 155 N., R. 76 W., sec. 23: N2NW, 80.0 acres, McHenry County, Minimum Bid Price $2,800.
NDM82062	T. 155 N., R. 76 W., sec. 23: SENW, 40.0 acres, McHenry County, Minimum Bid Price $1,400.
NDM82063	T. 155 N., R. 76 W., sec. 23: NESW, 40.0 acres, McHenry County, Minimum Bid Price $1,400.
NDM82064	T. 155 N., R. 76 W., sec. 23: NWSE, 40.0 acres, McHenry County, Minimum Bid Price $1,400.
NDM82065	T. 155 N., R. 77 W., sec. 5: Lot 2, 40.42 acres, McHenry County, Minimum Bid Price $1,400.
NDM82066	T. 155 N., R. 77 W., sec. 5: SWNE, 40.0 acres, McHenry County, Minimum Bid Price $1,400.
NDM82067	T. 156 N., R. 77 W., sec. 28: NESW, 40.0 acres, McHenry County, Minimum Bid Price $1,400.
NDM82068	T. 156 N., R. 77 W., sec. 28: SWSW, 40.0 acres, McHenry County, Minimum Bid Price $1,400.
NDM82069	T. 156 N., R. 77 W., sec. 28: NWSE, 40.0 acres, McHenry County, Minimum Bid Price $1,400.

The lands described are hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale, pending disposition of this section or 270 days from the date of publication of this Notice, whichever occurs first.

The lands will be offered for sale at public auction beginning at 10 a.m., MDT, on Wednesday, June 30, 1993, at 2933 Third Avenue West, Dickinson, North Dakota 58601. The sale will be by modified competitive procedures. Tract lessees or adjoining land owners must submit a bid the day of sale to retain preference rights. The sale will be by sealed bid only.

All sealed bids must be submitted to the BLM's Dickinson District Office at 2933 Third Avenue West, Dickinson, North Dakota 58601, no later than 4:30 p.m., MDT, on Tuesday, June 29, 1993. Bid envelopes must be marked on the left front corner with the parcel number and the sale date. Bids must be for not less than the appraised Minimum Bid Price specified in this Notice. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft or cashier's check made payable to the United States Department of the Interior, BLM, for not less than 10 percent or more than 30 percent of the amount of the bid. Applicants should submit a Statement of Eligibility form with the bid.

Bids on unsold parcels will be opened each Wednesday after the date of the sale at 10 a.m., MDT, until the parcels are sold. The terms and conditions applicable to the sale are:

1. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this office.

2. A right-of-way is reserved for ditches and canals constructed by the authority of the United States under the authority of the Act of August 30, 1890, (26 Stat. 291; 43 U.S.C. 945).

3. The patents will be subject to all valid existing rights including rights-of-way.

Federal law requires that all bidders must be U.S. citizens 18 years old or older, or in the case of corporations, be subject to the laws of any State of the U.S. Proof of these requirements must accompany the bid.

Under modified competitive sale procedures, an apparent high bid will be declared at the public auction. The apparent high bidder, lessees and adjoining land owners will be notified. Lessees and adjoining land owners will have five (5) working days from the date of the sale to exercise the preference consideration given to meet the high bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions. Once the qualified high bidder is determined, the balance of the purchase price shall be paid within 180 days of the date of the sale. Failure to submit the full bid price prior to, but not including the 180th day following the day of sale, shall result in cancellation of the sale of the specific parcel and the deposit shall be forfeited and disposed of as other receipts of sale.

Detailed information concerning the sale, including the reservations, procedures for conditions of sale, and planning and environmental documents, is available at the Dickinson District Office, Bureau of Land Management, 2933 Third Avenue West, Dickinson, North Dakota 58601.

Comments

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Dickinson District, at the above address. In the absence of objections, this proposal will become the final determination of the Department of the Interior.

Dated: April 16, 1993.

Douglas J. Burger,

District Manager.

[FR Doc. 93-10014 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-DN-M

[UT-942-03-5700-11; UTU-70117]

Notice of Realty Action, Recreation and Public Purposes; Lease or Sale of Public Land in San Juan County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice to Realty Action, UTU-70117, proposed recreation and public purposes lease or sale of public land in San Juan County, Utah; segregation of land from appropriation and operation under the public land laws, including the mining laws, excepting the mineral leasing laws.

SUMMARY: The following land is being evaluated for lease or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (44 Stat. 741; 43 U.S.C. 869 et. seq.):

Salt Lake Meridian, Utah

T. 39 S., R. 22 E.,
Sec. 3, S2N2, S2.
Sec. 4, S2SE.
Sec. 9, NE, S2SENW, E2SW, N2SE, SWSE, N2SESE, SWSESE.
Sec. 10, NW.

The above described land aggregates 1050 acres.

The land described is hereby segregated from appropriation and operation of the public land laws and the mining laws, excepting the mineral leasing laws, pending disposition of this action, or two hundred seventy (270) days from the date of publication of this notice in the **Federal Register**, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: David L. Krouskop, Area Realty Specialist, San Juan Resource Area, 435 North Main, P.O. Box 7, Monticello, Utah 84535, (801) 587-2141, or Brad Groesbeck, District Realty Specialist, Moab District Office, 82 East Dogwood Drive, P.O. Box 970, Moab, Utah 84532, (801) 259-6111.

Dated: April 23, 1993.

William C. Stringer,

Acting District Manager.

[FR Doc. 93-10077 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-DQ-M

[OR-943-4210-06; GP3-200; OR-45434 (WASH)]

Conveyance of Public Lands; Order Providing for Opening of Lands; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 366.75 acres of public land out of Federal ownership. This action will also open 560 acres of reconveyed lands to surface entry and mining, and 700.40 acres to mineral leasing. The minerals in 640 acres are not in Federal ownership and will not be opened to mining and mineral leasing, and 140.40 acres are within a proposed withdrawal and will remain closed to surface entry and mining.

EFFECTIVE DATE: June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that in exchange of lands made pursuant to Section 206 of the Act of October 21, 1976, 43 U.S.C. 1716, a patent has been issued transferring 366.75 acres in King, Okanogan, San Juan, and Skagit Counties, Washington, from Federal ownership to private ownership.

2. In the exchange, the following described lands have been reconveyed to the United States:

Willamette Meridian

T. 22 N., R. 32 E.,
Sec. 16;
Sec. 36, W½NE¼, NW¼, and S½.
T. 34 N., R. 1 W.,
Sec. 16, NE¼SW¼ and S½SW¼.
T. 34 N., R. 2 W.,
Sec. 25, lots 1 and 2.

The areas described aggregate 1,340.40 acres in Lincoln and San Juan Counties.

3. At 8:30 a.m., on June 1, 1993, the W½NE¼, NW¼, and S½, Sec. 36, T. 22 N., R. 32 E., W.M., will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid existing applications received at or prior to 8:30 a.m., on June 1, 1993, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

4. At 8:30 a.m., on June 1, 1993, the land described in paragraph 3 will be opened to location and entry under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

5. At 8:30 a.m., on June 1, 1993, the following described lands will be opened to applications and offers under the mineral leasing laws:

Willamette Meridian

T. 22 N., R. 32 E.,
Sec. 36, W½NE¼, NW¼, and S½.
T. 34 N., R. 1 W.,
Sec. 16, NE¼SW¼ and S½SW¼.
T. 34 N., R. 2 W.,
Sec. 25, lots 1 and 2.

Dated: April 16, 1993.

Champ C. Vaughan,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 93-9967 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-33-M

[AZ-942-03-4730-02]

Arizona; Notice of Filing of Plats of Survey

April 20, 1993.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona on the dates indicated:

A plat representing a dependent resurvey of a portion of the east boundary, Townships 14 and 15 North, Range 11 East, and a portion of the subdivisional lines; and the subdivision of section 6, and metes-and-bounds surveys in Township 14 North, Range 12 East, Gila and Salt River Meridian,

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Arizona was accepted February 5, 1993, and was officially filed February 18, 1993

This plat was prepared at the request of the United States Forest Service, Coconino National Forest.

A supplemental plat showing amended lotting in the SE¼ of section 32, Township 12 North, Range 18 East, Gila and Salt River Meridian, Arizona, was accepted February 24, 1993, and was officially filed March 4, 1993.

This plat was prepared at the request of the United States Forest Service, Apache-Sitgreaves National Forest

A plat representing a dependent resurvey of a portion of the south boundary; and a survey of portions of the west and north boundaries and a portion of the subdivisional lines in Township 6 North, Range 23 East, Gila and Salt River Meridian, Arizona, was accepted January 26, 1993, and was officially filed February 4, 1993.

This plat was prepared at the request of the Bureau of Indian Affairs, Phoenix Area Office.

A plat representing a survey of the east and north boundaries, and the subdivisional lines of Township 30 North, Range 26 East, Gila and Salt River Meridian, Arizona, was accepted February 22, 1993, and was officially filed March 4, 1993.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Area Office.

A plat, in 2 sheets, representing a dependent resurvey of a portion of the Fifth Standard Parallel North through Range 17 West, a portion of the subdivisional lines and a portion of Mineral Survey 2750; and the subdivision of section 4 in Township 20 North, Range 17 West, Gila and Salt River Meridian, Arizona, was accepted March 2, 1993, and was officially filed March 11, 1993.

This plat was prepared at the request of the Bureau of Land Management, Phoenix District Office.

A supplemental plat showing amended lotting created by the segregation of the right-of-way of U.S. Interstate Highway No. 40 in section 18, Township 16 North, Range 20 West, Gila and Salt River Meridian, Arizona, was accepted March 8, 1993, and was officially filed March 18, 1993.

A supplemental plat showing amended lotting created by the segregation of the right-of-way of U.S. Interstate Highway No. 40 in sections 15, 17, and 18, Township 16 North, Range 20 West, Gila and Salt River Meridian, Arizona, was accepted March 8, 1993, and was officially filed March 18, 1993.

A supplemental plat showing amended lotting created by the segregation of the right-of-way of U.S. Interstate Highway No. 40 in section 13, Township 16 North, Range 20½ West, Gila and Salt River Meridian, Arizona, was accepted March 8, 1993, and was officially filed March 18, 1993.

These plats were prepared at the request of the Bureau of Land Management, Kingman Resource Area, to facilitate a land exchange.

A plat representing a dependent resurvey of a portion of the subdivisional lines; and the subdivision and a metes-and-bounds survey in section 17, Township 22 South, Range 8 East, Gila and Salt River Meridian, Arizona, was accepted March 29, 1993, and was officially filed April 8, 1993.

This plat was prepared at the request of the United States Department of the Interior, Fish and Wildlife Service.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

Lanny K. Talbot,

Acting Chief Cadastral Surveyor of Arizona.

[FR Doc. 93-10019 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-32-M

[CA-940-4210-06; CACA 29698]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes to withdraw 359.19 acres of public land for protection of the Coachella Canal and appurtenant structures of the All-American Canal System, Boulder Canyon Project, near North Shore, California. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by July 28, 1993.

ADDRESSES: Comments and meeting requests should be sent to the California State Director, BLM, Federal Office Building, 2800 Cottage Way, room E-2845, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, 916-978-4820.

SUPPLEMENTARY INFORMATION: On April 14, 1993, a petition was approved allowing the Bureau of Reclamation to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

San Bernardino Meridian

T. 7 S., R. 10 E.,
Sec. 18, lots 1 and 2 of NW¼, N½ lot 2 of SW¼ and NE¼.

The area described contains 359.19 acres in Riverside County.

The purpose of the proposed withdrawal is to protect the Coachella Canal and appurtenant structures of the All-American Canal System, Boulder Canyon Project.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the California State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the California State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are licenses, permits, cooperative agreements, or other discretionary land use authorizations of a temporary nature

The temporary segregation of the land in connection with a withdrawal application or proposal shall not affect administrative jurisdiction over the land, and the segregation shall not have the effect of authorizing any use of the land by the Bureau of Reclamation.

Dated: April 16, 1993

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 93-9966 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-40-M

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: Rodney Graybill, Newark, NY, PRT-777253.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive-herd maintained by Mr. J.M. Mullins, Grahamstown, South Africa, for the purpose of enhancement of survival of the species.

Applicant: Philadelphia Zoological Garden, Philadelphia, PA, PRT-777503.

The applicant requests a permit to import three male and three female bicolored tamarins (*Sanfuinus b. bicolor*) which were captive-born at Rio de Janeiro Primate Center, Rio de Janeiro, Brazil, for enhancement of propagation.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: April 23, 1993.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 93-9993 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-55-M

Notice of Availability of a Draft Recovery Plan for the Greenback Cutthroat Trout (Oncorhynchus clarki stomias) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the greenback cutthroat trout (*Oncorhynchus clarki stomias*). This species occurs in the headwaters of the South Platte and Arkansas Rivers in central and north-central Colorado and a small segment of the South Platte River drainage in southern Wyoming. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before June 28, 1993.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the U.S. Fish and Wildlife Service, Ecological Services, 730 Simms Street, room 290, Golden, Colorado 80401. Written comments and materials regarding this draft recovery plan should be sent to the address given above. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Bruce Rosenland at the Golden, Colorado, Fish and Wildlife Service Office (see **ADDRESSES** above), telephone (303) 231-5280.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Fish and Wildlife Service's (Service) endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal Agencies also will take these comments into account in the course of implementing approved recovery plans.

The greenback cutthroat trout is the only trout endemic to the headwaters of both the South Platte and the Arkansas Rivers in central and north-central Colorado and southern Wyoming. It is one of the most colorful subspecies of cutthroat trout.

The greenback cutthroat trout was listed as endangered on March 11, 1967, and as threatened on April 18, 1978. In 1973, only two small historic populations were known to exist. Since then, seven additional historic populations have been identified, and the fish has been reintroduced into numerous other locations within its historic range. Threats to this fish primarily occur from hybridization with or competition from nonnative trout species (brook, rainbow, and brown trout) that have been introduced into its habitat. Recovery efforts will include propagation and reintroduction of additional greenback cutthroat trout populations, control of nonnatives, and preparation of a long-term management plan to protect the species and its habitat after delisting.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified in the **DATES** section above will be considered prior to approval of the recovery plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: April 16, 1993.

Robert D. Jacobsen,

Acting Regional Director.

[FR Doc. 93-10020 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Interagency Advisory Committee on Water Data; Intergovernmental Task Force on Monitoring Water Quality

AGENCY: Geological Survey, Department of the Interior.

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ACTION: Notice of an open meeting of the Intergovernmental Task Force on Monitoring Water Quality in Fair Oaks, VA, and of the availability of a report on ambient water-quality monitoring for public review and comment.

SUMMARY: Notice is hereby given of a meeting of the Intergovernmental Task Force on Monitoring Water Quality (ITFM). This meeting is open to the public. The ITFM is chaired by the U.S. Environmental Protection Agency, and it includes representatives of Federal and non-Federal government agencies that are operational partners in water-quality monitoring. Its principal responsibility is to evaluate water-quality monitoring activities and to identify and initiate needed improvements. The ITFM is part of the implementation of the Water Information Coordination Program (WICP) of the Federal Government as required by Office of Management and Budget Memorandum No. 92–01. The U.S. Department of the Interior, through the U.S. Geological Survey, has lead responsibility for working with other Federal and non-Federal organizations to implement the WICP.

DATES: May 11, 1993.

ADDRESSES: Fair Oaks Holiday Inn, 11787 Lee Jackson Memorial Highway, Fairfax, Virginia 22033.

FOR FURTHER INFORMATION CONTACT: Nancy Lopez, Chief, Office of Water Data Coordination, 417 National Center, Reston, Virginia 22092, Telephone: (703) 648–5014 and Fax: (703) 648–6802.

SUPPLEMENTARY INFORMATION: The agenda includes presentations by representatives of the following water-quality monitoring communities: volunteers, industry and utilities, municipalities, and environmental organizations. These participants will provide information to the ITFM about the water-quality monitoring activities of their organizations. The information will include relationships to other water-quality monitoring efforts and decisionmaking. Discussions also will include comments on the first year report of the ITFM. It is entitled "Ambient Water-Quality Monitoring in the United States: First Year Review, Evaluation and Recommendations." The report is available for public review, and it can be obtained by writing or telephoning the Office of Water Data Coordination. The telephone number for requesting the report is (703) 648–5023. Comments on the report are requested by July 31, 1993. This is the first in a series of WICP meetings intended to facilitate outreach to public and private organizations interested in the efforts of the ITFM and water-quality monitoring. At the end of the day, some time will be available for public comments, and individual speakers may have up to 5 minutes. Those wishing to be placed on the agenda must provide a written request with a description of the general subject area to Nancy Lopez by noon May 10, 1993. Any member of the public may submit written information and/or comments on the report to Nancy Lopez for distribution to the ITFM.

Philip Cohen,

Chief Hydrologist.

[FR Doc. 93–10042 Filed 4–28–93; 8:45 am]

BILLING CODE 4310–91–M

Minerals Management Service

Outer Continental Shelf, Central and Western Gulf of Mexico, Proposed Gas and Oil Lease Sales 147, 150; Notice of Availability Proposed Notices of Sale

Gulf of Mexico Outer Continental Shelf (OCS); Notice of Availability of Proposed Notices of Sale for proposed Gas and Oil Lease Sale 147, Central Gulf of Mexico, and proposed Gas and Oil Lease Sale 150, Western Gulf of Mexico. This Notice of Availability is published, pursuant to 30 CFR 256.29(c), as a matter of information to the public.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notices of Sale. The proposed Notices of Sale for proposed Sales 147 and 150 may be obtained by written request to the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, or by telephone (504) 736–2519.

A study is underway to examine raising the rental rate on new leases from the current $3 as stated in the above referenced proposed Notices of Sale. The costs of administering the leasing programs have increased, but the rental rate has remained constant. The increase would be used to fund the Technical Information Management System (TIMS) which will improve the efficiency with which lease data are handled. If a decision is reached to increase the rate prior to the issuance of the final Notices of Sale, those Notices will reflect the new rental rate.

The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening for proposed Sale 147 is scheduled for March 1994, and for proposed Sale 150 bid opening is scheduled for August 1994.

Dated: April 23, 1993.

Thomas Gernhofer,

Acting Director, Minerals Management Service.

[FR Doc. 93–10029 Filed 4–28–93; 8:45 am]

BILLING CODE 4310–MR–M

Royalty Obligations on Contract Settlement Proceeds

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meetings.

SUMMARY: The Royalty Management Program of the Minerals Management Service (MMS) hereby gives notice that it will hold informal meetings at the location and on the dates identified below, to discuss settlements reached by producers and pipeline companies to rescind, terminate, limit, or otherwise modify gas sales contracts under dispute. The purpose of the meetings is to discuss MMS policy on royalty obligations of proceeds paid in contract settlements.

Interested parties are invited to attend and participate at these meetings.

DATES: See Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia Renfrow of the Houston Area Audit Office, Houston, Texas, telephone (713) 987–6800.

SUPPLEMENTARY INFORMATION: The meeting will be held at the following address: Room No. 104, 4141 North Sam Houston Parkway, East, Houston, Texas; on the following dates and times: May 6, 1993—2 p.m.; May 7, 1993—9 a.m.

Dated: April 23, 1993.

Donald T. Sant,

Acting Associate Director for Royalty Management.

[FR Doc. 93–10028 Filed 4–28–93; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–337]

Commission Decision To Review Certain Limited Portions of an Initial Determination, and Schedule for the Filing of Written Submissions on the Issues Under Review, and on Remedy, the Public Interest, and Bonding

In the Matter of Certain Integrated Circuit Telecommunication Chips and Products Containing Same, Including Dialing Apparatus.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review certain limited portions of the initial determination (ID) issued on March 9, 1993, by the presiding administrative law judge (ALJ) in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Matthew T. Bailey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3108.

SUPPLEMENTARY INFORMATION: SGS-Thomson Microelectronics Corporation (ST) filed a complaint March 5, 1992, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) alleging that Winbond Electronics Corp., Winbond North America Corp., United Microelectronics Corp. (UMC), Hualon Microelectronics Corp. (Taiwan and U.S.) (HMC), Kingtel Telecommunication Corp., North American Foreign Trade, A&A Int'l, Inc., Conair Corp., Lonestar Technologies, Ltd., Spectra Merchandising Int'l, and Columbia Telecommunication Group, Inc. had sold for importation, imported into the United States, or sold in the United States after importation, certain telecommunication chips. The telecommunication chips were alleged to infringe various claims of U.S. Letters Patent Nos. 4,061,886, 4,315,108, and 4,446,436 owned by ST. The Commission instituted the subject investigation by notice published in the **Federal Register** on April 8, 1992, at 57 FR 11966–67. The Commission added additional respondents SMC Microtronic Co. Ltd. by notice published on July 29, 1992, at 57 FR 33520–21, and Tranbon by notice published on August 27, 1992, at 57 FR 38855–56.

On March 9, 1993, the presiding ALJ issued his final ID finding that there was a violation of section 337. The ALJ found that claims 2, 3, and 4 of U.S. Letters Patent 4,446,436 were valid, enforceable, and infringed and that a domestic industry exists with respect to that patent. The ALJ also found that the asserted claims of U.S. Letters Patent 4,315,108 were invalid under 35 U.S.C. 112 and not infringed, that the asserted claims of U.S. Letters Patent 4,061,886 were not infringed, and that no domestic industry exists with respect to either patent because complainant does not practice the asserted claims.

Complainant ST and respondents UMC and HMC filed petitions for review of the ID, as well as responses to those petitions for review. The Commission investigative attorney filed responses to both petitions for review.

Having examined the record in this investigation, including the ID, the Commission has determined not to review most issues relevant to the ALJ's findings and initial determination. However, the Commission has decided to review the issues of: (1) Whether the '108 patent is valid under the enablement and best mode provisions of 35 U.S.C. 112, first paragraph; (2) whether the ALJ properly construed the claims at issue of the '886 patent; (3) whether claims 1 and/or 6 of the '436 patent are invalid as obvious under 35 U.S.C. 103 and, if so, does a violation of section 337 exist as to those claims. With regard to the portions of the ID that will be reviewed, the Commission is interested only in the following issues:

1. Whether the ALJ properly defined the level of ordinary skill in the art with regard to the '108 patent in view of *In re Naquin*, 398 F.2d 863 (C.C.P.A. 1968). To what extent have the parties consented to the ALJ's definition of ordinary skill in the art? What effect does such consent, if any, have on the Commission's review of the level of ordinary skill with regard to the '108 patent?

2. Whether the ALJ properly construed independent claims 6 and 13 of the '886 patent with regard to the utility requirement under 35 U.S.C. § 101. Are the factual findings of the ALJ consistent with his claim interpretation of claims 6 and 13?

3. Whether the ALJ properly construed claims 1 and 6 of the '436 patent, especially in view of 35 U.S.C. § 112, ¶6 and *Valmont Indus., Inc.* v. *Reinke Mfg. Co.*, 983 F.2d 1039 (Fed. Cir. 1993). Did the ALJ properly determine that an equivalent structure for each of three means-plus-function elements recited in claim 1 of the '436 patent is present in the prior art? What is an appropriate range of equivalents for each of these three means-plus-function elements in claim 1 of the '436 patent?

In connection with final disposition of this investigation, the Commission may issue: (1) An order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered.

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on: (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

The submissions requested above should be concise and thoroughly referenced to the record in this investigation, including references to specific exhibits and testimony. Initial submissions are limited to 20 pages on the issue of remedy, the public interest, and bonding, and 25 pages with respect to the patent issues. Response submissions are limited to 10 pages on the issues of remedy, the public interest, and bonding, and 15 pages with respect to the patent issues.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

WRITTEN SUBMISSIONS: The parties to the investigation are requested to file written submissions on the issues under review. Additionally, the parties to the investigation, interested government agencies, and any other interested persons are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Comments regarding remedy, the public interest, and bonding are particularly requested with respect to respondent Kingtel, which was found in default on January 13, 1993. See 58 FR 4181.

Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than the close of business on Thursday, May 6, 1993. Reply submissions must be filed no later than the close of business on Wednesday, May 12, 1993. No further submissions will be permitted unless otherwise ordered by the Commissions.

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Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already had been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.54–55 of the Commission's Interim Rules of Practice and Procedure (19 CFR §§ 210.54–55 (1989)).

Copies of the public version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: April 27, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–10239 Filed 4–28–93; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Johnnie Davis or Ms. Tawanna Glover-Sanders, Interstate Commerce Commission, Section of Energy and Environment, room 3219, Washington, DC 20423, (202) 927–5750 or (202) 927–6245.

Comments on the following assessment are due 15 days after the date of availability: AB–55 (Sub-No. 462X), CSX Transportation, Inc.—Notice of Exemption—Abandonment in New Hanover County, NC. EA available 4/20/93.

Comments on the following assessment are due 30 days after the date of availability.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–10076 Filed 4–28–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Wage and Hour Division

[Administrative Order No. 661]

Special Industry Committee for All Industries in American Samoa; Appointment; Convention; Hearing

1. Pursuant to sections 5 and 6(a)(3) of the Fair Labor Standards Act (FLSA) of 1938, as amended (29 U.S.C. 205, 206(a)(3)), and Reorganization Plan No. 6 of 1950 (3 CFR, 1949–53 Comp., p. 1004) and 29 CFR part 511, I hereby appoint special Industry Committee No. 20 for American Samoa.

2. Pursuant to section 5, 6(a)(3) and 8 of FLSA, as amended (29 U.S.C. 205, 206(a)(3), and 208), reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR part 511, I hereby:

(a) Convene the above-appointed industry committee;

(b) Refer to the industry committee the question of the minimum rate or rates for all industries in American Samoa to be paid under section 6(a)(3) of FLSA, as amended; and,

(c) Give notice of the hearing to be held by the committee at the time and place indicated.

The industry committee shall investigate conditions in such industries, and the committee, or any authorized subcommittee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and function under FLSA.

The committee shall meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 11 a.m. on June 7, 1993, in Pago Pago, American Samoa.

3. The rate or rates recommended by the committee shall not exceed the rate prescribed by section 6(a) or 6(b) of FLSA, as amended by the Fair Labor Standards Amendments of 1989, of $4.25 an hour effective April 1, 1991.

The Committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum rate or rates of wages for such industries that it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in such industries, and will not give any industry in American Samoa a competitive advantage over any industry in the United States outside of American Samoa.

4. Where the committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in the industry than may be determined for other employees in the industry, the committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR 511.10, that will not substantially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within an industry, in making such classifications, and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following:

(a) Competitive conditions as affected by transportation, living, and production costs;

(b) Wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and,

(c) Wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

5. Prior to the hearing, the Administrator of the Wage and Hour Division, U.S. Department of Labor, shall prepare an economic report containing the information that has been assembled pertinent to the matters referred to the committee. Copies of this report may be obtained at the Office of the Governor, Pago Pago, American Samoa, and the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Upon request, the Wage and Hour Division will mail copies to interested persons who make written request to the Wage and Hour Division. The committee will take official notice of the facts stated in this report. Parties, however, shall be afforded an opportunity to refute such facts by evidence received at the hearing.

6. The procedure of this industry committee will be governed by the provisions of title 29, Code of Federal Regulations, part 511. Copies of this part of the regulations will be available at the Office of the Governor, Pago Pago, American Samoa, and at the National Office of the Wage and Hour Division. The proceedings will be conducted in English but in the event a witness should wish to testify in Samoan, an interpreter will be provided. As a prerequisite to participation as a party, interested persons shall file six copies of a prehearing statement at the aforementioned Office of the Governor of American Samoa and six copies at the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Each prehearing statement shall contain the data specified in 29 CFR 511.8 of the regulations and shall be filed not later than May 28, 1993. If such statements are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked within the time provided.

Signed at Washington, DC, this 23d day of April 1993.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 93–10093 Filed 4–28–93; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Electrical and Communications Systems.

Date and Time: May 21, 1993; 8:30 a.m. to 5 p.m.

Place: Room 1133, 1800 G Street, NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Linton G. Salmon, Program Director, Division of Electrical and Communications Systems, rm. 1151, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357–9618.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Solid State and Microstructures research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–10067 Filed 4–28–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Experimental Programs To Stimulate Competitive Research (EPSCoR); Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Experimental Programs to Stimulate Competitive Research (EPSCoR).

Date and Time: May 20–21, 1993; 2–9 p.m. and 8:30 a.m. to noon.

Place: The Latham Hotel, 3000 M St., NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Richard J. Anderson, Senior Project Director, EPSCoR, rm. 638, NSF, Washington, DC 20550, (202) 357–7560.

Purpose of Meeting: To provide advice and recommendations concerning support proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted from states participating in the EPSCoR. Proposals requesting one-year Experimental Systemic Initiative grants are submitted in response to NSF EPSCoR solicitation 92–67.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–10069 Filed 4–28–93; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Genetics and Nucleic Acids; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting: Advisory Panel for Genetics (Panel B).

Date and Time: May 17–19, 1993 from 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 1800 G Street, room 1242, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. DeLill Nasser, Program Director for Genetics, Division of Molecular and Cellular Biosciences, room 325, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357–0112.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Genetics Program in the Division of Molecular & Cellular Biosciences at NSF as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–10065 Filed 4–28–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Human Resource Development; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Human Resource Development.

Date and Time: May 17, 1993: 8:30 a.m. to 5:30 p.m.; May 18, 1993: 8:30 a.m. to 4:30 p.m.

Place: 1110 Vermont Ave., NW., rooms 500D and E, Washington, DC 20005.

Type of Meeting: Closed.

Contact Person: Lola E. Rogers, Program Director, National Science Foundation, 1800

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G St. NW., Washington, DC 20550. Telephone: (202) 357–7734.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–10071 Filed 4–28–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: May 20, 1993, 8:15 a.m.–5:30 p.m.

Place: NSF Conference & Training Center, 1110 Vermont Avenue, NW., rooms 500 A, B, and C, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: John C. Hurt, National Science Foundation, 1800 G St. NW., room 408, Washington, DC 20550. Telephone: (202) 357–9791.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support by the Materials Research Groups Program.

Agenda: To review and evaluate Structural Materials proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–10068 Filed 4–28–93; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Ocean Sciences (ACOS); Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Ocean Sciences (ACOS).

Date and Time: May 20, 1993—8:30 a.m. to 5 p.m.

Place: Conference Center, One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Type of Meeting: Partially closed.

Contact Person: Dr. M. Grant Gross, Director, Division of Ocean Sciences, room 609, National Science Foundation, Washington, DC—Telephone: 202/357–9639.

Summary Minutes: May be obtained from the contact person.

Purpose of Committee: To provide advice and recommendations concerning oceanographic research and its support by the NSF Division of Ocean Sciences.

Agenda:

Open—8:30–1:30 p.m.

- Subcommittee Reports
- Planning for future oversight reviews
- Strategic Planning for Ocean Science
- Future ACOS activities

Closed 5/20—1:30 p.m. to 3.30 p.m.

To review and evaluate research proposals as part of the selection process for awards.

Open 4 p.m. to 5 p.m.

- Future advisory committee activities (continued)

Resume Discussions

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b (c), Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–10066 Filed 4–28–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Physics; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: Friday, May 21, 1993; 8:30 a.m. to 5 p.m.

Place: Room 340, National Science Foundation, 1800 G Street NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Rolf M. Sinclair, Program Director for Cross Directorate Activities, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–7996.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate NSF Young Investigator proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–10070 Filed 4–28–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 9: Public Records.

3. *The form number, if applicable:* Not applicable.

4. *How often the collection is required:* On occasion.

5. *Who will be required or asked to report:* Individuals requesting access to records under the Freedom of Information or Privacy Acts.

6. *An estimate of the number of responses annually:* 2,464.

7. *An estimate of the number of hours needed annually to complete the requirement or request:* 694 hours (an average of .3 hours per response).

8. *An indication of whether section 3504(h), Public Law 96–511 applies:* Not Applicable.

9. *Abstract:* 10 CFR part 9 establishes information collection requirements for individuals making requests for records under the Freedom of Information or Privacy Acts. It also contains requests to waive or reduce fees for searching for and reproducing records in response to FOIA requests. The information required from the public is necessary to identify the records they are requesting or to justify requests for waivers or reductions in searching or copying fees.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150–0043), Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 492–8132.

Dated at Bethesda this 21st day of April 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–10050 Filed 4–28–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–285]

Exemption

In the Matter of Omaha Public Power District (Fort Calhoun Station, Unit No. 1).

I

The Omaha Public Power District (OPPD/the licensee) is the holder of Facility Operating License No. DPR–40, which authorizes operation of the Fort Calhoun Station, Unit No. 1 (the facility), at steady state reactor core power levels not in excess of 1500 megawatts thermal. This facility is a pressurized water reactor located in Washington County, Nebraska. The licensee provides, among other things, that Fort Calhoun Station, Unit No. 1, is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

II

Section 26.21(b) of title 10 of the Code of Federal Regulations requires that Fitness-For-Duty (FFD) refresher training be completed on a nominal 12-month frequency or more frequently where the need is indicated.

By letter dated February 12, 1993, the licensee of Fort Calhoun Station, Unit No. 1, requested a one-time exemption from the requirements of 10 CFR 26.21(b) to allow the licensee to consolidate its response to several training requirements by extending the time requirement for providing FFD refresher training to approximately 18 months.

III

The Commission has reviewed the licensee's rationale for a one-time exemption from 10 CFR 26.21(b) in order not to separate FFD refresher training from general employee requalification training (GERT).

Based on its review, the Commission finds the licensee has shown good cause for the requested exemption from 10 CFR 26.21(b). Therefore, the exemption to extend the time requirement for completing FFD refresher training is acceptable.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 26.6, the exemption is authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest and hereby grants an exemption from the time requirements of 10 CFR 26.21(b).

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the Exemption will have no significant impact on the environment (58 FR 21480).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 22nd day of April 1993.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–10049 Filed 4–28–93; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32196; File No. SR–Amex–93–05]

Self-Regulatory Organizations; Filing of Proposed Rule Changes by the American Stock Exchange, Inc.; Relating to Flexible Exchange Options ("FLEX Options")

April 22, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 4, 1993, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The Amex has filed proposed rule changes to amend its rules to permit the listing and trading on the Exchange of large-size, customized index options, referred to as Flexible Exchange Options ("FLEX Options").

The text of the proposed rule changes is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Changes

(1) Purpose

When standardized options commenced trading in 1973, many of the risks associated with the over-the-counter ("OTC") options market were eliminated by the creation of a centralized clearing entity, the Options Clearing Corporation ("OCC"). Organized to be the sole issuer and financial guarantor of option contracts traded on all U.S. exchanges, OCC's existence virtually eliminated counter-party risk while standardization of contract specifications for exchange-traded options eliminated the ability to customize options contract specifications.

In recent years, a substantial OTC market in index and equity options has developed primarily by institutional investors seeking the flexibility to customize basic option features, including size, expiration date, exercise style and exercise price. In order to meet the increasing needs of these investors, the Exchange proposes to provide for the trading of large-size customized index options ("FLEX Options"). These options would have the benefit of OCC issuance, clearance and guarantees not available in the OTC market. Recently, the Commission approved a Chicago Board Options Exchange, Inc. ("CBOE")

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proposal to list and trade FLEX Options based on the Standard & Poor's Corporation ("S&P") 100 and 500 stock indexes.[1]

FLEX Options will differ from existing exchange-traded options both in terms of customization and size. Specifically, parties to a FLEX Option trade would establish through the negotiation process outlined below in proposed Rules 903G and 904G, the expiration date, exercise style (American, European or capped), exercise price, the cap interval (for capped-style FLEX Options) and the methodology for establishing a settlement value (i.e., based on opening or closing component prices on any given day or as an average over a period of time).

Initially, the Amex plans to introduce FLEX Options on the following indexes presently traded at the Exchange: (1) Major Market ("XMI"), (2) Institutional ("XII"), (3) Japan ("JPN"), and (4) S&P MidCap ("MID"). FLEX Option multipliers will be the same as non-FLEX Options while quotes for FLEX Options may be expressed in standard terms, or as a percentage of the underlying index value. Transactions in FLEX Options will be subject to many of the same rules that currently apply to options traded on the Exchange. However, to provide investors with the flexibility to designate certain terms and to accommodate other special features of FLEX Options and the way in which they are traded, several new rules are necessary.

The principal rules proposed by the Amex that are uniquely applicable to the FLEX market include a rule containing new definitions (Rule 900G), a rule regarding hours of trading FLEX Options (Rule 901G), a rule regarding trading rotations (Rule 902G), rules setting forth the special terms of FLEX contracts and certain special pieces of information that must be included in FLEX Requests for Quotes and responsive quotes (Rule 903G), rules prescribing the mechanics of initiating a FLEX Request for Quotes and bidding and offering in response thereto, rules setting forth the principles applicable to the formation of binding FLEX contracts, rules defining the applicable priority principles (Rule 904G), and special position limit and exercise limit rules (Rules 906G and 907G). Discussion of each of these new rules follows.

Proposed Rule 900G adopts nomenclature uniquely tailored to fit the special characteristics of FLEX Options and the FLEX market. For example, the term "Request Response Time" refers to the time interval, set by the Submitting Member in its Request for Quotes, during which responsive bidding and offering is to take place. Similarly, the term "FLEX Quote" has both its usual connotation—market-maker bids and offers—and a new connotation—brokers' orders to purchase and orders to sell—that is necessary in view of the unique mechanics of the FLEX exchange auction.

Proposed Rule 901G provides that FLEX trading will commence at 10 a.m. and close at 4:15 p.m. (New York time), although the Exchange may, from time to time, determine to amend the trading hours set for FLEX Options. The Amex believes that this one-half hour delay will promote smooth, liquid openings for both FLEX and non-FLEX Options and limit various burdens associated with the opening of trading each day during the initial phases of this program. As a complementary rule uniquely applicable to FLEX Options, Proposed Rule 902G specifies that there will be no trading rotations in FLEX Options, either at the opening or at the close of trading.

Proposed Rule 903G specifies the term elements and other informational ingredients that must be included in Requests for Quotes, FLEX Quotes submitted in response to such requests, and, ultimately, FLEX contracts that are the product of FLEX trading. As paragraph (b) of this proposed rule indicates, the content of certain terms of each FLEX contract is to be determined by the parties to the contract. Other terms, such as the level of the index multiplier and the nature of the rights and obligations of FLEX Option purchasers and sellers, are the same for FLEX as for non-FLEX index options.

More specifically, paragraph (b) of Proposed Rule 903G specifies the term elements that a Submitting Member must include in its Request for Quotes and indicates the content alternatives available for each term. Under this paragraph a Submitting Member must designate, among other terms, the day, month and year of the FLEX Option's expiration, subject to certain limitations designed to avoid the overlap of FLEX expirations with expirations of non-FLEX index options. To further ensure against any adverse market impact, expirations for FLEX Options may not fall within three business days (before or after) of conventional options expirations (generally the third Friday of the month). Similarly, a Submitting Member must identify the exercise price and the exercise settlement value of the FLEX Option, within stated parameters.

Paragraph (c) of this proposed rule lists certain additional categories of information that must be addressed by the Submitting Member in its Request for Quotes. In particular, a Submitting Member must indicate the type and form of quote sought, the Submitting Member's intention, if any, to cross a customer order or act as principal with respect to any part of the FLEX trade, and the length of the Request Response Time (i.e., the time interval during which FLEX-participating members may enter quotes responsive to the request).

Finally, paragraph (d) of this proposed rule specifies the maximum term and the minimum value size of any FLEX contract and provides that the ferm and size may be set, within the stated limits, at the discretion of the Submitting Member or the quoting party, as applicable. Under this paragraph, the maximum term of any FLEX Option is five years; the minimum value size (i.e., the aggregate underlying dollar value that is the subject of the option) for a FLEX Request for Quotes is $10 million in an opening transaction in a new FLEX option series and $1 million in an opening or closing transaction in any currently-opened FLEX series (or less in a closing transaction where the remaining underlying value is less than $1 million); and the minimum value size for quotes of Market-Makers in response to a Request for Quotes is $1 million or any lesser amount reflected in a Request for Quotes.

Proposed Rule 904G prescribes in some detail the mechanics of submitting Requests for Quotes and entering responsive bids and offers. These mechanics, described below, are designed to create a modified auction that takes into account the relatively small number of transactions that are likely to occur in this institutional, large-size market, while at the same time providing the FLEX market with the price improvement and transparency benefits of competitive Exchange floor bidding and offering, as compared with the OTC market. Proposed Rule 904G establishes time and price priority principles and contains special rules respecting the bidding and offering process and the method of allocating trades in instances in which the Submitting Member expresses an intention to cross or act as principal on a Request for Quotes. These proposed rules are designed to promote active bidding and offering that will generate the best price available, while also providing incentives to market-makers appointed to FLEX Options, floor participants, and upstairs firms alike to participate in the FLEX market.

[1] See Securities Exchange Act Release No. 31920 (February 24, 1993), 58 FR 12280.

In particular, paragraphs (a) and (b) of proposed Rule 904G indicate that the FLEX bidding and offering process is initiated once a Submitting Member has supplied a Request for Quotes in proper form and the FLEX Post Official has disseminated the terms of that request at the post and over FLEX communications facilities yet to be developed. Thereafter, FLEX Quotes in proper form must be entered, but may be modified or withdrawn (subject to special limitations imposed on appointed market-makers) by public outcry at any time during the Request Response Time. The length of the Request Response Time, which must fall within time parameters to be set by the Exchange, is to be specified in the Request for Quotes. At the expiration of the Request Response Time, the FLEX Post Official will determine the best bid and/or offer (the "BBO").

Proposed paragraphs (c)(i)-(ii) of Rule 904G provide that the BBO will be displayed at the post and over communication facilities and, at that point, or after further bidding and offering that occurs in certain specified circumstances, the Submitting Member will have the opportunity to accept or reject the BBO. The Submitting Member, however, has no obligation to accept the BBO. Thus, whenever the BBO is rejected the Request for Quotes expires, although FLEX-participating members other than the Submitting Member may accept the unfilled balance of the BBO. Similarly, whenever the BBO is accepted, the transaction (or transactions) will be executed in accordance with the crossing principles and priority principles set forth in paragraph (c)(ii), although, again FLEX-participating members may accept any unfilled balance of the BBO.

Proposed Rule 905G would permit a floor broker to purchase or sell an unspecified number of FLEX Options based on such floor broker's discretion. This rule would require discretionary authority to be granted by the customer in a manner approved by the Amex and reflected in a contemporaneously-prepared, time-stamped document prepared by the floor broker. A copy of this approving document would be promptly sent to the customer with an additional copy maintained by the floor broker for the full duration of the FLEX Option contract or the time required by the Commission under Rule 17a–4 of the Act, whichever is longer.

Proposed Rule 906G states position limits that will be unique to FLEX Options.[2] The Amex is proposing that FLEX Options shall be subject to position limits that in the aggregate do not exceed 200,000 contracts on the same side of the market in a given index.[3] The rule proposes that FLEX Options not be aggregated with option contracts in non-FLEX index options or with options on any stocks included in the index underlying FLEX Options. However, at the close of trading two business days prior to the last day of trading of the calendar quarter, positions in P.M.-settled FLEX Options (i.e., options having a settlement value that is determined by the level of the index at the close of trading on the last trading day before expiration), are to be aggregated with positions in quarterly index options ("QIXs") on the same index and subject to the position limits set forth in Rule 905C.

The Amex in proposed Rule 908G has required that registered options traders and floor brokers that effect transactions in FLEX Options satisfy the fidelity bond requirements set forth in Amex Rule 330.

(2) Basis

The Exchange believes that the proposed rule changes are consistent with section 6(b) of the Act, in general, and section 6(b)(5), in particular, in that they are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

B. Self-Regulatory Organizotion's Statement on Burden on Competition

The Amex believes that the proposed rule changes will not impose a burden on competition.

C. Self-Regulatory Organization's Stotement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule changes, or

(b) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the file number in the caption above and should be submitted by May 20, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–10001 Filed 4–28–93; 8:45am]

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[2] On April 12, 1993, the Amex submitted to the Commission an amendment to the FLEX Option proposal for the purpose of revising its position and exercise limits for compliance with the existing framework used by the Chicago Board Options Exchange, Inc. and approved by the Commission. See letter from Ellen T. Kander, Special Counsel, Derivative Securities, Amex, to Richard Zack, Branch Chief, Branch of Options Regulation, SEC, dated April 12, 1993.

[3] Proposed Rule 907G establishes exercise limit provisions that correspond to the position limits prescribed in proposed Rule 906G.

[4] 17 CFR 200.30–3(a) (12) (1992).

[Release No. 34–32197; File No. SR–BSE–93–9]

Self-Regulatory Organizations; Filing of Proposed Rule Change by Boston Stock Exchange, Inc. Relating to the Annual Meeting and the Annual Election

April 23, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 22, 1993, the Boston Stock Exchange, Incorporated ("BSE" or "Exchange") filed with the Securities and Exchange

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Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On April 13, 1993 the BSE submitted to the Commission Amendment No. 1 to the proposal.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE seeks to amend its Constitution to change the date of the Annual Meeting and the Annual Election.

II. Self-Regulatory Organization's Statement for the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the BSE Constitution changing the date of the annual meeting and the annual election from the last Monday in September to the last Monday in November in order to provide for the review of the complete fiscal year picture,[2] as well as to provide additional time for Nominating Committee deliberations.[3]

[1] See letter from Karen A. Aluise, Staff Attorney, BSE, to Diana Luka-Hopson, Branch Chief, Commission, dated April 12, 1993. Amendment No 1 clarified certain language in the proposal

[2] The Exchange's fiscal year runs from October 1 through September 30.

[3] The Nominating Committee currently is required to hold at least one meeting in the month of July for the purpose of suggesting nominees for the offices and positions that are to be filled at the annual election, and for members of the Nominating Committee for the ensuing fiscal year. See Article VI, Section 4 of the BSE Constitution. The proposed rule change would require the Nominating Committee to hold at least one meeting in the month of June to select a Chairman of the Committee, and to designate a meeting date in the month of July for the purpose of suggesting nominees for offices and positions to be filled at the annual election including members of the Nominating Committee for the ensuing calendar year.

2. Statutory Basis

The basis under the Act for the proposed rule change is section 6(b)(3) in that the rule is designed to assure a fair representation of members in the selection of directors, the selection process, and the administrative affairs of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The proposed rule change was approved by the Board of Governors ("Board") of the Exchange on February 23, 1993. Notice of the proposed rule change was published to the membership as provided for in the Constitution on March 9, 1993. No protests were received nor objections raised.[4]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR-BSE-93-9 and should be submitted by May 20, 1993.

[4] Article XX, Section 1 of the BSE Constitution provides that any amendment to the Constitution which is adopted by the Board shall be submitted to Exchange members. If the amendment is not protested by fifteen Exchange members prior to the expiration of the seventh business day after the date of delivery or mailing of the proposed amendments, then the amendment is deemed approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-9999 Filed 4-28-93; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Incorporated

April 23, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Paragon Trade Brands, Inc.
Common Stock, $.01 Par Value (File No. 7-10583)
Starter Corp.
Common Stock, $.01 Par Value (File No. 7-10584)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 14, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-10087 Filed 4-28-93; 8:45 am]

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[Release No. 34-32198; File No. SR-CBOE-93-15]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Filing of Proposed Rule Change Relating to the Listing and Trading of Options on the Russell 2000 Index Expiring at the End of Each Calendar Quarter

April 23, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 9, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to list for trading quarterly index expiration options ("QIXs") on the Russell 2000 Index. The Commission has approved the listing and trading of QIX options on the Standard & Poor's Corporation ("S&P") 100 and 500 Stock Indexes ("OEX" and "SPX" respectively)[1] and stock index options based on the Russell 200 Index ("Russell 2000").[2]

The text of the proposed rule change in available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit the trading of QIXs based on the Russell 2000 index. Like CBOE's QIXs on the OEX and SPX indexes, QIXs on the Russell 2000 are proposed to be P.M.-settled.[3] Like regular Russell 2000 options, Russell 2000 QIXs will be European-style.

The Exchange is proposing to amend Rule 24.4 to provide that Russell 2000 QIXs will be subject to the 50,000 contract limit currently specified in the Rule for Russell 2000 index options, but without the 30,000 contract limit or "telescoping requirement" for the series with the nearest expiration date that applies to regular Russell 2000 options. This treatment is parallel to the treatment given in the Rule to QIXs on the S&P 100 index. For the purpose of this test, regular Russell 2000 options would be aggregated with the Russell 2000 QIXs. Regular Russell 2000 options would continue to be subject to a separate 50,000 contract limit with a 30,000 contract telescoping requirement.[4]

The proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it makes a QIX option on an additional broad-based index available for trading. As a result, the proposed rule change offers an additional method of tailoring portfolio hedges that expire on the last day of the calendar quarter. The filing thereby removes an impediment to a free and open market, while applying the Exchange's existing programs and procedures to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 20, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

[1] See Securities Exchange Release No. 31800 (February 1, 1993), 58 FR 7274.

[2] See Securities Exchange Act Release No. 31382 (October 30, 1992), 57 FR 52802.

[3] "P.M." or closing price settlement is a manner of index options settlement whereby the exercise settlement value is based upon the index value derived from the closing prices of component securities on the last day of trading prior to expiration.

[4] The Committee notes that regular Russell 2000 options would be aggregated with QIX Options on the Russell 2000 for purposes of the position limit requirements noted above.

[5] 17 CFR 200.30-3(a)(12)(1992).

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Margaret H. McFarland,
Deputy Secretary.
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[Release No. 34–32199; File No. SR–CBOE–93–16]

Self-Regulatory Organizations; Filing of Proposed Rule Change By Chicago Board Options Exchange, Inc. Relating to Flexible Exchange Options ("FLEX Options") on the Russell 2000 Index

April 23, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 9, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its rules to provide for the listing and trading of Flexible Exchange Options ("FLEX Options") on the Russell 2000 Index ("Russell 2000" or "Index").

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, Proposed Rule Change

The purpose of the proposed rule change is to enable the CBOE to expand the FLEX Option program to include FLEX Options on the Russell 2000.[1] Currently, FLEX Options can be listed and traded only on the Standard & Poor's Corporation ("S&P") 100 and 500 Stock Indexes ("OEX" and "SPX" respectively). The component stocks of the OEX and SPX consist of 100 and 500 high-capitalization companies. The component stocks of the Russell 2000 index, however, consists of 2,000 small-capitalization companies. Accordingly, through this rule change, CBOE member firms and their customers would have the opportunity to create and trade customized FLEX Options on a small capitalization stock index.

The proposed rule change includes an amendment to FLEX Option position limits.[2] The proposed amendment is designed to create a relationship between position limits in FLEX Options on the Russell 2000 versus position limits in FLEX Options on the OEX that is the same as the relationship that exists for the corresponding position limits in non-FLEX index options for these particular indexes. Under CBOE Rule 24.4 the position limits for non-FLEX options on the Russell 2000 are twice the size of the position limits for options on the OEX, reflecting the fact that the S&P 100 Index levels generally are reported at twice the level of the Russell 2000. Accordingly, it is proposed that position limits for FLEX Options on the Russell 2000 be set at 400,000 contracts on the same side of the market, with the limits for FLEX Options on the OEX remaining at 200,000 contracts. In addition, the special aggregation provisions in CBOE Rule 24A.7 for P.M.-settled FLEX Options and "comparable" quarterly expiration index options ("QIXs") would be extended to P.M.-settled FLEX Options on the Russell 2000 and comparable QIX options.[3] The position limits would be set at 50,000 contracts on the same side of the market—twice the level applicable to FLEX Options and comparable QIX options on the OEX.

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act in that it is designed to include FLEX Options on the Russell 2000 in CBOE's existing FLEX Options program in a manner that promotes just and equitable principles of trade and protects investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to the file number in the caption above and should be submitted by May 20, 1993.

[1] The Commission approved the CBOE's FLEX Option framework on February 24, 1993 permitting the Exchange at that time to trade FLEX Options based on the OEX and SPX Indexes. See Securities Exchange Act Release No. 31920 (February 24, 1993), 58 FR 12280.

[2] Exercise limits for FLEX Options are equivalent to the FLEX position limits outlined in CBOE Rule 24A.7.

[3] The CBOE recently proposed to trade QIXs on the Russell 2000 Index. See File No. SR–CBOE–93–15.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 93–10091 Filed 4–28–93; 8:45 am]
BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

April 23, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following security:

Allmerica Property & Casualty Companies, Inc.
Common Stock, $1.00 Par Value (File No. 7–10581)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 14, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information availeble to it, thet the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.
[FR Doc. 93–10086 Filed 4–28–93; 8:45 am]
BILLING CODE 8010–01–M

[4] 17 CFR 200.30(a)(12) (1992).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

April 23, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Allmerica Property & Casualty Companies, Inc.
Common Stock, $1.00 Par Value (File No. 7–10573)
Styles On Video
Common Stock, $.001 Par Value (File No. 7–10574)
Columbus Energy Corporation
Common Stock, $.20 Par Value (File No. 7–10575)
Snyder Oil Corporation
Depositary Shares, Conv. Pfd Stock, $.01 Par Value (File No. 7–10576)
Van Kampen Merritt Value Municipal Income Trust
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–10577)
General Growth Properties, Inc.
Common Stock, $.10 Par Value (File No. 7–10578)
Provident Life and Accident Insurance Company of America
Depositary Shares, Cum. Pfd Stock (File No. 7–10579)
TIG Holding, Inc.
Common Stock, $.01 Par Value (File No. 7–10580)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 14, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.
[FR Doc. 93–10089 Filed 4–28–93; 8:45 am]
BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

April 23, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following security:

TIG Holdings, Inc.
Common Stock, $.01 Par Value (File No. 7–10582)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 14, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.
[FR Doc. 93–10088 Filed 4–28–93; 8:45 am]
BILLING CODE 8010–01–M

[Rel. No. IC–19429; 812–8196]

Stagecoach Funds, Inc., et al.; Application for Exemption

April 22, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

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APPLICANTS: Stagecoach Funds, Inc. ("Stagecoach"); Overland Express Funds, Inc. ("Overland"); WellsFunds Inc. ("WellsFunds"); and all other investment companies for which Wells Fargo Bank, N.A. acts in the future as investment adviser or Stephens Inc. acts in the future as principal underwriter (the "Funds"); Wells Fargo Bank, N.A. ("Wells Fargo"); and Stephens Inc. (the "Distributor").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the Funds to issue an unlimited number of classes of shares representing interests in the same portfolio of securities, assess a contingent deferred sales charge ("CDSC") on certain redemptions of shares, and waive the CDSC in certain instances.

FILING DATE: The application was filed on December 1, 1992 and amended on March 11, 1993 and April 21, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 17, 1993 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants: Stagecoach Funds, Inc., Overland Express Funds, Inc., WellsFunds Inc., and Stephens Inc., 111 Center Street, Little Rock, Arkansas 72201; Wells Fargo Bank, N.A., 525 Market Street, 12th floor, San Francisco, California 94104.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272–2511, or C. David Messman, Branch Chief, (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Stagecoach, Overland, and WellsFunds are Maryland corporations registered under the Act as open-end management investment companies. Each Fund is a series company with each series (a "Portfolio") having separate investment objectives and policies. Stagecoach presently consists of eleven Portfolios, Overland consists of fourteen Portfolios, and WellsFunds consists of seven Portfolios.

2. Shares of Stagecoach are sold primarily, but not exclusively, through Wells Fargo and its affiliates. Shares of Overland are sold primarily, but not exclusively, through broker-dealers and other financial institutions. WellsFunds has not yet commenced operations, but its shares will be sold primarily, but not exclusively, through Wells Fargo and its affiliates.

3. Wells Fargo, a national bank with its main office in San Francisco, California, serves as investment advisor to the Funds. Wells Fargo also serves as the transfer and dividend disbursing agent, and performs internal accounting functions for the Funds.

4. The Distributor, a full-service broker-dealer registered under the Securities Exchange Act of 1934, serves as the sponsor, distributor, and administrator to the Funds. The Distributor has entered into a distribution agreement with each Fund pursuant to which it has responsibility for distributing shares of the Funds. The Funds also have adopted distribution plans under rule 12b–1 of the Act.

5. Applicants propose to establish a multiple distribution system (the "Multi-Class System"). Under the Multi-Class System, the Funds intend to offer three classes of shares in some or all of the Portfolios: (a) A class offered in connection with a plan adopted pursuant to rule 12b–1 under the Act (the "12b–1 Class"), (b) a class offered in connection with a non-rule 12b–1 services plan (the "Non-12b–1 Class"), and (c) a trust class (the "Trust Class"). In addition, the Funds may create additional 12b–1 Class, Non-12b–1 Class, and Trust Class shares in each Portfolio that differ according to the characteristics described below.

6. The 12b–1 Class shares will be offered pursuant to a plan of distribution (the "12b–1 Plan") approved by the directors of a Fund in accordance with rule 12b–1 under the Act. Shares of the 12b–1 Class will be sold to investors purchasing directly from a Fund's distributor, or to clients of certain financial institutions that have entered into agreements with the Fund or the Fund's distributor to provide necessary distribution and administrative services with respect to the 12b–1 Class. Distribution activities financed in accordance with a 12b–1 Plan may include advertising and marketing expenses, printing costs for new prospectuses and sales literature, and payments to broker/dealers and others for distribution assistance

7. The Non-12b–1 Class will be offered pursuant to a non-rule 12b–1 servicing plan (the "Services Plan," and together with the 12b–1 Plans, the "Plans") approved by the board of directors of a Fund under which a Fund will enter into servicing agreements with qualified banks and other financial institutions ("Organizations") to provide necessary administrative support services to customers of Organizations who are the beneficial owners of Non-12b–1 Class shares. Services provided pursuant to a Services Plan may include subaccounting, establishing and maintaining accounts and records, aggregating and processing purchase and redemption orders; investing customers assets in shares of the Non-12b–1 Class, providing periodic statements; arranging for bank wires, processing dividend payments, answering routine inquiries; assisting customers in changing dividend options, account designations, and addresses; forwarding shareholder communications; and other similar services

8. The Trust Class will be sold primarily to financial institutions in their capacity as fiduciaries for certain accounts, such as living trusts, irrevocable trusts, foundations, endowments, retirement plans, and agency or custodial accounts. The financial institutions provide services for the beneficial owners of Trust Class shares, such as determining the appropriateness of investments, working with attorneys or accountants under the terms of a fiduciary relationship, providing tax information, preparing and sending account statements, responding to inquiries, forwarding shareholder communications, and establishing and maintaining account records. Trust Class shares will not be subject to 12b–1 Plans or Services Plans.

9. The services provided under the Plans will not duplicate the services provided by Wells Fargo, the Distributor, or the custodians. Applicants will comply with the recent amendments to Article III, Section 26, of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. (the "NASD") regarding asset-based sales charges and service fees. See

Securities Exchange Act Release No. 30897 (July 7, 1992).

10. The Funds may in the future create one or more classes of shares that would bear higher ongoing distribution charges and/or services fees ("Class B shares") and that would automatically convert into shares of another class that bears lower ongoing distribution charges and/or services fees ("Class A shares") up to five years after the purchase of Class B shares. Shares purchased through the reinvestment of dividends and other distributions paid in respect of Class B shares also would be Class B shares. Such Class B shares, however, would convert, if convertible, to Class A shares on the earlier of: (i) Five years (or a shorter specified conversion period) from the date of such reinvestment purchase, or (ii) the conversion date of the most recently purchased Class B shares that were not acquired through the reinvestment of dividends or distributions.

11. The conversion of Class B shares into Class A shares would be subject to the availability of an opinion of counsel or Internal Revenue Service private letter ruling to the effect that the conversion of Class B shares does not constitute a taxable event under federal income tax law. The conversion may be suspended if such a ruling or opinion is not available. In that event, no further conversions would occur and Class B shares might be subject to a higher level of ongoing Class Expenses for an indefinite period.

12. In addition to expenses incurred under a 12b–1 Plan or Services Plan, each class of shares will bear certain expenses specifically attributable to the particular class as set forth in Condition 1 ("Class Expenses"). The determination of which Class Expenses will be allocated to a particular class and any subsequent changes thereto will be determined by a Fund's director in the manner described in Condition 3.

13. Each Portfolio of a Fund will be charged with the direct liabilities of that Portfolio and with a portion of the general liabilities of the Fund in the same proportion that the assets of the Portfolio bear to the assets of the Fund. In addition, all outstanding shares representing interests in the same Portfolio will bear the Portfolio expenses, which would first be allocated *pro rata* to each class on the basis of the relative net asset value of the respective class, and then further allocated on a per share basis within the class, except that each class will bear the Class Expenses applicable to such class.

14. Applicants also propose that the Funds be permitted to impose a CDSC on certain redemptions of shares and waive the CDSC in certain instances. The amount of the CDSC and timing of its imposition may vary.

15. No CDSC will be imposed with respect to redemptions attributable to increases in the value of an account above the net cost of the investment due to increases in the net asset value per share. No CDSC will be imposed on shares acquired through reinvestment of income dividends or capital gain distributions, or shares purchased a specified period of time prior to the redemptions. In determining whether a CDSC is payable, it will be assumed that shares, or amounts representing shares, that are not subject to a CDSC are redeemed first and that other shares or amounts are then redeemed in the order purchased. No CDSC will be imposed on any shares purchased prior to the effective date of the order.

16. Applicants intend to waive the CDSC on redemptions of shares in one or more of the following categories: (a) Following the death or disability (as defined in the Internal Revenue Code of 1986, as amended) of a shareholder; (b) representing a minimum required distribution from an IRA or other retirement plan to a shareholder who has reached age 70½; (c) incurred by current employees of Wells Fargo or by current or former directors of the Funds; or (d) resulting from a Fund's right to liquidate a shareholder's account if the aggregate net asset value of shares held in the account is less than the effective minimum account size. Applicants may waive the CDSC in the case of some, but not all, of these categories, provided that the selected waiver categories will be provided on a Portfolio-wide basis. Applicants' prospectuses will list all available waiver categories.

Applicants' Legal Analysis

1. Applicants request an exemptive order to the extent that the proposed Multi-Class System might be deemed to result in a "senior security" within the meaning of section 18(g) of the Act, and thus be prohibited by section 18(f)(1), and violate the equal voting provisions of section 18(i) of the Act.

2. Section 18 is intended to prevent investment companies from issuing excessive amounts of senior securities and thereby increasing unduly the speculative character of their junior securities, or from operating without adequate assets or reserves. The proposed Multi-Class System does not involve borrowings and does not affect the Funds' existing assets or reserves. Nor will the Multi-Class System increase the speculative character of the shares of a Fund, since all shares will participate *pro rata* in all of a Fund's income and expenses (with the exception of Class Expenses).

3. Applicants assert that the Multi-Class System will preserve mutuality of risk with respect to all shares of a Portfolio. Further, since all shares will be redeemable at all times, since no class of shares will have any preference or priority over any other class in a Portfolio in the usual sense (that is, no class will have distribution or liquidation preferences with respect to particular assets and no class will be protected by any reserve or other account), and since the similarities (and, with respect to Class Expenses and associated voting rights, dissimilarities) of the shares will be fully disclosed in the prospectuses for each class of a Portfolio, investors will not be given misleading impressions as to the safety or risk of the shares and the nature of the shares will not be rendered speculative.

4. Applicants also request an exemption from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c–1 thereunder to the extent necessary to permit the funds to assess a CDSC on certain redemptions of shares and waive the CDSC in certain instances. Applicants believe that the implementation of the CDSC in the manner and under the circumstances described above would be fair, in the public interest and the interest of the shareholders of the Funds, and would be consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that the following conditions may be imposed in any order of the SEC granting the requested relief:

A. Conditions Relating to the Proposed Multi-Class System

1. Each class of shares representing interests in the same Portfolio of a Fund will be identical in all respects, except for differences related to: (a) The method of financing certain Class Expenses, which are limited to (i) transfer agent fees identified by the transfer agent as being attributable to a specific class of shares; (ii) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, reports, and proxies to current shareholders of a specific class or to regulatory agencies with respect to a specific class of shares; (iii) blue sky registration or qualification fees incurred by a class of shares; (iv) SEC

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registration fees incurred by a class of shares; (v) the expense of administrative personnel and services as required to support the shareholders of a specific class of shares; (vi) different levels of 12b 1 Plan and/or Services Plan fees and expenses ("Plan Payments") incurred by a class of shares; (vii) litigation or other legal expenses relating solely to one class of shares; and (viii) directors' fees incurred as a result of issues relating to one class of shares: (b) priorities with respect to the payment of dividends and distributions and such priorities would reflect only the impact of Class Expenses properly allocated to one class; (c) the net asset values of the various classes of shares in a Portfolio that may differ as a result of the allocation of Class Expenses; (d) voting rights of the classes with respect to the Plans; (e) the different exchange privileges, if any, of such classes as described in the prospectuses (and statements of additional information) of the Portfolios and consistent with any order granted pursuant to this application; (f) class designation differences, and (g) the conversion of shares of one class to shares of a second class up to five years after the purchase of the shares of the first class, which classes differ with respect to the distribution services and administrative support fees payable by such classes of shares. Any additional incremental expenses not specifically identified above which are subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated until approved by the SEC pursuant to an amended order.

2. The directors of a Fund, including a majority of the independent directors, will approve the creation of additional classes of shares from time to time by an affirmative vote prior to the creation of any such class. The minutes of the meetings of the directors regarding the deliberations of the directors with respect to the approvals necessary to create any additional class of shares will reflect in detail the reasons for the directors' determination that the creation is in the best interests of both the Fund involved and its shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the directors of a Fund, including a majority of the directors who are not interested persons of the Fund. Any person authorized to direct the allocation and disposition of monies paid or payable by the Fund to meet Class Expenses shall provide to the directors, and the directors shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the directors of a Fund, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Portfolios for the existence of any material conflicts between the interests of the classes of shares. The directors, including a majority of the independent directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Distributor and Wells Fargo will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises, the Distributor and Wells Fargo, at their own cost, will remedy such conflict up to and including establishing a new registered management investment company.

5. Any Services Plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders of the Non-12b–1 class will not receive the voting rights specified in rule 12b–1.

6. The directors of a Fund will receive quarterly and annual statements concerning Plan Payments (including, in the case 12b–1 Plans, expenditures relating to distribution) complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale (in the case of 12b–1 shares) or servicing of a particular class of shares will be used to justify any distribution (in the case of 12b–1 shares) or servicing fee charged to that class. Expenditures not related to a particular class will not be presented to the directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors in the exercise of their fiduciary duties.

7. Dividends or other distributions paid by a Fund with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be paid at the same dividend rate, except that any Plan Payments and other Class Expenses relating to a particular class of shares will be borne exclusively by the applicable class.

8. The methodology and procedures for calculating the net asset values, dividends, and distribution of the classes of shares and the proper allocation of expenses between those classes have been reviewed by an expert (the "Expert") who has rendered a report to applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to applicants that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by a Fund (which the Fund agrees to provide), will be available for inspection by the SEC staff, upon the written request to the Fund for such work papers, by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System," as defined and described in SAS No. 44 of the AICPA, and the ongoing reports filed after March 31, 1993, will be "Reports on Policies and Procedures Placed in Operation and Tests of Operating Effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

9. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset values, dividends and distributions of the classes of shares and the proper allocation of expenses between such classes of shares, and this representation has been concurred with by the Expert in the initial report referred to in Condition 8 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in Condition 8 above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

10. The prospectus for each Portfolio with more than one class will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing shares may receive different compensation for selling or servicing one particular class of shares over another class in the same Portfolio.

11. The distributor of a Fund will adopt compliance standards as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares to agree to conform to such standards.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors of a Fund with respect to the Plans and related agreements will be set forth in guidelines which will be furnished to the directors of the Fund.

13. Each Portfolio will disclose the respective expenses, performance data, distribution arrangements, services, fees, transfer agency expenses, sales loads, deferred sales loads, conversion features, and exchange privileges applicable to each class of shares of such Portfolio in every prospectus, regardless of whether all classes of shares in the Portfolio are offered through the prospectus. Each Portfolio will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Portfolio as a whole generally and not on a per class basis. Each Portfolio's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Portfolio. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares in a Portfolio, it will also disclose the respective expenses and/or performance data applicable to all classes of shares in each Portfolio. The information provided by a Fund for publication in any newspaper or similar listing of each Portfolio's net asset value and public offering price will present each class of shares separately.

14. Any class of shares with a conversion feature ("Purchase Class") will convert into another class ("Target Class") of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted classes will be subject to an asset-based sales charge and/or service fee (as those terms are defined in Article III, Section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

15. If a Fund implements any amendment to its 12b–1 Plan (or, if presented to shareholders, adopts or implements any amendment of a Services Plan) that would increase materially the amount that may be borne by the Target Class shares under the plan, Purchase Class shares will stop converting into Target Class unless the holders of Purchase Class shares, voting separately as a class, approve the proposal. The directors of the Funds shall take such action as is necessary to ensure that existing Purchase Class shares are exchanged or converted into a new class of shares ("New Target Class"), identical in all material respects to Target Class shares as they existed prior to implementation of the proposal, no later than such shares previously were scheduled to convert into Target Class shares. If deemed advisable by the directors of the Funds to implement the foregoing, such action may include the exchange of all existing Purchase Class shares for a new class ("New Purchase Class"), identical to existing Purchase Class shares in all material respects except that New Purchase Class shares will convert into New Target Class shares. New Target Class shares or New Purchase Class shares may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the directors of the Funds reasonably believe will not be subject to federal taxation. In accordance with condition 4, any additional cost associated with the creation, exchange, or conversion of New Target Class shares or New Purchase Class shares shall be borne solely by Wells Fargo and the Distributor. Purchase Class shares sold after the implementation of the proposal may convert into Target Class shares subject to the higher maximum payment, provided that the material features of the Target Class shares plan and the relationship of such plan to the Purchase Class shares are disclosed in an effective registration statement.

16. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that a Fund may make pursuant to a Plan in reliance on the exemptive order.

B. Condition Relating to the CDSC

Applicants will comply with the provisions of proposed rule 6c–10 under the Act (Investment Company Act Release No. 16619 (Nov. 2, 1988)), as such rule is currently proposed and as it may be reproposed, adopted, or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–10000 Filed 4–28–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19431; 812–8228]

Capital Value Fund, et al.; Notice of Application

April 23, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Capital Value Fund, Inc. (the "Fund"), Investors Management Group, Ltd. ("IMG"), IMG Financial Services, Inc. ("IFS"), and Capital Value Corporation ("CVC").

RELEVANT ACT SECTIONS: Conditional order requested under section 6(c) of the Act for an exemption from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order that would permit certain series of the Fund (a) to issue two classes of shares representing interests in the same portfolio of securities, one of which would convert into the other class after a specified period permitting investors to benefit from lower rule 12b–1 distribution fees, and (b) to assess a contingent deferred sales charge ("CDSC") on certain redemptions of shares of one of the classes and to waive the CDSC under certain circumstances.

FILING DATE: The application was filed on December 24, 1992, and amended on March 1, 1993 and April 20, 1993. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 17, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature

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of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 720 Liberty Building, 418 Sixth Street, Des Moines, Iowa 50309.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504–2283, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

A. The Dual Class Arrangement

1. The Fund is an open-end management investment company registered under the Act. It is a "series company" that will offer five different investment portfolios—the Equity Portfolio, the Total Return Portfolio, the Fixed Income Portfolio, the Short Term Government Portfolio, and the Prime Money Market Portfolio. Only the Equity Portfolio, the Total Return Portfolio, the Fixed Income Portfolio, and the Short Term Government Portfolio (the "Portfolios") are seeking the relief requested in the application.

2. CVC is a registered investment adviser under the Investment Advisers Act of 1940. It is an indirect wholly-owned subsidiary of IASD Health Services Corp. ("IASD"), which provides health insurance in the states of Iowa and South Dakota. IMG also is a registered investment adviser. The Fund has entered into an investment management agreement with CVC and a subadvisory agreement with IMG pursuant to which CVC and IMG will provide investment advisory services to the Fund. In addition, CVC will act as administrator to the Fund. IFS is a wholly-owned subsidiary of IMG and serves as principal underwriter for the Fund.

3. Applicants request that any relief granted in accordance with this application apply to any open-end management investment company that is advised by CVC that (a) hereafter becomes part of the same "group of investment companies" as that term is defined in rule 11a–3 under the Act, and (b) issues and sells two classes of shares with characteristics that are identical to the shares described in the application.

4. Applicants propose to offer two classes of shares for each Portfolio designated, respectively, as "Initial Shares" and "Select Shares." Initial Shares will be subject to a CDSC, and a rule 12b–1 distribution fee based on an annual rate of .50% of the average daily net assets of the Initial Shares. Initial Shares will be offered to the general public.

5. Select Shares, which will not be subject to a distribution fee, only will be available to the general public through conversion from Initial Shares, except in certain limited situations. Select Shares will be directly issued to only the following: Officers, trustees, directors and employees (including retirees) of the Fund, CVC, IMG, IFS, IASD and any subsidiary of IASD, for themselves or their spouses, children or parents; to registered representatives and employees of broker-dealers having selling group agreements with IFS; officers, directors and employees of service agents of the Fund, for themselves or their spouses or dependent children; to employees (including their spouses and dependent children) of banks and other financial services firms that provide administration services related to order placement and payment to facilitate transactions in shares of the Fund for their clients pursuant to a written agreement with IFS; to investment advisory clients of CVC or IMG; to any trust or pension, profit sharing or other benefit plan for any of such foregoing persons; in connection with the acquisition of the assets of or merger or consolidation with another investment company; and to shareholders in connection with the investment or reinvestment of income and capital gain dividends on Select Shares. All persons eligible to purchase Select Shares will not be permitted to purchase Initial Shares.

6. Each class of shares will represent interests in the same HP LaserJet III HPLASIII.PRSny shareholder meetings held solely to vote on matters concerning the rule 12b–1 plan ("12b–1 Plan Meeting Expenses"); (b) shareholders of the Initial Shares will have exclusive voting rights with respect to the rule 12b–1 plan; and (c) only the Initial Shares will have a conversion feature providing for the automatic conversion to Select Shares eight years after their issuance.

7. Under the Fund's rule 12b–1 plan for the Initial Shares, the Fund will be paying an annual rule 12b–1 fee to compensate IFS for payments made by IFS to various parties in connection with sale of the Initial Shares. A shareholder services plan will be adopted under which all Portfolios will pay a fee to CVC at the annual rate of .25% of average daily net assets of each Portfolio for various shareholder services. CVC will provide the various shareholder services or will contract with other financial services firms for the services. Only expenditures properly attributable to the sale or servicing of the Initial Shares will be used to justify any distribution or servicing fee charged to such class. Expenditures not related to the sale or servicing of a particular class will not be presented to the directors of the Fund to justify any fee attributable to that class under the rule 12b–1 plan or shareholder services plan.

8. Initial Shares, including shares attributable thereto that are purchased through the reinvestment of dividends and distributions, automatically will convert to Select Shares eight years after the Initial Shares are acquired. The purpose of the conversion feature is to relieve holders of the Initial Shares from the distribution fee when the Initial Shares have been outstanding long enough for IFS to have been compensated for distribution related expenses. The conversion of the Initial Shares to Select Shares may be subject to the continuing availability of an opinion of counsel, or other assurances acceptable to the Fund's board of directors, that (i) the assessment of the rule 12b–1 fee as to the Initial Shares and not the Select Shares does not result in the Fund's dividends constituting "preferential dividends" under the Internal Revenue Code of 1986, as amended, and (ii) the conversion of shares does not constitute a taxable event under the current federal income tax law. In the event that the conversion of Initial Shares does not occur, the Initial Shares would continue to be subject to the rule 12b–1 fee.

9. The net asset value will be calculated separately for each class of shares because each class will have different expenses. The net asset value of all outstanding Initial Shares and Select Shares representing interests in the same Portfolio will be calculated in the same manner, on the same day and at the same time. The net asset value for each class of shares will be calculated by dividing the ending total net assets applicable to a class by the number of shares outstanding of each class. Any difference between the net asset values of the Initial Shares and the Select Shares will be the result of the daily expense accruals of the rule 12b–1 fee and any 12b–1 Plan Meeting Expenses regarding the Initial Shares.

B. The CDSC

1. Applicants also propose that the Fund be permitted to assess a CDSC on redemptions of Initial Shares and to waive the CDSC under certain circumstances. Applicants plan to impose a CDSC of 4% declining to 0% of the original purchase price of only the Initial Shares redeemed in the first six years after the acceptance of a purchase order by the Fund.

2. The CDSC will not be imposed on any amount in the shareholder's account that represents an increase in the value of shares due to capital appreciation, or on shares purchased through the reinvestment of dividends or capital gains distributions. In determining the applicability and rate of any CDSC, it will be assumed that a redemption is made first of shares representing capital appreciation, next of shares representing reinvestment of dividends and capital gains, and finally of other shares held by the shareholder in the order purchased. This will result in the charge, if any, being imposed at the lowest possible amount.

3. Applicants also proposed to waive the CDSC (i) in the event of the total disability (as evidenced by a determination by the Social Security Administration) of a shareholder after purchase of the shares sought to be redeemed; (ii) in the event of the death of a shareholder; and (iii) in the case of redemptions made pursuant to a systematic withdrawal plan. Additionally, the CDSC will be waived in the case of redemptions held by employer sponsored benefit plans for (a) redemptions to satisfy participant loan advances; (b) redemptions in connection with retirement distributions as defined in the employer's plan (limited at any one time to 10% of the total value of plan assets invested in the Fund); (c) redemptions in connection with distributions qualifying under the hardship provisions of the Internal Revenue Code; (d) redemptions representing returns of excess contributions to such plans or to satisfy anti-discrimination tests, and (e) participant terminations upon certification from the plan trustee or its representatives.

Applicants' Legal Analysis

A. The Dual Class Arrangement

1. Applicants request an exemption under section 6(c) to the extent that the proposed issuance and sale of Initial Shares and Select Shares might be deemed (a) to result in the issuance of a "senior security" within the meaning of section 18(g) and thus be prohibited by section 18(f), and (b) to violate the equal voting provisions of section 18(i). Section 18(f)(1) provides in relevant part that it shall be unlawful for any registered open-end company to issue any class of senior security or to sell any senior security of which it is the issuer, and section 18(g) defines a "senior security" as any stock of a class having priority over any other class as to distribution of assets or payment of dividends. Section 18(i) provides in relevant part that every share of stock issued by a registered management company shall be a voting stock and have equal voting rights with every other outstanding voting stock.

2. The creation of Initial Shares and Select Shares may result in shares of a class having priority over another class as to payment of dividends because under the proposed arrangement the holders of Initial Shares will pay a distribution fee and the Select Shares will not. In addition, the creation of the two classes may result in the shares of a class having unequal voting rights because the Initial Shares would be entitled to exclusive voting rights with respect to the matters concerning their rule 12b–1 plan.

3. Section 6(c) provides in part that, upon application, the SEC may conditionally exempt any class of transactions from the provisions of the Act to the extent the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested exemption from section 18 meets the standards of section 6(c).

4. Applicants believe that the proposed allocation of expenses and voting rights relating to the rule 12b–1 plan is equitable and would not discriminate against any group of shareholders. While holders of Initial Shares would bear the distribution fee and 12b–1 Plan Meeting Expenses, they also would enjoy exclusive shareholder voting rights as to matters affecting the rule 12b–1 Plan. Because of the conversion feature, shareholders of Initial Shares will be relieved of these incremental expenses after a specified period of time. Moreover, because the rights and privileges of the two classes of shares are substantially identical, the possibility that their interests would ever conflict would be remove and, in any event, the interests of holders of the Initial Shares would be adequately protected.

5. The Fund is aware of the need for full disclosure in the Fund's prospectus (and to the extent necessary, the statement of additional information) of the differences between the Initial Shares and Select Shares. Financial information regarding the two classes of shares, including the per share table in the Fund's prospectus (and statement of additional information where applicable) based on actual operations will disclose the difference in expenses, CDSCs and exchange and reinvestment privileges applicable to the two classes of shares.

6. Applicants believe that the arrangement does not raise any of the legislative concerns that section 18 was designed to ameliorate. Mutuality of risk will exist as to both the Initial Shares and Select Shares insofar as each class of a Portfolio will represent, on a per share basis, an equal *pro rata* interest in the same investment portfolio and will be subject to the same investment risk as the other class of shares of the same Portfolio. Furthermore, no class of shares will have any preference or priority over any other class in the Portfolio in the usual sense (that is, no class will have distribution or liquidation preferences as to particular assets and no class will be protected by any reserve or other account).

B. The CDSC

1. Applicants also request an exemption under section 6(c) from section 2(a)(32), 2(a)(35), 22(c), and 22(d) and rule 22c–1 thereunder to the extent necessary to permit the Fund to assess a CDSC on certain redemptions of Initial Shares and to waive the CDSC in certain circumstances.

2. Section 2(a)(32) defines a "redeemable security" as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer is entitled to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent thereof. In addition, section 5(a)(1) defines as "open-end company," in relevant part, as a management company that offers for sale any redeemable security of which it is the issuer. To avoid any question regarding whether the CDSC would cause shares of any Fund not to be "redeemable securities," thereby jeopardizing the Fund's status as an open-end management company, applicants seek relief from section 2(a)(32) to the extent necessary to impose the CDSC.

3. Section 2(a)(35) defines the term "sales load" as the difference between the price of a security to the public and that portion of the proceeds from the sale of a security that is received and invested or held for investment by the issuer. Applicants believe that the CDSC is consistent with the intent of the

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section 2(a)(35) definition to describe charges used to pay for sales of an investment company's shares. Nevertheless, because the timing of the deduction might be deemed to take the CDSC outside the definition of sales charge, applicants seek an exemption from section 2(a)(35) to the extent necessary to implement the CDSC.

4. Section 22(c) and rule 22c–1 thereunder require a registered investment company issuing redeemable securities to redeem those securities at a price based on the current net asset value of the securities that is next computed after receipt of the tender of the securities for redemption. When a redemption of Fund shares subject to the CDSC is effected, the price of the shares on redemption will be based on their current net asset value. The CDSC merely will be deducted from the redemption proceeds in arriving at the shareholder's net proceeds payable on redemption. However, to avoid any question about whether such a redemption would be at a price based on current net asset value, applicants seek relief from section 22(c) and rule 22c–1 to the extent necessary to permit the implementation of the CDSC.

5. Section 22(d) prohibits a registered investment company from selling its redeemable securities other than at a current public offering price described in the company's prospectus. Rule 22d–1 exempts an investment company from the provisions of section 22(d) to the extent necessary to permit the sale of those securities to particular classes of investors or in various kinds of transactions at prices that reflect scheduled variations in, or elimination of, the sales load. The requested exemptive relief would be consistent with the policies underlying rule 22d–1 because the Funds will disclose fully the CDSC and associated waivers in their prospectus. Applicants seek an exemption from section 22(d) to the extent necessary to implement the CDSC and waivers thereof as described above.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

A. Conditions Relating to the Dual Class Arrangement

1. Each class of shares (Initial or Select) will represent interests in the same portfolio of investments of the Fund and be identical in all respects, except as set forth below. The only differences between the classes of shares of the Fund will relate solely to: (a) The impact of the fees that will be charged to the Initial Shares under the rule 12b–1 plan; (b) the expenses of any shareholder meetings held solely to vote on matters concerning the rule 12b–1 plan that will be charged to the Initial Shares; (c) the fact that only the shareholders of the Initial Shares will vote on the Fund's rule 12b–1 distribution plan; (d) the fact that only the Initial Shares will have a conversion feature; and (e) the designation of each class of shares of the Fund.

2. The directors of the Fund, including a majority of the independent directors, will have approved the dual class structure. The minutes of the meetings of the directors of the Fund regarding the deliberations of the directors with respect to the approvals necessary to implement the dual class structure will reflect the reasons for the directors' determination that the proposed dual class structure is in the best interests of both the Fund and its shareholders.

3. On an ongoing basis the directors of the Fund, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Fund for the existence of any material conflicts between the interests of the two classes of shares. The directors, including a majority of the independent directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. CVC, IMG and IFS will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises CVC, IMG and IFS at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors of the Fund as to the dual class structure will be set forth in guidelines that will be furnished to the directors.

5. The shareholder services plan will be adopted in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders will not enjoy the voting rights specified in rule 12b–1.

6. The directors of the Fund will receive quarterly and annual statements concerning distribution and shareholder servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors in the exercise of their fiduciary duties.

7. Dividends paid by a Portfolio with respect to its Initial and Select Shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that the distribution fee paid under the 12b-1 plan relating to Initial Shares and any 12b-1 plan Meeting Expenses will be borne exclusively by the Initial Shares.

8. The methodology and procedures for calculating the net asset value and dividends and distributions of the two classes and the proper allocation of expenses between the two classes has been reviewed by an expert (the "Expert") who has rendered a report to applicants that such methodology and procedures are adequate to ensure that such calculations and allocations would be made in an appropriate manner. On an ongoing basis the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Fund that the calculations and allocations are being made properly. The reports of the Expert shall be filed as a part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The workpapers of the Expert with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be available for inspection by the SEC staff upon the written request to the Fund by an authorized staff member. Authorized staff members would be limited to the Director of the Division of Investment Management, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrator or an Associate or Assistant Regional Administrator. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" as defined and described in Statement of Accounting Standards No. 44 of the American Institute of Certified Public Accounts ("AICPA"), and the ongoing reports filed subsequent to March 31, 1993, shall be "Reports on Policies and Procedures Placed in Operation" and "Tests of Operating Effectiveness" as defined and described in SAS 70 of AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

9. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset values and dividends and distributions of the two classes of shares and the proper allocation of expenses between the two classes of shares; and this representation will have been concurred with by the Expert in the report referred to in Condition 8 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 8 above. Applicants agree to take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

10. The prospectus of the Fund will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Fund shares may receive different compensation with respect to one particular class of shares over another in the Fund.

11. IFS will adopt compliance standards as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Fund to agree to conform to such standards. Such standards will require that all persons eligible to purchase Select Shares will be sold only Select Shares.

12. Initial Shares will convert into Select Shares on the basis of the relative net asset values of the two classes without the imposition of any sales load, fee or other charge to the shareholder. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in Article III, Section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

13. The Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. The Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Portfolio as a whole generally and not on a per class basis. Each Portfolio's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Portfolio. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by applicants for publication in any newspaper or similar listing of the Fund's net asset value and public offering price will present each class of shares separately.

14. If the Fund implements any rule 12b–1 plan for the Select Shares (or, if presented to shareholders, adopts or implements any amendment of a non-rule 12b–1 shareholder services plan that would increase materially the amount that may be borne by the Select Shares), existing Initial Shares will stop converting into Select Shares unless the shareholders holding Initial Shares, voting separately as a class, approve the proposal. The directors shall take such action as is necessary to ensure that existing Initial Shares are exchanged or converted into a new class of shares ("New Select Shares"), identical in all material respects to Select Shares existing prior to implementation of the proposal, no later than the date such shares previously were scheduled to convert into Select Shares. If deemed advisable by the directors to implement the foregoing, such action may include the exchange of all existing Initial Shares for a new class ("New Initial Shares"), identical to existing Initial Shares in all material respects except that New Initial Shares will convert into New Select Shares. New Select Shares or New Initial Shares may be created without further exemptive relief. Exchanges or conversions described in this condition shall be effected in any manner that the directors reasonably believe will not subject the Fund or shareholders to federal taxation. In accordance with condition 3 hereof, any additional cost associated with the creation, exchange or conversion of New Select Shares or New Initial Shares shall be borne solely by IMG, CVC and IFS. Initial Shares sold after the implementation of the proposal may convert into Select Shares subject to the higher maximum payment under the plans, provided that the material features of the Select Shares plan and the relationship of such plan to the Initial Shares are disclosed in an effective registration statement.

15. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization or acquiescence in any particular level of payments that the Fund may make pursuant to the 12b–1 plan or shareholder services plan in reliance on the exemptive order.

B. Condition Reloting to the CDSC

Applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Release No. 16619 (November 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted or amended.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–10090 Filed 4–28–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2639]

New York; Declaration of Disaster Loan Area

Cayuga County and the contiguous counties of Cortland, Onondaga, Oswego, Seneca, Tompkins, and Wayne in New York constitute a disaster area as a result of damages caused by flooding which began on April 2, 1993. Applications for loans for physical damage may be filed until the close of business on June 21, 1993 and for economic injury until the close of business on January 21, 1994 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.625
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

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The number assigned to this disaster for physical damage is 263906 and for economic injury the number is 789000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 21, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–10082 Filed 4–28–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Economic Injury Disaster Loan Area #7886]

Pennsylvania (And Contiguous Counties in MD, NJ, and NY); Declaration of Disaster Loan Area

Bedford, Clearfield, Montour, Pike and Tioga Counties and the contiguous Counties of Blair, Bradford, Cambria, Cameron, Centre, Clinton, Columbia, Elk, Fulton, Huntington, Indiana, Jefferson, Lycoming, Monroe, Northumberland, Potter, Somerset, and Wayne in the State of Pennsylvania; Alleghany County in Maryland; Sussex and Warren Counties in New Jersey, and Chemung and Steuben Counties in New York constitute an economic injury disaster area as a result of damages caused by a blizzard which occurred on March 13 and 14, 1993. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on January 20, 1994, at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, Georgia 30308; or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury numbers are: for Pennsylvania the number is 7886. For Maryland, 7887; New Jersey, 7888; and New York 7889.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: April 20, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–10081 Filed 4–28–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 1796]

U.S. Organizations for the International Radio Consultative Committee (CCIR) and International Telegraph and Telephone Committee (CCITT); Meeting

The Department of State announces that the U.S. Organizations for the International Radio Consultative Committee (CCIR National Committee) and International Telegraph and Telephone Consultative Committee (CCITT National Committee) will hold a joint open meeting, May 21, 1993, in room 2925D (East Auditorium), at the Department of State, 2201 C Street NW., Washington, DC from 1:30–5 p.m.

Further, at 9:30 a.m., the two U.S. National Committees will hold separate open meetings—the CCIR sesion taking place in room 1107 and the CCITT meeting being convened in room 1408.

The CCIR and CCITT are permanent organs of the International Telecommunication Union (ITU), a specialized agency of the United Nations, established by the International Telecommunication Convention.

The agenda for the Joint U.S. meeting will consist of discussions relating to ITU development issues and a review of issues on the agenda of the June 4, Joint Meeting of the CCIR Ad Hoc Advisory Group and the new Telecommunication Standardization Advisory Group (TSAG). The primary agenda issue concerns the allocation of work between the Radiocommunication Sector (previously the CCIR) and the Telecommunication Standardization Sector (previously the CCITT). The agenda for the separate National Committee meetings will be devoted to preparations for the respective Advisory Committee meetings also scheduled during June.

Entrance to the Department of State is controlled but can be facilitated by making attendance arrangements in advance. Persons planning to attend the meeting should so advise this office at: (202) 647–0201 (fax (202) 647–7407), no later than two days before the meeting. Notification should include name, date of birth and Social Security number. All attendees must use the C Street entrance.

Dated: April 9, 1993.

Warren G. Richards,

Chairman, U.S. CCIR National Committee.

Earl S. Barbely,

Chairman, U.S. CCITT National Committee.

[FR Doc. 93–10040 Filed 4–28–93; 8:45 am]

BILLING CODE 4710–45–M

Bureau of Politico-Military Affairs

[Public Notice 1795]

Suspension of Munitions Export Licenses to Zaire

AGENCY: Department of State.

ACTION: Public notice.

SUMMARY: Notice is hereby given that all licenses and other approvals to export or otherwise transfer defense articles or defense services to Zaire are suspended until further notice pursuant to Sections 2, 38 and 42 of the Arms Export Control Act.

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: David Shapiro, Office of Defense Trade Policy, Bureau of Political-Military Affairs, U.S. Department of State (202–647–4231).

SUPPLEMENTARY INFORMATION: Effective immediately, it is the policy of the U.S. Government to deny all applications for licenses and other approvals to export or otherwise transfer defense articles and defense services to Zaire. In addition, U.S. manufacturers and exporters and any other affected parties are hereby notified that the Department of State has suspended all previously issued licenses and approvals authorizing the export or other transfer of defense articles or defense services to Zaire. This action has been taken in view of the violence and death fueled by the actions of the regime of President Mobutu.

The licenses and approvals that have been suspended include any manufacturing licenses, technical assistance agreements, technical data, and commercial military exports of any kind subject to the Arms Export Control Act involving Zaire. This action also precludes the use in connection with Zaire of any exemptions from licensing or other approval requirements included in the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130).

This action has been taken pursuant to Sections 2, 38 and 42 of the Arms Export Control Act (22 U.S.C. 2752, 2778, and 2791) and § 126.7 of the ITAR in furtherance of the foreign policy of the United States.

In accordance with §§ 126.3 and 126.7 of the ITAR, affected persons desiring review of this decision with regard to a particular export may petition the Director, Office of Defense Trade Controls. Exceptions to this policy will be considered on a case-by-case basis.

Dated: April 19, 1993.

Robert L. Gallucci,

Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 93–9984 Filed 4–28–93; 8:45 am]

BILLING CODE 4710–25–M

Bureau of Administration

[Public Notice 1794]

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Department of State.

ACTION: The Department of State has resubmitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

SUMMARY: Sections 207, 208, and 601 of Public Law 99–440, as amended, the Comprehensive Anti-Apartheid Act of 1986 (CAAA), require certain United States nationals operating businesses in South Africa to adhere to fair labor principles. The regulations implementing the CAAA (22 CFR parts 60–65) establish mechanisms whereby U.S. nationals meeting certain criteria must register with and unless they are bona fide participants in the signatory companies reporting and implementing system, make annual reports to the Department of State. The information collection submitted for review seeks reinstatement of the questionnaire developed to enable registered firms to describe their implementation of Fair Labor Principles. The following summarizes the information collection proposal submitted to OMB:

Type of request—Reinstatment.
Originating office—Bureau of African Affairs.
Title of information collection—South Africa and Fair Labor Standards Questionnaire.
Frequency—Annual.
Respondents—U.S. firms operating in South Africa.
Estimated number of respondents—27.
Average hours per response—30–40 hours.
Total estimated burden hours—1060–1330.

Existing rule containing this collection of information was published in the **Federal Register** on December 31, 1985 (50 FR 53308).

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook, (202) 647–3538. Comments and questions should be directed to (OMB) Jefferson B. Hill, (202) 395–7340.

Dated: April 16, 1993.

Jerome F. Tolson, Jr.,

Acting Assistant Secretary for Administration.

[FR Doc. 92–9968 Filed 4–28–93; 8:45 am]

BILLING CODE 4710–24–M

Oceans and Fisheries Affairs

[Public Notice 1793]

Exporter's Declaration and Government Certification

SUMMARY: Notice is given of the intention of the United States to require that an Exporter's Declaration and Government Certification accompany certain shipments of shrimp from countries whose exports of shrimp to the United States would otherwise be banned under section 609 of Public Law 101–162. A copy of the Exporter's Declaration and Government Certification appears at the end of this notice

EFFECTIVE DATE: May 1, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Gibbons-Fly, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520–7818. Telephone: (202) 647–3940.

Definitions: The following definitions shall apply to terms used in this notice and in the Exporter's Declaration and Government Certification:

"Harvester" means the owner or operator of an aquaculture facility at which the shrimp in a particular shipment is raised and harvested; or, in the case of shrimp harvested in the ocean by a fishing vessel, the owner or operator of the harvesting vessel.

"Exporter" means the individual or company in the harvesting country who controls the shipment at the time it leaves the customs territory of the harvesting country. The exporter may or may not be the same individual or company as the harvester.

"Harvesting country" means either (1) the country in which the exported shrimp is raised in an aquaculture facility; or (2) the country into whose customs territory the shrimp is landed from a commercial fishing vessel, whether or not the flag of such vessel is the same as that of the country in which the shrimp is harvested and landed.

"Aquaculture" means the process of raising shrimp for harvest in large ponds where the shrimp spend at least 60 days in such ponds prior to being harvested.

SUPPLEMENTARY INFORMATION: Section 609 of Public Law 101–162 provides that shrimp harvested with technology that may adversely affect certain sea turtles may not be imported into the United States unless the President certifies to Congress by May 1, 1991, and annually thereafter, that the harvesting country has adopted a regulatory program to reduce the incidental capture of sea turtles in commercial shrimp trawl fisheries comparable to the program in effect in the United States. The President has delegated the authority for making the certification to the Department of State (Memorandum of December 19, 1990; 56 FR 357, January 4, 1991). Revised guidelines for making that certification were published by the Department of State in the **Federal Register** on February 18, 1993 (58 FR 9015).

Those guidelines provide, *inter alia*, that any ban on imports shall not apply to: (1) Harvested shrimp raised in an aquaculture facility from a country otherwise under embargo, since the harvesting of such shrimp does not pose a threat to sea turtles; and (2) shrimp harvested in waters beyond the geographic scope of section 609 of Public Law 101–162, *i.e.*, outside the Gulf of Mexico, the Caribbean or the western Atlantic Ocean, by a country otherwise under embargo.

As a result, some shipments of shrimp from a country whose shrimp is otherwise banned from import into the United States under section 609 of Public Law 101–162 will be admitted for entry into the United States, provided that, in addition to meeting all other applicable requirements for entry: (1) The shrimp was not harvested in the Gulf of Mexico, the Caribbean or western Atlantic Ocean but was instead harvested either in the Pacific Ocean or raised in an aquaculture facility; and (2) the import documents accompanying any such shipment include a completed Exporter's Declaration and Government Certification.

The Exporter's Declaration and Government Certification will require the following specific information: the harvesting country; the name and address of the harvester, the name and address of the exporter, and the name and address of the final consignee; applicable harmonized tariff schedule number; total weight, number of units (boxes/cases), and the species name of the shrimp in the shipment accompanying the form. In addition, the Exporter's Declaration and Government Certification will require that the exporter, the harvester and a responsible government official of the harvesting country each certify that the shrimp in

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the relevant shipment was not harvested in the Caribbean, Gulf of Mexico, or western Atlantic but instead was either: (1) Harvested from an aquaculture facility; or (2) harvested in the Pacific Ocean. The certifying official of the exporting country may be any official designated by the government of the exporting nation for this purpose. However, any official so designated must be employed on a full time basis by the government of the exporting country. Such Government may not delegate the authority to certify the forms to a representative of the private sector or to a part-time government employee.

The Exporter's Declaration and Government Certification will only be required for shrimp imports from countries whose shrimp is otherwise banned from importation into the United States under section 609 of Public Law 101–162, and only while such ban is in effect. The Exporter's Declaration and Government Certification will be required for shipments exported from the embargoed countries on or after May 1, 1993, that include any products classifiable as follows (harmonized tariff systems (HTS) codes are specified):

Frozen shrimp and prawns: 0306.13.00
Shrimp and Prawns, not frozen:
0306.23.00
Shrimp and prawn products: 1605.20.05
Other prepared shrimp and prawns:
1605.20.10

The countries whose exports of shrimp will be subject to this entry requirement will be listed in the Federal Register on or about May 1, 1993. Those countries will be notified in advance. Shipments whose date of importation into the United States is on or after May 1, 1993, will be allowed entry without the Exporter's Declaration and Government Certification, provided that the import documents clearly show that the recorded date of export was prior to May 1, 1993. The exporter's Declaration and Government Certification will be available from all U.S. Embassies and Consulates in any country whose shrimp imports into the United States are otherwise prohibited under section 609 of Public Law 101–162. Three copies of the Exporter's Declaration and Government Certification must accompany each shipment. The Exporter's Declaration and Government Certification may be photocopied, but each user must ensure that any copy accompanying a shipment is clearly legible. Illegible copies will not be accepted.

As this notice makes clear, the Exporter's Declaration and Government Certification has been created to provide for the entry of shrimp into the United States from countries whose shrimp exports would otherwise be banned under section 609 of Public Law 101–162. As such, it is intended to mitigate the adverse economic impact on harvesters and exporters whose product is beyond the intended scope of any such ban. However, if falsification of the Exporter's Declaration and Government Certification or other abuses of this mechanism are determined to impair the ability of the Government to implement fully and effectively any ban required under section 609 of Public Law 101–162, the United States Government reserves the right to revoke the use of this form and to ban all shrimp imports into the United States from a harvesting nation otherwise under embargo.

Classification: As a matter relating to the foreign affairs function, this notice is exempt from the notice, comment, and delayed effectiveness provisions of the Administrative Procedures Act. This action is exempt from Executive Order 12291, and is not subject to the requirements of the Regulatory Flexibility Act.

Dated: April 16, 1993.

David A. Colson,

Deputy Assistant Secretary Oceans and Fisheries.

BILLING CODE 4710-09-M

U.S. DEPARTMENT OF STATE

OMB APPROVAL NO. 1405–0095
EXPIRATION DATE: 4–30–96
ESTIMATED BURDEN: 30 minutes*

EXPORTER'S DECLARATION AND GOVERNMENT CERTIFICATION

1. HARVESTING COUNTRY	2. HARVESTER *(Name and address)*
3. EXPORTER *(Name and address)*	4. FINAL CONSIGNEE *(Name and address)*

5. DESCRIPTION OF PRODUCT

U.S. Tariff Schedule Number	Number of Units	Weight in Kilograms	Species *(Scientific name)*

6 HARVESTER'S AND EXPORTER'S DECLARATION *(To be signed by a responsible agent of both the harvester and the exporter of the product.)*

I hereby declare that the shipment of shrimp accompanying this declaration was not harvested in the waters of the Gulf of Mexico, the Caribbean or the western Atlantic Ocean but instead was *(check one)*:

☐ Harvested from the aquaculture facility listed in block 2 above, where the shrimp spent at least 60 days in ponds at that facility prior to being harvested; or

☐ Harvested by a commercial shrimp trawl vessel operating exclusively in the Pacific Ocean owned and/or operated by the individual or company listed in block 2 above.

HARVESTER *(Name and title)*	ADDRESS / TELEX / FAX	SIGNATURE	DATE
EXPORTER *(Name and title)*	ADDRESS / TELEX / FAX	SIGNATURE	DATE

7 GOVERNMENT CERTIFICATION *(To be signed by a responsible Government official of the harvesting nation)*

I hereby declare that the statements signed above by the harvester and exporter of this shipment of shrimp are true and accurate to the best of my knowledge.

NAME, AGENCY, TITLE	ADDRESS / TELEX / FAX	SIGNATURE	DATE

THIS FORM MUST ACCOMPANY ALL SHIPMENTS OF SHRIMP FROM ANY COUNTRY WHOSE IMPORTS OF SHRIMP INTO THE UNITED STATES WOULD OTHERWISE BE PROHIBITED UNDER SECTION 609 OF PUBLIC LAW 101–162.

FORM DSP–121
4–93

*Public reporting burden for this collection of information is estimated to average 0 minutes per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: Department of State (OIS/RA/DIR) Washington, D.C. 20520-0264 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1405-0095), Washington, D.C. 20503

[FR Doc. 93–9969 Filed 4–28–93; 8:45 am]

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Office of Defense Trade Controls

[Public Notice 1798]

Statutory Debarment Under the International Traffic in Arms Regulations

AGENCY: Office of Defense Trade Controls, Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that Delft Instruments', N.V., The Netherlands (Delft), defense related entities have been statutorily debarred pursuant to § 127.6(c) of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130).

EFFECTIVE DATE: July 17, 1992.

FOR FURTHER INFORMATION CONTACT: Clyde G. Bryant Jr., Chief, Compliance Analysis Division, Office of Defense Trade Controls, Department of State (703–875–6650).

SUPPLEMENTARY INFORMATION: Section 38(g)(4)(A) of the Arms Export Control Act (AECA) prohibits the issuance of export licenses to a person, or any party to the export, who has been convicted of violating certain U.S. criminal statutes, including the AECA. The term "person," as defined in § 120.16 of the ITAR, means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization or group, including governmental entities. The ITAR, specifically § 126.7(e), defines the term "party to the export" to include the president, the chief executive officer, and other senior officers of the applicant; the freight forwarders or designated exporting agent of the applicant; and any consignee or end-user of any item to be exported. The statute permits certain limited exceptions to this prohibition to be made on a case-by-case basis. 22 U.S.C. 2778(g)(4).

The ITAR authorizes the Assistant Secretary of State for Political-Military Affairs to prohibit certain persons convicted of violating, or conspiring to violate, the AECA from participating directly or indirectly in the export of defense articles or in the furnishing of defense services. Such a prohibition is referred to as a "statutory debarment," which may be imposed on the basis of judicial proceedings that resulted in a conviction for violating, or of conspiring to violate, the AECA. 22 CFR 127.6(c).

Statutory debarment is based upon a conviction in a criminal proceeding conducted by a United States court. Thus, the administrative debarment procedures outlined in the ITAR, 22 CFR part 128, are not applicable in such cases.

Under the AECA, section 38(g)(4)(A), and the ITAR, § 127.8, the Assistant Secretary for Political-Military Affairs has statutorily debarred Delft's defense related entities based on its July 17, 1992, conviction of conspiring to violate and violating the AECA in the U.S. District Court for the District of Columbia.

Pursuant to a Consent Agreement, between Delft Instruments, N.V. (Delft) and the Department of State, and an Order signed by the Assistant Secretary of State for Politico-Military Affairs, Delft's period of debarment is three years with two years suspended starting from the date of conviction, July 17, 1992. Licensing privileges may be reinstated at the request of the debarred company following the necessary interagency consultations, after a thorough review of the circumstances surrounding the conviction and a finding that appropriate steps have been taken to mitigate any law enforcement concerns, as required by section 38(g)(4) of the AECA.

The Consent Agreement provides that the Department of State will give due consideration to applications for licenses or requests for approvals where the foreign end-user is identified as, and is determined to be, the Ministry of Defense of the Government of the Netherlands, the Ministry of Defense of the Government of Belgium, programs of the North Atlantic Treaty Organization (NATO), Ministries of Defense of the foreign governments that are members of NATO, and previously approved transactions that expired during the suspension period (January 25, 1991—July 16, 1992).

Pursuant to § 127.6(c) of the ITAR, the specific defense related entities within Delft noted herein, are being published in the **Federal Register**. Anyone who requires additional information to determine whether a person or company has been debarred should contact the Office of Defense Trade Controls.

In accordance with these authorities the following defense related entities within Delft Instruments, N.V. are debarred for a period of three years, with two years suspended, following Delft Instruments, N.V.'s conviction for conspiring to violate and violating § 38 of the AECA: Delft Instruments Defense, BV, Netherlands; Delft Instruments Electro-Optics, BV, (DIEO), Netherlands; Oldelft Electronic Instruments, Srl, Italy; Instrubel, NV, Belgium; Franke Systemtechnik, GmbH, Germany; OIP, NV, Belgium; and the defense related activities of BV Delft Electronische Producten, (DEP), Netherlands. Note that DEP is eligible to receive United States-origin defense articles covered by Category XII(e) and (f) of the U.S. Munitions List, 22 CFR 121.1, for civil applications.

This notice involves a foreign affairs function of the United States encompassed within the meaning of the military and foreign affairs exclusion of the Administrative Procedure Act. Because the exercising of this foreign affairs function is discretionary, it is excluded from review under the Administrative Procedure Act.

Dated: April 19, 1993.

William B. Robinson,

Director, Office of Defense Trade Controls, Department of State.

[FR Doc. 93–10041 Filed 4–28–93; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Scenic Byways Advisory Committee; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces a meeting of the Scenic Byways Advisory Committee, as authorized by the Scenic Byways Program (section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991; Pub. L. 102–240, 105 Stat. 1914, 2068). The focus of the meeting will be to review the recommendations regarding minimum criteria and standards for use by State and Federal agencies in designating highways as Scenic Byways and all-American roads for the purpose of a national scenic byways program. Discussion topics as developed by the Committee will include: (1) Program structure recommendations; (2) funding structure recommendations; (3) designation process recommendations; (4) designation criteria recommendations; (5) documentation recommendations; and (6) incentive program recommendations.

DATES: The meeting will be June 2, 1993, 8:30 a.m. to 5 p.m., and June 3, 1993, 8:30 a.m. to 5 p.m. The meeting is open to the public.

ADDRESSES: The meeting will be held at Department of Transportation, 400 7th Street, SW., Conference Room 2230, NASSIF Building, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene Johnson, Federal Highway Administration, Intermodal Planning Division, HEP–50, Room 3222, 400 Seventh St., SW., Washington, DC 20590, (202) 366–0150. Office hours are 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except legal holidays.

Authority: 23 U.S.C. 315; 49 CFR 1.48; Sec. 1047, Pub. L. 102–240, 105 Stat. 1914, 1996.

Issued on: April 22, 1993.

E. Dean Carlson,

Executive Director.

[FR Doc. 93–10083 Filed 4–28–93; 8:45 am]

BILLING CODE 4910–22–P

Federal Transit Administration

Environmental Impact Statement on the Mission Valley East Light Rail Project in San Diego County, CA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA), and the San Diego Metropolitan Transit Development Board (MTDB) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) on the proposed extension of light rail transit service in the Mission Valley East corridor. Mass transit improvements would occur from the Mission Valley West Light Rail Transit (LRT) alignment terminus near Interstate-15 to the Grossmont Station on the existing San Diego East LRT Line. MTDB, as local lead agency, will ensure that the EIS also satisfies the requirements of the California Environmental Quality Act (CEQA) and serves as the Environmental Impact Report (EIR) required by CEQA. In addition to two LRT alignments, the EIS/EIR will evaluate the No-Action and the Best Bus alternatives and any new alternatives generated through the scoping process. Scoping will be accompanied through correspondence with interested persons, organizations, and federal, state, and local agencies and through two public meetings.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to MTDB by June 18, 1993. *Scoping Meetings:* Public scoping meetings will be held on Wednesday, May 19, 1993 at 3 p.m. in the MTD Board of Directors Room and at 7 p.m. at Lewis Junior High School. See **ADDRESSES** below.

ADDRESSES: *Written comments* on project scope should be sent to Ms. Toni Bates, Project Manager, MTDB, 1255 Imperial Avenue, Suite 1000, San Diego, CA 92101. *Scoping meetings* will be held at the following locations.

1. Wednesday, May 19, 1993—3 p.m., MTDB Board of Directors Room, 1255 Imperial Avenue, 10th Floor, San Diego, CA 92101
2. Wednesday, May 19, 1993—7 p.m., Lewis Junior High School, 5170 Greenbrier Avenue, San Diego, CA 92120.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Hom, Director, Office of Program Development, Federal Transit Administration, Region 9, (415) 744–3116.

SUPPLEMENTARY INFORMATION:

I. Scoping

FTA and MTDB invite interested individuals, organizations and federal, state, and local agencies to participate in defining the alternatives to be evaluated in the EIS/EIR and identifying any significant social, economic, or environmental issues related to the alternatives. An information packet describing the purpose of the project, the proposed alternatives, the impact areas to be evaluated, the citizen involvement program, and the preliminary project schedule is being mailed to affected federal, state, and local agencies and to interested parties on record. Others may request the scoping materials by contacting Ms. Toni Bates at MTDB at the address above or by calling at (619) 231–1466. Scoping comments may be made verbally at either of the public scoping meetings or in writing. See the **DATES** and **ADDRESSES** sections above for locations and times. During scoping, comments should focus on identifying specific social, economic, or environmental impacts to be evaluated and suggesting alternatives which are less costly or less environmentally damaging while achieving similar transit objectives. Scoping is not the appropriate time to indicate a preference for a particular alternative. Comments on preferences should be communicated after the Draft EIS/EIR has been completed. If you wish to be placed on the mailing list to receive further information as the project develops, contact Ms. Toni Bates at MTDB as previously described.

II. Description of Study Area and Project Need

The Mission Valley East Corridor extends between I–15 and La Mesa generally along I–8. The corridor includes the San Diego communities of Grantville, Navajo, the San Diego State University (SDSU) campus, the College Area, and the City of La Mesa. The corridor roadways, especially I–8, experience substantial congestion for east/west travel during peak periods and throughout the day. Through travel is oriented to the commute patterns of east county residents into Mission Valley, Kearny Mesa, and Centre City San Diego. Travel within the corridor is composed of SDSU employees and students and corridor residents travelling to work or commercial areas. The proposed Mission Valley East project would improve transit accessibility through Mission Valley and compete a link of the regional LRT network. MTDB is presently doing Final Engineering and permitting on the Mission Valley West corridor from I–15 west to Old Town. The Mission Valley East project should improve regional air quality by providing an alternative to the automobile in the I–8 corridor, particularly to San Diego State University.

III. Alternatives

The alternatives proposed for evaluation include: No-Action which involves no change to transportation services or facilities in the corridor beyond already committed projects, the Best Bus which consists of supplementing and reconfiguring bus services and facilities to provide additional travel opportunities, including express/limited service and other improvements to the bus system to optimize service, and, two LRT alignments would be analyzed. The LRT alignments parallel I–8 with one option through the Grantville area and two options at San Diego State University, one on the north side of campus and one in a tunnel near the south side of campus. Bus service in either alternative would be realigned to feed the LRT. An extensive screening process has already evaluated and eliminated several other alignment variations as described in the information packet.

IV. Probable Effects

FTA and MTDB plan to evaluate the EIS/EIR all social, economic and environmental impacts of the alternatives. Among the primary issues are the expected increase in transit ridership, the capital outlays needed to construct the project, the cost of operating and maintaining the facilities created by the project, and the financial impacts on the funding agencies. Environmental and social impacts proposed for analysis include land use and neighborhood impacts, traffic and parking impacts near stations, visual impacts, impacts on cultural resources, and noise and vibration impacts. Impacts on natural areas, rare and

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endangered species, air and water quality, groundwater and geologic forms will also be covered. Impacts will be evaluated both for the construction period and for the long-term period of operation. Measures to mitigate adverse impacts will be explored.

V. FTA Procedures

In accordance with the Federal Trade Act, as amended, and FTA policy, the Draft EIS/EIR will be prepared in conjunction with an Alternative Analysis, and the Final EIS/EIR in conjunction with Preliminary Engineering. After its publication, the Draft EIS/EIR will be available for the public and agency review and comment, and a public hearing will be held. On the basis of the Draft EIS/EIR and the comments received, MTDB will select a locally preferred alternative and seek approval from FTA to continue with Preliminary Engineering and preparation of the Final EIS/EIR.

Issued on April 23, 1993.

Stewart F. Taylor,

Regional Administration.

[FR Doc. 93–9997 Filed 4–28–93; 8:45 am]

BILLING CODE 4910–57–M

National Highway Traffic Safety Administration

Highway Safety Programs; Amendment of Conforming Products List of Calibrating Units for Breath Alcohol Testers

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice.

SUMMARY: This notice amends the Conforming Products List for instruments which have been found to conform to the Model Specifications for Calibrating Units for Breath Alcohol Testing (49 FR 48865).

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Mrs. Robin Mayer, Office of Alcohol and State Programs, NTS–21, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; Telephone: (202) 366–9825.

SUPPLEMENTARY INFORMATION: On August 19, 1975, (40 FR 36167), the National Highway Traffic Safety Administration (NHTSA) published the Standards for Calibrating Units for Breath Alcohol Testers. A Qualified Products List of Calibrating Units for Breath Alcohol Testers, of devices which met this standard, was first issued on November 30, 1976, (41 FR 53384). On December 14, 1984, (49 FR 48864), NHTSA converted this standard to Model Specifications for Calibrating Units for Breath Alcohol Testers, and published in Appendix B (49 FR 48872), a Conforming Products List (CPL) of calibrating units which were found to conform to the Model Specifications. Amendments to the CPL have been published in the **Federal Register** since that time.

Since the last publication of the CPL for calibrating units, one device, U.S. Alcohol Testing of America, Inc., Alco-Simulator 2000 was evaluated and found to meet the requirements of the specifications. In addition, the Intoximeters, Inc., Nalco Breath Alcohol Standard has been redesignated as Alco Breath Alcohol Standard. This is a name change only, and retesting of this device is not required.

The Conforming Products List is therefore amended to read as follows:

Conforming Products List of Calibrating Units for Breath Alcohol Testers (Manufacturer and Calibrating Unit)

1. Century Systems, Inc., Arkansas City, KA: Breath Alcohol Simulator BAS311.

2. CMI, Inc., Owensboro, KY: Toxitest II.

3. Federal Signal Corporation, CMI, Inc., Minturn, CO: Toxitest Model ABS 120.

4. Guth Laboratories, Inc., Harrisburg, PA: Model 34C Simulator; Model 34C Cal DOJ; Model 34C–FM; Model 34C–NPAS; and Model 10–4.

5. Intoximeters, Inc., St. Louis, MO: Alco Breath Alcohol Standard.

6. Luckey Laboratories, Inc., San Bernardino, CA: Simulator.

7. PLD of Florida, Inc., Rockledge, FL: BA 500.

8. Protection Devices, Inc./U.S. Alcohol Testing, Inc., Rancho Cucamonga, CA: LS34 Model 6100.

9. Smith & Wesson Electronic Co., Springfield, MA: Mark II–A Simulator.

10. Systems Innovation, Inc., Hallstead, PA: True-Test MD 901.

11. U.S. Alcohol Testing, Inc., Rancho Cucamonga, CA: Alco-Simulator 2000.

(23 U.S.C. 402; delegations of authority at 49 CFR 1.50 and 501.8)

Michael B. Brownlee,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 93–10011 Filed 4–28–93; 9:34 am]

BILLING CODE 4910–59–M

Highway Safety Program; Amendment of Conforming Products List of Evidential Breath Testing Devices

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice.

SUMMARY: This notice amends the Conforming Products List for instruments that conform to the Model Specifications for Evidential Breath Testing Devices (49 FR 48854).

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Mrs. Robin Mayer, Office of Alcohol and State Programs, NTS–21, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; Telephone: (202) 366–9825.

SUPPLEMENTARY INFORMATION: On November 5, 1973, the National Highway Traffic Safety Administration (NHTSA) published the Standards for Devices to Measure Breath Alcohol (38 FR 30459). A Qualified Products List of Evidential Breath Measurement Devices comprised of instruments that met this standard was first issued on November 21, 1974, (39 FR 41399).

On December 14, 1984 (49 FR 48854), NHTSA converted this standard to Model Specifications for Evidential Breath Testing Devices, and published in Appendix D to that notice (49 FR 48864), a Conforming Products List (CPL) of instruments that were found to conform to the Model Specifications. Amendments to the CPL have been published in the **Federal Register** since that time.

Since the last publication of the CPL, two devices were evaluated and found to meet specifications for mobile and non-mobile evidential breath test devices: CMI, Inc., Intoxilyzer 5000 with cooled detector; and CMI, Inc., Intoxilyzer 200. In addition, U.S. Alcohol Testing Inc./Protection Devices, has relocated to Rancho Cucamonga, CA. This change is noted on the Conforming Products List.

The Conforming Products List is therefore amended to read as follows:

CONFORMING PRODUCTS LIST OF EVIDENTIAL BREATH MEASUREMENT DEVICES

Manufacturer and model	Mobile	Nonmobile
Alcohol Countermeasures System, Inc., Port Huron, MI, Alert J3AD	X	X
BAC Systems, Inc., Ontario, Canada, Breath Analysis Computer		X
CAMEC Ltd., North Shields, Tyne and Ware, England, IR Breath Analyzer	X	X
CMI, Inc., Owensboro, KY, Intoxilyzer Model:		
200	X	X
1400	X	X
4011	X	X
4011A	X	X
4011AS	X	X
4011AS–A	X	X
4011AS–AQ	X	X
4011 AW	X	X
4011A27–10100	X	X
4011A27–10100 with filter	X	X
5000	X	X
5000 (w/Cal. Vapor Re-Circ.)	X	X
5000 (w/⅜" ID Hose option)	X	X
5000 (w/cooled detector)	X	X
5000 (CAL DOJ)	X	X
5000 (VA)	X	X
PAC 1200	X	X
S–D2	X	X
Decator Electronics, Decator, IL, Alco-Tector model 500		X
Intoximeters, Inc., St. Louis, MO, Photo Electric Intoximeter		X
GC Intoximeter MK II	X	X
GC Intoximeter MK IV	X	X
Auto Intoximeter	X	X
Intoximeter Model:		
3000	X	X
3000 (rev B1)	X	X
3000 (rev B2)	X	X
3000 (rev B2A)	X	X
3000 (rev B2A) w/FM option	X	X
3000 (Fuel Cell)	X	X
3000 D	X	X
3000 DFC	X	X
Alcomonitor		X
Alco-Sensor III	X	X
Alco-Sensor IV	X	X
RBT III	X	X
RBT III–A	X	X
RBT IV	X	X
Komyo Kitagawa, Kogyo, K.K., Alcolyzer DPA–2	X	X
Breath Alcohol Meter PAM 101B	X	X
Life-Loc, Inc., Wheat Ridge, CO, PBA 3000–P	X	X
Lion Laboratories, Ltd., Cardiff, Wales, UK:		
Alcolmeter Model:		
AE–D1	X	X
SD–2	X	X
EBA	X	X
Auto-Alcolmeter		X
Luckey Laboratories, San Bernadino, CA, Alco-Analyzer Model:		
1000		X
2000		X
National Draeger, Inc., Pittsburgh, PA, Alcotest Model:		
7010	X	X
7110	X	X
7410	X	X
Breathalyzer Model:		
900	X	X
900A	X	X
900BG	X	X
National Patent Analytical Systems, Inc., Mansfield, OH, BAC Datamaster	X	X
Omicron Systems, Palo Alto, CA, Intoxilyzer Model:		
4011	X	X
4011AW	X	X
Plus 4 Engineering, Minturn, CO, 5000 Plus4	X	X
Siemans-Allis, Cherry Hill, NJ:		
Alcomat	X	X
Alcomat F	X	X
Smith and Wesson Electronics, Springfield, MA:		
Breathalyzer Model:		
900	X	X

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CONFORMING PRODUCTS LIST OF EVIDENTIAL BREATH MEASUREMENT DEVICES—Continued

Manufacturer and model	Mobile	Nonmobile
900A	X	X
1000	X	X
2000	X	X
2000 (non-Humidity Sensor)	X	X
Stephenson Corp., Breathalyzer 900	X	X
U.S. Alcohol Testing, Inc./Protection Devices, Inc., Rancho Cucamonga, CA:		
Alco-Analyzer 1000	.....	X
Alco-Analyzer 2000	.....	X
Varax Systems, Inc., Fairport, NY:		
The BAC Verifier	X	X
BAC Verifier Datamaster	X	X
BAC Verifier Datamaster II	X	X

(23 U.S.C. 402; delegations of authority at 49 CFR 1.50 and 501.8)

Michael B. Brownlee,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 93-9977 Filed 4-26-93; 9:33 am]

BILLING CODE 4910-59-M

[Docket No. 93-29; Notice 1]

Am-Safe, Inc., Receipt of Petition for Determination of Inconsequential Noncompliance

Am-Safe, Inc. (Am-Safe) of Phoenix, Arizona, has determined that some of its replacement seat belt assemblies fail to comply with 49 CFR 571.209, Federal Motor Vehicle Safety Standard (FMVSS) No. 209, "Seat Belt Assemblies," and has filed an appropriate report pursuant to 49 CFR part 573. Am-Safe has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Between January 1985 and the present, Am-Safe produced and distributed approximately 100,000 replacement seat belts which did not include the installation and maintenance instructions required by Standard No. 209.

Standard No. 209, Section S4.1(k) requires that "[a] seat belt assembly or retractor shall be accompanied by an instruction sheet providing sufficient information for installing the assembly in a motor vehicle except for a seat belt assembly installed in a motor vehicle by an automobile manufacturer. The installation instructions shall state whether the assembly is for universal installation or for installation only in specifically stated motor vehicles * * *." In addition, Section S4.1(l) requires that "[a] seat belt assembly or retractor shall be accompanied by written instructions for the proper use of the assembly, stressing particularly the importance of wearing the assembly snugly and properly located on the body, and on the maintenance of the assembly and periodic inspection of all components. The instructions shall show the proper manner of threading webbing in the hardware of seat belt assemblies in which the webbing is not permanently fastened."

Am-Safe supports its petition for inconsequential noncompliance with the following:

No evidence of incorrectly installed seat belts

[Am-Safe believes] the simplistic mounting design of these seat belts make it improbable that any incorrect installations exist. Am-Safe, Inc. is unaware of any suggestions or allegations, in regards to motor vehicle safety, from seat belts that were incorrectly installed.

Am-Safe sophisticoted part numbering system

Seat belts are identified by a nine or ten digit part number. A typical seat belt part number is 502293-401-6. The 502293 defines the basic belt configuration such as a retractable or non-retractable lap belt. The -401 specifies the dimensions of [the] web and component cover lengths. The -6 is the color code when applicable. Permanently affixed labels have pertinent information to ensure the proper seat belt is ordered for replacement. This label includes the part number, manufacturing date, and name and phone number of the manufacturer. This accurate numbering system can be confidently used for proper seat belt replacement.

Simple installotion procedures

The seat belts in question are attached to the vehicle anchorage holes with existing mounting hardware. These assemblies require only one bolt for attachment of the buckle half and one bolt for the attachment of the connector half. To accomplish the installation of a replacement seat belt, the existing seat belt must first be removed from the vehicle. These steps are then reversed for proper installation of the replacement seat belt. The majority of these replacements are performed by individuals acquainted with seat belt installation, i.e.; seat manufacturers, transit bus operators, and associated companies [which] perform seat belt installation on a regular basis. In addition, the design and construction characteristics of these seat belts reflect universal practices of operation and maintenance procedures.

Conclusion

There is no evidence that any of the subject seat belts are incorrectly installed. These seat belts have been installed and are currently in service without incident making a recall impractical. The complex part numbering system used by Am-Safe, Inc. leaves little chance for error when ordering a replacement seat belt. In the majority of cases, installation was performed by companies with experienced [personnel] familiar with correct procedures. [In i]nstances where seat belts are knowingly distributed to the general public, Am-Safe, Inc. has always supplied appropriate instructions. [As a] result of this noncompliance, Am-Safe, Inc. now includes these instructions with all seat belts unless otherwise instructed by the vehicle manufacturers. In conclusion, Am-Safe, Inc. believes that lack of instructions for seat belts that are currently in service is inconsequential as it relates to motor vehicle safety.

Interested persons are invited to submit written data, views, and arguments on the petition of Am-Safe, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: June 1, 1993.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: April 23, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93-10010 Filed 4-28-93; 8:45am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

April 23, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0172.
Form Number: IRS Form 4562.
Type of Review: Revision.
Title: Depreciation and Amortization (Including Information on Listed Property).
Description: Taxpayers use Form 4562 to: (1) claim a deduction for depreciation and/or amortization; (2) make a section 179 election to expense depreciable assets, and (3) answer questions regarding the use of automobiles and other listed property to substantiate the business use under section 274(d).
Respondents: Individuals or households, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents/ Recordkeepers: 11,500,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—38 hours, 35 minutes
Learning about the law or the form—4 hours, 10 minutes
Preparing and sending the form to the IRS—4 hours, 57 minutes
Frequency of Response: Annually.
Estimated Total Reporting Burden: 495,627,500 hours.
Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Monagement Officer.

[FR Doc. 93-9995 Filed 4-28-93; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

April 23, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0472.
Form Numbers: ATF F 5630.5 and ATF F 5630.7.
Type of Review: Revision.
Title: Special Tax Registration and Return, Alcohol and Tobacco (ATF F 5630.5). Special Tax Registration and Return, National Firearms Act (NFA) (ATF F 5630.7).
Description: Chapters 51, 52 and 53 of 26 U.S.C. authorize the collection of an occupational tax from persons engaged in certain alcohol, tobacco or firearms businesses. ATF F 5630.5 and/or ATF F 5630.7 is used to both compute and report the tax, and as an application for registry as required by statute. Upon receipt of the tax, a special tax stamp is issued.
Respondents: Individuals or households, businesses or other for-profit, small businesses or organizations.
Estimated Number of Respondents: 90,700.
Estimated Burden Hours Per Respondent:
ATF F 5630.5—48 minutes
ATF F 5630.7—48 minutes
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 75,560 hours.
Clearance Officer: Robert N. Hogarth (202) 927-8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-9996 Filed 4-28-93; 8:45 am]

BILLING CODE 4810-31-M

Public Information Collection Requirements Submitted to OMB for Review

April 23, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-1150.
Form Number: IRS Form 990-EZ.
Type of Review: Revision.
Title: Short Form Return of Organization Exempt From Income Tax Under Section 501(c) of the Internal Revenue Code (except black lung benefit

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trust or private foundation) or Section 4947(a)(1) charitable trust.

Description: Form 990–EZ is needed to determine that IRC section 501(a) tax-exempt organizations fulfill the operating conditions of their tax exemption. IRS uses the information from this form to determine if the filers are operating within the rules of their exemption.

Respondents: Non-profit institutions.

Estimated Number of Respondents/ Recordkeepers: 100,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 28 hours, 47 minutes.

Learning about the law or the form: 5 hours, 20 minutes.

Preparing the form: 8 hours, 56 minutes.

Copying, assembling, and sending the form to the IRS: 16 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 3,933,000 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–10072 Filed 4–28–93; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

April 23, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Special Request: The Department of the Treasury is requesting a less-than 60-day review and approval of the Internal Revenue Service information collection, described below. All comments must be received by COB May 21, 1993.

Internal Revenue Service

OMB Number: 1545–1315.

Form Number: None.

Type of Review: Reinstatement.

Title: TeleFile Surveys.

Description: These surveys are being conducted to help the Service evaluate TeleFile and to initiate recommendations for changes and improvements. Participants will be taxpayers who used TeleFile to file a return, taxpayers who tried TeleFile but did not file a return, and taxpayers who, although eligible to use TeleFile, elected not to file a return by TeleFile.

Respondents: Individuals or households.

Estimated Number of Respondents: 18,000.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: Other (one-time survey).

Estimated Total Reporting: 3,900 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–10073 Filed 4–28–93; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

April 23, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0052.

Form Number: CF 4609.

Type of Review: Reinstatement.

Title: Petition for Remission or Mitigation of Forfeiture and Penalties Incurred.

Description: Person whose property is seized or who incur monetary penalties due to violations of the Tariff Act are entitled to seek remission or mitigation by means of an informal administrative appeal. This form gives the violator the opportunity to claim mitigation and provides a record of such administrative appeals.

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 28,000.

Estimated Burden Hours Per Respondent: 19 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 8,834.

Clearance Officer: Ralph Meyer (202) 927–1552, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–10074 Filed 4–28–93; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

April 23, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Special Request: The Department of the Treasury is requesting a less-than 60-day review and approval of the Internal Revenue Service information collection, described below. All comments must be received by COB May 21, 1993.

Internal Revenue Service

OMB Number: New.

Form Number: None.

Type of Review: New collection.

Title: Tax Year '92 TeleFile Focus Group Interviews.

Description: These focus groups are being conducted to help the Internal Revenue Service evaluate TeleFile and to initiate recommendations for changes and improvements. Participants will be taxpayers who were eligible to use TeleFile to file their 1992 Federal Tax Returns.

Respondents: Individuals or households.

Estimated Number of Respondents: 1,200.

Estimated Burden Hours Per Respondent:

Screening Interview: 5 minutes.

Focus Group Sessions: 2 hours.

Travel to and from Focus Group facility: 1 hour.

Frequency of Response: Other (one-time focus group).

Estimated Total Reporting: 340 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–10075 Filed 4–28–93; 8:45 am]

BILLING CODE 4830–01–M

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Sunshine Act Meetings

Federal Register
Vol. 58, No. 81
Thursday, April 29, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the May 13, 1993 regular meeting of the Farm Credit Administration Board (Board) will not be held and that a special meeting of the Board is scheduled for Tuesday, May 4, 1993.

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on May 4, 1993, from 10 a.m. until such time as the Board may conclude its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. The matters to be considered at the meeting are:

OPEN SESSION

A. *Approval of Minutes*
B. *New Business*
1. *Regulations*
a. Accounting and Report Requirements—High-Risk Assets (Proposed)
b. Disclosure to Shareholders—Director Certification of Quarterly Reports (Final)

Closed Session *

A. *New Business*
1. *Enforcement Actions*

Date: April 27, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

*Session Closed—Exempt pursuant to 5 U.S.C. 552b(c) (8), (9) and (10).

[FR Doc. 93–10257 Filed 4–27–93; 3:49 pm]
BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, May 4, 1993, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Memorandum re: Final amendments to Part 353 of the Corporation's rules and regulations, entitled "Reports of Apparent Crimes Affecting Insured Nonmember Banks," which implement new procedures for completion and submission of the uniform multi-agency criminal referral form designed to facilitate financial institutions' compliance with criminal activity reporting requirements and enhance law enforcement agencies' ability to investigate the matters reported in criminal referrals.

Discussion Agenda

Memorandum and resolution re: Final amendments to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," which (1) eliminates section 329.3 that prescribes the rules governing advertisements of insured State nonmember banks and have it superseded by Regulation DD which has been enacted by the Board of Governors of the Federal Reserve System to implement the requirements of the Truth in Savings Act; and (2) withdraws the Corporation's Statement of Policy entitled "Information Regarding Computation of Interest and Dividends on Deposits," and General Counsel's Opinion No. 1, "Advertising of Interest or Dividends on Deposits," which will likewise be superseded upon the effective date of Regulation DD.

Memorandum and resolution re: Final amendments to the Corporation's rules and regulations in the form of a new Part 363 regarding independent annual audits and reporting requirements.

Memorandum and resolution re: Provisions on Contractor Fitness and Integrity and Statement of Policy on Contracting with Outside Firms.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 898–6745 (Voice); (202) 898–3509 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: April 27, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–10253 Filed 4–27–93; 3:43 pm]
BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 4, 1993 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, May 6, 1993 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1993–6: J. Breck Tostevin of Citizens for Congressman Panetta (continued from meeting of April 22, 1993).

Report from FEC Office of Personnel.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 93–10174 Filed 4–27–93; 11:34 am]
BILLING CODE 6715–01–M

NUCLEAR REGULATORY COMMISSION

DATES: Weeks of April 26, May 3, 10, and 17, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 26

Friday, April 30

2:00 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Amendments to 10 CFR Parts 26, 70, and 73 to Establish Fitness-for-Duty Requirements for Licensees Authorized to Possess, Use, or Transport Formula Quantities of Strategic Special Nuclear Material (Tentative) (Postponed from 4/22) (Contact: Stanley Turel, 301–492–3739)

Week of May 3—Tentative

Monday, May 3

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 10—Tentative

Friday, May 14

9:00 a.m.
Briefing on Options for Addressing Shutdown and Low Power Risk Issues (Public Meeting)
10:30 a.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: John Larkins, 301–492–8049)
2:30 p.m.
Briefing on Evolutionary and Advanced Light-Water Reactor Design Issues (Public Meeting) (Contact: Richard Borchardt, 301–504–1193)
4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 17—Tentative

Tuesday, May 17

10:00 a.m.
Briefing on Status of Action Plan for Fuel Cycle Facilities (Public Meeting) (Contact: Ted Sherr, 301-504-3371)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)
2:00 p.m.
Briefing on Turkey Point Lessons Learned (Public Meeting) (Contact: Fred Hebdon, 301–504–2024)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meeting call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–10254 Filed 4–27–93; 3:43 pm]
BILLING CODE 7590–01–M

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federal register

Thursday
April 29, 1993

Part II

Department of Transportation

Research and Special Programs Administration

Hazardous Materials Transportation; Registration and Fee Assessment Program; Notice

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. HM-206; Notice No. 93-10]

Hazardous Materials Transportation; Registration and Fee Assessment Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.
ACTION: Notice of filing requirements.

SUMMARY: The 1993-94 registration year for the Hazardous Materials Registration Program begins July 1, 1993. This notice is intended to advise persons who offer for transportation or transport certain categories or quantities of hazardous materials of an annual requirement to file a registration statement and pay a fee to the Department of Transportation. In addition, this notice addresses certain recent rulemaking actions that expand the scope of persons subject to the registration requirements.

FOR FURTHER INFORMATION CONTACT: David W. Donaldson, Office of Hazardous Materials Planning and Analysis (202-366-4109), Hazardous Materials Safety, 400 Seventh Street SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION: A final rule establishing a national registration program was published in the **Federal Register** on July 9, 1992 [57 FR 30620]. The provisions of the final rule and subsequent amendments are contained in the 1992 edition of Title 49, Code of Federal Regulations Part 107 Subpart G. The final rule requires that, after September 15, 1992, each person (as defined in 49 CFR 107.3 and 171.8) who offers for transportation or transports certain categories or quantities of hazardous materials must register annually and pay a fee. Collected fees will be used to fund emergency response planning and training grants to State, local, and Indian tribal governments.

A document revising certain registration requirements was issued on March 5, 1993 [58 FR 12543]. A revision, based on a provision contained in the Pipeline Safety Act of 1992, removed the requirement that persons who offer or transport smaller bulk packagings with capacities of less than 3,500 gallons or 468 cubic feet must register with RSPA after July 1, 1993. In addition, RSPA removed a recordkeeping requirement for persons to retain certain documents proving payment of the registration fee at their principal place of business. A copy of the registration statement and the Certificate of Registration still must be maintained at the principal place of business. Highway carriers also must maintain a copy of the current Certificate of Registration or another document bearing a current registration number on board each truck and truck tractor used to transport hazardous materials subject to the registration requirements.

Persons subject to the registration requirements include those who offer or transport in commerce any of the following materials:

A. Any highway route-controlled quantity of a Class 7 (radioactive) material;

B. More than 25 kilograms (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material in a motor vehicle, rail car, or freight container;

C. More than one liter (1.06 quarts) per package of a material extremely toxic by inhalation (Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A);

D. A hazardous material in a bulk packaging having a capacity equal to or greater than 13,248 liters (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids; or

E. A shipment, in other than a bulk packaging, of 2,268 kilograms (5,000 pounds) gross weight or more of a class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required for that class.

Several recent rulemaking actions impose a mandatory compliance date of October 1, 1993. On and after this date, persons offering or transporting certain categories or quantities of materials previously not regulated under the Hazardous Materials Regulations (HMR) may be subject to the registration program. These rulemaking actions include:

A. An interim final rule published on February 2, 1993 [58 FR 6864] under Docket HM-214 designates, as hazardous materials, oils previously not regulated under the HMR. As a result, many offerors and transporters of bulk packagings containing oils, such as animal and vegetable oils, residual fuel oil, and lubricating oil, will be subject to the registration requirements after October 1, 1993.

B. A final rule issued under Docket HM-198A on October 2, 1991 [56 FR 49980] and revised January 8, 1993 [58 FR 3344], requires hazard classification, communication and packaging standards for elevated temperature materials, such as asphalt or molten metals. Persons who offer or transport these materials after October 1, 1993, may need to register because of the quantities being offered or transported.

C. Certain other materials will become subject to the HMR on October 1, 1993, as a result of being identified as a marine pollutant [Docket HM-211; 57 FR 52930, November 5, 1992] or meeting new hazard classification criteria adopted under Docket HM-181 [Performance Packaging Standards; 55 FR 52402, December 21, 1990].

Copies of these documents may be obtained by contacting the RSPA Dockets Unit (DHM-30), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590-0001 [202-366-4511].

A formal interpretation relating to the registration requirements and clarifying the terms "offeror" and "transporter" was published on October 28, 1992 (57 FR 48739).

The 1993-94 registration year will begin July 1, 1993, and end June 30, 1994. Any person who engages in any of the specified activities during that period must file a registration statement for the 1993-94 registration year and pay the $300 fee by July 1, 1993, or before engaging in any covered activity, whichever is later.

RSPA strongly encourages persons subject to the registration requirements to register well in advance of the July 1, 1993, deadline. This will ensure timely receipt of a valid 1993-94 registration number to comply with recordkeeping requirements. A Certificate of Registration is generally mailed within three weeks of RSPA's receipt of a registration statement.

The registration statement has been revised to reflect amendments to the registration requirements and to collect certain information that more clearly characterizes the registrants' activities relating to the transportation of hazardous materials. Registrants are urged to use the revised registration statement to avoid submitting additional information at a later time. The revised registration statement, indicating a March 1993 revision date, is printed as an appendix to this notice and may be reproduced for use. Copies of the revised registration statement may be obtained by contacting the Office of Hazardous Materials Planning and Analysis (DHM-60), Hazardous Materials Safety, 400 Seventh Street SW., Washington, DC 20590-0001 (202-366-4109).

In April 1993, RSPA will mail a revised registration statement form and an informational brochure to all persons who registered for the 1992-93 registration year. This mailing will be addressed to the principal place of business indicated on the 1992-93

statement and to the attention of the person who signed that statement.

Any person who has engaged in a specified activity since September 16, 1992, but has not registered for the 1992-93 registration year, may be subject to civil penalties for each day a covered function is performed. The legal obligation to register for a year in which any specified activity was conducted does not end with the registration year. Registration after the completion of a registration year may also involve the imposition of interest, late-payment penalties, and administrative charges, in addition to a civil penalty.

Dated: April 21, 1993.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

Appendix—Registration Statement Form

BILLING CODE 4910-60-P

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Exempted from Paperwork Reduction Act by 49 App. U.S.C. 1805(c)(13)

U. S. DEPARTMENT OF TRANSPORTATION
HAZARDOUS MATERIALS REGISTRATION STATEMENT
REGISTRATION YEAR 19____ - 19____

(Please Type or Print all Responses)

Initial Registration ____ Renewal of Registration ____ Amendment to Registration ____ Expedited Follow-up ____

Current Registration # _ _ _ _ _ _ _ _ _ _ _ _ _ _ _

1. **Registrant** _____
(Company Name)

(Place pre-printed label here if provided and if name and address are correct. Otherwise, provide correct information.)

2. **Mailing Address of Principal Place of Business**

Street or P.O. Box _____ City _____

County _____ State _ _ Zip Code _ _ _ _ _ - _ _ _ _ Country _____

3. **Carrier's US DOT ID Number, ICC Number, or Reporting Railroad Alphabetic Code (if applicable)**

US DOT ID # _____ ICC # _____ Railroad Alphabetic Code _____

4. **Mode(s) Used to Transport Hazardous Materials:** Highway ____ Rail ____ Water ____ Air ____

5. **Industrial Classification:** Check the primary industry in which the registrant operates. **Mark Only One.**

Transportation
- Carrier
- Warehousing
- Freight Forwarding, Agent Services
- Transportation Repair & Service Facilities

Manufacturing
- Petroleum Refining & Related Industries
- Apparel & Other Textile Products
- Paper, Wood, & Allied Products
- Printing & Publishing
- Chemicals & Allied Products
- Food & Kindred Products
- Rubber & Miscellaneous Plastic Products
- Electric & Electronic Equipment
- Explosives
- Other Manufacturing Industries

Other
- Agriculture & Support Services
- Mining - Metal & Non-Metal
- Oil & Gas Extraction
- Gasoline, Fuel Oil, Propane Sales & Delivery
- Construction - All Types
- Wholesale or Retail Trade
- Non-Transportation Repair Facilities
- Hazardous Waste Services - Transportation, Disposal, Treatment
- Other _____

6. **Annual Registration Fee.** The combined registration and processing fee is $300.00 (Complete only when submitting initial or renewal registration.)

Total Amount Enclosed _____

Make check or money order in U.S. funds, drawn on a U.S. bank, and payable to "U.S. Department of Transportation," and identified as payment for the "Hazmat Registration Fee."

Method of Payment

Check ____ Money Order ____ Credit Card *VISA* ____ *MasterCard* ____

Credit Card Users Please Provide the Following Information:

Card Number: [redacted] Expiration Date: [redacted] MO YR

Name as it appears on the card _____

Authorized Signature _____

Cardholder acknowledges ordering goods or services in the amount of the total shown hereon and agrees to perform the obligations set forth in the Cardholder's agreement with the issuer. Credit card statement will list this payment as "US DOT Hazmat Regis."

NOTE. If completing an Expedited Registration, **do not** resubmit credit card information here.

Form DOT F 5800.2 (Revised 03/93) THIS FORM MAY BE REPRODUCED

7. PRIOR-YEAR SURVEY INFORMATION: Hazardous Materials Activities, and States in Which Activity was Conducted. Indicate those activities conducted by the registrant during the previous calendar year (e.g., 1992 for the 1993-94 Registration Year). Mark "A" through "E," as appropriate, to indicate the category or categories and the activity or activities (shipper, carrier, or other) in which the registrant acted. Check all categories and activities that apply. "Other" may be checked to indicate offeror activities not covered under the heading of shipper or carrier, such as freight forwarder or agent. Carriers should circle all states in which they operated as a hazardous materials carrier. Shippers and others engaged in offering hazardous materials should circle only those states from which they offered hazardous materials. They do not need to indicate to or through which states shipments were sent. A list of the states and their abbreviations appears in the accompanying brochure. Circle "48 Contiguous States," if appropriate, to indicate that the activity was conducted in all of the 48 contiguous states. If the registrant did not engage in activities covered by "A" through "E" during the previous year, but plans to do so in the current registration year, mark only "F."

A. ____ Offered or transported in commerce any highway route-controlled quantity of a Class 7 (radioactive) material.

1. Shipper ____ 2. Carrier ____ 3. Other (Freight Forwarder, Agent, etc.) ____

AL AR AZ CA CO CT DE FL GA ID IL IN IA KS KY LA MA MD ME MI MN
MO MS MT NC ND NE NH NJ NM NV NY OH OK OR PA RI SC SD TN TX UT
VT VA WA WV WI WY 48 CONTIGUOUS STATES AK AS DC GU HI MP PR VI

B. ____ Offered or transported in commerce more than 25 kilograms (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material in a motor vehicle, rail car, or freight container.

1. Shipper ____ 2. Carrier ____ 3. Other (Freight Forwarder, Agent, etc.) ____

AL AR AZ CA CO CT DE FL GA ID IL IN IA KS KY LA MA MD ME MI MN
MO MS MT NC ND NE NH NJ NM NV NY OH OK OR PA RI SC SD TN TX UT
VT VA WA WV WI WY 48 CONTIGUOUS STATES AK AS DC GU HI MP PR VI

C. ____ Offered or transported in commerce more than 1 liter (1.06 quarts) per package of a material extremely toxic by inhalation (Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A).

1. Shipper ____ 2. Carrier ____ 3. Other (Freight Forwarder, Agent, etc.) ____

AL AR AZ CA CO CT DE FL GA ID IL IN IA KS KY LA MA MD ME MI MN
MO MS MT NC ND NE NH NJ NM NV NY OH OK OR PA RI SC SD TN TX UT
VT VA WA WV WI WY 48 CONTIGUOUS STATES AK AS DC GU HI MP PR VI

D. ____ Offered or transported in commerce a hazardous material or hazardous waste in a bulk packaging (see 49 CFR 171.8) having a capacity equal to or greater than 13,248 liters (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids.

1. Shipper ____ 2. Carrier ____ 3. Other (Freight Forwarder, Agent, etc.) ____

AL AR AZ CA CO CT DE FL GA ID IL IN IA KS KY LA MA MD ME MI MN
MO MS MT NC ND NE NH NJ NM NV NY OH OK OR PA RI SC SD TN TX UT
VT VA WA WV WI WY 48 CONTIGUOUS STATES AK AS DC GU HI MP PR VI

E ____ Offered or transported in commerce a shipment, in other than a bulk packaging, of 2,268 kilograms (5,000 pounds) gross weight or more of one class of hazardous materials or hazardous waste for which placarding of a vehicle, rail car, or freight container is required.

1. Shipper ____ 2. Carrier ____ 3. Other (Freight Forwarder, Agent, etc.) ____

AL AR AZ CA CO CT DE FL GA ID IL IN IA KS KY LA MA MD ME MI MN
MO MS MT NC ND NE NH NJ NM NV NY OH OK OR PA RI SC SD TN TX UT
VT VA WA WV WI WY 48 CONTIGUOUS STATES AK AS DC GU HI MP PR VI

F. ____ Did not engage in any of the activities listed in A through E during the previous calendar year.

8. Certification of Information. I certify that, to the best of my knowledge, the above information is true, accurate, and complete.

Certifier's Name _____ Date _____
(Print)

Title _____ Phone (_ _ _) _ _ _ - _ _ _ _

Certifier's Signature _____

FALSE STATEMENTS MAY VIOLATE 18 U.S.C. 1001

[redacted]

U.S. Department of Transportation
Hazardous Materials Registration
P.O. Box 740188
Atlanta, GA 30374-0188

Please retain a copy of this form for your records.

[FR Doc. 93-9998 Filed 4-28-93; 8:45 am]

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federal register

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April 29, 1993

Part III

Department of Defense

Department of the Army

33 CFR Part 334

Restricted Area in the Kuluk Bay Near Alaska; Interim Final Rule

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DEPARTMENT OF DEFENSE

Department of the Army

33 CFR Part 334

Restricted Area in the Kuluk Bay Near Adak, Alaska

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Interim final rule.

SUMMARY: The U.S. Army Corps of Engineers is amending the regulations in 33 CFR 334.1320 to correct errors in the coordinates which established a restricted area in the waters of Kuluk Bay, Adak, Alaska. The area encompassed by the coordinates in 33 CFR 334.1320 does not exactly agree with the location of submarine cables the area was designed to protect. The regulations presently prohibit anchoring and the dredging of anchors within the restricted area, except in great emergency. Due to the possibility of damage to the existing submarine cables, fishing and trawling are also prohibited within the restricted area. This amendment is being published as an interim final rule with the opportunity for comment to coincide with the publication of a public notice concurrently being published by the Alaska District Engineer.

DATES: Interim Final Rule effective on April 29, 1993. Written comments must be received on or before June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Weger at (907) 753–2716 or Mr. Ralph Eppard at (202) 272–1783.

SUPPLEMENTARY INFORMATION: The Commander, U.S. Navy Undersea Surveillance, U.S. Pacific Fleet, Pearl Harbor, Hawaii, has requested that the Corps amend the regulations in 33 CFR 334.1320, which established a naval restricted area in Kuluk Bay, near Adak, Alaska, (NOAA Nautical Chart No. 16475). The purpose of the amendment is to correct the coordinates which define the restricted area boundaries. The corrections will expand the area approximately 1.3 nautical miles east, and the northern boundary approximately 1/2 nautical mile north. These amendments also include placing a restriction on fishing and trawling activities, in addition to anchoring and dragging of anchors, as currently stated in the regulations. The naval restricted area regulations in 33 CFR 334.1320 were established in 1963 and last amended in 1977. Kuluk Bay, on the northeast side of Adak Island, Alaska, is about 4 miles long and 4 miles wide, and is one of the best natural harbors in the Aleutians. It is entered between Zeto Point on the north and Thunder Point on the south, and includes Kuluk Bay proper, Clam Lagoon, Sweeper Cove, Finger Bay, and Scabbard Bay. Tidal currents in the bay are weak and the flow appears to depend mainly upon the winds.

A notice of proposed rulemaking (NPRM) soliciting comments on these amendments was published in the **Federal Register** on February 2, 1993, with the comment period expiring on March 4, 1993. No comments were received. However, it was the Alaska District's intent to concurrently publish a public notice which would have been sent directly to Federal, State and local governments, navigation interests, fisheries and in general, all known interested parties. Due to a communication problem, the District was not aware of the date of publication of the NPRM and the public notice was not issued. In order to assure that all parties have had the opportunity to review these changes to the restricted area, the District is now publishing these proposed changes in a district public notice. This interim final rule is made effective on the date of publication in the **Federal Register** due to the existing potential for damage to Government-owned property in the area. We will, however, consider any comments or objections submitted and make any changes to the regulations we determine to be appropriate. It should be noted that it will be necessary to disestablish an explosives anchorage area, which is within the expanded boundary of the restricted area. Changes to the regulations (if any) which establish the explosives anchorage area is solely the responsibility of the U.S. Coast Guard. We have been informed that the Coast Guard has no objection to the elimination of the explosives anchorage area within the boundaries of the expanded naval restricted area. Accordingly, we will formally request that the Coast Guard take appropriate action to disestablish the explosives anchorage area.

Economic Assessment and Certification

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12291 do not apply. These rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small businesses (i.e., small businesses and small government jurisdictions.) It has been determined that this rule will not have a significant economic impact on a substantial number of small entities and that preparation of a regulatory flexibility analysis is not warranted.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones. In consideration of the above, the Corps is amending part 334 of title 33 to read as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3)

2. Section 334.1320 is revised to read as follows:

§ 334.1320 Kuluk Bay, Adak, Alaska; naval restricted area.

(a) *The area.* The northwest portion of Kuluk Bay bounded as follows: Beginning on shore at latitude 51° 55′ 00″ N, longitude 176° 33′ 09″ W; thence due east to latitude 51° 55′ 00″ N, longitude 176° 33′ 09″ W; thence due south to latitude 51° 51′ 55″ N longitude 176° 31′ 09″ W; thence due west to the shore at latitude 51° 51′ 00″ N, longitude 176° 37′ 43″ W; thence along the shoreline to the point of beginning.

(b) *The regulations.* (1) Except in great emergency, no vessel shall anchor in the restricted area described above.

(2) The dragging of anchors in or across the restricted area is prohibited and no object attached to a vessel shall be placed on or near the bottom.

(3) Fishing and trawling activities in the restricted area are prohibited.

(4) The regulation of this restricted area shall be enforced by the Commander, Patrol Wing, U.S. Pacific Fleet, Naval Air Station Moffett Field, California, and such agencies and he/she may designate.

Stanley G. Genega,

Brigadier General (P), USA Director of Civil Works.

[FR Doc. 93–10045 Filed 4–28–93; 8:45 am]

BILLING CODE 3710–92–M

Federal Register

Thursday
April 29, 1993

Part IV

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 92

HOME Investment Partnerships Program; Proposed Rule

DEPARTMENT OF HOUSING AND

published a proposed rule (56 FR

contribution must be made with regard

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 92

[Docket No. R-93-1648; FR-3411-P-01]

RIN 2501-AB50

HOME Investment Partnerships Program

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the existing interim rule for the HOME Investment Partnerships Program by implementing amendments enacted by the Housing and Community Development Act of 1992.

DATES: Comment due date: Comments on this proposed rule must be submitted on or before June 1, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Faxed comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing Programs, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-2470, TDD (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements for the HOME Investment Partnerships Program have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and assigned OMB control number 2501-0013. This proposed rule does not contain additional information collection requirements.

II. Background

The HOME Investment Partnerships Program (HOME) was enacted under title II (42 U.S.C. 12701-12839) of the Cranston-Gonzalez National Affordable Housing Act (NAHA) (Pub. L. 101-625, approved November 28, 1990). On March 19, 1991, the Department published a proposed rule (56 FR 11592) to implement the HOME Program. The Department received 119 public comments in response to the proposed rule. After reviewing and considering these comments, HUD published an interim rule on December 16, 1991 (56 FR 65313), inviting additional comments on the program.

The Department received 118 public comments on the interim rule. In partial response to these comments and HUD's experience in implementing the program, an interim rule to make necessary changes on an expedited basis to the December 16, 1991 interim rule was developed. In addition, the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102-550, approved October 28, 1992) included a substantial number of amendments to the HOME program. Some of the HCDA 1992 amendments that were determined to be immediately effective were included in the "necessary changes" interim rule, which was published on December 22, 1992 (57 FR 60960). Additional HCDA amendments determined to be immediately effective will be published in a new interim rule being developed by the Department.

Other HCDA 1992 changes were determined to require the publication of a proposed rule with an opportunity for public notice and comment before they could be implemented. This proposed rule fulfills that requirement. The discussion that follows provides a summary of these proposed HCDA 1992 changes to the HOME interim rule. In addition, this proposed rule would amend the method by which dwelling units are designated and counted as affordable housing units during the period of affordability, as discussed below, in this preamble.

Section 210 of HCDA 1992 amends the matching requirements of the HOME program in a number of ways. Section 210(a)(4) permits match credit for investment in housing that qualifies as affordable housing under the HOME program. Before this amendment, match credit was available only for investment in affordable housing actually assisted with HOME funds, as opposed to investment in housing that would qualify as "affordable" even though it receives no HOME funds. This proposed rule would allow match credit for contributions made with respect to housing that meets the HOME income targeting, rent or homeownership restrictions, and long-term affordability requirements at §§ 92.252 and 92.254. It is not sufficient for match purposes that the contribution be made to an entity that is engaged is developing affordable housing; rather, in every instance, the contribution must be made with regard to a specific project. "Affordable housing" does not include tenant-based rental assistance, and therefore, rental assistance that is not funded with HOME funds is not eligible for this match credit.

To implement the section 210(a)(4) amendment, conforming language changes would be made in §§ 92.218(a) and 92.219(a) to substitute "housing that qualifies as affordable housing under the HOME program" for "affordable housing assistance with HOME funds". Section 92.219 of the HOME rule would be further amended by redesignating paragraph (b) as paragraph (c), and adding a new paragraph (b) to require a written agreement between the participating jurisdiction, or its instrumentality, and the owner of the property to which match contributions are made. All of the affordability requirements from either § 92.252 or 92.254, whichever is applicable, the property standards requirements at § 92.252, and income determinations made in accordance with § 92.203 must be enumerated and imposed in the agreement. This agreement must be executed before the contribution to the housing may be counted for match purposes. The contribution itself may be for any eligible form of match, except those in § 92.220(a) (2) and (4) which, by statute, must be made for affordable housing assisted with HOME funds.

HCDA section 210 also adds as a new form of matching contribution a percentage of the proceeds from certain bond financing and allows the reduction of match requirements for State PJs in fiscal distress by up to 100 percent.

Permitting a percentage of the proceeds from bond financing repayable with revenues derived from a multifamily or single family affordable housing project as an eligible form of match would be implemented by revising § 92.220(a)(5). The current language pertaining to a match for administrative expenses would be deleted, in accordance with HCDA section 207(c) which eliminates administrative expenses as an eligible form of match, and replaced with language permitting a match for up to 50% of the bond proceeds loan amount to a multifamily affordable housing project owner, or up to 25% in the case of a single family project. Funds from both of these sources could not constitute more than 25% of a participating jurisdiction's total annual match contribution. Loans made bond proceeds in excess of 25 percent of a participating jurisdiction's total annual match contribution would not be

eligible match contributions and are not carried over to the following fiscal year as excess match. Section 92.221(b)(6) would be added to specify that if the contribution is made as a loan, the match credit is recognized at the time of the loan closing.

This proposed rule applies the statutory limitation (50% for multifamily housing, 25% for single family housing) to each loan made with bond proceeds rather than to the total bond proceeds for affordable housing. This approach is proposed for several reasons. Although match credit may only be given for loans from bond proceeds to housing that qualifies as affordable housing under the HOME program, the Department believes that the entire bond need not be issued for affordable housing. The Department recognizes that state and local governments issue bonds for housing, only some of which may qualify as affordable housing. (For example, the income limits for a single family housing bond issue may be 120% of median family income; however, many of the loans will be made to families who qualify as low-income families under the HOME program.) The total amount of the bond proceeds that are used for affordable housing will not be know until the entire bond proceeds are committed to specific housing projects.Therefore, instead of waiting until all bond proceeds are committed to affordable housing projects, the regulation gives the match credit (50% or 25%) for each loan to affordable housing. The Department also believes that crediting each loan, rather than determining the total bond proceeds amount committed to affordable housing and tracking each loan against the total amount, is administratively less burdensome for the participating jurisdictions.

HCDA 1992 section 210(c) amended the requirements for permitting a reduction of the match. To implement these amendments, the current match reduction procedures at § 92.222, permitting a percentage reduction of the match over a three year period, would be stricken, and would be replaced by procedures that require the reduction of the match on the basis of the fiscal distress of the PJ, with some variation depending upon whether a State or non-State PJ is involved. The procedures for a PJ other than a State require little or no regulatory elaboration by the Department beyond the language in the statute, and they are being implemented in a separate interim rule, although they are published here to provide for the continuity of the text in the revised § 92.222.

Regarding participating jurisdictions that are States, the statute provides: "In determining the degree to which a jurisdiction that is a State is distressed, the Secretary shall take into consideration the State's fiscal capacity and expenditure needs as determined by a national organization which compiles the relevant data."

In developing criteria to implement this provision, which is being proposed here as new paragraph § 92.222(a)(4), HUD consulted with the Advisory Commission on Intergovernmental Relations (ACIR), which was identified in the Senate Committee Report as the national organization. However, after the Department consulted with ACIR, it was determined that the data compiled by ACIR would not be appropriate for purposes of the statute because they were neither current nor regularly available.

The Department also consulted with the Bureau of the Census, the Bureau of Economic Analysis (BEA) and others with expertise in statistical indicators of fiscal stress; and conducted an empirical analysis of many potential indicators from several different sources. Among the factors examined and rejected were BEA's data series on Gross State Product (GSP), private sector GSP, earned income, and private sector earned income; and ACIR's Representative Tax System. Some of the factors failed to meet the selection criteria of being available from a single source, using a standard methodology, and being available on a timely and regular basis. Other factors had essentially the same results as the factors that were selected and were deemed to be redundant. Based on the foregoing, the Department has concluded:

—A State's fiscal distress may be a chronic condition resulting from long-term structural problems in the State economy, or it may be a short-term cyclical problem associated with recession or other slowing down of economic activity. Both types of fiscal distress ought to be used in considering whether to reduce the HOME match requirements.

—The indicators for chronic problems will be the percentage of families in poverty and per capita income, as determined by the Bureau of the Census. These are the same indicators that are required by the statute to be used to determine the match reduction for local jurisdictions. Furthermore, these same factors are used to determine the "relative fiscal incapacity" of participating jurisdictions under the basic HOME allocation formula.

—The indicator for short-term cyclical problems will be growth in personal income. Quarterly estimates of State and national personal income are prepared by the Bureau of Economic Analysis (BEA). The data are, thus, both timely and regularly available. The definitions underlying the State estimates are essentially the same as those underlying the national estimates of personal income, permitting State and national growth in personal income to be compared. The BEA procedure not only imparts the accuracy of the national totals to the State estimates but also yields an additive system where the State estimates sum to the national total. Estimates are seasonally adjusted at annual rates and are available approximately 90 days after the end of the quarter. For example, the data for the first quarter of 1992 were published in the July issue of the Survey of Current Business. Second quarter data are in the October issue.

Based upon the foregoing, there will be three factors—percentage of families in poverty, per capita income, and change in personal income—that will be used to identify States that are in fiscal distress. If a State has at least 2 of the 3 factors indicating distress, the State will be deemed to be in severe fiscal distress, and its match requirement will be reduced 100%. If any 1 of the 3 factors indicate distress, then the State will be deemed to be in fiscal distress, and its match requirement will be reduced by 50%.

The Department will publish its determinations of severe fiscal distress and fiscal distress, computed as described below, each year. In order to permit the full benefit of the match reduction to be taken into account for planning purposes by States, the reduction will be effective for the fiscal year in which the distress determination is published and for the next fiscal year. A 100% match reduction will, in every instance, be effective for this two year period. However, if in the second year of a 50% match reduction period the published distress determination indicates severe fiscal distress, a two year 100% match reduction period (for the fiscal year in which the determination of severe fiscal distress is made, and for the next fiscal year) becomes immediately effective, superseding the second year of the 50% match reduction.

For the FY 1993 HOME program, 1990 census data will be used to make determinations for the first two factors.

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The growth reflected in BEA's State personal income estimates over the most current available four quarters will be used for the third factor. The same qualifying percentages for the first two factors will be applicable to States as provided in HCDA 1992 section 210 for local government participating jurisdictions. A State will meet the first factor if its percent of families in poverty is 125 percent or more of the United States average; and a State will meet the second criterion of distress if its per capita income is less than 75 percent of the United States average. Although the statute requires that the measurements of both poverty rate and per capita income be determined according to data compiled by the Bureau of the Census for the calendar year immediately preceding the jurisdiction's calendar year, these data are not available on such a timely basis. The Department will use the most current available data. A State will meet the slow quarterly personal income growth criterion in this proposed rule if its personal income growth rate is less than 75 percent of the personal income growth rate of the United States average, measured over the most currently available four quarters.

HCDA 1992 section 218 amends the definition of *housing* for purposes of the HOME program to include elder cottage housing opportunity (ECHO) units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to an existing single-family dwelling (which will be referred to here as the "host property"). ECHO housing may be manufactured housing, modular housing, or built on site.

In addition to changing the *housing* definition at § 92.2, a new section § 92.259 would be added to subpart F—Project Requirements of the regulation to provide guidance on the use of HOME funds for ECHO housing units. The Department has identified two ECHO housing program models, and will make both options available for the use of HOME funds by participating jurisdictions. In the first model, the PJ may provide assistance directly to homeowners for the purchase and placement of ECHO units (including utility hook-ups) on their property. In this model, the owner of the host property owns the ECHO unit, which must be occupied by an eligible person(s). In the second model, the PJ or a nonprofit organization retains ownership of the ECHO unit(s) and identifies homeowners who provide the host property for the unit, which must be occupied by an eligible person(s).

ECHO housing occupants must meet HOME income targeting requirements, i.e., they must have an annual income at or below 60 percent of the area's median income. In addition, the occupant must qualify as an elderly family as defined in 24 CFR part 812, a regulation which defines terms as given in section 3 of the United States Housing Act of 1937 (1937 Act). This definition includes elderly, handicapped and disabled individuals. The HOME program is required by statute to use the same definition for "families" as is given in section 3 of the 1937 Act, and the Department believes it would be appropriate and consistent to use the 1937 Act definition of "elderly family" for the purpose of determining eligibility for ECHO housing. The Department chose this broader definition of elderly because, in addition to expanding the availability of affordable housing with the advantages of privacy, independence, and proximity of assistance provided by ECHO housing for older persons, it anticipates the need and desired use of these units for handicapped and disabled individuals.

HOME funds for an ECHO unit would only be available on a one-time initial purchase and placement basis, regardless of who (host property owner, PJ or nonprofit) would own it, since the Department wants to maximize the use of HOME funds for the creation of affordable housing units. ECHO unit owners—particularly participating jurisdictions and nonprofit organizations—are encouraged to set aside funds, which may be derived from unit rentals, to cover the expense of maintenance and subsequent removal and relocation of the units. Nonfederal funds used to remove and relocate ECHO units to accommodate eligible tenants would be permissible contributions for purposes of match requirements, and would be added to the list of eligible forms of matching contributions at § 92.220(c).

Because ECHO units are accessory units provided as an independent living space, the proposed rule would allow only one ECHO unit per host property. In addition, all of the project requirements of subpart F would apply, including the rent affordability provisions of § 92.252, and property standards provisions at § 92.251, unless otherwise noted in the proposed rule. Although rent need not be charged, if it is, it must meet HOME rent requirements and be set at the lesser of either the fair market rent (FMR) or 30 percent of 65 percent of median income.

The National Affordable Housing Act of 1990, section 215(a)(1)(E) requires that the housing assisted with HOME funds remain affordable for the "useful life of the property, as determined by the Secretary." The affordability period is to be "the longest feasible period of time consistent with sound economics and the purposes of this Act". For ECHO housing, the Department is proposing to require an affordability period in accordance with the rental housing requirements of § 92.252(a)(5). This means that if the original occupant no longer occupies the unit within the affordability period, the ECHO unit owner would have to either: (1) Rent the unit to another eligible occupant on site; (2) move the ECHO unit to another property for occupancy by an eligible occupant. However, if the owner of the ECHO unit is the host property owner, there is a third option: The participating jurisdiction can recapture the HOME subsidy (or net proceeds) from the host property owner. This flexibility in the applicable affordability provisions will accommodate the institutional and private homeowner use of ECHO units in a manner consistent with the statutory purposes of the HOME program.

The same ECHO housing requirements would be added to subpart M—HOME Funds for Indian Tribes in a new § 92.625.

The Department is also proposing to amend the procedure for housing project owners to designate those units in a property that are the HOME-assisted units. Currently, specific units are designated as the HOME units and that designation is fixed for the term of the affordability period. To provide more program flexibility, the Department is proposing to add new language to §§ 92.255 and 92.256 that would permit project owners to use a system of "floating" units that may be changed over the affordability period, so long as the total number of units remains the same and the substituted units are at least comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted units. Comments are specifically solicited on this proposal.

To address a remaining issue arising out of section 220 of HCDA 1992, the Department is planning to publish, in the near future, a separate proposed rule to implement antidisplacement and relocation requirements in accordance with section 104(d) of the Housing and Community Development Act of 1974.

III. Findings and Certifications

Comment Period

The Department has limited the comment period on this proposed rule to 30 days in order to publish as timely as possible an effective rule within the time period specified in section 222 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992).

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Impact on the Economy

Although the HOME Program interim rule was found to be a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981, and a regulatory impact analysis (RIA) was prepared, this amending proposed rule does not constitute a "major rule". Analysis of this proposed rule, which only makes limited adjustments to the interim rule for which a RIA was prepared, indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Impact on Small Entities

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the undersigned hereby certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities, because jurisdictions that are statutorily eligible to receive formula allocations are relatively larger cities, counties or States.

Regulatory Agenda

This proposed rule was listed as item number 1369 in the Department's Semiannual Agenda of Regulations published on November 3, 1992 (57 FR 51392) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Federalism Impact

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, that this proposed rule does not have federalism implications concerning the division of local, State, and federal responsibilities. While the HOME Program interim rule amended by this proposed rule was determined to be a rule with federalism implications and the Department submitted a Federalism Assessment concerning the interim rule to OMB, this proposed rule only makes limited adjustments to the interim rule and does not significantly effect any of the factors considered in the Federalism Assessment for the interim rule.

Impact on the Family

The General Counsel, as the designated official under Executive Order 12606, *The Family*, has determined that this proposed rule would not have significant impact on family formation, maintenance, and general well-being. Assistance provided under this proposed rule can be expected to support family values, by helping families achieve security and independence; by enabling them to live in decent, safe, and sanitary housing; and by giving them the means to live independently in mainstream American society. This proposed rule would not, however, affect the institution of the family, which is requisite to coverage by the Order. Even if this proposed rule had the necessary family impact, it would not be subject to further review under the Order, since the provision of assistance under this proposed rule is required by statute, and is not subject to agency discretion.

The Catalog of Federal Domestic Assistance Number for the HOME Program is 14.239.

List of Subjects in 24 CFR Part 92

Grant programs—housing and community development, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, the Department proposes to amend part 92 of title 24 of the Code of Federal Regulations as follows:

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

1. The authority citation for part 92 would continue to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701–12839.

2. In § 92.2, the definitions of *housing* would be revised to read as follows:

§ 92.2 Definitions.

* * * * *

Housing includes manufactured housing and manufactured housing lots. Housing also includes elder cottage housing opportunity (ECHO) units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings.

* * * * *

3. In § 92.218, paragraph (a) would be revised to read as follows:

§ 92.218 Amount of matching contribution.

(a) Each participating jurisdiction must make contributions to housing that qualifies as affordable housing under the HOME program, throughout a fiscal year. The contributions must total not less than:

* * * * *

4. Section 92.219 would be revised to read as follows:

§ 92.219 Recognition of matching contribution.

(a) A contribution is recognized as a matching contribution if:

(1) It is made with respect to a tenant who is assisted with HOME funds, or

(2) It is made with respect to housing that qualifies as affordable housing under § 92.252 or § 92.254; or

(3) It is made with respect to any portion of a project (including a mixed-use project under § 92.256) not less than 50 percent of the dwelling units of which qualify as affordable housing under § 92.252 or § 92.254.

(b) To obtain credit for a match contribution that is made to housing that qualifies as affordable housing under § 92.252 or § 92.254, and that is not assisted with HOME funds, the participating jurisdiction, or its instrumentality, must execute, with the owner of the housing (or, if the participating jurisdiction is the owner, with the manager or developer), a written agreement that imposes and enumerates all of the affordability requirements from either § 92.252 or § 92.254, whichever is applicable, and the property standards requirements of § 92.251, and that requires income determinations to be made in accordance with § 92.203. This written agreement must be executed before any match contributions may be made.

(c) In addition to the requirements of paragraphs (a) and (b) of this section, a cash contribution is recognized as a matching contribution only if it is used for costs eligible under § 92.206 (except administrative costs and community housing development organization operating expenses) or § 92.301, or for the following costs (which are not

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eligible costs for HOME funds): The cost of removing and relocating an ECHO housing unit to accommodate an eligible tenant, a project reserve account for replacements, a project reserve account for unanticipated increases in operating costs, operating subsidies, or costs relating to the portion of a mixed-income or mixed-use project not related to the affordable housing units.

5. In § 92.220, paragraphs (a)(1) and (a)(5) would be revised to read as follows:

§ 92.220 Form of matching contribution.

(a) • • •

(1) Cash contributions from nonfederal sources. Except for contributions made to affordable housing that is not assisted with HOME funds and bond proceeds to which the provisions of § 92.220(a)(5) are applicable, to be a cash contribution, funds must be contributed permanently to the HOME program, regardless of the form of investment the jurisdiction provides to a project. Therefore all repayment, interest, or other return on investment of the contribution must be deposited in the local account of the participating jurisdiction's HOME Investment Trust Fund to be used for eligible HOME activities in accordance with the requirements of this part. A cash contribution to affordable housing that is not assisted with HOME funds must be contributed permanently to the project.

• • • • •

(5) Proceeds from multifamily affordable housing and single-family project bond financing validly issued by a State or local government, or an agency, instrumentality, or political subdivision of a State, as follows:

(i) Up to 50 percent of the loan amount made from bond proceeds to a multifamily affordable housing project owner may qualify as match.

(ii) Up to 25 percent of the loan amount from bond proceeds made to a single-family affordable housing project owner may qualify as match.

(iii) Loans made from bond proceeds may not constitute more than 25 percent of a participating jurisdiction's total annual match contribution. Loans made from bond proceeds in excess of 25 percent of a participating jurisdiction's total annual match contribution are not eligible match contributions and are not carried over to the following fiscal year as excess match.

• • • • •

6. In § 92.221, paragraph (b)(6) would be added to read as follows:

§ 92.221 Match credit.

• • • • •

(b) • • •

(6) A loan made from bond proceeds under § 92.220(a)(5) is credited at the time of the loan closing.

• • • • •

7. § 92.222 would be revised to read as follows:

§ 92.222 Reduction of matching contribution requirement.

(a) *Reduction for fiscal distress.*

(1) *Distress criteria for local government participating jurisdictions.* As determined and published annually by HUD, if a local government participating jurisdiction satisfies both of the distress factors in paragraphs (a)(1) (i) and (ii) of this section, it is in severe fiscal distress and its match requirement will be reduced 100% for the period specified in paragraph (a)(3) of this section. If a local government participating jurisdiction satisfies either distress factor in paragraphs (a)(1) (i) or (ii) of this section, it is in fiscal distress and its match requirement will be reduced by 50 percent, for the period specified in paragraph (a)(4) of this section.

(i) *Poverty rate.* The average poverty rate in the participating jurisdiction was equal to or greater than 125 percent of the average national poverty rate during the calendar year for which the most recent data are available, as determined according to information of the Bureau of the Census.

(ii) *Per capita income.* The average per capita income in the participating jurisdiction was less than 75 percent of the average national per capital income, during the calendar year for which the most recent data are available, as determined according to information of the Bureau of the Census.

(2) *Distress criteria for participating jurisdiction that are States.* As determined and published annually by HUD, if a State has at least 2 of the 3 distress factors in paragraphs (a)(2) (i)–(iii) of this section, it will be deemed to be in severe fiscal distress and its match requirement will be reduced 100% for the period specified in paragraph (a)(3) of this section. If a State has any 1 of the 3 distress factors in paragraphs (a)(2) (i)–(iii) of this section, it will be deemed to be in fiscal distress and its match requirement will be reduced by 50%, for the period specified in paragraph (a)(4) of this section.

(i) *Poverty rate.* The average poverty rate in the State was equal to or greater than 125 percent of the average national poverty rate during the calendar year for which the most recent data are available, as determined according to information of the Bureau of Census.

(ii) *Per capita income.* The average per capita income in the State was less than 75 percent of the average national per capita income, during the calendar year for which the most recent data are available, as determined according to information of the Bureau of Census.

(iii) *Personal income growth.* The average personal income growth rate in the state over the most recent four quarters for which the data are available was less than 75 percent of the average national personal income growth rate during that period, as determined according to information of the Bureau of Economic Analysis.

(3) *Period of match reduction for severe fiscal distress.* A 100% match reduction is effective for the fiscal year in which the severe fiscal distress determination is published and for the following fiscal year.

(4) *Period of match reduction for fiscal distress.* A 50% match reduction is effective for the fiscal year in which the fiscal distress determination is published and for the following fiscal year, except that if a severe fiscal distress determination is published in that following fiscal year, the participating jurisdiction starts a new two-year match reduction period in accordance with the provisions of paragraph (a)(3) of this section.

(b) *Reduction of match for participating jurisdictions in disaster areas.* If a participating jurisdiction is located in an area in which a declaration of major disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act is made, HUD may reduce the matching requirement specified in § 92.218 by up to 100 percent for the fiscal year in which the declaration of major disaster is made and the following fiscal year for a local participating jurisdiction, and for a State participating jurisdiction, by up to 100 percent for the fiscal year in which the declaration of major disaster is made and the following fiscal year with respect to any HOME funds expended in an area to which the declaration of major disaster applies. [Participating jurisdictions for which a declaration of major disaster was made in FY 1992 are permitted to request a match reduction for FY 1993 and FY 1994.] To request a reduction, a participating jurisdiction must submit to the local HUD Field Office a copy of the disaster declaration.

8. Section 92.255 would be revised to read as follows:

§ 92.255 Mixed-income project.

(a) Housing that accounts for less than 100 percent of the dwelling units in a project qualifies as affordable housing if the housing meets the criteria of § 92.252 or § 92.254. Each building in the project must contain housing that meets the requirements of § 92.252 or § 92.254. See § 92.219 for matching contribution requirements concerning mixed-income projects.

(b) For purposes of meeting affordable housing requirements for a project, the dwelling units counted as affordable housing may be changed over the affordability period, so long as the total number of affordable housing units remains the same, and the substituted units are, at a minimum, comparable in terms of size, features, and number of bedrooms to the originally designated affordable housing units.

[Approved by the Office of Management and Budget under OMB control number 2501–0013.]

9. In subpart F, a new § 92.259 would be added to read as follows:

§ 92.259 Elder cottage housing opportunity (ECHO) units.

(a) *General.* HOME funds may be used for the initial purchase and initial placement costs of elder cottage housing opportunity (ECHO) units that meet the requirements of this section, and that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings.

(b) *Eligible owners.* The owner of a HOME-assisted ECHO unit may be—

(1) The owner of the single-family host property on which the ECHO unit will be located;

(2) A participating jurisdiction; or

(3) A non-profit organization.

(c) *Eligible tenants.* During the affordability period, the tenant of a HOME-assisted ECHO unit must be an elderly, handicapped or disabled family as defined in part 812 of this title, and must also be a low income family.

(d) *Applicable requirements.* The requirements of § 92.252 of this part apply to HOME-assisted ECHO units, except as specified in this section, including the following requirements:

(1) Only one ECHO unit may be provided per host property.

(2) The ECHO unit owner may choose whether or not to charge the tenant of the ECHO unit for rent, but if a rent is charged, it must meet the requirements of § 92.252.

(3) The ECHO housing must remain affordable for the period specified in § 92.252(a)(5). If within the affordability period the original occupant no longer occupies the unit, the ECHO unit owner must:

(i) Rent the unit to another eligible occupant on site;

(ii) Move the ECHO unit to another site for occupancy by an eligible occupant; or

(iii) If the owner of the ECHO unit is the host property owner, in accordance with requirements established by the participating jurisdiction and determined by HUD to be appropriate, the participating jurisdiction may recapture the full HOME subsidy, or if the ECHO unit is sold and the net proceeds are less than the full amount of the HOME subsidy, recapture the net proceeds to be used for additional HOME activities.

(4) The participating jurisdiction has the responsibility to enforce the project requirements applicable to ECHO units.

10. In subpart M, under the undesignated center heading "Project Requirements," a new § 92.625 would be added to read as follows:

§ 92.625 Elder cottage housing opportunity (ECHO) units.

(a) *General.* HOME funds may be used for the initial purchase and initial placement costs of elder cottage housing opportunity (ECHO) units that meet the requirements of this section, and that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings.

(b) *Eligible owners.* The owner of a HOME-assisted ECHO unit may be—

(1) The owner of the single-family host property on which the ECHO unit will be located;

(2) An Indian tribe; or

(3) A non-profit organization.

(c) *Eligible tenants.* During the affordability period, the tenant of a HOME-assisted ECHO unit must be an elderly, handicapped or disabled family as defined in § 905.102 of this title, and must also be a low income family.

(d) *Applicable requirements.* The requirements of § 92.614 apply to HOME-assisted ECHO units, except as specified in this section, including the following requirements:

(1) Only one ECHO unit may be provided per host property.

(2) The ECHO unit owner may choose whether or not to charge the tenant of the ECHO unit for rent, but if a rent is charged, it must meet the requirements of § 92.614.

(3) The ECHO housing must remain affordable for the period specified in § 92.614(a)(5). If within the affordability period the original occupant no longer occupies the unit, the ECHO unit owner must:

(i) Rent the unit to another eligible occupant on site;

(ii) Move the ECHO unit to another site for occupancy by an eligible occupant; or

(iii) If the owner of the ECHO unit is the host property owner, in accordance with requirements established by the Indian tribe and determined by HUD to be appropriate, the Indian tribe may recapture the full HOME subsidy, or if ECHO unit is sold and the net proceeds are less than the full amount of the HOME subsidy, recapture the net proceeds for additional HOME activities.

(4) The Indian tribe has the responsibility to enforce the project requirements applicable to ECHO units.

Dated: March 5, 1993.

Henry G. Cisneros,

Secretary.

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H.R. 1335/P.L. 103-24

Making emergency supplemental appropriations for the fiscal year ending September 30, 1993, and for other purposes. (Apr. 23, 1993; 107 Stat. 67; 1 page)

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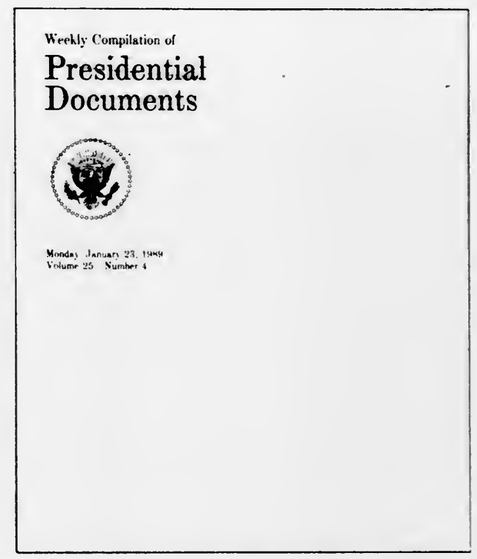

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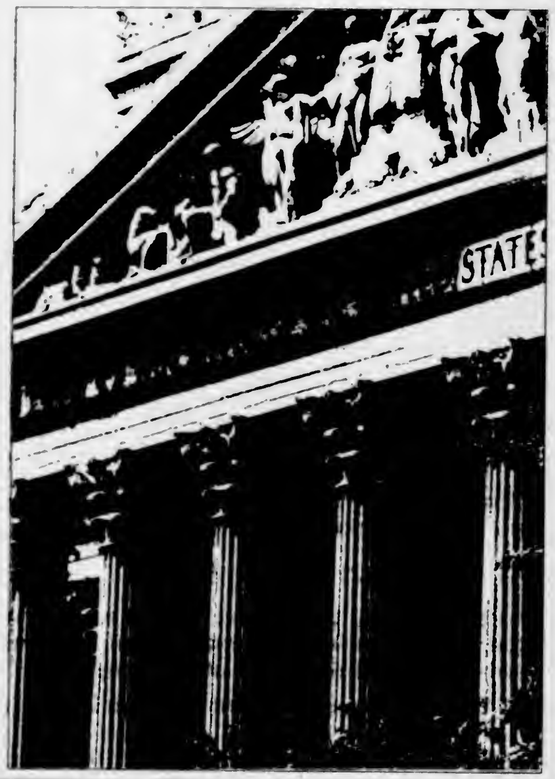

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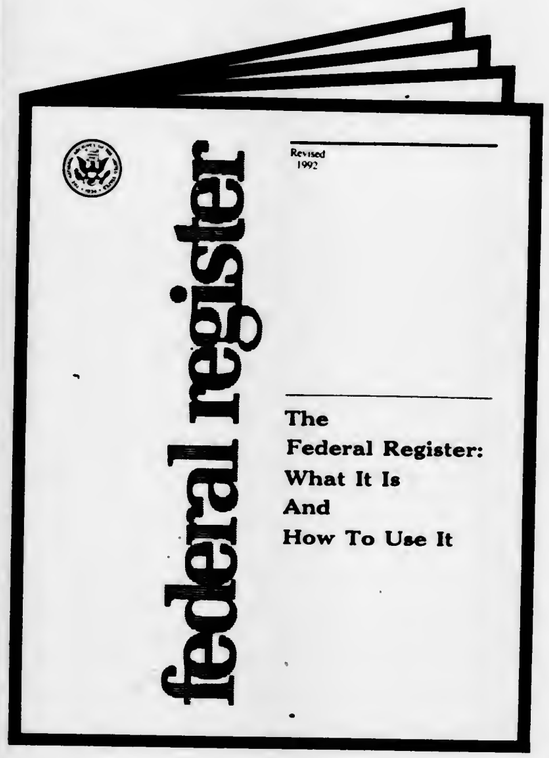

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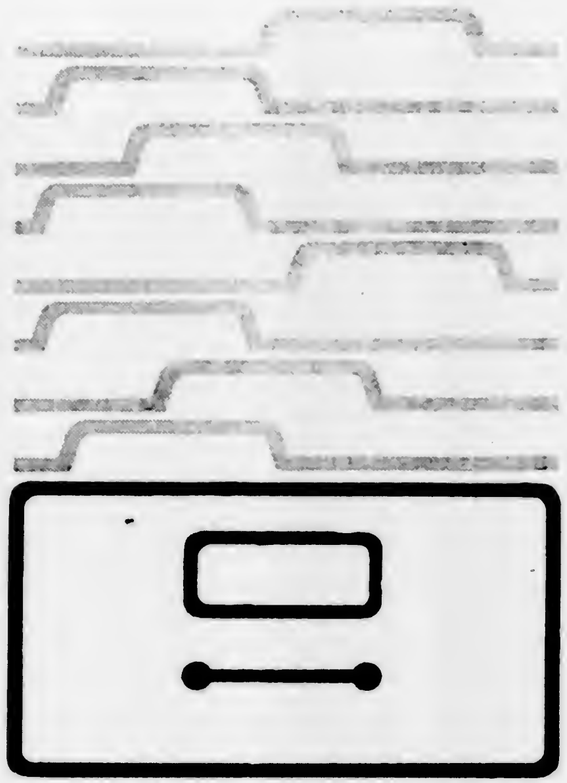

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Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of Clinton Administration officials is availabie on 202–275–1538 or 275–0920.

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Rules and Regulations

Federal Register
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Friday, April 30, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–ASW–47; Amendment 39–8515; AD 93–05–11]

Airworthiness Directives; Schweizer Aircraft Corp. and Hughes Helicopters, Inc. Model 269A, 269A–1, 269B and 269C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A helicopters with fuel injected engines, all Model 269A–1 and 269B helicopters, and certain Model 269C helicopters. This action requires an inspection of the engine-driven fuel pump drain tube assembly (tub assembly) for correct length, security of attachment, and clearance from the engine throttle control linkage. This amendment is prompted by an incident in which the engine throttle travel was restricted due to tub assembly interference. The actions specified in this AD are intended to prevent a restriction to the movement of the engine throttle control linkage that could result in a loss of control of engine power and a forced landing of the helicopter.

DATES: Effective May 25, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 25, 1993

Comments for inclusion in the Rules Docket must be received on or before June 14, 1993

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–ASW–47, 4400 Blue Mound Road, Fort Worth, Texas 76106.

The service information referenced in this AD may be obtained from: Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 4400 Blue Mound Road, Bldg. 3B, room 158, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Reinhardt, Aerospace Engineer, FAA, New York Aircraft Certification Office, Propulsion Branch, ANE–174, New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581; telephone (516) 791–7421, fax (516) 791–9024.

SUPPLEMENTARY INFORMATION: Schweizer Aircraft Corporation (Schweizer) recently notified the FAA that an unsafe condition may exist on the Model 269A series helicopters with fuel injected engines; all Model 269A–1 and 269B helicopters; and Model 269C helicopters, with serial numbers (S/N) 0004 through 1480 and 1482 through 1486, equipped with an engine-driven fuel pump drain tube assembly (tube assembly), part number (P/N) 269A8326–95. Field reports indicate that it is possible for the tube assembly, which is not clamped or supported, to move out of position and contact and restrict movement of the throttle control linkage. One in-flight occurrence has been reported. This condition, if not corrected, could result in restriction of the throttle control linkage, which could result in a loss of control of engine power and a forced landing of the helicopter.

The FAA has reviewed and approved Schweizer Service Bulletin B–235.1, dated March 20, 1992, that describes procedures for a one-time inspection of the tube assembly for proper length, a daily check after initial inspection of the tube assembly, and instructions for installing a new longer tube assembly, P/N 269A8326–235, supported with a clamp, P/N MS21333–98, if the present tube length is less than 7.50 inches. It also provides instructions for tightening a loose unclamped tube assembly to ensure the tube assembly is not interfering with the throttle control linkage.

Since an unsafe condition has been identified that is likely to exist or develop on other Schweizer and Hughes Helicopters, Inc. Model 269 helicopters of the same type design, this AD is being issued to prevent a restriction to the movement of the engine throttle control linkage that could result in a loss of control of engine power and a forced landing of the helicopter. This AD requires inspection of all Model 269 series helicopters equipped with an unclamped tube assembly, P/N 269A8326–95, to ensure the tube assembly is the proper length and is not restricting operation of the engine throttle control linkage. The AD also requires replacement of the unclamped tube assembly with a longer clamped tube assembly within 6 months after the effective date of this AD The actions are required to be accomplished in accordance with the service bulletin described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic,

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environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this final rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-ASW-47." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

AD 93-05-11 Schweizer Aircraft Corporation and Hughes Helicopters, Inc.: Amendment 39-8515. Docket No. 92-ASW-47.

Applicability: Model 269A helicopters with fuel injected engines; all Model 269A-1 and 269B helicopters; and Model 269C helicopters, serial numbers (S/N) 0004 through 1480 and 1482 through 1486; equipped with an engine-driven fuel pump drain tube assembly (tube assembly), part number (P/N) 269A8326-95, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent a restriction to the movement of the engine throttle control linkage that could result in loss of control of engine power due to tube assembly interference, accomplish the following:

(a) Within 5 hours time in service after the effective date of this AD, perform a one-time inspection of the length of the tube assembly, P/N 269A8326-95, in accordance with Part I of Schweizer Aircraft Corporation (Schweizer) Service Bulletin B-235.1, dated March 20, 1992 (SSB). If the tube assemble length is less than 7.50 inches, before next flight, install tube assembly, P/N 269A8326-235, with a clamp, P/N MS21333-98, in accordance with Part III of the SSB.

(b) Within 5 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 25 hours time in service from the last check, check the tube assembly, P/N 269A8326-95, for security and clearance from the throttle linkage as follows:

(1) Move the throttle linkage from fully open to fully closed and verify that the tube assembly is not loose and does not interfere with movement of the throttle linkage.

(2) If the tube assembly interferes with movement of the throttle linkage, before next flight—

(i) Install tube assembly, P/N 269A8326-235, with a clamp, P/N MS21333-98, in accordance with Part III of the SSB; or

(ii) Secure tube assembly, P/N 269A8326-95, in accordance with Part II b of the SSB and conduct repetitive checks as prescribed by this paragraph.

(3) After the initial check, the repetitive check contained in this paragraph may be performed by the pilot and must be recorded in accordance with FAR 43.9.

(c) Within 6 months after the effective date of this AD, replace the tube assembly, P/N 269A8326-95, with an improved tube assembly, P/N 269A8326-235, and clamp, P/N MS21333-98, in accordance with Part III of the SSB.

(d) Installation of the improved tube assembly, P/N 269A8326-235, and clamp, P/N MS21333-98, constitutes terminating action for the requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, New York Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, New York Aircraft Certification Office.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(g) The inspections and modifications shall be done in accordance with Schweizer Service Bulletin B-235.1, dated March 20, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 4400 Blue Mound Road, Bldg. 3B, room 158, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective May 25, 1993.

Issued in Fort Worth, Texas, on March 11, 1993.

Henry A. Armstrong,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 93-10117 Filed 4-29-93; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 92-ANE-56; Amendment 39-8487; AD 93-02-05]

Airworthiness Directives; Textron Lycoming Fuel Injected Reciprocating Opposed Piston Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Textron Lycoming fuel injected reciprocating opposed piston engines. This action requires inspection, and replacement, if necessary, of the fuel injector fuel lines. This amendment is prompted by reports of failures of fuel injector fuel lines that are missing support clamps. The actions specified in this AD are intended to prevent failure of the fuel injector fuel lines allowing fuel to spray into the engine compartment, resulting in an engine fire.

DATES: Effective June 14, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 14, 1993.

Comments for inclusion in the Rules Docket must be received on or before June 29, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-ANE-56, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

The service information referenced in this AD may be obtained from Textron Lycoming, Reciprocating Engine Division, 652 Oliver Street, Williamsport, Pennsylvania 17701. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Nick Minniti, Aerospace Engineer, New York Aircraft Certification Office, ANE-170, FAA, New England Region, 181 South Franklin Street, Valley Stream, New York 11581; telephone 516-791-7421; fax 516-791-9024.

SUPPLEMENTARY INFORMATION: The FAA has received reports of two fatal accidents caused by the failure of fuel injector fuel lines that are routed between the fuel manifold and the injector nozzles on Textron Lycoming TIO-540-S1AD fuel injected reciprocating opposed piston engines.

Investigation of these accidents revealed that the failed fuel injector fuel lines did not have the required support clamps.

On June 5, 1992, the FAA issued priority letter AD 92-12-10, applicable only to Textron Lycoming Model TIO-540-S1AD engines, which requires inspection, and replacement, if necessary, of the fuel injector fuel lines. Since issuance of that priority letter, the FAA has determined that a similar fuel injector fuel line configuration exists on other Textron Lycoming fuel injected engines. Fuel injector fuel line failures, however, have occurred at a lower rate on these other engines. This condition, if not corrected, can result in failure of the fuel injector fuel lines allowing fuel to spray into the engine compartment, resulting in an engine fire.

The FAA has reviewed and approved the technical contents of Textron Lycoming Service Bulletin (SB) No. 342A, dated May 26, 1992, that describes procedures for inspection, and replacement, if necessary, of the fuel injector fuel lines.

Since an unsafe condition has been identified that is likely to exist or develop on other Textron Lycoming engines of the same type design, this AD is being issued to prevent failure of the fuel injector fuel lines allowing fuel to spray into the engine compartment, resulting in an engine fire. This AD requires inspection of the fuel injector fuel lines for missing or damaged clamps. This AD also requires replacement of fuel injector fuel lines that show evidence of visual damage or fuel leakage, or where the supporting clamp is missing or has a loose, worn, or missing support sleeve or cushion. The actions are required to be accomplished in accordance with the service bulletin described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-ANE-56." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423, 49 U.S.C. 106(g); and 14 CFR 11.89.

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§ 39.13 [AMENDED]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-02-05 Textron Lycoming: Amendment 39-8487. Docket 92-ANE-56.

Applicability: Textron Lycoming reciprocating opposed piston engines incorporating fuel injection lines as listed in Textron Lycoming Service Bulletin No. (SB) 342A, dated May 29, 1992, except for Model TIO-540-S1AD engines. Affected engine models are installed on but not limited to Piper PA-24 Comanche, PA-30 and PA-39 Twin Comanche, PA-28 Arrow, and PA-23 Aztec; Beech 60 Duke and 23 Musketeer; Mooney M20; and Cessna 177 Cardinal aircraft.

Note: Engines with an "I" in the prefix of the model designation incorporate fuel injection.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the fuel injector fuel lines allowing fuel to spray into the engine compartment, resulting in an engine fire, accomplish the following:

(a) Within 25 hours time in service after the effective date of this AD, inspect the fuel injector fuel lines between the fuel manifold and the fuel injector nozzles in accordance with Textron Lycoming Service Bulletin No. 342A, dated May 26, 1992.

(b) Prior to further flight, replace any fuel injector fuel line that does not meet all the return to service conditions specified in Textron Lycoming SB No. 342A, dated May 26, 1992.

(c) Thereafter, at each annual inspection, at each 100-hour inspection, at each engine overhaul, and after any maintenance has been performed on the engine where the fuel injector fuel lines have been disconnected, moved, or loosened, reinspect the fuel injector fuel lines in accordance with Textron Lycoming SB No. 342A, dated May 26, 1992, and replace as necessary any fuel injector fuel line that does not meet all the return to service conditions specified in that SB.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the New York Aircraft Certification Office.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The inspection, and replacement, if necessary of the fuel injector fuel lines shall be done in accordance with the following service document:

Document No.	Pages	Date
Textron Lycoming SB No. 342A. Total pages: 31	1-31	May 26, 1992.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Textron Lycoming Reciprocating Engine Division, 652 Oliver Street, Williamsport, Pennsylvania 17701. Copies may be inspected at the FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on June 14, 1993.

Issued in Burlington, Massachusetts, on February 24, 1993.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93-10114 Filed 4-29-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 92-NM-219-AD; Amdt. 39-8558; AD 93-08-11]

Airworthiness Directives; Dassault Aviation Model Mystere-Falcon 900 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dassault Aviation Model Mystere-Falcon 900 series airplanes, that requires modification of the upper part of frame 30 in the stiffener area between stringers 7 and 8. This amendment is prompted by the results of fatigue tests, which revealed cracking in the upper part of frame 30. The actions specified by this AD are intended to prevent fatigue cracking, which could lead to reduced structural integrity of the fuselage.

DATES: Effective June 1, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 1, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Falcon Jet Corporation, Customer Support Department, Teterboro Airport, Teterboro, New Jersey 07608. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Greg Holt, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2140; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Dassault Aviation Model Mystere-Falcon 900 series airplanes was published in the **Federal Register** on February 2, 1993 (58 FR 6742). That action proposed to require modification of the upper part of frame 30 in the stiffener area between stringers 7 and 8.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule. After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 7 airplanes of U.S. registry will be affected by this AD, that it will take approximately 29 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $11,165, or $1,595 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), and (3) will not have a significant economic impact, positive or negative, on a

substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-08-11 Dassault Aviation: Amendment 39-8558. Docket 92-NM-219-AD.

Applicability: Model Mystere-Falcon 900 series airplanes; serial numbers 1 through 14, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the fuselage, accomplish the following:

(a) For airplanes having serial number 1: Prior to the accumulation of 3,750 total landings, or within 6 months after the effective date of this AD, whichever occurs later, modify the upper part of frame 30 in the stiffener area between stringers 7 and 8, in accordance with Dassault Aviation F900-93 Service Bulletin F900-53-14 and Appendix 1 to that service bulletin, both dated July 8, 1992.

(b) For airplanes having serial numbers 2 through 14, inclusive: Modify the upper part of frame 30 in the stiffener area between stringers 7 and 8, in accordance with Dassault Aviation F900-93 Service Bulletin F900-53-14 and Appendix 1 to that service bulletin, both dated July 8, 1992; and at the later of the times specified in paragraphs (b)(1) and (b)(2) of this AD.

(1) Prior to the accumulation of 3,750 total landings, or within 6 years since date of manufacture, whichever occurs first.

(2) Within 6 months after the effective date of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The modification shall be done in accordance with Dassault Aviation F900-93 Service Bulletin F900-53-14 and Appendix 1 to that service bulletin, both dated July 8, 1992. (**Note:** Appendix 1 contains pages 101 through 109.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Falcon Jet Corporation, Customer Support Department, Teterboro Airport, Teterboro, New Jersey 07608. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 1, 1993.

Issued in Renton, Washington, on April 20, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-10113 Filed 4-29-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 92-NM-178-AD; Amdt. 39-8539; AD 93-07-07]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, that requires an inspection of the auxiliary power unit (APU) fuel supply tube assembly to determine minimum clearance between the tube and the adjacent airplane structure, and replacement of the assembly, if necessary. This amendment is prompted by a report that the currently installed APU fuel supply tube shroud is positioned such that it can come in contact with the airplane structure. The actions specified by this AD are intended to prevent chafing in the area of the shroud and subsequent leaking from the fuel line couplings and the shroud, which could result in a fire within the rear fuselage area.

DATES: Effective June 1, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 1, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Dulin, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2141; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes was published in the **Federal Register** on October 21, 1992 (57 FR 48003). That action proposed to require an inspection of the auxiliary power unit (APU) fuel supply tube assembly to determine minimum clearance between the tube and the adjacent airplane structure, and replacement of the assembly, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the rule as proposed.

One commenter requests that the compliance time for replacement of the APU fuel supply tube assembly, as would be required by paragraph (a)(1) of the proposal, be revised from the proposed compliance time of prior to further flight. The commenter suggests the following schedule: replacement within three months, if the shroud is not chafed through, but is touching the structure; and replacement within six months, if the shroud is not touching structure, but is within 3 mm of the structure. The commenter states that such scheduling is consistent with Fokker Service Bulletin SBF100-28-022, Revision 1, dated June 22, 1992,

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and would allow replacement to be accomplished at a scheduled maintenance hold independent of the initial inspection. The commenter contends that replacement of an undamaged APU fuel supply tube assembly, prior to further flight, would result in unnecessary grounding of an inspected, airworthy airplane.

The FAA concurs in part with the commenter's request. Although Revision 1 of the referenced Fokker service bulletin, as well as Issue 2 of the related Netherlands Airworthiness Directive (BLA) 92–015 (dated June 26, 1992), provided selective extensions to the compliance schedule identical to those suggested by the commenter, the revised compliance schedule was predicated on a reported lack of available replacement units at the time those documents were released. However, the FAA has recently been advised that an ample number of replacement units will be available for modification of the U.S. fleet within the proposed compliance period. Notwithstanding the fact that parts are available, the FAA concurs with the commenter that an APU fuel supply tube assembly that is not chafed or touching adjacent structure should not be required to be replaced prior to further flight. The FAA has determined that, for these conditions, an extension of the compliance time for replacing the APU fuel supply tube assembly will not adversely impact safety. Paragraph (a) of the final rule has been revised to allow such replacement within three months after the inspection, provided that the APU fuel supply tube assembly is not chafed or touching adjacent structure.

One commenter requests that the proposal be revised to allow rework of the adjacent web plate as an option to the proposed replacement of the APU fuel tube assembly. Rework would involve trimming the web and the existing doubler such that a minimum of 2 diameters edge distance to all surrounding fasteners is maintained and the specified minimum clearance between the APU fuel tube assembly and airplane structure is gained. The commenter contends that such rework would provide an equivalent level of safety, and would be less costly to accomplish. The FAA cannot concur with the commenter's request, since sufficient data have not been submitted to substantiate that rework of the adjacent web plate would not affect the structural integrity of the airplane. However, the FAA may approve such rework as an alternative method of compliance, under the provisions of paragraph (b) of the final rule, if sufficient justification is presented to the FAA.

One commenter requests that the economic analysis information in the preamble to the proposal be revised to indicate that 8 work hours per airplane are required to accomplish the proposed actions, in lieu of 1 work hour as cited in the proposal. The commenter contends that it would take approximately 8 work hours to accomplish the replacement of the APU fuel tube assembly. The FAA does not concur with the commenter's request. The economic impact information is an estimate of the cost of actions actually required by the rule; it typically does not include the costs of "on condition" actions, i.e., "replacement, if necessary." In this case, the inspection, which takes 1 work hour to accomplish, is the required action; replacement of the APU fuel supply tube assembly is an "on condition" action, which only would be required if clearance between the tube assembly and aircraft structure is less than the specified limits. Such replacement would be required, regardless of AD action, in order to correct an unsafe condition identified in an airplane and to ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 28 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,540, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93–07–07 Fokker: Amendment 39–8539. Docket 92–NM–178–AD.

Applicability: Model F28 Mark 0100 series airplanes; serial numbers 11244 through 11339, inclusive, and 11341 through 11351, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leakage in the rear fuselage, accomplish the following:

(a) Within 6 months after the effective date of this AD, conduct an inspection of the auxiliary power unit (APU) fuel supply tube assembly to determine minimum clearance between the tube assembly and the aircraft structure, in accordance with Fokker Service Bulletin SBF100–28–022, dated December 13, 1991.

(1) If the APU fuel supply tube assembly is chafed or if it touches the aircraft structure, prior to further flight, replace the APU fuel supply tube assembly with a new assembly, in accordance with the service bulletin.

(2) If the clearance is less than 3 mm at any point, but the APU fuel supply tube assembly is not chafed and does not touch the aircraft structure: Within 3 months after accomplishing the inspection, replace the APU fuel supply tube assembly with a new assembly, in accordance with the service bulletin.

(3) If the clearance is 3 mm or more at all points, no further action is necessary.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspection and replacement shall be done in accordance with Fokker Service Bulletin SBF100–28–022, dated December 13, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on June 1, 1993.

Issued in Renton, Washington, on April 12, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–10115 Filed 4–29–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 92–NM–171–AD; Amendment 39–8546; AD 93–07–14]

Airworthiness Directives; McDonnell Douglas Model DC–9–30, –40, and –50 Series Airplanes; and C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–30, –40, and –50 series airplanes; and C–9 (military) airplanes, that requires a one-time inspection of the main landing gear (MLG) wheel spacer retainer assemblies for correct hardness of the wheel spacer retainer assemblies and proper installation of the anti-rotation pin, and replacement of the wheel spacer retainer assembly, if necessary. This amendment is prompted by reports of failures of MLG wheel spacer retainer assemblies. The actions specified by this AD are intended to prevent MLG wheel assembly separation during wheel rotation.

DATES: Effective June 1, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 1, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–1771, Attention: Business Unit Manager, Technical Publications, C1–HDR (54–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office (ACO), 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Gfrerer, Aerospace Engineer, Los Angeles Aircraft Certification Office, Mechanical/Environmental & Crashworthiness Section, ANM–131L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5338; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–30, –40, and –50 series airplanes; and C–9 (military) airplanes was published in the Federal Register on October 19, 1992 (57 FR 47580). That action proposed to require a one-time inspection of the main landing gear (MLG) wheel spacer retainer assemblies for correct hardness of the wheel spacer retainer assemblies and proper installation of the anti-rotation pin, and replacement of the wheel spacer retainer assembly, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Several commenters support the rule as proposed.

Several commenters request that paragraph (a) of the proposal be revised to require inspection of spare MLG wheel spacer retainer assemblies as well as inspection of those assemblies currently-installed on the affected airplanes. The commenters state that by not addressing spares, the proposed inspection will be a continuous action and not a "one-time inspection" as indicated by paragraph (a). Since the assemblies are a replaceable unit, operators will have to continually inspect the assembly to ensure compliance with this AD. The FAA does not concur with the commenters' request to require inspection of spares. Part 39 ("Airworthiness Directives") of the Federal Aviation Regulations specifies that AD's are rules applicable only to aircraft, aircraft engines, propellers, and appliances; Part 39 makes no specific provisions for "spares" or parts not installed on aircraft. Although the FAA cannot require, by AD action, that operators inspect spares, operators are free to do so voluntarily. Additionally, the intent of paragraph (b) of the proposal is to ensure that no assembly is installed on an airplane unless the assembly first has been inspected in accordance with this AD; this requirement, in effect, addresses spare parts that eventually may be installed on an airplane. In order to clarify this specific requirement, the FAA has revised paragraph (b) of the final rule to require that any wheel spacer retainer assembly (which currently may be stocked as a "spare") must have been permanently marked with the marking "S/B 32–228" prior to its installation on an airplane; such marking indicates that the assembly has successfully passed a hardness test.

One commenter requests that the proposed inspection of the MLG wheel spacer retainer assemblies be limited to those series airplanes listed in the effectivity listing of McDonnell Douglas Service Bulletin 32–228, Revision 1, dated October 8, 1989. The commenter notes that wheel spacer retainer assemblies installed on Model DC–9–10 and –30 series airplanes are physically different and are manufactured from steel; therefore, these assemblies are not subject to the addressed unsafe condition. The FAA concurs, but notes that the applicability statement of this AD action does reference the service bulletin for a listing of affected airplanes. Neither the service bulletin nor the AD refer to Model DC–9–10 series airplanes as susceptible to the addressed unsafe condition. As for the Model DC–9–30, the FAA has determined that, based on a review of the type certificated design data, certain of these airplanes are equipped with

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MLG wheel spacer retainer assembly, part number 3925768–501, and that this part is not constructed of steel. Therefore, the FAA has determined that these Model DC–9–30 series airplanes are susceptible to the addressed unsafe condition. The effectivity listing of the service bulletin does include these Model DC–9–30 series airplanes and, therefore, this AD is applicable to them as well.

Two commenters note that the manufacturer uses inconsistent language in its service bulletin when referring to the wheel gear assembly. The commenters state that McDonnell Douglas Service Bulletin 32–228, Revision 1, dated October 6, 1989, is somewhat ambiguous because it alternatively refers to the subject part (part number 3925768–501) as a "spacer retainer assembly", "spacer", "retainer", or "retainer assembly." The commenters further state that this inconsistent terminology could cause confusion for operators because the axle nut installed on Model DC–9–30 series airplanes is also referred to as the retainer. The FAA acknowledges that the manufacturer's service bulletin refers to the subject part using a variety of terms. The FAA considers that the correct term for part number 3925768–501 is "wheel spacer retainer assembly." Therefore, in order to be clear and consistent, the FAA refers to this part throughout the final rule as "wheel spacer retainer assembly."

Several commenters request that paragraph (a)(1) of the proposal be revised to include specific part marking procedures. The commenters note that penetration-type marking of structural parts generally requires engineering evaluation in order to determine the marking location and the marking method; this will minimize detrimental "stress concentration" effects. The FAA concurs with the commenters' request to provide more specific part marking procedures. The FAA has determined that the proposed stamping procedure may cause potential stress concentration effects; however, the wheel spacer retainer assembly installed on Model DC–9 series airplanes is only minimally stressed in the area around the anti-rotation hole. The best area to permanently mark the wheel spacer retainer assembly would be on the outside diameter at least 2 inches from the anti-rotation hole. The FAA acknowledges acceptable alternative ways to permanently mark the wheel spacer retainer assembly, such as electro-chemical etch. Paragraph (a)(1) of the final rule has been revised to allow for an alternative method of marking and also to suggest a more precise location of the marking.

The FAA notes that throughout the notice, McDonnell Douglas Model C–9 (military) airplanes are incorrectly referred to as "series airplanes." On their type certification data sheet, these airplanes are designated only as "C–9 (military) airplanes;" there are no "series" of this model. Therefore, all references to the Model C–9 airplanes in the final rule have been changed to be congruent with the type certification data sheet.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 236 McDonnell Douglas Model DC–9–30, –40, and –50 series airplanes, and C–9 (military) airplanes, of the affected design in the worldwide fleet. The FAA estimates that 114 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $6,270, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93–07–14 McDonnell Douglas: Amendment 39–8546. Docket 92–NM–171–AD.

Applicability: Model DC–9–33F, –34, –34F, –41, and –51 series airplanes, and C–9 (military) airplanes; as listed in McDonnell Douglas DC–9 Service Bulletin 32–228, Revision 1, dated October 6, 1989; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent main landing gear wheel assembly separation during wheel rotation, accomplish the following:

(a) Within 2,000 landings or 18 months after the effective date of this AD, whichever occurs first: Conduct a one-time inspection of the main landing gear (MLG) wheel spacer retainer assemblies for correct hardness of the wheel spacer retainer assemblies and proper installation of the anti-rotation pin, in accordance with McDonnell Douglas DC–9 Service Bulletin 32–228, Revision 1, dated October 6, 1989.

(1) If hardness of the wheel spacer retainer assembly is within limits specified in the service bulletin, and the anti-rotation pin is properly installed, as described in the service bulletin, prior to further flight, permanently mark the wheel spacer retainer assembly with the marking "S/B 32–228."

Note: Operators may use any marking procedure that does not create significant stress concentration effects. Acceptable methods include stamping or electro-chemical etch. An appropriate area to mark is the outside diameter of the wheel spacer retainer assembly, at least 2 inches away from the anti-rotation pin.

(2) If hardness of the wheel spacer retainer assembly is not within limits specified in the service bulletin or the anti-rotation pin is not properly installed, as described in the service bulletin, prior to further flight, replace the wheel spacer retainer assembly, in accordance with McDonnell Douglas DC–9 Service Bulletin 32–228, Revision 1, dated October 6, 1989. After accomplishing this replacement, permanently mark the wheel spacer retainer assembly with the marking "S/B 32–228."

(b) As of the effective date of this AD, only wheel spacer retainer assemblies marked "SB 32–228" may be installed on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspection and replacement shall be done in accordance with McDonnell Douglas DC–9 Service Bulletin 32–228, Revision 1, dated October 6, 1989. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–1771, Attention: Business Unit Manager, Technical Publications, C1–HDR (54–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office (ACO), 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 1, 1993.

Issued in Renton, Washington, on April 13, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–10116 Filed 4–29–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 92–NM–129–AD; Amendment 39–8541; AD 93–07–09]

Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes and KC–10A (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes, that requires inspections to detect fatigue cracking in the area of the fuselage station Y=595.000 pressure bulkhead and repair of cracked webs. This amendment is prompted by reports of cracking found in the web and tee cap of the fuselage station Y=595.000 pressure bulkhead (a portion of the fuselage structure identified as a Principal Structural Element (PSE)). The actions specified by this AD are intended to prevent failure of the fuselage station Y=595.000 pressure bulkhead, which could reduce the structural integrity of the airplane.

DATES: Effective June 1, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 1, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–1771, Attention: Business Unit Manager, Technical Publications—Technical Administrative Support, C1–L5B. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office (ACO), 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–121L, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5238; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10 series airplanes was published in the **Federal Register** on August 27, 1992 (57 FR 38799). That action proposed to require inspections to detect fatigue cracking in the area of the pressure bulkhead at fuselage station Y=595.000, and repair of cracked webs.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters support the proposed rule.

The Air Transport Association (ATA) of America, on behalf of one of its members, requests that the FAA review the need to proceed with this AD rulemaking, since the McDonnell Douglas Report Number L26–012, "DC–10 Supplemental Inspection Document (SID)" AD [reference AD 92–02–08, Amendment 39–8144, (57 FR 3931, February 3, 1992)], already provides sufficient inspection and repair requirements for the fuselage station Y=595.000 pressure bulkhead. One member notes that, since implementation of the SID program, only two cracks and no corrosion has been detected in this principal structural element (PSE). The FAA does not concur. AD 92–02–08 requires inspection of the fuselage station Y=595.000 pressure bulkhead, designated as PSE numbers 53.10.037 and 53.10.038, only on a sampling basis. The inspections of this PSE, as required by AD 92–02–08, are conducted under the "fleet leader operator sampling (FLOS)" criteria, with a fatigue life threshold (N_{th}) of 34,849 landings. Upon finding of a fatigue crack in a FLOS PSE, inspection of the entire fleet is required to ensure that all cracking is detected. Therefore, inspection requirements beyond those mandated by AD 92–02–08 are required by this AD to ensure that fatigue cracking in this PSE is detected before it reaches a critical length. Six instances of cracking in the area of this PSE have occurred on airplanes having accumulated between 16,549 and 23,315 total landings. The FAA has determined that inspections of this area after the accumulation of 10,000 total landings will ensure that fatigue cracking is detected before it reaches a critical length.

In the event that a final rule is issued, ATA, on behalf of one of its members, requests clarification that this AD "supersedes" the SID program requirements of AD 92–02–08; and requests removal or modification of the SID program to reflect the provisions of this AD. The FAA concurs that clarification is necessary. This AD does not supersede AD 92–02–08. However, accomplishment of the inspection and repair requirements of this AD satisfy the requirements of AD 92–02–08 for PSE numbers 53.10.037 and 53.10.038. Since the FAA does not intend to have dual inspection and repair requirements, paragraph (b) has been added to the final rule to clarify that compliance with the inspection and repair requirements of this AD satisfy the inspection and repair requirements of AD 92–02–08 for this PSE.

ATA, on behalf of two of its members, also requests extension of the compliance time for the initial inspection from the proposed 6 months

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to 24 months after the effective date of this AD, in the event a final rule is issued. Such an extension would preclude special scheduling at considerable expense. One member requests removal of the proposed 6 month compliance time altogether, since corrosion has not been found during any of the inspections; therefore, this is not a calendar related problem. Another member requests an increase in the compliance time for the initial inspection from the proposed 6 months to 18 months, in order to accomplish the first inspection during scheduled heavy maintenance visits, and avoid disruption of passenger flights. The FAA partially concurs. Upon consideration of the information provided by the commenters, the FAA acknowledges that the proposed compliance time for the initial inspection may place an undue burden on affected operators.

Additionally, since the phenomenon of crack initiation and growth in this area is cycle-dependent, rather than time-dependent, an inspection threshold based upon operating cycles is more appropriate than an inspection threshold based upon calendar time. The FAA has determined that a compliance time of 1,000 landings will allow the majority of affected operators sufficient time to schedule and accomplish the initial inspection during regularly scheduled maintenance. Based on the average utilization rate of these airplanes in the U.S. fleet, this compliance time of 1,000 landings will provide a slightly longer interval prior to initial compliance with the rule than would the previously proposed compliance time of 6 months; however, the FAA has determined this extended interval will have no significant adverse impact on safety. Paragraph (a) of the final rule has been revised accordingly.

One commenter implies that Model DC–10–30 and –40 series airplanes should be deleted from the applicability statement of the final rule, since cracks have not been reported on these airplanes. The FAA does not concur. Since the fuselage station Y=595.000 pressure bulkhead design on all Model DC–10 series airplanes is similar in design, all Model DC–10 series airplanes are susceptible to cracking in this area. Therefore, the FAA has determined that the applicability statement, as proposed, is appropriate.

Two commenters note that several U.S.-registered airplanes have already been inspected in accordance with McDonnell Douglas Alert Service Bulletin A53–158, dated May 29, 1992. One commenter notes that 16 of its airplanes have been inspected. The other commenter notes that 11 of its airplanes have been inspected. The FAA has taken this updated information into consideration and has revised the economic analysis information below, accordingly.

Since issuance of the proposal, the FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin A53–158, Revision 1, dated January 22, 1993, that describes procedures for inspections to detect fatigue cracking in the area of the fuselage station Y=595.000 pressure bulkhead and repair of cracked webs. This service bulletin is essentially identical to the original issue, but recommends a compliance time for the initial inspection of 1,000 landings, rather than 6 months, as was cited in the original issue. Paragraphs (a), (a)(1), and (a)(2) of the final rule have been revised to include the revised service bulletin as an additional source of service information.

The applicability statement of the final rule has been revised to clarify that the affected Model DC–10 series airplanes include all derivatives of the Model DC–10 series, including freighter and military configurations.

The economic impact information, below, has been revised to specify that the current number of affected U.S.-registered airplanes is 269. (The economic information in the preamble to the notice indicated that, at that time, the number of affected U.S.-registered airplanes was 231.) This information was provided recently to the FAA by the manufacturer, based on the most current data available.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 426 McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 269 airplanes of U.S.-registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the inspection, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $59,180, or $220 per airplane.

The FAA has been advised that 27 U.S.-registered airplanes have been inspected in accordance with the requirements of this AD. Therefore, the future economic cost impact of this rule on U.S. operators is now only $53,240.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93–07–09 McDonnell Douglas: Amendment 39–8541. Docket 92–NM–129–AD.

Applicability: All Model DC–10–10, –10F, –15, –30, –30F, –40 and –40F series airplanes; and KC–10A (military) airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the fuselage station Y=595.000 pressure bulkhead, which could reduce the structural integrity of the airplane, accomplish the following:

(a) Unless accomplished within the last 4,350 landings prior to the effective date of this AD: Prior to the accumulation of 10,000 total landings, or within 1,000 landings after the effective date of this AD, whichever occurs later, conduct a visual and eddy current inspection of the fuselage station Y=595.000 pressure bulkhead web and conduct an eddy current inspection of the fuselage station Y=595.000 pressure bulkhead tee cap, PSE 53.10.037 (left side) and 53.10.038 (right side), in accordance with McDonnell Douglas Alert Service Bulletin A53–158, dated May 29, 1992, or Revision 1, dated January 22, 1993.

(1) If any crack is detected that is within the limits specified in either service bulletin, prior to further flight, repair the crack in accordance with that service bulletin. After repair, repeat the inspections at intervals not to exceed 4,350 landings, in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(2) If any crack is detected that exceeds the limits specified in either service bulletin, prior to further flight, repair the crack in accordance with a method approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate.

(3) If no cracking is detected, repeat the inspections at intervals not to exceed 4,350 landings.

Note: The McDonnell Douglas service bulletins specified in this paragraph include references to inspection procedures contained in McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," dated May 1990.

(b) Compliance with the inspection and repair requirements of paragraph (a) of this AD are considered to constitute compliance with the inspection, repair, and reporting requirements of paragraphs (b) and (c) of AD 92–02–08, Amendment 39–8144, for Principal Structural Element (PSE) numbers 53.10.037 and 53.10.038.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspections and repairs shall be done in accordance with McDonnell Douglas Alert Service Bulletin A53–158, dated May 29, 1992; or McDonnell Douglas Alert Service Bulletin A53–158, Revision 1, dated January 22, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–1771, Attention: Business Unit Manager, Technical Publications—Technical Administrative Support, C1–L5B. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles ACO, 3229 E. Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 1, 1993.

Issued in Renton, Washington, on April 12, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–10118 Filed 4–29–93; 8:45 am]

BILLING CODE 4910–13–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Parts 2200, 2201, 2203, 2205, and 2400

Change of Address and Phone Numbers

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule.

SUMMARY: On May 3, 1993, the Occupational Safety and Health Review Commission is moving to new offices. This document revises references to the Commission's address and phone number throughout its various regulations and rules of procedure to reflect the agency's relocation.

EFFECTIVE DATE: These amendments will take effect on May 3, 1993. All documents, filings, and other correspondence to be filed with the Commission on or after that date should be sent to the Commission's new address.

FOR FURTHER INFORMATION CONTACT: Earl R. Ohman, Jr., General Counsel, (202) 634–4015 or, as of May 3, 1993, (202) 606–5410.

SUPPLEMENTARY INFORMATION: On May 3, 1993 the Review Commission will be moving to a new location. This document amends the Commissions rules of procedure and other regulations to reflect its new address. The Commission's new address will be: Occupational Safety and Health Review Commission, One Lafayette Centre, 1120 20th St., NW., 9th Floor, Washington, DC 20036–3419.

List of Subjects

29 CFR Part 2200

Administrative practice and procedure, Hearing and appeal procedures.

29 CFR Part 2201

Freedom of information, Records.

29 CFR Part 2203

Sunshine Act, Information, Public meetings.

29 CFR Part 2205

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

29 CFR Part 2400

Privacy, Records.

For the reasons set forth in the preamble, title 29, chapter XX, parts 2200, 2201, 2203, 2205, and 2400 are amended as set forth below:

PART 2200—RULES OF PROCEDURE

1. The authority for part 2200 continues to read in part as follows:

Authority: 29 U.S.C. 661(g).

2. Part 2200 is amended as follows:

§ 2200.7 [Amended]

In 29 CFR 2200.7(g) remove the words "1825 K Street NW., Washington, DC 20006–1246" and add, in their place, the words "One Lafayette Centre, 1120–20th Street, NW., Suite 980, Washington, DC 20036–3419".

§ 2200.8 [Amended]

In 29 CFR 2200.8(b) remove the words "1825 K Street, NW., Suite 401, Washington, DC 20006" and add, in their place, the words, "One Lafayette Centre, 1120–20th Street NW., Suite 980, Washington, DC 20036–3419".

§§ 2200.57, 2200.96, and 2200.106 [Amended]

In 29 CFR part 2200 remove the words: "1825 K Street NW., Washington, D.C. 20006" and add, in their place, the words "One Lafayette Centre, 1120–20th Street NW., 9th Floor, Washington, DC 20036–3419" in the following places:

(a) Section 2200.57(a);
(b) Section 2200.96; and
(c) Section 2200.106.

PART 2201—REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

1. The authority for part 2201 continues to read as follows:

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Authority: 29 U.S.C. 661(g); 5 U.S.C. 552.

2. Part 2201 is amended as follows:

§ 2201.5 [Amended]

In 29 CFR 2201.5(a) remove the words "OSHRC, Public Information Specialist, 1825 K Street, NW., room 414, Washington, DC 20006–1246. Telephone 202–634–7943" and add, in their place, the words "OSHRC, Public Information Specialist, One Lafayette Centre, 1120–20th Street NW., room 900, Washington, DC 20036–3419. Telephone 202–606–5398."

PART 2203—REGULATIONS IMPLEMENTING THE GOVERNMENT IN SUNSHINE ACT

1. The authority for part 2203 continues to read as follows:

Authority: 29 U.S.C. 661(g); 5 U.S.C. 552b(d)(4); 5 U.S.C.b(3).

2. Part 2203 is amended as follows:

Section 2203.4 is amended by revising the first four sentences of paragraph (c) to read as follows:

§ 2203.4 Procedures applicable to regularly-scheduled meetings.

* * * * *

(c) *Announcements.* Regularly-scheduled meetings of the Commission will be held at 10 a.m. every Thursday, except for legal holidays, in the Hearing Room (Suite 965) of the Commission's national office at One Lafayette Centre, 1120–20th Street NW., Washington, DC 20036–3419. If a regularly-scheduled meeting is scheduled, public announcement of the time, date and place of the meeting will be made at the earliest practicable time by posting a notice in a prominent place at the Commission's national office. If a regularly-scheduled meeting is cancelled, a notice of cancellation will be posted in the same manner. Information about the subject of each regularly-scheduled meeting will be made available in the Office of the General Counsel, telephone number (202) 606–5410, at the earliest practicable time. * * *

* * * * *

§ 2203.7 [Amended]

In 29 CFR 2203.7(b) remove the words "Room 402–A, 1825 K Street, NW., Washington, DC 20006" and add, in their place, the words "Room 941, One Lafayette Centre, 1120–20th Street NW., Washington, DC 20036–3419".

PART 2205—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

1. The authority for part 2205 continues to read as follows:

Authority: 29 U.S.C. 794.

2. Part 2205 is amended as follows:

§ 2205.170 [Amended]

In 29 CFR 2205.170(c) remove the words "1825 K Street NW, Washington, DC 20006" and add, in their place, the words "One Lafayette Centre, 1120–20th Street NW., 9th Floor, Washington, DC 20036–3419".

PART 2400—REGULATIONS IMPLEMENTING THE PRIVACY ACT

1. The authority for part 2400 continues to read as follows:

Authority: 29 U.S.C. 552a(f); 5 U.S.C. 553.

2. Part 2400 is amended as follows:

§§ 2400.6, 2200.7 [Amended]

In 29 CFR part 2400 remove the words "1825 K Street NW., Washington, DC 20006" and add, in their place, the words "One Lafayette Centre, 1120–20th Street NW., 9th Floor, Washington, DC 20036–3419" in the following places:

(a) Section 2400.6(a)(1); and

(b) Section 2400.7(c)(1).

Dated: April 27, 1993.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 93–10208 Filed 4–29–93; 8:45 am]

BILLING CODE 7600–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD 91–032]

RIN 2115–AD79

Prince William Sound Automated Dependent Surveillance System; Equipment Carriage Requirement

AGENCY: Coast Guard, DOT.

ACTION: Final Rule: change of compliance date.

SUMMARY: On July 17, 1992, the Coast Guard published a final rule in the **Federal Register** (57 FR 31660). This final rule amended the Prince William Sound Vessel Traffic Service (VTS) regulations by incorporating the use of Automated Dependent Surveillance (ADS) using Differential Global Positioning System (DGPS). The regulation will require tank vessels of 20,000 DWT or more, transiting Prince William Sound (PWS), to carry operating Automated Dependent Surveillance Shipborne Equipment (ADSSE). The compliance date for this rule is August 1, 1993. As a result of delays in awarding the contract for the development and implementation of the ADS system, the Coast Guard has decided to delay this compliance date. The Coast Guard has determined that the ADS system will be completed and fully operational by mid 1994 and is amending the final rule to require compliance by July 1, 1994.

EFFECTIVE DATE: This regulation is effective April 30, 1993.

FOR FURTHER INFORMATION CONTACT: Irene Hoffman, Project Manager, Vessel Traffic Services Division. The telephone number is 202–267–6277.

SUPPLEMENTARY INFORMATION: Section 5004 of the Oil Pollution Act of 1990, (the Act), as codified in 33 U.S.C. 2374, directed the Coast Guard to acquire, install, and operate additional equipment, as necessary, to provide surveillance of tank vessels carrying oil from the Trans-Alaskan Pipeline through Prince William Sound.

While endeavoring to meet the requirements of the Act, the Coast Guard investigated various types of surveillance systems, including radar and dependent surveillance systems.

The Coast Guard determined an ADS system that uses DGPS will meet the Coast Guard's requirements without being cost prohibitive to the Government and the user. The shipboard portion of the system, the ADSSE, includes a 12 channel all-in-view DGPS receiver, a marine radiobeacon band receiver capable of receiving DGPS error correction messages, a VHF/FM transceiver using Digital Selective Calling (DSC), and a control unit.

The amended regulations will require tank vessels of 20,000 DWT or more to carry an operating ADSSE while transiting Prince William Sound.

Regulatory Evaluation

The small entities, collection of information, federalism and environmental considerations discussed in the final rule (57 FR 31660) are unaffected. This notice is merely delaying the compliance date and does not make any substantive changes.

List of Subjects in 33 CFR Part 161

Harbors, Incorporation by Reference, Navigation (water), Vessels, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 161 as follows:

PART 161—VESSEL TRAFFIC MANAGEMENT

1. The authority citation for part 161 continues to read as follows:

Authority: 33 U.S.C. 1231, 2734; 49 CFR 1.46.

§ 161.376 [Amended]

2. In § 161.376(a)(5) introductory text, remove the words "August 1, 1993" and add, in its place, the words "July 1, 1994".

Dated: April 26, 1993.

W. J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 93–10202 Filed 4–29–93; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–4619–8]

Final Approval of Colorado's Petition To Relax the Federal Reid Vapor Pressure Volatility Standard for Colorado in 1992 and 1993

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This action promulgates a revision of the federal Reid Vapor Pressure (RVP) standard applicable to gasoline introduced into commerce from June 1 to September 15 in the Denver-Boulder ozone nonattainment area.[1] This revision relaxes the RVP standard from 7.8 pounds per square inches (psi) to 9.0 psi until 1994. Federal Phase II voletility standards were promulgated by EPA on June 11, 1990 and revised on December 12, 1991, pursuant to section 211(h) of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (the Act). EPA's decision is in response to a petition by the State of Colorado and is based on evidence that the Denver-Boulder area does not need the 7.8 psi standard to maintain ozone attainment in the near term and that the 7.8 psi standard would impose significant costs on industry and consumers.

EFFECTIVE DATE: This regulation is effective June 1, 1993.

[1] The Denver-Boulder area was designated by EPA as a transitional nonattainment area in the **Federal Register** on November 6, 1991 (56 FR 56694, 56735).

ADDRESSES: Materials relevant to this rulemaking have been placed in Docket A–92–08 by EPA. The docket is located at the Air Docket Section (LE–131), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC. 20460, in room M–1500 Waterside Mall and may be inspected from 8:30 a.m. to 12:00 p.m. and from 1:30 p.m. to 3:30 p.m. Monday through Friday. A reasonable Fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Michael L. Ball, Regional/State/Local Coordination Section, Field Operations and Support Division (6406J), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Telephone: (202) 233–9005.

SUPPLEMENTARY INFORMATION:

I. Introduction

This final rule approves Colorado's request to change the federal Reid Vapor Pressure (RVP) standard of 7.8 psi to 9.0 psi in the Denver-Boulder ozone nonattainment area from June 1 to September 15 until 1994. The remainder of this notice is divided into three parts. Section II provides the background for this action. Section III describes today's action. Finally, Section IV summarizes public comments and EPA's responses.

II. Background

A. Previous EPA Rulemakings Concerning Summer Gasoline Volatility

On August 19, 1987, EPA proposed a two-phase national program to reduce summertime gasoline volatility.[2] The Agency published a Notice of Final Rulemaking on March 22, 1989 that promulgated Phase I of the program.[3] The Phase II volatility standards were finalized on June 11, 1990.[4] These volatility standards went into effect on May 1, 1992.

The final rule for the Phase I program established a federal volatility standard in Colorado of 10.5 psi for the month of May, and 9.5 for June through September 15. The Phase II rule required a further reduction in the volatility standard to 9.0 psi for May and 7.8 psi for June 1 through September 15 beginning in 1992. The Phase I and Phase II standards were applicable on a statewide basis.

On December 12, 1991[5] EPA finalized the Phase II summer ozone volatility standards to reflect the new section 211(h) requirements of the Act.[6] In that notice, the RVP standard was changed to 9.0 psi in all attainment areas. For areas that have been designated as nonattainment, the original Phase II standards published on June 11, 1990 remain in effect. For a more detailed discussion of previous EPA rulemakings concerning gasoline volatility, see the Notice of Proposed Rulemaking (NPRM) for this rulemaking.[7]

B. Colorado's Petition

On October 16, 1991, EPA received a petition from Governor Roy Romer of Colorado requesting that EPA amend the federal RVP standards for the Denver-Boulder ozone nonattainment area. The specific change requested was to relax the 7.8 psi standard for the Denver-Boulder nonattainment area to 9.0 psi for 1992 and 1993 only.

The State of Colorado's request resulted from a resolution from the Colorado Air Quality Control Commission (the Commission) recommending a relaxation of the federal RVP standard. The Commission's recommendation was based on information received at a public hearing held on August 15, 1991, and after consideration of the environmental and economic impact of the more restrictive federal standard. At the public hearing the Air Pollution Control Division (APCD) of the Colorado Department of Health testified that the Denver-Boulder nonattainment area had not violated the National Ambient Air Quality Standard (NAAQS) for ozone for the period from January 1, 1987 to December 31, 1989. APCD also stated that the available data for 1990 and 1991 indicated that there were no days in those years in which ozone levels exceeded the federal standard. Moreover, the APCD noted that gasoline volatility standard for the Denver-Boulder area from 1989–1991 was 9.5 psi, which was higher than the 9.0 psi standard APCD recommended. On that basis, the APCD concluded that the Denver-Boulder nonattainment area would likely be classified as a transitional area under Clean Air Act section 185(A)[8] and that the area would not require the 7.8 psi standard to maintain compliance with ozone NAAQS at least until 1994.[9] The public

[2] 52 FR 31274 (August 16, 1987).

[3] 54 FR 11868 (March 22, 1989).

[4] 54 FR 23658 (June 11, 1990).

[5] 56 FR 64704 (December 12, 1991).

[6] 56 FR 24242 (May 29, 1991).

[7] 57 FR 20234 (May 12, 1992).

[8] A transitional area is "an area designated as an ozone nonattainment area as of the date of enactment of the Clean Air Act Amendments of 1990 [that] has not violated the national primary ambient air quality standard for ozone for the 36-month period commencing on January 1, 1987, and ending on December 31, 1989."

[9] On November 6, 1991, EPA did in fact designate the Denver-Boulder nonattainment area to be a

Continued

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hearing is discussed in detail in the NPRM.

The Commission's recommendation also stated that an ozone maintenance plan for the Denver-Boulder area was scheduled to be developed and submitted to EPA by June 1993 and that the projected cost of lowering the volatility standard in the Denver-Boulder area would be $5–10 million per year.

III. Description of Today's Action

On May 12, 1992, EPA proposed to approve the State of Colorado's petition to relax until 1994 the gasoline volatility standard for the Denver-Boulder nonattainment area.[10] EPA received three comments in response to this proposal. For the reasons discussed below, (and in greater detail in the NPRM), EPA today is approving the State of Colorado's petition.

EPA has reviewed the State of Colorado's petition and has found that the request to relax the federal volatility standard for the Denver-Boulder nonattainment area until 1994 from the current standard of 7.8 psi to 9.0 psi is justified based on the petition itself, the evidence submitted on behalf of Governor Romer, and EPA's own analysis of the costs of implementation of the 7.8 psi standard and the environmental need for the 7.8 psi standard. The petition and available evidence sufficiently demonstrate that retention of the 7.8 psi standard would impose significant costs on consumers and industry relative to a 9.0 psi standard,[11] and that the 7.8 psi standard is not necessary for emission control at this time in light of the current transitional status of the Denver-Boulder area. The relaxation is therefore justified under section 211(h) of the Act.[12]

The Denver-Boulder area's record of compliance with the ozone NAAQS[13] provides adequate assurance that the Denver-Boulder area will not need the 7.8 standard in the near term to comply with the current ozone standard. Further, Colorado has indicated that it intends to submit an ozone maintenance plan for the Denver-Boulder area by June 1993. Submittal of such a plan is required within twelve months after EPA determines that a transitional area attained the NAAQS by December 31, 1991. This maintenance plan would show how the ozone NAAQS will be maintained for ten years. Such a plan must be submitted for the area to be redesignated as being in attainment. The two year relaxation of the 7.8 psi standard provides Colorado with sufficient time for development of the maintenance plan.

EPA is imposing a 9.0 psi standard until 1994 to avoid burdening consumers and industry with costs that are unnecessary in light of current and past ozone monitoring data. In order to permanently change the Phase II volatility standard from 7.8 psi to 9.0 psi for 1994 and beyond, the Governor must formally petition EPA for such a change.

IV. Summary of Public Comments and EPA's Responses

A Notice of Proposed Rulemaking, "Proposed Approval of Colorado s Petition to Relax the Federal Reid Vapor Pressure Volatility Standard for Colorado in 1992 and 1993" was published in the **Federal Register** on May 12, 1992.[14] In this notice EPA proposed to relax it's volatility regulations from 7.8 psi to 9.0 psi for Colorado. Only three comments were submitted in response to this proposal.

One commenter has expressed concern that a relaxation in the RVP standard from 7.8 psi to 9.0 psi would be detrimental to the long term air quality of the Denver-Boulder nonattainment area. The commenter does not oppose the approval of Colorado's petition for 1992 and 1993 but is concerned about 1994 and beyond.

The commenter stated that 9.0 psi fuel at high altitude produces a combination of 144% more running loss and hot soak vapors than such fuel at sea level, and 34% more diurnal vapor than at sea level. Current vehicles are certified on 9.0 psi fuel at sea level. By operating vehicles on 9.0 psi fuel at high altitude, Colorado will lose some of the air quality benefits of the vehicle's evaporative emissions controls. According to the commenter, higher RVP standards beyond 1993 may jeopardize the ability of the Denver-Boulder area to maintain the ozone NAAQS.

EPA has given close consideration to the concerns raised regarding the performance of evaporative emission controls at high altitudes. Despite EPA's own concerns regarding the performance of vehicles at high altitudes, as well as a growing vehicle population, and the projected increase in vehicle miles travelled, EPA believes that, given the short-term nature of this rulemaking, the Denver-Boulder area's long-term achievement of the ozone NAAQS is not endangered by today's decision. EPA shares the commenter's concerns regarding a long-term relaxation of the 7.8 psi standard. Any petition from the State of Colorado for a permanent relaxation of the volatility standard beyond 1993 will have to address these concerns.

A second commenter believes that the proposed rulemaking was not properly certified under the Regulatory Flexibility Act (RFA) as having a positive economic impact. The commenter stated that the RFA requires that an analysis must be performed in cases where a regulation has been deemed as having a positive economic impact. The commenter stated that the agency must identify possible alternatives that would be even more beneficial to small businesses than what was intitially proposed. According to the commenter, an analysis is required in this case unless the beneficial impact is not significant or would not affect a substantial number of small business entities.

Today's rulemaking is limited to the Denver-Boulder area and does not impact a substantial amount of small business entities. The RFA requires a regulatory flexibility analysis for regulations that have a significant economic impact on a substantial number of small entities. EPA certifies that these regulations will not have a significant impact on a substantial number of small business entities. Therefore, a regulatory flexibility analysis is not required as part of this rulemaking. Today's rulemaking should have a positive economic benefit due to an estimated cost savings of one cent per gallon of gasoline when relaxing the volatility standard from 7.8 psi to 9.0 psi. EPA is not required to prepare a regulatory flexibility analysis for a regulation that does not have a significant economic impact.

The final commenter expressed concern that amendments to the Phase I or Phase II volatility standards which relaxed volatility standards might cause safety problems for automobiles. The commenter noted that based upon their safety investigations that they concluded that the RVP of gasoline increased approximately one psi for every 1,000 feet of increase in elevation. The commenter was concerned about a situation where gasoline purchased at lower elevations becomes extremely volatile when the vehicle is driven to higher elevations. The commenter stated that higher volatility fuels generate excessive vapor and might cause canister breakthrough and associated safety problems when using higher RVP fuels in the Denver area.

EPA has given close consideration to the safety concerns raised by the commenter. Prior to 1992, the Denver-Boulder nonattainment area Phase I volatility level was set at 9.5 psi. Implementation of a 9.0 psi standard in the Denver-Boulder nonattainment area represents a 0.5 psi decrease from the Phase I level. There is nothing in the record to indicate that there was a significant safety problem in the Denver-Boulder area resulting from the 9.5 psi standard. Also, there is nothing in the record that indicates there was a significant safety problem at the 9.0 psi standard for the 1992 control season. Under section 211(h) of the CAA, the national RVP standard for gasoline sold in attainment areas is set at 9.0 psi. As a result, attainment areas with geographic and meteorological conditions similar to the Denver-Boulder area are currently supplied with 9.0 psi gasoline. EPA believes that the reduction in volatility from 9.5 psi to 9.0 psi will enhance air quality and vehicle safety.

V. Environmental Impact

This rulemaking is not expected to have any adverse environmental effects. The Denver-Boulder six county nonattainment area has met the NAAQS since 1984. Air quality is expected to be further enhanced by a 9.0 psi standard which represents a 0.5 psi reduction in the Phase I levels.

VI. Economic Impact

The proposed relaxation of the 7 8 psi standard to 9 0 psi will result in a cost reduction in refining, and increase summertime gasoline supply levels. For each summer, this translates into approximately a 1.1 cent per gallon cost savings to consumers at the pump.

VII. Administrative Requirements

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant impact on a substantial number of small entities. In such circumstances, a regulatory flexibility analysis is not required.

Under section 605 of the Regulatory Flexibility Act, I certify that these regulations will not have a significant impact on a substantial number of small entities. As discussed previously, this rule is estimated to save approximately 1 cent per gallon of gasoline. Due to the nature of this relaxation of the regulatory standard, a regulatory flexibility analysis is not required.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. Major regulations have an annual effect on the economy in excess of $100 million, have a significant adverse impact on competition, investment, employment or innovation, or result in a major price increase. This action does not constitute a major rule according to the established criteria. In fact, as discussed above, this action will reduce the cost of compliance with Federal requirements in this area. Therefore, I have determined that this final rule does not constitute a "major" rule.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. No written comments were received from OMB.

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, EPA must obtain OMB clearance for any activity that will involve collecting substantially the same information from 10 or more non-Federal respondents. This final rule does not create any new information requirements or contain any new information collection activities.

The statutory authority for this action is granted to EPA by sections 114, 211, and 301 of the Clean Air Act as amended (42 U.S.C. 7414, 7545, 7601(a), and 7607).

List of Subjects in 40 CFR Part 80

Administrative practice and procedure, Air pollution control, Environmental protection, Fuel additives, Gasoline, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: April 26, 1993.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 114, 211, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545, and 7601(a)).

2. Section 80.27 is amended by revising the entry for "Colorado" in the table in paragraph (a)(2) to read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

(a) * * *

(2) * * *

APPLICABLE STANDARDS[1] 1992 and Subsequent Years

State	May	June	July	August	September
Colorado[2]	9.0	7.8	7.8	7.8	7.8

[1] Standards are expressed in pounds per square inch (psi).

[2] The standard for 1992 and 1993 in the Denver-Boulder nonattainment area will be 9.0 for June 1 through September 15.

[FR Doc. 93–10213 Filed 4–29–93, 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–228; RM–8079, RM–8149]

Radio Broadcasting Services; Allouez and Sheboygan Falls, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

"transitional area". 56 FR 56694 (November 6, 1991).

[10] 57 FR 23234. Also on May 12, 1992, EPA issued a temporary direct final rule relaxing the gasoline volatility standard in the Denver-Boulder area to 9.0 psi for the 1992 summer ozone season. 57 FR 20202 (May 12, 1992).

[11] EPA believes that it will cost refiners an additional $3,500,000 to $4,000,000 per year to reduce volatility from 9.0 psi to 7.8 psi gasoline for the Denver-Boulder area during the summer ozone season. The analysis underlying this estimate is set forth in a memorandum to the docket titled "Colorado Phase II Implementation: Industry Cost Analysis."

[12] Under section 211(h), EPA must set a national summertime gasoline volatility standard of 9.0 psi beginning in 1992. EPA must also establish more stringent volatility standards "in a nonattainment area as the Administrator finds necessary to generally achieve comparable evaporative emissions (on a per-vehicle basis) in nonattainment areas taking into consideration the enforceability of such standards, the need of an area for emission control and economic factors."

[13] EPA monitoring data indicate that the Denver-Boulder area has not violated the ozone NAAQS since 1984. Data for the 1990 and 1991 summer ozone seasons indicate that no violations occurred in 1990 or 1991. During this entire period, standards for gasoline volatility in the Denver-Boulder area were less stringent than the 9.0 psi standard that will go into effect as a result of this decision. From the data available to date no violations of the ozone NAAQS were measured during the 1992 ozone season with this lower volatility limit in place.

[14] 57 FR 20234 (May 12,1992).

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SUMMARY: This document allots Channel 294C3 to Allouez, Wisconsin, in response to a petition filed by Michael R. Walton. The coordinates for Channel 294C3 are 44–30–50 and 88–02–57. There is a site restriction 7.2 kilometers (4.4 miles) north of the community. In response to a counterproposal filed by Julian Jetzer d/b/a Sheboygan Falls Broadcasting, we will allot Channel 293A to Sheboygan Falls, Wisconsin. The coordinates for Channel 293A are 43–42–44 and 87–42–50. There is a site restriction 7.9 kilometers (4.9 miles) east of the community. The counterproposal filed by Wheeler Broadcasting, Inc. and Midwest Dimensions, Inc. is dismissed. With this action, this proceeding is terminated.

DATES: Effective June 7, 1993. The window period for filing applications for Channel 294C3 at Allouez, Wisconsin, and Channel 293A at Sheboygan Falls, Wisconsin, will open on June 8, 1993, and close on July 8, 1993.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 92–228, adopted March 31, 1993, and released April 26, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by adding Allouez, Channel 294C3 and by adding Sheboygan Falls, Channel 293A.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–10112 Filed 4–29–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 24

[FHWA Docket No. 92–36]

RIN 2125–AD02

Uniform Relocation Assistance and Real Property Acquisition Regulation for Federal and Federally Assisted Programs

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule amends several sections of 49 CFR part 24 which set forth governmentwide requirements for implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act), 42 U.S.C. 4601–4655. These amendments were the result of a review of part 24 that was aimed at reducing the burdens of government regulation. The FHWA, as lead agency for implementing the Uniform Act, is making several amendments that would assist small business and eliminate unnecessary regulation provisions. This rule will apply to the Uniform Act activities of 18 Federal agencies including the Department of Transportation.

EFFECTIVE DATE: June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Marshall Schy, Chief, Policy Development Branch, Office of Right-of-Way, HRW–11, (202) 366–2035, or Reid Alsop, Office of Chief Counsel, HCC–31, (202) 366–1371. The address is Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The governmentwide single rule (49 CFR part 24) implementing the Uniform Act was published in the **Federal Register** on March 2, 1989 (54 FR 8912). During the almost four years that this comprehensive regulation has been in effect, the FHWA, as the lead agency responsible for the development and issuance of this regulation with the active cooperation of the Department of Housing and Urban Development (HUD) and sixteen other Federal agencies, has become aware of the need to amend the regulation for purposes of clarification and simplification.

On January 28, 1992, the President issued a Memorandum For Certain Department and Agency Heads entitled "Reducing the Burden of Government Regulation" which called upon Departments and agencies to review their existing regulations in order to determine whether changes should be made to promote economic growth, create jobs, or eliminate unnecessary costs or other burdens on the economy.

While the monetary relocation assistance benefits provided in the regulation are primarily established by the Uniform Act, there is some administrative discretion, particularly with regard to determining moving and related expenses provided to businesses by section 202 of the Uniform Act (42 U.S.C. 4622).

The FHWA, as a result of its review of this regulation, has identified several amendments that it believes would enhance the relocation assistance benefits provided to displaced businesses, thus increasing their chances of a successful relocation, and would reduce the regulatory burden imposed on such businesses as well as on State and local governments implementing the regulation.

A notice of proposed rulemaking (NPRM) proposing these changes was published for comment on July 27, 1992 (57 FR 33164). The background of the amendments is discussed further in the NPRM.

As noted in the NPRM the FHWA anticipates cooperating with HUD and other Federal agencies to identify additional changes to this regulation which will be the subject of a future NPRM.

Amendments

Section 24.2(g)(2)(x) is amended to correct and clarify the application of the two statutes cited therein. Section 24.2(t), the definition of "small business," is amended to remove the requirement that there be at least one employee working at the site being acquired, a requirement which operated to deny eligibility for reestablishment costs to some businesses that would, otherwise have qualified for a reestablishment payment. Section 24.304 is amended by deleting several unnecessary restrictions upon payment of the reestablishment payment. Sections 24.602 and 24.603 of subpart G are amended to substitute an abbreviated process for obtaining a certification application and proceeding to certification approval, and to clarify related reporting requirements.

An additional technical amendment, not mentioned in the NPRM, is made to § 24.101(a) to reflect statutory

provisions (in 42 U.S.C. 4633(c)) added in part by the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240, 105 Stat. 1914), which exclude the Rural Electrification Administration and the Tennessee Valley Authority from the real property acquisition provisions in subpart B of part 24.

Cross References

Part 24 of title 49, CFR, constitutes the governmentwide regulation implementing the Uniform Act. The regulations of seventeen other Federal departments and agencies contain cross references to this part, and this amendment of part 24 would be directly applicable to the relocation assistance activities of these departments and agencies. Those departments and agencies, and the parts of the Code of Federal Regulations which contain cross references to this part, are listed below:

Department of Agriculture
7 CFR Part 21
Department of Commerce
15 CFR Part 11
Department of Defense
32 CFR Part 2509
Department of Education
34 CFR Part 15
Department of Energy
10 CFR Part 1039
Environmental Protection Agency
40 CFR Part 4
Federal Emergency Management Agency
44 CFR Part 25
General Services Administration
41 CFR Part 105–51
Department of Health and Human Services
45 CFR Part 15
Department of Housing and Urban Development
24 CFR Part 42
Department of the Interior
41 CFR Part 114–50
Department of Justice
41 CFR Part 128–16
Department of Labor
29 CFR Part 12
National Aeronautics and Space Administration
14 CFR Part 1208
Pennsylvania Avenue Development Corporation
36 CFR Part 904
Tennessee Valley Authority
18 CFR Part 1306
Department of Veterans' Affairs
38 CFR Part 25

Comments Received in Response to the NPRM

In response to the NPRM, the FHWA received a total of 5 comments, one from a Federal agency and four from State departments of transportation.

Section 24.2 Definitions

Section 24.2(g)(2)(x). No comments were received on the technical amendment of § 24.2(g)(2)(x).

Section 24.2(t). Small business. Two comments were fully supportive of the extension of entitlement for the reestablishment payment to certain small businesses that do not have at least one employee working at the site being acquired or displaced. One comment agreed with a limited extension of these benefits to such businesses, but did not believe it should include minor businesses such as vending machine operators or, possibly, landlords with small amounts of personal property.

Two commenters were concerned that either the amended definition of "small business" or the amended language of § 24.304, or both, would inequitably provide entitlement for a reestablishment payment to landlords whose "business is * * * operated at a displacement dwelling solely for the purpose of renting such dwelling to others" (23 CFR 24.306(2)(4)) and who, by statute and regulation, may not receive a fixed payment in lieu of moving expenses. The comments assumed that the Uniform Act and the implementing regulations deny such a person entitlement to both the reestablishment payment and the fixed payment. This is not correct. These are separate and distinct relocation benefits. While the Uniform Act clearly denies entitlement to a fixed payment to this type of business, it does not deny this type of business entitlement to a reestablishment payment. This type of business was only excluded from entitlement to a reestablishment payment in the regulation, as originally written, by virtue of the more narrow definition of small business, which required at least one employee to be working at the site. While the amended definition of "small business" may now include a business operated at the displacement dwelling solely for the purpose of renting the dwelling to others, this does not, automatically, meet all the criteria for entitlement. Such a business is entitled to a reestablishment payment if it meets the criteria to qualify for that payment, i.e., the expenses must be actually incurred and they must be reasonable and necessary as determined by the agency.

The FHWA does not consider that amending the definition of "small business" creates an inequity with respect to businesses of this type. In addition, the Department of Housing and Urban Development has supported making such businesses eligible for the reestablishment payment.

One additional comment from the Wisconsin Department of Transportation indicated that it considered the inclusion of certain owners of rental property within the definition of "small business" to be inequitable and, in addition, to conflict with its law. We have examined the relevant provisions of Wisconsin law and they appear to be virtually identical to comparable provisions of the Uniform Act. Accordingly, we assume any potential conflict exists in the State regulations, which could be revised to reflect the changes made by this rule. We encourage the Wisconsin DOT, or any other governmental body, to provide further comments if there is a serious compliance problem.

The new definition of "small business" should provide more assistance to small businesses that are displaced by Federal or federally-assisted projects and, we believe, better implements the objectives of the Uniform Act. The statute is clear that payments are available for "actual reasonable expenses necessary to reestablish a * * * small business * * *" The FHWA believes that sufficient control rests with the displacing agency in terms of its determination of the actual, reasonable, and necessary criteria to prevent abuse of this provision.

Section 24.304 Reestablishment expenses—nonresidential moves.

Two comments were fully in agreement with the removal of the dollar limitations placed on certain expenditures that are considered in determining the total reestablishment payment.

Section 24.602 Certification application. Only one comment, a favorable one, was received.

Section 24.603 Monitoring and corrective action. Only one comment, a favorable one, was received.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The FHWA has determined that this document does not contain a major rule under Executive Order 12291, nor is it a significant rule under the policies and procedures of the Department of Transportation relating to regulations. The rulemaking would not affect the level of funding available in Federal or federally assisted programs covered by the Uniform Act, or otherwise have a significant economic impact on the nation's economy. Accordingly, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354), the

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agency has evaluated the effects of this rule on small entities and hereby certifies that this action will not have a significant economic impact on a substantial number of small entities since it makes only relatively small changes to existing regulatory provisions.

Environmental Impacts

The FHWA has also analyzed this action for the purpose of the National Environmental Policy Act (42 U.S.C. 4321 et seq.), and has determined that this action would not have any effect on the human environment.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. This action, in effect, both clarifies and simplifies current regulatory requirements.

Paperwork Reduction Act

This rule is not subject to the Paperwork Reduction Act (44 U.S.C. 3501, et seq.), since it does not require the collection or retention of any new data.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 24

Real property acquisition, Relocation assistance, Reporting and recordkeeping requirements, Transportation.

Issued on: April 20, 1993.

E. Dean Carlson,

Executive Director.

In accordance with the foregoing, part 24 of title 49, Code of Federal Regulations, is amended as set forth below.

PART 24—[AMENDED]

1. The authority citation for 49 CFR part 24 continues to read as follows:

Authority: 42 U.S.C. 4601 *et seq.*; 49 CFR 1.48(cc).

§ 24.2 [Amended]

2. In § 24.2, paragraphs (g)(2)(x) and (t) are revised to read as follows:

§ 24.2 Definitions.

* * * * *

(g) * * *

(2) * * *

(x) An owner who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of the Interior under Public Law 93–477 or Public Law 93–303, except that such owner remains a displaced person for purposes of subpart D of this part; or

* * * * *

(t) *Small business.* A business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of § 24.304.

* * * * *

§ 24.101 [Amended]

3. In § 24.101 a new paragraph (a)(5) is added to read as follows:

§ 24.101 Applicability of acquisition requirements.

(a) * * *

(5) Acquisition for a program or project which is undertaken by, or receives Federal financial assistance from, the Tennessee Valley Authority or the Rural Electrification Administration.

* * * * *

§ 24.304 [Amended]

4. Section 24.304 is amended by revising the introductory text of the section, the introductory text of paragraph (a), paragraphs (a)(3), (a)(8), and (a)(10); by removing paragraph (a)(13); and by removing paragraph (b)(3), then redesignating paragraphs (b)(4) and (b)(5) as paragraphs (b)(3) and (b)(4), respectively.

§ 24.304 Reestablishment expenses—non-residential moves.

In addition to the payments available under § 24.303 of this subpart, a small business, as defined in § 24.2(t), farm or nonprofit organization is entitled to receive a payment, not to exceed $10,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

(a) *Eligible expenses.* Reestablishment expenses must be reasonable and necessary, as determined by the Agency. They include, but are not limited to, the following:

* * * * *

(3) Construction and installation costs for exterior signing to advertise the business.

* * * * *

(8) Advertisement of replacement location.

* * * * *

(10) Estimated increased costs of operation during the first 2 years at the replacement site for such items as:

* * * * *

§ 24.602 [Amended]

5. Section 24.602 is revised to read as follows:

§ 24.602 Certification application.

An agency wishing to proceed on the basis of a certification may request an application for certification from the lead agency [Director, Office of Right-of-Way, HRW–1, Federal Highway Administration, 400 Seventh St. SW., Washington, DC 20590]. The completed application for certification must be approved by the governor of the State, or the governor's designee, and must be coordinated with the Federal funding agency, in accordance with application procedures.

§ 24.603 [Amended]

6. In § 24.603, paragraph (d) is revised to read as follows:

§ 24.603 Monitoring and corrective action.

* * * * *

(d) The lead agency may require periodic information or data from affected Federal or State agencies.

[FR Doc. 93–10084 Filed 4–29–93; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 921185–3021]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific cod by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the total 1993 Pacific halibut bycatch mortality allowance for the trawl Pacific cod fishery in the BSAI has been reached.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), April 28, 1993, through 12 midnight, A.l.t., December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The 1993 Pacific halibut bycatch mortality allowance for the trawl Pacific cod fishery, which is defined at § 675.21(b)(1)(iii)(E), is 1,000 metric tons (58 FR 14524, March 18, 1993).

The Director of the Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iv), that the Pacific halibut bycatch mortality allowance for the trawl Pacific cod fishery has been reached. Therefore, NMFS is prohibiting directed fishing for Pacific cod by vessels using trawl gear in the BSAI from 12 noon, A.l.t., April 28, 1993, through 12 midnight, A.l.t., December 31, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.21 and complies with E.O. 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 27, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–10203 Filed 4–27–93; 2:21 pm]

BILLING CODE 3510–22–M

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Proposed Rules

Federal Register
Vol. 58, No. 82
Friday, April 30, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-179-AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Boeing Model 767 series airplanes, that currently requires functional checks of the leading edge slat shutoff valve, the trailing edge flap drive bypass valve, the leading edge slat long term shutoff control, and the leading edge inboard and outboard slat drive mechanical rigging. That action was prompted by a report of an uncommanded slat extension during cruise, and several instances of an inoperative trailing edge flap bypass valve motor. This action would require repetitive functional checks of the leading edge slat long term shutoff control and the leading edge inboard and outboard slat drive mechanical rigging; would require installation of a modification as terminating action for the functional checks; and would limit the applicability of the rule. The actions specified by the proposed AD are intended to prevent uncommanded deployment of the leading edge slats, which could result in structural damage to the wing and consequent degradation of flight control.

DATES: Comments must be received by June 25, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-179-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: David Herron, Aerospace Engineer, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2672; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule.

All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-179-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-179-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

On December 1, 1989, the FAA issued AD 89-26-04, Amendment 39-6423 (54 FR 51195, December 13, 1989), applicable to all Model 767 series airplanes, to require repetitive functional checks of the leading edge slat shutoff valve, and the trailing edge flap drive bypass valve; a one-time functional check of the leading edge slat long term shutoff control, and the leading edge inboard and outboard slat drive mechanical rigging; and replacement of failed parts, if necessary. That action was prompted by a report of an uncommanded slat extension during cruise, and several instances of an inoperative trailing edge flap bypass valve motor. The requirements of that AD are intended to prevent uncommanded deployment of leading edge slats and to ensure trailing edge flap shutdown protection and trailing edge flap alternate mode availability.

Since the issuance of that AD, the FAA has determined, based on service history, that the leading edge slat long term shutoff control and the leading edge inboard and outboard slat drive mechanical rigging must be checked repetitively to ensure that the flap lever rotary variable differential transformer (RVDT) and outboard slat power drive unit (PDU) remain properly rigged. Such action is necessary to prevent the unsafe condition presented by uncommanded deployment of the leading edge slats.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767-27A0094, Revision 4, dated October 22, 1992, that describes procedures for functional checks of the leading edge slat shutoff valve, the trailing edge flap drive bypass valve, the leading edge slat long term shutoff control, and the leading edge inboard and outboard slat drive mechanical rigging. The service bulletin also limits the effectivity listing to include airplanes having line positions 001 through 402, inclusive.

Additionally, since the issuance of that AD, the FAA has approved design modifications that will prevent uncommanded leading edge slat extension and will ensure trailing edge flap shutdown protection and trailing edge flap alternate mode availability. The FAA has approved the installation of these design modifications as terminating action for the requirements of AD 89-26-04. These design modifications include installation of (1) a pressure switch to monitor slat shutoff valve position; (2) a modified RVDT; (3) a modified flap/slat electrical unit (FSEU) to monitor this new equipment and initiate a maintenance level message, "SLAT ISLN VAL," if the slat shutoff valve does not operate properly; and (4) a modified bypass valve module with a hermetically sealed bypass valve motor. These design modifications have been incorporated in production on Model 767 series airplanes, line positions 403 and subsequent.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767-27-0096, dated April 23, 1992, which describes procedures for installation of a modified bypass valve module with a hermetically sealed bypass valve motor. The service bulletin limits the effectivity listing to include airplanes having line positions 001 through 402, inclusive.

The FAA has also reviewed and approved Boeing Alert Service Bulletin 767-27-0108, Revision 1, dated October 1, 1992, which describes procedures for installation of a pressure switch and replacement of a RVDT and the FSEU. The service bulletin also limits the effectivity listing to include airplanes having line positions 001 through 402, inclusive.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 89-26-04. It would continue to require repetitive functional checks of the leading edge slat shutoff valve and the trailing edge flap drive bypass valve, and the replacement of failed parts, if necessary. However, this proposed action also would require repetitive functional checks of the leading edge slat long term shutoff control, and of the leading edge inboard and outboard slat drive mechanical rigging. It also would limit the applicability of the rule to include only those airplanes having line positions 001 through 402, inclusive.

This proposed AD also would require installation of the design modifications described previously; such installation would constitute terminating action for the proposed repetitive functional checks.

There are approximately 402 Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 143 airplanes of U.S. registry would be affected by this proposed AD. The FAA estimates that it would take approximately 12 work hours per airplane to accomplish the proposed functional checks, and an average of 60 work hours per airplane to accomplish the proposed terminating action. The average labor rate is $55 per work hour. Required parts would cost approximately $4,200 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,166,880, or $8,160 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety. The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-6423 (54 FR 51195, December 13, 1989), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 92-NM-179-AD. Supersedes AD 89-26-04, Amendment 39-6423.

Applicability: Model 767 series airplanes, line positions 001 through 402, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

Note 1: Paragraph (a) of this AD restates the requirement for repetitive functional checks contained in paragraph A. of AD 89-26-04. The first functional check required by this AD must be performed within the specified repetitive inspection interval after the last inspection performed in accordance with paragraph A. of AD 89-26-04.

Note 2: Paragraph (b) of this AD restates the requirements of paragraph B. of AD 89-26-04. As allowed by the phrase, "unless accomplished previously," if the requirements of paragraph B. of AD 89-26-04 have been accomplished previously, paragraph (b) of this AD does not require that they be repeated.

To prevent uncommanded deployment of the slats and to ensure trailing edge flap shutdown protection and trailing edge flap alternate mode availability, accomplish the following:

(a) Within the next 25 days after December 27, 1989 (the effective date of AD 89-26-04, amendment 39-6423), and thereafter at intervals not to exceed 400 hours time-in-service, conduct a functional check of the leading edge slat shutoff valve and the trailing edge flap drive bypass valve in accordance with Boeing Alert Service Bulletin 767-27A0094, dated September 28, 1989; or Revision 4, dated October 22, 1992.

(b) Within the next 25 days after December 27, 1989, conduct a functional check of the leading edge slat long term shutoff control and the leading edge inboard and outboard slat drive mechanical rigging in accordance with Boeing Alert Service Bulletin 767-27A0094, dated September 28, 1989.

(c) Within 4,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 4,000 hours time-in-service, conduct a functional check of the leading edge slat long term shutoff control and the leading edge inboard and outboard slat drive mechanical rigging, in accordance with Boeing Alert Service Bulletin 767-27A0094, Revision 4, dated October 22, 1992.

(d) If any failed parts are detected by the functional checks required by paragraphs (a), (b), or (c) of this AD, prior to further flight, replace the failed part in accordance with the Boeing 767 Maintenance Manual.

(e) Within 12,000 flight hours after the effective date of this AD, accomplish the requirements of paragraphs (e)(1) and (e)(2) of this AD. Accomplishment of these requirements constitutes terminating action for the repetitive functional checks required by paragraphs (a) and (c) of this AD.

(1) Install a pressure switch and replace the rotary variable differential transformer

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(RVDT) and the flap/slat electrical unit (FSEU) in accordance with Boeing Alert Service Bulletin 767-27-0108, Revision 1, October 1, 1992,

(2) Replace the bypass valve motor in accordance with Boeing Alert Service Bulletin 767-27-0096, dated April 23, 1992.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 26, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-10149 Filed 4-29-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 39

[Docket No. 93-NM-32-AD]

Airworthiness Directives; Canadair Model CL-215-1A10 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Canadair Model CL-215-1A10 series airplanes. This proposal would require modification of the right aileron and aileron tab. This proposal is prompted by an updated flutter analysis performed by the manufacturer, which revealed a potential flutter condition on certain Canadair Model CL-215-1A10 series airplanes. The actions specified by the proposed AD are intended to prevent potential flutter of the rudder-aileron interconnect tab, which could result in reduced controllability of the airplane.

DATES: Comments must be received by June 25, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-32-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087 Station A, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Jeff Casale, Aerospace Engineer, Airframe Branch, ANE-172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; telephone (516) 791-6220; fax (516) 791-9024.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-NM-32-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-32-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

Transport Canada Aviation, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain Canadair Model CL-215-1A10 series airplanes. Transport Canada Aviation advises that an updated flutter analysis, performed by Canadair during the development of the Model CL-215-6B11 turboprop airplane, revealed that a potential flutter condition affecting the rudder-aileron interconnect tab could occur on certain Canadair Model CL-215-1A10 series airplanes. (The Model CL-215-6B11 is a Model CL-215-1A10 that has been converted from piston engine power to turbopropeller power.) This flutter analysis further revealed that, if the rudder-aileron interconnect mechanism fails, a flutter condition could occur at pressure altitudes above 10,000 feet. This condition, if not corrected, could result in reduced controllability of the airplane.

Canadair has issued Model CL-215-1A10 Alert Service Bulletin 215-A435, dated August 14, 1990, that describes procedures for installing weights to the aileron balance weight mounting channel and installing washers to the interconnect tab mass balance arms. This modification will maintain an aileron control surface mass balance within specified limits. Transport Canada Aviation classified this service bulletin as mandatory and issued Canadian Airworthiness Directive CF-90-11, dated June 26, 1990, in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the right aileron and aileron tab. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Currently, there are no Canadair Model CL-215-1A10 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 20 work hours to accomplish the required actions, at an average labor charge of $55 per work hour. Based on these figures, the total cost impact of this AD would be $1,100 per airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Canadair: Docket 93-NM-32-AD.

Applicability: Model CL-215-1A10 series airplanes; serial number 1001 to 1125, not equipped with powered ailerons; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent potential flutter of the rudder-aileron interconnect tab, which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 12 months after the effective date of this AD, on the right wing install weights to the aileron balance weight mounting channel and washers to the interconnect tab mass balance arms, in accordance with Canadair Model CL-215-1A10 Alert Service Bulletin 215-A435, dated August 14, 1990.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 26, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-10150 Filed 4-29-93; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 656

RIN 1205-AA87

Labor Certification Process for the Permanent Employment of Aliens in the United States; Labor Market Information Pilot Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: This document reopens the period for filing comments regarding the proposed rule to implement the labor market information pilot program. This action is taken to permit additional comment from interested parties.

DATES: Comments shall be submitted by June 1, 1993.

ADDRESSES: Submit comments to: Carolyn M. Golding, Acting Assistant Secretary, Employment and Training Administration, Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; Attention: United States Employment Service, Division of Foreign Labor Certifications, room N-4456.

FOR FURTHER INFORMATION CONTACT: Flora Richardson, Chief, Division of Foreign Labor Certifications, United States Employment Service. Telephone: (202) 219-5263 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 19, 1993 (58 FR 15242), the Department of Labor published a proposed rule to amend the labor certification process for the permanent employment of immigrant aliens under the Immigration and Nationality Act. See 8 U.S.C. 1182 (a)(5)(A). These amendments are necessary in order to implement the labor market information pilot program provided for in section 122(a) of the Immigration Act of 1990. Public Law 101-649, 104 Stat. 4978. Interested parties were requested to submit comments on or before April 19, 1993.

Because of the continuing interest in this proposal, the agency believes that it is desirable to reopen the comment period for all interested parties. Numerous commenters have requested such an extension including, but not limited to: The Subcommittee on Employment, Housing, and Aviation of the U.S. House of Representatives' Committee on Government Operations; the AFL-CIO; the American Chemical Society; the American Association of Engineering Societies; and the National Association of Computer Consultant Businesses.

Therefore, the comment period for the proposed rule, FR Doc. 93-6363, published at 58 FR 15242 (March 19, 1993), to amend 20 CFR part 656, is reopened for the period described above in **DATES.**

Signed at Washington, DC this 27th day of April, 1993.

Carolyn M. Golding,

Acting Assistant Secretary of Labor.

[FR Doc. 93-10200 Filed 4-29-93; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Arkansas Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Arkansas abandoned mine land reclamation plan (hereinafter, the "Arkansas plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Arkansas Surface Coal Mining and Reclamation Act of 1979 pertaining to the Arkansas plan as discussed in "SUPPLEMENTARY INFORMATION," II. Proposed Amendment. The amendment is intended to revise the Arkansas plan to be consistent with the corresponding Federal standards.

This document sets forth the times and locations that the Arkansas plan and proposed amendment to that plan are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., c.d.t. June 1, 1993. If requested, a public hearing on the proposed amendment will be held on May 25, 1993. Requests to present oral testimony at the hearing must be received by 4 p.m., c.d.t. on May 17, 1993.

ADDRESSES: Written comments should be mailed or hand delivered to James H. Moncrief at the address listed below.

Copies of the Arkansas plan, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, suite 550, Tulsa, Oklahoma 74135–6548, Telephone: (918) 581–6430.

Arkansas Department of Pollution Control and Ecology, Surface Mining and Reclamation Division, P.O. Box 8913, Little Rock, Arkansas 72209–8913, Telephone: (501) 562–7444.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on Arkansas Plan
II. Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Arkansas Plan

On May 2, 1983, the Secretary of the Interior approved the Arkansas plan. General background information on the Arkansas plan, including the Secretary's findings, the disposition of comments, and the approval of the Arkansas plan can be found in the May 2, 1983, Federal Register (48 FR 19710). Subsequent actions concerning Arkansas' plan and plan amendments can be found at 30 CFR 904.20.

II. Proposed Amendment

By letter dated March 31, 1993 (Administrative Record No. AAML–02), Arkansas submitted a proposed amendment to its plan pursuant to SMCRA. Arkansas, at its own initiative, submitted the proposed amendment to make its statute consistent with section 404 of SMCRA as amended by the Abandoned Mined Land Reclamation Act of 1990 (Pub. L. 101–508 title VI, subtitle A, Nov. 5, 1990, effective Oct. 1, 1991). Arkansas proposes to amend section 6 of the Arkansas Surface Coal Mining and Reclamation Act of 1979 relating to the eligibility of project sites for abandoned mined land fund expenditures. The amendment revises the definition of "lands eligible" thereby providing funds for reclamation of certain mine sites where the mining occurred after August 3, 1977. These sites would include (1) those sites affected between August 4, 1977 and November 21, 1980 (interim program sites), for which available funds were insufficient for adequate reclamation, and (2) sites affected between August 4, 1977 and March 5, 1993, where bond forfeiture funds were insufficient for adequate reclamation. Previously, Arkansas's plan provided funds only for reclamation of sites that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there was no continuing reclamation responsibility under State or Federal law.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.15(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable plan approval criteria of 30 CFR 884.14. If the amendment is deemed adequate, it will become part of the Arkansas plan.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4 p.m., c.d.t. on May 17, 1993. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "ADDRESSES." A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12291

On March 30, 1992, the Office of Management and Budget (OMB) granted OSM an exception from sections 3, 4, 7, and 8 of Executive Order 12291 for actions related to approval or disapproval of State abandoned mine land reclamation plans and revisions thereof. Therefore, preparation of a regulatory impact analysis is not necessary and OMB regulatory review is not required.

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State, not by OSM. Decisions on proposed State abandoned mine land reclamation plans and revisions thereof submitted by a State are based on a determination of whether the submittal meets the requirements of title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR parts 884 and 888.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Peperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 904

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 23, 1993.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 93–10145 Filed 4–29–93; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 950

Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of comment period and opportunity for public hearing.

SUMMARY: OSM is announcing the receipt of additional information pertaining to a previously proposed amendment to the Wyoming permanent regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment would establish shrub density standards and working definitions applicable to all lands.

This document sets forth the times and locations that the Wyoming program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., m.d.t. June 1, 1993. If requested, a public hearing on the proposed amendment will be held on May 25, 1993. Requests to present oral testimony at the hearing must be received by 4 p.m., m.d.t. on May 17, 1993.

ADDRESSES: Written comments should be mailed or hand delivered to Guy V. Padgett at the address listed below.

Copies of the Wyoming program, the proposed amendment, the additional information, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy V. Padgett, Director; Casper Field Office; Office of Surface Mining Reclamation and Enforcement; 100 East B Street, room 2128; Casper, Wyoming 82601–1918. Telephone: (307) 261–5776.

Dennis Hemmer, Director; Wyoming Department of Environmental Quality; Herschler Building; 122 West 25th Street; Cheyenne, Wyoming 82002. Telephone: (307) 777–7758.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Director, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Wyoming program can be found in the November 26, 1980 Federal Register (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.12, 950.15, and 950.16.

II. Proposed Amendment

By letter dated January 6, 1993, (Administrative Record No. WY–21–1) Wyoming submitted the shrub density rules as a proposed amendment to its permanent program pursuant to SMCRA. The Wyoming proposed amendment is a State response designed to establish a shrub density standard applicable to all lands (excluding cropland and pastureland) used jointly by livestock and wildlife. The changes to the regulatory rule package are also reflected in changes made to Appendix A, Vegetation Sampling Methods and Reclamation Success Standards for Surface Coal Mining Operations.

OSM published a notice in the March 22, 1993 Federal Register (58 FR 15318) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment. The public comment period ended April 21, 1993. During the public comment period Wyoming submitted additional

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information regarding this amendment. Wyoming submitted additional information on April 13, 1993, regarding shrub density legislation, Enrolled Act No. 86 (Senate File No. 39) (Administrative Record No. WY-21-21). The proposed legislation amends W.S. 35-11-103(e) by creating new paragraphs (xxviii) through (xxx); modifying the paragraph at W.S. 35-11-402(b); and creating a new subsection (c) at W.S. 35-11-402.

The proposed W.S. 35-11-103(e) would define at (xxviii) "agricultural Lands" to mean cropland, pastureland, hayland or grazingland; (xxix) "criteria habitat" to mean only that fish and wildlife habitat designated as critical by the United States Secretary of the Interior or Secretary of Commerce, for the survival and recovery of listed threatened and endangered species; (xxx) "important habitat" or "crucial habitat" to mean that fish and wildlife habitat, exclusive of agricultural lands, which in limited availability, increases the species diversity of a localized area and fulfills one (1) or more of the essential living requirements of important wildlife species.

Currently W.S. 35-11-402(b) provides for the establishment of standards for consultation and approval by state wildlife agencies regarding surface mining lands to be reclaimed for fish and wildlife habitat and that fish and wildlife habitat is defined in W.S. 35-11-103(e)(xxvi) and does not include grazingland as defined in W.S. 35-11-103(e)(xxvii). The proposed modification would additionally require that in establishing reclamation standards pursuant to this section and applicable federal law or regulation the council shall apply the definitions of W.S. 35-11-103(e) (xxvi) through (xxx).

The proposed W.S. 35-11-402(c) would require that for the reclamation of grazingland, operators shall be required to reestablish shrubs on ten percent (10%) of the affected surface at a density of one (1) shrub per nine (9) square meters, or to a pre-mining density, whichever is less. The shrubs used for reestablishment shall be those native to the general area, and shall include those found pre-mining, but the pre-mining dominant shrub need not be the dominant shrub in the post-mining reclamation.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Wyoming program amendment to provide the public an opportunity to reconsider the adequacy of the amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Wyoming program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4 p.m., m.d.t. May 17, 1993. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed under "FOR FURTHER INFORMATION CONTACT." All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "ADDRESSES." A written summary of each meeting will be made a part of the administrative record.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 23, 1993.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 93-10144 Filed 4-29-93; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900-AF02

Schedule for Rating Disabilities; Hemic and Lymphatic Systems

AGENCY: Department of Veterans Affairs.

ACTION: Proposed Rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its rating schedule regarding evaluation of hemic and lymphatic conditions. This amendment is necessary in order to comply with a General Accounting Office (GAO) study, which recommended that medical criteria in the rating schedule be reviewed and updated. The intended effect is to update the portion of the Schedule for Rating Disabilities pertaining to the hemic and lymphatic systems to ensure that it uses current medical terminology and unambiguous criteria for evaluating these disabilities and reflects recent medical advances.

DATES: Comments must be received on or before June 1, 1993. Comments will be available for public inspection until June 9, 1993. This change is proposed to be effective 30 days after the date of publication of the final rule.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this change to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 170, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until June 9, 1993.

FOR FURTHER INFORMATION CONTACT: John L. Roberts, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: In response to the advance notice of

proposed rulemaking published in the Federal Register on May 2, 1991, we received a number of comments and suggestions from VA medical doctors, VA Rating Specialists and other concerned individuals. We have also received a report from a consulting firm contracted to suggest revisions to this portion of the Rating Schedule.

The comments included suggestions that we delete several diagnostic codes, include diagnostic codes for additional conditions, and change evaluation criteria for a number of conditions. We have considered all of these suggestions and implemented several as explained in the following proposal.

When medical terminology in the rating schedule is outdated, it is difficult for rating specialists to accurately compare medical evidence to the proper evaluation criteria. For that reason, we propose to update the medical terms which identify diseases of the hemic and lymphatic systems so that the schedule uses the same terms used in current medical practice. Primary polycythemia (diagnostic code 7704) will be changed to polycythemia vera, purpura hemorrhagica (7705) will be changed to thrombocytopenia, primary, idiopathic or immune, and lymphogranulomatosis (7709) to Hodgkin's disease.

The disabilities currently under codes 7701, secondary anemia, and 7713, secondary adenitis, are commonly accepted as symptoms of other, more specific diseases, according to medical advice we have received. In accordance with the basic premise of the rating schedule that disabilities due to injuries or diseases are to be rated, not symptoms or findings, we propose to delete these two conditions from the schedule.

We propose to amend diagnostic code 7700 to include hypochromic-microcytic and megaloblastic forms of anemia, such as iron-deficiency or pernicious anemias, to indicate that the criteria under that code apply to more conditions than the currently specified pernicious anemia. Evaluation criteria under diagnostic code 7700 currently are divided into four levels of 100, 70, 60, and 30 percent according to subjective indicators such as "rapidly progressive," "severe impairment of health," and "definite departures from normal blood count." We propose to substitute objective evaluation criteria based primarily on specific hemoglobin counts, which can be measured through standard laboratory tests. We will retain evaluation levels of 100, 70, and 30 percent, but we propose to eliminate the 60 percent level since the differences in hemoglobin levels between 70 and 60 percent would be so slight as to be meaningless for rating purposes. A 0 percent evaluation will be assigned for hemoglobin counts of 10 grams per milliliter or above since people with these concentrations are typically free of disabling symptoms.

The deficiency anemias described under diagnostic code 7700 are usually reversible with proper management. In contrast, aplastic anemias are a diverse group of potentially severe bone marrow disorders. We propose to add a new diagnostic code, 7716, for aplastic anemia which will be rated according to frequency of transfusions and occurrence of infections. A 100 percent evaluation will be assigned when a veteran is admitted for marrow transplant as treatment for this disease; this evaluation will continue indefinitely, but with a mandatory VA examination six months after hospital discharge. The results of this examination will be reviewed by a rating board and, if a reduction in evaluation is warranted, it would be implemented under 38 CFR 3.105(e). This method ensures that no evaluation is reduced without current medical evidence, offers veterans prior notice of any proposed action and provides an opportunity to present evidence showing that the action should not be taken.

The code for acute agranulocytosis (7702) is currently followed by an instruction to rate according to criteria under diagnostic code 7700 (anemia). The clinical manifestations of this disease more closely resemble the criteria describing transfusions and infections proposed under aplastic anemia (7716). For this reason, we propose to include under diagnostic code 7702 the same criteria as for aplastic anemia.

Although leukemia (7703) is currently rated as 100 percent disabling when treatment such as radiation or transfusion is required, there is no provision for a period of convalescence following such treatment. In order to be consistent with rules regarding the rating of other malignancies in the schedule, we propose to continue the total evaluation indefinitely but to examine the veteran six months after treatment is discontinued. If the results of this or any subsequent examination warrant a reduction in evaluation, the reduction would be implemented under the provisions of 38 CFR 3.105(e).

When treatment other than radiation or transfusion is required, the instruction under the code for leukemia currently directs that the disease be rated as anemia under diagnostic code 7700. We propose that leukemia be rated either under diagnostic code 7700, or as aplastic anemia (7716), whichever results in the greater benefit. This makes a broader range of evaluations available which in turn will allow for more accurate assignment of percentages according to the facts of each case.

The code for what is currently called primary polycythemia and what we propose to call polycythemia vera (7704) is currently followed by an instruction to rate as pernicious anemia. Polycythemia is the presence of increased numbers of red blood cells and is not comparable to pernicious anemia. Polycythemia is treated with phlebotomy or medications, and possible complications include stroke or thrombotic disease. For this reason, we propose to establish separate rating criteria for polycythemia with evaluations of 40 percent while treatment is required, and 0 percent when the disease is stable without need for treatment. An instruction to rate any complications of the disease will be included.

The current evaluation criteria under diagnostic code 7705 for what is currently called purpura hemorrhagica and what we propose to call thrombocytopenia are based upon the frequency and severity of attacks. These criteria are subjective and inconsistently interpreted. We propose to substitute objective criteria based primarily on blood platelet count, which is quantifiable through standard laboratory techniques. As under diagnostic code 7700, disability levels of 100, 70, 60, and 30 percent are currently provided for diagnostic code 7705. We propose to eliminate the 60 percent level because it is clinically indistinguisheble from the 70 percent level for rating purposes. In addition to levels of 100, 70, and 30 percent, a 0 percent level will be established for stable platelet counts of 100,000 or above if there is no bleeding. Under these circumstances the condition is not disabling to any significant degree.

A 30 percent evaluation is currently assigned under diagnostic code 7706 for a splenectomy. Although the spleen is a component in the body's defense against infection, its loss does not result in a significant impairment of earning capacity. The medical advice that we received indicates that the administration of antibiotics effectively compensates for any increased susceptibility to infection. Accordingly, we propose that removal of the spleen be rated as 10 percent disabling instead of 30 percent.

The instruction under diagnostic code 7707 currently directs that a healed injury of the spleen be rated "as

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peritoneal adhesions." While peritoneal adhesions may result from an injury to the spleen, other complications are possible, and we propose to amend the note accordingly.

The evaluation criteria following the diagnostic code for Hodgkin's disease (7709) currently provide percentage levels of 100, 60, and 30 percent. We propose to remove these criteria and instead assign a 100 percent evaluation during the period of active disease or treatment, a change which is consistent with criteria for most other malignancies listed in the schedule. The 100 percent evaluation currently provides a total evaluation for one year of convalescence following the end of treatment for Hodgkin's disease. This provision is applied at the time of rating by assigning a one year total evaluation with a prospective reduction. A decision to reduce an evaluation should be based on medical findings rather than a regulatory assumption that there will be an improvement. We therefore propose to continue the total evaluation indefinitely after treatment is discontinued, but to examine the veteran six months later. Any reduction would be effected under 38 CFR 3.105(e) in the same manner as proposed for diagnostic code 7703 (leukemia) and 7716 (aplastic anemia). We intend to retain that portion of the Note instructing to rate on residuals.

The code for non-Hodgkin's lymphoma (7715) is currently followed by an instruction to rate as Hodgkin's disease (7709). For the convenience of those using the schedule, we propose to simply repeat the criteria instead of directing the rater to another code.

Active or inactive tuberculous adenitis is currently classified under three diagnostic codes: 7710, cervical adenitis; 7711, axillary adenitis; and 7712, inguinal adenitis. Since these conditions have become relatively uncommon, we propose to consolidate all forms of tuberculous adenitis under a single diagnostic code, 7710, and to continue rating the condition under the provisions of §§ 4.88b or 4.89, whichever is applicable, deleting the redundant reference to evaluating the disease 100 percent disabling while active.

The words "pronounced," "severe," "moderately severe," and "mild" now precede the evaluation criteria for compensable evaluations under diagnostic code 7714, Sickle cell anemia. These descriptions do not materially help to explain or clarify the specific evaluation criteria they precede. For that reason, we propose to delete these labels. Other editorial changes are included which are intended to clarify the rating criteria and represent no substantive amendment.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual impact on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 4

Handicapped, Pensions, Veterans.

Approved: April 8, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4, subpart B, is proposed to be amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

Subpart B—Disability Ratings

1. The authority citation for part 4 continues to read as follows:

Authority: 72 Stat. 1125, 38 U.S.C. 1155.

2. Section 4.117 is revised to read as follows:

§ 4.117 Schedule of ratings—hemic and lymphatic systems.

	Rating
7700 Anemia, hypochromic-microcytic and megaloblastic, such as iron-deficiency and pernicious anemia:	
Hemoglobin less than 5 gm/100ml, progressive, no remissions	100
Hemoglobin 5–7 gm/100ml, chronic	70
Hemoglobin 8–9 gm/100ml	30
Hemoglobin 10 gm/100ml or more	0
7702 Agranulocytosis, acute:	
Requiring bone marrow transplant, or; requiring transfusion of platelets or red cells at least once every six weeks, or; infections recurring at least once every six weeks	100
Requiring transfusion of platelets or red cells at least once every 3 months, or; infections recurring at least once every 3 months	50
Requiring no transfusion of platelets or red cells, and no recurring infections	0
Note: The 100 percent rating for bone marrow transplant shall be assigned as of the date of hospital admission and shall continue with a mandatory VA examination six months following hospital discharge. Any change in evaluation shall be subject to the provisions of § 3.105(e) of this chapter.	
7703 Leukemia:	
Requiring intensive treatment such as periodic irradiation or transfusion	100
Otherwise rate as anemia (code 7700) or aplastic anemia (code 7716), whichever would result in the greater benefit.	
Note: Following the cessation of surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure, the rating of 100 percent shall continue with a mandatory VA examination at the expiration of six months. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.	
7704 Polycythemia vera:	
Requiring treatment, phlebotomy or medication	40
Stable, not requiring treatment	0

	Rating
Note: Rate complications such as stroke or thrombotic disease, if present.	
7705 Thrombocytopenia, primary, idiopathic or immune:	
Platelet count of less than 20,000, requiring treatment with medication and transfusions	100
Platelet count between 20,000 and 70,000, not requiring treatment, without bleeding	70
Stable platelet count between 70,000 and 100,000, without bleeding	30
Stable platelet count of 100,000 or more, without bleeding	0
7706 Splenectomy	10
7707 Spleen, injury of, healed.	
Rate for any residuals.	
7709 Hodgkin's disease:	
With active disease or during a treatment phase	100
Note: Following the cessation of surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure, the rating of 100 percent shall continue with a mandatory VA examination at the expiration of six months. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter. If there has been no local recurrence or invasion of other organs, the rating will be made on residuals.	
7710 Adenitis, tuberculous, active or inactive.	
Rate under §§ 4.88b or 4.89, whichever is appropriate.	
7714 Sickle cell anemia:	
With repeated painful crises, occurring in skin, joints, bones or any major organs caused by hemolysis and sickling of red blood cells, with anemia, thrombosis and infarction, with symptoms precluding even light manual labor	100
With painful crises several times a year or with symptoms precluding other than light manual labor	60
Following repeated hemolytic sickling crises with continuing impairment of health	30
Asymptomatic, established case in remission, but with identifiable organ impairment	10
Note: Sickle cell trait alone, without a history of directly attributable pathological findings, is not a ratable disability. Cases of symptomatic sickle cell trait will be forwarded to the Director, Compensation and Pension Service, for consideration under § 3.321(b)(1) of this chapter.	
7715 Non-Hodgkin's lymphoma:	
With active disease or during a treatment phase	100
Note: Following the cessation of surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure, the rating of 100 percent shall continue with a mandatory VA examination at the expiration of six months. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter. If there has been no local recurrence or invasion of other organs, the rating will be made on residuals.	
7716 Aplastic anemia:	
Requiring bone marrow transplant, or; requiring transfusion of platelets or red cells at least once every six weeks, or; infections recurring at least once every six weeks	100
Requiring transfusion of platelets or red cells at least once every 3 months, or; infections recurring at least once every 3 months	50
Requiring no transfusion of platelets or red cells, and no recurring infections	0
Note: The 100 percent rating for bone marrow transplant shall be assigned as of the date of hospital admission and shall continue with a mandatory VA examination six months following hospital discharge. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.	

[FR Doc. 93–10131 Filed 4–29–93; 8:45 am]
BILLING CODE 8320–01–M

38 CFR Part 4

RIN 2900–AE95

Schedule for Rating Disabilities; Systemic Conditions

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its rating schedule regarding evaluation of systemic conditions. This amendment is necessary in order to comply with a General Accounting Office (GAO) study, which recommended that medical criteria in the rating schedule be reviewed and updated. The intended effect is to update the systemic conditions portion of the Schedule for Rating Disabilities to ensure that it uses current medical terminology and unambiguous criteria for evaluating these disabilities.

DATES: Comments must be received on or before June 29, 1993. Comments will be available for public inspection until July 9, 1993. This change is proposed to be effective 30 days after the date of publication of the final rule.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this change to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 170, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until July 9, 1993.

FOR FURTHER INFORMATION CONTACT: John L. Roberts, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington DC 20420, (202) 233–3005.

SUPPLEMENTARY INFORMATION: In response to the advance notice of proposed rulemaking published in the **Federal Register** on January 25, 1991, we received a number of comments and suggestions from private and VA medical doctors, VA Rating Specialists and other concerned individuals. We have also received a report from a consulting firm contracted to suggest revisions to this portion of the Rating Schedule.

The comments included suggestions that we rename this section of the Schedule, delete several diagnostic codes, include diagnostic codes for additional conditions, and change evaluation criteria for a number of conditions. We have considered all of these suggestions and implemented several as explained in the following proposal.

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One finding of the GAO study was that the current schedule contains ambiguous rating criteria. We determined that a number of grammatical changes would be helpful in eliminating ambiguity and ensuring that the schedule presents the rating criteria for listed disabilities as precisely as possible. We are thus proposing editorial changes, primarily in syntax and punctuation, throughout this portion of the schedule. These changes, which will not be addressed individually, are intended to clarify the rating criteria and represent no substantive amendment.

This portion of the Rating Schedule is currently entitled "Systemic Conditions" and it includes diagnostic codes for infectious diseases and immune disorders as well as nutritional deficiencies. The title "systemic conditions," however, does not adequately depict the range of conditions which this section addresses. We propose to amend this title to read "Infectious Diseases, Immune Disorders and Nutritional Deficiencies." The title of § 4.88a will be changed in the same manner.

We propose to change the terminology describing several of the conditions in this section for clarity and in order to reflect current medical terminology. Lymphatic filariasis is the accepted term for filariasis and we propose to use it for the heading of diagnostic code 6305. The term "visceral leishmaniasis" is the medically preferred term for "kala-azar" and we propose to use it as the heading for diagnostic code 6301. Similarly, "Bartonellosis" is the medically preferred term for "Oroya fever," and we propose to use it as the heading for diagnostic code 6306. We propose to expand diagnostic code 6310 to include other treponemal infections as well as syphilis to reduce reliance on the practice of rating by analogy. Use of the term "military", under code 6311, is a typographical error. We will correct this to read "miliary tuberculosis." We propose to delete the phrase "Malta or undulant fever" from the code for brucellosis (6316) since these formerly common names are outdated and no longer used.

Many of the infectious diseases listed in this section are evaluated as 100 percent disabling during episodes of active infection, and some have instructions to rate thereafter according to chronic residuals. General instructions to rate either as active disease or residuals are included after these codes but are inconsistently worded. We propose to word all of these instructions in the same manner: "Thereafter rate residuals such as . . . under the appropriate system," with examples of common residuals inserted in the space. This will provide the rater consistency in instructions and a basic guideline for evaluating residuals; however, it is not to imply that these are the only possible residuals. Diagnostic code 6310 (syphilis) currently directs that only the "tertiary complications" of syphilitic infections be rated. Since disabling residuals of syphilis and other treponemal infections can occur at any stage, we propose removal of the word "tertiary" to permit the rating of all complications. The provision for rating residuals under an appropriate alternate system has also been added to diagnostic codes 6301, 6305 and 6307.

Under diagnostic codes 6300 (Asiatic cholera), 6306 (Bartonellosis, currently termed Oroya fever), and 6317 (scrub typhus), a 100 percent evaluation is currently provided for six months of convalescence after active infection has resolved. The medical advice that we received indicates that when treated in a straightforward manner, the active phase of the diseases resolves quickly and need for convalescence is typically much less than six months. We are thus proposing a three-month period of convalescence instead of six.

Immediately following diagnostic code 6300 (Asiatic cholera), the schedule lists hemoglobinuric fever as a complication of malaria. We propose to delete this reference since it is not related to cholera but was carried forward from earlier editions of the rating schedule in which some symptoms of diseases were listed without diagnostic codes. It is not a separate disease entity and does not warrant assignment of a diagnostic code.

A 100 percent evaluation is currently provided for one year of convalescence after active infection has resolved for diagnostic codes 6301 (visceral leishmaniasis) and 6302 (leprosy). The medical advice that we have received shows that current treatment regimens for these diseases, in the form of antibacterial chemotherapy, are very effective and significant periods of convalescence are seldom if ever necessary. We therefore propose to remove the provisions for convalescence following the active phases of these diseases altogether.

The Note which follows diagnostic code 6302 currently states that the rating criteria apply to active contagious leprosy requiring institutional care and that noncontagious cases will be rated under such schedules as "The Skin." Since all forms of leprosy are totally disabling during their active phase, we propose to delete this Note and instead rate active leprosy as 100 percent disabling regardless of its contagious potential.

Although the majority of the infectious diseases listed in this portion of the schedule are evaluated as 100 percent disabling while active, five are rated according to criteria requiring certain signs or symptoms: 6304 (malaria), 6305 (filariasis), 6309 (rheumatic fever), 6316 (brucellosis), and 6318 (melioidosis). Since active infection generally results in total disability, it is not necessary for the schedule to require specific signs and symptoms, and we propose to delete them in favor of an instruction to rate these conditions as 100 percent disabling while they are active. For the sake of consistency, the instruction under diagnostic code 6308 (relapsing fever) to rate as 100 percent disabling "as active febrile disease" will be amended to state simply "As active disease." The term "febrile" is redundant in describing the disease.

Section 4.88, which currently prefaces this portion of the rating schedule, describes the criteria for acceptable diagnosis of malaria and subsequent relapses. The first and second Notes following diagnostic code 6304 (malaria) also describe acceptable evidence of active malaria, and regulate application of the evaluation criteria under this code. These notes will be replaced by a single NOTE allowing service connection for malaria when service is in an endemic area and diagnosis is based on a clinical description of malarial symptoms. Compensable evaluations for relapses, however, will require confirmation of malaria parasites by blood smear. Laboratory identification is now widely available and well-accepted procedure in the diagnosis of malarial episodes.

We propose to add two diagnostic codes to the classification of infectious diseases: diagnostic codes 6319 for Lyme disease, and 6320 for Parasitic diseases not otherwise specified. Lyme disease has been clearly identified as a distinct disease entity, with sufficient occurrence in the veteran population to warrant a separate diagnostic code. Assigning a code for other parasitic diseases not otherwise specified provides a category for diseases which would otherwise require confusing or ambiguous analogous ratings. We propose to provide a 100 percent evaluation while these diseases are active, with instructions to rate any residuals which may result.

We propose minor changes in the nutritional disorders currently listed as avitaminosis (6313), beriberi (6314), and pellagra (6315). Rather than helping to explain or clarify the specific evaluations, the terms "pronounced," "severe," "moderately severe," "moderate," and "mild" which precede each evaluation level in the current criteria for beriberi and pellegra inject an element of ambiguity not otherwise present. For this reason, we propose to delete them. Other minor wording changes have been made for clarity without substantive amendments. Under the current rating schedule, avitaminosis (diagnostic code 6313) instructs the rating specialist to rate as pellagra, according to severity. For the convenience of those using the schedule, we propose to duplicate the rating criteria under diagnostic code 6313 rather than forcing users to refer to another code (6315) to find them.

We propose to eliminate the 10% evaluation for moderate residuals under beriberi (code 6314) and replace it with the instruction to rate any residuals under the appropriate diagnostic code. This will provide the rater latitude in evaluating all residuals without limiting the evaluation to the 10% level, in the absence of clinical symptoms of the actual disease. This instruction is commonly used in the schedule for this reason. We propose to add an example of ordinary activity to the evaluation criteria for the 30 percent level, to help clarify the difference between the 30 percent and the 60 percent evaluations.

The criteria for systemic lupus erythematosus (diagnostic code 6350) in the current schedule provide for percentage evaluations of 100, 80, 60, 30, and 10 percent. The intermediate range of evaluations depends on criteria which produce impaired health described as "severe" for 80 percent, "moderately severe" for 60 percent, and "moderate" for 30 percent. A 30 percent evaluation is also allowed if exacerbations lasting a week or more occur two or three times a year. For the 10 percent level, exacerbations of a shorter duration once or twice a year, or symptomatology during the past two years, are required.

Systemic lupus typically requires protracted treatment and is more disabling than the current criteria suggest. The 60 percent and 80 percent levels of the disability described in the schedule are clinically indistinguishable, and they are, in fact, severe enough to warrant a 100 percent evaluation. Similarly, the criteria for the 30 percent evaluation more nearly approximate a 60 percent disability. We propose to expand the 100 percent evaluation to include the criteria currently required for the 60 and 80 percent levels. An evaluation for 100 percent will thus be assigned for any frequent exacerbations producing severe impairment of health. Similarly, two or three exacerbations per year of a week or more will qualify for a 60 percent evaluation instead of 30 percent. The 10 percent level will remain unchanged.

The Note which currently follows diagnostic code 6350 instructs that residuals of the disease such as joint, renal, and pleural involvement are to be separately rated. We propose to add drug reactions and neurological complications, because these are frequent residuals of the disease.

We propose no substantive change in the criteria for diagnostic code 6351, HIV-related illness, as amended on March 24, 1992 (see 57 FR 10134). No change is proposed in §§ 4.88b or 4.89, which provide for evaluations of nonpulmonary tuberculosis.

The Secretary hereby certifies that this regulatory amendment will not cause a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this amendment is non-major for the following reasons:

(1) It will not have an annual impact on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 4

Handicapped, Pensions, Veterans.

Approved: April 8, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4, subpart B, is proposed to be amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

Subpart B—Disability Ratings

1. The authority citation for part 4 continues to read as follows:

Authority: 72 Stat. 1125; 38 U.S.C. 1155.

2. The undesignated center heading appearing before § 4.88 is revised to read as follows:

Infectious Diseases, Immune Disorders and Nutritional Deficiencies

§ 4.88 [Removed]

3. Section 4.88 is removed.

4. Section 4.88a is revised to read as follows:

§ 4.88a Schedule of ratings—infectious diseases, immune disorders and nutritional deficiencies.

	Rating
6300 Cholera, Asiatic:	
As active disease, and for 3 months convalescence	100
Thereafter rate residuals such as renal necrosis under the appropriate system	
6301 Visceral Leishmaniasis:	
As active disease	100
Thereafter rate residuals such as liver damage or lymphadenopathy under the appropriate system	
6302 Leprosy (Hansen's Disease):	
As active disease	100
Thereafter rate residuals such as skin lesions or peripheral neuropathy under the appropriate system	
6304 Malaria:	
As active disease	100

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	Rating
Note: The diagnosis of malaria depends on the identification of the malarial parasites in blood smears. If the veteran served in an endemic area and presents signs and symptoms compatible with malaria, the diagnosis may be based on clinical grounds alone. If no malarial parasites can be demonstrated in blood smears in patients upon recurrent attacks, the diagnosis of active disease cannot be supported. Relapses must be confirmed by the presence of malarial parasites in blood smears	
Thereafter rate residuals such as liver or spleen damage under the appropriate system	
6305 Lymphatic Filariasis:	
As active disease	100
Thereafter rate residuals such as epididymitis or lymphangitis under the appropriate system.	
6306 Bartonellosis:	
As active disease, and for 3 months convalescence	100
Thereafter rate residuals such as skin lesions under the appropriate system	
6307 Plague:	
As active disease	100
Thereafter rate residuals such as lymphadenopathy under the appropriate system	
6308 Relapsing Fever:	
As active disease	100
Thereafter rate residuals such as liver or spleen damage or central nervous system involvement under the appropriate system	
6309 Rheumatic fever:	
As active disease	100
Thereafter rate residuals such as heart damage under the appropriate system	
6310 Syphilis, and other treponemal infections:	
Rate the complications of nervous system, vascular system, eyes or ears	
6311 Tuberculosis, miliary:	
As active disease	100
Inactive: See §§ 4.88b and 4.89	
6313 Avitaminosis:	
Marked mental changes, moist dermatitis, inability to retain adequate nourishment, exhaustion, and cachexia	100
With the symptoms listed below, plus mental symptoms and impaired bodily vigor	60
Stomatitis, persistent diarrhea, and symmetrical dermatitis	40
Stomatitis, or achlorhydria, or recurring diarrhea	20
Digestive disturbances, loss of appetite and weight, slight diarrhea, headache, and vertigo	10
6314 Beriberi:	
History of limited nourishment, edema, weakness, cardiac enlargement or murmurs, peripheral neuropathy or other manifestations not responding to therapy	100
With some of the symptoms listed above precluding other than strictly sedentary activity	60
With some of the symptoms listed above precluding other than ordinary activity such as climbing stairs or walking at a normal pace	30
Rate any residuals under the appropriate diagnostic code	
6315 Pellagra:	
Marked mental changes, moist dermatitis, inability to retain adequate nourishment, exhaustion, and cachexia	100
With the symptoms listed below, plus mental symptoms and impaired bodily vigor	60
Stomatitis, persistent diarrhea, and symmetrical dermatitis	40
Stomatitis, or achlorhydria, or recurring diarrhea	20
Digestive disturbances, loss of appetite and weight, slight diarrhea, headache, and vertigo	10
6316 Brucellosis:	
As active disease	100
Thereafter rate residuals such as liver or spleen damage or meningitis under the appropriate system.	
6317 Typhus, scrub:	
As active disease, and for 3 months convalescence	100
Thereafter rate residuals such as spleen damage or skin conditions under the appropriate system	
6318 Melioidosis:	
As active disease	100
Thereafter rate residuals such as arthritis, lung lesions or meningitis under the appropriate system	
6319 Lyme Disease:	
As active disease	100
Thereafter rate residuals such as arthritis under the appropriate system	
6320 Parasitic diseases otherwise not specified:	
As active disease,	
Thereafter rate residuals such as spleen or liver damage under the appropriate system	
6350 Lupus erythematosus, systemic (disseminated):	
Not to be combined with ratings under diagnostic code 7809	
Acute, with frequent exacerbations, producing severe impairment of health	100
Exacerbations lasting a week or more, 2 or 3 times per year	60
Exacerbations once or twice a year or symptomatic during the past two years	10
Note: Rate residuals such as adverse drug reactions, joint, renal, pleural or neurological complications under the appropriate system, not to be combined with ratings under code 6350. Assign the higher evaluation	
6351 HIV-Related Illness:	
AIDS with recurrent opportunistic infections or with secondary diseases afflicting multiple body systems; HIV-related illness with debility and progressive weight loss, without remission, or few or brief remissions	100
Refractory constitutional symptoms, diarrhea, and pathological weight loss; or minimum rating following development of AIDS-related opportunistic infection or neoplasm	60
Recurrent constitutional symptoms, intermittent diarrhea, and on approved medication(s), or; minimum rating with T4 cell count less than 200, or Hairy Cell Leukoplakia, or Oral Candidiasis	30
Following development of definite medical symptoms, T4 cell count of 200 or more and less than 500, and on approved medication(s), or; with evidence of depression or memory loss with employment limitations	10
Asymptomatic, following initial diagnosis of HIV infection, with or without lymphadenopathy or decreased T4 cell count	0
Note (1): The term "approved medication(s)" includes medications prescribed as part of a research protocol at an accredited medical institution	
Note (2): Psychiatric or central nervous manifestations, opportunistic infections, and neoplasms may be rated separately under appropriate codes if higher overall evaluation results, but not in combination with percentages otherwise assignable above	

[FR Doc. 93-10132 Filed 4-29-93; 8:45 am]
BILLING CODE 8320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 93-55; FCC 93-134]

Metric Conversion of Tariff Publications and Supporting Information

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to amend the rules regarding the filing of tariffs and supporting documentation to incorporate metric units of measurement. The amendment advances the goal of the Metric Conversion Act and acknowledges the increased use of metric units of measurement. The amendment will aid in bringing the United States telecommunications industry into conformance with the International System of units that is increasingly becoming the preferred system of weights and measures in this country, as well as abroad.

DATES: Comments shall be filed on or before May 26, 1993; Reply comments shall be filed no later than June 10, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Carol Canteen, Tariff Division, Common Carrier Bureau, (202) 632-6312.

SUPPLEMENTARY INFORMATION: On April 8, 1993, the Commission released a Notice of Proposed Rulemaking, proposing to amend the rules to establish the metric system of measurement as the preferred system of weights and measures for the United States trade and commerce. In keeping with the recommendations and procedures outlined in the Metric Handbook for Federal Officials developed by the Interagency Committee, the Commission's proposed amendment offers the industry three options. The first option would require a carrier to provide in the general rules section of a tariff publication, a table for converting non-metric units and corresponding rates to metric units. The second option would allow the carrier to state in the applicable rate section of the tariff publication and in supporting information, the metric unit and corresponding rate in parenthesis beside the non-metric unit and rate. The third option would require a carrier to provide in its tariff a conversion table for converting non-metric units and corresponding rates into metric units and rates.

The Commission recognizes that any conversion to metric measure would impose some burden on carriers and their customers. The Commission believes that it would be consistent with the national metric policy that it places such burdens on carriers and customers. The proposal to let carriers select from among three options how they will meet this obligation, should go far toward minimizing such burdens. The Commission proposes to allow carriers a period of two years to make the necessary conversions as they routinely file tariff revisions. The Commission proposed amending part 61 of the rules by adding § 61.37, Use of Metric Measurement, as set forth below.

The following collection of information contained in this proposed rule has been submitted to Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800. Persons wishing to comment on this collection of information should direct their comments to Jonas Neihardt, (202) 395-4814, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503. A copy of any comments filed with the Office of Management and Budget should also be sent to the following address at the Commission: Federal Communications Commission, Records Management Division, room 234, Paperwork Reduction Project, Washington, DC 20554. For further information contact Judy Boley, (202) 632-7513.

Title: Proposed § 61.37—Use of Metric Measurement

OMB Number: None.

Action: New Collection.

Respondents: Businesses or other for Profit, including small businesses.

Frequency of Response: On Occasion and Other.

Estimated Annual Burden: 1500 respondents; 106 hours per response (average); 159,000 hours total annual burden.

Needs and Uses: 47 CFR 61 is designed to ensure that all tariffs filed by common carriers are formally sound, well organized, and provide sufficient information to determine the justness and reasonableness as required by the Communications Act, of the rates, terms and conditions in tariffs. The Notice of Proposed Rulemaking solicits public comment to amend 47 CFR 61 regarding the filing of tariffs and supporting documentation to incorporate metric units of measurement. The proposed amendment advances the goal of the Metric Conversion Act.

List of Subject in CFR Part 61

Communications common carriers; Reporting and recordkeeping requirements; Telegraph; and Telephone

Amendment to the Code of Federal Regulations

Part 61 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

Part 61—TARIFFS

1. The authority citation for Part 61 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply Sec. 203, 48 Stat. 1070; 47 U.S.C. 203.

2. Section 61.37 is added to read as follows:

§ 61.37 Use of metric measurement.

All general rules, regulations, exceptions, conditions, and rates contained in a tariff publication and in supporting information that are measurement sensitive must employ one of the following options relating to the use of metric measurement. A

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carrier may employ only one option throughout all tariff publications and supporting information filed by that carrier. A carrier may choose to provide a conversion table for converting non-metric units and corresponding rates to metric units and rates in the general rules section of a tariff publication. A carrier may choose to state in the applicable rate section of the tariff publication and in supporting information, the metric unit and corresponding rate in parenthesis simultaneously with the non-metric unit and rate. A carrier may choose to provide a conversion table for converting the non-metric units and corresponding rates contained in a tariff publication and in supporting information filed with the Commission to metric units and rates. The resulting metric unit and corresponding rate must be shown in the tariff publication and in the supporting information filed with the Commission.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-10162 Filed 4-29-93; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 93-112, RM-8210]

Radio Broadcasting Services; Buckeye, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mobley Broadcasting, Inc., licensee of Station KMJK (FM), Channel 295A, Buckeye, Arizona, seeking the substitution of Channel 295C2 for Channel 295A and modification of its license accordingly to specify operation on the higher powered channel. Coordinates for this proposal are 33-21-03 and 112-52-41. Mexican concurrence will be requested for this allotment.

Petitioner's modification proposal complies with the provisions of § 1.420(g) of the Commission's Rules. Therefore, we will not accept competing expressions of interest in the use of Channel 295C2 at Buckeye, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before June 14, 1993, and reply comments on or before June 29, 1993.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Philip L. Malet, Esq., Steptoe & Johnson, 1330 Connecticut Avenue, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-112, adopted April 5, 1993, and released April 26, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10107 Filed 4-29-93; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 93-111, RM 8204]

Radio Broadcasting Services; Reedsport, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Colleen E. and Rodney B. Fafara seeking the substitution of Channel 258C3 for Channel 258A at Reedsport, Oregon, and the modification of Station KRBZ's construction permit to specify operation on the higher class channel. Channel 258C3 can be allotted to Reedsport in compliance with the Commissions' minimum distance separation requirements with a site restriction of 2.5 kilometers (1.6 miles south to accomodate petitioners' desired transmitter site, at coordinates North Latitude 43-40-40 and West Longitude 124-06-36. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of the channel at Reedsport or require the petitioners to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before June 14, 1993, and reply comments on or before June 29, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Colleen E. and Rodney B. Fafara, 825 E. Evelyn Avenue #532, Sθννναλε, Ψαλιφορνια 94086 (Πεππονερσ).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-111, adopted April 5, 1993, and released April 26, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcript Services, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10108 Filed 4-29-93; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 93-104, RM-8209]

Radio Broadcasting Services; Greenwood, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Team Broadcasting Co., Inc., proposing the substitution of Channel 282C2 for Channel 282C3 at Greenwood, Mississippi, and modification of the construction permit for Station WGNL (FM). The coordinates for Channel 282C2 are 33-28-50 and 90-09-35. We shall propose to modify the construction permit for Channel 282C3 in accordance with § 1.420(g) of the Commission's Rules and will not accept competing expressions of interest for the use of the channel or require petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before June 14, 1993, and reply comments on or before June 29, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel as follows: Mark N. Lipp, Mullin, Rhyne, Emmons and Topel, P.C., 1000 Connecticut Avenue, suite 500, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-104 adopted April 1, 1993, and released April 26, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20036, (202) 857-3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10109 Filed 4-29-93; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 93-103, RM-8206]

Radio Broadcasting Services; Minetto, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Francis C. Toce seeking the allotment of Channel 293A to Minetto, New York, as the community's first local aural transmission service. Channel 293A can be allotted to Minetto in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.6 kilometers (1.6 miles) northwest to avoid a short-spacing to Station WPCX, Channel 295B, Auburn, New York, at coordinates North Latitude 43-25-18 and West Longitude 76-28-54. The proposed Minetto allotment is short-spaced to unoccupied and unapplied-for Channel 293A at Brockville, Ontario, Canada. However, we believe that no prohibited interference will result from the allotment since the protected contour of a Brockville station and the interference contour of the Minetto station will not overlap. Concurrence by the Canadian government, as a specially negotiated allotment, has been requested since Minetto is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before June 14, 1993, and reply comments on or before June 29, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James L. Oyster, Esq., Rt. 1, Box 203A, Castleton, Virginia 22716 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-103, adopted April 1, 1993, and released April 26, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10110 Filed 4-29-93; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 93-101, RM-8201]

Radio Broadcasting Services; Pelham, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Mitchell County Television requesting the allotment of Channel 222A to Pelham,

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Georgia, as that community's first local FM service. The proposed coordinates are North Latitude 31–06–07 and West Longitude 84–08–44.

DATES: Comments must be filed on or before June 14, 1993, and reply comments on or before June 29, 1993.

ADDRESSES: Federal Communications Commission, Washington DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jerry E. White, Managing Partner, Mitchell County Television, Route 3, Box 514, Pelham, Georgia 31779 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–101, adopted March 30, 1993, and released April 26, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., room 246, or 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–10111 Filed 4–29–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 930362–3062]

Pelagic Fisheries of the Western Pacific Region

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS proposes to remove Federal regulations governing foreign longline fishing for pelagic species, other than tuna, in the exclusive economic zone (EEZ) off the Commonwealth of the Northern Mariana Islands (CNMI) and the west coast of the U.S. mainland. Foreign fishing in these areas is governed by the Preliminary Fishery Management Plan for Pacific Billfish, Oceanic Sharks, Wahoo, and Mahimahi (PMP). The Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP), which manages all domestic and most foreign fishing for pelagic species off the coasts of Hawaii and U.S. territories of the western Pacific, has largely replaced the PMP. Withdrawing the PMP and its implementing rules will reduce the complexity caused by having two separate management approaches for foreign fishing.

DATES: Written comments must be received by June 14, 1993.

ADDRESSES: Comments on the proposed withdrawal of the PMP and the proposed rule to delete its implementing regulations should be addressed to Dr. Gary C. Matlock, Acting Regional Director, Southwest Region, NMFS, 501 W. Ocean Blvd., suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: James J. Morgan, NMFS, at (310) 980–4036; or Alvin Z. Katekaru, NMFS, at (808) 955–8831.

SUPPLEMENTARY INFORMATION: The PMP was implemented on April 1, 1980 (45 FR 14581), to allow and manage otherwise prohibited foreign longline fishing for pelagic species within the EEZ of the Pacific Ocean, excluding the EEZ off Alaska. Alaska is well beyond the range of these pelagic species. At that time, there was some interest in foreign longline fishing for billfish in the EEZ. Subsequently, the WPFMC prepared an FMP for the same species to manage both foreign and domestic fishing within the EEZ of the western Pacific Ocean, except for those portions of the EEZ off the CNMI and the west coast of the U.S. mainland (52 FR 5984, February 27, 1987). Since the CNMI had chosen not to participate as a member of the WPFMC, the FMP did not include conservation and management measures applicable to the EEZ around the CNMI in the management area of the FMP. The Pacific Fishery Management Council (PFMC) decided not to prepare a plan for the west coast because the State of California regulations were considered sufficient for managing pelagic species fisheries off the west coast. Therefore, the PMP now only covers foreign longline fishing for pelagic species within the EEZ off the CNMI and the west coast of the U.S. mainland. However, there has been no foreign fishing in either of these two areas since the PMP was implemented.

In the geographic area each presently covers, the PMP and FMP take different approaches to managing foreign fishing. The PMP regulations restrict the amount of billfish and other fish that may be retained in each area, establish zones in which retention of billfish and other species is prohibited, and require that vessel operators release any prohibited species without bringing them on board the vessel. The PMP does not include tuna in the management unit. It also prohibits foreign fishing within 12 nautical miles of the baseline from which the territorial sea is measured. There is a non-retention zone between 12 and 100 nautical miles off the west coast of the U.S. mainland and between 12 and 50 nautical miles off the coast of the CNMI. Billfish and associated species may be retained by permitted foreign fishing vessels beyond these distances. The FMP does not limit the catch by foreign vessels so long as the regulations are followed, while the PMP defines total allowable level of foreign fishing and the amount of reserve for each species for each area.

Since implementation of the Magnuson Fishery Conservation and Management Act (Magnuson Act), foreign longliners have not fished for pelagic species within the EEZ of the Pacific Ocean. Apparently, the expense of taking an observer and meeting the other requirements is not justified when measured against the uncertainty of the potential harvest. Opportunities to harvest these highly migratory species extend well beyond the EEZ.

If foreign fishermen decide to seek access to pelagic species in either the EEZ of the CNMI or the west coast of the U.S. mainland, those requests could be dealt with appropriately by the PFMC or the WPFMC.

Because the Magnuson Act prohibits foreign fishing in the absence of a PMP or FMP, removing the PMP prevents foreign longline fishing for pelagic species in the EEZ off the CNMI and the west coast of the U.S. mainland; however, no foreign fishing has occurred and none is likely. Since the management unit species can be harvested beyond the EEZ and potential foreign fishing can still occur in the areas of the EEZ managed by the FMP, removing the PMP will not affect total catch and effort on the stocks. Therefore, there are no anticipated biological, economic, or social impacts.

The PMP is unnecessary. The regulations governing foreign fishing, which coexist with the FMP regulations in § 611.81, create needless complexity. In view of the above, the PMP and its implementing rules are proposed to be withdrawn. This proposed rule would amend 50 CFR 611.81 by removing paragraphs that implemented the PMP, i.e., paragraphs (i), (j)(1), and (k); if these paragraphs are deleted, several other paragraphs in § 611.81 need to be redesignated, or revised to correct cross-references.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that the PMP and its implementing regulations are not necessary for the conservation and management of the pelagic fisheries in the EEZ of the CNMI and the west coast of the U.S. mainland. Withdrawing the PMP and issuing this proposed rule to remove its implementing regulations are consistent with the Magnuson Act and other applicable law.

The Assistant Administrator has determined that this proposed rule is categorically excluded from the requirements to prepare an environmental impact statement (EIS) or environmental assessment (EA) under paragraph 6.02c. (3)(f) of NOAA Administrative Order 215–1. This action would affect total catch and effort on management unit species.

This proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. The rule would have no impacts on domestic or foreign fishing vessels, as no foreign longlining has been conducted, or is expected in the future under the PMP.

The Assistant Administrator has determined that this rule is consistent to the maximum extent practicable with the approved coastal zone management programs of the Commonwealth of the Northern Mariana Islands, and the States of California, Oregon, and Washington. Letters have been sent to the Commonwealth and the States requesting their review and comment.

The General Counsel for the Department of Commerce has certified to the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. This rule removes Federal regulations governing foreign longlining fishing for pelagic species, other than tuna, in the EEZ off the CNMI and the west coast of the U.S. mainland. Since there has been no foreign fishing in these areas since the regulations went into effect in 1980, there should be no economic impact.

This proposed rule contains no collection-of-information requirement subject to the Paperwork Reduction Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O 12612.

List of Subjects in 50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

Dated: April 26, 1993.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 611 is proposed to be amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. In § 611.81, the definition of "non-retention zone" in paragraph (b) is revised; paragraphs (i) and (k) are removed and paragraph (j) is redesignated paragraph (i); redesignated paragraph (i)(1) is removed and redesignated paragraphs (i)(2) through (i)(9) are redesignated paragraphs (i)(1) through (i)(8), respectively; redesignated paragraphs (i) heading, (i)(3)(i), (i)(3)(ii), (i)(3)(iv) first sentence, (i)(5) introductory text, (i)(6)(i) first sentence, and (i)(6)(ii) first sentence are revised; and in newly redesignated paragraphs (i)(1), (i)(2), and (i)(7), the words "FMP Management Area Group" are removed and the words "FMP Management Area" are added in their place to read as follows:

§ 611.81 Pacific pelagic species fishery.

* * * * *

(b) * * *

Non-retention zone means that area of the EEZ in which all billfish, oceanic sharks, wahoo, and mahimahi caught by longline gear from an FFV must be returned to the sea in accordance with the requirements of paragraph (i)(3) of this section.

* * * * *

(i) *Other management measures*—

* * * * *

(3) * * *

(i) There is no limit to the amount of Pacific pelagic management unit species that may be caught by the operator of an FFV in the retention zones described in Table 1 of paragraph (i)(1) of this section.

(ii) No operator of an FFV may fish with longline gear to catch and retain Pacific billfish, oceanic sharks, mahimahi, or wahoo within the non-retention zone set out in Table 1 of paragraph (i)(1) of this section.

* * * * *

(iv) No operator of an FFV may fish for Pacific pelagic management unit species in the closed areas set out in Table 1 of paragraph (i)(1) of this section. * * *

* * * * *

(5) *Factors considered.* Factors that will be considered by the Regional Director in making any determination described in paragraph (i)(4) of this section will include the following:

* * * * *

(6) * * *

(i) The Secretary will publish a notice of any proposed determination described in paragraph (i)(4) of this section in the **Federal Register** for public comment, unless the Secretary finds good cause that such notice and public review are impracticable or contrary to the public interest. * * *

(ii) If the Secretary determines, for good cause, that a determination described in paragraph (i)(4) of this section must be issued without affording a prior opportunity for public comment, public comments on the notice will be received by the Secretary for a period of 15 days after the effective day of the notice. * * *

* * * * *

[FR Doc. 93–10184 Filed 4–29–93; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 651

Northeast Multispecies Fishery: Public Hearings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of public hearings on Amendment 5 to the Northeast

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Multispecies Fishery Management Plan and request for comments.

SUMMARY: The New England Fishery Management Council (Council) announces that it will hold public hearings to receive comments on Amendment 5 to the Northeast Multispecies Fishery Management Plan (FMP). The Council also seeks information to assess the potential effects of a program to eliminate overfishing on stocks of cod, haddock and yellowtail flounder that would reduce fishing effort by 50 percent, and on alternative measures to reduce the take of harbor porpoise in the Gulf of Maine sink gillnet fishery. Scoping sessions will be held in conjunction with the public hearings. This notice is to alert the interested public of the hearings and to provide for public participation in compliance with environmental documentation requirements.

DATES: Written comments should be submitted on or before May 28, 1993. See **SUPPLEMENTARY INFORMATION** for times and dates of the public hearings; testimony may be presented at any of the hearings.

ADDRESSES: Written comments should be sent to Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906. Copies of the public hearing draft of Amendment 5 and the Draft Supplemental Environmental Impact Statement (DSEIS) may be obtained from this address. Clearly mark the outside of the envelope "Request for Amendment 5 public hearing document." See **SUPPLEMENTARY INFORMATION** for locations of public hearings.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, (617)–231–0422.

SUPPLEMENTARY INFORMATION: The scoping process for Amendment 5 was formally started on April 29, 1992 (57 FR 18132), and initial public hearings were held between April 30 and May 14, 1992. Public comments were received and reviewed by the Council. Frequent scoping meetings were held over the course of the intervening year, and adjustments were made to the initial proposals.

Background and Purpose of the Amendment

The Council proposes to amend the FMP because all of the principal stocks comprising the fishery are overexploited. Abundance levels, catch rates and total landings for many of these stocks have been steadily declining and are at all-time low levels. The current management system regulates the size of fish caught, through mesh size and minimum fish size, and provides temporary protection for concentrations of juvenile or spawning fish, through seasonally closed areas, but does not regulate the total effort exerted on the fishery. Without direct controls on the rate at which fish are caught, occasional large year classes of a particular stock are almost fully caught within a year or two of becoming susceptible to the gear. In addition, a significant portion of each year class must be discarded because the fish are caught before they reach the minimum legal size.

The Council's management policy, adopted in 1983, identified two main considerations: Minimum regulatory intervention, and preventing a failure in recruitment (incoming year classes) by maintaining certain minimum stock conditions. In 1988, the Council's Technical Monitoring Group (TMG), established by the FMP, evaluated the effectiveness of the FMP and recommended improvements. The TMG concluded that the FMP was making only limited progress towards its objectives, and that the overall management system, including the FMP, did not meet many of the resource maintenance and rebuilding needs.

According to the definitions of overfishing adopted by the Council and approved by the Secretary of Commerce (Secretary), the stocks of cod, haddock and yellowtail flounder are severely overfished, and are being fished at a rate more than twice that which will enable the stocks to maintain themselves over the long term. According to Federal guidelines, if a stock is overfished, the Council must establish a program and schedule to eliminate that condition and rebuild the stock over a period of time specified by the Council and acceptable to the Secretary.

The technical description of overfishing and of the status of stocks relative to that definition are contained in the DSEIS for Amendment 5. In simpler terms, the annual removal rate from individual groundfish stocks that would allow them to maintain themselves over the long term ranges from about one-quarter to one-half of the population (depending on the stock). According to the most recent assessments, fishing currently removes from one-half to three-quarters of each stock annually, and in some cases, at a rate more than twice the stock can sustain over the long term. Consequently, the Council intends to reduce overall fishing mortality rates by 50 percent.

In addition, NMFS, under the authority of the Marine Mammal Protection Act, has asked the Council to develop measures to reduce the take of harbor porpoise in the sink gillnet fishery and incorporate them into this amendment.

Amendment Objectives

The Council has adopted the following objectives for Amendment 5:

1. To eliminate overfishing on cod and yellowtail flounder in 5 years and on haddock in 10 years.

2. To rebuild the haddock spawning stock biomass, in addition to reducing the rate at which haddock are fished, by preventing an increase in the fishing effort directed at haddock.

3. To improve and enhance enforcement and administration of management measures.

4. To protect concentrations of fish below the minimum legal size from capture and excessive discard mortality.

5. To reduce the annual take of harbor porpoise in the sink gillnet fishery by the end of year 4 after implementation to 2 percent of the population, based on the best available estimates of abundance and bycatch.

Specific Measures Proposed

A. Moratorium

In order to qualify under the moratorium, a vessel would have to have been permitted as of February 21, 1991, or renewed a permit in 1991, and have a history of landing any multispecies fish. Vessels under construction or under contract for construction as of the control date could also qualify. The Council published notice of the control data in the Federal Register on May 17, 1991 (56 FR 22846).

There are proposed exceptions to the moratorium, and the owner of any vessel that does not automatically qualify for a permit would have the right to an appeal. The two exceptions to the moratorium under the preferred alternative would enable any vessel either to obtain a "maximum possession limit" permit, which would allow the vessel to retain up to a fixed amount of large-mesh groundfish species, currently proposed to be 500 pounds (227 kg), or to obtain a "hook-gear-only" permit, which would enable any vessel to fish for groundfish (no weight limit), provided that vessel fished for groundfish exclusively with fewer than 4,500 hooks set per day.

The Council is also taking to public hearings alternatives to the proposed moratorium. One alternative would

enable the Council to allow a controlled number of new permits on an annual basis after reviewing the effort-reduction program. Under one of the effort-reduction alternatives, which uses quotas, mesh size increases and monthly blocks out of the fishery, there is a no-moratorium alternative.

B. Fishing Effort Reductions

The Council is considering three effort-reduction alternatives: (1) All vessels (with exceptions) declaring time out of groundfishing and taking layover days while fishing for groundfish (the Council's preferred alternative); (2) choice of either a fleet-wide allocation or individual allocation of days at sea based on vessel history of fishing for groundfish; or (3) a system of aggregated quotas (combined landings of 10 large-mesh species), mesh size increases and monthly blocks out of groundfishing with the region divided into three quota allocation areas. The Council also proposes an exemption from effort-reduction requirements for boats under 30 feet (9.1 m) and hook-gear-only boats. Additionally, any vessel at any time may possess up to 500 pounds (227 kg) of groundfish, even though the vessel has no effort allocation. Further explanation of the alternatives follows.

Alternative 1: Under this preferred alternative, every qualifying vessel would be required to declare time out of groundfishing in blocks of no less than 20 days, including one block during the period March through May. The amount of time required off groundfishing would be increased incrementally over time. While fishing for groundfish, vessels would be required to layover at the dock 1 day for every 2 (24-hour) days at sea, except that no layover would be required for 1-day trips. The effort-reduction requirements for vessels engaged in pair trawling would be applied at a ratio of four-to-one in comparison to single-trawl vessels.

During the first 2 years, all groundfishing vessels would be required to declare 80 days out of the fishery, in addition to taking the layover days. In year 3, vessels would be required to declare 128 days out. In the fourth year, vessels would be required to declare 165 days out of groundfishing. In that year, the Council would consider making adjustments to any future reduction schedules based on the success of the program during the first 3 years and the status of the stocks relative to the amendment objectives. During the fifth year, vessels would be required to declare 200 days out of groundfishing.

Alternative 2: Under the second proposed alternative, vessels would have the option to take either the fleet-wide allocation of time out of groundfish described above, or individual allocations of days at sea based on historical performance as defined in the NMFS weighout file or as can be demonstrated with logbooks or other records.

Under the individuals allocation option, there would be no layover day requirement, but each vessel would still be required to declare 20 days out of groundfishing during the March through May period. The annual allocation of days at sea would be based on reductions of 10 percent per year from the initial baseline. Vessels fishing under an individual allocation would have to carry an electronic vessel tracking device.

Under this alternative, a vessel would have the opportunity to switch between the individual allocation group and the fleet-wide allocation group one time before the end of year 2, provided the switch is made at the end of the permit period (year).

The individual allocation would be based on the average number of groundfishing days that appear in the NMFS weighout files during 1988–1990, with the year of fewest days fished, and all years in which there is no record of fishing, removed from the calculation. A vessel would be able to appeal that allocation, and to continue fishing under the fleet-wide allocation pending the outcome of the appeal.

Alternative 3: This alternative would use three principal measures, which could be adjusted periodically in order to meet the amendment objectives: Aggregated quarterly quotas, mesh size increases, and assigned monthly blocks of time out of groundfishing. The Northeast Region would be divided into three areas: Gulf of Maine, Georges Bank, and Southern New England and south.

The time out of groundfishing would be allocated as follows. All vessels would be assigned random months out of the fishery during which vessels would be prohibited from retaining more than 500 pounds (227 kg) of groundfish. During the first 2 years, each vessel would be assigned 2 months out of the fishery, based on the last digit of the vessel permit. A vessel would not be assigned 2 consecutive months out, or more than 1 month per year that is the first month in a quarter.

Further time out of the fishery would result when the quota is reached and would apply to all vessels fishing in the area, regardless of the months that are assigned, as needed, in the third and fifth years of the plan.

C. Mesh Size Increase

Minimum legal mesh size for fishing for groundfish would be increased to 6 inches (15.2 cm), square or diamond, to be applied (phased-in) throughout the range of groundfish. Vessels would be required either to carry only legal mesh on board, or possibly to obtain a special permit to carry properly stowed small mesh while groundfishing.

D. Gillnet Vessels

An interim program is proposed for gillnet vessels to reduce both fishing effort and harbor porpoise bycatch, using blocks of time when all gear is out of the water, beginning with 4 days each month, and increasing incrementally to 16 days each month in year 5. There is also a mechanism to change or replace the interim proposal with a more effective or more acceptable management system as quickly as possible.

E. Mandatory Data Collection

Amendment 5 includes mandatory reporting systems for the collection of landings data and for monitoring effort. These include electronic vessel tracking systems (VTS) and a magnetic-strip card ("mag-card") call-in program.

F. Pair Trawling

The Council is considering measures either to control pair trawling for groundfish with a pro-rated effort control system, or to prohibit it.

G. Minimum Fish Sizes

Minimum fish sizes would be set appropriate to the increased mesh size, and to reduce discards (except for winter flounder, which would be set at 12 inches (30.5 cm), consistent with state regulations).

H. Juvenile Fish Protection

There are proposed measures to protect concentrations of juvenile cod on Stellwagen Bank and Jeffreys Ledge (required use of square mesh at certain times) and juvenile yellowtail in the vicinity of Nantucket Lightship (a closure to protect occasional large year classes).

I. Haddock Protection and Rebuilding

To protect and rebuild haddock stocks, Amendment 5 includes an expansion of Area II (by 20' longitude to the west and 15' latitude to the south), extension of the season (to January through June), and a suspension (for mobile gear) of the Area I closure. There is also a proposed possession limit of 2,500 pounds (1,134 kg) of haddock, or 5,000 pounds (2,268 kg) under effort reduction Alternative 3.

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J. Inshore Night Fishing Ban

The Council seeks public comment on a prohibition on night fishing with mobile gear within 12 miles of shore (a non-preferred alternative).

K. Permits

Amendment 5 would require permits for all vessel operators and all dealers. A permit sanction could be the penalty for a violation of the regulations.

L. Overfishing Definitions

In accordance with Federal guidelines, the Council also is proposing measurable definitions of overfishing for those stocks in the plan for which overfishing has not yet been defined: Red hake, white hake, ocean pout, windowpane flounder, and pollock.

Public Comments Invited

Following these hearings, the Council will review all comments and prepare the final amendment. When the Council submits the amendment to the Secretary, the public will be notified and have further opportunity to comment. The Council encourages all interested members of the public to provide comments, questions and suggestions on the measures proposed in Amendment 5 as summarized in this summary document. Further detail on the background of Amendment 5, discussion and comparison of alternatives, and projected economic and environmental impacts are provided in the DSEIS, which is also available (see **ADDRESSES**).

Public Hearing Schedule

The public hearings will be held as follows:

1. May 3, 1993, 1 p.m.—Dutch Inn, Great Island Road, Galilee, RI (401) 789–9341.

2. May 4, 1993, 1 p.m.—The Frank Jones Center, 400 Route 1 Bypass, Portsmouth, NH (603) 433–2345.

3. May 5, 1993, 1 p.m.— Seaport Inn, 110 Middle Street, Fairhaven, MA (508) 997–1281.

4. May 6, 1993, 7 p.m.— Holiday Inn (Downtown), 88 Spring Street, Portland, ME (207) 775–2311.

5. May 7, 1993, 1 p.m.— Holiday Inn, U.S. Routes 1 & 3, Ellsworth, ME (207) 667–9341.

6. May 14, 1993, 7 p.m.— Sadler Function Hall, 30 Sadler Street Extension, Gloucester, MA (508) 281–8655.

7. May 19, 1993, 7 p.m.— Holiday Inn, 290 Highway 37 East, Toms River, NJ (908) 244–4000.

8. May 20, 1993, 7:30 p.m.— Holiday Inn, Exit 72–L.I. Expressway and Route 25, Riverhead, NY (516) 369–2222.

9. May 21, 1993, 2 p.m.— Sheraton Tara Hyannis, West End Circle, Hyannis, MA (508) 775–7775.

(**Authority:** 16 U.S.C. 1801 *et seq.*)

Dated: April 26, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management National Marine Fisheries Service.

[FR Doc. 93–10143 Filed 4–29–93; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register

Vol. 58, No. 82

Friday, April 30, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 93–049–1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that seven environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are encouraged to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, BBEP, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessments and findings of no significant impact, write to Mr. Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
92–359–01	Monsanto Agricultural Company.	03–26–93	Soybean plants genetically engineered to express tolerance to the phosphinothricin class of herbicides.	Alabama, Illinois, Indiana, Iowa, Maryland, Michigan, Missouri, Ohio, South Dakota.
92–365–04, renewal of permit 91–317–01, issued on 01–22–92, renewal of permit 90–332–02, issued on 03–12–91.	Dekalb Plant Genetics, Incorporated.	04–01–93	Corn plants genetically engineered to express tolerance to the phosphinothricin class of herbicides.	Hawaii.
93–053–06, renewal of permit 91–077–01, issued on 06–18–91.	Harris Moran Seed Company.	04–01–93	Cantaloupe plants genetically engineered to express resistance to cucumber mosaic virus.	California.
93–011–02, renewal of permit 91–347–03, issued on 04–14–92.	Monsanto Agricultural Company.	04–05–93	Cotton plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* ssep. *kurstaki* for resistance to lepidopteran insects.	North Carolina.

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Permit No.	Permittee	Date issued	Organisms	Field test location
93-011-03, renewal of permit 92-037-02, issued on 06-03-92.	Monsanto Agricultural Company.	04-05-93	Soybean plants genetically engineered to express tolerance to the phosphinothricin class of herbicides.	North Carolina.
93-077-04, renewal of permit 92-212-01, issued on 11-16-92.	Pioneer Hi-Bred International, Incorporated.	04-05-93	Corn plants genetically engineered to be male sterile and to express a marker gene for tolerance to the phosphinothricin class of herbicides.	Hawaii.
93-012-03	Monsanto Agricultural Company.	04-06-93	Cotton plants genetically engineered to express tolerance to the phosphinothricin class of herbicides.	Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, Texas.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 26th day of April 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93-10198 Filed 4-29-93; 8:45 am]

BILLING CODE 3410-34-P

Forest Service

Middle Fork Ecosystem Management Project, Flathead National Forest, Hungry Horse Range District, Flathead County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The USDA, Forest Service, will prepare an Environmental Impact Statement (EIS) to analyze and disclose the environmental impacts of a proposal to sustain the natural diverse characteristics of ecosystems in the Middle Fork watershed upstream from West Glacier. This area, to be more approximate, lies between Glacier National Park and the Great Bear Wilderness Area, on the Hungry Horse Ranger District, Flathead County, Montana. Part of the proposed project activities are within the Bear-Marshall-Scapegoat-Swan (#1485) Roadless Area. To help sustain these ecosystems, prescribed burns in natural openings and harvesting of timber with some new road construction would be included in the proposal.

This EIS will tier to the Flathead National Forest Land and Resource Management Plan (LRMP) and EIS of January, 1986, which provide overall guidance in achieving the desired future condition for the area. To help achieve the purpose of sustaining natural ecosystems, the following has been identified as needs: to manage for the loss of vigor and increased mortality from a number of insect and disease organisms; to contribute to the short term supply of timber; to provide for conservation of biological diversity by maintaining or enhancing long term landscape linkages; to provide for wildlife habitat diversity and security; and to improve fish habitat.

Extensive scoping had been done for this project during the initial stages of analysis and during the development of alternatives over the past thirteen months. It has now been determined that an EIS will be prepared for this project. The Forest Service is seeking information and comments from Federal, State, and local agencies and other individuals or organizations who may now be interested in or affected by the proposed actions. This input will be used in preparing the Draft EIS. This process will include:

1. Identification of potential issues.
2. Identification of major issues to be analyzed in depth.
3. Elimination of minor issues or those which have been covered by a relevant previous environmental analysis.
4. Identification of additional reasonable alternatives.
5. Identification of potential environmental effects of the proposed action and the alternatives (i.e. direct, indirect, and cumulative effects).
6. Determination of potential cooperating agencies and task assignments.

The agency invites written comments and suggestions on the issues and management opportunities in the area being analyzed.

DATES: Comments concerning the scope of the analysis should be received on or before June 14, 1993.

ADDRESSES: Submit written comments and suggestions on the proposed management activities or a request to be placed on the project mailing list to Allen L. Christophersen, District Ranger, Hungry Horse Ranger District, P.O. Box 340, Hungry Horse, MT 59919.

FOR FURTHER INFORMATION CONTACT: Heidi Trechsel, Middle Fork Interdisciplinary Team Leader, or Allen L. Christophersen District Ranger, at (406) 387-5243.

SUPPLEMENTARY INFORMATION:

Management activities under consideration would occur in an area encompassing approximately 22,430 acres of National Forest lands in the Dickey Cr., Paola Cr., Pinnacle Cr., Tunnel Cr., and Disbrow Cr. drainages of the Middle Fork Geographic Unit, located on the Hungry Horse Ranger District, as delineated in the Flathead LRMP. This area lies south of the Middle Fork of the Flathead River, west of the Continental Divide and north of the Great Bear Wilderness.

Wildlife habitat would be improved on 146 acres in the Dickey Cr. drainage, 100 acres in the Paola Cr. drainage, and 136 acres in the Tunnel Cr. drainage. This part of the proposal would involve forage enhancement through prescribed burning of natural openings.

Fish habitat would be improved in the Dickey, Paola, and Tunnel Creek drainages by removing barriers, improving bank and over-pool cover, and developing more clean gravel for spawning.

Harvest of timber and reforestation activities would occur on up to 500 acres in the project area. The areas for treatment are composed of even-aged lodgepole stands and mixed species stands. Management activities may include construction of approximately 1.3 miles of permanent road, and restoration of approximately 3.9 miles of existing roads. The proposed timber harvest would take place in up to 22 units, varying in size from 4 to 40 acres. Seventeen of the units would be harvested with a seed tree with reserves silvicultural system (retention of up to 10 trees per acre). Two of the units would be harvested with a shelterwood with reserves silvicultural system (retention of up to 20 trees per acre). The remaining units would be harvested with a selection silvicultural system. Thirteen of the units would be harvested using a helicopter logging system and the remaining nine units would be harvested using a ground based logging system. Half of the units would be prescribed burned following logging to treat the heavy slash accumulations and prepare the site for reforestation. The remaining units would be mechanically scarified.

The LRMP for the Flathead National Forest provides the overall guidance for management activities in the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. The proposal was designed to meet the Forest Plan standards and guidelines and ecosystem management goals.

Areas of proposed harvest and road construction for the Middle Fork project are within Management Area (MA) 15, 16, and 7. LRMP plan direction states that Management Area 15 consists of lands where timber management with roads is economical and feasible. The management goal is to manage those lands suitable for timber production for the long-term growth and production of commercially valuable wood products as well as provide for soil and water protection, wildlife habitat, and roaded recreation opportunities.

Management Area 7 includes forested lands in areas of high scenic value. One of the primary goals consists of maintaining a pleasing, natural-appearing landscape in which management activities are not dominant. All resources will be managed with a partial retention visual quality objective.

Management Area 16 includes lands where timber management is feasible through the use of aerial logging systems. Roadless logging methods will be used, unless site specific analysis determines that a roaded system is economically and environmentally prudent.

Management Area 2A/2B consists of unroaded lands that offer a variety of dispersed recreation opportunities. Dispersed recreation opportunities will meet a Recreation Opportunity Spectrum classification of semi-primitive non-motorized for MA 2A and semi-primitive motorized for MA 2B. These management areas will provide wildlife and fish habitat, including security from human disturbance.

The Forest Service will consider a range of alternatives. The proposed action and the alternatives all respond in part to the purpose and need by addressing to varying degrees biodiversity, wildlife diversity and security, forest health and other needs. The analysis will also consider the "no action" alternative, in which none of the proposed activities would be implemented. As a result of the scoping and analysis that has taken place to date, alternatives to the proposed action would include;

(1) An alternative that focuses more on the conservation of biological diversity by maintaining or enhancing long term landscape linkages between the Bob Marshall Wilderness Complex and Glacier National Park. Wildlife burns would occur on 479 acres and timber harvest on 613 acres with some access provided by the construction of 0.3 miles of road and restoration of 3.9 miles of existing road. Fishery improvement work would be the same as in the proposed action.

(2) An alternative that would allow no harvesting or prescribed burning in inventoried roadless lands. 54 acres would be harvested from existing roads, with no new road construction or road restoration. Fishery improvement work would be the same as in the proposed action.

(3) An alternative that would include no harvesting of old growth. Wildlife burns would occur on 382 acres and timber harvest on 422 acres with some access provided by the construction of 1.3 miles of road and restoration of 3.9 miles of existing road. Fishery improvement work would be the same as in the proposed action.

Alternative analysis has examined various levels and locations of timber harvest and road construction to provide emphasis on differing mixes of timber and non-timber resource values.

The Forest Service has analyzed and will document the direct, indirect, and cumulative environmental effects of the alternatives. As appropriate, the EIS will disclose the site specific features that reduce or eliminate potential environmental impacts. Past, present, and projected activities on both private and National Forest lands will be considered. The EIS will disclose the analysis of site-specific mitigation measures and their effectiveness.

Public participation has been emphasized at several points of the analysis. People have visited Forest Service officials at various times during the analysis. Several open houses were provided in and adjacent to the project area during the initial scoping process. In addition, the public is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision.

The Fish and Wildlife Service, Department of the Interior, has been and will be informally consulted throughout the analysis. To meet the requirements of the Endangered Species Act, the Fish and Wildlife Service will review the EIS and biological evaluation and if necessary, render a formal Biological Opinion of the effects on the Threatened and Endangered Species including grizzly bear, gray wolf, and bald eagle.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in late June 1993. At that time the EPA will publish a notice of availability of the draft EIS in the Federal Register. The public comment period on the draft EIS will be 45 days from the date the EPA's notice of availability appears in the Federal Register.

The Forest Service believes it is important to give reviewers notice at this early stage because of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. [*Vermont Yankee Nuclear Power Corp.* versus *NRDC, 435 U.S. 519, 553 (1978)*]. Also, environmental objections that could be raised at the draft environmental impact stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. [*Wisconsin Heritage, Inc.* versus *Harris*], 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when the agency can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in

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the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The preliminary issues from initial scoping within the agency and public comments are listed below.

Effects to Threatened and Endangered Species.

Effects to snags due to potential high fuel loadings.

Management activities may affect cover/forage ratio and distribution.

Insect and disease organisms have effects upon stands, ecosystems, and area's relationship to fire.

Effects on short and long term timber supply.

Effects of site preparation activities on shrub component and subsequent regeneration.

Effects of even-age management on wildlife, visuals, and other resources.

Effects to riparian values, sensitive plants, Pacific yew, air quality, roadless, recreation use, visuals, water yield and quality, soil productivity, slope stability, bull trout and other fish, and old growth habitat.

Noxious weeds.

Effects of potential risk of escape from prescribed burn.

Effects of road use restrictions on recreation use and values.

Effects to economic efficiency.

Following this comment period, the comments received will be analyzed, considered and responded to by the Forest Service in the final environmental impact statement (FEIS). The FEIS is scheduled to be completed by September 1993. The District Ranger for the Hungry Horse Ranger District, Flathead National Forest is the responsible official for the preparation of this EIS and will make a decision regarding this proposal considering the comments and responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies. The decision and rationale for the decision will be documented in a Record of Decision. That decision will be subject to appeal under applicable Forest Service regulations.

Dated: April 15, 1993.

Allen L. Christophersen,

District Ranger, Hungry Horse Ranger District, Flathead National Forest.

[FR Doc. 93-9434 Filed 4-29-93; 8:45 am]

BILLING CODE 3410-11-M

Advisory Council Meeting; Allegheny Wild and Scenic River, Allegheny National Forest, PA

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: A joint meeting of the Southern and Northern Advisory Councils for the Allegheny Wild and Scenic River will be held at 6:30 p.m., Wednesday, May 12, 1993, in the meeting room of St. John's Catholic Church, Tidioute, PA.

A videotape made by Council Member Lew Weingard will be shown of a trip down the Allegheny River on a replica 19th century packet boat which discusses the historical importance of the river.

Other topics include:

(1) Discussing common goals and objectives for the Northern and Southern Councils, (2) Beginning development of recommended management guidelines, and (3) discussing June river clean-up efforts.

The meeting is open to the public. A sign language interpreter will be provided if requested by May 3, 1993.

FOR FURTHER INFORMATION CONTACT: Lionel Lemery, Wild and Scenic River Coordinator, Allegheny National Forest, 222 Liberty Street, Warren, Pennsylvania 16365, 814/723-5150 or 814/726-2710 (TTY).

Dated: April 19, 1993.

Lionel A. Lemery,

Wild and Scenic River Coordinator.

[FR Doc. 93-10178 Filed 4-29-93; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Argyle Lake Watershed, McDonough County, IL

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Soil Conservation Service Regulations (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Argyle Lake Watershed, McDonough County, Illinois.

FOR FURTHER INFORMATION CONTACT: Charles Whitmore, State Conservationist, Soil Conservation Service, 1902 Fox Drive, Champaign, IL 61820, 217/398-5267.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicated that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Charles Whitmore, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project purpose is to improve water quality by trapping sediment, chemicals, and nutrients. The elements included in this plan are:

1. Two upland sediment basins, one 37' high and one 40' high
2. Two 4' high in-lake wetlands (rock weirs across upper reaches)
3. Required land treatment

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available for filling single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Charles Whitmore.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation for state and local officials.)

Charles Whitmore,

State Conservationist.

[FR Doc. 93-10103 Filed 4-29-93; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis (BEA).

Title: Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies with Foreign Persons.

Agency Form Number: BE-48.

OMB Approval Number: 0608-0016.

Type of Request: Revision.

Burden: 1,600 hours.

Number of Respondents: 400.

Avg Hours Per Response: 4 hours.

Needs and Uses: This survey obtains data on transactions between U.S. insurance companies and foreign persons. The information gathered is needed to support U.S. trade policy initiatives, including trade negotiations, and to compile the U.S. balance of payments and the national income and product accounts.

Affected Public: U.S. insurance companies, brokers, or groups engaging in reinsurance or other insurance transactions with foreign persons.

Frequency: Annual.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Paul Bugg, (202) 395-7340, room 3228, New Executive Office Building, Washington, DC 20503.

Agency: Bureau of Economic Analysis (BEA).

Title: Annual Survey of Construction, Engineering, Architectural, and Mining Services Provided by U.S. Firms to Unaffiliated Foreign Persons.

Agency Form Number: BE-47.

OMB Approval Number: 0608-0015.

Type of Request: Revision.

Burden: 675 hours.

Number of Respondents: 135.

Avg Hours Per Response: 5 hours.

Needs and Uses: This survey obtains data on U.S. sales to unaffiliated foreign persons of construction, engineering, architectural, and mining services. The information is needed to support U.S. trade policy initiatives, including trade negotiations, and to compile the U.S. balance of payments and the national income and product accounts.

Affected Public: U.S. businesses or other for-profit institutions providing construction, engineering, architectural, and mining services to unaffiliated foreign persons.

Frequency: Annual.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Paul Bugg, (202) 395-7340, room 3228, New Executive Office Building, Washington, DC 20503.

Agency: Bureau of Economic Analysis (BEA).

Title: Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons.

Agency Form Number: BE-93.

OMB Approval Number: 0608-0017.

Type of Request: Revision.

Burden: 2,080 hours.

Number of Respondents: 520.

Avg Hours Per Response: 4 hours.

Needs and Uses: This survey obtains data on royalties, license fees, and other receipts and payments for intangible rights between U.S. and unaffiliated foreign persons. The information is needed to support U.S. trade policy initiatives, including trade negotiations, and to compile the U.S. balance of payments and the national income and product accounts.

Affected Public: U.S. businesses or other for-profit institutions receiving royalties and license fees from, or paying royalties and license fees to, unaffiliated foreign persons.

Frequency: Annual.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Paul Bugg, (202) 395-7340, room 3228, New Executive Office Building, Washington, DC 20503.

Agency: National Institute of Standards and Technology (NIST).

Title: National Voluntary Laboratory Accreditation Program (NVLAP) Information Collection System.

Agency Form Number: NIST-1144.

OMB Approval Number: 0693-0003.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 3,600 recordkeeping/reporting hours.

Number of Respondents: 1,200.

Avg Hours Per Response: 2 hours for reporting/1 hour for recordkeeping.

Needs and Uses: Information is required of laboratories applying for accreditation under NVLAP. The information is used in conjunction with on-site assessments to determine if a laboratory is eligible for accreditation.

Affected Public: State or local governments, businesses or other for-profit institutions, federal agencies, non-profit institutions and small businesses or organizations.

Frequency: On occasion, annually, recordkeeping.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Maya A. Bernstein, (202) 395-3785, room 3235, New Executive Office Building, Washington, DC 20503

Copies of the above information collection proposals can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482-3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer listed above.

Dated: April 26, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93-10220 Filed 4-29-93; 8:45 am]

BILLING CODE 3510-CW-F

Bureau of Export Administration

Regulations and Procedures Technical Advisory Committee; Partially Closed Meeting

A meeting of the Regulations and Procedures Technical Advisory Committee will be held May 19, 1993, at 9:30 a.m., in the Herbert C. Hoover Building, room 1617M(2), 14th Street and Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis on implementation of the Export Administration Regulations (EARS), and provides for continuing review to update the EARS as needed.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Status report on working group projects:
   - Nonproliferation control regimes
   - Reconciliation of regimes
   - Regulations review.
4. Presentation by Jim Dearlove, Senior Intelligence Officer for the Defense Intelligence Agency, on DOD view of future technology transfer controls.

Executive Session

5. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meetings date to the following address: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA/BXA, room 1621, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 18, 1993, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof,

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dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6020, U.S. Department of Commerce, Washington, DC. For further information, call Lee Ann Carpenter at (202) 482–2583.

Dated: April 26, 1993.

Lee Ann Carpenter,

Acting Director, Technical Advisory Committee Unit.

[FR Doc. 93–10125 Filed 4–29–93; 8:45 am]

BILLING CODE 3510–DT–M

Transportation and Related Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held May 20, 1993, 9:30 a.m., in the Herbert C. Hoover Building, room 1617M(2), 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to transportation and related equipment or technology.

Agenda: General Session

1. Opening Remarks by the Chairman or Commerce Representative.
2. Introduction of Members and Visitors.
3. Presentation of Papers or Comments by the Public.
4. Discussion of recent revisions to the Export Administration Regulations.
5. Discussion of upcoming COCOM List Review.
6. Discussion of recent Missile Technology Control Regime Guidelines and Annex changes.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, in order to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the below listed address: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA/IIXA, room 1621, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 18, 1993, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6020, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call 202–482–1583.

Dated: April 26, 1993.

Lee Ann Carpenter,

Acting Director, Technical Advisory Committee Unit.

[FR Doc. 93–10124 Filed 4–29–93; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–475–703]

Granular Polytetrafluoroethylene Resin From Italy; Final Affirmative Determination of Circumvention of Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final affirmative determination of circumvention of antidumping duty order.

SUMMARY: On September 18, 1992, the Department of Commerce published a preliminary affirmative determination of circumvention of the antidumping duty order on granular polytetrafluoroethylene (PTFE) resin from Italy. The inquiry into the possible circumvention of this order covers one Italian manufacturer/exporter of the subject merchandise, and a related party in the United States (respondents). This inquiry covers the period July 1, 1990, through October 31, 1991.

We afforded interested parties an opportunity to comment on the preliminary affirmative determination of circumvention. We also requested certain additional factual information from respondents after the issuance of our preliminary determination. Based on our analysis of the factual information submitted, the comments received on our preliminary determination, and the arguments presented at the public hearing on the preliminary determination, we have determined that respondents are circumventing this order.

As a result, we have determined that PTFE wet raw polymer, the imported product subject to this inquiry, falls within the scope of the antidumping duty order on granular PTFE resin from Italy.

EFFECTIVE DATE: April 30, 1993.

FOR FURTHER INFORMATION CONTACT: David S. Levy, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On September 18, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 43218) a preliminary affirmative determination of circumvention of the antidumping duty order on granular PTFE resin from Italy and a consequent finding that the imported product subject to the inquiry, PTFE wet raw polymer, fell within the scope of this order. Pursuant to this determination, the Department instructed the U.S. Customs Service (Customs) to suspend liquidation of, and require cash deposits on, all entries of the imported product, PTFE wet raw polymer. In accordance with section 781(e) of the Tariff Act of 1930, as amended (the Tariff Act), the Department also notified the International Trade Commission (ITC) of its preliminary determination that the imported product fell within the scope of the order. In response, the ITC notified the Department that consultations between the Department and the ITC regarding the Department's preliminary determination were unnecessary.

The Department has now completed this inquiry in accordance with section 781(a) of the Tariff Act.

Scope of the Antidumping Duty Order

The antidumping duty order covers granular PTFE resins, filled or unfilled. The order explicitly excludes PTFE dispersions in water and PTFE fine powders. During the period covered by the anti-circumvention inquiry, such merchandise was classified under item number 3904.61.90 of the Harmonized Tariff Schedule (HTS). We are providing this HTS number for convenience and customs purposes only. The written description of scope remains dispositive.

Scope of the Anti-circumvention Inquiry

This anti-circumvention inquiry covers one Italian company, Montefluos, S.p.A. (Montefluos), and a related company in the United States, Ausimont, U.S.A. (Ausimont). The product subject to this anti-circumvention inquiry is PTFE wet raw polymer manufactured in, and exported from, Italy. PTFE wet raw polymer is the intermediate product from which Ausimont produces granular PTFE resin in the United States. Our period of inquiry was July 1, 1990, through October 31, 1991. However, our examination of qualitative factors and of the pattern of imports of the finished and intermediate products subject to this inquiry is based, in part, on data and events from outside this period.

Nature of the Anti-circumvention Inquiry

As set forth in our preliminary determination, we examined whether (1) granular PTFE resin sold in the United States is of the same class or kind of merchandise as that covered by the antidumping duty order on granular PTFE resin from Italy, (2) granular PTFE resin sold in the United States was completed or assembled from material imported from Italy, and (3) the difference between the value of granular PTFE resin and the value of PTFE wet raw polymer manufactured in and imported from Italy was small, as required by section 781(a)(1) of the Tariff Act. In reaching a conclusion as to whether the difference in value was small, we analyzed the nature of respondents' production processes, the extent of their U.S. production facilities, and their level of U.S. investment. Further, in determining whether to include the imported parts or components within the scope of the order, we analyzed the pattern of trade, the relationship between the respondents, and the volume of imports of PTFE wet raw polymer, pursuant to section 781(a)(2) of the Tariff Act. (See Granular Polytetrafluoroethylene Resin from Italy; Preliminary Affirmative Determination of Circumvention of Antidumping Duty Order, 57 FR 43218, 43219 (1992) (PTFE Preliminary).)

I. Statutory Criteria

Class or Kind and U.S. Assembly From Imported Components

Neither petitioner nor respondents challenged our preliminary determinations that the granular PTFE resin produced in the United States was of the same class or kind of merchandise as that imported from Italy, and that the subject granular PTFE resin was processed in the United States from PTFE wet raw polymer imported from Italy, the country to which the antidumping duty order applies. Therefore, we reaffirm our preliminary determinations regarding these two criteria.

Difference in Value

In our preliminary difference in value analysis, we used our customary method in attempting to calculate the value of granular PTFE resin and the value of PTFE wet raw polymer for the purpose of determining the difference in value between them. In calculating the value of PTFE wet raw polymer, we first calculated profit or loss in the United States by deducting (1) processing costs and general expenses incurred in the United States and (2) the relevant costs and expenses incurred in the home market from the U.S. selling price of the granular PTFE resin produced in the United States. We then allocated a portion of the resulting loss and a portion of respondents' U.S. general expenses to the cost of production of PTFE wet raw polymer to calculate its estimated value. Finally, we deducted the estimated value of PTFE wet raw polymer from the value of granular PTFE resin and divided the result by the value of granular PTFE resin to calculate a ranged difference in value of 38 to 55 percent. (*Id.*)

However, we determined that the result of the calculation significantly overstated the actual difference in value because respondents incurred losses during the period of inquiry that were due, at least in part, to the fact that respondents' newly-established U.S. production facility did not operate at full capacity during the inquiry period. We also noted that the calculated difference in value decreased significantly if we did not allocate respondents' losses to the cost of production of PTFE wet raw polymer. As a result, we concluded that 38 to 55 percent did not provide a realistic measure of the true difference in value between PTFE wet raw polymer and granular PTFE resin. (*Id.*)

In our preliminary determination, we also analyzed the nature of respondents' U.S. production process, the extent of their U.S. production facilities, and the level of their U.S. investment. Based on the descriptions of the various stages of the production of granular PTFE resin, and on the fact that respondents did not add any materials to or fundamentally alter the nature of PTFE wet raw polymer through processing in the United States, we determined that respondents' U.S. production process was not complex relative to the production process for PTFE wet raw polymer. We also determined that we lacked sufficient evidence regarding the extent of respondents' U.S. facility and the level of their U.S. investment to conclude that respondents had established substantial production facilities in the United States. (*Id.*) Based on these conclusions, and on our conclusion that the calculated difference in value did not provide a realistic measure of the difference between the value of PTFE wet raw polymer and granular PTFE resin, we preliminarily determined that the difference in value between granular PTFE resin and PTFE wet raw polymer was small. (*Id.*)

Subsequent to our preliminary determination, we requested that respondents provide us with data on the costs of finishing operations in Italy, detailed descriptions of the production processes for PTFE wet raw polymer and granular PTFE resin that respondents employ in Italy, and data on investment, employment, and output at respondents' current and former U.S. facilities as well as their Italian facility. We requested this information in order to conduct a more detailed analysis of the extent of respondents' U.S. production facility and the level of respondents' investment in this facility, and to provide a basis for further evaluation of our conclusions regarding the results of our preliminary difference in value calculation. Our analysis of this additional factual information is set forth below.

Final Calculation of Difference in Value: Respondents provided us with descriptions of their post-treatment process, which produces granular PTFE resin from PTFE wet raw polymer, in both Italy and the United States. Based on our analysis of these descriptions, we conclude that the production processes employed by respondents in the United

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States and Italy are substantially similar. Further, our evaluation of production capacity and capacity utilization data reveals that the Italian facility is an established operation whose level of capacity utilization was not affected by the same factors that affected capacity utilization at respondents' U.S. facility. Finally, we found that a comparison of per-unit costs for post-treatment in the United States with those incurred at respondents' Italian facility, which operated under more typical conditions during the inquiry period, provided further evidence that respondents' U.S. losses were due, at least in part, to the fact that their U.S. facility did not operate at full capacity during the period of inquiry. For these reasons, we reaffirm our preliminary conclusion that the difference in value calculated in our preliminary analysis did not provide a reliable measure of the difference between the value of granular PTFE resin and PTFE wet raw polymer. Moreover, we have determined that data on the costs that respondents incurred for post-treatment of PTFE wet raw polymer in Italy provide a reasonable basis for assessing the contribution of the post-treatment process to the total value of granular PTFE resin under more typical conditions. (See Affirmative Final Determination of Circumvention of Antidumping Duty Order on Granular PTFE Resin from Italy—Final Difference in Value Analysis, Memorandum for the File from Case Analyst, April 20, 1993 (Final Analysis Memo))

Having established that we could rely on data regarding respondents' post-treatment costs in Italy as an appropriate surrogate for their post-treatment costs in the United States, we used these data to calculate the difference between the value of granular PTFE resin and the value of PTFE wet raw polymer. As in our preliminary determination, we computed the absolute difference in value by deducting the value of PTFE wet raw polymer from the value of granular PTFE resin. We then calculated the percentage difference in value by dividing the absolute difference in value by the value of granular PTFE resin.

Value of Completed Merchandise

As in our preliminary determination, we used respondents' weighted-average, monthly, ex-factory U.S. selling price of granular PTFE resin on a grade-specific basis to represent the value of granular PTFE resin. Where applicable, we deducted U.S. inland freight from the reported selling prices to derive the ex-factory price of the granular PTFE resin.

Value of Imported Material

In calculating the value of PTFE wet raw polymer for this final determination, we substituted data on respondents' Italian post-treatment costs for those on their U.S. post-treatment costs. Thus, we calculated profit or loss by deducting (1) the general expenses incurred in the United States and (2) the total manufacturing cost in Italy for granular PTFE resin and any relevant expenses incurred in Italy from the U.S. selling price of the granular PTFE resin. We then allocated a portion of the resulting profit or loss and a portion of respondents' U.S. general expenses to the cost of production of PTFE wet raw polymer to calculate its estimated value. Finally, we deducted the estimated value of PTFE wet raw polymer from the value of granular PTFE resin and divided the result by the value of granular PTFE resin to calculate a difference in value of 10 to 20 percent (because the actual figure is business proprietary information, the stated percentages are approximated within plus or minus ten percentage points of the calculated figure).

Nature of Processing

As we stated in our preliminary determination, we believe that the production of tetrafluoroethylene (TFE) monomer and the suspension polymerization of this monomer into PTFE wet raw polymer are complicated processes, and that these processes impart the basic physical characteristics that distinguish granular PTFE resin from other forms of PTFE resin. (See PTFE Preliminary at 43220.) An analysis of respondents' descriptions of their monomer production and suspension polymerization processes indicate they conform to the descriptions that we used in our preliminary determination. (See Final Analysis Memo.) Further, our comparison of respondents' U.S. and Italian post-treatment processes supports our preliminary conclusion that post-treatment processes are not complex relative to the processes required to produce PTFE wet raw polymer, and do not fundamentally alter the nature of the product. (*Id.*) As a result, we reaffirm our preliminary determination that, within the context of the overall production process for granular PTFE resin, the processes that respondents currently perform in the United States are relatively simple.

Extent of Production Facilities

Respondents indicated in their submissions subsequent to the preliminary determination that the U.S. production facility that they closed in 1988 was an integrated facility that performed all processes required to produce granular PTFE resin. After closing this facility, respondents then supplied their U.S. customers with imported granular PTFE resin that was also produced in an integrated facility. However, the U.S. production facility that we examined during this inquiry performs only the final, post-treatment stages of the production process. Because respondents are currently performing in the United States only a fraction of the production steps that they previously performed in the United States, and currently perform in Italy, we conclude that respondents' current U.S. production facility is not extensive relative to their other granular PTFE resin production facilities.

Level of Investment

We evaluated the level of respondents' investment in the United States within the context of the level of investment required for an integrated facility for the production of granular PTFE resin. The data from respondents' Italian facility clearly establish that the plant and equipment required for the production of granular PTFE resin represent only a fraction of the equipment required for the production of TFE monomer and the suspension polymerization of this monomer. Respondents' estimates of the investment required to construct monomer production and polymerization facilities in the United States demonstrate a similar relationship. Accordingly, we determine that, in comparison to the investment required to establish an integrated production facility for granular PTFE resin, respondents' investment in the United States is relatively minor.

In previous anti-circumvention inquiries, we determined that the difference between the value of imported parts and components and the value of finished products was not "small" because (1) respondents performed a variety of complex processing steps and added numerous materials to the imported components that fundamentally altered their nature, (2) the extent of respondents' U.S. facilities was similar to that of their home market facilities, and (3) respondents made a significant investment in U.S. production facilities comparable in scale to production facilities in the home market. (PTFE Preliminary at 43220.) However, in this case, we find that the processing performed in the United States is not complex, that respondents' U.S. facilities are not extensive, and that respondents' U.S. investment is relatively minor. Therefore, we determine that respondents' U.S. operations are mere finishing operations that constitute only a "slight change[s] in methods of production or shipment." (S. Rep. No. 71, 100th Cong., 1st Sess. at 101 (June 12, 1987)("Senate Report").) Based on this conclusion, we determine that the ranged difference in value of 10 to 20 percent is "small."

II. Factors

We did not request additional information regarding the pattern of trade, the relationship between the parties, and the volume of imports of PTFE wet raw polymer subsequent to our preliminary determination. Based on our analysis of the comments received on our conclusions regarding these factors, we reaffirm our preliminary determinations that (1) the data on the pattern of trade indicates a shift from sales in the United States of granular PTFE resin imported from Italy toward sales of granular PTFE resin processed in the United States from PTFE wet raw polymer imported from Italy, (2) respondents are related parties, and (3) imports of PTFE wet raw polymer increased subsequent to the issuance of the antidumping duty order.

Analysis of Comments Received

We invited interested parties to comment on our preliminary affirmative determination. We received comments from the respondents, from E. I. Du Pont de Nemours & Company (Du Pont), the petitioner in this inquiry, and from ICI Americas, Inc., a domestic producer of granular PTFE resin. We received rebuttals from respondents and petitioner. On December 18, 1992, we held a public hearing.

Comment 1: Respondents state that the statute requires the Department to calculate the difference between the value of imported parts and components and the value of finished products in anti-circumvention inquiries. According to respondents, the Department failed to calculate the difference between the value of granular PTFE resin and the value of PTFE wet raw polymer in its preliminary determination. Rather, respondents assert that the Department appears to have rendered its preliminary determination that the difference between the respective values of the two products was "small" based on an analysis of qualitative factors alone, without actually having established the value of PTFE wet raw polymer, the value of granular PTFE resin, or the quantitative difference between their values.

Respondents argue that the terminology used in the statute indicates that Congress intended that the Department conduct a quantitative analysis of the difference between the value of an imported article and the value of the finished product produced in the United States from the imported article. Respondents assert that the term "value" has been given a clear quantitative meaning throughout the trade laws and the Department's application of those laws, and that the Department has consistently assigned numeric values to such terms as "small" and "insignificant" in administering other portions of the Tariff Act. Thus, respondents conclude that the Department must calculate the specific difference in value in this inquiry.

Petitioner states that the statute neither defines the term "small," nor requires that the Department reach a conclusion regarding the difference between the values of imported parts and finished products based on a fixed method of analysis or the calculation of a specific number. According to petitioner, the legislative history of section 781(a) of the Tariff Act indicates that Congress deliberately refrained from incorporating such definitions and instructions into the statute in order to provide the Department with broad discretion and maximum flexibility in conducting its analysis of the difference between the value of imported parts or components and the value of the finished product. Therefore, petitioner concludes that the Department's preliminary determination was in accordance with the statute.

Department's Position: We agree with petitioner that we are not required to use a fixed method of analysis or to calculate a specific number in rendering determinations pursuant to section 781(a)(1)(C) of the Tariff Act. In recognizing that different cases would present different factual situations, Congress drafted the statute and the accompanying legislative history with the intention of affording the Department a reasonable degree of flexibility in reaching conclusions pursuant to section 781(a)(1)(C) of the Tariff Act. Specifically, Congress stated in the legislative history that:

> New sections [781(a) and 781(b)] of the 1930 Act apply when the difference between the merchandise sold, or imported into, the United States and its parts and components is small * * * While these subsections grant the Commerce Department substantial discretion in * * * invoking these measures, so as to allow it the flexibility to apply the provisions in an appropriate manner, the Committee expects the Commerce Department to use this authority to the fullest extent possible to combat diversion and circumvention of the antidumping and countervailing duty laws.

(see Senate Report at 100.) When our customary methods yield unreliable results, we believe that we have the discretion to employ alternative methods in reaching conclusions pursuant to section 781(a)(1)(C) of the Tariff Act.

We encountered such a situation in this inquiry. As explained in our preliminary determination, the available data did not yield a reliable measure of the difference between the value of PTFE wet raw polymer and the value of granular PTFE resin. Therefore, we placed greater emphasis on the nature of respondents' U.S. processing, the extent of their U.S. production facilities, and the level of their U.S. investment in reaching our preliminary conclusion that the difference between PTFE wet raw polymer and granular PTFE resin was "small." (See PTFE Preliminary at 43219–43221.)

Although we were able to render our preliminary determination in the absence of a reliable quantitative measure of the difference between the value of PTFE wet raw polymer and granular PTFE resin, we believe nonetheless that it is useful to attempt to calculate a reliable quantitative measure of the difference in value because such a quantitative measure provides a tangible expression of the production process that is the subject of our analysis. Therefore, whenever possible, we will attempt to obtain a reliable quantitative measure or estimate of the value of the imported parts or components and the value of the finished product for the purpose of establishing the difference between those values.

For the final determination, as set forth in the "Difference in Value" section of this notice, we concluded that the data on respondents' Italian post-treatment costs could reasonably be used to perform a quantitative assessment of the difference between the value of PTFE wet raw polymer and granular PTFE resin. Therefore, we have incorporated the results of this quantitative assessment in our final analysis.

Comment 2: Respondents contend that the Department failed to provide an objective standard by which it reached its preliminary conclusion that respondents' losses on their U.S. granular PTFE operations were of sufficient magnitude to render the customary calculation of the difference in value unreliable. In this context, respondents contend that their U.S. facility operated during the period of inquiry at levels consistent with an industry in recession. Thus, in the absence of an objective basis for its

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conclusion regarding the level of respondents' capacity utilization and operating losses at their U.S. facility, and in light of the overall condition of the PTFE industry, respondents assert that the Department's preliminary conclusions about the operating performance of their U.S. facility are not supported by substantial evidence. Furthermore, respondents' claim that there is no suggestion in any previous anti-circumvention inquiry that the magnitude of profits or losses affects the manner in which the Department accounts for them in its calculations. Accordingly, respondents argue that the Department cannot disregard the 38 to 55 percent figure that it calculated in its preliminary analysis.

Petitioner argues that the results of respondents' U.S. operations, and the ratio of respondents' investment in their U.S. facility to the facility's output, illustrate that respondents' U.S. operations defy economic rationality. In this context, petitioner rejects respondents' contention that their U.S. facility operated in a manner consistent with an industry in recession. According to petitioner, its own data indicate that respondents' economic performance was not consistent with that of the U.S. industry during the period of inquiry. Thus, petitioner states that the Department was correct in determining that respondents' economic performance rendered the customary method of calculating the diffe ence in value unreliable in this case.

Department's Position: We disagree with respondents. Because this is the first anti-circumvention inquiry in which we have encountered losses of the type and magnitude at issue, we have not had to evaluate the effect of respondents' profit or loss on our analysis in previous inquiries. As set forth below in response to Comment 3, we believe that we must consider the causes and the extent of a respondent's losses in reaching conclusions regarding the difference in value in an anti-circumvention inquiry. Otherwise, losses resulting from factors unrelated to the nature of the production process that is the subject of an anti-circumvention inquiry would distort our quantitative analysis by artificially inflating the calculated difference between the value of imported parts or components and the value of a finished product. This would prevent an accurate measure of the extent to which a production process contributes to the difference in value and the extent to which a process represents a change in a respondent's method of production or shipment. In this context, it would be illogical to assume that Congress intended that the outcome of anti-circumvention inquiries should be determined by factors that are unrelated to the nature of the production process being evaluated. Therefore, it is both necessary and appropriate for us to determine the effect that such factors may have on our difference in value analysis and, when such factors distort our analysis, to use a method that more accurately reflects the nature of the production process that is the subject of the inquiry.

Given that we had not previously encountered losses of the type and magnitude incurred by respondents in this inquiry, we had no established practice for determining whether these losses rendered the results of our customary calculation method unreliable as a measure of the difference in value. Nonetheless, the record in this inquiry demonstrates that we had a reasonable basis for our preliminary determination that respondents' losses distorted the results of our customary difference in value calculation.

As we stated in our preliminary determination, we evaluated the 38 to 55 percent figure within the context of the respondents' U.S. production operation. Based on our analysis of the available information, we preliminarily concluded that the production of granular PTFE resin from PTFE wet raw polymer was relatively simple in comparison to the production of TFE monomer and the suspension polymerization of TFE monomer into PTFE wet raw polymer. Because this conclusion was inconsistent with the 38 to 55 percent figure that we calculated, we concluded that the calculation was distorted in such a way as to provide an artificially inflated measure of the difference between the value of PTFE wet raw polymer and granular PTFE resin. (See PTFE Preliminary at 43219–21.)

In evaluating the data that we used for our preliminary determination, we found that respondents incurred losses during the period of inquiry. Because of the extent of those losses, we believed that it was appropriate to attempt to isolate the effect of those losses on our results by performing a calculation in which we did not allocate them to the cost of production of the imported product. Based on the magnitude of the difference between the result of this calculation and the 38 to 55 percent figure, we concluded that respondents' losses had a significant impact on our calculation. (*Id.*)

Having established the magnitude of respondents' losses, we evaluated the factors underlying respondents' operating performance during the period of inquiry. Based on our analysis of the types of costs that respondents incurred at their U.S. facility, we concluded that respondents' losses could reasonably be attributed, at least in part, to the fact that their U.S. facility did not operate at full capacity during the period of inquiry. In turn, we recognized that the level of capacity utilization was influenced by the fact that we were examining a new facility that had recently commenced operations. As a result, we concluded that the 38 to 55 percent figure was distorted, and, therefore, did not provide a reasonable measure of the difference between the value of PTFE wet raw polymer and granular PTFE resin. (*Id.*)

The information regarding respondents' Italian facility that we obtained after the preliminary determination further supports our conclusion regarding the lack of reliability of our 38 to 55 percent calculation. As explained in the "Difference in Value" section of this notice, we found that the production processes employed by respondents in the United States and Italy are substantially similar. Additionally, the Italian facility is an established operation whose level of capacity utilization was not affected by the same factors that temporarily affected capacity utilization at respondents' U.S. facility. Finally, a comparison of data taken from respondents' Italian facility with those taken from respondents' U.S. facility indicates that, during the period of inquiry, the post-treatment costs incurred in Italy comprised a significantly smaller percentage of the total cost of manufacturing granular PTFE resin than did the U.S. post-treatment costs, which we determined to be distorted.

For these reasons, we believe that the information pertaining to respondents' Italian operations further justifies our decision to place greater emphasis on qualitative factors in preliminarily determining that the difference in value was "small." Therefore, we reject respondents' arguments that we failed to provide a basis for our conclusions regarding the operating performance of their U.S. facility and the lack of reliability of the difference in value calculated using manufacturing cost data from that facility. Moreover, based on our analysis of the information pertaining to respondents' Italian facility, we believe that the costs that respondents incurred for post-treatment of PTFE wet raw polymer in Italy provide a reasonable basis for a quantitative assessment of the contribution of this process to the total

value of granular PTFE resin under more typical conditions, and that the results of our revised difference in value calculation using these data provide a reasonable measure of the difference in value between granular PTFE resin and PTFE wet raw polymer.

Comment 3: Respondents argue that the Department's rejection of the 38 to 55 percent difference in value that it calculated in the preliminary determination represents an arbitrary departure from established practice in both anti-circumvention inquiries and in Exporter's Sales Price (ESP) calculations involving further manufacturing in the United States. Respondents contend that the Department has consistently equated the methods used to calculate the difference in value in anti-circumvention inquiries and the adjustment to ESP for further manufacturing in the United States. Citing Final Results of Antidumping Duty Administrative Review; Color Picture Tubes from Japan, 55 FR 37915 (1990), respondents assert that the Department has rejected attempts to distinguish ESP calculations involving further manufacturing from difference in value calculations in anti-circumvention inquiries. Therefore, respondents conclude that the Department cannot reject the 38 to 55 percent difference in value that it calculated in its preliminary analysis using this method.

Petitioner argues that the Department's method of adjusting ESP for expenses incurred for further manufacturing in the United States in the calculation of dumping margins is not relevant to an anti-circumvention inquiry. According to petitioner, the calculation of dumping margins does not shed light on the depth of U.S. production operations, which is a primary concern of an anti-circumvention inquiry. Therefore, petitioner contends that the Department's method of calculating dumping margins is not binding upon the Department in its calculation of the difference between the value of imported parts or components and the value of the finished product in an anti-circumvention inquiry.

Department's Position: We agree with petitioner. Contrary to respondents' assertions, in Final Results of Antidumping Duty Administrative Review; Color Picture Tubes from Japan, 55 FR 37915 (1990), the Department did not reject a distinction between ESP calculations and calculations performed in anti-circumvention inquiries; rather, the Department simply rejected respondent's argument regarding certain deductions from ESP. Based on our analysis of the relevant portions of the statute and the legislative history, we conclude that the statutory provisions of section 772 of the Tariff Act that govern the calculation of ESP serve a fundamentally different purpose from the statutory provisions of section 781(a), which govern the conduct of anti-circumvention inquiries. Therefore, as we stated in Color Picture Tubes From Canada, Japan, the Republic of Korea & Singapore; Negative Final Determinations of Circumvention of Antidumping Duty Orders (56 FR 9667, 9671 (1991) (CPTs Final)), we believe that the statutory provisions concerning ESP and the methods used in the calculation of ESP are not relevant to this inquiry.

The primary purpose of an anti-circumvention inquiry conducted pursuant to section 781(a) of the Tariff Act is to prevent foreign companies from selling subject merchandise in the United States free of antidumping duties by performing minor assembly or finishing of this merchandise in the United States from parts or components imported from the country to which an antidumping duty order applies. In contrast, the purpose of a calculation of ESP pursuant to sections 772(d) and 772(e) of the Tariff Act is to obtain the "United States Price" (USP) of the subject merchandise that can be compared to the foreign market value of such or similar merchandise for the purpose of determining whether a foreign company is selling the subject merchandise at less than fair value in the United States.

In order to achieve the purposes of these two portions of the statute, we must consider different factors in administering each. On the one hand, in order to effect the fundamental purpose of section 781(a), we must assess the extent to which the parts or components imported from the country to which an antidumping duty order applies comprise the content of the subject merchandise assembled or completed in the United States. (See, *e.g.*, H.R. 3, H.R. Rep. No. 40, Pt. 1, 100th Cong., 1st Sess. (1987).) We must also assess the depth and nature of assembly or production in order to determine the extent to which it contributes to the difference between the value of the imported parts or components and the value of the finished product and, for example, whether it represents a "slight change[] in [respondents'] methods of production or shipment." (Senate Report at 101.)

Section 781(a)(1)(C) expresses these considerations (as does section 781(b)(1)(C) governing circumvention through third-country assembly) by requiring the Department to conclude that the difference between the value of the imported parts or components and the value of the finished product is "small" as a necessary condition for a finding of circumvention. Thus, in conducting anti-circumvention inquiries, we attempt to measure the value of the imported parts or components and the value of the finished product. We use these values not only to assess the extent to which a finished product is comprised of parts or components from the country to which an antidumping duty order applies, but also as an expression of the depth and complexity of the process required to produce the finished product from the parts or components.

In order to reach meaningful conclusions regarding these factors, we must have reliable, objective measures of the value of the imported parts or components and of the value of the finished product that are not distorted by extraneous factors or temporary phenomena. (See CPTs Final at 9671.) This is especially true in such cases as this. Here, the intermediate product is the sole material input used in the production of the finished product; thus, any difference between the value of the intermediate product and the value of the finished product will be the result of the processing of the intermediate product into the finished product.

Whenever possible, we prefer to measure value using market prices. (Brass Sheet and Strip From Canada; Affirmative Preliminary Determination of Circumvention of Antidumping Duty Order, 58 FR 6615, 6617 (1992).) To the extent that we must estimate the value of the imported parts or components in the absence of market prices, we typically do so using data on total manufacturing costs and market prices for the product finished in the United States. However, in doing so we must use manufacturing cost data that are not anomalous and that provide a reasonably accurate reflection of the market price of the finished product. Otherwise, we will not obtain a meaningful estimate of either the value of the imported parts or components, or the difference between the value of those parts or components and the value of a finished product.

In this anti-circumvention inquiry, because we did not have market prices for the intermediate product, we attempted to estimate the value of imported parts or components, as described in the "Difference in Value" section of this notice. However, unlike previous anti-circumvention inquiries, we found that respondents in this inquiry sold the finished product

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processed in the United States at a loss. Therefore, as explained in our preliminary determination and in response to Comment 2 above, we determined that the actual manufacturing cost data, which included cost data from respondents' U.S. facility, did not provide a reasonably accurate reflection of the price of the product processed in the United States from imported material. Because of the distorted relationship between cost and price in this case, we determined that any estimation of the value of the imported product based on a profit or loss calculated using the actual U.S. manufacturing costs would be unreliable. Therefore, we did not use the manufacturing cost data from respondents' U.S. facility in attempting to estimate the value of the PTFE wet raw polymer.

In contrast, the statute does not require that we consider such factors as the depth of production or assembly in establishing USP for the purpose of calculating dumping margins. Section 731 of the Tariff Act establishes that merchandise is sold in the United States at less than "fair" value if the foreign market value (FMV) of the merchandise exceeds the USP of such or similar merchandise. In order to determine whether respondents are selling merchandise in the United States at prices below FMV, the Department must have the most accurate measure possible of a respondent's current pricing practices in the United States as well as in the foreign market. In this context, the fundamental purpose of section 772 of the Tariff Act is to ensure that the calculation of USP provides the most probative measure possible of a respondent's pricing practices in the United States.

Section 772(c) of the Tariff Act establishes that when sales made to the first unrelated party occur after the importation of the merchandise into the United States, they are to be considered ESP sales, and that the Department is to use the price at which merchandise is sold to the first unrelated party as the basis for ESP. Having established that a particular U.S. sale is to be considered an ESP transaction, section 772(e) of the Tariff Act instructs the Department to make certain downward adjustments to the selling price, including an adjustment for any further processing performed on the imported merchandise after its importation but prior to its sale as a finished product in the United States. The purpose of these adjustments is to permit an estimation of the foreign port price of merchandise that has been further processed in the United States, based on the U.S. selling price of the finished product. See *Brother Industries, Ltd.* v. *United States*, 3 CIT 125, 140–41 (1982), *aff'd sub nom., Smith-Corona Group* v. *United States*, 713 F.2d 1568 (Fed. Cir. 1983), *cert. denied*, 465 U.S. 1022 (1984).

In making adjustments for further manufacturing pursuant to section 772(e)(3) of the Tariff Act, the Department deducts manufacturing expenses incurred in the United States, and a portion of the profit or loss incurred on the U.S. sale of the finished product, from the selling price of the finished product. In order to calculate the profit or loss on specific U.S. sales, the Department deducts all manufacturing costs and general expenses associated with the sale in question from the selling price of the merchandise subject to that sale. The Department then allocates a portion of the profit or loss on the sale of the finished product to the further processing operation in the United States and deducts that portion from the selling price of the finished product, thereby ascribing the remaining profit or loss to the estimated foreign port price of the merchandise prior to processing.

Because the Department is attempting to obtain the most accurate measure possible of a respondent's pricing practices at a given point in time, we have interpreted the statute as requiring the use of actual expenses and actual profits or losses in making adjustments to ESP pursuant to section 772(e)(3) of the Tariff Act. In this context, we believe that adjusting the U.S. selling price of the finished product for actual U.S. manufacturing costs incurred and the relevant portion of U.S. profit or loss realized on the specific sale in question provides the most accurate estimate of what the foreign port price of the merchandise would be at that point in time. Using anything other than actual U.S. manufacturing costs and expenses would obscure the relationship that the respondent had established between the U.S. selling price and the costs and expenses associated with that sale and, therefore, would yield an estimate of the foreign port price of merchandise destined for further processing in the United States that would not be reflective of the respondent's current pricing practices for sales to consumers in the United States. Because the Department is concerned with the accurate measurement of a respondent's pricing practices for sales to the United States in calculating ESP, the Department does not attempt to determine whether the results of ESP calculations involving further manufacturing provide the type of "objective" measures of value required for an anti-circumvention analysis.

For the foregoing reasons, we believe that we must use actual U.S. expenses in calculating adjustments to ESP pursuant to section 772(e)(3) of the Tariff Act; any alternative method would, by obscuring a respondent's actual pricing practices, frustrate the fundamental purpose of section 772 of the Tariff Act. However, because the purpose of this section of the Tariff Act differs from that of section 781(e), we believe that we are not similarly constrained in any quantitative analysis of the difference in value that we perform in anti-circumvention inquiries; had we relied on the actual manufacturing cost data from respondents' U.S. facility in this case, we would have obtained an unreliable measure of the difference in value that would have frustrated the intent of Congress in enacting section 781(a) of the Tariff Act. Therefore, we reject respondents' arguments that we must rely on the 38 to 55 percent figure calculated using a method identical to that used for ESP transactions involving further manufacturing for purposes of this final determination.

Comment 4: Respondents argue that the Department improperly recalculated the difference between the value of PTFE wet raw polymer and the value of granular PTFE resin using a skewed and insupportable method in which it allocated general expenses incurred in the United States to the imported article, but failed to similarly allocate losses. According to respondents, the allocation of profits and losses is necessary because the statute mandates a comparison of values; in this context, failure to allocate losses would result in an inappropriate comparison of values to costs. Respondents further contend that the Department's decision not to allocate losses in this inquiry conflicts directly with the Department's established practice in previous anti-circumvention inquiries.

According to petitioner, the statute focuses on the value added to imported parts or components through processing in the United States. Thus, petitioner asserts that it is appropriate to allocate any profits earned by a respondent on its U.S. operations, because such operations have added value to the imported products. However, petitioner contends that when a respondent incurs losses on its U.S. operations, the Department should not allocate those losses because the respondent has not added any value to the imported product in such situations. Under these circumstances, an allocation of losses would lower artificially the calculated value of the imported product. Therefore, petitioner asserts that the Department properly determined not to allocate respondents' losses in this instance. Petitioner further asserts that, in not allocating losses, the Department did not depart from its practice in previous anti-circumvention cases because, in those cases, respondents realized profits on their U.S. operations.

Department's Position: Contrary to respondents' claim, we did not state that the result of our hypothetical calculation without the allocation of losses represented an accurate measure of the difference between PTFE wet raw polymer and granular PTFE resin in our preliminary determination. (*See PTFE Preliminary* at 43219–20.) Rather, we used the result of our hypothetical calculation solely as a means of establishing a context within which to reach a conclusion regarding the 38 to 55 percent figure that we calculated in our preliminary analysis. (*Id.*)

Furthermore, we reject petitioner's argument that it is appropriate not to allocate losses in this case. As described in the "Difference in Value" section of this notice, we conducted a quantitative analysis of respondents' Italian data using our customary calculation method, which requires the allocation of a portion of a respondent's operating results to the imported product. In this context, we believe that, just as a portion of the profits earned through the sale of a finished product may be attributed to its constituent parts or components, so too may a portion of any loss that a respondent incurs on the sale of that product. Further, as we have stated in previous anti-circumvention inquiries, we believe that, to the extent that we attempt to quantify the difference in value using the method employed in this case, we must allocate both profit or loss in order to avoid making an inappropriate comparison of value to cost. (See Certain Internal-Combustion, Industrial Forklift Trucks from Japan; Negative Final Determination of Circumvention of Antidumping Duty Order 55 FR 6028, 6029 (1990) (Forklifts Final).) Therefore, we have allocated both profits and losses to the cost of production of PTFE wet raw polymer for purposes of estimating its value for this final determination.

Comment 5: Petitioner argues that data on the cost of post-treatment operations at respondents' plant in Italy corroborate the Department's finding that the 38 to 55 percent difference in value calculated in the preliminary analysis in this case is significantly overstated. According to petitioner, the difference in value calculated by deducting the manufacturing cost of PTFE wet raw polymer from the total costs incurred to manufacture granular PTFE resin in Italy is virtually identical to the difference in value that the Department calculated when it did not allocate respondents' U.S. losses to the base value of the imported PTFE wet raw polymer. Based on these calculations, petitioner asserts that, on an industry-wide basis, the costs of finishing PTFE wet raw polymer into granular PTFE resin are relatively minor, and that the Department properly determined that the difference in value between the finished product and the imported merchandise is small in this case.

Department's Position: We agree with petitioner. *See* our response to Comment 2.

Comment 6: Respondents argue that the Department cannot compare their U.S. facility to any other facility. Citing Portable Electric Typewriters from Japan; Negative Final Determination of Circumvention of Antidumping Duty Order (56 FR 58031, 58037, November 15, 1991)(*PETs Final*), *aff'd, Smith-Corona Corp.* v. *United States*, Slip Op. 93–11 (CIT January 27, 1993), respondents assert that the Department has rejected a comparative analysis of various companies involved in the manufacture of the product at issue. Respondents further assert that a comparison of their U.S. operations with their Italian operations is inappropriate, because the Italian facility produces a full range of products with a different cost structure and different economies of scale.

Petitioner responds that respondents' objections are misplaced. According to petitioner, the Department, in previous anti-circumvention inquiries, declined to compare respondents' operations to those of petitioners. However, in this instance, petitioners state that the Department would be comparing facilities operated by the same company. As a result, petitioner contends that a comparative analysis is appropriate in this case.

Department's Position: We agree with petitioner. In previous anti-circumvention inquiries, we have declined to compare respondents' operations with those of petitioners, because we determined that respondents' facilities need not be comparable to those of petitioner in order for them to be more than mere completion or assembly operations. (See Forklifts Final at 6029; PETs Final at 58036–37.) However, we have not established in previous anti-circumvention cases that a comparison of facilities operated by the same company or related companies is, on its face, inappropriate.

Although we acknowledge that differences between production facilities may, in certain instances, render a comparison of facilities operated by the same company or related companies invalid, we find that comparison of respondents' U.S. and Italian facilities is meaningful in this case. After comparing respondents' descriptions of their post-treatment processes in Italy and the United States, we determine that the processes used in each plant are sufficiently similar to warrant comparison of the two facilities. (See Questionnaire Response, October 19, 1992, at 12–14 and Exhibit 2.) Further, while we recognize that respondents produce other products in addition to granular PTFE resin at their Italian facility, we have focused our analysis only on those portions of respondents' Italian operations related to the production of granular PTFE resin. Therefore, we believe that a comparison of respondents' U.S. and Italian facilities is appropriate in this case for purposes of evaluating the nature and operating performance of respondents' U.S. operations.

Comment 7: Petitioner argues that the difference in value that the Department calculated is overstated, because the Department erroneously included certain U.S. costs in its analysis. According to petitioner, respondents sell a variety of grades of granular PTFE resin that are produced within a continuum of processing, including fine-cut granular PTFE resin and presintered granular PTFE resins that require further processing. Petitioner asserts that, because of the relative location of these types of granular PTFE resin on the continuum of processing, only those costs associated with producing fine-cut granular PTFE resin should be included in the Department's analysis. Petitioner also asserts that the Department should exclude packing costs incurred in the United States from its analysis, because packing is not a processing activity that adds value to the imported product.

Respondents state that petitioner's arguments conflict with the plain meaning of the statute and with Department precedent. According to respondents, the statute requires the Department to compare the value of "such" merchandise sold in the United States with the value of the imported product. Therefore, in calculating the difference in value for sales of presintered resin in the United States, respondents argue that the Department is required to use that product and its associated costs in its calculation of the

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difference in value. Respondents further argue that the Department has consistently used the packed ex-factory price of the finished product in its difference in value calculation, and has never deducted U.S. packing costs from the value of the finished product. Thus, respondents argue that there is no basis in this case for the Department to deduct U.S. packing costs from the value of the granular PTFE resin.

Department's Position: We agree with respondents. In calculating the difference in value in this inquiry, we used monthly, weighted-average prices for each grade of granular PTFE resin to represent the value of the finished product in the United States. Because we used product-specific prices in our calculation of the difference in value, we believe that it is appropriate to use all costs associated with those specific products in the calculations. Accordingly, we included the costs associated with producing presintered resin in our calculations of the difference in value for presintered resin. We also note that the prices that we used in our calculations were packed, ex-factory prices. Because packing is built into the ex-factory price of the finished product, we did not exclude costs associated with packing from our analysis.

Comment 8: Respondents argue that construction of the statute prohibits the Department from using qualitative factors in determining whether the calculated difference in value is "small" in anti-circumvention inquiries. Thus, respondents assert that the Department's reliance on qualitative analysis in rendering its preliminary determination that the difference in value was "small" was contrary to law.

According to respondents, the Department's authority to use qualitative factors in making a determination of circumvention stems exclusively from section 781(a)(2) of the Tariff Act. However, respondents contend that section 781(a)(2) of the Tariff Act permits the use of qualitative factors to determine whether an affirmative determination of circumvention is warranted only if and after the Department has determined that the three threshold conditions set forth in section 781(a)(1) of the Tariff Act are present. Thus, respondents assert that the Department must determine, *inter alia*, that the calculated difference between the value of the imported parts and components and the value of the finished product completed and sold in the United States is "small" before it can analyze any qualitative factors.

Citing the PETs Final, respondents assert that the Department has rejected petitioners' claims that qualitative factors should influence a determination regarding the difference in value. Respondents also cite the CPTs Final, in which the Department specifically refused to analyze such factors as the level of investment and the nature of the production process because the three threshold criteria set forth in section 781(a)(1) of the Tariff Act were dispositive of whether circumvention was occurring. Thus, respondents contend that the Department has consistently acknowledged that the statute requires a determination that the difference in value is "small" before the Department can consider other factors in rendering a determination in an anti-circumvention inquiry.

Petitioner rejects respondents' because neither the statute nor the legislative history defines "small," or provides specific instructions regarding the manner in which the Department is to reach conclusions regarding the magnitude of the difference in value in anti-circumvention inquiries. According to petitioner, Congress deliberately declined to provide more specific guidance in the statute because Congress, having recognized that the facts of circumvention vary from case to case, intended to provide the Department with the flexibility to adapt its analysis to the specific circumstances of a given case. In the absence of specific instructions from Congress regarding the methods to be used in reaching determinations pursuant to section 781(a)(1)(C) of the Tariff Act, petitioner argues that the Department's use of qualitative analysis in its determination regarding the difference in value does not constitute the use of extrinsic evidence, and, therefore, was within the Department's discretionary authority.

Petitioner further argues that the Department's use of qualitative analysis in this case was consistent with its analysis of qualitative factors in previous anti-circumvention cases. Petitioner states that the Department did not use the three qualitative factors specifically enumerated in the statute in making its determination that the difference in value is small. Rather, the Department relied on other factors relating directly to the difference in value that it also had analyzed in previous anti-circumvention inquiries.

Department's Position: We agree with petitioner. We reject respondents' assertion that the statute compels us to perform an exclusively quantitative analysis of the difference between the value of imported parts or components and finished products on the basis that it prohibits consideration of qualitative factors in determining whether the threshold conditions set forth in section 781(a)(1) of the Tariff Act have been met.

In this regard, the absence of specific guidance in the language of section 781(a)(1), coupled with the expressions of Congressional intent in the legislative history of the anti-circumvention provisions, afford the Department substantial discretion in determining whether the difference between the value of imported parts or components and the value of a finished product. Because the statute does not define "small" or provide guidance regarding the manner in which we are to make this determination, we have the authority to use qualitative factors in rendering a determination regarding the difference in value.

Similarly, although we agree with respondents that any conclusion regarding a difference in value calculation cannot be based upon the three factors specifically enumerated in section 781(a)(2) of the Tariff Act, we disagree with their assertion that the authority to consider qualitative factors in anti-circumvention inquiries stems exclusively from section 781(a)(2). (See PETs Final at 58033–34.) In this regard, our statement in Portable Electric Typewriters from Japan; Negative Preliminary Determination of Circumvention of Antidumping Duty Order (56 FR 46594 (1991) (PETs Preliminary)) was unduly narrow in concluding that "the legislative history of section 781(a)(2) of the Act indicates that other (qualitative) factors may properly be considered before rendering an anti-circumvention determination." (See PETs Preliminary at 46595.) In fact, a review of the legislative history accompanying section 781(a) (as well as section 781(b)) clearly demonstrates that Congress did not limit the consideration of qualitative factors to section 781(a)(2). To the contrary, the report of the Senate Finance Committee speaks very broadly when it states that:

> New sections [781(a) and 781(b)] of the 1930 Act apply when the difference between the merchandise sold, or imported into, the United States and its parts and components is small. The Committee has not attempted to develop a precise meaning for the term "small" as used in these sections, principally in recognition that different cases present different factual situations. The Committee does not, however, intend that the term "small" be interpreted as insignificant. While these subsections grant the Commerce Department substantial discretion in interpreting these terms, and invoking these measures, so as to allow it the flexibility to apply the provisions in an appropriate manner, the Committee expects the Commerce Department to use this authority to the fullest extent possible to combat diversion and circumvention of the antidumping and countervailing duty laws. Senate Report at 100.

While this legislative pronouncement does not expressly state that qualitative factors may be relied upon in determining whether the difference in value is "small," Congress plainly did not intend to limit the Department's discretion to consider them if necessary. Because Congress intended that we reach conclusions regarding the difference in value on a case-by-case basis, we believe that we may examine qualitative factors in order to adapt our analysis to the circumstances of individual cases.

Furthermore, we note that respondents' references to our previous refusals to use qualitative factors in our analysis of the difference in value are misplaced. For example, our refusal to analyze qualitative factors in the PETs Final related specifically to the use of the three factors specifically enumerated in section 781(a)(2) of the statute. (See PETs Final at 58033–34.) However, we did not rely on these factors in rendering our preliminary determination regarding the difference in value in this inquiry. As we stated in the preliminary determination, we based our conclusion regarding the "difference in value" on a qualitative analysis of the nature of the processing that respondents perform in the United States, the extent of respondents' U.S. facilities, and the level of respondents' investment in the United States. (See PTFE Preliminary at 43220.) As we further stated in our preliminary determination, this analysis is consistent with our analysis in previous anti-circumvention inquiries. (*Id.*)

Similarly, the situation described in the CPTs Final and cited by respondents is distinguishable from the present proceeding. In the first instance, because the Department determined that the threshold requirement regarding the class or kind of merchandise was not satisfied, no analysis of any qualitative factors was necessary. (See CPTs Final at 9669–70.) Nonetheless, the Department did render a determination that the difference in value was not "small" in that case. In reaching this conclusion, we stated that:

> The difference in value for all respondents ranged from 55 to 70 percent * * *. These differences in value indicate that for all respondents, *the non-CPT value of the CTV exceeds the value of the picture tube itself. Given the facts of this case,* we cannot consider these differences in value to be "small."

CPTs Final at 9668–69 (emphasis supplied). Thus, in the CPTs Final, the Department reached its conclusion regarding the difference in value based on the fact that, for all respondents, the value of the non-subject merchandise exceeded the value of the subject merchandise incorporated into the finished product. Under the circumstances present in the CPTs Final, the Department was able to reach its conclusion regarding the difference in value without analyzing the additional qualitative factors. The Court of International Trade (CIT) agreed, finding "substantial evidence on the record in support of that determination." *Int'l Assoc. of Machinists & Aerospace Workers v. United States*, 797 F. Supp. 1012 (CIT 1992).

Thus, contrary to respondents' assertions, neither the Department nor the CIT indicated that the determination in the CPTs Final precluded the Department from using qualitative analysis in reaching conclusions regarding a calculation of the difference in value in anti-circumvention inquiries. Given that our precedent has not established that we cannot resort to qualitative analysis in reaching conclusions regarding the difference in value, that the statute and the legislative history confer substantial discretion upon the Department, and the fact the we must adapt our analysis to the facts of specific cases, we reject respondents' arguments against our use of qualitative analysis in reaching a conclusion regarding the difference in value.

Comment 9: Respondents argue that the difference in value that the Department calculated in its preliminary determination is not small. Respondents suggest that the Department should attempt to develop a numerical standard for determining whether a particular quantification of the difference in value between imported components and articles finished in the United States is small. Respondents state that the calculated difference in value for this inquiry is comparable to, and, in certain instances, greater than, the calculated differences in value that the Department determined were not small in previous anti-circumvention inquiries. Respondents also state that this difference in value exceeds the 30 percent figure that petitioner acknowledged would be "not small" in requesting this anti-circumvention inquiry.

Department's Position: We disagree with respondents. The legislative history of section 781(a) clearly establishes that Congress intended the Department to make determinations regarding circumvention on a case-by-case basis in recognition that the facts of individual cases and the nature of specific industries vary widely. (See Senate Report at 100; CPTs Final at 9668–69.) Thus, we believe that any attempt to establish a uniform numerical standard would be contrary to the intent of Congress.

Furthermore, we have consistently stated in previous anti-circumvention inquiries that any determination regarding the difference in value would not necessarily be controlling for determinations to be rendered in future anti-circumvention inquiries. (See PETs Final at 58040.) Therefore, although both petitioner and respondents turned to previous anti-circumvention determinations in attempting to define the term "small," we have not rendered our determination regarding the calculated difference in value in this inquiry on the basis of our determinations regarding the difference in value in other anti-circumvention inquiries. Rather, we have determined that the difference in value, ranged between 10 and 20 percent, is "small" for the reasons articulated in the "Difference in Value" section of this notice.

Comment 10: Respondents argue that the Department's analysis of the nature of the processing performed at respondents' U.S. facility is flawed. Respondents contend that the Department neglected respondents' description of their U.S. production process. According to respondents, the Department based its analysis on descriptions provided by the International Trade Commission and the Kirk-Othmer Encyclopedia of Chemical Technology. Because the descriptions of the production process contained in these sources differ significantly from the descriptions that respondents provided, respondents assert that the Department's analysis is not supported by the record evidence.

Petitioner rejects respondents' assertions that the Department ignored respondents' descriptions of their U.S. production process in making the preliminary determination. According to petitioner, the Department's use of these sources in its preliminary determination was appropriate, given the business proprietary nature of respondents' descriptions of their U.S. production process. Additionally, petitioner notes that the Department, in its preliminary determination, made reference only to the general similarity between respondents' operations and those described in the public source materials; the Department did not state

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that these sources described the exact nature of respondents' U.S. operations. Petitioner also states that there is no evidence that the Department used the public source materials as a substitute for respondents' own descriptions of their U.S. production process.

Department's Position: We agree with petitioner. Because respondents designated their descriptions of their production processes as business proprietary, we could not use these descriptions in our notice of preliminary determination. Therefore, as we stated in our preliminary determination notice, we used publicly available information to provide a general description of the nature of post-treatment operations in relation to the overall, integrated process for the production of granular PTFE resin. We did not proffer these descriptions as a substitute for information that respondents submitted during the course of this inquiry. (See PTFE Preliminary at 43220.)

Moreover, as noted by petitioner, we requested information regarding respondents' production processes both before and after the issuance of our preliminary determination. We relied on this information in assessing the nature of respondents' monomer production and polymerization operations, and in comparing respondents' post-treatment operations in the United States and Italy. (See, e.g., Department's Position in response to Comment 6 above.) Therefore, we believe that our analysis of respondents' production processes is supported by substantial evidence in the record.

Comment 11: Respondents contend that an examination of their descriptions of the production process reveal that the processing that they perform in the United States is substantial. According to respondents, the operations performed at their U.S. facility require sophisticated and complex machinery in order to maintain strict environmental and process controls on the production process. Moreover, respondents note that the International Trade Commission report cited by the Department in its preliminary determination recognized the significance of post-treatment operations, and described such operations as being a key component of the price of granular PTFE resin. Respondents further contend that, given the nature of their U.S. operations, their failure to add any materials to the imported article is irrelevant. Because there is virtually no market for PTFE wet raw polymer, respondents claim that they must substantially transform the PTFE wet raw polymer in order to produce a saleable product.

Petitioner asserts that respondents' U.S. facility performs minimal finishing operations that add no new materials to the imported merchandise and do not alter the basic chemical composition of the product. In this context, petitioner asserts that a respondent may accomplish the production of a saleable product through such insignificant operations as the attachment of an electric cord to an imported appliance.

Petitioner further asserts that respondents' U.S. operations are insignificant within the context of the overall production process for granular PTFE resin. According to petitioner, the production of TFE monomer and the suspension polymerization of this monomer into PTFE wet raw polymer are complex, capital-intensive operations. Additionally, petitioner notes that these steps require investment in equipment and procedures for handling hazardous and explosive materials. In this context, petitioner argues that the steps required to finish PTFE wet raw polymer are insignificant, and, therefore, that the Department properly determined that respondents' post-treatment operations were not complex.

Department's Position: We agree with petitioner. We acknowledge that the production of granular PTFE resin from PTFE wet raw polymer may require sophisticated machinery to maintain the process and environmental controls required to produce a saleable product. However, the production of a saleable product, in and of itself, is not dispositive of the depth and complexity of a process that produces a saleable product from components or intermediate products. Although respondents correctly noted that there is virtually no market for PTFE wet raw polymer, this does not relate to the complexity of respondents' production process.

Furthermore, in order to evaluate the extent to which respondents' current U.S. operations represent a change in their method of production or shipment, we must develop a context within which to examine the depth and complexity of respondents' U.S. operations. Given that respondents, between 1988 and 1991, supplied their U.S. customers exclusively with imported granular PTFE resin produced in an integrated facility in Italy, and continued to do so in part during the period of inquiry, we believe that it is appropriate to analyze the complexity of respondents' current U.S. operations within the context of the overall production process for granular PTFE resin performed at an integrated production facility. Based on such an analysis, we believe that respondents' U.S. operations, which currently consist only of the post-treatment of PTFE wet raw polymer, are relatively minor.

We believe that the production of TFE monomer and the suspension polymerization of this monomer into PTFE wet raw polymer are complicated processes, and that these processes impart the basic physical characteristics that distinguish granular PTFE resin from other forms of PTFE resin. (See PTFE Preliminary at 43220.) Respondents' descriptions of their monomer production and suspension polymerization processes do not differ significantly from those that we cited in our preliminary determination. (Compare Questionnaire Response, October 19, 1992, at 10–11 with PTFE Preliminary at 43220.) As a result, we reaffirm our preliminary determination that, within the context of the overall production process for granular PTFE resin, the processes that respondents currently perform in the United States are the type that Congress intended to address in enacting the anti-circumvention statute.

Comment 12: Respondents argue that the record in this inquiry demonstrates that their U.S. production facilities are extensive, and that the level of their investment in these facilities is significant. In addition, respondents state that they have made significant additional investments in their current U.S. production facility since its initial construction, and have expanded the range of products produced at this facility. As a result, respondents contend that their failure to build an integrated facility for the production of granular PTFE resin should not be dispositive of circumvention.

Respondents further assert that their level of investment is comparable to that of respondents in the Department's anti-circumvention inquiry on portable electric typewriters from Japan, in which the Department rendered a negative final determination. Respondents add that the value of their current U.S. investment exceeds that for the comparable production stages at their previous U.S. facility and at their Italian facility, and permits them to produce a wider range of products than was the case at their previous U.S. facility.

Petitioner asserts that changes in the scale of respondents' current U.S. facilities since their commencement of operations is not the appropriate benchmark in anti-circumvention cases. Petitioner further argues that respondents' current U.S. facility, which performs only post-treatment operations, represents a major reduction in their U.S. operations in comparison with their previous U.S. facility, which was an integrated facility that performed all phases of the production of granular PTFE resin. Similarly, petitioner notes that respondents' Italian facility is a fully integrated facility, and that the value of the plant and equipment related to the production of granular PTFE resin in Italy substantially exceeds the value of the plant and equipment at respondents' current U.S. facility.

Petitioner further argues that respondents' estimates of the cost of constructing an integrated facility for the production of granular PTFE resin support a determination that the level of their current investment is relatively minor. According to petitioner, the investment required to construct the facilities required for production of TFE monomer and the suspension polymerization of this monomer vastly exceeds the level of investment in respondents' current U.S. facility, even if respondents' subsequent additions are considered.

Department's Position: We agree with petitioner. For reasons similar to those contained in our response to Comment 6, a comparative analysis of respondents' current U.S. facility with other facilities operated by respondents is both meaningful and appropriate. In addition, we believe that a comparative analysis provides the best means of evaluating the extent to which a respondent's operations represent a change in its method of production or shipment. (See Senate Report at 101.) Therefore, a comparison of respondents' current U.S. facility with their other integrated facilities is appropriate in order to evaluate the extent of respondents' U.S. production and the level of their U.S. investment.

In this context, the data from respondents' Italian facility clearly establish that the plant and equipment required for the production of granular PTFE resin represent only a fraction of the equipment required for the production of TFE monomer and the suspension polymerization of this monomer. Respondents' estimates of the investment required to construct monomer production and polymerization facilities in the United States demonstrate a similar relationship. Accordingly, we determine that, in comparison to the investment required to establish an integrated production facility for granular PTFE resin, respondents' investment in the United States is relatively minor and, therefore, consistent with a finding of circumvention.

Comment 13: Respondents contend that the Department's analysis of the pattern of trade and level of imports is inaccurate in several respects. First, respondents contend that the Department overstated the rate of increase of imports of PTFE wet raw polymer by basing its determination on a comparison of a four-month period in 1990 with a ten-month period in 1991. According to respondents, adjustment of the data on a monthly basis reduces significantly the rate of increase of imports of PTFE wet raw polymer. Second, respondents state that the level of imports of granular PTFE resin from Italy decreased before respondents sold any granular PTFE resin produced at respondents' current U.S. production facility. As a result, respondents further contend that the Department erroneously ascribed the reduction in imports of the finished product to the operations of respondents' current U.S. production facility. Finally, respondents argue that the Department failed to note that some of the PTFE wet raw polymer imported from Italy is used in the production of non-subject merchandise, and, therefore, overstated the amount of PTFE wet raw polymer that respondents imported for the manufacture of granular PTFE resin.

Department's Position: We disagree with respondents. We recognize that imports of granular PTFE resin began to decline before respondents commenced sales of granular PTFE resin produced in the United States, and that the rate of increase of imports of PTFE wet raw polymer is reduced if the data are adjusted on a monthly basis. However, the pattern of trade still indicates a shift away from U.S. sales of imported granular PTFE resin toward U.S. sales of granular PTFE resin processed in the United States from imported PTFE wet raw polymer since the issuance of the antidumping duty order. Further, although we acknowledge that respondents used some of the imported PTFE wet raw polymer to produce a product outside the scope of the antidumping duty order, we note that production of this product is not the primary purpose of PTFE wet raw polymer. During the period of inquiry, respondents imported another intermediate product for use in the production of the non-subject merchandise in question and, therefore, used only a small amount of PTFE wet raw polymer in the production of the non-subject merchandise.

Despite their objections, respondents do not dispute our basic conclusions regarding the pattern of trade and level of imports of the finished and intermediate products. Because the facts cited by respondents do not alter our basic determination that, since the issuance of the antidumping duty order on granular PTFE resin, the pattern of trade indicates a shift away from sales of imported granular PTFE resin to sales of domestically-produced granular PTFE resin, and that imports of PTFE wet raw polymer have increased while imports of the finished product have declined, we reaffirm our preliminary determination that the pattern of trade and increase in imports of PTFE wet raw polymer are consistent with a finding of circumvention.

Comment 14: Respondents argue that the pattern of trade, the increase in imports of PTFE wet raw polymer, and the nature of their U.S. investment do not warrant an affirmative determination of circumvention. According to respondents, the legislative history of section 781(a) refers to "circumvention schemes" that were specifically "designed to evade" antidumping duty orders. This indicates that Congress was concerned with producers who, in response to an antidumping duty order, modified their production process to permit the sale of the subject merchandise in the United States without the imposition of antidumping duties. Thus, respondents argue that the Department can find circumvention only if it determines that respondents intentionally substituted the importation of parts and components not subject to an antidumping duty order for imports of the finished subject merchandise.

In this instance, respondents claim that the pattern of trade and level of imports are consistent with respondents' business decisions to close their previous integrated U.S. production facility and import granular PTFE resin into the United States until the opening of their current U.S. production facility for granular PTFE resin. Thus, respondents assert that these factors are not indicative of circumvention because the pattern of trade and level of imports in this case would have been the same absent the antidumping petition and subsequent order on granular PTFE resin from Italy.

Respondents further argue that because they planned to build their U.S. facility before the filing of Du Pont's antidumping petition in November 1987, they could not have been acting in response to the antidumping investigation. Moreover, respondents assert that they had numerous legitimate business reasons for constructing a post-treatment facility. Accordingly, respondents argue that they did not construct their current U.S. facility for the purpose of evading the antidumping

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duty order on granular PTFE resin from Italy. Petitioner responds that, in anti-circumvention inquiries, the Department is not required to ascertain the intent of respondents in evaluating a particular pattern of trade, level of imports, or production facility. Petitioner further argues that pre-existing plans cannot preclude the Department from rendering affirmative determinations of circumvention, and that, in the CPTs Final, the Department specifically declined to consider respondents' arguments regarding pre-existing business plans.

Department's Position: We agree with petitioner. Section 781(a) of the Tariff Act, as well as other sections concerning circumvention, do not require the Department to determine that a respondent in an anti-circumvention inquiry deliberately acted to circumvent an order. Congress's apparent concern about counteracting "schemes" intended to circumvent the effectiveness of U.S. unfair trade remedies does not mean that it was only concerned about so-called deliberate schemes, or that it expected that the laws should be enforced only against those parties who could be proved to be engaged in such schemes. Just as a demonstration of intent is not a prerequisite to a determination of dumping, neither is it a prerequisite to a finding of circumvention. Further, given the difficulty of determining such intent, respondents' interpretation of the statute and the legislative history would not only place an unreasonable burden on the Department, but would effectively eviscerate the anti-circumvention provisions of the Tariff Act.

Therefore, in rendering this final determination, we have not attempted to assess the reasons why respondents shifted their pattern of trade or constructed their current U.S. production facility. Rather, in accordance with the statute and the legislative history, we have attempted to evaluate the depth and complexity of respondents' current U.S. processing facility, and the extent to which the pattern of trade and level of imports of PTFE wet raw polymer have changed since the issuance of the antidumping duty order. As stated in the "Difference in Value" section of this notice, we have determined that these factors are consistent with an affirmative determination of circumvention.

Final Affirmative Determination of Circumvention

We determine that respondents Montefluos and Ausimont are circumventing the antidumping duty order on granular PTFE resin from Italy. The merchandise produced in the United States, granular PTFE resin, is of the same class or kind of merchandise as that subject to the order, and is completed from an intermediate product imported from Italy, the country to which the order applies. Further, based on our analysis of information in the record and the comments received on our preliminary determination, we determine that the difference in value between the imported and finished products is small. We also determine that the pattern of trade, increase in imports of the intermediate product, and relationship between the parties subject to this inquiry are consistent with an affirmative determination of circumvention. We note that our analysis of the difference in value and resulting determination of "small" in this case are not necessarily synonymous with such determinations that the Department will formulate in future anti-circumvention inquiries since Congress has directed us to make determinations regarding the difference in value on a case-by-case basis.

Based on this final affirmative determination of circumvention, we have determined that PTFE wet raw polymer falls within the scope of the antidumping duty order on granular PTFE resin from Italy. We will inform Customs of this decision, and will instruct it to continue to suspend liquidation of, and require cash deposits, at the applicable rate, on all entries of PTFE wet raw polymer manufactured in Italy.

Interested parties may request disclosure within five days of the date of publication of this notice.

This final affirmative determination of circumvention is in accordance with section 781(a) of the Tariff Act (19 U.S.C. 1677j(a)) and 19 CFR 353.29(e).

Dated: April 20, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-10222 Filed 4-29-93; 8:45 am]

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[A-570-822]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 30, 1993.

FOR FURTHER INFORMATION CONTACT: Bill Crow, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0116.

PRELIMINARY DETERMINATION: We preliminarily determine that certain helical spring lock washers are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on September 28, 1992, (57 FR 45765, October 5, 1992), the following events have occurred:

On October 14, 1992, and November 3, 1992, the Department sent facsimiles to the American Embassy in Beijing, China, requesting information on the value and quantity of sales to the United States by Chinese companies for the period April 1, 1992 to September 30, 1992.

On November 10, 1992, we received a response from the American Embassy in China, listing the names and addresses of several potential respondents. On October 6, 1992, Hangzhou Spring Washer Plant (Hangzhou) and the American Association of Fastener Importers (AAFI) sent a joint letter of appearance as interested parties in this proceeding.

On October 16, 1992, the Department sent petitioner and Hangzhou letters which solicited publicly available published information (PI) to be used to value the factors of production in the investigation. On October 23, 1992, the International Trade Commission (ITC) notified us of its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of helical spring lock washers that are allegedly sold at less than fair value in the United States. Petitioner submitted information it considered PI on December 14, 1992. Hangzhou submitted data it considered PI on December 15, 1992.

On December 30, 1992, the Department sent Hangzhou the antidumping questionnaire. We also served questionnaires on the Embassy of the People's Republic of China (PRC), and on the Ministry of Foreign Economic Relations & Trade (MOFERT). On January 7, 1993, the Department sent Hangzhou and the PRC embassy supplementary questionnaires to determine whether critical circumstances exist.

On January 13, 1993, Hangzhou submitted its response to section A of the questionnaire. No PRC government body replied to our questionnaire. On January 14, 1993, Hangzhou submitted the full translation of the Regulations Regarding State Enterprises, promulgated by the State Council of the People's Republic of China. Petitioner submitted additional information for consideration as PI on January 19, 1993, for data covering Indian labor. On January 22, 1993, the Department sent Hangzhou a section A deficiency questionnaire.

On January 26, 1993, the Department postponed the preliminary determination because the issues involved in this investigation were found to be extraordinarily complicated. On January 27, 1993, Hangzhou requested a one week extension for responding to sections C and D of the Department's questionnaire. This request was granted. On January 28, 1993, the Department extended the deadline for submission of PI until February 5, 1993. On February 5, 1993, Hangzhou submitted its response to the section A deficiency questionnaire. On February 5, 1993, Hangzhou submitted its response to sections C and D. On February 22, 1993, petitioner commented on Hangzhou's February 5, 1993, submissions.

On March 2, 1993, the Department sent Hangzhou the first section C and D deficiency questionnaire. On March 16, 1993, Hangzhou submitted its response to the first section C and D deficiency questionnaire. On March 30, 1993, the Department sent Hangzhou a second section C and D deficiency questionnaire. On March 30, petitioner submitted comments on Hangzhou's March 16, 1993, submission. On April 6, 1993, Hangzhou submitted its response to the second section C and D deficiency questionnaire.

On April 19, 1993, Hangzhou submitted more legible copies of previously submitted sales documentation and noted revisions it had submitted in its April 8, 1993, computer disks, but had failed to fully discuss in the narrative accompanying the disks. Hangzhou also raised an objection to what it perceived as double-counting in petitioner's cost estimate for steel wire rods in calculating margins in the petition. On April 8, 1993, petitioner responded that Hanghzou incorrectly interpreted the petition estimate for converting green wire rod into processed wire, and that no double-counting was involved.

Scope of Investigation

For purposes of this investigation, certain helical spring lock washers (HSLWs) are circular washers of carbon steel, of carbon alloy steel, or of stainless steel, heat-treated or non heat-treated, plated or non-plated, with ends that are off-line. HSLWs are designed to: (1) Function as a spring to compensate for developed looseness between the component parts of a fastened assembly; (2) distribute the load over a larger area for screw or bolts; and (3) provide a hardened bearing surface. The scope does not include internal or external tooth washers, nor does it include spring lock washers made of other metals, such as copper. The lock washers subject to this investigation are currently classifiable under subheading 7318.21.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is from April 1, 1992, through September 30, 1992.

Market-Oriented Industry Status

In its December 7, 1992, submission and in subsequent filings with the Department, Hangzhou has argued that the Department should consider the Chinese lock washer industry as a market-oriented industry (MOI). Petitioner has objected to classifying the lock washer industry of the PRC as market-oriented. As outlined in the Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Order: Chrome-Plated Lug Nuts from the People's Republic of China 57 FR 15052 (April 24, 1992), the Department considers three criteria in establishing whether an industry in a non-market economy should be classified as market-oriented: (1) For merchandise under investigation, there must be virtually no government involvement in setting prices or amounts to be produced (*e.g.*, state-required production or allocation of production of the merchandise, whether for export or domestic consumption in the non-market economy, would be an almost insupereble barrier to finding a market-oriented industry); (2) the industry producing the merchandise under investigation should be characterized by private or collective ownership (there may be state-owned enterprises in the industry but substantial state ownership would weigh heavily against finding a market-oriented industry); and (3) market-determined prices must be paid for all significant inputs, whether material or non-material (e.g., labor and overhead), and for an all but insignificant proportion of all the inputs accounting for the total value of the merchandise under investigation. For example, an input price will not be considered market-determined if the producers of the merchandise under investigation pay a state-set price for the input or if the input is supplied to the producers at government direction. Moreover, if there is any state-required production in the industry producing the input, the share of state-required production must be insignificant.

As recorded in a January 19, 1993, memorandum from David Binder to Richard Moreland, the Department has determined that the Chinese lock washer industry does not have MOI status. As regards the first criterion, the record is not sufficient to determine the degree and nature of control exercised in the lock washer industry by the central and regional government bodies of the PRC. As regards criterion two, the December 7, 1992, PRC embassy submission indicated that a significant portion of total PRC production comes from state-owned factories, a factor indicating "substantial state ownership." As regards criterion three, the PRC submissions neither stated nor documented that market-determined prices are paid for all significant inputs.

Separate Rates

In its December 7, 1992, submission and in subsequent filings with the Department, Hangzhou has argued that a separate, company-specific rate should be calculated in this investigation. In order to determine whether a company-specific dumping margin should be calculated in this investigation, we asked respondent to provide information on company ownership and relationships, sources of inputs, manufacturing processes, distribution channels, involvement of trading companies, controls on external trade, profit retention, and other facets of its production and sale of the subject merchandise. As stated in the Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China (56 FR 20588, May 6, 1991) (Sparklers), we will issue separate rates if a respondent can demonstrate both a *de jure* and *de facto* absence of central control. Evidence supporting, though not requiring, a finding of *de jure* absence of central control would include: (1) An absence of restrictive stipulations associated with an individual exporter's business and

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export licenses; and (2) any legislative enactments devolving central control of export trading companies. Evidence supporting a finding of *de facto* absence of central control with respect to exports would include: (1) Whether each exporter sets its own export prices independently of the government and other exporters; and (2) whether each exporter can keep the proceeds from its sales.

Petitioner has argued that Hangzhou does not qualify for a separate rate because Hangzhou has not adequately explained its relationship to the People's Congress and to the state-owned trading companies through which it makes a significant number of sales to the United States.

Based on a review of Hangzhou's submissions regarding its relationships with PRC government and trade entities, we believe that there is sufficient evidence of *de facto* and *de jure* control by the People's Congress to cause us to question Hangzhou's assertions regarding the complete independence of its business operations. Moreover, as petitioner has pointed out, the PRC government apparently has some degree of control over state trading companies. This further calls into question the independence of Hangzhou. In evaluating Hangzhou's claim to have satisfied the separate rates test from Sparklers, these above concerns cause us to reject Hangzhou's claim for purposes of the preliminary determination, as recorded in our April 19, 1993, memorandum from Richard Moreland to Joseph Spetrini.

Best Information Available

The PRC government did not supply the consolidated questionnaire response requested for all producers/exporters other than Hangzhou. Further, Hangzhou has not demonstrated that it qualifies for a separate rate. Therefore, we are using best information available (BIA) to calculate the margin for all exporters from the PRC. As BIA, we are using the highest single margin calculated in the petition, a margin of 128.63 percent.

Fair Value Comparisons

To determine whether sales of HSLWs from the PRC to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We based USP on the information contained in the petition. Petitioner based U.S. price (USP) on observed price quotes of helical spring lock washers by producers of the subject merchandise from the PRC. Petitioner made deductions from USP for U.S. duty and freight charges.

Foreign Market Value

We based FMV on the methodology contained in the petition. Petitioner contends that the FMV of PRC-produced imports subject to this investigation must be determined in accordance with section 773(c) of the Act, which concerns non-market economy (NME) countries. The PRC is presumed to be an NME within the meaning of section 771(18)(C) of the Act, and the Department has treated it as such in previous investigations (see, Final Determination of Sales at Less Than Fair Value: Sulfanilic Acid from the PRC, 57 FR 29705 (July 6, 1992)).

In accordance with section 773(c) of the Act, FMV in NME cases is based on NME producers' factors of production (valued in a market economy country). Petitioner calculated FMV on the basis of the valuation of the factors of production. In valuing the factors of production, petitioner used India as a surrogate country. In our initiation, we accepted India as having a comparable economy and being a significant producer of comparable merchandise, pursuant to section 773(c)(4) of the Act.

In accordance with the hierarchy for preferred input values as set forth in the notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From the People's Republic of China (PRC), 57 FR 21058 (May 18, 1992) (Comment 4), petitioner first used Indian published, publicly available information to value the factors of production before resorting to unclassified information contained in U.S. government cables or to its own costs of production.

Petitioner obtained and valued the factors of production in the PRC as follows: For carbon steel, petitioner used pricing in U.S. dollars contained in a published report. Petitioner used the cost in the United States for processing rod into finished wire. For labor, petitioner estimated the costs based on cable information from a U.S. consulate in India. For depreciation, petitioner estimated costs of its own equipment using the value of such equipment available in the United States, Taiwan, and Japan. For energy, petitioner valued the factor using its own costs. Petitioner used comparable equipment and valued electricity costs using cable information from a U.S. consulate in India and natural gas prices from published information. For tooling, petitioner used its own actual costs. For selling, general, and administrative expenses (SG&A), petitioner used the statutory minimum of ten percent of the cost of manufacture. For profit, petitioner used the statutory minimum of eight percent of the cost of manufacture plus SG&A expenses. For packing, petitioner estimated the cost as a percentage of the cost of production based on its own experience.

Petitioner calculated margins for both plain and plated carbon steel lock washers. Petitioner obtained and valued the plating factors of production using its own chemical costs, adjusted for one percent weste. For plating labor, petitioner estimated the costs based on cable information from a U.S. consulate in India. For plating equipment depreciation, petitioner estimated costs of its own equipment using the value of such equipment available in the United States. For plating energy, petitioner used its own cost per pound. For plating SG&A, petitioner used the statutory minimum of ten percent of the cost of manufacture. For plating profit, petitioner used the statutory minimum of eight percent of the cost of manufacture plus SG&A expenses.

The range of dumping margins of HSLWs from the PRC based on a comparison of USP to CV alleged by petitioner is 92.30 percent to 128.63 percent. For purposes of this preliminary determination, we are applying the highest margin of 128.63 percent as BIA.

Verification

As provided in section 776(b) of the Act, we will verify the information used in reaching our final determination.

Critical Circumstances

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from the PRC. Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Under 19 CFR 353.16(f), we normally consider the following factors in determining whether imports have been massive over a short period of time: (1) the volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

In determining knowledge of dumping, we normally consider margins of 15 percent or more sufficient to impute knowledge of dumping under section 733(e)(1)(A)(ii) for exporters sales price sales, and margins of 25 percent or more for purchase price sales. (See, e.g., Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy, 52 FR 24198, June 29, 1987). Since the preliminary margin for HSLWs from the PRC is above 25 percent, we determine in accordance with section 733(e)(1)(A)(ii) of the Act that there is a reasonable basis to believe or suspect that knowledge of dumping existed for HSLWs from the PRC.

Because the Department did not receive responses to its questionnaire from the PRC government on behalf of all producers other than Hangzhou, and since we are not calculating separate rates for purposes of the preliminary determination, we have relied upon BIA for determining whether there have been massive imports of HSLWs from the PRC. As BIA we are making the adverse assumption that imports were massive over a relatively short period of time in accordance with section 733(e)(1)(B) of the Act. Therefore, we find that there is a reasonable basis to believe or suspect that imports of HSLWs from the PRC have been massive over a relatively short period of time. Based on our analysis, we determine that there is a reasonable basis to believe or suspect that critical circumstances exist for imports of HSLWs from the PRC.

Suspension of Liquidation

In accordance with sections 733(d)(1) and 733(c)(2) of the Act, we are directing the Customs Service to suspend liquidation of all entries of certain helical spring lock washers from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to 128.63 percent on all entries of certain HSLWs from the PRC. This suspension of liquidation will remain in effect until further notice. The estimated dumping margins are as follows:

Manufacturer/producer/exporter	Margin percentage
All PRC Manufacturers, Producers and Exporters	128.63

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than June 16, 1993, and rebuttal briefs, no later than June 23, 1993. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on June 29, 1993, at 9:30 a.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B–099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15(a)(4).

Dated: April 26, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–10221 Filed 4–29–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–122–404]

Live Swine From Canada; Amendment to Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of amendment to final results of countervailing duty administrative review.

SUMMARY: On July 20, 1992, in accordance with the Binational Panel's May 19, 1992 remand, the Department of Commerce ("the Department") submitted its final results of redetermination to the Panel for the fourth administrative review covering the period April 1, 1988 through March 31, 1989. Following a challenge, the Panel remanded the final results of redetermination to the Department and directed the Department to readdress several issues and findings. On November 19, 1992, the Department submitted a second final results of redetermination to the Panel. The Panel affirmed this redetermination on December 21, 1992. Following the United States' challenge of the Panel's decision before an Extraordinary Challenge Committee, the Committee upheld the Panel's order affirming the November 19, 1992 redetermination. Pursuant to this conclusive decision, we are therefore amending, for purposes of this review, the countervailing duty rate on live swine from Canada.

EFFECTIVE DATE: April 30, 1993.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 1991 (56 FR 28531), the Department published the final results of its fourth administrative review of the countervailing duty order on Live Swine from Canada covering the period April 1, 1988 through March 31, 1989. These results were challenged by the Government of Canada and other Canadian parties before a Binational Panel pursuant to Article 1904 of the U.S.-Canada Free Trade Agreement (FTA) and 19 U.S.C. 1516a(g) (1988). The Panel issued its decision on May 19, 1992, and therein remanded certain issues to the Department for reconsideration. Live Swine from Canada, USA–91–1904–03. Pursuant to this remand order, on July 20, 1992, the

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Department submitted to the Panel its final results of redetermination. In its redetermination, the Department provided further argumentation for its determination that Canada's National Tripartite Stabilization Scheme for hogs (Tripartite) and Quebec's Farm Income Stabilization Insurance program (FISI) were de facto specific in accordance with 19 U.S.C. 1677(5). The Department also requested a second remand to reopen the record in order to include two Canadian documents which supported the Department's estimate of the universe of agricultural commodities produced in Canada, in accordance with the Panel's previous order. The Government of Canada and other Canadian parties challenged the Department's basis for its specificity determination on remand and the Department's request to reopen the record.

On October 30, 1992, the Panel held that the Department was to (1) determine Tripartite and FISI to be non-specific and therefore "not countervailable" and (2) grant "weanlings" a separate, product-based countervailing duty rate. Live Swine from Canada, USA–91–1904 (October 30, 1992). The Panel also denied the Department's request to reopen the administrative record. The Department complied with the Panel's instructions on November 19, 1992, and on December 21, 1992, the Panel issued an order affirming the second determination on remand.

On January 21, 1993, pursuant to Article 1904.13 and Annex 1904.13 of the FTA, the United States filed a request for an Extraordinary Challenge Committee to review the decision of the Binational Panel with respect to the de facto specificity determination. The United States argued that the Panel had failed to apply the appropriate standard of review under U.S. countervailing duty law in determining that the Department had not applied "the appropriate test" to determine specificity.

On April 8, 1993, the Extraordinary Challenge Committee held that the alleged errors by the Panel did not meet the test for a successful extraordinary challenge as set forth in article 1904.13. Live Swine from Canada, ECC–93–1904–01 USA (April 8, 1993). Although the Committee indicated that "the Panel may have erred" with respect to its substantive decision regarding whether the Department's approach to specificity was in accordance with U.S. law, the Committee found that it could not say, based upon that record, "that the Panel did not conscientiously apply the appropriate standard of review."

Accordingly, the Committee dismissed the United States' request for an extraordinary challenge and affirmed the Panel's order affirming the Department's second redetermination, dated December 21, 1992.

Based upon the Panel's order affirming the determination on remand and in accordance with the Extraordinary Challenge Committee's conclusive decision affirming that order, for purposes of this review period only, the Department has removed both the Tripartite and FISI benefits paid to producers of live swine in Canada and Quebec from the calculation of the subsidy rate. In addition, in conformance with the Panel's order, the Department has calculated a separate rate for weanlings.

The subsidy rates contained herein are those determined by the Department in its November 19, 1992 second redetermination. They are: CAN$ 0.0040 per pound for slaughter sows and boars; CAN$ 0.0005 per pound for weanlings; and CAN$ 0.0051 per pound for all other live swine.

Amended Final Results of Review

The Department will instruct the Customs Service to assess countervailing duties of CAN$ 0.0040 per pound for slaughter sows and boars; CAN$ 0.0005 per pound for weanlings; and CAN$ 0.0051 per pound for all other live swine, exported on or after April 1, 1988, and on or before March 31, 1989.

The Customs Service will continue to collect a cash deposit of estimated countervailing duties of CAN$ 0.0049 per pound for slaughter sows and boars and CAN$ 0.0932 for all other live swine. These rates were established in the final results of the fifth countervailing duty administrative review of this order (April 1, 1989 through March 31, 1990) (56 FR 59585; October 7, 1991).

This amended notice of final results is published in accordance with 19 U.S.C. 1675(a)(1), 19 U.S.C. 1516e(g)(5)(B), 19 CFR 355.22 (1992) and 19 CFR 356.8(e).

Dated: April 19, 1993

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–10121 Filed 4–29–93; 8:45 am]

BILLING CODE 3510–DS–P

[Docket No. 930360–3060]

Trade Fair Certification Program: Support for Privately Organized International Trade Fairs

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revisions to the Trade Fair Certification Program: Support for privately organized international trade fairs.

SUMMARY: This notice sets forth the revised objectives, procedures, and application review criteria associated with the U.S. Department of Commerce's Trade Fair Certification Program, which recognizes and endorses selected, privately organized, U.S. participation in foreign trade fairs.

The revised program criteria contained in this notice include the following principal additions, changes, and clarifications to the current program:

- A $1,500 non-refundable contribution is required upon Certification.
- Fairs occurring in cities or locales where the U.S. Department of Commerce (Commerce) has no U.S. and Foreign Commercial Service (US&FCS) office, or where the US&FCS representative responsible for the industry theme of such a fair is based off-site, may incur additional expense for the applicant.
- First-time fairs are not eligible for Certification.
- Applicants applying for Certification of an existing trade fair must have experience in recruiting U.S. exhibitors for that show or another show with the same industry theme.
- Applications for Certification must include satisfactory documentation, in English, of the commitment of necessary exhibit space by the owner or lessor of the facility in which the fair will be held. Documentation should consist of: (1) A lease or letter from the owner or lessor stating that the applicant holds the necessary exhibition space, or a letter demonstrating an offer of specific exhibition space by the owner or lessor of the facility; and (2) a letter indicating the applicant's acceptance of the terms.
- Applications must be received no later than 270 days prior to the commencement of the fair for which Certification is sought, but no earlier than the conclusion of the prior event.
- Only applications submitted by U.S. persons or entities will be considered. For this purpose, the U.S. subsidiary, branch or agent of a foreign firm is considered a U.S. person or entity. Applications for fairs in which the designated organizer's U.S.-based office or agent does not lease space directly must be submitted by the foreign fair organizer and co-signed by the U.S.-based agent or recruiter.
- Certified fair organizers must provide a list of recruited U.S. participants to the Commerce project officer and to the appropriate U.S. and Foreign Commercial Service office 30 days prior to the event.
- All products to be exhibited by recruited U.S. participants must (1) be manufactured or produced in the United States, or (2) if manufactured or produced outside of the United States, be marketed under the name of a U.S. firm and have U.S. content representing at least fifty-one percent of the value of the finished good or service.

DATES: These revised administrative procedures are effective on the date of publication in the **Federal Register**.

ADDRESSES: Trade Fair Certification Program, room 2116, Export Promotion Services, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Paul Bucher, Manager, Trade Fair Certification, U.S. Department of Commerce, room 2116, 14th and Constitution Avenue, NW., Washington, DC 20230. Tel: (202) 482–2525 Fax: (202) 482–0115 (for communication purposes only; facsimile applications will not be accepted).

SUPPLEMENTARY INFORMATION:

Trade Fair Certification Program Background

This **Federal Register** notice replaces, in full, the **Federal Register** notices of August 4, 1987, 52 FR 28934–28936, and May 12, 1983, 48 FR 21520–21522.

Per the Mutual Educational and Cultural Exchange Act of 1961 (MECEA) (22 U.S.C. 2455(f)), Commerce established the Trade Fair Certification Program in 1983 to encourage qualified private sector organizers to recruit U.S. exhibitors for overseas trade fairs. The revised program set forth in this notice provides the private sector with greater opportunities to work with Commerce in support of their participation in overseas trade fairs.

In lieu of Commerce, private sector organizers assume the responsibilities of organizing Certified Trade Fairs, or U.S. participation in them. Certification assures Commerce recognition and support of the efforts of private sector trade fair organizers, as well as trade associations and other export promotion organizations, to recruit U.S. exporters for specific oversees fairs recognized by the Department as good export opportunities.

Certification provides a means for the exporter to verify that a particular trade fair will be a good promotional medium. Prospective U.S. exhibitors at Certified Trade Fairs know that Commerce personnel will be available to assist them and to counsel them about export matters that may arise before, during and after the show. Certification thus indirectly serves the U.S. manufacturer or service provider seeking export opportunities.

The private sector organizer usually takes the initiative to request Certification of a fair; however, on occasion, Commerce may identify a fair as a potential candidate for Certification. In those instances where there is no known private sector entity in the United States recruiting for the fair, Commerce will notify organizers of fairs that have been Certified during the preceding two years about such opportunities and place a similar notice in the **Federal Register**.

With the exception of catalog exhibitions, Commerce will not Certify a fair for which it is also recruiting or intends to recrujt exhibitors.

Certification is for one fair only; organizers of fairs that have been Certified previously, must, nevertheless, apply for Certification of the currently anticipated event in order to permit Commerce to evaluate current market conditions.

Commerce does not provide any financial assistance to organizers or to exhibitors at Certified Trade Fairs. The Certified organizer contributes $1,500 to assist in defraying Commerce expenses incurred in supporting the organizer and the fair. Commerce may provide additional services, for which the applicable post's Senior Commercial Officer will determine, subject to review by US&FCS in Washington, any additional contribution required of the organizer.

Certification indicates that Commerce has found the applicable fair to be a good market opportunity warranting participation by U.S. exporters. Certification indicates that the fair and the organizer have met basic criteria and that the organizer is qualified to perform in a manner supportive of Commerce's objectives. However, Certification does not constitute a guarantee of the fair's success or of the organizer's performance.

Commerce limits Certification to those fairs that, in its judgment, most clearly meet its program objectives and selection criteria. A decision not to Certify a fair does not mean that the event should not be considered as a promotional tool by U.S. firms.

Trade Fair Criteria for Awarding Certification

Subject to Commerce's budgetary and resource constraints, Certification will be granted to those fairs which, in the judgment of Commerce, most clearly and best meet the following criteria:

(a) The fair must be a good market opportunity for the featured industry or industries.

In applying this criterion, Commerce will consider such factors as:

(i) Whether the fair's industry theme is included on Commerce's Best Prospect or Best Market list. Information about the Best Prospect and Best Market lists is available from the Trade Fair Certification staff, Commerce District Offices and US&FCS sections oversees;

(ii) The degree to which the fair provides promise of foreign market exposure for the latest technology or techniques in an industry or in a commercially recognized category of goods or services;

(iii) Whether the fair provides a unique opportunity for export promotion within a particular market;

(iv) The appropriateness of the fair for a minimum of 10 U.S. industry participants, ideally located in an identifiable U.S. pavilion within the show; and

(v) Whether such participants are likely to exhibit goods or services representing U.S. industry in the particular field involved.

(b) The fair must have good potential for export promotion.

In applying this criterion, Commerce will consider:

(i) Whether the industry or target market of the fair promises to attract foreign customers for U.S. goods or services; and

(ii) The "marketability" of the overall industry goods or services likely to be exhibited, i.e., the sales potential in the market area and the suitability of the goods or services as identified in the application for Certification.

(c) The fair must be one for which recognition and support would be consistent with Commerce's overall export promotion program and its priorities for allocation of its resources and name association.

In applying this criterion, Commerce will consider such factors as:

(i) Whether the fair is a first-time event. First time fairs are not eligible for Certification. A first-time fair is a distinctly separate and uniquely titled trade show that has not been held before in the applicable country. The term "first-time event" does not refer to a

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show different in name only from a previous identical fair. A fair developed as a "breakout" show from an existing fair will be considered a first-time fair;

(ii) Whether an existing fair has occurred in the applicable country prior to the submission of an application for Certification. Applications for a fair that occurs in different countries on a rotating basis under the same title will be considered provided the fair has occurred in the relevant country during the preceding five years;

(iii) Whether Commerce is recruiting or intends to recruit exhibitors for the fair. With the exception of catalog exhibitions, Commerce will not Certify a fair for which it also is recruiting or intends to recruit exhibitors; and

(iv) The theme, timing and location of the fair; previous exhibitors' assessment of the fair; the past experience of the organizer with the event; the post's familiarity with the fair (and, if applicable, the post's recommendation in its end-of-show report for the previous event); and whether Commerce's support would contribute to the enhancement of the participants' export potential.

Application Procedures

(a) Applications must be received no later than 270 days prior to the first day of the fair, and no earlier than the conclusion of the prior occurrence of the event.

(b) Only a U.S. person may apply for Certification. For purposes of this paragraph, "U.S. person" means a U.S. citizen, an entity (such as a corporation, partnership, association or other entity) created under the laws of the United States or of any state, and the U.S. branch or agent of a foreign person. Applications for fairs in which the designated organizer's U.S.-based office or agent does not lease space directly must be submitted by the foreign fair organizer and co-signed by the U.S.-based agent or recruiter.

(c) Applications that are received within 30 days of the receipt of the first application with respect to a fair will be considered concurrently with the first application. Applications received more than 30 days after receipt of the first application will be considered, in order of receipt, but only if no prior application has been accepted for Certification.

(d) Applications for all fairs must include satisfactory documentation, in English, of the commitment of necessary exhibit space by the owner or lessor of the facility in which the fair will be held. Documentation should consist of: (1) A lease or letter *from* the owner or lessor stating that the applicant holds the necessary exhibition space, or a letter demonstrating an offer of specific exhibition space by the owner or lessor of the facility; and (2) a letter indicating the applicant's acceptance of the terms.

(e) Applications will be deemed received only if they are complete, i.e., all questions on the application [Form ITA 4100P] are addressed and documentation of lease arrangements, as provided in paragraph (d) above, is included. The collection of this information has been approved by the Office of Management and Budget, OMB Control Number 0625–0130. Applications deemed incomplete will be returned to the applicant. The 30-day period referred to in paragraph (c) will commence when Commerce first deems an application complete and received.

(f) Application form ITA–4100P can be obtained by contacting the Manager for Trade Fair Certification listed in this notice.

Applicant Criteria for Certification

The applicant must demonstrate or provide:

(a) Financial capability and personnel resources sufficient to plan and implement a successful fair and organize a U.S. pavilion or exhibitor group, including, but not limited to, having a U.S. office or appropriate U.S. representative for recruitment of participants and the capability to provide exhibition and sundry trade services to exhibitors;

(b) Experience in trade fair management and evidence of successful recruitment of U.S. exhibitors for that show or another show with the same industry theme;

(c) A high-level management commitment to develop and execute the trade fair and/or organization of the U.S. pavilion or group of U.S. exhibitors;

(d) Documentation showing a firm agreement committing both the applicant and the owner or lessor of exhibit space at the fair per paragraph (d) in the preceding section;

(e) A commitment to recruit at least 10 U.S. companies to participate in the fair;

(f) The ability and commitment to provide a comprehensive show and/or U.S. pavilion or exhibitor group management and marketing effort, including the ability to identify, and seek participation by, infrequent exporters and small- and medium-sized companies; and

(g) The ability and commitment to satisfy U.S. exhibitors' needs by arranging or providing exhibition services, including, but not limited to, booth design and construction, transportation of display, cleaning services and market promotion.

Specific responsibilities of the Certified show organizer/recruiter:

(a) Make a $1,500 non-refundable contribution to Commerce within 30 days of notice that the fair has been Certified.

(b) Designate an individual on the organizer's staff to work on all aspects of the show with Commerce personnel assigned to coordinate activities for the exhibition.

(c) Provide the following exhibition services:

(i) Display space comparable with industry standards for trade events;

(ii) Forwarding and exhibit set-up services including, but not limited to, unloading participants' equipment at the exhibition site, delivery to the participants' booths, unpacking, placement in display area, storing packing crates, repacking and loading for onward shipment, customs clearance, and any other services required to assure the prompt and orderly receipt and dispatch of materials in and out of the exhibition site;

(iii) Installation of a display system, chairs, tables, standard company identification and standard agent identification signs;

(iv) Normal utilities and hook-up services; and

(v) Assistance in hiring interpreters, clerical personnel or booth attendants required by participants. All fees to be charged to participants for standard and supplementary services must be stated in the organizer's application and be within a reasonable range of such charges in the market as can be verified by Commerce's post in-country.

(d) Undertake, as appropriate, a comprehensive promotional campaign, such as in-country pre-show press conferences and meetings to reach importers, distributors, agents, buyers and end-users.

(e) If required by the Senior Commercial Officer, provide at no cost to the post, space and/or furnished booth for use as a Business Information Office (BIO). If a U.S. pavilion is utilized, the BIO should be co-located with the exhibitors in the U.S. pavilion.

(f) In keeping with Commerce's mandate, show evidence of efforts to target infrequent exporters (new-to-market firms) and small and medium-sized firms in its recruitment efforts.

(g) If the fair is located at a site where there is no US&FCS Section or where the US&FCS representative responsible for the show's industry theme is based off-site, pay per diem and travel-related expenses, subject to Commerce guidelines and the post's utilization of its allocation of the Certification fee.

(h) Subject to Departmental guidelines, pay per diem and travel-related expenses for U.S. Department of Commerce employee(s) whom the organizer has requested to attend the fair.

(i) Provide a list of recruited U.S. participants to the Commerce project officer and to the appropriate US&FCS office 30-days prior to commencement of the fair.

(j) Ensure that recruited U.S. participants' exhibited products:

(1) Are manufactured or produced in the United States; or

(2) if manufactured or produced outside of the United States, are marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished good or service.

(k) Prominently display the Trade Fair Certification logo on event promotional materials, on all exhibition booth fascia, and throughout the U.S. pavilion, if one is organized.

(l) Provide an after show report (Form 4103–P supplied by Commerce) to the Senior Commercial Officer at post and to the Commerce project officer within 14 days of the show's closing. This report will be incorporated into an overall report completed by the post for use in evaluating: The fair; the effectiveness of support provided by Commerce; and the organizer's performance.

Commerce reserves the right to "decertify" a fair at any time after Certification is granted if, in the opinion of Commerce, the organizer has not or is not likely to fulfill its obligations as established by the Certification criteria. In such an event, the organizer shall remain solely responsible for its obligations to the recruited U.S. participants. Commerce may withdraw all assistance and support, including the right of the organizer to use the Trade Fair Certification logo.

Department of Commerce Services and Responsibilities

The support provided for Certified Trade Fairs will generally be identical, but minor variances may exist, depending on the specific needs of the organizer and of Commerce.

For Certified Trade Fairs, Commerce will:

(a) Provide the successful applicant with a certificate designating the fair as being Certified by the U.S. Department of Commerce;

(b) Authorize the use of Commerce's "Trade Fair Certification" logo and other Commerce-approved references that indicate the U.S. Government recognizes and supports the fair, pursuant to and in accordance with such terms and conditions, including the US&FCS Logotype Style Manual, as Commerce might prescribe;

(i) The Trade Fair Certification Program of the U.S. Department of Commerce is the principal program used to support private sector-recruitment and organization of overseas trade fairs. Use of the Trade Fair Certification logo for Certified Trade Fairs is conditioned on it being the dominant logo to promote the fair to U.S. exhibitors;

(ii) If other U.S. Government or non-government logos are used, they must appear in smaller versions and not be co-mingled with the Trade Fair Certification logo;

(iii) All promotional material using the Trade Fair Certification logo should be sent to the project officer for file-keeping purposes. Advance review of the materials is not required, unless the show organizer has questions about proper use of the logo; and

(iv) Failure to abide by the regulations regarding proper use of the Trade Fair Certification logo may result in the fair being de-certified. A copy of the proper guidelines for using the Trade Fair Certification logo is supplied to the organizer upon Certification.

(c) Provide a designated project officer to assist the organizer;

(d) Make a general announcement to appropriate Commerce units (District Offices, US&FCS overseas, etc.) that Commerce supports the show and the U.S. organizer's recruitment efforts;

(e) Place an ongoing announcement about the fair in Commerce's biweekly export promotion magazine Business America, the Export Promotion Calendar, and relevant ITA newsletters up to the date of the event;

(f) Provide a suggested news release designating the show as a Certified Trade Fair for the organizer to use in its recruitment campaign;

(g) Provide the organizer, upon request, with relevant existing international marketing reports;

(h) To the extent resources allow, coordinate with other Commerce units in obtaining relevant mailing lists or mailing labels in support of the organizer's recruitment and promotional activities related to the specific Certified Trade Fair, to be provided on a one-time basis only;

(i) Encourage potential exhibitors, through Commerce's normal course of counseling or through contacts with business and trade associations, to consider participation in the Certified Trade Fair and refer inquiries to the show organizer; and

(j) Upon request and to the extent available, arrange counseling for exhibitors by District Office Trade Specialists, International Economic Policy country desk officers and Trade Development industry officers.

The US&FCS Section Abroad will:

(a) Furnish the organizer with a list of key local government entities, associations, distributors, agents, and other relevant information;

(b) Promote the fair locally by including an announcement of the event in its commercial newsletter or equivalent;

(c) Upon request by the post and subject to the availability of resources, provide staff at a Business Information Office to counsel U.S. exhibitors, facilitate contacts between exhibitors and visitors, and promote the services of the individual post. The BIO cannot be used for any other purpose, unless agreed to by the post and the US&FCS Export Promotion Services (EPS) office; and

(d) Upon request by the organizer and subject to the availability of resources, provide additional services, including, but not limited to the following: An exhibitor briefing; reception; promotional mailing; ribbon-cutting ceremony; and press conference.

The costs of these additional services, over and above the post's allocation of the Certification fee, shall be assumed by the organizer. Such costs will be determined by the Senior Commercial Officer, subject to review by EPS and US&FCS management.

Dated: April 21, 1993.

Ann H. Watts

Director, Cooperative Events Division, Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 93–10126 Filed 4–29–93; 8:45 am]

BILLING CODE 3510–FP–U

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Docket No. 921225–3038

RIN 0625–AA06

Allocation of Duty-Exemptions for Calendar Year 1993 Among Watch Producers Located in the Virgin Islands

AGENCY: Import Administration, International Trade Administration, Department of Commerce; and Office of the Secretary, Department of the Interior.

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ACTION: Notice.

SUMMARY: This action allocates 1993 duty-exemptions for watch producers located in the Virgin Islands pursuant to Public Law 97–446.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482–1660.

SUPPLEMENTARY INFORMATION: Pursuant to Public Law 97–446, the Departments of the Interior and Commerce (the Departments) share responsibility for the allocation of duty exemptions among watch assembly firms in the U.S. insular possessions and the Northern Mariana Islands. In accordance with § 303.3(a) of the regulations (15 CFR part 303), this action establishes the total quantity of duty-free insular watches and watch movements for 1993 at 5,580,000 units and divides this amount among the three insular possessions of the United States and the Northern Mariana Islands.

Of this amount, 4,080,000 units may be allocated to Virgin Islands producers, 500,000 to Guam producers, 500,000 to American Samoa producers and 500,000 to Northern Mariana Islands producers (58 FR 21347).

The criteria for the calculation of the 1993 duty-exemption allocations among insular producers are set forth in § 303.14 of the regulations.

The Departments have verified the data submitted on application form ITA–334P by producers in the territories and inspected the current operations of all producers in accordance with § 303.5 of the regulations.

The verification established that in calendar year 1992 the Virgin Islands watch assembly firms shipped 2,113,216 watches and watch movements into the customs territory of the United States under Public Law 97–446. The dollar amount of creditable corporate income taxes paid by Virgin Islands producers during calendar year 1992 plus the creditable wages paid by the industry during calendar year 1992 to residents of the territory totalled $5,001,851.

There are no producers in American Samoa or the Northern Mariana Islands. The only producer in Guam ceased assembly operations during 1992. Publication of the Guam data would disclose competitively sensitive information.

The calendar year 1993 Virgin Islands annual allocations set forth below are based on the data verified by the Departments in the Virgin Islands. The allocations reflect adjustments made in data supplied on the producers' annual application forms (ITA Form–334P) as a result of the Departments' verification; and reallocation of duty-exemptions which have been voluntarily relinquished by some producers pursuant to § 303.6(b)(2) of the regulations.

The duty-exemption allocations for calendar year 1993 in the Virgin Islands are as follows:

Name of firm	Annual allocation
Belair Quartz, Inc	500,000
Hampden Watch Co., Inc	300,000
Progress Watch Co., Inc	400,000
Unitime Industries, Inc	500,000
Tropex, Inc	500,000
Timex V.I., Inc	791,200

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Ruth G. Van Cleve,

Acting Assistant Secretary for Territorial and International Affairs.

[FR Doc. 93–10123 Filed 4–29–93; 8:45 am]

BILLING CODES 3510–DS–M 4310–93–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the United Arab Emirates

April 26, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: May 4, 1993.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being reduced for carryforward used during 1992.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23 1992). Also see 57 FR 53887, published on November 13, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 26, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 6, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the United Arab Emirates and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on May 4, 1993, you are directed to amend the directive dated November 6, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the United Arab Emirates:

Category	Adjusted twelve-month limit [1]
340/640	273,934 dozen.
341/641	226,293 dozen.
347/348	326,447 dozen of which not more than 164,122 dozen shall be in Categories 347–T/348–T [2].

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

[2] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.4020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.3010, 6112.11.0050, 6113.00.0038, 6203.19.1020, 6203.19.4020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.3020, 6210.40.2035, 6211.20.1520, 6211.20.3010 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.2030, 6104.22.0040, 6104.29.2034, 6104.62.2010, 6104.62.2025, 6104.69.3022, 6112.11.0060, 6113.00.0042, 6117.90.0042, 6204.12.0030, 6204.19.3030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.3010, 6204.69.9010, 6210.50.2035, 6211.20.1550, 6211.20.6010, 6211.42.0030 and 6217.90.0050.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–10172 Filed 4–29–93; 8:45 am]

BILLING CODE 3510–DR–F

Denial of Participation in the Special Access and Special Regime Programs

April 26, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs denying the right to participate in the Special Access and Special Regime Programs.

EFFECTIVE DATE: May 1, 1993.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Committee for the Implementation of Textile Agreements (CITA) has determined that the I. Appel Corporation is in violation of the requirements set forth for participation in the Special Access and Special Regime Programs.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs, effective on May 1, 1993, to deny the I. Appel Corporation the right to participate in the Special Access and Special Regime Programs, for a period of three months, from May 1, 1993 through July 31, 1993.

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; and 54 FR 50425, published on December 6, 1989.

Requirements for participation in the Special Regime Program are available in **Federal Register** notices 53 FR 15724, published on May 3, 1988; 53 FR 32421, published on August 25, 1988; 53 FR 49346, published on December 7, 1988; and 54 FR 50425, published on December 6, 1989.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 26, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has determined that the I. Appel Corporation is in violation of the requirements for participation in the Special Access and Special Regime Programs.

Effective on May 1, 1993, you are directed to prohibit the I. Appel Corporation from further participation in the Special Access and Special Regime Programs, for a period of three months, from May 1, 1993 through July 31, 1993. Goods accompanied by Form ITA–370P which are presented to U.S. Customs for entry under the Special Access and Special Regime Programs will no longer be accepted. In addition, for the period May 1, 1993 through July 31, 1993, you are directed not to sign ITA–370P forms for export of U.S.-formed and cut fabric for the I. Appel Corporation.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–10171 Filed 4–29–93; 8:45 am]

BILLING CODE 3510–DR–F

Establishment of an Export Visa Arrangement for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Lesotho

April 23, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing export visa requirements.

EFFECTIVE DATE: May 15, 1993.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On December 9, 1992, the Governments of the United States and the Kingdom of Lesotho agreed to establish an export visa arrangement for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Lesotho and exported from Lesotho on and after May 15, 1993.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992).

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner of Customs.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 23, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1992; pursuant to the Export Visa Arrangement of December 9, 1992 between the Governments of the United States and the Kingdom of Lesotho; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 15, 1993, entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200–239, 300–369, 400–469, 600–670 and 800–899, including merged (338/339/638/639 and 347/348/647/648) and part categories, produced or manufactured in Lesotho and exported from Lesotho on and after May 15, 1993, for which the Government of the Kingdom of Lesotho has not issued an appropriate export visa fully described below. Should additional categories, merged categories or part categories be added to the bilateral agreement, the entire category(s) or part category(s) shall be included in the coverage of this arrangement on an agreed effective date.

A visa must accompany each commercial shipment of the aforementioned textile products. A circular stamped marking in blue ink will appear on the front of the original commercial invoice. The original visa shall

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not be stamped on duplicate copies of the invoice. The original invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numerical digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO) (the code for Lesotho is "LS"), and a six digit numerical serial number identifying the shipment; e.g., 3LS123456.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The signature and printed name of the issuing official.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity in the shipment as set forth in the U.S. Department of Commerce Correlation and the U.S. Harmonized Tariff Schedules (HTS) (e.g., "Cat. 343–210 DOZ").

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment (e.g., Categories 347/348 may be visaed as 347/348 or if the shipment consists solely of 347 merchandise, the shipment may be visaed as "Cat. 347," but not as "Cat. 348"). If, however, a merged quota category such as 340/640 has a quota sublimit on Category 340, then there must be a "Cat. 340" visa for the shipment if it includes Category 340.

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, printed name of the signer, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

The complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa shall be provided on the textile visa document.

If the visa is not acceptable then a new visa must be obtained from the Government of the Kingdom of Lesotho, or a visa waiver may be issued by the U.S. Department of Commerce at the request of the Government of the Kingdom of Lesotho, and presented to the U.S. Customs Service before any portion of the shipment will be released. The waiver, if used, only waives the requirement to present a visa with the shipment. It does not waive the quota requirement.

If import quotas are in force, U.S. Customs Service shall charge only the actual quantity in the shipment to the correct category limit.

If a shipment from Lesotho has been allowed entry into the commerce of the United States with either an incorrect visa or no visa, and redelivery is requested but cannot be made, U.S. Customs shall charge the shipment to the correct category limit whether or not a replacement visa or visa waiver is provided.

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S.$250 or less, do not require a visa for entry and shall not be charged to agreement levels.

A facsimile of the visa stamp and a list of officials authorized to issue export visas are enclosed with this letter (Annex A).

The actions taken concerning the Government of the Kingdom of Lesotho with respect to imports of textiles and textile products in the foregoing categories have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1). This letter will be published in the **Federal Register**.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

ANNEX A

Names of officers authorised to sign on the VISA stamp.

1. L.T. SEBETA .....
2. A.M. MARANYANE .....
3. A.M. MAJORO .....
4. P.M. MASEHLELA .....
5. A.K. MASHEA .....

[FR Doc. 93–10146 Filed 4–29–93; 8:45 am]
BILLING CODE 3510–DR–P

VOL 58 ISS 82 AP 30 1993 UMI

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 1, 1993.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On February 26, March 5 and 12, 1993, the Committee for Purchase from People Who Are Blind or Severely Disabled published notices (58 FR 11590, 12580 and 13586) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Napkin, Table, Paper
8540–00–285–7001
8540–01–056–2897

Services

Janitorial/Custodial, Buildings 2103, 2151, 2157, 2159, 2170, 2178, 2180, 2182, 2188, 2206, 2208, 2209, 2301, 2303, 2303T, 865, 2104, 2131, 2133, 2135, 2137, 2150, 2172, 2174, 2176, 2205, 2207, 2430, 2435, Fort Campbell, Kentucky

Janitorial/Custodial, Federal Building and U.S. Post Office, 104 West Magnolia, Bellingham, Washington

Janitorial/Grounds Maintenance, East Totten Trail Recreation Area, Lake Sakakawea, Riverdale, North Dakota

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 93–10204 Filed 4–29–93; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Addition

AGENCY: Committee for Purchase from People who are Blind or Severely Disabled.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to the Procurement List a service to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 1, 1993.

ADDRESSES: Committee for Purchase from People who are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On March 5, 1993, the Committee for Purchase from People who are Blind or Severely Disabled published notice (58 FR 12580) of the proposed addition to the Procurement List.

During the development phase of this addition to the Procurement List, the Committee received comments from the current contractor for this service. The contractor indicated that addition to the Procurement List of this service and another janitorial service which the same contractor was performing for the Government would severely impact its sales and cause a hardship for the contractor.

To lessen the impact of its action on the contractor, the Committee has discontinued processing the proposed addition of the other service to the Procurement List.

After consideration of the material presented to it concerning the capability of a qualified nonprofit agency to provide the service, fair market price, and the impact of the addition on the current or most recent contractor, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List:

Janitorial/Custodial, Federal Complex, 1500 E. Bannister Road and 9240 Troost, Kansas City, Missouri.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 93–10205 Filed 4–29–93; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 1, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe adverse impact on the current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and services to the Procurement List for production by the nonprofit agency listed:

Commodities

Side Rack, Vehicle
2510–00–571–6968
Nonprofit Agency: Northwest Alabama Easter Seal Children's Clinic-Rehabilitation Center, Muscle Shoals, Alabama

Gasket and Preformed Packing Set
5330–00–884–4807
Nonprofit Agency: Charleston Vocational Rehabilitation Center, Charleston Heights, South Carolina

Carrier Wheel Assembly
5340–01–000–8752
Nonprofit Agency: Beaufort Vocational Rehabilitation Center, Beaufort, South Carolina

Pad, Executive Message Recording
7510–01–357–6829
7510–01–357–6830
Nonprofit Agency: Arkansas Lighthouse for the Blind, Little Rock, Arkansas

Pad, Comfort, Helmet, Ground Troops and Parachutists
8470–01–364–7074
Nonprofit Agency: South Texas Lighthouse for the Blind, Corpus Christi, Texas

Services

Grounds Maintenance, Bureau of Reclamation, New Melones Lake Visitors Center, 6850 Studhorse Flat Road, Sonora, California
Nonprofit Agency: Tuolumne/Calaveras Association for Handicapped, Inc., Standard, California

Janitorial/Custodial, Fort Ritchie, Maryland
Nonprofit Agency: Hagerstown Goodwill Industries, Inc. Hagerstown, Maryland

Repair of Shoe Lasts, Defense Personnel Support Center, Philadelphia, Pennsylvania
(50% of the Government requirement)
Nonprofit Agency: Cleveland Skilled Industries, Cleveland, Ohio at its facility in Elyria, Ohio

Beverly L. Milkman,

Executive Director.

[FR Doc. 93–10206 Filed 4–29–93; 8:45 am]

BILLING CODE 6820–33–P

COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

Hearing

AGENCY: United States Commission on Improving the Effectiveness of the United Nations.

ACTION: Notice of public hearing.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended [5 U.S.C. app. II, (1982)], the U.S. Commission on Improving the Effectiveness of the United Nations gives notice of a public hearing. The purpose of this hearing is to obtain information on the subject of United Nations reform and U.S. policy toward the United Nations, and to conduct other Commission business. The hearing will be open to the public.

DATES: Friday, May 14, 1993, 9:30 a.m. to 5 p.m.

ADDRESSES: The hearing will be held at the Council on Foreign Relations, 58 E. 68th Street, New York, NY.

FOR FURTHER INFORMATION CONTACT: Kathleen O'Leary, Administrative Officer, 1825 Connecticut Avenue, Suite 1011, Washington, DC 20009; telephone: (202) 673–5012; telefax: (202) 673–5007.

SUPPLEMENTARY INFORMATION: Space and facilities for accommodeting the public are limited. Persons interested in attending the hearing are asked to call the U.S. Commission on Improving the Effectiveness of the United Nations by May 12 to reserve a space. Any member of the public may file a written testimony with Kathleen O'Leary, Administrative Officer, at the hearing.

The U.S. Commission on Improving the Effectiveness of the United Nations was established by Public Law 100–204, 101 Stat. 1934 (22 USC 287 note). The Commission is charged with preparing and submitting to the President and Congress a report containing a detailed statement of its findings, conclusions and recommendations regarding reform of the United Nations system and the role of the United States in the United Nations system. The Commission is bipartisan and is privately funded.

Dated: April 28, 1993.

Gregory Wierzynski,

Executive Director.

[FR Doc. 93–10346 Filed 4–29–93; 8:45 am]

BILLING CODE 6820–SB–M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 93–C0007]

NEWCO INC., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of a Settlement Agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e)–(h). Published below is a provisionally-accepted Settlement Agreement with Newco Inc., a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by May 17, 1993.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the

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Comment 93–C0007, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Ronald G. Yelenik, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0626.

SUPPLEMENTARY INFORMATION: See attached Appendix A—Settlement Agreement and Order.

Dated: April 26, 1993.

Sheldon D. Butts,

Deputy Secretary.

Appendix A—Settlement Agreement and Order

In the Matter of Newco Inc., a corporation. CPSC Docket No. 93–C0007.

1. This Settlement Agreement and Order, entered into between Newco Inc., a corporation (hereinafter, "Newco"), and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

I. The Parties

2. Newco is a corporation organized and existing under the laws of the State of Wisconsin with its principal corporate offices located in Janesville, Wisconsin.

3. The "Staff" is the staff of the Consumer Product Safety Commission (hereinafter, "Commission"), an independent federal regulatory agency established by Congress pursuant to section 4 of the Consumer Product Safety Act (hereinafter, "CPSA"), 15 U.S.C. 2053.

II. Jurisdiction

4. Newco manufactured certain Swing-N-Slide belted swing seats with "V" brackets, identified further in paragraphs 6 and 7 below (hereinafter, "swing seats"), (a) for sale to a consumer for use in or around a permanent or temporary household or residence, or (b) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence. These swing seats are "consumer products" within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

5. Newco manufactured and sold these swing seats at major home supply and building material centers throughout the United States. Newco, therefore, is a "manufacturer" of a "consumer product" which is "distributed in commerce," as those terms are defined in sections 3(a)(1), (4) and (11) of the CPSA, 15 U.S.C. §§ 2052(a)(1), (4) and (11).

III. The Product

6. Newco manufactured approximately 500,000 swing seats between 1986 and 1992.

7. The swing seats were sold separately and also with the Scout and the Pioneer models of Newco swing set kits.

IV. Staff Allegations Concerning the Swing Seats and of a Failure by NEWCO to Comply With the Reporting Requirements of Section 15(b) of the CPSA

8. The swing seats are defective in that the "V" shaped bracket which connects the swing seat to the swing chain is difficult for a consumer to close completely. Failure to completely close the "V" bracket during installation may and has resulted in serious lacerations to children.

9. On June 20, 1990, Newco received its first report of a "V" bracket incident concerning an eight year old girl who was injured when the subject bracket became imbedded two inches inside her leg.

10. Newco learned of another "V" bracket occurrence on July 2, 1990, in which a young boy was injured and required 26 stitches when he caught his leg in an uncrimped bracket.

11. Newco received notice of two additional "V" bracket injuries on July 16 and July 27, 1990.

12. On September 10, 1990, and in December, 1990, Newco became aware of a fifth and sixth "V" bracket incident. These occurrences involved a young boy who required eight stitches to close a laceration in his scrotum, and another young male who necessitated emergency room surgery to remove a "V" bracket from his testicles.

13. On February 12, 1991, Newco began production of a newly designed "V" bracket. The new bracket was designed to prevent hook-end lacerations even if the bracket is not completely closed. The general public was neither notified of the redesign, nor the reason for this action.

14. Newco learned of a seventh "V" bracket incident on June 6, 1991.

15. Newco had received sufficient information by September 10, 1990, to reasonably support the conclusion that the swing seats described in paragraphs 6 and 7 above, contained a defect which could create a substantial product hazard, or created an unreasonable risk of serious injury or death. Nonetheless, the company failed to report such information to the Commission as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b). Section 15(b) requires a manufacturer of consumer products who obtains information that reasonably supports the conclusion that its product contains a defect which could create a substantial product hazard, or creates an unreasonable risk of serious injury or death, to immediately inform the Commission of the defect, or of such risk.

V. Response of NEWCO

16. NEWCO denies that its swing seats contain a defect which creates or which could create a substantial product hazard within the meaning of section 15(a) of the CPSA, 15 U.S.C. 2064(a), or creates an unreasonable risk of serious injury or death, and further denies an obligation to report information to the Commission under section 15(b) of the CPSA, 15 U.S.C. 2064(b), with respect to these swing seats.

VI. Agreement of the Parties

17. Newco and the staff agree that the Commission has jurisdiction in this matter for purposes of entry and enforcement of this Settlement Agreement and Order.

18. Newco agrees to pay the Commission a civil penalty in the amount of one hundred fifteen thousand dollars ($115,000), payable within twenty (20) days after service of the Final Order of the Commission accepting this Settlement Agreement. This payment is made in settlement of allegations by the staff that Newco violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b), with regard to the swing seats manufactured and sold by Newco.

19. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had issued.

20. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedure set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

21. Upon final acceptance of this Settlement Agreement and Order by the Commission, Newco knowingly, voluntarily and completely waives any rights it may have (1) to an administrative or judicial hearing with respect to the Commission's claim for a civil penalty, (2) to judicial review or other challenge or contest of the validity of the Commission's action with regard to its claim for a civil penalty, (3) to a determination by the Commission as to whether a violation of Section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred, and (4) to a statement of findings of fact and conclusions of law with regard to the Commission's claim for a civil penalty.

22. Newco agrees to inform the Commission if it learns of any additional swing seat incidents or any other relevant information affecting the safety of these swing seats.

23. The parties further agree that the incorporated Order be issued under the CPSA, 15 U.S.C. 2051 *et seq.*, and that a violation of the Order will subject Newco to appropriate legal action.

24. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

Newco Inc.

Dated: January 14, 1993.

Tom Baer,

President, Newco Inc.

THE CONSUMER PRODUCT SAFETY COMMISSION

David Schmeltzer,

Associate Executive Director, Office of Compliance and Enforcement.

Eric L. Stone,

Acting Director, Division of Administrative Litigation, Office of Compliance and Enforcement.

Dated: January 18, 1993.

Ronald G. Yelenik,

Trial Attorney, Division of Administrative Litigation, Office of Compliance and Enforcement.

Order

In the Matter of Newco Inc., a corporation. CPSC Docket No. 93–C0007.

Upon consideration of the Settlement entered into between respondent Newco Inc., a corporation, and the staff of the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Newco Inc.; and it appearing the Settlement Agreement is in the public interest, it is

Ordered, that the Settlement Agreement be and hereby is accepted, as indicated below; and it is

Further ordered, That upon final acceptance of the Settlement Agreement, Newco Inc. shall pay to the order of the Consumer Product Safety Commission a civil penalty in the amount of one hundred fifteen thousand dollars ($115,000), within twenty (20) days after receipt of the Final Order and Decision in this matter.

Provisionally accepted and Provisional Order issued on the 26th day of April, 1993.

By Order of the Commission.

Sheldon D. Butts,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 93–10223 Filed 4–29–93; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Government-Industry Technical Data Committee

AGENCY: Office of the Under Secretary of Defense (Acquisition).

ACTION: Notice.

SUMMARY: Pursuant to section 807 of Public Law 102–120, the National Defense Authorization Act for Fiscal Years 1992 and 1993, a Government-Industry Technical Data Committee has been formed. The committee will make recommendations to the Secretary of Defense for the final regulations required by subsection (a) of 10 U.S.C. 2320, "Rights in Technical Data."

The next committee meetings are scheduled for May 19 and 20, 1993, from 9:30 a.m. to 4 p.m. at 400 Army-Navy Drive, suite 120, Arlington, Virginia. These meetings will be open to the public. For more information, please contact the Committee Executive Secretary, Angelena Moy at (703) 693–5639.

Dated: April 27, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–10159 Filed 4–29–93; 8:45 am]

BILLING CODE 5000–04–M

Scientific Advisory Group on Effects (SAGE) Meeting

SUMMARY: The Scientific Advisory Group on Effects announces a closed session meeting.

DATES: The meeting will be held at 0830, Monday thru Wednesday, 24–26 May 1993.

ADDRESSES: Tyndall Air Force Base, Panama City, Florida 32403.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Marcellino, Defense Nuclear Agency, 6801 Telegraph Road, Alexandria, VA 22310 (telephone (703) 325–2813).

SUPPLEMENTARY INFORMATION: The mission of the SAGE is to provide the Director, Defense Nuclear Agency with technical advice on matters related to nuclear weapons effects. The group reviews and evaluates long-range plans for the development and improvement of nuclear weapons effects data and the adequacy of current DNA RDT&E programs.

In accordance with 5 U.S.C. app 2 section 10(d) (Supp. 1993), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1977) and that, accordingly, this meeting will be closed to the public.

Dated: April 27, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–10160 Filed 4–29–93; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before June 1, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green, (202) 708–5174. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC, 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early

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opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: April 26, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Vocational and Adult Education

Type of Review: New
Title: Applications for Noncompeting Continuation Grants for the Cooperative Demonstration Program (Corrections) and the Adult Education for the Homeless Program
Frequency: Annually
Affected Public: State or local governments; Small businesses or organizations
Reporting Burden:
Responses: 39
Burden Hours: 1,755
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: The Cooperative Demonstration Program (Correctional Education) provides improved access to quality vocational education programs for incarcerated individuals. Adult Education for the Homeless provides literacy training for adult homeless individuals. Data is used to make awards for non-competing continuation grants.

Office of Postsecondary Education

Type of Review: Emergency
Title: Federal Pell Grant Program—Information Collection—State Report on Postsecondary Education Assistance Provided to Incarcerated Students
Abstract: Federal Grants, Federal Student Financial Aid Programs section 401(b)(8) of the Higher Education Act of 1965, as amended requires that incarcerated students shall only be awarded a Federal Pell Grant in a state if the grants are used to supplement and not supplant the level of postsecondary education assistance provided by that state to incarcerated individuals in fiscal year 1988. The Annual State Report on Postsecondary Education Assistance Provided to Incarcerated Students will be used to collect this information.
Additional Information: In order to implement the statutory change to the Federal Pell Grant Program, it is necessary to receive emergency approval from the Office of Management and Budget by April 30, 1993.
Frequency: Annually
Affected Public: Individuals or households; State or local governments; Businesses or other for-profit; and Non-profit institutions
Reporting Burden:
Responses: 57
Burden Hours: 2,280
Recordkeeping Burden:
Recordkeepers: 57
Burden Hours: 57

[FR Doc. 93–10140 Filed 4–29–93; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Korea Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried our under the above-mentioned agreement involves a joint determination that safeguards may be effectively applied to the Post-Irradiation Examination Facility of the Korea Advanced Energy Research Institute and the approval of the United States to the alteration in form or content of irradiated fuel elements from the KORI–1, 2, 3 and 4, the Yonggwang 1 and 2, and the Ulchin 1 and 2 reactors. The aforementioned determination will be made, and the approval of the United States for the post-irradiation examination of irradiated fuel elements from the above-mentioned reactors granted following publication of this notice, for the period ending December 31, 1996.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it had been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on April 26, 1993.

Edward T. Fei,

Acting Director, Office of Nonproliferation Policy.

[FR Doc. 93–10218 Filed 4–29–93; 8:45 am]
BILLING CODE 6450–01–M

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Finland concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval for the following retransfer: RTD/FI(EU)–2 for the transfer from Belgium to Finland of 11 milligrams of uranium–233, 1.05 milligrams of plutonium–242, and 10.07 milligrams of plutonium–244 for use as standard reference material for mass spectrometer measurements.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on April 26, 1993.

Edward T. Fei,

Acting Director, Office of Nonproliferation Policy.

[FR Doc. 93–10219 Filed 4–29–93; 8:45 am]
BILLING CODE 6450–01–M

San Francisco Operations Office; Inviting Applications for Collaborative Research and Development Projects To Advance High Performance Parallel Processor Computing

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting applications.

SUMMARY: The San Francisco Operations Office, U. S. Department of Energy, hereby announces its interest in receiving Applications for projects that will advance the technology for High Performance Parallel Processor (HPPP) computers. These computers harness the power of multiple processors operating in parallel and include but are not limited to, scalable and/or massively parallel systems. Total combined DOE funding for these projects is expected to range from approximately $25 million to $30 million, to be obligated over a period of up to three years. Cost sharing among proposed project participants is expected.

DATES: In order to receive the application forms required and to keep interested parties advised concerning this solicitation, a Notice of Intent to Submit Applications (Att. 1) from potential applicants mailed to the address shown on the form is requested by May 12, 1993. A pre-Application conference will be held on May 26, 1993 at the Oakland Convention Center, room 201, Broadway at 10th Street, Oakland, CA 94607. The purpose of the conference will be to expand upon and clarify information included in this solicitation. Written questions are requested by May 17, 1993 so that answers may be prepared and delivered at the pre-Application conference. Minutes of the conference along with any amendments to this notice will be provided by mail to parties which have apprised DOE of interest. Applications must be received on or before 3 p.m. on July 16, 1993.

ADDRESSES: Mail the original and five copies of the Application which must be received on or before 3 p.m., July 16, 1993, to: U.S. Department of Energy, San Francisco Operations Office, Oakland Federal Building, 1301 Clay Street, 7th floor, room 700N, Oakland, CA 94612–5208. Reference: Solicitation No. DE–SA03–93DP00030.

FOR FURTHER INFORMATION CONTACT: The Department of Energy, San Francisco Operations Office, 1301 Clay Street, Oakland, CA 94612–5208, Jean Macrusky, Contracting Officer, Telephone: (510) 637–1894.

SUPPLEMENTARY INFORMATION: Today's notice is Inviting Applications for Collaborative Research and Development Projects to Advance High Performance Parallel Processor Computing (These projects will be funded by Financial Assistance (governed by 10 CFR part 600) and/or Cooperative Research and Development Agreements (governed by the Stevenson-Wydler Technology Innovation Act of 1980 (as amended).)

CFDA No.: 81.511

Note to Applicants

This notice contains information and instructions needed to apply for a cooperative agreement under this competition. This Application package includes the important dates, estimated funding, and the Notice of Intent (Att. 1) form necessary to receive the application form to apply for an award(s) under this program. The estimates of the funding level in this notice do not bind the DOE to make awards in any of the categories, or to any specific number of awards or funding level.

Applicable Regulations—10 CFR part 600—Financial Assistance Rules, subparts A, C, and E, modified as applicable.

Many segments of U.S. industry are facing strong competition from foreign companies in both the domestic and world markets. These industrial segments range from manufacturing to service industries. One means of increasing the U.S. industrial competitiveness is to develop high performance computers and applications to decrease design and production costs and to provide enhanced services. High performance computers also offer the potential to allow U.S. industry to become more responsive to environmental concerns. High performance computer simulation models will allow industry to understand and minimize adverse environmental impacts of design decisions.

DOE and many industry observers recognize that high performance computing is entering a critical stage. Supercomputer designers are facing increased challenges in developing systems with significantly greater performance. Many computer vendors are turning to HPPP computers as a means to achieve increased performance. HPPP computer designers and manufacturers face significant challenges in the areas of hardware, operating systems and compilers. In most cases, the HPPP systems also require the development of applications software designed for these types of computers. As part of its technology transfer mission, DOE is interested in Applications that will serve to address the issues of HPPP computer development and will enhance U.S. competitiveness by developing applications for these types of computers.

DOE recognizes that a range of potential users exists. These include the high-end users working on grand-challenge-scale applications (e.g. vector supercomputer users) to middle range users (e.g. main-frame users) to lower-end users (e.g. workstations). DOE is interested in soliciting Applications to address any or all parts of the range of potential beneficiaries of HPPP computing. The technologies that may address these problems include, but are not limited to, massively parallel systems, multi-processor systems and workstation distributed processing.

In order to illustrate the range of potential users, DOE has identified two examples of objectives that Applications may address. These objectives are intended as examples of issues facing U.S. industry. Potential Applicants are encouraged to suggest alternative objectives and are invited to address one or both of the example objectives. If appropriate, Applicants may either submit one or several Applications to address multiple objectives.

Example Objective A (High-end users): To evolve rapidly the base of U.S. industrial and defense supercomputing to exploit the technical promise of HPPP computing in pursuing grand-challenge-scale applications (these applications may span computational science from atmospheric chemistry, to molecular dynamics, to structural mechanics to plasma etching.)

Example Objective B (Middle to lower-end users): To exploit the technical promise of HPPP computing to develop software environment and applications in a timely and cost effective manner benefiting a broad range of U.S. industries, including those that have not traditionally used high-end supercomputers.

This solicitation will be substantially funded by the Department of Energy's Defense Program (DP) technology transfer activities. Accordingly, the dual use potential of the technology will be a consideration. Dual use is considered to be the ability of the technology transfer activities to support both industrial and DOE weapons laboratories advanced technologies needs. In many cases, the development

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of new software environments, enhanced applications or the opportunity for DOE laboratory scientists to maintain competency meets the DOE requirements for dual use. Because of the dual use aspect of this solicitation, applicants are required to form a teaming relationship with one or more of the DP National Laboratories listed below. Contacts at the DP National Laboratories are as follows:

Lawrence Livermore	Eugene Brooks	(510) 423–7341
Los Alamos	Charles Slocumb.	(505) 667–6164
Martin Marrietta Energy System (Y–12)	Ed Oliver	(615) 576–4666
Sandia	Sudip Dosanjh	(505) 845–7018

DOE anticipates the potential of awarding Financial Assistance Cooperative Agreements. This funding mechanism requires substantial involvement of DOE in the project to be funded. Teaming with DP National Laboratories will generally meet this requirement. Applicants may also team with other HPPP suppliers, other DOE National Laboratories, or other federal laboratories.

Potential Applicants are also encouraged, but are not required, to form teaming relationships with industrial users. A major goal of this project is to move HPPP computing out of research and development and into practical Applications to enhance U.S. competitiveness. One means of doing this is to work on HPPP software environments that directly support solutions to the problems of U.S. industry and the Department of Energy Defense Program National Laboratories.

DOE is soliciting Applications that will have a significant impact on both developers and users of HPPP computers. While the measures of success for research and development projects are difficult to establish, certain measures are necessary to allow proper evaluation of Applications. Applications submitted in response to this solicitation should include suggested measures of success and a description of the Application's potential to advance these measures of success. The suggested measures of success should also be measurable during the life of the project. Examples of these measures of success may include:

Example Measure A: The increase in the number and speed of applications running on a HPPP system during and at the end of the project.

Example Measure B: The performance increase of the HPPP systems (as measured by standard benchmarks) during and at the end of the project.

Example Measure C: The market effect of the project (i.e. the number of products or services introduced or enhanced as a result of HPPP computing as supported by the project.)

Further information on the format of Applications, funding arrangements and evaluation criteria are found in the following sections of this Notice.

(a) Eligible Applicants

The purpose of this solicitation is to generate Applications for projects that will provide important benefits to computer vendors and industrial users and that will ultimately enhance U.S. industrial competitiveness. For this reason, the following limits will be placed on Applications submitted under this solicitation.

Location of Projects

Applicants must identify the proposed principle location of the projects which must be within the 50 States of the United States. Information provided must include the state, county, and municipality (if applicable) in which the project will be located.

U.S. Economic Benefit

Applicants must show that the results of projects funded by the Department of Energy will have significant U.S. economic benefit. One means of doing this is to show that substantial manufacturing of the technology will take place in the United States.

Export Restriction

Applicants must understand that materials resulting from the performance of projects resulting from this solicitation may be subject to export control laws and any other similar restrictions and the Applicant will be responsible for compliance with such laws.

(b) Evaluation Process

(1) General

Applications will be evaluated by an Application Evaluation Board (AEB) which will follow the procedures of the Source Evaluation Board (SEB) Handbook, modified to meet the requirements of this Solicitation Announcement, and applicable DOE Financial Assistance policies and procedures.

The following evaluation criteria will be used to evaluate Applications. DOE may fund one or more or none of the projects proposed in response to this solicitation. These criteria have been established so that Applicants are able to identify the relevant issues in moving U.S. industry to HPPP computing and then propose work to address those issues.

(2) Evaluation Criteria

Criterion 1
Adequacy and relevance of the objectives chosen to enhance U.S. industrial competitiveness by advancing HPPP technology and providing applications software. Weight: 10%

Criterion 2
Adequacy and relevance of the technical issues identified in the Application and the ability of the proposed scope of work to address those issues. This includes the overall technical feasibility of the proposed project to further the state of the art in HPPP computing. Weight: 15%

Criterion 3
Significance of the HPPP applications issues identified in the Application and the feasibility of the Applicant's approach to address those issues. Weight: 15%

Criterion 4
Adequacy and relevance of the chosen measures of success and the ability of the Application to achieve significant gains in the chosen measures of success in a timely fashion. Weight: 10%

Criterion 5
The dual use benefit to DOE Defense Programs of the technology to be developed. Weight: 15%

Criterion 6
The capabilities, related experience, facilities, or techniques which are considered to be integral factors for achieving the objectives of the project. This includes the qualifications, capabilities, experience and availability of the proposed key personnal. Weight: 20%

Criterion 7
The realism of the proposed budget and project and financial plans for management of the activities. This includes the adequacy of proposed arrangements among all participants, and the ability of the applicant to provide the necessary financial support. Weight: 15%

(3) Program Policy Factors and Evaluation

Program policy factors are those factors which, while not appropriate indicators of a project's individual merit (e.g., technical excellence, Applicant's ability, cost, etc.) are relevant and essential to the process of choosing which of the Applications received will, taken together, best achieve the DOE program objectives.

After the Applications have been evaluated and ranked, the DOE Source Selection Official (SSO) will select, for negotiation leading to award, all or any part of those Applications which provide the maximum opportunity of advancing program objectives within the funds available. In making this selection, the SSO will consider the following Program Policy Factors:

1. Projects that affect the broadest range of potential HPPP users.

2. The ability to leverage DOE assistance funds to create optimum economic impact.

(4) Funding and Duration

The Department of Energy anticipates total combined funding for projects ranging from approximately $25 million to $30 million obligated over a three year period. Funding mechanisms for these projects can take several forms. These include:

1. Financial Assistance Cooperative Agreements—This mechanism allows DOE to provide funds directly to project participants. Cost sharing among participants will be expected. A Cooperative Agreement may also include the contribution of resources by the National Laboratories (financed by DOE) to the project.

2. Cooperative Research and Development Agreements (CRADA's)—This mechanism is executed between DOE National Laboratories and industry. The DOE funds cannot be provided directly to industry, but the contribution of laboratory resources (financed by DOE) is allowed. In general, 50% cost sharing is required and funds provided by industry to the laboratory are allowed.

3. Other Mechanisms—These include Work for Others, where industry provides funding to DOE National Laboratories for work to be performed.

DOE will consider Applications structured on any one or a combination of the above funding mechanisms. Applicants should discuss funding mechanisms alternatives with their National Laboratory teaming partners. The following are requirements for the funding structure of the Applications.

1. DOE will provide funds for Financial Assistance Cooperative Agreement, and/or CRADA's, and/or other mechanisms equal to one half or less of the total project funding.

2. The remaining funding for the project will come from the HPPP supplier(s) and industrial users (if any). (The HPPP supplier(s) will be expected to provide a greater amount of funding than the industrial users.)

3. Funds provided directed by DOE to any project participant cannot be used as the matching in-kind contribution by the participant.

(Note: Mechanisms 2 and 3 listed here are not financial assistance mechanisms and are not governed by 10 CFR part 600 (Financial Assistance Rules))

For purposes of this solicitation, the terms in-kind contribution, cost sharing, and cost participation are interchangeable. Cost participation may be in various forms or combinations which include but are not limited to cash outlays, use of facilities needed for the project, personal property or services, cost matching, foregone fee or other in-kind participation.

Instructions for Submission of Applications

(a) Applicant shall—

(1) Mail the original and five copies of the Application which must be received on or before 3 p.m. July 16, 1993, to: Mailed To: U.S. Department of Energy, San Francisco Operations Office, Oakland Federal Building, 1301 Clay Street, 7th floor, Room 700N, Oakland, CA 94612–5208. Reference: Solicitation No. DE-SA03–93DP400010.

Notice to DOE Mail Room: Do Not Open; This is an Application Under the above identified Solicitation.

(2) Hand-carried Applications should be delivered directly to Mail and Records, Oakland Federal Building, 1301 Clay Street, 7th floor, Room 700N, Oakland, CA and shall be marked as shown above.

(b) Any Application received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it—

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of bids (e.g. an Application submitted in response to a solicitation requiring receipt of Applications by the 20th of the month must have been mailed by the 15th); or

(2) Was sent by mail or, if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or

(3) Was sent by U.S. Postal Service Express Mail Next Day Service—Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of Applications. The term "working days" excludes weekends and U.S. Federal holidays.

(4) Is the only Application received.

(c) Any amendment or withdrawal of an Application is subject to the same conditions as in paragraph (a) of this provision.

(d) The only acceptable evidence to establish the date of mailing of a late Application, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the Application, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise place impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, Applicants should request the postal clerk to place a legible hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(e) The only acceptable evidence to establish the time of receipt at the government installation is the time/date stamp of that installation on the bid wrapper or other documentary evidence of receipt maintained by the installation.

(f) DOE shall not consider and shall return any Application that does not meet the requirements of the preceding paragraphs.

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(g) If necessary, DOE may extend an established Application deadline by publishing a timely notice of the extension in the same manner as the solicitation was publicized. The extension of time shall apply to all Applicants.

Application Forms and Instructions

The appendix to this Application is divided into three parts. These parts are organized in the same manner that the submitted Application should be organized. These parts are as follows:

Part I: Application for Federal Assistance Standard Form 424 (Rev. 4–88) and instructions.

Part II: A budget with supporting justification. (Use budget formats duplicated in the DOE Uniform Reporting System for Federal Assistance.) This solicitation is subject to the Source Evaluation Process. Due to the potential dollar value involved, DOE may require that Applicants, other than governmental entities, submit budget information in a different format and in enough detail to enable evaluation under the SEB process.

Part III: Application Narrative (Proposed scope of work).

Before preparing the Application Narrative, the Applicant should carefully read the description of the program, the information regarding the priorities, and the evaluation criteria to be used to evaluate Applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract; that is, a summary of the proposed project;

2. Describe the proposed project in light of each of the evaluation criteria in the order in which the criteria are listed in this Application notice. The following is a sample outline.

- Objective(s) addressed by the Application
- Technology to be developed/enhanced by the Application

—Existing technical issues
—Proposed work on those issues
—Potential effect on stated objectives
- Software applications to be developed/enhanced

—Existing issues
—Proposed work on those issues
—Potential effect on stated objectives
- Measures of Success

—Suggested measures of success (quantify if possible)
—How the Application will perform against suggested measures of success (quantify if possible)
- Capabilities, key personnel, facilities, and/or techniques
- Teaming arrangement(s) (if any)

—National Laboratories
—U.S. Industrial users
—Potential effect on stated objectives
- Financial Plan
- Management Plan; and

3. Include any other pertinent information that might assist the Selection Official in reviewing the Application.

4. Be limited to no more that 100 double spaced, typed pages (on one side only).

5. Include a curriculum vitae of key personnel, and a budget, as well as the Assurances forms included in this package.

Additional Materials

Assurances

Certification Regarding Lobbying; Debarment, Suspension, Assurance of Compliance and Other Responsibility Matters; and Drug-Free Workplace Requirements

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion; Lower-Tier Covered Transactions

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL-A)

An Applicant may submit information on a photostatic copy of the Application and budget forms, the assurances, and the certifications. However, the Application form, the assurances, and the certifications must each have an original signature. No Cooperative Agreement may be awarded unless a completed Application form has been received.

Authority: Stevenson-Wydler Technology Innovation Act of 1980 (as amended) (15 U.S.C. 3710 (a)); Section 3132 (b) of Public Law 101–189; Chapter 18 of title 35, U.S.C., commonly referred to as the Bayh-Dole Act (35 U.S.C. 200 et seq.); Section 152 of the Atomic Energy Act of 1954 (as amended) (42 U.S.C. 200 et seq.); Section 9 of the Federal Non-nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908; Executive Order 12591 of April 10, 1987, Public Law 102–486, the Energy Policy Act of 1992, Public Law 95–91 the Department of Energy Organization Act and the Federal Grant and Cooperative Agreement Act of 1977.

Appendix

Application Forms and Instructions

Applicants are advised to submit the attached notice of intent to receive the application forms referenced in this section.

Issued in Oakland, CA April 22, 1993.

Joan Macrusky, Chief

ER/DP/EM Branch.

BILLING CODE 6450–01–M

Attachment 1

NOTICE OF INTENTION TO SUBMIT APPLICATION

WE _____ DO INTEND TO SUBMIT AN APPLICATION

WE _____ DO NOT INTEND TO SUBMIT AN APPLICATION FOR THE FOLLOWING REASONS:

_____
_____
_____
_____
_____

NAME AND ADDRESS OF FIRM OR ORGANIZATION (INCLUDE ZIP CODE):

_____
_____
_____
_____
_____

AUTHORIZED SIGNATURE: _____

TYPED OR PRINTED NAME AND TITLE: _____

_____

DATE: _____

NOTE: UNLESS OTHERWISE STATED IN THE SOLICITATION, NO OTHER SOLICITATION MATERIAL SHOULD BE RETURNED IF YOU DO NOT INTEND TO SUBMIT AN APPLICATION

MAIL TO:

U. S. DEPARTMENT OF ENERGY
SAN FRANCISCO OPERATIONS OFFICE
1333 BROADWAY
OAKLAND, CA 94612
ATTN: MARIA C. HERNANDEZ

[FR Doc. 93–10217 Filed 4–29–93; 8:45 am]
BILLING CODE 6450–01–C

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Federal Energy Regulatory Commission

[Project No. 6349-004 California]

Golden West Power; Surrender of Exemption

April 26, 1993.

Take notice that Golden West Power, exemptee for the unconstructed Mill Creek Power Project No. 6349 located on Mill Creek in Tehama County, California, has requested that its exemption from licensing be vacated. The exemption was issued on April 11, 1984. The exemptee states that restrictions imposed by the U.S. Fish and Wildlife Service and the California Department of Fish and Game are too prohibitive to allow economical construction and profitable operation of the project.

The exemption for Project No. 6349 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10128 Filed 4-29-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER93-554-000, et al.]

Southern California Edison Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 22, 1993.

Take notice that the following filings have been made with the Commission:

1. Southern California Edison Company

[Docket No. ER93-554-000]

Take notice that on April 9, 1993, Southern California Edison Company (Edison) tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 246.10.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Pepperell Power Associates Limited Partnership

[Docket No. ER93-323-000]

Take notice that on April 16, 1993, Pepperell Power Associates Limited Partnership (Pepperell) tendered for filing an amendment to its original filing in the above-referenced docket. The amendment provides a formula cap for the rates chargeable under Rate Schedule FERC No. 1.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Company

[Docket No. ER93-569-000]

Take notice that on April 15, 1993, Pacific Gas and Electric Company (PG&E) tendered for filing as a rate schedule change without a rate increase, a request for termination of an Agreement Between Pacific Gas and Electric Company and Western Area Power Administration (Western) for Interim Transmission Service, dated January 2, 1991 (Agreement). The Agreement, Rate Schedule FERC No. 133, was accepted by the Commission for filing on February 1, 1991 in FERC Docket No. ER91-198-000.

The Agreement provides for transmission and other specified services (energy losses, Replacement Energy, and administration service) to be provided to Western during a period when the Central Valley Project Upgrade Segment (CVP Upgrade Segment) of Western's transmission system was to be removed from service for reconstruction and conversion as part of the 500 kV AC California-Oregon Transmission Project (COTP).

Since the reconstruction and conversion of Western's CVP Upgrade Segment line is now completed and Western no longer requires the services provided under the Agreement, PG&E requests Rate Schedule FERC No. 133 be terminated accordingly.

Copies of this filing were served upon Western, Transmission Agency of Northern California, the California Public Utilities Commission, and the California Public Utilities Commission.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Northeast Utilities Service Company

[Docket No. ER93-417-000]

Take notice that on April 19, 1993, Northeast Utilities Service Company (NUSCO), on behalf of Public Service Company of New Hampshire (PSNH), tendered for filing supplemental information regarding the sale to Fitchburg Gas and Electric Company (FG&E) of System Capacity and Energy.

NUSCO states that the supplemental information was filed in response to a request from the Commission.

NUSCO states that copies of this information have been mailed or delivered to each of the parties.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Interstate Power Company

[Docket No. ER93-574-000]

Take notice that on April 19, 1993, Interstate Power Company (IPW) tendered for filing Amendment 1 to the Transmission Utilization Agreement between Cooperative Power Association and Company. This amendment revises the transmission loss factors.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power Corporation

[Docket No. ER93-443-000]

Take notice that Florida Power Corporation (Florida Power), on April 19, 1993 tendered for filing an Amendment to its March 11, 1993 filing in this docket (1) to clarify that Florida Power does not serve any other customers other than Kissimmee Utility Authority (KUA) through the transmission 69 kV line connecting KUA's airport and Florida Power's Lake Bryan substation, (2) to clarify that the transmission line is the only interconnection that Florida Power has with KUA, and (3) to submit a map of the Florida Power's transmission facilities in and around the Kissimmee area.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this document.

7. Southern California Edison Company

[Docket No. ER93-576-000]

Take notice that on April 20, 1993, Southern California Edison Company (Edison) tendered for filing, as an initial rate schedule, the following agreement, executed on February 19, 1993, by the respective parties:

Winter Power Sale Agreement between Southern California Edison Company (Edison) and PacifiCorp

The Agreement provides the terms and conditions whereby Edison shall make available and PacifiCorp shall purchase a minimum of 222 MW and a maximum of 422 MW of Contract Capacity and Associated Energy during each Delivery Season.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. PacifiCorp

[Docket No. ER93-577-000]

Take notice that on April 20, 1993, PacifiCorp tendered for filing, in accordance with 18 CFR part 35 of the Commission's Rules and Regulations, a Power Purchase Agreement plus amendments between Sunnyside Cogeneration Associates and PacifiCorp.

Copies of this filing have been supplied to Sunnyside Cogeneration Associates, the Public Utility Commission of Oregon and the Utah Public Service Commission.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. PSI Energy, Inc.

[Docket No. ER93-351-000]

Take notice that on April 8, 1993, PSI Energy, Inc. (PSI) tendered for filing a supplemental filing in the above-referenced docket. On April 15, 1993, PSI submitted revisions to its April 8, filing in this docket.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Niagara Mohawk Power Corporation

[Docket No. ER93-565-000]

Take notice that on April 14, 1993, Niagara Mohawk Power Corporation (Niagara) tender for filing a Notice of Cancellation of Contract No. 154 with Boston Edison Company.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corporation

[Docket No. ER93-566-000]

Take notice that on April 14, 1993, Niagara Mohawk Power Corporation (Niagara) tendered for filing a Notice of Cancellation of Contract No. 155 with Vermont Public Power Supply Authority.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk Power Corporation

[Docket No. ER93-553-000]

Take notice that on April 9, 1993, Niagara Mohawk Power Corporation (Niagara) tendered for filing its Initial Rate Schedule Supplements—Marcy-South Facilities Agreement with the Power Authority of the State of New York.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. Consolidated Edison Company of New York, Inc.

[Docket No. ER93-568-000]

Take notice that on April 12, 1993, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing an Interconnection Agreement among Con Edison, KIAC Partners and the Port Authority of NY and NJ—Interconnection Between JFK Congeneration Project and Jamaica 138-kV Substation.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

14. The Detroit Edison Company

[Docket No. ER93-91-001]

Take notice that on April 15, 1993, The Detroit Edison Company (Detroit Edison) submitted to the Commission its letter of acceptance of the Commission's March 16, 1993 order along with a revised rate sheet to comply with the modifications imposed by the order. Detroit Edison states that the filing was served on all parties to the proceeding, jurisdictional customers, and the Michigan Public Service Commission.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

15. Cambria CoGen Company

[Docket No. QF87-93-005]

On April 20, 1993, Cambria CoGen Company tendered for filing a supplement to its filing in this docket.

The supplement pertains to the ownership structure and technical aspects of its small power production facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: May 13, 1993, in accordance with Standard Paragraph E at the end of this document.

16. Delmarva Power & Light Company

[Docket No. ER93-564-000]

Take notice that on April 14, 1993, Delmarva Power & Light Company (DPL) tendered for filing as an initial rate under Section 205 of the Federal Power Act and part 35 of the regulations issued thereunder, an Agreement between DPL and Orange and Rockland Utilities, Inc. (O&R) dated March 26, 1993.

DPL states that the Agreement sets forth the terms and conditions for the sale of short-term energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to O&R. DPL requests that the Commission waive its standard notice period and allow this Agreement to become effective on May 10, 1993.

DPL states that a copy of this filing has been sent to O&R and will be furnished to the New Jersey Board of Regulatory Commissioners, the New York Public Utility Commission, the Delaware Public Service Commission, the Maryland Public Service Commission, and the Virginia State Corporation Commission.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

17. Public Service Company of New Mexico

[Docket No. ER93-549-000]

Take notice that on April 7, 1993, Public Service Company of New Mexico tendered for filing San Juan Project Agreements Between Tucson Electric Power Company and Public Service Company of New Mexico and Related Agreements.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10127 Filed 4-29-93; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4625]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

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SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before June 1, 1993.

For further information, or to obtain a copy of this ICR, contact Sandy Farmer at EPA (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: TSCA Inspection Related Forms (EPA ICR No.: 0163.05 OMB No.: 2070–0007). This is a request for extension of the expiration date of a currently approved collection.

Abstract: To verify compliance with the Toxic Substances Control Act (TSCA), section 11 authorizes EPA to inspect establishments used to manufacture, process, or store chemicals. Manufacturers, processors and storers of chemicals, are notified of upcoming EPA inspections and are requested to read certain forms which are the subject of this collection request.

In the past, the Agency has used four (4) forms to notify owners of facilities, or their representatives, of the scope of an inspection. Two of the forms, "TSCA Notice of Inspection" and "TSCA Inspection Confidentiality Notice," are not true collections of information and, therefore, are not subject to the Paperwork Reduction Act (PRA). The Agency is removing these two forms from the ICR.

Two forms remain subject to the PRA. The first is "Receipt for Samples and Documents," which is completed by the EPA inspector during, or at the conclusion of, an inspection. This form constitutes the official record of all information belonging to the firm obtained by EPA through an official inspection. It also serves as the official record of data submission for the purpose of making claims of TSCA Confidential Business Information (CBI). The second form is "Declaration of Confidential Business Information". This form serves as the mechanism by which the owner, or representative in charge of a facility, may designate documents and samples taken during an inspection that are entitled to confidential treatment. The form is optional and the company may choose other written mechanisms for making CBI claims. The Agency uses these forms to ensure that inspections are conducted legally.

Burden Statement: The estimated public reporting burden for this collection of information is 45 minutes per response per respondent annually. This estimate includes the time to review instructions, and complete and review the collection of information.

Respondents: Chemical manufacturers, processors, and storers.

Estimated No. of Respondents: 3,900.

Estimated No. of Responses Per Respondent: 2.

Estimated Total Annual Burden on Respondents: 4,992 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM 223Y), 401 M Street, SW., Washington, DC 20460,

and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: April 23, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–10215 Filed 4–29–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4625–2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before June 1, 1993.

For further information, or to obtain a copy of this ICR, contact Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Suspended and Cancelled Pesticide Products: Claim for Indemnification (EPA ICR No: 1241.05; OMB No: 2070–0071) This is a request for extension of the expiration date of a currently approved collection.

Abstract: In compliance with section 15 of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA), the EPA is required to indemnify owners for the value of their suspended and cancelled pesticide products. To accomplish this, sellers (e.g., manufacturers, dealers and distributors) and end users (e.g., farmers, householders) must submit their claim to the EPA. The submission includes owner and product identifiers, documentation of product cost, location and ownership, and, where appropriate, documentation of power of attorney and assignment of claim by original owner. The respondents are required to keep records of their claim(s). Based on this information the Agency determines the eligibility of the owner, or the authority of the respondent, to file the claim as well as the eligibility of the product. In addition, the EPA establishes the amount of indemnification and ensures nonduplication of claims.

Burden Statement: The public burden for this collection of information is estimated to average 2 hours per response for reporting and 30 minutes for recordkeeping annually. This estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Respondents: Pesticide sellers and users.

Estimated No. of Respondents: 100.

Estimated No. of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 250 hours.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM 223Y), 401 M Street, SW., Washington, DC 20460,

and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: April 23, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–10214 Filed 4–29–93; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4620–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 12, 1993 through April 16, 1993 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 9, 1993 (58 FR 18392).

Draft EISs

ERP No. D–AFS–K65144–CA Rating EC2, 1992 Cleveland Watershed/Fire Recovery Project, Eldorado National Forest, South Fork American River, Eldorado, Alpine and Amador Counties, CA.

Summary: EPA expressed environmental concerns and requested that the FEIS describe the affected environment in greater detail and evaluate an alternative that harvests less timber on less acreage, to minimize impacts to water quality and other natural resources.

ERP No. D–COE–K35035–CA Rating EO2, San Gabriel Canyon Sediment Management Plan, Dredging and Disposal of Sediments, COE Section 404 Permit, Special Use Permit and Right-of-Entry Issuance, Angeles National Forest, San Gabriel River, Los Angeles, CA.

Summary: EPA expressed environmental objections due to the sediment management plan's potential for significant environmental degradation. EPA was especially concerned with the scope of the alternatives analysis that focuses on sediment removal options without upstream sediment management; the potential significant adverse impacts to riparian habitat, aquatic biota and air quality; insufficient analysis of the potential impacts of the alternatives; and the minimal discussion of mitigation measures. EPA recommended that the plan be corrected by project modification or other feasible alternatives

ERP No. D–UAF–D11021–PA Rating LO, Institute for Advanced Science and Technology (IAST) Site Selection and Construction, Funding, University of Pennsylvania, Philadelphia, PA.

Summary: EPA expressed a lack of objections to the project. However, EPA suggested that the FEIS include traffic data on existing and proposed levels of service.

Final EISs

ERP No. F–BLM–K65132–CA South Coast Planning Area, Land and Resource Management Plan, Implementation, California Desert District, San Diego, Riverside, San Bernardino, Los Angeles, and Orange Counties, CA.

Summary: EPA still expressed concerns regarding the disclosure of water quality and soil resources impacts. EPA requested that the Record of Decision include specific commitment to ensure the protection of surface water, groundwater soils and other natural resources.

ERP No. F–TVA–E99014–00 Tennessee River Chip Mill Barge Terminals, Construction and Operation, Issuance of Barge Terminal Permit, Section 10 and 404 Permits, several Counties, AL and TN.

Summary: EPA concurred with the preferred alternative selected by TVA and notes the additional information provided in the FEIS.

ERP No. F–USN–G11007–TX Chase Field Naval Air Station Disposal and Reuse, Implementation, Permits and Approval, City of Beeville, Bee County, TX.

Summary: Review of the Final EIS was not deemed necessary. No formal letter was sent to the preparing agency.

ERP No. FS–COE–L91008–00 1992 Columbia/Snake Rivers Salmon Flow Measures, Updated Information concerning Water Management Activities, Implementation, WA, ID and OR.

Summary: EPA expressed concerns about the lack of a comprehensive water quality monitoring program. EPA requested the development of a comprehensive interagency approach to monitoring.

Dated: April 27, 1993.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 10211 Filed 4–29–93; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–4598–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 or (202) 260–5075.

Weekly Receipts of Environmental Impact Statements Filed April 19, 1993 Through April 23, 1993 Pursuant to 40 CFR 1506.9.

EIS No. 930134, FINAL EIS, AFS, UT, Coyote Hollow Timber Sale, Implementation, Dixie National Forest, Escalante Ranger District, Garfield County, UT, Due: June 1, 1993, Contact: Kevin R. Schulkoski (801) 826–5400.

EIS No. 930135, FINAL EIS, AFS, WY, Thunder Basin National Grassland Oil and Gas Exploration and Development, Land Availability and Authorization for Leasing and Lease Offerings, Medicine Bow National Forest, Campbell, Crook, Weston, Converse and Niobrara Counties, WY Due: June 1, 1993, Contact: Terry B. Dilts (301) 745–8971.

EIS No. 930136, DRAFT EIS, AFS, ID, Mid-Skull/Upper Bear Timber Sales, Timber Harvest, Road Construction and Reconstruction, Clearwater National Forest, North Fork Ranger District, Skull Creek, Clearwater County, ID, Due: June 14, 1993, Contact: Jennefer L. Sundberg (208) 476–3775.

EIS No. 930137, DRAFT EIS, AFS, NM, Sipapu Ski Area Expansion, Master Development Plan Approval and Special Use Permit Issuance, Carson National Forest, Camino Real Ranger District, Taos County, NM, Due: June 21, 1993, Contact: Richard Speigle (505) 587–2255.

EIS No. 930138, FINAL EIS, COE, HI, Ewa Beach Marina Project, Construction and Development, Marina Protection, Department of Army Permit Application and U.S. CGD Bridge Permit, Ewa Beach, Island of Oahu, Honolulu County, HI, Due: June 1, 1993, Contact: Michael T. Lee (808) 438–9258.

EIS No. 930139, FINAL EIS, SFW, ND, Lake Ilo Dam and Reservoir Modification Project, Elimination of Existing Dam Safety Deficiencies and Section 404 Permit Issuance, Lake Ilo National Wildlife Refuge, Spring Creek, Dunn County, ND, Due: June 1, 1993, Contact: Adam Misztal (303) 236–8676.

EIS No. 930140, DRAFT EIS, AFS, NM, La Manga Timber Sales, Implementation, Carson National Forest, EL Rito Ranger District, Rio Arriba County, NM, Due: June 21, 1993, Contact: Graciela Terrazas (505) 581–4554.

EIS No. 930141, DRAFT SUPPLEMENT, USA, TT, Kwajalein Atoll Ongoing and Strategic Defense Initiative Activities, Test Range Facility Construction and Support Services, Republic of the Marshall Islands, Due: June 14, 1993, Contact: Kenneth R. Sims (205) 955–5075.

Amended Notices

EIS No. 930044, DRAFT EIS, AFS, WA, OR, Umatilla and Malheur National

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Forests, Oil and Gas Exploration and Development, Lease Offerings, Several Counties, WA and OR, Due: May 12, 1993, Contact: Russell Betts (503) 276–3811. Published FR–02–26–93—Review period extended.

Dated: April 27, 1993.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 93–10210 Filed 4–29–93; 8:45 am]

BILLING CODE 6560–50–U

[OPP–00356; FRL–4587–2]

State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees on Enforcement Certification and Reregistration Classification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees on Enforcement Certification and Registration Classification will hold a 3–day meeting, beginning on May 17, 1993, and ending on May 19, 1993. This notice announces the location and times for the meeting and sets forth tentative agenda topics.

DATES: The SFIREG Working Committee on Enforcement Certification will meet on Monday, May 17, 1993, from 8:30 a.m. to 5 p.m. The SFIREG Working Committee on Registration Classification will meet on Wednesday, May 19, 1993, from 8:30 a.m. to approximately 5 p.m. On Tuesday, May 18, 1993, the two SFIREG Working Committees will meet together in joint session for the entire day starting at 8:30 a.m. and adjourning at approximately 5 p.m.

ADDRESSES: The meetings will be held at: Sheraton Old Town Hotel, 800 Rio Grande Boulevard, NW., Albuquerque, NM 87104, (505) 843–6300.

FOR FURTHER INFORMATION CONTACT: By mail: Shirley M. Howard, Office of Pesticide Programs (H7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1109, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–7371.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG Working Committee on Enforcement Certification includes the following:

1. Discussion of Lawn Care Guidelines vs. AAPCO Model Regulations.
2. Update on Recordkeeping for Private Applicators.
3. Status of the AAPCO-SFIREG Drift Taskforce.
4. Status of Issue Paper entitled "Indoor Use of Structural Pesticides."
5. Discussion of Criteria for Use Enforcement Actions.
6. Update on Laboratory Issues.
7. Priorities for Laboratory Equipment Fund.
8. Status Reports on Agency's Policies and Regulations.
9. Discussion of Designing PREP Compliance Management Program for 1994.
10. New Committee Appointments.
11. Other topics as appropriate.

The Agenda for the joint session of the SFIREG Working Committees on Enforcement Certification and Registration Classification will include:

1. Discussion of Implementation Plan for Worker Protection Standards.
2. Discussion of Issues Associated with Using MSDS as Labeling.
3. Update on Plantback Enforcement Issue Paper: Review of Language.
4. Status of Issues Associated with Ephemeral Stream Definition in Atrazine Risk Reduction Measures Document.
5. Other topics as appropriate.

The agenda for the SFIREG Working Committee on Registration Classification includes the following:

1. Subcommittee Report on AAPCO/SFIREG 24(c) Survey.
2. Update on Label Coding Project.
3. Update on EPA's Reduced Risk Pesticide Policy.
4. Discussion of the Impact of GLP and QA Requirements on Minor Use Registrations.
5. Update on Delaney Clause Court Ruling as it Applies to Section 18.
6. Other topics as appropriate.

Dated: April 26, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93–10216 Filed 4–29–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1980, Public Law 96–511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 632–6934.

Federal Communications Commission

OMB Control No.: 3060–0318

Title: Notification of Status of Facilities, FCC Form 489

Expiration Date: 02/28/96

Description: FCC Form 489 is a multi-purpose form used by common carriers subject to 47 CFR part 22 to notify the Commission of completion of construction, of minor modifications and to request an extension of time to complete constructions. FCC Form 489 is used by Commission personnel to verify compliance with construction requirements and to update the database. FCC Form 489 is being updated to display the 02/28/96 expiration date. A Public Notice will be issued to announce the availability of the updated edition of the FCC Form 489 and the deadline for filing the current 1991 edition of the form.

OMB Control No.: 3060–0319

Title: Application for Assignment or Transfer of Control, FCC Form 490

Expiration Date: 02/28/96

Description: FCC Form 490 is filed to solicit Commission approval to assign or transfer control of radio stations licensed under 47 CFR part 22. The information is used by Commission personnel to determine whether the proposed sale of a common carrier station and the qualifications of the new carrier are in compliance with the requirements of FCC rules and regulations. FCC Form 490 is being updated to display the 02/28/96 expiration date. A Public Notice will be issued to announce the availability of the updated edition of the FCC Form 490 and the deadline for filing the current 1991 edition of the form.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–10181 Filed 4–29–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Costa Cruise Lines N.V., Costa Crociere S.p.A. and Interocean Italia S.r. L., World Trade Center, 80 SW 8th Street, Miami, Florida 33130–3097.

Vessel: COSTA ROMANTICA

Dated: April 26, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–10136 Filed 4–29–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

[Dkt. 9254]

Alliant Techsystems Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Minnesota-based defense systems contractor that provides ammunition, for a 10-year period, to obtain Commission approval before: acquiring the assets or stock of any company engaged in systems contracting for certain tank or lightweight ammunition; or selling or transferring Alliant's stock or assets to a company engaged in systems contracting for certain types of ammunition. In addition, the order requires the respondent to terminate its proposed acquisition of certain Olin Corporation assets.

DATES: Complaint issued December 7, 1992. Order issued March 16, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Laura Wilkinson, FTC/S–2308, Washington, DC 20580. (202) 326–2830.

SUPPLEMENTARY INFORMATION: On Wednesday, January 6, 1993, there was published in the **Federal Register**, 58 FR 554, a proposed consent agreement with analysis In the Matter of Alliant Techsystems Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 93–10192 Filed 4–29–93; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3419]

CC Pollen Co., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Phoenix-based firm, and its owners, from making false claims about the effect consumption of their bee pollen products has in regard to allergies, aging, impotence, sexual dysfunction, weight loss and antibiotic treatment, and requires that they have scientific evidence to support any other health-benefit claims they make about any food or other product for human consumption, in the future. In addition, the respondents are prohibited from producing or distributing any advertisement that is represented to be something other than a paid ad, and are required to prominently disclose in all future infomercials they create that the programs are paid ads. Finally, the respondents are required to pay $200,000 as disgorgement of profits.

DATES: Complaint and Order issued March 16, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Brinley Williams, Cleveland Regional Office, Federal Trade Commission, 668 Euclid Avenue, Suite 520–A, Cleveland, OH 44114, (216) 522–4210.

SUPPLEMENTARY INFORMATION: On Wednesday, January 6, 1993, there was published in the **Federal Register**, 58 FR 557, a proposed consent agreement with analysis In the Matter of CC Pollen Company, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 93–10194 Filed 4–29–93; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3421]

Dollar Rent-A-Car Systems, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a California-based car-rental firm to disclose, in different communications media, applicable airport surcharges, fuel charges, charges based on a driver's age, geographic limitations on unlimited mileage representations, and other charges related to a contemplated car rental that are mandatory or that cannot reasonably be avoided by consumers.

DATES: Complaint and Order issued March 29, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Ronald Waldman, New York Regional Office, Federal Trade Commission, 150 William Street, Suite 1300, New York, NY 10038. (212) 264–1242.

SUPPLEMENTARY INFORMATION: On Tuesday, August 25, 1992, there was published in the **Federal Register**, 57 FR 38509, a proposed consent agreement with analysis In the Matter of Dollar Rent-A-Car Systems, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

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findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 93-10196 Filed 4-29-93; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3418]

S.C. Johnson & Son, Inc.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Wisconsin-based manufacturer of home care products to divest its assets used in the production, manufacture and sale of continuous action and aerosol air freshener products and furniture care products, in order to acquire certain assets of the Drackett Company, a subsidiary of Bristol-Myers Squibb Company. In addition, for a 10-year period, Johnson must obtain Commission approval before acquiring any interest in any air freshener or furniture care product manufacturer or distributor.

DATES: Complaint and Order issued March 16, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Steven Newborn, FTC/S-2308, Washington, DC 20580. (202) 326-2682.

SUPPLEMENTARY INFORMATION: On Wednesday, January 6, 1993, there was published in the **Federal Register**, 58 FR 562, a proposed consent agreement with analysis in the Matter of S.C. Johnson & Son, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 93-10193 Filed 4-29-93; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3420]

Value Rent-A-Car, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Florida car-rental firm to disclose, in different communications media, applicable airport surcharges, charges based on a driver's age, geographic limitations on unlimited mileage representations, and other charges related to a contemplated car rental that are mandatory or that cannot reasonably be avoided by consumers.

DATES: Complaint and Order issued March 29, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Ronald Waldman, New York Regional Office, Federal Trade Commission, 150 William Street, Suite 1300, New York, NY 10038. (212) 264-1242.

SUPPLEMENTARY INFORMATION: On Tuesday, August 25, 1992, there was published in the **Federal Register**, 57 FR 38512, a proposed consent agreement with analysis In the Matter of Value Rent-A-Car, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 93-10195 Filed 4-29-93; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

National Institute for Occupational Safety and Health

[Program Announcement Number 314]

Research, Prevention Education, and Clinical Services in Occupational Safety and Health Clinics; Notice of Availability of Funds for Fiscal Year 1993

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1993 funds for a cooperative agreement for research, prevention education, surveillance, and clinical services in occupational safety and health clinics.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of Healthy People 2000 see the section Where To Obtain Additional Information.)

Authority

This program is authorized under section 20(a) of the Occupational Safety and Health Act of 1970 [29 U.S.C. 669(a)].

Eligible Applicant

Eligible applicants include non-profit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, state and local health departments or their bona fide agents or instrumentalities, and small minority and/or women-owned businesses are eligible for this cooperative agreement.

Availability of Funds

Approximately $100,000 is available in FY 1993 to fund one cooperative agreement. The award is expected to begin on or before July 31, 1993, for a 12-month budget period within a project period between three to five years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The purpose of this cooperative agreement is to enhance the network of clinical facilities which provide prevention education, conduct provider-based surveillance, upgrade knowledge and awareness of therapy, treatment, or remediation of occupational safety and health problems, serve as a referral resource, and provide community-based worker education.

Objectives aimed at achieving this overall purpose are to:

1. Enhance training of health professionals in prevention of work-related diseases and injuries within an established clinical setting.
2. Enhance knowledge and skills of health professionals in activities relating to occupational health surveillance and statistics so that they may better identify and evaluate sentinel health events.
3. Expand the variety of field experiences for health professionals at the community and state level, such as investigating outbreaks of known or suspected occupational diseases.
4. Create a referral resource through the network of clinicians.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under A., below, and CDC shall be responsible for conducting activities under B., below:

A. Recipient Activities

1. Increase clinic communication with a goal of establishing a network between the clinics across the fifty states and the American Territories and possessions.
2. Develop, publish, and continually update clinic directory indicating personnel, resources and practice, and listing individual clinics.
3. Provide technical assistance to clinicians through visits or presentations at grand rounds, residency programs, medical conferences and other venues. Make available slide talks, teaching modules and other materials focused on patient education and disease prevention from a lending library maintained for that purpose.
4. Organize and present clinically-focused conferences, symposia or workshops for regional or national conferences. These will focus on issues of local or topical concern such as lead poisoning, repetitive motion disorders and occupational asthma.
5. Refine and expand participation in the collection of clinical database containing demographic information, current and most relevant occupations, industries, exposures, and the diagnoses of suspected or confirmed diseases related to occupational or environmental factors.
6. Provide reliable sources to which the NIOSH 800-Hotline can refer workers or employers with specific questions relating to occupational health or a need for clinical services.
7. Provide information dissemination and technical assistance to employers and employees and educate physicians and other occupational safety and health professionals regarding the Americans with Disabilities Act.

B. CDC/NIOSH Activities

1. Collaborate in strengthening a network of communication between clinics and expanding coverage through outreach programs, including technical support for regional conferences.
2. Collaborate in refining and expanding the clinical database program.
3. Collaborate in defining and providing technical assistance to improve standards of occupational health care, including technical support to establish and maintain quality assurance policies that will provide a national standard for occupational medicine.
4. Establish and provide a core information package for dissemination through clinics.

Evaluation Criteria

The application will be reviewed and evaluated according to the following criteria:

1. Responsiveness to the objectives of the cooperative agreement including: (a) Applicant's understanding of the objectives of the proposed cooperative agreement and, (b) the relevance of the proposal to the objectives. (20%)
2. Ability to provide the staff, knowledge, and other resources required to perform the applicant's responsibilities in this project, and describe the approach to be used in carrying out those responsibilities. (20%)
3. Steps proposed in planning and implementing this project, and the respective responsibilities of the applicant for carrying out those steps. (20%)
4. Schedule proposed for accomplishing the activities to be carried out in this project, and a method for evaluating the accomplishments. (20%)
5. The qualification and time allocation of the professional staff to be assigned to this project and the facilities, equipment and other resources available for performance of this project. (20%)
6. The budget will be evaluated to the extent that it is reasonable, clearly justified, and consistent with the intended use of funds. (Not Scored)

Executive Order 12372 Review

The application is not subject to review by Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number (CFDA)

The Catalog of Federal Domestic Assistance Number for this program is 93.283.

Other Requirements

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161-1 must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Mailstop E-13, Atlanta, Georgia 30305, on or before June 30, 1993.

1. Deadline

Applications shall be considered as meeting the deadline if they are:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications

Applications which do not meet the criteria in 1.(a) or 1.(b) above are

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considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement Number 314. You will receive a complete program description, information on application procedures and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Opple Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, (404) 842–6546. Programmatic technical assistance may be obtained from John E. Parker, National Institute for Occupational Safety and Health, Division of Respiratory Disease Studies, 944 Chestnut Ridge Road, Mailstop 122, Morgantown, West Virginia 26505, (304) 291–4301.

Please refer to Announcement Number 314 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone: (202) 783–3238.

Dated: April 23, 1993.

Richard A. Lemen,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–10154 Filed 4–29–93; 8:45 am]

BILLING CODE 4160–19–P

Workshops on Community Epidemiologic Studies Near the Former Feed Materials Processing Center (FMPC) in Fernald, OH; Public Meetings

The National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC), announces the following meetings.

Name: Workshops on Community Epidemiologic Studies Near the Former FMPC in Fernald, Ohio.

Date: May 19, 1993.

Time: 1 p.m.–5 p.m.

Place: Sheraton Springdale Hotel, 11911 Sheraton Lane, Cincinnati, Ohio 45246.

Date: May 19, 1993.

Time: 7:30 p.m.-10 p.m.

Place: Crosby Elementary School, 8382 New Haven Road, Harrison, Ohio 45030.

Date: May 20, 1993.

Time: 8 a.m.-12 noon.

Place: Sheraton Springdale Hotel, 1191 Sheraton Lane, Cincinnati Ohio 45246.

Status: Open to the public for observation and comment, limited only by space available. Seating space for 50 individuals will be available at each meeting.

Purpose: Under a Memorandum of Understanding with the Department of Energy (DOE), the Department of Health and Human Services has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. The FMPC located in Fernald, Ohio, operated under contract for DOE from 1951 until production was suspended in 1988. The plant produced uranium metal products for use as feed materials for reactors located at other DOE sites. During operations radioactive material migrated off the plant site. The goal of an analytic epidemiologic study would be to determine the potential health effects to community residents from exposure to radioactive material released to the environment from the plant.

Matters to be Discussed: An invited group of epidemiologists, statisticians, public health professionals, physicians, and members of the community will discuss steps for assessing appropriate analytic epidemiologic studies at the former FMPC. The discussions will focus on evaluation of various study designs, determination of methods for power calculations, utilization of dose estimates, and involvement of the community in the study process. Invited participants will provide CDC with their individual advice and comments. Information provided by the participants will be used by CDC in planning the epidemiologic research projects for the community near the former FMPC.

At the conclusion of the meetings, all attendees will have an opportunity to provide oral and/or written comments for the record.

For a period of 15 days following the meetings, through June 4, 1993, the official record of the meetings will remain open in order that additional material or comments may be submitted to be made part of the record of the meetings.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Kathy George, M.P.H., Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE., (F–35), Atlanta, Georgia, 30341–3724, telephone 404/488–7040.

Dated: April 26, 1993.

Elvin Hilyer,

Associated Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–10152 Filed 4–29–93; 8:45 am]

BILLING CODE 4160–18–M

CDC Advisory Committee on the Prevention of HIV Infection; change of meeting dates

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 19823—dated April 16, 1993.

SUMMARY: Notice is given that the meeting for the CDC ACPHI Subcommittee on Preventing Risk Behaviors Among School Students has been rescheduled. The meeting times, location, and purpose announced in the original notice remain unchanged.

ORIGINAL TIME AND DATES: 8:30 a.m.–5 p.m., May 3–4, 1993.

NEW DATES: June 13–14, 1993.

FOR MORE INFORMATION CONTACT: Connie Granoff, Committee Assistant, Office of the Associate Director for HIV/AIDS, CDC, 1600 Clifton Road, NE, Mailstop E–40, Atlanta, Georgia 30333, telephone 404/639–2918.

DATED: April 27, 1993.

Robert L. Foster,

Assistant Director, Office of Program Support Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–10294 Filed 4–29–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 93E–0087]

Determination of Regulatory Review Period for Purposes of Patent Extension; AMBIEN®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for AMBIEN® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Karin L. Bolte, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product AMBIEN®. AMBIEN® (zolpidem tartrate) is indicated for the short-term treatment of insomnia. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for AMBIEN® (U.S. Patent No. 4,382,938) from Synthelabo, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated March 11, 1993, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of AMBIEN® represented the first commercial marketing of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for AMBIEN® is 2,713 days. Of this time, 1,296 days occurred during the testing phase of the regulatory review period, while 1,417 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* July 15, 1985. The applicant claims November 15, 1984, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND was placed on clinical hold on December 10, 1984, and was removed from clinical hold on July 15, 1985. Therefore, the IND effective date is July 15, 1985.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* January 30, 1989. The applicant claims January 26, 1989, as the date the new drug application (NDA) for AMBIEN® (NDA 19–908) was initially submitted. However, FDA records indicate that NDA 19–908 was initially submitted on January 30, 1989.

3. *The date the application was approved:* December 16, 1992. FDA has verified the applicant's claim that NDA 19–908 was approved on December 16, 1992.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 5 years of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 29, 1993, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 27, 1993, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 16, 1993.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 93–10173 Filed 4–29–93; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration Advisory Council

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of June 1993.

Name: Advisory Commission on Childhood Vaccines.

Date and Time: June 7, 1993, 9 a.m.–5 p.m.; June 8, 1993, 8:30 a.m.–12 p.m.

Place: Conference Rooms G&H, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The meeting is open to the public.

Purpose: The Commission: (1) advises the Secretary on the implementation of the Program, (2) on its own initiative or as the result of the filing of a petition, recommends changes in the Vaccine Injury Table, (3) advises the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions, (4) surveys Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b), and advises the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines, and (5) recommends to the Director of the National Vaccine Program research related to vaccine injuries which should be conducted to carry out the National Vaccine Injury Compensation Program.

Agenda: The first day of the meeting will consist of simultaneous meetings of the Commission's Working Subcommittees. The full commission will meet commencing at 9 a.m. until 2:45 p.m. and from 8:30 a.m. to 12 p.m. on Tuesday, June 8. Agenda items will include, but not be limited to, routine Program reports, reports from the National Vaccine Program and the National Vaccine Advisory Committee (NVAC), reports from the ACCV Subcommittees.

Name: Scientific Review Subcommittee of the Advisory Commission on Childhood Vaccines.

Date and Time: June 7, 1993, 3 p.m.–5 p.m.

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Place: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The meeting is open to the public.

Purpose: This Subcommittee will review statistics from all sources (the Compensation System, Vaccine Adverse Events Reporting System (VAERS), the U.S. Claims Court, etc.) that can give any reason for any alterations (additions, subtractions, or revisions) in the Vaccine Injury Table. The Subcommittee will consider any applications for inclusion of additional vaccines and associated events to the table and make recommendations on these to the Commission. All recommendations by the Subcommittee will be considered by the full Commission and, if accepted, will be forwarded to the Secretary. This Subcommittee will also be the first line of study for all outside studies and literature reports with subjects affecting the Vaccine Injury Table.

Agenda: This Subcommittee will receive updates on VAERS and on the IOM Section 313 study.

Name: Financial Review Subcommittee of the Advisory Commission on Childhood Vaccines.

Date and Time: June 7, 1993, 3 p.m.–5 p.m.

Place: Conference Room H, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The meeting is open to the public.

Purpose: The Subcommittee reviews quarterly with the administrative staff, the financing of the Vaccine Injury Compensation Trust Fund, the output of funds resulting from each vaccine and each adverse event, and the relationship of each vaccine and each adverse event to the rate of depletion of the Trust Fund. If these studies justify any increase or any decrease of surtax for each vaccine, these recommendations can be made to the full commission and if accepted, can be forwarded to the Secretary.

Agenda: The Subcommittee will discuss and review the status of funding and spending on pre-1988 awards and the status of the Trust Fund.

Public comment will be permitted at the respective subcommittee meetings on June 7 before they adjourn in the evening; before noon and at the end of the full Commission meeting on June 7; and also before noon of the second day on June 8. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to Mr. Matthew Barry, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, room 702, 6001 Montrose Road, Rockville, Maryland 20852, Telephone (301) 443–6593.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of their assigned presentation time. Persons who do not file an advance request for presentation, but desire to make an oral statement, may sign up in Conference Rooms G & H before 10 a.m. June 7 and 8. These persons will be allocated time as time permits.

Anyone requiring information regarding the subject Commission should contact Mr. Matthew Barry, Principal Staff Liaison, Division of Vaccine Injury Compensation, Bureau of Health Professions, room 7–02, 6001 Montrose Road, Rockville, Maryland 20852, Telephone (301) 443–6593.

Agenda items are subject to change as priorities dictate.

Dated: April 26, 1993.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 93–10101 Filed 4–29–93; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Heart, Lung, and Blood Institute Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the following Heart, Lung, and Blood Special Emphasis Panel.

The meeting will be closed in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications, contract proposals, and/or cooperative agreements. These applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Panel: NHLBI SEP for the Review of a Institutional National Research Service Award (NRSA)—Telephone Conference Call.

Dates of Meeting: May 10, 1993

Time of Meeting: 2 p.m.

Place of Meeting: Westwood Building, room 550 (Telephone Conference Call).

Agenda: To review and evaluate grant applications.

Contact Person: Dr. Kathryn W. Ballard, 5333 Westbard Avenue, room 550, Bethesda, Maryland 20892, (301) 594–7450.

(Catalog of Federal Domestic Assistance Program Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 23, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–10141 Filed 4–29–93; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, April 23, 1993.

(Call PHS Reports Clearance Officer on 202–690–7100 for copies of package)

1. Medwatch: FDA's Medical Product Reporting Program—New—This new form will be used for reporting adverse events and product problems with medications, devices, and other products (such as dietary supplements) that are regulated by the Food and Drug Administration. It replaces existing approved forms. *Respondents:* Businesses or other for-profit, non-profit institutions, small businesses or organizations; *Number of Respondents:* 67,140; *Number of Responses Per Respondent:* 4; *Average Burden per Response:* 1 hour; *Estimated Annual Burden:* 257,182 hours.

OMB Desk Officer: Shannah Koss.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: April 26, 1993.

James Scanlon,

Division of Data Policy, Office of Health Planning and Evaluation.

[FR Doc. 93–10167 Filed 4–29–93; 8:45 am]

BILLING CODE 4160–17–M

Social Security Administration

Statement of Organization, Functions and Delegation of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services covers the Social Security Administration. Chapter S7 covers the Deputy Commissioner for Human Resources. Notice is hereby given that subchapter S7C, the Office of Labor-Management Relations, is being amended to reflect the realignment of division functions in the Division of Labor and Employee Relations Operations (S7CA) and in the Division of Labor and Employee Relations Policy (S7CB). The changes are as follows:

Section S7C.20 The Office of Labor-Management Relations—(Functions):

D. The Division of Labor and Employee Relations Operations (S7CA).

Delete:

3. In its entirety.

Renumber:

"4" and "5" to "3" and "4."

E. The Division of Labor and Employee Relations Policy (S7CB).

Add:

6. Develops, implements and evaluates SSA programs involving disciplinary and adverse actions, performance-based actions, grievances, appeals and serious misconduct cases. Provides advisory services to management and prepares documentation for headquarters' managers pertaining to such cases. Provides consultation to SSA management on nonbargaining unit grievances.

Dated: April 21, 1993.

Ruth A. Pierce,

Deputy Commissioner for Human Resources.

[FR Doc. 93–10181 Filed 4–29–93; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–1917; FR–3350–N–29]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* versus *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: Leslie Carrington, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 208–0619; Dept. of Transportation: Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., room 10319, Washington, DC 20590; (202) 366–4246; U.S. Air Force: Bob Menke, USAF, Bolling AFB, SAF–MIIR, Washington, DC 20332–5000; (202) 767–6235; Dept. of Veterans Affairs: Michael Reynolds, Management Analyst, Dept. of Veterans Affairs, room 414 Lafayette Bldg., 811 Vermont Ave. NW., Washington, DC 20420; (202) 233–5026; Dept. of Energy: Tom Knox, Realty Specialist, AD223.1, 1000 Independence Ave. SW., Washington, DC 20585; (202) 586–1191; (These are not toll-free numbers).

Dated: April 23, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 04/30/93

Suitable/Available Properties

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Buildings (by State)

Alabama

Bldg. 19, VA Medical Center
Tuskegee Co: Macon AL 36083–
Landholding Agency: VA
Property Number: 979220006
Status: Underutilized
Comment: Portion of a 5320 sq ft. 4-story structure.

Arkansas

10 Houses
Hot Springs National Park
Hot Springs Co: Garland AR 71902–
Location: Linn St., Bower, McKinley, Grand, Conway Terrace, Akin, Old Crabtree Cemetery Rd., and Avenue Street
Landholding Agency: GSA
Property Number: 549310012
Status: Excess
Comment: 454 to 3334 sq. ft., 1 and 2 story residences, need major rehab, off-site use only
GSA Number: 7–I–AR–0415–Z.

California

Bldg. 20—VA Medical Center
Wilshire & Sawtelle Blvds.
Los Angeles Co: Los Angeles CA 90073–
Landholding Agency: VA
Property Number: 979210003
Status: Unutilized
Comment: 8758 gross sq. ft., one story wooden, requires complete restoration meeting standards of national preservation laws and guidelines.
Bldg. 13, VA Medical Center
Wilshire and Sawtelle Blvds.
Los Angeles Co: Los Angeles CA 90073–
Landholding Agency: VA
Property Number: 979220001
Status: Underutilized
Comment: portion of 66,165 sq. ft. bldg., needs major rehab, no util., pres. of asbestos, in historic district, potential to be hazardous due to storage of radioactive material nearby.
Bldg. 156, VAMC
Wilshire & Sawtelle Blvds.
Los Angeles Co: Los Angeles CA 90073–
Landholding Agency: Va
Property Number: 979230015
Status: Underutilized
Comment: portion of 39,454 sq. ft. bldg., presence of asbestos, needs rehab, seismic reinforcement deficiencies, in his. district, potentially hazardous due to nearby radioactive material.

Colorado

Former AF Finance Center
3800 York Street
Denver Co: Denver CO 80205–
Landholding Agency: GSA
Property Number: 549310011
Status: Excess
Comment: 293,932 sq. ft., 1-story timber frame with masonry exterior, fair condition, most recent use—storage, office, rehab
GSA Number: 7–GR–CO–468–D.

Indiana

Bldg. 140, VAMC
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 979230007
Status: Underutilized
Comment: 60 sq. ft., concrete block bldg., most recent use—trash house, access restrictions.

Pennsylvania

Bldg. 25—VA Medical Center
Delafield Road
Pittsburgh Co: Allegheny PA 15215–
Landholding Agency: VA
Property Number: 979210001
Status: Unutilized
Comment: 133 sq. ft., one story brick guard house, needs rehab.

Tennessee

Bldg. 16, VAMC Mountain Home
Johnson Co: Washington TN 37604–
Landholding Agency: VA
Property Number: 979220007
Status: Unutilized
Comment: 3215 sq. ft., 3-story wood frame residence, needs repair, subject to historic preservation requirements.

Washington

Cochran Residence
2108 NE 54th Street
Vancouver Co: Clark WA 98663–
Landholding Agency: Energy
Property Number: 419310001
Status: Unutilized
Comment: 1472 sq. ft., 1½ story wood frame residence, presence of asbestos, off-site use only.
Avery Residence
2012 NE 54th Street
Vancouver Co: Clark WA 98663–
Landholding Agency: Energy
Property Number: 419310002
Status: Unutilized
Comment: 1354 sq. ft., 1½ story wood frame residence, presence of asbestos, scheduled to be vacated 4/93, off-site use only.
Elliott Residence
2020 NE 54th Street
Vancouver Co: Clark WA 98663–
Landholding Agency: Energy
Property Number: 419310003
Status: Unutilized
Comment: 1056 sq. ft., 1 story wood frame residence, off-site use only.
Stone Residence
5801 NE 17th Avenue
Vancouver Co: Clark WA 98665–
Landholding Agency: Energy
Property Number: 419320004
Status: Excess
Comment: 1248 sq. ft., 1 story residence, double wide mobile home, off-site removal only.

Wisconsin

Bldg. 8
VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660–
Landholding Agency: VA
Property Number: 979010056
Status: Underutilized
Comment: 2200 sq ft., 2 story wood frame, possible asbestos, potential utilities, structural deficiencies, needs rehab.

Wyoming

Glendale Microwave Bldg.
Section 1
Cody Co: Park WY 82414–
Landholding Agency: Energy
Property Number: 419220001
Status: Excess
Comment: 223 sq. ft., metal frame, communication equipment bldg., limited utilities, off-site removal only.

Land (by State)

Alabama

VA Medical Center
VAMC
Tuskegee Co: Macon AL 36083–
Landholding Agency: VA
Property Number: 979010053
Status: Underutilized
Comment: 40 acres, buffer to VA Medical Center, potential utilities, undeveloped.

California

Land
4150 Clement Street
San Francisco Co: San Francisco CA 94121–
Landholding Agency: VA
Property Number: 979240001
Status: Underutilized
Comment: 4 acres; landslide area.

Florida

Outlying Field Kings
NW Corner of SR 267A & SR 186
Co: Escambia FL 32534–
Landholding Agency: GSA
Property Number: 549310013
Status: Excess
Comment: 160 acres, easement restrictions, small portion environmentally protected
GSA Number: 4–GR(1)–FL–737.

0.25 acre
Hickory Lane
Holiday Co: Pasco FL
Landholding Agency: GSA
Property Number: 549310014
Status: Excess
Comment: 0.25 acre, small triangular tract of land with 48 sq. ft. tin bldg., possible access restrictions
GSA Number: 4–G–FL–968.

Louisiana

Land—8.27 acres
VA Medical Center
2501 Shreveport Highway
Alexandria Co: Rapides LA 71301–
Landholding Agency: VA
Property Number: 979010009
Status: Unutilized
Comment: 8.27 acres, heavily wood with natural drainage ravine across property, most recent use—recreation/buffer area.

Maryland

VA Medical Center
9500 North Point Road
Fort Howard Co: Baltimore MD 21052–
Landholding Agency: VA
Property Number: 979010020
Status: Underutilized
Comment: Approx. 10 acres, wetland and periodically floods, most recent use—dump site for leaves.

New Mexico

Western Perimeter Tract
Los Alamos Co: Los Alamos NM
Landholding Agency: GSA
Property Number: 549310010
Status: Surplus
Comment: 194 acres, potential utilities, open area, no roadways through property.
GSA Number: 7–B–NM–504–G, 7–GR(1)–NM–504–L.

Texas

Parts of Tracts
B–143, B–144, B–146, B–148, B–179
Downstream of Lewisville Dam embankment
Lewisville Co: Denton TX 75067–
Location: Along State Hwy 121
Landholding Agency: GSA
Property Number: 319140015
Status: Underutilized
Comment: 101.78 acres in 3 parcels, most recent use—wildlife and low density recreation
GSA Number: 7–D–TX–0510K.

Land

Olin E. Teaque Veterans Center
1901 South 1st Street
Temple Co: Bell TX 76504–
Landholding Agency: VA
Property Number: 979010079
Status: Underutilized
Comment: 13 acres, portion formerly landfill, portion near flammable materials, railroad crosses property, potential utilities.
VA. Medical Center
4800 Memorial Drive
Waco Co: McLennan TX 76711–
Landholding Agency: VA
Property Number: 979010081
Status: Underutilized
Comment: 2.3 acres, negotiating lease w/ Owens-Illinois Glass Plant, most recent use—parking lot.

Wisconsin

VA Medical Center
County Highway E
Tomah Co: Monroe, WI 54660–
Landholding Agency: VA
Property Number: 979010054
Status: Underutilized
Comment: 12.4 acres, serves as buffer between center and private property, no utilities.

Suitable/Unavailable Properties

Buildings (by State)

California

Bldg. 116
VA Medical Center
Wilshire and Sawtelle Blvds.
Los Angeles Co: Los Angeles CA 90073–
Landholding Agency: VA
Property Number: 979110009
Status: Underutilized
Comment: 60309 sq. ft., 3 story brick frame, seismic reinforcement defics., underutil. port of bldg. used intermitly., needs rehab, poss. asbestos in pipes/floor tiles, site access lim.
Bldg. 263
VA Medical Center
Wilshire and Sawtelle Blvds.
Los Angeles Co: Los Angeles CA 90073–
Landholding Agency: VA
Property Number: 979110010
Status: Unutilized

Comment: 1600 sq. ft., 1 story wood frame w/ stucco exterior, needs rehab, poss. asbestos on pipes/floor tiles, site access limitations, no operating utilities.

Florida

Bldg. 24, VAMC
10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas FL 33504–
Landholding Agency: VA
Property Number: 979230008
Status: Underutilized
Comment: portion of 6150 sq. ft., 3 story concrete frame bldg., needs rehab, presence of asbestos, listed on Natl Register of Historic Places, access restrictions.
Bldg. 36, VAMC
10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas FL 33504–
Landholding Agency: VA
Property Number: 979230009
Status: Underutilized
Comment: portion of 15,984 sq. ft., 1 story concrete frame bldg., needs rehab, presence of asbestos, listed on Natl Register of Historic Places, access restrictions.
Bldg. 37, VAMC
10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas FL 33504–
Landholding Agency: VA
Property Number: 979230010
Status: Underutilized
Comment: Third floor of a concrete frame bldg. (13,900 sq. ft.), presence of asbestos, listed on Natl Register of Historic Places, access restrictions.

Indiana

Bldg. 24, VAMC
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 979230005
Status: Underutilized
Comment: portion of 4135 sq. ft. 2-story wood structure, needs major rehab, no sanitary or heating facilities, presence of asbestos, access restrictions.
Bldg. 105, VAMC
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 979230006
Status: Underutilized
Comment: 310 sq. ft., 1 story stone structure, needs major rehab, no sanitary or heating facilities, access restrictions.

Minnesota

Bldg. 43
VA Medical Center
Minneapolis Co: Hennepin MN 55441–7
Location: 54th Street and 48th Avenue S.
Landholding Agency: VA
Property Number: 979010032
Status: Underutilized
Comment: 26000 sq. ft., 8 story brick/steel frame, asbestos present on pipe insulation, most recent use—office/storage.
Bldg. 227
Va Medical Center
Fort Snelling
St. Paul Co: Hennepin MN 55111–
Landholding Agency: VA
Property Number: 979010033
Status: Unutilized
Comment: 850 sq. ft., 2 story wood frame and brick residence, utilities disconnected.

New York

Bldg. 5
V.A. Medical Center
Redfield Parkway
Batavia Co: Genesse NY 14020–
Landholding Agency: VA
Property Number: 979030001
Status: Underutilized
Comment: Portion of 16800 sq. ft., 3 story, brick and masonry bldgs., needs minor repairs.
Bldg. 144, VAECC
Linden Blvd. and 179th St.
St. Albans Co: Queens NY 11425–
Landholding Agency: VA
Property Number: 979210004
Status: Unutilized
Comment: 5215 sq. ft., 2 story wood frame residence, needs rehab, potential utilities.
Bldg. 143, VAECC
Linden Blvd. and 179th St.
St. Albans Co: Queens NY 11425–
Landholding Agency: VA
Property Number: 979210005
Status: Unutilized
Comment: 5215 sq. ft., 2 story wood frame residence, needs rehab, potential utilities.
Bldgs. 142/146, VAECC
Linden Blvd. and 179th St.
St. Albans Co: Queens NY 11425–
Landholding Agency: VA
Property Number: 979210006
Status: Unutilized
Comment: 5215 sq. ft., 2 story wood frame residence with 380 sq. ft. attached garage, needs rehab, potential utilities.

Pennsylvania

Bldg. 3—VA Medical Center
University Drive C
Pittsburgh Co: Allegheny PA 15240–
Landholding Agency: VA
Property Number: 979210002
Status: Unutilized
Comment: Approx. 2765 sq. ft., two story brick residence, needs rehab.
Bldg. 2, VAMC
1700 South Lincoln Avenue
Lebanon Co: Lebanon PA 17042–
Landholding Agency: VA
Property Number: 979230011
Status: Underutilized
Comment: portion of 16,360 sq. ft. 3-story structure, most recent use—storage.
Bldg. 3, VAMC
1700 South Lincoln Avenue
Lebanon Co: Lebanon PA 17042–
Landholding Agency: VA
Property Number: 979230012
Status: Underutilized
Comment: portion of bldg. (3850 and 4360 sq. ft.), most recent use—storage.
Bldg. 27, VAMC
1700 South Lincoln Avenue
Lebanon Co: Lebanon PA 17042–
Landholding Agency: VA
Property Number: 979230013
Status: Underutilized
Comment: Second floor of bldg. (3,410 sq. ft.).
Bldg. 103, VAMC
1700 South Lincoln Avenue

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Lebanon Co: Lebanon PA 17042–
Landholding Agency: VA
Property Number: 979230014
Status: Underutilized
Comment: portion of 1215 sq. ft. 2-story stone farm house, needs repair.

Wyoming

Bldg. 13
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110001
Status: Unutilized
Comment: 3613 sq. ft., 3 story wood frame masonry veneered, potential utilities, possible asbestos, needs rehab.

Bldg. 79
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110003
Status: Unutilized
Comment: 45 sq. ft., 1 story brick and tile frame, limited utilities, most recent use—reservoir house, use for storage purposes.

Land (by State)

California

Dixon Relay Station
7514 Radio Road
Dixon Co: Solano CA 95620–9653
Landholding Agency: GSA
Property Number: 549320002
Status: Excess
Comment: 787.53 acres with 7 bldgs., most recent use—transmitter site.
GSA Number: 9–2–CA–1162B.

Land
VA Medical Center
Wilshire and Sawtelle Boulevards
Los Angeles Co: Los Angeles CA 90073–
Landholding Agency: VA
Property Number: 979010077
Status: Underutilized
Comment: Approx. 30 acres of 80 acre tract, 7 acre portion contaminated, portions may be environmentally protected.

Florida

Buffer Zone, VAMC
10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas FL 33504–
Landholding Agency: VA
Property Number: 979230018
Status: Underutilized
Comment: Approx. 20 acres, storm water retention area.

Compound, VAMC
10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas FL 33504–
Landholding Agency: VA
Property Number: 979230017
Status: Underutilized
Comment: Approx. 7 acres, storage compound, partially wooded.

Illinois

VA Medical Center
3001 Green Bay Road
North Chicago Co: Lake IL 60064–
Landholding Agency: VA
Property Number: 979010082
Status: Underutilized
Comment: 2.5 acres, currently being used as a construction staging area for the next 6–8 years, potential utilities

Michigan

VA Medical Center
5500 Armstrong Road
Battle Creek Co: Calhoun MI 49016–
Landholding Agency: VA
Property Number: 979010015
Status: Underutilized
Comment: 20 acres, used as exercise trails and storage areas, potential utilities.

Minnesota

Bldg. 43 Land Site
VA Medical Center
54th Street & 48th Avenue South
Minneapolis Co: Hennep n MN 55417–
Landholding Agency: VA
Property Number: 979010005
Status: Underutilized
Comment: 8.9 acres, most recent use—parking, potential utilities.

Bldg. 227–229 Land
VA Medical Center
Fort Snelling
St Paul Co: Hennepin MN 55111–
Landholding Agency: VA
Property Number: 979010006
Status: Underutilized
Comment: 2.0 acres, potential utilities, buildings occupied, residence/garage.

VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis Co: Hennepin MN 55417–
Location: Land (Site of Building 15, 16, 21, 48, 64, T10)
Landholding Agency: VA
Property Number: 979010024
Status: Underutilized
Comment: 12.1 acres, most recent use—parking, potential utilities.

Land—12 acres
VAMC
Near 5629 Minnehaha Avenue
Minneapolis Co: Hennepin MN 55417–
Landholding Agency: VA
Property Number: 979010031
Status: Unutilized
Comment: 12 acres, possible asbestos, leased to Department of Natural Resources as a park walking trail.

New York

VA Medical Center
Fort Hill Avenue
Canandaigua Co: Ontario NY 14424–
Landholding Agency: VA
Property Number: 979010017
Status: Underutilized
Comment: 27.5 acres, used for school ballfield and parking, existing utilities easements, portion leased.

Pennsylvania

VA Medical Center
New Castle Road
Butler Co: Butler PA 16001–
Landholding Agency: VA
Property Number: 979010018
Status: Underutilized
Comment: Approx. 9.29 acres, used for patient recreation, potential utilities.

Land No. 645
VA Medical Center
Highland Drive
Pittsburgh Co: Allegheny PA 15206–
Location: Between Campania and Wiltsie Streets.
Landholding Agency: VA
Property Number: 979010080
Status: Unutilized
Comment: 52.42 acres, heavily wooded. property includes dump area and numerous site storm drain outfalls

Suitable/To Be Excessed

Buildings (by State)

Arizona

Control Bldg.
U.S. 666
Cochise Co: Cochise AZ 85606–
Landholding Agency: Energy
Property Number: 419320005
Status: Excess
Comment: 800 sq. ft., masonry frame, no utilities, presence of PCB's & asbestos, most recent use—control bldg for electrical substation.

Warehouse & Service Bldg.
University Road
Mesa Co: Maricopa AZ 85201–
Landholding Agency: Energy
Property Number: 419320007
Status: Excess
Comment: 368 & 600 sq. ft., 1 story steel & masonry frame, no utilities, presence of PCB's & asbestos, most recent use-storage/service for electrical substation.

North Dakota

Bldg. 1
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310066
Status: Excess
Comment: 10,859 sq. ft., 1-story concrete, needs extensive repairs, presence of asbestos.

Bldg. 2
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310067
Status: Excess
Comment: 1543 sq. ft., 1-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 4
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310068
Status: Excess
Comment: 1759 sq. ft., 1-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 5
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310069
Status: Excess
Comment: 368 sq. ft., 1–story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 7
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310070
Status: Excess
Comment: 694 sq. ft., 1–story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 8
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310071
Status: Excess
Comment: 867 sq. ft., 1-story concrete, needs extensive repairs, presence of asbestos.

Bldg. 10
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310072
Status: Excess
Comment: 112 sq. ft., 1-story concrete, needs extensive repairs, presence of asbestos.

Bldg. 11
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310073
Status: Excess
Comment: 96 sq. ft., 1-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 12
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310074
Status: Excess
Comment: 2198 sq. ft., 1-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 13
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310075
Status: Excess
Comment: 2118 sq. ft., 1-story concrete block, needs extensive repairs, presence of absestos.

Bldg. 14
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310076
Status: Excess
Comment: 3462 sq. ft., 1-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 15
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310077
Status: Excess
Comment: 4182 sq. ft., 1-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 16
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310078
Status: Excess
Comment: 3772 sq. ft., 2-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 17
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310079
Status: Excess
Comment: 2925 sq. ft., 1-story concrete, needs extensive repairs, presence of asbestos.

Bldg. 18
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310080
Status: Excess
Comment: 5806 sq. ft., 2-story concrete, needs extensive repairs, presence of asbestos.

Bldg. 19
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310081
Status: Excess
Comment: 5806 sq. ft., 2-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 20
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310082
Status: Excess
Comment: 1882 sq. ft., 1-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 21
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310083
Status: Excess
Comment: 192 sq. ft., 1-story wood frame, needs extensive repairs, presence of asbestos.

Bldg. 22
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310084
Status: Excess
Comment: 1571 sq. ft., 1-story wood frame, needs extensive repairs, presence of asbestos.

Bldg. 23
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310085
Status: Excess
Comment: 1212 sq. ft., 1-story wood frame, needs extensive repairs, presence of asbestos.

Bldg. 24
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310086
Status: Excess
Comment: 2758 sq. ft., 1-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 26
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310087
Status: Excess
Comment: 302 sq. ft., 1-story wood frame, needs extensive repairs, presence of asbestos.

Bldg. 27
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310088
Status: Excess
Comment: 64 sq. ft., 1-story metal, needs extensive repairs, presence of asbestos.

Bldg. 28
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310089
Status: Excess
Comment: 4967 sq. ft., 1-story wood frame, needs extensive repairs, presence of asbestos.

Bldg. 30
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310090
Status: Excess
Comment: 4795 sq. ft., 1-story concrete, needs extensive repairs, presence of asbestos.

Bldg. 31
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310091
Status: Excess
Comment: 1800 sq. ft., 1-story pre-fab metal, needs extensive repairs, presence of asbestos.

Bldg. 32
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310092
Status: Excess

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Comment: 6615 sq. ft., 1-story pre-fab metal, needs extensive repairs, presence of asbestos.

Bldg. 35
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310093
Status: Excess
Comment: 14520 sq. ft., 5-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 36
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310094
Status: Excess
Comment: 949 sq. ft., 1-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 37
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310095
Status: Excess
Comment: 288 sq. ft., pre-fab metal, needs extensive repairs, presence of asbestos.

Bldg. 38
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310096
Status: Excess
Comment: 5687 sq. ft., 1-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 40
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310097
Status: Excess
Comment: 576 sq. ft., 1-story metal, needs extensive repairs, presence of asbestos.

Bldg. 52
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310098
Status: Excess
Comment: 160 sq. ft., 1-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 55
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310099
Status: Excess
Comment: 1003 sq. ft., 1-story metal, needs extensive repairs, presence of asbestos.

Bldg. 56
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310100
Status: Excess
Comment: 448 sq. ft., 1-story steel, needs extensive repairs, presence of asbestos.

Bldg. 57
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310101
Status: Excess
Comment: 3854 sq. ft., 1-story wood frame, needs extensive repairs, presence of asbestos.

Bldg. 98
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310102
Status: Excess
Comment: 62 sq. ft., 1-story concrete block, needs extensive repairs, presence of asbestos.

Bldg. 100
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310103
Status: Excess
Comment: 768 sq. ft., 1-story wood frame, needs extensive repairs, presence of asbestos.

Bldg. 912
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310104
Status: Excess
Comment: 960 sq. ft., 1-story wood frame, needs extensive repairs, presence of asbestos.

Bldg. 300
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310105
Status: Excess
Comment: 2730 sq. ft., 1-story concrete, needs extensive repairs, presence of asbestos.

Bldgs. 41–49, 51, 61, 62
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310106
Status: Excess
Comment: 36–40 sq. ft., wood frame, no utilities, needs extensive repairs, presence of asbestos, most recent use—fire hose storage.

LAND (by State)

Minnesota

Land around Bldg. 240–249, 253
VA Medical Center
Fort Snelling
St. Paul Co: Hennepin MN 55111–
Landholding Agency: VA
Property Number: 979010007
Status: Unutilized
Comment: 3.76 acres, potential utilities.

Unsuitable Properties

Buildings (by State)

Alaska

Housing Ketchikan (Naushon UPH)
3615 Baranof Avenue
Ketchikan Co: Ketchikan AK 99801–
Landholding Agency: DOT
Property Number: 879320005
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Indiana

Bldg. 21, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 979230001
Status: Underutilized
Reason: Other
Comment: Extensive deterioration.

Bldg. 22, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 979230002
Status: Underutilized
Reason: Other
Comment: Extensive deterioration.

Bldg. 62, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 979230003
Status: Underutilized
Reason: Other
Comment: Extensive deterioration.

Louisiana

Transmitter Hut #1
U.S. Coast Guard Communication.s Station.
Belle Chasse Co: Orleans Parish LA 70037–
Landholding Agency: DOT
Property Number: 879320006
Status: Unutilized
Reason: Secured area.

North Carolina

Bldg. 9
VA Medical Center
1100 Tunnel Road
Asheville Co: Buncombe NC 28805–
Landholding Agency: VA
Property Number: 979010008
Status: Underutilized
Reason: Other
Comment: Friable asbestos.

North Dakota

Bldg. 50
Fortuna Air Force Station.
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189310107
Status: Excess
Reason: Other
Comment: Garbage incinerator.

Tennessee

Bldg. 60, VAMC Mountain Home
Johnson Co: Washington TN 37604–
Landholding Agency: VA

Property Number: 979220005
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.

Texas

Bldg. 24
Olin E. Teague Veterans Center
1901 South 1st Street
Temple Co: Bell TX 76504–
Landholding Agency: VA
Property Number: 979010050
Status: Unutilized
Reason: Other
Comment: Friable asbestos.

Bldg. 25
Olin E. Teague Veterans Center
1901 South 1st Street
Temple Co: Bell TX 76504–
Landholding Agency: VA
Property Number: 979010051
Status: Unutilized
Reason: Other
Comment: Friable asbestos.

Bldg. 26
Olin E. Teague Veterans Center
1901 South 1st Street
Temple Co: Bell TX 76504–
Landholding Agency: VA
Property Number: 979010052
Status: Unutilized
Reason: Other
Comment: Friable asbestos.

Wyoming

Bldg. 95
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82601–
Landholding Agency: VA
Property Number: 979110004
Status: Unutilized
Reason: Other
Comment: Sewage digester for disposal plant.

Bldg. 96
Medical Center
N.W. of town at end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110005
Status: Unutilized
Reason: Other
Comment: Pump house for sewage disposal plant.

Structure 99
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110006
Status: Unutilized
Reason: Other
Comment: Mechanical screen for sewage disposal plant.

Structure 100
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82601–
Landholding Agency: VA
Property Number: 979110007
Status: Unutilized
Reason: Other
Comment: Dosing tank for sewage disposal plant.

Structure 101
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110008
Status: Unutilized
Reason: Other
Comment: Chlorination chamber for sewage disposal plant.

Land (by State)

California

DVA Medical Center
4951 Arroyo Road
Livermore Co: Alameda, CA 94550–
Landholding Agency: VA
Property Number: 979010023
Status: Unutilized
Reason: Other
Comment: 750,000 gallon water reservoir.

Florida

Wildlife Sanctuary, VAMC
10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas, FL 33504–
Landholding Agency: VA
Property Number: 979230004
Status: Underutilized
Reason: Other
Comment: Inaccessible.

Louisiana

Land—3.4 acres
VA Medical Center
2501 Shreveport Highway
Alexandria Co: Rapides, LA 71301–
Landholding Agency: VA
Property Number: 979010010
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.

Minnesota

VAMC
VA Medical Center
4801 8th Street No.
St. Cloud Co: Sterns, MN 56303–
Landholding Agency: VA
Property Number: 979010049
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.

New York

Tract 1
VA Medical Center
Bath Co: Steuben, NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 979010011
Status: Unutilized
Reason: Secured area.

Tract 2
VA Medical Center
Bath Co: Steuben, NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 979010012
Status: Underutilized
Reason: Secured area.

Tract 3
VA Medical Center
Bath Co: Steuben, NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 979010013
Status: Underutilized
Reason: Secured area.

Tract 4
VA Medical Center
Bath Co: Steuben, NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 979010014
Status: Unutilized
Reason: Secured area.

[FR Doc. 93–9935 Filed 4–29–93; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–030–93–4350–09]

Closure of Public Lands; Red Cloud Peak Area of Critical Environmental Concern, Hinsdale County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure.

SUMMARY: Notice is hereby given in accordance with 43 CFR 8365.1–5(C), 8365.1–6, and 8365.1–5(A)(1) that the following described public lands within the Redcloud Peak Area of Critical Environmental Concern (ACEC) in Hinsdale County, Colorado, are closed to the collecting, possessing, killing, or transporting of butterflies or any part of their life cycle.

New Mexico Principal Meridian

T. 43 N., R. 5 W.,
Secs. 20 to 23, inclusive,
Secs. 26 to 29, inclusive,
Secs. 32 to 35, inclusive.

The BLM may approve scientific research by qualified persons, which could include limited collecting, if this research is deemed important and is compatible with the preservation of the species.

EFFECTIVE DATE: July 1, 1993.

ADDRESSES: For further information, contact Barry Tollefson, Bureau of Land Management (BLM), Gunnison Resource Area Office, 216 North Colorado, Gunnison, Colorado 81230; (303) 641–0471.

SUPPLEMENTARY INFORMATION: The Uncompahgre fritillary butterfly was listed as a federally endangered species on June 24, 1991 (56 FR 28712). This butterfly has the smallest known total range of any North American butterfly species. Its habitat is limited to two verified sites and two possible sites in the San Juan Mountains and southern Sawatch Range in Gunnison, Hinsdale, and Chaffee counties in southwestern

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Colorado. The only known remaining major colony is the Redcloud Peak population discovered in 1982 on public lands administered by the Bureau of Land Management. Despite numerous attempts to locate other major populations, none have been identified.

Because this species is one of the few new North American butterfly species identified in the last half century, it is attractive to collectors. Overcollection is considered to be the greatest human-caused threat to the species. Although the Uncompahgre fritillary butterfly is protected under the Endangered Species Act, this closure would help prevent individuals from attempting to collect the Uncompahgre fritillary butterfly under the pretense of collecting other butterflies that are found in the area.

Penalties

Violations of supplementary rules authorized by 43 CFR title 43, chapter II, part 8360, subpart 8365.1–6 are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Alan L. Kesterke,

District Manager.

[FR Doc. 93–10176 Filed 4–29–93; 8:45 am]

BILLING CODE 4310–JB–M

Bureau Of Land Management

[NV–930–4210–05; N–56920]

Realty Action; Clark County, NV; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Corrected notice of realty action, N–56920.

The Notice of Realty Action published in the **Federal Register** on April 1, 1993, (58 FR page 17279; FR Doc 93–7557), is hereby corrected as follows:

A. Under **SUMMARY**, second line, delete "Las Vegas", and insert "Henderson".

B. Under the paragraph "and will be subject to:", 1., beginning fourth line, delete "Clark County/the City of Las Vegas", insert "City of Henderson".

All other terms and conditions of the Notice continue to apply.

Dated: April 22, 1993.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 93–10104 Filed 4–29–93; 8:45 am]

BILLING CODE 4310–HC–M

Bureau of Land Management

[UT–060–4140–03–OSHL; UTU–71207]

Realty Action; Lands/Surface Facilities Available for Competitive Lease, White River Oil Shale Tracts Ua and Ub

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of realty action; lands/surface facilities available for competitive lease (White River Oil Shale Tracts Ua and Ub).

SUMMARY: Notice is hereby given that the following described public lands, located in Uintah County, Utah have been found suitable for competitive lease pursuant to section 302 of the Federal Land Policy and Management Act of October 21, 1976 and 43 CFR part 2920:

T. 10 S., R. 24 E., SLM, Utah.
Sec 12, S½, S½N½;
Secs. 13 and 14, All;
Secs. 19, E½;
Secs. 20–24, All;
Secs. 25, W½W½;
Secs. 26–29, All;
Secs. 30, E½;
Secs. 33, N½;
Secs. 34, N½.
T. 10 S., R. 25 E.,
Secs. 18 and 19, All.

All or part of the above described 10,240 acres, including the existing facilities and surface improvements located on the White River prototype oil shale tracts Ua and Ub will be made available through competitive lease to qualified bidders. All proposals will be considered provided the proposed use does not preclude or interfere with the future development of the oil shale Leasing of the site is in conformance with the Book Cliffs Resource Management Plan; additional uses, facilities, or surface disturbing activities will require further NEPA review prior to approval.

Issuance of a lease to the successful bidder will be subject to the following terms and conditions:

(1) The lessee will be required to post a bond in an amount to be determined by the authorized officer and based on the proposed use of the tract. In no event shall the required bond amount be set less than $100,000.

(2) The lessee will be required to assume the costs for the operation and maintenance of the facilities including but not limited to:

(a) Site security.

(b) Electrical power contracted from Moon Lake Electric Association for the entire facility, including the underground mine workings, headframe, and hoist building to be reserved by the United States.

(c) Maintenance and/or repair of the facilities under lease.

(3) The lessee will be required to pay annual rental in an amount equal to or greater than fair market value as determined by appraisal and established by subsequent bid.

(4) The lessee will be required to prepare a site-specific plan of development/operation detailing the type of proposed land use, facility upgrades required, *et cetera*. The plan will be subject to BLM review for conformance with NEPA. The cost of plan development and subsequent NEPA analysis of which would be borne by the lessee.

(5) The oil shale stockpiles will be made available to the lessee at a negotiated sales price. Only those amounts identified in the lessee's plan of development and approved by the authorized officer may be utilized in connection with the lease.

(6) Rights to the mine shaft, underground workings, and related facilities and the oil shale resources will be reserved by the Bureau of Land Management. The lease conveys no preference right to the lessee to obtain a subsequent mineral lease allowing for the development of the oil shale resources.

(7) The lease will be issued for an initial five-year period. Renewal of the lease at the end of five years will be at the discretion of the authorized officer and dependent upon the prevailing interest to develop the oil shale resources under a mineral lease.

(8) Any additional terms deemed necessary by the authorized officer through the environmental analysis process specific to the applicant's proposed use and plan of operation.

Applications from qualified bidders will be accepted by the Vernal District Office, 170 South 500 East, Vernal, Utah 84078 for a period of thirty days from publication of this notice in the **Federal Register**. All applications must refer to the **Federal Register** Notice and serial number UTU–71207. All bids submitted must be equal to or greater than the fair market value set at $50/acre or fraction thereof plus an additional $500 for utilization of the facilities.

Each application must include a plan of operation/development which contains sufficient detail to allow the authorized officer to evaluate the feasibility of the proposed land use, the environmental impacts, possible threats to public health and safety, the public/other benefits from the land use, and the approximate cost of the proposed land use. The plan of operation must clearly identify the proposed use and associated activities, a description of all facilities for which authorization is sought, and any additional facilities or improvements necessary for the intended use and the applicant's proposal for providing site security. Applicants may be required to submit additional information to the authorized officer.

The successful bidder will be required to reimburse the United States for the administrative and other costs incurred by the United States in processing the application. These costs, determined in accordance with 43 CFR 2920.6, will include preparation of the necessary documents required by the National Environment Policy Act and monitoring of the construction, continued operation, and termination/rehabilitation of the facilities authorized under lease.

All bids will be evaluated on the basis of the public benefit to be provided, the financial and technical capability of the bidder to undertake the project, and the bid amount including any offers to contribute funds to the BLM to assist in maintaining the integrity of the mine estimated to be about $25,000/year.

For a period of 30 days from the date of publication of this notice, interested parties may submit comments to the Vernal District Manager, Bureau of Land Management, 170 South 500 East, Vernal, Utah 84078. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Bureau.

SUPPLEMENTARY INFORMATION: Additional information concerning this action can be obtained from the Vernal District Office by contacting Joy Wehking, Realty Specialist (801) 789–1362.

Dated: April 21, 1993.

Howard Cleavinger,

Acting Vernal District Manager.

[FR Doc. 93–10177 Filed 4–29–93; 8:45 am]

BILLING CODE 4310–DQ–M

[NV–050–03–4333–04; 43 CFR 8364.1]

Red Rock Canyon National Conservation Area; Restriction Order for the Solicitation of Funds

April 20, 1993.

AGENCY: Bureau of Land Management, DOT.

ACTION: Restriction Order for the Solicitation of Funds within the Red Rock Canyon National Conservation Area, Bureau of Land Management, Las Vegas District, Nevada.

SUMMARY: This Restriction Order is being issued for the purposes of public health and safety. The Red Rock Canyon National Conservation Area (RRCNCA) Visitor Center entrance area sidewalks were designed for the singular purpose of providing pedestrian access to the building. The area was not designed with space in mind for soliciting activities, naturalist talks, kiosks or displays.

EFFECTIVE DATE: April 30, 1993.

FOR FURTHER INFORMATION CONTACT: Dave Wolf, Red Rock Canyon National Conservation Area Manager, Bureau of Land Management, Las Vegas District Office, P.O. Box 26569, Las Vegas, Nevada 89126. Telephone: 702–647–5000.

SUPPLEMENTARY INFORMATION: Beginning in early 1992, soliciting by a non-profit organization began at the RRCNCA Visitor Center and continues as of April 1993. The solicitor sets up his/her table on the sidewalk which all visitors must use to access the Visitor Center doors. At least one visitor injury has been attributed to a visitor's attention being drawn to the solicitor and as a result tripping over the landscaping rocks.

A second organization began soliciting funds in early 1993 at the same Visitor Center location. This had the effect of blocking the access to the building and creating an increased safety hazard.

The designated area has been selected because it is the closest area to the Visitor Center entrance which is not in the path of visitors entering the building.

This order does not apply to the distributing of leaflets or literature by individuals who are not associated with a soliciting organization and not using a booth or table. Nor does this order apply to organizations operating under a Recreation Use Permit or Use Authorization for activities such as walk-a-thons, bike rally's or foot races where the entrance fee or donation is paid on-site the day of the event

In accordance with 43 CFR 8364.1 the following restrictions on the solicitation of funds in the Red Rock Canyon National Conservation Area, Clark County, Nevada are adopted.

1. All persons and organizations soliciting funds must be recognized and/or permitted as non-profit organizations according to applicable State of Nevada and/or Clark County, Nevada ordinances, regulations and requirements.

2. Soliciting for funds is allowed at the Red Rock Canyon NCA Visitor Center subject to the following stipulations.

Soliciting activities must take place within an area designated by the NCA Manager. The designated area is described as a six (6) foot by twenty (20) foot area located on the left side of the Visitor Center entrance directly in front of the flagpole. The designated area will be marked on the sidewalk with painted corners and lines. Solicitors may not leave the designated area to approach visitors or set up tables or displays outside of the designated area.

Organizations soliciting funds must provide a sign indicating the name of the organization conducting the solicitation. Sign letters should be 2" or greater in size.

The remaining area within ¼ mile of the Visitor Center, including the parking lot and all associated trails and facilities, is closed to the solicitation of funds.

3. The Scenic Drive including all pull offs and parking areas, the Red Spring Day Use Area and the "Dedication Site" are closed to the soliciting of funds.

4. This restriction order shall remain in force until such time as the authorized officer determines it should be modified or rescinded.

5. Violations of this order are subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months (43 CFR 8360.0–7).

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 93–10105 Filed 4–29–93; 8:45 am]

BILLING CODE 4310–HC–M

[OR–943–4210–06; GP3–205; OR–48631]

Proposed Withdrawal and Opportunity for Public Meeting; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 258.42 acres of non-Federal lands in Jackson County, which will be acquired through exchange, for protection of the Mariposa Botanical Area and the Lower Table Rock Parking/Staging Area. This notice closes the lands for up to 2 years from surface entry and mining. The lands would be opened to mineral leasing.

DATES: Comments and requests for a public meeting must be received by July 29, 1993.

ADDRESSES: Comments and meeting requests should be sent to the Oregon State Director, BLM, P.O. Box 2965, Portland, Oregon 97208–2965.

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FOR FURTHER INFORMATION CONTACT: Donna Kauffman, BLM, Oregon State Office, 503–280–7162.

SUPPLEMENTARY INFORMATION: On April 5, 1993, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described lands, which will be acquired by the United States, from settlement, sale, location, or entry under the public land laws, including the United States mining laws (30 U.S.C. Ch. 2), subject to valid existing rights:

Williamette Meridian

Tract A, Mariposa Botanical Area

T. 41 S., R. 2 E.,
Sec. 8, those portions of the W½NE¼, NW¼, and N½SW¼ lying westerly of Interstate 5 and excepting lands now owned by the State of Oregon as more particularly identified and described in the official records of the Bureau of Land Management, Oregon State Office.

The area described contains approximately 220.77 acres in Jackson County.

Tract B, Lower Table Rock Parking/Staging Area

T. 36 S., R. 2 W.,
Sec. 4, that portion of the NE¼SW¼ described as follows:

Commencing at ¾-inch iron pipe monumenting the West quarter corner of Sec. 4, T. 36 S., R. 2 W., Thence on a radial line towards the center of a 50.00-foot radius cul-de-sac S. 87°21'03" E., 883.26 feet to a ⅝-inch iron pin located on the arc of said 50.00-foot radius curve; Thence in a Southeasterly counter-clockwise direction along said 50.00-foot radius curve to the left (the long chord to which bears N. 85°33'22" E., 99.24 feet) an arc length of 169.46 feet to a ⅝-inch iron pin; Thence East 277.01 feet to a ⅝-inch iron pin; Thence along the arc of an 80.00-foot radius curve to the right (the long chord to which bears S. 80°54'09" E., 25.30 feet) an arc length of 25.41 feet to a ⅝-inch iron pin being a point of reverse curve; Thence along the arc of a 120.00-foot radius curve to the left (the long chord to which bears S. 80°50'04" E., 37.67 feet) an arc length of 37.82 feet to a ⅝-inch iron pin; Thence S. 89°51'50" E., 35.00 feet to a ⅝-inch iron pin for the point of beginning; Thence continue S. 89°51'50" E., 1,165.88 feet to a ⅝-inch iron pin; Thence S. 00°21'45" E., 65.00 feet to a ⅝-inch iron pin; Thence S. 89°51'50" E., 100.00 feet to a ⅝-inch iron pin; Thence N. 00°21'45" W., 64.00 feet to a ⅝-inch iron pin witness monument; Thence continue N. 00°21'45" W., 1.00 foot; Thence S. 89°51'50" E., 2.00 feet to a point located on the North-South centerline of said Sec. 4; Thence S. 00°21'45" E., along said North-South centerline 1,282.37 feet to a brass cap monumenting the Southeast corner of the N½SW¼ of said Sec. 4; Thence N. 89°49'49" W., along the South boundary of said North half 1,283.37 feet to a point that bears S. 00°28'30" E., from a ⅝-inch iron pin witness monument; Thence leaving said South boundary N. 00°28'30" W., 10.00 feet, more or less, to said ⅝-inch iron pin witness monument; Thence continue N. 00°28'30" W., 1,271.64 feet to the point of beginning. Excepting therefrom the following: Commencing at a ¾-inch iron pipe monumenting the West quarter corner of Sec. 4, T. 36 S., R. 2 W., Thence on a radial line towards the center of a 50.00-foot radius cul-de-sac S. 87°21'03" E., 883.26 feet to a ⅝-inch iron pin located on the arc of said 50.00-foot radius curve; Thence in a Southeasterly, counter-clockwise direction, along said 50.00-foot radius curve to the left (the long chord to which bears N. 85°33'22" E., 99.24 feet), an arc length of 169.46 feet to a ⅝-inch iron pin; Thence East 277.01 feet to a ⅝-inch iron pin; Thence along the arc of an 80.00-foot radius curve to the right (the long chord to which bears S. 80°54'09" E., 25.30 feet) an arc length of 25.41 feet to a ⅝-inch iron pin being a point of reverse curve; Thence along the arc of a 120.00-foot radius curve to the left (the long chord to which bears S. 80°50'04" E., 37.67 feet) an arc length of 37.82 feet to a ⅝-inch iron pin; Thence S. 89°51'50" E., 35.00 feet to a ⅝-inch iron pin; Thence continue S. 89°51'50" E., 1,165.88 feet to a ⅝-inch iron pin and the true point of beginning; Thence S. 00°21'45" E., 65.00 feet to a ⅝-inch iron pin; Thence S. 89°51'50" E., 100.00 feet to a ⅝-inch iron pin; Thence N. 00°21'45" W., 64.00 feet to a ⅝-inch iron pin witness monument; Thence continue N. 00°21'45" W., 1.00 foot; Thence S. 89°51'50" E., 20.00 feet to a point located on the North-South centerline of said Sec. 4; Thence S. 00°21'45" E., 75.00 feet; Thence West 521.3 feet; Thence N. 00°21'45" W., 75.0 feet, more or less, to a point on the South line of Cornerstone Lane (a dedicated way) as shown on Minor Land Partition filed August 8, 1988, in Volume 8, Page 59, of Minor Land Partition Records of Jackson County, Oregon; Thence S. 89°51'50" E., along said South line, 401.3 feet, more or less, to the true point of beginning.

The area described contains approximately 0.76 acre in Jackson County. The areas described aggregate approximately 258.42 acres in Jackson County.

The purpose of the proposed withdrawal is to protect the special botanical area and developed recreational site.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Director at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the State Director at the address indicated above within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. No temporary land uses would be permitted by the authorized officer during the period of temporary segregation because any of these uses would interfere with the management of the parcels for the purposes for which they are being acquired.

Dated: April 21, 1993.

Champ C. Vaughan,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 93–10180 Filed 4–29–93; 8:45 am]

BILLING CODE 4310–33–M

Bureau of Mines

Meeting of the Committee on Mining and Mineral Resources Research

The Advisory Committee on Mining and Mineral Resources Research will meet from 8 a.m. to 5 p.m. (or completion of business) on Thursday, June 10, 1993, in the Randolph Room, Faculty House, Columbia University, New York City, New York. The proposed agenda is:

1. Welcome and introductions.
2. Approval of the minutes of the meeting of July 16, 1992.
3. Review of congressional actions affecting the Mineral Institute Program.
4. Review of funding applications and approval of grant awards.
5. Administrative plan for the next grant award cycle.
6. Presentation of the organization, administration, and activities of the Mine Land Reclamation Center.
7. Review of the activities of the State of New York Mining and Mineral Resources Research Institute.
8. Review of audit results on grants issued to the Universities of Mississippi and Hawaii.
9. Consideration of the application of the University of Hawaii to be designated a Mineral Institute.
10. Discussion of the next Update to the National Plan.
11. New Business.

This meeting is open to the public. Written statements concerning agenda subjects are welcome and should be sent to the Office of Mineral Institutes, Bureau of Mines, Mail Stop 1020, 810 Seventh Street, NW., Washington, DC 20241, telephone 202–501–9295, Internet mininsts@gwuvm.gwu.edu, no later than 4 p.m., Tuesday, June 8, 1993.

Dated: April 26, 1993.

Herman Enzer,

Acting Director.

[FR Doc. 93–10137 Filed 4–29–93; 8:45 am]

BILLING CODE 4310–53–M

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Availability of a Draft Recovery Plan for the Chisos Mountain Hedgehog Cactus for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the Chisos Mountain hedgehog cactus (*Echinocereus chisoensis* var. *chisoensis*) which the Service listed as a threatened species on September 30, 1988 (53 FR 38543). This plant has a very limited distribution in Brewster County, Texas, and may possibly extend into Mexico. All known plants occur on Federal lands. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before June 29, 1993 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 611 E. Sixth Street, room 407, Austin, Texas 78701; Telephone (512) 482–5436. Written comments and materials regarding the plan should be addressed to the State Administrator at the above address. Comments and materials received will be available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kathryn Kennedy, Fish and Wildlife Service Botanist; telephone (512) 482–5436, or at the above address.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened plant or animal to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe site-specific management actions considered necessary for conservation and survival of the species, establish objective, measurable criteria for the recovery levels for downlisting or delisting species, and estimate time and cost for implementing recovery measures needed.

The Endangered Species Act of 1973(Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The Chisos Mountain hedgehog cactus is a threatened species that grows on alluvia flats in Chihuahuan Desert scrub vegetation. All known populations occur on Federal lands. The Chisos Mountain hedgehog cactus is threatened because of illegal collecting activities. Development and maintenance activities on Federal lands could also have a damaging impact. It is possible that past land management practices and changing climatic conditions have caused habitat degradation and loss of habitat and plants. The small population that remains may have low viability and reduced recruitment.

The objective of a recovery plan is to restore the species to the point that its continued existence is no longer threatened and it can be delisted. Delisting criteria are given in the draft recovery plan. Recovery efforts outlined in the recovery plan include site protection, habitat management, public education and information. Other recovery efforts set forth in the plan include establishing a conservation seed bank and cultivated population, conducting research on the biological and ecological requirements of the species, searching for additional populations, examining the feasibility of reintroduction to habitats within the species historic range, and providing protection from harm as provided by the Endangered Species Act.

The Chisos Mountain hedgehog cactus recovery plan has undergone technical review. The plan will be finalized and approved following incorporation of comments and materials received during this comment period.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The Authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: April 26, 1993.

John G. Rogers,

Regional Director.

[FR Doc. 93–10151 Filed 4–29–93; 8:45 am]

BILLING CODE 4310–55–M

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INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-646-649 (Preliminary)]

Steel Wire Rod From Brazil, Canada, Japan, and Trinidad and Tobago

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of preliminary antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-646-649 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil, Canada, Japan, and Trinidad and Tobago of certain steel wire rod,[1] provided for in subheadings 7213.31.30, 7213.31.60, 7213.39.00, 7213.41.30, 7213.41.60, 7213.49.00, 7213.50.00, 7227.20.00, and 7227.90.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by June 7, 1993.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: April 23, 1993.

FOR FURTHER INFORMATION CONTACT: Brad Hudgens (202-205-3189), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on April 23, 1993, by Connecticut Steel Corp., Wallingford, CT; North Star Steel Texas, Inc., Beaumont, TX; Keystone Steel & Wire Corp., Peoria, IL; Raritan River Steel Company, Perth Amboy, NJ (except for the investigation concerning Brazil); and Georgetown Steel Corp., Georgetown, SC.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on May 14, 1993, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Brad Hudgens (202-205-3189) not later than May 11, 1993, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before May 19, 1993, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

Issued: April 26, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93-10155 Filed 4-29-93; 8:45 am]

BILLING CODE 7020-02-P

[1] For purposes of these investigations, steel wire rod is defined as hot-rolled, semifinished steel mill products produced on a rod mill from carbon steel or certain alloy steel, of solid circular cross section, between 5.5 mm (0.20 inch) and 19.0 mm (0.75 inch) in diameter, in irregularly wound coils, and intended for the production of wire and wire products. Steel wire rod of free-machining steel is excluded; i.e., any steel product which contains by weight any of the following elements is not subject to these investigations:

—0.03 percent or more of lead,
—0.05 percent or more of bismuth,
—0.08 percent or more of sulfur,
—more than 0.4 percent of phosphorus,
—more than 0.05 percent of selenium, and/or
—more than 0.01 percent of tellurium.

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: Flynn Ready-Mix Concrete Co., East 12th Street Extension, Dubuque, IA 52001.

2. Wholly owned subsidiaries which will participate in the operations and State(s) of incorporation:

(i) Aggregate Materials Co.—Iowa Corporation
(ii) Century Concrete Co.—Iowa Corporation
(iii) Green Valley Ready-Mix, Inc.—Wisconsin Corporation

B. 1. Parent Corporation: Herman Miller, Inc., 855 East Main Avenue, P.O. Box 302, Zeeland, MI 49464-0302.

2. Wholly-owned subsidiaries:
Miltech/IMT, Incorporated in Michigan
Meridian, Inc., Incorporated in Michigan
Milcare, Inc., Incorporated in Michigan
Phoenix Designs, Inc., Incorporated in Michigan
Powder Coat Technologies, Incorporated in Michigan

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-10188 Filed 4-29-93; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 Sub-No. 342X]

Burlington Northern Railroad Company—Abandonment; Exemption—in Snohomish County, WA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903-10904 the abandonment by Burlington Northern Railroad Company of its 26.66-mile line of railroad between milepost 8.19, at Arlington, and milepost 34.86, at Darrington, in Snohomish County, WA, subject to environmental, public use, interim trail use/rail banking, and standard employee protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on April 30, 1993. Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2)[1] must be filed by May 10, 1993. Petitions to stay must be filed by May 17, 1993. Petitions to reopen must be filed by May 25, 1993. Requests for public use conditions must be filed by May 20, 1993.

ADDRESSES: Send pleadings, referring to Docket No. AB-6 (Sub-No. 342X) to:

(1) Office of the Secretary, Case Control Branch Interstate Commerce Commission, Washington, DC 20423. and

(2) Petitioner's representative: Sarah J. Whitley, 3800 Continental Plaza, 777 Main Street, Ft. Worth, TX 76102.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927-5610. [TDD for hearing impaired: (202) 927-5721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Decided: April 22, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-10190 Filed 4-29-93; 8:45 am]

BILLING CODE 7035-01-P

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[Docket No. AB-6 Sub-No. 345X]

Burlington Northern Railroad Company—Abandonment; Exemption—in Pacific and Lewis Counties, WA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission exempts from the prior approval requirements of 49 U.S.C. 10903-04 the abandonment by Burlington Northern Railroad Company of a 56.35-mile rail line between milepost 0.00, at Chehalis, and milepost 56.35, at South Bend, in Pacific and Lewis Counties, WA, subject to environmental, interim trail use/rail banking, and standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 30, 1993. Formal expressions of intent to file an offer of financial assistance[1] under 49 CFR 1152.27(c)(2) must be filed by May 10, 1993, petitions to stay must be filed by May 17, 1993, and petitions for reconsideration must be filed by May 25, 1993. Requests for public use conditions must be filed by May 20, 1993.

ADDRESSES: Send pleadings referring to Docket No. AB-6 (Sub-No. 345X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Sarah J. Whitley, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 927-5610 [TDD for hearing impaired: (202) 927-5721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Decided: April 23, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-10191 Filed 4-29-93; 8:45 am]

BILLING CODE 7035-01-P

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[Finance Docket Nos. 28905 (Sub-No. 22); 29430 (Sub-No. 20)]

CSX Corp., Control, Chessie System, Inc. and Seaboard Coastline Industries, Inc.; Norfolk Southern Corp., Control, Norfolk and Western Railway Co. and Southern Railway Co. (Arbitration Review)

AGENCY: Interstate Commerce Commission.

ACTION: Request for comments; extension of comment due date.

SUMMARY: By decision served March 31, 1993 (58 FR 16848, March 31, 1993), the Commission granted an extension of the reply comment due date to May 3, 1993. By motion filed April 22, 1993, the Brotherhood Railway Carmen Division of the Transportation Communications International Union, AFL-CIO (Carmen) requests an extension to June 2, 1993, for all parties to file reply comments in this proceeding. Carmen seeks this extension due to scheduling conflicts with other cases. Counsel states it has contacted CSX Transportation, Inc., the Norfolk and Western and Norfolk Southern Railway Companies, the Railway Labor Executives' Association, and American Train Dispatchers' Association and no party has objected to the extension request. The request is reasonable and will be granted.

DATES: Replies are due on June 2, 1993.

ADDRESSES: Send pleadings referring to Finance Docket Nos. 28905 (Sub-No. 22) and 29430 (Sub-No. 20) to: Office of the Secretary, Case Control Branch,

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Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927-5660 (TDD for the hearing impaired: (202) 927-5721).

Decided: April 26, 1993.

By the Commission, Sidney L. Strickland, Jr., Secretary.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-10189 Filed 4-29-93; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32279]

Norfolk and Western Railway Co.—Petition for Declaratory Order—Lease of Line in Cook and Will Counties, IL to Commuter Rail Division of the Regional Transportation Authority of Northeast Illinois; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction to notice of institution of proceeding and request for comments.

SUMMARY: On April 21, 1993, at 58 FR 21475, the Commission published a notice of institution of proceeding and request for comments. The purpose of this notice is to insert nine words that were inadvertently omitted from that notice.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927-5610 (TDD for hearing impaired: (202) 927-5721).

SUPPLEMENTARY INFORMATION: In paragraph 2 of "**SUPPLEMENTARY INFORMATION,**" the first two sentences should read: NW states that, since 1979, it has been providing commuter rail service on the Joint Line for METRA under a Purchase of Service Agreement. Over the years, the suburbs southwest of Chicago, where the Joint Line runs, have grown and commuter service has expanded.

Decided: April 27, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-10187 Filed 4-29-93; 8:45 am]

BILLING CODE 7035-01-M

Motor Passenger Carrier or Water Carrier Finance Applications Under 49 U.S.C. 11343-11344

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties of, or acquire control of motor passenger carriers or water carriers under 49 U.S.C. 11343-11344. The applications are governed by 49 CFR part 1182, as revised in Pur., Merger & Cont.—Motor Passenger & Water Carriers, 5 I.C.C.2d 786 (1989). The findings for these applications are set forth at 49 CFR 1182.18. Persons wishing to oppose an application must follow the rules under 49 CFR part 1182, subpart B. If no one timely opposes the application, this publication automatically will become the final action of the Commission.

MC-F-20317, filed March 29, 1993. John G. Van Der Aa, Terry L. Van Der Aa, and Vancom, Inc.,—Continuance in Control—Vancom-Michigan, Inc., Vancom-Ohio, Inc., Vancom Transportation-Missouri, Inc., ATC/Vancom of Illinois, Inc., d/b/a Huskie Lines, and ATC/Vancom, Inc. Applicants' representative: Arnold L. Burke, 180 N. LaSalle Street, suite 2025, Chicago, IL 60601. Applicants John G. Van Der Aa and Terry L. Van Der Aa, both non-carrier individuals, and Vancom, Inc. (Vancom), a common carrier authorized to transport passengers under MC-163845, seek approval to continue to control Vancom-Michigan, Inc. (MC-256505); Vancom-Ohio, Inc. (MC-257630); Vancom Transportation-Missouri, Inc. (MC-259771); ATC/Vancom of Illinois, Inc., d/b/a Huskie Lines (MC-258853); and ATC/Vancom, Inc. (MC-260911) who have pending initial applications to transport passengers in charter and special operations between points in the United States (except Alaska and Hawaii). The business address of all of the above is One River Place, South Holland, IL 60473.

Messrs Van Der Aa and Vancom also control Indiana Bus Service, Inc., (MC-141600); American Transit Corp., d/b/a Huskie Line (MC-168387); American Transit Corp., d/b/a Valley Coach (MC-205760); Vancom-Illinois, Inc., (MC-167816); Royal American Charter Lines, Inc., (MC-165919); and Vancom-Connecticut, Inc., (MC-219430). These various control relationships previously were exempted by the Commission in Docket Nos. MC-F-14359 and 20086.

Decided: April 27, 1993.

By the Commission, the Motor Carrier Board.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-10353 Filed 4-28-93; 1:06 pm]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Bell Communications Research, Inc.

Notice is hereby given that, on March 8, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") filed a written notification on behalf of Bellcore and American Telephone and Telegraph Company ("AT&T") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Bellcore, Livingston, NJ; and AT&T, Basking Ridge, NJ. Bellcore and AT&T entered into an agreement effective as of December 3, 1992 to engage in cooperative research directed to exploring technologies for interface issues involving video dialtone services, to better understand the application of such technologies for exchange and exchange access services, including prototype fabrication for experimental demonstration of such technologies.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-10179 Filed 4-29-93; 8:45 am]

BILLING CODE 4410-01-M

Foreign Claims Settlement Commission

Claims Against Iran

AGENCY: Foreign Claims Settlement Commission of the United States, Department of Justice.

ACTION: Notice.

SUMMARY: The persons listed in the information section of this notice have claims pending against the Islamic Republic of Iran which are before the Foreign Claims Settlement Commission (FCSC) for adjudication. The claims are among a total of approximately 3,100 claims of under $250,000 which were settled under an agreement between the United States and Iran which took effect on June 22, 1990. However, these claimants have failed to inform the FCSC of their current addresses, and despite its efforts, the FCSC has been unable to locate or contact these claimants. The purpose of this notice is to publicize the names, claim numbers, and last known addresses of these claimants, and to inform them that unless they furnish their current addresses to the FCSC by September 1, 1993 their claims will be dismissed from further consideration.

DATES: The deadline for providing an updated address is September 1, 1993.

FOR FURTHER INFORMATION CONTACT: David E. Bradley, Chief Counsel, Foreign Claims Settlement Commission of the United States, 601 D Street, NW., room 10430, Washington, DC 20579, (202) 208-7730 or FAX (202) 208-2816.

SUPPLEMENTARY INFORMATION: The Foreign Claims Settlement Commission of the United States (FCSC) hereby gives notice that it has been unable to locate the following named claimants, whose last known addresses and claim numbers also appear below, who have claims pending before the FCSC for property and financial losses alleged to have been caused by the Government of Iran. These claims are among the approximately 3,100 claims of under $250,000 each which were settled en bloc under an agreement between the United States and the Government of Iran which took effect on June 22, 1990. *Settlement Agreement in Claims of Less than $250,000, Case No. 86 and Case No. B38,* Award No. 483 (1990). The FCSC has been given authority to adjudicate the claims under Title V of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Pub. L. 99-93, approved August 16, 1985, 99 Stat. 437 (50 U.S.C. 1701 note)).

Further, the FCSC hereby gives notice to each of these claimants that it will dismiss their claims from further consideration, regardless of their potential validity, unless it receives notification of the claimant's current address on or before the deadline of September 1, 1993.

Dated at Washington, DC, on April 26, 1993.

James H. Grossman,

Chairman.

Name and last known address	Bad addresses claim No. IR-
A. Peltz & Sons, 1373 Broad Street, Clifton, NJ 07013	1951
A.R. Wood Manufacturing Co., P.O. Box 218, Luverne, MN 56156	1156
Abex Corporation, J. Borton, 530 Fifth Avenue, New York, NY 10036	0608
Abram, Clarke H., 820 E. Cady, #202A, Everett, WA 98203	0929
Alderson Laboratories International, E.J. Semerjian, P.O. Box 1271, Stamford, CT 06904	2348
Allen, Ulysses, 25116 Sleepyhollow Terrace, El Toro, CA 92630	1510
Allen, George, 309 B Harper, Palmetto, GA 30268	2390
American Union Transport Limited, One Harding Road, Red Bank, NJ 07701	0821
AMF, Incorporated, J. Clyde, P.O. Box 4455, Stamford, CT 06907	2632
Anderson, Sheila L., c/o Aramco, P.O. 30, Vdhalliyah, Dhahran, Saudi Arabia	0968
Anderson, Juanita M., 429 Green Tree Circle, Columbia, SC 29203	3012
Andriella, Elizabeth, 2613 W. 24th Terrace, Lawrence, KS 66044	0548
Andriella, Steven, 2613 W. 24th Terrace, Lawrence, KS 66044	0548
Anglo American Aviation Co., 10929 Vanowen Street, North Hollywood, CA 91605	1474
Arthur Tickle Engineering Works, Inc., P. Averill, 26 Delevan Street, Brooklyn, NY 11231	0368
Autodynmics, Inc., R. Kinkade, 1115 Green Grove Road, Neptune, NJ 07753	1373
Avey, William M., 1386 South Hale Avenue, Escondido, CA 92025	3021
Aviquipo, Inc., 165 Chubb Avenue, Lyndhurst, NJ 07021	1885
Bacon, Thomas E., 401 Simmons, #18, Euless, TX 76040	3174
Bagdadipour, Iraj, P.O. Box 2177, Canoga Park, CA 91306	1734
Baker, Herbert D., 12241 Arrowhead, Stanton, CA 90680	0894
Balta, Deniz J., c/o MDS, APO, New York 09616	2966
Balta, Randi L., c/o MDS, APO, New York 09616	2966
Barfield, Harold O., USAF RAO 3rd CSG/CDR, APO, SF 96274	2947
Barnett, Dondan D., HBH Company, Box R, NFS-R & D-Jubail, APO, New York 09616	2810
Bates, Larry, 3929 Overland, Suite 856, Boise, ID 83705	2019
Beers, Ardis, 2724 Las Posas, Camarillo, CA 93010	1446
Beers, Raymond James, 2517 Yucca Drive, Camarillo, CA 93010	1447
Beiser, Michael W., P.O. Box 30044, Suite 217, Reno, NV 89550	2359
Benson, Robert V., 24500 Russel Road, #37, Kent, WA 98031	2008
Berry, Kellie A.W., 12509 Central Road, Apple Valley, CA 92307	2935
Berry, Jr., Richard A., 12509 Central Road, Apple Valley, CA 92307	2934
Bethea, Leroy H., 1222 Park Western Drive, #1, San Pedro, CA 90732	3062
Bex, Joseph W., 360 College Avenue, #9, Palo Alto, CA 94301	1267
Black, Robert Howard, 48-288 Disney Drive, Indio, CA 92201	1778
Blake, Shanroy L., 8149 Delridge Way, S.W., Seattle, WA 98106	1148
Bonner, Weldon R., Dallah-Avco (Logistics), P.O. Box 430, Jeddah, Saudi Arabia	2831
Booth, Floyd Richard, 245 N.W. 7th Avenue, Homestead, FL 33030	2873
Boudreaux, Robert J., 1960 Loma Nista, Riverside, CA 92507	2880
Bradley, Raymon, 13407 Mike Drive, Tampa, FL 33617	2366
Brennan, John J., 16822 SW 107th Place, Miami, FL 33157	1145
Briggs, Janet, 340 Highland Avenue, #1, Santa Cruz, CA 95060	0823
Brower, Rickey G., 106 August Drive, Lafayette, LA 70506	2293
Brown, Allen, 123 W. 111th Street, New York, NY 10026	2329
Broyles, David Lee, Northrop Corp. Box 239, APO New York, NY 09616	1900
Brunner, George F., 5810 Lake Bluff, San Antonio, TX 78222	2035
Brunner, Showkat S., 5810 Lake Bluff, San Antonio, TX 78222	2035
Burke, Michael F., 532 Hampton, Toledo, OH 43609	2047
Butler, David W., 7037 Dalview Drive, N. Richand Hills, TX 76180	1962

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Name and last known address	Bad addresses claim No. IR-
C & T Commodities of America, Inc., 295 Madison Avenue, New York, NY 10017	1780
Campbell, Roberta, 63900 Scenic Drive, Bend, OR 97701–8903	1359
Campbell, Jr., Lannie E., 1301 Granada Avenue, Long Beach, CA 90804	2829
Caplinger, Wesley A., 1047 S. Madison, Pasadena, CA 91106	0680
Carey, Charlie J., Juamathel, Box 3174, APO San Francisco, 96346	2325
Carpenter, Richard D., 408 St. Dunston Court, Tallahassee, FL 32312	1763
Carr, William E., 657 S. Main Street, Shrewsbury, PA 17361	1419
Carroll, Sue E.G., 757 Ledyard Place, Montgomery, AL 36109	0411
Carroll, Jr., Ralph H., 434 Truman Street, Arington, TX 76010	2170
Carter, M.A., c/o D. Woosley, P.O. Box 1431, Duncan, OK 73536	1619
Carter, Royce P., 2006 Duncan Perry Road, Grand Prairie, TX 75050	3129
Cartwright, George C., 612 Reveille Road, Fort Worth, TX 76108	1982
Carver, Jeffrey, 5829 Trigg Drive, Ft. Worth, TX 76114	1361
Cary, Don W., 111 Woodlawn, Dollard Des Ormeaux, Quebec, Canada H9A124	1204
Castiglione, Joseph N., 1101B Avalon Drive, El Paso, TX 79925	2819
Castillo, William, c/o A. Castillo, 211 Liberty St., #4, San Fransco, CA 90720	1643
Chambers, John, 6224 Skylark Lane, Watauga, TX 76148	1930
Childs, Robert S., Schwarzer Weg 4, 6100 Darmstadt, West Germany	0061
Childs, Louisa, 2507 S. 286th Street, #308C, Federal Way, WA 98003	2875
Childs, Gary A., 2507 S. 286th Street, #308C, Federal Way, WA 98003	2876
Cirirelli, Rubino A., 440 Carlisle Street, Gettysburg, PA 17325	1652
Clayton, Pikool, P.O. Box H, APO New York, NY 09697	2854
Coen, James L., 10530 56th Avenue, N.E., Marysville, WA 98270	1002
Coleman, Larry G., 11624 Sagamore Drive, Yukon, OK 73099	2017
Coleman, James O., 2460 Sweetwood Drive, Fort Worth, TX 76131	2040
Colina, Tomas Antonio, 5902 S.W. 137th Avenue, Miami, FL 33183	2864
Conley, Nathaniel, 3836 North U.S. 1, Cocoa, FL 32926	2168
Connell, Richard F., 3825 LaJara, Long Beach, CA 90805	3019
Conner, Richard T., 365 A West School Street, Dugway, UT 84022	2064
Connolly, Mark D., P.O. Box 4165, Wilmington, NC 28406	0288
Cook, Ennis E., 351 E. Bradley, Space 52, El Cajon, CA 92021	2989
Coonrod, Gary R., Route 1, Box 50, Hollywood, CA 20636	0920
Cooper, Jason B., Bellevue Pk, Suite 101, 812 100th Ave., Bellevue, WA 98004	1302
Cooper, Thomas W., 1666 W. Iowa, Costa Mesa, CA 92626	2337
Cooper Vision, Inc., 1902 McGaw Avenue, Irvine, CA 92714	2594
Corey, Jon M., Battelle-Pacific NW Laboratories, Richland, WA 99352	2217
Cornett, Robert E., 114 23rd Street, #C, San Pedro, CA 90731	2917
Coyne, Timothy M., P.O. Box 9672, Ft. Wayne, IN 46899	3136
Cragard Industrial Corp., 321 W. 130th Street, Los Angeles, CA 90061	2541
Crass, Robert L., PSC Box 253, APO, NY 09254	0631
Crawford, Craig, P.O. Box 106, Maury, NC 28554	1798
Cristadoro, Kim A., 12607 116th Place, N.E., Kirland, WA 98034	0733
Crump, Preston, 915 27th Street, Kenner, LA 70063	2178
Cryomedics Int'l. Sales Co., Inc., 500 Bostwick Avenue, Bridgeport, CT 06605	1144
Daftarian, Arezu, 606 Willowgreen Drive, Houston, TX 77024	0601
Daniels, Kenneth R., P.O. Box R, APO New York, 09697	1770
Darque, Herbert A., 79 Monarch Avenue, West Babylon, NY 11704	2242
Daugherty, Olen D., 3825 La Jara Street, Long Beach, CA 90805	2859
Davis, Laurene D., 4024 Kenwood Drive, Spring Valley, CA 92077	2059
DeJban, Saeed, American Embassy, Box M, APO New York, 09794	2210
Dekle, Thomas A., P.O. Box 1073, Destin, FL 32541	1349
DeLoach, Arthur F., 272 Midwick Avenue, Milpitas, CA 95035	2327
Delta International, Inc., P.O. Box 36255, 7400 Harwin Drive, Houston, TX 77036	1139
Denny, Paul R., 38744 9th Street, E., Palmdale, CA 93550	3088
Dickerson, Anthony C., P.O. Box 223, Lawai, HI	2520
Dickerson, Jerry L., 2924 South 256, Kent, WA 98031	1003
Dolstein, David L., 608 Murray Road, Lee's Summit, MO 64063	2156
Dominguez, Romeo E., 70 Harlan Avenue, #107, San Leandro, CA 94577	2539
Downs, Leo T., 10844 Tonibar Street, Norwalk, CA 90650	0655
Duck, John W., c/o D. Woosley, P.O. Box 1431, Duncan, OK 73536	1690
Dunbar, Robert J., Echo Bay resort, Overton, NV 89040	1726
Earle, Delbert L., 401 Lake Avenue West, Kirkland, WA 98033	0800
Eckels, Shirley, 309 Greenwich Avenue, #307–C, Warwick, RI 02886	1174
Edwards, Robert J., 13425 Southwest Berthold, Beaverton, OR 97005	2089
Emergy Management Corp., 5800 Musgrove Street, Philadelphia, PA 19144	0481
Erenberg, William B. 83 NW., 11th Street, #1, Homestead, FL	2828
Erickson, Glen A., 11672 Floyd Childs Court, El Paso, TX 79936	2155
Eriksen, Donald, 166 Hendrickson Avenue, North Merrick, NY 11566	2025
Ertec Western, 3777 Long Beach Blvd., Long Beach, CA 90807	1501
Evans, Raymond Earl, Route 1, Box 123B, Schell City, MO 64783	2666
Exploration Logging, Inc., D.A. Long, P.O. Box 214676, Sacramento, CA 95821	2413

Name and last known address	Bad addresses claim No. IR-
Faberge Incorporated, S. Frederick, 1345 Avenue of the Americas, New York, NY 10019	1280
Farahani, Perry, c/o G. Driscoll, P.O. Box 1406, Campbell, CA 95009	1592
Faust, Lamar R., 1327 East Rosewood Street, Colton, CA 92324	2879
Fernandez, Jr., Fernando, c/o McDonnell Douglass Service, APO, New York 09017	3046
Flight Products International, Inc., C. Butcher, 13259 Sherman Way, North Hollywood, CA 91605	0048
Flow-Quip, Inc., 5902 Sovereign Drive, Houston, TX 77036	2881
Forte, Samuel George, 5919 McDuff Drive, Dayton, OH 45426	3102
Fox, Joseph A., 2441 W. 205H Street, #105, Torrance, CA 90501–1463	0432
Francis, Raleigh S., P.O. Box 754, Newark, TX 76071	3176
Frary, Darrell V., 2293 Olive Avenue, Fremont, CA 94539	1846
Frazier, Gary R., P.O. Box 504 Andrews, NC 28901	2018
French, James L., 24 Colonial Drive, Prospect, Ct 06712	2427
Friberg, Christy J., c/o J.A. Friberg, 16 Gladstone Street, Squantum, MA 02109	1312
Friske, Elmer W., 225 Bush Street, San Francisco, CA 94104	0740
Fuehrer, John H., 3027 204th Street, SW., Lynwood, WA 98036	0786
Galitski, Frank, 4005 Montague Drive, Amarillo, TX 79109	2250
Gallaher, Carl F., 2442 Myrtle Avenue, Las Vegas, NV 89102	0444
Gardner, Robert A., 10840 E. Apache Trail, #50, Apache Junction, AZ 85217	0726
Gibbons, Rose Marie, 2850 Ranch House Road, West Palm Beach, FL 33406	2176
Gibbons, Willard R., 2850 Ranch House Road, West Palm Beach, FL 33406	2175
Gilchrist, John D., 9335 Schuoye Drive, Tipp City, OH 45371	3096
Girard, William G., 220 Holmes Blvd., Gretna, LA 70053	1963
Glass, Philip H., Route 2, Box 382, Bay Saint Louis, MS 39520	2171
Glenn, Austin W., 12416 211th Avenue East, Sumner, WA 98390	1956
Goodwin, Marianne, 28739 Timberlane Drive, Agoura, CA 91301	1107
Goold, John F., P.O. Box 976, Renton, WA 98055	0278
Gordon, Wilton, 7306 Calumet, Amarillo, TX 79121	2113
Grabski, John Roy, P.O. Box 59, Taif, Saudi Arabia	3037
Graham, Herman B., 606 Crane Drive, Euless, TX 76039	3178
Grey, Edward J., 3516 Range Line, #18, The Arches, Joplin, MO 64801	2949
Guy, Douglas B., P.O. Box 945, Doylestown, PA 18901	0223
Haddock, Jessie R., 313 East Madison Avenue, Cape Canaveral, FL 32920	1168
Hamilton, Ernest, 340 Highland Avenue, #1, Santa Cruz, CA 95060	0823
Hammerle, Curtis E., 1306 San Saba North, Grand Prairie, TX 75051	1456
Hanks, E.H., Transcona, Raemoir Road, Banchory, Scotland AB3 3ER	1367
Hardy, Humphrey, 3624 Winner Drive, Las Vegas, NV 89120	2641
Harig, Richard E., P.O. Box 976, Renton, WA 98055	0682
Harris, Peter, 716 Tinkerbell Road, Chapel Hill, NC 27514	1255
Harris, Robert A., 214 Morgan Lane, Enterprise, AL 36330	2057
Hauch, Steven J., 516 E. Brasted Place, Waukesha, WI 53186	2993
Hayes, Herman G., PSC Box 9118, APO New York, 09012	1167
Heisig, Doris A., P.O. Box 1949, Main Post Office, Al Khobar, Saudi Arabia	2511
Heisig, Meyer N., P.O. Box 1949, Main Post Office, Al Khobar, Saudi Arabia	2511
Henry, Gregory, 780 Elm Street, San Jose, CA 95126	1901
Highley, Susan C., 211 Bloomingfield Drive, Brandon, FL 33511	1254
Hightower, Larry, 7055 Almond Avenue, Orangevale, CA 95662	0345
Hlywa, Nicholas George, 1656 Biarritz Drive, Miami Beach, FL 33111	0363
Hodge, Phillip E., Laisg Saudi Admin., APO New York, NY 09038	2449
Hoffmann, Norman E.	2230
Hoover, Richard J., 3161 Ala Ilima, #606, Honolulu, HI 96819	1567
Howard, Kelly, 5219 Prairie Creek Drive, Flower Mount, TX 75028	1931
Hughes, Stephen R., 697 Mary Street, Redding, CA 96001	2813
Huntington, III, Arthur L., 3941 Gannett, #2, Casper, WY 82609	3069
Hurley, Mourness, 18631 Warren Avenue, Tustin, CA 92680	2882
Iglesias, Pedro L.G., 3126 Salta Street, Santa Ana, CA 92704	3148
Int'l Customs Service, Inc., 175–11 148th Avenue, Jamaica, NY 11434	0469
Interroyal Hospital Supply Corp., S. Sica, Esq., Interroyal Corp., One Park Avenue, New York, NY 10016	2627
Isaacks, Carl R., Route 7, Box 300, McKinney, TX 75069	1914
Ivy, John F., 3726 Harris, Corpus Christi, TX 78411	3112
Jackson, Frederick H., 386 Cecilia Way, Tiburon, CA 94920	2922
Janeczko, Lorraine L., 66 South Main Street, Middleport, NY 14105	3194
Javan, S. Nooshin, 1605 Treboy Avenue, Richmond, VA 23226	3137
Jay, Richard B., KANB–NFS, HBH Jabail, APO New York, New York 09616	2681
Jennings, Ross Dickenson, Aramco, Box 267, Abqaiq Dhahran, Saudi Arabia	1750
Jennings, Linda, ARAMCO, Abqaig, Dhahran, Saudi Arabia	1751
Johnson, Patrick C., 639 Rollins, #1, Burlingame, CA 94010	2421
Johnson, Michael E., c/o PT/RMI–DURI, 541 Orchard Rd., #1602 Liat Towers, Singapore 0923	2786
Jones, Kenneth Robert, P.O. Box R–1558, APO New York, 09616	1777
Just, Richard, 399 West 1500 South, Provo, UT 84601	3020
Kardos, Joseph M., 40 Old Boston Post Road, Old Saybrook, CT 06475	0715
Kardos, Jeanne F., 40 Old Boston Post Road, Old Saybrook, CT 06475	0715

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Name and last known address	Bad addresses claim No. IR–
Keijser, Hans, 4858 North Rio Hondo Avenue, Temple City, CA 91780	1663
Keller, Murray, 2950 S. Decatur, #F–4, Las Vegas, NV 89102	0699
Kelton, Charles R., HBH Company Box R, NFS Supply, APO New York, 09616	2722
Kennco Supply, Inc., J. M. Wyar, 2431 East 167th Street, Hammond, IN 46323	1262
Kennedy, Wanda Judy, 7121 Lancashire Drive, N. Richland Hills, TX 76180	2805
Kennedy, Thomas M., 110 Pine Lake Drive, Milton, FL	2848
Kiester Int'l. Petroleum Operations, 10575 Katy Freeway, Ste. 202, Houston, TX 77024	2275
Kilcrease, James W., 2460 74th Avenue, S.E., #8, Mercier Island, WA 98040	1335
King, Willis, Box 206, Northrop, APO New York, NY 09697	2892
King-Wilkinson, Inc., 5718 Westheimer, Suite 2000, Houston, TX 77057	2408
Kirk, Wiggo, F.C., USAF/RAO 3rd CSG/CDR, APO, SF 96274	2946
Kirschner, Andrew M., P.O. Box 14227, San Luis Obispo, CA 93406–4227	3128
Knight, Edward Cruz, 126 C Moss Avenue, Oakland, CA 94611	1188
Knight, Jr., Columbus, 1400 W. Adams Street, Enterprise, AL 36330	0690
Knox, William R., Route 8, Air Acres Way, Woodstock, GA 30188	1908
Knox, Robert Walton, Saudi Arabian Airlines, P.O. Box 167, Jeddah, Saudi Arabia	1893
Kratz, Preston G., HBH Company, Material Dept., APO, New York 09697	2357
Kuchinski, Lynn M., Schwarzer Weg 4, 6100 Darmstadt, West Germany,	0075
Kuehne & Nagel, Inc., N. Yuret, 2420 East Oakton Street, Arlington Heights, IL 60005	3067
Kunkel, Barney, 739 S. Armour, Wichita, KS 67207	1971
Labels Unlimited, Inc., C. MacDonald, 4111 Lindberg Drive, Addison, TX 75244	1401
Latavitz, Edward, 1127 Pittsfield Lane, Venture, CA 93001	2302
Leblanc, Allen, 612 East Elaine Street, Abbeville, LA 70510–3527	2283
Leesona Corporation, H. Nelson, Credit Analyst, Warwick, RI 02887	1182
Lemco Engineers, Inc., D. Young, 777 Craig Road, St. Louis, MO 63141	0533
Lesnak, William John, P.O. Box 1949, Al Khobar, Saudi Arabia,	2231
Liberty, James D., 11625 West Parkway, Detroit, MI 48239	2996
Lingefelt, Barbara J., 555 Ginuado Drive, San Jose, CA 95111	3003
Liston, John D., P.O. Box 15281, Boise, ID 83715	2107
Lowery, Lonnie, HBH Co. Box R, SSSRC, APO New York, NY 09616	0256
Lukens, Lois, 1344 Pagewood Avenue, Odessa, TX 79761	0743
Luning, Alfred, 5429 Parker Henderson, Ft. Worth, TX 76119	2891
Lupton, George E., 1003 Westminister Lane, Mansfield, TX 76063	2029
Mancill, Marvin S., 313 Stratford Drive, Hurst, TX 76054	2393
Manners, Robert L., 108 Willow Place North, Broomfield, CO 80020	3050
Manners, Livia, 108 Willow Place North, Broomfield, CO 80020	2999
Marcott, Jacqueline Rae, 5039 N. 57th Avenue, #238, Glendale, AZ 85301	0749
Marine Tabacco Co., 48–43 32nd Place, Long Island City, NY 11401	0629
Marr, Kenneth R., Bvelenweg 9, 8820 Wadenswil, Switzerland,	0340
Marshall, John T., 10111 Bissonnett, #155, Houston, TX 77036	2262
Martin, August E., Route 6, Box 225F, Palestine, TX 75801	2105
Martin, Aneika, c/o M. Martirossian, Burton Oaks Drive, Grapevine, TX 76051	2665
Matthews, Ronald R., 3815 Winona Avenue, San Diego, CA 92105	3045
Maupin, Fred H., 630 Lisbon, Rio Rancho, NM 87124	1870
Maurer, Alice M., 410 W. Polk, Colorado Spring, CO 80907	2888
McBride, DAvid H., 53 Aldworth Street, Jamaica Plain, MA 02130	3139
McColl, Richard T., 6761 Jasper, Alta Loma, CA 91701	0097
McColl, Kathlyn, 6761 Jasper, Alta Loma, CA 91701	0097
McComb, Larry J., 4871 Castle Lance, San Antonio, TX 78218	2480
McDade, Calvin, 30001 Pheasant Run Road, Box 170, Norman, OK 73069	2467
McDougal, Lowell J., P.O. Box 1374, Oak Ridge, TN 37831	0165
McGahagan, Thomas Aruthur, 340–B Hackett Blvd., Albany, NY	0737
McGahagan, Joanne Aboud, 340–B Hackett Blvd., Albany, NY	0736
McGraw, John M., 3236 Strevel Way, Sacramento, CA 95825	2201
McLaughlin, Kevin L., 18504 Hwy. 9, Snohomish, WA 98290	1926
McNeill, Bruce D., 328 Clarksley Road, Manitou Springs, CO 80829	2751
Meighan, Thomas F., 2007 Curtis Avenue, Redondo Beach, CA 90278	1681
Metcalf, Robert E., 14431 S.E. 194th Street, Renton, WA 98055	2587
Miller, Richard, 1113 South 2nd Street, Hamilton, MT 59840	2890
Mininsohn, Irven, HHB 3/71 ADA, APO New York, 09154	1119
Mitchell, Chester F., 6156 Elva Place, Woodland Hills, CA 91367–1232	1672
Montgomery, George K., 5578 S. Mosley Court, Wichita, KS 67216	2727
Montoya, Florentino F., P.O. Box 1958, APO, NY 09660	2331
Moore, Jr., Eugene F., 16215 Spinnaker, Crosby, TX 77532	1702
Moreland, James H., 5512 Midway Road, Ft. Worth, TX 76117	3179
Morgan, Michael B., 4011 Bayou Grove Drive, Seabrook, TX 77586	2972
Moulton, William Francis, c/o McDonnell Douglas Avenue, Box R–24, APO, New York 09616	3041
Mulford, Gerard M., 839 Teresi Court, San Jose, CA 95117	0946
Mullens, Joe R., Box R, Northrop 874, APO New York, 09858	2505
Mullet, Nicholas J., Hoisting Exploration Helicopters, PO 351, Bountiful, UT 84010	251.
Mulvany, Michael W., 433 Arlington Drive, Lake Charles, LA 70605	2026

Name and last known address	Bad addresses claim No. IR–
Myers, Charles E., 730 Martin Street, Roseville, CA 95678	1793
Myers, Debora Pandis, 5309 Oregon Trail, Amarillo, TX 79109	2843
Nationwide Industrial Co., 238–19 Braddock Avenue, Belle Roe, BT6 11426	1023
Nelson, Robert K., 1229 Falster Road, Alexander, VA 22308	0834
Neptune Microfloc, Inc., P.O. Box 612, Corvallis, OR 97330	0348
Newstead, James R., 7708 Briarridge Court, Ft. Worth, TX 76180	0293
Norman, Kenneth E., Mobile Oil Indonesia, P.O. Box 25, Republic Singapore, 9122	1679
Nourani, Zeba, c/o Shammas, 1620 S. Ocean Blvd., #33J, Pompano Beach, FL 33062	2228
NRM Corporation, 180 South Avenue, Tallmadge, OH 44278	0859
Nury, F.S., 5891 East Clubview Drive, Fresno, CA 93727	2849
O'Brien, Patrick J., 3939 Kenwood Drive, Spring Valley, NJ 92077	2339
O'Neill, Matthew Leo, 1016 Adams Avenue, #3D, Salisbury, MD 21801	2874
Ogles, Jerry L., 107 Weeks Drive, Enterprise, AL 36330	2051
Olivas, Hien Thi, 3032 South Tower Road, Tucson, AZ 85713	2814
Olsen, Barry E., 7003 E. Amarillo Blvd., Lot 45, Amarillo, TX 79107	2190
Oriole, Thomas J., 10777 Rose Avenue, #22, West Los Angeles, CA 90034	2928
Ormsbee, Harold J., 7302 Diamond Ridge, Corpus Christi, TX 78413	2108
Pangilinan-White, Nilda G., 1671 Ontario Drive, #2, Sunnyvale, CA 94087	2836
Parra, Jr., George E., 2400 James Avenue, Yuma, AZ 85365	2212
Parrish, Walter M., 3724 Wayland, Fort Worth, TX 76133	1952
Patterson, Robert M., Route No. 2, Wilburn Drive, Powder Springs, GA 30073	1993
Pavlock, August T., 113 Nashua Road, Windham NH 03087	2148
Penrod, Loretta A., 101 W. Washington Street, Montpelier, OH 43543	2866
Penrod, Denver L., 121 East Baubice, Pioneer, OH 43554	2868
Pinner, Carol V., 715 Northwest 96 Terrace, Gainesville, FL 32601	2095
Piper, Patti L., 150 S. Washington, #302, Denver, CO 80209	0695
Plattel, Jr., Walter R., 2940 Millspark Drive, Ranch Cordova, CA 95670	2808
Pit Engineering, Inc., P.O. Box 22029, Houston, TX 77027	2512
Pope, Donald McLain, 28739 Timberlane Drive, Agoura, CA 91301	1106
Poplin, Jerry V., c/o Louise Poplin, 3729 Glenmont Drive, Bedford, TX 76021	1922
Powell, Robert L., 89 Shafer Drive, #5, Fairbanks, FL 99701	2525
Priest, Alan I., 5400 Orange Avenue, Suite 110, Cypress, CA 90630	1206
Provost, Thomas, 8545 Langdon Avenue, Sepulveda, CA 91343	1160
Pugh, Walter Jr., 2815 W. Atlanta Place, Broken Arrow, OK 74012–0927	1973
Rahbar, Randy L., 1510 H Street, N.W., Washington, DC 20005	2378
Rahimiau, Bonnie, 5535 Michele Court, Gilroy, CA 95020	1031
Rainbolt, Wendell O., 2415 Madera Circle, #15, Port Hueneme, CA 93041	3001
Rakestraw, Leland D., HBH Company, APO New York, NY 09697	2564
Rappatone, Albert J., 1230 28th Street, N.W., Washington, DC 20007	1903
Rauh, Donald M., Pineview, 103 Ashley Rd., Walton-on-Thames, Surrey England	1910
Reed, Harry, 475 Joann Circle, Greenville, MS 38701	0120
Republic Sales Co., S. Rifkin, 2021 S. Wabash, Chicago, IL 60616	3134
Revere Copper & Brass, Inc., F. Hart, 605 Third Avenue, New York, NY 10158	3115
Rezek, Lacy, P.O. Box 129, Dhahran Airport, Saudi Arabia,	2944
Rezek, Donald, P.O. Box 129, Dhahran Airport, Saudi Arabia,	2945
Rhemann, John F., Northrop, Box R351, APO, New York 09017	2959
Riseling, William, 2791 McBride Lane, #124, Santa Rosa, CA 95401	1703
Rivers, Harold H., PSC 583 Box R, APO New York, 09697	2005
Robinson, Jr., Edgar T., 202 Chamberland Court, Arlington, TX 76014	1881
Roemer, David L., Gensplit Finance Corp., P.O. Box 1086, Sheboygan, WI 53081	0149
Roselle, Michael, 4603 Center Avenue, Norco, CA 91760	1502
Rowland, William E., 7005 Crestmont, Oklahoma City, OK 73132	2007
Roy, Gladys M., 1146 S. Turo Avenue, Inglewood, CA 90301	0160
Russell, Donald M., Route 4, Box 433–89, Lexington Park, MD 20653	1374
Russo, Frank L., P.O. Box 21, Pelham, AL 35124	2521
Sandifer, Jerry K., 6909 None Oak Road, Austin, TX 78749	1287
Sanei, Linda, 6611 245th Street, West, Farmington, MN 55024	2680
Sarkisian, ARA, Hughes Aircraft Int'l Service Co., 1160 Bruxelles, Belgium	1249
Sassani, Abul, 7037 Strathmore Street, #4, Chevy Chase, MD 20814	3066
Schlapfer, William, 2 Route De Gourdon, 06620 Bar Sur Loup, France	1830
Schlotzhauer, Dale C., 4217 15th Street, NW., Puyallup, WA 98371	0377
Scruggs, Jere H., Route 3, Box 145, Gulfport, MS 37503	1909
Shabahangi, Mehdi, 99 Lyford Drive, #39, Tiburon, CA 94920	2784
Shammas, Nabil, 1620 S. Ocean Blvd., #3J, Pompano Beach, FL 33062	1693
Shawbell, Lewis R, 810 Jefferson Avenue, Chula Vista, CA 92011	2188
Showrai, Atiyek D., Golestan Farm, 2800 Ontiveros Road, Santa Ynez, CA 93460	3031
Simax Stationery Company, Inc., E. Saunders, 320 E. 45th Street, New York, NY 10017	2735
Simmons, James C., P.O. Box 407, Morrisville, NC 27560	2033
Simmons, Billie C., P.O. Box 407, Morrisville, NC 27560	2033
Sisemore, Robert D., 2242 Galahad Road, San Diego, CA 92123	0829
Skinner, Charles G.M., 1455 Babcock Road, Colorado Springs, CO 80915	1936

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Name and last known address	Bad addresses claim No. IR–
Slade, Richard, P.O. Box 25984, Oklahoma City, OK 73125	2907
Smith, Stephen R., 2008 N. 68th Place, Scottsdale, AZ 85257	2167
Smith, Mark R., 6748 East Road, Jacksonville, FL	2352
Smith, Jerry L., 3905 Northeast 33rd, Amarillo, TX 79107	2044
Sokoff, Thomas D., 1928 Eagle Lake Court, Martinez, CA 94553	2484
Sotelo, William H., 1380 Christi Drive, Vista, CA 92083	0250
Speight, Jr., Haywood, 3206 S. Mann Avenue, Tucson, AZ 85730	0201
Sprinkle, James E., 473 Second Avenue, Yuma, AZ 85364	2800
Standridge, Vernon D., 11843 Eucalyptus Avenue, #H, Hawthorne, CA 90250	0376
Stephens, Michele Y., Route 1, Box 182, B2, St. Martinsville, LA 70582	3095
Stephens, Donald G., Route 1, Box 182, #B2, St. Martinsville, LA 70582	3094
Strickland, William G., 29001 Catherwood Court, Agoura Hills, CA 91301	1375
Styles, Ken, 520 Del Monte Avenue, Capitola, CA 95010	1183
Tatton, Michael C., 1815 Deercrossing, Flagstaff, AZ 86001	2459
Taylor, Abraham E., c/o ARAMCO, P.O. Box 767, Abquiq Via Dhahran, Saudi Arabia	1821
Terrel, Richard S., 234 Euclid Avenue, Long Beach, CA 90803	2251
Thomas, Philip G., Squibb Middle East & Africa, P.O. Box 3334, Athens, Greece	2270
Thomas, Carol Boyce, P.O. Box 1738, Ogden, UT 84402–1738	1058
Thomason, Mark, P.O. Box 1876, Provo, UT 84601	2517
Thomason, Zhana, P.O. Box 1876, Provo, UT 84601	2517
Toon, Jr., Hilary Eston, Robinhood Park, James Canyon, Mayhill, NM 88339	1978
Triangle Trucking Co., 320 North Point Road, Baltimore, MD 21224	0211
Trupe, Allen F., c/o General Delivery, APO, New York 09616	2938
Turcza, Mary Anne, 2908 Ridgewood Drive, Hurst, TX 76053	0696
V.A.F. Electronic Design Company, 21–65D N. Central Road, Ft. Lee, NJ 07024	3181
Vann, James Emmet, Box 59, Augusta International, Taif, Saudi Arabia	1706
Vaughn, David B., 2816 Phipps Avenue, Willow Grove, PA 19090	2546
Vaughn, Sally G., 2816 Phipps Avenue, Willow Grove, PA 19090	2547
Villarreal, Hector L., P.O. Box 167, cc 905, Jeddah, Saudi Arabia	1701
Vogel, Norman D., 3105 B-West 11th, Amarillo, TX 79102	2249
Wagner, Robert H., 10326 West Thomas Road, Tolleson, AZ 85353	2995
Wagoner, Raymond W., 2822 S.W. Thistle, Seattle, WA 98101	1293
Wallace, Jesse Gale, 8016 Terrace Road, Minneapolis, MN 55432	1724
Weber, Adolfo L., 1737 N. Sycamore Avenue, Hollywood, CA 90028	0994
Weber, Frances, Daycroft, Rock Ridge, Greenwich, CT 06830	1414
Webster, Eugene, 11520 S. Prairie Avenue, Hawthorne, CA 90250	2838
Weed, Jr., Willie H., 821 Sussex Place, Vandalia, OH 45377	3103
Weeks, Bruce, 2319 North 45th, Suite 217, Seattle, WA 98103	1483
Welliver, Richard Allen, 825 West 4250 South, Riverdale, UT 84405	1850
West Coast of India & Pakistan, C. Fischer, 19 Rector Street, Room 1203, New York, NY 10006	0781
Whisenhunt, John C., 5232 overridge Drive, Arlington, TX 76017	2303
Wilder, James D., 2300 Edenborn Avenue, Metairie, LA 70001	2060
Williams, Gene, 212 Village Lane, Lafayette, LA 70506	2298
Williams, Wilbur W., 3030 E. Broadway Road, #212, Mesa, AZ 85204	1988
Williams, Gene Charles, 900 Panola Drive, Kinston, NC 28501	2818
Williamson, William Glen, Box R (C–13), APO New York, 09697	2817
Williamson, Charles Robert, 750 Lincoln Road, #75, Yuba City, CA 95991	2861
Williamson, Beatrice P., 750 Lincoln Road, #75, Yuba City, CA 95991	2860
Williamson, Debra L., 3378 South 5th East, #4, Salt Lake City, UT 84106	2855
Wilson, Daniel L., 2004 Hunnington Drive, Conroe, TX 77303	2264
Wire, Howard Russell, P.O. Box 13178, Oakland, CA 94611	3008
Wirtz, Harvey C., 430 Bay Street, N.E. St. Petersburg, FL 33701	2100
Woodson, Clyde Jerome, 9035 Cedros Avenue, #6, Panorama City, CA 91402	2827
Woolf, William, c/o Aramco, P.O. Box 9324, Dhahran, Saudi Arabia	2889
Wright, Melvin C., 614 Douglas Avenue, Rockville, MD 20850	2508
Yates, A. Albert, Route 1, Box 570, Sarepta, LA 71071	2160
Young, Laverne M., P.O. Box 8422, Salt Lake City, UT 84106	1876
Young, Louis P., 8309 Woodhurst, Berkley, MO 63134	2030
Young, Edward J., 13926 Via Rimini, San Diego, CA 92129	3013
Zajac, James E., 350 Central Avenue, #114, Alameda, CA 94501	3105
Zalewski, Janice, 309 Chartres Street, New Orleans, LA 70130	2794

James H. Greesman,
Chairman.
[FR Doc. 93–10175 Filed 4–29–93; 8:45 am]
BILLING CODE 4410–01–M

Immigration and Naturalization Service

RIN 1115–AD39

[INS No. 1601–92]

Guidelines on Producing Master Exhibits for Asylum Applications

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice provides information: On how to obtain guidelines on submitting Master Exhibits to the Resource Information Center for use in asylum applications; on what Master Exhibits are currently available; and on how to obtain them from submitting organizations.

FOR FURTHER INFORMATION CONTACT:
John D. Evans, Director, or Lorraine Eide, Resource Information Officer; Resource Information Center, Office of International Affairs; Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Attn: ULLICO, T536 Attn: ULLICO, Third Floor; Telephone (202) 633–1040, Telefax (202) 633–1320.

EFFECTIVE DATE: April 30, 1993.

SUPPLEMENTARY INFORMATION:
Responding to the suggestion of many nongovernmental and legal assistance agencies, the Immigration and Naturalization Service (INS) Resource Information Center is now soliciting submissions of "Master Exhibits" in support of asylum applications. Master Exhibits are compilations of documents (including articles from international and regional news media, human rights reports, academic articles, and maps) concerning the status of one specific "population at risk" in one particular country, such as Guatemalan Kanjobal Indians, Salvadoran trade unionists, Jews in Georgia, Iranian Baha'is, Chinese pro-democracy activists, etc. Master Exhibits may also address legal issues related to asylum applications, such as the issue of statelessness and Palestinians, or the legal concept of firm resettlement. Master Exhibits are used as one means by which credible information on a given group deemed "at risk" is presented to Asylum and Immigration Officers to support individual applications for asylum.

Organizations Interested in Submitting Master Exhibits

Any private voluntary organization, law firm, or other group or individual willing and able to meet obligations outlined in Master Exhibit guidelines is eligible to submit Master Exhibits. Obligations include preparing information in stipulated format, and either providing copies of the Master Exhibits to the general public as requested, or making arrangements with another group or agency for such distribution. The Resource Information Center strongly suggests that interested persons and/or groups call before starting work on a Master Exhibit to ensure the efforts of another organization are not duplicated, and that format and submission procedures are clear.

Each Master Exhibit must follow specific guideline requirements which include submission of a Table of Contents which clearly identifies the source of each document in the Master Exhibit, and a brief annotated summary of each article contained in the Master Exhibit which explains why the article is relevant for an application for asylum. To obtain more specific guidance on format and submission procedures, please request a copy of the Master Exhibit Guidelines from the Resource Information Center (telephone number and address above).

Obtaining Master Exhibits

The following list of Master Exhibits is now available to Asylum Officers. The list includes the address of the organization which submitted or is distributing each Master Exhibit. A list of new Master Exhibits and the addresses from which to order them will be published quarterly in the **Federal Register**. The Resource Information Center only distributes Master Exhibits to INS Asylum Officers and other INS personnel. Copies of Master Exhibits are not currently available to the public for review at the INS Asylum Offices. Members of the public interested in obtaining Master Exhibits must contact the individual organization which prepared or is distributing the document. A fee to cover postage and handling may be charged by that organization.

Master Exhibits Now Available

El Salvador: Documentation on Post Peace Accord: March–May 1992, [ME/SLV/92.001], August 1992. Produced and distributed by: University of San Francisco Refugee/Human Rights Clinic, Kendrick Hall, 2130 Fulton Street, San Francisco, CA 94117.

Guatemala: Death Squads/Security Forces: MLN (National Liberation Movement, [ME/GTM/93.003], October 1992. Produced and distributed by: Documentation Exchange (formerly Central America Resource Center), P.O. Box 2327, Austin, TX 78768.

Guatemala: Departure/Safe Haven, [ME/GTM/93.002], October 1992. Produced and distributed by: Documentation Exchange (formerly Central America Resource Center), P.O. Box 2327, Austin, TX 78768.

Guatemala: Forced Recruitment/Army, [ME/GTM/92.003], August 1992. Produced and distributed by: Documentation Exchange (formerly Central America Resource Center), P.O. Box 2327, Austin, TX 78768.

Guatemala: Forced Recruitment/Civil Patrols, [ME/GTM/92.002], August 1992. Produced and distributed by: Documentation Exchange (formerly Central America Resource Center), P.O. Box 2327, Austin, TX 78768.

Guatemala: Persecution of Indigenous People, including: Kanjobales and model villages, [ME/GTM/92.001], August 1992. Produced and distributed by: Documentation Exchange (formerly Central America Resource Center), P.O. Box 2327, Austin, TX 78768.

Guatemala: Persecution of Popular Movements: Students and Teachers, [ME/GTM/92.004], August 1992. Produced and distributed by: Documentation Exchange (formerly Central America Resource Center), P.O. Box 2327, Austin, TX 78768.

Guatemala: Sexual Violence Against Women. [ME/GTM/93.001], October 1992. Produced and distributed by: Documentation Exchange (formerly Central America Resource Center), P.O. Box 2327, Austin, TX 78768.

Haiti, [ME/HTI/92.001], August 1992. Produced and distributed by: the Catholic Legal Immigration Network, Inc. (CLINIC), 3211 4th Street, NE., Washington, DC 20017.

Haiti, [ME/HTI/93.001], December 1992. Produced and distributed by: the Catholic Legal Immigration Network, Inc. (CLINIC), 3211 4th Street, NE., Washington, DC 20017.

Peru: A Decade of Violence: [ME/PER/93.001], October 1992, Produced by Jorge Gonzales Lara, and Patrick Young of CARECEN. Distributed by: Documentation Exchange (formerly Central America Resource Center), P.O. Box 2327, Austin , TX 78768.

Syria: Persecution of Syrian Jews: [ME/SYR/93.001], November 1992, Produced and distributed by: HIAS 333 Seventh Avenue, New York, NY 10001–5004.

Using Master Exhibits to support asylum applications: Each Master

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Exhibit will provide publicly available information, analyses, or comment. All sources will be cited. Updates to a Master Exhibit may be made from time to time. A Master Exhibit, however, will not be, and will not purport to be, either exhaustive with regard to the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum. It will be for the Asylum Officer adjudicating a particular case to determine what evidentiary weight to give to the information in any Master Exhibit.

The inclusion of a Master Exhibit in the Service collection of Master Exhibits will not constitute an endorsement of the information in the Master Exhibit. The views expressed in any Master Exhibit, therefore, will not necessarily represent statements of policy of the United States Government, nor will a Master Exhibit submitted by an entity other than an agency of the United States Government reflect foreign policy concerns of the United States Government.

Attorneys, legal assistants, community-based organizations, and asylum applicants who wish to use Master Exhibits in support of an asylum application should refer to the Master Exhibit by title, document number, and data (for instance: Master Exhibit Series: Guatemala: Persecution of Indigenous People, including: Kanjobales and model villages, [ME/GTM/92.001], August 1992). Applicants are strongly encouraged to be as specific as possible by identifying those particular documents in the Master Exhibit which are most relevant to the applicant's personal situation. Applicants may also want to point out particularly important pages or paragraphs within a document in the Master Exhibit to support their application for asylum. These should be referred to by item number, citation, and page number (for instance: Item II., Brook Larmer, "Guatemala's Indians Become the Battlefield," The Christian Science Monitor, 4 September 1990 (as reported in the Information Services on Latin America [ISLA], Oakland, California, #998)., pp. 4–5 [see especially page 4, paragraphs 10 through 12]).

Applicants who refer to a Master Exhibit in their applications are not required to submit copies of it to the Asylum Office. However, the asylum applicant may include photocopies of the cover page, annotated Table of Contents, or important documents, and may highlight or otherwise identify important paragraphs or sentences within the Table of Contents or documents if the asylum applicant prefers to do so.

Dated: April 12, 1993.

Chris Sale,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 93–10157 Filed 4–29–93; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Coal Miners, Inc.

[Docket No. M–93–49–C]

Coal Miners, Inc., Rt 2, Box 130, Equality, Illinois 62934 has filed a petition to modify the application of 30 CFR 75.360(b)(6) (preshift examination) to its Eagle Valley Mine (I.D. No. 11–02846) located in Gallatin County, Illinois. The petitioner proposes to test for methane and oxygen deficiency during the preshift examination at each main split of air to each working section and examine at least one entry of the intake air course once a week. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

2. Consolidation Coal Company

[Docket No. M–93–50–C]

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Blacksville No. 2 Mine (I.D. No. 46–01968) located in Monongalia County, West Virginia. Due to deteriorating roof conditions, certain areas of the return air course cannot be safely traveled. The petitioner proposes to establish evaluation check points to monitor the quantity and quality of air entering and leaving the affected area. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

3. U.S. Steel Mining Company, Inc.

[Docket No. M–93–51–C]

U.S. Steel Mining Company, Inc., has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Gary No. 50 Mine (I.D. No. 46–01816) located in Wyoming County, West Virginia. The petitioner proposes to plug and mine through oil and gas wells. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

4. Manalapan Mining Company, Inc.

[Docket No. M–93–52–C]

Manalapan Mining Company, Inc., Rt 1, Box 374, Evarts, Kentucky 40828 has filed a petition to modify the application of 30 CFR 75.364(b)(2) to its Mine No. 1 (I.D. No. 15–05423) located in Harlan County, Kentucky. Due to deteriorating roof conditions, certain areas of the return air course cannot be safely traveled. The petitioner proposes to travel the return air course to the fall area, travel in the adjacent belt entry until reaching the next door and then return to the return air course, by passing the fall area. The petitioner states that traveling the fall area would result in a diminution of safety.

5. Gridner Mining Company

[Docket No. M–93–53–C]

Gridner Mining Company, P.O. Box 1328, Barbourville, Kentucky 40906–7328 has filed a petition to modify the application of 30 CFR 75.342 (methane monitors) to its No. 2 Mine (I.D. No. 15–17288) located in Knox County, Kentucky. The petitioner proposes to use hand-held continuous-duty methane and oxygen indicators instead of machine mounted methane monitors on permissible three-wheel tractors with drag bottom buckets.

6. Trapper Mining, Inc.

[Docket No. M–93–54–C]

Trapper Mining, Inc., P.O. Box 187, Craig, Colorado 81626 has filed a petition to modify the application of 30 CFR 77.1304(a) (blasting agents; special provisions) to its Trapper Mine (I.D. No. 05–02838) located in Moffat County, Colorado. The petitioner requests that certain provisions in items 3, 4(a)(c) and (e), 6, 14, 17(b), 18(b), 20, and 21 in MSHA's December 9, 1991, Decision and Order, docket number M–91–13–C be amended. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

7. Windsor Coal Company

[Docket No. M–93–55–C]

Windsor Coal Company, P.O. Box 39, West Liberty, West Virginia 26074 has filed a petition to modify the application of 30 CFR 75.364(a) (weekly examination) to its Windsor Mine (I.D. No. 46–01286) located in Brooke County, West Virginia. Due to deteriorating roof conditions, certain areas of the return air course cannot be safety traveled. The petitioner proposes to establish evaluation check points to monitor the quantity and quality of air entering and leaving the affected area. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

8. Tanglewood Energy, Inc.

[Docket No. M–93–56–C]

Tanglewood Energy, Inc., P.O. Box 129, Summersville, West Virginia 26651–0129 has filed a petition to modify the application of 30 CFR 75.380(d)(4) (escapeways; bituminous and lignite mines) to its Tanglewood No. 2 Mine (I.D. No. 46–06329) located in Mineral County, West Virginia. The petitioner proposes to maintain a wide clearance of less than 6 feet between crosscuts No. 8 and No. 9 adjacent to two cribs, between crosscuts No. 10 and No. 11 adjacent to one crib, and between crosscuts No. 11 and No. 12 adjacent to one crib and timber. The petitioner states that it would be hazardous to attempt to relocate the cribs.

9. Usibelli Coal Mine, Inc.

[Docket No. M–93–57–C]

Usibelli Coal Mine, Inc., P.O. Box 1000, Healy, Alaska 99743 has filed a petition to modify the application of 30 CFR 75.1605(k) (loading and haulage equipment; installations) to its Usibelli Mine (I.D. No. 50–00030) located in Yukon River County, Alaska. Due to climatic weather conditions and permafrost which causes hazardous conditions to roadways and vehicular traffic, the petitioner requests permission to use certain safety precautions as an alternative to berms and guardrails on haulage roads. The petitioner asserts that the proposed rule would provide at least the same measure of protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 1, 1993. Copies of these petitions are available for inspection at that address.

Dated: April 22, 1993.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 93–10199 Filed 4–29–93; 8:45 am]

BILLING CODE 4510–43–M

Employment and Training Administration

[TA–W–27,290 Dallas, TX and TA–W–27,291 Midland, TX]

Enserch Exploration, Inc., A/K/A EP Operating Co.; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 17, 1993, applicable to the workers of the subject firm.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show that Enserch Exploration, Inc., is a managing general partner of EP Operating Limited Partnership and a wholly owned subsidiary of Enserch Corporation.

Also, the findings show that the claimants' wages were paid under a predecessor unemployment insurance (UI) account number bearing the name: EP Operating Company. In September, 1992 EP Operating Company became the EP Operating Company, LTD., and in October 1992 it became EP Operating Limited Partnership.

Accordingly, the Department is amending the certification to properly reflect the correct UI tax status for the above certified worker group.

The amended notice applicable to TA–W–27,290 and TA–W–27,291 is hereby issued as follows:

All workers of Enserch Exploration, Inc., also known as EP Operating Company, Dallas, Texas who became totally or partially separated from employment on or after May 12, 1991 and all workers of Enserch Exploration, Inc., also known as EP Operating Company, Midland, Texas who became totally or partially separated from employment on or after May 15, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 22nd day of April 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–10201 Filed 4–29–93; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any

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modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Delaware
DE93-2(Feb. 19, 1993)
New York
NY93-3(Feb. 19, 1993)
NY93-7(Feb. 19, 1993)
NY93-18(Feb. 19, 1993)
Pennsylvania
PA93-2(Feb. 19, 1993)
PA93-4(Feb. 19, 1993)
PA93-16(Feb. 19, 1993)
PA93-20(Feb. 19, 1993)
PA93-22(Feb. 19, 1993)

Volume II

Iowa
IA93-5(Feb. 19, 1993)
IA93-16(Feb. 19, 1993)
Indiana
IN93-2(Feb. 19, 1993)
IN93-5(Feb. 19, 1993)
Kansas
KS93-6(Feb. 19, 1993)
KS93-7(Feb. 19, 1993)
KS93-8(Feb. 19, 1993)
KS93-9(Feb. 19, 1993)
KS93-10(Feb. 19, 1993)
KS93-11(Feb. 19, 1993)
KS93-12(Feb. 19, 1993)
KS93-13(Feb. 19, 1993)
KS93-15(Feb. 19, 1993)
KS93-18(Feb. 19, 1993)
KS93-19(Feb. 19, 1993)
Michigan
MI93-1(Feb. 19, 1993)
MI93-4(Feb. 19, 1993)
MI93-17(Feb. 19, 1993)
Missouri
MO93-7(Feb. 19, 1993)
New Mexico
NM93-1(Feb. 19, 1993)
Texas
TX93-20(Feb. 19, 1993)
TX93-24(Feb. 19, 1993)
TX93-25(Feb. 19, 1993)
TX93-69(Feb. 19, 1993)

Volume III

Alaska
AK93-1(Feb. 19, 1993)

General Wage Determination Publication

General Wage Determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 23rd Day of April 1993.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 93-9557 Filed 4-29-93; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93-033]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NAC, Aeronautics Advisory Committee Task Force on General Aviation Transportation.

DATES: May 17, 1993, 8:30 a.m. to 5:30 p.m.; and May 18, 1993, 8:30 a.m. to 4:30 p.m.

ADDRESSES: Wichita State University, National Institute for Aviation Research, Dwane Wallace Conference Room, 1845 Fairmount Drive, Wichita, KS 67260-0093.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce J. Holmes, National Aeronautics and Space Administration, Langley Research Center, Hampton, VA 804/864-6048.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—General Aviation Competitiveness
—University and Non-NASA Related Research
—Technology Development Process and Facilities
—Aeronautical Systems
—Propulsion, Noise, Emissions
—Structures and Materials
—Aerodynamics
—General Aviation Research Plan
—Facilities: New Capabilities and Upgrade Plans
—Facilities Tour

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: 26 April 1993.

Danalee Green,

Chief, Management Controls Office.

[FR Doc. 93-10148 Filed 4-29-93; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) a request for clearance of the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted by June 1, 1993.

ADDRESSES: Send comments to Mr. Steve Semenuk, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503; (2050395-7316). In addition, copies of such comments may be sent to Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401).

FOR FURTHER INFORMATION CONTACT:

Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401).

SUPPLEMENTARY INFORMATION: The Endowment requests the review of a revision of a currently approved collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: FY 95 Literature Program Application Guidelines.

Frequency of Collection: One time.

Respondents: Individual artists, nonprofit organizations, and state and local arts agencies.

Use: Guideline instructions and applications elicit relevant information from individual artists and arts organizations that apply for funding in the Literature Program. This information is necessary for the accurate, fair and thorough consideration of competing proposal in the review process.

Estimated Number of Respondents: 2,720.

Average Burden Hours Per Response: 19.84.

Total Estimated Burden: 54,225.

Judith E. O'Brien,

Management Analyst, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 93-10185 Filed 4-29-93; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings; Expansion Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Rural Arts Initiative Section) to the National Council on the Arts will be held on May 18, 1993 from 9 a.m.-5:30 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 9 a.m.-9:30 a.m. and 4:30 p.m.-5:30 p.m. for introductory remarks and policy discussion.

The remaining portion of this meeting from 9:30 a.m.-4:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, this session will be closed to the public pursuant to subsection (c) (4), (6), and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5439.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93-10186 Filed 4-29-93; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-293]

Boston Edison Co; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the approval of a procedure for on site relocation of 79,000 cubic feet of sand, silt, and rough stone containing very low levels of radioactivity at the Pilgrim Nuclear Power Station (PNPS), pursuant to 10 CFR 20.302(a), as requested by the Boston Edison Company (the licensee). PNPS is located in Plymouth, Massachusetts.

Environmental Assessment

Identification of Proposed Action

The proposed action would approve the on site relocation of controlled backfill grading soil placed at its present site during original plant construction.

The Need for the Proposed Action

The location where the material has been stored since original plant construction is planned for a parking lot to support the influx of employees when the new engineering building is completed and for additional contractor parking during maintenance outages. The licensee will relocate the material outside the fenced area to a location within the licensee's controlled area.

Environmental Impacts of the Proposed Action

The Commission has evaluated the environmental impact of the proposed action and has determined that the proposed procedures for the relocation of the construction soil at Pilgrim Nuclear Power Station will minimize the risk of unexpected exposure. The licensee proposal was evaluated against the staff guidelines for on site disposal and found to be acceptable. The potential exposure pathways to members of the general public from the radionuclides in the soil is determined to be less than 1mrem/year. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed soil relocation.

With regard to potential nonradiological impacts, the proposed approval would not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that their is no significant nonradiological environmental impacts

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associated with the proposed soil relocation.

Alternative to the Proposed Action

Since the Commission has concluded that the environmental effects of the proposed action are not significant, any alternative with equal or greater environmental impact need not be evaluated.

The principal alternative would be to deny the requested approval. This would not reduce the environmental impact attributable to this facility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the pilgrim Nuclear Power Station, dated May 1972

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the request for approval dated January 15, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Dated at Rockville, Maryland, this 26th day of April 1993.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Acting Assistant Director for Region I Reactors, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–10169 Filed 4–29–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Joint Meeting of the Subcommittees on Thermal Hydraulic Phenomena and Core Performance; Meeting

The ACRS Subcommittees on Thermal Hydraulic Phenomena and Core Performance will hold a joint meeting on May 12, 1993, in room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss information deemed proprietary to the General Electric Company pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows: *Wednesday, May 12, 1993—8:30 a.m. until the conclusion of business.*

The Subcommittees will continue their review of the issues pertaining to BWR core power stability. Also, they will discuss the status of issues associated with BWR vessel water level instrumentation. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairmen; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC staff and its contractors, BWR Owners Group and its contractors, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Paul Boehnert (telephone 301/492–8558) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: April 22, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch

[FR Doc. 93–10164 Filed 4–29–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Planning and Procedures; Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on May 12, 1993, room P–422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance, with the exception of a portion that will be closed to discuss the qualifications of candidates nominated for appointment to the ACRS. This session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6). The purpose of this meeting will be to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

The agenda for the subject meeting shall be as follows: *Wednesday, May 12, 1993—3 p.m. until 5:30 p.m.*

The Subcommittee will discuss proposed ACRS activities, practices and procedures for conduct of Committee business, and related matters Qualifications of candidates nominated for appointment to the ACRS will also be discussed.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Dr. John T. Larkins (telephone 301/492–4516) between 7:30 a.m. and 4:15 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: April 22, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–10165 Filed 4–29–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee on Probabilistic Risk Assessment; Meeting

The ACRS Subcommittee on Probabilistic Risk Assessment will hold a meeting on May 11, 1993, in room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: Tuesday, May 11, 1993—8:30 a.m. Until the Conclusion of Business.

The Subcommittee will discuss the report of the PRA Working Group that summarizes activities of this Group and provides guidance for the staff regarding the application of PRA. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, the nuclear industry, its respective consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Dean Houston (telephone 301/492–9521) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: April 21, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–10166 Filed 4–29–93; 8:45 am]

BILLING CODE 7590–01–M

Boston Edison Co; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

[Docket No. 50–293]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–35, issued to Boston Edison Company (the licensee) for operation of the Pilgrim Nuclear Power Station, located in Plymouth County, Massachusetts.

The proposed amendment would increase the allowed fuel assembly storage cells from 2320 to 3859, and change the maximum loeds allowed to travel over the spent fuel assemblies from 1000 lbs. to 2000 lbs., and change the limiting characteristics of assemblies to be stored in the spent fuel from a maximum $K_{infinity} \leq 1.35$ to a maximum $K_{infinity} \leq 1.32$ and a maximum lattice average Uranium enrichment of ≤4.6% by weight.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The analyses performed by HOLTEC demonstrate the acceptability of the proposed Spent Fuel Storage expansion from a variety of perspectives. The analyses demonstrate K_{eff} will remain within acceptable limits even if an abnormal event, such as a fuel assembly misloading or assembly drop, should occur. It also has been demonstrated the spent fuel pool cooling system will continue to provide acceptable cooling of the stored assemblies, and there is sufficient time to take appropriate corrective action should all cooling be inadvertently lost. The racks are designed to seismic Class I requirements. An assembly inadvertently dropped on the racks would not prohibit the racks from performing their design function. The radiological consequences of a fuel handling accident remains within previously-established limits.

Movement of fuel assemblies and racks necessary for rack installation will be performed in accordance with our commitments to NUREG 0612, entitled: "Control of Heavy Loads at Nuclear Power Plants." Thus, the probability of an accident involving assembly damage will not be significantly increased. Based on these considerations, the probability or consequences of a previously evaluated accident is not significantly increased by installation activities.

To support the above conclusion, BECo has considered the following potential scenarios:

- A spent fuel assembly drop in the spent fuel pool.
- A loss of spent fuel pool cooling system flow.
- A seismic event.
- [An installation] * * * accident.

As detailed in Section 4 of HOLTEC Report HI–92925, BECo evaluated the consequences of a spent fuel assembly drop in the spent fuel pool and found the criticality acceptance criterion, $K_{eff} \leq 0.95$, is not violated. Also, there is no significant change in the radiological consequences of a fuel assembly drop from the previous analyses since the calculated doses are well within 10 CFR Part 100 guidelines. Analysis shows that dropping a spent fuel assembly on the racks will not prohibit the racks from performing their safety function. Thus, the consequences of this type of accident are not significantly changed from the previously evaluated spent fuel assembly drops.

Certain racks in the pool will be equipped with overhead storage platforms. These platforms are flat plate structures. They serve to store miscellaneous items and protect the fuel assemblies stored underneath from damage. Dropping the platform from a height of 4 inches above the rack (a possible situation if the platform is ever moved in the pool) was analyzed. It was determined that dropping spent fuel from 4" above the racks

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is a more severe event than a 4" drop of the platform with an assumed dry weight of 2000 lbs. Therefore, the fuel drop scenarios bound the platform drop condition.

During refueling activities, when the heat load in the pool is greatest, an intertie is available between the fuel pool cooling system and either loop of the Residual Heat Removal (RHR) system. The RHR pump and heat exchanger configuration provides greater cooling capacity for full core off-loads and as a backup to the normal fuel pool cooling system. This system will function during a loss of offsite power by utilizing emergency diesel generator AC power. The analysis in Section 5 of HOLTEC Report HI–92925 determined cooling capacities and maximum temperatures as well as the time-to-boil without cooling. The calculations show that if cooling is lost at the instant when the pool water reaches its maximum value during a full core off-load, there is a minimum of 6.4 hours before bulk boiling can occur.

During reactor power operation, the normal fuel pool cooling system is used with either of the two pumps and heat exchangers capable of maintaining the fuel pool well below boiling. In the event of a loss of offsite power, a temporary AC power interconnection is used to operate one or both pumps. Due to lower spent fuel pool heat loads during plant operation, more than 16 hours are available before bulk boiling can occur. Thus, the consequences of this event type are not significantly increased from previously-evaluated loss of cooling system flow events.

The consequences of a seismic event have been evaluated. The additional new racks will meet design and fabrication requirements of applicable NRC Regulatory Guides and industry standards. Seismic analyses on the new and existing racks were performed using both single rack 3–D (opposed phase motion) and Whole Pool Multi-Rack (WPMR) models The results of these analyses indicate a large margin of kinematic and stress safety. The kinematic margin against rack-to-rack impact is at least 1⅞ inches or rack-to-wall impact is at least 2⅞₁₆ inches for all racks in the pool. Likewise, the maximum rack primary stresses under the Safe Shutdown Earthquake (SSE) condition are less than 50% of the allowable ASME Code value. Finally, the maximum bending moments and through-thickness shear in the supporting pool structure under factored load conditions are less than 80% of the respective allowables. The new free-standing racks are designed, as are the existing free-standing racks, so that the integrity of the racks and the pool structure is maintained during and after a seismic event. Thus, the consequences of a seismic event are not increased from previously evaluated events.

The consequences of [an installation] * * * accident have been considered. A heavy load will not be carried in the spent fuel pool area until all fuel in the pool has decayed for a minimum of three months. Per NUREG 0612 this provides sufficient time for the decay of gaseous radionuclides in the fuel (gap activity) such that an assumed accidental release of gasses from damage to all stored fuel assemblies results in a potential offsite dose less than 10CFR100 limits. In addition, there is no equipment essential to the safe shutdown of the reactor or employed to mitigate the consequences of an accident beneath, adjacent to, or otherwise within the area of influence of any loads to be handled during this expansion modification. Therefore, the consequences of [an installation] * * * accident are not significantly increased from previously evaluated events.

NUREG–0554, entitled: "Single-Failure-Proof Cranes for Nuclear Power Plants", provides guidance tor the design, fabrication, installation and testing of new cranes that are of a high reliability design. NUREG–0612, Appendix C, entitled: "Modification of Existing Cranes", provides guidelines on the implementation of NUREG–0554 at operating plants. An evaluation of storage rack movements to be performed by the PNPS Reactor Building crane demonstrated the probability of a drop of a storage rack is extremely small. The Reactor Building crane has a rated capacity of 100 tons and incorporates a design safety factor of five. The maximum weight of any existing or replacement storage rack and its associated handling tool is 15 tons. Therefore, there is an ample safety factor margin for movements of the storage racks by the Reactor Building crane.

Therefore, it is concluded that the proposed amendment supporting the addition of spent fuel racks in the spent fuel pool does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

No unproven technology is involved either in the installation process or in the analtytical techniques necessary to justify the planned fuel storage expansion. The basic technology for fuel pool expansion has been developed and demonstrated in over 80 applications for fuel pool capacity increases previously approved by the NRC.

HOLTEC has evaluated the proposed modification in accordance with the guidance of an NRC position paper entitled: "OT Position for Review and Acceptance of Spent Fuel Storage and Handling Applications," with appropriate NRC Regulatory Guides, with NRC Standard Review Plans, and with industry codes and standards. In addition, BECo has reviewed several previous NRC Safety Evaluation Reports for rack installation applications similar to this proposed modification.

Based upon the foregoing, the proposed rack installation does not create the possibility of a new or different of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

The HOLTEC report demonstrates the acceptability of adding new racks from a variety of perspectives including criticality, thermal-hydraulic, radiological, seismic and structural considerations. The results of these analyses provide the basis for our conclusion that the changes do not involve a significant reduction in a margin of safety.

The established acceptance criterion for criticality is that the effective neutron multiplication factor in spent fuel pools shall be less than or equal to 0.95, including all uncertainties, under all conditions. This margin of safety has been adhered to in the criticality analysis methods in developing the new rack design.

The methods used in the criticality analysis conform to the applicable portions of the appropriate NRC guidance and industry codes, standards, and specifications In meeting the acceptance criteria for criticality in the spent fuel pool such that K_{eff} is always less than or equal to 0.95, including uncertainties at a 95%/95% probability/confidence level, the proposed amendment does not invoive a significant reduction in the margin of safety for nuclear criticality

It is recognized that a one-to-one correspondence between the $K_{INFINITY}$ of a bundle in the standard core geometry and the K_{eff} in the fuel [rack] does not exist. The effect of higher fuel enrichments on the neutron energy spectrum is to reduce the $K_{INFINITY}$ [in the spent fuel rack]. In order to provide a complete specification of fuel that can be stored in the PNPS pool, the criteria for both $K_{INFINITY}$ and fuel enrichment needs to be prescribed. Calculations have been performed to demonstrate that all fuel assemblies of up to 4.9% wt planar-average U–235 enrichment with a $K_{INFINITY}$ of 1.32 or less can be stored in the PNPS spent fuel pool with K_{eff} less than or equal to 0.95.

Conservative methods were used to calculate the maximum fuel temperature and the increase in temperature of the water in the spent fuel pool. The thermal-hydraulic evaluation used methods previously employed for evaluations of the present spent fuel racks to demonstrate the temperature margins of safety are maintained. The proposed modification will increase the heat load in the spent fuel pool. The evaluation shows the existing spent fuel cooling system will maintain the bulk pool water temperature at or below 142°F during refueling.

The evaluation also shows that maximum local water temperatures along the hottest fuel assembly are below the nucleate boiling condition value. Thus, there is no significant reduction in the margin of safety caused by thermal-hydraulic or spent fuel cooling concerns.

The main safety function of the spent fuel pool and racks is to maintain the spent fuel assemblies in a safe configuration through all normal or abnormal loadings. Abnormal loadings that have been considered are the effect of an earthquake, the drop of a spent fuel assembly, or the drop of any other heavy object. The mechanical, material, and structural design of the new spent fuel racks is in accordance with NRC guidance. The rack materials used are compatible with the spent fuel pool and the spent fuel assemblies. The structural considerations of the new racks and existing racks address margins of safety to preclude tilting, deflection or movement, thereby ensuring the racks do not impact each other during postulated seismic events. In addition the spent fuel assemblies remain intact and no criticality concerns exist. Thus, the margin of safety is not significantly reduced by the proposed rack additions.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 1, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number

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N1023 and the following message addressed to Walter R. Butler: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to W. S. Stowe, Esquire, Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR part 2, subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41670, October 15, 1985) to 10 CFR 2.1101 *et seq.* Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within 10 days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR part 2, subpart G, and § 2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer may grant an untimely request or oral argument only upon showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in adjudicatory hearing. If no party to the proceedings requests oral argument, or if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR part 2, subpart G, apply.

For further details with respect to this action, see the application for amendment dated February 11, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Dated at Rockville, Maryland, this 23rd day of April 1993.

For the Nuclear Regulatory Commission.

Ronald B. Eaton, Sr.,

Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–10170 Filed 4–29–93; 8:45 am]

BILLING CODE 7510–01–M

[Docket No. 50–298]

Cooper Nuclear Station; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–46, issued to the Nebraska Public Power District (the licensee), for operation of the Cooper Nuclear Station (CNS), located in Nemaha County, Nebraska.

The proposed amendment would remove Section 3/4.5.H, "Engineered Safeguards Compartments Cooling," and the associated Bases section from the CNS Technical Specifications (TS). These requirements are redundant to the definition of OPERABILITY in the CNS TS, which requires that all necessary attendant instrumentation, controls, normal and emergency electrical power sources, cooling or seal water, lubrication or other auxiliary equipment that are required for a safety-related system to perform its safety function are also capable of performing their related support function(s). Therefore, removal of TS 3/4.5.H will not adversely affect the assurance of Emergency Core Cooling System pump operability, and will make the CNS TS consistent with the Boiling Water Reactor (BWR) Standard Technical Specifications in this regard.

During the performance of the licensee's ongoing Design Basis Reconstitution Program, the licensee determined that under certain accident conditions (a pipe break postulated to occur in the Core Spray System discharge line, combined with a loss of off-site power and with a failure of one Emergency Diesel Generator), there could be fewer than the required number of low-pressure Emergency Core Cooling System (ECCS) pumps available to respond to the accident than was assumed in the CNS accident analysis. This scenario would occur, in part, as a result of the loss of the Engineered Safeguards Compartment Coolers that are powered by the Emergency Diesel Generator that is assumed to fail.

Although the licensee is currently making a plant design change to ensure the operability of the residual heat removal (RHR) pumps without the RHR pump area coolers, the CNS TS still require these coolers to be "in service," hence, OPERABLE; otherwise the associated pumps, in this case the RHR pumps, must be declared INOPERABLE. However, the plant design change will allow the RHR pumps to perform their safety function and thus be OPERABLE without the coolers being in service. Thus, without approval of this proposed change, the required number of ECCS pumps needed for ASME Class I pressure testing and for plant operation would not be available and plant startup could not occur.

The licensee has stated that the proposed TS change is needed prior to Class I ASME pressure testing and reactor startup following the current refueling outage, currently scheduled for May 10, 1993. Thus, the Commission must act quickly and time does not permit the publication of a **Federal Register** notice allowing 30 days for prior public comment.

As stated above, the need for the proposed TS change was found during the course of the licensee's ongoing Design Basis Reconstitution effort. This situation was identified and reported to the NRC under 10 CFR 50.72 on March 26, 1993, and thus could not have been submitted in a more timely manner so as to avoid an exigent TS change.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Evaluation

The proposed Technical Specification changes associated with removal of the Limiting Conditions for Operation and Surveillance Requirements for the Engineered Safeguards Compartments Cooling do not constitute a significant increase in the probability or consequences of an accident previously evaluated. These area coolers provide cooling for the Emergency Core Cooling System (ECCS) pumps, and were originally provided in the CNS plant design to ensure that the ECCS pump areas were maintained below a specified temperature to ensure operability of the ECCS pumps. The District is currently performing a design change to improve the natural air circulation characteristics in the RHR pump areas which will eliminate the need for these coolers to assure RHR pump operability.

The removal of the Technical Specifications associated with the ECCS pump unit coolers will not impact the determination of operability for those pumps which will still require the coolers to assure operability, namely the Core Spray System pumps, and the HPCI [high-pressure coolant injection] and RCIC [reactor core isolation coolant] pumps. These specifications were included in the original version of the Technical Specifications when CNS was licensed. Since that time, the definition of OPERABILITY in the CNS Technical Specifications was revised with Amendment No. 99 to include the following requirements:

* * * all attendant instrumentation, controls, normal and emergency electrical power sources * * * cooling or seal water, lubrication or other auxiliary equipment that are required for the system, subsystem, train, component or device to perform its function(s) are also capable of performing their related support function(s).

Therefore, the presence of dedicated Technical Specifications for the ECCS pump area coolers are not required and are redundant to the existing Technical Specification requirements for the ECCS, given the above definition of OPERABILITY. For those areas which will still require the area coolers to assure pump operability (Core Spray, HPCI, and RCIC areas), the definition of OPERABILITY will provide the necessary controls, and appropriate actions will be taken in accordance with their individual Technical Specifications should their area coolers become inoperable for any reason.

Based on the above discussion, the requirement for adequate equipment cooling will still be maintained within the CNS Technical Specifications to ensure operability of the ECCS. The design change being performed will ensure that an adequate number of RHR pumps will remain available to respond to the postulated Core Spray System line break accident. Further, the ECCS pump area coolers will continue to be surveillance tested and maintained through plant procedural controls. Therefore, this change will not result in a significant increase in the consequences of an accident previously evaluated. The physical plant changes being made to correct this situation consists of removing the RHR pump compartment hatches, replacing the hatches with grating, and providing curbing around the hatch opening to eliminate flooding concerns. These changes do not impact plant piping, instrumentation and controls, or other components. Review and evaluation under the District's design change process has determined that the design changes associated with this amendment request will not result in a significant increase in the probability of an accident previously evaluated.

2. Does the proposed change create the possibility for a new or different kind of accident from any accident previously evaluated?

Evaluation

This proposed change will only remove requirements from the CNS Technical Specifications which are redundant to other controls already provided for within the CNS Technical Specifications. These controls are provided in Section 1.0.N of the Definitions portion of the CNS Technical Specifications, which require that all attendant support systems or components necessary for a given system or component to perform its function are also capable of performing their related support functions. Therefore, this change to the CNS Technical Specifications will only remove a redundant requirement. In addition, plant procedural controls will ensure that the ECCS area coolers will continue to be adequately surveillance tested and maintained.

The plant change associated with this proposed Technical Specification change consists of removal of the RHR compartment equipment hatches to provide for improved natural circulation cooling. No changes to plant piping or instrumentation and controls are associated with this design change. These changes have been evaluated under the District's design change process which has determined that these physical modifications will not create the possibility for a new or different kind of accident from those previously evaluated.

3. Does the proposed change create a significant reduction in the margin of safety?

Evaluation

The proposed Technical Specifications changes will not create a significant reduction in the margin of safety. Section 3.5.H and 4.5.H, and their associated Bases section are redundant to the controls provided in the CNS Technical Specifications Definitions section for the determination of operability. Therefore, their removal from the CNS Technical Specifications will not create a reduction in equipment availability and will not create a significant reduction in the margin of safety. The physical plant changes associated with this proposed Technical Specifications change will remove an ECCS pump operability concern, and will therefore, not create a significant reduction in the margin of safety.

Additional Basis for No Significant Hazards Determination

The definition of OPERABILITY in the CNS Technical Specifications is consistent with the corresponding definition of OPERABILITY provided in the BWR/4 Standard Technical Specifications (NUREG–1433). This document was the result of extensive development and review by both the NRC Staff and the industry. These Standard Technical Specifications do not contain dedicated requirements for secondary plant support systems, including ECCS pump area coolers. This support function is accounted for within the definition of OPERABILITY as given within the Standard Technical Specifications. This proposed change would move CNS more in line with the Standard Technical Specifications in this respect.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days of the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change

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during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 1, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Guilding, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John Pellet, Acting Director, Project Directorate 4–1, U.S. Nuclear Regulatory Commission, Washington, DC 20555: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602–00499, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 23, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, located at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Dated at Rockville, Maryland, this 27th day of April 1993.

For the Nuclear Regulatory Commission.

Harry Rood,

Senior Project Manager, Project Directorate IV–1, Division of Reactor Projects–III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–10168 Filed 4–29–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–275–OLA–2, 50–323–OLA–2, ASLBP No. 92–669–03–OLA–2, Construction Period Recovery]

Atomic Safety and Licensing Board

April 23, 1993.

Prehearing Conference

In the Matter of Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), Facility Operating Licenses No. DPR–80 and DPR–82. Before Administrative Judges: Charles Bechhoefer, Chairman, Dr. Jerry R. Kline, Frederick J. Shon.

Notice is hereby given that, in accordance with the Atomic Safety and Licensing Board's Memorandum (Questions for Parties), dated April 16, 1993, a prehearing conference in this proceeding involving the proposed extensions of the operating licenses for the Diablo Canyon Nuclear Power Plant, Units 1 and 2, to recover or recapture the period of construction of the reactors, will commence at 2 p.m. on Tuesday, May 11, 1993, at the Main Conference Room of the Commission's Region V office, 1450 Maria Lane, Walnut Creek, California 94596–5368. The conference will continue, to the extent necessary, on Wednesday, May 12, 1993, beginning at 9 a.m., at the same location.

The conference is being held to consider three late-filed contentions filed by the San Luis Obispo Mothers for Peace, an intervenor in the proceeding. Also to be considered are various outstanding discovery matters, schedules for forthcoming filings, and such other matters as may aid in the orderly disposition of the proceeding.

Members of the public are invited to attend this conference, although the Licensing Board will not hear oral limited appearance statements. (Parking at the Region V office is available; parking passes must be obtained from the NRC receptionist.)

Documents relating to this application are on file at the Local Public Document Room, located at the California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407, as well as at the Commission's Public Document Room, the Gelman Building, 2120 L St., NW., Washington, DC 20037.

Dated: April 23, 1993.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 93–10163 Filed 4–29–93; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–19432; 811–3396]

Bison Money Market Fund; Application for Deregistration

April 23, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Bison Money Market Fund.

RELEVANT ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on March 31, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 18, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Bellevue Corporate Center, 103 Bellevue Parkway, Wilmington, Delaware 19809.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 504–2920, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an Indiana business trust and is an open-end diversified management company. On February 3, 1982, applicant filed a notification of registration on Form N–8A. On February 5, 1982, applicant filed a registration statement on Form N–1 under the Securities Act of 1933 and section 8(b) of the Act. The registration statement was declared effective on June 14, 1982, and applicant's initial public offering commenced on or about that date.

2. On October 15, 1992, the parent of Bison's subadviser merged with and into a wholly-owned subsidiary of the parent of the investment adviser of The Woodward Funds ("Woodward"), a Massachusetts business trust. This merger resulted in applicant and Woodward becoming affiliated persons of each other, pursuant to section 2(a)(3)(C).

3. At a meeting held on October 20, 1992, applicant's board of trustees approved an agreement and plan of reorganization (the "Plan"). Under the Plan, applicant would transfer all of the assets of its Money Market and Tax-Exempt Money Market Portfolios, and all of the assets and liabilities of its Treasury Money Market Portfolio, to corresponding investment portfolios of Woodward. In reviewing the proposal, applicant's board considered the potential impact of the reorganization on shareholders, including, among other things, the elimination of duplicative costs, the improvement of operational efficiencies, the reduction of certain fixed costs, and the performance of each of the funds. The boards of applicant and Woodward, including their non-interested members, determined that the proposed reorganization would be in the best interests of the shareholders of applicant and Woodward, respectively, and that the interests of existing shareholders of applicant and Woodward, respectively, would not be diluted as a result of such reorganization.

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4. On November 30, 1992, applicant sent a combined proxy statement and prospectus to its shareholders in connection with the proposed transfer and reorganization. Applicant's shareholders approved the transfer on December 31, 1992.

5. On January 1, 1993, pursuant to the Plan, applicant transferred all of the assets of each of its portfolios, and the liabilities of its Treasury Money Market Portfolio, to the corresponding Woodward series. On that date, pursuant to the Plan, applicant's portfolios made liquidating distributions to their shareholders of Woodward shares so that shareholders received that number of Woodward shares with an aggregate net asset value equal to the aggregate net asset value of their shares of applicant's portfolios.

6. Pursuant to the Plan, NBD Bank, N.A., which provides investment advisory services to Woodward, assumed the liabilities for all fees and expenses in connection with the reorganization.

7. At the time of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs. Applicant plans to surrender its authority to do business in Indiana by taking the actions required by Indiana law.

For the SEC, by the Division of Investment Management, under delegated authority

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-10130 Filed 4-29-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25798]

Filings Under the Public Utility Holding Company Act of 1935 ("Act"); Correction

April 16, 1993.

Correction

In FR Document No. 93-9477 beginning on page 21758 for Friday, April 23, 1993, the release number was incorrectly stated as 35-25797. The correct release number is 35-25798.

Dated: April 26, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-10120 Filed 4-29-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25804; International Release No. 538]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

April 23, 1993.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 17, 1993 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

UtiliCorp United Inc. (31-902)

UtiliCorp United Inc. ("UtiliCorp"), 911 Main Street, Suite 3000, Kansas City, Missouri 64105, a Delaware public-utility holding company claiming exemption from registration under rule 10 of the Act, has filed an application requesting an order under section 3(b) and rules 10 and 11 thereunder in connection with its proposed indirect acquisition of an interest in WEL Energy Group Limited ("WEL"), a New Zealand electric utility company.

UtiliCorp is a publicly traded corporation which engages primarily, through divisions, in the sale and distribution of gas and electricity to retail and wholesale customers in nine states and in British Columbia. UtiliCorp is a public-utility holding company by reason of its ownership of West Kootenay Power and Light Company, Limited, a Canadian public-utility company.[1] As of December 31, 1992, UtiliCorp had operating revenues of $1,298,900,000 and assets of more than $2,522,800,000.

UtiliCorp proposes to acquire indirectly an ownership interest in WEL for $20,732,037.[2] WEL is engaged in the retail distribution and sale of electricity to approximately 60,000 customers in the Waikato region of New Zealand. WEL is currently owned by Waikato Electricity Authority ("Waikato"), a New Zealand regional governmental authority. As part of a proposed privatization program, Waikato has entered into a Subscription Agreement dated December 22, 1992, as amended and restated ("Subscription Agreement") with UtiliCorp and WEL, pursuant to which UtiliCorp will acquire, initially, 33.33% of the issued and outstanding share capital ("WEL Interest") of WEL.[3]

UtiliCorp proposes to effect the acquisition of the WEL Interest through one or more special purpose subsidiaries pursuant to one of two possible acquisition structures.[4] Under the first structure, UtiliCorp would form a single special purpose Delaware subsidiary that would be deemed a resident of New Zealand under New Zealand law ("D-NZ Sub") to acquire the WEL Interest. Under the alternative structure, UtiliCorp would form a Delaware subsidiary ("Delaware Sub") which would, in turn, form a special purpose New Zealand wholly owned subsidiary ("New Zealand Sub") to acquire the WEL Interest. D-NZ Sub and New Zealand Sub are each referred to herein as "UtiliCorp Sub." UtiliCorp Sub and, if applicable, Delaware Sub, will maintain separate books of account from UtiliCorp and will commit to provide access to such books and records to each state commission with retail rate jurisdiction, to the extent not already required under state law.

As of the time of the acquisition of the WEL Interests, D-NZ Sub, under the first structure, or Delaware Sub, under the second structure, will be a wholly owned subsidiary of UtiliCorp.

[1] See UtiliCorp United Inc., Holding Co. Act Release No. 24204 (Sept. 24, 1986). UtiliCorp claims exemption under rule 10 from its obligations under the Act as a holding company.

[2] Based upon an exchange rate as of March 29, 1993 of 1.6751 New Zealand dollars for 1 United States dollar.

[3] UtiliCorp will also have the right under the Subscription Agreement to acquire up to an additional 15.67% of the share capital of WEL on the open market, for a total of 49% of such shares. New Zealand law currently would prohibit ownership of more than 49% of the ordinary shares of stock of WEL by UtiliCorp.

[4] UtiliCorp states that the selection of the acquisition structure depends upon the advice of corporate and tax counsel.

Thereafter, UtiliCorp may seek one or more non-affiliate investors to acquire an equity interest of up to 25% in D-NZ Sub, under the first structure, or in Delaware Sub, under the second structure. Prior to the closing of the transactions, UtiliCorp will assign its rights to acquire the WEL Interest under the Subscription Agreement to UtiliCorp Sub.

It is anticipated that UtiliCorp Sub will have one full-time management-level employee resident in New Zealand.

As a result of the proposed transactions, WEL will be a public-utility subsidiary company of UtiliCorp within the meaning of section 2(a)(8) of the Act. UtiliCorp requests an unqualified order under section 3(b) of the Act exempting WEL from all provisions of the Act. UtiliCorp states that WEL may engage in the sale of certain goods and services within the United States, but will not engage in the generation, transmission or distribution of electric energy for sale within the United States.

The application states that, if an unqualified exemption under section 3(b) is granted, UtiliCorp and its subsidiary companies which are parent entities of WEL will rely upon rule 10(a)(1) to provide an exemption insofar as each is a holding company; and UtiliCorp and its subsidiary companies will rely upon rule 11(b)(1) to provide an exemption from the approval requirements of sections 9(a)(2) and 10 to which they would otherwise be subject.

UtiliCorp has received orders approving the acquisition of the WEL Interest from the Public Service Commission of the State of Missouri, the Utilities Board of the State of Iowa and the Public Service Commission of the State of West Virginia. In addition, the Public Utilities Commission of the State of Colorado and the Kansas Corporation Commission have each certified to this Commission that such commission has the authority and resources to protect the ratepayers of UtiliCorp subject to its jurisdiction and that it intends to exercise that authority. UtiliCorp has requested similar certifications from the public utility commissions of the States of Minnesota and Michigan.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-10129 Filed 4-29-93; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Interest Rate; Quarterly Determinations

AGENCY: Small Business Administration.

ACTION: Notice of interest rate.

SUMMARY: Pursuant to 13 CFR 108.503-8(b)(4), the maximum legal interest rate for a commercial loan which funds any portion of the cost of a project (see 13 CFR 108.504-4) shall be the greater of 6% over the New York prime rate or the limitation established by the constitution or laws of a given State. For a fixed rate loan, the initial rate shall be the legal rate for the term of the loan.

Charles R. Hertzberg,

Assistant Administrator for Financial Assistance.

[FR Doc. 93-10156 Filed 4-29-93; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 93-10; Notice 2]

Determination That Nonconforming 1988 Mercedes-Benz 500SE Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by NHTSA that nonconforming 1988 Mercedes-Benz 500SE passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1988 Mercedes-Benz 500SE passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1988 Mercedes-Benz 300SE), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective as of the date of its publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register.**

ICI International Inc. of Orlando, Florida (Registered Importer R-90-003) petitioned NHTSA to determine whether 1988 Mercedes-Benz 500SE passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on March 3, 1993 (58 FR 12310) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 35 is the vehicle eligibility number assigned to vehicles admissible under this notice of final determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1988 Mercedes-Benz 500SE (Model ID 126.036) is substantially similar to a 1988 Mercedes-Benz 300SE (Model ID 126.024) originally

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manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 21, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–10139 Filed 4–29–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–26; Notice 1]

Receipt of Petition for Determination That Nonconforming 1993 BMW 750IL Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1993 BMW 750IL passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1993 BMW 750IL that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is June 1, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the Federal Register.

Liphardt & Associates Inc. of Ronkonkoma, New York (Registered Importer R–90–004) has petitioned NHTSA to determine whether 1993 BMW 750IL passenger cars that were originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States. The vehicle which Liphardt believes is substantially similar is the 1993 BMW 750IL manufactured for importation into and sale in the United States and certified by its manufacturer, Bayerische Motoren-Werke A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner states that it has carefully compared the non-U.S.-certified version of the 750IL to its U.S.-certified counterpart, and found the two vehicles to be substantially similar with respect to most applicable Federal motor vehicle safety standards.

Liphardt submitted information with its petition intended to demonstrate that the non-U.S.-certified version of the 1993 model 750IL, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S.-certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the non-U.S.-certified 1993 model 750IL is identical to the U.S.-certified version of that vehicle with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * **, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 111 *Rearview Mirrors*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 118 *Power-Operated Window, Partition, and Roof Panel Systems*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer in the steering lock electrical circuit.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 208 *Occupant Crash Protection:* Installation of a seat belt warning buzzer. The petitioner states that the non-U.S. certified version of the 1993 model 750Il is equipped with a driver side air bag assembly identical to that found in its U.S.-certified counterpart, except for the fact that a horn symbol has not been molded into the air bag housing cover. The petitioner proposes to permanently affix such a symbol to the air bag housing cover. Additionally, the petitioner states that a knee bolster and mounting hardware must be installed in the non-U.S. certified 1993 model 750IL to conform with this standard in the same manner as its U.S.-certified counterpart.

Standard No. 214 *Side Door Strength:* Installation of reinforcing beams.

Additionally, the petitioner states that the bumpers on the non-U.S.-certified 1993 model 750IL must be fitted with U.S.-approved impact absorbers to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: June 1, 1993.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 23, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–10138 Filed 4–29–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 26, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0138
Form Number: None
Type of Review: Extension
Title: Permit to Transfer Containers to a Container Station
Description: In order for a container station operator to receive a permit to transfer a container or containers to a container station, he/she must furnish a list of names, addresses, etc., of the persons employed by him/her upon demand of the district director.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 300
Estimated Burden Hours Per Respondent: 20 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 400
Clearance Officer: Ralph Meyer, (202) 927–1552, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93–10207 Filed 4–29–93; 8:45 am]

BILLING CODE 4820–02–M

[Treasury Order Number 102–15]

Delegation of Authority To Invoke National Security Emergency Preparedness Treatment for Telecommunications Services

Dated: April 22 1993.

By virtue of the authority vested in the Secretary of the Treasury, including the authority vested by 31 U.S.C. 321(b); Executive Order 12472, dated April 3, 1984; 47 CFR Part 64, Appendix A; and National Communications Systems (NCS) Directive 3-1 dated July 5, 1990, it is hereby ordered that:

1. The Deputy Assistant Secretary (Information Systems) and the Director, Office of Telecommunications Management, are each delegated authority to invoke National Security Emergency Preparedness treatment for the priority provisioning of telecommunications services from the Manager, NCS, and from concerned service vendors, on behalf of the Department or any of its bureaus; and

2. Upon issuance of this Order, and thereafter whenever required pursuant to NCS directives, the Assistant Secretary (Management) shall prepare, for execution by the appropriate official, the necessary correspondence notifying NCS of the individuals authorized to invoke National Security Emergency Preparedness treatment.

Lloyd Bentsen,

Secretary of the Treasury.

[FR Doc. 93–10135 Filed 4–29–93; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank Meetings

AGENCY: Rural Telephone Bank, USDA.

ACTION: Privatization Committee meeting.

TIME AND DATE: 10 a.m., Thursday, May 6, 1993.

PLACE: Room 5066-South Building, Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC.

STATUS: Open.

MATTERS TO BE DISCUSSED: General discussion involving privatization planning.

ACTION: Prepayment Committee meeting.

TIME AND DATE: 11 a.m., Thursday, May 6, 1993.

PLACE: Room 5066-South Building, Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC.

STATUS: Open.

MATTERS TO BE DISCUSSED: General issues regarding RTB's prepayment premium policy.

ACTION: Staff Briefing for the Board of Directors.

TIME AND DATE: 2 p.m., Thursday, May 6, 1993.

PLACE: Room 5066-South Building, Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC.

STATUS: Open.

MATTERS TO BE DISCUSSED: The staff briefing will consist of matters relating to proposed program budget and the new equity account.

ACTION: Regular Meeting of the Board of Directors.

TIME AND DATE: 9 a.m., Friday, May 7, 1993.

PLACE: Lafayette Room, Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on

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the agenda for the Board of Directors meeting:

1. Call to Order.
2. Approval of Minutes of March 24, 1993, Board meeting.
3. Report on loans approved in the second quarter of FY 1993.
4. Review of second quarter, FY 1993, financial statements.
5. Report of ad hoc committee on privatization of the RTB.
6. Report of ad hoc committee on prepayments.
7. Review of proposed rule to increase the TIER requirement for RTB loans.
8. Date of future meetings.
9. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Matthew P. Link, Assistant Secretary, Rural Telephone Bank (202) 720–0530.

Dated: April 26, 1993.

James B. Huff, Sr.,

Governor, Rural Telephone Bank.

[FR Doc 93–10197 Filed 4–29–93; 8:45 am]

BILLING CODE 3410–15–F

Sunshine Act Meetings

Federal Register

Vol. 58, No. 82

Friday, April 30, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, May 5, 1993.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS:

Open to the Public

Public Hearing—FY 95 Priorities

The Commission will hold a public hearing on the agenda and priorities for fiscal year 1995.

FY 95 Priorities

The staff will brief the Commission on recommendations concerning the priorities for fiscal year 1995.

For a recorded message containing the latest agenda information, call: (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207 (301) 504–0800.

Date: April 27, 1993.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 93–10403 Filed 4–28–93; 3:26 pm]

BILLING CODE 6355–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, May 6, 1993.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS:

Open to the Public

Mid-Year Review

The staff will brief the Commission on fiscal year 1993 mid-year review issues.

For a recorded message containing the latest agenda information, call: (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207 (301) 504–0800.

Date: April 27, 1993.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 93–10404 Filed 4–28–93; 3:26 pm]

BILLING CODE 6355–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, May 11, 1993, 2:00 P.M. (Eastern Time).

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, NW., Washington, DC 20507.

STATUS: Part of the Meeting will be open to the public and part of the Meeting will be closed.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Votes
2. Reports to the Commission
   a. Human Resource Management Services
   b. Office of Program Operations
   c. Office of Management—Technical Assistance Training Institute (TATI)
3. Proposal to Cancel the EEO–6 Reporting Requirements

Closed Session

1. Litigation Authorization: General Counsel Recommendations

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 663–7100 (voice) and (202) 663–4077 (TTD) at any time for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

Date: April 27, 1993.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 93–10290 Filed 4–28–93; 8:48 am]

BILLING CODE 6750–06–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:29 a.m. on Tuesday, April 27, 1993, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Application for Federal Deposit Insurance: First Financial Bank, Atlanta, Georgia, a proposed new bank to be located at 3 Corporate Square, Suite 700, Atlanta, Georgia.

Matters relating to the probable failure of certain insured banks.

Matters relating to the Corporation's corporate and supervisory activities.

Recommendation regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum re: American Diversified Savings Bank, Costa Mesa, California, Case No. 000–00015–93–BOD.

Matters relating to an assistance agreement with an insured bank.

In calling the meeting, the Board determined, on motion of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), seconded by Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: April 27, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–10337 Filed 4–28–93; 3:30 pm]

BILLING CODE 6714–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:30 a.m., Wednesday, May 5, 1993, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

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MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 28, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–10299 Filed 4–28–93; 10:27 am]

BILLING CODE 6210–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, May 5, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Publication for comment of proposed rule to expand the definition of financial institution in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 regarding netting contracts.

2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: April 28, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–10300 filed 4–28–93; 10:27am]

BILLING CODE 6210–01–M

NATIONAL WOMEN'S BUSINESS COUNCIL

Notice of Meeting

In accordance with the Women's Business Ownership Act, Public Law 100–533 as amended, the National Women's Business Council announces a forthcoming Council Meeting. The focus of the meeting will be to discuss administrative matters, as well as, planning of future Council meetings and hearings for the remainder of the year.

DATES: May 10, 1993, 10:00 am to 12:00 noon.

ADDRESS: Longworth House Office Building, Room 1310A.

STATUS: Open to the public.

NOTICE: Pursuant to 41 CFR 101–6.1015(b)(2), this Notice is being published less than 15 days prior to the meeting date because of scheduling difficulties and the appointment of new members to the National Women's Business Council by the new Administration.

FOR FURTHER INFORMATION CONTACT: Meredithe Napper, Executive Director or Deborah Darrell, Legislative Analyst, National Women's Business Council, 409 3rd Street, SW., Suite 7425, Washington, DC 20024, (202) 205–3850.

Meredithe Napper,

Executive Director, National Women's Business Council.

[FR Doc. 93–10411 Filed 4–28–93; 3:04 pm]

BILLING CODE 6820–AB–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following open meeting during the week of May 3, 1993.

An open meeting will be held on Tuesday, May 4, 1993, at 2:30 p.m., in Room 6059.

The subject matter of the open meeting scheduled for Tuesday, May 4, 1993, at 2:30 p.m., will be:

1. Consideration of whether to issue a concept release that seeks comment on the appropriate net capital treatment of various over-the-counter ("OTC") derivative instruments, including OTC options, forwards, futures, and swaps. For further information, please contact Michael A. Macchiaroli at (202) 272–2904.

2. Consideration of whether to propose for comment new exceptions to Rules 10b–6, 10b–7, and 10b–8 under the Securities Exchange Act of 1934 in connection with distributions of Rule 144A eligible foreign securities, if such securities are offered or sold in the United States solely to "qualified institutional buyers" in transactions exempt from registration pursuant to Section 4(2) of or Rule 144A or Regulation D under the Securities Act of 1933. For further information, please contact Diane Mege Roberts at (202) 504–2938.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Steve Luparello at (202) 272–2100.

Dated: April 27, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10276 Filed 4–27–93; 4:40 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register

Vol. 58, No.82

Friday, April 30, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Office of Environmental Restoration and Waste Management

Publication of Schedule for Submitting Plans for Treating Mixed Waste Generated or Stored at Each Site as Required by the Federal Facility Compliance Act of 1992

Correction

In notice document 93–8042 beginning on page 17875 in the issue of Tuesday, April 6, 1993, make the following corrections:

1. On page 17876, in the table, in the third column, under the heading "Facility", in the entry for Charleston Naval Shipyard, insert "1".

2. On the same page, in the same column, under the same heading, in the entry for Savannah River Site, delete "1".

3. On the same page, in the same column, under the same heading, in the entry for Norfolk Naval Shipyard, insert "1".

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 435

[MB–001–FC]

RIN 0938–AA58

Medicaid Program; Eligibility and Coverage Requirements

Correction

In rule document 93–880 beginning on page 4908 in the issue of Tuesday, January 19, 1993, make the following corrections:

1. On page 4927, in the first column, amendatory instruction 7. was omitted just before § 435.201, it should read as follows:

7. Section 435.201 is revised to read as follows:

2. On page 4932, in the second column, the heading above amendatory instruction 39. should read "§ 435.733 [Amended]".

BILLING CODE 1505–01–D

OFFICE OF NATIONAL DRUG CONTROL POLICY

21 CFR Part 1403

Uniform Administrative Requirements for Grants and Cooperative Agreements

Correction

In rule document 92–27962 beginning on page 55091 in the issue of Tuesday, November 24, 1992, make the following correction:

Appendix A to part 1403 [Corrected]

On page 55110, in the first column, in Appendix A to part 1403, in paragraph 13b., in lines three and four, remove "b. The three parts of the audit report may be found".

BILLING CODE 1505–01–D

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Part II

Department of the Interior

Minerals Management Service

Outer Continental Shelf Operations: Proposed 1995 Lease Sales; Call for Information, Nominations and Intent To Prepare an Environmental Impact Statement; Notice

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UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE
Gulf of Mexico OCS Region

Proposed 1995 Lease Sales

Call for Information and Nominations
and
Notice of Intent to Prepare an Environmental Impact Statement

CALL FOR INFORMATION AND NOMINATIONS
(Responses Due in 45 Days)

Purpose of Call

The purpose of the Call is to gather information for Outer Continental Shelf (OCS) Lease Sale 152 in the Central Gulf of Mexico (CGOM) Planning Area, tentatively scheduled for March 1995, and OCS Lease Sale 155 in the Western Gulf of Mexico (WGOM) Planning Area, tentatively scheduled for August 1995.

Information and nominations on gas and oil leasing, exploration, and development and production within the Central and Western Gulf of Mexico Planning Areas are sought from all interested parties. This early planning and consultation step is part of the Area Evaluation and Decision Process and is important for ensuring that all interests and concerns are communicated to the Department of the Interior for future decisions in the leasing process pursuant to the OCS Lands Act, as amended (OCSLAA) (43 U.S.C. 1331-1356 (1988)), and regulations at 30 CFR Part 256. This Call does not indicate a preliminary decision to lease in the area described below. Final delineation of the area for possible leasing will be made at a later date and in compliance with applicable laws including all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as amended, and the OCSLAA. Established departmental procedures will be employed.

Description of Area

The general area of this Call covers the entire central and western portions of the Gulf of Mexico between approximately 88 degrees W. longitude on the east and approximately 97 degrees W. longitude on the west and extends from the Federal-State boundaries seaward to the provisional maritime boundary between the United States and Mexico. The entire Call area is offshore the States of Texas, Louisiana, Mississippi, and Alabama. This area is divided into two planning areas.

The CGOM Planning Area is bounded on the east by approximately 88 degrees W. longitude. Its western boundary begins at the offshore boundary between Texas and Louisiana and proceeds southeasterly to approximately 28 degrees N. latitude, thence east to approximately 92 degrees W. longitude, thence south to the provisional maritime boundary with Mexico which constitutes the southern boundary of the area. The northern part of the area is bounded by the Federal-State boundary offshore Louisiana, Mississippi, and Alabama. The area available for nominations and comments consists of about 47.8 million acres.

The WGOM Planning Area is bounded on the west and north by the Federal-State boundary and on the east by the CGOM Planning Area. The area extends south to the provisional maritime boundary with Mexico. The area is offshore Texas and, in deeper water, offshore Louisiana. The area available for nominations and comments consists of about 35.9 million acres.

A standard Call for Information Map depicting each planning area on a block-by-block basis is available without charge from:

Minerals Management Service
Public Information Unit
1201 Elmwood Park Boulevard
New Orleans, Louisiana 70123-2394
Telephone: (504) 736-2519

Areas Deferred from this Call (Western Gulf)

High Island Area, East Addition, South Extension, (Flower Gardens), Block A-375 and Block A-398 (WGOM).

Area Under Ongoing Discussions with the Navy (Western Gulf)

The Corpus Christi Naval Operations Area has been deferred from leasing in Western Gulf Sales 135 and 141 in accordance with a 1990 agreement with the Navy. The area has also been deferred from leasing in Sales 143 and 150 in accordance with a 1992 agreement with the Navy. (The precise block listing involved has varied slightly.) This Naval Operations Area is not being deferred from this Call. The Minerals Management Service (MMS) will institute a review of the area to take into account possible changes in nearby gas and oil discovery and development patterns and will continue discussions with the Navy and industry representatives regarding future activities.

BILLING CODE 4310-MR-M

Instructions on Call

Indications of interest and comments must be received no later than 45 days following publication of this document in the Federal Register in envelopes labeled "Nominations for Proposed 1995 Lease Sales in the Gulf of Mexico" or "Comments on the Call for Information and Nominations for Proposed 1995 Lease Sales in the Gulf of Mexico." The standard Call for Information Map and indications of interest and/or comments must be submitted to the Regional Supervisor, Leasing and Environment, Gulf of Mexico OCS Region, at the address stated above.

The standard Call for Information Map delineates the Call area all of which has been identified by the MMS as having potential for the discovery of accumulations of gas and oil. Respondents are requested to indicate interest in and comment on any or all of the Federal acreage within the boundaries of the Call area that they wish to have considered for inclusion in proposed Sale 152 in the CGOM and proposed Sale 155 in the WGOM.

Although individual indications of interest are considered to be privileged and proprietary information, the names of persons or entities indicating interest or submitting comments will be of public record. Those indicating such interest are requested to do so on the standard Call for Information Map by outlining the areas of interest along block lines.

Respondents should rank areas in which they have expressed interest according to priority of their interest (e.g., priority 1 (high), 2 (medium), or 3 (low)). Respondents are encouraged to be specific in indicating blocks by priority, as blanket nominations on large areas are not useful in the analysis of industry interest. Areas where interest has been indicated but on which respondents have not indicated priorities will be considered priority 3 (low).

Respondents may also submit a detailed list of blocks nominated (by Official Protraction Diagram and Leasing Map designations) to ensure correct interpretation of their nominations. Specific questions may be directed to the Chief, Leasing Activities Section at (504) 736-2761. Official Protraction Diagrams and Leasing Maps can be purchased from the Public Information Unit referred to above.

Comments are sought from all interested parties about particular geological, environmental, biological, archaeological, and socioeconomic conditions or conflicts, or other information which might bear upon the potential leasing and development of particular areas. Comments are also sought on possible conflicts between future OCS gas and oil activities that may result from the proposed sales and State Coastal Management Programs (CMP's).

If possible, these comments should identify specific CMP policies of concern, the nature of the conflict foreseen, and steps that the MMS could take to avoid or mitigate the potential conflict. Comments may either be in terms of broad areas or restricted to particular blocks of concern. Those submitting comments are requested to list block numbers or outline the subject area on the standard Call for Information Map.

Use of Information from Call

Information submitted in response to this Call will be used for several purposes. First, responses will be used to help delineate the areas of potential for gas and oil development upon which an Environmental Impact Statement (EIS) will be prepared. Second, comments on possible environmental effects and potential use conflicts will be used in the analysis of environmental conditions in and near the Call area. This information will be used to make a preliminary determination of the potential advantages and disadvantages of gas and oil exploration and development to the region and the Nation. A third purpose of this Call is to use the comments collected to initiate the scoping process for the EIS and develop a proposed action and alternatives to the proposed action. Fourth, comments may be used in developing lease terms and conditions to ensure safe offshore operations. Fifth, comments may be used to point out potential conflicts between offshore gas and oil activities and a State CMP.

Existing Information

Preceding this Call in the sale planning process was an Information Base Review (IBR). The purpose of an IBR is to evaluate the status of pertinent information and the information acquisition efforts. This IBR constituted an assessment of the quality and adequacy of the information available which has been found sufficient for the decision to proceed with the Call.

An extensive environmental studies program has been underway in this area since 1973. The emphasis, including continuing studies, has been on environmental characterization of biologically sensitive habitats, physical oceanography, ocean-circulation modeling, and ecological effects of gas and oil activities. A complete listing of available study reports, and information for ordering copies, can be obtained from the Public Information Unit referenced above. The reports may also be ordered, for a fee, from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or telephone (703) 487-4650. In addition, a program status report for continuing studies in this area can be obtained from the Chief, Environmental Studies Section, Gulf of Mexico OCS Region (see address under "Description of Area"), or telephone (504) 736-2896.

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Summary Reports and Indices and technical and geological reports are available for review at the MMS, Gulf of Mexico OCS Region. Copies of the Gulf of Mexico OCS Regional Summary Reports may be obtained from the OCS Information Program, Office of Offshore Information and Publications, Minerals Management Service, at 381 Elden Street, Herndon, Virginia 22070.

Tentative Schedule

The following is a list of tentative milestone dates preceding CGOM Sale 152 and WGOM Sale 155:

	CGOM Sale 152	WGOM Sale 155
Comments due on the Call	June 1993	June 1993
Notice Of Intent Comments Due (Scoping)	June 1993	June 1993
Area Identification	July 1993	July 1993
Draft EIS published	April 1994	April 1994
Proposed Notice Issued	April 1994	April 1994
Public Hearings held on Draft EIS	June 1994	June 1994
Governors' Comments Due on Proposed Notice	July 1994	July 1994
Final EIS published	December 1994	December 1994
CZM Consistency Determination	December 1994	April 1995
Final Notice of Sale published	February 1995	July 1995
Sale Date	March 1995	August 1995

NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT
(Comments Due in 45 Days)

Purpose of Notice of Intent (NOI)

Pursuant to the regulations (40 CFR 1501.7) implementing the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the MMS is announcing its intent to prepare an EIS on the gas and oil leasing proposals known as Sale 152 in the CGOM, and Sale 155 in the WGOM, off the States of

Texas, Louisiana, Mississippi, and Alabama. The NOI also serves to announce the scoping process that will be followed for this EIS. Throughout the scoping process, Federal Agencies and State and local governments and other interested parties have the opportunity to aid the MMS in determining the significant issues and alternatives to be analyzed in the EIS.

The EIS analysis will focus on the potential environmental effects of leasing, exploration, and development of the blocks included in the areas defined in the Area Identification procedure as the proposed areas of the Federal actions. Alternatives to the proposal which may be considered for each sale are to delay the sale, cancel the sale, or modify the sale.

Instructions on NOI to Prepare an EIS

Federal Agencies and State and local governments and other interested parties are requested to send their written comments on the scope of the EIS, significant issues which should be addressed, and alternatives that should be considered to the Regional Supervisor, Leasing and Environment, Gulf of Mexico OCS Region, at the address stated under "Description of Area." Comments should be enclosed in an envelope labeled "Comments on the NOI to Prepare an EIS on the proposed 1995 Lease Sales in the Gulf of Mexico." Comments are due no later than 45 days from publication of this Notice. Scoping meetings will be held in appropriate locations to obtain additional comments and information regarding the scope of the EIS.

Acting Director, Minerals Management Service
Thomas Gernhofer

Approved:

Assistant Secretary - Land and Minerals Management
Michael Dombeck

Date

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Friday
April 30, 1993

Part III

Department of Education

Training in Early Childhood Education and Violence Counseling; Notice Inviting Applications for New Awards for Fiscal Year 1993

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DEPARTMENT OF EDUCATION

[CFDA NO.: 84.266]

Training In Early Childhood Education and Violence Counseling; Notice Inviting Application for New Awards for Fiscal Year (FY) 1993

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 1993.

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: To enable institutions of higher education to establish innovative programs to recruit and train students for careers in early childhood development or violence counseling.

Eligible Applicants: Institutions of higher education.

Deadline For Transmittal Of Applications: June 14, 1993.

Deadline For Intergovernmental Review: August 13, 1993.

Available Funds: $4,960,000.

Range Of Awards: $500,000 to $1,000,000.

Estimated Average Size Of Awards: $750,000.

Estimated Number Of Awards: 7.

Note: The Department is not bound by any estimates in this notice.

Project Period: 3–5 years.

Applicable Regulations:

Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR Part 75 (Direct Grant Programs).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR Part 82 (New Restrictions on Lobbying).

(6) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR Part 86 (Drug-Free Schools and Campuses).

Description of Program: Section 596 of the Higher Education Amendments of 1992 (Pub. L. 102–325) authorizes grants to institutions of higher education (IHEs) to enable them to establish innovative programs to recruit and train students for careers in one or both of the following (1) early childhood development and care, or preschool programs; or (2) counseling to young children from birth to 6 years of age who have been affected by violence and to adults who work with these children.

Applications: A grant may be made only to an IHE that submits an application to the Secretary. The application must—

(1) Describe the activities and services for which assistance is sought;

(2) Contain a comprehensive plan for the recruitment, retention, and training of students for careers in early childhood development or violence counseling;

(3) Demonstrate that the institution has the capacity to implement the plan; and

(4) Provide assurances that the plan was developed in consultation with agencies and organizations that will assist the institution in carrying out the plan.

The comprehensive plan must include a description of—

(1) Specific strategies for reaching students at secondary schools, community colleges, undergraduate institutions, or other agencies and institutions from which students are to be drawn for participation in the program, including any partnerships with the institutions;

(2) Specific strategies for retaining students in the program, such as summer sessions, internships, mentoring, or other activities;

(3) Methods that will be used to ensure that students trained pursuant to the plan will find employment in early childhood education, development and care, or violence counseling;

(4) The goals, objectives, and timelines to be used in assessing the success of the plan and of the activities assisted under the grant award;

(5) The curriculum and training leading to the degree or credential that prepares students for the careers described in the plan;

(6) The special plans, if any, to ensure that students trained pursuant to the plan will be prepared for serving in economically disadvantaged areas; and

(7) Sources of financial aid to ensure that the training program is available to all qualified students.

Priority: Under 34 CFR Part 105(c)(3) and section 596(d) of the authorizing statute, the Secretary will fund under this competition only applications from institutions that—(1) prepare students for work in economically disadvantaged areas; (2) plan to focus their recruitment, retention, and training efforts on disadvantaged students; and (3) have demonstrated effectiveness in providing the type of training for which the institution seeks assistance.

Selection Criteria:

(a) (1) The Secretary uses the following selection criteria to evaluate applications for grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

The regulations in 34 CFR 75.210 (a) and (c) provide that the Secretary may award up to 100 points for the selection criteria including distribution of an additional 15 points among the criteria in 34 CFR 75.210(b). For this competition, the Secretary distributes the additional 15 points as follows: 5 points to selection criterion 34 CFR 75.210(b)(2) (Extent of need for the project) for a possible total of 25 points; 5 points to selection criterion 34 CFR 75.210(b)(3) (Plan of operation) for a possible total of 20 points); 5 points to selection criterion 34 CFR 75.210(b)(6) for a possible total of 10 points).

(b) *The criteria*—(1) *Meeting the purposes of the authorizing statute.* (30 points) The Secretary reviews each application to determine how well the project will meet the purpose of section 596 of the Higher Education Amendments of 1992, including consideration of—

(i) The objectives of the project; and

(ii) How the objectives of the project further the purposes of the authorizing statute.

(2) *Extent of need for the project.* (25 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the authorizing statute including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(4) *Quality of key personnel.* (7 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(4)(i)(A) and (B) will commit to the project; and

(D) How the applicant, as part of the nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i)(A) and (B), the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable. (Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(7) *Adequacy of resources.* (3 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

Intergovernmental Review of Federal Programs: This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of contact, see the list published in the **Federal Register** on September 21, 1992 (57 FR 43525 and 43526).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372, U.S. Department of Education, Room 4161, 400 Maryland Avenue SW., Washington, D.C. 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS. INSTRUCTIONS FOR TRANSMITTAL OF APPLICATIONS:

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA 84.266), Washington, DC 20202–4725 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, D.C. time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA 84.266), Room 3633, Regional Office Building #3, 7th and D Streets SW., Washington, DC 20202.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms: The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

PART II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

PART III: Application Narrative.

Additional Materials:

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certifications regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered

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Transactions (ED 80–0014, 9/90) and instructions. (NOTE: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Alexander, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 2025), Washington, DC 20202–6132. Telephone: (202) 401–1692. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–977–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: Pub. L. 102–325, Higher Education Amendments of 1992, section 596.

Dated: April 23, 1993.

Mary Jean LeTendre,

Acting Assistant Secretary for Elementary and Secondary Education.

BILLING CODE 4000–01–M

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Applica... ☐ Construction ☒ Non-Construction / Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name	Organizational Unit
Address (give city, county, state, and zip code)	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A. State H. Independent School Dist.
B. County I. State Controlled Institution of Higher Learning
C. Municipal J. Private University
D. Township K. Indian Tribe
E. Interstate L. Individual
F. Intermunicipal M. Profit Organization
G. Special District N. Other (Specify) _____

8. TYPE OF APPLICATION:
☒ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es) ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify)

9. NAME OF FEDERAL AGENCY: U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 2 6 6
TITLE Training in Early Childhood Education and Violence Counseling

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT.

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.)

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. Federal	$ .00	a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
b. Applicant	$ .00	DATE _____
c. State	$ .00	b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372
d. Local	$ .00	☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
e. Other	$ .00	
f. Program Income	$ .00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
g. TOTAL	$ .00	☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided.
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		Total (g)
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$		$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$		$	$	$
7. Program Income	$		$	$	$

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Standard Form 424A (4-88)
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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	Future Funding Periods (Years) (b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 - 19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION
(Attach additional Sheets if Necessary)

21. Direct Charges:

22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

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INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 - Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

BILLING CODE 4000-01-C

Instructions for Part III Application Narrative

Before preparing the Application Narrative an applicant should read carefully the description of the program, the information regarding priorities, and the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract; that is, a summary of the proposed project;
2. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application; and
3. Include any other pertinent information that might assist the Secretary in reviewing the application.

The Secretary strongly requests the applicant to limit the Application Narrative to no more than 20 double-spaced, typed (on one side only), although the Secretary will consider applications of greater length. The Department has found that successful applications for similar programs generally meet this page limit.

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information.

Public reporting burden for this collection of information is estimated to average six hours per response, including the time for reviewing and instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project, OMB 1810–0562, Washington, DC 20503.

(Information collection approved under OMB control number 1810–0562. Expiration date: 4/94.)

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OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

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CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement,

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted–

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90 which are obsolete)

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Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier ____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

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INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB 0348-0046

Reporting Entity: _____ Page _____ of _____

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IMPORTANT NOTICE TO PROSPECTIVE PARTICIPANTS IN USDE CONTRACT AND GRANT PROGRAMS

GRANTS

Applicants for grants from the U.S. Department of Education (USDE) have to compete for limited funds.

Deadlines assure all applicants that they will be treated fairly and equally, without last minute haste.

For these reasons, USDE must set strict deadlines for grant applications. Prospective applicants can avoid disappointment if they understand that -

Failure to meet a deadline will mean that an applicant will be rejected without any consideration whatever.

The rules, including the deadline, for applying for each grant are published, individually, in the Federal Register. A one-year subscription to the Register may be obtained by sending $340.00 to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20202-9371. (Send check or money order only, no cash or stamps.)

The instructions in the Federal Register must be followed exactly. Do not accept any other advise you may receive. No USDE employee is authorized to extend any deadline published in the Register.

Questions regarding submission of applications may be addressed to:

U.S. Department of Education
Application Control Center
Washington, D.C. 20202-4725

CONTRACTS

Competitive procurement actions undertaken by the USDE are governed by the Federal Procurement Regulations and implementing ED Procurement Regulations.

Generally, prospective competitive procurement actions are synopsized in the Commerce Business Daily (CBD). Prospective offerors are therein advised of the nature of the procurement and where to apply for copies of the Request for Proposals (RFP).

Offerors are advised to be guided solely by the contents of the CBD synopsis and the instructions contained in the RFP. Questions regarding the submission of offers should be addressed to the Contracting Specialist identified on the face page of the RFP.

Offers are judged in competition with others, and failure to conform with any substantive requirements of the RFP will result in rejection of the offer without any consideration whatever.

Do not accept any advice you receive that is contrary to instructions contained in either the CBD synopsis or the RFP. No USDE employee is authorized to consider a proposal which is non-responsive to the RFP.

A subscription to the CBD is available for $208.00 per year via second class mailing or $251.00 per year via first class mailing. Information included in the Federal Acquisition Regulations is contained in Title 48, Code of Federal Regulations, Chapter 1 ($49.00). The forgoing publication may be obtained by sending your check or money order only, no cash or stamps, to:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402-9371

In an effort to be certain this important information is widely disseminated, this notice is being included in all USDE mail to the public. You may, therefore, receive more than one notice. If you do, we apologize for any annoyance it may cause you.

ED FORM 3348 6/86 REPLACES ED FORM 3348 3/84 WHICH IS OBSOLETE

[FR Doc. 93-10183 Filed 4-29-93; 8:45 am]
BILLING CODE 4000-01-C

federal register

Friday
April 30, 1993

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing

24 CFR Part 200
Use of Materials Bulletins Used in the HUD Building Product Standards and Certification Program; Proposed Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R–93–1630; FR–3210–P02]

RIN 2502–AF62

Use of Materials Bulletins Used in the HUD Building Product Standards and Certification Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would adopt, in accordance with 5 U.S.C. 552, the Administrative Procedure Act, the following Use of Materials Bulletins (UMs): 39b-Aluminum Fenestration Products; 44d-Carpet; 59b-Wood Fenestration Products; 71a-Polystyrene Foam Insulation Board; 72a-Carpet Cushion; 82a-Sealed Insulating Glass Units; 85a Poly (vinyl chloride) (PVC) Fenestration Products; 89-Steel Insulated Door Systems; and 100-Solar Water Heating Systems. This document also references related national voluntary consensus standards.

In accordance with 24 CFR 200.935, these Use of Materials Bulletins would also provide a labeling and third party certification procedure to assure that the building products used in HUD programs meet the appropriate national voluntary consensus standards. The proposed rule would also supplement the HUD Building Product Standards and Certification Program by requiring that additional information be included on the label, tag, or mark that each manufacturer would affix to a certified product. It would also specify the frequency with which products must be tested in order to be acceptable to HUD.

DATES: Comments must be received by June 29, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of the General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Facsimile (FAX) are not acceptable.

Communication should refer to the above docket number and title, and should identify the particular UM Bulletin to which the comment pertains. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Mailing address: Leslie Breden, Manufactured Housing and Construction Standards Division, Mailroom B133, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000; Office location: 490 East L'Enfant Plaza, suite 3214, Washington, DC 20410; telephone, voice: (202) 755–7440; (TDD) (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Pursuant to HUD's Building Product Standards and Certification Program, which is authorized by section 521 of the National Housing Act, 12 U.S.C. 1735e, the Department issues Use of Materials Bulletins (UMs). The Ums are issued to provide HUD standards that establish minimum acceptable qualities for certain materials and products to be used in properties subject to mortgages insured by the Department. A UM is also used as a means of promulgating a labeling and certification program, to assure that the product used meets the appropriate standard.

The Department has evaluated technical standards for Use of Materials Bulletins 39b-Aluminum Fenestration Products; 44d-Carpet; 59b-Wood Fenestration Products; 71a-Polystyrene Foam Insulation Board; 72a-Carpet Cushion; 82a-Sealed Insulating Glass Units; 85a Poly (vinyl chloride) (PVC) Fenestration Products; 89-Steel Insulated Door Systems; and 100-Solar Water Heating Systems, and plans to adopt these standards by incorporating them by reference into the UMs. The UMs adoption would also augment the labeling requirements of 24 CFR 200.935(d)(6).

The text of the UMs is not being produced in the proposed rule, because the substance is embodied in new sections of 24 CFR part 200 set forth below. However, copies of the UMs are available for public inspection during regular business hours in the Standards and Products Branch, 490 East L'Enfant Plaza, suite 3214, Washington, DC 20410, and in the Office of the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(c), of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Executive Order 12291

This proposed rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order, on Federal Regulations issued by the President on February 17, 1981. An analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies; and (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The Secretary in approving this proposed rule for publication, certifies in accordance with 5 U.S.C. 605(b), the Regulatory Flexibility Act, that this proposed rule would not have a significant economic impact on a substantial number of small entities. These UMs would adopt standards that are nationally recognized throughout the affected industry, and their adoption will not create a burden on manufacturers, which are currently meeting the standards.

Semiannual Agenda

This proposed rule was listed as item 1395 in the Department's Semiannual Agenda of Regulations published on November 3, 1992 (57 FR 51392, 51412) under Executive Order 12291 and the Regulatory Flexibility Act.

Family Impact

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this proposed rule does not have potential significant impact on family formation, maintenance, and general well-being; therefore, it is not subject to review under this order.

Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule would not have federalism implications and thus, are not subject to review under the order. The standards incorporated in this proposed rule were developed in the private sector and are expected to be used generally by the

industry nationwide. This proposed rule will not interfere with or preempt State or local government functions.

List of Subjects in 24 CFR Part 200

Administrative practices and procedures, Claims, Equal employment opportunity, Fair housing, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

Accordingly, 24 CFR part 200 would be amended to read as follows:

PART 200—INTRODUCTION

1. The authority citation for 24 CFR part 200 would continue to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d).

2. Section 200.938 would be revised to read as follows:

§ 200.938 Supplementary specific requirements under the HUD building product standards and certification program for aluminum fenestration products.

(a) *Applicable standards.* All aluminum fenestration products shall be designed, manufactured, and tested in compliance with the following American National Standards Institute standards:

ANSI/AAMA 101–88—Specification for Aluminum Prime Windows and Sliding Patio Doors
ANSI/AAMA 1102.7–90—Specification for Aluminum Storm Doors
ANSI/AAMA 1002.10–83—Specification for Aluminum Storm Windows and Sliding Glass Doors
ANSI/AAMA 1600–90—Specification for Skylights

(b) *Labeling.* Under the procedures set forth in 24 CFR 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the Administrator to the manufacturer. Each aluminum fenestration product shall be marked as conforming to UM 39b. The label shall be located on each aluminum fenestration product so that it is available for inspection. The label shall include the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance inspections.* Under the procedure set forth in 24 CFR 200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for product shall be described in the specific building product certification program. In the case of aluminum fenestration products, testing and inspection shall be conducted as follows:

(1) At least once every four years, the administrator shall visit the manufacturer's facility to select a sample, of the maximum size commercially available, for testing in a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

3. Section 200.939 would be revised to read as follows:

§ 200.939 Supplementary specific requirements under the HUD building product standards and certification program for wood fenestration products.

(a) *Applicable standards.* All wood fenestration products shall be designed, manufactured, and tested in compliance with the following American National Standards Institute standards:

ANSI/NWWDA IS 2–87—Wood Windows
ANSI/NWWDA IS 3–88—Wood Sliding Doors

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the Administrator's validation mark and the manufacturer's certification of compliance with the applicable standards is required to be on the certification label issued by the Administrator to the manufacturer. Each wood fenestration product shall be marked as conforming to UM 59b. The label shall be located on each wood fenestration product so that it is available for inspection. The label shall include the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance inspections.* Under the procedures set forth in § 200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In case of wood fenestration products, testing and inspection shall be conducted as follows:

(1) At least once every four years, the administrator shall visit the manufacturer's facility to select a sample, of the maximum size commercially available, for testing in a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

4. A new § 200.945 would be added to read as follows:

§ 200.945 Supplementary specific requirements under the HUD building product standards and certification program for carpet.

(a) *Applicable standards.* All carpet shall be designed, manufactured, and tested in compliance with the following standards:

(1) ASTM D418–89—Methods of Testing Woven and Tufted Pile Floor Coverings
(2) ASTM D1335–90—Test method for Tuft Bind of Pile Floor Covering
(3) ASTM D2646–89—Test Method for Testing Backing Fabrics
(4) ASTM D3936–91—Test Method for Delamination Strength of Secondary Backing of Pile Floor Coverings
(5) AATCC 24–85—Test for Resistance of Textiles to Insects
(6) AATCC 16e–90—Test for Colorfastness to Light
(7) AATCC 8–86—Test for Crocking
(8) ASTM D3676–91—Test Method for Weight per Unit Area of Woven Fabric
(9) ASTM D3574–91—Method of Testing Flexible Cellular Materials
(10) ASTM D297–90—Method for Testing Rubber Products

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with UM 44d are required to be on the certification label issued by the Administrator to the manufacturer. The label shall be placed on each carpet every six feet not less than one foot from the edge.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

(1) Every six (6) months, three (3) samples and 1 annual field sample of carpet shall be submitted to the Administrator for testing in laboratory accredited by the National Voluntary Laboratory Accreditation Program of the U.S. Department of Commerce.

(2) The administrator also shall rview the quality assurance procedures every six months to assure that they are being followed by the manufacturer.

5. A new § 200.946 would be added, to read as follows:

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§ 200.946 Building product standards and certification program for polystyrene foam insulation board.

(a) *Applicable standards.* All polystyrene foam insulation board shall be designed, manufactured, and tested in compliance with the American Society for Testing and Materials (ASTM) standard C–578–87, "Preformed Cellular Polystyrene Thermal Insulation."

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's certification of compliance with the applicable standards, and the type of board are required to be on the certification label issued by the administrator to the manufacturer.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

(1) At least every six months, the administrator shall visit the manufacturer's facility to select a sample of each certified polystyrene foam insulation board for testing by a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures every six months to assure that they are being followed by the manufacturer.

6. A new § 200.947 would be added to read as follows:

§ 200.947 Building product standards and certification program for carpet cushion.

(a) *Applicable standards.* All carpet cushion shall be designed, manufactured, and tested in compliance with standards in UM–72a.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark, the manufacturer's certification of compliance with the applicable standards, and the type and class all are required to be on the certification label issued by the administrator to the manufacturer.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

(1) At least every six months, the administrator shall visit the manufacturer's facility to select a sample of each certified carpet cushion for testing by a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures every six months to assure that they are being followed by the manufacturer.

7. Section 200.940 would be revised to read as follows:

§ 200.940 Supplementary specific requirements under the HUD building product standards and certification program for sealed insulating glass units.

(a) *Applicable standards.* All sealed insulating glass units shall be designed, manufactured, and tested in compliance with the following American Society for Testing & Materials standards:

ASTM E–774–88—Specification for Sealed Insulating Glass Units

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards, are issued by the administrator to the manufacturer. Each sealed insulating glass unit shall be marked as conforming to UM 82a. The label shall be located on each sealed insulating unit so that it is available for inspection. The label shall include the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance inspections.* Under the procedures set forth in § 200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of sealed insulating glass units, testing and inspection shall be conducted as follows:

(1) At least once a year, the administrator shall visit the manufacturer's facility to select a sample, of the maximum size commercially available, for testing in a laboratory approved by the administrator.

(2) The administrator shall also review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

8. Section 200.941 would be revised to read as follows:

§ 200.941 Supplementary specific requirements under the HUD building products standards and certification program for poly (vinyl chloride) PVC fenestration products.

(a) *Applicable standards.* All PVC plastic fenestration products shall be designed, manufactured, and tested in compliance with the following American National Standards Institute standard or American Society for Testing and Materials standard:

ANSI/AAMA 101V–90—Specifications for PVC Prime Windows & Sliding Patio Doors (white only)

or

ASTM D 4099–89—Specification for PVC Prime Windows

(b) *Labeling.* Under the procedures set forth in 24 CFR 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to the manufacturer. Each PVC fenestration product shall be marked as conforming to UM 85a. The label shall be located on each PVC fenestration product so that it is available for inspection. The label shall include the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance inspections.* Under the procedures set forth in § 200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of PVC fenestration products, testing and inspection shall be conducted as follows:

(1) At least once every four years, the administrator shall visit the manufacturer's facility to select a sample, of the maximum size commercially available, for testing in a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

9. A new § 200.948 would be added to read as follows:

§ 200.948 Building product standards and certification program for exterior insulated steel door systems.

(a) *Applicable standards.* All Exterior Insulated Steel Door Systems shall be designed; manufactured, and tested in compliance with the following standards:

(1) ASTM A591–89—"Specification for Steel Sheet, Cold-Rolled Electrolytic Zinc Coated" Class B (minimum thickness, 0.022")

(2) ISDSI–100–90—"Dimensional Standard for Insulated Steel Door Systems"

(3) ISDSI–101–90—"Air Infiltration Performance Standard for Insulated Steel Door Systems"

(4) ISDSI–102–90—"Installation Standard for Insulated Steel Door Systems"

(5) ISDSI–104–90— "Water Penetration Performance Standard for Insulated Steel Door Systems"

(6) ISDSI–105–90—"Mechanical Performance Standard for Insulated Steel Door Systems"

(7) ISDSI–106–90—"Test Procedure and Acceptance Criteria for Prime Painted Steel Surfaces for Steel Doors and Frames"

(8) ISDSI–107–90—"Thermal Performance Standard for Insulated Steel Systems and Weatherstrip Frame Assemblies"

(9) ASTM F476–91—"Standard Test Method for Security of Swinging Door Assemblies" (Section 18 Door Impact Test)

Labeling. Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's certification of compliance with the applicable standards is required to be on the certification label issued by the administrator to the manufacturer.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

(1) At least every four years, the administrator shall visit the manufacturer's facility to select a sample of each certified exterior insulated steel door system for testing by an approved laboratory in accordance with the applicable standard.

(2) The administrator also shall review the quality assurance procedures every year to assure that they are being followed by the manufacturer.

10. A new § 200.949 would be added to read as follows:

§ 200.949 Building product standards and certification program for solar water heating system.

(a) *Applicable standards.* All solar water heating systems shall be designed, manufactured, and tested in compliance with Solar Rating and Certification Corporation (SRCC) Standards OG–300–89, "Operating Guidelines and Minimum Standards for Certifying Solar Water Heating System" (except for the program administration section).

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to the manufacturer. Each solar water heating system shall be marked as conforming to UM 100. The label shall include the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8) of testing and inspection shall be conducted as follows:

(1) The Administrator shall visit the manufacturer's factory every two years to assume that the initially accepted quality assurance procedures are being followed at least every four years, the administrator shall test the collector in a laboratory approved by the Administrator.

(i) At least every four years, the administrator shall visit the manufacturer's facility to select a sample of each certified solar water heating system for testing by a laboratory approved by the administrator.

(ii) The administrator shall also review the quality assurance procedures every two years to assure that they are being followed by the manufacturer.

(d) *Warranty.* The manufacturer shall provide, at no cost, a full five-year warranty against defects in material or workmanship, on the absorber plate, cooling passages, and the collector (excluding any glass), running from the date of installation of the solar water heating system. The warranty also shall include the full costs of field inspection, parts, and labor required to remedy the defects, and will include the cost of replacement at the site if required. This warranty is not required to cover defects resulting from exposure to harmful materials, fire, flood, lightning, hurricane, tornado, hailstorms, earthquakes, or other acts of God, vandalism, explosions, harmful chemicals or other fluids, fumes or vapors. This exclusion will apply to the operation of the collector under excessive pressures or excessive flow rates, misuse, abuse, negligence, accidents, alterations, falling objects or other causes beyond the control of the manufacturer. Following the initial five years, the manufacturer shall provide a limited no-cost five-year warranty for collector parts on a prorata allowance basis.

Dated: April 19, 1993.

James E. Schoenberger,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 93–10209 Filed 4–29–93; 8:45 am]

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Part V

The President

Proclamation 6550—Jewish Heritage Week, 1993

Proclamation 6551—National Crime Victims' Rights Week, 1993

Proclamation 6552—Death of Cesar Chavez

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Presidential Documents

Title 3—

The President

Proclamation 6550 of April 28, 1993

Jewish Heritage Week, 1993

By the President of the United States

A Proclamation

The essence of America's greatness has always been the diversity of its people. From the times of native settlement through the immigration of people from hundreds of other countries, the United States has gained immeasurably from the strengths of the peoples who have come to our shores. The Jewish community is an important part of this legacy.

Jewish citizens have contributed their knowledge and skills to every field of endeavor, including education, business, industry, science, and the arts. Their names are permanently etched in America's history books, and the Jewish community's rich heritage and culture pervade all aspects of American society.

Throughout the years, immigrating to America meant educational and economic opportunity, as well as freedom from oppression, for the Jewish people. For people who suffered under the yoke of dictators and ethnic hatred, America's democracy offered a chance for political involvement and religious liberty.

By wagon and train, by horseback and all other means of conveyance, the Jewish people have traveled across the vast expanse of America to create prosperous and rewarding lives for themselves. In the process, they have improved the social, political, and economic fabric of our Nation. To celebrate these contributions and recognize the people, traditions, and culture of the Jewish faith, the Congress, by Senate Joint Resolution 30, has designated the week of April 25, 1993, through May 2, 1993, as "Jewish Heritage Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the week of April 25, 1993, through May 2, 1993, as Jewish Heritage Week. I call upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93–10441
Filed 4–28–93; 5:02 pm]
Billing code 3195–01–P

Editorial note: For the President's remarks at a reception honoring the opening of the United States Holocaust Memorial Museum and at its dedication, see pages 635 and 644 of issue 16 of the *Weekly Compilation of Presidential Documents.*

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Presidential Documents

Proclamation 6551 of April 28, 1993

National Crime Victims' Rights Week, 1993

By the President of the United States of America

A Proclamation

Every day, thousands of men, women, and children are murdered, raped, robbed, beaten, or abused. They are the innocent victims of crime in the streets, towns, and homes of America.

Fortunately, crime victims in this country are not left alone to try to recover from the physical, emotional, and financial distress of victimization. Thousands of dedicated Americans are working tirelessly at the Federal, State, and local levels to provide comfort and financial assistance and to advocate for fair treatment. These advocates help the innocent victims of crime to recover from the trauma of victimization and to navigate the often emotionally difficult criminal justice process. "National Crime Victims' Rights Week" provides a special opportunity for us to demonstrate our appreciation to these selfless advocates and to renew our commitment to the needs and rights of crime victims.

Much has been accomplished during the past two decades to institutionalize victims' rights in this country. Bills of rights have been enacted at the Federal level and by 49 State governments to codify certain essential protections for victims. All 50 States now have crime victim compensation programs. Federal assistance under the Victims of Crime Act continues to supplement State crime victim compensation programs, support programs that provide direct assistance to crime victims, establish assistance for Native Americans who have been victimized, and provide training to increase the sensitivity of criminal justice practitioners to the special needs of crime victims.

While these gains are significant, there is still much that must be done to combat the crime trends that further threaten our communities. We must continue to work together to prevent crime and to protect ourselves, our families, and our fellow Americans from violence. We must work to provide opportunity where despair reigns. We must work together to ensure that hardened criminals who prey upon the innocent receive punishment commensurate with the harm—physical, emotional, and financial—that they have inflicted. And we must continue to work together to ensure that the innocent victims of crime receive the services they need and fair treatment by our Nation's criminal justice system.

The Congress, by Senate Joint Resolution 62, has designated the week of April 25 through May 1, 1993, as National Crime Victims' Rights Week and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the week of April 25 through May 1, 1993, as National Crime Victims' Rights Week. I urge all Americans to join in honoring those who work in behalf of crime victims and their families and to commit themselves to working together with their neighbors for safer streets, safer schools, and brighter tomorrows for all our citizens.

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IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93-10442
Filed 4-28-93; 5:03 pm]
Billing code 3195-01-P

Presidential Documents

Proclamation 6552 of April 28, 1993

Death of Cesar Chavez

By the President of the United States of America

A Proclamation

Cesar Chavez came from the humble yet proud beginnings of a migrant worker to lead those same workers in a movement that irreversibly shaped our Nation and brought justice and dignity to thousands. After the Depression forced young Cesar and his family from their ranch, he began working in the fields at an early age. His family traveled throughout California following the seasonal work, and he attended nearly 70 schools before dropping out to help support his family. Although his formal education ended after the seventh grade, Cesar learned much from the courageous example of his parents. Often among the first to resist exploitation and to stand up to injustice, they instilled in Cesar a profound respect for the intrinsic value of each human person, and a fervent desire to protect that value. Inspired by the teachings of a Catholic priest and by the writings of Ghandi and other great civil leaders, Cesar rose to become one of the great labor leaders of our time.

The United Farm Workers, the union he founded and led for almost three decades, became a symbol of empowerment and pride for many workers. Cesar's innate understanding of the problems facing migrant workers allowed him to organize thousands of farm workers across the Nation. With natural leadership and unflagging determination, he achieved real progress where others had failed.

His insistence on nonviolent tactics stood in stark contrast to the bitterness and brutality that were used in resistance. The strength of his vision and the power of his leadership enabled him to take his struggle directly to the American people. He focused our Nation's attention on the economic and social plight of migrant farm workers and, in the process, taught us how injustice anywhere affects us everywhere.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by the authority vested in me by the Constitution and laws of the United States, in tribute to the memory of Cesar Chavez, do hereby call upon the citizens of this great Nation to reflect on and honor the life of this distinguished leader, veteran, and American.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93-10474
Filed 4-29-93; 11:41 am]
Billing code 3195-01-P

Editorial note: For the President's statement on the death of Cesar Chavez, see page 663 of the *Weekly Compilation of Presidential Documents.*

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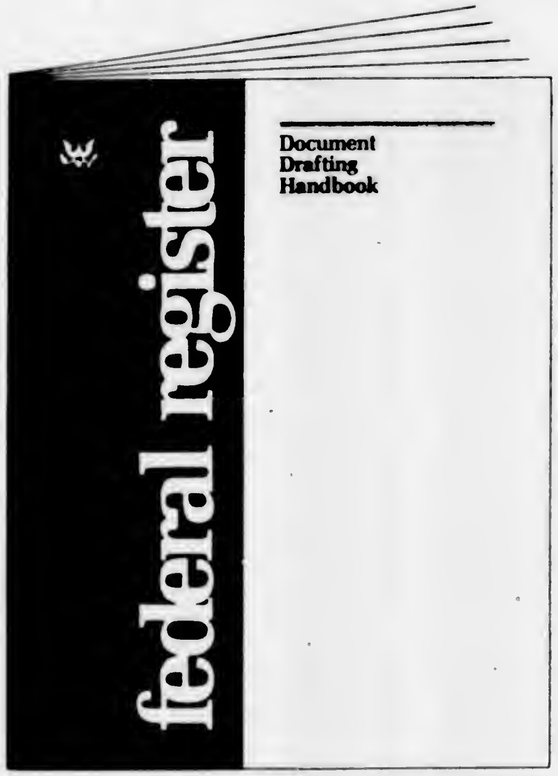

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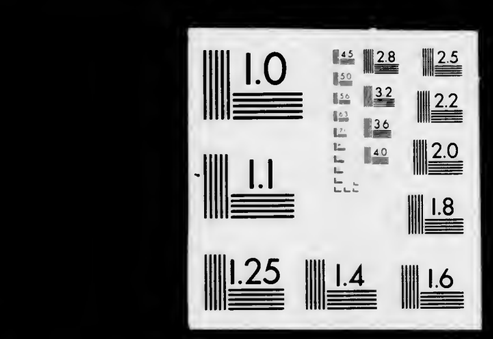

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Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and a list of Clinton Administration officials is available on 202–275–1538 or 275–0920.

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Rules and Regulations

Federal Register
Vol. 58, No. 83
Monday, May 3, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 92-AWP-17]

Amendment of Time of Designation for Restricted Area R-3101; HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action reduces the time of designation for R-3101 PMRFAC FOUR, HI, from 0600-1800 local time daily; other times by NOTAM, to 0600-1800 local time, Monday-Friday; other times by NOTAM. This action releases the restricted area for public use on weekends.

EFFECTIVE DATE: 0901 UTC, July 22, 1993.

FOR FURTHER INFORMATION CONTACT: Diane Bodenhamer, Military Operations Program Office (ATM-420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-3178.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 73 of the Federal Aviation Regulations reduces the time of designation for R-3101 PMRFAC FOUR, HI, from 0600-1800 local time daily; other times by NOTAM, to 0600-1800 local time, Monday-Friday; other times by NOTAM. This action releases the restricted area for public use on weekends. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public is not particularly interested. Section 73.31 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8A dated March 3, 1993.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action does not alter the dimensions of restricted airspace, nor is the mission conducted within the airspace changed. It enhances the efficient management of airspace by increasing public availability. Accordingly, this action will have no effect on current air traffic procedures or on routing or altitude of civil aircraft operations in the area. The FAA, therefore, finds that there will be no significant impact on the environment as a result of this action.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510, 1522; E.O. 10854; 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 73.31 [Amended]

2. § 73.31 is amended as follows:

R-3101 PMRFAC FOUR, HI [Amended]

By removing "Time of designation. 0600 to 1800 local time daily; other times by NOTAM." and substituting the following:

"Time of designation. 0600-1800 local time, Monday-Friday; other time by NOTAM."

Issued in Washington, DC, on April 15, 1993.

Harold W. Becker,

Manager, Airspace Rules and Aeronautical Information Division.

[FR Doc. 93-10378 Filed 4-30-93; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 27248; Amdt. No. 1541]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Exominotion

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The flight Inspection Field Office which originated the SIAP.

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For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 9260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applies to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air), Standard instrument approaches, Weather.

Issued in Washington, DC, on April 9, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective May 27, 1993*

Juneau, AK, Juneau Intl, LDA–1 RWY 8, Amdt. 10
Juneau, AK, Juneau Intl, NDB–1 RWY 8, Amdt. 10
Grand Canyon, AZ, Grand Canyon National Park, ILS/DME 1 RWY 3, Orig.
Phoenix, AZ, Phoenix-Deer Valley Muni, NDB RWY 25L, Amdt. 3
Scottsdale, AZ, Scottsdale, VOR–A, Amdt. 1
Scottsdale, AZ, Scottsdale, NDB–B, Amdt. 3
Bentonville, AR, Bentonville Muni/Louise M Thadden Field, VOR–A, Amdt. 10
Bentonville, AR, Bentonville Muni/Louise M Thadden Field, VOR/DME–E, Amdt. 3
Fayetteville, AR, Drake Field, VOR/DME–B, Amdt. 7, CANCELLED
Fayetteville, AR, Drake Field, VOT–A, Amdt. 24
Fayetteville, AR, Drake Field, LOC RWY 16, Amdt. 15
Fayetteville, AR, Drake Field, VOR/DME RWY 34, Orig.
Rogers, AR, Rogers Municipal-Carter Field, VOR RWY 1, Amdt. 12
Rogers, AR, Rogers Municipal-Carter Field, VOR/DME RWY 19, Amdt. 9
Rogers, AR, Rogers Municipal-Carter Field, ILS RWY 19, Amdt. 1
Grand Isle, LA, Grand Isle, VOR–A, Amdt. 8
Grand Isle, LA, Grand Isle, VOR/DME–C, Amdt. 7
Grand Isle, LA, Grand Isle, NDB–B, Amdt. 9
Houma, LA, Houma-Terrebonne, VOR RWY 12, Amdt. 4
Houma, LA, Houma-Terrebonne, VOR/DME RWY 30, Amdt. 11
Houma, LA, Houma-Terrebonne, NDB RWY 18, Amdt. 4
Houma, LA, Houma-Terrebonne, ILS RWY 18, Amdt. 3
Houma, LA, Houma-Terrebonne, VOR/DME RNAV RWY 36, Amdt. 4
Houma, LA, Houma-Terrebonne, COPTER VOR/DME 117, Amdt. 3
Port Sulphur, LA, Port Sulphur, VOR/DME–A, Amdt. 6
Port Sulphur, LA, Port Sulphur, VOR/DME–B, Amdt. 5
Slidell, LA, Slidell, VOR/DME RWY 18, Amdt. 3
Slidell, LA, Slidell, NDB RWY 18, Amdt. 1
Venice, LA, Tiger Pass, NDB–A, Amdt. 1

Kansas City, MO, Kansas City Downtown, VOR RWY 3, Amdt. 16
Teterboro, NJ, Teterboro, VOR/DME RNAV RWY 24, Orig.
Plattsburgh, NY, Clinton County, ILS RWY 1, Amdt. 2
Syracuse, NY, Syracuse Hancock Intl, VOR/DME or TACAN RWY 32, Amdt. 1
Ponca City, OK, Ponca City Muni, NDB RWY 17, Amdt. 3
Ponca City, OK, Ponca City Muni, NDB RWY 35, Amdt. 2
Aguadilla, PR, Rafael Hernandez, VOR RWY 8, Amdt. 4
Myrtle Beach, SC, Myrtle Beach Jetport, VOR/DME–A, Orig.
Myrtle Beach, SC, Myrtle Beach Jetport, ILS RWY 35, Orig.
Myrtle Beach, SC, Myrtle Beach Jetport, ILS RWY 17, Orig.
Myrtle Beach, SC, Myrtle Beach Jetport, RADAR–1, Orig.
Lufkin, TX, Angelina County, LOC RWY 7, Amdt. 1, CANCELLED
Lufkin, TX, Angelina County, ILS RWY 7, Orig.
Nacogdoches, TX, A.L. Mangham Jr. Regional, VOR/DME RWY 36, Orig., CANCELLED
Nacogdoches, TX, A.L. Mangham Jr. Regional, LOC RWY 36, Amdt. 1
Nacogdoches, TX, A.L. Mangham Jr. Regional, NDB RWY 36, Orig.
Wallops Island, VA, Wallops Flight Facility, VOR/DME or TACAN RWY 10, Amdt. 3

* * * *Effective April 29, 1993*

Shreveport, LA, Shreveport Regional, LOC RWY 5, Orig.

* * * *Effective April 1, 1993*

Hoquiam, WA, Bowerman, VOR/DME RWY 24, Amdt. 5

[FR Doc. 93–10368 Filed 4–30–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27249; Amdt. No. 1542]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscriptions

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The Provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled. The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs

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are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC, on April 9, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

NFDC TRANSMITTAL LETTER

Effective	State	City	Airport	FDC No.	SIAP
03/26/93	TN.	Memphis	Memphis Intl	FDC 3/1635	ILS Rwy 36R Amdt 8...
04/01/93	FL.	Cross City	Cross City	FDC 3/1699	VOR Rwy 31 Amdt 16A...
04/01/93	MA.	Nantucket	Nantucket Memorial	FDC 3/1785	ILS Rwy 24 Amdt 14...
04/01/93	MA.	Nantucket	Nantucket Memorial	FDC 3/1786	NDB Rwy 24 Amdt 10...
04/01/93	MA.	Nantucket	Nantucket Memorial	FDC 3/1793	VOR Rwy 24 Amdt 12...
04/01/93	MA.	Nantucket	Nantucket Memorial	FDC 3/1794	LOC BC Rwy 6 Amdt 7...
04/01/93	OH.	Wapakoneta	Wapakoneta/Neil Armstrong.	FDC 3/1792	LOC Rwy 26 Amdt 1...
04/01/93	SC.	Camden	Woodard Field	FDC 3/1797	NDB Rwy 24 Amdt 6A...
04/01/93	SC.	Camden	Woodard Field	FDC 3/1798	VOR DME–A Amdt 3...
04/01/93	SC.	North Myrtle Beach	Grand Strand	FDC 3/1761	ILS Rwy 23, Amdt 9A...
04/01/93	SC.	North Myrtle Beach	Grand Strand	FDC 3/1762	NDB Rwy 23, Amdt 10A...
04/01/93	TN.	Clarksville	Outlaw Field	FDC 3/1737	LOC Rwy 35 Amdt 5A...
04/01/93	TN.	Clarksville	Outlaw Field	FDC 3/1738	VOR Rwy 35 Amdt 15A...
04/01/93	TN.	Clarksville	Outlaw Field	FDC 3/1739	NDB Rwy 35 Amdt 5A...
0401/93	TN.	Savannah	Savannah-Hardin County.	FDC 3/1742	VOR/DME Rwy 18 Amdt 5A...
04/01/93	TX.	Mineola	Mineola Wisener Field	FDC 3/1718	VOR/DME–A Amdt 3...
04/01/93	MO.	Sikeston	Sikeston Memorial Muni.	FDC 3/1815	VOR Rwy 20 Amdt 2A...
04/04/93	IA.	Charles City	Charles City Muni	FDC 3/1865	NDB Rwy 30 Amdt 2A...
04/04/93	IA.	Charles City	Charles City Muni	FDC 3/1866	NDB Rwy 12 Orig-A...
04/04/93	IA.	Charles City	Charles City Muni	FDC 3/1867	LOC Rwy 12 Orig-A...
04/05/93	IA	Keokuk	Keokuk Muni	FDC 3/1870	NDB Rwy 14 Amdt 11...
04/05/93	IA.	Keokuk	Keokuk Muni	FDC 3/1871	NDB Rwy 26 Orig...
04/05/93	IA.	Monticello	Monticello Muni	FDC 3/1868	NDB–A Amdt 3...
04/05/93	IA.	Monticello	Monticello Muni	FDC 3/1869	VOR/DME RNAV Rwy 31 Amdt 1...
04/05/93	MA.	Worcester	Worcester Muni	FDC 3/1876	LOC Rwy 29, Orig...
04/06/93	MD.	Baltimore	Martin State	FDC 3/1882	ILS Rwy 32 Amdt 4..
04/06/93	MD.	Baltimore	Martin State	FDC 3/1883	LOC Rwy 14 Orig...
04/06/93	MD.	Baltimore	Martin State	FDC 3/1884	VOR/DME or TACAN 1 Rwy 14 Amdt 4...
04/06/93	MD.	Baltimore	Martin State	FDC 3/1885	VOR/DME RNAV Rwy 14 Amdt 4...
04/06/93	MD.	Baltimore	Martin State	FDC 3/1886	NDB Rwy 14 Amdt 7...
04/06/93	MD.	Baltimore	Martin State	FDC 3/1887	NDB Rwy 32 Amdt 7...
04/07/93	IA.	Fairfield	Fairfield Muni	FDC 3/1944	VOR/DME RNAV Rwy 36 Amdt 1A...
04/07/93	IA.	Fairfield	Fairfield Muni	FDC 3/1958	NDB Rwy 36 Amdt 7A...
04/07/93	MN.	Cloquet	Cloquet Carlton County.	FDC 3/1935	NDB Rwy 35, Amdt 3A...
04/07/93	MN.	Cloquet	Cloquet Carlton County.	FDC 3/1937	VOR/DME–A, Amdt 5A...

NFDC TRANSMITTAL LETTER—Continued

Effective	State	City	Airport	FDC No.	SIAP
04/07/93	MN.	Cloquet	Cloquet Carlton County.	FDC 3/1939	NDB Rwy 17, Amdt 3A...
04/07/93	TX.	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 3/1934	ILS Rwy 17L Amdt 5...

[FR Doc. 93–10369 Filed 4–30–93; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Contract Market Emergency Actions

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has implemented the statutory directive set forth in section 213 of the Futures Trading Practices Act of 1992 ("Futures Trading Act") by amending regulation 1.41 to establish new procedures for a contract market emergency action. Under the amendments, a contract market must make every effort practicable to notify the Commission of its intention to implement, modify, or terminate an emergency rule. The contract market also must supplement its notice with information on the emergency action and conditions. Within ten days of receipt from a contract market of all of the required information, the Commission will permit the rule to remain in effect, unless it finds that the contract market's emergency action is arbitrary, capricious, or an abuse of discretion; lacking a reasonable basis in fact; or taken in bad faith. If the Commission determines that the contract market's emergency action does not meet this standard and finds that suspension of the rule is not contrary to the public interest and the purposes of section 5a(a)(12) of the Commodity Exchange Act, then the Commission will, in its discretion and upon such terms and conditions as it deems appropriate, suspend the effect of the rule pending review under 5a(a)(12)(A) or otherwise.

EFFECTIVE DATE: July 2, 1993.

FOR FURTHER INFORMATION CONTACT: Shauna L. Turnbull, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 4, 1993, the Commission published for public comment in the **Federal Register** proposed amendments to Regulation 1.41.[1] In accordance with the requirements imposed by section 213 of the Futures Trading Act, the proposed regulation established new temporary emergency rule procedures.

II. Comments Received

The Commission received letters from five commenters, all of which were futures exchanges. Although the commenters recognized the importance of regulating emergency actions, they requested clarification, deletion, and alteration of aspects of the proposed amendments.

The Commission has carefully reviewed the comments received and, as a result, has issued final amendments that modify and clarify the proposed amendments to Regulation 1.41. Comments addressing specific provisions of the regulation and explanations of the Commission's revisions are discussed below.

III. Amendments to Regulation 1.41

The final amendments implement the statutory directive by providing additional guidance on the definition of the term "emergency;" defining the term "affiliated firm;" requiring, to the extent practicable, prior notice of an emergency action and a complete explanation of the emergency; requiring the submission of additional information on an emergency to the Commission; establishing a standard of review and procedures for a Commission determination on an emergency action; specifying new types of permissible emergency actions; and modifying procedures for taking a physical emergency action.

A. Definition of "Emergency"

1. The Proposed Rule

Proposed amendments to Regulation 1.41(a) included modifications to the definition of the term "emergency." Under existing regulations 1.41(a)(4) (i) and (ii), the term "emergency" is defined as "[a]ny occurrence or circumstance specifically defined as an 'emergency' by the rules of a contract market which have been submitted to the Commission" and "[a]ny other occurrence or circumstance which, in the opinion of the governing board of the contract market, requires immediate action and threatens or may threaten" the market. The current regulation also includes a nonexclusive list of possible occurrences and circumstances which may be deemed emergencies.

Under the proposed amendments, the Commission deleted the provision which permits a contract market to define the term "emergency" as any occurrence or circumstance noted in rules of the contract market. Instead, a contract market had to ensure that its rules were consistent with a modified version of the definition of "emergency." Under this modified provision, a contract market governing board could determine that an emergency existed when, in its opinion, occurrences or circumstances listed in the regulation required immediate action and threatened or could threaten the markets.

The listed occurrences or circumstances included a general provision designed to address "[a]ny other unusual, unforeseeable and adverse circumstance with respect to which it is not practicable for the contract market to submit, in a timely fashion, a rule to the Commission for prior review." In the proposed definition, the term "not practicable" was substituted for the term "impracticable" because courts have interpreted the word "impracticable" as meaning "inconvenient."[2]

2. Comments Received

In light of the recent bombing of the World Trade Center, the Coffee, Sugar & Cocoa Exchange, Inc. ("CSCE") commented that the list of specific occurrences and circumstances that may be considered emergencies should be expanded to add "malfunctions of plumbing, heating, ventilation and/or air conditioning systems, and other circumstances rendering trading

[1] 58 FR 7056 [February 4, 1993].

[2] *Jenson v. Continental Financial Corp.*, 404 F. Supp. 806, 809 (D. Minn. 1975); *Fifth Mooring Condominium, Inc. v. Shere*, 81 F.R.D. 712, 716 (S.D. Fla. 1978).

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facilities not reasonably capable of being occupied."

In addition, the CSCE and New York Mercantile Exchange ("Nymex") stated that the modified definition of "emergency" might not cover all emergencies that arose in the future. The New York Mercantile Exchange ("Nymex") expressed concern that the proposed definition would not address such emergencies as loss of the external quotation system, failure of a significant number of computerized trading terminals, and widespread failure of a computer network. One futures exchange, the Chicago Mercantile Exchange ("CME"), wrote in support of the proposed definition. The CME believed that the Commission's proposed definition of "emergency" addressed the Commission's goal of requiring greater consistency among contract markets in a reasonable manner.

The Chicago Board of Trade ("CBT") and MidAmerica Exchange ("MidAm")[3] also stated that substitution of the phrase "not practicable" for the word "impracticable" could alter the standard imposed on exchanges for providing prior notice to the Commission of an emergency action. In contrast, the CME commented that it had no objection to this proposed change.

3. Regulation 1.41(a)(4)

Based on review of these comments, the Commission has added an explicit reference to malfunctions of trading facilities to the list of circumstances that qualify as an emergency. The Commission notes that existing Regulation 1.41(a)(v) was broad enough to have permitted emergency action relating to the World Trade Center bombing. Under that provision, a contract market may deem to be an emergency "[a]ny circumstances which may have a severe, adverse affect upon the physical functions of a contract market including, for example, fire or other casualty, bomb threats, substantial inclement weather, power failures, communication breakdowns, and transportation breakdowns." The proposed amendments added to this provision "computer system breakdowns" and "screen-based trading system breakdowns."

For purposes of clarifying the provision, however, the Commission will add the clause "malfunctions of plumbing, heating, ventilation and air conditioning systems" to the examples of possible circumstances which may have a "severe, adverse effect upon the physical functions of a contract market." The Commission has determined not to add the reference to "other circumstances rendering trading facilities not reasonably capable of being occupied" because the existing provision is broad enough to address these circumstances and is not limited by a reasonableness standard.

The Commission also believes that the proposed definition in Regulation 1.41(a)(4) would provide sufficient flexibility to address future emergencies and, therefore, is making this definition final. Although the Commission recognizes that it is changing a nonexclusive list of emergencies to an exclusive list and deleting the provision that permits a contract market to develop its own definition of "emergency," the regulation also includes a general clause that encompasses all "unusual, unforeseeable and adverse circumstances." The Commission believes that this clause, together with the more specific clauses, are broad enough to address the circumstances noted by Nymex, as well as any other emergency circumstances. By reducing the complete discretion available to a contract market under existing provisions, the Commission intends only to prevent the submission of emergency actions that more properly should be submitted under non-emergency rule provisions.

The Commission also has made final the proposed substitution of the term "not practicable" for "impracticable." Thus, the Commission intends to clarify that a contract market must not declare an emergency merely because it is inconvenient to submit a rule for prior review. By substituting these terms, the Commission has not altered the standard governing prior notice of an emergency action by a contract market. The prior notice standard, which is contained in Regulation 1.41(f)(2)(i), does not contain the word "impracticable."

B. Definition of "Affiliated Firm"

1. The Proposed Rule

As part of the proposed regulation, the Commission requested documentation no later than five days after notice of an emergency action of customer and proprietary market positions held by a governing board member's affiliated firm. The term "affiliated firm" was defined as "any firm in which the person is a general partner, officer, director, employee, or owner of more than ten percent of the equity interest." Existing emergency regulations do not include a comparable term and definition.

2. Comments Received

The CME and Nymex stated that the proposed definition of "affiliated firm" was overly broad. Specifically, the CME objected to an employee floor broker having the same disclosure requirements as a sole owner of a firm. Nymex stated that inclusion of international offices in the definition of "affiliated firm" would make it burdensome to comply with the five-day submission requirement. International offices have differences in office hours as a result of time zones, presenting difficulties in communication and collection of information. Nymex suggested that the term "affiliated firm" should be limited to domestic offices.

3. Regulation 1.41(a)(8)

The Commission has considered these comments and has determined to modify related provisions of the proposed regulation but also to make the proposed definition of "affiliated firm" final with one change. The term "principal" has been added to the definition to clarify the scope of the regulation.

One purpose of obtaining position information from governing board members is to provide a basis for the Commission's determination on whether a governing board member acted in bad faith or was subject to a conflict of interest. Since it is possible for an employee to be influenced in his voting by his employer's market positions and for a governing board member to be influenced by market positions held at an international office, the Commission is unable to make its determination without this information.

Information about a governing board member's position may be readily available to the contract market through contact with clearing firms. The Commission understands, however, that the contract markets will need to obtain account numbers from its governing board members to conduct a review or permit review of governing board members' positions. If a contract market chooses not to obtain account numbers from its governing board members, then it must develop other methods for obtaining this information. As discussed more fully below, an authorized member or contract market official will have to review governing board members' position information, in any event, under section 217 of the Futures Trading Act on conflicts of interest.

Because it may be difficult for a contract market to collect the required position information, however, the

[3] The CBT and MidAm are affiliated futures exchanges, and they submitted identical comment letters under different signatures.

Commission may permit a limited extension of time in certain cases, beyond the five days, for providing the Commission with documentation of the position information, where there is significant need for an extension. In addition, the Commission will require information only on net positions in certain contract months of governing board members who attended an emergency action meeting. These provisions will be discussed below.

C. Notice

1. The Proposed Rule

Under current regulation 1.41(f)(2) a contract market must notify the Commission of the adoption, modification and termination of a temporary emergency rule by the fastest available means of communication. A written copy of an emergency rule and a complete explanation of the emergency and action taken to address the emergency also must be submitted to the Commission.

Section 213 of the Futures Trading Act provides that the Commission must issue regulations to specify that a contract market may make an emergency rule effective without prior Commission approval "if the contract market makes every effort practicable to notify the Commission of such emergency rule, along with a complete explanation of the emergency involved, prior to making the emergency rule effective. If the contract market does not provide the Commission with such notification and explanation before making the emergency rule effective, the contract market shall provide the Commission with such notification and explanation at the earliest possible date."

In accordance with this statutory provision, the proposed regulation amended regulation 1.41(f)(2) to provide that "[a] contract market must make every effort practicable to provide notice to the Commission that it intends to implement, modify or terminate a temporary emergency rule prior to implementing, modifying or terminating the rule. If it is not practicable for the contract market to notify the Commission prior to taking the emergency action, the contract market shall provide the Commission with notice of the implementation, modification, or termination of any emergency rule at the earliest possible time." In addition, under the proposed regulation, notice had to include:

(1) "[T]o the extent practicable, a complete explanation of the contract market action intended or taken to meet the emergency and a description of the nature of the emergency;"

(2) "[I]n any instance where a contract market does not provide prior notice of an emergency action, an explanation of why it was not practicable for a contract market to provide such notice; and"

(3) "[A]n explanation of why it was not practicable for the contract market to submit the temporary emergency rule to the Commission for prior review." The Commission also proposed, under regulation 1.41(f)(2)(ii), that a contract market should submit at the time of notification "[a]ny available written documentation of the nature of the emergency conditions and the intended or actual emergency action."

2. Comments Received

Two contract markets, the CME and Nymex, commented that prior notification of a temporary emergency rule would be difficult to provide to the Commission. The CME stated that it was concerned about the requirement that a contract market must attempt to notify the Commission and provide a copy of an emergency rule prior to implementation of that rule. It commented that such prior notification would not be possible since CME staff could not predict the action of the governing board members prior to the emergency rule meeting. Nymex noted that prior notice of an emergency often is not possible due to the inherent nature of the emergency, and such notice could jeopardize the stability of the market, given the sensitivity of the information relating to an emergency.

For purposes of protecting sensitive information, Nymex suggested that the Commission should make emergency rule information subject to a confidentiality provision. In addition, Nymex commented that the Commission should make the prior notice requirement less burdensome by stating that a contract market need only "make reasonable efforts under the circumstances" to provide timely notice to the Commission.

The CSCE requested clarification on the procedure for providing notice. It stated in its comment letter that the Commission should clarify whether initial notice may be given orally and by telephone. It also suggested that the Commission should specify the telephone numbers to call, including back-up numbers in case the main number for the appropriate Division is busy. In addition, the CSCE suggested that the Commission should provide one or more numbers with voice mail or some other recording device to receive messages if the individuals authorized to receive notice are not available and should specify telephone numbers for the receipt of facsimile transmissions.

The CSCE further commented that documentation requested in proposed regulation 1.41(f)(2)(ii) should not have to be provided at the time of notification and that this request could be addressed by a subsection of the proposed regulation that required submission of documentation no later than five days after notice of the emergency. Specifically, proposed regulation 1.41(f)(3)(iii) stated that a contract market should submit to the Commission "[w]ritten documentation, not previously provided, of the emergency conditions and the emergency action, including documentation of the reasons for the specific emergency action taken."

In addition, the CME stated in its comment letter that section 213 of the Futures Trading Act does not require a contract market to explain why, in appropriate cases, it was not practicable to provide prior notice to the Commission of an emergency action. The CME, therefore, proposed that the Commission delete this provision.

3. Regulation 1.41(f)(2)

After review and consideration of the futures exchanges' comments, the Commission has determined to make proposed regulation 1.41(f)(2) final. To clarify, these emergency rule provisions implement section 213 of the Futures Trading Act by requiring that a contract market must make every effort practicable to provide certain information to the Commission that is available to a contract market. In response to the CME's comment that it will be virtually impossible to provide prior notice, the Commission recognizes that contract market staff cannot predict the outcome of a governing board meeting. Where the contract market does not know the precise action that its governing board will select, the contract market can notify the Commission of the emergency circumstances and of the intended meeting of its governing boerd to discuss the emergency.

In response to Nymex's comments, the Commission understands that, even when a contract market makes every effort practicable to provide prior notice of an emergency action to the Commission, it may not be able to succeed in giving such notice because of the time constraints inherent in emergencies. Thus, a contract market is not required to provide the Commission with prior notice. It need only make every effort practicable to do so. In a situation where the time pressure associated with the emergency prevents a contract market from giving prior

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notice, the contract market will be able to provide notice at the earliest possible time. This standard for making "every effort practicable" to provide prior notice is required by section 213 of the statute. Because it does not require a contract market to specify the exact action to be taken, it should not interfere with the contract market's ability to take timely emergency actions.

The Commission also recognizes that notification of an intended emergency action can involve the disclosure of highly sensitive market information. As noted in the **Federal Register** release on the proposed emergency rule amendments, position information is not generally publicly available. The Commission will be particularly sensitive to the treatment of such information and to the nature of any emergency action not then public in any report on an emergency action. The Commission also notes that section 9(d) of the Commodity Exchange Act generally makes it a felony for any Commissioner, employee, or agent of the Commission who acquires non-public information which may affect the price of any commodity to trade on that information or to impart the information with the intention of assisting another person to participate in any futures transaction.

The CSCE requested clarification of certain procedural aspects of the notice provision. As required by regulation 1.41(f)(2)(i), a contract market will have to provide notice by the fastest means available and must use its best efforts to ensure that the notice is actually received by an authorized person. The Commission has not specified the form of communication that may be used for providing notice because it recognizes that this form may vary with the emergency circumstances; however, the Commission believes that notice by telephone often will be the fastest means available to provide the requested personal notice. Notice by facsimile also may prove to be the fastest means available under certain circumstances, but the contract market must use its best efforts to ensure that the facsimile is actually received by an authorized person. In addition, notice by voice mail or other recording device may satisfy the requirement that a contract market must provide notice by the fastest means available; however, as with facsimiles, a contract market must use its best efforts to ensure that the recorded notice is actually received by an authorized person.

In response to the CSCE's request for appropriate telephone and facsimile numbers, the Commission has determined to circulate an advisory to all contract markets with information on appropriate persons to contact and their telephone and facsimile numbers. This advisory will be updated as needed.

The CSCE and CME also requested clarification of the regulation 1.41(f)(2)(ii) requirement that a contract market must provide the Commission with any available documentation of the nature of the emergency conditions and the intended or actual emergency action at the time of notification. The Commission has not specified the types of documentation that can be submitted because this information will vary with the emergency circumstances. In the **Federal Register** release on the proposed rule, the Commission noted that it particularly would be interested in receiving a draft of a temporary emergency rule, or of any recommended actions, if available, prior to action on the rule by the governing board. The Commission recognizes that a contract market frequently will not have a draft rule prepared before an emergency rule meeting because of time constraints. As stated in the regulations, a contract market need only provide such information if it is available at the time of notice.

In addition to a copy of a draft emergency rule, examples of other documentation that a contract market may have access to at the time of notification include statements showing the financial condition of a firm, price data on activity in the underlying cash market, and legal documents showing a court order that affects a futures contract. Providing this information to the Commission at the time of notification will facilitate Commission review of the emergency action. If this documentation is not available at the time of notice, then, under regulation 1.41(f)(3)(iii), the contract market will have to submit pertinent documents with its supplemental information, no later than five days after notice. The regulation 1.41(f)(3) requirement does not duplicate the 1.41(f)(2) request for documentation because it requires the submission of documentation that a contract market has not previously submitted to the Commission.

As noted by the CME, the notice procedure also requires a contract market to explain to the Commission, in appropriate cases, why it was not practicable for the contract market to provide prior notice to the Commission of an emergency action. This requirement is intended to assist the Commission in addressing its own obligation to report to Congress within 10 days or in explaining why that timeframe is impracticable and in assessing the contract market's compliance with the Act.

Regulation 1.41 will continue to apply to clearing organizations, as well as to futures exchanges. Thus, these procedures apply to the implementation, modification, or termination [4] of a temporary emergency rule by a clearing house.

D. Supplementary Information Requirement

1. Proposed Regulation

As proposed, regulation 1.41(f)(3) required a contract market that had given notice of an emergency action to submit supplementary information on the emergency as soon as possible after providing notice, but in no event more than five days after that time. The proposed supplementary information included:

(1) A written copy of the temporary emergency rule;

(2) A complete written explanation of the emergency action;

(3) Written documentation, not previously provided, of the emergency;

(4) A copy of the minutes of the emergency rule meeting, containing specified information, including the time that the contract market notified members of the emergency rule meeting, a summary of all discussions, and a summary of any disclosure made by a person on his or her positions in any subject contract market;

(5) A description of the basis for and procedures followed by a governing board in making any determination as to the eligibility of an interested person to deliberate or to vote on matters relating to the emergency;

(6) Documentation of all positions in the subject contract market "held by a governing board member in personal accounts, controlled accounts, any other accounts in which a governing board member has an interest, and customer and proprietary accounts at a governing board member's affiliated firm;" and

(7) Such other information as the Commission may require.

2. Comments Received

Three contract markets submitted specific comments about aspects of the submission requirements. First, Nymex requested clarification of the difference between the requirements in regulations 1.41(f)(3) (ii) and (iii) that a contract market must submit a written explanation of the emergency action and

[4] To further clarify, a contract market must notify the Commission only when it takes emergency action to terminate an emergency rule. It need not notify the Commission when its emergency rule expires.

written documentation of the emergency condition and action.

Nymex also stated that the position information requirement should be limited by requiring information only from a member of the governing board who voted on or participated in consideration of the emergency action. It also believed that the position information requirement only should apply to positions of which the governing board member had actual knowledge at the time that the contract market took the subject emergency action. In addition, Nymex noted its understanding that the proposed rules did not require a contract market to verify the disclosure made by the governing board member or to collect position information independent from the disclosure made by the governing board member. The futures exchange suggested that the Commission incorporate a position disclosure and recusal policy in the final regulation. In other areas related to the position information requirement, Nymex commented that it would be difficult to assemble the position information in five days. In addition, the futures exchange requested that the Commission cross reference section 8 of the Commodity Exchange Act, on the confidentiality of position information, in the emergency rule amendments.

Second, the CME indicated that it may not be able to provide the precise time that it notified a governing board member of an emergency rule meeting in any minutes. The exchange stated that the member may be notified by a third party, such as the member's secretary, and not by contract market staff. The CME also stated that the position information requirement should not apply to governing board members who are not invited to the emergency rule meeting. Under CME procedures, its staff reviews position information on all governing board members prior to a governing board meeting on an emergency rule, then invites only those members to the meeting who are eligible to attend the meeting under their conflict of interest policies. Since certain members would not have any information about the emergency rule meeting, the CME believed that the position information requirement should not include these people. The CME also requested clarification on whether the Commission sought position information either on net or all customer positions and either for a limited number of contract months or all contract months in the affected contract.

Third, the CSCE commented that a contract market should not have to submit minutes of the events of its governing board meetings to the Commission because the minutes could expose the contract market to litigation and could have a chilling effect on deliberations. Like Nymex, the CSCE stated that the position information requirement should apply only to a position held by a member of the governing board who voted on or participated in the consideration of the emergency action, rather than to all members of the governing board. The CSCE also believed that a contract market should not have to submit precise position information to the Commission, but rather should only have to submit information on whether a governing board member held de minimus, small, medium, or large positions in the affected contract. This comment corresponds to the CSCE's own conflicts procedures, under which its governing board determines at the beginning of a meeting on an emergency rule what position sizes will satisfy the de minimus, small, medium, or large position categories. The CSCE then requires governing board members to disclose, to the best of their knowledge, the category that describes their positions.

3. Regulation 1.41(f)(3)

The Commission has determined to modify and clarify aspects of the submission requirements in response to these comments. First, the Commission intends to merge the modified requirements in proposed regulation 1.41(f)(3)(ii), which required a written explanation of the emergency action, with the requirements of 1.41(f)(3)(iv), which required submission of minutes of the governing board meeting. The consolidated provision will require the submission of a complete written explanation of the emergency action that includes:

(1) The names of all persons who were members of the governing board at the time of the meeting;

(2) The names of all persons who attended the meeting in person or who were otherwise present by electronic means;

(3) The name of any person who recused himself from the meeting;

(4) The reason for recusal;

(5) The time that recusal occurred;

(6) The approximate time that notice of the meeting was given to the governing board members;

(7) The times that the meeting began and ended;

(8) The name of any person who was directed to abstain from deliberating or voting at the meeting;

(9) A summary of any matter voted on that related to the emergency;

(10) A summary of substantive reasons given at the meeting in support of and in opposition to any matter voted on that related to the emergency;

(11) An itemized list of how each governing board member voted; and

(12) A summary of any disclosure made by a person that related to the person's market positions in any subject contract market, including disclosure of positions held in personal accounts, controlled accounts, any other accounts in which a person held an interest, and customer and proprietary accounts at a person's affiliated firm.

The consolidation of these requirements will address Nymex's request for clarification of the difference between the regulation 1.41(b)(3) (ii) and (iii) requirements for a complete written explanation of the emergency and documentation of the emergency.[5] The written explanation includes the above items, while documentation of the emergency conditions and emergency action includes information in support of the emergency action that is not included in the written explanation. As noted above in the examples of documentation that may be submitted by a contract market at the time of notice, documentation may include, among other things, evidence of a firm's financial condition, cash market prices, and relevant court decisions.

Modifying these provisions also will address the CSCE's comment that submission of formal minutes on a governing board meeting could have a chilling effect on deliberations. The Commission has narrowed the requirement in the proposed regulation that a contract market had to provide "a summary of all discussions" to require only a summary of substantive reasons in support of and in opposition to any matter voted on that related to the emergency. The Commission also deleted the term "minutes" from the regulation.[6] Thus, a contract market need only submit a written explanation of the governing board meeting. The Commission's intention in limiting the proposed regulation is to encourage free

[5] The Commission also has clarified regulation 1.41(f) by changing the request for "written" documentation to a request for all documentation, regardless of whether it is in the written form.

[6] Deletion of the term "minutes" from this regulation does not obviate a contract market's responsibility to maintain minutes for all of its meetings. *See* regulation 8.16.

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discussion of an emergency action at a governing board meeting.

By modifying the proposed regulatory provisions, the Commission also has addressed the CME's comment regarding its inability to provide the precise time that it notifies a governing board member of the meeting. The Commission has changed the proposed regulation to require only the approximate time of notification of the meeting. This time may be based on the time that the contract market notified the third party of the meeting, since notice to the third party should occur earlier than the actual time of notification. A contract market, however, should strive to provide as precise a time of notification as possible, since an earlier time could result in unnecessary investigations into a member's trading activity. The Commission has required this information for purposes of determining whether activity in the relevant market reflected any knowledge of a pending emergency meeting. Such activity would violate the Commodity Exchange Act and Commission regulation 1.59 and could be evidence of bad faith.

The Commission also has narrowed the proposed regulation 1.41(f)(3)(v), which required documentation of governing board member's positions. The final regulation states that a contract market must provide documentation of gross positions held in any personal account, controlled account, other account in which the governing board member has an interest, and proprietary accounts at an affiliated firm, as well as documentation of net positions held in any customer accounts at an affiliated firm, by a governing board member who attended the meeting for the contract months that the contract market reasonably expects to be affected by the emergency action. The contract market must explain its reasons in writing for selecting less than all contract months in the subject contract market most affected by the emergency action. Thus, a contract market only will have to provide documentation of net, rather than gross, customer positions. In addition, a contract market will have to provide position documentation only for the contract months that are affected by the emergency action. For purposes of providing this position documentation, the Commission also may grant a limited extension of the five-day submission period.

Modifications to this provision address comments from Nymex, the CSCE, and the CME. In response to the contract markets' comments that the Commission should require position information only from a governing board member who participated in the emergency rule meeting, the Commission has determined to limit the submission requirement to members who attended the meeting. In this way, the Commission will reduce the burden on a contract market to retrieve information and will receive relevant position information from all members who heard deliberations on the emergency action, including members who attended the meeting but did not actively participate in it.

The revised provisions also incorporates the CME's comments that customer position information should include documentation of net, rather than gross, positions and all position information should include documentation only of the contract months affected by the action. When meeting customer futures and option positions, a contract market should express option positions in terms of futures equivalents.

The Commission recognizes that net positions, and even gross positions in certain cases, may not provide an accurate indication in every case of whether a member has potentially benefitted as a result of an emergency action. For example, a large grain corporation may be more likely to be influenced by its cash market positions than its gross or net futures market positions in a vote on an emergency action. In addition, the Commission recognizes that positions held by firms related to a governing board member's affiliated firm, such as a wholly-owned subsidiary, could influence a governing board member's vote. Because such information may not be necessary to assess every emergency action, the Commission has determined to request relevant cash market, gross customer, and related firm position information on a case-by-case basis, under regulation 1.41(f)(3)(vii). This regulatory provision permits the Commission to request such other information as the Commission may require. One example of an emergency action where the Commission reviewed cash market positions was the short silver emergency of 1979 and 1980.[7] The Commission also has determined to require, under regulation 1.41(f)(3)(vi), that a governing board member who voted on an emergency action must represent whether or not he had actual knowledge of any of his affiliated firm's individual customer positions. If the governing board member did have actual knowledge, gross customer position information could be required from that member.

A contract market also will have to provide specific position information and will not be able to submit only general indications of whether a position is de minimus, small, medium, or large. The Commission has requested position information for purposes of determining whether the governing board acted in bad faith.[8] In making this determination, the Commission needs to review specific position information for any indication that a governing board member may have been influenced in his voting by his relevant market positions. Examples of acceptable documentation of position information are account statements and monthly summaries of futures and option positions.

The Commission also will permit limited extensions of time in certain circumstances for submitting position information, in response to Nymex's comment that it will be burdensome to provide this information in the five-day time period. In addition, as noted in the preamble to the proposed rule, position information is subject to the confidentiality provisions of section 8 of the Commodity Exchange Act. The Commission believes that it is unnecessary to cross reference this section in the emergency regulations.

Many of the comments regarding position information related to establishing standards for conflicts of interest. The Commission notes that section 217 of the Futures Trading Act directly addresses voting by interested members. Thus, the Commission intends to establish guidelines governing conflicts of interest in regulations promulgated under section 217 and not in these emergency regulations. The Commission also notes that section 217 directs a contract market to adopt rules and procedures that require, at a minimum, that an authorized member or contract market official must review the positions of the members of its governing board prior to deliberations. A contract market, therefore, will have to collect position information independent from the governing board member's knowledge and disclosure of his positions under section 217.[9]

[7] The Silver Market of 1979/1980: Actions of the Chicago Board of Trade and the Commodity Exchange, Inc., Investigative Report of the Division of Trading and Markets.

[8] Additional guidance in this area will be provided by the forthcoming proposed rules under section 217 of the Futures Trading Act, which prohibits voting by interested members.

[9] The Commission further notes that a governing board member who receives notice of an emergency rule meeting but does not attend the meeting will be subject to regulation 1.59 and section 214 of the Futures Trading Act.

In addition, the Commission wishes to note the difference between regulation 1.41(f)(3)(ii), which requires a contract market to provide the Commission with a summary of any disclosure made by a member of the governing board regarding positions, and 1.41(f)(v), which requires a contract market to submit documentation of positions to the Commission. For regulation 1.41(f)(2)(ii), the contract market must provide information only on disclosures made by governing board members. For regulation 1.41(f)(v), the contract market must provide documentation, such as account statements, of governing board members' positions.

E. Standard of Review

1. Proposed Regulation

Proposed regulation 1.41(f)(4) provided that the Commission would make a determination either to permit a temporary emergency rule to remain in effect or to suspend the effect of a rule pending review under section 5a(a)(12)(A) or otherwise. The determination would be made generally within 10 days of the receipt from a contract market of notice and all supplementary information. Proposed regulation 1.41(f)(5) further provided that the Commission would make a determination to permit the temporary emergency rule to remain in effect, consistent with paragraph (f)(1), unless, based on the information available to the Commission at the time, it found that the contract market's emergency action was arbitrary, capricious, or an abuse of discretion; lacking a reasonable basis in fact; or taken in bad faith by the contract market or its officials. If the Commission determined that the contract market's emergency action failed to meet this standard, then the Commission could, in its discretion and upon such terms and conditions as it deemed appropriate, suspend the effect of the rule if it found that suspension was not contrary to the public interest and the purposes of section 5a(a)(12) of the Commodity Exchange Act.

2. Comments Received

The CBT requested clarification or deletion of the phrase "or otherwise" in the regulation. As stated in the proposed rule, the Commission may suspend the effect of a temporary emergency rule "pending review either under the procedures of section 5a(a)(12)(A) or otherwise." The CSCE also commented on the standard of review, stating that the Commission should establish a standard whereby participation by interested members in board decisions would not constitute "bad faith."

3. Regulation 1.41(f)(4)

The standard of review in this regulation is based on section 213 of the Futures Trading Act and Commission Interpretative Letter No. 79–2. The "or otherwise" language noted by the CBT is required by section 213. This language is intended to provide the Commission with the flexibility to take appropriate action when it has determined to suspend the effect of a temporary emergency rule. An example of one action that may be taken under this "or otherwise" provision is a Commission emergency action under section 8a(9) of the Commodity Exchange Act. For purposes of clarifying this section, the Commission has added regulation 1.41(f)(9) to the final rules, which states that "[n]othing in this regulation prevents the Commission from taking emergency action under section 8a(9) of the Act." Another action that may be taken under this "or otherwise" provision is a Commission enforcement action. Thus, regulation 1.41(f)(9) also states that nothing in this section prevents the Commission from taking any enforcement action under sections 6(c), 6(d), 6b, or 6c of the Act.

In response to the CSCE's request for guidance on the definition of "bad faith," the Commission believes that it is not appropriate to make generalizations about the "bad faith" standard. Numerous courts and the Commission have applied the standard in reviewing actions by contract market governing boards.[10] As indicated by these decisions, a bad faith determination must be based on the facts of each case. A contract market may refer to these cases and Commission determinations for guidance in this area.

The Commission also has determined to clarify proposed regulations 1.41(f)(4) and (5) by consolidating the provisions. Consolidation of these provisions is intended to emphasize that there is only one standard of review. Under this standard, the Commission will permit a contract market's temporary emergency rule to remain in effect unless the emergency action is arbitrary, capricious, or an abuse of discretion; lacking a reasonable basis in fact; or taken in bad faith by the contract market or its officials. The Commission will consider a rule that has met this standard as one that is consistent with the policies and purposes of the Act.

Where an emergency is of such scope and complexity that the Commission cannot make a final judgment as to whether a contract market satisfied this standard at the time of its initial review, the Commission will submit a report to Congress and the contract market indicating that, based on the information reviewed, the Commission has no reason to believe that the action is arbitrary, capricious, or an abuse of discretion; lacking a reasonable basis in fact; or taken in bad faith, but that further review of the action is necessary. An example of an emergency action that required extensive review is the 1979-to-1980 short silver emergency.[11] During the pendency of the Commission's review of an emergency action, the contract market's emergency rule may remain in effect, subject to the time limits on emergency actions imposed by regulation 1.41(f)(1) and to any superseding emergency action taken by the Commission under section 8a(9). The Commission will submit a final report to Congress and the contract market upon completion of its review of the emergency action.

F. Permissible Emergency Actions

1. Proposed Regulation

Proposed regulation 1.41(f)(8) amended existing law by adding new examples to the list of possible emergency actions. These new examples expanded the non-exhaustive list in the current provision by including such actions as altering delivery terms or conditions, modifying price limits and circuit breakers, and suspending a contract market prohibition against dual trading.

2. Comments Received

The CBT commented that the Commission should specify in the dual trading provision that a contract market may suspend the effect of a prohibition against dual trading "implemented pursuant to section 101 of the Futures Trading Act and regulations adopted by the Commission." It also stated that the Commission should specify in the dual trading rule that a contract market may

[10] See, *e.g.*, *Sam Wong & Son, Inc.* v. *Nymex*, 735 F.2d 653, 677 (2d Cir. 1984); *Miller* v. *New York Produce Exchange*, 550 F.2d 762, 766 (2d Cir.) *cert. denied*, 434 U.S. 823 (1977); *Lagorio* v. *CBT*, 529 F.2d 1290, 1291–92 (7th Cir.), *cert. denied*, 426 U.S. 950 (1976); *Daniel* v. *CBT*, 164 F.2d 815 (7th Cir. 1947); *P.J. Taggares Co.* v. *Nymex*, 476 F.Supp. 72, 76–77 (S.D.N.Y. 1979); *Compania de Salvadorena de Cafe* v. *CFTC and CSCE, Inc.* 446 F. Supp. 687, 691 (S.D.N.Y. 1978); *In the Matter of CME* [1977–1980 Transfer Binder] Comm. Fut. L. Rep. [CCH] ¶ 20,436 (CFTC DKT. No. 75–9) (1977) *aff'd* [CFTC 1981].

[11] See The Silver Market of 1979/1980: Actions of the Chicago Board of Trade and the Commodity Exchange, Inc., Investigative Report of the Division of Trading and Markets.

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take emergency action regarding its dual trading rule.

For purposes of clarification, the CSCE commented that the Commission should explicitly refer to option contracts in this provision. Existing law and the proposed rule state that a governing board may take emergency action that affects "contracts." Neither provision specifically refers to "option contracts."

3. Regulation 1.41(f)(7)

Based on review of these comments, the Commission has made the proposed regulation final as written. To clarify, however, the dual trading reference was added to the provision that refers to modifying or suspending a contract market's own rules. As will be noted in the forthcoming **Federal Register** release on dual trading regulations, the addition of this reference to a contract market's dual trading rule is intended to emphasize that a contract market may take emergency action by modifying or suspending dual trading rules that are promulgated pursuant to section 101 of the Futures Trading Act.

In response to CSCE's request for clarification, the term "contracts" in this provision encompasses both futures and option contracts. The Commission recognizes that the term "commodity options" is used in conjunction with the term "contracts" in other provisions to indicate futures and option contracts.[12] Thus, the Commission has amended regulations 1.41 (a) and (f) to use only the term "contracts" to include both futures and option contracts. These amendments are not intended to alter the meaning of any other regulation. Thus, a governing board may take emergency action that affects option, as well as futures, contracts.

G. Contract Market Rules

1. Proposed Regulation and Comment Received

The proposed regulation required a contract market to maintain in effect rules that are consistent with this section. The CME wrote that a contract market should not have to submit rules that were consistent with this regulation since this submission would merely repeat the Commission's regulation.

2. Regulation 1.41(f)(8)

Certain contract markets currently have rules in effect which are inconsistent with this section. The purpose of the proposed rule was to ensure that these contract markets did not maintain in effect rules that were inconsistent with these amendments. The Commission, therefore, is amending regulation 1.41(f)(8) to clarify that a contract market need only submit its deletion of inconsistent rules and need not submit new rules that duplicate the amendments. The Commission does not contemplate that all contract markets will have to delete portions of their emergency rules; however, certain contract markets will have to do so. For example, several futures exchanges define the term "emergency" as any occurrence or circumstance deemed by its governing board to be an emergency. With the new, more specific definition of "emergency," these contract markets will have to delete these definitions to remain consistent with the amendments.

H. Physical Emergencies

1. Proposed Regulation and Comments Received

Existing and proposed regulation 1.41(g) govern physical emergencies that do not involve the implementation, modification, or termination of a temporary emergency rule by a contract market governing board. Under proposed amendments to this regulation, the Commission added a requirement that a contract market must notify the Commission as soon as possible after implementing, modifying, or terminating a physical emergency action. No comments were received on this proposal; however, the CSCE requested a modification to the existing and proposed regulations. In response to the recent bombing of the World Trade Center, the futures exchange noted that the mandatory five-day time limit on physical emergencies that are declared by a designated official in regulation 1.41(g) should be changed to permit an extended suspension of trading. Although the New York contract markets did not have to suspend trading completely for more than five days following this emergency, they were forced to shorten trading days for a longer time period.

2. Regulation 1.41(g)

As circumstances have indicated, situations could arise where it was necessary for a contract market to suspend trading for more than five days. Thus, the Commission has amended regulation 1.41(g) to provide that a designated official of a contract market may suspend trading for more than five days when the contract market has submitted and the Commission has granted a written request for an extension of time, for good cause shown. The Commission also has made final the proposed amendments to regulation 1.41(g).

IV. Conclusion

The final amendments to regulation 1.41 implement the statutory directive in section 213 of the Futures Trading Act.

These amendments require a contract market to notify the Commission prior to implementation, modification, or termination of a contract market temporary emergency rule. They also articulate procedures that will be followed by the Commission in its review of a contract market temporary emergency rule. The regulations should provide guidance to a contract market in any determination to take emergency action.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The proposed amendments to regulation 1.41 affect contract markets. The Commission previously has established that contract markets are not "small entities" for purposes of the RFA, and that the Commission, therefore, need not consider the effect of the proposed amendments on contract markets. 47 FR 18618, 18619 (April 30, 1982). Therefore, the Acting Chairman hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

VI. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 ("PRA"), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission previously submitted this rule in proposed form and its associated information collection requirements to the Office of Management and Budget ("OMB"). The OMB approved the collection of information associated with this rule on January 27, 1993 and assigned OMB control number 3038–0022 to the rule. The burden associated with the entire collection, including these final amendments, is as follows:

Average burden hours per response: 612.26
Number of respondents: 4281
Frequency of response: on occasion

The burden associated with the proposed amendments is as follows:

Average burden hours per response: 2.0
Number of respondents: 239
Frequency of response: on occasion

Copies of the OMB approved information collection package associated with this rule may be obtained from Gary Waxman, Office of Management and Budget, Room 3220 NEOB, Washington, DC 20503, (202) 395–7340.

[12] See, e.g., Regulation 1.41(a)(4)(iii).

List of Subjects in 17 CFR Part 1

Definitions, Registration, Minimum financial and related reporting requirements, Prohibited trading in commodity options, Customer's money, Securities and property, Recordkeeping and miscellaneous.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, section 5a(a) (12) and 8a(5) thereof, 7 U.S.C. 7a(a) (12) and 12a(5), the Commission has amended part 1 of title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for part 1 continues to read as follows:

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6h, 6i, 6k, 6l, 6m, 6n, 6o, 7,7a, 7b, 8, 9, 12, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23 and 24, unless otherwise noted.

2. Section 1.41 is amended by revising paragraph (a)(4) and adding paragraph (a)(8); by revising paragraphs (f) (2) and (3) and adding paragraph (f) (4) through (9); and by revising paragraph (g) to read as follows:

§ 1.41 Contract market rules; submission of rules to the Commission, exemption of certain rules.

(a) * * * *

(4) The term *emergency* means any occurrence or circumstance listed in this paragraph (a)(4) which, in the opinion of the governing board of the contract market, requires immediate action and threatens or may threaten such things as the fair and orderly trading in, or the liquidation of or delivery pursuant to, any contracts on such contract market. Occurrences and circumstances which a governing board of a contract market may deem emergencies are limited to the following:

(i) Any manipulative activity or attempted manipulative activity;

(ii) Any actual, attempted, or threatened corner, squeeze, congestion, or undue concentration of positions;

(iii) Any circumstances which may materially affect the performance of contracts traded on the contract market, including failure of the payment system;

(iv) Any action taken by the United States or any foreign government or any state or local governmental body, any other contract market, board of trade, or any other exchange or trade association (foreign or domestic), which may have a direct impact on trading on the contract market;

(v) Any circumstances which may have a severe, adverse effect upon the physical functions of a contract market including, for example, fire or other casualty; bomb threats; substantial inclement weather; power failures; communications breakdowns; computer system breakdowns; screen-based trading system breakdowns; malfunctions of plumbing, heating, ventilation and air conditioning systems; and transportation breakdowns.

(vi) The bankruptcy or insolvency of any member or member firm of the contract market or the imposition of any injunction or other restraint by any government agency, court or arbitrator upon a member of the contract market which may affect the ability of that member to perform on its contracts;

(vii) Any circumstance in which it appears that a member or any other person has failed to perform contracts, is insolvent, or is in such financial or operational condition or is conducting business in such a manner that such person cannot be permitted to continue in business without jeopardizing the safety of customer funds, members of the contract market, or the contract market; and

(viii) Any other unusual, unforeseeable and adverse circumstance with respect to which it is not practicable for the contract market to submit, in a timely fashion, a rule to the Commission for prior review under section 5a(a)(12)(A) of the Act.

* * * * * *

(8) The term "affiliated firm" of a person means any firm in which the person is a general partner, officer, director, principal, employee, or owner of more than ten percent of the equity interest.

* * * * * *

(f) * * *

(2)(i) A contract market must make every effort practicable to provide notice to the Commission that it intends to implement, modify or terminate a temporary emergency rule prior to implementing, modifying or terminating the rule. If it is not practicable for the contract market to notify the Commission prior to taking emergency action, the contract market shall provide the Commission with notice of the implementation, modification, or termination of any emergency rule at the earliest possible time. Notice must be given to the Director of the Division of Trading and Markets or any employee of the Commission, as may be designated by the Director for such purpose. The contract market must provide notice to the Commission by the fastest means available and must use its best efforts to ensure that the notice is actually received by one of the authorized persons above. Notice should include:

(A) To the extent practicable, a complete explanation of the contract market action intended or taken to meet the emergency and a description of the nature of the emergency;

(B) In any instance where a contract market does not provide prior notice of an emergency action, an explanation of why it was not practicable for a contract market to provide such notice; and

(C) An explanation of why it was not practicable for the contract market to submit the temporary emergency rule to the Commission for prior review under section 5a(a)(12)(A) of the Act.

(ii) Any available documentation of the nature of the emergency conditions and the intended or actual emergency action should be submitted at the time of notification.

(3) On or before the fifth day after the day that a contract market provides notice under paragraph (f)(2), except as described in paragraph (f)(4), the contract market shall supplement its notice by submitting the following information to the Commission at its Washington, DC headquarters:

(i) A written copy of the temporary emergency rule and any modification to or termination of the rule;

(ii) A complete written explanation of the emergency action, which explanation must include a complete description of any matter voted on that related to the emergency; a summary of the substantive reasons in support of and in opposition to any matter voted on that related to the emergency given at a meeting in which the members implemented, modified, or terminated a temporary emergency rule; the names of all persons who were members of the governing board at the time of the meeting; the names of all persons who attended the meeting in person or who were otherwise present by electronic means; the name of any person who rescued himself from the meeting, the reason for recusal, and the time that the recusal occurred; the approximate time that notice of the meeting was given to each governing board member and the times that the meeting began and ended; the name of any person who was

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directed to abstain from deliberating or voting at the meeting; an itemized list of how each governing board member voted; and a summary of any disclosure made by a person of his or her positions in any subject contract market, including disclosure of positions held in any personal account, controlled account, other account in which a person has an interest, and customer and proprietary accounts at a person's affiliated firm;

(iii) Any documentation, not previously provided, relating to the emergency conditions and the emergency action, including documentation regarding the reasons for the specific emergency action taken;

(iv) A description of the basis for and procedures followed by a governing board in making any determination as to the eligibility of an interested person to deliberate or to vote on matters relating to the emergency;

(v) Documentation of the gross positions held in any personal account, controlled account, other account in which the governing board member has an interest, and proprietary accounts at an affiliated firm, as well as documentation of the net customer positions held at an affiliated firm, by a governing board member who attended the meeting for the contract months that the contract market reasonably expects could be affected by the emergency action, provided that the contract market explains its reasons in writing for selecting less than all contract months in the subject contract market;

(vi) A representation from each governing board member who voted on an emergency action as to whether or not he had actual knowledge of individual customer positions at his affiliated firm at the time of the vote; and

(vii) Such other information as the Commission may require.

(4)(i) Within 10 days of the receipt from a contract market of all of the information required by paragraphs (2) and (3), or as soon as practicable thereafter, the Commission will make a determination to permit the temporary emergency rule to remain in effect, consistent with paragraph (1), unless it finds that the contract market's emergency action is:

(A) Arbitrary, capricious or an abuse of discretion;

(B) Lacking a reasonable basis in fact; or

(C) Taken in bad faith by the contract market or its officials.

(ii) If the Commission determines that the contract market's emergency action is arbitrary, capricious or an abuse of discretion; lacking a reasonable basis in fact; or taken in bad faith, then the Commission may, in its discretion and upon such terms and conditions as it deems appropriate, suspend the effect of the rule pending review under section 5a(a)(12)(A) or otherwise if it finds that suspension of the rule is not contrary to the public interest and the purposes of section 5a(a)(12) of the Act.

(5) The Commission will submit a report on its determination pursuant to paragraph (4) and the basis for this determination to:

(i) The affected contract market;

(ii) The Committee on Agriculture of the House of Representatives; and

(iii) The Committee on Agriculture, Nutrition, and Forestry of the Senate. If the report is submitted more than 10 days after the Commission receives all of the information required under paragraphs (2) and (3) from a contract market, the report will include an explanation of why submission within 10 days from receipt of notification and explanation was not practicable.

(6) A determination by the Commission to suspend the effect of a rule under subparagraph (4)(ii) of this regulation will be subject to judicial review on the same basis as an emergency determination under section 8a(9) of the Act.

(7) A temporary emergency rule may provide for, or may authorize the contract market, or the governing board thereof or any committee thereof, to undertake actions necessary or appropriate to meet the emergency, including, but not limited to, such actions as:

(i) Limiting trading to liquidation only, in whole or in part, or limiting trading to liquidation only except for new sales by parties who have the commodity to delivery pursuant to such sales;

(ii) Extending or shortening the expiration date for trading in contracts;

(iii) Altering delivery terms or conditions;

(iv) Modifying price limits;

(v) Modifying circuit breakers;

(vi) Ordering the liquidation of contracts, the fixing of a settlement price or the reduction in positions;

(vii) Ordering the transfer of contracts, and the money, securities, and property securing such contracts, held on behalf of customers by a member of the contract market to another member, or other members, of the contract market willing to assume such contracts or obligated to do so;

(viii) Extending, limiting or changing hours of trading;

(ix) Suspending trading; and

(x) Modifying or suspending any provision of the rules of the contract market, including any contract market prohibition against dual trading.

(8) A contract market shall not maintain in effect rules that are inconsistent with this regulation.

(9) Nothing in this section prevents the Commission from taking emergency action under section 8a(9) of the Act or from taking any enforcement action under section 6(c), 6(d), 6b, or 6c of the Act.

(g) *Physical emergencies.* In the event the physical functions of a contract market are, or are threatened to be, severely and adversely affected by a "physical emergency," such as fire or other casualty, bomb threats, substantial inclement weather, power failures, communications breakdowns, computer system breakdowns, screen-based trading system breakdowns or transportation breakdowns, a contract market official, duly authorized to take such action for and on behalf of the contract market with respect to such a "physical emergency" pursuant to a rule of the contract market that has been approved by the Commission or has become effective pursuant to section 5a(a)(12) of the Act and these regulations, may take any action authorized by such rule necessary or appropriate to deal with the emergency, including, but not limited to, suspending trading on the contract market. Suspension of trading in the contract market by such a designated official shall not continue in effect for more than five (5) days, except where the contract market has submitted in writing and the Commission has granted, for good cause shown, a request for an extension of time. A request for an extension of time must be given to the Director of the Division of Trading and Markets or any employee of the Commission, as may be designated by the Director for such purpose. If so authorized by such a rule of the contract market, the designated official may also order restoration of trading on the contract market, or removal of other restrictions imposed by the official as permitted by this paragraph (g), in the absence of action by the governing board of the contract market, upon a determination by such official that the "physical emergency" has sufficiently abated to permit the physical functions of the contract market to continue in an orderly manner. A contract market must notify the Director of the Division of Trading and Markets or any employee of the Commission, as may be designated by the Director for such purpose, of the implementation, modification or termination of a physical emergency action as soon as possible after taking the action.

* * * * *

3. Section 1.41c is added to read as follows:

§ 1.41c Delegation of authority to the Director of the Division of Trading and Markets to receive notice of an emergency action.

The Commission hereby delegates authority to receive notification and explanation of a temporary emergency rule, notification of a physical emergency action, and a request for an extension of time for suspension of trading for a physical emergency, until the Commission orders otherwise, to the Director of the Division of Trading and Markets. This authority may be exercised by the Director or by another employee or employees of the Commission as may be designated from time to time by the Director.

Issued in Washington, DC, April 26, 1993, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93-10182 Filed 4-30-93; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AF13

Dependents' Education; Verification of Pursuit and Continued Enrollment

AGENCY: Department of Veterans Affairs.

ACTION: Delay of effective date.

SUMMARY: This document contains a delay of the effective date for final regulations which were published Tuesday, June 9, 1992. The regulations provided new rules for release of payments of dependents' educational assistance.

EFFECTIVE DATE: Effective May 3, 1993, the effective date for regulations published at 57 FR 24366 is delayed to August 1, 1999.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202-233-2092.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published in the **Federal Register**, amendments to § 21.4138 and § 21.4204 require that an eligible person enrolled in a course leading to a standard college degree must verify monthly that he or she is still pursuing a program of education before VA (Department of Veterans Affairs) will pay that month's dependents' educational assistance. An amendment to § 21.4135 provided for discontinuance dates in the event the eligible person discontinued training. These were predicated upon implementation of a new verification processing system.

These regulations were published with a future effective date of August 1, 1993. At the time the final regulations appeared in the **Federal Register**, VA planned on having the new system in place by August 1, 1993. However, due to limited resources, the department has found that it will be unable to begin the new verification system by that date. Accordingly, these final regulations will not become effective until August 1, 1999.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

For the reasons set forth in the preamble, the effective date for the regulations at 57 FR 24366, affecting §§ 21.4135, 21.4138, and 21.4204, is delayed to August 1, 1999.

Approved: April 20, 1993.

Michael B. Berger,

Director, Records Management Service.

[FR Doc. 93-9740 Filed 4-30-93; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 21

RIN 2900-AF77

Veterans Education; Implementation of the Veterans' Educational Assistance Amendment of 1991

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Veterans' Educational Assistance Amendment of 1991 contains several provisions which affect the payment of benefits to those receiving educational assistance under the programs VA (Department of Veterans Affairs) administers. These provisions include restoring lost entitlement to reservists called to active duty and certain individuals on active duty during the Persian Gulf War, and an improvement in payments to these individuals. This final regulation will inform the public of the way in which VA will implement these provisions of law with respect to Dependents' Educational Assistance and the Montgomery GI Bill—Active Duty. Regulations designed to implement these provisions of law with respect to the other education programs VA administers will be proposed at a later date.

EFFECTIVE DATE: These amendments, like the provisions of law they implement are retroactively effective on Oct. 10, 1991; except the amendments to §§ 21.4135, 21.4136, 21.4137, 21.7135 and 21.7139, like the provisions of law they implement, are retroactively effective on Aug. 1, 1990.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2092.

SUPPLEMENTARY INFORMATION: Many persons receiving benefits under the Montgomery GI Bill—Active Duty are servicemembers on active duty, while many others are veterans serving as members of the Selected Reserve. Moreover, some individuals receiving benefits under the Dependents' Educational Assistance program are also Reserve members. Consequently, many of these benefit recipients are among those reservists called to active duty during the Persian Gulf War or were among those on active duty whose assignments or responsibilities changed due to the war. In many instances these individuals had to discontinue their training in the middle of a term or other enrollment period. Under the law then in effect, these individuals would have lost the entitlement used in pursuit of those discontinued courses unless their educational institutions discovered a method whereby the individuals could receive a grade for those courses. This could have adversely affected the ability of these individuals to complete their programs of education. Furthermore, in order to pay these individuals to the date they discontinued training, VA would have to determine in the individual case whether mitigating circumstances existed for these discontinuances.

The Veterans' Education Assistance Amendments of 1991 was enacted in order to prevent eligible individuals from suffering these setbacks while serving the country during the Persian Gulf War. This Act contains several provisions which improve the educational assistance benefits for those who serve on duty during the Persian

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Gulf War. These include restoring lost entitlement to those who were called to active duty in the middle of an enrollment and to some of those on active duty during the Persian Gulf War, and providing for payment to the date these individuals withdrew from their courses without requiring VA to make mitigating circumstance determinations. These regulations implement such provisions of law for those receiving benefits under the Dependents' Educational Assistance and the Montgomery GI Bill—Active Duty program.

The Department of Veterans Affairs has determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

VA finds for good cause that publishing these regulations for prior public comment is unnecessary and would serve no good purpose since these changes simply implement statutory requirements. Therefore, notice of proposed rulemaking will not be published for these regulations.

Since a notice of proposed rulemaking will not be published for these amended regulations, these changes do not fall within the definition of a rule in the Regulatory Flexibility Act. Nevertheless, these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The amended regulations directly affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Department of Veterans Affairs finds that good cause exists for making the amendments to §§ 21.4135, 21.4137, 21.7135 and 21.7139, like the provisions of law they implement, retroactively effective on Aug. 1, 1990. The Department of Veterans Affairs finds that good cause exists for making the amendments to the remainder of the regulations retroactively effective on Oct. 10, 1991.

It is necessary to implement these provisions of law as soon as possible. These provisions are intended to achieve a benefit for the individual. The maximum benefits intended in the legislation will be achieved through prompt implementation. Hence, a delayed effective date would be contrary to statutory design, would complicate administration of these provisions of law; and might result in the denial of a benefit to someone who is entitled to it.

The Catalog of Federal Domestic Assistance numbers for the programs affected by this final rule are 64.117 and 64.124.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: February 11, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble 38 CFR part 21, subparts C, D and K are amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart C—Survivors' and Dependents' Educational Assistance Under 38 U.S.C. Chapter 35

1. The authority citation for part 21, subpart C is revised to read as follows:

Authority: 38 U.S.C. 3500–3566.

2. In § 21.3045 paragraphs (b)(2) introductory text, (b)(4)(ii) and (c) introductory text are revised; paragraphs (d), (e), (f), (g), (h), (i) and (j) are redesignated as paragraphs (e), (f), (g), (h), (i), (j) and (k), respectively; a new paragraph (d) and its authority citation are added; newly designated paragraphs (e) introductory text and (e)(1) introductory text are revised; and the authority citation for paragraph (b)(4) is revised to read as follows:

§ 21.3045 Entitlement charges.

* * * * *

(b) * * *

(2) When an eligible spouse or surviving spouse is pursuing a course leading to a secondary school diploma or an equivalency certificate as described in § 21.4235 of this part, the following circumstances will always result in VA's making a charge against his or her entitlement unless the provisions of paragraph (d) of this section would exempt the spouse or surviving spouse from receiving an entitlement charge.

* * * * *

(4) * * *

(ii) VA will make a charge against the entitlement of an eligible person for pursuit in excess of the pursuit described in paragraph (b)(4)(i) unless the provisions of paragraph (d) of this section would exempt the eligible person from receiving an entitlement charge.

(Authority: 38 U.S.C. 3511(a), 3533(a); Pub. L. 100–689, Pub. L. 102–127 (Oct. 10, 1991))

(c) *Other courses for which entitlement will be charged.* Except when the requirements of paragraph (d) of this section are met, VA will make a charge against the period of entitlement—

* * * * *

(d) *Exemption from entitlement charge.* (1) VA will not make a charge against the entitlement of an eligible person for the pursuit of any course or courses when VA finds that the eligible person—

(i) Had to discontinue pursuit of the course or courses as the result of being ordered, in connection with the Persian Gulf War, to serve on active duty under section 672 (a), (d), or (g), 673, 673b, or 688 of title 10, U.S. Code; and

(ii) Failed to receive credit or training time toward completion of the eligible person's approved educational, professional or vocational objective as a result of having to discontinue, as described in paragraph (d)(1)(i) of this section, his or her course pursuit.

(2) The period for which VA will not make a charge against entitlement shall not exceed the portion of the period of enrollment in the course or courses for which the eligible person failed to receive credit or with respect to which the eligible person lost training time.

(Authority: 38 U.S.C. 3511(a); Pub. L. 102–127 (Oct. 10, 1991))

(e) *Determining entitlement charge.* The provisions of this paragraph apply to all courses except those courses for which VA is not making a charge against the eligible person's entitlement, apprenticeship or other on-job training, correspondence courses, and courses offered solely through independent study.

(1) After making any adjustments required by paragraph (e)(3) of this section, VA will make a charge against entitlement—

* * * * *

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35 and 36

3. The authority citation for part 21, subpart D continues to read as follows:

Authority: 38 U.S.C. 501(a).

4. In § 21.4135 paragraphs (e) heading and (e)(1) introductory text, (s)(2)(ii) and (s)(3) introductory text are revised to read as follows:

§ 21.4135 Discontinuance dates.

* * * * *

(e) *Course discontinued; course interrupted; course terminated; course not satisfactorily completed or withdrawn from §§ 21.4136(k) and 21.4137.* (1) If the individual withdraws from all courses; receives all nonpunitive grades; there are no mitigating circumstances as provided in § 21.4136(k) or § 21.4137(h); and the withdrawal did not occur because the individual was ordered to active duty, VA will terminate the individual's educational assistance allowance effective the later of the following:

* * * * *

(s) *Reduction in rate of pursuit of course (§ 21.4270).*

* * * * *

(2) * * *

(ii) There are mitigating circumstances, or the individual receives a punitive grade for the portion of the course from which he or she withdrew, or the withdrawal occurred because the individual was ordered to active duty.

(3) If the individual reduces training by withdrawing from a part of a course and the withdrawal does not occur because the individual was ordered to active duty; there are not mitigating circumstances; and the individual receives a nonpunitive grade for that portion of the course from which he or she withdrew, VA will reduce the individual's educational assistance allowance effective the later of the following:

* * * * *

5. In § 21.4136 paragraph (k)(1) and paragraph (k)(2)(vii) are revised and an authority citation for paragraph (k)(1) is added to read as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. Chapter 34.

* * * * *

(k) *Mitigating circumstances.* (1) VA will not pay benefits to a veteran for a course from which the veteran withdraws or receives a nonpunitive grade which is not used in computing requirements for graduation unless the provisions of this paragraph (k)(1) are met.

(i) The veteran withdraws because he or she is ordered to active duty; or

(ii) All of the following criteria are met:

(A) There are mitigating circumstances;

(B) The veteran submits a description of the circumstances in writing to VA either within one year from the date VA notifies the veteran that he or she must submit the mitigating circumstances or at a later date if the veteran is able to show good cause why the one-year time limit should be extended to the date on which he or she submitted the description of the mitigating circumstances; and

(C) The veteran submits evidence supporting the existence of mitigating circumstances within one year of the date that evidence is requested by VA.

(Authority: 38 U.S.C. 3680(a); Pub. L. 102–127 (Aug. 1, 1990))

(2) * * *

(vii) Unanticipated active duty for training,

* * * * *

6. In § 21.4137 paragraph (h)(1) and paragraph (h)(2)(vii) are revised and an authority citation for paragraph (h)(1) is added to read as follows:

§ 21.4137 Rates; educational assistance allowance—38 U.S.C. Chapter 35.

* * * * *

(h) *Mitigating circumstances.* (1) VA will not pay benefits to any eligible person for a course from which the eligible person withdraws or receives a nonpunitive grade which is not used in computing the requirements for graduation unless the provisions of this paragraph are met.

(i) The eligible person withdraws because he or she is ordered to active duty; or

(ii) All of the following criteria are met:

(A) There are mitigating circumstances;

(B) The eligible person submits a description of the circumstances in writing to VA either within one year from the date VA notifies the eligible person that he or she must submit the mitigating circumstances or at a later date if the eligible person is able to show good cause why the one-year time limit should be extended to the date on which he or she submitted the description of the mitigating circumstances; and

(C) The eligible person submits evidence supporting the existence of mitigating circumstances within one year of the date that evidence is requested by VA.

(Authority: 38 U.S.C. 3680(a); Pub. L. 102–127 (August 1, 1990)

(2) * * *

(vii) Unanticipated active duty for training,

* * * * *

Subpart K—All Volunteer Force Educational Assistance Program (New GI Bill)

7. The authority citation for part 21, subpart K continues to read as follows:

Authority: 38 U.S.C. chapter 30, Public Law 98–525; 38 U.S.C. 501(a).

8. In § 21.7020 paragraph (b)(19)(i)(G) is revised and paragraph (b)(41) and its authority citation are added to read as follows:

§ 21.7020 Definitions.

* * * * *

(b) *Other definitions.*

* * * * *

(19) *Mitigating circumstances.* (i)

* * *

* * * * *

(G) Unanticipated active duty for training,

* * * * *

(41) *Persian Gulf War.* The term "Persian Gulf War" means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

(Authority: 38 U.S.C. 101(33); Pub. L. 102–25)

9. In § 21.7072 paragraph (f) and its authority citation are revised to read as follows:

§ 21.7072 Entitlement to basic educational assistance.

* * * * *

(f) *Limitation on entitlement.* Except as provided in § 21.7076(e) and § 21.7135(s) of this part no one is entitled to more than 36 months of full-time basic educational assistance (or its equivalent in part-time educational assistance).

(Authority: 38 U.S.C. 3013(c), 3013(f); Pub. L. 98–525, Pub. L. 102–127 (Oct. 10, 1991))

10. In § 21.7076 introductory text is added to paragraph (b); paragraph (e) and its authority citation are added to read as follows:

§ 21.7076 Entitlement charges.

* * * * *

(b) *Determining entitlement charge.* This paragraph states how VA generally will determine the charge against the entitlement of a servicemember or veteran who is receiving educational assistance. However, when the circumstances described in paragraph (e) apply to a servicemember or veteran, VA will use that paragraph to determine

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an entitlement charge instead of this paragraph.

• • • • •

(e) *No entitlement charge for some individuals.* When the criteria described in this paragraph are met, VA will make no charges against entitlement as described in paragraph (b) of this section.

(1) VA will make no charge against an individual's entitlement when the individual—

(i) Either—

(A) While not serving on active duty, had to discontinue pursuit of a course or courses as a result of being ordered, in connection with the Persian Gulf War, to serve on active duty under section 672 (a), (d), or (g), 673, 673b, or 688 of title 10, U.S. Code; or

(B) While serving on active duty, had to discontinue pursuit of a course or courses as a result of being ordered, in connection with the Persian Gulf War, to a new duty location or assignment or to perform an increased amount of work.

(ii) Failed to receive credit or lost training time toward completion of the individual's approved educational, professional or vocational objective as a result of having to discontinue his or her course pursuit.

(2) The period for which receipt of educational assistance allowance is not charged against the entitlement of an individual described in paragraph (e)(1) of this section shall not exceed the portion of the period of enrollment in the course or courses for which the individual failed to receive credit or with respect to which the individual lost training time.

(Authority: 38 U.S.C. 3013(f); Pub. L. 102–127 (Oct. 10, 1991))

11. In § 21.7135 introductory text is added for paragraph (f); paragraphs (e)(1), (e)(2) introductory text, (f)(1) and (f)(2) are revised and authority citations are added for paragraphs (e)(1) and (f)(2) to read as follows:

§ 21.7135 Discontinuance dates.

• • • • •

(e) *Course discontinued; course interrupted; course terminated; course not satisfactorily completed or withdrawn from.* (1) If the veteran or servicemember, for reasons other than being called or ordered to active duty, withdraws from all courses or receives all nonpunitive grades, and in either case there are no mitigating circumstances, VA will terminate or reduce educational assistance effective the first date of the term in which the withdrawal occurs or the first date of the term for which nonpunitive grades are assigned.

(Authority: 38 U.S.C. 3680(a); Pub. L. 102–127 (Aug. 1, 1990))

(2) If the veteran or servicemember withdraws from all courses with mitigating circumstances or withdraws from all courses such that a punitive grade is or will be assigned for those courses or the veteran withdraws from all courses because he or she is ordered to active duty, VA will terminate educational assistance for—

• • • • •

(f) *Reduction in the rate of pursuit of the course.* If the veteran or servicemember reduces the rate of training by withdrawing from part of a course, but continues training in part of the course, the provisions of this paragraph apply.

(1) If the reduction in the rate of training occurs other than on the first date of the term, VA will reduce the veteran's or servicemember's educational assistance at the end of the month or the end of the term in which the withdrawal occurs, whichever is earlier, either when—

(i) A nonpunitive grade is assigned for the part of the course from which he or she withdraws; and

(A) The veteran or servicemember withdraws because he or she is ordered to active duty; or

(B) The withdrawal occurs with mitigating circumstances; or

(ii) A punitive grade is assigned for the part of the course from which the reservist withdraws.

(2) VA will reduce educational assistance effective the first date of the enrollment in which the reduction occurs when—

(i) The reduction occurs on the first date of the term; or

(ii) The veteran or servicemember—

(A) Receives a nonpunitive grade for the part of the course from which he or she withdraws; and

(B) Withdraws without mitigating circumstances; and

(C) Does not withdraw because he or she is ordered to active duty.

(Authority: 38 U.S.C. 3680(a); Pub. L. 102–127 (Aug. 1, 1990))

• • • • •

12. In § 21.7139, paragraph (b) and its authority citation are revised to read as follows:

§ 21.7139 Conditions which result in reduced rates.

• • • • •

(b) *Withdrawals and nonpunitive grades.* Withdrawal from a course or receipt of a nonpunitive grade affects payments to a veteran or servicemember. VA will not pay benefits to a veteran or servicemember for pursuit of a course from which the veteran or servicemember withdraws or receives a nonpunitive grade which is not used in computing requirements for graduation unless the provisions of this paragraph are met.

(1) The veteran withdraws because he or she is ordered to active duty; or

(2) Both of the following exist:

(i) There are mitigating circumstances; and

(ii) The veteran or servicemember submits a description of the circumstances in writing to VA either within one year from the date VA notifies the veteran or servicemember that he or she must submit the mitigating circumstances, or at a later date if the veteran or servicemember is able to show good cause why the one-year time limit should be extended to the date on which he or she submitted the description of the mitigating circumstances.

(Authority: 38 U.S.C. 3034, 3680(a); Pub. L. 98–525, Pub. L. 102–127 (Aug. 1, 1990))

• • • • •

[FR Doc. 93–10134 Filed 4–30–93; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–4625–4]

Vermont; Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Any State which seeks to administer and enforce a hazardous waste program pursuant to section 3006(b) of RCRA, may develop, and, after notice and opportunity for public hearing, submit to the Administrator of EPA, or his or her designee, an application for authorization of such program. A state's application for authorization must be consistent with 40 CFR part 271. EPA will approve a state hazardous waste program which is equivalent to, and no less stringent than the federal requirements for those provisions for which a state seeks authorization. Upon authorization, a state is authorized to carry out its authorized program in lieu of the Federal program.

The State of Vermont has applied for final authorization for revisions to its base RCRA hazardous waste program, and for final authorization for Non-HSWA requirements prior to Non-HSWA Cluster I, Non-HSWA Clusters I–V, HSWA Cluster I, and Toxicity Characteristic Leaching Procedure (TCLP) for HSWA Cluster II. The United States Environmental Protection Agency (EPA) has reviewed Vermont's application and has made a decision, subject to public review and comment, that Vermont's hazardous waste program revision application satisfies all the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Vermont's hazardous waste program revisions. Vermont's application for program revision is available for public review and comment.

DATES: Final authorization for Vermont shall be effective July 2, 1993, unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Vermont's program revision application must be received by the close of business June 2, 1993.

ADDRESSES: Copies of Vermont's program revision application are available at the following addresses for inspection and copying: Agency of Natural Resources, Department of Environmental Conservation, State of Vermont, 103 S. Main Street, West Office Building, Waterbury, Vermont 05671–0404, Phone (802) 244–8702. Business Hours: 7:45 A.M. to 4:30 P.M. U.S. EPA Region I Library, One Congress Street, 11th Floor, Boston Massachusetts, 02203, Phone: (617) 565–3300. Business Hours: 8:30 A.M. to 4:30 P.M. Written comments should be sent to Geri Mannion at the address below.

FOR FURTHER INFORMATION CONTACT: Geri Mannion, U.S. EPA, Region I, HPR–CAN1, J.F.K. Federal Building, Boston, Massachusetts, 02203–2211, Phone: (617) 573–9657.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act ("RCRA or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authorities are modified, or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–266, 268, 124 and 270.

B. Vermont

Vermont initially received final authorization on January 7, 1985. See: 50 FR 775, January 31, 1985. Subsequent statutory changes and significant revisions to the Vermont Hazardous Waste Management Regulations resulted in Vermont's submission of a program revision application for these changes. On June 20, 1990, Vermont submitted a draft program revision authorization application for RCRA base program revisions and Non-HSWA Requirements Prior to Non-HSWA Cluster I, Non-HWSA Cluster I–III, and HSWA Cluster I. On October 30, 1990 and March 8, 1992, Vermont submitted a draft program revision authorization application which included Non-HSWA Clusters IV and V, in addition to RCRA base program revisions. On October 16, 1992, Vermont submitted, pursuant to 40 CFR part 271, a final application for authorization of revisions to its base RCRA program, and for final authorization for Non-HSWA Requirements Prior to Non-HSWA Cluster I, Non-HSWA Cluster I–V, HSWA Cluster I, and Toxicity Characteristic Leaching Procedure (TCLP) for HSWA Cluster II. EPA has reviewed Vermont's application, and has made an immediate final decision that Vermont's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization to Vermont for the program modifications contained in its program revision application, subject to further review based on adverse public comments. The public may submit written comments on EPA's immediate final decision up to June 2, 1993. Copies of Vermont's application for program revision are available for inspection and copying at the locations indicated in the "ADDRESSES" section of this notice.

Approval of Vermont's program revision shall become effective in sixty (60) days unless adverse comments pertaining to the State's program revisions are received during the comment period. If adverse comments are received, EPA will publish either (1) a withdrawal of the immediate final decision, or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

Some portions of Vermont's revised program are broader in scope than the federal program, and thus are not federally enforceable. For example, Vermont Hazardous Waste Management Regulations (HWMR) regulate as hazardous wastes from Non-specific sources the Vermont listed wastes contained at HWMR section 7–210. Vermont listed wastes are not part of the federal program. Further, while section 7–216 describes the procedures for delisting a hazardous waste, Vermont does not seek authorization to delist federally listed wastes. Section 7–216(3) provides that any delisting of a hazardous waste which is listed as hazardous under 40 CFR part 261 shall be done by EPA. Vermont's authority to delist is restricted to those wastes regulated only in Vermont.

The specific RCRA program revisions for which the State of Vermont is authorized today are listed in the Table below. The following abbreviations are used in the Table: APA=Vermont Administrative Procedure Act; CFR=Code of Federal Regulations; MOA=Memorandum of Agreement between EPA and the State of Vermont; V.S.A.=Vermont Statutes Annotated; UCC=Uniform Certifications Conditions

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Definition of hazardous waste, 40 CFR 261.3	7-202, 7-203, 7-216, 7-504.
Exclusions, 40 CFR 261.4	7-103, 7-203, 10 V.S.A. §6602(4).
Special requirements for hazardous waste generated by small quantity generators, 40 CFR 261.5.	7-203(11)(b), 7-303.
Special requirements for hazardous waste which is used, re-used, recycled or reclaimed, 40 CFR 261.6.	7-601, 7-603, 7-605, 7-606, 7-612, 7-614.
Residues of hazardous waste in empty containers, 40 CFR 261.7	7-202(1)(h),7-203(10).
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Hazardous waste from non-specific sources, 40 CFR 261.31	7-210.
Hazardous waste from specific sources, 40 CFR 261.32	7-211.
Discarded commercial chemical products, off-specification species, container residues, spill residues thereof, 40 CFR 261.33.	7-213, 7-214, 7-209(3), 7-303(1), Appendices III & IV.
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Characteristic of corrosivity, 40 CFR 261.22	7-205(1) and (2), 7-218.
Characteristic of reactivity, 40 CFR 261.23	7-206(1) and (2).
Characteristic of toxicity, 40 CFR 261.24	7-207(1) and (2).
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General:	
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The Manifest:	
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Accumulation time, 40 CFR 262.34	7-308, 7-309, 7-503(1).
Recordkeeping and reporting recordkeeping, 40 CFR 262.40	7-702(1)(e), 7-804.
Biennial reporting, 40 CFR 262.41	7-802(1).
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EPA identification number, 40 CFR 263.11	7-405(3).
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IV. Non-HSWA Cluster II	
Financial responsibility; settlement agreement, 51 FR 16422, 05/02/86, as amended at 53 FR 7740 on 3/10/88.	7–103, 7–502, 7–510, 7–506(5), application form.
Listing of spent pickle liquor (K062), 51 FR 19320, 05/28/86, as amended at 51 FR 33612 on 9/22/86, and 52 FR 28697, 8/03/87.	7–211.3
V. Non-HSWA cluster III	
Radioactive mixed waste, 51 FR 24504, 07/03/86	10 V.S.A. § 6608(b).
Liability coverage; corporate guarantee, 51 FR 25350, 07/11/86	7–502.
Standards for hazardous waste storage and treatment tank systems, 51 FR 25422, 07/14/86, as amended at 51 FR 29430 on 08/15/86.	7–103, 7–109, 7–308(1), 7–309, 7–502. 7–510. 7–506 application form.
Correction to listing of commercial chemical products and appendix VIII constituents, 51 FR 28296, 08/06/86.	7–214, 7–209(3), 7–303(1), 7–213, appendices II, III & IV.
Revised manual SW–846; amended incorporation by reference, 52 FR 8072, 03/16/87	Appendix V.
Closure/post-closure care for interim status surface impoundments, 52 FR 8704, 03/19/87	7–510.
Definition of solid waste; technical corrections, 52 FR 21306, 06/05/87	7–213, 7–214, 7–614.
Amendments to part B information requirements application for disposal facilities, 52 FR 23447, 06/22/87, as amended 09/09/87, at 52 FR 33936.	7–109, 7–506(5), application form.
VI. Non-HSWA Cluster IV	
List (phase 1) of hazardous constituents for ground-water monitoring, 52 FR 25942, 07/09/87	7–502, application form.
Identification and listing of hazardous waste, 52 FR 26012, 07/10/87	7–202.
Liability requirements for hazardous waste facilities; corporate guarantee, 52 FR 44314, 11/18/87	7–502, 7–202.
Hazardous waste miscellaneous units, 52 FR 46946, 12/10/87	7–103, 7–502 application form.
Technical correction; identification and listing of hazardous waste, 52 FR 13382, 04/22/88	7–213, 7–214, appendices II, III & IV.
VII. Non-HSWA Cluster V	
Identification and listing of hazardous waste; treatability studies sample exemption, 53 FR 27290, 7/19/88.	7–103, 7–203(9)(d).
Hazardous waste management system; standards for hazardous waste storage and treatment tank systems, 53 FR 34079, 09/02/88.	7–103, 7–502.
Identification and listing of hazardous waste; and designation, reportable, quantities, and notification, 53 FR 35412, 09/13/88.	7–211, Appendix I.
Permit modification for hazardous waste management facilities, 53 FR 37912, 09/28/88, as amended at 53 FR 41649, 10/24/88.	7–507, 7–509, 7–502, VT APA, 7–103, UCC, appendix X.
Statistical methods from evaluating ground-water monitoring data from hazardous waste facilities, 53 FR 39720, 10/11/88.	7–502.
Identification and listing of hazardous waste; removal of iron dextran from the list of hazardous wastes, 53 FR 43878, 10/31/88.	Appendices II & III.
Identification and listing of hazardous waste; removal of strontium sulfide from the list of hazardous wastes, 53 FR 43881, 10/31/88.	Appendices II & IV.

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Federal requirement	State authority
Hazardous waste miscellaneous units; standards applicable to owners and operators, 54 FR 615, 01/09/89.	Application form.
Amendment to requirements for hazardous waste incinerator permits, 54 FR 4286, 01/30/89	Application form.
Changes to interim status facilities for hazardous waste management permits; procedures for post-closure permitting, 54 FR 9596, 03/07/89.	7–509, 7–510, appendix X.
VIII. HSWA Cluster I	
Dioxin waste listing and management standards 50 FR 1978, 01/14/85	7–303, 7–203(10), 7–209, 7–210, 7–213, 7–209, 7–502, 7–506(5), appendices V, IX & II, application form.
Paint filter test, 50 FR 18370, 04/30/85	7–502, 7–510.
Sharing information with the agency for toxic substance and disease registry, RCRA § 3019(b), 07/15/85.	7–902, 1 V.S.A. §§ 315–320, 10 V.S.A. § 6608.
HSWA codification rule, 50 FR 28702, 07/15/85:	
Small Quantity Generators	7–203(12), 7–303.
Delisting	7–216(3).
Household Waste	7–504(1), 7–203(1).
Waste minimization	7–109, 7–802(1), 7–701(1)(a), 7–702(1)(a), 7–502, 7–507(2)(b), 7–510(2) & (8), UCC # 16 & 19, Vermont Manifest, Annual Report. 7–502, 7–510.
Location standards for salt domes, salt beds, underground mines and caves:	
Liquids in Landfills	7–502, 7–510.
Dust suppression	7–614.
Double liners	7–502, 7–510.
Ground-water monitoring	7–502.
Cement kilns	7–601, 7–605, 7–606, 7–611, 7–612, 7–613, 7–615, 7–213, 7–214.
Fuel labeling	7–605.
Corrective action	7–502.
Pre-construction ban	7–506(2).
Permit life	7–509(1), 7–503(3).
Omnibus provision	7–502, 7–507(2).
Interim status	7–505, 7–506, 7–510, 7–507(2)(b), UCC # 16 and 19, 7–507(2)(b), 7–510(8), UCC.
Research & development permits	7–510(2), 7–511.
Hazardous waste exports	7–103, 7–109, 7–303(3), 7–701, 7–705, 7–706, 7–707, 7–802.
Exposure information	7–506 (3) & (5) Application form.
Listing of TDI, DNT, and TDA Wastes, 50 FR 42936, 10/23/85	7–211, 7–209, 7–213, 7–303(1) appendices IX & II.
Burning of waste fuel and used fuel in boilers and industrial furnaces, 50 FR 49164, 11/29/85	7–303, 7–605, 7–606, 7–611, 7–612, 7–613, 7–502, 7–606(1), 7–103, 7–607, 7–608, 7–609, 7–610, 7–611.
Listing of spent solvents, 50 FR 53315, 12/31/85, as amended 01/21/86, 51 FR 2702	7–210.
Listing of EDB wastes, 51 FR 5327, 02/13/86	7–211, Appendices V & IX.
Listing of four spent solvents, 51 FR 6537, 02/25/86	7–210, 7–209(3), 7–313, 7–303(1) appendices V, IX & II.
Generators of 100 to 1000 kg hazardous waste, 51 FR 10146, 3/24/86	7–301, 7–303, 7–203(12)(b), 7–209(3), 7–213, 7–308, 7–702, 7–703(2), 7–510(5).
Codification rule, technical correction, 51 FR 19176, 05/28/86	7–510.
Biennial report correction, 51 FR 28556, 08/08/87	7–502, 7–510.
Exports of hazardous waste, 51 FR 28664, 08/08/86	7–303, 7–802, 7–109, 7–701, 7–103, 7–705, 7–707(3), 7–804, 7–706 (1) & (2), 7–702(1)(a), 7–703, annual reports form for exports, Vermont manifest.
Standards for generators—waste minimization certifications, 51 FR 36190, 10/01/86	7–109, 7–702(1)(a), Vermont manifest.
Listing of EBDC, 51 FR 37325, 10/24/86	7–211, Appendices V & IX.
Land disposal restrictions, 51 FR 40572, 11/07/86	1 V.S.A. chapter 5 subchapter 3, 7–109, 7–103, 7–106, 3 V.S.A. 801 et seq, 7–216, 7–217, 1 V.S.A. 316(3), 7–201, 7–303(1), 7–203, 7–603, 7–611, 6–601(2)(b), 7–202, 7–210, 7–211, 7–213, 7–214, 7–510, 7–506, 7–509, 7–403(2), 7–501(2), 7–502.
IX. HSWA Cluster II (TCLP only)	
40 CFR part 261, appendix II, 55 FR 11863, 3/29/90, and 55 FR 269, 6/29/90	Appendix II.

Status of Federal Permits

EPA will suspend the further issuance of RCRA and HSWA permits in the State of Vermont for those provisions for which the State receives final authorization on the effective date of this authorization.

EPA will retain lead responsibility for the issuance, administration, and enforcement of those HSWA provisions in the State of Vermont for which the State does not receive authorization. EPA will administer and enforce any RCRA and HSWA permits, or portions of permits, it has issued in Vermont until the State, after receiving authorization for those provisions, issues permits for these facilities which are equivalent to the federal permits, or until the State incorporates the terms and conditions of the federal permits into the State RCRA permits in accordance with its authorized program. If the State assumes responsibility for the administration of federally issued permits under its authorized program, the federally issued permits will continue in effect until their expiration. EPA will then seek to terminate federal permits through agreements with permittees. Further, EPA will transfer copies of any pending permit applications, completed permits, or pertinent file information to the State within thirty (30) days of the effective date of this authorization.

The State of Vermont will assume lead responsibility for issuing permits in the State for those program areas authorized today. The State will review all State issued permits, and modify or reissue these permits as necessary to require compliance with its approved program.

Indian Lands

Vermont is not seeking authority over Indian Lands since there are no federally recognized Indian Lands in the State at this time.

C. Decision

I conclude that Vermont's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Vermont is granted final authorization to operate its hazardous waste program as revised.

Vermont now has responsibility for permitting treatment, storage, and disposal facilities within its jurisdiction and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Vermont also has primary RCRA enforcement responsibility in the State under its authorized program, although EPA retains the right to conduct inspections under Section 3007 of RCRA, and to take enforcement actions under Section 3008, 3013 and 7003 of RCRA.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Vermont's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority

This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 23, 1993.

Paul G. Keough,

Acting Regional Administrator.

[FR Doc. 93–10363 Filed 4–30–93; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6968

[OR–943–4210–06; GP3–126; OR–15667, I–18188]

Public Land Orders No. 6391 and No. 6570; Transfer of Jurisdiction, Addition to Wallowa National Forest, as Amended; Oregon and Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will amend Public Land Order No. 6391, as corrected by Public Land Order No. 6570, by adding the omitted land description and acreage to the Hells Canyon National Recreation Area which was transferred to the secretary of Agriculture.

EFFECTIVE DATE: May 3, 1993.

FOR FURTHER INFORMATION CONTACT: Donna Kauffman, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–280–7162.

By virtue or the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), and as provided by section 9 of the Act of December 31, 1975, 89 Stat. 1117; 16 U.S.C. 460gg, which established the Hells Canyon National Recreation Area, it is ordered as follows:

The acreage and land description in Public Land Order No. 6391, 48 FR 25205–25206, June 6, 1983, are hereby amended as follows:

On page 25205 in paragraph 2, third column, under Boise Meridian, Idaho, add T. 31N., R. 4 W., Sec. 31, lots 9, 10, and 11.

On page 25205 in paragraph 2, third column, thirteenth line from the bottom, the acreage for lands in Idaho which reads "1,415 acres" is hereby amended to read "1,661.26 acres."

The acreage in Public Order No. 6570, 49 FR 37760, September 26, 1984, is hereby corrected as follows:

On page 37760, first column, sixteenth line from the bottom, the acreage for lands in Idaho which reads "1,556.03 acres", is hereby corrected to read "1,661.26 acres."

Dated: April 19, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93–10238 Filed 4–30–93; 8:45 am]

BILLING CODE 4310–33–M

43 CFR Public Land Order 6971

[AK–932–4210–06; AA–502]

Withdrawal of Public Land for the Eklutna Hydroelectric Project; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 40 acres of public land from surface entry, mining, and mineral leasing for e period of 20 years for the Alaska Power Administration to protect a dam and related facilities for the Eklutna Hydroelectric Project.

EFFECTIVE DATE: May 3, 1993.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale,

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location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), and from leasing under the mineral leasing laws, to protect the Eklutna Hydroelectric Project:

Seward Meridian

T. 15 N., R. 2 E.,
Sec. 7, E½SE¼NE¼ and E½NE¼SE¼.

The area described contains 40 acres.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of its mineral or vegetative resources other than under the mining and mineral leasing laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: April 19, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93–10244 Filed 4–30–93; 8:45 am]

BILLING CODE 4310–JA–M

43 CFR Public Land Order 6972

[AK–932–4210–06; A–029474, A–060878]

Revocation of Public Land Order No. 1507, as Amended, and Public Land Order No. 3436, for Selection of Lands by the State of Alaska; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes in their entirety, two public land orders as they affect 560.44 acres of public lands reserved under the jurisdiction of the Secretary of the Interior for administration and maintenance of public recreation areas, and for the preservation of historical, archaeological, and recreational values. The lands, located in the Lake Louise area near Glennallen, are no longer needed for the purposes for which they were withdrawn. This action also opens the lands for selection by the State of Alaska, if such lands are otherwise available. Any lands described herein that are not conveyed to the State will be subject to the terms and conditions of withdrawals of record.

EFFECTIVE DATE: May 3, 1993.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), and by section 17(d)(1) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1616(d)(1) (1988), it is ordered as follows:

1. Public Land Order No. 1507, as amended, and Public Land Order No. 3436, are hereby revoked as they affect the following described lands:

Copper River Meridian

(a) Public Land Order No. 1507 (A–029474)

Area No. 1, located within T. 6 N., R. 7 W., more particularly described as:
Lots 1, 5, 10B, and 11, U.S. Survey No. 3483, aggregating 392.51 acres.

Area No. 2, Parcels A and B, located within T. 7 N., R. 8 W., currently described as:
Lots 9 and 10, U.S. Survey No. 3502, aggregating 7.85 acres; and
Lot 1, U.S. Survey No. 3499, containing 137.30 acres.

The areas described in paragraph 1(a) aggregate 537.66 acres.

(b) Public Land Order No. 3436 (A–060878)

Located within T. 7 N., R. 8 W., more particularly described as:
Lot 3, U.S. Survey No. 3502.

The area described contains 22.78 acres.

The areas described in paragraphs 1(a) and (b) aggregate a total of 560.44 acres.

2. Subject to valid existing rights, the lands described above are hereby opened to selection by the State of Alaska under either the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1988), or section 906(b) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(b) (1988).

3. The State of Alaska applications for selection made under section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1988), become effective without further action by the State upon publication of this public land order in the **Federal Register**, if such lands are otherwise available. Any of the land described herein that is not conveyed to the State will be subject to the terms and conditions of withdrawals of record.

Dated: April 19, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93–10243 Filed 4–30–93; 8:45 am]

BILLING CODE 4310–JA–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–252; RM–8099]

Radio Broadcasting Services; Leesburg and Tavares, Florida

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document removes Channel 294C from Leesburg, Florida and allots Channel 294C1 to Tavares, Florida, as its community of license, at the request of J. J. Taylor Companies, Inc. The allotment of Channel 294C1 to Tavares will provide that community with its first local aural transmission service, in accordance with Section 1.420(i) of the Commission's Rules. See 57 FR 55501, November 25, 1992. Channel 294C1 can be allotted to Tavares at the petitioner's current transmitter site in compliance with the minimum distance separation requirements with a site restriction 30.1 kilometers (18.7 miles) southeast of the community. The coordinates for Channel 294C1 at Tavares are North Latitude 28–33–31 and West Longitude 81–35–38. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 7, 1993.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92–252, adopted April 6, 1993, and released April 26, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., room 246, or 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Leesburg, Channel 294C, and adding Tavares, Channel 294C1.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–10106 Filed 4–30–93; 8:45 am]

BILLING CODE 6712–01–M

NUCLEAR REGULATORY COMMISSION

48 CFR Parts 2012, 2015, 2030, and 2052

RIN 3150–AC01

Nuclear Regulatory Commission Acquisition Regulation; Minor Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; minor corrective and conforming amendments.

SUMMARY: This final rule makes a number of minor corrective and conforming amendments to the NRC's acquisition regulation. The final rule is necessary to correct recently discovered errors in the text of the acquisition regulation and to conform portions of regulatory text to recodified regulations of the Cost Accounting Standards Board.

EFFECTIVE DATE: May 3, 1993.

FOR FURTHER INFORMATION CONTACT: Edward L. Halman, Director, Division of Contracts and Property Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–4347.

SUPPLEMENTARY INFORMATION: On December 23, 1992 (57 FR 61152), the Nuclear Regulatory Commission (NRC) published a final rule which expanded the existing Nuclear Regulatory Commission Acquisition Regulation (NRCAR) to implement and supplement the government-wide Federal Acquisition Regulation. The final rule established requirements for the procurement of goods and services within the NRC that were necessary to satisfy the particular needs of the agency.

This document makes minor corrections and conforming changes to the NRCAR. The necessary changes are as follows:

Section 2012.104–70 is amended to correct a typographical error.

Section 2015.407–70 is revised to correct and expand the references to appropriate contract clauses.

Section 2030.201–5 is revised to reflect the authorization contained in the recodified regulations of the Cost Accounting Standards Board.

In Part 2052, a number of contract clauses are redesignated to correct inconsistencies in the contract provisions numbering system. Clauses are added concerning "Project Officer Authority—Alternate 2" and "Travel Reimbursement—Alternate 1." The clause concerning "Proposal Presentation and Format—Alternate 1 (language for negotiated task order contracts)" is revised to correct references to other contract provisions.

Administrative Procedure Act: Waiver

Because these amendments make minor corrective and conforming changes to an existing regulation pertaining to the acquisition of goods and services by contract, the NRC has determined pursuant to 5 U.S.C. 553(a)(2), that the rulemaking provisions of the Administrative Procedure Act do not apply.

Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in the categorical exclusion set forth in 10 CFR 51.22(c) (5) and (6). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0169.

Regulatory Analysis

This final rule is administrative in that it corrects and conforms the text of an existing regulation. These amendments will not have a significant impact. Therefore, the NRC has not prepared a regulatory analysis for this final rule. The regulatory analysis for the NRCAR was contained in the final rule published December 23, 1992 (57 FR 61152).

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and therefore, that a backfit analysis is not required for this final rule because these amendments do not involve any provision which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

48 CFR Part 2012

Government procurement, Nuclear Regulatory Commission Acquisition Regulation.

48 CFR Part 2015

Government procurement, Nuclear Regulatory Commission Acquisition Regulation, Reporting and recordkeeping requirements.

48 CFR Part 2030

Government procurement, Nuclear Regulatory Commission Acquisition Regulation.

48 CFR Part 2052

Government procurement, Nuclear Regulatory Commission Acquisition Regulation, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following corrective and conforming amendments to 48 CFR Parts 2012, 2015, 2030, and 2052.

PART 2012—CONTRACT DELIVERY AND PERFORMANCE

1. The authority citation for Part 2012 continues to read as follows:

Authority: 42 U.S.C. 2201; 42 U.S.C. 5841; and 41 U.S.C. 418(b).

2012.104–70 [Amended]

2. In 2012.104–70(b)(1), the word "and" is revised to read "or."

PART 2015—CONTRACTING BY NEGOTIATION

3. The authority citation for Part 2015 continues to read as follows:

Authority: 42 U.S.C. 2201; 42 U.S.C. 5841; and 41 U.S.C. 418(b).

4. Section 2015.407–70 is revised to read as follows:

2015.407–70 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert in Requests for Proposals (RFPs) the provisions at:

(1) Section 2052.215–70, Key Personnel;

(2) (i) Section 2052.215–71, Project Officer Authority (for solicitations for cost-reimbursement, cost-plus-fixed-fee, cost-plus-award-fee, cost-sharing, labor-hour or time-and-materials, including task order contracts);

(ii) Section 2052.215–72, Project Officer Authority—Alternate 1 (for

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solicitations for issuance of delivery orders for specific products/services).

(iii) Section 2052.215–73, Project Officer Authority—Alternate 2 with paragraph (b)(1) deleted and the remainder of the clause renumbered (for solicitations for firm fixed price contracts);

(iv) The provision, 2052.215–71, and Alternates 1 and 2 are intended for experienced, trained project officers, and may be altered to delete duties where appropriate.

(3) Section 2052.215–74, Timely Receipt of Proposals;

(4) Section 2052.215–75, Award Notification and Commitment of Public Funds; and

(5) Section 2052.215–76, Disposition of Proposals.

(b) The contracting officer shall insert in all solicitations for negotiated procurements for cost type contracts that do not provide for task orders or delivery orders, the provision at 2052.215–77, Proposal Presentation and Format, except that:

(1) For all solicitations for negotiated task order contracts, paragraphs (e)(4)(xi) and (xii) must be deleted (and the remainder renumbered), and the paragraph found at 2052.215–78—Alternate 1, must be substituted for paragraph (d)(2).

(2) 2052.215–79—Alternate 2. For all negotiated procurements for a fixed-price, labor-hour, or time-and-materials contract, paragraph (d)(2) shall be deleted from the provision 2052.215–77.

These provisions must be tailored to assure that all sections, but in particular paragraph (e), Technical and Management Proposal, reflect a one-to-one relationship to the evaluation criteria.

(c) The contracting officer shall insert the provision at 2052.215–80, Preproposal Conference, in RFPs where there will be a preproposal conference. This provision may be altered to fit the circumstances of the requirement.

(d) The contracting officer shall insert the clauses at 2052.215–81, Travel Reimbursement, and 2052–215–83, Travel Approvals, in RFPs where there will be travel. For contracts where there is no ceiling amount on domestic travel, the provision found at 2052.215–82, Travel Reimbursement—Alternate 1 shall be used with paragraph (a) deleted and the remainder of the clause renumbered.

5. Section 2015.670 is revised to read as follows:

2015.670 Contract provisions.

(a) The contracting officer shall include the provision found at 2052.215–84, Contract Award and Evaluation of Proposals, in all solicitations where technical is more important than cost:

(1) The contracting officer shall substitute the paragraph found at 2052.215–85 for paragraph (b) in all solicitations for negotiated competitive procurements where cost is more important than technical merit.

(2) The contracting officer shall substitute the paragraph found at 2052.215–86 for paragraph (b) in all solicitations for negotiated competitive procurements where cost and technical merit are of equal significance.

(b) The contracting officer may make appropriate changes to the provision to accurately reflect other evaluation procedures, such as evaluation of proposals against mandatory criteria and benchmarking criteria for ADP procurements.

PART 2030—COST ACCOUNTING STANDARDS

6. The authority citation for Part 2030 continues to read as follows:

Authority: 42 U.S.C. 2201; 42 U.S.C. 5841; and 41 U.S.C. 418(b).

7. Section 2030.201–5 is revised to read as follows:

2030.201–5 Waiver.

Requests to waive Cost Accounting Standards (CAS) requirements must be submitted to the Chairman, CAS Board, by the Procurement Executive. The requests for waivers must be forwarded through the Head of the Contracting Activity with supporting documentation and rationale.

PART 2052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. The authority citation for Part 2052 continues to read as follows:

Authority: 42 U.S.C. 2201; 42 U.S.C. 5841; and 41 U.S.C. 418(b).

2052.212–72 [Amended]

9. In 2052.212–72, in the first paragraph under the "Financial Status Report" heading, the phrase "Financial Identification Number (FIN)" is revised to read "Job Code".

2052.215–81–2052.215–84 [Redesignated]

10. Sections 2052.215–81 through 2052.215–84 are redesignated as 2052.215–83 through 2052.215–86 respectively.

2052.215–73–2052.215–80 [Redesignated]

11. Sections 2052.215–73 through 2052.215–80 are redesignated as 2052.215–74 through 2052.215–81 respectively.

12. A new 2052.215–73 is added to read as follows:

2052.215–73 Project officer authority—Alternate 2.

As prescribed at 2015.407–70(a) for solicitations for fixed price contracts, the clause at 2052.215–72—Alternate 1 must be used with paragraph (b)(1) deleted and the remainder of the clause renumbered.

2052.215–77 [Amended]

13. In newly designated 2052.215–77, paragraph (d)(1) under the heading "Proposal Presentation and Format" the word "Contracting" is revised to read "Contract."

14. Newly designated § 2052.215–78 is revised to read as follows :

2052.215–78 Proposal presentation and format—Alternate 1 (language for negotiated task order contracts).

As prescribed at 2015.407–70(b)(1), paragraphs e(4)(xi) and 2(xii) must be deleted (and the remainder renumbered) and the following paragraph must be substituted for (d)(2) in provision 2052.215–77.

(d) Cost proposal.

(2) The offeror shall provide a cost proposal based on the estimated level of effort. The total estimated cost proposed by the offeror is used for evaluation purposes only. Any resultant contract, except a requirements contract, contains an overall cost ceiling whereby individual task orders may be issued. The cost and fee, if any, for each task order is individually negotiated and also contains a cost ceiling.
(End of Provision)

15. A new 2052.215–82 is added to read as follows:

2052.215–82 Travel reimbursement—Alternate 1.

16. Newly designated § 2052.215–83 is revised as follows:

2052.215–83 Travel approvals.

As prescribed in 2015.407–70(d), insert the following clause in applicable solicitations and contracts:

Travel Approvals

(a) All domestic travel requires the prior approval of the project officer.

(b) All foreign travel must be approved in advance by the NRC on NRC Form 445 and must be in compliance with FAR 52.247–63, Preference for U.S. Flag Air Carriers. Foreign travel approval must be communicated in writing through the contracting officer.
(End of Clause)

As prescribed at 2015.407–70(d) for contracts where there is no ceiling amount on domestic travel, delete paragraph (a) of 2052.215–81 and renumber the remainder of the clause.
(End of Provision)

Dated at Rockville, Maryland, this 26th day of April, 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–10306 Filed 4–30–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 683

[Docket No. 920786–3065]

RIN 0648–AE94

Western Pacific Bottomfish and Seamount Groundfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule that amends the regulations implementing the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP). THe final rule requires all primary operators and relief operators on vessels intending to fish for bottomfish within the Mau Zone of the Northwestern Hawaiian Islands (NWHI) to complete a protected species workshop conducted by NMFS.

EFFECTIVE DATE: June 2, 1993.

ADDRESSES: Copies of Amendment 2, which incorporates an environmental assessment (EA) and regulatory impact review, may be obtained from the Western Pacific Fishery Management Council, 1164 Bishop St., suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, NMFS, at (310) 980–4034; or Alvin Katekaru, NMFS, at (808) 955–8831.

SUPPLEMENTARY INFORMATION: The FMP was implemented on August 27, 1986 (51 FR 27413, July 31, 1986). Amendment 2 to the FMP was approved by the Secretary of Commerce in July 1988 and implementing regulations were published at 53 FR 29907 on August 9, 1988. This amendment established a NWHI bottomfish fishery limited access program, which created two fishing zones: a Mau (qualifying Zone and Ho'omalu (limited access) Zone. The amendment also included, as part of the permit issuance process, a protected species workshop requirement for primary operators and relief operators on vessels intending to fish for bottomfish in the NWHI. The purpose of the workshop is to inform fishermen about protected resources concerns to avoid or minimize impacts of interactions between threatened and endangered species and bottomfishing operations. The regulations required only vessel operators (as well as relief operators) fishing in the Ho'omalu Zone to complete the workshops. The workshops were initially required only for those fishing in the Ho'omalu Zone because the potential for interactions with Hawaiian monk seals was greatest in this area. More than 80 percent of the bottomfish grounds in the NWHI occur in the Ho'omalu Zone, and most of the Honolulu-based bottomfish fleet had operated there up to that time.

Details on the growth of the Mau Zone fishery and of deliberations and actions by the Western Pacific Fishery Management Council and NMFS were presented in the proposed rule published at 57 FR 54560 on November 19, 1992, and will not be repeated here.

With the increase of fishing effort in the Mau Zone, it is appropriate that primary operators of Mau Zone vessels also be required to complete a protected species workshop as part of the permit issuance process. Completion of a workshop will be required on a one-time basis only for each operator and relief operator. At its meeting of March 16–17, 1992, the Council concurred with the intent of this rule.

No comments were received on the proposed rule, and no substantive changes have been made from the proposed rule. The NMFS Southwest Regional Office has moved to new facilities at 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213. This final rule amends the definition of "Regional Director" to reflect the new mailing address for the Southwest Region, NMFS.

Classification

The Assistant Administrator of Fisheries, NOAA (Assistant Administrator), has determined that this final rule is necessary for the conservation and management of the bottomfish and seamount groundfish fishery and is consistent with the Magnuson Fishery Conservation and Management Act and other applicable law.

An EA was prepared for the original FMP and for Amendment 2, which established the NWHI bottomfish limited entry access program and requires participation by primary vessel operators and relief operators in a protected species workshop. These EAs concluded that these actions would not significantly affect the quality of the human environment. Since the final rule will effect only a minor modification of the regulations implementing the FMP and Amendment 2 and will not have significant impacts on the human environment, the Assistant Administrator has determined that the rule is categorically excluded from the requirement to prepare an EA under section 6.02c.3.(f) of NOAA Administrative Order 216–6.

The Assistant Administrator has determined that this rule is not a "major action" requiring a regulatory impact analysis under E.O. 12291.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

Biological Opinions and results of informal consultations under the Endangered Species Act pertaining to the bottomfish and seamount groundfish fisheries have concluded that, with the conservation and management measures in effect under the FMP, the fisheries are not likely to jeopardize the continued existence of listed species or result in the adverse modification of critical habitat. Therefore, the Regional Director has determined that additional consultations are not required for this action.

The Regional Director of the Southwest Region, NMFS, determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Hawaii. The State of Hawaii has concurred with this determination.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 683

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 27, 1993.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 783 is amended as follows:

PART 683—WESTERN PACIFIC BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES

1. The authority citation for part 683 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

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2. In § 683.2, the definition of "Regional Director" is revised to read as follows:

§ 683.2 Definitions.

* * * * *

Regional Director means the Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

* * * * *

3. In § 683.6, paragraph (f) is revised to read as follows:

§ 683.6 Prohibitions

* * * * *

(f) Serve as primary operator or relief operator on a vessel with a Mau or Ho'omalu Zone permit without completing a protected species workshop conducted by NMFS.

* * * * *

4. In § 682.21, new paragraph (a)(5) is added to read as follows:

§ 683.21 Permit requirements for the Northwestern Hawaiian Islands.

(a) * * *

(5) Before the Regional Director issues a Mau Zone or Ho'omalu zone permit to fish for bottomfish under this section or under § 683.25, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

* * * * *

§ 683.25 [Amended]

5. In § 683.25, paragraph (a)(5) is removed and paragraphs (a)(6) and (a)(7) are redesignated as (a)(5) and (a)(6), respectively.

[FR Doc. 93–10338 Filed 4–30–93; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 83
Monday, May 3, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

Radiological Criteria for Decommissioning of NRC-licensed Facilities; Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Workshop.

SUMMARY: The Nuclear Regulatory Commission (NRC) is preparing to initiate an enhanced participatory rulemaking on establishing the radiological criteria for the decommissioning of NRC-licensed facilities. The Commission intends to enhance the participation of affected interests in the rulemaking by soliciting commentary from these interests on the rulemaking issues before the staff develops the draft proposed rule. The Commission plans to conduct a series of workshops to solicit commentary from affected interests on the fundamental approaches and issues that must be addressed in establishing the radiological criteria for decommissioning. The seventh workshop will be held in Washington, DC, on May 6 and 7, 1993 and will be open to the public.

DATES: May 6, 1993 from 9 a.m. to 5:45 p.m.; May 7, 1993, from 8:30 a.m. to 4 p.m. The workshop agenda provides for scheduled opportunities throughout the workshop for the public to comment on the rulemaking issues and the workshop discussions. The scheduled public comment periods include: 12:15 p.m.–12:45 p.m.; 3:15 p.m.–3:30 p.m.; and 5:15 p.m.–5:45 p.m. on Thursday, May 6; and 10 a.m.–10:15 a.m.; 12 p.m.–12:30 p.m.; and 2:45 p.m.–3:15 p.m. on Friday, May 7. All sessions will be held at the Doubletree Hotel, 300 Army Navy Drive, Arlington, Virginia, Phone: 703–892–4100.

As discussed later in this notice, the workshop discussions will focus on the issues and approaches identified in a Rulemaking Issues Paper prepared by the NRC staff. The Commission will accept written comments on the Rulemaking Issues Paper from the public, as well as from workshop participants. Written comments should be submitted by May 28, 1993.

ADDRESSES: Send written comments on the Rulemaking Issues Paper to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Service Branch. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland between 7:45 a.m. and 4:15 p.m. on Federal workdays. The Rulemaking Issues Paper is available from Francis X. Cameron (See **"FOR FURTHER INFORMATION CONTACT"**).

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, Special Counsel for Public Liaison and Waste Management, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555, Telephone: 301–504–1642.

SUPPLEMENTARY INFORMATION:

Background

The NRC has the statutory responsibility for protection of health and safety related to the use of source, byproduct, and special nuclear material under the Atomic Energy Act. The NRC believes that one portion of this responsibility is to ensure the safe and timely decommissioning of nuclear facilities which it licenses and to provide guidance to licensees on how to plan for and prepare their sites for decommissioning. Once licensed activities have ceased, licensees are required to decommission their facilities so that their licenses may be terminated. This requires that the radioactivity in land, groundwater, buildings, and equipment resulting from the licensed operation be reduced to levels that allow the property to be released for unrestricted use. Licensees must then demonstrate that all facilities have been properly decontaminated and that radioactive material has been transferred to authorized recipients. Confirmatory surveys are conducted by NRC, where appropriate, to verify that sites meet NRC radiological criteria for decommissioning.

The types of nuclear fuel cycle facilities that will require decommissioning include nuclear power plants; non-power (research and test) reactors; fuel fabrication plants, uranium hexafluoride production plants, and independent spent fuel storage installations. In addition there are currently about 24,000 materials licensees. About one-third of these are NRC licensees, while the remainder are licensed by Agreement States acting under the authority of the Atomic Energy Act, Section 274. These licensees include universities, medical institutions, radioactive source manufacturers, and companies that use radioisotopes for industrial purposes. About 50% of NRC's 7,500 materials licensees use either sealed radioactive sources or small amounts of short-lived radioactive materials. Decommissioning of these facilities should be relatively simple because there is usually little or no residual radioactive contamination. Of the remaining 50%, a small number (e.g. radioactive source manufacturers, radiopharmaceutical producers, and radioactive ore processors) conduct operations that could produce substantial radioactive contamination in portions of the facility. These facilities, like the fuel cycle facilities identified above, must be decontaminated before they can be safely released for unrestricted use.

Several hundred NRC and Agreement State licenses are terminated each year. The majority of these licenses involve limited operations, produce little or no radioactive contamination, and do not present complex decommissioning problems or potential risks to public health or the environment from residual contamination. However, as the nuclear industry matures, it is expected that more and more of the larger nuclear facilities that have been operating for a number of years will reach the end of their useful lives and be decommissioned. Therefore, both the number and complexity of facilities that will require decommissioning is expected to increase.

The Commission believes that there is a need to incorporate into its regulations radiological criteria for termination of licenses and release of land and structures for unrestricted use. The intent of this action would be to provide a clear and consistent regulatory basis for determining the extent to which lands and structures must be decontaminated before a site can be decommissioned. The Commission believes that inclusion of criteria in the regulations would result in more

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efficient and consistent licensing actions related to the numerous and frequently complex site decontamination and decommissioning activities anticipated in the future. A rulemaking effort would also provide an opportunity to reassess the basis for the residual contamination levels contained in existing guidance in light of changes in basic radiation protection standards and decommissioning experience obtained during the past 15 years.

The new criteria would apply to the decommissioning of power reactors, non-power reactors, fuel reprocessing plants, fuel fabrication plants, uranium hexafluoride production plants, independent spent fuel storage installations, and materials licenses. The criteria would apply to nuclear facilities that operate through their normal lifetime, as well as to those that may be shut down prematurely. The proposed criteria would not apply to uranium (other than source material) mines and mill tailings, high-level waste repositories, or low-level waste disposal facilities.

Until the new criteria are in place, the Commission intends to proceed with the decommissioning of nuclear facilities on a site-specific basis as the need arises considering existing criteria. Case and activity-specific risk decisions will continue to be made as necessary during the pendency of this process.

The Enhanced Participatory Rulemaking

The Commission believes it is desirable to provide for early and comprehensive input from affected interests on important public health and safety issues, such as the development of radiological criteria for decommissioning. Accordingly, the Commission is initiating an enhanced participatory rulemaking to establish these criteria. The objective of the rulemaking is to enhance the participation of affected interests in the rulemaking by soliciting commentary from these interests on the rulemaking issues before the NRC staff develops the draft proposed rule. The NRC staff will consider this commentary in the development of the draft proposed rule, as well as document how these comments were considered in arriving at a regulatory approach. The Commission believes that this will be an effective method for illuminating the decision making process on complex and controversial public health and safety issues. This approach will ensure that the important issues have been identified; will assist in identifying potential information gaps or implementation problems; and will facilitate the development of potential solutions to address the concerns that affected interests may have in regard to the rulemaking.

The early involvement of affected interests in the development of the draft proposed rule will be accomplished through a series of workshops. A workshop format was selected because it will provide representatives of the affected interests with an opportunity to discuss the rulemaking issues with one another and to question one another about their respective positions and concerns. Although the workshops are intended to foster a clearer understanding of the positions and concerns of the affected interests, as well as to identify areas of agreement and disagreement, it is not the intent of the workshop process to attempt to develop a consensus agreement on the rulemaking issues. In addition to the commentary from the workshop participants, the workshops will be open to the public and the public will be provided with the opportunity to comment on the rulemaking issues and the workshop discussions at discrete intervals during the workshops.

The workshops were initially announced in the **Federal Register** on December 11, 1992 (57 FR 58727). The complete schedule for the workshops is:

January 27 and 28, 1993	Chicago, Illinois
February 23 and 24, 1993	San Francisco, California
March 12 and 13, 1993	Boston, Massachusetts
March 23 and 24, 1993	Dallas, Texas
April 13 and 14, 1993	Philadelphia, Pennsylvania
April 29 and 30, 1993	Atlanta, Georgia
May 6 and 7, 1993	Washington, D.C.

The normal process for conducting Commission rulemakings is NRC staff development of a draft proposed rule for Commission review and approval, publication of the proposed rule for public comment, consideration of the comments by the NRC staff, and preparation of a draft final rule for Commission approval. In the enhanced participatory rulemaking, not only will comments be solicited before the NRC staff prepares a draft proposed rule, but the mechanism for soliciting these early comments will also provide an opportunity for the affected interests and the NRC staff to discuss the issues with each other, rather than relying on the traditional one-to-one written correspondence with the NRC staff. After Commission review and approval of the draft proposed rule that is developed using the workshop commentary, the general process of issuing the proposed rule for public comment, NRC staff evaluation of comments, and preparation of a draft final rule for Commission approval, will occur.

Participants

In order to have a manageable discussion among the workshop participants, the number of participants in each workshop must be limited. Based on discussions with experts on workshop facilitation, the NRC staff believes that the optimum size of the workshop group is fifteen to twenty participants. Due to differing levels of interest in each region, the actual number of participants in any one workshop, as well as the number of participants that represent a particular interest in any one workshop, may vary. Invitations to attend the workshops will be extended by the NRC staff using several selection criteria. First, to ensure that the Commission has the benefit of the spectrum of viewpoints on the issues, the NRC staff is attempting to achieve the participation of the full range of interests that may be affected by the rulemaking. The NRC staff has identified several general interests that will be used to select specific workshop participants—state governments, local governments, tribal governments, Federal agencies, citizens groups, nuclear utilities, fuel cycle facilities, and non-fuel cycle facilities. In addition to these interests, the staff also plans to invite representatives from the contracting industry that performs decommissioning work and representatives from professional societies, such as the Health Physics Society and the American Nuclear Society. The NRC anticipates that most of the participants will be representatives of organizations. However, it is also possible that there may be a few participants who, because of their expertise and influence, will participate without any organizational affiliation.

The second selection criterion is the ability of the participant to knowledgeably discuss the full range of rulemaking issues. The NRC staff wishes to ensure that the workshops will elicit informed discussions of options and approaches, and the rationale for those options and approaches, rather than simple statements of opinion. The NRC staff's identification of potential participants has been based on an evaluation of such factors as the extent of a potential participant's experience with a broad range of radiation protection issues and types of nuclear facilities, specific experience with the decommissioning issue, and the extent of a potential participant's substantive comment and participation on previous Commission regulatory or licensing actions.

The third criterion emphasizes participation from organizations within the region encompassed by the workshop. As much as practicable, those organizations that primarily operate within the region, as opposed to regional units of national organizations, will have priority in terms of participating in the corresponding regional workshops. Organizations with a national standing will be part of the "national" workshop to be held in Washington, DC.

Workshop Format

To assure that each workshop addresses the issues in a consistent manner, the workshops will have a common pre-defined scope and agenda focused on the Rulemaking Issues Paper discusses below. However, the workshop format will be sufficiently flexible to allow for the introduction of any additional issues that the participants may want to raise. At each workshop, the NRC staff will begin each discussion period with a brief overview of the rulemaking issues to be discussed and the remainder of the workshop will be devoted to a discussion of the issues by the participants. The workshop commentary will be transcribed and made available to participants and to the public.

Personnel from The Keystone Center, a nonprofit organization located in Keystone, Colorado, will serve as neutral facilitators for each workshop. The facilitators will chair the workshop sessions and ensure that participants are given an opportunity to express their viewpoints, assist participants in articulating their interests, ensure that participants are given the opportunity to question each other about their respective viewpoints, and assist in keeping the discussion moving at a pace that will allow all major issue areas to be addressed.

Rulemaking Issues Paper

The NRC staff has prepared a Rulemaking Issues Paper to be used as a focal point for the workshop discussions. This paper, which will be distributed to participants in advance of the workshops, sets forth in neutral terms the issues that must be addressed in the rulemaking, as well as background information on the nature and extent of the problem to be addressed. In framing the issues and approaches discussed in the Rulemaking Issues Paper, the NRC staff has attempted to anticipate the variety of views that exist on these approaches and issues. The paper will provide assistance to the participants as they prepare for the workshops, suggest the workshop agenda, and establish the level of technical discussion that can be expected at the workshops. The workshop discussions are intended to be used by the staff in developing the draft proposed rule. Prior to the workshops no staff positions will be taken on the rulemaking approaches and issues identified in the Rulemaking Issues Paper. As noted earlier, to the extent that the Rulemaking Issues Paper fails to identify a pertinent issue, this may be corrected at the workshop sessions.

The discussion of issues is divided into two parts. First are two primary issues dealing with: (1) The objectives for developing radiological criteria; and (2) application of practicality considerations. The objectives constitute the fundamental approach to the establishment of the radiological criteria, and the NRC staff has identified four distinct possibilities including: (1) Risk Limits, which is the establishment of limiting values above which the risks to the public are deemed unacceptable, but allows for criteria to be set below the limit using practicality considerations; (2) Risk Goals, where a goal is selected and practicality considerations are used to establish criteria as close to the goal as practical; (3) Best Effort, where the technology for decontamination considered to be the best available is applied; and (4) Return to Preexisting Background, where the decontamination would continue until the radiological conditions were the same as existed prior to the licensed activities.

Following the primary issues are several secondary issues that are related to the discussions of the primary issues, but which the NRC staff believe warrant separate presentations and discussions. These secondary issues include the time frame for dose calculation, the individuals or groups to be protected, the use of separate criteria for specific exposure pathways such as groundwater, the treatment of radon, and the treatment of previously buried materials.

The Rulemaking Issues Paper will be provided to each potential workshop participant. Additional copies will be available to members of the public in attendance at the workshop. Copies will also be available from the NRC staff contact identified above. In addition to the comments on the Rulemaking Issues Paper provided at the workshops, the Commission is also receptive to the submittal of written comments on the rulemaking issues, as noted under the heading **DATES.**

Dated at Rockville, MD, this 27 day of April 1993.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Assistant Secretary of the Commission.

[FR Doc. 93–10305 Filed 4–30–93; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

RIN 3064–AB19

Applications, Requests, Submittals, Delegations of Authority, and Notices Required to be Filed by Statute or Regulation

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed rule.

SUMMARY: The FDIC is proposing to amend its regulations concerning applications and notices by savings associations. The amendments would conform the definitions of "significant risk" and "equity security" to the definitions of those terms found in the FDIC's regulations entitled, "Activities and Investments of Insured State Banks", and would allow insured state savings associations to conduct activities and make investments without the FDIC's prior approval provided that the activities and/or investments were found to be permissible for federal savings associations under an order or a written interpretation issued by the Office of Thrift Supervision. This change would also place insured state savings associations on a par with the treatment accorded insured state banks under FDIC's regulations.

DATES: Comments must be received by June 2, 1993.

ADDRESSES: Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand delivered to room F–402, 1776 F Street, NW., Washington, DC on business days between 8:30 a.m. and 5 p.m. [FAX number: (202) 898–3838]. Comments may be inspected in FDIC's Reading Room, room 7118, 550 17th Street, NW., Washington, DC between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Pamela E.F. LeCren, Counsel, (202) 898–3730, Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429 or

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Curtis L. Vaughn, Examination Specialist, (202) 898–6759, Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC. 20429.

SUPPLEMENTARY INFORMATION: Section 18(m) and 28 were added to the Federal Deposit Insurance Act (FDI Act, 12 U.S.C. 1831e, 1828(m)) on August 8, 1989 as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA, Pub. L. 101–73, 103 Stat. 183). In brief, section 18(m) provides that, with certain exceptions, any insured savings association must notify the FDIC and the Office of Thrift Supervision (OTS) at least 30 days prior to establishing or acquiring a subsidiary and at least 30 days prior to electing to conduct a new activity through a subsidiary. The FDIC is also authorized to prohibit by regulation or order any specific activity, act or practice conducted by an insured savings association that the FDIC determines will pose a serious threat to either the Bank Insurance Fund (BIF) or the Savings Association Insurance Fund (SAIF). Section 28 of the FDI Act deals, in part, with the activities and equity investments of state chartered savings associations and the investment by state or federal savings associations in "junk bonds". In brief, state savings associations are prohibited from engaging as principal after January 1, 1990 in any activity of a type or in an amount that is not permissible for federal savings associations unless the FDIC determines that the activity poses no significant risk to the affected deposit insurance fund and the savings association is, and continues to be, in compliance with the fully phased-in capital standards prescribed for savings associations under section 5(t) of the Home Owners' Loan Act (HOLA, 12 U.S.C. 1464(t)). State savings associations are also limited to making equity investments that are permissible for federal savings associations. Equity investments in service corporations that would otherwise be impermissible for federal savings associations can be made if a state savings association meets the fully phased-in capital requirements and the FDIC finds that the investment will not pose a significant risk to the affected deposit insurance fund based either on the activity to be conducted by the service corporation or the amount to be invested.

On December 12, 1989, the FDIC's Board of Directors adopted interim final regulations implementing sections 18(m) and 28 of the FDI Act, new § 303.13 (12 CFR 303.13) (54 FR 53540, December 29, 1989). Those regulations were subsequently adopted in final on September 11, 1990 (55 FR 38037, September 17, 1990). Among other things, the final regulations: (1) Look to statute, OTS regulations, and official OTS regulatory and thrift bulletins to determine what activities and investments are permissible for federal savings associations (§ 303.13(b)(1)), (d)(1); (2) define the term "equity security" to mean "any stock, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription transferable share, investment contract, or voting-trust certificate; any security immediately convertible at the option of the holder without payment of substantial additional consideration into such a security; any security carrying any warrant or right to subscribe to or purchase any such security; and any certificate of interest or participation in, temporary or interim certificate for, or receipt for any of the foregoing (§ 303.13(a)(6)); and (3) indicate that a "significant risk" is considered to be present "whenever it is likely that any insurance fund administered by the FDIC may suffer any loss whatever (§ 303.13(a)(9)).

The FDIC recently adopted final regulations governing the equity investments of insured state banks. (12 CFR part 362, 57 FR 53213, November 9, 1992). Part 362 implements section 24 of the FDI Act (12 U.S.C. 1831a) as added by the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA, Pub. L. 102–242, 105 Stat. 2236). Section 24 of the FDI Act, which governs the activities and equity investments of insured state banks, is very similar to section 28 of the FDI Act and was in many ways modeled after section 28. In brief, subject to certain statutory exceptions, section 24 prohibits insured state banks and their majority owned subsidiaries from engaging as principal in activities that are not permissible for a national bank or a subsidiary of a national bank unless the state bank meets its capital requirements and the FDIC determines that the activity does not pose a significant risk to the deposit insurance fund. Similarly, insured state banks may not make any equity investments that are not permissible for national banks.

Part 362 as adopted in final by the FDIC differs in a number of ways from § 303.13. To some extent, the differences result from differences in the statutory language of the two underlying provisions. Other differences are not required by statute. The FDIC is requesting comment on whether § 303.13 should be amended to conform to part 362 to the extent that the language of the two statutory provisions does not bar such a change being made. Three differences between part 362 and § 303.13 have been identified. They concern the definition of equity security, the definition of significant risk, and what constitutes evidence of what is permissible activity or equity investment for a federal savings association.

As indicated above, § 303.13 looks to statute, OTS regulations, and OTS regulatory and thrift bulletins to determine what is permissible for a federal savings association. Part 362 on the other hand provides that any investment authorized for national banks under the National Bank Act (12 U.S.C. 21 et seq.) or any other statute will be considered permissible for a national bank. What is more, investments expressly recognized as permissible in regulations, official bulletins or circulars issued by the Office of the Comptroller of the Currency (OCC) or any order or interpretation issued in writing by the OCC will be accepted as permissible for state banks. The preamble accompanying part 362 when the regulation was adopted in final indicated that:

> Written staff opinions will be considered to evidence the position of the Office of the Comptroller of the Currency so long as the opinion is considered to be valid by the Office of the Comptroller of the Currency. Thus an opinion will not be recognized if it is not the current opinion of the Comptroller's Office, i.e., it is no longer considered valid, the opinion is overruled by the Office of the Comptroller of the Currency, or the opinion is found by a court of law to be incorrect. Even though staff opinions are not necessarily binding on the Comptroller of the Currency, the FDIC is satisfied that they embody the current opinion of the Office of the Comptroller of the Currency and that to not recognize them would in fact unnecessarily put state banks at a disadvantage. State banks should note that the FDIC will generally expect any conditions or restrictions set out in the Comptroller of the Currency's regulations, bulletins, circulars, and staff opinions to be met if the equity investment is to be considered permissible under part 362 when made by state banks. (57 FR 53219, November 9, 1992).

Thus, under § 303.13, a state savings association cannot look to any OTS order or written interpretation as a basis for determining that a particular activity or investment is permissible for a federal savings association, whereas a state bank may take orders and written interpretations into account when determining what is permissible for a national bank.

The definitions of "equity security" as contained in Part 362 and § 303.13 are identical with one exception. Under Part 362, adjustable rate preferred stock and money market auction rate preferred stock are excluded from the definition of equity security. Section 303.13 does not contain this exception. The following explanation for the exclusion appeared in the preamble accompanying part 362 when the regulation was adopted in final.

> The FDIC received 15 comments addressing the issue of whether the regulation should exclude from the definition of equity security investment grade preferred stock and other preferred stock issues that are very debt like. The comments focused on two categories of preferred stock, money market preferred stock and adjustable rate preferred stock. Adjustable rate preferred stock refers to shares for which dividends are established contractually by a formula in relation to Treasury rates or other readily available interest rate levels. Money market preferred stock refers to those issues in which dividends are established through a periodic auction process that establishes yields in relation to short term rates paid on commercial paper issued by the same or a similar company. Dividends are not declared by the issuer's board and the credit quality of the issuer determines the value of the stock. Money market preferred shares are sold at auction rather than on a national securities exchange.
>
> The FDIC agrees after reviewing the comments that money market (auction rate) preferred stock and adjustable preferred stock are essentially substitutes for money market investments such as commercial paper and are closer in their characteristics to debt than to equity. The final regulation therefore has been amended to specifically exclude money market preferred stock and adjustable preferred stock from the definition of equity investment. As a result, such investments are not subject to the provisions of § 362.3(a) of the final regulation. Investing in such instruments will be an "activity" for the purposes of section 24. Whether or not a state bank may continue to make such investments after December 19, 1992 will depend, among other things, on whether a national bank could make a similar investment. (57 FR 53218–19, November 9, 1992).

Thus, for the purposes of part 362, money market preferred stock and adjustable rate preferred stock are not considered to be equity securities. If a national bank could not engage in the activity of investing in such instruments, a state bank could possibly do so provided that the FDIC determines that the investment will not pose a significant risk to the fund and provided that the state bank meets its capital requirements. Under § 303.13, money market preferred stock and adjustable rate preferred stock are considered to be equity securities. If a federal savings association cannot invest in such investments, a state savings association simply may not do so.

Finally, under § 303.13, "significant risk" is present whenever it is likely that any insurance fund administered by the FDIC may suffer any loss whatever. Under Part 362, significant risk to the deposit insurance fund is understood to be present whenever there is a high probability that any insurance fund administered by the FDIC may suffer a loss. The definition of significant risk as originally proposed for the purposes of Part 362 was identical to the language presently found in § 303.13. As a result of concerns expressed during the public comment period that the definition did not take into account the plain meaning of the word significant and concerns that any investment made by a bank could lead to some loss, the language in Part 362 was modified slightly. The purpose of the modification was to "remove the implication that because an investment or activity cannot be said to be 'riskless' under all circumstances the FDIC will determine that the investment or activity will pose a significant risk of loss to the fund". "The emphasis is properly whether there is a high degree of likelihood, under all of the circumstances, that an investment or activity by a particular bank, or by banks in general in a given market or region, may ultimately produce a loss to either of the funds." (57 FR 53220, November 9, 1992).

The FDIC is proposing to amend § 303.13 to conform the definitions of significant risk and equity security to those found in Part 362 and is also proposing to allow state savings associations (like their counter part state banks) to look to orders and written interpretations in determining what activities and investments require the FDIC's prior approval. Comment is invited on whether it is appropriate to make the above described changes. Additionally, the FDIC is interested in receiving comment on any other differences between § 303.13 and part 362 that should be eliminated. Any persons responding to this question should keep in mind when doing so that the FDIC is constrained by the statutory language of section 24 and section 28 of the FDI Act. In short, to the extent that the language of the two provisions is different, the FDIC may not be able to amend the regulations that they are identical. Lastly, the FDIC recently proposed an amendment to part 362 (58 FR 6452, January 29, 1993). That amendment does not alter Part 362 as it is presently worded, however, it does add additional provisions to Part 362. If as a result of that rulemaking additional differences between § 303.13 and part 362 are created, the FDIC will consider whether a further amendment to § 303.13 to conform the two regulations would be appropriate.

Regulatory Flexibility Analysis

The proposed amendments do not create or add to any existing recordkeeping or reporting requirement. Nor will the amendments if adopted require any state savings association to hire additional specialized personnel in order to comply with the requirements of § 303.13, establish any computer tracking system, or take any other measure for the purposes of compliance that would be burdensome on savings associations in general. Therefore, the FDIC does not anticipate that the proposed amendments will cause any institution any additional costs. As that is the case, it is not likely that the proposal will present an economic burden on small institutions as a result of such institutions being more likely to incur an added economic burden in attempting to comply with the regulation. The proposal will in fact in some instances eliminate the need for state savings associations to seek the FDIC's approval before conducting certain activities and in some instances will afford state savings associations greater flexibility in their investments than presently afforded under the regulation. The FDIC's Board of Directors therefore does hereby certify pursuant to 5 U.S.C. 605 that the proposed amendment, if adopted, will not have a significant economic impact on a significant number of small entities.

List of Subjects in 12 CFR Part 303

Adminstrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Insured depository institutions, Reporting and recordkeeping requirements, Savings associations.

In consideration of the foregoing, the FDIC hereby proposes to amend chapter III of title 12 of the Code of Federal Regulations by amending part 303 as follows:

PART 303—APPLICATIONS, REQUESTS, SUBMITTAL, DELEGATIONS OF AUTHORITY, AND NOTICES REQUIRED TO BE FILED BY STATUTE OR REGULATION

1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1813, 1815, 1816, 1817(j), 1818, 1819 ("Seventh" and "Tenth"), 1828, 1831e, 1831o; 15 U.S.C. 1607.

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§ 303.13 [Amended]

2.a. Section 303.13(a)(6) is amended by adding "(other than adjustable rate preferred stock and money market (auction rate) preferred stock)" after the word "stock".

b. Section 303.13 is amended by revising paragraph (a)(9) to read as follows:

§ 303.13 Applications and notices by savings associations.

(a) • • •

(9) *A significant risk* is understood to be present whenever there is a high probability that any insurance fund administered by the FDIC may suffer a loss.

• • • • •

c. Section 303.13(b)(1) introductory text is amended by removing the first sentence and adding in its place "After January 1, 1990, no state savings association may directly engage, other than as agent on behalf of its customers, in an activity that is not expressly authorized for federal savings associations by the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) or any other statute, regulations issued by the Office of Thrift Supervision (OTS), official OTS Regulatory or Thrift Bulletins, or any order or interpretation issued in writing by OTS unless the state savings associations obtains the approval of the FDIC."; and by removing "the Home Owners' Loan Act (HOLA)" where it appears in the second sentence and adding in its place "HOLA".

d. Section 303.13(d)(1) introductory text is amended by removing the first sentence and adding in its place "No state savings association may directly acquire or retain any equity investment after August 9, 1989 of a type or in an amount that is not expressly authorized for federal savings associations by HOLA, regulations issued by OTS, official OTS Regulatory or Thrift Bulletins, or any order or interpretation issued in writing by OTS.".

By Order of the Board of Directors.

Dated at Washington, DC, this 20th day of April 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93-10158 Filed 4-30-93; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. 93-ANE-20; Notice No. SC-93-01-NE]

Special Conditions; Light Helicopter Turbine Engine Company; Model CTS800 Turboshaft Engine

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Light Helicopter Turbine Engine Company (LHTEC) Model CTS800 turboshaft engine. This engine will have novel or unique engine ratings that are not defined by the applicable airworthiness regulations. This notice proposes the safety standards which the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness standards of part 33 of the Federal Aviation Regulations (FAR).

DATES: Comments must be submitted on or before June 2, 1993.

ADDRESSES: Comments on this proposal may be submitted in triplicate to: Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 93-ANE-20, 12 New England Executive Park, Burlington, Massachusetts 01803-5299. Comments must be marked: Docket No. 93-ANE-20. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chung Hsieh, Engine and Propeller Standards Staff, ANE-110, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803-5229; (617) 273-7077; Fax (617) 270-2412.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under "**ADDRESSES**." All communications received on or before the closing date for comments, specified under "**DATES**," will be considered by the Administrator before taking action on the proposal. The proposal contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed special conditions. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this proposal will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 93-ANE-20." The postcard will be date stamped and returned to the commenter.

Background

On July 11, 1989, the Light Helicopter Turbine Engine Company (LHTEC), petitioned the FAA for an exemption to FAR 33.7, Engine Ratings and Operating Limitations, for type certification of Model CTS800 turboshaft engine. The Model CTS800 engine is rated at 30-Second One Engine Inoperative (OEI), 2-minute OEI, 2½-minute OEI, Continuous OEI, Takeoff, and Maximum Continuous ratings.

The applicable airworthiness requirements do not contain 30-Second OEI and 2-Minute OEI rating definitions, and do not contain adequate or appropriate safety standards for the type certification of these new and unusual engine ratings.

Type Certification Basis

Under the provisions of § 21.17(a) of the FAR, LHTEC must show that the Model CTS800 turboshaft engine meets the requirements of the applicable regulations in effect on the date of the application. The applicable regulations for this engine is FAR part 33, effective February 1, 1965, as amended by Amendments 33-1 through 33-14.

The Administrator finds that the applicable airworthiness regulations in part 33, as amended, do not contain adequate or appropriate safety standards for the LHTEC Model CTS800 turboshaft engine because of the new and unique engine ratings. Therefore, the Administrator proposes special conditions under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice and opportunity for comment, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.17(a)(2).

Conclusion

This action affects only certain novel or unusual design features on one model engine. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the engine.

List of Subjects in 14 CFR Part 33

Air Transportation, Aircraft, Aviation safety, Safety.

The authority citations for these special conditions is as follows:

Authority: 49 U.S.C. App. 1354(a), 1421, 1423; 49 U.S.C. 106(g).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Light Helicopter Turbine Engine Company (LHTEC) Model CTS800 turboshaft engine:

Section 33.7, Engine Ratings and Operating Limitations

In addition to the requirements of § 33.7, the following ratings are defined as:

(a) Rated 30-Second One-Engine-Inoperative (OEI) Power: The brake horsepower developed statically in standard atmosphere at sea level, or at a specified altitude and temperature, for continued one-flight operation after the failure of one engine in multi-engine rotorcraft, limited to three periods of use, no greater than 30 seconds each at rotor shaft rotation speed and gas temperature established for this rating by part 33 or this special condition.

(b) Rated 2-Minute OEI Power: The brake horsepower, developed statically in standard atmosphere at sea level, or at a specified altitude and temperature, for continued one-flight operation, after failure of one engine in multi-engine rotorcraft, limited to three periods of use, of up to two minutes each, at rotor shaft rotation speed and gas temperature established for this rating by part 33 or this special condition.

Section 33.4, Instructions for Continued Airworthiness

In addition to the requirements of § 33.4, the mandatory inspection and maintenance actions required, following the use of the 30-Second or 2-Minute OEI rating, must be included in the airworthiness limitations section of the appropriate engine manuals.

Section 33.27, Turbine, Compressor, Fan, and Turbo-supercharger Rotors

In addition to the requirements of § 33.27, the following tests must be conducted for the most critically stressed rotor component of each turbine and compressor, including integral drum rotors, and centrifugal compressors. For 30-Second and 2-Minute OEI conditions, test for a period of two and one-half minutes.

(a) As its maximum operating temperature, except as provided in § 33.27(c)(2)(iv); and

(b) At the highest speed determined, in accordance with § 33.27(c)(2)(i) through (vi).

(c) This test may be performed using a separate test vehicle if desired.

(d) Following the test based on the 30-Second OEI rating, rotor growth and distress beyond dimensional limits for an overspeed condition is permitted, provided the structural integrity of the rotor is maintained, as shown by a procedure acceptable to the Administrator.

Section 33.29, Instrument Connection

In addition to the requirements of § 33.29, the engine must provide for a means:

(a) To indicate when the engine is at either 30-Second or 20-Minute OEI-rated power level; and

(b) To determine the elapsed time of operation at 2-Minute OEI and 30-Second OEI rated power levels.

Section 33.67, Fuel System

In addition to the requirements of § 33.67, the engine must provide for a means for automatic availability of the 30-second OEI power; and engine test runs must be performed to demonstrate automatic switching to a 30-Second OEI rating condition.

Section 33.85, Calibration Tests

In addition to the requirements of § 33.85, tests performed at the 30-Second and 2-Minute OEI ratings, during the applicable endurance test prescribed in § 33.87, may be used to show compliance with the requirements of § 33.85.

Section 33.87, Endurance Test

In addition to the requirements of § 33.87, and engine test must be conducted four times, using the following test sequence, for a total of not less than 120 minutes:

(a) Takeoff Power—three minutes at rated takeoff power.

(b) 30-Second OEI power—thirty second at rated 30-Second OEI power.

(c) 2-Minute OEI power—two minutes at rated 2-Minute OEI power.

(d) 30-Minute OEI, Continuous OEI, or Maximum Continuous power—five minutes at rated 30-Minute OEI power, or rated Continuous OEI power, or rated Maximum Continuous power, whichever is greatest, except that during the first test sequence this period shall be 65 minutes.

(e) Minimum flight power—one minute at minimum flight power.

(f) 30-second OEI power—thirty seconds at rated 30-Second OEI power.

(g) 2-minute OEI power—two minutes at rated 2-Minute OEI power.

(h) Idle power—one minute at Idle power.

Section 33.88, Engine Overtemperature Test

In addition to the requirements of § 33.88, the following must be performed:

(a) For engines that do not provide a means for temperature limiting; conduct a test for a period of five minutes at the maximum permissible power-on RPM, with the gas temperature at least 75 degrees Fahrenheit higher than the 30-Second OEI rating operating temperature limit.

(b) For engines that provide a means for temperature limiting; conduct a test for a period of four minutes at the maximum permissible power-on RPM, with the gas temperature at least 35 degrees Fahrenheit higher than the 30-Second OEI rating operating temperature limit.

(c) A separate test vehicle may be used for each test.

(d) Following the test, rotor assembly growth and distress beyond serviceable limits for an overtemperature condition is permitted, provided the structural integrity of the rotor assembly is maintained, as shown by a procedure that is acceptable to the Administrator.

Section 33.93, Teardown Inspection

In addition to the requirements of § 33.93, this special condition requires that the engine be completely disassembled after completing the additional testing of § 33.87. The engine may exhibit deterioration in excess of that permitted in § 33.93(b), and may include some engine parts and components that may be unsuitable for further use. It must be shown by procedures approved by the Administrator that the structural integrity of the engine, including mounts, cases, bearing supports, shafts and rotors, is maintained.

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Issued in Burlington, Massachusetts, on April 22, 1993.

Jack A. Sain,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–10374 Filed 4–30–93; 8:45am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 93–SW–05–AD]

Airworthiness Directives; Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A, 269A–1, 269B, 269C, and TH55A Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A, 269A–1, 269B, 269C, and TH55A series helicopters. This proposal would require a one-time visual inspection to detect missing or damaged tail rotor pedal bulkhead gussets (gussets), loose or missing gusset rivets, and initial installation of missing gussets or replacement of damaged gussets and rivets, if necessary. This proposal is prompted by reports of missing or damaged tail rotor pedal bulkhead gussets and loose or missing gusset rivets. The actions specified by the proposed AD are intended to prevent failure of the tail rotor pedal support structure that could result in loss of tail rotor control and subsequent loss of control of the helicopter.

DATES: Comments must be received by June 17, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–SW–05–AD, 4400 Blue Mound Road, Fort Worth, Texas 76106. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 4400 Blue Mound Road, bldg. 3B, room 158, Fort Worth, Texas; or at the FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Casale, Aerospace Engineer, FAA, New York Aircraft Certification Office, Airframe Branch, ANE–172, New England Region, 181 S. Franklin Avenue, Valley Stream, New York 11581, telephone (516) 791–6220, fax (516) 791–9024.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–SW–05–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–SW–05–AD, 4400 Blue Mound Road, bldg. 3B, room 158, Fort Worth, Texas 76106.

Discussion: This document proposes to adopt a new airworthiness directive (AD) that is applicable to Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A, 269A–1, 269B, 269C, and TH55A series helicopters. Field reports have indicated that tail rotor pedal bulkhead gussets (gussets) were not installed in some Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A helicopters. In other helicopters, gussets were found with cracks, elongated rivet holes, and loose or missing rivets. This condition, if not corrected, could result in failure of the tail rotor pedal support structure that could result in loss of tail rotor control and subsequent loss of control of the helicopter.

The FAA has reviewed and approved Schweizer Aircraft Corporation Servic. Bulletin B–247, dated October 30, 1992, that describes procedures for a one-time visual inspection to detect missing or cracked gussets or to detect gussets with elongated rivet holes and loose or missing rivets. The bulkhead is the primary attachment and support for the tail rotor pedals. The service bulletin also provides procedures for the initial installation of missing gussets or replacement of damaged gussets or loose or missing rivets. Damaged gussets are those that are cracked, contain elongated rivet holes, or are otherwise unairworthy.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require, within the next 100 hours time-in-service after the effective date of this AD, a one-time visual inspection to detect missing or cracked gussets or gussets with elongated rivet holes and loose or missing rivets. The proposed AD would then require, before further flight, the initial installation of any missing gussets or replacement of damaged gussets or loose or missing rivets. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 934 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $80 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $177,460.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Schweizer Aircraft Corporation and Hughes Helicopters, Inc.: Docket No. 93–SW–05–AD.

Applicability: Model 269A, 269A–1, 269B, 269C, and TH55A series helicopters, certificated in any category.

Compliance: Required, as indicated, unless accomplished previously.

To prevent failure of the tail rotor pedal support structure that could result in loss of tail rotor control and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 100 hours time-in-service after the effective date of this AD, conduct a visual inspection of the tail rotor pedal bulkhead gussets (gussets) to detect missing or cracked gussets, elongated rivet holes, and loose or missing rivets, in accordance with Part I of Schweizer Service Bulletin B–247 (SB), dated October 30, 1992.

(1) If the gussets are missing, before further flight, install gussets in accordance with Part II of the SB.

(2) If the gussets are cracked or contain elongated rivet holes, before further flight, install replacement gussets in accordance with Part III of the SB.

(3) If the gussets contain loose or missing rivets, before further flight, install new (zero time) rivets in accordance with Part III of the SB.

(b) An alternative method of compliance or adjustment of the compliance time, which provides acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office, FAA, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, New York Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, New York Aircraft Certification Office.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on April 1, 1993.

Henry A. Armstrong,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 93–10367 Filed 4–30–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 92–ASO–20]

Proposed Realignment of Jet Route J–89

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to alter the description of Jet Route J–89 located in the vicinity of Valdosta, GA. A one-degree error exists in the airway description and this action would correct that error.

DATES: Comments must be received on or before June 14, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Docket No. 92–ASO–20, Federal Aviation Administration, P. O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92–ASO–20." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to

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amend the description of J–89. A one-degree error was discovered in the route alignment in the vicinity of Valdosta, GA, and this action would correct that error. Jet routes are published in § 71.607 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1 The jet route listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Jet routes.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.607 Jet Routes

* * * * *

J–89 [Revised]
From INT of Taylor, FL, 176°T(179°M) and Valdosta, GA, 156°T(157°M) radials; Valdosta; Atlanta, GA; Louisville, KY; Boiler, IN; Northbrook, IL; Badger, WI; Duluth, MN; to Winnipeg, MB, Canada. The portion within Canada is excluded.

* * * * *

Issued in Washington, DC, on April 16, 1993.

Willis C. Nelson,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–10379 Filed 4–30–93; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 92–ASW–25]

Proposed Revision of Control Zone: El Dorado, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would revise the hours of operation for the control zone located at South Arkansas Regional at Goodwin Field, El Dorado, AR, from part time to continuous. The existing control zone operates on a part time basis due to the absence of 24-hour weather reporting for the South Arkansas Regional at Goodwin Field. A private weather monitoring service now provides certified weather observations, making continuous weather reporting available. The intended effect of this proposal is to change the effective hours of the control zone located at South Arkansas Regional at Goodwin Field, El Dorado, AR, from part time to continuous.

DATES: Comments must be received on or before June 18, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 92–ASW–25, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530.

The official docket may be examined in the office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX, between 9 a.m. and 3 p.m., Monday through Friday, except federal holidays.

An informal docket may also be examined during normal business hours at the System Management Branch, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Alvin E. DeVane, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 624–5535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 92–ASW–25." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Manager, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the hours of operation for the control zone located at South Arkansas Regional at Goodwin Field, El Dorado, AR, from part time to continuous. The existing control zone operates on a part time basis due to the absence of 24-hour weather reporting at South Arkansas Regional at Goodwin Field. A private weather monitoring service now provides certified weather observations, making continuous weather reporting available. The intended effect of this proposal is to change the effective hours of the control zone located at South Arkansas Regional at Goodwin Field, El Dorado, AR, from part time to continuous. The coordinates for this airspace docket are based on North American Datum 83. Transition areas are published § 71.181 of Order 7400.7A, dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.171 Designation of Control Zones

* * * * *

ASW AR CZ El Dorado, AR [Revised]
El Dorado, South Arkansas Regional at Goodwin Field, AR
(lat. 33°13'15"N., long. 92°48'48"W.).
Within a 4.2-mile radius of South Arkansas Regional at Goodwin Field.

* * * * *

Issued in Fort Worth, TX on April 13, 1993.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 93–10380 Filed 4–30–93; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ASW–25]

Proposed Revocation of Control Zone: Beeville, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke the control zone located at Beeville, TX. on October 1, 1992, the Department of the Navy decommissioned the Tactical Air Navigation (TACAN) and nondirectional radio beacon (NDB) serving the Naval Air Station (NAS), Chase Field, TX, and cancelled all standard instrument approach procedures (SIAP) based on these navaids. Additionally, the U.S. Navy has advised that flight operations have ceased and the airfield has been closed. Controlled airspace will no longer be needed to contain instrument flight rules (IFR) operations at this location.

DATES: Comments must be received on or before June 14, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, Air Traffic Division, Southwest Region, Docket No. 93–ASW–25, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530.

The official docket may be examined in the office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX, between 9 a.m. and 3 p.m., Monday through Friday, except federal holidays.

An informal docket may also be examined during normal business hours art the System Management Branch, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Alvin E. DeVane, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 624–5535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the vies and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 93–ASW–25." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, at 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Manager, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular NO. 11–2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal

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Aviation Regulation (14 CFR part 71) to revoke the control zone located at Beeville, TX. The FAA has been informed by the Department of the Navy that all navaids serving NAS Chase Field have been decommissioned and all SIAP's based on these navaids have been canceled. Additionally, NAS Chase Field has been closed. Controlled airspace will no longer be needed to contain instrument flight rules (IFR) operations at this location. Control zones are published in § 71.171 of Order 7400.7A, dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The control zone listed in this document would be removed subsequently from the order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.171 Designation of Control Zones

* * * * *

ASW TX CZ Beeville, TX [Removed]

* * * * *

Issued in Forth Worth, TX on April 9, 1993.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 93–10382 Filed 4–30–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 92–ASW–23]

Proposed Revocation of Transition Area: Berclair, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke the 700 feet above the ground level (AGL) transition area located at Berclair, TX. The Federal Aviation Administration (FAA) has been informed by the Department of the Navy that all standard instrument approach procedures (SIAP) serving the Naval Auxiliary Landing Field, (NALF) Goliad Airport have been canceled. Additionally, the U.S. Navy has advised that flight operations have ceased and the airfield has been abandoned. Controlled airspace will no longer be needed to contain Instrument Flight Rules (IFR) operations at this location.

DATES: Comments must be received on or before June 14, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, Air Traffic Division, Southwest Region, Docket No. 92–ASW–23, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530.

The official docket may be examined in the office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX, between 9 a.m. and 3 p.m., Monday through Friday, except federal holidays.

An informal docket may also be examined during normal business hours at the System Management Branch, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Alvin E. DeVane, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 624–5535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 92–ASW–23." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, at 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Manager, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 766193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke the transition area located at Berclair, TX. The FAA has been informed by the Department of the Navy that all SIAP's serving the NALF Goliad

airport have been canceled and the airfield has been abandoned. Controlled airspace will no longer be needed to contain IFR operations at this location. Transition areas are published in § 71.181 of FAA Order 7400.7A, dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document would be removed subsequently from the order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of Transition Areas

* * * * *

ASW TX TA Berclair, TX [Removed]

* * * * *

Issued in Fort Worth, TX on April 13, 1993.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 93–10383 Filed 4–30–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ASW–26]

Proposed Revision of Transition Area: Beeville, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area located at Beeville, TX. The Beeville transition area provides controlled airspace for instrument flight rules (IFR) operations at Beeville Municipal Airport and Naval Air Station (NAS) Chase Field. On October 1, 1992, the Department of the Navy decommissioned the Tactical Air Navigation (TACAN) and nondirectional radio beacon (NDB) serving NAS Chase Field, TX. Additionally, the U.S. Navy has ceased flight operations and the NAS Chase Airfield has been closed. Controlled airspace will no longer be needed to contain IFR operations into NAS Chase Field. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations only at the Beeville, TX, Municipal Airport.

DATES: Comments must be received on or before June 14, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, Air Traffic Division, Southwest Region, Docket No. 93–ASW–26, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530.

The official docket may be examined in the office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Forth Worth, TX, between 9 a.m. and 3 p.m., Monday through Friday, except federal holidays.

An informal docket may also be examined during normal business hours at the System Management Branch, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Forth Worth, TX.

FOR FURTHER INFORMATION CONTACT: Alvin E. DeVane, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 624–5535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 93–ASW–26." The postcard will be date and time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, at 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Manager, System Management Branch, Department of Transportation, Federal Aviation Administration, Forth Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the transition area located at Beeville, TX. On October 1, 1992, the Department of the Navy decommissioned the TACAN and NDB serving NAS Chase Field TX. Controlled

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airspace will no longer be needed to contain IFR operations into NAS Chase Field. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations only at the Beeville, TX, Municipal Airport. The coordinates for this airspace docket are based on North American Datum 83. Transition areas are published in § 71.181 of Order 7400.7A, dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document would be published subsequently in the order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[Amended]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of Transition Areas

* * * * *

ASW TX TA Beeville, TX [Revised]
Beeville Municipal Airport
(lat. 28°21'52" N., long. 97°47'31" W.)
Beeville NDB
(lat. 28°22'04" N. long. 97°47'40" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile-radius of Beeville Municipal Airport and 1.3 miles each side of the 138° bearing from the Beeville RBN extending from the 6.6-mile radius to 7.4 miles southeast of the airport.

* * * * *

Issued in Fort Worth, TX on April 9, 1993.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 93–10381 Filed 4–30–93; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Account Identification for Orders Submitted on Behalf of Multiple Customer Accounts

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") proposes to amend its Regulation 1.35(a–1), to allow certain types of customer orders to be placed on a contract market without specified customer account identification at the time of order placement and time of report of execution. The amendments are intended to facilitate institutional participation in the markets and would allow orders submitted on behalf of multiple customer accounts to be placed without individual customer account identification provided that the person placing the order had investment discretion with respect to each of the accounts and the executing futures commission merchant received a single series designation for all the accounts included in the bunched order. The single series designation must identify a predetermined order allocation formula which specifies, by account number, those accounts to which the procedure would apply and only accounts in this series could receive allocations. The amendments also would exempt from the customer account identification requirement certain futures and/or futures option orders placed on behalf of specified institutional accounts as part of an intermarket strategy also involving securities. As proposed, the rule would require orders entered on behalf of these accounts to be allocated no later than the deadline for final submission of trade data to clearing on the day the order is executed.

DATES: Comments must be received on or before June 17, 1993.

ADDRESSES: Comments on the proposed rule amendments should be sent to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, Attention: Secretariat. Reference should be made to "Orders for multiple accounts."

FOR FURTHER INFORMATION CONTACT: Duane C. Andresen, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Background

A. Current Regulotory Requirements

Commission regulations specify that customer orders must be recorded promptly and include customer account identification at the time of entry and time of report of execution. These recordkeeping requirements permit a customer's order to be traced at each stage of the order processing system and help to prevent the improper allocation of trades and other abuses. Commission Regulation 1.35(a–1)(1) requires that each futures commission merchant ("FCM") and each introducing broker ("IB") receiving a customer's order immediately prepare a written record of such order, which includes an account identifier for such customer.

Regulation 1.35(a–1)(2) requires that each member of a contract market who receives a customer's order on the floor of a contract market that is not in the form of a written record immediately prepare a written record of such order, including the appropriate customer account identification. Regulation 1.35(a–1)(4) requires that each member of a contract market reporting the execution of a customer's order from the floor of a contract market make a written record of such order including, among other things, the account identification. In view of the evolution of the futures markets and the expanding volume of managed institutional trading, the Commission is proposing to amend Regulation 1.35 to more readily accommodate such trading activity.

B. Predetermined Allocation Formula Exception

Notwithstanding the provisions of Regulation 1.35(a–1), the Commission has not opposed the placement and execution of a properly documented consolidated ("bunched") order for

multiple customer accounts.[1] Specific examples include a commodity trading advisor ("CTA") who combines the orders for several different customers into a single bunched order for execution by an FCM and an associated person who has power of attorney over several accounts and consolidates orders for those accounts into a single bunched order. Because portions of the bunched order may be executed at different prices, some customers may receive more favorable, and some less favorable, fills. Because only a portion of the bunched order may be executed, included customers may receive only partial fills. The Commission has stated that "the system used to allocate the variously-priced fills among participating customers will not be deemed fraudulent if it is predetermined and fair, such that no customer or group of customers receives consistently favorably or unfavorably treatment."[2] Allocation formulas that currently are followed include random allocation procedures, allocating the first fill to the lowest account number or highest account number and later reversing the procedure, or allocating fills on a rotational basis where the first account receives the best fill on one execution and then moves to the end of the account list and receives the worst fill on the next execution until all contracts are allocated.

Currently, it may be permissible for a person to place a bunched order which provides at time of entry a single series designation for all the customer accounts included in the bunched order and identifies a predetermined order allocation formula if the allocation formula is fair.[3] The allocation formula must be provided to the FCM before entry of the bunched order and must specify, by account number, those accounts to which it will apply. Upon report of execution, the FCM allocates the trades to the specified accounts according to the allocation formula.

The Commission is proposing to provide relief from individual account designation requirements to permit the use of predetermined allocation formulas by expressly addressing permissible bunched order procedures in Commission regulations. The proposed regulation is described below.

[1] In the Matter of GNP Commodities, Inc., et al. (1900–1992 Transfer Binder) Comm. Fut. L. Rep (CCH) ¶ 25,360 at 39,214 (CFTC August 11, 1992).

[2] *Id.*

[3] See Memorandum from the Division of Trading and Markets to the Commission recommending approval of the Chicago Mercantile Exchange's Proposed Globex Trading System, February 2, 1989, p. 38, which permits an allocation formula to be pre filed.

C. CME Proposal—Institutional Account Exception

By letters dated February 24, 1992, the Chicago Mercantile Exchange ("CME" or "Exchange") submitted a proposed amendment to Exchange Rule 536 pursuant to section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 1 *et seq.*, and a petition for rulemaking pursuant to Commission Regulation 13.2 to amend Commission Regulation 1.35(a–1).[4] The proposed CME rule amendment would exempt certain orders from the customer account designation requirement provided specified conditions were met. The Exchange represented that the amendment was necessary because CME Rule 536 currently requires that every order received from a customer must be in writing at the time of execution and must include the customer's account designation. According to the CME, these requirements may adversely and unnecessarily affect certain orders entered on behalf of highly capitalized and sophisticated entities. Specifically, the Exchange stated that account advisers who manage more than one account and use futures as part of an overall strategy to hedge securities portfolios have expressed concern that existing CME Rule 536, which is consistent with Commission Regulation 1.35, is inconsistent with the manner in which futures are used to hedge securities portfolios and the goal of treating all accounts fairly. Further, according to the CME, account advisers represented that Rule 536 is inconsistent with rules in the securities markets which permit an investment adviser to transmit orders throughout the day and communicate the account designations at the end of the day.

Under the proposed amendments to CME Rules, eligible orders would include orders entered by investment advisers registered with the Securities and Exchange Commission pursuant to the Investment Advisers Act of 1940, 15 U.S.C. 80b *et seq.* (1988), and banks, insurance companies, trust companies, and savings and loan institutions subject to federal or state regulation. Orders that did not require the account designation prior to execution could only be placed for certain specified institutional accounts which had been notified that their orders were being allocated in this manner. The individual or firm directing the allocation could have no proprietary interest in any account that received any part of an order for which a specific account was not identified at the time of execution. The fills would be required to be allocated among participating accounts prior to the end-of-day.

The Commission published the proposed rule amendment to CME Rule 536 for public comment.[5] The Commission received 31 comments in response to the CME's proposal. Twenty-six of the comments evidenced support for the proposed rule amendment, four were opposed, and one expressed a cautionary note. These comments are discussed below.

II. Proposed Amendments to Commission Regulation 1.35(a–1)

The Commission proposes to amend Regulation 1.35(a–1) in two respects. First, proposed Regulation 1.35(a–1)(5) would permit multiple customer orders traded as part of a single program pursuant to trading discretion to be bunched for execution without individual customer account identifiers provided that an allocation formula had been pre-filed with the FCM. Such orders would be entered under a single series designation and subsequently allocated at the time of the report of the fill pursuant to the predetermined allocation formula. Second, under proposed Regulation 1.35(a–1)(6), exchanges could submit for Commission review and approval rules permitting end-of-day allocation for certain bunched orders for institutional investment accounts participating in multi-market strategies involving futures or futures options and securities. For these purposes, "end-of-day" would be defined as prior to the deadline for final submission of trade data to clearing on the day the order was executed. Current Regulations 1.35(a–1)(1), (2) and (4) would be amended to cross-reference the exceptions provided in new paragraphs (5) or (6).

A. Predetermined Allocation Schemes

Under proposed Regulation 1.35(a–1)(5), a bunched order for multiple customer accounts could be placed without individual customer account identification at the time of entry and time of report of execution provided that the person placing the order had investment discretion with respect to the accounts and submitted to the FCM, at the time of entry, a single series designation that identified all the accounts to be included in the bunched order and a predetermined order allocation formula. The allocation

[4] The Exchange submitted additional information regarding the proposed rule amendment in letters dated May 7, 1992 and August 12, 1992. In a letter dated September 25, 1992, the Exchange provided answers to a series of questions asked by the Division of Trading and Markets in a letter of August 20, 1992.

[5] 57 FR 24251 (June 8, 1992).

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formula would be required to specify, by account number, those accounts to which it would apply and to include a formula for allocating the fills among the participating accounts fairly, such that the customer or group of customers received fair and equitable treatment.[6] The allocation formula would be required to be submitted to the FCM before the first trade and could not be changed intraday. Upon execution, the FCM would be required to allocate the fills to the accounts according to that predetermined allocation formula.

The proposed regulation applies to customer orders and, with certain restrictions, to proprietary orders. Commission Regulation 155.3 requires that FCMs insure, to the extent possible, that a customer order executable at or near the market price is transmitted to the floor before any like order for any proprietary or affiliated account. Commission Regulation 155.4 requires that IBs insure, to the extent possible, that a customer order executable at or near the market price is transmitted to the FCM before any like order for any proprietary or affiliated account.

The Commission is aware that some industry participants believe that it is not improper for proprietary orders to be bunched with customer orders as long as the proprietary account always receives the worst fill. Consistent with current practice, the Commission proposes that orders in which certain non-customers have an interest may be bunched with customer orders, but only if those non-customers receive the worst fills, both quantitatively and qualitatively. They may be allocated fills only if all the customer orders are filled and must receive the least advantageous prices of any remaining fills.

For example, suppose a 100-lot order was entered as a bunched order for nine customer accounts and one proprietary account, to be allocated ten lots each. If the order was partially filled for 50 lots, five customers normally would receive a fill of six lots each, the remaining four customers would receive a fill of five lots each, and the proprietary account would not receive any fills. Similarly, if the 100 lot order was completely executed but at three different prices, the ten lots allocated to the proprietary account would be at the worst of the three different prices.

This restriction would apply to the person originating the order, the FCM, and their affiliated or related persons as defined in the proposed regulation. The restriction is intended to limit the opportunity and the incentive to afford preferential treatment and is a prophylactic measure consistent with internal control procedures generally used by fiduciaries.

The Commission believes that this is an appropriate safeguard, but requests comments concerning the applicability of the worst fill restriction to all orders in which listed parties have any interest, particularly with regard to the person originating the order. The Commission also request comments concerning whether inclusion of FCM proprietary orders should be permitted and addressing any costs relative to the separate execution of proprietary and bunched customer orders pursuant to a pre-filed allocation formula. The Commission further requests comments on the definition of proprietary orders applicable to this proposed regulation.

Both the Commission and courts have accepted the use of allocation formulas for properly documented bunched customer orders provided that the formulas result in fair allocation of the fills to the customers included in the bunched orders.[7] These procedures evolved from the bunching of discretionary office orders with individual customers listed thereon for execution to the bunching of orders pursuant to a managed accounts program for a CTA on behalf of designated client accounts. Because the single series designator would identify all included accounts, the person placing the order would not be required to list separately each account and could thus respond to changes in the market more rapidly. There would be an audit trail because the FCM would have the pre-filed allocation formula prior to order entry and subsequently would allocate the fills according to that formula. The predetermined allocation formula would be a record required to be kept under Commission Regulation 1.35(a). Where the bunched order did not include an order in which the FCM or its affiliated or related persons as defined in the proposed regulation had an interest, the pre-filing of the formula would assure separation of functions between the trader and the allocator by placing the formula with the FCM prior to any allocation. Where the bunched order included an order in which there was such an interest, the customer will receive the protection of the requirement that the proprietary order may receive fills only if all the customer orders are filled and only at the worst price. The Commission believes that the use of predetermined allocation formulas for discretionary orders for multiple customer accounts that are executed as bunched orders is a reasonable procedure that responds to market needs without unduly placing a burden on market users, adversely affecting customers, or impairing the Commission's regulatory capabilities.

B. Institutional Accounts

1. Overview

Under proposed Regulation 1.35(a-1)(6), contract markets could submit rules for Commission approval that would exempt certain orders from the requirement that a specific customer account be identified at the time of entry and time of report of execution if specified requirements were met. The Commission believes that the proposed regulation will encourage and facilitate institutional participation in the futures markets subject to customer protection requirements that are consistent with the sophistication of the institutional customers. The specified requirements of the proposal address: (a) Eligible orders, (b) eligible account managers, (c) eligible customers, (d) account certification, (e) allocation requirements, (f) account manager recordkeeping, and (g) contract market rule enforcement programs.

Under the proposal, registered investment advisers and banks, insurance companies, trust companies, and savings and loan associations subject to federal or state regulation and granted investment discretion for related future, futures options and securities accounts could place bunched futures and/or futures option orders without providing individual account identifiers. These account managers[8] would provide a designator to identify the order as a bunched order for eligible

[6] Directing profitable fills to favored accounts and unprofitable fills to unfavored accounts (preferential allocation) is a violation of the Section 4b anti-fraud provision of the Act. In the Matter of GNP Commodities, Inc., et al., (1990-1992 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶25,360 at 39,214 (CFTC August 11, 1992); In the Matter of Lincolnwood Commodities, Inc., of California, et al., (1982-1984 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶21,966 at 28,248 (CFTC January 31, 1984).

[7] In denying the argument that block trades are considered mishandled trades, the Appellate Court of Illinois stated: "[T]he CFTC has held that block trades are permissible as long as there is no preferential allocation of trades." *Index Futures Group, Inc.* v. *Ross*, 199 Ill. App. 3d 468, 477, 557 N.E.2d 344 (1990), appeal denied, 133 Ill. 2d 557, 561 N.E.2d 692 (1990). The court cited *Stiller* v. *Shearson, Loeb Rhoades, Inc.*, (1982-1984 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶ 21,780 (CFTC July 11, 1983) and *Maloley* v. *R. J. O'Brien & Associates, Inc.*, (1984-1986 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶ 22,366 (CFTC September 24, 1984).

[8] The term "account manager" hereafter is used to include investment advisers and other persons identified in the proposed regulations, and their principals, if any, who would place and/or direct the allocation of an eligible order.

institutional accounts. The orders could be placed only on behalf of specified institutional accounts as part of a bona fide intermarket trading strategy also involving equity or debt securities within the meaning of section 2(1) of the Securities Act of 1933, 15 U.S.C. 77a *et seq.* (1988), ("intermarket" orders). Under the amendment, an account manager could allocate the fills at the end of the day, after reviewing the results of trading activity in all markets. For the eligible account managers and institutional accounts engaging in intermarket trading, the amendment would permit the same end-of-day allocation at futures exchanges that is now permissible in cash and securities markets and at foreign futures exchanges. The procedure would facilitate equitable treatment for the managed accounts in situations where such treatment could not practically be achieved through the use of a predetermined allocation formula.

The proposed amendment contains a number of safeguards designed to maintain an audit trail and to limit the possibility of preferential allocation. Only orders related to an intermarket strategy would be eligible. Post-trade allocation may be appropriate for such orders because of their connection to related securities transactions or portfolio positions in order to achieve fair treatment for similarly-traded managed accounts.

Eligible account managers would be required to be otherwise regulated entities with investment discretion who generally would be liable as fiduciaries for the handling of the accounts subject to their discretion. Neither the account manager nor his affiliated or related persons, as defined in the regulation, could have a direct or indirect interest in any account which would participate in the allocation or in any related securities account.

Eligible customers would be either institutions subject to federal or state regulation or entities which, by virtue of their expertise and resources, should be capable, on behalf of themselves and their beneficiaries, of monitoring trading results and determining whether their accounts were receiving fair treatment. A futures account in which the FCM allocating the order had an interest, or one in which its affiliated or related persons as defined in the regulation had an interest, would not be considered an eligible customer account. Any interest on the part of such parties in a related securities account also would make the futures account ineligible.

Before placing the first intermarket order for any account, the account manager would be required to certify to the FCM responsible for order allocation that (1) he has no direct or indirect interest in any account to which fills may be allocated or in any related securities account, (2) the account is owned by an eligible customer, (3) the customer has consented that intermarket orders may be executed and allocated under this procedure, (4) intermarket orders for each account will be entered as part of a trading strategy which involves securities for which the pre-filing of a predetermined allocation formula is impracticable and (5) he agrees to make available, upon request of a representative of specified government agencies, records concerning futures and securities transactions. These certifications would be made only once, in that they would remain in effect unless and until there might be a material change in circumstances. Further, the account manager would be required to provide the FCM with a list of eligible accounts and their related securities accounts.

The account manager would be required to identify the order as an intermarket order at the time of order placement and, in conjunction with the FCM which allocates the order, to allocate the fills to customer accounts prior to the deadline for final submission of trade data to clearing on the day the intermarket order was executed. The FCM who input the data to clearing would be required to assure that fills were timely allocated only to eligible customer accounts. Each exchange that adopted rules allowing this procedure would be required to assure that the orders for which end-of-day allocations were made were identified as such on trade registers and other computerized surveillance records.

The account manager would be required to maintain and produce, upon request of any representative of specified government agencies, documentation reflecting order placement and allocation and records of securities transactions which may not otherwise be subject to the Commission's direct inspection authority. These records would be required to be sufficient to demonstrate the relationship between the futures and securities transactions, the allocations made, the basis for allocation, the nature of the intermarket strategy, and to compare results obtained for different customers. The account manager also would be required to make available for review, upon request of an eligible customer, documentation sufficient to permit the customer to compare its overall results with those of other customers. Each FCM allocating intermarket orders would be required, upon request of specified government agencies, to exercise its best efforts to obtain and provide to specified government agencies records reflecting the related transactions in the securities accounts.

Finally, each exchange which adopted rules allowing this procedure, or the designated self-regulatory organization of a member firm, would be required to include in their compliance programs procedures to review trade records to determine that the trades were identified, fills were properly and timely allocated, required documentation at the clearing member was maintained.

After review of the comments to proposed CME Rule 536 and discussions with market users, the Commission believes that this limited exception to the individual account identification requirement is warranted, subject to the requirements outlined above, and would reduce a regulatory requirement affecting participation in intermarket strategies by institutional account managers. A more detailed discussion of the various aspects of proposed Regulation 1.35(a-1)(6) follows.

2. Element of the Proposal

(a). Eligible orders. Orders allocated pursuant to this paragraph must be intermarket orders. The term "intermarket" order means a futures or futures option order entered on behalf of an eligible customer as part of a bona fide intermarket trading strategy also involving securities. For purposes of this paragraph (6), the term "securities" means equity or debt securities within the meaning of section 2(1) of the Securities Act of 1933.

The rationale for allowing post-trade allocation is to permit account managers to provide equivalent treatment of customers' accounts traded pursuant to strategies involving activity in both futures markets and securities markets. For example, if the securities trade is allocable at the end of the day and the account manager follows a strategy of buying securities and selling futures, with the futures order to be executed throughout the day, the account manager may need to await the results of all transactions before allocating to the accounts so as to provide equivalent treatment. Similarly, for strategies such as duration management, where futures transactions are executed on the basis of a change in interest rates that affects the price of the bonds in an underlying portfolio, the procedure could be used to maintain positions of a specified duration under circumstances when this

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result cannot be achieved through the use of a predetermined allocation formula. The Commission requests comments on the feasibility of assessing fair and equitable treatment across accounts, of the similarity in the overall results, and on the time frame that would be appropriate for such an assessment. Do account managers intend to use post-trade allocation for accounts with different investment goals and, if so, how would the account manager demonstrate fair and equitable treatment across such accounts? The Commission also requests comments concerning other multimarket trading strategies for which a predetermined allocation formula may not result in equitable treatment to the included accounts and on the feasibility of specifying predetermined allocation formulas based on a change in underlying portfolio as might be the case with duration management strategies. Further, the Commission requests comments as to the benefits of permitting post-trade allocations for accounts that may be traded in a like manner in other markets.

(b). Eligible account managers. The person placing and/or directing the allocation of an eligible order and its principal, if any ("account manager"), must be one of the following which has been granted investment discretion with regard to the eligible customer accounts:

(i) An investment adviser registered with the Securities and Exchange Commission pursuant to the Investment Advisers Act of 1940, or

(ii) A bank, insurance company, trust company, or savings and loan association subject to federal or state regulation.

As proposed, the class of persons eligible to place intermarket orders and direct the end-of-day allocation thereof would be identical to that suggested by the CME. The Commission believes that when managing multiple accounts, such entities may be better able to achieve similar results for institutional accounts being traded pursuant to a program which involves multi-market trading strategies. Additionally, such entities' fiduciary activities are subject to oversight by various state or federal regulatory agencies.[9]

In response to the request for comments on the proposed amendments to CME Rule 536, the Commission received 26 comments supporting the amendments. With regard to eligible account managers, 19 of the commenters supported the proposed rule amendments as written.[10] Seven commenters recommended expanding portions of the proposed rule amendment to include additional eligible account managers or customer accounts. Of those commenters recommending additional eligible account managers, four recommended that eligibility be extended to CTAs.[11] As explained below, the Commission is not now proposing to include CTAs who are not also investment advisers as eligible account managers. The Commission, however, requests comments as to whether there are any circumstances in which it would be appropriate to include CTAs as eligible account managers.

Proposed Regulation 1.35(a–1)(6) is designed for multi-market strategies and to reduce the possibility that customer accounts may not be treated equivalently because the allocation of futures fills must be made before the account manager has the opportunity to review and allocate related trades in the securities included in the portfolio. Under the proposed regulation, investment managers for these types of accounts could allocate futures and futures option trades in the same manner as they currently allocate trades on securities exchange and over-the-counter markets in which certain orders may be allocated at a later time.[12]

Comment is requested as to the potential competitive effect of limiting eligible account managers as proposed to those which have investment discretion for futures and securities accounts. Such comments should address whether CTAs generally can achieve similar treatment for similarly managed accounts by following procedures available for bunching orders using a pre-determined allocation formula or by employing average price systems available at futures exchanges.[13] In its submission in support of proposed Rule 536, the CME offers examples of circumstances when the average price system may not permit equivalent treatment of similarly traded accounts when the trading involved takes place in multiple markets.

(c). Eligible customers. (1) Intermarket orders may be allocated to accounts maintained by any of the following institutional customers:

(i) An Investment Company registered as such under the Investment Company Act of 1940, 15 U.S.C. 80a *et seq.* (1988).

(ii) A bank, trust company, insurance company or savings and loan association subject to federal or state regulation.

(iii) An account for which a bank, trust company, insurance company or

[9] The Commission previously has addressed the activities engaged in by the proposed account managers. Regulation 4.14(a)(8) exempts from the requirement to register as CTAs, subject to specified conditions, certain investment advisers registered under the Investment Advisers Act of 1940 and persons excluded from the definition of the term "investment adviser" pursuant to the provisions of sections 202(a)(2) and 202(a)(11) of that Act who provide commodity interest trading advice solely to certain otherwise regulated entities such as registered investment companies, separate accounts of insurance companies, trusts and custodial accounts, and certain pension plans. The exempted investment adviser's commodity interest trading advice must be solely incidental to his primary business and the regulated entities to which such advice is rendered must be operated in compliance with the requirements set forth in Regulation 4.5, which includes a limitation on the commodity interest trading. Also, subject to certain trading restrictions, Commission Regulation 4.6 excludes from the definition of the term CTA insurance companies subject to regulation by any state and persons excluded from the definition of the term commodity pool operator ("CPO") by Regulation 4.5. The latter group includes, among others, a bank, trust company or any other such financial depository institution subject to any federal or state regulation.

[10] The 19 commenters included BA Futures, Inc.; Bear Stearns; The Chicago Corporation; Citicorp Futures Corp.; Dean Witter Reynolds, Inc.; Lind-Waldock & Co.; J.P. Morgan Futures, Inc.; PaineWebber, Inc.; Prudential Securities, Inc.; Sanwa BGK Futures, Inc.; Saul Stone and Company; Smith Barney, Harris Upham & Co., Inc.; J.P. Morgan Investment Management, Inc.; Leland O'Brien Rubenstein Associates, Inc.; TSA Capital Management; Wells Fargo Nikko Investment Advisors; The Northern Trust Company; the Futures Industry Association; and Abramson & Fox.

[11] These commenters included Index Futures Group, Inc.; Morgan Stanley & Co., Inc.; the National Futures Association; and the First Boston Corporation, which also recommended extending the category of eligible account managers to include parent corporations which manage the accounts of affiliated companies on a centralized basis. One commenter, Abramson & Fox, supported the proposed rule amendments as written but stated that it would be appropriate to consider, at some future time, expanding the category of eligible managers to include CTAs managing assets for an institutional client base.

[12] See, e.g., Interpretation 88–3 of New York Stock Exchange Rule 410(a)(3): "Member organizations may accept block orders and permit investment advisors to make allocations on such orders to customers and remain in compliance with Rule 410(a)(3) provided that the organizations receive specific account designations or customer names by the end of the business day." See also Securities and Futures Authority Rule Book, Rule 5–41 allows a firm to aggregate customers' orders when it is unlikely to disadvantage the customer and the firm has disclosed that orders may be aggregated. Rule 5–34(13), averaging of prices, allows a firm to execute a series of transactions within a 24-hour period to meet orders it has aggregated. When a firm has aggregated orders, Rule 5–42 specifies that the firm must not give unfair preference and if all the orders cannot be satisfied, the firm generally must give priority to satisfying customer orders.

[13] An average price system allows bunched orders to be filled at different prices while ensuring that each customer whose order is included in the bunched order receives a fill that is the same as any other similarly included customers. The average price is computed by multiplying the executioo prices by the quantities at those prices divided by the total quantities. Thus, for futures trading unrelated to a portfolio containing other instruments, an average price system ensures a fair and equitable allocation to each customer included in the bunched order. Currently, the CME, Chicago Board of Trade, and Commodity Exchange, Inc., have average price system rules in effect.

savings and loan association subject to federal or state regulation is a fiduciary vested with investment discretion.

(iv) A corporate qualified pension, profit sharing, or stock bonus plan subject to title 1 of the Employee Retirement Income Security Act of 1974 ("ERISA"), or any plan defined as a governmental plan in section 3(32) of title 1 of such Act, but not including a self-directed plan.

(v) An educational endowment, foundation, charitable institution or trust which is organized or quelifies under section 501(c)(3) of the Internal Revenue Code with net assets of more than $100 million.

This group of proposed eligible customers is substantially the same as that included in the CME's proposed amendments to Rule 536. Congress and the Commission have fashioned exemptive provisions to certain requirements based on the financial resources or otherwise regulated nature of market participants in certain contexts.[14] The CME and certain institutional customers have represented that professional managers of multi-market portfolios need the flexibility afforded by this proposed regulation to treat similarly managed accounts fairly. Further, the Commission believes that such customers are institutional investors whose accounts are subject to other regulatory regimes and who may participate in multi-market investment strategies and, therefore, benefit from use of the proposed regulation.

In response to the Commission's request for comments on the proposed amendments to CME Rule 536, four commenters recommended the expansion of eligible customer accounts. One commenter recommended broadening the list to include any other account with net assets exceeding $100 million;[15] one commenter recommended including all accounts or, at a minimum, accounts that qualify as qualified eligible participants ("QEP") under Commission Regulation 4.7;[16] one commenter recommended including QEPs and large corporations and partnerships, subject to an appropriate asset test;[17] and one commenter recommended including QEPs and foreign persons engaged in substantially equivalent activities for which the rule amendments were proposed.[18]

The Commission believes the currently proposed list of eligible customers is limited to accounts subject to either separate regulatory scrutiny or a portfolio size requirement which use multi-market strategies and are persons with the capacity to review and evaluate the accounts' trading activity and results. The Commission staff, in interviews with large institutional customers and their fiduciaries, was advised that such customers may have particularized procedures for auditing account results. The Commission requests comments concerning the proposed list of eligible customers, whether there should be additional account size requirements, whether other corporations should be included, and the availability and access to records needed by the customer or customer's fiduciary to assess the fairness of account treatment.

(2) The following persons may have no interest in any account that receives any part of such order or in any related securities account:

(i) The account manager;

(ii) The futures commission merchant allocating the order;

(iii) Any general partner, officer, director, or owner of ten percent or more of the equity interest in the account manager or the futures commission merchant allocating the order;

(iv) Any employee or associated person or limited partner of the account manager or the futures commission merchant allocating the order who affects or supervises the handling of the order;

(v) Any business affiliate that, directly or indirectly, controls, is controlled by, or is under common control with, the account manager or the futures commission merchant allocating the order;

(vi) An employee benefit plan of the account manager, the futures commission merchant allocating the order, or an affiliate, as defined in subparagraph (v) above; or

(vii) Any spouse, parent, sibling, or child of the foregoing persons.

The CME's proposed rule would prohibit the individual or firm directing the allocation of the order from having a proprietary interest in any account that receives any part of such order. Commission Regulation 1.3(y) defines a proprietary account to include the ownership of ten percent or more of a futures or option trading account. Therefore, the proposed CME amendment would have permitted the person or firm directing the allocation to own less than ten percent of one or more of the accounts receiving part of the allocated order. Additionally, one of the commenters recommended permitting accounts to participate in such allocations where the firm directing the allocation has only a nominal (under five percent) proprietary interest.[19]

The Commission is proposing that the account manager placing the order and/or directing the allocation of the fills, the FCM which allocates the fills, and their related or affiliated persons as defined in the regulation, be prohibited from having any interest in an account that receives any part of an allocation of an eligible order or in any related securities account. The Commission believes, based on its experience with misallocation of trades, that the ability to either direct the allocation or allocate the fills between customer and proprietary accounts subsequent to execution would create an unacceptably high potential for abuse.[20] The Commission further believes that the ability either to direct or allocate the fills subsequent to execution while maintaining a proprietary interest in a related securities account also would create an unacceptably high potential for abuse. The Commission, therefore, believes that a preventive approach that eliminates the possibility of preferential allocation for personal gain is warranted. The Commission invites comments to assist it in defining proprietary interest in the context of this proposal.

(d). Account certification. (1) Before placing the initial order pursuant to this paragraph, the account manager must

[14] Certain of the proposed eligible customers are included in the definition of "appropriate person" for whom an exemption from section 4(a) of the Act may be granted by the Commission. Under Commission Regulation 4.7, the disclosures specifically required under Commission regulations would not be applicable with respect to qualifying pools and customer accounts of CTAs. Qualifying pools and accounts are defined based on whether their participants meet standards intended to indicate "that such persons possess either the investment expertise and experience necessary to understand the risks involved * * * or have an investment portfolio of a size sufficient to indicate that the participant has substantial investment experience and a high degree of sophistication with regard to investments as well as financial resources to withstand the risks of their investments." 57 FR 3148 at 3152 (January 28, 1992).

[15] Pacific Investment Management Company.

[16] Morgan Stanley & Co., Inc.

[17] Goldman, Sachs & Co.

[18] Coffield Ungaretti & Harris.

[19] Pacific Investment Management Company.

[20] See, e.g., *In the Matter of GNP Commodities, Inc., et al.*, (1990–1992 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶ 25,360 (CFTC August 11, 1992); *In the Matter of Lincolnwood Commodities, Inc., of California, et al.*, (1982–1984 Transfer Binder) Comm. Fut. L. Rep. (CCh) ¶ 21,966 (CFTC January 31, 1984); *Parciasepe v. Shearson Hayden Stone, Inc., et al.*, (1980–1982 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶ 21,481 (CFTC August 18, 1982); *Wilke, et al., v. Winchester-Hardin Oppenheimer Trading Co., et al.*, (1977–1980 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶ 20,605 (CFTC December 29, 1977).

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certify the following, in writing, to the FCM allocating the order:

(i) The account manager has no interest in any account to which any part of the order may be allocated or in any related securities account.

(ii) The account is owned by an eligible customer.

(iii) The customer has consented in writing that orders may be executed and allocated in accordance with this regulation.

(iv) Orders for such account will be intermarket orders for which it would be impracticable to pre-file a predetermined allocation formula.

(v) Records required by paragraph (a–1)(6)(vi)(A) of the regulation will be made available to the Commission or Department of Justice upon request of any representative thereof.

(2) Before placing the initial order pursuant to this paragraph, the account manager must provide the FCM allocating the order a list of eligible accounts and their related securities accounts.

The Commission believes that these safeguards address several important purposes of the proposed regulation and are intended to reduce the likelihood of misallocation. They also draw upon comments that the account controller has the relevant relationship with the customer for purposes of obtaining consent. Consent can be an important tool in assuring adequate institutional customer oversight of trading activity.

The proposed amendment is designed to benefit institutional accounts that are being traded pursuant to a strategy that involves related positions in both the futures and securities markets. The Commission believes that, whenever possible, the account manager should place and allocate the order by use of a predetermined allocation formula. This procedure is available if use of the predetermined allocation formula would not permit the account manager to attain equitable results. The Commission believes that a one-time certification that orders placed would be intermarket orders for which it would be impracticable to prefile a predetermined allocation formula is a reasonable requirement.

In order to permit adequate oversight and provide the FCM with necessary documentation to identify the included accounts, the account manager directing such transactions would identify such accounts and certify their eligibility to the FCM allocating the intermarket order. This one-time requirement will help to assure that personal or proprietary accounts are not included among the accounts to which intermarket order allocations are made. A review of preferential allocation cases reveals that misallocations, when they occur, are typically made to personal or proprietary accounts or to accounts owned by family members. As previously noted, any account in which the FCM allocating the order, or any affiliate or related person of that FCM as defined in this regulation, has any interest would not be considered to be an eligible account.

The CME's proposed Rule 536 amendment would require that the FCM notify the identified eligible accounts that orders for those accounts could be bunched and entered without individual customer account identification and allocated at the end of the day. One commenter stated that the requirement to provide such notification to the customer account is properly the responsibility of the account manager and that the Commission should consider the fairness of the burden thus placed on the FCM.[21] The Commission agrees that the burden should be placed upon the account manager, and is proposing to broaden the requirement from mere notification to documented consent. The Commission believes that notification is insufficient and that these institutional accounts should have the right to affirmatively consent to participate in the intermarket allocation procedure. The account manager is the appropriate party to obtain that consent and provide it to the FCM so that the FCM can assure that intermarket allocations are made only to the eligible accounts. Such consent could be contained in account opening documents or obtained separately. The Commission requests comments concerning the consent requirement.

The use of the post-trade order allocation procedure would be limited to eligible accounts participating in regulated multi-market trading and both the futures and the related securities accounts would be identified to the FCM allocating the order. The identification of both the futures and securities accounts is necessary to assure that (1) use of the allocation procedure is restricted to eligible accounts participating in multi-market trading and (2) the related securities account is known in the event it becomes necessary to review the trading in both markets for possible violative activity. Additionally, the proposed regulation contains a requirement that the account manager agree that the records discussed in paragraph (iv)(A) of the regulation will be made available to specified government agencies upon request. The Commission, although not the primary regulator of the account manager, may require records of transactions in other markets which would not otherwise be readily available in order to review allegations of preferential allocation.

(e). *Allocation requirements.* (1) Intermarket orders allocated pursuant to this regulation must be designated as such on the order at the time of entry.

(2) Intermarket orders must be identified on contract market trade registers and other computerized trade practice surveillance records.

(3) The account manager and the FCM allocating the order must allocate fills from intermarket orders to eligible participating customer accounts prior to the deadline for final submission of trade data to clearing on the intermarket order is executed.

(4) The FCM allocating the order must assure that all intermarket orders are allocated to eligible customer accounts.

The Commission believes that these allocation requirements, in combination with the requirement that the account manager, the FCM, and their affiliates and related parties, not have any interest in any participating account or related securities account, should limit the potential for self-dealing by the account manager and the FCM and assure an audit trail of the ultimate disposition of the order. Further, these requirements should be consistent with good business practice. In this regard, when the order is placed, it must be identified as an intermarket order; the exchange must assure that it is identified as such on the trade register and other computerized trade practice surveillance records; the account manager must provide allocation instructions for the entire order to the FCM prior to the deadline for final submission of trade data to clearing on the day the intermarket order is executed; and the FCM must assure that the entire order is allocated to eligible customer accounts previously identified by the account manager. Further, as discussed below, the availability of data for all accounts so allocated to a customer on request should also assure that institutional accounts will have documentation to audit the fills being received and to compare them with the fills received by other, unidentified, similarly-treated customers.

The primary concern of the four commenters who submitted comments in opposition to the CME's proposed rule amendment related to the potential for these procedures to dilute audit trail provisions.[22] Another commenter urged

[21] First Boston Futures, Inc.

[22] Commenters opposed to approval of the proposed rule amendment included a Commission

that the Commission "exercise great care before taking any action that could provide any opportunity for fraud, self-dealing, or other criminal activity."[23] The documentation requirements prescribed by the proposed regulation assure that audit trail data available for these transactions should enable both the Commission and the exchange to track any order so handled from the time it was placed until allocated to designated eligible accounts.

An office order ticket, with appropriate timestamps and account manager identification, would be created at the time of order placement. The executions would be identified by time and price on exchange trade registers. The subsequent allocation of the fills would be maintained on exchange and FCM records. Thus, an auditor could determine the size and time of initial order placement, times and prices of executions, and accounts to which the fills were allocated. The Commission recognizes that exchange data bases may not initially contain the specific account identification data that are available when individual customer orders are separately entered, but that final trade registers will include that information if it is the exchange's ordinary practice to do so. Account identification and allocation data also would be available after the allocation occurs through review of exchange and FCM records.

Information concerning the basis for intermarket order placement and allocations would be available from the account manager. As described below, the Commission is proposing to require that account managers maintain certain documentation concerning order placement and allocation and make such documentation available, upon request, to specified government agencies and, in more limited form, to the customer accounts. That documentation requirement is intended to provide the capability to confirm whether allocations made pursuant to this proposal were fair and equitable.

Moreover, as a matter of state or federal securities or banking law, eligible account managers would have fiduciary responsibility for their investment activities. By preventing an account manager and his related parties and affiliates from having an interest in the accounts to which he is allocating trades or in the related securities accounts, the account manager should be prevented from allocating to achieve direct personal gain. The same restriction also applies to the FCM. In addition, the recordkeeping requirements being proposed are intended to facilitate detection and deterrence of misallocations which may indirectly benefit the account manager. The Commission believes that these requirements are generally consistent with ordinary good business practice. Additionally, account managers would be subject to section 4b, the general antifraud provision of the Act. Account managers who also are acting as commodity trading advisors or commodity pool operators, irrespective of registration status, also would be subject to section 4o. The securities anti-fraud rules also may apply.

Finally, as noted earlier, end-of-day or post-trade allocation of bunched or block orders is permissible on foreign futures exchanges and in the cash and securities markets. The New York Stock Exchange ("NYSE"), for example, has permitted end-of-day allocation of securities block orders since October, 1983.[24]

(f). Account manager recordkeeping. (1) Each account manager must make available, upon request of the Commission or the United States Department of Justice, the records referred to in paragraph (iv) of the regulation and such other records, including records of securities transactions, reflecting order placement and allocation to the participating customer accounts. These records must be sufficient to demonstrate the relationship between the futures and securities transactions, the allocations made, the basis for allocation, the nature of the intermarket strategy, and to compare results obtained for different customers.

(2) Each account manager shall make available for review, upon request of an eligible customer, documentation sufficient for the customer to compare its results with those of other customers. The other accounts for which intermarket orders are entered may be designated by symbol so that the identity of account holders is not disclosed.

(3) Upon request, each FCM allocating intermarket orders at the direction of an account manager will exercise its best efforts to obtain from the account manager and provide to the Commission or Department of Justice records reflecting the related transactions in the securities accounts.

The Commission believes that the basis for intermarket orders and allocations should be retained and made available upon request, to the Commission and the Department of Justice in order that any allegations of misallocation or unfavorable treatment could be properly investigated. The Commission also believes that data sufficient to compare a particular customer's results with those of other customers should be made available, upon request, to the customer. The identify of other account holders for which intermarket orders are entered need not, however, be disclosed to another customer. As noted earlier, the Commission believes these safeguards should simplify institutional customers' review of their accounts. The Commission requests comments as to whether other requirements are necessary to assure the customer has the opportunity to evaluate the fairness of the treatment of his account. The Commission also requests comments from customers as to whether they would authorize their account manager to release, even absent their customer identity, details of their trading activity in order for another managed account to verify the fairness of its allocations.

Finally, the Commission believes that the FCM allocating intermarket orders at the direction of an account manager should be required, upon request of certain government agencies, to exercise its best efforts to obtain records reflecting the related transactions in the securities accounts. The determination that there is preferential allocation can be accomplished only when all related transactions are examined and allocations in all markets are compared.

Based upon discussions with participants in the industry, the Commission believes that the documents, worksheets and computer programs that determine the allocation formula already are created and retained by account managers responsible for allocation decisions. The Commission also believes, however, that establishing a regulatory requirement to retain the records is necessary. Recordkeeping requirements applicable to investment advisers under the Investment Advisers Act of 1940, 17 CFR 275.204–2 (1992), do not specifically address records of futures transactions. As noted earlier, investment advisers and those excluded from the definition of the term investment adviser pursuant to the provisions of sections 202(a)(2) and 202(a)(11) of that Act, subject to certain trading restrictions, may be exempt from the requirement to register as a CTA

Administrative Law Judge; his law clerk; the Director, Office of Financial Enforcement, Department of the Treasury; and the Chief, White-Collar Crimes Section, Criminal Investigative Division, Federal Bureau of Investigation. These commenters expressed concern that by weakening the audit trail, the proposal could facilitate misallocation, money laundering and tax evasion.

[23] United States Attorney for the Northern District of Illinois.

[24] Interpretation 88–3 of NYSE Rule 410(a)(3).

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under Commission Regulation 4.14(a)(8) and therefore exempt from the Commission's CTA recordkeeping requirements imposed by Regulation 4.32. The Commission requests comments concerning what is appropriate and sufficient documentation.

(g). Contract market rule enforcement programs. As part of its rule enforcement program, each contract market that adopts rules that allow the placement of intermarket orders must assure that all fills resulting from such orders are so identified on contract market trade registers and other computerized trade practice surveillance records. Each such contract market, or the designated self-regulatory organization ("DSRO") of a member firm, must adopt an audit procedure to determine compliance with the recordkeeping requirements in paragraph (iv), account certification, and allocation requirements in paragraph (v) of the regulation.

The Commission believes this surveillance is necessary to deter possible violative activity and to ensure that an adequate audit trail exists for eligible transactions. As part of its routine oversight of member firms, the exchange must assure that intermarket orders are correctly identified as such on exchange trade registers. The exchange or the DSRO must audit member firms to assure that the entire order is allocated prior to the deadline for final submission of trade data to clearing on the day the intermarket order is executed; that it is allocated only to eligible participating institutional customer accounts that have consented to such allocation; and that the FCM receives and retains required documents from the account managers. The Commission requests comments on whether these measures will permit adequate supervision of such allocations and whether other measures are desirable.

III. Other Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously determined that contract markets are not "small entities" for purposes of the RFA, and that the Commission need not, therefore, consider the effect of proposed amendments on contract markets in relation to the RFA. 47 FR 18618, 18619 (April 30, 1982). The Commission has also determined that FCMs should be excluded from the definition of "small entity" based upon the fiduciary nature of the FCM/customer relationships as well as the fact that FCMs must meet minimum financial requirements. 47 FR 18618, 18619 (April 30, 1982).

Proposed Regulation § 1.35(a–1)(5) provides relief from individual account designation requirements and, therefore, imposes no additional significant economic burden on small entities. Proposed Regulation § 1.35(a–1)(6) is permissive and applies to large users of the market. As such, it should not have an impact on small entities. 47 FR 18618–18621 (April 30, 1982).

Therefore, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 ("ACT"), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Act. In compliance with the Act, the Commission has submitted this proposed/amended rule and its associated information collection requirements to the Office of Management and Budget. The burden associated with this entire collection, including this proposed rule, is as follows:

Average burden hours per response—612.26.

Number of Respondents—4281.

Frequency of Response—On occasion.

The burden associated with this specific proposed rule is as follows:

Average burden hours per response—1.

Number of Respondents—80.

Frequency of response—On occasion.

Persons wishing to comment on the information which would be required by this proposed/amended rule should contact Gary Waxman, Office of Management and Budget, room 3228, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street NW., Washington, DC 20581, (202) 254–9735.

List of Subjects in 17 CFR Part 1

Commodity futures, Commodity options, Contract markets, Customers, Members of contract markets, Noncompetitive trading, Reporting and recordkeeping requirements, Rule enforcement programs.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 5, 5a, 5b, 6(a), 6b, 8a(7), 8a(9) and 8c, 7 U.S.C. 7, 7a, 7b, 8(a), 8b, 12a(7), 12a(9), and 12c, the Commission hereby proposes to amend part 1 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for part 1 continues to read as follows:

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23 and 24.

2. Section 1.35 is proposed to be amended by revising paragraphs (a–1) (1), (2), and (4) and by adding paragraphs (a–1) (5) and (6) to read as follows:

§ 1.35 Records of cash commodity, futures, and option transactions.

* * * * *

(a–1) * * *

(1) Each futures commission merchant and each introducing broker receiving a customer's or option customer's order shall immediately upon receipt thereof prepare a written record of such order including the account identification, except as provided in paragraphs (a–1)(5) or (a–1)(6) of this section, and the order number, and shall record thereon, by time-stamp or other timing device, the date and time, to the nearest minute, the order is received, and in addition, for option customers' orders, the time, to the nearest minute, the order is transmitted for execution.

(2) Except as provided in paragraph (a–1)(3) of this section, each member of a contract market who on the floor of such contract market receives a customer's or option customer's order which is not in the form of a written record including the account identification, order number, and the date and time, to the nearest minute, such order was transmitted or received on the floor of such contract market, shall immediately upon receipt thereof prepare a written record of such order in non-erasable ink, including the account identification, except as provided in paragraphs (a–1)(5) or (a–1)(6) of this section, and order number and shall record thereon, by time-stamp or other timing device, the date and time, to the nearest minute, the order is received.

* * * * *

(4) Each member of a contract market reporting the execution of a customer's or option customer's order from the floor of a contract market shall record on a written record of such order including the account identification, except as provided in paragraphs (a–1)(5) or (a–1)(6) of this section, and order number, by time-stamp or other timing device, the date and time, to the nearest minute, such report of execution is made. Each member of a contract market shall submit the written records of customer orders to contract market personnel or the clearing member responsible for the collection of orders prepared pursuant to this paragraph as required by contract market rules adopted in accordance with paragraph (j)(1) of this section. The execution price and other information reported on such order tickets must be written in nonerasable ink.

(5) *Predetermined allocation formulas for bunched orders.* A specific customer's account identification need not be recorded at the time an order is entered or upon report of execution and the order may be allocated after execution provided the following requirements are met.

(i) The order is a consolidated order for multiple customer accounts that is executed as a single "bunched" order.

(ii) The person placing the order has investment discretion with respect to each of the accounts included in the order.

(iii) The person placing the order provides to the futures commission merchant allocating the order, at the time of entry, a single series designation that identifies all customer accounts to be included in the bunched order by account number and a predetermined allocation formula for allocating fills to such accounts. The allocation formula must be submitted before the first trade, cannot be changed intraday, and must allocate fills among participating accounts fairly and equitably.

(iv) Promptly upon report of execution, the futures commission merchant allocates the fills among the specified accounts according to the predetermined allocation formula.

(v) Orders for the following entities may be bunched with customer orders for execution provided that

(A) Fills may be allocated to an account of such an entity only if all customer orders included in the bunched order have been completely filled and

(B) The price of each fill allocated to a customer order is better than or equal to the price of each fill allocated to an account of such an entity:

(*1*) The person placing the order;

(*2*) The futures commission merchant allocating the order;

(*3*) Any general partner, officer, director, or owner of ten percent or more of the equity interest in the person placing the order or the futures commission merchant allocating the order;

(*4*) Any employee or associated person or limited partner of the person placing the order or the futures commission merchant allocating the order who affects or supervises the handling of the order;

(*5*) Any business affiliate that, directly or indirectly, controls, is controlled by, or is under common control with, the person placing the order or the futures commission merchant allocating the order;

(*6*) An employee benefit plan of the person placing the order, the futures commission merchant allocating the order, or an affiliate, as defined in paragraph (a–1)(5)(v)(B)(*5*) of this section; or

(*7*) Any spouse, parent, sibling, or child of the foregoing persons.

(6) *Allocation of bunched intermarket orders for institutional accounts.* In accordance with contract market rules that have been submitted to the Commission and approved pursuant to section 5a(a)(12)(A) of the Act and Commission Regulation 1.41, a specific customer's account identification need not be recorded at the time an order is entered or upon report of execution, and such order may be allocated prior to the deadline for final submission of trade data to clearing on the day the order is executed, provided the following requirements are met.

(i) *Eligible orders.* Orders placed and allocated pursuant to this paragraph (a–1)(6) must be intermarket orders. The term "intermarket" order means a futures or futures option order entered on behalf of an eligible customer as part of a bona fide intermarket trading strategy also involving securities. For purposes of this paragraph (a–1)(6), the term "securities" means equity or debt securities within the meaning of section 2(1) of the Securities Act of 1933.

(ii) *Eligible account managers.* The person placing and/or directing the allocation of an eligible order and its principal, if any ("account manager"), must be one of the following which has been granted investment discretion with regard to eligible customer accounts:

(A) An investment adviser registered with the Securities and Exchange Commission pursuant to the Investment Advisers Act of 1940; or

(B) A bank, insurance company, trust company, or savings and loan association subject to federal or state regulation.

(iii) *Eligible customers.*

(A) Eligible orders may be allocated to accounts maintained by any of the following institutional customers:

(*1*) An investment company registered as such under the Investment Company Act of 1940;

(*2*) A bank, trust company, insurance company or savings and loan association subject to federal or state regulation;

(*3*) An account for which a bank, trust company, insurance company or savings and loan association subject to federal or state regulation is a fiduciary vested with investment discretion;

(*4*) A qualified pension, profit-sharing, or stock bonus plan subject to title 1 of the Employee Retirement Income Security Act of 1974 (ERISA), or any plan defined as a governmental plan in section 3(32) of title 1 of such Act, but not including a self-directed plan; or

(*5*) An educational endowment, foundation, charitable institution or trust which is organized or qualifies under section 501(c)(3) of the Internal Revenue Code, with net assets of more than $100 million.

(B) The following persons may have no interest in any account that receives any part of such order or in any related securities account:

(*1*) The account manager;

(*2*) The futures commission merchant allocating the order;

(*3*) Any general partner, officer, director, or owner of ten percent or more of the equity interest in the account manager or the futures commission merchant allocating the order;

(*4*) Any employee or associated person or limited partner of the account manager or the futures commission merchant allocating the order who affects or supervises the handling of the order;

(*5*) Any business affiliate that, directly or indirectly, controls, is controlled by, or is under common control with, the account manager or the futures commission merchant allocating the order;

(*6*) An employee benefit plan of the account manager, the futures commission merchant allocating the order, or an affiliate, as defined in paragraph (a–1)(6)(iii)(B)(*5*) of this section; or

(*7*) Any spouse, parent, sibling, or child of the foregoing persons.

(iv) *Account certification.*

(A) Before placing the initial order pursuant to this paragraph for any eligible account, the account manager must certify the following, in writing, to the futures commission merchant allocation the order:

(*1*) The account manager has no interest in any account to which any

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part of the order may be allocated or in any related securities account;

(2) The account is owned by an eligible customer;

(3) The customer has consented in writing that orders may be executed and allocated in accordance with this paragraph;

(4) Orders for such account will be intermarket orders for which it would be impracticable to pre-file a predetermined allocation formula; and

(5) Records required by paragraph (a–1)(6)(vi)(A) of this section will be made available to the Commission or Department of Justice upon request of any representative thereof.

(B) Before placing the initial order pursuant to this paragraph, the account manager must provide the futures commission merchant allocating the order with a list of eligible accounts and their related securities accounts.

(v) *Allocation requirements.*

(A) Intermarket orders entered pursuant to this paragraph must be designated as such on the order at the time of entry.

(B) Intermarket orders must be identified on contract market trade registers and other computerized trade practice surveillance records.

(C) The account manager and the futures commission merchant allocating the order must allocate fills from intermarket orders to eligible participating customer accounts prior to the deadline for final submission of trade data to clearing on the day the intermarket order is executed.

(D) The futures commission merchant allocating the order must assure that all intermarket orders are allocated to eligible customer accounts.

(vi) *Account manager recordkeeping.*

(A) Each account manager must make available, upon request of any representative of the Commission or the United States Department of Justice, the records referred to in paragraph (a–1)(6)(iv) of this section and such other records, including records of securities transactions, reflecting order placement and allocation to the participating customer accounts. These records must be sufficient to demonstrate the relationship between the futures and securities transactions, the allocations made, the basis for allocation, the nature of the intermarket strategy, and to compare results obtained for different customers.

(B) Each account manager shall make available for review, upon request of an eligible customer, documentation sufficient for that customer to compare its results with those of other customers. The other accounts for which intermarket orders are entered may be designated by symbol so that the identity of account holders is not disclosed.

(C) Upon request, each futures commission merchant allocating intermarket orders at the direction of an account manager will exercise its best efforts to obtain from the account manager and provide to any representative of the Commission or Department of Justice records reflecting the related transactions in the securities accounts.

(vii) *Contract market rule enforcement programs.* As part of its rule enforcement program, each contract market that adopts rules that allow the placement of intermarket orders must assure that fills resulting from such orders are so identified on contract market trade registers and other computerized trade practice surveillance records. Each such contract market, or the designated self-regulatory organization of a member firm, must adopt an audit procedure to determine compliance with the recordkeeping requirements in paragraph (a–1)(6)(iv) (account certification) and the allocation requirements in paragraph (a–1)(6)(v) of this section.

* * * * *

Issued in Washington, DC on April 27, 1993 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–10275 Filed 4–30–93; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7–93–19]

Drawbridge Operation Regulations; Marathon, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the County Administrator of Monroe County, the Coast Guard proposes to add regulations governing the operation of the Boot Key Harbor Drawbridge, at mile 0.13, between Marathon and Boot Key, Monroe County, Florida, by requiring two-hour advance notification for an opening of the draw during certain periods. This proposal is being made because of infrequent requests to open the draw during the nighttime hours from 10 p.m. to 6. a.m. This action would relieve the bridgeowner of the burden of having a person constantly available to open the draw while still providing for the reasonable needs of navigation.

DATES: Comments must be received on or before June 17, 1993.

ADDRESSES: Comments may be mailed to Commander (oan), Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131–3050, or may be delivered to room 406 at the above address between 7:30 a.m. and 4 p.m., Monday through Friday, except federal holidays. The telephone number is (305) 536–4103. The Commander, Seventh Coast Guard District maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Brodie Rich, Project Manager, Bridge Section at (305) 536–4103

SUPPLEMENTARY INFORMATION: .

Request for comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD7–93–19] and the specific section of this proposal to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying. If not practical, a second copy of any bound material is requested, Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Mr. Brodie Rich at the address under "ADDRESSES." The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Brodie Rich, Project Manager, and LT J. M. Losego, Project Counsel.

Background and Purpose

The drawbridge presently opens on signal. The owner of the Boot Key Harbor drawbridge has requested relief from the requirement to maintain full time drawtender service due to the lack of openings during evening hours from 10 p.m. to 6 a.m. The Coast Guard proposes to add an advance notification requirement of 2 hours daily from 10 p.m. to 6 a.m. This should reduce the owner's operating cost while still meeting the needs of navigation.

Discussion of Proposed Addition

A Coast Guard analysis showed there were 67 vessels logged through the Boot Key Harbor drawbridge from September 1991 through September 1992 between the hours of 10 p.m. and 6 a.m. This represents an average of only 1.3 openings per week during that time period.

This proposal would reduce the operating costs for the owner while still providing for the reasonable needs of navigation at Boot Key Harbor.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. We conclude this because there is no commercial traffic on the waterway.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify a "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

Since the proposed rule affects no commercial users, the economic impact is expected to be so minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612, and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2.g.(5) of Commandant Instruction M16475.1B, promulgation of operating requirements or procedures for drawbridges is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.272 is added to read as follows:

§ 117.272 Boot Key Harbor

The draw of the Boot Key Harbor drawbridge, mile 0.13, between Marathon and Boot Key, shall open on signal; except that during the evening hours from 10 p.m. to 6 a.m., the draw shall open on signal if at least 2 hours notice is given.

Dated: April 20, 1993.

W. P. Leahy,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 93–10359 Filed 4–30–93; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

34 CFR Parts 361, 363, 365, 366, 367, 369, 370, 371, 373, 374, 375, 376, 377, 378, 379, 380, 385, 386, 387, 388, 389, 390, and 396

Implementation of the Rehabilitation Act Amendments of 1992

AGENCY: Department of Education.

ACTION: Notice of public meeting.

SUMMARY: The Secretary announces a public meeting on issues related to the implementation of the Rehabilitation Act Amendments of 1992 (Pub. L. 102–569), enacted on October 29, 1992.

The Department plans to publish extensive proposed regulations affecting many of the programs listed in the Supplementary Information section of this notice. The Department also plans to publish final regulations to implement technical and conforming changes resulting from the reauthorization. The purpose of the meeting is to facilitate an exchange of views and information concerning the Department's implementation of the Rehabilitation Act Amendments of 1992 (1992 Amendments), as administered by the Rehabilitation Services Administration (RSA). Since it is not the purpose of this meeting to solicit public comments formally on any of the individual notices of proposed rulemaking that may be published in the **Federal Register** to implement the new law, all comments on proposed regulations should be submitted to the Department in accordance with the instructions in the specific proposed regulations.

DATES: The public meeting is scheduled to be held from 10 a.m. to 3 p.m. on May 14, 1993, in the Auditorium in the Wilbur J. Cohen Building, 300 C Street, S.W., Washington, D.C. Meeting Information: The Secretary encourages interested parties to attend the public meeting and requests that those parties participating provide a written copy of their comments.

The meeting facilities and proceedings will be accessible to people with disabilities.

ADDRESSES: Individuals who cannot attend the meeting are invited to provide written comments regarding the implementation of the 1992 Amendments to Commissioner, Rehabilitation Services Administration, 400 Maryland Avenue, SW., room 3028, Switzer Building, Washington, DC 20202–2531.

SUPPLEMENTARY INFORMATION: The following list identifies programs covered under this notice where the Department, as a part of its implementation of the 1992 Amendments, has published proposed regulations or currently plans to publish regulations:

The State Vocational Rehabilitation Services Program.

Innovation and Expansion Grants.

Order of Selection for the Receipt of Vocational Rehabilitation Services.

Criteria for Selection of Vocational Rehabilitation Services (Choice)

Note: A notice on this topic was published February 16, 1993 (58 FR 8688). A notice is to be published in the **Federal Register** extending the comment period to May 18, 1993.

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Evaluation Standards and Performance Indicators for State Vocational Rehabilitation Agencies

Note: A notice on this topic was published February 19, 1993 (58 FR 9458). The comment period ended April 20, 1993.

Client Assistance Program
Protection and Advocacy of Individual Rights
Independent Living (General)
The State Independent Living Services Program
Centers for Independent Living (CIL)
CIL-Evaluation Standards and Compliance Indicators
Independent Living Services for Older Individuals Who are Blind
Demonstration Projects to Increase Client Choice

Note: A notice of proposed rulemaking was published April 1, 1993 (58 FR 17308). The comment period ends May 3, 1993.

Projects for Initiating Special Recreational Programs for Individuals with Disabilities.
Rehabilitation Training:
Rehabilitation Long-Term Training.
Training of Interpreters for Individuals Who are Deaf.
State Vocational Rehabilitation In-Service Training.

The Department plans to publish final regulations to make technical and conforming changes in the following programs:

The State Supported Employment Services Program.
Vocational Rehabilitation Service Projects.
Vocational Rehabilitation Service Projects for American Indians with Disabilities.
Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Disabilities.
Special Projects and Demonstrations for Making Recreational Activities Accessible to Individuals with Disabilities.
Vocational Rehabilitation Service Projects Program for Migratory Agricultural and Seasonal Farmworkers with Disabilities.
Special Projects and Demonstrations for Providing Transitional Rehabilitation Services to Youth With Disabilities.
Projects with Industry.
Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with the Most Severe Disabilities and Technical Assistance Projects.
Rehabilitation Training.
Experimental and Innovative Training.
Rehabilitation Continuing Education Programs.
Rehabilitation Short-Term Training.

FOR FURTHER INFORMATION CONTACT: Persons desiring to participate in the meeting or seeking additional information should contact Beverlee Stafford, 400 Maryland Avenue, SW., room 3028, Switzer Building, Washington, DC 20202–2531. Telephone: (202) 205–5482. Individuals who are deaf or hearing impaired may call (202) 205–5896 for TDD services.

(Authority: 29 U.S.C. 701)

Dated: April 28, 1993.

William L. Smith,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 93–10440 Filed 4–30–93; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 36 and 44

RIN 2900–AG13

Loan Guaranty: Limited Denial of Participation in the Loan Guaranty Program.

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulatory amendments.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its loan guaranty regulations to relocate and update certain provisions governing the suspension of participants from the VA guaranteed home loan program. These amendments will clarify the procedures to be followed by VA field facilities when excluding loan guaranty program participants within their jurisdictional areas from participation for periods of up to one year.

DATES: Comments must be received on or before June 2, 1993. Comments will be available for public inspection until June 14, 1993.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Secretary of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. All written comments will be available for public inspection in room 170, Veterans Service Unit, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Judith A. Caden, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 233–3042.

SUPPLEMENTARY INFORMATION: Under chapter 37 of title 38, United States Code, VA guarantees a portion of the loan made to an eligible veteran to acquire or refinance a home, condominium, or manufactured home, or to install certain energy conservation features or other home improvements. The guaranty is a promise by the Government to pay a portion of the veteran's indebtedness in the event of a loan default and eventual termination through foreclosure or other proceedings. Participants in the loan guaranty program include lenders, builders, sales and management brokers, agents, fee appraisers, compliance inspectors and manufactured home manufacturers, dealers, and park operators.

Section 3704(b) of title 38, U.S. Code provides that subject to notice and opportunity for a hearing, the Secretary may refuse to appraise any dwelling or housing project owned, sponsored or to be constructed by any person identified with housing previously sold as to which substantial deficiencies have been discovered, or as to which there has been a failure or indicated inability to discharge contractual liabilities to veterans, or the type of contract of sale or marketing methods or practices were unfair or unduly prejudicial to veterans. Section 3704(d) of title 38 similarly authorizes the Secretary to refuse to guarantee loans submitted by any lender or holder who has failed to maintain adequate loan accounting records, or to demonstrate proper ability to service loans adequately or to exercise proper credit judgment or who willfully or negligently engaged in practices detrimental to the interest of veterans or of the Government. The Secretary is also authorized under these sections to deny participation to any party who has been refused the benefits of participation under the National Housing Act pursuant to a determination by the Secretary of Housing and Urban Development. Sections 3712 (j) and (k) of title 38 similarly provide for suspension of manufactured home manufacturers, dealers, and park operators.

The Secretary's authority to exclude parties from participation in the VA loan guaranty program has been implemented through various sections of volume 38, Code of Federal Regulations (CFR), part 36. Specifically, § 36.4233 provides for the suspension of manufacturers of manufactured homes, § 36.4235 provides for the suspension of manufactured home dealers and park

operators, § 36.4331 provides for the disqualification of lenders, § 36.4341 provides for the suspension of fee appraisers and § 36.4361 provides for actions against builders, real estate brokers and other entities. Program participants are also subject to debarment or suspension under the provisions of 38 CFR part 44, which contains the Department's regulations on Government-wide debarment and suspension.

38 CFR part 44 provides for suspension and debarment of participants from VA programs. Actions taken under the authority of 38 CFR part 44 as currently organized are effective nationwide and Government-wide. VA suspension actions which are local in nature and effective only as to the loan guaranty program rather than Government-wide are presently taken under the suspension authorities of part 36. We propose to revise and incorporate the exclusionary provisions of part 36 into a new subpart G of part 44. This will eliminate the need for the obsolete suspension provisions of §§ 36.4233, 36.4235, 36.4331, 36.4341, and 36.4361.

The amended regulations would consolidate the suspension authorities now contained in part 36 into a new subpart G of part 44 entitled "Limited Denial of Participation in the Loan Guaranty Program." Under current practice, most loan guaranty exclusionary actions are taken by local VA field facilities. This practice would be continued. Field facilities would continue to have the authority to exclude participants from the loan guaranty program within the jurisdiction of that facility, generally for a period of up to one year. All participants would be subject to these actions except for lenders and manufactured home manufacturers.

The proposed regulations are based on and substantially the same as the limited denial of participation regulations of the Department of Housing and Urban Development which are located at 24 CFR part 24, subpart G. As with the HUD regulations, actions taken under this proposed new authority would be taken at the field facility level and would be effective only within the jurisdiction of the field facility which takes the action. However, an action taken by one field facility would also be grounds for a limited denial of participation action by another field facility. Actions would be limited to one year in duration, except for actions based on construction deficiencies. In those cases, the field facility would be authorized to exclude the builder for an indeterminate period which would end when the construction deficiency has been corrected or otherwise resolved in a manner acceptable to VA. This is a continuation of current and longstanding practice on builder suspensions. Essentially, the builder cannot be viewed as a responsible participant unless and until he or she has demonstrated this fact by correcting or otherwise resolving the construction defects upon which the exclusionary action was based.

The Secretary hereby certifies that these proposed regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, title 5, United States Code, section 601–612. These regulations essentially transpose VA regulations regarding exclusion from the loan guaranty program from part 36 to part 44, where they will be located with VA's Government-wide debarment regulations. The proposed regulations also update the archaic language in the current part 36 suspension regulations. Pursuant to 5 U.S.C. 605(b), these regulations are exempt from the initial and final regulatory analysis requirements of sections 603 and 604.

The regulatory amendments have been reviewed pursuant to Executive Order 12291 and have been found to be nonmajor regulatory changes. The regulations will not impact on the public or private sectors as major rules. They will not have an annual effect on the economy of $100 million or more; cause a major increase in cost or prices for consumers, individual industries, Federal State or local government agencies, or geographic regions; or have other significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary certifies that this proposed rule would not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

Catalog of Federal Domestic Assistance Program Numbers are 64.114 and 64.119.

List of Subjects in 38 CFR Part 44

Administrative practice and procedure, Condominium, Grants, Grant programs, Housing, Loan Programs-housing and community development, Manufactured Homes, Reporting and recordkeeping requirements, Veterans.

This amendment is made under the authority granted the Secretary by sections 501(a) and 3703(c) of title 38, United States Code.

Approved: February 11, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR parts 36 and 44 are proposed to be amended as set forth below.

PART 37—LOAN GUARANTY

1. The authority citation for §§ 36.4201 through 36.4287 continues to read as follows:

Authority: Sections 36.4201 through 36.4287 issued under 38 U.S.C. 501(a, 3712.

2. Sections 36.4233 and 36.4235 are removed from this part.

3. The authority citation for part 36 §§ 36.4300 through 36.4375 continues to read as follows:

Authority: Sections 36.4300 through 36.4375 issued under 38 U.S.C. 501(a).

4. Sections 36.4331, 36.4341, and 36.4361 are removed from this part.

PART 44—GOVERNMENT DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

5. The authority citation for part 44 is revised to read as follows:

Authority: 38 U.S.C. 501(a) and 3703(c); E.O. 12549; E.O. 12689.

6. Sections 44.700 through 44.713 are added to read as follows:

Subpart G—Limited Denial of Participation

Sec.
44.700 General.
44.705 Causes for a limited denial of participation.
44.710 Scope and period of a limited denial of participation.
44.711 Notice.
44.712 Conference.
44.713 Appeal.

§ 44.700 General.

Field Facility Directors are authorized to order a limited denial of participation affecting any participant or contractor and its affiliates except lenders and manufactured home manufacturers. In each case, even if the offense or violation is of a criminal, fraudulent or other serious nature, the decision to order a limited denial of participation shall be discretionary and in the best interests of the Government.

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§ 44.705 Causes for a limited denial of participation.

(a) *Causes.* A limited denial of participation shall be based upon adequate evidence of any of the following causes:

(1) Irregularities in a participant's or contractor's performance in the VA loan guaranty program;

(2) Denial of participation in programs administered by the Department of Housing and Urban Development or the Department of Agriculture, Farmers Home Administration;

(3) Failure to satisfy contractual obligations or to proceed in accordance with contract specifications;

(4) Failure to proceed in accordance with VA requirements or to comply with VA regulations;

(5) Construction deficiencies deemed by VA to be the participant's responsibility;

(6) Falsely certifying in connection with any VA program, whether or not the certification was made directly to VA;

(7) Commission of an offense or other cause listed in § 44.305;

(8) Violation of any law, regulation, or procedure relating to the application for guaranty, or to the performance of obligations incurred pursuant to a commitment to guarantee;

(9) Making or procuring to be made any false statement for the purpose of influencing in any way an action of the Department;

(10) Imposition of a limited denial of participation by any other VA field facility;

(b) *Indictment.* A criminal indictment or information shall constitute adequate evidence for the purpose of limited denial of participation actions.

(c) *Limited denial of participation.* Imposition of a limited denial of participation by a VA field facility shall, at the discretion of any other VA field facility, constitute adequate evidence for a concurrent limited denial of participation. Where such a concurrent limited denial of participation is imposed, participation may be restricted on the same basis without the need for an additional conference or further hearing.

§ 44.710 Scope and period of a limited denial of participation.

(a) *Scope and period.* The scope of a limited denial of participation shall be as follows:

(1) A limited denial of participation extends only to participation in the VA loan guaranty program and shall be effective only within the geographic jurisdiction of the office or offices imposing it.

(2) The sanction may be imposed for a period not to exceed 12 months except for unresolved construction deficiencies. In cases involving construction deficiencies, the builder may be excluded for either a period not to exceed 12 months or for an indeterminate period which ends when the deficiency has been corrected or otherwise resolved in a manner acceptable to VA.

(b) *Effectiveness.* The sanction shall be effective immediately upon issuance, and shall remain effective for the prescribed period, if the cause for the limited denial of participation is resolved before the expiration of the prescribed period, the official who imposed the sanction may terminate it. The imposition of a limited denial of participation shall not affect the right of the Department to suspend or debar any person under this part.

(c) *Affiliates.* An affiliate or organizational element may be included in a limited denial of participation solely on the basis of its affiliation, and regardless of its knowledge of or participation in the acts providing cause for the sanction. The burden of proving that a particular affiliate or organizational element is capable of meeting VA requirements and is currently a responsible entity and not controlled by the primary sanctioned party (or by an entity that itself is controlled by the primary sanctioned party) is on the affiliate or organizational element.

§ 44.711 Notice.

(a) *Generally.* A limited denial of participation shall be initiated by advising a participant or contractor, and any specifically named affiliate, by certified mail, return receipt requested:

(1) That the sanction is effective as of the date of the notice;

(2) Of the reasons for the sanction in terms sufficient to put the participant or contractor on notice of the conduct or transaction(s) upon which it is based;

(3) Of the cause(s) relied upon under § 44.705 for imposing the sanction;

(4) Of the right to request in writing, within 30 days of receipt of the notice, a conference on the sanction, and the right to have such conference held within 10 business days of receipt of the request;

(5) Of the potential effect of the sanction and the impact on the participant's or contractor's participation in Departmental programs, specifying the program(s) involved and the geographical area affected by the action.

(b) *Notification of action.* After 30 days, if no conference has been requested, the official imposing the limited denial of participation will notify VA Central Office of the action taken and of the fact that no conference has been requested. If a conference is requested within the 30-day period, VA Central Office need not be notified unless a decision to affirm all or a portion of the remaining period of exclusion is issued. VA Central Office will notify all VA field offices of sanctions imposed and still in effect under this subpart.

§ 44.712 Conference.

Upon receipt of a request for a conference, the official imposing the sanction shall arrange such a conference with the participant or contractor and may designate another official to conduct the conference. The participant shall be given the opportunity to be heard within 10 business days of receipt of the request. This conference precedes, and is in addition to, the formal hearing provided if an appeal is taken under § 44.713. Although formal rules of procedure do not apply to the conference, the participant or contractor may be represented by counsel and may present all relevant information and materials to the official or designee. After consideration of the information and materials presented, the official shall, in writing, advise the participant or contractor of the decision to withdraw, modify or affirm the limited denial of participation. If the decision is made to affirm all or a portion of the remaining period of exclusion, the participant shall be advised of the right to request a formal hearing in writing within 30 days of receipt of notice of decision. This decision shall be issued promptly, but in no event later than 20 days after the conference and receipt of materials.

§ 44.713 Appeal.

Where the decision is made to affirm all or a portion of the remaining period of exclusion, any participant desiring an appeal shall file a written request for a hearing with the Under Secretary of Veterans Affairs for Benefits, Department of Veterans Affairs, 810 Vermont Avenue, Washington, DC 20420. This request shall be filed within 30 days of receipt of the decision to affirm. If a hearing is requested, it shall be held in accordance with the procedures set forth at §§ 44.313 and 44.314. Where a limited denial of participation is followed by a suspension or debarment, the limited denial of participation shall be superseded and the appeal shall be

heard solely as an appeal of the suspension or debarment.

[FR Doc. 93–10133 Filed 4–30–93; 8:45 am]
BILLING CODE 8320–01–M

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Notices

Federal Register
Vol. 58, No. 83
Monday, May 3, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

National Arboretum Advisory Council

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463), the Agricultural Research Service announces the following meeting:

Name: National Arboretum Advisory Council.

Date: May 24–25, 1993.

Time: 8:30 a.m.–4:30 p.m., May 24; 8:30 a.m.–3 p.m., May 25.

Place: U.S. National Arboretum, 3501 New York Avenue, NE., Washington, DC.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permits.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To review progress of the National Arboretum relating to congressional mandate on research and education concerning trees and plant life. The Council submits its recommendations to the Secretary of Agriculture.

Contact Person: Edwin L. Civerolo, Executive Secretary, National Arboretum Advisory Council, room 234 BC–005 BARC–W, Beltsville, MD 20705. Telephone: AC 301/504–5912.

Done at Beltsville, Maryland, this 22nd day of April, 1993.

Edwin L. Civerolo,

Executive Secretary, National Arboretum Advisory Council.

[FR Doc. 93–10360 Filed 4–30–93; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation—1993 Panel Wave 3.

Form Number(s): SIPP–13300, SIPP–13304A, SIPP–13305.

Agency Approval Number: 0607–0759.

Type of Request: Revision of a currently approved collection.

Burden: 63,000 hours.

Number of Respondents: 42,000.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Survey of Income and Program Participation (SIPP) provides information concerning the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this distribution. The survey is molded around a central core of labor force and income questions that are periodically supplemented with additional questions, referred to as topical modules, designed to answer specific needs. The topical modules for the 1993 panel Wave 3 duplicate those of the 1992 Panel Wave 6 and are the following: (1) Work Schedule, (2) Child Care, (3) Child Support Agreements, (4) Support for Nonhousehold Members, (5) Functional Limitations and Disability, and (6) Utilization of Health Care Services. Also, four topical module items have been added to the Earnings and Employment Section of the core. Wave 3 interviews will be conducted from October 1993 through January 1994.

Affected Public: Individuals or households.

Frequency: Once during the panel.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 28, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–10395 Filed 4–30–93; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation—1992 Panel Wave 6.

Form Number(s): SIPP–12600, SIPP–12605.

Agency Approval Number: 0607–0723.

Type of Request: Revision of a currently approved collection.

Burden: 63,000 hours.

Number of Respondents: 42,000.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Survey of Income and Program Participation (SIPP) provides information concerning the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this distribution. The survey is molded around a central core of labor force and income questions that are periodically supplemented with additional questions, referred to as topical modules, designed to answer specific needs. The topical modules for the 1992 panel Wave 6 duplicate those of the 1993 Panel Wave 3 and are the following: (1) Work Schedule, (2) Child Care, (3) Child Support Agreements, (4) Support for Nonhousehold Members, (5) Functional Limitations and Disability, and (6) Utilization of Health Care Services. Also, four topical module items have been added to the Earnings and Employment Section of the core. Wave 6 interviews will be conducted from October 1993 through January 1994.

Affected Public: Individuals or households.

Frequency: Once during the panel.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to

Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 28, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–10394 Filed 4–30–93; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation—Employer–Provided Benefits Study.

Form Number(s): EPB–12615 through EPB–12619.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 2,800 hours.

Number of Respondents: 38,400.

Avg Hours Per Response: Four and one half minutes.

Needs and Uses: Employer–provided benefits such as medical and life insurance and retirement plans have become an important part of employee compensation. Employer contributions to these benefits have increased rapidly over the past decades and now represent a substantial portion of total compensation. The Survey of Income and Program Participation (SIPP) currently collects no information on the amounts of these employer provided benefits. SIPP respondents typically have little knowledge of the amounts contributed by employers, so it is necessary to go directly to employers if accurate information is required. As part of the SIPP questionnaire, the Census Bureau plans to ask respondents to sign an authorization form which authorizes the Census Bureau to contact their employers in order to obtain data on contributions to employer–provided benefits. The employers will be asked to provide information on contributions to the SIPP respondents' medical and life insurance and retirement plans. We plan to use this data to estimate the value of noncash benefits in SIPP as well as to update our valuation work on health insurance plans.

Affected Public: Individuals or households, State or local governments, Farms, Businesses or other for–profit organizations, Non–profit institutions, Small businesses or organizations.

Frequency: One–time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 28, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–10396 Filed 4–30–93; 8:45 am]

BILLING CODE 3510–07–F

International Trade Administration

[A–602–803]

Certain Corrosion-Resistant Carbon Steel Flat Products From Australia; Rescheduling of Public Hearing

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 3, 1993.

FOR FURTHER INFORMATION CONTACT: Sally Craig or Wendy Frankel, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; Telephone: (202) 482–1391 or (202) 482–0159.

PUBLIC COMMENT: The date of the public hearing in this investigation is rescheduled from the date originally published in the **Federal Register** on March 9, 1993 (58 FR 13056). The new date is May 18, 1993, at 8:30 a.m., in room 3708. The brief due dates are also changed. The case briefs are now due May 11, 1993, and the rebuttal briefs are due May 14, 1993.

This notice is published pursuant to section 774(b) of the Tariff Act of 1930, as amended, and 19 CFR 353.38(f) (1992).

Dated: April 27, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–10392 Filed 4–30–93; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council (Council) and its Committees will meet on May 10–13, 1993. The meetings will be held at the Crown Sterling Suites Hotel, 4400 West Cypress Street, Tampa, Florida; telephone: (813) 873–8675. The agenda is as follows:

Council

The Council will convene on May 12 at 8:30 a.m. and recess at 5:00 p.m. Council agenda items and the times allocated for discussion are as follows:

From 8:45 a.m. to 10:15 a.m.: Review the South Atlantic Fishery Management Council's Wreckfish Indivisual Transferable Quota System.

From 10:15: a.m. to 12 noon: Receive Public Testimony on a change to the Reef Fish Stressed Area Boundary which regulates where fish traps can be used and receive Public Testimony on Mackerel Total Allowable Catch (TAC), Quotas, Commercial Vessel Trip Limits, and Bag Limits. (*Note:* Testimony cards must be turned in to staff *before* the start of public testimony).

From 1:30 p.m. to 2:30 p.m.: Consider the tabled Stressed Area Discussion regarding Gear Restrictions for Taking Reef Fish. (Discussion tabled from the March 11–12, 1993, Council meeting.)

From 2:30 p.m. to 4:45 p.m.: Receive the Mackerel Management Committee Report.

From 4:45 p.m. to 5 p.m.: Consider Appointment of an Ad Hoc Red Snapper Advisory Panel (this discussion to be held in CLOSED SESSION).

The Council will reconvene at 8:30 a.m. on May 13 with adjournment at 12:15 p.m. The Council will then receive reports from the following Committees:

1. Red Drum Management Committee (8:30 a.m. to 9:30 a.m.);
2. Administrative Policy Committee Report (9:30 a.m. to 10:30 a.m.);
3. Shrimp Management Committee (10:30 a.m. to 10:45 a.m.);
4. Reef Fish Management Committee (10:45 a.m. to 11:30 a.m.); and then Enforcement reports and the Director's reports until 12:15 p.m.

Committees

On May 10 at 1 p.m. the following committees will meet, with adjournment at 5:30 p.m.: The Administrative Policy Committee, and the Shrimp Management Committee.

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Committee meetings will reconvene on May 11. The Mackerel Management Committee, the Red Drum Management Committee, and the Reef Fish Management Committee will meet at that time, and adjourn at 5:30 p.m.

For more information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL; telephone: (813) 228–2815.

Dated: April 27, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–10339 Filed 4–30–93; 8:45 am]

BILLING CODE 3510–22–M

National Oceanic and Atmospheric Administration

Endangered Species; Permits

AGENCY: National Marine Fisheries Services (NMFS), NOAA, Commerce.

ACTION: Notice of receipt of application for scientific research permit (P548).

Notice is hereby given that the Public Service Electric and Gas Company has applied in due form for a Permit to take listed species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR part 217–227).

The applicant requests authorization to conduct research on a maxium of 10 loggerhead *(Caretta caretta)*, two Kemp's ridley *(Lepidochelys kempi)*, and two green *(Chelonia mydas)* sea turtles that have been incidentally taken by the Salem Generating Station to determine if the Station acts as an attraction factor to turtles. Research would look at dietary components and habitat utlization of these turtles. Sonic and satellite transmitters would be used to assess the baseline behavior of turtles in Delaware Bay. The turtles would be recovered a maximum of two times at four week intervals. Weight, length, and width would be recorded and the transmitters removed, and each turtle would then be released back into the water. This research would take place between the months of June and October over a duration of four years.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, room 8268, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All Statements and opinions contained in this application Summary are those of the Applicant and do not necessarily reflect the views of NMFS.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Suite 8268, Silver Spring, MD 20910 (301/713–2322); and

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930 (508/281–9250).

Dated: April 23, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93–10291 Filed 4–30–93; 8:45 am]

BILLING CODE 3510–22–M

National Oceanic and Atmospheric Administration

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Issuance of scientific research permit No. 835.

SUMMARY: On March 11, 1993, notice was published in the **Federal Register** (58 FR 13452) that a request for a scientific research permit to take marine mammals (P250D) had been submitted by the Washington Department of Wildlife Marine Mammal Institute, 7801 Phillips Road, SW., Tacoma, Washington 98498, the NMFS, National Marine Mammal Laboratory, 7600 Sand Point Way, NE., BIN C15700—Building 1, Seattle, Washington 98115–0070, and the Oregon Department of Fish and Wildlife, 53 Portway Street, Astoria, Oregon 97103, to conduct scientific research on harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*) and Steller sea lions (*Eumetopias jubatus*) over a 5-year period.

Notice is hereby given that on April 27, 1993, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act (16 U.S.C. 1531–1543), and the regulations governing endangered fish and wildlife (50 CFR parts 217–222), the NMFS issued the requested Permit for the above activities subject to the Special Conditions set forth therein, with the exception that the hot branding activities requested are not authorized until further review of this portion of the research proposal determines that such research is *bona fide* and humane.

The Permit and other related documentation are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, NMFS, 1335 East-West Highway, room 7330, Silver Spring, MD 20910 (301/713–2289); and

Director, Northwest Region, NMFS, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, WA 98115 (206/526–6150).

Dated: April 27, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93–10292 Filed 4–30–93; 8:45 am]

BILLING CODE 3510–22–M

National Oceanic and Atmospheric Administration

Marine Mammals

AGENCY: National Marine Fisheries Service, (NMFS), NOAA, Commerce.

ACTION: Issuance of Import Permit (P6"O").

On February 9, 1993, notice was published in the **FEDERAL REGISTER** (58 FR 7770) that an application had been filed by the National Zoological Park, Smithsonian Institution, Washington, DC 20008–2598, for a permit to import specimen samples from Juan Fernandez fur seals (*Arctocephalus philippii*), subantarctic fur seals (*A. tropicalis*), Antarctic fur seals (*A. gazella*), New Zealand fur seals (*A. forsteri*), and South American fur seals (*A. australis*); harbor seals (*Phoca vitulina*); and to collect and import opportunistically, milk, liver, blubber, bone and other tissue samples from an unspecified number of all pinnipeds (except walrus) that are: stranded and/or discarded carcasses; obtained from research projects by other scientists; handled or killed pursuant to lawful management activities of foreign countries; either live or freshly dead beached animals; and/or captive animals in zoos or aquariums.

Notice is hereby given that on April 27, 1993, as authorized by the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*), the National Marine Fisheries Service issued a Permit for the above taking

subject to certain conditions set forth therein.

The Permit and supporting documentation is available for review, by appointment, in the Permit Division, Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713–2289); and Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930 (508/281–6150).

Dated: April 27, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–10293 Filed 4–30–93; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Demonstration Project

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of the implementation and operation of a health care demonstration project for CHAMPUS beneficiaries residing in selected base realignment and closure (BRAC) sites in Texas and Louisiana.

SUMMARY: Section 9032 of the DoD Appropriations Act, 1993, requires CHAMPUS Reform Initiative (CRI) services to begin at the BRAC sites at Austin (Bergstrom Air Force Base) and Fort Worth (Carswell Air Force Base), Texas, and Alexandria, (England Air Force Base), Louisiana, by May 1, 1993. These sites will be referred to as the CHAMPUS Reform Initiative—Selected Base Realignment and Closure Sites (hereinafter referred to as CRI–BRAC). The Alexandria site will include the Fork Polk catchment area. Objectives of CRI–BRAC are: (1) Assurance of continuing beneficiary access to care: (2) a strengthening of quality assurance activities; and (3) controlling health care costs. In addition, the pharmacy benefits provided for in section 702(b) of the 1993 Defense Authorization Act will be implemented for DoD Medicare eligible beneficiaries.

DATES: With respect to those features scheduled to begin 1 May 1993, the 30 day notification period is waived because of the statutory requirement that this program begin May 1, 1993.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Development & Requirements Division, Aurora, CO 80045–6900. For copies of the **Federal Register** containing this notification, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

FOR FURTHER INFORMATION CONTACT: Major Bart Smith, Office of the Assistant Secretary of Defense (Health Affairs), telephone (703) 695–3331.

SUPPLEMENTARY INFORMATION:

I. Introduction

Services to be provided in CRI–BRAC include: implementation and operation of an integrated and comprehensive health care delivery system for all Standard CHAMPUS beneficiaries; contractor and/or subcontractor arranged or operated Health Maintenance Organizations (The Prime Program); and contractor and/or subcontractor arranged Preferred Provider Organizations (The Extra Program). All services provided shall include the implementation and operation of service centers within the former catchment area zip codes. The service centers shall be accessible to the maximum number of eligible beneficiaries. Upon termination of health care services at Carswell AFB, the Dallas Naval Air Station, Branch Medical Clinic, will be the only active duty military treatment facility within the Fort Worth area. Upon termination of health care services at England AFB, the Fort Polk Medical Activity continue to operate within the Alexandria area. There will be no active duty military treatment facility within the Austin area.

In order to strengthen quality assurance the contractor shall establish comprehensive quality and utilization management activities along with provider and beneficiary education programs in the CRI–BRAC areas. The new CHAMPUS Regional Review Center will use national standards for utilization review and peer review of selected cases. CRI–BRAC will be designed to ensure adherence to all rules applicable to this program. A separate CHAMPUS National Quality Monitoring Contract will oversee the review process.

The contractor shall also provide all traditional CHAMPUS fiscal intermediary (FI) services for the sites to include claims processing, data reporting, beneficiary services, and other administrative functions common to FI activities. The contractor shall receive, accurately adjudicate and be responsible for payment under the fixed price, "at-risk" contract financing mechanism of all claims for civilian health care services provided CHAMPUS beneficiaries who live within the sites regardless of where the services are obtained. The contractor shall receive, accurately adjudicate and be responsible for payment under a direct reimbursement mechanism for all claims for civilian health care services provided at the BRAC sites to active duty and CHAMPUS beneficiaries who do not live within the CRI–BRAC area. In addition to the basic CHAMPUS benefits, the contractor's responsibility for heath care coverage shall include Christian Science services, Program for the Handicapped (PFTH) services, and adjunctive dental services rendered to all CHAMPUS beneficiaries who receive these services in the BRAC sites. CHAMPUS beneficiaries who do not live in the CRI–BRAC areas and who receive care within the contractor's provider network shall be provided such care under the same terms and conditions as CHAMPUS beneficiaries living in the BRAC sites, except that the at-risk provisions will not apply. The contractor shall also be responsible for determining the amounts payable under the DRG reimbursement system to active duty service members receiving care in non-network civilian institutions in the CRI-BRAC service areas.

II. Triple Option Health Benefits Package

CRI-BRAC will require the establishment of a triple option health benefits package which allows CHAMPUS beneficiaries who reside in base closure sites to select among three options. The first option available to the beneficiary will be to remain in the traditional non-enrolled Standard CHAMPUS Program. In the second option beneficiaries will be offered a preferred provider organization (The Extra Program). In the PPO program of services the beneficiary chooses to remain eligible for the Standard CHAMPUS benefits package; however, when these benefits are provided by civilian providers who are in a network established by the contractor through contractual arrangements, the beneficiary's cost-sharing in reduced and the provider submits the claims. The third option, referred to as The Prime Program, is an HMO-like plan of health care service delivery.

III. The Prime Program

This is a voluntary, HMO-like enrollment option offered as an alternative to Standard CHAMPUS. The Prime Program provides enhances CHAMPUS benefits to all enrolled beneficiaries. The benefits package

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available to enrollees will contain the same benefits as are available under Standard CHAMPUS, plus benefit enhancements offered by Prime. These enhancements will include such services as routine physical and other preventive care procedures not covered under Standard CHAMPUS. These benefits are identified in Table 1 and will be uniform across all CRI-BRAC areas. The Prime Program requires an annual enrollment fee. Beneficiaries who select Prime will have the added benefit of, in most cases, not having to file claims forms and they will not be balance billed for their care. They will be given the opportunity to register a preference for assignment to a Primary Care Manager (PCM). A PCM may be an individual provider, a group practice, a clinic, a treatment site, or other designation. Preference requests will be honored subject to availability of the choices. Beneficiaries who are enrolled and dissatisfied with their PCM will be permitted to choose another one within the network. Enrollees who chose Prime must follow CRI-BRAC rules for seeking non-emergency medical care and other applicable rules. If they do not follow the rules, claims for medical services may be denied. Appeals will be resolved by the CRI-BRAC office. Written procedures for obtaining care and the appeal process will be provided before the beneficiary enrolls. Enrollees must agree to stay in the program for a full year, unless they move out of an area. The enrollment of beneficiaries will be continuous and a beneficiary may choose to disenroll at any time after the first year. However, if disenrolled voluntarily, they cannot re-enroll for one year. Enrollment will not be considered accomplished until the beneficiary has paid the enrollment fee and is assigned a PCM. Enrolled beneficiaries who desire care while outside of the CRI-BRAC service areas will require authorization, except for emergencies. If authorization is not obtained, a claim may be denied.

IV. The Extra Program

CHAMPUS beneficiaries who do not choose the Prime Program will be able to continue to participate in this preferred provider option. Beneficiaries who receive care from one of the contractor's network of preferred providers will be entitled to a reduced level of cost-sharing. Under this option, beneficiaries will be covered for the same medical services as under the Standard CHAMPUS benefits program and will get discounts for office visits and hospital inpatient care by using providers who are members of the preferred providers network. Dependents of active duty service members, as an example, will pay 15% of the CHAMPUS negotiated reimbursement rate for a doctor's office visit in the contractor network instead of 20% required under the Standard CHAMPUS Program. Retirees and their families will pay 20% rather than 25% for office visits. For inpatient care, retirees will pay $200 per day (or 25% of the negotiated reimbursement rate), whichever is less, plus 20% of inpatient professional fees, instead of the current 25%. The Extra Program offers greater freedom of choice than the Prime Program because patients do not have to enroll. CHAMPUS patients can elect to use this option on a case-by-case basis. As in the Prime Program, Extra beneficiaries have the added benefit of not having to file claims forms for care received through the preferred provider network.

V. The Standard CHAMPUS Program

This program is the basic CHAMPUS Program of health care benefits and includes the CHAMPUS Program for the Handicapped. Standard CHAMPUS will continue to be available throughout the CRI-BRAC areas to CHAMPUS beneficiaries who choose not to enroll or use network providers.

V. NAS Procedures

With respect to the issuance of NASs, MTF commanders in or overlapping a CRI-BRAC area may consider the availability of services from any partnership provider in an MTF under the Military-Civilian Health Services Partnership Program, Resource Sharing or any provider in the preferred provider network. If the commander determines that, although the services are not available from the military treatment facility in or overlapping the service area, and the services are available from the preferred provider network, the commander may deny an NAS. If a NAS is denied on this basis, CHAMPUS cost sharing is not allowed if services are not obtained within the MFT or from an appropriate network provider. This policy is not applicable under emergency circumstances or when another insurance plan or program provides the beneficiary coverage for the services. A case-by-case waiver may be granted by the commander in circumstances where it would be inappropriate because of delay in treatment or other special reason where a particular provider is required. A case-by-case waiver may be granted by the MTF commander when, although care is available from a network provider, use of the provider would impose exceptional hardship on the beneficiary or their family. A formal waiver process will be established by the MTF commander, and the process shall include: (1) an opportunity for the beneficiary (and/or the beneficiary's physician) to submit information the beneficiary believes justifies a waiver; (2) a written decision from the commander on the request for a waiver, including a statement of the reason for the decision; (3) an opportunity for the beneficiary to appeal an unfavorable decision to the commander; and (4) a written decision on the appeal, including a statement of the reasons for the decision. Any additional changes to the current NAS rules which have not been outlined above will be published prior to implementation.

VII. Pharmacy Benefits for DoD Medicare Eligible Beneficiaries

Medicare eligible DoD beneficiaries may purchase pharmaceuticals at network pharmacies for the same cost share as a CHAMPUS retiree beneficiary under the PPO Program. There will be no deductible. The contractor will provide the same utilization management functions as for CHAMPUS beneficiaries. This benefit is limited to those residents of the former catchment areas of Bergstrom, Carswell, and England Air Force Bases.

Dated: April 30, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000-04-C

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Table 1

Benefits and Beneficiary Payments Under the Prime and PPO Programs

(See Note 1 Below)

I. Prime Program Annual Enrollment Fees (does not apply to the PPO Program):

PRIME PROGRAM	
Active Duty Family Members	Retirees & Their Family Members
E1 - E4 / E5 & Above	
None.	$35 per Member ($70 Maximum per Family).	$50 per Retiree or Family Member ($100 Maximum per Family).

II. PPO Program Annual Deductible (applies to all outpatient services, does not apply to the Prime Program);

PPO PROGRAM
All CHAMPUS Beneficiaries
Standard CHAMPUS deductible as defined in the CHAMPUS Policy Manual.

III. Outpatient Services:

Standard CHAMPUS Benefits	Beneficiary Copayment/Cost Share	
	PRIME PROGRAM	PPO PROGRAM
TYPE OF SERVICE	Active Duty Family Members E1 - E4 / E5 & Above	Retirees & Their Family Members
INDIVIDUAL PROVIDER SERVICES Office visits; outpatient office-based medical and surgical care; consultation, diagnosis and treatment by a specialist; allergy tests and treatment; osteopathic manipulation; medical supplies used within the office including casts, dressings, and splints.	$5 copayment per visit. / $10 copayment per visit. (See Note 2)	$15 copayment per visit.	Active Duty Family Members: Cost share--15% of the fee negotiated by contractor. Retirees and their Family Members and Survivors: Cost share--20% of the fee negotiated by the contractor.
LABORATORY AND X-RAY SERVICES	$5 copayment per visit. (See Note 2)	$10 copayment per visit (See Note 2)	

NOTE 1: The beneficiary payments in this attachment shall be applied in FY 1993. In subsequent fiscal years, beneficiary copayments (i.e., beneficiary payments expressed as a specified amount) shall be updated for inflation annually (cumulative effect applied and rounded to the nearest whole dollar) by the national CPI-U medical index (the medical component of the Urban Consumer Price Index). Enrollment fees and beneficiary cost shares (i.e., beneficiary payments expressed as a percentage of the provider's fee) will not be similarly updated.

NOTE 2: If provided as part of an office visit and a copayment is collected for the visit, no additional copayment will be collected for these services. Also, no copayment is collected for these services when they are provided as specified in Exhibit 1 to this attachment.

Benefits and Beneficiary Payments Under the Prime and PPO Programs (continued)

III. Outpatient Services (continued):

Standard CHAMPUS Benefits (continued)	Beneficiary Copayment/Cost Share			
	PRIME PROGRAM			
TYPE OF SERVICE	Active Duty Family Members		Retirees & Their Family Members	PPO PROGRAM
	E1 - E4	E5 & Above		
ROUTINE PAP SMEARS Frequency to depend on physician recommendations based on the published guidelines of the American Academy of Obstetrics and Gynecology.	No copayment.	No copayment.	No copayment.	Active Duty Family Members: Cost-share - 15% of fee negotiated by the contractor. Retirees and their Family Members and Survivors: Cost-share - 20% of the fee negotiated by the contractor.
AMBULANCE SERVICES When medically necessary as defined by the CHAMPUS Policy Manual and the service is a covered benefit.	$5 copayment per occurrence.	$10 copayment per occurrence.	$15 copayment per occurrence.	
EMERGENCY SERVICES Emergency and urgently needed care obtained on an outpatient basis, both network and non-network, and in and out of the Region.	$35 copayment per emergency room visit. $20 copayment per urgent care center visit.	$50 copayment per emergency room visit. $40 copayment per urgent care center visit.	$60 copayment per emergency room visit. $50 copayment per urgent care center visit.	
DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, AND MEDICAL SUPPLIES PRESCRIBED BY AN AUTHORIZED PROVIDER WHICH ARE COVERED BENEFITS (If dispensed for use outside of the office or after the home visit.)	Cost-share - 10% of the fee negotiated by the contractor.	Cost-share - 15% of the fee negotiated by the contractor.	Cost-share - 20% of the fee negotiated by the contractor.	
HOME HEALTH CARE Part-time skilled nursing care, physical, speech & occupational therapy when medically necessary and which are covered benefits.	$5 copayment per visit.	$10 copayment per visit.	$10 copayment per visit.	
FAMILY HEALTH SERVICES Family planning and well baby care (up to 24 months of age). The exclusions listed in the CHAMPUS Policy Manual will apply.	$5 copayment per visit. (See Note 2 on preceeding page, this Atch).	$10 copayment per visit. (See Note 2 on preceeding page, this Atch).	$15 copayment per visit. (See Note 2 on preceeding page, this Atch).	
OUTPATIENT MENTAL HEALTH One hour of therapy, no more than two times each week (when medically necessary).	$10 copayment for individual visits. $5 copayment for group visits.	$20 copayment for individual visits. $10 copayment for group visits.	$25 copayment for individual visits. $10 copayment for group visits.	

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Benefits and Beneficiary Payments Under the Prime and PPO Programs (continued)

III. Outpatient Services (continued):

Standard CHAMPUS Benefits (continued)	Beneficiary Copayment/Cost Share			
	PRIME PROGRAM			
TYPE OF SERVICE	Active Duty Family Members		Retirees & Their Family Members	PPO PROGRAM
	E1 - E4	E5 & Above		
PARTIAL HOSPITALIZATION FOR ALCOHOLISM TREATMENT Up to 21 days for rehabilitation on a limited hour per day basis. Does not count toward the limits for days of mental health inpatient care.	$10 copayment for individual visits. $5 copayment for group visits.	$20 copayment for individual visits. $10 copayment for group visits.	$25 copayment for individual visits. $10 copayment for group visits.	Active Duty Family Members: Cost-share - 15% of the fee negotaited by the contractor. Retirees and their Family Members: Cost-share - 20% of the fee negotiated by the contractor.
PRESCRIPTION DRUGS	$4 copayment per Rx up to a 30-day supply.	$4 copayment per Rx up to a 30-day supply.	$8 copayment per Rx up to a 30-day supply.	
AMBULATORY SURGERY (Same Day) Authoritzed hospital-based or free-standing ambulatory surgical center that is CHAMPUS certified.	$15 copayment for primary surgeon only.	$25 copayment for primary surgeon only.	$75 copayment for primary surgeon only.	
IMMUNIZATIONS (See Note 3) Immunizations required for active duty family members whose sponsors have permanent change of station orders to overseas locations.	$5 copayment per visit. (See Note 2 on pg 1, this Atch).	$10 copayment per visit. (See Note 2 on pg 1, this Atch).	Not covered under Standard CHAMPUS. (See Note 3)	Active Duty Family Members: Cost-share - 15% of the fee negotiated by the contractor. Retirees and their Family Members: Not covered under Standard CHAMPUS.
EYE EXAMINATIONS (See Note 3) One routine examination per year covered for family members of active duty sponsors.	$5 copayment per examination. (See Note 2 on pg 1, this Atch).	$10 copayment per examination. (See Note 2 on pg 1, this Atch).		

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NOTE 3: Additional immunizations and eye examinations covered under the Prime Program's "Enhanced Benefits".

Enhanced Benefits (SEE NOTE 4)	Beneficiary Copayment
TYPE OF SERVICE	PRIME PROGRAM
	All CHAMPUS Beneficaries
PERIODIC HEALTH PROMOTION DISEASE PREVENTION SURVEILLANCE EXAMINATIONS Includes those services listed in Exhibit 1 to this attachment which are not Standard CHAMPUS Benefits.	No copayment.

NOTE 4: No enhanced outpatient benefits under the PPO program.

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Benefits and Beneficiary Payments Under the Prime and PPO Programs (continued)

IV. Inpatient Services:

Standard CHAMPUS Benefits (See Note 5)	Beneficiary Copayment/Cost Share		
	PRIME PROGRAM (See Note 2)		
TYPE OF SERVICE	Active Duty Family Members	Retirees and Their Family Members	PPO PROGRAM
HOSPITALIZATION Semiprivate room (and when medically necessary, special care units), general nursing, and hospital service. Includes inpatient physician and their surgical services, meals including special diets, drugs and medications while an inpatient, operating and recovery room, anesthesia, laboratory tests, x-rays and other radiology services, necessary medical supplies and appliances, blood and blood products. Unlimited services with authorization, as medically necessary.	Daily per diem charge ($25 minimum charge per admission). [See CHAMPUS Policy Manual, Vol II, Chapter 3].	$125 per day copayment, with a $1,250 maximum per admission, for institutional services, plus 20% of separately billed professional charges (based on the fee schedule negotiated by the contractor).	Active Duty Family Members: Daily per diem charge ($25 minimum charge per admission). Retirees and their Family Members and Survivors: $200 per day copayment or 25% cost-share of total charges (based on the fee schedule negotiated by the contractor) for institutional services, whichever is less, plus 20% cost-share of separately billed professional charges (based on the fee schedule negotiated by the contractor).
MATERNITY Hospital and professional services (prenatal, postnatal). Unlimited services with authorization, as medically necessary.			
SKILLED NURSING FACILITY CARE Semiprivate room, regular nursing services, meals including special diets, physical, occupational and speech therapy, drugs furnished by the facility, necessary medical supplies, and appliances. Unlimited services with authorization, as medically necessary.			

NOTE 5: No enhanced inpatient benefits under Prime or PPO programs.

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Benefits and Beneficiary Payments Under the Prime and PPO Programs (continued)

IV. Inpatient Services (continued):

Standard CHAMPUS Benefits (continued)	Beneficiary Copayment/Cost Share		
	PRIME PROGRAM		
TYPE OF SERVICE	Active Duty Family Members	Retirees and Their Family Members	PPO PROGRAM
FOR MENTAL ILLNESS With authorization, up to 30 days per fiscal year for adults (age 19+), up to 45 days per fiscal year for children under age 19.	Daily per diem charge ($25 minimum charge per admission).	$100 per day copayment, or 25% cost-share of total charges (based on the fee schedule negotiated by the contractor), whichever is less, for institutional services. No copayment or cost-share for separately billed professional charges.	Active Duty Family Members: Daily per diem charge ($25 minimum charge per admission). Retirees and their Family Members and Survivors: 20% cost-share of total charges (based on the fee schedule negotiated by the contractor) for institutional services, whichever is less, plus 20% cost-share of separately billed professional charges (based on the fee schedule negotiated by the contractor).
ALCOHOLISM (Inpatient, partial) With authorization, 7 days for detoxification and 21 days for rehabilitation per 365 days. Maximum of one rehabilitation program per year and three per lifetime. Detoxification and rehabilitation days count toward limit for mental health benefits.			

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Attachment 1

ENHANCED BENEFITS

There is **no preauthorization** required for the following services. The following services are expected of good comprehensive clinical practice. There is **no co-payment** expected nor is the provider expected to unbundle the services for an additional fee or inconvenience the patient by rescheduling the following services unnecessarily.

Routine history and physical examinations are no longer recommended for health promotion disease prevention in individuals who are not being monitored as a part of a therapeutic plan for chronic disease. In counterdistinction, the Preventive Services Task Force recommends that a variety of age and sex specific services be combined into periodic health promotion disease prevention surveillance examinations. These services are reflected below.

SERVICES	FREQUENCY OR AGE INTERVAL
Lab, Xray, Mammography	Screening blood lead level: once age 12 mos - 6 yrs Rubella antibodies: females, once age 12-18 Non-fasting total blood cholesterol: Every five yrs over 18 Fecal occult blood testing: Annually age 50 & over Mammogram: Baseline age 40; every two yrs age 40-50; annually age 50 & over
Pap smears	Annually over age 18 or younger, if sexually active

Eye exams/refractions	By primary care provider: red reflex, corneal light reflex, inspection: newborn - 3 mos; 6mos - 12 mos: red reflex, corneal light reflex, inspection, differential occlusion, fixed and follow with each eye; Age 3-4: baseline optometric examination for amblyopia and/or strabismis; annual eye exams: age 5-17; every three yrs over age 18
Immunizations	DPT: 2 mos; 4 mos; 6 mos DTaP (acellular) 15-18 mos; once age 4-6 OPV: 2 mos; 4 mos; 15-18 mos; once age 4-6 MMR: age 15 mos and once age 4-6 or 11-12; once after age 19 unless evidence of immunity Td: once age 14-16; every 10 yrs thereafter Pneumococcal vaccine: persons at increased risk due to other medical condition HIB: age 2, 4, 6, & 15 mos PPD: 12 mos; after close contact with person with suspected TB Hepatitis B: see schedule below for infants; once age 11-19 if not immunized as an infant

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Periodic health promotion disease prevention exams over 24 mos of age	One eval and followup during following age intervals: 2-4; 5-11; 12-17; 18-39; 40-64 Blood pressure during part of above exams Clinical breast exam annually age 40 & above Clinical testicular exam annually age 18 & over Rectal prostate exam annually age 18 & over
Blood pressure	Every two years age 18 & over
Hearing screening	Otoacoustic emissions (OAE) screening: infant-before leaving hospital; Once age 2-5; Once age 6-10; Once age 12-17; Once age 40-59; Once age 60-65
Sigmoidoscopy or colonoscopy	Once every 3-5 yrs over age 50
Serologic screening of all pregnant women for HBsAg (hepatitis B surface antigen)	Infants born to HBsAg-negative mothers receive HBG vaccine before discharge; second dose at 1-2 mos of age; third dose at 6-18 mos of age. Infants born to HBsAg-positive mothers immunize with HBIG preferably within 12 hrs of birth. Second and third doses at 1 and 6 months of age. Serologic status should be checked at 9 mos and fourth dose administered to infants who are HBsAg-negative with titers of anti-HBs < 10 mIU/mL. Re-test one month later for anti-HBs. Up to two additional doses may be considered for those who fail to respond.

Patient & parent education and counseling: Dietary assessment & nutrition Physical activity & exercise Cancer surveillance Sexual practices Substance abuse Injury prevention Promoting dental health Stress & bereavement	These are expected components of good clinical practice that are integrated into the office visit at no additional charge.

[FR Doc. 93-10539 Filed 4-30-93; 8:45 am]
BILLING CODE 8909-04-M

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Department of the Navy

Board of Advisors to the Superintendent, Naval Postgraduate School; Meeting

Notice was published on Thursday, April 22, 1993, at 58 FR 21563, that the Board of Advisors to the Superintendent, Naval Postgraduate School, was to have held a meeting on May 20-21, 1993. That meeting has been rescheduled and will be held on May 19-20, 1993. All other information in the previous notice remains effective. In accordance with 5 U.S.C. section 552b(e)(2), the meeting change is publicly announced at the earliest time.

For further information concerning this meeting contact: Commander Wayne A. Wagner, USN (Code 007), Naval Postgraduate School, Monterey, CA, 93943-5001, Telephone (408) 656-2512.

April 26, 1993.

Michael P. Rummel

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-10252 Filed 5-3-93; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF EDUCATION

Fund for the Improvement and Reform of Schools and Teaching Board; Meeting

AGENCY: Fund for the Improvement and Reform of Schools and Teaching Board, Education.

ACTION: Notice of a closed meeting.

SUMMARY: This notice sets forth the schedule and agenda of a closed meeting of the Fund for the Improvement and Reform of Schools and Teaching Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: May 13, 1993, 9 a.m.–5 p.m.; May 14, 1993 9 a.m.–12 noon.

ADDRESSES: Washington Vista operated by Hilton International, 1400 M Street, NW., Washington, DC on May 13, 9 a.m.–5 p.m.; May 14, 9 a.m.–12 noon.

FOR FURTHER INFORMATION CONTACT: Paula Shipp, Fund for the Improvement and Reform of Schools and Teaching, U.S. Department of Education, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208–5524, (202) 219–1496.

SUPPLEMENTARY INFORMATION: The Fund for the Improvement and Reform of Schools and Teaching (FIRST) Board was established under section 3231 of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297).

The Board was established to advise the Secretary concerning developments in education that merit his attention; identify promising initiatives to be supported under the authorizing legislation; and advise the Secretary and the Director of FIRST on the selection of projects under consideration for support, and on planning documents, guidelines and procedures for grant competitions carried out by FIRST.

The FIRST Board Meeting will be closed to the public for the Board to read and discuss the Family School Partnership Program applications submitted for funding. The review and discussions during this closed meeting will involve applicants, funding requests and levels, and names and comments of expert reviewers which would likely disclose commercial or financial information obtained from a person and privileged or confidential, or would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (4) and (6) of section 522b(c) of title 5 U.S.C.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of title 5 U.S.C. 552b(c) will be available to the public within fourteen days of the meeting.

Records are kept of all Board proceedings, and are available for public inspection at the office of the Fund for the Improvement and Reform of Schools and Teaching, U.S. Department of Education, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208–5524, from the hours of 8:30 a.m. to 5 p.m.

Emerson J. Elliott,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 93-10393 Filed 4-30-93; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of March 29 Through April 2, 1993

During the week of March 29 through April 2, 1993, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

APPEALS

David Rodriquez Soler, 3/31/93, LFA-0272

David Rodriquez Soler filed an Appeal from a partial denial by the DOE's Office of Inspector General of a Request for Information which he had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that no further search for responsive documents was necessary since Mr. Soler would already receive all documents that were responsive to his request.

International Brotherhood of Electrical Workers Local Union 1579, 3/31/93, LFA-0275

The International Brotherhood of Electrical Workers Local Union 1579 (IBEW) filed an Appeal from a determination issued to it on February 8, 1993, by the Savannah River Field Office (Savannah River) of the DOE, which denied in part a request for information filed under the Freedom of Information Act (FOIA). In its Appeal, the IBEW challenged Savannah River's application of Exemption 6 to the names, addresses, and social security numbers found in the requested certified payroll records and requested that the DOE direct the Authorizing Official to release the withheld information. In considering the Appeal, the DOE found that Savannah River properly withheld the names, addresses, and social security numbers from the certified payroll records. Therefore, the IBEW Appeal was denied.

Power City Electric, Inc., 4/1/93, LFA-0274

Power City Electric, Inc. (Power City), filed an Appeal from a determination issued by the Bonneville Power Administration (BPA) of the DOE in response to a request from Power City under the Freedom of Information Act (FOIA). Power City sought documents related to contract no. 16442 (the Alvey substation project). In considering the Appeal, the DOE found that BPA did not properly justify withholding responsive information as intra-agency or predecisional and deliberative under the deliberative process privilege of Exemption 5. Moreover, the DOE found that the BPA should have consulted with the appellant rather than unduly limiting its search for responsive material. The DOE also found that certain material was deliberative and predecisional and was properly withheld. Accordingly, the Appeal was granted in part and remanded and denied in all other respects.

Refund Applications

Gulf Oil Corporation/James River Corporation, 4/1/93, RF300-21718

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding by James River Corporation. The Application for Refund was dismissed because it was filed after the March 1, 1993 deadline established as the final filing date for the Gulf proceeding.

Shell Oil Company/Power Oil Co., Inc., 3/30/93, RF315-5777

The DOE issued a Decision and Order granting, in part, an Application for Refund filed in the Shell Oil Company special refund proceeding on behalf of Power Oil Co., Inc. (Power). Power requested that the DOE approve a refund equal to the full allocable share for its purchases of Shell gasoline during the refund period. However, in its attempt to demonstrate injury, the firm relied upon annual purchase data obtained from Shell customer records that neither provide a monthly breakdown of purchases nor differential between the volume of regular and premium grades of gasoline purchased. The use of this type of combined annual data could potentially overstate the amount of the firm's injury. Therefore, the DOE determined that Power had not sufficiently demonstrated that it was injured to the extent of the full volumetric amount and granted Power a refund based upon the $5,000 presumption of injury for its eligible purchases of 44,111,543 gallons of Shell gasoline.

Texaco, Inc./Alec Texaco, 3/31/93 RR321-107

Fred Tautenhahn filed a Motion for Reconsideration of a Decision and Order in which the DOE had approved a refund of $4,494 (plus interest) in the Texaco refund proceeding for Alec Texaco under the medium-range presumption of injury. The outlet was granted a refund equal to 50 percent of its volumetric share even though its approved gallonage was under the maximum threshold for a full volumetric small claims refund based upon a finding that its owner, Canadian American Oil Co. (Canadian), had previously received two other refunds whose total gallonage placed the firm within the medium-range category. In the Motion, Mr. Tautenhahn stated that Alec Texaco was operated as a partnership in which he and Canadian each owned 50 percent. He further stated that he had no ownership interest in either Canadian or the other two outlets for which Canadian received refunds. After these statements were substantiated, the DOE determined that Mr. Tautenhahn was entitled to a full volumetric refund of $4,494 for his share of Alec Texaco's approved gallonage. Accordingly, the Motion for Reconsideration was approved. Since Mr. Tautenhahn, as a 50 percent partner, was entitled to 1/2 of Alec Texaco's original refund, or $2,247, he was granted an additional refund of $2,247 (plus interest) in the present Decision.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Cabrillo ARCO	RF304-9140	04/01/93
Paul B'S ARCO	RF304-9141	
Atlantic Richfield Company/Issa Jreisat et al	RF304-13587	03/31/93
Atlantic Richfield Company/Superior Potato Chips, Inc. et al	RF304-13357	04/01/93
Atlantic Richfield Company/W.N. Tetrault	RR304-57	04/01/93
Bad Axe Public Schools et al	RF272-81331	03/30/93
Bishop Baking Company, Inc.	RC272-178	03/31/93
Capital Cab Company	RC272-177	03/31/93
Clark Oil & Refining Corp./Wicker Super 100	RF342-211	04/01/93
Jim's Clark Super 100	RF342-319	
Diamond Transportation System	RC272-180	04/01/93
Douglas Rice Farm et al	RF272-90716	03/31/93
Franklin Pierce School District et al	RF272-82404	03/30/93
Gulf Oil Corporation/C & R Oil Co., Inc.	RF300-21725	03/31/93
C & R Oil Co., Inc.	RF300-21726	
Gulf Oil Corporation/CSX Transportation, Inc.	RF300-16767	03/31/93
Gulf Oil Corporation/Gulfstream, Inc.	RF300-15449	03/31/93
Gulf Oil Corporation/Horn's Gulf et al	RF300-17743	03/30/93
Gulf Oil Corporation/M & S Gulf et al	RF300-14283	03/31/93
Gulf Oil Corporation/Southend Gulf Service Station	RF300-17738	03/31/93
Huntsville Gulf Serv. Station	RF300-17739	
Lansdale Yellow Cab Co.	RC272-179	04/01/93
Reynolds School District 007 et al	RF272-80708	03/31/93
Shell Oil Company/Aluminum Company of America	RF315-8785	04/01/93
Odessa L.P.G. Transport, Inc.	RF315-8925	
Jerry's Super Shell Service	RF315-10158	
Texaco Inc./Armstrong and Davis Texaco #5 et al	RF321-9790	03/30/93
Texaco Inc./Bob's Plaza Texaco Service et al	RF321-16864	04/01/93
Texaco Inc./Crossroad Texaco et al	RF321-18723	03/30/93
Texaco Inc./D.G. Mock Oil Company	RF321-18238	03/31/93
Texaco Inc./Davidson Oil & Supply Co.	RF321-19671	03/31/93
Texaco Inc./Elliott Texaco et al	RF321-18765	03/31/93
Texaco Inc./I-20 East Texaco et al	RF321-16403	03/31/93
Texaco Inc./Leo's Texaco et al	RF321-7184	03/30/93
Texaco Inc./Navy Exchange Service Center et al	RF321-16222	03/31/93
Texaco Inc./Puckett's Texaco et al	RF321-6143	03/30/93
Texaco Inc./Teel's Texaco	RF321-19672	04/01/93

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Town of Houlton et al	RF272-63634	03/31/93
Turkey Valley Community School et al	RF272-81271	03/31/93

Dismissals

The following submissions were dismissed:

Name	Case No.
Adams Station	RF300-16310
Allen's Grocery	RF300-16271
Andrews' Gulf Station	RF300-15088
Asarco Incorporated	RF315-7308
Bickley's Logging	RF300-16280
Boswell's Texaco	RF321-7377
Chilhowie Gulf	RF300-16164
Chuck's Auto Service	RF300-16343
City Service Station	RF300-16406
Creole Supply, Inc.	RF304-12160
East Street Texaco Service	RF321-12344
Evangeline Parish School Board.	RF272-87525
Fairhill Texaco	RF321-12660
Kling Brothers Division	RF304-9247
Lima City School District	RF272-87542
Lisbon c.c. School District	RF272-87617
Major Oil Company #2	RF321-12662
Mayfair Shell	RF315-1171
Mcnutt Chrysler Plymouth Dodge.	RF321-13580
Medora Texaco	RF321-12663
Melvin Gordon	RF304-9273
Orland Joint Union H.S.	RF272-87598
Ottawa-Glandorf Local S.D.	RF272-87648
Pauls Gulf Service #1	RF300-15971
Peoria Heights C.U. School District #325.	RF272-81887
Peotone C.U.S.D. 207U	RF272-87632
Poland Central School	RF272-87625
Poplar Elementary #9	RF272-87623
Poplar High School #9b	RF272-87622
Ron's Super Shell	RF315-6207
T&R Arco	RF304-13667
Triangle Mart	RF300-16457
Vic's Super Service	RF300-15372
Warren's Texaco	RF321-54

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: April 27, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 93-10387 Filed 4-30-93; 8:45 am]

BILLING CODE 6450-01-P

Office of Domestic and International Energy Policy; Consultation With Energy Intensive Industries

AGENCY: Office of Energy Demand Policy, Department of Energy.

ACTION: Notice of initiation of consultation with affected industries and interested parties.

SUMMARY: In accordance with section 131(c) of the Energy Policy Act of 1992 (Pub. L. 102-486), the Office of Energy Demand Policy of the Department of Energy is preparing a report to Congress on the costs and benefits of establishing mandatory energy efficiency reporting requirements and voluntary energy efficiency improvement targets and the role of such activities in improving energy efficiency in energy intensive industries. The Department is initiating consultations with potentially affected industries and is seeking information from energy intensive industries and other industries that consume a significant amount of energy.

DATES: Respondents are requested to submit two copies of all correspondence related to this issue. Information should be submitted on or before June 2, 1993. If you expect that you will be submitting information, but find it difficult to do so within the 30-day time period, please advise the contact, listed below, of your intentions.

ADDRESSES: Comments and suggestions should be submitted in writing to: Mr. Jeffery Dowd, Office of Energy Demand Policy (EP-50), Office of Domestic and International Energy Policy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, FAX (202) 586-8134.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mr. Jeffery Dowd, Industry Specialist, at the above address, or by telephone at (202) 586-7258.

SUPPLEMENTARY INFORMATION: Section 131(c) of the Energy Policy Act of 1992 requires that:

• • • the Secretary shall, in consultation with affected industries, evaluate and report to the Congress regarding the establishment of Federally-mandated energy efficiency reporting requirements and voluntary energy efficiency improvement targets for energy intensive industries. Such report shall include an evaluation of the costs and benefits of such reporting requirements and voluntary energy efficiency improvement targets, and recommendations regarding the role of such activities in improving energy efficiency in energy intensive industries.

Industries, corporations, and other interested parties are invited to submit comments and suggestions on the costs and benefits and potential role of mandatory reporting requirements and voluntary energy efficiency targets in improving energy efficiency. The Department is especially interested in hearing from industries and associations that are currently administering energy efficiency reporting programs and/or were involved in the previous Industrial Energy Efficiency Improvement Program (CE-189). The latter program, which was established by the Energy Policy and Conservation Act of 1976, was operated by the Department from 1976 to 1985 (10 CFR part 445 (1992)).

These questions are being listed as a guide to responses to this notice. Response to these questions is voluntary:

1. If you were involved in the previous CE-189 program, are you aware of costs and benefits to your corporation or establishment that may have been associated with the program?

2. Would increased awareness of energy efficiency performance in your corporation make a difference to any of your operations (e.g., setting goals to reduce energy use, establishing in-house energy use record-keeping, budget control, and monitoring; or facilitating capital investment in higher-efficiency equipment)?

3. Do you have any suggestions for addressing issues that were raised concerning the previous CE-189 program? Relevant issues include:

—Reporting mechanisms, including reporting authority (e.g., reporting directly to the Department of Energy versus reporting through an industry association or other qualified third-party sponsor),
—Reporting entity (i.e., at the establishment or corporation level),
—Appropriate data reporting level (by two-digit or four-digit SIC code),
—Measures of efficiency,
—Reporting frequency, or
—Selection of base year.

4. The CE-189 program established voluntary targets for energy efficiency improvement in energy intensive industries. If new voluntary targets are established, would such targets facilitate or increase the likelihood of energy efficiency improvements in your corporation or establishment? How should they be developed and at what SIC level?

5. What mechanisms other than mandatory reporting requirements and voluntary targets could be used to encourage increased energy efficiency by energy intensive industries? What are your views on the advantages and disadvantages of such mechanisms, as compared with establishment of mandatory reporting requirements and voluntary energy efficiency improvement targets?

6. What is your opinion on the advantages and disadvantages of establishing mandatory reporting requirements and voluntary targets for corporations and establishments that consume less than 1 trillion BTU per year?

7. What specific options for establishing mandatory reporting and voluntary targets would you suggest be included in the Department's evaluation?

Respondents are also invited to submit additional information that they believe is relevant to the evaluation, including general comments and suggestions.

All written information provided by industry will be available for public inspection at the Department of Energy, Freedom of Information Reading Room, room 1E190, 1000 Independence Avenue, SW., Washington DC 20585, between the hours 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays. Pursuant to provisions of 10 CFR 1004.11 (1983), any person submitting information believed to be confidential and exempt by law from public disclosure should submit one copy only of the document and, if possible, 10 additional copies in which information believed to be confidential has been deleted. The Department of Energy will determine the confidential status of the information and treat it accordingly.

In addition to publication of this announcement in the **Federal Register**, the Department will be contacting representatives of industries and trade associations that are in energy intensive industries, as well as other interested parties. In initial contacts planned for the next two months, these persons and associations will be asked if they would like to provide opinions, ideas, and information that they believe to be relevant to the evaluation of costs and benefits of mandatory reporting requirements and voluntary energy efficiency improvement targets and recommendations to be included in the report. Following development of preliminary findings from the evaluation, the Department expects to further consult with industry and other interested parties to provide an opportunity for informal comments and additional information. The latter consultations are tentatively scheduled for early September. Comments and suggestions provided by industry in response to this notice and in the course of individual consultations will be used in preparing the Report to Congress.

Issued in Washington, DC on April 30, 1993.

Vito Stagliano,

Acting Assistant Secretary, Office of Domestic and International Energy Policy.

[FR Doc. 93-10391 Filed 4-30-93; 8:45 am]

BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Docket Nos. ER93-557-000, *et al.*]

Lakewood Cogeneration, L.P., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Lakewood Cogeneration, L.P.

[Docket No. ER93-557-000]

April 19, 1993.

Take notice that on April 12, 1993, Lakewood Cogeneration, L.P. (Lakewood) tendered for filing, pursuant to section 205 of the Federal Power Act and 18 CFR part 35, an Application for an Order Accepting Rates for Filing, Determining Rates to be Just and Reasonable and Waiving the Application of Various Regulations under parts II and III of the Federal Power Act and Request for Expedited Treatment applicable to the sale of energy and capacity to Jersey Central Power & Light Company (JCP&L) from a cogeneration facility located in Lakewood, New Jersey. Lakewood requests that the Commission accept its rates for filing, waive the 60-day notice requirement, and waive any regulations that are not appropriately applicable to qualifying facilities or independent power producers.

A copy of the Application was served on JCP&L.

Comment date: May 3, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Seminole Electric Cooperative, Inc. v. Florida Power & Light Company

[Docket No. EL93-28-000]

April 19, 1993.

Take notice that on April 2, 1993, Seminole Electric Cooperative, Inc. (Seminole) tendered for filing a complaint against Florida Power & Light Company (FPL). In its complaint Seminole requests that the Commission issue an order: (1) Finding that the rate currently charged by FPL for transmission service under the Amended Agreement To Provide Specified Transmission Services between FPL and Seminole, designed as FPL FERC Rate Schedule 78, is unjust and unreasonable, produces excessive revenues from Seminole, and should be reduced; (2) establishing a refund-effective date 60 days after the date of filing of this complaint; (3) setting this matter for hearing for the purposes of (i) determining and fixing just and reasonable rates for the service at issue and (ii) determining the appropriate amount of, and ordering, refunds; (4) ordering consolidation of the consideration of the matters raised by this complaint with the ongoing proceedings in Docket No. ER93-465-000; and (5) affording Seminole such other relief as may be deemed appropriate.

Comment date: May 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of Colorado

[Docket No. ER92-317-002]

April 19, 1993

Take notice that on April 14, 1993, Public Service Company of Colorado submitted for filing with FERC a revised copy of its Transmission Service Tariff. This filing, which entails minor changes to Sections 9 and 11.2.1 of the Tariff, was in response to a telephone request from FERC Staff.

Public Service states that copies of the filing have been served on the parties in this docket.

Comment date: May 3, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Georgia Power Company

[Docket No. ER93-325-000]

April 19, 1993.

Take notice that on April 15, 1993, Georgia Power Company (Georgia Power) tendered for filing an amendment to the negotiated change in partial requirements rates previously filed in this docket. Georgia Power states that its amendment cures deficiencies and provides additional information requested by the Director of the Division of Applications.

Georgia Power renews its request for a January 1, 1993 effective date and states that copies of the filing have been served on both of its partial requirements customers.

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Comment date: May 3, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Commonwealth Edison Company

[Docket No. ER93-567-000]

April 19, 1993.

On September 11, 1992, Commonwealth Edison Company (Edison) tendered for filing an Interchange Agreement, dated August 13, 1992, between Edison and Wabash Valley Power Association, Inc. (Wabash Valley). The Interchange Agreement provides for Edison to make Firm Power, short Term Power, and General Purpose Energy available to Wabash Valley whenever mutually agreed upon. Take notice that on April 14, 1993, Edison tendered for filing a revised Interchange Agreement, dated March 23, 1993, between Edison and Wabash Valley which cancels and supersedes in its entirety the August 13 Interchange Agreement.

Copies of this filing were served upon the Illinois Commerce Commission and Wabash Valley.

Comment date: May 3, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. PSI Energy, Inc.

[Docket No. ER93-550-000]

April 19, 1993.

Take notice that PSI Energy, Inc. (PSI), on April 8, 1993, tendered for filing pursuant to the Interchange Agreement between Illinois Municipal Electric Agency and PSI, a First Supplemental Agreement dated April 1, 1993.

Said Supplemental Agreement provides for the following:

1. A revision to the language on emission allowances.

2. A cap on the amount of capacity available at the "up to" rate.

Copies of the filing were served on the Illinois Municipal Electric Agency, the Illinois Commerce Commission and the Indiana Utility Regulatory Commission.

Comment date: May 3, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER93-551-000]

April 19, 1993.

Take notice that on April 8, 1993, Northern States Power (NSP) tendered for filing Agreement No. 6, dated March 30, 1993, to the Interconnection Agreement dated November 18, 1965 among Northern States Power Company (Minnesota) (NSP-MN), Northern States Power Company (NSP-WI), and Wisconsin Electric Power Company (WEP). This Interconnection Agreement is designated as NSP-MN FERC Rate Schedule No. 319, NSP-WI FERC Rate Schedule No. 39, and WEP FERC Rate Schedule No. 28.

Amendment No. 6 provides for sales of Supplemental Energy by NSP to WEP.

Copies of this filing have been provided to the respective parties and to the State Commissions of Minnesota, North Dakota, South Dakota, Wisconsin, and Michigan.

NSP requests that the proposed rate schedule be accepted for filing effective June 1, 1993 to coincide with the terms of Amendment No. 6 to the Interconnection Agreement named above.

Comment date: May 3, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. The Montana Power Company

[Docket No. ER93-561-000]

April 19, 1993.

Take notice that on April 13, 1993, The Montana Power Company (Montana) tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Montana and the Bonneville Power Administration (BPA).

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Public Law 96-501. The Agreement provides for the exchange of electric power between Montana and BPA for the benefit of Montana's residential and farm customers.

A copy of the filing has been served upon BPA.

Comment date: May 3, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Orange and Rockland Utilities, Inc.

[Docket No. ER93-558-000]

April 19, 1993.

Take notice that on April 12, 1993, Orange and Rockland Utilities, Inc. (Orange and Rockland) tendered for filing pursuant to the Federal Energy Regulatory Commission's order issued January 15, 1988, in Docket No. ER88-112-000, an executed Service Agreement between Orange and Rockland and Mack Bros. Ltd.

Comment date: May 3, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. New York State Electric & Gas Corporation

[Docket No. ER93-421-000]

April 19, 1993.

Take notice that on April 12, 1993, New York State Electric & Gas Corporation (NYSEG) tendered for filing an amendment to its March 2, 1993 filing in this docket. The amendment consists of additional information concerning the March 2, 1993 filing of an agreement for the installation, ownership and maintenance by NYSEG of certain facilities at its Coopers Corners and Fraser Substations in connection with the construction by the Power Authority of the State of New York (NYPA) of its Marcy-South Transmission Lines. NYSEG has requested waiver of notice requirements so that the Rate Schedule can be made effective as of December 8, 1983, Supplement No. 1 as of September 27, 1984, Supplement No. 2 as of June 28, 1985, Supplement No. 3 as of July 1, 1987, Supplement No. 4 as of July 1, 1988, Supplement No. 5 as of July 1, 1989, Supplement No. 6 as of July 1, 1990, Supplement No. 7 as of July 1, 1991 and Supplement No. 8 as of July 1, 1992.

NYSEG states that a copy of the amendment has been served by mail upon NYPA and upon the Public Service Commission of the State of New York.

Comment date: May 3, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Midwest Power Systems Inc.

[Docket No. ER93-560-000]

April 19, 1993.

Take notice that on April 13, 1993, Midwest Power Systems Inc. tendered for filing an executed Service Schedule Agreement for wholesale electric power and energy between Midwest Power Systems Inc. (MPSI) and the City of Wall Lake, Iowa (City), whereby MPSI will provide wholesale electric power and energy as required by the City above the amount provided by the Western Area Power Administration (Western). MPSI is filing this Agreement pursuant to the established Electric Tariff Volume No. 1, Original Issue Sheets Nos. 7, 8, and 9.

Notice of this filing has been served upon the Iowa Utilities Board and the City of Wall Lake.

Comment date: May 3, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Rye Patch Limited Partnership

[Docket No. QF92-186-002]

April 19, 1993.

On April 13 and 15, 1993, Rye Patch Limited Partnership tendered for filing a supplement to its filing in this docket.

The supplement pertains to the ownership structure and technical aspects of its small power production facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: May 7, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. City of Cleveland, Ohio v. Cleveland Electric Illuminating Company

[Docket No. EL93-31-000]

April 19, 1993.

Take notice that on April 9, 1993, the City of Cleveland, Ohio (Cleveland) tendered for filing a Complaint against Cleveland Electric Illumninating Company (CEI). In its Complaint Cleveland requests that the Commission establish the earliest permissible refund effective date for the rates, terms and conditions filed by CEI in its Application for Increase in Rates for Firm Power Service, filed March 22, 1993, in Docket No. ER93-471-000.

Comment date: May 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

14. Southern California Edison Company

[Docket No. ER93-559-000]

April 19, 1993.

Take notice that on April 13, 1993, Southern California Edison Company (Edison) tendered for filing a change of rates for transmission service as embodied in Edison's agreements with the following entities which reflects a decrease in the rate of return from 10.59 percent to 9.94 percent authorized by the California Public Utilities Commission (CPUC) to be made effective January 1, 1993.

Entity	Rate schedule FERC No.
1. City of Anaheim	130, 241, 246.04, 246.06, 246.08, 246.13
2. City of Azusa	160, 242, 247.04, 247.06, 247.08, 247.10, 247.18
3. City of Banning	159, 243, 248.05, 248.07, 248.09, 248.11, 248.17
4. City of Colton	162, 244, 249.04, 249.06, 249.08, 249.10, 249.18
5. City of Riverside	129, 245, 250.02, 250.04, 250.06, 250.08, 250.10, 250.15, 250.21, 250.26
6. City of Vernon	149, 154.07, 172, 207, 257, 263, 272
7. Arizona Electric Power Cooperative (AEPCO)	131, 161
8. Arizona Public Service Company (APS)	185
9. California Department of Water Resources (CDWR)	38, 112, 113, 181, NA[1]
10. City of Burbank (Burbank)	166
11. City of Glendale (Glendale)	143
12. City of Los Angeles Department of Water and Power (DWP)	102, 118, 140, 141, 163, 188, 219
13. City of Pasadena (Pasadena)	158
14. Imperial Irrigation District (IID)	259, 268
15. M-S-R Public Power Agency (M-S-R)	153
16. Northern California Power Agency (NCPA)	240
17. Pacific Gas and Electric Company (PG&E)	117, 147, 256
18. San Diego Gas and Electric Company (SDG&E)	151, 232
19. Western Area Power Administration (WAPA)	120

[1] FERC rate number "not available", agreement filed April 8, 1993.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: May 3, 1993, in accordance with Standard Paragraph E at the end of this notice.

15. Louis Dreyfus Electric Power, Inc.

[Docket No. ER92-850-002]

April 20, 1993.

Take notice that on March 15, 1993, Louis Dreyfus Electric Power, Inc. (Dreyfus) filed certain information as required by the Commission's letter order dated December 2, 1992, in this proceeding. 61 FERC § 61,303. Copies of Dreyfus' informational filing are on file with the Commission and are available for public inspection.

16. Multitrade Limited Partnership and Multitrade of Pittsylvania County, L.P.

[Docket No. ER93-427-000]

April 26, 1993.

Take notice that on April 21, 1993, Multitrade of Pittsylvania County, L.P. (MPC) filed supplemental information regarding its filing in this docket.

Comment date: May 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

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17. Philadelphia Electric Company

[Docket No. ER93-578-000]

April 26, 1993.

Take notice that on April 21, 1993, Philadelphia Electric Company (PE) tendered for filing under section 205 of the Federal Power Act and part 35 of the Regulations issued thereunder, an Agreement between PE and Consolidated Edison Company (Con Edison) dated April 13, 1993.

PE states that the Agreement sets forth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to Con Edison. In order to optimize the economic advantage to both PE and Con Edison, PE requests that the Commission waive its customary notice period and permit the agreement to become effective on April 26, 1993.

PE states that a copy of this filing has been sent to Con Edison and will be furnished to the Pennsylvania Public Utility Commission and the New York Public Service Commission.

Comment date: May 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

18. Northeast Utilities Service Company

[Docket No. ER93-94-000]

April 26, 1993.

Take notice that on April 21, 1993, Northeast Utilities Service Company (NUSCO) tendered for filing additional information requested by the Commission staff in the above referenced docket.

Comment date: May 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

19. Commonwealth Edison Company

[Docket No. ER93-390-000]

April 26, 1993.

Take notice that on April 21, 1993, Commonwealth Edison Company (Edison) submitted additional information in support of its filing of Amendment No. 7, dated February 21, 1992, to the Interconnection Agreement, dated March 1, 1975, between Edison and Wisconsin Power and Light Company (Wisconsin Power).

Copies of this filing were served upon Wisconsin Power, the Illinois Commerce Commission, and the Public Service Commission of Wisconsin.

Comment date: May 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

20. Central Vermont Public Service Corporation

[Docket No. ER93-386-000]

April 26, 1993.

Take notice that on April 21, 1993, Central Vermont Public Service Corporation tendered for filing an amendment containing supplemental financial information to its February 22, 1993 filing in this docket.

To the extent necessary to allow for the sale of power pursuant to the Service Agreement commencing April 19, 1993, Central Vermont requests that the Commission waive its notice requirements. In support of its requests Central Vermont states that allowing the Service Agreement to become effective as provided will enable the Company and its customers to achieve mutual benefits.

Comment date: May 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

21. San Joaquin Valley Energy Partners I, L.P.

[Docket No. QF87-354-002]

April 26, 1993.

On April 19, 1993, San Joaquin Valley Energy Partners I, L.P. of 24772 Road 16, Chowchilla, California 93610 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the 9.88 MW, biomass-fueled small power production facility is located in Merced County, California. The Commission previously certified the facility as a qualifying small power production facility, *El Nido Biomass Limited Partnership*, 39 FERC ¶ 62,263 (1987). On July 31, 1992, in Docket No. QF87-354-001, applicant filed a notice of self recertification to reflect a change in the ownership which is the subject of instant request for recertification. The ownership was changed from El Nido Biomass Limited Partnership to San Joaquin Valley Energy Partners I, L.P. Through subsidiaries, Northern States Power Company, a public utility will have 45% interest in the facility.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

22. Union Pacific Energy Company

[Docket No. QF93-41-000]

April 26, 1993.

On April 13, 1993, and April 19, 1993, Union Pacific Energy Company (Applicant) tendered for filing supplements to its filing in this docket.

The supplements provide additional information pertaining to the ownership and technical aspects of its small power production facility. No determination has been made that the submittals constitute a complete filing.

Comment date: May 14, 1993, in accordance with Standard Paragraph E end of this notice.

23. San Joaquin Valley Energy Partners I, L.P.-Madera facility

[Docket No. QF87-689-004]

April 26, 1993.

On April 19, 1993, San Joaquin Valley Energy Partners I, L.P. of 24772 Road 16, Chowchilla, California 93610 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the 25 MW, biomass-fueled small power production facility is located in Madera County, California. The Commission previously certified the facility as a qualifying small power production facility, *Madera Power Plant Partnership*, 41 FERC ¶ 62,279 (1987), (Madera). On September 30, 1987, in Docket No. QF87-689-001, and on October 18, 1989, in Docket No. QF87-689-002, Madera filed notices of self recertification. On July 31, 1992, in Docket No. QF87-689-003, applicant filed a notice of self recertification to reflect a change in the ownership which is the subject of instant request for recertification. The ownership was changed from Madera Power Plant Partnership to San Joaquin Valley Energy Partners I, L.P. Through subsidiaries, Northern States Power Company, a public utility will have 45% interest in the facility.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

24. San Joaquin Valley Energy Partners I, L.P.-Chowchilla II facility

[Docket No. QF87-634-003]

April 26, 1993.

On April 19, 1993, San Joaquin Valley Energy Partners I, L.P. of 24772 Road 16, Chowchilla, California 93610 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the 9.88 MW, biomass-fueled small power production facility is located in Chowchilla, California. On August 28, 1987, in Docket No. QF87-634-000, Chowchilla Biomass Power Plant Associate II (Chowchilla II) filed a notice of self certification of a 7.3 MW facility. on September 13, 1989, in Docket No. QF87-634-001, Chowchilla II filed a notice of self recertification changing the capacity to approximately 10 MW. On July 31, 1992, in Docket No. QF87-634-002, applicant filed a notice of self re-certification to reflect a change in the ownership which is the subject of instant request for recertification. The ownership was changed from Chowchilla II to San Joaquin Valley Energy Partners, I, L.P. Through subsidiaries, Northern States Power Company, a public utility will have 45% interest in the facility.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10260 Filed 4-30-93; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 2395-003, et al.]

Hydroelectric Applications [Flambeau Paper Corporation, et al.] Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 2395-003.

c. *Date filed:* December 31, 1991.

d. *Applicant:* Flambeau Paper Corporation.

e. *Name of Project:* Pixley.

f. *Location:* On the North Fork Flambeau River near Park Falls in Price County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. James M. McGinnity, 200 North First Avenue, Park Falls, WI 54552, (715) 762-3231.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219-2814.

j. *Deadline Date:* See paragraph D9. (June 28, 1993).

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D9..

l. *Description of Project:* The licensed project would consist of the following existing facilities: (1) A 25-foot-high earth dikes; (2) a 46-foot-long concrete gated spillway section; (3) a reservoir with a surface area of 193 acres at surface elevation 1,448.7 feet NGVD and a storage area of 1,757 acre-feet; (4) a powerhouse containing two generating units having a total installed capacity of 960 kW; and (5) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 5,948,500 kWh.

m. *Purpose of Project:* Project power would be used by the applicant's paper mill operation..

n. *This notice also consists of the following standard paragraphs:* A4 and D9.

o. *Available Location of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208-1371. A copy is also available for inspection and reproduction at Flambeau Paper Corporation, 200 North First Avenue, Park Falls, WI 54552, or by calling (715) 762-3231.

2 a. *Type of Application:* New Major Licenses.

b. *Project Nos.:* 2580-015, 2599-005.

c. *Date Filed:* December 19, 1991.

d. *Applicant:* Consumers Power Company.

e. *Name of Project:* Tippy (Project No. 2580-015), Hodenpyl (Project No. 2599-005).

f. *Location:* On the Manistee River within the Manistee National Forest in Manistee and Wexford Counties, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillac, MI 49601, (616) 775-0176.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219-2814.

j. *Comment Date:* See paragraph D9. (June 7, 1993).

k. *Status of Environmental Analysis:* These applications are ready for environmental analysis at this time—see attached paragraph D9.

l. *Description of Projects:* See paragraph D9.

Tippy—The licensed project would consist of: (1) A 576-foot-long earth embankment dam; (2) a reservoir with a surface area of 1,330 acres and a storage capacity of 27,620 acre-feet; and, (3) a total rated capacity of 20.1 MW.

Hodenpyl—The licensed project would consist of: (1) A 4,165-foot-long earth embankment dam; (2) a reservoir with a surface area of 1,798 acres and a storage capacity of 39,684 acre-feet; and, (3) a total rated capacity of 17 MW.

The existing projects would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

A joint Offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service and the Michigan State Historic Preservation Officer was filed with the Commission on December 17, 1992, and was supplemented on March 25, 1993.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* A4 and D9.

o. *Available Location of Application:* A copy of the application and the Offer of Settlement Agreement are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208-1371. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (616) 775-0176.

3 a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 2640-010.

c. *Date filed:* December 27, 1991.

d. *Applicant:* Flambeau Paper Corporation.

e. *Name of project:* Upper Hydro.

f. *Location:* On the North Fork Flambeau River near Park Falls in Price and Ashland Counties, Wisconsin.

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g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. James M. McGinnity, 200 North First Avenue, Park Falls, WI 54552, (715) 762–3231.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Deadline Date:* See paragraph D9. (June 28, 1993).

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D9.

l. *Description of Project:* The licensed project would consist of the following existing facilities: (1) A 44-foot-long earth dam; (2) a reinforced concrete gated spillway (3) a reservoir with a surface area of 431 acres at surface elevation 1,487.4 feet NGVD and a storage area of 3,280 acre-feet; (4) a 100-foot-wide, 1,300-foot-long power canal; (5) a powerhouse containing two generating units each with a rated capacity of 450 kW; and (6) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 5,533,500 kWh.

m. *Purpose of Project:* Project power would be used by the applicant's paper mill operation.

n. *This notice also consists of the following standard paragraphs:* A4 and D9.

o. *Available Location of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE, room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Flambeau Paper Corporation, 200 North First Avenue, Park Falls, WI 54552, or by calling (715) 762–3231.

4 a. *Type of Application:* New Major License.

b. *Project No.:* 2689–001.

c. *Date Filed:* December 27, 1991.

d. *Applicant:* Scott Paper Company.

e. *Name of Project:* Oconto Falls Hydro Project.

f. *Location:* On the Oconto River in Oconto County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Thomas W. Cosgrove, General manager, Scott Paper Company, 106 East Central Avenue, Oconto Falls, WI 54154, (414) 846–3411.

i. *FERC Contact:* Ed Lee, (202) 219–2809.

j. *Deadline Date:* See paragraph D9. (June 28, 1993).

k. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis at this time—see attached paragraph D9.

l. *Description of Project:* The project as licensed consists of the following: (1) An existing concrete non-overflow dam, 55 feet long with a maximum height of 16 feet; (2) an existing overflow spillway, constructed of rock-filled timber cribs with a concrete cap, 186 feet long by 18 feet high; (3) an existing masonry and concrete non-overflow, 186 feet long and 17 feet high, containing an 18 foot long intake for the west powerhouse (located on the west bank of the river); (4) an existing reservoir with a surface area of 9.2 acres and a total storage volume of 50 acre-feet at the normal maximum surface elevation of 701.7 feet; (5) an existing rectangular concrete flume, 16.0 feet by 8.2 feet and approximately 230 feet long, conveying water to the east powerhouse (located on the east bank of the river); (6) an existing concrete penstock, 50 feet long, conveying water to the west powerhouse; (7) the existing concrete and masonry east powerhouse, 26 feet wide by 41 feet long, containing (a) a horizontal Francis turbine manufactured by Leffel, and (b) a General Electric generator rated at 360 kW; (8) an existing tailrace, excavated from bedrock with a 377 foot long by 6 foot high training wall; (9) the existing concrete and steel west powerhouse, 47 feet wide by 31 feet long, containing (a) a vertical Kaplan turbine, manufactured by S. Morgan Smith and rated at 2,230 hp (providing a combined project design hydraulic capacity of 770 cfs), and (b) a General Machinery generator rate at 1,500 kW, providing a total project rating of 1,860 kW; (10) an existing tailrace, excavated from bedrock with a 370 foot long by 6 foot high training wall; and (11) appurtenant facilities.

No changes are being proposed for this new license. The applicant estimates the installed capacity for this project to be 1.86 MW with an average annual generation of 8,413 MWH. The dam and existing project facilities are owned by the applicant.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* A4 and D9.

o. *Applicable Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE, room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Scott Paper Company, 106 East Central Avenue, Oconto Falls, WI or calling (414) 846–3411.

5 a. *Type of Application:* Amendment of Exemption.

b. *Project No:* 8949–007.

c. *Date Filed:* March 30, 1993.

d. *Applicant:* City of Auburn.

e. *Name of Project:* North Division Street.

f. *Location:* On the Owasco River in Cayuga County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Francis DeOrio, Director of Municipal Utilities, City of Auburn, 24 South Street, Auburn, NY 13021, (315) 255–4129.

i. *FERC Contact:* Michelle Laabs, (202) 219–3274.

j. *Comment Date:* June 9, 1993.

k. *Description of Amendment:* The amendment will change the project's proposed 10-foot-diameter, 40-foot-long penstock to a 12-foot-wide open channel.

l. *This notice also consists of the following standard paragraphs:* B, C, and D2.

6 a. *Type of Application:* Major License.

b. *Project No.:* 10756–001.

c. *Date filed:* May 28, 1992.

d. *Applicant:* Blue Diamond South Pumped Storage Power Company, Inc.

e. *Name of Project:* Blue Diamond South Pumped Storage.

f. *Location:* Mostly on U.S. lands administered by the Bureau of Land Management, on two man-made reservoirs—on and near the Blue Diamond Hill, about 5 miles west of Las Vegas in Clark County, Nevada.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. David K. Iverson, Synergics, Inv., 191 Main Street, Annapolis, MD 21401, (410) 268–8820.

i. *FERC Contact:* Mr. Surender M. Yepuri, P.E. (202) 219–2847.

j. *Deadline Date:* June 17, 1993.

k. *Status of Environmental Analysis:* The application is not ready for environmental analysis at this time—see attached paragraph E1.

l. *Description of Project:* The proposed project consists of: (1) A forebay—a lined earthen embankment reservoir with a capacity of 1,200 acre-feet, a surface area of 30.87 acres, and a maximum water elevation of 4,825 feet (msl); (2) a afterbay—a lined earthen embankment reservoir with a capacity of 1,200 acre-feet, a surface area of 31.43 acres, and a maximum water elevation of 3,317 feet (msl); (3) a five-section

water conduit system connecting the forebay to the afterbay; (4) a underground, circular concrete powerhouse containing 2 pump-turbine and generator-motor units with a combined rated capacity of 200 MW; (5) a control building, 80 feet long and 60 feet wide, that is contiguous to the powerhouse; (6) a booster substation, about 300 feet square, with two transformers; (7) a 138–kV transmission line, 17,000 feet long, connecting the project substation to the Nevada Power Company's proposed substation; (8) a water line, 8 inches in diameter, to initially fill the system; and (9) appurtenant facilities.

m. *This notice also consists of the following standard paragraphs:* B1 and E1.

n. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the applicant's office (see item (h) above).

7 a. *Type of Application:* Minor License.

b. *Project No.:* 10867–000.

c. *Date filed:* March 31, 1993.

d. *Applicant:* Holliday Historic Restoration Associates, Ltd.

e. *Name of Project:* Holliday Hydroelectric Plant.

f. *Location:* On the West Fork of the White River, in Noblesville, Hamilton County, Indiana.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* David H. Kinloch, 414 South Wenzel Street, Louisville, Kentucky 40204, (502) 589–0975.

i. *FERC Contact:* Mary C. Golato (202) 219–2804.

j. *Comment Date:* 60 days from the filing date in paragraph C. (June 1, 1993).

k. *Description of Project:* The proposed project consists of the following features: (1) an existing concrete dam 350 feet long and 10 feet high; (2) an existing reservoir about 425 acres with a normal water surface elevation of 764 feet mean sea level; (3) an existing powerhouse containing two turbine-generator units having a total generating capacity of 450 kilowatts; and (4) appurtenant facilities. The applicant estimates that the total average annual generation would be 1,634,000 kilowatthours. The project site is owned by PSI Energy, Inc.

1. Within this notice, we are initiating consultation with the Indiana State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR, at § 800.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

8 a. *Type of Application:* Minor License.

b. *Project No.:* 11322–000.

c. *Date filed:* August 20, 1992.

d. *Applicant:* Tuolumne Utilities District.

e. *Name of Project:* Columbia Water Supply/Hydroelectric Project.

f. *Location:* Partially on lands administered by the Bureau of Land management and Bureau of Reclamation near the town of Sonora in Tuolumne County, California. T2N, R14E in sections 1, 2, and 3; T3N, R14E in sections 34 and 35.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Malcolm D. Crawford, Tuolumne Utilities District, P.O. Box 3728, 13144 Mono Way, Sonora, CA 95370, (209) 532–5536.

i. *FERC Contact:* Mr. Michael. Strzelecki, (202) 219–2827.

j. *Deadline for interventions and protests:* June 25, 1993.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E1.

l. *Description of Project:* The proposed project would consist of: (1) the applicant's existing 5-mile-long Columbia Ditch which gets water from the Main Tuolumne Canal of Pacific Gas & Electric's licensed Phoenix Project No. 1061; (2) an intake structure on the ditch; (3) an 18,700-foot-long steel penstock; (4) a powerhouse containing one generating unit with an installed capacity of 350 kW; (5) a 500-foot-long tailrace returning water to the Bureau of Reclamation's existing New Melones Reservoir; and (6) appurtenant facilities.

m. *This notice also consists of the following standard paragraphs:* A2, A9, B1 and E1.

n. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the Tuolumne Utilities District, located at 13144 Mono Way, Sonora, California, or by calling Mr. Malcolm D. Crawford at (209) 532–5536.

9 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11384–000.

c. *Date filed:* February 16, 1993.

d. *Applicant:* Suburban Hennepin Regional Park District.

e. *Name of Project:* Coon Rapids Dam.

f. *Location:* On the Mississippi River, in the City of Brooklyn Park, City of Coon Rapids, Hennepin and Anoka Counties, Minnesota.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Douglas Bryant, 12615 County Road 9, Plymouth, Minnesota 55441–1248.

i. *FERC Contact:* Mary Golato (202) 219–2804.

j. *Comment Date:* June 28, 1993.

l. *Description of Project:* The proposed project would consist of: (1) an existing dam 8.5 feet high and 47 feet long; (2) an existing reservoir approximately 30,600 square feet with a storage capacity of approximately 122,400 cubic feet at a normal surface elevation of 250.3 feet; (3) a 36-inch-diameter, 15.5-foot-long penstock; (4) a new powerhouse containing one turbine-generator unit at a rated capacity of 75 kilowatts; (5) undetermined transmission line; and (6) appurtenant facilities. The total average annual generation will be 45 gigawatthours and the cost of the studies are $60,000. The owner of the dam is Suburban Hennepin Regional Park District. Alvin J. Tuck.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9 A10, B, C, and D2.

10 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11389–000.

c. *Date filed:* March 1, 1993.

d. *Applicant:* STS Heislers Creek Hydro L.P.

e. *Name of Project:* Heislers Creek.

f. *Location:* On the Middle Fork Nooksack River, in Whatcom County Washington. Township 38 N, Range 5 E.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. J. Charles Ahlrichs, STS Heislers Creek Hydro L.P., 22525 SE 64th Place, suite 244, Issaquah, WA 98027, (206) 557–3680.

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l. *FERC Contact:* Michael Spencer at (202) 219–2846.

j. *Comment Date:* June 14, 1993.

k. *Descriptin of Project:* The proposed project would consist of: (1) the City of Bellingham's existing 25-foot-high concrete diversion dam; (2) an existing 7.5-foot-diameter, 8,800-foot-long tunnel; (3) an existing valvehouse; (4) a proposed 66-inch-diameter, 6,500-foot-long penstock; (5) a powerhouse containing a generating unit with a capacity of 5.4 MW and an average annual generation of 26.4 GWh; (6) a 2.2-mile-long transmission line; and (7) a 0.2-mile-long access road to the powerhouse.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $60,000.

l. *Purpose of Project:* Project power would be sold.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

11 a. *Type of Application:* Preliminary Permit.

b. *Project No.* 11391–000.

c. *Date filed:* March 5, 1993.

d. *Applicant:* The City of Boulder, Colorado.

e. *Name of Project:* Boulder Lindsay Project.

f. *Location:* On Bull Gulch, in Jefferson County, Colorado, near the towns of Boulder, Eldorado Springs, Louisville, Broomfield, Westminster, Arvada, Wheat Ridge, Lakewood, Golden, Denver, Northgleen, Thornton, and Lafayette. T.2S., R.71W, sections 1 and 2; T.2S., R.70W, section 6.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Mr. James C. Crain, Director, Open Space/Real Estate, City of Boulder, P.O. Box 791, Boulder, CO 80306, (303) 441–3440).

Karl F. Kumli, III, Esq., Krassa, Lindholm, Kumli & Madse, 4888 Pearl East Circle, suite 202W, Boulder, CO 80301, (303) 442–2156.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Competing Application:* Project No. 11352–000, Crest Modular Pumped Storage Project, Public Notice expired 02/05/93.

k. *Comment Date:* June 7, 1993.

l. *Description of Project:* The proposed project would consist of: (1) A 160-foot-high, 500-foot-long earth-fill dam consisting of a spillway, creating; (2) a 30-acre reservoir with a storage capacity of 2,000 acre-feet with a water surface elevation of 7,580 feet msl, to be utilized as the upper reservoir; (3) an 8,000-foot-long underground penstock; (4) a powerhouse containing two generating units with a total installed capacity of 200,000 kW; (5) a 150-foot-high, 1,300-foot-long earth-fill dam, creating; (6) a 35-acre reservoir with a storage capacity of 2,000 acre-feet with a water surface elevation of 6,255 feet msl, to be utilized as the lower reservoir; (7) a 4,500-foot-long, 115/230 kV transmission line tying into an existing line.

The applicant estimates the cost of the studies to be conducted under the preliminary permit at $350,000.

No new roads will be needed for the purpose of conducting studies at the lower reservoir site; however, road construction may be required at the upper reservoir site.

m. *Purpose of Project:* Project power would be sold to a local utility or a state municipality.

n. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, D2.

12 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11393–000.

c. *Date filed:* March 12, 1993.

d. *Applicant:* City of Saxman, Alaska.

e. *Name of Project:* Mahoney Lake Hydroelectric Power Project.

f. *Location:* Partially within the Tongass National Forest, on Upper Mahoney Lake, northeast of the city of Ketchikan, in Alaska. Sections 11, 13, 14, 24, 25, 26, 34, and 36 in T74S, R91E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Doug Campbell, Cape Fox Corporation, P.O. Box 8558, Ketchikan, Alaska 99901, (907) 225–5163.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* June 10, 1993.

k. *Description of Project:* The proposed project would consist of: (1) A 10-foot-high dam on the Forest Service's existing 57-acre Upper Mahoney Lake which would raise its surface elevation 9 feet to an elevation of 1959 NGVD; (2) a 32-inch-diameter, 5,900-foot-long penstock; (3) a powerhouse containing one generating unit with an installed capacity of 9,000 kW; (4) a 5-mile-long access road; and (5) a 5.75-mile-long transmission line interconnecting with the existing Swan Lake transmission line; and (6) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be $350,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

13 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11400–000.

c. *Date filed:* April 1, 1993.

d. *Applicant:* Douglas R. Smith.

e. *Name of Project:* Smith/French Creek Hydroelectric Power Project.

f. *Location:* Partially within the Plumas National Forest, on French Creek, a tributary to the North Fork of the Feather River, in Butte County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Douglas R. Smith, 808 Via del Monte, Palos Verdes Estates, CA 90274, (310) 378–0543.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* June 21, 1993.

k. *Description of Project:* The proposed project would consist of: (1) An intake of French Creek; (2) a 42-inch-diameter, 2,750-foot-long penstock; (3) a powerhouse containing one generating unit with an installed capacity of 4,860 kW; (4) a tailrace returning water to French Creek; (5) a 1.5-mile-long transmission line, or a 6.5-mile-long transmission line, both interconnecting with an existing Pacific Gas & Electric Company transmission line; and (6) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be $75,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

14. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11401–000.

c. *Date filed:* April 1, 1993.

d. *Applicant:* Tri-Dam Power Authority.

e. *Name of Project:* Goodwin Hydroelectric Project.

f. *Location:* Partially on lands administered by the U.S. Army Corps of Engineers, on the Stanislaus River, near the town of Knight's Ferry, in Tuolumne and Calaveras Counties, California. T1S, R12E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Donald B. Thompson, General Manager, Tri-Dam Power Authority, P.O. Box 1158, Pinecrest, CA 95364, (209) 965–3996.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* June 21, 1993.

k. *Description of Project:* The proposed project would consist of: (1) the applicant's existing 101-foot-high, 460-foot-long Goodwin dam; (2) the applicant's existing 70-acre reservoir; (3) the enlargement of a 750-foot-long section of the applicant's existing Oakdale South Canal; (4) an 11-foot-

diameter, 750-foot-long penstock; (5) a powerhouse containing two generating units with a total installed capacity of 5,000 kW; (6) a short transmission line interconnecting with an existing Pacific Gas & Electric Company transmission line; (7) a 1,000-foot-long access road; and (8) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be $100,000.

1. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

15 a. *Type of Application:* Declaration of Intention.

b. *Project No.:* EL93–32–000.

c. *Date Filed:* April 12, 1993.

d. *Applicant:* P. Kennan Hayes.

e. *Name of Project:* Hayes Hydro Project.

f. *Location:* An unnamed Spring located within Section 33, Township 35 N., Range 6 W.M., Skagit County, Near Sedro Woolley, Washington.

g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* P. Kennan Hayes, Private Investments, 3738 NE 187th, Seattle, WA 98155, (206) 363–9518.

i. *FERC Contact:* Etta Foster, (202) 219–2679.

j. *Comment Date:* June 10, 1993.

k. *Description of Project:* The proposed Hayes Hydro Project would consist of: (1) A 400 gallon settling tank below the source of the spring; (2) a 3-inch-diameter, 1200-foot-long plastic penstock providing 100 feet of head; (3) two nozzles between 6 and 14 millimeters-diameter, that will turn 4-inch-diameter pelton wheel producing approximately 300 watts of electricity.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Purpose of Project:* Applicant intends to use generated power on site to provide electricity to a residence that is located too far away from the public power lines to allow it to use public power.

m. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

Standard Paragraphs

A2. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notice of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, or or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. Initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit will be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

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B1. Protests, or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (June 7, 1993 for Project No. 2580–015, *et al.*; and June 28, 1993 for Project Nos. 2395–003, 2640–010 and 2689–001). All reply comments must be filed with the Commission within 105 days from the date of this notice. (July 21, 1993 for Project No. 2580–15, *et al.*; and August 10, 1993 for Project Nos. 2395–003, 2640–010 and 2689–001).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirement of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: April 28, 1993, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10318 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD92–01588T Wyoming–11 Addition]

State of Wyoming; NGPA Amended Notice of Determination by Jurisdictional Agency Designating Tight Formation

April 27, 1993.

Take notice that on April 12, 1993, the Wyoming Oil and Gas Conservation Commission (Wyoming) amended its notice of determination that was filed in the above-referenced proceedings on November 25, 1991, pursuant to § 271.703(c)(3) of the Commission's regulations. The November 1991 notice determined that a portion of the Lower Lewis Formation in Sweetwater County, Wyoming, qualified as a tight formation under section 107(b) of the National Gas Policy Act of 1978 (NGPA).

The amended notice of determination reduces the geographical area recommended for tight formation designation to the State and Fee lands located entirely within Township 24 North, Range 97 West on the following tracts of land:

State Land

Section 21 N/2 of N/2
Section 35 S/2 of S/2

Fee Land

Section 35 E/2 of SE/4

The notice of determination also contains Wyoming's findings that the referenced portion of the Lower Lewis Formation meets the requirements of the

Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10274 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11196–001 Idaho]

Farmers Co-operative Irrigation Company, Ltd.; Surrender of Preliminary Permit

April 27, 1993.

Take notice that Farmers Co-operative Irrigation Company, Ltd., Permittee for the Farmers Co-operative Irrigation Project No. 11196, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 11196 was issued January 9, 1992, and would have expired December 31, 1994. The project would have been located on the Payette River in Gem County, Idaho.

The Permittee filed the request on February 22, 1993, and the preliminary permit for Project No. 11196 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10273 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–4–22–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 27, 1993.

Take notice that CNG Transmission Corporation ("CNG"), on April 23, 1993, pursuant to section 4 of the Natural Gas Act, part 154 of the Commission's regulations, and sections 12 and 16 of the General Terms and Conditions of CNG's FERC Gas Tariff, filed six copies of the following tariff sheets for its FERC Gas Tariff, First Revised Volume No. 1:

Thirtieth Revised Sheet No. 31
Twenty-Second Revised Sheet No. 32
Twenty-Sixth Revised Sheet No. 34
Twenty-First Revised Sheet No. 35

The tariff sheets are proposed to become effective May 1, 1993. CNG states that the purpose of this filing is to revise its PGA commodity rate to reflect increases in natural gas spot prices and revise its PGA demand rate to reflect decreases in Texas Eastern Transmission Corporation's demand rates. The instant filing reflects an ACD/CD/RQ commodity rate increase of $0.7062/dt and an ACD/CD/RQ demand rate decrease of $0.10/dt (as compared to CNG's approved rates in Docket No. TQ93–3–22–000).

CNG states that copies of the filing were served upon CNG's customers as well as interested parties.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC, 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 and 385.211. All motions or protests should be filed on or before May 4, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10262 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–2–23–000]

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 27, 1993.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on April 21, 1993 the revised tariff sheet included in Appendix A attached to the filing. Such sheet is proposed to be effective May 1, 1993.

The above referenced tariff sheet is being filed to revise the fixed monthly take-or-pay amount to be recovered from ESNG's jurisdictional customers for the three-month period May 1993 through July 1993.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before may 4, 1993. Protests will be considered by the Commission in determining the appropriate ection to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10263 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–13–29–000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

April 27, 1993.

Take notice that Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing on April 20, 1993 Fifth Revised Sixth Revised Sheet No. 28 to its FERC Gas Tariff, Third Revised Volume No. 1 which tariff sheet is proposed to be effective April 1, 1993.

TGPL states that the purpose of the instant filing is to track rate changes attributable to (1) storage service purchased from Consolidated Natural Gas (CNG) under its Rate Schedule GSS the costs of which are included in the rates and charges payable under TGPL's Rate Schedule LSS and (2) storage service purchased from North Penn Gas Company (North Penn) under its Rate Schedule SS the costs of which are included in the rates and charges payable under TGPL's Rate Schedule SS–1. The tracking filing is being made pursuant to Section 4 of TGPL's Rate Schedule LSS and Section 5 of TGPL's Rate Schedule SS–1.

Included in Appendices A and B attached to the filing are the explanations of the rate changes and details regarding the computation of the revised LSS and SS–1 rates.

TGPL states that copies of the filing are being mailed to each of its LSS and SS–1 customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

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Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 4, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10264 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. EG93–43–000, et al.]

Central Termica Alto Valle S.A., et al.; Applications for Determination of Exempt Wholesale Generator Status

April 19, 1993.

Take notice that the following filings have been made with the Commission:

1. Central Termica Alto Valle S.A.

[Docket No. EG93–43–000]

On April 9, 1993, Central Termica Alto Valle S.A. ("CTAV") filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

CTAV, an Argentine corporation, is owned in part by A.V. Holding S.A., an Argentine corporation, which is owned in part by Dominion Generating S.A., an Argentine corporation. Dominion Generating S.A. is a wholly-owned subsidiary of Dominion Energy, Inc., which is a wholly-owned subsidiary of Dominion Resources, Inc.

CTAV owns an eligible facility in Neuquen Province, Argentina which consists of five natural gas-fired turbines with a combined nominal power production capacity of 98 MW.

Comment date: May 3, 1993, in accordance with Standard Paragraph W at the end of this notice.

2. Dominion Management Argentina S.A.

[Docket No. EG93–44–000]

April 19, 1993.

On April 9, 1993, Dominion Management Argentina S.A. ("DMASA") filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

DMASA, an Argentine corporation, is a wholly-owned subsidiary of Dominion Energy, Inc., which is a wholly-owned subsidiary of Dominion Resources, Inc.

DMASA operates an eligible facility in Neuquen Province, Argentina that consists of five natural gas-fired turbines with a combined nominal power production capacity of 98 MW.

Comment date: May 3, 1993, in accordance with Standard Paragraph W at the end of this notice.

Standard Paragraphs

W. Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10261 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

United States of America Federal Energy Regulatory Commission

[Docket No. CP93–314–000]

El Paso Natural Gas Co. and Columbia Gas Transmission Corp.; Application

April 27, 1993.

Take notice that on April 26, 1993, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, and Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325–1273 (jointly referred to as Applicants), filed in Docket No. CP93–314–000 a joint application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a certificated gas exchange service, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that El Paso and Columbia request permission and approval to abandon the exchange of up to 9,000 Mcf of natural gas per day which was originally certificated in Docket No. CP78–444–000. It is stated that a July 19, 1978 exchange agreement provides for El Paso's gas produced from High Island Blocks A–334 and A–335 to be delivered via long-term transportation arrangements with High Island Offshore System and U–T Offshore System (U–TOS) to Transcontinental Gas Pipe Line Corporation (Transco) on a firm basis at the tailgate of the separation plant of U–TOS at Johnson's Bayou, Cameron Parish, Louisiana. It is further stated that Transco then delivers equivalent quantities to Columbia, for El Paso's account, at the tailgate of Mobil Oil Corporation's Cameron Meadows Plant, which is adjacent to the U–TOS offshore plant. In addition, it is stated that in exchange, Columbia causes to be delivered to El Paso equivalent quantities produced from certain wells located in Eddy and Lea Counties, New Mexico, in which Columbia has an interest.

It is maintained that the natural gas reserves committed to the Applicants from offshore areas in the Gulf of Mexico and Eddy and Lea Counties, New Mexico, respectively, either have been released pursuant to a settlement agreement or have depleted to the extent that it is no longer economically feasible to produce the gas. It is also maintained that there have been no volumes to exchange between El Paso and Columbia since April 1985, and no imbalances exist. It is stated that neither party foresees further addition of wells to the exchange or any further need for exchange activity under the July 19, 1978 exchange agreement. It is further stated that the Applicants have agreed by letter agreement dated February 25, 1991, to waive the 12 month notice requirement and to terminate the exchange agreements upon receipt of regulatory approvals.

The Applicants state that upon receipt of the requested authorization to abandon the authorized exchange service, they will tender pursuant to Part 154 of the Commission's Regulations, and appropriate filing to reflect the cancellation of the special Rate Schedules X–43 and X–76 to El Paso's FERC Gas Tariff, Third Revised Volume No. 2 and to Columbia's FERC Gas Tariff, Original Volume No. 2, respectively.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations

under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in any subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso and Columbia to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10267 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Docket No. CP92–552–003]

Granite State Gas Transmission, Inc.; Compliance Filing

April 27, 1993.

Take notice that on April 19, 1993, Granite State Gas Transmission, Inc. (Granite State) 300 Friberg Parkway, Westborough, Massachusetts 01581 filed the revised tariff sheets listed below in its FERC Gas Tariff, Second Revised Volume No. 1, containing changes in tariff provisions for effectiveness on January 30, 1993:

First Revised Sheet No. 91B
First Revised Sheet No. 92A
Second Revised Sheet No. 136
First Revised Sheet No. 137
Third Revised Sheet No. 138
First Revised Sheet No. 162
First Revised Sheet No. 167
First Revised Sheet No. 181
First Revised Sheet No. 183
First Revised Sheet No. 184
First Revised Sheet No. 190
First Revised Sheet No. 193

According to Granite State, the foregoing revised tariff sheets are filed in compliance with the Commission's order in Docket No. CP92–552–002 issued March 17, 1993. Granite State further states that it filed revised tariff sheets on December 30, 1992 establishing new Rate Schedules TF–1 and IT–1, and accompanying terms and conditions to provide part 284 open access transportation services on its system. It is further said that the Commission accepted Granite State's filing in its March 17th order, subject to conditions and that the instant filing is submitted in compliance with such conditions.

Granite State states that copies of its filing were served upon its customers Bay State Gas Company and Northern Utilities, Inc., the regulatory commissions of the states of Maine, Massachusetts and New Hampshire and the intervenors in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 4, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Casbell,

Secretary.

[FR Doc. 93–10270 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3749–005]

Mitex, Inc.; Effective Date of Withdrawal of Application for License

April 27, 1993.

On April 30, 1986, Mitex, Inc., filed an application for license for the Yellowtail Afterbay Project No. 3749, to be located on the Big Horn River in Big Horn County, Montana. On January 11, 1993, Mitex, Inc., filed a notice of withdrawal of its application.

No one filed a motion in opposition to the notice of withdrawal, and the Commission took no action to disallow the withdrawal. Accordingly, pursuant to Rule 216 of the Commission's Rules of Practice and Procedure,[1] the withdrawal became effective on January 26, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10272 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI93–11–000]

Portland General Electric Co.; Application

April 27, 1993.

Take notice that on April 22, 1993, Portland General Electric Company ("Portland General"), One World Trade Center, 121 SW. Salmon Street, Portland, Oregon, filed an application under section 7 of the Natural Gas Act ("NGA") and part 157 of the Commission's regulations, requesting blanket certificate authorization with pregranted abandonment for an unlimited duration to make sales in interstate commerce for resale of natural gas subject to the Commission's NGA jurisdiction, except gas that has been transported through the Kelso-Beaver Pipeline, all as more fully set forth in the application.

Portland General states that the Kelso-Beaver Pipeline extends from an interconnection with Northwest Pipeline Corporation in Cowlitz County, Washington to the Beaver generating station in Columbia County, Oregon and is owned and operated, as tenants in common, ninety percent by Portland General and ten percent by KB Pipeline Company. Portland General states that the granting of its application will place it on equal footing with other natural gas merchants that have or will be granted blanket sales certificates pursuant to the Commission's Order Nos. 636 and 547.

To be heard or to protest the application a person must file a motion to intervene or a protest on or before May 10, 1993. A person filing a protest or motion to intervene must follow the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests or motions to intervene must be filed with the Federal Energy Regulatory Commission, Washington, DC 20426. The Commission will consider all filed protests in deciding the appropriate action to take but filing a protest does not make a protestant a party to the proceeding. A person wanting to be a party to a proceeding or to participate as a party in a hearing must file a motion to intervene. Under the procedure provided, unless

[1] 18 CFR 385.216.

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otherwise advised, it will be unnecessary for Portland General to appear or be represented at any hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10266 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP84–82–015]

Tarpon Transmission Co.; Compliance Tariff Filing

April 27, 1993.

Take notice that on April 22, 1993, Tarpon Transmission Company (Tarpon) tendered for filing with the Commission as part of its FERC Gas Tariff, Original Volume No. 1, *pro forma* firm and interruptible transportation service agreements, proposed to be effective on November 1, 1992.

Tarpon states that the *pro forma* service agreements are filed in compliance with the Commission's order of February 4, 1993 (*Tarpon Transmission Co.*, 62 FERC ¶ 61,114 (1993)), approving an uncontested Offer of Settlement (Stipulation) filed by Tarpon on November 3, 1992. The *pro forma* service agreements incorporates the terms of the Stipulation including the rate change moratorium (and limitations thereon), negative salvage provisions, and transferee protections.

Tarpon has requested that the Commission waive its Regulations to the extent necessary to permit the *pro forma* service agreements to become effective November 1, 1992.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 4, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10269 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP91–203–000 and RP92–132–000]

Tennessee Gas Pipeline Co.; Informal Conference

April 27, 1993.

Take notice that an informal conference in regard to PCBs will be convened in this proceeding on May 5, 1993, at 2 p.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring a procedural schedule for PCB issues or the possible settlement of PCB issues.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214.

For additional information, contact Donald Williams (202) 208–0743 or Dennis H. Melvin at (202) 208–0042.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10271 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–312–000]

Williams Natural Gas Co.; Request Under Blanket Authorization

April 27, 1993.

Take notice that on April 23, 1993, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93–312–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon by reclaim facilities originally installed for the receipt of transportation gas from Mid-Gulf, Inc. (Mid-Gulf) in Leavenworth County, Kansas, under the authorization issued in Docket No. CP82–479–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG seeks authorization to reclaim measuring, gas sampling and appurtenant facilities used in the receipt of transportation gas from Mid-Gulf and located in section 7, T8S, R22E, Leavenworth County, Kansas. It is stated that the facilities were originally installed in 1987 and certificated in Docket No. CP82–479–000.

WNG states that it notified Mid-Gulf of its desire to reclaim the facilities since they had not been used for several years, and, on March 30, 1993, Mid-Gulf agreed to WNG's proposal. According to WGN, the cost to reclaim the facilities to be abandoned is estimated at approximately $20.

According to WNG, since the facilities to be abandoned and reclaimed are above ground, this proposal will not significantly affect a sensitive environmental area.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10268 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–2–43–001]

Williams Natural Gas Co.; Proposed Changes In FERC Gas Tariff

April 27, 1993.

Take notice that Williams Natural Gas Company (WNG) on April 23, 1993, tendered for filing Second Revised Fifteenth Revised Sheet No. 9 to its FERC Gas Tariff, First Revised Volume No. 1.

WNG states that it filed an out-of-cycle PGA filing on April 19, 1993, in the above referenced docket. The sheet No. 9 included in the PGA did not reflect a tariff filing made February 1, 1993, in Docket No. CP92–351–000, in which WNG removed tariff references to its Rodman gathering area. Second Revised Fifteenth Revised Sheet No. 9 is being filed to reflect tariff changes proposed in Docket No. CP92–351–000, which were approved by Commission letter order dated February 25, 1993.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 4, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10265 Filed 4–30–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

Coal Policy Committee, National Coal Council, Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Coal Policy Committee of the National Coal Council (NCC).

Date and Time: Wednesday, May 19, 1993, 2:30–4:30 p.m.

Place: The Madison Hotel, 15th & M Streets, NW., Washington, DC

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE–5), Washington, DC 20585, Telephone: 202/586–3867.

Purpose of the Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Purpose of the Meeting: Report on coal outreach activities and discussion of progress on current studies.

Tentative Agenda:

—Call to order and opening remarks by Joseph Craft, Chairman of the Coal Policy Committee.
—Remarks by Department of Energy representative.
—Report on coal outreach activities by Daniel Gerkin, Senior Vice President, National Coal Association.
—Discussion of progress on current studies.
—Roundtable discussion by members on issues.
—Discussion of any other business to be properly brought before the Committee.
—Public comment—10-minute rule.
—Adjournment.

Public Participation: The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation on the egenda.

Transcript: Available for public review and copying at the Public Reading Room, room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 28, 1993.

Marcia Morris,

Deputy Advisory Committee, Management Officer.

[FR Doc. 93–10390 Filed 4–30–93; 8:45 am]

BILLING CODE 6450–01–M

National Coal Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Coal Council.

Date and Time: Thursday, May 20, 1993, 9 a.m.

Place: The Madison Hotel, 15th & M Streets, NW., Washington, DC.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE–5), Washington, DC 20585. Telephone: 202/586–3867.

Purpose of the Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Tentative Agenda:

—Call to order by William R. Wahl, Chairman of the National Coal Council.
—Remarks by Chairman Wahl.
—Remarks by the Honorable Hazel R. O'Leary, Secretary of Energy (Invited).
—Informal dialogue with the Secretary of Energy.
—Guest speakers.
—Report of the Coal Policy Committee.
—Report of the Finance Committee.
—Report of the Nominating Committee.
—Discussion of any other business properly brought before the Council.
—Public comment—10-minute rule.
—Adjournment.

Public Participation: The meeting is open to the public. The Chairman of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcript: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 28, 1993.

Marcia Morris,

Deputy Advisory Committee, Management Officer.

[FR Doc. 93–10389 Filed 4–30–93; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 93–39–NG]

El Paso Gas Marketing Co.; Application for Blanket Authorization to Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on April 5, 1993, by El Paso Gas Marketing Company (El Paso) requesting blanket authorization to export up to 75 Bcf of natural gas to Mexico over a two-year period, beginning on the date of first delivery. The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, June 2, 1993.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Susan K. Gregersen, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–070, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 586–0063.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 586–6667.

SUPPLEMENTARY INFORMATION: El Paso, a Delaware corporation with its principal place of business in El Paso, Texas, is a wholly-owned subsidiary of El Paso Natural Gas Company. El Paso will purchase the gas under their proposed export arrangement on a short-term or spot market basis, and will export the gas either on its own behalf, or as an

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agent for others. El Paso will use existing pipeline facilities to transport the gas, and will submit quarterly reports detailing each transaction.

El Paso's export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy to promote competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those who may oppose this application, should comment on these matters as they relate to the requested export authority. El Paso asserts there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Anyone who wants to become a party to this proceeding and to have their written comments considered as the basis for the decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protect with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

El Paso's application is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC., on April 20, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–10388 Filed 4–30–93; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Final Filing Deadline in Special Refund Proceeding Involving Crude Oil Overcharge Refunds

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of setting final deadline for filing Applications for Refund in Crude Oil Overcharge Special Refund Proceeding [RF272 Case Nos.].

SUMMARY: The Office of Hearings and Appeals of the Department of Energy has set the final deadline for filing all Applications for Refund from the escrow account established to distribute crude oil overcharge refunds. The final deadline is June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Virginia Lipton, Assistant Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586–2390 (Wieker), (202) 586–2400 (Lipton).

SUPPLEMENTARY INFORMATION: On July 28, 1986, the Department of Energy (DOE) issued a Notice stating its new policy concerning the administration of a refund proceeding in crude oil overcharge cases (hereinafter MSRP). 51 FR 27899 (August 4, 1986). The DOE announced that it would provide persons that were injured by crude oil overcharge violations an opportunity to apply for and receive refunds as restitution for that injury. The refund proceeding itself would be conducted by the Office of Hearings and Appeals (OHA). On August 28, 1986, the first crude oil overcharge refund application was filed with the OHA. On April 6, 1987, the OHA announced the specific procedures that it would use to consider crude oil refund applications. 52 FR 11737 (April 10, 1987). The OHA stated that it would use the special refund procedures codified at 10 CFR part 205, Subpart V, in processing the refund applications.

It has been nearly seven years since the DOE's restitutionary policy for crude oil overcharges was announced and more than six years since the first crude oil overcharge refund application was filed. We have now received nearly 95,000 such applications. Over 80,000 of these applications have been approved in written determinations mailed to each applicant and made available to the public in the OHA public reference room. In addition, the more significant of these determinations have been announced regularly in the Federal Register. To date, more than $210 million has been distributed to crude oil refund applicants, based on their purchases of 262 billion gallons of refined petroleum products. In view of these facts, we believe that this refund proceeding has been well publicized and that those firms, individuals and organizations that have an interest in filing for this type of refund have had a reasonable opportunity to do so.

Due to the need for administrative efficiency and for achieving finality with respect to this proceeding, we find that it is now time to set a deadline for filing all crude oil overcharge refund applications. In this regard, we have noticed the filing of an increasing number of duplicate crude oil overcharge refund applications. These duplicates create an administrative burden, economic waste and the danger of granting duplicate refunds.

In view of the above considerations, and the need to close the proceeding so final disbursement of crude oil overcharge funds can be made, the OHA will not accept any crude oil overcharge refund applications postmarked after June 30, 1994. (That date coincides with the current deadline for filing claims for refunds based on the current refund rate of $.0008 per gallon of eligible refined petroleum products.) All Applications for Refund from crude oil overcharge funds that are postmarked after the final filing date of June 30, 1994, are subject to summary dismissal. *See, e.g., Gulf Oil Corp./Evarts Service Station,* 23 DOE ¶ 85,016 (1993). *See also, Shell Oil Co./ The Tennessean Truckstop, et al.,* 22 DOE ¶ 85,209 (1992). As provided in the MSRP, any funds remaining after all pending claims are resolved will be made available to the States and the United States Treasury for indirect restitution.

Dated: April 26, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 93–10385 Filed 4–30–93; 8:45 am]

BILLING CODE 6450–01–P

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for the disbursement of $150,000, plus accrued interest, obtained by the DOE under the terms of a consent order entered into with DeMenno-Kerdoon (Case No. LEF–0042). The OHA has determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESS: Applications for Refund from the crude oil funds should be clearly labeled "Application for Crude Oil Refunds" and should be mailed to Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Applications for Refund must be filed in duplicate no later than June 30, 1994. Any party who has previously filed an Application for Refund should not file another Application for Refund from the present crude oil funds. The previously filed crude oil application will be deemed filed in all crude oil proceedings as the procedures are finalized.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 1000 Independence Ave., SW., Washington, DC 20585. (202) 586–2390.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute $150,000 that has been remitted by DeMenno-Kerdoon (DeMenno). The DOE is currently holding the funds in an interest bearing account pending distribution.

The DOE has determined to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the states, federal government, and injured purchasers of refined products. Under the plan, refunds to the states will be in proportion to each state's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers will be based on the number of gallons of petroleum products that they purchased and the extent to which they can demonstrate injury.

Applications for Refund must be postmarked no later than June 30, 1994. As we state in the Decision, any party who has previously submitted a refund application for in the crude oil refund proceedings should not file another application for refund in the crude oil proceedings. The previously filed crude oil application will be deemed filed in all crude oil proceedings as the procedures are finalized.

Dated: April 27, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order—Implementation of Special Refund Procedures

Name of Firm: DeMenno-Kerdoon
Date of Filing: February 20, 1992
Case Number: LEF–0042

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

In this Decision and Order, we consider a Petition for Implementation of Special Refund Procedures filed by the ERA on February 20, 1992 for funds obtained due to alleged crude oil violations. The funds at issue in that Petition were obtained from DeMenno-Kerdoon (DeMenno). On December 31, 1986, the ERA issued a Proposed Remedial Order (PRO) against DeMenno for alleged violations of the regulations governing crude oil. The PRO alleged that DeMenno failed to properly report or certify 4,012,009 barrels of controlled and uncontrolled crude oil during the period from January 1979 through December 1980. Because it did not properly report and certify those barrels of crude oil, the PRO alleges that, DeMenno received excess entitlements valued at $75,393,683. On September 30, 1988, DeMenno entered into a Consent Order with the DOE in which it agreed to pay not less than $150,000 in order to resolve the DOE's claim. DeMenno further agreed to make Adjusted Net Income Participation Payments between 1991 and 1995 based upon a formula set forth in the Consent Order. However, DeMenno subsequently filed for Chapter 11 bankruptcy. On July 17, 1990, the DOE accepted DeMenno's Plan of Reorganization and agreed to take a total of $150,000 in settlement of the claim. That $150,000 has been received by the DOE.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR part 205, subpart V. The subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement,* 9 DOE ¶ 82,508 (1981), and *Office of Enforcement,* 8 DOE ¶ 82,597 (1981). We have considered the ERA's request to implement subpart V procedures with respect to the monies received from DeMenno and have determined that such procedures governing the

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distribution of crude oil overcharges are appropriate.[1]

I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (the MSRP). The MSRP, issued as a result of a court-approved Settlement Agreement in In re: The Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378 (D. Kan. 1986) (the Stripper Well Agreement), provides that crude oil overcharge funds will be divided among the states, the federal government, and injured purchasers of refined petroleum products. Under the MSRP, up to twenty percent of these crude oil overcharge funds will be reserved to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the states and federal government for indirect restitution.

Shortly after the issuance of the MSRP, the OHA issued an Order that announced its intention to apply the Modified Policy in all subpart V proceedings involving alleged crude oil violations. Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). In that Order, the OHA solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings. On April 6, 1987, the OHA issued a Notice analyzing the numerous comments and setting forth generalized procedures to assist claimants that file refund applications for crude oil monies under the subpart V regulations. 52 FR 11737 (April 10, 1987) (the April Notice).

The OHA has applied these procedures in numerous cases since the April Notice, i.e., *New York Petroleum, Inc.*, 18 DOE ¶ 85,435 (1988) (*NYP*); *Shell Oil Co.*, 17 DOE ¶ 85,204 (1988); *Ernest A. Allerkamp*, 17 DOE ¶ 85,079 (1988) (*Allerkamp*), and the procedures have been approved by the United States District Court for the District of Kansas as well as the Temporary Emergency Court of Appeals (TECA). In the case *In re: The Department of Energy Stripper Well Exemption Litigation*, various states filed a Motion with the Kansas District Court, claiming that the OHA violated the Stripper Well Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. *In re: The Department of Energy Stripper Well Exemption Litigation*, 671 F. Supp. 1318 (D. Kan. 1987), *aff'd*, 857 F. 2d 1481 (Temp. Emer. Ct. App. 1988). On August 17, 1987, Judge Theis issued an Opinion and Order denying the states' Motion in its entirety. The court concluded that the Stripper Well Agreement "does not bar [the] OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *Id.* at 1323. The court also ruled that, as specified in the April Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.* at 1323–24.

II. The Proposed Decision and Order

On April 30, 1992, the OHA issued a Proposed Decision and Order (PDO) establishing tentative procedures to distribute the alleged crude oil violation amount obtained from DeMenno. 57 FR 19421 (May 6, 1992). The OHA tentatively concluded that the funds should be distributed in accordance with the MSRP and the April Notice. Pursuant to the MSRP, the OHA proposed to reserve initially twenty percent of the crude oil violation funds for direct restitution to applicants who claim that they were injured by the alleged crude oil violations. The remaining eighty percent of the funds would be distributed to the states and federal government for indirect restitution. After all valid claims have been paid, any remaining funds in the claim reserve would also be divided between the states and federal government. The federal government's share ultimately would be deposited into the general fund of the Treasury of the United States.

In the PDO, the OHA proposed to require applicants for refund to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged crude oil overcharges. The PDO stated that end-users of petroleum products whose businesses are unrelated to the petroleum industry are presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. The OHA also proposed to calculate refunds on the basis of a volumetric refund amount, as described in the April Notice. The PDO provided a period of 30 days from the date of publication in the Federal Register in which comments could be filed regarding the tentative distribution process. More than 30 days have elapsed and the OHA has received no comments concerning the proposed procedures for the distribution of the DeMenno settlement funds. Consequently, the procedures will be adopted as proposed.

III. The Refund Procedures

A. Refund Claims

The OHA has concluded that the $150,000, plus interest that has accrued on that amount, should be distributed in accordance with the crude oil refund procedures discussed above. We have decided to reserve the full twenty percent of the alleged crude oil violation amount, or $30,000, plus interest, for direct refunds to claimants, in order to insure that sufficient funds will be available for refunds to injured parties.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *E.g.*, *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986) (*Mountain Fuel*). As in non-crude oil cases, applicants will be required to document their purchase volumes of covered products and prove that they were injured as a result of the alleged violations. Generally, a covered product is any product that was covered by the Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751–760, and was primarily produced at a crude oil refinery. *E.g.*, *Anchor Continental, Inc.*, 22 DOE ¶ 85,003 (1992). Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations are presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. *E.g.*, *A. Tarricone, Inc.*, 15 DOE ¶ 85,495 at 88,893–96 (1987). However, the end-user presumption of injury can be rebutted by evidence which establishes that the specific end-user in question was not injured by the crude oil overcharges. *E.g.*, *Berry Holding Co.*, 16 DOE ¶ 85,405 at 88,797 (1987). If an interested party submits evidence that is sufficient to cast serious doubt on the end-user presumption, the applicant will be required to produce further evidence of injury. *E.g.*, *NYP*, 18 DOE at 88,701–03.

Reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type employed in the *OHA Report to the District Court in the Stripper Well Litigation, reprinted in* 6 Fed. Energy Guidelines ¶ 90,507. Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Stripper Well Agreement have waived their rights to apply for crude oil refunds under subpart V. *Mid-America Dairyman, Inc. v. Herrington*, 878 F. 2d 1448 (Temp. Emer. Ct. App. 1989); *accord, Boise Cascade Corp.*, 18 DOE ¶ 85,970 (1989).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the alleged crude oil violation amounts involved in this determination ($150,000) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). *Mountain Fuel*, 14 DOE at 88,868 n.4. This yields a volumetric refund amount of $0.0000000742 per gallon.

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one Application for crude oil overcharge funds. *E.g.*, *Allerkamp*, 17 DOE at 88,176. Any party that has previously submitted a refund Application in the crude oil refund proceedings need not file another Application. That previously filed Application will be deemed to be filed in all crude oil proceedings as the procedures are finalized. The DOE has established June 30, 1994 as the current deadline for filing an Application for Refund from the crude oil funds. *Anchor Gasoline Corp.*, 22 DOE ¶ 85,071 (1992). It is the policy of the DOE to pay all crude oil refund claims filed within this deadline at the rate of $.0008 per gallon. However, while we anticipate that applicants that filed their claims within the original June 30, 1988 deadline will receive a supplemental refund payment, we will decide in the future whether claimants that filed later Applications should receive additional refunds. *E.g.*, *Seneca Oil Co.*, 21 DOE ¶ 85,327 (1991). Notice of any additional amounts available in the future will be published in the Federal Register.

B. Crude Oil Application Requirements

To apply for a crude oil refund, a claimant should submit an Application for Refund containing all of the following information:

(1) Identifying information including the claimant's name, current business address, business address during the refund period, taxpayer identification number, a statement indicating whether the claimant is a corporation, partnership, sole proprietorship, or other business entity, the name, title, and telephone number of a person to contact for any additional information, and the name and address of the person who should receive any refund check.[2] If the applicant operated under more than one name or under a different name during the price control period, the applicant should specify these names;

(2) If the applicant's firm is owned by another company, or owns other companies, a list of those companies' names, addresses, and descriptions of their relationship to the applicant's firm;

(3) A brief description of the claimant's business and the manner in which it used the petroleum products listed on its application;

(4) A statement identifying the petroleum products which the applicant purchased during the period August 19, 1973 through January 27, 1981, an annual schedule displaying the number of gallons of each petroleum product purchased during this refund period, and the total number of gallons of all petroleum products claimed on the refund application;

(5) An explanation as to how the applicant obtained the above mentioned purchase volumes, and, if estimates were used, a description of its method of estimation;

(6) A statement that neither the claimant, its parent firm, affiliates, subsidiaries, successors, nor assigns has waived any right it may have to receive a crude oil refund (e.g., by having executed and submitted a valid waiver accompanying a claim to any of the escrow accounts established pursuant to the Stripper Well Settlement Agreement);

(7) A statement that the applicant has not filed any other refund application in the Subpart V crude oil refund proceeding;

(8) If the applicant is not an end-user, was covered by the DOE price regulations, or is related to the petroleum industry, a showing that the applicant was injured by the alleged crude oil overcharges;

(9) If the Applicant is a regulated utility or a cooperative, certifications that it will pass on the entirety of any refund received to its customers, will notify its state utility commission, other regulatory agency, or membership body of the receipt of any refund, and a brief description as to how the refund will be passed along;

(10) The statement listed below signed by the individual applicant or a responsible official of the company filing the refund application:

> I swear (or affirm) that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and clearly labeled "Application for Crude Oil Refund." Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish for this information to be publicly disclosed, it must submit an original application, clearly designated "confidential," containing the confidential information, and two copies of the application with the confidential information deleted. All refund applications should be sent to: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

The filing deadline is June 30, 1994. Even though an applicant is not required to use any specific form for its crude oil refund application, a suggested form has been prepared by the OHA and may be obtained by sending

[1] The Consent Order specifically states that it settled, but was not limited to, the violations alleged in the PRO and that it settled "all pending and potential civil and administrative claims and disputes * * * arising out of the Federal Petroleum Price and Allocation Regulations * * * during the period August 19, 1973 through January 27, 1981." Consent Order at ¶ 101; *see also Id.* at ¶ 203(b). That language would generally lead the OHA to allocate a portion of the settlement amount to a refined products pool in order to satisfy claims by purchasers of DeMenno's refined petroleum products. However, because the settlement was for significantly less than the crude oil violations alleged in the PRO, the OHA believes that it is most reasonable to put all of the settlement money into the crude oil fund.

[2] Under the Privacy Act of 1974, the submission of a social security number by an individual applicant is voluntary. An applicant that does not wish to submit a social security number must submit an employer identification number if one exists. This information will be used in processing refund applications, and is requested pursuant to our authority under the Petroleum Overcharge Distribution and Restitution Act of 1986 and the regulations codified at 10 CFR Part 205, subpart V. The information may be shared with other Federal agencies for statistical, auditing or archiving purposes, and with law enforcement agencies when they are investigating a potential violation of civil or criminal law. Unless an applicant claims confidentiality, this information will be available to the public in the Public Reference Room of the Office of Hearings and Appeals.

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a written request to the address listed above.

C. Payments to the Federal Government and the States

Under the terms of the MSRP, the remaining eighty percent of the alleged crude oil violation amounts subject to this Decision, or $120,000, plus interest, should be disbursed in equal shares to the states and federal government for indirect restitution. Accordingly, we will direct the DOE's Office of the Controller to segregate the $120,000, plus interest, available for disbursement to the states and federal government and transfer one-half of that amount, or $60,000, plus interest, into an interest-bearing subaccount for the states, and one-half, or $60,000, plus interest, to an interest-bearing subaccount for the federal government. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

It Is Therefore Ordered That:

(1) Applications for Refund from the alleged crude oil overcharge funds remitted by DeMenno-Kerdoon may now be filed.

(2) All Applications submitted pursuant to paragraph (1) above must be filed in duplicate and postmarked no later than June 30, 1994.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer $150,000 (plus interest) from the DeMenno-Kerdoon subaccount (Account Number N00S98095Z), pursuant to Paragraphs (4), (5), and (6) of this decision.

(4) The Director of Special Accounts and Payroll shall transfer $60,000 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking—States," Number 999DOE003W.

(5) The Director of Special Accounts and Payroll shall transfer $60,000 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking—Federal," Number 999DOE002W.

(6) The Director of Special Accounts and Payroll shall transfer $30,000 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking—Claimants 4," Number 999DOE010Z.

Dated: April 27, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 93–10386 Filed 4–30–93; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4625–5]

Industrial Economics, Inc.; Transfer of Confidential Business Information to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has contracted with Industrial Economics, Inc., (IEC), to review and analyze information reported under the various statutes administered by the agency. Some of the materials which IEC will review will contain confidential business information.

DATES: Transfer of data submitted to EPA and claimed to be confidential will occur no sooner than May 13, 1993.

FOR FURTHER INFORMATION CONTACT: Jonathan Libber, Office of Enforcement (LE–133), U.S. EPA, 401 M Street, SW., Washington, DC. 20460, (202) 260–6777.

SUPPLEMENTARY INFORMATION: EPA requires the assistance of outside experts to evaluate the information reported under the various statutes it administers. The statutes which allow disclosure to outside contractors are as follows: Clean Air Act (CAA) sections 114, 208, 307(a); Clean Water Act (CWA) sections 308, 509(a); Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) section 104; Resource Conservation and Recovery Act (RCRA) sections 3001(b)(3)(B), 3007(b), 9005(b); and the Safe Drinking Water Act (SDWA) section 1445(d). The firm of Industrial Economics, Inc., (IEC), 2067 Massachusetts Avenue, Cambridge, MA 02140, was selected to assist EPA. (Contract Nos. 68–W1–0009, 68–W9–0003).

EPA has determined that it will need to disclose confidential business information to IEC in the course of courtroom trials and administrative proceedings. The purpose of this disclosure is to elicit expert opinions regarding financial issues in those proceedings. If any information is claimed to be confidential, reports prepared by IEC dealing with this confidential business information will be treated as confidential. After evaluating the information obtained, IEC will return the information and any reports it prepares to EPA.

Because IEC will review information claimed to be confidential, EPA is publishing this notice to inform all submitters of information that this contractor will have access to confidential business information from EPA.

IEC is under obligation to safeguard confidential business information from any unauthorized disclosure. IEC will be required to sign a nondisclosure agreement and be briefed on appropriate security procedures before it is permitted access to such information.

Robert Heiss,

Director of Enforcement Policy, Office of Compliance Analysis and Program Operations.

[FR Doc. 93–10362 Filed 4–30–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 93–376]

Commission Announces Tentative Selectees for 220–222 MHZ Nationwide Commercial Private Land Mobile Channels

April 1, 1993.

On March 31, 1993, the Commission conducted a lottery for the purpose of determining the tentative selectees for the nationwide commercial private land mobile channels in the 220–222 MHz band.

In accordance with the Commission's rules dealing with random selection procedures, 47 CFR 1.972, this Public Notice is issued to announce the tentative selectees for these channels.

As indicated in 47 CFR 1.972(d), the Commission will grant the applications of those tentative selectees that are determined to be qualified to receive licenses under 47 CFR part 90 of the rules.

The following are the four tentative selectees for the 220–222 MHz nationwide commercial private land mobile channels:

	Tentative selectee	Lottery ID No.
Channels 21–25.	Hughes, Kingdon R.	058
Channels 26–30.	Comtech Inc	028

	Tentative selectee	Lottery ID No.
Channels 151–155.	Global Cellular Communications Inc.	049
Channels 156–160.	Warren, Jean M	124

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–10242 Filed 4–30–93; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1936]

Petitions for Reconsideration and Clarification and Request for Stay of Actions in Rule Making Proceedings

Petitions for reconsideration and clarification and request for stay have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commissions copy contractor ITS, Inc. (202) 857–3800. Opposition to these petitions and request must be filed May 18, 1993. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of part 25 of the Commission's Rules and Regulations to Reduce Alien Carrier Interference Between Fixed Satellites at Reduced Orbital Spacings and to Revise Application Processing Procedures for Satellite Communication Services. (CC Docket No. 86–496, RM–4206). Number of Petitions Filed: 2.

Subject: Amendment of section 73.202(b), Table of Allotments, FM Broadcast Stations. (Bay City, Brenhan, Cameron, Centerville, Edna, Ganado, Giddings, Harker Heights, Hearne, LaGrange, Matagorda, New Ulm, Point Confort, Rollingwood, Rosenberg, and Seadrift, Texas) (MM Docket No. 89–459, RM Nos. 7009, 7260, 7261, 7262, 7263, 7264). Number of Petitions Filed: 1.

Subject: Amendment of Part 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz and 935–940 MHz Bands Allotted to the Specialized Mobile Radio Pool. (PR Docket No. 89–553). Modifications of FCC Rule Section 90.627(b) Governing Multiple Sites for Specialized Mobile Radio Service Systems in Rural Markets. (RM–6724). Amendment of Parts 2 and 94 of the Commission's Rules to Allocate Spectrum in the 896–901 MHz and 935–901 MHz Frequency Bands for Multiple Address Systems and Point-to-Point Operations. (RM–6579). Number of Petitions Filed: 1.

Subject: Amendment of Part 22 of the Commission's Rules to Provide for Filing and Processing Applications for Unserved Areas in the Cellular Services and to Modify Other Cellular Rules. (CC Docket No. 90–6). Number of Petitions Filed: 8.

Subject: Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990. (CC Docket No. 90–571). Number of Petitions Filed: 4.

Subject: Amendment of Part 90 of the Commission's Rules to Create the Emergency Medical Radio Service. (PR Docket No. 91–72, RM–7336). Number of Petitions Filed: 2.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Corpus Christi and Three Rivers, Texas) (MM Docket No. 91–193, RM Nos. 7717 & 7822). Number of Petitions Filed: 1.

Subject: Implementation of Cable Television Consumer Protection and Competition Act of 1992. Cable Home Wiring (MM Docket No. 92–260). Number of Petitions Filed: 3.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Columbia Falls, Montana) (MM Docket No. 92–281, Rm–8118). Number of Petitions Filed: 1.

Request for Stay

Subject: Amendment of Part 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz and 935–940 MHz Bands Allotted to the Specialized Mobile Radio Pool. (PR Docket No. 89–553). Modifications of FCC Rule Section 90.627(b) Governing Multiple Sites for Specialized Mobile Radio Service Systems in Rural Markets. (RM–6724). Amendment of Parts 2 and 94 of the Commission's Rules to Allocate Spectrum in the 896–901 MHz and 935–901 MHz Frequency Bands for Multiple Address Systems and Point-to-Point Operations. (RM–6579). Number of Requests Filed: 1.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–10241 Filed 4–30–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before July 2, 1993.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: the FEMA Information Collections Clearance Officer at the address below; and to Gary Waxman, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395–7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Linda Borror, FEMA Information Collections Clearance Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2624.

Type: Revision of 3067–0148.

Title: Consultation with Local Officials to Assure Compliance with Sections 110 and 206 of the Flood Disaster Protection Act of 1973.

Abstract: National Flood Insurance Program (NFIP) regulations, 44 CFR 66 and 67, require scientific and technical data, which demonstrates the need for a revision, be submitted by communities to request revisions to special flood hazard areas (SFHA's), base (100-year) flood elevations (BFE's), flood insurance rate maps (FIRM's), and flood boundary and floodway maps (FBFM's). An application/certification package of forms and instructions has been developed to supplement the general information requirements in the regulations, as well as to establish an organized, systematic approach to initially collect the correct and appropriate data. The use of the forms will minimize the need for follow ups with communities and will ensure that decisions made on the requests are more timely. The application/certification package contains the following forms: Revision Requester and Community

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Official Form; Certification by Registered Professional Engineer and/or Land Surveyor; Hydrologic Analysis Form; Hydraulic Analysis Form; Riverine/Coastal Mapping Form; Channelization Form; Bridge/Culvert Form; Levee/Floodwall System Analyses Form; Coastal Analyses Form; Coastal Structures Form; Dam Form; and Alluvial Fan Flooding Form.

Type of Respondents: State and local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 5,502 Hours.

Number of Respondents: 700.

Estimated Average Burden Time per Response: 7.86 Hours.

Frequency of Response: On occasion.

Dated: April 2, 1993.

Wesley C. Moore,

Director, Office of Administrative Support

[FR Doc. 93-10333 Filed 4-30-93; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL RESERVE SYSTEM

First Union Corporation; Application to Engage in Certain Nonbanking Activities

First Union Corporation, Charlotte, North Carolina (Applicant), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(C)(8)) (BHC Act) to engage through its wholly owned subsidiary, First Union Securities, Inc., Charlotte, North Carolina (Company), in the following nonbanking activities:

1. Purchasing and selling, for its own account: (A) U.S. Government securities, futures, options, and options on futures with respect to foreign exchange, government securities, and other money market instruments which a bank may buy or sell in the cash market for its own account, and indices on such securities and instruments, interest rate and currency swap, cap, floor, and collar transactions, and warrants and forward rate agreements on interest rates of major currencies, in over-the-counter and exchange-traded transactions; (B) futures, options, and options on futures with respect to gold and silver in exchange-traded transactions; and (C) foreign exchange in spot and forward transactions.[1]

2. Providing advice to affiliates with respect to: (A) Trading debt securities; (B) trading futures, options, and options on futures with respect to debt and equity securities, including futures and options on futures contracts based upon indices of debt and equity securities; and (C) trading futures, options, and options on futures with respect to gold and silver.

Applicant seeks approval to conduct the proposed activities throughout the United States.

Closely Related to Banking Standard

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto". In determining whether a proposed activity is closely related to banking for purposes of the BHC Act, the Board considers, *inter alia*, the matters set forth in *National Courier Association versus Board of Governors of the Federal Reserve System*, 516 F.2d 1229 (D.C. Cir. 1975). These considerations are (1) Whether banks generally have in fact provided the proposed services, (2) whether banks generally provide services that are operationally or functionally so similar to the proposed services as to equip them particularly well to provide the proposed services, and (3) whether banks generally provide services that are so integrally related to the proposed services as to require their provision in a specialized form. *See id.* at 1237.

Applicant states that the Board previously has determined by order that the proposed activities are closely related to banking. *See The Hongkong and Shanghai Banking Corporation, et al.*, 75 Federal Reserve Bulletin 217 (1989); *Swiss Bank Corporation*, 77 Federal Reserve Bulletin 126 (1991); *Swiss Bank Corporation*, 77 Federal Reserve Bulletin 759 (1991). Applicant further states that the proposed activities will be conducted in accordance with the conditions established by the Board in these orders.

Proper Incident to Banking Standard

In order to approve the proposal, the Board must determine that the proposed activities to be conducted by Company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." 12 U.S.C. 1843(c)(8).

Applicant believes that the proposal will produce public benefits that outweigh any potential adverse effects. In particular, Applicant maintains that the proposal will enhance market competition, enable Applicant to diversify the risk associated with trading in bank-eligible securities and related derivative instruments, and result in the transfer from an insured depository institution to a nonbank subsidiary of activities subject to market uncertainties. In addition, Applicant states that the proposed activities will not result in adverse effects such as an undue concentration of resources, decreased or unfair competition, or unsound banking practices.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application, and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than May 19, 1993. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Richmond.

Board of Governors of the Federal Reserve System, April 28, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

Appendix

London International Financial Futures Exchange

Futures:
- German Government Bond (Bund)
- U.S. Treasury Bond
- Japanese Government Bond (JGB)
- Eurodollar

Options:
- German Government Bond (Bund) Futures
- U.S. Treasury Bond Futures
- Eurodollar Futures

Chicago Board of Trade

Futures:
- U.S. Treasury Bond
- 2-Year, 5-Year, and 10-Year U.S. Treasury Notes
- Long-Term Municipal Bond Index
- Mortgage-Backed Securities
- 3-Year and 5-Year Interest Rate Swaps
- 30-Day Federal Funds Interest Rate
- Kilo Gold
- 100-Ounce Gold
- 1000-Ounce Silver
- 5000-Ounce Silver

Options:
- U.S. Treasury Bond Futures
- 5-Year and 10-Year U.S. Treasury Note Futures
- Long-Term Municipal Bond Index Futures
- Mortgage-Backed Securities Futures
- 3-Year and 5-Year Interest Rate Swap Futures
- 1000-Ounce Silver Futures

Chicago Mercantile Exchange and International Monetary Market

Futures:
- Swiss Franc
- Japanese Yen
- German Mark
- British Pound
- Canadian Dollar
- U.S. Treasury Bill
- Eurodollar
- 30-Day LIBOR

Options:
- Eurodollar Futures
- U.S. Treasury Bill Futures
- 30-Day LIBOR Futures

Commodity Exchange, Inc.

Futures:
- 100 Troy Ounce Gold
- 5000 Troy Ounce Silver

New York Commodities Exchange

Futures:
- 2-Year and 5-Year Treasury Notes

Options:
- 5-Year Treasury Note Futures

Chicago Board Options Exchange

Options:
- U.S. Treasury Bond (Specific Issues)
- 5-Year U.S. Treasury Note (Specific Issues)
- Short-Term Treasury Index Futures
- Long-Term Treasury Index Futures

Over-the-Counter Market

Contracts:
- U.S. Treasury Bills, Notes, and Bonds
- Warrants and Forward Rate Agreements on Interest
- Rates of Major Currencies
- Interest Rate and Currency Swaps, Caps, Floors, and Collars (including Caps, Floors, and Collars on Interest Rates of Major Currencies)

[FR Doc. 93-10432 Filed 4-30-93; 8:45 am]

BILLING CODE 6210-01-M

[1] The specific futures, options, options on futures and other instruments and contracts which Applicant proposes to purchase and sell through Company, and the exchanges on which such transactions would be executed, are listed in the Appendix.

GENERAL SERVICES ADMINISTRATION

[G-93-2]

Delegation of Authority to the Secretary of Transportation

Pursuant to the authority vested in the Administrator of General Services by section 3726 of Title 31, United States Code, and redelegated to the Director, Office of Transportation Audits, Federal Supply Service, I have determined that it is both cost-effective and in the public interest to delegate authority to the Secretary of Transportation to conduct prepayment audits of domestic and foreign household goods, motor, air and rail freight, air passenger, and water freight, subject to the provisions of the Federal Property Management Regulations, Title 41, Code of Federal Regulations, Subpart 101-41, and amendments thereto. These prepayments audits will be conducted by a General Services Administration's (GSA's) contractor, at the contractor's site for the U.S. Coast Guard Supply Center, Brooklyn, New York.

The Secretary of Transportation may redelegate this authority to any officer, official, or employee of the Department of Transportation.

The Secretary of Transportation shall notify GSA in writing of these additional delegations. This delegation is effective upon publication in the **Federal Register.**

Dated: April 21, 1993.

R.W. Piasecki,

Director, Office of Transportation Audits.

[FR Doc. 93-10250 Filed 4-30-93; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

CDC Advisory Committee on the Prevention of HIV Infection (CDC ACPHI): Subcommittee on Improving Public Understanding of the HIV Epidemic: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee meeting.

Name: CDC ACPHI Subcommittee on Improving Public Understanding of the HIV Epidemic.

Times and Dates: 10 a.m.-5 p.m., May 18, 1993; 8:30 a.m.-4 p.m., May 19, 1993.

Place: CDC National AIDS Clearinghouse, 1600 Research Boulevard, Rockville, Maryland 20850.

Status: Open to the public, limited only by the space available.

Purpose: This is the second meeting of this subcommittee which will include a site visit to the CDC National AIDS Clearinghouse. The subcommittee will continue to discuss CDC's public information programs.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Connie Granoff, Committee Assistant, Office of the Associate Director for HIV/AIDS, CDC, 1600 Clifton Road, NE., Mailstop E-40, Atlanta Georgia 30333, telephone 404/639-2918.

Dated: April 27, 1993.

Robert L. Foster,

Assistant Director, Office of Progrom Support, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93-10295 Filed 4-30-93; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 93F-0111]

Allied-Signal, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Allied-Signal, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of Nylon 6/66 copolymers as components of nonfood-contact layers of multilayer food packaging used at temperatures that do not exceed 212 °F.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9500.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B4369) has been filed by Allied-Signal, Inc., c/o 1100 G St. NW., Washington, DC 20001. The petition proposes to amend the food additive regulations in § 177.1395 *Laminate structures for use at temperatures between 120 °F and 250 °F* (21 CFR 177.1395) to provide for the safe use of Nylon 6/66 copolymers complying with 21 CFR 177.1500(b), item 4.2, as components of nonfood-contact layers of multilayer food packaging used at temperatures that do not exceed 212 °F.

The potential environmental impact of this action is being reviewed. If the

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agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: April 23, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93-10310 Filed 4-30-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92M-0390]

Ciba Vision Corp.; Premarket Approval of CIBA 2000™ Spherical (Atlafilcon A) Soft (Hydrophilic) Contact Lenses (Clear)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application by CIBA Vision Corp., Atlanta, GA, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), to expand the indications for the clear CIBA 2000™ Spherical (atlafilcon A) Soft (hydrophilic) Contact Lenses from daily wear use to include extended wear. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 11, 1992, of the approval of the supplemental application.

DATES: Petitions for administrative review by June 2, 1993.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James F. Saviola, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1080.

SUPPLEMENTARY INFORMATION: On December 31, 1990, CIBA Vision Corp., 2910 Amwiler Ct., Atlanta, GA 30360, submitted to CDRH a supplemental application for premarket approval to expand the indications of the clear CIBA 2000™ Spherical (atlafilcon A) Soft (hydrophilic) Contact Lenses from daily wear use to include extended wear. The lenses are indicated for daily wear or extended wear from 1 to 7 days between removal for cleaning and disinfection as recommended by the eye care practitioner. The lenses are indicated for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic or hyperopic. The lenses may be worn by persons who exhibit astigmatism of 2.00 diopters (D) or less that does not interfere with visual acuity. The lenses range in powers from -20.00 D to +12.00 D.

In accordance with the provisions of section 515(c)(2) of the act as amended by the Safe Medical Devices Act of 1990, this supplemental premarket approval application (PMA) was not referred to the Ophthalmic Devices Panel, an FDA advisory panel, for review and recommendation because the information in the supplemental PMA substantially duplicates information previously reviewed by the panel. On September 11, 1992, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 2, 1993, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 21, 1993.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 93-10308 Filed 4-30-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 93M-0023]

CarboMedics, Inc.; Premarket Approval of the Gelseal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by CarboMedics, Inc., Austin, TX, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of the Gelseal. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of January 11, 1993, of the approval of the application.

DATES: Petitions for administrative review by June 2, 1993.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lisa Kennell, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1200.

SUPPLEMENTARY INFORMATION: On February 15, 1991, Medtronic, Inc., Minneapolis, MN 55432-3576 (subsequently CarboMedics, Austin, TX 78752-1793), submitted to CDRH an application for premarket approval of the Gelseal. The device is a vascular prosthesis and is indicated exclusively for vascular repair of diseased vessels of the abdomen, i.e., replacement or bypass in aneurysmal and occlusive disease of abdominal arteries.

On June 3, 1991, the Circulatory System Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On January 11, 1993, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 2, 1993, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 21, 1993.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 93-10309 Filed 4-30-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 93M-0018]

Surgical Division/3M; Premarket Approval of the 3M Kennedy LAD™ Ligament Augmentation Device

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application by the Surgical Division/3M, St. Paul, MN, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of the 3M Kennedy LAD™ Ligament Augmentation Device. After reviewing the recommendation of the Orthopedic and Rehabilitation Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of December 31, 1992, of the approval of the supplemental application.

DATES: Petitions for administrative review by June 2, 1993.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nirmal K. Mishra, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1036.

SUPPLEMENTARY INFORMATION: On August 13, 1990, the Surgical Division/3M, St. Paul, MN 55144, submitted to CDRH a supplemental application for premarket approval of the 3M Kennedy LAD™ Ligament Augmentation Device. The device is a prosthetic ligament augmentation device fabricated from high-tenacity polypropylene, heat-sealed at both ends. It is indicated for augmentation and strengthening of low-strength, autogenous tissue grafts used in the reconstruction of anterior cruciate ligament (ACL) deficient knees. The autogenous graft may consist of either of the following: (1) A 10 millimeter or smaller patellar tendon graft in patients more than 3 weeks since injury; or (2) a portion of the quadriceps tendon (prepatellar tissue), the central one-third of the patellar tendon routed through the joint and placed over the top of the femoral condyle.

On August 16, 1991, the Orthopedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the supplemental application for expansion of the indication statement to include all low-strength tissue grafts. A low-strength graft was defined as one which was below that of the native ACL. On December 31, 1992, CDRH approved the supplemental application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this supplemental application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the supplemental application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and

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shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 2, 1993, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 21, 1993.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 93-10307 Filed 4-30-93; 8:45 am]

BILLING CODE 4160-01-F

Administration for Children and Families, Office of Family Assistance

Agency Information Collection Under OMB Review

Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for approval of an existing information collection titled: "Integrated Review Schedule".

ADDRESSES: Copies of the information collection request may be obtained from Steve Smith, Office of Information Systems Management, ACF, by calling (202) 401-6964.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Kristina Emanuels, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395-7316.

Information on Document

Title: Integrated Review Schedule.

OMB NUMBER: 0970-0035.

Description: Section 402 (a)(6) and (c) of the Social Security Act and 45 CFR 205.40 set forth the requirements for Quality Control (QC) reviews which necessitates the collection of information on Form ACF-4357.

State agencies are required to perform QC reviews for the four Federal assistance programs: AFDC, Medicaid, Food Stamps, and Adult Assistance. The Integrated Review Schedule (IRS) serves as the comprehensive data entry form for all QC reviews in the AFDC, Food Stamp, Medicaid, and Adult Assistance programs. The information needed to complete the IRS is obtained from the respective AFDC, Food Stamp, Medicaid and Adult Assistance case records and State QC findings.

All data elements in the IRS consist either of dollar amounts, dates or alphanumeric codes. Thus, the schedule serves both as the data entry form for the QC reviewer, to be filled out in the course of each QC review, and subsequently as the data input document for direct data entry use by computer terminal operators.

Annual Number of Respondents: 63,000.

Annual Frequency: 1.

Average Burden Hours Per Response: 1.

Total Burden Hours: 63,000.

Dated: April 23, 1993.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 93-10251 Filed 4-30-93; 8:45 am]

BILLING CODE 4184-01-M

Health Resources and Services Administration

Notice of filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

Advanced General Dentistry Review Committee Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC. Copies may be obtained from: Dr. Richard Weaver, Executive Secretary, Advanced General Dentistry Review Committee, room 8C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6837.

Dated: April 27, 1993.

Jackie E. Bassin,

Advisory Committee Management Officer, HRSA.

[FR Doc. 93-10226 Filed 4-30-93; 8:45 am]

BILLING CODE 4160-15-P

Notification of Expiring Project Periods for Community and Migrant Health Centers

AGENCY: Health Resources and Services Administration.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that a total of 144 Community Health Center and Migrant Health Center (C/MHC) grantees will reach the end of their project periods during fiscal year (FY) 1994. Assuming the availability of sufficient appropriated funds in FY 1994, it is the intent of HRSA to continue to support health services in these areas, given the unmet need inherent in their designation as medically underserved. HRSA will open competition for awards under sections 330 and 329 of the Public Health Service (PHS) Act (42 U.S.C. 254c and 254b, respectively) to support health services in the areas currently served by these grants.

This notice provides interested parties the opportunity to gather information and decide whether to pursue Federal funding for a community or migrant health center. During this process, communication with Regional Office staff is essential (see Appendix I). A subsequent notice will be published in the **Federal Register** to announce the availability of funds for FY 1994 and provide detailed information on the grant application process and review criteria.

DATES: Current grant expiration dates vary by area throughout FY 1994. Applications for competing continuation grants are normally due 120 days prior to the expiration of the current grant award.

SUPPLEMENTARY INFORMATION: The C/MHC programs are carried out under the authority of sections 330 and 329 of the Public Health Service Act. The program regulations are codified in title 42 of the Code of Federal Regulations (CFR), parts 51c and 56. The C/MHC programs are designed to promote the development and operation of community-based primary health care service systems in medically underserved areas for medically underserved populations.

The list of C/MHCs whose project periods expire in FY 1994 is set forth in Appendix II. A project period is the total amount of time for which a project has been programmatically approved. A project period may consist of one or more budget periods. For the purposes of this notice, grant awards will be made for a one year budget period and project periods will be for up to three years.

Dated: April 27, 1993.

Robert G. Harmon,

Administrator.

Appendix I—Regional Office Staff

Region I:
Rob Lawrence, Acting Director, Division of Health Services Delivery, DHHS—Region I, JFK Federal Building #1401, Boston, MA 02203

Region II:
Ron Moss, Director, Division of Health Services Delivery, DHHS—Region II, JFK Federal Building, 26 Federal Plaza, New York, NY 10278

Region III:
Bruce Riegel, Director, Division of Health Services Delivery, DHHS—Region III, 3535 Market Street, Philadelphia, PA 19101

Region IV:
Ms. Marlene Lockwood, Division of Health Services Delivery, DHHS—Region IV, 101 Marietta Tower, Atlanta, GA 30323

Region V:
Caye Santiago, Director, Division of Health Services Delivery, DHHS—Region IV, 105 West Adams Street, 17th Floor, Chicago, IL 60603

Region VI:
Fred Pintz, M.D., Director, Division of Health Services Delivery, DHHS—Region VI, 1200 Main Tower Building, Dallas, TX 75202

Region VII:
Ray Maddox, Director, Division of Health Services Delivery, DHHS—Region VII, Federal Office Building, 601 East 12th Street, Kansas City, MO 64106

Region VIII:
Barbara Bailey, Director, Division of Health Services Delivery, DHHS—Region VIII, Federal Office Building, 1961 Stout Street, Denver, CO 80294

Region IX:
Gordon Soares, Director, Division of Health Services Delivery, DHHS—Region IX, 50 United Nations Plaza, San Francisco, CA 94102

Region X:
Doug Woods, Director, Division of Health Services Delivery, DHHS—Region X, Blanchard Plaza, 2201 Sixth Avenue, Seattle, WA 98121

APPENDIX II

Region/state/service area	No. of grants	Grant expiration date
Region I		
Massachusetts	4	
South End, Jamaica Plain, Mission Hill, Roxbury		01/31/94
Allston, Brighton		01/31/94
Brockton		06/30/94
East Boston		
New Hampshire	1	
Manchester		06/30/94
Rhode Island	1	
Pawtucket, Central Falls		12/31/93
Region II		
New Jersey	1	
Camden		12/31/93
New York	9	
East Harlem, Manhattan		01/31/94
Bronx-River to Pugsley Creek		01/31/94
Broad Channel, Rockaway		03/31/94
Clinton Hills, Fort Greene		03/31/94
Jefferson, St. Lawrence Counties		03/31/94
Wayne County		12/31/93
Westchester County		12/31/93
Oswego County		12/31/93
Bronx		12/31/93
Puerto Rico	5	
Morovis		01/31/94
Western Region		01/31/94
Hatillo		01/31/94
Camuy		01/31/94
Municipality of Gurabo		06/30/94
Region III		
Delaware	1	
Wilmington		01/31/94
Maryland	1	
Northwest Baltimore		11/30/93
Pennsylvania	4	
Bedford County		01/31/94
North Central Philadelphia		05/31/94
Erie		05/31/94

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APPENDIX II—Continued

Region/state/service area	No. of grants	Grant expiration date
Philadelphia		05/31/94
Virginia	4	
Pittsylvania County		01/31/94
City of Suffolk		06/30/94
Mecklenburg County		12/31/93
Lunenburg County		12/31/93
West Virginia	3	
North Greenbrier County		05/31/94
Preston, Taylor, Tucker Counties		05/31/94
West Nicholas, East Webster Counties		11/30/93
Region IV		
Alabama	5	
Marshall, Dekalb, Etowah Counties		03/31/94
Jefferson County		06/30/94
Madison and Limestone Counties, Athens, Huntsville		11/30/93
Mobile Prichard		11/30/93
Brookwood, Northport, Tuscaloosa, Vance		11/30/93
Florida	9	
Lafayette, Southwest Suwannee, Northeast Taylor Counties		03/31/94
Sumter County		03/31/94
Glades, Hendry, Martin, Okeechobee, St. Lucie Counties		03/31/94
Tampa		03/31/94
Dixie, Gilchrist, Levy Counties		05/31/94
Duval County		06/30/94
Gadsden County		11/30/93
Palm Beach County		12/31/93
Hollywood, Pompano Beach		12/31/93
Georgia	6	
Hancock County		01/31/94
Dade Dekalb (AL), Hamilton (TN), Jackson (AL), Walkezco		01/31/94
Cherokee, Dawson, Forsyth Counties		05/31/94
Atlanta		05/31/94
Johnson County		06/30/94
Chatham County		11/30/93
Kentucky	2	
Breathitt, Letcher, Owsely, Perry Counties		03/31/94
Lewis, West Greenup Counties		11/30/93
Mississippi	10	
Amite County		01/31/94
Covington, Lamar, Perry Counties		01/31/94
Chickasaw, Itawamba, Monroe Counties		01/31/94
Leake, Neshoba, Newton, Scott Counties		03/31/94
Kemper, Lauderdale, Noxubee Counties		03/31/94
Claiborne County		05/31/94
Coahoma, Quitman, Tallahatchie, Tunica Counties		05/31/94
South Lawrence, West Marion, East Pike, Walthall Counties; North Tangipahoa (LA), North Washington (LA) Parishes		11/30/93
Issaquena, Sharkey, Warren Counties		11/30/93
Bay St. Louis, Biloxi, D'Iberville, Gulfport, Van Cleve, Saucier		12/31/93
North Carolina	7	
Person County		05/31/94
Anson County		05/31/94
New Hanover County		06/30/94
Green County		11/30/93
Cumberland, Harnett, Lee Counties		11/30/93
Caswell, Chatham, Lee, Orange, Person Counties		11/30/93
Robeson County		11/30/93
South Carolina	6	
York County		01/31/94
Fairfield County		01/31/94
Richland County		01/31/94
Greenville County		01/31/94
Southeastern Berkeley, Northeastern Charleston, Georgetown Counties		03/31/94
Charleston, Berkeley Counties		03/31/94
Tennessee	8	
Davidson, Trousdale, Wilson Counties		01/31/94
Campbell, Clairborne, Bell (KY), Whitley (KY) Counties		01/31/94
Cocke County		03/31/94

APPENDIX II—Continued

Region/state/service area	No. of grants	Grant expiration date
Cannon, Clay, Cumberland, Dekalb, Fentress, Macon, Overton, Pickett, Putman, Smith, Van Buren, Warren, White Counties		03/31/94
Stewart County		03/31/94
Union, Grainger Counties		03/31/94
Hardeman County		06/30/94
Morgan County		12/31/93
Region V		
Illinois	7	
Johnson, Union Counties		01/31/94
Boone, Bureau, Champaign, Coles, Cook, Dekalb, Iroquois-Ford, Kane, Kankakee, Kendall, Lake, La-Salle, McHenry, Peoria, Tazwell, Vermillion, Will Counties		01/31/94
Cook County		01/31/94
Franklin, Jefferson, Perry, Williamson Counties		03/31/94
Southeast Chicago		05/31/94
North Lawndale		06/30/94
City of Chicago		06/30/94
Indiana	1	
Marion County		06/30/94
Michigan	3	
West Mackinac, North Menominee, South Ontonagon Counties		01/31/94
Berrien, Cass, Kalamazoo, Ottawa, Van Buren Counties		03/31/94
Battle Creek		06/30/94
Minnesota	1	
St. Paul		01/31/94
Ohio	1	
Toledo		05/31/94
Wisconsin	4	
North and Inner City Milwaukee		01/31/94
Southside Milwaukee		03/31/94
Barron, Bayfield, Burnett, Douglas, Polk, Sawyer, Washburn Counties		05/31/94
Milwaukee, Waukesha, Wauwatosa		12/31/93
Region VI		
Arkansas	1	
Crittenden, Poinsett Counties		11/30/93
Louisiana	6	
Baton Rouge		01/31/94
Iberia Parish		02/28/94
North Caddo Parish		06/30/94
Opelousas		06/30/94
St. Mary Parish		02/28/94
Orleans Parish		11/30/93
New Mexico	1	
Rio Arriba County		01/31/94
Texas	8	
Duval, Jim Hogg, Starr, Zapata Counties		01/31/94
East/Southeast San Antonio		01/31/94
El Paso		03/31/94
Cameron, Willacy Counties		03/31/94
Zavala County		03/31/94
Lubbock County		06/30/94
Uvalde County		11/30/93
Gonzales County		11/30/93
Region VII		
Iowa	1	
Woodbury, Dakota (NE) Counties		01/31/94
Kansas	3	
Sedgwick, Augusta, El Dorado, Newton, Wellington, Wichita		01/31/94
Cheyenne, Rawlings, Dundee (NE) Counties		06/30/94
State of Kansas		11/30/93
Missouri	1	
St. Louis		01/31/94
Nebraska	2	
State of Nebraska		01/31/94
Panhandle area of Nebraska		06/30/94

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APPENDIX II—Continued

Region/state/service area	No. of grants	Grant expiration date
Region VIII		
Colorado	3	
Northern Weld County		03/31/94
Adams, Araphoe, Jefferson Counties		12/31/93
Bent, Crowley, Otero Counties		12/31/93
Montana	1	
Missoula County		06/30/94
South Dakota	2	
Pennington County		01/31/94
Hyde, Jones Counties		05/31/94
Utah	1	
East Carbon County		06/30/94
Region IX		
California	4	
Merced, Stanislaus Counties		03/31/94
Imperial, Riverside Counties		05/31/94
Fremont, Hayward, Union City		12/31/93
Bloomington, Colton, Fontana, Rialto		12/31/93
Hawaii	1	
Kalihi Valley		03/31/94
Region X		
Oregon	3	
Washington, North Yamhill Counties		03/31/94
South Clackamas, Marion, East Polk, Southeast Yamhill		03/31/94
North and East Clackamas County		06/30/94
Washington	2	
Southeast and Southwest Seattle		01/31/94
Grant County		03/31/94

[FR Doc. 93–10344 Filed 4–30–93; 8:45 am]
BILLING CODE 4160–15–P

Indian Health Service

Tribal Demonstration Projects for Mental Health Services for American Indians/Alaska Natives

AGENCY: Indian Health Service, HHS.

ACTION: Notice of competitive grant applications for tribal demonstration projects for mental health services for American Indians/Alaska Natives.

SUMMARY: The Indian Health Service (IHS) announces that competitive grant applications are now being accepted for tribal demonstration projects for mental health services for American Indians/Alaska Natives established under the authority of section 103(b)(1), Indian Self-Determination Act, Public Law 93–638, as amended by Public Law 100–472, 25 U.S.C. 450h(b)(1). There will be only one funding cycle during Fiscal Year 1993. Grants shall be administered in accordance with 42 CFR part 36, subpart H, and applicable OMB Circulars and DHHS policies. This program is within the Catalog of Federal Domestic Assistance Number 93.228. Executive Order 12372 requiring intergovernmental review is not applicable to this program.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS led activity for setting priority areas. This program announcement is related to the priority area of Mental Health and Mental Disorders. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

DATES: An original and two (2) copies of the completed grant application must be submitted, with all required documentation, to the Grants Management Branch, Division of Acquisition and Grants Operations, 12300 Twinbrook Parkway, suite 300, Rockville, Maryland 20852, by c.o.b. June 18, 1993.

Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline with hand carried applications received by c.o.b. 5 p.m.; or (2) postmarked on or before the deadline date and received in time to be reviewed along with all other timely applications. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing.

Applications received after the announced closing date will be returned to the applicant and will not be considered for funding.

ADDITIONAL DATES:

A. Application Receipt Date: June 18, 1993
B. Anticipated Application Review: July 28, 1993
C. Applicants Notified of Results (approved, approved unfunded, or disapproved): August 16, 1993
D. Anticipated Start Date: September 1, 1993

FOR FURTHER INFORMATION CONTACT: For program information, contact Mrs. Mari Stetter-Burns, Training/Administrative Officer, Indian Health Service Mental Health/Social Services Program Branch, 2401 12th Street, NW., Albuquerque, New Mexico 87102, telephone (505) 766–2873. For grants information, contact Mrs. M. Kay Carpentier, Grants Management Officer, Grants Management Branch, Division of Acquisition and Grants Operations, Indian Health Service, 12300 Twinbrook Parkway, suite 300, Rockville, Maryland 20852, telephone (301) 443–5204. (The telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: This announcement provides information on the general program goals, eligibility requirements, programmatic activities, funding availability, period of support, and application procedures.

A. General Program Goals

The goal of this announcement is to identify and fund demonstration projects that will develop and implement promising and innovative mental health services for American Indians and Alaska Natives.

B. Eligibility Requirements

Any federally recognized Indian tribe or Indian tribal organization is eligible to apply for a demonstration grant from the IHS under this announcement.

C. Programmatic Activities

Grant applications for mental health services shall address the establishment for day treatment programs for severely and persistently mentally ill (SPMI) American Indians/Alaska Natives. Severe and persistent mental illnesses are biological brain diseases which interfere with normal brain chemistry. These diseases can severely disturb a person's ability to think, feel, and relate to other people and the environment. They often result in substantially diminished capacity for coping with the ordinary demands of life. The most common severe and persistent mental illnesses are schizophrenia, manic-depressive illness and major depression. Life stresses may trigger the onset of symptoms. Consideration should be given to psychosocial, vocational and other supportive services in the program proposal.

D. Fund Availability

In Fiscal Year 1993, $400,000 will be available to support at least two mental health grants. The average funding level for projects in FY 1992 was $168,000.

E. Period of Support

Projects will be awarded for a project period of up to three years, with funding for succeeding years based on the availability of appropriations, continuing need for the program, and satisfactory performance.

F. Application Process

An IHS Grant Application Kit, including required form PHS 5161–1 (rev. 7/92), may be obtained from the Grants Management Branch, Division of Acquisition and Grants Operations, 12300 Twinbrook Parkway, room 300, Rockville, Maryland 20852, telephone (301) 443–5204. Information collection #requested in the narrative of the application is approved under OMB #0937–0189.

1. Narrative

The narrative section of the application must include the following: (a) Statement of problem, (b) program objectives, and (c) work plan. The workplan section should be project specific. These instructions for the preparation of the narrative are to be used in lieu of the instructions on page 16–17 of the PHS–5161–1. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully.

The narrative may not exceed five single spaced pages in length, excluding attachments, budget, and letters of support/resolution.

(a) Statement of the Problem

(1) Describe and define the target population at the project location.

(2) Describe the existing resources and services available related to the specific service the applicant is proposing to provide.

(3) Describe in detail the needs of the target population and what efforts have been made In the past to meet these needs, if any.

(4) Summarize the applicable State, IHS, and/or national standards and describe the unmet needs of the applicant's current program in relation to applicable State, IHS, and/or national standards.

(5) Describe the relationship of the project to local or state Mental Health Programs for SPMI populations, if any.

(b) Program Objectives

(1) State concisely the objectives of the project.

(2) Describe briefly what the project intends to accomplish.

(3) Describe how accomplishment of the objectives will be measured.

(c) Work Plan

(1) Describe the proposed program to be offered including existing resources, i.e. staff and facilities, and describe additional resources required. Indicate the referral systems, and treatment follow-up to be provided. Indicate the date that the program will begin to accept patients. Please note that no more than five additional staff may be requested from grant funds.

(2) Describe the proposed program operations, including the type and cost of facilities and equipment to be used, transportation, numbers and credentials of staff, and numbers of patients to be served. Any equipment requirements, either general purpose or specialized, should be identified. Indicate needs by listing individual items and quantities necessary.

(3) Applications which propose to use an already existing appropriate facility (instead of needing to obtain such a facility upon award) will be given priority. Surplus government property may be available for the program.

(4) Describe the local resources and expertise available for this project from other related human service programs and the nature and amount of their cooperation/collaboration/assistance.

(5) Describe the system to be used for information collection and program evaluation to determine the impact of the project. The reporting system should include, but is not limited to, the number of referrals to the program, number and types of patients served, number of referrals for further treatment to other facilities, costs associated with the program, and services provided. Indicate the project's willingness to share its program experience with IHS Areas and other tribal organizations.

(6) Indicate the kinds and frequency of reports to be provided on the progress of the program. A quarterly report for program and financial status is the minimum requirement.

(7) Describe potential and plans for program continuation after the grant period.

2. Documentation of Support

(a) Tribal Resolution: (1) A resolution of the Indian tribe served by the project must accompany the application submission. (2) Applications which propose services affecting more than one Indian tribe must include resolutions from all affected tribes to be served. (3) Applications by tribal organizations will not require a specific tribal resolution(s) if the current tribal resolution(s) under which they operate would encompass the proposed grant activities. A statement of proof or a copy of the current operational resolution must accompany the application. If a resolution or a statement is not submitted, the application will be

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considered incomplete and will be returned without consideration.

(b) Letters of Cooperation/Collaboration/Assistance: If other related human service programs are to be involved in the project, letters confirming the nature and extent of their cooperation/collaboration/assistance. Letter should be specific.

3. Costs

An itemized estimate of costs and justification for the proposed progmm by line item must be provided on form PHS–5161–1 (rev. 7/92). Any special start up costs should be indicated. Grant funding may not be used to supplant existing public and private resources.

4. Assurances

The application shall contain assurances to the Secretary that the applicant will:

(a) Where applicant is providing services, provide such services at a level and range which is not less than that identified by the Service after negotiation with the applicant, as an appropriate level, range and standard of care.

(b) Where providing services, provide services in accordance with law and applicable IHS policies and regulations.

(c) Where providing services, provide services in a fair and uniform manner, consistent with medical need.

G. Review Process

Applications that meet eligibility requirements, are complete, and conform to this program announcement will be reviewed by an Objective Review Committee (ORC) conducted at the IHS Headquarters and in accordance with IHS objective review procedures. The objective review process is a nationwide competition for limited funding. The ORC will be comprised of IHS of tribal staff (50–60%) and other non-IHS individuals (50–40%) with appropriate expertise. The ORC will review each application against established criteria. Based upon the evaluation criteria, the reviewers will assign a numerical score to each application. In making the final funding decision the IHS will also consider recommendations of the IHS Area Office within which the applicant organization is located.

H. Evaluation Criteria

In scoring applications the following is considered: The soundness of the applicant's plan for conducting the project and for assuring effective utilization of grant funds, considering the population to be served and description of its needs, and the clarity and feasibility of objectives.

The apparent capability of the applicant to organize and manage the proposed project successfully considering, among other things the adequacy of staff, program evaluation strategy, management systems, equipment, facilities, any cooperative approach if this is a joint work plan involving multiple programs within the tribal organization, and in-kind contributions.

The relative effectiveness of the applicant's plan, showing that the plan addresses an unmet need in relation to IHS and national standards, the potential that the project will continue and be ongoing at the end of funding, and the ability to replicate the program nationwide.

The adequacy of the budget in relation to the scope of the project and available funds.

Date: November 17, 1992.

Everett R. Rhoades,

Assistant Surgeon General, Director.

[FR Doc. 93–10227 Filed 4–30–93; 8:45 am]

BILLING CODE 4160–16–M

Indian Health Service Research Program; Grants Application Announcement

AGENCY: Indian Health Service, HHS.

ACTION: Notice of competitive grant and cooperative agreement applications for the Indian Health Service (IHS) Research Program.

SUMMARY: The IHS announces that competitive applications for fiscal year (FY) 1994 are now being accepted for the IHS Research Program authorized by section 208 of the Indian Health Care Improvement Act, as amended, 25 U.S.C. 1621g. There will be only one funding cycle during FY 1994. Grants and cooperative agreements shall be administered in accordance with applicable Office of Management and Budget (OMB) Circulars and HHS policies. This program is within the Catalog of Federal Domestic Assistance Number 93.905. Executive Order 12372 requiring intergovernmental review is not applicable to this program.

Although the IHS is not authorized to make grants and cooperative agreements or otherwise commit FY 1994 funds until they are available, this notice is nevertheless being published early. Because awards to IHS components are made by special allotments available for obligation only until September 30, 1994, research awards must be issued early in FY 1994 to allow researchers full use of funds.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led activity for setting priority areas. This program announcement is directly related to many priority areas, including Nutrition, Alcohol and Other Drugs, Unintentional Injuries, Oral Health, Maternal and Infant Health, Heart Disease and Stroke, Cancer, Diabetes and Chronic Disabling Conditions, Human Immunodeficiency Virus Infection, Sexually Transmitted Diseases, Clinical Preventive Services, and Surveillance and Data Systems. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

DATES:

A. In accordance with OMB Circular A–102, Grants and Cooperative Agreements for State and Local Governments, interested parties are invited to comment on the proposed funding emphases. This comment period is 30 days; written comments received by June 2, 1993 will be considered before the final funding emphases are established. No funds will be allocated or selections made until a final notice is published stating what funding emphases will be applied. Written comments on the proposed funding emphases should be addressed to: William L. Freeman, M.D., Director, IHS Research Program, Office of Health Program Research and Development (OHPRD), 7900 South J. Stock Road, Tucson, AZ 85746–9352. All comments received will be available for public inspection and copying at the Office of Health Program and Research Development at the above address, weekdays (Federal holidays excepted) between the hours of 7:30 a.m. and 4:30 p.m., Mountain Standard Time, beginning approximately 2 weeks after publication of this notice.

B. A pre-application is due on or before June 30, 1993. The pre-application is required of all applicants. The purposes of the pre-application are: (1) To establish communications between the IHS and the applicant; (2) to determine the applicant's eligibility; and (3) to determine how well the project can compete with other similar pre-applications. The pre-application will consist of (1) the Standard Form 424 (cover sheet), sections 1., 2., 5., 6., 7., 8., 11., and 15.; (2) a Research Plan

(see section I), and (3) the Importance and Utility section (see section J). In meeting this pre-application deadline, it is the researcher's responsibility to assure that Grants Management Branch, Division of Acquisition and Grants Operations, IHS receives the original pre-application and the appropriate IHS Research and Publication Committee(s) (RPC(s)) simultaneously receives a copy of the pre-application. The RPC(s) will use the same review criteria as the Indian Health Research Study Section. The review criteria are discussed under Section M, Review Process, of this announcement. An applicant submitting a pre-application may be declared ineligible to submit an application, based on the results of the pre-application review.

C. An original and 2 copies of the completed final grant application must be received by the Grants Management Branch, Division of Acquisition and Grants Operations, IHS, suite 300, 12300 Twinbrook Parkway, Rockville, MD 20852–1750, on or before August 16, 1993.

Pre-applications and applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline with hand carried applications received by close of business 5 p.m., or (2) postmarked on or before the deadline and received in time to be reviewed along with all other timely pre-applications and applications. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing.

Pre-applications and applications received after the announced closing date(s) will not be considered for funding and will be returned to the applicant.

Additional Dates

D. Pre-application Review Period: July 1–July 30, 1993

E. Application Reviews: IHS Study Section: On or about September 14–16, 1993

F. Applicants notified of results (approved, approved unfunded, or disapproved): On or about November 16, 1993

G. Earliest anticipated starting date: On or about December 1, 1993

FOR FURTHER INFORMATION CONTACT:

A. Programmatic: William L. Freeman, M.D., Director, IHS Research Program, or Tina Dickerson, Assistant Research Program Coordinator, Office of Health Program Research and Development, 7900 South J. Stock Road, Tucson, AZ 85746–9352, (602) 295–2501, or the following Area Research Coordinators:

Indian health area offices, and states served	Research office: contact(s) and telephone
Aberdeen Area Office, Federal Building, 1154th Ave., SE., Aberdeen, SD 57401, North Dakota, South Dakota, Nebraska, Iowa.	Cecelia Kitto, M.D. (Aberdeen) (605) 226–7581, FAX (605) 226–7670; Thomas Welty, M.D. (Rapid City) (605) 348–1900 Ext 401, FAX (605) 348–8833.
Alaska Area Native Health Service, P.O. Box 7–741, Anchorage, AK 99501, Alaska ...	David H. Barrett, M.d. (907) 257–1251 Ext. 263, FAX (907) 257–1781.
Albuquerque Area Office, IHS, 505 Marquette NW., Suite 1502, Albuquerque, NM 87102, New Mexico, Colorado.	Gary Morigeau (505) 766–2544, FAX (505) 766–2157.
Bemidji Area Office, IHS, 203 Federal Building, Bemidji, MN 56601, Minnesota, Michigan, Wisconsin.	John L. Robinson, D.D.S. (218) 759–3441, FAX (218) 759–3511.
Billings Area Office, IHS, P.O. Box 2143, Billings, MT 59103, Montana, Wyoming	James D. Vesbach, D.D.S. (406) 657–6900, FAX (406) 657–6333.
California Area Office, IHS, 1825 Bell Street, Sacramento, CA 95825, California	John Yao, M.D. (916) 978–4202 Ext 107, FAX (916) 978–4434.
Nashville Area Office, IHS, 3310 Perimeter Hill, Suite 810, Nashville, TN 37217, Mississippi, North Carolina, Florida, New York, Maine, Rhode Island, Louisiana.	William Betts, Ph.D. (615) 781–5537, FAX (615) 781–5558.
Navajo Area Office, IHS, P.O. Box G, Window Rock, AZ 86515, Navajo Reservation .	Douglas G. Peter, M.D. (602) 871–5811, FAX (602) 871–5872.
Oklahoma City Area Office, IHS, 3625 NW 56th Street, Five Corporate Plaza, Oklahoma City, OK 73112, Oklahoma, Kansas, Texas.	Clark Marquart, M.D. (405) 945–6820, FAX (405) 945–6870.
Phoenix Area Office, IHS, 3738 N. 16th Street, Phoenix, AZ 85016, Arizona, Nevada, Utah.	N. Burton Attico, M.D. (602) 640–2187, FAX (602) 640–2557.
Phoenix Indian Medical Center, 4212 N. 16th Street, Phoenix, AZ 85016, Arizona (Only PIMC).	Roy Teramoto, M.D. (602) 263–1551, FAX (602) 263–1648.
Portland Area Office, IHS, 2201 Sixth Avenue, Room 300, Seattle, WA 98121, Washington, Oregon, Idaho.	Ernest H. Kimball, M.P.H. (206) 553–5423, FAX (206) 553–8386.
Office of Health Program, Research and Development, 7900 South J. Stock Road, Tucson, AZ 85746–9352, Southern Arizona.	Robert Wirth, M.D. (602) 295–2402, FAX (602) 295–2602.

B. Grants and Business: M. Kay Carpentier, Grants Management Branch, Division of Acquisition and Grants Operations, IHS, suite 300, 12300 Twinbrook Parkway, Rockville, MD 20852–1750, (301) 443–5204. (Telephone calls to these numbers are not toll–free.)

SUPPLEMENTARY INFORMATION: This announcement provides information on the general program goals, eligibility requirements, research emphases, availability of funds, application process, and review process for the IHS Research Program for FY 1994.

A. General Program Goals

1. To support practice and community-based research projects likely to improve the health of American Indians and Alaska Natives (AI/AN) served by the IHS.

2. To develop research skills among IHS and tribal health professionals. The applicant, as the direct and primary recipient of PHS funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party, or to provide funds to another party.

B. Eligibility

The grant application process affords Indian tribes and tribal organizations which have contracts with the IHS under the Indian Self-Determination Act, 25 U.S.C. 450 *et seq.*, an equal opportunity to compete with IHS components for research funds. Awards

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to tribal contractors will be made as grants or cooperative agreements. The IHS components will receive special allotments of funds to carry out approved research activity.

C. Research Emphases

Grants or special allotments will be made under this announcement with special but not exclusive regard to the following IHS research emphases for FY 1994:

1. Studies of documented high importance in the community in which the research is to be done.

2. Studies with high relevance for the AI/AN populations. (The series "The Research Agenda for Indian Health" in the IHS Primary Care Provider, list many relevant research subjects. Reprints are available from the IHS Research Program and the Area Research Offices.)

3. For studies that involve problems that are both social and medical (e.g., dysfunctional families,) research about factors that enable the community or individuals to overcome the problems.

4. Competing continuations of previously-funded research projects.

D. Fund Availability, Period of Support, and Funding Level

Subject to the availability of FY 1994 funds, it is estimated that between $500,000 and $600,000 will be available to support approximately 20–25 research grants to tribes and special allotments to IHS components and up to 5 demonstrative cooperative agreements to tribes. (Cooperative agreements are financial assistance awards that require the substantial programmatic involvement of the Federal Government. Specific programmatic involvement by the IHS in a project will be negotiated with an approved applicant before award of a cooperative agreement.) This involvement will include the statement of the study question(s) and objective(s); the adequacy of the research literature; the research design and methods proposed; the management, quality control, and analysis of the data sources; the development of new methods and information; the importance of community involvement; the applicability of the research to AI/AN people; the budget sufficiency; and the adequacy of the principal investigator and research team.)

The detail within research project applications, and funding needs for the projects, differ widely between experienced and inexperienced researchers. Therefore, we anticipate two levels of project application and funding. This will allow both the inexperienced and experienced researchers to apply for grants, and to be in competition with others to similar expertise. The grant application must designate for which level the researcher is applying.

(1) The first level is for a one year pilot research project. This level is for less experienced researchers and for less complex and detailed applications. A less experienced researcher is defined as an investigator who has never received a funded research award in his or her own right. The Research Plan and Importance & Utility sections of the pilot research project application should be of less detail and complexity than expected for the small grant research project application; only biographical sketches, not Curriculum Vitae, are required. The anticipated maximum funding for a pilot research project is $15,000.

(2) The second level is for a small research project. This level is for more experienced researchers. A more experienced researcher is defined as an investigator who has received at least one funded research award in his or her right. The Research Plan and Importance & Utility sections of the small grant research project application must be complete and discussed in detail. The small grant project application should be more complete, and have more detail and complexity, than the pilot research project application. The anticipated maximum funding for a small grant research project is $50,000 per year. The project can be planned for up to three years with a competing continuation application for each succeeding year.

Research projects are normally funded for a 1 year project period. No cost extensions can be requested by the researcher to finish work that has encountered unanticipated delays. All applicants must compete annually; however, among applications of similar merit, priority will be given to applicants for a competing continuation of a previously-funded research project. No projects may be funded for more than 3 years.

E. The Complete Application

The information collection requested in the narrative of the application is approved under OMB clearance #0937–0189. An IHS Research Grant Application Kit, including required form PHS 5161–1 (rev. 7/92), may be obtained from the Grants Management Branch, Division of Acquisition and Grants Operations, IHS, Twinbrook Metro Plaza, suite 300, 12300 Twinbrook Parkway, Rockville, MD 20852–1750, telephone (301) 443–5204.

All applications must include the following:

—Completed Standard Forms 424 and 424A.
—A one-page research project abstract. (See section F. Abstract, below.)
—A table of contents.
—A detailed budget for the project period. (See section G. Budget, below.)
—One-page biographical sketches of all key personnel. (See section H. Key Personnel and Research Team, below.)
—A research plan. (See section I. Research Plan, below.)
—A description of the health problems addressed by, and the utility of, the research. (See section J. Importance and Utility, below.)
—Documentation of approvals, support, and clearances. (See section K. Documentation of Approvals, Support, and Clearances, below.)
—A description of how human subjects, if any, are protected from research risks. (See section L. Protection of Human Subjects, below.)
—Appendices, to include:
—Resumes (Curriculum Vitae) of key personnel; and
—A list of all anticipated consultants, collaborators, and contractual agreements.

F. Abstract

The abstract may not exceed one single-spaced typewritten page. It should summarize the application, and should answer the basic questions "who, what, when, where, how, and costs." The abstract should help the reviewers understand the application as a coherent whole. The abstract should be written last, to insure that it is an accurate summary, even though it is placed in the application packet before the sections it summarizes.

G. Budget

An itemized estimate of costs and justification for the proposed research project by line item must be provided on form PHS 5161–1 (effective date 7/92). A narrative justification must be submitted for costs. Indicate needs by listing individual items and quantities necessary. The budget should be sufficient, but not exceed what is necessary, to complete the research project. The budget is not intended as a vehicle for the purchase of expensive computer and other equipment. These purchases are allowable only with IHS prior approval. The budget should include additional resources in the organization(s) that will be applied to the research study, e.g., in-kind staff, physical resources such as telephone,

and consultations. The budget should be developed after the Research Plan is written, even though it is placed in the application packet before the Research Plan section.

H. Key Personnel and Research Team

Each biographical sketch of each key person may not exceed one single-spaced typewritten page. Each sketch should include the person's qualifications, training, and experience relevant to the research project, and the person's time that will be devoted to the project. "Key personnel" include the principal investigator, significant co-investigators, and significant consultants and contractors. The biographical sketches should help the reviewers understand the capabilities of the research team to manage, and to carry out and complete, the project successfully. Include in Appendices both the resumes (Curriculum Vitae) of the key personnel, and a list of all anticipated consultants, collaborators, and contractual agreements.

The instructions for the preparation of the Research Plan section, and Importance and Utility section, are to be used in lieu of the instructions on pages 19–20 of the PHS 5161–1. The two sections may together not exceed 25 single-spaced typewritten pages in length.

I. Research Plan

the research Plan section of the application must include the following sub-sections: (1) The specific aims of the research plan, with study question(s) and objective(s) stated; (2) the background in research literature for the study; (3) a progress report (for competing continuation applicants only); (4) the research design and methods to be used; (5) data sources, management, quality control, and analysis; and (6) originality (if applicable). The Plan should be well organized, clearly written, and succinct. The plan should address how the Scientific Integrity of the project will be maintained. It should contain all information necessary for reviewers to understand fully the research plan without being familiar with the IHS or tribal health programs.

1. Specific Aims: Statement of Study Question(s) and Objective(s).

State the study question(s) and objective(s) of the research clearly and precisely. The rest of the Research Plan should follow logically from the study question(s).

2. Background in Research Literature

Give a brief but comprehensive review of existing research and knowledge related to the study question(s). Previous related work by members of the team, including data from a pilot phase, should be included in the review. Describe the conclusions to be drawn from, and the applicability of, that review to the research project. References should be cited in standard format. (See Index Medicus, or N Eng J Med 1991; 324: 424–428; copies are available from the Area and National Research Offices.)

3. Progress Report (for Competing Continuation Studies Only)

Give the progress of the funded research project to date. Indicate how the final objective(s) of the research will be achieved.

4. Research Design and Methods to be Used

Briefly define the research design, and why it is appropriate for the objective(s) of the research. Describe the research methods in detail. The description should include: (a) The population to be studied; (b) the inclusion and exclusion criteria for study subjects, and how to determine inclusion and exclusion; (c) the sampling techniques; (d) selection of controls (if any); (e) the definition of the independent and dependent variables (if any) and how to measure them; (f) the interventions (if any) and how to assure that they are done in fact; and (g) the definition of the expected outcomes or effects (if any) and how to account for alternative explanations of expected findings. Provide sample size calculations (if needed), and evidence that the research can achieve the projected size. Give a project timeline, with completion dates of all major tasks.

5. Data Sources, Management, Quality Control, and Analysis

Describe in detail the data sources, management, quality control, and analysis. The description should include: (a) The data to be collected, by whom, and at which points in the study; (b) the data sources, and how access to the sources will be attained; (c) the procedures to collect, receive, code, and prepare the data for analysis; (d) the contents of interviews (if they are to be done), and the connection between the interview question and the variables to be studied; (e) how the data will be made secure; (f) how completeness of the data will be assured and low response rates dealt with; (g) how accuracy of the data will be measured and assured; (h) the plan for analysis; (i) the statistical analyses to be done (if any); and (j) the non-statistical analyses to be done (if any, e.g., in qualitative research). Include a copy of the data collection instruments, if available, or the instruments to be modified by the research project (if any), in the application's appendices.

6. Originality

If this research will develop new methods or directly lead to new information for research in general (not just about AI/AN people), briefly discuss that significance.

J. Importance and Utility

The Importance and Utility section of the application must include the following sub-sections: (1) The importance of the health problem(s) addressed by the research for the community(ies) involved; (2) the importance of the health problems addressed by the research for all AI/AN people and for the IHS Area; (3) the rationale for the setting of the study; (4) the utility of the product of the project, and of the experience doing the project, to the community(ies) and service unit(s) (SU(s)) involved; and (5) the utility of the product of the project, and of the experience doing the project, to the IHS and other AI/AN people. The Importance and Utility section should be well organized, clearly written, and succinct. It should contain all information necessary for reviewers to understand fully both the importance of the health problem(s) addressed by the research project and its expected utility, without being familiar with the IHS or tribal health programs.

1. Importance of the Health Problem(s) for the Community(ies) Involved

Using quantitative evidence, briefly document the importance of the health problem(s) addressed by the research project among the range of health problems of the community(ies) in which the research project will be done.

2. Importance of the Health Problem(s) for All AI/AN People and for the IHS Area

Using quantitative evidence, briefly document the importance of the health problem(s) addressed by the research project among the range of health problems of all or major groups of AI/AN people, and by the AI/AN people of the IHS Area.

3. Setting the Study

Briefly discuss why the study should be done only, or be done best, in an AI/AN population, and why in the proposed community(ies).

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4. Utility of the Product and Experience to the Community(ies) and SU(s) Involved

Briefly define the expected utility of the product (e.g., new information) or of the experience (e.g., new research skills, capabilities, resources, or liaisons to do practice-based or community-based research) to the community(ies) and/or SU(s) involved.

5. Utility of the Product and Experience to the IHS and Other AI/AN People

Briefly define the expected utility of the product (e.g., new information) or of the experience (e.g., new research skills capabilities, resources, or liaisons to do practice-based or community-based research) to the IHS and/or other AI/AN people.

K. Documentation of Approvals, Support, and Clearances

1. Tribal Approval

The research project must have the full understanding, documented approval, and support of the Indian tribe(s) or Alaska village(s) involved. Documented approval must be evidenced by a signed and dated Tribal Resolution, done no more than 12 months before December 1, 1993. If more than one tribe is involved, evidence of support from all tribes affected must be submitted with the application. Applications by tribal organizations will not require resolution(s) if the current tribal resolution(s) under which they operate would encompass the proposed grant activities. A statement of proof or a copy of the current operational resolution must accompany the application.

2. Letters of Cooperation, Collaboration, or Assistance

If other research programs are to be involved in the research project, letters confirming the specific nature and extent of cooperation, collaboration, or assistance must be submitted.

3. Service Unit Director Approval

All applicants must provide letter(s) of approval from the Director of any SU(s) involved in or affected by the research project.

4. Area Contracting Officer Clearance

The IHS components which apply must obtain a letter of clearance from the Area Contracting Officer if any purchasing, contracting, or consultant hiring actions will be requested in the research project. This letter of clearance must be included with the submitted proposal.

5. Area Director Approval

The IHS components applying must also obtain a signed Form 424 in Section 18.d-e. from the Area RPC as evidence of the IHS Area Director's approval. This is in accordance with Part 1—General, Chapter 7, Research Activities, Subpart 1—7.4 A. of the IHS Manual which establishes the Area RPC as the Area Director's reviewing authority for research proposals.

L. Protection of Human Subjects

The application shall contain assurances that the applicant will comply with the following:

1. Regulations to Protect All Human Subjects of the Research

If the research project will involve human subjects, the applicant must submit for approval the completed protocol to the applicable IHS Area Institutional Review Board(s) (IRB). If one or more co-investigator(s) is (are) from an institution that has a permanent IRB (i.e., has a Multiple Project Assurance (MPA)), the applicant must submit form HHS 596 to that IRB as well. All IRB approvals must be secured prior to funding of the proposal. (See section M. Review Process, below.) It is recommended that any applicant who proposes to involve human subjects, or who is not sure if the project meets the definition of research involving human subjects in 45 CFR part 46, contact the appropriate Area Research Coordinator listed in this announcement for technical assistance as the application is being developed.

2. Maintenance of Data Confidentiality, Anonymity (If Indicated), and Subject Privacy

Applicants must describe the process to maintain the confidentiality of data collected, the protection of patient records, and the privacy of human subjects. If subjects are to be protected by anonymity, applicants must describe the process to maintain anonymity.

M. Review Process

1. Review by Authorized Institutional Review Boards (IRB)

All applications involving human subjects will be reviewed by the authorized Area or National IRBs in the IHS for compliance with requirements to protect human subjects contained in 45 CFR part 46, and as specified in the IHS MPA. It is suggested but not required that the application be sent to the appropriate Area IRB(s) 1 (one) month before the deadline, for the IRB review of the proposal to permit making the changes before the final submission. The IRB will review only IRB issues, not purely technical methods. Any applications involving investigators from institutions with IRBs with MPAs and involving human subjects must also be reviewed by the IRBs of the respective institution(s). The researcher should contact non-IHS IRB(s) for their deadline requirements. No research project can be funded by IHS unless it has been approved by, and has met the conditions of, all applicable IRBs.

2. Review by the Indian Health Research Study Section (IHRSS)

Applications meeting eligibility requirements that are complete, responsive, and conform to this program announcement will be reviewed for merit by the IHRSS appointed by the IHS to review these applications. The IHRSS review will be conducted in accordance with the IHS objective review procedures. The technical review process ensures selection of quality research projects in a national competition for limited funding. The IHRSS will include at least 60 percent non-IHS, Federal or non-Federal, individuals, all experts in research. The IHRSS will review each application against established criteria, and will assign a numerical score to each application. The members of the IHRSS will use the following criteria and weights to make the score.

Weights

(Criteria "a" through "f" refer to section *I. Research Plan.*)

4 a. *Specific Aims: Statement of study question(s) and objective(s).*
(Are the study questions stated clearly and precisely? Does the rest of the Research Plan follow logically from the study questions?)

10 b. *Background in Research Literature:*
(Does the background in research literature include the important existing research and knowledge relevant to the study question(s), and pilot data (if applicable)? Do the conclusions follow from the review?)

4. c. *Progress Report (for competing continuation studies only).*
(What is the progress to date? Is the report timely? Does the progress report demonstrate that investigators will achieve the objective(s) of the research?)

15 d. *Reasearch design and methods to be used.*
(Does the Research Plan adequately describe the research design? Is the proposed approach appropriate for the objective(s) of the research? Does the Plan adequately describe:

The population to be studied; the inclusion and exclusion criteria, and how the investigators will determine inclusion and exclusion; the sampling techniques; selection of controls (if any); the definition of the independent and dependent variable (if any) and how to measure them; the interventions (if any) and how to assure that they are done in fact; and the definition of the expected outcomes or effects (if any) and how to measure them? Are these methods appropriate to achieve the objective(s) of the research? Are sample size calculations included, if needed? Is the projected sample size achievable, and sufficient to achieve the objective(s) of the research? Does the Plan adequately account for alternative explanations of expected findings? Is the application's timeline, with completion dates of all major tasks, appropriate and feasible?)

10 e. *Data sources, management, quality control, and analysis.*
(Does the Research Plan adequately describe: The data to be collected, by whom, and at what time; the data sources, and how access to the sources will be attained; the procedures to collect, receive, code, and prepare for analysis of the data: the contents of interviews (if they are to be done), and the connection between the interview question and the variables to be studied; how the data will be made secure; how completeness of the data will be assured and low response rates dealt with; how accuracy of the data will be measured and assured; the plan for analysis; the statistical analyses to be done (if any); and the non-statistical analyses to be done (if any)? Are these plans appropriate and adequate for the research questions?)

4 f. *Originality.*
(Will this research likely develop new methods, or directly lead to new information, useful for research in general?)

(Criteria "g" through "k" refer to section J. Importance and Utility.)

10 g. *Importance of the health problem(s) for the community(ies) involved.*
(Are the health problems addressed by the research project of high importance in the community(ies) involved?)

9. h. *Importance of the health problem(s) for all AI/AN people and the IHS Area.*
(Are the health problems addressed by the research project of high importance in all or major segments of AI/AN people, and in the IHS area?)

4. i. *Setting of the study.*
(Should the research be done only, or be done best, in an AI/AN population, and in the proposed community(ies)?)

10. j. *Utility of the project and experience to the community(ies) and SU(s) involved.*
(Does the research project have a high expected utility of the product (e.g., new information) or of the experience (e.g., new research skills, capabilities, resources, or liaisons to do practice-based or community-based research) to the community(ies) and/or SU(s) involved?)

5. k. *Utility of the product and experience to the IHS and other AI/AN people.*
(Does the research project have a high expected utility of the product (e.g., new information) or of the experience (e.g., new research skills, capabilities, resources, or liaisons to do practice-based or community-based research) to the IHS, to the IHS Area, and/or to other AI/AN people?)

5. l. *Budget. (This criterion refers to section G. Budget.)*
(Is the proposed budget sufficient to do the project? Is the proposed budget excessive? Is the proposed budget being used for the purchase of computers or other expensive equipment? If the research project is a competing continuation, are the additional years necessary? Is the cost justified by the expected benefit?)

10. m. *Key personnel and Research Team. (This criterion refers to section H. Key Personnel and Research Team.)*
(Does the principal investigator have the training, experience, and time necessary to do and to manage the proposed research project? Does the research team have the capabilities to carry out and complete the project successfully?)

N. Results of the Review

The recommendations of the IHRSS will be forwarded to the Associate Director, OHPRD, for final review and approval. The Associate Director will also consider the recommendations from the appropriate Area Research Committee and the Grants Management Branch. Applicants will be notified of their approval with funds, or approval without funds, on or about November 16, 1993. A Notice of Grant Award will be issued approximately 10 days prior to the start date. Unsuccessful applicants will be notified in writing of disapproval on or about November 16, 1993. A brief explanation of the reasons why the application was not approved will be provided along with the name of the IHS official to contact if more information is desired.

Dated: March 23, 1993.

Michael E. Lincoln,

Acting Director.

[FR Doc. 93-10225 Filed 4-30-93; 8:45 am]

BILLING CODE 4160-16-M

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given to amend the notice of the National Cancer Advisory Board, and its Subcommitte meetings which was published in the **Federal Register** (58 FR-21587) on April 22, 1993 to allow a change in times.

The Subcommittee on Information and Cancer Control originally scheduled to be held on May 4, 1993 at 2 p.m.-3 p.m. will now meet from 1 p.m.-2 p.m. at the National Institutes of Health, Building 31C, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20892.

The Subcommittee on Environmental Carcinogenesis, which was scheduled to meet on May 4, 1993 immediately following the recess of the National Cancer Advisory Board meeting will now meet from 5 p.m.-6:30 p.m. at the National Institutes of Health, Building 31C, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20892. These meetings are being re-scheduled due to conflicts of schedules of committee members.

The meetings will be open to the public. Attendance by the public will be limited to space available.

Dated: April 29, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93-10485 Filed 4-30-93; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH & HUMAN SERVICES

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that

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have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on Friday, April 16, 1993.

(Call Reports Clearance Officer on (410) 965–4142 for copies of package)

1. Supplemental Security Income No Change Redetermination Study–0960–NEW. The information on form SSA–82 will be used by the Social Security Administration to evaluate the effect of not receiving a notice on recipients who receive a redetermination of their eligibility for, or amount of, Supplemental Security Income (SSI) payments. The respondents will be recipients of SSI payments who receive such a redetermination.

Number of Respondents: 400
Frequency of Response: 1
Average Burden Per Response: 12 minutes
Estimated Annual Burden: 80 hours

2. Statement Regarding Date of Birth and Citizenship—0960–0016. The information on form SSA–702 is used by the Social Security Administration, along with other evidence, to establish a claimant's age or citizenship. The respondents are individuals who have knowledge of the date of birth or citizenship of the claimant.

Number of Respondents: 18,000
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 3,000 hours

3. State Report of Incorrect BENDEX information—0960–NEW. The information on form SSA–1086 is provided by the States and is used by the Social Security Administration to correct entries on the Master Beneficiary Record Data base. The respondents are State and local governments.

Number of Respondents: 155
Frequency of Response: 2
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 52 hours

4. Public Assistance Agency Information Request—0960–0095. The information on form SSA–1610 is used by the Social Security Administration to retrieve limited data about individuals which is requested by State or County welfare offices. The respondents are those offices requesting this data from SSA.

Number of Respondents: 195,000
Frequency of Response: On occasion
Average Burden Per Response: 5 minutes
Estimated Annual Burden: 16,250 hours

5. Proposed Regulation Regarding Continuation of Full Benefit Standard for Persons Temporarily Institutionalized (N–20–416.212)—0960–NEW. The information obtained by this proposed regulation will be used by the Social Security Administration to determine if Supplemental Security Income (SSI) recipients who are temporarily institutionalized can be entitled to their full benefit. The respondents will be SSI recipients who are temporarily institutionalized and their physicians.

Number of Respondents: 24,000
Frequency of Response: 1
Average Burden Per Response: 20 minutes
Estimated Annual Burden: 8,000 hours
OMB Desk Officer: Laura Oliven

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: April 27, 1993.

Carolyn Hunt,

Acting Reports Clearance Officer, Social Security Administration.

[FR Doc. 93–10402 Filed 4–30–93; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF THE INTERIOR

Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization, Public Meeting

AGENCY: Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 101–512, the Office of the Assistant Secretary-Indian Affairs is announcing the forthcoming meeting of the Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization (Task Force).

DATES: May 25–27, 1993, 9 a.m. to 5:30 p.m.; the Kwa Taq Nuk Resort on the Flathead Reservation, 303 US Highway 93 E, Polson, Montana. The meeting of the Task Force is open to the public.

FOR FURTHER INFORMATION CONTACT: Veronica L. Murdock, Designated Federal Officer, Office of the Assistant Secretary-Indian Affairs; MS 4140 MIB; 1849 C Street NW., Washington, DC 20240; Telephone number (202) 208–4173.

SUPPLEMENTARY INFORMATION: The Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization will continue discussion of organizational changes proposed for the Bureau of Indian Affairs at this meeting. Reports on the status of approved organizational changes and recommendations contained in the 1992 reports of the Task Force will be provided. Proposals for restructuring the Office of Trust Responsibilities and the Division of Tribal Government Services will be presented to the Task Force for action. The Task Force will proceed with its identification of BIAM and CFR changes based on the Tribal survey forms received, and it will continue work on the Tribal Budget System. The Task Force will discuss and identify personnel management issues that need to be addressed in connection with the reorganization effort. Public attendance and participation in this meeting are encouraged, and time for public comments has been scheduled for all three days.

Dated: April 26, 1993.

Eddie F. Brown,

Assistant Secretary-Indian Affairs.

[FR Doc. 93–10334 Filed 4–30–93; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[AZ–040–4212–14]

Receipt of Application for the Conveyance of Federally Owned Mineral Interests

AGENCY: Safford District, AZ, Bureau of Land Management (BLM), Interior.

ACTION: Notice of receipt of conveyance of mineral interest application in Graham County, Arizona.

SUMMARY: Notice is hereby given that pursuant to Section 209 of the Act of October 21, 1976, 90 Stat. 2757, Graham County Board of Supervisors, Graham County, Safford, Arizona, has applied to purchase the mineral estate described as follows:

Gila and Salt River Meridian, Arizona

T. 7 S., R. 27 E.,
Sec. 21, SW¼SE¼NE¼NW¼, SW¼SE¼SE¼NE¼NW¼, NW¼NE¼NE¼SE¼NW¼, NE¼NW¼NE¼SE¼NW¼.
T. 8 S., R. 26 E.,
Sec. 29, Lot 17, NW¼NW¼NW¼NE¼, N½N½SW¼NW¼NW¼NE¼.
Containing 10.02 acres, more or less.

Upon publication of this notice in the **Federal Register**, the mineral interests described above will be segregated to the extent that they will not be open to appropriation under the public land laws including the mining laws. The segregative effect of the application shall terminate either upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application or two years from the date of filing of the application, March 31, 1993, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this application may be obtained from the Realty Specialist at the Safford District Office, 711 14th Avenue, Safford, Arizona 85546.

Dated: April 22, 1993.

Frank L. Rowley,

Acting District Manager.

[FR Doc. 93–10298 Filed 4–30–93; 8:45 am]

BILLING CODE 4310–32–M

[NV–930–4210–04; N–56458]

Realty Action: Exchange of Public Lands in Clark County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action N–56458 for exchange of lands in Clark County, Nevada.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada, including the mineral estate with no known value, has been determined to be suitable for disposal by exchange pursuant to Section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716).

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
SEC. 5, Lots 1, 7 and 8, W½SW¼NW¼NE¼, W½NW¼SW¼NE¼, NW¼SW¼SW¼NE¼, E½NE¼SE¼NE¼, E½SE¼NE¼NW¼, E½NE¼SE¼NW¼, NE¼SE¼SE¼NW¼, SW¼NW¼NE¼SE¼, W½SW¼NE¼SE¼, SE¼SE¼NW¼SE¼, E½NE¼SW¼SE¼, NE¼SE¼SW¼SE¼, W½NW¼SE¼SE¼, NW¼SW¼SE¼SE¼.
SEC. 7, SW¼NE¼NE¼, E½SE¼NE¼NE¼, E½NE¼NW¼NE¼, E½NW¼NW¼NE¼, W½SE¼NW¼NE¼, W½NE¼SW¼NE¼, E½NW¼SW¼NE¼, S½SW¼NE¼, E½SW¼SE¼NE¼, E½SE¼NE¼NE¼, NE¼NE¼NW¼, E½SE¼NE¼NW¼, W½SE¼SE¼NW¼, W½NE¼SW¼, NE¼NW¼SW¼, S½SW¼SW¼, SE¼SW¼, S½SE¼SE¼SW¼, W½NE¼SE¼, W½NW¼SE¼, NE¼NE¼NW¼, E½SE¼NE¼NW¼, W½SE¼SE¼NW¼, W½NE¼SW¼, NE¼NW¼SW¼, S½NW¼NE¼SW¼. Aggregating 322.73 acres, more or less.

In exchange for these lands, the Federal Government will acquire a tract of non-federal land in Red Rock Canyon National Conservation Area, Nevada, described as follows:

Mount Diablo Meridian, Nevada

T. 22 S., R. 58 E.,
SEC. 1, SW¼, EXCEPTING THEREFROM the interest in and to those portions of said land deeded to the State of Nevada (for State Route 159—Blue Diamond Road) by a Deed recorded November 15, 1984 as Document No. 1981385 in Book 2022 of Official Records, Clark County, Nevada.

The area described contains 153.76 acres, more or less.

The purpose of the exchange is to complete phase 2 of the Red Rock Exchange to acquire non-federal lands located with the Red Rock Canyon National Conservation Area. The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with local governmental officials. The public interest will be served by making the exchange. If the value of the lands to be exchanged is not equal, the acreage will be adjusted or money will be used to equalize the values upon approval of the final appraisal of the lands.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals having known values.

And will be subject to valid existing third party rights, including but not limited to:

1. Easements of varying widths for road, public utilities and flood control purposes to insure continued ingress and egress to adjacent lands in accordance with the transportation plan for Clark County.

2. Those rights for power transmission line purposes granted to Nevada Power Company, its successors or assigns, by right-of-way Nev-043546, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

3. Those rights for communication line purposes granted to Central Telephone Company, its successors or assigns, by right-of-way N–7353, pursuant to the Act of February 15, 1901, as amended (formerly 43 U.S.C. 959).

4. Those rights for access road purposes granted to Clark County, its successors or assigns, by rights-of-way N–43902 and N–55256, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

5. Those rights for water well site and water pipeline purposes granted to Las Vegas Valley Water District, its successors or assigns, by right-of-way N–51582, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

6. Those rights for flood drainage channel purposes granted to the City of Las Vegas, its successors or assigns, by right-of-way N–51823, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

7. Those rights for underground distribution and communication line purposes granted jointly to Nevada Power Company and Central Telephone Company, their successors or assigns, by rights-of-way N–52939, N–56369 and N–56491, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

8. Those rights for water pipeline and access road purposes granted to Las Vegas Valley Water District, its successors or assigns, by rights-of-way N–53700 and N–53701, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

9. Those rights for underground water main purposes granted to Las Vegas Valley Water District, its successors or assigns, by right-of-way N–55369, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

10. Those rights for flood control channel purposes granted to Las Vegas Valley Water District, its successors or assigns, by right-of-way N–55758, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

11. Those rights for natural gas pipeline purposes granted to Southwest Gas Corporation, its successors or assigns, by right-of-way N–55952, pursuant to the Act of February 25, 1920 (30 U.S.C. 185).

The parcel described as Lot 1, section 5, T. 20 S., R. 60 E., was classified and segregated by publication of a Notice of Realty Action in the **Federal Register** on November 16, 1992 (57 FR 54101).

In accordance with the regulations of 43 CFR 2201.1(b), subject to valid and existing rights, publication of this notice in the **Federal Register**, will segregate the remaining public land in this Notice from all other forms of appropriation

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under the public land laws, including the general mining laws, except for leasing under the mineral leasing laws and from any subsequent exchange proposals filed by any other proponent other than Olympic Lands Inc. or their nominee.

The segregation of the public land described in this Notice shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation, or the expiration of two years from the date of publication, whichever comes first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director.

Dated: April 19, 1993.

Gary Ryan,

Acting District Manager.

[FR Doc. 93-10342 Filed 4-30-93; 8:45 am]

BILLING CODE 4310-HC-M

DEPARTMENT OF INTERIOR

Bureau of Land Management

[OR-030-03-4210-04; GP3-203]

Exchange of Public Lands in Malheur County, Oregon

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of realty action Or 39525.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Willamette Meridian

T. 23S., R. 38E.,
Sec. 31: lot 1, 2, 3, 4, NE¼, E½NW¼, NE¼SW¼, NW¼SE¼, E½SE¼;
Sec. 32: all;
Sec. 33 W½SW¼.
T. 24S., R. 38E.,
Sec. 4: lot 4.

The area described above aggregates 1332.51 acres in Malheur County, Oregon.

In exchange for these lands, the Federal Government will acquire the following described private lands from Walter T. McEwen:

Willamette Meridian

T. 24S., R. 38E.,
Sec. 11: S½SW¼.
T. 25S., R. 38E.,
Sec. 13: SW¼SW¼;
Sec. 14: S½SE¼;
Sec. 15: SW¼NE¼;
Sec. 24: N½.
T. 24S., R. 39E.,
Sec. 19: SW¼SE¼;
Sec. 30: SE¼NE¼, W½E½, E½SW¼.
T. 25S., R. 39E.,
Sec. 3: NW¼SW¼;
Sec. 4: NE¼SE¼;
Sec. 19: lot 2.
T. 26S., R. 39E.,
Sec. 7: E½SE¼;
Sec. 8: S½SW¼, SW¼SE¼;
Sec. 17: N½NW¼, NW¼NE¼.

The area described above aggregates 1319.81 acres in Malheur County, Oregon.

This proposed land exchange was published in the **Federal Register** Vol. 54 FR, page 27435 on Thursday, June 29, 1989, and corrected in the **Federal Register** Vol. 54 FR, page 30633 on Friday, July 21, 1989 and republished in the **Federal Register** Vol. 56 FR page 22734 on Thursday, May 16, 1991.

The purpose of this Notice is to extend the segregative effect on the public lands described above from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this Notice will terminate upon issuance of patent or in two years, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Nancy Getchell, Bureau of Land Management, Vale District, 100 Oregon Street, Vale, OR 97918, (Telephone 503 473-3144).

Donna Webb,

Assistant District Manager Resources.

[FR Doc. 93-10328 Filed 4-30-93; 8:45 am]

BILLING CODE 4310-33-M

[OR-030-03-4210-04; GP3-202]

Exchange of Public Lands in Malheur County, Oregon

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of realty action OR 44787.

SUMMARY: The following lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Willamette Meridian

T. 17S., R. 44E.,
Sec. 14: NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, N½SE¼.
T. 17S., R. 45E.,
Sec. 17: W½;
Sec. 18: lot 1, 2, 3, 4, E½W½, E½.

The area described above aggregates 1353.01 acres in Malheur County, Oregon.

In exchange for these lands, the Federal Government will acquire the following described private lands from OT Farms.

Willamette Meridian

T. 17S., R. 45E.,
Sec. 8: E½W½.
T. 18S., R. 45E.,
Sec. 3: lot 1, 2, 3, 4, S½N½, S½.

The area described above aggregates 802.64 acres in Malheur County, Oregon.

This proposed land exchange was published in the **Federal Register** Vol. 54 FR, page 27436 on Thursday, June 29, 1989; and republished in the **Federal Register** Vol. 56 FR, page 22734 on Thursday, May 16, 1991. The purpose of this Notice is to extend the segregative effect on the public lands described above from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this Notice will terminate upon issuance of patent or in two years, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Nancy Getchell, Bureau of Land Management, Vale District, 100 Oregon Street, Vale, OR 97918, (Telephone 503 473-3144).

Donna Webb,

Assistant District Manager Resources.

[FR Doc. 93-10327 Filed 4-30-93; 8:45 am]

BILLING CODE 4310-33-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-030-03-4210-04; GP-03-184]

Realty Action; Exchange of Public Lands; Malheur County, Oregon

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of Realty Action; Exchange of Public Lands in Malheur County, Oregon.

SUMMARY: The following described public lands are determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Willamette Meridian, Oregon

T. 30 S., R. 42 E.,
Sec. 34: S½NE¼, SW¼NW¼, and NE¼SE¼.
T. 31 S., R. 42 E.,

Sec. 4: Lot 1, E½E½E½ ± of Lot 2 or a similar parcel to be determined by Cadastral Survey, S½NE¼, and SE¼;
Sec. 9: SE¼SE¼;
Sec. 10: NW¼NE¼, S½NE¼, and S½;
Sec. 15: N½, and N½S½.

The area described contains 1565.40± acres in Malheur County, Oregon

In exchange for these lands, the United States will acquire the following described private lands from Richard Eiguren.

Willamette Meridian, Oregon

T. 31 S., R. 42 E.,
Sec. 9: W½;
Sec. 16: N½, SW¼, and W½SE¼;
Sec. 17: N½, SW¼, and W½SE¼;
Sec. 19: M&B described as follows:
Commencing at a ¾" pipe monumenting the East ¼ corner of said Section 19, the Initial Point as well as, the true Point of Beginning; thence N 00° 55" W along East line of the NE¼ of said Section 19—335.86 feet to the centerline of State Highway—U.S. #95 as traveled; thence N 00° 37' 55" W along said East line—2328.33 feet to a ¾" pipe monumenting the NE corner of said Section 19; thence Westerly along the North line of said Section 19 to the brink of the East canyon rim of the Owyhee River, a point witnessed by a ¾" pipe which bears S 89° 18' 05" W—4152.81 feet from the NE corner of said Section 19; thence S 21° 57' 00" W along said brink approximately 729.58 feet to a ¾" pipe; thence S 45° 42' 19" E along said brink—1725.97 feet to a ¾ pipe; thence S 22° 30' 43" E along said brink—777.01 feet to a ¾" pipe; thence S 50° 28' 47" E along said brink—476.36 feet to a ¾" pipe; thence S 06° 44' 56" E along said brink—366.09 feet to a ¾ pipe; thence S 65° 05' 53" E along said brink—202.18 feet to a ¾" pipe; thence N 52° 39' 47" E along said brink—1167.06 feet to a ½" pipe; thence S 52° 21' 00" E—455.00 feet to a PK nail and shiner in the centerline of said Highway #95 as traveled; thence Southerly along the centerline of Highway #95 approximately 2775 feet to the South line of said Section 19; thence Easterly along the south line of said Section 19 approximately 1275 feet to the Southeast corner of said Section; thence Northerly along the East line of said Section approximately 2640 feet to the Point of Beginning, Excepting Therefrom 5.9 acres conveyed to the State of Oregon by Deed dated June 5, 1935, filed September 18, 1935, and recorded in Book 39, Page 392 of Deeds. Containing approximately 317 gross land acres, less approximately 9 acres for said State Highway right of way.

The area described contains 1748.00 acres in Malheur County, Oregon.

The purpose of this land exchange is to facilitate resource management opportunities in the Jordan Resource Area as identified in the Southern Malheur Management Frameworks Plan, resolve unauthorized agricultural use, and improve ownership patterns. The private lands offered possess important values for critical deer winter range and legal access to a public land block. The public interest will be well served by completing this exchange.

The value of the lands to be exchanged is approximately equal. Full equalization of values will be achieved through acreage adjustment, or by cash payment in an amount not to exceed 25% of the value of the lands being transferred out of federal ownership.

The exchange will be subject to:

1. The reservation to the United States of a right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. Patent will be issued subject to all valid existing rights and reservations of record.

3. Such rights for public road purposes as Malheur County, or its successors in interest may have pursuant to a road right-of-way RS. 2477 (43 U.S.C. 932).

4. Such rights for telephone lines buried and overhead purposes for Oregon/Idaho Utilities OR-17097 and OR-47563. Act of October 21, 1976, 90 Stat. 2776 43 U.S.C. 1761.

5. Such rights for powerline purposes as Idaho Power Company OR-01503. Act of October 21, 1976, 90 Stat. 2776 43 U.S.C. 1761.

6. Such rights for public road purposes as State of Oregon, or its successors in interest may have pursuant to a highway right-of-way, TD-028918. Title 23 U.S.C. sections 107 and 317.

7. Such rights for irrigation canals purposes as Jordan Valley Irrigation District TD-025442.

8. Reservation of Oil and Gas Mineral Estate.

9. Reservation of Geothermal Mineral Estate on S½NE¼, SW¼NW¼ and NE¼SE¼ of Section 34, T. 30 S., R. 42 E., WM.

10. All other Mineral Estate will be exchanged except those mentioned above (Oil and Gas and Geothermal).

11. Nonpermanent improvements belonging to the proponent may be removed from the offered lands within a period of time specified by the Authorized Officer. If not removed, the improvements will either be authorized by the Bureau of Land Management or become the property of the United States, with the exception of fences located on the boundary between the offered and private lands.

12. All unauthorization Agricultural Use back rentals OR-42452 and OR-42453 will be paid before the exchange is consummated.

The publication of this notice in the **Federal Register** will segregate the public lands described above from appropriation under the public land laws, including mining laws, except from provided by regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant. The segregative effect of this Notice will terminate upon issuance of patent or in two years, whichever comes first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District manager, Vale District, 100 Oregon Street, Vale, Oregon 97918. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objection, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Sheldon E. Saxton, Realty Specialist; or Jerry L. Taylor, Area Manager; Bureau of Land Management, Jordan Resource Area, 100 Oregon Street, Vale, Oregon 97918, (503) 473-3144.

Dated: April 23, 1993.

James E. May,

District Manager.

[FR Doc. 93-10326 Filed 4-30-93; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Services

Availability of a Draft Revised Recovery Plan for the Leopard Darter for Review and Comment

AGENCY: Fish and Wildlife Services, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft revised recovery plan for the leopard darter (*Percina pantherina*) which the Service listed as a threatened species on January 27, 1978 (43 FR 3715). This fish occurs on private lands in the Little River Basin in southeastern Oklahoma and southwestern Arkansas. Populations are presently known from Leflore, McCurtain, and Pushmataha counties in Oklahoma and Howard and Polk counties in Arkansas. The Service solicits review and comment from the public on this draft plan. The original recovery plan was approved September 20, 1984.

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DATES: Comments on the draft recovery plan must be received on or before June 2, 1993 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the U.S. Fish and Wildlife Service, Field Supervisor, Ecological Services, 222 South Houston, Suite A, Tulsa, Oklahoma, 74127; Telephone (918) 581–7458. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received will be available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ken Collins, Fish and Wildlife Service Biologist; telephone (918) 581–7458 or at the above address.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened plant or animal to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe site specific management actions considered necessary for conservation and survival of the species, establish objective, measurable criteria for the recovery levels for downlisting or delisting species, and estimate time and cost for implementing recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The primary species considered in this draft revised recovery plan is the leopard darter (*Percina pantherina*) whose existence is threatened primarily by the destruction and/or degradation of suitable spawning and rearing habitat. The area of emphasis for recovery action is the major tributaries of the Little River system in southeastern Oklahoma and southwestern Arkansas. Six major reservoirs have been constructed on this river system and a seventh, the Lukfata Reservoir ("Lukfata"), has been authorized. If Lukfata is constructed, it will eliminate more than 34 stream miles of designated critical habitat for the species. The existence of the leopard darter is also threatened by degradation of stream water quality due to silviculture, road construction and contamination by pesticides, fertilizers, acid rain and untreated wastes.

The objective of the recovery plan is to restore the species to the point that it's continued existence is no longer threatened and the species can be delisted. Habitat preservation and preservation of genetic material are major objectives of this recovery plan. Delisting criteria are given in the draft recovery plan. Recovery efforts outlined in the recovery plan include deauthorization of the Lukfata Reservoir, protection and essential habitat, preservation of sufficient genetic variation, and ecological research. The plan will be finalized and approved following incorporation of comments and materials received during this comment period.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533 (f).

Dated: April 27, 1993.

James A. Young,

Acting Regional Director.

[FR Doc. 93–10296 Filed 4–30–93; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Lake Management Plan, Lake Mead National Recreation Area; Intent To Prepare An Environmental Impact Statement

SUMMARY: The National Park Service will prepare a Lake Management Plan/Environmental Impact Statement (LMP/EIS) for Lake Mead National Recreation Area, Arizona and Nevada, and initiate the scoping process for this document. This notice is in accordance with 40 CFR 1501.7 and 40 CFR 1508.22 of the regulations of the President's Council on Environmental Quality for the National Environmental Policy Act of 1969, Public Law 91–190. The LMP/EIS will describe and analyze visitor use management alternatives within the national recreation area.

Issues to be addressed in the LMP/EIS include but are not limited to: (1) Identification and resolution of potential conflicting recreational activities, (2) impact of recreational use on park natural and cultural resources, (3) impact of increasing recreational use on the quality of the recreational experience, and (4) need for additional visitor facilities to support increasing recreational demand. Alternatives, including a no-action alternative, to address these issues will be developed through the public participation process. Additionally, the EIS process will provide comprehensive analysis of impacts associated with recreational use for each alternative developed.

SUPPLEMENTARY INFORMATION: Anyone wishing to participate in or comment on this planning process should write to the Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, NW 89005, telephone (702) 293–8986.

The responsible official is Stanley T. Albright, Regional Director, Western Region, National Park Service. Public involvement to begin formulating the LMP/EIS issues and alternatives is expected to commence in Spring 1993. This will consist of a series of meetings for which advance notice will be provided. The draft LMP/EIS is expected to be available for public review in January 1995, and the final plan, environmental statement and record of decision are to be completed about a year later.

Dated: April 22, 1993.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 93–10320 Filed 4–30–93; 8:45 am]

BILLING CODE 4310-70-M

Final General Management Plan Development Concept Plans and Environmental Impact Statement Petrified Forest National Park; Notice of Record of Decision

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, and specifically to the regulations promulgated by the Council on Environmental Quality at 40 CFR 1505.2, the Department of the Interior, National Park Service (NPS) has prepared a Record of Decision on the Final General Management Plan, Development Concept Plans/ Environmental Impact Statement for Petrified Forest National Park.

The NPS will implement the General Management Plan and related development concept plans in accordance with the proposal set forth as Alternative 2 in the Final General Management Plan, Development Concept Plans/Environmental Impact Statement (GMP/EIS) issued in March 1993 (58 FR 13645). The Draft GMP/EIS was issued in November 1991 (56 FR 58395).

Copies of the Record of Decision may be obtained either from the Superintendent, Petrified Forest National Park, Petrified National Park, AZ 86028, or the National Park Service, Western Regional Office, Division of Planning, Grants and Environmental Quality, 600 Harrison St., suite 600, San Francisco, CA 94107–1372.

Dated: April 22, 1993.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 93–10321 Filed 4–30–93; 8:45 am]

BILLING CODE 4310-70-M

Natchez National Historical Park, MS; Draft General Management Plan/ Development Concept Plan/ Environmental Impact Statement

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of Draft General Management Plan/Development Concept Plan/Environmental Impact Statement.

SUMMARY: Pursuant to Council on Environmental Quality Regulations and National Park Service Policy, the National Park Service (NPS) announces the release of the Draft General Management Plan/Development Concept Plan/Environmental Impact Statement (DGMP/DCP/EIS) for Natchez National Historical Park, Mississippi.

DATES: The DGMP/DCP/EIS will be on public review until June 30, 1993. All review comments must be postmarked no later than June 30, 1993. A public meeting (open house) will be held Wednesday, June 9, 1993, from 10 a.m. to 1 p.m. and 3 p.m. to 8 p.m. at Melrose at the following location to discuss the DGMP/DCP/EIS. Verbal and written comments on the DGMP/DCP/EIS will be accepted at the meeting.

ADDRESSES: Natchez National Historical Park, 1 Melrose-Montebello Parkway, Natchez, Mississippi 39121.

FOR FURTHER INFORMATION CONTACT: Superintendent, Natchez National Historical Park, P.O. Box 1208, Natchez, Mississippi 39121, Telephone (601) 442–7047.

SUPPLEMENTARY INFORMATION: The DGMP/DCP/EIS presents three alternatives for future management and use of Natchez National Historical Park.

For copies of the DGMP/DCP/EIS, please contact the Superintendent at the above address.

Dated: April 27, 1993.

Robert F. Newkirk,

Acting Regional Director, Southeast Region.

[FR Doc. 93–10322 Filed 4–30–93; 8:45 am]

BILLING CODE 4310-70-M

Cape Cod National Seashore, South Wellfleet, Massachusetts; Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, May 21, 1993.

The Commission was reestablished pursuant to Public Law 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

A field trip will be held from 10 a.m. until noon (prior to the regularly scheduled business meeting) to view the Pamet Valley in Truro. They will depart from the Park Headquarters building, Marconi Station, So. Wellfleet, MA. Members of the public wishing to attend may do so but must provide their own transportation.

The Commission members will then meet a 1 p.m. for their regular business meeting which will be held for the following reasons:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting
3. Reports of Officers
4. Old Business
5. Superintendent's Report
6. Improved Properties
7. Aunt Lydia's Cove
8. Commercial Use Permits
9. New Business
10. Agenda for next meeting
11. Date for next meeting
12. Communications/Public Comment
13. Adjournment

The business meeting is open to the public. It is expected that 15 persons will be able to attend each meeting in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning these meetings may be obtained from the Superintendent, Cape Cod National Seashore, So. Wellfleet, MA 02663.

Dated: April 26, 1993.

John C. Reed,

Acting Regional Director.

[FR Doc. 93–10324 Filed 4–30–93; 8:45 am]

BILLING CODE 4310-70-M

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area (GGNRA) Advisory Commission will be held at 7:30 p.m. (PDT) on Tuesday, May 27, 1993, at Building 201, Fort Mason, San Francisco, California. The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties.

Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Dr. Howard Cogswell
Brig. Gen. John Crowley, USA (ret)
Mr. Margot Patterson Doss
Mr. Neil D. Eisenberg
Mr. Jerry Friedman
Mr. Steve Jeong
Ms. Daphne Greene
Ms. Gimmy Park Li
Mr. Gary Pinkston
Mr. Merritt Robinson
Mr. R. H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams
Mr. Mel Land

The main agenda item at this public meeting will be a public hearing on the Staff Report on the Sutro Historic District Comprehensive Design and Environmental Assessment (EA). This area of the Golden Gate National Recreation Area (GGNRA) includes the Land's End area, the San Francisco Memorial, the Merrie Way parking lot,

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Louis' Restaurant, the Cliff House, Sutro Baths, and the Sutro Heights Park area.

On February 27, 1992, an initial public meeting was held to provide guidance to the GGNRA planning team and to the design firm of EDAW, Inc. on the Sutro Comprehensive Design Plan. The Draft Design Plan was completed in July 1992 by EDAW, Inc. under contract with the Golden Gate National Recreation Area. The Plan and an accompanying Historic Landscape Evaluation and Environmental Assessment were originally presented to the GGNRA Advisory Commission and the public on July 30, 1992.

Following the close of a 60-day formal comment period, there were three focused workshops attended by members of the Advisory Commission, park staff, and EDAW personnel responsible for the plans preparation. Workshops were held with the San Francisco Planning Department staff on November 17, 1992, with environmental group representatives on December 5, 1992, and with representatives of the surrounding neighborhoods on February 2, 1993.

A second agenda item at the May 27, 1993, meeting will be a presentation of the Alcatraz Overall Island Plan and Environmental Assessment (EA). The Draft Alcatraz Plan, prepared by consultant firm LSA Associates, Inc. for the Golden Gate National Recreation Area was completed April 2, 1993.

The Plan will provide a blueprint for the future of Alcatraz Island, a 22-acre island in San Francisco Bay, managed by the National Park Service. It identifies specific management goals and practices to maximize resource protection, visitor use, and interpretation of the island. The detailed environmental assessment prepared by LSA Associates, Inc. evaluates a series of alternatives for the future of Alcatraz, and provides potential impacts of each alternative on island resources and the visiting public.

From 1974–1980, the National Park Service undertook a major planning effort to prepare an overall General Management Plan (GMP) for the GGNRA. A specialized study on the history of Alcatraz, "Historic Resource Study, the Rock: A History of Alcatraz Island, 1847–1972," was completed in 1979. More than 300 public hearings were held on the General Management Plan for GGNRA; many of which related to the future of Alcatraz.

As a result of the publication of two NPS documents "Assessment of Alternatives for the General Management Plan" (1977) and a citizen summary, "A People's Guide to the National Park Next Door: Alternatives for the GGNRA," four alternatives were considered for Alcatraz. Public comment was solicited on all four alternatives.

Other studies supporting the Plan include: "Alcatraz Historic Resources Study" (1979); "Interpretive Prospectus—Alcatraz" (1987); "Alcatraz the Future—Concept Plan and Guidelines" (1988); "Agave Path Project—Environmental Assessment and Finding of No Significant Impact"; and various wildlife, botanical, and cultural landscape studies of Alcatraz.

The Draft Alcatraz Island Plan focuses on the implementation of the vision for Alcatraz laid out in the GMP. The Plan is updated to consider changing visitor patterns, wildlife values, and recent resource studies. The Plan, although still consistent with the original GGNRA GMP, focuses considerably more on preservation and protection.

There will be a 30-day comment period on the Draft Alcatraz Island Plan, and public comment will be taken at the July 1 meeting of the Advisory Commission at which Advisory Commission action is anticipated.

A third agenda item at the May 27, 1993, meeting is a vote by the Advisory Commission on a resolution supporting park efforts to locate the United Nations Commission on Sustainable Development at the Presidio.

The meeting will also contain a Superintendent's Report.

This public meeting is opened to all environmental, neighborhood, and community groups and others interested in being involved in the planning process for these GGNRA areas.

Copies of the GGNRA Staff Report on the Sutro District Comprehensive Design Plan and the Draft Alcatraz Overall Island Plan can be obtained by writing to Superintendent, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

This meeting will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript will be available after June 25, 1993. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: April 26, 1993.

John D. Cherry,

Acting Regional Director, Western Region.

[FR Doc. 93–10319 Filed 4–30–93; 8:45 am]

BILLING CODE 4310–70–M

Maine Acadian Culture Preservation Commission; Meeting

Notice of hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) that the Maine Acadian Culture Preservation Commission will meet on Thursday, May 20, 1993. The meeting will convene at 7 p.m. in the Gymnasium Multi-purpose Center at the University of Maine at Fort Kent in Fort Kent, Aroostook County, Maine.

The eleven-member Maine Acadian Culture Preservation Commission was appointed by the Secretary of the Interior pursuant to the Maine Acadian Culture Preservation Act (PL 101–543). The purpose of the Commission is to advise the National Park Service with respect to:

- The development and implementation of an interpretive program of Acadian culture in the state of Maine; and
- The selection of sites for interpretation and preservation by means of cooperative agreements.

The Agenda for this meeting is as follows: 1. Review and approval of the summary report of the meeting held March 25, 1993.

2. Reports of the following Maine Acadian Culture Preservation Commission working groups: Mission Statement, Cooperating Organizations, and Public Involvement.

3. Report of the National Park Service planning team.

4. Opportunity for public comment.

5. Proposed agenda, place, and date of the next Commission meeting.

The meeting is open to the public. Further information concerning Commission meetings may be obtained from the Superintendent, Acadia National Park. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made at least seven days prior to the meeting by writing to: Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, telephone (207) 288–5472.

Dated: April 26, 1993.

John C. Reed,

Acting Regional Director.

[FR Doc. 93–10325 Filed 4–30–93; 8:45 am]

BILLING CODE 4310–70–M

Sudbury, Assabet and Concord Rivers Wild and Scenic Study, Massachusetts; Sudbury, Assabet and Concord Rivers Study Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. app. 1 section 10), that there will be a meeting of the Sudbury, Assabet and Concord Rivers Study Committee on Thursday, May 27, 1993.

The Committee was established pursuant to Public Law 101–628. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the study of the Sudbury, Assabet and Concord River segments specified in section 5(a)(110) of the Wild and Scenic Rivers Act. The Committee shall also advise the Secretary concerning management alternatives, should some or all of the river segments studied be found eligible for inclusion in the National Wild and Scenic Rivers System.

The meeting will be held at 7:30 p.m., Sleeper Room, Elderly Housing Center, 145 Church Street, Carlisle, Massachusetts. (Driving directions: From Rte. 225, travel north across the Concord River from Bedford. Church Street diverges left off Route 225 approximately 1.75 miles from the river. The Elderly Housing Center is ahead on the right.

Agenda

7:30 I. Welcome and Introductions—Bill Sullivan
7:35 II. Approval of minutes from March 25, 1993 meeting
7:40 III. Subcommittee Reports—Subcommittee Chairs
A. River Conservation Planning Subcommittee
B. Water Resources Subcommittee
C. Public Participation Subcommittee
9:00 IV. Discussion—Issues of Local Concern
9:20 V. Opportunity for public questions and comments
9:40 VI. Other Business

Dated: April 26, 1993.

John C. Reed,

Acting Regional Director.

[FR Doc. 93–10323 Filed 4–30–93; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–624 (Final)]

Certain Helical Spring Lockwashers From China

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–624 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China (China) of certain helical spring lockwashers,[1] provided for in subheading 7318.21.00 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Douglas Corkran (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain helical spring lockwashers from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigation was requested in a petition filed on September 8, 1992, by the Shakeproof Industrial Products Division, Illinois Tool Works, Milwaukee, WI.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. Section 201.11 (b) of the Commission's rules is hereby waived. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

The Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. Section 207.7 (a)(2) of the Commission's rules is hereby waived. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on April 30, 1993, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on May 13, 1993, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 5, 1993. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 10, 1993, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission.

[1] For purposes of this investigation, certain helical spring lockwashers are circular washers of carbon steel, of carbon alloy steel, or of stainless steel, heat-treated or non heat-treated, plated or non-plated, with ends that are off-line. Such helical spring lockwashers are designed to: (1) Function as a spring to compensate for developed looseness between the component parts of a fastened assembly; (2) distribute the load over a larger area for screws or bolts; and (3) provide a hardened bearing surface. The scope does not include internal or external tooth washers, nor does it include spring lockwashers made of other metals, such as copper.

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Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is May 7, 1993. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is May 21, 1993; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 21, 1993. A supplemental brief addressing only the final antidumping determination of the Department of Commerce is due on July 16, 1993. The brief may not exceed five (5) pages in length. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of § 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

Issued: April 29, 1993

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93-10466 Filed 4-30-93; 8:45 am]

BILLING CODE 7020-02-P

INTERSTATE COMMERCE COMMISSION

[Decision No. 40265]

Georgia-Pacific Corp.—Petition for Declaratory Order—Certain Rates and Practices of Oneida Motor Freight, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice; extension of comment due date.

SUMMARY: By decision served March 31, 1993 (58 FR 17428-29, April 2, 1993), the Commission established a procedural schedule in this proceeding. Comments by all interested persons are currently due on May 3, 1993. On April 22, 1993, the Committee on Transportation and Distribution of the Society of the Plastics Industry, Inc. (COT&D), and the National Association of Wholesale Grocers (NAWGA) requested a two-week extension of the comment due date to May 17, 1993, to allow interested shippers to coordinate and possibly reconcile potentially differing views in advance of comment submission. National Small Shipments Traffic Conference, Inc., and The Health and Personal Care Distribution Conference, Inc., support the extension request. Georgia-Pacific does not object to the request.

Because the extension sought is brief, supported by a number of interested persons, and should facilitate resolution of issues, it will be granted.

DATES: Comments are due on May 17, 1993.

ADDRESSES: Send an original and 15 copies of comments referring to No. 40265 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927-5660 (TDD for hearing impaired: (202) 927-5721).

Decided: April 27, 1993.

By the Commission, Sidney L. Strickland, Jr., Secretary.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-10351 Filed 4-30-93; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 244X)]

Chicago and North Western Transportation Co.—Abandonment Exemption—In Chaska, Carver County, MN

Chicago and North Western Transportation Company (CNW) has filed a notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonments to abandon its 1.0-mile line of railroad between railroad milepost 32.0 and railroad milepost 33.0 in Chaska, Carver County, MN.

CNW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of a complainant within the 2-year period, and (4) the requirements at 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 2, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by May 13, 1993. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 24, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Thomas F. Flanagan, Chicago and North Western Transportation Company, 165 North Canal Street, Chicago, IL 60606-1551.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

CNW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by May 7, 1993. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 23, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-10352 Filed 4-30-93; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made before the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental grounds is encouraged to file this request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[Docket No. AB-290 (Sub-No. 123X)]

Norfolk Southern Railway Co.—Abandonment Exemption—In Franklin, Marion, and Winston Counties, AL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission exempts from the prior approval requirements of 49 U.S.C. 10903-10904 the abandonment by Norfolk Southern Railway Company of a 33.0-mile line of railroad between mileposts IC-571.0 and IC-604.0, in Franklin, Marion, and Winston Counties, AL (the Red Bay-Haleyville line), subject to standard labor protective conditions and an historic preservation condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on June 2, 1993. Formal expressions of intent to file an offer of financial assistance [1] under 49 CFR 1152.27(c)(2) must be filed by May 13, 1993. Petitions for stay must be filed by May 18, 1993. Requests for a public use condition in conformity with 49 CFR 1152.28(a)(2) must be filed by May 24, 1993. Petitions to reopen must be filed by May 28, 1993.

ADDRESSES: Send pleadings referring to Docket No. AB-290 (Sub-No. 123X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Robert J. Cooney, Three Commercial Place, Norfolk, VA 23510-2191.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927-5610. (TDD for hearing impaired: (202) 927-5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 927-5721.)

Decided: April 26, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-10354 Filed 4-30-93; 8:45 am]

BILLING CODE 7035-01-P

[1] See Exempt. of Rail Line Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

DEPARTMENT OF JUSTICE

Notice of Lodging a Consent Decree; Shenango, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on April 12, 1993, a proposed Third Amended Consent Decree, which is to resolve alleged violations of the Amended and Second Amended Consent Decrees in *United States* v. *Shenango, Inc.*, C.A. No. 89-1172 (W.D. Pa.), was lodged with the United States District Court for the Western District of Pennsylvania.

The United States filed against Shenango on September 12, 1990, a Joint Motion for Civil Contempt and to Enforce Consent Decree, in which the United States sought remedies for Shenango's alleged failure to comply with certain terms contained within the Second Amended Consent Decree, entered by the Court on November 13, 1987, and others contained in the Amended Consent Decree, entered October 16, 1980. The United States alleged that Shenango failed to comply with standards regulating emissions into the ambient air from its two coke oven batteries located at Neville Island, Pennsylvania.

Under the proposed Third Amended Consent Decree, Shenango is required to demonstrate compliance with the terms of the Decree and the Pennsylvania State Implementation Plan. For all emissions sources other than the desulfurization system and the combustion stack at Battery S-4, Shenango may petition the court to terminate the decree (on an emissions source by emissions source basis) one year after the date that Shenango has demonstrated compliance and has paid all applicable stipulated penalties for any violations which may have occurred after the demonstration of compliance. Shenango must also demonstrate compliance at the end of this one year period, and include in its petition to the court a record of the final compliance demonstration. As to the desulfurization plant and S-4 stack, Shenango cannot petition the court to terminate the decree until two years after the initial compliance demonstration.

With regard to emissions from the combustion stack at battery S-4, Shenango is required to complete a "Wall Replacement Program," beginning with the most damaged ovens first. Shenango must repair or replace at least 12 oven walls per year, with a minimum of 2 per quarter, until all 36 walls in the battery have been repaired or replaced. This must be completed by December 1, 1995. In addition, Shenango is required to undertake a pilot study of its desulfurization plant to determine whether Sulferox, a new technology, would work to reduce sulfur emissions in an acidic coke oven battery. Shenango must present a report of the results of its study no later than September 1, 1993. If the product proves helpful, then Shenango must install the emissions control system using this product by February 1, 1994. If not, the company must implement an alternative compliance program involving rebuilding and modernizing the existing desulfurization plant. The decree also provides that Shenango shall pay $540,000 in civil penalties.

The Department of Justice will receive for a period of thirty days from the date of this publication comments relating to the proposed Third Amended Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Shenango, Inc.*, DOJ Ref. No. 90-5-2-3-1099C.

The proposed Third Consent Decree may be examined at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed Third Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $36.25 (25 cents per page reproduction costs) payable to Consent Decree Library.

John C. Cruden,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93-10245 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-01-M

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Antitrust Division

National Cooperative Research—GTE Mobile Communications Service Corp.

Notice is hereby given that, on February 3, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), GTE Mobile Communications Service Corporation filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties and its general areas of planned activities are as follows: Ameritech Mobile Communications, Inc., Hoffman Estates, IL; Bell Atlantic Mobile Systems, Bedminister, NJ; GTE Mobile Communications Service Corporation (including its affiliates GTE Mobilnet Incorporated and Contel Cellular, Inc.), Atlanta, GA; McCaw Cellular Communications, Inc., Kirkland, WA; NYNEX Mobil Communications Co., Orangeburg, NY; PacTel Cellular, Walnut Creek, CA; and Southwestern Bell Mobile Systems, Inc., Dallas, TX. GTE Mobile Communications and McCaw Cellular will partially fund the project and will co-manage the project with specific areas of responsibility to be defined in the applicable agreement. The other parties will provide funding only. The purposes of the project are (1) to fund the development and testing of generic specifications for a wireless data transmission technology (the "Technology") that uses frequency-hopping techniques for the packet delivery of digital data over cellular radio channels (the "Project"); (2) to have the parties identified above as co-managers manage the Project and do all things necessary to complete the Project, including but not necessarily limited to (a) working with third-party contractors and consultants to develop specifications for the Technology as well as designs of prototypes of equipment needed to test the Technology, (b) conducting test trials of the Technology, (c) sharing technical information and test results from the foregoing activities with the parties, and (d) arranging for the initial production and possible equitable distribution among the parties of equipment utilizing the Technology for demonstration, testing, and possible deployment by each party, including possible pro rata allotment of initial deliveries of equipment, to enable the parties to receive proportional deliveries at a time when the initial production may be inadequate to meet their demands; and (3) to release generic specifications for the Technology to all interested parties, including cellular carriers, cellular network equipment suppliers, customer equipment suppliers, customer applications developers and customers, to stimulate the competitive development of products and applications utilizing the Technology and thereby to foster the introduction of a new wireless data transmission technology, through an Electronic Industry Association/Telecommunications Industry Association (EIA/TIA) Approved Open Standard.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-10248 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research—Halon Alternative Research Corporation, Inc. (HARC)

Notice is hereby given that, on March 24, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Halon Alternatives Research Corporation, Inc. ("HARC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of new members and the deletion of a member to HARC. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the new members to HARC are: Boeing Company, Seattle, WA; Fire Equipment Manufacturers Association, Cleveland, OH; Securiplex Technologies, Dorval, Quebec, CANADA; Amerex Corporation, Trussville, AL; Automatic Suppression Systems, South Holland, IL; Engineered Fire Systems, Seattle, WA; Eurotunnel plc, London, ENGLAND; Exxon Company, International, Florham Park, NJ; Fire Suppressions Systems Association, Baltimore, MD; Halotron, Inc., Las Vegas, NV; Hi-Fog, Exton, PA; Hughes Aircraft Company, Los Angeles, CA; Hughes Associates, Columbia, MD; Northern States Power, Minneapolis, MN; Overland Aviation Services, St. Louis, MO; Pyrene Fire Security, Markham, Ontario, CANADA; Quantum Corporation, Milpitas, CA; Reliable Fire Equipment Co., Alsip, IL; Saab Aircraft AB, Linkoping, SWEDEN; Silvani Antincendi Spa, Milan, ITALY; Solvay Performance Chemicals, Inc., Greenwich, CT. Northern Telecom, Ltd. of Mississauga, Ontario, CANADA resigned its membership in 1992.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HARC intends to file additional written notification disclosing all changes in membership.

On February 7, 1990, HARC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 7, 1990 (55 FR 8204).

The last notification was filed with the Department on December 3, 1991. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on January 14, 1992 (57 FR 1493).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-10249 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research—Semiconductor Research Corp.

Notice is hereby given that, on March 12, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Semiconductor Research Corporation ("SRC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Essential Research, Inc., University Heights, OH was recently accepted as an affiliate member of SRC and Spire Corporation has been deleted from SRC membership.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and SRC intends to file additional written notification disclosing all changes in membership.

On January 8, 1985, SRC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 30, 1985 (50 FR 4281).

The last notification was filed with the Department on January 4, 1993. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on January 29, 1993 (58 FR 6529).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-10247 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research—"Texas School District Cooperative Research Project: Cost Effectiveness of Alternative Fuels Using Life-Cycle Cost Benefit Analysis"

Notice is hereby given that, on March 8, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in the membership status of the "Texas School District Cooperative Research Project: Cost Effectiveness of Alternative Fuels Using Life-Cycle Cost Benefit Analysis." The notifications were filed for the purpose of extending the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the following party has become a new member of the project: North East Independent School District, San Antonio, TX.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the members intend to file additional written notification disclosing all changes in membership.

On August 28, 1992, SwRI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on October 27, 1992, 57 FR 48636.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-10246 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated March 11, 1993, and published in the **Federal Register** on March 17, 1993, (58 FR 14427), The Binding Site, Inc., 5889 Oberlin Drive, suite 101, San Diego, California 92121, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Methadone (9250)	II
Morphine (9300)	II

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with title 21, Code of Federal Regulations 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: April 23, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93-10229 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-09-M

Gary L. Brown, M.D.; Denial of Application

On February 23, 1993, the Deputy Assistant Administrator of the Drug Enforcement Administration (DEA), Office of Diversion Control, issued to Gary L. Brown, M.D., 2 Water Street, Richwood, West Virginia 26261, an Order to Show Cause proposing to deny Dr. Brown's application for registration as a practitioner under section 303(f) of the Controlled Substances Act, 21 U.S.C. 823(f). Dr. Brown received the Order to Show Cause at 509-E Washington Street, Lewisburg, West Virginia, on February 27, 1993. More than thirty days have elapsed since the Order to Show Cause was received by Dr. Brown and the Drug Enforcement Administration has received no response thereto. Therefore, pursuant to the provisions of 21 CFR 1301.54(a) and 1301.54(d), Dr. Brown is deemed to have waived his opportunity for a hearing on any matters of law and fact involved herein. Accordingly, the Administrator now issues his final order in this matter without a hearing and based upon the investigative file. 21 CFR 1301.57.

The Order to Show Cause alleged that Dr. Brown's registration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f), based on his lack of state authorization, his falsification of his application for DEA registration and his convictions with respect to various controlled substance offenses.

The Administrator finds that effective July 16, 1990, the West Virginia Board of Medicine revoked Dr. Brown's license to practice medicine. Thereafter, he was without authority to prescribe, dispense, administer or otherwise handle controlled substances under the laws of the State of West Virginia. The Administrator also finds that on April 27, 1987, in Wake County, North Carolina, Dr. Brown attempted to obtain Tranxene, a Schedule IV controlled substance, by fraud and deception, and that on November 14, 1989, he was convicted of that crime and was sentenced to a three-year suspended sentence and three years of supervised probation. The Administrator finds that Dr. Brown materially falsified his application for DEA registration when he failed to reveal this conviction. The Administrator further finds that on October 9, and November 12, 1991, Dr. Brown forged the name of another physician to stolen prescription blanks and used those prescriptions to obtain non-controlled legend drugs at two West Virginia pharmacies.

Pursuant to 21 U.S.C. 823(f), a practitioner may be registered if he is authorized to dispense, or conduct research with respect to, controlled substances under the laws of the state in which he practices. The Administrator must deny an application if he finds that the applicant lacks state authority to dispense controlled substances. Additionally, the material falsification of an application constitutes grounds for revocation of a registration under 21 U.S.C. 824(a)(1) and an applicant's arrest and conviction record is relevant to a public interest determination under 21 U.S.C. 823(f). There are, therefore, lawful bases for the denial of Dr. Brown's application for registration.

This agency has consistently held that the lack of a state license requires the revocation of the registrant's DEA Certificate of Registration or the denial of an application for such registration. See, Lawrence R. Alexander, M.D., Docket No. 92-22, 57 FR 22256 (1992); Bobby Watts, M.D., Docket No. 87-71, 53 FR 11919 (1988); *Wingfield Drugs, Inc.*, Docket No. 87-13, 52 FR 27070 (1987), and cases cited therein. There heving been no evidence submitted on behalf of the applicant, the Administrator concludes that Dr. Brown's application must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him

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by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that Dr. Gary L. Brown's pending application for registration as a practitioner be, and it hereby is, denied. This order is effective May 3, 1993.

Dated: April 26, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93-10237 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated February 24, 1993, and published in the **Federal Register** on March 8, 1993, (58 FR 12974), Janssen, Inc., HC02 Box 19250, Gurabo, Puerto Rico 00658-9629, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Alfentanil (9737)	II
Sufentanil (9740)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, 1301.54(e), the Director hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: April 23, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93-10233 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 1, 1993, and published in the **Federal Register** on March 8, 1993 (58 FR 12974), Knoll Pharmaceuticals, 30 North Jefferson Road, Whippany, New Jersey 07981, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Hydromorphone (9150), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Director hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: April 23, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93-10235 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 11, 1993, and published in the **Federal Register** on March 17, 1993, (58 FR 14430), Lonza Riverside, 900 River Road, Conchohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
4-Methoxyamphetamine (7411)	I
Amphetamine (1100)	II
Phenylacetone (8501)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Director, Office of Diversion Control hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: April 23, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93-10236 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-09-M

DRUG ENFORCEMENT ADMINISTRATION

Importer of Controlled Substances; Notice of Registration

By Notice dated February 22, 1993, and published in the **Federal Register** on March 2, 1993, (58 FR 12053), Mallinckrodt Specialty Chemicals Company, Mallinckrodt and Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Opium, Raw (9600)	II
Poppy Straw (9650)	II
Poppy Straw Concentrate (9670)	II

Comments were received, however, a written request for a hearing with respect to this registration was not filed as required by title 21, Code of Federal Regulations, §§ 1301.43 and 1301.54. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with title 21, Code of Federal Regulations, § 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: April 23, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93-10230 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-09-M

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated March 11, 1993, and published in the **Federal Register** on March 17, 1993 (58 FR 14428), Noramco of Delaware, Inc., Division McNeilab, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Opium, Raw (9600)	II
Poppy Straw Concentrate (9670)	II

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with title 21, Code of Federal Regulations § 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: April 23, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93-10231 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 11, 1993, and published in the **Federal Register** on March 17, 1993 (58 FR 14429), Noramco of Delaware, Inc., Division of McNeilab, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Director, Office of Diversion Control hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: April 23, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93-10232 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated February 5, 1993, and published in the **Federal Register** on February 23, 1993, (58 FR 11063), Orpharm, Inc., 728 West 19th Street, Houston, Texas 77008, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Alphacetylmethadol (9603)	I
Methadone (9250)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Director, Office of Diversion Control hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: April 23, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93-10234 Filed 4-30-93; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on March 29, 1993, Radian Corporation, P.O. Box 201088, 8501 Mopac Blvd., Austin, Texas 78759, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methcathinone (1237)	I
Aminorex (1585)	I
4-Methlaminorex (cis isomer) (1590)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
3,4-Methylenedioxyamphetamine (7400)	I
3,4-Methylene- dioxymethamphetamine (7405)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Methadone (9250)	II
Fentanyl (9801)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Director, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 2, 1993.

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of April 1993.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion f(3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,285; Gencorp Automotive, Marion, IN

TA-W-28,222; Utica Alloys, Inc., Utica, NY

TA-W-28,314; Airfoil Textron, Inc., Fostorio, OH

TA-W-28,118; Struthers-Dunn, Inc, Pitman, NJ

TA-W-28,276; Ashland Rubber Products, Ashland, OH

TA-W-28,268; Pennsylvania Optical Co., Reading, PA

TA-W-28,334; Snydergeneral Corp., Elizabeth, TN

TA-W-28,021; Epocha Fashions, Paterson, NJ

TA-W-28,248; A.E. Erickson Enterprises, Inc., Amanda Park, WA

A certification was issued covering all eligible to apply for adjustment

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In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-28,457; Bergstein Oilfield Services, Inc., Lubbock, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-28,458; Sonny's, Inc., Hobbs, NM

The workers' firm does not produce and article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-28,459; DSW&T Services, Inc., Lubbock, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-28,323; Matchbox Toys (USA) Ltd, Moonachie, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-28,227; United States Steel Corp., Edgar Thomson Works, Braddock, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,356; Arnold Engineering Co., Marengo, IL

The investigation revealed that as a result of a business merger, production was transferred to another domestic facility during the relevant period.

TA-W-28,247; Anadarko Petroleum Corp., Oklahoma City, OK

The investigation revealed that criterion (1) and criterion (2) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification Sales or production did not decline during the relevant period as required for certification

TA-W-28,332; TX International, Inc., Tulsa, OK

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-28,052; Ostrom Lumber Co., Monmouth, OR

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,061; Teledyne Adams, Union, NJ

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,305; Liebert Corp., Printed Circuit Board Production, Columbus, OH

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,279; Barbee Mill Co., Inc., Renton, WA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,288 & TA-W-28,289; Schlumberger Well Service, Kenai, AK and Anchorage, AK

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-28,251; General Dynamics Land Systems, Inc., Sterling Heights, MI

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,453; Palmetto State Dyeing & Finishing, Greenville, SC

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,310; Cooper Industries, Cooper Power Systems Div., Canonsburg, PA

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA-W-28,208; Schweizer Aircraft Corp., Elkmira, NY

A certification was issued covering all workers separated on or after January 6, 1992.

TA-W-28,211; Capital Creation, Inc., Hoboken, NJ

A certification was issued covering all workers separated on or after January 5, 1992.

TA-W-28,473; Craftex Creations, Inc., Condor, NC

A certification was issued covering all workers producing ladies' sleepwear and robs separated on or after February 26, 1992.

TA-W-28,466; Russell Newman, Inc., Brickenridge, TX

A certification was issued covering all workers producing ladies' sleepwear separated on or after March 10, 1992.

TA-W-28,357; Baron Peters Corp., Lowell, MA

A certification was issued covering all workers separated on or after February 5, 1992.

TA-W-28,361; Bertard Manufacturing Corp., Lowell, MA

A certification was issued covering all workers separated on or after February 5, 1992.

TA-W-28,362; Charlestown Manufocturing Corp., Charlestown, MA

A certification was issued covering all workers separated on or after February 5, 1992.

TA-W-28,309; CPS Corp., Henderson, KY

A certification was issued covering all workers separated on or after January 15, 1992.

TA-W-28,267; Mecon Manufocturing, Inc., Caribou, ME

A certification was issued covering all workers producing Automobile circuit breakers separated on or after January 20, 1992.

TA-W-28,145; Fleck, Inc., Biloxi, MS.

A certification was issued covering all workers producing separated on or after December 14, 1991.

TA-W-28,355 American Tourister, Warren, RI

A certification was issued covering all workers producing hard-side luggage separated on or after February 2, 1992.

TA-W-28,430; Exxon Co., USA, St. Elmo, IL

A certification was issued covering all workers separated on or after February 23, 1992.

TA-W-28,365; Ametek, US Guage Div., Sellersville, PA

A certification was issued covering all worker separated on or after February 18, 1992.

TA-W-28,300; Stratagraph, Inc., Scott, LA

A certification was issued covering all workers engaged in exploration and drilling of crude oil and natural gas separated on or after January 29, 1992.

TA-W-28,371; Marie Coet and Suit, Clifton, NJ

A certification was issued covering all workers producing women's coats and jackets separated on or after November 10, 1991.

TA-W-28,313; Amerace Electronic Component, Livingston, NJ

A certification was issued covering all workers producing electronic components separated on or after February 8, 1992.

TA-W-28,071; Northern Processors, Inc., Enid, OK

A certification was issued covering all workers separated on or after November 17, 1991.

TA-W-28,070, TA-W-28,071; Northern Processors, Inc., Traverse City, MI and Enid, OK

A certification was issued covering all workers separated on or after November 17, 1991.

I hereby certify that the aforementioned determinations were issued during the month of April 1993. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: April 21, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-10348 Filed 4-30-93; 8:45 am]

BILLING CODE 6510-30-M

[TA-W-27,972; TA-W-27,972A]

Yankee Atomic Electric Co., Rowe, MA and Nuclear Service Division, Bolton, MA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 5, 1993, applicable to all workers of Yankee Atomic Electric Company in Rowe, Massachusetts. The notice was published in the **Federal Register** on March 11, 1993 (58 FR 13507).

New information from the company shows that the Nuclear Service Division in Bolton, Massachusetts is owned by the Yankee Atomic Electric Company. The Nuclear Service Division which provided a substantial amount of engineering services to Yankee Atomic Electric experienced a reduced demand for its services from Yankee Atomic Electric in 1992.

Accordingly, the Department is amending the certification to include the Nuclear Service Division in Bolton, Massachusetts.

The amended notice applicable to TA-W-27,972 is hereby issued as follows:

"All workers of Yankee Atomic Electric Company, Rowe, Massachusetts and the Nuclear Service Division of Yankee Atomic Electric Company in Bolton, Massachusetts who became totally or partially separated from employment on or after July 9, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed in Washington, DC, this 21st day of April 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-10347 Filed 4-30-93; 8:45 am]

BILLING CODE 4510-30-M

Notice of Attestations Filed by Facilities Using Nonimmigrant Aliens As Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities which plan on employing nonimmigrant alien nurses. These organizations have attestations on file with DOL for that purpose.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the Immigration Nursing Relief Act Public Disclosure Room, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N4456, 200 Constitution Avenue, NW., Washington, DC 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S3502, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Regarding the Attestation Process

Chief, Division of Foreign Labor Certifications, U.S. Employment Service. Telephone: 202-219-5263 (this is not a toll-free number).

Regarding the Complaint Process

Questions regarding the complaint process for the H-1A nurse attestation program shall be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202-219-7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also request that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H-1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR Part 655 and 29 CFR Part 504, 55 FR 50500 (December 6, 1990). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staffs. If U.S. registered nurses or other persons wish to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities' chief executive officers also are listed, to aid public inquiries. In addition, attestations and supporting short explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the **ADDRESSES** section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under that attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

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Signed at Washington, DC, this 7th day of April 1993.

Robert A. Scheerfl,

Director, United States Employment Service.

DIVISION OF FOREIGN LABOR CERTIFICATIONS—APPROVED ATTESTATIONS

[March 1, 1993 to March 31, 1993]

CEO name/facility name/address	State	Approval date
Mr. Kevin Blackwell, CPC Pinnacle Pointe Hosp., 11501 Financial Ctr. Parkway, Little Rock 72211, 501–223–3322.	AR	03/12/93
Mr. Eugene Zuber, Newport Hospital & Clinic, In, 2000 Mclain Street, Newport 72112, 501–523–6721.	AR	03/12/93
Mr. Phillip Gilmore, Arkansas Children's Hospital, 800 Marshall Street, Little Rock 72202, 501–320–1398.	AR	03/29/93
Mr. John Adams, Care West Gateway, Care Enterprises West, Hayward 94544, 714–544–4443.	CA	03/02/93
Mr. John Adams, Madison, Care Enterprises West, El Cajon 92021, 714–544–4443.	CA	03/05/93
Mr. John Adams, Care West Manteca, Care Enterprises West, Manteca 95336, 714–544–4443.	CA	03/05/93
Mr. John Adams, Care West Arizona, Care Enterprises West, Santa Monica 90404, 714–544–4443.	CA	03/05/93
Mr. John Adams, Arroyo Vista, Care Enterprises West, San Diego 92105, 714–544–4443.	CA	03/05/93
Mr. John Adams, Care West North Valley, Care Enterprises West, Chico 95926, 714–544–4443.	CA	03/05/93
Mr. John Adams, Care West Bayside, Care Enterprises West, Kentfield 94904, 714–544–4443.	CA	03/05/93
Mr. John Adams, Care West Intercommunity, Care Enterprises West, Norwalk 90650, 714–544–4443.	CA	03/05/93
Mr. John Adams, Tri-City, Care Enterprises West, Oceanside 92056, 714–544–4443.	CA	03/05/93

DIVISION OF FOREIGN LABOR CERTIFICATIONS—APPROVED ATTESTATIONS—Continued

[March 1, 1993 to March 31, 1993]

CEO name/facility name/address	State	Approval date
Mr. Barry Weinbaum, Alvarado Hospital Med. Ctr., 6655 Alvarado Rd., San Diego 92120, 619–287–3270.	CA	03/12/93
Mr. Gerry Garcia, Seacrest Convalescent Hospital, 1416 West Sixth Street, San Pedro 90732, 213–833–3526.	CA	03/12/93
Mr. Gerry Garcia, Los Palos Convalescent Hospital, 1430 West Sixth Street, San Pedro 90732, 213–832–6431.	CA	03/12/93
Ms. Jane E. Corr, Country Villa Westwood, 12121 Santa Monica Blvd., Los Angeles 90025, 310–826–0821.	CA	03/16/93
Ms. Gale Gascho, Alhambra Community Hosp., 100 S. Raymond Avenue, Alhambra 91802, 818–570–1606.	CA	03/16/93
Ms. Dawn Martin, Crestwood Rehab. & Conval. Hospital, Crestwood Hospitals, Inc., Stockton 95204, 209–466–0456.	CA	03/16/93
Mr. Gustavo A. Valdespino, Los Alamitos Medical Ctr., 3751 Katella Avenue, Los Alamitos 90720, 310–598–1311.	CA	03/18/93
Mr. David D. O'Neill, Saint Joseph Medical Ctr., 501 So. Buena Vista, Burbank 91505, 818–843–5111.	CA	03/18/93
Mr. Arnold Schaffer, Garfield Medical Ctr., 525 N. Garfield Avenue, Monterey Park 91754, 818–573–2222	CA	03/18/93
Mr. John Edwards, Pacific Alliance Med. Ctr., 531 W. College St., Los Angeles 90012, 213–624–8411.	CA	03/29/93
Ms. Marlene Zerna Robertson, Golden Cross Health Care of Pasadena, 91103, 818–791–1948.	CA	03/29/93
Mr. Robinson Abraham, Health Management, Inc., 1828 L Street NW., Suite 908, Washington 20036, 202–887–8110.	DC	03/05/93
Mr. Neil Bratcher, Greater Southeast Community Hospital, Washington 20032, 202–574–6616.	DC	03/29/93

DIVISION OF FOREIGN LABOR CERTIFICATIONS—APPROVED ATTESTATIONS—Continued

[March 1, 1993 to March 31, 1993]

CEO name/facility name/address	State	Approval date
Mr. Stephen Bernstein, Delray Community Hospital, 5352 Linton Blvd., Delray Beach 33484, 800–926–8282.	FL	03/03/93
Ms. Roberta Agner, Madison County Memorial Hosp., 201 E. Marion Street, Madison 32340, 904–973–2271.	FL	03/03/93
Mr. Rick Winkler, Key West Convalescent Ctr., Inc., Key West 33040, 305–296–2459.	FL	03/05/93
Mr. Edward Tudanger, AMI Palmetto General Hosp., 2001 West 68 Street, Hialeah 33016, 305–823–5000.	FL	03/12/93
Mr. J. Daniel Miller, HCA Bayonet Point/Hudson Medical Ctr., Hudson 34667, 813–863–2411.	FL	03/16/93
Mr. Thomas R. Pentz, Cleveland Clinic Hospital, Cleveland Clinic Florida Hosp., Fort Lauderdale 33308, 305–568–1000.	FL	03/16/93
Mr. James E. Rogers, Palm Beach Regional Hospital, 2829 10th Avenue North, Lake Worth 33461, 407–967–7800.	FL	03/18/93
Mr. James S. Elmslie, MRA Staffing Systems, Inc., 7771 W. Oakland Park Blvd., Ft. Lauderdale 33351, 305–748–3300.	FL	03/18/93
Ms. Josefina B. Lardizabal, GEM Care, 550 5th Street, Miami Beach 33139, 305–531–3321.	FL	03/29/93
Mr. Oscar K. Weinmeister, Jr., Houston Medical Ctr., 1601 Watson Blvd., Warner Robins 31093, 912–922–4281.	GA	03/18/93
Mr. Frederick R. Bailey, N. Fulton Reg'l Hospital, 3000 Hospital Blvd., Roswell 30076, 404–751–2657.	GA	03/18/93
Mr. Gary K. Kajiwara, Kuakini Health System, 347 N. Kaukini Street, Honolulu 96817, 808–547–9450.	HI	03/12/93
Mr. Burton Behr, Hampton Plaza Health Care Centre, Niles 60648, 708–967–7000.	IL	03/03/93

DIVISION OF FOREIGN LABOR CERTIFICATIONS—APPROVED ATTESTATIONS—Continued

[March 1, 1993 to March 31, 1993]

CEO name/facility name/address	State	Approval date
Mr. Mark C. Clement, Holy Cross Hospital, 2701 West 68th Street, Chicago 60629, 312–471–8000.	IL	03/12/93
Mr. Michale Fritz, The Carle Arbours, 302 Burwash Avenue, Savoy 61874, 217–383–3090.	IL	03/12/93
Ms. Jo Anne Fisher, Burgess Square Healthcare Ctre., Westmont 60559, 708–971–2645.	IL	03/12/93
Ms. Denise R. Williams, Roseland Community Hospital, 45 West 111th Street, Chicago 60628, 312–995–3000.	IL	03/16/93
Sister Stella Louise, Saint Mary of Nazareth Hospital Ctr., Chicago 60622, 312–770–2000.	IL	03/16/93
Mr. Sam Holtzman, Michael Reese Hosp. & Med. Ct., 2929 South Ellis Avenue, Chicago 60616, 312–791–3000.	IL	03/18/93
Mr. Larry Loecker, Methodist Home, 1415 W. Foster, Chicago 60640, 312–769–5500.	IL	03/19/93
Mr. John Birdzell, St. Mary Medical Center, Lakeshore Health System, Gary 46402, 219–881–8140.	IN	03/03/93
Mr. Ricky Powell, Rivendell Psychiatric Hosp., Rivendell of Kentucky, Inc., Bowling Green 42103, 502–843–1199.	KY	03/29/93
Mr. Donald R. Herbert, Highland Park Medical Ctr., NOTAMI Hospitals of Texas, Inc., Covington 70434, 504–892–5900.	LA	03/29/93
Mr. A. Jason Geisinger, Professional Med. Enterprises, The Hilthaven Corp., Lexington 02173, 617–861–0441.	MA	03/03/93
Mr. Stanley M. Fertel, Jewish Memorial Hospital and Rehab. Ctr., Boston 02119, 617–442–8760.	MA	03/03/93
Mr. Abe Treshinsky, Eastwood Pines Nursing Home, 59 Eastwood Circle, Gardner 01440, 508–632–8776.	MA	03/05/93

DIVISION OF FOREIGN LABOR CERTIFICATIONS—APPROVED ATTESTATIONS—Continued

[March 1, 1993 to March 31, 1993]

CEO name/facility name/address	State	Approval date
Ms. S. Blanche LaRose, Bethany Health Care Ctr., Inc., 97 Bethany Road, Framingham 01701, 508–872–6750.	MA	03/12/93
Mr. William K. Brinkert, St. John of God Hospital, 296 Allston Street, Brighton 02146, 617–277–5750.	MA	03/18/93
Mr. Ronald Marx, Washington Adventist Hospital, 7600 Carroll Avenue, Takoma Park 20912, 301–891–7600.	MD	03/02/93
Mr. James J. Hayden, Baltimore Nursing & Conval. C., City Nursing & Conval. Ctr., Inc., Baltimore 21217, 410–523–9400.	MD	03/05/93
James A. Block, M.D., The Johns Hopkins Hospital, c/o Nursing Admin. Adm. 220, Baltimore 21287, 410–955–4222.	MD	03/12/93
Ms. Leah T. Bowden, Potomac Valley Nursing and Wellness, Rockville 20850, 301–762–0700.	MD	03/29/93
Mr. Phillip S. Schaengold, Sinai Hospital of Detroit, 6767 West Outer Drive, Detroit 48235, 313–493–5713.	MI	03/16/93
Mr. Herbert B. Schneiderman, St. Louis University Hospital, 3635 Vista, St. Louis 63110, 314–577–8580.	MO	03/05/93
Mr. B. Frank Comfort, Jr., Quitman Co. Hospital & Nursing Home, Inc., Marks 38646, 601–326–8031.	MS	03/12/93
Norman C. Nelson, M.D., The University of Mississippi Medical Ctr., Jackson 39216, 601–984–1120.	MS	03/12/93
Mr. Gary Angell, Meadow Brook Manor, P.O. Box 249, Clemmons 27012, 919–766–9158.	NC	03/05/93
Ms. Julia D. George, Starmount Villa, Beverly Enterprises N.C., Inc., Greensboro 27407, 919–292–5390.	NC	03/12/93
Mr. J.B. Garrett, Hillcrest Conval. Ctr., Inc., 1417 W. Pettigrew Street, Durham 27705, 919–286–7705.	NC	03/12/93

DIVISION OF FOREIGN LABOR CERTIFICATIONS—APPROVED ATTESTATIONS—Continued

[March 1, 1993 to March 31, 1993]

CEO name/facility name/address	State	Approval date
Ms. Su Modlin James, Britthaven of Davidson, 706 Pinewood Rd., Thomasville 27360, 919–475–9116.	NC	03/16/93
Ms. Mary Lee Jackson, Brighton Manor, 415 Fuquary-Varina, Fuquary-Varina 27526, 919–552–5609.	NC	03/29/93
Mr. Robert H. Walker, Pine Haven Conval. Ctr., Inc., 1245 Park Avenue, Henderson 27536, 919–492–7021.	NC	03/29/93
Mr. Robert H. Walker, Enfield Care, Inc., 208 Cary St., Enfield 27823, 919–492–1088.	NC	03/29/93
Ms. Mary Lee Jackson, Nash Grove Manor, 1022 Eastern Avenue, Nashville 27856, 919–459–3014.	NC	03/29/93
Mr. Mark Pederson, Park Place Nursing Ctr., 610 N. Darr, Grand Island 68803, 308–382–2635.	NE	03/29/93
Mr. Keith McLaughlin, Raritan Bay Medical Ctr., 530 New Brunswick Avenue, Perth Amboy 08861, 908–442–3700.	NJ	03/03/93
Mr. Jeffrey S. Moll, Beth Israel Hospital of Passa, 70 Parker Avenue, Passaic 07055, 201–365–5000.	NJ	03/03/93
Mr. Nicholas Dubner, Garden State Health Care Ctr., 140 Park Avenue, East Orange 07017, 201–677–1500.	NJ	03/05/93
Mr. Justin Doheny, Wayne General Hospital, 224 Hamburg Turnpike, Wayne 07470, 201–942–6900.	NJ	03/12/93
Ms. Margaret J. Straney, Cathedral Healthcare System, Inc., Newark 07102, 201–642–5100.	NJ	03/16/93
Mr. Jonathan M. Metsch, Jersey City Med. Ctr., 50 Baldwin Avenue, Jersey City 07304, 201–915–2000.	NJ	03/16/93
Mr. John T. Gribbin, Medical Center of Ocean Count, 2121 Edgewater Place, Point Pleasant 08742, 908–295–6441.	NJ	03/19/93

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DIVISION OF FOREIGN LABOR CERTIFICATIONS—APPROVED ATTESTATIONS—Continued

[March 1, 1993 to March 31, 1993]

CEO name/facility name/address	State	Approval date
Mr. Daniel L. Marcantuono, The General Hospital Ctr. at Passaic, Passaic 07055, 201–365–4300	NJ	03/29/93
Mr. Oscar Heller, Bayview Convalescent Ctr., 395 Lakeside Blvd., Bayville 08721, 908–269–0500.	NJ	03/29/93
Ms. Gloria Estabillo, Philippino Placement Agency, 880 Bergen Avenue, Jersey City 07306, 201–963–0245.	NJ	03/29/93
Mr. Daniel J. Moles, Ashbrook Nursing Home, 1610 Raritan Road, Scotch 07076, 908–889–5500.	NJ	03/29/93
Mr. Richard A. Pitman, Shore Memorial Hospital, Shore Rd & New York Ark, Somers Point 08244, 609–653–3500.	NJ	03/29/93
Ms. Karen Holcher, Pershing General Hospital District, Lovelock 89419, 702–273–2621.	NV	03/18/93
Mr. Robert Stone, Blythedale Children's Hospital, Bradhurst Avenue, Valhalla 10595, 914–592–7555.	NY	03/02/93
Ms. Ann Cecio, Borough Park-Metropolitan Jew Geriatric Ctr., Brooklyn 11219, 718–851–3700.	NY	03/02/93
Mr. Thomas G. Doherty, Kings County Hospital, NYCH & Hospitals Corp., New York 10013, 212–566–7322.	NY	03/03/93
Mr. William E. McCauley, St. John's Episcopal Hospital South Shore, Far Rockaway 11691, 718–868–7000.	NY	03/03/93
Mr. Thomas G. Doherty, Matropolitan Hospital, NYCH & Hospitals Corp., New York 10013, 212–566–7322.	NY	03/03/93
Mr. Thomas G. Doherty, Coler Memorial Hospital, NYCH & Hospitals Corp., New York 10013, 212–566–7322.	NY	03/03/93
Mr. Thomas G. Doherty, Harlem Hospital, NYCH & Hospitals Corp., New York 10013, 212–566–7322.	NY	03/03/93
Mr. Eugene McCabe, North General Hospital, 1879 Madison Avenue, New York 10035, 212–423–4000.	NY	03/05/93
Mr. William Pascocello, Florence Nightingale Nursing Home, New York 10029, 212–410–8700.	NY	03/05/93
Mr. Thomas G. Doherty, Woodhull Med. & Mental Health, NYCH & Hosps. Corp., New York 10013, 212–566–7322.	NY	03/05/93
Mr. J. Rock Tonkel, St. Vincent's Hospital and Med. Ctr. of New York, New York 10011, 212–790–8824.	NY	03/05/93
Mr. Reuven Savitz, Hospital for Joint Diseases, 301 East 17th Street, New York 10003, 212–598–6000.	NY	03/05/93
Mr. Michael S. Fassler, Center for Nursing & Rehab., 520 Prospect Place, Brooklyn 11238, 718–636–1000.	NY	03/12/93
Robert G. Newman, M.D., Beth Israel Medical Ctr., First Avenue at 16th Street, New York, 10003, 212–420–2929.	NY	03/12/93
Ms. Jeanne Lee, Frances Schervier Home and Hospital, Bronx 10453, 212–548–1700.	NY	03/12/93
Ronald Gade, M.D., Union Hospital, 260 East 188th Street, Bronx 10458, 718–220–2020.	NY	03/18/93
Mr. Frederick D. Alley, The Brooklyn Hosp. Ctr., 121 De Kalb Avenue, Brooklyn 11201, 718–403–8025.	NY	03/18/93
Ms. Olga Lipschitz, Cobble Hill Nursing Home, 380 Henry Street, Brooklyn 11201, 718–855–6789.	NY	03/29/93
Ms. Marcia Fisher, Trinamco Co., Inc., 884 E. 233rd Street, Bronx 10466, 718–231–6800.	NY	03/29/93
Ms. Gladys George, Lenox Hill Hospital, 100 East 77th Street, New York 10021, 212–439–2010.	NY	03/29/93
Mr. Irwin M. Langer, Peninsula Hospital Center, 51–15 Beach Channel Dr., Far Rockaway 11691, 718–945–7100.	NY	03/29/93
Mr. Michael New, Sephardic Home for the Aged, 2266 Cropsey Avenue, Brooklyn 11214, 718–266–6100.	NY	03/29/93
Mr. Martin Freiwirth, Kingsbrook Jewish Med. Ctr., 585 Schenectady Avenue, Brooklyn 11203, 718–604–5426.	NY	03/29/93
Mr. R. Reed Fraley, The Ohio State University Hospitals, Columbus 43210, 614–293–5555.	OH	03/05/93
Melvin H. Stepp, Meadow Haven Nursing Ctr., Beverly Enterprises, S.C. Inc., Rock Hill 29732, 803–366–7133.	SC	03/16/93
Ms. Suzanne A. Glymph, Westside Health Care, 8 North Texas Avenue, Greenville 29611, 803–295–1331.	SC	03/16/93
Mr. Jerome S. Tannenbaum, Ren Corporation—USA, 6820 Charlotte Pike, Nashville 37209, 615–353–4200.	TN	03/29/93
Mr. Donald Rocke, Bee County Regional Med. Ctr., 1500 E. Houston Highway, Beeville 78102, 512–358–5431.	TX	03/05/93
Mr. K. Steven Rowley, South Park Medical Ctr., 6610 Quaker Avenue, Lubbock 79413, 806–791–8000.	TX	03/12/93
Mr. Larry Mathis, The Methodist Hospital System, 6565 Fannin, Houston 77030, 713–790–2197.	TX	03/12/93
Mr. William D. Peteet, III, Methodist Hospital, 3615 19th Street, Lubbock 79410, 806–792–1011.	TX	03/16/93
Mr. Nelson A. Sin, International Medical Personnel Co., Houston 77036, 713–771–1211.	TX	03/16/93
Mr. William E. Simmons, San Jacinto Methodist Hosp., 4401 Garth Road, Baytown 77521 713–420–8690.	TX	03/18/93

DIVISION OF FOREIGN LABOR CERTIFICATIONS—APPROVED ATTESTATIONS—Continued

[March 1, 1993 to March 31, 1993]

CEO name/facility name/address	State	Approval date
Ms. Fe De La Calzada, Quality Health Services, Inc., 9888 Bissonnet Suite 475, Houston 77036, 713–272–0077.	TX	03/18/93
Mr. Milton R. Kelley, Villa Nursing Center, Inc., 2003 North Edwards Street, Mount Pleasant 75456, 903–572–5511.	TX	03/18/93
Mr. Gary M. Moore, Maverick County Hosp. Distric, 350 S. Adams Street, Eagle Pass 78852, 210–773–5321.	TX	03/18/93
Mr. J. Michael Stevens, Medical Center Hosp. of Odessa, 601 West 4th Street, Odessa 79761, 915–335–1152.	TX	03/25/93
Mr. Don M. McBride, Sun Belt Reg'l Med. Ctr., 13111 East Freeway, Houston 77015, 713–450–0342.	TX	03/29/93
Mr. Wilbur A. Smith, St. Thomas Hospital, 48 Sugar Estates, St. Thomas 00802 809–776–8311.	VI	03/29/93
Mr. Kenneth C. Owens, Harbor Health Care, Beverly Enterprises, Inc., Aberdeen 98520, 206–696–3914.	WA	03/02/93
Mr. Bernard Westfall, West Virginia University Hospitals, Morgantown 26506, 304–598–4075. Total Attestations—124.	WV	03/18/93

[FR Doc. 93–10349 Filed 4–30–93; 8:45 am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: 10 CFR part 81—Standard Specifications for the Granting of Patent Licenses.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Applications for licenses are submitted once. Other reports are submitted annually or as other events require.

5. Who will be required or asked to report: Applicants for and holders of NRC licenses to NRC inventions.

6. An estimate of the number of responses: Zero.

7. An estimate of the total number of hours needed to complete the requirement or request: Zero.

8. An indication of whether section 3504(h), Public Law 96–511 applies: Not applicable.

9. Abstract: 10 CFR part 81 establishes the standard specifications for the issuance of licenses to rights in inventions covered by patents or patent applications vested in the United States, as represented by or in the custody of the Commission and other patents in which the Commission has legal rights.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, Lower Level, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150–0121), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084. The NRC Clearance Officer is Brenda J. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland this 23rd day of April, 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–10301 Filed 4–30–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on May 13–15, 1993, in room P–110, 7920 Norfolk Avenue, Bethesda, Maryland.

Notice of this meeting was published in the Federal Register on March 25, 1993.

Thursday, May 13, 1993

8:30 a.m.–8:45 a.m.: Opening Remarks by ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. During this session, the Committee will discuss priorities for preparation of ACRS reports.

8:45 a.m.–9:45 a.m.: Advanced Reactors Schedules (Open)—The Committee will hear a briefing by and hold discussions with representatives of the NRC staff on the schedules for the NRC review of advanced reactor designs. The Committee will also discuss its plans and schedule for the review of the ABWR design.

9:45 a.m.–10:45 a.m.: SECY–93–086, Backfit Considerations (Open)—The Committee will review and comment on SECY–93–086, "Backfit Considerations." Representatives of the NRC staff and the industry will participate, as appropriate.

11:00 a.m.—12:15 p.m.: PRA Working Group Activities (Open)—The Committee will review and comment on a draft report on the proposed application of PRA prepared by the PRA Working Group. Representatives of the NRC staff and the industry will participate, as appropriate.

1:15 p.m.–2:15 p.m.: Proposed NRC Staff Plan for Comparing Safety Goals with Regulations (Open)—The Committee will review and comment on a proposed NRC Staff Plan for using the Safety Goal Policy to judge the effectiveness of the NRC regulations. Representatives of NRC staff and the industry will participate, as appropriate.

2:15 p.m.–3:45 p.m.: Meeting with the Director of the Office of Nuclear Reactor Regulation (Open)—The Committee will meet with the Director of the Office of Nuclear Reactor Regulation to discuss items of mutual interest.

4 p.m.–5 p.m.: Preparation for meeting with the NRC Commissioners (Open)—The Committee will discuss the topics scheduled for discussion during the Friday, May 14, 1993 meeting between the Committee and the NRC Commissioners.

5: p.m.–6 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

Friday, May 14, 1993

8:30 a.m.–9:15 a.m.: Form and Content of Combined License (Open)—The Committee will hear a briefing by

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and hold discussions with representatives of the NRC staff regarding the form and content of a Combined License application. Representatives of the industry will participate, as appropriate.

10 a.m.–11:30 a.m.: Meeting with the NRC Commissioners (Open)—The Committee will meet with the NRC Commissioners to discuss items of mutual interest.

1 p.m.–3 p.m.: Boiling Water Reactor Core Power Stability (Open)—The Committee will review and comment on the NRC staff's review of the approaches proposed by the BWR Owners Group for resolving the issue of BWR core power stability. Representatives of the NRC staff and the industry will participate, as appropriate.

3:15 p.m.–4:15 p.m.: Proposed Resolution of Generic Issue 105, "Interfacing Systems LOCA in LWRs" (Open—The Committee will review and comment on the NRC staff's proposed resolution of Generic Issue 105. Representatives of the NRC staff and industry will participate, as appropriate.

4:15 p.m.–5 p.m.: Future ACRS Activities (Open)— The Committee will discuss topics proposed for future consideration by the full Committee.

5 p.m.–6 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

Saturday, May 15, 1993

8:30 a.m.–9:15 a.m.: ACRS Subcommittee Activities (Open)—The Committee will discuss the status of ACRS Subcommittee assignments, including those related to the conduct of ACRS business, the use of advanced computer graphics in the nuclear power plant design process, and the status of issues associated with BWR vessel water level instrumentation.

9:15 a.m.–9:45 a.m.: Appointment of New Members (Open/Closed)—The Committee will discuss matters related to the qualifications of candidates proposed for appointment to the Committee. Portions of this session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

9:45 a.m.–10:15 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss NRC staff responses to recommendations made in ACRS reports.

10:15 a.m.–1 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

1:00 p.m.–2:00 p.m.: Miscellaneous (Open)—The Committee will discuss matters considered but not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 16, 1992 (57 FR 47494). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those open portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director, Dr. John T. Larkins, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Dr. John T. Larkins (telephone 301–492–4516), between 8 a.m. and 4:30 p.m. EST.

Dated: April 27, 1993.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93–10304 Filed 4–30–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–424 and 50–425; 50–321 and 50–366]

Georgia Power Co. et al.; Vogtle Electric Generating Plant, Units 1 and 2, Edwin I. Hatch Nuclear Plant, Units 1 and 2 Issuance of Partial Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Partial Director's Decision concerning a request dated September 11, 1990 (Petition), as supplemented September 21 and October 1, 1990, and July 8, 1991, filed pursuant to 10 CFR 2.206 by Michael D. Kohn, Esquire, on behalf of Messrs. Marvin Hobby and Allen Mosbaugh. The Petition and supplements contain allegations regarding: The management of the Georgia Power Company (GPC) nuclear facilities; illegal transfer of GPC's operating licenses to Southern Nuclear Operating Company (SONOPCO); intentional false statements to the NRC regarding GPC's organizational chain of command and the reliability of a diesel generator; perjured testimony submitted by a GPC executive during a U.S. Department of Labor (DOL) proceeding under section 210 of the Energy Reorganization Act; repeated abuse at the Vogtle facility of Technical Specification 3.0.3; repeated willful technical specification violations at the Vogtle facility; repeated concealment of safeguards problems from the NRC; operation of radioactive waste systems and facilities at Vogtle in gross violation of NRC requirements; routine use at GPC nuclear facilities of nonconservative and questionable management practices; and retaliation by GPC against managers who make regulatory concerns known to GPC or SONOPCO management.

The supplements to the Petition also alleged that GPC's Executive Vice President made material false statements in GPC's April 1, 1991, submittal to the NRC responding to the issues raised in the Petition, and during a transcribed meeting on January 11, 1991, with the NRC staff, to discuss the formation and operation of SONOPCO.

The Director of the Office of Nuclear Reactor Regulation (NRR) has determined that certain issues raised in the Petition are capable of resolution now as the facts are sufficiently well understood as a result of NRC inspections or other reviews. The Director of NRR has determined that issuance of a Partial Director's Decision, with regard to these issues, is appropriate. The remaining issues will be considered within a reasonable time in the future. Based on his review of the

issues, the Director has determined that certain concerns raised by the Petitioners are partially substantiated, and that for these matters, the NRC staff has taken appropriate enforcement action. A number of violations were identified and one civil penalty was issued to GPC for certain of these violations. To this extent, Petitioners' request for action has been granted.

Several concerns raised by the Petitioners are not substantiated by this Partial Director's Decision and Petitioners' request for action with respect to these matters is denied. The reasons for this decision are explained in the Partial Director's Decision under 10 CFR 2.206, DD–93–08, which is available for public inspection in the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Rooms at the Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830, and the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

A copy of the Partial Director's Decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the Partial Director's Decision will constitute the final action of the Commission, except for the remaining open issues, 25 days after issuance, unless the Commission, on its own motion, institutes review of the Partial Director's Decision within that time period.

Dated at Rockville, Maryland, this 23rd day of April, 1993.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 93–10303 Filed 4–30–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–267; License No. DPR–34]

Public Service Co. of Colorado, Fort St. Vrain Nuclear Generating Station; Exemption

I.

The Public Service Company of Colorado (PSC or the licensee), is the holder of Possession Only License No. DPR–34, which authorizes possession and maintenance of the Fort St. Vrain Nuclear Generating Station (FSV). The license states, among other things, that FSV is subject to all rules, regulations, and orders of the Commission now or hereafter in effect. FSV is a high-temperature gas-cooled reactor that is located at the licensee's site in Weld County, Colorado. FSV is permanently shut down, defueled, and currently in the process of being decommissioned. All spent fuel has been transferred to the PSC Independent Spent Fuel Storage Installation (ISFSI) that is located onsite, adjacent to the reactor protected area, and is licensed under 10 CFR part 72. PSC is the holder of Special Nuclear Material (SNM) License No. 2504 for the ISFSI.

II.

By letter dated November 25, 1992, PSC requested an exemption, in accordance with 10 CFR 20.2301, from the revised requirements in 10 CFR 20.1001 through 20.2401 of the Code of Federal Regulations. The licensee stated, in its application, that the reasons for the requested exemption are: (1) FSV decommissioning will be approximately 40 percent completed by January 1, 1994, and the benefits from implementing the revised 10 CFR part 20 would not be realized during the remaining short period of decommissioning, approximately 24 months. The decommissioning of FSV is a one-time project, and when completed, FSV will be released for unrestricted use; (2) the cost to implement the revised program is not warranted because of the limited duration of the FSV decommissioning project. PSC believes the underlying benefit of implementing the revised requirements is related solely to an operating nuclear plant or facility where operating risks are significant in contrast to a plant being decommissioned, and where the plant life is significantly longer. Although the staff believes that PSC's estimated cost of 5 million dollars to convert to the revised requirements is high, and that PSC provided little information to support this cost estimate, the staff agrees that the benefits from implementing the revised requirements would not be realized; and (3) the Decommissioning Plan estimated collective dose projection for occupational and ALARA purposes (260 man-rems to approximately 300 workers over the remaining 24-month period) to complete the FSV decommissioning is within the occupational limits of the revised 10 CFR part 20. Thus the intent of the revised 10 CFR part 20 would be met, and no apparent benefit would be realized by requiring implementation of the new 10 CFR part 20.

III.

The staff agrees with the licensee's analyses and concludes that sufficient bases have been presented for our approval of the request for an exemption, pursuant to 10 CFR 20.2301, from the requirements of the revised 10 CFR 20.1001 through 20.2401, for the completion of the decommissioning of FSV.

Based on the above evaluation, the Commission has determined that pursuant to 10 CFR 20.2301, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Accordingly, the Commission hereby grants an exemption from the revised 10 CFR part 20 that would be effective January 1, 1994, and allows the FSV decommissioning to be completed under the existing requirements of 10 CFR 20.1 through 20.601.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (April 15, 1993, 58 FR 19693).

A copy of the licensee's request for exemption and supporting documentation dated November 25, 1992, is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20037 and at the Weld Library District—Downtown Branch, 919 7th Street, Greeley, CO 80631.

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 26th day of April, 1993.

For the Nuclear Regulatory Commission.

Richard L. Bangart,

Director, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

Safety Evaluation by the Office of Nuclear Material Safety and Safeguards Supporting an Exemption From 10 CFR 20.1001 through 20.2401 Requirements

1.0 Introduction

By letter dated November 25, 1992, Public Service Company of Colorado (PSC) requested an exemption, pursuant to 10 CFR 20.2301, from the revised requirements in 10 CFR 20.1001 through 20.2401 of the Code of Federal Regulations. The exemption is to be exercised for the Fort St. Vrain Nuclear Generating Station (FSV) during the remaining decommissioning period of approximately 24 months. FSV is permanently shut down and all spent fuel has been transferred to PSC's Independent Spent Fuel Storage Installation (ISFSI). It is anticipated that the 10 CFR part 50 license will be terminated in late 1995 and the site will be released for unrestricted use.

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2.0 Discussion

The licensee requested relief from the revised requirements to 10 CFR part 20, effective January 1, 1994. The licensee is seeking this exemption pursuant to 10 CFR 20.2301. 10 CFR 20.2301 allows an exemption provided that the exemption would not result in undue hazard to life or property.

The licensee stated, in its application for exemption, that it believed the underlying purpose and benefits from implementing the revised 10 CFR part 20 requirements related solely to an operating nuclear facility where nuclear criticality is common, operational risks are significant in contrast to a defueled plant that will have completed approximately 40 percent of its decommissioning effort, and the operating life of the facility is significantly longer. PSC anticipates the FSV license will be terminated in late 1995, and the site released for unrestricted use.

3.0 Evaluation

The Nuclear Regulatory Commission staff has completed its review of the exemption request from the PSC. The approval of the exemption would permit PSC to complete the planned decommissioning of Fort St. Vrain without implementing the revised 10 CFR part 20, and in effect operate for years beyond January 1, 1994, under the radiation protection provisions of 10 CFR 20.1 through 20.601. The NRC staff is recommending granting the exemption to the revised 10 CFR part 20. The staff's bases for granting the exemption are discussed below.

The FSV Decommissioning Plan estimated total exposure for decommissioning FSV to be 433 man-rems. This estimate was considerably lower than the total exposure estimate of 1400 man-rems in NUREG/CR–0130, "Technology, Safety, and Cost of Decommissioning a Referenced Pressurized Water Reactor Power Station." The staff concluded, in the Safety Evaluation Report, that although personnel conducting dismantlement activities will be exposed to radiation, PSC has developed activities and procedures to limit exposures and to maintain occupational exposure as low as is reasonable achievable (ALARA). Currently, for the decommissioning activities completed at FSV, the actual exposures have been less than the estimated exposures for the activities completed. By the time the revised 10 CFR part 20 is to be implemented, January 1, 1994, 40 percent of the decommissioning will be completed.

The Decommissioning Plan estimated collective dose projection for occupational and ALARA purposes (260 man-rems to approximately 300 workers over the remaining 24-month period) to complete decommissioning is reasonable, and well within the lower occupational limits of the revised 10 CFR part 20. The intent of the revised part 20 would be realized and the staff agrees with PSC that there would be no apparent benefit to worker and public protection by requiring the implementation of the revised 10 CFR part 20.

The staff believes that PSC's estimated cost of 5 million dollars to convert to the revised requirements is high, and that PSC provided little information to support this cost estimate. However, the staff agrees that the benefits from implementing the revised requirements would not be realized. In addition, PSC has already implemented administrative limits on worker doses in the existing program to keep radiation doses ALARA. The administrative limit on individual workers at FSV is 4.5 rems per year, and this is lower than the revised 10 CFR part 20 limit of 5 rems per year. Although the administrative controls could be changed, the Decommissioning Plan estimated collective dose projection for occupational and ALARA purposes (260 man-rems to approximately 300 workers over the remaining 24-month period) to complete decommissioning is reasonable, and well within the lower occupational limits of the revised 10 CFR part 20.

4.0 Environmental Considerations

Pursuant to 10 CFR 51.21, 51.32 and 51.35, an environmental assessment and finding of no significant impact has been prepared and published in the **Federal Register** April 15, 1993. The Commission has determined that the issuance of the exemption will not have a significant effect on the quality of the human environment.

5.0 State Consultation

The State of Colorado was contacted about the proposed exemption. The State had no comments.

6.0 Conclusions

The Commission has concluded, based on considerations discussed above, that: (1) There is reasonable assurance that the health and safety of the public will not be endangered by exempting the requirement for the revised 10 CFR part 20; (2) the remaining activities will be conducted in compliance with the Commission's regulations, 10 CFR 20.1 through 20.601; and (3) the issuance of this exemption will not be inimical to the common defense and security nor to the health and safety of the public.

Principal Contributor: Clayton L. Pittiglio.

Dated: April 26, 1993.

[FR Doc. 93–10302 Filed 4–30–93; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for Reclearance of Form RI 25–47

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for reclearance of an information collection. Form RI 25–47, Survey of Continuing Full-time School Attendance, is used to verify that students who certified they would be enrolled full time are still so enrolled.

Approximately 11,000 RI 25–47 forms will be completed per year. The form requires approximately 5 minutes to complete. The annual burden is 917 hours.

For copies of this proposal, contact C. Ronald Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received on or before June 2, 1993.

ADDRESSES: Send or deliver comments to:

Lorraine E. Dettman, Retirement and Insurance Group, Operations Support Division, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349, Washington, DC 20415. and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 3002, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT:

Mary Beth Smith-Toomey, Chief Administrative Management Branch, (202) 606–0616.

Patricia W. Lattimore,

Acting Deputy Director.

[FR Doc. 93–10259 Filed 4–30–93; 8:45 am]

BILLING CODE 6325–01–M

Notice of Request for Reclearance of Form RI 30–9

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for reclearance of an information collection. Form RI 30–9, Reinstatement of Disability Annuity Previously Terminated Because of Restoration to Earning Capacity, is used to inform former annuitants of their right to request restoration. It also specifies the conditions to be met and the documentation required for an annuitant to request reinstatement.

Approximately 200 RI 30–9 forms will be completed per year. The form requires approximately 1 hour to complete. The annual burden is 200 hours.

For copies of this proposal, contact C. Ronald Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received on or before June 2, 1993.

ADDRESSES: Send or deliver comments to:

Lorraine E. Dettman, Retirement and Insurance Group, Operations Support Division, U.S. Office of Personnel Management, 1900 E Street, NW., room 3349, Washington, DC 20415, and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT:

Mary Beth Smith-Toomey, Chief, Administrative Management Branch, (202) 606–0616.

Patricia W. Lattimore,

Acting Deputy Director.

[FR Doc. 93–10256 Filed 4–30–93; 8:45 am]

BILLING CODE 6325–01–M

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, May 13, 1993
Thursday, May 27, 1993
Thursday, June 10, 1993
Thursday, June 24, 1993

The meetings will start at 10:45 a.m. and will be held in room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

Those scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, room 1340, 1900 E Street, NW., Washington, DC 20415, (202) 606–1500.

Dated: April 26, 1993.

Anthony F. Ingrassia,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 93–10258 Filed 4–30–93; 8:45 am]

BILLING CODE 6325–01–M

Federal Salary Council Meetings

AGENCY: Office of Personnel Management.

ACTION: Notice of meetings.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the twentieth and twenty-first meetings of the Federal Salary Council will be held at the times and places shown below. The agenda for these meetings will be the discussion of issues relating to the new locality-based comparability payments authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). The meetings will be open.

DATES: May 18, and June 22, 1993 beginning at 10 a.m.

ADDRESSES: Office of Personnel Management, 1900 E Street, NW., room 7B09, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth O'Donnell, Chief, Salary Systems Division, Office of Personnel Management, 1900 E Street, NW., room 6H31, Washington, DC 20415–0001. Telephone number: (202) 606–2838.

For the President's Pay Agent:

Patricia W. Lattimore,

Acting Deputy Director.

[FR Doc. 93–10255 Filed 4–30–93; 8:45 am]

BILLING CODE 6325–01–M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From the Bond/Escrow Requirement Relating to the Sale of Assets by an Employer Who Contributes to a Multiemployer Plan; Detroit Tigers, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from The Detroit Tigers, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended, with respect to the Major League Baseball Players Benefit Plan. Section 4204(a)(1)

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provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not result in a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for the five-plan-year period beginning after the sale. The PBGC is authorized to grant individual and class exemptions from this requirement. Before granting an exemption the PBGC is required to give interested persons an opportunity to comment on the exemption request. The purpose of this notice is to advise interested persons of the exemption request and solicit their views on it.

DATES: Comments must be submitted on or before June 17, 1993.

ADDRESSES: All written comments (at least three copies) should be addressed to: Pension Benefit Guaranty Corporation, Office of the General Counsel (22500), 2020 K Street, NW., Washington, DC 20006. The non-confidential portions of the request for an exemption and the comments received will be available for public inspection at the PBGC Communications and Public Affairs Department, suite 7100, at the above address, between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Karen L. Morris, Office of General Counsel (22550), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; telephone 202–778–88 (202–956–5059 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, ("ERISA" or "the Act"), provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered to result in a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S. 1076, The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of an exemption or variance from the bond/escrow requirement does not constitute a finding by the PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1). Such questions are to be decided by the plan sponsor in the first instance, and any disputes are to be resolved in arbitration. 29 U.S.C. 1382, 1399, 1401.

Under the PBGC's regulation on variances for sales of assets (29 CFR part 2643), a request for a variance or waiver of the bond/escrow requirement under any of the tests established in the regulation (29 CFR 2643.12–2643.14) is to be made to the plan in question. The PBGC will consider waiver requests only when the request is not based on satisfaction of one of the four regulatory tests or when the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information within the meaning of 5 U.S.C. 552(b)(4) (the Freedom of Information Act).

Under § 2643.3 of the regulation, the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from the Detroit Tigers, Inc. ("the Buyer") for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) with respect to its purchase of the Detroit Tigers Baseball Team from John E. Fetzer, Inc. ("the Seller"). In support of the request, the Buyer represents among other things that:

1. The Major League Baseball Players Benefit Plan (the "Plan") was established and is maintained pursuant to a collective bargaining agreement between the twelve (12) clubs comprising The National League of Professional Baseball Clubs, the fourteen (14) clubs comprising The American League of Professional Baseball Clubs (the "Clubs") and the Major League Baseball Players Association (the "Association").

2. The Seller was a participating employer in the Plan.

3. The Clubs have established the Major Leagues Central Fund (the "Central Fund") pursuant to the "Major League Agreement in re Major Leagues Central Fund." Under this agreement, contributions to the Plan for all participating employers are paid by the Office of the Commissioner of Baseball from the Central Fund on behalf of each participating employer in satisfaction of the employer's contribution obligation arising under the Plan's funding agreement. The monies in the Central Fund are derived directly from (i) gate receipts from All-Star games, (ii) radio and television revenues from World Series, League Championships, intradivision play-offs and All-Star games, and (iii) certain other radio and television revenues from regular and exhibition games, including those from foreign broadcasts.

4. During the 1991 plan year, approximately $29.5 million was paid into the Plan, and 1/26 of that amount represented contributions paid on behalf of the Seller.

5. Effective August 12, 1992, the Buyer and the Seller entered into an Asset Purchase Agreement for the Buyer to purchase substantially all of the assets and assume substantially all of the liabilities of the Seller relating to the business employing the employees covered by the Plan. The final closing of the transaction occurred on August 26, 1992.

6. Under the Asset Purchase Agreement, the Buyer assumed the obligation to contribute to the Plan for substantially the same number of contribution base units as the Seller was obligated to contribute to the Plan.

7. The Asset Purchase Agreement further provided that:

"[I]f the Buyer thereafter, but prior to the end of the fifth plan year commencing after the closing, partially or completely withdraws from the Plan, Seller shall be and remain secondarily liable for any withdrawal liability it would have had to the Plan but for the operation of ERISA section 4204."

8. The amount of the bond/escrow that that would be required under section 4204 (a)(1)(B) of ERISA beginning as of April 1, 1993, is $1,412,077, and the estimated amount of the withdrawal liability that the Seller would incur if not for section 4204 is $4,796,483.

9. In support of the variance request the Buyer states that:

"Because the Plan is funded directly from the revenues which are paid from the Central Fund directly to the [Plan's trust fund] without first passing through the hands of any of the Employers, the Plan enjoys adequate security * * *. A change in ownership of an Employer does not in any way affect the obligation to fund the plan * * * nor create the possibility that there will be difficulty in collecting Plan contributions due from any new owner * * *."

10. The Buyer would be able to satisfy the conditions for a variance under 29 CFR 2643.11, on a controlled group basis, by meeting the net tangible assets test described in 29 CFR 2643.14(a)(2). The Buyer has declined to provide copies of its financial statements to the Plan as required by 29 CFR 2643.11(c) on the ground that they are confidential within the meaning of 5 U.S.C. 552(b)(4).

11. The Buyer has sent by certified mail, return receipt requested, a complete copy of the request to the Plan and the collective bargaining representative.

Comments

All interested persons are invited to submit written comments on the pending exemption request to the above address. All comments will be made a part of the record. Comments received, as well as the relevant non-confidential information submitted in support of the request, will be available for public inspection at the address set forth above.

Issued at Washington, DC, on this 27th day of April, 1993.

Martin Slate,

Executive Director.

[FR Doc. 93–10297 Filed 4–30–93; 8:45 am]

BILLING CODE 7708–01–M

POSTAL RATE COMMISSION

Commission Visit

April 28, 1993.

Notice is hereby given that on May 6 and May 7, 1993, members of the Commission and certain advisory staff personnel will visit the Colortree Envelope plant and the Cavalier Printing Ink plant in Richmond, Virginia, and the Union Camp Envelope plant in Franklin, Virginia.

A report of the visits will be on file in the Commission's Docket Room. For further information contact Charles L. Clapp, Secretary of the Commission at 202–789–6840.

Charles L. Clapp,

Secretary.

[FR Doc. 93–10361 Filed 4–30–93; 8:45 am]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

April 27, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Ace Ltd.
Ordinary Shares, $.125 Par Value (File No. 7–10601)
Alco Standard Corp.
Depositary Shares (rep. 1/100 sh. of Ser. AA Conv. Pfd. Stock) No Par Value (File No. 7–10602)
American Strategic Income Portfolio, Inc., III
Common Stock, $.01 Par Value (File No. 7–10603)
Bankers Life Holdings Corp.
Common Stock, $.001 Par Value (File No. 7–10604)
Bear Stearns Co.'s, Inc.
Depositary Shares (rep. 1/8 sh. of Cum. Pfd. Stock, Ser. B) $1.00 Par Value (File No. 7–10605)
Chemical Banking Corp.
Depositary Shares (rep. 1/4 sh. of 7.58% Cum. Pfd. Stock) (File No. 7–10606)
Consorcio G Grupo Dina, S.A. de C.V.
American Depositary Shares (rep. 4 sh. of Common) Without Par Value (File No. 7–10607)
Detroit Edison Co.
Depositary Shares (rep. 1/4 sh. of Cum. Pfd. Stock) 7.75% Ser., $100.00 Par Value (File No. 7–10608)
Fremont General Corp.
Common Stock, $1.00 Par Value (File No. 7–10609)
Kaufman & Broad Home Corp.
$1.52 Depositary Shares (rep. 1/5 sh. of Ser. B Mand. Conv. Prem. Div. Pfd. Stock) (File No 7–10610)
Life Partners Group, Inc.
Common Stock, $.001 Par Value (File No. 7–10611)
Mercantile Bancorporation, Inc.
Common Stock, $5.00 Par Value (File No. 7–10612)
National Steel Corp.
Class B Common Stock, $.01 Par Value (File No. 7–10613)
Ohio Edison Co.
7.75% Class A Pfd. Stock, $25.00 Par Value (File No. 7–10614)
Payless Cashways, Inc.
Common Stock, $.01 Par Value (File No. 7–10615)
Premdor, Inc.
Common Stock, Without Par Value (File No. 7–10616)
Provident Life & Accident Insurance Company of America
Depositary Shares (rep. 16 sh. of 8.10% Cum. Pfd. Stock) (File No. 7–10617)
PSI Energy, Inc.
7.44% Cum. Pfd. Stock, $25.00 Par Value (File No. 7–10618)
Starter Corp.
Common Stock, $.01 Par Value (File No. 7–10619)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 18, 1993, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for

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hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10279 Filed 4–30–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32216; File No. SR–DGOC–93–02]

Self-Regulatory Organizations; Delta Government Options Corp.; Notice of Filing of Proposed Rule Change Relating to the Definition of Exercise Price

April 26, 1993

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 20, 1993, Delta Government Options Corp. ("DGOC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–DGOC–93–02) as described in Items I, II, and III below, which Items have been prepared primarily by DGOC, a self-regulatory organization ("SRO"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will amend DGOC's definition of Exercise Price to permit Participants to select the style of exercise (*i.e.*, either American style[2] or European style[3]) when negotiating the terms of options with other Participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DGOC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DGOC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit DGOC Participants to select the style of exercise when negotiating the terms of options with other Participants. The choice of exercise styles is consistent with the choice of exercise styles available in the over-the-counter market. In addition, the choice of exercise styles will allow Participants to match more closely the options available through DGOC with similar securities in other markets. Options subject to European style exercise often trade at a lower premium level than options subject to American style exercise. Accordingly, those Participants who wish to buy and hold an option contract to the option's natural expiration may attract e more competitive price for the option by indicating their exercise preference as part of the purchase negotiations.

DGOC believes that the proposed rule change is consistent with the Act, particularly section 17A of the Act,[4] and with the rules and regulations thereunder applicable to DGOC because it will promote the prompt and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

DGOC believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DGOC has not solicited or received any comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice on the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the SRO consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DGOC. All submissions should refer to File No. SR–DGOC–93–02 and should be submitted by May 21, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–10288 Filed 4–30–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32209 ; File No. SR–DTC–93–04]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Fee Schedule for Networking Interface Services

April 26, 1993.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 20, 1993, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–DTC–93–04) as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] An American style option is an option contract that may be exercised at any time from its commencement until its expiration.

[3] A European style option is an option contract that may be exercised only on its expiration date.

[4] 15 U.S.C. 78q-1 (1988).

[5] 17 CFR 200.30–3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC is instituting a fee schedule for use of the interface with the National Securities Clearing Corporation's ("NSCC") Networking service.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On November 19, 1992, the Commission approved DTC's proposed rule change providing for a Networking Interface.[2] The interface gives DTC Participants full access to NSCC's Networking service. The Networking Interface enables participating mutual funds and Participants to exchange electronically in a standardized format non-trade account data such as subaccount information, closing position balances, and dividend processing records.

The purpose of this proposed rule change, which will be effective for Networking Interface services provided on and after April 1, 1993, is to establish fees for this service that are based upon DTC's cost. The proposed rule change is consistent with the requirements of section 17A of the Act[3] because fees will be equitably allocated among DTC Participants as required by section 17A(b)(3)(D) of the Act.[4]

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

DTC has discussed the proposed rule change with and has invited written comments from various participants. No comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective on filing pursuant to section 19(b)(3)(A)(ii)[5] of the Act and pursuant to Rule 19b–4(e)(2)[6] promulgated thereunder because the proposed rule change establishes or changes a due, fee, or other charge imposed by DTC. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–93–04 and should be submitted by May 21, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

[2] Securities Exchange Act Release No. 31487 (November 19, 1992), 57 FR 56611 [File No. SR–DTC–93–04].

[3] 15 U.S.C. 78q–1 (1988).

[4] 15 U.S.C. 78q–1(b)(3)(D) (1988).

[5] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[6] 17 CFR 240.19b–4(e)(2) (1992).

[7] 17 CFR 200.30–3(a)(12) (1992).

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10366 Filed 4–30–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32208; File No. SR–GSCC–93–01]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Filing of a Proposed Rule Change Concerning the Establishment of New Categories of Membership in the Netting System

April 26, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 24, 1993, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would establish new membership categories in GSCC's netting system and would amend the criteria for continued participation in GSCC's comparison and netting systems. The specific elements of the proposed rule change are contained in Exhibits A and B.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) At the inception of GSCC's netting system, the minimum capital requirement for a dealer netting member was set at $50 million in net worth. To

[1] 15 U.S.C. 78s(b)(1) (1988).

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ensure the financial strength of each netting participant, a floor of $10 million in excess net or liquid capital, as applicable, also was established. (There is a separate minimum requirement for netting members that are banks of at least $250 million in shareholder's equity.) Moreover, a broker currently is allowed to qualify as an interdealer broker netting member ("IDB") and, thus, is allowed to enjoy limited liability and a capped margin requirement under GSCC's rules, even if it acts on behalf of nonmembers, so long as the nonmembers are eligible to be netting members.

It was recognized at the time of the establishment of GSCC (and, indeed, made a prerequisite by the Commission for permanent registration) that the netting system ultimately should not be solely for the benefit of the primary dealer community, and that additional classes of market participants would be encompassed as members in the future. The timing and manner in which this occurs is a matter for ongoing review by GSCC's Board. In considering how best to broaden access to its services in a manner consistent with changes in the marketplace, GSCC provided members with the opportunity to comment on these proposed membership standards, encouraged such comments, and, indeed, has received and incorporated feedback from a broad range of members as well as from a GSCC Liaison Working Group of the Primary Dealers Committee of the Public Securities Association that was established to review various credit issues in the government securities market. With the benefit of this industry input, GSCC believes that there are two overriding principles that must be weighed. One is that potential risk is created to the extent that the expansion of the IDBs' business causes them to have net settlement positions that are not fully collateralized. The second is that GSCC's membership criteria should not substitute for broker and dealer members' own determinations of which market participants are acceptable counterparties.

GSCC has sought to address and balance these issues in a combination of rule revisions. One group of changes involves the crafting of broader admission standards concerning creditworthiness that can be applied in a neutral manner to market participants. Another involves changing its current membership standards for IDBs so as to not unduly restrict them from expanding their business base (one aspect of which is to allow them to avail themselves of limited liability for the majority of their transactions), while at the same time preventing IDB netting members from incurring net settlement positions that are not sufficiently collateralized. In addition, GSCC is establishing more detailed proceudres for enforcing compliance with such standards.

The specifics of the membership standard changes proposed in this rule filing are summarized below.

1. Establishment of a Second Category of Dealer Netting Memeber

One aspect of the proposal is to establish a second category of dealer netting member (Category 2) which would combine a lower net worth threshold (but leave unchanged the minimum excess net or liquid capital standard) with more stringent margin requirements. The two categories of dealer netting members would have the attributes as described in Exhibit A. All other membership requirements (e.g., operational sufficiency) apply equally to both categories.

2. Establishment of a Second Category of Interdealer Broker Netting Member

Another aspect of the proposal is to establish a second category of IDB netting member (Category 2). The proposal is designed to permit a Category 2 IDB to engage in limited activity with nonmembers. The amount of allowable activity should be large enough so that the IDB has flexibility in its business, yet small enough so that the IDB is not in a position to present undue risk to GSCC. A threshold of 10% of such IDB's trading activity in eligible securities was chosen based on a consensus among GSCC members. It is contemplated that nonmembers who trade with Category 2 IDBs will eventually become members if they meet GSCC's admission standards. Given that GSCC would incur additional risk arising from a Category 2 IDB's activity (because trading with a nonmember causes an IDB to incur net settlement positions), a Category 2 IDB would have margin, mark, loss allocation, and other obligations similar to that of a dealer.

Because a Category 2 IDB brings net settlement positions into GSCC, it also would have enhanced minimum financial admission standards. These standards would mirror those for a Category 2 dealer (i.e., $25 million in net worth and $10 million in excess net or liquid capital), which will make enforcement of the scope of business requirements for a Category 2 IDB more feasible. If a Category 2 IDB fails to meet the applicable scope of business requirements (i.e., no more than 10% of its business with nonmembers), it can be treated as a Category 2 dealer.

With the establishment of this second category of IDB netting member, GSCC believes it is now fair and appropriate to restrict Category 1 IDBs that want to retain the benefit of a fixed margin requirement and capped liability for loss allocation, to trading only with other netting members. In recognition, however, of the IDBs' historic business base of primary and aspiring primary dealers and their affiliates, GSCC will temporarily grandfather those dealers that for many years have enjoyed IDB screen access. This will avoid potential disruption to the marketplace while allowing for a transition period during which GSCC will work to bring all grandfathered dealers into the netting system. Every IDB will be obligated to provide GSCC in writing with a list of all of the legal entities that it acts on behalf of and to promptly inform GSCC of any change to such list. The two categories of IDB netting members would have the attributes as described in Exhibit B.

3. Establishment of a New Netting Member Category for Issuers of "Government Securities"

GSCC believes it is appropriate to establish a category of netting system membership for the various international organizations and types of governmental entities that issue "government securities" as that term is defined in subparagraphs A, B, and C of section 3(a)(42) of the Act. Section 3(a)(42) of the Act provides that the term "government securities" means: (A) Securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States; (B) securities which are issued or guaranteed by corporations in which the United States has direct or indirect interest and which are designated by the Secretary of the Treasury for exemption as necessary or appropriate in the public interest of for the protection of investors; (C) securities issued or guaranteed as to principal or interest by a corporation, the securities of which are designed by statute specifically naming such corporation, to constitute exempt securities within the meaning of the laws administered by the Commission.

Each applicant would be judged on a case-by-case basis. There would be no automatic approval of any entity that falls within this new category. A key factor to be considered in determining whether an applicant that falls within this new category should be approved for membership in the netting system is whether its debt securities are rated and whether those ratings are favorable.

4. Establishment of New Netting Member Categories for Insurance Companies, Registered Clearing Agencies, and Registered Investment Companies

GSCC, as a registered clearing agency, is subject to Section 17A of the Act which, among other things, requires that a registered clearing agency's rules provide that any (i) registered broker or dealer, (ii) other registered clearing agency, (iii) registered investment company, (iv) bank, or (v) insurance company may become a participant in such clearing agency. To date, GSCC has established admission standards for registered brokers, dealers, and banks. GSCC's rules do not provide for the admission to membership in the netting system for registered clearing agencies, registered investment companies, and insurance companies.

To comply with the Act, GSCC's rules must allow for the admission to membership in the netting system of each type of statutorily enumerated entity. Thus, GSCC is proposing to change its rules to provide netting system membership for registered clearing agencies, registered investment companies, and insurance companies.

It should be noted that while operational, business history, good regulatory standing, and other requirements will apply to these types of entities, GSCC will not develop specific minimum capital or net worth requirements for them unless and until a representative from such class of entity joins the comparison system and expresses an interest in applying for membership in the netting system. In other words, should another registered clearing agency, a registered investment company, or an insurance company join the comparison system and express an interest in applying for membership in the netting system, only then would GSCC attempt to develop appropriate financial admission requirements for it.

5. Key Procedures To Take Effect When a Netting Member Falls Below an Applicable Requirement

For the protection of itself and its members, GSCC is bolstering its rules for dealing with a member that may fall or already has fallen below an applicable financial or other requirement. GSCC proposes to amend its rules to provide that if GSCC has reason to believe that a member may fail to comply with any of its rules, it may require the member to provide it with assurances in writing that the member will not, in fact, violate any rule.

If a member fails to maintain the relevant requirements of any of GSCC's rules, GSCC will either cease to act for the member or terminate its membership in the comparison system, the netting system, or both the comparison and netting systems unless the member requests that such action not be taken and GSCC determines that, depending upon the specific circumstances and the record of the member, it is appropriate instead to establish for such member a time period during which the member must resume compliance with such requirements. In the event that the member is unable to satisfy such requirements within the set time period, GSCC will either cease to act for the member or terminate its membership in the comparison system, the netting systems, or both the comparison and netting systems. Moreover, if GSCC determines at any time a netting member's financial condition has significantly deteriorated, it immediately may either ease to act for the member or terminate its membership in the comparison system, the netting system, or both.

In addition, there are specific penalties that will apply, based on type of membership, to netting members that are not in compliance with an applicable membership standard. For example, if a bank falls below the $250 million equity capital level or a Category 1 dealer falls below the $50 million net worth level, it will, until ninety calendar days after the date on which it complies with such standard, be treated by GSCC for margin purposes as if it were a Category 2 dealer. Also, if a dealer falls below either the $25 million net worth level or the $10 million excess liquid or excess net capital level, as applicable, it will, until the ninetieth calendar day after the date on which it returns to compliance with such standard, have a clearing fund deposit requirement equal to 150% of the normal clearing fund calculation for Category 2 dealers. Moreover, if a Category 1 IDB falls below the $4.2 million liquid capital or net capital level, as applicable, it will, until the ninetieth calendar day after the date on which it complies with the standard, be marked and margined as if it were a Category 1 dealer. Furthermore, if a Category 1 IDB no longer meets its scope of business requirements, it will either be treated as a Category 2 broker (if it qualifies as such) or its membership in the netting system will be terminated. In addition, if a Category 2 IDB falls below an applicable financial standard and does not qualify to be a Category 1 IDB, it will have, until the ninetieth calendar day after the date on which it returns to compliance with such standard, a clearing fund deposit requirement equal to 150% of the normal calculation for such member. Finally, if a Category 2 IDB no longer meets its scope of business requirements, it essentially will be considered to be a Category 2 dealer.

(b) The proposed rule change will: (1) Broaden GSCC's participation standards, (2) reduce the risks posed by the activity of GSCC's interdealer broker members, and (3) strengthen GSCC's continuance standards so as to better protect GSCC and its members. Thus, GSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact on, or impose a burden on, competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change have been solicited and received from GSCC's members. Members will be notified of the proposed rule change and comments again will be solicited by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written date, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW.,

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Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR-GSCC-93-01 and should be submitted by May 24, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

EXHIBIT A

	Category 1 dealer	Category 2 dealer
Net worth	$50 million*	$25 million.
Excess net/liquid capital	$10 million*	$10 million.*
Clearing fund formula	Calculated—taking into account offsets.*	Calculated—not taking into account offsets.
Margin factors	Current schedule	Set the margin factor at the short-term 99% confidence level.
Forward mark allocation	Current method (debit mark x fraction based on 5 largest debit mark amounts).	The entire debit mark amount.
All other membership requirements (e.g., operational sufficiency)	apply equally to both categories.	

*No change from the current standard.

EXHIBIT B

	Category 1 IDB	Category 2 IDB
Type of business	Acts exclusively as a broker (as defined in the Securities Exchange Act of 1934).	Acts exclusively as a broker (as defined in the Securities Exchange Act of 1934).
Scope of business	All of its business must be with netting members, except that, for a temporary period established by the Board, it could continue to act for certain grandfathered non-member dealers that it currently acts for.	At least 90 percent of its business, measured based on the IDB's overall dollar volume of next-day and forward settling activity in eligible securities, must be with "netting members". In order to enable GSCC to monitor compliance with this requirement, each category 2 IDB netting member would be required to submit daily to GSCC all of its next-day and forward settling transactions in eligible securities; each buy side must be bound to a corresponding sell side, and vice versa. For purposes of category 2 IDB netting membership only, "netting members" would be defined to include, for a temporary period established by the Board, a list of "grandfathered" non-member dealer firms that currently have IDB screen access.
Net worth requirement	No requirements*	$25 million.
Net/liquid capital requirement.	$4.2 million*	No requirement.
Excess net/liquid capital requirement.	No requirements*	$10 million
Clearing Fund/margin requirement.	$1.6 million*	Same Clearing Fund deposit requirement as regards all of its net settlement positions as if it were a category 1 dealer netting member. There would be no $1.6 million maximum or minimum margin requirement applicable to it.
Forward mark allocation payment requirement.	None*	It would have the same obligation to pay forward mark allocation amounts on its forward net settlement positions as if it were a category 1 dealer netting member.
Obligation to pay tap/fail mark amounts.	No obligation to pay (and not entitled to receive credit amounts) until settlement of the underlying positions*.	Same obligation as has a dealer netting member.
Liability for loss allocation	Mutualized among all the IDB netting members & capped at $1.6 million per year*.	As regards GSCC losses allocable to brokered trades with members, its liability for loss allocation would continue to be capped at $1.6 million per calendar year and would be mutualized among all the IDB netting members. As regards GSCC losses allocable to trades by it with "non-members", it would have the same liability as would a dealer netting member (in addition to its liability on a mutualized basis for 10% of such losses).

EXHIBIT B—Continued

	Category 1 IDB	Category 2 IDB
Financing and clearance charges.	Does not pay*	Pays as if it were a dealer netting member.

*No change from the current standard.

[FR Doc. 93-10284 Filed 4-30-93; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-32210; File No. SR-MCC-93-1]

Self-Regulatory Organizations; Midwest Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend Various By-Laws

April 26, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 25, 1993, Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by MCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of this proposal is to amend various MCC By-Law provisions relating to meetings of the stockholders, election of directors, the nominating committee, and voting of stock of other corporations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MCC included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend various provisions of MCC's By-Laws to accomplish the following:

(1) Move the annual meeting of the stockholders from the third Tuesday in January to the second Tuesday in April;

(2) Provide that Chairman, not the President, may call special meetings of the stockholders and of the board and may vote the securities of other corporations owned by MCC;

(3) Provide that the term of any board vacancy which is filled by the board runs until the next annual meeting, not until the end of the unexpired term; and

(4) Increase the size of the nominating committee from three to five members of which two must be "public" members (*i.e.*, unaffiliated with any broker or dealer in securities) appointed by the board.

The composition of the MCC board is almost identical to the board composition of its parent, the Midwest Stock Exchange, Inc. ("MSE"). The proposed amendments will conform MCC's By-Laws to certain provisions of the MSE Constitution in order that the By-Laws and MSE Constitution can operate in sync.

The proposed rule change is consistent with the purposes and requirements of section 17A(b)(3)(C) of the Act in that the proposal helps to assure a fair representation of MCC's shareholders and participants in the selection of its directors and in the administration of its affairs.

B. Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds that such longer period is appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements regarding the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of MCC. All submissions should refer to File No. SR-MCC-93-1 and should be submitted by May 21, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-10285 Filed 4-30-93; 8:45 am]
BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

April 27, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 C.F.R. 200.30-3(a)(12) (1992).

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Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Managed High Income Portfolio, Inc.
Common Stock, $.001 Par Value (File No. 7-10591)
Resorts International
Common Stock, $.01 Par Value (File No. 7-10592)
Shawmut National Corp.
Dep. Shares (9.30 PFD) (File No. 7-10593)
Styles on Video
Common Stock, $.001 Par Value (File No. 7-10594)
TIG Holdings, Inc.
Common Stock, $.01 Par Value (File No. 7-10595)
TCW/DW Term Trust 2003
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7-10596)
Van Kampen Merritt Value Municipal Income Trust
Common Stock, $.01 Par Value (File No. 7-10597)
Wells Fargo
Dep. Shares (Rep. 1/20 PFC), $5.00 Par Value (File No. 7-10598)
Wells Fargo
Dep. Shares (Rep. 1/20 PFD), $5.00 Par Value (File No. 7-10599)
KCS Energy, Inc.
Common Stock, $.01 Par Value (File No. 7-10600)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 18, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-10280 Filed 4-30-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32212; File No. SR-PCC-92-1]

Self-Regulatory Organization; Pacific Clearing Corporation; Notice of Filing of a Proposed Rule Change To Revise PCC's Rules and To Adopt a Participant Agreement and a Clearing Fund Agreement

April 26, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on September 1, 1992, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SRPCC-92-1) as described in Items I, II, and III below, which Items have been prepared substantially by PCC. By letter dated December 7, 1992, PCC amended its rule filing to include a more detailed description of its services and amended the Clearing Fund Agreement to correct a typographical error.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposal is to revise PCC's Rules so that they will more accurately reflect PCC's current operations and to adopt a Participant Agreement and a Clearing Fund Agreement.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCC included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1987, PCC transferred almost all of its clearing and depository functions to the National Securities Clearing Corporation ("NSCC") and the Depository Trust Company ("DTC"). PCC now performs limited services for specialists of the Pacific Stock Exchange Incorporated ("PSE"). These services are set forth in PCC's proposed rules and include: (1) Clearing and settlement services for PSE specialists' trades executed on the PSE directly or via a registered clearing agency or a qualified securities depository; (2) safekeeping and settlement services for securities not eligible for depository services provided by a qualified securities depository; (3) processing services with respect to dividends, reorganizations, by-in functions, and cash trades; and (4) preparation and provision of reports containing information on trading and related activity at each specialist's post.

PCC currently interfaces with NSCC on behalf of PSE specialists. PCC is a member of NSCC on behalf of the individual specialists. NSCC clears and settles all eligible trades on behalf of PSE specialists, and DTC is the depository for those trades.[3] NSCC maintains subaccounts with DTC on behalf of the specialists.[4]

(i) PCC Rules

As a result of the substantial diminution of PCC operations, revisions were made to PCC's Rules so that they would provide an accurate and current reflection of the actual functions of PCC. Those functions and the services PCC provides are summarized above.

(ii) Participant Agreement

The Participant Agreement is an agreement between each PSE specialist/specialist firm and PCC. The Participant Agreement clarifies the relationship, as discussed above, between participants,[5] PCC, NSCC, and DTC. The Participant Agreement also sets out the obligations of participants and of PCC with respect to clearing and settling activities. Participants' obligations include, among other things, the following: (1) maintaining the net capital requirements required by PSE Rules, (2) ensuring availability of funds for PCC's settlements with NSCC and DTC, (3) reviewing and verifying all records of their transactions provided by PCC, and (4) acting promptly upon receipt of dividend, reorganization, and buy-in notices.

(iii) Clearing Fund Agreement

PCC interfaces with NSCC on behalf of PSE specialists and performs a guarantee function for the specialists. As a result, participants will be required to contribute to a clearing fund established by PCC to ensure that PCC remains adequately capitalized. The Clearing Fund Agreement, attached as Exhibit C to the PCC filing, is an agreement between each participant and PCC and sets out the participant's obligations with respect to clearing fund contributions. PCC will employ the formula used by NSCC for assessing contributions to the Clearing Fund.[6]

PCC believes the proposed rule filing is consistent with section 17A(b)(3) of the Act in that it is designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of PCC.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PCC does not believe that the proposal will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

PCC has neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) as the Commission may designate up to ninety days of such date if it finds that such longer period is appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commissions will:

A. By order approve the proposed rule change or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Those wishing to make a written submission should file six copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, subsequent amendments, written statements with respect to the proposed rule change that are filed with the Commission, and written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PCC. All submissions should refer to File No. SR-PCC-92-1 and should be submitted by May 21, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-10287 Filed 4-30-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32211; File No. SR-PTC-92-17)

Self-Regulatory Organizations; Participants Trust Company; Order Approving a Proposed Rule Change Relating to Accounting Procedures for Repurchase Transactions

April 26, 1993.

On January 4, 1993, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change regarding accounting procedures for repurchase transactions. The Commission published notice of the proposal in the **Federal Register** on March 25, 1993, to solicit comments from interested persons.[2] No comments were received. This order approves the proposal.

I. Description

The proposed rule change eliminates the requirement that a reason be given by the participant purchasing securities in a repurchase (sometimes referred to as "repo") transaction[3] when it closes out a position in PTC's repurchase accounting records.[4] PTC will make corresponding changes in its Participant Operating Guide to require that the repo buyer state in its close out instruction to PTC that it has notified the repo counterparty and the counterparty's custodian if the counterparty is not a PTC participant[5] that it has requested PTC to close out the repo positions.[6] PTC will notify the repo seller of PTC's actions.

II. Discussion

The Commission believes that the proposed rule change is consistent with the Act and particularly with section 17A(b)(3)(A)[7] of the Act. Section 17A(b)(3)(A) requires that a clearing agency be organized, have the capacity to facilitate, and have rules designed to promote the prompt and accurate clearance and settlement of securities transactions.

Under its current procedures, PTC will close-out a repo position in the repo accounting service upon receipt of a representation from the repo buyer that it no longer is obligated to resell the securities obtained in a repo transaction.[8] In August 1991, PTC recognized that there was a misunderstanding among PTC participants about the procedures to be followed in such a situation. In order to clarify the apparent misunderstanding, PTC distributed a Notice advising its participants that PTC would eliminate

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Rosemary A. MacGuinness, Senior Counsel, PCC, to Richard C. Strasser, Attorney, Division of Market Regulation, Commission (December 7, 1992).

[3] Pacific Securities Depository Trust Company, PCC's affiliated depository, is being closed, and its final dissolution will be concluded in the near future.

[4] Participant Agreement at ¶ 1.1(c).

[5] The term "participant" is used to refer to specialists (*i.e.*, individuals registered as specialists with PSE) or backers (*i.e.*, firms registered as specialists with PSE). PCC Participant Agreement, attached as Exhibit B to PCC rule filing [hereinafter "Participant Agreement"]. There are no members of PCC besides PSE specialists and PSE member firms that back those specialists.

[6] PCC Clearing Fund Agreement at ¶ 2. For discussion of the formula used by NSCC to calculate clearing fund contributions, refer to NSCC Procedures, Section XV.

[7] 17 CFR 200.30-3(a)(12) (1992).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 32017 (March 19, 1993), 58 FR 16253.

[3] A repurchase agreement is a contractual agreement between a seller of securities and a buyer of securities whereby the seller agrees to repurchase the securities at an agreed upon price within a specified period of time (typically less than thirty days) and the buyer agrees to resell the securities.

[4] PTC provides its participants with a repo accounting service to facilitate the transfer of securities between the parties to a repurchase agreement and to allocate principal and interest payments on the securities to the appropriate party. Consistent with the terms of the standard repo agreement, PTC credits the seller of securities ("repo seller") and debits the buyer of securities ("repo buyer") with the equivalent of the principal and interest payments attributable to the securities. For a detailed description of PTC's repo accounting service, refer to Securities Exchange Act Release No. 30137 (December 31, 1991), 57 FR 947.

[5] PTC participants that are repo buyers or repo sellers or both may be acting as custodians for non-participant parties to repurchase transactions.

[6] When a repo buyer requests PTC to close out a repo position, PTC will redirect the equivalent of the principal and interest payments to the repo buyer's account.

[7] 15 U.S.C. 78q-1(b)(3)(A).

[8] PTC's Rules, Article III, Rule 1, Section (1)(b)(ii). Such a right could occur, for example, because the repo seller has defaulted under the terms of the repo agreement. If the repo buyer does not have such right, the repo seller's recourse is legal action outside of PTC to enforce the contract. Securities Exchange Act Release No. 30137 (December 31, 1991), 57 FR 947.

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repo positions upon receipt of a representation from the repo buyer stating, in essence, that the repo buyer has the legal right to close-out the repo position. The Notice and Form of Representation was filed with the Commission and temporarily approved on August 17, 1991.[9] Subsequently, PTC submitted a proposed rule change adopting its current close-out rule which was approved by the Commission on December 31, 1991.[10]

Since instituting its current rule requiring the repo buyer to state that it has the right to close-out the repo position, extensive discussions have occurred between PTC's Operations Committee and the Public Securities Association ("PSA") regarding PTC's repo accounting service. These discussions have led to a Consensus that the repo buyer should be allowed to close-out repo positions without giving any reason for such action. Furthermore, paragraph V of the PSA's Master Repurchase Agreement, which is the industry's model form for repo agreements, provides that the repo buyer may withhold income payments from the repo seller at its discretion.

This proposed rule change amends PTC's Rules so that they reflect the practice in the securities industry. The Commission believes that consistency between PTC's Rules and procedures and industry practice for administering repurchase transactions is important in maintaining efficient, prompt, and accurate clearance and settlement of securities transactions handled through PTC's facilities.

III. Conclusion

On the basis of the foregoing, the Commission finds that PTC's proposed rule change is consistent with the Act and in particular with section 17A.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (File No. SR–PTC–92–17) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

[FR Doc. 93–10286 Filed 4–30–93; 8:45 am]

BILLING CODE 8010–01–M

[9] Securities Exchange Act Release No. 29817 (August 27, 1991), 56 FR 43627 [File No. SR–PTC–91–12].

[10] Securities Exchange Act Release No. 30137 (December 31, 1991), 57 FR 947 [File No. SR–PTC–91–13].

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

April 27, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

American Strategic Income Portfolio III
Common Stock, $.01 Par Value (File No. 7–10585)

Maritrans, Inc.
Common Stock, $.01 Par Value (File No. 7–10586)

Pittway Corporation
Class A Common Stock, $1 Par Value (File No. 7–10587)

Pittway Corporation
Common Stock, $1 Par Value (File No. 7–10588)

TCW/DW Term Trust 2003
Shares of Beneficial Interest, $.01 Par Value (File No. 7–10589)

APTAR Group, Inc.
Common Stock, $.01 Par Value (File No. 7–10590)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 18, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10281 Filed 4–30–93; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Application to Withdraw from Listing and Registration; (American Medical Holding, Inc., Common Stock, $.01 Par Value) File No. 1–10511

April 27, 1993.

American Medical Holding, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, in addition to being listed on the Amex, its common stock is listed on the New York Stock Exchange, Inc. ("NYSE"). The Company's common stock commenced trading on the NYSE at the opening of business on January 29, 1993 and concurrently therewith such stock was suspended from trading on the Amex.

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of its common stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before May 18, 1993 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10283 Filed 4–30–93; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Application to Withdraw from Listing and Registration; (The May Department Stores Co., Common Stock, $1.00 Par Value) File No. 1–79

April 27, 1993.

The May Department Stores Company ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Pacific Stock Exchange, Inc. ("PSE" or "Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, the volume of trading activity in May's common stock on the Exchange is small. During the seven-month period from August, 1992 through February 1993, the volume of trades on the Exchange in the Company's common stock averaged only 99,861 shares. Also, during the corresponding period on the New York Stock Exchange, Inc. ("NYSE") the volume of trades averaged 5,927,171 shares.

According to the Company, the Company's daily trading average on the NYSE (approximately 300,000 shares) is over three times the monthly average on the PSE. The common stock will continue to be listed on the NYSE.

According to the Company, the shareowners will not be disadvantaged in any way by a delisting of the Company's common stock on the Exchange. The trading activity in the company's stock can be more than adequately be handled by the NYSE and by the several regional exchanges on which the stock trades on an unlisted basis. In fact, upon application of the Exchange, trading in the Company's common stock can continue on the Exchange on an unlisted basis.

According to the Company, the benefits derived from a listing on the Exchange do not justify the cost of the listing or the expenditure of administrative time and money necessary to comply with the rules and regulations governing listing and registration. The Exchange rules require that the Company furnish the Exchange with copies of all of the company's filings with the Commission and with its annual reports, proxy statements and press releases on material events and dividend notices.

Any interested person may, on or before May 18, 1993, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10282 Filed 4–30–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19433; 811–2762]

Merrill Lynch Equi-Bond I Fund, Inc.; Application for Deregistration

April 27, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: Merrill Lynch Equi-Bond I Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The applicant on Form N–8F was filed on October 2, 1992, and amended and restated on April 7, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personnally or by mail. Hearing request should be received by the SEC by 5:30 p.m. on May 24, 1993, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the natue of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW, Washington, DC 20549. Applicant, 800 Scudders Mill Road, Plainsboro, NJ 08536.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Senior Attorney, at (202) 504–2284, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

APPLICANT'S REPRESENTATIONS: 1. Applicant is a Maryland corporation and is registered under the Act as an open-end diversified management investment company. On August 26, 1977, applicant filed a notification of registration on Form N–8A and a registration statement on Form S–5. The registration became effective on November 4, 1977, and applicant's initial public offering commenced that same day.

2. Pursuant to a provision in applicant's charter, the applicant's corporate existence expired automatically on January 31, 1991. Prior to that date, substantially all of applicant's portfolio securities and other assets were disposed of in open market, arm's-length transactions in which the best available market prices were sought. Applicant paid $5,700 in brokerage commissions in connection with such transactions. A portion of the proceeds, in the amount of $1,391,991, was used to satisfy applicant's outstanding liabilities. Such liabilities were comprised of an unpaid capital gains distribution of $1,370,670 and an unpaid dividend of $21,321, both of which were paid to shareholders on February 1, 1991. The remainder of the proceeds, in the amount of $8,484,456, was distributed to shareholders that same day.

3. The only expenses associated with applicant's liquidation are legal and auditing fees and certain miscellaneous expenses including filing fees and custodian and transfer agency fees and expenses. The amount of such expenses totaled $15,000, which was borne by the applicant.

4. As of the date of the amended application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10364 Filed 4–30–93; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

Casper District Advisory Council; Public Meeting

The U.S. Small Business Administration Casper District Advisory Council will hold a public meeting at 9:30 a.m. on Monday, May 24, 1993, at the Chamber of Commerce, 500 North Center, Casper, Wyoming, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. James P. Gallogly, District Director, U.S. Small Business Administration, Federal Building, room 4001, 100 East B Street, Casper, Wyoming 82601 (307) 261–5761.

Dated: April 27, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–10384 Filed 4–30–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended April 23, 1993

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48757.
Dated filed: April 19, 1993.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 30, 1993.

Description: Application of Delta Air Lines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Regulations applies for a new or amended certificate of public convenience and necessity to permit Delta to provide foreign air transportation between Salt Lake City, Utah and London, England. Delta also requests that Salt Lake City be designated as a U.S. gateway to London under U.S. Route 1 of Section 1 of Annex 1 of the U.S.-U.K. bilateral air services agreement by transferring the designations of either Baltimore Washington International Airport or Charlotte.

Docket Number: 48759.
Date filed: April 20, 1993.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 18, 1993.

Description: Application of Sun Jet International, Inc., pursuant to Section 401(d)(3) of the Act and Subpart Q of the Regulations requests permanent authority to engage in interstate and overseas charter air transportation of persons, property and mail. The requested authority is for air transportation between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States.

Docket Number: 48761.
Date filed: April 20, 1993.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 30, 1993.

Description: Joint Application of Northwest Airlines, Inc. and USAir, Inc., pursuant to Section 401(h) of the Act and Subpart Q of the Regulations, requests the transfer to Northwest of the authority held by USAir's to transport persons, property and mail between Baltimore, Maryland, and London (Gatwick), England, as reflected in segment 3 of USAir's certificate for route 524, last issued by Order 92–4–49. Northwest further requests that the Department authorize Northwest to operate the service to London from Detroit, Michigan, Northwest's largest hub. Northwest plans to begin Detroit-London service as soon as possible upon approval of the proposed transfer in order to operate during the 1993 summer season.

Docket Number: 48763.
Date filed: April 21, 1993.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 19, 1993.

Description: Application of USAir, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for a certificate of public convenience and necessity to authorize it to engage in scheduled foreign air transportation of persons, property and mail as follows: Between the terminal point Cleveland, Ohio, the intermediate point Pittsburgh, Pennsylvania and the terminal point Montreal, Quebec, Canada.

Docket Number: 48766.
Date filed: April 22, 1993.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 20, 1993.

Description: Application of Continental Micronesia, Inc., pursuant to section 401 of the Act and Subpart Q of the Regulations, applies for amendment of its present certificate for Route 171 so as to authorize CMI to provide scheduled foreign air transportation of persons, property and mail between points in the U.S. and points in Vietnam. CMI also requests the right to combine service at the points on this route segment with service at other points CMI is authorized to serve by certificates or exemptions, consistent with applicable international agreements.

Docket Number: 48769.
Date filed: April 23, 1993.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 21, 1993.

Description: Application of Antigua And Barbuda Airways International Ltd., pursuant to Section 402 of the Act and Subpart Q of the Regulations, for a foreign air carrier permit to operate scheduled and charter air services carrying passengers, cargo, and mail between the United States and Antigua via intermediate points in the Caribbean.

Docket Number: 48772.
Date filed: April 23, 1993.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 21, 1993.

Description: Application of Caribbean Airline Company Limited, pursuant to Section 402 of the Act and Subpart Q of the Regulations, applies for a foreign air carrier permit to engage in scheduled air transportation of persons, property and mail between the points Kingston, Jamaica and Montego Bay, Jamaica, on the one hand, and Miami, Florida on the other hand.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–10331 Filed 4–30–93; 8:45 am]

BILLING CODE 4910–62–M

Aviation Proceedings; Agreements Filed During the Week Ended April 23, 1993

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48758.
Date filed: April 19, 1993.
Parties: Members of the International Air Transport Association.

Subject: COMP Reso/C 0451 dated March 30, 1993 Reso 003jj—from Italy (Currency related).

Proposed Effective Date: May 1, 1993.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–10332 Filed 4–30–93; 8:45 am]

BILLING CODE 4910–62–M

Coast Guard

[CGD 93–028]

Commercial Fishing Industry Vessel Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Act (Pub. L. 92–463; 5 U.S.C. app. I), notice is hereby given of a meeting of the Commercial Fishing Industry Vessel Advisory Committee (CFIVAC). The meeting will be held on May 13–14, 1993, in room 3200 at the Department of Transportation, 400 Seventh Street, SW., Washington, DC. The meetings will be held daily from 9 a.m. to 5 p.m. Attendance is open to the public.

TOPIC: The Committee will discuss and make recommendations to the Coast Guard regarding the Report to Congress for the Inspection of Commercial Fishing Industry Vessels.

FOR FURTHER INFORMATION CONTACT: LCDR Ed McCauley, Merchant Vessel Inspection and Documentation Division, Fishing Vessel/Offshore Activities Branch (G–MVI–4), room 1405, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, (202) 267–2307.

Dated: April 16, 1993.

A.E. Henn,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–10358 Filed 4–30–93; 8:45 am]

BILLING CODE 4910–14–M

[CGD 93–026]

Commercial Fishing Industry Vessel Advisory Committee; Applications for Membership

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard is seeking applicants for appointment to membership on the Commercial Fishing Industry Vessel Advisory Committee (CFIVAC) established by the Coast Guard as required by the Commercial Fishing Industry Vessel Safety Act of 1988. The Committee acts in an advisory capacity to the Secretary of Transportation and the Commandant of the Coast Guard on matters related to the safety of commercial fishing vessels.

The Applications will be considered for six (6) expiring terms. The Committee consists of 17 members as follows: Ten (10) members from the commercial fishing industry who reflect a regional and representational balance and have experience in the operation of vessels to which chapter 45 of title 46, United States Code applies, or as a crew member or processing line worker on an uninspected fish processing vessel; one (1) member representing naval architects or marine surveyors; one (1) member representing manufacturers of equipment for vessels to which chapter 45 applies; one (1) member representing education or training professional related to fishing vessel, fish processing vessel, or fish tender vessel safety, or personnel qualifications; one (1) member representing underwriters that insure vessels to which chapter 45 applies; and three (3) members representing the general public, including whenever possible, an independent expert or consultant in maritime safety, and a member of a national organization composed of persons representing owners of vessels to which chapter 45 applies and persons representing the marine insurance industry. Terms are expiring in the following categories: (a) Fishing Industry (four positions); (b) General Public (one position); and (c) Marine Surveyors/Naval Architects (one position). The membership term is three years. A limited portion of the membership may serve consecutive terms. Those persons that have submitted applications in the past must reapply. No applications received prior to this solicitation will be considered.

To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women. The members of the Committee serve without compensation from the Federal Government, although travel reimbursement and per diem is provided. The Committee normally meets in Washington, DC, with subcommittee meetings for specific problems on an as-required basis.

DATES: Applications should be received no later than 30 June 1993. Application forms may be obtained by contacting the Executive Director at the address below.

ADDRESSES: Persons interested in applying should write to Commandant (G–MVI–4), room 1405, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: LCDR Ed McCauley, Executive Director, Commercial Fishing industry Vessel Advisory Committee (CFIVAC), room 1405, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593–0001, (202) 267–2307.

Dated: April 16, 1993.

A.E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–10356 Filed 4–30–93; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Receipt of an Amendment to the Approved Noise Compatibility Program and Request for Review; Des Moines International Airport, Des Moines, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed amendment to the approved noise compatibility program that was submitted for Des Moines International Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) (hereinafter referred to as the "Act") and 14 CFR part 150 by the City of Des Moines. This amendment was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR part 150 for Des Moines International Airport were in compliance with applicable requirements effective February 1, 1991.

Upon acceptance of the Noise Exposure Maps, the FAA began its review of the initial noise compatibility program on February 1, 1991. It was approved on July 30, 1991. The proposed amendment of the approved noise compatibility program will be approved or disapproved on or before October 17, 1993.

EFFECTIVE DATE: The effective date of the FAA's start of its review of the proposed amendment to the approved noise compatibility program is April 20, 1993. The public comment period ends June 19, 1993.

FOR FURTHER INFORMATION CONTACT: G. Alan Wimpey, Federal Aviation Administration, Airports Division, ACE–615, 601 E. 12th St., Kansas City, Missouri 64106, Telephone (816) 426–6622. Comments on the proposed

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amendment should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed amendment to the approved noise compatibility program for Des Moines International Airport which will be approved or disapproved on or before October 17, 1993. This notice also announces availability of this amendment for public review and comment.

This amendment provides for a voluntary Resale Assurance Program for those residential properties above the 70 DNL noise contour. As an alternative to the Resale Assurance Program, the city will offer a Noise and Avigation Easement Purchase Program for those residential property owners who desire to remain within the 70 DNL noise contour.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The effective date of FAA's review of the proposed amendment to the approved noise compatibility program is April 20, 1993. It was requested that the FAA review this material and that the noise mitigation measures be approved as an amendment to the noise compatibility program under section 104(b) of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before October 17, 1993. The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed amendment to the noise compatibility program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed amendment to the approved noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Airports Division, Federal Building, room 1644, 601 E. 12th St. Kansas City, MO 64106.

Aviation Director's Office, Des Moines International Airport, Department of Aviation, room 201, 5800 Fleur Drive, Des Moines, Iowa 50312–2854.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Kansas City, Missouri, April 20, 1993.

George A. Hendon,

Manager, Airports Division.

[FR Doc. 93–10371 Filed 4–30–93; 8:45 am]

BILLING CODE 4910–13–M

Acceptance of Noise Exposure Maps; Chico Municipal Airport, Chico, CA

AGENCY: Federal Aviation Administration.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Chico, California, for Chico Municipal Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is April 23, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, room 210, Burlingame, California 94010–1303, Telephone (415) 876–2805.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the Chico Municipal Airport are in compliance with applicable requirements of part 150, effective April 23, 1993.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps that meet applicable regulations and which depict non compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval that sets forth the measures the operator has taken or proposes for the reduction of existing non compatible uses and for the prevention of the introduction of additional non compatible uses.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the city of Chico. The specific maps under consideration are Exhibit V–1, "Noise Exposure Map 1990 Baseline Conditions," and Exhibit V–2, "Noise Exposure Map 5 Year Forecast Conditions (1997)," in the submission. The FAA has determined that these maps for the Chico Municipal Airport are in compliance with applicable requirements. This determination is effective on April 23, 1993. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities

are not changed in any way under FAR part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591.

Federal Aviation Administration, Western-Pacific Region, Airports Division, AWP–600, 15000 Aviation Boulevard, Hawthorne, California.

Mail Address: P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Burlingame, California 94010–1303.

Mr. Thomas J. Lando, Community Services Director, City of Chico, P.O. Box 3420, Chico, California 95927.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California, on April 23, 1993.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 93–10370 Filed 4–30–93; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–93–20]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or ommission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 24, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docked and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick Haynes, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3939.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on April 22, 1993.

Donald P. Byrne,

Assistant Chief Counsel of Regulations.

Petitions for Exemption

Docket No.: 22872.
Petitioner: Air Transport Association of America.
Sections of the FAR Affected: 14 CFR 61.157 and 121.424.
Description of Relief Sought: To extend and amend Exemption No. 4416 to allow Air Transport Association (ATA) member airlines to complete the required training proficiency on preflight visual inspections, prior to the completion of operating experience, rather than prior to the first flight of operating experience; and extend the termination date of the exemption from September 30, 1993, until September 30, 1996.

Docket No.: 25089.
Petitioner: Hawkins & Powers Aviation, Incorporated.
Sections of the FAR Affected: 14 CFR 137.53(c)(2).
Description of Relief Sought: To extend Exemption No. 5075 to allow Hawkins & Powers Aviation to continue to conduct aerial applications of insecticide from C–118 A (DC–6) aircraft, without the aircraft being equipped with a device capable of jettisoning within 45 seconds at least one-half of the aircraft's maximum authorized load of agricultural materials, when operated over congested areas.

Docket No.: 26297.
Petitioner: Fairchild Aircraft Inc.
Sections of the FAR Affected: 14 CFR 91.531(a)(3).
Description of Relief Sought: To extend Exemption No. 5367 to allow Fairchild Aircraft Inc. (FAC) type-rated company pilots to conduct production and experimental test flight operations in SA–227(CC) and SA–227(DC) model commuter category airplanes without a second in command, subject to the conditions and limitations stated in the original exemption.

Docket No.: 27060.
Petitioner: America West Airlines.
Sections of the FAR Affected: 14 CFR 121.411 and 12.413 and appendix H of part 121.
Description of Relief Sought: To allow America West Airlines (AWA) to utilize certain highly qualified simulator instructors to train (AWA) pilots in initial, transition upgrade and difference training without meeting all applicable requirements of sub-part N and the employment requirements of appendix H of part 121; and to allow certain highly qualified (AWA) pilot check airmen to check pilots in simulator check flights required by part 121, without the (AWA) pilot check airmen meeting all the applicable requirements of §§ 121.411, 121.413 and appendix H of § 121.

Docket No.: 27221.
Petitioner: Aircraft Fuel Tanks.
Sections of the FAR Affected: 14 CFR 145.37(b).
Description of Relief Sought: To allow Aircraft Fuel Tanks to inspect and repair integral fuel tanks at its customer's facilities instead of the facilities of Aircraft Fuel Tanks.

Docket No.: 27247.
Petitioner: Trans World Express.
Sections of the FAR Affected: 14 CFR 93.123, 93.125, 93.129.
Description of Relief Sought: To allow Trans World Express (TWE) to operate to John F. Kennedy International Airport Stub Runway 13R, using a Microwave Landing System approach and utilizing procedures and aircraft

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capable of operating without interfering with major turbojet runway use.

[FR Doc. 93-10377 Filed 4-30-93; 8:45 am]
BILLING CODE 4910-13-M

Aviation Rulemaking Advisory Committee Meeting on Rotorcraft Issues

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the FAA's Aviation Rulemaking Advisory Committee on rotorcraft issues.

DATES: The meeting will be held on May 18, 1993, at 9 a.m. Arrange for oral presentations by May 4, 1993.

ADDRESSES: The meeting will be held at the St. Louis Marriott Pavilion Downtown, Senator I Room, One Broadway, St. Louis, MO 63102.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Herber, Office of Rulemaking, Aircraft & Airport Rules Division, ARM-200, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3498.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. II), notice is given of a meeting of the Aviation Rulemaking Advisory Committee on rotorcraft issues to be held on May 18, 1993, at the St. Louis Marriott Pavilion Downtown, Senator I Room, One Broadway, St. Louis, MO 63102. The agenda will include:

- Report from the JAR/FAR 27 and 29 Harmonization Working Group.
- Report from the External Load Working Group.
- Review and vote on forwarding Occupant Restraint rulemaking package to the FAA.
- Report on status of helicopter industry representation on EMI working group.
- Discussion of activities and future plans.

Attendance is open to the interested public but will be limited to the space available. The public must make arrangements by May 4, 1993, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 16 copies to the Assistant Executive Director or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.** Anyone who wishes to obtain a copy of the Occupant Restraint Working Group report may contact Ms. Barbara Herber, FAA, Office of Rulemaking, Aircraft & Airport Rules Division, ARM-200, on (202) 267-3498 or fax (202) 267-5075.

Issued in Fort Worth, Texas, on April 13, 1993.

Eric D. Bries,

Assistant Executive director for Rotorcraft Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 93-10376 Filed 4-30-93; 8:45 am]
BILLING CODE 4910-13-M

Flight Service Station at Cordova, AK; Change in Facility Operations

Notice is hereby given that on or about May 8, 1993, the Flight Service Station at Cordova, Alaska will be closed. Services to the general aviation public formerly provided by this facility will be provided by the Automated Flight Service Station at Juneau, Alaska. This information will be reflected in the FAA Organization Statement the next time it is reissued. Section 313(a) of Federal Aviation Act of 1958, as amended, 72 Stat. 752; 49 U.S.C. app. 1354(a).

Issued in Anchorage, Alaska, on April 16, 1993.

David F. Morse,

Deputy Regional Administrator, Alaskan Region.

[FR Doc. 93-10372 Filed 4-30-93; 8:45 am]
BILLING CODE 4910-13-M

Flight Standards District Office at San Francisco, CA; Name Change

Notice is hereby given that as of April 1, 1993, the Flight Standards District Office at 831 Mitten, room 105, Burlingame, California 94010 will be known as the San Francisco International Field Office. Services to the general public will continue to be provided by this office without interruption and are expanded to include international activities. This information will be reflected in the FAA Organization Statement the next time it is reissued. (Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Hawthorne, CA, on April 23, 1993.

Fanny Rivera,

Regional Administrator, Western-Pacific Region.

[FR Doc. 93-10373 Filed 4-30-93; 8:45 am]
BILLING CODE 4910-13-M

Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Tampa International Airport, Tampa, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Tampa International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 2, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, Florida 32826-5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. George J. Bean, Executive Director of the Hillsborough County Aviation Authority at the following address: Hillsborough County Aviation Authority, P.O. Box 22287, Tampa, Florida 33622.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Hillsborough County Aviation Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Federal Aviation Administration, Southern Region, Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, Florida 32827-5397, Attn: C. Ed Howard, Telephone: (407) 648-6582.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes rule and invites public comment on the application to impose and use a PFC at the Tampa International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation regulations (14 CFR part 158).

On April 16, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Hillsborough County Aviation Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 17, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: October 1, 1993

Proposed charge expiration date: August 31, 1999

Total Estimated PFC revenue: $87,136,000

Brief description of proposed project(s):

Impose and Use

- Project 1.1 Construct Airside A with shuttle system
- Project 1.2 Construct commuter airline terminal facilities.
- Project 1.3 Replace shuttle system for airsides C and D.
- Project 1.4 Formulate land acquisition program.

Impose Only

- Project 2.1 Acquire Drew Park land.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/Commercial operators filing FAA Forms 1800-31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may upon request, inspect the application, notice and other documents germane to the application in person at the Hillsborough County Aviation Authority.

Issued in Atlanta, Georgia, on April 21, 1993.

Stephen A. Brill,

Manager, Airports Division, Southern Region.

[FR Doc. 93-10375 Filed 4-30-93; 8:45 am]
BILLING CODE 4910-13-M

Research and Special Programs Administration

[Docket No. P-92-2W; Notice 1]

Transportation of Hazardous Liquids by Pipeline; Petition for Waiver; ARCO Oil and Gas Co.

ARCO Oil and Gas Company has petitioned the Research and Special Programs Administration (RSPA) for a waiver from compliance with 49 CFR 195.412(a), Inspection of rights-of-way and crossings under navigable waters. Section 195.412(a) requires inspection of surface conditions on or adjacent to each pipeline right-of-way at intervals not exceeding 3 weeks, but at least 26 times each calendar year. The petition applies to the Sheep Mountain Unit gathering system, a 6.9 mile carbon dioxide pipeline system in Colorado.

The petitioner's rationale for the waiver from compliance rests on the location of the gathering system and the added risks that its location present in surveying the system. The system is situated in a high (8000-9200 ft.), mountainous area where only two residences lie within a one-mile radius of the system. The right-of-way is rugged with steep grades and is virtually impassable by motor vehicle during winter months due to deep snow. Although ground surveillance by walking or by motor vehicle are possible, each method presents substantial hazards when traveling along the right-of-way. For example, ground vehicles are subject to turn-overs, even when traveling along the flatter portions of the right-of-way. The steepest portions of the right of way also present tripping and falling hazards when walking the right-of-way. Moreover, the risk of accident from each of these conditions increases in snow conditions during winter seasons.

Use of aerial surveillance to inspect the gathering system is possible, but conditions of turbulence and down draft frequently subject the aircraft to hazardous flight conditions at the higher elevations of Sheep Mountain. Similar flight conditions also occur when flying through the mountainous terrain, such as the area between drill sites three and four.

By contrast, the Sheep Mountain gathering system itself presents relatively little risk to the public because of its remote location, the sparsity of nearby population, and the natural odorant in the commodity transported. The Sheep Mountain gas consists of 95-98 percent carbon dioxide, with the balance composed of nitrogen, methane, and mineral contaminants, giving the gas a distinctive odor that can be smelled at less than 0.1 percent in air. ARCO's emergency plan procedures require potentially affected public residences to evacuate when a one percent carbon dioxide concentration occurs. This requirement complies with the exposure limits set by the Occupational Safety and Health Administration (OSHA) for toxic and hazardous substances applicable to an 8-hour continuous period.

In addition, five carbon dioxide monitors per drill site are located inside the compressor facilities with alarms set to detect when gas concentrations reach 50 parts per million (ppm). The carbon dioxide monitors are inspected and tested monthly. Pressure relief valves, set at 1650 psig, and automatic shutdown compressor systems monitor the system pressure to prevent over-pressure conditions.

Drill-site operations, flow rate, and pipeline pressure and temperature conditions are monitored on a continuous basis by a computerized process control system. Operations personnel monitor the computer system 24 hours a day for problems and leak detection. Flow rate comparisons of drill site operations are made every 4 to 6 hours.

Moreover, visual sightings from the lease roads are made on approximately 50 percent of the gathering pipeline right-of-way every day by operations and maintenance personnel. Inspection of the entire pipeline system occurs at least once a year during annual power line inspections.

Because of the unusual risks to personnel in surveying the Sheep Mountain gathering system, the system's relatively low risk to public safety, and the operator's use of safety monitoring techniques beyond those required by part 195, RSPA believes that a waiver of the requirements of 49 CFR 195.412(a) would not lessen public safety in this case. Therefore, RSPA proposes to grant the waiver. However, as a precondition to grant this waiver, the operator would have to send a copy of this notice to each affected homeowner on Sheep Mountain to allow them an opportunity to comment to this notice.

Interested parties are invited to comment on the proposed waiver by submitting in duplicate such data, views, or arguments as they may desire. Comments should identify the Docket and Notice Unit, room 8417, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590.

All comments received before June 2, 1993, will be considered before final action is taken. Late filed comments will

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be considered so far as practicable. All comments and other docketed material will be available for inspection and copying in room 8419 between the hours of 8:30 a.m. and 5 p.m. before and after the closing date. No public hearing is contemplated, but one may be held at a time and place set in a Notice in the **Federal Register** if requested by an interested person desiring to comment at a public hearing and raising a genuine issue.

Authority: 49 App. U.S.C. 2002(h) and 2015; and 49 CFR 1.53.

Issued in Washington, DC, on April 28, 1993.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

[FR Doc. 93–10330 Filed 4–30–93; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Meeting; Information Reporting Program Advisory Committee

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of open meeting of the Information Reporting Program Advisory Committee.

SUMMARY: In 1991 the Internal Revenue Service (IRS) established the Information Reporting Program Advisory Committee (IRPAC). The primary purpose of IRPAC is to provide an organized public forum for discussion of relevant information reporting issues between the officials of the IRS and representatives of the payer community. IRPAC offers constructive observations about current or proposed policies, programs, and procedures and, when necessary, suggests ways to improve the operation of the Information Reporting Program.

There will be a meeting of IRPAC on Wednesday and Thursday, May 19 & 20, 1993. The meeting will be held in room 3313 of the **Internal Revenue Service** Building. The building is located at 1111 Constitution Avenue, Northwest, Washington, DC. The meeting will begin at 9:30 a.m., on both days, concluding about mid-day on the 20th. Topics to be discussed are listed below in a draft version of the agenda.

Draft Agenda for Meeting on May 19 & 20, 1993

Wednesday, May 19, 1993

9:30 Public Meeting Opens
—IRS Status Report
—IRS/SSA Reporter
—SSA Bulletin Board System
—IRP Bulletin Board System
11:30 Break for Lunch
1 IRPAC Presentations Continue
—Simplified Wage Reporting System
—Electronic Data Interchange
—Electronic Transmission of W–2/1099 Information
—Notification of Changes in Reporting Requirements
—IRS/SSA Seminars
4:30 Adjourn for the Day

Thursday, May 20, 1992

9:30 Public Meeting Reconvenes
IRPAC Presentations Continue
IRS University
Service Industry Non-Compliance (SINC)
Shareholder Basis Reporting
11:30 Adjourn

Note: Last minute changes to the topics under discussion are possible and could prevent advance notice.

SUPPLEMENTARY INFORMATION: IRPAC reports to the Executive Director, Information Reporting Program (IRP), who is the executive responsible for information reporting and is charged with its system-wide planning and improvement. IRPAC is instrumental in providing advice to enhance the IRP Program. Increasing participation by external stakeholders in the planning and improvement of the tax system will help achieve the goals of increasing voluntary compliance and reduction of burden. IRPAC is currently comprised of 18 representatives from various segments of the private sector payer community. IRPAC members are not paid for their time or services, but consistent with Federal regulations, they are reimbursed for their travel and lodging expenses to attend two meetings each year.

DATES: The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people, including members of IRPAC and IRS officials. Twenty-five seats will be reserved for the public and press and are available on a first-come, first-served basis. Due to the limited conference space, it is requested that organizations interested in attending send only one representative per organization. Notification of intent to attend the meeting must be made with Kate LaBuda no later than May 14, 1993. Notification of intent should include anticipated times that you will attend, e.g., morning or afternoon of the 19th, or morning of the 20th.

ADDRESSES: If you would like to have IRPAC consider a written statement, please write to Kate LaBuda at IRS, IRP Planning and Management Staff, EX:I:P, room 2011, 1111 Constitution Avenue, NW., Washington, DC, 20224.

FOR FURTHER INFORMATION CONTACT: Kate LaBuda at 202–622–3404 (not a toll-free number).

Dated: April 23, 1993.

John F. Devlin,

Executive Director, Information Reporting Program.

[FR Doc. 93–10240 Filed 4–30–93; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register
Vol. 58, No. 83
Monday, May 3, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

RIN 0960–AD65

Supplemental Security Income for the Aged, Blind, and Disabled; Reliable Information Which Is Currently Available for Determining Benefit Amounts in the Supplemental Security Income Program

Correction

In proposed rule document 93–6025 beginning on page 14191 in the issue of Tuesday, March 16, 1993, make the following correction:

On page 14191, in the third column, under **"DATES"**, in the third line, "April 15, 1993." should read "May 17, 1993."

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 201, 228, 232, and 240

[Release Nos. 33–6977; 34–31905; 35–25745; 39–2300; IC–19283] File No. S7–6–93]

RIN 3235–AC48

Rulemaking for EDGAR System

Correction

In rule document 93–4805 beginning on page 14628 in the issue of Thursday, March 18, 1993, make the following corrections:

PART 200 [CORRECTED]

1. On page 14659, in the first column, under part 200, subpart A, in the authority citation, in the second line, "80a37," should read "80a–37,".

PART 201 [CORRECTED]

2. On the same page, in the second column, under part 201, in the authority citation, in the second line, "781l(d)," should read "78*ll*(d),".

§ 228.601 [Corrected]

3. On page 14660, in § 228.601, in Instructions to Item 601(a), in instruction 3, in the table, after entry (2), delete the seven asterisks.

4. On page 14661:

a. In the first column, in § 228.601(b)(27), in the first line, "*Financial Data Schedule.*" should not have been lower-cased.

b. In the second column, in § 228.601(c), in the first line, "*Financiol Data Schedule*" should not have been lower-cased.

c. In the third column, in § 228.601(c)(2), in the second line, "*Financial Data Schedule.*" should not have been lower-cased.

5. On page 14662, in the first column, in § 228.601(c)(3), beginning in the first line, "*Financial Data Schedule.*" should not have been lower-cased.

6. On page 14665, in the first column, the headings preceding amendatory instructions 17 and 18 should read "§ 229.501 [Amended]" and "§ 229.601 [Amended]", respectively.

§ 232.11 [Corrected]

7. On page 14670, in § 232.11(f), in the last line, after "format" insert a period.

§ 232.101 [Corrected]

8. On page 14672, in § 232.101(a)(1)(i), in the last line, "(15 U.S.C. 781(b) or (g));" should read "(15 U.S.C. 78*l*(b) or (g));".

PART 240 [CORRECTED]

9. On page 14682, in the second column, in part 240, in amendatory instruction 53, in the third line, "240.246–2" should read "240.24b–2".

§ 240.14a–101 [Corrected]

10. On page 14684, in the first column, in § 240.14a–101, in Schedule 14A Information, in the fifth line, after "Registrant" the set of brackets should be placed on the same line.

BILLING CODE 1505–01–D

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Federal Register

Monday
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Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 1020
Diagnostic X-Ray Systems and Their Major Components; Performance Standards, Final Rule and Proposed Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1020

[Docket No. 82N–0274]

Federal Performance Standard for Diagnostic X-Ray Systems and Their Major Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule on the Federal performance standard for diagnostic X-ray systems and their major components (the performance standard). Experience gained by FDA in administering the performance standard has shown the need for making these changes to clarify and simplify the performance standard, reduce the regulatory burden on affected manufacturers (without compromising the public health), and generally improve the effectiveness of FDA's regulation of diagnostic X-ray equipment. Elsewhere in this issue of the Federal Register, FDA is proposing to amend this final rule to revise limits on the maximum patient entrance exposure rate for fluoroscopy systems in the high-level control mode and other modes of operation.

EFFECTIVE DATE: June 2, 1993, except for the amendments to §§ 1020.30(g) Information to be provided to assemblers (21 CFR 1020.30(g)) and 1020.31(c) Linearity (21 CFR 1020.31(c)), both of which will be effective May 3, 1994.

FOR FURTHER INFORMATION CONTACT: Patricia Dubill, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION:

I. Background

The Safe Medical Devices Act of 1990 (Pub. L. 101–629), enacted on November 28, 1990, transferred the provisions of the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90–602) from Title III of the Public Health Service Act to Chapter V of the Federal Food, Drug, and Cosmetic Act (the act). Under the act (21 U.S.C. 301 *et seq.*) as amended, FDA is amending the performance standard for diagnostic X-ray systems and their major components, §§ 1020.30, 1020.31, and 1020.32 (21 CFR 1020.30, 1020.31, and 1020 32). Elsewhere in this issue of the Federal Register, FDA is proposing an additional amendment to § 1020.32. In the Federal Register of August 15, 1972 (37 FR 16461), the performance standard was published as a final rule, which became effective on August 1, 1974. Since that time, there have been several amendments to the performance standard. These amendments have taken into account new technology, clarified misinterpreted provisions, and encouraged the improvement of uncertified systems manufactured before the performance standard became effective. (See, e.g., those published October 7, 1974 (39 FR 36008); February 25, 1977 (42 FR 10983); September 2, 1977 (42 FR 44230); November 8, 1977 (42 FR 58167); May 22, 1979 (44 FR 29653); August 24, 1979 (44 FR 49667); November 30, 1979 (44 FR 68822); April 25, 1980 (45 FR 27927); and August 31, 1984 (49 FR 34698, 34712)). A cost-benefit analysis of several significant elements of the performance standard led to amendments of the provisions governing assembly/reassembly of diagnostic X-ray equipment (44 FR 49667, August 24, 1979).

In the 17 years since the promulgation of the performance standard, FDA has gained experience in administering it and concludes that more amendments are appropriate. Further, Executive Order 12291 encourages Federal agencies to assess existing regulations for possible significant impacts on the private sector, and the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601) requires all agencies to review existing regulations that can have an impact on small manufacturers. In addition, FDA has always believed that, for regulatory controls to be appropriate, FDA must devise them so that they are coordinated with educational programs, voluntary standards, professional practices, and controls imposed at the State and local levels. For all of these reasons, FDA believed that it was appropriate to look at the performance standard with a fresh perspective.

Based on an analysis and review of the performance standard by an FDA working group, including the comments and recommendations of the Technical Electronic Product Radiation Safety Standards Committee, FDA proposed amendments to the performance standard in the Federal Register of October 17, 1989 (54 FR 42674), corrected January 16, 1990 (55 FR 1472). Interested persons were given until January 16, 1990, to comment on the proposal. In the Federal Register of February 13, 1990 (55 FR 5024), the agency reopened the comment period to March 15, 1990. FDA received and considered 78 comments from individuals, manufacturers, professional organizations, and State and local health agencies. Recommendations in the comments with which FDA concurred have been incorporated into the final rule. A summary of the comments and FDA's responses are discussed below.

II. Summary and Analysis of Comments and FDA's Response

A. General Comments

1. Five comments expressed general support for the proposed amendments and the intent to clarify and simplify the performance standard. One comment suggested that the regulations be further clarified for "the common person," and that the agency should have worked with affected parties prior to making the proposal.

The agency devised the amendments to simplify and clarify the performance standard; however, because the performance standard is a regulation on a technical subject, it must be written with a precision that at times leads to complex structure and wording. No specific suggestions were made as to how the regulations could be simplified. The agency's efforts in soliciting comments from the affected parties in the development of the amendments were extensive and were described in the preamble to the proposed rule.

2. One comment expressed concern regarding perceived relaxation of the Federal X-ray standard, which the comment believed to be less stringent than other agencies' regulations for other radiation sources.

FDA disagrees with the comment. The agency does not characterize the bulk of the proposed amendments as relaxations of the performance standard, nor is the risk from radiation discounted. A majority of the changes are simplifications or clarifications. Several impose new or additional requirements. While the changes to §§ 1020.30(p) and 1020.31(e) could be viewed as relaxations, the agency notes that the changes are being made after careful review of the effectiveness and costs of these requirements. It would not be good public policy to retain marginally effective, but costly, requirements merely to avoid the appearance of relaxing requirements.

Also, in regulating X-ray equipment using a radiation safety performance standard, FDA must consider the direct medical benefits patients receive from diagnostic imaging procedures, as well as the risks from radiation exposure. In contrast to many other types of radiation exposures, medical radiation exposure normally gives the individual receiving

it a direct benefit. In this sense, a different standard may be appropriate.

3. One comment postulated that the misuse of diagnostic X-rays causes 5,184 deaths annually, based on the comment's estimates derived using methods attributed to the Environmental Protection Agency. The comment believed that these purported deaths could be prevented if exposures were reduced to one-tenth of present levels and suggested attempting to obtain further exposure reductions through technology-promoting regulations.

FDA disagrees with the comment. The performance standard addresses system performance features and capabilities as provided by the manufacturer and cannot be used to control misuse of the systems, as implied by the comment. Misuse of X-ray systems is addressed by other mechanisms, such as improved training of users or State or local controls of system operators.

The agency also disagrees with the comment's estimation of the number of deaths attributed to misuse of medical X-rays. The comment equated current misuse of medical X-rays to potential patient dose reductions believed possible through future technological improvements in X-ray equipment.

FDA is not opposed to revisions in radiation safety requirements related to improved technology; however, such revisions must meet a test of technical feasibility and reasonableness, and their benefits must exceed their costs. In any case, the comment did not state what substitute standard should be used to regulate X-ray equipment.

B. Definitions (§ 1020.30(b))

4. One comment suggested that the definition of "attenuation block" be clarified to include 0.10 inches of copper, as used in the Federal test kits, and that "automatic exposure control" be changed to "automatic exposure rate control" which allegedly more accurately reflects what is intended.

FDA advises that copper attenuators are used to facilitate testing for compliance in routine field inspections and do not have to be exactly the same as the attenuation block. It is not necessary for the performance standard test requirement and field test method to be identical, only that the field test verify compliance.

FDA disagrees with changing the more inclusive "automatic exposure control" to "automatic exposure rate control." The performance standard uses the term, "automatic exposure control," generally for all radiographic equipment, whereas "automatic exposure rate control" is used only in conjunction with fluoroscopic equipment.

5. One comment recommended expanding the definition of a diagnostic X-ray system to include a device such as a bone densitometer. Concerns were expressed regarding perceived inadequate regulation of this device at the State (and potentially Federal) level.

FDA advises that bone densitometers employing an X-ray tube as the radiation source are subject to the performance standard. Also, all bone densitometers, with or without an X-ray tube as the radiation source, are subject to regulation as medical devices under the act. The comment provided no information as to the nature of any problems associated with bone densitometers that need to be addressed under a radiation safety standard. The comment is rejected.

C. Certification by Assembler (§ 1020.30(d))

6. One comment welcomed the proposal to exempt reloaded and replacement tube housing assemblies and certified accessory components from the requirement for a report of assembly (FDA Form 2579). Six comments opposed exempting replacement X-ray tubes from the reporting requirements, citing the report's value to State radiation control agencies in locating new or unregistered X-ray installations. Two comments suggested requiring that the reports be made only to the States, and one comment suggested that the report is useful for the owners to have as part of their records.

FDA advises that FDA Form 2579 was instituted primarily for the purpose of assuring proper installation of X-ray tubes, not for registration or tracking purposes. The agency has determined that this requirement is not necessary to assure proper installation of replacement X-ray tubes. The argument that FDA Form 2579 is useful in locating unregistered facilities was not supported with any data to allow evaluation of this benefit versus the costs associated with retaining the requirement. Users may require appropriate information regarding tube data from vendors and repair firms as a condition of the contract or repair agreement. A Federal requirement is not necessary to obtain this information from vendors. Therefore, the agency rejects the suggestions that it change the proposal. It should be noted that the relief in the regulations to file this report does not relieve the assembler from his responsibility to properly install the tube housing assembly in accordance with the manufacturer's instructions and perform all appropriate testing to ensure compliant assembly. Also, the amendment does not relieve the assembler of its responsibility to install the appropriate compatible component and maintain records of that certified component under § 1002.40 (21 CFR 1002.40).

7. One comment opposed deletion of the requirement to report noncompatibility of components, on the basis that this information is useful to state radiation control programs for registration purposes. The comment noted that a significant number of systems are assembled incorrectly and that the supply of uncertified components that could lead to noncompatible assemblies remains significant.

The present format of FDA Form 2579 does not contain any model identification information on any uncertified components except the master X-ray control (this has been the case since about 1982). Therefore, the report cannot be used to track uncertified components. It is unclear why there should be objections to eliminating this requirement from the regulations when the reporting of the information has already been eliminated from the form.

Through the routine compliance testing program of X-ray systems, the Center for Devices and Radiological Health has determined that a large percentage of cases of noncompliance are a result of improper assembly. FDA policy is to contact the assembler first for all noncompliance found through FDA's routine compliance field testing procedures, unless there is reason to suspect that the noncompliance is not related to assembly. Review or inspection of FDA Form 2579 cannot be used to determine if the components were assembled incorrectly so as to cause a noncompliance with the performance standard, in particular when one of the components is uncertified. Therefore, the agency rejects the comment.

8. In addition to the changes to § 1020.30(d) discussed in the proposed rule, FDA is, on its own initiative, revising § 1020.30(d)(2) to add portions of the requirements presently contained in § 1020.30(p)(5), which address exceptions to the requirement for submitting reports of assembly. It was initially proposed that § 1020.30(p) be deleted; however, portions of § 1020.30(p)(5) provide guidance on how the requirements for reporting of assembly of components are applied during repair. Such information continues to be relevant and is properly part of the assembler's responsibility

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section. Therefore, § 1020.30(d)(2) will continue to include this information.

D. Identification of X-ray Components (§ 1020.30(e))

9. One comment supported the addition of the model as part of the required identification of certified components, but suggested deleting the use of the type as an alternative because of the potential for continued confusion.

FDA advises that the amendment is an action to eliminate the use of a myriad of different model-identifying words such as catalog number, style, etc., and the occasional use of two or more of these words on the same component. By limiting the identification options to either model or type, the confusion should be eliminated. The use of type is a carryover from an earlier policy statement and was included in this proposal so as not to change existing policy or practice. The amendment will be issued as proposed.

E. Informotion To Be Provided to Assemblers (§ 1020.30(g))

10. One comment supported the proposal to include electrical requirements in the information to be provided to assemblers. Another comment stated industry's objection to this change, noting that it would require comprehensive revision of current documentation and would not reduce the burden on manufacturers. The comment noted that the assembler's information accompanies equipment delivery and reaches the site long after power requirements are finalized. A request was made for an effective date of 1 year from promulgation, if the change is made, to permit depletion of current stocks of manuals.

The agency did not suggest that this change would reduce the burden on manufacturers. The change was made to ensure that assemblers had necessary information regarding electrical power requirements. While it is true that, for many facilities, prior consultation between manufacturer, assembler, and facility operator is necessary for proper installation, this is not always the case (such as for simple units such as mobile or portable units). The amendment does not require comprehensive revision of all assemblers' manuals. For existing manuals, FDA may issue supplements containing electrical power requirements. This would obviate the need for the requested time to deplete existing stocks of manuals. However, as there is no compelling need for an earlier effective date, FDA is setting an effective date for assembler information requirements of 1 year from the date of publication of this final rule.

F. Beam Quality (§ 1020.30 (m)(1) and (m)(2))

11. Two comments supported the proposal to allow lower half-value layers (HVL's) at 50 kilovolt peak (kVp). The comments also proposed removal of all HVL requirements for mammography or allowance of less than 0.3 millimeter (mm) aluminum for molybdenum tubes used in mammography, including the compression cone. It was suggested that a maximum HVL be considered for mammographic systems intended for use with film-screen image receptors.

The HVL amendment proposal was designed to rectify a technical problem at a cross-over point in tube potential. It was not an effort to lower beam quality requirements for all potentials below 50 kVp. The comment on additional modification of HVL requirements for equipment specifically designed for mammography recognizes the special characteristics of mammographic equipment but goes beyond the scope of this proposal. FDA will investigate the adequacy of the requirements for different types of tubes used in mammography as a separate matter.

G. Assembly and Reassembly of Diagnostic X-ray System (§ 1020.30(p))

12. Three comments agreed with the deletion of § 1020.30(p). Proponents of the deletion noted that many uncertified X-ray systems are still in use, but that adequate control of used X-ray systems is being provided by quality assurance activities and application to refurbishers of current good manufacturing practice (CGMP) regulations.

13. Seven comments opposed the deletion of § 1020.30(p). These opponents of the deletion expressed concern regarding continued installation of uncertified components, which they described as performing poorly but still being readily available for resale.

In general, the comments opposed to deletion of § 1020.30(p) provided viewpoints or information previously considered in evaluating this proposal. Although concern was expressed over the performance of uncertified components, no specific data or comparisons were provided. The agency noted in the preamble to the proposed rule that, in general, the primary difference in design between certified and uncertified components was the requirement that collimators on general-purpose X-ray systems provide positive beam limitation. Information available when the performance standard was developed indicated that the vast majority of systems manufactured in the years immediately before the effective date of the performance standard would, except for the positive beam limitation requirement, meet the requirements of the performance standard. This is because the performance standard incorporated generally accepted voluntary recommendations as the basis for the standard.

Currently, equipment manufactured in the year before and just after the effective date of the performance standard would be 18 and 17 years old, respectively. The agency suggests that the age of the equipment and whether it was manufactured before issuance of the performance standard are not adequate criteria to determine whether such equipment should be allowed to be installed. More effective criteria would be based on testing to ensure continued adequate performance. For uncertified components, this testing can be required by State authorities without the requirement that the uncertified component be sold and relocated, as would be required for the Federal standard to apply.

Contrary to the implication in several of the comments, the removal of § 1020.30(p) will not prevent the States from controlling uncertified equipment. Removal of the requirement will focus the performance standard on the manner in which certified components are required to be installed, and the performance standard would no longer prohibit their use with uncertified components.

States would continue to exercise control over uncertified components not subject to the Federal standard by virtue of these components having been manufactured prior to August 1974.

The Radiation Control for Health and Safety Act (21 U.S.C. 360ss) does not preempt State performance standards for radiation emitting products not covered by a federal performance standard under that act. Uncertified X-ray components are not so covered.

Also, section 521 of the act (21 U.S.C. 360k) prohibits state requirements different from or in addition to a requirement applicable to a device under the act. FDA could but, for reasons stated above, has not issued a standard under section 514 of the act (21 U.S.C. 360d) for uncertified X-ray components manufactured prior to 1974. Thus, there is no applicable Federal requirement for uncertified X-ray components that would preempt any State regulation of these components. For these reasons, the States are not now precluded by either 21 U.S.C. 360ss or 21 U.S.C. 360k from regulating them.

14. Several comments questioned the basis of the agency's observation that the supply of uncertified components is diminishing.

FDA recognizes that, in developing this proposal, no new, extensive survey of the availability of uncertified components was performed as suggested by some of the comments. The agency considered such a survey as neither cost-effective nor a prudent use of agency resources. Even if a new survey were to produce somewhat different results regarding the age of equipment in the resale market, it would be very unlikely to lead to a different conclusion. The facts are that: (1) Any uncertified component would be over 18 years old; (2) components do wear out or fail; and (3) repair may become uneconomical. For these reasons, there must be fewer uncertified components available each year. The agency decision to remove § 1020.30(p) was not based on the decreased availability of uncertified components, however. It was based on the lack of need for or effectiveness of the requirement in § 1020.30(p) in assuring the performance of certified systems.

15. Some of the comments argued that CGMP's applicable to rebuilders were not useful to assure the performance of uncertified components if the original specifications were inadequate compared to current designs. Several comments suggested a prohibition on any components not meeting the performance standard.

As discussed in response to paragraph 13 above, for most X-ray systems, the differences between the specifications for certified and uncertified systems were minor except for the requirement for positive beam limitation on stationary general-purpose radiographic systems. With the change in these amendments to the requirement for positive beam limitation, this major difference no longer exists.

The concern about uncertified equipment would be justified if the premise of inadequate specifications is granted. However, the agency does not think it reasonable to address potential inadequate design in relatively few systems with a blanket prohibition on use of equipment based solely on the age of the component. A more reasonable and cost-effective approach would be based on performance testing of the system containing the uncertified component, which the States could require so long as the performance required of the certified components in the system is in agreement with the Federal standard.

16. The continued existence of § 1020.30(p) was cited as the only means for controlling the installation of uncertified components or improperly installed certified components in one State.

The improper installation of certified components is addressed under § 1020.30(d). As stated previously in paragraph 13 above, the deletion of § 1020.30(p) will not prevent States from imposing controls on uncertified components. Indeed, States are encouraged to develop and apply appropriate controls for uncertified systems. The document entitled "Suggested State Regulations for the Control of Radiation," developed by the Conference of Radiation Control Program Directors, Inc., with the cooperation of FDA and other Federal agencies, provides a suggested means for doing this which the States may adopt or modify.

17. One comment suggested that the performance standard be revised to require reporting of all components, whether certified or not, to help States monitor installations. As discussed above, states desiring to monitor the installation of uncertified components may establish and enforce these reporting requirements on their own initiative.

18. Two comments in support of keeping § 1020.30(p) suggested a change that would prohibit the assembly or reassembly of components that were manufactured before 1974 or cannot meet the current standard.

FDA notes that the approach suggested here was at one time contained in the regulations. After careful evaluation of the costs and potential benefits associated with such a requirement and notice-and-comment rulemaking, the agency deleted it from the regulations in 1979. No information was presented to justify a return to this approach; therefore, FDA rejects the comment.

19. Two comments noted that the proposed changes regarding requirements for refurbished equipment and the mixing of certified and uncertified components were unclear.

FDA does not understand the reasons for confusion on this point, since the proposal was that § 1020.30(p) would be removed in its entirety. This removal would remove any requirements or limitations regarding the mixing of certified or uncertified components. In the preamble of the proposed rule, reference was made to FDA Compliance Policy Guide 7124.28 regarding reconditioners and rebuilders of medical devices, which is applicable to X-ray system components as medical devices. The policy was intended to ensure that refurbished or rebuilt equipment meets original specifications, or if remanufactured, is certified by the rebuilder to new specifications. This policy is currently under review and will continue to be developed by FDA.

20. As stated in paragraph 8 above, although no comments were received on this subject, FDA notes that the proposed removal of § 1020.30(p) would have removed some of the guidance contained in § 1020.30(p)(5) regarding exceptions to the reporting requirements contained in § 1020.30(d). These reporting exception requirements should remain as part of the performance standard. They are more logically part of § 1020.30(d)(2); therefore, § 1020.30(d)(2) is being revised to incorporate these exceptions. Only that part of § 1020.30(p)(5) addressing reporting exceptions is retained in revised § 1020.30(d). The portion describing tagging of "noncompatible" components is removed, because reporting of noncompatible assemblies is no longer required, as discussed in section II.D. of the preamble to the proposed rule. The assembler is required to follow the manufacturer's instructions to the extent possible when uncertified components are present in the system and effect the performance of the certified components, but there is no longer any need to report a noncompatible assembly.

H. Linearity (§ 1020.31(c))

21. One comment disagreed with the proposal to extend the linearity requirement to adjacent milliamperes-seconds (mAs) stations because there are no consensus user guidelines or demonstrated safety concerns to support the need for such a change. The comment maintained that, historically, milliampere (mA) control was of concern because of the problem of proper X-ray tube space charge compensation in the mA control circuits. The comment believed that the change was proposed despite the following alleged facts: that similar equipment has been in use for many years; that the agency has conducted no evaluation of current user practices or equipment performance; and that the agency has provided no evidence of patient safety needs to support such a change. The comment suggested that this additional regulatory burden should not be added to the existing requirements.

FDA disagrees with this comment. The amendment was proposed because it is just as important to have linearity between mAs station selections as it is to have it for mA selections in the clinical use of systems. It is true that no

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detailed studies or evaluations of mAs-only systems have been performed; however, the requirement is designed more to prevent potential poor performance than to correct existing problems. The requirement should not impose a significant testing burden on manufacturers, as good manufacturers would independently assure that products provide linear performance equal to or exceeding the proposed minimum performance. The comment is rejected.

22. Eight comments supported the extension of the linearity requirement to systems that provide selection of mAs only, although most did not provide explicit reasons for their support. The comments also supported the extension of the linearity testing to cover the entire range of mA and mAs selections. It was noted that the U.S. Air Force has imposed such a requirement and that the Committee on Suggested State Regulations of the Conference of Radiation Control Program Directors, Inc., is considering such a requirement for uncertified systems. Two comments suggested that most currently manufactured and properly calibrated equipment could meet a requirement over the entire range. Several different and somewhat ambiguous criteria for this proposed change were suggested, ranging from 5 to 22 percent over the range of mA and mAs selections. One comment noted that, for image receptors with high speed and decreased exposure latitude, an exposure change of 20 percent can result in a nondiagnostic image. One comment suggested exempting low mA stations (10 and 24 mA) from the requirement, and another cited the recent National Council on Radiation Protection and Measurements (NCRP) quality assurance recommendation for linearity over the entire range.

FDA disagrees that, because the linearity requirement could be tightened to cover the entire range, it should be so tightened, regardless of the fact that no data have been presented to indicate that current requirements provide an insufficient margin of radiation safety. The comment regarding exposure changes of 20 percent resulting in nondiagnostic images does indicate a potential reason for more stringent linearity requirements. The agency is open to additional information or data regarding the radiation safety impact of the current linearity requirement but does not intend to pursue further study at this time due to resource constraints and the absence of evidence that this is a problem for systems meeting current requirements. The amendment will be issued as proposed.

23. Two comments noted confusion regarding testing of linearity for normal and microfocus tubes. One comment stated that the preamble indicated that linearity would not be required between normal and microfocus tubes; yet the regulatory language excludes testing for focal spots smaller than 0.45 mm.

FDA agrees that the language in the preamble to the proposal and in the proposed revision of § 1020.31(c)(3) is confusing. The intent was better described in the preamble than in the proposed revision. The intent is to require linearity between any two adjacent mA or mAs settings except when those involve two different focal spots, one of whose size is less than or equal to 0.45 mm and the other of whose size is greater than 0.45 mm. The wording of the requirement in § 1020.31(c)(3) has been changed to make this clearer. Thus, linearity will be required between two different microfocus focal spots or between two different nonmicrofocus spots. The only time linearity will not be required between adjacent settings will be when the settings require comparison of a microfocus spot with a nonmicrofocus spot. The term, "microfocus," refers here to a focal spot with no dimension greater than 0.45 mm.

Because microfocus focal spots have completely different applications from nonmicrofocus focal spots in clinical practice, the technologist will not normally switch between the two types of spots during a particular examination in order to achieve either more or less exposure to the image receptor. Thus, FDA does not consider it necessary, from a radiation safety standpoint, to require linearity between these two different types of focal spots.

24. Five comments recommended that the linearity requirement not be applied between focal spots of different sizes. As noted, several of these comments suggested alternate criteria and testing conditions for linearity. FDA notes that no specification of focal spot size was given in these comments; so FDA assumes that the comments apply not only to testing between microfocus and larger focal spot sizes, but also to testing between two nonmicrofocus focal spots. The comments gave no reasons as to why the requirement should not be applied between larger focal spot sizes as currently required. No information was presented to indicate that the testing for linearity between two focal spots with sizes greater than 0.45 mm is unnecessary or results in problems. This aspect of the comments is rejected. The comments regarding alternate criteria for linearity and testing are addressed under paragraph 20 above.

25. Two comments suggested that exemption from linearity testing requirements be limited to microfocus focal spots whose size is less than 0.3 mm nominal. These comments noted that many general-type tubes have nominal 0.3 mm focal spots which are used interchangeably by operators with the larger spots.

No information was provided as to the extent of the practice of interchanging small 0.3 mm focal spots with larger focal spots. The occasional occurrence of this practice does not justify the potential cost associated with extending the requirement to 0.3 mm focal spots.

26. Several comments suggested alternative measurement conditions for determining linearity. These comments did not disagree with the proposal to extend linearity requirements to mAs selections but suggested additional requirements or conditions for testing linearity without detailed rationales or justifications.

With the information currently available, the agency is unable to justify extending the linearity requirement over a range of selections beyond adjacent mA or mAs stations on a radiation safety basis. Although the range of applicability of the linearity requirement and measurement conditions might be appropriate for further investigation, the agency does not intend to pursue these, due to limited resources, unless stronger evidence of a public health need is presented.

27. One comment expressed concern over the testing requirements that should apply to battery-powered mobile equipment when tested for mAs linearity. The comment suggested that special testing requirements may be necessary.

FDA advises that, although the test conditions are not specified in the performance standard, current testing procedures for battery systems require that the battery be fully charged and the system must indicate that it is in the fully operational state. Under these conditions, no additional special testing requirements are necessary, and the mAs linearity test would be performed the same way as for nonbattery systems. The comment is rejected.

28. One comment questioned whether 10 exposures at each setting for linearity tests would place an undue heat load on the tube.

FDA advises that this would not create a problem. Adequate time is allowed between exposures during testing.

I. Visual Definition (§ 1020.31(d)(2))

29. Several comments agreed with the proposed reduction in required illumination from 160 to 100 lux but eight comments opposed the reduction. Potential problems cited included: problems with facilities doing chest examinations at 10-foot source-image receptor distances (SID's) with air gap; inadequate field definition for systems with large SID's (i.e., 72 inches); and inability to control light levels in brightly lit areas where portable X-ray systems are used (i.e., critical care). Several opponents of the change questioned the validity of the average Xray room illumination data cited in the preamble and presented data showing much higher illumination levels in rooms where X-ray equipment is used. One comment suggested writing the performance standard such that if the room were too bright, the facility rather than the manufacturer/assembler would be responsible.

One comment experienced problems with shortened bulb life due to the increased bulb voltage used by numerous manufacturers to meet current requirements. Another noted experiencing no problems with bulb life with current equipment, on some of which illumination levels were set much higher than 160 lux. Others opposed to the reduction in required illumination level stated that systems can be designed so that bulb life is not a problem and suggested a required level between 100 and 160 lux, or different requirements depending on the use of the system or whether or not positive beam limitation (PBL) was present. Systems used in bright areas, such as mobile and portable systems or systems without PBL, need the full 160 lux illumination, one comment suggested.

The agency notes that the proposed amendment to lower the light illuminance from 160 lux to 100 lux was influenced primarily by some collimator manufacturers who presented anecdotal evidence of shortened bulb life, and by FDA's own experience with recalls associated with low illuminance collimators from many different manufacturers. FDA argued that edge definition could still be retained, even at the lower illuminance value of 100 lux, in the typical ambient light levels found in most radiographic suites. However, comments on the proposed amendment raised questions regarding the adequacy of 100 lux for systems using long SID's, such as 72 inches for chiropractic systems in common use and for portable and mobile systems used in rooms where the ambient light levels can be quite high. Additionally, comments suggested that if PBL becomes optional, then it is even more important to keep the current requirement of 160 lux, since the light field will become the primary means for adjusting the X-ray field size when PBL is not present on stationary general purpose systems. Also, it has been argued that the problems with shortened bulb life occurred early in the poststandard era but no longer exist because of better bulb design with newer systems. This appears to be a valid argument, since FDA's compliance data no longer show high numbers of illuminance noncompliances, and complaints from users or assemblers about bulbs burning out have become less frequent.

The arguments presented by those opposed to reducing the minimum illuminance requirement to 100 lux are compelling enough to convince the agency to withdraw the proposal and leave the original requirement (160 lux) in the regulations. In retaining the limit of 160 lux, the agency acknowledges maintaining a difference between the Federal standard and the 100 lux limit in the International Electrotechnical Commission (IEC) draft standard. However, FDA plans to pursue this and other differences between IEC and Federal performance standards in discussions with IEC aimed at further harmonization of the standards.

30. One comment suggested that therapy simulators should no longer be exempted from the minimum illumination requirement and that they be required to provide a minimum field illumination of 100 lux.

FDA disagrees with this suggestion. No data were provided to support the need for this requirement for therapy simulation systems. The requirements for X-ray field localization and indication for therapy simulation systems are quite different from those for conventional diagnostic systems. The accuracy of X-ray beam location indication is more important for therapy simulation systems, and a variety of methods are employed. Small excess radiation exposures are a minor concern for therapy simulators in view of the radiation exposures used in the actual therapy. There is no reason why room illumination cannot be reduced in the simulation facility, if necessary. Also, required use of large SID's on simulators could result in design problems. FDA rejects the comment.

J. Field Limitation and Alignment on Stationary General Purpose X-ray Equipment (§ 1020.31(e))

31. Fourteen comments endorsed the proposal to make the provision of PBL optional, citing the following reasons:

(a) The feature adds additional costs for initial purchase and maintenance and is not cost effective.

(b) PBL systems require frequent repair and are often inoperable due to malfunction.

(c) Systems are often turned off or overridden, and, thus, their potential benefits are not realized. Reasons given for systems being overridden or turned off were to avoid breakdown, to permit ease of use for reduced field sizes, or to allow system use during PBL malfunction or breakdown.

(d) There is no advantage or improvement in field sizes for systems with PBL versus systems without the feature.

(e) PBL results in collimation to film size, not to smaller area of interest, tending to hinder optimum collimation.

(f) The requirement for PBL prevents the replacement or upgrading of older non-PBL systems and places a premium on uncertified used systems for small facilities.

(g) PBL is not relevant for the extremity examinations typically performed in many small facilities, and it is the source of unnecessary exposure due to large field sizes.

(h) PBL does not prevent use of inappropriate film size nor assure proper X-ray tube and image receptor alignment.

FDA notes that the arguments put forth in support of the proposed change were unsupported by data but were in accord with conclusions reached by the agency.

32. One comment suggested that, if the requirement for PBL is removed, then those systems already installed should not be required to operate in the PBL mode and the performance requirements for PBL should be removed. Another comment suggested retaining the PBL requirement but modifying it to exempt chiropractic systems.

The performance standard places no requirements on how equipment is used or operated. Under the proposal, manufacturers could provide beam-limiting devices that provide PBL or continuously adjustable collimation. For systems that are equipped with PBL, it remains appropriate that they continue to meet the requirements in the performance standard, because the user will be relying on the system to accomplish or assure proper field size adjustment.

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The agency agrees that the cost of a PBL system may not be justified in circumstances such as chiropractic or other special purpose or limited anatomy examinations. However, FDA believes that PBL also lacks significant benefits in many other circumstances. The comments are rejected.

33. One comment suggested that, in addition to making PBL optional, the regulations should require that X-ray equipment be able to collimate sufficiently to show evidence of collimation on the image receptor. This would assist state efforts to improve collimation.

The amendment, as proposed, would permit operation of a continuously adjustable collimator to demonstrate an unexposed border on films, if that was desired by or required of the facility by the State or local agency as a requirement for use of the system. Such an approach to encouraging appropriate field size adjustment has been suggested previously, including the use of special indicators on collimator blades to indicate the extent of collimation on exposed films. The inability of the Federal standard to require specific actions by users of equipment prevents this approach from being implemented in the performance standard. However, State or local agencies could impose such requirements on users. The comment is rejected.

34. One comment did not express an opinion for or against the proposal to make PBL optional but noted that, when purchased as an option, PBL will add to the cost of each system, and, if the requirement in § 1020.31(d) concerning light field illumination were relaxed, PBL would be more necessary to aid in proper collimation.

The agency agrees with the comment; however, since the agency has decided not to relax the requirement for light field illumination, the comment that PBL would be more necessary to aid in proper collimation is not applicable.

35. Eighteen comments were opposed to the proposal to make the provision of PBL optional. Reasons cited in opposition to making PBL optional included the following:

(a) Most manufacturers currently provide reliable PBL devices, and previous problems have been solved. One comment suggested that FDA's analysis did not take into account some recent improvements.

(b) Many facilities do not have well trained operators. PBL aids proper collimation and is a reminder for radiation safety.

(c) Making the requirement optional will result in PBL's disappearance from the marketplace due to low demand. Users will not pay the extra cost associated with PBL systems.

(d) PBL systems are effective in reducing exposure, and such a public health issue should not be left to the demands of the marketplace. Prior to PBL, many facilities left collimation at maximum field-size setting.

(e) Any action, even if minimal, to limit radiation exposure should be taken, and dose reduction potential should be given preference over cost concerns.

(f) Equipment design should leave as little discretion to operators as possible because many operators do not collimate to the minimum field size required. Stricter enforcement of PBL requirements is needed, and systems should be capable of being overridden only by service personnel.

36. FDA notes that the comments provided no new data or views that were not previously considered by the agency in reaching the decision on the proposal. A brief response to each of the reasons cited is given below:

(a) The decision to make the provision of PBL optional was not based on the lack of reliability of the devices with this feature. The decision was based on the increased initial expense as well as increased maintenance and repair costs compared to the anticipated benefit of the requirement.

(b) PBL is not a substitute for well-trained and supervised operators. PBL does not prevent inappropriate use or operation of a system or always guarantee appropriate collimation, as evidenced by many reports of systems found in the bypass or override mode upon inspection. Equipment features cannot substitute for adequately trained personnel.

(c) FDA does not expect that making PBL optional will result in the disappearance of this feature. Comments indicate that many facilities appreciate the speed and convenience provided by some automatic PBL systems. The proposed amendment merely recognizes that in some situations, the cost of a PBL system may not be justified by the benefit, and FDA will allow alternatives.

(d) FDA does not disagree that PBL systems, as any other variable collimation system, can aid in reducing unnecessary exposure. However, FDA is unable to demonstrate benefits from PBL which justify its costs. The provision of PBL, of itself, does not guarantee proper field-size adjustment.

(e) The argument that radiation exposure reduction, no matter how small, should be pursued without regard to costs cannot be supported.

(f) The current standard does not prevent operators from improperly using the collimation system. The override feature was provided to permit needed clinical use of a system while awaiting service in the event of breakdown. Prevention of system use due to a malfunction of PBL would have adverse effects on the delivery of needed health care. Therefore, the amendment regarding PBL will be finalized as proposed.

37. Two comments speculated about and criticized the assumed motivation for the proposal to make PBL optional. One comment supposed that the proposal was made due to problems enforcing the performance standard. Another suggested that failures by some manufacturers to design reliable systems were causing elimination of a good rule. It was suggested that pressure from these manufacturers was causing the proposed change in the PBL requirement.

The agency has received no pressure to revise the performance standard, although occasional suggestions have been received. The proposal to amend resulted from an internal review of the effectiveness of the performance standard, in which FDA attempted to provide an objective analysis of the benefits and costs associated with each section of the performance standard. This process involved outside participation through requests for comments and public discussion at an advisory committee meeting. The comments are rejected.

38. One comment questioned how voluntary or optional requirements for PBL would be enforced.

The amended performance standard will be enforced in the same manner as the current standard. Manufacturers will be required to provide systems which meet the requirements of the performance standard, either by providing a stepless-adjustment collimator or a PBL collimator, depending on the type of device furnished. The performance standard will continue to apply to manufacturers and assemblers. The current standard places no requirements on users regarding operation or maintenance of PBL systems, and the amendment would not change this situation. The agency will continue to encourage the use of proper collimation, including the use of properly maintained PBL systems where available. As with current practice, any requirements regarding use, maintenance, or repair will be under State and local control. Field testing of systems having PBL collimators will only test the performance of the collimator, not its actual use.

39. Six comments opposed permitting the marketing of the World Health Organization-Basic Radiological System (WHO-BRS), which uses fixed apertures to adjust field size. It was suggested that adjustable collimation, as found on a mobile system, is more appropriate for the United States.

The agency agrees with these comments in that it is not appropriate to permit fixed apertures for general purpose systems in the United States. No evidence has been provided that would justify deletion of the requirement for stepless adjustment of the X-ray field. The proposed amendment would permit the marketing in the United States of the WHO-BRS if equipped with a collimator meeting the requirements of § 1020.31 (d) and (e), or (g), if applicable.

40. One comment questioned the reported lack of use of PBL due to systems being found broken, malfunctioning, or in the override mode. The comment questioned the reported higher failure rate for PBL systems, since PBL systems use the same technology as do fluoroscopic collimators, and these are not reported to have many problems.

The agency did not base its proposal to amend the performance standard solely on the reported failure rates of PBL systems, although the increased maintenance costs reported for these systems were a factor in the evaluation of the costs of this requirement. While no detailed study of failure modes for fluoroscopic or radiographic collimation systems is feasible, there are differences in the designs of the two types of systems. The radiographic system employs sensors in the cassette tray to determine cassette size, and these are subject to misadjustment or malfunction from wear and tear during use. Fluoroscopic systems do not have this feature. Hence, the two are not in every important way comparable, contrary to what the comment supposed.

41. One comment supporting retention of the PBL requirement suggested that the dose savings referred to by FDA as occurring from the use of continuously variable rectangular collimators can be achieved only if the technician cones down to the anatomical region of interest.

The comment incorrectly interpreted the dose savings analysis. The dose savings estimated refers to the use of either automatic (PBL) or manual (non-PBL) continuously variable rectangular beam-limiting devices for adjustment of the X-ray beam size to the size of the image receptor. Adjustment of the X-ray beam size to the size of the anatomical region of interest requires intervention by the system operator, whether the system is equipped with a PBL collimator or with a non-PBL collimator. Hence, PBL provides no dose-saving advantage in this situation.

42. One comment, which favored retaining the requirement for PBL, addressed the question of how frequently PBL systems are turned off or to override. The comment observed that, of 25 large hospitals questioned, all would purchase PBL if it were made optional, as they valued it for the convenience and throughput it allowed. The comment also noted that technologists are trained to use PBL systems, and they require time to adapt to non-PBL systems, with a consequent increase in the retake rate.

These points, while valid, do not persuade FDA to continue requiring PBL. If sufficient user demand exists for systems that provide PBL, such systems will continue to be marketed. However, FDA is not persuaded that a cost-benefit analysis is so favorable to PBL as to justify interfering with market forces by requiring it. As with any change in a complex system of equipment, operators of X-ray systems require adequate training for proper use of the systems. The additional training burden will be light for those who must accommodate non-PBL systems. FDA reiterates that no one is required to give up PBL. FDA will proceed with the elimination of the requirement for PBL.

43. Several comments in favor of retaining the PBL requirement included comments regarding the impact of the proposal on State programs. One comment noted that the States cannot encourage PBL if its manufacture stops.

FDA does not believe that elimination of the requirement for PBL will necessarily translate to an elimination of its availability in the marketplace. Following the effective date of the amendments, manufacturers and purchasers will have two options regarding the beam limitation system on stationary general-purpose diagnostic X-ray systems. These systems will have to be equipped with beam-limiting devices that provide either PBL in accordance with new § 1020.30(g) or ones that provide continuously variable adjustment of field size as required in § 1020.31 (d) and (e). FDA believes that if sufficient user demand exists for systems that provide PBL, such systems will continue to be marketed. The States will be free to encourage (but not require) use of PBL if they wish, but ultimately, the market will decide PBL's future.

44. One comment noted that, due to the existing PBL requirement, one State had encouraged many facilities to repair PBL systems, and another comment observed that States must ensure that PBL systems are maintained in an operable condition.

FDA advises that, in addition to requiring that manufacturers provide systems meeting either of the requirements in § 1020.30(g) or § 1020.31 (d) and (e), the amendments will also require manufacturers to provide a recommended schedule of maintenance necessary to keep the equipment in compliance with the performance standard. The performance standard does not and will not require that owners maintain X-ray systems in compliance with the performance standard, as this authority is reserved for State or local agencies. FDA regulates manufacture and installation, not use by practitioners. Under these amendments, States will continue to have the authority to require that systems be maintained to comply with State requirements.

45. One comment suggested that all State regulations should be amended to require that owners maintain certified equipment to original specifications.

FDA supports the concept of requiring users to maintain X-ray systems in compliance with the performance standard for the life of the equipment. As noted previously, the Federal performance standard places no requirement on the owner of a diagnostic X-ray system to maintain the system in compliance with the performance standard following installation by the manufacturer. The authority to require that diagnostic X-ray systems be maintained by owners in conformance with a performance standard lies with State and local agencies. Thus, with regard to systems equipped with PBL, under the amendments, the States may still impose a requirement that X-ray systems be operated or repaired to comply with any standard.

46. One comment noted that there is no evidence that a technician will use a manual collimator any more frequently in 1990 than in the early 1970's. The proposal to make PBL optional was described as a major step backward, leading to retakes, increased exposure, and poorer quality films.

FDA advises that the only data available for comparison of the performance of PBL versus non-PBL systems were summarized in the reports referenced. The data from the early 1970's did not indicate a significant benefit for systems with PBL. The comment provided no data to substantiate the claim of increased retakes and poor quality films if the PBL

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requirement were deleted. The comment is rejected.

47. One comment in favor of retaining PBL expressed the opinion that too much emphasis was being placed on the cost associated with PBL and suggested that the following factors be included in cost considerations: The cost of missed diagnosis; the cost of inappropriate treatment as a result of incorrect diagnosis; and the cost of the health effects from unnecessary exposure. The comment observed that, in other Federal programs, much higher costs are borne in dealing with theoretical exposures, as compared to the real exposures actually encountered in medical X-ray procedures.

The agency disagrees that too much emphasis is placed on costs. Unless the underlying statute directs otherwise—and in this case the statute does not—the benefits of any regulatory or public health program must be balanced against the costs incurred in meeting requirements. The agency finds no proven connection between the suggested costs of missed diagnosis or inappropriate treatment mentioned by the comment and the requirement for PBL. The comment is rejected.

48. One comment suggested a revision of § 1020.31(e)(2) to correct an ambiguity introduced in the November 1982 amendment concerning the SID's at which PBL systems are required to operate. The suggestion was to add a paragraph to § 1020.31 that states, "The device is at a SID where it is not intended to operate."

FDA acknowledges that the comment's suggested revision would clarify an ambiguity introduced with the last revision. In addition, the suggested change would have no impact on current X-ray system designs, because manufacturers currently comply with the requirement as it would be following clarification. FDA will add the suggested paragraph as paragraph (g)(1)(iii), which replaces paragraph (e)(2)(iii).

K. Field Limitation and Alignment for Spot-film Devices (§ 1020.31(g))

49. One comment appeared to object to the change from the current requirement on edge misalignment to a size comparison between X-ray field and image receptor. The comment characterized this change as a relaxation from a worst-case condition, contrary to the approach taken in other radiation standards.

FDA believes that the amendment is not a significant relaxation of the performance standard. The amendment was made to simplify the testing requirement and to make the requirement consistent with similar ones in other parts of the performance standard. The agency considers the possible slight relaxation at the worst-case conditions to be a very minor concern. The comment presented no information to suggest otherwise. The comment is rejected.

L. Standby Radiation From Capacitor Energy Storage Equipment (§ 1020.31(k))

50. Two comments suggested that the current requirement regarding discharge of capacitor discharge equipment is too weak. The comments proposed that systems be required to discharge electrically with consequent elimination of radiation production, rather than through the X-ray tube.

The present regulations permit discharge through the tube or by electrical means without any design restrictions. The proposed regulation will set a radiation emission limit during discharge. The comment proposed an additional design requirement not contemplated in the proposed clarification of this section. The comment does not address the adequacy of the proposed radiation emission levels or the potential costs to comply with the suggested change. The requirement for a means for discharge, other than through the tube, is a design requirement rather than a performance requirement. The comments provided no arguments as to why the current radiation limits are inadequate; the limits are the same as those for leakage radiation from tube housing assemblies. The comments are rejected.

M. Entrance Exposure Rate Limits (§ 1020.32(d))

51. Two comments supported the clarification of the entrance exposure rate requirements and their application to C-arm systems with variable SID's and to lateral fluoroscopes.

One comment suggested that the entrance exposure rate of C-arm systems with variable SID's be measured at a SID of 1,000 mm. A second comment suggested that the measurement geometry for entrance exposure rate for lateral and C-arm fluoroscopic systems be revised, as the current requirement does not reflect clinical use and restricts the exposure rate under clinical use to levels less than allowed on conventional fluoroscopic systems.

The comment suggesting measurement at 1,000 mm SID provided no reason for this distance and did not address the situation wherein maximum SID is less than 1,000 mm. Therefore, FDA rejects this comment. The concern regarding appropriate entrance exposure rate requirements for lateral and C-arms systems as used for angiographic and other special procedures systems has been raised on several occasions, and FDA will evaluate this as a separate issue.

N. Change in Units Throughout the Performance Standard

52. Eight comments acknowledged that the International System of Units (SI units) may be current agency policy, but the comments emphasized that traditional units (roentgen, rad, rem, etc.) should be listed in parentheses next to the SI units. Most meters are not calibrated in SI units, and the conversion to SI units will be confusing for many years. Another comment echoed the one just described but wanted traditional units first followed by SI units in parentheses. Three comments recommended that the agency not adopt the SI units. Two comments argued that the adoption of SI units will cause great confusion and possible error among all of those who use the standards on a daily basis. One comment reported recently, upon returning from lecturing on health physics in a foreign country that uses SI units, that the students (scientists, engineers, and physicians) all routinely make every measurement and calculation in the old system and at the end convert to SI units. Another comment stated that the effect of changing all units to SI units would be to place FDA out of step with all other radiation regulatory agencies in the United States. The cost to State programs and manufacturers would be great, with no concurrent increase in public health benefits due to the necessary revision of circuitry on all level II instruments to read in SI units.

FDA advises that agency policy mandates the use of SI units and allows the use of traditional units in parentheses. The agency agrees that the latter would be advisable and has incorporated the change in the final rule. Some adjustments will be required in the adoption of new units; however, the provision of traditional units with SI units will minimize confusion and allow continued use of current instruments.

53. One comment recommended that the agency adopt the quantity air kerma and its SI unit gray for diagnostic X-ray system performance standards to maintain compatibility with NCRP Report No. 102, which uses these units.

FDA acknowledges that the suggestion is reasonable and would bring the performance standard, in terms of the quantities and units used, into agreement with the NCRP report and IEC standards. However, making such a change to obtain complete agreement with NCRP Report No. 102 would also require a change in the limits in the standard for exposure and exposure rate. When NCRP revised its recommendations and issued Report No. 102, it changed not only the quantities and units, but also the numerical limits associated with exposure and exposure rate (air kerma and air kerma rate) from the equivalent limits in the earlier Report No. 33. This change had the effect of increasing all the previous limits by approximately 15 percent. It was done to maintain integer values for the limits, expressed in terms of the new quantity air kerma, and to maintain similar numerical values for the limits expressed with the new quantity. For example, the previous limit on exposure rate of 10 roentgens per minute (R/min) was changed to a limit on air kerma rate of 10 centigray per minute (cGy/min). This effectively raised the previous limit, as 10 R/min is actually equivalent to 8.7 cGy/min.

Replacing the quantity exposure with the quantity air kerma and obtaining agreement with the limits in NCRP Report No. 102 would require increasing the limits in the performance standard by 15 percent. Although this is probably not a significant increase from the standpoint of public health, as the changes would be to upper limits, not typical operating conditions, it would require publication of a notice of proposed rulemaking in the **Federal Register** for comment. FDA has decided not to delay publication of the final rule for these amendments for such a proposal. Instead, FDA will consider such a change for a future proposal. In the meantime, the change in units used for exposure from R to coulomb per kilogram satisfies the requirement to use the SI units in the performance standard.

O. Post-exposure Indication of mAs

54. Eight comments recommended that all radiographic systems be required to incorporate post-exposure indication of mAs, accurate to ±5 percent or 1 mAs (whether photo-timed or manually set), to enable better monitoring of patient exposure.

FDA has previously considered this suggestion and concluded that a requirement for such a feature was not warranted on the basis of radiation safety considerations, and the comment in question did not provide supporting radiation safety data. While the suggested feature may be useful for monitoring system performance and determining actual patient exposures, and while it is provided by some manufacturers, it is a convenience rather than a necessary safety feature. FDA declines to require it.

P. Incorporate in § 1020.32(d) Maximum Exposure Rate Limitation in the "Optional High Level Control" Mode

55. One comment recommended a maximum exposure rate limit of 20 R/min for fluoroscopy systems in the "optional high level control" mode. The comment argued that, if exposure rates in excess of this became necessary, then the equipment should be repaired or replaced.

The agency agrees with the suggestion. In a proposed rule published elsewhere in this issue of the **Federal Register**, FDA is proposing to revise limits on the maximum patient entrance exposure rate for fluoroscopy systems in the high-level control mode and other modes of operation. However, FDA is not changing this final rule to adopt the comment's proposal.

Q. Compliance Testing for Reproducibility

56. Two comments recommended measuring compliance for reproducibility with 4 exposures rather than 10 in order to reduce problems with tube heating and overload.

The comments provided no information to show that the current testing procedure has caused any problems of the type suggested. Ten exposures were selected to provide a compromise between adequate sampling of the variable under test and efficient testing. Further, no information was provided to show that a sample of four measurements would be an adequate test. The comments are rejected.

III. Paperwork Reduction Act of 1980

Section 1020.30(g) Information to be provided to assemblers contains relief from information collection requirements, in that certain replacement assemblies and components are exempted from reporting and recordkeeping requirements. There are no other changes in information collection requirements. All information collection and recordkeeping requirements for this performance standard have been approved by the Office of Management and Budget (OMB) under control number 0910–0213 "Reporting and Recordkeeping for Electronic Products under Public Law 90–602— Specific Product Requirements," and are in conformance with section 3504(h) of the Paperwork Reduction Act of 1980 as interpreted by OMB in 5 CFR part 1320. (See 48 FR 13666, March 31, 1983.)

IV. Environmental Impact

The agency has determined under 21 CFR 25.24(e)(3) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Economic Impact

This final rule is the result of an extensive retrospective review, including a cost-benefit analysis of regulatory impact, meeting the requirements of Executive Order 12291, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). The amendments in this final rule clarify and simplify the diagnostic X-ray performance standard, based on experience derived with its enforcement. In addition to formalizing interpretations that have been required since promulgation of the standard, the amendments remove excess verbiage, redundancies, and unnecessarily complex statements from the standard. Also, the amendments permit the marketing of less complex, and therefore, less costly, equipment to purchasers who desire it. Furthermore, the amendments reduce the regulatory burden on affected manufacturers by eliminating the requirement for positive-beam-limitation, relaxing requirements for aluminum equivalence limits for certain X-ray tables, simplifying reporting requirements, etc. These clarifications, simplifications and regulatory relaxations will be accomplished without compromising the public health, and generally will improve the effectiveness of FDA's regulation of diagnostic X-ray equipment. The agency concludes that this final rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

List of Subjects in 21 CFR Part 1020

Electronic products, Medical devices, Radiation protection, Reporting and recordkeeping requirements, Television, X-rays.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 1020 is amended as follows:

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PART 1020—PERFORMANCE STANDARDS FOR IONIZING RADIATION EMITTING PRODUCTS

1. The authority citation for 21 CFR part 1020 is revised to read as follows:

Authority: Secs. 501, 502, 515–520, 530–542, 701, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360e–360j, 360gg–360ss, 371, 381).

2. Sections 1020.30, 1020.31, and 1020.32 are revised to read as follows:

§ 1020.30 Diagnostic X-ray systems and their major components.

(a) *Applicability*—(1) The provisions of this section are applicable to:

(i) The following components of diagnostic X-ray systems:

(A) Tube housing assemblies, X-ray controls, X-ray high-voltage generators, X-ray tables, cradles, film changers, vertical cassette holders mounted in a fixed location and cassette holders with front panels, and beam-limiting devices manufactured after August 1, 1974.

(B) Fluoroscopic imaging assemblies manufactured after August 1, 1974, and before April 26, 1977.

(C) Spot-film devices and image intensifiers manufactured after April 26, 1977.

(D) Cephalometric devices manufactured after February 25, 1978.

(E) Image receptor support devices for mammographic X-ray systems manufactured after September 5, 1978.

(ii) Diagnostic X-ray systems, except computed tomography X-ray systems, incorporating one or more of such components; however, such X-ray systems shall be required to comply only with those provisions of this section and §§ 1020.31 and 1020.32 which relate to the components certified in accordance with paragraph (c) of this section and installed into the systems.

(iii) Computed tomography (CT) X-ray systems manufactured before November 29, 1984.

(iv) CT gantries manufactured after September 3, 1985.

(2) The following provisions of this section and § 1020.33 are applicable to CT X-ray systems manufactured or remanufactured on or after November 29, 1984:

(i) Section 1020.30(a);

(ii) Section 1020.30(b) "Technique factors";

(iii) Section 1020.30(b) "CT," "Dose," "Scan," "Scan time," and "Tomogram";

(iv) Section 1020.30 (h)(3)(vi) through (h)(3)(viii);

(v) Section 1020.30(n);

(vi) Section 1020.33 (a) and (b);

(vii) Section 1020.33(c)(1) as it affects § 1020.33(c)(2); and

(viii) Section 1020.33(c)(2).

(3) The provisions of this section and § 1020.33 in its entirety, including those provisions in paragraph (a)(2) of this section, are applicable to CT X-ray systems manufactured or remanufactured on or after September 3, 1985. The date of manufacture of the CT system is the date of manufacture of the CT gantry.

(b) *Definitions.* As used in this section and §§ 1020.31, 1020.32, and 1020.33, the following definitions apply:

Accessible surface means the external surface of the enclosure or housing provided by the manufacturer.

Accessory component means:

(1) A component used with diagnostic X-ray systems, such as a cradle or film changer, that is not necessary for the compliance of the system with applicable provisions of this subchapter but which requires an initial determination of compatibility with the system; or

(2) A component necessary for compliance of the system with applicable provisions of this subchapter but which may be interchanged with similar compatible components without affecting the system's compliance, such as one of a set of interchangeable beam-limiting devices; or

(3) A component compatible with all X-ray systems with which it may be used and that does not require compatibility or installation instructions, such as a tabletop cassette holder.

Aluminum equivalent means the thickness of aluminum (type 1100 alloy) [1] affording the same attenuation, under specified conditions as the material in question.

Articulated joint means a joint between two separate sections of a tabletop which joint provides the capacity for one of the sections to pivot on the line segment along which the sections join.

Assembler means any person engaged in the business of assembling, replacing, or installing one or more components into a diagnostic X-ray system or subsystem. The term includes the owner of an X-ray system or his or her employee or agent who assembles components into an X-ray system that is subsequently used to provide professional or commercial services.

Attenuation block means a block or stack of type 1100 aluminum alloy or aluminum alloy having equivalent attenuation with dimensions 20 centimeters by 20 centimeters by 3.8 centimeters.

Automatic exposure control means a device which automatically controls one or more technique factors in order to obtain at a preselected location(s) a required quantity of radiation.

Beam axis means a line from the source through the centers of the X-ray fields.

Beam-limiting device means a device which provides a means to restrict the dimensions of the X-ray field.

Cantilevered tabletop means a tabletop designed such that the unsupported portion can be extended at least 100 centimeters beyond the support.

Cassette holder means a device, other than a spot-film device, that supports and/or fixes the position of an X-ray film cassette during an X-ray exposure.

Cephalometric device means a device intended for the radiographic visualization and measurement of the dimensions of the human head.

Coefficient of variation means the ratio of the standard deviation to the mean value of a population of observations. It is estimated using the following equation:

[1] The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper, as given in "Aluminum Standards and Data" (1969). Copies may be obtained from: The Aluminum Association, New York, NY.

$$C = \frac{s}{\bar{X}} = \frac{1}{\bar{X}}\left[\sum_{i=1}^{n}\frac{(X_i - \bar{X})^2}{n-1}\right]^{1/2}$$

where

s = Estimated standard deviation of the population.

$\bar{X}$ = Mean value of observations in sample.

X_i = Ith observation sampled.

n = Number of observations sampled.

Computed tomography (CT) means the production of a tomogram by the acquisition and computer processing of X-ray transmission data.

Control panel means that part of the X-ray control upon which are mounted the switches, knobs, pushbuttons, and other hardware necessary for manually setting the technique factors.

Cooling curve means the graphical relationship between heat units stored and cooling time.

Cradle means:

(1) A removable device which supports and may restrain a patient above an X-ray table; or

(2) A device;

(i) Whose patient support structure is interposed between the patient and the image receptor during normal use;

(ii) Which is equipped with means for patient restraint; and

(iii) Which is capable of rotation about its long (longitudinal) axis.

CT gantry means tube housing assemblies, beam-limiting devices, detectors, and the supporting structures, frames, and covers which hold and/or enclose these components.

Diagnostic source assembly means the tube housing assembly with a beam-limiting device attached.

Diagnostic X-ray system means an X-ray system designed for irradiation of any part of the human body for the purpose of diagnosis or visualization.

Dose means the absorbed dose as defined by the International Commission on Radiation Units and Measurements. The absorbed dose, D, is the quotient of de by dm, where de is the mean energy imparted by ionizing radiation to matter of mass dm.

Equipment means X-ray equipment.

Exposure means the quotient of dQ by dm where dQ is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass dm are completely stopped in air.

Field emission equipment means equipment which uses an X-ray tube in which electron emission from the cathode is due solely to action of an electric field.

Fluoroscopic imaging assembly means a subsystem in which X-ray photons produce a fluoroscopic image. It includes the image receptor(s) such as the image intensifier and spot-film device, electrical interlocks, if any, and structural material providing linkage between the image receptor and diagnostic source assembly.

General purpose radiographic X-ray system means any radiographic X-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

Half-value layer (HVL) means the thickness of specified material which attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value. In this definition the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

Image intensifier means a device, installed in its housing, which instantaneously converts an X-ray pattern into a corresponding light image of higher energy density.

Image receptor means any device, such as a fluorescent screen, radiographic film, solid-state detector, or gaseous detector, which transforms incident X-ray photons either into a visible image or into another form which can be made into a visible image by further transformations. In those cases where means are provided to preselect a portion of the image receptor, the term "image receptor" shall mean the preselected portion of the device.

Image receptor support means, for mammographic systems, that part of the system designed to support the image receptor in a horizontal plane during a mammographic examination.

Leakage radiation means radiation emanating from the diagnostic source assembly except for:

(1) The useful beam; and

(2) Radiation produced when the exposure switch or timer is not activated.

Leakage technique factors means the technique factors associated with the diagnostic source assembly which are used in measuring leakage radiation. They are defined as follows:

(1) For diagnostic source assemblies intended for capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs (or 10 mAs) or the minimum obtainable from the unit, whichever is larger;

(2) For diagnostic source assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of X-ray pulses in an hour for operation at the maximum-rated peak tube potential; and

(3) For all other diagnostic source assemblies, the maximum-rated continuous tube current for the maximum-rated continuous tube current for the maximum-rated peak tube potential.

Light field means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illuminance is one-fourth of the maximum in the intersection.

Line-voltage regulation means the difference between the no-load and the load line potentials expressed as a percent of the load line potential; that is, Percent line-voltage regulation

$$= \frac{100(V_n - V_l)}{V_l}$$

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where
V_o = No-load line potential and
V_l = Load line potential.

Maximum line current means the root mean square current in the supply line of an X-ray machine operating at its maximum rating.

Movable tabletop means a tabletop which, when assembled for use, is capable of movement with respect to its supporting structure within the plane of the tabletop.

Peak tube potential means the maximum value of the potential difference across the X-ray tube during an exposure.

Primary protective barrier means the material, excluding filters, placed in the useful beam to reduce the radiation exposure for protection purposes.

Quick change X-ray tube means an X-ray tube designed for use in its associated tube housing such that:

(1) The tube cannot be inserted in its housing in a manner that would result in noncompliance of the system with the requirements of paragraphs (k) and (m) of this section;

(2) The focal spot position will not cause noncompliance with the provisions of this section or § 1020.31 or § 1020.32;

(3) The shielding within the tube housing cannot be displaced; and

(4) Any removal and subsequent replacement of a beam-limiting device during reloading of the tube in the tube housing will not result in noncompliance of the X-ray system with the applicable field limitation and alignment requirements of §§ 1020.31 and 1020.32.

Radiation therapy simulation system means a radiographic or fluoroscopic X-ray system intended for localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field.

Rated line voltage means the range of potentials, in volts, of the supply line specified by the manufacturer at which the X-ray machine is designed to operate.

Rated output current means the maximum allowable load current of the X-ray high-voltage generator.

Rated output voltage means the allowable peak potential, in volts, at the output terminals of the X-ray high-voltage generator.

Rating means the operating limits specified by the manufacturer.

Recording means producing a permanent form of an image resulting from X-ray photons (e.g., film, videotape).

Scan means the complete process of collecting X-ray transmission data for the production of a tomogram. Data may be collected simultaneously during a single scan for the production of one or more tomograms.

Scan time means the period of time between the beginning and end of X-ray transmission data accumulation for a single scan.

Source means the focal spot of the X-ray tube.

Source-image receptor distance means the distance from the source to the center of the input surface of the image receptor.

Spot-film device means a device intended to transport and/or position a radiographic image receptor between the X-ray source and fluoroscopic image receptor. It includes a device intended to hold a cassette over the input end of an image intensifier for the purpose of a radiograph.

Stationary tabletop means a tabletop which, when assembled for use, is incapable of movement with respect to its supporting structure within the plane of the tabletop.

Technique factors means the following conditions of operation:

(1) For capacitor energy storage equipment, peak tube potential in kilovolts (kV) and quantity of charge in milliampere-seconds (mAs);

(2) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of X-ray pulses;

(3) For CT equipment designed for pulsed operation, peak tube potential in kV, scan time in seconds, and either tube current in milliamperes (mA), X-ray pulse width in seconds, and the number of X-ray pulses per scan, or the product of the tube current, X-ray pulse width, and the number of X-ray pulses in mAs;

(4) For CT equipment not designed for pulsed operation, peak tube potential in kV, and either tube current in mA and scan time in seconds, or the product of tube current and exposure time in mAs and the scan time when the scan time and exposure time are equivalent; and

(5) For all other equipment, peak tube potential in kV, and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

Tomogram means the depiction of the X-ray attenuation properties of a section through a body.

Tube means an X-ray tube, unless otherwise specified.

Tube housing assembly means the tube housing with tube installed. It includes high-voltage and/or filament transformers and other appropriate elements when they are contained within the tube housing.

Tube rating chart means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.

Useful beam means the radiation which passes through the tube housing port and the aperture of the beam-limiting device when the exposure switch or timer is activated.

Variable-aperture beam-limiting device means a beam-limiting device which has the capacity for stepless adjustment of the X-ray field size at a given SID.

Visible area means the portion of the input surface of the image receptor over which incident X-ray photons are producing a visible image.

X-ray control means a device which controls input power to the X-ray high-voltage generator and/or the X-ray tube. It includes equipment such as timers, phototimers, automatic brightness stabilizers, and similar devices, which control the technique factors of an X-ray exposure.

X-ray equipment means an X-ray system, subsystem, or component thereof. Types of X-ray equipment are as follows:

(1) *Mobile X-ray equipment* means X-ray equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled;

(2) *Portable X-ray equipment* means X-ray equipment designed to be hand-carried; and

(3) *Stationary X-ray equipment* means X-ray equipment which is installed in a fixed location.

X-ray field means that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.

X-ray high-voltage generator means a device which transforms electrical energy from the potential supplied by the X-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the X-ray tube(s), high-voltage switches, electrical protective devices, and other appropriate elements.

X-ray system means an assemblage of components for the controlled production of X-rays. It includes minimally an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

X-ray subsystem means any combination of two or more components of an X-ray system for which there are requirements specified in this section and §§ 1020.31 and 1020.32.

X-ray table means a patient support device with its patient support structure (tabletop) interposed between the patient and the image receptor during radiography and/or fluoroscopy. This includes, but is not limited to, any stretcher equipped with a radiolucent panel and any table equipped with a cassette tray (or bucky), cassette tunnel, image intensifier, or spot-film device beneath the tabletop.

X-ray tube means any electron tube which is designed for the conversion of electrical energy into X-ray energy.

(c) *Manufacturers' responsibility.* Manufacturers of products subject to §§ 1020.30 through 1020.33 shall certify that each of their products meet all applicable requirements when installed into a diagnostic X-ray system according to instructions. This certification shall be made under the format specified in § 1010.2 of this chapter. Manufacturers may certify a combination of two or more components if they obtain prior authorization in writing from the Director of the Office of Compliance and Surveillance of the Center for Devices and Radiological Health. Manufacturers shall not be held responsible for noncompliance of their products if that noncompliance is due solely to the improper installation or assembly of that product by another person; however, manufacturers are responsible for providing assembly instructions adequate to assure compliance of their components with the applicable provisions of §§ 1020.30 through 1020.33.

(d) Assemblers' responsibility. An assembler who installs one or more components certified as required by paragraph (c) of this section shall install certified components that are of the type required by §§ 1020.31, 1020.32, or 1020.33 and shall assemble, install, adjust, and test the certified components according to the instructions of their respective manufacturers. Assemblers shall not be liable for noncompliance of a certified component if the assembly of that component was according to the component manufacturer's instruction.

(1) *Reports of assembly.* All assemblers who install certified components shall file a report of assembly, except as specified in paragraph (d)(2) of this section. The report will be construed as the assembler's certification and identification under §§ 1010.2 and 1010.3 of this chapter. The assembler shall affirm in the report that the manufacturer's instructions were followed in the assembly or that the certified components as assembled into the system meet all applicable requirements of §§ 1020.30 through 1020.33. All assembler reports must be on a form prescribed by and available from the Director, Center for Devices and Radiological Health, 5600 Fishers Lane, Rockville, MD 20857. Completed reports must be submitted to the Director, the purchaser, and, where applicable, to the State agency responsible for radiation protection within 15 days following completion of the assembly.

(2) *Exceptions to reporting requirements.* Reports of assembly need not be submitted for any of the following:

(i) Reloaded or replacement tube housing assemblies that are reinstalled in or newly assembled into an existing X-ray system;

(ii) Certified accessory components that have been identified as such to the Center for Devices and Radiological Health in the report required under § 1002.10 of this chapter;

(iii) Repaired components, whether or not removed from the system and reinstalled during the course of repair, provided the original installation into the system was reported; or

(iv) Components installed temporarily in an X-ray system in place of components removed temporarily for repair, provided the temporarily installed component is identified by a tag or label bearing the following information:

Temporarily Installed Component

This certified component has been assembled, installed, adjusted, and tested by me according to the instructions provided by the manufacturer.
Signature
Company Name
Street Address, P.O. Box
City, State, Zip Code
Date of Installation

The replacement of the temporarily installed component by a component other than the component originally removed for repair shall be reported as specified in paragraph (d)(1) of this section.

(e) *Identification of X-ray components.* In addition to the identification requirements specified in § 1010.3 of this chapter, manufacturers of components subject to this section and §§ 1020.31, 1020.32, and 1020.33, except high-voltage generators contained within tube housings and beam-limiting devices that are integral parts of tube housings, shall permanently inscribe or affix thereon the model number and serial number of the product so that they are legible and accessible to view. The word "model" or "type" shall appear as part of the manufacturer's required identification of certified X-ray components. Where the certification of a system or subsystem, consisting of two or more components, has been authorized pursuant to paragraph (c) of this section, a single inscription, tag, or label bearing the model number and serial number may be used to identify the product.

(1) *Tube housing assemblies.* In a similar manner, manufacturers of tube housing assemblies shall also inscribe or affix thereon the name of the manufacturer, model number, and serial number of the X-ray tube which the tube housing assembly incorporates.

(2) *Replacement of tubes.* Except as specified in paragraph (e)(3) of this section, the replacement of an X-ray tube in a previously manufactured tube housing assembly certified pursuant to paragraph (c) of this section constitutes manufacture of a new tube housing assembly, and the manufacturer is subject to the provisions of paragraph (e)(1) of this section. The manufacturer shall remove, cover, or deface any previously affixed inscriptions, tags, or labels, that are no longer applicable.

(3) *Quick-change X-ray tubes.* The requirements of paragraph (e)(2) of this section shall not apply to tube housing assemblies designed and designated by their original manufacturer to contain quick change X-ray tubes. The manufacturer of quick-change X-ray tubes shall include with each replacement tube a label with the tube manufacturer's name, the model, and serial number of the X-ray tube. The manufacturer of the tube shall instruct the assembler who installs the new tube to attach the label to the tube housing assembly and to remove, cover, or deface the previously affixed inscriptions, tags, or labels that are described by the tube manufacturer as no longer applicable.

(f) [Reserved]

(g) *Information to be provided to assemblers.* Manufacturers of components listed in paragraph (a)(1) of this section shall provide to assemblers subject to paragraph (d) of this section and, upon request, to others at a cost not to exceed the cost of publication and distribution, instructions for assembly, installation, adjustment, and testing of such components adequate to assure that the products will comply with applicable provisions of this section and §§ 1020.31, 1020.32, and 1020.33, when assembled, installed, adjusted, and tested as directed. Such instructions shall include specifications of other components compatible with that to be

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installed when compliance of the system or subsystem depends on their compatibility. Such specifications may describe pertinent physical characteristics of the components and/or may list by manufacturer model number the components which are compatible. For X-ray controls and generators manufactured after May 3, 1994, manufacturers shall provide:

(1) A statement of the rated line voltage and the range of line-voltage regulation for operation at maximum line current;

(2) A statement of the maximum line current of the X-ray system based on the maximum input voltage and current characteristics of the tube housing assembly compatible with rated output voltage and rated output current characteristics of the X-ray control and associated high-voltage generator. If the rated input voltage and current characteristics of the tube housing assembly are not known by the manufacturer of the X-ray control and associated high-voltage generator, he shall provide necessary information to allow the assembler to determine the maximum line current for the particular tube housing assembly(ies);

(3) A statement of the technique factors that constitute the maximum line current condition described in paragraph (g)(2) of this section.

(h) *Information to be provided to users.* Manufacturers of X-ray equipment shall provide to purchasers and, upon request, to others at a cost not to exceed the cost of publication and distribution, manuals or instruction sheets which shall include the following technical and safety information:

(1) *All X-ray equipment.* For X-ray equipment to which this section and §§ 1020.31, 1020.32, and 1020.33 are applicable, there shall be provided:

(i) Adequate instructions concerning any radiological safety procedures and precautions which may be necessary because of unique features of the equipment; and

(ii) A schedule of the maintenance necessary to keep the equipment in compliance with this section and §§ 1020.31, 1020.32, and 1020.33.

(2) *Tube housing assemblies.* For each tube housing assembly, there shall be provided:

(i) Statements of the leakage technique factors for all combinations of tube housing assemblies and beam-limiting devices for which the tube housing assembly manufacturer states compatibility, the minimum filtration permanently in the useful beam expressed as millimeters of aluminum equivalent, and the peak tube potential at which the aluminum equivalent was obtained;

(ii) Cooling curves for the anode and tube housing; and

(iii) *Tube rating charts.* If the tube is designed to operate from different types of X-ray high-voltage generators (such as single-phase self rectified, single-phase half-wave rectified, single-phase full-wave rectified, 3-phase 6-pulse, 3-phase 12-pulse, constant potential, capacitor energy storage) or under modes of operation such as alternate focal spot sizes or speeds of anode rotation which affect its rating, specific identification of the difference in ratings shall be noted.

(3) *X-ray controls and generators.* For the X-ray control and associated X-ray high-voltage generator, there shall be provided:

(i) A statement of the rated line voltage and the range of line-voltage regulation for operation at maximum line current;

(ii) A statement of the maximum line current of the X-ray system based on the maximum input voltage and output current characteristics of the tube housing assembly compatible with rated output voltage and rated current characteristics of the X-ray control and associated high-voltage generator. If the rated input voltage and current characteristics of the tube housing assembly are not known by the manufacturer of the X-ray control and associated high-voltage generator, the manufacturer shall provide necessary information to allow the purchaser to determine the maximum line current for his particular tube housing assembly(ies);

(iii) A statement of the technique factors that constitute the maximum line current condition described in paragraph (h)(3)(ii) of this section;

(iv) In the case of battery-powered generators, a specification of the minimum state of charge necessary for proper operation;

(v) Generator rating and duty cycle;

(vi) A statement of the maximum deviation from the preindication given by labeled technique factor control settings or indicators during any radiographic or CT exposure where the equipment is connected to a power supply as described in accordance with this paragraph. In the case of fixed technique factors, the maximum deviation from the nominal fixed value of each factor shall be stated;

(vii) A statement of the maximum deviation from the continuous indication of X-ray tube potential and current during any fluoroscopic exposure when the equipment is connected to a power supply as described in accordance with this paragraph; and

(viii) A statement describing the measurement criteria for all technique factors used in paragraphs (h)(3)(iii), (h)(3)(vi), and (h)(3)(vii) of this section; for example, the beginning and endpoints of exposure time measured with respect to a certain percentage of the voltage waveform.

(4) *Beam-limiting device.* For each variable-aperture beam-limiting device, there shall be provided;

(i) Leakage technique factors for all combinations of tube housing assemblies and beam-limiting devices for which the beam-limiting device manufacturer states compatibility; and

(ii) A statement including the minimum aluminum equivalent of that part of the device through which the useful beam passes and including the X-ray tube potential at which the aluminum equivalent was obtained. When two or more filters are provided as part of the device, the statement shall include the aluminum equivalent of each filter.

(i) [Reserved]

(j) *Warning label.* The control panel containing the main power switch shall bear the warning statement, legible and accessible to view:

"Warning: This X-ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed."

(k) *Leakage radiation from the diagnostic source assembly.* The leakage radiation from the diagnostic source assembly measured at a distance of 1 meter in any direction from the source shall not exceed 2.58×10^{-5} coulombs per kilogram (C/kg) (100 milliroentgens (mR)) in 1 hour when the X-ray tube is operated at the leakage technique factors. If the maximum rated peak tube potential of the tube housing assembly is greater than the maximum rated peak tube potential for the diagnostic source assembly, positive means shall be provided to limit the maximum X-ray tube potential to that of the diagnostic source assembly. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(l) *Radiation from components other than the diagnostic source assembly.* The radiation emitted by a component other than the diagnostic source assembly shall not exceed 5.16×10^{-7} C/kg (2 mR) in 1 hour at 5 centimeters from any accessible surface of the component when it is operated in an assembled X-ray system under any conditions for which it was designed. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(m) *Beam quality*—(1) *Half-value layer.* The half-value layer (HVL) of the useful beam for a given X-ray tube potential shall not be less than the appropriate value shown in Table I under "Specified dental systems," for any dental X-ray system designed for use with intraoral image receptors and manufactured after December 1, 1980; and under "Other X-ray systems," for all other X-ray systems subject to this section. If it is necessary to determine such HVL at an X-ray tube potential which is not listed in Table I, linear interpolation or extrapolation may be made. Positive means[2] shall be provided to insure that at least the minimum filtration needed to achieve the above beam quality requirements is in the useful beam during each exposure.

TABLE I

X-ray tube voltage (kilovolt peak)		Minimum HVL (millimeters of aluminum)	
Designed operating range	Measured operating potential	Specified dental systems	Other X-ray systems
Below 51	30	1.5	0.3
	40	1.5	0.4
	50	1.5	0.5
51 to 70	51	1.5	1.2
	60	1.5	1.3
	70	1.5	1.5
Above 70	71	2.1	2.1
	80	2.3	2.3
	90	2.5	2.5
	100	2.7	2.7
	110	3.0	3.0
	120	3.2	3.2
	130	3.5	3.5
	140	3.8	3.8
	150	4.1	4.1

(2) *Measuring compliance.* For capacitor energy storage equipment, compliance shall be determined with the maximum selectable quantity of charge per exposure.

(n) *Aluminum equivalent of material between patient and image receptor.* Except when used in a CT X-ray system, the aluminum equivalent of each of the items listed in Table II, which are used between the patient and image receptor, may not exceed the indicated limits. Compliance shall be determined by X-ray measurements made at a potential of 100 kilovolts peak and with an X-ray beam that has a HVL of 2.7 millimeters of aluminum. This requirement applies to front panel(s) of cassette holders and film changers provided by the manufacturer for patient support or for prevention of foreign object intrusions. It does not apply to screens and their associated mechanical support panels or grids.

TABLE II

Item	Aluminum equivalent (millimeters)
Front panel(s) of cassette holder (total of all)	1.0
Front panel(s) of film changer (total of all)	1.0
Cradle	2.0
Tabletop, stationary, without articulated joint(s)	1.0
Tabletop, movable, without articulated joint(s) (including stationary subtop)	1.5
Tabletop, with radiolucent panel having one articulated joint	1.5
Tabletop, with radiolucent panel having two or more articulated joints	2.0
Tabletop, cantilevered	2.0
Tabletop, radiation therapy simulator	5.0

(o) *Battery charge indicator.* On battery-powered generators, visual means shall be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation.

(p) [Reserved]

(q) *Modification of certified diagnostic X-ray components and systems*—(1) Diagnostic X-ray components and systems certified in accordance with § 1010.2 of this chapter shall not be modified such that the component or system fails to comply with any applicable provision of this chapter unless a variance in accordance with § 1010.4 of this chapter or an exemption under sections 358(a)(5) or 360B(b) of the Public Health Service Act has been granted.

(2) The owner of a diagnostic X-ray system who uses the system in a professional or commercial capacity may modify the system, provided the modification does not result in the failure of the system or component to comply with the applicable requirements of this section or of § 1020.31, § 1020.32, or § 1020.33. The owner who causes such modification need not submit the reports required by subpart B of part 1002 of this chapter, provided the owner records the date and the details of the modification, and provided the modification of the X-ray system does not result in a failure to comply with § 1020.31, § 1020.32, or § 1020.33.

§ 1020.31 Radiographic equipment.

The provisions of this section apply to equipment for the recording of images, except equipment involving use of an image intensifier or computed tomography X-ray systems manufactured on or after November 28, 1984.

(a) *Control and indication of technique factors*—(1) *Visual indication.* The technique factors to be used during an exposure shall be indicated before the exposure begins, except when automatic exposure controls are used, in which case the technique factors which are set prior to the exposure shall be indicated. On equipment having fixed technique factors, this requirement may be met by permanent markings. Indication of technique factors shall be visible from the operator's position except in the case of spot films made by the fluoroscopist.

(2) *Timers.* Means shall be provided to terminate the exposure at a preset time interval, a preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor.

(i) Except during serial radiography, the operator shall be able to terminate the exposure at any time during an exposure of greater than one-half second. Termination of exposure shall cause automatic resetting of the timer to its initial setting or to zero. It shall not be possible to make an exposure when the timer is set to a zero or off position if either position is provided.

(ii) During serial radiography, the operator shall be able to terminate the X-ray exposure(s) at any time, but means may be provided to permit completion of any single exposure of the series in process.

(3) *Automatic exposure controls.* When an automatic exposure control is provided:

(i) Indication shall be made on the control panel when this mode of operation is selected;

(ii) When the X-ray tube potential is equal to or greater than 51 kilovolts peak (kVp), the minimum exposure time for field emission equipment rated for pulsed operation shall be equal to or less than a time interval equivalent to two pulses and the minimum exposure time for all other equipment shall be equal to or less than 1/60 second or a time interval required to deliver 5

[2] In the case of a system which is to be operated with more than one thickness of filtration, this requirement can be met by a filter interlock with the kilovoltage selector which will prevent x-ray emission if the minimum required filtration is not in place.

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milliamperes-seconds (mAs), whichever is greater;

(iii) Either the product of peak X-ray tube potential, current, and exposure time shall be limited to not more than 60 kilowatt-seconds (kW's) per exposure or the product of X-ray tube current and exposure time shall be limited to not more than 600 mAs per exposure, except when the X-ray tube potential is less than 51 kVp, in which case the product of X-ray tube current and exposure time shall be limited to not more than 2,000 mAs per exposure; and

(iv) A visible signal shall indicate when an exposure has been terminated at the limits described in paragraph (a)(3)(iii) of this section, and manual resetting shall be required before further automatically timed exposures can be made.

(4) *Accuracy.* Deviation of technique factors from indicated values shall not exceed the limits given in the information provided in accordance with § 1020.30(h)(3);

(b) *Reproducibility.* The following requirements shall apply when the equipment is operated on an adequate power supply as specified by the manufacturer in accordance with the requirements of § 1020.30(h)(3);

(1) *Coefficient of variation.* For any specific combination of selected technique factors, the estimated coefficient of variation of radiation exposures shall be no greater than 0.05.

(2) *Measuring compliance.* Determination of compliance shall be based on 10 consecutive measurements taken within a time period of 1 hour. Equipment manufactured after September 5, 1978, shall be subject to the additional requirement that all variable controls for technique factors shall be adjusted to alternate settings and reset to the test setting after each measurement. The percent line-voltage regulation shall be determined for each measurement. All values for percent line-voltage regulation shall be within ±1 of the mean value for all measurements. For equipment having automatic exposure controls, compliance shall be determined with a sufficient thickness of attenuating material in the useful beam such that the technique factors can be adjusted to provide individual exposures of a minimum of 12 pulses on field emission equipment rated for pulsed operation or no less than one-tenth second per exposure on all other equipment.

(c) *Linearity.* The following requirements apply when the equipment is operated on a power supply as specified by the manufacturer in accordance with the requirements of § 1020.30(h)(3) for any fixed X-ray tube potential within the range of 40 percent to 100 percent of the maximum rated.

(1) *Equipment having independent selection of X-ray tube current (mA).* The average ratios of exposure to the indicated milliampere-seconds product (C/kg/mAs (or mR/mAs)) obtained at any two consecutive tube current settings shall not differ by more than 0.10 times their sum. This is: $|X_1 - X_2| \leq 0.10(X_1 + X_2)$; where X_1 and X_2 are the average C/kg/mAs (or mR/mAs) values obtained at each of two consecutive tube current settings or at two settings differing by no more than a factor of 2 where the tube current selection is continuous.

(2) *Equipment having selection of X-ray tube current-exposure time product (mAs).* For equipment manufactured after *(insert date 1 year after date of publication in the* Federal Register) the average ratios of exposure to the indicated milliampere-seconds product (C/kg/mAs (or mR/mAs)) obtained at any two consecutive mAs selector settings shall not differ by more than 0.10 times their sum. This is: $|X_1 - X_2| \leq 0.10(X_1 + X_2)$; where X_1 and X_2 are the average C/kg/mAs (or mR/mAs) values obtained at each of two consecutive mAs selector settings or at two settings differing by no more than a factor of 2 where the mAs selector provides continuous selection.

(3) *Measuring compliance.* Determination of compliance will be based on 10 exposures, made within ±1 hour, at each of the two settings. These two settings may include any two focal spot sizes except where one is equal to or less than 0.45 millimeters and the other is greater than 0.45 millimeters. For purposes of this requirement, focal spot size is the focal spot size specified by the X-ray tube manufacturer. The percent line-voltage regulation shall be determined for each measurement. All values for percent line-voltage regulation at any one combination of technique factors shall be within #1 of the mean value for all measurements at these technique factors.

(d) *Field limitation and alignment for mobile, portable, and stationary general purpose X-ray systems.* Except when spot-film devices or special attachments for mammography are in service, mobile, portable, and stationary general purpose radiographic X-ray systems shall meet the following requirements:

(1) *Variable X-ray field limitation.* A means for stepless adjustment of the size of the X-ray field shall be provided. Each dimension of the minimum field size at an SID of 100 centimeters shall be equal to or less than 5 centimeters.

(2) *Visual definition.* (i) Means for visually defining the perimeter of the X-ray field shall be provided. The total misalignment of the edges of the visually defined field with the respective edges of the X-ray field along either the length or width of the visually defined field shall not exceed 2 percent of the distance from the source to the center of the visually defined field when the surface upon which it appears is perpendicular to the axis of the X-ray beam.

(ii) When a light localizer is used to define the X-ray field, it shall provide an average illuminance of not less than 160 lux (15 footcandles) at 100 centimeters or at the maximum SID, whichever is less. The average illuminance shall be based upon measurements made in the approximate center of each quadrant of the light field. Radiation therapy simulation systems are exempt from this requirement.

(iii) The edge of the light field at 100 centimeters or at the maximum SID, whichever is less, shall have a contrast ratio, corrected for ambient lighting, of not less than 4 in the case of beam-limiting devices designed for use on stationary equipment, and a contrast ratio of not less than 3 in the case of beam-limiting devices designed for use on mobile and portable equipment. The contrast ratio is defined as $I_1 I_2$, where I_1 is the illuminance 3 millimeters from the edge of the light field toward the center of the field; and I_2 is the illuminance 3 millimeters from the edge of the light field away from the center of the field. Compliance shall be determined with a measuring aperture of 1 millimeter.

(e) *Field indication and alignment on stationary general purpose X-ray equipment.* Except when spot-film devices or special attachments for mammography are in service, stationary general purpose X-ray systems shall meet the following requirements in addition to those prescribed in paragraph (d) of this section:

(1) Means shall be provided to indicate when the axis of the X-ray beam is perpendicular to the plane of the image receptor, to align the center of the X-ray field with respect to the center of the image receptor to within 2 percent of the SID, and to indicate the SID to within 2 percent;

(2) The beam-limiting device shall numerically indicate the field size in the plane of the image receptor to which it is adjusted;

(3) Indication of field size dimensions and SID's shall be specified in centimeters and/or inches and shall be such that aperture adjustments result in X-ray field dimensions in the plane of the image receptor which correspond to

those indicated by the beam-limiting device to within 2 percent of the SID when the beam axis is indicated to be perpendicular to the plane of the image receptor; and

(4) Compliance measurements will be made at discrete SID's and image receptor dimensions in common clinical use (such as SID's of 100, 150, and 200 centimeters and/or 36, 40, 48, and 72 inches and nominal image receptor dimensions of 13, 18, 24, 30, 35, 40, and 43 centimeters and/or 5, 7, 8, 9, 10, 11, 12, 14, and 17 inches) or at any other specific dimensions at which the beam-limiting device or its associated diagnostic X-ray system is uniquely designed to operate.

(f) *Field limitation on radiographic X-ray equipment other than general purpose radiographic systems*—(1) *Equipment for use with intraoral image receptors.* Radiographic equipment designed for use with an intraoral image receptor shall be provided with means to limit the X-ray beam such that:

(i) If the minimum source-to-skin distance (SSD) is 18 centimeters or more, the X-ray field at the minimum SSD shall be containable in a circle having a diameter of no more than 7 centimeters; and

(ii) If the minimum SSD is less than 18 centimeters, the X-ray field at the minimum SSD shall be containable in a circle having a diameter of no more than 6 centimeters.

(2) *X-ray systems designed for one image receptor size.* Radiographic equipment designed for only one image receptor size at a fixed SID shall be provided with means to limit the field at the plane of the image receptor to dimensions no greater than those of the image receptor, and to align the center of the X-ray field with the center of the image receptor to within 2 percent of the SID or shall be provided with means to both size and align the X-ray field such that the X-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor.

(3) *Systems designed for or provided with special attachments for mammography.* Radiographic systems designed only for mammography and general purpose radiographic systems, when special attachments for mammography are in service, shall be provided with means to limit the useful beam such that the X-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor at any designated SID except the edge of the image receptor designed to be adjacent to the chest wall where the X-ray field may not extend beyond this edge by more than 2 percent of the SID. This requirement can be met with a system which performs as prescribed in paragraphs (f)(4)(i), (f)(4)(ii), and (f)(4)(iii) of this section. When the beam-limiting device and image receptor support device are designed to be used to immobilize the breast during a mammographic procedure and the SID may very, the SID indication specified in paragraphs (f)(4)(ii) and (f)(4)(iii) of this section shall be the maximum SID for which the beam-limiting device or aperture is designed. In addition, each image receptor support intended for installation on a system designed only for mammography shall have clear and permanent markings to indicate the maximum image receptor size for which it is designed.

(4) *Other X-ray systems.* Radiographic systems not specifically covered in paragraphs (d), (e), (f)(2), (f)(3), and (h) of this section and systems covered in paragraph (f)(1) of this section, which are also designed for use with extraoral image receptors and when used with an extraoral image receptor, shall be provided with means to limit the X-ray field in the plane of the image receptor so that such field does not exceed each dimension of the image receptor by more than 2 percent of the SID, when the axis of the X-ray beam is perpendicular to the plane of the image receptor. In addition, means shall be provided to align the center of the X-ray field with the center of the image receptor to within 2 percent of the SID, or means shall be provided to both size and align the X-ray field such that the X-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor. These requirements may be met with:

(i) A system which performs in accordance with paragraphs (d) and (e) of this section; or when alignment means are also provided, may be met with either;

(ii) An assortment of removable, fixed-aperture, beam-limiting devices sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed. Each such device shall have clear and permanent markings to indicate the image receptor size and SID for which it is designed; or

(iii) A beam-limiting device having multiple fixed apertures sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed. Permanent, clearly legible markings shall indicate the image receptor size and SID for which each aperture is designed and shall indicate which aperture is in position for use.

(g) *Positive beam limitation (PBL).* The requirements of this paragraph shall apply to radiographic systems which contain PBL.

(1) *Field size.* When a PBL system is provided, it shall prevent X-ray production when:

(i) Either the length or width of the X-ray field in the plane of the image receptor differs from the corresponding image receptor dimension by more than 3 percent of the SID; or

(ii) The sum of the length and width differences as stated in paragraph (g)(1)(i) of this section without regard to sign exceeds 4 percent of the SID.

(iii) The beam limiting device is at an SID for which PBL is not designed for sizing.

(2) *Conditions for PBL.* When provided, the PBL system shall function as described in paragraph (g)(1) of this section whenever all the following conditions are met:

(i) The image receptor is inserted into a permanently mounted cassette holder;

(ii) The image receptor length and width are less than 50 centimeters;

(iii) The X-ray beam axis is within ±3 degrees of vertical and the SID is 90 centimeters to 130 centimeters inclusive; or the X-ray beam axis is within ±3 degrees of horizontal and the SID is 90 centimeters to 205 centimeters inclusive;

(iv) The X-ray beam axis is perpendicular to the plane of the image receptor to within ±3 degrees; and

(v) Neither tomographic nor stereoscopic radiography is being performed.

(3) *Measuring compliance.* Compliance with the requirements of paragraph (g)(1) of this section shall be determined when the equipment indicates that the beam axis is perpendicular to the plane of the image receptor and the provisions of paragraph (g)(2) of this section are met. Compliance shall be determined no sooner than 5 seconds after insertion of the image receptor.

(4) *Operator initiated undersizing.* The PBL system shall be capable of operation such that, at the discretion of the operator, the size of the field may be made smaller than the size of the image receptor through stepless adjustment of the field size. Each dimension of the minimum field size at an SID of 100 centimeters shall be equal to or less than 5 centimeters. Return to PBL function as described in paragraph (g)(1) of this section shall occur automatically upon any change of image receptor size or SID.

(5) *Override of PBL.* A capability may be provided for overriding PBL in case of system failure and for servicing the system. This override may be for all SID's and image receptor sizes. A key

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shall be required for any override capability that is accessible to the operator. It shall not be possible to remove the key while PBL is overridden. Each such key switch or key shall be clearly and durably labeled as follows:

For X-ray Field Limitation System Failure

The override capability is considered accessible to the operator if it is referenced in the operator's manual or in other material intended for the operator or if its location is such that the operator would consider it part of the operational controls.

(h) *Field limitation and alignment for spot-film devices.* The following requirements shall apply to spot-film devices, except when the spot-film device is provided for use with a radiation therapy simulation system:

(1) Means shall be provided between the source and the patient for adjustment of the X-ray field size in the plane of the image receptor to the size of that portion of the image receptor which has been selected on the spot-film selector. Such adjustment shall be accomplished automatically when the X-ray field size in the plane of the image receptor is greater than the selected portion of the image receptor. If the X-ray field size is less than the size of the selected portion of the image receptor, the field size shall not open automatically to the size of the selected portion of the image receptor unless the operator has selected that mode of operation.

(2) Neither the length nor the width of the X-ray field in the plane of the image receptor shall differ from the corresponding dimensions of the selected portion of the image receptor by more than 3 percent of the SID when adjusted for full coverage of the selected portion of the image receptor. The sum, without regard to sign, of the length and width differences shall not exceed 4 percent of the SID. On spot-film devices manufactured after February 25, 1978, if the angle between the plane of the image receptor and beam axis is variable, means shall be provided to indicate when the axis of the X-ray beam is perpendicular to the plane of the image receptor, and compliance shall be determined with the beam axis indicated to be perpendicular to the plane of the image receptor.

(3) The center of the X-ray field in the plane of the image receptor shall be aligned with the center of the selected portion of the image receptor to within 2 percent of the SID.

(4) Means shall be provided to reduce the X-ray field size in the plane of the image receptor to a size smaller than the selected portion of the image receptor such that:

(i) For spot-film devices used on fixed-SID fluoroscopic systems which are not required to, and do not provide stepless adjustment of the X-ray field, the minimum field size, at the greatest SID, does not exceed 125 square centimeters; or

(ii) For spot-film devices used on fluoroscopic systems that have a variable SID and/or stepless adjustment of the field size, the minimum field size, at the greatest SID, shall be containable in a square of 5 centimeters by 5 centimeters.

(5) A capability may be provided for overriding the automatic X-ray field size adjustment in case of system failure. If it is so provided, a signal visible at the fluoroscopist's position shall indicate whenever the automatic X-ray field size adjustment override is engaged. Each such system failure override switch shall be clearly labeled as follows:

For X-ray Field Limitation System Failure

(i) *Source-skin distance*—(1) X-ray systems designed for use with an intraoral image receptor shall be provided with means to limit the source-skin distance to not less than:

(i) Eighteen centimeters if operable above 50 kVp; or

(ii) Ten centimeters if not operable above 50 kVp.

(2) Mobile and portable X-ray systems other than dental shall be provided with means to limit the source-skin distance to not less than 30 centimeters.

(j) *Beam-on indicators.* The X-ray control shall provide visual indication whenever X-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(k) *Multiple tubes.* Where two or more radiographic tubes are controlled by one exposure switch, the tube or tubes which have been selected shall be clearly indicated before initiation of the exposure. This indication shall be both on the X-ray control and at or near the tube housing assembly which has been selected.

(l) *Radiation from capacitor energy storage equipment.* Radiation emitted from the X-ray tube shall not exceed:

(1) 8.6×10^{-9} C/kg (0.03 mR) in 1 minute at 5 centimeters from any accessible surface of the diagnostic source assembly, with the beam-limiting device fully open, the system fully charged, and the exposure switch, timer, or any discharge mechanism not activated. Compliance shall be determined by measurements averaged over an area of 100 square centimeters, with no linear dimension greater than 20 centimeters; and

(2) 2.58×10^{-5} C/kg (100 mR) in 1 hour at 100 centimeters from the X-ray source, with the beam-limiting device fully open, when the system is discharged through the X-ray tube either manually or automatically by use of a discharge switch or deactivation of the input power. Compliance shall be determined by measurements of the maximum exposure per discharge multiplied by the total number of discharges in 1 hour (duty cycle). The measurements shall be averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(m) *Transmission limit for image receptor supporting devices used for mammography.* For X-ray systems manufactured after September 5, 1978, which are designed only for mammography, the transmission of the primary beam through any image receptor support provided with the system shall be limited such that the exposure 5 centimeters from any accessible surface beyond the plane of the image receptor supporting device does not exceed 2.58×10^{-8} C/kg (0.1 mR) for each activation of the tube. Exposure shall be measured with the system operated at the minimum SID for which it is designed. Compliance shall be determined at the maximum rated peak tube potential for the system and at the maximum rated product of the tube current and exposure time (mAs) for that peak tube potential. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

§ 1020.32 Fluoroscopic equipment.

The provisions of this section apply to equipment for fluoroscopy and for the recording of images through an image intensifier except computed tomography X-ray systems manufactured on or after November 29, 1984.

(a) *Primary protective barrier*—(1) *Limitation of useful beam.* The fluoroscopic imaging assembly shall be provided with a primary protective barrier which intercepts the entire cross section of the useful beam at any SID. The X-ray tube used for fluoroscopy shall not produce X-rays unless the barrier is in position to intercept the entire useful beam. The exposure rate due to transmission through the barrier with the attenuation block in the useful beam combined with radiation from the image intensifier if provided, shall not exceed 3.34×10^{-3} percent of the entrance exposure rate, at a distance of 10 centimeters from any accessible surface of the fluoroscopic imaging assembly beyond the plane of the image receptor. Radiation therapy simulation systems shall be exempt from this

requirement provided the systems are intended only for remote control operation and the manufacturer sets forth instructions for assemblers with respect to control location as part of the information required in § 1020.30(g). Additionally, the manufacturer shall provide to users, pursuant to § 1020.30(h)(1)(i), precautions concerning the importance of remote control operation.

(2) *Measuring compliance.* The entrance exposure rate shall be measured in accordance with paragraph (d) of this section. The exposure rate due to transmission through the primary barrier combined with radiation from the image intensifier shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters. If the source is below the tabletop, the measurement shall be made with the input surface of the fluoroscopic imaging assembly positioned 30 centimeters above the tabletop. If the source is above the tabletop and the SID is variable, the measurement shall be made with the end of the beam-limiting device or spacer as close to the tabletop as it can be placed, provided that it shall not be closer than 30 centimeters. Movable grids and compression devices shall be removed from the useful beam during the measurement. For all measurements, the attenuation block shall be positioned in the useful beam 10 centimeters from the point of measurement of entrance exposure rate and between this point and the input surface of the fluoroscopic imaging assembly.

(b) *Field limitation*—(1) *Nonimage-intensified fluoroscopy.* (i) The X-ray field produced by nonimage-intensified fluoroscopic equipment shall not extend beyond the entire visible area of the image receptor. Means shall be provided for stepless adjustment of the field size. The minimum field size, at the greatest SID, shall be containable in a square of 5 centimeters by 5 centimeters.

(ii) For equipment manufactured after February 25, 1978, when the angle between the image receptor and the beam axis of the X-ray beam is variable, means shall be provided to indicate when the axis of the X-ray beam is perpendicular to the plane of the image receptor. Compliance with paragraph (b)(1)(i) of this section shall be determined with the beam axis indicated to be perpendicular to the plane of the image receptor.

(2) *Image-intensified fluoroscopy.* (i) For image-intensified fluoroscopic equipment other than radiation therapy simulation systems, neither the length nor the width of the X-ray field in the plane of the image receptor shall exceed that of the visible area of the image receptor by more than 3 percent of the SID. The sum of the excess length and the excess width shall be no greater than 4 percent of the SID.

(ii) For rectangular X-ray fields used with circular image receptors, the error in alignment shall be determined along the length and width dimensions of the X-ray field which pass through the center of the visible area of the image receptor.

(iii) For equipment manufactured after February 25, 1978, when the angle between the image receptor and beam axis is variable, means shall be provided to indicate when the axis of the X-ray beam is perpendicular to the plane of the image receptor. Compliance with paragraph (b)(2)(i) of this section shall be determined with the beam axis indicated to be perpendicular to the plane of the image receptor.

(iv) Means shall be provided to permit further limitation of the field. Beam-limiting devices manufactured after May 22, 1979, and incorporated in equipment with a variable SID and/or the capability of a visible area of greater than 300 square centimeters shall be provided with means for stepless adjustment of the X-ray field. Equipment with a fixed SID and the capability of a visible area of no greater than 300 square centimeters shall be provided with either stepless adjustment of the X-ray field or with a means to further limit the X-ray field size at the plane of the image receptor to 125 square centimeters or less. Stepless adjustment shall, at the greatest SID, provide continuous field sizes from the maximum obtainable to a field size containable in a square of 5 centimeters by 5 centimeters.

(3) If the fluoroscopic X-ray field size is adjusted automatically as the SID or image receptor size is changed, a capability may be provided for overriding the automatic adjustment in case of system failure. If it is so provided, a signal visible at the fluoroscopist's position shall indicate whenever the automatic field adjustment is overridden. Each such system failure override switch shall be clearly labeled as follows:

For X-ray Field Limitation System Failure

(c) *Activation of tube.* X-ray production in the fluoroscopic mode shall be controlled by a device which requires continuous pressure by the operator for the entire time of any exposure. When recording serial fluoroscopic images, the operator shall be able to terminate the X-ray exposure(s) at any time, but means may be provided to permit completion of any single exposure of the series in process.

(d) *Entrance exposure rate limits*—(1) *Equipment with automatic exposure rate control (AERC).* Fluoroscopic equipment which is provided with AERC shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 2.58×10^{-3} C/kg per minute (10 roentgens per minute (10 R/min) at the point where the center of the useful beam enters the patient, except:

(i) During recording of fluoroscopic images, or

(ii) When an optional high level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 1.29×10^{-3} C/kg per minute (5 R/min) at the point where the center of the useful beam enters the patient, unless the high level control is activated. Special means of activation of high level controls shall be required. The high level control shall only be operable when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(2) *Equipment without AERC (manual mode).* Fluoroscopic equipment which is not provided with AERC shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 1.29×10^{-3} C/kg per minute (5 R/min) at the point where the center of the useful beam enters the patient, except:

(i) During recording of fluoroscopic images; or

(ii) When an optional high level control is activated. Special means of activation of high level controls shall be required. The high level control shall only be operable when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(3) *Equipment with both an AERC mode and a manual mode.* Fluoroscopic equipment which is provided with both an AERC mode and a manual mode shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 2.58×10^{-3} C/kg per minute (10 R/min) in either mode at the point where the center of the useful beam enters the patient except:

(i) During recording of fluoroscopic images; or

(ii) When the mode or modes have an optional high level control, in which case that mode or modes shall not be

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operable at any combination of tube potential and current which will result in an exposure rate in excess of 1.29×10^{-3} C/kg per minute (5 R/min) at the point where the center of the useful beam enters the patient, unless the high level control is activated. Special means of activation of high level controls shall be required. The high level control shall only be operable when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(4) *Measuring compliance.* Compliance with paragraph (d) of this section shall be determined as follows:

(i) If the source is below the X-ray table, the exposure rate shall be measured at 1 centimeter above the tabletop or cradle.

(ii) If the source is above the X-ray table, the exposure rate shall be measured at 30 centimeters above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement.

(iii) In a C-arm type of fluoroscope, the exposure rate shall be measured at 30 centimeters from the input surface of the fluoroscopic imaging assembly, with the source positioned at any available SID, provided that the end of the beam-limiting device or spacer is no closer than 30 centimeters from the input surface of the imaging assembly.

(iv) In a lateral type of fluoroscope, the exposure rate shall be measured at a point 15 centimeters from the centerline of the X-ray table and in the direction of the X-ray source with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement. If the tabletop is movable, it shall be positioned as closely as possible to the lateral X-ray source, with the end of the beam-limiting device or spacer no closer than 15 centimeters to the centerline of the X-ray table.

(5) *Exemptions.* Fluoroscopic radiation therapy simulation systems are exempt from this requirement.

(e) *Indication of potential and current.* During fluoroscopy and cinefluorography, X-ray tube potential and current shall be continuously indicated. Deviation of X-ray tube potential and current from the indicated values shall not exceed the maximum deviation as stated by the manufacturer in accordance with § 1020.30(h)(3).

(f) *Source-skin distance.* Means shall be provided to limit the source-skin distance to not less than 38 centimeters on stationary fluoroscopes and to not less than 30 centimeters on mobile and portable fluoroscopes. In addition, for image-intensified fluoroscopes intended for specific surgical application that would be prohibited at the source-skin distances specified in this paragraph, provisions may be made for operation at shorter source-skin distances but in no case less than 20 centimeters. When provided, the manufacturer must set forth precautions with respect to the optional means of spacing, in addition to other information as required in § 1020.30(h).

(g) *Fluoroscopic timer.* Means shall be provided to preset the cumulative on-time of the fluoroscopic tube. The maximum cumulative time of the timing device shall not exceed 5 minutes without resetting. A signal audible to the fluoroscopist shall indicate the completion of any preset cumulative on-time. Such signal shall continue to sound while X-rays are produced until the timing device is reset. As an alternative to the requirements of this paragraph, radiation therapy simulation systems may be provided with a means to indicate the total cumulative exposure time during which X-rays were produced, and which is capable of being reset between X-ray examinations.

(h) *Mobile and portable fluoroscopes.* In addition to the foregoing requirements of this section, mobile and portable fluoroscopes shall provide intensified imaging.

Dated: April 21, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-9925 Filed 4-30-93; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1020

[Docket No. 92N-0108]

Federal Performance Standard for Diagnostic X-Ray Syatems and Their Major Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing amendments to the Federal performance standard for diagnostic X-ray systems and their major components (the performance standard), amendments to which are published elsewhere in this issue of the **Federal Register** as a final rule. The proposed amendments revise the limits established for maximum radiation emissions for fluoroscopic X-ray systems during high-level control and other modes of operation. The revisions are being proposed due to concerns regarding excessively high radiation exposure levels on some fluoroscopy systems.

DATES: Comments by August 2, 1993. FDA proposes that any final rule based on this proposed rule become effective 1 year after the date of its publication in the **Federal Register**.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) as amended, FDA is proposing to amend the performance standard for diagnostic X-ray systems and their major components in § 1020.32 (21 CFR 1020.32), by revising the limits established for maximum radiation emissions for fluoroscopic X-ray systems during high-level control and other modes of operation. In the **Federal Register** of August 15, 1972 (37 FR 16461), the performance standard was published as a final rule, which became effective on August 1, 1974. Since that time, there have been several amendments to the performance standard. These amendments take into account new technology, clarify misinterpreted provisions, or incorporate additional requirements determined to be necessary to provide for adequate radiation safety of diagnostic X-ray systems. (See, e.g., those published October 7, 1974 (39 FR 36008); February 25, 1977 (42 FR 10983); September 2, 1977 (42 FR 44230); November 8, 1977 (42 FR 58167); May 22, 1979 (44 FR 29653); August 24, 1979 (44 FR 49667); November 30, 1979 (44 FR 68822); April 25, 1980 (45 FR 27927); and August 31, 1984 (49 FR 34698, 34712)). FDA also proposed amendments to the performance standard in the **Federal Register** of October 17, 1989 (54 FR 42674), corrected January 16, 1990 (55 FR 1472), and is publishing a final rule amending the standard elsewhere in this issue of the **Federal Register**.

In § 1020.32(d) of the performance standard, limits on the entrance exposure rate for fluoroscopic systems are specified. These requirements limit the maximum entrance exposure rate to which a patient may be exposed during normal fluoroscopy. (In this discussion, normal fluoroscopy refers to fluoroscopy without activation of the high-level control mode or recording of images.) The current performance standard does not impose entrance exposure rate limits for fluoroscopic systems when they are operated in an optional high-level exposure mode or when fluoroscopic images are recorded. In the performance standard, FDA provided for the optional high-level mode of operation to permit increased radiation output over that normally necessary for fluoroscopic imaging, for situations involving very large patients or for special imaging requirements. By creating an exemption from the entrance exposure rate limits for normal fluoroscopy for the period during recording of images, FDA recognized the higher exposure rates used when recording fluoroscopic images on film.

When these requirements limiting entrance exposure rates were originally developed and proposed, there was a lack of consensus as to appropriate entrance exposure rate limits during high-level control or during recording of images. This lack of consensus was due to the fact that the exposure rate necessary is determined by the quality of the image required to accomplish the clinical task, and no quantitative or standard description of the required image quality was possible. In view of this lack of consensus as to appropriate entrance exposure rate limits during high-level mode or during recording of images, no limits were established, and the question of appropriate limits was left for further study and possible future amendments.

In addition, when the requirements of § 1020.32(d) were developed, due to the increasing use of fluoroscopic systems that provided automatic exposure rate control, there was some controversy as to the appropriate entrance exposure rate limits during normal fluoroscopy. FDA originally proposed a limit of 5 roentgens per minute (R/min) on the entrance exposure rate during normal fluoroscopy, based on voluntary recommendations regarding equipment performance from the National Council on Radiation Protection and Measurements (NCRP). Some concern was raised in the comments on the proposed standard that a limit of 5 R/min would limit the capabilities of some newly introduced fluoroscopic systems, which provided automatic exposure rate control during fluoroscopy. It was argued that to operate effectively, these systems required exposure capabilities exceeding 5 R/min.

To accommodate these systems, the performance standard, as finally published, established two limits on entrance exposure rate for systems providing automatic exposure rate control, depending on whether or not the system provided a high-level mode of operation. For systems with automatic exposure rate control which do not provide high-level control, the limit on entrance exposure rate was set at 10 R/min during normal fluoroscopy. For automatic exposure rate control systems provided with a capability for high-level mode operation, the entrance exposure rate was set at 5 R/min unless the high-level control was activated. When the high-level control is activated, there is no limit on entrance exposure rate.

Recent testing of fluoroscopic X-ray systems and reviews of the operational capabilities of some systems by FDA and others have raised concerns regarding the potential for unnecessary radiation exposures to patients from some current system designs. These concerns arise from two aspects of the current performance standard and the increased radiation output capability of some recently introduced fluoroscopic X-ray systems. First, the lack of a limit on radiation emission during high-level control mode of operation has allowed systems to be marketed which have maximum entrance exposure rates during high-level mode. These exposure rates are many times greater than the maximum rates allowed during normal fluoroscopy. The clinical need for such

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high radiation output has not been demonstrated.

Second, the current requirements for systems with automatic exposure rate control can result in increased use of the high-level control mode for systems limited to 5 R/min during normal fluoroscopy. For those imaging situations when entrance exposure rates greater than 5 R/min might be required, the operator is forced to use the high-level mode, which, due to the lack of a limit on exposure rate during high-level mode, may result in significantly higher exposures than necessary. Rather than operating at exposure rates of 6 or 7 R/min, the system may operate in the range of 10 to 20 R/min or higher, depending on the system adjustment for the high-level mode.

In view of these concerns, FDA discussed proposed draft amendments to the performance standard during a public meeting of the Technical Electronic Products Radiation Safety Standards Committee (TEPRSSC) on November 14, 1990. TEPRSSC is a statutory advisory committee (21 U.S.C. 360kk(f)(1)(A)) that FDA is required to consult before it may prescribe any electronic product performance standard under the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90–602). TEPRSSC approved the content of the proposed amendments and concurred with publication of them for public comment (Ref. 1). Accordingly, FDA is proposing to amend the performance standard as indicated below.

II. Proposed Amendments to the Performance Standard for Diagnostic X-Ray Systems and Their Major Components

A. Change in Unit for the Quantity Exposure

Elsewhere in this issue of the **Federal Register**, the agency is setting forth a policy to implement the International System of Units (SI) throughout the performance standard. FDA proposes to change the units used in the performance standard for the quantity exposure from the current unit of roentgen (R) to the SI units of coulomb per kilogram (C/kg). The new units will be followed in the amended standard by its equivalent in roentgens in parentheses to assist in the transition to the new unit.

FDA notes that adoption of the SI system of units by the radiation protection field is resulting in a period of transition for the unit used for the quantity exposure and the instrumentation used to measure this quantity and its calibration. The previously used unit for exposure, the roentgen, is not a unit consistent with the SI system.

Use of the SI units for the quantity exposure, the C/kg, results in numerical quantities that are somewhat awkward compared to previous values encountered in radiation protection activities and used in the performance standard. (Compare 5 R to its equivalent of 1.29×10^{-3} C/kg.) The use of the quantity exposure in radiation protection activities is gradually being phased out, and the quantity air kerma is being adopted as the quantity to describe the intensity of an X-ray or gamma-ray field in many circumstances. This change can also lead to values for limits which appear awkward when the limits, formerly expressed as integer values in R, are expressed using equivalent limits of the air kerma and its SI unit, the gray (Gy). For example, a limit of 10 R on exposure would be equivalent to a limit of 8.7 centigray (cGy), or 87 milligray (mGy), when expressed as the quantity air kerma.

In this proposal, which primarily deals with fluoroscopic entrance exposure rate limits, FDA is not proposing to adopt the quantity air kerma for use in the performance standard. FDA does invite comment on the approach which should be taken in the entire performance standard for diagnostic X-ray systems regarding the quantities and units to describe the intensity of the X-ray field. Adoption of the quantity air kerma and the description of limits as integer values, a desirable approach for ease of use, could require changes in the present regulatory limits. For example, an exposure rate limit of 10 R/min expressed as an air kerma rate limit of 100 mGy/min would involve an effective increase in the limit of about fifteen percent. Recent revision of NCRP recommendations were published as NCRP Report 102, entitled "Medical X-Ray, Electron Beam and Gamma-Ray Protection for Energies Up to 50 MeV" (ref. 2). This report adopted the use of air kerma as the quantity to describe the radiation field, used integer values for the recommended limits, and effectively increased previous NCRP recommended limits by about 15 percent.

B. Entrance Exposure Rate Limit During Normal Fluoroscopy

FDA proposes to replace the current two-tier system of limits on entrance exposure rate during normal fluoroscopy with automatic exposure rate control (AERC), contained in § 1020.32(d), with a single limit of 10 R/min on the entrance exposure rate. The current standard has limits of 5 or 10 R/min on the entrance exposure rate during normal fluoroscopy, depending on whether or not the system has a high-level control. This change increases the limit on entrance exposure rate during normal fluoroscopy for systems having AERC and high-level control from the current value of 5 to 10 R/min. In the revised standard, this limit would be expressed in SI units as a limit of 2.58×10^{-3} C/kg per minute followed by the limit in the older units in parentheses expressed as (10 R/min).

The current requirement of § 1020.32(d)(1) limits the output, during normal fluoroscopy, of systems with a high-level control to less than 5 R/min. For examinations where system output levels of slightly more than 5 R/min are required for the diagnostic task, these systems must be operated in the high-level mode. In this case, instead of the output being that needed for the examination, say in the range of 5 to 10 R/min, the output characteristic of high-level control is delivered. For many systems, the maximum output in high-level mode is considerably greater than 10 R/min.

This change will affect the small portion of fluoroscopic systems which have high-level controls and AERC. The impact will be to increase the range of patient sizes which can be accommodated in normal fluoroscopy without having to resort to high-level control. It will also bring the performance standard into closer agreement with the recommendations in NCRP Report 102 (ref. 2), which uses "should" for the 5 cGy/min limit and "shall" for the 10 cGy/min limit on recommended entrance kerma rates.

C. Entrance Exposure Rate During High-Level Fluoroscopy

FDA proposes to establish a limit on the maximum patient entrance exposure rate permitted during high-level control mode of fluoroscopy. The limit proposed is 20 R/min, which is twice the maximum entrance exposure rate of 10 R/min, which would be allowed during normal fluoroscopy.

The current standard places no limit on system output or entrance exposure rate during the high-level control mode of fluoroscopic imaging. Only a small fraction of fluoroscopic systems are provided with the high-level control capability. Of these systems, a majority operate with the maximum entrance exposure rate during high-level control limited to values less than 20 R/min. However, because there is no upper limit, some systems are adjusted such that the entrance exposure rate during high-level control is considerably greater than 20 R/min. FDA testing has revealed systems with maximum entrance exposure rates during high-level control in the range of 40 to 70 R/min. Reports of systems with outputs exceeding 100 R/min have been received. The clinical justification for such high radiation output has not been established.

In response to a request for comments on a preliminary draft of these proposed amendments made available to a number of professional organizations, manufacturers, and others, a comment was received from a medical physicist at a large medical institution. This comment made the observation that, at his facility, none of the 65 fluoroscopic systems was equipped with the optional high-level control, and he questioned the need for a high-level control. He described his facility as doing the full range of fluoroscopic and special procedures, including interventional procedures, without the need for high-level control. He described other steps which could be taken using modern equipment to enable adequate imaging of large patients without subjecting them to the radiation exposure associated with high-level control mode of operation. Among these suggestions were imaging without using a grid or adjusting the iris in front of the television camera. In view of these comments, FDA solicits comments specifically on the need for a high-level control mode and whether such a mode should be allowed by the performance standard, as well as comments on the proposed limit for exposure rate during high-level control operation.

D. Requirement for Automatic Exposure Rate Control

FDA proposes that any fluoroscopic system capable of operating at greater than 5 R/min entrance exposure rate must be provided with an AERC mode of operation. Except for a few examinations with special imaging requirements not accommodated under AERC, the preferred mode of operation of a fluoroscopic X-ray system is with AERC. This frees the physician to concentrate on the clinical aspects of the examination, without concern for equipment technique factors during the examination, and generally results in images of appropriate brightness or density. Establishing the requirement for the provision of AERC at an entrance exposure rate greater than 5 R/min will permit currently marketed "manual only" systems to continue to be marketed, while requiring that AERC be available on any systems with output capability above 5 R/min for normal and high-level fluoroscopy.

E. Limit on Entrance Exposure Rate During Recording of Continuous Fluoroscopy

FDA proposes to apply the entrance exposure rate limits during the continuous recording of dynamic fluoroscopic images with a video tape recorder or similar device. Currently, the performance standard places no limit on the radiation output during recording of the fluoroscopic image. This exemption has been interpreted to apply when the video signal from the video camera is recorded with a video tape recorder. The result is that the limit on radiation output during normal fluoroscopy (and during high-level control under the changes proposed here) is negated by simply attaching a video tape recorder to the system. This practice can be used to bypass the limit on entrance exposure rate during fluoroscopy, regardless of whether the recorded video images are used.

The appropriate controls or entrance exposure rate limits for video recording using a sequence of pulsed radiation exposures, such as with progressively scanned cameras, or for digital recording, such as digital subtraction procedures, needs further study to determine appropriate limits. Thus, the exemption to the entrance exposure rate limits would continue to apply during these other means of recording images. Furthermore, any recording that requires pulsed exposure (pulsed tube current), such as cinefluorography or photospot filming, would still be exempted from the entrance exposure rate limits.

F. No Intended Effect on Already-Existing X-ray Systems or Their Major Components

These amendments are not intended to impose any new requirements on X-ray systems or their major components manufactured before May 3, 1993.

III. References

The following information has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. to 4 p.m., Monday through Friday.

1. Agenda and Background Information, 21st meeting, Technical Electronic Product Radiation Safety Standards Committee, Center for Devices and Radiological Health, June 22 and 23, 1987.

2. National Council on Radiation Protection and Measurement, Report No. 102, "Medical X-Ray, Electron Beam and Gamma-Ray Protection for Energies up to 50 MeV," June 30, 1989.

IV. Environmental Impact

The agency has determined under 21 CFR 25.24(e)(3) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Economic Impact

FDA has identified three types of potential costs that might be associated with implementation of the proposed amendment. These are: (1) Costs to manufacturers resulting from changes in system design and installation procedures required to meet the new requirements; (2) costs to Federal and State regulatory programs to implement and enforce the new requirements; and (3) costs to X-ray facilities to conduct quality assurance evaluations of X-ray systems. The costs to Federal and State regulatory agencies and to X-ray facilities are not anticipated to be significant. The testing required to ensure compliance with the performance standard and quality assurance requirements can easily be included in current testing programs with minimal additional costs. The total costs to manufacturers to meet the new requirements are estimated to be $760,000, based on estimated labor and materials costs of $362,000 ($1,000 per system with high-level control mode for an estimated 362 systems), and estimated overhead costs associated with implementation of $400,000 ($50,000 per manufacturer for eight manufactures). This proposal establishes a maximum entrance exposure rate to which a patient can be exposed when fluoroscopic systems are operated in high-level control mode. The proposal also revises the maximum limit for entrance exposure rate during normal fluoroscopy, which should reduce the need for use of high-level control mode, with its attendant higher exposure rates. These actions offer a significant public health benefit by reducing the potential for unnecessary radiation exposure of patients and staff. After consideration of the economic consequences of the proposed amendments, FDA certifies that this proposal requires neither a regulatory impact analysis, as specified in Executive Order 12291, nor a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). A copy of the threshold assessment supporting this determination is on file with the Dockets Management Branch (address

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above) and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

VI. Comments

Interested persons may, on or before August 2, 1993, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 1020

Electronic products, Medical devices, Radiation protection, Reporting and recordkeeping requirements, Television, X-rays.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 1020 be amended as follows:

PART 1020—PERFORMANCE STANDARDS FOR IONIZING RADIATION EMITTING PRODUCTS

1. The authority citation for 21 CFR part 1020 continues to read as follows:

Authority: Secs. 501, 502, 515–520, 530–542, 701, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360e–360j, 360gg–360ss, 371, 381).

2. Section 1020.30 is amended in paragraph (b) by alphabetically adding a new definition for "Pulsed mode" to read as follows:

§ 1020.30 Diagnostic X-ray systems and their major components.

* * * * *

(b) *Definitions.* * * *

* * * * *

Pulsed mode means operation of the X-ray system such that the X-ray tube current is pulsed by the X-ray control to produce one or more exposure intervals of duration less than one-half second.

* * * * *

3. Section 1020.32 is amended by revising paragraph (d), by redesignating paragraphs (e) through (h) as paragraphs (f) through (i) respectively, and by adding new paragraph (e) to read as follows:

§ 1020.32 Fluoroscopic equipment.

* * * * *

(d) *Entrance exposure rates.* For fluoroscopic equipment manufactured before [1 year after date of publication of the final rule in the **Federal Register**], the following requirements apply:

(1) *Equipment with automatic exposure rate control (AERC).* Fluoroscopic equipment which is provided with AERC shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 2.58×10^{-3} coulomb per kilogram (C/kg) per minute (10 roentgens per minute (R/min)) at the point where the center of the useful beam enters the patient, except:

(i) During recording of fluoroscopic images, or

(ii) When an optional high level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 1.29×10^{-3} C/kg per minute (5 R/min) at the point where the center of the useful beam enters the patient, unless the high-level control is activated. Special means of activation of high-level controls shall be required. The high-level control shall only be operable when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the highlevel control is being employed.

(2) *Equipment without AERC (manual mode).* Fluoroscopic equipment which is not provided with AERC shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 1.29×10^{-3} C/kg per minute (5 R/min) at the point where the center of the useful beam enters the patient, except:

(i) During recording of fluoroscopic images, or

(ii) When an optional high-level control is activated. Special means of activation of high-level controls shall be required. The high-level control shall only be operable when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level is being employed.

(3) *Equipment with both an AERC mode and a manual mode.* Fluoroscopic equipment which is provided with both an AERC mode and a manual mode shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 2.58×10^{-3} C/kg per minute (10 R/min) in either mode at the point where the center of the useful beam enters the patient, except:

(i) During recording of fluoroscopic images, or

(ii) When the mode or modes have an optional high-level control, in which case that mode or modes shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 1.29×10^{-3} C/kg per minute (5 R/min) at the point where the center of the useful beam enters the patient, unless the high-level control is activated. Special means of activation of high-level controls shall be required. The high-level control shall only be operable when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level is being employed.

(4) *Measuring compliance.* Compliance with paragraph (d) of this section shall be determined as follows:

(i) If the source is below the X-ray table, the exposure rate shall be measured at 1 centimeter above the tabletop or cradle.

(ii) If the source is above the X-ray table, the exposure rate shall be measured at 30 centimeters above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement.

(iii) In a C-arm type of fluoroscope, the exposure rate shall be measured at 30 centimeters from the input surface of the fluoroscopic imaging assembly, with the source positioned at any available SID, provided that the end of the beam-limiting device or spacer is no closer than 30 centi.neters from the input surface of the imaging assembly.

(iv) In a lateral type of fluoroscope, the exposure rate shall be measured at a point 15 centimeters from the centerline of the X-ray table and in the direction of the X-ray source, with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement. If the tabletop is movable, it shall be positioned as closely as possible to the lateral X-ray source, with the end of the beam-limiting device or spacer no closer than 15 centimeters to the centerline of the X-ray table.

(5) *Exemptions.* Fluoroscopic radiation therapy simulation systems are exempt from the requirements set forth in paragraph (d) of this section.

(e) *Entrance exposure rate limits.* For fluoroscopic equipment manufactured on and after [1 year after date of publication of the final rule in the **Federal Register**], the following requirements apply:

(1) Fluoroscopic equipment operable at any combination of tube potential and current which results in an exposure rate greater than 1.29×10^{-3} C/kg per minute (5 R/min) at the point where the center of the useful beam enters the patient shall be equipped with automatic exposure rate control. Provision for manual selection of technique factors may be provided.

(2) Fluoroscopic equipment shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 2.58×10^{-3} C/kg per minute (10 R/min) at the point where the center of the useful beam enters the patient, except:

(i) During the recording of images from an X-ray image intensifier tube using photographic film or a video camera when the X-ray source is operated in a pulsed mode.

(ii) When an optional high-level control is activated. When the high-level control is activated, the equipment shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 5.16×10^{-3} C/kg per minute (20 R/min) at the point where the center of the useful beam enters the patient. Special means of activation of high-level controls shall be required. The high-level control shall only be operable when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is being employed.

(3) *Measuring compliance.* Compliance with paragraph (e) of this section shall be determined as follows:

(i) If the source is below the X-ray table, the exposure rate shall be measured at 10 millimeters above the tabletop or cradle.

(ii) If the source is above the X-ray table, the exposure rate shall be measured at 300 millimeters above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement.

(iii) In a C-arm type of fluoroscope, the exposure rate shall be measured at 300 millimeters from the input surface of the fluoroscopic imaging assembly, with the source positioned at any available SID, provided that the end of the beam-limiting device or spacer is no closer than 300 millimeters from the input surface of the fluoroscopic imaging assembly.

(iv) In a lateral type of fluoroscope, the exposure rate shall be measured at a point 150 millimeters from the centerline of the X-ray table and in the direction of the X-ray source with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement. If the tabletop is movable, it shall be positioned as closely as possible to the lateral X-ray source, with the end of the beam-limiting device or spacer no closer than 150 millimeters to the centerline of the X-ray table.

(4) *Exemptions.* Fluoroscopic radiation therapy simulation systems are exempt from the requirement set forth in paragraph (e) of this section.

* * * * *

Dated: April 21, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-9926 Filed 4-30-93; 8:45 am]

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Part III

Federal Emergency Management Agency

Changes to the Hotel and Motel Fire Safety Act National Master List; Notice

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FEDERAL EMERGENCY MANAGEMENT AGENCY

Changes to the Hotel and Motel Fire Safety Act National Master List

AGENCY: United States Fire Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA or Agency) gives notice of additions and corrections/changes to, and deletions from, the national master list of places of public accommodations which meet the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act.

EFFECTIVE DATE: June 2, 1993.

ADDRESSES: Comments on the master list or any changes to the master list are invited and may be addressed to the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street, SW., room 840, Washington, DC 20472, (fax) (202) 646–4536.

FOR FURTHER INFORMATION CONTACT: Larry Maruskin, Office of Fire Prevention and Arson Control, United States Fire Administration, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1141.

SUPPLEMENTARY INFORMATION: Acting under the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. 2201 note, the United States Fire Administration has worked with each State to compile a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines under the Act. FEMA published the national master list in the **Federal Register** on Tuesday, November 24, 1992, 57 FR 55314, and published changes four times previously.

Periodically FEMA will update and redistribute the national master list to incorporate additions and corrections/changes to the list, and deletions from the list.

Each update contains or will contain three categories: "Additions;" "Corrections/changes;" and "Deletions." For the purposes of the updates, the three categories mean and include the following:

"Additions" are either names of properties submitted by a State but inadvertently omitted from the initial master list or names of properties submitted by a State after publication of the initial master list;

"Corrections/changes" are corrections to property names, addresses or telephone numbers previously published or changes to previously published information directed by the State, such as changes of address or telephone numbers, or spelling corrections; and

"Deletions" are entries previously submitted by a State and published in the national master list or an update to the national master list, but subsequently removed from the list at the direction of the State.

Copies of the national master list and its updates may be obtained by writing to the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325. When requesting copies please refer to stock number 069–001–00049–1.

The update to the national master list follows below.

Dated: April 27, 1993.

James L. Witt,

Director.

ADDITIONS

Alaska

Holiday Inn Anchorage, 239 W 4th Avenue, Anchorage, AK 99501
Reluctant Fisherman Inn, PO Box 150, Cordova, AK 99574

Arkansas

Comfort Inn, PO Box 68, 150 Hwy 65 N, Conway, AR 72032, (501) 329–0300
Comfort Inn El Dorado, 2320 Junction City Road, El Dorado, AR 71730, (501) 863–6677
Holiday Inn Forrest City, #1 Holiday Drive, Forrest City, AR 72335 (501) 633–6300
Best Western Inn Of Hope, I–300 & Hwy 4, Hope, AR 71801, (501) 777–9222
Quality Inn Of Hope, I–30 & Hwy 29, Hope, AR 71801, (501) 777–0777
Comfort Inn Airport, 3200 Bankhead Drive, Little Rock, AR 72206, (501) 490–2010
Laquinta Motor Inn North #578, 4100 McCain Blvd, North Little Rock, AR 72117, (501) 945–0808
Comfort Inn Russellville, 3091 E d Street, Russellville, AR 72801, (501) 967–7500
Holiday Inn—Northwest Arkansas, 1500 S 48th Street, Springdale, AR 72762, (501) 751–8300
Econo Lodge, 2315 S Service Road, West Memphis, AR 72301, (501) 732–2830
Hampton Inn, I–55 & I–40 Ingram Blvd, West Memphis, AR 72301, (501) 732–1102
The Express Inn, 3700 Service Road Loop, West Memphis, AR 72301, (501) 732–5688

Arizona

Econo Lodge Lucky Lane, 2480 E Licky Lane, Flagstaff, AZ 86001, (602) 774–7701
Payson Pueblo Inn, 809 E Hwy 260, Payson AZ, 85541, (602) 474–5241
Best Western Bell Motel, 17211 N Black Canyon Hwy, Phoenix, AZ 85023, (602) 993–8300
Residence Inn, The, 8242 N Black Canyon Freeway, Phoenix, AZ 85051, (602) 864–1900
Days Inn Prescott Valley, 7875 E Hwy 69, Prescott Valley, AZ 86314, (602) 772–8600
Embassy Suites Hotel—Tempe, 4400 S Rural Road Tempe, AZ 85282, (602) 894–7444
Sheraton Tucson El Conquistador Resort, 10,000 N Oracle Road, Tucson, AZ 85737–7696, (602) 544–5000

California

Holiday Inn Express—Anaheim, 435 West Katella Avenue, Anaheim, CA 92802, (714) 772–7755
Residence Inn By Marriott—Anaheim, 1700 S Clementine Street, Anaheim, CA 92802, (714) 533–3555
Best Western Knights' Inn, 2688 Gateway Drive, Anderson, CA 96007, (916) 365–2753
Quality Inn, 3535 Janes Road, Arcata, CA 95521, (707) 822–0409
Holiday Inn Barston, 1511 E Main Street, Barston, CA 92311, (619) 256–5673
Solvang Buellton Holiday Inn, 555 McMurray Road, Buellton, CA 93427, (805) 688–1000
Holiday Inn Crowne Plaza, 600 Airport Blvd, Burlingame, CA 94010, (415) 340–8500
Embassy Suites Covina Ca, 1211 E. Garvey, Covina, CA 91724, (818) 915–3441
Comfort Inn, 9438 E Fire Stone Blvd, Downey, CA 90241, (310) 803–3555
Radisson Inn Encinitas, 85 Encinitas Blvd, Encinitas, CA 92024, (619) 942–7455
Holiday Inn Fullerton, 222 W Houston Avenue, Fullerton, CA 92632, (714) 992–1700
Best Western Hanford Inn, 755 Cadillac Lane, Hanford, CA 93230, (209) 583–7300
Holiday Inn Express Los Angles Airport, 4922 W Century Blvd, Inglewood, CA 90304, (310) 671–7213
Irvine Spectrum Suites Hotel, 23192 Lake Center Drive, Lake Forest, CA 92630, (714) 380–9888
Airport Century Inn, 5547 W Century Blvd, Los Angeles, CA 90045, (310) 649–4000
Best Western The Mayfair, 1256 W Seventh Street, Los Angeles, CA 90017–2315, (213) 484–9789
The Kawada Hotel, 200 S Hill Street, Los Angeles, CA 90012, (213) 621–4455
University Hilton—Los Angeles, 3540 S Figueroa Street, Los Angeles, CA 90007, (213) 748–4141
Menlo Park Inn, 1315 El Camino Real, Menlo Park, CA 94025, (415) 326–7530
Holiday Inn Resort, 1000 Aguajito Road, Monterey, CA 93940, (408) 373–6141
Monterey/Carmel Travelodge (at The Fairgrnds), 2030 N. Fremont Street, Monterey, CA 93940, (408) 373–3381
Residence Inn By Marriott—Pleasant Hill, 700 Ellinwood Way, Pleasant Hill, CA 94523, (510) 689–1010
Rodeway Inn Of Rosemead California, 8832 Glendon Way, Rosemead, CA 91770, (818) 288–9801
Sheraton Rosemead, 888 Montebello Blvd., Rosemead, CA 91770, (213) 722–8800
Capitol Center Travelodge, 1111 H Street, Sacramento, CA 95814, (916) 444–8880
Holiday Inn Sacremento Northeast, 5321 Date Avenue, Sacramento, CA 95841–2597, (916) 338–5800
Residence Inn By Marriott, 2410 W El Camino, Sacramento, CA 95833, (916) 649–1300

Holiday Inn Express Salex, 131 John Street, Salinas, CA 93901, (408) 757–1020
Comfort Inn—Mission Bay, 3747 Midway Drive, San Diego, CA 92110, (619) 225–1295
Econo Lodge, 3880 Greenwood Street, San Diego, CA 92110, (619) 543–9944
Holiday Inn Harbor View, 1617 First Avenue, San Diego, CA 92101, (619) 239–6171
Lexington Hotel & Suites, 3888 Greenwood Street, San Diego, CA 92110, (619) 299–6633
Radisson Suite Hotel Rancho Bernardo, 11520 W Bernardo Court, San Diego, CA 92127–1602, (619) 451–6600
The Horton Grand Hotel, 311 Island Avenue, San Diego, CA 92101, (619) 544–1886
Comfort Suites Hotel, 501 W Bonita Avenue, San Dimas, CA 91773, (909) 592–0500
Metro Pacific Suites, 840 Post Street, San Francisco, CA 94109, (415) 928–7600
Metro Pacific Suites, 737 Post Street, San Francisco, CA 94109, (415) 928–7600
Santa Barbara Beach Travelodge, 22 Castillo, Santa Barbara, CA 93101, (805) 965–8527
Quality Suites—Silicon Valley, 3100 Lakeside Drive, Santa Clara, CA 95054, (408) 748–9800
Radisson Huntley Hotel, 1111 Second Street, Santa Monica, CA 90004, (310) 394–5454
Best Western Cordelia Inn, 4373 Central Place, Suisun, CA 94585, (707) 864–2029
Holiday Inn, 1000 Fairgrounds Drive, Vallejo, CA 94533, (707) 644–1200

Colorado

Peak Inn & R. V. Resort, 4950 N. Nevada Avenue, Colorado Springs, CO 80918, (719) 598–1545
Embassy Suites Hotel Denver Tech Center, 10250 E Costilla Avenue, Englewood, CO 80112, (303) 792–0433
Friendship Inn, 400 E Tomichi Avenue, Gunnison, CO 81230, (303) 641–1288
Gunnison Super 8 Motel, 411 E Tomichi Avenue, Gunnison, CO 81230, (303) 641–1288
Holiday Inn Denver—Northglenn, 10 E 120th Avenue, Northglenn, CO 80233, (303) 452–4100

Iowa

Arrowhead Motel, 2520 Mt. Pleasant Street, Burlington, IA 52601–2118, (319) 752–6353
Heartland Inn, 1901 Hackley Avenue, Des Moines, IA 50321, (515) 256–0603
Clarion Hotel, 450 Main, Dubuque IA, 52001, (800) 421–1213

Illinois

Imperial 400 Motor Inn, 600 E Main, Belleville, IL 62220, (618) 234–9670
Bloomington Days Inn, 1707 W Market Street, Bloomington, IL 61701, (309) 829–6292
Lees Inn—Kankakee, 1500 N Sr 50, Bourbonnais, IL 60914, (815) 932–8080
Super 8—Kankakee, 1390 Lock Drive, Bourbonnais, IL 60914, (815) 939–7888
Knotty Pine Inn & Motel, 215 N 4th Street, Breese, IL 62230, (818) 526–4556
Champaign Comfort Inn, 305 Marketview Drive, Champaign, IL 61821, (217) 352–4055
Holiday Inn—Champaign, 1505 N Neil, Champaign, IL 61820, (217) 359–1601
Tri—Manor Motel, 3420 N 22nd Street, Decatur, IL 62526, (217) 877–6900
The Presidential Inn, 1231 N Galena Avenue, Dixon, IL 61021, (815) 284–3351
Lewis And Clark Motor Lodge, 530 Lewis And Clark Blvd., East Alton, IL 62024, (618) 254–0683
Super 8 Motel—East Moline, R. R. 2, 2201 John Deere Road, East Moline, IL 61244 (309) 796–1999
Forsyth Comfort Inn, 134 Barnett Avenue, Forsyth, IL 62535, (217) 875–1166
Granite City Lodge, 1200 9th Street, Granite City, IL 62040, (618) 876–2600
Gurnee Comfort Inn, 6080 Gurnee Mill Blvd., E, Gurnee, IL 60031, (708) 855–8866
Gurnee Fairfield Inn, 6090 Gurnee Mills Blvd., E, Gurnee, IL 60031, (708) 855–8868
Holiday Inn Chicago South—Lansing, 17356 Torrence Avenue, Lansing, IL 60438, (708) 474–6300
Days Inn—Lincoln, 2019 N Kickapoo, Lincoln, IL 62656, (217) 735–1202
Radisson Hotel—Lincolnwood, 4500 W Touhy Avenue, Lincolnwood, IL 60646, (708) 677–1234
Giant City State Park Lodge And Cabins, PO Box 70, Makanda, IL 62958, (618) 457–4836
Comfort Suites—Marion, PO Box 70, 2608 W Main, Marion, IL 62959, (618) 997–9133
Morris Comfort Inn, 70 Gore Road W, Morris, IL 60450, (815) 942–1433
Super 8 Motel—Morris, 70 Green Acres Drive, Morris, IL 60450, (815) 942–3200
Red Roof Inn—Naperville, 1698 W Diehl Road, Naperville, IL 60563, (708) 369–2600
Peoria Comfort Suites, 4021 War Memorial Drive, Peoria, IL 61614, (309) 688–3800
Super 8—Rantoul, 207 S. Murray, Rantoul, IL 61866, (217) 893–8888
Confort Inn—Rockford, 7392 Argus Drive, Rockford, IL 61107, (815) 398–7061
Silver Fountein Inn, 2917 Peoria Road, Springfield, IL 62702, (217) 525–9520
Super 8—Washington, 1884 Washington Road, Washington, IL 61571, (309) 444–8881

Massachussets

Susse Chalet Inn, Clark Road & Route 110, Amesbury, MA 01913, (508) 388–3400
Sheraton Tara Hotel—Braintree, 37 Forbes Road, Braintree, MA 02184 (617) 848–0600
Sheraton Tara Hotel, 320 Washington Street, Newton, MA 02158, (617) 969–3010
Sheraton Plymouth Inn, 180 Water Street, Plymouth, MA 02360, (508) 747–4900
Publick House Historic Resort, Main Street, Strubridge, MA 001566, (508) 347–3313
Susse Chalet Of Waltham, 385 Winter Street, Waltham, MA 002154, (617) 890–2800
Knoll Motel, 572 Riverdale Street, West Springfield, MA 01089, (413) 788–9648
Red Roof Inn, 1254 Riverdale Street, West Springfield, MA 01089, (413) 731–1010
Residence Inn By Marriott, 25 Connector Road, Westborough, MA 01581, (508) 366–7700

Michigan

Comfort Inn, 3110 W Monroe, Alma, MI 48801, (517) 463–4400
Red Roof Inn, 3621 Plymouth Road, Ann Arbor, MI 48105, (313) 996–5800
Stouffer Battle Creek Hotel, 50 Capital Avenue S.W., Battle Creek, MI 49017, (616) 963–7050
Holiday Inn Of Benton Harbor, 2860 S Michigan Hwy 139, Benton Harbor, MI 49022, (616) 925–3234
Super 8 Motel—Benton Harbor, 1950 E Napier Avenue, Benton Harbor, MI 49022, (616) 926–1371
Econo Lodge—Flint, 932 S Center Road, Flint, MI 48503, (313) 744–0200
Hojo Inn, 6027 Ann Arbor Road, Jackson, MI 49201, (517) 764–3820
Holiday Inn—Livonia West, 17123 Laurel Park Drive N., Livonia, MI 48152, (313) 464–1300
Holiday Inn—Midland, 1500 W Wackerly Street, Midland, MI 48640, (517) 631–4220
Ramada Inn, 1815 S Saginaw Road, Midland, MI 48640, (517) 631–0570
Holiday Inn—Mt. Pleasant, 5665 E Pickard, Mt. Pleasant, MI 48858, (517) 772–2905
Sheraton Oaks—Novi, 27000 Sheraton Drive, Novi, MI 48377, (313) 348–5000
Comfort Inn—Okemos, 2209 University Park Drive, Okemos, MI 48864 (517) 349–8700
Holiday Inn, 11500 Eleven Mile, Warren, MI 48089, (313) 754–9400
Residence Inn—Warren, 30120 Civic Center Blvd., Warren, MI 48093, (313) 558–8050
Quality Inn—Conference Center, PO Box 369, 2980 Cook Road, West Branch, MI 48661, (517) 345–3503

Minnesota

Comfort Inn, 111 28th Street SE, Rochester, MN 55904, (507) 286–1001

Mississippi

Holiday Inn—Express, 2416 Beach Blvd., Biloxi, MS 39531, (601) 388–1000
Holiday Inn—Brookhaven, 1210 Brookway Blvd., Brookhaven, MS 39601, (601) 833–1341
Comfort Inn—Clarksdale, 710 S State Street, Clarksdale, MS 38614, (601) 627–9292
Columbus Holiday Inn, 506 Hwy 45 N, Columbus, MS 39701, (601) 328–4202
Holiday Inn Gulfport—Beachfront, 1600 E Beach, Gulfport, MS 39501, (601) 864–4310
Holiday Inn I–10 Airport, 9415 Hwy 49, Gulfport, MS 39503, (601) 868–8200
Days Inn, PO Box 6518, US Hwy 49, Hattiesburg, MS 39401, (601) 544–6360
Days Inn, PO Box 2355, Hwy 80 W, Jackson, MS 39204, (601) 948–0680
Quality Inn North, 4641 I–55 N, Jackson, MS 39206, (601) 982–1044
Red Roof Inn, 700 Larson Street, Jackson, MS 39202, (601) 969–5006
Residence Inn By Marriott, 881 E River Place, Jackson, MS 39202, (601) 355–3599
Days Inn, 1000 S Hwy 35, Kosciusko, MS 39090, (601) 289–2271
M & R Of Meridian, Inc., dba Howard Johnson, 613 Hwy 80 E, Meridian, MS 39305, (601) 483–8281
Best Western—Oxford Inn, PO Box 1101, Frontage Road, Oxford, MS 38655, (601) 234–9500
Comfort Inn, 235 Pearson Road, Pearl, MS 39208, (601) 932–6009
Holiday Inn, PO Box 923, N Gloster, Tupelo, MS 38801, (601) 842–8811
Tupelo Executive Inn, 1011 N Gloster, Tupelo, MS 38801, (601) 841–2222

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Days Inn, 1025 Hwy 45 N Alt., West Point, MS 39773, (601) 494–1995

Montana

Billings Comfort Inn, 2030 Overland Avenue, Billings, MT 59102, (406) 652–5200
Holiday Inn Billings Plaza, 5500 Midland Road, Billings, MT 59101, (406) 248–7701
Best Western Grantree Inn, 1325 N 7th Avenue, Bozeman, MT 59715, (406) 587–5261
Bozeman Comfort Inn, 1370 N 7th Avenue, Bozeman, MT 59715 (406) 587–2322
Bozeman Fairfield Inn, 828 Wheat Drive, Bozeman, MT 59715 (406) 587–2222
Holiday Inn, 5 Baxter Lane, Bozeman, MT 59715, (406) 587–4561
Great Falls Comfort Inn, 1120 9th Street, Great Falls, MT 59403 (406) 454–2727
Great Falls Fairfield Inn, 1000 9th Avenue S, Great Falls, MT 59403, (406) 454–3000
Sheraton Hotel, 400 10th Avenue, Great Falls, MT 59405, (406) 727–7200
Best Western Hamilton Inn, 409 S First Street, Hamilton, MT 59840, (406) 363–2142
Days Inn, 2001 Prospect Avenue, Helena, MT 59601, (406) 442–3280
Helena Comfort Inn, 750 Fee Street, Helena, MT 59623, (406) 443–1000

Nebraska

Fremont Comfort Inn, 1649 E. 23rd Avenue, Fremont, NE 68025, (402) 721–1109
Lincoln Comfort Inn, 2940 NW 12th Street, Lincoln, NE 68521, (402) 475–2200

New Jersey

Inn At Panther Valley, Rt. 517, Allamuchy, NJ 07820, (908) 852–6000
Atlantic City—Diplomat, 115 Chelsea Ave & Boardwalk, Atlantic City, NJ 08401, (609) 348–2200
Trump Plaza Hotel & Casino, Mississippi & Boardwalk, Atlantic City, NJ 08401, (609) 441–6070
Holiday Inn Bridgewater, 1260 Rt 22, Bridgewater, NJ 08807, (908) 526–9500
Sheraton Meadowlands, 2 Meadowlands Plaza, East Rutherford, NJ 07073, (201) 896–0500
Holiday Inn At Raritan Center, 125 Raritan Center Pkwy, Edison, NJ 08837, (908) 225–8300
Radisson Hotel Englewood, 401 S Van Brunt Street, Englewood, NJ 07631, (201) 871–2020
Sheraton At Woodbridge Place, 515 Rt 1 S, Iselin, NJ 08830, (908) 634–3600
Econo Lodge, 2016 Rt 37 W, Lakehurst, NJ 08733, (908) 657–7100
Howard Johnson Lodge, 2991 Brunswick Pike, Lawrenceville, NJ 08648, (609) 896–1100
Best Western Motor Inn, 2020 Rt 541 Road #1, Mt. Holly, NJ 08060, (609) 261–3800
Econo Lodge University Center, 26 US Hwy 1 N, New Brunswick, NJ 08901, (908) 828–8000
Parsippany Hilton, One Hilton Court, Parsippany, NJ 07054, (201) 267–7373
Sheraton Tara Hotel, 199 Smith Road, Parsippany, NJ 07054, (201) 515–2000
Residence Inn—Princeton, PO Box 8388, 4225 Rt 1, Princeton, NJ 08543, (908) 329–9600
Mark III Motel, 207 Carteret Ave, Seaside Heights, NJ 08751, (908) 793–4000
Holiday Inn Harmon Meadow, 300 Plaza Drive, Secaucus, NJ 07094, (201) 348–2000
Radisson Hotel Somerset, 200 Atrium Drive, Somerset, NJ 08873, (908) 469–2600
Comfort Inn South Plainfield, 101 New World Way, South Plainfield, NJ 07080, (908) 561–4488
Quality Inn, 101 Grove Road, Thorofare, NJ 08086, (609) 848–4111
Holliday Inn At Tinton Falls, 700 Hope Road, Tinton Falls, NJ 07724, (908) 544–9300
Residence Inn By Marriott—Tinton Falls, 90 Park Road, Tinton Falls, NJ 07724, (908) 389–8100
Sheraton Inn—Atlantic City West, 6821 Black Horse Pike, West Atlantic City, NJ 08232, (609) 272–0200

New Mexico

Clovis Inn, 1020 S White Sands, Alamogordo, NM 88310, (505) 762–5600
Albuquerque Hilton Hotel, 1901 University Blvd, Albuquerque, NM 87102, (505) 884–2500
Comfort Inn Midtown, 2015 Menaul NE, Albuquerque, NM 87107, (505) 881–3210
Fairfield Inn By Marriott, 1760 Mernaul Road NE, Albuquerque, NM 87102, (505) 889–4000
Villa Inn, 1001 E Main, Conseq. Tucumcari, NM 88401, (505) 461–2250
Comfort Inn, 3208 W Hwy 66, Gallup, NM 87301, (505) 722–0982
Rodeway Inn, 2003 W Hwy 66, Gallup, NM 87301, (505) 863–9385
Innkeepers Of New Mexico, 309 N Marland Blvd, Hobbs, NM 88240, (505) 397–7171
Meson de Mesilla, PO Box 1212, Mesilla, NM 88046, (505) 525–9212
Inn Of The Anasazi, 113 Washington Avenue, Santa Fe, NM 87501, (505) 988–3030
Residence Inn By Marriott, PO Box 5248, Santa Fe, NM 87502, (505) 988–7300

Nevada

Best Western Mardi Gras Inn, 3500 Paradise Road, Las Vegas, NV 89109, (702) 731–2020
Imperial Palace Hotel & Casino, 3535 Las Blvd S, Las Vegas, NV 89109, (702) 731–3311
Residence Inn By Marriott Las Vegas, 3225 Paradise Road, Las Vegas, NV 89109, (702) 796–9300

New York

Corning Hilton Inn, 125 Denison Parkway E, Corning, NY 14830, (607) 962–5000
Quality Inn Vineyard, 3929 Vineyard Drive, Dunkirk, NY 14048, (716) 366–4400
Susse Chalet, Box 103, Road #2 Troy Road, East Greenbush, NY 12061, (518) 477–7984
Residence Inn—Syracuse, 6420 Yorktown Circle, East Syracuse, NY 13057, (315) 432–4488
JFK Airport Hilton, 138–10 135th Avenue, Jamaica, NY 11436, (718) 322–8700
Econo Lodge—Syracuse Liverpool, 401–407 7th N Street, Liverpool, NY 13088, (315) 451–6000
Shepherds Neck Inn, Second House Road, Montauk, NY 11954, (516) 668–2105
Peninsula Hotel, 700 Fifth Avenue, New York, NY 10019, (212) 247–2200
Day's Inn, 587 Cornelia Street, Plattsburgh, NY 12901, (518) 561–0403
Village Inn Of Rhinebeck, 6 Rt 9 S, Rhinebeck, NY 12572, (914) 876–7000
Residence Inn By Marriott, 100 Maple Road, Williamsville, NY 14221, (716) 632–6622

Ohio

Ashtabula Austinburg Travelodge, 2352 Sr 45 N, Austinburg, OH 44010, (216) 275–2011
Cleveland Beachwood Travelodge, 3795 Orange Place, Beachwood, OH 44122, (216) 831–7200
Marriott Inn, 3663 Park E. Drive, Beachwood, OH 44122
Howard Johnson, 5410 Ridge Avenue, Cincinnati, OH 45213, (513) 631–8500
Residence Inn By Marriott, 6191 Zumstein Drive, Columbus, OH 43229, (614) 431–1819
Findlay Fairfield Inn, 2000 Tiffin Avenue, Findlay, OH 45839, (419) 424–9940
Holiday Inn Middletown, Rt 122, 6147 West Ohio, Franklin, OH 45005, (513) 424–1201
Quality Inn Edwards, 10900 New Haven Road, Harrison, OH 45030, (513) 367–5200
Comfort Inn—South, 2426 Oregon Road, Northwood, OH 43619, (419) 666–2600
Fairfield Inn By Marriott Sandusky, 6220 Milan Road, Sandusky, OH 44670, (419) 621–9500
Sidney Holiday Inn, I–75 & Sr 47, Sidney, OH 45365, (513) 492–1131
Days Inn Akron Wadsworth, Five Park Centre Blvd, Wadsworth, OH 44281, (216) 336–7692
Comfort Inn, 500 Monroe Street, Zanesville, OH 43701, (614) 454–4144
Zanesville Fairfield Inn, 725 Zane Street, Zanesville, OH 43701, (614) 453–8770

Oregon

Nugget Inn, 105 Front Street SW, Boardman, OR 97818, (503) 481–2375
Val-U-Inn Oregon City, 1900 Clackamette Drive, Oregon City, OR 97045, (503) 655–7141
Seaside Beach Club, 561 S Prom, Seaside, OR 97138, (503) 738–7113

Pennsylvania

Holiday Inn—Independence Mall, 400 Arch Street, Philadelphia, PA 19106, (215) 923–8660

Texas

Comfort Inn—Airport, 1515 I–40 E, Amarillo, TX 79102, (806) 376–9993
Friendship Inn, 6201 Hwy 290 E, Austin, TX 78723, (512) 458–4759
Classic Motor Inn, 9229 Carpenter Freeway, Dallas, TX 75247, (214) 631–6633
Residence Inn Dallas North Central, 13636 Goldmack Drive, Dallas, TX 75240, (214) 669–0478
Comfort Inn, 900 N Yarbrough Drive, El Paso, TX 79915, (915) 594–9111
Comfort Inn, 2601 Wi-10, Ft. Stockton, TX 79735, (915) 336–9781
Econo Lodge, Hwy 290 E, Giddings, TX 78942, (409) 542–9666
Holiday Inn Medical Center, 6701 S Main, Houston, TX 77030, (713) 797–1110
Residence Inn By Marriott Houston—Astrodome, 7710 S Main, Houston, TX 77030, (713) 660–7993

Residence Inn By Marriott Houston-Southwest, 6910 Southwest Freeway, Houston, TX 77074, (713) 785–3415
Residence Inn By Marriott Houston-Clear Lake, 525 Bay Area Blvd, Houston, TX 77058, (713) 486–2424
Wyndham Greenspoint Hotel, 12400 Greenspoint Drive, Houston, TX 77060–1998, (713) 875–2222
Econo Lodge, 606 E Central Texas Expwy, Killeen, TX 76542, (817) 634–6868
Holiday Inn Airport La Plaza Mall, 2000 S 10th Street, McAllen, TX 78501, (210) 686–1741
Victorian Inns, 425 35th NE, Paris, TX 75400, (903) 785–3871
Quality Inn & Suites, 3817 I–35 N, San Antonio, TX 78219, (210) 224–3030
Stratford House Inn, 6364 Ih 35 N At Rittiman Road, San Antonio, TX 78218, (210) 657–0808
Holiday Inn, 2705 E Houston Hwy, Victoria, TX 77901, (512) 575–0251
Econo Lodge, 1430 Ih 35 S, Waco, TX 76706, (817) 752–1991
Victorian Inns, 720 S Lake Brasos Drive, Waco, TX 76704, (817) 752–3888

Virginia

Comfort Inn, I–81 Exit 14, Abingdon, VA 24210, (703) 676–2222
Comfort Inn Van Dorn, 5716 S Van Dorn Street, Alexandria, VA 22310, (703) 922–9200
Holiday Inn Old Town Alexandria, 480 King Street, Alexandria, VA 22314, (703) 549–6080
Holiday Inn Telegraph Road Eisenhower Avenue, 2460 Eisenhower Avenue, Alexandria, VA 22314, (703) 960–3400
Courtland Park, 2500 Clarendon Blvd, Arlington, VA 22201, (703) 243–9700
Courtland Towers, 1200 N Veitch Street, Arlington, VA 22201, (703) 528–2700
Holiday Inn—Key Bridge, 1850 N Ft Myer Drive, Arlington, VA 22209, (703) 522–0400
Holiday Inn National Airport, 1489 Jefferson Davis Hwy, Arlington, VA 22202, (703) 521–1600
Holiday Inn At Ballston, 4610 N Fairfax Drive, Arlington, VA 22203, (703) 243–9800
Randolph Towers, 4001 N 9th Street, Arlington, VA 22203, (703) 525–9000
Comfort Inn, 2368 Lee Hwy, Bristol, VA 24201, (703) 466–3881
Holiday Inn—University, 1600 Fimmet Street, Charlottesville, VA 22901, (804) 2439111
Comfort Inn, Route 301, Dahlgren, VA 22448, (703) 663–3060
Comfort Inn Dublin, PO Box 123–FI–81 & Sr 100 (rt 1), Dublin, VA 24084, (703) 674–1100
Holiday Inn Emporia, 311 Florida Avenue, Emporia, VA 23847, (804) 634–4191
Quality Inn Skyline Drive, #10 Commerce Avenue, Front Royal, VA 22630, (703) 635–3161
Pairfield Inn By Marriott Hampton, 1905 Coliseum Drive, Hampton, VA 23666, (804) 827–7400
Comfort Inn, PO Box 426B Rt 2, Max Meadows, VA 24360, (703) 637–4141
Econo Lodge (Airport), 3343 N Military Hwy, Norfolk, VA 23518, (804) 855–3116
Norfolk Waterside Marriott, 235 E Main Street, Norfolk, VA 23510, (804) 627–4200
Comfort Inn, 8710 Midlothian Turnpike, Richmond, VA 23235, (804) 320–8900
Holiday Inn Central, 3207 N Blvd, Richmond VA 23230, (804) 359–9441
Red Roof Inn #086, 4350 Commerce Road, Richmond, VA 23234, (804) 271–7240
Richmond Marriott, 500 E Broad Street, Richmond, VA 23219, (804) 643–3400
Holiday Inn Airport, I–581, 6628 Thirlane Road, Roanoke, VA 24019, (703) 366–8861
Holiday Inn Central, 1927 Franklin Road, Roanoke, VA 24018, (703) 343–0121
Days Inn Aquia, 2868 Jefferson Davis Hwy, Stafford, VA 22554, (703) 659–0022
Hampton Inn Dulles Airport, 45440 Holiday Drive, Sterling, VA 22170, (703) 471–8300
Holiday Inn Washington Dulles Airport, 1000 Sully Road, Sterling, VA 20166, (703) 471–7411
Virginia Motor Lodges Inc., I–81 Exit 150-b, Troutville, VA 24175, (703) 992–3000
Days Inn Oceanfront, 3107 Atlantic Avenue, Virginia Beach, VA 23451, (804) 428–7233
Virginia Beach Hilton Inn, 8th Street & Atlantic Avenue, Virginia Beach, VA 23451, (804) 428–8935
Holiday Inn Waynesboro—Attlon, PO Box 849, I–64 Rt 250, Waynesboro, VA 22980, (703) 942–5200
Fairfield Inn Williamsburg, 6493 Richmond Road, Williamsburg, VA 23185, (804) 565–1111
Holiday Inn Downtown & Holidome, 814 Capitol Landing Road, Williamsburg, VA 23185, (804) 229–0200
Howard Johnson Historic Hotel, 7135 Pocahontas Trail, Williamsburg, VA 23185 (804) 229–6900
Quality Inn Kingsmill, 480 McLaws Circle, Williamsburg, VA 23187, (804) 220–1100

Vermont

Brandon Inn, 20 Park Street, Brandon, VT
Green Leaf Inn, Chester, VT
Econo Lodge, 1076 Williston Road, S Burlington, VT
Friendship Lakeview Inn, 1860 Shelburne Road, S Burlington, VT
Econo Lodge (Elm Building), 1961 Shelburne Road, Shelburne, VT 05482, (802) 985–3377
Econo Lodge (Hemlock), 1961 Shelburne Road, Shelburne, VT 05482, (802) 985–3377
Econo Lodge (Maple Building), 1961 Shelburne Road, Shelburne, VT 05482, (802) 985–3377
Econo Lodge (Sprice Building), 1961 Shelburne Road, Shelburne, VT 05482, (802) 985–3377
Econo Lodge (Willow Building), 1961 Shelburne Road, Shelburne, VT 05482, (802) 985–3377
Honeywood Country Lodge (Old Griffins Co), 4527 Mountain Road, Stowe, VT 05482
Liftline Lodge—Glocken Hoff, Stratton Mt Road, Stratton Mountain, VT 05482
Dalem Chalet, 16 South Street, W Brattleboro, VT
Andirons Motor Lodge, Route 100, W Dover, VT 05356
The Lodge, Route 100, W Dover, VT 12524, (802) 464–5904
Residence Inn Gate House, 1 Hurricane Lane, Williston, VT (914) 896–5210
Trails End Lodge, Smith Road, Wilmington, VT

Washington

Quality Inn Paradise Creek, SE 1050 Bishop Blvd, Pullman WA 99163, (509) 332–0500
Dutch Cup Motel, 918 Main Street Pob 369, Sultan, WA 98294 (206) 793–2215
Comfort Inn, 5601 Pacific Hwy E, Taloma (Fife), WA 98424 (206) 926–2301

CORRECTIONS/CHANGES

District of Columbia

Holiday Inn Capitol, 550 C Street SW, Washington, DC 20024, (202) 479–4000

Kentucky

Econo Lodge—Renfro Valley, 1375 Richmond Road, Mt. Vernon, KY 40456, (606) 256–4621

Maryland

Waldorf Holiday, 1 St: Patricks Drive, Waldorf, MD 20603, (301) 645–8200

Mississippi

Passport Inn, PO Box 5035 I–55 N, Jackson, MS 39206, (601) 982–1011

Nebraska

Fireside Suites, 11025 N Street, Omaha, NE 68137, (402) 331–0101
Holiday Inn—North Platte, Jct U.S. 83 & I–80, North Platte, NE 69101, (308) 532–9090

Vermont

Howard Johnson Hotel & Quality Inn, 1720 Shelburne Road, S Burlington, VT
Craftsbury Ctr—Small Dorm, PO Box 31, Craftsbury Common, VT
Plaza Hotel, RR1 Box 690, Morrisville, VT
Colonial Motel—Unit #1 & Office, Putney Road, Brattleboro, VT, (802) 254–3377
Aplenrose Motel, 2619 Mountain Road, Stowe, VT

Virginia

Holiday Inn Express, 940 E Main Street, Abingdon, VA 24210, (703) 676–2829
Comfort Inn—Mt. Vernon, 7212 Richmond Hwy, Alexandria, VA 22306, (703) 765–9000
Comfort Inn Landmark, 6254 Duke Street, Alexandria, VA 22312, (703) 642–3422
Best Western Rosslyn Westpark Hotel, 1900 N Pt Myer Drive, Arlington, VA 22209, (703) 527–4814
Courtyard By Marriott Arlington/Rosslyn, 1533 Clarendon Blvd, Arlington, VA 22209, (703) 528–2222
Courtyard By Marriott Crystal City, 2899 Jefferson Davis Hwy, Arlington, VA 22202, (703) 549–3434
Courtyard By Marriott Chantilly/Dulles Airpt, 3935 Centerview Drive, Chantilly, VA 22021, (703) 709–7100
Washington Dulles Airport Marriott, 333 West Service Road, Chantilly, VA 22021, (703) 471–9500
Comfort Suites, 1550 Crossway S Blvd, Chesapeake, VA 23320, (804) 420–1600
Courtyard By Marriott Fairfax/Fair Oaks, 11220 Lee Jackson Hwy, Fairfax, VA 22030, (703) 273–6161
Comfort Inn—North, I–95 Exit 133, Rt 17-n 577 Warrenton Road, Fredericksburg, VA 22406, (703) 371–8900

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Holiday Inn—South, 5324 Jefferson Davis Hwy, Fredericksburg, VA 22408, (703) 898–1102
Comfort Inn, 1440 E Market Street, Harrisonburg, VA 22801, (703) 433–2806
Sheraton Harrisonburg, 1400 E Market Street, Harrisonburg, VA 22801, (703) 433–2521
Courtyard By Marriott Herndon/Reston, 533 Herndon Parkway, Herndon, VA 22070, (703) 478–3628
Washington Dulles Marriott Suites, 13101 Worldgate Drive, Herndon, VA 22070, (703) 709–0400
Courtyard By Marriott Manassas, 10701 Battleview Parkway, Manassas, VA 22110, (703) 335–1300
Best Western Tysons Westpark Hotel, 8401 Westpark Drive, McLean, VA 22102, (703) 734–2800
Econo Lodge, 9601 4th View Street, Norfolk, VA 23503, (804) 480–9611
Days Inn/Petersburg South, 12208 S Crater Road, Petersburg, VA, 23805, (804) 733–4400
Quality Inn, 11025 S Crater Road, Petersburg, VA 23805, (804) 733–0600
Courtyard By Marriott Richmond West, 6400 West Broad Street, Richmond, VA 23230, (804) 282–1881
Holiday Inn (Koger Center South), 1021 Koger Center Blvd, Richmond, VA 23235, (804) 379–3800
Holiday Inn I 64 & W. Broad Street, 6531 W Broad Street, Richmond, VA 23230, (804) 285–9951
Tysons Corner Marriott, 8028 Leesburg Pike, Vienna, VA 22180, (703) 734–3200
Comfort Inn, 2800 Pacific Avenue, Virginia Beach, VA 23451, (804) 428–2203
Courtyard By Marriott Virginia Beach Norfolk, 5700 Greenwich Road, Virginia Beach, VA 23462, (804) 490–2002
Fairfield Inn By Marriott Virginia Beach, 4760 Euclid Road, Virginia Beach, VA 23462, (804) 499–1935
Holiday Inn Executive Center, 5655 Greenwich Road, Virginia Beach, VA 23462, (804) 499–4400
Courtyard By Marriott Williamsburg, 470 McLaws Circle, Williamsburg, VA 23187, (804) 221–0700
Days Inn Historic Area, 331 Bypass Road, Williamsburg, VA 23185, (804) 253–1166
Holiday Inn Patriot, 3032 Richmond Road, Williamsburg, VA 23185, (804) 565–2600
Williamsburg Days Inn East, 90 Old York Road, Williamsburg, VA 23185, (804) 253–6444
Days Inn Potomac Mills, 14619 Potomac Mills Road, Woodbridge, VA 22192, (703) 494–4433
Ramada Inn, 1130 Motel Drive, Woodstock, VA 22664, (703) 459–5000

DELETIONS

Indiana

Marriott Hotel, 305 E Washington Center Road, Fort Wayne, IN 46825, (219) 484–0411
Akron Hilton Inn West, 3180 W Market Street, Akron, OH 44313

[FR Doc. 93–10345 Filed 4–30–93; 8:45 am]

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federal register

Monday
May 3, 1993

Part IV

Environmental Protection Agency

40 CFR Part 261, et al.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 264, 265, 271, and 279

[EPA/530-Z-93-004; FRL-4619-7]

RIN 2050-AC17

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule; technical amendments and corrections.

SUMMARY: This action corrects several technical errors and provides clarifying amendments to the final recycled used oil management standards rule. The final rule was published on September 10, 1992 (57 FR 41566). This action also corrects an error in the final used oil rule published on May 20, 1992 (57 FR 21524). These revisions provide clarification and correct unintended consequences of both rules.

EFFECTIVE DATE: March 8, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Eydie Pines at (202) 260-3509 or Bryan Groce at (202) 260-9550, Office of Solid Waste (OS-332), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

A.1. Burning and Blending Requirements (Former Part 266, Subpart E)

On September 10, 1992, EPA promulgated regulations to govern the management of recycled used oils. In the discussion of the state authorization process in the final rule (57 FR 41566), EPA stated that the new part 279 regulations were being promulgated under section 3014(a) of RCRA, and noted that section 3014(a) "predates the 1984 HSWA amendments." The Agency went on, in that section, to explain that the part 279 requirements would take effect in states without final RCRA authorization 6 months after publication (March 8, 1993) and that the part 279 standards would become effective in states with RCRA base program authorization only after the state revised its RCRA program to include the new requirements. This discussion implied that all of the requirements being promulgated under part 279 are RCRA requirements that are not mandated under the Hazardous and Solid Waste Amendments of 1984 (HSWA) and that, therefore, the new standards governing the management of recycled used oils would not be immediately enforceable by EPA in authorized states.

The discussion of the status of the part 279 requirements in authorized states was based in large part on the fact that section 3006(h) of RCRA, which was added by Congress as part of the Superfund Amendments and Reauthorization Act of 1986, allows EPA to authorize state used oil programs in the same manner as state hazardous waste programs. EPA believes that Congress did not express an intent to treat used oil requirements under section 3014(a) as "HSWA" requirements, that is, as directly enforceable by EPA prior to State authorization under Section 3006(h). After publication of the September 10, 1992 notice, however, EPA realized that its position was arguably inconsistent with statements made in the preamble to the November 29, 1985 final rule promulgating standards for the burning of used oil, and that further clarification is necessary.

Some of the part 279 provisions promulgated in the used oil management standards consist of existing requirements that have been recodified from 40 CFR part 266, subpart E, as adopted in 1985. On November 29, 1985 (50 FR 49201), EPA issued the used oil burning requirements pursuant to the authority of section 8 of the Used Oil Recycling Act of 1980 (UORA), now incorporated as section 3014(a) of RCRA. At that time, there was no section 3006(h) and, therefore, no statutory mechanism existed to authorize states to operate programs for the recycling of non-hazardous used oil. EPA, therefore, took the position that the used oil burning requirements adopted under section 3014(a) would be Federally enforceable in both authorized and non-authorized states. With the addition of section 3006(h) to RCRA in 1986, however, that statutory authority to authorize states to regulate nonhazardous used oil recycling now exists. This raises the question of whether the old part 266, subpart E requirements should be treated like the other section 3014(a) requirements issued in 1992, that is, not Federally enforceable in states that have been authorized for the RCRA base program, but are not authorized for the subpart E requirements. EPA believes that, by the addition of section 3006(h) to RCRA, Congress could not have intended to make these requirements suddenly unenforceable in authorized states where they had been previously enforceable. Indeed, EPA believes that Congress intended for these requirements to be enforced both prior to and following the 1986 amendment to RCRA. Therefore, EPA is clarifying that all existing used oil burning requirements originally promulgated in 1985 remain Federally enforceable in all States which are not yet authorized for the former part 266, subpart E, whether or not the State has received RCRA subtitle C base program authorization.[1] States must modify their programs to include requirements equivalent to the Federal provisions or may promulgate more stringent regulations.

Table 1 of § 271.28 identifies which part 279 requirements represent the previous part 266, subpart E provisions that will continue to be Federally enforceable in States not authorized for these provisions. The regulatory text in part 279, subparts G and H has not been substantially changed from that previously found in part 266, subpart E. When revisions were made, the revisions were for clarification purposes only. Thus, §§ 279.10, 279.11, and most provisions of § 279.1 and of part 279, subparts G and H will continue to be Federally enforceable in states that have, not yet adopted requirements equivalent to the previous part 266, subpart E requirements and received authorization from EPA to implement and enforce those requirements. For all other provisions of part 279, EPA continues to believe that it is the most consistent with the intent of Congress to treat these requirements in the same manner as non-HSWA provisions of the hazardous waste regulations, and as such, subject them to the RCRA state authorization program requirements. In the case of all new provisions (those not previously contained in part 266, subpart E), these provisions do not become effective in authorized states until individual states adopt the provisions and EPA grants the states authorization for the provisions.[2] In the case of those few states (Alaska, Hawaii, Iowa, Wyoming, and the U.S. Territories) that are not authorized for the RCRA base program, all part 279 provisions will be effective and Federally enforceable six months after promulgation of the part 279 provisions (March 8, 1993).

[1] In order to retain authorization for the RCRA program, states have been authorized to enforce the part 266, subpart E requirements. These states remain authorized to implement and enforce these provisions, and today's notice and the final recycled used oil regulations do not affect these states' authorities regarding the existing provisions. For convenience, authorization/processing of state applications is considered within HSWA Cluster I by EPA.

[2] As stated in the final rulemaking for recycled used oil management standards, authorized states must modify their programs by July 1, 1994 if no statutory changes are required, or by July 1, 1995 if statutory changes are necessary (see 57 FR 41605).

In Table 1 of § 271.26, EPA notes that there is no recodified provision in part 279 to correspond with the previous 40 CFR 266.43(b)(4)(vi). The Agency believes that the information required under former § 266.43(b)(4)(vi), i.e., a statement reading "This used oil is subject to EPA regulation under 40 CFR part 266," is unnecessary and redundant. Therefore, EPA has not included this requirement in the new used oil management standards.

Status of State	Before 3/8/93	As of 3/8/93
Non-authorized RCRA Base Program.	40 CFR part 266 subpart E Federally enforceable.	40 CFR part 279 is Federally enforceable.
Authorized RCRA Base Program Non-authorized part 266 subpart E.	40 CFR part 266 subpart E is Federally enforceable.	40 CFR part 279 subparts A–F and I are not enforceable until the state is granted authorization. 40 CFR part 279 subparts G and H are Federally enforceable.
Authorized RCRA Base Program Authorized part 266 subpart E.	40 CFR part 266 subpart E is State enforceable.	40 CFR part 279 subparts A–F and I are not enforceable until the state is granted authorization. 40 CFR part 279 subparts G and H are state enforceable[1].

[1] 40 CFR part 279, subparts G and H contain certain provisions which were not in part 266, subpart E. The State will continue to enforce only those provisions for which it obtained authorization (those provisions are listed in Table 1 of § 271.26).

B. Technical Corrections

1. Corrections to the Preamble Language

This action corrects several errors that were published in the September 10 final rule. There are several typographical errors in the preamble, as well as misstatements and incorrect references to regulatory and preamble sections. These corrections are described below.

1. On page 41579, in the second column, remove the word "and" in line ten so the line reads as follows: "is to be burned for energy recovery, the used oil will have to * * *"

2. On page 41581, in the first paragraph in the middle column, the reference to § 260.40(d)(2) should read § 266.40(d)(2).

3. On page 41583, in the middle column, six lines from the bottom, remove the reference to "section VI.D.3." of the preamble.

4. On page 41585, in the first paragraph of the first column, the reference to section "V.D.1.h." should read "VI.D.1.h."

5. On page 41585, in the last sentence of the section entitled *b. Used oil generated on ships*, the reference to "§ 279.10(e)(3)" should read "§ 279.10(f)".

6. On page 41587, the word "send" in line 18 in paragraph two of the second column should be revised to "sent".

7. On page 41590, in footnote 17, the reference to "section VI.E.5." of the preamble should read "section VI.D.4.", referring to the discussion of secondary containment provisions at processing/re-refining facilities.

8. On page 41590, in the first column, revise the heading and the first sentence of section (e) with the following text: "*DOT Requirements.* Persons offering used oil for transportation as well as persons transporting used oil that meets the definition of a hazardous material in 49 CFR 171.8, must comply with all applicable regulations in 49 CFR Parts 171 through 180." Also add the additional new text after the first sentence. "On February 2, 1993, the Department of Transportation published an interim final rule which amended the DOT's hazardous materials regulation by regulating oil as a hazardous material. The interested reader is referred to this document for further information regarding the applicability of this rule."

9. On page 41591, in the second paragraph of the middle column, and on page 41596, in the first paragraph of the first column, the reference to "40 CFR 112.79(c)" should read "40 CFR 112.7(c)".

10. In footnote 21 on page 41595, the reference to preamble section "VI.E.5." should read "VI.D.3."

11. On page 41598, in the last sentence of the first paragraph of the section entitled *1. Closure*, remove the phrase "per 40 CFR 261.3(d)," and add the following sentence to the end of the paragraph: "For a determination of hazard regarding contaminated media and other materials, see 40 CFR 261.3, as well as EPA's 'contained-in principle' (57 FR 983 (Jan. 9, 1992) and 57 FR 37225 (Aug. 18, 1992))."

12. On the same page, in the last sentence of the last full paragraph in the third column, remove the phrase "per 40 CFR 261.3(d) or 261.4(b)" and add the following sentence to the end of the paragraph: "For a determination of hazard regarding contaminated media and other materials, see 40 CFR 261.3, 261.4(b), as well as EPA's 'contained-in principle' (57 FR 983 (Jan. 9, 1992) and 57 FR 37225 (Aug. 18, 1992))."

13. On page 41599, under part 5(a) revise the reference to "268.41", in the third sentence, to read "266.40".

14. On page 41600, under 5.f. Storage Requirements, after the last word of the first paragraph, add the following text ", or units subject to regulation under 40 CFR parts 264 or 265."

15. On page 41600, in the first paragraph of the middle column, the reference to preamble "section VI.5.f." should read "section VI.D.4."

16. On page 41600, in the section entitled *h. Used oil fuel analysis (halogens)*, the reference to "§ 266.40" should read more specifically as "§ 266.40(c)".

17. On page 41605, in the first column, first complete paragraph, second sentence, add the words "and on Indian lands" after the word "states" so that the text reads as follows: "The rules will take effect in states and on Indian lands that do not have final authorization . . ."

18. On page 41605, second column, first complete paragraph, second sentence, after the word "states" add the words "and Indian lands" so that the text reads as follows: "That is, in the unauthorized states and Indian lands, a used oil . . ."

2. Clarification of Issues Discussed in the Preamble

In addition to the corrections listed above, EPA wishes to clarify several issues discussed in the preamble of the May 20, 1992 and September 10, 1992 rule.

EPA is clarifying the definition of used oil processing as it relates to the act of gravity hot-draining used oil from non-terne plated used oil filters. The definition of used oil processing was intended to regulate the process of making used oil more amenable for production of fuel oils, lubricants and other used oil derived products. The act of physically separating used oil from non-terne plated used oil filters does not fall under the processing definition if the act is conducted for the purpose of removing the used oil for management under part 279. The Agency did not intend to regulate the removal of used

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oil from non-terne plated used oil filters under the § 279.1 processing definition, and therefore clarifies the distinction between the "removal of used oil from solid waste," which does not fit under the processing definition, and "making used oil more amenable for production of fuel oils, lubricants and other used oil derived products" which does fit under the processing definition.

On page 41574, in the third column, the first sentence of the first full paragraph incorrectly states that residues or sludges from the processing of used oil are not regulated under part 279. In fact, as evidenced by § 279.10(e), EPA did intend to regulate such residuals if burned for energy recovery or used in a manner constituting disposal, with the exception of re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

On page 41583, in the first column at the end of section g.iii, EPA incorrectly states that mixtures of used oil and diesel fuel mixed by a generator for use in its own vehicles "must be managed in accordance with the used oil fuel specification regulations." In fact, as the language of section 279.20(a)(3) states, EPA does not intend to regulate such mixtures under any provision of part 279 once the mixing has occurred.

On page 41587, near the middle of the first column, EPA cites Alabama's Project ROSE as an example of a program that runs "do-it-yourself" used oil collection centers. This is not entirely accurate. While Project ROSE may administer some collection centers that accept used oil solely from household DIY generators, the preamble correctly describes the Alabama program in stating that it accepts used oil from commercial generators as well. Therefore, Project ROSE is not the best example of a "DIY used oil collection center," since by definition, such collection centers are not authorized to accept used oil from regulated generators. The Project ROSE program provides a better example of a "used oil collection center," as defined in § 279.1 and discussed above.

On page 41582, in footnote 9, EPA misquotes the words of § 279.61(a)(3) to say that off-spec. used oil may be burned in an incinerator "in compliance with subpart O of 49 CFR parts 264/265." The language of the regulation actually reads "subject to regulation under 40 CFR part 264 or 265." EPA makes the same or similar errors on page 41586 in the last full paragraph of the first column, on page 41599 in section b.(4), and on page 41600 in footnote 23.

On page 41601, the first paragraph of section 6 states that the requirements for marketers formerly contained in § 266.43 were recodified in part 279, subpart H "without modification." In fact, EPA did introduce certain changes to these requirements. EPA added certain exemptions to the "rebuttable presumption" of mixing used oil with hazardous waste, added additional definitions, and made certain changes to the record-keeping requirements on marketers. EPA also amended the definition of "marketer" to include only those persons who initiate the shipment of off-specification used oil fuel directly to a used oil burner or who are the first to claim that a used oil fuel meets the specification. The former definition of marketer included those who market off-specification fuel to other marketers. EPA made this change because those persons who initiate shipments of off-specification fuel to other marketers are already covered by the new tracking requirements in part 279 for generators, transporters, or recycling facilities. Similarly, the first full sentence in the middle column following Table VI.6. implies that there is an entity called a "fuel oil dealer" who is neither a generator, transporter, or recycling facility who may be selling on-specification fuel. This statement is misleading in light of the revised definition of marketer in part 279. "Fuel oil dealers" who never handle used oil fuel were never intended to be regulated by part 266, subpart E, and are not regulated under the new part 279, subpart H. Persons who accept off-specification used oil fuel from a generator, transporter, or recycling facility and market it to a burner are subject to regulation under part 279 as marketers.

EPA discussed the requirements for used oil storage at several places in the preamble. The regulations at §§ 279.22(a), 279.45(b), 279.54(a), and 279.64(a) state that used oil generators, transporters, processors/re-refiners, and burners must not store used oil in units other than tanks, containers, or units subject to regulation under part 264 or 265 of 40 CFR. In the preamble discussions of storage (57 FR 41586, 41591, 41594, and 41600), EPA makes reference to compliance with parts 264 or 265 only with respect to surface impoundments (parts 264 or 265, subpart K). EPA clarifies that nothing precludes a used oil handler from storing used oil in a container or tank that is subject to regulation under the applicable requirements of part 264 or 265 (*i.e.*, subparts I and J, respectively). These requirements are more stringent than the used oil management standards promulgated on September 10 and, therefore, provide an adequate level of protection of human health and the environment. As stated on page 41591 in the discussion of storage at used oil transfer facilities, any used oil transfer facility that is currently in compliance with the part 265, subpart J requirements (for aboveground tanks) will be deemed in compliance with the requirements promulgated today. Such is the case for other types of used oil handlers and other types of storage units as well.

On page 41599, EPA explained that off-specification used oil may be burned only in certain devices. In the preamble to the 1985 regulations, EPA explained that the regulations were designed only to address the burning of used oil in such devices and that they did not apply to the burning of used oil in other devices such as diesel and marine engines because EPA did not develop the used oil specification with these types of devices in mind (see 50 FR 49192). EPA wishes to clarify that the provisions of §§ 279.12(c) and 279.61(a) were not intended to alter this pre-existing policy. Therefore, the burning of used oil in devices such as diesel and marine engines is not subject to regulation under part 279, subpart G.

3. Corrections to the Regulatory Language

In the September 10 rule, EPA exempted from regulation both as used oil and as hazardous waste, those distillation bottoms from used oil re-refining that are used for making asphalt products from regulation (§ 279.10(e)). This action moves part of that provision without change to § 261.4(b), the appropriate location for an exclusionary provision from the definition of hazardous waste. In addition, this notice corrects a numbering error that was made in the May 20, 1992 final rule (57 FR 21534) and repeated in the Correction Notice of July 1, 1992 (57 FR 29220). In both the May 20 final rule and the subsequent correction notice, the exclusion for non-terne plated used oil filters was codified as subparagraph (b)(15) of § 261.4 even though EPA had not yet promulgated paragraphs (b)(13) or (b)(14). This action corrects these errors by redesignating the used oil filter exclusion as § 261.4(b)(13).

The Agency is amending § 271.16, *Requirements for Enforcement Authority*, to add language regarding violations of the used oil management standards. This section sets out the requirements for criminal enforcement authority for states seeking authorization to operate state programs in lieu of subtitle C programs. Congress amended RCRA in 1986 to clarify that EPA's criminal enforcement authorities for violations of subtitle C requirements extend to violations of requirements for used oil that is regulated under section 3014 of RCRA but not listed or identified as a hazardous waste. Congress also amended section 3006(h) to require EPA to apply the same standards and procedures in its review of state programs for nonhazardous used oil, that it applies when reviewing programs for hazardous wastes under subtitle C. In other words, state programs for nonhazardous used oil must be equivalent to and consistent with the federal program (and programs in other states). Such programs must also provide for adequate enforcement.

Congress clearly felt that criminal enforcement authorities were essential to successful implementation of federal regulatory program for nonhazardous used oils. EPA believes that criminal enforcement authority is equally important to adequate enforcement of state programs for nonhazardous used oils. Consequently, EPA is amending § 271.16 to clarify that any state that decides to regulate recycled used oil as nonhazardous waste and apply to EPA for authorization to operate its state program in lieu of the federal program must show that it has authority to bring criminal enforcement actions for specified violations of its used oil program.

In addition, EPA is amending § 279.10(i), dealing with PCB-contaminated used oil. The language codified in the September 10 rule indicated that used oils contaminated with PCBs, which are regulated under part 761 of the TSCA regulations, are exempt from the part 279 requirements. EPA's intent was to avoid duplicative regulation of such used oils, and the Agency mistakenly included this language in § 279.10(i), assuming that the requirements in § 761.20(e) comprehensively regulated such oils. The language in § 761.20(e), however, incorporates by reference the requirements of the former part 266, subpart E and supplements them, rather than substitutes for them, such that PCB-contaminated used oils are currently subject to both RCRA and TSCA regulations governing the burning of used oil for energy recovery. EPA did not intend, by the promulgation of part 279, to relax the existing requirements on used oils containing PCBs. EPA, therefore, is amending § 279.10(i) to accurately reflect the complementary nature of the RCRA and TSCA regulations. Marketers and burners who market used oil containing any quantifiable level of PCBs must comply with applicable standards of part 279 as well as additional standards and restrictions under 40 CFR 761.20(e).

Consistent with this change to the regulations, in the preamble statement on page 41583, in section (v) in the middle column, *PCB-contaminated used oils*, the following clarifying sentences should be added to the end of the paragraph: "Marketers and burners of used oil who market used oil fuel containing any quantifiable level of PCBs are subject to applicable standards on marketing and burning used oil containing PCBs found at 40 CFR 761.20(e). Blending for the purpose of reducing the concentration of PCBs to below 50 ppm or the level of detection is prohibited."

On page 41581 of the preamble, EPA explained that it was adopting a "no free flowing oil" concept to address the regulation of materials containing or otherwise contaminated with used oil. EPA explained that if there was no visible sign of free-flowing oil on or in a material, the material would not be regulated as used oil. Materials containing or otherwise contaminated with used oil would be regulated as used oil until the used oil was removed from the material, and the oil removed from such a material would also be regulated as used oil. The regulatory language in § 279.10(c), however, unintentionally suggests that such materials continue to be regulated as used oil even after the oil is removed. Therefore, EPA is amending § 279.10(c) to implement the "free-flowing oil" concept to be consistent with its original intent.

EPA has added a paragraph to § 279.12(c) so that it is consistent with the language in § 279.61(a).

The language in § 279.21(a) mistakenly suggests that used oil generators may not mix used oil with hazardous waste if the resulting mixture is hazardous. In fact, EPA meant only to clarify that used oil generators must comply with § 279.10(b) as well as any subtitle C requirements that may apply to the mixture. EPA has amended the provision accordingly.

The storage provisions in the September 10, 1992 rule (§§ 279.22, 279.45, 279.54, and 279.64) all contain similar errors. Each provision contains a reference to the "de minimis" wastewater provision of § 279.10(f) which is unnecessary and somewhat confusing. EPA is deleting these references. In addition, all four provisions refer to used oil "generators," even though only § 279.22 applies to generators. EPA corrects these errors. EPA also corrects the reference to "generators" in § 279.74(a).

EPA is amending the first sentence of § 279.40(a)(4) by deleting the misleading phrase "from the initial generator." EPA did not intend for do-it-yourselfers to be considered generators. Rather, the generator is to be considered the person who accepts or picks up the DIY oil for proper management.

EPA is revising the language in § 279.43 (b), which merely cross-references DOT hazardous materials transportation regulations in title 49 of the CFR to which used oil transporters may be subject. The original language could have been interpreted to expand the scope of the DOT regulations, which was not EPA's intent.

EPA is revising the language in § 279.45(d)(1) by adding a paragraph (d)(1)(iii) to this section. Paragraph (d)(1)(iii) provides an equivalent secondary containment system for used oil stored in containers. EPA already provides an equivalent secondary containment system for used oil stored in existing and new aboveground tanks. Therefore, EPA is now providing this regulation for used oil stored in containers to allow for consistency in the storage of used oil stored in aboveground tanks and containers. This revision is also added to § 279.54(c)(1).

Administrative Procedures Act (APA) Requirements

Today's rule is issued without prior notice and comment. All changes being made either correct errors or help to clarify the language contained in the May 20, 1992 and September 10, 1992 final rules. No further public comment is necessary.

List of Subjects

40 CFR Part 261

Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 264

Hazardous waste, Packaging and containers, Security measures, Surety bonds.

40 CFR Part 265

Hazardous waste, Packaging and containers, Security measures, Surety bonds.

40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and

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recordkeeping requirements, Water pollution control, Water supply.

40 CFR Port 279

Petroleum, Recycling, Reporting and recordkeeping requirements, Used oil.

Dated: March 22, 1993.

Richard J. Guimond,

Assistant Surgeon General, USPHS, Acting Assistant Administrator.

For the reasons set out in the preamble title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

§ 261.4 [Amended]

2. Section 261.4 is amended by redesignating paragraph (b)(15) as (b)(13).

3. Section 261.4 is amended by adding paragraph (b)(14) to read as follows:

§ 261.4 Exclusions.

* * * * *

(b) * * *

(14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

* * * * *

§ 261.5 [Amended]

4. In paragraph (j), revise the phrase "subpart G of part 279," to read "part 279."

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

5. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

6. Section 264.1 is amended by revising paragraph (g)(2) to read as follows:

§ 264.1 Purpose, scope, and applicability.

* * * * *

(g) * * *

(2) The owner or operator of a facility managing recyclable materials described in § 261.6 (a)(2), (3), and (4) of this chapter (except to the extent they are referred to in part 279 or subparts C, D, F, or G of part 266 of this chapter).

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

7. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, 6935, and 6936.

8. Section 265.1 is amended by revising paragraph (c)(6) to read as follows:

§ 265.1 Purpose, scope, and applicability.

* * * * *

(c) * * *

(6) The owner or operator of a facility managing recyclable materials described in § 261.6 (a)(2), (3), and (4) of this chapter (except to the extent they are referred to in part 279 or subparts C, D, F, or G of part 266 of this chapter).

* * * * *

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

9. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

10. Section 271.16 is amended by revising paragraph (a)(3)(ii) to read as follows:

§ 271.16 Requirements for enforcement authority.

(a) * * *

(3) * * *

(ii) Criminal remedies shall be obtainable against any person who knowingly transports, treats, stores, disposes or recycles any used oil regulated by EPA under section 3014 of RCRA that is not listed or identified as a hazardous waste under the state's hazardous waste program in violation of standards or regulations for management of such used oil; or who makes any false statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of program compliance (including compliance with any standards or regulations for used oil regulated by EPA under section 3014 of RCRA that is not listed or identified as hazardous waste).

* * * * *

§ 271.26 [Amended]

11. The second sentence in § 271.26(g) is amended by adding a parenthesis after the phrase "as part of its authorization petition submitted to EPA under § 271.5"

12. Section 271.26 is amended further by adding paragraph (h) and Table 1 to read as follows:

§ 271.26 Requirements for used oil management.

* * * * *

(h)(1) Unless otherwise provided in part 271, state programs shall have standards for the marketing and burning of used oil for energy recovery that are at least as stringent as the requirements and prohibitions that EPA adopted on November 29, in 40 CFR part 266, subpart E of this chapter. The part 279 of this chapter requirements specified in Table 1 (except those provisions identified in footnotes 1 and 2 of Table 1) are Federally enforceable in those states that have not adopted state requirements equivalent to 40 CFR part 279, subparts G and H of this chapter requirements and have not been authorized to enforce the state requirements.

TABLE 1.—REGULATIONS ADOPTED NOVEMBER 29, 1985 REGARDING THE BURNING OF USED OIL FOR ENERGY RECOVERY

[These Part 279 provisions will continue to be enforced by EPA]

Former provisions of 40 CFR part 266, subpart E (1992)	Recodified provisions within 40 CFR part 279
Sec. 266.40(a)	Sec. 279.60(a)
Sec. 266.40(b)	Sec. 279.1 [1]
Sec. 266.40(c) [rebuttable presumption].	Sec. 279.63(a), (b) and (c) [2]
Sec. 266.40(d)(1) and (2).	Sec. 279.10(b)(2) and (3)
Sec. 266.40(e)	Sec. 279.11
	Sec. 279.60(c)
Sec. 266.41(a)(1) and (2).	Sec. 279.71
266.41(b)(1) and (2)	Sec. 279.61(a) 279.23(a)
Sec. 266.42(a)	Sec. 279.60(a)
Sec. 266.42(b)	Sec. 279.70(a)
Sec. 266.42(c)	Sec. 279.60(a)
Sec. 266.43(a)(1)	Sec. 279.70(a) and (b)(1)
Sec. 266.43(a)(2)	Sec. 279.70(b)(2)
Sec. 266.43(b)(1)	Sec. 279.72(a)
Sec. 266.43(b)(2)	Sec. 279.71
Sec. 266.43(b)(3)	Sec. 279.73(a)
Sec. 266.43(b)(4)(i–v)	Sec. 279.74(a)
Sec. 266.43(b)(4)(vi)	not included
Sec. 266.43(b)(5)(i) and (ii).	Sec. 279.75(a)
Sec. 266.43(b)(6)(i)	Sec. 279 74(b) and (c) 279.72(b)
Sec. 266.43(b)(6)(ii)	Sec. 279.74(a)
	Sec. 279.75(b)
Sec. 266.44(a)	Sec. 279.61(a)
	Sec. 279.23(a)
Sec. 266.44(b)	Sec. 279.62(a)
Sec. 266.44(c)	Sec. 279.66(a)
Sec. 266.44(d)	Sec. 279.72(a)

TABLE 1.—REGULATIONS ADOPTED NOVEMBER 29, 1985 REGARDING THE BURNING OF USED OIL FOR ENERGY RECOVERY—Continued

[These Part 279 provisions will continue to be enforced by EPA]

Former provisions of 40 CFR part 266, subpart E (1992)	Recodified provisions within 40 CFR part 279
Sec. 266.44(e)	Sec. 279.65(a) and (b) Sec. 279.66(b) Sec. 279.72(b)

[1] Contains additional new definitions that were not included in the 1985 rule.
[2] Paragraphs (c)(1) and (2) of § 279.63 contain new exemptions from the rebuttable presumption that were not part of the 1985 rule.

(2) In states that have not been authorized for the RCRA base program, all requirements of Part 279 will be Federally enforceable effective March 8, 1993.

PART 279—STANDARDS FOR THE MANAGEMENT OF USED OIL

13. The authority citation for part 279 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001 through 3007, 3010, 3014, and 7004 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6934, and 6974); and sections 101(37) and 114(c) of CERCLA (42 U.S.C. 9601(37) and 9614(c)).

§ 279.1 [Amended]

14. In § 279.1, the definition of "used oil," is amended by revising the phrase "if contaminated" to read "is contaminated."

15. Section 279.10 is amended by revising paragraph (b)(2) introductory text to read as follows:

§ 279.10 Applicability.

* * * * *

(b) * * *

(2) Characteristic hazardous waste. Mixtures of used oil and hazardous waste that solely exhibits one or more of the hazardous waste characteristic identified in subpart C of part 261 of this chapter and mixtures of used oil and hazardous waste that is listed in subpart D solely because it exhibits one or more of the characteristics of hazardous waste identified in subpart C are subject to:

* * * * *

16. Section § 279.10(b)(2)(ii) is amended by adding the phrase "Except as specified in § 279.10(b)(2)(iii)" at the beginning of the paragraph.

17. In § 279.10(b)(2)(iii) revise the phrase "because if exhibits" to read "because it exhibits".

18. In § 279.10(d)(1) revise the phrase "or other products" to read "or other fuel products".

19. In § 279.10(e)(3)(ii) revise the phrase "if the materials are identified as hazardous waste" to read "if the materials are listed or identified as hazardous wastes."

20. Section 279.10 is amended further by revising paragraph (c), paragraph (e)(4) and paragraph (i) to read as follows:

§ 279.10 Applicability.

* * * * *

(c) *Materials containing or otherwise contaminated with used oil.* (1) Except as provided in paragraph (c)(2) of this section, materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material:

(i) Are not used oil and thus not subject to this part, and

(ii) If applicable are subject to the hazardous waste regulations of parts 124, 260 through 266, 268, and 270 of this chapter.

(2) Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under this part.

(3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this part.

* * * * *

(e) * * *

(4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this part.

* * * * *

(i) *Used oil containing PCBs.* In addition to the requirements of 40 CFR part 279, marketers and burners of used oil who market used oil containing any quantifiable level of PCBs are subject to the requirements found at 40 CFR 761.20(e).

21. The table in § 279.11 is amended by adding a note to the end to read as follows:

§ 279.11 Used oil specifications.

* * * * *

Note: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).

22. Section 279.12 is amended by adding paragraph (c)(3) to read as follows:

§ 279.12 Prohibitions.

* * * * *

(c) * * *

(3) Hazardous waste incinerators subject to regulation under subpart O of parts 264 or 265 of this chapter.

* * * * *

23. Section 279.21 is amended by revising paragraph (a) to read as follows:

§ 279.21 Hazardous waste mixing.

(a) Mixtures of used oil and hazardous waste must be managed in accordance with § 279.10(b).

* * * * *

§ 279.22 [Amended]

24. The first sentence of § 279.22 is removed.

§ 279.23 [Amended]

25. In § 279.23 remove paragraph (b) and redesignate paragraph (a) as introductory text and paragraphs (a)(1) through (3) as (a) through (c) respectively.

§ 279.40 [Amended]

26. In the first sentence of § 279.40 (a)(4), revise the words "generated by," to read "from" and remove the words "from the initial generator."

27. In § 279.40 (d)(4), the phrase "of the partial Marketers" is removed.

§ 279.42 [Amended]

28. In § 279.42 paragraph (a) is revised to read as follows:

§ 279.42 Notification.

(a) *Identification numbers.* Used oil transporters that have previously notified EPA of hazardous waste and other used oil management activities and obtained a U.S. EPA Identification Number must renotify to identify their used oil transporter activities.

* * * * *

29. In § 279.42(b)(1), revise the phrase "To obtain EPA Form 8700–12" to read "To obtain ordering information for EPA Form 8700–12".

30. Section 279.43 is amended by revising paragraph (b) to read as follows:

§ 279.43 Used oil transportation.

* * * * *

(b) *DOT Requirements.* Used oil transporters must comply with all applicable requirements under the U.S. Department of Transportation regulations in 49 CFR parts 171 through 180. Persons transporting used oil that meets the definition of a hazardous material in 49 CFR 171.8 must comply with all applicable regulations in 49 CFR parts 171 through 180.

* * * * *

§ 279.45 [Amended]

31. Section 279.45 is amended by removing the first sentence and revising

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the word "generators" in the third sentence to read "transporters".

32. In § 279.45 add paragraph (d)(1)(iii) and revise the period at the end of paragraph (d)(1)(ii) to read "; or" as follows:

§ 279.45 Used oil storage at transfer facilities.

(d) * * *

(1) * * *

(iii) An equivalent secondary containment system.

* * * * * *

§ 279.51 [Amended]

33. Paragraph (a) of § 279.51 is revised to read as follows:

§ 279.51 Notification.

(a) Identification numbers. Used oil processors/rerefiners that have previously notified EPA of hazardous waste and other used oil management activities and obtained a U.S. EPA Identification Number must renotify to identify their used oil processors/rerefiners activities.

* * * * * *

§ 279.52 [Amended]

34. In § 279.52(b)(6)(viii)(C) revise the phrase "paragraph (h) of this section" to read "paragraphs (b)(6)(viii) (A) and (B) of this section.".

§ 279.54 [Amended]

35. In § 279.54, remove the first sentence and revise the word "generators" in the third sentence to read "processors/re-refiners".

36. In § 279.54(a) remove the words "or process".

37. Section 279.54 is amended by adding paragraph (c)(1)(iii) and by revising the period after paragraph (c)(1)(ii) to read "; or" as follows:

§ 279.54 Used oil management.

* * * * * *

(c) * * *

(1) * * *

(iii) An equivalent secondary containment system.

* * * * * *

§ 279.60 [Amended]

38. In § 279.60 (b)(1) revise "this subpart" to read "with subpart".

§ 279.62 [Amended]

39. In § 279.62 paragraph (a)(1) is revised to read as follows:

§ 279.62 Notification.

* * * * * *

(a) Used oil burners that have not previously notified EPA of their used oil burning activities must notify EPA to identify their used oil burning activities. Even if a burner has previously notified EPA of hazardous waste management activities under section 3010 of RCRA and obtained an identification number, the used oil burner must renotify to identify used oil burning activities.

* * * * * *

§ 279.64 [Amended]

40. Section 279.64 is amended by removing the first sentence of this section and revising the word "generators" in the third sentence to read "burners".

§ 279.70 [Amended]

41. In § 279.70(a), revise the word "section" to read "subpart."

§ 279.72 [Amended]

42. In § 279.72(a), remove the last sentence.

§ 279.73 [Amended]

43. In § 279.73(a), revise "this section" to read "this subpart."

44. In § 279.73 paragraph (a) is revised to read as follows:

§ 279.73 Notification.

(a) Used oil fuel marketers that have not previously notified EPA of their used oil fuel marketing activities must notify EPA to identify these used oil fuel marketing activities. Even if a used oil fuel marketer has previously notified EPA of hazardous waste management activities under section 3010 of RCRA and obtained an identification number, the used oil fuel marketer must renotify to identify used oil fuel marketing activities.

* * * * * *

§ 279.74 [Amended]

45. In the first sentence of § 279.74(a), revise the word "generator" to read "marketer."

[FR Doc. 93-10212 Filed 4-30-93; 8:45 am]

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federal register

Monday
May 3, 1993

Part V

Department of Transportation

Coast Guard

33 CFR Part 100

Special Local Regulations: Annual Marine Events Within the Second Coast Guard District; Rule and Notice

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD2–93–02]

Special Local Regulations: Annual Marine Events Within the Second Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising its list of annual marine events which occur within the Second Coast Guard District. Publication of this list in part 100 of the Code of Federal Regulation eliminates the necessity of publishing separate special local regulations for each event. The revised list reflects the approximate dates, and locations of each annual marine event for 1993.

EFFECTIVE DATES: These regulations become effective on May 3, 1993.

ADDRESSES: To be placed on a mailing list for notices about marine events, write to Commander (oan), Second Coast Guard District, 1222 Spruce Street, St. Louis, Missouri 63103–2832.

FOR FURTHER INFORMATION CONTACT: ENS D.R. Dean, Chief, Boating Affairs Branch, Second Coast Guard District, 1222 Spruce Street, St. Louis, Missouri, 63103–2832. The telephone number is (314) 539–3971.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable since the dates of many of the annual events were not known until February 26, 1993, and there was not sufficient time remaining to publish a proposal in advance of some of the events for which the regulation is needed. Likewise, there was not sufficient time to provide for a delayed effective date.

Although this regulation is published as a final rule without prior notice, public comment is nevertheless desirable to ensure that the regulation is both workable and reasonable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under **ADDRESSES** in this preamble. Those with comments should include their names and addresses, identify the docket number for the regulation, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of these regulations are ENS D.R. Dean, project officer, Second Coast Guard District Boating Safety Division, and CDR Walt Brawand, project attorney, Second Coast Guard District Legal Office.

Discussion of Regulations

This rulemaking merely updates an existing list of anticipated annual events. Each year various public and private organizations sponsor marine events on navigable waters of the United States within the Second Coast Guard District. These events include slow-moving boat parades, raft races, high-speed hydroplane races, steamboat races, fireworks displays, and other water-related events. The listed events are held in approximately the same location and during the same general period of time each year. The nature of each event is such that special local regulations are deemed necessary to ensure the safety of life and property on and adjacent to navigable waters during the events. During these events the river will be closed during portions of the effective periods to all vessel traffic except participants, official regatta vessels and patrol craft. Actual river closures will not exceed three hours in duration. Mariners will be afforded enough time between closure periods to transit the area.

Table One gives the approximate dates, and the times and locations for the annual events listed. Each year, one or more Notices will be published giving the exact dates, times and locations for the annual events. It should be noted that Table One in the regulation is not a complete list of all marine events that will occur in the Second Coast Guard District. It does not include events which the District Commander has determined do not require establishment of regulations for the safety of life and property on or adjacent to navigable waters. It also does not include non-annual events or events which have not been scheduled in time for this publication.

Economic Assessment and Certification

The regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these regulations are considered to be nonsignificant under the guidelines of DOT Order 2100.5 of May 22, 1980, Policies and Procedures for Simplification, Analysis, and Review of Regulations. An economic evaluation has not been conducted as the impact of these regulations is expected to be minimal. The above conclusions follow from the temporary duration of the anticipated regulated areas. If issued separately, the impact of each temporary regatta regulation would be deemed minimal. There is no reason to believe that compiling the anticipated events and the attendant regulations into a consolidated list would increase the otherwise minimal economic impact. Further, this rule merely provides current information to update an existing regulation without changing the impact of the regulation on the public. Pursuant to 5 U.S.C. 601, *et seq.*, the Regulatory Flexibility Act, it is certified that the regulations will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

This section has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant preparation of a Federalism Assessment. As noted above, this rulemaking merely updates an existing list of anticipated annual events.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.201 is amended by revising paragraphs (a) and (c), adding a new paragraph (d) and revising Table One immediately following the section to read as follows:

§ 100.201 Annual marine events within the Second Coast Guard District.

(a) Permanent special local regulations are hereby established for the marine events listed in Table 1. These regulations will be effective annually within the zones and on the approximate dates and times as indicated in Table One. Additional information concerning each event, including dates, times, locations, and event descriptions, will be published in the **Federal Register** and in Local Notices to Mariners. To be placed on the mailing list for Local Notices to Mariners, contact: Commander (oan), Second Coast Guard District, 1222 Spruce Street, St. Louis, Missouri, 63103–2832.

* * * * *

(c) Effective dates: The effective dates and times for each regulation will be published in the **Federal Register** and published and broadcast in Local Notices to Mariners. All times listed will represent local times.

(d) Duration of closure: During these events the river will be closed during portions of the effective periods to all vessel traffic except participants, official regatta vessels and patrol craft. Actual river closures will not exceed three hours in duration. Mariners will be afforded enough time between closure periods to transit the area.

Table One

1. Thunder Over Louisville
   Sponsor: Visual Presentations
   Date: Mid April (Saturday, two weeks before KY Derby)
   Location: From Falls to Kennedy Bridge (must remain free of boats 7–10 p.m.) Ohio River mile 603.2–604.3, Louisville, KY
2. KY Derby Festival Great Steamboat Race
   Sponsor: Kentucky Derby Festival/ Belle of Louisville Operating Board
   Date: Late April/Early May (one week before KY Derby)
   Location: Ohio River mile 604.0–597.0, Louisville, KY
3. Memphis in May Canoe & Kayak Race
   Sponsor: Outdoors Inc.
   Date: First or second Saturday in May
   Location: Lower Mississippi River mile 738.5–735.5, Memphis, TN
4. Three Rivers Festival and Regatta
   Sponsor: Three Rivers Festival and Regatta
   Date: Late May (two day event)
   Location: Paletine Park Everest Drive/ Water Street-Monongahela River mile 126.0–128.73, Fairmont, WV
5. Riverfest (Little Rock, AR)
   Sponsor: Riverfest, Inc.
   Date: Late May (Sunday before Memorial Day)
   Location: Main St. Bridge-Arkansas River mile 118.0–119.5, Little Rock, AR
6. Quad City River Bandits
   Sponsor: Quad City River Bandits Baseball Club
   Date: Late May (one day event)
   Location: 209 Gaines Street—River front-Upper Mississippi River mile 482.0–482.5, Davenport, IA
7. Cape Girardeau Riverfest
   Sponsor: Cape Girardeau Riverfest Association
   Date: Mid June (two day event)
   Location: Over the river, along the riverfront, downtown Cape Girardeau-Upper Mississippi River mile 51.5–52.5, Cape Girardeau, MO
8. Peoria Steamboat Days
   Sponsor: Peoria Area Community Events, Inc.
   Date: Mid June (four day event)
   Location: Illinois River mile 162.0–163.0, Peoria, IL
9. St. Albans FOP "Say No To Drugs" Fireworks
   Sponsor: St. Albans FOP
   Date: Mid June (one day event)
   Location: Kanawha River mile 46.0–47.0 at St. Albans Roadside Park, St. Albans, WV
10. Riverfest Fireworks Display
    Sponsor: Old Fort Riverfest Committee
    Date: Saturday, Mid June
    Location: Arkansas River mile 297.0–298.0, Fort Smith, AR
11. Burlington Steamboat Days
    Sponsor: Burlington Steamboat Days
    Date: Late June (one day event)
    Location: Upper Mississippi River mile 403.5–404.5, Burlington, IA
12. Freedom Festival's Thunder on the Ohio
    Sponsor: Evansville Freedom Festival
    Date: Late June (three day event)
    Location: Ohio River mile 792.0–793.0, Evansville, IN
13. Riverfest (Pt. Pleasant, WV)
    Sponsor: City of Point Pleasant
    Date: Saturday, late June
    Location: Mouth of the Kanawha River mile 0.5 to Ohio River mile 265.0, Point Pleasant, WV
14. Sternwheel Regatta
    Sponsor: City of Augusta
    Date: Saturday, late June
    Location: Waterfront-Ohio River mile 426.0–429.0, Augusta, KY
15. City of Pittsburgh Independence Eve Celebration
    Sponsor: Citiparks
    Date: Early July (one day event)
    Location: Point State Park, Pittsburgh, PA 15219
16. Ashland Tri-State Fair and Regatta
    Sponsor: Tri-State Fair and Regatta
    Date: Early July (four day event, including weekend near Fourth of July)
    Location: Ashland Public Boat Dock-Ohio River mile 322.0–323.0, Huntington, WV
17. Riverfest, Inc. (La Crosse, WI)
    Sponsor: Riverfest, Inc.
    Date: Early July (five day event, including weekend near Fourth of July)
    Location: Riverside Park, La Crosse-Upper Mississippi River mile 697.5–698.5, La Crosse, WI
18. Huntington Pops Orchestra Concert
    Sponsor: The Twentieth Street Bank
    Date: Early July (one day event)
    Location: Harris Riverfront Ampitheatre-Ohio River mile 308.0–309.5, Huntington, WV
19. July 4th Fireworks
    Sponsor: KDTH/KATF Radio
    Date: Fourth of July
    Location: Dubuque, Iowa Volunteer Road between Hawthorne & Lime-Upper Mississippi River mile 581.5–583.0, Dubuque, IA
20. Moline Riverfest
    Sponsor: City of Moline
    Date: Early July (three day event including weekend near the Fourth of July
    Location: City of Moline-Upper Mississippi River mile 486.0–488.0, Moline, IL
21. Budweiser Indiana Governor's Cup
    Sponsor: Madison Regatta, Inc.
    Date: Early July (two day event including weekend near the Fourth of July
    Location: Ohio River mile 557.0–558.0, Madison, IN
22. Owensboro Summer Festival
    Sponsor: Owensboro Summer Festival, Inc.
    Date: Fourth of July
    Location: Boat Dock at Foot of Frederica St.-Ohio River mile 756.5–758.0, Owensboro, KY
23. Skyconcert—4th of July Celebration
    Sponsor: WKZW
    Date: Fourth of July
    Location: Illinois River mile 162.0–163.0, Peoria, IL
24. Riverfest (Fort Madison, IA)
    Sponsor: Rivercities Fireworks Corp.
    Date: Fourth of July
    Location: Upper Mississippi River mile 202.5–203.2, Fort Madison, IA
25. Fireworks Display (Buchanan, TN)
    Sponsor: Tennessee Dept. of Environment & Conservation Division of Parks & Recreation
    Date: Fourth of July
    Location: Tennessee River mile 66.0–67.0, Buchanan, TN
26. Muscatine 4th of July Fireworks
    Sponsor: Muscatine Jaycees
    Date: Fourth of July
    Location: Illinois side of River on shore-Upper Mississippi River mile 450.5–451.5, Muscatine, IA
27. Star Spangled Celebration
    Sponsor: WMC Stations
    Date: Fourth of July
    Location: Mud Island (West side of Southern Tip) Audience on Tom Lee Park/Riverside Drive-Lower Mississippi River mile 735.5–736.5, Memphis, TN
28. Fourth of July Fireworks Display
    Sponsor: Charleston Festival Commission, Inc.
    Date: Fourth of July
    Location: Ohio River mile 59.9–61.2

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29. July 4th Concert
Sponsor: Cincinnati Symphony Orchestra
Date: Forth of July
Location: Riverbend Music Center-Ohio River mile 460.5–461.5, Cincinnati, OH

30. St. Charles Jaycees Riverfest 1993 Fireworks Show
Sponsor: St. Charles Jaycees
Date: Fourth of July
Location: Missouri River mile 28.0–29.0, St. Charles, MO

31. Spirit of Freedom Celebration
Sponsor: WLAY Radio
Date: Fourth of July
Location: Tennessee River mile 255.5–256.5, Sheffield, AL

32. 4th of July Fireworks
Sponsor: MPLS Park & Rec. Board
Date: Fourth of July
Location: Upper Mississippi River mile 854.0–854.1, MPLS, MN

33. Venetian Night Lighted Boat Parade
Sponsor: Quad City Venetian Night Committee
Date: Fourth of July
Location: Upper Mississippi River mile 483.0–488.0, Geneseo, IL

34. National Association of Counties—Riverside Gala Fireworks Display
Sponsor: Hennepin County—Nat'l Assoc. of Counties Annual Meeting
Date: Early July (one day event)
Location: Nicollet Island Park-Upper Mississippi River mile 854.5–854.6, Minneapolis, MN

35. 10th Annual Steubenville Regatta
Sponsor: Steubenville Regatta and Racing Association, Inc.
Date: Mid July (three day event)
Location: Ohio River mile 65.0–67.0, Steubenville, OH

36. New Haven, MO Boat Race
Sponsor: St. Louis Outboard Drivers Association
Date: Mid July (one day event)
Location: Missouri River mile 81.0–82.0, New Haven, MO

37. Minneapolis Aquatennial Power Boat Grand
Sponsor: Minneapolis Aquatennial Association
Date: Mid July (two day, weekend event)
Location: Plymouth Ave. Bridge to Railroad Bridge-Upper Mississippi River mile 855.0–855.8, Minneapolis, MN

38. Hastings Flotilla Frolic
Sponsor: Hastings Flotilla Frolic Association
Date: Mid July (one day event)
Location: Upper Mississippi River mile 813.0–814.3, Hastings, MN

39. Fireworks/Budweiser World Point Jet Ski Race/Huntington Miller Classic & Testing
Sponsor: Tri-State Fair and Regatta
Date: Mid July (five day event)
Location: Ohio River mile 308.0–309.0, Huntington, WV

40. Dragon Boat Races
Sponsor: Stillwater Area Chamber of Commerce
Date: Late July (last or next-to-last weekend)
Location: St. Croix River mile 21.0–23.7, Stillwater, MN

41. Wabasha Riverboat Day
Sponsor: Wabasha Area Chamber of Commerce
Date: Late July (one day event)
Location: Upper Mississippi River mile 759.5–760.5, Wabasha, MN

42. Rivercase Fireworks
Sponsor: Rivercade
Date: Late July (one day event)
Location: Missouri River mile 727.5–728.5, Sioux City, IA

43. Oakmont Yacht Club Regatta
Sponsor: Oakmont Yacht Club
Date: Late July/early August (three day event)
Location: 11th Washington Avenue-Allegheny River mile 12.0–13.0, Oakmont, PA

44. Mississippi Annual Down River Adventure by Canoe (MADRAC)
Sponsor: Mississippi River Adventures
Date: Early August (eight day event)
Location: Bellevue, IA to Burlington, IA-Upper Mississippi River mile 309.0–455.5, Coralville, IA

45. Great River Tug
Sponsor: Great River Tug
Date: Early August (two day event)
Location: Upper Mississippi River mile 496.5–497.5, LeClaire, IA

46. Fireworks
Sponsor: Red Wing Jaycees
Date: Early August (one day event)
Location: Upper Mississippi River mile 790.0–794.0, Red Wing, MN

47. Pittsburgh Three Rivers Regatta
Sponsor: Pittsburgh Three Rivers Regatta, Inc.
Date: Early August (four day event)
Location: One mile around point at confluence of Allegheny, Monongahela and Ohio River. Allegheny River mile 0.0–1.0, Ohio River mile 0.0–0.8 and Monongahela River mile 0.0–0.8, Pittsburgh, PA

48. Peace Float
Sponsor: City of St. Paul, MN
Date: Early August (one day event)
Location: Harriet Island-Upper Mississippi River mile 839.6–839.7, St. Paul, MN

49. Lansing Fish Days Canoe Race
Sponsor: Lansing Lions Club
Date: Mid August (one day event)
Location: Upper Mississippi River mile 662.5–664.0, Lansing, IA

50. Rollin on the River
Sponsor: Rollin On The River
Date: Mid August (one day event)
Location: Victory Park-Upper Mississippi River mile 363.0–365.0, Keokuk, IA

51. Parkersburg Homecoming Festival
Sponsor: Parkersburg Homecoming Festival
Date: Mid August (three day event)
Location: Downtown Parkersburg-Ohio River & Little Kanawha River mile 184.0–185.0, Parkersburg, WV

52. Kentucky Derby
Sponsor: Salvation Army Boys and Girls Club
Date: Mid August (one day event)
Location: Ohio River mile 603.5–604.5, Louisville, KY

53. Fernbank Regatta
Sponsor: Ohio Valley Motor Boat Racing Association
Date: Mid August (one day event)
Location: Old Fernbank Dam Park, Ohio River mile 482.0–483.2, Cincinnati, OH

54. 2nd Annual Tennessee River Drag Boat Race
Sponsor: Clifton Rotary Club
Date: Mid August (one day event)
Location: Tennessee River mile 155.0–158.0, (Kentucky Lake) Clifton, TN

55. Great River Days Limited
Sponsor: Great River Days Limited
Date: Mid August (one day event)
Location: Illinois side of river on shore-Upper Mississippi River mile 451.0–451.1, Muscatine, IA

56. Bud Light Championship Grand Prix
Sponsor: Concord Village Lions Club
Date: Mid August (three day event)
Location: Meramec River at George Winter Park mile 14.0–16.0, Fenton, MO

57. Muscatine Great River Days Regatta
Sponsor: Muscatinee Great River Days
Date: Mid August (one day event)
Location: Upper Mississippi River mile 457.0–457.1, Muscatine, IA

58. Kittanning Rotary Regatta
Sponsor: Kittanning Rotary
Date: Mid August (two day event)
Location: Allegheny River mile 44.0–45.0, Ford City, PA

59. Monongahela River Festival
Sponsor: Monongahela River Festival
Date: Late August (three day event)
Location: Aquatorium/Monongahela River mile 31.5–32.0 North Bank, Monongahela, PA

60. Beaver County River Regatta
Sponsor: Beaver County River Regatta, Inc.
Date: Late August (three day event)
Location: Beaver River, mile 00.0–2.0, Bridgewater, PA

61. 22nd Annual Charleston Sternwheel Regatta
Sponsor: Kanawha River Navy Charleston Festival Commission, Inc
Date: Late August/early September (ten day event)
Location: Great Kanawha River mile 57.5–61.5

62. New Richmond Riverfest
Sponsor: New Richmond Riverfest
Date: Late August (one day event)
Location: Ohio River mile 449.0–450.6, New Richmond, OH

63. Labor Day Bash
Sponsor: City of Maxsville 7 Maxsville-Mason Co. Tourism.
Date: Saturday before Labor Day
Location: Ohio River mile 407.0–409.0, Maxsville, KY

64. Double Iron Triathlon
Sponsor: Ray & Nancy Sheppart
Date: Sunday before Labor Day
Location: Tennessee River mile 330.0–334.3, Huntsville, AL

65. Portsmouth Riverdays
Sponsor: Portsmouth Riverdays, Inc.
Date: Sunday before Labor Day
Location: Ohio River mile 355.5–357.0, Portsmouth, OH

66. Budweiser/Jesse Brent Memorial Boat Racing Assoc.
Sponsor: Budweiser/Jessee Brent Memorial Boat Racing Assoc.
Date: Sunday before Labor Day
Location: Lake Ferguson-Lower Mississippi River mile 522.0–537.0, Greensville, MS

67. Toyota/WEBN Fireworks
Sponsor: WEBN
Date: Sunday before Labor Day
Location: Between U.S. 27, L & N – I–471 Bridges-Ohio River mile 469.0–470.0, Cincinnati, OH

68. The Great Missouri River Raft Regatta
Sponsor: The Great Missouri River Raft Regatta, Inc.
Date: Sunday before Labor Day
Location: Missouri River mile 627.5 – 601.0, Omaha, NE

69. Portsmouth Riverdays Hydroplane Regatta
Sponsor: Portsmouth Riverdays Inc.
Date: Sunday before Labor Day and Labor Day
Location: Ohio River mile 355.5–357.0, Portsmouth, OH

70. Aspinwall Centennial Air Show
Sponsor: Aspinwall Centennial Committee
Date: Labor Day
Location: Lock & Dam #2—Allegheny River mile 6.7–7.5, Aspinwall, PA

71. The Steamboat Days Festival
Sponsor: Steamboat Days Festival Committee
Date: Mid September (one day event)
Location: Ohio River mile 602.0–603.0, Jeffersonville, IN

72. Kentuckiana Powerboat Classic
Sponsor: Bridge The Gap, Inc.
Date: Mid September (three day event)
Location: Between Clark Memorial and Kennedy Bridges—Ohio River mile 602.5–603.0

73. Ohio River Sternwheel Festival
Sponsor: Ohio River Sternwheel Festival
Date: Mid September (three day event)
Location: Ohio River mile 170.8–171.9, Marietta, OH

74. Riverfront Pops Concert
Sponsor: Quad City Symphony Orchestra Association
Date: Mid September (one day event)
Location: LeClaire Park—Upper Mississippi River mile 496.5–497.5, Davenport, IA

75. Cincinnati Reds—Kraft
Sponsor: The Cincinnati Reds
Date: Mid September (one day event)
Location: Riverfront Stadium—Ohio River mile 469.8–470.4, Cincinnati, OH

76. Ashland Area Jaycees Flote Bote Race
Sponsor: Ashland Area Jacycees
Date: Mid September (one day event)
Location: Ashland Boat Ramp to Ironton Boat Ramp—Ohio River mile 322.8–327.4, Ashland, KY

77. Dardenne Boat Races
Sponsor: Dardenne Slough Race Association
Date: Mid September (two day event)
Location: Upper Mississippi River mile 224.0–228.5, St. Louis, MO

78. Head of the Des Moines Rowing Regatta
Sponsor: Des Moines Rowing Club
Date: Late September (one day event)
Location: Des Moines River—Botanical Center to Prospect, Des Moines, IA

79. Head of the Ohio
Sponsor: Pittsburgh Mercy Foundation
Date: Late September (one day event)
Location: Allegheny River mile 0.0–3.3, Pittsburgh, PA

80. PSA Fall Race Series
Sponsor: Pickwick Sailing Association
Date: Early October (two day event)
Location: Pickwick Lake-Tennessee River 209.0–218.0, Cordova, TN

81. Head of the Mississippi Regatta
Sponsor: Minneapolis Rowing Club
Date: Early October (one day event)
Location: Upper Mississippi River mile 850.0–853.0, Minneapolis, MN

82. Big Bend Sternwheel Festival
Sponsor: Big Bend Sternwheel Assn.
Date: Mid October (one day event)
Location: Ohio River mile 248.5–249.5, Pomeroy, OH

83. Great River Race
Sponsor: Browns Creek Sailing Assn.
Date: Mid October (two day event)
Location: Guntersville Lake-Tennessee River mile 352.0–365.0, Huntsville, AL

84. Tall Stacks 1993
Sponsor: Tall Stacks 1993
Date: Mid October (six day event)
Location: Ohio River mile 469.0–471.0, Cincinnati, OH

85. Fleur De Lis Regatta
Sponsor: City of Louisville Board of Alderman
Date: Mid October (two day event)
Location: Ohio River mile 602.0–604.0, Louisville, KY

86. Fall Color Cruise
Sponsor: Alhambra Shrine
Date: Late October/early November (two day event)
Location: Tennessee River mile 425.0–471.0, Chattanooga, TN

87. Head of the Tennessee Regatta
Sponsor: Knoxville Rowing Association
Date: Late October (one day event)
Location: Fort Loudon Lake 641.5–645.0, Alcoa Highway Bridge to Sequoyah Park, Knoxville, TN.

J.J. Lantry,
Captain, U.S. Coast Guard, Commander, Second Coast Guard District (Acting).

[FR Doc. 93–10341 Filed 4–30–93; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD2-93-03]

Special Local Regulations: Annual Marine Events Within the Second Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The U.S. Coast Guard is announcing the exact dates, times and locations for those annual marine events that will occur in the Second Coast Guard District in 1993. The Coast Guard has previously published a list of marine events which occur annually in the Second Coast Guard District, which will be codified at 33 CFR 100.201. However, because the exact dates, times and locations of these events may change from year to year, 33 CFR 100.201 contains only approximate dates and locations.

ADDRESSES: For additional information about any of the events listed in the table below, or to be placed on a mailing list for notices about annual marine events within the Second Coast Guard District, write to Commander (oan), Second Coast Guard District, 1222 Spruce Street, St. Louis, Missouri 63103-2832.

FOR FURTHER INFORMATION CONTACT: ENS D.R. Dean, Chief, Boating Affairs Branch, Second Coast Guard District, 1222 Spruce Street, St. Louis, Missouri, 63103-2832. The telephone number is (314) 539-3971.

SUPPLEMENTARY INFORMATION: Various public and private organizations sponsor marine events, which are scheduled to occur on an annual basis, on navigable waters of the United States within the Second Coast Guard District. However, the exact date, time and location of each event may vary from year to year. The table below gives the exact dates, times and locations for those annual marine events, scheduled to occur in 1993, which are published elsewhere in this issue of the **Federal Register** and will be codified at 33 CFR 100.201. It should be noted that this list is not a complete list of all marine events that will occur in the Second Coast Guard District. It does not include events which the District Commander has determined do not require establishment of regulations for the safety of life and property on or adjacent to navigable waters. It also does not include non-annual events or events which have not been scheduled in time for this publication.

The events listed in the table include slow-moving boat parades, raft races, high-speed hydroplane races, steamboat races, fireworks displays, and other water-related events. The nature of each event is such that special local regulations are deemed necessary to ensure the safety of life and property on and adjacent to navigable waters during the events. During these events the river may be closed during portions of the effective periods to all vessel traffic except participants, official regatta vessels and patrol craft. Actual river closures will not exceed three hours in duration. Mariners will be afforded enough time between closure periods to transit the area.

1. Thunder Over Louisville
   Sponsor: Visual Presentations
   Date: April 17, 1993/3:00 p.m.–6:00 p.m., 7:00 p.m.–11:00 p.m.
   Location: Ohio River mile 603.2–604.3, Louisville, KY
2. KY Derby Festival Great Steamboat Race
   Sponsor: Kentucky Derby Festival/Belle of Louisville Operating Board
   Date: April 28, 1993/4:00 p.m.–8:00 p.m.
   Location: Ohio River mile 597.0–604.0, Louisville, KY
3. Memphis In May Canoe & Kayak Race
   Sponsor: Outdoors Inc.
   Date: May 8, 1993/9:30 a.m.–11:30 a.m.
   Location: Lower Mississippi River mile 735.5–738.5, Memphis, TN
4. Quad City River Bandits
   Sponsor: Quad City River Bandits Baseball Club
   Date: May 24, 1993/10:00 p.m.–10:45 p.m.
   Location: Upper Mississippi River mile 482.0–482.5, Davenport, IA
5. Three Rivers Festival and Regatta
   Sponsor: Three Rivers Festival and Regatta
   Date: May 27 & 30, 1993/9:00 a.m.–5:00 p.m. (each day)
   Location: Monongahela River mile 126.0–128.73, Fairmont, WV
6. Riverfest (Little Rock, AR)
   Sponsor: Riverfest, Inc.
   Date: May 30, 1993/12:00 p.m.–11:30 p.m.
   Location: Arkansas River mile 118.0–119.5, Little Rock, AR
7. Cape Girardeau Riverfest
   Sponsor: Cape Girardeau Riverfest Association
   Date: June 11, 1993/3:00 p.m.–9:00 p.m., 9:15 p.m.–10:00 p.m. (fireworks)
   June 12, 1993/11:00 a.m.–8–00 p.m., 8:45 p.m.–10:15 p.m. (fireworks)
   Location: Upper Mississippi River mile 51.5–52.5, Cape Girardeau, MO
8. Peoria Steamboat Days
   Sponsor: Peoria Area Community Event, Inc.
   Date: June 17–20, 1993/8:00 p.m.–12:00 a.m. (each day)
   Location: Illinois River mile 162.0–163.0, Peoria, IL
9. St. Albans FOP "Say No To Drugs" Fireworks
   Sponsor: St. Albans FOP
   Date: June 18, 1993/9:30 p.m.–10:00 p.m.
   Location: Kanawha River mile 46.0–47.0 at St. Albans Roadside Park, St. Albans, WV
10. Riverfest Fireworks Display
    Sponsor: Old Fort Riverfest Committee
    Date: June 19, 1993/9:15 p.m.–10:30 p.m.
    Location: Arkansas River mile 297.0–298.0, Fort Smith, AR
11. Burlington Steamboat Days
    Sponsor: Burlington Steamboat Days
    Date: June 21, 1993/8:45 p.m.–11:30 p.m.
    Location: Upper Mississippi River mile 403.5–404.5, Burlington, IA
12. Freedom Festival's Thunder On the Ohio
    Sponsor: Evansville Freedom Festival
    Date: June 25–27, 1993: 25/8:00 a.m.–7:00 p.m.; 26/9:00 a.m.–6:00 p.m.; 27/8:00 a.m.–6:00 p.m.
    Location: Ohio River mile 792.0–793.0, Evansville, IN
13. Riverfest (Pt. Pleasant, WV)
    Sponsor: City of Point Pleasant
    Date: June 26, 1993/10:00 p.m.–10:30 p.m.
    Location: Ohio River mile 265.0 to the mouth of the Kanawha River and from the mouth of the Kanawha River to mile 0.5 of the Kanawha River, Point Pleasant, WV
14. Sternwheel Regatta
    Sponsor: City of Augusta
    Date: June 26, 1993/2:00 p.m.–4:00 p.m.
    Location: Ohio River mile 426.0–429.0, Augusta, KY
15. Ashland Tri-State Fair and Regatta
    Sponsor: Tri-State Fair and Regatta
    Date: July 1–4, 1993/6:00 p.m.–11:00 p.m. (each day)
    Location: Ashland Public Boat Dock, Ohio River mile 322.0–323.0, Huntington, WV
16. Riverfest, Inc. 1992 (La Crosse, WI)
    Sponsor: Riverfest, Inc.
    Date: July 1–5, 1993/9:00 a.m.–2:00 p.m. (each day)
    Location: Riverside Park, Upper Mississippi River mile 697.5–698.5, La Crosse, WI
17. Huntington Pops Orchestra Concert
    Sponsor: The Twentieth Street Bank
    Date: July 3, 1993/9:30 p.m.–10:00 p.m.
    Location: Harris Riverfront Ampitheatre, Ohio River mile 308.0–309.5, Huntington, WV
18. July 4th Fireworks
    Sponsor: KDTH/KATF Radio
    Date: July 3, 1993/9:15 p.m.–10:30 p.m.
    Location: Dubuque, Iowa Volunteer Road Between Hawthorne & Lime, Upper Mississippi River mile 581.5–583.0, Dubuque, IA
19. City of Pittsburgh Independence Eve Celebration
    Sponsor: Citiparks
    Date: July 3, 1993/9:40 p.m.–10:30 p.m.
    Location: Point State Park, Pittsburgh, PA 15219
20. Moline Riverfest
    Sponsor: City of Moline
    Date: July 3–5, 1993, 3 & 4/9:15 p.m.–10:00 p.m. (fireworks display) 5/12:30 p.m.–3:30 p.m. (ski show)
    Location: Upper Mississippi River mile 486.0–488.0, Moline, IL
21. Budweiser Indiana Governor's Cup
    Sponsor: Madison Regatta, Inc.
    Date: July 3 & 4, 1993: 3/9:00 a.m.–6.00 p.m.; 4/9:00 a.m.–5:30 p.m.; & 9:00 p.m.–10:00 p.m.
    Location: Ohio River mile 557.0–558.0, Madison, IN
22. Owensboro Summer Festival
    Sponsor: Owensboro Summer Festival, Inc.
    Date: July 4, 1993/1:00 p.m.–2:30 p.m.
    Location: Boat Dock at Foot of Frederica St., Ohio River mile 756.5–758.0, Owensboro, KY
23. Skyconcernt—4th of July Celebration
    Sponsor: WKZW
    Date: July 4, 1993/1:00 p.m.–4:00 p.m., 8:00 p.m.–10:30 p.m.
    Location: Illinois River mile 162.0–163.0, Peoria, IL
24. Riverfest 1993 (Fort Madison, IA)
    Sponsor: Rivercities Fireworks Corp.
    Date: July 4, 1993/9:30 p.m.–11:30 p.m.
    Location: Upper Mississippi River mile 202.5–203.2, Fort Madison, IA
25. Fireworks Display (Buchanan, TN)
    Sponsor: Tennessee Dept. of Environment & Conservation, Division of Parks & Recreation
    Date: July 4, 1993/9:00 p.m.–11:00 p.m.
    Location: Tennessee River mile 66.0–67.0, Buchanan, TN
26. Muscatine 4th of July Fireworks
    Sponsor: Muscatine Jaycees
    Date: July 4, 1993/9:15 p.m.–10:30 p.m.
    Location: Upper Mississippi River mile 450.5–451.5, Muscatine, IA
27. Star Spangled Celebration
    Sponsor: WMC Stations
    Date: July 4, 1993/9:30 p.m.–10:00 p.m.
    Location: Lower Mississippi River mile 735.5–736.5, Memphis, TN
28. Fourth of July Fireworks Display
    Sponsor: Charleston Festival Commission, Inc.
    Date: July 4, 1993/9:00 p.m.–10:00 p.m.
    Location: Ohio River mile 59.9–61.2, Charleston, WV
29. July 4th Concert
    Sponsor: Cincinnati Symphony Orchestra
    Date: July 4, 1993/8:30 p.m.–11:00 p.m.
    Location: Ohio River mile 460.5–461.5, Cincinnati, OH
30. St. Charles Jaycees Riverfest 1993 Fireworks Show
    Sponsor: St. Charles Jaycees
    Date: July 4, 1993/7:00 p.m.–10:00 p.m.
    Location: Missouri River mile 28.0–29.0, St. Charles, MO
31. Spirit of Freedom Celebration
    Sponsor: WLAY Radio
    Date: July 4, 1993/7:00 p.m.–11:00 p.m.
    Location: Tennessee River mile 255.5–256.5, Sheffield, AL
32. 4th of July Fireworks
    Sponsor: MPLS Park & Recreation Board
    Date: July 4, 1993/10:00 p.m.–10:30 p.m.
    Location: Upper Mississippi River mile 854.0–854.1, Minneapolis, MN
33. Venetian Night Lighted Boat Parade
    Sponsor: Quad City Venetian Night Committee
    Date: July 4, 1993/8:00 p.m.–12:00 p.m.
    Location: Upper Mississippi River mile 483.0–488.0, Geneseo, IL
34. National Association of Counties—Riverside Gala Fireworks Display
    Sponsor: Hennepin County—Nat'l Assoc. of Counties Annual Meeting
    Date: July 8, 1993/10:00 p.m.–10:15 p.m.
    Location: Upper Mississippi River mile 854.5–854.6, Minneapolis, MN
35. 10th Annual Steubenville Regatta
    Sponsor: Steubenville Regatta and Racing Association, Inc.
    Date: July 09–11, 1993/11:00 a.m.–10:00 p.m. (each day)
    Location: Ohio River mile 65.0–67.0, Steubenville, OH
36. New Haven, MO Boat Race
    Sponsor: St. Louis Outboard Drivers Association
    Date: July 11, 1993/11:00 a.m.–6:00 p.m.
    Location: Missouri River mile 81.0–82.0, New Haven, MO
37. Minneapolis Aquatennial Power Boat Grand
    Sponsor: Minneapolis Aquatennial Association
    Date: July 17–18, 1993; 17/11:00 a.m.–5:00 p.m.; 18/9:00 a.m.–5:00 p.m.; 18/9:00 a.m.–7:00 p.m.
    Location: Plymouth Ave. Bridge to Railroad Bridge, Upper Mississippi River mile 855.0–855.8, Minneapolis, MN
38. Hastings Flotilla Frolic
    Sponsor: Hastings Flotilla Frolic Association
    Date: July 17, 1993/1:00 p.m.–2:30 p.m. & 4:00 p.m.–5:30 p.m. & 7:30 p.m.–11:00 p.m.
    Location: Upper Mississippi River mile 813.0–814.3, Hastings, MN
39. Fireworks/Budweiser World Point Jet Ski Race/Huntington Miller Classic & Testing
    Sponsor: Tri-State Fair and Regatta
    Date: July 17, 18, 23, 24, 25, 1993; 17/9:30 p.m.–10:30 p.m.; 17 & 18/8:00 a.m.–6:00 p.m.; 23/8:00 a.m.–12:00 a.m. & 1:00 p.m.–8:00 p.m.; 24/9:30 p.m.–10:30 p.m.; 24 & 25/8:00 a.m.–12:00 p.m. & 1:00 p.m.–8:00 p.m.
    Location: Ohio River mile 308.0–309.0, Huntington, WV
40. Wabasha Riverboat Day
    Sponsor: Wabasha Area Chamber of Commerce
    Date: July 24, 1993/9:00 a.m.–12:00 p.m.
    Location: Upper Mississippi River mile 759.5–760.5, Wabasha, MN
41. Dragon Boat Races
    Sponsor: Stillwater Area Chamber of Commerce
    Date: July 24 & 25, 1993; 24/5:00 p.m.–9:30 p.m.; 25/8:00 a.m.–6:30 p.m.
    Location: St. Croix River Mile 21.0–23.7, Stillwater, MN
42. Rivercade Fireworks
    Sponsor: Rivercade
    Date: July 25, 1993/10:00 p.m.–11:00 p.m.
    Location: Missouri River mile 727.5–728.5, Sioux City, IA
43. Oakmont Yacht Club Regatta
    Sponsor: Oakmont Yacht Club
    Date: July 31 thru Aug 2, 1993; 31/9:00 a.m.–6:00 p.m.; Aug 1 & 2/9:00 a.m.–6:00 p.m.
    Location: Allegheny River mile 12.0–13.0, Oakmont, PA
44. Fireworks
    Sponsor: Red Wing Jaycees
    Date: Aug 1, 1993/10:00 p.m.–11:00 p.m.
    Location: Upper Mississippi River mile 790.0–794.0, Red Wing MN
45. Mississippi Annual Down River Adventure by Canoe (MADRAC)

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Sponsor: Mississippi River Adventures
Date: Aug 1 thru Aug 8, 1993/7:00 a.m.–5:00 p.m. (each day)
Location: Bellevue, IA to Burlington, IA, Upper Mississippi River mile 309.0–455.5, Coralville, IA

46. Great River Tug
Sponsor: Great River Tug
Date: Aug 7, 1993/10:00 a.m.–5:00 p.m.; 8/1:00 p.m.–3:00 p.m.
Location: Upper Mississippi River mile 496.5–497.5, LeClaire, IA

47. Pittsburgh Three Rivers Regatta
Sponsor: Pittsburgh Three Rivers Regatta, Inc.
Date: Aug 5–8, 1993; 5/4:00 p.m.–9:30 p.m.; 6/12:00 p.m.–10:30 p.m.; 7/6:30 a.m.–9:45 p.m.; 8/6:30 a.m.–9:00 p.m.
Location: One mile around point at confluence of Allegheny, Monongahela and Ohio River, Allegheny River mile 0.0–1.0, Ohio River mile 0.0–0.8 and Monongahela River mile 0.0–0.8, Pittsburgh, PA

48. Peace Float
Sponsor: City of St. Paul, MN
Date: Aug 8, 1993/9:00 p.m.–9:45 p.m.
Location: Harriet Island, Upper Mississippi Rivermile 839.6–839.7, St. Paul, MN

49. Lansing Fish Days Canoe Race
Sponsor: Lansing Lions Club
Date: Aug 14, 1993/10:00 a.m.–1:30 p.m.
Location: Upper Mississippi River mile 662.5–664.0, Lansing, IA

50. Rollin on the River
Sponsor: Rollin On The River
Date: Aug 13, 1993/9:15 p.m.–9:45 p.m.
Location: Victory Park, Upper Mississippi River mile 363.0–365.0, Keokuk, IA

51. Parkersburg Homecoming Festival
Sponsor: Parkersburg Homecoming Festival
Date: Aug 13–15, 1993/6:00 p.m.–10:00 p.m. (each day)
Location: Ohio River & Little Kanawha, River mile 184.0–185.0, Parkersburg, WV

52. Kentucky Derby
Sponsor: Salvation Army Boys and Girls Club
Date. Aug 14, 1993/3.30 p.m.–7:25 p.m.
Location: Ohio River mile 603.5–604.5, Louisville KY

53. Fernbank Regatta
Sponsor: Ohio Valley Motor Boat Racing Association
Date: Aug 15, 1993/noon–6:00 p.m.
Location: Old Fernbank Dam Park, Ohio River mile 482.0–483.2, Cincinnati, OH

54. 2nd Annual Tennessee River Drag Boat Race
Sponsor: Clifton Rotary Club
Date: Aug 15, 1993/1:00 p.m.–6:00 p.m.
Location: Tennessee River mile 155.0–158.0 (Kentucky Lake), Clifton, TN

55. Monongahela River Festival
Sponsor: Monongahela River Festival
Date: Aug 20–22, 1993/6:00 a.m.–12:00 a.m. (each day)
Location: Aquatorium/Monongahela River mile 31.5–32.0, North Bank, Monongahela, PA

56. Bud Light Championship Grand Prix
Sponsor: Concord Village Lions Club
Date: Aug 19–21, 1993/8:00 a.m.–7:15 p.m. (each day)
Location: George Winter Park/ Meramec River mile 14.0–16.0, Fenton, MO

57. Great River Days Limited
Sponsor: Great River Days Limited
Date: Aug 21, 1993/9:00 p.m.–11:00 p.m.
Location: Upper Mississippi River mile 451.0–451.1, Muscatine, IA

58. Beaver County River Regatta
Sponsor: Beaver County River Regatta, Inc.
Date: Aug 20–22, 1993/9:00 a.m.–5:00 p.m.
Location: Beaver River, mile 00.0–2.0, Beaver, PA

59. Muscatine Great River Days Regatta
Sponsor: Muscatine Great River Days
Date: Aug 21, 1993/4:30–6:00 p.m.
Location: Upper Mississippi River mile 457.0–457.1, Muscatine, IA

60. Kittanning Rotary Regatta
Sponsor: Kittanning Rotary
Date: Aug 21 & 22, 1993/9:00 a.m.–8:00 p.m. (each day)
Location: Allegheny River mile 44.0–45.0, Ford City, PA

61. 22nd Annual Charleston Sternwheel Regatta
Sponsor: Kanawha River Navy Charleston Festival Commission, inc.
Date: Aug 27 thru Aug 29 and Sep 4 & 5; 27/7:00 p.m.–11:00 p.m.; 28/noon–6:00 p.m.; 7:00 p.m.–11:00 p.m.; 29/noon–3:00 p.m.; 7:00 p.m.–11:00 p.m.; Sept 4/2:00 p.m.–6:00 p.m.; 7:00 p.m.–11:00 p.m.; 5/1:00 p.m.–5:00 p.m.; 7:00 p.m.–11:00 p.m.
Location: Great Kanawha River mile 57.5–61.5

62. New Richmond Riverfest
Sponsor: New Richmond Riverfest
Date: Aug 29, 1993/12:00 p.m.–6:00 p.m.
Location: Ohio River mile 449.0–450.6, New Richmond, OH

63. Labor Day Bash
Sponsor: [001757 City of Maysville & Maysville–Mason Co. Tourism
Date: Sep 4, 1993/1:00 p.m.–5:00 p.m.
Location: Ohio River mile 407.0–409.0, Maysville, KY

64. Double Iron Triathlon
Sponsor: Ray & Nancy Sheppart
Date: Sep 5, 1993/7:00 a.m.–11:00 a.m.
Location: Tennessee River mile 330.0–334.3, Hunstville, AL

65. Portsmouth Riverdays
Sponsor: Portsmouth Riverdays, Inc.
Date: Sep 5, 1993/9:45 p.m.–10:30 p.m.
Location: Ohio River mile 355.5 –357.0, Portsmouth, OH

66. Budweiser/Jessee Brent Memorial Boat Racing Assoc.
Sponsor: Budweiser/Jessee Brent Memorial Boat Racing Assoc.
Date: Sep 5, 1993/9:00 a.m.–5:00 p.m.
Location: Lake Ferguson, Lower Mississippi River mile 522.0–537.0, Greensville, MS

67. Toyota /WEBN Fireworks
Sponsor: WEBN
Date: Sep 5, 1993/6:30 p.m.–9:35 p.m.
Location: Between U.S. 27, L&N–I–471 Bridges, Ohio River mile 469.0–470.0, Cincinnati, OH

68. The Great Missouri River Raft Regatta
Sponsor: The Great Missouri River Raft Regatta, Inc.
Date: Sep 5, 1993/10:00 a.m.–7:30 p.m.
Location: Missouri River mile 601.0–627.5, Omaha, NE

69. Portsmouth Riverdays Hydroplane Regatta
Sponsor: Portsmouth Riverdays Inc.
Date: Sept 5 & 6, 1993/10:00 a.m.–6:00 p.m. (each day)
Location: Ohio River mile 355.5–357.0, Portsmouth, OH

70. Aspinwall Centennial Air Show
Sponsor: Aspinwall Centennial Committee
Date: Sep 6, 1993/2:00 p.m.–2:20 p.m.
Location: Lock & Dam #2, Allegheny River mile 6.7–7.5, Aspinwall, PA

71. The Steamboat Days Festival
Sponsor: Steamboat Days Festival Committee
Date: Sep 10, 1993/10:00 p.m.–10:30 p.m.
Location: Ohio River mile 602.0–603.0, Jeffersonville, IN

72. Kentuckiana Powerboat Classic
Sponsor: Bridge The Gap, Inc.
Date: Sep 10–12, 1993; 10/12:00 p.m.–4:00 p.m.; 11/11:00 a.m.–7:00 p.m.; 12/11:00 a.m.–7:00 p.m.
Location: Between Clarke Memorial and Kennedy Bridges, Ohio River mile 604.5–603.0, Louisville, KY

73. Ohio River Sternwheel Festival
Sponsor: Ohio River Sternwheel Festival
Date: Sep 10–12, 1993; 10/6:30 p.m.–9:30 p.m.; 11/6:30 p.m.–9:30 p.m.; 12/12:30 p.m.–3:00 p.m.
Location: Ohio River mile 170.8–171.9, Marietta, OH

74. Riverfront Pops Concert
Sponsor: Quad City Symphony Orchestra Association
Date: Sep 11, 1993/6:00 p.m.–9:00 p.m.
Location: LeClaire Park, Upper Mississippi River mile 496.5–497.5, Davenport, IA

75. Cincinnati Reds—Kraft
Sponsor: The Cincinnati Reds
Date: Sep 18, 1993/10:30 p.m.–11:00 p.m.
Location: Riverfront Stadium-Ohio River mile 469.8–470.4, Cincinnati, OH

76. Ashland Area Jaycees Flote Bote Race
Sponsor: Ashland Area Jaycees
Date: Sep 18, 1993/11:00 a.m.–3:00 p.m.
Location: Ashland Boat Ramp to Ironton Boat Ramp, Ohio River mile 322.8–327.4, Ashland, KY

77. Dardenne Boat Races
Sponsor: Dardenne Slough Race Association
Date: Sep 18 & 19, 1993/8:00 a.m.–6:00 p.m. (each day)
Location: Upper Mississippi River mile 224.0–228.5, St. Louis, MO

78. Head of the Des Moines Rowing Regatta
Sponsor: Des Moines Rowing Club
Date: Sep 25, 1993/8:00 a.m.–6: p.m.
Location: Botanical Center to Prospect, Upper Mississippi River mile 850.0–853.0, Des Moines, IA

79. Head of the Ohio
Sponsor: Pittsburgh Mercy Foundation
Date: Sep 25, 1993/8:30 a.m.–4:00 p.m.
Location: Allegheny River mile 0.0–3.3, Pittsburgh, PA

80. PSA Fall Race Series
Sponsor: Pickwick Sailing Association
Date: Oct 2 & 3, 1993/11:00 a.m.–6.00 p.m. (each day)
Location: Pickwick Lake, Tennessee River mile 209.0–218.0, Cordova, TN

81. Head of the Mississippi Regatta
Sponsor: Minneapolis Rowing Club
Date: Oct 09, 1993/7:30 a.m.–6:00 p.m.
Location: Upper Mississippi River mile 850.0–853.0, Minneapolis, MN

82. 1993 Great River Race
Sponsor: Browns Creek Sailing Assn.
Date: Oct 9, 1993 from 10 a.m. to Oct 10, 1993 at 10:00 a.m.
Location: Guntersville Lake, Tennessee River mile 352.0–365.0, Huntsville, AL

83. Big Bend Sternwheel Festival
Sponsor: Big Bend Sternwheel Assn.
Date: Oct 10, 1993/2:00 p.m.–5:00 p.m.
Location: Ohio River mile 248.5–249.5, Pomeroy, OH

84. Tall Stacks 1993
Sponsor: Tall Stacks 1993
Date: Oct 12–17, 1993/6:00 a.m.–2:30 a.m. (each day)
Location: Ohio River mile 469.0–471.0, Cincinnati, OH

85. Fleur De Lis Regatta
Sponsor: City of Louisville Board of Alderman
Date: Oct 16 & 17, 1993/11:00 a.m.–5:00 p.m. (each day)
Location: Ohio River mile 602.0–604.0, Louisville, KY

86. Fall Color Cruise
Sponsor: Alhambra Shrine
Date: Oct 24, 25, 31 & Nov 1, 1993, 8:00 a.m.–Midnight (each day)
Location: Tennessee River mile 425.0–471.0, Chattanooga, TN

87. Head of the Tennessee Regatta
Sponsor: Knoxville Rowing Association
Date: Oct 30, 1993/8:00 a.m.–6:00 p.m.
Location: Fort Loudon Lake mile 641.5–645.0, Alcoa Highway Bridge to Sequoyah Park, Knoxville, TN

J. J. Lantry,
Captain, U.S. Coast Guard, Commander, Second Coast Guard District (Acting).

[FR Doc. 93–10340 Filed 4–30–93; 8:45 am]
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Part VI

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Northern Cheyenne Tribe; Notice

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Interim Agreement Between the Northern Cheyenne Tribe and the State of Washington Concerning Class III Gaming, enacted on September 21, 1992.

DATES: This action is effective May 3, 1993.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240. (202) 219–4068.

Dated: April 20, 1993.

Stan Speaks,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 93–10335 Filed 4–30–93; 8:45 am]

BILLING CODE 4310–02–M

federal register

Monday
May 3, 1993

Part VII

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compact for Class III Gaming Between the Jamestown S'Klallam Tribe of Washington and the State of Washington, enacted on February 19, 1993.

DATES: This action is effective May 3, 1993.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240. (202) 219–4068.

Dated: April 15, 1993.

Stan Speaks,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 93–10336 Filed 4–30–93; 8:45 am]

BILLING CODE 4310–02–M

Federal Register

Monday
May 3, 1993

Part VIII

Securities and Exchange Commission

17 CFR 229 et al.

Amendments to the Multijurisdictional Disclosure System for Canadian Issuers; Proposed Rule

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 239 and 249

[Release Nos. 33-6907; 34-32232]

International Series Release No. 539

[File No. S7-15-93]

RIN: 3235-AF83

Amendments to the Multijurisdictional Disclosure System for Canadian Issuers

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Securities and Exchange Commission (the "Commission") is publishing for comment proposed revisions to rules and forms relating to the multijurisdictional disclosure system ("MJDS") with Canada, including revisions which would modify the eligibility requirements for use of Forms F-9 and F-10, recognize investment grade ratings by securities rating organizations recognized by Canadian securities regulators for purposes of filings on Forms F-9 and 40-F, and continue the requirement that financial statements presented in filings on Forms F-10 and 40-F include a reconciliation to U.S. generally accepted accounting principles. These revisions are being proposed in light of the Commission's experience with the MJDS and, if adopted, should further remove impediments to transnational capital formation.

DATES: Comments should be received on or before June 2, 1993 with respect to the proposal to continue the requirement that financial statements presented in filings on Forms F-10 and 40-F include a reconciliation to U.S. generally accepted accounting principles; comments on all other proposals should be received on or before July 2, 1993.

ADDRESSES: Comment letters should refer to File Number S7-15-93 and be submitted in triplicate to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. The Commission will make all comments available for public inspection and copying in its Public Reference Room at the same address.

FOR FURTHER INFORMATION CONTACT: Paul M. Dudek, (202) 272-3246, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. The Multijurisdictional Disclosure System

On June 21, 1991, the Commission adopted a multijurisdictional disclosure system for Canadian issuers.[1] The MJDS permits Canadian issuers meeting specified eligibility criteria to satisfy certain securities registration and reporting requirements of the Commission by providing disclosure documents prepared in accordance with the requirements of Canadian securities regulators. Concurrently with the Commission's action, the Canadian Securities Administrators (the "CSA") adopted a parallel multijurisdictional disclosure system for U.S. issuers in Canada.[2] Today, the Commission is proposing a number of changes to the MJDS; Canadian securities regulators will be proposing certain parallel changes to the Canadian MJDS for U.S. issuers.

II. Proposed Amendments Relating to Eligibility for Use of the MJDS

Form F-9 [3] may be used to register under the Securities Act of 1933 (the "Securities Act") [4] debt and preferred securities which are investment grade [5] and either are not convertible or are not convertible for at least one year after issuance. Form F-10 [6] may be used to register under the Securities Act all types of securities (other than certain derivative securities).

In order for a Canadian issuer to be eligible to use Form F-9 to register investment grade convertible securities,[7] the issuer must have an aggregate market value of its outstanding equity securities of at least Cn $180 million and have an aggregate market value of the public float of its outstanding equity securities (public float being the amount of securities held by persons who are not affiliates of the issuer) of at least Cn $75 million.[8]

Similarly, in order for a Canadian issuer to be eligible to use Form F-10, the issuer must have an aggregate market value of its outstanding equity securities of at least Cn $360 million and have an aggregate market value of the public float of its outstanding equity securities of at least Cn $75 million.[9]

Based on the successful experience under the MJDS to date, the Commission is proposing to amend the eligibility requirements under Forms F-9 and F-10 to eliminate the market capitalization threshold and to establish the public float threshold at U.S. $75 million.[10] Approximately 210 Canadian issuers would appear to meet the proposed public float requirement under Forms F-9 and F-10. This compares with 153 Canadian issuers which appear to meet the current public float and market capitalization requirements of Form F-9, and 121 Canadian issuers which appear to meet the current public float and market capitalization requirements of Form F-10.

The Commission is also proposing conforming amendments to Form 40-F [11] under which the eligibility thresholds for use of that form for registration and reporting under the Securities Exchange Act of 1934 (the "Exchange Act") [12] would parallel the proposed changes to Form F-9 and Form F-13.[13]

The Commission requests comments concerning whether the market capitalization requirements in either Form F-9 or F-10 should be reduced rather than be eliminated and whether the public float requirement for either Form F-9 or Form F-10 should be lower (such as the threshold of Cn $75 million, which is the public float eligibility requirement under the

[1] Securities Act Release No. 6902 (June 21, 1991) [56 FR 30036].

[2] National Policy Statement No. 45 of the CSA, "Multijurisdictional Disclosure System" (referred to herein as "National Policy Statement No. 45").

[3] CFR 239.39.

[4] 15 U.S.C. 77a *et seq.*

[5] The investment grade requirement is proposed to be amended. *See* Section III, *infra*.

[6] 17 CFR 239.40.

[7] These market capitalization and public float requirements do not apply if the securities being registered are not convertible into another security.

[8] The other registrant-eligibility requirements of Form F-9 are that the registrant (a) be incorporated or organized under the laws of Canada or any Canadian province or territory, (b) be a foreign private issuer or a crown corporation and (c) have been subject to the continuous disclosure requirements of any Canadian securities regulatory authority for a period of at least 36 months (12 months in the case of a crown corporation) immediately preceding the filing of the registration statement and be currently in compliance with such obligations. The reporting history requirement is proposed to be amended in this release.

[9] The other registrant-eligibility requirements of Form F-10 are that the registrant (a) be incorporated or organized under the laws of Canada or any Canadian province or territory, (b) be a foreign private issuer and (c) have been subject to the continuous disclosure requirements of any Canadian securities regulatory authority for a period of at least 36 months immediately preceding the filing of the registration statement and be currently in compliance with such obligations. The reporting history requirement is proposed to be amended in this release.

[10] Form S-3 [17 CFR 239.13] was recently amended to establish a public float eligibility threshold at U.S. $75 million for use of that form. See Securities Act Release 6964 (Oct. 22, 1992) [57 FR 48970].

[11] 17 CFR 249.240f.

[12] 15 U.S.C. 78a *et seq.*

[13] *See* clauses (4) and (5) to General Instruction A(2) of Form 40-F, 17 CFR 249.240f.

Prompt Offering Qualification System in Canada [14]) or higher. If other thresholds are recommended, a specific level (if any) and the reasons for recommending it should be set forth. Comments relating to the proposed amendments to Forms F-9 and F-10 should also address whether conforming amendments to Form 40-F are appropriate.

The Commission understands that the CSA has recommended that each of its member regulatory authorities consider changes to the POP System in order to reduce for certain companies the reporting history requirement thereunder from 36 months to a shorter period. In anticipation of the adoption of such changes by Canadian regulators, the Commission is considering parallel changes to Forms F-9, F-10 and 40-F to the extent such period is not shorter than twelve months. The Commission therefore requests comment on whether it would be appropriate to make parallel changes to any or all of Forms F-9, F-10 and 40-F to reduce the reporting history requirements under such forms from 36 months to a shorter period as short as twelve months.[15]

III. Proposed Amendments Relating to Registration of Investment Grade Securities Under the MJDS

The MJDS, as adopted by the Commission and the CSA, provides for special forms and procedures for the registration of debt and preferred securities which have been rated investment grade by those rating organizations which are acceptable to each host country regulator.[16] Canadian regulators and Canadian market participants have suggested that, in determining eligibility of debt and preferred securities for Form F-9, ratings by rating organizations recognized by home country regulators should be acceptable for purposes of determining an issuer's eligibility to use Form F-9 in addition to those rating organizations which are acceptable to the host country regulator.

The Commission is proposing to so revise the MJDS. Under the proposed amendment to Form F-9, eligible debt and preferred securities of Canadian issuers which satisfy the other requirements of Form F-9 [17] would be able to be registered on Form F-9 if such securities were rated investment grade by any of the rating organizations specified in National Policy Statement No. 45 (as the same may be amended from time to time) or by an NRSRO. In addition, because these securities would be eligible for registration under the Securities Act on Form F-9, eligible issuers would be able to use Form 40-F [18] to register such securities and file annual reports with respect to such securities under the Exchange Act. The CSA has recommended that each of its member regulatory authorities consider parallel amendments to National Policy Statement No. 45 to provide that all rating organizations which are treated as NRSROs under the Commission's rules will be acceptable for purposes of determining an issuer's ability to use the MJDS in Canada.[19]

Form F-9 currently provides that the required rating must be obtained at the time of effectiveness of the registration statement in order to qualify for use of that form. The Commission is proposing to amend Form F-9 to provide that the required rating must be obtained at the time of sale to the public and is proposing to add an instruction to Form F-9 regarding the registrant's reasonable belief of obtaining such a rating. This amendment is similar to one recently adopted with respect to Form S-3.[20]

The Commission is also proposing to amend Rule 134 [21] and Rule 436 [22] under the Securities Act and Item 10 [23] under Regulation S-K. These rules contain references to nationally recognized statistical rating organizations in the context of communications not deemed a prospectus (Rule 134), consents not required in certain cases (Rule 436) and the Commission's policy on security ratings (Item 10). In light of the proposed amendments to Form F-9, these rules are proposed to be amended to include, in the context of offerings registered on Form F-9, those rating organizations which have been recognized by the CSA in National Policy Statement No. 45. Item 10 is proposed to be amended only with respect to its reference to required consents. Because the MJDS relies on disclosure standards established by Canadian regulators, further amendment to Item 10 would not appear necessary.

The Commission requests comment concerning whether ratings issued by rating organizations which have been recognized by the CSA but which are not treated as NRSROs under the Commission's rules should be acceptable for purposes of determining whether a Canadian issuer is eligible to use Form F-9 or 40-F. In addition, comments are requested regarding whether additional rules under the Securities Act or the Exchange Act should be modified in light of the proposed amendments to Form F-9.

IV. Proposed Amendment Relating to Reconciliation of Financial Statements

Currently, all foreign private issuers registering securities and filing annual reports with the Commission are required to present financial statements which include a reconciliation to U.S. generally accepted accounting principles ("GAAP").[24] In adopting the MJDS, the Commission excepted from this requirement filings on certain of the MJDS forms, although it was retained

[14] The Prompt Offering Qualification System, which is known as the "POP System"), has been established by Canadian securities regulators to allow substantial issuers quick access to the public securities markets. *See* National Policy Statement 47 of the CSA, "Prompt Offering Qualification System".

[15] Such a change would also be consistent with recent amendments to Form S-3, which established a twelve-month reporting history requirement. See Securities Act Release 6964.

[16] Under Form F-9, the registered securities must, at the time of effectiveness of the registration statement, have been rated investment grade by at least one nationally recognized statistical rating organization ("NRSRO"), which term is used with reference to Rule 15c3-1(c)(2)(vi)(F) under the Securities Exchange Act of 1934 [17 CFR 240.15c3-1(c)(2)(vi)(F)]. Likewise, under National Policy Statement No. 45, U.S. issuers may use the MJDS in Canada for securities that have been rated investment grade by one of four rating organizations which are specifically named as an "Approved Rating Organization". *See* Sections 2(5) and 3.2 of National Policy Statement No. 45.

[17] The registrant-eligibility requirements of Form F-9 are discussed at footnote 8, *infra*, and accompanying text.

[18] *See* clauses (iv) and (v) of paragraph A.(2) of the General Instructions to Form 40-F.

[19] Market participants currently look to a no-action process administered by the staff of the Division of Market Regulation to determine which rating organizations will be treated as NRSROs for net capital purposes under Rule 15c3-1(c)(2)(vi)(F). Six rating organizations are currently treated as NRSROs for net capital purposes as a result of this process. Four of these NRSROs are not currently recognized under National Policy Statement No. 45. Under amendments which the CSA has recommended that each of its member regulatory authorities consider, the ratings of these four rating organizations would be usable for purposes of determining whether a U.S. issuer is eligible to use the MJDS in Canada. Likewise, National Policy Statement No. 45 recognizes four rating organizations, two of which are not currently among the six rating organizations treated by the Commission staff as NRSROs for net capital purposes. Under the proposed amendment to Form F-9, the ratings of these two rating organizations would be usable for purposes of determining whether a Canadian issuer is eligible to use Form F-9 or 40-F under the MJDS in the United States.

[20] *See* Securities Act Release No. 6964 at fn 19 and accompanying text.

[21] 17 CFR 230.134.

[22] 17 CFR 230.436.

[23] 17 CFR 229.10.

[24] *See* Item 11 of Form F-1, Item 11 of Form F-2, Item 12 of Form F-3, Items 10 through 17 of Form F-4 and Items 17 and 18 of Form 20-F. Item 17 of Form 20-F permits an issuer to use its financial statements that are prepared on a comprehensive basis other than U.S. GAAP, but requires quantification of the material differences in the principles, practices and methods of accounting. An issuer complying with Item 18 of Form 20-F must satisfy the requirements of Item 17 and also must provide all other information required by U.S. GAAP and Regulation S-X.

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for filings on Forms F–10 and 40–F.[25] As indicated in the MJDS adopting release, the requirement to include reconciled financial statements in filings on Form F–10 and Form 40–F will terminate on July 1, 1993 absent future action by the Commission to the contrary.[26]

Since the adoption of MJDS in July 1991, the Commission staff has continued to monitor filings of Canadian issuers to evaluate whether disclosed differences between U.S. and Canadian accounting principles are of such significance as to warrant retention of the reconciliation requirement with respect to issuers of equity and other non-investment grade securities. The staff's monitoring of reconciled financial statements filed by Canadian foreign private issuers during 1991 and 1992 indicates that there continues to be a significant number of qualitative and quantitative differences that materially affect reported financial position and results of operations and trend information related thereto and that warrant continuation of the reconciliation requirement.

In view of the significant differences in accounting principles and practices that exist at this time, the Commission is proposing to rescind the provisions of Forms F–10 and 40–F that eliminate the requirement for reconciliation of the financial statements to U.S. GAAP in filings made after July 1, 1993. Under the proposal, Canadian foreign private issuers would continue to be required to reconcile to U.S. GAAP pursuant to Item 18 of Form 20–F in filings made on Form F–10 and Item 17 of Form 20–F in filings made on Form 40–F.

The Commission also requests comment on temporarily extending the date by which the Commission must take action in order to retain the reconciliation requirement if necessary to complete its review of any comment letters on this matter.

V. Rights Offers—Form F–7

A. Clarification Regarding Naming of Agent for Service

Since the MJDS became effective, eleven Canadian companies have filed registration statements on Form F–7 to register securities being sold in rights offers. A number of these companies have not named an agent for service in the United States as called for by the cover page of Form F–7. This omission appears to result from confusion arising from Form F–7's lack of a requirement that a consent to service on Form F–X be filed along with the Form F–7 registration statement. All of the Commission's forms for foreign private issuers for the registration of securities under the Securities Act require that an agent for service in the United States be named on the cover page of the registration statement.[27] Because of the apparent confusion which has occurred, Form F–7 is proposed to be amended to include an instruction specifically noting that this item on the cover page is required to be completed even though the filing of a Form F–X is not required.

B. Warrants and Convertible or Exchangeable Securities

Form F–7 requires that U.S. holders be granted rights on terms and conditions not less favorable than those extended to any other holder of the same class of securities.[28] Questions have arisen regarding whether warrants or convertible or exchangeable securities being issued in a rights offer may be registered on Form F–7 where U.S. holders will not be permitted to exercise, convert or exchange these securities because the issuer does not intend to register the underlying securities under the Securities Act on an appropriate form and an exemption from registration will not be available for such exercise, conversion or exchange by U.S. holders. Such a rights offer is not eligible for registration on Form F–7 unless the underlying securities receivable on exercise, conversion or exchange are registered under the Securities Act[29] or the transaction is exempt from registration as to all U.S. holders regardless of their status.[30]

VI. Unallocated Shelf Registration of Aggregate Amounts of Securities

Forms F–9 and F–10 may be used to register securities to be offered on a delayed or continuous basis in accordance with the issuer's home jurisdiction shelf offering procedures.[31] The Commission understands that the CSA has recommended that each of its member regulatory authorities consider changes to the shelf registration system in Canada[32] similar to those recently adopted by the Commission[33] in order to permit eligible issuers to register an unallocated dollar amount of securities. The Commission requests comments on whether amendments to Forms F–9 and F–10[34] to accommodate a similar unallocated shelf registration of securities under the MJDS should be adopted in the event that the CSA adopts such changes to the Canadian shelf registration system.[35] In addition, comment is requested on whether any or all of Form F–7,[36] Form F–8[37] and Form F–80[38] should be amended to accommodate the unallocated shelf registration of securities if similar amendments are adopted for Forms F–9 and F–10.

VII. Request for Comments

Any interested persons wishing to submit written comments on the proposed amendments that are the subject of this release are requested to do so.

VIII. Cost-Benefit Analysis

To evaluate fully the costs and benefits associated with the proposed amendments to Rules 134, 436 and 457 under the Securities Act, Item 10 of Regulation S–K and Forms F–7, F–8, F–9, F–10, F–80 and 40–F, the Commission requests commenters to provide views and empirical data as to the costs and benefits associated with such proposed amendments. Comment is requested particularly with respect to costs and benefits that may arise in connection with the changes in the eligibility requirements of Forms F–9, F–10 and 40–F and the resultant extension of the MJDS to a greater number of Canadian issuers. Additionally, comment is requested regarding the costs and benefits associated with continuing the reconciliation requirement under Form F–10 and 40–F.

IX. Regulatory Flexibility Act Certification

Pursuant to Section 605 of the Regulatory Flexibility Act [5 U.S.C. 605], the Chairman of the Commission has certified that the proposed revisions to rules and forms will not have a significant impact on a substantial number of small entities. That certification, including the reasons therefor, is attached to this release as an Appendix.

X. Statutory Bases

The amendments to the Commission's rules and forms are being proposed pursuant to Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933, and Sections 3(b), 4A, 12, 13, 14, 15, 16 and 23 of the Securities Exchange Act of 1934.

List of Subjects

17 CFR Parts 229, 230, 239, and 249

Reporting and recordkeeping requirements; Securities.

Text of Proposed Amendments

In accordance with the foregoing, Title 17, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

1. The authority citation for Part 229 continues to read in part as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78l, 78m, 78n, 78o, 78w, 78ll(d), 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–37, 80b–11, unless otherwise noted.

* * * * *

2. By amending § 229.10 by adding a new sentence to the end of paragraph (c)(1)(i) to read as follows:

§ 229.10 General.

* * * * *

(c) * * *

(1) * * *

(i) * * * When the registrant has filed a registration statement on Form F–9 (§ 239.39 of this chapter), with respect to the written consent of any rating organization specified in the Instruction to paragraph (a)(2) of General Instruction I of Form F–9, see Rule 436(g) (§ 230.436(g) of this chapter) under the Securities Act.

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

3. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78l, 78m, 78n, 78o, 78w, 78ll(d), 79t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

4. By amending § 230.134 by revising paragraph (a)(14)(i) to read as follows:

§ 230.134 Communications Not Deemed a Prospectus.

* * * * *

(a) * * *

(14)(i) With respect to any class of debt securities, any class of convertible debt securities or any class of preferred stock, the security rating or ratings assigned to the class of securities by any nationally recognized statistical rating organization and the name or names of the nationally recognized statistical rating organization(s) which assigned such rating(s), and with respect to any class of debt securities, any class of convertible debt securities or any class of preferred stock registered on Form F–9 (§ 239.39 of this chapter), the security rating or ratings assigned to the class of securities by any other rating organization specified in the Instruction to paragraph (a)(2) of General Instruction I of Form F–9 and the name or names of the rating organization or organizations which assigned such rating(s).

* * * * *

5. By amending § 230.436 by revising paragraph (g)(1) to read as follows:

§ 230.436 Consents Required in Special Cases.

* * * * *

(g)(1) Notwithstanding the provisions of paragraph (a) and (b) of this section, the security rating assigned to a class of debt securities, a class of convertible debt securities, or a class of preferred stock by a nationally recognized statistical rating organization, or with respect to registration statements on Form F–9 (§ 239.39 of this chapter) by any other rating organization specified in the Instruction to paragraph (a)(2) of General Instruction I of Form F–9, shall not be considered a part of the registration statement prepared or certified by a person within the meaning of sections 7 and 11 of the Act.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

6. The authority citation for Part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a-8, 80a–29, 80a–30 and 80a–37 unless otherwise noted.

* * * * *

7. By amending Form F–7 (§ 239.37) by adding a new paragraph J to General Instruction II to read as follows:

Note: Form F–7 does not appear in the Code of Federal Regulations.

Form F–7

* * * * *

General Instructions

* * * * *

II. Application of General Rules and Regulations

* * * * *

J. Registrants are required to name an agent for service in the United States as required by the cover page of the registration statement even though not required to file a Form F–X.

* * * * *

8. By amending § 239.39 by revising the Instruction following paragraph (a)(2), by adding the word "and" after the semi-colon at the end at paragraph (b)(3), by removing paragraph (b)(4), redesignating paragraph (b)(5) as paragraph (b)(4), by revising newly designated paragraph (b)(4) and by revising paragraph (e) to read as follows:

§ 239.39 Form F–9, for registration under the Securities Act of 1933 of certain investment grade debt or investment grade preferred securities of certain Canadian issuers.

(a) * * *

(2) * * *

Instruction

Securities shall be "investment grade" if, at the time of sale, at least one nationally recognized statistical rating organization (as that term is used in relation to Rule 15c3–1(c)(2)(vi)(F) under the Securities Exchange Act of 1934 (the "Exchange Act") (§ 240.15c3–1(c)(2)(vi)(F) of this chapter) or at least one Approved Rating Organization (as defined in National Policy Statement No. 45 of the Canadian Securities Administrators) has rated the security in one of its generic rating categories that signifies investment grade; typically the four highest rating categories (within

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[25] Form F–10 requires a reconciliation to U.S. GAAP in accordance with Item 18 of Form 20–F; Form 40–F requires a reconciliation to U.S. GAAP in accordance with Item 17 of Form 20–F. Reconciliation is not required for filings on Form 40–F where the subject securities would be eligible for registration on Form F–9 or were registered on Form F–7, F–8, F–9 or F–80.

[26] *See* Securities Act Release 6902, *supra* note 1.

[27] *See* Forms F–1, F–2, F–3, F–4 and F–6, 17 CFR 239.31, 239.32, 239.33, 239.34, 239.36. *Cf.* paragraph (3) of Schedule A to the Securities Act. A definition of agent for service is specified in Rule 100 under the Securities Act (17 CFR 230.100).

[28] *See* General Instruction I.D of Form F–7.

[29] Such a registration could be effected on any applicable form, including Forms F–9 or F–10 if the issuer and the subject securities meet the eligibility requirements therefor. The continuous nature of the offering would require that the registration statement be kept current during any period during which any conversion, exchange, or exercise could occur.

[30] Section 3(a)(9) of the Securities Act [15 U.S.C. 77c(a)(9)] is an example of such an exemption.

[31] *See* Securities Act Release No. 6902, Section III.F.6.

[32] *See* Section 3 of National Policy Statement No. 44 of the CSA, "Rules for Shelf Registration of Prospectus Offerings and for Pricing of Offerings after the Prospectus is Receipted".

[33] *See* Securities Act Release 6964.

[34] Rule 457 under the Securities Act (the fee computation rule) would also be amended in order to implement revisions that would accommodate the unallocated registration of securities.

[35] Under an unallocated shelf registration system, an eligible issuer may register various types of securities (both debt and equity) on a single registration document but would not have to assign a specific dollar amount to each type of security. The registration document would list the types of securities covered and a prospectus supplement would be used to specify the amount of a particular security to be offered. An issuer may offer any type of securities specified in the registration document up to the total dollar amount registered.

[36] 17 CFR 239.37.

[37] 17 CFR 239.38.

[38] 17 CFR 239.42.

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which there may be subcategories or gradations indicating relative standing) signify investment grade.

* * * * *

(b) * * *

(4) Has an aggregate market value of the public float of its outstanding equity shares of $75 million or more; *provided, however,* that the requirements set forth in this paragraph (b)(4) shall not apply if the securities being registered on this Form are not convertible into another sucurity.

* * * * *

(e) If the registrant is a majority-owned subsidiary offering debt securities or preferred stock, it shall be deemed to meet the requirements of paragraphs (b)(3) and (b)(4) of this section if the parent of the registrant-subsidiary meets the requirements of paragraph (b) of this section, as applicable, and fully and unconditionally guarantees the securities being registered as to principal and interest (if debt securities) or as to liquidation preference, redemption price and dividends (if preferred securities); *provided, however,* that the securities of the subsidiary are only convertible or exchangeable, if at all, for the securities of the parent.

* * * * *

9. By amending Form F–9 (§ 239.39) by revising the Instruction following paragraph A. of General Instruction I, by adding the word "and" after the semi-colon at the end of paragraph B.(3) of General Instruction I, by removing paragraph B.(4) of General Instruction I, by redesignating paragraph B.(5) of General Instruction I as paragraph B.(4), by revising newly redesignated paragraph B.(4) of General Instruction I, by revising paragraph E. of General Instruction I and by revising Instruction D. to the Signatures to read as follows:

Note: Form F–9 does not appear in the Code of Federal Regulations.

Form F–9

* * * * *

General Instructions

I. Eligibility Requirements for Use of Form F–9

A. * * *

Instruction Securities shall be "investment grade" if, at the time of sale, at least one nationally recognized statistical rating organization (as that term is used in relation to Rule 15c3–1(c)(2)(vi)(F) under the Securities Exchange Act of 1934 (the "Exchange Act") (§ 240.15c3–1(c)(2)(vi)(F) of this chapter) or at least one Approved Rating Organization (as defined in National Policy Statement No. 45 of the Canadian Securities Administrators, as the same may be amended from time to time) has rated the security in one of its generic rating categories that signifies investment grade; typically the four highest rating categories (within which there may be subcategories or gradations indicating relative standing) signify investment grade.

B. * * *

(4) has an aggregate market value of the public float of its outstanding equity shares of $75 million or more; *provided, however,* that the requirements set forth in B.(4) above shall not apply if the securities being registered on this Form are not convertible into another security.

* * * * *

E. If the Registrant is a majority-owned subsidiary offering debt securities or preferred stock, it shall be deemed to meet the requirements of I.B. (3) and (4) above if the parent of the Registrant-subsidiary meets the requirements of I.B. above, as applicable, and fully and unconditionally guarantees the securities being registered as to principal and interest (if debt securities) or as to liquidation preference, redemption price and dividends (if preferred securities); *provided, however,* that the securities of the subsidiary are only convertible or exchangeable, if at all, for the securities of the parent.

* * * * *

Signatures

* * * * *

Instructions

* * * * *

D. Where eligibility for use of this Form is based on the assignment of a security rating, the Registrant may sign the registration statement notwithstanding the fact that such security rating has not been assigned by the filing date, provided that the Registrant reasonably believes, and so states, that the security rating requirement will be met by the time of sale.

10. By amending § 239.40 by adding the word "and" after the semi-colon at the end of paragraph (c)(3), by removing paragraph (c)(4), redesignating paragraph (c)(5) as paragraph (c)(4), by revising newly redesignated paragraph (c)(4) as set forth below, and in paragraph (h) introductory text by removing the reference "paragraphs (c)(3), (c)(4) and (c)(5)" and adding in its place "paragraphs (c)(3) and (c)(4)."

Section 239.40 Form F–10 for Registration Under the Securities Act of 1933 of Securities of certain Canadian Issuers.

* * * * *

(c) * * *

(4) Has an aggregate market value of the public float of its outstanding equity shares of $75 million or more; *provided, however,* that in the case of a business combination, the aggregate market value of the public float of the outstanding equity shares of each participating company other than the successor registrant is $75 million or more, except that any such participating company shall not be required to meet such public requirement if other participating companies whose assets and gross revenues, respectively, would contribute at least 80 percent of the total assets and gross revenues from continuing operations of the successor registrant, as measured based on pro forma combination of the participating companies' most recently completed fiscal years, each meet such public float requirement; and *provided, further,* that in the case of a business combination, such public float requirement shall be deemed satisfied in the case of a participating company whose equity shares were the subject of an exchange offer that was registered or would have been eligible for registration on Form F–8, Form F–9, Form F–10 or Form F–80 (§§ 239.38, 239.39, 239.40 or 239.41) or a tender offer in connection with which Schedule 13E–4F or 14D–1F (§§ 240.13e–102 or 240.14d–102 of this chapter) was filed or could have been filed, that terminated within the last twelve months, if the participating company would have satisfied such public float requirement immediately prior to commencement of such exchange or tender offer.

* * * * *

11. By amending Form F–10 (§ 239.40) by adding the word "and" after the semi-colon at the end of paragraph C.(3) of General Instruction I, by removing paragraph C.(4) of General Instruction I, by redesignating paragraph C.(5) of General Instruction I as paragraph C.(4), by revising newly redesignated paragraph C.(4) of General Instruction I, by revising paragraph H. of General Instruction I and by revising Item 2 under Part I to read as follows:

Note: Form F–10 does not appear in the Code of Federal Regulations.

Form F–10

* * * * *

General Instructions

I. Eligibility Requirements for Use of Form F–10

C. * * *

(4) has an aggregate market value of the public float of its outstanding equity shares of $75 million or more; *provided, however,* that in the case of a business combination, the aggregate market value of the public float of the outstanding equity shares of each participating company other than the successor Registrant is $75 million or more, except that any such participating company shall not be required to meet such public requirement if other participating companies whose assets and gross revenues, respectively, would contribute at least 80 percent of the total assets and gross revenues from continuing operations of the successor Registrant, as measured based on pro forma combination of the participating companies' most recently completed fiscal years, each meet such public float requirement; and *provided, further,* that in the case of a business combination, such public float requirement shall be deemed satisfied in the case of a participating company whose equity shares were the subject of an exchange offer that was registered or would have been eligible for registration on Form F–8, Form F–9, Form F–10 or Form F–80, or a tender offer in connection with which Schedule 13E–4F or 14D–1F was filed or could have been filed, that terminated within the last twelve months, if the participating company would have satisfied such public float requirement immediately prior to commencement of such exchange or tender offer.

* * * * *

H. With respect to registration of debt securities or preferred securities on this Form, if the Registrant is a majority-owned subsidiary, it shall be deemed to meet the requirements of I.C.(3) and (4) above if the parent of the Registrant-subsidiary meets the requirements of I.C. above and fully and unconditionally guarantees the securities being registered as to principal and interest (if debt securities) or as to liquidation preference, redemption price and dividends (if preferred securities); *provided, however,* that the securities of the subsidiary are only convertible or exchangeable, if at all, for the securities of the parent.

* * * * *

Part I—Information to be Delivered to Offerees or Purchasers

* * * * *

Item 2. *Additional Information.*

The following information also shall be provided to offerees as part of the prospectus.

Financial Statements.

Any financial statements included in the home jurisdiction document must be reconciled to U.S. GAAP as required by Item 18 of Form 20–F under the Exchange Act.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

12. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted.

13. By amending § 249.240f by adding the word "and" after the semi-colon at the end of paragraph (b)(3), by removing paragraph (b)(4), redesignating paragraph (b)(5) as paragraph (b)(4) and by revising newly redesignated paragraph (b)(4) to read, as follows:

§ 249.240f Form 40–F, for registration of securities of certain Canadian issuers pursuant to section 12 (b) or (g) and for reports pursuant to section 15(d) and Rule 15d–4 (§ 240.15d–4 of this chapter).

* * * * *

(b) * * *

(4) The aggregate market value of the public float of its outstanding equity shares of the registrant is $75 million or more; *provided, however,* no market value threshold need be satisfied in connection with non-convertible securities eligible for registration on Form F–9 (§ 239.39 of this chapter).

* * * * *

14. By amending Form 40–F (§ 249.240f) by adding the word "and" after the semi-colon at the end of clause (iii) of paragraph (2) of General Instruction A., by removing clause (iv) of paragraph (2) of General Instruction A., by redesignating clause (v) of paragraph (2) of General Instruction A. as clause (iv), by revising clause (iv) of paragraph (2) of General Instruction A. and by revising paragraph 2 under General Instruction C. to read as follows:

Note: Form 40–F does not appear in the Code of Federal Regulations.

Form 40–F

* * * * *

General Instructions

A. *Rules As To Use of Form 40–F*

(2) * * *

(iv) the aggregate market value of the public float of the Registrant's outstanding equity shares is $75 million or more; *provided, however,* that no market value threshold need be satisfied in connection with non-convertible securities eligible for registration on Form F–9.

* * * * *

C. *Compliance With Auditor Independence and Reconciliation Requirements*

* * * * *

(2) Any financial statements, other than interim financial statements, included in this Form by registrants registering securities pursuant to Section 12 of the Exchange Act or reporting pursuant to the provisions of Section 13(a) or 15(d) of the Exchange Act must be reconciled to U.S. GAAP as required by Item 17 of Form 20–F under the Exchange Act, unless this Form is filed with respect to securities that would be eligible for registration under the Securities Act on Form F–9, in which case no such reconciliation is required, or unless this Form is filed with respect to a reporting obligation under section 15(d) that arose solely as a result of a filing made on Form F–7, F–8, F–9 or F–80, in which case no such reconciliation is required.

* * * * *

By the Commission.

Jonathan G. Katz,

Secretary.

April 28, 1993.

Note: Appendix will not appear in the Code of Federal Regulations.

Appendix

Securities and Exchange Commission Regulatory Flexibility Act Certification

I, Richard C. Breeden, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that: proposed changes to Forms F–7, F–9 and F–10 under the Securities Act of 1933 (the "Securities Act"), Form 40–F under the Securities Exchange Act of 1934 (the "Exchange Act"), Item 10 under Regulation S–K, and Rules 134 and 436 under the Securities Act, if promulgated, will not have a significant economic impact on a substantial number of small entities. The reasons for this certification are as follows:

The proposed amendments to existing forms and rules are intended to make certain modifications to the Commission's multijurisdictional disclosure system ("MJDS") for Canadian issuers. Canadian securities authorities are expected to propose parallel changes to the Canadian MJDS for U.S. issuers.

The modifications to be proposed by the Commission are intended to further facilitate cross-border securities offerings under the Securities Act, and registration and reporting under the Exchange Act, by Canadian issuers, primarily by changing the class of Canadian issuers eligible to use the MJDS. The resulting reduction in the expense, time and effort of making such offerings, registrations and reporting for eligible Canadian issuers will benefit Canadian entities that register securities with the Commission, rather than U.S. entities.

One expected result of adoption of the proposed amendments to forms and rules would be that offerings by eligible Canadian issuers may be made in the United States under the MJDS in situations where hitherto investors in the United States would have been excluded due to the time and expense involved in registration. A resulting increase in registered offerings in the United States by Canadian issuers could be expected to increase ease of investment for small U.S. entities acting as investors.

While small U.S. entities raising capital in the United States could experience some increase in competition for capital from Canadian entities making offerings under the revised forms and rules, that effect would not be expected to be significant for a substantial number of U.S. small entities in view of the small increase in total competition that may result. In addition, small entities acting as financial intermediaries, such as investment banks, could be affected by an increased number of offerings being made in the United States. Small U.S. entities who act as intermediaries would not be more likely than large U.S. entities who act in that capacity, however, to be affected by any increase in U.S. offerings. The effects, in any case, are not expected to be significant for a substantial number of small entities in the United States.

One of the proposed changes to Form F–10 under the Securities Act and Form 40–F under the Exchange Act would continue the requirement that financial statements included in filings on those forms contain a reconciliation to U.S. generally accepted accounting principles. An expected result of this change is that Canadian issuers using such forms would continue to provide additional information in their financial statements in order to provide this reconciliation. The resulting continuance of the level of information can be expected to continue the availability of such information for small U.S. entities acting as investors.

Dated: April 27, 1993.

Richard C. Breeden,

Chairman.

[FR Doc. 93–10350 Filed 4–30–93; 12:54 pm]

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Part IX

Supplement to the Guide to Record Retention Requirements in the CFR

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SUPPLEMENT TO THE GUIDE TO RECORD RETENTION REQUIREMENTS IN THE CFR

Published by the Office of the Federal Register, this Supplement updates the 1992 Guide.

The Guide to Record Retention Requirements in the CFR is a guide in digest form to the provisions of Federal regulations relating to the keeping of records by the public. It tells the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

This Supplement is derived from the regulations published by the various agencies in the Code of Federal Regulations, as amended in the daily issues of the **Federal Register** through December 31, 1992. Changes occurring in 1992 are indicated in brackets. Housekeeping changes have also been made and include material inadvertently omitted or published incorrectly in previous Guides. Appropriate amendatory terms following the housekeeping changes are indicated in brackets. This Supplement was prepared under the direction of Richard L. Claypoole. Gladys Queen Ramey was chief editor. INQUIRIES, telephone 202-523-3187. SUGGESTIONS concerning this publication may be sent to Martha L. Girard, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

Coverage

In preparing both the Guide and this Supplement it was necessary to establish boundaries in order to keep them within their intended purpose.

The records covered are those that address categories of activities conducted by individuals, businesses, and organizations for which retention requirements are expressly stated in the Code of Federal Regulations .

In many regulations there is an implied responsibility to keep copies of reports and other papers furnished to Federal agencies. Such implied requirements have not been included in the Guide and the Supplement.

The following types of requirements also have been excluded:

(1) Requirements involving the furnishing of reports to Government agencies, the filing of tax returns, or the submission of supporting evidence with applications or claims.

(2) Requirements involving the display of posters, notices, or other signs in places of business.

(3) Requirements contained in individual Government contracts, unless the contract provisions are incorporated in the Code of Federal Regulations.

Arrangement

The arrangement and numbering system in this Supplement follows the numbering system established for the Guide. The numbering in the Guide corresponds to the CFR.

For example, a record retention requirement relating to agriculture will be found in the Guide under Title 7, Agriculture, and, further, under the agency which administers and enforces the regulation in which the record retention requirement appears. The number to the left of the item is the part and section number in Title 7 of the CFR in which the text of the regulation is printed. Because not all sections of the CFR contain record retention requirements, the numbering in the Guide has gaps in the numerical sequence.

Citation

Citations to the Guide and to the CFR are the same. An example is 7 CFR 17.17. The record retention requirement involved can be checked in digest form in the Guide and in full text in the CFR.

Notice

The Guide to Record Retention Requirements and this Supplement do not have the effect of law, regulation, or ruling. They comprise a guide to legal requirements that appear to be in effect as of January 1, 1993.

LIST OF AGENCIES AND CFR TITLES APPEARING IN THIS SUPPLEMENT

Title 5—Administrative Personnel

Government Ethics Office

Title 7—Agriculture

Agriculture Department
- Agricultural Marketing Service
- Agricultural Stabilization and Conservation Service
- Animal and Plant Health Inspection Service
- Commodity Credit Corporation
- Farmers Home Administration
- Federal Crop Insurance Corporation
- Food and Nutrition Service
- Office of the Secretary
- Rural Electrification Administration

Title 9—Animals and Animal Products

Agriculture Department
- Animal and Plant Health Inspection Service
- Food Safety and Inspection Service

Title 10—Energy

Energy Department
Nuclear Regulatory Commission

Title 11—Federal Elections

Federal Election Commission

Title 12—Banks and Banking

Federal Deposit Insurance Corporation
Treasury Department
- Comptroller of the Currency
- Thrift Supervision Office

Title 13—Business Credit and Assistance

Commerce Department
- Economic Development Administration

Small Business Administration

Title 14—Aeronautics and Space

Transportation Department
- Federal Aviation Administration
- Office of the Secretary

Title 15—Commerce and Foreign Trade

Commerce Department
- Export Administration Bureau

Title 16—Commercial Practices

Consumer Product Safety Commission

Title 17—Commodity and Securities Exchanges

Commodity Futures Trading Commission
Securities and Exchange Commission

Title 18—Conservation of Power and Water Resources

Energy Department
- Federal Energy Regulatory Commission

Title 19—Customs Duties

Treasury Department
- Customs Service

Title 20—Employees' Benefits

Health and Human Services Department
- Social Security Administration

Labor Department
- Assistant Secretary for Veterans' Employment and Training Office
- Employment and Training Administration

Title 21—Food and Drugs

Health and Human Services Department
- Food and Drug Administration

Justice Department
- Drug Enforcement Administration

National Drug Control Policy Office

Title 22—Foreign Relations

International Development Cooperation Agency
- Agency for International Development

Title 23—Highways

Transportation Department
- Federal Highway Administration

Title 24—Housing and Urban Development

Housing and Urban Development Department

Title 25—Indians

Interior Department
- Indian Affairs Bureau

Title 26—Internal Revenue

Treasury Department
- Internal Revenue Service

Title 27—Alcohol, Tobacco Products and Firearms

Treasury Department
- Alcohol, Tobacco and Firearms Bureau

Title 28—Judicial Administration

Justice Department

Title 29—Labor

Equal Employment Opportunity Commission
Federal Mediation and Conciliation Service
Labor Department
- Occupational Safety and Health Administration
- Office of the Secretary
- Wage and Hour Divison

Pension Benefit Guaranty Corporation

Title 30—Mineral Resources

Interior Department
- Mineral Management Service
- Surface Mining Reclamation and Enforcement Office

Labor Department
- Mine Safety and Health Administration

Title 31—Money and Finance: Treasury

Treasury Department
- Fiscal Service
- Foreign Assets Control Office

Title 32—National Defense

Defense Department
- Air Force Department
- Office of the Secretary

General Accounting Office

Title 33—Navigation and Navigable Waters

Transportation Department
- Coast Guard
- St. Lawrence Seaway Development Corporation

Title 34—Education

Education Department

Title 36—Parks, Forests, and Public Property

Interior Department
- National Park Service

National Archives and Records Administration

Title 37—Patents, Trademarks, and Copyrights

Copyright Royalty Tribunal

Title 40—Protection of Environment

Environmental Protection Agency

Title 41—Public Contracts and Property Management

General Services Administration
Interior Department

Title 42—Public Health

Health and Human Services Department
- Health Care Financing Administration
- Public Health Service

Title 43—Public Lands: Interior

Interior Department
- Land Management Bureau

Title 44—Emergency Management and Assistance

Federal Emergency Management Agency

Title 45—Public Welfare

Bicentennial of the U.S. Constitution Commission
Health and Human Services Department
- Community Services Office
- Office of the Secretary
- Social Security Administration

National and Community Service Commission

Title 46—Shipping

Federal Maritime Commission
Transportation Department
- Coast Guard
- Maritime Administration

Title 47—Telecommunication

Federal Communications Commission

Title 48—Federal Acquisition Regulations System

Defense Department
National Aeronautics and Space Administration

Title 49—Transportation

Interstate Commerce Commission
Transportation Department
- Federal Highway Administration
- Federal Railroad Administration
- Federal Transit Administration
- National Highway Traffic Safety Administration
- Office of the Secretary
- Research and Special Programs Administration
- Urban Mass Transportation Administration

Title 50—Wildlife and Fisheries

Commerce Department
- National Oceanic and Atmospheric Administration

Interior Department
- Fish and Wildlife Service

OFFICE OF GOVERNMENT ETHICS

5 CFR

2634.403 Independent trustees and other designated fiduciaries administering qualified blind trusts. [Added]

To maintain books of account and other records and copies of the trusts' tax returns for each taxable year of the trust.

2634.404 Independent trustees and other designated fiduciaries administering qualified diversified trusts. [Added]

See 5 CFR 2634.403

2634.406 Independent trustees and other designated fiduciaries administering trust funds. [Added]

See 5 CFR 2634.403.

AGRICULTURE DEPARTMENT

Office of the Secretary

7 CFR

21.909 State agencies having contracts or agreements for relocation assistance projects. [Removed, 1986]

Agricultural Marketing Service

7 CFR

58.322 Dairy plants approved for USDA inspection and grading service. [Removed by OFR; regulation contains no record retention requirement]

Note: At 50 FR 1814, Jan. 14, 1985, 7 CFR parts 101, 102, 103, 104, 106, 107, 108, and 111 were redesignated as 7 CFR parts 735 through 742.

Food and Nutrition Service

7 CFR

210.27 State educational agencies participating in the National School Lunch Program. [Redesignated as 210.28, 1991]

210.28 State educational agencies participating in the National School Lunch Program. [Redesignated from 210.27, 1991]

To maintain records concerning the survey of school food authorities including, at a minimum, a description of survey methods and a copy of the format used to obtain food preferences; the name and address of each school food authority included in the survey; and a record of the data obtained from each school food authority.

Retention period: 3 years.

235.7 State agencies receiving payment under the State administrative expense funds. [Added by OFR]

To keep records on the expenditure of State administrative funds and to maintain current accounting records of State administrative expense funds which shall adequately identify fund authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

Retention period: 3 years after date of the final Financial Status Report or until resolution of the issues raised by audit findings. Records for nonexpendable property acquired with State administrative expense fund shall be

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retained for 3 years after its final disposition.

240.11 State agencies and distributing agencies participating in the cash in lieu donated foods under the National School Lunch Program. [Added by OFR]

To maintain records on the receipt and disbursement of funds.

Retention period: 3 years after the end of the fiscal year to which they pertain or until resolution of any claim actions and/or audit findings.

245.4 Cooperating State agencies and school food authorities participating in the National School Lunch, School Breakfast or Special Milk Program. [Added by OFR]

To keep all material relating to the conduct of the survey and determination of the factor for fund withdrawal in accordance with 7 CFR 210.8.

245.6 Participating institutions in the National School Lunch, School Breakfast or Special Milk Program. [Added by OFR]

See 7 CFR 226.23.

245.6a Cooperating State agencies and school food authorities participating in the National School Lunch, School Breakfast or Special Milk Program. [Corrected by OFR]

To maintain records as specified in the regulations.

Retention period: 3 years after the end of the fiscal year to which they pertain or beyond 3 years until resolution of any audit questions.

245.7 School food authorities participating in the National School Lunch, School Breakfast, or Special Milk Programs. [Corrected by OFR]

To maintain written record of each hearing which shall include the challenge or the decision under appeal, any documentary evidence, and a summary of any oral testimony presented at the hearing official, including the reasons therefore, and a copy of the notification to the parties concerned of the decision of the hearing official.

Retention period: 3 years.

246.15 State and local health agencies participating in the Special Supplemental Food Program for women, infants, and children. [Correctly renumbered 246.25 by OFR]

246.25 State and local health agencies participating in the Special Supplemental Food Program for women, infants, and children. [Correctly renumbered from 246.15 by OFR]

To maintain records including, but not limited to, information pertaining to financial operations, food delivery systems, food instrument issuance and redemption, equipment purchases and inventory, certification procedures, nutrition education, civil rights and fair hearing procedures.

Retention period: 3 years following the date of submission of the final expenditure report for the period to which the reports pertain, or until resolution of an audit or of any litigation.

251.4 Distributing agencies and state agencies responsible for administering Temporary Emergency Food Assistance Program. [Amended]

To maintain documentation of the transfers of any donated commodities between emergency feeding organizations and recipient agencies. To also maintain records and substantiating documents on all claim actions and adjustments including documentation of those cases in which no claim was asserted because of the minimal amount.

Retention period: In accordance with 7 CFR 250.6(r) and 251.10(a).

251.10 State agencies and emergency feeding organizations responsible for administering Temporary Emergency Food Assistance Program. [Added by OFR]

(a) To maintain records to document the receipt, disposal, and inventory of commodities received.

(b) To maintain financial records and records to document the amount of funds paid to emergency feed organizations for the actual storage and distribution costs incurred.

(c) To keep accurate and complete records showing the date and method used to determine the number of eligible households served at that site and other such information as specified in cited section.

Retention period: 3 years from the close of the Federal fiscal year to which they pertain.

275.8 State agency project areas participating in the Food Stamp Program. [Revised, 1987, record retention requirements now in 275.9]

275.9 State agency project areas participating in the Food Stamp Program. [Added by OFR]

To retain Management Evaluation Review (ME) plans and review worksheets in an orderly fashion.

277.4 State agencies participating in the Food Stamp Program. [Correctly renumbered 277.12 by OFR]

277.12 State agencies participating in the Food Stamp Program. [Correctly renumbered from 277.4 by OFR]

To maintain financial records, supporting documents, statistical records, and other records pertinent to FNS program funds or negotiated contracts exceeding $2,500 thereunder.

Retention period: 3 years from the date of submission of annual financial status report or until resolution of issues raised in audit.

Animal and Plant Health Inspection Service

7 CFR

318.13–4g Papaya irradiation processors. [Removed]

Federal Crop Insurance Corporation

7 CFR

400.407 Authorized persons (insurance company, reinsured company) collecting, using, and storing documents containing SSNs and EINs under the FCI Act. [Added]

To maintain hardcopy records in file folders in locked file cabinets or in secured computer systems.

Retention period: For a period of not less than 5 years.

400.411 Private insurance companies, either direct or reinstated, collecting, using, and storing documents containing SSNs and EINs under the FCI Act. [Added]

To retain all records of the policyholders.

Retention period: For a period of not less than 5 years.

401.122 Insured under FCIC (Stonefruit). [Added by OFR]

For each proposed unit, to maintain written, verifiable records of acreage and harvested production.

Retention period: For at least the previous crop year.

401.127 Insured under FCIC (Cranberry). [Added by OFR]

For each proposed unit, to maintain written, verifiable records of acreage and harvested production.

Retention period: For at least the previous crop year.

401.130 Insured under FCIC (Grape). [Added by OFR]

For each proposed unit, to maintain written, verifiable records of acreage and harvested production.

Retention period: For at least the previous crop year.

401.133 Insured under FCIC (Sugar). [Added by OFR]

For each proposed unit, to maintain written, verifiable records of acreage and harvested production.

Retention period: For at least the previous crop year.

401.138 Insured under FCIC (Fresh market sweet corn). [Added by OFR]

For each proposed unit, to maintain written, verifiable records of acreage and harvested production.

Retention period: For at least the previous crop year.

401.142 Insured under FCIC (Raisin). [Added by OFR]

For each proposed unit, to maintain written, verifiable records of acreage and harvested production.

Retention period: For at least the previous crop year.

401.143 Insured under FCIC (Florida citrus). [Added by OFR]

For each proposed unit, to maintain written, verifiable records of acreage and harvested production.

Retention period: For at least the previous crop year.

Agricultural Stabilization and Conservation Service

7 CFR

723.407 Cigar tobacco buyers. [Added by OFR]

To keep records for each lot of each kind of tobacco purchased or sold, including tobacco obtained from grading tobacco for producers or furnishing curing space, or stripping space. To also maintain records which will show by kind of tobacco, the disposition of tobacco purchased and records of purchases of tobacco from producers.

Retention period: 3 years after the end of the marketing year or for such longer period of time as may be requested in writing by the State ASCS Executive Director or the Director.

Note: At 50 FR 1814, Jan. 14, 1985, 7 CFR parts 735 through 742 were redesignated from 7 CFR parts 101, 102, 103, 104, 106, 107, 108, and 111. The entire correctly redesignated text is republished.

735.17 Licensed agricultural products warehousemen.

To keep copies of all receipts issued.

Retention period: 1 year after December 31 of the year in which the corresponding original receipt is canceled.

735.28 Licensed agricultural products warehousemen. [Amended by OFR]

To maintain records, books, and papers pertaining to the licensed warehouse, including current receipt book, copies of receipts issued, and canceled receipts.

Retention period: 6 years after December 31 of the year in which receipt is canceled and for such longer period as may be necessary for the purpose of any litigation which the warehouseman knows to be pending, or as may be required by the Administrator in particular cases to carry out the purposes of the act.

735.33 Licensed agricultural products warehousemen.

To maintain accounting records as specified in sections cited.

Retention period: 6 years after December 31 of the year in which such cotton for such longer period as may be necessary for the purposes of any litigation which the warehouseman knows to be pending, or as may be required by the Administrator in particular cases to carry out the purposes of the act.

735.36 Licensed agricultural products warehousemen.

To maintain as part of warehouseman's records an exact copy of each report submitted.

Retention period: 3 years after December 31 of the year in which submitted.

735.47 Licensed cotton warehousemen.

To keep copies of certificates covering cotton stored, and copies of Form A memorandums and Form C certificates issued by a board of cotton examiners which forms a basis of any receipt issued.

Retention period: 1 year after December 31 of the year in which the receipt based on such certificates or memoranda is canceled.

735.49 Licensed cotton warehousemen.

To keep records of cotton sampling including the written request, if any.

Retention period: 1 year after December 31 of the year in which such cotton is removed from the warehouse.

736.20 Licensed agricultural products warehousemen.

See 735.17.

736.29 Licensed agricultural products warehousemen.

To keep either copies of, or the original inspection, grade and/or weight, certificates covering lots of commodities stored.

Retention period: 3 years after December 31 of the year in which issued.

736.30 Licensed grain warehousemen.

To keep records of weights, kinds, and grades of all lots of nonstorage grain received into and delivered from warehouses.

Retention period: 1 year after December 31 of the year in which the lot of nonstorage grain is delivered from the warehouse.

736.34 Licensed agricultural products warehousemen.

See 735.28.

736.37 Licensed agricultural products warehousemen.

See 735.33.

736.38 Licensed agricultural products warehousemen.

See 735.36.

736.54 Licensed agricultural products warehousemen.

To keep as a record notices of the condition of commodities stored in the warehouse.

Retention period: 6 years after December 31 of the year in which created, and for such longer period as may be necessary for the purposes of litigation which the warehouseman knows is pending, or as may be required by the Administrator in particular cases to carry out the purposes of the act.

737.17 Licensed agricultural products warehousemen.

See 735.17.

737.24 Licensed agricultural products warehousemen.

See 736.29.

737.28 Licensed agricultural products warehousemen.

See 735.28.

737.39 Licensed agricultural products warehousemen.

See 736.54.

737.40 Licensed agricultural products warehousemen.

See 735.33.

737.41 Licensed agricultural products warehousemen.

See 735.36.

738.17 Licensed agricultural products warehousemen.

See 735.17.

738.28 Licensed agricultural products warehousemen.

See 735.28 and 735.33.

738.29 Licensed agricultural products warehousemen.

See 735.36.

739.17 Licensed agricultural products warehousemen.

See 735.17.

739.30 Licensed agricultural products warehousemen.

See 735.28.

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739.37 Licensed agricultural products warehousemen.
See 735.33.

739.39 Licensed agricultural products warehousemen.
See 735.36.

739.48 Licensed agricultural products warehousemen.
See 736.54.

739.54 Licensed agricultural products warehousemen.
See 736.29.

740.19 Licensed agricultural products warehousemen.
See 735.17.

740.29 Licensed agricultural products warehousemen.
See 736.29.

740.33 Licensed agricultural products warehousemen.
See 735.28.

740.43 Licensed agricultural products warehousemen.
See 735.33.

740.45 Licensed agricultural products warehousemen.
See 735.36.

740.51 Licensed agricultural products warehousemen.
See 736.54.

740.55 Licensed nut warehousemen.
To keep a copy of the certificate covering nuts stored.
Retention period: 3 years after December 31 of the year in which the certificates are issued.

741.17 Licensed agricultural products warehousemen.
See 735.17.

741.29 Licensed agricultural products warehousemen.
See 735.28.

741.33 Licensed agricultural products warehousemen.
See 735.33.

741.35 Licensed agricultural products warehousemen.
See 735.36.

741.42 Licensed agricultural products warehousemen.
See 736.54.

741.47 Licensed agricultural products warehousemen.
See 736.29.

742.18 Licensed agricultural products warehousemen.
See 735.17

742.33 Licensed agricultural products warehousemen.
See 735.28.

742.41 Licensed agricultural products warehousemen.
See 735.33.

742.44 Licensed agricultural products warehousemen.
See 735.36.

742.52 Licensed agricultural products warehousemen.
See 736.54.

742.56 Licensed agricultural products warehousemen.
See 736.29.

742.56 Licensed cottonseed warehousemen.
To keep a copy of the certificate covering the cottonseed stored.
Retention period: 3 years after December 31 of the year in which the certificates are issued.

Agricultural Marketing Service

7 CFR

929.61 Cranberry handlers. [Redesignated as 929.63]

929.63 Cranberry handlers. [Redesignated from 929.61]
To maintain records of all cranberries acquired, withheld from handling, handled or otherwise disposed of as will substantiate the required reports.
Retention period: Not less than 3 years after termination of the crop year in which the transaction occurred or for such lesser period as the committee may direct.

991.61 Hops handlers. [Removed, 1986]

1205.531 Cotton handlers. [Revised]
See 1205.339.

1211.39 Pecan Marketing Board. [Added]
To keep minutes, books, and records which clearly reflect all of the acts and transactions of the Board.
Retention period: See 7 CFR 1211.61.

1211.42 Contractors subject to the Pecan Promotion and Research Plan. [Added]
To keep accurate records of all transactions, account for fund received and expended. Such records shall be subject to audit by the Secretary.
Retention period: See 7 CFR 1211.61.

1211.61 First handlers, grower-shellers, and importers subject to the Pecan Promotion and Research Plan. [Added]
To maintain and during normal business hours make available for inspection and copying by authorized employees of the Board or Secretary, such books and records as are necessary to carry out the provisions of the Plan and the regulations issued thereunder, including such records as are appropriate and necessary to verify all required reports.
Retention period: For at least 3 years beyond the fiscal period of their applicability.

1212.70 Lime handlers, producer-handlers, and importers. [Added]
(a) *Handlers and producer-handlers.* To maintain a record of each transaction for limes on which assessment had already been paid, including statements from sellers that have been paid.
(b) *Importers.* To maintain a record of each importation of limes during such period, giving the quantity, date, and port of entry.
Retention period: 2 years beyond the marketing year of their applicability.

1212.71 Lime handlers, producer-handlers and importers. [Added]
To maintain such books and records are are necessary to carry out the provision of the Lime Research, Promotion, and Consumer Information Order, including such records as are necessary to verify any required reports.
Retention period: 2 years beyond the marketing year of their applicability.

1212.72 Lime handlers, producer-handlers and importers—retention period. [Added]
To maintain for at least 2 years beyond the marketing year of their applicability:
(a) One copy of each report made to the Board; and
(b) Such records as are necessary to verify such reports.

1280.161 Wheat and wheat food manufacturers. [Removed]

1280.330 Wheat and wheat food manufacturers. [Removed]

Commodity Credit Corporation

1430.299 Responsible persons or producers of milk who are granted advance payment of refund or a refund. [Removed, 1989]

1430.324 Responsible persons or producers of milk who are granted advance payment of refund or a refund. [Removed, 1989]

1471.1551 Producers of wool, sheep, and lambs and their marketing agencies participating in price support program. [Removed by OFR]

1472.1451 Producers of wool, sheep, and lambs and their marketing agencies participating in price support program. [Removed, 1986]

Rural Electrification Administration

7 CFR

1710.203 Power supply borrowers. [Added]
To maintain current PRS work plan and its essential supporting data and analysis.
Retention period: Until next PRS is approved by REA.

1753.57 Borrowers, engineers, and construction supervisors for outside plant major construction by force account method with REA loan funds. [Redesignated from 1765.47 in 1990]
(a) To maintain records on all expenditures for materials, labor, transportation, and other costs of construction, in order that all costs may be fully accounted for upon completion of construction.
(b) To maintain accurate and current inventories of completed construction.
Retention period: Not specified.

1753.80 Borrowers for minor construction of telecommunications facilities using REA loan funds. [Redesignated from 1765.70 in 1990]
To maintain accounting and plant records sufficient to document the cost and location of all construction and to support loan fund advances and disbursements.
Retention period: Not specified.

1765.47 Borrowers, engineers, and construction supervisors for outside plant major construction by force account method with REA loan funds. [Redesignated as 1753.57 in 1990]

1765.70 Borrowers for minor construction of telecommunications facilities using REA loan funds. [Redesignated as 1753.80 in 1990]

Farmers Home Administration

7 CFR

1823.284 Rural communities and other associations or organizations of farmers and rural residents obtaining loans and grants for housing projects and related facilities. [Removed, 1989]

1933.409 Self-help housing technical assistance grantees. [Removed, 1990]

1940.956 State rural economic development review panel. [Added]
To keep records of the minutes of the meetings, deliberations, and evaluations of the panel in sufficient detail to enable panel to provide interested agencies or persons the reasons for its actions.

1942.17 Entities receiving community facility loans. [Amended]
To maintain books of account and all other records, books, memoranda which support entries in the books of account.
Retention period: At least 3 years.

1944.257 Service coordinators; Congregate Housing Service Program. [Added]
To maintain necessary case files on each program participant, containing such information as assessment, referral, case monitoring, and reassessment processes.

1944.258 Professional Assessment Committees (PAC)–Congregate Housing Service Program. [Added]
To maintain in files concerning program participants, such information as medical evaluations and supportive services plans.

1980.647 Grantees under the Nonprofit Corporations Loan and Grant Program. [Revised, 1989, record retention requirements now in 1980.656]

1980.656 Grantees under the Nonprofit Corporation Loan and Grant Program. [Added by OFR]
To maintain financial records in accordance with USDA Uniform Assistance Regulation part 3015. These records must include an accurate accounting and documentation of how these funds are used.

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

9 CFR

11.21 Certification and licensing of Designated Qualified Persons (DQP's); Management of horse shows, horse exhibitions, horse sales or horse auctions; Organizations and associations sponsoring or sanctioning any horse show, sale, exhibition or auction. [Correctly renumbered 11.22 by OFR]

11.22 Certification and licensing of Designated Qualified Persons (DQP's); Management of horse shows, horse exhibitions, horse sales or horse auctions; Organizations and associations sponsoring or sanctioning any horse show, sale, exhibition or auction. [Correctly renumbered from 11.21 by OFR]
See 11.7.

11.23 Certification and licensing of Designated Qualified Persons (DQP's); Management of horse shows, horse exhibitions, horse sales or horse auctions; Organizations and associations sponsoring or sanctioning any horse show, sale, exhibition or auction. [Correctly renumbered from 11.24 by OFR]
See 11.7.

11.24 Certification and licensing of Designated Qualified Persons (DQP's); Management of horse shows, horse exhibitions, horse sales or horse auctions; Organizations and associations sponsoring or sanctioning any horse show, sale, exhibition or auction. [Correctly renumbered 11.23 by OFR]

82.30 Authorized laboratories conducting tests for poultry disease caused by salmonella enteritidis serotype enteritidis. [Added by OFR]
(a) To maintain laboratory quality control records for the most recent 3 years that samples have been analyzed.
(b) To maintain complete records of the receipt, analysis, and disposition of official samples for the most recent 3 years that samples have been analyzed.
(c) To maintain a standard book which is a permanently bound book with sequentially numbered pages and containing all readings and calculations for diagnostic tests and calibration of instruments.
Retention period: For a period of 3 years after the last entry is made.

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Food Safety and Inspection Service

9 CFR

309.16 Persons certifying animals to be free of diethylstilbestrol (DES). [Amended, 1985, regulation contains no record retention requirements]

381.175 Persons processing, transporting, shipping, or receiving poultry slaughtered for human consumption or poultry products in commerce, or holding such products. [Amended]

To maintain detailed records of such transactions as specified in the regulations.

Retention period: 2 years.

NUCLEAR REGULATORY COMMISSION

10 CFR

20.2107 Persons licensed to receive, possess, use, transfer, or dispose of byproduct, source, or special nuclear material or operate a production or utilization facility. [Added by OFR]

To maintain records of dose to individual members of the public.

Retention period: Until the Commission terminates each pertinent license requiring the record.

20.2108 Persons licensed to receive, possess, use, transfer, or dispose of byproduct, source, or special nuclear material or operate a production or utilization facility. [Correctly renumbered by OFR]

To maintain records of waste disposal.

Retention period: Until the Commission terminates each pertinent license requiring the record.

Appendix D to §§20.1001–20.2402 Generating licensee transferring radioactive waste to land disposal facility or licensed waste collector. [Correctly renumbered from Appendix E by OFR]

To retain a copy of the manifest and documentation or acknowledgment of receipt as the record of transfer of licensed material as required by 10 CFR parts 30, 40, and 70.

Appendix E to §§20.1001–20.2402 Generating licensee transferring radioactive waste to land disposal facility or licensed waste collector. [Correctly renumbered Appendix D by OFR]

Appendix D to §§20.1001–20.2402 Waste collector licensees handling prepackaged waste. [Correctly renumbered from Appendix E by OFR]

To retain a copy of the manifest and documentation of acknowledgment of receipt as the record of transfer of licensed material as required by parts 30, 40, and 70, and retain information from generator manifest until disposition is authorized by the Commission.

Appendix E to §§20.1001–20.2402 Waste collector licensees handling prepackaged waste. [Correctly renumbered Appendix D by OFR]

(a) To retain copies of original manifests and new manifests and documentation of acknowledgment of receipt as the record of transfer of licensed material required by 10 CFR parts 30, 40, and 70.

(b) To maintain copies of all completed manifest or equivalent documentation until the Commission authorizes their disposition.

Appendix E to §§20.1001–20.2402 Licensed waste processors treating or repackaging waste. [Correctly renumbered Appendix D by OFR]

Appendix D to §§20.1001–20.2402 Land disposals facility operators. [Added by OFR]

To maintain copies of completed manifests or equivalent.

Retention period: Until the license is terminated.

25.23 Licensees or requesting organizations employing individual approved for personnel security access authorization. [Revised]

To maintain records of grant of access authorization notification.

Retention period: 3 years after the access authorization has been terminated by the NRC Division of Security.

35.620 Licensees for certain groups of medical uses of byproduct material. [Correctly renumbered 35.630 by OFR]

35.630 Licensees for certain groups of medical uses of byproduct material. [Correctly renumbered from 35.620 by OFR]

To maintain a record of each calibration, intercomparison, and comparison of dosimetry equipment.

Retention period: Duration of the license.

40.36 Licensees receiving, possessing, using, transferring, or delivering source or byproduct material. [Added by OFR]

To keep records of information important to the safe and effective decommissioning of the facility (such as records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site, etc.) in an identified location.

Retention period: Until the license is terminated by the Commission.

52.63 Licensees for nuclear power plants. [Added by OFR]

To maintain records of all changes to the facility.

Retention period: Until the date of termination of the license.

Part 55, Appendix A Licensees authorized to operate nuclear production and utilization facilities. [Removed, 1987]

70.25 Licensees acquiring, delivering, receiving, possessing, using, transferring or receiving title to own special nuclear material. [Added by OFR]

See 70.32.

70.32 Licensees acquiring, delivering, receiving, possessing, using, transferring or receiving title to own special nuclear material. [Amended]

To keep (a) such records of ownership, receipt, possession, use, and transfer of special nuclear material as may be incorporated as a condition or requirement in any license; (b) records of changes to the material control and accounting program made without prior Commission approval; (c) records of changes to the physical security plan made without prior Commission approval; (d) records of changes to licensee safeguards contingency plan made without prior Commission approval; (e) records of receipt, acquisition, or physical inventory of special nuclear material; (f) records of transfer of special nuclear material to other persons; (g) records of disposal of special nuclear material; (h) records of date and time of application of tamper-safing devices to containers or vaults; (i) material balance records for each material balance showing the quantity of element and fissile isotope in each component of the material balance; (j) a record summarizing the quantities of element and fissile isotope for ending inventory of material in process and additions and removals of material in process during material balance interval; (k) a record summarizing the quantities of element and fissile isotope in unopened receipts and ultimate products maintained under tamper-safing or in the form of sealed sources; (l) records needed to meet fundamental nuclear material controls requirements contained in 10 CFR 70.58, including (i) records which will provide information sufficient to locate special nuclear material and to close a measured material area and the total plant as specified in 10 CFR 70.51, (ii) records of results of review and audit of the nuclear material control system, and (iii) records of shipper-receiver difference evaluations, investigations, and corrective actions concerning special nuclear material received and shipped; (m) all data, information, reports, and documents generated by the measurement control program, including summary of error data utilized in limit of error calculations performed for each material balance period; and (n) records pertaining to training and qualification of personnel who perform measurement activities pursuant to 10 CFR 70.57(b)(7).

Retention period: (a) If not otherwise specified by regulation or license condition, until disposal is authorized by the Commission; (b) 5 years after date of change; (c) 3 years from date of change; (d) current safeguards contingency plans procedures–entire period during which the procedures were developed and if any portion of the plan is superseded, retain that superseded portion for 3 years after the effective date of the change; changes to the licensee safeguards contingency plan without prior NRC approval–during the period for which possession of a formula quantity of special nuclear material is authorized under a license, retain the superseded portion for 3 years after the effective date of the change; (e) as long as licensee retains possession of special nuclear material and for 3 years following transfer of special nuclear material; (f) until disposal is authorized by the Commission, or for 3 years for records required by 10 CFR 70.51(e)(1)(v) to document transfers of special nuclear material between material balance areas; (g) until disposal is authorized by the Commission; (h) if not otherwise specified by regulation or license condition, until disposal is authorized by the Commission; (i) 3 years; (j) 3 years; (k) 3 years; (l) and (l)(i) if not otherwise specified by regulation or license condition, until disposal is authorized by the Commission; (l)(ii) 3 years; (l)(iii) 3 years; (m) 3 years; (n) 3 years.

70.42 Licensees acquiring, delivering, receiving, possessing, using, transferring or receiving title to own special nuclear material. [Added by OFR]

See 70.32

72.186 Licensees who receive, transfer, and possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an independent spent fuel storage installation (ISFSI). [Added by OFR]

To maintain records of changes to any physical security and safeguards contingency plans without prior approval.

Retention period: For a period of 3 years from the date of the change.

73.26 Licensees required to provide physical protection or safeguards for special nuclear material in transit and at fixed site. [Amended]

See 73.70.

73.46 Licensees required to provide physical protection or safeguards for special nuclear material in transit and at fixed site. [Amended]

(a) To retain a copy of the current written procedures which document the structure of the security organization and which detail the duties of the Tactical Response Team, guards, watchmen, and other individuals responsible for security.

Retention period: Until the Commission terminates the license for which these procedures were developed and, if any portion of these procedures is superseded, retain the superseded material for 3 years after each change.

(b) To retain the results of the qualification and requalification of guards, watchmen, Tactical Response Team members, or other members of the security organizations; guards and Tactical Response members in annual night firing with assigned weapons; Tactical Response training; and Tactical Response Team and guard exercises to demonstrate overall security system effectiveness and the ability of the security force to perform reponse and contingency plan responsibilities and to demonstrate individual skills in assigned duties.

Retention period: 3 years.

73.50 Licensees required to provide physical protection or safeguards for special nuclear material in transit and at fixed site. [Amended]

See 73.70.

73.55 Licensees required to provide physical protection or safeguards for special nuclear material in transit and at fixed site. [Amended]

See 73.70.

73.60 Licensees required to provide physical protection or safeguards for special nuclear material in transit and at fixed site. [Amended]

See 73.70.

73.70 Licensees required to provide physical protection or safeguards for special nuclear material in transit and at fixed sites. [Amended]

To maintain (a) records of names and addresses of all authorized personnel, records of visitors, vendors and other individuals not employed by the licensee pursuant to 10 CFR 73.46(d)(13), 73.55(d)(6), or 73.60 records of results of tests maintenance and inspections of protected areas and security-related material, record of each alarm intrusion or other security incident, record of shipments of special nuclear material including information to comply with requirements of this part, procedures for controlling access to protected areas; (b) records of results of review and audit of licensee safeguards contingency plan for special nuclear material at fixed sites; (c) records of the current management system (transportation physical protection procedures) records of results of qualification and requalification of armed escorts and physical security personnel; (d) records documenting liaison with law enforcement authorities; (e) records of escort log and communications center personnel, for each spent fuel shipment, describing shipment and significant events that occur during the shipment.

Retention period: (a) 3 years; (b) 3 years from date of review and audit; (c) 3 years; (d) 3 years; (e) 3 years.

74.59 Licensees operating uranium enrichment facilities authorized to produce special nuclear material of low strategic significance. [Added by OFR]

To maintain auditable records sufficient to demonstrate that the process monitoring, item monitoring, alarm resolution and quality assurance and accounting requirements have been met.

Retention period: 3 years unless a longer period is required by 10 CFR part 75.

ENERGY DEPARTMENT

10 CFR

456.316 Covered utilities and home heating suppliers participating in the Residential Conservation Service Program. [Removed]

456.1020 Covered utilities and home heating suppliers participating in the Residential Conservation Service Federal Standby Plan. [Removed]

600.109 Recipients of assistance awards, grantees and subgrantees. [Amended]

To maintain a financial management system that include records identifying source and application of funds and accounting records supported by source documentation.

Retention period: 3 years retention requirement of 600.25 and 600.124 shall apply.

600.213 Participants having cooperative agreements with DOE. [Removed, 1988]

707.16 Contractors and subcontractors performing work at sites owned or controlled by DOE. [Added]

To maintain maximum confidentiality of records related to illegal drug use, to

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the extent required by applicable statutes and regulations. All laboratory records relating to positive drug test results, including initial test records and chromatographic tracings, shall be retained by the laboratory in such a manner, as to allow retrieval of all information pertaining to the individual urine specimens. To also maintain as part of its medical records, copies of specimen chain of custody forms.

Retention period: Information pertaining to the individual urine specimen–for a maximum period of 5 years after completion of testing of any given specimen, or longer if so instructed by DOE or by the contractor.

FEDERAL ELECTION COMMISSION

11 CFR

102.5 Organizations financing political activities in connection with Federal and non–Federal elections, other than through transfers and joint fund–raisers. [Added by OFR]

To keep records of deposits to and disbursements from such account. To also keep records of amounts received or expended.

102.6 Authorized committees of Presidential candidates seeking primary matching funds and general election public financing. [Added by OFR]

To retain all records of contribution deposits and transmittals.

Retention period: 3 years.

TREASURY DEPARTMENT

Comptroller of the Currency

12 CFR

21.3 Security devices required in national banks. [Correctly renumbered from 21.5 by OFR]

To maintain records of each robbery, burglary or nonemployee larceny committed or attempted at a banking office.

Retention period: As long as the bank continues to use security devices.

21.5 Security devices required in national banks. [Correctly renumbered 21.3 by OFR]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR

326.3 Insured State nonmember banks. [Corrected by OFR]

See 12 CFR 21.3.

326.4 Insured State nonmember banks. [Removed by OFR; regulation contains no record retention requirements]

See 326.5.

326.5 Insured State nonmember banks. [Removed, 1991]

337.6 Deposit brokers. [Added]

To maintain sufficient records of the volume of brokered deposits placed with any insured depository institution over the preceding 12 months and the volume outstanding currently including the maturities, rates, and costs associated with such deposits.

344.4 Insured State nonmember banks. [Added by OFR]

See 12 CFR 344.3.

TREASURY DEPARTMENT

Thrift Supervision Office

12 CFR

545.113 Federal savings and loan associations. [Removed]

562.1 Savings associations and its affiliates. [Added]

To maintain accurate and complete records of all business transactions. Such records shall support and be readily reconcilable to any regulatory reports submitted to the Office of Thrift Supervision (OTS) and financial reports prepared in accordance with GAAP.

563.9–3 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered 563.93 by OFR]

563.13 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Removed, 1989]

563.17–1 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered 563.170 by OFR]

563.17–2 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Amended; correctly renumbered 563.172 by OFR]

563.17–3 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered 563.173 by OFR]

563.17–4 Savings associations engaging in financial future transactions. [Amended; correctly renumbered 563.174 by OFR]

563.17–5 Savings associations engaging in financial options transactions. [Amended; correctly renumbered 563.175 by OFR]

563.18 Insured institutions and service corporations insured under the Federal Savings and Loan Insurance Corporation. [Correctly renumbered 563.180 by OFR]

563.23–1 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered 563.231 by OFR; regulation contains no record retention requirements]

563.23–3 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered 563.233 by OFR]

563.39–1 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered 563.47 by OFR]

563.47 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered from 563.39–1 by OFR]

Each insured institution or service corporation thereof maintaining a pension plan not subject to recordkeeping and reporting requirements of the ERISA of 1974, and the IRS Code of 1954, as amended, shall establish and maintain records containing: (a) A plan description; (b) a schedule of participants and beneficiaries; (c) a schedule of participants' and beneficiaries' rights and obligations; (d) the plan's financial statements; and (e) except for defined contribution plans, an opinion signed by an enrolled actuary affirming certain acturial assumptions.

Retention period: Not specified.

563.93 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered from 563.9–3 by OFR]

Each insured institution or service corporation affiliate thereof shall keep records showing compliance with the limitations on loans to one borrower if the total balances of all outstanding loans owed to an institution and its service corporation affiliates by any one borrower exceeds $250,000 or 2% of the institutions net worth, whichever is greater, but in all cases where such outstanding loans exceed $1,000,000.

Retention period: Not specified.

563.170 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered from 563.17–1 by OFR]

Each insured institution, affiliate and service corporation thereof shall establish and maintain such accounting and other records as will provide an accurate and complete record of all business transacted by it and, without any limitation on the generality of the foregoing, each insured institution, affiliate and service corporation shall establish and maintain records with respect to: (a) Loans on the security of real estate, including—(1) a loan application, (2) purchase price (if applicable) of the real estate, (3) appraisal, (4) borrower credit report, (5) documentation showing the institution's approval of, and terms of the loan, (6) a record of disbursements, (7) validity of the lien, (8) documentation showing that a loan settlement statement was furnished the borrower, (9) status of taxes and other assessments on the loan security, (10) loan modifications and (11) releases of collateral; (b) property purchased subject to, or with assumption by a third party of, an institution's loan, (c) loans sold, (d) the acquisition of mortgaged security, (e) insured accounts, and (f) such other records as are required by statute or by any other regulation to which such institution or service corporation is subject.

Retention period: Not specified.

563.172 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Amended; correctly renumbered from 563.17–2 by OFR]

To keep a dated, signed copy of each report of appraisal of each parcel of real estate owned which is a scheduled item.

Retention period: Not specified.

563.173 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered from 563.17–3 by OFR]

An institution engaging in forward commitments shall maintain (a) a current register of all outstanding forward commitments, including the type (firm or standby), commitment date, amount, rate, price to be paid at settlement, market price at date of commitment, settlement date, commitment fees received, date and manner of disposal, sales price and market value at disposal if disposition is made on or prior to settlement date other than through funding, and seller's identity and conformation; and (b) documentation of the institution's ability to fund all outstanding forward commitments when due.

Retention period: Not specified.

563.174 Savings associations engaging in financial future transactions. [Amended; correctly renumbered from 563.17–4 by OFR]

(a) To maintain records of such transactions sufficient to document how the transaction reduce the net interest–rate risk exposure of the savings associations.

(b) To maintain as part of the documentation of its financial futures activity, a schedule that describes the hedge objective of the futures contracts (individually) or in groups as appropriate) and the hedge results.

Retention period: Such records shall be maintained for all futures transactions closed–out during at least the preceding ten years.

563.175 Savings associations engaging in financial options transactions. [Amended; correctly renumbered from 563.17–5 by OFR]

(a) To maintain a contract register adequate to identify and control all financial options contracts and sufficient to indicate at any time the amounts of financial options contracts required to be reported on its monthly report. At a minimum, the register shall list the type, amount, expiration date, and the cost of or income from each contract.

(b) To maintain, as part of the documentation of its financial option activities, a schedule of any cash market or forward commitment position with which the option is matched, the objective for each contract (or group of contracts), and the results. Such records shall be maintained for all financial options closed out during the preceding ten years.

563.180 Insured institutions and service corporations insured under the Federal Savings and Loan Insurance Corporation. [Amended; correctly renumbered from 563.18 by OFR]

To maintain at the insured institution's home office reports of crimes, suspected crime and unexplained losses.

Retention period: 10 years.

563.231 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered from 563.21–1 by OFR; regulation contains no record retention requirements]

563.233 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered from 563.23–3 by OFR]

Insured institutions and service corporations shall maintain such books and records as will support its financial statements and reports to the Corporation.

Retention period: Not specified.

563a.5 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered 568.5 by OFR; part 568 revised, 1991; 568.5 removed]

563c.10 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Removed]

564.2 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Revised, 1990; regulation contains no record retention requirements]

568.5 Institutions insured by the Federal Savings and Loan Insurance Corporation. [Correctly renumbered from 563a.5 by OFR; Part 568 revised, 1991; 568.5 removed]

SMALL BUSINESS ADMINISTRATION

13 CFR

115.7 Preferred Surety Bond Program (PSB) sureties. [Correctly renumbered 115.60 by OFR]

115.18 Preferred Surety Bond Program (PSB) sureties. [Removed, 1990]

115.60 Preferred Surety Bond Program (PSB) sureties. [Correctly renumbered from 115.7 by OFR]

To maintain all information and certifications required by SBS including a contemporaneous record of the date of issuance of each bond, in its file, for inspection by SBA or its agents and for submission to SBA in connection with claims made under SBA's guarantee.

Retention period: For the term of each bond, plus such additional time as may be required to settle claims for which the surety may seek recovery from SBA or attempt salvage or other recovery and for an additional 3 years thereafter.

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121.6 Small business concerns engaged in the logging or forestry products industry. [Correctly renumbered 121.1006 by OFR]

121.1006 Small business concerns engaged in the logging or forestry products industry. [Correctly renumbered from 121.6 by OFR]

To maintain the name, address, and size status or each concern to whom the timber of sawlogs were sold or disposed, and the log species, grades, and volumes involved. To maintain records to show the name, address, and size status of the concern manufacturing the sawlogs into lumber or timbers.

Retention period: 3 years.

124.321 Minority Small Business and Capital Ownership Development Program. [Added by OFR]

To maintain in the office, accounting and other administrative records relating to the joint venture.

COMMERCE DEPARTMENT

Economic Development Administration

13 CFR

305.9 Recipients of financial assistance (including contractors and subcontractors). [Removed by OFR]

311.2 Applicants, Grantees, Borrowers, and "Other Parties" (nondiscrimination records). [Correctly renumbered 311.3 by OFR]

311.3 Applicants, Grantees, Borrowers, and "Other Parties" (nondiscrimination records). [Correctly renumbered from 311.2 by OFR]

To retain employment and project service benefit information for the purpose of carrying out their civil rights responsibilities and in order to provide EDA with required reporting documents. Further information on this requirement may be found in EDA's *Civil Rights Guidelines.*

Retention period: All employment information should be retained at least 1 year.

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

14 CFR

123.27 Air travel clubs using large airplanes. [Removed by OFR]

149.15 Holders of parachute loft certificates. [Removed]

Office of the Secretary

14 CFR

320.10 Air carriers transferring charter authorization. [Removed]

347a.7 Air carriers and foreign air carriers. [Correctly renumbered 374a.7 by OFR]

374a.7 Air carriers and foreign air carriers. [Correctly renumbered from 347a.7 by OFR]

To retain all documents which evidence or reflect the furnishing of transportation and all statements, invoices, bills, and receipts relating to transportation provided to a political candidate or a person acting on his behalf on a credit basis (except foreign air carriers).

Retention period: 3 years.

COMMERCE DEPARTMENT

Export Administration Bureau

15 CFR

771.10 Exporters of petroleum and petroleum products for use on aircraft. [Added by OFR]

To retain in file documentary evidence establishing that the commodity was not produced or derived from a Naval Petroleum Reserve.

Retention period: See 15 CFR 787.13.

771.12 Exporters of commodities for use by or on specific vessels or planes of US or Canadian registry. [Added by OFR]

See 15 CFR 771.10.

771.16 Exporters of certain non-Naval reserve petroleum commodities. [Added by OFR]

See 15 CFR 771.10.

771.27 Non-governmental non-profit organizations using general license to export donated commodities for humanitarian projects in Vietnam. [Added]

To maintain records of donations made in accordance with 15 CFR 787.13.

773.9 Exporters of certain chemicals and chemicals and biological equipment. [Added by OFR]

To maintain records of all transactions under the license in accordance with 15 CFR 787.13.

775.4 Persons applying for license to export commodities to Switzerland or Liechtenstein. [Removed]

775.5 Persons applying for a license to export commodities to Yugoslavia. [Revised by OFR]

To retain on file the original copy of the Yugoslav End–Use Certificate and supplement issued in support of any license application for export to Yugoslavia. See 15 CFR 787.13.

775.6 Applicants for export licenses who have submitted supporting documents with their applications. [Removed by OFR, regulation contains no record retention requirements]

775.7 Persons applying for license to export or reexport commodities to India. [Corrected by OFR]

To retain in file, the original copy of the Indian Import Certificate issued in support of any license application for export to India. See also 15 CFR 787.13.

776.4 Foreign–based service facilities named in reexport authorizations. [Added by OFR]

To maintain a record of each reexport made against the reexport authorization. The record shall include, as a minimum, (a) the reexport authorization number and expiration date; (b) description of the instrument or equipment that was serviced; (c) the full name and address of the person or firm on whose premises the instrument was serviced; (d) a description of the part or parts, including quantity and value, that were used to service the instrument or equipment; and (e) the date the servicing was performed.

776.11 Exporters, reexporters, and intra–country transfer of supercomputers; licensing requirements. [Added]

(a) To maintain detailed logs to record computer usage.

(b) To maintain separate logs of security–related events.

Retention period: 1 year.

777.4 Exporters of registered U.S. agricultural commodities. [Added by OFR]

To maintain pertinent records pursuant to 15 CFR 787.13.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR

1211.31 Persons issuing certificates of compliance for automatic residential garage door operators. [Added]

To maintain written records which show that the certificates are based on a test of each operator or on a reasonable testing program, The records shall identify the operators tested and the production lot and describe the tests the operators were subjected to in sufficient detail so the tests may be replicated. Records shall also provide the results of the tests including the precise nature of any failures and specific actions taken to address any failures.

Retention period: For a period of at least 3 years from the date of certificate of each operator or the last operator in each production lot.

1616.4 Manufacturers, importers, or other persons initially introducing children's sleepwear, sizes 7 through 14 and fabric intended for use in children's sleepwear. [Added by OFR]

To maintain records related to all tests performed. Such records shall include results of all tests, sizes of all units, and the disposition of all rejected pieces and units.

COMMODITY FUTURES TRADING COMMISSION

17 CFR

3.16 Associated persons of commodity trading advisors and commodity pool operators. [Removed]

3.18 Associated persons of leverage transaction merchants. [Removed]

4.7 Commodity pool operators and commodity trading advisors; exemption with respect to offerings to qualified eligible participants and qualified eligible clients. [Added]

To maintain records prepared in connection with activities as the pool operator of the exempt pool (including, without limitation, records relating to the qualifications of qualified eligible participants and substantiating any performance representations) at the main business address.

4.13 Commodity pool operators. [Correctly renumbered from 4.23 by OFR]

To maintain all books and records prepared in connection with activities.

Retention period: 5 years.

4.23 Commodity pool operators. [Correctly renumbered 4.13 by OFR]

SECURITIES AND EXCHANGE COMMISSION

17 CFR

240.15g–6 Brokers or dealers engaging in transaction in low–priced, over–the–counter securities, often referred to as penny stocks. [Added]

To maintain, as part of its records, copies of the written statements on price determinations and market and price information.

Retention period: See 17 CFR 240.17a–4.

240.17a–8 Registered brokers or dealers subject to the requirements of the Currency and Foreign Transactions Act of 1970. [Added by OFR]

To maintain records pursuant to 31 CFR part 103.

240.17h–1T Associated persons of the brokers–dealers; risk assessment. [Added]

To maintain records on organizations; policies, procedures, or systems; methods for monitoring and controlling financial and operational risks to it resulting from the activities of any of its associated persons, other than a natural persons; financial and capital adequacy; trading positions and risks; material legal proceedings; and other such information as specified in cited section.

Retention period: 3 years.

240.17Ad–15 Registered transfer agents. [Added by OFR]

(a) To maintain a copy of the standards and procedures on signature guarantees. (b) To also maintain a record of transfers rejected, including the reason for the rejection, who the guarantor was, and whether the guarantor failed to meet the transfer agents guarantee standards.

Retention period: 3 years following the date of the rejection.

240.17Ad–15 Registered transfer agents. [Added by OFR]

(a) To maintain a copy of the written standards for the acceptance of guarantees of securities transfers from eligible guarantor institutions and the procedures, including written guidelines where appropriate, to ensure that those standards are used in determining whether to accept or reject guarantees from eligible guarantor institutions.

(b) To maintain a record of transfers rejected, including the reasons for the rejection, who the guarantor was, and whether the guarantor failed to meet the transfer agents' guarantee standards.

Retention period: For a period of 3 years following the date of the rejection.

250.26 Registered holding companies and subsidiaries. [Added by OFR]

To keep current accounts, books and other records of all its transactions in sufficient detail to permit examinations, audit and verification of the financial statements, schedules and reports it is required to file with the Commission or which it issues to stockholders. Such accounts, books, and other records shall be maintained in appropriate form and in sufficient detail to provide all of the information with respect to the business of the company specified by such Commission filing requirements as are in effect when the transactions recorded occur.

275.24–2 Non-resident investment advisers registered or applying for registration. [Correctly renumbered 275.204–2 by OFR]

275.204–2 Non-resident investment advisers registered or applying for registration. [Correctly renumbered from 275.24–2 by OFR]

To keep, at a place within the United States specified in his notice to the Commission, copies of books and records an investment adviser is required to keep, unless the adviser (a) files an undertaking (substantially in the form prescribed) to furnish copies thereof to the Commission on demand and (b) furnishes copies thereof to the Commission, at his expense, within 14 days after written demand therefor.

Retention period: Various. Copies may be maintained on microfilm or on computer storage medium.

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

18 CFR

12.12 Safety of water power projects and project work licensees. [Added by OFR]

In addition to records required to be maintained by 18 CFR part 125, to maintain engineering and geological data relating to design, construction, maintenance, repair, or modification of the project, and other data necessary to demonstrate that construction, maintenance, repair, or modification of the project has been performed in accordance with plans and specifications; instrumentation observations and data collected during construction, operation, or maintenance of the projects, including continuously maintained tabular records and graphs illustrating the data collected; and all other information specified in cited section.

Retention period: Permanent.

250.16 Interstate pipelines with marketing affiliates. [Amended]

To maintain a log on all requests for transportation service made by affiliated marketers or in which an affiliated marketer is involved.

Retention period: From the time the information required in cited section is received until Dec. 31, 1993. The information required must be available from Sept. 12, 1988 until Dec. 31, 1994 to the Commission and the public.

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TREASURY DEPARTMENT

Customs Service

19 CFR

10.93 Manufacturers, processors, or dealers entering or withdrawing wool or hair of the camel under bond or receiving wool or hair by transfer under bond. [Removed, 1988]

10.94 Manufacturers or processors of products and substances resulting wholly or in part from bonded wool or hair of the camel. [Removed, 1988]

10.95 Manufacturers, processors, or dealers of articles of wool or hair of the camel. [Removed, 1988]

10.95 Manufacturers, processors, or dealers entering or withdrawing wool or hair of the camel under bond or receiving wool or hair by transfer under bond. [Removed, 1988]

10.95 Manufacturers or processors of products and substances resulting wholly or in part from bonded wool or hair of the camel. [Removed, 1988]

19.6 Warehouse proprietors. [Added by OFR]

To maintain in the record original blanket withdrawal form and a copy of the partial release form.

19.11 Warehouse proprietors. [Added by OFR]

(a) To maintain a running record of manipulation performed under a blanket application indicating the quantities before and after each manipulation. The record must show what took place at each manipulation describing marks and numbers of packages, location within the facility, quantities, and description of goods before and after manipulation.

(b) To maintain a record of unpacking merchandise into saleable units and destruction of nonsaleble merchandise in its inventory and accounting records.

19.12 Warehouse proprietors. [Added by OFR]

To keep records on all merchandise entered, manipulated, manufactured, smelted, refined or removed from the bonded warehouse in sufficient detail to permit effective and efficient determination by Customs of the proprietor's compliance with applicable regulations and the correctness of annual submission.

19.13a Proprietors of manufacturing warehouses. [Added by OFR]

See 19 CFR 19.12.

19.16 Cigar manufacturing warehouse proprietors. [Removed, 1987]

19.36 Duty-free store proprietors. [Added]

To maintain, at the duty-free store or at another location approved by the district director, a current inventory separately for each storage area, crib, and sales area containing conditionally duty-free merchandise by warehouse entry, or by unique identifier where permitted by the district director.

Retention period: For not less than 5 years after exportation of the articles.

19.37 Class 9 warehouse proprietors. [Added]

To maintain records of conditionally duty-free merchandise transported beyond the exit point and returned therefrom, and customs permits for such movements.

Retention period: For not less than 5 years after exportation of the articles.

19.39 Warehouse proprietors. [Added]

To maintain copies of lading manifest lists and certificates of lading for exportation in its files.

Retention period: For not less than 5 years after exportation by warehouse entry number or by unique identifier where permitted by the district director.

24.22 Association of American Railroads and AMTRAK. [Added by OFR]

To maintain all documentation necessary for Customs to verify the accuracy of fee computations and to otherwise determine compliance under the law.

Retention period: 3 years from the date of the calculations.

24.24 Importers, exporters, applicants for admission of cargo into foreign trade zone, shippers and cruise vessel operators subject to harbor maintenance fees. [Amended]

To maintain all such documentation necessary for Customs to verify the accuracy of fee computations and to otherwise determine compliance with the law. To also maintain documentation pertaining to the exemption from the harbor maintenance fee for cargo owned or financed by nonprofit organizations or cooperatives certified by the Customs Service as intended for use in humanitarian or developmental assistance overseas.

Retention period: 5 years from the date of the calculation.

122.14 Employers operating in Custom airport security areas. [Removed, 1990]

144.37 Class 9 warehouse proprietors. [Added]

To maintain sale ticket which include serial number and date of preparation of each ticket; warehouse entry number or specific identifier, if approved by the district director; quantity of goods sold; brief description of the articles including the size of bottles; and the full name, address, and signature of the purchaser. To also maintain a sale ticket register or similar accounting record for each warehouse entry.

Retention period: For not less than 5 years after the date of the last sales ticket in the entry.

HEALTH AND HUMAN SERVICES DEPARTMENT

Social Security Administration

20 CFR

404.1624 States making determinations of disability under title III of the Social Security Act. [Added by OFR]

To maintain documentation to support the rates of payment used for purchasing medical or other services.

404.1625 States making determinations of disability under title II of the Social Security Act. [Added by OFR]

To maintain records on the administration of the program (schedules, financial, costs, etc.).

Retention period: See 41 CFR parts 1–20.

416.665 Representative payees receiving benefits on behalf of beneficiaries. [Added by OFR]

To keep records of what was done with the benefit payments in order to make accounting reports.

LABOR DEPARTMENT

Employment and Training Administration

20 CFR

627.240 On-the-job training (OJT) employers. [Added, effective to 6–1–93]

To maintain adequate time and attendance, payroll and other records to support amounts reimbursed under OJT contracts.

627.305 Recipients, SDA grant recipients, title III substate grantees and other subrecipients under title II and title III of the Job Training Partnership Act. [Added, effective to 6–1–93]

To maintain in accordance with instructions from the Governor, documentation supporting the locally developed formula or procedure for needs-based payments and incentive and bonus payments as well as maintenance of an individual record of the determination of the need for, and the amount of each participant's needs-based payments.

627.310 Recipients, SDA grant recipients, title III substate grantees and other subrecipients under title II and title III of the Job Training Partnership Act. [Added, effective to 6–1–93]

To maintain in accordance with instructions from the Governor, documentation supporting the procedure used to provide supportive services to the participant.

627.420 Recipients and subrecipients of funds under programs under titles I, II, and III of the Job Training Partnership Act. [Added, effective to 6–1–93]

To maintain records sufficient to detail the significant history of a procurement. These records shall include but are not necessarily limited to, the following: Rationale for the method of procurement, the selection of contract type, contractor selection or rejection, and the basis for the contract type.

627.425 Recipients and subrecipients of funds under the Job Training Partnership Act. [Added, effective to 6–1–93]

To maintain records of (a) each applicant for whom an application has been completed and a formal determination of eligibility or ineligibility made; (b) each participant enrollment in a JTPA-funded program in sufficient detail to demonstrate compliance with the relevant eligibility criteria attending a particular activity and with the restrictions on the provision and duration of services and specific activities imposed by the Act; and (c) such participant information as may be necessary to develop and measure the achievement of performance standards established by the Secretary.

627.440 Recipients and subrecipients of funds under title II and title III of the Job Training Partnership Act. [Added, effective 6–1–93]

To maintain documentation of charges to the JTPA cost objective/ category directly benefitted.

627.460 Recipients, SDA grant recipients, title III substate grantees and other subrecipients under title II and title III of the Job Training Partnership Act–Retention period. [Added, effective 6–1–93]

To maintain records specified in 20 CFR 627.305, 627.310. 627.420, 627.425, and 627.440 for the time limitation requirement of section 165(e) of the Act or for 3 years after submittal to the awarding agency of final expenditure report for the funding period or until any litigation, audit, or claim finally has been resolved.

628.540 Service Delivery Area (SDA) participating in Programs under title II of the Job Training Partnership Act. [Added, effective to 6–1–93]

To maintain documentation of its efforts to implement the locally established volunteer program.

629.21 Recipients, SDA grant recipients, and other subrecipients under Titles I, II, and III of the Job Training Partnership Act. [Removed, 1991]

629.35 Recipients, SDA grant recipients, and other subrecipients under Title I, II, and III of the Job Training Partnership Act. [Removed, effective to 6–1–93]

629.41 Recipients, SDA grant recipients and other subrecipients under Titles I, II, and III of the Job Training Partnership Act. [Removed, effective to 6–1–93]

631.53 Substate grantees under title III of the Job Training Partnership Act. [Added, effective to 6–1–93]

To maintain records showing to whom certifications of continuing eligibility have been issued, the dates of issuance, and the number redeemed.

635.24 Recipients of veterans' program funds under Title IV, Part C, of the Job Training Partnership Act. [Redesignated as 1005.24, 1989]

637.300 States receiving funds under title V of the Job Training Partnership Act. [Added, effective to 6–1–93]

To maintain appropriate and adequate records for the required time period specified in 20 CFR 627.460 to support all incentive bonus payment applications. Such records shall include documentation to support individuals eligibility.

655.510 Employers using alien crewmembers for longshore activities in U.S. ports. [Revised]

To maintain in its records, sufficient documentation to meet its burden of proof to establish validity of each attestation.

Retention period: For a period of at least 3 years from the date of filing and documentation shall be made available to officials of Labor Department upon request.

655.520 Employers using alien crewmembers for longshore activities using automated vessels. [Revised]

See 20 CFR 655.510.

655.705 Employers using aliens on H–1B visas in specialty occupations and as fashion models. [Revised]

To maintain sufficient documentation at place of business in the US to meet burden of proof with respect to the validity of the statements made in labor condition application and the accuracy of information provided in the event that such statement or information is challenged.

Retention period: Such documentation shall be maintained at the place for a period of one year beyond the end of the period of employment specified on the labor condition application or one year from the date the labor condition application was withdrawn, except that if a timely complaint is filed, the documentation shall be retained until the complaint is resolved through the procedures set forth in subpart I of this part 655. Such records shall be made available to DOL for inspection and copying upon request.

655.730 Employers using aliens on H–1B visas in specialty occupations and in fashion models. [Revised]

To maintain documentation sufficient to meet burden of proving the validity of the prevailing wage statement, basis used to establish the actual wage, and determination of the prevailing wage, and the fourth labor condition statement.

Retention period: Labor condition statement–See 20 CFR 655.705; Required payroll records for H–1B employees and other employees in the occupational classification shall be retained at the employer's principal place of business in the U.S. or at the place of employment for a period of 3 years from the date(s) of the creation of the record(s), except that if a timely complaint is filed, all payroll records shall be retained until the complaint is resolved through the procedures set forth in subpart I of this part 655.

655.760 Employers using aliens on H–1B visas in specialty occupations and as fashion models–Retention period. [Revised]

(a) Copies of the labor condition application, required wage information, and documentation showing provision of notice to bargaining representatives or employees at the place of employment–For a period of 1 year beyond the end of the period of employment specified on the labor condition application or 1 year from the date the labor condition application was withdrawn, except that if a timely complaint is filed, the documentation shall be retained until the complaint is resolved through the procedures set forth in subpart I of this part 655.

(b) Required payroll records for H–1B employees and other employees in the occupational classification shall be retained at the place of employment for a period of 3 years from the date(s) of the creation of the record(s), except that if a timely complaint is filed, all payroll records shall be retained until the

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complaint is resolved through the procedures set forth in subpart I of this part 655.

676.35 Recipients of the Comprehensive Employment and Training Act, financial assistance under: (a) Titles II and VI of CETA; (b) the Private Sector Initiative Program under title VII of CETA; (c) the Indian and Native American employment and training programs under section 302 of title III, part D of title II, title VI, parts A and C of title IV, and title VII of CETA; (d) the youth programs under parts A and C of title IV of CETA; and (e) the migrant and other seasonally employed farmworkers employment and training programs under section 303 of CETA. [Removed, 1990]

676.83 Recipients of the Comprehensive Employment and Training Act financial assistance under: (a) Titles II and VI of CETA; (b) the Private Sector Initiative Program under title VII of CETA; (c) the Indian and Native American employment and training programs under section 302 of title III, part D of title II, title VI of CETA; (d) the youth programs under parts A and C of title IV of CETA; and (e) the migrant and other seasonally employed farmworkers employment and training programs under section 303 of CETA. [Removed, 1990]

676.84 Recipients of the Comprehensive Employment and Training Act financial assistance under: (a) Titles II and VI of CETA; (b) the Private Sector Initiative Program under title VII of CETA; (c) the Indian and Native American employment and training programs under section 302 of title III, part D of title II, title VI of CETA; (d) the youth programs under parts A and C of title IV of CETA; and (e) the migrant and other seasonally employed farmworkers employment and training programs under section 303 of CETA. [Removed, 1990]

679.6 Recipients of the Comprehensive Employment and Training Act financial assistance under: (a) Titles II and VI of CETA; (b) the Private Sector Initiative Program under title VII of CETA; (c) the Indian and Native American employment and training programs under section 302 of title III, part D of title II, title VI of CETA; (d) the youth programs under parts A and C of title IV of CETA; and (e) the migrant and other seasonally employed farmworkers employment and training programs under section 303 of CETA. [Removed, 1990]

680.1 Recipients of the Comprehensive Employment and Training Act financial assistance under: (a) Titles II and VI of CETA; (b) the Private Sector Initiative Program under title VII of CETA; (c) the Indian and Native American employment and training programs under section 302 of title III, part D of title II, title VI of CETA; (d) the youth programs under parts A and C of title IV of CETA; and (e) the migrant and other seasonally employed farmworkers employment and training programs under section 303 of CETA. [Removed, 1990]

680.100 Recipients of the Comprehensive Employment and Training Act financial assistance under: (a) Titles II and VI of CETA; (b) the Private Sector Initiative Program under title VII of CETA; (c) the Indian and Native American employment and training programs under section 302 of title III, part D of title II, title VI of CETA; (d) the youth programs under parts A and C of title IV of CETA; and (e) the migrant and other seasonally employed farmworkers employment and training programs under section 303 of CETA. [Removed, 1990]

680.200 Recipients of the Comprehensive Employment and Training Act financial assistance under: (a) Titles II and VI of CETA; (b) the Private Sector Initiative Program under title VII of CETA; (c) the Indian and Native American employment and training programs under section 302 of title III, part D of title II, title VI of CETA; (d) the youth programs under parts A and C of title IV of CETA; and (e) the migrant and other seasonally employed farmworkers employment and training programs under section 303 of CETA. [Removed, 1990]

680.301 Recipients of the Comprehensive Employment and Training Act financial assistance under: (a) Titles II and VI of CETA; (b) the Private Sector Initiative Program under title VII of CETA; (c) the Indian and Native American employment and training programs under section 302 of title III, part D of title II, title VI of CETA; (d) the youth programs under parts A and C of title IV of CETA; and (e) the migrant and other seasonally employed farmworkers employment and training programs under section 303 of CETA. [Removed, 1990]

688.38 Recipients of the Comprehensive Employment and Training Act financial assistance under: (a) Titles II and VI of CETA; (b) the Private Sector Initiative Program under title VII of CETA; (c) the Indian and Native American employment and training programs under section 302 of title III, part D of title II, title VI of CETA; (d) the youth programs under parts A and C of title IV of CETA; and (e) the migrant and other seasonally employed farmworkers employment and training programs under section 303 of CETA. [Removed, 1990]

688.405 Recipients of the Comprehensive Employment and Training Act financial assistance under: (a) Titles II and VI of CETA; (b) the Private Sector Initiative Program under title VII of CETA; (c) the Indian and Native American employment and training programs under section 302 of title III, part D of title II, title VI of CETA; (d) the youth programs under parts A and C of title IV of CETA; and (e) the migrant and other seasonally employed farmworkers employment and training programs under section 303 of CETA. [Removed, 1990]

LABOR DEPARTMENT

Office of the Assistant Secretary for Veterans' Employment and Training

20 CFR

1005.24 Recipients of veterans' program funds under Title IV, Part C, of the Job Training Partnership Act. [Redesignated from 635.24, 1989]

To keep records that are sufficient to permit the preparation of reports required by the Job Training Partnership Act and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully; and to maintain such records in such form and containing such information as the Secretary of Labor requires regarding the performance of JTPA programs.

Retention period: Not specified.

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

21 CFR

114.100 Manufacturers of acidified foods. [Added by OFR]

(a) To maintain records of examinations of raw materials, packaging materials, and finished products, and of suppliers' guarantees of certifications that verify compliance with applicable regulations and guidelines or action levels.

(b) To maintain processing and production records showing adherence to scheduled processes, including records of pH measurements and other critical factors intended to ensure a safe products.

(c) To maintain records indentifying initial distribution of the finished product to facilitate, when necessary, the segregation of specific food lots that may become contaminated or otherwise unfit for their intended use.

Retention period: 3 years from the date of manufacture.

179.25 Food irradiation processors. [Added by OFR]

To maintain records on food treated, lot identification, scheduled process, evidence of compliance with the scheduled process, ionizing energy source, source calibration, dosimetry, dose distribution in the product, and the date of irradiation.

Retention period: For a period of time that exceeds the shelf life of the irradiated food product by 1 year, up to a maximum of 3 years, whichever period is shorter.

211.166 Persons manufacturing, processing, packing or holding finished pharmaceuticals. [Added by OFR]

See 211.170.

211.208 Persons manufacturing, processing, packing, or holding finished pharmaceuticals. [Added by OFR]

To maintain records on drug product salvaging including name, lot number, and disposition.

225.115 Manufacturers of medicated feed. [Added by OFR]

To maintain in the premises a file which contains the original or copy of a record of each oral and written complaint received relating to the safety and effectiveness of the product produced and for medicated feeds requiring an approved Medicated Feed Application (Form FDA 1900), and records of clinical and other experience.

225.158 Manufacturers of medicated feed. [Added by OFR]

To maintain records of investigation and corrective action implemented where the results of laboratory assays of drug components, including assays by State feed control officials, indicate that the medicated feed is not in accord with the permissible limits specified in applicable regulations.

Retention period: 1 year.

310.300 Persons holding approved new-drug applications. [Removed by OFR]

314.80 Applicants requesting FDA approval to market a new drug or an antibiotic drug. [Amended]

To maintain records of all adverse drug experience known to the applicant, including raw data and any correspondence relating to adverse drug experience.

Retention period: 10 years.

314.81 Applicants requesting FDA approval to market a new drug or antibiotic drug. [Amended]

See 314.80.

320.36 Manufacturers of drug products subject to bioequivalence requirement. [Redesignated from 320.62]

To maintain all records of *in vivo* or *in vitro* tests conducted on any marketed batch of a drug product to assure bioequivalence.

Retention period: 2 years after the expiration date of the batch.

320.62 Manufacturers of drug products subject to bioequivalence requirement. [Redesignated as 320.36]

433.1 Persons petitioning for exemption from certification for antibiotic drugs intended for local or topical use. [Removed by OFR; regulation contains no record retention requirements]

433.17 Sponsors, investigators, and shippers of new drugs and antibiotic drugs for investigational use; and investigational review casualties. [Removed by OFR; regulation contains no record retention requirements]

433.30 Persons seeking exemptions from antibiotic certifications and labeling requirements—Records retention requirements. [Revised by OFR]

As an option, photostatic or other permanent reproductions may be substituted for records required to be kept after the first 2 years of the holding period.

510.350 Distributors of veterinary drugs. [Removed, 1989]

511.1 Sponsors, investigators, and shippers of new drugs and antibiotic drugs for investigational use; and investigational review casualties. [Text added by OFR]

To maintain adequate records showing the name and post office address of the expert or expert organization to whom the new animal drug is shipped and the date, quantity, and batch or code mark of each shipment and delivered and other such records as specified in cited section.

Retention period: For a period of 2 years after such shipment and delivery.

606.165 Collectors and processors of whole blood (human) collected from human donors and processed for transfusion or further manufacturing. [Added by OFR]

To maintain distribution and receipt records.

640.2 Collectors and processors of whole blood (human) collected from human donors for transfusion to human recipients. [Removed; text added to 640.3 by OFR]

640.3 Collectors and processors of whole blood (human) collected from human donors for transfusion to human recipients. [Text added by OFR]

(a) To maintain on the premises and file with the Center for Biologics Evaluation and Research, a manuel of standard procedures and methods approved by the Director of the Center for Biologics Evaluation and Research, that shall be followed by employees who collect blood.

(b) To maintain records indicating the name and qualifications of the person immediately in charge of the employees who collect blood when a physician is not present on the premises.

640.4 Collectors and processors of whole blood (human) collected from human donors for transfusion of human recipients. [Corrected by OFR]

See 21 CFR 640.3.

640.56 Establishments licensed for Cryoprecipitated. [Added by OFR]

To maintain record of corrective actions taken if the average potency level of antihemophilic factor in the containers tested is less than 80 units of antihemophilic factor per container.

820.60 Manufacturers of finished medical devices intended for human use. [Added by OFR]

To maintain written record documenting when scheduled maintenance activities are performed.

820.61 Manufacturers of finished medical devices intended for human use. [Added by OFR]

To maintain calibration records (record of calibration dates and of the individual performing each calibration).

820.80 Manufacturers of finished medical devices intended for human use. [Added by OFR]

To maintain records of component acceptance rejection and of the disposition of all obsolete, rejected, or deteriorated components.

820.120 Manufacturers of finished medical devices intended for human use. [Added by OFR]

To maintain a record examination of labeling materials (examination for identity, and where applicable, the correct expiration date, control number, storage instructions, handling instructions, and additional processing instructions).

820.161 Manufacturers of finished medical devices intended for human use. [Added by OFR]

To maintain written record of the investigation, including conclusions and followup of the critical devices or components which do not meet performance specifications.

820.181 Manufacturers of finished medical devices. [Added by OFR]

To maintain device master records. Retention period: See 21 CFR 820.180.

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820.182 Manufacturers of finished medical devices. [Added by OFR]

See 21 CFR 820.180 and 820.181.

820.184 Manufacturers of finished medical devices. [Added by OFR]

To maintain device history record which shall include the dates of manufacture, the quantity manufactured, the quantity released for distribution, and any control number used.

Retention period: See 21 CFR 820.180.

820.185 Manufacturers of finished medical devices. [Added by OFR]

To maintain a critical device history record for each control number, which shall include complete information relating to the production unit. This record shall identify the specific label, labeling, and control number used for each production unit.

Retention period: See 21 CFR 820.180.

820.198 Manufacturers of finished medical devices. [Added by OFR]

To maintain written and oral complaints files relative to the identity, quality, durability, reliability, safety, effectiveness, or performance of a medical device.

Retention period: See 21 CFR 820.180.

821.25 Manufacturers of tracked devices. [Added]

To keep current records in accordance with standard operating procedures on each tracked device released for distribution.

Retention period: For as long as such device is in use or in distribution for use.

821.30 Distributors, final distributors, or multiple distributors of tracked devices. [Added]

To keep records containing the following information each time such device is distributed for use by a patient: (a) The lot number, batch number, or model number, or serial number of the device, or other identifier used by the manufacturer to track the device; (b) the name, address, telephone number, and social security number (if available) of the patient using the device; (c) the location of the device; (d) the date the device was provided for use by the patient; (e) the name, address, and telephone number of the prescribing physician; (f) the name, address, and telephone number of the physician regularly following the patient if different than the prescribing physician; and (g) when applicable, the date the device was permanently retired from use or otherwise permanently disposed of.

Retention period: For the useful life of each device.

821.50 Manufacturers, distributors, multiple distributors, and final distributors of tracked devices. [Added]

To make records maintained in 21 CFR 821.25 and 821.30 available to FDA personnel for purposes of reviewing, copying, or other use related to the enforcement of the Federal Food, Drug, and Cosmetic Act. Records shall be kept within the United States.

821.60 Distributors, final distributors, or multiple distributors of tracked devices–Retention period. [Added]

To maintain records identified in 21 CFR 821.25 and 821.30 for the useful life of each tracked device. The useful life of a device is the time a device is in use or in distribution for use.

861.26 Offerors to develop a proposed performance standard applicable to devices intended for human use. [Removed by OFR]

JUSTICE DEPARTMENT

Drug Enforcement Administration

21 CFR

Part 1305 Manufacturers or distributors of controlled substance listed in Schedule I or II. [Added by OFR]

To maintain records and forms as required by 21 CFR 1305.09–1305.16.

Retention period: 2 years.

1306.13 Pharmacists partial filling a prescription for a controlled substance listed in Schedule II. [Added by OFR]

To uniformly maintained appropriate records documenting the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed and the identification of the dispensing pharmacist. Information pertaining to current Schedule II prescriptions for patients in a LTCF or for patients with a medical diagnosis documenting a terminal illness may be maintained in a computerized system under certain conditions.

1306.14 Pharmacists filling a written or emergency oral prescription for a controlled substance listed in Schedule II. [Added by OFR]

To maintain appropriate safeguards and records regarding the proper administrations, control, dispensing, and storage of the controlled substance listed in Schedule II.

1306.22 Pharmacists refilling a prescription for a controlled substance listed in Schedule III or IV. [Added by OFR]

To maintain appropriate records consisting of the name and dosage form of the controlled substance, the date filled or refilled, the quantity dispensed, initials of the dispensing pharmacist for each refill, and the total number of refills for that prescription.

1306.24 Pharmacists filling a prescription for a controlled substance listed in Schedule III or IV. [Added by OFR]

See 21 CFR 1306.14.

1306.26 Pharmacists transferring prescription information for Schedules III, IV, and V controlled substances for refill purposes. [Added by OFR]

To maintain both the original and transferred prescription.

Retention period: 2 years from the date of the last refill.

1306.32 Pharmacists dispensing controlled substance listed in Schedules II, III, IV or V without prescription. [Added by OFR]

To maintain bound record book which contain the name and address of the purchaser, the name and quantity of controlled substance purchased, the date of each purchase, and the name or initials of the pharmacist who dispensed the substance to the purchaser. See also 21 CFR 1304.04.

1310.04 Regulated persons engaging in regulated transactions involving listed chemical, tableting machines, and encapsulating machines–Retention period. [Amended]

(a) Records required to be kept for a listed precursor chemical, a tableting machine, or an encapsulating machine– 4 years after the date of the transaction.

(b) Records required to be kept for a listed essential chemical– 2 years after the date of the transaction.

NATIONAL DRUG CONTROL POLICY OFFICE

21 CFR

1403.20 Grantees and subgrantees; Anti-Drug Abuse Act. [Added]

To maintain records which adequately identify the source and application of funds provided for financially–assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

Retention period: See 21 CFR 1403.42.

1403.32 Grantees and subgrantees; Anti-Drug Abuse Act. [Added]

To maintain property records that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, and any ultimate disposition date

including the date of disposal and sale price of the property.

Retention period: See 21 CFR 1403.42.

1403.36 Grantees and subgrantees; Anti-Drug Abuse Act. [Added]

To maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

Retention period: See 21 CFR 1403.42.

1403.42 Grantees and subgrantees; Anti-Drug Abuse Act–Retention period.[Added]

(a) Real property and equipment records–3 years from the date of the disposition or replacement or transfer at the direction of the awarding agency or until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3–year period, whichever is later.

(b) Income transactions after grant or subgrant support records–from the end of the grantee's fiscal year in which the income is earned or until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3–year period, whichever is later.

(c) Indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates) if submitted for negotiation–3 years from date of such submission; if not submitted for negotiation–3 years from the end of the fiscal period (or other accounting period) covered by the proposal, plan, or other computation.

AGENCY FOR INTERNATIONAL DEVELOPMENT, INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

22 CFR

211.10 Foreign governments, U.S. voluntary agencies, or intergovernmental organizations, except the World Food Program and United Nations Relief and Works Agency, involved in the transfer of food commodities for use in disaster relief, economic development, and other assistance. [Revised]

To maintain records and documents in a manner which will accurately reflect all transactions pertaining to the receipt, storage, distribution, sale, inspection, and use of commodities and pertaining to the receipt and disbursement of any monetized proceeds and program income and the operation of the program and records described in 22 CFR 211.5(i).

Retention period: For a period of 3 years from the close of the fiscal year to which they pertain, or longer. Upon request by A.I.D. for cause, such as in the case of litigation of a claim or an audit concerning such records, the cooperating sponsor shall transfer to A.I.D. any records, or copies thereof, requested by A.I.D.

TRANSPORTATION DEPARTMENT

Federal Highway Administration

23 CFR

12.5 State highway agencies, audit reports. [Correctly renumbered from 12.17 by OFR]

To maintain working papers and audit reports prepared by the State.

12.17 State highway agencies, audit reports. [Correctly renumbered 12.5 by OFR]

140.111 State highway departments or their agents –Retention period. [Added by OFR]

To maintain records as prescribed in 23 CFR part 17.

450.306 State highway departments administering metropolitan planning funds. [Removed by OFR]

635.126 Contractor; Federal–aid highway projects. [Added by OFR]

To maintain a record of the total cost of all material and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA–47 and in the units shown.

635.123 State highway agencies, Federal-aid highway projects maintenance and construction. [Correctly renumbered from 635.128 by OFR]

To maintain records of initial documents pertaining to the determination of pay quantities.

Retention period: 3 years.

635.128 State highway agencies, Federal-aid highway projects maintenance and construction. [Correctly renumbered 635.123 by OFR]

713.205 State highway departments managing real property acquired in connection with Federal highway projects. [Added by OFR]

To maintain an inventory of all authorized uses of airspace.

740.14 State agencies administering relocation assistance programs. [Removed by OFR]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Secretary

24 CFR

42.125 State agencies participating in relocation assistance programs. [Removed, 1986]

42.207 State agencies participating in relocation assistance programs. [Removed, 1986]

42.225 State agencies participating in relocation assistance programs. [Removed, 1986]

58.30 Recipients of the Community Development Block Grant, Rental Rehabilitation and Housing Development Grant Programs. [Added by OFR]

To maintain a written record of the environmental review.

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR

200.171 Lending agencies—title I. [Removed, 1991]

200.172 Lending agencies with respect to property improvement and mobile home loans. [Removed, 1991]

200.174 Lending agencies with respect to property improvement and mobile home loans. [Removed, 1991]

200.177 Lending agencies with respect to property improvement and mobile home loans. [Removed, 1991]

203.367 Mortgagees under the Single Family Mortgage Insurance Program. [Added by OFR]

To maintain a claim file containing documentation supporting all information submitted for claim payment.

Retention period: For at least 3 years after a claim has been paid. All claim files for claims paid during a period relating to an unresolved or ongoing claim review must be maintained until final resolution of such review. Information to be maintained in the claim file includes receipts covering all disbursements as required by the fiscal data form, ledger cards covering the mortgage transaction, and any additional information or data relevant to the mortgage transaction or insurance claim.

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220.152 Borrowers and builders of an insured home improvement loan under the National Housing Act. [Added by OFR]

To keep adequate records of all costs of any construction improvements or other cost items not representing work under the general contract.

232.85 Nursing home and intermediate care facility owners or builders. [Correctly renumbered 232.86 by OFR]

232.86 Nursing home and intermediate care facility owners or builders. [Correctly renumbered from 232.85 by OFR]

To maintain records of all costs of any construction improvements or other cost items not representing work under general contract.

Retention period: Not specified.

232.610 Nursing home and intermediate care facility owners or builders. [Reference amended by OFR]

See 232.86.

248.173 States of local governmental entities participating in the Residential Homeownership Program. [Added]

To maintain records necessary to calculate accurately payments due to the Commissioner.

248.173 Resident councils; Residential Homeownership Program. [Added]

To keep such records as may be reasonably necessary to fully disclose the amount and the disposition of the proceeds of assistance received including any proceeds from sales to eligible families.

250.308 Mortgagors eligible for insurance pursuant to coinsurance contract with State Housing Finance Agencies. [Added by OFR]

To maintain adequate records of all costs of any construction or other cost items not representing work under the general contract.

Retention period: Not specified.

251.706 Mortgagors for the construction or substantial rehabilitation multifamily housing projects. [Removed, 1989]

280.207 Recipients of Nehemiah Housing Opportunity Grants. [Added by OFR]

To keep a copy of each lead–based paint inspection report.

Retention period: 3 years.

Office of Assistant Secretary for Community Planning and Development

24 CFR

511.14 Grantees or state recipients under the Rental Rehabilitation Grant Program. [Added by OFR]

To maintain records in sufficient detail to demonstrate compliance with the tenant assistance, displacement, relocation, and acquisition.

570.483 States administering the Community Development Block Grants Program. [Added]

To keep records sufficient to document its findings that a project meets the national objective of prevention or elimination of slums and blight.

Retention period: See 24 CFR 570.490.

570.485 States administering the Community Block Grant Program. [Added]

To maintain records documenting that it followed its method of distribution of CDBG funds for each unit of general local government that applies for CBDG funds.

Retention period: See 24 CFR 570.490.

570.488 Recipients of the community development block grants. [Redesignated from 570.496a]

To maintain records in sufficient detail to demonstrate compliance with displacement, relocation, acquisition, and replacement of housing provisions.

Retention period: Not specified.

570.490 States administering the Community Block Grants Program. [Added]

(a) To maintain such records as may be necessary to facilitate review and audit by HUD of states' administration of CDBC funds. For fair housing and equal opportunity purposes, and as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the programs.

(b) To maintain unit of general local government's records that are sufficient to facilitate reviews and audits.

Retention period: For the greater of 3 years from closeout of the grant to the state, or the period required by other applicable laws and regulations.

570.496a Recipients of the community development block grants. [Redesignated as 570.488]

570.497 States receiving community development block grants. [Removed]

570.907 Recipients of the community development block grants. [Removed, 1988]

571.602 Recipients of the Community Development Block Grants for Indian Tribes and Alaskan Native Villages. [Added]

To maintain records in sufficient detail to demonstrate compliance with relocation and acquisition regulations.

574.530 Housing Opportunities for Persons with AIDS (HOPWA) grantees. [Added]

To maintain current and accurate data on the race and ethnicity of program participation.

Retention period: 3 years.

574.530 Housing Opportunities for Persons with AIDS (HOPWA) grantees. [Added]

To maintain current and accurate data on the race and ethnicity of program participation.

Retention period: 3 years.

574.630 Housing Opportunities for Persons with AIDS (HOSPA) grantees. [Added]

To maintain records in sufficient detail to demonstrate compliance with displacement, relocation and real property acquisition provisions.

578.335 Recipients of financial assistance for providing permanent for handicapped homeless persons. [Added by OFR]

See 24 CFR 577.335.

Office of the Secretary

24 CFR

700.220 Service coordinators; Congregate Housing Service Program. [Added by OFR]

See 7 CFR 1944.257.

700.225 Service coordinators; Congregate Housing Service Program. [Added by OFR]

See 7 CFR 1944.258.

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR

812.5 Assisted housing responsible entities. [Removed, 1988]

880.603 Public housing agency owners or private owners participating in the Section 8 Housing Assistance Payments Program for new construction. [Added by OFR]

To maintain records on applicants and approved eligible families which provide racial, ethnic, gender and place of previous residency data.

Retention period: 3 years.

881.602 Public housing agency owners and private owners participating in the Section 8 Housing Assistance Payments Program for Substantial Rehabilitation. [Added by OFR]

See 24 CFR 880.603.

882.106 Public housing agencies participating in Section 8 Housing Assistance Payments Program–Existing Housing. [Added by OFR]

To maintain all certifications and relevant documentation on rent reasonableness limitation.

Retention period: 3 years.

882.109 Public housing agencies participating in Section 8 Housing Assistance Payments Program–Existing Housing. [Added by OFR]

See 24 CFR 511.15.

882.211 Public housing agencies participating in Section 8 Housing Assistance Payments Program–Existing Housing. [Added by OFR]

To maintain in file all complaints by families concerning compliance by the owner with housing quality standards.

Retention period: 3 years.

882.405 Public housing agencies participating in Section 8 Housing Assistance Payments Program–Existing Housing. [Added by OFR]

See 24 CFR 511.15.

883.702 State agencies participating in Section 8 Housing Assistance Payments Program. [Added by OFR]

To maintain copies of annual financial statements.

Retention period: 3 years.

884.214 Public housing agencies participating in housing assistance payment programs. [Correctly renumbered from 884.215 by OFR]

To maintain records on applicant families and approved families so as to provide HUD with racial, ethnic and general data and to maintain a copy of the application, the letter, the applicant's response, if any, the records of any informal hearing and a statement of final disposition in cases of ineligible determinations.

Retention period: 3 years.

884.215 Public housing agencies participating in housing assistance payment programs. [Correctly renumbered 884.214 by OFR]

892.204 Public housing agencies participating in Section 8 Fraud Recoveries Program. [Added by OFR]

To maintain record of amounts recovered on any judgment, the nature of the judgment, and the amount of the legal fees and expenses incurred in obtaining the judgment and recovery.

Office of the Assistant Secretary for Public and Indian Housing

24 CFR

905.160 Indian Housing Authorities (IHAs)–Procurement. [Added]

To maintain records sufficient to detail the significant history of a procurement.

905.165 Indian Housing Authorities (IHAs)–Procurement. [Revised]

To maintain documentation in its files for HUD review a copy of the determination where the provision of preference in Indian contracting, employment, and training is infeasible.

Retention period: 3 years.

905.175 Indian Housing Authorities (IHAs)–Procurement. [Revised]

To maintain documentation of efforts in providing Indian preference. To also include as part of documentation a statement explaining the reasons for lack of Indian participation if no quotations are solicited or received from Indian–owned economic enterprises or Indian organizations.

Retention period: Not specified.

905.416 Indian Housing Authorities (IHAs)– Mutual Help Homeownership Opportunity Program. [Revised]

To maintain a waiting list, separate from any other IHA waiting list, of families that have applied for Multiple Help (MH) housing and that have been determined to meet the admission requirements in accordance with requirements prescribed by HUD.

Retention period: Not specified.

905.446 Indian Housing Authorities (IHAs)–Mutual Help Homeownership Opportunity Program. [Revised]

To maintain a record of the meetings with the homebuyer, written plans of action agreed upon, and other related steps taken on termination of a Mutual Help and Occupancy Agreement (MHO).

Retention period: Not specified.

905.505 Indian Housing Authorities (IHAs)–Turnkey III Program. [Revised]

To maintain a waiting list, separate from any other IHA waiting list, of families that have applied for Turnkey III housing and that have been determined to meet the admission requirements. To also maintain a Turnkey III waiting list based on date of application, suitable type or size of units, and factors affecting preference or priority established by IHA's regulations.

Retention period: Not specified.

905.525 Indian Housing Authorities (IHAs) –Turnkey III Program. [Revised]

To retain all residual receipts from the operation of the project in a replacement reserve, including payments received on account of any additional purchase price schedules applicable to the homes.

Retention period: Not specified.

905.560 Indian Housing Authorities (IHAs); lead–based paint poisoning prevention. [Added]

To maintain written records of the notification of positive lead–based paint test results.

905.570 Indian Housing Authorities (IHAs)–Turnkey III Program. [Added]

To maintain records on which units, common areas, exteriors, and child care facilities have been tested for lead–based, results of testing, and the condition of painted surfaces by location in or on the unit, interior common area, exterior surface or child care facility. To also maintain records of abatement.

905.625 Indian Housing Authorities (IHAs). [Removed; record retention requirements now in 905.627]

905.627 Indian Housing Authorities (IHAs)–Modernization Program. [Added]

To retain copies of the signed home homebuyer participation agreement in its file for inspection by the HUD office.

905.666 Indian Housing Authorities (IHAs); New Comprehensive Grant Program. [Added]

To maintain records by unit of the work carried out to permit HUD to review the extent to which Mutual Help and Turnkey III units have been substantially rehabilitated.

905.672 Indian Housing Authorities; New Comprehensive Grant Program. [Added]

(a) To maintain in files, records, such as minutes of planning meetings or resident surveys. Such records shall be made available to residents, resident organizations, and other interested parties, upon request.

(b) To maintain source documents identifying physical and management needs assessment identifying all of the work that an IHA would need to undertake to bring each of its development up to the modernization and energy conservation standards; to comply with lead–based paint testing and abatement requirements; and to comply with other program requirements.

905.715 Indian Housing Authorities (IHAs)–operating subsidy. [Revised].

To maintain appropriate utility records, satisfactory to HUD so that a 36–month rolling average utility consumption per month under the rolling base period system can be determined.

Retention period: Not specified.

905.730 Indian Housing Authorities (IHAs)–operating subsidy. [Revised]

To retain supporting documentation substantiating requested adjustments of base year expense level, estimated investment income, and utilities expense level.

Retention period: Not specified.

905.760 Indian Housing Authorities (IHAs)–operating subsidy. [Revised]

To maintain a record of computation of actual occupancy percentage if an average is elected.

Retention period: Not specified.

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905.865 Indian Housing Authorities (IHAs)–resident utility allowances. [Added]

To maintain a record that documents that basis on which utility allowances and scheduled surcharges and revision thereof are established and revised. Such records shall be available for inspection by tenants. To also maintain written comments of tenants on proposed utility allowances or scheduled surcharges or revision.

Retention period: Not specified.

905.865 Indian Housing Authorities (IHAs). [Removed; record retention requirements now in 905.865]

905.937 Indian Housing Authorities (IHAs)–project operation beyond the original ACC term. [Revised]

To maintain records of HUD–approved project disposition or demolition sufficient for audit by HUD to determined compliance with applicable requirements of Federal law and 24 CFR part 905.

905.1017 Indian Housing Authorities (IHAs); Section 5(h) Homeownership Program. [Revised]

To maintain records (including sales and financial records) for all activities incident to implementation of the HUD–approved homeownership plan. All books and records shall be subject to inspection and audit by HUD and the General Accounting Office (GAO).

912.5 Public housing agents (PHAs). [Removed, 1988]

963.12 Public Housing Agencies contracting with resident–owned businesses. [Added by OFR]

To maintain records sufficient to detail the significant history of the procurement made under 24 CFR part 963. These records will include, but are not limited to the following: The independent cost estimate and comparable price analysis; the basis for contractor selection, including documentation concerning the eligibility of the selected resident–owned business and the basis for determining the reasonableness of the proposed contract price.

968.225 Public Housing Agencies (PHAs) receiving assistance under the Comprehensive Improvement Assistance Program (CIAP). [Correctly renumbered from 996.226 by OFR]

To retain in its file for inspection by HUD the signed agreement from each participating homebuyer family that it will amend its homebuyer agreement upon approval of the application.

968.226 Public Health Agencies (PHAs) receiving assistance under the Comprehensive Improvement Assistance Program (CIAP). [Correctly renumbered 996.225 by OFR]

968.310 Public Housing Agencies (PHAs) that own or operate 500 or more Public Housing Unit (250 or more units beginning in FFY 1993) participating in the Comprehensive Grant Program. [Added]

See 24 CFR 905.666.

968.320 Public Housing Agencies (PHAs) that own or operate 500 or more Public Housing Unit (250 or more units beginning in FFY 1993) participating in the Comprehensive Grant Program. [Added]

See 24 CFR 905.672.

Solar Energy and Energy Conservation Bank

24 CFR

1800.107 States participating in the energy or solar systems program. [Added by OFR]

To retain all records relating to use of funds received from the Bank, including all reports received from financial institutions.

Retention period: 3 years from the date of submission of the semi–annual State report for the period covered by such records, except that if any litigation, claim or audit is started before the expiration of the 3–year period, all related records shall be retained for 3 years after final disposition of the litigation, claim or audit.

1800.123 Financial institutions (including States acting as financial institutions) participating in the energy conservation or solar system program. [Added by OFR]

To retain all records related to applications for financial assistance.

Retention period: 3 years from the date the financial assistance is provided (or the date of application, if never provided).

1800.123 Recipients of financial assistance under the energy conservation or solar system program. [Added by OFR]

To retain all records pertaining to the application, the assisted loan or grant, the solar energy or system or energy conservation measures for which the loan or grant was sought, and warranties.

Retention period: 3 years after the financial assistance is provided.

Office of the Assistant Secretary for Housing–Federal Housing Commission

24 CFR

3282.203 Manufacturers of manufactured homes for sale to purchasers in the United States. [Added by OFR]

(a) To maintain a copy of the drawings, specifications, and sketches from each approved design received from a Design Approval Primary Inspection Agency (DAPIA) in each plant in which manufactured homes are being produced to the design.

(b) To maintain in each manufacturing plant a copy of the approved quality assurance manual received from a DAPIA that is being followed in the plant.

These materials shall be kept current and shall be readily accessible for use by the Secretary or other parties acting under these regulations.

3282.20 Manufacturers of manufactured homes for sale to purchasers in the United States. [Added by OFR]

(a) To maintain a current copy of each certification report in the plant to which the certification report relates.

(b) To maintain a complete set of approved drawings, specifications, and approved design changes for the use of the IPIA's inspector and always available to that inspector when in the manufacturing plant.

3282.211 Manufacturers of manufactured homes manufactured under Federal standards. [Added by OFR]

To maintain all cards received as the readily accessible record of the current purchaser or owner and the current address of all manufactured homes manufactured by it for which a card has been received.

3282.301 Design Approval Primary inspection agencies (DAPIA). [Added by OFR]

To maintain a complete up–to–date set of approved manuals and manual changes approved.

3282.404 Manufacturers of manufactured homes. [Added by OFR]

To maintain complete records of all such information and determinations in a form that will allow the Secretary or SAA (State Administrative Agency) readily to discern who made the determination with respect to a particular piece of information, what the determination was, and the basis for the determination, and other information as specified in cited section.

Retention period: 5 years from the date the manufacturer received the information.

3282.414 Dealers or distributors of manufactured homes. [Added by OFR]

To maintain a complete record of its actions where the manufacturers authorizes the dealer to make necessary corrections on a reimbursable basis of a failure to conform or an imminent safety hazard.

3500.7 Lending institutions insured or regulated by Federal agencies, or creditors making real estate loans. [Revised; regulation contains no record retention requirements]

3500.8 Lending institutions insured or regulated by Federal agencies, or creditors making real estate loans. [Revised; record retention requirements now in 3500.10]

3500.10 Lending institutions insured or regulated by Federal agencies or creditors making real estate loans. [Added]

To maintain each completed HUD–1 settlement statement and related documents.

Retention period: 5 years after settlement, unless the lender disposes of its interest in the mortgage and does not service the mortgage. In that case, the lender shall provide its copy of the HUD–1 to the owner or servicer of the mortgage as a part of the transfer of the loan file. Such owner or servicer shall retain the HUD–1 for the remainder of the 5–year period.

3500.14 Lending institutions insured or regulated by Federal agencies or creditors making real estate loans. [Added]

To maintain any documents provided pursuant to prohibition against kickbacks and unearned fees requirements.

Retention period: 5 years from date of execution.

3500.15 Lending institutions insured or regulated by Federal agencies or creditors making real estate loans. [Added]

To maintain any documents provided pursuant to controlled business arrangements requirements.

Retention period: 5 years after the date of execution.

3500.20 Persons compelled to testify or submit data in connection with any public investigational proceedings under the Real Estate Settlement Procedures Act. [Added]

To retain a copy or, on payment of lawfully prescribed costs, procure copies of any data submitted and testimony as stenographically or mechanically reported.

INTERIOR DEPARTMENT

Bureau of Indian Affairs

25 CFR

211.43 Prospectors or operators mining on Indian lands (except oil, gas, and geothermal). [Removed by OFR]

TREASURY DEPARTMENT

Internal Revenue Service

Note: The following items refer to requirements issued under the Tax Reform Act of 1986 which were in effect as of January 1, 1993. All regulations applicable under any provision of law in effect on October 22, 1986, the date of enactment of the 1986 Code, are applicable to the corresponding provisions of the 1986 Code insofar as such regulations are not inconsistent with the 1954 Code, and such regulations remain applicable to the 1986 Code until superseded by regulations under such Code. The Internal Revenue Service points out that the omission from this compilation of any record retention requirement provided for by law or regulation issued thereunder shall not be construed as authority to disregard any such requirement. The Service also points out that persons subject to income tax are bound by the retention requirement given in 26 CFR 1.6001–1 regardless of other requirements which for other purposes allow shorter retention periods.

The record retention requirements of the Internal Revenue Service are divided into the following categories: Income, Estate and Gift, Employment, and Excise Taxes.

Income Tax

26 CFR

1.170–2 Persons claiming charitable contributions. [Heading revised by OFR]

To keep adequate records of amounts actually paid in maintaining a student as a member of the household. For certain items, such as food, a record of amounts spent for all members of the household, with an equal portion thereof allocated to each member, will be acceptable.

1.170A–2 Persons claiming charitable contributions. [Added by OFR]

See 26 CFR 1.170–2.

1.179–4 Persons electing additional first-year depreciation allowance for section 179 property. [Redesignated as 1.179–5]

1.179–5 Persons electing additional first-year depreciation allowance for section 179 property. [Redesignated from 1.179–4]

To maintain records which permit specific identification of each piece of "section 179 property" and reflect how and from whom such property was acquired and when such property was placed in service.

1.214A–1 Taxpayers claiming deductions for employment–related expenses incurred during taxable years beginning after December 31, 1971, and before January 1, 1976. [Added by OFR]

To maintain adequate records to substantiate any deductions.

1.263A–1T Taxpayers, capitalization and inclusion in inventory costs of certain expenses (temporary). [Added by OFR]

To maintain records used to make service cost allocations so that the allocations may be readily examined and verified by the district director. To also maintain records describing the types of costs deducted (general and administrative expenses) so that the amount, nature, and allocation of such costs may be verified readily by the district director.

1.367(a)–1 Participants in exchange involving a foreign corporation. [Removed, 1986]

1.404(a)–2 Employers claiming deductions; taxable years ending before December 31, 1971. [Added by OFR]

To maintain records substantiating all required data and information.

1.453–1 Persons selling by the installment method. [Removed, 1989]

1.453–2 Persons selling personal property by the installment plan. [Removed, 1989]

1.458–1 Persons using special method of accounting for certain returns of magazines, paperbacks, or records (including videos). [Added]

To maintain documentary evidence that describes the quantity of physical items returned to the seller and indicates that the items were returned before the close of the merchandise return period.

1.501(c)(9)–5 Voluntary employees' beneficiary associations. [Added by OFR]

To maintain records indicating the amount contributed by each member and contributing employers, and the amount and type of benefits paid by the organization to or on behalf of each member.

1.614–2 Persons electing to aggregate separate operating mining interests. [Added by OFR]

To maintain adequate records and maps to support election statement.

1.964–3 U.S. shareholders. [Added by OFR]

To maintain such permanent books of accounts as are sufficient to verify income tax liability in respect of amounts includible in income under section 951 of the taxable year of a controlled foreign corporation. See also 26 CFR 1.6001–1.

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1.1244 Corporations and shareholders with respect to the substantiation of ordinary loss deductions on small business corporation stock. [Correctly redesignated as 1.1244(a)-1 by OFR]

1.1244(a)-1 Corporations and shareholders with respect to the substantiation of ordinary loss deductions on small business corporation stock. [Correctly redesignated from 1.1244 by OFR]

(a) *Corporations.* The plan to issue stock which qualifies under section 1244 of the Code must appear upon the records of the corporation. In addition, in order to substantiate an ordinary loss deduction claimed by its shareholders, the corporation should maintain records as indicated in section cited.

(b) *Shareholders.* Any person who claims a deduction for an ordinary loss on stock under section 1244 of the Code shall file with the income tax return for the year in which a deduction for the loss is claimed a statement setting forth information indicated in section cited.

In addition, a person who owns "section 1244 stock" in a corporation shall maintain records sufficient to distinguish such stock from any other stock owned in the corporation.

1.1295-1T Election by a passive foreign investment company (PFIC) to be a qualified electing fund. (Temporary) [Removed by OFR]

1.1375-4 Small business corporations of distributions of previously taxed income and undistributed taxable income. [Removed, 1987]

A SPECIFIED RECORD RETENTION PERIOD HAS BEEN ESTABLISHED FOR THE FOLLOWING INCOME TAX RECORDS.

1.23-3 Taxpayers claiming eligibility for residential energy credit. [Added by OFR]

To maintain records that clearly identify the energy-conserving components and renewable energy source property with respect to which a residential energy credit is claimed, and substantiate their cost to the taxpayer, any labor costs properly allocable to them paid for by the taxpayer, and the method used for allocating such labor costs.

Retention period: So long as the contents may become material in administration of any internal revenue law.

1.25-8T Persons making a loan that is a certified indebtedness amount with respect to any mortgage credit certificate. [Added by OFR]

To retain the following information on its books and records: (a) the name, address, and TIN of each holder of a qualified mortgage credit certificate with respect to which a loan is made; (b) the name, address and TIN of the issuer of such certificate; and (c) the date the loan for the certified indebtedness amount is closed, the certified indebtedness amount, and the certificate credit rate of such certificate.

Retention period: 6 years following the year in which the loan was made.

1.42-5 Owners of low-income housing projects. [Added]

To keep records for each qualified low-income building in the project that show for each year in the compliance period: (a) the total number of residental rental units in the building; (b) the percentage of residential rental units in the building that are low-income units; (c) the rent charged on each residential rental in the building; (d) the number of occupants in each low-income unit, but only if rent is determined by the number of occupants in each unit under section 42(g)(2); and such other information as specified in cited section.

Retention period: For at least 6 years after the due date (with extensions) for filing the federal income tax return for the year.

1.382-2T Loss Corporations. [Added by OFR]

To keep such records as are necessary to determine the identity of its 5-percent shareholders; the percentage of its stock owned by each such 5-percent shareholder; and whether the section 382 limitation is applicable.

Retention period: Such records shall be retained as long as they may be material in the administration of any internal revenue law.

1.501(c)(17)-2 Exempt organizations; supplemental unemployment compensation benefits. [Added by OFR]

To maintain records indicating the amount of separation benefits and sick and accident benefits which have been provided to each employee.

Retention period: 3 years from the date any credit is taken or refund is claimed.

1.884-4 Foreign corporations engaged in trade or business in the United States-Branch-Level Interest Tax. [Added by OFR]

To maintain records or schedules that identify liabilities that give rise to branch interest.

Retention period: For the entire period commencing with the due date (including extensions) of the income tax return for the taxable year to which the records or schedules relate and ending with the expiration of the period of limitations for assessment of tax for such taxable year.

1.884-5 Certain widely-held foreign corporations including mutual savings banks and insurances companies-qualified residents. [Added by OFR]

(a) To maintain required documentation (ownership statements, certificates of residency, intermediary ownership statements, substitution of intermediary verification statement for ownership statements and certificates of residency).

Retention period: Until expiration of the period of limitations for the taxable year to which the documentation relates.

(b) To maintain intermediary verification statement.

Retention period: For a period of 6 years from the date of issuance.

1.884-5T Foreign corporations; qualified residents. [Added by OFR]

(a) To maintain documentation to satisfy the stock ownership requirements.

Retention period: Until expiration of the period of limitations for the taxable year to which the documentation relates.

(b) To maintain documentation by an intermediary issuing an intermediary verification statement.

Retention period: To maintain documentation by an intermediary issuing an intermediary verification statement.

Retention period: 6 years from the date of issuance of the intermediary verification statement.

All documentation must be made available for inspection by the District Director at such time and place as the District Director may request.

5h.6 Electing owners, issuers, purchasers, and all successors in interest to the electing owners or purchasers; Technical Miscellaneous Revenue Act of 1988. [Redesignated as 301.9100-8 and amended]

11.401(d)(1)-1 Nonbank trustees of trust benefitting owner-employees. [Added by OFR]

To keep fiduciary records that contain full information relative to each account. To also keep an adequate record of all pending litigation.

Retention period: For as long as the contents thereof may become material in the administration of any internal revenue law.

Employment Tax

RETENTION PERIOD: REGULATIONS REQUIRING THE RETENTION OF EMPLOYMENT TAX RECORDS USUALLY SPECIFY THE NUMBER OF YEARS THAT SUCH RECORDS MUST BE RETAINED. FOR SOME EMPLOYMENT TAX RECORDS, HOWEVER, NO SPECIFIC RETENTION PERIOD CAN BE ESTABLISHED AND THE "MATERIALITY RULE" DISCUSSED IN SECTION 1.6001-1 UNDER *Income Tax* MUST BE APPLIED. UNDER THE MATERIALITY RULE, THOSE RECORDS MUST BE RETAINED SO LONG AS THEY MAY BECOME MATERIAL IN THE COMPUTATION OF ANY TAX.

SPECIFIC RECORD RETENTION REQUIREMENTS HAVE NOT BEEN ASSIGNED TO THE FOLLOWING AND THE MATERIALITY RULE APPLIES:

Excise Taxes

RETENTION PERIOD: REGULATIONS REQUIRING RETENTION OF EXCISE TAX RECORDS USUALLY SPECIFY THE NUMBER OF YEARS THAT SUCH RECORDS MUST BE RETAINED. FOR SOME EXCISE TAX RECORDS, HOWEVER, NO SPECIFIC RETENTION PERIOD CAN BE ESTABLISHED AND THE "MATERIALITY RULE" DISCUSSED IN SECTION 1.6001-1 UNDER *Income Tax* MUST BE APPLIED. UNDER THE MATERIALITY RULE, THESE RECORDS MUST BE RETAINED SO LONG AS THEY MAY BECOME MATERIAL IN THE COMPUTATION OF ANY TAX.

SPECIFIC RECORD RETENTION REQUIREMENTS HAVE NOT BEEN ASSIGNED TO THE FOLLOWING AND THE MATERIALITY RULE APPLIES:

48.4041-6 Taxpayers purchasing taxable liquid fuel in bulk delivered into storage tanks or other containers and use it for taxable and nontaxable purposes or in registered and nonregistered vehicles. [Added by OFR]

To maintain adequate records of all fuel used for each purpose to permit verification of the tax paid and of any credits, refunds, or exemptions claimed.

48.4093-2 Manufacturers selling and persons purchasing lubricating oil tax free under section 4093(c). [Removed]

48.4182-1 Manufacturers, producers, or importers selling pistols, revolvers, other firearms, and shells and cartridges. [Removed]

48.4216(a)-1 Manufacturers, producers, or importers making sales of taxable articles. [Added by OFR]

To keep records which will disclose the amount of transportation, delivery, insurance, installation, or other expense actually incurred by it in connection with the delivery of a taxable article to a purchaser pursuant to a bona fide sale.

51.4995-2 Operators, partnerships, and other disbursers subject to the crude oil windfall profit tax provisions. [Removed by OFR]

51.4997-1 Persons subject to the crude oil windfall profit tax provisions. [Removed by OFR]

301.9100-8 Electing owners, issuers, purchasers, and all successors in interest to the electing owners or purchasers; Technical Miscellaneous Revenue Act of 1988. [Redesignated from 5h.5 and amended]

(a) To retain the original election document or a copy thereof in its records.

Retention period: Until 6 years after the later of the date the last bond that is part of the issue is retired or the date such owner, purchaser or successor in interest ceases to own the facilities.

(b) To retain a copy of the election.

Retention period: Until 6 years after the date the last bond that is part of the issue is retired.

TREASURY DEPARTMENT

Bureau of Alcohol, Tobacco and Firearms

27 CFR

19.721 Proprietors of distilled spirits plants. [Added by OFR]

To maintain (a) all specially required individual forms, records, and summaries; (b) all supplemental auxiliary, and source date utilized in the compilation of required forms, records, and summaries, and for preparation of reports, returns, and claims; and (c) copies of notices, reports, returns, and approved applications and other documents relating to operations and transactions.

Retention period: 3 years.

19.772 Proprietors of distilled spirits plants. [Removed by OFR]

19.829 Manufacturers of vinegar by the vaporizing process. [Added by OFR]

To keep records of production operations. Separate government records need not be kept as long as commercial records contain all the required information.

Retention period: 3 years.

20.149 Dealers of specially denatured spirits. [Added by OFR]

To maintain records of transactions in completely denatured alcohol and articles made with completely denatured alcohol. See also 27 CFR 20.261.

20.222 Permittees who destroy specially denatured spirits or recovered alcohol. [Added by OFR]

To maintain record of destruction.

24.322 Proprietors using fruit, fruit juice or concentrated fruit juice in the production of allied products. [Added by OFR]

To maintain record of materials in accordance with 27 CFR 24.315. The record will also show the production and disposition of other allied products. If sugar, acids, or chemicals are used in allied products, the receipt and will also be recorded.

53.158 Taxpayers liable for firearms and ammunition excise taxes electing to remit payments and deposits of the taxes (tax payments) by electronic fund transfer (EFT). [Added]

To retain as part of the required records, the transfer data record furnished to the taxpayer through normal banking procedures.

170.17 Persons liable for floor stocks tax. [Added by OFR]

To keep a copy of floor tax return and inventory records at the place of business covered thereby.

170.59 Manufacturers or vendors of stills. [Added by OFR]

To maintain a record showing all stills and distilling apparatus (including those to be used for purposes other than distilling) manufactured, received, removed, or otherwise disposed of. The records will also show the name and address of the purchaser and the purpose for which each appartus is to be used.

Retention period: 3 years.

170.68-170.69 Persons holding distilled spirits for sale including those holding distilled spirits exempt from floor tax. [Added by OFR]

To maintain the record of the physical or source record inventory as prescribed by 27 CFR 170.76.

170.75 Persons, except retail establishments, holding imported perfumes for sale, including those industry members who have less than 500 wine gallons on hand. [Added by OFR]

To maintain record of inventory which shall include complete and accurate information showing the details of the inventory, when and by whom the inventory was taken.

194.55 Caterers. [Added]

To maintain adequate commercial records to support that all locations where alcoholic beverages were sold or offered for sale were covered by a special (occupational) tax payment.

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194.151 Caterers. [Added]

See 27 CFR 194.55.

194.331 Wholesale dealers in distilled spirits (except proprietors of distilled spirits plants, who are subject to the recordkeeping provisions of 27 CFR part 19). [Removed by OFR]

250.78 Proprietors of bonded warehouses or bonded processing rooms in Puerto Rico withdrawing spirits of Puerto Rican manufacture for shipment to the United States. [Entry amended by OFR]

To keep file copies of Form 5110.51.

Retention period: 3 years. The regional director (compliance) may require retention for an additional 3 years if it is determined retention is necessary or advisable.

250.93 Proprietors of bonded premises in Puerto Rico withdrawing wine of Puerto Rican manufacture for shipment to the United States. [Entry amended by OFR]

To keep file copies of Form 2900.

Retention period: 3 years. The regional director (compliance) may require retention for an additional 3 years if it is determined retention is necessary or advisable.

250.116 Shippers of liquors and articles of Puerto Rican manufacture to the United States. [Entry amended by OFR]

To keep file copies of Form 487B.

Retention period: 3 years. The regional director (compliance) may require retention for an additional 3 years if it is determined that retention is necessary or advisable.

250.270 Importers bringing bottled distilled spirits into the United States from the Virgin Islands. [Removed by OFR]

250.272 Persons, other than tourists, bringing liquors into the the United States from the Virgin Islands (except proprietors of distilled spirits plants). [Heading amended by OFR]

See 250.163.

250.273 Proprietors of distilled spirits plants bringing liquors into the United States from the Virgin Islands. [Heading amended by OFR]

See 250.164.

250.276 Proprietors of bonded premises in Puerto Rico withdrawing beer of Puerto Rican manufacture for shipment to the United States. [Entry revised by OFR]

To maintain records, documents or copies of documents supporting these records, and file copies of required reports.

Retention period: 3 years. The regional director (compliance) may require retention for an additional 3 years if it is determined retention is necessary or advisable.

250.310 Persons intending to file claims for drawback on eligible articles brought into the United States from Virgin Island. [Heading amended by OFR]

See 250.174.

252.195 Bottlers or packagers of distilled spirits stamped or restamped and marked, especially for export with benefit of drawback. [Removed by OFR; record retention requirements now in 252.195a]

252.195a Bottlers or packagers of distilled spirits stamped or restamped and marked, especially for export with benefit of drawback. [Added by OFR]

To keep copies of Form 5110.30 (with attachments, if any) on which a claim for drawback is filed.

Retention period: 2 years.

285.25 Manufacturers of cigarette papers and tubes. [Amended by OFR]

To keep receipted copies of monthly tax returns, Form 5000.24.

Retention period: 3 years after close of calendar year in which returns are filed.

285.161 Importers of large cigars. [Removed by OFR]

296.146 Distributors of cigarettes. [Added by OFR]

To keep copies of invoices, bills of lading, or other suitable commercial records relating to each disposition of more than 60,000 cigarettes.,

Retention period: 3 years following the close of the year in which the records are made.

296.147 Distributors who are exempted persons. [Added by OFR]

To maintain commercial records containing the information indicated in the cited section for each disposition of more than 60,000 cigarettes.

Retention period: 3 years following the close of the year in which the records are made.

296.150 Distributors of cigarettes–Retention of records. [Added by OFR]

See 27 CFR 296.146 and 296.147.

JUSTICE DEPARTMENT

28 CFR

75.2–75.6 Producers of any books, magazines, periodicals, films, videotapes, or other matters that contain one or more visual depictions of actual sexually explicit conduct made after November 1, 1990. [Added]

To maintain records containing the legal name and date of birth of each performer, obtained by the producer's examination of an identification document, as defined by 18 U.S.C. 1028(d); any name, other than each performer, including the performer's maiden name, alias, nickname, stage name, or professional name, and any such information as specified in cited section.

Retention period: See 28 CFR 75.4.

75.2 Producers of matters containing one or more visual depiction of actual sexually explicit conduct made after November 1, 1990. [Added]

To maintain records of the actual, previous, and assumed names, and of the date of birth of each performer protrayed in such depictions.

Retention period: See 28 CFR 75.4.

75.4 Producers of matters containing one or more visual depictions of actual sexually explicit conduct made after November 1, 1990–Retention period. [Added]

To maintain records specified in 28 CFR part 75.

Retention period: As long as the producer remains in business. (a) If the producer ceases to carry on the business, the records shall be maintained for 5 years thereafter. (b) If the producer produces the matter as part of his control of or through his employment with an organization, and this organization is dissolved, records shall continue to be maintained for a period of 5 years after dissolution.

LABOR DEPARTMENT

Office of the Secretary

29 CFR

4.170 Contractors or subcontractors subject to the Service Contract Act of 1965. [Added by OFR]

To keep appropriate records separately showing the amounts paid for wages and fringe benefits.

32.45 Recipients of Federal financial assistance from the Department of Labor covered by section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794). [Added by OFR]

To maintain records on all complaints filed alleging violation of the Act.

Retention period: 3 years.

56.62 WIN sponsors. [Correctly renumbered from 56.63 by OFR]

To maintain written records of all complaints and grievances.

Retention period: Not specified.

56.63 WIN sponsors. [Correctly renumbered 56.62 by OFR]

89.54 States and local governments receiving grants under the Senior Community Service Employment Program. [Added by OFR]

To maintain all financial records, supporting documents, statistical records, and all other records pertinent to the project.

Retention period: 3 years from the date of submission of the final expenditure report or, for grants which are renewed annually from the date of the submission of the annual expenditure report or beyond the 3–year period until resolution of any audit finding or records for nonexpendable property acquired shall be retained for 3 years after final disposition.

89.74 Public and private institutions of higher education, public and private hospitals, and other public and private nonprofit organizations receiving grants under the Senior Community Service Employment Program. [Added by OFR]

See 29 CFR 89.54

Wage and Hour Division

29 CFR

507.705 Employers using aliens on H–1B visas in specialty occupations. [Revised]

See 20 CFR 655.705.

507.730 Employers using aliens on H–1B visas in specialty occupations. [Revised]

See 20 CFR 655.730.

507.760 Employers using aliens on H–1B visas in specialty occupations–retention period. [Revised]

See 20 CFR 655.760.

529.10 Hospitals and institutions employing patient workers. [Removed, 1989]

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR

1420.42 State and local governments receiving Federal grants and cooperative agreements. [Removed, 1989]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR

1620.21 Equal Pay Act. [Correctly renumbered 1620.32 by OFR]

1620.32 Equal Pay Act. [Correctly renumbered from 1620.21 by OFR]

Employers having employees subject to the Act are required to keep records in accordance with U.S. Department of Labor regulations, 29 CFR part 516 (Records to be kept by employers under the FLSA).

LABOR DEPARTMENT

Occupational Safety and Health Administration

29 CFR

1910.119 Employers; process safety management of highly hazardous chemicals; explosives and blasting agents. [Added]

To maintain records on process safety; technology of the process; equipment in the process; process hazard analysis and updates or revalidations for each process covered; operating procedures; employee training; contract employer responsibilities; merchanical integrity; management of change, incident investigation; and emergency planning and response; and also contract employee injury and illness log related to the contractor's work in process areas.

Retention period: Incident investigation–5 years.

1910.252 Employers subject to welding, cutting and brazing standards. [Revised, 1990; regulation contains no record retention requirements; record retention requirements now in 1910.255]

1910.255 Employers subject to welding, cutting, and brazing standards. [Added by OFR]

To maintain periodic inspection certification records. The certification records shall include the date of inspection, the signature of the person who performed the inspection and the serial number, or other identifier, for the equipment inspected.

Retention period: Not specified.

1910.304 Employees subject to wiring design and protection standards. [Removed by OFR; regulation contains no record retention requirements]

1910.450 Employers engaged in laboratory use of hazardous chemicals. [Removed by OFR]

1910.1001 Employers subject to asbestos standards. [Heading amended by OFR]

(a) To keep accurate records of all employees exposure measurements.

Retention period: 30 years.

(b) To maintain accurate record of objective data reasonably relied upon in support of exempted operations.

Retention period: Duration of employer's reliance upon objective data.

(c) To maintain accurate record for each employee subject to medical surveillance.

Retention period: Duration of employment plus thirty years.

(d) To maintain all employee training records.

Retention period: 1 year beyond last date of employment of the employee.

1910.1005 Employers subject to certain carcinogen standards. [Removed by OFR]

1910.1027 Employers subject to the cadmium standards. [Added]

(a) To maintain an accurate records of all air monitoring for cadmium in the workplace. The record shall include (1) the monitoring data, duration, and results in terms of an 8–hour TWA of each sample taken; (2) the name, social security number, and job classification of the employees monitored and of all other employees whose exposures the monitoring is intended to represent; (3) a description of the sampling and analytical methods used and evidence of their accuracy; (4) the type of respiratory protective device, if any, worn by the monitored employee; and (5) a notation of any other conditions that might have affected the monitoring results.

Retention period: For at least 30 years.

(b) To maintain a record of the objective data for exemption from requirement for initial monitoring.

Retention period: 30 years.

(c) To maintain medical surveillance records.

Retention period: Duration of employment plus 30 years.

(d) To maintain a training certificate record which includes the identity of the person trained, the signature of the employer of the person who conducted the training, and the date the training was completed.

Retention period: 1 year beyond the date of training of the employee.

1910.1027, Appendix C Employers subject to cadmium standards. [Added]

To maintain a record of the qualitative and quantitative fit test administered to any employee.

Retention period: Until the next fit test is administered.

1910.1048 Employers subject to formaldehyde standards. [Revised]

To maintain records on exposure measurements, exposure determinations, medical surveillance, and respirator fit testing.

Retention period: (a) Exposure records– For the duration of employment plus 30 years. (b) Medical records– For the duration of employment plus 30 years. (c) Respirator fit testing records–Until replaced by a more recent record.

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1910.1100 Employers subject to the asbestos standards. [Removed]

1915.97 Employers subject to health and sanitation standards. [Removed, regulation contains no record retention requirements]

1915.1027 Employers subject to the cadmium standards. [Added]

See 29 CFR 1910.1027.

1915.1027, Appendix C Employers subject to cadmium standards. [Added]

See 29 CFR 1910.1027, Appendix C.

1926.60 Employers subject to methylenedianiline standards. [Added]

(a) To maintain records of the initial monitoring results or objective data supporting exemption.

Retention period: Duration of the reliance upon such objective data.

(b) To maintain an accurate record of historical monitoring data reasonably relied upon in support of the exception.

Retention period: Duration of the employer's reliance upon such historical monitoring data.

(c) To maintain records of all measurements taken to monitor employee exposure to MDA.

Retention period: For at least 30 years.

(d) To maintain medical surveillance records.

Retention period: Duration of employment plus 30 years.

(e) To maintain training records.

Retention period: 1 year beyond the last date of employment.

1926.60, Appendix E Employers subject to methylenedianiline standards. [Added]

Retention period: To maintain a summary of all test results.

Retention period: 3 years.

1926.400 Employers subject to ground-fault protection standards. [Revised, 1986; regulation contains no record retention requirements]

1926.850 Employers subject to demolition standards. [Removed by OFR; regulation contains no record retention requirements]

1926.901 Employers subject to blaster qualifications standards. [Removed by OFR; regulation contains no record retention requirements]

1951.7 State agencies receiving grants implementing approved State plans in the occupational health and safety program. [Correctly renumbered 1951.47 by OFR]

1951.47 State agencies receiving grants implementing approved State plans in the occupational health and safety program. [Correctly renumbered from 1951.7 by OFR]

To maintain financial records, supporting documents, statistical records, and all other records pertinent to the grant program.

Retention period: 3 years, or longer if audit findings not resolved; for nonexpendable property, 3 years after final disposition. Microfilm copies may be substituted for the originals.

PENSION BENEFIT GUARANTY CORPORATION

29 CFR

2616.9 Contributing sponsor or plan administrator of a terminating plan. [Added]

To maintain and preserve all records used to compute benefits with respect to each individual who is a plan participant or a beneficiary of a deceased participant as of the termination date.

Retention period: 6 years after the date the required post–distribution certification is filed with PBGC.

2617.10 Contributing sponsor or plan administrator of a terminating plan. [Added]

See 29 CFR 1616.9.

LABOR DEPARTMENT

Mine Safety and Health Administration

30 CFR

29.31 Applicants having approval to use portable coal dust/rock dust analyzers, and continuous duty, warning light, portable methane detectors in coal mines. [Correctly renumbered 29.43 by OFR]

29.43 Applicants having approval to use portable coal dust/rock dust analyzers, and continuous duty, warning light, portable methane detectors in coal mines. [Correctly renumbered from 29.31 by OFR]

To maintain drawings and specifications upon which certificate of approval was granted.

Retention period: Not specified.

57.3035 Operators of underground mines. [Correctly renumbered 57.3461]

57.3053 Operators of underground mines using rock bolts. [Removed, 1986]

57.3461 Operators of underground mines. [Correctly renumbered from 57.3035]

To develop and maintain as required rock burst detection plan at mines that experience rock bursts.

Retention period: Not specified.

57.9001 Operators of all mines. [Removed, 1988]

57.19121 Operators of all mines. [Added by OFR]

See 30 CFR 56.19121.

57.21021 Operators of all mines. [Redesignated as 57.22203 and 57.22204, 1987; redesignated 57.22203 contains no record retention requirements]

57.21035 Underground mines operators. [Redesignated as 57.22229 and 57.22230, 1987]

57.21066 Operators of underground metal and nonmetal mines. [Redesignated as 57.22229 and 57.22230, 1987]

22230 Operators of metal and nonmental mines. [Added by OFR]

To maintain certifications of weekly examinations for methane in II–A mines.

Retention period: For at least 1 year.

75.200 Operators of coal mines. [Correctly renumbered 75.221 by OFR]

75.200–7 Operators of coal mines. [Removed, 1988]

75.221 Operators of coal mines. [Correctly renumbered from 75.220 by OFR]

To maintain a copy of the approved roof control plan.

Retention period: Not specified.

75.300–4 Operators of coal mines. [Correctly renumbered 75.312 by OFR]

75.303 Operators of coal mines. [Removed]

75.304 Operators of coal mines. [Removed]

75.304–3 Operators of all mines. [Removed]

75.305 Operators of coal mines. [Removed]

75.306 Operators of coal mines. [Removed]

75.309–4 Operators of coal mines. [Removed]

75.312 Operators of underground coal mines. [Added]

To maintain records of the uncorrected defects that may affect the operation of the fan that are not corrected by the end of that shift on which the fan examination is made. To also maintain a record of fan pressure to be made immediately before the fan is stopped as well as after the fan pressure stabilizes. This record must include the time of the pressure reading.

Retention period: 1 year at a surface location at the mine.

75.313–1 Operators of coal mines. [Removed]

75.316 Operators of coal mines. [Removed]

75.316–2 Operators of coal mines. [Removed]

75.321 Operators of coal mines. [Revised; regulation contains no record retention requirements]

75.324 Operators of coal mines. [Revised; regulation contains no record retention requirements]

75.330 Operators of coal mines. [Revised; regulation contains no record retention requirements]

75.351 Operators of underground coal mines. [Added]

If a signal device or alarm is activated, a record shall be made of the date, time, type of sensor, and the reason for its activation. Also the maximum concentrated detected at the sensor producing the signal shall be recorded.

Retention period: For at least 1 year at a surface location at the mine.

75.352 Operators of underground coal mines. [Added]

To maintain a record of the hazardous conditions and their locations found by the examiner during each examination and of the results and locations of air and methane measurements.

Retention period: For at least 1 year at a surface location at the mine.

75.360 Operators of underground coal mines. [Added]

To maintain a record of hazardous conditions and their locations found by the examiner during each examinations and of the results and locations of air and methane measurements.

Retention period: 1 year.

75.362 Operators of underground coal mines. [Added]

To maintain records of on–shift examinations of hazardous conditions found or reported and their locations and of the corrective action taken.

Retention period: 1 year.

75.364 Operators of underground coal mines. [Added]

To maintain a record of the hazardous conditions, their locations, and the corrective action taken; and the results and location of air and methane measurements during weekly examination.

Retention period: For at least 1 year at a surface location at the mine.

75.1801 Operators of coal mines. [Removed]

75.1802 Operators of coal mines. [Removed]

75.1803 Operators of coal mines. [Removed]

75.1804 Operators of coal mines. [Removed]

75.1805 Operators of coal mines. [Removed]

INTERIOR DEPARTMENT

Minerals Management Service

30 CFR

250.86 Lessees or operators exploring, developing, producing, and transporting oil, gas, and sulphur in the Outer Continental Shelf. [Added by OFR]

To maintain all records including pressure charts, operation logs, and referenced documents pertaining to blowout prevention tests, acuations, and inspections.

Retention period: 2 years.

250.121 Lessees or operators exploring, developing, producing, and transporting oil, gas, and sulphur in the Outer Continental Shelf. [Correctly renumbered 250.124 by OFR]

250.124 Lessees or operators exploring, developing, producing, and transporting oil, gas, and sulphur in the Outer Continental Shelf. [Correctly renumbered from 250.121 by OFR]

To maintain records for each subsurface and surface safety device at the field office nearest the OCS facility or other locations conveniently available to the District Supervisor. The records shall show the present status and history of each device, including dates and details of installation, removal, inspection, testing, repairing, adjustments, and reinstallation.

Retention period: 2 years.

280.9 Permittees who acquire rock and mineral samples under a permit. [Added by OFR]

To keep records on environmental data and information; drill logs; analysis of cores, cuttings, and samples; and maps and navigation tapes showing the location where samples were taken and test drilling conducted.

Retention period: 3 years after submittal of the final report.

Office of Surface Mining Reclamation and Enforcement

30 CFR

840.14 State regulatory authorities. [Added by OFR]

To maintain records, reports, inspection materials, or information on surface coal mining and reclamation operations.

Retention period: Until at least 5 years after expiration of the period during which the subject operation is active or is covered by any portion of a reclamation bond.

TREASURY DEPARTMENT

Fiscal Service

31 CFR

205.14 States; Cash Management Improvement Act; funds transfer. [Added]

To maintain documentation to substantiate its claim for direct costs.

Part 356, Appendix A Bidders; marketable book–entry Treasury bills, notes, and bonds. [Added by OFR]

To maintain records related to bidding for, acquisition of, and disposition of Treasury securities. These records must be identifiable--separate and apart from similer records for other component within the corporate structure.

Office of Foreign Assets Control

31 CFR

515.560 Persons engaged in transactions subject to the Foreign Assets Control Regulations. [Revised; record retention requirements now in 515.566]

515.566 Travel services, carrier services, and family remittance forwarding services engaged in service subject to the Cuban Asset Control Regulations. [Added]

To maintain on file, the copy of the signed statement or the specific license. To also maintain information that contain the names and addresses of individual travelers or remitters, the number and amount of each remittance, and the name and address of each recipient, as applicable.

530.601 Persons engaged in transactions subject to the Rhodesian Sanctions Regulations. [Removed]

580.601 Persons engaged in transactions subject to Haitian transaction regulations. [Added]

To keep a full and accurate record of each transaction engaged in regardless of whether such transaction is effected pursuant to license or otherwise.

Retention period: 5 years after the date of such transaction.

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GENERAL ACCOUNTING OFFICE

32 CFR

7-104.15 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7-203.7 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7-302.6 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7-402.7 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7-504.10 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7.602-23 Contractors or subcontractors subject to labor standards provisions applicable to contracts covering federally financed and assisted construction (see 29 CFR 5.1 and 5.5). [Removed, 1991]

7-603.7 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7-605.15 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7-607.8 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7-702.13 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7-703.11 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7-704.5 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7-706.6 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7-901.17 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7-1903.12 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

7-1910.25 Contractors having Government contracts negotiated without advertising. [Removed, 1991]

DEFENSE DEPARTMENT

Office of the Secretary

32 CFR

33.42 State and local governments receiving Federal grants and cooperative agreements. [Redesignated from 278.42]

See 7 CFR 3016.42.

278.42 State and local governments receiving Federal grants and cooperative agreements. [Redesignated as 33.42]

Air Force Department

32 CFR

861.2 Air carriers providing or seeking to provide airlift services to the DOD. [Added]

To maintain complete record of maintenance accomplished, and for repetitive actions, maintenance required–aircraft log books and maintenance documentation should be legibly prepared, dated, clean, readily identifiable, and maintained in an orderly fashion. Inspection compliance, airworthiness release, and maintenance release records, etc., should be complete and signed by approved personnel.

TRANSPORTATION DEPARTMENT

Coast Guard

33 CFR

133.19 State officials requesting payments from the Oil Spill Liability Trust Fund for oil pollution removal costs. [Added]

To maintain detailed records of expenditures made from the funds including (a) records of daily expenditures for each individual workers, giving the individual's name, title or position, activity performed, time on task, salary or hourly rate, travel costs, per diem, out–of–pocket or extraordinary expenses, and whether the individual is normally available for oil spill removal; (b) equipment purchased or rented each day, with the daily or hourly rate; (c) miscellaneous materials and expendables purchased each day; and (d) daily contractor or consultant fees, including costs for their personnel and contractor–owned or rented equipment, as well as that of any subcontractor.

Retention period: 10 years following completion of the removal actions or until completion of action and/or resolution of all litigation, claim, negotiation, audit cost recovery or other action.

137.215 Deepwater port licensees. [Added by OFR]

To keep financial records, reports, and files relating to the computation, charging, collecting, and payment of barrel fees to the Deepwater Port Liability Fund, including the oil throughput log required by 33 CFR 150.757.

Retention period: Generally 3 years or until any Fund audits are approved by the Fund Administrator, whichever occurs first or time period agreed by licensee and the Fund Administrator.

155.370 Owners and operators of vessels engaged in oil transfer operations. [Added by OFR]

To maintain on board bilge monitor continuous records.

Retention period: Not less than 3 years.

157.37 Owners or operators of tank vessels carrying oil in bulk. [Added]

To maintain all discharge data records.

Retention period: At least 3 years. The date for the most recent year must be retained on board the vessel.

Saint Lawrence Seaway Development Corporation

33 CFR

401.78 Agents, owners, or operators of vessels. [Added by OFR]

To maintain documentary evidence, comprising evidence of cargo declared, cargo manifest, dangerous cargo manifest, and bills of lading.

Retention period: 5 years.

EDUCATION DEPARTMENT

34 CFR

15.52 Displacing agencies receiving relocation financial assistance. [Removed, 1987]

80.20 State and local governments receiving Federal grants and cooperative agreements. [Added by OFR]

To maintain records which adequately identify the source and application of funds provided for financially–assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

Retention period: See 34 CFR 80.42.

201.44 Operating agencies participating in the Migrant Education Program. [Added by OFR]

To maintain annual records documenting comparability compliance requirements.

204.10 State educational agencies and other agencies receiving funds under Chapter 1 of the Education Consolidation and Improvement Act of 1981. [Removed, 1989]

222.75 Assistance to local educational agencies in federally impacted areas receiving Federal payments (Pub. L. 81–874, as amended). [Removed by OFR; regulation contains no record retention requirements]

222.81 Assistance to local educational agencies in federally impacted areas receiving Federal payments under section (5)(e) of the Act (Pub. L. 81–874, as amended). [Removed by OFR; regulation contains no record retention requirements]

270.21 State educational agencies receiving awards under the Desegregation of Public Education program. [Removed, 1987]

270.39 Public agencies or private, non-profit organizations receiving awards under the Desegregation of Public Education program. [Removed, 1987]

298.15 State and local educational agencies receiving funds under Chapter 2 of the Education Consolidation and Improvement Act of 1981. [Revised, 1990; regulation contains no record retention requirements]

300.231 Local educational agencies receiving assistance for education of children with disabilities. [Revised]

To maintain records which show compliance with the comparable services requirements.

Retention period: Unless a longer period is required under 34 CFR part 74, a State and a subgrantee shall retain records for five years after completion of the activity for which they use grant or subgrant funds.

300.345 Public agencies receiving assistance for the education of children with disabilities. [Added]

To maintain record of its attempt to arrange a mutually agreed time and place for parent participation in the individual education program; detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to the parents' home or place of employment and the results of those visits.

300.563 Any agency or institution which collects, maintains, or uses personally identifiable information, or from which information is obtained under Part B of the Education of Children with Disabilities Act. [Amended]

To keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the Education of the Children with Disabilities Act, including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

Retention period: Unless a longer period is required under 34 CFR part 74, a State and a subgrantee shall retain records for five years after completion of the activity for which they use grant or subgrant funds.

300.569 Any agency or institution which collects, maintains, or uses personally identifiable information, or from which information is obtained under Part B of the Education of Children with Disabilities Act. [Amended]

To maintain as part of the records of the child, any statement by the parent on hearing decision not to amend the child's records at the parent's request.

Retention period: As long as the record or contested parties is maintained by the agency.

416.31 Grantees under the Vocational Educational Training and Study Grants Program. [Added]

To maintain records on the level and type of participation, and on the conditions and progress of the institutions, agencies, associations, Centers, and individuals involved in the projects.

652.22 Chief State School Officers (CSSOs), State agencies or panels appointing the National Science Scholars Program Nominating Committee. [Added]

To maintain all student applications and records and written procedures related to the selection of nominees for a scholarship competition.

Retention period: For a period of 5 years following the award year of the scholarship competition.

668.18 Institutions of higher education participating in Title IV, HEA programs. [Removed, 1987]

673.57 Institutions of higher education participating in the Income Contingent Loan Program. [Added by OFR]

To maintain appropriate documentation to support the amount of collection costs charged to the Fund including telephone bills and receipts from collection firms. This documentation must be maintained in the files as provided in 34 CFR 673.32.

675.40 Institutions of higher education participating in the College Work-Study and Job Location and Development Program. [Removed, 1987]

682.414 Guarantee agencies and participating lenders in the Federal Education Loan Programs. [Revised]

(a) *Guarantee Agencies.* To maintain current, complete, and accurate records of each loan that it holds. Records such as documentation supporting claim filed by the lenders, notices of changes in a borrower's address, payment history and other records as specified must be maintained in a system that allows ready identification of each loan's current status, updated at least once every 10 business days.

(b) *Participating agencies.* To maintain the following records that are current, complete, and accurate and in a system that allows readily identifications of each loan current status: (1) A copy of the loan application; (2) a copy of the signed promissory note, including the repayment instrument; (3) the repayment schedule; (4) a record of each disbursement of loan proceeds; (5) notices of changes in a borrower's address and status as at least a half–time student; (6) evidence of the borrower's eligibility for a deferment; (7) and other such record as specified in cited section.

Retention period: For at least 5 years after the loan is paid in full or has been determined to be uncollectable in accordance with the agency's write–off procedures.

682.515 Lenders under the Federal Guaranteed Student Loan Program. [Revised]

To keep complete and accurate records of each loan that it holds, including but not limited to the records described in section 682.414(a)(3)(ii).

Retention period: Not less than 5 years following the date the loan is repaid in full by the borrower or the lender is reimbursed on a claim. In particular cases, the Secretary may require the retention of records beyond this minimum period.

682.610 Schools participating in the Federal Family Education Loan Program. [Revised]

To maintain all necessary records as set forth in 34 CFR parts 668 and 682. To also maintain a copy of the loan application or data electronically submitted to the lender which can upon request, produce a hard copy record of (a) the name of the lender; (b) the address of the lender' (c) the amount of the loan and the period of enrollment for which the loan was intended; (d) the data used to construct an individual student budget or the school's itemized standard budget used in calculating the student's estimated cost of attendance; and (e) other such records as specified in cited section.

Retention period: 5 years following the last day of the borrower's attendance at the school and shall keep all records involved in any loan, claim, or expenditure questioned by a Federal

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audit until resolution of any audit questions.

682.822 Authorities issuing tax-exempt obligations under the Guaranteed Student Loan (GSL) Program. [Removed]

690.100 Institutions of higher education participating in the Pell Grant Program. [Removed, 1986]

796.12 Developer demonstrator projects receiving National Diffusion Network (NDN) funds. [Removed, 1987]

796.16 State Facilitator projects receiving National Diffusion Network (NDN) funds. [Removed, 1987]

INTERIOR DEPARTMENT

National Park Service

36 CFR

8.7 Concessioners. [Correctly renumbered from 8.8 by OFR]

To keep records of their employees, payrolls, and other records with respect to compliance with labor standards established from time to time by or pursuant to Federal or State labor laws.

Retention period: 3 years.

8.8 Concessioners. [Correctly renumbered 8.7 by OFR]

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR

1206.92 Recipients of Federal grants for collecting and publishing historical documents. [Removed, 1990]

COPYRIGHT ROYALTY TRIBUNAL

37 CFR

304.7 PBS and its stations, NPR, or other television public broadcasting entities. [Added]

To maintain and make available for examination, copies of standard cue sheets or summaries of same listing the recording of the musical works of such copyright owners.

304.8 PBS and its stations or other public broadcasting entities. [Added]

To maintain copies of standard lists containing the pictorial, graphic, and sculptured works displayed on programs. Such notice shall include the name of the copyright owner, if known, the specific source from which the work was, the title of the program on which the work was used, and the date of the original broadcast of the program.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR

4.9 State agencies participating in relocation assistance program. [Removed, 1987, effective 4-2-89]

35.4066 Recipients of technical assistance grants under the Superfund Program. [Added]

To document all procurement activities with written records that furnish reasons for decisions.

Retention period: See 40 CFR 35.4152.

35.4152 Recipients of technical assistance grants under the Superfund Program. [Revised]

(a) To keep and preserve full written financial records accurately disclosing the amount and disposition of any funds; whether in cash or in-kind, applied to the technical assistance grant project.

Retention period: 10 years from date of final Financial Status Report or until any audit, litigation, cost-recovery and/or any disputes initiated before the end of the 10-year retention period are settled, whichever is longer.

(b) The recipient shall require its contractor(s) to keep and preserve detailed records in connection with the contract, reflecting acquisitions, work progress, reports, expenditures, and commitments and indicating their relationship to established costs and schedules.

Retention period: 10 years after the termination or end of the contract.

35.6815 States and political subdivisions of Indian Tribes; Cooperative Agreements and Superfund State Contracts for Superfund Responses Actions. [Added by OFR]

To maintain records on a site–specific basis. See also 40 CFR 35.6705 and 35.6710.

51.359 States participating in the motor vehicle inspection and maintenance (I/M) programs. [Added by OFR]

To maintain quality control compliance records.

52.136 Distributors, resellers, carriers, retailers, and wholesale purchaser–consumers; Maricopa Co., Colorado nonattainment area; oxygenated fuels program. [Removed]

52.137 Distributors, resellers, carriers, retailers, and wholesale purchaser–consumers; Maricopa Co., Colorado nonattainment area; fuel implementation plan (FIP)–alcohol blends. [Removed]

52.535 Owner9s) or operator(s) of stationary sources of lead facilities. [Added by OFR]

To maintain continuous records of plant process and emission control operations as necessary to determine continuous compliance.

Retention period: 2 years.

52.689 Owner(s) or operator(s) of the bunker limited smelters. [Added by OFR]

See 40 CFR 52.535.

52.1113 Owners or operators of stationary sources. [Added by OFR]

See 40 CFR 52.535.

52.1224 Owners or operators of stationary sources. [Added by OFR]

See 40 CFR 52.535.

52.1277 Owners or operators of stationary sources. [Added by OFR]

See 40 CFR 52.535.

52.1324 Owners or operators of stationary sources. [Added by OFR]

See 40 CFR 52.535.

52.1378 Owners or operators of stationary sources. [Added by OFR]

See 40 CFR 52.535.

52.1473 Owners or operators of stationary sources. [Added by OFR]

See 40 CFR 52.535.

52.1574 Owners or operators of stationary sources. [Added by OFR]

See 40 CFR 52.535.

60.107 Owners or operators subject to the sulfur oxides emission standards. [Added by OFR]

To maintain all data and calibration from continuous monitoring systems located at the inlet and outlet to the control device, including the results of the daily drift tests and quarterly accuracy assessments, written procedures for the quality control program, and other such informaiton as specified in cited section.

60.223 Owners or operators of any granular diammonium phosphate plants. [Added by OFR]

To maintain a daily record of equivalent P_2O_5 feed by first determining the total mass rate in metric ton/hr. of phosphorus-bearing feed using a flow monitoring device and

proceeding according to 40 CFR 60.224(b)(3).

60.233 Owners or operators of any triple superphosphate plants. [Added by OFR]

See 40 CFR 60.223.

60.243 Owners or operators of any granular triple superphosphate storage facilities. [Added by OFR]

See 40 CFR 60.223.

60.265 Owners or operators of electric submerged arc furnaces. [Added by OFR]

To maintain a permanent record of the fan performance curve (prepared for a specific temperature).

60.273 Owners or operators of facilities in steel plants that produce carbon, alloy, or specialty steels: Electric arc furnaces and dust-handling systems. [Added by OFR]

To maintain records of any 6-minute average that is in excess of the emission limit specified in 40 CFR 60.272(a).

60.275a Owners or operators of steel plants that produce carbon, alloy, or specialty steels: Electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems. [Removed by OFR; record retention requirements now in 60.276a]

60.276a Owners or operators of steel plants that produce carbon, alloy, or specialty steels: Electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems. [Added by OFR]

To maintain records of measurements required in 40 CFR 60.274a.

Retention period: 2 years.

60.635 Owners or operators of affected facilities in onshore natural gas processing plants. [Added by OFR]

To maintain pressure relief devices leak repair information in a log in a reliable accessible location.

Retention period: 2 years.

60.647 Owners or operators of affected facilities that process natural gas: Sulfur dioxide emissions. [Added by OFR]

To maintain records of the calculations and measurements required by the standards for sulfur dioxide and monitoring of emission and operation requirements.

Retention period: 2 years following the date of the measurements.

60.684 Owners or operators of wool fiberglass insulation manufacturing plants. [Added by OFR]

To maintain records of measurements required to comply with the mass emission standards.

Retention period: 2 years.

60.735 Owners or operators of calciner and dryer at mineral processing plants. [Added by OFR]

To maintain a record, once each day, from the recording of the monitoring devices and arithmetic average over a 2-hour period of both the change in pressure of the gas stream across the scrubber and the flowrate of the scrubbing liquid.

Retention period: 2 years.

61.54 Owners or operators of sludge incineration plants, sludge drying plants, etc. [Added by OFR]

To maintain records of sludge, sampling, charging rate determination and other data needed to determine mercury content of wastewater treatment plant sludges.

Retention period: 2 years.

61.204 Owners and operators of the phosphogypsum that is produced as a result of phosphorus fertilizer production and all that is contained in existing phosphogypsum stacks. [Revised; regulation contains no record retention requirements]

61.209 Owners or operators of phosphogypsum stacks. [Added]

(a) To maintain records for each stack documenting the procedure used to verify compliance with the flux standard including all measurements, calculations, and analytical methods on which input parameters were based. The required documentation shall be sufficient to allow an independent auditor to verify the correctness of the determination made concerning compliance of the stack with flux standard.

(b) To maintain records documenting the procedures used to determine average radium - 226 concentration, including all measurements, calculations, and analytical methods on which input parameters were based, and other such information as specified in cited section.

Retention period: For at least 5 years from the date of use of the phosphogypsum.

70.4 Permittees; State Operating Permit Programs. [Added]

To keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes.

70.6 Permittees; State Operating Permit Programs. [Added]

To maintain records of required monitoring data and support information.

Retention period: For a period of at least 5 years from the date of the monitoring sample, measurement, report, or application.

82.13 Producers of certain ozone depleting chemicals. [Revised]

(a) To maintain records on the quantity of the Class I controlled substances produced at each facility, including the date records of the quantity of any carbon tetrachloride produced for feedstock use; the quantity of controlled substances used as feedstocks in the manufacture of controlled substances and in the manufacture of non-controlled substance, and the quantity of any virgin, used or recycled controlled substances introduced into the production process of new controlled sustances.

(b) To keep records of the feedstock materials consumed in producing the regulated chemicals at each facility.

(c) To maintain records documenting the sale of carbon tetrachloride for feedstock use (invoices, bills of ladings, etc.).

(d) To maintain records of feedstocks consumed and other records as specified in cited section.

Retention period: 3 years.

82.13 Importers of certain ozone depleting chemicals. [Revised]

To maintain daily records of the quantity of virgin, used, and recycled controlled substances brought into the U. S.; the date and port of entry into the U.S. or its territories; the country from which the imported controlled substances were exported; and the port of exit. In addition, to maintain records verifying imports.

Retention period: 3 years.

82.13 Persons requesting additional production allowances or consumption allowances or who transform Group IV controlled substances not produced by them. [Revised]

To maintain dated records of the quantity and level of controlled substances used and entirely consumed in the manufacture of another chemical; copies of the invoices or receipts documenting the sale of the controlled substance to the person; dated records of the names, commercial use, and quantities of the resulting chemical(s); dated records of shipments to purchasers of the resulting chemical(s); and other such information as specified in cited section.

Retention period: 3 years.

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82.42 Persons who own approved refrigerated recycling equipment certified under 40 CFR 82.36(a)(2). [Added]

(a) To maintain records of the name and address of any facility to which refrigerant is sent.

(b) To retain records demonstrating that all persons authorized to operate the equipment are currently certified under 40 CFR 82.40.

Retention period: 3 years.

85.1508 Certificate holders importing non-conforming motor vehicles and motor vehicle engines into the U.S. [Added by OFR]

To maintain a list of owners of all vehicles or engines imported.

Retention period: 6 years.

85.1510 Certificate holders importing non-conforming motor vehicles and motor vehicle engines into the U.S. [Added by OFR]

(a) To maintain a record of having furnished written maintenance instructions.

(b) To maintain in a file copies of emission warranties and fuel economy labeling.

85.1706 Manufacturers of new and in-use motor vehicles and motor vehicle engines. [Added by OFR]

To maintain records which provide each vehicle identification or engine serial number, indicate the use of the vehicle or engine on exempt status and indicate the final disposition of any vehicle or engine removed from exempt status.

86.094-7 Manufacturers of any new model year 1994 through 1997 light-duty vehicle or light light-duty trucks, or model year 1996 through 1998 heavy light-duty trucks. [Amended]

(a) To retain the following adequately organized and indexed records for each such vehicle: (1) EPA engine family; (2) Vehicle identification number; (3) Model year and production number; (4) Shipment date; (5) Purchaser; and (6) Purchase contract.

(b) To also retain adequately organized records of the actual U.S. sales volume for the model year for each engine family.

Retention period: 8 years from the due date for the applicable end of-model report.

(c) To maintain routine emission test records.

Retention period: 1 year after issuance of all certificates of conformity.

86.094-24 Manufacturers (or contractors for the manufacturers, if applicable) of any model year 1994 through 1997 light-duty vehicle or light-duty truck or model year 1994 through 1998 heavy light-duty trucks. [Added]

To maintain engineering evaluation, including any test data, used to support the deletion of optional equipment from test vehicles.

86.094-35 Manufacturers (or contractors for the manufacturers, if applicable) of any model year 1994 through 1997 light-duty vehicle or light-duty truck or model year 1994 through 1998 heavy light-duty trucks. [Added]

In lieu of including the date of manufacture on the engine label, to maintain a record of the engine manufacture dates.

86.095-35 Manufacturers (or contractors for the manufacturers, if applicable) of any model year 1994 through 1997 light-duty vehicle or light-duty truck or model year 1994 through 1998 heavy light-duty trucks. [Added]

See 40 CFR 86.094-35.

86.605 Manufacturers of new gasoline-fueled and diesel light-duty vehicles and new gasoline-fueled and diesel light-duty trucks subject to selective enforcement auditing procedures required by air pollution control regulations. [Redesignated as 86.605-88, 1989]

86.605-88 Manufacturers of new gasoline-fueled and diesel light-duty vehicles and new gasoline-fueled and diesseled light-duty trucks subject to selective enforcement auditing procedures required by air pollution control regulations. [Redesignated from 86.605, 1989]

To maintain general and individual records relating to vehicle emission tests performed pursuant to test orders as specified in the section cited.

Retention period: 1 year after completion of tests.

86.608-90 Manufacturers of new gasoline-fueled and diesel light-duty vehicles and new gasoline-fueled and diesseled light-duty trucks subject to selective enforcement auditing procedures required by air pollution control regulations. [Added by OFR]

See 40 CFR 86.608-88.

86.1005-88 Manufacturers of new gasoline-fueled and diesel heavy-duty vehicles and new gasoline-fueled and diesel heavy-duty trucks subject to selective enforcement auditing procedures required by air pollution control regulations. [Amended]

To maintain general and individual records relating to vehicle emission tests performed pursuant to test orders as specified in the section cited.

Retention period: 1 year after completion of tests.

86.1005-90 Manufacturers of new petroleum-fueled or methanol-fueled heavy duty or engine or light-duty trucks. [Amended]

To maintain testing and auditing records as specified in section cited.

Retention period: 1 year after completion of all testing in response to a test order.

86.1108-87 Manufacturers of new gasoline-fueled or diesel heavy-duty engine or heavy-duty vehicle. [Added by OFR]

To maintain general records pertaining to description of all equipment used to test engines or vehicles pursuant to Production Compliance Audit (PCA) testing; individual records on each PCA; and test equipment description records for each test cell that was used to perform emission testing.

Retention period: 6 years after completion of all testing.

88.205-94 Vehicle manufacturers required to participate in the California Pilot Test Program. [Added]

To maintain quarterly records.

104.25 Manufacturers, importers and processors of 11-aminoun-decanoic acid. [Removed by OFR]

122.44 Persons holding permits to discharge wastes pursuant to the national pollutant discharge elimination program. [Added]

To maintain a record summarizing the results of the inspection and a certification that the facility is in compliance with the plan and the permit, and identifying any incidents of non-compliance.

Retention period: 3 years.

166.6 State agencies using or applying pesticides pursuant to a quarantine-public health exemption. [Removed, 1986]

166.32 State agencies using or applying pesticides pursuant to a specific quarantine and public health exemption. [Added by OFR]

To maintain records for all treatments involving the first use of a pesticide. Records will include the locations where the pesticide was applied, dates of application (range), and total quantity of the pesticide use.

Retention period: 2 years following the date of expiration of the exemption.

166.50 State agencies using pesticide under a crisis exemption. [Added by OFR]

See 40 CFR 166.32.

233.4 Persons submitting applications for a permit to discharge dredged or fill material into State regulated waters. [Revised, 1988; regulation contains no record retention requirements]

233.7 Persons holding 404 permits to operate and maintain all facilities and systems of treatment and control (and related appurtenances) pursuant to the Dredge or Fill Program under the Clean Water Act. [Removed, 1988]

262.34 Hazardous waste generators. [Amended]

To maintain records on:

(a) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days;

(b) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal;

(c) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days;

(d) A written description of the waste generation and management practices for the facility showing that they are consistent with respecting the 90 day limit, and documentation that the procedures are compiled with; or

(e) Documentation that the unit is emptied at least once every 90 days.

263.20 Hazardous waste transporters. [Added by OFR]

See 40 CFR 263.22.

264.19 Hazardous waste transporters. [Added]

See 40 CFR 264.73.

264.573 Owners or operators of hazardous waste treatment, storage, and disposal facilities. [Amended]

(a) To maintain records sufficient to document that all treated wood is held on the pad following treatment in accordance with design and operating requirements.

(b) To maintain, as part of the operating log, documentation of past operating and waste handling practices. This must include identification of preservative formulations used in the past, a description of drippage management practices, and a description of treated wood storage and handling practices.

264.1101 Owners and operators of hazardous waste treatment, storage, and disposal facilities. [Added]

To maintain in the facility's operating log, a written description of the operating procedures used to maintain the integrity of areas without secondary containment.

265.73 Owners and operators of on-site and off-site hazardous waste treatment, storage, and disposal facilities. [Amended]

To keep a written operating record at the facility.

265.443 Owners or operators of hazardous waste treatment, storage and disposal facilities. [Amended]

See 40 CFR 264.573.

265.1101 Owners or operators of hazardous waste treatment, storage, and disposal facilities. [Added by OFR]

See 40 CFR 264.1101.

266.44 Burners of used oil burned for energy recovery. [Added by OFR]

(a) To keep a copy of each invoice received.

Retention period: 3 years from the date the invoice is received.

(b) To keep copies of analyses of used oil.

Retention period: 3 years.

(c) To keep a copy of each certification notice sent to a marketer.

Retention period: 3 years from the date off-specification used oil from that marketer is received.

266.70 Persons storing recycled materials utilized for precious metal recovery. [Added by OFR]

To maintain records showing the volume of materials stored at the beginning of the calendar year; the amount of materials generated or received during the calendar year; and the amount of materials remaining at the end of the calendar year.

268.7 Owners and operators of hazardous waste treatment, storage, and disposal facilities. [Amended]

(a) To maintain on-site a copy of the notification and certification required for each waste shipment together with the tolling agreement.

Retention period: For at least 3 years after termination or expiration of the agreement. The 3-year retention requirement is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

(b) To keep records of the names and location of each entity receiving the hazardous waaste-derived products.

(c) To keep records of all inspections, evaluations, and analysis of treated debris that are made to determine compliance with the treatment standards.

(d) To keep records of any data or information the treater obtains during treatment of the debris that identifies key operating parameters of the treatment unit.

(e) To keep on-site in the generators' records, a written waste analysis plan which describes the procedures the generator will carry out to comply with the treatment standards.

268.8 Owners or operators of hazardous waste treatment, storage, and disposal facilities. [Added by OFR]

To retain on-site a copy of the demonstration (if applicable) and certification required for each waste shipment.

Retention period: 5 years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site disposal.

279.44 Used oil transporters. [Added]

To retain records of analyses conducted or information used to determine that the total halogen content of used oil being transported or stored at a transfer facility is above or below 1,000 ppm under the rebuttable presumption.

Retention period: 3 years.

279.46 Used oil transporters. [Added]

(a) To keep a record of each used oil shipment accepted for transport. Records for each shipment must include: (1) The name and address of the generator, transporter, or processor/refiner who provided the used oil for transport; (2) the EPA identification number (if applicable) of the generator, transporter, or processor/re-refiner who provided the used oil for transport; (3) the quantity of used oil accepted; (4) the date of acceptance; and (5) the signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor/refiner who provided the used oil for transport;

(b) To keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor/re-refiner, or disposal facility. Records of each delivery must include (1) the name and address of the receiving facility or transporter; (2) the EPA identification number of the receiving facility or transporter; (3) the quantity of used oil delivered; (4) the date of delivery; and (5) the signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter; and

(c) To keep record for each shipment of used oil exported to any foreign country.

Retention period: 3 years.

761.180 Records and monitoring. [Amended]

(a) To maintain records of the following information for each incinerator burning PCB's:

(1) Dates and times of incinerator start-up and shutdown.

(2) Dates and times of waste firing.

(3) Estimates of the types and amounts of PCB's burned, including the hours of operation burning each type of PCB.

(4) The maximum and minimum incinerator temperatures measured during PCB burning.

(5) The results of the daily inspection of the incinerator when burning PCB's.

(6) The date, location, and type of any repairs to the incinerator.

(b) To maintain records of the following information for each chemical waste landfill containing PCB's:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(c) To maintain records of the following information for each PCB storage facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(d) To maintain records of the following information for each PCB commercial storage facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(e) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(f) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(g) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(h) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(i) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(j) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(k) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(l) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(m) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(n) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(o) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(p) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(q) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(r) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(s) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(t) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(u) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(v) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(w) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(x) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(y) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

(z) To maintain records of the following information for each PCB disposal facility:

(1) Results of the monitoring program.

(2) Records of any chemical analyses performed.

(3) Records of any inspections performed.

(4) Records of any repairs performed.

(5) Records of any corrective action taken.

(6) Records of any leachate collected and its disposition.

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279.56 Owners or operators of used oil processing and re-refining facilities. [Added]

To keep at the facility a written analysis plan describing the procedures that will be used to comply with the analysis requirements of 40 CFR 279.53 (Rebuttal presumption for used oil) and 40 CFR 279.72 (Tracking).

279.56 Used and processors/re-refiners. [Added]

To keep a record of each used oil shipment that is accepted for processing/re-refining and shipped to a used oil burner, processor/re-refiner, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents.

Retention period: 3 years.

279.57 Owners or operators of used oil transfer facilities. [Added]

To keep a written operating record at the facility of records and results of used oil analyses performed as described in the analysis plan required under 40 CFR 279.55 and summary reports and details of all incidents that require implementation of the contingency plan as specified in 40 CFR 279.52(b).

Retention period: Until closure of the facility.

279.63 Used oil burners who burn off-specification used oil for energy recovery. [Added]

See 40 CFR 279.55.

279.65 Used oil burners who burn off-specification used oil for energy recovery. [Added]

See 40 CFR 279.56.

279.66 Used oil burners who burn off-specification used oil for energy recovery. [Added]

To maintain the one-time written and signed record certifying that (a) the burner has notified EPA stating the location and general description of used oil management activities and (b) the burner will burn the used oil only in industrial furnace or boiler.

Retention period: 3 years from the date the burner last receives shipment of off-specification used oil from the generator, transporter, or processor/re-refiner.

279.72 Used oil fuel marketers. [Added]

To keep copies of analyses of the used oil (or other information) used to make the determination that the used oil that is to be burned for energy recovery meets the specifications for used oil fuel under 40 CFR 279.11.

Retention period: 3 years.

279.74 Used oil generators. [Added]

See 40 CFR 279.56.

279.75 Used oil generators, transporters, or processors/re-refiners. [Added]

See 40 CFR 279.66.

704.25 Persons who manufacture, import, and process 11-Aminoundecanoic acid. [Added by OFR]

To retain documentation of information contained in the chemical-specific report.

Retention period: 5 years from the date of submission of the report.

704.102 Persons who manufacture, import, or process hexachloronorbornadiene (HEX-BCH) for use as an intermediate in the production of isodrin or endrin, on or after January 2, 1986. [Redesignated from 704.142, 1988]

See 40 CFR 704.95

704.104 Persons who manufacture, import or process hexafluoropropylene oxide. [Added by OFR]

See 40 CFR 704.95.

704.152 Persons who propose to manufacture, import, or process hexafluoropropylene oxide (HFPO) for use as an intermediate in the manufacture of fluorinated substances in an enclosed process after Dec. 10, 1987. [Removed by OFR]

704.142 Persons who manufacture, import, or process hexachloronorbornadiene (HEX-BCH) for use as an intermediate in the production of isodrin or endrin, on or after January 2, 1986. [Redesignated as 704.102, 1988]

721.17 Manufacturers, importers, and processors of chemical substances which EPA has determined are significant new uses under certain provisions of the Toxic Substances Control Act. [Redesignated as 721.40, 1988]

721.40 Manufacturers, importers, or processors submitting a significant new use notice to EPA. [Redesignated from 721.17, 1988]

To maintain documentation of information contained in the significant new use notice.

Retention period: 5 years from the date of the submission of the significant new use notice.

721.277 Manufacturers, importers, and processors of tert-Amyl peroxy alkylene ester (generic name). [Removed by OFR]

721.805 Manufacturers, importers, and processors of benzenamine, 4,4'-[1,3-phenylenebis (1-methylethylidene)]bis[2,6-dimethyl-. [Added]

See 40 CFR 721.125.

721.840 Manufacturers, importers, and processors of alkyl substituted diaromatic hydrocarbons. [Added]

See 40 CFR 721.125.

721.1520 Manufacturers, importers, and processors of benzenamine,2-5-dibutoxy -4-(4-morpholinyl)-, sulfate. [Added]

See 40 CFR 721.125.

721.1060 Manufacturers, importers, and processors of formaldehyde, polymer with bisphenol A and substituted phenol (generic name). [Removed]

721.1075 Manufacturers, importers, and processors of benzenamine,4-(1-methylbutoxy)-, hydrochloride. [Added]

See 40 CFR 721.125.

721.1120 Manufacturers, importers, and processors of benzenamine, 4,4'-[1,4-phenylenebis(1-methylethylidene)]bis[2,6 dimethyl-. [Added]

See 40 CFR 721.125.

721.1210 Manufacturers, importers, and processors of benzene, (2-chloroethoxy)-. [Added]

See 40 CFR 721.125.

721.1272 Manufacturers, importers, and processors of metalated alkylphenol copolymer (generic name). [Amended]

See 40 CFR 721.125.

721.1325 Manufacturers, importers, and processors of benzene, 1-(1-methylbutoxy)-4-nitro-. [Added]

See 40 CFR 721.125.

721.1483 Manufacturers, importers, and processors of 6-nitro-2(3H)-benzoxazolone. [Heading revised by OFR]

See 40 CFR 721.125.

721.1541 Manufacturers, importers, and processors of sulfurized alkylphenol. [Added]

See 40 CFR 721.125.

721.1585 Manufacturers, importers, and processors of substituted phosphate ester (generic). [Added by OFR]

See 40 CFR 721.125.

721.1650 Manufacturers, importers, and processors of alkylbenzenesulfonic acid and sodium salts. [Added]

See 40 CFR 721.125.

720.1745 Manufacturers, importers, and processors of ethoxybenzothiazole disulfide. [Added]

See 40 CFR 721.125.

721.1950 Manufacturers, importers, and processors of 2-butenedioic acid (Z), mono(2-((1-oxopropenyloxy)ethyl ester. [Added]

See 40 CFR 721.125.

721.2025 Manufacturers, importers, and processors of substituted phenylimino carbamate derivative. [Added]

See 40 CFR 721.125.

721.2066 Manufacturers, importers, and processors of coco acid triamine condensate, polycarboxylic acid salts. [Added]

See 40 CFR 721.125.

721.2120 Manufacturers, importers, and processors of cyclic amide. [Added]

See 40 CFR 721.125.

721.2140 Manufacturers, importers, and processors of carbopolycilcol azoalkylaminoalkylcarbomonocyclic ester, halogen acid salt. [Added by OFR]

See 40 CFR 721.125.

721.2175 Manufacturers, importers, and processors of salt of cyclodiamine and mineral acid. [Added].

See 40 CFR 721.125.

721.2225 Manufacturers, importers, and processors of cyclohexanecarbonitrile, 1,3,3-trimethyl-5-oxo-.[Added]

See 40 CFR 721.125.

721.2250 Manufacturers, importers, and processors of 1,4-cyclohexanediamine, cis- and trans-. [Added]

See 40 CFR 721.125.

721.2420 Manufacturers, importers, and processors of alkoxylated dialkyldiethylenetriamine, alkyl sulfate salt. [Added]

See 40 CFR 721.125.

721.2475 Manufacturers, importers, and processors of dimetridazole. [Added by OFR]

See 40 CFR 721.125

721.2540 Manufacturers, importers, and processors of diphenylmethane diisocyanate (MDI) modified. [Added]

See 40 CFR 721.125.

721.2840 Manufacturers, importers, and processors of alkylcarbamic acid, alkynyl ester. [Added]

See 40 CFR 721.125.

721.2980 Manufacturers, importers, and processors of substituted cyclohexyldiamino ethyl esters. [Added]

See 40 CFR 721.125.

721.3100 Manufacturers, importers, and processors of oligomeric silicic acid ester compound with a hydroxylalkylamine. [Added]

See 40 CFR 721.125.

721.3120 Manufacturers, importers, and processors of Propenoate-terminated alkyl substituted silyl ester. [Added]

See 40 CFR 721.125.

721.3180 Manufacturers, importers, and processors of ethane, 2-chloro-1,1,1,2-tetrafluoro-. [Added]

See 40 CFR 721.125.

721.3240 Manufacturers, importers, and processors of ethane, 1,1,1,2,2-pentafluoro-. [Added]

See 40 CFR 721.125.

721.3260 Manufacturers, importers, and processors of ethanedilmidic acids. [Added]

See 40 CFR 721.125.

721.3340 Manufacturers, importers, and processors of ethanol, 2,2'-(hexylamino) bis-. [Added]

See 40 CFR 721.125.

721.3360 Manufacturers, importers, and processors of substituted ethanolamine. [Added]

See 40 CFR 721.125.

721.3480 Manufacturers, importers, and processors of halogenated biphenyl glycidyl ethers. [Added]

See 40 CFR 721.125.

721.3620 Manufacturers, importers, and processors of fatty acid amine condensate, polycarboxylic acid salts. [Added]

See 40 CFR 721.125.

721.3680 Manufacturers, importers, and processors of ethylene oxide adduct of fatty acid ester with pentaerythritol. [Added]

See 40 CFR 721.125.

721.3700 Manufacturers, importers, and processors of fatty acid, ester with styrenated phenol, ethylene oxide adduct. [Added]

See 40 CFR 721.125.

721.3720 Manufacturers, importers, and processors of fatty amide. [Added]

See 40 CFR 721.125.

721.3764 Manufacturers, importers, and processors of fluorene substituted aromatic anine. [Added]

See 40 CFR 721.125.

721.3800 Manufacturers, importers, and processors of formaldehyde, condensated polyxyethylene fatty acid, ester with styrenated phenol, ethylene oxide adduct. [Added]

See 40 CFR 721.125.

721.3880 Manufacturers, importers, and processors of polyalkylene glycol substituted acetate. [Added]

See 40 CFR 721.125.

721.4000 Manufacturers, importers, and processors of polyoxy alkylene glycol amine. [Added]

See 40 CFR 721.125.

721.4260 Manufacturers, importers, and processors of hydrazine, [4-1-methylbutoxy) phenyl]-, monohydrochloride. [Added]

See 40 CFR 721.125.

721.4380 Manufacturers, importers, and processors of modified hydrocarbon resin. [Added]

See 40 CFR 721.125.

721.4460 Manufacturers, importers, and processors of amidinothiopropionic acid. [Added]

See 40 CFR 721.125.

721.4480 Manufacturers, importers, and processors of 2-imino-1,3-thiazin-4-one-5,6-dihydromonohydrochloride. [Added]

See 40 CFR 721.125.

721.4520 Manufacturers, importers, and processors of isopropylidene, bis (1,1-dimethylpropyl) derivative. [Added]

See 40 CFR 721.125.

721.4600 Manufacturers, importers, and processors of recovered metal hydroxide. [Added]

See 40 CFR 721.125.

721.4720 Manufacturers, importers, and processors of disubstituted phenoxazine, chlorometalate salt. [Added]

See 40 CFR 721.125.

721.5050 Manufacturers, importers, and processors of 2,2'-[(1-methylethylidene)bis[4,1-phenyloxy[1-butoxymethyl)-2,1-ethanediyl]oxymethylene]]bisoxirane, reduction product with a diamine. [Added]

See 40 CFR 721.125.

721.5200 Manufacturers, importers, and processors of disubstituted phenylazo trisubstituted naphthalene. [Added]

See 40 CFR 721.125.

721.5250 Manufacturers, importers, and processors of trimethyl spiropolyheterocyclic naphthalene compound. [Added]

See 40 CFR 721.125.

721.5300 Manufacturers, importers, and processors of neodecaneperoxoic acid, 1,1,3,3-tetramethylbutyl ester. [Added]

See 40 CFR 721.125.

721.5450 Manufacturers, importers, and processors of α-olefin sulfonate, sodium salt. [Added]

See 40 CFR 721.125.

721.5475 Manufacturers, importers, and processors of 1-oxa-4-azaspiro[4.5]decane, 4-dichloroacetyl-. [Added]

See 40 CFR 721.125.

721.5525 Manufacturers, importers, and processors of substituted spiro oxazine. [Added]

See 40 CFR 721.125.

721.5660 Manufacturers, importers, and processors of pentaerythritol, mixed esters with carboxylic acids. [Added]

See 40 CFR 721.125.

721.5700 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer. [Added]

See 40 CFR 721.125.

721.5750 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer. [Added]

See 40 CFR 721.125.

721.5800 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.5850 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.5900 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.5950 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6000 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6050 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6100 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6150 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6200 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6250 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6300 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6350 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6400 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6450 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6500 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6550 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6600 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6650 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6700 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6750 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6800 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6850 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6900 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.6950 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

721.7000 Manufacturers, importers, and processors of 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, polymer with 2-propenoic acid, 2-methyl-, 2-(1,1-dimethylethyl)-1,3-dioxolan-4-yl ester, homopolymer, sodium salt. [Added]

See 40 CFR 721.125.

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721.5700 Manufacturers, importers, and processors of pentanenitrile, 3-amino-.[Added]

See 40 CFR 721.125.

721.6060 Manufacturers, importers, and processors of alkylarge substituted phosphite. [Added]

See 40 CFR 721.125.

721.6140 Manufacturers, importers, and processors of dialkyldithiophosphoric acid, aliphatic amine salt. [Added]

See 40 CFR 721.125.

721.6160 Manufacturers, importers, and processors of piperazinone, 1,1'1'-(1,3,5-triazine-2,4,6-triyltris((cyclohexylimino)-2,1-ethanediyl))tris-(3,3,4,5,5-pentamethyl)-. [Added]

See 40 CFR 721.125.

721.6200 Manufacturers, importers, and processors of fatty acid polyamine condensate, phosphoric acid ester salts. [Added]

See 40 CFR 721.125.

721.6220 Manufacturers, importers, and processors of aryl sulfonate of a fatty acid mixture, polyamine condensate. [Added]

See 40 CFR 721.125.

721.6540 Manufacturers, importers, and processors of acrylamide, polymers with tetraalkyl ammonium salt and polyalkyl, aminoalkyl methacrylamide salt. [Added]

See 40 CFR 721.125.

721.6560 Manufacturers, importers, and processors of acrylic acid, polymer with substituted ethene. [Added]

See 40 CFR 721.125.

721.6620 Manufacturers, importers, and processors of alkanaminium, polyalkyl-[[2-methyl-1-oxo-2-propenyl)oxy]salt, polymer with acrylamide and substituted alkyl methacrylate. [Added]

See 40 CFR 721.125.

721.6625 Manufacturers, importers, and processors of oxiranemethanamine, N,N'-[methylenebis(2-ethyl-4,1-phenylene)]bis(N-(oxiranylmethyl))-. [Added]

See 40 CFR 721.125.

721.6640 Manufacturers, importers, and processors of polymer of alkanedioic acid, methylenebiscarbomonocyclic diisocyanate, and alkylene glycols, hydroxyalkyl acrylate ester. [Added]

See 40 CFR 721.125.

721.6820 Manufacturers, importers, and processors of polymer of substituted aryl olefin. [Added]

See 40 CFR 721.125.

721.6920 Manufacturers, importers, and processors of butyl acrylate, polymer with substituted methyl styrene, methyl methacrylate, and substituted silane. [Added]

See 40 CFR 721.125.

721.7000 Manufacturers, importers, and processors of polymer of dieodium maleate, allyl ether, and ethylene oxide. [Added]

See 40 CFR 721.125.

721.7200 Manufacturers, importers, and processors of perfluoroalkyl aromatic carbamate modified alkyl methacrylate copolymer. [Added]

See 40 CFR 721.125.

721.7210 Manufacturers, importers, and processors of epoxidized copolymer of phenol and substituted phenol. [Added]

See 40 CFR 721.125.

721.7240 Manufacturers, importers, and processors of polymer of disubstituted phthalate, dioxoheteropolycycle, and methacrylic acid. [Added]

See 40 CFR 721.125.

721.8125 Manufacturers, importers, and processors of propane, 1,1,1,2,3,3,3-heptafluoro-. [Added]

See 40 CFR 721.125.

721.8250 Manufacturers, importers, and processors of 1-propanol, 3,3'-oxybis[2,2-bis(bromomethyl). [Added]

See 40 CFR 721.125.

721.8375 Manufacturers, importers, and processors of 2-propenoic acid, 2-(2-oxo-3-oxazolidinyl)ethyl ester. [Added]

See 40 CFR 721.125.

721.8425 Manufacturers, importers, and processors of 2-propenoic acid,2-[[[[1,3,3-trimethyl-5-[[[2-((1-oxo-2-propenyl) oxy)ethoxy]carbonyl] amino]cyclohexyl]methyl]amino] carbonyl]oxy]ethyl ester. [Added]

See 40 CFR 721.125.

721.9280 Manufacturers, importers, and processors of reaction product of ethoxylated fatty acid oils and a phenolic pentaerythritol tetraester.[Added]

See 40 CFR 721.125.

721.9300 Manufacturers, importers, and processors of reaction products of substituted hydroxyalkanes and polyalkylpolyiso cyanatocarbomonocycle.[Added]

See 40 CFR 721.125.

721.9400 Manufacturers, importers, and processors of reaction product of phenolic pentaerythritol tetraesters with fatty acid esters and oils, and glyceride triesters. [Added]

See 40 CFR 721.125.

721.9420 Manufacturers, importers, and processors of polymethylcarbomonocycle, reaction product with 2-hydroxyethyl acrylate. [Added]

See 40 CFR 721.125.

721.9460 Manufacturers, importers, and processors of tall oil fatty acids, reaction products with polyamines, alkyl substituted. [Added]

See 40 CFR 721.125.

721.9525 Manufacturers, importers, and processors of acrylate substituted siloxanes and silicones. [Added]

See 40 CFR 721.125.

721.9550 Manufacturers, importers, and processors of sulfonamide. [Added]

See 40 CFR 721.125.

721.9570 Manufacturers, importers, and processors of halophenyl sulfonamide salt. [Added]

See 40 CFR 721.125.

721.9740 Manufacturers, importers, and processors of brominated triazine derivative. [Added]

See 40 CFR 721.125.

721.9820 Manufacturers, importers, and processors of substituted triazole. [Added]

See 40 CFR 721.125.

721.9850 Manufacturers, importers, and processors of 2,4,8,10-tetraoxa-3,9-diphosphaespiro[5,5]undecane,3,9-bis[2,4,6-tris(1,1-dimethylethyl)phenoxy]-. [Added]

See 40 CFR 721.125.

721.9975 Manufacturers, importers, and processors of zirconium(IV),[2,2-bis[(2-propenyloxy)methyl]-1-butanolato-01,02]tris(2-propenoato-O-)-. [Added]

See 40 CFR 721.125.

760.218 Disposal facilities, generators and commercial storers of PCB waste. [Removed by OFR]

GENERAL SERVICES ADMINISTRATION

41 CFR

101–8–313 Recipients of Federal assistance from GSA. [Added by OFR]

To maintain on file self-evaluation of current policies and practices and the effects thereof that do not or may not meet applicable requirement.

Retention period: 3 years following completion.

INTERIOR DEPARTMENT

41 CFR

114–50.407–4 State agencies participating in relocation assistance programs. [Removed, 1986]

HEALTH AND HUMAN SERVICES DEPARTMENT

Public Health Service

42 CFR

36.54 Physicians practicing abortions and related medical services in Indian Health Service Facilities and Indian Health Service Program. [Added by OFR]

When using Federal funds for an abortion, to maintain documents certifying that the life of the mother would be endangered.

Retention period: 3 years pursuant to the retention and custodial requirements for records at 45 CFR 74.20 et. seq.

36.56 Physicians practicing abortions and related medical services in Indian Health Service Facilities and Indian Health Service Program. [Added by OFR]

See 42 CFR 36.54.

50.013 PHS awardees and applicants institutions for dealing with and reporting possible misconduct in science. [Correctly renumbered 50.103 by OFR]

50.103 PHS awardees and applicants institutions for dealing with and reporting possible misconduct in science. [Correctly renumbered from 50.013 by OFR]

To maintain sufficiently detailed documentation of inquiries to permit a later assessment of the reasons for determining that an investigation was not warranted.

Retention period: For a period of at least 3 years after the termination of the inquiry and shall, upon request, be provided to authorized HHS personnel.

50.208 Programs or projects using Federal financial assistance for any sterilization or hysterectomy. [Added by OFR]

To maintain sufficient records and documents to assure compliance with applicable regulations.

Retention period: 3 years.

50.304 Physicians performing abortions and related medical services in Federally assisted programs of the PHS. [Added by OFR]

See 42 CFR 36.54.

50.309 Physicians performing abortions and related medical services in Federally assisted programs of the PHS. [Added by OFR]

See 42 CFR 36.54.

51d.113 Public or nonprofit private entities receiving Federal grants for Hemophilia Treatment Centers. [Removed, 1988]

51f.110 Public or nonprofit entities receiving project grants for genetic diseases testing and counseling programs. [Removed, 1988]

57.711 Public or nonprofit private schools of medicine or osteopathy receiving grants for physician assistance training programs. [Redesignated from 57.712, 1987]

To maintain records to meet the requirements of 45 CFR part 74 and section 705 of the Public Health Service Act, as amended, concerning recordkeeping, audit, and inspection.

Retention period: 3 years or until resolution of all issues arising from claim, negotiation, audit, or other action.

57.712 Public or nonprofit private schools of medicine or osteopathy receiving grants for physician assistance training programs. [Redesignated as 57.711, 1987]

57.1111 Schools of dentistry and accredited postgraduate dental training institutions receiving grants for residency training in the general practice of dentistry. [Redesignated from 57.1113, 1987]

To maintain records to meet the requirements of 45 CFR part 74 and section 705 of the Public Health Service Act, as amended, concerning recordkeeping, audit, and inspection.

Retention period: 3 years or until resolution of all issues arising from claim, negotiation, audit, or other action.

57.1113 Schools of dentistry and accredited postgraduate dental training institutions receiving grants for residency training in the general practice of dentistry. [Redesignated as 57.1111, 1987]

57.1210 Schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, and podiatry receiving financial distress grants. [Removed]

57.1910 Public or nonprofit private schools of nursing, agencies, organizations and institutions receiving grants for special projects. [Removed, 1988]

57.1912 Public and nonprofit entities receiving Nursing Special Project grants. [Removed, 1988]

57.2511 Public and nonprofit private collegiate schools of nursing receiving grants for advanced nurse training programs. [Removed, 1987]

57.2513 Public and nonprofit private collegiate school of nursing receiving the Advanced Nurse Training Programs grants. [Removed, 1987]

57.2914 Public or private institutions or entities receiving grants for training United States citizen foreign medical students. [Removed; section no longer codified in the CFR]

58.224 Educational entities receiving grants for traineeships for students enrolled in graduate programs in health administration, hospital administration, or health policy analysis and planning. [Correctly renumbered 58.234 by OFR]

58.234 Educational entities receiving grants for traineeships for students enrolled in graduate programs in health administration, hospital administration, or health policy analysis and planning. [Correctly renumbered from 58.224 by OFR]

In addition to the requirements of 45 CFR part 74, to maintain records to meet the audit and inspection requirements of section 705 of the PHS Act.

Retention period: 3 years or until resolution of all issues arising from claim, negotiation, audit, or other action.

59.12 State health agencies or public or nonprofit private agencies and institutions receiving grants to assist in the establishment and operation of the voluntary family planning projects. [Correctly renumbered 59.14 by OFR]

59.14 State health agencies or public or nonprofit private agencies and institutions receiving grants to assist in the establishment and operation of the voluntary family planning projects. [Correctly renumbered from 59.14 by OFR]

To maintain records as specified in 45 CFR part 74.

Retention period: 3 years or until resolution of all issues arising from claim, negotiations, audit, or other action.

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59.210 State health agencies or public or nonprofit private agencies and institutions receiving project and personnel training grants for family planning services. [Added by OFR]

To maintain laboratory notes, related technical data, and information pertaining to inventions and discoveries.

Retention period: For such periods as the Secretary or those designated at such times, may determine to be necessary to carry out Department regulations.

60.35 Health Education Assistance Loan (HEAL) Program lenders. [Amended]

In loan collection, to maintain in the borrower's file a record of each attempt to contact and each actual contact. To also maintain written documentation of all skip-tracing activities.

Retention period: Not less than 5 years following the date the loan is repaid in full by the borrower. In particular cases the Secretary may require the retention of records beyond the minimum period.

60.42 Health Education Assistance Loan (HEAL) Program lenders. [Amended]

To maintain complete and accurate records of each HEAL loan, organized in a way to permit ready identification of the current status of each loan. The required records include the loan application; the original promissory note, the repayment schedule agreement; evidence of each disbursement of loan proceeds; notices of changes in a borrower's address and status as a full-time student; evidence of the borrower's eligibility for a deferment; the borrower's signed statement describing his or her rights and responsibilities in connection with a HEAL loan; the documents required for the exercise of forbearance; documentation of the assignment of the loan; and other records as specified in the section cited.

Retention period: 5 years following the date the loan is repaid in full by the borrower. In particular cases, the Secretary may require the retention of records beyond this minimum period.

60.59 Schools ceasing to participate in the HEAL. [Added by OFR]

To maintain all required HEAL records.

64.4 Institutions receiving Federal grants for National Institutes of Health and National Library of Medicine training. [Revised, 1991, regulation contains no record retention requirements]

74.2 Clinical laboratories (microbiology and serology, clinical chemistry, immunohemotology, pathology, and radiobiology). [Removed, 1990]

74.50 Clinical laboratories which have been issued licenses under the Clinical Laboratories Improvement Act of 1967. [Removed, 1990]

74.52 Clinical laboratories which have been issued licenses under the Clinical Laboratories Improvement Act of 1967. [Removed, 1990]

74.53 Clinical laboratories which have been issued licenses under the Clinical Laboratories Improvement Act of 1967. [Removed, 1990]

Health Care Financing Administration

42 CFR

Part 405, subpart K Institutions providing skilled nursing and intermediate care facility services under a State plan for medical assistance. [Removed, 1989]

405.1026–405.1040 Hospitals which have filed agreements to participate in the health insurance for the aged and disabled programs. [Removed; Subpart J (405.1011–405.1042) regulations transferred to part 482, 1986]

405.1310–405.1317 Independent laboratories. [Removed, 1990]

405.2470 Rural health clinics and Federally qualified health centers; Medicare Program. [Added]

To maintain adequate financial and statistical records, in the form and containing the data required by HCFA, to allow the intermediary to determine payment for covered services furnished to Medicare beneficiaries.

416.47 Ambulatory surgical services; Medicare. [Added by OFR]

To maintain complete, comprehensive, and accurate medical record to ensure adequate patient care.

417.436 Health maintenance organizations. [Added]

(a) To maintain written policies and procedures concerning advance directives, such as a living will or durable power of attorney for health care, recognized under State law, relating to the provision of health care when an individual's condition makes him or her unable to express his or her wishes.

(b) To document in the individual's medical record whether or not the individual has executed an advance directive.

417.568 Health maintenance organizations; Medicare. [Added]

To maintain sufficient financial records and statistical data for proper determination of costs payable by Medicare for covered services furnished to its Medicare enrollees, either directly or under arrangements with others.

424.57 Health maintenance organizations; Medicare. [Added]

To maintain documentable complaints, related correspondence, and notes of action taken in response to oral or written complaints.

433.74 State Medicaid agencies. [Added]

To maintain, in readily renewable form, supporting documentation that provides a detailed description and legal basis for each donation and tax program being reported, as well as the source and use of all donations received and taxes collected. This information must be made available to Federal reviewers upon request.

434.14 Health insuring organizations having contracts to furnish Medicaid services, process or pay Medicaid claims, or provide other services. [Removed, 1990]

441.352 Medicaid agencies; community-based services waivers for individuals age 65 or older. [Added]

To maintain and make available to HHS, the Comptroller General, or other designees, appropriate financial records documenting the cost of services furnished to the individuals age 65 or older under the waiver and the State plan, including reports of any independent audits conducted.

441.353 Medicare agencies; community-based services waivers for individuals age 65 or older. [Added]

To maintain written documentaiton on all evaluations and reevaluation of recipient's level of care.

Retention period: 3 years.

Part 442, subpart G Institutions providing skilled nursing and intermediate care facility services under a State plan for medical assistance. [Removed, 1988]

447.299 State Medicaid agencies. [Added]

To maintain, in readily reviewable form, supporting documentation that provides a detailed description of each DSH program, the legal basis for each DSH program, and the amount of DSH payments made to each individual public and private provider or facility each quarter. This information must be made available to Federal reviewers upon request.

456.706 Pharmacists participating in the Drug Use Review (DUR) Program and Electronic Claims Management System for outpatient drug claims. [Added]

To maintain patient profiles containing, at a minimum, the following information: (a) Name, address, telephone number, date of birth (or age), and gender of the patient; (b) individual medical history, if significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices; and (c) comments relevant to the individual's drug therapy.

482.60 Psychiatric hospitals participating in Medicare. [Added by OFR]

To maintain clinical records on all patients, including records sufficient to permit HCFA to determine the degree and intensity of treatment furnished to Medicare beneficiaries.

483.10 Long term care facilities participating in Medicare and Medicaid. [Amended]

To maintain records that assure full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf.

Retention period: See 42 CFR 483.75.

483.130 Intermediate care facilities for the mentally retarded. [Added]

To maintain records of evaluations and determinations, regardless of whether they are performed categorically or individually in order to support determinations and actions and to protect the appeal rights of individuals subjected to Preadmission Screening and Annual Resident Review (PASARR) determinations.

488.64 Facilities certified as comprehensive outpatient. [Removed; regulation contains no record retention requirements]

489.102 Hospitals, skilled nursing facilities, nursing facilities, home health agencies, providers of home health care (and for Medicaid purposes, providers of personal care services), and hospices. [Added]

To maintain written policies and procedures concerning advance directives (on individual's control over medical treatment decisions) with respect to all adult individuals receiving medical care. To also document in the individual's medical record whether or not the individual has executed the implementation of such rights under State law (whether statutory or recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate, at the individual's option, advance directives.

493.801 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) programs. [Revised]

To maintain records on handling, preparation, processing, examination and steps in the testing and reporting of results for all proficiency testing samples, including a copy of the proficiency testing program report forms used by the laboratory to record proficiency testing results.

Retention period: For a minimum of 2 years from the date of the proficiency testing event.

493.823 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–bacteriology. [Revised]

To maintain documentation of all remedial action taken to correct problems associated with a proficiency testing failure.

Retention period: 2 years from the date of participation in proficiency testing event.

493.825 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–mycobacteriology. [Revised]

See 42 CFR 493.823.

493.827 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–mycology. [Revised]

See 42 CFR 493.823.

493.829 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–parasitology. [Revised]

See 42 CFR 493.823.

493.831 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–virology. [Revised]

See 42 CFR 493.823.

493.835 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–syphilis serology. [Revised]

See 42 CFR 493.823.

493.837 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–general immunology. [Revised]

See 42 CFR 493.823.

493.841 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–routine chemistry. [Revised]

See 42 CFR 493.823.

493.843 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–endocrinology. [Revised]

See 42 CFR 493.823.

493.845 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–toxicology. [Revised]

See 42 CFR 493.823.

493.847 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratories Improvement Act of 1967 (CLIA'67) Programs–urinalysis. [Removed]

493.851 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–hematology. [Revised]

See 42 CFR 493.823.

493.855 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–cytology: gynecologic examinations. [Added]

To maintain records on reexamination of slides.

493.859 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–ABO group and Rho (D) typing. [Revised]

See 42 CFR 493.823.

493.861 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–unexpected antibody detection. [Revised]

See 42 CFR 493.823.

493.863 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–compatibility testing. [Revised]

See 42 CFR 493.823.

493.865 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–antibody identification. [Revised]

See 42 CFR 493.823.

493.903 Laboratories regulated under the Medicare, Medicaid, and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs. [Added]

To maintain records of performance.

Retention period: 5 years or such time as may be necessary for any legal proceedings.

493.905 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–moderate complexity. [Revised]

See 42 CFR 493.903.

493.907 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–high complexity. [Revised]

See 42 CFR 493.903.

493.909 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–waived tests. [Revised]

See 42 CFR 493.903.

493.911 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–provider-performed microscopy procedures. [Revised]

See 42 CFR 493.903.

493.913 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–histocompatibility. [Revised]

See 42 CFR 493.903.

493.915 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–reagent and media preparation. [Revised]

See 42 CFR 493.903.

493.917 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–quality assurance. [Revised]

See 42 CFR 493.903.

493.919 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–quality control. [Revised]

See 42 CFR 493.903.

493.921 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–proficiency testing. [Revised]

See 42 CFR 493.903.

493.923 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–personnel. [Revised]

See 42 CFR 493.903.

493.925 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–facility administration. [Revised]

See 42 CFR 493.903.

493.927 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–patient test management. [Revised]

See 42 CFR 493.903.

493.929 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–quality assessment. [Revised]

See 42 CFR 493.903.

493.931 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–referral laboratories. [Revised]

See 42 CFR 493.903.

493.933 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–successful participation. [Revised]

See 42 CFR 493.903.

493.935 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–cytology. [Revised]

See 42 CFR 493.903.

493.937 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–immunohematology. [Revised]

See 42 CFR 493.903.

493.939 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–histopathology. [Revised]

See 42 CFR 493.903.

493.941 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–oral pathology. [Revised]

See 42 CFR 493.903.

493.943 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–clinical cytogenetics. [Revised]

See 42 CFR 493.903.

493.945 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–clinical biochemical genetics. [Revised]

See 42 CFR 493.903.

493.947 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–molecular pathology. [Revised]

See 42 CFR 493.903.

493.949 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–immunopathology. [Revised]

See 42 CFR 493.903.

493.951 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–infectious disease. [Revised]

See 42 CFR 493.903.

493.953 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–mycobacteriology. [Revised]

See 42 CFR 493.903.

493.955 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–mycology. [Revised]

See 42 CFR 493.903.

493.957 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–parasitology. [Revised]

See 42 CFR 493.903.

493.959 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–virology. [Revised]

See 42 CFR 493.903.

493.961 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–syphilis serology. [Revised]

See 42 CFR 493.903.

493.963 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–general immunology. [Revised]

See 42 CFR 493.903.

493.965 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–routine chemistry. [Revised]

See 42 CFR 493.903.

493.967 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–endocrinology. [Revised]

See 42 CFR 493.903.

493.969 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–toxicology. [Revised]

See 42 CFR 493.903.

493.971 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratories Improvement Act of 1967 (CLIA'67) Programs–urinalysis. [Removed]

493.973 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–hematology. [Revised]

See 42 CFR 493.903.

493.975 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–cytology: gynecologic examinations. [Added]

To maintain records on reexamination of slides.

493.977 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–ABO group and Rho (D) typing. [Revised]

See 42 CFR 493.903.

493.979 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–unexpected antibody detection. [Revised]

See 42 CFR 493.903.

493.981 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–compatibility testing. [Revised]

See 42 CFR 493.903.

493.983 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–antibody identification. [Revised]

See 42 CFR 493.903.

493.1001 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs. [Added]

To maintain records of performance.

Retention period: 5 years or such time as may be necessary for any legal proceedings.

493.1003 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–moderate complexity. [Revised]

See 42 CFR 493.1001.

493.1005 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–high complexity. [Revised]

See 42 CFR 493.1001.

493.1007 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–waived tests. [Revised]

See 42 CFR 493.1001.

493.1009 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–provider-performed microscopy procedures. [Revised]

See 42 CFR 493.1001.

493.1011 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–histocompatibility. [Revised]

See 42 CFR 493.1001.

493.1013 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–reagent and media preparation. [Revised]

See 42 CFR 493.1001.

493.1015 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–quality assurance. [Revised]

See 42 CFR 493.1001.

493.1017 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–quality control. [Revised]

See 42 CFR 493.1001.

493.1019 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–proficiency testing. [Revised]

See 42 CFR 493.1001.

493.1021 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–personnel. [Revised]

See 42 CFR 493.1001.

493.1023 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–facility administration. [Revised]

See 42 CFR 493.1001.

493.1025 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–patient test management. [Revised]

See 42 CFR 493.1001.

493.1027 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–quality assessment. [Revised]

See 42 CFR 493.1001.

493.1029 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–referral laboratories. [Revised]

See 42 CFR 493.1001.

493.1031 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–successful participation. [Revised]

See 42 CFR 493.1001.

493.1033 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–cytology. [Revised]

See 42 CFR 493.1001.

493.1035 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–immunohematology. [Revised]

See 42 CFR 493.1001.

493.1037 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–histopathology. [Revised]

See 42 CFR 493.1001.

493.1039 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–oral pathology. [Revised]

See 42 CFR 493.1001.

493.1041 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–clinical cytogenetics. [Revised]

See 42 CFR 493.1001.

493.1043 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–clinical biochemical genetics. [Revised]

See 42 CFR 493.1001.

493.1045 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–molecular pathology. [Revised]

See 42 CFR 493.1001.

493.1047 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–immunopathology. [Revised]

See 42 CFR 493.1001.

493.1049 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–infectious disease. [Revised]

See 42 CFR 493.1001.

493.1051 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–mycobacteriology. [Revised]

See 42 CFR 493.1001.

493.1053 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–mycology. [Revised]

See 42 CFR 493.1001.

493.1055 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–parasitology. [Revised]

See 42 CFR 493.1001.

493.1057 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–virology. [Revised]

See 42 CFR 493.1001.

493.1059 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–syphilis serology. [Revised]

See 42 CFR 493.1001.

493.1061 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–general immunology. [Revised]

See 42 CFR 493.1001.

493.1063 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–routine chemistry. [Revised]

See 42 CFR 493.1001.

493.1065 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–endocrinology. [Revised]

See 42 CFR 493.1001.

493.1067 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–toxicology. [Revised]

See 42 CFR 493.1001.

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493.1101 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratories Improvement Act of 1967 (CLIA'67) Programs. [Revised; regulation contains no record retention requirements]

493.1152 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs. [Added]

To maintain records of test requisitions or test authorizations or patient chart or medical record, if used as the test requisition.

493.1107 Laboratories regulated under the Medicare, Medicaid,and Clinical Laboratory Improvement Act of 1988 (CLIA)–test records. [Added]

To maintain a record system to ensure reliable identification of patient specimens as they are processed and tested to assure that accurate test results are reported. These records must identify the personnel performing the testing procedures.

Retention period: (a) Records of patient testing, including, if applicable, instrument printouts–2 years. (b) Immunohematology records–for no less than 5 years in accordance with 21 CFR part 606, subpart I.

493.1109 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA). [Added]

To maintain original immunohematological and pathological reports or exact duplicate of each test report, including final and preliminary reports.

Retention period: 2 years after the date of reporting. Immunohematology report– no less than 5 years in accordance with 21 CFR part 606, subpart I. Pathology test report– for at least 10 years after date of reporting. This information may be maintained as part of the patient's chart or medical record and must be readily available to HHS upon request.

493.1205 Laboratories regulated under the Medicare, Medicaid,and Clinical Laboratory Improvement Act of 1988 (CLIA). [Added]

To maintain documentation of the verification or establishment of all applicable test performance specifications.

493.1211 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–procedure manual. [Revised]

To maintain copies of each procedure manual with the dates of initial use and discontinuance.

Retention period: 2 years after a procedure has been discontinued.

493.1215 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratories Improvement Act of 1967 (CLIA'67) Programs. [Revised; regulation contains no record retention requirements]

493.1221 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs. [Revised]

(a) To document and maintain records of all quality control activities specified in 42 CFR 493.1202 through 493.1285.

Retention period: 2 years.

(b) To maintain immunohematology quality control records.

Retention period: For a period of not less than 5 years.

(c) To maintain quality control records for blood and blood products.

Retention period: Not less than 5 years after processing records are completed or 6 months after the latest expiration date, whichever is the later date in accordance with 21 CFR 606.160(d).

493.1223 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–quality control–specialities and subspecialities. [Revised]

See 42 CFR 493.1221.

493.1225 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–microbiology.[Revised]

See 42 CFR 493.1221.

493.1227 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–bacteriology.[Revised]

See 42 CFR 493.1221.

493.1229 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–mycobacteriology. [Revised]

See 42 CFR 493.1221.

493.1231 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–mycology. [Revised]

See 42 CFR 493.1221.

493.1233 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–parasitology.[Revised]

See 42 CFR 493.1221.

493.1235 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–virology (quality control).[Revised]

To maintain records that reflect the systems used and the reactions observed.

493.1237 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–diagnostic immunology. [Revised]

See 42 CFR 493.1221.

493.1239 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratories Improvement Act of 1988 (CLIA) Programs–syphilis serology. [Revised]

See 42 CFR 493.1221.

493.1241 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–general immunology. [Revised]

See 42 CFR 493.1221.

493.1243 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratories Improvement Act of 1988 (CLIA) Programs–chemistry.[Revised]

See 42 CFR 493.1221.

493.1245 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–routine chemistry. [Revised]

See 42 CFR 493.1221.

493.1247 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–endocrinology.[Revised]

See 42 CFR 493.1221.

493.1251 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratories Improvement Act of 1967 (CLIA'67) Programs–urinalysis. [Removed]

493.1253 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–hematology. [Revised]

See 42 CFR 493.1221.

493.1255 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–pathology. [Revised]

See 42 CFR 493.1221.

493.1257 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–quality control requirements for cytology. [Revised]

(a) To maintain records of the number of slides examined by each individual during each 24 hour period and the number of hours each individual spends examining slides in the 24 hour period.

(b) To retain all normal, negative and unsatisfactory slide preparations.

Retention period: 5 years from date of examination.

(c) To maintain records of initial examinations and rescreening results; and other such information as specified in section cited.

493.1259 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–histopathology. [Revised]

To retain (a) stained slides and (b) specimen blocks.

Retention period: (a) At least 10 years from date of examination and (b) at least 2 years from date of examination.

493.1261 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–oral pathology. [Revised]

See 42 CFR 493.1211, 493.1215, 493.1221, and 493.1259.

493.1263 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–radiobioassay. [Revised]

See 42 CFR 493.1211, 493.1215, 493.1221, and 493.1259.

493.1265 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–histocompatibility. [Revised]

To maintain records of the test results for each individual (previously tested specimen is given at least once each month to each individual performing tests as an unknown to verify ability to reproduce test results); and other such information as specified in section cited.

493.1267 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA)–clinical cytogenetics. [Added]

To maintain records that reflect the media used and document the reasons observed, number of cells counted, the number of cells counted for each metaphase spread, and the quality of the banding; that the resolution is sufficient to support the reported results and that an adequate number of karyotypes are prepared for each patient.

493.1269 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA)–immunohematology. [Added]

See 42 CFR 493.1211, 493.1215, 493.1221, and 493.1259.

493.1273 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–immunohematological, collection, processing, dating periods, labeling and distribution of blood and blood products. [Revised]

See 42 CFR 493.1221.

493.1275 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA)–blood and blood products storage facilities. [Added]

To maintain records on inspections of the alarm system.

493.1285 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA) Programs–facilities investigating transfusion reactions. [Revised]

To document that all necessary remedial actions are taken to prevent recurrences and that all policies and procedures are reviewed to assure that they are adequate to ensure the safety of individuals being transfused within the facility.

493.1407 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA)–laboratory director responsibilities. [Added]

To maintain records to ensure that all necessary remedial actions are taken and document whenever significant deviations from the laboratory's established performance specifications are identified, and that patient test results are reported only when the system is functioning properly.

493.1425 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA)–testing personnel. [Added]

(a) To maintain records that demonstrated that proficiency testing samples are tested in the same mnanner as patient samples.

(b) To maintain records on all corrective actions taken when test systems deviate from the laboratory's established performance specifications.

493.1445 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA)–laboratory director responsibilities. [Added]

See 42 CFR 493.1425.

493.1495 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA)–testing personnel. [Added]

(a) To maintain records that demonstrate that proficiency testing samples are tested in the same manner as patient specimens.

(b) To maintain documentation of all corrective actions taken when test systems deviate from the laboratory's established performance specifications.

493.1501 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratories Improvement Act of 1967 (CLIA'67) Programs–quality assurance. [Removed]

493.1601 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratories Improvement Act of 1967 (CLIA'67) Programs–inspection. [Removed]

493.1701 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA)–quality assurance. [Added]

See 42 CFR 493.1721.

493.1715 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA)–communications. [Added]

To maintain documentation on correction actions taken to resolve the problems that occur as a result of breakdowns in communication between the laboratory and the authorized individual who orders or receives the results of test procedures or examinations.

493.1721 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA)–quality assurance. [Added]

To maintain documentation of all quality assurance activities including problems identified and corrective actions taken. All quality assurance records must be available to HHS.

493.1777 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA). [Added]

(a) To retain immunohematology records for a period of not less than 5 years in accordance with 21 CFR part 606, subpart I.

(b) To retain pathology test reports for at least 10 years after the date of reporting as required in 42 CFR 493.1109.

493.1780 Laboratories regulated under the Medicare, Medicaid and Clinical Laboratory Improvement Act of 1988 (CLIA)–accredited and State–exempt laboratories. [Added]

See 42 CFR 493.1777.

INTERIOR DEPARTMENT

Bureau of Land Management

43 CFR

3162.7–4 Operators on Federal and Indian (except Osage) oil and gas leases. [Revised, 1988; record retention requirements now in 3162.7–5]

3162.7–5 Operators on Federal and Indian (except Osage) oil and gas leases. [Redesignated from 3162.7–4, 1988]

(a) To maintain records of seal numbers used and which valves or

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connections, seals were used on as well as when seals were installed and removed during production and sale phases.

(b) To retain records of inspection and measurements of all leases, units, and communitized areas to determine site security and production volumes.

Retention period: (a) and (b) 6 years.

3190.2–1 States, Indian Tribes, or contractors relating to oil and gas productions on Federal and Indian lands. [Added by OFR]

To maintain all records and other materials relating to a delegation of authority, cooperative agreement or contract.

Retention period: 6 years from the date they are generated or such other period as may be specified in the delegation, cooperative agreement, or contract.

3484.1 Operators/lessees developing, mining, preparing, and handling operations for Federal coal. [Added by OFR]

To retain all drill and geophysical logs.

Retention period: 1 year unless a shorter time period is authorized by the authorized officer.

3485.2 Operators/lessees developing, mining, preparing and handling operations for Federal coal. [Removed; record retention requirements in 3485.3]

3597.1 Operators/lessees discovering, testing, developing, mining, or processing minerals. [Added by OFR]

To maintain records which show a correct amount of all ore and rock mined, of all ore put through the processing plant, of all mineral products produced and of all ore and mineral products sold. The records shall show all relevant quality analyses of ore minded, processed or sold and the percentage of the mineral products recovered or lost.

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR

7.10 Recipients of Federal assistance from FEMA. [Added by OFR]

To keep such records in such form and containing such information necessary to enable FEMA officials to ascertain compliance with nondiscrimination regulations.

13.20 States and local governments receiving Federal grants and cooperative agreements. [Added by OFR]

To maintain records which adequately identify the sources and applications of funds provided for financially–assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

Retention period: 3 years after final payments and all other pending matters are closed.

361.6 States participating in the Earthquake Hazards Reduction Assistance Program. [Added]

(a) To maintain as part of the official record, a copy of the documentation of the basis by which the value of an in–kind was determined.

(b) To maintain records pertaining to matching contributions.

Retention period: 3–year period after the date of submission of the final financial report required by the CCA, or date of audit, whichever date comes first.

361.8 States participating in the Earthquake Hazards Reduction Assistance Program. [Revised; record retention requirements now in 361.6]

HEALTH AND HUMAN SERVICES DEPARTMENT

Office of Secretary

45 CFR

15.52 State and local agencies acquiring real property. [Removed, 1986]

15.54 State and local agencies acquiring real property. [Removed, 1986]

Social Security Administration

45 CFR

400.10 State agencies administering the Refugee Resettlement Program. [Redesignated as 400.28, 1986]

400.28 State agencies administering the Refugee Resettlement Program. [Redesignated from 400.10, 1986]

To maintain such operational records as are necessary for Federal monitoringof the program in accordance with 45 CFR part 74, subpart D. This recordkeeping must include: (a) Documentation of services and assistance provided, including identification of individuals receiving those services; (b) records on the location, progress, and status of unaccompanied minor refugee children, including the last known address of parents; and (c) documentation that necessary followup services and monitoring have been provided.

Office of Community Services

45 CFR

1010.20–3 Grantees under the Economic Opportunity Act of 1964, as amended. [Added]

To maintain the following information: (a) The manner in which services are or will be provided by the program in question, and related data necessary for determining whether any persons are or will be denied such services on the basis of race, color, sex, or national origin; (b) the population eligible to be served by race, color, sex or national origin; (c) the location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying services to any persons on the basis of race, color, sex or national origin; (d) a log of complaints under Title IV identifying each complainant by race, color, sex or national origin, the nature of the complaint; and other such information as specified in cited section.

1067.42–3 Grantees financially assisted under Titles II, IV and VII of the Economic Opportunity Act of 1964, as amended. [Added by OFR]

To maintain separate accounting records for each grant. The accounting records shall include all receipts that occur during the grant period, including Federal grants, non–Federal contributions in cash and in–kind, interest earned, and any income from fees charged to program beneficiaries. The financial records shall also include all expenditures from program funds.

1068.42–10 Grantees financially assisted under Titles II, IV and VII of the Economic Opportunity Act of 1964, as amended. [Added]

To maintain appropriate records and accounts to assure a proper accounting for all proper funds, both Federal and non–Federal. All financial records, including books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, and other related documents must be retained for the time period and in the manner prescribed by CSA's policy, retention and custodial requirements for records.

BICENTENNIAL OF THE UNITED STATES CONSTITUTION COMMISSION

45 CFR

2015.42 State and local governments receiving Federal grants and cooperative agreements. [Removed]

COMMNISSION ON NATIONAL AND COMMUNITY SERVICE

45 CFR

2501.4 States receiving grants under the Serve–America: Programs for Students and Out–of–School Youth. [Added]

To keep such records as may be required for fiscal audits and program evaluation.

2504.5 States receiving grants for National and Community Service Programs. [Added]

See 45 CFR 2501.4.

TRANSPORTATION DEPARTMENT

Coast Guard

46 CFR

10.30–3 Training schools with approval courses. [Part 10 revised, 1989, record retention requirements now in 10.303]

10.303 Training schools with approval courses. [Added by OFR]

To keep for each enrolled student, each written examination, or in the case of a practical test, a report of such test, and a record of each students classroom attendance.

Retention period: 1 year after the end of the students enrollment.

26.06–15 Owners, agents, masters, or persons in charge of any vessels involved in a marine casualty. [Removed, 1987]

57.02–3 Manufacturers or contractors responsible for welding and brazing procedures. [Redesignated as 57.02–4, 1991]

57.02–4 Manufacturers or contractors responsible for welding and brazing procedures. [Redesignated from 57.02–3, 1991]

To maintain records of test results obtained in welding procedure, welder's performance qualifications, and identification data.

Retention period: Not specified.

97.07–15. Owners, agents, masters, or persons in charge of vessels involved in marine casualties. [Removed, 1987]

160.051–5 Manufacturers of approved inflatable liferafts. [Added by OFR]

To maintain records of quality control tests (materials used, manufacturing methods, workmanship, and the finished products).

Retention period: 5 years.

160.051–6 Inflatable liferafts servicing facilities. [Added by OFR]

To maintain a complete record of each inflatable liferaft serviced.

160.052–7 Manufacturers of listed and labeled buoyant vests. [Added by OFR]

To keep on file records of inspections and test, together with affidavits concerning the material.

160.056–5 Manufacturers of rescue boats. [Added by OFR]

To maintain a file of approved prints and all correspondence.

160.062–4 Manufacturers of hydraulic releases. [Added by OFR]

See 46 CFR 160.051–5.

160.077–25 Manufacturers of hyprid PFD's. [Added by OFR]

See 46 CFR 159.007–13.

Retention period: Records must be retained at least 120 months after the month in which the inspection test was conducted.

161.008–1 Manufacturers of hand electric flashlights. [Removed, 1988]

196.07–15 Owners, agents, masters, or persons in charge of vessels involved in marine casualties. [Removed by OFR, no longer codified in the CFR]

197.480 Owners or operators of vessels from which commercial diving operations take place. [Added by OFR]

See 46 CFR 196.35–3.

197.488 Owners, agents, or persons–in charge of a vessel or facility in which a report of casualty is made. [Added by OFR]

To maintain on board all logbooks and required reports.

Maritime Administration

46 CFR

221.13 Charterers of Government-owned dry-cargo vessels. [Revised; regulation contains no record retention requirements]

Part 326, sec. 7 General agents. [Revised, 1988, now 326.7; regulation contains no record retention requirements]

380.24 Operators under title VI and VII, Merchant Marine Act, 1936. [Revised by OFR]

(a) To keep the following records: (1) Official company or corporate records such as certificates or articles of incorporation, minutes, books, stock ledgers, bond registers, merger or acquisition records, patent and copyrights; (2) financial statements and reports; (3) insurance records; (4) contracts agreements, franchises, licenses, etc.; (5) vessel operating records; (6) voyage account items; (7) underlying traffic records pertaining to tariffs, dray tickets pooling agreements, etc,

Retention period: 2 years after final release agreement or settlement agreement is completed between the Administration and contractors under operating–differential subsidy contracts.

(b) To also maintain (1) ship construction or reconversion records; (2) cancelled checks; (3) miscellaneous documents and work papers; (4) any document generated under the provisions of the Shipping Act, 1916; (5) books of accounts; (6) personnel records; and (7) supplementary records such as union agreements.

Retention period: 3 years after final audit and/or approval by the Administration.

FEDERAL MARITIME COMMISSION

46 CFR

514.7 Common carriers or conferences; oceanborne transportation in the foreign and domestic offshore commerce of the United States. [Added]

To maintain service contract records in an organized, readily accessible or retrievable manner.

Retention period: For a period of 5 years from the termination of each contract.

553.4 Non-vessel-operating common carriers (NVO's). [Removed]

559.3 Common carriers by water. [Removed, 1987]

560.701 Common carriers and other persons subject to the Shipping Act, 1916, Agreements. [Added by OFR]

(a) To retain a record of the vote of each question voted on to fix rates (except leases, licenses, assignments or other agreements of similar character for the use of marine terminal facilities).

Retention period: 2 years.

(b) To also maintain all reports or circulars, in whatever form, distributed to the parties, which relate to matters within the scope of approved agreement.

Retention period: 2 years.

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562.4 Parties to agreements in the domestic trades. [Removed, 1987]

566.4 Resident representative of a conference or other ratemaking group domiciled outside the United States. [Removed, 1987]

FEDERAL COMMUNICATIONS COMMISSION

47 CFR

18.152 Owners or operators of industrial, scientific, and medical equipment. [Correctly renumbered 18.205 and revised by OFR]

18.205 Owners or operators of industrial, scientific, and medical equipment. [Correctly renumbered from 18.152 and revised by OFR]

To maintain current information on the description of measurement facilities.

Retention period: Current at all times.

21.208 Licensees of radio stations in the domestic public radio services. [Removed, 1987]

22.15 Licensees in the public mobile radio service. [Added by OFR]

To maintain all supporting data and calculations used in the interference studies.

43.72 Operators on the Multipoint Distribution Service. [Removed, 1990]

64.1200 Persons or entities making telephone solicitations. [Added]

To maintain a do–not–call list for the purpose of future solicitations.

73.757 International broadcasting station licensees. [Added by OFR]

To maintain records of the time and result of each test to determine if auxiliary transmitters are in proper operating conditions and are adjusted to proper frequency.

Retention period: 2 years.

73.781 Licensees or permittees of international broadcast stations. [Added by OFR]

See 73 CFR 23.47.

73.782 Licensees of permittees of international broadcast stations. [Added by OFR]

See 47 CFR 73.781.

73.1202 Licensees of AM, FM, and TV broadcast stations. [Added by OFR]

To maintain, in the local inspection file, letters received from the public unless the letter writer has requested that the letter not be made public or licensee feels that letter should be excluded from public inspection because of nature of its content.

Retention period: 3 years.

73.1940 Licensees of AM, FM, noncommercial educational FM radio, and television broadcast stations. [Revised; record retention requirements now in 73.1943]

73.1943 Licensees of Radio Broadcast and Television Broadcast services. [Added]

(a) To keep a complete and orderly record (political file) of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing disposition made by the licensee of such requests and the charges made, if any, if the request is granted.

(b) To maintain and place in the political file, a record of the free time provided when free time is provided for use by or on behalf of candidates.

Retention period: 2 years.

73.3526 Permittees or licensees of AM, FM, or TV stations in the commercial broadcast services. [Amended]

(a) To maintain copies of every application tendered for filing all exhibits, letters, and all amendments, all correspondence between FCC and applicants, every ownership report or supplemental ownership report and every annual employment record.

Retention period: Various.

(b) To maintain records concerning broadcasts by candidates for public office as required by section 73.1940.

Retention period: 2 years.

(c) To maintain a copy of the Public and Broadcasting—A Procedure Manual (see FCC 74–942, 39 FR 32288, September 5, 1974).

Retention period: Indefinitely.

(d) To maintain letters received from members of the public as required by section 73.1202.

Retention period: 3 years.

(e) To maintain a list of at least 5 to 10 community issues addressed by the station's programming during the preceding 3 month period.

Retention period: Term of the license—5 and 7 years for TV and radio, respectively.

(f) To place in the station's local public inspection file a statement certifying compliance with the Act's commercial limits when applying for renewal of license.

Retention period: As long as the application to which it refers.

(g) To maintain engineering material pertain to a former mode of operation.

Retention period: 3 years after a station commences operation under a new or modified mode.

(h) To maintain records to demonstrate responses to the educational and informational needs of children, even though these records may also document nonprogramming responses to such needs. Children's programming records may be made part of the issues/program list or may be kept as a separate list.

Retention period: 5 years; "Significant treatment of community issues list"–7 years.

73.3613 Licensees of AM, FM, noncommercial educational FM radio, and television broadcast stations. [Amended]

To maintain the following contracts, agreements, or understandings at the station: Contracts relating to the sale of broadcast time to "time brokers" for resale; subchannel leasing agreements for Subsidiary Communications Authorization operation; franchise/leasing agreements for operation of telecommunications services on the TV vertical blanking interval; time sales contracts with the same sponsor for 4 or more hours per day; except where the length of the events (such as athletic contests, musical programs, and special events) broadcast pursuant to the contract is not under control of the station; and contracts with chief operators and other engineering personnel.

Retention period: Not specified.

74.181 Licensees of low power TV or TV translator stations. [Correctly renumbered 74.781 by OFR]

74.781 Licensees of low power TV, TV translator or TV booster stations. [Added by OFR]

To maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, contracts, permission for rebroadcasts, and other pertinent documents.

Retention period: 2 years.

76.95 Operators of cable television systems. [Revised, 1989; regulation contains no record retention requirements]

76.205 Cable television system operators. [Revised; record retention requirements now in 76.207]

76.207 Cable television system operators. [Added]

To maintain complete record (political file) of all requests for cablecast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the cable television system operator of such requests, and the charges made, if any, if request is granted. When free time is provided for use by or on behalf of such candidates, a record of the free time provided must be maintain in the political file.

Retention period: 2 years.

76.305 Operators of cable television systems. [Amended]

(a) To keep lists of requests for origination cablecasting time made by or on behalf of candidates for public office; sponsors of origination cablecasts of a political or controversial nature; names and addresses of nonbusiness advertisers whose ads are origination cablecast; names and addresses of all persons or groups requesting access time for public, educational, or leased access programming; and to keep a copy of FCC Form 325 (annual report) and each of the above records in a file for public inspection.

Retention period: 2 years.

(b) To maintain records of equal opportunity programs statements, complaint reports, and related documents and technical performance test data for each cable television channel.

Retention period: 5 years, except program statements, which must be retained until superseded.

(c) To keep in public inspection file a copy of each franchise, registration statement, petition to FCC, decision of the Commission pertaining to the system, and all other related documents.

Retention period: 2 years.

(d) To keep in public inspection file a copy of application for transfer of control of a cable television relay station serving the system.

Retention period: As long as authorization is outstanding.

76.601 Operators of cable television systems. [Revised]

(a) To maintain at its local office a current listing of the cable television channels which that system delivers to its subscribers.

(b) To maintain the resulting performance and signal leakage test data on file at the local business office.

Retention period: 5 years.

76.607 Cable television system operators. [Added]

To maintain records on resolution of complaints from subscribers about the quality of the television signal delivered.

Retention period: 1 year.

76.619 Operators of cable television system operating in a grandfathered status. [Added by OFR]

To maintain a log showing the date and location of each leakage source identified, the date on which the leakage was eliminated, and the probable cause of the leakage.

Retention period: 2 years.

80.819 Radio officers of passenger ships of 1600 gross tons and upward. [Added by OFR]

To maintain a record of the calibrations and of the check bearings made of their accuracy and the accuracy of the check bearings.

Retention period: 1 year.

80.1075 Global Maritime Distress and Safety System (GMDSS) licensees. [Added]

To maintain records as required by the Radio Regulations and 47 CFR 80.409(a), (b) and (e) of all incidents connected with the radio communication service which appear to be of importance to safety of life at sea.

90.651 Licensees offering service on a commercial basis to any person or entity eligible under the special emergency, industrial and land transportation radio services and public safety radio services. [Amended; regulation contains no record retention requirements]

90.737 Licensees offering nationwide system services on a commercial basis. [Added by OFR]

To maintain records of the names and addresses of each customer and the dates that service commenced and terminated.

95.107 Licensees of personal radio service stations. [Added by OFR]

To keep license document until the license expires or the license is terminated by the FCC or a different license for the GMRS is obtained. The license must be kept as part of the GMRS system.

DEFENSE DEPARTMENT

48 CFR

252.217–7004 Contractors under the job order and compensation contract clause. [Removed]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR

1852.216–79 Contractors subject to the Level–of–Effort (Fixed–Price) clause. [Added]

To maintain such records as may be reasonably required to determine that the minimum number of hours specified in this clause were expended in the performance of the work.

TRANSPORTATION DEPARTMENT

Office of the Secretary

49 CFR

37.83 Amtrak and commuter authorities providing transportation for individuals with disabilities. [Correctly renumbered 37.87 by OFR]

37.87 Amtrak and commuter authorities providing transportation for individuals with disabilities. [Correctly renumbered from 87.87 by OFR and amended]

To retain documentation of the specific good faith efforts made when purchasing or leasing used intercity or commuter rail cars that are not readily accessible to and usable by individuals with disabilities.

Retention period: 3 years from the date the cars were purchased. Records shall be made available on request to the UMTA or FRA Administrator, as applicable.

Research and Special Programs Administration

49 CFR

107.620 Persons engaged in the offering for transportation or transportation of certain hazardous materials in foreign, intrastate, or interstate commerce. [Added]

To maintain at its principal place of business (a) a copy of the registration statement filed with RSPA; (b) a copy of the certified or cashiers check, money order, or a copy of the credit card billing statement showing payment for the person's registration and processing fees; and (c) the Certificate of Registration issued to the registrant by RSPA.

Retention period: For a period of 3 years from the date of issuance of each Certificate of Registration.

110.90 Project managers responsible for day–to–day operations of the hazardous materials public sector training and planning grants. [Added]

To maintain financial and programmatic records, supporting documents, statistical records, training materials, and other documents generated.

Retention period: 3 years from the date the final financial status (SF 269) or Request for Advance or Reimbursement (SF 270) is submitted or until completion of any litigation, claim, negotiating, audit or other action and resolution of all issues or until the end of the regular 3–year period, whichever is later.

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172.205 Carriers transporting hazardous materials. [Added by OFR]

To retain a copy of the manifest and the shipping paper.

Retention period: Manifest– retained by the shipper (generator) and by the initial and each subsequent carrier– 3 years from the date the waste was accepted by the initial carrier; Shipping paper– 3 years by each railroad transporting the waste.

172.704 Hazmat employers. [Added]

To maintain record of current training for each employee, inclusive of the preceding two years. The record shall include the employee's name; the most recent completion date of the employee's training, a description, copy, or the location of the training materials used to meet general awareness/familiarization, safety, function–specific and OSHA or EPA training requirements, the name and address of the person providing the training; and certification that the employee has been trained and tested.

Retention period: For as long as that employee is employed by that employer as a hazmat employee and for 90 days thereafter.

173.33 Motor carriers operating MC 330 and MC 331 cargo tanks. [Amended; regulation contains no record retention requirements]

176.13 Carriers transporting hazardous materials. [Added]

See 49 CFR 172.704.

177.824 Owners of tank motor vehicles transporting flammable liquids. [Revised, 1990; regulation contains no record retention requirements]

177.825 Carriers transporting hazardous materials. [Added by OFR]

See 49 CFR 172.704.

178.16–13 Manufacturers of carboys, jugs in tube, and rubber drums. [Removed, 1990]

178.17–5 Manufacturers of glass carboys. [Removed, 1990]

178.19–7 Manufacturers of shipping containers. [Removed, 1990]

178.47–3 Independent inspection agencies performing cylinder inspections and verifications. [Correctly renumbered 178.47–4 by OFR]

178.47–4 Independent inspection agencies performing cylinder inspections and verifications. [Correctly renumbered from 178.47–3 by OFR]

To maintain complete test reports required on spec. 4DS; inside containers welded stainless steel for aircraft use.

Retention period: 15 years from the original date of the cylinders.

178.54–4 Independent inspection agencies performing cylinder inspections and verifications. [Removed, 1987]

178.54–23 Manufacturers of welded or welded and brazed cylinders with fusion-welded longitudinal seam. [Removed, 1987]

178.80–13 Manufacturers of spec. 5; steel barrels or drums. [Removed, 1990]

178.80–14 Manufacturers of spec. 5; steel barrels or drums. [Removed, 1990]

178.81–13 Manufacturers of spec. 5A; steel barrels or drums. [Removed, 1990]

178.82–13 Manufacturers of spec. 5B; steel barrels or drums. [Removed, 1990]

178.83–13 Manufacturers of spec. 5C; steel barrels or drums. [Removed, 1990]

178.88–12 Manufacturers of spec. 5K; nickel barrels or drums. [Removed, 1990]

178.89–11 Manufacturers of spec. 5L; steel barrels or drums. [Removed, 1990]

178.90–12 Manufacturers of spec. 5M; monel drums. [Removed, 1990]

178.92–13 Manufacturers of spec. 5P; lagged steel drums. [Removed, 1990]

178.98–11 Manufacturers of spec. 6B; steel barrels or drums. [Removed, 1990]

178.99–11 Manufacturers of spec. 6C; steel barrels or drums. [Removed, 1990]

178.100–11 Manufacturers of spec. 6J; steel barrels and drums. [Removed, 1990]

178.107–11 Manufacturers of spec. 42B; aluminum drums. [Removed, 1990]

178.109–11 Manufacturers of spec. 42D; aluminum drums. [Removed, 1990]

178.115–12 Manufacturers of spec. 17C; steel drums. [Removed, 1990]

178.116–12 Manufacturers of spec. 17f; steel drums. [Removed, 1990]

178.117–13 Manufacturers of spec. 17f; steel drums. [Removed, 1990]

178.118–12 Manufacturers of spec. 17H; steel drums. [Removed, 1990]

178.130–10 Manufacturers of spec. 37K; steel drums. [Removed, 1990]

178.131–11 Manufacturers of spec. 37A; steel drums. [Removed, 1990]

178.132–11 Manufacturers of spec. 37B; steel drums. [Removed, 1990]

178.133–11 Manufacturers of spec. 37P; steel drums with polyethylene liners. [Removed, 1990]

178.135–10 Manufacturers of spec. 37C; steel drums. [Removed, 1990]

178.135–7 Manufacturers of spec. 37D; steel drums; nonreusable containers; open head not authorized. [Removed, 1990]

178.140–8 Manufacturers of spec. 13; metal kegs. [Removed, 1990]

178.141–8 Manufacturers of spec. 13A; metal drums. [Removed, 1990]

178.150–6 Manufacturers of shipping containers. [Removed, 1990]

178.182–3 Manufacturers of spec. 15P glued plywood, or wooden box for inside containers. [Removed, 1990]

178.225–4 Manufacturers of spec. 21P fiber drum overpack for inside plastic containers. [Removed, 1990]

178.270–7 Manufacturers of joints in tank shells. [Added by OFR]

To retain record of each qualification of weld procedures and weld performance.

Retention period: For the period prescribed in ASME Code, Section VIII, Pressure Vessels.

178.338–19 Owners/operators of cargo tank motor vehicle. [Added by OFR]

(a) *Owners.* To retain the data report, certificates, and related papers.

Retention period: Throughout the ownership of the cargo tank. In the event of change of ownership, the prior owner shall retain nonfacing

photographically reproduced copies of these documents for at least 1 year.

(b) *Operators.* To maintain a copy of the data report and the certificate or certificates.

Retention period: At least 1 year thereafter.

178.340–10 Motor carriers operating cargo tanks. [Removed, 1989]

Federal Railroad Administration

49 CFR

1225.25 Railroad companies. [Added by OFR]

To maintain a log of injuries and occupational illnesses at and for each railroad establishment, but not limited to an operating division, general office, and major installation such as a locomotive or car repair or construction facility. A copy of each log may be kept at a central location.

Retention period: See 49 CFR 225.27.

245.103 Railroads subject to user fees. [Revised]

To maintain adequate records supporting its calculations of the total train miles for the prior calendar year and the total road miles operated by the railroad as of December 31 of the previous calendar year. Such records shall be sufficient to enable the FRA to verify the information provided by the railroad on FRA Form 6180.91–Annual Report of Railroads Subject to User Fees.

Retention period: At least 3 years after the end of the calendar year to which they relate.

245.152 Railroads subject to user fees–retention period. [Added]

To retain records specified in 49 CFR 245.103 for at least 3 years after the end of the calendar year to which they relate.

255.19 Recipients of financial assistance. [Removed]

265.19 Recipients and contractors of financial assistance under the Railroad Revitalization and Regulatory Act of 1976. [Added by OFR]

To keep complete and accurate records containing such information as the Administration may determine to be necessary to ascertain compliance with applicable regulations. These records shall show in connection with the project, program or activity funded in whole or in part through financial assistance under the Rail Act: (a) Procedure which have been adopted to comply with the policies set forth in this 49 CFR part 265, including the establishment of a source list of MBEs; (b) specific efforts to identify and award contract to MBEs; and (c) awards to MBEs on the required source list.

Federal Highway Administration

49 CFR

391.35 Motor carriers reviewing drivers' records. [Added by OFR]

To retain in the drivers' qualification file the original of the signed road test form and the original or a copy of the certificate of drivers' road tests.

395.1 Motor carriers and drivers responding to emergencies; exemption from the FMCSRs while providing direct assistance to the emergency relief efforts. [Added]

(e) To maintain accurate and true time records showing (1) the time the driver reports for duty each day; (2) the total number of hours the driver is on duty each day; (3) the time the driver is released from duty each day; and (4) the total time for the preceding 7 days in accordance with 49 CFR 395.8(j)(2) for drivers used for the first time or intermittently.

Retention period: 6 months.

(b) To maintain the drivers' records of duty status at a regional or terminal office.

National Highway Traffic Safety Administration

49 CFR

573.6 Manufacturers of complete or incomplete motor vehicles. [Correctly renumbered 573.7 by OFR]

573.7 Manufacturers of complete or incomplete motor vehicles. [Correctly renumbered from 573.6 by OFR]

To maintain list of names and addresses of first purchasers or subsequent purchasers to whom a warranty has been transferred and vehicle identification number involved in each safety defect notification campaign.

Retention period: 5 years after defect information report is submitted to the Administrator.

574.5 Tire manufacturers. [Added by OFR]

(a) To maintain a record of each symbol use, with the corresponding matrix or tire size when using second grouping.

(b) To maintain a detailed record of any descriptive or brand name owner code used when using third grouping.

586.1 Passenger cars manufacturers and manufacturers of multipurpose passenger vehicles, trucks and buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less. [Added]

See 49 CFR 586.6 and 586.8.

Effective date: Sept. 1, 1993.

586.8 Manufacturers of multipurpose passenger vehicles, trucks and buses with a gross weight rating (GVWR) of 10,000 pounds or less. [Added]

To maintain records of the Vehicle Identification Number for each multipurpose passenger vehicle, truck and bus for which information is reported under 49 CFR 586.7(b)(2).

Retention period: Until December 31, 1996.

Effective date: Sept. 1, 1993.

588.5 Manufacturers or manufacturer's designees of child restraint systems. [Added]

To maintain records of the owners of child restraint systems who have submitted a registration form. The record shall be in a form suitable for inspection such as computer information storage devices or card files, and shall include the names and mailing addresses of the owners, and the model name or number and date of manufacture (month, year) of the owners' child restraint systems.

Retention period: For a period of not less than 6 years from the date of manufacture of that restraint system.

588.6 Manufacturers or manufacturer's designees of child restraint systems–retention period. [Added]

To maintain records specified in 49 CFR 588.6 for a registered restraint system for a period of not less than 6 years from the date of manufacture of that restraint system.

Urban Mass Transportation Administration [Heading revised; see Federal Transit Administration]

Federal Transit Administration

49 CFR

670.19 Recipients of commuter service transition assistance. [Removed]

INTERSTATE COMMERCE COMMISSION

49 CFR

1004.3 Private carriers engaged in incidental for-hire transportation. [Added by OFR]

To maintain separate records for each operations.

1522.4 Common carriers of property subject to Part II of the Interstate Commerce Act. [Removed, 1987]

1103.29 Persons entitled to practice before the Commission. [Added by OFR]

To maintain a recording of the actual transmission if a public communication is made through use of radio or television.

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Part 1220 Express companies. [Heading revised by OFR]

To keep records as listed in the part cited.

Retention period: Various.

1220.10 Companies and persons subject to the provisions of the Interstate Commerce Act. [Removed by OFR; section no longer codified in CFR]

1244.5 Railroads subject to the Interstate Commerce Act. [Added]

To maintain the underlying hard copy waybills or facsimilies capable of producing legible copies, which shall be complete including inbound references for transit waybills, when submitting waybill sample data by the computerized system instead of the manual system.

Retention period: 4 years.

1253.30 Rate-making organizations. [Added by OFR]

To retain records or documents relating to its transactions or activities in accordance with 49 CFR part 1220.

INTERIOR DEPARTMENT

Fish and Wildlife Service

50 CFR

14.83 Shippers of furs, hides and skins who hold symbol marking permits. [Removed, 1987]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

50 CFR

280.3 Masters or other persons in charge of fishing vessels engaged in Pacific Tuna Fisheries. [Redesignated from 280.17, 1988]

To keep an accurate log of all operations conducted from the fishing vessel, entering for each day the date, noon position (stated in latitude and longitude or in relation to known physical features), and the tonnage of fish aboard by species.

Retention period: Not specified.

280.17 Masters of shipping vessels engaged in yellowfin tuna fishing in the regulatory area of the Inter-American Tropical Tuna Commission. [Redesignated as 280.3, 1988]

285.29 Persons holding dealer permits to purchase or receive Atlantic bluefin tuna. [Amended]

To retain in his/her possession a copy of each weekly reports that specifies the number of tuna purchased or received; location where each tuna was caught; the disposition of the tuna; the source of the tuna; metal tag number; weight and length of each tuna; and any other information requested by the Regional Director.

Retention period: 2 years from the date on which it was submitted to the Regional Director.

299.5 Owners and operators of vessels fishing in the Russian fisheries. [Added]

To maintain records on the vessel name; Russian Federal permit number; duration of permit; authorized areas of fishing operations in geographic coordinates; authorized catch quota in tons; authorized fishing gear and type of permit.

Retention period: (a) All copies of all reports– 1 year after the end of the calendar year in which the report was generated; (b) records must be available for inspection upon the request of an authorized officer at any time for 3 years after the end of the calendar year in which the report was generated, whether or not such records are aboard the vessel.

301.14 Operators of vessels five (5) net tons or greater engaged in Pacific halibut fishing. [Revised]

To maintain an accurate log of all halibut fishing operations including the date, locality, amount of gear used, and the total weight of halibut taken daily in each locality.

Retention period: 2 years.

301.15 Persons purchasing or receiving Pacific halibut. [Amended]

To maintain a record of each such purchase or receipt of halibut on State fish tickets or Federal catch reports, showing the date, locality, name of vessel, Halibut Commission licensed number (US), and the name of the person from whom the halibut was purchased or received, and the amount in pounds according to trade categories of the halibut.

Retention period: 2 years from the date the fish tickets are made.

611.60 Operators of foreign fishing vessels. [Removed by OFR; regulation contains no record retention requirements]

611.61 Operators of foreign vessels. [Removed by OFR; regulation contains no record retention requirements]

611.94 Operators of foreign fishing vessels. [Removed by OFR; regulation contains no record retention requirements]

625.6 Persons receiving summer flounder for commercial purposes. [Added]

To retain at the owner's principal place of business, logbook containing the following information: (a) Name and address of dealer; (b) name and permit number of the vessels from which summer flounder are landed or received; (c) date of purchases; (d) pounds of summer flounder purchases; (e) price per pound; (f) pounds purchases of all other species landed by the vessel landing summer flounder; (g) port landed; and (h) any additional information the Regional Director determines is necessary for the orderly management of the summer flounder resource.

Retention period: For 1 year after the date of the last entry in the log.

642.5 Charter vessel owners and operators of a charter vessel that fish for or lands coastal migratory pelagic fish of the Gulf of Mexico and South Atlantic. [Added by OFR]

To maintain a daily fishing record on forms provided by the Science and Research Director.

646.5 Owners or operators of permitted vessels engaged in the commercial snapper–grouper fisheries, excluding wreckfish, of the South Atlantic. [Revised]

To maintain daily logbook for each fishing trip, on a form available from the Science and Research Director. The logbook should provide a record of fishing locations, time fished, fishing gear used, numbers of each species caught, and numbers, of each species discarded.

651.5 Owners and operators of vessels and headboats fishing for or landing reef fish in the Gulf of Mexico EEZ or adjoining waters. [Removed, 1987]

651.22 Persons holding Federal groundfish permits in the Northwest Atlantic participating in the optional settlement program. [Amended]

To record all fish landed during the participation period.

Retention period: 1 year after participation period.

675.5 Operators of vessels and processors fishing under the Alaska Community Development Quota (CDQ's Program. [Revised]

See 50 CFR 672.5 and 675.5.

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–019–00001–1)	$15.00	Jan. 1, 1993
3 (1992 Compilation and Parts 100 and 101)	(869–019–00002–0)	17.00	[1] Jan. 1, 1993
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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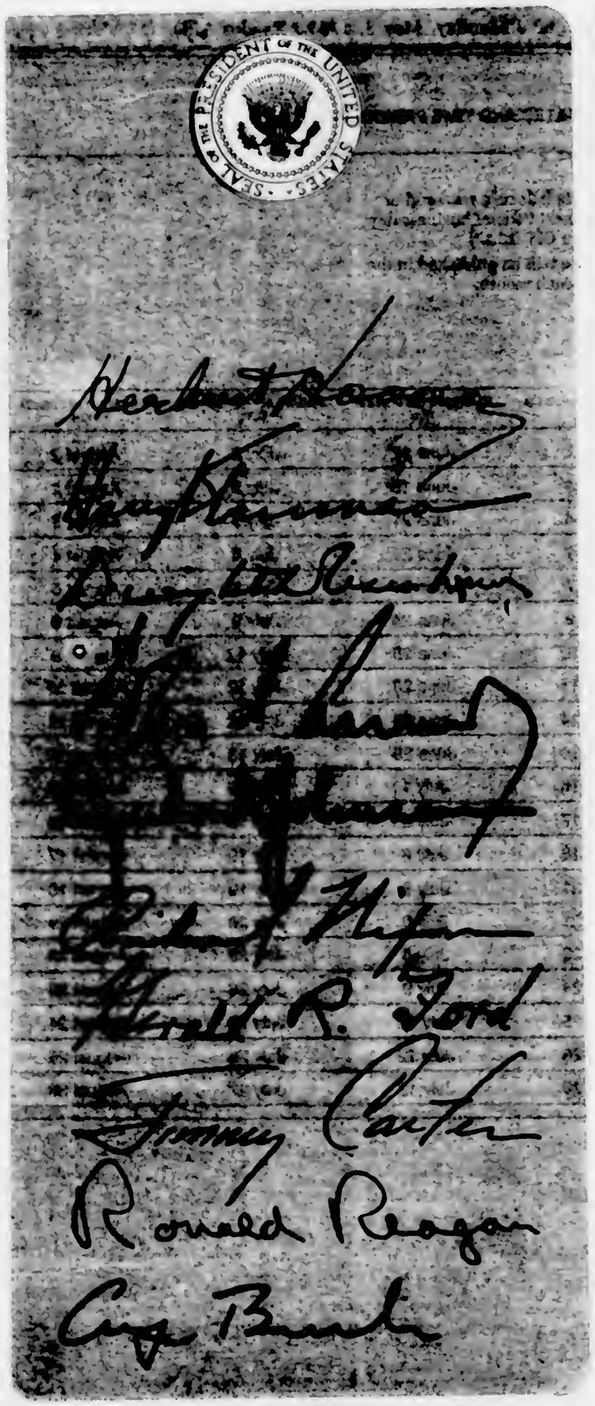

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Presidential Documents

Title 3—

The President

Proclamation 6553 of April 30, 1993

National Day of Prayer, 1993

By the President of the United States of America

A Proclamation

The American people were the first to define a nation in terms of both spirituality and human liberty. Throughout our Nation's history, America has been a beacon for millions in search of spiritual and religious freedom. Immigrants have come to the United States seeking not just freedom from persecution and discrimination, but also freedom for the right of self-determination. On this National Day of Prayer, we reaffirm this fundamental freedom of religion that has made our Nation so strong.

Thomas Jefferson understood the greater purpose of the liberty that our Founding Fathers sought during the creation of our Nation. Although it was against the British that the colonists fought for political rights, the true source of the rights of man was clearly stated in the Declaration of Independence. Jefferson wrote that all humans are "endowed by their Creator with certain unalienable Rights . . . ." It was self-evident to him that denying these rights was wrong and that he and others must struggle to win what was theirs.

The epic struggle of the Revolutionary War and the vigilance that the protection of our rights has required have embedded in our Nation a profound understanding of the true meaning and value of our freedom. With the rights of life, liberty, and the pursuit of happiness comes the duty to use those rights for the good of humankind. This belief is fundamental to the American tradition. The result of our Founding Fathers' conception of a state created by man through the responsible use of God-given rights is a Nation of unparalleled freedom and dazzling diversity.

Today we face great challenges. The diversity that gives us so much strength is often seen as a source of division. We are searching for solutions to the difficult challenges of providing a safe and rewarding future for our children, securing adequate health care for our people, and of building good, nurturing communities.

Through prayer our people take a moment away from the concerns of everyday life to understand the greater power that gives us guidance. We come together in an act common to all religions. Prayer gives us a quiet space to remember and contemplate the greater purpose of the activity that fills our lives. As a Nation, we understand the common bonds we all share, and we recommit ourselves to serving a greater good. Prayer enables us to rejoice in our freedoms and understand the implicit responsibility that accompanies them. We return to the guiding vision that gives our Nation so much vitality.

By joint resolution of the Congress, approved April 17, 1952, the people have recognized the role of spiritual reaffirmation and prayer in our history by setting aside a particular day each year as a "National Day of Prayer." Since 1952, each President has proclaimed an annual National Day of Prayer, resuming the tradition begun by our Founding Fathers in 1776. By Public Law 100–307, the first Thursday in May of each year has been set aside as a National Day of Prayer.

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NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 6, 1993, as a National Day of Prayer. I call upon the citizens of this great Nation to pray, each after his or her own manner, to remember those who are in need, to achieve patience in tribulation, to resolve the problems that divide us, to rejoice in hope, and to express thanks for the abundance we have experienced throughout our history.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

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Billing code 3195-01-P

Presidential Documents

Proclamation 6554 of April 30, 1993

National Arbor Day, 1993

By the President of the United States of America

A Proclamation

It is proper that we celebrate America's forests, which provide us with a link to our past, a thriving ecosystem, and indispensable resources that are vital to our economy.

Trees are one of the symbols of our culture. Our forebears explored America's forests; lived, hunted, and fought in them; and celebrated them in art, music, folktales, and literature. Our traditions speak of the Tree of Life, just as Thomas Paine spoke of the Tree of Liberty. Paul Bunyan and Babe made their living in the forest, and Huck Finn used trees to make his wooden raft to ride down the Mississippi River on his great American adventure. Today, a walk through the woods or a city park reminds us of our country's special ties to the land we inherited.

Our trees are valuable protectors of our ecosystem. They provide a thriving habitat for animal and plant life; their roots curb soil erosion; their leaves freshen our air by providing oxygen; and their branches shelter us from the sun and the wind.

On Arbor Day, we also recognize those whose lives and livelihoods are intertwined with our forests. Generations of Americans have depended on forests for the lumber to build houses and the fuel to heat their homes. Many Americans continue to harvest lumber and produce wood products, foresters help us manage our forests wisely, and civic associations help ensure the preservation of our woodlands.

Despite the critical importance of our forests, we have not always been diligent stewards of our inheritance. Not long after the Civil War, our ancestors realized that the need for wood products was placing too great a demand on our forests. And in 1872, concerned residents of the State of Nebraska came together on the first Arbor Day to look to the future and preserve America's forests for our generation and the ones yet to come. As we approach the 21st century, we must rededicate ourselves to a forest policy that sustains a strong forest economy and a healthy ecosystem.

Arbor Day is commemorated with an activity in which every American can take part: the planting of a tree—in a backyard, in a park, or on a mountainside. Each new sapling planted today connects us to our parks and wilderness areas here at home, as well as to the tropical forests and wetlands around the world. We must ensure that our children and their descendants have just as much to celebrate on Arbor Day 100 years from now.

The Congress, by House Joint Resolution 127, has designated the last Friday in April as "National Arbor Day."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim April 30, 1993, as National Arbor Day. I call upon the people of the United States to observe this day with appropriate programs, ceremonies, and activities.

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IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93-10667
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Presidential Documents

Proclamation 6555 of April 30, 1993

Law Day, U.S.A., 1993

By the President of the United States of America

A Proclamation

Ours is a Nation of laws, united not just by a common language and culture, but by a unique devotion to and belief in a national common law: our Constitution.

On Law Day, we celebrate our Constitution and all of the legal institutions that flow from it. Though often thought of as the province of lawyers, we must never forget that these laws and institutions were created not just by lawyers, but also by farmers and architects; businesspeople and laborers; doctors, ranchers, merchants, and machinists. The protection under our laws is the birthright of all Americans, the great inheritance we have received from those who have come before.

In times past, not all Americans have shared in the rights secured by our laws. Courageous and visionary men and women devoted their lives—and sometimes sacrificed them—because they believed that none of us can enjoy the blessings of liberty unless all of us do. To the people who continue to give of themselves each day to this pursuit goes my highest tribute on this Law Day.

Today, as a lawyer and as President, I challenge the members of America's legal profession to devote themselves to the great causes and the great challenges before us as a Nation. As did your predecessors, you must be the leaders in the struggle to promote equality in our society and justice in our courts. Just as our laws are meant to benefit us all, the practice of law cannot be conducted for private benefit alone. I call on all lawyers to make a commitment to public service and civic affairs. This is the heritage of our profession, and a duty arising from the privilege bestowed upon us as lawyers.

On Law Day, I want to reiterate the commitment of my Administration to the rule of law, both here at home and around the world. My Administration will work hard to improve the quality of justice in our courts by selecting the very best men and women to serve as Federal judges. We will dedicate ourselves to promoting justice in our communities by launching new and innovative measures to combat crime and ensure public safety. We will pledge to advance justice in our society by reinvigorating our civil rights laws and our application of them.

We will strive to strengthen our families by increasing enforcement of our child support laws; to strengthen our environment by demanding that polluters pay for the harm that they cause; to strengthen our economy by ensuring that all persons have an equal right to opportunity and employment. In all of these endeavors, our laws will play a critical role.

On this day, we cannot ignore the criticisms aimed at our legal system and the calls for changes in it. I share the view that our legal system needs reform. But even as we undertake these reforms, we should never forget that it is our legal system that is the envy of the world. As the nations around the globe emerge from the long, dark days of the past into the new light of freedom, it is to our laws, our courts, our private

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bars—our legal institutions—that they look for inspiration. This should be a source of enormous pride for all lawyers and for all Americans.

From the days of our Nation's founding, the torch of freedom has been passed from one generation to the next. Today we hold it higher, and it burns more brightly than ever. Democracies around the world, new and old, look to us to lead the way. The law of our land stands as a beacon of hope for these people and for those still yearning to be free.

The turmoil in various parts of the world attests to the need to promote respect for international law and to strengthen international institutions for the protection of international peace and security and of human rights. My Administration will also pursue those objectives.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, in accordance with Public Law 87–20 of April 7, 1961, do hereby proclaim May 1, 1993, as "Law Day, U.S.A." I urge the people of the United States to use this occasion to reflect on our heritage of freedom, to familiarize themselves with their rights and responsibilities, and to aid others seeking to affirm their rights under law.

I call upon the legal profession, civic associations, educators, librarians, public officials, and the media to promote the observance of this day through appropriate programs and activities. I also call upon public officials to display the flag of the United States on all government buildings on Law Day, U.S.A.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93–10668
Filed 5–3–93; 10:20 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6556 of May 1, 1993

Loyalty Day, 1993

By the President of the United States of America

A Proclamation

"Loyalty Day" is an occasion on which we reaffirm our allegiance to our country and our devotion to the ideals on which it was founded. Our government "by the people" respects and protects the natural rights and freedoms of all citizens, without favor, and deserves our abiding fidelity.

For more than 200 years, people from around the world have immigrated to America, bringing their dreams and aspirations to a country that prides itself on its democratic ideals. There is no greater testament to the success of our system of governance than people's desire to be a part of the great American experiment. Our Founders designed that system on the principles of individual liberties and rights of self-determination. Our Nation stands as a beacon of hope for all those who embrace these ideas.

Generations of Americans have demonstrated loyalty and devotion to their country and have gone to great lengths to preserve their freedom. Many have fought and died so that future generations could continue the proud traditions of our Nation. To acknowledge this loyalty and love of country, the Congress, by a joint resolution approved July 18, 1958 (72 Stat. 369; 36 U.S.C. 162), has designated May 1 of each year as "Loyalty Day."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 1, 1993, as Loyalty Day. I call upon all Americans to observe this day with appropriate ceremonies and activities, including public recitation of the Pledge of Allegiance to the Flag of the United States. I also call upon government officials to display the flag on all government buildings and grounds on this day.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of May, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93–10669
Filed 5–3–93; 10:21 am]
Billing code 3195–01–P

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Rules and Regulations

Federal Register
Vol. 58, No. 84
Tuesday, May 4, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL RESERVE SYSTEM

12 CFR Part 215

[Regulation O; Docket No. R–0785]

Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks; Loans to Holding Companies and Affiliates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending Regulation O to adopt three exceptions to the aggregate insider lending limit in the regulation substantially as they were set forth in the Board's proposed rule. Additional exceptions suggested by commenters will be considered in future rulemaking. The Board is taking this action on the basis of authority granted in the Housing and Community Development Act of 1992.

EFFECTIVE DATE: May 3, 1993.

FOR FURTHER INFORMATION CONTACT: Gordon Miller, Attorney (202/452–2534), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

The Housing and Community Development Act of 1992 (HCDA), Pub. L. 102–550, 106 Stat. 3672 (1992), effective October 28, 1992, amended section 22(h) of the Federal Reserve Act (Act), 12 U.S.C. 375(b), to authorize the Board to adopt exceptions from the definition of "extension of credit" that pose minimal risk to the lending bank. The legislative history of this provision states that the Board should make a "zero-based review" of all exceptions. *See* 138 Cong. Rec. S17,914–15 (daily ed. October 8, 1992). The Board has proposed three exceptions to the aggregate lending limit in Regulation O (12 CFR part 215) to implement this amendment.

All of the proposed exceptions are found in the National Bank Act and are already incorporated in the individual lending limit in Regulation O. *See* 12 U.S.C. 84; 12 CFR 215.2(h) and 215.4(c). These exceptions are for certain categories of loans or extensions of credit that are deemed, as a result of the manner in which they are collateralized, to pose minimal risk of loss to a bank. The proposed exceptions are in the following three categories:

(1) Extensions of credit secured by obligations of the United States or other obligations fully guaranteed as to principal and interest by the United States;

(2) Extensions of credit to or secured by commitments or guarantees of a department or agency of the United States; and

(3) Extensions of credit secured by a segregated deposit account with the lending bank.

Proposal as Adopted

The Board has determined to adopt the three proposed exceptions, with the modifications discussed below. The Board anticipates that the final rule will reduce the regulatory and recordkeeping burden on banks and increase the ability of banks to make loans and other extensions of credit that pose little or no risk to the bank.

Although loans secured in accordance with these exceptions are removed from a bank's aggregate lending limit, such loans remain subject to the general prohibitions in Regulation O on extensions of credit to insiders found at §§ 215.4 (a) and (b), as a safeguard against abuse of these exceptions.

Comments

In response to its proposal, the Board received 40 comments: 15 by banks, 8 by state or national bankers' associations, 8 by bank holding companies, 6 by Federal Reserve banks, 2 from law firms, and 1 by a banker's bank. Thirty-four commenters favored the exceptions. Six commenters favored other or further exceptions, and did not comment on the proposed exceptions. There were no commenters that opposed the exceptions.

Among the 34 comments in favor of the exceptions, 27 expressed one or more reasons for their support. Twenty commenters noted that loans within these categories would pose minimal risk to the lending bank, 7 commenters favored the exceptions because they would improve the ability of member banks to retain qualified outside directors, and 5 commenters supported the exceptions because, by reducing the inconsistency between the aggregate lending limit and the individual lending limit, they would reduce the regulatory burden on member banks. Accordingly, the commenters felt that the proposal is in the public interest.

One commenter suggested clarifying the proposed exceptions by incorporating directly into Regulation O certain interpretations by the Office of the Comptroller of the Currency of the exceptions contained in the National Bank Act.[1] *See* 12 CFR 32.6 (d), (e), and (f). This commenter suggested that the Board clarify that the amount of an extension of credit that is excepted from the aggregate lending limit is limited to an amount equal to:

(1) The current fair market value of the United States obligations or other obligations fully guaranteed as to principal and interest by the United States securing the extension of credit;

(2) The amount of the commitment or guarantee of a department or agency of the United States securing the extension of credit; or

(3) The amount of the member bank's perfected security interest in the segregated, earmarked deposit account securing the extension of credit. This commenter also suggested that the Board clarify that an extension of credit is eligible in full for an exception if the unpaid principal amount thereof is secured or guaranteed as described above, and that is not required that accrued and unpaid interest on the extension of credit also be so covered.

The Board has determined that the suggested clarifications are consistent with the Comptroller's interpretations of 12 U.S.C. 84, and incorporate appropriate safeguards against abuse of

[1] All interpretations by the Comptroller of the exceptions contained in 12 U.S.C. 84 are applicable to Regulation O to the extent that these exceptions are incorporated by reference into or otherwise adopted in Regulation O.

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the proposed exceptions. The Board also has clarified, consistent with the Comptroller's interpretation of 12 U.S.C. 84, that a member bank is required to obtain a perfected security interest in United States obligations or other obligations fully guaranteed as to principal and interest by the United States in order for this exception to be effective.

Twenty-one of the commenters proposed other or further exceptions. These comments presented a variety of proposals, including, among others, the adoption of one or more additional exceptions to the lending limits found in 12 U.S.C. 84, the adoption of certain exceptions not found in 12 U.S.C. 84, and the adoption of exemptions that would reduce or eliminate the additional regulatory restrictions imposed on extension of credit by a member bank to its executive officers.[2] These proposals will be considered by the Board in the near future. However, the Board has decided not to address these proposals at this time in order not to delay the adoption of a final rule concerning the 3 exceptions proposed by the Board.

Final Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board hereby certifies that the final rule will not have a significant adverse effect on a substantial number of small institutions. The final rule should relieve the regulatory burden on all member banks, regardless of size, and will increase the ability of small member banks to make loans and other extensions of credit that pose little or no risk of loss to them, and to attract and retain outside directors to whom such loans may be made in the same manner and to the same extent as they may be made to persons who are not insiders of the member bank.

List of Subjects in 12 CFR Part 215

Credit, Federal Reserve System, Penalties, Reporting and record keeping requirements.

For the reasons set forth in the preamble, the Board amends title 12 of the Code of Federal Regulations, part 215, subpart A, as follows:

[2] These provisions appear in 12 CFR 215.5 of Regulation O, and have been adopted pursuant to section 22(g) of the Act, 12 U.S.C. 375a. The subject matter of these comments is outside the scope of the current rulemaking, but will be considered in connection with future rulemaking by the Board concerning Regulation O.

PART 215—LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS

1. The authority citation for part 215 is revised to read as follows:

Authority: 12 U.S.C. 248(i), 375a, 375b(7), 1817(k)(3) and 1972(2)(F)(vi), Pub. L. 102-550, 106 Stat. 3895 (1992).

Subpart A—Loans by Member Banks to Their Executive Officers, Directors, and Principal Shareholders

2. Section 215.4 is amended by adding a new paragraph (d)(3) to read as follows:

§ 215.4 General prohibitions.

* * * * *

(d) * * *

(3) *Exceptions.* The general limit specified in paragraph (d)(1) of this section does not apply to the following:

(i) Extensions of credit secured by a perfected security interest in bonds, notes, certificates of indebtedness, or Treasury bills of the United States or in other such obligations fully guaranteed as to principal and interest by the United States;

(ii) Extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission or establishment of the United States or any corporation wholly owned directly or indirectly by the United States;

(iii) Extensions of credit secured by a perfected security interest in a segregated deposit account in the lending bank; or

(iv) The exceptions in this paragraph (d)(3) apply only to the amount of such extensions of credit that are secured in the manner described herein.

By order of the Board of Governors of the Federal Reserve System, April 27, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-10431 Filed 5-3-93; 8:45 am]

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12 CFR Part 265

[Docket No. R-0799]

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending its Rules Regarding Delegation of Authority in order to delegate to the Secretary of the Board, and to repeal with respect to the General Counsel of the Board acting with the concurrence of the Director of the Division of Banking Supervision and Regulation, the authority to approve certain transactions requiring the approval of the Board pursuant to section 5(d)(3) of the Federal Deposit Insurance Act (FDI Act). This amendment will align the Board's procedures for approving "Oakar" transactions with those procedures used to approve other types of applications involving a director interlock with a Federal Reserve Bank.

EFFECTIVE DATE: The amendments to part 265 of the Board's Rules are effective May 3, 1993.

FOR FURTHER INFORMATION CONTACT: Terence F. Browne, Senior Attorney (202/452-3707); or Timothy J. Byrne, Attorney (202/452-3565), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Section 5(d)(3) of the FDI Act,[1] otherwise known as the "Oakar" Amendment, authorizes the merger of Savings Association Insurance Fund (SAIF) member institutions with Bank Insurance Fund (BIF) institutions, subject to certain conditions. This provision requires the prior approval of the Board to engage in an Oakar transaction when the acquiring or resulting institution is a state-chartered bank that is a member of the Federal Reserve System, or when the resulting or acquiring institution is a BIF member bank subsidiary of a bank holding company.[2]

In October 1989, the Board delegated authority to the Director of the Division of Banking Supervision and Regulation and the General Counsel to approve jointly those Oakar transactions involving failing or failed thrift institutions. The purpose of that action was to allow the Board to react quickly to emergency situations that were being resolved by the Resolution Trust Corporation and involved Oakar applications to the Board.

In early 1991, as the processing of Oakar transactions became more routine, the Board delegated authority to the Reserve Banks to approve Oakar transactions.[3] Currently, the Reserve

[1] 12 U.S.C. 1815(d)(3), as amended by the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102-242, section 501, 105 Stat. 2236, 2388-2392 (1991)).

[2] See 12 U.S.C. 1815(d)(3)(A)(i) and (E)(i).

[3] 56 FR 8687 (1991)

Banks approve all Oakar applications except applications involving substantive issues that are considered by the Board, and applications in which a Reserve Bank has concluded that "because of unusual considerations, or for other good cause, it should not take action."[4] Because Oakar transactions have become more common, the Reserve Banks conclude that they should not take action on an Oakar application only when there is a director interlock between a Reserve Bank or branch and the applicant. In these cases, the Director of the Division of Banking Supervision and Regulation and the General Counsel jointly approve the application.

In contrast, most of the bank holding company applications involving an interlock between an applicant and a Reserve Bank or branch are approved by the Secretary of the Board.[5] In Oakar applications as well as other applications made to the Board, the applications are subject to the same level of review, and the Secretary receives a memo explaining the transactions and setting forth the recommendation of the appropriate Staff members. However, the current process for approving an Oakar application having a director interlock involves more steps than is required when the Secretary of the Board approves a bank holding company application involving a director interlock, and this Oakar approval process can be burdensome and time-consuming.

In order to align the Board's procedures for approving Oakar transactions with those procedures used to approve other types of applications involving a director interlock with a Reserve Bank, and in an effort to streamline the Oakar applications process, the Board is amending its Rules Regarding Delegation of Authority to authorize the Secretary of the Board to approve Oakar transactions. This amendment will reduce the regulatory burden associated with the Oakar application process without reducing the level of Federal Reserve System analysis of Oakar transactions.

Final Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the Board does not believe that these changes will have a significant adverse economic impact on a substantial number of small entities. The amendments would reduce regulatory burdens imposed by Regulation Y and the Board's Rules Regarding Delegation of Authority and have no particular adverse effect on other entities.

Effective Date

The provisions of the Administrative Procedures Act (APA) (5 U.S.C. 553) relating to notice, public participation, and deferred effective date have not been followed in connection with the adoption of these amendments because the changes to be effected are procedural in nature and do not constitute a substantive rule subject to the requirements of that section. The APA grants a specific exemption from its requirements relating to notice, public participation and the deferred effective date in these instances (12 U.S.C. 553(b)(3)(A)).

Final Paperwork Reduction Act Analysis

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in these changes.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies).

For the reasons set forth in the preamble, the Board is amending title 12 of the Code of Federal Regulations, part 265, as follows:

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

1. The authority citation for part 265 is revised to read as follows:

Authority: 12 U.S.C. 248(i) and (k).

2. Section 265.5 is amended by adding paragraph (c)(3) to read as follows:

§ 265.5 Functions delegated to Secretary of the Board.

* * * * *

(c) * * *

(3) *Application approval under section 5(d)(3) of the FDI Act.* To approve applications pursuant to section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)), in those cases in which the appropriate Federal Reserve Bank concludes that, because of unusual considerations, or for other good cause, it should not take action.

3. In § 265.6, paragraph (c)(5) is removed.

4. In § 265.7, paragraph (c)(5) is removed, and paragraph (c)(6) is redesignated as paragraph (c)(5).

[4] 12 CFR 265.6(c)(5), 7(c)(5).

[5] See 12 CFR 265.5(c)(2).

By order of the Board of Governors of the Federal Reserve System, April 28, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-10467 Filed 5-3-93; 8:45 am]

BILLING CODE 6210-01-F

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 228, 230, 239, 240 and 249

[Release Nos. 33-6996; 34-32231]

RIN 3235-AF63

Additional Small Business Initiatives

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission ("Commission") today adopted additional revisions to its rules and forms to facilitate financings by small business issuers under the Securities Act of 1933 and their compliance with the reporting requirements under the Securities Exchange Act of 1934. These actions, which ease the entry of small businesses into the public markets, include transitional registration forms, reporting forms, proxy statement and annual report to security holders requirements for small business issuers that have not registered more than $10 million of securities in any 12-month period (other than securities registered on Form S-8), amendments to small business issuer financial statement requirements and revisions to the information requirements of Regulation D.

Rule 254 is amended to provide that a written "test the waters" solicitation document complying with Regulation A will not constitute a "prospectus."

EFFECTIVE DATE: June 3, 1993. Issuers wishing to comply with these rule and form changes prior to the effective date may do so.

FOR FURTHER INFORMATION CONTACT: Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. With respect to the transitional registration and reporting forms, Martin Dunn (202-272-2573) or Richard Wulff (202-272-2644); and with respect to financial statement requirements, Teresa Iannaconi (202-272-2553).

SUPPLEMENTARY INFORMATION: The Commission today adopted new registration statement Form SB-1,[1] as

[1] 17 CFR 239.9.

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well as amendments to Forms 1–A,[2] S–2,[3] S–4,[4] 10–SB,[5] 10–KSB[6] and 10–QSB,[7] Schedule 14A[8] and the annual report requirements of Rules 14a–3[9] and 14c–3.[10] These actions provide transitional disclosure requirements for qualifying small business issuers under the Securities Act of 1933 ("Securities Act")[11] and the Securities Exchange Act of 1934 ("Exchange Act").[12]

The Commission also adopted revisions to the financial statement requirements for small business issuers, found in Item 310[13] of Regulation S–B.[14] Amendments to Rule 254[15] of Regulation A[16] and Rule 502[17] of Regulation D[18] under the Securities Act also were adopted.

I. Executive Summary and Background

In August 1992, the Commission adopted its Small Business Initiatives to facilitate the access of small business issuers to the public markets.[19] That action revised the structure and operation of Regulation A and Rule 504[20] of Regulation D and created an integrated registration and reporting system for small business issuers.[21] Based on comments and suggestions received in response to its Small Business Initiatives, the Commission proposed additional measures to ease small business capital raising and transition from non-reporting to reporting status.[22] The Commission today is adopting a number of these additional measures in substantially the manner in which they were proposed.[23] The Commission is not adopting the changes to the Regulation D audited financial statement requirements it proposed. The Commission will explore such revisions with state securities administrators to maintain the federal-state coordination of the Uniform Limited Offering Exemption.

As adopted, new registration statement Form SB–1 permits transitional small business issuers to register securities under the Securities Act using the Regulation A model of disclosure with two years of audited financial statements. Further, as a result of the actions taken today, a small business issuer may enter the Exchange Act reporting system using a Form 10–SB consisting of Regulation A disclosure with audited financial statements. Form 10–SB requires two years of audited financial statements, except that audited statements need be provided only for the most recent fiscal year if the earlier year's audited statements are not otherwise available. Transitional small business issuers are permitted to meet their Exchange Act reporting requirements using the Regulation A model of disclosure until such time as they (1) register more than $10 million of securities in a continuous 12-month period (excluding offerings registered on Form S–8), (2) elect to graduate to a non-transitional disclosure system, or (3) are no longer small business issuers.

Rules 14a–3 and 14c–3 have been amended to require transitional small business issuers to provide to security holders only the financial statements required in their most recent Form 10–KSB. The inclusion of additional information in the annual report to security holders will not cause the issuer to be ineligible for the transitional disclosure forms.

Transitional small business issuers may also use new optional disclosure formats in Schedule 14A. Eligible small business issuers which elect not to respond to these modified disclosure requirements may continue to use the transitional disclosure forms.

Two refinements to the financial statement requirements for small business issuers are adopted. The first revision provides an automatic waiver of some or all of the requirements for audited financial statements of specified significant acquired businesses, where such financial statements are not otherwise available. The other revision permits small business issuers to proceed with initial registered offerings in the first quarter of their fiscal years on the same basis as offerings by reporting companies.

As amended, the narrative information requirements in Rule 502 of Regulation D permit eligible non-reporting issuers to provide the same kind of information as required in Part II of Form 1–A.

With respect to the Regulation A "test the waters" procedures, the Commission has adopted the proposed revision to Rule 254, which provides that a written "test the waters" document complying with Regulation A is not a prospectus.

II. Transitional Disclosure Requirements for Small Business Issuers

A. Transitional Exchange Act Registration and Reporting

In light of the favorable comment received concerning the Regulation A question-and-answer disclosure format, the Commission is allowing small business issuers to make the transition from a non-reporting to an Exchange Act reporting company using the disclosures permitted under Regulation A, so long as audited financial statements for the issuer's last two fiscal years are provided. The Exchange Act registration statement may include audited financial statements for only the most recent fiscal year, where audited financial statements for the earlier fiscal year are not otherwise available.

The transitional reporting forms are being adopted substantially as proposed. Under the proposal, however, the transitional reporting forms would not have been available to any issuer that registered under the Securities Act more than $5 million (other than pursuant to employee benefit plans or dividend reinvestment plans) in any fiscal year. This ceiling has been raised to $10 million in any continuous 12-month period in response to commenters which expressed the view that increasing the offering ceiling beyond the Regulation A ceiling would increase the utility of the transitional forms. In addition, as adopted, securities registered under dividend

[2] 17 CFR 239.90.
[3] 17 CFR 239.12.
[4] 17 CFR 239.25.
[5] 17 CFR 249.210b.
[6] 17 CFR 249.310b.
[7] 17 CFR 249.306b.
[8] 17 CFR 240.14a–101.
[9] 17 CFR 240.14a–3.
[10] 17 CFR 240.14c–3.
[11] 15 U.S.C. 77a *et seq.*
[12] 15 U.S.C. 78a *et seq.*
[13] 17 CFR 228.310.
[14] 17 CFR 228.10–702.
[15] 17 CFR 230.254.
[16] 17 CFR 230.251–263.
[17] 17 CFR 230.502.
[18] 17 CFR 230.501–508.
[19] *See* Securities Act Release No. 33–6949 [57 FR 36442] (August 13, 1992).
[20] 17 CFR 230.504.
[21] A "small business issuer" is defined as an entity: (1) With revenues of less than $25,000,000 for its most recent fiscal year; (2) which is a U.S. or Canadian issuer; (3) which is not an investment company; and (4) which is not a majority-owned subsidiary of a non-"small business issuer," provided that an issuer does not qualify if its public float (the aggregate market value of the issuer's outstanding voting securities held by non-affiliates) is $25,000,000 or more. *See* Securities Act Rule 405 (17 CFR 230.405); Exchange Act Rule 12b–2 (17 CFR 240.12b–2).
[22] *See* Securities Act Release No. 33–6950 (57 FR 36502) (August 13, 1992).
[23] The Commission proposed revisions to the definitions of "small business" and "small organization" for purposes of the Regulatory Flexibility Act (5 U.S.C. 600 *et seq.*) to incorporate the definition of small business issuer used for the small business integrated disclosure system. Amendments were proposed with respect to Securities Act Rule 157(a) (17 CFR 230.157), Exchange Act Rule 0–10(a) (17 CFR 240.0–10), and Rule 0–7 (17 CFR 260.0–7) under the Trust Indenture Act of 1939 ("Trust Indenture Act"), 15 U.S.C. 77aaa *et seq.* After these revisions were proposed, the Small Business Credit and Business Opportunity Enhancement Act of 1992 (Pub. L. 102–366) imposed additional procedural requirements for the modification of these definitions. Accordingly, the Commission is not revising these definitions at this time.

reinvestment plans are not excluded from the calculation.[24]

Small business issuers required to file Exchange Act reports[25] may use the transitional disclosure forms until they (1) register more than $10 million under the Securities Act in any continuous 12-month period (other than securities registered on Form S–8), (2) elect to file on a non-transitional disclosure document, or (3) no longer meet the definition of small business issuer. Non-transitional disclosure documents include: (1) Securities Act registration statement forms other than Forms SB–1, S–3 (if the issuer incorporates by reference transitional Exchange Act reports), S–8 and S–4 (if the issuer uses the transitional disclosure format in that form); (2) Exchange Act periodic reporting Forms 10–K and 10–Q; (3) Exchange Act registration statement Form 10; and (4) reports or registration statements on Forms 10–KSB, 10–QSB or 10–SB that do not use the transitional disclosure document format.[26] A reporting company may not return to the transitional disclosure forms.

Instructions setting forth the disclosure that transitional small business issuers may elect have been added to Forms 10–SB, 10–KSB and 10–QSB. In addition, the cover pages of Forms 10–KSB and 10–QSB have been revised to require that a small business issuer indicate its use of the transitional disclosure alternatives in those forms.

The transitional disclosure requirements mirror the disclosure models currently included as Model A (the question-and-answer disclosure format) and Model B (the line-item disclosure format) in Form 1–A under Regulation A. These disclosure requirements have been modified where necessary to reflect their use in continuous reporting documents.

As proposed, transitional small business issuers would not have been required to provide the management's discussion and analysis of financial condition and results of operations ("MD&A") in their quarterly reports. In response to public comment, transitional small business issuers are required to update the information in their most recent Form 10–KSB which corresponds with the MD&A disclosure requirements of Regulation S–B. Specifically, the Form 10–QSB filed by a transitional small business issuer relying upon the question-and-answer format in its Form 10–KSB will be required to include updated responses to the MD&A disclosure required by Questions 47–50 in Model A of Form 1–A. The Form 10–QSB of a transitional small business issuer relying upon the line-item format in its Form 10–KSB will be required to include an updated response to the business plan disclosure required by Item 6(a)(3)(i) in Model B of Form 1–A.

B. Form SB–1

Small business issuers eligible to use the transitional disclosure provisions under the Exchange Act may register offerings of securities under the Securities Act using new Form SB–1. Form SB–1 may be used to register securities offerings of up to $10 million in any continuous 12-month period. The alternative disclosure requirements and format parallel those of Model A and Model B of Form 1–A of Regulation A. Audited financial statements for the issuer's two most recent fiscal years are required.

Form SB–1 is available to any non-reporting small business issuer or any reporting small business issuer eligible to use the transitional format in Form 10–KSB, provided—in both instances—that the issuer has not registered more than a total of $10 million of securities in the last 12-month period. In determining whether a small business issuer has not registered more than $10 million during the 12-month period, the amount being registered on the Form SB–1 would be added to previous registered offerings in that period (excluding securities registered on Form S–8).

C. Narrative Disclosure Requirements for Transitional Small Business Issuers

The basic narrative disclosure required of transitional small business issuers is the same as that currently required by Form 1–A under Regulation A. Accordingly, small business issuers eligible to use the transitional reporting scheme now have the choice of two alternative narrative disclosure formats: (1) The question-and-answer format contained in Offering Circular Model A of Form 1–A; or (2) the line-item disclosure model contained in Offering Circular Model B of Form 1–A.

Form SB–1 includes additional disclosure items necessary in registration statements under the Securities Act. The following disclosure items have been added: (1) The undertakings contained in Item 512 of Regulation S–B;[27] (2) the inside front and outside back cover page of prospectus requirements of Item 502 of Regulation S–B;[28] (3) in the question-and-answer format (Model A of Form 1–A), the selling security holders information requirements of Item 507 of Regulation S–B;[29] (4) the disclosure requirements (Items 510 and 702 of Regulation S–B) concerning the Commission's position on indemnification;[30] (5) the disclosure requirements of Item 509 of Regulation S–B regarding relationships with experts and counsel;[31] and (6) in the traditional Regulation A line-item format (Model B of Form 1–A), the disclosure requirements of Item 103 of Regulation S–B regarding legal proceedings.[32] Further, instructions have been added to Form SB–1 stating that, in lieu of the "Cover Page" requirements of Model A and Model B of Form 1–A, the information required by Item 501 of Regulation S–B[33] should be included.

D. Financial Statement Requirements for Transitional Small Business Issuers

As adopted today, small business issuers using the transitional disclosure requirements of Exchange Act Forms 10–SB and 10–KSB are required to include the same financial information required by Part F/S of Form 1–A, except that audited financial statements are required.[34] An initial registration statement on Form 10–SB is required to contain audited financial statements for the issuer's two most recent fiscal years, except that audited financial statements for only the most recent fiscal year are sufficient if audited statements for the preceding year are not otherwise available. Subsequent Form 10–KSB filings, as well as offerings registered on Form SB–1, must include audited financial statements for the two most recent fiscal years.

E. Annual Report to Security Holders and Proxy Requirements

Revisions to the rules regarding the annual report to security holders are

[24] This reflects the increased offering ceiling and the increasing use of dividend reinvestment plans to offer securities other than through the reinvestment of dividends.
[25] The requirement may arise either pursuant to section 13 (15 U.S.C. 78m) or 15(d) (15 U.S.C. 78o(d)) of the Exchange Act.
[26] Proxy and information statements by transitional small business issuers which do not rely upon the transitional disclosure formats will be considered transitional disclosure documents. Similarly, transitional small business issuers which include information in addition to the financial statements required by Rule 14a–3 or 14c–3 will be considered transitional disclosure documents.
[27] 17 CFR 228.512.
[28] 17 CFR 228.502.
[29] 17 CFR 228.507. Information regarding selling security holders is required in the line-item format in Model B of Form 1–A under Regulation A.
[30] 17 CFR 228.510 and 702.
[31] 17 CFR 228.509.
[32] 17 CFR 228.103.
[33] 17 CFR 228.501.
[34] Issuers using the transitional disclosure formats of Forms 10–SB and 10–KSB are required to furnish the information required by Item 310 of Regulation S–B.

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adopted as proposed. As amended, Rule 14a–3 and Rule 14c–3 require small business issuers using the transitional reporting requirements for their most recent annual report on Form 10–KSB to provide to security holders only the financial statements contained in that Form 10–KSB. In response to public comment, notes have been added to Rules 14a–3 and 14c–3 which make clear that the inclusion of additional information, including information required of non-transitional small business issuers, in the annual report to security holders will not cause the issuer to be ineligible for the transitional disclosure forms.

The Commission also has adopted optional proxy statement disclosure formats for transitional small business issuers. These optional disclosure formats include instructions to Schedule 14A which reference the transitional disclosure forms.[35] Eligible small business issuers which elect to comply with the non-transitional Schedule 14A requirements may continue to use the transitional disclosure forms.

F. Other Securities Act Forms

As adopted, a transitional small business issuer is permitted to use the transitional disclosure requirements applicable to its Exchange Act reports for purposes of Forms S–3,[36] S–4 and S–8. In contrast to employee benefit plan offerings registered on Form S–8, registered offerings on Forms S–3[37] and S–4 by transitional small business issuers are subject to, and included in, the calculation of the $10 million ceiling.[38] Transitional small business issuers filing a registration statement on Form S–3 may use their transitional Exchange Act reports for purposes of the historical and future incorporation by reference permitted in Form S–3. Form S–4 also has been amended to refer to the alternative disclosure formats for transitional small business issuers.

III. Small Business Integrated Disclosure System—Financial Statements

A. Amendment of Rules Applicable to Financial Statements of Significant Acquired Businesses

Registration statements, certain proxy materials and periodic reports on Form 8–K are required to include financial statements of acquired businesses for periods of one or two years based on the significance of the acquisition. Significance of an acquisition is measured by a comparison of the registrant's income and assets to the income and assets of the acquiree as well as the relationship of the acquisition price to the registrant's total assets. If the highest level of significance exceeds 10% but does not exceed 20%, one year of audited financial statements are required. If the significance exceeds 20%, two years are required.

As a result of this test, the acquisition of a business that would not be sizeable enough to require Exchange Act registration would result in the acquired company having to provide audited financial statements. For example, a small business with total assets of $25 million would be required to obtain audited financial statements of an acquiree with total assets of any amount over $2.5 million. The effort and cost of obtaining audited historical financial statements of relatively small acquisitions by small businesses is disproportionately greater than for larger businesses.

The Commission is adopting, as proposed, amendments to Item 310(c) of Regulation S–B which provide, in certain circumstances, an automatic waiver of one year of the audited financial statements otherwise required to be provided in connection with the acquisition of a significant acquired business.[39]

As amended, Item 310(c)(3) of Regulation S–B provides that, where audited financial statements are not otherwise available, audited financial statements would be automatically waived if the significance of the acquired business does not exceed 20%, and the earlier of the two years of required financial statements would be waived where significance does not exceed 40%. In either case, where unaudited financial statements are available, they would be required. Where a small business issuer relies on such an automatic waiver, the pro forma financial information included in a Form 8–K filed to report the acquisition may not be used as the basis for measuring the significance of later acquisitions as otherwise provided by Item 310(c)(5) of Regulation S–B.

Commenters on the proposal pointed out the need to address those acquisitions by small businesses experiencing marginal or break-even operations. In such cases, the net income test will result in every acquisition being significant regardless of size. Commenters suggested that, in such cases, operational significance would be better measured in terms of revenues rather than net income.

As in other circumstances, small business issuers may apply for a waiver of financial statement requirements. In light of the point raised by commenters, small business issuers that have marginal or break-even levels of net income and that can show that revenues of the acquired business do not exceed 10% of the acquiring company's revenues for the last fiscal year, upon written request, likely will be given a waiver of the requirement to provide any financial statements which would be required solely as a result of the application of the net income significance test.

B. Amendment to Rule Applicable to Age of Small Business IPO Audited Financial Statements

The Commission is adopting as proposed the amendment to Item 310(g) of Regulation S–B which governs the age of financial statements in registration statements for initial registered offerings by small business issuers. The amendment will permit small business issuers to commence an initial public offering of securities throughout the 90-day period subsequent to the end of the most recent fiscal year without providing the audited historical financial statements for that fiscal year subject to the same conditions applicable to reporting companies.[40]

[35] As Schedule 14C (17 CFR 240.14c–101) specifically references the disclosure items of Schedule 14A, these amendments will apply equally to information statements on Schedule 14C.

[36] 17 CFR 239.13.

[37] Small business issuers could use Form S–3 for the following types of offerings if the applicable transaction requirements of that form are met: (1) Primary offerings of non-convertible and asset-backed investment grade securities; (2) secondary offerings by selling security holders if securities of the same class are listed and registered on a national securities exchange or quoted on NASDAQ; and (3) securities to be offered upon the exercise of outstanding warrants or rights, pursuant to a dividend reinvestment plan, or the conversion of outstanding securities.

[38] Issuers (other than transitional small business issuers) registering securities on Form S–4 in connection with the acquisition of a transitional small business issuer may use the transitional disclosure requirements of Form SB–1 in providing the required information regarding the company to be acquired.

[39] In addition, Part F/S of Form 1–A is being amended to conform the requirements for financial statements of significant acquired businesses in Regulation A transactions.

[40] Other conditions which must be met by all registrants in order to be eligible for the extended update are: (1) All Exchange Act reports must have been filed; (2) for the most recent fiscal year for which audited financial statements are not yet available, the small business issuer reasonably and in good faith expects to report income from continuing operations before taxes; and (3) for at least one of the two fiscal years immediately preceding the most recent fiscal year, the small business issuer reported income from continuing operations before taxes.

IV. Regulation A—"Test the Waters" Document

Rule 254 has been amended as proposed to provide that, subject to specified conditions, any written "test the waters" material under the Securities Act is not a "prospectus" as defined in section 2(10)[41] of the Securities Act once it is submitted to Commission, provided that it contains the information required by Rule 254.[42] The treatment of the written test the waters document in Rule 254(e) is analogous to that provided for advertising of registered offerings pursuant to Securities Act Rule 134.[43] The anti-fraud provisions of the federal securities laws, however, continue to apply to any written "test the waters" material.[44] Also, any test the waters activity would be an "offer" as defined in section 2(3)[45] under the Securities Act.[46]

V. Revisions to Regulation D Information Requirements

The general conditions that must be met in an offering under Regulation D are set forth in Rule 502. Historically, the information required to be delivered to non-accredited investors in connection with offerings under Rules 505 or 506 depended upon the dollar amount offered. In its Small Business Initiative, however, the Commission replaced Form S–18 with Form SB–2[47] and shifted the eligibility criteria for streamlined offering documents from the amount being offered to the size of the issuer. The non-financial statement requirements of Rule 502 have been amended to reflect this revised eligibility criteria.

A. Non-financial Statement Requirements

As amended today, the non-financial statement informational requirements in Rule 502 depend upon the issuer's eligibility to use a particular registration statement form or Regulation A. The dollar amount of the particular offering is no longer determinative. Thus, non-reporting issuers conducting Regulation D offerings are required to provide the same kind of information as is required in Part I of a Securities Act registration statement form that the issuer would be entitled to use. Non-reporting issuers eligible to use Regulation A have the option of providing the same kind of information as required in Part II of Form 1–A. No substantive changes are made with respect to the non-financial statement requirements for reporting issuers, other than specifying that the disclosure contained in Form SB–1 may be provided by issuers eligible to use that form.

B. Financial Statement Requirements

The proposal to amend the Regulation D financial statement requirements has not been adopted. The Commission will continue to explore with state securities administrators what revisions would be appropriate to maintain the federal-state coordination of the Uniform Limited Offering Exemption.

VI. Summary of Final Regulatory Flexibility Analysis

The Commission has prepared a Final Regulatory Flexibility Analysis pursuant to the Regulatory Flexibility Act,[48] regarding the rules and forms adopted today. This analysis indicates that the revisions should aid small businesses in their efforts to raise capital while being consistent with the protection of investors.

The analysis notes that small businesses seeking to register their securities and become reporting issuers will benefit from the transitional disclosure alternatives in Form SB–1 and the Exchange Act reporting forms.

The analysis also notes that the new provision specifying that written "test the waters" materials complying with Regulation A are not prospectuses under section 2(10) of the Securities Act would benefit small businesses by specifying the application of the statute.

The amendments are designed to minimize costs but do not sacrifice the important concerns of investors. A copy of the Final Regulatory Flexibility Act Analysis may be obtained from Twanna M. Young, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

VII. Cost-Benefit Analysis

No specific empirical data was submitted in response to the Commission's invitation to provide information on the costs and benefits of the proposed revisions. However, the vast majority of the public commenters were of the view that the proposals, if adopted, would work some cost savings to issuers that chose the new procedures; and, further, that investors would have adequate safeguards under the new forms.

VIII. Certain Other Findings

As required by section 23(a) of the Exchange Act,[49] the Commission has specifically considered the impact that these rulemaking actions would have on competition and has concluded that they would not impose a significant burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

IX. Effective Date

The rules and forms adopted today are effective June 3, 1993. Issuers wishing to comply with these rule and form changes prior to the effective date may do so.

X. Statutory Basis, Text of Proposals and Authority

The amendments to the Commission's rules and forms are being adopted pursuant to sections 2, 3(b), 6, 7, 8, 10, and 19(a) of the Securities Act and sections 12, 13, 15(d), 16(a) and 23(a) of the Exchange Act.

List of Subjects in 17 CFR Parts 228, 230, 239, 240 and 249

Reporting and recordkeeping requirements, Securities.

Text of Rule and Form Proposals

1. For the reasons set out in the preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 228—INTEGRATED DISCLOSURE SYSTEM FOR SMALL BUSINESS ISSUERS

The authority citation for Part 228 continues to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, 77sss, 78*l*, 78m, 78n, 78o, 78w, 78*ll*, 80a–8, 80a–29, 80a–30, 80a–37, 80b–11, unless otherwise noted.

[41] 15 U.S.C. 77(b)(10).

[42] Rule 254(b)(2) requires that the test the waters materials contain the following information (i) a statement that no money or other consideration is being solicited, and, if sent in response, will not be accepted; (ii) a statement that no sales of the securities will be made or commitment to purchase accepted until delivery of an offering circular that includes complete information about the issuer and the offering; (iii) a statement that an indication of interest made by a prospective investor involves no obligation or commitment of any kind; and (iv) identification of the chief executive officer of the issuer and a brief, general identification of the issuer's business and products.

[43] 17 CFR 230.134.

[44] Section 17(a) of the Securities Act (15 U.S.C. 77q(a)) and section 10(b) of the Exchange Act (15 U.S.C. 78j(b)).

[45] 15 U.S.C. 77b(3).

[46] The revision to Rule 254 does not affect the status of oral test the waters activity as "oral communications" for purposes of section 12(2) of the Securities Act (15 U.S.C. 77*l*(2)).

[47] 17 CFR 239.10.

[48] See 5 U.S.C. 604.

[49] 15 U.S.C. 78w(a).

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2. Amend § 228.310 by revising paragraphs (c)(3)(i) and (c)(3)(ii); by removing paragraph (c)(3)(iv); by adding one sentence to the end of paragraph (c)(5); and by revising paragraph (g)(2)(i) to read as follows:

§ 228.310 (Item 310) Financial Statements.

* * * * *

(c) *Financial statements of businesses acquired or to be acquired.* * * *

(3)(i) Financial statements shall be furnished for the periods prior to the date of acquisition, for the same periods for which the small business issuer is required to furnish financial statements. The financial statements covering fiscal years shall be audited.

(ii) If none of the conditions in the definitions of significant subsidiary in paragraph (c)(2) of this Item exceeds 20% and the required audited financial statements of the acquired business are not readily available, an automatic waiver of the required audited financial statements is granted. If none of the conditions in the definitions of significant subsidiary exceeds 40% and the required audited financial statements are not readily available, an automatic waiver is granted with respect to the required audited financial statements for the fiscal year preceding the latest fiscal year. If unaudited financial statements or other financial information is available for any fiscal period for which an automatic waiver is granted, then such unaudited financial statements or other information shall be furnished.

* * * * *

(5) * * * Notwithstanding the above, if a Form 8–K (§ 249.308 of this chapter) was filed to report a significant acquisition but audited financial statements were not furnished pursuant to the automatic waiver provisions of paragraph (c)(3) of this Item, the determination of significance may not be made using the pro forma amounts for the latest fiscal year; however, upon written request from the issuer, the Commission will consider permitting the use of previously filed pro forma financial information as the basis for measurement for the significance tests.

* * * * *

(g) *Age of Financial Statements.*

* * *

(2) * * *

(i) If the small business issuer is a reporting company, all reports due must have been filed;

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

3. The authority citation for part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77ss, 78c, 78*l*, 78m, 78n, 78*o*, 78w, 78*ll*(d), 79t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

By adding paragraph (e) to § 230.254 to read as follows:

§ 230.254 Solicitation of Interest Document for Use Prior to an Offering Statement.

* * * * *

(e) Written solicitation of interest materials submitted to the Commission and otherwise in compliance with this section shall not be deemed to be a prospectus as defined in section 2(10) of the Securities Act (15 U.S.C. 77b(10)).

5–6. By revising paragraphs (b)(2)(i) and (ii)(B) of § 230.502 to read as follows:

§ 230.502 General conditions to be met.

* * * * *

(b) * * *

(2) * * * (i) If the issuer is not subject to the reporting requirements of section 13 or 15(d) of the Exchange Act, at a reasonable time prior to the sale of securities the issuer shall furnish to the purchaser, to the extent material to an understanding of the issuer, its business and the securities being offered:

(A) *Non-financial statement information.* If the issuer is eligible to use Regulation A (§ 230.251–263), the same kind of information as would be required in Part II of Form 1–A (§ 239.90 of this chapter). If the issuer is not eligible to use Regulation A, the same kind of information as required in Part I of a registration statement filed under the Securities Act on the form that the issuer would be entitled to use.

(B) *Financial statement information.—(1) Offerings up to $2,000,000.* The information required in Item 310 of Regulation S–B (§ 228.310 of this chapter), except that only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited.

(2) Offerings up to $7,500,000. The financial statement information required in Form SB–2 (§ 239.10 of this chapter). If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of Federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.

(3) Offerings over $7,500,000. The financial statement as would be required in a registration statement filed under the Act on the form that the issuer would be entitled to use. If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements that have been prepared on the basis of Federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.

(C) If the issuer is a foreign private issuer eligible to use Form 20–F (§ 249.220f of this chapter), the issuer shall disclose the same kind of information required to be included in a registration statement filed under the Act on the form that the issuer would be entitled to use. The financial statements need be certified only to the extent required by paragraph (b)(2)(i) (B) *(1), (2)* or *(3)* of this section, as appropriate.

(ii) * * *

(B) The information contained in an annual report on Form 10–K (§ 249.310 of this chapter) or 10–KSB (§ 249.310b of this chapter) under the Exchange Act or in a registration statement on Form S–1 (§ 239.11 of this chapter), SB–1 (§ 239.9 of this chapter), SB–2 (§ 239.10 of this chapter) or S–11 (§ 239.18 of this chapter) under the Act or on Form 10 (§ 249.210 of this chapter) or Form 10–SB (§ 249.210b of this chapter) under the Exchange Act, whichever filing is the most recent required to be filed.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

The authority citation for Part 239 continues to read, in part, as follows:

* * * * *

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78*o*(d), 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79m, 79n, 79q, 79t,

80a08, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

8. Section 239.9 is added to read as follows:

§ 239.9 Form SB–1, optional form for the registration of securities to be sold to the public by certain small business issuers.

Small business issuers, as defined in Rule 405 (17 CFR 230.405 of this chapter), may use this form to register up to $10,000,000 of securities to be sold for cash, if they have not registered more than $10,000,000 in securities offerings in any continuous 12-month period, including the transaction being registered. In calculating the $10,000,000 ceiling, issuers should include all offerings which were registered under the Securities Act, other than any amounts registered on Form S–8 (§ 239.16b).

Note: The Text and Instructions of Form SB–1 will not appear in the Code of Federal Regulations.

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U.S. Securities and Exchange Commission
Washington, D.C. 20549

Form SB-1

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

(Amendment No. ____)

(Name of small business issuer in its charter)

(State or jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification No.)

(Address and telephone number of principal executive offices)

(Address of principal place of business or intended principal place of business)

(Name, address and telephone number of agent for service)

Approximate date of proposed sale to the public _____

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box. [ ]

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Dollar Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

The following delaying amendment is optional, but see Rule 473 before omitting it: The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

Disclosure alternative used (check one): Alternative 1 ___; Alternative 2 ___

BILLING CODE 8010-01-C

General Instructions

A. Use of Form and Place of Filing

1.(a) A "small business issuer," defined in Rule 405 of the Securities Act of 1933 (the "Securities Act") may use this form to register up to $10,000,000 of securities to be sold for cash, if they have not registered more than $10,000,000 in securities offerings in any continuous 12-month period, including the transaction being registered. In calculating the $10,000,000 ceiling, issuers should include all offerings which were registered under the Securities Act, other than any amounts registered on Form S–8.

(b) A small business issuer may use this form until it (1) registers more than $10 million under the Securities Act in any continuous 12-month period (other than securities registered on Form S–8), (2) elects to file on a non-transitional disclosure document (other than the proxy statement disclosure in Schedule 14A), or (3) no longer meets the definition of small business issuer. Non-transitional disclosure documents include: (1) Securities Act registration statement forms other than Forms SB–1, S–3 (if the issuer incorporates by reference transitional Exchange Act reports), S–8 and S–4 (if the issuer relies upon the transitional disclosure format in that form); (2) Exchange Act periodic reporting Forms 10–K and 10–Q; (3) Exchange Act registration statement Form 10; and (4) reports or registration statements on Forms 10–KSB, 10–QSB or 10–SB which do not use the transitional disclosure document format. A reporting company may not return to the transitional disclosure forms.

2. If the small business issuer is not a reporting company, it should file the registration statement in the regional office that is closest to its principal place of business or the Washington, DC office. However, no filing may be made in the Philadelphia regional office; small business issuers in that region should file in the Atlanta, New York or Washington, DC offices.

3. If the small business issuer is a reporting company or a holding company of a bank (see the definition of "bank" in section 12(i) of the Securities Exchange Act of 1934), it should file the registration statement in the Commission's Washington, DC headquarters.

4. Post-effective amendments should be filed with the office that declared the registration statement effective.

5. The Commission may refer processing to an office other than that where the filing was made.

B. General Requirements

1. In preparing a registration statement on this Form, reference should be made to the General Rules and Regulations under the Securities Act, particularly Regulation C which sets forth requirements for the preparation and filing of a registration statement such as paper type and size.

2. Issuers registering securities for the first time should be aware of Form SR and Rule 463 under the Securities Act concerning sales of registered securities and the use of proceeds. First-time issuers also should be aware of Exchange Act Rule 15c2–8 (§ 240.15c2–8), which requires broker-dealers to deliver a prospectus 48 hours before a sale of securities can be confirmed.

3. Issuers engaged in real estate, banking, insurance, oil and gas or mining activities should consult the Industry Guides in Item 801 of Regulation S–K (17 CFR 229.801). Real estate companies also should refer to Item 13 (Investment Policies of Registrant), Item 14 (Description of Real Estate), and Item 15 (Operating Data) of Form S–11 (17 CFR 239.18).

C. Preparation and Filing of the Registration Statement

Part I of this form, which relates to the content of certain information about the issuer, provides alternative disclosure formats. The registrant may elect either of these alternative formats.

D. Financial Statement Requirements

Regardless of the disclosure model used, all registrants shall furnish the financial statements required by Part F/S of this Form SB–1.

E. Composition of Prospectus

The information required by Part I and Part F/S of this registration statement shall comprise the prospectus.

F. Cover Page of Registration Statement

Issuers electing Alternative 1 should furnish the information required by Item 501 of Regulation S–B in lieu of the information required by Alternative 1 with respect to the cover page of the registration statement. Issuers electing Alternative 2 should furnish the information required by Item 501 of Regulation S–B in lieu of the information required by Item 1 of Alternative 2.

G. Canadian Issuer—Consent of Service

Canadian issuers eligible to use this Form should file as an exhibit to this registration statement a written irrevocable consent and power of attorney on Form F–X (§ 239.42 of this title).

Part I—Narrative Information Required in Prospectus

Alternative 1

Corporate issuers may elect to furnish the information required by Model A of Form 1–A, as well as the following information.

Item 1. Inside Front and Outside Back Cover Pages of Prospectus

Furnish the information required by Item 502 of Regulation S–B.

Item 2. Significant Parties

List the full names and business and residential addresses, as applicable, for the following persons:
(1) The issuer's directors;
(2) The issuer's officers;
(3) The issuer's general partners;
(4) Record owners of 5 percent or more of any class of the issuer's equity securities;
(5) Beneficial owners of 5 percent or more of any class of the issuer's equity securities;
(6) Promoters of the issuer;
(7) Affiliates of the issuer;
(8) Counsel to the issuer with respect to the proposed offering;
(9) Each underwriter with respect to the proposed offering;
(10) The underwriter's directors;
(11) The underwriter's officers;
(12) The underwriter's general partners; and
(13) Counsel to the underwriter.

Item 3. Relationship with Issuer of Experts Named in Registration Statement

Furnish the information required by Item 509 of Regulation S–B, if applicable.

Item 4. Selling Security Holders

Furnish the information required by Item 507 of Regulation S–B, if applicable.

Item 5. Changes in and Disagreements with Accountants

Furnish the information required by Item 304 of Regulation S–B, if applicable.

Item 6. Disclosure of Commission position on Indemnification for Securities Act Liabilities

Furnish the information required by Item 510 of Regulation S–B.

Alternative 2

Any issuer may elect to furnish the information required by Model B of Part II of Form 1–A, as well as the following information.

Item 1. Inside Front and Outside Back Cover Pages of Prospectus

Furnish the information required by Item 502 of Regulation S–B.

Item 2. Significant Parties

List the full names and business and residential addresses, as applicable, for the following persons:
(1) The issuer's directors;
(2) The issuer's officers;
(3) The issuer's general partners;
(4) Record owners of 5 percent or more of any class of the issuer's equity securities;
(5) Beneficial owners of 5 percent or more of any class of the issuer's equity securities;
(6) Promoters of the issuer;
(7) Affiliates of the issuer;
(8) Counsel to the issuer with respect to the proposed offering;
(9) Each underwriter with respect to the proposed offering;
(10) The underwriter's directors;
(11) The underwriter's officers;
(12) The underwriter's general partners; and
(13) Counsel to the underwriter.

Item 3. Relationship with Issuer of Experts Named in Registration Statement

Furnish the information required by Item 509 of Regulation S–B, if applicable.

Item 4. Legal Proceedings

Furnish the information required by Item 103 of Regulation S–B.

Item 5. Changes in and Disagreements with Accountants

Furnish the information required by Item 304 of Regulation S–B, if applicable.

Item 6. Disclosure of Commission position on Indemnification for Securities Act Liabilities

Furnish the information required by Item 510 of Regulation S–B.

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Part F/S—Financial Information Required in Prospectus

Furnish the information required by Item 310 of Regulation S–B.

Part II—Information Not Required in Prospectus

Item 1. Indemnification of Directors and Officers

Furnish the information required by Item 702 of Regulation S–B.

Item 2. Other Expenses of Issuance and Distribution

Furnish the information required by Item 511 of Regulation S–B.

Item 3. Undertakings

Furnish the undertakings required by Item 512 of Regulation S–B.

Item 4. Unregistered Securities Issued or Sold Within One Year

(a) As to any unregistered securities issued by the issuer or any of its predecessors or affiliated issuers within one year prior to the filing of this Form SB–1, state:

(1) The name of such issuer;

(2) The title and amount of securities issued;

(3) The aggregate offering price or other consideration for which they were issued and the basis for computing the amount thereof;

(4) The names and identities of the persons to whom the securities were issued.

(b) As to any unregistered securities of the issuer or any of its predecessors or affiliated issuers which were sold within one year prior to the filing of this Form SB–1 by or for the account of any person who at the time was a director, officer, promoter or principal security holder of the issuer of such securities, or was an underwriter of any securities of such issuer, furnish the information specified in subsections (1) through (4) of paragraph (a)

(c) Indicate the section of the Securities Act or Commission rule or regulation relied upon for exemption from the registration requirements of such Act and state briefly the facts relied upon for such exemption.

Item 5. Index to Exhibits

(a) An index to the exhibits should be presented.

(b) Each exhibit should be listed in the exhibit index according to the number assigned to it in Part III of Form 1–A or Item 2, below.

(c) The index to exhibits should identify the location of the exhibit under the sequential page numbering system for this Form SB–1.

(d) Where exhibits are incorporated by reference, the reference shall be made in the index of exhibits.

Instructions:

1. Any document or part thereof filed with the Commission pursuant to any Act administered by the Commission may, subject to the limitations of Rule 24 of the Commission's Rules of Practice, be incorporated by reference as an exhibit to any registration statement.

2. If any modification has occurred in the text of any document incorporated by reference since the filing thereof, the issuer shall file with the reference a statement containing the text of such modification and the date thereof.

3. Procedurally, the techniques specified in Rule 411(d) of Regulation C shall be followed.

Item 6. Description of Exhibits

As appropriate, the issuer should file as exhibits those documents required to be filed under Part III of Form 1–A. Part III of Form 1–A lists 10 exhibits. The registrant also shall file:

(11) *Opinion re legality*—An opinion of counsel as to the legality of the securities covered by the Registration Statement, indicating whether they will, when sold, be legally issued, fully paid and non-assessable, and if debt securities, whether they will be binding obligations of the issuer.

(12) *Additional exhibits*—Any additional exhibits which the issuer may wish to file, which shall be so marked as to indicate clearly the subject matters to which they refer.

(13) *Form F-X*—Canadian issuers shall file a written irrevocable consent and power of attorney on Form F-X.

Signatures

In accordance with the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements of filing on Form SB–1 and authorized this registration statement to be signed on its behalf by the undersigned, in the City of _____, State of _____, on _____, 19___

(Registrant) _____

By (Signature and Title) _____

In accordance with the requirements of the Securities Act of 1933, this registration statement was signed by the following persons in the capacities and on the dates stated.

(Signature) _____

(Title) _____

(Date) _____

Instructions for signatures.

(1) Who must sign: The small business issuer, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer and at least the majority of the board of directors or persons performing similar functions. If the issuer is a limited partnership then the general partner and a majority of its board of directors if a corporation.

(2) Beneath each signature, type or print the name of each signatory. Any person who occupies more than one of the specified positions shall indicate each capacity in which he or she signs the registration statement. See Rule 402 of Regulation C concerning manual signatures and Item 601 of Regulation S–B concerning signatures by powers of attorney.

9. Form S–2 (§ 239.12) is amended by adding Paragraph D to General Instruction II to read as follows:

Note: The text of Form S–2 will not appear in the Code of Federal Regulations.

Form S–2

* * * * *

General Instruction

* * * * *

II. Application of General Rules and Regulations

* * * * *

D. A "small business issuer," as defined in Rule 405 (17 CFR 230.405), that provided the "Information Required in Annual Report of Transitional Small Business Issuers" in its most recent annual report on Form 10–KSB is not eligible for use of this Form S–2.

10. Form S–4 (§ 239.25) is amended by adding Paragraph 4 to General Instruction D to read as follows:

Note: The text of Form S–4 will not appear in the Code of Federal Regulations.

Form S–4

* * * * *

General Instructions

* * * * *

D. Application of General Rules and Regulations

* * * * *

4. (a) Registrants and Companies to be Acquired that are eligible to use Form SB–1 may rely upon Part (b) or (c), as applicable, of this instruction in lieu of the narrative disclosure items set forth in this Form. These Registrants and Companies to be Acquired should look to Part F/S of Form SB–1 with respect to their financial statement requirements.

(b) Registrants and Companies to be Acquired which relied upon Alternative 1 in their most recent Form 10–KSB:

(i) Part 1.A.—furnish the information required by Part 1.A. of this Form;

(ii) Part I.B.—in lieu of the information required in Item 14, furnish the information required in (a) Questions 3, 4, 11, 43 and 47–50 of Model A of Form 1–A, and (b) Item 14(d) and 14(i) of this Form;

(iii) Part 1.C.—in lieu of the information required in Item 17, furnish the information required in (a) Item 17(a), 17(b)(1), 17(b)(2), 17(b)(6), 17(b)(7) and 17(b)(8) of this Form, and (b) Questions 4, 11 and 47–50 of Model A of Form 1–A;

(iv) Part 1.D.—(*1*) in lieu of providing the information required in Item 18, furnish the information required in (a) Items 18(a)(1)—18(a)(6) and (b) Questions 29–36 and 39–42 of Model A of Form 1–A; and (*2*) in lieu of providing the information required in Item 19(a), furnish the information required in (a) Items 19(a)(1)—19(a)(6) of this Form and Questions 29–36 and 39–42 of Model A of Form 1–A; (*3*) in lieu of providing the information required in Item 19(b), furnish the information required in (a) Items 19(a)(4)—19(a)(6) of this Form and Questions 29–36 and 39–42 of Model A of Form 1–A.

(v) Part II—in lieu of the exhibits required by Item 21(a) and 21(b), furnish the exhibits required in Part II of Form SB–1.

(c) Registrants and Companies to be Acquired which relied upon Alternative 2 in their most recent Form 10–KSB:

(i) Part 1.A.—furnish the information required by Part 1.A. of this Form;

(ii) Part I.B.—in lieu of the information required in Item 14, furnish the information required in (a) Items 6 and 7 of Model B of Form 1–A, and (b) Items 14(c), (d), and (i) of this Form;

(iii) Part 1.C.—in lieu of the information required in Item 17, furnish the information required in (a) Item 17(a), 17(b)(1), 17(b)(2), 17(b)(6), 17(b)(7) and 17(b)(8) of this Form, and (b) Item 6(a)(3)(i) of Model B of Form 1–A;

(iv) Part 1.D.—(*1*) in lieu of providing the information required in Item 18, furnish the information required in (a) Items 18(a)(1)—18(a)(6) and (b) Items 8, 9 and 11 of Model B of Form 1–A; (*2*) in lieu of providing the information required in Item 19(a), furnish the information required in (a) Items 19(a)(1)—19(a)(6) of this Form and Items 8, 9 and 11 of Model B of Form 1–A; and (*3*) in lieu of providing the information required in Item 19(b), furnish the information required in (a) Items 19(a)(4)—19(a)(6) of this Form and Questions Items 8, 9 and 11 of Model B of Form 1–A.

(v) Part II—in lieu of the exhibits required by Item 21(a) and 21(b), furnish the exhibits required in Part II of Form SB–1.

11. Form 1–A (§ 239.90) is amended by revising paragraph (3)(c)(iv) of Part F/S to read as follows:

Note: The text of Form 1–A does not appear in the Code of Federal Regulations.

Form 1–A—Regulation A Offering Statement Under the Securities Act of 1933

* * * * *

Part II—Offering Circular

* * * * *

Part F/S

* * * * *

(3) Financial Statements of Businesses Acquired or to be Acquired.

* * * * *

(c)(i) * * *

(ii) * * *

(iii) * * *

(iv) If none of the conditions in the definitions of significant subsidiary in Rule 405 exceeds 40%, income statements of the acquired business for only the most recent fiscal year and interim period need be filed, unless such statements are readily available.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

12. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78*l*, 78m, 78n, 78*o*, 78p, 78s, 78w, 78x, 78*ll*(d), 79q, 9t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

13. By revising the Note following the introductory text of paragraph (b) of § 240.14a–3 to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) * * *

Note to Small Business Issuers—A "small business issuer," defined under Rule 12b–2 of the Exchange Act (§ 240.12b–2), shall refer to the disclosure items in Regulation S–B (§ 228.10—702 of this chapter) rather than Regulation S–K (§ 229.10—702 of this chapter). If there is no comparable disclosure item in Regulation S–B, a small business issuer need not provide the information requested. A small business issuer shall provide the information in Item 310(a) of Regulation S–B in lieu of the financial information required by Rule 14a–3(b)(1) (§ 240.14a–3(b)(1)). Small business issuers using the transitional small business issuers disclosure format in the filing of their most recent annual report on Form 10–KSB (§ 249.310b of this chapter) need not provide the information specified below. Rather, those small business issuers shall provide only the financial statements required to be filed in their most recent Form 10–KSB. The inclusion of additional information, including information required of non-transitional small business issuers, in the annual report to security holders will not cause the issuer to be ineligible for the transitional disclosure forms.

* * * * *

14. Amend § 240.14a–101 by adding Note G to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

Notes: * * *

G. Special Note for Small Business Issuers

(1) Registrants and acquirees which meet the definition of "small business issuer" in Rule 12b–2 of the Exchange Act and filed their latest annual report in accordance with "Information Required in Annual Report of Transitional Small Business Issuers" in Form 10–KSB shall refer to this "Special Note for Small Business Issuers" with respect to the specified items in this Schedule. If paragraph G(2) or G(3), below, does not contain an alternative disclosure instruction, small business issuers should comply with the disclosure item in this schedule, as modified by Instruction P.

(2) Registrants and acquirees which relied upon Alternative 1 in their most recent Form 10–KSB may provide the following information (Questions numbers are in reference to Model A of Form 1–A): (a) Questions 37 and 38 instead of Item 6(d); (b) Question 43 instead of Item 7(a); (c) Questions 29–36 and 39 instead of Item 7(b); (d) Questions 40–42 instead of Item 8; (e) Questions 40–42 instead of Item 10; (e) the information required in Part P/S of Form 10–SB instead of the financial statement requirements of Items 13 or 14; (f) Questions 4, 11 and 47–50 instead of Item 13(a)(1)(3); (g) Question 3 instead of Item 14(b)(3)(i) (A) and (B); and (h) Questions 4, 11 and 47–50 instead of Item 14(b)(3)(i)(H).

(3) Registrants and acquirees which relied upon Alternative 2 in their most recent Form 10–KSB may provide the following information ("Model B" refers to Model B of Form 1–A): (a) Item 10 of Model B instead of Item 6(d) of Schedule 14A; (b) Item 8(d) of Model B instead of Item 7(a) of Schedule 14A; (c) Items 8(a)–8(c) and Item 11 of Model B instead of Item 7(b) of Schedule 14A; (d) Item 9 of Model B instead of Item 8 of Schedule 14A; (e) Item 9 of Model B instead of Item 10 of Schedule 14A; (f) the information required in Part F/S of Form 10–SB instead of the financial statement requirements of Items 13 or 14 of Schedule 14A; (g) Item 6(a)(3)(i) of Model B instead of Item 13(a)(1)(3) of Schedule 14A; (h) Items 6 and 7 of Model B instead of Item 14(b)(3)(i)(A) and (B) of Schedule 14A; and (i) Item 6(a)(3)(i) of Model B instead of Item 14(b)(3)(i)(H) of Schedule 14A.

15. By adding the following Note after paragraph (a)(2) of § 240.14c–3 to read as follows:

§ 240.14c–3 Annual Report to be Furnished Security Holders.

(a) * * *

(2) * * *

Note to Small Business Issuers—In responding to the disclosure items under paragraph (b) of Rule 14a–3, (§ 240.14a–3 of this chapter) a "small business issuer," defined under Rule 12b–2 of the Exchange Act (§ 240.12b–2), shall refer to the disclosure items in Regulation S–B (§ 228.10—702 of this chapter) rather than Regulation S–K (§ 229.10—702 of this chapter). If there is no comparable disclosure item in Regulation S–B, a small business issuer need not provide the information requested. A small business issuer shall provide the information in Item 310(a) of Regulation S–B in lieu of the financial information required by Rule 14a–3(b)(1) (§ 240.14a–3(b)(1)). Small business issuers using the transitional small business issuers disclosure format in the filing of their most recent annual report on Form 10–KSB (§ 249.310b of this chapter) need not provide the information required by paragraph (b) of Rule 14a–3. Rather, those small business issuers shall provide only the financial statements required to be filed in their most recent Form 10–KSB. The inclusion of additional information, including information required of non-transitional small business issuers, in the annual report to security holders will not cause the issuer to be ineligible for the transitional disclosure forms.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

16. The authority citation for part 249 continues to read as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted.

Note: The following forms will not appear in the Code of Federal Regulations.

17. By adding General Instruction E to Form 10–SB (§ 249.210b) to read as follows:

Form 10–SB

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* * * * *

General Instructions

* * * * *

E. *Alternative Disclosure Formats.*

Small business issuers which were not previously subject to the reporting requirements of section 13 or 15(d) of the Exchange Act may elect any one of the three alternative disclosure models of Part I. Regardless of the disclosure model used, all registrants shall also complete Parts II and III, and furnish the financial statements required by Part F/S. As Alternative 1 is not a "transitional disclosure format," those small business issuers electing Alternative 1 will not be eligible for use of the transitional disclosure formats in Forms 10–KSB, 10–QSB and SB–1.

18. By removing Items 1 through 15 under "Information Required in Registration Statement" of Form 10–SB (17 CFR 249.210b).

19. By adding Part I; Part II; Part F/S and Part III after "Information Required in Registration Statement" of Form 10–SB (17 CFR 249.210b):

Form 10–SB

* * * * *

Information Required in Registration Statement

PART I

Alternative 1

Corporate issuers may elect to furnish the information required by Questions 1, 3, 4, 11, 14–20, 28–43, 45, and 47–50 of Model A of Form 1–A.

Alternative 2

Any issuer may elect to furnish the following information required by Items 6–12 of Model B of Form 1–A.

Alternative 3

Any issuer may elect to furnish the following information.

Item 1. Description of Business.

Furnish the information required by Item 101 of Regulation S–B.

Item 2. Management's Discussion and Analysis or Plan of Operation.

Furnish the information required by Item 303 of Regulation S–B.

Item 3. Description of Property.

Furnish the information required by Item 102 of Regulation S–B.

Item 4. Security Ownership of Certain Beneficial Owners and Management.

Furnish the information required by Item 403 of Regulation S–B.

Item 5. Directors, Executive Officers, Promoters and Control Persons.

Furnish the information required by Item 401 of Regulation S–B.

Item 6. Executive Compensation.

Furnish the information required by Item 402 of Regulation S–B.

Item 7. Certain Relationships and Related Transactions.

Furnish the information required by Item 404 of Regulation S–B.

Item 8. Description of Securities.

Furnish the information required by Item 202 of Regulation S–B.

PART II

Item 1. Market Price of and Dividends on the Registrant's Common Equity and Other Shareholder Matters.

Furnish the information required by Item 201 of Regulation S–B.

Item 2. Legal Proceedings.

If the registrant uses either Alternative 2 or Alternative 3 of this form, furnish the information required by Item 103 of Regulation S–B.

Item 3. Changes in and Disagreements with Accountants.

Furnish the information required by Item 304 of Regulation S–B.

Item 4. Recent Sales of Unregistered Securities.

Furnish the information required by Item 701 of Regulation S–B.

Item 5. Indemnification of Directors and Officers.

Furnish the information required by Item 702 of Regulation S–B.

PART F/S

Furnish the information required by Item 310 of Regulation S–B. However, if audited financial statements of the registrant and its predecessors and the financial statements required to be provided for any significant business acquired or to be acquired are not otherwise available for each of the two most recent fiscal years, only the financial statements for the latest fiscal year must be audited.

PART III

Item 1. Index to Exhibits

(a) An index to the exhibits should be presented.

(b) Each exhibit should be listed in the exhibit index according to the number assigned to it in Part III of Form 1–A or Item 2, below.

(c) The index to exhibits should identify the location of the exhibit under the sequential page numbering system for this Form 10–SB.

(d) Where exhibits are incorporated by reference, the reference shall be made in the index of exhibits.

Instructions:

1. Any document or part thereof filed with the Commission pursuant to any Act administered by the Commission may, subject to the limitations of Rule 24 of the Commission's Rules of Practice, be incorporated by reference as an exhibit to any registration statement.

2. If any modification has occurred in the text of any document incorporated by reference since the filing thereof, the issuer shall file with the reference a statement containing the text of such modification and the date thereof.

3. Procedurally, the techniques specified in Rule 12b–23 shall be followed.

Item 2. Description of Exhibits

As appropriate, the issuer should file those documents required to be filed as Exhibit Number 2, 3, 5, 6, and 7 in Part III of Form 1–A. The registrant also shall file:

(12) *Additional exhibits*—Any additional exhibits which the issuer may wish to file, which shall be so marked as to indicate clearly the subject matters to which they refer.

(13) *Form F–X*—Canadian issuers shall file a written irrevocable consent and power of attorney on Form F–X.

* * * * *

20. By adding the following at the end of the cover page of Form 10–QSB (§ 249.308b):

Form 10–QSB

* * * * *

Transitional Small Business Disclosure Format (Check one): Yes ____; No ____

* * * * *

21. Form 10–QSB (§ 249.308b) is amended by adding General Instruction H to read as follows:

* * * * *

General Instructions

* * * * *

H. In response to Item 6(a) of this Form 10–QSB, a small business issuer that is eligible to file the information required under "Information Required in Annual Report of Transitional Small Business Issuers" in its next required Form 10–KSB may include only those exhibits required by Part III of "Information Required in Annual Report of Transitional Small Business Issuers" of Form 10–KSB.

22. Form 10–QSB (§ 249.308b) is amended by adding the following instruction at the end of Item 2 of Part I—Financial Information:

* * * * *

PART I—FINANCIAL INFORMATION

* * * * *

Item 2. Management's Discussion and Analysis or Plan of Operation

* * * * *

Instructions for Transitional Small Business Issuers

(1) Those transitional small business issuers which relied upon Alternative 1 under "Information Required in Annual Report of Transitional Small Business Issuers" in their most recent Form 10–KSB may, in lieu of the disclosure required by Item 303 of Regulation S–B, update the responses to Questions 47–50 in Model A of Form 1–A. This update should provide such information as will enable the reader to assess material changes since the end of the last fiscal year and for the comparable interim period in the preceding year.

(2) Those transitional small business issuers which relied upon Alternative 2 under "Information Required in Annual Report of Transitional Small Business Issuers" in their most recent Form 10–KSB may, in lieu of the disclosure required by Item 303 of Regulation S–B, update the response to Item 6(a)(3)(i) to Model B of Form 1–A. This update should provide such information as will enable the reader to assess material changes since the end of the last fiscal year and for the comparable interim period in the preceding year.

* * * * *

23. By adding the following at the end of the cover page of Form 10–KSB (§ 249.310b):

Form 10–KSB

* * * * *

Transitional Small Business Disclosure Format (Check one):

Yes ____; No ____

* * * * *

24. By adding General Instruction H to Form 10–KSB (§ 249.310b) to read as follows:

Form 10–KSB

* * * * *

General Instructions

* * * * *

H. *Transitional Small Business Issuers.*

(a) In lieu of the disclosure requirements set forth under Parts I, II and III, a small business issuer that has not registered more than $10,000,000 in securities offerings in any continuous 12-month period since it became subject to the reporting requirements of section 13 or 15(d) of the Exchange Act may include the information required under "Information Required in Annual Report of Transitional Small Business Issuers." In calculating the $10,000,000 ceiling, issuers should include all offerings which were registered under the Securities Act, other than any amounts registered on Form S–8.

(b) A small business issuer may provide the information set forth under "Information Required in Annual Report of Transitional Small Business Issuers" until it (1) registers more than $10 million under the Securities Act in any continuous 12-month period (other than securities registered on Form S–8), (2) elects to file on a non-transitional disclosure document (other than the proxy statement disclosure in Schedule 14A), or (3) no longer meets the definition of small business issuer. Non-transitional disclosure documents include: (1) Securities Act registration statement forms other than Forms SB–1, S–3 (if the issuer incorporates by reference transitional Exchange Act reports), S–8 and S–4 (if the issuer relies upon the transitional disclosure format in that form); (2) Exchange Act periodic reporting Forms 10–K and 10–Q; (3) Exchange Act registration statement Form 10; and (4) reports or registration statements on Forms 10–KSB, 10–QSB or 10–SB which do not use the transitional disclosure document format. A reporting company may not return to the transitional disclosure forms.

* * * * *

25. By adding Part I, Part II, Part F/S and Part III after Item 13 of Form 10–KSB (§ 249.310b) to read as follows:

Form 10–KSB

* * * * *

Item 13

* * * * *

Information Required in Annual Report of Transitional Small Business Issuers

PART I

Note: Regardless of the disclosure model used, all registrants shall furnish the financial statements required by Part F/S.

Alternative 1

Corporate issuers may elect to furnish the information required by Questions 1, 3, 4, 11, 28–43, 45, and 47–50 of Model A of Form 1–A, as well as the information in Parts II and III, below.

Alternative 2

Any issuer may elect to furnish the information required by Items 6–11 of Model B of Form 1–A, as well as the information required by Parts II and III, below.

PART II

Item 1. Market Price of and Dividends on the Registrant's Common Equity and Other Shareholder Matters

Furnish the information required by Item 201 of Regulation S–B.

Item 2. Legal Proceedings

If Alternative 2 is used, furnish the information required by Item 103 of Regulation S–B.

Item 3. Changes in and Disagreements With Accountants

Furnish the information required by Item 304 of Regulation S–B, if applicable.

Item 4. Submission of Matters to a Vote of Security Holders

If any matter was submitted during the fourth quarter of the fiscal year covered by this report to a vote of security holders, through the solicitation of proxies or otherwise, furnish the following information:

(a) The date of the meeting and whether it was an annual or special meeting.

(b) If the meeting involved the election of directors, the name of each director elected at the meeting and the name of each other director whose term of office as a director continued after the meeting.

(c) A brief description of each other matter voted upon at the meeting and the number of affirmative votes and the number of negative votes cast with respect to each such matter.

(d) A description of the terms of any settlement between the registrant and any other participant (as defined in Rule 14a–11 of Regulation A under the Act) terminating any solicitation subject to Rule 14a–11, including the cost or anticipated cost to the registrant.

Instructions to Item 4

1. If any matter has been submitted to a vote of security holders otherwise than at a meeting of such security holders, corresponding information with respect to such submission should be furnished. The solicitation of any authorization or consent (other than a proxy to vote at a shareholders' meeting) with respect to any matter shall be deemed a submission of such matter to a vote of security holders within the meaning of this item.

2. Paragraph (a) need be answered only if paragraph (b) or (c) is required to be answered.

3. Paragraph (b) need not be answered if (i) proxies for the meeting were solicited pursuant to Regulation 14A under the Act, (ii) there was no solicitation in opposition to the management's nominees as listed in the proxy statement, and (iii) all of such nominees were elected. If the registrant did not solicit proxies and the board of directors as previously reported to the Commission was re-elected in its entirety, a statement to that effect in answer to paragraph (b) will suffice as an answer thereto.

4. Paragraph (c) need not be answered as to procedural matters or as to the selection or approval of auditors.

5. If the registrant has furnished to its security holders proxy soliciting material containing the information called for by paragraph (d), the paragraph may be answered by reference to the information contained in such material.

6. If the registrant published a report containing all of the information called for by this item, the item may be answered by reference to the information in that report.

Item 5. Compliance With Section 16(a) of the Exchange Act

Furnish the information required by Item 405 of Regulation S–B.

Item 6. Reports on Form 8–K.

State whether any reports on Form 8–K were filed during the last quarter of the period covered by this report, listing the items reported, any financial statements filed and the dates of such reports.

PART F/S

Furnish the information required by Item 310(a) of Regulation S–B.

PART III

Item 1. Index to Exhibits

(a) An index to the exhibits should be presented.

(b) Each exhibit should be listed in the exhibit index according to the number assigned to it in Part III of Form 1–A or under Item 2, below.

(c) The index to exhibits should identify the location of the exhibit under the sequential page numbering system for this Form 10–KSB.

(d) Where exhibits are incorporated by reference, the reference shall be made in the index of exhibits.

Instructions:

1. Any document or part thereof filed with the Commission pursuant to any Act administered by the Commission may, subject to the limitations of Rule 24 of the Commission's Rules of Practice, be incorporated by reference as an exhibit to any registration statement.

2. If any modification has occurred in the text of any document incorporated by reference since the filing thereof, the issuer shall file with the reference a statement containing the text of such modification and the date thereof.

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3. Procedurally, the techniques specified in Rule 12b–23 shall be followed.

Item 2. Description of Exhibits

As appropriate, the issuer should file those documents required to be filed as Exhibit Number 2, 3, 5, 6, and 7 in Part III of Form 1–A. The registrant also shall file:

(12) *Additional exhibits*—Any additional exhibits which the issuer may wish to file, which shall be so marked as to indicate clearly the subject matters to which they refer.

(13) *Form F–X*—Canadian issuers shall file a written irrevocable consent and power of attorney on Form F–X.

* * * * *

By the Commission.

Dated: April 28, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10365 Filed 5–3–93; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 381

[Docket No. RM93–14–000]

Annual Update of Filing Fees

April 28, 1993.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of annual update of Commission filing fees.

SUMMARY: In accordance with § 381.104 of the Commission's regulations, the Commission issues this update of its filing fees. This notice provides the yearly update using data in the Commission's Payroll Utilization Reporting System to calculate the new fees. The purpose of updating is to adjust the fees on the basis of the Commission's costs, completions, and work time data for fiscal years 1987 through 1992.

EFFECTIVE DATE: June 3, 1993.

FOR FURTHER INFORMATION CONTACT: Olive J. Wallace, Office of the Executive Director, Associate Executive Director Financial Management and CFO, Federal Energy Regulatory Commission, 810 First Street, NE., suite 600, Washington, DC 20426 (202) 219–2903.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Issued April 28, 1993.

The Federal Energy Regulatory Commission (Commission), by its designee the Executive Director,[1] is issuing this notice to update filing fees the Commission assesses for specific services and benefits provided to identifiable beneficiaries. Pursuant to § 381.104 of the Commission's regulations, the Commission is establishing updated fees on the basis of the Commission's costs, completions, and work time data for fiscal years 1987 through 1992.[2] The adjusted fees announced in this notice are effective June 3, 1993. The new fee schedule is as follows:

Fees Applicable to the Natural Gas Policy Act:	
1. Review of jurisdictional agency determinations (18 CFR 381.402)	$100
2. Petitions for rate approval pursuant to 284.123(b)(2) (18 CFR 381.403)	5,380
3. Initial or extension reports for Title III transactions (18 CFR 381.404)	110
Fees Applicable to General Activities:	
1. Petition for issuance of a declaratory order (except under Part I of the Federal Power Act) (18 CFR 381.302)	10,810
2. Review of a Department of Energy Remedial order:	
Amount in controversy	
$0–9,999 (18 CFR 381.303(b))	100
$10,000–29,999 (18 CFR 381.303(b))	600
$30,000 or more (18 CFR 381.303(a))	15,780
3. Review of a Department of Energy denial of adjustment:	
Amount in controversy	
$0–9,999 (18 CFR 381.304(b))	100
$10,000–29,999 (18 CFR 381.304(b))	600
$30,000 or more (18 CFR 381.304(a))	8,270
4. Written legal interpretations by the Office of the General Counsel (18 CFR 381.305(a))	3,100
Fees Applicable to Natural Gas Pipelines:	
1. Pipeline certificate applications pursuant to 284.224 (18 CFR 381.207(b))	1,000
Fees Applicable to Cogenerators and Small Power Producers:	
1. Certification of qualifying status as a small power production facility (18 CFR 381.505(a))	9,300
2. Certification of qualifying status as a cogeneration facility (18 CFR 381.505(a))	10,520
3. Applications for exempt wholesale generator status (18 CFR 381.801)	1,000
Fees Applicable to the Public Utility Regulatory Policies Act of 1978:	
1. 5 Megawatt exemption application (18 CFR 381.601)	21,620

[1] 18 CFR 375.313(a).

[2] The formula for updating the filing fees was revised in Order No. 548, 58 FR 2968 (January 7, 1993); III FERC Stats. & Regs. ¶ 30,960 (1993). Under the revised formula, the Commission averages six previous fiscal years' completions and work time data to determine the annual fee for a fee category.

List of Subjects in 18 CFR Part 381

Electric power plants, Electric utilities, Natural gas, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends part 381, chapter I, title 18, *Code of Federal Regulations*, as set forth below.

Christie McGue,

Acting Executive Director.

PART 381—FEES

1. The authority citation for part 381 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 16 U.S.C. 791–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; and 49 U.S.C. 1–27.

§ 381.302 [Amended]

2. In § 381.302, paragraph (a) is amended by removing "$7,720" and inserting "$10,810" in its place.

§ 381.303 [Amended]

3. In § 381.303, paragraph (a) is amended by removing "$13,400" and inserting "$15,780" in its place.

§ 381.304 [Amended]

4. In § 381.304, paragraph (a) is amended by removing "$5,760" and inserting "$8,270" in its place.

§ 381.305 [Amended]

5. In § 381.305, paragraph (a) is amended by removing "$2,310" and inserting "$3,100" in its place.

§ 381.402 [Amended]

6. Section 381.402 is amended by removing "$85" and inserting "$100" in its place.

§ 381.403 [Amended]

7. Section 381.403 is amended by removing "$4,320" and inserting "$5,380" in its place.

§ 381.404 [Amended]

8. Section 381.404 is amended by removing "$120" and inserting "$110" in its place.

§ 381.505 [Amended]

9. In § 381.505, paragraph (a) is amended by removing "$9,100" and inserting "$9,300" in its place and by removing "$10,540" and inserting "$10,520" in its place.

§ 381.601 [Amended]

10. Section 381.601 is amended by removing "$20,650" and inserting "$21,820" in its place.

[FR Doc. 93–10421 Filed 5–3–93; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 520

Animal Drugs, Feeds, and Related Products; Change of Sponsor Name and Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name and address from Pacific Molasses Co. to PM Ag Products, Inc.

EFFECTIVE DATE: May 4, 1993.

FOR FURTHER INFORMATION CONTACT: Judy M. O'Haro, Center for Veterinary Medicine (HFV–238), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8737.

SUPPLEMENTARY INFORMATION: Pacific Molasses Co., 333 Market St., suite 1000, San Francisco, CA 94105, has informed FDA of a change of sponsor name and address to PM Ag Products, Inc., 1055 West 175th St., Homewood, IL 60430. The agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect this change. Also, the regulations are amended in 21 CFR 520.1448a(a)(2) and 520.1840(c)(3) to reflect the new drug labeler code.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 708 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

§ 510.600 [Amended]

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for "Pacific Molasses Co." and by alphabetically adding a new entry for "PM Ag Products, Inc.," and in the table in paragraph (c)(2) by removing the entry for "050112" and by numerically adding a new entry for "036904" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
PM Ag Products, Inc., 1055 West 175th St., Homewood, IL 60430 ...	036904

(2) * * *

Drug labeler code	Firm name and address
036904	PM Ag Products, Inc., 1055 West 175th St., Homewood, IL 60430

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.1448a [Amended]

4. Section 520.1448a *Monensin blocks* is amended in paragraph (a)(2) by removing "050112" and adding in its place "036904".

§ 520.1840 [Amended]

5. Section 520.1840 *Poloxalene* is amended in paragraph (c)(3) by removing "050112" and adding in its place "036904".

Dated: April 23, 1993.

George A. Mitchell,

Director, Office of Surveillance and Compliance, Center for Veterinary Medicine.

[FR Doc. 93–10399 Filed 5–3–93; 8:45 am]

BILLING CODE 4160–01–F

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DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Parts 1 and 5c

[T.D. 8471]

RIN 1545-AQ99

Removal of Final and Temporary Regulations Relating Primarily to Provisions of Prior Law

AGENCY: Internal Revenue Service, Treasury.

ACTION: Removal of final and temporary regulations; correction.

SUMMARY: This document contain a correction to the removal of a final and temporary regulations (T.D. 8474), which were published Tuesday, April 27, 1993, (58 FR 25556). The regulations relating primarily to provisions of prior law. This action is taken in response to the Regulatory Burden Reduction Initiative.

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Paul C. Feinburg, (202) 622-3325, not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

On April 2, 1992, the Internal Revenue Service published in the **Federal Register** the Request for Comments on Regulatory Burden Reduction Initiative (57 FR 11277), in which the Treasury Department and the Internal Revenue Service solicited public comments on a program to—

(1) Close certain regulations projects that are no longer needed or will not be pursued in the forseeable future;

(2) Withdraw certain proposed regulations which there are no current plans to finalize; and

(3) Redesignate certain regulations as relating to prior law in light of subsequent changes to the law.

Section III of that document listed regulations identified as relating primarily to provisions of prior law. Those final and temporary regulations which did not receive any comments or which received only comments favorable to the program were removed.

The removal of the final and temporary regulations are the subject of these corrections.

Need for Correction

As published, the removal of the final and temporary regulations contains errors which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of April 27, 1993, of the removal of final and temporary regulations (T.D. 8474), which were the subject of FR Doc. 93-9694, is corrected as follows.

Paragraph 1. On page 25557, column 3, the first entry in the table, "1.305-1" is removed.

Par. 2. On page 25558, column 1, Instructional Par. 7. is corrected to read as follows:

Par. 7. Section 5c.305-1 and §§ 5c.1256-1 through 5c.1256-3 (including the authority citation immediately following each section) are removed.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93-10412 Filed 5-3-93; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 222

Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education

CFR Correction

In title 34 of the Code of Federal Regulations, revised as of July 1, 1992, on page 618, in the first column, the definition of "working on Federal property" should be removed from § 222.3.

BILLING CODE 1505-01-D

34 CFR Part 222

Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education

CFR Correction

In title 34 of the Code of Federal Regulations, revised as of July 1, 1992, on page 657 paragraph (b)(2) was inadvertently removed from § 222.102. As reinstated the text of paragraph (b)(2) reads as follows:

§222.102 How are section 2 eligibility and entitlement determined for an LEA formed by consolidation of school districts?

* * * * *

(b) * * *

(2)The LEA meets the criteria in § § 222.95 and 222.96.

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-233; RM-8078]

Radio Broadcasting Services; Campbellsville and Mannsville, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 260C3 and Channel 260A at Campbellsville, Kentucky, reallots Channel 260C3 from Campbellsville, Kentucky, to Mannsville, Kentucky, and modifies the construction permit for Station WVLC(FM) to specify Channel 260C3, Mannsville, Kentucky, as the community of license, at the request of Patricia Rodgers. See 57 FR 53874, November 13, 1992. The allotment of Channel 260C3 to Mannsville, Kentucky, will provide that community with its first local aural transmission service, in accordance with § 1.420(i) of the Commission's Rules. Channel 260C3 can be allotted to Mannsville in compliance with the Commission's minimum distance separation requirements at petitioner's desired transmitter site 21.4 kilometers (13.3 miles) south, in order to avoid a short-spacing to Station WDJX(FM), Channel 259B, Louisville, Kentucky. The coordinates for Channel 260C3 at Mannsville, Kentucky, are North Latitude 37-11-00 and West Longitude 85-08-33. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-233, adopted April 6, 1993, and released April 28, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1919 M Street, NW., room 246, or 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by removing Campbellsville, Channel 260A, and adding Mannsville, Channel 260C3.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10407 Filed 5-3-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-277; RM-8112]

Radio Broadcasting Services; Broken Bow, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of CarePhil Communications, substitutes Channel 291C2 for Channel 291C3 at Broken Bow, Oklahoma, and modifies Station KKBI-FM's license to specify operation on the higher class channel. See 57 FR 57410, December 4, 1992. Channel 291C2 can be allotted to Broken Bow in compliance with the Commission's minimum distance separation requirements with a site restriction of 24.8 kilometers (15.4 miles) north to accommodate petitioner's desired transmitter site, at coordinates North Latitude 34-14-45 and West Longitude 94-46-58. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 4, 1993.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-277, adopted April 7, 1993, and released April 28, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 291C3 and adding Channel 291C2 at Broken Bow.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10409 Filed 5-3-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-304; RM-7787]

Television Broadcasting Services; Albion, Lincoln and Columbus, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Citadel Communications Company, Ltd., reallots Television Channel 8 from Albion to Lincoln, Nebraska, and modifies the license for Station KCAN (TV), Albion, to specify the alternate channel. In addition, the Commission allots Channel 18 to Albion. The coordinates for Channel 8 at Lincoln are 41-01-10 and 97-07-23, with a site restriction of 42.8 kilometers (26.6 miles) northwest to avoid a short-spacing to Station KCCI, Channel 8, Des Moines, Iowa, and to avoid the Kansas City freeze area. Coordinates for Channel 18 at Albion are 41-56-00 and 98-17-30, with a site restriction of 36.2 kilometers (22.5 miles) northwest to avoid short-spacing to Station KXNE, Channel 19, Norfolk, Nebraska, and unused and unapplied for Channel *21 at Albion. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-304, adopted April 7, 1993, and released April 28, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, ITS, Inc., (202) 857-3800, 2100 M Street, NW. suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. Section 73.606(b), the Television Table of Allotments under Nebraska, is amended by removing Channel 8+ and adding Channel 18 at Albion, and by adding Channel 8+ at Lincoln.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10410 Filed 5-3-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-301; RM-8136]

Radio Broadcasting Services; Henderson, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Dean Broadcasting, Inc., licensee of Station KGRI-FM, Channel 260A, Henderson, Texas, substitutes Channel 260A for Channel 260C3 at Henderson and modifies Station KGRI-FM's license to specify operation on the higher powered channel. See 58 FR 04392, January 14, 1993. Channel 260C3 allotted to Henderson in compliance with the Commission's minimum distance separation requirements with a site restriction of 16.3 kilometers (10.2 miles) southwest in order to avoid a short-spacing to the reference coordinates for vacant but applied for Channel 259C2, Shreveport, Louisiana. The coordinates for Channel 260C3 are 32-01-20 and 94-52-58. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

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SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-301, adopted April 6, 1993, and released April 28, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas is amended by removing Channel 260A and adding Channel 260C3 at Henderson.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10408 Filed 5-3-93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91-18; Notice 2]

RIN 2127-AD87

Federal Motor Vehicle Safety Standards; Impact Protection for the Driver From the Steering Control System

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends Standard No. 203, *Impact Protection for the Driver from the Steering Control System*, to update the reference to the SAE Recommended Practice J944, from the December 1965 version to the June 1980 version. This rule is intended to clarify the positioning of the torso-shaped body block for compliance testing.

DATES: The final rule is effective on June 3, 1993. It allows optional compliance with the 1980 version until March 1, 1994. At that time, compliance with the 1965 version will no longer be allowed.

ADDRESSES: Petitions for reconsideration of the final rule should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Clarke B. Harper, Office of Vehicle Safety Standards NHTSA, telephone: (202) 366-2264.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 203, *Impact Protection for the Driver from the Steering Control System*, sets performance requirements to protect the driver from steering-assembly related injuries in a crash. The standard specifies an impact test in which a block simulating the human torso strikes the steering assembly at 15 mph. The force measured on the steering column during the impact cannot exceed 2,500 pounds except for intervals whose cumulative duration is not more than 3 milliseconds.

Currently, the positioning procedure in Standard No. 203 references Society of Automotive Engineers (SAE) Recommended Practice J944, *Steering Wheel Assembly Laboratory Test Procedure*, December 1965 (SAE J944 Dec 65). This Recommended Practice specifies that the SAE 2-Dimensional manikin specified in SAE J826 "Devices for Use in Defining and Measuring Vehicle Seating Accommodation" be placed in the seat, with the seat in the full-forward position, and moved forward until the steering wheel rim contacts the abdomen of the manikin.

During compliance testing, the agency has experienced problems with this procedure because it fails to relate the steering wheel rim-manikin contact point to the position of the torso-shaped body block, nicknamed "Blak Tuffy." In November 1968, the SAE revised J944 to correct this problem (SAE J944 Nov 68). The June 1980 version, SAE J944 JUN80, is identical to SAE J944 Nov 68.

On June 6, 1991, the agency proposed to amend Standard No. 203 to use the updated SAE J944 JUN80, as this procedure clearly positions the body block reference line 0.75 inch above the Seating Reference Point (SRP) of the driver (56 FR 26046).

As the agency noted in the proposal, the fact that SAE J944 JUN80 references SRP is not expected to pose a problem even though a new definition of SRP was adopted in a final rule on August 12, 1991, (56 FR 38084). Both the new definition in 49 CFR 571.3 of the Code of Federal Regulations and the SAE definition of SRP in SAE J944 JUN80 reference SAE J826. The definition of SRP in SAE J944 JUN80 does not give the date of the version of SAE J826 which is to be used. Therefore, the agency believed that the proposal was compatible with the new definition of SRP.

The agency also noted that the new test setup might result in the Blak Tuffy dummy being aligned approximately .25 inch lower than in the old test setup. This estimate was made based on several assumptions. First, the agency assumed that the Blak Tuffy is relatively the same size as the 2-D manikin. Next, the agency assumed average occupant seat dimensions. The old test setup is conducted with the seat completely forward. The new test setup would be conducted with the seat well back, at the SRP. The agency assumed an elevation difference from the front to the back of approximately .75 inch.

Because of the .25 inch difference in alignment of the Blak Tuffy, the agency recognized that, if the proposal became a final rule, some vehicle manufacturers or steering column manufacturers might feel obligated to recertify the steering systems. It is conceivable, but the agency believed unlikely, that realignment of the test device could cause a failure requiring redesign of the steering system. The agency sought comments from manufacturers regarding the possibility of a need for redesign, and any costs this would entail.

The only other significant difference between the December 1965 and June 1980 versions of SAE J944 concerns instrumentation. The June 1980 version permits any instrumentation capable of recording the required data. The December 1965 version, currently referenced in Standard No. 203, provides detailed drawings of the load cell to be incorporated in the steering column. The agency believed the newer (1980) version is an improvement, as it allows for use of advanced electronics. In addition, as the December 1965 instrumentation would still be permitted, this difference should not impose any additional cost on manufacturers who do not wish to change their instrumentation.

Finally, the agency proposed to delete the phrase "or an approved equivalent" in the standard. This phrase was included in the initial Federal motor vehicle safety standards to make it clear that the manufacturers had flexibility in their selection of a test procedure. Since the manufacturers would retain this flexibility if the phrase were deleted, the phrase is not necessary. Although the agency must follow the test procedure specified in the standard in conducting its compliance testing, motor vehicle manufacturers need not do so.

Comments Received

Three comments were submitted on the proposal. General Motors Corporation, Volkswagen of America, and Chrysler Corporation each supported the proposal without reservation.

Specifically, GM agreed with the agency's view that a change of .25 inch in elevation would be unlikely to cause a failure of a previously compliant design. Chrysler agreed that there would probably be little difference in the positioning of the body block in the two test procedures, and did not anticipate any need for steering system design. It approves of SAE J944 JUN80's allowance of either instrumentation. both GM and Chrysler concurred with the recommended deletion of the phrase "or an approved equivalent". VW believes the change is long overdue, and urged immediate implementation of it.

Effective Date

NHTSA believes that the rule reflects an existing practice in the industry, and that substitution of the 1980 requirement for the 1965 one will bring Standard No. 203 into accordance with industry practice. Therefore, NHTSA has determined, for good cause shown, that an effective date earlier than 180 days after issuance is in the public interest, and the amendment is effective on June 3, 1993. However, in order to insure that this amendment does not impose any burdens on any party, continued use of the 1965 procedure will be permitted as an option until March 1, 1994.

Rulemaking Analyses

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has considered the economic impact of this rule and has determined that it is not major within the meaning of E.O. 12291 or significant under Department of Transportation policies and procedures. The agency has also determined that the economic and other impacts of this rule are so minimal that a formal regulatory evaluation is not required. NHTSA believes that most manufacturers are already using the more recent version of the proposed test procedure for their compliance testing. Therefore, the agency does not anticipate any additional costs for the new compliance test procedure.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. Few, if any, vehicle manufacturers are small entities within the meaning of the Regulatory Flexibility Act. Small organizations and governmental units will not be significantly affected since the amendment will not affect the purchase price of new vehicles. Accordingly, the agency has not prepared a regulatory flexibility analysis.

National Environmental Policy Act

NHTSA has also analyzed this rule for the purposes of the National Environmental Policy Act. Because the rule only updates an existing test procedure, the agency has determined that implementation of this rule will not have any significant impact on the quality of the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612, and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

This final rule does not have any retroactive effect. Under 15 U.S.C. 1392(d), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. 15 U.S.C. 1394 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegations of authority at 49 CFR 1.50.

2. Section 571.203 is amended by redesignating S5.1 as S5.1(b) and adding a new S5.1 and S5.1(a) to read as follows:

§ 571.203 Standard No. 203; Impact protection for the driver from the steering control system.

* * * * * *

S5.1 Except as herein provided, the steering control system of any vehicle to which this standard applies shall be impacted in accordance with S5.1(a). However, if any such vehicle is manufactured on or before February 28, 1994, the steering control system may be impacted in accordance with S5.1(b).

(a) When the steering control system is impacted by a body block in accordance with SAE Recommended Practice J944 JUN80 *Steering Control System—Passenger Car—Laboratory Test Procedure*, at a relative velocity of 15 miles per hour, the impact force developed on the chest of the body block transmitted to the steering control system shall not exceed 2,500 pounds, except for intervals whose cumulative duration is not more than 3 milliseconds.

* * * * * *

Issued on April 28, 1993.

Howard Smolkin,

Acting Administrator.

[FR Doc. 93-10426 Filed 5-3-93; 8:45 am]

BILLING CODE 4910-59-M

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Proposed Rules

Federal Register
Vol. 58, No. 84
Tuesday, May 4, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–113, RM–8212]

Radio Broadcasting Services; Newport, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Charlotte McNaughton seeking the substitution of Channel 224C2 for Channel 224C3 at Newport, Oregon, and the modification of Station KCLM's construction permit to specify operation on the higher class channel. Channel 224C2 can be allotted to Newport in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.7 kilometers (7.9 miles) north to accommodate petitioner's desired transmitter site at coordinates North Latitude 44–45–22 and West Longitude 124–02–54. in accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 224C2 at Newport or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before June 21, 1993, and reply comments on or before July 6, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. in addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Margot Polivy, Esq., Renouf & Polivy, 1532 Sixteenth Street, NW., Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rile Making, MM Docket No. 93–113, adopted April 7, 1993, and released April 28, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–10406 Filed 5–3–93; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 58, No. 84
Tuesday, May 4, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), as amended, the Office of Grants and Program Systems, Cooperative State Research Service, announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board (hereafter referred to as the UAB).

Date: May 20–23, 1993.

Time: May 20—8:15 a.m.–8 p.m.; May 22—8:00 a.m.–10 a.m.; May 23—9:30 a.m.–12 noon.

Place: Winrock International (May 20), Route 3, Morrilton, Arkansas, Best Western (May 22), 704 West Michigan Street, Stuttgart, Arkansas, Memphis Holiday Inn Airport (May 23), 1441 East Brooks Road, Memphis, Tennessee.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person named below.

Purpose: To review rural economic development programs supported by the public and private sector and to write the FY 95 Priorities report.

Contact Person for Agenda and More Information: Ms. Marshall Tarkington, Executive Director, Science and Education Advisory Committees, room 432–A Administration Building, U.S. Department of Agriculture, Washington, DC 20250–2200; Telephone (202) 720–3684.

Done in Washington, DC, this 15th day of April 1993.

John Patrick Jordan,

Administrator.

[FR Doc. 93–10488 Filed 5–3–93; 8:45 am]

BILLING CODE 3410–22–M

Forest Service

Southern Region; Exemption From Appeal of the Decision To Suppress Southern Pine Beetle Infestations on the Glenwood Ranger District of the Jefferson National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice; exemption of decision from administrative appeal.

SUMMARY: Pursuant to 36 CFR 217.4(a)(11), the Regional Forester for the Southern Region has determined that good cause exists and notice is hereby given to exempt from administrative appeal the decision to suppress southern pine beetle (SPB) infestations on the Glenwood Ranger District of the Jefferson National Forest. SPB populations have increased dramatically, resulting in damage to southern yellow and white pines on approximately 50 acres in 10 areas. The primary purpose of the suppression action in these areas is to slow the spread of SPB, rehabilitate damaged areas, and rapidly remove infested merchantable trees prior to excessive loss of value due to stain and decay. Approximately 800 MBF (Thousand Board Feet) would result from this cut and remove operation. Specifically, treatments will take place in the following Compartment/Stands: 3001/04, 3003/7, 3003/05, 3008/10, 12, and 14, 3009/01, 3011/19, 3012/48, 3013/17, 3002/01, and 3018/23 of the Glenwood Ranger District.

EFFECTIVE DATE: May 4, 1993.

FOR FURTHER INFORMATION CONTACT: Questions about this exemption should be directed to Jean P. Kruglewicz, Appeals and Litigation Group Leader, Southern Region, Forest Service-USDA, 1720 Peachtree Road, NW., Atlanta, GA 30367 (404) 347–4867.

SUPPLEMENTARY INFORMATION: The purpose of the SPB suppression operations is threefold: (1) To slow the spread of this insect pest in the immediate area of the infestations, (2) rehabilitate the infested areas, and (3) to capture any value left in the dead and dying trees. Southern yellow pines are the preferred host of the SPB, but with rapidly building populations the SPB moves into nearby white pines (*Pinus strobus*). While white pines are generally less vulnerable to SPB attacks, they are at risk when mixed with, or in close proximity to, infested yellow pines. Yellow pine is not a large species component on the Glenwood Ranger District; it exists most extensively on poor dry sites on mountain ridges which are typically unsuitable for timber production. These yellow pine stands, however, provide breeding grounds for the SPB, which then infest white pine trees in the adjacent valleys that are suitable for timber production. We are concerned with both the need to remove pine sawtimber on suitable land before they lose their value and the need to slow the spread of SPB to uninfested stands with pines.

It is imperative that infested trees be removed as soon as possible to slow the spread of SPB. Adult beetles emerge in early spring and attack living pine trees. Each pair of attacking beetles construct winding S-shaped egg galleries in the inner bark, which eventually girdle and kill the tree. The beetles also introduce blue stain fungi which accelerate tree death by disrupting the water transport within the tree. In warm months, the beetle life cycle is completed in about thirty (30) days. There may be several generations yearly. This life cycle process combined with approaching warm summer temperatures results in the rapid loss of timber value due to stain and decay.

The cut and remove treatment is the most effective SPB suppression technique. This treatment would involve the removal of all infested pine trees in the stands plus a green uninfested buffer strip (approximately 100 to 200 feet). The inclusion of the buffer strip ensures the removal of freshly-attacked trees that may have been overlooked and protests the residual stand from further damage.

All ten (10) areas proposed for cut and remove treatment are located on lands identified as suitable for timber production (Management Area–7), per the approved Jefferson National Forest Land and Resource Management Plan (as amended). In the proposed treatment areas the species of pine include planted loblolly pine (*P. taeda*), Virginia pine (*P virginiana*), shortleaf pine (*P. echinata*), and pitch pine (*P. rigida*). The treatments will appear very similar to group selections, or small patch cuts, in pure pine stands and partial cuts (thinnings) in the mixed pine/hardwood stands. The largest patch cut area will be approximately 4 acres. The largest

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partially cut area will be 15 acres. It is estimated that the salvage of this timber would cover approximately 50 acres in the 10 areas and yield approximately 800 MBF (thousand board feet) of dead or dying pine timber. Only areas with good access have been proposed for cut and remove treatment which should enable these areas to be logged economically. Rehabilitation practices will be disclosed in the environmental documents and may include practices such as, site preparation, slash disposal, and reforestation, depending on stand conditions and resource objectives.

The District Ranger is the responsible official. The enviromental analysis is currently being done and is near completion. The decision will likely be documented in either a Decision Memo (per the Forest Service Environmental Policy and Procedures Handbook, Section 31.2) or Decision Notice. The analysis will include methods of harvest, mitigation measures, and any post salvage rehabilitation practices. The environmental document and biological evaluation being prepared will disclose the effects of the proposed action on the environment, document public involvement, and address the issues raised by the public.

Time is of the essence for this project. It is imperative that all identified SPB infested areas be treated and the trees removed as soon as possible to slow the spread of SPB to adjacent pine trees and stands of pine trees, and expedite the removal of merchantable timber prior to warm summer temperatures which can result in the rapid loss of timber value due to stain and decay.

Dated: April 28, 1993.

Ralph F. Mumme,

Acting Deputy Regional Forester.

[FR Doc. 93-10455 Filed 5-3-93; 8:45 am]

BILLING CODE 3410-11-M

Newspapers Used for Publication of Legal Notice of Appealable Decisions for the Northern Region; ID, MT, ND, and portions of SD and Eastern WA

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all Ranger Districts, Forests, and the Regional Office of the Northern Region to publish legal notice of all decisions subject to appeal under 36 CFR part 217 and to publish notices for public comment and notice of decision subject to the provisions proposed in 36 CFR part 215. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices for public comment or decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after May 6, 1993. The list of newspapers will remain in effect until another notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Stephen Solem; Regional Appeals Coordinator; Northern Region; P.O. Box 7669; Missoula, Montana 59807. Phone: (406) 329-3647.

The newspapers to be used are as follows:

Northern Regional Office

Regional Forester decisions in Montana:
The Missoulian, Missoula, Montana
Great Falls Tribune, Great Falls, Montana
The Billings Gazette, Billings, Montana
Regional Forester decisions in Northern Idaho and Eastern Washington:
The Spokesman Review, Spokane, Washington
Regional Forester decisions in North Dakota:
Bismarck Tribune, Bismarck, North Dakota
Regional Forester decisions in South Dakota:
Rapid City Journal, Rapid City, South Dakota

Beaverhead National Forest

Beaverhead Forest Supervisor, Wise River District Ranger, Wisdom District Ranger and Sheridan District Ranger decisions:
Montana Standard, Butte, Montana
Madison District Ranger Decisions:
Montana Standard, Butte, Montana
Bozeman Chronicle, Bozeman, Montana

Bitterroot National Forest

Bitterroot Forest Supervisor and District Ranger decisions:
Ravalli Republic, Hamilton, Montana

Clearwater National Forest

Clearwater Forest Supervisor and District Ranger decisions:
Lewiston Morning Tribune, Lewiston, Idaho

Custer National Forest

Custer Forest Supervisor decisions in North Dakota:
Bismarck Tribune, Bismarck, North Dakota
Custer Forest Supervisor decisions in South Dakota:
Rapid City Journal, Rapid City, South Dakota
Custer Forest Supervisor decisions in Montana:
Billings Gazette, Billings, Montana
Sheyenne District Ranger decisions:
Fargo Forum, Fargo, North Dakota
Beartooth District Ranger decisions:
Carbon County News, Red Lodge, Montana
Sioux District Ranger decisions in South Dakota:
Nation's Center News, Buffalo, South Dakota
Sioux District Ranger decisions in Montana:
Ekalaka Eagle, Ekalaka, Montana
Ashland District Ranger decisions:
Billings Gazette, Billings, Montana
Grand River District Ranger decisions:
Lemmon Leader, Lemmon, South Dakota
Medora District Ranger decisions:
Dickinson Press, Dickinson, North Dakota
McKenzie District Ranger decisions:
Bismarck Tribune, Bismarck, North Dakota

Deerlodge National Forest

Deerlodge Forest Supervisor and Ranger District decisions:
Montana Standard, Silver Bow County, Montana

Flathead National Forest

Flathead Forest Supervisor and District Ranger decisions:
The Daily Inter Lake, Kalispell, Montana
Sunday Edition Only

Gallatin National Forest

Gallatin Forest Supervisor, Bozeman District Ranger, Hebgen Lake District Ranger, Livingston District Ranger, and Gardiner District Ranger decisions:
Bozeman Daily Chronicle, Bozeman, Montana
Big Timber District Ranger decisions:
Billings Gazette, Billings, Montana

Helena National Forest

Helena Forest Supervisor and District Ranger decisions:
Independent Record, Helena, Montana

Idaho Panhandle National Forests

Idaho Panhandle Forest Supervisor and District Ranger decisions:
Spokesman Review, Spokane, Washington

Kootenai National Forest

Kootenai Forest Supervisor, Rexford District Ranger, Three Rivers District Ranger, Libby District Ranger, Fisher River District Ranger decisions:
Western News, Libby, Montana
Fortine District Ranger decisions:
Tobacco Valley News, Eureka, Montana
Cabinet District Ranger decisions:
Sanders County Ledger, Thompson Falls, Montana

Lewis and Clark National Forest

Lewis and Clark Forest Supervisor and District Ranger decisions:
Great Falls Tribune, Great Falls, Montana

Lolo National Forest

Lolo Forest Supervisor, Missoula District Ranger, Ninemile District Ranger, and Seeley Lake District Ranger decisions:
Missoulian, Missoula, Montana
Plains/Thompson Falls District Ranger decisions:
Sanders County Ledger, Thompson Falls, Montana
Superior District Ranger decisions:
Mineral Independent, Plains, Montana

Nezperce National Forest

Nezperce Forest Supervisor, Salmon River District Ranger, Clearwater District Ranger, Red River District Ranger and Moose Creek District Ranger decisions:
Idaho County Free Press, Grangeville, Idaho

Dated: April 28, 1993.

Christopher D. Risbrudt,

Deputy Regional Forester.

[FR Doc. 93-10454 Filed 5-3-93; 8:45 am]

BILLING CODE 3410-11-M

California Spotted Owl—Sierran Province—Management Direction for National Forests in California

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to extend the date for submission of comments and to change the address where comments should be sent.

SUMMARY: The USDA Forest Service is extending the date for submission of written comments to July 20, 1993. The address for submission of comments is changed. Comments submitted to the address listed in the original Notice of Intent will be fully considered.

DATES: Comments concerning the scope of the analysis should be received in writing by July 20, 1993.

ADDRESSES: Send written comments to Janice Gauthier, California Spotted Owl EIS Team Leader, Land Management Planning, 2999 Fulton Avenue, Sacramento, CA 95821.

FOR FURTHER INFORMATION CONTACT: Janice Gauthier, Land Management Planning, (916) 978-4304.

SUPPLEMENTARY INFORMATION: On March 18, 1993, a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) was published in the **Federal Register** (Vol. 58, No. 51, 14554-14555). This environmental impact statement will establish standards and guidelines for maintaining viable population of California Spotted Owls. The NOI indicated that written comments should be received by May 3, 1993. An additional 78 days has been added to encourage broad public participation.

Dated: April 29, 1993.

Mark A. Reimers,

Deputy Chief, Programs and Legislation.

[FR Doc. 93-10470 Filed 5-3-93; 8:45 am]

BILLING CODE 3410-11-M

ARCTIC RESEARCH COMMISSION

Meeting

April 23, 1993.

Notice is hereby given that the Arctic Research Commission will hold its 31st Meeting in Anchorage, AK, on May 26-27 1993. On Wednesday, May 26, a Business Session open to the public will begin at 8:30 a.m. in the MMS Conference Room, University Plaza Building, 6th Floor, 949 E. 36th Street. Agenda items include: (1) Chairman's Report; (2) Comments from agencies and organizations; (3) Status of Review of U.S. Arctic Policy; (4) Alaska Supercomputing Center; (5) Discussion of Logistics Recommendations; (6) Arctic Health Research; (7) Coordination of Federal Arctic Research; (8) Discussion of Biennial Revision, U.S. Arctic Research Plan; (9) Status of Scientific Assessment and Standards for Arctic Oil and Gas Development; (10) Discussion of Commission Tasks and Status; and (11) Other Business. An Executive Session will be held following the close of the Business Session on May 26.

On Wednesday, May 27, the Business Session open to the public will reconvene at 9 a.m. at the location above during which Coordination of Federal Arctic Research—Federal, State and International Coordination, Adherence to the Arctic Research and Policy Act will be topics of a panel discussion; and discussions of the Biennial Revision, U.S. Arctic Research Plan; Status of Scientific Assessment and Standards for Arctic Oil and Gas Development; and Commission Tasks and Status.

Any person planning to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs.

Contact Person for More Information: Philip L. Johnson, Executive Director, U.S. Arctic Research Commission, 202-371-9631 or TDD 202-357-9867.

Philip L. Johnson,

Executive Director, U.S. Arctic Research Commission.

[FR Doc. 93-10444 Filed 5-3-93; 8:45 am]

BILLING CODE 7555-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[(A-351-819), (A-427-811), (A-533-808)]

Postponement of Preliminary Determinations: Certain Stainless Steel Wire Rods From Brazil, France, and India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 4, 1993.

FOR FURTHER INFORMATION CONTACT: John Beck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-3464.

Postponements

France

On April 22, 1993, Al Tech Specialty Steel Corp., Armco Stainless & Alloy Products, Carpenter Technology Corp., Republic Engineered Steels, Talley Metals Technology, Inc., and United Steelworkers of America, AFL-CIO/CLC, petitioners in this investigation, requested that the Department postpone the preliminary determination in accordance with section 733(c)(1) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C 1673b(c)(1)). We find no compelling reasons to deny the request and are, accordingly, postponing the date of the preliminary determination until no later than July 28, 1993.

Brazil and India

Pursuant to section 733(c)(1)(B) of the Act, and 19 CFR 353.15(b), we determine that these investigations are "extraordinarily complicated," because

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of the complexity of the issues surrounding respondent selection and the Appendix V matching criteria.

We are also required by the Act to affirmatively determine whether parties are cooperating. Regarding this issue, we have received questionnaire responses from Eletrometal SA—Metais Especiais for the Brazil investigation and Mukand, Ltd. for the India investigation.

For the reasons cited above, we determine that these investigations are extraordinarily complicated in accordance with section 733(c)(1)(B)(i)(II) of the Act, that additional time is necessary to make these preliminary determinations and that, for the purposes of extending the preliminary determinations, responding parties have cooperated. The statutory deadline for issuing these preliminary determinations is no later than July 28, 1993.

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 353.15(d).

Dated: April 27, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–10498 Filed 5–3–93; 8:45 am]

BILLING CODE 3510–DS–P

[A–533–805]

Amendment of Final Determination of Sales at Less Than Fair Value: Sulfur Dyes, Including Sulfur Vat Dyes, From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 4, 1993.

FOR FURTHER INFORMATION CONTACT: Kimberly Hardin, Office of Antidumping Investigations, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0371.

AMENDMENT TO THE FINAL DETERMINATION: We are amending the final determination of sales at less than fair value of sulfur dyes, including sulfur vat dyes, from India, to reflect the correction of a ministerial error made in the margin calculations in that determination. Although the International Trade Commission (ITC) has already issued its negative final injury determination in this investigation, we are publishing this amendment to the final determination in accordance with section 353.28(c) of the Department's regulations.

SCOPE OF INVESTIGATION: The merchandise subject to this investigation is sulfur dyes, including sulfur vat dyes. Sulfur dyes are synthetic, organic, coloring matter containing sulfur. Sulfur dyes are obtained by high temperature sulfurization of organic material containing hydroxy, nitro or amino groups, or by reaction of sulfur and/or alkaline sulfide with aromatic hydrocarbons. For purposes of this investigation, sulfur dyes include, but are not limited to, sulfur vat dyes with the following color index numbers: Vat Blue 42, 43, 44, 45, 46, 47, 49, and 50 and Reduced Vat Blue 42 and 43. Sulfur vat dyes also have the properties described above. All forms of sulfur dyes are covered, including the reduced (leuco) or oxidized state, presscake, paste, powder, concentrate, or so-called "pre-reduced, liquid ready-to-dye" forms. The sulfur dyes subject to this investigation are classifiable under subheadings 3204.15.10, 3204.15.20, 3204.15.30, 3204.15.35, 3204.15.40, 3204.15.50, 3204.19.30, 3204.19.40 and 3204.19.50 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this investigation is dispositive.

CASE HISTORY: In accordance with section 735(d) of the Tariff Act of 1930, as amended (the Act), on March 1, 1993, the Department published its final determination that sulfur dyes, including sulfur vat dyes, from India were being, or were likely to be, sold in the United States at less than fair value (58 FR 11835). Subsequent to the final determination, we received allegations that the Department made ministerial errors in the margin calculations for one respondent, Atul Products, Limited (Atul).

On April 12, 1993, the Department was formally notified by the ITC that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded by reason of imports of sulfur dyes, including sulfur vat dyes, from India that are sold in the United States at less than fair value.

AMENDMENT OF FINAL DETERMINATION: On March 3, and 4, 1993, petitioner and one respondent, Atul, alleged that the Department had made a total of three ministerial errors in the final calculations performed to determine the margin found for Atul in accordance with section 353.28 of the Department's regulations. First, petitioner claimed that the Department failed to include the direct selling expenses reported in the cost of production (COP) questionnaire response in the COP calculation. Moreover, petitioner also stated that we had not included an amount for imputed inventory carrying costs. Second, petitioner claimed that in comparing COP to home market price we also failed to deduct home market commissions from the ex-factory price as indicated in a DOC memorandum dated February 17, 1993. Finally, respondent claimed that we failed to add a returnable packing charge to the net home market price for each transaction.

We disagree with petitioner regarding the direct selling expense amount used to calculate COP. We deducted discounts and rebates from the price. For purposes of the cost test, we compared this price to the COP which included all direct selling expenses except commissions. Petitioner wanted us to add direct selling expenses to COP and subtract direct selling expenses from the price. This would result in double counting. Moreover, petitioner erroneously argues that we were in error by not including imputed expenses in the COP. It is the Department's practice to include only actual expenses in COP. Accordingly, we also determine that this is not a ministerial error.

We agree with petitioner that we failed to account for commissions, as indicated in our February 17, 1993, calculation memorandum. This was a ministerial oversight, and we have made the necessary corrections (see below).

Finally, we disagree with respondent that the failure to add the returnable packing charge to the net home market price for each transaction constitutes a ministerial error. We specifically addressed this issue in comment 4 of the final determination and determine that this issue is not a ministerial error.

Accordingly, pursuant to section 735(e) of the Act and section 353.28(c) of the Department's regulations, we have corrected the ministerial error in the final determination of sales at less than fair value by accounting for home market commissions. We then compared the recalculated net home market price to Atul's COP and found that between 10 and 90 percent of Atul's home market sales had been made at below the COP over an extended period of time. Since Atul has not submitted information indicating that any of its sales below cost were at prices which would have permitted "recovery of all costs within a reasonable period of time in the normal course of trade," we were unable to conclude that the COP of such sales was recovered within a reasonable period. As a result in accordance with section 773(b) of the Act, we disregarded the below cost sales in recalculating foreign market value.

The rate calculated for Atul at the final determination was 2.73 percent. However, 2.75 percent was the rate published in the **Federal Register** at the final determination. Based upon the above changes, the cash deposit or bonding rate for Atul is now 2.75 percent. The cash deposit or bonding rate for the "All Others" category is now 8.60 percent. The cash deposit or bonding rates for Hickson and Dadajee, Limited and Hain Limited remain unaffected by this amendment to the final determination.

DISCONTINUATION OF SUSPENSION OF LIQUIDATION: Although the aforementioned ministerial error correction affects the rates for Atul and "All Others," in accordance with section 735(c)(2) of the Act, because of the negative final determination by the ITC, we have already directed the Customs Service to terminate suspension of liquidation and release any bond or other security and refund any cash deposit required under section 733(d)(2) of the Act of all entries of sulfur dyes, including sulfur vat dyes, from India, as defined in the "Scope of Investigation" section of this notice.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20.

Dated: April 28, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–10499 Filed 5–3–93; 8:45 am]

BILLING CODE 3510–DS–P

The University of Connecticut; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 92–151. *Applicant:* The University of Connecticut, Department of Linguistics, Storrs, CT 06269–1145. *Instrument:* Eye Position Meter, Model 6500. *Manufacturer:* Skalar Medical b.v., The Netherlands. *Intended Use:* See notice at 57 FR 54971, November 23, 1992.

Comments: None received. *Decision:* Denied. *Reasons:* To justify purchase of the foreign article, the applicant states that:

> It is our conclusion that only the two eyetrackers have the necessary sensitivity for our purposes: The DPI 1000 Eyetracker and the IRIS Eyetracker.
>
> The IRIS (as purchased) is made abroad by Skalar and the DPI 1000 is manufactured in the U.S. by Fourward Technologies, San Jose, California. Both instruments have an accuracy to about 1 minute of arc or visual angle and are generally applicable for studies of visual tracking and reading such as the applicant intends.
>
> The applicant further states:
>
> Our decision to purchase the IRIS Eyetracker was based on financial considerations. The bid from Skalar Medical was less than one-sixth the amount of the instrument made by Fourward Technologies. We had previously applied for a DPI Eyetracker as part of a Program Project Grant through Haskins Laboratories in New Haven. Although the grant was funded, our request for a DPI Eyetracker was not approved, primarily because of its expense.

Pursuant to 15 CFR 301.2(s):

> "Pertinent" specifications are those specifications necessary for the accomplishment of the specific scientific research and/or science-related educational purposes described by the applicant. Specifications or features (even if guaranteed) which afford greater convenience, satisfy personal preferences, accommodate institutional commitments or limitations, or assure lower costs of acquisition, installation, operation, servicing or maintenance are not pertinent.

Furthermore, 15 CFR 301.5(e)(7) provides, in part, as follows:

> Information provided in a resubmission that * * * contradicts or conflicts with information provided in a prior submission, shall not be considered in making the decision on an application that has been resubmitted. Accordingly, an applicant may elect to reinforce an original submission by elaborating in the resubmission on the description of the purposes contained in a prior submission and may supply additional examples, documentation and/or other clarifying detail, *but the applicant shall not introduce new purposes or other material changes* in the nature of the original application. (Emphasis supplied.)

As demonstrated above, the applicant has stated that the foreign and the domestic instruments are equivalent with respect to sensitivity and that its decision to purchase the foreign article was determined by financial considerations. We conclude that the domestic instrument was satisfactory for the applicant's needs, as evidenced by its attempt to acquire it, and that a resubmission cannot establish, without introducing impermissible new purposes, that a scientifically equivalent domestic instrument is not available. We therefore deny the application.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93–10497 Filed 5–3–93; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

Prospective Grant of Exclusive Patent License

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of prospective grant of exclusive patent license.

SUMMARY: This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institute of Standards and Technology ("NIST"), U.S. Department of Commerce, is contemplating the grant of a field of use exclusive license in the United States to practice the invention embodied in U.S. Patent 5,172,064, titled, "Calibration System for Determining the Accuracy of Phase Modulation and Amplitude Modulation Noise Measurement Apparatus" to Techtrol Cyclonetics, Inc., having a place of business in New Cumberland, Pennsylvania. The patent rights in this invention have been assigned to the United States of America.

FOR FURTHER INFORMATION CONTACT: Bruce E. Mattson, National Institute of Standards and Technology, Technology Development and Small Business Program, Building 221, room B–256, Gaithersburg, MD 20852

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NIST receives written evidence and argument which establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

U.S. Patent 5,172,064 relates to an apparatus and method for determining the error due to inherent PM and AM noise in a noise measurement device.

The availability of the invention for licensing was published in the **Federal Register**, Vol. 57, No. 158 (August 14, 1992). A copy of the patent may be obtained from NIST at the foregoing address.

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Dated: April 28, 1993.
Raymond G. Kammer,
Acting Director.
[FR Doc. 93-10405 Filed 5-3-93; 8:45 am]
BILLING CODE 3510-13-M

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

Meeting

AGENCY: Christopher Columbus Quincentenary Jubilee Commission.
ACTION: Notice of meeting.

SUMMARY: This notice announces a forthcoming meeting of the Christopher Columbus Quincentenary Jubilee Commission, a Presidential Commission established in 1984 (Pub. L. 98-375). The meeting will be held in San Juan, Puerto Rico, and will be chaired by the Commission's Acting Chairman, Dr. William H. McNeill. This will be the Columbus Commission's final meeting.
DATES: Tuesday, May 18th, 1993, from 9 a.m. to 12 Noon, Plenary Session (Open), and from 2 p.m. to 6 p.m., Plenary Session (Open).
ADDRESSES: All meetings will be held at the Radisson Normandy Hotel, San Juan, Puerto Rico.
FOR FURTHER INFORMATION CONTACT: James F. Kuhn, Executive Director (202) 632-1992.
SUPPLEMENTARY INFORMATION: The Christopher Columbus Quicentenary Jubilee Commission will meet jointly with the Puerto Rican Quincentenary Commission during the morning Plenary Session (Open) and for the first half of the afternoon Plenary Session (Open). The Columbus Commission will meet in final session during the second half of the afternoon Plenary Session (Open).
James F. Kuhn,
Executive Director.
[FR Doc. 93-10446 Filed 5-3-93; 8 45 am]
BILLING CODE 6820-RG-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange: Proposal to List Domestic Stock Index Futures and Option Contracts for Trading Through Globex

AGENCY: Commodity Futures Trading Commission.
ACTION: Notice of proposed contract market rule change.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has submitted a proposal to list for trading through Globex its futures and option contracts in (1) the Standard & Poor's 500 Stock Price Index (S&P 500), (2) the MidCap 400 Stock Price Index (MidCap 400), and (3) the Russell 2000 Stock Price Index (Russell 2000). The Exchange intends to make the changes effective for all contract months shortly after Commission approval.

Acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis (Division) of the Commodity Futures Trading Commission (Commission) has determined that publication of the proposal is in the public interest and will assist the Commission in considering the views of interested persons.
DATES: Comments must be received on or before June 3, 1993.
ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the CME proposal to list domestic stock index futures and option contracts for trading Globex.
FOR FURTHER INFORMATION CONTACT: Stephen A. Sherrod, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone (202) 254-7227.
SUPPLEMENTARY INFORMATION: The CME proposes to trade the subject contracts in an evening Globex session from 6:45 p.m. to 7 a.m. (Eastern Time).[1] The CME proposes Globex futures maximum price limits of 12 points in the S&P 500, 4 points in the MidCap 400, and 6 points in the Russell 2000, above or below the settlement price of the previous Regular Trading Hours (RTH) session. The proposed Globex futures price limits, equivalent to 100 points in the Dow Jones Industrial Average, are of the same magnitude as the initial price decline limits in the following RTH session. Options would be subject to a trading halt whenever Globex trading in the relevant underlying futures contract is locked limit.

The RTH close of trading in the subject domestic stock index futures contracts currently is at 4:15 p.m. The primary securities market closes its regular trading hours at 4 p.m. Under the proposed rules, the 6:45 p.m. opening of Globex trading in the subject contracts, later in the same calendar day, with the price limits specified above, would not change in the event that RTH futures trading closes locked limit or subject to a trading halt.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, at the above address. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the same address or by telephone at (202) 254-6314.

The materials submitted by the CME in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the above address in accordance with CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, at the above address by the specified date.

Issued in Washington, DC on April 29, 1993.
Gerald D. Gay,
Director, Division of Economic Analysis.
[FR Doc. 93-10495 Filed 5-3-93; 8:45 am]
BILLING CODE 6351-01-M

[1] All CME contracts currently listed for trading through Globex include both an afternoon and an evening Globex trading session. However, the current proposal would not establish an afternoon Globex session in the subject contracts.

DEPARTMENT OF EDUCATION

[CFDA No.: 84.015]

National Resource Centers Program for Foreign Language and Area Studies; Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: This program makes awards to institutions of higher education for assistance in establishing and strengthening centers of excellence for training in foreign language and area studies.

Eligible Applicants: Institutions of higher education and consortia of these institutions.

Deadline for Transmittal of Applications: June 21, 1993.

Deadline for Intergovernmental Review: August 20, 1993.

Applications Available: May 14, 1993.

Available Funds: For FY 1993, $500,000 is available for funding one or more new National Resource Centers.

Estimated Range of Awards: $150,000-$500,000.

Estimated Average Size of Awards: $250,000.

Estimated Number of Awards: 1-3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 50 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Parts 655 and 656.

Priorities

Absolute priority: Under 34 CFR 75.105(c)(3) and 34 CFR 656.23(a)(1), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds only applications that meet this absolute priority:

Projects to establish National Resource Centers whose focus is training in African studies.

Invitational priority: Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects proposed by historically black colleges and universities.

For Applications or Information Contact: Dr. Ann I. Schneider, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., room 3053, ROB-3, Washington, DC 20202-5331. Telephone: (202) 708-7283.

Individuals who are hearing-impaired may call the Federal Information Relay Service at 1-800-877-8339 between 8 a.m. and 8 p.m., Monday through Friday, Eastern time.

Program Authority: 20 U.S.C. 1122.

Dated: April 28, 1993.
Maureen A. McLaughlin,
Acting Assistant Secretary for Postsecondary Education.
[FR Doc. 93-10439 Filed 5-3-93; 8:45 am]
BILLING CODE 4000-01-U

[CFDA No. 84.219]

Student Literacy Corps and Student Mentoring Corps Program

AGENCY: Department of Education.
ACTION: Notice extending the closing date for new awards under the Student Literacy Corps and Student Mentoring Corps Program for fiscal year (FY 1993).

SUMMARY: On March 16, 1993, a notice was published in the **Federal Register** (58 FR 14206) inviting applications under the Student Literacy Corps and Student Mentoring Corps Program for FY 1993. The purpose of this notice is to extend the closing date for transmittal of those applications from May 3, 1993, to May 24, 1993, to provide applicants additional time to submit applications. While the original notice stated that the project period could be up to 48 months, the instructions in the application stated that an applicant could request funding under this competition for a maximum of 24 months only. A project period for up to 48 months is correct.
FOR APPLICATIONS OR INFORMATION CONTACT: Darlene B. Collins, U.S. Department of Education, 400 Maryland Avenue, SW., room 3022, ROB-3, Washington, DC 20202-5251. Telephone: (202) 708-6128. Individuals who are hearing impaired may call the Federal Information Relay Service at 1-800-877-8339 between 8 a.m. and 8 p.m., Monday through Friday.

Program Authority: 20 U.S.C. 1138-1138e.
Dated: April 29, 1993.
Maureen A. McLaughlin,
Acting Assistant Secretary for Postsecondary Education.
[FR Doc. 93-10520 Filed 5-3-93; 8:45 am]
BILLING CODE 4000-01-U

DEPARTMENT OF ENERGY

Invention Available for License

AGENCY: Department of Energy, Office of General Counsel.
ACTION: Notice of invention available for license.

SUMMARY: The U.S. Department of Energy hereby announces that U.S. Patent No. 5,126,721, entitled "Flame Quality Monitor System for Fixed Firing Rate Oil Burners" is available for license, in accordance with 35 U.S.C. 207-209. A copy of the patent may be obtained, for a modest fee, from the U.S. Patent and Trademark Office, Washington, DC 20231.
FOR FURTHER INFORMATION CONTACT: Robert J. Marchick, Office of the Assistant General Counsel for Intellectual Property, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; Telephone (202-586-2802).
SUPPLEMENTARY INFORMATION: 35 U.S.C. 207 authorizes licensing of Government-owned inventions. Implementing regulations are contained in 37 CFR 404. 37 CFR 404.7(a)(1) authorizes exclusive licensing of Government-owned inventions under certain circumstances, provided that notice of the invention's availability for license has been announced in the **Federal Register**.

Issued in Washington, DC, on April 22, 1993.
Eric J. Fygi,
Acting General Counsel.
[FR Doc. 93-10500 Filed 5-3-93; 8:45 am]
BILLING CODE 6450-01-M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration.
ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96-511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection; (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually;.(11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.
DATES: Comments must be filed by June 3, 1993. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so, as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

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ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 254–5348.

SUPPLEMENTARY INFORMATION: The first energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–11
3. 1902–0032
4. Natural Gas Pipeline Company Monthly Statement
5. Extension
6. Recordkeeping Monthly Reporting
7. Mandatory
8. Businesses or other for-profit
9. 50 respondents
10. 12 responses
11. 5.7 hours per response
12. 3,420 hours
13. The purpose of this monthly statement is to develop statistics for use in studies investigating the reasonableness of the various revenue and cost of service items claimed in Section 7 certificates applications and Section 4 and 5 rate filings/cases.

The second information collection submitted for OMB review was:

1. Federal Energy Regulatory Commission
2. FERC–545
3. 1902–0154
4. Gas Pipeline Rates: Rate Change (Non-Formal)
5. Extension
6. On occasion
7. Mandatory
8. Businesses or other for-profit
9. 100 respondents
10. 7.57 responses
11. 225.34 hours per response
12. 170,585 hours
13. This information is required by the Commission to determine if an interstate pipeline's rate filing complies with the requirements of sections 4, 5, and 16 of the Natural Gas Act and/or Order No. 636 (Restructuring Rule issued 4/8/92 in Docket Nos. RM91–11–000 and RM87–34–065) and that the rate/charges for the transportation/sales of natural gas are just and reasonable.

Statutory Authority: Section 2(a) of the Paperwork Reduction Act of 1980 (Pub. L. No. 96–511) which amended Chapter 35 of Title 44 United States Code (See 44 U.S.C. 3506 (a) and (c)(1)).

Issued in Washington, DC, April 28, 1993.

John Gross,

Acting Director, Statistical Standards, Energy Information Administration.

[FR Doc. 93–10501 Filed 5–3–93; 8:45 am]

BILLING CODE 6450–01–M

Energy Policy Act; Data Needs and User Requirements

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of request for comments.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) is soliciting public comments to facilitate its examination of data needs and user requirements in two sections of the Energy Policy Act (EPACT) of 1992 (Pub. L. 102–486): (1) Section 407, Data Acquisition Program, and (2) Section 503, Replacement Fuel Demand Estimates and Supply Information Program. Comments will aid in determining the data required, the design of resultant data collection programs, the development of replacement fuel demand estimates, and the feasibility of collecting specific types of data. Interested parties who wish to become more involved in this effort are also requested to provide suggestions as to the most efficient means for EIA to establish an ongoing process of consultation, e.g., large user meetings, **Federal Register** notices, electronic mail, small focus groups.

All written comments to this notice will be available for public inspection at the Department of Energy's (DOE) Freedom of Information Office, room 1E–190. Pursuant to the provisions of 10 CFR 1004.11 (1983), any person submitting information believed to be confidential and exempt by law from public disclosure should submit one complete copy of the document and, if possible, 10 additional copies in which the information believed to be confidential has been deleted. DOE will determine the confidential status of the information and treat it accordingly.

DATES: Comments concerning this notice should be submitted by July 6, 1993. If you anticipate that you will be submitting comments, but find it difficult to do so within the time period allowed by this notice, please advise the contact listed below of your intentions.

ADDRESSES: Comments should be submitted in writing to: Ms. Leigh Carleton, EI–632, Energy Information Administration, Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585. FAX 202–586–0018.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Ms. Leigh Carleton at the above address or by telephone on 202–586–1132.

SUPPLEMENTARY INFORMATION:

I. Background
II. EPACT Sections 407 and 503 and Selected Definitions
III. Current Actions: Request for Comments
IV. Future Actions

I. Background

EIA serves as the government's primary source of energy statistics and provides information to the Executive Branch, Congress, State and local governments, industry, and the general public. EIA's mission is to ensure that accurate, timely, and objective statistics on the Nation's energy position are available for use in public and private analysis and decision making. Under EPACT, the mission of EIA was expanded to include major new responsibilities relating to alternative transportation fuels (ATF). Under section 407, EIA is to establish a data collection program relating to the existing U.S. motor vehicle fleet. This information will be useful to persons seeking to manufacture, convert, sell, own, or operate alternative fueled vehicles or alternative fueling facilities. Additionally, under section 503, EIA is responsible for the development of annual estimates of replacement fuel demand and supply of alternative fueled vehicles.

II. Selected Definitions From EPACT Section 301 and EPACT Sections 407 and 503

Sec. 301. Definitions

For purposes of this title, title IV, and title V (unless otherwise specified)—

(2) The term *alternative fuel* means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

(14) The term *replacement fuel* means the portion of any motor fuel that is methanol, ethanol, or other alcohols, natural gas, liquefied petroleum gas, hydrogen, coal-derived liquid fuels, fuels (other than alcohol) derived from biological materials, electricity (including electricity from solar energy), ethers, or any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits.

Sec. 407. Data Acquisition Program

(a) Not later than one year after the date of enactment of this Act, the Secretary, through the Energy Information Administration, and in cooperation with appropriate State, regional, and local authorities, shall establish a data collection program to be conducted in at least 5 geographically and climatically diverse regions of the United States for the purpose of collecting data which would be useful to persons seeking to manufacture, convert, sell, own, or operate alternative fueled vehicles or alternative fueling facilities. Such data shall include—

(1) Identification of the number and types of motor vehicle trips made daily and miles driven per trip, including commuting, business, and recreational trips;

(2) The projections of the Secretary as to the most likely combination of alternative fueled vehicle use and other forms of transit, including rail and other forms of mass transit;

(3) Cost, performance, environmental, energy, and safety data on alternative fuels and alternative fueled vehicles; and

(4) Other appropriate demographic information and consumer preferences.

(b) The Secretary shall consult with interested parties, including other appropriate Federal agencies, manufacturers, public utilities, owners and operators of fleets of light duty motor vehicles, and State or local governmental entities, to determine the types of data to be collected and analyzed under subsection (a).

Sec. 503. Replacement Fuel Demand Estimates and Supply Information

(a) Estimates—Not later than October 1, 1993, and annually thereafter, the Secretary, in consultation with the Administrator, the Secretary of Transportation, and other appropriate State and Federal officials, shall estimate for the following calendar year—

(1) The number of each type of alternative fueled vehicle likely to be in use in the United States;

(2) The probable geographic distribution of such vehicles;

(3) The amount and distribution of each type of replacement fuel; and

(4) The greenhouse gas emissions likely to result from replacement fuel use.

(b) Information—Beginning on October 1, 1994, the Secretary shall annually require—

(1) Fuel suppliers to report to the Secretary on the amount of each type of replacement fuel that such supplier—

(A) Has supplied in the previous calendar year; and

(B) Plans to supply for the following calendar year;

(2) Supplies of alternative fueled vehicles to report to the Secretary on the number of each type of alternative fueled vehicle that such supplier—

(A) Has made available in the previous calendar year; and

(B) Plans to make available for the following calendar year; and

(3) Such fuel suppliers to provide the Secretary information necessary to determine the greenhouse gas emissions from the replacement fuels used, taking into account the entire fuel cycle.

(c) Protection of Information—Information provided to the Secretary under subsection (b) shall be subjected to applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

III. Current Actions: Request for Comments

In addition to general comments or suggestions, we are asking for the views of interested parties on the following specific questions. The questions are arranged in numeric groups (1 through 17), generally corresponding to specific items in EPACT sections 407 and 503, the texts of which are shown above in part II. We ask that respondents number their responses in the same order. This will facilitate EIA's evaluation of the comments to this notice.

Further, this notice requests that interested parties who wish to become more involved in this ongoing process provide suggestions as to the most efficient means for EIA to interact with them, e.g., large user meetings, **Federal Register** notices, electronic mail, focus groups.

Questions related to section 407

1. Section 407(a).

a. As a statistical agency, EIA generally collects and publishes data in accordance with established geographic areas, such as Census regions or Census divisions. Are these geographic areas appropriate for the collections and projections involved here? Are other types of regions more appropriate? If so, identify them and explain why.

b. Should the Clean Air Act non-attainment areas be included in the regions from which data are either collected or disseminated? (The definition of these regions is not yet stable.) Is there any specific need for EIA to conduct data collections specifically in any of these regions?

2. Section 407(a) requires that EIA establish a data collection and projection program, but does not stipulate the frequency for such a program.

a. Should these be ongoing data collection programs with small samples or a larger data collection undertaken less frequently?

b. Should data for all vehicle types (i.e., cars, light-, medium-, and heavy-duty trucks) be collected with equal frequency, or should data for some vehicle types be collected more frequently than for others?

c. At what level of detail are AFV projections needed (e.g., are separate projections needed for various types of electric vehicles ranging from battery technology vehicles to various types of electric hybrid vehicles)?

d. Considering the possible seasonal variability of trip data for different sectors, regions, and vehicle types, is it necessary to collect data on trips for a full year or would a shorter time period be sufficient?

3. Since the government already collects limited data on residential, nonresidential, and business motor vehicles, including cars, light-, medium-, and heavy-duty trucks, and buses, EIA is investigating the following data systems with respect to their usefulness in developing the data collection needs of Section 407(a):

The Residential Transportation Energy Consumption Survey (EIA),
The Nationwide Personal Transportation Survey (Department of Transportation),
Census of Transportation: Truck Inventory and Use Survey (Census Bureau), and
Nationwide Truck Activity Survey (Formerly the Nationwide Truck Activity & Commodity Survey) (Department of Transportation & Census Bureau).

EIA is interested in obtaining information about other motor vehicle surveys, data collections, sampling frames, and/or marketing surveys which

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could be utilized in the development of the data collection system, or as a component of the system. Also, EIA is interested in opinions concerning how well these other systems serve, or how they could best be adapted to serve, the data needs of this section.

4. Section 407(a)(1).

a. What is the appropriate definition of "trip"? Is origin/destination, mileage, and purpose sufficient, or is more detail required on the component parts of an individual trip? For instance, are commuting patterns required for residential vehicles versus nonresidential vehicles?

b. Area different levels of trip detail necessary for different types of motor vehicles?

c. Is different or more detailed information on trip patterns necessary for dual fueled vehicles?

d. Are different kinds of information required for fleet vehicles versus businesses with single vehicles?

e. What level of accuracy is required for the trip data (i.e., is it necessary to obtain detailed information from trip logs, or are best guess estimates sufficient)?

f. Is there a need to link fuel consumption information to various types of trips?

g. Is information on fuel consumption and expenditures necessary for all types of vehicles by consuming sectors, e.g., business, households, government?

h. Should data on government vehicles collected elsewhere be included in the data collection system?

5. Section 407(a)(2).

a. What information is available on regional historical trends in mass transit use or on projections of mass transit developments by local governments or regional planning commissions?

b. (1) Are EIA's current plans to make projections for the Nation and the nine Census divisions sufficient? (2) Should such projections be made more detailed? If not, should they be less detailed?

c. What is the appropriate periodicity of such a data collection and projection program: annual, biennial, triennial, or some other period?

6. Section 407(a)(3).

a. What cost data need to be collected: initial construction cost, initial purchase price and price certainty, tax implications associated with ATF and AFV, road taxes, routine operational costs, routine and unusual maintenance costs, aspects and characteristics which deal with rebates, availability of parts, resale/residual/salvage value, warranties, insurance, cost of time lost due to ATF or AFV use, and lifetime cost to the purchaser?

b. (1) What performance data need to be collected: miles per unit cost of the fuel, engine, drive train and battery lifetimes, emissions, acceleration in traffic, power when climbing hills, ease of starting, and/or travel range? (2) How is performance to be measured and reported? (3) Should the term "performance" refer to the technical and economic aspects of an AFV, including reliability, maintainability, duration of engine life, changes in emissions over time and use, fuel handling, and safety of all aspects of the AFV and ATF and their associated infrastructures? (4) Should calibration of technical performance be included?

c. (1) Which environmental data need to be collected: noxious or annoying smells, criteria pollutant and greenhouse gas emissions, emissions into water and onto the ground, and/or effects on the environment from routine construction and unusual occurrences? (2) How far back in the fuel cycle are environmental data needed? (3) Which specific environmental data are to be included?

d. What safety data need to be collected: toxic or hazardous materials associated with ATF and AFV, accident reports, and/or fuel distribution constraints (e.g., fuel trucks traveling through tunnels)?

e. What energy data need to be collected: Btu per refueling, resources needed to assure uninterrupted fuel supplies, total Btu required to construct each AFV, and/or offsets to petroleum-based energy resources?

f. EIA's responsibility in Section 407(a)(3) is to establish a data collection program for existing U.S. motor vehicles using alternative fuels. Should the information requirement of this section be limited to vehicle fleets, or should the requirements extend to those alternative fueled and privately owned vehicles to be used for personal travel, commuting, or recreational travel as in Section 503(a)(1)?

g. Since Section 407(a)(2) requires the projections to represent the most likely combination of AFV use and other forms of transit, including rail and other forms of mass transit, should the baseline data for the projections include the collection of rail and other mass transit data according to the requirements of Section 407(a)(3)?

7. Section 407(a)(4).

a. Please provide information on individuals and organizations who have undertaken research and data collections with respect to consumer preferences for different types and attributes of motor vehicles.

b. Do consumer preference data need to be linked to the trip information, or is it acceptable for the data to be obtained independently?

c. Is it sufficient to obtain the consumer preference information from limited groups of individuals through marketing type surveys or focus groups; or, is it necessary to obtain the data through statistical surveys?

d. What specific consumer preference data are needed for each type of motor vehicle?

e. What specific demographic data are needed for each type of motor vehicle owner or fleet owner or operator?

8. EIA needs to know more about the nonresidential vehicle fleet population. Little uniform, comprehensive data are available on the organization, descriptive characteristics, and operating practices of this "critical" population and the vehicles it encompasses. Because much of the initial penetration of ATF and AFV is envisioned to occur within fleets, it is important to understand the characteristics of vehicle fleets and how they will affect the use of AFV and their fuel sources. We would like to obtain information or suggestions on the following:

a. Whether data related to fleets are, in fact, a consideration for interested individuals;

b. Data sets that may exist on fleets of business vehicles;

c. The feasibility of utilizing state vehicle registration data to identify "fleets" of business vehicles;

d. Problems and issues related to identifying "central fueling capability" of fleets of vehicles from State vehicular registration data or other data sources;

e. Information and advice from companies, associations, governments, or individuals with vehicle fleets about the legal registration of the vehicles, their respective operating territories, and garaging locations;

f. Availability of insurance data for identifying fleets of vehicles; and

g. Whether the data collection system should include information on fleets of rental cars; and if so, are the data presently available?

9. Information or comments are requested on the relationship between the data to be collected in section 407(a)(1), (3), and (4) and the projections to be made in item (2) of section 407(a) are also sought.

10. Section 407(b).

a. Who are the interested parties other than those explicitly set forth in section 407(b)?

b. What is the most efficient means of interacting with interested parties: large user meetings, **Federal Register** notices, newsletters, electronic mail, small focus group meetings, or other means?

Questions Related to Section 503

11. Section 503(a)(1).

a. Specific ways to identify and classify AFV types used for distinctly different functions,

b. Specific ways to identify and enumerate off-the-road AFV,

c. Specific ways to identify and enumerate vehicles which have been converted from petroleum-based fuels to replacement fuels, and

d. Specific ways to identify and enumerate permanently out-of-service AFV.

12. Section 503(a)(2).

a. As a statistical agency, the EIA generally collects and publishes data in accordance with established geographic areas such as Census regions or Census divisions. Are these geographic areas appropriate for the collections and projections or are other regions required? If other regions are required, what are they?

b. Should the data collection(s) have the capability of providing national level estimates; or are regional data collections sufficient for potential data users?

13. Section 503(a)(3).

a. Can you identify specific ways to estimate the quantities of replacement fuels used for transportation (especially as the fuels may have other uses)?

b. (1) Should the regions specified for Section 503(a)(2) be the same as for section 503(a)(3)? (2) Should these regions be consistent with the regions used for section 407?

c. Should the data collection(s) have the capability of providing national level estimates; or are regional data collections sufficient for potential data users?

d. Should "replacement fuels" in this section be interpreted as applying equally to all fuels defined in section 301(14)?

14. Section 503(a)(4).

a. Which greenhouse gas emissions should be estimated?

b. Should the resulting emissions include the associated net displacement of the fossil fuel emissions?

c. In what units of measurement should these emissions be reported (e.g., grams per vehicle mile)?

15. Section 503(b)(1).

a. Do fuel suppliers possess these data?

b. Can you provide specific ways to identify fuels which have been consumed by vehicles with a fuel-switching capability?

16. Section 503(b)(2).

a. Specific ways to identify the suppliers of AFV,

b. Specific ways to identify AFV which have been converted from petroleum-based fuels to replacement fuels, and

c. Specific ways to identify AFV which are retired from use.

17. Section 503(b)(3).

a. Do fuel suppliers possess data on these gases?

b. Should some of the data requirements be addressed to the vehicle suppliers?

c. Are estimates of selected greenhouse gas emissions sufficient for interested parties?

d. (1) Should the entire fuel cycle include just the combustion cycle, or should it begin where fuel supplies and raw materials are mined? (2) Does the entire fuel cycle for biofuels include emissions from fertilizers and fuel used in producing the biofuels? (3) Should the fuel processing, distribution, storage, and handling stages be considered?

IV. Future Actions

After EIA has carefully evaluated responses to this notice, it will then lay out a sequence of steps that it proposes to follow regarding this ongoing effort. These steps will be published in a subsequent **Federal Register** notice. Topics will be added, revised, or deleted as EIA, in consultation with interested parties, further defines its data needs and user requirements.

Currently envisioned activities included developing a mailing list of interested parties, preparing for meetings with interested parties, developing a set of alternative data collection strategies for review by the interested parties, and evaluating surveys and special studies that could provide relevant data or be used as a host vehicle for collecting data for Section 407. Where existing data collections are to be used, meetings will be held with the data collectors concerning the potential of adding items to existing data collection programs or changing their methodology to better meet user needs. Where new data collections are to be established, a series of pretests will be undertaken, to examine possible survey procedures and questionnaire formats. Based upon comments provided by interested users and respondents, EIA will develop a data acquisition program, test survey procedures and questionnaires, revising them as necessary, prior to implementation.

Comments (excluding those comments DOE determines are confidential) submitted in response to this notice may be included in future requests for approval by the Office of Management and Budget of resultant information collections and will become a matter of public record.

Statutory Authorities: Section 2(a) of the Paperwork Reduction Act of 1980, (Pub. L. 96–511,) which amended chapter 35 of title 44 United States Code (44 U.S.C. 3506(a)).

Issued in Washington, DC, April 28, 1993.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Informotion Administration.

[FR Doc. 93–10502 Filed 5–3–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. QF87–59–007]

Panther Creek Partners; Amendment to Filing

April 28, 1993.

On April 23, 1993, Panther Creek Partners tendered for filing a supplement to its filing in this docket.

The supplement pertains to the ownership structure, contractual and technical aspects of its small power production facility. No determination has been made that the submittal constitutes a complete filing.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed by May 17, 1993, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10415 Filed 5–3–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–307–000]

El Paso Natural Gas Co.; Request Under Blanket Authorization

April 28, 1993.

Take notice that on April 20, 1993, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas, 79978, filed a request for authorization at Docket No. CP93–307–000, pursuant

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to §§ 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act, to abandon a 14.6 mile segment of pipeline, three delivery taps, and the related service, all as more fully set forth in the request for authorization on file with the Commission and open for public inspection.

The request for authorization states that by order issued May 31, 1946, at Docket No. G–655 the Commission granted El Paso authorization to construct and operate, among other thing, its Fullerton Line, El Paso avers that subsequent to construction of the Fullerton Line, El Paso installed the A.J. Blevins, H.O. Sims, and SOHOI Oil Co. Taps on that pipeline. El Paso received authority to continue to the sale of gas for resale and the operation of these taps at Docket No. CP69–23–000.

El Paso notes a 14.6 mile portion of the Fullerton Line, is essentially a "dead leg" in El Paso's interstate system; it was utilized to transport only 27 Mcf in the aggregate from January through February, 1992, to the A.J. Blevins Tap (Domestic end-user), and only 180 Mcf in the aggregate from January through March, 1992 to the H.O. Sims Tap (domestic end-user). No deliveries have been made to SOHIO Oil Co. Tap since 1978. El Paso provides no other interstate transmission services on this segment of the Fullerton Line. As a result, El Paso believes that the continued operation and maintenance of this portion of the Fullerton Line is no longer in the public interest and proposed to abandon this 14.6 mile segment.

El Paso states that based on the alternative service arrangements made by the end-user customers served by the A.J. Blevins and H.O. Sims Taps, and the lack of a gas service requirement at the SOHIO Oil Co. Tap, these three (3) tap facilities and the 14.6 mile segment of the Fullerton Line are no longer required and should be abandoned from natural gas service.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10416 Filed 5–3–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–563–000]

Massachusetts Electric Co.; Filing

April 23, 1993.

Take notice that on April 14, 1993, Massachusetts Electric Company (MECo) tendered for filing a Notice of Partial Termination for the Service Agreement for Borderline Sales, dated July 9, 1992, between MECo and Western Massachusetts Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10419 Filed 5–3–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–304–000]

Northern Natural Gas Co.; Application

April 28, 1993.

Take notice that on April 16, 1993, Northern Natural Gas Company, (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP93–304–000, an application pursuant to section 7(b) of the Natural Gas Act and part 157 of the Commission's Regulations thereunder (18 CFR 157.7 and 157.18), for permission and approval to abandon seven compressor units in Roger Mills County, Oklahoma and Carson County, Texas all as more fully set forth in its application which is on file with the Commission and open to public inspection.

It is stated that Northern proposes to abandon the following facilities:

1. The Roger Mills County #2 Compressor Station consisting of one 3,750 HP turbine compressor which was installed in 1986 pursuant to Northern's blanket certificate approved by order issued September 1, 1982 in Docket No. CP82–401. Northern maintains that as volumes produced from various fields have declined due to depletion of field reservoirs and the associated lower wellhead pressures, thus reducing the throughput at this station from 270 MMCf/d to 40 MMCf/d.

2. The Skellytown Compressor Station consisting of six compressor unity. It is maintained that three units were installed in 1931, one unit installed in 1936, one unit installed in 1943, certificated by an order issued on April 6, 1943 in docket No. G–280, and one unit installed in 1944 pursuant to an order issued on October 26, 1943, in Docket No. G–465. It is asserted that gas volumes produced from these fields have declined due to a normal process of depletion without any new wells connected, thus reducing throughput of this station from 40 MMCf/d at peak production to 9.1 MMCf/d currently.

Northern also maintains that these units proposed to be abandoned have not been utilized for some time because compression has not been needed to maintain deliveries. Northern believes that the abandonment of these units would not result in abandonment of service to any of Northern's existing customers or producers, nor would the proposed abandonment adversely affect capacity since this compression is no longer needed to receive the remaining supply available.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 19, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10418 Filed 5–3–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–572–000]

Northern States Power Co. (MN), Northern States Power Co. (WI), Filing

April 23, 1993.

Take notice that on April 16, 1993, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly "NSP Companies") tendered for filing certain Transmission Service Agreements entered into by the NSP Companies pursuant to the NSP Companies FERC Electric Tariff Original Volume No. 1.

The NSP Companies request acceptance for filing of one standard form Transmission Service Agreements under the Original Tariff with Interstate Power Company effective May 1, 1993. The NSP Companies request acceptance for filing of a standard form Transmission Service Agreements under the Settlement Tariff with Wisconsin Public Service Corporation effective April 19, 1993. The NSP Companies request any waiver necessary to allow the agreements to be accepted for filing on the dates requested.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10420 Filed 5–3–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–308–000]

Texas Eastern Transmission Corp.; Application

April 28, 1993.

Take notice that on April 21, 1993, Texas Eastern Transmission Corporation (Texas Eastern) P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP93–308–000 pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a firm sales service and an interruptible sales service for Arkansas Louisiana Gas Company (Arkla) under Texas Eastern's Rate Schedules SGS–B and I–B, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Eastern indicates that the transportation services are no longer desired by the relative parties and that the termination of the respective services would relieve both parties from the contractual obligations of such agreements.

Texas Eastern also contends that there will be no abandonment of facilities nor will the abandonment of the service proposed herein result in any abandonment of service to its other customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 19, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Eastern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10417 Filed 5–3–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4651–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 3, 1993.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Lead Additive Report for Refineries and Importers; Lead Additive Report for Manufacturing Facility or Site (EPA ICR #232.06; OMB #2060–0066). This ICR requests renewal of the existing clearance.

Abstract: Gasoline refineries and importers must submit quarterly reports to EPA on their lead usage and gasoline production. Lead additive manufacturers must report to EPA their quarterly sales of lead to refineries. EPA

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uses the information to verify compliance with regulations which, for health reasons, limit lead content in gasoline.

Burden Statement: Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the collection of information.

Respondents: Refineries, gasoline importers, and lead additive manufacturers.

Estimated Number of Respondents: 448.

Estimated Total Annual Burden on Respondents: 986 hours.

Frequency of Collection: Quarterly.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street SW., Washington, DC 20460

and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20530.

Dated: April 28, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–10477 Filed 5–3–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4625–9]

Transfer of Data to Contractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intended transfer of confidential business information to contractors.

SUMMARY: EPA intends to transfer confidential business information (CBI) collected from the pulp, paper, and paperboard manufacturing industry to two contractors. Transfer of the information will allow the contractors to assist EPA in developing regulations under the Clean Water Act and the Clean Air Act for the pulp, paper, and paperboard manufacturing industry. The information being transferred was collected under authority of section 308 of the Clean Water Act, section 114 of the Clean Air Act, and section 3007 of the Resource Conservation and Recovery Act. Interested persons may submit comments on this intended transfer of information to the address shown below.

DATES: Comments on the transfer of data are due May 14, 1993.

ADDRESSES: Comments may be sent to Marion Thompson, Engineering and Analysis Division (WH–552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Marion Thompson, Engineering and Analysis Division (WH–552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–7117.

SUPPLEMENTARY INFORMATION: EPA has previously transferred to a subcontractor, Eastern Research Group of Arlington, Massachusetts, information, including confidential business information (CBI), concerning the pulp, paper, and paperboard industry. The information was collected under authority of section 308 of the Clean Water Act, section 114 of the Clean Air Act, and section 3007 of the Resource Conservation and Recovery Act.

The information transferred includes questionnaire data requested by EPA in 1990 and provided in 1990, 1991, 1992, and 1993. The transferred data includes economic and financial information about the companies that EPA will analyze during development of revised regulations. EPA collected information on assets, liabilities, revenues, and expenses. EPA also collected information about individual product categories, including production quantities, shipments, and values. Many companies claimed that their responses should be considered confidential business information.

EPA determined that this transfer was necessary to enable the subcontractor to perform its work under EPA Contract No. 68–C0–0080 and to assist EPA in developing economic impact analyses that support effluent limitations guidelines and standards and maximum achievable control technology standards for the pulp, paper, and paperboard industry. Notice to this effect was provided in the **Federal Register** on February 5, 1993 (58 FR 7225). That subcontract expired at the end of February 1993.

Today, EPA is giving notice that it has entered into an additional contract, No. 68–C3–0302, with Eastern Research Group, Inc. of Arlington, Massachusetts, to assist EPA in developing economic impact analysis. Eastern Research Group will provide support for economic analysis and for questionnaire data analysis. EPA intends to maintain Eastern Research Group's access to information, including CBI, that has already been transferred. EPA also intends to transfer to Eastern Research Group information to be collected in the future to support the economic analysis for the regulations of the pulp, paper, and paperboard industry.

EPA also previously transferred to another contractor, Tetra Tech, Inc., of Fairfax, Virginia, information, including confidential business information, concerning the pulp, paper, and paperboard industry. The information transferred to Tetra Tech includes pollutant discharge and self-monitoring data. Many companies claimed that this information, which was provided in questionnaires, should be considered confidential business information. The information transferred also includes identification of companies by their locations and by confidential identification codes that link discharge data and compliance cost estimates.

EPA determined that this transfer was necessary to enable the contractor to perform its work under EPA Contract Nos. 68–C9–0013 and 68–C1–0008 and to assist EPA in developing environmental assessments and regulatory impact analyses that support effluent limitations guidelines and standards and maximum achievable control technology standards for the pulp, paper, and paperboard industry. Notice to this effect was provided to the affected companies at the time the information was collected. The previously-noticed contract expired in February 1993.

Today, EPA is giving notice that it has entered into an additional contract, No. 68–C3–0303, with Tetra Tech, Inc. of Fairfax, Virginia to assist EPA in developing environmental assessments and regulatory impact analyses. EPA intends to maintain Tetra Tech's access to information, including CBI, that has already been transferred. EPA also intends to transfer to Tetra Tech information to be collected in the future to support the environmental assessment and regulatory impact analysis for the regulations of the pulp, paper, and paperboard industry.

Today, EPA also give notice of its intent to transfer confidential business information concerning the pulp, paper, and paperboard industry to another contractor. EPA has entered into a contract, No. 68–C0–0080, with Abt Associates, Inc., of Cambridge, Massachusetts, and Abt Associates, Inc. has entered into an additional contract with its subcontractor RCG/Hagler, Bailly of Boulder, Colorado to assist EPA in developing a benefits assessment and a regulatory impact analysis. EPA has determined that transfer of confidential business information to RCG/Hagler, Bailly is necessary to enable the subcontractor to perform its work under Contract No. 68–C0–0080. The information to be transferred includes identification of companies by their locations and by confidential identification coeds to link discharge data and compliance costs estimates. Further, to the extent that Abt Associates, Inc. must review information, including CBI, to perform their work as prime contractor, EPA intends to transfer information, including CBI, to Abt Associates, Inc.

In accordance with 40 CFR part 2, subpart B, the previously collected information and information that may be collected in the future to support development of regulations for the pulp, paper, and paperboard industry will be transferred to Eastern Research Group and to Tetra Tech. The contractors are given access only to the data that they need to perform their assignments under their contracts. EPA has determined that these transfers are necessary to enable the contractors to perform their work under EPA Contract Nos. 68–C3–0302, 68–C3–0303, and 68–C0–0080.

Dated: April 27, 1993.

James Hanlon,

Acting Director, Office of Science and Technology.

[FR Doc. 93–10424 Filed 5–3–93; 8:45 am]

BILLING CODE 6560–50–P

[FRL–4651–5]

Kentucky: Adequacy Determination of State/Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination to fully approve the adequacy of the Commonwealth of Kentucky's municipal solid waste permitting program, public hearing and public comment period.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribe permit programs provide for interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in State/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities.

Kentucky has applied for a determination of adequacy under section 4005 of RCRA. The EPA Region IV has reviewed Kentucky's MSWLF application and has made a tentative determination that Kentucky's MSWLF permit program meets the requirements for full program approval and ensures compliance with the revised MSWLF Criteria. Kentucky's application for program adequacy determination is available from EPA Region IV and the State for public review and comment. Although RCRA does not require EPA to hold a public hearing on a determination to approve any State/Tribe's MSWLF program, the Region has scheduled a public hearing on this determination on the date given below in the **DATES** section.

DATES: All comments on Kentucky's application for a determination of adequacy must be received by the close of the public hearing which will be held on June 24, 1993, at 7:30 p.m., at the Capital Plaza Tower, Ground Floor Auditorium, 500 Mero Street, Frankfort, Kentucky. The State will participate in the public hearing held by the EPA.

ADDRESSES: Copies of Kentucky's application for adequacy determination are available during the hours of 8 a.m. to 5 p.m. at the following addresses for inspection and copying: Kentucky Department of Environmental Protection, Fort Boone Plaza, 14 Reilly Road, Frankfort, Kentucky 40601, Attn: Ms. Caroline P. Haight, telephone 502–564–6716; and U.S. EPA Region IV Library, 345 Courtland Street NE., Atlanta, Georgia, 30365, Attn: Ms. Priscilla Pride, telephone 404–347–4216. Written comments should be submitted to Ms. Patricia S. Zweig, mail code 4WD–RCRA, EPA Region IV, Office of Solid Waste, 345 Courtland Street NE., Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, Attn: Ms. Patricia S. Zweig, mail code 4WD-RCRA, telephone 404–347–2091.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under part 258. Subtitle D also requires in section 4005 that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

The EPA intends to approve State/Tribal MSWLF permit programs prior to the promulgation of STIR. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

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The EPA Region IV will determine whether a State/Tribe has submitted an "Adequate" program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

B. State of Kentucky

On February 14, 1992, the EPA, Region IV received Kentucky's final MSWLF permit program application for adequacy determination. Region IV reviewed the final application and submitted comments to Kentucky. Kentucky addressed EPA's comments and submitted a revised final application for adequacy determination on February 12, 1993. Region IV has reviewed Kentucky's revised application and has tentatively determined that all portions of Kentucky's Subtitle D program meet all the requirements necessary to qualify for full program approval and ensures compliance with the revised Federal Criteria.

The public may submit written comments on EPA's tentative determination until June 24, 1993, the date of the public hearing. Copies of Kentucky's application are available for inspection and copying at the location indicated in the **ADDRESSES** section of this notice. Comments may be submitted as transcribed from the discussion of the hearing or in writing at the time of the hearing.

Kentucky will be using alternative, but equally effective methods, to ensure that provisions which are technically comparable to the revised federal criteria are being applied in Kentucky. To ensure compliance with all of the revised Federal Criteria, Kentucky will implement the following areas of its MSWLF permit program through enforceable permit conditions.

1. Kentucky will require as a permit condition that the owner/operator of all MSWLFs will include in its detection monitoring program, the full list of Appendix I constituents as specified in 40 CFR 258.54(a). This permit condition will be effective on or before October 9, 1993. Kentucky will use the criteria as specified in 40 CFR 258.53(g) for determining the adequacy of statistical methods. Kentucky will include the statistical methods criteria in the permit application for all MSWLFs effective on or before October 9, 1993.

2. Kentucky will include as a permit condition, effective on or before October 9, 1993, the requirement that all MSWLFs must meet the performance standard for the final cover criteria as specified in § 258.60(a)(1).

3. Kentucky will include as a permit condition, effective on or before October 9, 1993, the requirements of 40 CFR 258.73, that all MSWLFs required to implement a corrective action program will provide financial assurance for any necessary corrective action. Under the authority of Kentucky House Bill 839, the state has the ability to utilize and enforce any of the financial assurance mechanisms promulgated pursuant to 40 CFR 258.73.

Full approval for Kentucky's MSWLF permit program is based in part upon the implementation of the above mentioned permit conditions on or before October 9, 1993. The implementation of the permit conditions will ensure compliance with the revised Federal Criteria.

EPA will consider all public comments received on its tentative determination during the public comment period and during the public hearing. Issues raised by those comments may be the basis for a determination of inadequacy for Kentucky's program. EPA will make a final decision on whether or not to approve Kentucky's program by August 1, 1993 and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this notice from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: April 26, 1993.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 93-10478 Filed 5-3-93; 8:45 am]

BILLING CODE 6560-50-F-M

[OPPTS-59964; FRL-4585-1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 14 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 93-80, 93-81, 93-82, 93-83, 93-84, 93-85, 93-86, 93-87, April 14, 1993.

Y 93-88, 93-89, 93-90, April 18, 1993.

Y 93-91, 93-92, 93-93, April 20, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC, 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Nonconfidential Information Center (NCIC), also known as the TSCA Public Docket Office, ETG-102 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 93-80

Manufacturer. Confidential.

Chemical. (G) Amine salt of styrene acrylic copolymer.

Use/Production. (S) Pigment dispersing resin for automotive coatings. Prod. range: Confidential.

Y 93-81

Manufacturer. Confidential.

Chemical. (G) Amine salt of styrene acrylic copolymer.

Use/Production. (S) Pigment dispersing resin for automotive coatings. Prod. range: Confidential.

Y 93-82

Manufacturer. Confidential.

Chemical. (G) Amine salt of styrene acrylic copolymer.

Use/Production. (S) Pigment dispersing resin for automotive coatings. Prod. range: Confidential.

Y 93-83

Manufacturer. Confidential.

Chemical. (G) Amine salt of styrene acrylic copolymer.

Use/Production. (S) Pigment dispersing resin for automotive coatings. Prod. range: Confidential.

Y 93-84

Manufacturer. Confidential.

Chemical. (G) Amine salt of styrene acrylic copolymer.

Use/Production. (S) Pigment dispersing resin for automotive coatings. Prod. range: Confidential.

Y 93-85

Manufacturer. Confidential.

Chemical. (G) Amine salt of styrene acrylic copolymer.

Use/Production. (S) Pigment dispersing resin for automotive coatings. Prod. range: Confidential.

Y 93-86

Manufacturer. Confidential.

Chemical. (G) Amine salt of styrene acrylic copolymer.

Use/Production. (S) Pigment dispersing resin for automotive coatings. Prod. range: Confidential.

Y 93-87

Manufacturer. Confidential.

Chemical. (G) Amine salt of styrene acrylic copolymer.

Use/Production. (S) Pigment dispersing resin for automotive coatings. Prod. range: Confidential.

Y 93-88

Manufacturer. Confidential.

Chemical. (G) Polyether/polyester urethane.

Use/Production. (G) Used in coatings for textiles applied by industrial manufactures. Prod. range: Confidential.

Y 93-89

Manufacturer. Confidential.

Chemical. (G) Soya-castor alkyl polymer.

Use/Production. (S) Used for a copolymer alkyd used in air-dry baking finishes. Prod. range: Confidential.

Y 93-90

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (S) Manufacture of powder goods. Prod. range: Confidential.

Y 93-91

Manufacturer. Confidential.

Chemical. (G) Unsaturated polyester polymer.

Use/Production. (S) Molding resin. Prod. range: Confidential.

Y 93-92

Importer. Toyobo America Inc..

Chemical. (G) Aromatic copolymer with 5-sulfo 1,3-benzenedicarboxylic acid monosodium salt and 2,2-dimethyl-3-hydroxypropyl-2,2-dimethyl-3-hydroxypropionate.

Use/Production. (S) Ink binder. Prod. range: Confidential.

Y 93-93

Manufacturer. Confidential.

Chemical. (G) Polyurethane polyol.

Use/Production. (G) Coating additive open, nondispersive use. Prod. range: Confidential.

Dated: April 21, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93-10479 Filed 5-3-93; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

Deppe/Lykes Reciprocal Space Charter and Coordinated Sailing et al.; Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 232-011253-002.

Title: Deppe/Lykes Reciprocal Space Charter and Coordinated Sailing Agreement

Parties:

Deppe Linie GmbH & Co.

Lykes Bros. Steamship Co., Inc.

Synopsis: The proposed amendment expands the geographic scope of the Agreement to include east coast Mexican ports. The parties have requested a shortened review period.

Agreement No.: 224-200763.

Title: Port of New York and New Jersey/American President Lines.

Parties:

The Port of New York and New Jersey ("Port")

American President Lines, Ltd. ("APL")

Synopsis: The Agreement provides that the Port will pay APL a container incentive of $20.00 for each import container and $40.00 for each export container moved through the Port's marine terminals during calendar year 1993, provided each container is shipped by rail to or from points more than 260 miles from the port.

Agreement No.: 224-200764.

Title: Port of New York and New Jersey/Sea-Land Service, Inc.

Parties:

The Port of New York and New Jersey ("Port")

Sea-Land Service, Inc. ("Sea-Land")

Synopsis: The Agreement provides that the Port will pay Sea-Land a container incentive of $20.00 for each import container and $40.00 for each export container moved through the Port's marine terminals during calendar year 1993, provided each container is shipped by rail to or from points more than 260 miles from the port.

Agreement No.: 224-200765.

Title: Port of New York and New Jersey/Nedlloyd Lines USA, Corp.

Parties:

The Port of New York and New Jersey ("Port")

Nedlloyd Lines USA, Corp. ("Nedlloyd")

Synopsis: The Agreement provides that the Port will pay Nedlloyd a container incentive of $20.00 for each import container and $40.00 for each

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export container moved through the Port's marine terminals during calendar year 1993, provided each container is shipped by rail to or from points more than 260 miles from the port.

Dated: April 28, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93-10308 Filed 5-3-93; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of February 2-3, 1993

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on February 2-3, 1993.[1] The Directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting indicates that economic activity rose appreciably further in the fourth quarter. Total nonfarm payroll employment registered another small increase in December, and the civilian unemployment rate remained at 7.3 percent. Industrial production posted solid gains over the closing months of the year. Retail sales were up substantially in the fourth quarter, and residential construction activity increased sharply. Indicators of business fixed investment suggest a notable gain in recent months, particularly for producers' durable equipment. The nominal U.S. merchandise trade deficit narrowed slightly in October-November from its average rate in the third quarter. Recent data on wages and prices have been mixed but they continue to suggest on balance a trend toward lower inflation.

Interest rates have declined somewhat since the Committee meeting on December 22. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G-10 currencies rose on balance over the intermeeting period.

M2 appears to have contracted in December and January, after expanding at a moderate pace over the course of previous months; M3 is estimated to have declined appreciably in both months. From the fourth quarter of 1991 to the fourth quarter of 1992, both M2 and M3 grew at rates somewhat below the lower ends of the Committee's annual ranges for 1992. Total domestic nonfinancialdebt appears to have expanded at the lower end of the Committee's monitoring range for the year.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at this meeting established ranges for growth of M2 and M3 of 2 to 6 percent and 1/2 to 4-1/2 percent respectively, measured from the fourth quarter of 1992 to the fourth quarter of 1993. The Committee expects that developments contributing to unusual velocity increases are likely to persist during the year. The monitoring range for growth of total domestic nonfinancial debt was set at 4-1/2 to 8-1/2 percent for the year. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, slightly greater reserve restraint or slightly lesser reserve restraint would be acceptable in the intermeeting period. The contemplated reserve conditions are expected to the consistent with little change in M2 and M3 over the period from January to March.

By order of the Federal Open Market Committee, April 16,1993.

Normand Bernard,

Deputy Secretary, Federal Open Market Committee.

[FR Doc. 93-10434 Filed 5-3-93; 8:45 am]

BILLING CODE 6210-01-F

[1] Copies of the Record of policy actions of the Committee for the meeting of February 2-3, 1993, are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

Federal Open Market Committee; Procedural Instructions With Respect to Foreign Currency Operations

Amended February 2, 1993.

In conducting operations pursuant to the authorization and direction of the Federal Open Market Committee as set forth in the Authorization for Foreign Currency Operations and the Foreign Currency Directive, the Federal Reserve Bank of New York, through the Manager of the System Open Market Account ("Manager"), shall be guided by the following procedural understandings with respect to consultations and clearance with the Committee, the Foreign Currency Subcommittee, and the Chairman of the Committee. All operations undertaken pursuant to such clearances shall be reported promptly to the Committee.

1. The Manager shall clear with the Subcommittee (or with the Chairman, if the Chairman believes that consultation with the Subcommittee is not feasible in the time available):

A. Any operation that would result in a change in the System's overall open position in foreign currencies exceeding $300 million on any day or $600 million since the most recent regular meeting of the Committee.

B. Any operation that would result in a change on any day in the System's net position in a single foreign currency exceeding $150 million, or $300 million when the operation is associated with repayment of swap drawings.

C. Any operation that might generate a substantial volume of trading in a particular currency by the System, even though the change in net position in that currency might be less than the limits specified in 1B.

D. Any swap drawing proposed by a foreign bank not exceeding the larger of (i) $200 million or (ii) 15 percent of the size of the swap arrangement.

2. The Manager shall clear with the Committee (or with the Subcommittee, if the Subcommittee believes that consultation with the full Committee is not feasible in the time available, or with the Chairman, if the Chairman believes that consultation with the Subcommittee is not feasible in the time available):

A. Any operation that would result in a change in the System's overall open position in foreign currencies exceeding $1.5 billion since the most recent regular meeting of the Committee.

B. Any swap drawing proposed by a foreign bank exceeding the larger of (i) $200 million or (ii) 15 percent of the size of the swap arrangement.

3. The Manager shall also consult with the Subcommittee or the Chairman about proposed swap drawings by the System, and about any operations that are not of a routine character.

Normand Bernard,

Deputy Secretary, Federal Open Market Committee.

[FR Doc. 93-10437 Filed 5-3-93; 8:45 am]

BILLING CODE 6210-01-F

Federal Open Market Committee; Authorization for Foreign Currency Operations; Amended February 2, 1993

1. The Federal Open Market Committee authorizes and directs the Federal Reserve Bank of New York, for System Open Market Account, to the extent necessary to carry out the Committee's foreign currency directive and express authorizations by the Committee pursuant thereto, and in conformity with such procedural instructions as the Committee may issue from time to time:

A. To purchase and sell the following foreign currencies in the form of cable transfers through spot or forward transactions on the open market at home and abroad, including transactions with the U.S. Treasury, with the U.S. Exchange Stabilization Fund established by Section 10 of the Gold Reserve Act of 1934, with foreign monetary authorities, with the Bank for International Settlements, and with other international financial institutions:

Austrian schillings
Belgian francs
Canadian dollars
Danish kroner
Pounds sterling
French francs
German marks
Italian lire
Japanese yen
Mexican pesos
Netherlands guilders
Norwegian kroner
Swedish kronor
Swiss francs

B. To hold balances of, and to have outstanding forward contracts to receive or to deliver, the foreign currencies listed in paragraph A above.

C. To draw foreign currencies and to permit foreign banks to draw dollars under the reciprocal currency arrangements listed in paragraph 2 below, provided that drawings by either party to any such arrangement shall be fully liquidated within 12 months after any amount outstanding at that time was first drawn, unless the Committee, because of exceptional circumstances, specifically authorizes a delay.

D. To maintain an overall open position in all foreign currencies not exceeding $25.0 billion. For this purpose, the overall open position in all foreign currencies is defined as the sum (disregarding signs) of net positions in individual currencies. The net position in a single foreign currency is defined as holdings of balances in that currency, plus outstanding contracts for future receipt, minus outstanding contracts for future delivery of that currency, i.e., as the sum of these elements with due regard to sign.

2. The Federal Open Market Committee directs the Federal Reserve Bank of New York to maintain reciprocal currency arrangements ("swap" arrangements) for the System Open Market Account for periods up to a maximum of 12 months with the following foreign banks, which are among those designated by the Board of Governors of the Federal Reserve System under Section 214.5 of Regulation N, Relations with Foreign Banks and Bankers, and with the approval of the Committee to renew such arrangements on maturity:

Foreign bank	Amount of arrangement (millions of dollars equivalent)
Austrian National Bank	250
National Bank of Belgium	1,000
Bank of Canada	2,000
National Bank of Denmark	250
Bank of England	3,000
Bank of France	2,000
German Federal Bank	6,000
Bank of Italy	3,000
Bank of Japan	5,000
Bank of Mexico	700
Netherlands Bank	500
Bank of Norway	250
Bank of Sweden	300
Swiss National Bank	4,000
Bank for International Settlements:	
Dollars against Swiss francs	600
Dollars against authorized European currencies other than Swiss francs	1,250

Any changes in the terms of existing swap arrangements, and the proposed terms of any new arrangements that may be authorized, shall be referred for review and approval to the Committee.

3. All transactions in foreign currencies undertaken under paragraph I(A) above shall, unless otherwise expressly authorized by the Committee, be at prevailing market rates. For the purpose of providing an investment return on System holdings of foreign currencies, or for the purpose of adjusting interest rates paid or received in connection with swap drawings, transactions with foreign central banks may be undertaken at non-market exchange rates.

4. It shall be the normal practice to arrange with foreign central banks for the coordination of foreign currency transactions. In making operating arrangements with foreign central banks on System holdings of foreign currencies, the Federal Reserve Bank of New York shall not commit itself to maintain any specific balance, unless authorized by the Federal Open Market Committee. Any agreements or understandings concerning the administration of the accounts maintained by the Federal Reserve Bank of New York with the foreign banks designated by the Board of Governors under Section 214.5 of Regulation N shall be referred for review and approval to the Committee.

5. Foreign currency holdings shall be invested insofar as practicable, considering needs for minimum working balances. Such investments shall be in liquid form, and generally have no more than 12 months remaining to maturity. When appropriate in connection with arrangements to provide investment facilities for foreign currency holdings, U.S. Government securities may be purchased from foreign central banks under agreements for repurchase of such securities within 30 calendar days.

6. All operations undertaken pursuant to the preceding paragraphs shall be reported promptly to the Foreign Currency Subcommittee and the Committee. The Foreign Currency Subcommittee consists of the Chairman and Vice Chairman of the Committee, the Vice Chairman of the Board of Governors, and such other member of the Board as the Chairman may designate (or in the absence of members of the Board serving on the Subcommittee, other Board Members designated by the Chairman as alternates, and in the absence of the Vice Chairman of the Committee, his alternate). Meetings of the Subcommittee shall be called at the request of any member, or at the request of the Manager of the System Open Market Account, for the purposes of reviewing recent or contemplated operations and of consulting with the Manager on other matters relating to his responsibilities. At the request of any member of the Subcommittee, questions arising from such reviews and consultations shall be referred for determination to the Federal Open Market Committee.

7. The Chairman is authorized:

A. With the approval of the Committee, to enter into any needed agreement or understanding with the Secretary of the Treasury about the division of responsibility for foreign currency operations between the System and the Treasury;

B. To keep the Secretary of the Treasury fully advised concerning System foreign currency operations, and to consult with the Secretary on policy matters relating to foreign currency operations;

C. From time to time, to transmit appropriate reports and information to the National Advisory Council on International Monetary and Financial Policies.

8. Staff officers of the Committee are authorized to transmit pertinent information on System foreign currency operations to appropriate officials of the Treasury Department.

9. All Federal Reserve Banks shall participate in the foreign currency operations for System Account in accordance with paragraph 3 G(1) of the Board of Governors' Statement of Procedure with Respect to Foreign

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Relationships of Federal Reserve Banks dated January 1, 1944.

Normand Bernard,

Deputy Secretary, Federal Open Market Committee.

[FR Doc. 93-10436 Filed 5-3-93; 8:45 am]

BILLING CODE 6210-01-P

Federal Open Market Committee; Procedures for Allocation of Securities in the System Open Market Account (As Last Amended April 17, 1975, Effective May 1, 1975)

1. Securities in the System Open Market Account shall be reallocated at least once each year as determined by the Board's Division of Reserve Bank Operations and Payment Systems and the Manager of the System Open Market Account for the purpose of settling Interdistrict clearings and approximately equalizing for each Federal Reserve Bank the ratio of gold certificate holdings to Federal Reserve notes outstanding.

2. Until the next reallocation, the Account shall be apportioned on the basis of the ratios determined in Paragraph 1.

3. Profits and losses on the sale of securities from the Account shall be allocated on the day of delivery of the securities sold on the basis of each Bank's current holdings at the opening of business on that day.

Normand Bernard,

Deputy Secretary, Federal Open Market Committee.

[FR Doc. 93-10435 Filed 5-3-93; 8:45 am]

BILLING CODE 6210-01-P

Caisse Nationale de Credit Agricole S.A., Paris, France; Application to Engage in Nonbanking Activities

Caisse Nationale de Credit Agricole S.A., Paris, France (Applicant), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) to engage *de novo* through a wholly owned subsidiary, Credit Agricole Futures, Inc., Chicago, Illinois (Company), a futures commission merchant registered under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*), in executing and clearing, clearing without executing, executing and clearing through the use of omnibus trading accounts, and providing investment advisory services with regard to futures contracts and options on futures contracts in the following commodities on the following exchanges: Cocoa, Coffee "C", and Sugar #11 on the Coffee, Sugar & Cocoa Exchange; Corn, Soybeans, Soybean Meal, Soybean Oil, and Wheat on the Chicago Board of Trade; Soybeans on the MidAmerica Commodity Exchange; Hard Red Winter Wheat on the Kansas City Board of Trade; and Crude Oil, Heating Oil, Natural Gas (futures contracts only), and Unleaded Regular Gasoline on the New York Mercantile Exchange. Applicant also proposes to provide, through Company, custodial and other incidental services to mutual funds offered to non-U.S. residents outside the United States with respect to all types of futures contracts and options on futures contracts. Applicant proposes to conduct these activities throughout the United States and the world.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, closely related to banking. Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity, that banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity, or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n* v. *Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1984).

Applicant believes that the proposed activities are closely related to banking or managing or controlling banks. The Board previously has approved, by regulation and order, acting as a futures commission merchant in the execution and clearance on major commodity exchanges of futures contracts and options on futures contracts in financial commodities, such as gold and silver bullion and coins, foreign exchange, government securities, certificates of deposit and money market instruments that banks may buy and sell for their own accounts, and stock and bond indices, as well as providing related investment advice. See 12 CFR 225.25(b)(18), (19); *Republic New York Corporation*, 63 Federal Reserve Bulletin 951 (1977); *The Sanwa Bank, Limited*, 74 Federal Reserve Bulletin 578 (1988); *The Long-Term Credit Bank of Japan, Limited*, 74 Federal Reserve Bulletin 573 (1988). The Board also previously has approved, by order, the provision of investment advice with respect to trading futures and options on futures in non-financial commodities, such as agricultural and energy commodities. See Swiss Bank Corporation, 77 Federal Reserve Bulletin 126 (1991). Further, the Board has approved providing custodial services to investment companies. See 12 CFR 225.125(i).

The Board has not previously approved the proposed activities with respect to acting as an FCM in executing, clearing, and brokering futures contracts and options on futures contracts in non-financial commodities. Applicant asserts that the proposed activities are essentially identical to activities previously approved by the Board. In this regard, Applicant believes that the execution and clearance of futures and options on futures in financial and non-financial commodities is functionally indistinguishable. Furthermore, Applicant states that the volatility of non-financial futures and options is not materially different than that for financial futures and options. Applicant also believes that Company's extensive experience in trading futures and options on futures in financial commodities makes it particularly well suited to engage in the proposed activities in non-financial commodities.

In order to satisfy the proper incident to banking test, section 4(c)(8) of the BHC Act requires the Board to find that the performance of the activities by Company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. Applicant believes that the proposed activities will benefit the public by promoting competition. Applicant also believes that approval of this application will allow Company to provide a wider range of services and added convenience to its customers, and to offer its customers securities not otherwise available for purchase in the United States. Applicant believes that the proposed activities will not result in any unsound banking practices or other adverse effects.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than May 31, 1993. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, April 28, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-10468 Filed 5-3-93; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 922 3017]

Nature's Cleanser, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

In the matter of Nature's Cleanser, Inc., a corporation, and Donald Douglas-Torry, individually and as an officer of said corporation.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a California-based corporation, that markets herbal products, and its officer from making the alleged false claims, and would require them to offer full refunds to all consumers who purchased the products. The respondents also would be required to have competent and reliable scientific evidence to substantiate any future claims regarding the performance, benefits or effectiveness of any food, drug or device they sell.

DATES: Comments must be received on or before July 6, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Linda Badger, San Francisco Regional Office, 901 Market St., Suite 570, San Francisco, CA 94103. (415) 744-7920.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

The Federal Trade Commission, having initiated an investigation of certain acts and practices of Nature's Cleanser, Inc. and Donald Douglas-Torry ("respondents"), and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed By and between respondents, by their duly authorized officers and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Nature's Cleanser, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois. The principal place of business of this corporation is located at 345 North Maple Drive, Suite 385, Beverly Hills, California 90210.

2. Proposed respondent Donald Douglas-Torry is an officer of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices alleged in this order. His principal office and place of business is the same as that of the corporate respondent.

3. Proposed respondents admit all the jurisdictional facts set forth in the attached draft complaint.

4. Proposed respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. All claims under the Equal Access to Justice Act, 5 U.S.C. 504.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint, or that the facts alleged in the draft complaint, other than the jurisdictional facts, are true.

7. This agreement contemplates that if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (a) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and

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decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondents have read the attached draft complaint and the following order. Proposed respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For the purposes of this order, the following definitions shall apply:

A. The term "Nature's Cleanser" means the herbal formulae known as "Weight Controlled Longevity Formula," and "Nature's Cleanser Bowel Management Formula," as marketed by Nature's Cleanser, Inc.

B. The term "Lady's Comfort" means the herbal formula known as "Lady's Comfort PMS/Menopause Formula," as marketed by Nature's Cleanser, Inc.

I

It is ordered That respondent Nature's Cleanser, Inc., a corporation, its successors and assigns, and its officers, and respondent Donald Douglas-Torry, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of Nature's Cleanser, or any product containing substantially similar ingredients, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

A. Such product can be taken in any dosage without causing adverse health effects;
B. Such product does not contain a laxative;
C. Such product contains an appetite suppressant;
D. Such product is effective in weight control;
E. Such product is effective in weight loss; or
F. Such product is effective in weight loss or weight control without a decrease in caloric intake.

II

It is further ordered That respondent Nature's Cleanser, Inc., a corporation, its successors and assigns, and its officers, and respondent Donald Douglas-Torry, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of Lady's Comfort, or any product containing substantially similar ingredients, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that such product, or any ingredient of such product:

A. Replaces hormones in the human body;
B. Is an effective alternative to synthetic hormones;
C. Prolongs a woman's period of fertility; or
D. Helps remove cellulite or prevents the formation of new cellulite.

III

It is further ordered That respondent Nature's Cleaner, Inc., a corporation, its successors and assigns, and its officers, and respondent Donald Douglas-Torry, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any food, drug, or device, as those terms are defined in section 15 of the FTC Act, 15 U.S.C. 55, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or by implication, regarding the performance, benefits, efficacy or lack of adverse effects of any such product, unless at the time of making such representation respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. for purpose of this Order, "competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

Provided That, with respect to any drug products, if the Food and Drug Administration promulgates any final standard that establishes conditions under which such product is safe and effective under the Food, Drug and Cosmetic Act, then in lieu of the above, respondents may rely upon scientific evidence that fully conforms to such final standard as a reasonable basis for said representation.

IV

It is further ordered That respondents are jointly and severally liable for consumer redress to those consumers who purchased Nature's Cleaner or Lady's Comfort from respondents no later than May 25, 1992 (hereinafter referred to as "eligible consumers"), and shall within five (5) days from the date of service of this Order, mail Exhibit 1, attached hereto, via first class mail, offering a full refund to each eligible consumer. No information other than that contained in Exhibit 1 shall be included or added, nor shall any other material be transmitted therewith. The outside of the envelope transmitting Exhibit 1 shall prominently and conspicuously display the words "REFUND OFFER ENCLOSED." If, within forty-five (45) days from the date of service of this Order, an eligible consumer requests a refund by returning the letter referenced in Exhibit 1, or by otherwise communicating to respondents via mail, telephone, or in any other manner his or her request for a refund, respondents shall send a check for the full refund to the eligible consumer within sixty (60) days from the date of service of this Order. Respondents shall pay all costs associated with administering this consumer redress, including, but not limited to, first class postage. If for any reason, an eligible consumer does not communicate his or her request for a refund within forty-five (45) days from the date of service of this Order, then, in lieu of making direct consumer redress, the purchase amount attributed to the eligible consumer shall be paid by respondents to the United States Treasury within sixty (60) days from the date of service of this Order. Furthermore, if for any reason, a copy of Exhibit 1 sent to any eligible consumer is returned to respondents as undeliverable, the purchase amount attributed to the eligible consumer shall be paid by respondents to the United States Treasury within sixty (60) days from the date of service of this Order.

All payments to the United States Treasury shall be by certified or cashiers check made payable to the Treasurer of the United States, and delivered to: The Office of Consumer Litigation, Civil Division, U.S. Department of Justice, Washington, DC 20530 for appropriate disposition. The respondents, or their successors and assigns, shall for a period of three (3) years from the date this Order becomes final, maintain and make available upon request to the Federal Trade Commission for inspection and copying all records necessary to show compliance with this provision, including, but not limited to, the relevant customer lists, copies of Exhibit 1 sent to consumers, and evidence of payments made to eligible consumers or to the United States Treasury. No portion of the payment herein described shall be deemed a payment of any fine, penalty, or punitive assessment.

V

It is further ordered That for five (5) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All advertisements, promotional materials, documents, or other materials relating to such representation;
B. All materials that were relied upon in disseminating such representation; and
C. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

VI

It is further ordered That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this Order.

VII

It is further ordered That the individual respondent shall, for a period of five (5) years after the date of service of this Order upon him, promptly notify the Commission, in writing, of his discontinuance of his present business or employment and of his affiliation with a new business or employment. For each such new affiliation, the notice shall include the name and address of the new business or employment, a statement of the nature of the new business or employment, and a description of respondent's duties and responsibilities in connection with the new business or employment.

VIII

It is further ordered That respondents shall, within ten (10) days from the date of service of this Order upon them, distribute a copy of this Order to any individual or entity who is involved in the preparation and placement of advertisements or promotional materials, or communicates with customers or prospective customers regarding the efficacy of any product covered by this Order.

IX

It is further ordered That, for five (5) years from the date of issuance of this Order, the corporate respondent, its successors and assigns, and the individual respondent, shall cause a copy of Exhibit 2 to be distributed to each purchaser for resale of any product covered by this Order, to each managerial employee of respondents, and to each salesperson of respondents' products, whether they are independent sales agents or employees of respondents.

X

It is further ordered That respondents shall, within sixty (60) days from the date of service of this Order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Exhibit 1

Date
Customer Name
Customer Address

Dear Mr./Ms./Mrs.: Our records indicate that you have purchased our Nature's Cleanser or Lady's Comfort herbal products. The Federal Trade Commission challenged as inaccurate or unsubstantiated the following advertising claims for these products:

1. that Nature's Cleanser is effective in weight loss or control, or contains an appetite suppressant,
2. that Nature's Cleanser does not contain ingredients with laxative properties,
3. that Nature's Cleanser will have no adverse health effects regardless of how much is consumed,
4. that Lady's Comfort prolongs fertility, is a substitute for hormones, or helps remove or prevent the formation of cellulite.
5. that Lady's Comfort relieves menstrual cramps and other discomforts associated with the menstrual cycle or relieves discomfort associated with menopause.

Nature's Cleanser denies the Federal Trade Commission's charges. But to settle the case, we have entered into an agreement with the FTC which does not admit of any liability on our part. We will send refunds to anyone who was not fully satisfied with the product.

Our records indicate product purchases of $ _____. If you wish a refund, please fill in the form below and return it to us in the enclosed stamped envelope. You do not need to return the product or a proof of purchase to receive a refund. We must receive your refund request by [date 45 days from service of the Order]. You should receive your refund by [date 70 days from service of the Order]. If you have any questions, please call us at [corporete respondent's phone number].

Sincerely,
Donald Douglas-Torry,
President.

Please check one of the following:

_____Please send my refund.
_____I am a satisfied customer end do not wish a refund.

Customer's signature

Exhibit 2

Pursuant to a consent agreement with the Federal Trade Commission and in addition to other company policies regarding medical claims, it is a company policy that neither the company nor its distributors shall represent as to the following products, or one with substantially similar ingredients:

1. That Nature's Cleanser is effective in weight loss or control, or contains an appetite suppressant,
2. That Nature's Cleanser does not contain ingredients with laxative properties,
3. That Nature's Cleanser will have no adverse health effects regardless of how much is consumed,
4. That Lady's Comfort prolongs fertility, is a substitute for hormones, or helps remove or prevent the formation of cellulite.

Neither the company nor its distributors will make representations for products if they have no competent and reliable scientific basis for the representations.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents Nature's Cleanser, Inc., an Illinois corporation, and Donald Douglas-Torry, individually and as an officer of the corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days,

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the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns two products, named "Nature's Cleanser" and "Lady's Comfort," sold by Nature's Cleanser, Inc. ("the company"). The Nature's Cleanser product consists of herbal tablets sold for their laxative and weight loss effects. The Commission's complaint charges that respondents' advertising contained false representations that Nature's Cleanser is not a laxative; that Nature's Cleanser is an effective, safe method of weight control or reduction, and that the product contains an appetite suppressant. Specifically, the complaint alleges that respondents falsely represented that:

(1) Nature's Cleanser can be taken in any dosage without causing adverse health effects,

(2) Nature's Cleanser does not contain a laxative,

(3) Nature's Cleanser contains an appetite suppressant,

(4) Nature's Cleanser is effective in weight control,

(5) Nature's Cleanser is effective in weight loss, and

(6) Nature's Cleanser is effective in weight loss or weight control without a decrease in caloric intake.

The Lady's Comfort product consists of herbal tablets sold for relief from various women's conditions. The Commission's complaint charges that respondents' advertising contained false representations that Lady's Comfort is a hormone substitute, prolongs fertility or removes cellulite. Moreover, the Commission's complaint charges that advertisements indicating that Lady's Comfort will aid those suffering from discomfort due to the menstrual cycle or menopause are unsubstantiated. Specifically, the complaint alleges that respondents falsely represented that Lady's Comfort:

(1) Replaces hormones in the human body,

(2) Is an effective alternative to synthetic hormones,

(3) Prolongs a woman's period of fertility, and

(4) Helps remove cellulite and prevents the formation of new cellulite.

Moreover, the complaint alleges that respondents lacked substantiation for claims that Lady's Comfort:

(1) Relieves menstrual cramps and other discomfort associated with the menstrual cycle, and

(2) Relieves discomfort associated with menopause.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future. Parts I and II of the proposed order would prohibit the company from making any of the false claims delineated above for Nature's Cleanser, Lady's Comfort, or any products with substantially similar ingredients.

Part III of the proposed order includes broad fencing-in relief, requiring the respondents to cease and desist from making any representation regarding the performance, benefits, efficacy or lack of adverse effects of any food, drug or device, unless they possess and rely upon competent and reliable scientific evidence that substantiates the representation. This provision also includes a "safe harbor," allowing the respondents to rely on final standards promulgated by the Food and Drug Administration to substantiate representations they make regarding any drug products.

Part IV of the proposed order is a consumer redress provision requiring the company to notify purchasers of the Nature's Cleanser and/or Lady's Comfort products of the Commission's allegations and to offer these purchasers full refunds.

The proposed order also requires the respondents to maintain materials relied upon to substantiate claims covered by the order, to distribute copies of the order to individuals or entities involved in the preparation or placement of the company's advertisements, to distribute a summary of the terms of the order to the company's salespeople, managers and distributors, to notify the Commission of any changes in corporate structure that might affect compliance with the order, to notify the Commission of certain changes in the business or employment of the named individual respondent, and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 93-10496 Filed 5-3-93; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89F-0395]

E.I. Du Pont De Nemours and Co.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 9B4170) proposing that the food additive regulations be amended to provide for the safe use of *N,N'*-dioleoylethylenediamine as a release agent in films made of ethylene-vinyl acetate copolymers and certain ionomeric resins for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9500.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 10, 1989 (54 FR 41505), FDA announced that a food additive petition (FAP 9B4170) had been filed by E.I. du Pont de Nemours and Co., Chestnut Run Plaza, P.O. Box 80715, Wilmington, DE 19880-0715 (formerly 1007 Market St., Wilmington, DE 19898). This petition proposed that § 178.3860 *Release agents* (21 CFR 178.3860) be amended to provide for the safe use of *N,N'*-dioleoylethylenediamine as a release agent in films made of ethylene-vinyl acetate copolymers complying with § 177.1350 (21 CFR 177.1350) and certain ionomeric resins (polymers of ethylene and methacrylic acid and their partial metal salts) complying with § 177.1330 (21 CFR 177.1330) for use in contact with food. E.I. du Pont de Nemours and Co. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: April 2, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93-10400 Filed 5-3-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 93M-0135]

Ciba Vision Corp.; Premarket Approval of Ciba Vision Disinfecting Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by CIBA Vision Corp., Duluth, GA, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of the CIBA Vision® Disinfecting Solution. The device is to be manufactured under an agreement with Pilkington Visioncare (formerly Sola Barnes Hind), Sunnyvale, CA, which has authorized CIBA Vision Corp. to incorporate information contained in its approved premarket approval application and related supplements for the BARNES HIND® SOFTMATE® Disinfecting Solution. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of March 24, 1993, of the approval of the application.

DATES: Petitions for administrative review by June 3, 1993.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Debra Y. Lewis, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1080.

SUPPLEMENTARY INFORMATION: On August 3, 1992, CIBA Vision Corporation, Duluth, GA, submitted to CDRH an application for premarket approval of the CIBA Vision® Disinfecting Solution. The CIBA Vision® Disinfecting Solution is indicated for use to rinse, disinfect, and store soft (hydrophilic) contact lenses. The application includes authorization from Pilkington Visioncare, Sunnyvale, CA 94086-5200, to incorporate information contained in its approved premarket approval application and related supplements for BARNES HIND® SOFTMATE® Disinfecting Solution.

In accordance with the provisions of section 515(c)(2) of the act as amended by the Safe Medical Devices Act of 1990, this PMA was not referred to the Ophthalmic Devices Panel, an FDA advisory panel, for review and recommendation because the information in the PMA substantially duplicates information previously reviewed by this panel. On March 24, 1993, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH. A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 3, 1993, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 21, 1993.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 93-10401 Filed 5-3-93; 8:45 am]

BILLING CODE 4160-01-F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Medical Imaging Drugs Advisory Committee

Date, time, and place. May 27 and 28, 1993, 8 a.m., Parklawn Bldg., 5600 Fishers Lane, conference rooms D and E, Rockville, MD.

Type of meeting and contact person. Open committee discussion, May 27, 1993, 8 a.m. to 5 p.m.; open public hearing, May 28, 1993, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion; 9 a.m. to 12:30 p.m.; closed committee deliberations, 12:30 p.m. to 2 p.m.; Leander Madoo, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 13, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On May 27, 1993, the committee will discuss

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new drug applications (NDA's) for Tc-99m Bicisate, (Neurolite) NDA 20–256, the DuPont Merck Pharmaceutical Co., a diagnostic radiopharmaceutical for use in single photon emission computed tomography (SPECT); Iopromide Injection, (Ultravist) NDA 20–220, Berlex Laboratories Inc., a non-ionic x-ray contrast agent; and on May 28, 1993, Indium-111 Pentetreotide (Octreoscan) NDA 20–314, Mallinckrodt Medical Inc., a diagnostic radiopharmaceutical for use in gamma scintigraphy and SPECT.

Closed committee deliberations. On May 28, 1993, the committee will review trade secret or confidential commercial information. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative session to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: April 27, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–10460 Filed 5–3–93; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committee; Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Science Board to the Food and Drug Administration

Date, time, and place. May 24, 1993, 10:40 a.m. and May 25, 1993, 9 a.m., Sheraton Crystal City Hotel, 1800 Jefferson Davis Hwy., Arlington, VA.

Type of meeting and contact person. Open committee discussion, May 24, 1993, 10:40 a.m. to 4 p.m.; open public hearing, 4 p.m. to 5 p.m., unless public participation does not last that long; open committee discussion, May 25, 1993, 9 a.m. to 4:15 p.m.; open public hearing, 4:15 p.m. to 5:15 p.m., unless public participation does not last that long; Sheryl A. Rosenthal, Office of the Senior Advisor for Science (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5839.

General function of the board. The board shall provide advice primarily to the agency's Senior Science Advisor and, as needed, to the Commissioner and other appropriate officials on specific complex and technical issues as well as emerging issues within the scientific community in industry and academia. Additionally, the board will provide advice to the agency on keeping pace with technical and scientific evolutions in the fields of regulatory science; on formulating an appropriate research agenda; and on upgrading its scientific and research facilities to keep pace with these changes. It will also provide the means for critical review of agency sponsored intramural and extramural scientific research programs.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the board. Those desiring to make formal presentations should notify the contact person before May 14, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The board will receive a general orientation about FDA and an overview of the existing scientific research at the agency. An introduction to the operations of the Center for Food Safety and Applied Nutrition, the National Center for Toxicological Research, and the Center for Devices and Radiological Health will also be presented.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting. This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: April 27, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–10462 Filed 5–3–93; 8:45 am]

BILLING CODE 4160–01–F

Food and Drug Industry Exchange Meeting on the Foreign Drug Inspection Program; Notice of Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA), Office of Small Business, Scientific and Trade Affairs, Office of Regulatory Affairs/Pacific Region, Center for Drug Evaluation and Research, and Office of Health Affairs are cosponsoring an industry exchange meeting. The foreign drug inspection program will be discussed.

DATES: The industry exchange meeting will be held on Thursday, May 20, 1993, 7:45 a.m. to 5 p.m.

ADDRESSES: The industry exchange meeting will be held at the San Francisco Airport Hilton, San Francisco International Airport, San Francisco, CA.

FOR FURTHER INFORMATION CONTACT: Jeanne White or Sharon Schneider, Food and Drug Administration, Office of Small Business, Scientific and Trade Affairs (HF–50), 5600 Fishers Lane, Rockville, MD 20857, 301–443–6776 or Mark Roh, Food and Drug Administration, Small Business Representative, Pacific Region, Federal Office Bldg., rm. 526, United Nations Plaza, San Francisco, CA 94102, 415–556–2263. Those persons interested in attending this meeting should fax their registration to 415–556–2822, including name, firm name, address, and telephone number. There is no

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registration fee for this meeting, but advance registration is required.

SUPPLEMENTARY INFORMATION: FDA is sponsoring the second Commissioner of Food and Drugs' industry exchange meeting on the foreign drug inspection program. FDA speakers will provide current information on the foreign drug inspection program and will be available for question and answer sessions to address issues and concerns on the part of the regulated industry.

Dated: April 28, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–10461 Filed 5–3–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–93–3557; FR–3412–N–03]

Revised Notice of Funding Availability (NOFA) for the Urban Revitalization Demonstration; Revision To Extend Application Deadline Date for Eligible Applicants

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (HUD, or the Department).

ACTION: Extension of Deadline Date; Notice of funding availability for the Urban Revitalization Demonstration Program.

SUMMARY: In response to discussions with a number of interest groups and public housing agencies (PHAs), the Department has decided to extend the application submission date for the Notice of Funding Availability originally published on January 5, 1993, entitled Funding Availability (NOFA) for Urban Revitalization Demonstration, and republished on March 29, 1993, entitled Revised Notice of Funding Availability (NOFA) for the Urban Revitalization Demonstration—Revised Procedures to Reduce Burdens on Applicants, from May 5, 1993 to May 26, 1993. This revised NOFA only modifies specific dates related to the submission of applications, submission of certifications, and the date related to the final funding decisions. All other requirements and clarifications set forth in the March 29, 1993 republication of the original NOFA remain in place except for the items outlined under the "background" section below.

BACKGROUND: This modification addresses the following areas:

1. The March 29, 1993 revised NOFA required that applications be submitted no later than 4 p.m. e.s.t. on May 5, 1993. Because the statute allows for an expanded period of time for application submission and, in recognition of concerns expressed by PHAs, the application submission deadline is being extended to no later than 4 p.m. e.s.t. on May 26, 1993.

2. If the required certification by the Mayor allowing replacement housing (if applicable) cannot be submitted by May 26, 1993, this certification may be submitted separately, but not later than 4 p.m. e.s.t. on August 25, 1993.

3. The Department intends to select grantees by August 26, 1993 and announcements will be made shortly thereafter.

Dated: April 29, 1993.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 93–10526 Filed 5–3–93; 8:45 am]

BILLING CODE 4210–33–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–93–3618; FR–3500–N–01]

Mortgagee Review Board Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice describes the cause and description of recent administrative actions taken by HUD's Mortgagee Review Board against named HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: William Heyman, Director, Office of Lender Activities and Land Sales Registration, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1824. The Telecommunications Device for the Deaf (TDD) number is (202) 708–4594. (These are not toll-free numbers)

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by section 142 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989)) requires that HUD "publish in the **Federal Register** a description of and the cause for administrative action against a HUD-approved mortgagee" by the Department's Mortgagee Review Board. In conformity with the requirements of section 202(c)(5), this document gives notice of administrative actions that have been taken by the Mortgagee Review Board from January 1, 1993 through March 31, 1993.

1. Sound Mortgage, Inc., Seattle, Washington

Action: Proposed withdrawal of HUD mortgagee approval.

Cause: A HUD monitoring review which cited the company for violations of HUD-FHA requirements in the origination of a HUD-FHA insured mortgage. The company failed to assure that the mortgagor made the minimum required investment in the property, and failed to conduct a property inspection.

2. Hallmark Mortgage Services, Inc., Tampa, Florida

Action: Proposed withdrawal of HUD mortgagee approval.

Cause: A HUD monitoring review citing violations of HUD-FHA program requirements that included: Permitting the use of a "straw buyer" in a HUD-FHA insured mortgage transaction; failure to maintain a Quality Control Plan that complies with HUD-FHA requirements; signing the HUD-54113 underwriter/mortgagee certifications in blank; failure to maintain the Home Mortgage Disclosure Act (HMDA) 1990 and 1991 loan application, origination and purchase portfolio register and failure to submit the 1990 data to HUD; and failure to maintain complete loan origination files in compliance with HUD-FHA requirements.

3. Gill Savings Association, San Antonio, Texas

Action: Withdrawal of HUD mortgagee approval.

Cause: Failure to comply with the terms and conditions of an Indemnification Agreement with HUD that required indemnification for HUD's claim losses totalling $280,408.

4. Chemical Mortgage Company, Columbus, Ohio

Action: Settlement Agreement that provides for corrective action and compliance with the Department's section 235 mortgage servicing requirements.

Cause: A HUD monitoring review which cited the company for noncompliance with the Department's section 235 mortgage servicing requirements, including: Failure properly to refund underpaid assistance to mortgagors, due to commingling of subsidy and escrow funds; improper billing of HUD for mortgage subsidies;

failure to timely perform retroactive reviews when mortgagor income increased; billing both HUD and mortgagors for escrow shortages; improper billing for mortgage subsidies on loans insured before 1976; failure to make timely disclosure of escrow account balances to mortgagors; improper practices concerning overpaid assistance; and failure to update status codes on the HUD Single Family Default Monitoring System Report in a timely manner.

5. Kadilac Mortgage Bankers, Ltd., Great Neck, New York

Action: Settlement Agreement that includes indemnification to the Department in the amount of $149,019 for HUD's claim loss in connection with an improperly originated mortgage; agreement not to submit future claims in connection with four improperly originated mortgages; and payment to the Department the sum of $25,000 in lieu of a civil money penalty.

Cause: A HUD monitoring review that cited violations of HUD–FHA program requirements including: Failure to verify the adequacy and source of mortgagors' assets, false gift letter; overinsured mortgage; and payment of a referral fee.

6. Sovereign Mortgage Corporation, Marietta, Georgia

Action: Proposed withdrawal of HUD mortgagee approval.

Cause: A HUD monitoring review that cited violations of HUD–FHA program requirements including: Failure to comply with reporting requirements under the Home Mortgage Disclosure Act; failure to implement and maintain a Quality Control Plan; allowing false documentation to be submitted to HUD; failure to ensure that mortgagors made the minimum required investment; submitting loans involving "straw buyers" to HUD; failure to conduct face-to-face interviews with mortgagors; charging a mortgagor undisclosed discount points; overcharging interim interest to mortgagors; failure to verify the source of funds; and completing the lender's certification on HUD Form 92900 prior to the mortgagor's certification.

7. Goldpost Mortgage Corporation, Rochester, New York

Action: Settlement agreement that provides for payment to the Department of $75,000 in connection with five improperly originated mortgages.

Cause: A HUD monitoring review citing violations of HUD–FHA program requirements. The company submitted mortgages for HUD–FHA insurance endorsement which exceeded maximum permissible mortgage amounts.

8. Mortgage Systems, Inc., Las Vegas, Nevada

Action: Probation and proposed civil money penalty in the amount of $10,000.

Cause: A HUD monitoring review that cited violations of HUD–FHA program requirements including: Failure to comply with HUD–FHA reporting requirements under the Home Mortgage Disclosure Act; failure to implement an adequate Quality Control Plan; failure to timely submit closed loans to HUD for endorsement; failure to maintain complete mortgage origination files and documents; failure properly to remit One-Time Mortgage Insurance Premiums (OTMIPs); and reporting incorrect loan closing dates to HUD, resulting in underpayment of the OTMIP interest and late charges.

9. Venture Financial Services, Inc., Mesa, Arizona

Action: Proposed Settlement agreement that would include indemnification or buydown of an overinsured mortgage, and compliance with HUD–FHA requirements.

Cause: A HUD monitoring review that cited violations of HUD–FHA program requirements including: Failure to assure that a mortgagor made the minimum required investment in a HUD–FHA insured mortgage; failure to implement an adequate Quality Control Plan; and failure to comply with HUD–FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA).

10. Sunland Mortgage, Inc., Cerritos, California

Action: Proposed Settlement agreement that provides for indemnification to HUD for its claim loss of $13,329 in connection with one improperly originated mortgage, and compliance with HUD–FHA requirements.

Cause: A HUD monitoring review that cited violations of HUD–FHA program requirements that included: Improper origination of a HUD–FHA insured mortgage; failure to maintain an adequate Quality Control Plan; failure to perform a face-to-face interview with a mortgagor; failure to comply with HUD–FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA); and noncompliance with document-retention requirements.

11. First Countywide Mortgage Corporation, Hialeah, Florida

Action: Proposed Settlement agreement that would include indemnification for any claim losses sustained by the Department in connection with two improperly originated mortgages.

Cause: A HUD monitoring review that cited violations of HUD–FHA requirements including: Improper loan origination practices; inadequate Quality Control Plan; and failure to comply with HUD–FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA).

12. Mortgage Concepts, Inc., Orange, California

Action: Proposed Settlement agreement that would include indemnification to the Department for any claim loss in connection with one improperly originated mortgage, and noncompliance with HUD–FHA requirements.

Cause: A HUD monitoring review that disclosed violations of HUD–FHA requirements including: Failure to maintain and implement an adequate Quality Control Plan; failure to comply with reporting requirements under the Home Mortgage Disclosure Act (HMDA); failure to comply with the principal activity requirements for HUD–FHA approved loan correspondents; and improperly originating one HUD–FHA insured mortgage.

13. Miltex Mortgage, Inc., Austin, Texas

Action: Proposed Settlement agreement that would provide for indemnification to the Department in the amount of $7,868 for its claim loss in connection with an improperly originated mortgage, and compliance with HUD–FHA requirements.

Cause: A HUD monitoring review that disclosed violations of HUD–FHA program requirements including: Improperly originating one HUD–FHA insured mortgage; failure to implement and maintain an adequate Quality Control Plan; and failure to comply with HUD–FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA).

14. Central Wyoming Mortgage, Casper, Wyoming

Action: Letter of Reprimand.

Cause: A HUD monitoring review that cited violations of HUD–FHA program requirements including: Failure to maintain an adequate Quality Control Plan; failure to comply with HUD–FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA); failure to close and fund loans in the company's own name; and failure to maintain complete loan documents.

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15. Mortgagees That Failed To Comply With HUD–FHA Reporting Requirements Under the Home Mortgage Disclosure Act (HMDA) and/or Quality Control Plan Requirements

Action: Letters of Reprimand.

Cause: HUD monitoring reviews that disclosed violations by the following mortgagees of the Department's reporting requirements under HMDA, or failure to comply with the Department's requirements for a Quality Control Plan, or both:

Mortgagees Issued a Letter of Reprimand for Failure To Meet HMDA Reporting Requirements and To Maintain an Adequate Loan Origination Quality Control Plan

Kentshire, Inc., Dayton, Ohio; David Mortgage, Inc., d/b/a Barnacle Mortgage Co., Cincinnati, Ohio; Treasure Coast Mortgage Corp., Sebring, Florida; National First Lenders Corp., Knoxville, Tennessee; Triangle East Mortgage Corp., Rocky Mount, North Carolina; Alliance Mortgage Corp., Hillside, Illinois; Martin & Associates, Inc., Columbus, Ohio; Bankers Financial Group, Inc., Dallas, Texas; Choice Mortgage, Inc., Richardson, Texas; Prime Lending, Inc., Dallas, Texas; Mortgage One Corp., Columbia, South Carolina; Greater Houston Financial Services, Houston, Texas; Nation's Bankers' Mortgage, Inc., Houston, Texas; AmeriFirst Investment Co., Overland Park, Kansas; Savage Mortgage Co., Houston, Texas; CMC Mortgage Corp., Wichita, Kansas; Mid-State Mortgage Co., Gladstone, Missouri; Charter Mortgage Corp., Overland Park, Kansas; Progressive Mortgage Corp., Houston, Texas; Citizens Mortgage Co., Joplin, Missouri; Advance Mortgage Corp., Overland Park, Kansas; McGuire Mortgage Co., Prairie Village, Kansas; and American Financial Mortgage Corp., Atlanta, Georgia.

Mortgagees Issued a Letter of Reprimand for Failure To Report HMDA Data Only

Mortgage Market, Inc., Metairie, Louisiana; Diversified Home Mortgage, Colorado Springs, Colorado; Mortgage Broker Financial Corp., Boulder, Colorado; Stanley Financial Services, Inc., Colorado Springs, Colorado; Fidelity Mortgage Co., Grand Junction, Colorado; First Republic Mortgage Corp., Dayton, Ohio; First Western Funding Corp., Greeley, Colorado; Omega Mortgage Corp., Fort Collins, Colorado; Midwest Home Mortgage Corp., Longmont, Colorado; Unlimited Mortgage Services, Worthington, Ohio; Renaissance Mortgage Corp., Houston, Texas; International Mortgage Corp., Overland Park, Kansas; First American Mortgage Corp., Prairie Village, Kansas; Heritage Mortgage Co., St. Joseph, Missouri; and Mortgages Unlimited, Inc., Liberal, Kansas.

16. Leader Mortgage Company, Overland Park, Kansas

Action: Letter of Reprimand.

Cause: HUD monitoring review that cited the company for failure to maintain an adequate Quality Control Plan.

Dated: April 22, 1993.

James E. Schoenberger,

Associate General Deputy Assistant Secretary.

[FR Doc. 93–10453 Filed 5–3–93; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Special Task Force Meeting

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Aquatic Nuisance Species Task Force. A number of subjects will be discussed during the Task Force meeting, including: The proposed Ruffe Control Program, the draft Intentional Introductions Policy Review, an update on the ballast water regulations for the Great Lakes, the Aquatic Nuisance Species Program, an update on activities of the Great Lakes Panel on Nonindigenous Species, and announcement of upcoming events.

DATES: The Aquatic Nuisance Species Task Force will meet from 9 a.m. to 3 p.m. on Thursday, May 20, 1993.

ADDRESSES: The Aquatic Nuisance Species Task Force meeting will be held at the Main Interior Building, room 8068 (North Penthouse), 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sharon Gross, Aquatic Nuisance Species Task Force Coordinator, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, Virginia 22203 at (703) 358–1718.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Aquatic Nuisance Species Task Force established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Pub. L. 101–646, 104 Stat. 4761, 16 U.S.C. 4701 *et seq.*, November 29, 1990). Minutes of the meetings will be maintained by the Coordinator, Aquatic Nuisance Species Task Force, room 840, 4401 North Fairfax Drive, Arlington, Virginia 22203 and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: April 27, 1993.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 93–10397 Filed 5–3–93; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 24, 1993. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by May 19, 1993.

Beth L. Savage,

Acting Chief of Registration, National Register.

GEORGIA

Bulloch County

Stewart Stores, Jct. of Railroad and Grady Sts., Portal, 93000430

HAWAII

Hawaii County

Kamehameha Hall, 1162 Kalanianaole Ave., Hilo, 93000426

MICHIGAN

Alger County

Mikulich General Store, Jct. of Co. Rts. 1 and 44, Limestone Township, Traunik, 93000428

Ionia County

Belding, Alvah N., Memorial Library, 302 E. Main St., Belding, 93000427

Wayne County

Christ Church Chapel, 61 Grosse Pointe Rd., Grosse Pointe Farms, 93000424

Grosse Pointe High School, 11 Grosse Pointe Blvd., Grosse Pointe Farms, 93000429

RHODE ISLAND

Kent County

West Winds, 300 Wakefield St., West Warwick, 93000425

VERMONT

Windham County

Parker Hill Rural Historic District, Parker Hill and Lower Parker Hill Rds., Rockingham, 93000431

In order to assist in its preservation, the commenting period for the following property has been waived:

INDIANA

Jefferson County

Oakdale School, Morgan Rd., Jefferson Proving Ground, Madison vicinity 93000432

[FR Doc. 93–10469 Filed 5–3–93; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Registration

By notice dated March 15, 1993, and published in the **Federal Register** on March 22, 1993, (58 FR 15378), Ganes Chemical, Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Methadone (9250)	II
Methadone-Intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Director, Office of Diversion Control hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: April 27, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–10413 Filed 5–3–93; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on March 29, 1993, Radian Corporation, 8501 Mopac Blvd., P.O. Box 201088, Austin, Texas 78720, made application to the Drug Enforcement Administration to be registered as an importer of Dextropropoyphene, bulk (non-dosage forms) (9273) a basic class of controlled substance in Schedule II. The firm plans to import deuterated material not currently available in the United States for manufacturing an exempt product.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Director, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 3, 1993.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Director, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 27, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–10414 Filed 5–3–93; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Chevron Petroleum Technology Co. (CPTC) (A Division of Chevron U.S.A. Inc.), et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the Matter of Chevron Exploration & Production Services Co., Various Department and Divisions in the Following States:

TA–W–27,344 Exploration & Production Department, Houston, TX,
TA–W–27,345 Technical Services Department, Houston, TX,
TA–W–27,346 Eastern Support Division, New Orleans, LA
TA–W–27,346A Eastern Support Division, LA except New Orleans,
TA–W–27,347 Western Support Division, San Ramon, CA,
TA–W–27,347A Western Support Division, CA except San Ramon,
TA–W–27,347B Western Support Division, TX,
TA–W–27,347C Western Support Division, CO; Chevron Oil Field Research Co.,
TA–W–27,853 La Habra, CA,
TA–W–27,853A TX

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued Notices of Certification applicable to all workers of the subject firms on July 22, 1992 and on November 30, 1992. The Notices were published in the **Federal Register** on August 4, 1992 (57 FR 34308) and December 15, 1992 (57 FR 59359), respectively.

The Department is amending the subject certification to reflect a new name change effective December 31, 1992. Because of a reorganization, workers of the above firms are now employees of the Chevron Petroleum Technology Company (CPTC), a division of Chevron, U.S.A. Inc.

Accordingly, the Department is amending the certifications to reflect the name change.

The amended notice applicable to TA–W–27,344; TA–W–27,345; TA–W–27,346; TA–W–27,346A; TA–W–27,347; TA–W–27,347A–C, and TA–W–27,853 and TA–W–27,853A, respectively, is hereby issued as follows.

All workers of Chevron Exploration and Production Services Company, (Chevron Petroleum Technology Company, a division of Chevron, U.S.A. Inc.) Houston, Texas and operating in the following States: Texas, Louisiana, California and Colorado who became totally or partially separated from employment on or after May 28, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974." and

"All workers of Chevron Oil Field Research Company, (Chevron Petroleum

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Technology Company, a division of Chevron, U.S.A. Inc.) La Habra, California and the State of Texas who became totally or partially separated from employment on or after September 14, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 27th day of April 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–10484 Filed 5–3–93; 8:45 am]

BILLING CODE 4510–30–M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of April 1993.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–28,307; Hurlock Sportswear, Hurlock, MD

TA–W–28,172; Semiconductor Specialties Corp., Kane, PA

TA–W–28,081; Lodge & Shipley, Inc., Cincinnati, OH

TA–W–28,435; Unocal Molycorp, York, PA

TA–W–28,333; Struthers Wells Corp., Warren, PA

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA–W–28,312; Berrong Enterprises Limited, Houston, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–28,379; H & G Services, Williston, ND

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–28,277; BP Performance Polymers, Inc., Hackettstown, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–28,491; KAI, Bay City, MI

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–28,375; Parker Pen USA, Limited, Janesville, WI

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–28,187; Coastal Oil, Inc., Oklahoma City, OK

The investigation revealed that criterion (1) and criterion (2) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA–W–28,304; Pennzoil Exploration & Production Co, West Neola, UT

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations

TA–W–28,437; C & M Sportswear, Newark, NJ

A certification was issued covering all workers separated on or after January 6, 1992.

TA–W–28,522; Jane & Linda Sportswear, Inc., Lebanon, KY

A certification was issued covering all workers producing ladies' pants and skirts separated on or after March 24, 1992.

TA–W–28,438; Portland General Electric Co., Trojan Nuclear Plant, Rainier, OR

A certification was issued covering all workers producing electric power separated on or after February 23, 1992.

TA–W–28,438A; Portland General Electric Co., Portland, OR

A certification was issued covering all workers of Portland General Electric Co., Portland, OR and PGE Non-Nuclear Division producting electric power separated on or after February 23, 1992.

TA–W–28,383; Dale Electronics, Inc., El Paso, TX

A certification was issued covering all workers producing thermistors separated on or after February 26, 1993.

TA–W–28,479; OMC Trade Winds, Manawa, WI

A certification was issued covering all workers producing remote controls and electronics for outboard motors separated on or after December 1, 1992.

TA–W–28,258; Texas, Inc., Exploration & Production Technology Dept., Houston, TX

A certification was issued covering all workers separated on or after January 12, 1992.

TA–W–28,346; Technical Services for Electronics, Inc., (AKA TSE, Inc, Fairfax, MN

A certification was issued covering all workers separated on or after January 25, 1992.

TA–W–28,267; Mecon Manufacturing, Inc., Caribou, ME

A certification was issued covering all workers producing Automobile circuit breakers separated on or after January 20, 1992.

TA–W–28,418; ASARCO—Troy Unit, Troy, MT

A certification was issued covering all workers separated on or after February 18, 1992.

TA–W–28,386 Chalk Line, Inc., West Point, GA

A certification was issued covering all workers producing undecorated outerwear separated on or after February 18, 1992.

TA–W–28,232; Binns Machinery Products, Cincinnati, OH

A certification was issued covering all workers separated on or after January 1, 1992.

TA–W–28,228; Geneva Steel, Provo, UT

A certification was issued covering all workers separated on or after January 5, 1992.

TA–W–28,514; Simon Petroleum Technology Corp, Houston, TX

A certification was issued covering all workers separated on or after March 23, 1992.

TA–W–28,245; Abex/NWL Aerospace Oxnard, CA

A certification was issued covering all workers producing servo valves and hydraulic pumps on or after January 15, 1992.

TA–W–28,354; Melville Knitwear Co., Inc., Monroe, NC

A certification was issued covering all workers producing ladies' sweaters separated on or after February 9, 1992.

TA–W–28,354; Melville Knitwear Co., Inc., Waxhaw, NC

A certification was issued covering all workers producing ladies' sweaters separated on or after February 9, 1992.

I hereby certify that the aforementioned determinations were issued during the month of April 1993. Copies of these determinations are available for inspection in room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: April 27, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–10481 Filed 5–3–93; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 14, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 14, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 19th day of April, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Syntron, Inc (Wkrs)	Houston, TX	04/19/93	04/10/93	28,561	Acoustic transducers.
Rogue Valley Printed Circuits (Wkrs)	Medford, OR	04/19/93	04/05/93	28,562	Printed circuit boards.
Moore-Clark Co. (Wkrs)	LaConner, WA	04/19/93	04/01/93	28,563	Fish feed.
Sooner Pipe & Supply Co (Wkrs)	Tulsa, OK	04/19/93	04/06/93	28,564	Sells oilfield equipment and supplies.
Moench Tanning Co (Wkrs)	Gowanda, NY	04/19/93	04/05/93	28,565	Leather.
Southwestern Energy Production Co (Wkrs).	Oklahoma City, OK	04/19/93	03/29/93	28,566	Crude oil and natural gas.
Simpson Paper Co, Humboldt Pulp (Wkrs).	Eureka, CA	04/19/93	03/31/93	28,567	Softwood pulp.
Plummer Precision Optics (Wkrs)	Pennsburg, PA	04/19/93	04/07/93	28,568	Optical components.
I.T.T. Avionics (IAM)	Clifton, NJ	04/19/93	01/29/93	28,569	Radar jamming systems.
IRI International Corp (Co)	Pampa, TX	04/19/93	04/06/93	28,570	Melts and forges steel bars and billets.
G and L Machine (Wkrs)	South Paris, ME	04/19/93	03/31/93	28,571	Machining of parts.
G.E.O., Inc (Wkrs)	Casper, WY	04/19/93	03/15/93	28,572	Provides geological data.
FMR Grinding Wheel Co., Inc (USWU)	West Haven, CT	04/19/93	03/30/93	28,573	Grinding wheels.
Camco Products & Service (Co)	Anchorage, AK	04/19/93	04/08/93	28,574	Service oil and gas wells.
AAI/Microflite Simulation (Wkrs)	Binghamton, NY	04/19/93	04/01/93	28,575	Flight simulators and training devices.
IBM Corp (Wkrs)	Buffalo, NY	04/19/93	04/05/93	28,576	Service, support center.
Pratt & Whitney Aircraft (IAMAW)	East Hartford, CT	04/19/93	04/07/93	28,577	Commercial and military aircraft engines.
Pratt & Whitney Aircraft (IAMAW)	North Haven, CT	04/19/93	04/07/93	28,578	Commercial and military aircraft engines.
Pratt & Whitney Aircraft (IAMAW)	Rocky Hill, CT	04/19/93	04/07/93	28,579	Commercial and military aircraft engines.
Pratt & Whitney Aircraft (IAMAW)	Middletown, CT	04/19/93	04/07/93	28,580	Commercial and military aircraft engines.
Pratt & Whitney Aircraft (IAMAW)	Cheshire, CT	04/19/93	04/07/93	28,581	Commercial and military aircraft engines.
Pratt & Whitney Aircraft (IAMAW)	Southington, CT	04/19/93	04/07/93	28,582	Commercial and military aircraft engines.

[FR Doc. 93–10482 Filed 5–3–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,997]

Texaco Exploration & Production, Inc., Eastern E & P Region, New Orleans, LA; Revised Determination on Reopening

On April 20, 1993, the Department, at the request of the petitioners, reopened its investigation for workers and former workers of the subject firm. The initial investigation resulted in a negative determination on January 15, 1993 because the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met. The denial notice was published in the **Federal Register** on March 9, 1993 (58 FR 13092).

The investigation findings show that the predominant portion of the crude oil produced by Texaco's Eastern E & P Region is sold internally.

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The findings also show that the production of both crude oil and natural gas at New Orleans decreased in 1991 compared to 1990 and in the first 10 months of 1992 compared to the same period in 1991. Significant worker separations began in 1992.

Findings on reopening show increased company imports of crude oil in 1991 compared to 1990 and in the first 10 months of 1992 compared to the same period in 1991.

Conclusion

After careful consideration of the new facts obtained on reopening, it is concluded that increased imports of articles like or directly competitive with the crude oil produced by the Eastern E & P Region of Texaco Exploration and Production, Inc., in New Orleans, Louisiana contributed importantly to the decline in production and to the total or partial separation of workers at the subject plant. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers and former workers of the Eastern E & P Region of Texaco Exploration & Production, Inc., in New Orleans, Louisiana who became totally or partially separated from employment on or after July 1, 1992, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 22d day of April 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Service, Unemployment Insurance Service

[FR Doc. 93–10463 Filed 5–3–93; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on May 14, 1993 from 9 a.m.–5:30 p.m. and May 15 from 8:30 a.m.–4:30 p.m. in room M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on May 14 from 9: a.m.–5:30 p.m. and May 15 from 9:30 a.m.–4:30 p.m. The topics for discussion will include opening remarks; Congressional update; preliminary discussion of FY 95 Budget; Cultural Diversity Task Force update; and Program Review and/or Guidelines and/or Application Review for the Arts in Education, Challenge/Advancement, Dance, Design Arts, Expansions Arts, Folk Arts, International, Literature, Local Arts Agencies, Media Arts, Museum, Music, Planning and Research, Opera-Musical Theater, Presenting & Commissioning, Special Constituencies, State & Regional, Theater, and Visual Arts Programs.

The remaining portion of this meeting on May 15 from 8:30 a.m.–9:15 a.m. is for the purpose of reviewing nominations for the National Medal of Arts. In accordance with the determination of the Chairman of November 24, 1992, this session will be closed to the public pursuant to subsections (6) and 9(B) of section 552b of title 5, United States Code.

Also, if in the course of application review it becomes necessary for the Council to discuss non-public financial information about individuals, such as salary information, submitted with grant applications, the Council will go into closed session for that limited purpose only pursuant to subsection (c)(4) of section 552b of title 5, United States Code. Such closure would be in accordance with the determination of the Chairman of November 24, 1992.

Any interested persons may attend, as observers, Council discussions and reviews which are open to the public.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, national Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: April 27, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–10443 Filed 5–3–93; 8:45 am]

BILLING CODE 7537–01–M

Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Choreographers' Fellowships Prescreening Section) to the National Council on the Arts will meet on June 9–10, 1993 from 9 a.m.–8 p.m. and June 11 from 9 a.m.–4 p.m. in room M–07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, this session will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: April 26, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–10445 Filed 5–3–93; 8:45 am]

BILLING CODE 7537–01–M

Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Choreographers' Fellowships Section) to the National Council on the Arts will be held on June 14–15, 1993 from 9 a.m.–8:30 p.m., June 16 from 9 a.m., June 17 from 9 a.m.–9 p.m., 8:30 p.m. and June 18 from 9 a.m.–6 p.m. in room M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington DC 20506

A portion of this meeting will be open to the public on June 18 from 3 p.m.–6 p.m. The topic will be policy discussion.

The remaining portions of this meeting on June 14–15 from 9 a.m.–8:30 p.m., June 16 from 9 a.m.–9 p.m., June 17 from 9 a.m.–8:30 p.m., and June 18 from 9 a.m.–3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: April 26, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–10449 Filed 5–3–93; 8:45 am]

BILLING CODE 7537–01–M

Folk Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Folk Arts Advisory Panel (Folk Arts Organizations/State Arts Apprenticeships Programs Section) to the National Council on the Arts will be held on June 8–9, 1993 from 9 a.m.–9:30 p.m., June 10 from 9 a.m.–6:30 p.m., and June 11 from 9 a.m.–4 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 9 from 12:30 p.m.–2:30 p.m. The topic will be policy discussion.

The remaining portions of this meeting on June 8 from 9 a.m.–9:30 p.m., June 9 from 9 a.m.–12:30 p.m. and 2:30 p.m.–9:30 p.m., June 10 from 9 a.m.–6:30 p.m., and June 11 from 9 a.m.–4 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: April 26, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–10448 Filed 5–3–93; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Committee of Visitors of the Advisory Committee for Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: May 19–21, 1993; 8:30 a.m. to 5 p.m.

Place: Room 500B, 1110 Vermont Avenue, NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Conrad A. Istock, Program Director/Cluster Leader, Systematic and Population Biology Cluster, National Science Foundation, 1800 G. St. NW., Washington, DC 20550. Telephone: (202) 357–9728.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Systematic Biology and Population Biology Programs.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the G Government in the Sunshine Act would be improperly disclosed.

Dated: April 29, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–10464 Filed 5–3–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in International Programs; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in International Programs.

Date and Time: May 12, 1993; 8:30 a.m. to 5 p.m.

Place: Room 500–C, 1110 Vermont Avenue, NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Myra McAuliffe, Program Specialist, Division of International Programs, room V–501, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 653–5862.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Japan Center for Global Partnership (CGP) Medium and Long-Term Visits for Individual Research Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Reason for Late Notice: Difficulty in making meeting arrangements.

Dated: April 29, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–10463 Filed 5–3–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued another periodic report to Congress on abnormal occurrences (NUREG–0090, Vol. 15, No. 4).

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event that the Commission (NRC) determines is

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significant from the standpoint of public health or safety." The NRC has made a determination that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and by-product material are abnormal occurrences.

The report to Congress is for the fourth calendar quarter of 1992. The report identifies the occurrences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described.

There were two abnormal occurrences at nuclear power plants. Six abnormal occurrences involving medical misadministration (all therapeutic) at NRC-licensed facilities are discussed in this report. No abnormal occurrences were reported by NRC's Agreement States. The report also contains information updating previously reported abnormal occurrences.

A copy of the report is available for inspection or copying for a fee at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555, or at any of the nuclear power plant Local Public Document Rooms throughout the country.

Copies of NUREG–0090, Vol. 15, No. 4 (or any of the previous reports in this series), may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082. A year's subscription to the NUREG–0090 series publication, which consists of four issues, is also available.

Copies of the report may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Rockville, MD this 28th day of April 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–10456 Filed 5–3–93; 8:45 am]

BILLING CODE 7590–01–M

First Meeting of the CONTAIN Peer Review Committee

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The CONTAIN Peer Review Committee will meet to review the technical adequacy of the CONTAIN code.

DATES: May 24–27, 1993.

TIME: 8:30 a.m. each day.

ADDRESS: Sandia National Laboratory, Albuquerque, New Mexico, May 24–25, Building 980, room 95 (meeting location), May 26–27, Building 823, room 2279 (meeting location).

FOR FURTHER INFORMATION CONTACT: A. Notafrancesco, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–3537.

SUPPLEMENTARY INFORMATION: The objective of this effort is to organize and conduct a peer review of the CONTAIN code, light water reactor version. The peer review is to provide an independent assessment of the modeling capabilities and limitations, and adequacy of the CONTAIN code. The results of the peer review are to be documented in a summary report that describes the results of the independent assessment by the peer review participants and the technical acceptability of the code.

A peer review committee has been organized using recognized experts from the national laboratories, universities, CONTAIN user community and independent contractors. Meetings are held to discuss and evaluate the applicability and state of validation of the various CONTAIN phenomenological models. The meeting scheduled for May 24–27, 1993, is the first meeting of the CONTAIN Peer Review Committee. The Committee will (1) review the Committee charter, (2) review the code design objectives and targeted applications, (3) select a process for conducting the review, (4) identify and select a standard for determining technical adequacy, and (5) receive briefings from the code development staff about the integrated code and the detailed models in the code.

Dated at Rockville, Maryland, this 26th day of April, 1991.

Editorial Note: This document was received at the Office of the Federal Register on April 29, 1993.

For the U.S. Nuclear Regulatory Commission.

Farouk Eltawila,

Chief, Accident Evaluation Branch, Division of Systems Research, Office of Nuclear Regulatory Research.

[FR Doc. 93–10465 Filed 5–3–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 999–0001; License No. 2467–3128; EA 92–203]

Order Modifying Order Imposing Civil Monetary Penalty

In the Matter of Capital Materials Testing, Inc. Ballston Spa, New York 12020.

I

Capital Materials Testing, Inc. (Licensee) is the holder of a Byproduct Material License issued by the State of New York which authorizes the Licensee to use byproduct materials in industrial radiography and replacement of sources in accordance with the conditions specified therein. On October 6–7, 1992, the New York State Licensee was working at a field site in Pittsfield, Massachusetts under NRC jurisdiction subject to the reciprocity requirements set forth in 10 CFR 150.20.

II

An NRC inspection of the Licensee's activities was conducted on October 6–7, 1992. The results of the inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated November 20, 1992. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations. The Licensee responded to the Notice in a letter, dated December 9, 1992. In its response, the Licensee did not deny the violations, but requested remission of the civil penalty.

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff determined that the violations occurred as stated and that the penalty proposed for Violation I designated in the Notice should be imposed. Accordingly, NRC issued an Order Imposing a Civil Monetary Penalty to the licensee on February 3, 1993. The licensee responded in a letter dated February 24, 1993 and requested a hearing. In correspondence dated February 26, 1993 and March 13, 1993, the NRC confirmed telephone conversations between Mr. Stanley Liebert, Licensee President, and NRC representatives in which the Licensee requested delay in processing of the Licensee's February 24, 1993 hearing request until after NRC reviewed additional information the Licensee was to submit for consideration. On March 25, 1993, the Licensee submitted the additional information. The information specified the corrective actions taken by the Licensee following the October 6–7, 1992 NRC inspection and provided financial information to support the Licensee's assertion concerning its ability to pay.

III

Upon review of the facts of this case, including the information submitted in the licensee's March 25, 1993 letter, I find that the Licensee's prompt and extensive corrective actions support a $2,500 reduction of the $7,500 civil penalty imposed in the February 3, 1993 Order, based on mitigation consistent with the NRC Enforcement Policy.

IV

In view of the foregoing, and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:* The NRC February 3, 1993 Order Imposing a Civil Monetary Penalty in the amount of $7,500 be modified to the amount of $5,000.

V

The Licensee may request that the NRC proceed with the Licensee's February 24, 1993 request for a hearing within 10 days of the date of this Order. If the Licensee requests that the NRC proceed with its hearing request, the Commission will issue an Order designating the time and place of the hearing. If the Licensee does not request the NRC to proceed with its request for hearing within 10 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If full payment has not been made by this time, or if either arrangements for payment over time are not completed by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests proceeding with a hearing as provided above, the issue to be considered at such hearing shall be whether, on the basis of Violation I, admitted by the Licensee, this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 26th day of April 1993.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support.

[FR Doc. 93–10458 Filed 5–3–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corp.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–42, issued to Wolf Creek Nuclear Operating Corporation (the licensee), for operation of the Wolf Creek Generating Station (WCGS) located in Coffey County, Kansas.

The proposed amendment would revise the WCGS operating license and technical specifications (TS) to increase the rated core power level from the present specification 3411 megawatts thermal (MWt) to a specification of 3565 MWt, thereby allowing the plant to operate at a nuclear steam supply system power of 3579 MWt. The revisions would also allow the licensee to implement a proposed hot leg temperature (T_{HOT}) reduction program that would extend the range of T_{HOT} down 15 degrees fahrenheit from the current design value of 618.2 degrees fahrenheit. The licensee intends to operate with a 5 degree fahrenheit reduction in T_{HOT}. the proposed amendment would change: (1) The definition of rated thermal power in Section 1.25 of the TS, (2) the overtemperature delta T and overpower delta T setpoint parameters in Table 2.2–1, "Reactor Trip System Instrumentation Trip Setpoints," and (3) the indicated reactor coolant system T_{avg} limit in Table 3.2–1, "DNB Parameters," and in Section 3/4.2.5 of the Bases.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 3, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document rooms located at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these

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requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Suzanne C. Black, Director, Project Directorate IV–2: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 59.92.

For further details with respect to this action, see the application for amendment dated January 5, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, and at the local public document rooms located at the Emporia State University, Williams Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 26 day of April 1993.

For the Nuclear Regulatory Commission.

Suzanne C. Black,

Director, Project Directorate IV–2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–10457 Filed 5–3–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–01244; License No. 06–00819–03; EA 93–016]

Confirmatory Order Modifying License (Effective Immediately)

In the Matter of Yale-New Haven Hospital New Haven, Connecticut.

I

Yale-New Haven Hospital (Licensee), New Haven, Connecticut, is the holder of Byproduct/Source Material License No. 06–00819–03 (License), issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 33. The License authorizes the Licensee to perform diagnostic and therapeutic procedures with the radioactive material as well as research. This is a broad scope license. The License was most recently renewed on August 13, 1985, and was due to expire on August 31, 1990 but was extended by the NRC pending staff action on the Licensee's renewal request and is considered to be in timely renewal.

II

Between December 3, 1992, and January 27, 1993, the NRC performed two inspections of licensed activities at the Licensee's facility. The inspections were conducted to review two incidents involving therapeutic misadministrations and a failure to control licensed material that occurred between November 30 and December 1, 1992, and on January 21, 1993, which are described in detail in a Notice of Violation and Proposed Imposition of Civil Penalties issued concurrently on this date. During the inspections, five violations of NRC requirements were identified.

The violations associated with the first incident included: (1) The failure to perform a survey of patient linens prior to removing them from the patient's room as required; (2) the failure to maintain security and control of licensed material; (3) the existence of radiation levels above the regulatory limit in unrestricted areas; and (4) the failure to implement written procedures and policies to ensure that brachytherapy administrations were done in accordance with the written directive as required under the Licensee's Quality Management (QM) program. One violation of the Licensee's QM program was identified with regard to the second incident in that the administering physician failed to verify that the treatment site for a brachytherapy treatment using a High Dose Rate afterloader device was in accordance with the written directive and treatment plan.

There violations are of significant concern because in the first incident, a failure to perform a required survey resulted in the failure to maintain control of a radioactive source and could have resulted in misuse of the material by, and created a potential for an unnecessary excessive exposure to, members of the public. Secondly, the failure to: (1) Implement QM procedures that would identify if a brachytherapy source were not properly implanted or inadequately secured against accidental removal and (2) follow QM procedures requiring that the treatment site be confirmed with the written directive and treatment plan prior to administering the treatment dose directly contributed to misadministrations to two patients.

III

The violations are particularly disturbing to the NRC since the Licensee possesses a large broad scope license which places a significant responsibility on the Radiation Safety Committee (RSC), as well as the Radiation Safety Officer (RSO), to ensure that licensed activities are conducted safely and in accordance with NRC requirements. Although the NRC issued a Notice of Violation and Proposed Civil Penalty to the Licensee on August 3, 1989, for the improper disposal of a radioactive source resulting from inadequate control of licensed material, as well as a Severity Level III Notice of Violation to the Licensee on April 15, 1992, for other violations of NRC requirements associated with use of brachytherapy sources, sufficient management attention has not been provided to improve the radiation safety program, as evidenced by the recent findings.

The Licensee's failure to maintain sufficient control of radioactive materials raises significant questions regarding the adequacy of oversight of

activities at its facility, as well as the ability of the Licensee to assure that activities at that facility are conducted safely and in accordance with requirements. Accordingly, without additional requirements, there is a substantial question as to whether licensed activities will be adequately controlled at the Licensee's facility.

IV

In a letter to the NRC, dated February 10, 1992, the Licensee committed to: (1) Retain the services of an independent expert to perform an assessment of the radiation safety program, (2) make available to NRC the final assessment report, and (3) provide to NRC quarterly reports on the Licensee's progress in implementing the recommendations developed as a result of the assessment. During a telephone conversation on February 22, 1993, between Ravinder Nath, Ph. D., of the Licensee's staff and Mr. James Dwyer of the NRC Region I staff, the Licensee committed to retaining the services of an independent expert in order to perform an assessment of the radiation safety program that will include the program areas described in Section V of this Order. In view of the concerns set forth in Section III of this Order, I have concluded that these additional actions are needed to increase and improve management attention to licensed activities so as to assure that these activities are conducted safely and in accordance with NRC requirements. Specifically, I have determined that the public health and safety require that Licensee No. 06–00819–03 be modified to confirm the Licensee's commitment to: (1) The performance of an independent assessment of the Licensee's radiation safety program, and, in particular, the management of that program, and (2) development and implementation of an improvement program to correct the deficiencies identified by the assessment. The Licensee consented to the issuance of this Confirmatory Order during the February 22, 1993 telephone call referenced above. Pursuant to 10 CFR 2.202, based on the significance of the violations described above, and on the licensee's consent to the Order, I have also determined that the public health and safety require that this Order be immediately effective.

V

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 30 and 33, *it is hereby ordered*, Effective immediately, that License No. 06–00819–03 is modified as follows:

A. The Licensee shall retain the services of an expert, independent of the Licensee's staff, with extensive experience in the management and implementation of a broad scope radiation safety program to perform an assessment of the Licensee's radiation safety program and provide recommendations for a performance improvement program. Within 30 days from the date of this Order, the Licensee shall submit to the Regional Administrator, NRC Region I, for approval, the name and qualifications of the expert.

B. Within 120 days of NRC approval of the expert selection as described above, the assessment shall be completed, and a copy of the assessment report, including the expert's recommendations for an improvement plan, shall be submitted to the NRC within the following 15 days. The assessment of the Licensee's radiation safety program shall include, but not be limited to, a review of:

1. The Licensee's organization, and assigned responsibilities and authorities within that organization;

2. The Licensee's program for training and retraining individuals working with NRC-licensed materials, in NRC regulations, in the conditions of the License, in the licensee's QM program, and in safe practices for using licensed material;

3. The Licensee's methods of approving individuals for the use of licensed materials and developing procedures for the safe use of licensed materials;

4. The Licensee's program for training and qualifying all individuals involved in managing, supervising, inspecting and auditing licensed activities;

5. The Licensee's program of surveillance and audits to determine compliance by individual users of licensed materials with NRC regulations, the conditions of the NRC Licenses, the Licensee's QM program, and the Licensee's own procedures for the safe use of radioactive materials;

6. The adequacy of the existing staffing within the radiation safety department, to ensure that the items set forth in Section V.B.5 of this Order are adequately performed; and,

7. The Licensee's management of the radiation safety program, including the function of the Radiation Safety Committee and its methods of monitoring the program to ensure that problems are identified and promptly corrected.

C. Within 30 days of the Licensee's receipt of the assessment report, the Licensee shall submit a performance improvement plan to the Regional Administrator, NRC Region I, describing the methods of implementing the recommendations of the assessment report, or providing justification for alternate or no corrective action if any specific recommendations are not adopted. This plan shall include:

1. Action items completed or to be performed;

2. Schedules for, or dates of, completion of each specific action item; and

3. A system for monitoring and tracking the status and completion of the action items.

D. During implementation of the consultant's assessment, as well as the subsequent performance improvement plan, the Licensee shall provide written quarterly status reports to the NRC Region I office concerning the findings of the assessment, the development of the improvement plan, and the implementation of the plan, until such time as all items in the performance improvement plan have been implemented. Upon completion of all action items, a final report shall be submitted to the Regional Administrator, NRC Region I.

The Regional Administrator, NRC Region I, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be

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whether this Confirmatory Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), any person adversely affected by this Order other than the Licensee, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 26th day of April 1993.

Hugh L. Thompson,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 93-10459 Filed 5-3-93; 8:45 am]

BILLING CODE 7590-01-M

PHYSICIAN PAYMENT REVIEW COMMISSION

Requests for Letters of Intent and Notice for Cooperative Agreements and Grants for Fiscal Year 1993

AGENCY: Physician Payment Review Commission.

ACTION: Notice.

The Physician Payment Review Commission is soliciting letters of intent for the development of research and analysis proposals in support of its ongoing work to advise Congress on issues specified in its legislative mandate. The Commission is looking to researchers to propose methodologies and databases that can make significant contributions to its deliberations in a number of policy areas. This notice describes the application procedures, general policy considerations, and criteria to be used in reviewing applications for the Commission's cooperative agreements and grants. This will be a two-stage process. First, all interested applicants must submit a letter of intent. Based upon the criteria discussed below, the Commission will select researchers to submit full proposals.

Background on the Commission

The Physician Payment Review Commission was established in 1986 (Pub. L. 99-272) to advise the U.S. Congress on physician payment policy under Part B of the Medicare program. The 13-member Commission is comprised of physicians, health economists, health services research experts, and individuals representing the perspectives of Medicare beneficiaries, private payers, nurses, and others expert in the field of health policy. Supporting the Commission is an multidisciplinary staff with skills in research, policy analysis, and administration.

In 1990, the Commission's legislative mandate was substantially expanded to include topics in addition to Medicare physician payment. Its responsibilities now include consideration of a broader set of interrelated policies affecting the financing, quality, and delivery of health services. These include access to care for residents of underserved areas, including those covered by Medicaid, medical malpractice reform, development of information and tools to improve quality and contain costs, cost containment under health system reform, financing of graduate medical education, and ensuring competency of physicians.

The Commission submits an annual report to the Congress on March 31. It also submits a series of reports in May making recommendations on Medicare Volume Performance Standards, monitoring access to care and the financial liability of Medicare beneficiaries, and commenting on the President's budget.

Priority Areas for Cooperative Agreements and Grant Funding

The Commission invites proposals on the following topics:

(1) *Use of tools to improve medical practice.* The Commission is interested in learning about the uses of tools to improve medical practice—such as profiling, protocols, and practice guidelines—by physician organizations, health plans, and in practice settings. It would like to known about the extent to which these entities are actively working with physicians (both to involve them in developing tools and to feed back information to them) and innovative ways in which these tools are being used. It is interested in examining whether and how groups that have ongoing relationships with physicians are providing them with information or engaging in activities to foster more cost-effective delivery of medical services.

(2) *Use of physicians and other health professionals in HMOs and multispecialty group practices.* For its work on both health system reform and graduate medical education, the Commission would like to learn more about the staffing experiences of group and staff model HMOs and multispecialty group practices. The types of issues studied should address include how these organizations use physicians and nonphysician practitioners, how work is allocated among primary care physicians and specialists, the impact of their hiring practices on the market for primary and specialty care physicians, how much retraining they find necessary for new staff, and their role in graduate medical education.

(3) *Effects of changes in payment policy for assistants-at-surgery.* In recent years, payments to assistants-at-surgery were reduced from 20 percent to 16 percent of the principal surgeon's payment and procedures with physicians billing as an assistant-at-surgery less than 5 percent of the time nationwide were excluded from payment. In addition, policies such as overvalued procedures and implementation of the Medicare Fee Schedule have reduced payments further by reducing the payment rates for surgery that payment to assistants is tied to. The result of these policies was to reduce aggregate payment to assistants-at-surgery by more than half. The Commission is interested in studies that would assess the impact of these payment policies on the pattern of use of assistants and the implications of any changes for patient care.

(4) *Certification of physicians to perform procedures.* The Commission will be taking up issues related to physician competency and credentialing in the coming year. As part of that work, it needs information on how hospitals and professional organizations certify physicians to perform certain procedures. It is interested in both the performance measures applied and the process used to determine competence for credentialing purposes.

(5) *Bundling of physicians' services for payment purposes.* Medicare and private payers have long used a bundled payment for major surgery that includes at least a defined range of pre- and postoperative evaluation and management services as well as the operation. The Commission is interested in research on options for additional bundling of related services performed by a single physician (for example, combining payment for certain diagnostic tests with payment for procedures or visits).

The Commission will also consider proposed studies related to bundling services in which multiple physicians are involved. It has a particular interest in a study of trauma services that would analyze the services provided by critical care and trauma specialists, review current methods of payment for trauma services, develop options for paying for these services, and consider whether there is a need for financial incentives to encourage the use of these specialists in the care of medicare beneficiaries. (this study would have to be completed by December 31, 1993.)

(6) *Delivering care to inner city populations.* To support its work on improving access to care for underserved populations, the Commission would like to learn from existing successful programs. The type of study it has in mind would: (1) Develop criteria for determining program success, (2) using those criteria, identify successful programs, (3) define the characteristics of these programs that have contributed to their success and determine whether there are common elements among successful programs that distinguish them from weak programs, and (4) assess which elements that increase the chances for success can be influenced through policy measures.

(7) *Risk measurement.* The Commission is interested in research to explore approaches to risk measurement that would be applicable to applying risk adjustments to the premiums paid to plans by an employer or a local health board. In particular, the Commission is interested in risk measures based on demographic data or health status (as opposed to those based on prior utilization). The Commission is specifically interested in identifying databases that could be used for testing the ability of such risk adjusters to predict average utilization for groups of enrollees.

(8) *Managed care and physicians.* The Commission, as part of its work on health system reform, is interested in the types of arrangements that managed-care plans, especially IPAs, PPOs, and point-of-service plans, make with physicians. It is interested in exploratory research to address several questions: (1) How do managed-care plans select physicians for their networks and remove physicians from networks; (2) how do they pay their primary-care physicians and their specialists (e.g., what types of capitation arrangements and fee schedules are used and for which physicians); (3) how do they monitor the care delivered by their physicians (e.g., what use is made of techniques such as profiling); and (4) what methods do they use to influence the practice patterns of their physicians (e.g., how do they use practice guidelines).

(9) *Categorization of ICD-9-CM diagnostic data.* The Commission is interested in developing a general-purpose research tool using ICD-9-CM diagnosis data. It plans to use this tool to investigate access to care in the elderly population using both outpatient and inpatient diagnostic data available on Medicare claims records.

At a minimum, it is looking for a summary and critique of the currently available commercial software packages that categorize patients by diagnosis and procedure. In addition, it is interested in developing a database (or possibly software) to analyze diagnosis data along several dimensions, including: (1) Broad and detailed categories of disease; (2) conditions avoidable through early detection or preventive care; (3) stage of disease (as in cancer staging); (4) conditions requiring follow-up care; (5) conditions requiring routine and periodic monitoring; (6) conditions attributable to socioeconomic but possibly non-medical factors (malnutrition, contagious disease); (7) chronic diseases common in the elderly; (8) conditions that limit ability to travel for care; (9) conditions indicative of significant cognitive impairment; (10) conditions for which there are clear-cut alternative surgical and medical treatment paths, and (11) such other categories as the researcher believes would be helpful in assessing access to care and patterns of health care delivery.

(10) *Episode of care analysis.* The Commission is interested in research to develop flexible definitions of episodes of care for the elderly, along with methods to categorize patterns of care. It intends to apply this research to its Medicare claims files to analyze differentials in access to care across the Medicare population. An example might clarify the type of research that is needed. A typical episode might center around hospitalization for diabetic ketoacidosis, and would examine the patterns of service use both before and after hospitalization. A lack of care prior to hospitalization or a lack of follow-up after discharge might both be considered indicators of poor access. This research project would determine a list of such sentinel events, appropriate pre- and post-event periods to include in the episode, and markers for adequate and inadequate care both prior to and following the event.

Application Process

The Commission encourages applications that seek to make significant contributions to knowledge in any of the areas mentioned above. All interested organizations that wish to be considered for an award must submit a letter of intent.

Criteria for Letter of Intent

Six copies of the letter of intent must be submitted by June 7, 1993. The letter should be double-spaced and contain the following:

1. Proposed area of research.
2. Brief summary of the application's objectives (2-3 paragraphs).
3. Brief summary of the proposed project including issues to be examined, research design, analysis plan, and date sources as appropriate (not to exceed 3-5 pages).
4. Resources available to conduct project (not to exceed 1 page).
5. Estimated budget and duration of project (not to exceed 1 page).
6. Knowledge and experience of principal investigator (not to exceed 1 page).

Applicants are discouraged from including extensive discussions of the nature of the problem, extensive reviews of the literature, general statements of capabilities, and summaries of the Commission's statements on the issues to be addressed.

Evaluation of Letters of Intent

Applicants' letters of intent will be reviewed by a technical review panel composed of at least three (3) persons. The panel will evaluate all letters and determine which applicants will be requested to submit a complete proposal. The recommendations for review will be based on the following criteria.

1. The relevance of the project to the Commission's work.
2. Description of the project objectives.
3. The adequacy of the study design, including specific hypotheses to be examined and data sources, as appropriate.
4. What the project will accomplish and how it relates to or differs from previous work in the area.
5. Investigator's knowledge and experience in the area.
6. The level of effort needed to conduct the project.

In addition to the recommendation of the review panel, the Commission may consider other factors in selecting which applicants will be asked to submit a formal proposal. These include compatibility of applications with

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Commission priorities, as judged by senior staff, and the availability of resources.

The Commission will notify those applicants who have been selected to submit full proposals by sending them a formal Request for Proposal. Applicants will be given a minimum of 30 days to submit their formal proposal.

Formal Proposals

The following provides a basic outline of what selected applicants will be expected to submit in a formal proposal:

1. Project title and objectives.
2. Background and policy relevance of issue to be studied.
3. Study design, including statement of hypotheses, specification of variables, data source, sampling strategy, development of measures and/or survey instruments, and database management, as appropriate.
4. Analysis plan, including how data will be used and analyzed, analytic methods, potential problems and strategies for resolving problems.
5. Work plan including description of tasks, time schedule, and level of effort for key individuals and the number of days devoted to each task.
6. Qualifications of key project staff.
7. Organizational chart.
8. Detailed budget providing justifications and explanations for amounts requested.

Review of Proposals

Proposals will be reviewed by a panel composed of at least three (3) individuals. Reviewers will score applications, basing their scoring decisions and approval recommendations on the criteria published in the Commission's Request for Proposals, Part IV, Section M, "Technical Evaluation and Criteria for Award." This information is provided to all applicants invited to submit proposals.

General Information

Number and Size of Projects

The number of agreements depends on the availability of funds. Most awards range from $50,000 to $350,000 per project. It is anticipated that up to six (6) projects could be awarded through this solicitation.

Authority: The Commission's authority for making these awards is based on section 1845(c)(2)(B) of the Social Security Act (42 U.S.C. section 1395–1).

Regulations

General policies and procedures that govern the administration of cooperative agreements and grants are located in title 45 of the Code of Federal Regulations parts 74 and 92. Applicants are urged to review the requirements contained in those regulations.

Submission Address: Physician Payment Review Commission, 2120 L Street, NW., Suite 510, Washington, DC 20037.

Obligation

This solicitation in no way obligates the Commission to fund any applicant.

Contact: Paul B. Ginsburg, Ph.D., Director or Lauren LeRoy, Ph.D., Deputy Director, Physician Payment Review Commission, 2120 L Street NW., Suite 510, Washington, DC 20037. (202) 653–7220.

Dated: April 28, 1993.

Paul B. Ginsburg,

Executive Director.

[FR Doc. 93–10423 Filed 5–3–93; 8:45 am]

BILLING CODE 6820–SE–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32221; File No. SR–NSCC–93–3]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving on a Temporary Basis a Proposed Rule Change Regarding the Establishment of a Pilot Program Relating to the Handling of Physical Securities and Paper Transactions for Participants Located in New York City

April 26, 1993.

On January 27, 1993, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–NSCC–93–3) under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] to establish a pilot program relating to the receipt, delivery, and handling of physical securities and paper transactions for participants located in New York City. Notice of the proposal was published in the Federal Register on February 16, 1993.[2] No comment letters were received. This order approves the proposal on a pilot basis until April 30, 1994.

I. Description

A. Background

Currently, NSCC offers certain services (collectively "Direct Clearing services")[3] to and acts as agent for participants not located in New York City. Direct Clearing services include: (i) Over-The-Window ("OTW") service;[4] (ii) interfacing with NSCC's Envelope Settlement Service ("ESS"),[5] Funds Only Settlement Service ("FOSS"),[6] and Dividend Settlement Service ("DSS");[7] (iii) processing transfers of physical securities;[8] (iv) processing securities deposits to and withdrawals from The Depository Trust Company ("DTC");[9] and (v) processing securities deliveries to designated agents in connection with reorganizations and other corporate actions.[10] In the course of providing these and other Direct Clearing services, NSCC may have custody of participants' physical securities, including overnight custody for one or more days, and may assist participants in orchestrating physical underwritings.[11]

Direct Clearing services are provided under the following conditions. First, in all instances, NSCC acts as agent for the applicable Direct Clearing participant and not as principal. Second, all actions taken by NSCC are based on instructions from the applicable Direct Clearing participant.[12] Finally, each Direct Clearing participant agrees that it will not be entitled to reimbursement from NSCC for any losses suffered or liabilities incurred as a result of Direct Clearing operations.[13]

B. NSCC's Rationale for the Proposed Rule Change

In recent years, NSCC participants who are located in New York City have been experiencing a continual decline in their activities associated with the processing of physical securities ("window activity").[14] This has been primarily a result of the increasing book-entry eligibility of securities that previously had been settled physically. Because window operations of NSCC participants have high fixed costs, the declining volume of window activity has caused certain participants, who for financial reasons no longer find it desirable to maintain their own window operations, to ask NSCC to offer Direct Clearing type services to participants located in New York City ("New York Window" or "NYW" service).

C. New York Window Services

The services to be offered under the NYW pilot program will be in the same general categories as those Direct Clearing services enumerated above which are offered to participants not located in New York City. That is, the NYW pilot program will include: (i) OTW service;[15] (ii) interface with NSCC's ESS, FOSS, and DSS functions; (iii) process transfers of physical securities;[16] (iv) process deposits to and withdrawals from DTC; and (v) process deliveries to designated agents in connection with reorganizations and other corporate actions. In the course of providing these services, NSCC may have custody of a participant's physical securities and may assist a participant in orchestrating a physical underwriting.

The NYW services will also be offered under the same conditions noted above which govern Direct Clearing services.[17] These conditions include: (i) In all instances, NSCC would act as agent for the applicable NYW pilot participant and not as principal; (ii) all actions taken by the NYW will be based on

[1] 15 U.S.C. 78(b)(1) (1988).

[2] Securities Exchange Act Release No. 31861 (February 16, 1993), 58 FR 9582.

[3] NSCC's Direct Clearing services are covered in NSCC's Procedures Section IX (Special Services), Subsections C (Depository Processing), D (Direct Clearing Department), and E (Cashiering Services).

[4] The Over-The-Window ("OTW") service accepts securities on behalf of, and delivers securities to, parties designated by participants. Securities received are checked for good form and apparent negotiability, and then are matched with receive instructions. Securities which are not in good form (i.e., not negotiable) or do not match receive instructions within specified tolerances are returned to the delivering participant. OTW receives can be reclaimed upon instruction from the delivering participant.

[5] ESS facilitates physical securities deliveries among participants. Participants may deliver envelopes containing securities to NSCC's designated location in New York (i.e., The Depository Trust Company ("DTC")) or at NSCC branch offices. Each delivery must be accompanied by a credit list, in duplicate, which lists each of the envelopes being delivered, the participant number of the participant to whom each envelope is addressed, and the total money value of the items contained in each envelope. Along with each envelope, the participants must include the corresponding balance order ticket issued by NSCC.

All envelopes delivered to NSCC will be verified against the credit list to ensure that each listed envelope, has, in fact, been received. If the envelopes are properly listed on the credit list, NSCC will stamp the duplicate copy of the credit list and make it available to the participant's representative making the delivery.

NSCC neither examines the contents of the envelopes nor verifies the amounts of money shown on the credit list, and is not responsible for such. NSCC is responsible only to deliver the envelopes accepted by it to the authorized representatives of the participants to whom they are addressed and to receive payment.

After the envelopes are verified against the credit list, they are then made available to participants designated as receivers on the envelopes. In the case of any irregularity in the item being delivered (e.g., incorrect securities, number of shares, or contra-party number, etc.), the receiving participant may return such item to the delivering participant under NSCC's reclamation procedures. Such reclaims must be submitted to NSCC on the day the items were received for same day credit or on the following day for next day credit.

At the time NSCC stamps the envelope's credit list, the envelope shall be deemed, according to NSCC Rules, to have been delivered to the receiving participant. Once the credit list is stamped, NSCC guarantees payment or a return of the envelope to the delivering participant. This means that in the event a receiving participant becomes insolvent, NSCC either will make payment to the deliverer for the value of the envelope in the event that NSCC has already delivered the envelope or, if possible, will intercept the envelope and return it to the delivering participant.

[6] FOSS facilitates delivery of money-only charges among participants. FOSS operates under the same procedures as ESS. A settling participant who desires to charge the account of another settling participant for a FOSS charge may do so by delivering a FOSS envelope to NSCC's designated location. The envelope must be accompanied by a credit list containing, among other items, the clearing number of the settling participant to whom each FOSS envelope is addressed and the amount of charges for each envelope.

Upon receiving the envelopes, NSCC neither examines the contents thereof nor verifies the amounts listed on the FOSS credit list against the amounts of the FOSS charges contained in the FOSS envelopes. NSCC also does not verify that the clearing number of the receiver listed on the FOSS credit list is identical to the clearing number listed on the FOSS envelope.

If the number of FOSS envelopes listed on the FOSS credit list is received by NSCC, NSCC will stamp the duplicate copy of the credit list and will return it to the settling participant's representative making the delivery. After NSCC stamps the credit list, such FOSS envelopes referenced on the stamped list are deemed for all purposes to have been delivered to the settling participants to whom they are addressed, and the envelopes will be made available at NSCC's designated locations to the settling participants. NSCC then will credit the delivering settling participant's account with the total amount of FOSS charges shown on the stamped FOSS credit list and will debit the receiving settling participants' accounts. FOSS charges are not guaranteed by NSCC and are subject to reversal.

In the case of any irregularity or error in a FOSS charge, the settling participant receiving the FOSS charge may adjust the FOSS charge directly with the charging settling participant or may reclaim the FOSS charge by submitting on the same day a Reclamation Notice setting forth the reason for the reclamation and delivering it to NSCC.

[7] DSS allows participants to submit claims against other participants for dividends or interest payments owed to the claiming participant. Prior to any charge against a participant for dividends or bond interest, the participant making the claim ("receiving participant") must submit a Notice of Intent to notify the delivering participant that a charge for such item will be made. Five business days after the day the Notice of Intent is sent to the delivering participant, the receiving participant will forward two copies of a Claim Form to the delivering participant. All Notices and Forms are sent to NSCC via the envelope system.

Similar to ESS and FOSS, DSS envelopes must be accompanied by a credit list. NSCC will stamp the duplicate list and will return it to the delivering participant's representative. Once the list is stamped, the envelopes referenced on the list are deemed for all purposes to have been delivered to the participants to whom the envelopes are addressed. NSCC then will credit the receiving participants' accounts with the dollar amount stated on the credit list and debit the delivering participants' accounts for the same amount.

DSS claims are not guaranteed by NSCC and are subject to reversal. The participant against whom the charge is made can reconcile a disputed charge directly with the charging participant or through NSCC by delivering a Reclamation Notice to NSCC on the same day the disputed claim is received or on a subsequent day.

[8] Using Direct Clearing services, a participant can have securities delivered to a designated transfer agent and/or picked up after the securities have been reregistered.

[9] Through Direct Clearing, participants can have securities held in custody or received through the OTW or ESS interface services packaged and delivered to DTC for deposit. Using Direct Clearing, participants also can deliver prepackaged securities for deposit at DTC. At the request of participant, NSCC also will retrieve withdrawals and rejected securities deposits from DTC.

[10] Direct Clearing handles reorganizations and other corporate actions to the extent that it is instructed to do so by participants. Direct Clearing is not responsible for following or informing participants of any upcoming or impending corporate reorganizations or other actions. It is each participant's responsibility to instruct NSCC to make Direct Clearing deliveries of securities (either out of custody positions or from OTW or ESS interface receives) to the designated agent. Furthermore, as distinct from the Transfer service, in Direct Clearing NSCC only acts in the capacity of a messenger for the securities being delivered to the designated agent. Thus, if any documentation is required to accompany the securities delivery (e.g., letters of transmittal), the participant must complete the necessary documents and must arrange for these documents to be picked up by or delivered to NSCC so that NSCC can include the documents with the securities delivery through Direct Clearing. NSCC does not examine these documents.

[11] A participant that is the lead manager in a physical underwriting can use Direct Clearing to assist in orchestrating the closing. Specifically, a lead manager participant can use Direct Clearing to pick up the securities at closing from a registrar based in New York City, to count them, to verify that they are registered in accordance with the lead manager's instructions, to receive checks from selling group members, and to release securities to selling group members after closing. For purposes of monitoring flipping activity, the lead manager can use Direct Clearing to track the certificate numbers that are delivered to each member of the selling group and that are received through Direct Clearing on behalf of the lead manager during the stabilization period.

[12] These instructions may be special instructions or standing instructions.

[13] In compliance with New York law, there is an exception for losses resulting from NSCC's gross negligence or willful misconduct. As with any NSCC operations, any lack of entitlement to reimbursement for losses does not prevent NSCC from determining in its sole and absolute discretion to provide such reimbursement in particular instances.

[14] The activities associated with the processing of physical securities are similar to those provided by NSCC in its Direct Clearing service described above.

[15] The pilot program's scope of services is narrower than the Direct Clearing services currently offered (*supra*, note 4). To the extent that OTW deliveries are to be paid for by check, NSCC's NYW will accept checks on behalf of NYW participants and either deliver them to participants or deposit them on behalf of participants. If the payment obligation is to settle in same day funds, NSCC will transmit related wire payment instructions to NYW participants for their execution. NSCC's NYW service will neither actually make wire payments nor will it sign checks on behalf of participants.

[16] The NYW will offer both accommodation transfers and direct transfers. For accommodation transfers, the NYW will act simply as a messenger service which makes deliveries to and pickups from transfer agents. NSCC will not examine the items being delivered or picked up. In a direct transfer, the NYW participant must specify which securities should be sent to the transfer agent and the registration details. NSCC then will prepare appropriate transfer documentation and make the delivery to the transfer agent. Upon pickup, NSCC will check to ensure that the transfer agent has complied with the transfer instructions.

[17] *Supra* notes 12 and 13 and accompanying text.

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instructions from the applicable NYW pilot participant; and (iii) each NYW pilot participant will agree that it will not be entitled to reimbursement from NSCC for any losses suffered or liabilities incurred as a result of the operations of the NYW pilot program. Additionally, the NYW pilot participants will each be responsible for their own payment obligations resulting from NYW processing. Thus, to the extent that receives or deliveries processed by the NYW result in same-day funds payment obligations, the wire transfers will be made directly between the NYW participants and the other parties to the transactions and not through NSCC. To the extent that they result in next-day funds payment obligations, checks will be exchanged directly between the NYW participants and the other parties to the transactions with the NYW serving only as a conduit through which checks can be received and picked up.[18]

The needs of NYW participants differ from the needs of direct clearing participants located outside of New York; therefore, NSCC will keep the NYW program operationally separate and distinct from the direct clearing services currently offered to non-New York City participants. The participants' needs differ primarily because the physical securities processed for participants located in New York City will consist mostly of money market instruments (e.g., commercial paper, bankers acceptances, certificates of deposit, etc.) and asset-backed securities, whereas the physical securities processed under current direct clearing operations for non-New York City participants are primarily equity securities and corporate and municipal debt.

A result of helping New York City participants manage deliveries and receipts of money market instruments will be a greater need for NSCC to process same day turnarounds. Another result will be an increase in the dollar value of securities being held in temporary custody by NSCC. A difference in custodial needs not related to the processing of money market instruments is that NSCC expects to be asked to hold certain securities (i.e., primarily non-money market securities) for longer periods of time than is usual in current direct clearing operations.[19]

NSCC will lease vault space from DTC in order to safeguard the securities they expect to hold overnight under the NYW program. DTC personnel will not have access to the vault space leased to NSCC.[20] NSCC will have full responsibility for the securities under its custody, and only its staff will have access to and will handle these securities. In addition, NSCC will be responsible for keeping the books and records with respect to securities so held.

The securities belonging to different participants will not be commingled with the securities being held for any other participant, and unless these securities are bearer instruments, they will be held in street name or in customer name but not in NSCC's nominee name. NSCC will be responsible for following participants' instructions regarding the segregation of customer positions which are held in custody by NSCC, and no deliveries will be made from customer positions absent specific instructions from the relevant participant. All deliveries from NSCC, as custodian, to the relevant participant will be free deliveries (i.e., they will not require payment), and NSCC will specifically disclaim any lien on customer positions held in custody.

In its initial phase, the NYW pilot program will utilize the systems of the participants in the program. Thus, each participant in the pilot program will install at the NYW location the terminals and printers currently used in its own New York window operations. NSCC NYW employees, to the extent they are not hired from the participating firms, will be trained to use these systems, and the receives and deliveries for each participant will be processed by the NYW in the same manner as they are currently processed by the participants in their own New York window operations.

II. Discussion

Section 17A(a)(1)(B) of the Act sets forth Congress' findings that inefficient procedures for clearance and settlement of securities transactions impose unnecessary costs on investors and persons facilitating transactions by and acting on behalf of investors.[21] Section 17A(a)(1)(D) states Congress' findings that the linking of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors.[22]

The Commission believes that NSCC's proposed pilot program will help minimize the inefficient procedures currently utilized by the individual New York City participants by concentrating these operations in one centralized location. As a result, the individual participants will be able to eliminate their New York City window operations and the high fixed costs associated with them and will be able to rely upon NSCC's experience in providing Direct Clearing services.

As stated above, during the pilot stage NSCC will operate the individual participants' window programs. After operating the pilot for a period of time, NSCC will evaluate the program to determine whether any changes should be made and whether to expand and standardize the operations to allow a larger number of participants to participate.[23] The Commission believes that by enabling NSCC to coordinate the processing of physical securities NSCC should be able to develop more efficient and standardized procedures for the clearance and settlement of physical securities and, thereby, should be able to reduce unnecessary costs on investors and persons facilitating transactions by and acting on behalf of investors.

Section 17A(b)(3)(A) of the Act requires that a clearing agency be organized and have the capacity to safeguard securities and funds in its custody or control or for which it is responsible.[24] NSCC will undertake several safeguards to comply with this statutory mandate. The safety procedures established and currently employed in Direct Clearing services for participants not located in New York City will be incorporated into the NYW program. As previously stated, NSCC will act only as agent for NYW participants and will act only upon instructions from the participants. NSCC also will limit its liability for direct clearing losses to losses resulting from NSCC's gross negligence or willful misconduct.

[18] Service charges resulting from NSCC's ESS, FOSS, or DSS functions will continue to be settled through NSCC's net settlement system.

[19] This can partially be attributed to NYW participants wanting NSCC to hold these securities in anticipation of a redelivery, generally to another New York City participant, within a few days of receipt. It is inefficient to have NSCC deliver these securities to the receiving participant where the receiving participant soon will redeliver them to NSCC for delivery to another participant. Non-New York City participants generally do not redeliver these securities as quickly, if at all and, therefore, prefer to take physical possession. Meeting between Peter J. Axilrod, Vice President and Associate General Counsel, NSCC, and Peter R. Geraghty, Attorney, Division of Market Regulation ("Division"), Commission (March 3, 1993).

[20] Letter from Karen G. Lind, Associate Counsel, DTC, to Peter R. Geraghty, Attorney, Division, Commission (April 5, 1993).

[21] 15 U.S.C. 78q–1(a)(1)(B).

[22] 15 U.S.C. 78q–1(a)(1)(D).

[23] Any changes to the New York Window program will necessitate the filing of a proposed rule change under section 19(b)(2) of the Act.

[24] 15 U.S.C. 78q–1(b)(3)(A).

In addition, NSCC will initiate procedures and safeguards specific to the NYW program. Under the NYW program, NSCC will serve only as a conduit through which participants can deliver checks to and receive checks from other participants and will not wire funds to participants. NSCC will take additional precautionary measures to help ensure the safety of the securities for which it has custody under the NYW program. NSCC will lease separate vault space to hold only these securities, and access will be restricted to NSCC personnel. NSCC also will be responsible for keeping the books and records for securities held under the NYW program. Securities belonging to different participants will not be commingled, and NSCC will follow participants' instructions regarding the segregating of customer accounts. Securities in NSCC's custody will not be held in NSCC's nominee name. The Commission believes the measures taken by NSCC enable NSCC to meet its statutory responsibility regarding safeguarding the securities in its custody or control or for which it is responsible under the NYW program.

The Commission is approving NSCC's pilot program on a temporary basis until April 30, 1994, in order that the Commission and NSCC may further study the effects and efficiencies of the program.

III. Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[25] that the proposed rule change (File No. SR–NSCC–93–3) be, and hereby is approved on a temporary basis until April 30, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[26]

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10490 Filed 5–3–93; 8:45 am]

BILLING CODE 8010–01–M

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

Self-Regulatory Organizations; Participants Trust Co.; Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to an Increase in the Number of Directors

[Release No. 34–32213; File No. SR–PTC–93–01]

April 26, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 26, 1993, Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice and order to solicit comments on the proposed rule change and to grant approval of the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend Article 3, Section 3.2 of PTC's By-laws to increase the number of directors on PTC's Board of Directors from twelve to fifteen.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Section 3.2 (Number; Classification; Election; Term of Office) of Article 3 (Directors) of PTC's Bylaws provides that PTC's Board of Directors shall consist of twelve directors, divided into three classes of four directors each. PTC proposes to amend Section 3.2 of PTC's By-laws to increase the number of directors to fifteen by the addition of one director to each of the three classes. The change would be implemented commencing with the election of directors to be held at the 1993 annual stockholders meeting.[2] PTC believes that the increase in directors will enhance the fair representation of its stockholders. The additional positions will provide the stockholders an increased opportunity to elect directors who represent their views.

PTC believes that the proposed rule change is consistent with the requirements of section 17A of the Act.[3] Specifically, PTC believes the proposed rule change is consistent with section 17A(b)(3)(C) of the Act in that it helps assure the fair representation of stockholders and participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

PTC does not believe that the proposed rule change will impose any burden upon competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were not and are not intended to be solicited with respect to the proposed rule change, and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

PTC requests the Commission find good cause for approving the proposed rule change on an accelerated basis prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause exists under section 19(b)(2) of the Act for granting accelerated approval in that accelerated approval would permit the stockholders of PTC to elect directors for the newly created positions at the Annual Meeting of Stockholders to be held on April 28, 1993.[4]

Section 17A(b)(3)(C) of the Act requires that the rules of a clearing

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] At the annual meeting, scheduled for April 28, 1993, the shareholders first will vote on the proposed Board increase, as required by Section 3.2 of PTC's By-laws, prior to the election of the new directors.

[3] 15 U.S.C. 78q–1.

[4] Pursuant to section 19(b)(4)(A) of the Act, 15 U.S.C. 78s(b)(4)(A) (1988), the Commission contacted the Board of Governors of the Federal Reserve System ("Federal Reserve"), PTC's appropriate regulatory agency, regarding the proposed rule change. Staff of the Federal Reserve believes that the proposed rule change is consistent with PTC's obligation to safeguard securities and funds in its custody or control or for which it is responsible, and did not object to the proposed accelerated approval. Telephone conversation between Don R. Vinnedge, Manager, Trust Activities Program, Federal Reserve, and Christine Sibille, Staff Attorney, Division of Market Regulation, Commission (April 16, 1993).

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agency assure the fair representation of its stockholders and participants in the election of its directors and administration of its affairs. The Commission previously has found that PTC's rules for selecting its directors were designed to assure fair representation.[5] Under PTC's Rules, only a participant of PTC may become a PTC stockholder. Once a year, all participants are given an opportunity to purchase shares of PTC stock, either from PTC or from stockholders who want to sell some of their holdings. At no time may a single stockholder own more than 5% of the total issued and outstanding PTC stock. The stockholders agreement, executed upon the initial purchase of shares by each participant, provides for cumulative voting in the election of directors.[6]

By permitting each participant to decide how much PTC stock to own, and thereby to decide the size of the role it wishes to play in the election process, PTC provides an opportunity to each participant to be represented on the Board. This, along with the 5% limitation on stock ownership by any individual participant, will restrict the ability of any large participant to control the Board to the detriment of the smaller participants. The increase in the number of directors, from twelve to fifteen, will permit the Board to represent a larger portion of the participant base in a fair way, by permitting greater representation of different interests on the Board. The change, together with the cumulative voting feature of PTC's rules, should provide for fair representation from all segments of PTC's market participant base. The Commission therefore finds that the proposed rule change is consistent with section 17A(b)(3)(C) of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File Number SR–PTC–93–01 and should be submitted by May 25, 1993.

V. Conclusion

On the basis of the foregoing, the Commission finds that PTC's proposed rule change is consistent with the Act and, in particular, with section 17A of the Act.

It is therefore ordered, Under section 19(b)(2) of the Act, that the proposal (File No. SR–PTC–93–01) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10493 Filed 5–3–93; 8:45 am]

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[5] See Securities Exchange Act Release No. 26671 (March 28, 1989), 54 FR 13266.

[6] Section 3.2 of PTC's By-laws provides for stockholder election of directors. Under cumulative voting, a stockholdw is given a total number of votes it may cast, equalling the number of shares owned times the number of directors' positions to be filled. The stockholder may give all its votes to one candidate, or may divide its votes among the candidates in any manner.

[Rel. No. IC–19442; 811–3413]

American General Equity Accumulation Fund, Inc.; Application for Deregistration

April 28, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: American General Equity Accumulation Fund, Inc.

RELEVANT 1940 ACT SECTION: The application was filed pursuant to section 8(f) of the 1940 Act and Rule 8f–1 thereunder.

SUMMARY OF APPLICATION: The applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed initially on February 9, 1993. An amended and restated application was filed on April 23, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving the applicant with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on May 24, 1993, and should be accompanied by proof of service on the applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, Huey P. Falgout, Jr., Esq., American Capital Asset Management, Inc., 2800 Post Oak Blvd., Houston, TX 77056.

FOR FURTHER INFORMATION CONTACT: Patrice M. Pitts, Attorney, or Michael V. Wible, Special Counsel, at (202) 272–2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch.

Applicant's Representations

1. The applicant was organized as a Maryland corporation on December 4, 1981.

2. On March 10, 1982, the applicant filed a notification of registration on Form N–8A under the 1940 Act. On that same date, the applicant filed a registration statement under the 1940 Act and the Securities Act of 1933 on Form N–1 (File No. 2–76419) for five hundred million (500,000,000) shares of common stock of a single class. The Form N–1 registration statement became effective on June 29, 1982, and the initial public offering commenced on July 23, 1982.

3. The Variable Annuity Life Insurance Company ("VALIC"), American General Life Insurance Company of New York ("AGNY"), and American General Life Insurance Company of Delaware ("AG Life") each maintain and operate separate accounts (the "Separate Accounts") which invest in the applicant, the American General Fixed-Income Accumulation Fund, Inc., and the American General Money Market Accumulation Fund, Inc. (collectively, the "ACAM Funds").

4. After experiencing several years of substantial net redemptions of ACAM Funds shares, the management of the ACAM Funds met with representatives of VALIC, AGNY, and AG Life to discuss means of reversing that trend. These discussions led VALIC, AGNY, AG Life, and the Separate Accounts, to pursue the substitution of shares of the American General Series Portfolio Company ("AGSPC") and the American Capital Life Investment Trust (the "LIT Fund") for shares of the ACAM Funds.

5. In March 1991, VALIC, AGNY, AG Life, the Separate Accounts, AGSPC, the LIT Fund, and the ACAM Funds filed an application with the Commission requesting an order under section 26(b) of the Investment Company Act of 1940 (the "1940 Act") approving the substitution of AGSPC and LIT Fund shares for ACAM Funds shares (the "Substitution"), and, under section 17(b), or alternatively, under section 6(c) of the 1940 Act, granting exemptions from sections 17(a)(1) and 17(a)(2) of the 1940 Act to the extent necessary to permit the transfer of portfolio securities of the ACAM Funds to AGSPC and the LIT Fund.

6. On September 20, 1991, the Commission issued an order pursuant to section 26(b) of the 1940 Act, approving the substitution of shares of AGSPC and the LIT Fund, and pursuant to section 17(b) or, alternatively, section (6)(c) of the 1940 Act, exempting VALIC, AGNY, AG Life, and the Separate Accounts from section 17(a) of the 1940 Act to the extent necessary to permit certain purchase and sale transactions between affiliates in connection with the Substitution.

7. Effective September 30, 1991, the applicant, acting on behalf of its shareholders and in satisfaction of redemption requests by such shareholders in connection with the Substitution, transferred: To the LIT Fund, securities valued at $7,022,837.50, and $5,630,383.52 in cash; and to AGSPC, securities valued at $28,141,962.50, and $22,029,763.93 in cash.

8. All expenses incurred in connection with carrying out the Substitution were borne by American Capital Asset Management, Inc., the applicant's investment adviser.

9. In connection with Substitution, the applicant made distributions to all of its security holders.

10. The applicant has no assets, debts, other liabilities, or security holders. The applicant has not transferred any of its assets to a separate trust, the beneficiaries of which were security holders of the applicant.

11. The applicant is not a party to any litigation or administrative proceeding (other than this deregistration proceeding).

12. The applicant presently is not engaged, nor does it propose to engage, in any business activities other than those necessary to wind up its affairs.

13. The applicant represents that, as of the time of the filing of this application, it was current in all filings required to be made pursuant to the 1940 Act, including any required Forms N–SAR.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10489 Filed 5–3–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19438; 812–7972]

The Benchmark Funds, et al.; Application for Exemption

April 27, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Benchmark Funds ("Trust"), The Northern Trust Company ("Northern"), and Goldman, Sachs & Co. ("Goldman Sachs").

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) from sections 2(a)(32), 2(a)(35), 18(f)(1), 18(g), 18(i), 22(c), 22(d) and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order pursuant to section 6(c) of the Act to permit the Trust and other investment companies for which Northern acts in the future as investment adviser, sub-adviser or, if and when permitted under applicable law, distributor to issue and sell an unlimited number of classes or series of new units of securities representing interests in the same portfolio, and to permit the imposition and waiver of a contingent deferred sales charge ("CDSC") on certain redemptions of units.

FILING DATE: The application was filed on July 2, 1992, and amended on November 18, 1992. By supplemental letters dated April 9, 1993 and April 22, 1993, counsel, on behalf of applicants, agreed to file a further amendment during the notice period to make certain technical changes. This notice reflects the changes to be made to the application by such further amendment.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Any interested person may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 24, 1993 and should be accompanied by proof of service on applicants in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants: The Benchmark Funds, 4900 Sears Tower, Chicago, Illinois 60606; The Northern Trust Company, 50 S. LaSalle Street, Chicago, Illinois 60675; and Goldman, Sachs & Co., 85 Broad Street, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Felicia H. Kung, Senior Attorney, at (202) 504–2603, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is a Massachusetts business trust registered under the Act as an open-end management investment company. Northern is the Trust's investment adviser, transfer agent and custodian. Goldman Sachs is the Trust's distributor and administrator. The Trust currently offers twelve series of units representing interests in twelve separate investment portfolios: The Diversified Assets Portfolio, the Government Portfolio, the Government Select Portfolio, the Tax-Exempt Portfolio, the California Municipal Portfolio, the Equity Index Portfolio, the Small Company Index Portfolio, the Diversified Growth Portfolio, the U.S. Treasury Index Portfolio, the U.S. Government Securities Portfolio, the Short-Intermediate Bond Portfolio, and the Bond Portfolio. The Diversified Assets, Government, Government Select, Tax-Exempt and California Municipal Portfolios use the amortized cost method of valuation under rule 2a–7 of the Act (together with any similar future investment portfolios, the "Money Market Portfolios"). The Trust's registration statement has been

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amended to include two additional portfolios, but shares of such portfolios currently are not offered.

2. Units of the Trust's active portfolios currently are offered by Goldman Sachs exclusively to Northern, its affiliates, and correspondent banks and their customers at net asset value.

3. Applicants seek an exemptive order from the SEC permitting the Trust and other investment companies for which Northern acts in the future as investment adviser, sub-adviser or, if and when permitted under applicable law, distributor (collectively with the Trust, the "Companies") to offer an unlimited number of classes or series of new units of securities in their existing and future investment portfolios ("New Classes"). These classes may be offered (a) in connection with a plan adopted pursuant to rule 12b–1 ("Distribution Plan"); and/or (b) in connection with a non-rule 12b–1 administrative plan ("Administrative Plan"); and/or (c) subject to the imposition of varying front-end sales charges; and/or (d) subject to the imposition of varying CDSCs.

4. With respect to each New Class, a Company could adopt a Distribution Plan and/or an Administrative Plan (collectively, "Plan" or "Plans")[1] concerning the financing of marketing programs intended to result in the sale of units and the provision of various distribution and administrative services. Such services might be provided directly by a Company's distributor, or by groups, organizations, or institutions ("Organizations") which have entered into agreements (collectively, "Plan Agreements") with the Company or its distributor or administrator concerning the provision of services to the clients, members, or customers of such Organizations who from time to time beneficially own units of a particular class ("Class Unitholders").

5. Under a Distribution Plan, a Company's distributor or Organizations could provide distribution-related services undertaken in connection with the sale of units covered by the plan. For example, such services could include engaging in advertising provided on behalf of the Company for clients, and preparing, printing, and distributing prospectuses and unitholder reports. For New Classes with a CDSC, under a Distribution Plan a Company might pay an annual fee to the Company's distributor as compensation related to the offering of such New Classes. These expenses could include, but would not be limited to, the payment of sales commissions and incentive compensation, as well as advertising and promotional costs. Organizations also may provide administrative services under a Distribution Plan.

6. Under an Administrative Plan, Organizations would provide services relating to the indirect relationship between a Company and the beneficial unit owners, such as, for example, aggregating and processing purchase exchange and redemption requests for units from clients, and placing net purchase exchange and redemption orders with the distributor. The services provided under an Administrative Plan would not duplicate the services provided by a Company's investment adviser, transfer agent, and administrator. In addition, Organizations may charge other fees directly to their Class Unitholders in connection with their Class Unitholder accounts. These fees would be in addition to any amounts received by the Organization under a Plan Agreement.

7. Payments to a Company's distributor or Organizations for expenses, services, and assistance would be made in accordance with the terms of the particular Plan ("Plan Payments") and would be borne entirely by the beneficial owners of the New Class of the portfolio to which the payments relate. Plan Payments paid pursuant to a Distribution Plan currently are not expected to exceed .75% per annum of the average daily net asset value of the units of the New Class subject to the particular Distribution Plan. Payments paid pursuant to an Administrative Plan also are not expected to exceed .75% per annum of the average daily net asset value of the units of the New Class subject to the particular Administrative Plan. In addition, for any New Class having both a Distribution Plan and an Administrative Plan, total Plan Payments under both Plans currently are not expected to exceed 1.25% per annum of the average daily net asset value of the units of the New Class. Certain provisions of Article III, Section 26 of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. ("NASD") relating to the maximum amount of asset based sales charges that may be imposed by an investment company, which become effective on July 7, 1993, would effectively limit total Plan Payments under a Distribution Plan and an Administrative Plan to 1.00% per annum of the average daily net asset value of the units of a New Class with both Plans. The maximum level of payments made pursuant to a Plan might vary based upon an independent determination by the board of trustees of the Company involved, and in the case of a Distribution Plan, subject to unitholder approval of the affected New Class. In all cases, however, the Companies shall comply with Article III, Section 26 of the Rules of Fair Practice of the NASD as it relates to the maximum amount of asset-based sales charges that may be imposed by an investment company, when and in the form (as amended from time to time) the provisions of such Rules relating to such charges become effective, and for as long as they remain in effect.

8. Expenses of a Company that could not be attributed directly to any one portfolio ("Company Expenses") would be allocated to each portfolio based on the relative net assets of such portfolio or as otherwise determined under the supervision of its trustees. Such expenses could include, for example, trustees' fees and expenses, and insurance premiums. Certain expenses may be attributable to a portfolio but not to a particular class ("Portfolio Expenses"). All such Portfolio Expenses incurred by a portfolio would be allocated to each class based on the relative net asset value of the respective classes in the portfolio. Portfolio Expenses could include, for example, advisory fees, portfolio accounting fees, custodian fees, and fees related to preparation of separate documents of the portfolio. In addition, certain expenses may be directly attributable to a particular class and will be allocated to that class exclusively ("Class Expenses"), in accordance with the conditions described hereinafter.

9. The net asset value per unit in each portfolio would be calculated and determined in the same manner and on the same days and at the same times, regardless of class. The net investment income and capital gains, if any, of each portfolio would be declared and paid at the same times to all unitholders of the portfolio. Expenses, other than Plan Payments and Class Expenses, would be borne on a *pro rata* basis by each class on the basis of the relative net asset value of the respective class. Although the method of determining net asset value of classes within a portfolio would be identical, the net asset value of classes within the portfolios (excluding the Money Market Portfolios, which maintain a stable net asset value per unit) may differ because of different

[1] Units offered in connection with an Administrative Plan will not necessarily be accorded the voting rights specified in rule 12b–1, although the trustees of the Company involved might approve an Administrative Plan with such rights in order to give holders of such units rights identical to holders of units subject to a Distribution Plan.

Plan Payments and Class Expenses assessable to a particular class.

10. Units of certain of the New Classes may be subject to the imposition of a CDSC if such units are redeemed within a particular period of time after their purchase. The CDSC would be imposed at a rate equal to a specified percentage or percentages of the lesser of the net asset value of the units at the time of purchase or the net asset value of the units at the time of redemption. The CDSC would be deducted from the redemption proceeds otherwise payable to the unitholder and would be retained by the distributor.

11. No CDSC would be imposed with respect to: (a) The portion of redemption proceeds attributable to increases in the value of the units due to capital appreciation; (b) units acquired through the reinvestment of income dividends or capital gain distributions; or (c) units held for more than a certain period of time after their purchase.

12. In determining whether a CDSC would be payable, it would be assumed that units, or amounts representing units, that are not subject to a CDSC would be redeemed first and other units or amounts would be redeemed in the order purchased. The same CDSC would be imposed on all unitholders of a New Class except that scheduled variations in or elimination of CDSCs may be offered to particular classes of unitholders or in connection with classes of particular transactions.

13. The amount of the CDSC and the timing of its imposition for a New Class of a portfolio may vary among the portfolios, as may the circumstances under which the CDSC may be waived. Any change in the specified terms of a CDSC arrangement with respect to its implementation by a portfolio will be reflected in the portfolio's prospectus, and will not affect units already issued unless such change will result in more favorable terms to the holders of such units. No CDSC would be imposed on any units purchased prior to the effective date of the requested order or prior to the amendment of the affected portfolio's prospectus disclosing the CDSC arrangement.

14. The CDSC would be waived for the following redemptions: (a) Redemptions in connection with distributions to participants or beneficiaries of an employee pension, profit-sharing or other trust or qualified retirement plan; (b) redemptions in connection with distributions to participants in qualified retirement plans due to death, disability or the attainment of age 59½; (c) redemptions effected pursuant to a portfolio's right to liquidate a unitholder's account if the aggregate net asset value of units held in the account is less than the minimum account size; or (d) redemptions in connection with the combination of the portfolios with any other investment company registered under the Act by merger, acquisition of assets, or by any other transactions.

15. A Company will offer an exchange privilege whereby units of a New Class in a portfolio could be exchanged for units of the corresponding New Class in another portfolio in accordance with rule 11a–3.

Applicants' Legal Analysis

1. Applicants request an exemptive order under section 6(c) to permit the proposed issuance and sale of units representing interests in a Company's existing and future portfolios to the extent that such issuance and sale might be deemed to: (a) Result in the issuance of a "senior security" within the meaning of section 18(g), (b) be prohibited by section 18(f)(1), and (c) violate the equal voting provisions of section 18(i). Applicants also seek an exemption from sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and rule 22c–1 thereunder to the extent necessary to permit the imposition and waiver of a CDSC on redemption of units of the non-Money Market Portfolios.

2. Applicants contend that the proposed multi-class system will better enable Companies to facilitate the distribution of their securities while expanding the scope of their services without excessive operational costs or unnecessary investment risks. Applicants also contend that the proposed multi-class structure would permit Companies to match more precisely their distribution costs, administrative support, and transfer agency and other expenses with those investors on whose behalf such costs and expenses are incurred. In addition, applicants assert that the proposed arrangement will enable a Company and its unitholders to save the organizational and other continuing costs that would be incurred if a Company were required to establish a new separate investment portfolio for each class of units.

3. Applicants assert that the requested relief does not present the concerns which section 18 was designed to address because the proposed arrangement does not involve borrowings or affect the Companies' existing assets or reserves. Applicants further assert that the proposed arrangement does not increase the speculative character of the units in a portfolio because all units in a portfolio will participate *pro rata* in all of the portfolio's income and expenses, with the exception of the proposed Plan Payments and Class Expenses. In addition, applicants contend that the Companies' capital structures under the proposed arrangement will not induce any group of unitholders to invest in risky securities to the detriment of any other group of unitholders since the investment risks of each portfolio will be borne equally by all of its unitholders. Applicants assert that mutuality of risk will be preserved with respect to all units in a portfolio.

4. Applicants assert that investors will not be given misleading impressions as to the safety from risk of the units and the nature of the units will not be rendered speculative because all units in a portfolio will be redeemable at all times, no class of units will have any distribution or liquidation preference or priority over another class of units in the portfolio and no class will be protected by any reserve or other account, and the similarities of the units will be fully disclosed in the portfolio's prospectuses.

5. Applicants represent that the Companies' capital structures under the proposed arrangement will not enable insiders to manipulate the expenses and profits among the classes of units because (a) the Companies are not organized in a pyramid fashion, (b) all expenses and profits of a class, except the Plan Payments and Class Expenses, will be allocated in proportion to the net asset values of the units of each portfolio, irrespective of class, and (c) all unitholders will have equal voting rights, except with respect to matters pertaining to the Plans and Plan Agreements applicable to particular classes of units of a portfolio.

Conditions to Relief

If the requested relief is granted, applicants agree to the following conditions:

1. Each class of units representing interests in the same portfolio of investments of a Company will be identical in all respects, except as set forth below. The only differences between the classes of units of the same portfolio will relate solely to: (a) The impact of (i) expenses assessed to a class pursuant to a Plan; (ii) other Class Expenses which would be limited to (A) transfer agent fees identified by the transfer agent as being attributable to a specific class of units; (B) printing and postage expenses related to preparing and distributing materials such as unitholder reports, prospectuses and proxies to current unitholders of a class; (C) blue sky registration fees incurred by

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a class of units; (D) SEC registration fees incurred by a class of units; (E) the expense of administrative personnel and services as required to support the unitholders of a specific class; (F) litigation or other legal expenses or audit or other accounting expenses relating solely to one class of units; and (G) trustees' fees incurred as a result of issues relating to one class of units; and (iii) any other incremental expenses subsequently identified that should be properly allocated to one class and which are approved by the Commission pursuant to an amended order; (b) the fact that the classes will vote separately with respect to a portfolio's Plans; (c) the different exchange privileges of the classes of units; (d) the designation of each class of units of a portfolio; (e) the front-end sales load that certain classes may carry due to differing distribution methods; (f) the CDSCs that certain classes may carry; and/or (g) the net asset values of the various classes of units in a non-Money Market Portfolio that may differ as a result of the expenses described above and the allocation of portfolio expenses and income in proportion to the different net asset values of each class.

2. The board of trustees of a Company, including a majority of the independent trustees, will approve the offering of different classes of units under the multi-class distribution system. The minutes of the meetings of the trustees regarding the deliberations of the trustees with respect to the approvals necessary to implement a multi-class system will reflect in detail the reasons for the trustees' determination that the proposed multi-class system is in the best interests of both the Company involved and its unitholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the board of trustees of a Company, including a majority of the trustees who are not interested persons of the Company. Any person authorized to direct the allocation and disposition of monies paid or payable by a Company to meet Class Expenses shall provide to the board of trustees, and the trustees shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the trustees of a Company, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each portfolio having a multi-class system for the existence of any material conflicts among the interests of the various classes of each portfolio. The trustees, including a majority of the independent trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. A portfolio's investment adviser and distributor will be responsible for reporting any potential or existing conflicts to the trustees. If a conflict arises, a portfolio's investment adviser and distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

5. Any Administrative Plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that unitholders will not enjoy the voting rights specified in rule 12b–1.

6. The trustees of a Company will receive quarterly and annual statements concerning the expenditures under each Plan complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of units will be used to justify any distribution or servicing expenditure charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent trustees in the exercise of their fiduciary duties.

7. Dividends paid by a portfolio with respect to each class of its units, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that Plan Payments relating to each respective class of units and the Class Expenses relating to each class of units will be borne exclusively by that class.

8. The methodology and procedures for calculating the net asset value and dividends and distributions of the various classes in any portfolio having a multi-class distribution system and the proper allocation of expenses among the various classes in each such portfolio have been reviewed by an expert ("Expert") who has rendered a report to the Company involved, which report has been provided to the staff of the Commission, that such methodology and procedures are adequate to ensure that such calculations and allocation will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Company involved that the calculations and allocations are being made properly. The reports of the Expert will be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by the Company involved (which the Company agrees to provide), will be available for inspection by the Commission staff upon written request to the Company for such work papers by a senior member of the Division of Investment Management or a regional office of the SEC. Authorized staff members would be limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" as defined and described in SAS No. 44 of the AICPA, and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

9. The applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the various classes of units and the proper allocation of expenses among the classes of units and this representation will be concurred with by the Expert in the initial report referred to in condition 8 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 8 above. The Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

10. The prospectuses of each portfolio having a multi-class system will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing units in a portfolio may receive different compensation with respect to one particular class of units over another in the same portfolio.

11. The distributor for a Company having a multi-class system will adopt compliance standards for any portfolio which has a multi-class system, which standards will relate to when each class of units may appropriately be sold to particular investors. The applicants will require all persons selling units of a portfolio having a multi-class system to agree to conform to such applicable standards.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the trustees with respect to the multi-class system will be set forth in guidelines which will be furnished to the trustees of a Company having a multi-class system.

13. Each portfolio having a multi-class system will disclose the respective expenses, performance data, distribution arrangements, services, fees, front-end sales loads, CDSCs, and exchange privileges applicable to each class of units in a portfolio in every prospectus relating to such portfolio, regardless of whether all classes of units are offered through each prospectus. Each such portfolio will disclose the respective expenses and performance data applicable to all classes of units in a portfolio in every unitholder report relating to such portfolio. The unitholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the portfolio as a whole generally and not on per class basis. Each portfolio's per unit data, however will be prepared on a per class basis with respect to all classes of units of such portfolio. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of units, it will also disclose the respective expenses and/or performance data applicable to all classes of units. The information provided by the applicants for publication in any newspaper or similar listing of any portfolio's net asset value and public offering price will present each class of units separately.

14. The applicants acknowledge that the grant of the exemptive order requested by the application will not imply Commission approval, authorization or acquiescence in any particular level of payments that the portfolios may make pursuant to a Plan in reliance on the exemptive order.

15. If a CDSC arrangement is implemented with respect to units of a portfolio, the applicants agree to comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (November 2, 1988), as currently proposed and as it may be reproposed, adopted or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary,

[FR Doc. 93–10491 Filed 5–3–93; 8:45 am]

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[Rel. No. IC–19436; 812–7925]

Liberty All-Star Equity Fund, et al.; Application for Exemption

April 27, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Liberty All-Star Equity Fund ("All-Star"); and Liberty Asset Management Company ("LAMCO").

RELEVANT ACT SECTIONS: Conditional order requested under section 6(c) for an exemption from section 15(a) of the Act.

SUMMARY OF APPLICATION: Applicants, for themselves and on behalf of present and future sub-advisers of All-Star and their successors, request an order which would permit All-Star and LAMCO to enter into a new sub-advisory agreement incident to a change in sub-advisers recommended by LAMCO or an addition of a sub-adviser recommended by LAMCO, and delay shareholder approval of such contract until All-Star's next annual meeting.

FILING DATE: The application was filed on May 20, 1992 and amended on July 9, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 24, 1993, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Federal Reserve Plaza, Boston, Massachusetts 02210.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Staff Attorney, at (202) 272–7027, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. All-Star is a closed-end diversified investment company. All-Star's shares are listed and traded on the New York Stock Exchange. In accordance with that exchange's rules, All-Star holds annual meetings of its shareholders.

2. LAMCO is a registered investment adviser and an indirect wholly-owned subsidiary of Liberty Financial Companies, Inc. ("LFC"). LFC is an indirect wholly-owned subsidiary of Liberty Mutual Insurance Company.

3. All-Star allocates its investment portfolio on an approximately equal basis among several independent investment management firms ("Sub-Advisers") selected and recommended by LAMCO based on specific criteria. The goal of this multi-manager methodology of portfolio management is to produce better investment performance over time with less volatility than that of the average single-manager fund with the same investment objective and policies. To achieve this goal (a) each of All-Star's Sub-Advisers must consistently employ a distinct, identifiable investment style; (b) each Sub-Adviser's style must be different from those of the other Sub-Advisers; (c) the blending of the different styles employed by the Sub-Advisers must be appropriate to All-Star's investment objective, and the range of styles represented must be sufficiently broad so that at least one of such styles can reasonably be expected to be in market favor in all reasonably foreseeable market conditions; and (d) each Sub-Adviser's longer-term investment performance must be satisfactory when compared to other investment management firms employing a similar style.

4. LAMCO continuously reviews the performance of the Sub-Advisers to identify the presence of factors or conditions which would tend to neutralize the effect of All-Star's multi-management methodology, such as a departure by a Sub-Adviser from its investment style, a deterioration in its investment performance relative to that of other investment management firms employing similar styles, or an adverse change in its personnel or organization,

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and recommends changes in Sub-Advisers accordingly.

5. Each new sub-advisory agreement initially affects no more than 25% of All-Star's assets. In addition, each new sub-advisory agreement contains substantially the same terms and conditions as existing agreements. A new Sub-Adviser's fee can be no higher than that provided in All-Star's existing sub-advisory agreements. In the event that fees under the new sub-advisory agreement are less than in the existing agreements, the difference will be passed on to All-Star through a corresponding reduction in the fund management fee payable to LAMCO.

6. None of the Sub-Advisers have any affiliation with All-Star or LAMCO other than as Sub-Adviser, and the responsibility of the Sub-Advisers is limited to the discretionary investment management of the respective portions of All-Star's portfolio assets assigned to them by LAMCO from time to time, and related recordkeeping and reporting.

Applicant's Legal Analysis

1. Section 15(a) makes it unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract, whether with such registered company or with an investment adviser of such registered company, which has been approved by the vote of a majority of the outstanding voting securities of such registered company and which precisely describes all compensation to be paid thereunder.

2. Rule 15a–4 permits an investment adviser to an investment company to act under an agreement not approved by shareholders for up to 120 days after the termination of an investment advisory agreement by the board of directors or the shareholders of the investment company. Rule 15a–4 does not provide adequate relief to All-Star because a change in Sub-Adviser often occurs more than 120 days before the next regularly scheduled annual meeting, resulting in the necessity of a special meeting of shareholders.

3. Applicants submit that requiring shareholder approval consistent with section 15(a) before changing a Sub-Adviser in accordance with All-Star's multi-manager methodology results in substantial expense to All-Star, without any corresponding benefit in terms of shareholder protection.

4. Applicants assert that because of the lack of affiliation between LAMCO and the Sub-Advisers (unlike conventionally structured single-manager investment companies), LAMCO has no interest other than the efficient and effective functioning of All-Star's multi-manager methodology and the enhancement of All-Star's investment performance when recommending the replacement or addition of a Sub-Adviser.

5. Applicants assert that the terms and conditions of All-Star's "employment" of its Sub-Advisers will in effect have already been approved by shareholders because any new sub-advisory agreements will be identical in all material respects to the existing agreements which have been approved by shareholders, with no increase in expense to All-Star.

6. Applicants further assert that in view of the limited function of the Sub-Advisers and the fact that no more than 25% of All-Star's assets will be affected by any one Sub-Adviser change or addition, All-Star's shareholders are significantly less dependent on any one Sub-Adviser than are the shareholders of a conventionally structured single manager fund, and the need for the protection provided by the shareholder approval requirement of section 15(a) is correspondingly less.

7. Applicants submit that the requested relief is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each new sub-advisory agreement is submitted for ratification and approval to the vote of All-Star's shareholders no later than at the regularly scheduled annual meeting of shareholders of All-Star (usually held in the third week of April) next following the effective date of the new agreement, and its continuance after such meeting is conditioned on approval by the required majority vote of such shareholders.

2. All-Star continues to hold annual meetings of its shareholders, whether or not required to do so by the rules of the New York Stock Exchange, Inc. or otherwise.

3. The trustees of All-Star, in addition to approving the new sub-advisory agreement in accordance with the requirements of section 15(c) of the Act, specifically determine that entering into a sub-advisory agreement with the new or additional Sub-Adviser in advance of the next regular annual meeting of shareholders of All-Star and without prior shareholder approval is in furtherance of All-Star's multi-manager methodology and is in the best interest of All-Star and its shareholders.

4. The new sub-advisory agreement involved will, when entered into, affect no more than 25% of All-Star's assets.

5. The new Sub-Adviser will have no affiliation with All-Star or LAMCO other than as Sub-Adviser, and will have no duties or responsibilities with respect to All-Star beyond the investment management of the portion of All-Star's portfolio assets allocated to it by LAMCO from time to time and related record keeping and reporting.

6. The new sub-advisory agreement provides for a sub-advisory fee no higher than that provided in All-Star's existing sub-advisory agreements, and, except for the provisions relating to shareholder approval referred to in condition 1, is on substantially the same other terms and conditions as such existing agreements, and, if the new sub-advisory agreement provides for sub-advisory fees at rates less than those provided in the existing sub-advisory agreements, the difference will be passed on to All-Star and its shareholders through a corresponding voluntary reduction in the fund management fee payable by All-Star to LAMCO.

7. The appointment of the new Sub-Adviser is announced by press release promptly following the trustees' action referred to in condition 3 above, and a notice of the new sub-advisory agreement, together with a description of the new Sub-Adviser, is included in All-Star's next report to shareholders.

8. LAMCO will provide general management and administrative services to All-Star, including overall supervisory responsibility for the general management and investment of all of All-Star's securities portfolio subject to All-Star's investment objectives and policies and any directions of All-Star's Trustees. In particular, LAMCO will (i) provide overall investment programs and strategies for All-Star, (ii) recommend to All-Star's Trustees investment management firms for appointment or replacement as All-Star Sub-Advisers, (iii) allocate and reallocate All-Star's portfolio assets among the Sub-Advisers, and (iv) monitor and evaluate the investment performance of the Sub-Advisers, including their compliance with All-Star's investment objectives, policies and restrictions.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10494 Filed 5–3–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19439; 812–8164]

The Preferred Group of Mutual Funds; Application for Exemption

April 27, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Preferred Group of Mutual Funds (the "Trust").

RELEVANT ACT SECTIONS: Order requested pursuant to sections 6(c) and 17(b) of the Act granting an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicant seeks an order pursuant to sections 6(c) and 17(b) of the Act granting an exemption from section 17(a) of the Act to the extent necessary to permit each present or future series of the Trust to engage in principal transactions with securities dealers that may be deemed to be affiliated persons of affiliated persons of the series solely because of subadvisory relationships with one or more of applicant's other series.

FILING DATE: The application was filed on November 13, 1992, and an amendment thereto was filed on March 26, 1993. By supplemental letter dated April 19, 1993, counsel, on behalf of applicants, agreed to file a further amendment during the notice period to make certain technical changes. This notice reflects the changes to be made to the application by such further amendment.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 24, 1993, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 100 NE. Adams Street, Peoria, Illinois 61629–5330.

FOR FURTHER INFORMATION CONTACT: John V. O'Hanlon, Staff Attorney, at (202) 272–3922, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. The Trust is a Massachusetts business trust registered under the Act as an open-end, diversified investment company, and is a "series company" as described in Rule 18f–2 under the Act. The Trust has seven investment series (together with each future series of the Trust, the "Funds") with different investment objectives and strategies.

2. Applicant's investment adviser is Caterpillar Investment Management Ltd. ("CIML"). CIML also provides executive and other personnel for management of the Trust. Shares of each Fund are offered without a sales charge at net asset value by Caterpillar Securities Inc., the Trust's principal underwriter and a wholly-owned subsidiary of CIML.

3. In order to assist it in carrying out its responsibilities, CIML has retained several subadvisers (the "Subadvisers") to render advisory services to the Funds (other than the Preferred Short-term Government Securities Fund, for which CIML provides advisory services) under the supervision of CIML and the Trust's board of trustees. CIML pays the fees of each of the Subadvisers.

4. Oppenheimer Capital serves as Subadviser to the Preferred Value Fund. Jennison Associates Capital Corp. serves as Subadviser to the Preferred Growth Fund. Mellon Capital Management Corporation and PanAgora Asset Management, Inc. each serve as a Subadviser to the Preferred Asset Allocation Fund. Mercator Asset Management, Inc. serves as Subadviser to the Preferred International Fund. J.P. Morgan Investment Management Inc. ("Morgan") serves as Subadviser to the Preferred Money Market Fund and the Preferred Fixed Income Fund. Pursuant to subadvisory agreements with CIML, each Subadviser provides investment advisory services to a single Fund (except for Morgan which provides such services to two Funds).

Applicant's Legal Analysis

1. Applicant requests an order pursuant to sections 17(b) and 6(c) of the Act to permit each present or future series of the Trust to engage in principal transactions with securities dealers that may be deemed to be affiliated persons of affiliated persons of the series solely because of subadvisory relationships with one or more of applicant's other series.

2. Section 17(a), among other things, prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, (a) from selling to or purchasing from such registered company, or any company controlled by such registered company, any security or other property, or (b) from borrowing money or other property from such registered company. Section 17(b) provides, however, that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

3. Section 6(c) provides that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Because the Funds have the same investment adviser and the same trustees and officers, each Fund might be deemed to be under common control with all other Funds and, therefore, an affiliated person (within the meaning of section 2(a)(3) of the Act) of each other Fund. While applicant does not concede that all Funds are under common control, it assumes, solely for purposes of the application, the existence of such control relationship so that each Fund may be deemed to be an affiliated person of each other Fund. Accordingly, because a Subadviser is an affiliated person of any Fund that it advises, it may be deemed to be an affiliated person of an affiliated person of any Fund that it does not advise.

5. Each Subadviser, as an affiliated person of each Fund it advises and as an affiliated person of an affiliated person of each other Fund, is prohibited by section 17(a) of the Act from engaging in principal transactions with any of the Funds. In addition, affiliated persons of each Subadviser are prohibited from engaging in principal transactions with a Fund advised by that Subadviser. Finally, because the staff has, in a number of instances,

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treated a parent company and it wholly-owned subsidiary as a single entity for purposes of the affiliated person definition, section 17(a) may also prohibit wholly-owned subsidiaries of a Subadviser, parents of a Subadviser, and wholly-owned subsidiaries of such parents from engaging in principal transactions with Funds not managed by such Subadviser.[1]

6. Applicant asserts that under the terms of the requested order, a Subadviser would not be able to cause a Fund to trade with an affiliated person of anyone with the theoretical or actual power to affect its business relationship as Subadviser to the Fund. In each transaction permitted by the requested relief, the Subadviser would be dealing, on behalf of the Fund it managed, with an entity that, in economic reality, is a competitor of that Subadviser. Each such transaction would be the product of arms-length bargaining between competitors. Applicant submits that this is not a situation where a controlling person of an investment company might try to circumvent the prohibition against self-dealing by acting through an affiliate. Applicant states that it would be contrary to the interests of applicant's shareholders to create artificial barriers to dealing with any registered securities dealer where there is not the possibility of self-dealing.

7. Applicant believes that the proposed transactions will meet the standards of sections 6(c) and 17(b). Because there will be no conflict of interest inherent in a Subadviser's decision to execute a portfolio transaction with a dealer that is an affiliated person of an affiliated person of the Trust solely because of a subadvisory relationship with one or more of applicant's other Funds, there is no danger of overreaching on the part of any person concerned with the transaction. Because the pecuniary interests of the Subadvisers are solely and directly aligned with those of the Funds they advise, it is reasonable to conclude that the consideration to be paid or received by the Funds will be reasonable and fair. Moreover, transactions permitted by the requested order will be consistent with the policies of the Fund involved, inasmuch as each Subadviser is required by its agreement with CIML to formulate and implement a continuous investment program for each Fund consistent with the investment objectives and related investment policies for each such Fund. Finally, applicant argues that permitting the proposed transactions is consistent with the general purposes of the Act, because the ability to engage in such transactions increases the likelihood of the Funds achieving the best price and execution on their principal transactions.

8. Based upon the foregoing, applicant believes that it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act to issue an order pursuant to sections 6(c) and 17(b) of the Act exempting principal transactions of the type for which relief is requested from the provisions of section 17(a) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-10492 Filed 5-3-93; 8:45 am]

BILLING CODE 8010-01-M

[1] Applicant states that in the alternative, if it is assumed that the Trust (and not the Funds) is the only relevant registered investment company, CIML and each of the Subadvisers could be affiliated persons of the Trust. Each Subadviser could be prohibited by section 17(a) from engaging in principal transactions with any of the Funds. In addition, affiliated persons of each Subadviser would be prohibited from engaging in such transactions with any of the Funds. Applicant assumes, solely for purposes of the application, that each Subadviser is an affiliate of the Trust and that any affiliated person of any Subadviser would be prohibited from engaging in any such transaction with any of the Funds.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[GGD-93-025]

National Boating Safety Advisory Council; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Monday and Tuesday, May 17 and 18, 1993, at the Stouffer Rochester Plaza Hotel, 70 State Street, Rochester, New York, beginning at 8:45 a.m. and ending at 4 p.m. The agenda for the meeting will be as follows:

1. Review of action taken at the 50th meeting of the Council.
2. Executive Director's Report.
3. Update on Global Positioning System.
4. Report of the Consumer Affairs and Standards Review Subcommittee.
5. Multiple-Use Waterways Subcommittee Report.
6. Personal Watercraft Definition and Requirements Subcommittee Report.
7. Presentation on the Clean Vessel Act of 1992.
8. Report on Boat Factory Visit Program.
9. Boating Education Update.
10. Report on Recreational Boat Collision Accident Research.
11. Anchoring Regulation Discussion.
12. Presentation on New Boating Safety Videos.
13. Boat Operation Simulator Discussion.
14. Report on Boating Accident Investigation Seminars.
15. Chairman's Session.

Attendance is open to the interested public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Mr. Albert J. Marmo, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-NAB), Washington, DC 20593-0001, or by calling (202) 267-1077.

Dated: April 15, 1993.

W.J. Eckers,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 93-10357 Filed 5-3-93; 8:45 am]

BILLING CODE 4910-14-M

[CGD8 93-11]

Lower Mississippi River Waterway Safety Advisory Committee: VTS Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L 92-463; 5 U.S.C. app. II) notice is hereby given of the VTS Subcommittee of the Lower Mississippi River Waterway Safety Advisory Committee meeting. The meeting will be held on Thursday, May 27, 1993. The meeting will be held at the Crescent River Port Pilots office. 409 Belle Chasse Hwy. South, Belle Chasse, LA 70037. The meeting is scheduled to begin at 9 a.m. The agenda for the meeting consists of the following items:

1. Call to order.
2. Update the proposed New Orleans Vessel Traffic Service.
3. Adjournment.

The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Mr. M.M. Ledet, USCG, Recording Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), room 1209, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA. 70130-3396, telephone number (504) 589-4686.

Dated: April 27, 1993.

C. B. Newlin,

Chief of Staff, Eighth Coast Guard District.

[FR Doc. 93-10473 Filed 5-3-93; 8:45 am]

BILLING CODE 4910-14-M

[GGD-93-027]

National Boating Safety Advisory Council; Subcommittee Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of meetings of the National Boating Safety Advisory Council's Subcommittees on Consumer Affairs and Standards Review, Personal Watercraft Definition and Requirements and Multiple-Use Waterways to be held on Saturday, May 15, 1993, at the Stouffer Rochester Plaza Hotel, 70 State Street, Rochester, New York, between 1:30 p.m. and 5:30 p.m. The agenda for each meeting will be to review the status of various projects undertaken by the subcommittee and initiate any necessary new tasks.

Attendance is open to the interested public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Mr. Albert J. Marmo, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-NAB), Washington, DC 20593-0001, or by calling (202) 267-1077.

Dated: April 15, 1993.

W. J. Eckers,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 93-10355 Filed 5-3-93; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

[Docket No. 93-08; Notice 2]

Determination That Nonconforming 1975 Laverda 1000 Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by NHTSA that nonconforming 1975 Laverda 1000 motorcycles are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1975 Laverda 1000 motorcycles not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1975 Laverda 1000 motorcycle), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective May 4, 1993.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Bakground

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the Federal Register.

J.K. Motors, Inc. of Kingsville, Maryland (Registered Importer R-90-006) petitioned NHTSA to determine whether 1975 Laverda 1000 motorcycles are eligible for importation into the United States. NHTSA published notice of the petition on March 8, 1993 (58 FR 12979) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 37 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1975 Laverda 1000 motorcycle not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1975 Laverda 1000 motorcycle originally manufactured for importation into and sale in the Untied States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 27, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93-10428 Filed 5-3-93; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 93-30; Notice 1]

Receipt of Petition for Determination that Nonconforming 1981 Volvo 262C Passenger Cars are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1981 Volvo 262C passenger cars are eligible for importation.

SUMMARY: This notice requests comments on a petition submitted to the National Highway Traffic Safety Administration (NHTSA) for a

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determination that a 1981 Volvo 262C passenger car that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is June 3, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.).

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register.**

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("WETL") (Registered Importer R–90–005) has petitioned NHTSA to determine whether 1981 Volvo 262C passenger cars that were not originally manufactured in conformity with all applicable Federal motor vehicle safety standards are eligible for importation into the United States. The vehicle that WETL believes is substantially similar is the 1981 Volvo 262C that was manufactured for importation into and sale in the United States and that was certified by Volkswagen as complying with all applicable Federal motor vehicle safety standards.

The petitioner stated that it performed a careful evaluation of the non-U.S.-certified 1981 Volvo 262C, and determined that it is substantially similar to its U.S.-certified counterpart. Based on this evaluation, the petitioner contends that the non-U.S.-certified 1981 Volvo 262C, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the U.S.-certified 1981 Volvo 262C, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the two models are identical with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 111 *Rearview Mirrors,* 113 *Hood Latch Systems,* 114 *Theft Protection,* 116 *Brake Fluid,* 118 *Power Window Systems,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 208 *Occupant Crash Protection,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 214 *Side Door Strength,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the non-U.S.-certified 1981 Volvo 262C is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* Recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:*

(a) Installation of U.S.-model headlights;

(b) Installation of sidemarkers and reflectors.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that a certification label must be affixed to the vehicle to comply with vehicle certification requirements found in 49 CFR part 567.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 27, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–10429 Filed 5–3–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–27; Notice 1]

Receipt of Petition for Determination That Nonconforming 1986 Volkswagen Scirocco Passenger Cars Are Eligible for Importation:

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1986 Volkswagen Scirocco passenger cars are eligible for importation.

SUMMARY: This notice requests comments on a petition submitted to the National Highway Traffic Safety Administration (NHTSA) for a determination that a 1986 Volkswagen Scirocco passenger car that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is June 3, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register.**

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("WETL") (Registered Importer R–90–005) has petitioned NHTSA to determine whether 1986 Volkswagen Scirocco passenger cars that were not originally manufactured in conformity with all applicable Federal motor vehicle safety standards are eligible for importation into the United States. The vehicle that WETL believes is substantially similar is the 1986 Volkswagen Scirocco that was manufactured for importation into and sale in the United States and that was certified by Volkswagen as complying with all applicable Federal motor vehicle safety standards.

The petitioner stated that it performed a careful evaluation of the non-U.S.-certified 1986 Volkswagen Scirocco, and determined that it is substantially similar to its U.S.-certified counterpart. Based on this evaluation, the petitioner contends that the non-U.S.-certified 1986 Volkswagen Scirocco, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the U.S.-certified 1986 Volkswagen Scirocco, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the two models are identical with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 118 *Power Window Systems,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the 1986 Volkswagen Scirocco is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:*

(a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp;

(b) Recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:*

(a) Installation of U.S.- model headlights;

(b) Installation of sidemarkers and reflectors;

(c) Installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Replacement of the passenger's outside rearview mirror with one bearing the required warning statement or permanently marking that statement on the existing mirror.

Standard No. 114. *Theft Protection:* Installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 208 *Occupant Crash Protection:*

(a) Installation of a seat belt warning system;

(b) Replacement of the seat belt latch with one containing a microswitch to activate the seat belt warning system.

Standard No. 214 *Side Door Strength:* Installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that a certification label must be affixed to the vehicle to comply with vehicle certification requirements found in 49 CFR part 567.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the

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closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 27, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–10430 Filed 5–3–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–13; Notice 2]

Determination That Nonconforming 1970 Mercedes-Benz 300SEL Passenger Cars Are Eligible for Importation.

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by NHTSA that nonconforming 1970 Mercedes-Benz 300SEL passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1970 Mercedes-Benz 300SEL passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.certified version of the 1970 Mercedes-Benz 300SEL), and they are capable of being readily modified to conform to the standards.

DATE: The determination is effective May 4, 1993.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register.**

Champagne Imports Inc. of Lansdale, Pennsylvania (Registered Importer R–90–009) petitioned NHTSA to determine whether 1970 Mercedes-Benz 300SEL passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on March 8, 1993 (58 FR 12980) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 36 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1970 Mercedes-Benz 300SEL (Model ID 109.056) not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1970 Mercedes-Benz 300SEL originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 27, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–10427 Filed 5–3–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0026.

Form Numbers: ATF F 3 (5320.3).

Type of Review: Extension.

Title: Application for Tax Exempt Transfer of Firearms and Registration of Special (Occupational) Taxpayer (26 U.S.C. 53, Firearms).

Description: This application allows a special taxpayer firearms licensee to transfer National Firearms Act firearms without payment of tax to another eligible special taxpayer upon approval of ATF. The approved form is proof that the firearm is legally held and legally transferred to the current holder of the firearm. Conversely, lack of the form could indicate illegal possession.

Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 3,000.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 15,000 hours.

Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco, and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dated: April 28, 1993.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93–10475 Filed 5–3–93; 8:45 am]

BILLING CODE 4810–31–M

Public Information Collection Requirements Submitted to OMB for Review

April 28, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Review Service

OMB Number: 1545–1045.

Form Number: None.

Type of Review: Reinstatement.

Title: Conducting 1993 Focus Group Interviews on Federal Tax Forms.

Description: Focus group interviews are necessary to obtain public input on revised and new tax forms. The results will be used to further simplify and improve the forms so that taxpayers will understand them more easily.

Respondents: Individuals or households.

Estimated Number of Respondents: 3,000.

Estimated Burden Hours Per Respondent: 3 hours.

Frequency of Response: Other (One-time focus group interviews).

Estimated Total Reporting Burden: 1,152 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–10476 Filed 5–3–93; 8:45 am]

BILLING CODE 4830–01–M

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Sunshine Act Meetings

Federal Register
Vol. 58, No. 84
Tuesday, May 4, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: April 26, 1993, 58 FR 22019.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., April 28, 1993.

CHANGE IN THE MEETING: The following Docket Numbers have been added to Item CAG-57 on the Agenda scheduled for April 28, 1993:

Item No., Docket No. and Company

CAG-57
RP92-104-000 and RP92-131-000, K N Energy, Inc.

Lois D. Cashell,
Secretary.
[FR Doc. 93-10538 Filed 4-30-93; 8:45 am]
BILLING CODE 6717-01-M

FEDERAL RESERVE SYSTEM
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday May 10, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 30, 1993.

Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 93-10606 Filed 4-30-93; 2:51 pm]
BILLING CODE 6210-01-M

NATIONAL SCIENCE BOARD

DATE AND TIME: May 13, 1993, 2:00 p.m., Open Session; May 14, 1993, 9:00 a.m., Closed Session; May 14, 1993, 9:40 a.m., Open Session.

PLACE: National Science Foundation, 1800 G Street, NW., Rm. 540, Washington, DC 20550.

STATUS: Part of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Thursday, May 13, 1993

Open Session (2:30 p.m.-4:30 p.m.)

Role of National Science Board

Friday, May 14, 1993

Closed Session (9:00 a.m.-9:40 a.m.)

1. Minutes—March 1993 Meeting
2. Election of Executive Committee Members
3. Future NSF Budgets
4. Grants and Contracts

Friday, May 14, 1993

Open Session (9:40 a.m.-11:00 a.m.)

5. Program Approval(s)
6. Chairman's Report
7. Minutes—March 1993 Meeting
8. NSB Calendar of Meetings for 1994
9. Acting Director's Report
10. Executive Committee Annual Report
11. Director's Annual Report on Merit Review
12. Other Business/Adjourn

Marta Cehelsky,
Executive Officer.
[FR Doc. 93-10528 Filed 4-30-93; 9:10 am]
BILLING CODE 7555-01-M

federal register

Tuesday
May 4, 1993

Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1926
Lead Exposure in Construction; Interim Final Rule

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. H-004L]

Lead Exposure in Construction

AGENCY: Occupational Safety And Health Administration (OSHA), Labor.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends the Occupational Safety and Health Administration (OSHA) standards for occupational health and environmental controls in subpart D of 29 CFR part 1926 by adding a new § 1926.62 containing employee protection requirements for construction workers exposed to lead.

This standard reduces the permitted level of exposure to lead for construction workers from 200 micrograms per cubic meter of air (200 $\mu g/m^3$) as an 8-hour time weighted average (TWA) to an 8-hour TWA of 50 $\mu g/m^3$. The standard also includes requirements addressing exposure assessment, methods of compliance, respiratory protection, protective clothing and equipment, hygiene facilities and practices, medical surveillance, medical removal protection, employee information and training, signs, recordkeeping, and observation of monitoring. An action level of 30 $\mu g/m^3$ as an 8-hour TWA is established as the level at which employers must initiate certain compliance activities. In instances where employers can demonstrate that employee exposures are below 30 $\mu g/m^3$ as an 8-hour TWA, the employer is not obligated to comply with most of the requirements in this interim final rule.

This interim final rule is mandated by, and issued under the exclusive authority of, title X, subtitle C, sections 1031 and 1032, Worker Protection, of the Housing and Community Development Act of 1992.

DATES: This interim final standard shall become effective June 3, 1993. Start-up dates for various provisions are set forth in paragraph (r) of the standard (§ 1926.62(r)).

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Office of Public Affairs, room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 219-8151.

SUPPLEMENTARY INFORMATION:

I. Background

In 1971, in accordance with section 6(a) of the OSH Act, OSHA adopted standards incorporating a permissible exposure limit (PEL) of 200 $\mu g/m^3$ to regulate occupational exposure to lead in general industry (29 CFR 1910.1000) and in the construction industry (29 CFR 1926.55). In both standards, the PEL had to be achieved by engineering and work practice controls. Some years later in 1978, after a section 6(b) rulemaking, OSHA promulgated a final lead standard for general industry (29 CFR 1910.1025), which lowered the PEL to 50 $\mu g/m^3$. The 1978 lead standard also required that the PEL be achieved, to the extent feasible, by engineering and work practice controls and in addition included a number of ancillary provisions requiring employers to provide medical surveillance, medical removal protection (MRP), hygiene facilities, appropriate respirators, and air monitoring, among other things.

The 1978 lead standard in paragraph (a) excluded the construction industry from its coverage. OSHA in the preamble explained that it had exempted the industry because of insufficient information in the record to resolve issues raised about the applicability of the standard to conditions in the construction industry. OSHA said it would request the Construction Advisory Committee (ACCSH) to review the record and make recommendations for a lead standard for the construction industry (43 FR 52986, November 14, 1978).

Subsequently, OSHA's exemption of the construction industry was challenged in litigation involving the lead standard for general industry. In response to that challenge, the court upheld OSHA's decision. Although the court declared that "OSHA would be shirking its statutory responsibilities if it made no effort to protect workers in the construction industry from lead exposure * * *" the court accepted OSHA's assurances at the time "that it will take reasonably prompt steps to fashion this protection", and indicated that "So long as it does so, OSHA has met its duty." "Nothing in the Act," the court said, "prevents the agency from exercising discretion in delaying specific standards according to the unique problems of specific industries. * * *" (*United Steelworkers of America* v. *Marshall*, 647 F.2d 1189, 1310 (DC Cir. 1980).)

Since 1979, employers have been required to comply with a PEL for lead in the construction industry that is four times the PEL for general industry. Employers have also been required to take other actions to protect construction workers from excess lead exposure to the extent that employers' obligations to provide respirators, protective clothing, hygiene facilities, training, and the like were imposed by generic standards that covered construction (e.g., 1910.20; 1910.94; 1910.134; 1926.20; 1926.21; 1926.28; 1926.51; 1926.55; 1926.57; 1926.59; 1926.103; 1926.200; 1926.353; 1926.354). However, there has still been no comprehensive standard regulating occupational lead exposure in construction.

In 1990, NIOSH set as a national goal the elimination of exposures that result in workers having blood lead concentrations greater than 25 $\mu g/dL$ of whole blood. Under these circumstances, OSHA in the fall of 1990 announced it would begin to develop a proposal for a comprehensive standard regulating occupational lead exposure in construction. In addition, on June 12, 1992 OSHA proposed to amend its existing air contaminants standards by, among other things, reducing the PEL for occupational lead exposure in construction from 200 $\mu g/m^3$ to 50 $\mu g/m^3$ (57 FR 26001). However, progress on that air contaminants proposal was suspended because of the decision by the U.S. Court of Appeals for the Eleventh Circuit vacating an earlier rule on air contaminants for general industry (*AFL-CIO* v. *OSHA* 965 F.2d, 962 (1992)).

The Housing and Community Development Act of 1992

Because Congress did not anticipate publication of OSHA's proposed comprehensive lead standard for the construction industry before late spring of 1993 or publication of a final standard before 1996 (House Report on H.R. 5730, pp. 14-15), Congress in October 1992 passed Sections 1031 and 1032 of Title X of the Housing and Community Development Act of 1992 ("the Act," Pub. L. 102-550, signed by the President on October 28, 1992, 106 Stat. 3924).

In those sections, Congress included worker protection provisions expressly requiring that:

(1) No later than 180 days after enactment (April 26, 1993), the Secretary of Labor must issue an interim final lead standard covering the construction industry.

(2) The standard must be as protective as the worker protection guidelines for identification and abatement of lead-based paint in public and Indian housing issued by the Department of Housing and Urban Development (Revised Chapter 8, "HUD Guidelines"; 55 FR 38973, Aug. 1991).

(3) The interim final standard is to take effect upon "issuance," except that the standard may include a reasonable delay in the effective date.

(4) The standard will have the effect of an OSH Act standard and will apply until a final standard becomes effective under Section 6 of the OSH Act.

(5) The Secretary of Labor in developing this standard must consult and coordinate with the Environmental Protection Agency (EPA) to achieve maximum enforcement of the Toxic Substances Control Act (TSCA) and the OSH Act while minimizing duplication.

Congressional Intent

From its language and legislative history, the broad Congressional intent behind the Act of 1992 is clear. OSHA is required within 180 days after enactment to issue an interim final regulation that provides protection to construction workers from occupational exposure to lead that is as effective as the HUD guidelines and OSHA's lead standard for general industry.

Congressional intent is clear as well with regard to many particular provisions. OSHA is mandated, for example, to include medical surveillance provisions similar to the HUD Guidelines and OSHA's lead standard. Engineering controls are to continue to be preferred, to the extent feasible, over respirators as the method of choice for compliance. More generally, most of the provisions of the interim final standard, such as those concerning housekeeping, air monitoring, record keeping, and hazard communication, are to be like those in the Guidelines and general industry lead standard, except insofar as it was necessary to adapt requirements of the interim final to conditions in the construction industry.

To determine Congressional intent, OSHA looked to the relevant language in the worker protection provisions of Section 1031 of title X of the Housing and Community Development Act of 1992 and to the legislative history of that section of the Act. As can be seen below, the language of the Act provides help in resolving many of the issues raised. Nonetheless, OSHA has had to rely at times on the legislative history to clarify Congress' mandate.

The legislative history is embodied in and essentially limited to three sources. First, the primary source is the House Committee on Labor and Education Report on H.R. 5730, which is the origin of the worker protection requirements that were then incorporated in House housing bill, H.R. 5334 and were adopted without objection by the conference committee. Second, there is a statement concerning the conference bill H.R. 5334 on the House floor by Rep. William D. Ford, the author of the worker protection provisions, which repeats verbatim relevant portions of the House Report on H.R. 5730 (138 Cong. Rec., H11475-76; daily ed. Oct. 5, 1992). And third, there is a statement by ranking minority member Representative Paul B. Henry (138 Cong. Rec. H11470; daily ed. Oct. 5, 1992).

II. Key Issues

(A) Procedural Requirements

Aside from the general requirement that the Secretary of Labor consult and coordinate with EPA, Congress in the 1992 Act did not impose any procedural requirements that must be followed in developing and promulgating the interim final standard. Furthermore, the legislative history of the Act makes it clear that Congress intended the Secretary to be free to follow whatever procedures he chooses. Specifically, the Secretary need not follow the procedural requirements of the OSH Act or the Administrative Procedures Act ("APA"; 5 U.S.C.A. 551, 553).

The Secretary's freedom from procedural constraints imposed by this legislation is clear from the Report on H.R. 5730, p. 16, where the House Committee states:

(1) "[T]he procedural requirements of section 6 of the OSH Act do not apply to the promulgation of the interim final regulation."

(2) "Nor * * * do the notice and comment provisions of the Administrative Procedures Act apply."

(3) Indeed, "the Secretary is not required to follow any specific notice and comment procedures before issuing the interim final regulation * * *."

Nonetheless, the Committee does say that "it is the Committee's hope that the Secretary [will] solicit input from and consider the views of affected industry and labor representatives as well as public health and industrial hygiene experts in fashioning an interim lead regulation for the construction industry." But here again, the Committee declares that "The Secretary is free to select whatever method she feels is best suited to obtain public input into the development of the interim final regulation, so long as the procedures she selects do not have the effect of delaying publication of the regulation."

Prior to issuing this interim final rule OSHA consulted members of the Lead Work Group of the Construction Advisory Committee, which included representatives of labor, management and the public health community. In the process, OSHA provided the work group with a draft of the interim final, listened to members' comments on the draft, and made modifications to the draft in response to their comments. The chairman of the work group was sufficiently satisfied with the results that in his report to the full ACCSH on February 16, 1993, he made a motion recommending that the full Committee support OSHA's efforts, which was unanimously passed by the Advisory Committee.

In addition, in accordance with Congress' mandate, OSHA has established a dialogue with EPA in order to coordinate the actions of the two agencies to maximize effectiveness and minimize duplication. This began with a preliminary meeting on February 22, 1993. Subsequently, OSHA and EPA are sharing working documents and will continue this cooperative effort throughout the ongoing EPA work on its rulemaking, also mandated by the Housing and Community Development Act of 1992.

(B) Scope

The language of the 1992 Act, in conjunction with the legislative history, leave little doubt that Congress intended the interim final rule to extend to all lead exposed construction workers, not simply to those removing lead-based paint. Thus, the worker protection section of the Act uses all-inclusive language: It requires OSHA to issue "an interim final regulation regulating occupational exposure to lead in the construction industry". Moreover, by its terms, the interim final is to "apply until a final standard becomes effective under section 6 of the Occupational Safety and Health Act of 1970." As Congress knew, OSHA has been developing a lead standard for all workers in the construction industry, not simply those engaged in lead paint abatement. Nowhere in the 1992 Act or the legislative history does Congress say that it intended the interim final regulation to have a narrower scope than OSHA's final standard.

In addition, from the legislative history it is clear that the gap Congress sought to fill by passing this Act was nothing less than the gap left when OSHA exempted the construction industry as a whole from the 1978 general industry standard for lead. The Committee report repeatedly refers to the general failure to protect construction workers and does not limit its focus to workers engaged in lead paint abatement. Indeed, the HUD Guidelines, which apply only to lead-

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based paint abatement work, are first raised in the Report only as the "most significant" effort to provide "alternative forms of protection to construction workers * * * [i]n the absence of a comprehensive OSHA lead standard protecting workers in the construction industry * * *" Thus, the protections Congress mandated OSHA to incorporate in its interim final rule are to be extended to all construction workers exposed to lead.

There are a few indications in the 1992 Act and legislative history that Congress might have intended to protect only construction workers engaged in lead paint abatement, but they are not persuasive. For example, the short title of title X of the Act is the "Residential Lead-Based Paint Hazard Reduction Act of 1992" and the short title of Subtitle C—Worker Protection is the "Lead-Based Paint Exposure Reduction Act." Moreover, the criterion in the Act for assessing the sufficiency of the interim final regulation is the HUD guidelines, which apply only to lead paint abatement in housing. Furthermore, related sections of the Act focus on lead paint abatement (e.g., Sec. 1032). Finally, remarks by Representative Paul Henry suggest that he thought the scope of the interim standard would be limited to residential lead-based paint abatement work (138 Cong. Rec. H11470; daily ed. Oct. 5, 1992).

Nevertheless, conventional rules of legislative interpretation give considerably more weight to the express language in legislation than to its title. Moreover, the fact that the source of the criterion for determining the level of protection to be afforded workers is guidelines for abating lead paint in residential housing does not necessarily mean or imply that the intention was to protect only those engaged in such abatement. Finally, Representative Henry's views on scope seem to misunderstand and diverge from the views on scope of the majority. Indeed, Representative Henry was not present when the provisions that became section 1031 were discussed, did not seek clarification of the scope issue, voted against the conference agreement, and did not sign the Conference Report to H.R. 5334. His views, then, can hardly be taken to represent the intention of the majority. This understanding is confirmed by a letter from Representative William D. Ford, the Chairman of the originating House Committee on Education and Labor written on November 26, 1992, after the fact, to then Secretary of Labor, Lynn Martin.

(C) The Justification and Explanation Required for the Interim Final Rule

The in the Act of 1992 does not impose an independent duty to justify the interim final rule. Without such a duty in the authorizing legislation, if OSHA has a duty to provide a justification or explanation, it must come from two sources: First, the common law or generic legislation like the APA; and second, any other applicable specific law or regulation, such as the OSH Act or Executive Order ("EO") 12291. As to the first of these, the Agency believes that it is inherently obligated under the APA to give a reasonable explanation for its actions in order to provide a basis for judicial review (5 U.S.C.A. 551, 553(C)).

As to the second, because the interim final is being issued under the authority of the Housing and Community Development Act of 1992 and not under the OSH Act, OSHA is not required to comply with any of the requirements of the OSH Act for 6(b) rulemakings. Consequently, for example, OSHA need not undertake and provide a formal analysis of economic and technological feasibility. Nor need the Agency make a determination of significant risk. As a result, no quantitative risk assessment is required.

The Act does state that the interim final regulation "shall have the legal effect of an Occupational Safety and Health Standard * * *." However, by that, Congress seems only to mean that the interim final is to be enforced by OSHA as a 6(b) standard. There is no reason to infer from such language that OSHA must justify the interim final in accordance with the legal tests developed under the OSH Act. On the contrary, precisely because the interim final is not a 6(b) standard it was necessary for Congress to give it that "effect." If Congress had expected OSHA to justify the interim final in the same manner that OSHA justifies 6(b) standards, the legislature could hardly have expected OSHA to issue the interim final in 180 days.

However, the 1992 Act does not appear to exempt OSHA from any other preexisting duties to explain the interim rule. Thus, OSHA still might be required to perform some form of regulatory impact analysis ("RIA") under Executive Order 12291. The extent of that obligation is limited in this case by three considerations: (1) Congress ordered OSHA to produce this rule. OSHA did not, based upon its own priorities, decide to issue it at this time. The Agency therefore should not be responsible for justifying the rule as if it were a typical OSHA determination. (2) Congress also broadly decided the level of protection that must be provided. OSHA, therefore, should not be responsible for justifying that decision as if it were a typical OSHA determination. For all practical purposes, whatever the costs and benefits, OSHA must issue the interim final with the level of protection determined by Congress. (3) The duty to perform an RIA may be further limited by the time constraints imposed by the Congressional deadline. The EO by its own terms is inapplicable to any regulation for which performing the analysis required by the Order "would conflict with the deadlines imposed by statute or by judicial order * * *." (EO 12291, sec. 8(a)(2)). As a result, in the event of conflict, the duty to perform an RIA is limited by the statutory deadline."

In summary, in issuing this interim final rule, OSHA must: (1) comply with the Congressional mandate in Section 1031 of Title X of the Housing and Community Development Act of 1992; and (2) provide a sufficiently reasoned explanation for the rule to permit judicial review (5 U.S.C.A. 551, 553(C); and see note 198).

That is the focus of what follows in this preamble. First comes a general discussion of the criteria for compliance with the Congressional mandate. That is followed by a conventional "summary and explanation" to help employers, employees and others understand the particular provisions in the interim final standard and to help them and the courts understand why OSHA chose to require certain things and not others.

(D) Complying With the Congressional Mandate That the Interim Final be as Protective as the HUD Guidelines

Applying Congress mandate to issue an interim final standard that provides workplaces that are "as safe and healthful as those that would prevail under" the HUD Guidelines raises a number of questions. Some are relatively easy, but others are difficult, to answer.

In the first place, the HUD Guidelines (Revised Chapter 8) are neither sufficiently comprehensive nor sufficiently clear to be translated directly into an enforceable OSHA standard regulating occupational exposure to lead in the construction industry. Second, the HUD Guidelines were written exclusively with regard to lead paint abatement in housing and therefore have to be adapted to the diverse conditions in the construction industry as a whole. Third, the HUD Guidelines expressly incorporate many provisions of the OSHA lead standard

for general industry, but the extent to which the lead standard is incorporated differs in different provisions.

Fourth, there is the question of what criterion should be used to trigger application of the standard in the first place. Although the HUD Guidelines refer to the OSHA general industry standard, there is no explicit reference to a general action level or PEL. In fact, there is no reference to any trigger level or in Chapter 8 of the Guidelines. The only such reference is in the Introduction to the Guidelines and that reference is not in the context of worker protection. (This issue is discussed later in more detail).

Thus, OSHA has to fill in the gaps, clarify, modify, make choices, and adapt the Guidelines to conditions in the construction industry at large. Based upon the Committee report, Congress clearly understood this and signalled that it did not intend for OSHA to simply adopt the HUD Guidelines whole cloth. Rather, the Guidelines are to serve "as the basis" for developing the interim final rule, but "the Secretary may alter the provisions of the HUD Guidelines, so as long as the interim regulation provides workers with health and safety protections which are equally as effective." (House Committee report on H.R. 5730, pp. 15–16). Thus, Congress provided OSHA with flexibility to determine what modifications should be made to those Guidelines, in part based upon the need to adapt the HUD Guidelines to the broader construction industry. So Congress expected that OSHA would have to exercise judgement in determining the contents of the interim final rule.

OSHA considered somewhat different interpretations of how Congress intended the Guidelines to relate to the OSHA general industry standard with regard to such issues as trigger levels. After careful consideration, OSHA has concluded that the Guidelines were intended to be understood in conjunction with OSHA's lead standard for general industry.

The Guidelines are based on, and to a substantial degree repeat, much of the language of the standard. In most respects the Guidelines and the lead standard can be read to be consistent. The close relationship between the two is attested to by the many, often sweeping references in the Guidelines to OSHA's lead standard. For example, the introduction to the worker protection chapter in the Guidelines declares that the Guidelines "are intended to provide, at a minimum, the level of protection afforded by * * * OSHA['s] general industry lead standard" (55 FR 39874). Similarly, in paragraph 8.6 concerning MRP, the Guidelines say that public housing agencies should "refer to OSHA's general industry standard for lead for complete guidance on this subject." Again, in paragraph 8.8 regarding worker training, the employer is required to inform workers of the content of the OSHA lead standard and its appendices. Likewise, just preceding a list of the major elements that employers are advised to include in their employee protection plan, the Guidelines note that "Employers can refer directly to the OSHA lead standard * * * for complete requirements." Finally, near the end of the Guidelines, HUD says, "In addition to the lead standard, there are many standards that abatement employers must comply with." But abatement employers need not comply with OSHA's lead standard, which exempts construction, unless "required" to do so by the HUD Guidelines. These and other similar references to OSHA's lead standard give the strong impression that HUD Guidelines either incorporate that standard or are so dependent on it that they cannot be understood separately from it.

The legislative history of the 1992 Act makes clear that Congress regarded the Guidelines as very similar in essentials to OSHA's lead standard for general industry. Thus, the Committee Report states that "The HUD guidelines are based on, and in most respects mirror, OSHA's general industry lead standard." It further adds that, "Where the guidelines differ from OSHA's standard, the differences are intended to reflect the unique circumstances of the construction industry." Moreover, by requiring OSHA to issue an interim final regulation as protective as the HUD Guidelines, Congress' overriding intention appears to have been to extend to construction workers the protection afforded by OSHA's lead standard for general industry: "By relying on the HUD guidelines as the basis for the Secretary's interim final regulation, the Committee expects that construction workers will gain the same benefits available to general industry workers under the lead standard, i.e., a PEL of 50 $\mu g/m^3$, medical surveillance, medical removal protection, etc." The reference to a PEL of 50 $\mu g/m^3$ is repeated elsewhere in the legislative history: "the HUD guidelines recognize that compliance with a 50 $\mu g/m^3$ PEL in the construction industry likely will require greater reliance on respirator use than is accepted in general industry."

The references to the PEL are important. If the HUD Guidelines were not understood by Congress to have incorporated requirements from the general industry standard, Congress could not have expected a PEL of 50 $\mu g/m^3$ to apply to construction since there is no explicit reference to a PEL in the language of the Guidelines. Thus, from the legislative history it is clear that Congress intended the interim final regulation to incorporate the PEL and other provisions from the general industry standard. This interim final standard is patterned very closely on the HUD Guidelines and the general industry standard for lead.

OSHA is confirmed in this position by its understanding, based upon the language of the Act and its legislative history, that Congress conceived of the interim final standard within a broader perspective. First, Congress intended the interim final as a long overdue protective measure which generally would not break significant new ground. Second, Congress expected that the interim final would involve an adaption of OSHA's lead standard for general industry to the construction industry along the lines of the HUD Guidelines, which incorporate much of OSHA's lead standard. Finally, Congress assumed that a stricter construction standard or one that breaks new ground, if OSHA determines that one is needed, should be the product of a future 6(b) rulemaking, which provides for extensive notice and comment.

(E) Reasons for Differences With HUD Guidelines on Certain Provisions

In the previous discussion, issues involved in satisfying Congress' mandate that the interim final standard should be as protective as the HUD Guidelines were outlined. In what follows, the resolution of some of these issues is discussed with particular reference to where and why this interim final standard may differ somewhat in specific instances from the HUD Guidelines and/or from the OSHA lead standard. Further detailed discussion of the contents of each of the individual provisions of the standard is provided in the Summary and Explanation below.

Trigger Levels

One of the most important of these issues concerns the criteria by which applicability of the standard and of particular provisions of the standard are triggered. The most basic trigger determines whether an employer is covered by the standard at all. In addition, specific provisions of the standard can be triggered by other criteria or exposure levels.

The trigger criteria for the OSHA general industry standard and the HUD Guidelines appear to be different. For

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example, the general industry standard triggers are the PEL of 50 µg/m³ and the action level of 30 µg/m³. Exposures above the PEL require implementation of feasible engineering and work practice controls, and provision of personal protective equipment and hygiene facilities supplemented by the use of respirators, if necessary, to reduce exposures to below 50 µg/m³. For employees exposed at or above the action level of 30 µg/m³, employers must provide biological monitoring. Additional medical examinations are required for those with elevated blood-lead levels, and upon development of signs of lead intoxication. Exposures at or above the action level also require implementation of exposure monitoring and training.

Chapter 8 of the Guidelines seems to require the employer to comply with all provisions where there is any potential of exposure to lead at any level. These provisions include use of respirators (Section 8.2), medical surveillance (Section 8.5), protective clothing (Section 8.3), hygiene facilities (Section 8.4), medical examinations (Section 8.53) and training (Section 8.8) for all employees who work where there is any potential of exposure to lead at any level. Chapter 8 further states that engineering controls, where feasible, must be used to minimize employee exposures (Section 8.1) without regard to the specific air level. That could mean that if it is feasible, engineering controls must be used to reduce exposures to zero.

Thus if OSHA were to adopt the scoring requirements of Chapter 8 without modification, it would apply all of the above provisions to people who are exposed at any level as well as to people who are exposed to higher levels. This would not only be unduly costly but would be impossible to comply with. For example, nearly every person on nearly every lead-related construction site would have to wear protective clothing and a respirator, and would have to be provided an annual medical examination even if they were only exposed to an air lead level of 5 µg/m³ for less than one hour per day and for one week per year. OSHA does not believe this is what Congress intended; nor is it what HUD intended in its Guidelines.

Although the HUD Guidelines do not address a specific trigger in the context of worker protection, the Introduction to the Guidelines states that wherever the lead concentration in a painted surface exceeds 1 mg/cm², abatement is required. This level is based on the hazard which the painted surface presents to occupants of the building, and the abatement is for their protection. It is only where abatement is already required in the Guidelines that most provisions in Chapter 8 are triggered by "any potential exposure". Since abatement is required only when the surface concentration of the painted surface exceeds 1 mg/cm², this level effectively establishes a trigger for the worker protection provisions.

On the basis of the foregoing, several options were theoretically open to OSHA in deciding the basic trigger for application of the standard and its provisions. The first was to trigger the standard, as Chapter 8 of the Guidelines appears to, at any potential exposure. In this case, requirements would be triggered in cases where little risk can be shown to exist. Every workplace where any lead can be shown to exist would be covered, even if the exposures could be shown, for example, to be 1 or 2 µg/m² of lead in the air. Such a requirement could not be justified in terms of substantial adverse health effects and would involve unprecedented annual costs.

An alternative option that would follow the Guidelines would be to trigger the standard based on a minimum lead concentration in paints or coatings of 1 mg/cm² in any surface coated with lead-containing material. However, there is no reliable connection between such a concentration and any risk of adverse health effects. That connection would have to be established by relating the surface concentration to an air concentration. Where this has been tried, the results were so variable as to be impossible to apply.

For example, in preparing a proposal for a standard for lead in construction, the state of California developed a mathematical model with which they calculated the air lead levels that would arise in certain specific work situations as a result of having 1 mg/cm² of lead in a painted surface. (Draft proposed standard: Occupational Exposure to Lead in Construction Operations, May 11, 1992, Department of Health Services/Department of Industrial Relations, State of California). The results are highly variable, depending in part on the method of removing the paint from the surface. For example, in the case of wet scraping of paint containing 1 mg/cm² it was calculated that an air lead level of about 37 µg/m³ would result. However, dry scraping of the same surface was estimated to result in an exposure level of about 371 µg/m³. Therefore, in the latter case, if OSHA were to follow the HUD guidelines approach, it could permit exposures to 371 µg/m³ of lead in the air before the standard would be applicable. Thus in the absence of a firm correlation between lead-in-paint concentration and air lead levels, OSHA would have no idea what health effects might be produced by such a surface concentration. Moreover, the trigger applies only to lead painted surfaces. It does not deal at all with the broad range of jobs in the construction industry that involve lead that is not in paint. As a result, the incorporation of this trigger from the HUD Guidelines into an OSHA standard would not be appropriate. Nor did Congress intend such a result. To quote the conference report once more, "By relying on the HUD guidelines as the basis for the Secretary's interim final regulation, the Committee expects that construction workers will gain the same benefits available to general industry workers under the lead standard, i.e., a PEL of 50 µg/m³ * * *." Thus, Congress intended OSHA to incorporate a PEL of 50 µg/m³ into the interim final standard regardless of whether such a PEL was part of the HUD Guidelines.

This approach follows the general industry standard for lead and establishes that a potential hazard must exist prior to requiring an employer to implement the standard. As described above, some provisions will be triggered by the 50 µg/m³ PEL, while others will be triggered by a 30 µg/m³ action level. These trigger levels are taken from the OSHA lead standard for general industry and are based upon health effects data generated for that standard and thus have a health-related foundation.

Task-related Triggers

In response to Congress' mandate that OSHA should modify the HUD Guidelines in this interim final standard as needed to adapt to the particular conditions in the construction industry, OSHA has added a provision included in neither the HUD Guidelines nor the general industry standard. This approach is consistent with the approach taken in the HUD Guidelines. The air lead levels that trigger the standard are determined by an employee exposure assessment, most often containing air sampling. However, there is often a time lapse between taking the sample and receiving the results. Certain construction tasks are known to commonly produce exposures above the PEL—sometimes many orders of magnitude above the PEL. In such tasks, workers could be exposed to high concentrations of lead in air during the period between sampling and receipt of the results without sufficient protection. In addition, because many construction jobs are of short duration, workers could

complete one job before monitoring results are in and go on to another, again in a high exposure situation, still without adequate protection in the absence of monitoring results.

To address this problem, OSHA has included within the regulatory text three lists of tasks, the performance of which in the presence of lead trigger basic protective provisions prior to air lead monitoring. The first consists of tasks which commonly produce a substantial proportion of exposures above the PEL of 50 µg/m³, but less than 10 times the PEL. The second consists of tasks which commonly produce a substantial proportion of exposures greater than 10 times the PEL (500 µg/m³), but less than 50 times the PEL (2500 µg/m³). The third set of tasks consists of those which commonly produce a substantial proportion of exposures greater than 50 times the PEL (2500 µg/m³). For all three sets of tasks, employers are required to provide respiratory protection appropriate to the tasks' anticipated exposure level, protective work clothing and equipment, change areas, hand washing facilities, training, and initial medical surveillance consisting of blood sampling and analysis. OSHA believes that these basic provisions are essential where employees are exposed to air levels above the PEL. In the absence of monitoring results to the contrary, tasks which commonly produce air levels above the PEL must be assumed to continue to do so and, thus, it is necessary to require these provisions. The only difference in the provisions among task categories is in the kind of respirators which are required. For example, abrasive blasting workers need a much higher performance respirator than do workers doing spray painting.

Criteria for selection of the tasks in each category were based on three sources—advice from the Department of Labor Advisory Committee on Construction Safety and Health (ACCSH) Lead Workgroup; recommendations of the Society for Occupational and Environmental Health (SOEH) in conference proceedings entitled Protective Work Practices for Lead-Based Paint Abatement; and limited exposure data provided to OSHA by a firm contracted to perform an assessment of lead exposure levels encountered in the construction industry.

The first set of tasks, consisting of those which commonly produce exposures between 50 µg/m³ PEL and 500 µg/m³, includes manual demolition; manual scraping; manual sanding; heat gun applications; general cleanup; power tool cleaning with dust collection systems; and spray painting. This selection of tasks was suggested by the chairman of the ACCSH Lead Workgroup. It is further supported by the SOEH recommendation that, when these tasks are performed, halfmask air purifying respirators—with a protection factor of 10—should be used. In addition, the selection of these tasks is based partly on limited exposure data available to OSHA.

Since the data which OSHA has obtained indicate a wide range of exposure levels in particular tasks, and are sometimes based on a limited number of samples, OSHA had to consider the data in relation to recommendations from knowledgeable people or organizations. For example, in the case of spray painting, available data showed exposures ranging from 1 µg/m³ to 460 µg/m³. However, the average exposure was 74 µg/m³, and a level of 101 µg/m³ would be expected to be exceeded only five percent of the time. Moreover, SOEH recommends using halfmask negative pressure air purifying respirators for this task, i.e., respirators with a protection factor of 10. Therefore, spray painting seems to belong in the task category with anticipated exposures between 50 µg/m³ and 500 µg/m³. In general, the other tasks in this category also entail a likelihood of exposures in this range, which is supported both by the contractor data and the SOEH recommendations.

The second category, from 500 µg/m³ to 2500 µg/m³, includes the use of lead-containing mortar; lead burning; rivet busting; power tool cleaning without dust collection systems; cleanup of dry expendable abrasives; and abrasive blasting enclosure movement and removal. Following is a discussion of why these tasks were selected for this exposure range and why powered air purifying respirators (PAPRs) are required to be used when performing them.

The only information OSHA has on the use of lead-containing mortar and lead burning comes from its contractor report which suggests control exposure levels for both that are greater than 600 µg/m³, greater than would be safe with an air purifying respirator with a protection factor of 10. ("Control exposure levels" here refers to levels that would not be expected to be exceeded in 95% of the time the activity was monitored.) With an assigned protection factor of from 25 to 50, depending on which specific type is used, a PAPR will provide adequate protection in an exposure range from 1250 to 2500 µg/m³, and thus appears to be effective for these applications.

Rivet busting falls under the SOEH category of "Chipping and Breaking with Pneumatic Tools". SOEH recommends that powered air purifying respirators be used for this group of tasks. Since such respirators have protection factors greater than 10, OSHA infers that SOEH regards likely exposures for rivet busting to be greater than ten times the PEL—greater than 500 µg/m³. Data reflecting actual exposures in this task, however, were not provided to OSHA by its contractor.

Without the use of dust collection systems, the use of power tools for grinding, sanding and wire brushing can raise large concentrations of lead in the air. The OSHA contractor report suggests control exposure levels of more than 1000 µg/m³. SOEH recommends the use of powered air purifying respirators. Thus, placing this task in the 500 µg/m³—2500 µg/m³ category is consistent with both sources.

Clean-up after abrasive blasting when the blasting involves dry expendable abrasives, while not characterized by exposure data available to OSHA, was identified by SOEH as a task with potentially high exposures. SOEH consequently recommends powered air purifying respirators as the minimum respiratory protection. OSHA has classified it accordingly.

In addition to the high concentrations of air lead produced by abrasive blasting operations, the enclosures within which the work is done are left with a substantial accumulation of lead when the blasting is completed. Therefore, movement and removal of these enclosures can themselves create high air lead concentrations, although not to the same extent as the blasting. Available contractor data show a control exposure level for this operation to be between 1100 and 1200 µg/m³. On this basis OSHA has included abrasive blasting enclosure movement and removal in the category where exposures between 500 and 2500 µg/m³ can commonly be expected.

The final category requiring interim protection prior to receiving exposure assessment covers tasks commonly associated with air lead exposures greater than 2500 µg/m³ (50 times the PEL). This category includes abrasive blasting as well as welding, cutting and torch burning on steel structures. In the case of abrasive blasting, the possibility of extremely high exposures is well known and documented by data which show control exposure levels between 20,000 and 40,000 µg/m³. Consistent with these numbers, SOEH recommends the use of supplied air respirators.

Data obtained by OSHA's contractor regarding welding, cutting and burning

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show control exposure levels to be from about 970 to about 1560 µg/m³ depending on the specific operation involved. Such levels would not seem to qualify these tasks for the over-2500 µg/m³ exposure category. The numbers, however, represent estimates from a very wide spread of data points, thus providing a high degree of uncertainty. The data show that actual exposures can reach 28,000 µg/m³. Further, SOEH recommends use of supplied air respirators during performance of welding, cutting and burning on steel structures. Therefore, based on exposure data showing that exposures often exceed 2,500 µg/m3 and based on the SOEH recommendation, OSHA has chosen to be conservative and has assigned these tasks to its highest hazard category with respect to required interim protection.

OSHA believes that it has taken a well-reasoned approach to identifying tasks in the foregoing categories, given the limited amount of firm data available at the time of promulgation of this standard. Because the interim protection of workers in these tasks is very important, the approach has been conservative. If the Agency has erred in selecting these tasks, it has erred as authorized by the U.S. Supreme Court on the side of overprotection (*IUD v. API*, 448 U.S. 601 (1980)). In any event, once the monitoring results are received, if they show air lead levels to be lower than presumed, the presumed level of protection need no longer be provided. OSHA intends to study this issue comprehensively in a forthcoming rulemaking on a permanent final rule for lead exposures in the construction industry.

Medical Surveillance

One of the most important sets of provisions of any substance specific standard is that of medical surveillance. Medical surveillance is particularly relevant to lead exposures because, in the measurement of blood lead levels, there is a true indicator of health risk and, in the case of high blood lead levels, a course of action to address the risk. The medical surveillance provisions of the HUD Guidelines are essentially the same as in the OSHA general industry standard. The essential difference is in the conditions under which the provisions must be implemented. The medical surveillance provisions of this interim final standard are in most respects similar to those in the HUD Guidelines and the OSHA lead standard for general industry.

The Guidelines, in Chapter 8, appear to require full medical surveillance whenever any employee working in lead paint abatement is potentially exposed to any concentration of lead. This effectively places all workers covered by the Guidelines under medical surveillance. If this requirement were used in the interim final standard, it would apply to all of the more than 900,000 workers who might have some contact with lead, no matter how small the exposure. However, limited available data indicate that most exposures in many highly-populated segments of the industry are well below the 30 µg/m³ action level of the general industry standard, and the blood lead levels of such employees are almost always below any level that, based upon the health effects analysis accompanying the OSHA general industry lead standard, would require medical action. For example, exposure data collected by NIOSH during the Demonstration Project for HUD Lead-based Paint Abatement (The HUD Lead-Based Paint Abatement Demonstration (FHA), U.S. Department of Housing and Urban Development, August 1991), revealed that, in those cases where surface concentration exceeded 1 mg/cm². "Over 80% of the combined numbers of all air samples, both personal and area, showed airborne lead levels below 10 µg/m³." Therefore, in a very large number of cases, the full medical surveillance would serve no purpose and would entail very significant costs. Under these conditions, the same degree of real worker protection can be obtained without the identical requirements of the Guidelines.

The medical surveillance provisions of the OSHA general industry standard are triggered initially by air lead exposure levels. Since it is the air lead level that is relevant, not the industry in which one is exposed, specific air lead triggers in the construction industry should be the same as those in general industry. Thus, medical surveillance in the interim final standard is triggered by the same exposure levels as in the general industry standard.

There are, however, two modifications to this program. As discussed above, in the three categories of high exposure tasks, blood sampling and analysis are triggered by performance of the specified tasks when lead is involved. In addition, the employer must provide every worker who will be exposed to an air lead level greater than the 30 µg/m³ action level, if only for a single day in any consecutive 12 month period, with blood testing. The construction-related reason for the blood testing related to the high exposure task categories has been discussed earlier. The reason for blood monitoring for workers exposed above the action level, even on one day, also arises from the peculiarities of the construction industry where jobs are frequently of short term, turnover is rapid and exposure levels vary. OSHA believes it important that exposures of duration up to 30 days not be neglected since such exposures in some applications will be very high. A worker exposed at high levels for only a few days can still incur a large lead burden in his or her blood and, if that happens, it is important to keep track of the levels.

In view of the fact that workers who need medical surveillance, based on air lead levels established in the rulemaking for the general industry standard, on high exposure tasks, and on short duration exposures above the action level receive it, the medical surveillance provisions of the interim final standard are more protective than the OSHA general industry standard and are as protective as the Guidelines.

Exposure Assessment

The HUD Guidelines do not require initial monitoring. They do, however, require that an initial determination be made "to determine whether employees are potentially exposed to lead. The goal is to establish the level of exposure expected." The Guidelines go on to say, "Indications of possible overexposure to lead, such as employee health complaints, prior abatement experience, and prolonged or intense lead-based paint removal, should lead to an initial monitoring of the workplace." The monitoring results are to be used to determine the frequency of further monitoring, and to select appropriate respiratory devices and determine the need for engineering controls. However, in using monitoring results for the foregoing purposes, the Guidelines refer to the PEL of the OSHA general industry standard and the respirator selection table that is used for selecting a respirator that will maintain exposures below the PEL. They allow consideration of objective factors before initial monitoring needs to be performed. Thus, every workplace with very low exposures need not do monitoring where it serves no purpose in identifying excessive exposures. If monitoring is done, however, the Guidelines recommend that the procedures in the general industry standard be followed.

The interim final standard is effectively very similar to the Guidelines. It requires, as a first step, an initial determination which can be an objective assessment of exposure, based on specific data or on previous

monitoring or on past experience in identical workplaces. Once again, however, the requirements for the high exposure tasks are slightly more stringent. In order for any data other than from initial monitoring to be acceptable, it must be based on specific and documented monitoring performed during work operations conducted under workplace conditions closely resembling the processes, type of material, control methods, work practices, and environmental conditions used and prevailing in the employer's current operations. Also the sampling and analytical methods used to obtain the data must meet the accuracy and confidence levels specified in the standard.

The remainder of the monitoring requirements are the same as in the general industry standard and the same as the Guidelines for situations where monitoring is performed.

On balance, the exposure assessment requirements for the interim final standard are more specific and somewhat more stringent than those in the Guidelines.

Protective Clothing and Respiratory Protection

Protective clothing and respirators are required in the Guidelines whenever the potential for exposure is present. As discussed earlier in this paragraph, this provision, on its face, would place every worker in a respirator and protective clothing regardless of extent of exposure. When applied across the entire spectrum of construction operations, the overall burden of this provision would be extremely high and difficult to justify. In particular, requiring respirators and personal protective equipment in the 80% of all cases in which NIOSH found that air lead exposures were less than 10 µg/m³ would be difficult to justify on health grounds. Such a requirement would thus entail a significant burden to employers and employees without demonstrated benefit. For these reasons, and because there is no reason to believe that the relationship between health risks in the construction industry and air lead levels is different from that in general industry, the provisions for protective clothing and respiratory protection in this interim final standard are triggered by the PEL, as in the general industry standard.

The actual provisions covering the use and selection of respirators in the Guidelines are the same as in the general industry standard. The interim final standard, however, has one important difference. The respirator selection table of the general industry standard was based on information as of 1978 and contained no specific reference to construction—particularly abrasive blasting. The selection table in the interim final standard has expanded the types of respirators permitted under the various exposure categories, including those uniquely permitted for abrasive blasting, and added another exposure level category (1250 µg/m³) to provide greater flexibility in selection and higher probability of adequate fit. The table has been taken from the latest version of the NIOSH Respirator Decision Logic, which has been a standard reference since its publication. Therefore, in terms of respirator selection the interim final rule is more appropriate and more protective than the HUD Guidelines.

Information and Training

Regarding employee information and training, the Guidelines require comprehensive training for everyone who may be potentially exposed to lead. As discussed previously, this provision, applied to the entire construction work force, would cover a large number of workers who encounter only minimal exposure. The OSHA general industry standard requires comprehensive training only for those workers who are exposed above the action level. The interim final standard has the same provision for comprehensive training; however, other training provisions are also included. First, all employees, regardless of exposure, are required by the Hazard Communication Standard (29 CFR 1926.59) to receive training regarding any hazardous materials, including lead, they may be exposed to at their work site. The interim final standard specifically incorporates this requirement by reference. Second, all construction employees are required to undergo training relevant to all the health and safety hazards of the workplace by the Safety Training and Education Standard (29 CFR 1926.21) which the interim final standard also incorporates by reference. In addition, for those tasks listed as likely to encounter high exposure levels, training in use of respirators is required automatically, until it is shown by monitoring results that exposures will not reach the level at which respiratory protection is necessary.

In view of the foregoing, OSHA believes that the interim final standard requires training as protective as that provided for in the HUD Guidelines.

III. Summary and Explanation of the Standard

As discussed earlier, OSHA believes that the intent of Congress' mandate, to a significant degree, was the issuance of a interim final standard that provided a level of protection to workers exposed to lead in construction equivalent to that afforded other lead workers under OSHA's general industry standard. To that end, the interim final construction standard incorporates many provisions as they are set-forth in the general industry standard. Although some provisions carried from the general industry standard into the interim rule are not adopted verbatim, the regulatory intent of the provisions in the rules is consistent. Thus, the discussion and justifications set forth in the preamble and supplements to the general industry standard (43 FR 52985) are applicable to the "Summary and Explanation" in this interim final rule. Provisions derived from the general industry standard and incorporated into the interim final standard include the following paragraphs of this rule: (b) Definitions; (c)(1),(2),(3), Permissible exposure limit; (d)(1),(3),(4),(5),(6),(7),(8), Exposure assessment; (e)(2)(i)-(v),(4) Methods of compliance; (f)(1)(i)-(iv),(2),(3),(4), Respiratory protection; (g)(1),(2), Protective work clothing and equipment; (h)(1),(2),(3),(4), Housekeeping; (i)(1),(2), Hygiene facilities and practices; (j)(1)(ii)-(iv),(2)(i)(B)-(C),(ii)-(iv),(3),(4), Medical surveillance; (k)(1)(ii)-(v),(2), Medical removal protection; (l)(1)(ii)-(iii),(2),(3), Information and training; (m)(1),(2), Signs; (n)(1),(2),(3),(5),(6), Recordkeeping; and (o)(1),(2), Observation of monitoring.

A. Scope and Application Paragraph (a)

This interim final lead standard for the construction industry applies to all occupational exposure to lead in all construction work in which lead, in any amount, is present in an occupationally related context. Exposure of employees to the ambient environment which may contain small concentrations of lead unrelated to the job is not subject to this standard; however, where the source of lead is employment related, all exposure to lead is covered by the standard. The forms of lead to which this construction standard applies is defined to include metallic lead, all inorganic lead compounds, and organic lead soaps.

Construction work is defined as work involving construction, alteration and/or repair, including painting and decorating. Such work includes but is not limited to: demolition or salvage of structures where lead or materials containing lead are present; removal or encapsulation of materials containing lead; construction, alteration, repair, or renovation of structures, substrates, or portions thereof, that contain lead, or

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materials containing lead; installation of products containing lead; lead contamination/emergency cleanup; transportation, disposal, storage, or containment of lead or materials containing lead on the site or location at which construction activities are performed; and maintenance operations associated with the construction activities described above. All construction work excluded from coverage in the general industry standard, section 1910.1025(a)(2), is covered by this interim final rule. OSHA intends that there should be no gaps and no overlaps between the two standards.

It should be recognized that although this standard may apply to a particular employer or workplace, almost all of the obligations in the standard are triggered by certain minimum levels of lead exposure. For example, the employer is required to provide requirements for periodic exposure monitoring and medical surveillance only if employees are exposed to airborne lead in excess of the action level. Employers whose employees are exposed below this level are not required to comply with most provisions of the standard. This distinction is made in order to differentiate between hazardous and relatively unhazardous work operations and to impose obligations commensurate to the degree of hazard present.

B. Definitions: Paragraph (b)

The terms "*Action Level*", "*Assistant Secretary*", "*Director*" and "*Lead*" in this interim standard are defined as set forth in 29 CFR 1910.1025.

"Action level" is defined as an airborne concentration of lead of 30 µg/m³ of air calculated as an 8-hour time-weighted average. Several provisions of the standard, such as periodic exposure monitoring, biologic monitoring and initial and annual employee training are triggered whenever exposure measurements reach or exceed the action level. For employees exposed to lead at or above the action level for more than 30 days per year, employers are also required to provide an ongoing medical surveillance program. Past experience with the action level concept in other OSHA standards has demonstrated its usefulness to employers as an objective means of determining whether compliance activities are required, thus relieving them of most compliance obligations where exposures are maintained below the action level.

Action levels are important because their use permits employers to concentrate their resources on those employees and workplace conditions with the potential for high lead exposures. Thus the action level in the interim standard provides for the most cost-effective means of employee protection. The action level provides a mechanism to tailor certain requirements of the standard to a minimum level of employee exposure to lead by triggering preventive action by the employer for employees who face exposure at or above that level. The use of the action level to trigger various provisions of the lead standard is consistent with other final OSHA health standards (e.g., the Lead standard for general industry, as well as Asbestos, 51 FR 22612, June 20, 1986; Benzene, 52 FR 34460, September 11, 1987; Formaldehyde, 52 FR 4668, December 4, 1987; Ethylene Oxide decision (796 F.2d 1479 (DC Cir., 1986) and, *Public Citizen Health Research Group* v. *Tyson*, 796 F.2d 1479 (DC Cir., 1986), and Acrylonitrile, 43 FR 45809, October 3, 1978).

This substantive consistency provides administrative consistency and continuity to employers in developing and implementing compliance strategies for this and other applicable OSHA health standards at individual worksites. In addition, use of an action level has been found to encourage employers, where feasible, to lower lead exposure levels to below the action level to avoid the added costs of required compliance with provisions triggered by the action level.

A definition of "*Competent person*" is included in this paragraph. Paragraph (e)(2)(iii) of the standard broadly establishes the duties of the "competent person." The duties and definition of the "competent person" under this standard are essentially identical to those already prescribed for construction work in 29 CFR 1926.20 and 29 CFR 1926.32, respectively, and are included in this section to primarily ensure that employers are aware of these existing requirements. Thus, no new burdens are imposed by the "competent person" provisions in this section. The term "competent person" means a person who is capable of identifying hazards and has authorization to take corrective measures to eliminate them. Compliance programs required to be developed by employers under paragraph (e) of this section must provide for inspections of job sites, materials, and equipment to be made by the "competent person" to achieve the duties of the competent person set forth in the definition.

C. Permissible Exposure Limit: Paragraph (c)

The employer is required to assure that no employee is exposed to lead at concentrations in excess of the PEL of fifty micrograms of lead per cubic meter of air (50 µg/m³). The PEL adopted in this interim rule is the same as the PEL provided for in OSHA's general industry lead standard (29 CFR 1910.1025). This is in accordance with Congress' intention, as expressed in the legislative history of the 1992 Act.

The PEL is an eight-hour average of exposure for any work day. If respiratory protection is permissibly being used to comply with this limit and all of the requirements relating to selection, fitting, and maintenance of respirators are met, the employee needs to wear the respirator only for a period of time that, when averaged with periods of time the respirator is not worn, will result in a TWA exposure to or below the PEL. For this purpose, the employee's exposure level when a respirator is worn may be considered to be the airborne concentration, without regard to the respirator, divided by the protection factor of the respirator. For example, if an employee is exposed to 100 ug/m³ for 8 hours without a respirator, he would have to wear a respirator with a protection factor of 10 for about 4.4 hours or with a protection factor of 50 for about 4.1 hours, in order to comply with the PEL.

Of course, a class of respirator more protective than required by paragraph (f) may be selected, and if selected, would reduce the amount of time a respirator would need to be worn.

OSHA recognizes that workshifts can extend beyond the regular 8-hour period as the result of overtime or other alterations of the work schedule. This extension of worktime also extends the time during which the employee is exposed. The effects of this additional exposure time must be considered in arriving at a permissible level of exposure. For the purpose of calculating such a level, the relationship of concentration and length of time of exposure has been assumed to be linear. As the exposure time increases, the factor of concentration multiplied by time (C × T) should remain constant. As a result, it is believed that by not exceeding the total allowable exposure of the 8-hour time-weighted average (8 hrs × 50 µg/m³=400), reasonable assurance of maintaining a safe exposure level is retained.

The interim final standard contains a formula by which adjustments to the permissible exposure limit can be made due to overtime. For example, if an

employee is exposed to lead for 10 hours, the permissible limit as a 10 hour average would be 400/10 or 40 µg/m³. This is the same formula used in the lead General Industry Standard to calculate the allowable exposure level for employees working beyond 8 hours in lead exposed jobs.

D. Exposure Assessment: Paragraph (d)

Each employer who has a workplace or work operation covered by this standard is required to determine if any employee may be exposed to lead at or above the action level of 30 µg/m³ as an 8-hour TWA. This initial determination need not be based exclusively on employee exposure monitoring. Where the employer has objective data demonstrating that under any expected conditions of use a particular product or material containing lead or a specific process, operation or activity involving lead cannot result in employee exposure to lead at or above the action level during processing, use, or handling, the employer may rely upon such data instead of implementing initial monitoring. The employer must establish and maintain a record documenting the nature and relevancy of the objective data (see paragraph (n)(4)). As is discussed elsewhere in this preamble, certain specified tasks are treated differently.

Where objective data as described above is not available to employers, employers must monitor employee exposures, except as noted below, and base initial determinations on the employee exposure monitoring results and any of the following relevant considerations: Any information, observations, or calculations which would indicate employee exposure to lead; any previous measurements of airborne lead; and any employee complaints of symptoms which may be attributable to exposure to lead.

Historical measurements of airborne lead may be used to satisfy the initial exposure assessment requirement if all the requirements of (d)(3)(iii) are met. OSHA has included this provision to allow employers who have been conducting relevant exposure monitoring on construction sites to use such data for current construction jobs that are substantially similar to previous jobs for which monitoring was conducted.

However, such monitoring data must have been obtained from projects conducted by the employer within the past 12 months under conditions which in all relevant and significant respects are essentially the same as the current project. These conditions include the following:

(1) The data upon which employee exposure assessments are based are scientifically sound and collected using methods that are sufficiently accurate and precise.

(2) The processes and work practices in use when the historical data were obtained are essentially the same as those to be used during the job for which initial monitoring will not be performed.

(3) The characteristics of the lead containing material being handled when the historical data were obtained are essentially the same as those on the job for which initial monitoring will not be performed.

(4) Environmental conditions prevailing when the historical data were obtained are essentially the same as for the job which initial monitoring will not be performed.

OSHA believes that if an employer has previous monitoring data that meet all these conditions, these data can be reasonably assumed to be representative of employee exposures that will be encountered on a new construction site. The employer must develop and maintain a record of the relevancy of previous exposure data if used for the initial exposure assessment. These provisions are set-forth in paragraph (d)(3)(iii) of this section.

The initial monitoring requirement only requires monitoring of a representative sample of the employees believed to have the highest exposure levels. If these measurements indicate exposures are all below the action level no further monitoring is required except where subsequent process or control changes would trigger a redetermination pursuant to paragraph (d)(8) due to additional employee exposure. If any employee is determined to be at or above the action level, then full-scale representative monitoring for all exposed employee is required as set-forth in paragraph (d)(4) of this section. However, under paragraph (d)(4)(ii) historical exposure monitoring data, which is permitted to be used to assess whether exposures are either above or below the action level, as discussed above, can also be used to satisfy the determination of the level of exposure that employees will be subject to above the action level.

In conducting the monitoring of employee exposures under paragraph (d)(4), the standard does not require that each individual employee's exposure level be measured. In establishments having more than one work operation involving the use of lead, in order for monitoring to be representative, it must be performed for each type of employee exposure within each operation. An employer, of course, is allowed to take individual exposure measurements of each of his employees. Representative monitoring merely establishes the minimum that the employer must meet.

All exposure monitoring performed pursuant to this section must consist of personel breathing zone samples which are representative of the monitored employee's regular, daily exposure to lead over a full shift and which must consist of at least one sample for each job classification in each work area either for each shift or for the shift with the highest exposure level. The exposure data may be collected during a single shift only if the activities in the other shifts are essentially the same as that shift.

The purposes served by air sampling for employee exposures include: Determination of the extent of exposure at the worksite; prevention of employee overexposure; identification of the sources of exposure to lead; collection of exposure data so that the employer can select the proper control methods to be used; and evaluation of the effectiveness of selected controls. Monitoring further enables employers to notify employees of their exposure levels, as required by section 8(c)(3) of the Act.

Required periodic monitoring provides the employer with assurance that employees are not experiencing higher exposures that may require the use of additional controls. In addition, periodic monitoring reminds employees and employers of the continued need to protect against the hazards associated with exposure to lead.

The collection of exposure monitoring data also enables an examining physician to be informed of the existence and extent of potential sources of occupational diseases.

The results of initial and periodic monitoring determine whether subsequent monitoring is necessary. Exposure monitoring is important not only to determine the level of lead to which employees are exposed and the frequency at which employees should be monitored, but also determine whether other protective provisions of the standard need to be implemented.

Where exposure monitoring is required under this standard samples must be taken within the employee's breathing zone (i.e., personal samples) and must reflect the employee's exposure, without regard to the use of respirators, to airborne concentrations of lead over an eight-hour period. A full description of "Breathing zone" is provided in the OSHA Instruction CPL 2–2.20B, CH–1, Nov. 13, 1990, Directory of Technical Support, Basically, it

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encompasses a sampling area as close as practical to the nose and mouth of the employee.

If the initial determination or subsequent determination reveals employee exposure to be at or above the action level but at or below the PEL the employer is required to perform monitoring at least every 6 months. The employer must continue monitoring at the required frequency until at least two consecutive measurements, taken at least 7 days apart, are below the action level at which time the employer may discontinue monitoring for that employee.

If the initial determination reveals that employee exposure is above the PEL the employer must perform monitoring at least quarterly. The employer must continue monitoring at the required frequency until at least two consecutive measurements, taken at least 7 days apart, are at or below the PEL but at or above the action level at which time the employer shall repeat monitoring at least every 6 months.

Within 5 working days after completion of the exposure assessment, the employer is required to notify each employee in writing of the results which represent that employee's exposure. Whenever the results indicate that the representative employee exposure, without regard to respirators, is at or above the PEL, the employer shall include in the written notice a statement that the employees exposure was at or above that level and a description of the corrective action taken or to be taken to reduce exposure to below that level. Section 8(c)(3) of the Act requires employee notification of monitoring results which reveal excess exposures to toxic substances, and requires employers to also notify affected employees of corrective actions that will be taken to reduce exposures.

Where monitoring is required under this standard the employer must use a method of monitoring and analysis which has an accuracy (to a confidence level of 95%) of not less than plus or minus 25 percent for airborne concentrations of lead equal to or greater than 30 $\mu g/m^3$. This accuracy requirement is consistent with the most recent criterion established under the NIOSH/OSHA Standards Completion Program with regards to monitoring and analyses of airborne lead concentrations.

As discussed earlier, OSHA is aware that in many instances in the construction industry the exposure assessment required under this standard will not be completed until after lead operations have begun or even ended (i.e. exposure monitoring usually must be conducted during actual performance of the lead activity in order to be representative). Thus, employees performing certain tasks which will generate airborne lead due to the presence of lead either in paint or in other materials being worked on, might be exposed without protection to some unknown, and potentially high concentrations of lead, pending the outcome of the exposure assessment. The Lead Workgroup of the Department of Labor's Advisory Committee on Construction Safety and Health (ACCSH), which was consulted by OSHA in development of this standard expressed concern to the Agency regarding this issue. The ACCSH Workgroup comprised of representatives from labor, industry, state government, and the public, recommended that some degree of interim protection, pending completion of the exposure assessments, should be provided to employees performing activities which are recognized as having the potential to produce exposures to lead in excess of the PEL. The Agency agrees with the ACCSH Workgroup that the need for interim employee protection should be presumed necessary for certain tasks until demonstrated otherwise. The Workgroup indicated that minimal interim protective measures, pending completion of the exposure assessment, should include provision of respirators, protective clothing and equipment, hygiene facilities, training, and biological monitoring.

The list of lead-related tasks/operations that have been developed by OSHA are based on available exposure data and recommendations of SOEH and the Workgroup, and are grouped by the presumed degree of overexposure to lead and, therefore, are differentiated by the type of respirator to be provided. One group of tasks/operations presumes employee exposures above the PEL, but not so high as to require the employer to provide the employee with more than the least protective, allowable respirator (e.g. a respirator with a protection factor of 10). The second task group presumes employee exposure above 500 $\mu g/m^3$ and requires the employer to provide the employee with a respirator with a protection factor of at least 25. The third task group presumes very high exposures to lead (in excess of 2500 $\mu g/m^3$) and, therefore, requires the employer to provide the employee with a respirator permitted by the standard for use during that exposure condition (e.g a respirator with a protection factor above 50).

The tasks identified as requiring interim worker protection are briefly described below.

Abrasive blasting: Removes scale, paint, and dirt from surfaces prior to repainting; abrasive media includes sand, steel grit, steel shot, aluminum oxide, "Black Beauty" (processed boiler slag, and others).

Welding, cutting and burning on steel structures: Involves the process of heating coated steel to its melt temperature typically by using an oxy-acetylene torch or an arc welder.

Lead burning: Involves torch melting or fusing of lead or alloyed lead to another lead object.

Manual scraping and sanding: Associated with lead paint removal and involves the application of hand-held scraping or sanding tool to the painted surface containing lead.

Manual demolition of structures: Involves removal of walls (plaster, gypsum) or building components coated with lead based paint by sledge hammer or similar tool.

Heat gun application: Involves use of a heat gun that produces a stream of hot air which is directed to surfaces to melt lead paint which is subsequently scraped off.

Using lead containing mortar: Typically used in high pressure acid tanks lined with specialized tile or lead brick held in place with specialized lead-containing mortar or grout; these tank linings periodically require repainting, repairing or relining involving lead containing mortar.

Abrasive blasting enclosure movement and removal: Involves movement and removal of blasting enclosure or containment units as work proceeds on structures; such units are often comprised of flexible nylon, plastic or burlap tarpaulins upon which lead dust will accumulate and be reentrained when movement of the structure occurs.

Power tool cleaning: Involves the use of power tools (grinders, brushes, needle guns, sanders, etc.) to remove dirt, scale, or paint from structures where lead based paint is present.

Rivet busting: Involves removal of rivets from steel structures where lead containing paints are present; rivet busting can involve use of torches and mechanical means for rivet extraction.

Cleanup activities where dry expendable abrasives are used: Pertains to the use of non-recycled dry abrasives during abrasive blasting operations on structures where lead containing paint is found.

The requirements regarding interim employee protection during performance of these specific tasks, when lead is involved typically as in a paint or coating, are discussed below.

Paragraph (d)(2)(i) includes a listing of the following tasks which are presumed to frequently entail lead exposure levels above the PEL: Where lead containing coatings or paint are present; manual demolition of structures (e.g. dry wall), manual scraping, manual sanding, heat gun applications, and power tool cleaning with dust collection systems; and spray painting with lead based paint. With respect to these tasks, paragraph (d)(2)(i) requires that, until the employer performs an employee exposure assessment as required in paragraph (d) of this section and documents that the employee performing any of the listed tasks is not exposed above the PEL, the employer must treat the employee as if the employee were exposed above the PEL by providing the protective measures as prescribed in paragraph (d)(2)(v) of the standard (discussed below).

In addition, with regard to tasks not listed in paragraph (d)(2)(i), paragraph (d)(2)(ii) requires that where the employer has any reason to believe that an employee performing a task may be exposed in excess of the PEL, until the employer performs an employee exposure assessment as required by paragraph (d) and documents that the employee's lead exposure is not above the PEL, the employer must treat the employee as if the employee were exposed above the PEL by providing the protective measures as prescribed in paragraph (d)(2)(v) of this standard.

Paragraph (d)(2)(iii) includes a listing of the following tasks: Using lead containing mortar; lead burning; rivet busting; power tool cleaning without dust collection systems; cleanup activities where dry expendable abrasives are used; and abrasive blasting enclosure movement and removal. With respect to these tasks, paragraph (d)(2)(iii) requires that until the employer performs an employee exposure assessment as required in paragraph (d) of this section and documents that the employee performing any of the listed tasks is not exposed in excess of 500 $\mu g/m^3$, the employer must treat the employee as if the employee were exposed to lead in excess of 500 $\mu g/m^3$ by providing the protective measures prescribed in paragraph (d)(2)(v) of this section. Where the employer has established that employee exposure is at or below 500 $\mu g/m^3$ during these tasks, a less protective respirator, in accordance with Table 1 of this section, shall be provided as protection.

Paragraph (d)(2)(iv) includes a listing of the following tasks which are presumed to frequently entail exposures to lead above 2,500 $\mu g/m^3$: Abrasive blasting, and welding, cutting, and torch burning on steel structures where lead containing coatings or paint are present.

With respect to these tasks, paragraph (d)(2)(iv) requires that until the employer performs an employee exposure assessment as required in paragraph (d) and documents that the employee performing any of the listed tasks is not exposed to lead in excess of 2,500 $\mu g/m^3$ (50 × PEL), the employer must treat the employee as if the employee were exposed to lead in excess of 2,500 $\mu g/m^3$ by providing the protective measures prescribed under paragraph (d)(2)(v) of the standard. Where the employer has established that the employee is exposed to levels of lead below 2,500 $\mu g/m^3$ during these tasks, the employer shall provide the exposed employee with a less protective respirator in accordance with Table I of this section.

Paragraph (d)(2)(v) of the standard sets forth the interim protective measures that employers must implement during performance of the tasks discussed above at least until an exposure assessment as prescribed in paragraph (d) of the standard is completed.

These protections are required when an employee performs a specified task where lead is present. Interim protection to be provided to affected employees includes: (1) Appropriate respiratory protection in accordance with paragraph (f) of the standard; (2) appropriate personal protective clothing and equipment in accordance with paragraph (g) of the standard; (3) change areas in accordance with paragraph (i)(2) of the standard; (4) hand washing facilities in accordance with paragraph (i)(5) of the standard; (5) biological monitoring in accordance with paragraph (j)(1)(i) of the standard; and (5) training as required under paragraph (l)(1)(i) of the standard, which incorporates the relevant requirements of 29 CFR 1926.59 (Hazard Communication), as required under 29 CFR 1926.21 (Safety training and education), and as required under paragraph (l)(2)(ii)(c) of the standard regarding the purpose, selection, fitting, use and limitation of respirators.

It should be noted that the interim respiratory protection required to be provided to employees performing the tasks listed above is based on a presumed 8-hour exposure period. Where the tasks listed above are performed for lesser periods than 8-hours, the employer may be able to provide a less protective respirator if compliance with the PEL as an 8-hour TWA can be achieved.

E. Methods of Compliance: Paragraph (e)

The interim final standard requires employers to institute engineering and work practice controls to the extent feasible to reduce exposures to or below the PEL. Where all feasible engineering and work practice controls that can be instituted are not sufficient to reduce employee exposure to or below the PEL, appropriate respiratory protection is required to be provided as a supplement to such controls to reduce employee's exposures to lead to or below the PEL.

OSHA thus continues to maintain its preference for engineering and work practice controls in this standard. However, in the construction industry generally based on available data, OSHA is unable to show for purposes of this interim final rule that the PEL can be achieved by engineering and work practice controls in most operations most of the time. Consequently, as Congress anticipated, OSHA expects employers to place broader reliance on respirators than in General Industry.

The standard has a requirement for the development and implementation of a written compliance plan prior to the commencement of the job where employee exposure to lead, without respect to respiratory protection, will be in excess of the PEL. The plan should be a written strategy and schedule for protecting workers from occupational hazards, and must incorporate all relevant information that relates to those goals, so that one could determine whether the employer reasonably analyzed the problems and their solutions, including alternatives and has implemented the plan in accordance with its schedules.

These written plans must be furnished upon request for examination and copying to affected employees and their designated representatives and to representatives of the Assistant Secretary and the Director. They must be reviewed and updated periodically at least every 6 months to reflect the current status of exposure control. OSHA views the requirement for written plans as an essential part of the compliance program since it will form the basis for determining the employer's ability to achieve the controls and provide the necessary documentation to employees and their designated representatives of the compliance methods chosen, the extent to which controls have been instituted, and of the plans to institute further controls.

Where mechanical ventilation is used to control employee exposure to lead, the employer is required to evaluate the performance of the system in controlling

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exposure as necessary to maintain its effectiveness.

Finally, the standard requires that when administrative controls are used to lower employee exposure, a rotation schedule is to be kept and followed and made a part of the written compliance plan. This will enable affected employees and OSHA to determine the effectiveness of the administrative control program.

F. Respiratory Protection: Paragraph (f)

This section contains specific requirements for the usage, selection, maintenance, and fitting of respirators.

The interim final standard, requires that respirators be used whenever the concentration of lead is at or above the PEL, in work situations in which engineering and work practice controls are not sufficient to reduce exposures to or below the PEL, or whenever an employee requests a respirator. This last requirement is to provide protection for those employees who wish to reduce their lead burden below what is required by the interim standard. For example, male and female workers whose blood lead levels are in the 30–50 µg/100g range may desire increased protection, especially if they intend to parent in the near future.

Because of the discomfort and hazards associated with negative pressure respirators, coupled with the possibility of routine and long-term use in some industries, OSHA has required employers to provide powered, air purifying (positive pressure) respirators (PAPR) to employees who request one, so long as it will provide adequate protection against the hazard for which a respirator is worn. Powered air positive-pressure respirators simultaneously provide greater protection to individuals, especially those who cannot obtain a good face fit on a negative pressure respirator, and greater comfort when a respirator needs to be worn for long periods of time. OSHA believes employees will have a greater incentive to wear respirators if discomfort is minimized.

The standard requires the employer to provide respirators at no cost to the employee and to select respirators from those approved by MSHA or NIOSH under the provisions of 30 CFR part 11 and in accordance with the respirator selection table (Table I) set-forth in the standard. The respirator selection table will enable the employer to provide the type of respirator which affords the proper degree of protection based on the airborne concentration of lead. While the employer must select the appropriate respirator from the table on the basis of the airborne concentration of lead, the employer may always select a respirator providing greater protection, that is, one prescribed for higher concentration of lead than present in the workplace. The respirator table is based on NIOSH recommendations.

The standard requires that the employer institute a respirator program in accordance with 29 CFR 1910.134 which contains basic requirements for proper selection, use, cleaning and maintenance of respirators. Under the respirator program the employer must change the filter elements of filter respirators whenever an employee detects an increase in breathing resistance, and must permit employees to leave work areas to wash their face and respirator facepiece when necessary to prevent skin irritation associated with respirator use.

The employer is also required to assure that the respirator facepieces fit properly and exhibit minimum facepiece leakage. Proper fit of the respirator is critical. As a negative pressure is created within the facepiece when the wearer inhales, unfiltered air may enter the facepiece between the facepiece and the employees' face. Obtaining a proper fit on each employee may require the employer to provide two or three different mask styles.

Employers are required to perform either quantitative or qualitative face fit tests at the time of initial fitting and at least every six months thereafter for each employee wearing negative pressure respirators. The qualitative fit tests may be used only for testing the fit of half-mask respirators where they are permitted to be worn, and must be conducted in accordance with appendix D. The tests are to be used to select facepieces that provide the required protection as prescribed in the respirator selection table included in the standard (Table I).

G. Protective Clothing and Equipment: Paragraph (g)

This paragraph contains requirements that the employer provide, at no cost to employees, protective clothing and equipment that are appropriate for the hazard. Such clothing and equipment is necessary in order to protect employees from lead compounds which may cause skin or eye irritation (e.g., lead arsenate, lead azide) where encountered and, for employees who are exposed to lead above the PEL, to assure that clothing, shoes, and equipment on which lead dust can accumulate during the work shift are not worn home. Wearing contaminated clothing outside the work place will lengthen the duration of the employee's exposure through both inhalation and ingestion routes and potentially expose others in the family.

Clean work clothing is required to be provided at least weekly to employees whose exposure levels are above the PEL and daily to those above 200 µg/m³ as an 8-hour TWA. The employer must also repair or replace required protective clothing and equipment as needed to maintain its effectiveness. Removal of lead from protective clothing or equipment by blowing, shaking, or other means which disperses lead into the air is prohibited in order to minimize secondary exposure to lead in work areas.

The employer is required to provide for the cleaning, laundering, or disposal of protective clothing and equipment and must repair or replace required protective clothing and equipment as needed to maintain its effectiveness. The employer must assure that all protective clothing is removed at the completion of a work shift only in change areas provided for that purpose and must assure that contaminated protective clothing which is to be cleaned, laundered, or disposed of, is placed in a closed labelled container in the change area.

The employer must also inform in writing any person who cleans or launders protective clothing or equipment of the potentially harmful effects of exposure to lead. These requirements regarding personal protective equipment and clothing are commonplace in OSHA standards.

H. Housekeeping: Paragraph (h)

The interim standard requires that all surfaces be maintained as free as practicable of accumulation of lead dust. This is to be accomplished primarily by vacuuming floors, rafters, and other surfaces or by methods equally effective in preventing the dispersal of lead into the workplace. This clean-up is an exceptionally important provision because it minimizes the reentrainment of lead dust into the air which can provide an additional source of exposure that engineering controls are generally not designed to control.

OSHA's view is that as rigorous a housekeeping program as practicable is necessary in many jobs to keep airborne lead levels below permissible limits. This contemplates a regular housekeeping schedule adapted to exposure conditions at a particular site.

Vacuuming is considered to be the most reliable method of cleaning surfaces on which dust accumulates, but equally effective methods may be used, for example, a wet floor scrubber. Where vacuuming methods are selected, the vacuums must be equipped with HEPA filters. Dry or wet sweeping, shoveling, or brushing may not be used except where vacuuming or other equally effective methods have been tried and do not work.

Blowing with compressed air is generally prohibited as a cleaning method, unless the compressed air is used in conjunction with a ventilation system designed to capture the airborne dust created by the compressed air.

I. Hygiene Facilities: Paragraph (i)

This paragraph requires employers to provide hygiene facilities and to assure employee compliance with basic hygiene practices. These provisions are universally recognized industrial hygiene tools for minimizing additional sources of lead absorption from inhalation or ingestion of lead that accumulates on a worker's clothes or body. The employer must provide adequate shower facilities, if feasible, clean areas for changing clothes, and eating areas for employees who have exposure above the PEL. Hand washing facilities are to be provided for all employees occupationally exposed to lead in accordance with 29 CFR 1926.51(f). In addition, employers must assure that employees use the facilities as required by the standard as well as observe prohibitions on the use of tobacco, food, and cosmetics in contaminated areas. OSHA expects that strict compliance with these provisions will control several sources of lead exposure which substantially contribute to increased lead absorption.

The interim final standard requires employers to prohibit smoking, eating, applying cosmetics and the presence of tobacco products, food stuffs, or cosmetics in all work areas where employees are exposed to lead above the PEL. This prohibition will prevent unnecessary contamination of food or tobacco products caused by exposure to lead dust or fumes within the work area. It also decreases the likelihood of lead absorption in employees due to ingestion or inhalation of products contaminated with lead within the work environment.

The standard requires employers to provide separate storage facilities in change areas for street and work clothing to prevent cross-contamination between the two. This provision coupled with showering, where feasible, and the prohibition on wearing work clothing home will minimize employee exposure to lead after the work shift ends because it limits the period in which work clothes contaminated with lead dust may be worn.

Employers are also required to assure that employees exposed to lead during their work shift shower before leaving the workplace, where showers are provided, and do not leave wearing protective work clothing. Showering reduces the worker's period of exposure to lead and removes lead particles which accumulate on the skin and hair. Employees are not permitted to leave the worksite wearing any protective work clothes or equipment required to be provided by the employer.

The interim final standard also requires employers to provide employees working in lead areas where their airborne exposures exceed the PEL with lunchroom facilities or eating areas which are as free as practicable from lead contamination and are readily accessible to employees. Employers must also assure that employees wash their hands and face prior to eating or smoking and do not enter the lunchroom facilities or eating area wearing protective clothing, unless properly cleaned beforehand. This is to further minimize the possibility of food contamination and reduce the likelihood of additional lead absorption from contaminated food, beverages or tobacco.

J. Medicol Surveillance: Paragraph (j)

The medical surveillance provisions are part of this standard's comprehensive approach to prevention of lead-related disease. Its purpose is to supplement the standard's primary mechanisms of disease prevention, the elimination or reduction of airborne concentrations of lead and sources of ingestion, by facilitating the early detection of medical effects associated with exposure to lead. These provisions in most respect are very similar to parallel provisions in the HUD Guidelines and lead standard for general industry.

All medical examinations and procedures are to be performed by or under the supervision of a licensed physician and are to be provided without cost to employees at a reasonable time and place. The standard does not make participation in the medical surveillance program mandatory for the employee. The employer's obligation is to "provide" and "make available" the medical tests and procedures as required. Where employee confidence in the medical program exists, refusal to participate should be minimal.

The medical surveillance provisions contemplate two phases of medical surveillance: one is initial medical surveillance, the other is a medical surveillance program. The employer is required to provide initial medical surveillance to employees occupationally exposed to airborne concentration of lead on any one day at or above the action level, consisting of biological monitoring in the form of blood sampling and analysis for lead and zinc protoporphyrin levels. Where this initial biological monitoring indicates that an employee's blood lead level is at or above 40 µg/dl, the employer must continue to provide biological monitoring at least every two months. The frequency is to continue until two consecutive blood samples and analyses indicate that the employee's blood lead level is below 40 µg/dl.

If an employee's airborne lead exposure is at or above the action level for more than 30 days a year, the employer shall provide a medical surveillance program to the employee consisting of routine monitoring of an employee's blood lead and ZPP levels, made available at least every 2 months for the first 6 months in the exposed job and every 6 months thereafter. If an employees PbB exceeds 40 µg/dl, the monitoring frequency must be increased to at least every 2 months and not reduced until two consecutive PbB's are below 40 µg/dl. If PbB levels exceed the removal criteria under paragraph (k)(1)(i), a second PbB must be provided within 2 weeks after the employer receives the results of the first blood test to confirm the accuracy of the results. This follow-up is intended to assure that no unnecessary removals occur. If the second test exceeds the removal criterie then the employee must be removed. Blood lead level sampling and analysis must have an accuracy (to a confidence level of 95 percent) within plus or minus 15 percent or 6 µg/dl, whichever is greater, and must be conducted by a laboratory approved by OSHA.

Within five working days after the receipt of biological monitoring results, the employer is to notify each employee in writing of his or her blood lead level. The employer must notify each employee who underwent biological monitoring whose blood lead level exceeds 40 µg/dl, that the standard requires temporary medical removal with Medical Removal Protection benefits when an employee's blood lead level exceeds the numerical criterion for medical removal.

The employer's obligation to provide a full medical surveillance program to an employee, including annual medical exams, is triggered by a determination that the employee's blood lead level exceeds 40 µg/dl if the employee's airborne exposure is or may be at or

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above the action level for more than 30 days a year.

The required examination includes a work history and medical history; a physical examination; determinations of blood lead level (PbB), hematocrit, hemoglobin, peripheral smear morphology and red cell indicus; levels of zinc protoporphyrin (ZPP), routine urinalysis (specific gravity, sugar, protein determinations, and microscopic examination), blood urea nitrogen (BUN), and serum creatinine (S-Creat).

Medical consultations, with examinations as appropriate, are required to be provided upon notification by an employee (1) that the employee has developed symptoms commonly associated with lead-related disease, (2) that the employee desires advice concerning the effects of lead on reproductive capacity, and (3) that the employee has demonstrated difficulty in breathing during fit testing or use of a respirator. Additional examinations must be made available when an employee is removed from exposure or otherwise limited under paragraph (k) of the regulation. The content and frequency of these examinations is to be at the discretion of the physician. Upon request of an employee, however, a pregnancy test or male fertility test (at a minimum analyzing sperm number, motility, and morphology) must be provided. These tests will facilitate the protection of reproductive capacity.

The employer must make medical examinations and consultations available to each employee exposed to lead at or above the action level for more than 30 days per year on the following schedule: at least annually for those employees for whom a blood sampling test conducted at any time during the preceding 12 months indicated a blood lead level at or above 40 µg/dl; as soon as possible, upon notification by an employee either that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice concerning the effects of current or past exposure to lead on the employee's ability to procreate a healthy child, that the employee is pregnant, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during use; and as medically appropriate for each employee either removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited pursuant to a final medical determination.

The medical surveillance provisions of the final standard contain a multiple physician review mechanism which gives workers an opportunity to obtain a second and possibly third opinion regarding the medical determinations made pursuant to the standard. An employee may designate a second physician to review any findings, determinations or recommendations of an initial physician chosen by the employer. Efforts are to be made to resolve any disagreement which may arise between the two physicians. Should they be unable to agree, a third physician they select will resolve the disagreement.

OSHA's reasons for the provision of this review process are twofold: first, to broaden and strengthen the basis for medical determinations in situations where a worker questions the results of the initial examination or consultation provided by the employer; and second, to assure employee confidence in the soundness of medical determinations made pursuant to the standard. OSHA views the multiple physician review mechanism as an important element of the lead standard's medical surveillance program both due to the importance attached to medical surveillance by the Act, and due to the crucial role medical surveillance will play in the operation of the standard's medical removal protection program.

Medical surveillance, as under the HUD Guidelines and OSHA lead standard, must be provided by employers without cost to employees. Since the multiple physician review mechanism will be one means by which medical surveillance is provided to an employee, employers must bear the expense of this mechanism when it is used. In practice, the costs of this mechanism should not be burdensome, particularly since employers will have substantial control over the frequency of its use. Where employers carefully structure and administer medical surveillance programs which engender, merit and maintain worker confidence, workers will see no need to seek a second medical opinion.

The multiple physician review mechanism commences after an initial medical examination or consultation provided by a physician chosen by the employer. OSHA recognizes the value to employers and employees alike of having the mechanism operate in an expeditious fashion, and thus has established explicit criteria for the beginning of the process. After an initial physician conducts an examination or consultation pursuant to the standard, the employer must promptly notify the employee of his or her right to seek a second medical opinion. This notification need be no more than an oral reminder of the existence and content of this multiple physician review mechanism. After this notification has been given, an employer may condition employee participation in, and payment for, the mechanism upon the employee acting within 15 days after receipt of the foregoing notification, or receipt of the physician's written opinion, whichever is later. Before or within this 15-day period the employee must inform the employer (orally or otherwise) that the employee intends to seek a second medical opinion. The employee must also initiate steps within this time to make an appointment with a second physician. These steps would include actually making an appointment or contacting a physician with the request that a referral to a specialist be arranged.

The standard contains no more limitation upon an employee's choice of a second physician than the standard places on an employer's choice of the initial physician. The second physician, like the initial physician, need only be licensed to practice medicine. There is no subspecialty of medicine solely concerned with lead-related diseases, and since lead-related diseases affect numerous systems of the body, it would not be appropriate to limit the choice of doctors to any one specialty. It is certainly to an employee's advantage to choose a competent physician, thus OSHA relies on this self-interest to assure the value of the second opinion. For example, where an employee's difference with the initial physician revolves around a particular body system—e.g., nervous system—it is likely that the employee will choose a specialist in that body system—e.g., a neurologist. Where, however, the dispute revolves around several body systems, or the employee cannot identify one specific system, the employee will likely choose the general practitioner or internist most familiar with the employee's medical history or current health status.

The standard provides that the second physician shall review any findings, determinations or recommendations of the initial physician, and may conduct such examinations, consultations and laboratory tests as the second physician deems necessary to facilitate this review. An additional provision in the standard requires the employer to supply the same information to the second physician upon request that must be supplied to an initial physician. The second physician, therefore, is provided an opportunity to fully assess the employee's health status with access to the same background information supplied to the initial physician.

If the second physician's findings, determinations and recommendations are the same as those of the initial physician, then the multiple physician review process comes to an end. If, however, the opinions of the two physicians are in conflict, then the standard provides that the employer and the employee shall assure that efforts are made for the two physicians to communicate with each other to resolve their differences. This professional interaction among peers should in most cases resolve any differences between the two physicians. The preceding elements of the multiple physician review mechanism assure that if differences of opinion remain, these differences are likely to be genuine and substantial.

Where the first two physicians have been unable to quickly resolve any differences of opinion with respect to an employee, then it is necessary for a third qualified physician to resolve the dispute. It is important that this third physician be competent to resolve the dispute, thus the standard provides that the third physician shall be designated by the employer and the employee jointly through their respective physicians. It is the responsibility of the employer and the employee to assure that a third physician is selected, but the selection is to be made by the two prior physicians.

The standard provides the third physician with full opportunity to review the findings, determinations, and recommendations of the prior physicians by conducting such examinations, consultations, and laboratory tests as the third physician deems necessary. The standard incorporates the expectation that the third physician will consult with the two prior physician, and upon request, the employer must supply the same information to the third physician given to the initial physicians. The third physician is required to provide a written medical opinion to the employer, which will operate to resolve the disagreement between the earlier physicians. The standard finally requires the employer to act in a manner consistent with the findings, determinations, and recommendations of the third physician, unless the employer and the employee reach an agreement which is otherwise consistent with the recommendations of at least one of the three physicians.

The medical surveillance section of the standard includes a provision stating that the employer and employee or authorized employee representative may agree upon the use of any alternate physician determination mechanism in lieu of the multiple physician review mechanism. The only conditions are that the alternate mechanism be as expeditious and protective as the multiple physician review mechanism. For example, the parties might decide, in cases of dispute, for an employee to go directly from an initial physician chosen by the employer to an agreed upon final physician—thus dispensing with the need for a second physician. Alternately, a mutually agreed upon physician might be used in the first instance without recourse to other physicians. Or, an employee might be given the opportunity to choose this final physician. OSHA desires to encourage employers and employees to adopt medical determination procedures in which all parties have trust and confidence.

The interim final standard prohibits prophylactic chelation of any employee by any person the employer employs, retains, supervises, or controls, and requires the employer to assure that any therapeutic or diagnostic chelation, if administered, is done under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring. In cases where the examining physician determines that chelation is appropriate, the employee must be notified of this fact before such treatment. This is to inform the employee that chelation can be a potentially harmful treatment, and will afford the employee the opportunity to seek the review of this determination by another physician.

K. Medical Removal Protection: Paragraph (k)

The employer is required to remove an employee from work having an exposure to lead at or above the action level on each occasion that a periodic and a follow-up blood sampling test indicate that the employee's blood lead level is at or above 50 µg/dl. Although OSHA's General Industry Standard (1910.1025) requires removal based on the average of three blood tests indicating blood leads in excess of 50 µg/dl, OSHA believes that the length of time associated with taking these three tests (up to four months) would not be appropriate for activities in construction which often will not last 4 months. The provisions for blood testing under this construction standard to determine whether removal is necessary, would be accomplished within a much shorter period (e.g., a periodic test revealing blood lead above 50 µg/dl requires a follow-up test within 2-weeks). OSHA further believes that this more stringent requirement for removal based on fewer blood tests is warranted in view of the high airborne lead exposures that construction workers have been permissibly exposed to (e.g., 200 µg/m³).

The employer must also remove an employee from work having an exposure to lead at or above the action level on each occasion that a final medical determination results in a medical finding, determination, or opinion that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead. The phrase "final medical determination" means the written medical opinion on the employee's health status by the examining physician or, where relevant, the outcome of the multiple physician review mechanism or alternate medical determination mechanism.

Where a final medical determination results in any recommended special protective measures for an employee, or limitations on an employee's exposure to lead, the employer must implement and act consistent with the recommendation.

For an employee removed from exposure to lead at or above the action level due to a blood lead level at or above 50 µg/dl the employer may return that employee to former job status when two consecutive blood sampling tests indicate that the employee's blood level is at or below 40 µg/dl. For an employee removed from exposure to lead due to a final medical determination, the employee must be returned when a subsequent final medical determination results in a medical finding, determination, or opinion that the employee no longer has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

The requirement that an employer return an employee to his or her former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

Thus, for example, where an employee's job is concluded while the employee is on medical removal, the employee is not entitled to continuing MRP benefits or to the job since, if the employee had not been removed, the employment would have ended in any case.

The employer shall remove any limitations placed on an employee or end any special protective measures provided to an employee pursuant to a final medical determination when a

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subsequent final medical determination indicates that the limitations or special protective measures are no longer necessary.

Where the multiple physician review mechanism, or alternate medical determination mechanism used pursuant to the medical surveillance provisions has not yet resulted in a final medical determination with respect to an employee, the employer may either remove the employee from exposure to lead, provide special protective measures to the employee, or place limitations upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status. In such circumstances, the employer may return the employee to his or her former job status, end any special protective measures provided to the employee, and remove any limitations placed upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status, unless the initial removal, special protection, or limitation of the employee resulted from a final medical determination which differed from the findings, determinations, or recommendations of the initial physician or the employee has been on removal status for the preceding eighteen months due to an elevated blood lead level.

If a removed employee files a claim for workers' compensation payments for a lead-related disability, then the employer must continue to provide medical removal protection benefits pending disposition of the claim. To the extent that an award is made to the employee for earnings lost during the period of removal, the employer's medical removal protection obligation may be reduced by such amount. The employer may not receive credit for workers' compensation payments received by the employee for treatment related expenses. The employer's obligation to provide medical removal protection benefits to a removed employee may be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program, or receives income from employment with another employer made possible by virtue of the employee's removal.

For employees removed from exposure to lead due to an elevated blood lead level whose blood lead level has not declined within the past eighteen (18) months of removal to allow the employee to be returned to his or her former job status, the employer must make available to the employee a medical examination to obtain a final medical determination with respect to the employee. The employer must also assure that the final medical determination obtained indicates whether or not the employee may be returned to his or her former job status, and if not, what steps would be taken to protect the employee's health. Further, where the final medical determination has not yet been obtained, or once obtained indicates that the employee may not yet be returned to his or her former job status, the employer must continue to provide medical removal protection benefits to the employee until either the employee is returned to former job status, or a final medical determination is made that the employee is incapable of ever safely returning to his or her former job status.

Finally, where the employer acts pursuant to a final medical determination which permits the return of the employee to his or her former job status despite what would otherwise be an unacceptable blood lead level, later questions concerning removing the employee again must be decided by a final medical determination. The employer, however, need not automatically remove such an employee pursuant to the blood lead level removal criteria provided in the standard.

Where an employer, although not required by this section to do so, removes an employee from exposure to lead or otherwise places limitations on an employee due to the effects of lead exposure on the employee's medical condition, the employee is entitled to full medical removal protection benefits as provided for under the standard.

L. Employee Information and Training: Paragraph (l)

The final standard requires the employer to provide an information and training program for all employees exposed to lead at or above the action level. Information and training are an essential aspect of the overall protection of employees who can do much to protect themselves if they are informed of the nature of the hazards in the workplace. To be effective, an employee education system must apprise the employee of the specific hazards associated with his work environment, protective measures which can be taken, and his rights under the standard.

The provisions under this paragraph also alert employers of their existing obligation to comply with provisions under OSHA's Hazard Communication Standard (20 CFR 1926.59), which currently applies to construction activities. Under the Hazard Communication Standard (HCS) all chemical manufacturers and importers are to assess the hazards of the chemicals they produce or import and are to develop appropriate information about those hazards, which they are required to communicate in various ways to their own exposed employees and to relevant downstream employers, as specified under paragraphs (d)–(h) of the standard. Downstream employers, in turn, are required to communicate the information concerning the hazards of such chemicals in various ways to their own employees. The transmittal of hazard information to employees is to be accomplished by means of comprehensive hazard communication programs, which must include container labeling and other forms of warning, material safety data sheets and employee training.

Employers are also obligated to comply with existing training requirements set forth in 29 CFR 1926.21, Employee training and education.

In paragraph (l)(2), OSHA includes additional particular requirements that are needed to protect employees specifically exposed to lead at or above the action level. The training program required under paragraph (l)(2) must be provided prior to the time of initial job assignment or prior to the startup date for this requirement, whichever comes last, and must be repeated at least annually for covered employees unless exposure at or above the action level will no longer occur.

Paragraph (l)(2) requires that the employer assure that each employee who is exposed at or above the action level is trained in the following:

The content of the standard and its appendices: The specific nature of the operations which could result in exposure to lead above the action level; the purpose, proper selection, fitting, use, and limitations of respirators; the purpose and a description of the medical surveillance program, and the medical removal protection program including information concerning the adverse health effects associated with excessive exposure to lead (with particular attention to the adverse reproductive effects on both males and females and hazards to the fetus and additional precautions for employees who are pregnant); the engineering controls and work practices associated with the employee's job assignment including training of employees to follow relevant good work practices

described in Appendix B of this section; the contents of any compliance plan in effect; instructions to employees that chelating agents should not routinely be used to remove lead from their bodies and should not be used at all except under the direction of a licensed physician; and the employee's right of access to records under 29 CFR 1910.20.

In addition, the employer is required to make available to all affected employees a copy of this standard and its appendices and must provide, upon request, all materials relating to the employee information and training program to affected employees and their designated representatives, and to the Assistant Secretary and the Director.

M. Signs: Paragraph (M)

The standard requires warning signs to be posted in each work area where employee lead exposure exceeds the PEL.

In light of the serious nature of the hazard of exposure to lead, OSHA believes that sign posting is needed, as well as periodic training, to adequately inform employees of the presence of high levels of lead and the possible need to utilize respirators and other protective equipment when entering the area. Phrases to be placed on the sign include "Warning", "Lead Work Area," "Poison," and "No Smoking or Eating." Signs are to be illuminated and cleaned as necessary so that the legend is readily visible.

N. Recordkeeping: Paragraph (n)

The HUD Guidelines and OSHA's general industry standard mandate the inclusion of provisions requiring employers to maintain accurate biological and environmental monitoring records of employee exposures to potentially toxic materials. It also provides that employees or their representatives have access to such records.

The interim final standard requires records of all exposure monitoring and other data used in conducting the employee exposure assessment to be established and maintained. The records must include the name and job classification of employees monitored, details of the sampling and analytic techniques, results, and type of respiratory protection worn. These records must be kept for 30 years in accordance with OSHA's standard 29 CFR 1910.20, Access to Exposure and Medical records. The standard also requires employers to establish and maintain records of medical surveillance (biological monitoring and medical examination results). These include names of employees, the physician's written opinion, exposure data provided to the physician, and any employee medical complaints associated with lead exposure. In addition, the employer is required to keep or must assure that the examining physician keeps a record of the results of medical examinations, a description of laboratory procedures and a copy of the results of biological monitoring. These records must be kept for at least duration of employment plus 30 years, except that medical records of employees who have worked for less than one (1) year for the employer need not be retained beyond the term of employment if they are provided to the employee upon termination of employment. These retention requirements are in accordance with § 1910.20

The interim standard contains a limited recordkeeping requirement concerning temporary medical removals effected pursuant to the medical removal protection program. The employer must establish and maintain an accurate record for each employee removed from current exposure to lead. The record is to contain four entries each time an employee is removed. First, the employee must be identified by name and social security number. Second, the date of removal and return must be stated. Third, the employer must briefly explain how each removal was or is being accomplished. This description need be no more detailed than such statements as "Employee X was transferred from position A to position B during the entire period of removal," or "Employee X was laid off for the entire period of removal," or "Employee X is currently working half shifts until a transfer opportunity becomes available." Fourth, the record must indicate whether or not the reason for the removal was an elevated blood lead level. If removal is due to a reason other than an elevated blood lead level, this precise reason should not be stated, so as to prevent disclosure of confidential medical information about the employee. Medical removal records are to be maintained for at least the duration of employment.

The purpose of the foregoing recordkeeping requirement is to enable employees and their authorized representatives, and the Secretary to assess the operation of, and an employer's compliance with the medical removal protection program. The limited but pertinent information contained in these records will, in most cases, enable these assessments to be made without interviewing large numbers of employees or placing undue burdens on employers by requiring further time consuming and burdensome examinations of payroll, production, or confidential medical records—examinations which likely would be necessary in the absence of the standard's limited recordkeeping requirement. Due to the limited purposes to be served by these records, the standard requires an employer to maintain each medical removal record only for so long as the duration of an employee's employment.

A provision for the use of objective data in lieu of initial monitoring for the purpose of assessing employee exposure is included in this standard in paragraph (d)(3)(iv). Objective data are defined in paragraph (n)(4) as information demonstrating that a particular product or material containing lead cannot release dust or fumes in concentrations at or above the action level under any expected conditions of use. Employers might use data from an industry-wide survey to estimate maximum exposure levels that could occur if that survey pertains to workplace conditions that, to the extent relevant and significant, are all very similar to those in the employer's worksite. Employers may also use laboratory product test results to demonstrate that airborne concentrations must be below the action level.

A record documenting the relevance of the objective data in assessing employee exposure is required to be established, and maintained for at least 30 years of the objective data relied on. This retention period is consistent with OSHA's Access standard (29 CFR 1910.20) that requires retention of exposure records for at least 30 years.

The interim final standard requires that records be made available to employees and their authorized representatives, physician or other person designated by an employee or former employee in accordance with 29 CFR 1910.20, and to the Director and Assistant Secretary.

The records described above are to be transferred to a successor employer whenever the employer ceases to do business. When there is no successor employer to receive and retain the records these records must be transmitted to the Director of NIOSH.

Upon expiration of the retention period for required records, the employer must notify the Director of NIOSH at least 3 months prior to disposal of such records and must transmit those records to the Director if so requested.

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O. Observation of Monitoring: Paragraph (o)

The lead standard for general industry of the Act requires that employers provide employees or their representatives with the opportunity to observe monitoring of employee exposures to toxic materials or harmful physical agents. In accordance with this section and consistent with other OSHA standards, the standard contains provisions for such observation. To insure that this right is meaningful, observers are entitled to an explanation of the measurement procedure, to observe all steps related to the measurement procedure, and to record the results obtained. Since results will not normally be available at the time of monitoring, the standard entitles the observers to receive the results of the monitoring when returned by the laboratory. The observer, whether an employee or designated representative, must be provided with, and is required to use, any personal protective devices required to be worn by employees working in the area that is being monitored, and must comply with all other applicable safety and health procedures.

P. Effective Dates: Paragraph (p)

The effective date is June 3, 1993. Congress in section 1031 of the Housing and Community Development Act directs that this interim final regulation take effect on issuance, but also expressly authorizes OSHA to reasonably delay the effective date. OSHA, therefore sets the effective date 30 days from publication in the **Federal Register**, which is the shortest time period allowed under the Administrative Procedures Act. Consequently, the regulation becomes effective 30 days after publication in the **Federal Register**. However, implementation of many provisions of the standard does not appear to be feasible so quickly. Thus, OSHA provides a minimal additional time period before the start-up dates for these provisions. OSHA believes that this is consistent with Congress' intent.

Q. Appendices: Paragraph (q)

The appendices included with the regulation are intended to be purely informational and, unless otherwise expressly stated in this section, are not intended to create any additional obligations not otherwise imposed or to detract or reduce any existing obligations. Appendix D provides mandatory procedures for fit testing of respirators.

R. Startup Dates: Paragraph (r)

All requirements of the interim final rule, except for engineering controls specified in paragraph (e)(1) of the standard, must be complied with as soon as possible, but no later than 60 days from the effective date of this section. Feasible engineering controls specified under paragraph (e)(1) shall also be implemented as soon as possible, but no later than 120 days from the effective date of this section.

OSHA believes that expeditious action by employers to achieve compliance with the provisions of this standard is warranted. Construction employees under the current standard are being exposed to lead at concentrations that present significant risk of adverse health impairment.

Employers must install feasible engineering controls as required under this standard within four (4) months from the effective date of this standard. Compliance with all other provisions of the standard must be accomplished within two (2) months of the effective date of the standard.

Employers performing lead operations in construction to some extent have already instituted protective measures voluntarily or in response to existing OSHA or other regulations, regarding training, engineering controls, compliance plans, respirators, exposure monitoring, work practices, recordkeeping, signs, protective clothing, and hygiene facilities. In addition, the Act of 1992 put the industry on notice that protective requirements like those, would be promptly imposed on employers to protect lead exposed employees in the construction industry. Thus, OSHA believes that it is a reasonable and appropriate judgment that compliance with the new burdens imposed under this interim rule in the time-frames specified is achievable.

IV. Regulatory Impact and Regulatory Flexibility Analysis

A. Executive Summary

Industry Profile

Construction projects involving lead or lead-containing materials occur throughout the entire construction industry as well as in several non-construction industries. Eighteen construction industry SICs and five non-construction industry SICs (involving construction activity) are expected to be affected by the Interim Final Standard. OSHA estimates that approximately 936,000 employees in 147,000 establishments are exposed to at least some level of lead during construction work.

Technological Feasibility

Compliance with the PEL and ancillary provisions of the Interim Final Standard is technologically feasible for all affected industries. Existing engineering control types, including mechanical ventilation, local exhaust ventilation, shrouded tools, HEPA vacuums, and wetting agents are already in use in the construction industry. Due to the nature of the activities in which high exposures to lead are generated, OSHA assumes that supplemental respirator use will be necessary for most activities in which engineering controls will be used.

Benefits

Benefits of the Interim Final Standard include decreases in the annual number of expected cases of: reduced nerve conduction velocity; reduced blood ALA-D levels; increased urinary ALA; gastrointestinal disturbances; and blood-lead levels above the medical removal trigger level. Long-term effects avoided over a ten-year period include cases of fatal/non-fatal infarction; fatal/non-fatal stroke; and renal disease.

Costs of Compliance

The annual recurring cost of the Interim Final Standard is expected to range between $365 million to $445 million. Additional start-up costs will be incurred during the first year for worker training, biological monitoring, medical examinations, and medical removal protection benefits.

Economic Impacts

The most impacted SICs, as measured by compliance costs per worker and compliance costs per establishment, are expected to include: SIC 1611, Highway and Street Construction Contractors; SIC 1622, Bridge, Tunnel and Elevated Highway Contractors; SIC 1721, Painting Contractors; SIC 1791, Structural Steel Erection Contractors; SIC 1795, Wrecking and Demolition Contractors; and SIC 3231, Glass Products Manufacturers. OSHA has concluded that it will be economically feasible to achieve compliance for all affected sectors.

B. Industry Profile

This industry profile describes the industries identified as potentially affected by the Interim Final Standard for Lead in Construction. Information is also presented on the twenty-two types of construction projects expected to be affected by the standard. Project type is often a better indicator of the likelihood

of lead exposure than the industry classification of the firm performing the work.

The definition of "construction" includes the categories of new construction (relatively little exposure to lead will be encountered in new construction); additions, alterations, and reconstruction (including remodeling and renovation); installation; demolition; repairs and maintenance. In this profile, the three major divisions of the construction industry are identified by two-digit Standard Industrial Classification (SIC) codes: SIC 15, General Building Contractors; SIC 16, Heavy Construction Contractors, Excluding Building Contractors; and SIC 17, Special Trade Contractors.

Subsectors of each industry division are identified by four-digit SIC codes. Because an establishment's SIC classification is based solely on the primary activities of the firm, contractors from different two-digit and four-digit SIC codes are often identified as working on the same project type. Construction projects involving contact with lead or lead-containing materials occur throughout the entire construction industry as well as in several non-construction SICs. Table 1 shows the eighteen construction industry SICs and five non-construction industry SICs (involving construction activity) expected to be affected by the Interim Final Standard and the affected construction project types associated with each SIC.[1] Table 2 lists the industries affected and shows the estimated total number of affected establishments and estimated total number of workers exposed by industry sector.

TABLE 1.—SICS AFFECTED BY THE INTERIM FINAL STANDARD AND ASSOCIATED PROJECT TYPES

SIC	Industry title	Project type
1521	General Contractors, Single Family Housing	In-Place Management (Private Housing).
		Residential Remodeling.
1522	General Contractors, Other Residential Buildings	Residential Remodeling.
1531	Operative Builders	In-Place Management (Private Housing).
		Residential Remodeling.
1541	General Contractors, Industrial Buildings and Warehouses	Petroleum Tank Repainting.
		Indoor Industrial Facility Maintenance and Renovation.
		Outdoor Industrial Facility Maintenance and Renovation.
		Commercial and Institutional Remodeling.
1542	General Contractors, Other Non-Residential Construction	Commercial and Institutional Remodeling.
1611	Highway and Street Construction Contractors	Highway and Railroad Bridge Repainting.
		Highway and Railroad Bridge Rehabilitation.
1622	Bridge, Tunnel and Elevated Highway Contractors	Highway and Railroad Bridge Repainting.
		Highway and Railroad Bridge Rehabilitation.
1711	Plumbing Contractors	Lead Joint Work on Cast Iron Soil Pipes.
		Repair and Removal of Water Lines.
1721	Painting Contractors	Highway and Railroad Bridge Repainting.
		Water Tank Repainting.
		Petroleum Tank Repainting.
		Housing Lead Abatement (Public Housing).
		Housing Lead Abatement (Private Housing).
		In-Place Management (Public Housing).
		In-Place Management (Private Housing).
		Indoor Industrial Facility Maintenance and Renovation.
		Outdoor Industrial Facility Maintenance and Renovation.
		Commercial and Institutional Remodeling.
		Residential Remodeling.
1731	Electrical Work Contractors	Electric Transmission and Communication Tower Maintenance.
		Commercial and Institutional Remodeling.
		Residential Remodeling.
		Electrical Cable Splicing.
1742	Plastering, Drywall, and Insulation Work Contractors	In-Place Management (Public Housing).
		In-Place Management (Private Housing).
		Commercial and Institutional Remodeling.
		Residential Remodeling.
		Reinsulation over Existing Mineral Wool.
1751	Carpentry Work Contractors	Commercial and Institutional Remodeling.
		Residential Remodeling.
1752	Floor Layers and Other Floor Work Contractors	Commercial and Institutional Remodeling.
		Residential Remodeling.
1761	Roofing and Siding Contractors	Commercial and Institutional Remodeling.
		Residential Remodeling.
		Installation of Terne Roofing.
1791	Structural Steel Erection Contractors	Highway and Railroad Bridge Rehabilitation.
		Indoor Industrial Facility Maintenance and Renovation.
		Outdoor Industrial Facility Maintenance and Renovation.
1795	Wrecking and Demolition Contractors	Underground Storage Tank Demolition.
		Commercial and Industrial Demolition.

[1] Three of the 22 basic project types were split into two sub-categories for costing purposes. These project types are Housing Lead Abatement (Public and Private Housing), In-Place Management (Public and Private Housing) and Industrial Facility Maintenance and Renovation (Indoor and Outdoor Work).

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TABLE 1.—SICS AFFECTED BY THE INTERIM FINAL STANDARD AND ASSOCIATED PROJECT TYPES—Continued

SIC	Industry title	Project type
1796	Building Equipment Contractors	Elevator Cable Babbitting.
1799	Miscellaneous Special Trade Contractors, NEC	Underground Storage Tank Demolition.
		Housing Lead Abatement (Public Housing).
		Housing Lead Abatement (Private Housing).
		In-Place Management (Public Housing).
		In-Place Management (Private Housing).
		Indoor Industrial Facility Maintenance and Renovation.
		Outdoor Industrial Facility Maintenance and Renovation.
		Industrial Process Equipment Maintenance and Repair.
		Industrial Vacuuming.
		Installation of Radiation Shielding.
		Commercial and Institutional Remodeling.
		Residential Remodeling.
		Reinsulation Over Existing Mineral Wool.
3231	Glass Products Manufacturers	Stained Glass Window Removal.
4911	Electric Utilities	Electrical Cable Splicing.
6513	Operators of Apartment Buildings	In-Place Management (Private Housing).
6514	Operators of Other Dwellings	In-Place Management (Private Housing).
9999	State and Municipal Governments	Highway and Railroad Bridge Repainting.
		Water Tank Repainting.
		In-Place Management (Public Housing).

Source: OSHA, Office of Regulatory Analysis.

TABLE 2.—ESTIMATED TOTAL NUMBER OF AFFECTED ESTABLISHMENTS AND ESTIMATED TOTAL NUMBER OF WORKERS EXPOSED BY STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE

SIC	Industry title	Estimated total number of affected establishments	Estimated total number of workers exposed
1521	General Contractors, Single Family Housing	16,742	67,716
1522	General Contractors, Other Residential Buildings	2,204	8,927
1531	Operative Builders	5,285	21,360
1541	General Contractors, Ind. Buildings and Warehouses	3,674	66,242
1542	General Contractors, Other Non-Res. Construction	5,089	92,956
1611	Highway and Street Construction Contractors	481	8,178
1622	Bridge, Tunnel and Elevated Highway Contractors	744	15,900
1711	Plumbing Contractors	43,598	56,378
1721	Painting Contractors	13,874	139,473
1731	Electrical Work Contractors	6,072	46,194
1742	Plastering, Drywall, and Insulation Work Contractors	11,746	103,638
1751	Carpentry Work Contractors	10,395	127,214
1752	Floor Layers and Other Floor Work Contractors	740	7,253
1761	Roofing and Siding Contractors	5,264	64,183
1791	Structural Steel Erection Contractors	568	11,097
1795	Wrecking and Demolition Work Contractors	685	7,699
1796	Building Equipment Contractors	2,250	4,500
1799	Miscellaneous Special Trade Contractors, NEC	14,105	71,168
3231	Glass Products Manufacturers	104	208
4911	Electric Utilities	667	4,000
6513	Operators of Apartment Buildings	1,753	7,011
6514	Operators of Other Dwellings	876	3,506
9999	State and Municipal Governments	159	1,869
	Total for All SICs	147,075	936,670

Source: OSHA, Office of Regulatory Analysis.

Lead exposure is most common among project types that involve the disturbance of lead or lead-containing materials during additions, alterations, reconstruction, demolition, repairs and maintenance. Some examples of potential sources of exposure in these project types include lead-based paint (LBP) and paint dust, lead pipes, leaded solder, the leaded support rods in stained glass windows, and some mineral wool insulation.

In contrast, project types involving exposure to lead during new construction are comparatively rare. This is in part due to government regulations that have banned specific uses of once common lead-containing construction materials. An example is the Consumer Product Safety Commission's 1977 ban on "lead containing paint" prohibiting the use of such paint on products to which consumers are exposed after sale (42 FR 44199). Another example is the Environmental Protection Agency's 1986 ban on further use of lead pipes and solder in residential plumbing. In most new construction projects involving lead use, lead and lead-containing materials are used in limited quantities for specialized applications. Examples include terne (leaded-steel) roofing and the use of lead foil sheet in the walls of hospital x-ray suites.

Table 3 shows preliminary estimates of the number of lead-exposed projects occurring each year, the estimated total number of workers exposed, and the primary sources of lead exposure by project type. The estimated number of employees differs from those originally reported in the draft CONSAD report of July, 1991; this earlier draft did not include workers involved in commercial and residential remodeling project types. For these and other reasons, the draft CONSAD report of July, 1991 is superseded by CONSAD's final report of April, 1993, which contains more complete and accurate information. The final CONSAD report is consistent with the scope and provisions of OSHA's Interim Final Rule.

TABLE 3.—ESTIMATED TOTAL NUMBER OF CONSTRUCTION PROJECTS INVOLVING LEAD PER YEAR, ESTIMATED TOTAL NUMBER OF WORKERS EXPOSED, AND PRIMARY SOURCE(S) OF LEAD EXPOSURE BY PROJECT TYPE

Project type	Estimated number of projects involving lead per year	Estimated total number of workers exposed	Primary source(s) of lead exposure
Highway and Railroad Bridge Repainting	3,721	18,419	Lead-Based Paint and Paint Debris.
Highway and Railroad Bridge Rehabilitation	2,157	29,958	Lead-Based Paint and Paint Debris.
Water Tank Repainting	1,994	5,113	Lead-Based Paint and Paint Debris.
Petroleum Tank Repainting	3,491	4,364	Lead-Based Paint and Paint Debris.
Underground Storage Tank Demolition	648	288	Lead-Based Paint and Paint Debris.
Housing Lead Abatement (Public Housing)	900	2,893	Lead-Based Paint and Paint Debris.
Housing Lead Abatement (Private Housing)	62,300	9,345	Lead-Based Paint and Paint Debris.
In-place Management (Public Housing)	3,150	188	Lead-Based Paint and Paint Debris.
In-place Management (Private Housing)	631,000	35,056	Lead-Based Paint and Paint Debris.
Commercial and Industrial Demolition	1,240	7,440	Lead-Based Paint and Metallic Lead Residues.
Indoor Industrial Facility Maint./Renovation	280	2,113	Lead-Based Paint and Paint Debris.
Outdoor Industrial Facility Maint./Renovation	1,584	2,981	Lead-Based Paint and Paint Debris.
Lead Joint Work on Cast Iron Soil Pipes	9,438	15,337	Lead-Oakum Pipe Joint Material.
Ind. Process Equipment Mfg./Maint./Repair	982	409	Lead Bricks, Lead Mortar, and Lead Sheets.
Industrial Vacuuming	784	392	Metallic Lead Dust in Metal Processing Plants.
Stained Glass Window Removal	2,500	208	Lead Support Rods.
Installation of Radiation Shielding	100	40	Lead-Containing Construction Materials.
Commercial and Institutional Remodeling	546,000	546,798	Lead-Based Paint and Paint Debris.
Residential Remodeling	2,698,000	178,544	Lead-Based Paint and Paint Debris.
Elevator Cable Babbitting	5,400	4,500	Tin-Base Babbit Containing Lead.
Electrical Cable Splicing	100,000	5,000	Lead Splicing Material.
Reinsulation Over Existing Mineral Wool	22,000	18,333	Mineral Wool Insulation With Lead Contaminants.
Repair and Removal of Water Lines	197,000	41,042	Lead Pipes and Lead Solder.
Transmission and Communication Tower Maint	880	7,333	Lead-Based Paint and Paint Debris.
Installation of Terne Roofing	40	576	Leaded Steel Roofing Materials and Lead Solder.
Total For All Project Types	4,295,589	936,670	

Source: OSHA, Office of Regulatory Analysis.

C. Technological Feasibility

Compliance with the Interim Final Standard is considered technologically feasible for each of the affected industries. OSHA has identified several categories of engineering controls that are technologically feasible and appropriate for use in the construction industry. Due to the nature of the activities in which high exposures to lead are generated, OSHA assumes that supplemental respirator use will be necessary for most activities in which engineering controls will be used. Based on the currently available evidence in the record, OSHA has not been able to conclude that the PEL is achievable in most of the operations most of the time by engineering and work practice controls alone in the construction industry. Currently available respirators are capable of providing the supplemental protection necessary to achieve the PEL all of the time in all construction activities with the exception of abrasive blasting as described below.

In order to analyze the technological feasibility of the standard, data on lead exposures were examined by the type of activity generating the potential for exposure to lead. The exposure data reviewed by OSHA were obtained from the following sources: OSHA IMIS; various NIOSH Health Hazard Evaluation reports; various Department of Housing and Urban Development (HUD) Lead Abatement Demonstration Projects; Maryland's Department of Occupational Safety and Health; site visits conducted by CONSAD Research for OSHA and other published reports and studies. The exposure data obtained from each of these sources are believed to be representative and reliable exposure estimates for the construction activities being examined.

Table 4 summarizes exposure data by construction activity. The table shows personal TWA(8) exposure levels (in micrograms per cubic meter of air), in the absence of reduction factors from engineering controls and respirators. For several of the activities presented, statistics were calculated for small groups of data. Despite the potential weaknesses of these small samples, the data were used as the best available evidence about exposure levels in these activities.

The wide variations in the exposure data for certain construction activities accurately reflect the nature of construction work. Analogous construction work sites, even where the same types of activities are performed, can produce very different exposure levels. Sources of variability in exposure

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levels for the same activity include the concentration of lead in the paint or other materials being removed; the total quantity of lead-containing materials being removed; work practices used and weather conditions on outdoor projects.

Because OSHA was unable to allow the public the opportunity to comment on the data used in this analysis, OSHA is taking a very conservative approach in the use of this data. As shown in Table 4, OSHA calculated a 95 percent confidence level for the mean exposure level in each activity and used this value to assign appropriate engineering controls and respirators.[2] (Where this statistic exceeded the maximum observed level for an activity, the maximum observed level was used to specify controls.) This methodology was used in order to ensure a consistent approach to control assignment across activities. The appropriateness of control assignments was then confirmed by examination of the actual exposure level distributions for each activity. Table 5 shows the controls assigned to each activity.

TABLE 4.—REPRESENTATIVE TWA(8) EXPOSURE LEVELS IN µG/M³ ABSENT ENGINEERING CONTROLS AND RESPIRATORY PROTECTION BY CONSTRUCTION ACTIVITY

Construction activity key	Number of observations	Minimum value	Maximum value	Arithmetic mean	Standard deviation	Exposure level used to specify controls[a]
1.0 Open abrasive blasting	26	1,352	58,700	17,315	19,001	23,680
1.1 Open abrasive blasting in full containment	13	2,188	58,700	26,673	21,502	37,300
1.2 Vacuum blasting	4	2	665	169	331	558
2.1 Welding, cutting, and burning on bridges	90	1	10,320	1,230	1,897	1,564
2.2 Other welding, cutting, and burning	152	1	28,000	615	2,681	973
2.3 Lead burning	19	33	2,557	451	533	[b]663
3.0 Spray painting lead-based paint	37	1	460	74	95	101
4.0 Hand scraping	6	6	167	45	63	96
5.1 Removal and replacement of building components	113	0.4	121	7	15	9
5.2 Manual demolition of building components	15	1	168	50	59	77
6.0 Heat gun use	380	0.4	916	26	71	32
7.0 Chemical stripping	296	0.4	476	11	35	15
8.0 Encapsulation	86	0.4	26	3	4	4
9.1 Power tool use (housing abatement projects)	28	0.2	1,596	185	347	[c]296
9.2 Power tool use (other paint removal projects)	65	1	20,600	735	2,794	1,314
10.0 Use of lead pots	10	1	19	4	5	8
11.0 Soldering and brazing	1	9	9	9	—	9
12.0 Use of lead mortar	—	—	—	—	—	[d]663
13.0 Stained glass removal	3	10	79	43	35	[e]79
14.0 Handling lead shot, bricks, or sheet	132	0.1	224	12	30	16
15.0 Industrial vacuuming	9	8	2,900	404	951	994
16.0 Cutting lead foil panels	—	—	—	—	—	[f]1
17.0 Reinsulation over existing mineral wool	3	1	90	34	49	[e]90
18.1 Miscellaneous enclosure movement	6	13	2,100	504	792	1,156
18.2 Miscellaneous abrasive blasting/repainting	30	4	9,580	1,147	2,441	1,904
18.3 Miscellaneous remodeling related	8	0.4	207	27	73	76
18.4 Miscellaneous lead abatement	442	0.4	588	6	31	8
18.5 Miscellaneous steel structure rehabilitation	54	0.2	4,100	145	601	282
19.1 Spray painting non-lead-based paint	1	26	26	26	—	26
19.2 Brush painting non-lead-based paint	13	0.4	6	2	2	3
(A) Combined lead abatement activities (4, 5.1, 6, 7, 8, 18.4)	1,323	0.4	916	13	47	15
(B) Combined in-place management activities (4, 5.1, 6, 7, 18.4, 19.2)	954	0.4	916	14	51	17
(C) Combined commercial remodeling activities (4, 5.1, 18.3, 19.1)	126	0.4	207	10	27	14
(D) Combined residential remodeling activities (4, 5.1, 18.3, 19.2)	140	0.4	207	9	26	13

[a] Represents the average exposure level that, statistically, would only be exceeded five percent of the time the activity was monitored.
[b] Control specification level is based on data collected during work performed without ventilation.
[c] Data shown were collected during use of shrouded equipment. Control specification level assumes shrouds are not being used.
[d] Activity 12 exposure levels are assumed to be similar to data from Activity 2.3.
[e] Maximum observed value used as the control specification level.
[f] Activity 16 exposure levels were assumed to be minimal due to nature of activity.

Sources: OSHA IMIS; Selected NIOSH Health Hazard Evaluation Reports; Selected HUD Lead Abatement Demonstration Projects; Maryland OSH Data; CONSAD Site Visits for Lead in Construction and Construction PELS Projects; Other Miscellaneous Reports and Studies.

[2] In no way does OSHA mean to imply that to prove feasibility, it must show that a PEL is capable of being achieved 95 percent of the time by engineering and work practice controls.

TABLE 5.—ANALYSIS OF ENGINEERING CONTROLS AND RESPIRATORS NEEDED TO ACHIEVE COMPLIANCE WITH THE 50 µG/M³ PEL

Project type activity	Exposure level used to specify controls (µg/m3)	Type of ventilation controls specified (by activity)	Other types of controls specified (by project)	Exposure level after control application (µg/m³)	Respirator type specified
Highway and railroad bridge repairing			HV, WA		
1.1 Abrasive blasting in full containment	37,300	MV		18,650	10
3.0 Spray painting with LBP	101	MV		51	5
19.1 Spray painting with non-LBP	26	MV		13	—
18.1 Enclosure movement	1,156	—		1,156	4
18.5 Associated miscellaneous activities	1,904	—		1,904	4
Highway and railroad bridge rehabilitation			HV, WA		
2.1 Welding, cutting, burning on bridges	1,564	—		1,564	4
18.5 Associated miscellaneous activities	282	—		282	4
Water Tank Repainting			HV, WA		
1.1 Abrasive blasting in full containment	37,300	MV		18,650	10
3.0 Spray painting with LBP	101	MV		51	5
19.1 Spray painting with non-LBP	26	MV		13	—
18.1 Enclosure movement	1,156	—		1,156	4
18.5 Associated miscellaneous activities	1,904	—		1,904	4
Petroleum tank repainting			HV, WA		
1.1 Abrasive blasting in full containment	37,300	MV		18,650	10
3.0 Spray painting with LBP	101	MV		51	5
19.1 Spray painting with non-LBP	26	MV		13	—
18.1 Enclosure movement	1,156	—		1,156	4
18.5 Associated miscellaneous activities	1,904	—		1,904	4
Underground storage tank demolition			HV		
2.2 Other welding, cutting, burning	973	—		973	4
Housing lead abatement (public housing)			HV, WA		
(a) Combined lead abatement activities	15	—		15	—
9.1 Power tool use (housing)	296	ST	-	74	5
Housing lead abatement (private housing)			HV, WA		
(A) Combined lead abatement activities	15	—		15	—
In-place management (public housing)			HV, WA		
(B) Combined in-place mgmt. activities	17	—		17	—
In-place management (private housing)			HV, WA		
(B) Combined in-place mgmt. activities	17	—		17	—
Commercial and industrial demolition			HV		
2.2 Other welding, cutting, burning	973	—	HV	973	5
Indoor industrial facility maint./renovation			HV, WA		
1.1 Abrasive blasting	37,300	MV		18,650	10
9.2 Power tool use (other)	1,314	ST		329	5
2.2 Other welding, cutting, burning	973	LEV		243	5
19.1 Spray painting with non-LBP	26	MV		13	—
18.1 Enclosure movement	1,156	—		1,156	4
18.5 Associated miscellaneous activities	282	—		282	4
Outdoor industrial facility maint./renovation			HV, WA		
1.1 Abrasive blasting	37,300	MV		18,650	10
9.2 Power tool use (other)	1,314	ST		329	5
2.2 Other welding, cutting, burning	973	—		973	5
19.1 Spray painting with non-LBP	26	MV		13	—
18.1 Enclosure movement	1,156	—		1,156	4
18.5 Associated miscellaneous activities	282	—		282	4
Lead joint work on cast iron soil pipes			HV		
10.0 Use of lead pots	1	—		1	—
Ind. process equipment mfg./maint./repair			HV		
2.3 Lead burning	663	MV		332	5
Industrial vacuuming			HV		
15.0 Industrial vacuuming	994	—		994	4
Stained glass window removal			HV		
13.0 Removal of stained glass	79	—		79	4
Installation of radiation shielding			HV		
14.0 Handling of lead shot/bricks/sheets	16	—		16	—
16.0 Cutting of lead foil panels	1	—		1	—
Commercial and institutional remodeling			HV, WA		
(C) Combined comm./inst. remodeling activities	14	—		14	—
5.2 Manual demolition	77	—		77	4
9.2 Power tool use (other)	1,314	ST		329	5
2.2 Other welding, cutting, burning	973	LEV		243	5
Residential remodeling			HV, WA		
(D) Combined res. remodeling activities	13	—		13	—
5.2 Manual demolition	77	—		77	4
Elevator cable babbitting			HV		

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TABLE 5.—ANALYSIS OF ENGINEERING CONTROLS AND RESPIRATORS NEEDED TO ACHIEVE COMPLIANCE WITH THE 50 µG/M³ PEL—Continued

Project type activity	Exposure level used to specify controls (µg/m3)	Type of ventilation controls specified (by activity)	Other types of controls specified (by project)	Exposure level after control application (µg/m³)	Respirator type specified
10.0 Use of lead pots	1	—		1	—
Electrical cable splicing			HV		
10.0 Use of lead pots	1	—		1	—
Reinsulation over existing mineral wool			HV		
17.0 Reinsulation over existing mineral wool	90	—		90	1
Repair/removal of water lines containing lead			HV		
11.0 Soldering, brazing	9	—		9	—
Transmission and communication tower maint.			HV, WA		
4.0 Hand scraping	96	—		96	4
9.2 Other power tool cleaning	1,314	ST		329	5
19.2 Brush painting with non-LBP	3	—		3	—
18.5 Associated miscellaneous activities	282	—		282	4
Installation of terne roofing			HV		
11.0 Soldering, brazing	9	—		9	—
14.0 Handling of lead shot, bricks, or sheet	16	—		16	—

Engineering control key: MV—Mechanical ventilation [50% exposure reduction factor]; LEV—Local exhaust ventilation [75% exposure reduction factor]; ST—Shrouded tools [75% exposure reduction factor]; HV—HEPA vacuums; WA—Wetting agents.

Respirator type key: Type 1: Half mask cartridge respirator; Type 2: Full facepiece cartridge respirator; Type 3: Loose fitting hood or helmet powered air purifying respirator; Type 4: Tight fitting powered air purifying respirator; Type 5: Half mask supplied air respirator; Type 6: Full facepiece supplied air respirator; Type 7: Loose-Fitting supplied air blasting helmet; Type 8: Full facepiece SCBA; Type 9: Supplied air welding helmet; Type 10: Abrasive blasting helmet with tight fitting facepiece.

Associated protection factor: Protection factor=10 x PEL; protection factor=50 x PEL; protection factor=25 x PEL; protection factor=50 x PEL; protection factor=10 x PEL, 50 x PEL, or 1,000 x PEL depending on operating mode; protection factor=50 x PEL or 2,000 x PEL depending on operating mode; protection factor=25 x PEL; protection factor=50 x or 2,000 x PEL depending on operating mode; protection factor=25 x PEL; protection factor=2,000 x PEL.

Source: OSHA, Office of Regulatory Analysis

The hierarchy of controls requires employers to first apply all feasible engineering controls. OSHA concluded that ventilation controls are an appropriate means of exposure reduction in lead-exposed construction activities. The two categories of ventilation controls considered especially appropriate were mechanical ventilation systems used in conjunction with enclosures or containments (MV) and local exhaust ventilation (LEV). Local exhaust ventilation includes both portable ventilation systems and shrouded tools with ventilation (ST).

CONSAD assigned a 30 percent reduction factor to mechanical ventilation systems and a 75 percent reduction factor for portable local exhaust ventilation and shrouded tools. Based upon OSHA's judgement and experience, the 30 percent exposure reduction factor is an underestimate and does not take into account technological advances in construction and design of containment systems. According to John Peart, Director of Research on Bridge Coatings for the Federal Highway Administration, the current state of industry use of mechanical ventilation controls is improving. Industry and establishment experience continues to develop as contractors steadily move towards more use of full containment with ventilation systems. Continuing research into proper containment and ventilation for activities involving steel structures painting is resulting in increased efficiency ratings being attained by these large mechanical ventilation systems. OSHA therefore believes that an exposure reduction factor of 50 percent will be achievable for mechanical ventilation systems.

Two other categories of engineering controls were assumed to be required, where appropriate, in accordance with the hierarchy of controls. These control categories were HEPA vacuums (HV) and wetting agents (WA). HEPA vacuums are used to prevent exposure before it occurs by reducing the amount of lead-contaminated debris in the work environment. HEPA vacuums are also used to clean personal protective equipment and work clothes to limit worker exposure to lead. Wetting agents prevent lead-based paint dust and lead-contaminated debris from becoming airborne. These controls are considered technologically feasible for all affected activities where their use is appropriate.

When all feasible engineering controls have been added and personal exposures have not been reduced below the PEL, respiratory protection, as specified in Table I of the Interim Final Standard, must be used. Currently available respirators provide sufficient levels of protection for all activities except for abrasive blasting. The loose-fitting, continuous-flow abrasive blasting helmet currently used in the construction industry has been assigned a protection factor of 25×PEL (1,250 µg/m³). Because exposures during abrasive blasting inside pollution containment setups often exceed this level, this type of respirator is no longer considered adequate. At present, no manufacturer makes a Type CE abrasive blasting respirator with both a helmet and the tight-fitting facepiece needed to achieve an acceptable protection factor. However, the technology for producing such a respirator is already known to exist and a Type CE respirator with a hood is already available on the market.

OSHA assumes that a type CE abrasive blasting helmet can be designed and be certified for use in environments of up to 2,000×PEL within one to two years following promulgation of the standard. Until such a respirator is developed, workers may have to wear a respirator type that provides an acceptable protection factor but lacks integral head protection.

OSHA has assumed for costing purposes that workers will be supplied with respirators providing at least the minimum protection sufficient to meet the requirements of the interim final standard. (These respirator selections are shown in Table 5.) For most construction activities, the supplied-air respirators were found to be more cost-effective than cartridge respirators

because cartridge replacement would produce ongoing costs outweighing the "up-front" costs of purchasing supplied air respirators.

Other regulatory provisions requiring employer action under OSHA's Interim Final Lead Standard include (depending upon the construction activity):

- Initial determination of the presence of lead.
- Competent persons.
- Exposure monitoring and associated recordkeeping.
- Written compliance programs.
- Warning signs.
- Worker training.
- Notification of other employers.
- Protective work clothing and equipment.
- Hygiene facilities (hand washing, changing and decontamination facilities)
- Eating areas and facilities.
- Biological monitoring, medical examinations, and medical removal protection (including associated recordkeeping)

All of these provisions were deemed technologically feasible for the affected construction activities. These requirements can be satisfied by work practice modifications and/or conventional, off-the-shelf items, most of which have already been implemented or introduced in well-maintained workplaces.

D. Benefits

This section presents an analysis of the potential benefits associated with the reduction of the permissible exposure limit for lead to 50 µg/m³. The avoidable adverse health effects of lead are described in detail in the Preamble and Supplements to OSHA's 1978 Lead Standard. In addition, OSHA relied upon the technical expertise of Meridian Research, Inc. in the development and formulation of the benefit model and estimates presented in this section.

Because exposure to lead causes a number of different adverse health effects, the potential benefits associated with this requirement of the Interim Final Standard are varied and include benefits that will accrue during the first year following the effective date, as well as benefits that accrue over longer time horizons (separately identified). Some of the near-term benefits that are expected to accrue include reductions in the incidence of acute lead poisoning and adverse neurologic and biochemical effects, and reductions in the incidence of blood lead levels above 50 µg/m³. Benefits that accrue over longer time horizons include reductions in the incidence of lead-induced hypertension, which may increase the risk of myocardial infarction or stroke, and renal disease. Other potential benefits that are expected to accrue, but which are not specifically discussed below, are reductions in the incidence of lead-induced male and female reproductive effects.

This analysis estimates benefits associated with reducing exposures to airborne lead. Additional benefits are likely to be realized as a result of reductions in worker blood-lead levels due to improved hygiene practices. The general approach taken to evaluate the quantitative benefits was as follows:

- For each construction project and activity, available exposure data were used to develop a profile of worker exposures to airborne lead;
- The exposure profiles were used as inputs for a compartmentalized kinetic lead model to generate a blood-lead profile for each group of workers engaged in a particular construction activity;
- The resulting blood-lead profiles were used to predict the frequency with which blood-lead values were likely to exceed the medical removal trigger of 50 µg/dl, and to calculate an average blood-lead level for each group of workers; and
- The average and peak blood-lead levels were used along with risk estimates contained in Meridian's Peer-Review Draft Risk Assessment report to estimate the number of lead-related illness cases that might potentially be avoided as a result of reducing the PEL to 50 µg/m³ for construction.

For each construction activity, airborne exposures to lead were characterized using statistics to reflect that worker exposures to lead may vary considerably from one day to the next. For all of the construction activities shown in Table 4, exposure profiles were calculated using the full set of available exposure data. However, for the benefits analysis, additional exposure profiles were created by combining data from different activities to recognize that some construction workers may typically be engaged in more than one activity. For example, the abrasive blasting exposure data were combined with painting exposure data to create an exposure profile for workers performing both tasks on a regular basis. In addition, a supplementary baseline exposure profile was created for project types involving lead abatement, in-place management and remodeling activities, in order to obtain a blood-lead level profile for workers currently using poor work practices. This profile was generated to yield a blood-lead profile consistent with blood-lead levels reported in the state of Massachusetts. (One of the few states with useful construction industry data in their blood lead registry.)

For each construction activity and operation, the exposure profile data were used to generate numerical sets that matched the parametric distributions of the exposure profiles. These figures were used to represent daily air-lead levels to which workers engaged in each activity are believed to be exposed during a one-year period. Blood-lead levels likely to result from these exposures were estimated using the compartmentalized kinetic lead distribution/excretion model contained in Meridian's Peer-Review Draft Risk Assessment Report. Table 6 presents the results of this analysis, and includes the average blood-lead levels expected to result over a year of performing each construction activity under baseline exposure conditions. These conditions are based upon the exposure levels shown in Table 4 and the wearing of respirators with the estimated protection factors specified in column one of Table 6.

A similar analysis was performed to evaluate likely blood-lead levels that would result from complying with the 50 µg/m³ PEL. For this analysis, OSHA's consultant, Meridian, assumed that air lead exposures would be reduced in accordance with the same engineering and respiratory protection assumptions used in the cost analysis. Table 7 presents the blood-lead profiles associated with compliance with the 50 µg/m³ PEL. Given the implementation of the control strategies required by the rule, blood-lead levels are not expected to exceed 25 µg/dl among construction workers.

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TABLE 6.—BASELINE BLOOD-LEAD PROFILE, BY CONSTRUCTION ACTIVITY

Construction project activity	Assumed baseline factor of respiratory protection	Percent of time that blood-lead level (µg/dl) is within stated range						Average blood-lead level (µg/dl)
		<=15	>15–25	>25–30	>30–40	>40–50	>50	
Highway and Railroad Bridge Repainting:								
1.1 Abrasive Blasting	100–600	34.8	19.5	10.7	11.1	7.4	16.4	32.1
3.0 Spray Painting with LBP	1	33.4	11.8	12.3	35.3	7.1	0.0	24.2
19.1 Spray Painting with Non-LBP	1	13.4	86.6	0.0	0.0	0.0	0.0	16.9
—Combined Blasting/Painting	—	40.5	23.8	28.2	7.4	0.0	0.0	18.4
18.1 Enclosure Movement	10	51.8	12.9	17.0	18.4	0.0	0.0	17.9
18.2 Associated Miscellaneous Activities	10	35.1	17.5	8.8	16.2	6.6	15.9	28.0
Highway and Railroad Bridge Rehabilitation								
2.1 Welding, Cutting, Burning on Bridges	10	26.6	10.7	7.1	5.5	3.8	46.3	43.8
18.5 Associated Miscellaneous Activities	1	51.0	13.7	3.8	4.9	7.4	19.2	26.6
Water Tank Repainting:								
1.1 Abrasive Blasting	100–600	28.9	31.5	9.5	10.5	6.3	13.4	28.9
3.0 Spray Painting with LBP	1	29.6	31.2	25.8	13.4	0.0	0.0	20.5
19.1 Spray Painting with Non-LBP	1	80.8	19.2	0.0	0.0	0.0	0.0	11.5
—Combined Blasting/Painting	—	17.8	66.3	12.9	3.0	0.0	0.0	20.1
18.1 Enclosure Movement	10	44.4	34.2	10.7	10.7	0.0	0.0	17.6
18.2 Associated Miscellaneous Activities	10	23.8	32.6	10.4	10.1	9.9	13.2	27.6
Petroleum Tank Repainting:								
1.1 Abrasive Blasting	100–600	34.8	19.5	10.7	11.1	7.4	16.4	32.1
3.0 Spray Painting with LBP	1	33.4	11.8	12.3	35.3	7.1	0.0	24.2
19.1 Spray Painting with Non-LBP	1	13.4	86.6	0.0	0.0	0.0	0.0	16.9
—Combined Blasting/Painting	—	40.5	23.8	28.2	7.4	0.0	0.0	18.4
18.1 Enclosure Movement	10	51.8	12.9	17.0	18.4	0.0	0.0	17.9
18.2 Associated Miscellaneous Activities	10	35.1	17.5	8.8	16.2	6.6	15.9	28.0
Underground Storage Tank Demolition:								
2.2 Other Welding, Cutting, Burning	10	100.0	0.0	0.0	0.0	0.0	0.0	5.2
Housing Lead Abatement (Public):								
(A) Combined Abatement Activities-HUD Practice	1	100.0	0.0	0.0	0.0	0.0	0.0	7.9
—Combined Abatement Activities-Poor Practice	1	20.8	42.7	14.5	14.5	4.4	3.0	33.8
9.1 Power Tool Use (Housing)	1	31.2	35.3	15.3	16.7	1.4	0.0	21.4
Housing Lead Abatement (Private):								
(A) Combined Abatement Activities-HUD Practice	1	100.0	0.0	0.0	0.0	0.0	0.0	7.2
—Combined Abatement Activities-Poor Practice	1	20.8	42.7	14.5	14.5	4.4	3.0	33.8
In-Place Management (Public):								
(B) Combined In-Place Mgmt. Activities	1	100.0	0.0	0.0	0.0	0.0	0.0	8.6
—Comb. In-Place Mgmt. Activities-Poor Practice	1	20.8	42.7	14.5	14.5	4.4	3.0	33.8
In-Place Management (Private):								
(B) Combined In-Place Mgmt. Activities	1	100.0	0.0	0.0	0.0	0.0	0.0	9.2
—Comb. In-Place Mgmt. Activities-Poor Practice	1	20.8	42.7	14.5	14.5	4.4	3.0	33.8
Commercial and Industrial Demolition:								
2.2 Other Welding, Cutting, Burning	10	58.1	35.9	5.5	0.5	0.0	0.0	14.0
Indoor Industrial Facility Maintenance/ Renovation:								
1.1 Abrasive Blasting	100–600	77.5	11.8	2.9	2.7	2.1	3.0	15.0
9.2 Power Tool Use (Other)	10	81.1	7.9	3.8	4.7	2.5	0.0	10.8
2.2 Other Welding, Cutting, Burning	10	94.0	6.0	0.0	0.0	0.0	0.0	7.6
19.1 Spray Painting with Non-LBP	1	95.9	4.1	0.0	0.0	0.0	0.0	7.3
—Combined Blasting/Painting	—	82.2	13.2	4.7	0.0	0.0	0.0	9.3
—Combined Power Tool Use/Painting	—	84.7	14.8	0.5	0.0	0.0	0.0	8.7
18.1 Enclosure Movement	10	100.0	0.0	0.0	0.0	0.0	0.0	7.5
18.5 Associated Miscellaneous Activities	1	94.8	5.2	0.0	0.0	0.0	0.0	7.4
Outdoor Industrial Facility Maintenance/ Renovation:								
1.1 Abrasive Blasting	100–600	34.8	19.5	10.7	11.1	7.4	16.4	32.1

TABLE 6.—BASELINE BLOOD-LEAD PROFILE, BY CONSTRUCTION ACTIVITY—Continued

Construction project activity	Assumed baseline factor of respiratory protection	Percent of time that blood-lead level (µg/dl) is within stated range						Average blood-lead level (µg/dl)
		<=15	>15–25	>25–30	>30–40	>40–50	>50	
9.2 Power Tool Use (Other)	10	35.9	10.1	10.7	16.2	15.3	11.8	27.8
2.2 Other Welding, Cutting, Burning	10	55.6	44.4	0.0	0.0	0.0	0.0	13.1
19.1 Spray Painting with Non-LBP	1	13.4	86.6	0.0	0.0	0.0	0.0	16.9
—Combined Blasting/Painting	—	41.4	14.2	18.4	26.0	0.0	0.0	19.7
—Combined Power Tool Use/Painting	—	44.1	34.5	18.1	3.3	0.0	0.0	16.8
18.1 Enclosure Movement	10	51.8	12.9	17.0	18.4	0.0	0.0	17.9
18.5 Associated Miscellaneous Activities	1	51.0	13.7	3.8	4.9	7.4	19.2	25.6
Lead Joint Work on Cast Iron Soil Pipes:								
10.0 Use of Lead Pots	1	100.0	0.0	0.0	0.0	0.0	0.0	5.4
Ind. Process Equipment Mfg./Maint. Repair:								
2.3 Lead Burning	10	3.8	95.1	1.1	0.0	0.0	0.0	20.2
Industrial Vacuuming:								
15.0 Industrial Vacuuming	1	100.0	0.0	0.0	0.0	0.0	0.0	6.1
Stained Glass Window Removal:								
13.1 Removal of Stained Glass Windows	1	8.5	66.6	24.9	0.0	0.0	0.0	22.2
Installation of Radiation Shielding:								
14.0 Handling Lead Shot, Bricks, or Sheet	1	100.0	0.0	0.0	0.0	0.0	0.0	5.3
16.0 Cutting of Lead Foil Panels.								
Commercial and Institutional Remodeling:								
(C) Combined Comm./Inst. Remodeling Activities	1	100.0	0.0	0.0	0.0	0.0	0.0	7.0
—Combined Remodeling Activities-Poor Practice	1	20.8	42.7	14.5	14.5	4.4	3.0	33.8
5.2 Manual Demolition	1	34.0	53.4	11.2	1.4	0.0	0.0	17.9
9.2 Power Tool Use (Other)	10	32.3	40.0	6.0	13.2	4.4	4.1	22.0
2.2 Other Welding, Cutting, Burning	10	63.6	35.9	0.5	0.0	0.0	0.0	14.2
Residential Remodeling:								
(D) Combined Res. Remodeling Activities	1	100.0	0.0	0.0	0.0	0.0	0.0	7.6
—Combined Remodeling Activities-Poor Practice	1	20.8	42.7	14.5	14.5	4.4	3.0	33.8
5.2 Manual Demolition	1	34.0	53.4	11.2	1.4	0.0	0.0	17.9
Elevator Cable Babbitting:								
10.0 Use of Lead Pots	1	100.0	0.0	0.0	0.0	0.0	0.0	5.0
Electrical Cable Splicing:								
10.0 Use of Lead Pots	1	100.0	0.0	0.0	0.0	0.0	0.0	5.3
Reinsulation over Existing Mineral Wool:								
17.0 Reinsulation over Existing Mineral Wool	1	100.0	0.0	0.0	0.0	0.0	0.0	5.2
Repair/Removal of Water Lines Containing Lead:								
11.0 Soldering, Brazing	1	100.0	0.0	0.0	0.0	0.0	0.0	5.1
Transmission Communication Tower Maint.:								
4.0 Hand Scraping	1	74.2	25.8	0.0	0.0	0.0	0.0	9.7
9.2 Power Tool Use (Other)	10	73.4	8.5	6.8	7.9	3.3	0.0	12.9
19.2 Brush Painting with Non-LBP	1	100.0	0.0	0.0	0.0	0.0	0.0	5.3
—Combined Hand Scraping/Painting	—	100.0	0.0	0.0	0.0	0.0	0.0	6.4
—Combined Power Tool Use/Painting	—	86.3	12.3	1.4	0.0	0.0	0.0	9.0
18.5 Associated Miscellaneous Activities	1	71.0	13.4	2.2	3.0	4.9	5.5	15.1
Installation of Terne Roofing:								
11.0 Soldering, Brazing	1	100.0	0.0	0.0	0.0	0.0	0.0	6.3
14.0 Handling Lead Shot, Bricks, or Sheet	1	100.0	0.0	0.0	0.0	0.0	0.0	5.6

Source: OSHA, Office of Regulatory Analysis.

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TABLE 7.—PROJECTED BLOOD-LEAD PROFILE ASSOCIATED WITH THE 50 µG/M³ PEL, BY CONSTRUCTION ACTIVITY

Construction project activity	Assumed factor of exposure reduction	Percent of time that blood-lead level (µg/dl) is within stated range						Average blood-lead level (µg/dl)
		<=15	>15–25	>25–30	>30–40	>40–50	>50	
Highway and Railroad Bridge Repainting:								
1.1 Abrasive Blasting	4000	100.0	0.0	0.0	0.0	0.0	0.0	6.6
3.0 Spray Painting with LBP	20	100.0	0.0	0.0	0.0	0.0	0.0	6.0
19.1 Spray Painting with Non-LBP	2	100.0	0.0	0.0	0.0	0.0	0.0	8.6
—Combined Blasting/Painting	—	100.0	0.0	0.0	0.0	0.0	0.0	7.1
18.1 Enclosure Movement	50	100.0	0.0	0.0	0.0	0.0	0.0	7.6
18.2 Associated Miscellaneous Activities	50	86.0	14.0	0.0	0.0	0.0	0.0	9.6
Highway and Railroad Bridge Rehabilitation:								
2.1 Welding, Cutting, Burning on Bridges	50	59.2	40.8	0.0	0.0	0.0	0.0	12.8
18.5 Associated Miscellaneous Activities	50	100.0	0.0	0.0	0.0	0.0	0.0	5.4
Water Tank Repainting:								
1.1 Abrasive Blasting	4000	100.0	0.0	0.0	0.0	0.0	0.0	6.6
3.0 Spray Painting with LBP	20	100.0	0.0	0.0	0.0	0.0	0.0	5.9
19.1 Spray Painting with Non-LBP	2	100.0	0.0	0.0	0.0	0.0	0.0	8.6
—Combined Blasting/Painting	—	100.0	0.0	0.0	0.0	0.0	0.0	8.5
18.1 Enclosure Movement	50	100.0	0.0	0.0	0.0	0.0	0.0	7.5
18.2 Associated Miscellaneous Activities	50	92.3	7.7	0.0	0.0	0.0	0.0	9.5
Petroleum Tank Repainting:								
1.1 Abrasive Blasting	4000	100.0	0.0	0.0	0.0	0.0	0.0	6.6
3.0 Spray Painting with LBP	20	100.0	0.0	0.0	0.0	0.0	0.0	6.0
19.1 Spray Painting with Non-LBP	2	100.0	0.0	0.0	0.0	0.0	0.0	8.6
—Combined Blasting/Painting	—	100.0	0.0	0.0	0.0	0.0	0.0	7.1
18.1 Enclosure Movement	50	100.0	0.0	0.0	0.0	0.0	0.0	7.6
18.2 Associated Miscellaneous Activities	50	86.0	14.0	0.0	0.0	0.0	0.0	9.6
Underground Storage Tank Demolition:								
2.2 Other Welding, Cutting, Burning	50	100.0	0.0	0.0	0.0	0.0	0.0	5.0
Housing Lead Abatement (Public):								
(A) Combined Abatement Activities	1	100.0	0.0	0.0	0.0	0.0	0.0	6.3
9.1 Power Tool Use (Housing)	40	100.0	0.0	0.0	0.0	0.0	0.0	9.1
Housing Lead Abatement (Private):								
(A) Combined Abatement Activities	1	100.0	0.0	0.0	0.0	0.0	0.0	5.1
In-Place Management (Public)								
(B) Combined In-Place Mgmt. Activities	1	100.0	0.0	0.0	0.0	0.0	0.0	6.6
In-Place Management (Private):								
(B) Combined In-Place Mgmt. Activities	1	100.0	0.0	0.0	0.0	0.0	0.0	9.2
Commercial and Industrial Demolition:								
2.2 Other Welding, Cutting, Burning	50	100.0	0.0	0.0	0.0	0.0	0.0	6.8
Indoor Industrial Facility Maintenance/ Renovation:								
1.1 Abrasive Blasting	4000	100.0	0.0	0.0	0.0	0.0	0.0	5.5
9.2 Power Tool Use (Other)	40	99.2	0.8	0.0	0.0	0.0	0.0	6.5
2.2 Other Welding, Cutting, Burning	50	100.0	0.0	0.0	0.0	0.0	0.0	5.5
19.1 Spray Painting with Non-LBP	2	100.0	0.0	0.0	0.0	0.0	0.0	6.1
—Combined Blasting/Painting	—	100.0	0.0	0.0	0.0	0.0	0.0	5.7
—Combined Power Tool Use/Painting	—	97.5	2.5	0.0	0.0	0.0	0.0	6.7
18.1 Enclosure Movement	50	100.0	0.0	0.0	0.0	0.0	0.0	6.7
18.5 Associated Miscellaneous Activities	50	100.0	0.0	0.0	0.0	0.0	0.0	5.1
Outdoor Industrial Facility Maintenance/ Renovation:								
1.1 Abrasive Blasting	4000	100.0	0.0	0.0	0.0	0.0	0.0	6.6
9.2 Power Tool Use (Other)	40	81.92	18.1	0.0	0.0	0.0	0.0	10.7
2.2 Other Welding, Cutting, Burning	50	100.0	0.0	0.0	0.0	0.0	0.0	6.6
19.1 Spray Painting with Non-LBP	2	100.0	0.0	0.0	0.0	0.0	0.0	8.6
—Combined Blasting/Painting	—	100.0	0.0	0.0	0.0	0.0	0.0	6.9
—Combined Power Tool Use/Painting	—	74.52	25.5	0.0	0.0	0.0	0.0	10.2
18.1 Enclosure Movement	50	100.0	0.0	0.0	0.0	0.0	0.0	7.6
18.5 Associated Miscellaneous Activities	50	100.0	0.0	0.0	0.0	0.0	0.0	5.4
Lead Joint Work on Cast Iron Soil Pipes:								
10.0 Use of Lead Pots	1	100.0	0.0	0.0	0.0	0.0	0.0	5.4

TABLE 7.—PROJECTED BLOOD-LEAD PROFILE ASSOCIATED WITH THE 50 µG/M³ PEL, BY CONSTRUCTION ACTIVITY—Continued

Construction project activity	Assumed factor of exposure reduction	Percent of time that blood-lead level (µg/dl) is within stated range						Average blood-lead level (µg/dl)
		<=15	>15–25	>25–30	>30–40	>40–50	>50	
Ind. Process Equipment Mfg./Maint./Repair:								
2.3 Lead Burning	20	98.90	1.1	0.0	0.0	0.0	0.0	12.6
Industrial Vacuuming:								
15.0 Industrial Vacuuming	50	100.0	0.0	0.0	0.0	0.0	0.0	5.0
Stained Glass Window Removal:								
13.1 Removal of Stained Glass Windows	50	100.0	0.0	0.0	0.0	0.0	0.0	5.3
Installation of Radiation Shielding:								
14.0 Handling Lead Shot, Bricks, or Sheet	1	100.0	0.0	0.0	0.0	0.0	0.0	5.3
16.0 Cutting of Lead Foil Panels	1							
Commercial and Institutional Remodeling:								
(C) Combined Comm./Inst. Remodeling Activities	1	100.0	0.0	0.0	0.0	0.0	0.0	7.0
5.2 Manual Demolition	50	100.0	0.0	0.0	0.0	0.0	0.0	5.3
9.2 Power Tool Use (Other)	40	94.79	5.2	0.0	0.0	0.0	0.0	9.2
2.2 Other Welding, Cutting, Burning	50	100.0	0.0	0.0	0.0	0.0	0.0	6.8
Residential Remodeling:								
(D) Combined Res. Remodeling Activities	1	100.0	0.0	0.0	0.0	0.0	0.0	7.6
5.2 Manual Demolition	50	100.0	0.0	0.0	0.0	0.0	0.0	5.3
Elevator Cable Babbitting:								
10.0 Use of Lead Pots	1	100.0	0.0	0.0	0.0	0.0	0.0	5.0
Electrical Cable Splicing:								
10 Use of Lead Pots	1	100.0	0.0	0.0	0.0	0.0	0.0	5.3
Reinsulation over Existing Mineral Wool:								
17.0 Reinsulation over Existing Mineral Wool	10	100.0	0.0	0.0	0.0	0.0	0.0	5.0
Repair/Removal of Water Lines Containing Lead:								
11.0 Soldering, Brazing	1	100.0	0.0	0.0	0.0	0.0	0.0	5.1
Transmission and Communication Tower Maint.:								
4.0 Hand Scraping	50	100.0	0.0	0.0	0.0	0.0	0.0	5.0
9.2 Power Tool Use (Other)	40	99.18	0.8	0.0	0.0	0.0	0.0	7.0
19.2 Brush Painting with Non-LBP	1	100.0	0.0	0.0	0.0	0.0	0.0	5.3
—Combined Hand Scraping/Painting	—	100.0	0.0	0.0	0.0	0.0	0.0	6.4
—Combined Power Tool Use/Painting	—	100.0	0.0	0.0	0.0	0.0	0.0	5.8
18.5 Associated Miscellaneous Activities	50	100.0	0.0	0.0	0.0	0.0	0.0	5.2
Installation of Terne Roofing:								
11.0 Soldering, Brazing	1	100.0	0.0	0.0	0.0	0.0	0.0	6.3
14.0 Handling Lead Shot, Bricks, or Sheet	1	100.0	0.0	0.0	0.0	0.0	0.0	5.6

Source: OSHA, Office of Regulatory Analysis.

Table 8 presents the analysis of the number of potential medical removal protection (MRP) cases expected to occur during the first year that the Interim Final Standard is in effect. The estimates shown are based on the assumptions that initial monitoring is administered to all workers in activities with exposures at or above the 30 µg/m³ action level and that medical surveillance program monitoring is administered to all workers in activities with exposures at or above the 30 µg/m³ action level for more than 30 days per year. These estimates were prepared to support the analysis of potential costs of medical removal protection benefits and increased medical surveillance for workers with detected and confirmed blood leads over 50 µg/dl. Because measurements of blood-lead levels are to be taken at fixed intervals under the Interim Final Standard, and because a worker's blood-lead level changes in response to variations in air lead exposures, there is a determinable probability that a blood-lead level above the 50 µg/dl medical removal trigger will be detected on any particular test. To estimate the number of MRP cases that would likely be identified, two alternative assumptions were made. First, it was assumed that blood-lead levels above the MRP trigger occur irregularly during the year. Under this assumption, the probability of detecting a blood-lead level above the MRP trigger can be described using binomial statistics, and the result represents a minimum estimate of the true probability. Alternatively, it was assumed that all blood-lead levels above the MRP trigger occur on consecutive days (i.e., blood-lead levels are highly autocorrelated), and that blood-lead measurements will be taken at 60-day intervals. Under this assumption, the probability of detecting a blood-lead level above the MRP trigger can be described by the ratio of the number of days that blood-lead levels are above the

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MRP trigger divided by 60. This approach was assumed to yield the maximum probability of detecting a blood-lead level above 50 µg/dl. Multiplying the minimum and maximum probabilities of detecting a blood-lead level above the MRP trigger by the estimated number of employees engaged in each construction activity yields estimates of the annual number of employees that will be detected with blood-lead levels above the MRP trigger under baseline exposure conditions.

TABLE 8.—PREVALENCE OF MEDICAL REMOVAL CASES UNDER BASELINE EXPOSURE ASSUMPTIONS BY PROJECT TYPE

Project type	Total number of workers exposed	Initial biological monitoring **	Medical surveillance program monitoring ***	Number of MRP cases per year (minimum)	Number of MRP cases per year (maximum)
Highway and Railroad Bridge Repainting	18,419	X	X	2,419	4,697
Highway and Railroad Bridge Rehabilitation	29,958	X	X	11,733	15,053
Water Tank Repainting	5,113	X	X	579	1,077
Petroleum Tank Repainting	4,364	X	X	565	1,097
Underground Storage Tank Demolition	288	X		0	0
Housing Lead Abatement (Public Housing)*	2,893	X	X	0	0
Housing Lead Abatement (Private Housing)*	9,345			0	0
In-place Management (Public Housing)*	188			0	0
In-place Management (Private Housing)*	35,056			0	0
Commercial and Industrial Demolition	7,440	X	X	0	0
Indoor Industrial Facility Maint./Renovation	2,113	X	X	9	14
Outdoor Industrial Facility Maint./Renovation	2,981	X	X	393	706
Lead Joint Work on Cast Iron Soil Pipes	15,337			0	0
Ind. Process Equipment Mfg./Maint./Repair	409	X	X	0	0
Industrial Vacuuming	392	X		0	0
Stained Glass Window Removal	208	X	X	0	0
Installation of Radiation Shielding	40			0	0
Commercial and Institutional Remodeling*	546,798	X		186	301
Residential Remodeling*	178,544	X		0	0
Elevator Cable Babbitting	4,500			0	0
Electrical Cable Splicing	5,000			0	0
Reinsulation Over Existing Mineral Wool	18,333	X		0	0
Repair/Removal of Water Lines	41,042			0	0
Transmission & Comm. Tower Maint.	7,333	X	X	372	614
Installation of Terne Roofing	576			0	0
Total for all project types	936,670			16,256	23,559

* OSHA's analysis shows that in some activities in these project types, poor work practices can result in blood-lead levels that would require medical removal. However, once the standard is in effect, and good work practices are implemented, none of these workers in these activities will be exposed above the action level.
** Initial monitoring is triggered by a single day of exposure above the action level of 30 µg/m³.
*** Medical surveillance program monitoring is triggered by exposure above the action level for more than 30 days and for all workers with blood-lead levels above 40 µg/dl.
Source: OSHA, Office of Regulatory Analysis.

However, not all of these employees will be medically removed. The interim final standard mandates that employees be removed from exposure only after a follow-up blood-lead test taken two weeks after a periodic test confirms the blood-lead level to be above 50 µg/dl. Of the number of employees found to have a blood-lead level above the MRP trigger, Meridian assumed that two-thirds will require medical removal as a result of a confirming follow-up blood-lead test.

In addition, it can reasonably be expected that blood-lead levels will fall during the first year that the standard is in effect, due to the requirement to reduce employee exposures during that year. Therefore, the number of employees having blood-lead levels above 50 µg/dl will likely decline during the first year. For this analysis, it was assumed that the number of employees requiring medical removal will decline by half after the first four months following the effective date, and should approach zero at the end of the first year following the effective date of the standard. (The number of MRP cases expected to be identified during the first year was reduced, in accordance with this assumption, for purposes of the cost analysis.)

Table 9 contains estimates of the number of illness and MRP cases expected to be avoided following promulgation of the 50 µg/m³ PEL for construction. (About half of these benefits would have been achieved if there had been full compliance with the existing OSHA PEL of 200 µg/m³.) Except for cases of gastrointestinal disturbances, detected blood-leads above the 50 µg/dl medical removal trigger, and medical removal, estimates of the numbers of cases avoided were derived using average baseline blood-lead levels predicted for each group of workers (see Table 6) and corresponding risk estimates contained in Meridian's Peer-Review Draft Risk Assessment. For gastrointestinal disturbances, a minimum estimate of cases avoided was derived by assuming that all workers predicted to have blood-lead levels exceeding 90 µg/dl at least five percent of the time (i.e., about three weeks) were at risk of acute lead poisoning. The maximum estimate was derived by assuming that all workers with blood-lead levels exceeding 70 µg/dl are at risk. The number of cases of detected

blood-leads above the MRP trigger level and number of cases of medical removals comes from the analysis summarized in Table 8.

The number of illness and MRP cases avoided for near-term effects listed in Table 9 are expected to accrue during or shortly after the first year following promulgation of the Interim Final Standard. These near-term effects have generally been found to be reversible upon reduction or cessation of exposure to lead. The number of illness cases avoided for long-term effects are expected to accrue over at least a 10-year period of time.

TABLE 9.—SUMMARY OF POTENTIAL BENEFITS ASSOCIATED WITH A REDUCTION OF THE LEAD PEL TO 50 µG/M³ FOR CONSTRUCTION

Effect avoided	Number of cases	
	Minimum	Maximum
Near-Term Effects Avoided Annually:		
Reduced Nerve Conduction Velocity	16,199	22,831
Reduced Blood ALA–D Levels	130,056	164,044
Increased Urinary ALA	60,389	78,676
Gastrointestinal Disturbances	1,135	4,413
Detected Blood-Lead Levels Above MRP Trigger**	24,262	35,163
Long-Term Effects Avoided Over A Ten-Year Period:		
Fatal/Nonfatal Infarctions	2,164	2,322
Fatal/Nonfatal Stroke	698	644
Renal Disease	1,258	2,157

**Note: The minimum estimate of expected medical removal cases is 16,256. The maximum estimate of expected medical removal cases is 23,559.
Source: OSHA, Office of Regulatory Analysis.

E. Costs of Compliance

This section describes the costs of compliance expected to be incurred by the industries affected by the Interim Final Standard for Lead in Construction. The cost estimates presented in this section are based on the preliminary findings of OSHA's research into current compliance, costs and economic impact issues related to lead exposure reduction efforts in the construction industry.

As described in the technological feasibility section above, there are several general approaches for controlling exposure to airborne lead. The existing OSHA lead standard, 29 CFR 1926.55, requires engineering controls, work practices, and respirators to be used to meet a PEL of 200 µg/m³ for lead exposure in the construction industry.[3] The Interim Final Standard reduces the lead PEL to 50 µg/m³ and requires additional safeguards in the form of ancillary provisions intended to prevent overexposure to lead. These ancillary provisions include requirements for competent person supervision, exposure monitoring, protective clothing and equipment, biological monitoring, and recordkeeping. The costs of meeting these additional requirements are attributable to the Interim Final Standard. Table 10 summarizes information on the regulatory provisions of the existing standard, the Interim Final Standard, and the exposure levels at which required controls must be employed.

TABLE 10.—SUMMARY OF CONTROL PRACTICE REQUIREMENTS ASSOCIATED WITH OSHA'S EXISTING AND INTERIM FINAL LEAD STANDARDS

Control practice	Existing standard: 200 µg/m³ PEL		Interim final standard		
	Exposure below PEL	Exposure above PEL	Exposure below 30 µg/m³ AL	Exposure between AL and PEL	Exposure above 50 µg/m³ PEL
Determination of the Presence of Lead[a]			X	X	X
Competent Person					X
Exposure Monitoring and Assoc. Recordkeeping[a]			X	X	X
Mechanical Ventilation		X			X
Local exhaust Ventilation		X			X
Enclosures/Containment Systems[b]		X			X
HEPA Vacumms	X[c]	X[c]	X	X	X
Wetting Agents	X	X	X	X	X
Written Compliance Program					X
Warning Signs					X
Worker Training				X	X
Notification of Other Employers			X	X	X
Respiratory Protection		X			X

[3] Thus the capital costs of mechanical ventilation, local exhaust ventilation, HEPA vacuums, wetting agents, and respiratory protection for projects with exposures over 200 µg/m³ are already required under 29 CFR 1926.55.

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TABLE 10.—SUMMARY OF CONTROL PRACTICE REQUIREMENTS ASSOCIATED WITH OSHA'S EXISTING AND INTERIM FINAL LEAD STANDARDS—Continued

Control practice	Existing standard: 200 µg/m³ PEL		Interim final standard		
	Exposure below PEL	Exposure above PEL	Exposure below 30 µg/m³ AL	Exposure between AL and PEL	Exposure above 50 µg/m³ PEL
Protective Clothing/Gloves/Shoe Covers					X
Handwashing Facilities Only [d]			X	X	X
Change Areas with Storage Facilities					X
Decontamination Facilities including Showers					X
Eating Areas and Facilities					X
Biological Monitoring and Assoc. Recordkeeping				X	X
Medical Examinations and Assoc. Recordkeeping				X	X
Medical Removal Protection Requirements [e]			X	X	X

[a] Exemption is possible if objective data shows that exposures are below the action level or if the employer has relevant data from the past 12 months.
[b] Enclosures are only assumed to be needed in conjunction with indoor projects using mechanical ventilation. Outdoor enclosures are required by EPA regulations concerning environmental release of lead.
[c] For this standard, vacuums are only needed for worksite clean-up.
[d] Hand washing facilities for activities below the PEL are required by 29 CFR 1926.51(f).
[e] Medical removal is dependent on worker blood-lead level
Source: OSHA, Office of Regulatory Analysis.

In order to develop the cost estimates associated with achieving full compliance with OSHA's Interim Final Standard, unit cost estimates were obtained for the control practices and ancillary measures required for each of the project types and activities covered by the rule. The appropriate control practices required to achieve compliance were identified for each project type and construction activity in accordance with the exposure data presented in the technological feasibility section above. The unit cost data used in this analysis were obtained from published price lists of equipment suppliers and from other information collected and developed by OSHA's consultant, CONSAD Research.

The control practices costed in the analysis of the Interim Final Standard included: Determination of the presence of lead; exposure monitoring; competent person labor time; written compliance programs; warning signs; worker training; respirators for activities with exposures below the old PEL of 200 µg/m³ but above the new PEL of 50 µg/m³ (including the respirator unit, accessories, fit testing, cleaning, and training); disposable and reusable protective clothing, shoe covers and gloves; handwashing facilities; decontamination facilities; clean change areas with storage facilities; eating facilities; biological monitoring (blood lead and ZPP testing); medical examinations; medical removal protection; recordkeeping; and employee notification of monitoring data, blood lead analysis, and medical exam results.[4]

Estimates of the annual need for or use of each control practice were calculated using the following bases for costing purposes: Establishments, projects,[5] crews, workers, project-days, crew-days, or worker-days. Estimates for the other parameters in the cost analyses were calculated based upon estimates of the types and frequency of construction activities performed within each project type, project and activity durations, average number of crews per construction activity, crew size, hours of exposure per day, the percentage of projects performed per year involving lead, and the number of available work-days per year. These estimates were developed by OSHA's consultant, CONSAD Research, based on data obtained from industry and labor experts, site visits conducted to support this analysis, CONSAD's PELs in Construction Study, and the 1991 Steel Structures Painting Council (SSPC) Survey of Facility Owners.

Annual compliance costs for each project type and associated activities were developed by combining the unit cost data with estimates of the number of units of each type of control practice needed per year to achieve compliance with the Interim Final Standard. Estimated costs for hygiene facilities, respirators and other capital goods were annualized based on assumptions about the expected useful life of the equipment. The resulting gross annual cost estimates were then adjusted to reflect existing use of specific control practices in order to develop net annual compliance cost estimates.

OSHA's preliminary estimates of current compliance with lead exposure control requirements were used to determine current expenditures on control practices for each project type. These compliance estimates were based upon information obtained from industry and labor experts, CONSAD site visits, CONSAD's PELs in Construction Study, and reports from various HUD Lead Abatement Demonstration Projects.

The cost estimates discussed in this section are the estimated incremental costs to the affected industries of achieving full compliance with the requirements of the Interim Final Standard. These incremental costs are those costs which must be expended to achieve full compliance with OSHA's new requirements in excess of amounts currently being spent by industry.

The annual recurring costs of achieving compliance with a 50 µg/m³ PEL and the ancillary requirements of the Interim Final Standard are estimated to range between $365 million to $445 million dollars.[6] During the first year following the standard's implementation, additional "one-time" start-up costs are expected to be incurred for worker training, biological monitoring, medical examinations, and

[4] Costs of complying with the requirement for handwashing facilities are attributed to the existing OSHA construction sanitation standard: 29 CFR 1926.51(f).

[5] Multiple pieces of equipment were costed where firms were assumed to perform more than one project at a time.

[6] Additional costs will be borne by those firms not currently in compliance with the existing 200 µg/m³ PEL.

medical removal protection benefits.[7] These costs are estimated to range between $150 million and $183 million. Start-up costs for worker training and biological monitoring are based on the need to train and monitor all current employees exposed above the trigger levels for these provisions during the first year after the standard becomes effective. Costs for medical examinations and medical removal protection benefits should not persist beyond the first year; compliance with the 50 µg/m³ PEL is expected to reduce worker blood leads below the trigger levels for these provisions.

Tables 11 and 12 present point estimates of the annual recurring cost of the Interim Final Standard to illustrate the relative magnitude of costs by project type and by provision. The figures shown in Tables 11 and 12 suggest the relative importance of each cost element.

TABLE 11.—POINT-ESTIMATE SUMMARY OF ANNUAL RECURRING COMPLIANCE COSTS FOR OSHA'S INTERIM FINAL LEAD STANDARD BY PROJECT TYPE

Project type	Total annual recurring compliance costs	Project cost as a percentage of total
Highway and railroad bridge repainting	56,742,000	13.99
Highway and railroad bridge rehabilitation	109,583,000	27.02
Water tank repainting	14,797,000	3.65
Petroleum tank repainting	16,125,000	3.98
Underground storage tank demolition	443,000	0.11
Housing lead abatement (public housing)	5,473,000	1.35
Housing lead abatement (private housing)	[1] 0	0.00
In-place management (public housing)	[1] 0	0.00
In-place management (private housing)	[1] 0	0.00
Commercial and industrial demolition	16,445,000	4.05
Indoor industrial facility maintenance/renovation	3,739,000	0.92
Outdoor industrial facility maintenance/renovation	10,152,000	2.50
Lead joint work on cast iron soil pipes	[1] 0	0.00
Industrial process equipment manufacturing/maintenance/repair	2,285,000	0.56
Industrial vacuuming	394,000	0.10
Stained glass window removal	1,046,000	0.26
Installation of radiation shielding	[1] 0	0.00
Commercial and institutional remodeling	76,746,000	18.92
Residential remodeling	59,163,000	14.59
Elevator cable babbitting	[1] 0	0.00
Electrical cable splicing	[1] 0	0.00
Reinsulation over existing mineral wool	18,580,000	4.58
Repair/removal of water lines	[1] 0	0.00
Transmission and commercial tower maintenance	13,827,000	3.41
Installation of terne roofing	[1] 0	0.00
Total for all project types	405,550,000	100.000

[1] Lead exposure levels on these projects are not expected to exceed the action level of 30 µg/m.

Source: OSHA, Office of Regulatory Analysis.

TABLE 12.—POINT-ESTIMATE SUMMARY OF ANNUAL RECURRING COMPLIANCE COSTS FOR OSHA'S INTERIM FINAL LEAD STANDARD BY CONTROL PRACTICE

Control practice	Total annual recurring compliance costs	Control practice percentage of total
Determination of the presence of lead	1,413,000	0.35
Competent person labor time	18,610,000	4.59
Exposure monitoring and association recordkeeping	121,617,000	29.99
Written compliance program	15,179,000	3.74
Warning signs	7,036,000	1.73
Worker training	11,118,000	2.74
Respiratory protection	4,714,000	1.16
Protective work clothing	89,325,000	22.03
Hand washing facilities only	[1] 0	0.00
Change areas with storage facilities	2,108,000	0.52
Decontamination facilities and shower time labor cost	111,510,000	27.50
Eating facilities	419,000	0.10
Biological monitoring and association recordkeeping	22,500,000	5.55
Total	405,550,000	100.00

[1] Costs of hand washing facilities were attributed to 29 CFR 1926.51(f).

Source: OSHA, Office of Regulatory Analysis.

As shown in Table 11, the project types expected to account for the largest share of annual costs are Highway and Railroad Bridge Rebabilitation (27%); Commercial and Institutional Remodeling (19%); Residential Remodeling (15%); and Highway and Railroad Bridge Repainting (14%). It should be noted that although lead exposures associated with remodeling project types are generally low, and less than 20 percent of commercial and 5 percent of residential remodeling jobs involving lead exposure are expected to be exposed over the PEL, the large number of remodeling projects estimated to occur annually results in significant total costs for these project types. As shown above in Table 3, the annual numbers of lead-exposed projects for Commercial and Institutional Remodeling and

[7] Cost estimates for medical removal benefits were based on an average removal duration of 100 work days and an average medical removal benefit per case of $74 per day. This estimate is based on OSHA's assumptions about the likelihood of removed workers: finding non-lead exposed jobs with a different employer; moving to a job with the same employer at the same wage rate; moving to a lower-paying job with the same employer; receiving worker compensation; or being removed for fewer than 100 work days.

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Residential Remodeling are 546,000 and 2,698,000, respectively.

Table 12 shows the annual recurring costs by control practice in order to indicate the relative magnitude of costs associated with specific regulatory provisions. In descending order of importance, the most costly provisions are exposure monitoring and associated recordkeeping (30%); hygiene facilities, including change areas and decontamination facilities with associated showering labor time costs (28%); and protective work clothing and equipment, including both reusable and disposable protective clothing (22%).

F. Economic Impacts

This chapter examines the economic impacts associated with OSHA's Interim Final Standard for Lead in Construction. The economic impact analysis presented below is based on those costs attributable to the Interim Final Standard as described in the cost section above.

The economic impacts in this section are presented on both a "per worker" and a "per establishment" basis. The bases for estimating these impacts were derived from data on each SIC obtained from the 1987 Census of Construction Industries, the 1989 County Business Patterns, and the Dun & Bradstreet Insight Database. The following data were used to construct this analysis:

- The total number of establishments;
- The total number of employees and the total number of construction workers;
- The average number of employees and the average number of construction workers per establishment;
- The annual payroll for all employees and for construction workers;
- The net dollar value of construction work for construction SICs or sales for non-construction SICs; and
- The pre-tax profit ratio.

These data were used to derive the annual payroll and net value of construction work per establishment and per construction worker. To obtain pre-tax profits per establishment, pre-tax profit ratios derived from Dun & Bradstreet data were multiplied by the net value of construction work or sales per establishment.

Across all the affected SICs, the annual payroll per establishment ranges from $48,000 for SIC 1521, Single Family Housing to $3.4 million for SIC 4911, Electric Utilities. The net value of construction work or sales per establishment ranges from $15,300 in sales for SIC 6514, Operators of Other Dwellings to $7 million in sales for SIC 4911, Electric Utilities. Across all the affected SICs, pre-tax profits per establishment range from $1,300 for SIC 6514, Operators of Other Dwellings to $676,000 for SIC 4911, Electric Utilities.

Several different cost-related impact measures were calculated for each of the 18 construction SICs and four of the five non-construction SICs identified as affected by OSHA's Interim Final Standard.[8] These impact measures are:

- The ratio of the average annual compliance costs per affected establishment (or per exposed construction worker) to an estimate of the annual payroll for an average establishment (or per construction worker) in the specific SIC. This measure compares the projected compliance costs to labor costs normally incurred by the establishment. It can be interpreted as the cost of providing a mandated occupational safety and health "benefit" relative to existing payroll expenses.
- A comparison of the average annual compliance costs per affected establishment (or per exposed construction worker) to an estimate of the net dollar value of construction work or sales for an average establishment (or per construction worker) in the specific SIC. This ratio indicates the relationship of the compliance costs to an establishment's output.
- The average annual compliance cost per affected establishment as a percentage of pre-tax profits for an average establishment in the specific SIC. This measure is particularly meaningful when establishments face highly competitive conditions which prevent the pass through of compliance costs to customers.

The impact measures described above were calculated for the annual recurring costs of the Interim Final Standard as shown in Table 11 above. Table 13 presents estimates of the annual recurring compliance costs per exposed worker and per establishment for each affected SIC. These estimates are an average of costs across the mix of different project types assumed to be performed by each construction or non-construction industry SIC.

Table 13 shows these average costs as a percentage of construction payroll and net value of construction work or sales, on both a per worker and per establishment basis for affected industries. The last column of Table 13 presents the compliance costs per establishment as a percentage of pre-tax profits per establishment. These average percentages are shown to illustrate the relative magnitude of impacts on specific SICs; they should not be interpreted as indicative of the cost impacts on specific project types or on firms within an SIC which specialize in only one of the associated project types.

As shown in Table 13, using annual compliance costs per worker as a measure of impact, the most impacted SICs are expected to include SIC 1791, Structural Steel Erection Contractors; SIC 1795, Wrecking and Demolition Contractors; SIC 1622, Bridge, Tunnel and Elevated Highway Contractors; SIC 1611, Highway and Street Construction Contractors; SIC 1721, Painting Contractors; and SIC 3231, Glass Products Manufacturers.

[8] Impact estimates were not made for SIC 9999, State and Municipal Governments since the relevant revenue and profit data are not applicable.

TABLE 13.—SUMMARY ECONOMIC IMPACT MEASURES FOR OSHA'S INTERIM FINAL STANDARD IMPACT MEASURES CALCULATED USING ESTIMATES OF ANNUAL RECURRING COSTS

SIC	Industry title	Compliance cost per worker ($)	Compliance cost per worker as a percentage of—		Compliance cost per establishment ($)	Compliance cost per establishment as a percentage of—		
			Construction payroll per worker (percent)	Net value of construction work/sales per worker (percent)		Construction worker payroll per establishment (percent)	Net value of construction work/sales per establishment (percent)	Pre-tax profits per establishment (percent)
1521	Single family housing	297	2.1	0.3	1,202	2.5	0.4	6.9
1522	Other residential buildings	331	1.8	0.3	1,342	1.0	0.2	3.2
1531	Operative builders	277	1.5	0.1	1,119	1.6	0.1	1.6
1541	Industrial buildings and warehouses.	168	0.7	0.2	3,028	0.9	0.2	4.8
1542	Other non-resident construction.	140	0.7	0.1	2,564	1.0	0.2	5.0
1611	Highway and street contractors	3,398	15.1	2.9	57,735	11.8	2.3	44.4
1622	Bridge, tunnel and el. highway contractors.	3,625	16.0	3.5	77,482	9.9	2.1	47.7
1711	Plumbing contractors	0	0.0	0.0	0	0.0	0.0	0.0
1721	Painting contractors	775	4.7	1.5	7,792	9.8	3.1	42.2
1731	Electrical work contractors	211	0.9	0.2	1,606	0.8	0.2	3.6
1742	Plastering, drywall, and ins. contractors.	229	1.1	0.3	2,023	0.8	0.2	4.8
1751	Carpentry work contractors	167	1.1	0.3	2,046	2.8	0.7	10.8
1752	Floor work contractors	187	1.0	0.2	1,836	2.3	0.4	6.7
1761	Roofing and siding contractors	166	1.0	0.2	2,020	1.7	0.4	7.0
1791	Structural steel erection contractors.	3,607	16.0	4.4	70,485	23.0	6.3	99.6
1795	Wrecking and demolition work contractors.	2,188	13.1	3.0	24,596	15.6	3.6	62.3
1796	Building equipment contractors	0	0.0	0.0	0	0.0	0.0	0.0
1799	Miscellaneous special trade contractors, NEC.	402	2.5	0.6	2,027	2.1	0.5	7.2
3231	Glass products manufacturers	5,019	29.7	1.8	10,038	14.0	0.9	14.6
4911	Electric utilities	0	0.0	0.0	0	0.0	0.0	0.0
6513	Operators of apartment buildings.	0	0.0	0.0	0	0.0	0.0	0.0
6514	Operators of other dwellings	0	0.0	0.0	0	0.0	0.0	0.0

Source: OSHA, Office of Regulatory Analysis.

If compliance costs per establishment are used as a measure of impact, the most impacted SICs during subsequent years are expected to include: SIC 1791, Structural Steel Erection Contractors; SIC 1795, Wrecking and Demolition Contractors; SIC 1622, Bridge, Tunnel and Elevated Highway Contractors; SIC 1611, Highway and Street Construction Contractors; SIC 1721, Painting Contractors; and SIC 3231, Glass Products Manufacturers.

Impact measures calculated on the basis of percent of net value of construction work and sales suggest the magnitude of cost increases that may potentially be passed through to consumers of construction. (The very high impact on pre-tax profits found in SICs 1791 and 1795 would only be realized if no costs were passed through to buyers of construction. Since cost pass through of most costs is likely, the impact shown in Table 13 represents a hypothetical extreme.)

Existing federal, state and local regulations have already established some obligations for owners and contractors concerning abatement practices on construction projects that supplement and reinforce the requirements of OSHA's Interim Final Lead Standard. These regulations, in conjunction with forthcoming lead regulations from the Federal Highway Administration, the Environmental Protection Agency and the Department of Housing and Urban Development, are expected to ensure a level playing field for contractors bidding on work involving lead exposure.

For many project types involving high exposures to lead, and especially those involving abrasive blasting, small contractors have traditionally made up most of the industry. In recent years, construction industry compliance with environmental regulations has resulted in large capital expenditures and additional worker skill training requirements. These requirements are bringing about some restructuring in this industry with a progressively larger share of work involving lead exposure being performed by larger, better capitalized contractors. OSHA does not anticipate that these changes will result in massive dislocations, undue concentration or any threat to the competitive structure of the industry.

Where OSHA compliance costs significantly increase costs to the buyers of construction, some projects may be delayed in order to compensate for the increased cost of existing work. This may occur in the case of infrastructure projects such as bridge repainting and bridge rehabilitation. However, OSHA cannot state with certainty whether or not this will actually occur or whether new levels of infrastructure spending will more than compensate for new costs of the interim final rule.

G. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (Pub.L. 96–353, 94 Stat. 1164 (5 U.S.C. et seq.)), OSHA has assessed the impact of the Interim Final Standard on small businesses, defined as establishments with fewer than 20

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employees. The impacts were evaluated for potential adverse impacts on small firms and their relative consequences compared with large firms. Of the estimated 147,000 affected establishments, approximately 132,000 (90%), are small businesses. Thus, the impacts shown above for all establishments are also illustrative of the expected impacts on small businesses.

In general, the costs of compliance for any firm will depend on the extent of worker exposures, the extent of current engineering control, work practice and respirator use, and the amount of lead-exposed work being done. For any given lead-exposed activity, work is likely to be done in a similar manner by both large and small firms, with costs proportional to the scale of the project. As noted above, in response to environmental regulations regarding lead removal, larger capital requirements are bringing about some industry rationalization and concentration. However, this development is not threatening the overall competitive structure of the industry. Estimated compliance costs are feasible for both large and small establishments in each affected industry sector.

V. Environmental Impact Analysis

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 at seq.), as implemented by the regulations (40 CFR part 1500) of the Council on Environmental Quality (CEQ), requires that federal agencies assess their regulatory actions to determine if there is a potential for a significant impact on the quality of the human environment and, if necessary, to prepare an environmental impact statement.

In accordance with these requirements and DOL NEPA Compliance Procedures (29 CFR part 11, subpart B, § 11.10(a)(4)), OSHA has determined that this standard will not have any appreciable negative environmental impact. In any event, OSHA also believes that due to the compressed rulemaking schedule imposed by the Congress in issuing the interim regulation, no environmental impact statement will be prepared for this interim rule.

In similar situations, for example, when an emergency temporary standard (ETS) has been issued, the courts have held that NEPA does not require advance preparation of an environmental statement for an ETS (*Dry Color Manufacturing Association* v. *U.S. Department of Labor*, 486 F. 2d 98, 107 [3rd Cir. 1973]). This interim final standard is similar in nature to an ETS, which is issued on an abbreviated schedule and for a relatively brief period. The DOL NEPA regulations set forth in 29 CFR part 11, subpart B, section 11, 10(s)(4), provide that in these situations the regulations set forth in 40 CFR parts 1500 et seq may not be strictly observable.

VI. Federalism and State Plan Applicability

This standard has been reviewed in accordance with Executive Order 12612, 52 FR 41685 (October 30, 1987), regarding Federalism. This Order requires that agencies, to the extent possible, refrain from limiting state policy options, consult with States prior to taking any actions that would restrict State policy options, and take such actions only when there is clear constitutional authority and the presence of a problem of national scope. The Order provides for preemption of State law only if there is a clear Congressional intent for the agency to do so. Any such preemption is to be limited to the extent possible.

Section 18 of the Occupational Safety and Health Act (OSH Act), expresses Congress' clear intent to preempt State laws with respect to which Federal OSHA has promulgated occupational safety or health standards. Under the OSH Act a State can avoid preemption only if it submits, and obtains Federal approval of, a plan for the development of such standards and their enforcement. Occupational safety and health standards developed by such Plan-States must, among other things, be at least as effective as the Federal standards in providing safe and healthful employment and places of employment.

In short, there is a clear national problem related to occupational safety and health for employees exposed to lead in the construction industry. Those States which have elected to participate under section 18 of the OSH Act would not be preempted by this regulation and would be able to deal with special, local conditions within the framework provided by this performance-oriented standard while ensuring that their standards are at least as effective as the Federal standard.

The 25 States with their own OSHA-approved occupational safety and health plans must adopt a comparable standard within six months of publication of a final rule. The States are: Alaska, Arizona, California, Connecticut, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, Wyoming. For New York and Connecticut, plans cover only state and local government employees. Until such time as a State standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate, in these States.

VII. Date of Effectiveness and Absence of Notice and Comment

Section 1031 of the Housing and Community Development Act specifically provides that the "not later than 180 days after enactment of this Act, the Secretary of Labor shall issue an interim final regulation regulating occupational exposure to lead."

The express use of the phrase "interim final regulation," which in the rulemaking context commonly describes a rule issued without notice and comment, in connection with the extremely limited time frame provided by this section, makes clear that Congress intended this rule to be issued without the time-consuming process of notice and comment. The Agency, therefore, concludes that neither the notice and comment rulemaking provisions of the OSH Act nor those of the Administrative Procedures Act are applicable to the issuance of this interim final rule. This view is further supported in the Act's Legislative Committee report which states that "• • • the procedural requirements of section 6 of the OSH Act do not apply to the promulgation of the interim final regulation," [n]or • • • do the notice and comment provisions of the Administrative procedures Act apply."

VIII. Clearance of Information Collection Requirements

5 CFR part 1320 sets forth procedures for agencies to follow in obtaining OMB clearances for information collection requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The lead in construction interim rule requires the employer to allow OSHA access to various records including the employers' compliance and training plans; and the employees' exposure monitoring, medical and training records. In accordance with the provisions of the Paperwork Reduction Act and the regulations issued pursuant thereto, OSHA certifies that it has submitted the information collection requirements of this standard to OMB for review under section 3504(h) of that Act.

Public reporting burden for this collection of information is estimated to average 5 minutes to allow OSHA compliance officers access to the employer's records. Send comments regarding this burden estimate, or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Information Management, Department of Labor, room N–1301, 200 Constitution Avenue NW., Washington DC, 20210: and to the Office of Management and Budget, Paperwork Reduction Project (Lead Interim Final Rule), Washington, DC, 20503.

IX. Signature

Signed at Washington, DC, this 26 day of April, 1993.

David C. Zeigler,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

Accordingly, 29 CFR part 1926 is amended as follows:

PART 1926—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

1. The authority citation for subpart D of 29 CFR part 1926 is amended by adding the following:

Authority: • • • Section 1926.62 issued under sec. 1031 of the Housing and Community Development Act of 1992 (sec. 1031, title X, 106 Stat. 3924 (42 U.S.C. 4853)).

2. By adding a new § 1926.62, with Appendices A, B, C, and D to subpart D to read as follows:

§ 1926.62 Lead

(a) *Scope.* This section applies to all construction work where an employee may be occupationally exposed to lead. All construction work excluded from coverage in the general industry standard for lead by 29 CFR 1910.1025(a)(2) is covered by this standard. Construction work is defined as work for construction, alteration and/or repair, including painting and decorating. It includes but is not limited to the following:

(1) Demolition or salvage of structures where lead or materials containing lead are present;
(2) Removal or encapsulation of materials containing lead;
(3) New construction, alteration, repair, or renovation of structures, substrates, or portions thereof, that contain lead, or materials containing lead;
(4) Installation of products containing lead;
(5) Lead contamination/emergency cleanup;
(6) Transportation, disposal, storage, or containment of lead or materials containing lead on the site or location at which construction activities are performed, and
(7) Maintenance operations associated with the construction activities described in this paragraph.

(b) *Definitions.*

Action level means employee exposure, without regard to the use of respirators, to an airborne concentration of lead of 30 micrograms per cubic meter of air (30 μg/m³) calculated as an 8-hour time-weighted average (TWA).

Assistant Secretary means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

Competent person means one who is capable of identifying existing and predictable lead hazards in the surroundings or working conditions and who has authorization to take prompt corrective measures to eliminate them.

Director means the Director, National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health and Human Services, or designee.

Lead means metallic lead, all inorganic lead compounds, and organic lead soaps. Excluded from this definition are all other organic lead compounds.

This section means this standard.

(c) *Permissible exposure limit.* (1) The employer shall assure that no employee is exposed to lead at concentrations greater than fifty micrograms per cubic meter of air (50 μg/m³) averaged over an 8-hour period.

(2) If an employee is exposed to lead for more than 8 hours in any work day the employees' allowable exposure, as a time weighted average (TWA) for that day, shall be reduced according to the following formula:

Allowable employee exposure (in μg/m³)=400 divided by hours worked in the day.

(3) When respirators are used to limit employee exposure as required under paragraph (c) of this section and all the requirements of paragraphs (e)(1) and (f) of this section have been met, employee exposure may be considered to be at the level provided by the protection factor of the respirator for those periods the respirator is worn. Those periods may be averaged with exposure levels during periods when respirators are not worn to determine the employee's daily TWA exposure.

(d) *Exposure assessment—(1) General.* (i) Each employer who has a workplace or operation covered by this standard shall initially determine if any employee may be exposed to lead at or above the action level.

(ii) For the purposes of paragraph (d) of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(iii) With the exception of monitoring under paragraph (d)(3), where monitoring is required under this section, the employer shall collect personal samples representative of a full shift including at least one sample for each job classification in each work area either for each shift or for the shift with the highest exposure level.

(iv) Full shift personal samples shall be representative of the monitored employee's regular, daily exposure to lead.

(2) *Protection of employees during assessment of exposure.*

(i) With respect to the lead related tasks listed in paragraph (d)(2)(i) of this section, where lead is present, until the employer performs an employee exposure assessment as required in paragraph (d) of this section and documents that the employee performing any of the listed tasks is not exposed above the PEL, the employer shall treat the employee as if the employee were exposed above the PEL, and not in excess of ten (10) times the PEL, and shall implement employee protective measures prescribed in paragraph (d)(2)(v) of this section. The tasks covered by this requirement are:

(A) Where lead containing coatings or paint are present: Manual demolition of structures (e.g, dry wall), manual scraping, manual sanding, heat gun applications, and power tool cleaning with dust collection systems;

(B) Spray painting with lead paint

(ii) In addition, with regard to tasks not listed in paragraph (d)(2)(i), where the employee has any reason to believe that an employee performing the task may be exposed to lead in excess of the PEL, until the employer performs an employee exposure assessment as required by paragraph (d) of this section and documents that the employee's lead exposure is not above the PEL the employer shall treat the employee as if the employee were exposed above the PEL and shall implement employee protective measures as prescribed in paragraph (d)(2)(v) of this section.

(iii) With respect to the tasks listed in paragraph (d)(2)(iii) of this section, where lead is present, until the employer performs an employee exposure assessment as required in paragraph (d) of this section, and documents that the employee performing any of the listed tasks is not exposed in excess of 500 μg/m³, the employer shall treat the employee as if the employee were exposed to lead in excess of 500 μg/m³ and shall implement employee protective measures as prescribed in paragraph (d)(2)(v) of this section. Where the employer does establish that the employee is exposed to levels of lead below 500 μg/m³, the employer may

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provide the exposed employee with the appropriate respirator prescribed for such use at such lower exposures, in accordance with Table 1 of this section. The tasks covered by this requirement are:

(A) Using lead containing mortar; lead burning.

(B) Where lead containing coatings or paint are present: rivet busting; power tool cleaning without dust collection systems; cleanup activities where dry expendable abrasives are used; and abrasive blasting enclosure movement and removal.

(iv) With respect to the tasks listed in paragraph (d)(2)(iv) of this section, where lead is present, until the employer performs an employee exposure assessment as required in paragraph (d) of this section and documents that the employee performing any of the listed tasks is not exposed to lead in excess of 2,500 µg/m³ (50×PEL), the employer shall treat the employee as if the employee were exposed to lead in excess of 2,500 µg/m³ and shall implement employee protective measures as prescribed in paragraph (d)(2)(v) of this section. Where the employer does establish that the employee is exposed to levels of lead below 2,500 µg/m3, the employer may provide the exposed employee with the appropriate respirator prescribed for use at such lower exposures, in accordance with Table I of this section. Interim protection as described in this paragaraph is required where lead containing coatings or paint are present on structures when performing:

(A) Abrasive blasting,

(B) Welding,

(C) Cutting, and

(D) Torch burning.

(v) Until the employer performs an employee exposure assessment as required under paragraph (d) of this section and determines actual employee exposure, the employer shall provide to employees performing the tasks described in paragraphs (d)(2)(i), (d)(2)(ii), (d)(2)(iii), and (d)(2)(iv) of this section with interim protection as follows:

(A) Appropriate respiratory protection in accordance with paragraph (f) of this section.

(B) Appropriate personal protective clothing and equipment in accordance with paragraph (g) of this section.

(C) Change areas in accordance with paragraph (i)(2) of this section.

(D) Hand washing facilities in accordance with paragraph (i)(5) of this section.

(E) Biological monitoring in accordance with paragraph (j)(1)(i) of this section, to consist of blood sampling and analysis for lead and zinc protoporphyrin levels, and

(F) Training as required under paragraph (l)(1)(i) of this section regarding 29 CFR 1926.59, Hazard Communication; training as required under paragraph (l)(2)(ii)(C) of this section, regarding use of respirators; and training in accordance with 29 CFR 1926.21, Safety training and education.

(3) *Basis of initial determination.* (i) Except as provided under paragraphs (d)(3)(iii) and (d)(3)(iv) of this section the employer shall monitor employee exposures and shall base initial determinations on the employee exposure monitoring results and any of the following, relevant considerations:

(A) Any information, observations, or calculations which would indicate employee exposure to lead;

(B) Any previous measurements of airborne lead; and

(C) Any employee complaints of symptoms which may be attributable to exposure to lead.

(ii) Monitoring for the initial determination where performed may be limited to a representative sample of the exposed employees who the employer reasonably believes are exposed to the greatest airborne concentrations of lead in the workplace.

(iii) Where the employer has previously monitored for lead exposures, and the data were obtained within the past 12 months during work operations conducted under workplace conditions closely resembling the processes, type of material, control methods, work practices, and environmental conditions used and prevailing in the employer's current operations, the employer may rely on such earlier monitoring results to satisfy the requirements of paragraphs (d)(3)(i) and (d)(6) of this section if the sampling and analytical methods meet the accuracy and confidence levels of paragraph (d)(10) of this section.

(iv) Where the employer has objective data, demonstrating that a particular product or material containing lead or a specific process, operation or activity involving lead cannot result in employee exposure to lead at or above the action level during processing, use, or handling, the employer may rely upon such data instead of implementing initial monitoring.

(A) The employer shall establish and maintain an accurate record documenting the nature and relevancy of objective data as specified in paragraph (n)(4) of this section, where used in assessing employee exposure in lieu of exposure monitoring.

(B) Objective data, as described in paragraph (d)(3)(iv) of this section, is not permitted to be used for exposure assessment in connection with paragraph (d)(2) of this section.

(4) *Positive initial determination and initial monitoring.*

(i) Where a determination conducted under paragraphs (d) (1), (2) and (3) of this section shows the possibility of any employee exposure at or above the action level the employer shall conduct monitoring which is representative of the exposure for each employee in the workplace who is exposed to lead.

(ii) Where the employer has previously monitored for lead exposure, and the data were obtained within the past 12 months during work operations conducted under workplace conditions closely resembling the processes, type of material, control methods, work practices, and environmental conditions used and prevailing in the employer's current operations, the employer may rely on such earlier monitoring results to satisfy the requirements of paragraph (d)(4)(i) of this section if the sampling and analytical methods meet the accuracy and confidence levels of paragraph (d)(10) of this section.

(5) *Negative initial determination.* Where a determination, conducted under paragraphs (d) (1), (2), and (3) of this section is made that no employee is exposed to airborne concentrations of lead at or above the action level the employer shall make a written record of such determination. The record shall include at least the information specified in paragraph (d)(3)(i) of this section and shall also include the date of determination, location within the worksite, and the name and social security number of each employee monitored.

(6) *Frequency.* (i) If the initial determination reveals employee exposure to be below the action level further exposure determination need not be repeated except as otherwise provided in paragraph (d)(7) of this section.

(ii) If the initial determination or subsequent determination reveals employee exposure to be at or above the action level but at or below the PEL the employer shall perform monitoring in accordance with this paragraph at least every 6 months. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least 7 days apart, are below the action level at which time the employer may discontinue monitoring for that employee except as otherwise provided in paragraph (d)(7) of this section.

(iii) If the initial determination reveals that employee exposure is above the PEL the employer shall perform

monitoring quarterly. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least 7 days apart, are at or below the PEL but at or above the action level at which time the employer shall repeat monitoring for that employee at the frequency specified in paragraph (d)(6)(ii) of this section, except as otherwise provided in paragraph (d)(7) of this section. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least 7 days apart, are below the action level at which time the employer may discontinue monitoring for that employee except as otherwise provided in paragraph (d)(7) of this section.

(7) *Additional exposure assessments.* Whenever there has been a change of equipment, process, control, personnel or a new task has been initiated that may result in additional employees being exposed to lead at or above the action level or may result in employees already exposed at or above the action level being exposed above the PEL, the employer shall conduct additional monitoring in accordance with this paragraph.

(8) *Employee notification.* (i) Within 5 working days after completion of the exposure assessment the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure, without regard to respirators, is at or above the PEL the employer shall include in the written notice a statement that the employees exposure was at or above that level and a description of the corrective action taken or to be taken to reduce exposure to below that level.

(9) *Accuracy of measurement.* The employer shall use a method of monitoring and analysis which has an accuracy (to a confidence level of 95%) of not less than plus or minus 25 percent for airborne concentrations of lead equal to or greater than 30µg/m³.

(e) *Methods of compliance* (1) *Engineering and work practice controls.* The employer shall implement engineering and work practice controls, including administrative controls, to reduce and maintain employee exposure to lead to or below the permissible exposure limit to the extent that such controls are feasible. Wherever all feasible engineering and work practices controls that can be instituted are not sufficient to reduce employee exposure to or below the permissible exposure limit prescribed in paragraph (c) of this section, the employer shall nonetheless use them to reduce employee exposure to the lowest feasible level and shall supplement them by the use of respiratory protection that complies with the requirements of paragraph (f) of this section.

(2) *Compliance program.* (i) Prior to commencement of the job each employer shall establish and implement a written compliance program to achieve compliance with paragraph (c) of this section.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each activity in which lead is emitted; e.g. equipment used, material involved, controls in place, crew size, employee job responsibilities, operating procedures and maintenance practices;

(B) A description of the specific means that will be employed to achieve compliance and, where engineering controls are required engineering plans and studies used to determine methods selected for controlling exposure to lead;

(C) A report of the technology considered in meeting the PEL;

(D) Air monitoring data which documents the source of lead emissions;

(E) A detailed schedule for implementation of the program, including documentation such as copies of purchase orders for equipment, construction contracts, etc.;

(F) A work practice program which includes items required under paragraphs (g), (h) and (i) of this section and incorporates other relevant work practices such as those specified in paragraph (e)(5) of this section;

(G) An administrative control schedule required by paragraph (e)(4) of this section, if applicable;

(H) A description of arrangements made among contractors on multi-contractor sites with respect to informing affected employees of potential exposure to lead and with respect to responsibility for compliance with this section as set-forth in § 1926.16.

(I) Other relevant information.

(iii) The compliance program shall provide for frequent and regular inspections of job sites, materials, and equipment to be made by a competent person.

(iv) Written programs shall be submitted upon request to any affected employee or authorized employee representatives, to the Assistant Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary and the Director.

(v) Written programs shall be revised and updated at least every 6 months to reflect the current status of the program.

(3) *Mechanical ventilation.* When ventilation is used to control lead exposure, the employer shall evaluate the mechanical performance of the system in controlling exposure as necessary to maintain its effectiveness.

(4) *Administrative controls.* If administrative controls are used as a means of reducing employees TWA exposure to lead, the employer shall establish and implement a job rotation schedule which includes:

(i) Name or identification number of each affected employee;

(ii) Duration and exposure levels at each job or work station where each affected employee is located; and

(iii) Any other information which may be useful in assessing the reliability of administrative controls to reduce exposure to lead.

(5) The employer shall ensure that, to the extent relevant, employees follow good work practices such as described in Appendix B of this section.

(f) *Respiratory protection*—(1) *General.* Where the use of respirators is required under this section the employer shall provide, at no cost to the employee, and assure the use of respirators which comply with the requirements of this paragraph. Respirators shall be used in the following circumstances:

(i) Whenever an employee's exposure to lead exceeds the PEL;

(ii) In work situations in which engineering controls and work practices are not sufficient to reduce exposures to or below the PEL;

(iii) Whenever an employee requests a respirator; and

(iv) An interim protection for employees performing tasks as specified in paragraph (d)(2) of this section.

(2) *Respirator selection.* (i) Where respirators are used under this section the employer shall select the appropriate respirator or combination of respirators from Table 1 below.

(ii) The employer shall provide a powered, air-purifying respirator in lieu of the respirator specified in Table 1 whenever:

(A) An employee chooses to use this type of respirator; and (B) This respirator will provide adequate protection to the employee.

(iii) The employer shall select respirators from among those approved for protection against lead dust, fume, and mist by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR part 11.

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TABLE I.—RESPIRATORY PROTECTION FOR LEAD AEROSOLS

Airborne concentration of lead or condition of use	Required respirator [1]
Not in excess of 500 µg/m³.	• ½ mask air purifying respirator with high efficiency filters.[2, 3] • ½ mask supplied air respirator operated in demand (negative pressure) mode.
Not in excess of 1,250 µg/m³.	• Loose fitting hood or helmet powered air purifying respirator with high efficiency filters.[3] • Hood or helmet supplied air respirator operated in a continuous-flow mode—e.g., type CE abrasive blasting respirators operated in a continuous-flow mode.
Not in excess of 2,500 µg/m³.	• Full facepiece air purifying respirator with high efficiency filters.[3] • Tight fitting powered air purifying respirator with high efficiency filters.[3] • Full facepiece supplied air respirator operated in demand mode. • ½ mask or full facepiece supplied air respirator operated in a continuous-flow mode. • Full facepiece self-contained breathing apparatus (SCBA) operated in demand mode.
Not in excess of 50,000 µg/m³.	• ½ mask supplied air respirator operated in pressure demand or other positive-pressure mode.
Not in excess of 100,000 µg/m³.	• Full facepiece supplied air respirator operated in pressure demand or other positive-pressure mode—e.g., type CE abrasive blasting respirators operated in a positive-pressure mode.
Greater than 100,000 µg/m³ unknown concentration, or fire fighting.	• Full facepiece SCBA operated in pressure demand or other positive-pressure mode.

[1] Respirators specified for higher concentrations can be used at lower concentrations of lead.
[2] Full facepiece is required if the lead aerosols cause eye or skin irritation at the use concentrations.
[3] A high efficiency particulate filter (HEPA) means a filter that is 99.97 percent efficient against particles of 0.3 micron size or larger.

(3) *Respirator usage.* (i) The employer shall assure that the respirator issued to the employee exhibits minimum facepiece leakage and that the respirator is fitted properly.

(ii) Employers shall perform either quantitative or qualitative face fit tests at the time of initial fitting and at least every six months thereafter for each employee wearing negative pressure respirators. The qualitative fit tests may be used only for testing the fit of half-mask respirators where they are permitted to be worn, and shall be conducted in accordance with appendix D of this section. The tests shall be used to select facepieces that provide the required protection as prescribed in Table I.

(iii) If an employee exhibits difficulty in breathing during the fitting test or during use, the employer shall make available to the employee an examination in accordance with paragraph (j)(3)(i)(B) of this section to determine whether the employee can wear a respirator while performing the required duty.

(4) *Respirator program.* (i) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134 (b), (d), (e) and (f).

(ii) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(iii) Employees who wear respirators shall be permitted to leave work areas to wash their face and respirator facepiece whenever necessary to prevent skin irritation associated with respirator use.

(g) *Protective work clothing and equipment*—(1) *Provision and use.* Where an employee is exposed to lead above the PEL without regard to the use of respirators, where employees are exposed to lead compounds which may cause skin or eye irritation (e.g. lead arsenate, lead azide), and as interim protection for employees performing tasks as specified in paragraph (d)(2) of this section, the employer shall provide at no cost to the employee and assure that the employee uses appropriate protective work clothing and equipment that prevents contamination of the employee and the employee's garments such as, but not limited to:

(i) Coveralls or similar full-body work clothing;

(ii) Gloves, hats, and shoes or disposable shoe coverlets; and

(iii) Face shields, vented goggles, or other appropriate protective equipment which complies with § 1910.133 of this chapter.

(2) *Cleaning and replacement.* (i) The employer shall provide the protective clothing required in paragraph (g)(1) of this section in a clean and dry condition at least weekly, and daily to employees whose exposure levels without regard to a respirator are over 200 µg/m³ of lead as an 8-hour TWA.

(ii) The employer shall provide for the cleaning, laundering, and disposal of protective clothing and equipment required by paragraph (g)(1) of this section.

(iii) The employer shall repair or replace required protective clothing and equipment as needed to maintain their effectiveness.

(iv) The employer shall assure that all protective clothing is removed at the completion of a work shift only in change areas provided for that purpose as prescribed in paragraph (i)(2) of this section.

(v) The employer shall assure that contaminated protective clothing which is to be cleaned, laundered, or disposed of, is placed in a closed container in the change area which prevents dispersion of lead outside the container.

(vi) The employer shall inform in writing any person who cleans or launders protective clothing or equipment of the potentially harmful effects of exposure to lead.

(vii) The employer shall assure that the containers of contaminated protective clothing and equipment required by paragraph (g)(2)(v) of this section are labelled as follows:

Caution: Clothing contaminated with lead. Do not remove dust by blowing or shaking. Dispose of lead contaminated wash water in accordance with applicable local, state, or federal regulations.

(viii) The employer shall prohibit the removal of lead from protective clothing or equipment by blowing, shaking, or any other means which disperses lead into the air.

(h) *Housekeeping*—(1) All surfaces shall be maintained as free as practicable of accumulations of lead.

(2) Clean-up of floors and other surfaces where lead accumulates shall wherever possible, be cleaned by vacuuming or other methods that minimize the likelihood of lead becoming airborne.

(3) Shoveling, dry or wet sweeping, and brushing may be used only where vacuuming or other equally effective methods have been tried and found not to be effective.

(4) Where vacuuming methods are selected, the vacuums shall be equipped with HEPA filters and used and emptied in a manner which minimizes the reentry of lead into the workplace.

(5) Compressed air shall not be used to remove lead from any surface unless the compressed air is used in conjunction with a ventilation system designed to capture the airborne dust created by the compressed air.

(i) *Hygiene facilities and practices.* (1) The employer shall assure that in areas where employees are exposed to lead above the PEL without regard to the use of respirators, food or beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied.

(2) *Change areas.* (i) The employer shall provide clean change areas for employees whose airborne exposure to lead is above the PEL, and as interim protection for employees performing tasks as specified in paragraph (d)(2) of this section, without regard to the use of respirators.

(ii) The employer shall assure that change areas are equipped with separate storage facilities for protective work clothing and equipment and for street clothes which prevent cross-contamination.

(iii) The employer shall assure that employees do not leave the workplace wearing any protective clothing or equipment that is required to be worn during the work shift.

(3) *Showers.* (i) The employer shall provide shower facilities, where feasible, for use by employees whose airborne exposure to lead is above the PEL.

(ii) The employer shall assure, where shower facilities are available, that employees shower at the end of the work shift and shall provide an adequate supply of cleansing agents and towels for use by affected employees.

(4) *Eating facilities.* (i) The employer shall provide lunchroom facilities or eating areas for employees whose airborne exposure to lead is above the PEL, without regard to the use of respirators.

(ii) The employer shall assure that lunchroom facilities or eating areas are as free as practicable from lead contamination and are readily accessible to employees.

(iii) The employer shall assure that employees whose airborne exposure to lead is above the PEL, without regard to the use of a respirator, wash their hands and face prior to eating, drinking, smoking or applying cosmetics.

(iv) The employer shall assure that employees do not enter lunchroom facilities or eating areas with protective work clothing or equipment unless surface lead dust has been removed by vacuuming, downdraft booth, or other cleaning method that limits dispersion of lead dust.

(5) *Hand washing facilities.* (i) The employer shall provide adequate handwashing facilities for use by employees exposed to lead in accordance with 29 CFR 1926.51(f).

(ii) Where showers are not provided the employer shall assure that employees wash their hands and face at the end of the work-shift.

(j) *Medical surveillance*—(1) *General.* (i) The employer shall make available initial medical surveillance to employees occupationally exposed on any day to lead at or above the action level. Initial medical surveillance consists of biological monitoring in the form of blood sampling and analysis for lead and zinc protoporphyrin levels.

(ii) The employer shall institute a medical surveillance program in accordance with paragraphs (j)(2) and (j)(3) of this section for all employees who are or may be exposed by the employer at or above the action level for more than 30 days in any consecutive 12 months;

(iii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician.

(iv) The employer shall make available the required medical surveillance including multiple physician review under paragraph (j)(3)(iii) without cost to employees and at a reasonable time and place.

(2) *Biological monitoring*—(i) *Blood lead and ZPP level sampling and analysis.* The employer shall make available biological monitoring in the form of blood sampling and analysis for lead and zinc protoporphyrin levels to each employee covered under paragraphs (j)(1)(i) and (ii) of this section on the following schedule:

(A) For each employee covered under paragraph (j)(1)(ii) of this section, at least every 2 months for the first 6 months and every 6 months thereafter;

(B) For each employee covered under paragraphs (j)(1) (i) or (ii) of this section whose last blood sampling and analysis indicated a blood lead level at or above 40 µg/dl, at least every two months. This frequency shall continue until two consecutive blood samples and analyses indicate a blood lead level below 40 µg/dl; and

(C) For each employee who is removed from exposure to lead due to an elevated blood lead level at least monthly during the removal period.

(ii) *Follow-up blood sampling tests.* Whenever the results of a blood lead level test indicate that an employee's blood lead level exceeds the numerical criterion for medical removal under paragraph (k)(1)(i) of this section, the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.

(iii) *Accuracy of blood lead level sampling and analysis.* Blood lead level sampling and analysis provided pursuant to this section shall have an accuracy (to a confidence level of 95 percent) within plus or minus 15 percent or 6 µg/dl, whichever is greater, and shall be conducted by a laboratory approved by OSHA.

(iv) *Employee notification.* (A) Within five working days after the receipt of biological monitoring results, the employer shall notify each employee in writing of his or her blood lead level; and

(B) the employer shall notify each employee whose blood lead level exceeds 40 µg/dl that the standard requires temporary medical removal with Medical Removal Protection benefits when an employee's blood lead level exceeds the numerical criterion for medical removal under paragraph (k)(1)(i) of this section.

(3) *Medical examinations and consultations*—(i) *Frequency.* The employer shall make available medical examinations and consultations to each employee covered under paragraph (j)(1)(ii) of this section on the following schedule:

(A) At least annually for each employee for whom a blood sampling test conducted at any time during the preceding 12 months indicated a blood lead level at or above 40 µg/dl;

(B) As soon as possible, upon notification by an employee either that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice concerning the effects of current or past exposure to

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lead on the employee's ability to procreate a healthy child, that the employee is pregnant, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during use; and

(C) As medically appropriate for each employee either removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited pursuant to a final medical determination.

(ii) *Content.* The content of medical examinations made available pursuant to paragraph (j)(3)(i)(B)–(C) of this section shall be determined by an examining physician and, if requested by an employee, shall include pregnancy testing or laboratory evaluation of male fertility. Medical examinations made available pursuant to paragraph (j)(3)(i)(A) of this section shall include the following elements:

(A) A detailed work history and a medical history, with particular attention to past lead exposure (occupational and non-occupational), personal habits (smoking, hygiene), and past gastrointestinal, hematologic, renal, cardiovascular, reproductive and neurological problems;

(B) A thorough physical examination, with particular attention to teeth, gums, hematologic, gastrointestinal, renal, cardiovascular, and neurological systems. Pulmonary status should be evaluated if respiratory protection will be used;

(C) A blood pressure measurement;

(D) A blood sample and analysis which determines:

(*1*) Blood lead level;

(*2*) Hemoglobin and hematocrit determinations, red cell indices, and examination of peripheral smear morphology;

(*3*) Zinc protoporphyrin;

(*4*) Blood urea nitrogen; and,

(*5*) Serum creatinine;

(E) A routine urinalysis with microscopic examination; and

(F) Any laboratory or other test relevant to lead exposure which the examining physician deems necessary by sound medical practice.

(iii) *Multiple physician review mechanism.* (A) If the employer selects the initial physician who conducts any medical examination or consultation provided to an employee under this section, the employee may designate a second physician:

(*1*) To review any findings, determinations or recommendations of the initial physician; and

(*2*) To conduct such examinations, consultations, and laboratory tests as the second physician deems necessary to facilitate this review.

(B) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical examination or consultation pursuant to this section. The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the employee doing the following within fifteen (15) days after receipt of the foregoing notification, or receipt of the initial physician's written opinion, whichever is later:

(*1*) The employee informing the employer that he or she intends to seek a second medical opinion, and

(*2*) The employee initiating steps to make an appointment with a second physician.

(C) If the findings, determinations or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve any disagreement.

(D) If the two physicians have been unable to quickly resolve their disagreement, then the employer and the employee through their respective physicians shall designate a third physician:

(*1*) To review any findings, determinations or recommendations of the prior physicians; and

(*2*) To conduct such examinations, consultations, laboratory tests and discussions with the prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(E) The employer shall act consistent with the findings, determinations and recommendations of the third physician, unless the employer and the employee reach an agreement which is otherwise consistent with the recommendations of at least one of the three physicians.

(iv) *Information provided to examining and consulting physicians.* (A) The employer shall provide an initial physician conducting a medical examination or consultation under this section with the following information:

(*1*) A copy of this regulation for lead including all Appendices;

(*2*) A description of the affected employee's duties as they relate to the employee's exposure;

(*3*) The employee's exposure level or anticipated exposure level to lead and to any other toxic substance (if applicable);

(*4*) A description of any personal protective equipment used or to be used;

(*5*) Prior blood lead determinations; and

(*6*) All prior written medical opinions concerning the employee in the employer's possession or control.

(B) The employer shall provide the foregoing information to a second or third physician conducting a medical examination or consultation under this section upon request either by the second or third physician, or by the employee.

(v) *Written medical opinions.* (A) The employer shall obtain and furnish the employee with a copy of a written medical opinion from each examining or consulting physician which contains only the following information:

(*1*) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment of the employee's health from exposure to lead;

(*2*) Any recommended special protective measures to be provided to the employee, or limitations to be placed upon the employee's exposure to lead;

(*3*) Any recommended limitation upon the employee's use of respirators, including a determination of whether the employee can wear a powered air purifying respirator if a physician determines that the employee cannot wear a negative pressure respirator; and

(*4*) The results of the blood lead determinations.

(B) The employer shall instruct each examining and consulting physician to:

(*1*) Not reveal either in the written opinion or orally, or in any other means of communication with the employer, findings, including laboratory results, or diagnoses unrelated to an employee's occupational exposure to lead; and

(*2*) Advise the employee of any medical condition, occupational or nonoccupational, which dictates further medical examination or treatment.

(vi) *Alternate physician determination mechanisms.* The employer and an employee or authorized employee representative may agree upon the use of any alternate physician determination mechanism in lieu of the multiple physician review mechanism provided by paragraph (j)(3)(iii) of this section so long as the alternate mechanism is as expeditious and protective as the requirements contained in this paragraph.

(*4*) *Chelation.* (i) The employer shall assure that any person whom he retains, employs, supervises or controls does not engage in prophylactic chelation of any employee at any time.

(ii) If therapeutic or diagnostic chelation is to be performed by any person in paragraph (j)(4)(i) of this section, the employer shall assure that it be done under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring and that the employee is notified in writing prior to its occurrence.

(k) *Medical removal protection*—(1) *Temporary medical removal and return of an employee*—(i) *Temporary removal due to elevated blood lead level.* The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above 50 µg/dl; and,

(ii) *Temporary removal due to a final medical determination.* (A) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a final medical determination results in a medical finding, determination, or opinion that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(B) For the purposes of this section, the phrase "final medical determination" means the written medical opinion on the employees' health status by the examining physician or, where relevant, the outcome of the multiple physician review mechanism or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section.

(C) Where a final medical determination results in any recommended special protective measures for an employee, or limitations on an employee's exposure to lead, the employer shall implement and act consistent with the recommendation.

(iii) *Return of the employee to former job status.* (A) The employer shall return an employee to his or her former job status:

(*1*) For an employee removed due to a blood lead level at or above 50 µg/dl when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 40 µg/dl;

(*2*) For an employee removed due to a final medical determination, when a subsequent final medical determination results in a medical finding, determination, or opinion that the employee no longer has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(B) For the purposes of this section, the requirement that an employer return an employee to his or her former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

(iv) *Removal of other employee special protective measure or limitations.* The employer shall remove any limitations placed on an employee or end any special protective measures provided to an employee pursuant to a final medical determination when a subsequent final medical determination indicates that the limitations or special protective measures are no longer necessary.

(v) *Employer options pending a final medical determination.* Where the multiple physician review mechanism, or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section, has not yet resulted in a final medical determination with respect to an employee, the employer shall act as follows:

(A) *Removal.* The employer may remove the employee from exposure to lead, provide special protective measures to the employee, or place limitations upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status.

(B) *Return.* The employer may return the employee to his or her former job status, end any special protective measures provided to the employee, and remove any limitations placed upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status, with two exceptions.

If (1) the initial removal, special protection, or limitation of the employee resulted from a final medical determination which differed from the findings, determinations, or recommendations of the initial physician or;

(*2*) If the employee has been on removal status for the preceding eighteen months due to an elevated blood lead level, then the employer shall await a final medical determination.

(2) *Medical removal protection benefits*—(i) *Provision of medical removal protection benefits.* The employer shall provide an employee up to eighteen (18) months of medical removal protection benefits on each occasion that an employee is removed from exposure to lead or otherwise limited pursuant to this section.

(ii) *Definition of medical removal protection benefits.* For the purposes of this section, the requirement that an employer provide medical removal protection benefits means that, as long as the job the employee was removed from continues, the employer shall maintain the total normal earnings, seniority and other employment rights and benefits of an employee, including the employee's right to his or her former job status as though the employee had not been medically removed from the employee's job or otherwise medically limited.

(iii) *Follow-up medical surveillance during the period of employee removal or limitation.* During the period of time that an employee is medically removed from his or her job or otherwise medically limited, the employer may condition the provision of medical removal protection benefits upon the employee's participation in follow-up medical surveillance made available pursuant to this section.

(iv) *Workers' compensation claims.* If a removed employee files a claim for workers' compensation payments for a lead-related disability, then the employer shall continue to provide medical removal protection benefits pending disposition of the claim. To the extent that an award is made to the employee for earnings lost during the period of removal, the employer's medical removal protection obligation shall be reduced by such amount. The employer shall receive no credit for workers' compensation payments received by the employee for treatment-related expenses.

(v) *Other credits.* The employer's obligation to provide medical removal protection benefits to a removed employee shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program, or receives income from employment with another employer made possible by virtue of the employee's removal.

(vi) *Voluntary removal or restriction of an employee.* Where an employer, although not required by this section to do so, removes an employee from exposure to lead or otherwise places limitations on an employee due to the effects of lead exposure on the employee's medical condition, the employer shall provide medical removal protection benefits to the employee

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equal to that required by paragraph (k)(2) (i) and (ii) of this section.

(l) *Employee information and training*—(1) *General* (i) The employer shall communicate information concerning lead hazards according to the requirements of OSHA's Hazard Communication Standard for the construction industry, 29 CFR 1926.59, including but not limited to the requirements concerning warning signs and labels, material safety data sheets (MSDS), and employee information and training. In addition, employers shall comply with the following requirements:

(ii) For all employees who are subject to exposure to lead at or above the action level on any day or who are subject to exposure to lead compounds which may cause skin or eye irritation (e.g. lead arsenate, lead azide), the employer shall provide a training program in accordance with paragraph (l)(2) of this section and assure employee participation.

(iii) The employer shall provide the training program as initial training prior to the time of job assignment or prior to the start up date for this requirement, whichever comes last.

(iv) The employer shall also provide the training program at least annually for each employee who is subject to lead exposure at or above the action level on any day.

(2) *Training program.* The employer shall assure that each employee is trained in the following:

(i) The content of this standard and its appendices;

(ii) The specific nature of the operations which could result in exposure to lead above the action level;

(iii) The purpose, proper selection, fitting, use, and limitations of respirators;

(iv) The purpose and a description of the medical surveillance program, and the medical removal protection program including information concerning the adverse health effects associated with excessive exposure to lead (with particular attention to the adverse reproductive effects on both males and females and hazards to the fetus and additional precautions for employees who are pregnant);

(v) The engineering controls and work practices associated with the employee's job assignment including training of employees to follow relevant good work practices described in Appendix B of this section;

(vi) The contents of any compliance plan in effect;

(vii) Instructions to employees that chelating agents should not routinely be used to remove lead from their bodies and should not be used at all except under the direction of a licensed physician; and

(viii) The employee's right of access to records under 29 CFR 1910.20.

(3) *Access to information and training materials.* (i) The employer shall make readily available to all affected employees a copy of this standard and its appendices.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to affected employees and their designated representatives, and to the Assistant Secretary and the Director.

(m) *Signs*—*(1) General.* (i) The employer may use signs required by other statutes, regulations or ordinances in addition to, or in combination with, signs required by this paragraph.

(ii) The employer shall assure that no statement appears on or near any sign required by this paragraph which contradicts or detracts from the meaning of the required sign.

(2) *Signs.* (i) The employer shall post the following warning signs in each work area where an employees exposure to lead is above the PEL.

WARNING
LEAD WORK AREA
POISON
NO SMOKING OR EATING

(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(n) *Recordkeeping*—(1) *Exposure assessment.* (i) The employer shall establish and maintain an accurate record of all monitoring and other data used in conducting employee exposure assessments as required in paragraph (d) of this section.

(ii) Exposure monitoring records shall include:

(A) The date(s), number, duration, location and results of each of the samples taken if any, including a description of the sampling procedure used to determine representative employee exposure where applicable;

(B) A description of the sampling and analytical methods used and evidence of their accuracy;

(C) The type of respiratory protective devices worn, if any;

(D) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent; and

(E) The environmental variables that could affect the measurement of employee exposure.

(iii) The employer shall maintain monitoring and other exposure assessment records in accordance with the provisions of 29 CFR 1910.20.

(2) *Medical surveillance.* (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (j) of this section.

(ii) This record shall include:

(A) The name, social security number, and description of the duties of the employee;

(B) A copy of the physician's written opinions;

(C) Results of any airborne exposure monitoring done on or for that employee and provided to the physician; and

(D) Any employee medical complaints related to exposure to lead.

(iii) The employer shall keep, or assure that the examining physician keeps, the following medical records:

(A) A copy of the medical examination results including medical and work history required under paragraph (j) of this section;

(B) A description of the laboratory procedures and a copy of any standards or guidelines used to interpret the test results or references to that information;

(C) A copy of the results of biological monitoring.

(iv) The employer shall maintain or assure that the physician maintains medical records in accordance with the provisions of 29 CFR 1910.20.

(3) *Medical removals.* (i) The employer shall establish and maintain an accurate record for each employee removed from current exposure to lead pursuant to paragraph (k) of this section.

(ii) Each record shall include:

(A) The name and social security number of the employee;

(B) The date of each occasion that the employee was removed from current exposure to lead as well as the corresponding date on which the employee was returned to his or her former job status;

(C) A brief explanation of how each removal was or is being accomplished; and

(D) A statement with respect to each removal indicating whether or not the reason for the removal was an elevated blood lead level.

(iii) The employer shall maintain each medical removal record for at least the duration of an employee's employment.

(4) *Objective data for exemption from requirement for initial monitoring.* (i) For purposes of this section, objective data are information demonstrating that a particular product or material containing lead or a specific process, operation, or activity involving lead cannot release dust or fumes in concentrations at or above the action level under any expected conditions of

use. Objective data can be obtained from an industry-wide study or from laboratory product test results from manufacturers of lead containing products or materials. The data the employer uses from an industry-wide survey must be obtained under workplace conditions closely resembling the processes, types of material, control methods, work practices and environmental conditions in the employer's current operations.

(ii) The employer shall maintain the record of the objective data relied upon for at least 30 years.

(5) *Availability.* The employer shall make available upon request all records required to be maintained by paragraph (n) of this section to affected employees, former employees, and their designated representatives, and to the Assistant Secretary and the Director for examination and copying.

(6) *Transfer of records.* (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by paragraph (n) of this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records required to be maintained by this section for the prescribed period, these records shall be transmitted to the Director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the Director at least 3 months prior to the disposal of such records and shall transmit those records to the Director if requested within the period.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in 29 CFR 1910.20(h).

(o) *Observation of monitoring.* (1) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to lead conducted pursuant to paragraph (d) of this section.

(2) *Observation procedures.* (i) Whenever observation of the monitoring of employee exposure to lead requires entry into an area where the use of respirators, protective clothing or equipment is required, the employer shall provide the observer with and assure the use of such respirators, clothing and equipment, and shall require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the monitoring of lead performed at the place of exposure; and

(C) Record the results obtained or receive copies of the results when returned by the laboratory.

(p) *Effective date.* This standard (§ 1926.62) shall become effective June 3, 1993.

(q) *Appendices.* The information contained in the appendices to this section is not intended by itself, to create any additional obligations not otherwise imposed by this standard nor detract from any existing obligation.

(r) *Startup dates.* (1) The requirements of paragraphs (c) through (o) of this section, including administrative controls and feasible work practice controls, but not including engineering controls specified in paragraph (e)(1) of this section, shall be complied with as soon as possible, but no later than 60 days from the effective date of this section.

(2) Feasible engineering controls specified by paragraph (e)(1) of this section shall be implemented as soon as possible, but no later than 120 days from the effective date of this section.

Appendix A to § 1926.62—Substance Data Sheet for Occupational Exposure to Lead

I. Substance Identification

A. *Substance*: Pure lead (Pb) is a heavy metal at room temperature and pressure and is a basic chemical element. It can combine with various other substances to form numerous lead compounds.

B. *Compounds covered by the standard*: The word "lead" when used in this interim final standard means elemental lead, all inorganic lead compounds and a class of organic lead compounds called lead soaps. This standard does not apply to other organic lead compounds.

C. *Uses*: Exposure to lead occurs in several different occupations in the construction industry, including demolition or salvage of structures where lead or lead-containing materials are present; removal or encapsulation of lead-containing materials, new construction, alteration, repair, or renovation of structures that contain lead or materials containing lead; installation of products containing lead. In addition, there are construction related activities where exposure to lead may occur, including transportation, disposal, storage, or containment of lead or materials containing lead on construction sites, and maintenance operations associated with construction activities.

D. *Permissible exposure*: The permissible exposure limit (PEL) set by the standard is 50 micrograms of lead per cubic meter of air (50 $\mu g/m^3$), averaged over an 8-hour workday.

E. *Action level*: The interim final standard establishes an action level of 30 micrograms of lead per cubic meter of air (30 $\mu g/m^3$), averaged over an 8-hour workday. The action level triggers several ancillary provisions of the standard such as exposure monitoring, medical surveillance, and training.

II. Health Hazard Data

A. *Ways in which lead enters your body.* When absorbed into your body in certain doses, lead is a toxic substance. The object of the lead standard is to prevent absorption of harmful quantities of lead. The standard is intended to protect you not only from the immediate toxic effects of lead, but also from the serious toxic effects that may not become apparent until years of exposure have passed. Lead can be absorbed into your body by inhalation (breathing) and ingestion (eating). Lead (except for certain organic lead compounds not covered by the standard, such as tetraethyl lead) is not absorbed through your skin. When lead is scattered in the air as a dust, fume respiratory tract. Inhalation of airborne lead is generally the most important source of occupational lead absorption. You can also absorb lead through your digestive system if lead gets into your mouth and is swallowed. If you handle food, cigarettes, chewing tobacco, or make-up which have lead on them or handle them with hands contaminated with lead, this will contribute to ingestion. A significant portion of the lead that you inhale or ingest gets into your blood stream. Once in your blood stream, lead is circulated throughout your body and stored in various organs and body tissues. Some of this lead is quickly filtered out of your body and excreted, but some remains in the blood and other tissues. As exposure to lead continues, the amount stored in your body will increase if you are absorbing more lead than your body is excreting. Even though you may not be aware of any immediate symptoms of disease, this lead stored in your tissues can be slowly causing irreversible damage, first to individual cells, then to your organs and whole body systems.

B. *Effects of overexposure to lead*—(1) *Short term (acute) overexposure.* Lead is a potent, systemic poison that serves no known useful function once absorbed by your body. Taken in large enough doses, lead can kill you in a matter of days. A condition affecting the brain called acute encephalopathy may arise which develops quickly to seizures, coma, and death from cardiorespiratory arrest. A short term dose of lead can lead to acute encephalopathy. Short term occupational exposures of this magnitude are highly unusual, but not impossible. Similar forms of encephalopathy may, however, arise from extended, chronic exposure to lower doses of lead. There is no sharp dividing line between rapidly developing acute effects of lead, and chronic effects which take longer to acquire. Lead adversely affects numerous body systems, and causes forms of health impairment and disease which arise after periods of exposure as short as days or as long as several years.

(2) *Long-term (chronic) overexposure.* Chronic overexposure to lead may result in severe damage to your blood-forming.

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nervous, urinary and reproductive systems. Some common symptoms of chronic overexposure include loss of appetite, metallic taste in the mouth, anxiety, constipation, nausea, pallor, excessive tiredness, weakness, insomnia, headache, nervous irritability, muscle and joint pain or soreness, fine tremors, numbness, dizziness, hyperactivity and colic. In lead colic there may be severe abdominal pain. Damage to the central nervous system in general and the brain (encephalopathy) in particular is one of the most severe forms of lead poisoning. The most severe, often fatal, form of encephalopathy may be preceded by vomiting, a feeling of dullness progressing to drowsiness and stupor, poor memory, restlessness, irritability, tremor, and convulsions. It may arise suddenly with the onset of seizures, followed by coma, and death. There is a tendency for muscular weakness to develop at the same time. This weakness may progress to paralysis often observed as a characteristic "wrist drop" or "foot drop" and is a manifestation of a disease to the nervous system called peripheral neuropathy. Chronic overexposure to lead also results in kidney disease with few, if any, symptoms appearing until extensive and most likely permanent kidney damage has occurred. Routine laboratory tests reveal the presence of this kidney disease only after about two-thirds of kidney function is lost. When overt symptoms of urinary dysfunction arise, it is often too late to correct or prevent worsening conditions, and progression to kidney dialysis or death is possible. Chronic overexposure to lead impairs the reproductive systems of both men and women. Overexposure to lead may result in decreased sex drive, impotence and sterility in men. Lead can alter the structure of sperm cells raising the risk of birth defects. There is evidence of miscarriage and stillbirth in women whose husbands were exposed to lead or who were exposed to lead themselves. Lead exposure also may result in decreased fertility, and abnormal menstrual cycles in women. The course of pregnancy may be adversely affected by exposure to lead since lead crosses the placental barrier and poses risks to developing fetuses. Children born of parents either one of whom were exposed to excess lead levels are more likely to have birth defects, mental retardation, behavioral disorders or die during the first year of childhood. Overexposure to lead also disrupts the blood-forming system resulting in decreased hemoglobin (the substance in the blood that carries oxygen to the cells) and ultimately anemia. Anemia is characterized by weakness, pallor and fatigability as a result of decreased oxygen carrying capacity in the blood.

(3) *Health protection goals of the standard.* Prevention of adverse health effects for most workers from exposure to lead throughout a working lifetime requires that a worker's blood lead level (BLL, also expressed as PbB) be maintained at or below forty micrograms per deciliter of whole blood (40 μg/dl). The blood lead levels of workers (both male and female workers) who intend to have children should be maintained below 30 μg/dl to minimize adverse reproductive health effects to the parents and to the developing fetus. The measurement of your blood lead level (BLL) is the most useful indicator of the amount of lead being absorbed by your body. Blood lead levels are most often reported in units of milligrams (mg) or micrograms (μg) of lead (1 mg=1000 μg) per 100 grams (100g), 100 milliliters (100 ml) or deciliter (dl) of blood. These three units are essentially the same. Sometime BLLs are expressed in the form of mg% or μg%. This is a shorthand notation for 100g, 100 ml, or dl. (References to BLL measurements in this standard are expressed in the form of μg/dL)

BLL measurements show the amount of lead circulating in your blood stream, but do not give any information about the amount of lead stored in your various tissues. BLL measurements merely show current absorption of lead, not the effect that lead is having on your body or the effects that past lead exposure may have already caused. Past research into lead-related diseases, however, has focused heavily on associations between BLLs and various diseases. As a result, your BLL is an important indicator of the likelihood that you will gradually acquire a lead-related health impairment or disease.

Once your blood lead level climbs above 40 μg/dl, your risk of disease increases. There is a wide variability of individual response to lead, thus it is difficult to say that a particular BLL in a given person will cause a particular effect. Studies have associated fatal encephalopathy with BLLs as low as 150 μg/dl. Other studies have shown other forms of diseases in some workers with BLLs well below 60 μg/dl. Your BLL is a crucial indicator of the risks to your health, but one other factor is also extremely important. This factor is the length of time you have had elevated BLLs. The longer you have an elevated BLL, the greater the risk that large quantities of lead are being gradually stored in your organs and tissues (body burden). The greater your overall body burden, the greater the chances of substantial permanent damage. The best way to prevent all forms of lead-related impairments and diseases—both short term and long term—is to maintain your BLL below 40 μg/dl. The provisions of the standard are designed with this end in mind.

Your employer has prime responsibility to assure that the provisions of the standard are complied with both by the company and by individual workers. You, as a worker, however, also have a responsibility to assist your employer in complying with the standard. You can play a key role in protecting your own health by learning about the lead hazards and their control, learning what the standard requires, following the standard where it governs your own actions, and seeing that your employer complies with provisions governing his or her actions.

(4) *Reporting signs and symptoms of health problems.* You should immediately notify your employer if you develop signs or symptoms associated with lead poisoning or if you desire medical advice concerning the effects of current or past exposure to lead or your ability to have a healthy child. You should also notify your employer if you have difficulty breathing during a respirator fit test or while wearing a respirator. In each of these cases, your employer must make available to you appropriate medical examinations or consultations. These must be provided at no cost to you and at a reasonable time and place. The standard contains a procedure whereby you can obtain a second opinion by a physician of your choice if your employer selected the initial physician.

Appendix B to §1926.62—Employee Standard Summary

This appendix summarizes key provisions of the interim final standard for lead in construction that you as a worker should become familiar with.

I. Permissible Exposure Limit (PEL)—Paragraph (C)

The standard sets a permissible exposure limit (PEL) of 50 micrograms of lead per cubic meter of air (50 μg/m³), averaged over an 8-hour workday which is referred to as a time-weighted average (TWA). This is the highest level of lead in air to which you may be permissibly exposed over an 8-hour workday. However, since this is an 8-hour average, short exposures above the PEL are permitted so long as for each 8-hour work day your average exposure does not exceed this level. This interim final standard, however, takes into account the fact that your daily exposure to lead can extend beyond a typical 8-hour workday as the result of overtime or other alterations in your work schedule. To deal with this situation, the standard contains a formula which reduces your permissible exposure when you are exposed more than 8 hours. For example, if you are exposed to lead for 10 hours a day, the maximum permitted average exposure would be 40 μg/m³.

II. Exposure Assessment—Paragraph (D)

If lead is present in your workplace in any quantity, your employer is required to make an initial determination of whether any employee's exposure to lead exceeds the action level (30 μg/m³ averaged over an 8-hour day). Employee exposure is that exposure which would occur if the employee were not using a respirator. This initial determination requires your employer to monitor workers' exposures unless he or she has objective data which can demonstrate conclusively that no employee will be exposed to lead in excess of the action level. Where objective data is used in lieu of actual monitoring the employer must establish and maintain an accurate record, documenting its relevancy in assessing exposure levels for current job conditions. If such objective data is available, the employer need proceed no further on employee exposure assessment until such time that conditions have changed and the determination is no longer valid.

Objective data may be compiled from various sources, e.g., insurance companies and trade associations and information from suppliers or exposure data collected from similar operations. Objective data may also comprise previously-collected sampling data including area monitoring. If it cannot be determined through using objective data that worker exposure is less than the action level, your employer must conduct monitoring or must rely on relevant previous personal sampling, if available. Where monitoring is required for the initial determination, it may be limited to a representative number of employees who are reasonably expected to have the highest exposure levels. If your employer has conducted appropriate air sampling for lead in the past 12 months, he or she may use these results, provided they are applicable to the same employee tasks and exposure conditions and meet the requirements for accuracy as specified in the standard. As with objective data, if such results are relied upon for the initial determination, your employer must establish and maintain a record as to the relevancy of such data to current job conditions.

If there have been any employee complaints of symptoms which may be attributable to exposure to lead or if there is any other information or observations which would indicate employee exposure to lead, this must also be considered as part of the initial determination.

If this initial determination shows that a reasonable possibility exists that any employee may be exposed, without regard to respirators, over the action level, your employer must set up an air monitoring program to determine the exposure level representative of each employee exposed to lead at your workplace. In carrying out this air monitoring program, your employer is not required to monitor the exposure of every employee, but he or she must monitor a representative number of employees and job types. Enough sampling must be done to enable each employee's exposure level to be reasonably represent full shift exposure. In addition, these air samples must be taken under conditions which represent each employee's regular, daily exposure to lead. Sampling performed in the past 12 months may be used to determine exposures above the action level if such sampling was conducted during work activities essentially similar to present work conditions.

The standard lists certain tasks which may likely result in exposures to lead in excess of the PEL and, in some cases, exposures in excess of 50 times the PEL. If you are performing any of these tasks, your employer must provide you with appropriate respiratory protection, protective clothing and equipment, change areas, hand washing facilities, biological monitoring, and training until such time that an exposure assessment is conducted which demonstrates that your exposure level is below the PEL.

If you are exposed to lead and air sampling is performed, your employer is required to notify you in writing within 5 working days of the air monitoring results which represent your exposure. If the results indicate that your exposure exceeds the PEL (without regard to your use of a respirator), then your employer must also notify you of this in writing, and provide you with a description of the corrective action that has been taken or will be taken to reduce your exposure.

Your exposure must be rechecked by monitoring, at least every six months if your exposure is at or over the action level but below the PEL. Your employer may discontinue monitoring for you if 2 consecutive measurements, taken at least 7 days apart, are at or below the action level. Air monitoring must be repeated every 3 months if you are exposed over the PEL. Your employer must continue monitoring for you at this frequency until 2 consecutive measurements, taken at least 7 days apart, are below the PEL but above the action level, at which time your employer must repeat monitoring of your exposure every six months and may discontinue monitoring only after your exposure drops to or below the action level. However, whenever there is a change of equipment, process, control, or personnel or a new type of job is added at your workplace which may result in new or additional exposure to lead, your employer must perform additional monitoring.

III. Methods of Compliance—Paragraph (E)

Your employer is required to assure that no employee is exposed to lead in excess of the PEL as an 8-hour TWA. The interim final standard for lead in construction requires employers to institute engineering and work practice controls including administrative controls to the extent feasible to reduce employee exposure to lead. Where such controls are feasible but not adequate to reduce exposures below the PEL they must be used nonetheless to reduce exposures to the lowest level that can be accomplished by these means and then supplemented with appropriate respiratory protection.

Your employer is required to develop and implement a written compliance program prior to the commencement of any job where employee exposures may reach the PEL as an 8-hour TWA. The interim final standard identifies the various elements that must be included in the plan. For example, employers are required to include a description of operations in which lead is emitted, detailing other relevant information about the operation such as the type of equipment used, the type of material involved, employee job responsibilities, operating procedures and maintenance practices. In addition, your employer's compliance plan must specify the means that will be used to achieve compliance and, where engineering controls are required, include any engineering plans or studies that have been used to select the control methods. If administrative controls involving job rotation are used to reduce employee exposure to lead, the job rotation schedule must be included in the compliance plan. The plan must also detail the type of protective clothing and equipment, including respirators, housekeeping and hygiene practices that will be used to protect you from the adverse effects of exposure to lead.

The written compliance program must be made available, upon request, to affected employees and their designated representatives, the Assistant Secretary and the Director.

Finally, the plan must be reviewed and updated at least every 6 months to assure it reflects the current status in exposure control.

IV. Respiratory Protection—Paragraph (F)

Your employer is required to provide and assure your use of respirators when your exposure to lead is not controlled below the PEL by other means. The employer must pay the cost of the respirator. Whenever you request one, your employer is also required to provide you a respirator even if your air exposure level is not above the PEL. You might desire a respirator when, for example, you have received medical advice that your lead absorption should be decreased. Or, you may intend to have children in the near future, and want to reduce the level of lead in your body to minimize adverse reproductive effects. While respirators are the least satisfactory means of controlling your exposure, they are capable of providing significant protection if properly chosen, fitted, worn, cleaned, maintained, and replaced when they stop providing adequate protection.

Your employer is required to select respirators from the types listed in Table I of the Respiratory Protection section of the standard. Any respirator chosen must be approved by the Mine Safety and Health Administration (MSHA) or the National Institute for Occupational Safety and Health (NIOSH). This respirator selection table will enable your employer to choose a type of respirator which will give you a proper amount of protection based on your airborne lead exposure. Your employer may select a type of respirator that provides greater protection than that required by the standard; that is, one recommended for a higher concentration of lead than is present in your workplace. For example, a powered air purifying respirator (PAPR) is much more protective than a typical negative pressure respirator, and may also be more comfortable to wear. A PAPR has a filter, cartridge or canister to clean the air, and a power source which continuously blows filtered air into your breathing zone. Your employer might make a PAPR available to you to ease the burden of having to wear a respirator for long periods of time. The standard provides that you can obtain a PAPR upon request.

Your employer must also start a Respiratory Protection Program. This program must include written procedures for the proper selection, use, cleaning, storage, and maintenance of respirators.

Your employer must assure that your respirator facepiece fits properly. Proper fit of a respirator facepiece is critical. Obtaining a proper fit on each employee may require your employer to make available two or three different mask types. In order to assure that your respirator fits properly and that facepiece leakage is minimized, your employer must give you either a qualitative fit test or a quantitative fit test (if you use a negative pressure respirator) in accordance with appendix D. Any respirator which has a filter, cartridge or canister which cleans the work room air before you breathe it and which requires the force of your inhalation to draw air through the filtering element is a negative pressure respirator. A positive pressure respirator supplies air to you directly. A quantitative fit test uses a sophisticated machine to measure the amount, if any, of test material that leaks into the facepiece of your respirator.

You must also receive from your employer proper training in the use of respirators. Your employer is required to teach you how to wear a respirator, to know why it is needed, and to understand its limitations.

Your employer must test the effectiveness of your negative pressure respirator initially

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and at least every six months thereafter with a "qualitative fit test." In this test, the fit of the facepiece is checked by seeing if you can smell a substance placed outside the respirator. If you can, there is appreciable leakage where the facepiece meets your face.

The standard provides that if your respirator uses filter elements, you must be given an opportunity to change the filter elements whenever an increase in breathing resistance is detected. You also must be permitted to periodically leave your work area to wash your face and respirator facepiece whenever necessary to prevent skin irritation. If you ever have difficulty in breathing during a fit test or while using a respirator, your employer must make a medical examination available to you to determine whether you can safely wear a respirator. The result of this examination may be to give you a positive pressure respirator (which reduces breathing resistance) or to provide alternative means of protection.

V. Protective Work Clothing and Equipment—Paragraph (G)

If you are exposed to lead above the PEL as an 8-hour TWA, without regard to your use of a respirator, or if you are exposed to lead compounds such as lead arsenate or lead azide which can cause skin and eye irritation, your employer must provide you with protective work clothing and equipment appropriate for the hazard. If work clothing is provided, it must be provided in a clean and dry condition at least weekly, and daily if your airborne exposure to lead is greater than 200 $\mu g/m^3$. Appropriate protective work clothing and equipment can include coveralls or similar full-body work clothing, gloves, hats, shoes or disposable shoe coverlets, and face shields or vented goggles. Your employer is required to provide all such equipment at no cost to you. In addition, your employer is responsible for providing repairs and replacement as necessary, and also is responsible for the cleaning, laundering or disposal of protective clothing and equipment.

The interim final standard requires that your employer assure that you follow good work practices when you are working in areas where your exposure to lead may exceed the PEL. With respect to protective clothing and equipment, where appropriate, the following procedures should be observed prior to beginning work:

1. Change into work clothing and shoe covers in the clean section of the designated changing areas;
2. Use work garments of appropriate protective gear, including respirators before entering the work area; and
3. Store any clothing not worn under protective clothing in the designated changing area.

Workers should follow these procedures upon leaving the work area:

1. HEPA vacuum heavily contaminated protective work clothing while it is still being worn. At no time may lead be removed from protective clothing by any means which result in uncontrolled dispersal of lead into the air;
2. Remove shoe covers and leave them in the work area;
3. Remove protective clothing and gear in the dirty area of the designated changing area. Remove protective coveralls by carefully rolling down the garment to reduce exposure to dust.
4. Remove respirators last; and
5. Wash hands and face.

Workers should follow these procedures upon finishing work for the day (in addition to procedures described above):

1. Where applicable, place disposal coveralls and shoe covers with the abatement waste;
2. Contaminated clothing which is to be cleaned, laundered or disposed of must be placed in closed containers in the change room.
3. Clean protective gear, including respirators, according to standard procedures;
4. Wash hands and face again. If showers are available, take a shower and wash hair. If shower facilities are not available at the work site, shower immediately at home and wash hair.

VI. Housekeeping—Paragraph (H)

Your employer must establish a housekeeping program sufficient to maintain all surfaces as free as practicable of accumulations of lead dust. Vacuuming is the preferred method of meeting this requirement, and the use of compressed air to clean floors and other surfaces is generally prohibited unless removal with compressed air is done in conjunction with ventilation systems designed to contain dispersal of the lead dust. Dry or wet sweeping, shoveling, or brushing may not be used except where vacuuming or other equally effective methods have been tried and do not work. Vacuums must be used equipped with a special filter called a high-efficiency particulate air (HEPA) filter and emptied in a manner which minimizes the reentry of lead into the workplace.

VII. Hygiene Facilities and Practices—Paragraph (I)

The standard requires that hand washing facilities be provided where occupational exposure to lead occurs. In addition, change areas, showers (where feasible), and lunchrooms or eating areas are to be made available to workers exposed to lead above the PEL. Your employer must assure that except in these facilities, food and beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, where airborne exposures are above the PEL. Change rooms provided by your employer must be equipped with separate storage facilities for your protective clothing and equipment and street clothes to avoid cross-contamination. After showering, no required protective clothing or equipment worn during the shift may be worn home. It is important that contaminated clothing or equipment be removed in change areas and not be worn home or you will extend your exposure and expose your family since lead from your clothing can accumulate in your house, car, etc.

Lunchrooms or eating areas may not be entered with protective clothing or equipment unless surface dust has been removed by vacuuming, downdraft booth, or other cleaning method. Finally, workers exposed above the PEL must wash both their hands and faces prior to eating, drinking, smoking or applying cosmetics.

All of the facilities and hygiene practices just discussed are essential to minimize additional sources of lead absorption from inhalation or ingestion of lead that may accumulate on you, your clothes, or your possessions. Strict compliance with these provisions can virtually eliminate several sources of lead exposure which significantly contribute to excessive lead absorption.

VIII. Medical Surveillance—Paragraph (J)

The medical surveillance program is part of the standard's comprehensive approach to the prevention of lead-related disease. Its purpose is to supplement the main thrust of the standard which is aimed at minimizing airborne concentrations of lead and sources of ingestion. Only medical surveillance can determine if the other provisions of the standard have affectively protected you as an individual. Compliance with the standard's provision will protect most workers from the adverse effects of lead exposure, but may not be satisfactory to protect individual workers (1) who have high body burdens of lead acquired over past years, (2) who have additional uncontrolled sources of non-occupational lead exposure, (3) who exhibit unusual variations in lead absorption rates, or (4) who have specific non-work related medical conditions which could be aggravated by lead exposure (e.g., renal disease, anemia). In addition, control systems may fail, or hygiene and respirator programs may be inadequate. Periodic medical surveillance of individual workers will help detect those failures. Medical surveillance will also be important to protect your reproductive ability-regardless of whether you are a man or woman.

All medical surveillance required by the interim final standard must be performed by or under the supervision of a licensed physician. The employer must provide required medical surveillance without cost to employees and at a reasonable time and place. The standard's medical surveillance program has two parts—periodic biological monitoring and medical examinations. Your employer's obligation to offer you medical surveillance is triggered by the results of the air monitoring program. Full medical surveillance must be made available to all employees who are or may be exposed to lead in excess of the action level for more than 30 days a year and whose blood lead level exceeds 40 $\mu g/dl$. Initial medical surveillance consisting of blood sampling and analysis for lead and zinc protoporphyrin must be provided to all employees exposed at any time (1 day) above the action level.

Biological monitoring under the standard must be provided at least every 2 months for the first 6 months and every 6 months thereafter until your blood lead level is below 40 $\mu g/dl$. A zinc protoporphyrin (ZPP) test is a very useful blood test which measures an adverse metabolic effect of lead on your body and is therefore an indicator of lead toxicity.

If your BLL exceeds 40 $\mu g/dl$ the monitoring frequency must be increased from every 6 months to at least every 2 months and not reduced until two consecutive BLLs indicate a blood lead level below 40 $\mu g/dl$. Each time your BLL is determined to be over 40 $\mu g/dl$, your employer must notify you of this in writing within five working days of his or her receipt of the test results. The employer must also inform you that the standard requires temporary medical removal with economic protection when your BLL exceeds 50 $\mu g/dl$. (See Discussion of Medical Removal Protection-Paragraph (k).) Anytime your BLL exceeds 50 $\mu g/dl$ your employer must make available to you within two weeks of receipt of these test results a second follow-up BLL test to confirm your BLL. If the two tests both exceed 50 $\mu g/dl$, and you are temporarily removed, then your employer must make successive BLL tests available to you on a monthly basis during the period of your removal.

Medical examinations beyond the initial one must be made available on an annual basis if your blood lead level exceeds 40 $\mu g/dl$ at any time during the preceding year and you are being exposed above the airborne action level of 30 $\mu g/m^3$ for 30 or more days per year. The initial examination will provide information to establish a baseline to which subsequent data can be compared.

An initial medical examination to consist of blood sampling and analysis for lead and zinc protoporphyrin must also be made available (prior to assignment) for each employee being assigned for the first time to an area where the airborne concentration of lead equals or exceeds the action level at any time. In addition, a medical examination or consultation must be made available as soon as possible if you notify your employer that you are experiencing signs or symptoms commonly associated with lead poisoning or that you have difficulty breathing while wearing a respirator or during a respirator fit test. You must also be provided a medical examination or consultation if you notify your employer that you desire medical advice concerning the effects of current or past exposure to lead on your ability to procreate a healthy child.

Finally, appropriate follow-up medical examinations or consultations may also be provided for employees who have been temporarily removed from exposure under the medical removal protection provisions of the standard. (See Part IX, below.)

The standard specifies the minimum content of pre-assignment and annual medical examinations. The content of other types of medical examinations and consultations is left up to the sound discretion of the examining physician. Pre-assignment and annual medical examinations must include (1) a detailed work history and medical history; (2) a thorough physical examination, including an evaluation of your pulmonary status if you will be required to use a respirator; (3) a blood pressure measurement; and (4) a series of laboratory tests designed to check your blood chemistry and your kidney function. In addition, at any time upon your request, a laboratory evaluation of male fertility will be made (microscopic examination of a sperm sample), or a pregnancy test will be given.

The standard does not require that you participate in any of the medical procedures, tests, etc. which your employer is required to make available to you. Medical surveillance can, however, play a very important role in protecting your health. You are strongly encouraged, therefore, to participate in a meaningful fashion. The standard contains a multiple physician review mechanism which will give you a chance to have a physician of your choice directly participate in the medical surveillance program. If you are dissatisfied with an examination by a physician chosen by your employer, you can select a second physician to conduct an independent analysis. The two doctors would attempt to resolve any differences of opinion, and select a third physician to resolve any firm dispute. Generally your employer will choose the physician who conducts medical surveillance under the lead standard-unless you and your employer can agree on the choice of a physician or physicians. Some companies and unions have agreed in advance, for example, to use certain independent medical laboratories or panels of physicians. Any of these arrangements are acceptable so long as required medical surveillance is made available to workers.

The standard requires your employer to provide certain information to a physician to aid in his or her examination of you. This information includes (1) the standard and its appendices, (2) a description of your duties as they relate to occupational lead exposure, (3) your exposure level or anticipated exposure level, (4) a description of any personal protective equipment you wear, (5) prior blood lead level results, and (6) prior written medical opinions concerning you that the employer has. After a medical examination or consultation the physician must prepare a written report which must contain (1) the physician's opinion as to whether you have any medical condition which places you at increased risk of material impairment to health from exposure to lead, (2) any recommended special protective measures to be provided to you, (3) any blood lead level determinations, and (4) any recommended limitation on your use of respirators. This last element must include a determination of whether you can wear a powered air purifying respirator (PAPR) if you are found unable to wear a negative pressure respirator.

The medical surveillance program of the interim lead standard may at some point in time serve to notify certain workers that they have acquired a disease or other adverse medical condition as a result of occupational lead exposure. If this is true, these workers might have legal rights to compensation from public agencies, their employers, firms that supply hazardous products to their employers, or other persons. Some states have laws, including worker compensation laws, that disallow a worker who learns of a job-related health impairment to sue, unless the worker sues within a short period of time after learning of the impairment. (This period of time may be a matter of months or years.) An attorney can be consulted about these possibilities. It should be stressed that OSHA is in no way trying to either encourage or discourage claims or lawsuits. However, since results of the standard's medical surveillance program can significantly affect the legal remedies of a worker who has acquired a job-related disease or impairment, it is proper for OSHA to make you aware of this.

The medical surveillance section of the standard also contains provisions dealing with chelation. Chelation is the use of certain drugs (administered in pill form or injected into the body) to reduce the amount of lead absorbed in body tissues. Experience accumulated by the medical and scientific communities has largely confirmed the effectiveness of this type of therapy for the treatment of very severe lead poisoning. On the other hand, it has also been established that there can be a long list of extremely harmful side effects associated with the use of chelating agents. The medical community has balanced the advantages and disadvantages resulting from the use of chelating agents in various circumstances and has established when the use of these agents is acceptable. The standard includes these accepted limitations due to a history of abuse of chelation therapy by some lead companies. The most widely used chelating agents are calcium disodium EDTA, (Ca Na2 EDTA), Calcium Disodium Versenate (Versenate), and d-penicillamine (pencillamine or Cupramine).

The standard prohibits "prophylactic chelation" of any employee by any person the employer retains, supervises or controls. "Prophylactic chelation" is the routine use of chelating or similarly acting drugs to prevent elevated blood levels in workers who are occupationally exposed to lead, or the use of these drugs to routinely lower blood lead levels to predesignated concentrations believed to be "safe". It should be emphasized that where an employer takes a worker who has no symptoms of lead poisoning and has chelation carried out by a physician (either inside or outside of a hospital) solely to reduce the worker's blood lead level, that will generally be considered prophylactic chelation. The use of a hospital and a physician does not mean that prophylactic chelation is not being performed. Routine chelation to prevent increased or reduce current blood lead levels is unacceptable whatever the setting.

The standard allows the use of "therapeutic" or "diagnostic" chelation if administered under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring. Therapeutic chelation responds to severe lead poisoning where there are marked symptoms. Diagnostic chelation involved giving a patient a dose of the drug then collecting all urine excreted for some period of time as an aid to the diagnosis of lead poisoning.

In cases where the examining physician determines that chelation is appropriate, you must be notified in writing of this fact before such treatment. This will inform you of a potentially harmful treatment, and allow you to obtain a second opinion.

IX. Medical Removal Protection—Paragraph (K)

Excessive lead absorption subjects you to increased risk of disease. Medical removal

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protection (MRP) is a means of protecting you when, for whatever reasons, other methods, such as engineering controls, work practices, and respirators, have failed to provide the protection you need. MRP involves the temporary removal of a worker from his or her regular job to a place of significantly lower exposure without any loss of earnings, seniority, or other employment rights or benefits. The purpose of this program is to cease further lead absorption and allow your body to naturally excrete lead which has previously been absorbed. Temporary medical removal can result from an elevated blood lead level, or a medical opinion. For up to 18 months, or for as long as the job the employee was removed from lasts, protection is provided as a result of either form of removal. The vast majority of removed workers, however, will return to their former jobs long before this eighteen month period expires.

You may also be removed from exposure even if your blood lead level is below 50 µg/dl if a final medical determination indicates that you temporarily need reduced lead exposure for medical reasons. If the physician who is implementing your employers medical program makes a final written opinion recommending your removal or other special protective measures, your employer must implement the physician's recommendation. If you are removed in this manner, you may only be returned when the doctor indicates that it is safe for you to do so.

The standard does not give specific instructions dealing with what an employer must do with a removed worker. Your job assignment upon removal is a matter for you, your employer and your union (if any) to work out consistent with existing procedures for job assignments. Each removal must be accomplished in a manner consistent with existing collective bargaining relationships. Your employer is given broad discretion to implement temporary removals so long as no attempt is made to override existing agreements. Similarly, a removed worker is provided no right to veto an employer's choice which satisfies the standard.

In most cases, employers will likely transfer removed employees to other jobs with sufficiently low lead exposure. Alternatively, a worker's hours may be reduced so that the time weighted average exposure is reduced, or he or she may be temporarily laid off if no other alternative is feasible.

In all of these situation, MRP benefits must be provided during the period of removal—i.e., you continue to receive the same earnings, seniority, and other rights and benefits you would have had if you had not been removed. Earnings includes more than just your base wage; it includes overtime, shift differentials, incentives, and other compensation you would have earned if you had not been removed. During the period of removal you must also be provided with appropriate follow-up medical surveillance. If you were removed because your blood lead level was too high, you must be provided with a monthly blood test. If a medical opinion caused your removal, you must be provided medical tests or examinations that the doctor believes to be appropriate. If you do not participate in this follow up medical surveillance, you may lose your eligibility for MRP benefits.

When you are medically eligible to return to your former job, your employer must return you to your "former job status." This means that you are entitled to the position, wages, benefits, etc., you would have had if you had not been removed. If you would still be in your old job if no removal had occurred that is where you go back. If not, you are returned consistent with whatever job assignment discretion your employer would have had if no removal had occurred. MRP only seeks to maintain your rights, not expand them or diminish them.

If you are removed under MRP and you are also eligible for worker compensation or other compensation for lost wages, your employer's MRP benefits obligation is reduced by the amount that you actually receive from these other sources. This is also true if you obtain other employment during the time you are laid off with MRP benefits.

The standard also covers situations where an employer voluntarily removes a worker from exposure to lead due to the effects of lead on the employee's medical condition, even though the standard does not require removal. In these situations MRP benefits must still be provided as though the standard required removal. Finally, it is important to note that in all cases where removal is required, respirators cannot be used as a substitute. Respirators may be used before removal becomes necessary, but not as an alternative to a transfer to a low exposure job, or to a lay-off with MRP benefits.

X. Employee Information and Training—Paragraph (L)

Your employer is required to provide an information and training program for all employees exposed to lead above the action level or who may suffer skin or eye irritation from lead compounds such as lead arsenate or lead azide. The program must train these employees regarding the specific hazards associated with their work environment, protective measures which can be taken, including the contents of any compliance plan in effect, the danger of lead to their bodies (including their reproductive systems), and their rights under the standard. All employees must be trained prior to initial assignment to areas where there is a possibility of exposure over the action level.

This training program must also be provided at least annually thereafter unless further exposure above the action level will not occur.

XI. Signs—Paragraph (M)

The standard requires that the following warning sign be posted in work areas where the exposure to lead exceeds the PEL:

WARNING
LEAD WORK AREA
POISON
NO SMOKING OR EATING

These signs are to be posted and maintained in a manner which assures that the legend is readily visible.

XII. Recordkeeping—Paragraph (N)

Your employer is required to keep all records of exposure monitoring for airborne lead. These records must include the name and job classification of employees measured, details of the sampling and analytical techniques, the results of this sampling, and the type of respiratory protection being worn by the person sampled. Such records are to be retained for at least 30 years. Your employer is also required to keep all records of biological monitoring and medical examination results. These records must include the names of the employees, the physician's written opinion, and a copy of the results of the examination. Medical records must be preserved and maintained for the duration of employment plus 30 years. However, if the employee's duration of employment is less than one year, the employer need not retain that employee's medical records beyond the period of employment if they are provided to the employee upon termination of employment.

Recordkeeping is also required if you are temporarily removed from your job under the medical removal protection program. This record must include your name and social security number, the date of your removal and return, how the removal was or is being accomplished, and whether or not the reason for the removal was an elevated blood lead level. Your employer is required to keep each medical removal record only for as long as the duration of an employee's employment.

The standard requires that if you request to see or copy environmental monitoring, blood lead level monitoring, or medical removal records, they must be made available to you or to a representative that you authorize. Your union also has access to these records. Medical records other than BLL's must also be provided upon request to you, to your physician or to any other person whom you may specifically designate. Your union does not have access to your personal medical records unless you authorize their access.

XIII. Observation of Monitoring—Paragraph (O)

When air monitoring for lead is performed at your workplace as required by this standard, your employer must allow you or someone you designate to act as an observer of the monitoring. Observers are entitled to an explanation of the measurement procedure, and to record the results obtained. Since results will not normally be available at the time of the monitoring, observers are entitled to record or receive the results of the monitoring when returned by the laboratory. Your employer is required to provide the observer with any personal protective devices required to be worn by employees working in the area that is being monitored. The employer must require the observer to wear all such equipment and to comply with all other applicable safety and health procedures.

XIV. Effective Date—Paragraph (P)

The standard's effective date is June 3, 1993. Employer obligations under the standard begin as of that date with full implementation of engineering controls as soon as possible but no later than within 4 months, and all other provisions completed as soon as possible, but no later than within 2 months from the effective date.

XV. For Additional Information

A. A copy of the interim standard for lead in construction can be obtained free of charge by calling or writing the OSHA Office of Publications, room N–3101, United States Department of Labor, Washington, DC 20210: Telephone (202) 219–4667.

B. Additional information about the standard, its enforcement, and your employer's compliance can be obtained from the nearest OSHA Area Office listed in your telephone directory under United States Government/Department of Labor.

Appendix C to § 1926.62—Medical Surveillance Guidelines

Introduction

The primary purpose of the Occupational Safety and Health Act of 1970 is to assure, so far as possible, safe and healthful working conditions for every working man and woman. The interim final occupational health standard for lead in construction is designed to protect workers exposed to inorganic lead including metallic lead, all inorganic lead compounds and organic lead soaps.

Under this interim final standard occupational exposure to inorganic lead is to be limited to 50 µg/m³ (micrograms per cubic meter) based on an 8 hour time-weighted average (TWA). This permissible exposure limit (PEL) must be achieved through a combination of engineering, work practice and administrative controls to the extent feasible. Where these controls are in place but are found not to reduce employee exposures to or below the PEL, they must be used nonetheless, and supplemented with respirators to meet the 50 µg/m³ exposure limit.

The standard also provides for a program of biological monitoring for employees exposed to lead above the action level at any time, and additional medical surveillance for all employees exposed to levels of inorganic lead above 30 µg/m³ (TWA) for more than 30 days per year and whose BLL exceeds 40 µg/dl.

The purpose of this document is to outline the medical surveillance provisions of the interim standard for inorganic lead in construction, and to provide further information to the physician regarding the examination and evaluation of workers exposed to inorganic lead.

Section 1 provides a detailed description of the monitoring procedure including the required frequency of blood testing for exposed workers, provisions for medical removal protection (MRP), the recommended right of the employee to a second medical opinion, and notification and recordkeeping requirements of the employer. A discussion of the requirements for respirator use and respirator monitoring and OSHA's position on prophylactic chelation therapy are also included in this section.

Section 2 discusses the toxic effects and clinical manifestations of lead poisoning and effects of lead intoxication on enzymatic pathways in heme synthesis. The adverse effects on both male and female reproductive capacity and on the fetus are also discussed.

Section 3 outlines the recommended medical evaluation of the worker exposed to inorganic lead, including details of the medical history, physical examination, and recommended laboratory tests, which are based on the toxic effects of lead as discussed in Section 2.

Section 4 provides detailed information concerning the laboratory tests available for the monitoring of exposed workers. Included also is a discussion of the relative value of each test and the limitations and precautions which are necessary in the interpretation of the laboratory results.

I. Medical Surveillance and Monitoring Requirements for Workers Exposed to Inorganic Lead

Under the interim final standard for inorganic lead in the construction industry, initial medical surveillance consisting of biological monitoring to include blood lead and ZPP level determination shall be provided to employees exposed to lead at or above the action level on any one day. In addition, a program of biological monitoring is to be made available to all employees exposed above the action level at any time and additional medical surveillance is to be made available to all employees exposed to lead above 30 µg/m³ TWA for more than 30 days each year and whose BLL exceeds 40 µg/dl. This program consists of periodic blood sampling and medical evaluation to be performed on a schedule which is defined by previous laboratory results, worker complaints or concerns, and the clinical assessment of the examining physician.

Under this program, the blood lead level (BLL) of all employees who are exposed to lead above 30 µg/m³ for more than 30 days per year or whose blood lead is above 40 µg/dl but exposed for no more than 30 days per year is to be determined at least every two months for the first six months of exposure and every six months thereafter. The frequency is increased to every two months for employees whose last blood lead level was 40 µg/dl or above. For employees who are removed from exposure to lead due to an elevated blood lead, a new blood lead level must be measured monthly. A zinc protoporphyrin (ZPP) measurement is strongly recommended on each occasion that a blood lead level measurement is made.

An annual medical examination and consultation performed under the guidelines discussed in Section 3 is to be made available to each employee exposed above 30 µg/m³ for more than 30 days per year for whom a blood test conducted at any time during the preceding 12 months indicated a blood lead level at or above 40 µg/dl. Also, an examination is to be given to all employees prior to their assignment to an area in which airborne lead concentrations reach or exceed the 30 µg/m³ for more than 30 days per year. In addition, a medical examination must be provided as soon as possible after notification by an employee that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice regarding lead exposure and the ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during respirator use. An examination is also to be made available to each employee removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited or specially protected pursuant to medical recommendations.

Results of biological monitoring or the recommendations of an examining physician may necessitate removal of an employee from further lead exposure pursuant to the standard's medical removal protection (MRP) program. The object of the MRP program is to provide temporary medical removal to workers either with substantially elevated blood lead levels or otherwise at risk of sustaining material health impairment from continued substantial exposure to lead.

Under the standard's ultimate worker removal criteria, a worker is to be removed from any work having an eight hour TWA exposure to lead of 30 µg/m³ when his or her blood lead level reaches 50 µg/dl and is confirmed by a second follow-up blood lead level performed within two weeks after the employer receives the results of the first blood sampling test. Return of the employee to his or her job status depends on a worker's blood lead level declining to 40 µg/dl.

As part of the interim standard, the employer is required to notify in writing each employee whose blood lead level exceeds 40 µg/dl. In addition each such employee is to be informed that the standard requires medical removal with MRP benefits, discussed below, when an employee's blood lead level exceeds the above defined limit.

In addition to the above blood lead level criterion, temporary worker removal may also take place as a result of medical determinations and recommendations. Written medical opinions must be prepared after each examination pursuant to the standard. If the examining physician includes a medical finding, determination or opinion that the employee has a medical condition which places the employee at increased risk of material health impairment from exposure to lead, then the employee must be removed from exposure to lead at or above 30 µg/m³. Alternatively, if the examining physician recommends special protective measures for an employee (e.g., use of a powered air purifying respirator) or recommends limitations on an employee's exposure to lead, then the employer must implement these recommendations.

Recommendations may be more stringent than the specific provisions of the standard. The examining physician, therefore, is given broad flexibility to tailor special protective procedures to the needs of individual employees. This flexibility extends to the evaluation and management of pregnant workers and male and female workers who are planning to raise children. Based on the history, physical examination, and laboratory studies, the physician might recommend special protective measures or medical removal for an employee who is pregnant or who is planning to conceive a child when, in the physician's judgment, continued exposure to lead at the current job would pose a significant risk. The return of the

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employee to his or her former job status, or the removal of special protections or limitations, depends upon the examining physician determining that the employee is no longer at increased risk of material impairment or that special measures are no longer needed.

During the period of any form of special protection or removal, the employer must maintain the worker's earnings, seniority, and other employment rights and benefits (as though the worker had not been removed) for a period of up to 18 months or for as long as the job the employee was removed from lasts if less than 18 months. This economic protection will maximize meaningful worker participation in the medical surveillance program, and is appropriate as part of the employer's overall obligation to provide a safe and healthful workplace. The provisions of MRP benefits during the employee's removal period may, however, be conditioned upon participation in medical surveillance.

The lead standard provides for a multiple physician review in cases where the employee wishes a second opinion concerning potential lead poisoning or toxicity. If an employee wishes a second opinion, he or she can make an appointment with a physician of his or her choice. This second physician will review the findings, recommendations or determinations of the first physician and conduct any examinations, consultations or tests deemed necessary in an attempt to make a final medical determination. If the first and second physicians do not agree in their assessment they must try to resolve their differences. If they cannot reach an agreement then they must designate a third physician to resolve the dispute.

The employer must provide examining and consulting physicians with the following specific information: A copy of the lead regulations and all appendices, a description of the employee's duties as related to exposure, the exposure level or anticipated level to lead and any other toxic substances (if applicable), a description of personal protective equipment used, blood lead levels, and all prior written medical opinions regarding the employee in the employer's possession or control. The employer must also obtain from the physician and provide the employee with a written medical opinion containing blood lead levels, the physicians's opinion as to whether the employee is at risk of material impairment to health, any recommended protective measures for the employee if further exposure is permitted, as well as any recommended limitations upon an employee's use of respirators.

Employers must instruct each physician not to reveal to the employer in writing or in any other way his or her findings, laboratory results, or diagnoses which are felt to be unrelated to occupational lead exposure. They must also instruct each physician to advise the employee of any occupationally or non-occupationally related medical condition requiring further treatment or evaluation.

The standard provides for the use of respirators where engineering and other primary controls are not effective. However, the use of respirator protection shall not be used in lieu of temporary medical removal due to elevated blood lead levels or findings that an employee is at risk of material health impairment. This is based on the numerous inadequacies of respirators including skin rash where the facepiece makes contact with the skin, unacceptable stress to breathing in some workers with underlying cardiopulmonary impairment, difficulty in providing adequate fit, the tendency for respirators to create additional hazards by interfering with vision, hearing, and mobility, and the difficulties of assuring the maximum effectiveness of a complicated work practice program involving respirators. Respirators do, however, serve a useful function where engineering and work practice controls are inadequate by providing supplementary, interim, or short-term protection, provided they are properly selected for the environment in which the employee will be working, properly fitted to the employee, maintained and cleaned periodically, and worn by the employee when required.

In its interim final standard on occupational exposure to inorganic lead in the construction industry, OSHA has prohibited prophylectic chelation. Diagnostic and therapeutic chelation are permitted only under the supervision of a licensed physician with appropriate medical monitoring in an acceptable clinical setting. The decision to initiate chelation therapy must be made on an individual basis and take into account the severity of symptoms felt to be a result of lead toxicity along with blood lead levels, ZPP levels, and other laboratory tests as appropriate. EDTA and penicillamine which are the primary chelating agents used in the therapy of occupational lead poisoning have significant potential side effects and their use must be justified on the basis of expected benefits to the worker. Unless frank and severe symptoms are present, therapeutic chelation is not recommended, given the opportunity to remove a worker from exposure and allow the body to naturally excrete accumulated lead. As a diagnostic aid, the chelation mobilization test using CA-EDTA has limited applicability. According to some investigators, the test can differentiate between lead-induced and other nephropathies. The test may also provide an estimation of the mobile fraction of the total body lead burden.

Employers are required to assure that accurate records are maintained on exposure assessment, including environmental monitoring, medical surveillance, and medical removal for each employee. Exposure assessment records must be kept for at least 30 years. Medical surveillance records must be kept for the duration of employment plus 30 years except in cases where the employment was less than one year. If duration of employment is less than one year, the employer need not retain this record beyond the term of employment if the record is provided to the employee upon termination of employment. Medical removal records also must be maintained for the duration of employment. All records required under the standard must be made available upon request to the Assistant Secretary of Labor for Occupational Safety and Health and the Director of the National Institute for Occupational Safety and Health. Employers must also make environmental and biological monitoring and medical removal records available to affected employees and to former employees or their authorized employee representatives. Employees or their specifically designated representatives have access to their entire medical surveillance records.

In addition, the standard requires that the employer inform all workers exposed to lead at or above 30 $\mu g/m^3$ of the provisions of the standard and all its appendices, the purpose and description of medical surveillance and provisions for medical removal protection if temporary removal is required. An understanding of the potential health effects of lead exposure by all exposed employees along with full understanding of their rights under the lead standard is essential for an effective monitoring program.

II. Adverse Health Effects of Inorganic Lead

Although the toxicity of lead has been known for 2,000 years, the knowledge of the complex relationship between lead exposure and human response is still being refined. Significant research into the toxic properties of lead continues throughout the world, and it should be anticipated that our understanding of thresholds of effects and margins of safety will be improved in future years. The provisions of the lead standard are founded on two prime medical judgments: First, the prevention of adverse health effects from exposure to lead throughout a working lifetime requires that worker blood lead levels be maintained at or below 40 µg/dl and second, the blood lead levels of workers, male or female, who intend to parent in the near future should be maintained below 30 µg/dl to minimize adverse reproductive health effects to the parents and developing fetus. The adverse effects of lead on reproduction are being actively researched and OSHA encourages the physician to remain abreast of recent developments in the area to best advise pregnant workers or workers planning to conceive children.

The spectrum of health effects caused by lead exposure can be subdivided into five developmental stages: Normal, physiological changes of uncertain significance, pathophysiological changes, overt symptoms (morbidity), and mortality. Within this process there are no sharp distinctions, but rather a continuum of effects. Boundaries between categories overlap due to the wide variation of individual responses and exposures in the working population. OSHA's development of the lead standard focused on pathophysiological changes as well as later stages of disease.

1. Heme Synthesis Inhibition. The earliest demonstrated effect of lead involves its ability to inhibit at least two enzymes of the heme synthesis pathway at very low blood levels. Inhibition of delta aminolevulinic acid dehydrase (ALA-D) which catalyzes the conversion of delta-aminolevulinic acid (ALA) to protoporphyrin is observed at a blood lead level below 20 µg/dl. At a blood lead level of 40 µg/dl, more than 20% of the population would have 70% inhibition of

ALA-D. There is an exponential increase in ALA excretion at blood lead levels greater than 40 µg/dl.

Another enzyme, ferrochelatase, is also inhibited at low blood lead levels. Inhibition of ferrochelatase leads to increased free erythrocyte protoporphyrin (FEP) in the blood which can then bind to zinc to yield zinc protoporphyrin. At a blood lead level of 50 µg/dl or greater, nearly 100% of the population will have an increase in FEP. There is also an exponential relationship between blood lead levels greater than 40 µg/dl and the associated ZPP level, which has led to the development of the ZPP screening test for lead exposure.

While the significance of these effects is subject to debate, it is OSHA's position that these enzyme disturbances are early stages of a disease process which may eventually result in the clinical symptoms of lead poisoning. Whether or not the effects do progress to the later stages of clinical disease, disruption of these enzyme processes over a working lifetime is considered to be a material impairment of health.

One of the eventual results of lead-induced inhibition of enzymes in the heme synthesis pathway is anemia which can be asymptomatic if mild but associated with a wide array of symptoms including dizziness, fatigue, and tachycardia when more severe. Studies have indicated that lead levels as low as 50 µg/dl can be associated with a definite decreased hemoglobin, although most cases of lead-induced anemia, as well as shortened red-cell survival times, occur at lead levels exceeding 80 µg/dl. Inhibited hemoglobin synthesis is more common in chronic cases whereas shortened erythrocyte life span is more common in acute cases.

In lead-induced anemias, there is usually a reticulocytosis along with the presence of basophilic stippling, and ringed sideroblasts, although none of the above are pathognomonic for lead-induced anemia.

2. Neurological Effects. Inorganic lead has been found to have toxic effects on both the central and peripheral nervous systems. The earliest stages of lead-induced central nervous system effects first manifest themselves in the form of behavioral disturbances and central nervous system symptoms including irritability, restlessness, insomnia and other sleep disturbances, fatigue, vertigo, headache, poor memory, tremor, depression, and apathy. With more severe exposure, symptoms can progress to drowsiness, stupor, hallucinations, delirium, convulsions and coma.

The most severe and acute form of lead poisoning which usually follows ingestion or inhalation of large amounts of lead is acute encephalopathy which may arise precipitously with the onset of intractable seizures, coma, cardiorespiratory arrest, and death within 48 hours.

While there is disagreement about what exposure levels are needed to produce the earliest symptoms, most experts agree that symptoms definitely can occur at blood lead levels of 60 µg/dl whole blood and therefore recommend a 40 µg/dl maximum. The central nervous system effects frequently are not reversible following discontinued exposure or chelation therapy and when improvement does occur, it is almost always only partial.

The peripheral neuropathy resulting from lead exposure characteristically involves only motor function with minimal sensory damage and has a marked predilection for the extensor muscles of the most active extremity. The peripheral neuropathy can occur with varying degrees of severity. The earliest and mildest form which can be detected in workers with blood lead levels as low as 50 µg/dl is manifested by slowing of motor nerve conduction velocity often without clinical symptoms. With progression of the neuropathy there is development of painless extensor muscle weakness usually involving the extensor muscles of the fingers and hand in the most active upper extremity, followed in severe cases by wrist drop or, much less commonly, foot drop.

In addition to slowing of nerve conduction, electromyographical studies in patients with blood lead levels greater than 50 µg/dl have demonstrated a decrease in the number of acting motor unit potentials, an increase in the duration of motor unit potentials, and spontaneous pathological activity including fibrillations and fasciculations. Whether these effects occur at levels of 40 µg/dl is undetermined.

While the peripheral neuropathies can occasionally be reversed with therapy, again such recovery is not assured particularly in the more severe neuropathies and often improvement is only partial. The lack of reversibility is felt to be due in part to segmental demyelination.

3. Gastrointestinal. Lead may also affect the gastrointestinal system producing abdominal colic or diffuse abdominal pain, constipation, obstipation, diarrhea, anorexia, nausea and vomiting. Lead colic rarely develops at blood lead levels below 80 µg/dl.

4. Renal. Renal toxicity represents one of the most serious health effects of lead poisoning. In the early stages of disease nuclear inclusion bodies can frequently be identified in proximal renal tubular cells. Renal function remains normal and the changes in this stage are probably reversible. With more advanced disease there is progressive interstitial fibrosis and impaired renal function. Eventually extensive interstitial fibrosis ensues with sclerotic glomeruli and dilated and atrophied proximal tubules; all represent end stage kidney disease. Azotemia can be progressive, eventually resulting in frank uremia necessitating dialysis. There is occasionally associated hypertension and hyperuricemia with or without gout.

Early kidney disease is difficult to detect. The urinalysis is normal in early lead nephropathy and the blood urea nitrogen and serum creatinine increase only when two-thirds of kidney function is lost. Measurement of creatinine clearance can often detect earlier disease as can other methods of measurement of glomerular filtration rate. An abnormal Ca-EDTA mobilization test has been used to differentiate between lead-induced and other nephropathies, but this procedure is not widely accepted. A form of Fanconi syndrome with aminoaciduria, glycosuria, and hyperphosphaturia indicating severe injury to the proximal renal tubules is occasionally seen in children.

5. Reproductive effects. Exposure to lead can have serious effects on reproductive function in both males and females. In male workers exposed to lead there can be a decrease in sexual drive, impotence, decreased ability to produce healthy sperm, and sterility. Malformed sperm (teratospermia), decreased number of sperm (hypospermia), and sperm with decreased motility (asthenospermia) can all occur. Teratospermia has been noted at mean blood lead levels of 53 µg/dl and hypospermia and asthenospermia at 41 µg/dl. Furthermore, there appears to be a dose-response relationship for teratospermia in lead exposed workers.

Women exposed to lead may experience menstrual disturbances including dysmenorrhea, menorrhagia and amenorrhea. Following exposure to lead, women have a higher frequency of sterility, premature births, spontaneous miscarriages, and stillbirths.

Germ cells can be effected by lead and cause genetic damage in the egg or sperm cells before conception and result in failure to implant, miscarriage, stillbirth, or birth defects.

Infants of mothers with lead poisoning have a higher mortality during the first year and suffer from lowered birth weights, slower growth, and nervous system disorders.

Lead can pass through the placental barrier and lead levels in the mother's blood are comparable to concentrations of lead in the umbilical cord at birth. Transplacental passage becomes detectable at 12–14 weeks of gestation and increases until birth.

There is little direct data on damage to the fetus from exposure to lead but it is generally assumed that the fetus and newborn would be at least as susceptible to neurological damage as young children. Blood lead levels of 50–60 µg/dl in children can cause significant neurobehavioral impairments and there is evidence of hyperactivity at blood levels as low as 25 µg/dl. Given the overall body of literature concerning the adverse health effects of lead in children, OSHA feels that the blood lead level in children should be maintained below 30 µg/dl with a population mean of 15 µg/dl. Blood lead levels in the fetus and newborn likewise should not exceed 30 µg/dl.

Because of lead's ability to pass through the placental barrier and also because of the demonstrated adverse effects of lead on reproductive function in both the male and female as well as the risk of genetic damage of lead on both the ovum and sperm, OSHA recommends a 30 µg/dl maximum permissible blood lead level in both males and females who wish to bear children.

6. Other toxic effects. Debate and research continue on the effects of lead on the human body. Hypertension has frequently been noted in occupationally exposed individuals although it is difficult to assess whether this is due to lead's adverse effects on the kidney or if some other mechanism is involved. Vascular and electrocardiographic changes have been detected but have not been well characterized. Lead is thought to impair thyroid function and interfere with the pituitary-adrenal axis, but again these effects have not been well defined.

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III. Medical Evaluation

The most important principle in evaluating a worker for any occupational disease including lead poisoning is a high index of suspicion on the part of the examining physician. As discussed in Section 2, lead can affect numerous organ systems and produce a wide array of signs and symptoms, most of which are non-specific and subtle in nature at least in the early stages of disease. Unless serious concern for lead toxicity is present, many of the early clues to diagnosis may easily be overlooked.

The crucial initial step in the medical evaluation is recognizing that a worker's employment can result in exposure to lead. The worker will frequently be able to define exposures to lead and lead containing materials but often will not volunteer this information unless specifically asked. In other situations the worker may not know of any exposures to lead but the suspicion might be raised on the part of the physician because of the industry or occupation of the worker. Potential occupational exposure to lead and its compounds occur in many occupations in the construction industry, including demolition and salvaging operations, removal or encapsulation of materials containing lead, construction, alteration, repair or renovation of structures containing lead, transportation, disposal, storage or containment of lead or lead-containing materials on construction sites, and maintenance operations associated with construction activities.

Once the possibility for lead exposure is raised, the focus can then be directed toward eliciting information from the medical history, physical exam, and finally from laboratory data to evaluate the worker for potential lead toxicity.

A complete and detailed work history is important in the initial evaluation. A listing of all previous employment with information on job description, exposure to fumes or dust, known exposures to lead or other toxic substances, a description of any personal protective equipment used, and previous medical surveillance should all be included in the worker's record. Where exposure to lead is suspected, information concerning on-the-job personal hygiene, smoking or eating habits in work areas, laundry procedures, and use of any protective clothing or respiratory protection equipment should be noted. A complete work history is essential in the medical evaluation of a worker with suspected lead toxicity, especially when long term effects such as neurotoxicity and nephrotoxicity are considered.

The medical history is also of fundamental importance and should include a listing of all past and current medical conditions, current medications including proprietary drug intake, previous surgeries and hospitalizations, allergies, smoking history, alcohol consumption, and also non-occupational lead exposures such as hobbies (hunting, riflery). Also known childhood exposures should be elicited. Any previous history of hematological, neurological, gastrointestinal, renal, psychological, gynecological, genetic, or reproductive problems should be specifically noted.

A careful and complete review of systems must be performed to assess both recognized complaints and subtle or slowly acquired symptoms which the worker might not appreciate as being significant. The review of symptoms should include the following:

1. General—weight loss, fatigue, decreased appetite.
2. Head, Eyes, Ears, Nose, Throat (HEENT)—headaches, visual disturbances or decreased visual acuity, hearing deficits or tinnitus, pigmentation of the oral mucosa, or metallic taste in mouth.
3. Cardio-pulmonary—shortness of breath, cough, chest pains, palpitations, or orthopnea.
4. Gastrointestinal—nausea, vomiting, heartburn, abdominal pain, constipation or diarrhea.
5. Neurologic—irritability, insomnia, weakness (fatigue), dizziness, loss of memory, confusion, hallucinations, incoordination, ataxia, decreased strength in hands or feet, disturbances in gait, difficulty in climbing stairs, or seizures.
6. Hematologic—pallor, easy fatigability, abnormal blood loss, melena.
7. Reproductive (male and female and spouse where relevant)—history of infertility, impotence, loss of libido, abnormal menstrual periods, history of miscarriages, stillbirths, or children with birth defects.
8. Musculo-skeletal—muscle and joint pains.

The physical examination should emphasize the neurological, gastrointestinal, and cardiovascular systems. The worker's weight and blood pressure should be recorded and the oral mucosa checked for pigmentation characteristic of a possible Burtonian or lead line on the gingiva. It should be noted, however, that the lead line may not be present even in severe lead poisoning if good oral hygiene is practiced.

The presence of pallor on skin examination may indicate an anemia which, if severe, might also be associated with a tachycardia. If an anemia is suspected, an active search for blood loss should be undertaken including potential blood loss through the gastrointestinal tract.

A complete neurological examination should include an adequate mental status evaluation including a search for behavioral and psychological disturbances, memory testing, evaluation for irritability, insomnia, hallucinations, and mental clouding. Gait and coordination should be examined along with close observation for tremor. A detailed evaluation of peripheral nerve function including careful sensory and motor function testing is warranted. Strength testing particularly of extensor muscle groups of all extremities is of fundamental importance.

Cranial nerve evaluation should also be included in the routine examination.

The abdominal examination should include auscultation for bowel sounds and abdominal bruits and palpation for organomegaly, masses, and diffuse abdominal tenderness.

Cardiovascular examination should evaluate possible early signs of congestive heart failure. Pulmonary status should be addressed particularly if respirator protection is contemplated.

As part of the medical evaluation, the interim lead standard requires the following laboratory studies:

1. Blood lead level
2. Hemoglobin and hematocrit determinations, red cell indices, and examination of the peripheral blood smear to evaluate red blood cell morphology
3. Blood urea nitrogen
4. Serum creatinine
5. Routine urinalysis with microscopic examination.
6. A zinc protoporphyrin level.

In addition to the above, the physician is authorized to order any further laboratory or other tests which he or she deems necessary in accordance with sound medical practice. The evaluation must also include pregnancy testing or laboratory evaluation of male fertility if requested by the employee. Additional tests which are probably not warranted on a routine basis but may be appropriate when blood lead and ZPP levels are equivocal include delta aminolevulinic acid and coproporphyrin concentrations in the urine, and dark-field illumination for detection of basophilic stippling in red blood cells.

If an anemia is detected further studies including a careful examination of the peripheral smear, reticulocyte count, stool for occult blood, serum iron, total iron binding capacity, bilirubin, and, if appropriate, vitamin B12 and folate may be of value in attempting to identify the cause of the anemia.

If a peripheral neuropathy is suspected, nerve conduction studies are warranted both for diagnosis and as a basis to monitor any therapy.

If renal disease is questioned, a 24 hour urine collection for creatinine clearance, protein, and electrolytes may be indicated. Elevated uric acid levels may result from lead-induced renal disease and a serum uric acid level might be performed.

An electrocardiogram and chest x-ray may be obtained as deemed appropriate.

Sophisticated and highly specialized testing should not be done routinely and where indicated should be under the direction of a specialist.

IV. Laboratory Evaluation

The blood lead level at present remains the single most important test to monitor lead exposure and is the test used in the medical surveillance program under the lead standard to guide employee medical removal. The ZPP has several advantages over the blood lead level. Because of its relatively recent development and the lack of extensive data concerning its interpretation, the ZPP currently remains an ancillary test.

This section will discuss the blood lead level and ZPP in detail and will outline their relative advantages and disadvantages. Other blood tests currently available to evaluate lead exposure will also be reviewed.

The blood lead level is a good index of current or recent lead absorption when there is no anemia present and when the worker has not taken any chelating agents. However, blood lead levels along with urinary lead levels do not necessarily indicate the total body burden of lead and are not adequate measures of past exposure. One reason for this is that lead has a high affinity for bone and up to 90% of the body's total lead is

deposited there. A very important component of the total lead body burden is lead in soft tissue (liver, kidney, and brain). This fraction of the lead body burden, the biologically active lead, is not entirely reflected by blood lead levels since it is a function of the dynamics of lead absorption, distribution, deposition in bone and excretion. Following discontinuation of exposure to lead, the excess body burden is only slowly mobilized from bone and other relatively stable body stores and excreted. Consequently, a high blood lead level may only represent recent heavy exposure to lead without a significant total body excess and likewise a low blood lead level does not exclude an elevated total body burden of lead.

Also due to its correlation with recent exposures, the blood lead level may vary considerably over short time intervals.

To minimize laboratory error and erroneous results due to contamination, blood specimens must be carefully collected after thorough cleaning of the skin with appropriate methods using lead-free blood containers and analyzed by a reliable laboratory. Under the standard, samples must be analyzed in laboratories which are approved by OSHA. Analysis is to be made using atomic absorption spectrophotometry, anodic stripping voltammetry or any method which meets the accuracy requirements set forth by the standard.

The determination of lead in urine is generally considered a less reliable monitoring technique than analysis of whole blood primarily due to individual variability in urinary excretion capacity as well as the technical difficulty of obtaining accurate 24 hour urine collections. In addition, workers with renal insufficiency, whether due to lead or some other cause, may have decreased lead clearance and consequently urine lead levels may underestimate the true lead burden. Therefore, urine lead levels should not be used as a routine test.

The zinc protoporphyrin test, unlike the blood lead determination, measures an adverse metabolic effect of lead and as such is a better indicator of lead toxicity than the level of blood lead itself. The level of ZPP reflects lead absorption over the preceding 3 to 4 months, and therefore is a better indicator of lead body burden. The ZPP requires more time than the blood lead to read significantly elevated levels; the return to normal after discontinuing lead exposure is also slower. Furthermore, the ZPP test is simpler, faster, and less expensive to perform and no contamination is possible. Many investigators believe it is the most reliable means of monitoring chronic lead absorption.

Zinc protoporphyrin results from the inhibition of the enzyme ferrochelatase which catalyzes the insertion of an iron molecule into the protoporphyrin molecule, which then becomes heme. If iron is not inserted into the molecule then zinc, having a greater affinity for protoporphyrin, takes the place of the iron, forming ZPP.

An elevation in the level of circulating ZPP may occur at blood lead levels as low as 20–30 μg/dl in some workers. Once the blood lead level has reached 40 μg/dl there is more marked rise in the ZPP value from its normal range of less than 100 μg/dl100 ml. Increases in blood lead levels beyond 40 μg/100 g are associated with exponential increases in ZPP.

Whereas blood lead levels fluctuate over short time spans, ZPP levels remain relatively stable. ZPP is measured directly in red blood cells and is present for the cell's entire 120 day life-span. Therefore, the ZPP level in blood reflects the average ZPP production over the previous 3–4 months and consequently the average lead exposure during that time interval.

It is recommended that a hematocrit be determined whenever a confirmed ZPP of 50 μg/100 ml whole blood is obtained to rule out a significant underlying anemia. If the ZPP is in excess of 100 μg/100 ml and not associated with abnormal elevations in blood lead levels, the laboratory should be checked to be sure that blood leads were determined using atomic absorption spectrophotometry anodic stripping voltammetry, or any method which meets the accuracy requirements set forth by the standard by an OSHA approved laboratory which is experienced in lead level determinations. Repeat periodic blood lead studies should be obtained in all individuals with elevated ZPP levels to be certain that an associated elevated blood lead level has not been missed due to transient fluctuations in blood leads.

ZPP has a characteristic fluorescence spectrum with a peak at 594 nm which is detectable with a hematofluorimeter. The hematofluorimetor is accurate and portable and can provide on-site, instantaneous results for workers who can be frequently tested via a finger prick.

However, careful attention must be given to calibration and quality control procedures. Limited data on blood lead-ZPP correlations and the ZPP levels which are associated with the adverse health effects discussed in Section 2 are the major limitations of the test. Also it is difficult to correlate ZPP levels with environmental exposure and there is some variation of response with age and sex. Nevertheless, the ZPP promises to be an important diagnostic test for the early detection of lead toxicity and its value will increase as more data is collected regarding its relationship to other manifestations of lead poisoning.

Levels of delta-aminolevulinic acid (ALA) in the urine are also used as a measure of lead exposure. Increasing concentrations of ALA are believed to result from the inhibition of the enzyme delta-aminolevulinic acid dehydrase (ALA-D). Although the test is relatively easy to perform, inexpensive, and rapid, the disadvantages include variability in results, the necessity to collect a complete 24 hour urine sample which has a specific gravity greater than 1.010, and also the fact that ALA decomposes in the presence of light.

The pattern of porphyrin excretion in the urine can also be helpful in identifying lead intoxication. With lead poisoning, the urine concentrations of coproporphyrins I and II, porphobilinogen and uroporphyrin I rise. The most important increase, however, is that of coproporphyrin III; levels may exceed 5,000 μg/l in the urine in lead poisoned individuals, but its correlation with blood lead levels and ZPP are not as good as those of ALA. Increases in urinary porphyrins are not diagnostic of lead toxicity and may be seen in porphyria, some liver diseases, and in patients with high reticulocyte counts.

Summary. The Occupational Safety and Health Administration's interim standard for inorganic lead in the construction industry places significant emphasis on the medical surveillance of all workers exposed to levels of inorganic lead above 30 μg/m³ TWA. The physician has a fundamental role in this surveillance program, and in the operation of the medical removal protection program.

Even with adequate worker education on the adverse health effects of lead and appropriate training in work practices, personal hygiene and other control measures, the physician has a primary responsibility for evaluating potential lead toxicity in the worker. It is only through a careful and detailed medical and work history, a complete physical examination and appropriate laboratory testing that an accurate assessment can be made. Many of the adverse health effects of lead toxicity are either irreversible or only partially reversible and therefore early detection of disease is very important.

This document outlines the medical monitoring program as defined by the occupational safety and health standard for inorganic lead. It reviews the adverse health effects of lead poisoning and describes the important elements of the history and physical examinations as they relate to these adverse effects. Finally, the appropriate laboratory testing for evaluating lead exposure and toxicity is presented.

It is hoped that this review and discussion will give the physician a better understanding of the OSHA standard with the ultimate goal of protecting the health and well-being of the worker exposed to lead under his or her care.

Appendix D to § 1926.62— Qualitative and Quantitative Fit Test Protocols

I. Fit Test Protocols

A. General: The employer shall include the following provisions in the fit test procedures. These provisions apply to both qualitative fit testing (QLFT) and quantitative fit testing (QNFT) permissible for compliance with paragraph (f)(3)(ii) of § 1926.62. All testing is to be conducted annually.

1. The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least three sizes of elastomeric facepieces of the type of respirator that is to be tested, i.e., three sizes of half mask; or three sizes of full facepiece. Respirators of each size must be provided from at least two manufacturers.

2. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a comfortable fit. A mirror shall be available to assist the subject in evaluating the fit and positioning the respirator. This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

3. The test subject shall be informed that he/she is being asked to select the respirator

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which provides the most comfortable fit. Each respirator represents a different size and shape, and if fitted, maintained and used properly, will provide adequate protection.

4. The test subject shall be instructed to hold each facepiece up to the face and eliminate those which obviously do not give a comfortable fit.

5. The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in item 6 below. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

6. Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

(a) position of the mask on the nose;
(b) room for eye protection;
(c) room to talk; and
(d) position of mask on face and cheeks.

7. The following criteria shall be used to help determine the adequacy of the respirator fit:

(a) chin properly placed;
(b) adequate strap tension, not overly tightened;
(c) fit across nose bridge;
(d) respirator of proper size to span distance from nose to chin;
(e) tendency of respirator to slip; and
(f) self-observation in mirror to evaluate fit and respirator position.

8. The test subject shall conduct the negative and positive pressure fit checks as described below or in ANSI Z88.2–1980. Before conducting the negative or positive pressure test, the subject shall be told to seat the mask on the face by moving the head from side-to-side and up and down slowly while taking in a few slow deep breaths. Another facepiece shall be selected and retested if the test subject fails the fit check tests.

(a) *Positive pressure check.* Close off the exhalation valve and exhale gently into the facepiece. The face fit is considered satisfactory if a slight positive pressure can be built up inside the facepiece without any evidence of outward leakage of air at the seal. For most respirators this method of leak testing requires the wearer to first remove the exhalation valve cover before closing off the exhalation valve and then carefully replacing it after the test.

(b) *Negative pressure check.* Close off the inlet opening of the canister or cartridge(s) by covering with the palm of the hand(s) or by replacing the filter seal(s), inhale gently so that the facepiece collapses slightly, and hold the breath for ten seconds. If the facepiece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

9. The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface, such as stubble beard growth, beard, or long sideburns which cross the respirator sealing surface. Any type of apparel which interferes with a satisfactory fit shall be altered or removed.

10. If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician to determine whether the test subject can wear a respirator while performing her or his duties.

11. If at any time within the first two week of use the respirator becomes uncomfortable, the test subject shall be given the opportunity to select a different facepiece and to be retested.

12. The employer shall maintain a record of the fit test administered to an employee. The record shall contain at least the following information:

(a) name of employee;
(b) type of respirator;
(c) brand, size of respirator;
(d) date of test;
(e) where QNFT is used: the fit factor, strip chart recording or other recording of the results of the test. The record shall be maintained until the next fit test is administered.

13. Exercise regimen. Prior to the commencement of the fit test, the test subject shall be given a description of the fit test and the test subject's responsibilities during the test procedure. The description of the process shall include a description of the test exercises that the subject will be performing. The respirator to be tested shall be worn for at least 5 minutes before the start of the fit test.

14. Test Exercises. The test subject shall perform exercises, in the test environment, in the manner described below:

(a) Normal breathing. In a normal standing position, without talking, the subject shall breathe normally.

(b) Deep breathing. In a normal standing position, the subject shall breathe slowly and deeply, taking caution so as to not hyperventilate.

(c) Turning head side to side. Standing in place, the subject shall slowly turn his/her head from side to side between the extreme positions on each side. The head shall be held at each extreme momentarily so the subject can inhale at each side.

(d) Moving head up and down. Standing in place, the subject shall slowly move his/her head up and down. The subject shall be instructed to inhale in the up position (i.e., when looking toward the ceiling).

(e) Talking. The subject shall talk out loud slowly and loud enough so as to be heard clearly by the test conductor. The subject can read from a prepared text such as the Rainbow Passage (see below), count backward from 100, or recite a memorized poem or song.

Rainbow Passage

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(f) Grimace. The test subject shall grimace by smiling or frowning.

(g) Bending over. The test subject shall bend at the waist as if he/she were to touch his/her toes. Jogging in place shall be substituted for this exercise in those test environments such as shroud type QNFT units which prohibit bending at the waist.

(h) Normal breathing. Same as exercise 1.

Each test exercise shall be performed for one minute except for the grimace exercise which shall be performed for 15 seconds. The test subject shall be questioned by the test conductor regarding the comfort of the respirator upon completion of the protocol. If it has become uncomfortable, another model of respirator shall be tried.

B. Qualitative Fit Test (QLFT) Protocols. 1. *General.* (a) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator qualitative fit test program.

(b) The employer shall ensure that persons administering QLFT are able to prepare test solutions, calibrate equipment and perform tests properly, recognize invalid tests, and assure that test equipment is in proper working order.

(c) The employer shall assure that QLFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

2. *Isoamyl Acetate Protocol.* (a) Odor threshold screening. The odor threshold screening test, performed without wearing a respirator, is intended to determine if the individual tested can detect the odor of isoamyl acetate.

(1) Three 1 liter glass jars with metal lids are required.

(2) Odor free water (e.g. distilled or spring water) at approximately 25 degrees C shall be used for the solutions.

(3) The isoamyl acetate (IAA) (also known at isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor free water in a 1 liter jar and shaking for 30 seconds. A new solution shall be prepared at least weekly.

(4) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but shall not be connected to the same recirculating ventilation system.

(5) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor free water using a clean dropper or pipette. The solution shall be shaken for 30 seconds and allowed to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution shall be used for only one day.

(6) A test blank shall be prepared in a third jar by adding 500 cc of odor free water.

(7) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. Labels shall be placed on the lids so they can be periodically peeled, dried off and switched to maintain the integrity of the test.

(8) The following instruction shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell

banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(9) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(10) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test shall not be performed.

(11) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(b) Isoamyl acetate fit test.

(1) The fit test chamber shall be similar to a clear 55-gallon drum liner suspended inverted over a 2-foot diameter frame so that the top of the chamber is about 6 inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(2) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(3) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(4) A copy of the test exercises and any prepared text from which the subject is to read shall be taped to the inside of the test chamber.

(5) Upon entering the test chamber, the test subject shall be given a 6-inch by 5-inch piece of paper towel, or other porous, absorbent, single-ply material, folded in half and wetted with 0.75 cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(6) Allow two minutes for the IAA test concentration to stabilize before starting the fit test exercises. This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of his/her cooperation, and the purpose for the head exercises; or to demonstrate some of the exercises.

(7) If at any time during the test, the subject detects the banana like odor of IAA, the test has failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(8) If the test has failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber and again begin the procedure described in (I)(B)(2)(b) (1) through (7) of this appendix. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about 5 minutes before retesting. Odor sensitivity will usually have returned by this time.

(9) When a respirator is found that passes the test, its efficiency shall be demonstrated for the subject by having the subject break the face seal and take a breath before exiting the chamber.

(10) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the test area from becoming contaminated, the used towels shall be kept in a self sealing bag so there is no significant IAA concentration build-up in the test chamber during subsequent tests.

3. *Saccharin Solution Aerosol Protocol.* The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(a) Taste threshold screening. The saccharin taste threshold screening, performed without wearing a respirator, is intended to determine whether the individual being tested can detect the taste of saccharin.

(1) During threshold screening as well as during fit testing, subjects shall wear an enclosure about the head and shoulders that is approximately 12 inches in diameter by 14 inches tall with at least the front portion clear and that allows free movements of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly, parts # FT 14 and # FT 15 combined, is adequate.

(2) The test enclosure shall have a ¾ inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(3) The test subject shall don the test enclosure. Throughout the threshold screening test, the test subject shall breathe through his/her wide open mouth with tongue extended.

(4) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(5) The threshold check solution consists of 0.83 grams of sodium saccharin USP in 1 cc of warm water. It can be prepared by putting 1 cc of the fit test solution (see (b)(5) below) in 100 cc of distilled water.

(6) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then released and allowed to fully expand.

(7) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(8) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(9) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(10) The test conductor will take note of the number of squeezes required to solicit a taste response.

(11) If the saccharin is not tasted after 30 squeezes (step 10), the test subject may not perform the saccharin fit test.

(12) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(13) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(14) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

(b) Saccharin solution aerosol fit test procedure

(1) The test subject may not eat, drink (except plain water), or chew gum for 15 minutes before the test.

(2) The fit test uses the same enclosure described in I. B. 3. (a) of this appendix.

(3) The test subject shall don the enclosure while wearing the respirator selected in section I. B. 3. (a) of this appendix. The respirator shall be properly adjusted and equipped with a particulate filter(s).

(4) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(5) The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(6) As before, the test subject shall breathe through the wide open mouth with tongue extended.

(7) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same number of squeezes required to elicit a taste response in the screening test.

(8) After generating the aerosol the test subject shall be instructed to perform the exercises in section I. A. 14 above.

(9) Every 30 seconds the aerosol concentration shall be replenished using one half the number of squeezes as initially.

(10) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(11) If the taste of saccharin is detected, the fit is deemed unsatisfactory and a different respirator shall be tried.

(12) Successful completion of the test protocol shall allow the use of the tested respirator in contaminated atmospheres up to 10 times the PEL. In other words, this protocol may be used for assigned protection factors no higher than 10.

4. *Irritant Fume Protocol.* (a) The respirator to be tested shall be equipped with high-efficiency particulate air (HEPA) filters.

(b) The test subject shall be allowed to smell a weak concentration of the irritant smoke before the respirator is donned to become familiar with its characteristic odor.

(c) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part No. 5645, or equivalent. Attach one end of the smoke tube to a low flow air pump set to deliver 200 milliliters per minute.

(d) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep his/her eyes closed while the test is performed.

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(e) The test conductor shall direct the stream of irritant smoke from the smoke tube towards the face seal area of the test subject. He/She shall begin at least 12 inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(f) The exercises identified in section I. A. 14 above shall be performed by the test subject while the respirator seal is being challenged by the smoke.

(g) Each test subject passing the smoke test without evidence of a response shall be given a sensitivity check of the smoke from the same tube once the respirator has been removed to determine whether he/she reacts to the smoke. Failure to evoke a response shall void the fit test.

(h) The fit test shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agent.

C. Quantitative Fit Test (QNFT) Protocol. 1. General. (a) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator quantitative fit test program.

(b) The employer shall ensure that persons administering QNFT are able to calibrate equipment and perform tests properly, recognize invalid tests, calculate fit factors properly and assure that test equipment is in proper working order.

(c) The employer shall assure that QNFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

2. Definitions. (a) Quantitative fit test. The test is performed in a test chamber. The normal air-purifying element of the respirator is replaced by a high-efficiency particulate air (HEPA) filter in the case of particulate QNFT aerosols or a sorbent offering contaminant penetration protection equivalent to high-efficiency filters where the QNFT test agent is a gas or vapor.

(b) Challenge agent means the aerosol, gas or vapor introduced into a test chamber so that its concentration inside and outside the respirator may be measured.

(c) Test subject means the person wearing the respirator for quantitative fit testing.

(d) Normal standing position means standing erect and straight with arms down along the sides and looking straight ahead.

(e) Maximum peak penetration method means the method of determining test agent penetration in the respirator as determined by strip chart recordings of the test. The highest peak penetration for a given exercise is taken to be representative of average penetration into the respirator for that exercise.

(f) Average peak penetration method means the method of determining test agent penetration into the respirator utilizing a strip chart recorder, integrator, or computer. The agent penetration is determined by an average of the peak heights on the graph or by computer integration, for each exercise except the grimace exercise. Integrators or computers which calculate the actual test agent penetration into the respirator for each exercise will also be considered to meet the requirements of the average peak penetration method.

(g) "Fit Factor" means the ration of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

3. Apparatus. (a) Instrumentation. Aerosol generation, dilution, and measurement systems using corn oil or sodium chloride as test aerosols shall be used for quantitative fit testing.

(b) Test chamber. The test chamber shall be large enough to permit all test subjects to perform freely all required exercises without disturbing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air, yet uniform in concentration throughout the chamber.

(c) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particulate filter supplied by the same manufacturer.

(d) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of the challenge agent concentration with each inspiration and expiration at fit factors of at least 2,000. Integrators or computers which integrate the amount of test agent penetration leakage into the respirator for each exercise may be used provided a record of the readings is made.

(e) The combination of substitute air-purifying elements, challenge agent and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of an established exposure limit for the challenge agent at any time during the testing process.

(f) The sampling port on the test specimen respirator shall be placed and constructed so that no leakage occurs around the port (e.g. where the respirator is probed), a free air flow is allowed into the sampling line at all times and so that there is no interference with the fit or performance of the respirator.

(g) The test chamber and test set up shall permit the person administering the test to observe the test subject inside the chamber during the test.

(h) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent inside the test chamber constant to within a 10 percent variation for the duration of the test.

(i) The time lag (interval between an event and the recording of the event on the strip chart or computer or integrator) shall be kept to a minimum. There shall be a clear association between the occurrence of an event inside the test chamber and its being recorded.

(j) The sampling line tubing for the test chamber atmosphere and for the respirator sampling port shall be of equal diameter and of the same material. The length of the two lines shall be equal.

(k) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release.

(l) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed 50 percent.

(m) The limitations of instrument detection shall be taken into account when determining the fit factor.

(n) Test respirators shall be maintained in proper working order and inspected for deficiencies such as cracks, missing valves and gaskets, etc.

4. Procedural Requirements. (a) When performing the initial positive or negative pressure test the sampling line shall be crimped closed in order to avoid air pressure leakage during either of these tests.

(b) An abbreviated screening isoamyl acetate test or irritant fume test may be utilized in order to quickly identify poor fitting respirators which passed the positive and/or negative pressure test and thus reduce the amount of QNFT time. When performing a screening isoamyl acetate test, combination high-efficiency organic vapor cartridges/canisters shall be used.

(c) A reasonably stable challenge agent concentration shall be measured in the test chamber prior to testing. For canopy or shower curtain type of test units the determination of the challenge agent stability may be established after the test subject has entered the test environment.

(d) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed 5 percent for a half mask or. 1 percent for a full facepiece respirator.

(e) A stable challenge concentration shall be obtained prior to the actual start of testing.

(f) Respirator restraining straps shall not be overtightened for testing. The straps shall be adjusted by the wearer without assistance from other persons to give a reasonable comfortable fit typical of normal use.

(g) The test shall be terminated whenever any single peak penetration exceeds 5 percent for half masks and 1 percent for full facepiece respirators. The test subject shall be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate.

(h) In order to successfully complete a QNFT, three successful fit tests are required. The results of each of the three independent fit tests must exceed the minimum fit factor needed for the class of respirator (e.g. half mask respirator, full facepiece respirator).

(i) Calculation of fit factors.

(1) The fit factor shall be determined for the quantitative fit test by taking the ratio of the average chamber concentration to the concentration inside the respirator.

(2) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and of the end of the test.

(3) The concentration of the challenge agent inside the respirator shall be determined by one of the following methods:

(i) Average peak concentration

(ii) Maximum peak concentration

(iii) Integration by calculation of the area under the individual peak for each exercise. This includes computerized integration.

(j) Interpretation of test results. The fit factor established by the quantitative fit testing shall be the lowest of the three fit factor values calculated from the three required fit tests.

(k) The test subject shall not be permitted to wear a half mask, or full facepiece respirator unless a minimum fit factor equivalent to at least 10 times the hazardous exposure level is obtained.

(l) Filters used for quantitative fit testing shall be replaced at least weekly, or whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily (when used) or sooner if there is any indication of breakthrough by a test agent.

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Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 430, 436, et al.
Antibiotic Drugs; Clarithromycin, Clarithromycin Tablets, et al.; Rules

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430, 436, and 452

[Docket No. 91N-0458]

Antibiotic Drugs; Clarithromycin, Clarithromycin Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new antibiotic drug, clarithromycin, and the use of the antibiotic drug in a dosage form, clarithromycin tablets. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective June 3, 1993; written comments, notice of participation, and request for hearing by June 3, 1993; data, information, and analyses to justify a hearing by July 6, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD-520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-0335.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, clarithromycin, and its use in a dosage form, clarithromycin tablets. The agency has concluded that the data supplied by the manufacturer concerning these antibiotic drugs are adequate to establish their safety and efficacy when used as directed in the labeling and that the regulations should be amended in 21 CFR parts 430, 436, and 452 to provide for the inclusion of accepted standards for these products.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, FDA finds that notice and comment procedure is unnecessary and not in the public interest. This final rule, therefore, becomes effective June 3, 1993. However, interested persons may, on or before June 3, 1993, submit comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before June 3, 1993, a written notice of participation and request for a hearing, and (2) on or before July 6, 1993, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for a hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this document and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Part 436

Antibiotics.

21 CFR Part 452

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 430, 436, and 452 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. The authority citation for 21 CFR part 430 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 357, 371); secs. 215, 301, 351 of the Public Health Service Act (42 U.S.C. 216, 241, 262).

2. Section 430.4 is amended by adding new paragraph (a)(64) to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) * * *

(64) *Clarithromycin.* Clarithromycin is 6-O-methylerythromycin A.

* * * * * *

3. Section 430.5 is amended by adding new paragraphs (a)(99) and (b)(101) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(99) *Clarithromycin.* The term "clarithromycin master standard" means a specific lot of clarithromycin that is designated by the Commissioner as the standard of comparison in determining the potency of the clarithromycin working standard.

(b) * * *

(101) *Clarithromycin.* The term "clarithromycin working standard" means a specific lot of a homogeneous preparation of clarithromycin.

4. Section 430.6 is amended by adding new paragraph (b)(101) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * * *

(b) * * *

(101) *Clarithromycin.* The term "microgram" applied to clarithromycin means the clarithromycin (potency) contained in 1.010 micrograms of the clarithromycin master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

5. The authority citation for 21 CFR part 436 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

6. Section 436.215 is amended by alphabetically adding a new entry to the table in paragraph (b) and by adding new paragraph (c)(13) to read as follows:

§ 436.215 Dissolution test.

* * * * * *

(b) * * *

Dosage form	Dissolution medium	Rotation rate[1]	Sampling time(s)	Apparatus
*	*	*	*	*
Clarithromycin tablets	900 mL 0.10 *M* sodium acetate buffer, pH 5.0.	50	30 min	2
*	*	*	*	*

[1] Rotation rate of basket or paddle stirring element (revolutions per minute).

(c) * * *

(13) *Clarithromycin.* Proceed as directed in § 452.50(b)(1) of this chapter except:

(i) *Dissolution medium.* Instead of the mobile phase described in § 452.50(b)(1)(i) of this chapter, use 0.10 *M* sodium acetate buffer prepared as follows: Weigh 13.6 grams of sodium acetate trihyrate into a container sufficient to hold 1 liter of solution. Dissolve the salt in 750 milliliters of distilled water. Adjust the pH of the solution to 5.0±0.05 with glacial acetic acid. Dilute to 1,000 milliliters with distilled water.

(ii) *Preparation of the standard and sample solutions*—(a) *Standard solution.* Dissolve (with shaking or sonication) an accurately weighed portion of the clarithromycin working standard, in sufficient methanol to obtain a solution having a known concentration of approximately 625 micrograms per milliliter of clarithromycin. Quantitatively transfer and dilute an aliquot of this solution with mobile phase (described in § 452.50(b)(1)(i) of this chapter) and mix to obtain a solution of known concentration of approximately 125 micrograms per milliliter of clarithromycin.

(b) *Sample solution.* Use the sample solution as it is removed from the dissolution vessel after diluting and mixing with mobile phase (described in § 452.50(b)(1)(i) of this chapter) 1:2 for the 250-milligram tablet and 1:4 for the 500-milligram tablet.

(c) *Calculations.* Determine the total amount of clarithromycin activity dissolved as follows:

$$T = \frac{A_U \times c \times d \times 900}{A_S}$$

where:
T = Total milligrams of clarithromycin activity dissolved;
A_U = Area of the clarithromycin peak (at a retention time equal to that observed for the standard) in the chromatogram of the sample;
A_S = Area of the clarithromycin peak in the chromatogram of the clarithromycin standard;
c = Clarithromycin activity in the clarithromycin working standard solution in milligrams per milliliter; and
d = Dilution factor of sample filtrate.

* * * * * *

PART 452—MACROLIDE ANTIBIOTIC DRUGS

7. The authority citation for 21 CFR part 452 continues to read as follows:

Authority: Soc. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

8. New § 452.50 is added to subpart A to read as follows:

§ 452.50 Clarithromycin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Clarithromycin is 6-O-methylerythromycin A. It is so purified and dried that:

(i) Its potency is not less than 960 micrograms of clarithromycin activity per milligram, on an anhydrous basis.

(ii) Its moisture content is not more than 2.0 percent.

(iii) The pH of a 0.2 percent (weight per volume) slurry in aqueous methanol (95:5) is not less than 7.5 and not more than 10.0.

(iv) Its residue on ignition is not more than 0.3 percent.

(v) Its heavy metals content is not more than 20 parts per million.

(vi) Its specific rotation in chloroform containing 10 milligrams of clarithromycin per milliliter at 20 °C is between -89° and -95°, calculated on an anhydrous basis.

(vii) It gives a positive identity test.

(viii) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for clarithromycin potency, moisture, pH, residue on ignition, heavy metals, specific rotation, identity, and crystallinity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.216 of this chapter, using a constant column temperature of 50 °C, a suitable ultraviolet detection system operating at 210 nanometers, an analytical column 3 to 30 centimeters long packed with a reversed phase packing material such as octadecyl hydrocarbon bonded silicas (3 to 10 micrometers in diameter), the inlet of this column is connected to a guard column 1 to 5 centimeters in length packed with the same material of 5- to 30-micrometer particle size, a constant flow rate of 0.7 to 1.0 milliliters per minute, and a known injection volume of between 10 and 20 microliters. The retention time for clarithromycin is between 5 and 6 minutes and the retention time for 6,11-Di-O-

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methylerythromycin A (resolution compound) is between 7 and 8 minutes. Mobile phase, system suitability solution, working standard and sample solutions, system suitability requirements, and calculations are as follows:

(i) *Mobile phase.* Add 650 milliliters of methanol and 350 milliliters of 0.067 *M* potassium phosphate (monobasic) to a suitable container, mix well, and adjust the pH to 4.0 with phosphoric acid. Filter through a suitable filter capable of removing particulate matter to 0.5 micron in diameter. Degas the mobile phase just prior to its introduction into the chromatograph.

(ii) *Preparation of system suitability solution.* Prepare a methanol solution containing approximately 625 micrograms per milliliter each of clarithromycin and 6,11-Di-O-methylerythromycin A. Quantitatively transfer an aliquot of this solution to a suitable volumetric flask and dilute it to volume with mobile phase to obtain a solution containing approximately 125 micrograms each of clarithromycin and 6,11-Di-O-methylerythromycin A.

(iii) *Preparation of working standard solution.* Dissolve (by shaking or sonication) an accurately weighed portion of clarithromycin working standard in sufficient methanol to obtain a known solution containing about 625 micrograms of clarithromycin activity per milliliter. Quantitatively transfer an aliquot of this solution to a suitable volumetric flask and dilute to volume with mobile phase and mix to obtain a known solution containing approximately 125 micrograms of clarithromycin activity per milliliter. Filter through a suitable filter capable of removing particulate matter to 0.5 micron in diameter.

(iv) *Sample solution.* Dissolve (by shaking or sonication) an accurately weighed portion of the sample in sufficient methanol to obtain a solution containing 625 micrograms of clarithromycin activity per milliliter (estimated). Quantitatively transfer an aliquot of this solution to a suitable volumetric flask and dilute to volume with mobile phase and mix to obtain a known solution containing approximately 125 micrograms of clarithromycin activity per milliliter (estimated). Filter through a suitable filter capable of removing particulate matter to 0.5 micron in diameter.

(v) *System suitability requirements*—(A) *Asymmetry factor.* The asymmetry factor (A_s) is satisfactory if it is not less than 0.9 and not more than 1.5 for the clarithromycin peak.

(B) *Efficiency of the column.* The absolute efficiency (h_r) is satisfactory if it is not more than 40.0 for the clarithromycin peak.

(C) *Resolution factor.* The resolution factor (R) between the peak for clarithromycin and the peak for 6,11-Di-O-methylerythromycin A is satisfactory if it is not less than 2.0.

(D) *Coefficient of variation (relative standard deviation).* The coefficient of variation (S_R in percent of 5 replicate injections) is satisfactory if it is not more than 2.0 percent.

(E) *Capacity factor.* Calculate the clarithromycin capacity factor (k') as follows:

$$k' = (t_r/t_0)-1$$

where:

t_r = Retention time of the clarithromycin peak; and

t_0 = Void volume time.

The capacity factor is satisfactory if it is not less than 1.3 and not more than 4.0. If the system suitability parameters have been met, then proceed as described in § 436.216(b) of this chapter.

(vi) *Calculations.* Calculate the micrograms of clarithromycin per milligram of sample on an anhydrous basis as follows:

$$\text{Micrograms of clarithromycin per milligram} = \frac{A_U \times P_S \times 100}{A_S \times C_U \times (100-m)}$$

where:

A_U = Area of the clarithromycin peak (at a retention time equal to that observed for the clarithromycin standard) in the chromatogram of the sample;

A_S = Area of the clarithromycin peak in the chromatogram of the clarithromycin working standard;

P_S = Clarithromycin activity in the clarithromycin working standard solution in micrograms per milliliter;

C_U = Milligrams of sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter, using the sample preparation described in paragraph (d)(1) of that section and the titration procedure described in paragraph (e)(3) of that section, except that instead of adding 20 millliliters of solvent A before starting the titration, add a sufficient volume of solvent C to cover the electrodes in the dry titrating vessel.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, except standardize the pH meter with pH 7.0 and pH 10.0 buffers and prepare the sample as follows: Transfer 200 milligrams of the sample to a 150-milliliter beaker. Add 5 milliliters of methanol and then 95 milliliters of distilled water. Place the pH electrodes in the slurry and stir at the slowest speed possible to ensure mixing but no vortex. After 10 minutes, while still stirring, determine the pH.

(4) *Residue on ignition.* Proceed as directed in § 436.207(a) of this chapter.

(5) *Heavy metals.* Proceed as directed in § 436.208 of this chapter.

(6) *Specific rotation.* Dilute an accurately weighed sample with sufficient chloroform to give a concentration of approximately 10 milligrams of clarithromycin per milliliter. Proceed as directed in § 436.210 of this chapter, using a 1.0-decimeter polarimeter tube, maintaining the solution at 20 °C, and calculate the specific rotation on an anhydrous basis.

(7) *Identity.* Proceed as directed in § 436.211 of this chapter, preparing the sample as follows: Prepare a 5-percent solution of the sample in chloroform and use 0.1 millimeter matched absorption cells.

(8) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

9. New § 452.150 is added to subpart B to read as follows:

§ 452.150 Clarithromycin tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Clarithromycin tablets are composed of clarithromycin and one or more suitable and harmless diluents, binders, lubricants, colorings, and flavorings. Each tablet contains 250 milligrams or 500 milligrams of clarithromycin activity. Its clarithromycin content is satisfactory if it is not less than 90 percent and not more than 110 percent of the number of milligrams of clarithromycin that it is represented to contain. The loss on drying is not more than 6.0 percent. It passes the dissolution test. It passes the identity test. The clarithromycin used conforms to the standards prescribed by § 452.50(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The clarithromycin used in making the batch for potency, moisture, pH, residue on ignition, heavy metals, specific rotation, identity, and crystallinity.

(B) The batch for content, loss on drying, dissolution, and identity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research:

(A) The clarithromycin used in making the batch: 10 packages, each containing approximately 500 milligrams.

(B) The batch: A minimum of 100 tablets.

(b) *Tests and methods of assay*—(1) *Clarithromycin content.* Proceed as directed in § 452.50(b)(1), preparing the sample solution and calculating the clarithromycin content as follows:

(i) *Preparation of sample solution.* Grind and composite five whole tablets in a glass mortar and pestle and quantitatively transfer the powder to a 500-milliliter volumetric flask with 50 milliliters of distilled water and shake mechanically until the tablets are well dispersed (approximately 5 to 10 minutes). Add 300 milliliters of methanol and shake mechanically for 30 minutes. Dilute with methanol to volume and mix. Allow the excipients to settle. Quantitatively transfer and dilute a convenient aliquot of the supernatant with mobile phase (described in § 452.50(b)(1)(i)) to obtain a solution containing 125 micrograms of clarithromycin per milliliter (estimated). Filter through a suitable filter capable of removing particulate matter 0.5 micron in diameter.

(ii) *Calculations.* Calculate the clarithromycin content as follows:

$$\text{Milligrams of clarithromycin per tablet} = \frac{A_U \times P_S \times d}{A_S \times 1{,}000 \times n}$$

where:

A_U = Area of the clarithromycin peak (at a retention time equal to that observed for the clarithromycin standard) in the chromatogram of the sample;

A_S = Area of the clarithromycin peak in the chromatogram of the clarithromycin working standard;

P_S = Clarithromycin activity in the clarithromycin working standard solution in micrograms per milliliter;

d = Dilution factor of the sample; and

n = Number of tablets in the sample.

(2) *Loss on drying.* Proceed as directed in § 436.200(c) of this chapter, using a sample weight of 1 to 2 grams.

(3) *Dissolution.* Proceed as directed in § 436.215 of this chapter. The quantity Q (the amount of clarithromycin dissolved) is 80 percent at 30 minutes.

(4) *Identity.* Using the high-performance liquid chromatographic procedure described in paragraph (b)(1) of this section, the retention time for the peak of the active ingredient must be within 2 percent of the retention time for the peak of the corresponding reference standard.

Dated: March 26, 1993.

Paul F. Vogel,

Acting Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 93-10311 Filed 5-3-93; 8:45 am]

BILLING CODE 4160-01-F

Food and Drug Administration

21 CFR Parts 430, 436, and 452

[Docket No. 92N-0112]

Antibiotic Drugs; Azithromycin, Azithromycin Capsules

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new antibiotic drug, azithromycin, and the use of the antibiotic drug in a dosage form, azithromycin capsules. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective June 3, 1993; written comments, notice of participation, and request for hearing by June 3, 1993; data, information, and analyses to justify a hearing by July 6, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD-520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-0335.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, azithromycin, and its use in a dosage form, azithromycin capsules. The agency has concluded that the data supplied by the manufacturer concerning these antibiotic drugs are adequate to establish their safety and efficacy when used as directed in the labeling and that the regulations should be amended in 21 CFR parts 430, 436, and 452 to provide for the inclusion of accepted standards for these products.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, FDA finds that notice and comment procedure is unnecessary and not in the public interest. This final rule, therefore, becomes effective June 3, 1993. However, interested persons may, on or before June 3, 1993, submit comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before June 3, 1993, a written notice of participation and request for hearing, and (2) on or before July 6, 1993, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this document and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information

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prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Parts 436 and 452

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 430, 436, and 452 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. The authority citation for 21 CFR part 430 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 357, 371); secs. 215, 301, 351 of the Public Health Service Act (42 U.S.C. 216, 241, 262).

2. Section 430.4 is amended by adding new paragraph (a)(65) to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) • • •

(65) *Azithromycin.* Azithromycin is an antibiotic substance having the chemical structure described by the following name: (2*R*,3*S*,4*R*,5*R*,8*R*,10*R*,11*R*,12*S*,13*S*,14*R*)-13-[(2,6-dideoxy-3-*C*-methyl-3-*O*-methyl-α-*L*-*ribo*-hexopyranosyl)oxy]-2-ethyl-3,4,10-trihydroxy-3,5,6,8,10,12,14-heptamethyl-11-[[3,4,6-trideoxy-3-(dimethylamino)-β-*D*-*xylo*-hexopyranosyl]oxy]-1-oxa-6-azacyclopentadecan-15-one.

• • • • •

3. Section 430.5 is amended by adding new paragraphs (a)(100) and (b)(102) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) • • •

(100) *Azithromycin.* The term "azithromycin master standard" means a specific lot of azithromycin that is designated by the Commissioner as the standard of comparison in determining the potency of the azithromycin working standard.

(b) • • •

(102) *Azithromycin.* The term "azithromycin working standard" means a specific lot of a homogeneous preparation of azithromycin.

4. Section 430.6 is amended by adding new paragraph (b)(102) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

• • • • •

(b) • • •

(102) *Azithromycin.* The term "microgram" applied to azithromycin means the azithromycin (potency) contained in 1.063 micrograms of the azithromycin master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

5. The authority citation for 21 CFR part 436 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

6. Section 436.215 is amended by alphabetically adding a new entry to the table in paragraph (b) and by adding new paragraph (c)(14) to read as follows:

§ 436.215 Dissolution test.

• • • • •

(b) • • •

Dosage form	Dissolution medium	Rotation rate[1]	Sampling time(s)	Apparatus
•	•	•	•	•
Azithromycin capsules.	900 mL 0.10 *M* sodium phosphate buffer, pH 6.0, 0.1 mg/mL trypsin..	100	45 min	2
•	•	•	•	•

[1] Rotation rate of basket or paddle stirring element (revolutions per minute).

(c) • • •

(14) *Azithromycin.* Proceed as directed in § 452.60(b)(1) of this chapter, except:

(i) *Dissolution medium.* Dissolve 85.2 grams of sodium phosphate dibasic and dilute to volume with ultrapure deionized or high-performance liquid chromatographic-grade water in a stoppered 2-liter graduated cylinder. Dilute this entire solution in an appropriate, suitably sized container with 4 liters of ultrapure deionized or high-performance liquid chromatographic-grade water. Adjust the pH to 6.0±0.05 with concentrated hydrochloric acid (about 40.5 milliliters). Add 600 milligrams of trypsin and mix well.

(ii) *Preparation of the standard and sample solutions*—(a) *Standard solution.* Accurately weigh approximately 15 milligrams of the azithromycin working standard into a 50-milliliter volumetric flask. Add 25 milliliters of the dissolution medium and sonicate briefly. Dilute to volume with dissolution medium and mix well. Pipet 2.0 milliliters of this solution into a 25-milliliter volumetric flask and dilute to volume with the mobile phase described in § 452.60(b)(1)(i) of this chapter. Pipet 4.0 milliliters of this solution into a 25-milliliter volumetric flask and bring to volume with the mobile phase.

(*b*) *Sample solution.* Filter the sample solutions through a 0.45-micron filter before use. Pipet 2.0 milliliters of the filtered aliquot into a 25-milliliter volumetric flask and dilute to volume with the mobile phase described in § 452.60(b)(1)(i) of this chapter. Pipet 4.0 milliliters of this solution into another 25-milliliter volumetric flask and bring to volume with the mobile phase. The solution is stable at room temperature for 24 hours.

(c) *Calculations.* Determine the percent of azithromycin dissolved as follows:

$$\text{Percent azithromycin dissolved} = \frac{A_U \times P_S \times D_F \times 100}{A_S \times W_U}$$

where:

A_U = Area of the azithromycin peak (at a retention time equal to that observed for the standard) in the chromatogram of the sample;

A_S = Area of the azithromycin peak in the chromatogram of the azithromycin standard;

P_S = Azithromycin activity in the azithromycin working standard solution in micrograms per milliliter;

$$DF = \text{Dilution factor} = \frac{900^1 \times 25 \times 25}{2 \times 4}$$

[1] If more than 15 milliliters of dissolution medium are removed, correct for the volume removed; and

W_U = Theoretical azithromycin content (mg) of capsule.

• • • • •

PART 452—MACROLIDE ANTIBIOTIC DRUGS

7. The authority citation for 21 CFR part 452 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

8. New § 452.60 is added to subpart A to read as follows:

§ 452.60 Azithromycin.

(a) *Requirements for certificotion*—(1) *Standards of identity, strength, quality, and purity.* Azithromycin is the dihydrate form of (2*R*,3*S*,4*R*,5*R*,8*R*,10*R*,11*R*,12*S*,13*S*,14*R*)-13-[(2,6-dideoxy-3-*C*-methyl-3-*O*-methyl-α-*L*-*ribo*-hexopyranosyl)oxy]-2-ethyl-3,4,10-trihydroxy-3,5,6,8,10,12,14-heptamethyl-11-[[3,4,6-trideoxy-3-(dimethylamino)-β-*D*-*xylo*-hexopyranosyl]oxy]-1-oxa-6-azacyclopentadecan-15-one. It is so purified and dried that:

(i) Its potency is not less than 945 micrograms and not more than 1,030 micrograms of azithromycin activity per milligram, on the anhydrous basis.

(ii) Its moisture content is not less than 4.0 percent and not more than 5.0 percent.

(iii) The pH of an aqueous methanol (1:1) solution containing 2 milligrams per milliliter is not less than 9 and not more than 11.

(iv) Its residue on ignition is not more than 0.3 percent.

(v) Its heavy metals content is not more than 25 parts per million.

(vi) The specific rotation in absolute ethanol containing 20 milligrams of azithromycin per milliliter at 20 °C is between -45° to -49°, calculated on an anhydrous basis.

(vii) It is crystalline.

(viii) It gives a positive identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for azithromycin potency, moisture, pH, residue on ignition, heavy metals, specific rotation, crystallinity, and identity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.216 of this chapter, using ambient temperature, an amperometric electrochemical detection system with dual glassy carbon electrodes operated in the oxidative screen mode with electrode 1 set at +0.70 volt±0.05 volt and electrode 2 at +0.82 volt±0.05 volt. (The ±0.05-volt variance allows for optimization of the background current to 70 to 100 nanoamperes.) Detection of azithromycin occurs at electrode 2 where the voltage is sufficiently high to oxidize the amine functional groups on the molecules. Use a 15-centimeters by 4.6-millimeters (inside diameter) column packed with alumina-based polybutadiene 5 micrometer spherical particles with 80-angstrom pore size (e.g., ES Industries γRP1/p). The inlet of this column is connected to a guard column 5 centimeters by 4.6 millimeters (inside diameter) packed with the same material. The flow rate is 1.5 milliliters per minute. Use a fixed volume loop injector or equivalent device to inject a volume of 50 microliters into the system. The retention time for azithromycin is between 10 and 13 minutes. Mobile phase, working standard, sample, and resolution solutions, system suitability requirements, and calculations are as follows:

(i) *Mobile phase.* Dissolve 5.8 grams of potassium phosphate monobasic in 2,130 milliliters of ultrapure deionized or high-performance liquid chromatographic-grade water. Add 870 milliliters of acetonitrile and mix. The mobile phase is 0.02 *M* potassium phosphate monobasic: acetonitrile (71:29). Adjust the pH of the mobile phase to pH 11.0±0.1 with 10 *M* potassium hydroxide (about 6 milliliters). Filter the mobile phase through a suitable filter capable of removing particulate matter 0.5 micron in diameter and degas it just prior to its introduction into the chromatograph.

(ii) *Preparation of working standard solution.* Accurately weigh approximately 16.5 milligrams of the azithromycin working standard into a 100-milliliter volumetric flask. Dissolve the material, aided by brief sonication, in 10 milliliters of acetonitrile and dilute to volume with acetonitrile. Pipet 2.0 milliliters of this solution into a 100-milliliter volumetric flask and dilute to volume with mobile phase. This solution contains approximately 0.003 milligram per milliliter of azithromycin.

(iii) *Sample solution.* Accurately weigh approximately 16.5 milligrams of sample into a 100-milliliter volumetric flask. Dissolve the sample, aided by brief sonication, in 10 milliliters of acetonitrile and dilute to volume with acetonitrile. Pipet 2.0 milliliters of this solution into a 100-milliliter volumetric flask and dilute to volume with mobile phase.

(iv) *Resolution test solution.* Weigh approximately 16.5 milligrams each of azithromycin working standard and azaerythromycin A reference standard into a 100-milliliter volumetric flask. Dissolve the materials aided by brief sonication in 10 milliliters of acetonitrile and dilute to volume with acetonitrile. Pipet 2.0 milliliters of this solution into a 100-milliliter volumetric flask and dilute to volume with mobile phase.

(v) *System suitability requirements.* Using the resolution test solution, determine the:

(A) *Asymmetry factor.* The asymmetry factor (A_S) is satisfactory if it is not less than 0.9 and not more than 1.5 for the azithromycin peak.

(B) *Efficiency of the column.* The absolute efficiency (h_r) is satisfactory if it is not more than 40.0 for the azithromycin peak.

(C) *Resolution factor.* The resolution factor (R) between the peak from azithromycin and the peak for azaerythromycin A is satisfactory if it is not less than 2.5.

(D) *Coefficient of variation (relative standard deviation).* The coefficient of variation (S_R in percent of 5 replicate injections) is satisfactory if it is not more than 2.0 percent. If the system suitability parameters have been met, then proceed as described in § 436.216(b) of this chapter.

(vi) *Calculations.* Calculate the micrograms of azithromycin per milligram of sample on an anhydrous basis as follows:

$$\text{Micrograms of azithromycin per milligram} = \frac{A_U \times P_S \times 100}{A_S \times C_U \times (100 - m)}$$

where:

A_U = Area of the azithromcin peak (at a retention time equal to that observed for the azithromycin standard) in the chromatogram of the sample;

A_S = Area of the azithromcin peak in the chromatogram of the azithromycin working standard;

P_S = Azithromycin activity in the azithromycin working standard solution in micrograms per milliliter;

C_U = Milligrams of sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

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(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous methanol (1:1) solution containing 2 milligrams per milliliter, prepared by diluting a methanol solution containing 4 milligrams of azithromycin dihydrate 1:1 with distilled water.

(4) *Residue on ignition.* Proceed as directed in § 436.207(b) of this chapter, except use a temperature of 800 °C instead of a temperature range of 500 to 600 °C.

(5) *Heavy metals.* Proceed as directed in § 436.208 of this chapter.

(6) *Specific rotation.* Dissolve an accurately weighed sample with sufficient absolute ethanol to give a concentration of approximately 20 milligrams per milliliter. Proceed as directed in § 436.210 of this chapter, except dilute and maintain the test solution at 20 °C instead of 25 °C. Use a 1.0-decimeter polarimeter tube and calculate the specific rotation on an anhydrous basis.

(7) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(8) *Identity.* Proceed as directed in § 436.211 of this chapter, using a 0.5 percent potassium bromide disc prepared as described in paragraph (b)(1) of that section.

9. New § 452.160 is added to subpart B to read as follows:

§ 452.160 Azithromycin capsules.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Azithromycin capsules are composed of azithromycin and one or more suitable and harmless diluents, disintegrants, lubricants, and wetting agents enclosed in a gelatin capsule. Each capsule contains azithromycin equivalent to 250 milligrams of azithromycin. The azithromycin content is satisfactory if it is not less than 90 percent and not more than 110 percent of the number of milligrams of azithromycin that it is represented to contain. The moisture content of the capsules is not more than 5.0 percent. The capsules pass the dissolution test. The capsules pass the identity test. The azithromycin used conforms to the standards prescribed by § 452.60(a)(1) of this part.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The azithromycin used in making the batch for potency, moisture, pH, residue on ignition, heavy metals, specific rotation, crystallinity, and identity.

(B) The batch for content, moisture, dissolution, and identity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research:

(A) The azithromycin used in making the batch: 10 packages, each containing approximately 500 milligrams.

(B) The batch: A minimum of 100 capsules.

(b) *Tests and methods of assay*—(1) *Azithromycin content.* Proceed as directed in § 452.60(b)(1), preparing the sample solution and calculating the azithromycin content as follows:

(i) *Preparation of sample solution.* Quantitatively transfer the contents of one capsule into a 250-milliliter volumetric flask. Add about 175 milliliters of acetonitrile and shake on a reciprocating shaker for 30 minutes. Dilute to volume with acetonitrile, stopper the flask and mix well. Place 40 milliliters of the resulting suspension into a suitably sized centrifuge tube. Stopper the tube and centrifuge the suspension (about 10 minutes at 1,000 rpm). Pipet 2.0 milliliters of the supernatant into a 50-milliliter volumetric flask and dilute to volume with the mobile phase. Pipet 2.0 milliliters of this solution into a 25-milliliter volumetric flask and dilute to volume with mobile phase. The final dilution of the sample and standard must be identical. The final concentration of azithromycin in the sample solution is 0.003 milligram per milliliter (estimated).

(ii) *Calculations.* Calculate the azithromycin content as follows:

$$\text{Milligrams of azithromycin per capsule} = \frac{A_U \times P_S \times d}{A_S \times 1{,}000}$$

where:

A_U = Area of the azithromycin peak (at a retention time equal to that observed for the azithromycin standard) in the chromatogram of the sample;

A_S = Area of the azithromycin peak of the azithromycin working standard;

P_S = Azithromycin activity in the azithromycin working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample = 250×50×25/2×2.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Dissolution test.* Proceed as directed in § 436.215 of this chapter. The quantity Q (the percentage of azithromycin activity dissolved) is 75 percent within 45 minutes.

(4) *Identity.* Using the high-performance liquid chromatographic procedure described in paragraph (b)(1) of this section the retention time for the peak of the active ingredient must be with 2 percent of the retention time for the peak of the corresponding reference standard.

Dated: March 26, 1993.

Paul F. Vogel,

Acting Director, Office of Compliance, Center for Drug Evaluation and Reasearch.

[FR Doc. 93-10312 Filed 5-3-93; 8:45 am]

BILLING CODE 4160-01-F

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21 CFR Parts 430, 436, and 442

[Docket No. 92N-0041]

Antibiotics Drugs; Cefprozil, Cefprozil Tablets, and Cefprozil for Oral Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new antibiotic drug, cefprozil, and the use of the antibiotic drug in two dosage forms, cefprozil tablets and cefprozil for oral suspension. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective June 3, 1993; written comments, notice of participation, and request for hearing by June 3, 1993; data, information, and analyses to justify a hearing by July 6, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD-520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-0335.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, cefprozil, and its use in two dosage forms, cefprozil tablets and cefprozil for oral suspension. The agency has concluded that the data supplied by the manufacturer concerning these antibiotic drugs are adequate to establish their safety and efficacy when

used as directed in the labeling and that the regulations should be amended in 21 CFR parts 430, 436, and 442 to provide for the inclusion of accepted standards for these products.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, FDA finds that notice and comment procedure is unnecessary and not in the public interest. This final rule, therefore, becomes effective June 3, 1993. However, interested persons may, on or before June 3, 1993, submit comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before June 3, 1993, a written notice of participation and request for hearing, and (2) on or before July 6, 1993, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Part 436

Antibiotics.

21 CFR Part 442

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 430, 436, and 442 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. The authority citation for 21 CFR part 430 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 357, 371); secs. 215, 301, 351 of the Public Health Service Act (42 U.S.C. 216, 241, 262).

2. Section 430.4 is amended by adding new paragraph (a)(66) to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) * * *

(66) *Cefprozil.* Cefprozil is an antibiotic substance having the chemical structure described by the following name: (6*R*,7*R*)-7-[(*R*)-2-amino-2-(*p*-hydroxyphenyl)acetamido]8-oxo-3-propenyl-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid. It is a mixture of the Z (cis) and E (trans) isomers in an approximate ratio of 9:1, respectively.

* * * * *

3. Section 430.5 is amended by adding new paragraphs (a)(101) and (b)(103) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(101) *Cefprozil.* The term "cefprozil master standard" means a specific lot of the (Z) isomer of cefprozil and a specific lot of the (E) isomer of cefprozil that are designated by the Commissioner as the standard of comparison in determining the potency of the cefprozil working standard.

(b) * * *

(103) *Cefprozil.* The term "cefprozil (Z) working standard" means a specific lot of a homogeneous preparation of cefprozil (Z). The term "cefprozil (E) working standard" means a specific lot of a homogeneous preparation of cefprozil (E).

4. Section 430.6 is amended by adding new paragraph (b)(103) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(103) *Cefprozil.* The term "microgram" applied to cefprozil (Z) means the cefprozil (Z) potency contained in 1.060 micrograms of the cefprozil (Z) master standard. The term "microgram" applied to cefprozil (E) means the cefprozil (E) potency contained in 1.106 micrograms of the cefprozil (E) master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

5. The authority citation for 21 CFR part 436 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

6. Section 436.215 is amended by alphabetically adding a new entry to the table in paragraph (b) and by adding a new paragraph (c)(15) to read as follows:

§ 436.215 Dissolution test.

* * * * *

(b) * * *

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Dosage form	Dissolution medium	Rotation rate [1]	Sampling time(s)	Apparatus
•	•	•	•	•
Cefprozil tablets	900 mL purified water	100	45 min	1
•	•	•	•	•

[1] Rotation rate of basket or paddle stirring element (revolutions per minute)

(c) • • •

(15) *Cefprozil.* Proceed as directed in § 442.80(b)(1) of this chapter except:

(i) *Sample solutions.* Filter the sample solutions through a 0.45-micron filter before use. Use the sample solution as it is removed from the dissolution vessel without further dilution for the 250-milligram tablet; prepare the sample solution for the 500-milligram tablet by diluting a 5-milliliter aliquot of the filtered solution to volume in a 10-milliliter volumetric flask with distilled water.

(ii) *Calculations.* Determine the total percent of cefprozil dissolved as follows:

$$\text{Total percentage dissolved} = \text{(mg cefprozil (Z) dissolved + mg cefprozil (E) dissolved)/label claim}$$

$$\text{Milligrams of cefprozil (Z) or cefprozil (E) dissolved} = \frac{A_U \times c \times d \times 900}{A_S}$$

where:

A_U = Area of the cefprozil (Z) or cefprozil (E) response in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_S = Area of the cefprozil (Z) or cefprozil (E) response in the chromatogram of the cefprozil (Z) or cefprozil (E) standard;

c = Concentration of the cefprozil (Z) or cefprozil (E) working standard solution in milligrams per milliliter; and

d = Dilution factor of the sample filtrate.

• • • • •

7. New § 436.368 is added to subpart F to read as follows:

§ 436.368 Thin layer chromatographic identity test for cefprozil.

(a) *Equipment*—(1) *Chromatography tank.* Use a glass rectangular tank approximately 23 x 23 x 9 centimeters lined with filter paper and equipped with a tight-fitting cover.

(2) *Plates.* Use 20 x 20 centimeter thin layer chromatography plates coated with silica gel GF to a thickness of 250 microns.

(b) *Reagents*—(1) *Diluent.* Mix 0.1N HCl and acetone in volumetric proportions of 1:4.

(2) *Developing solvent.* Mix n-butanol, glacial acetic acid and water in volumetric proportions of 60:20:20.

(3) *Detection reagent.* Iodine vapor.

(c) *Assay solutions*—(1) *Reference standard solution.* Dissolve 50 milligrams of cefprozil (Z) reference standard in 10 milliliters of diluent.

(2) *Sample solution.* Place an amount of sample containing approximately 50 milligrams of cefprozil in a 20-milliliter glass stoppered vial. Add 10 milliliters of diluent. Shake for 5 minutes and allow the solids to settle.

(d) *Procedure.* Pour a suitable quantity of the developing solvent into a glass, chromatographic tank lined with filter paper and allow to equilibrate for 1 hour. On a line 2 centimeters from the bottom edge of the plate, spot 10 microliters each of the reference solution and sample solution. Draw a line indicating the distance to which the developing solvent must travel at a point 12 centimeters from the bottom edge of the plate. Place the plate in the tank and allow the solvent to migrate to the finishing line. Remove the plate and air dry in a fume hood. Place the dried plate in a chamber containing iodine vapors.

(e) *Evaluation.* Measure the distance the solvent front traveled from the starting line, and the distance the spots are from the starting line. Divide the latter by the former to calculate the R_f value. The identity test is positive if the sample solution produces a yellow spot at the same R_f value and has the same appearance as the spot obtained for the reference solution. The R_f value for cefprozil (Z) is approximately 0.45. Cefprozil (E), has an R_f value of approximately 0.47.Cefprozil (Z) is "absent" if the above test is performed and no spots, which correspond to those from the reference solution, are obtained for the sample.

PART 442—CEPHA ANTIBIOTIC DRUGS

8. The authority citation for 21 CFR part 442 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

9. New § 442.80 is added to subpart A to read as follows:

§ 442.80 Cefprozil.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefprozil is an approximate 9:1 mixture of the Z (cis) and the E (trans) isomers, respectively, of (6*R*,7*R*)-7-[(*R*)-2-amino-2-(*p*-hydroxyphenyl)acetamido]8-oxo-3-propenyl-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid. It is so purified and dried that:

(i) Its potency is not less than 900 micrograms nor more than 1,050 micrograms of cefprozil activity per milligram, on an anhydrous basis.

(ii) The ratio of its (E) isomer to total cefprozil is not less than 0.06 nor more than 0.11.

(iii) Its moisture content is not less than 3.5 percent nor more than 6.5 percent.

(iv) The pH of an aqueous solution containing 5 milligrams per milliliter is not less than 3.5 nor more than 6.5.

(v) It is crystalline.

(vi) It gives positive identity tests.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for cefprozil potency, E isomer to total cefprozil ratio, moisture, pH, crystallinity, and identity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.216 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength of 280 nanometers, a 25 centimeter × 3.9 to 4.6 millimeter (id) column packed with microparticulate (5 to 10 micrometers in diameter) reversed phase packing material such as octadecyl silane bonded to silicas, a flow rate of 1.0 milliliter per minute, and a known injection volume of 10 microliters. The retention time for cefprozil (Z) is between 4 and 6 minutes and the retention time for cefprozil (E) is between 6 and 8 minutes. Mobile phase, working standard and sample solutions, system suitability requirements, and calculations are as follows:

(i) *Mobile phase.* Dissolve 20.7 grams of ammonium phosphate, monobasic in 1,800 milliliters of water and adjust the pH to 4.4 with phosphoric acid, if necessary. Add 200 milliliters of acetonitrile and mix. Filter the mobile phase through a suitable filter capable of removing particulate matter 0.5 micron in diameter and degas it just prior to its introduction into the chromatograph. The proportion of acetonitrile may be modified in the range of 6 to 14 percent to obtain the desired retention times. Increasing the amount of acetonitrile will decrease both the retention times and the separation between the isomers, whereas, decreasing the amount of acetonitrile will increase retention times and the separation between the isomers.

(ii) *Preparation of working standard solutions*—(A) *Cefprozil (Z) working standard solution.* Accurately weigh approximately 12.5 milligrams of the cefprozil (Z) working standard into a 50-milliliter volumetric flask. Dilute to volume with water and shake the flask vigorously until the solute dissolves completely. Use this solution within 6 hours.

(B) *Cefprozil (E) working standard solution.* Accurately weigh approximately 12.5 milligrams of the cefprozil (E) working standard into a 50-milliliter volumetric flask. Dilute to volume with water and shake the flask vigorously until the solute dissolves completely. Pipet 5 milliliters into a 50-milliliter volumetric flask, dilute to volume with water and mix thoroughly. Use this solution within 6 hours.

(iii) *Sample solution.* Accurately weigh approximately 15 milligrams of sample into a 50-milliliter volumetric flask. Dilute to volume with water and shake the flask vigorously until the solute dissolves completely. Use this solution within 6 hours.

(iv) *System suitability requirements*—(A) *Asymmetry factor.* The asymmetry factor (A_S) is satisfactory if it is not less than 0.9 and not more than 1.1 for the cefprozil (Z) response.

(B) *Efficiency of the column.* The absolute efficiency (h_r) is satisfactory if it is not more than 10 for the cefprozil (Z) response.

(C) *Resolution factor.* The resolution factor (R) between the response for cefprozil (Z) and the response for cefprozil (E) is satisfactory if it is not less than 2.5.

(D) *Coefficient of variation (Relative standard deviation).* The coefficient of variation (S_R of 5 replicate injections of the cefprozil (Z) reference solution response) is satisfactory if it is not more than 2.0 percent.

(E) *Capacity factor (k').* The capacity factor (k') for cefprozil (Z) is satisfactory if it is not less than 0.7 and not more than 1.1. If the system suitability parameters have been met, then proceed as described in § 436.216(b) of this chapter.

(v) *Calculations.* Calculate the micrograms of cefprozil per milligram of sample on an anhydrous basis as follows:

$$\text{Micrograms of cefprozil (Z) or cefprozil (E) per milligram (as is)} = \frac{A_U \times P_S}{A_S \times C_U}$$

$$\text{Micrograms of cefprozil per milligram (as is)} = \text{cefprozil (Z) + cefprozil (E)}$$

$$\text{Micrograms of cefprozil per milligram (Anhydrous)} = \frac{\text{cefprozil potency (as is)} \times 100}{(100 - m)}$$

where:

A_U = Area of the cefprozil (Z) or cefprozil (E) response in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_S = Area of the cefprozil (Z) or cefprozil (E) response in the chromatogram of the cefprozil (Z) or the cefprozil (E) working standard;

P_S = Cefprozil (Z) or cefprozil (E) activity in the cefprozil (Z) or the cefprozil (E) working standard solution in micrograms per milliliter;

C_U = Milligrams of sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

(2) *Cefprozil (E)/cefprozil ratio.* Using the procedure described in paragraph (b)(1) of this section calculate the cefprozil (E)/cefprozil ratio as follows:

$$\text{Trans ratio} = \frac{\text{cefprozil (E) (mcg/mg, as is)}}{\text{cefprozil (mcg/mg, as is) Total}}$$

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using a carbon dioxide free aqueous solution containing 5 milligrams of cefprozil per milliliter.

(5) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(6) *Identity*—(i) *Infrared.* Proceed as directed in § 436.211 of this chapter, using a 1.0 percent potassium bromide disc prepared as described in paragraph (b)(1) of that section.

(ii) *High performance liquid chromatography (HPLC).* The HPLC retention times for the responses of the cefprozil isomers in the assay preparation of the sample must be within 2 percent of the HPLC retention times of the responses of the corresponding cefprozil working standards.

10. New §§ 442.180, 442.180a, and 442.180b are added to subpart B to read as follows:

§ 442.180 Cefprozil oral dosage forms.

§ 442.180a Cefprozil tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefprozil tablets are composed of cefprozil and one or more suitable and harmless diluents, binders, lubricants, colorings, and coating substances. Each tablet contains cefprozil equivalent to either 250 milligrams or 500 milligrams of anhydrous cefprozil. The cefprozil content of the tablets is satisfactory if it is not less than 90 percent nor more than 120 percent of the number of milligrams of anhydrous cefprozil that it is represented to contain. The moisture content of the tablets is not more than 7 percent. The tablets pass the dissolution test. The tablets pass the identity tests. The cefprozil used conforms to the standards prescribed by § 442.80(a)(1) of this part.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The cefprozil used in making the batch for potency, E-isomer ratio, moisture, pH, crystallinity, and identity.

(B) The batch for content, moisture, dissolution, and identity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research:

(A) The cefprozil used in making the batch: 10 packages, each containing approximately 500 milligrams.

(B) The batch: A minimum of 100 tablets.

(b) *Tests and methods of assay*—(1) *Cefprozil content.* Proceed as directed in § 442.80(b)(1) of this part, preparing the sample solution and calculating the cefprozil content as follows:

(i) *Preparation of sample solution.* Place one or a known number of intact tablets into a 250-milliliter volumetric flask containing about 180 milliliters of

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distilled water. Allow the tablet(s) to disintegrate as aided by swirling and brief ultrasonication. Dilute the contents to volume with distilled water and mix thoroughly. Transfer an aliquot of this solution to a volumetric flask of suitable size to obtain a solution containing 0.3 milligram per milliliter of cefprozil (estimated) when diluted to volume with water. Filter through a 0.45 micron filter prior to injection into the chromatographic system.

(ii) *Calculations.* Calculate the cefprozil content as follows:

$$\text{Milligrams of cefprozil (Z) or cefprozil (E) per tablet} = \frac{A_U \times P_S \times d}{A_S \times 1000 \times n}$$

$$\text{Milligrams of cefprozil per tablet} = \text{Milligrams of cefprozil (Z) per tablet} + \text{Milligrams of cefprozil (E) per tablet}$$

where:

A_U = Area of the cefprozil (Z) or cefprozil (E) response in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_S = Area of the cefprozil (Z) or cefprozil (E) response in the chromatogram of the cefprozil (Z) or the cefprozil (E) working standard;

P_S = Cefprozil (Z) or cefprozil (E) activity in the cefprozil (Z) or the cefprozil (E) working standard solution in micrograms per milliliter;

d = Dilution factor of the sample; and

n = Number of tablets taken in the sample.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Dissolution test.* Proceed as directed in § 436.215 of this chapter. The quantity Q (the amount of cefprozil activity dissolved) is 75 percent at 45 minutes.

(4) *Identity*—(i) *High performance liquid chromatography.* Using the high performance liquid chromatographic procedure described in paragraph (b)(1) of this section, the retention times for the responses of the active ingredients must be within 2 percent of the retention times for the responses of the corresponding reference standards.

(ii) *Thin layer chromatography.* Proceed as directed in § 436.368 of this chapter.

§ 442.180b Cefprozil for oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefprozil for oral suspension is cefprozil with one or more suitable and harmless preservatives, sweeteners, suspending agents, buffers, and flavorings. The cefprozil content of the oral suspension is satisfactory if it is not less than 90 percent nor more than 120 percent of the number of milligrams of anhydrous cefprozil that it is represented to contain. When constituted as directed in the labeling, each milliliter contains the equivalent of either 25 or 50 milligrams anhydrous cefprozil activity. Its moisture content is not more than 3 percent. When constituted as described in the labeling, the pH of the suspension is not less than 4.0 nor more than 6.0. It passes the identity tests. The cefprozil used conforms to the standards prescribed by § 442.80(a)(1) of this part.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The cefprozil used in making the batch for potency, E-isomer ratio, moisture, pH, crystallinity, and identity.

(B) The batch for content, moisture, pH, and identity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research:

(A) The cefprozil used in making the batch: 10 packages, each containing approximately 500 milligrams.

(B) The batch: A minimum of 10 intermediate containers.

(b) *Tests and methods of assay*—(1) *Cefprozil content.* Proceed as directed in § 442.80(b)(1), preparing the sample solution and calculating the cefprozil content as follows:

(i) *Preparation of sample solution.* Constitute as directed in the labeling. Transfer a portion of the suspension containing 250 milligrams (estimated) of cefprozil into a 250-milliliter volumetric flask using a glass syringe and a 13-gauge needle. Dilute to volume with water, ultrasonicate briefly to dissolve and mix well. Transfer a 15-milliliter aliquot of this solution to a 50-milliliter volumetric flask and dilute to volume with water to obtain a solution containing 0.3 milligram per milliliter of cefprozil (estimated). Filter through a 0.45 micron filter prior to injection into the chromatographic system.

(ii) *Calculations.* Calculate the cefprozil content as follows:

$$\text{Milligrams of cefprozil (Z) or cefprozil (E) per 5 milliliters of sample} = \frac{A_U \times P_S \times d \times 5}{A_S \times 1000 \times V}$$

$$\text{Milligrams of cefprozil per 5 mL of sample} = \text{Milligrams of cefprozil (Z)/5 mL sample} + \text{Milligrams of cefprozil (E)/5 mL sample}$$

where:

A_U = Area of the cefprozil (Z) or cefprozil (E) response in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_S = Area of the cefprozil (Z) or cefprozil (E) response in the chromatogram of the cefprozil (Z) or the cefprozil (E) working standard;

P_S = Cefprozil (Z) or cefprozil (E) activity in the cefprozil (Z) or the cefprozil (E) working standard solution in micrograms per milliliter;

d = Dilution factor of the sample; and

V = Volume of sample taken in milliliters.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the drug constituted as directed in the labeling.

(4) *Identity*—(i) *High Performance liquid chromatography.* Using the high-performance liquid chromatographic procedure described in paragraph (b)(1) of this section, the retention times for the responses of the active ingredients must be within 2 percent of the retention times for the responses of the corresponding reference standards.

(ii) *Thin layer chromatography.* Proceed as directed in § 436.368 of this chapter.

Dated: March 26, 1993.

Paul F. Vogel,

Acting Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 93–10313 Filed 5–3–93; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Parts 430 and 450

[Docket No. 92N–0042]

Antibiotic Drugs; Idarubicin Hydrochloride for Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for inclusion of accepted standards for a new antibiotic drug idarubicin hydrochloride, and use of the antibiotic drug in a dosage form, idarubicin hydrochloride for injection. The manufacturer has supplied sufficient

data and information to establish its safety and efficacy.

DATES: Effective June 3, 1993; written comments, notice of participation, and request for a hearing by June 3, 1993; data, information, and analyses to justify a hearing by July 6, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD–520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–0335.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, idarubicin hydrochloride and its use in a dosage form, idarubicin hydrochloride for injection. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in parts 430 and 450 (21 CFR parts 430 and 450) to provide for the inclusion of accepted standards for this product.

I. Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

II. Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, FDA finds that notice and comment procedure is unnecessary and not in the public interest. This final rule, therefore, becomes effective June 3, 1993. However, interested persons may, on or before June 3, 1993, submit comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before June 3, 1993, a written notice of participation and request for hearing, and (2) on or before July 6, 1993, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number found in brackets in the heading of this document and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Part 450

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 430 and 450 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. The authority citation for 21 CFR part 430 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 357, 371); secs. 215, 301, 351 of the Public Health Service Act (42 U.S.C. 216, 241, 262).

2. Section 430.4 is amended by adding new paragraph (a)(67) to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) * * *

(67) *Idarubicin.* Idarubicin is an anthracycline antibiotic substance having the chemical structure described by the following name: 5,12-Naphthacenedione, 9-acetyl-7-[(3-amino-2,3,6-trideoxy-α-*L-lyxo*-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,9,11-trihydroxy-(7*S-cis*).

* * * * *

3. Section 430.5 is amended by adding new paragraphs (a)(102) and (b)(104) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(102) *Idarubicin.* The term "idarubicin master standard" means a specific lot of idarubicin that is designated by the Commissioner as the standard of comparison in determining the potency of the idarubicin working standard.

(b) * * *

(104) *Idarubicin.* The term "idarubicin working standard" means a specific lot of a homogeneous preparation of idarubicin.

4. Section 430.6 is amended by adding new paragraph (b)(104) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(104) *Idarubicin.* The term "microgram" applied to idarubicin means the idarubicin activity (potency) calculated as idarubicin hydrochloride contained in 1.036 micrograms of the idarubicin master standard.

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

3. The authority citation for 21 CFR part 450 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

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4. Section 450.30 is added to subpart A to read as follows:

§ 450.30 Idarubicin hydrochloride.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Idarubicin hydrochloride is the monohydrochloride salt of 5,12-Naphthacenedione,9-acetyl-7-[(3-amino-2,3,6-trideoxy-α-*L-lyxo*-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,9,11-trihydroxy-(7*S-cis*). It is an orange-red powder. It is so purified and dried that:

(i) Its idarubicin hydrochloride content is not less than 960 micrograms and not more than 1,030 micrograms of idarubicin hydrochloride per milligram on the anhydrous basis.

(ii) Its moisture content is not more than 5.0 percent.

(iii) The pH of an aqueous solution containing 5 milligrams per milliliter is not less than 5.0 and not more than 6.5.

(iv) It is crystalline.

(v) The level of any individual impurity detected by high-performance liquid chromatography (HPLC) assay is not more than 1.0 percent.

(vi) The total of all detected impurities is not more than 3.0 percent.

(vii) It passes the identity test for idarubicin.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for idarubicin hydrochloride content, solvent residues, moisture, pH, crystallinity, related individual thin-layer chromatography and HPLC impurities, total impurities, and identity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research: 14 packages, each containing approximately 40 milligrams.

(b) *Tests and methods of assay.* Idarubicin hydrochloride is toxic. It must be handled with care in the laboratory. Transfer all dry powders into a suitable hood while wearing rubber gloves. Avoid inhaling fine particles of powder. Solutions should not be pipetted by mouth. If the substance contacts the skin, wash with soap and water. Dispose of all waste material by dilution with large volumes of dilute sodium hypochlorite (bleach) solution.

(1) *Potency (HPLC).* Proceed as directed in § 436.216 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength of 254 nanometers, a 4.6-millimeter by 25-centimeter column packed with microparticulate (5 to 10 micrometers in diameter) packing material such as trimethylsilane chemically bonded to porous silica, a flow rate of not more than 2.0 milliliters per minute, and a known injection volume of between 10 and 20 microliters. The retention time for idarubicin hydrochloride is between 14 and 16 minutes. The retention time for the resolution compound 4-demethoxydaunorubicinone (generated in situ) is between 6 and 9 minutes. Mobile phase, diluent, working standard and sample solutions, resolution test solution, system suitability requirements, and calculations are as follows:

(i) *Mobile phase.* Prepare a suitably sized quantity of a mixture of water, acetonitrile, and methanol (540:290:170). Dissolve 1 gram of sodium lauryl sulfate and 2 milliliters of 85 percent phosphoric acid per liter of this solution. Adjust with 2 *N* sodium hydroxide to a pH of 3.6±0.1. Filter through a suitable filter capable of removing particulate matter to 0.5 micron in diameter. Degas the mobile phase just prior to its introduction into the chromatograph.

(ii) *Diluent.* Prepare as mobile phase, excluding the sodium lauryl sulfate.

(iii) *Preparation of working standard solution.* Dissolve an accurately weighed quantity of idarubicin hydrochloride working standard in diluent to obtain a solution having a known concentration of 0.5 milligram of idarubicin hydrochloride per milliliter.

(iv) *Sample solution.* Transfer approximately 50 milligrams of sample, accurately weighed, to a 100-milliliter volumetric flask, add diluent to volume, and mix. This yields a solution containing 0.5 milligram of idarubicin hydrochloride per milliliter (estimated).

(v) *Resolution test solution.* To 2 milliliters of a 1.0 milligram per milliliter aqueous solution of idarubicin hydrochloride, add 20 microliters of 1 *N* hydrochloric acid. Hold for 30 minutes at 95 C in an oil bath. This procedure generates the aglycone of idarubicin, 4-demethoxydaunorubicinone. Transfer 1.0 milliliter of this solution to a 10-milliliter volumetric flask, add diluent to volume, and mix. Use this solution to determine the resolution requirement for the chromatographic system.

(vi) *System suitability requirements*—(A) *Asymmetry factor.* The asymmetry factor (A_S), measured at a point 5 percent of the peak height from the baseline, is satisfactory if it is not less than 0.85 and not more than 1.1.

(B) *Efficiency of the column.* The absolute efficiency (h_r) is satisfactory if it is not more than 10.0 for the idarubicin hydrochloride peak, equivalent to 4,500 theoretical plates for a 25-centimeter column of 6-micrometer particles.

(C) *Resolution factor.* The resolution factor (R_S) between the peak for idarubicin and 4-demethoxydaunorubicinone (generated in situ) is satisfactory if it is not less than 9.5.

(D) *Coefficient of variation (relative standard deviation).* The coefficient of variation (S_R in percent of 5 replicate injections) is satisfactory if it is not more than 2.0 percent.

(E) *Capacity factor.* The capacity factor (k') for idarubicin hydrochloride is satisfactory if it is not less than 5 and not more than 15. If the system suitability parameters have been met, proceed as described in § 436.216(b) of this chapter.

(vii) *Calculations.* Calculate the micrograms of idarubicin hydrochloride per milligram of sample as follows:

$$\text{Micrograms of idarubicin hydrochloride per milligram} = \frac{A_U \times P_S \times 100}{A_S \times C_U \times (100 - m)}$$

where:

A_U=Area of the idarubicin hydrochloride peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_S=Area of the idarubicin hydrochloride peak in the chromatogram of the idarubicin hydrochloride working standard;

P_S=Idarubicin hydrochloride activity in the idarubicin hydrochloride working standard solution in micrograms per milliliter;

C_U=Milligrams of idarubicin hydrochloride sample per milliliter of sample solution;

m=Percent moisture content of the sample.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 5 milligrams per milliliter.

(4) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(5) *HPLC impurities.* Proceed as directed in paragraph (b)(1) of this section. Calculate the percentage of impurities as follows:

$$\text{Percent individual impurity} = \frac{A_i \times 100}{A_r}$$

$$\text{Percent total HPLC impurities} = \frac{A \times 100}{A_r}$$

where:

A_i=Area of the individual impurity peak;

A=The sum of areas of all peaks minus the area due to the idarubicin hydrochloride peak and solvent peak; and

A_r=The sum of areas of all peaks in the chromatogram excluding the solvent peak.

(6) *Identity.* Proceed as directed in § 436.211 of this chapter, using a 1.0 percent potassium bromide disc prepared as directed in § 436.211(b)(1).

5. Section 450.230 is added to subpart C to read as follows:

§ 450.230 Idarubicin hydrochloride for injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Idarubicin hydrochloride for injection is a lyophilized mixture of idarubicin hydrochloride and lactose. Its idarubicin hydrochloride content is satisfactory if it is not less than 90 percent and not more than 110 percent of the number of milligrams of idarubicin hydrochloride that it is represented to contain. It is sterile. It contains not more than 8.93 U.S.P. endotoxin units per milligram of idarubicin hydrochloride. Its moisture content is not more than 4.0 percent. When reconstituted as directed in the labeling, its pH is not less than 5.0 and not more than 7.0. It passes the identity test. The idarubicin hydrochloride used conforms to the standards prescribed by § 450.30(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The idarubicin hydrochloride used in making the batch for idarubicin hydrochloride content, solvent residues, moisture, pH, crystallinity, related individual thin layer chromatography and high-performance liquid chromatography (HPLC) impurities, total impurities, and identity.

(B) The batch for idarubicin hydrochloride content, sterility, bacterial endotoxins, moisture, pH, and identity.

(ii) Samples required if requested by the Director, Center for Drug Evaluation and Research:

(A) The idarubicin hydrochloride used in making the batch: 14 packages, each containing approximately 40 milligrams.

(B) The batch:

(*1*) For all tests except sterility: A minimum of 34 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay.* Idarubicin hydrochloride is toxic. It must be handled with care in the laboratory. Transfer all dry powders into a suitable hood while wearing rubber gloves. Avoid inhaling fine particles of powder. Solutions should not be pipetted by mouth. If the substance contacts the skin, wash with soap and water. Dispose of all waste material by dilution with large volumes of dilute sodium hypochlorite (bleach) solution.

(1) *Idarubicin hydrochloride content (HPLC).* Proceed as directed in § 450.30(b)(1), preparing the sample solution and calculating the idarubicin hydrochloride as follows:

(i) *Sample solution.* Prepare the sample solution by rinsing the contents of the vial into an appropriate-sized volumetric flask with sufficient diluent to obtain a concentration of 0.5 milligram of idarubicin hydrochloride per milliliter (estimated).

(ii) *Calculations.* Calculate the idarubicin hydrochloride content per vial as follows:

$$\text{Micrograms of idarubicin hydrochloride per vial} = \frac{A_U \times P_S \times d}{A_s \times 1{,}000}$$

where:

A_U=Area of the idarubicin hydrochloride peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_S=Area of the idarubicin hydrochloride peak in the chromatogram of the idarubicin hydrochloride working standard;

P_S=Idarubicin hydrochloride activity in the idarubicin hydrochloride working standard solution in micrograms per milliliter; and

d=Dilution factor of the sample.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in § 436.20(e)(1).

(3) *Bacterial endotoxins.* Proceed as directed in the U.S.P. Bacteria endotoxin test. The specimen under test contains not more than 8.93 U.S.P. endotoxin units per milligram of idarubicin hydrochloride.

(4) *Moisture.* Proceed as directed in § 436.201 of this chapter, using the sample preparation method described in § 436.201(d)(4).

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using the sample obtained after reconstituting the drug as directed in the labeling, except use distilled water instead of saline.

(6) *Identity.* The high-performance liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the idarubicin hydrochloride working standard.

Dated: March 23, 1993.

Paul F. Vogel,

Acting Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 93-10314 Filed 5-3-93; 8:45 am]

BILLING CODE 4160-01-P

21 CFR Parts 430, 436, and 443

[Docket No. 92N-0113]

Antibiotic Drugs; Loracarbef, Loracarbef Capsules, and Loracarbef for Oral Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for inclusion of accepted standards for a new antibiotic drug, loracarbef, and use of the antibiotic drug in two dosage forms, loracarbef capsules and loracarbef for oral suspension. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective June 3, 1993; written comments, notice of participation, and request for hearing by June 3, 1993; data, information, and analyses to justify a hearing by July 6, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug

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Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD-520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-0335.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, loracarbef, and its use in two dosage forms, loracarbef capsules and loracarbef for oral suspension. The agency has concluded that the data supplied by the manufacturer concerning these antibiotic drugs are adequate to establish their safety and efficacy when used as directed in the labeling and that the regulations should be amended in 21 CFR parts 430, 436, and 443 to provide for the inclusion of accepted standards for these products.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, FDA finds that notice and comment procedure is unnecessary and not in the public interest. This final rule, therefore, becomes effective June 3, 1993. However, interested persons may, on or before June 3, 1993, submit comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before June 3, 1993, a written notice of participation and request for hearing, and (2) on or before July 6, 1993, the data, information, and analyses on which the person relies to justify a hearing, as specified in § 314.300 (21 CFR 314.300). A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this document and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in § 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Parts 436 and 443

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 430 and 436 are amended and new part 443 is added as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. The authority citation for 21 CFR part 430 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 357, 371); secs. 215, 301, 351 of the Public Health Service Act (42 U.S.C. 216, 241, 262).

2. Section 430.4 is amended by adding new paragraph (a)(68) to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) • • •

(68) *Loracarbef.* Loracarbef is an antibiotic substance having the chemical structure described by the following name: (6*R*,7*S*)-7-[(*R*)-2-amino-2-phenylacetamido]-3-chloro-8-oxo-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid.

• • • • • •

3. Section 430.5 is amended by adding new paragraphs (a)(103) and (b)(105) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) • • •

(103) *Loracarbef.* The term "loracarbef master standard" means a specific lot of loracarbef that is designated by the Commissioner as the standard of comparison in determining the potency of the loracarbef working standard.

(b) • • •

(105) *Loracarbef.* The term "loracarbef working standard" means a specific lot of a homogeneous preparation of loracarbef.

4. Section 430.6 is amended by adding new paragraph (b)(105) to reads as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

• • • • • •

(b) • • •

(105) *Loracarbef.* The term "microgram" applied to loracarbef means the loracarbef (potency) contained in 1.059 micrograms of the loracarbef master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

5. The authority citation for 21 CFR part 436 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

6. Section 436.215 is amended by alphabetically adding a new entry to the table in paragraph (b) and by adding a new paragraph (c)(16) to read as follows:

§ 436.215 Dissolution test.

• • • • • •

(b) • • •

Dosage form	Dissolution medium	Rotation rate[1]	Sampling time(s)	Apparatus
•	•	•	•	•
Loracarbef capsules.	900 mL distilled water.	50	30 min	2
•	•	•	•	•

[1] Rotation rate of basket or paddle stirring element (revolutions per minute).

(c) • • •

(16) *Loracarbef*—(i) *Preparation of the working standard solution.* Accurately weigh approximately 110 milligrams of the loracarbef working standard into a suitable-sized volumetric flask. Dissolve and dilute to volume with water. Further dilute an accurately measured portion with distilled water to obtain a known concentration of 0.02 milligram of loracarbef activity per milliliter.

(ii) *Preparation of sample solutions.* Dilute an accurately measured portion of the sample with sufficient distilled water to obtain a concentration of 0.02 milligram of loracarbef activity per milliliter (estimated).

(iii) *Procedure.* Using a suitable spectrophotometer and water as the blank, determine the absorbance of each standard and sample solution at the absorbance maximum at approximately 260 nanometers. Determine the exact position of the absorbance maximum for the particular instrument used.

(iv) *Calculations.* Determine the total amount of loracarbef dissolved as follows:

$$T = \frac{A_U \times c \times d \times 900}{A_S}$$

where:

T = Total milligrams of loracarbef activity dissolved;
A_U = Absorbance of sample;
A_S = Absorbance of the standard;
c = Concentration of the working standard solution in milligrams per milliliter; and
d = Dilution factor of the sample filtrate.

• • • • • •

7. Part 443 is added to read as follows:

PART 443—CARBACEPHEM ANTIBIOTIC DRUGS

Subpart A—Bulk Drugs

Sec.
443.20 Loracarbef.

Subpart B—Oral Dosage Forms

443.120 Loracarbef oral dosage forms.
443.120a Loracarbef capsules.
443.120b Loracarbef for oral suspension.

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

Subpart A—Bulk Drugs

§ 443.20 Loracarbef.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Loracarbef is the monohydrate form of (6*R*,7*S*)-7-[(*R*)-2-amino-2-phenylacetamido]-3-chloro-8-oxo-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid. It is so purified and dried that:

(i) Its potency is not less than 960 micrograms and not more than 1,020 micrograms of loracarbef activity per milligram, on an anhydrous basis.

(ii) Its moisture content is not less than 3.5 percent and not more than 6.0 percent.

(iii) The pH of an aqueous slurry containing 100 milligrams per milliliter is not less than 3.5 and not more than 5.5.

(iv) Its specific rotation in an 0.1 *N* HCl solution containing 10 milligrams of loracarbef per milliliter at 25 °C is +27° to +33° on an anhydrous basis.

(v) It is crystalline.

(vi) It gives a positive identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for loracarbef potency, moisture, pH, specific rotation, crystallinity, and identity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.216 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength of 265 nanometers, a 25-centimeter by 4.6-millimeter (inside diameter) column packed with microparticulate (5 micrometers in diameter) reversed phase packing material such as octadecyl silane bonded to silicas, a flow rate of 1.5 milliliters per minute, and a known injection volume between 10 and 20 microliters. The retention time for loracarbef is between 10 and 13 minutes. Mobile phase, working standard, sample and resolution test solutions, system suitability requirements, and calculations are as follows:

(i) *Mobile phase.* Dissolve 2.0 grams of pentanesulfonic acid sodium salt monohydrate in 1,560 milliliters of water. Add 20 milliliters of triethylamine. Adjust the pH to 2.5 with phosphoric acid. Add 440 milliliters of methanol and mix. Filter the mobile phase through a suitable filter capable of removing particulate matter 0.5 micron in diameter and degas it just prior to its introduction into the chromatograph.

(ii) *Preparation of working standard, sample, and resolution test solutions*—(A) *Working standard solution.* Accurately weigh approximately 10 milligrams of the loracarbef working reference standard into a 50-milliliter volumetric flask. Dissolve and dilute to volume with mobile phase. Brief sonication may be required to obtain complete dissolution of the material.

(B) *Sample solution.* Accurately weigh approximately 10 milligrams of sample into a 50-milliliter volumetric flask. Dissolve and dilute to volume with mobile phase. Brief sonication may be required to obtain complete dissolution of the material.

(C) *Resolution test solution.* Prepare a resolution test solution containing approximately 0.2 milligram per milliliter each of loracarbef and loracarbef *L*-isomer in the mobile phase.

(iii) *System suitability requirements*—(A) *Asymmetry factor.* The asymmetry factor (A_S) at 5 percent peak height is satisfactory if it is not less than 0.8 and not more than 1.3 for the loracarbef peak.

(B) *Efficiency of the column.* The absolute efficiency (h_r) is satisfactory if it is not more than 20 for the loracarbef peak.

(C) *Resolution factor.* The resolution factor (R) between the peak for loracarbef and the peak for the resolution standard loracarbef *L*-isomer in the resolution test solution is satisfactory if it is not less than 6.0.

(D) *Coefficient of variation (relative standard deviation).* The coefficient of variation (S_R in percent of 5 replicate injections) is satisfactory if it is not more than 2.0 percent.

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(E) *Capacity factor (k')*. The capacity factor (k') for loracarbef is satisfactory if it is not less than 5 and not more than 8.

If the system suitability parameters have been met, then proceed as described in § 436.216(b) of this chapter.

(iv) *Calculations*. Calculate the micrograms of loracarbef per milligram of sample on an anhydrous basis as follows:

$$\text{Micrograms of loracarbef per milligram} = \frac{A_U \times P_S \times 100}{A_S \times C_U \times (100-m)}$$

where:

A_U = Area of the loracarbef peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_S = Area of the loracarbef peak in the chromatogram of the loracarbef working standard;

P_S = Loracarbef activity in the loracarbef working standard solution in micrograms per milliliter;

C_U = Milligrams of sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

(2) *Moisture*. Proceed as directed in § 436.201 of this chapter.

(3) *pH*. Proceed as directed in § 436.202 of this chapter, using an aqueous suspension containing 100 milligrams per milliliter.

(4) *Specific rotation*. Dissolve and dilute an accurately weighed sample with sufficient 0.1 *N* HCl to obtain a concentration of approximately 10 milligrams of loracarbef activity per milliliter. Proceed as directed in § 436.210 of this chapter, using a 1.0-decimeter polarimeter tube. Calculate the specific rotation on the anhydrous basis.

(5) *Crystallinity*. Proceed as directed in § 436.203(a) of this chapter.

(6) *Identity*. Proceed as directed in § 436.211 of this chapter, using the 1.0 percent potassium bromide disc prepared as described in § 436.211(b)(1).

Subpart B—Oral Dosage Forms

§ 443.120 Loracarbef oral dosage forms.

§ 443.120a Loracarbef capsules.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity*. Loracarbef capsules are composed of loracarbef and one or more suitable and harmless lubricants and diluents enclosed in a gelatin capsule. Each capsule contains loracarbef equivalent to either 200 milligrams or 400 milligrams of loracarbef. Its loracarbef content is satisfactory if it is not less than 90 percent and not more than 110 percent of the number of milligrams of loracarbef that it is represented to contain. Its moisture content is not more than 8.5 percent. It passes the dissolution test. It passes the identity test. The loracarbef used conforms to the standards prescribed by § 443.20(a)(1).

(2) *Labeling*. It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples*. In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The loracarbef used in making the batch for potency, moisture, pH, specific rotation, crystallinity, and identity.

(B) The batch for content, moisture, dissolution, and identity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research:

(A) The loracarbef used in making the batch: 10 packages, each containing approximately 500 milligrams.

(B) The batch: A minimum of 100 capsules.

(b) *Tests and methods of assay*—(1) *Loracarbef content*. Proceed as directed in § 443.20(b)(1), preparing the sample solution and calculating the loracarbef content as follows:

(i) *Preparation of sample solution*. Place one intact capsule in a 200-milliliter volumetric flask containing 150 milliliters of distilled water. Shake the mixture vigorously to aid disruption of the capsule. Sonicate the mixture briefly (5 minutes). Dilute the contents to volume with distilled water. Mix well and immediately transfer a suitable aliquot to a volumetric flask of appropriate size to obtain a solution contalning 0.2 milligram per milliliter (estimated) of loracarbef when diluted to volume with mobile phase (described in § 443.20(b)(1)(i)). Filter this solution through a 0.45-micron membrane filter before injecting it into the chromatograph.

(ii) *Calculations*. Calculate the loracarbef content as follows:

$$\text{Milligrams of loracarbef per capsule} = \frac{A_U \times P_S \times d}{A_S \times 1{,}000}$$

where:

A_U = Area of the loracarbef peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_S = Area of the loracarbef peak in the chromatogram of the loracarbef working standard;

P_S = Loracarbef activity in the loracarbef working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

(2) *Moisture*. Proceed as directed in § 436.201 of this chapter.

(3) *Dissolution test*. Proceed as directed in § 436.215 of this chapter. The quantity Q, the amount of loracarbef activity dissolved, is 75 percent within 30 minutes.

(4) *Identity*. The retention time of the loracarbef response in the high-performance liquid chromatographic procedure described in paragraph (b)(1) of this section as applied to the sample solution compares qualitatively to that of the loracarbef reference standard.

§ 443.120b Loracarbef for oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity*. Loracarbef for oral suspension is loracarbef with one or more suitable and harmless preservatives, sweeteners, suspending agents, colorings, antifoaming agents, and flavorings. When constituted as directed in the labeling, each milliliter contains the equivalent of either 20 or 40 milligrams loracarbef activity. Its loracarbef content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of loracarbef that it is represented to contain. Its moisture content is not more than 2.0 percent. When constituted as described in the labeling, the pH of the suspension is not less than 3.5 and not more than 6.0. It passes the identity test. The loracarbef used conforms to the standards prescribed by § 443.20(a)(1).

(2) *Labeling*. It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples*. In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The loracarbef used in making the batch for potency, moisture, pH, specific rotation, crystallinity, and identity.

(B) The batch for content, moisture, pH, and identity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research:

(A) The loracarbef used in making the batch: 10 packages, each containing approximately 500 milligrams.

(B) The batch: A minimum of 10 immediate containers.

(b) *Tests and methods of assay*—(1) *Loracarbef content*. Proceed as directed in § 443.20(b)(1), preparing the sample solution and calculating the loracarbef content as follows:

(i) *Preparation of sample solution*. Constitute as directed in the labeling. Transfer a 5.0-milliliter portion of the suspension into an appropriately sized volumetric flask and quantitatively dilute stepwise with mobile phase (described in § 443.20(b)(1)(i)) to obtain a concentration of 0.2 milligram of loracarbef activity per milliliter (estimated).

(ii) *Calculations*. Calculate the loracarbef content as follows:

$$\text{Milligrams of loracarbef per 5 milliliters of sample} = \frac{A_U \times P_S \times d}{A_S \times 1{,}000}$$

where:

A_U = Area of the loracarbef peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_S = Area of the loracarbef peak in the chromatogram of the loracarbef working standard;

P_S = Loracarbef activity in the loracarbef working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

(2) *Moisture*. Proceed as directed in § 436.201 of this chapter.

(3) *pH*. Proceed as directed in § 436.202 of this chapter, using the drug constituted as directed in the labeling.

(4) *Identity*. The retention time of the loracarbef response in the high-performance liquid chromatographic procedure described in paragraph (b)(1) of this section as applied to the sample solution compares qualitatively to that of the loracarbef reference standard.

Dated: April 14, 1993.

Paul F. Vogel,

Acting Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 93-10315 Filed 5-3-93; 8:45 am]

BILLING CODE 4160-01-F

21 CFR Part 441

[Docket No. 91N-0147]

Antibiotic Drugs; Sterile Imipenem Monohydrate-Cilastatin Sodium

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new dosage form of imipenem monohydrate-cilastatin sodium, sterile imipenem monohydrate-cilastatin sodium. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective June 3, 1993; written comments, notice of participation, and requests for a hearing by June 3, 1993; data, information, and analyses to justify a hearing by July 6, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD-520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-0335.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new dosage form of imipenem monohydrate-cilastatin sodium, sterile imipenem monohydrate-cilastatin sodium. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling end that the regulations should be amended in part 441 (21 CFR part 441) to provide for the inclusion of accepted standards for this product.

I. Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

II. Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, FDA finds that notice and comment procedure is unnecessary and not in the public interest. This final rule, therefore, becomes effective June 3, 1993. However, interested persons may, on or before June 3, 1993, submit comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before June 3, 1993, a written notice of participation and request for hearing, and (2) on or before July 6, 1993, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this final rule, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions, and denying a hearing.

All submissions must be filed in three copies, identified with the docket number appearing in the heading of this final rule and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 441

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 441 is amended as follows:

PART 441—PENEM ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR part 441 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

§ 441.220b [Redesignated from § 441.220]

2. Section 441.220 is redesignated as § 441.220b and new §§ 441.220 and 441.220a are added to subpart C to read as follows:

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§ 441.220 Imipenem monohydrate-cilastatin sodium injectable dosage forms.

§ 441.220a Sterile imipenem monohydrate-cilastatin sodium.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Imipenem monohydrate-cilastatin sodium is a dry mixture of imipenem monohydrate and cilastatin sodium packaged for dispensing. Its potency is satisfactory if it contains not less than 400 micrograms of imipenem and not less than 400 micrograms of cilastatin per milligram. Its imipenem content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of imipenem that it is represented to contain. Its cilastatin content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of cilastatin that it is represented to contain. It is sterile. It is nonpyrogenic. Its loss on drying is not more than 3.5 percent. When reconstituted as directed in the labeling, its pH is not less than 6.0 and not more than 7.5. The imipenem monohydrate used conforms to the standards prescribed by § 441.20a(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The imipenem monohydrate used in making the batch for potency, sterility, pyrogens, loss on drying, specific rotation, identity, and crystallinity.

(B) The batch for imipenem potency, cilastatin potency, imipenem content, cilastatin content, sterility, pyrogens, loss on drying, and pH.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research:

(A) The imipenem monohydrate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(B) The batch:

(*1*) For all tests except sterility: A minimum of 20 immediate containers.

(*2*) For sterility testing: 20 immediate containers collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Imipenem and cilastatin potency and content.* Determine the potency of the sample in micrograms per milligram of both imipenem and cilastatin and the milligrams of both imipenem and cilastatin per container. Proceed as directed in § 441.20a(b)(1), preparing the cilastatin reference standard solution, the sample solution and calculating the imipenem and cilastatin potency and content as follows:

(i) *Cilastatin reference standard.* Accurately weigh approximately 25 milligrams of the cilastatin reference standard into a 50-milliliter volumetric flask. Immediately prior to analysis, add 10 milliliters of a 0.9 percent saline solution and 1.0 milliliter of a 0.1 percent bicarbonate solution. Add phosphate buffer, 0.001*M*, and shake until dissolved. Sonicate, if necessary, but no longer than 1 minute. Dilute to volume with phosphate buffer, 0.001*M*, to obtain a solution containing approximately 500 micrograms of cilastatin per milliliter. Mix well and inject immediately.

(ii) *Preparation of sample solutions*—(A) *Imipenem and cilastatin potency (micrograms of imipenem and cilastatin per milligram).* Remove the metal seal from each of 10 containers and determine the gross weight in grams. Dissolve and wash out the entire contents of each container with a 0.9 percent saline solution into an appropriate size volumetric flask to give a concentration of 5 milligrams per milliliter each of imipenem and cilastatin. Further dilute with phosphate buffer, 0.001*M*, to obtain a solution containing 500 micrograms each of imipenem and cilastatin per milliliter (estimated). Wash each stopper and container with small quantities of acetone or methanol three times being careful not to wet the container labeling. Allow the containers to air dry about 3 hours or to constant weight. Weigh each container and stopper to determine tare weight in grams.

(B) *Imipenem and cilastatin content (milligrams of imipenem and cilastatin per container).* Reconstitute the sample as directed in the labeling, except use a 0.9 percent saline solution as the reconstituting fluid. Then, using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Accurately dilute the solution thus obtained in a suitable volumetric flask with sufficient 0.9 percent saline solution to obtain a stock solution containing about 2,500 micrograms of imipenem and 2,500 micrograms of cilastatin per milliliter. Transfer a 10-milliliter aliquot of this solution to a 50-milliliter volumetric flask and dilute to volume with phosphate buffer, 0.001*M*, to obtain a solution containing 500 micrograms of imipenem and 500 micrograms of cilastatin per milliliter (estimated).

(iii) *Calculations*—(A) *Imipenem and cilastatin potency.* Calculate the micrograms of imipenem and cilastatin per milligram as follows:

$$\text{Milligrams of imipenem or cilastatin per milligram} = \frac{A_U \times P_S \times d}{A_S \times 1{,}000 \times W_S}$$

where:

A_U = Area of the imipenem or cilastatin peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_S = Area of the imipenem or cilastatin peak in the chromatogram of the imipenem or cilastatin working standard;

P_S = Anhydrous imipenem or cilastatin activity in the respective working standard solution in micrograms per milliliter;

d = Dilution factor of the 10 samples; and

W_S = Net contents of 10 containers in grams (gross weight of 10 containers in grams--tare weight of 10 containers in grams).

(B) *Imipenem and cilastatin content.* Calculate the imipenem or cilastatin content of the container as follows:

$$\text{Milligrams of imipenem or cilastatin per milligram} = \frac{A_U \times P_S \times d}{A_S \times 1{,}000}$$

where:

A_U = Area of the imipenem or cilastatin peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_S = Area of the imipenem or cilastatin peak in the chromatogram of the imipenem or cilastatin working standard;

P_S = Anhydrous imipenem or cilastatin activity in the imipenem or cilastatin working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in § 436.20(e)(1).

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 5.0 milligrams of imipenem per milliliter except inject 10 milliliters per kilogram of rabbit weight.

(4) *Loss on drying.* Proceed as directed in § 436.200(a) of this chapter.

(5) *pH.* Proceed as directed in § 436.202 of this chapter.

Dated: March 26, 1993.

Paul F. Vogel,

Acting Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 93-10316 Filed 5-3-93; 8:45 am]

BILLING CODE 4160-01-F

21 CFR Part 444

[Docket No. 91N-0265]

Antibiotic Drugs; Tobramycin-Fluorometholone Acetate Ophthalmic Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new ophthalmic dosage form of tobramycin, tobramycin-fluorometholone acetate ophthalmic suspension. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective June 3, 1993; written comments, notice of participation, and requests for a hearing by June 3, 1993; data, information, and analyses to justify a hearing by July 6, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD-520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-0335.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357) as amended, with respect to a request for approval of a new ophthalmic dosage form of tobramycin, tobramycin-fluorometholone acetate ophthalmic suspension. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in part 444 (21 CFR part 444) by adding new § 444.380e to subpart D to provide for the inclusion of accepted standards for this product.

I. Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

II. Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, FDA finds that notice and comment procedure is unnecessary and not in the public interest. This final rule, therefore, becomes effective June 3, 1993. However, interested persons may, on or before June 3, 1993, submit comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before June 3, 1993, a written notice of participation and request for hearing, and (2) on or before July 6, 1993, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order, and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 444

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 444 is amended as follows:

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR part 444 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

2. New § 444.380e is added to subpart D to read as follows:

§ 444.380e Tobramycin-fluorometholone acetate ophthalmic suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tobramycin-fluorometholone acetate ophthalmic suspension is an aqueous suspension containing, in each milliliter, 3.0 milligrams of tobramycin and 1.0 milligram of fluorometholone acetate in a suitable and harmless aqueous vehicle. It contains one or more suitable and harmless dispersants, preservatives, buffers, and tonicity agents. Its tobramycin potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of tobramycin that it is represented to contain. Its fluorometholone acetate content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of fluorometholone acetate than it is represented to contain. It is sterile. Its pH is not less than 6.0 and not more than 7.0. It passes the identity tests for tobramycin and fluorometholone acetate. The tobramycin used conforms to the standards prescribed by § 440.80(a)(1) of this chapter, except heavy metals. The fluorometholone acetate used conforms to the standards prescribed in the U.S. Pharmacopeia XXII.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The tobramycin used in making the batch for potency, moisture, pH, identity, and residue on ignition.

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(B) The fluorometholone acetate used in making the batch for all requirements in U.S. Pharmacopeia XXII.

(C) The batch for tobramycin potency, fluorometholone acetate content, sterility, pH, tobramycin identity, and fluorometholone acetate identity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research:

(A) The tobramycin used in making the batch: 10 packages, each containing approximately 500 milligrams.

(B) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Tobramycin potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with sufficient distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 2.5 micrograms of tobramycin per milliliter (estimated).

(2) *Fluorometholone acetate content.* Proceed as directed in § 436.216 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength of 254 nanometers, a column or cartridge packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing material such as octadecyl hydrocarbon bonded silicas, a flow rate not to exceed 2.0 milliliters per minute, and an injection volume of 10 or 20 microliters. Mobile phase, working standard and sample solutions, resolution test solution, system suitability requirements, and calculations are as follows:

(i) *Mobile phase.* Mix acetonitrile:water (50:50) and adjust if necessary by reducing the amount of acetonitrile to increase retention, or by increasing the amount of acetonitrile to decrease the retention of the solute. Filter the mobile phase through a suitable glass fiber filter or equivalent that is capable of removing particulate contamination to 1 micron in diameter. Degas the mobile phase just prior to its introduction into the chromatograph pumping system.

(ii) *Preparation of working standard and sample solutions, and resolution test solution*—(A) *Working standard solution.* Accurately weigh approximately 25 milligrams of the fluorometholone acetate working standard into a 10-milliliter volumetric flask and add about 5 milliliters of acetonitrile. Shake until dissolved. Dilute to volume with acetonitrile. Further dilute 1.0 milliliter of this solution in a volumetric flask to 10 milliliters with acetonitrile to obtain a solution of known concentration containing approximately 250 micrograms of fluorometholone acetate per milliliter. Mix well.

(B) *Sample solution.* Shake vial thoroughly, to homogenize its contents, and immediately remove an accurately measured representative portion from it. Quantitatively dilute the suspension thus obtained with sufficient acetonitrile to obtain a solution containing 250 micrograms of fluorometholone acetate per milliliter (estimated). For instance, dilute a 1.0 milliliter aliquot of suspension with 3.0 milliliters of acetonitrile and filter.

(C) *Resolution test solution.* Prepare as directed in paragraph (b)(2)(ii)(A) of this section, except use 10 milligrams of fluorometholone in addition to the 25 milligrams of fluorometholone acetate working standard.

(iii) *System suitability requirements*—(A) *Asymmetry.* The asymmetry (A_S) is satisfactory if it is not more than 1.35 at 10 percent of peak height.

(B) *Efficiency of the column.* The efficiency of the column (h_c) is satisfactory if it is not greater than 20, equivalent to 1,000 plates for a 10-centimeter column of 5 microns or 2,500 plates for a 25-centimeter column of 5 micron size particles.

(C) *Resolution.* The resolution (R_S) between the peaks of fluorometholone acetate and fluorometholone is satisfactory if it is not less than 2.0.

(D) *Capacity factor.* The capacity factor (k) for fluorometholone acetate is satisfactory if it is in the range between 1.0 and 5.0.

(E) *Coefficient of variation.* The coefficient of variation (*RSD* in percent) of 5 replicate injections is satisfactory if it is not more than 2.0 percent. If the system suitability requirements have been met, then proceed as described in § 436.216(b) of this chapter.

(iv) *Calculations.* Calculate the fluorometholone acetate content of the container as follows:

$$\text{Milligrams of fluorometholone acetate per container} = \frac{A_U \times P_S \times d}{A_S \times 1{,}000}$$

where:

A_U = Area of the fluorometholone acetate peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_S = Area of the fluorometholone acetate peak in the chromatogram of the fluorometholone acetate working standard;

P_S = Fluorometholone acetate content in the fluorometholone acetate working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

(3) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in § 436.20(e)(1).

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted suspension.

(5) *Tobramycin identity.* Proceed as directed in § 436.318 of this chapter, except prepare the sample for assay as follows: Decant 1.0 milliliter of the unshaken sample into a test tube. Add 100 milligrams of sodium sulfate to the test tube and shake until the sodium sulfate has been dispersed. Centrifuge to obtain a clear supernatant. Use the supernatant as the sample solution.

(6) *Fluorometholone acetate identity.* The high performance liquid chromatogram of the sample determined as directed in paragraph (b)(2) of this section, compares qualitatively to that of the fluorometholone acetate working standard.

Dated: March 26, 1993.

Paul F. Vogel,

Acting Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 93–10317 Filed 5–3–93; 8:45 am]

BILLING CODE 4160–01–F

federal register

Tuesday
May 4, 1993

Part IV

Department of Education

34 CFR Part 668

Student Assistance General Provisions; Final Rule

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DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840–AB30

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations for the Student Assistance General Provisions to add the Office of Management and Budget (OMB) control numbers to certain sections of the regulations. Those sections contain information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved.

EFFECTIVE DATE: These regulations are effective on May 4, 1993.

FOR FURTHER INFORMATION CONTACT: Claude Denton, General Provisions Branch, Division of Policy Development, U.S. Department of Education, 400 Maryland Avenue, SW., (Regional Office Building 3, room 4318), Washington, DC 20202–5444. Telephone (202) 708–7888. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m. Eastern time.

SUPPLEMENTARY INFORMATION: On January 7, 1993, final regulations for the Student Assistance General Provisions were published in the **Federal Register** at 58 FR 3180. The effective date of certain sections of these regulations was delayed until information collection requirements contained in those sections were approved by OMB under the Paperwork Reduction Act of 1980, as amended. OMB has approved the information collection requirements, and those sections of the regulations are now effective.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(B), that proposed rulemaking is unnecessary and contrary to the public interest and that a delayed effective date is not required under 5 U.S.C. 553(d)(3).

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

Dated: April 28, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary amends part 668 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1091, 1092, and 1094, unless otherwise noted.

§§ 668.133, 668.134, 668.135 [Amended]

2. Sections 668.133, 668.134, and 668.135 are amended by adding the OMB control number at the end of these sections to read as follows:

(Approved by the Office of Management and Budget under control number 1840–0650)

[FR Doc. 93–10438 Filed 5–3–93; 8:45 am]

BILLING CODE 4000–01–M

federal register

Tuesday
May 4, 1993

Part V

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Advisory Committee Meeting; Recombinant DNA Research; Proposed Actions Under the Guidelines; Notices

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee on June 7–8, 1993. The meeting will be held at the National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892, starting at approximately 9 a.m. on June 7, 1993, to adjournment at approximately 5 p.m. on June 8, 1993. The meeting will be open to the public to discuss the following proposed actions under the *NIH Guidelines for Research Involving Recombinant DNA Molecules* (51 FR 16958):

Proposed Major Actions to the NIH Guidelines

Additions to Appendix D of the *NIH Guidelines* regarding thirteen (13) Human Gene Therapy/Gene Transfer Protocols;

Additions to Appendix D of the *NIH Guidelines* Regarding Semliki Forest Virus; Poxvirus Vectors-NYVAC, ALVAC, TROVAC, and Reickettsia prowazeki;

Amendment to Section IV–C–3–c of the *NIH Guidelines* Regarding the *Recombinant DNA Technical Bulletin* and the Data Management of the NIH-Approved Human Gene Transfer Protocols;

Amendments to the *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA into the Genome of Human Subjects* Regarding Reporting Requirements for Human Gene Transfer/Gene Therapy Protocols; the term "Subject(s);" Satellite Institutions; Categorization of Protocols; and Protocol Format.

Other Matters To Be Considered by the Committee

Attendance by the public will be limited to space available. Members of the public wishing to speak at this meeting may be given such opportunity at the discretion of the Chair.

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, Building 31, room 4B11, Bethesda, Maryland 20892, Phone (301) 496–9838, FAX (301) 496–9839, will provide materials to be discussed at this meeting, roster of committee members, and substantive program information. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Wivel in advance of the meeting. A summary of the meeting will be available at a later date.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines*. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: April 26, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–10487 Filed 5–3–93; 8:45 am]

BILLING CODE 4140–01–M

Recombinant DNA Research: Proposed Actions Under the Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of proposed actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (51 FR 16958).

SUMMARY: This notice sets forth proposed actions to be taken under the National Institutes of Health (NIH) Guidelines for Research Involving Recombinant DNA Molecules (51 FR 16958). Interested parties are invited to submit comments concerning these proposals. These proposals will be considered by the Recombinant DNA Advisory Committee (RAC) at its meeting on June 7–8, 1993. After consideration of these proposals and comments by the RAC, the Director of the National Institutes of Health will issue decisions in accordance with the NIH Guidelines.

DATES: Comments received by May 25, 1993, will be reproduced and distributed to the RAC for consideration at its June 7–8, 1993, meeting.

ADDRESSES: Written comments and recommendations should be submitted to Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities (ORDA), Building 31, room 4B11, National Institutes of Health, Bethesda, Maryland 20892, or sent by FAX to 301–496–9839.

All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from the Office of Recombinant DNA Activities, Building 31, room 4B11, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9838.

SUPPLEMENTARY INFORMATION: The NIH will consider the following actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules:

I. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Drs. Deisseroth, Kavanagh, Champlin

In a letter dated March 4, 1993, Drs. Albert B. Deisseroth, John Kavanagh, and Richard Champlin of the University of Texas MD Anderson Cancer Center, Houston, Texas, indicated their intention to resubmit a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: Use of Safety-Modified Retroviruses to Introduce Chemotherapy Resistance Sequences into Normal Hematopoietic Stem Cells for Chemoprotection During the Therapy of Ovarian Cancer: A Pilot Trial.

II. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Drs. Das Gupta, Cohen, Richards

In a letter dated February 26, 1993, Drs. Tapas K. Das Gupta and Edward P. Cohen of the University of Illinois College of Medicine, Chicago, Illinois, and Dr. Jon M. Richards of the University of Chicago, Chicago, Illinois, submitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: Immunization of Malignant Melanoma Patients with Interleukin-2-Secreting Melanoma Cells Expressing Defined Allogeneic Histocompatibility Antigens.

III. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Drs. Galpin, Casciato

On April 9, 1993, a human gene therapy protocol was submitted for Drs. Jeffrey E. Galpin of the University of Southern California, Los Angeles, California, and Dr. Dennis A. Casciato of the University of California, Los Angeles, California, by Dr. Bruce Merchant, Viagene, Inc., San Diego, California (sponsor of the protocol), to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: *A Preliminary Study to Evaluate the Safety and Biologic Effects of Murine Retroviral Vector Encoding HIV–1 Genes [HIV–IT(V)] in Asymptomatic Subjects Infected with HIV–1.*

IV. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Drs. Karlsson, Dunbar, Kohn

In a letter dated April 10, 1993, Drs. Stefan Karlsson and Cynthia Dunbar of the National Institutes of Health, Bethesda, Maryland, and Dr. Donald B. Kohn of Childrens Hospital Los Angeles, Los Angeles, California, submitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: *Retroviral Mediated Transfer of the cDNA for Human Glucocerebrosidase into Hematopoietic Stem Cells of Patients with Gaucher Disease.*

V. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Barranger

In a letter dated March 26, 1993, Dr. John A. Barranger of the University of Pittsburgh, Pittsburgh, Pennsylvania, indicated his intention to submit a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: *Gene Therapy for Gaucher Disease: Ex Vivo Gene Transfer and Autologous Transplantation of CD34(+) Cells.*

VI. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Drs. Raffel, Culver

In a letter dated April 5, 1993, Dr. Corey Raffel of the Childrens Hospital Los Angeles, Los Angeles, California, and Dr. Kenneth Culver of Iowa Methodist Medical Center, Des Moines, Iowa, submitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: *Gene Therapy for the Treatment of Recurrent Pediatric Malignant Astrocytomas with In Vivo Tumor Transduction with the Herpes Simplex Thymidine Kinase Gene.*

VII. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Drs. Hesdorffer, Antman

In a letter dated March 8, 1993, Dr. Arthur Bank of Columbia University, New York, New York, indicated the intention of Drs. Charles Hesdorffer and Karen Antman of the Columbia University, College of Physicians and Surgeons, New York, New York, to submit a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: *Human MDR Gene Transfer in Patients with Advanced Cancer.*

VIII. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Protocol/Dr. Freedman

In a letter dated March 22, 1993, Dr. Ralph S. Freedman of the University of Texas MD Anderson Cancer Center, Houston, Texas, indicated the intention to submit a human gene transfer protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: *Use of a Retroviral Vector to Study the Trafficking Patterns of Purified Ovarian TIL Populations Used in Intraperitoneal Adoptive Immunotherapy of Ovarian Cancer Patients—A Pilot Study.*

IX. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Ilan

In a letter dated April 10, 1993, Dr. Joseph Ilan of the Case Western Reserve University School of Medicine and University Hospitals of Cleveland, Cleveland, Ohio, submitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: *Gene Therapy for Human Brain Tumors Using Episome-Based Antisense cDNA Transcription of Insulin-Like Growth Factor I.*

X. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Nabel

In a letter dated April 9, 1993, Dr. Gary J. Nabel of the University of Michigan Medical Center, Ann Arbor, Michigan, submitted e human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: *Immunutherapy for Concer by Direct Gene Transfer into Tumors.*

XI. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Nabel

In a letter dated April 9, 1993, Dr. Gary J. Nabel of the University of Michigan Medical Center, Ann Arbor, Michigan, submitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: *A Molecular Genetic Intervention for AIDS—Effects of a Transdominant Negative Form of Rev.*

XII. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Seigler

In a letter dated April 9, 1993, Dr. Hilliard F. Seigler of the Duke University Medical Center, Durham, North Carolina, resubmitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: A Phase I Trial of Human Gamma Interferon-Transduced Autologous Tumor Cells in Patients With Disseminated Malignant Melanoma.

XIII. Amendment to Appendix D–XV of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Blaese

On April 8, 1993, an amendment to the human gene therapy protocol was submitted for Dr. R. Michael Blaese of the National Institutes of Health, Bethesda, Maryland, by Dr. Craig A. Mullen of the National Institutes of Health, Bethesda, Maryland, to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: Treatment of Severe Combined Immune Deficiency (SCID) due to Adenosine Deaminase (ADA) Deficiency with CD34(+) Selected Autologous Hematopoietic Stem Cells.

XIV. Addition to Appendix D of the NIH Guidelines Regarding Semliki Forest Virus/Dr. Temple

In a letter dated February 8, 1993, Dr. Gary F. Temple of Life Technologies, Inc., Gaithersburg, Maryland, submitted a request for a reduction in physical containment from Biosafety Level 3 to Biosafety Level 2 for a Semliki Forest Virus vector expression system.

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XV. Addition to Appendix D of the NIH Guidelines Regarding Poxvirus Vectors-NYVAC, ALVAC, TROVAC/Dr. Trag

In a letter dated January 8, 1993, Dr. Arvilla L. Trag of Virogenetics Corporation, Troy, New York, submitted a request for reduction in physical containment from Biosafety Level 2 to Biosafety Level 1 for three poxvirus vectors: NYVAC, ALVAC, TROVAC.

XVI. Addition to Appendix D of the NIH Guidelines Regarding Rickettsia prowazeki/Dr. Policastro

In a letter dated March 23, 1993, Dr. Paul Policastro of the National Institutes of Health, Bethesda, Maryland, submitted a request to transfer a chloramphenicol resistance marker to an avirulent strain of Rickettsia prowazeki.

XVII. Amendment to Section IV–C–3–c of the NIH Guidelines Regarding the Recombinant DNA Technical Bulletin and the Data Management of the NIH-Approved Human Gene Transfer Protocols/Ms. Wilson

In a letter dated April 5, 1993, Debra Wilson of the National Institutes of Health submitted a request that Section IV–C–3–c be amended to delete the requirement that the Office of Recombinant DNA Activities (ORDA) publish the *Recombinant DNA Technical Bulletin*, and to add the requirement that ORDA will serve as the focal point for data management of the NIH-approved human gene transfer protocols.

XVIII. Amendment to the Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Into the Genome of Human Subjects Regarding Reporting Requirements for Human Gene Transfer/Gene Therapy Protocols

The *Points to Consider* (March 1, 1990, 55 FR 7447) under *Part IV—Reporting Requirements* states that:

"B. Reports regarding the general progress of patients should be filed with both your local IRB and ORDA within six-months of the commencement of the experiments and at six-month intervals thereafter. These twice-yearly reports should continue for a sufficient period of time to allow observation of all major effects. In the event of a patient's death, a summary of the special port-mortem studies and statements of the cause of death should be submitted to the IRB and ORDA, if available."

Dr. Brigid Leventhal, Chair of Working Group on Data Management, will provide a summary of the reports submitted to ORDA by the principal investigators of NIH-approved protocols, and make recommendations regarding actions to be taken in the event of non-reporting.

XIX. Amendment to Section III–A–4 of the NIH Guidelines and the Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Into the Genome of Human Subjects Regarding the Term Subject(s)

During the March 1–2, 1993, Recombinant DNA Advisory Committee meeting, Dr. Robertson Parkman requested that the terms *subject* and *subjects* be amended to read *subject(s)*. Section III–A–4 currently reads:

"III–A–4. Deliberate transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into human subjects [21] • • •

Throughout the *Points to Consider* document the terms *subject* and *subjects* are used.

This amendment will clarify Section III–A–4 and the *Points to Consider*.

XX. Amendment to the Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Into the Genome of Human Subjects Regarding Satellite Institutions

On April 19, 1993, Dr. Nelson A. Wivel made a request that NIH-approved human gene therapy/gene transfer protocols may be conducted at satellite institutions with approval from the Chair of the Recombinant DNA Advisory Committee. The amendment would read:

"Protocols can be conducted at satellite institutions with approval from the Chair of the Recombinant DNA Advisory Committee. The Chair may consult others as necessary. The principal investigators must submit to the Office of the Recombinant DNA Activities the following: (1) Curricula vitae of new principal investigators, (2) Institutional Biosafety Committee approval, (3) Institutional Review Board approval, and (4) new Informed Consent document."

XXI. Amendment to the Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Into the Genome of Human Subjects Regarding Categorization of Protocols

The Working Group on Categorization of Protocols will make a report on decentralizing review for gene marking protocols utilizing vectors that have been previously approved by the Recombinant DNA Advisory Committee.

XXII. Amendment to the Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Into the Genome of Human Subjects Regarding Protocol Format

The Working Group on Protocol Format will present its report on condensing materials required for the submission of human gene therapy/gene transfer protocols for review and approval by the Recombinant DNA Advisory Committee.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally, NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines*. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: April 26, 1993.

Jay Moskowitz,

Deputy Director for Science Policy and Technology Transfer, NIH.

[FR Doc. 93–10486 Filed 5–3–93; 8:45 am]

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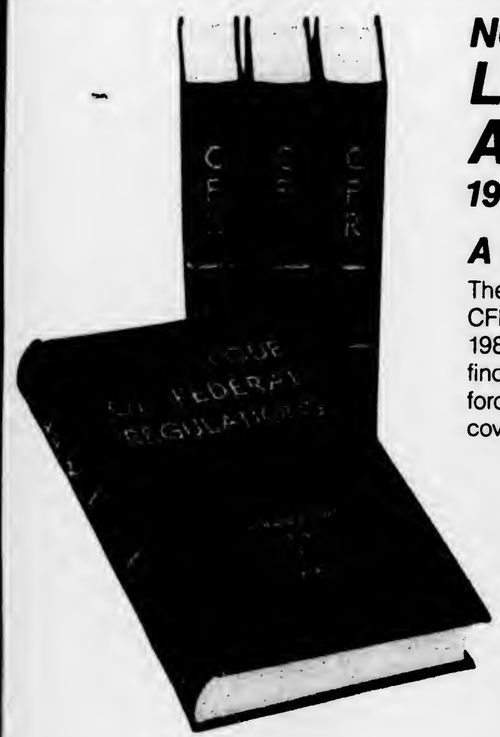

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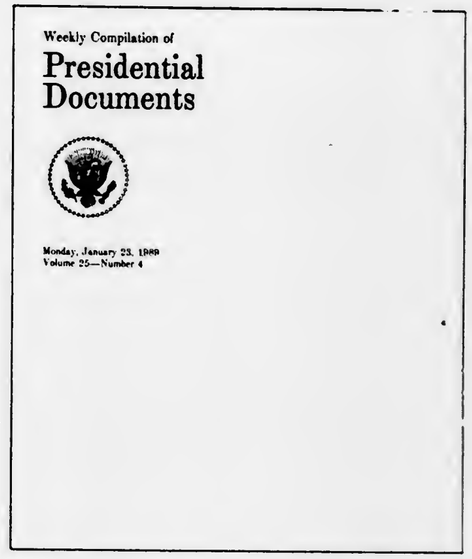

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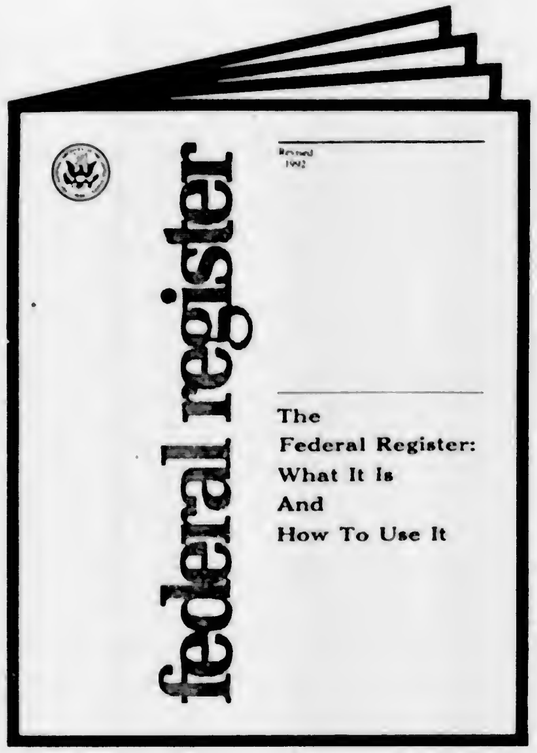

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Briefings on How To Use the Federal Register
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WHEN: May 25, at 1:00 pm
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture and General Officers of the Department to delegate to the Alternative Agricultural Research and Commercialization Board (Board) the authority to enter into contracts, grants, and cooperative agreements to further agricultural research activities of the Board pursuant to 7 U.S.C. 3318.

EFFECTIVE DATE: May 5, 1993.

FOR FURTHER INFORMATION CONTACT:
Marcus F. Gross, Jr., Office of the General Counsel, United States Department of Agriculture, Washington, DC, (202) 720–4076.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rule making and opportunity for comment are not required, and this rule may be effective less than 30 days after publication in the **Federal Register**.

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order Nos. 12291 and 12778. This action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and thus is exempt from its provisions. This rule also is exempt from the requirements of the National Environmental Policy Act, as amended (42 U.S.C. 4321 *et seq.*) and the requirements of the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 7 CFR Part 2

Authority delegations (government agencies).

Accordingly, part 2, subtitle A, title 7, Code of Federal Regulations is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

2. Section 2.32 is added to read as follows:

§ 2.32 Delegations of Authority to the Alternative Agricultural Research and Commercialization Board.

The following delegations of authority are made by the Secretary of Agriculture to the Alternative Agricultural Research and Commercialization Board:

(a) Enter into contracts, grants, or cooperative agreements to further research programs in the agricultural sciences (7 U.S.C. 3318).

(b) [Reserved]

Dated: April 28, 1993.

Mike Espy,
Secretary of Agriculture.

[FR Doc. 93–10518 Filed 5–4–93; 8:45 am]
BILLING CODE 3410–28–M

Farmers Home Administration

7 CFR Parts 1924, 1941, 1943, 1945, and 1965

Real Estate Appraisals, Title Clearance, Insurance Requirements and Real Estate Subordination Policy for Insured Farmer Program Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to clarify real estate appraisal, title clearance, property insurance requirements and subordination policy when real estate is taken as additional security for certain FmHA insured loans. This action will eliminate unnecessary paperwork in processing requests for insured operating (OL), emergency (EM), farm ownership (FO), and soil and water (SW) loans. The intended effect is to reduce application processing times and government costs.

EFFECTIVE DATE: May 5, 1993.

FOR FURTHER INFORMATION CONTACT:
Richard K. Boyles, Loan Officer, Farmer Programs Loan Making Division, Farmers Home Administration, U.S. Department of Agriculture, South Building, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 720–1360.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it has no adverse impact on FmHA borrowers or other members of the public and it involves only internal Agency management. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comments notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal Agency management and publication for comment is unnecessary.

Discussion

A final rule requiring applicants to pledge all assets as collateral for insured Farmer Program Loans was published in the **Federal Register** (57 FR 18674–18681) on April 30, 1992. The intent of the rule was to require additional security (security beyond that which is required to fully secure the loan), for these loans. The Agency overlooked the fact that, when applicants pledge real estate as additional security, real estate appraisals, title work and property insurance coverage are required. Since the agency requires additional security be taken without regard to lien position or equity value, the increased loan processing time, additional paperwork and costs involved would outweigh any benefit derived by requiring real estate appraisals, title clearance and property insurance on real estate taken as additional security. Therefore, the

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Agency is changing its regulations to remove the administrative requirement of real estate appraisals, title clearance and property insurance on additional security.

The amended regulations require real estate appraisals, title clearance and adequate property insurance coverage only when real estate is taken as primary security (security that is needed to fully secure the loan). The amended regulations will also eliminate the redundancy in 1965–A, between § 1965.12(a)(5) and § 1965.12(a)(6) by removing the first sentence of the latter paragraph. The former paragraph conditions subordination on the FmHA debt being adequately secured or not adversely affected by the subordination. The first sentence of the latter paragraph conditions subordination on the amount of any prior lien and the FmHA debt not exceeding the present market value of the real estate security. FmHA will be adequately secured under § 1965.12(a)(5) if the amount of any prior lien and the FmHA debt do not exceed the value of the security, so the first sentence of § 1965.12(a)(6) is not needed.

The title clearance procedures for Emergency loans also have been moved from subpart B of part 1941 to subpart D of part 1945.

Programs Affected

This action affects the following FmHA programs listed in the Catalog of Federal Domestic Assistance:

10.404 Emergency Loans
10.406 Operating Loans
10.407 Farm Ownership Loans
10.416 Soil and Water Loans

This program/activity is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials.

Environmental Impact Statement

This document has been reviewed in accordance with FmHA Instruction 1940–G, "Environmental Program." FmHA has determined that this final action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environment Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Parts 1924, 1941, 1943, 1945, and 1965

Agriculture, Construction management, Construction repair, Energy conservation, Housing, Loan programs—Housing and community development, Low and moderate income housing, Crops, Livestock, Loan programs—Agriculture, Rural areas, Youth, Credit, Loan programs—Agriculture, Recreation and recreation areas, Water resources, Disaster assistance, Intergovernmental relations, Foreclosure.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for part 1924 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Management Advice to Individual Borrowers and Applicants

§ 1924.57 [Amended]

2. Section 1924.57(d)(1)(iv) is amended in the first sentence by changing the reference from "§ 1945.154(a)(31)" to "§ 1945.154(a)".

PART 1941—OPERATING LOANS

3. The authority citation for part 1941 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

4. Section 1941.4 is amended by adding the definitions for "Additional security" and "Primary security" in alphabetical order to read as follows:

§ 1941.4 Definitions.

* * * * *

Additional security. Any security beyond that which is required to adequately secure the loan.

* * * * *

Primary security. Any real estate and/or chattel security which is required to adequately secure the loan. This is not to be confused with "basic security," as defined in § 1962.4 of subpart A of part 1962 of this chapter.

* * * * *

5. Section 1941.25 is amended by revising and redesignating paragraph (a)(3) as paragraph (a)(5), and adding new paragraphs (a)(3) and (a)(4) to read as follows:

§ 1941.25 Appraisals.

(a) * * *

(3) A chattel appraisal is required when the borrower is being serviced in accordance with subpart S of part 1951 of this chapter.

(4) A real estate appraisal is not required when real estate is taken as additional security, as defined in § 1941.4 of this subpart. However, the County Supervisor will document in the running record the estimated market value of the additional security and the basis for the estimate.

(5) A real estate appraisal is required when:

(i) Real estate is taken as primary security, as defined in § 1941.4 of this subpart.

(ii) Refinancing debt, if real estate was used as security for the debt being refinanced.

(iii) The borrower is being serviced in accordance with subpart S of part 1951 of this chapter.

* * * * *

Subpart B—Closing Loans Secured by Chattels

6. Section 1941.84 is amended by adding the word "primary" between the words "as" and "security" in the first sentence of paragraph (a), and in the first sentence of paragraph (b); by adding the word "the" between the words "by" and "applicant" in the second sentence of paragraph (b); by redesignating paragraphs (c) through (g) as paragraphs (d) through (h); by removing in the first sentence of paragraph (a) the phrase "(or EM loans over $25,000)", by removing in the first sentence of (b) the phrase "(or EM loans over $25,000 or less)"; by adding new paragraph (c); and by revising newly redesignated paragraphs (d) and (g) to read as follows:

§ 1941.84 Title clearance and closing requirements.

* * * * *

(c) Title clearance is not required when real estate is taken as additional security, as defined in § 1941.4 of this subpart.

(d) When real estate is taken as primary security, as defined in § 1941.4 of this subpart, title clearance and loan closing requirements will be carried out in accordance with subpart B of part 1927 of this chapter.

* * * * *

(g) Each real estate lien will be taken on Form FmHA 1927–1 (State), "Real Estate Mortgage or Deed of Trust for _____," unless a state supplement requires the use of another form.

7. Section 1941.88(c) is amended by adding a sentence between the second and third sentences to read as follows:

§ 1941.88 Insurance.

* * * * *

(c) * * * Property insurance coverage will not be required when real estate is

taken as additional security, as defined in § 1941.4 of this subpart. * * *

* * * * *

8. Section 1941.92 is amended by revising the last sentence to read as follows:

§ 1941.92 Check delivery.

* * * Loan funds will be disbursed in accordance with subpart A of part 1902 of this chapter.

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

9. The authority citation for part 1943 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

10. Section 1943.4 is amended by adding the definitions for "Additional security" and "Primary security" in alphabetical order to read as follows:

§ 1943.4 Definitions.

* * * * *

Additional security. Any security beyond that which is required to adequately secure the loan.

* * * * *

Primary security. Any real estate and/or chattel security which is required to adequately secure the loan. This is not to be confused with "basic security," as defined in § 1962.4 of subpart A of part 1962 of this chapter.

* * * * *

11. Section 1943.24(d)(1) and (d)(2) are revised to read as follows:

§ 1943.24 Special requirements.

* * * * *

(d) * * *

(1) Insurance will be obtained on buildings and other property as provided in subpart A of part 1806 of this chapter (FmHA Instruction 426.1) on real estate taken as primary security, as defined in § 1943.4 of this subpart. Property insurance will not be required when real estate is taken as additional security, as defined in § 1943.4 of this subpart.

(2) See § 1943.23(a) of this subpart for information about flood or mudslide hazard areas.

* * * * *

12. Section 1943.25 is amended by revising the introductory text of paragraph (c)(1) to read as follows:

§ 1943.25 Options, planning and appraisals.

* * * * *

(c) * * *

(1) Real estate appraisals will be completed by an FmHA employee or contractor authorized to make farm appraisals when real estate is taken as primary security, as defined in § 1943.4 of this subpart, and when loans are serviced in accordance with subpart S of part 1951 of this chapter. The contractor, when he/she is not the appraiser, is responsible for substantiating the appraiser's qualifications. The contractor will obtain FmHA's concurrence that the appraiser has the necessary qualifications and experience before the contractor will utilize the appraiser in any appraisal work. Real estate appraisals are not required when real estate is taken as additional security, as defined in § 1943.4 of this subpart. However, the County Supervisor will document in the running record the estimated market value of the additional security and the basis for the estimate. The contractor/appraiser completing the report must meet at least one of the following qualifications:

* * * * *

Subpart B—Insured Soil and Water Loan Policies, Procedures, and Authorizations.

13. Section 1943.54 is amended by adding the definitions for "Additional security" and "Primary security" in alphabetical order to read as follows:

§ 1943.54 Definitions.

Additional security. Any security beyond that which is required to adequately secure the loan.

* * * * *

Primary security. Any real estate and/or chattel security which is required to adequately secure the loan. This is not to be confused with "basic security," as defined in § 1962.4 of subpart A of part 1962 of this chapter.

* * * * *

14. Section 1943.74 (d)(1) and (d)(2) are revised to read as follows:

§ 1943.74 Special requirements.

* * * * *

(d) *Insurance.*

(1) Insurance will be obtained on buildings and other property as provided in subpart A of part 1806 of this chapter (FmHA Instruction 426.1) on real estate taken as primary security, as defined in § 1943.54 of this subpart. Property insurance will not be required when real estate is taken as additional security, as defined in § 1943.54 of this subpart.

(2) See § 1943.73(a) of this subpart for information about flood and mudslide hazard areas.

* * * * *

15. Section 1943.75 is amended by revising the introductory text of paragraph (c)(1) to read as follows:

§ 1943.75 Options, planning, and appraisals.

* * * * *

(c) * * *

(1) Real estate appraisals will be completed by an FmHA employee or contractor authorized to make farm appraisals when real estate is taken as primary security, as defined in § 1943.54 of this subpart, and when loans are serviced in accordance with subpart S of part 1951 of this chapter. The contractor, when he/she is not the appraiser, is responsible for substantiating the appraiser's qualifications. The contractor will obtain FmHA's concurrence that the appraiser has the necessary qualifications and experience before the contractor will utilize the appraiser in any appraisal work. Real estate appraisals are not required when real estate is taken as additional security, as defined in § 1943.54 of this subpart. However, the County Supervisor will document in the running record the estimated market value of the additional security and the basis for the estimate. The contractor/appraiser completing the report must meet at least one of the following qualifications:

* * * * *

PART 1945—EMERGENCY

16. The authority for part 1945 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Disaster Assistance—General

§ 1945.6 [Amended]

17. Section 1945.6(c)(3)(iii)(B) is amended by changing the reference from "§ 1945.154(a)(13)(i)" to "§ 1945.154(a)".

Subpart D—Emergency Loan Policies, Procedures, and Authorizations

18. Section 1945.154 is amended by removing paragraph designations (a)(1) through (a)(36); by redesignating, in the definition of *Farming enterprise,* paragraphs (i) and (ii) as paragraphs (1) and (2) and paragraphs (A) through (K) as paragraphs (1) (i) through (xi); by moving the text of the definition of *Feasible plan* so that it appears immediately before the definition of

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Fixture; by redesignating, in the definition of *Partnership*, paragraphs (i) through (iii) as paragraphs (1) through (3); by removing the paragraph designations for paragraphs (b)(1) through (14); by adding the definitions for *Additional security* and *Primary security* in alphabetical order; and by revising the first two sentences of the definition of *Farm* to read as follows:

§ 1945.154 Definitions and abbreviations

(a) *Definitions.*

Additional security. Any security beyond that which is required to adequately secure the loan.

* * * * *

Farm. A tract or tracts of land, improvements, and other appurtenances considered to be a farm property which are used or will be used in production of crops or livestock and meet the requirements of the definition for "family farm" of this section. This includes aquaculture operations which meet the requirements set forth in the definition for "Aquaculture" of this section and includes nonfarm operations which meet the requirements set forth in the definition for "Nonfarm enterprise" of this section.* * *

* * * * *

Primary security. Any real estate and/or chattel security which is required to adequately secure the loan. This is not to be confused with "basic security," as defined in § 1962.4 of subpart A of part 1962 of this chapter.

* * * * *

§ 1945.163 [Amended]

19. In section 1945.163, paragraph (a)(2)(ii) is amended by changing the reference from "§ 1945.154(a)(13)(i)" to "§ 1945.154(a)", and in paragraphs (a)(2)(v) and (viii) by changing the reference from "§ 1945.154(a)(13)" to "§ 1945.154(a)".

20. Section 1945.175(c)(1) is revised to read as follows:

§ 1945.175 Options, planning, and appraisals.

* * * * *

(c) * * *

(1) Real estate appraisals will be completed, on Form FmHA 422–1, "Appraisal Report—Farmer Tract", or Form FmHA 1922–8, "Residential Appraisal Report," for farm real estate or residential farm real estate, respectively, by a designated FmHA real property appraiser or FmHA approved contract real property appraiser, when real estate is taken as primary security, as defined in § 1945.154(a) of this subpart, for the EM loan and when loans are serviced in accordance with subpart S of part 1951 of this chapter. The rights to mining products, gravel, oil, gas, coal, or other minerals will be considered a portion of the security and will be specifically included as a part of the appraised value of the real estate securing the loans using Form FmHA 1922–11, "Appraisal for Mineral Rights." Real estate appraisals are not required when real estate is taken as additional security, as defined in § 1945.154(a) of this subpart. However, the County Supervisor will document in the running record the estimated market value of the additional security and the basis for the estimate.

* * * * *

21 and 22. Section 1945.189 is amended by adding the words "or Deed of Trust" between the words "mortgage" and "for" in paragraph (a)(2)(i), and by adding subparagraphs (a)(1)(i) and (a)(1)(ii) to read as follows:

§ 1945.189 Loan closing.

(a) * * *

(1) * * *

(i) For EM loans over $25,000, title clearance is required when real estate is taken as primary security, as defined in § 1945.154(a) of this subpart.

(ii) For EM loans of $25,000 or less, and loans for which real estate is taken as primary security, as defined in § 1945.154(a) of this subpart, a certification of ownership and verification of equity in real estate is required. Certification of ownership may be in the form of a notarized affidavit which is signed by the applicant, names the record owner of the real estate in question and lists the balances due on all known debts against the real estate. Whenever the County Supervisor is uncertain of the record owner or debts against the real estate security, a title search will be required.

* * * * *

PART 1965—REAL PROPERTY

23. The authority citation for part 1965 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

§ 1965.12 [Amended]

24. Section 1965.12 is amended by removing the first sentence in paragraph (a)(6).

Dated: April 2, 1993.

Robert Peters,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 93–10519 Filed 5–4–93; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–CE–37–AD; Amendment 39–8571; AD 93–09–05]

Airworthiness Directives; Fairchild Aircraft (Formerly Swearingen Aircraft Corporation) SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 81–22–04, which currently requires repetitively inspecting the elevator return spring on certain Fairchild Aircraft SA226 and SA227 series airplanes, and replacing any damaged part. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate or, in certain instances, reduce the number of certain repetitive inspections when improved parts are available. This final rule action requires relocating the elevator return spring as terminating action for the repetitive inspections currently required by AD 81–22–04. The actions specified by this AD are intended to prevent a jammed elevator control caused by elevator return spring failure.

DATES: Effective June 18, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 18, 1993.

ADDRESSES: Service information that applies to this AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; Telephone (512) 824–9421. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Bob D. May, Aerospace Engineer, Airplane Certification Office, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76193–0150; Telephone (817) 624–5156.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to certain Fairchild SA226 and SA227 series airplanes was published in the **Federal Register** on December 29, 1992 (57 FR 61840). The action proposed to supersede AD 81–22–04, Amendment 39–4238, with a new AD that would (1) initially retain the requirement of repetitively inspecting the elevator return spring, and replacing and relocating any damaged elevator return spring; and (2) require relocating the elevator return spring as terminating action for the repetitive inspections currently required by AD 81–22–04. The proposed actions would be accomplished in accordance with Fairchild Aircraft Service Bulletin (SB) 226–27–032, Issued: September 14, 1981, Revised: January 19, 1983; or Fairchild Aircraft SB 227–27–002, Issued: September 14, 1981, Revised: October 25, 1985, as applicable.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received in favor of the proposed rule and no comments were received on the FAA's determination of the cost to the public.

After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 322 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 20 hours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts will be provided by the manufacturer at no cost to the operator. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $354,200. These figures take into account that none of the affected airplanes have accomplished the required action.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 322 airplanes in the U.S. registry that are effected by the required AD, the FAA has determined that approximately 30 percent are operated in scheduled passenger service by 19 different operators. A significant number of the remaining 70 percent are operated in other forms of air transportation such as air cargo and air taxi.

The required AD allows 2,200 hours time-in-service (TIS) before mandatory accomplishment of the design modification. The average utilization of the fleet for those airplanes in commercial commuter service is approximately 25 to 50 hours TIS per week. Based on these figures, operators of commuter-class airplanes involved in commercial operation will have to accomplish the required modification within 5 to 11 calendar months after the required AD becomes effective. For private owners, who typically operate between 100 to 200 hours TIS per year, this will allow 11 to 22 calendar years before the required modification is mandatory.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 81–22–04, Amendment 39–4238, and adding the following new AD:

93–09–05 Fairchild Aircraft: Amendment 39–8571; Docket No. 91–CE–37–AD. Supersedes AD 81–22–04, Amendment 39–4238.

Applicability: The following model and serial number airplanes, certificated in any category:

Model	Serial Nos.
SA226–AT	All serial numbers.
SA226–TC	All serial numbers.
SA227–AC	406, 415, 416, and 420 through 473.
SA227–AT	423 through 469.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent a jammed elevator control caused by elevator return spring failure, accomplish the following:

(a) Within the next 25 hours time-in-service (TIS), unless already accomplished within the last 275 hours TIS, and thereafter at intervals not to exceed 300 hours TIS until the modification specified in paragraph (c) of this AD is accomplished, visually inspect the elevator return spring, the attachment bolts, the spacers, and the clevis for damage such as deterioration, wear, or breakage.

(b) If any damaged part is found, prior to further flight, replace with a new part and relocate the elevator return spring in accordance with the Accomplishment Instructions section of Fairchild Service Bulletin (SB) No. 226–27–032, Issued: September 14, 1981, Revised: January 19, 1983; or Fairchild SB No. 227–27–002, Issued: September 14, 1981, Revised: October 25, 1985, as applicable.

(c) Within the next 2,200 hours TIS, unless already accomplished as required by paragraph (b) of this AD, relocate the elevator return spring in accordance with the Accomplishment Instructions section of Fairchild Service Bulletin (SB) No. 226–27–032, Issued: September 14, 1981, Revised: January 19, 1983; or Fairchild SB No. 227–27–002, Issued: September 14, 1981, Revised: October 25, 1985, as applicable.

(d) The accomplishment of the modification required by paragraph (c) of this AD is considered terminating action for the repetitive inspection requirement of this AD.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office, FAA, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth Airplane Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of

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compliance with this AD, if any, may be obtained from the Fort Worth Airplane Certification Office.

(g) The inspections and modification required by this AD shall be done in accordance with Fairchild Service Bulletin No. 226–27–032, Issued: September 14, 1981, Revised: January 19, 1983; or Fairchild Service Bulletin No. 227–27–002, Issued: September 14, 1981, Revised: October 25, 1985, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(h) This amendment (39–8571) supersedes AD 81–22–04, Amendment 39–4238.

(i) This amendment (39–8571) becomes effective on June 18, 1993.

Issued in Kansas City, Missouri, on April 29, 1993.

Gerald W. Pierce,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–10595 Filed 5–4–93; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084–AA26

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Clothes Washers

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission announces that the present ranges of comparability for clothes washers will remain in effect until new ranges are published.

Under the Appliance Labeling Rule, each required label on a covered appliance must show a range or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. The Commission publishes the ranges annually in the **Federal Register** if the upper or lower limits of the range change by 15% or more from the previously published range. If the Commission does not publish a revised range, it must publish a notice that the prior range will be applicable until new ranges are published. The Commission is today announcing that the ranges published on April 16, 1991, will remain in effect until new ranges are published.

EFFECTIVE DATE: May 5, 1993.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Commission issued a final rule,[1] pursuant to section 324 of the Energy Policy and Conservation Act of 1975,[2] covering certain appliance categories, including clothes washers. The rule requires that energy costs and related information be disclosed on labels and in retail sales catalogs for all clothes washers presently manufactured. Certain point-of-sale promotional materials must disclose the availability of energy usage information. If a clothes washer is advertised in a catalog from which it may be purchased by cash, charge account or credit terms, then the range of estimated annual energy costs for the product must be included on each page of the catalog that lists the product. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of test procedures developed by the Department of Energy, which are referenced in the rule.

Section 305.8(b) of the rule requires manufacturers to report the energy usage of their models annually by specified dates for each product type.[3] Because the costs for the various types of energy change yearly, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing.

To keep the required information in line with these changes, under § 305.10 of the rule, the Commission publishes new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission publishes a statement that the prior range or ranges remain in effect for the next year.

The annual reports for clothes washers have been received and analyzed and it has been determined to retain the ranges that were published on April 16, 1991.[4] In consideration of the foregoing, the present ranges for clothes washers, which were based on a national average electric rate of 8.24 cents per kilowatt hour and a national average natural gas rate of 60.54 cents per therm, will remain in effect until the Commission publishes new ranges for these products.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93–10553 Filed 5–4–93; 8:45 am]

BILLING CODE 6750–01–M

[1] 44 FR 66466, 16 CFR part 305.

[2] Pub. L. 94–163, 89 Stat. 871, 42 U.S.C. 6294 *et seq.*

[3] Reports for clothes washers are due by March 1.

[4] 56 FR 15274.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 89F–0038]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sulfosuccinic acid 4-ester with polyethylene glycol dodecyl ether, disodium salt, as an emulsifier in polyvinyl acetate, acrylic, and vinyl/acrylic polymers intended for use as coatings for paper and paperboard. This action is in response to a food additive petition filed by American Cyanamid Co.

DATES: Effective May 5, 1993; written objections and requests for a hearing by June 4, 1993.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9511.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 27, 1989 (54 FR 8239), FDA announced that a food additive petition

(FAP 9B4120) had been filed by American Cyanamid Co., One Cyanamid Plaza, Wayne, NJ 07470, proposing that § 178.3400 *Emulsifiers and/or surface-active agents* (21 CFR 178.3400) be amended to provide for the safe use of sulfosuccinic acid 4-ester with polyethylene glycol dodecyl ether, disodium salt, as an emulsifier in polyvinyl acetate, acrylic, and vinyl/acrylic polymers for food-contact coatings.

FDA has reviewed the safety of both the additive and the starting materials used to manufacture the additive. The additive has not been found to cause cancer. However, the additive may contain minute amounts of ethylene oxide and 1,4-dioxane as impurities from a reactant used in the manufacture of the additive; these chemicals have been shown to cause cancer in test animals. Residual amounts of chemicals, such as ethylene oxide and 1,4-dioxane, are commonly found as impurities in chemical products, including food additives.

I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. The concept of safety embodied in the 1958 amendment is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of the additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance" (H. Rept. 2284, 85th Cong., 2d sess. 4 (1958)). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer or Delaney clause (section 409(c)(3)(A) of the act) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has refused to approve the use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain carcinogenic chemicals but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6, published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that has not been shown to cause cancer, even though the additive contains a carcinogenic impurity. Since that decision, FDA has approved the use of other color additives and food additives on the same basis.

An additive that has not itself been shown to cause cancer, but that contains a carcinogenic impurity, may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

II. Safety of Petitioned Use of the Additive

FDA estimates that the petitioned use of the additive, sulfosuccinic acid 4-ester with polyethylene glycol dodecyl ether, disodium salt, will result in levels of exposure to the additive of no greater than 0.25 part per million in the daily diet.

FDA does not ordinarily consider chronic testing to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Refs. 1 and 2), and the agency has not required such testing here. However, the agency has reviewed the available toxicological data from acute toxicity studies, subchronic studies, and reproduction teratological studies on the additive and related compounds. On the basis of the agency's review of these data and the low level of exposure to the additive, the agency concludes that there is an adequate margin of safety for the proposed use of the additive.

Because sulfosuccinic acid 4-ester with polyethylene glycol dodecyl ether, disodium salt has not been shown to cause cancer, the Delaney clause (section 409(c)(3)(A) of the act) does not apply to it.

FDA has evaluated the safety of this additive under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper-bound limit of risk presented by the carcinogenic chemicals, ethylene oxide and 1,4-dioxane, that may be present as impurities in the additive.

The risk assessment procedures that FDA used in this evaluation are similar to the methods that the agency has used to examine the risk associated with the presence of minor carcinogenic impurities in various other food and color additives that contain carcinogenic impurities (see, e.g., 49 FR 13018 and 13019, April 2, 1984). The risk evaluation of the carcinogenic impurities, ethylene oxide and 1,4-dioxane, has two aspects: (1) Assessment of the exposure to the impurities from the proposed use of the additive, and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

A. Ethylene Oxide

Based on the fraction of the daily diet that may be in contact with surfaces containing the sulfosuccinic acid 4-ester with polyethylene glycol dodecyl ether, disodium salt and on the level of ethylene oxide that may be present in the additive, FDA estimated that the hypothetical worst-case exposure to ethylene oxide from the use of the additive in food-contact coatings to be 0.5 nanogram (ng) per person per day (Ref. 3).

The agency used data in a carcinogenesis bioassay on ethylene oxide conducted by the Institute of Hygiene, University of Mainz, Germany (Ref. 4), to estimate the upper-bound limit of lifetime human risk from exposure to this chemical stemming from the proposed use of sulfosuccinic acid 4-ester with polyethylene glycol dodecyl ether, disodium salt. The results of the bioassay on ethylene oxide demonstrated that this material was carcinogenic for female rats under the conditions of the study. The test material caused a significantly increased incidence of squamous cell carcinoma of the forestomach and carcinoma, in situ, of the glandular stomach.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee (CAC) reviewed this bioassay and other relevant data available in the literature and concluded that this information on ethylene oxide supported the finding of carcinogenicity. The Quantitative Risk Assessment Committee (QRAC) concluded that an estimate of the upper-bound limit of lifetime human risk from

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potential exposure to ethylene oxide could be calculated from the bioassay.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the study with female rats to potential human exposure from the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low exposures and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and levels of use of this food additive.

Based on a worst case exposure of 0.5 ng per person per day, FDA estimates that the upper-bound limit of individual lifetime risk from potential exposure to ethylene oxide from the use of sulfosuccinic acid 4-ester with polyethylene glycol dodecyl ether, disodium salt, is 9.3×10^{-10} or 9.3 in 10 billion (Ref. 5). Because of numerous conservatisms in the exposure estimate, actual lifetime-averaged individual exposure to ethylene oxide is expected to be substantially less than the estimated daily intake, therefore, the actual risk would be less than the calculated upper-bound limit. Thus, the agency concludes that there is a reasonable certainty of no harm from the exposure to ethylene oxide that might result from the use of sulfosuccinic acid 4-ester with polyethylene glycol dodecyl ether, disodium salt.

B. 1,4-Dioxane

Based on the fraction of the daily diet that may be in contact with surfaces containing sulfosuccinic acid 4-ester with polyethylene glycol dodecyl ether, disodium salt and on the level of 1,4-dioxane that may be present in the additive, FDA estimated that the hypothetical worst-case exposure to 1,4-dioxane from the use of the additive in food-contact coatings to be 0.5 ng per person per day (Ref. 3).

The agency used data in a carcinogenesis bioassay on 1,4-dioxane conducted for the National Cancer Institute (Ref. 6) to estimate the upper-bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of the additive. The results of the bioassay on 1,4-dioxane demonstrated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidence of squamous cell carcinomas and hepatocellular tumors in female rats.

CAC reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on 1,4-dioxane. QRAC concluded that an estimate of the upper-bound level of lifetime human risk from potential exposure to 1,4-dioxane stemming from the proposed use of these additives could be calculated from the bioassay (Ref. 6).

Based on a worst-case exposure of 0.5 ng per person per day, FDA estimates that the upper-bound limit of individual lifetime risk from potential exposure to 1,4-dioxane (Ref. 5) from the use of the additive is 1.7×10^{-11} or 1.7 in 100 billion. Because of numerous conservatisms in the exposure estimate, lifetime-averaged individual exposure to 1,4-dioxane is expected to be substantially less than the estimated daily intake and, therefore, the calculated upper-bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to 1,4-dioxane that may result from the proposed use of sulfosuccinic acid 4-ester with polyethylene glycol dodecyl ether, disodium salt.

C. Need for Specifications

The agency has also considered whether a specification is necessary to control the amount of ethylene oxide and 1,4-dioxane impurities in the food additive. The agency finds that specifications are not necessary for the following reasons: (1) Because of the low levels at which ethylene oxide and 1,4-dioxane may be expected to remain as impurities following production of the additive, the agency would not expect these impurities to become components of food at other than extremely low levels; and (2) the upper-bound limit of lifetime risk from exposure to these impurities, even under worst-case assumptions, is very low, less than 9.3 in 10 billion and 1.7 in 100 billion for ethylene oxide and 1,4-dioxane, respectively.

D. Conclusion on Safety

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed uses for the additive in polyvinyl acetate, acrylic, and vinyl/acrylic polymers intended for use as coatings for paper and paperboard are safe. Therefore, 21 CFR 178.3400 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

III. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

IV. Objections

Any person who will be adversely affected by this regulation may at any time on or before June 4, 1993, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

V. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Carr, G. M., "Carcinogen Testing Programs," in *Food Safety: Where Are We?*, Committee on Agriculture, Nutrition, and Forestry, U. S. Senate, p. 59, July 1979.

2. Kokoski, C. J., "Regulatory Food Additive Toxicology," in *Chemical Safety Regulation and Compliance*, edited by F. Homburger and J. K. Marquis, S. Karger, New York, NY, pp. 24–33, 1985.

3. Memorandum dated July 18, 1990, from the Food and Color Additives Review Section (HFF–415) to the Indirect Additives Branch (HFF–335), "FAP 9B4120, American Cyanamid Co. Sulfosuccinic acid 4-ester with polyethylene glycol dodecyl ether disodium salt as an emulsifier/surface-active agent in coatings for food-contact materials. Submission of May 7, 1990."

4. Dunkelberg, H., "Carcinogenicity of Ethylene Oxide and 1,2-Propylene Oxide Upon Intragastric Administration in Rats," *British Journal of Cancer*, 46:924.

5. Report of the Quantitative Risk Assessment Committee, "Estimation of Upper-bound Lifetime Risks for Ethylene Oxide and 1,4-Dioxane in Sulfosuccinic Acid 4-Ester with Polyethylene Glycol Dodecyl Ether Disodium Salt as an Emulsifier/Surface-active Agent in Coatings for Food-contact Materials in FAP 9B4120 (American Cyanamid Co.)," March 15, 1991.

6. "Bioassay of 1,4-Dioxane for Possible Carcinogenicity," National Cancer Institute, NCI-CG-TR-80, 1978.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 178.3400 is amended in the table in paragraph (c) by alphabetically adding a new entry under the headings "List of substances" and "Limitations" to read as follows:

§ 178.3400 Emulsifiers and/or surface-active agents.

* * * * *

(c) * * *

List of substances	Limitations
* * * * *	
Sulfosuccinic acid 4-ester with polyethylene glycol dodecyl ether, disodium salt (CAS Reg. No. 39354–45–5).	For use only at levels not to exceed 5 percent by weight of total monomers used in the emulsion polymerization of polyvinyl acetate, acrylic, and vinyl/acrylic polymers intended for use as coatings for paper and paperboard.
* * * * *	

* * * * *

Dated: April 23, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–10505 Filed 5–4–93; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 186

[PP 9F3739 and FAP 1H5604/R1190; FRL–4579–1]

RIN 2070–AB78

Pesticide Tolerance and Animal Feed Additive Regulation for Fluoride Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a 3-year time-limited tolerance for residues of cryolite and/or synthetic cryolite (sodium aluminum fluoride) in or on the raw agricultural commodity potatoes at 2.0 parts per million (ppm) and a 3-year time-limited feed additive regulation for residues of the insecticide cryolite and/or synthetic cryolite (sodium aluminum fluoride) in the commodity processed potato waste (wet or dry) at 22.0 ppm. These regulations to establish a maximum permissible level for residues of the insecticide compounds in or on the commodities were requested in petitions submitted by Atochem North America, Inc. (formally Pennwalt Corp.)

EFFECTIVE DATE: These regulations become effective May 5, 1993.

ADDRESSES: Written objections, identified by the document control number, [PP 9F3739 and FAP 1H5604/R1190], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm. 3708, 401 M St., St., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Robert A. Forrest, Product Manager (PM) 14, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 219, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6600.

SUPPLEMENTARY INFORMATION: EPA issued notices as follows regarding petitions submitted by Atochem North America, Inc., 3 Parkway, rm. 619, Philadelphia, PA 19102:

1. *PP 9F3739.* Appearing in the Federal Register of March 23, 1989 (54 FR 12009), the petition requested that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)) propose to establish a tolerance for residues of cryolite and/or synthetic cryolite in or on the raw agricultural commodity (RAC) Irish potatoes at 1.5 ppm. EPA subsequently issued notice of filing of PP 1F3959 in the **Federal Register** of April 3, 1991 (56 FR 13643), stating that Atochem North America, Inc., proposed to increase the tolerance from 1.5 ppm to 2.0 ppm and change the RAC Irish potatoes to the more appropriate designation, potatoes. PP 1F3959 had been intended as an amendment to PP 9F3739, but was published as an initial filing. The April 3, 1991 notice reflects the current amendment.

2. *FAP 1H5604.* Appearing in the **Federal Register** of April 3, 1991 (56 FR 13643), the petition requested that the Administrator, pursuant to section 409(c)(1) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 348(c)(1), propose to establish a tolerance for residues of cryolite and/or synthetic cryolite in the animal feed potato waste at 22.0 ppm resulting from the application of the compounds to growing potatoes. For consistency, the commodity potato waste is corrected to read potato waste (wet or dry) in the final rule.

There were no comments received in response to these notices of filing.

The data submitted in the petitions and all other relevant material have been evaluated. The pesticide is

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considered useful for the purposes for which the tolerances are sought and considered capable of achieving the intended physical or technical effect. The toxicological data considered in support of the tolerances include the following:

1. A 2-year rat bioassay conducted by the National Toxicology Program (NTP) using sodium fluoride as the test material in which mottling; dentine incisor dysplasia; and incisor odontoblast and ameloblast degeneration of teeth were observed at the lowest dose tested, 25 ppm (1.3 mg/kg/day). Levels tested were 0, 25, 100, and 175 ppm.

Osteosarcoma of the bone was observed in one male in the 100-ppm group (mid-dose) and in three males in the 175 ppm group (highest dose tested). NTP considers this to be equivocal evidence of carcinogenicity in male F344/N rats. No evidence was seen in female rats.

The currently available information does not support the regulation of cryolite insecticides as carcinogens at this time. The U.S. Department of Health and Human Servcies (USDHHS), Public Health Service, concluded in its 1991 "Review of Fluoride Benefits and Risks" that "Taken together, the two animal studies available at this time fail to establish an association between fluoride and cancer." The two studies examined by USDHHS consisted of the NTP study using male and female rats and mice and one conducted by Procter and Gamble. A total of eight individual sex/species groups (four sex/species groups from each study) were examined. The National Academy of Science is currently examining all available data on fluoride, including the NTP studies, with a report expected to be issued April 1993.

The NTP study utilizing sodium fluoride as the test material in lieu of cryolite or synthetic cryolite satisfies the guideline study requirement for both the rodent chronic feeding study and the rat carcinogenicity study. Fluoride has been identified as the residue of toxicological concern in cryolite and synthetic cryolite, and the available data show that these compounds act as free fluoride. Due to an abundance of data on the effects of fluoride on humans, additional data are not required to define a no-observed-effect-level (NOEL) in rats for the effects of fluoride on teeth.

2. A 2-year mouse bioassay conducted by the NTP utilizing sodium fluoride as the test material with mottling, discoloration, and attrition of teeth observed at the lowest dose tested, 25 ppm (2.4 mg/kg). The bioassay was negative for carcinogenic effects under the conditions of the study. Levels tested were 0, 25, 100, and 175 ppm.

This study utilizing sodium fluoride in lieu of cryolite or synthetic cryolite as the test material satisfies the guideline study requirement for a mouse carcinogenicity study for the reason described above under item one.

3. A developmental toxicity study in rats with developmental and maternal no-observable-effect levels (NOELs) at greater than 3,000 mg/kg/day (highest dose tested).

4. A developmental toxicity study in mice with a developmental no-observable-effect level (NOEL) of 100 mg/kg/day with a lowest-effect level (LEL) of 300 mg/kg/day based on increased incidents of bent ribs and bent rib bones. The maternal NOEL was 30 mg/kg/day with a LEL of 100 mg/kg/day based on increased mortality and reddened mucosa in the glandular portion of the stomach. The guideline study requirement for a developmental toxicity study in a nonrodent species is waived.

5. A 28-day range-finding study in rats with the only compound-related effect being a change in coloration and physical property of the teeth.

6. A supplemental 90-day rat-feeding study at dose levels of 0, 50, 5,000, and 50,000 ppm in which stomach lesions were observed at the 5,000-ppm dose level.

7. A supplemental 90-day dog feeding study at dose levels of 0, 500, 10,000, and 50,000 ppm with systemic effects (fluoride accumulation in the bone) seen at the 500-ppm dose level.

8. Genotoxicity studies including an Ames test (negative), an in vitro assay in human lymphocytes (negative), and an unscheduled DNA synthesis in rat hepatocytes (negative).

9. Open literature studies showing that human and animal metabolism of cryolite and/or synthetic cryolite manifests itself as normal free fluoride metabolism, i.e., dissociation occurs, producing free fluoride ions which are assimilated into bone.

Desirable toxicological data currently lacking and the projected dates for completion of these studies are as follows: (1) 1-year nonrodent feeding study, May 1994; (2) two-generation rat reproduction study, June 1993.

Although there are significant data gaps for cryolite and/or synthetic cryolite, the available toxicity data are considered adequate to support the time-limited tolerance and feed additive regulation. The additional dietary exposure to fluoride resulting from the use of cryolite and/or synthetic cryolite on potatoes is considered negligible when compared to the total dietary exposure to fluoride from noninsecticidal sources such as drinking water, toothpaste, dental fluoride application, and the naturally occurring background levels in addition to that resulting from the current established pesticide tolerances for the compounds.

The current established tolerances for the use of cryolite and/or synthetic cryolite provide for an exposure of 0.029 mg of fluoride per kg/day (.054 mg/kg/day of cryolite and/or synthetic cryolite), and the current maximum contaminant level (MCL) of 4.0 ppm established for the use of sodium fluoride in drinking water provides for an exposure of 0.266 mg of fluoride per kg/day (based on consumption of 2 liters of water per day by a 60-kg person) for a total of 0.285 mg/kg/day. As a result of this regulation, the total maximum estimated dietary exposure will be 0.2862 mg/kg/day of fluoride, or an increase of 0.0012 mg/kg/day (0.4 percent) fluoride. As stated in the **Federal Register** of May 11, 1979 (44 FR 27932-27954), the "Agency will generally consider as insignificant an increase in the theoretical maximum residue concentration of 1.0 percent or less." For purposes of this rule, this is interpreted to include the estimated dietary exposure resulting from nonpesticidal uses.

This percent increase in the dietary exposure is even less when the background levels of fluoride are taken into consideration. Fluoride is ubiquitous and may be present in soils and foodstuffs that have not been treated with cryolite and/or synthetic cryolite. Data submitted in support of the subject petition show background levels of fluoride in untreated potatoes ranged from 0.14 ppm to 0.31 ppm and are consistent with the ranges reported in the open literature. Levels of fluoride found in the treated potatoes ranged from 0.18 ppm to 0.94 ppm. The residue analytical method used for enforcing the subject tolerance cannot distinguish between the naturally occurring fluoride and the fluoride resulting from use of cryolite and/or synthetic cryolite.

The metabolism of the subject insecticides in plants and animals is adequately understood. The residue of concern in or on plants resulting from the application of these insecticides is cryolite and/or synthetic cryolite. Only surface residues of the insecticides per se may be expected to occur on the treated plants. The residue of concern in animals is total fluoride.

An adequate analytical method (fluoride-specific electrode) is available for enforcement purposes for the RAC

potatoes and potato waste. Because the subject compounds are inorganic compounds, the requirement for data using the multiresidue protocols in PAM Vol. I is not applicable.

Because of the long lead time from establishing these tolerances to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-305-5232).

There is no reasonable expectation of finite residues of cryolite or synthetic cryolite occurring in the meat, milk, poultry, and eggs of animals fed potato waste processed from the treated potatoes and 40 CFR 180.6(a)(3) applies. Thus, secondary tolerances are not necessary at this time in meat, milk, poultry, and eggs.

Because of the lack of a chronic dog feeding study, and a two-generation rat reproduction study, the Agency is limiting the period of time that the regulations are to be in effect. Should the Agency find that these data are acceptable, it will reassess the tolerance for potatoes, and if appropriate, will establish a permanent tolerance for potatoes and a permanent feed additive regulation for processed potato waste (wet or dry). There are no regulatory actions pending against the continued registration of these insecticidal compounds.

Based on the above information, the Agency concludes that the establishment of the section 408 regulation will protect the public health, and use of the pesticide in accordance with the section 409 regulation will be safe. Based on the currently available information, there has been shown no association between fluoride and cancer and thus the pesticide has not been found to induce cancer in man or animals. Therefore, the tolerance and feed additive regulation are established as set forth below.

Residues not in excess of 2.0 ppm remaining in or on the raw agricultural commodity potatoes and 22.0 ppm remaining in or on the processed animal feed potato waste after expiration of the time-limited tolerances will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, provisions of the tolerance and the feed additive regulation.

Any person adversely affected by these regulations may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulations deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fees provided by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, and the requestor's contentions on each such issue, and a summary of the evidence relied upon by the objection (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

The Office of Management and Budget has exempted these rules from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Parts 180 and 186

Administrative practice and procedure, Agricultural commodities, Animal feeds, Pesticides and pests, Recording and recordkeeping requirements.

Dated: April 22, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. In § 180.145, by adding new paragraph (c), to read as follows:

§ 180.145 Fluorine compounds; tolerances for residues.

* * * * *

(c) A time-limited tolerance to expire May 6, 1996 is established for residues of the insecticidal fluorine compounds cryolite and synthetic cryolite (sodium aluminum fluoride) in or on the raw agricultural commodity as follows:

Commodity	Parts per million
Potatoes	2.0

PART 186—[AMENDED]

2. In part 186:

a. The authority citation continues to read as follows:

Authority: 21 U.S.C. 348.

b. By adding new § 186.3375, to read as follows:

§ 186.3375 Fluorine compounds.

A time-limited tolerance to expire on May 6, 1996, is established for residues of the insecticidal fluorine compounds cryolite and synthetic cryolite (sodium aluminum fluoride) in the following processed animal feed resulting from application of the compounds to growing crops:

Commodity	Parts per million
Potato waste, process (wet or dry)	22.0

[FR Doc. 93-10578 Filed 5-4-93; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 271

[FRL-4625-8]

Utah; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule; correction.

SUMMARY: On February 12, 1993, EPA published in the **Federal Register**, an immediate final rule approving final authorization of revisions to the Utah hazardous waste program under the

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Resource Conservation and Recovery Act (RCRA). However, a portion of Table 1 was inadvertently omitted. The purpose of this document is to publish a complete Table 1.

FOR FURTHER INFORMATION CONTACT: Marcella DeVargas, Waste Management Branch, U.S. EPA, 999 18th Street, suite 500, Denver, CO 80202-2466, Phone: 303/293-1670.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 12, 1993, on page 8232, third column, Table 1 is corrected to read as follows:

TABLE 1.—PROVISIONS

Federal Register Reference	State equivalent*
1. Identification and Listing of Hazardous Wastes: Treatability Studies Sample Exemption, 53 FR 27290-27302, 7/19/88.	R315-1-1, R315-2-4
2. Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems, 53 FR 34079-34087, 9/29/88.	R315-1-1, R315-8-7, R315-8-10, R315-7-14, R315-7-17
3. Identification and Listing of Hazardous Waste; and Designation, Reportable Quantities, and Notification, 53 FR 35412-35421, 9/13/88.	R315-2-4, R315-2-10, R315-50-9
4. Permit Modifications for Hazardous Waste Management Facilities, 53 FR 37912-37942, 9/28/88, amended 10/24/88 at FR 41649.	R315-3-17, R315-8-4, R315-8-7, R315-7-14, R315-1-1, R315-3-13, R315-3-10, R315-3-15
5. Statistical Methods for Evaluation, Ground-water Monitoring Data from Hazardous Waste Facilities, 53 FR 39720-39731, 10/11/88.	R315-8-6
6. Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes, 53 FR 43878-43881, 10/31/88.	R315-2-11, R315-50-10
7. Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Wastes, 53 FR 43881-43884, 10/31/88.	R315-2-11, R315-50-10
8. Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment, 56 FR 7567-7568, 2/25/91.	R315-2-11, R315-50-10
9. Changes to Interim Status Facilities for Hazardous Wastes Management Permits; Procedures for Post-Closure Permitting, 54 FR 9596-9609, 3/7/89.	R315-3-3, R315-3-9, R315-3-15, R315-3-31, R315-3-32

* Rules referenced are to the Utah Solid and Hazardous Waste Rules.
State authorities: UCA 19-6-102, enacted 1981, amended 1991, effective 7/1/91. UCA 19-6-104, enacted 1981, amended 1991, effective 7/1/91. UCA 19-6-105, enacted 1981, amended 1991, effective 7/1/91.

Dated: April 26, 1993.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 93-10425 Filed 5-4-93; 8:45 am]

BILLING CODE 6560-50-F

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40 CFR Part 721

[OPPTS-50582H; FRL-4160-8]

Benzoic Acid, 2,2'-[(dihydroxyphenylene)bis(azo)]bis-, Bis[2-(dimethylamino)ethyl] Ester Dihydrochloride; Revocation of a Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for a chemical substance based on receipt of new toxicity test data and on a reevaluation by EPA of expected water releases. The data and revised water release estimates indicate that the substance will not present an unreasonable risk of injury to the environment and further regulation under section 5 of TSCA is not warranted at this time.

EFFECTIVE DATE: The effective date of this rule is June 4, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543A, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 15, 1990 (55 FR 33307), EPA issued a SNUR establishing significant new uses for bis(substituted)carbomonocyclic azocarbomonocylicol, which was the generic name of the PMN substance, reflecting the claim of confidentiality for the specific chemical identity of the substance in the PMN submission. Subsequent to the issuance of that SNUR, the original PMN submitter waived its claim of confidentiality for the specific chemical identity at the time of submitting a Notice of Commencement. The specific chemical identity of the substance is benzoic acid, 2,2'-[(dihydroxyphenylene)bis(azo)]bis-, bis[2-(dimethylamino)ethyl] ester, dihydrochloride. Because of additional data EPA has received for this substance and a reevaluation by EPA of expected water releases, EPA proposed to revoke this SNUR in the Federal Register of June 2, 1992 (57 FR 23182).

I. Rulemaking Record

The record for the rule which EPA is revoking was established at OPPTS-50582 (P-88-1753). This record includes information considered by the Agency in developing this rule and includes the test data to which the Agency has responded with this rule.

II. Background

The Agency proposed the revocation of the SNUR for this substance in the Federal Register of June 2, 1992 (57 FR 23182). The background and reasons for the revocation of the SNUR are set forth in the preamble to the proposed revocation. The Agency received no public comment concerning the proposed revocation. As a result EPA is revoking this SNUR.

III. Objectives and Rationale of Revocation of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the environmental effects of the substance, and EPA identified the tests considered necessary to evaluate the risks of the substance. The basis for such findings is referenced in Unit II. of this preamble. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated.

EPA reviewed testing conducted by the PMN submitter for the substance and determined that the information available was sufficient to make a reasoned evaluation of the environmental effects of the substance. In addition, EPA reevaluated surface water releases for the substance. EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk and subsequently revoked the section 5(e) consent order. The revocation of SNUR provisions for this substance designated herein is consistent with the revocation of the section 5(e) order.

In light of the above EPA is revoking SNUR provisions for this chemical substance. When this revocation becomes final EPA will no longer require notice of any company's intent to manufacture, import, or process this substance.

IV. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, once the SNUR is revoked EPA will receive no SNUR notices for the substance. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: January 29, 1993

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 will continue to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§721.766 [Removed]

2. By removing §721.766.

[FR Doc. 93-10580 Filed 5-4-93; 8:45 am]

BILLING CODE 6560-50-F

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40 CFR Part 721

[OPPTS-50582Q; FRL-4075-1]

1-Butene, Polymer with 2-Butene and 2-Methyl-1-propene, Epoxidized; Revocation of a Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the above chemical substance based on receipt of new data. The data indicate that the substance will not present an unreasonable risk of injury to human health and further regulation under section 5 of TSCA is not warranted at this time.

EFFECTIVE DATE: The effective date of this rule is June 4, 1993.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-543A, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-551.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 15, 1990 (55 FR 33296), EPA issued a SNUR establishing significant new uses for 1-butene, polymer with 2-butene and 2-methyl-1-propene, epoxidized. Because of additional data EPA has received for this substance, EPA proposed to revoke this SNUR in the Federal Register of March 25, 1992 (57 FR 10326).

I. Rulemaking record

The record for the rule which EPA is revoking was established at OPPTS-50582 (P-88-217). This record includes information considered by the Agency in developing this rule.

II. Background

The Agency proposed the revocation of the SNUR for this substance in the Federal Register of March 25, 1992 (57 FR 10326). The background and reasons for the revocation of the SNUR are set forth in the preamble to the proposed revocation. The Agency received no public comment concerning the proposed revocation. As a result EPA is revoking this SNUR.

III. Objectives and Rationale for Revocation of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects of the substance, and EPA identified the tests considered necessary to evaluate the risks of the substance. The basis for such findings is referenced in Unit II. of this preamble. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated.

EPA reviewed testing conducted by the PMN submitter for the substance and determined that the information available was sufficient to make a reasoned evaluation of the health effects of the substance. EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk and subsequently revoked the section 5(e) consent order. The revocation of SNUR provisions for this substance designated herein is consistent with the revocation of the section 5(e) order.

In light of the above EPA is revoking the SNUR provisions for this chemical substance. When this revocation becomes final EPA will no longer require notice of any company's intent to manufacture, import, or process this substance.

IV. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, once the SNUR is revoked EPA will receive no SNUR notices for the substance. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: January 29, 1993

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

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PART 721—[AMENDED]

1. The authority citation for part 721 will continue to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ 721.1621 [Removed]

2. By removing § 721.1621.

[FR Doc. 93–10581 Filed 5–4–93; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 87–124; FCC 93–191]

Access to Telecommunications Equipment and Services by the Hearing Impaired and Other Disabled Persons

AGENCY: Federal Communications Commission.

ACTION: Final rule; suspension of rule enforcement.

SUMMARY: This Order suspends enforcement of hearing aid compatibility for telephones required by § 68.112(b) (1), (3), and (5) of the Federal Communications Commission rules to be hearing aid compatible by May 1, 1993 for establishments with twenty or more employees and by May 1, 1994 for establishments with fewer than twenty employees. This action responds to an Emergency Request for Stay of § 68.112(b) filed by the Tele-Communications Association and is taken to give the Commission adequate time to evaluate serious issues raised in the Emergency Request involving costs of compliance and the feasibility of compliance with 47 CFR 68.112(b).

EFFECTIVE DATE: April 15, 1993.

FOR FURTHER INFORMATION CONTACT: Robert Kimball, Domestic Services Branch, Domestic Facilities Division, Common Carrier Bureau (202) 634–7150.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order in CC Docket No. 87–124, adopted April 13, 1993 and released April 15, 1993.

The complete text of this Order is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC, and may also be purchased from the Commission's copy contractor, ITS, Inc., at (202) 857–3800, 1919 M Street, NW., room 246, Washington, DC 20554. The Report and Order establishing the rules whose enforcement is suspended by this Order may be found at 7 FCC Rcd 3472 (Rel. June 4, 1992). The Report and Order is summarized at 57 FR 27182 (June 18, 1992).

Synopsis of Order

1. This Order suspends enforcement of hearing aid compatibility for telephones required by § 68.112(b) (1), (3), and (5) of our Rules to be hearing aid compatible by May 1, 1993 for establishments with twenty or more employees and by May 1, 1994 for establishments with fewer than twenty employees. Specifically, it suspends enforcement of the requirement that workplace non-common area telephones be hearing aid compatible by May 1, 1993 for establishments with twenty or more employees and by May 1, 1994 for establishments with fewer than twenty employees. Further, it suspends enforcement of the requirement that telephones in confined settings, including but not limited to, rooms in hospitals, residential health care facilities for senior citizens, convalescent homes, and prisons be hearing aid compatible by May 1, 1993, for establishments with twenty or more employees and by May 1, 1994 for establishments with fewer than twenty employees, but enforcement is suspended only if an alternative means of signaling life-threatening situations is available in such confined settings. Finally, it suspends enforcement of the requirement that telephones in hotels and motels be hearing aid compatible by May 1, 1993 for establishments with twenty or more employees and by May 1, 1994 for establishments with fewer than twenty employees, but only in the event that at least ten percent of the rooms in a hotel or motel are equipped to accommodate a hearing impaired customer as set forth in § 68.112(b)(5) (i) through (iii) of the Commission's Rules, 47 CFR 68.112(b) (i) through (iii). All other provisions of the Commission's hearing aid compatibility rules will be enforced. Any telephone that is required by the Commission's rules to be hearing aid compatible prior to May 1, 1993 is unaffected by this Order. The sections of the Commission's rules that are not affected herein require that telephones in certain parts of all locations mentioned above be hearing aid compatible, for example, those telephones in areas occupied by people with hearing impairments who may need them to signal life-threatening or emergency situations.

2. The Hearing Aid Compatibility Act of 1988 required that all telephones manufactured or imported for use in the United States be hearing aid compatible by August 16, 1989. It also required the Federal Communications Commission to establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing but prohibited the Commission from requiring the retrofitting of any but "coin-operated telephones and telephones provided for emergency use." In 1990 the Commission determined that telephones in work place common areas might be needed by hearing impaired persons in an emergency and required that all telephones in common areas of the workplace be hearing aid compatible. Memorandum Opinion and Order and Further Notice of Proposed Rule Making (MO&O), CC Docket No. 87–124, 5 FCC Rcd 3434 (1990), summarized at 55 FR 28762 (July 13, 1990). The Commission determined that it could change the definition of "telephones provided for emergency use," provided it consider the costs and benefits to all telephone users of any new rule, as required by the 1988 Act. In conjunction with the new rule, the Commission proposed that the definition of "telephones provided for emergency use" be expanded to include all workplace telephones and that all workplace telephones be required to be hearing aid compatible because the Commission thought it could not be reliably determined "where a hearing impaired person might be isolated in the event of an emergency." MO&O para. 17. In the Report and Order (R&O) released June 4, 1992, 7 FCC Rcd. 3472, the Commission adopted amendments to 47 CFR Sections 68.4 and 68.112. As amended, § 68.112(b) requires *inter alia*, that all workplace telephones be hearing aid compatible by May 1, 1993, for establishments with 20 or more employees, and by May 1, 1994, for establishments with fewer than 20 employees. In the *R&O*, the Commission considered estimates of average retrofitting costs ranging from $1.50 to $45.14 per telephone and concluded that the $1.50 figure did not accurately represent the costs of retrofitting. The Commission also concluded that the number of telephones affected would be much larger than the limited number in workplace common areas. However, with a delay in implementation of the rule, the Commission determined that attrition would reduce the number of non-hearing aid compatible telephones in workplaces, substantially reducing the costs of the rule. The decision establishing the rule was not appealed.

3. As the implementation date approached, the Commission began to receive a large number of telephone calls expressing concern or seeking clarification of the new regulations.

Many callers asserted that they discovered difficulties in the course of their attempts to comply with the rule that had not been foreseen in the *R&O*. The Commission also began to receive requests for individual waivers of the new regulations. One of these, The Petition for Waiver of Hearing-Aid Compatibility Requirements for Goodwill Industries of Seattle, Washington (Goodwill Petition), was put on Public Notice (DA–93–205) to allow interested parties to file written comments. Comments, petitions for waiver and written complaints were filed by 47 organizations purporting to represent over a million businesses, government agencies, universities, colleges and non-profit institutions. All 47 organizations objected to the HAC requirements or to the HAC implementation dates.

4. In this context, the Tele-Communications Association (Petitioner), an association of telecommunications managers representing colleges, universities, government agencies, health care facilities and public and private corporations, petitioned for a stay of Section 68.112(b), pending a reassessment of the legal status, costs, and benefits of the requirement. In urging the need for a stay, Petitioner argued that the Commission underestimated the costs of the rule by a substantial amount. It based its argument in part on the assertions of retrofitters and others who claimed in comments on the Goodwill Petition that, as a result of the unforeseen length of the recession and the failure of establishments to replace older telephone equipment at a normal attrition rate, the number of telephones which are still not hearing aid compatible is far larger than had been estimated in the *R&O*. The *R&O* had initially concluded that the costs of the rule would outweigh its benefits but for the effects of replacement during the period before it was due to be implemented.[1] The *R&O*'s rate-of-replacement estimate was based on estimates presented in Comments in that proceeding by the North American Telecommunications Association (NATA).[2] However, NATA subsequently acknowledged in remarks submitted in response to the Goodwill Petition, that, because of the recession, its estimates were seriously in error. Petitioner also claimed that safety concerns that led the Commission to establish the new regulations were tenuous, such that a stay in their implementation date would not seriously jeopardize telephone access of the hearing impaired in an emergency. Petitioner argued that all telephones at work stations of hearing-impaired employees, all those in common and public areas of the workplace and all those in other locations where an individual with impaired hearing is most likely to be stranded are already hearing aid compatible, as required by prior Commission rules. In addition, complaints received by the Commission indicate that non-hearing aid compatible telephones are being removed entirely without being replaced in order to comply with the regulations by May 1 and retrofitters have claimed that backlogged orders may make it otherwise impossible to comply with the May 1 date for many establishments. These arguments raised serious concerns. Given the difficulties involved in fairly assessing their accuracy in the time constraints imposed by the impending implementation date, the Commission found that the public interest would best be served by suspending enforcement of the rules as described in part 1 of this synopsis.

5. Accordingly, *it is ordered*, pursuant to sections 1, 4(i) and 710 of the Communications Act, 47 U.S.C. 1, 154(i) and 610, and § 1.3 of the Commission's Rules, 47 C.F.R. 1.3, the at enforcement of hearing aid compatibility for telephones required by §§ 68.112(b)(1), 68.112(b)(3), and 68.112(b)(5) of the Commission's Rules, 47 CFR 68.112(b)(1), 68.112(b)(3), 68.112(b)(5), to be hearing aid compatible as of May 1, 1993 *is suspended* until further notice. This action does not alter requirements imposed by Section 68.112 for telephones that must be hearing aid compatible prior to May 1, 1993.

6. *It is further ordered* that this order is effective upon release.

List of Subjects in 47 CFR 68

Administrative practice and procedure, Communications common carriers, Communications equipment, Reporting and recordkeeping requirements, Telephone, Hearing aid-compatibility.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–10510 Filed 5–4–93; 8:45 am]
BILLING CODE 6712–01–M

[1] *R&O* para. 20.

[2] *Id.*

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1023

[Ex Parte No. MC–100 (Sub-No. 7)]

Single State Insurance Registration—1993 Rules

AGENCY: Interstate Commerce Commission.

ACTION: Final rule; withdrawal.

SUMMARY: In dismissing a petition for review of the decision in this case, which adopted interim rules governing registration of motor vehicles, the United States Court of Appeals for the District of Columbia Circuit directed us to vacate that decision. Therefore, the Commission vacates its decision of September 11, 1992.

EFFECTIVE DATE: May 5, 1993.

FOR FURTHER INFORMATION CONTACT: Richard Felder, (202) 927–5610. [TDD for hearing impaired: (202) 927–5721.]

Accordingly, under the authority of 49 U.S.C. 10321(a), the final rules published on September 18, 1992 at 57 FR 43151 and stayed in a document published in the **Federal Register** on October 5, 1992 at 57 FR 45751 are withdrawn.

Decided: April 28, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–10600 Filed 5–4–93; 8:45 am]
BILLING CODE 7035–01–P

Proposed Rules

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(c) So that OPM can evaluate

VOL 58 ISS 85 MY 5 1993 UMI

Proposed Rules

Federal Register
Vol. 58, No. 85
Wednesday, May 5, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 591

RIN 3206–AE36

Allowances and Differentials; Uniform Allowances

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) proposes regulations to provide for a higher initial maximum uniform allowance rate for civilian Federal employees in certain situations where the typical basic uniform required by a Federal agency involves a high initial outlay of funds. The Federal Employees Pay Comparability Act of 1990 (FEPCA) increased the Governmentwide maximum amount that an agency may pay for a uniform allowance from $125 per year to $400 per year. The increase to $400 was made effective by OPM on February 14, 1991. The proposed regulations provide procedures authorizing an agency to establish a higher initial maximum uniform allowance rate in certain situations where the typical basic uniform required by the agency for the affected category of employees involves a high initial outlay of funds.

DATES: Comments on the proposed regulations must be submitted on or before July 6, 1993.

ADDRESSES: Comments may be sent or delivered to Barbara L. Fiss, Assistant Director for Compensation Policy, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, room 6H31, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Jane R. Kuhl, (202) 606–2858.

SUPPLEMENTARY INFORMATION: The proposed regulations apply to an employee who is required by statute, regulation, or an agency's written administrative procedures to wear a uniform. The amendments made by section 202 of FEPCA increased the maximum uniform allowance rate from $125 a year per employee to $400 a year. This increase was made effective by the Office of Personnel Management (OPM) on February 14, 1991 (56 FR 6212). Section 5903 of title 5, United States Code, also authorizes OPM to prescribe such regulations as it considers necessary for administering this program.

Several Federal agencies and members of the Director's Advisory Committee on Law Enforcement and Protective Occupations have advised OPM that its regulations on uniform allowances should recognize the especially high initial cost of uniforms for new employees. Newly-hired employees usually are at lower grades and cannot afford to assemble the basic uniform until after their second or third year of service. One agency reported that the current cost of its basic uniforms ranges from approximately $740 to $1,000.

Therefore, the proposed regulations provide procedures authorizing an agency to establish a higher initial maximum uniform allowance rate in certain situations where the typical basic uniform required by the agency for the affected category of employees involves a high initial outlay of funds. This higher initial allowance rate would apply to eligible employees for the year in which the employee becomes subject to a requirement to wear the uniform.

Under the proposed regulations, authority would be delegated to the head of the agency to establish a higher initial maximum uniform allowance rate in well-defined situations in accordance with procedures set forth in the regulations. The proposed regulations also provide that (1) an agency may establish different higher initial maximum uniform allowance rates for different categories of employees, and (2) an agency may increase an established higher initial maximum allowance rate only as a result of an increase in the average total uniform cost for the affected employees and in accordance with procedures set forth in the proposed regulations.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 591

Government employees, Travel and transportation expenses, Wages.

Office of Personnel Management.

Patricia W. Lattimore,

Acting Deputy Director.

Accordingly, OPM proposes to amend part 591 of title 5 of the Code of Federal Regulations as follows:

PART 591—ALLOWANCES AND DIFFERENTIALS

1. The authority citation for part 591 is revised to read as follows:

Authority: 5 U.S.C. 5903, 5941, and 5942; E.O. 10000, 3 CFR, 1943–1948 Comp., p. 792; E.O. 12748, 3 CFR, 1991 Comp., p. 316.

2. Subpart A is added to read as follows:

Subpart A—Uniform Allowances

Sec.

591.101 Purpose.
591.102 Definitions.
591.103 Governmentwide maximum uniform allowance rate.
591.104 Higher initial maximum uniform allowance rate.

Subpart A—Uniform Allowances

§ 591.101 Purpose.

This subpart prescribes the regulations authorized by section 5903 of title 5, United States Code, for the payment of uniform allowances.

§ 591.102 Definitions.

Agency means an "Executive agency," as defined in 5 U.S.C. 105.

Employee means an employee in or under an agency.

Head of agency means the head of an agency or an official who has been delegated the authority to act for the head of the agency in the matter concerned.

Uniform means a specified article or articles of clothing, including but not limited to shoes, boots, and hats, which an employee is required by an agency to wear to provide a distinctive and easily identifiable appearance in performing his or her job. "Uniform" does not include protective equipment required for the employee's safety or normal business or work attire purchased at the discretion of the employee.

Year means any period of 12 consecutive months, designated by an agency as the basis for applying the maximum uniform allowance rates established under this part.

§ 591.103 Governmentwide maximum uniform allowance rate.

Unless a higher initial maximum uniform allowance rate is payable under § 591.104 to an employee who is required by statute, regulation, or an agency's written administrative procedures to wear a uniform, the head of each agency concerned, out of funds available, shall—

(a) Pay an allowance for a uniform not to exceed $400 a year; or

(b) Furnish a uniform at a cost not to exceed $400 a year.

§ 591.104 Higher initial maximum uniform allowance rate.

(a) The head of an agency may establish one or more initial maximum uniform allowance rates greater than the Governmentwide maximum uniform allowance rate established under § 591.103.

(b) A higher initial maximum uniform allowance rate established under this section may not exceed the average total uniform cost for the minimum basic uniform for the affected employees and, except as provided in paragraph (c) of this section, applies only to the year in which the employee becomes subject to a requirement to wear the uniform.

(c) An agency that has established one or more higher initial maximum uniform allowance rates under this section may continue such higher rates for the year following the year in which the employee becomes subject to the requirement to wear the uniform only upon the advance written approval of OPM.

(d) Before establishing a higher initial maximum uniform allowance rate under this section, an agency shall publish in the Federal Register for notice and comment—

(1) A description and justification of the circumstances requiring a higher initial maximum uniform allowance rate;

(2) An estimate of the number of employees affected;

(3) The specific items required for the basic uniform and the average total uniform cost for the affected employees;

(4) The amount of the proposed higher initial maximum uniform allowance rate; and,

(5) The proposed effective date of the higher initial maximum uniform allowance rate.

(e) So that OPM can evaluate agencies' use of this authority and provide the Congress and others with information regarding the use of a higher initial maximum uniform allowance rate, each agency concerned shall maintain such other records and submit to OPM such other reports and data as OPM shall require.

(f) When OPM finds that an agency has not established a higher initial maximum uniform allowance rate in conformance with the criteria established in this section or otherwise determines that the agency is not using this authority appropriately, it may revoke or suspend the authority granted to the head of the agency by this section for all or any part of the agency and with respect to any category or categories of employees and require that prior OPM approval be secured before establishing a higher initial maximum uniform allowance rate.

(g) An agency may increase a higher initial maximum uniform allowance rate only as a result of an increase in the average total uniform cost for the affected employees. Before effecting an increase under this paragraph, an agency shall follow the notice and comment procedures required by paragraph (d) of this section.

[FR Doc. 93–10514 Filed 5–4–93; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 7 and 34

[Docket No. 93–07]

Other Real Estate Owned

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to remove two interpretive rulings concerning real estate held as other real estate owned (OREO). The proposal would also add a new subpart dealing with OREO to the OCC's regulation concerning real estate lending and appraisals. This proposal is needed to simplify and clarify OCC's requirements regarding national bank treatment of OREO. This proposal is also intended to expand the options that national banks may use to dispose of OREO.

DATES: Comments must be received by June 4, 1993.

ADDRESSES: Comments should be directed to: Communications Division, 250 E Street SW., Washington, DC 20219, Attention: Docket No. 93–07. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: F. John Podvin, Jr., Attorney, Bank Operations and Assets Division, (202) 874–4460; or Thomas E. Watson, National Bank Examiner, Traditional Activities Division, (202) 874–5170, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing, pursuant to 12 U.S.C. 29 and 93a, to amend its regulations in order to clarify and simplify the legal treatment of OREO and to encourage national banks to comply with the disposal requirements of 12 U.S.C. 29 by providing financing to creditworthy borrowers who wish to purchase OREO. The proposal would remove two OCC Interpretive Rulings: (1) Real estate acquired as salvage on uncollectible loans, codified at 12 CFR 7.3020 (§ 7.3020); and (2) Other real estate owned, codified at 12 CFR 7.3025 (§ 7.3025). In their place, the proposal would establish a new subpart E in 12 CFR part 34, entitled Other Real Estate Owned, which would encompass all OREO requirements.

Background

OREO is comprised generally of all real estate acquired and held by a national bank that is not currently in use or contemplated for use in the foreseeable future as bank premises. National banks acquire most OREO through foreclosure proceedings or by similar conveyance. A bank's ability to hold OREO, as well as other real estate, is subject to 12 U.S.C. 29, a provision of the National Bank Act.

As a general rule, under 12 U.S.C. 29, a national bank must dispose of a parcel of OREO within five years of the date that the holding period begins. However, the Comptroller may approve a bank's application to extend the holding period for such property up to an additional five years if: (1) The bank has made a good faith attempt to dispose of the property within the five year period; or (2) disposal within the five year period would be detrimental to the bank.

One of the OCC regulations interpreting 12 U.S.C. 29 is § 7.3025, which prescribes the procedures for the proper handling and disposition of a national bank's OREO. On August 8, 1979, the OCC published a final rule in the Federal Register (44 FR 46428) which amended § 7.3025. The amendment attempted to bring the

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accounting treatment of OREO into conformity with Financial Accounting Standards No. 15, Accounting by Debtors and Creditors for Troubled Debt Restructuring (FAS 15), adopted by the Financial Accounting Standards Board (FASB) in June 1977. The amended § 7.3025 imposed requirements on national banks addressing several issues, including generally: How the bank must book OREO, how the bank must use appraisals to obtain and monitor the "fair value" of a parcel of OREO, what actions the bank must take if the value of the OREO deteriorates, what actions the bank may take while holding a parcel of OREO, and how the bank can meet the disposal requirements of 12 U.S.C. 29.

An accounting change that occurred after the OCC amended § 7.3025 caused conflict between the treatment of OREO under generally accepted accounting principles (GAAP) and the legal treatment under § 7.3025. In 1982, the FASB issued Statement of Financial Accounting Standards No. 66, Accounting for Sales of Real Estate (FAS 66), which altered GAAP. FAS 66 established five alternative accounting methods that a bank could use to record a sale of OREO. The introduction of FAS 66 resulted in conflicts between the treatment of OREO under GAAP and under § 7.3025.

The following discussion highlights the conflicts between the legal and accounting treatment of OREO. Under § 7.3025, the legal disposal requirements of 12 U.S.C. 29 are satisfied in an OREO sales transaction when the bank receives a down-payment in cash and private mortgage insurance which equals or exceeds 10 percent of the total sales price, the financing is on market terms, and the usual risks and rewards of ownership are transferred to the purchaser. If any one of these conditions is not met, the transaction is defined as a "covered transaction" and the bank must continue to report the asset as OREO on its Consolidated Reports of Condition and Income (Call Reports). See 12 CFR 7.3025(b) ("the covered transactions definition"). However, GAAP may require a down-payment either greater or less than 10 percent to obtain sales treatment, depending on several factors. These factors include the accounting method the bank uses under FAS 66, the type of property involved, and the risks associated with it.

Because of these differences between the requirements of § 7.3025 and GAAP, currently a bank in a transaction involving OREO property could receive a down-payment in excess of 10 percent and the property could be considered sold under § 7.3025. At the same time, however, the bank may still be required to report the asset as OREO on its books because the transaction did not qualify for sales treatment under GAAP. Alternatively, the transaction may qualify for sales treatment under GAAP with a down-payment less than 10 percent, but the bank must continue to report the asset as OREO on its books under the covered transactions definition.

An additional complicating factor is that the failure to dispose of OREO within the holding period results in a violation of law for the bank even if the transaction was considered a sale under GAAP.

The proposal set out below will deal with these conflicts and disposal problems by conforming OCC accounting treatment for OREO property to GAAP and by providing updated guidance on how a bank can dispose of OREO for purposes of 12 U.S.C. 29.

Two statutory changes also make this rulemaking advisable. First, the Depository Institutions Deregulation and Monetary Control Act of 1980, section 701, Public Law 96–221, 94 Stat. 132 amended 12 U.S.C. 29 (1980 amendment). The 1980 amendment gives the OCC authority to extend the holding period for a parcel of OREO for up to five additional years subject to the conditions discussed earlier. The 1980 amendment also provides that banks may expend funds to develop and improve OREO if the expenditures are needed to enable the bank to recover its total investment in the property. Finally, the 1980 amendment provides that these expenditures can be made only upon notification to the Comptroller, subject to any conditions and limitations the Comptroller shall prescribe. These changes were implemented by the OCC into its supervisory policies.

The proposal set out below would codify the OCC's supervisory policies that implemented the 1980 amendment. In addition, this proposal would clarify when national banks must notify the OCC of planned OREO improvement or development expenditures.

Second, Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), Pub. L. 101–73, 103 Stat. 183 (12 U.S.C. 3331 *et seq.*) required the OCC to prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions. The OREO appraisal requirements in § 7.3025 predated this statutory change. The fair value appraisal requirements in § 7.3025 (g) and (h) are inconsistent with the regulation implementing Title XI of FIRREA, codified at 12 CFR part 34, subpart C (the OCC's general appraisal requirements).

The proposal set out below removes these inconsistencies and conforms the OREO appraisal requirements to those in the OCC's general appraisal requirements.

Proposal

In this proposal, the OCC intends to simplify the treatment of OREO by doing the following: (1) Increasing and expanding the options that a national bank may use to dispose of OREO; (2) eliminating the inconsistencies in current OREO appraisal requirements; (3) incorporating the statutory changes discussed in the background section; (4) removing conflicting OREO accounting guidance from the current regulation; and (5) providing other miscellaneous guidance. The proposal would remove Interpretive Rulings 7.3020 and 7.3025, and replace them with a new subpart E to part 34. The new regulation would encompass all of the OREO requirements.

Disposal of OREO

The proposal would expand the existing options that a national bank may use to dispose of property categorized as OREO for purposes of 12 U.S.C. 29. Currently, under the covered transactions definition, OREO is not deemed to be disposed of if the bank: (1) Receives less than 10 percent of the total sales price in cash and private mortgage insurance; (2) provides favorable financing to the borrower; or (3) fails to transfer the usual risks and rewards of ownership to the purchaser. See 12 CFR 7.3025(a)(3) and (b). That is, as long as any of these conditions exist, the bank, under current practice, must continue to report the asset as OREO on its Call Report. See 12 CFR 7.3025(i).

Under the proposal, two important new options would be available to national banks and could be used to dispose of OREO. The proposal would also expand the existing option that a national bank may use to dispose of property categorized as OREO. The new options would include sales treatment under GAAP and financing that involves a direct or indirect government guarantee. The existing option—which among other things requires a bank to obtain at least 10 percent of the total sales price in cash and private mortgage insurance—would be expanded to include accumulated principal and interest payments.

Sales Treatment Under GAAP

One of the new options available to national banks to dispose of OREO, for purposes of 12 U.S.C. 29, is to enter into a transaction that is given sales treatment as defined under GAAP. When a bank is attempting to dispose of OREO property, GAAP allows the bank to use one of five different methods to account for the transaction, depending on the circumstances involved in the transaction. See FAS 66. These methods include the full accrual method, the deposit method, the installment method, the cost recovery method, and the reduced-profit method. However, sales treatment is recorded only under four of the methods, with the exception being the deposit method. A brief discussion of each of these methods follows.

The full accrual method is generally used when a sale of OREO is consummated, and the purchaser's down-payment and monthly—or other periodic—payments are adequate to demonstrate a commitment to pay for the property. Under this method, the bank records a sale, recognizes profit in full and reports the asset as a loan.

The installment method is generally used when a sale of OREO is consummated and the purchaser's down-payment is not adequate to allow use of the full accrual method, but recovery of the cost of the property is reasonably assured if the buyer defaults. Under this method, the bank records a sale and reports the asset as a loan. Each payment by the purchaser, including the down-payment, is allocated between recovery of the loan's principal and profit on the sale.

The cost recovery method is generally used when: (1) The sale of OREO is consummated and the purchaser's down-payment is not adequate to allow use of the full accrual method; and (2) the installment method cannot be used because recovery of the cost of the property is not reasonably assured if the buyer defaults. Under this method, the bank records a sale, but all payments made by the purchaser are applied as a reduction of the loan balance. No profit is recognized until the purchaser's payments exceed the bank's cost in the property or until the bank receives sufficient amounts to allow use of another method. Alternatively, the bank may use the deposit method.

OREO transactions that do not qualify for sales treatment under the full accrual, installment or cost recovery methods may also be accounted for using the deposit method. Under this method, the bank does not record a sale and continues to report the asset as OREO. Further, no profit is recognized. Payments received from the purchaser are reported as a deposit until sufficient payments are received to allow the transaction to achieve sales treatment using one of the previous three methods.

Finally, the reduced-profit method is used when the bank receives an adequate down-payment, but the purchaser's monthly payments do not meet the requirements for use of the full accrual method. Under this method, the bank records a sale and reports the asset as a loan. Profit is recognized over the life of the loan using present value concepts.

In the past, many banks have used only the full accrual or the deposit method. While some banks are increasingly using the installment method, they seldom, if ever, use the cost recovery or reduced profit methods. Under this proposal, each of the five methods may be used to account for OREO disposal transactions. Some examples of these methods follow.

Example 1

Bank A sells a single family residence held in OREO for $100,000. The bank receives a $5,000 down-payment and gives the buyer a $95,000 loan. The normal loan terms provide for level payments of principal and interest over 30 years. To qualify for sales treatment under the full accrual method of accounting, FAS 66 requires a minimum down-payment of 5 percent ($5,000) for this type of property.

This transaction qualifies for sales treatment under the full accrual method of accounting. Accordingly, the property is removed from the OREO account and a loan receivable in the amount of $95,000 is recorded.

Example 2

Bank A sells a parcel of single tenancy commercial property held in OREO for $100,000. The bank receives a $7,500 down-payment and gives the buyer a $92,500 loan. To qualify for sales treatment under the full accrual method of accounting, FAS 66 requires a minimum down-payment of 15 percent ($15,000) for this type of property. Accordingly, this transaction does not qualify for sales treatment under the full accrual method. However, the borrower has personally guaranteed the loan and has substantial net worth.

Because of the personal guarantee, recovery of the cost of the property is reasonably assured if the buyer defaults. Accordingly, this transaction qualifies for sales treatment under the installment method. The property is removed from the OREO account and a loan receivable in the amount of $92,500 is recorded.

Example 3

Bank A sells for $100,000 an income-producing OREO asset with cash flow deficiencies. The bank receives a $5,000 down-payment and gives the buyer a $95,000 loan. Monthly payments of principal and interest are $1,000.

Because the bank did not receive a 25 percent ($25,000) down-payment required by FAS 66 for this type of property, the transaction does not qualify for sales treatment under the full accrual method. Further, because the bank is not confident that recovery of the cost of the property is assured if the buyer defaults, the transaction does not qualify for sales treatment under the installment method of accounting.

Accordingly, if the bank wants this transaction to be counted as a sale and the real estate no longer considered OREO, this transaction must be accounted for using the cost recovery method.

Under the cost recovery method, the transaction is accorded sales treatment and the property is removed from the OREO account. However, profit recognition is deferred until the purchaser's payments exceed the bank's cost in the property or until the bank receives sufficient amounts to allow use of another accounting method. A loan receivable of $95,000 is recorded.

Alternatively, FAS 66 would allow the bank to use the more conservative deposit method. Under this method, a sale is not recorded immediately and the asset continues to be reported as OREO.

Nonetheless, the down-payment and the monthly payments are accumulated in a deposit account until sufficient amounts have been received to allow the use of another accounting method to record a sale.

To summarize, under the proposal, when a transaction qualifies for sales treatment under GAAP, a national bank would be allowed to recategorize an asset as a loan on its Call Report. In this case, the asset would no longer be considered OREO or be subject to 12 U.S.C. 29.

Direct or Indirect Government Guarantees

Under the proposal, another new option would allow national banks to dispose of OREO, for purposes of 12 U.S.C. 29, when the purchaser qualifies for financing that involves a direct or indirect government guarantee. This financing would include loans guaranteed or insured by the United States government, an agency of the United States government or loans eligible for purchase by a federally sponsored instrumentality, such as the Federal National Mortgage Association.

In sum, a sale using a direct or indirect government guarantee would allow a national bank to recategorize an asset as a loan on its Call Report. The asset would no longer be considered OREO or be subject to 12 U.S.C. 29. Importantly too, this new option is expected to facilitate the sale of OREO to low and moderate income purchasers.

Covered Transactions Expanded

Under the proposal, the existing covered transactions definition, discussed earlier, is expanded. The proposed covered transactions real estate definition would include not only accumulated principal, but also interest

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payments, along with cash and private mortgage insurance, in the calculation of a down-payment needed to constitute a sale for purposes of 12 U.S.C. 29.

Typically, a bank would choose this option only if it could not effect sales treatment under GAAP or provide financing involving a direct or indirect government guarantee. This option does not allow a national bank to recategorize an asset as a loan on its Call Report until the bank obtains sales treatment under GAAP. However, this option would satisfy the disposal requirements of 12 U.S.C. 29 and would preclude the potential for a violation of law for holding a parcel of OREO beyond the permissible period.

Appraisals

The proposal would also eliminate the inconsistencies in current OREO appraisal requirements. Currently, a national bank must substantiate a parcel's fair value—at the time the parcel is transferred into OREO—by providing written directions to an independent, qualified appraiser to prepare a current appraisal. See 12 CFR 7.3025 (d) and (g). A parcel exceeding the lower of 5 percent of the bank's equity capital or $25,000 requires a current appraisal. Annually thereafter, the bank must obtain a new appraisal substantiating the parcel's fair value or, in the alternative, a written certification that the parcel's fair value did not decline. See 12 CFR 7.3025(h). For a parcel that declines in value, the bank must establish a valuation reserve, which may be reduced later if the parcel's value increases.

Under the proposal, OREO would fall under the OCC's general appraisal requirements, which are based on an estimate of market value, rather than fair value. The general rule would require a national bank to obtain a market value appraisal at the time the parcel is transferred into OREO if the transaction value exceeds the threshold amount contained in the OCC's general appraisal requirements. If an appraisal is not required, then the bank must obtain an evaluation.

However, a new appraisal or evaluation would not be required under the general rule if a bank has a valid appraisal or evaluation on file at the time the property becomes OREO. See OCC Banking Circular 225 (Rev.), Real Estate Appraisal and Evaluation Guidelines (September 28, 1992).

The current requirement for an annual subsequent appraisal for OREO would also be replaced by a more flexible approach. Under the proposal, a national bank must develop a "prudent collateral evaluation policy" to provide a procedure for monitoring the market value of a parcel of OREO. This change will result in OREO being treated in the same manner as troubled commercial real estate loans. See OCC Banking Circular No. 208, Guidelines for Troubled Real Estate Loans (March 20, 1992).

Incorporating Statutory Changes

In addition, the proposal would incorporate the statutory changes discussed in the Background section. The proposal would codify previous statutory changes, already implemented into OCC supervisory policies. One of the statutory changes allows a bank to apply to the OCC to hold OREO for up to five additional years, provided certain conditions are met. Another change requires notification to the OCC when the bank plans to expend funds to develop and improve OREO, subject to conditions and limitations set by the OCC.

Holding Period

The proposal would specify when the holding period begins and the permitted length of time that a bank may hold OREO under 12 U.S.C. 29. Under 12 U.S.C. 29, a bank may hold OREO for up to five years. However, the statutory change allowed this period to be extended for up to five additional years if the bank applied to the OCC and has made a good faith attempt to dispose of the property within the five year period, or disposal within the five year period would be detrimental to the bank.

Currently, the regulation is silent regarding the length of the holding period for OREO and refers the reader to 12 U.S.C. 29. See 12 CFR 7.3025(e). However, it does describe when the holding period begins and how to apply the holding period to OREO. See 12 CFR 7.3025 (a)(2) and (e).

Under the proposal, the language relating to the beginning of the holding period would be retained and supplemented with specific language implementing the statutory change that affects the length of the holding period.

Expenditures and Notification

The proposal would specify when a national bank could expend funds to develop and improve a parcel of OREO. The proposal would also specify when a bank is required to notify the OCC of a planned expenditure. Currently, the regulation provides that a bank may make further prudent advances to complete an unfinished construction or development project that are recoverable and will result in a more salable property. See 12 CFR 7.3025(j).

Currently, OCC supervisory policies require all banks with assets in excess of $300 million to notify the OCC of any development or improvement project that would cause the bank's total investment in the OREO to exceed 5 percent of capital and surplus. For banks with assets less than $300 million, the notification threshold is 10 percent. The policy also requires that all expenditures for OREO improvement or development projects be reasonably calculated to significantly minimize any shortfall between the property's value and the bank's total investment. Further, the policy provides that any evidence of speculative activities involving OREO could be considered unsafe and unsound banking practices.

The proposal would set less burdensome notification conditions and limitations than were previously imposed under OCC supervisory guidance. Under the proposal, the bank is required to notify the appropriate OCC supervisory office at least 30 days before implementing a development or improvement plan for OREO that would cause the bank's investment in the property, and any unpaid prior liens on the property, to exceed 10 percent of the bank's capital and surplus. If the OCC does not respond within the 30 day period, the bank may implement the plan anytime thereafter.

The proposal would also implement the OCC supervisory policy requiring that all OREO expenditures be reasonably calculated to reduce any shortfall between the parcel's market value and the bank's original, recorded investment amount, and may not be for the purpose of speculation in real estate.

Further, under the proposal, expenditure for normal repairs and maintenance, including re-fitting an existing building for new tenants, would not require notification.

Accounting Treatment

The proposal would conform the accounting treatment of OREO to the requirements in the Call Report Instructions, which generally follow GAAP. Currently, the regulation contains specific guidance on the accounting treatment of OREO. See 12 CFR 7.3025(b), (c), (g), (h), (i), (j) and (k). Under the proposal, this specific accounting guidance would be removed. The proposal would refer the reader to the Call Report Instructions for specific guidance on the accounting treatment of OREO.

Miscellaneous Guidance

The proposal would retain the current requirements regarding the disposition of OREO. Currently, a national bank must dispose of OREO at any time that prudent judgment dictates but in no event later than the end of the holding period. A bank is also required to make diligent efforts to dispose of each parcel of OREO within the holding period and maintain documentation reflecting those efforts. See 12 CFR 7.3025(e).

Under the proposal, a bank would still be required to dispose of OREO at any time that prudent judgment dictates but before the end of the holding period. The proposal would also require the bank to make diligent efforts to dispose of the OREO within the holding period and to maintain documentation reflecting those efforts. The bank would be expected to maintain only enough documentation to demonstrate its compliance with this requirement.

The proposal would also retain the provisions regarding the disposition of real estate acquired for future bank expansion. Currently, the regulation requires that this property should normally be used within three years. It also requires that after holding a parcel of future banking premises for one year, the board must state, by resolution, definite plans for its use. This resolution must be available to bank examiners. See 12 CFR 7.3025(f).

Under the proposal, the bank would be permitted to use a board resolution or other official action to make the required statement providing definite plans for the property's use. However, this must be accomplished prior to acquisition. This requires the board—or its designee—to know how the bank plans to use the property before the bank acquires it. The remaining provisions relating to future banking premises are unchanged.

Public comment is invited on any aspect of this proposal.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This regulation will reduce burden on national banks, regardless of size, by clarifying existing statutory and regulatory requirements.

Executive Order 12291

The OCC has determined that this amendment is not a "major rule" and therefore does not require a Regulatory Impact Analysis. The impact of this proposed rule is expected to be slight and will benefit banks by clarifying existing regulations.

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Comptroller of the Currency, Legislative, Regulatory, and International Activities, Attention: 1557–0153, 250 E Street, SW., Washington, DC 20219, with a copy to the Office of Management and Budget, Paperwork Reduction Project (1557–0153), Washington, DC 20503.

The collections of information in this proposed regulation are located in §§ 34.82(a) and 34.85(b) and are required by 12 U.S.C. 29. The application required under § 34.82(a) is required if a national bank wishes to apply for an extension of the five-year holding period for a parcel of OREO for up to an additional five years. This information will be used by the OCC in deciding whether to approve the application. The OCC may grant approval if the bank has made a good faith attempt to dispose of the OREO within the five-year period, or disposal of the OREO within the five-year period would be detrimental to the bank.

The notification required under § 34.85(b) is required 30 days before a national bank implements a development or improvement plan for OREO that would cause the sum of the bank's recorded investment amount, and any unpaid prior liens on the property, to exceed 10 percent of the bank's capital and surplus. This information will be used by the OCC to determine if the bank can proceed with the plan to develop or improve the OREO, consistent with 12 U.S.C. 29 and with safe and sound banking principles.

The likely respondents are national banks, including small banks. The estimated annual burden per respondent for the application in § 34.82(a) varies from 30 minutes to 3 hours, depending on individual circumstances, with an estimated average of 1 hour. Estimated number of respondents: 2,846 national banks. Estimated annual frequency of responses: 1.2.

The estimated annual burden per respondent for the notification in § 34.85(b) varies from 1 to 8 hours, depending on individual circumstances, with an estimated average of 4 hours. Estimated number of respondents: 140 national banks. Estimated annual frequency of responses: 1.

List of Subjects

12 CFR Part 7

Credit, Insurance, Investments, National banks, Reporting and recordkeeping requirements, Securities, Surety bonds.

12 CFR Part 34

Mortgages, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set out in the preamble, parts 7 and 34 of chapter I of title 12 of the Code of Federal Regulations are proposed to be amended as set forth below:

PART 7—INTERPRETIVE RULINGS

1. The authority citation for part 7 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a.

§ 7.3020 [Removed]

2. Section 7.3020 is removed.

§ 7.3025 [Removed]

3. Section 7.3025 is removed.

PART 34—REAL ESTATE LENDING AND APPRAISALS

4. The authority citation for part 34 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a, 371, 1701j–3, 1828(o), and 3331 *et seq.*

5. A new Subpart E, Other Real Estate Owned, is added to part 34 to read as follows:

Subpart E—Other Real Estate Owned

Sec.
34.81 Definitions.
34.82 Holding period.
34.83 Disposition of real estate.
34.84 Appraisal requirements.
34.85 Additional expenditures and notification.
34.86 Accounting treatment.

Subpart E—Other Real Estate Owned

§ 34.81 Definitions.

(a) *Other real estate owned* is:

(1) Covered transactions real estate;

(2) Debts previously contracted real estate; and

(3) Former banking premises.

(b) *Covered transactions real estate* is, for the purposes of the disposal requirement of 12 U.S.C. 29, a parcel of other real estate owned that is involved in a transaction where:

(1) The transaction is not given sales treatment under generally accepted accounting principles;

(2) The transaction does not involve a loan guaranteed or insured by the

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United States government or by an agency of the United States government or a loan eligible for purchase by a federally sponsored instrumentality that purchases loans; and

(3) The bank has not received or accumulated from the purchaser, an amount in cash, principal and interest payments, and private mortgage insurance totaling 10 percent of the sales price.

(c) *Debts previously contracted real estate* means real estate acquired by a national bank through any means in full or partial satisfaction of a debt or debts previously contracted.

(d) *Former banking premises* means real estate (including capitalized leases) for which banking use is no longer contemplated. This includes real estate originally acquired for future expansion that will not be used as anticipated for future expansion or other banking purposes.

(e) *Market value* is determined in accordance with subpart C of this part.

(f) *Recorded investment amount* means:

(1) The recorded loan balance, as defined by generally accepted accounting principles; or

(2) Net book value for former banking premises.

§ 34.82 Holding period.

(a) *Holding period for other real estate owned.* Pursuant to 12 U.S.C. 29, a national bank may hold other real estate owned for a period not to exceed five years, except that the Comptroller may approve an application by the bank to extend the holding period for up to an additional five years, if:

(1) The bank has made a good faith attempt to dispose of the other real estate owned within the five-year period; or

(2) Disposal of the other real estate owned within the five-year period would be detrimental to the bank.

(b) *When the holding period begins.* The holding period begins on the date that ownership of the property is originally transferred to the national bank, except that:

(1) The holding period for former banking premises begins on the date of relocation to new banking quarters. If there is no relocation or if the property was originally acquired for future expansion and will not be used as such, then the holding period begins on the date on which the bank decides that banking use is no longer contemplated.

(2) The holding period for covered transactions real estate remains the date the bank originally acquired ownership of the property if, after an attempt to sell a parcel of other real estate owned, the ownership of the property reverts to the bank while the property is still covered transactions real estate.

§ 34.83 Disposition of real estate.

(a) *Disposal.* Disposal of other real estate owned, for the purposes of 12 U.S.C. 29, occurs when a national bank enters into a sales transaction that results in the property no longer being considered covered transactions real estate.

(1) Other real estate owned shall be disposed of within the holding period permitted by 12 U.S.C. 29 at any time that prudent judgment dictates, but in no event later than the end of such holding period.

(2) A national bank may comply with its obligation under 12 U.S.C. 29 to dispose of debts previously contracted real estate within the holding period applicable to such property by retaining the property for its own use as bank premises or by transferring it to a subsidiary or affiliate for use in the business of the subsidiary or affiliate.

(b) *Disposal efforts and documentation.* The national bank shall make diligent efforts to dispose of each parcel of other real estate owned and shall maintain documentation adequate to reflect those efforts.

(c) *Future bank expansion.* Real estate acquired for future bank expansion should normally be used within three years. Prior to acquisition of such real estate, the bank shall state, by board of directors resolution or other official action, definite plans for its use. The resolution or other official action shall be available for inspection by national bank examiners.

§ 34.84 Appraisal requirements.

(a) *In general.* (1) Upon transfer to other real estate owned, the national bank shall substantiate market value by obtaining an appraisal for property in accordance with subpart C of this part or by obtaining an appropriate evaluation if an appraisal is not required.

(2) The national bank shall develop a prudent collateral evaluation policy that allows the bank to monitor the value of each parcel of other real estate owned in a manner consistent with prudent banking practice.

(b) *Exception.* If a national bank has a valid appraisal or an appropriate evaluation, which was obtained in accordance with paragraph (a)(2) of this section, on a troubled real estate loan or on a loan secured by property designated as in-substance foreclosure under generally accepted accounting principles, and, if an appraisal is required, it meets the requirements of subpart C of this part, then the bank is not required to obtain another appraisal or evaluation when the bank acquires ownership of the property. However, the bank shall continue to follow the prudent collateral evaluation policy required in paragraph (a)(2) of this section.

§ 34.85 Additional expenditures and notification.

(a) *Additional expenditures on other real estate owned.* (1) Normal repairs and maintenance expenses shall be expensed when incurred. Notification under paragraph (b)(1) of this section is not required.

(2) For other real estate owned that is a development or improvement project, a national bank may only make further prudent advances to complete the project if they:

(i) Are reasonably calculated to reduce any shortfall between the parcel's market value and the bank's recorded investment amount; and

(ii) Are not made for the purpose of speculation in real estate.

(b) *Notification procedures.* (1) A national bank shall notify the appropriate supervisory office at least 30 days before implementing a development or improvement plan for other real estate owned that would cause the sum of the bank's recorded investment amount, and any unpaid prior liens on the property, to exceed 10 percent of the bank's capital and surplus, as defined in § 3.100 of this title.

(2) The required notification must include any documentation necessary to demonstrate that the additional expenditure is consistent with the conditions and limitations in paragraphs (a)(2) (i) and (ii) of this section.

(3) If the appropriate supervisory office imposes no additional conditions or limitations on the national bank's plan within 30 days following receipt of the bank's notification by the OCC, then on the thirty-first day following receipt of the bank's notification by the OCC (or sooner if notified by the OCC), the bank may implement the plan to develop or improve the other real estate owned.

§ 34.86 Accounting treatment.

Sales of other real estate owned shall be accounted for in accordance with the Instructions for the preparation of the Consolidated Reports of Condition and Income.

Dated: April 15, 1993.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 93-10687 Filed 5-4-93; 8:45 am]

BILLING CODE 4810-33-P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064-AB20

Capital Maintenance

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed rule.

SUMMARY: The FDIC is proposing to amend its capital standards for insured state nonmember banks to establish a limitation on the amount of certain deferred tax assets that may be included in (that is, not deducted from) the Tier 1 capital calculation for risk-based and leverage capital purposes. Under the proposal, deferred tax assets that can be realized through carrybacks to taxes paid on income earned in prior periods generally would not be subject to limitation for regulatory capital purposes. On the other hand, deferred tax assets that can only be realized if an institution earns sufficient taxable income in the future would be limited for regulatory capital purposes to the amount that the institution is projected to realize within one year of the most recent calendar quarter-end date, based on the institution's projection of taxable income for that year, or ten percent of Tier 1 capital, whichever is less. Deferred tax assets in excess of these limitations would be deducted from Tier 1 capital and from assets for purposes of calculating both the risk-based and leverage capital ratios.

This capital proposal was developed on a consistent basis by the FDIC, the Board of Governors of the Federal Reserve System (FRB), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) (hereafter, the federal banking agencies or the agencies) in response to the issuance by the Financial Accounting Standards Board (FASB) of Statement No. 109, "Accounting for Income Taxes" (FASB 109), in February 1992. This FASB accounting standard must be adopted by insured state nonmember banks for regulatory reporting and financial reporting purposes no later than the first quarter of 1993, or the beginning of their first fiscal year thereafter, if later.

The proposed capital limitation is intended to balance the FDIC's concerns about deferred tax assets that are dependent upon future taxable income against the fact that such assets will, in many cases, be realized.

DATES: Comments must be received by June 4, 1993.

ADDRESSES: All comments should be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, or delivered to room F-400, 1776 F Street, NW., between the hours of 8:30 a.m. and 5 p.m. on business days. [Fax number (202) 898-3838.] Comments will be available for inspection and photocopying in the FDIC's Reading Room, room 7118, 550 17th Street, NW., between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Robert F. Storch, Chief, Accounting Section, Division of Supervision, (202) 898-8906, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC. 20429.

SUPPLEMENTARY INFORMATION:

I. Background

Characteristics of Deferred Tax Assets

Deferred tax assets are assets that reflect, for financial reporting purposes, amounts that will be realized as reductions of future taxes or as future receivables from a taxing authority. Deferred tax assets may arise because of specific limitations under tax laws of different tax jurisdictions that require that certain net operating losses (*i.e.*, when, for tax purposes, expenses exceed revenues) or tax credits be carried forward if they cannot be used to recover taxes previously paid. These "tax carryforwards" are realized only if the institution generates sufficient future taxable income during the carryforward period.

Deferred tax assets may also arise from the tax effects of certain events that have been recognized in one period for financial statement purposes but will result in deductible amounts in a future period for tax purposes, *i.e.*, the tax effects of "deductible temporary differences." For example, many depository institutions may report higher income to taxing authorities than they reflect in their regulatory reports [1] because their loan loss provisions are expensed for reporting purposes but are not deducted for tax purposes until the loans are charged off.

Deferred tax assets arising from an organization's deductible temporary differences may or may not exceed the amount of taxes previously paid that the organization could recover if the differences fully reversed at the report date. Some of these deferred tax assets may theoretically be "carried back" and recovered from taxes previously paid. On the other hand, when such deferred tax assets exceed such previously paid tax amounts, they will be realized only if there is sufficient future taxable income during the carryforward period.[2]

FASB 109

In February 1992, the FASB issued Statement No. 109, which supersedes Accounting Principles Board Opinion No. 11 (APB 11) and FASB Statement No. 96, the previous standards governing accounting for income taxes. FASB 109 provides guidance on many aspects of accounting for income taxes, including the accounting for deferred tax assets. FASB 109 potentially allows some insured state nonmember banks to record significantly higher deferred tax assets than previously permitted under generally accepted accounting principles (GAAP) and the federal banking agencies' prior reporting policies. Unlike the general practice under previous standards, FASB 109 permits the reporting of deferred tax assets that are dependent upon future taxable income.[3] However, FASB 109 requires the establishment of a valuation allowance to reduce the net deferred tax asset to an amount that is more likely than not (*i.e.*, a greater than 50 percent likelihood) to be realized.

FASB 109 is effective for fiscal years beginning on or after December 15, 1992, but early adoption of this standard was encouraged by the FASB. The adoption of this standard could result in the reporting of additional deferred tax assets in Call Reports that would directly increase an institution's undivided profits and thus its Tier 1 capital.

[1] Insured commercial banks and FDIC-supervised savings banks are required to file quarterly Consolidated Reports of Condition and Income (Call Reports) with their primary federal regulatory agency (the FDIC, the FRB, or the OCC, as appropriate). Insured savings associations file quarterly Thrift Financial Reports with the OTS.

[2] Hereafter, such deferred tax assets and deferred tax assets arising from tax carryforwards are referred to as "deferred tax assets that are dependent upon future taxable income."

[3] Prior supervisory policies of the OCC and FDIC, as set forth in Banking Circular 202 dated July 2, 1985, and Bank Letter BL-36-85 dated October 4, 1985, respectively, limited the reporting of deferred tax assets in the regulatory reports filed by national banks and insured state nonmember banks to the amount of taxes previously paid which are potentially available through carryback of net operating losses. As such, the OCC and FDIC did not permit the reporting of deferred tax assets that are dependent upon future taxable income in the Call Reports filed by national and insured state nonmember banks. The FRB and OTS did not issue policies explicitly addressing the recognition of deferred tax assets. Consequently, state member banks and savings associations were able to report deferred tax assets in accordance with GAAP. Prior to FASB 109, GAAP, as set forth in APB 11 and FASB 96, also for the most part did not permit the reporting of deferred tax assets that are dependent upon future taxable income.

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Concerns Regarding Deferred Tax Assets That Are Dependent Upon Future Taxable Income

Certain regulatory concerns exist with respect to including in capital deferred tax assets that are dependent upon future taxable income. Realization of such assets depends on whether a bank has sufficient future taxable income during the carryforward period. Since a bank that is in a net operating loss carryforward position is often experiencing financial difficulties, its prospects for generating sufficient taxable income in the future are uncertain. In addition, the condition of and future prospects for an organization often can and do change very rapidly in the banking environment. This raises concerns about the realizability of deferred tax assets that are dependent upon future taxable income, even when a bank appears on the surface to be sound and well-managed. Thus, for many banks, such deferred tax assets may not be realized and, for other banks, there will be a high degree of subjectivity in determining the realizability of this asset.

In addition, as a bank's condition deteriorates, it is less likely that deferred tax assets that are dependent upon future taxable income will be realized. Therefore, the bank would be expected under FASB 109 to reduce its deferred tax assets through increases to the asset's valuation allowance. Additions to this allowance would reduce the bank's regulatory capital at precisely the time it needs capital support the most. Thus, the reporting of deferred tax assets that are dependent upon future taxable income raises, for safety and soundness reasons, a supervisory concern.

Moreover, net operating loss carryforwards of an acquired bank can be severely limited to the acquirer when an acquisition or change in control occurs. If an acquisition is structured as a taxable asset purchase, the net operating loss carryforwards are generally extinguished. In addition, if an acquisition or change in control qualifies as a tax-free reorganization, a strict limitation (Section 382 of the Internal Revenue Code) on the use of the acquired institution's net operating loss carryforwards generally applies. This limitation is based on the value of the acquired institution at the time of its acquisition, and thus the potential value of a net operating loss carryforward to a prospective purchaser tends to decline as the institution's financial condition weakens.

Because of these concerns, in March 1992, the FDIC and the other federal banking agencies issued separate letters to the banking organizations under their supervision expressing concerns about FASB 109 and stated that banking organizations should not adopt FASB 109 for regulatory reporting purposes until the agencies had determined the appropriate regulatory reporting and capital treatment.[4]

FFIEC Request For Comment

On August 3, 1992, the agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), requested public comment on various regulatory reporting and capital treatments for deferred tax assets of depository institutions (57 FR 34135). In the comment request, the agency staffs indicated that, while no final decision would be made until all comments were received, their preference would be to limit the amount of deferred tax assets that could be reported to the amount that could be recovered through the carryback of losses against taxes previously paid (hereafter referred to as the "carryback approach"). Under the carryback approach, depository institutions' deferred tax assets that are dependent upon future taxable income could not be reported as assets for regulatory reporting purposes and, thus, would be excluded from regulatory capital.

The FFIEC received 198 comment letters in response to its request for comment, primarily from banks, thrifts, and holding companies. The vast majority of the commenters indicated that they believe that strong reasons exist for adopting FASB 109 for both regulatory reporting and capital purposes. These commenters generally asserted that deferred tax assets that are dependent upon future taxable income are valuable assets for many institutions and that FASB 109 provides sufficient criteria for measuring these assets and for distinguishing those institutions that will be able to realize these assets from those that will not. Furthermore, the commenters indicated that, under the carryback approach, the agencies were effectively proposing a liquidation value approach to deferred tax assets and that such an approach is inconsistent with the going concern concept used for measuring other assets and liabilities.

Commenters also noted that tax laws have changed significantly in the last several years, and many banking organizations will have a longer carryforward period (*i.e.*, 15 years) than they now have to absorb all losses beginning in 1994. (For these organizations, the carryforward period for losses attributable to bad debts is now five years.) Thus, these commenters indicated there is a greater likelihood that in the future carryforwards will ultimately be realized. Moreover, commenters indicated that, as a result of changes in tax laws that require some banking organizations to deduct charge-offs, rather than provisions for loan losses, for tax purposes, even strong banking organizations may have large amounts of deferred tax assets that are dependent upon future taxable income.

Commenters also expressed concern that the carryback approach could create a difference between the deferred tax assets reported in GAAP financial statements and regulatory reports, thereby creating an additional reporting burden for institutions. Commenters also questioned whether banking organizations could compete equally with other financial services companies if the carryback approach were imposed.

Some commenters indicated that, if the agencies did limit deferred tax assets, they should permit the recognition of some deferred tax assets that are dependent upon future taxable income and should set the limitation for capital purposes rather than for reporting purposes.

II. Proposal

The FDIC and the other agencies remain concerned about the realizability and characteristics of deferred tax assets that are dependent upon future taxable income. On the other hand, the agencies believe that many of the comments received in response to the FFIEC request for comment have merit. In this regard, some relatively strong organizations have large amounts of deferred tax assets that are dependent upon future taxable income. Such deferred tax assets could not be reported under the carryback approach. Yet there is a high likelihood in some cases that such assets will be realized. Thus, the agencies believe that the recognition of some amounts of deferred tax assets that are dependent upon future taxable income is appropriate. Furthermore, the agencies believe that their supervisory concerns regarding deferred tax assets can be adequately addressed by setting forth a limitation through the capital standards rather than through reporting instructions. Such an approach would not result in a difference between GAAP and regulatory reporting requirements.

Therefore, after careful consideration of the comments received, the FFIEC

[4] The OTS's letter indicated that savings associations could adopt the provisions of FASB 109, except that any deferred tax asset could not exceed what was allowed to be reported under APB 11 or FASB 96.

decided that banks and savings associations should adopt FASB 109 for reporting purposes in Call Reports and Thrift Financial Reports (TFRs) beginning in the first quarter of 1993 (or the beginning of their first fiscal year thereafter, if later). Insured banks were notified by the FFIEC that they should report deferred tax assets in their Call Reports in accordance with GAAP as prescribed in FASB 109 in Financial Institutions Letter FIL–97–92 dated December 31, 1992. As FDIC-supervised banks adopt FASB 109 during 1993, this GAAP reporting standard will supersede the regulatory reporting limitation on deferred tax assets established as a supervisory policy by the FDIC in Bank Letter BL–36–85 dated October 4, 1985. As a result, the FDIC will be able to withdraw this 1985 Bank Letter.

The FFIEC, in reaching its decision on regulatory reporting, also recommended that each of the federal banking and thrift regulatory agencies should amend its regulatory capital standards to limit the amount of deferred tax assets that are dependent upon future taxable income that can be included in regulatory capital to the lesser of:

(1) The amount of deferred tax assets that are dependent upon future taxable income that is expected to be realized within one year of the quarter-end date,[5] based on an institution's projections of future taxable income (exclusive of tax carryforwards and reversals of existing temporary differences) for that year. Such projections should include the estimated effect of tax planning strategies that the institution expects to implement to realize tax carryforwards that will otherwise expire during the year, or

(2) Ten percent of Tier 1 capital.

When the recorded amount of deferred tax assets that are dependent upon future taxable income, net of any valuation allowance for deferred tax assets, exceeds this limitation, the excess amount is to be deducted from Tier 1 capital and from assets in regulatory capital calculations. Deferred tax assets which can be realized from taxes paid in prior carryback years and from future reversals of existing taxable temporary differences would generally not be limited.

The FDIC is proposing to adopt the recommendation of the FFIEC in full, as summarized immediately above.[6] Furthermore, consistent with the recommendations of the FFIEC, FASB 109, and longstanding policy of the FDIC and the other agencies, the FDIC is proposing that the capital limit should be determined on a separate entity basis for each insured state nonmember bank.[7] However, in some cases, an insured state nonmember bank's holding company may not have the financial capability to reimburse the institution for tax benefits derived from the institution's carryback of net operating losses or tax credits. In these cases, the amount of carryback potential the bank may consider in calculating the capital limit on deferred tax assets should be limited to the lesser amount which it could reasonably expect to have refunded by its parent. Thus, a bank's ownership by a holding company may not increase the deferred tax assets an insured state nonmember bank may include in its Tier 1 capital, but may reduce them.

Consistent with FASB 109, the limit based on projected future taxable income would also be determined on a tax jurisdiction-by-jurisdiction basis. A limit for one jurisdiction (*e.g.*, the United States) in excess of the reported amount of deferred tax assets for that jurisdiction should not be used to effectively increase the limit for other jurisdictions (*e.g.*, the state in which the bank is chartered).

The proposed capital limitation is intended to balance the FDIC's concerns about deferred tax assets that are dependent upon future taxable income against the fact that such assets will, in many cases, be realized. The proposed approach generally permits full inclusion of deferred tax assets potentially recoverable from carrybacks, since there is a high likelihood that such amounts will be realized. In addition, the proposed approach also includes those deferred tax assets that are dependent upon future taxable income, if any, that can be recovered from projected taxable income during the next year. The FDIC is proposing to limit projections of future taxable income to one year because, in general, the FDIC believes that many banks are able to make reasonable projections of taxable income for the next twelve month period and then achieve their projected results. However, the reliability of these projections and the ability to actually achieve them tends to decrease significantly beyond that time period. Deferred tax assets that are dependent upon future taxable income are further limited to ten percent of Tier 1 capital, since the FDIC believes such assets should not comprise a large portion of a bank's capital base given the uncertainty of realization associated with these assets and the difficulty in selling these assets apart from the bank.

The amount of deferred tax assets that banks report in their Call Reports and use to meet capital requirements will be subject to examiner review.

III. Questions for Comment

While the FDIC is seeking public comment on all aspects of its proposal on the regulatory capital treatment of deferred tax assets, it seeks specific comment on the following questions.

(1) When determining the maximum allowable amount of deferred tax assets that are dependent upon future taxable income under the proposal, these assets would be subject to a ten percent of Tier 1 capital limit. Is this an appropriate percentage limitation given the nature of these assets or would a higher or lower percentage limitation be more appropriate? What factors should be considered in setting the limit?

(2) Under previous GAAP as set forth in Accounting Principles Board Opinion No. 16, "Business Combinations," the reported value of an asset (other than goodwill) acquired in a purchase business combination is adjusted for the tax effect of the difference between the market or appraised value of the asset and its tax basis. FASB 109 changes this treatment by requiring that this tax effect be recorded separately in a deferred tax account. This change in treatment could cause a large increase in the reported amount of certain identifiable intangible assets which are deducted for purposes of computing regulatory capital. Should these increases in identifiable intangible assets acquired in purchase business combinations and the related tax effects be treated differently then in accordance with the existing regulatory capital rules for intangibles and as proposed above for deferred taxes? If so, why is a different treatment warranted and what should this treatment be? Are there any

[5] For purposes of determining the limit in (1) above, the FDIC proposes that insured state nonmember banks should assume that all temporary differences fully reverse at the report date. Other than this provision, the one-year cutoff for projections of future taxable income, and the inclusion of an organization's tax planning strategies as part of those projections, insured state nonmember banks should adhere to FASB 109 when determining this limit. Consistent with FASB 109 and the separate entity method discussed later in this proposal, the FDIC proposes to permit the netting of deferred tax liabilities and assets for a particular tax-paying component of an insured state nonmember bank and within a particular tax jurisdiction. Netting of deferred tax assets and liabilities attributable to different tax-paying components of an insured state nonmember bank or to different tax jurisdictions would not be permitted.

[6] Under the FDIC's risk-based capital guidelines, all deferred tax assets included in capital would continue to be assigned a risk weight of 100 percent.

[7] Under the separate entity method, a bank (together with its consolidated subsidiaries) that is a subsidiary of a holding company is treated as a separate taxpayer rather than as part of the consolidated group of which it is a member.

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other provisions of FASB 109 which the agencies should consider for purposes of applying a different regulatory capital treatment than has been proposed above?

(3) The FDIC is interested in receiving comments on ways of reducing the potential burden associated with this proposal and requests comments on this matter. For example, is a limitation based on projections of future taxable income difficult to implement? Would it be simpler to base a capital limitation on deferred tax assets without consideration of future projections of taxable income, such as permitting only healthy organizations to include in capital deferred tax assets that are dependent upon future taxable income up to a specified percentage of Tier 1 capital (*e.g.*, five or ten percent)? Would there be any other method that would be simpler to administer while recognizing the FDIC's concerns about deferred tax assets? Also, for example, the limitation, as proposed, would be based on the separate entity method. Would another method be more appropriate for determining the limitation on deferred tax assets and for tax-sharing agreements in general?

(4) The proposal would require tax planning strategies to be included as part of an institution's projections of taxable income for the next year. Furthermore, the proposal would require banks to assume that all temporary differences fully reverse at the report date. Comment is specifically requested on the appropriateness of these provisions.

(5) The proposed rule includes a definition for "deferred tax assets that are dependent upon future taxable income." Is it necessary to define this term in the rule or would it be sufficient to define the term in the instructions for the Call Reports?

IV. Regulatory Flexibility Act Analysis

The FDIC does not believe that the adoption of this proposal would have a significant economic impact on a substantial number of small business entities (in this case, small banks), in accordance with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In this regard, the vast majority of small banks currently have very limited amounts of net deferred tax assets, which are the subject of this proposal, as a component of their capital structures. Furthermore, adoption of this proposal, in combination with the recent adoption of FASB 109 for regulatory reporting purposes, will allow many banks to increase the amount of deferred tax assets they include in regulatory capital.

V. Paperwork Reduction Act

The FDIC has received approval from the Office of Management and Budget (OMB) to collect in the Reports of Condition and Income (Call Reports) information on the amount of deferred tax assets disallowed for regulatory capital purposes. (OMB Control Number 3064–0052.)

List of Subjects in 12 CFR Part 325

Bank deposit insurance, Banks, banking, Capital adequacy, Reporting and recordkeeping requirements, State nonmember banks.

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 325 as follows:

PART 325—CAPITAL MAINTENANCE

1. The authority citation for Part 325 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 3907, 3909; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2386 (12 U.S.C. 1828 note).

§ 352.2 [Amended]

2. Section 325.2 is amended in paragraphs (t) and (v) by adding "minus deferred tax assets in excess of the limit set forth in § 325.5(g)," after "12 CFR part 567),".

3. Section 325.5 is amended:

a. In paragraphs (f)(3)(i) and (f)(4)(i), by removing the word "and", by adding a comma after "rights", and by adding ", and any disallowed deferred tax assets" after "relationships"; and

b. By adding a new paragraph (g) to read as follows:

§ 325.5 Miscellaneous.

* * * * *

(g) *Treatment of deferred tax assets.* For purposes of calculating Tier 1 capital under this part (but not for financial statement purposes), deferred tax assets are subject to the conditions, limitations, and restrictions described in this section.

(1) *Deferred tax assets that are dependent upon future taxable income* are deferred tax assets arising from deductible temporary differences that exceed the amount of taxes previously paid that could be recovered through loss carrybacks if existing temporary differences (both deductible and taxable) fully reverse at the calendar quarter-end date and deferred tax assets arising from operating loss and tax credit carryforwards.

(2) *Tier 1 capital limitations.* (i) The maximum allowable amount of deferred tax assets that are dependent upon future taxable income, net of any valuation allowance for deferred tax assets, will be limited to the lesser of:

(A) The amount of deferred tax assets that are dependent upon future taxable income that is expected to be realized within one year of the most recent calendar quarter-end date, based on projected future taxable income for that year; or

(B) Ten percent of the amount of Tier 1 capital that exists before the deduction of any disallowed purchased mortgage servicing rights, any disallowed purchased credit card relationships, and any disallowed deferred tax assets.

(ii) For purposes of this limitation, all existing temporary differences should be assumed to fully reverse at the calendar quarter-end date. The recorded amount of deferred tax assets that are dependent upon future taxable income, net of any valuation allowance for deferred tax assets, in excess of this limitation will be deducted from assets and from equity capital for purposes of determining Tier 1 capital under this part. The amount of deferred tax assets that can be realized from taxes paid in prior carryback years and from the reversal of existing taxable temporary differences generally would not be deducted from assets and from equity capital. However, notwithstanding the above, the amount of carryback potential that may be considered in calculating the amount of deferred tax assets that a member of a consolidated group (for tax purposes) may include in Tier 1 capital may not exceed the amount which the member could reasonably expect to have refunded by its parent.

(3) *Projected future taxable income.* Projected future taxable income should not include net operating loss carryforwards to be used within one year of the most recent calendar quarter-end date or the amount of existing temporary differences expected to reverse within that year. Projected future taxable income should include the estimated effect of tax planning strategies that are expected to be implemented to realize tax carryforwards that will otherwise expire during that year.

4. Section I.B. of Appendix A to subpart A of part 325 is amended by adding a new paragraph (5) to read as follows:

Appendix A to Subpart A of Part 325—Statement of Policy on Risk-Based Capital

* * * * *

I. * * *

B. * * *

(5) *Deferred tax assets* in excess of the limit set forth in 12 CFR 325.5(g). These disallowed deferred tax assets are deducted from the core capital (Tier 1) elements.

5. Table I in Appendix A to subpart A of part 325 is amended by changing footnote designator "3" to read "4" each time it appears, by adding "Less: Certain deferred tax assets[3]" after "Less: All intangible assets other than mortgage servicing rights and purchased credit card relationships.[2]", and by adding a new footnote 3 to read as follows:

[3] Deferred tax assets are subject to the capital limitations set forth in § 325.5(g) of the FDIC's regulations.

By order of the Board of Directors.

Dated at Washington, DC, this 20th day of April, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–10527 Filed 5–4–93; 8:45 am]

BILLING CODE 6714–01–P

12 CFR Part 337

RIN 3064–AA80

Unsafe and Unsound Banking Practices

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed rule.

SUMMARY: This proposed rule revises certain definitions used in FDIC regulations governing the acceptance of brokered deposits. The revisions are being made in order to conform those definitions to the definitions used in regulations implementing section 38 of the Federal Deposit Insurance Act (FDI Act). As a result of these revisions, the capital category definitions used in FDIC regulations governing the acceptance of brokered deposits will have the same meaning as provided under regulations implementing section 38 of the FDI Act.

DATES: Comments must be received on or before July 6, 1993.

ADDRESSES: All comments should be submitted to Hoyle L. Robinson, Executive Secretary, Attention: room F–400, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to room F–400, 1776 F Street, NW., Washington, DC, on business days between 8:30 a.m. and 5:p.m. FAX number (202) 898–3838. Comments will be available for inspection in the FDIC's Reading Room, room 7118, 550 17th Street, NW., Washington, DC, on business days between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Valerie Jean Best, Counsel, Legal Division, (202) 898–3812, or William G. Hrindac, Examination Specialist, Division of Supervision, (202) 898–6892, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington DC 20429.

SUPPLEMENTARY INFORMATION:

Discussion

Description of Regulations Governing Brokered Deposits

The FDIC Board of Directors adopted a final rule implementing section 301 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) on May 29, 1992. 57 FR 23933 (June 5, 1992). Section 301 of FDICIA amended section 29 of the Federal Deposit Insurance Act (FDI Act) and added a new section 29A. 12 U.S.C. 1831f, 1831f-1. Section 301 of FDICIA, entitled "Limitations on Brokered Deposits and Deposit Solicitations," significantly expanded the restrictions first imposed through the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) on funds obtained, directly or indirectly, by or through any "deposit broker" for deposit into one or more deposit accounts (*i.e.*, brokered deposits). Section 301 also expanded the interest rate restrictions first imposed through FIRREA. The final rule implementing section 301 became effective on June 16, 1992.

The statutory scheme created by FDICIA for brokered deposits tracks the language of other provisions of FDICIA calling for progressively more stringent restrictions and supervision as capital levels decline. Thus, "well capitalized" insured depository institutions may accept, renew, or roll over brokered deposits without first obtaining a waiver from the FDIC. However, "adequately capitalized" insured depository institutions are prohibited by FDICIA from accepting, renewing, or rolling over brokered deposits unless they first obtain a waiver from the FDIC. "Undercapitalized" insured depository institutions are prohibited from accepting, renewing, or rolling over brokered deposits. FDICIA also imposed certain interest rate restrictions on adequately capitalized and undercapitalized insured depository institutions.

In the final rule adopted on May 29, 1992, the FDIC noted that the terms "well capitalized" and "adequately capitalized" are not defined in section 29, as amended. The FDIC further noted in the final rule that those terms are the same as found in section 38 of the FDI Act dealing with prompt corrective action. Moreover, section 29, as amended, indicates that the term "undercapitalized" is to have the same meaning provided in section 38 of the FDI Act. The FDIC noted in the final rule governing brokered deposits that the precise regulatory definitions of the different capital levels identified in section 38 were being developed in consultation with the other federal banking agencies but that those definitions would not be available until after the date when final regulations implementing the new brokered deposit restrictions were required to be in place. The FDIC stated: "For consistency and in keeping with the evident intent of Congress, the FDIC intends to adopt the section 38 definitions of capital levels when they become effective." 57 FR 23933, 23935 (June 5, 1992). To the same effect, see the FDIC's statement in the proposed rule governing brokered deposits adopted by the FDIC on March 24, 1992. 57 FR 11442, 11443 (April 3, 1992). In the interim, the final rule governing brokered deposits implemented the following definitions:

* * * A "well capitalized institution" was defined as one that: (1) Has a ratio of total capital to risk-weighted assets of not less than 10.0 percent; (2) Has a ratio of Tier 1 capital to risk-weighted assets of not less than 6.0 percent; (3) Has a ratio of Tier 1 capital to total book assets of not less than 5.0 percent; and (4) Has not been notified by its appropriate federal banking agency that it is in a "troubled condition." The term "troubled condition" was given the meaning prescribed in regulations implementing section 32 of the FDI Act issued by the appropriate federal banking agency. This term is discussed in more detail later in this document in connection with the discussion of reclassification.

* * * An "undercapitalized institution" was defined as one that fails to meet the minimum regulatory capital requirements prescribed by its appropriate federal banking agency.

* * * An "adequately capitalized institution" was defined as one that is neither a well capitalized insured depository institution nor an undercapitalized insured depository institution.

The FDIC noted that these interim definitions "should suffice until definitions of capital levels for purpose of section 38 are adopted." 57 FR 23933, 23938 (June 5, 1992); 57 FR 11442, 11443 (April 3, 1992).

Insured Branches of Foreign Banks Operating in the U.S.

The final rule governing brokered deposits also set out capital category definitions applicable to insured branches of foreign banks. The final rule

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provided that an insured branch of a foreign bank is "well capitalized," for purposes of the brokered deposit prohibitions, if it: (1) Maintains the pledge of assets required under 12 CFR 346.19; (2) Maintains the required volume of eligible assets prescribed by 12 CFR 346.20(a) at 108 percent of the preceding quarter's average book value of the insured branch's liabilities, exclusive of liabilities due to the foreign bank's head office, other branches, agencies, offices, or wholly owned subsidiaries; and (3) Has not been notified by the appropriate federal banking agency that it is in a "troubled condition." The reference to "troubled condition" parallels the criteria used in the definition of "well capitalized" applicable to all other insured depository institutions. The final rule provided that an "undercapitalized" insured branch is one that fails to maintain either (1) the pledge of assets required under 12 CFR 346.19, or (2) the required volume of eligible assets prescribed by 12 CFR 346.20.

Prompt Corrective Action

Section 131 of FDICIA, which is entitled "Prompt Corrective Action," creates a new statutory framework that applies to every insured depository institution a system of supervisory actions indexed to the capital level of the individual institution. The new framework is contained in section 38 of the FDI Act (12 U.S.C. 1831o). The FDIC, the Board of Governors of the Federal Reserve System (Board of Governors), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) (collectively "the agencies") have each adopted final rules revising their regulations to implement for the institutions which they supervise the system of prompt corrective action established by section 131 of FDICIA. 57 FR 44866 (September 29, 1992). The prompt corrective action regulations adopted by each agency establish the capital levels at which institutions will be deemed to come within the five capital categories created by section 131 of FDICIA. The capital thresholds that have been adopted for each of the five capital categories are set forth below. For purposes of section 38 of the FDI Act, an institution is deemed to be:

• • • "Well capitalized" if the institution: (1) Has a total risk-based capital ratio of 10.0 percent or greater; (2) Has a Tier 1 risk-based capital ratio of 6.0 percent or greater; (3) Has a leverage ratio of 5.0 percent or greater; and (4) Is not subject to any written agreement, order, capital directive, or prompt corrective action directive to meet and maintain a specific capital level for any capital measure.

• • • "Adequately capitalized" if the institution: (1) Has a total risk-based capital ratio of 8.0 percent or greater; (2) Has a Tier 1 risk-based capital ratio of 4.0 percent or greater; (3) Has a leverage ratio of 4.0 percent or greater (or a leverage ratio of 3.0 percent or greater if the institution is rated composite 1 under the CAMEL or MACRO rating system in its most recent report of examination, subject to appropriate federal banking agency guidelines); and (4) Does not meet the definition of a well capitalized institution;

• • • "Undercapitalized" if the institution: (1) Has a total risk-based capital ratio that is less than 8.0 percent; or (2) Has a Tier 1 risk-based capital ratio that is less than 4.0 percent; or (3) Has a leverage ratio that is less than 4.0 percent (or a leverage ratio that is less than 3.0 percent if the institution is rated composite 1 under the CAMEL or MACRO rating system in its most recent report of examination, subject to appropriate federal banking agency guidelines).

• • • "Significantly undercapitalized" if the institution: (1) Has a total risk-based capital ratio that is less than 6.0 percent; or (2) Has a Tier 1 risk-based capital ratio that is less than 3.0 percent; or (3) Has a leverage ratio that is less than 3.0 percent.

• • • "Critically undercapitalized" if the institution has a ratio of tangible equity to total assets that is equal to or less than 2.0 percent.

The overlap between these last three categories is contemplated by the statute and has the effect of applying to significantly undercapitalized institutions and to critically undercapitalized institutions any provisions of section 38 of the FDI Act that are applicable to undercapitalized institutions. The capital thresholds that have been adopted for each of the five capital categories are the thresholds that were originally proposed by the agencies, and were adopted by the agencies only after the comments received in response to the proposals—including comments as to the five capital categories—were reviewed by the agencies.[1] Capital categories were also adopted for insured branches for foreign banks.

In establishing a system of prompt corrective action based primarily on the capital level of each institution, Congress also recognized that factors other than capital should in certain circumstances be used to assess the financial condition of an institution. Section 38 provides that the appropriate banking agency may, under certain circumstances, reclassify a well capitalized insured depository institution as adequately capitalized. Section 38 also permits the appropriate agency to require an adequately capitalized or undercapitalized institution to comply with the supervisory provisions as if the institution were in the next lower category (but not treat a significantly undercapitalized institution as critically undercapitalized) based on supervisory information other than the capital levels of the institution.

Incorporation of Prompt Corrective Action Capital Categories

For the most part, the definitions of "well capitalized", "adequately capitalized", and "undercapitalized" used in the current brokered deposit regulations are substantively the same as those finally adopted by the agencies in their respective regulations implementing section 38. That is, the brokered deposit definitions use the same stated percentages of leverage and risk-based capital as do the prompt corrective action definitions. Likewise, the current brokered deposit regulations—like the final prompt corrective action regulations—require an insured branch to maintain the pledge of assets required under 12 CFR 346.19 and, further, to maintain the eligible assets prescribed under 12 CFR 346.20 at 108 percent exclusive of certain third-party liabilities, in order to be considered well capitalized.

The only material difference between the current brokered deposit capital category definitions and the final prompt corrective action definitions is that, for purposes of the brokered deposit regulations, the "well capitalized" definition excludes insured depository institutions that satisfy the stated percentages of leverage and risk-based capital but, nonetheless, are found to be in "troubled condition". The final regulations issued under section 38 by the agencies do not incorporate this requirement. Instead, as outlined above, the prompt corrective action regulations exclude an institution from the well capitalized category if it is subject to any written agreement, order, capital directive, or prompt corrective action directive, to meet and maintain a specific capital level for any capital measure. Similarly, the "well capitalized" definition applicable to insured branches of foreign banks used in the brokered deposit regulations excludes insured branches that are in "troubled condition". In contrast, the prompt corrective action definitions exclude an insured branch of a foreign bank from the well capitalized category if it has received written notice from: (1) The OCC to increase its capital

[1] The proposed rules implementing section 38 of the FDI Act were published in the Federal Register as follows. FDIC—57 FR 29662 (July 6, 1992). Board of Governors—57 FR 29226 (July 1, 1992). OCC—57 FR 29606 (July 7, 1992). OTS—57 FR 29626 (July 7, 1992). The final rules were published at 57 FR 44866 (Sept. 29, 1992).

equivalency deposit pursuant to 12 CFR 28.6(a) or to comply with asset maintenance requirements pursuant to 12 CFR 28.9; or (2) The FDIC to pledge additional assets pursuant to 12 CFR 346.19 or to maintain a higher ratio of eligible assets pursuant to 12 CFR 346.20.

All other differences in the definitions are believed to be non-substantive. These non-substantive differences are as follows. The brokered deposit regulations do not contain specific definitions for "significantly undercapitalized" and "critically undercapitalized" institutions. This is because section 29 of the FDI Act restricts all undercapitalized institutions from accepting, renewing, or rolling over brokered deposits; it is irrelevant into which of the three lower capital categories the depository institution falls. Likewise, no undercapitalized institution may solicit deposits by offering rates of interest that are significantly higher than the prevailing rates of interest on insured deposits: (1) In such institution's normal market areas; or (2) In the market area in which such deposits would otherwise be accepted. Again, it is not relevant if the institution is significantly or critically undercapitalized—it is sufficient if the institution is undercapitalized.

Another difference between the definitions presently used in the brokered deposit regulations and the definitions used in the prompt corrective regulations concerns the definition of "adequately capitalized". As noted above, an institution is adequately capitalized for purposes of the prompt corrective action provisions if it has a total risk-based capital ratio of 8.0 percent or greater, a Tier 1 risk-based capital ratio of 4.0 percent or greater, and a leverage ratio of 4.0 percent or greater (or a leverage ratio of 3.0 percent or greater if the institution is rated composite 1 in its most recent report of examination, subject to appropriate federal banking agency guidelines), and the institution does not meet the definition of a well-capitalized institution. In contrast, the current brokered deposit regulation provides that an institution is "adequately capitalized" if is "neither a well capitalized insured depository institution nor an undercapitalized insured depository institution". 57 FR 23933, 23941 (June 5, 1992). Although differently stated, the definitions are substantively the same except that the prompt corrective definitions categorize an institution as "adequately capitalized" if it has a leverage ratio of 3.0 percent or greater if the institution is rated composite 1 under the CAMEL or MACRO rating systems in the most recent examination, subject to appropriate federal banking guidelines.

Consistent with the statements made by the FDIC in both the proposed rule and the final rule implementing the brokered deposit restrictions, the FDIC is proposing to amend its brokered deposit regulations in order to incorporate the capital definitions used in the prompt corrective action regulations issued by the agencies. As a result of this change, the reference to "troubled condition" will be eliminated from the definitions of "well capitalized" currently used in the brokered deposit regulations. Instead, in order to be considered well capitalized, an institution must not be subject to any written agreement, order, capital directive, or prompt corrective action directive, to meet and maintain a specific capital level for any capital measure. Because of this change, more institutions may come within the definition of "well capitalized" for purposes of the brokered deposit regulations. This is because the definition of "troubled condition" encompasses more institutions than does the criteria outlined in the relevant prompt corrective action definition. For example, the term "troubled condition" encompasses, among others, institutions that are subject to a written agreement.[2] In contrast, only those institutions that are subject to a written agreement, order, capital directive, or prompt corrective action directive, to meet and maintain a specific capital level for any capital measure, are eliminated from the well capitalized category for purposes of the prompt corrective action provisions. Similarly, by deleting the reference to "troubled condition" from the definition of "well capitalized" applicable to insured branches of foreign banks, and incorporating the above-described prompt corrective action regulatory requirements, it is anticipated that more insured branches of foreign banks may qualify as "well capitalized" branches. Again, this is because the definition of "troubled condition" encompasses a greater number of institutions than does the exclusionary factors used in the definition of "well capitalized" for purposes of the prompt corrective action regulations.

The FDIC is also incorporating the definition of "adequately capitalized" used in the prompt corrective action provisions. As noted above, the only substantive effect of this change is to permit an institution that has a leverage ratio of 3.0 percent or greater and that is rated composite 1 in its most recent report of examination, subject to appropriate federal banking agency guidelines, to be classified as adequately capitalized. In the absence of this change, such an institution would be classified as undercapitalized for purposes of the brokered deposit provisions. Few, if any, institutions are expected to be affected by this change, and no insured depository institution will be adversely affected by this change.

Reclassification Under Prompt Corrective Action Regulations

Section 38 of the FDI Act provides that the appropriate banking agency may, under certain circumstances, reclassify a well capitalized insured depository institution as adequately capitalized. The statute provides, in part, that if the appropriate Federal banking agency determines (after notice and opportunity for hearing) that an insured depository institution is in an unsafe or unsound condition or, pursuant to section 8(b)(8), deems the institution to be engaging in an unsafe or unsound practice, the agency may reclassify the institution as adequately capitalized if the institution is well capitalized. 12 U.S.C. 1831o(g)(1)(A). Section 8(b)(8) of the FDI Act, referred to above, was amended by FDICIA and provides that if an insured depository institution receives, in its most recent report of examination, a less-than-satisfactory rating for asset quality, management, earnings or liquidity, the appropriate Federal banking agency may (if the deficiency is not corrected) deem the institution to be engaging in an unsafe or unsound practice. 12 U.S.C. 1818(b)(8).

The prompt corrective action provisions adopted by each agency track, for the most part, the statutory

[2] Under FDIC regulations, an institution is in "troubled condition" if it is subject to a "written agreement which requires action to improve or maintain the safety and soundness of the institution." 12 CFR 303.14((a)(4)(iii). To the same effect, see OTS Thrift Bulletin 45 (April 25, 1990) (A savings association is deemed to be in "troubled condition" if it is subject to a "written agreement . . . addressing safety or soundness issues."). Regulations issued by the Board of Governors provide that an institution is in "troubled condition" if it is subject to a "formal written agreement that requires action to improve the financial condition of the institution." 12 CFR 225.71(b)(2). Regulations issued by the OCC provide that an institution is in "troubled condition" if it is subject to a "formal written agreement." 12 CFR 5.51(4)(II). An institution may be in "troubled condition" on the basis of criteria other than that quoted above.

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language quoted above.[9] The agencies provide an opportunity for an informal hearing in the case of both types of reclassification (*i.e.*, unsafe or unsound condition, or unsafe or unsound practice). It should also be noted that reclassification of an institution based on an examination rating is not an automatic result of receiving an unsatisfactory rating. Instead, each agency retains discretion to initiate the procedures for reclassification and do so based on the facts of each case.

As explained above, the FDIC proposes to amend its brokered deposit regulations in order to incorporate the capital definitions used in the prompt corrective action regulations issued by the agencies. One result of this revision is that a well capitalized institution that is reclassified as adequately capitalized by the appropriate federal banking agency pursuant to section 38 of the FDI Act will be subject to the brokered deposit provisions applicable to adequately capitalized institutions. For the most part, this is not regarded as a substantive change to the brokered deposit regulations because the term "troubled condition" currently used in the brokered deposit regulations encompasses most of the criteria pursuant to which a well capitalized institution may be reclassified as adequately capitalized.

The federal banking agencies have each prescribed a definition for the term "troubled condition", as required by section 914 of FIRREA (which added a new section 32 to the FDI Act) (12 U.S.C. 1831i(f)). The definitions are generally the same although certain definitions are slightly more specific. Each of the agencies define the term "troubled condition" to include depository institutions assigned a composite rating of 4 or 5 under the Uniform Financial Institutions Rating System or, in the case of the OTS, a composite MACRO rating of 4 or 5. Each of the agencies define the term to include any depository institution that is informed that it has been designated as in "troubled condition" or that is subject to a cease and desist order. The term also covers depository institutions subject to a written agreement: The FDIC and OTS cover written agreements that concern safety and soundness issues; the Board of Governors covers formal written agreements that require action to improve the financial condition of the institution; the OCC covers all formal written agreements. FDIC regulations specifically include within the term depository institutions subject to capital directives, as well as those subject to proceedings for termination or suspension of deposit insurance. Both the FDIC and the OCC apply the term to institutions subject to cease and desist proceedings. OTS policy guidelines provide that an institution that does not meet its minimum capital requirements is considered to be in "troubled condition".

As can be seen from the aforementioned criteria, a well capitalized institution that is reclassified as adequately capitalized pursuant to prompt corrective action provisions may also be in "troubled condition" or eligible to be designated as in "troubled condition". For example, an institution that is found to be in an unsafe or unsound condition for purposes of prompt corrective action may also be subject to a written agreement or a cease and desist order. Even if it were not subject to such an agreement or order, however, the appropriate federal banking agency could designate it as being in "troubled condition".

As noted above, a depository institution that receives a less-than-satisfactory rating for asset quality, management, earnings or liquidity, may be deemed to be engaging in an unsafe or unsound practice and, consequently, subject to reclassification. Under the definition of "troubled condition", a depository institution assigned a composite rating of 4 or 5 is deemed to be in "troubled condition". In this instance, the reclassification criteria appears to be more comprehensive than the "troubled condition" criteria. On the other hand, an institution that receives a less-than-satisfactory rating for asset quality, management, earnings or liquidity, could also be designated as being in "troubled condition".

In summary, by incorporating into its brokered deposit regulations the capital definitions used in the prompt corrective action regulations issued by the agencies, a well capitalized institution that is reclassified as adequately capitalized by the appropriate federal banking agency pursuant to section 38 of the FDI Act will be subject to the brokered deposit provisions applicable to adequately capitalized institutions. When the grounds and procedure for reclassification are compared to the grounds and procedure for designating an institution as being in "troubled condition", it appears that the reclassification criteria are somewhat narrower than the "troubled condition" criteria. Consequently, this change should not have an adverse impact on a large number of institutions.

Section 38 of the FDI Act permits the appropriate federal banking agency to require an adequately capitalized or undercapitalized institution to comply with the supervisory provisions as if the institution were in the next lower category (but not treat a significantly undercapitalized institution as critically undercapitalized) based on supervisory information other than the capital levels of the institution. These provisions are not strictly a reclassification. 57 FR 44866, 44876 (Sept. 29, 1992). The FDIC has determined that, if the appropriate federal banking agency subjects an adequately capitalized insured depository institution to the supervisory actions applicable to a lower capital category pursuant to section 38 of the FDI Act, the institution will not be subjected to the provisions applicable to such lower capital category (*i.e.*, undercapitalized) under the brokered deposit rule. The basis for this determination is that an adequately capitalized institution's access to brokered deposits is already strictly regulated by the brokered deposit statute and regulations. An adequately capitalized institution is prohibited from accepting brokered deposits unless it first obtains a waiver from the FDIC. A waiver is granted only if the FDIC concludes that the acceptance of brokered deposits does not constitute an unsafe or unsound practice with respect to the applicant. 12 U.S.C. 1831f(c); 12 CFR 337.6(c). Since the acceptance of brokered deposits by adequately capitalized institutions is controlled, little would be achieved by subjecting an adequately capitalized institution to the prohibitions applicable to undercapitalized institutions.

Paperwork Reduction Act

This proposed rule does not impose any new information-collection requirements. Consequently, no information has been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

The Board of Directors of the FDIC hereby certifies that these amendments to part 337 will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) In light of this certification, the Regulatory Flexibility Act requirements (at 5 U.S.C. 603, 604) to prepare initial and final regulatory flexibility analyses do not apply.

[9] FDIC—12 CFR 325.103(d). Board of Governors—12 CFR 208.33(c). OCC—12 CFR 6.4(d). OTS—12 CFR 565.4(c).

List of Subjects in 12 CFR Part 337

Banks, banking, Reporting and recordkeeping requirements, Savings associations, Securities.

For the reasons set forth in the preamble, the Board of Directors of the FDIC hereby proposes to amend part 337 of chapter III of title 12 of the Code of Federal Regulations as set forth below.

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

1. The authority citation for Part 337 continues to read as follows:

Authority: 12 U.S.C. 375a(4), 375b, 1816, 1818(a), 1818(b), 1819, 1821(f), 1828(j)(2), 1831f, 1831f-1.

2. Section 337.6 is amended by removing paragraphs (a)(1), (a)(9), and (e)(10); by redesignating paragraphs (a)(2) and (a)(3) as paragraphs (a)(1) and (a)(2), respectively; and by adding a new paragraph (a)(3) to read as follows:

§ 337.6 Brokered deposits.

(a) * * *

(3) *Capital categories.* (i) For purposes of section 29 of the Federal Deposit Insurance Act and this § 337.6, the terms *well capitalized, adequately capitalized,* and *undercapitalized,*[11] shall have the same meaning as to each insured depository institution as provided under regulations implementing section 38 of the Federal Deposit Insurance Act and issued by the appropriate federal banking agency for that institution.[12]

(ii) If the appropriate federal banking agency reclassifies a well capitalized insured depository institution as adequately capitalized pursuant to section 38 of the Federal Deposit Insurance Act, the institution so reclassified shall be subject to the provisions applicable to such lower capital category under this § 337.6.

(iii) An insured depository institution shall be deemed to be within a given capital category for purposes of this § 337.6 as of the date the institution is notified of, or is deemed to have notice of, its capital category, under regulations implementing section 38 of the Federal Deposit Insurance Act and issued by the appropriate federal banking agency for that institution.[13]

* * * * *

By order of the Board of Directors.

Dated at Washington, DC this 27th day of April, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–10509 Filed 5–4–93; 8:45 am]

BILLING CODE 6714–01–P

[11] The term *undercapitalized* includes any institution that is *significantly undercapitalized* or *critically undercapitalized* under regulations implementing section 38 of the Federal Deposit Insurance Act and issued by the appropriate federal banking agency for that institution.

[12] For the most part, the capital measure terms are defined in the following regulations: FDIC—12 CFR part 325, subpart B, Federal Reserve System—12 CFR part 208, Office of the Comptroller of the Currency—12 CFR part 6, Office of Thrift Supervision—12 CFR part 565.

[13] The regulations implementing section 38 of the Federal Deposit Insurance Act and issued by the federal banking agencies generally provide that an insured depository institution is deemed to have been notified of its capital levels and its capital category as of the most recent date:

(1) A Consolidated Report of Condition and Income or Thrift Financial Report is required to be filed with the appropriate federal banking agency;

(2) A final report of examination is delivered to the institution; or

(3) Written notice is provided by the appropriate federal banking agency to the institution of its capital category for purposes of section 38 of the Federal Deposit Insurance Act and implementing regulations or that the institution's capital category has changed.

Provisions specifying the effective date of determination of capital category are generally published in the following regulations: FDIC—12 CFR 325.102, Federal Reserve System—12 CFR 208.32, Office of the Comptroller of the Currency—12 CFR 6.3, Office of Thrift Supervision—12 CFR 565.3.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR–93–9]

Petition for Rulemaking: Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received July 6, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick M. Haynes, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3939.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC on April 28, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Rulemaking Petitions

Docket No. 26076.

Petitioner: Aircraft Owners and Pilots Association, Experimental Aircraft Association, Helicopter Association International, and National Association of State Aviation Officials.

Regulations Affected: 14 CFR 91.215(b).

Description of Rulechange Sought: To amend the Federal Aviation Regulations (FAR) regarding the requirement for an altitude-encoding (Mode C) transponder in a terminal control area (TCA) Mode C veil, by establishing the base of a Mode C veil at 2,500 feet above ground level (AGL) and, therefore, create a "free flight area" in each Mode C veil.

Denial: April 22, 1993.

[FR Doc. 93–10568 Filed 5–4–93; 8:45 am]

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14 CFR Parts 21 and 25

[Docket No. NM-81, Notice No. SC-93-3-NM]

Special Conditions: Extended Range Operation of Boeing Model 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: The FAA proposes these special conditions for approval of the Boeing Model 777 airplane for Extended Range Operation with Two-engine Airplanes (ETOPS) without the prerequisite service experience currently required for ETOPS approval. The manufacturer has requested that the Model 777 airplane be found to be acceptable for ETOPS operation at the time of type certification. Extended range operation of twin engine airplanes is not envisioned by the airworthiness standards of FAR 25, and has been determined to constitute a novel or unusual feature. This notice contains the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards of part 25 of the Federal Aviation Regulations.

DATES: Comments must be received on or before June 21, 1993.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-81, 1601 Lind Avenue SW, Renton, Washington, 98055-4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM-81. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Bob McCracken, FAA, Flight Test and Systems Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW, Renton, Washington 98055-4056; telephone (206) 227-2118.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before further rulemaking action on this proposal is taken. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-81." The postcard will be date stamped and returned to the commenter.

Background

On June 18, 1990, the Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207, applied for a type certificate for their new Model 777 airplane. The Model 777 is a long range, transport category airplane powered by two Pratt & Whitney 4073A, Rolls-Royce RB211-Trent 870, or General Electric GE90-B3 engines with 73,500, 71,200, and 74,500 lb. thrust ratings, respectively. The overall length of the Model 777 is 209 feet, the height is 61 feet, and the wingspan is 198 feet. The airplane has a seating capacity in a typical three class configuration of 305 to 328 passengers, or 375 to 400 passengers in a two class configuration. The Model 777 has a maximum takeoff weight of 535,000 lbs., a maximum landing weight of 445,000 lbs., a maximum operating altitude of 43,100 ft., and a range of 4,200 nautical miles in a two class configuration or 6,600 nautical miles in a three class configuration.

Type Certification Basis

Under the provisions of § 21.17, Boeing must show that the Model 777 airplane meets the applicable provisions of part 25, as amended by Amendments 25-1 through 25-71. Boeing has also elected to comply with certain aspects of Amendment 25-72, and all of Amendments 25-73 through 25-77. The amendment levels of the applicable Federal Aviation Regulations (FAR) are: Part 25 through Amendment 25-77, except for § 25.571(e)(1), which remains at Amendment 25-71 level; part 36, as amended at the time of certification; and part 34, as amended through Amendment 34-1. In addition, the certification basis will be upgraded to include any subsequent amendments to part 25 that are required for operation under part 121, the special conditions proposed for the Model 777 basic airplane, and the special conditions for early ETOPS approval proposed in this notice.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25 as amended) do not contain adequate or appropriate safety standards for the Model 777 airplane because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and become part of the type certification basis in accordance with § 21.17(a)(2).

Model 777 Design Features

The structure of the Model 777 is generally of conventional design and construction, but with considerable use of composite materials. Elements of the primary structure (the fin and horizontal tail) are constructed of composites, as are some elements of secondary structure, including the elevators, rudders, flaps, spoilers, ailerons, engine cowls, and main deck floor beams.

The Model 777 utilizes a combination of multiple computer channels and redundant sensors which channel command signals to various control surface actuators in response to programmed control laws. This control architecture, referred to as fly-by-wire (FBW), provides closed loop command to move servo-actuators for the elevators, ailerons, rudder, spoilers, horizontal stabilizer, slats and flaps, and engine power levers. In the unlikely event of simultaneous failure of all digital primary and analog backup computers, mechanical control is available to control the airplane's attitude until computer control is restored. This mechanical backup is not designed for controlling the airplane to a landing.

Hydraulic power for the flight control system is provided by three independent hydraulic systems. Functions are shared among these systems to ensure airplane control in the event of loss of one or two systems. The left and right systems are pressurized by variable displacement pumps driven from the engine accessory gearboxes. In addition, the left and right systems each have one electrically-driven demand pump. The center system is pressurized by two electrically-driven hydraulic pumps. This system also has two air-

driven demand pumps that use air from the airplane pneumatic system.

Normal electrical power is supplied by two integrated drive generators, one on each engine. An electrical generator powered by an auxiliary power unit (APU) is also available. Backup electrical power is available to selected airplane alternating current (AC) busses from two variable speed constant frequency generators, one of which is mounted on each engine. The main direct current (DC) system can also receive power from the backup generators. Primary power for the FBW system is provided by dedicated permanent magnet generators in each of the two backup generator units. The FBW system can alternately receive power from the main DC system or the standby DC system. The standby DC system is powered by a ram air turbine (RAT) driven AC generator, which can provide a source of standby electrical power that is not time limited. The RAT is deployed automatically upon loss of all normal and backup AC power sources. A manual deploy feature is available to the flightcrew should the RAT fail to deploy automatically.

The engine control system consists of two dual channel, full authority, digital engine controls (FADEC) mounted on the fan cases of each engine. The FADEC's are interfaced with the various airplane systems to provide redundant control of the engines through a "hard-wired" throttle angle resolver system. In addition, the throttles move in proportion to commanded changes in engine power, and in the event of a total failure of the engine indicating and crew alerting system (EICAS), analog rotor speeds are available to determine engine power levels. Each FADEC provides gas generator control, engine limit protection, power management, input to the thrust reverser system, and engine parameter inputs for the flight deck displays.

Control inputs are made through conventional flight deck control wheels, columns, and rudder pedals. The flight instruments are displayed on six liquid crystal flat panel displays. Two flat panel displays are mounted directly in front of both the pilot and copilot and display primary flight instruments and navigational information. The other two flat panel displays are located in the center of the instrument panel and display engine parameters, warnings, and system diagnostics.

The proposed type design of the Model 777 contains novel or unusual design features not envisioned by the applicable part 25 airworthiness standards, including extended range operation with two-engine airplanes.

Discussion

All two-engine airplanes operating under part 121 of the FAR are required to comply with § 121.161, which states, in pertinent part, that "no certificate holder may operate two-engine or three-engine airplanes * * * over a route that contains a point farther than one hour flying time * * * from an adequate airport." Advisory Circular 120-42A, Extended Range Operation With Two-Engine Airplanes (ETOPS), provides an acceptable means for obtaining approval for two-engine airplanes to operate over a route that contains a point farther than one hour flying time from an adequate airport. The two basic objectives of this Advisory Circular are to establish that the airplane and its supporting systems are suitable for the extended range mission and that the maintenance and procedures to be employed in conducting ETOPS operations are adequate. This is accomplished by acquiring a substantial amount of service experience during non-ETOPS operation and then extensively evaluating this experience during non-ETOPS operation and then extensively evaluating this experience in the areas of systems reliability, maintenance tasks, and operating procedures. When it is determined that the appropriate reliabilities and capabilities have been achieved, the airplane is found eligible to be considered for use in ETOPS operation by an airline.

Boeing has proposed that the Model 777 be approved for ETOPS operation simultaneously with the issuance of the basic type certificate. Policy guidance does not exist at this time for a finding of this type. Because the timing of the proposed ETOPS type design approval for the Model 777 airplane precludes use of the guidance given in Advisory Circular (AC) 120-42A, Extended Range Operation With Two-Engine Airplanes, regarding the accumulation of service experience, an alternative method must be devised that will provide an adequate level of inherent airplane reliability for the ETOPS mission under consideration for approval. It is important to note that the requirements for certification of the airplane regarding the design's suitability for ETOPS operation, as described in these special conditions, relate to type certification approval only. Advisory Circular 120-42A contains guidance regarding operational and maintenance practices criteria that must be met by the operator before ETOPS operations can be conducted. It is incumbent upon the operator to apply for operational approval in accordance with the guidance contained in AC 120-42A. Satisfaction of the requirements of these special conditions does not constitute operational approval.

Existing practices to achieve airplane certification safety objectives have involved incorporation of safety margins, performance capabilities, and a prediction of failure probabilities through analysis and test. On the other hand, historical evidence, in general, indicates that a period of actual revenue service experience is necessary to identify and resolve problems not observed during the normal certification process prior to granting ETOPS type design approval for a specific airplane-engine combination. However, several recent airplane engine combinations incorporating new or substantially modified propulsion systems have demonstrated a high level of reliability consistent with ETOPS operation upon entry into revenue service. In addition, this high level of reliability was evidenced during basic certification activity by the small number of problems encountered. These recent successful airplane and engine development and certification programs lead the FAA to consider it feasible that the proposed development and certification activities of the Model 777 engine and airplane have the potential of providing a relatively "mature" product at the time of entry into revenue service. Certification criteria for early ETOPS type design approval of the Model 777 airplane will be largely dependent upon a process that can be found to result in the appropriate levels of reliability. This process is intended to result in a high level of airplane reliability that is equivalent to the level of reliability previously found to be acceptable via service experience. Since the early ETOPS development process must have a means of measuring success, the certification requirements proposed in these special conditions focus on defining a measurement process, as well as providing a feedback loop in order to quickly resolve problems that may occur.

Existing ETOPS airplane/engine assessments conducted in accordance with AC 120-42A focus on two main objectives: (1) Preclude any failure or malfunction that could result in diversion from intended flight, and (2) protect the safety of the diversion. A diversion is precluded by ensuring high reliability of the propulsion system and of all other systems important to ETOPS, and resolution of all problems that compromise the safety of ETOPS flight. The safety of the diversion is protected by high reliability of the propulsion system and of those systems important to the diversion, and resolution of all problems that

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compromise the safety of the diversion. The early ETOPS approval criteria maintain this two-fold safety concept.

The major elements of the early ETOPS type design approval process include an ETOPS type design assessment, additional analysis requirements, additional test requirements including 1000 flights on a complete airplane that simulates an actual airline operation, a problem tracking system, and a reliability assessment that will be carried out by an FAA Reliability Assessment Board. The Reliability Assessment Board will consist of members from a broad spectrum, including FAA airplane and engine certification offices, FAA aircraft evaluation groups for both the engines and airplane, FAA maintenance and operational approval offices, and FAA headquarters. The Reliability Assessment Board will have a function similar to that currently carried out by the Propulsion System Reliability Assessment Board, as defined in AC 120–42A, except that the Reliability Assessment Board will have the responsibility to review all of the relevant airplane systems in addition to the propulsion system.

Design requirements and relevant service experience assessments are required as part of the ETOPS type design assessment in order to define appropriate design, test, analysis, or other manufacturing, maintenance, or operational features necessary to comply with the applicable airworthiness requirements, as well as to achieve the two-fold ETOPS objectives (i.e., preclude and protect the diversion).

The proposed special conditions require the frequency and type of failures or malfunctions that occur during the airplane flight test program and the additional 1000 flight ETOPS test to be consistent with the frequency and type of failures or malfunctions that would be expected to occur on certified 180-minute ETOPS airplanes. The ETOPS Reliability Assessment Board will be responsible for evaluating these problems and their solutions, and ultimately formulating a recommendation to the Manager, Transport Airplane Directorate, regarding the adequacy of the 777 type design for 180-minute ETOPS operation.

This determination will be based on a review of the circumstances surrounding each failure or malfunction, the effectiveness of the proposed corrective action, and the potential consequences of the event on the continued safe operation of the airplane. In addition, corrective actions must be identified and implemented prior to ETOPS approval for all problems that could affect the safety of ETOPS operations. These corrective actions must be substantiated to be effective in eliminating both the specific problem and any similar problems elsewhere in the design. These criteria will continue to apply a "fix all problems" approach that is also the basis for all ETOPS approvals made under AC 120–42A. In the event that, after entry into passenger service, a problem is discovered that could compromise the safety of the ETOPS mission, the FAA will, at its option, invoke the normal Airworthiness Directive (AD) process, as provided by part 39 of the FAR, to require corrective action.

Since the granting of a finding of ETOPS suitability concurrently with the issuance of the airplane Type Certificate is not envisioned by part 25 of the FAR, and since there is no appropriate guidance material available for this project, the FAA has determined that this method of finding ETOPS suitability is a "novel and unusual" feature within the meaning of § 21.16, and that therefore a special condition is required.

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation Safety, Safety.

The authority citation for these proposed special conditions is as follows:

Authority: 49 U.S.C. app 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2); 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; and 49 U.S.C. 106(g).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Boeing Model 777 airplane:

In addition to the airworthiness requirements of part 25 of the Federal Aviation Regulations (FAR), the Model 777 airplane must comply with the following requirements in order to be eligible for Extended Range Operation with Two-Engine Airplanes (ETOPS) without the requisite operating experience specified in Advisory Circular (AC) 120–42A:

(a) *Introduction.* An approved ETOPS Type Design Assessment Plan covering the engine and each applicable airplane system must be established. The specific methods that will be used to substantiate compliance with the requirements of this special condition must be defined in the plan. Specific systems that will undergo the complete analysis, testing, and development program tracking defined in paragraph (c) of these special conditions must be identified. Other airplane systems that may contribute to the overall safety of an ETOPS operation, but that do not warrant the rigorous type design requirements and relevant experience assessments defined in paragraph (c) of these special conditions, must be identified and agreed to by the FAA. Compliance must be shown for these other systems with all provisions of these special conditions, except paragraph (c). In showing compliance with these special conditions, tests and analyses conducted to substantiate compliance with the basic airworthiness standards of part 25 may be referenced, if applicable.

(b) *Engine Assessment.* (1) The ETOPS eligibility of the engine must be determined specifically for the airplane installation for which early ETOPS type design approval is requested.

(2) Procedures for an engine condition monitoring program must be defined and validated at the time of ETOPS type design approval. The engine condition monitoring program must be able to predict when an engine is no longer capable of providing, within certified engine operating limits, the maximum thrust required for a single engine diversion.

(c) *ETOPS Type Design Assessment.* (1) *Design Requirements Assessment.* Part 25 of the FAR, including applicable amendments, defines most of the requirements necessary to design an airplane that is suitable for ETOPS operation, as long as the ETOPS mission is considered in applying these requirements for all anticipated dispatch configurations. In addition to these requirements, the propulsion system must be designed to preclude failures or malfunctions that could result in an engine inflight shutdown. The applicant must identify and list methods of compliance for each of the applicable ETOPS requirements, including those specific part 25 requirements for which methods of compliance relative to the ETOPS mission are different from those traditionally used for two-engine airplanes. Paragraph (c)(3) of these special conditions lists certain design feature categories that may be affected

by a consideration of the ETOPS mission in the design of these systems. The effects of the applicable ETOPS requirements on the design of any of those design feature categories listed in paragraph (c)(3) must be specifically addressed by this assessment.

(2) *Relevant Experience Assessment.* For each system covered by the ETOPS Type Design Assessment, there must be an assessment of the relevant design, manufacturing, and operational problems experienced on previous airplanes built by the applicant. The assessment must include the applicable relevant service experience of vendor supplied systems or, to the extent possible, the service experience of components on aircraft built by other manufacturers. Specific corrective actions taken to preclude similar problems from occurring on the new airplane must be identified.

(3) *Design Features.* (i) The applicant must define any design features implemented to comply with the design requirements listed in paragraph (c)(1). Consideration of the following design feature categories must be specifically addressed:

(A) Airplane capabilities and capacities for the ETOPs mission;

(B) Fuel system integrity, including consideration of uncontained main engine rotor burst and fuel availability as affected by cross-feed capability and electrical power to pumps and other components;

(C) Fuel quantity indication to the flightcrew, including alerts that consider the fuel required to complete the mission and possible fuel leaks between the tanks and the main engines;

(D) Communication systems for the ETOPS environment;

(E) Navigation systems for the ETOPS environment;

(F) Minimum single engine cruise altitude capability; and

(G) Failure tolerant designs of cockpit indicating systems or avionics systems to prevent unnecessary airplane diversions.

(ii) The applicant must define the specific design features used to address problems identified in the relevant service experience assessment of paragraph (c)(2).

(4) *Test Features.* The applicant must define specific new tests, or enhanced tests, that will be used to assure engine and airplane system design integrity. These test features may be derived from the requirements assessment of paragraph (c)(1) and the relevant service experience assessment of paragraph (c)(2).

(5) *Analysis Feotures.* The applicant must define specific new analyses, or enhanced analyses, that will be used to assure engine and airplane system design integrity. These analysis features may be derived from the requirements assessment of paragraphs (c)(1) and the relevant service experience assessment of paragraph (c)(2).

(6) *Manufacturing, Maintenance, or Operational (Other) Features.* The applicant must define specific new, or enhanced, manufacturing processes or procedures, and maintenance or operational procedures that are being implemented to assure engine and airplane system integrity. These "other" features may be derived from the requirements assessment of paragraph (c)(1) of this section and the relevant experience assessment of paragraph (c)(2).

(d) *Additional ETOPS Analysis Requirements.* (1) *Performance and Failure Analyses.* Engine and airplane performance and failure analyses required for certification must be expanded to consider ETOPS mission requirements, including exposure times associated with a 180-minute single engine diversion and a subsequent 15-minute hold in the terminal airspace at the diversion airport. Consideration must be given to crew workload and operational implications of continued operation with failure effects for an extended period of time. The rationale and all assumptions used in the analyses must be documented, justified, and validated, including maintenance interval and maintainability assumptions.

(2) *Maintenance and Flight Operations Evaluation.* The Type Design Assessment Plan must contain a program to systematically detect and correct problems occurring as a result of improper execution of maintenance or flight operations. Corrective actions for any problems found must be identified and implemented through the Problem Tracking and Resolution System required by paragraph (f).

(3) *Manufacturing Variability.* The Type Design Assessment Plan must contain a program to minimize potential manufacturing problems. The plan should address early validation of tooling and procedures, as well as any related problems, as identified in paragraph (c)(2). Corrective actions for problems that impact the safe operation of the airplane must be identified and implemented through the Problem Tracking and Resolution System required by paragraph (f).

(e) *Additional ETOPS Test Requirements.* As part of, or in addition to, the testing identified in paragraph (c)(4), the following specific test requirements apply:

(1) *Configuration Requirements.* All testing defined in paragraph (e) must be conducted with the configuration proposed for certification, and must include sufficient interfacing system hardware and software to simulate the actual airplane installation.

(2) *Completion of Applicable Failure Analyses.* Failure analyses required for ETOPS type design approval must be submitted to the FAA prior to the start of the testing defined in paragraph (e).

(3) *Vibration Testing.* Vibration testing must be conducted on the complete installed engine configuration to demonstrate that no damaging resonances exist within the operating envelope of the engine that could lead to component, part, or fluid line failures. The complete installed engine configuration includes the engine, nacelle, engine mounted components, and engine mounting structure up the strut to wing interface.

(4) *New Technology Demonstration Testing.* Testing must be conducted to substantiate the suitability of any technology new to the applicant, including substantially new manufacturing techniques.

(5) *Auxiliary Power Unit Demonstration Test.* If requesting credit for APU backup electrical power generation, one auxiliary power unit (APU), of the type to be certified with the airplane, must complete 3000 equivalent airplane operational cycles.

(6) *Engine Demonstration Test.* One engine of each type to be certified with the airplane must complete 3000 equivalent airplane operational cycles. The engine must be configured with a complete airplane nacelle package for this administration, including engine-mounted equipment.

(7) *Airplane Demonstration Test.* For each engine type to be certified with the airplane, one complete airplane must complete at least 1000 flight cycles simulating an actual airline operation. The airplane must be exposed to representative environmental variations within the normal expected airplane operational envelope during the 1000 cycles. The 3000 cycle test engine and propulsion system specified in paragraph (e)(6) above, or another suitable high cycle test engine and propulsion system acceptable to the Administrator, must be installed on the airplane for a minimum of 500 cycles during this demonstration.

(f) *Problem Tracking System.* An FAA-approved problem tracking system must be established to address problems encountered on the engine and airplane systems that could affect the safety of ETOPS operations.

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(1) The system must contain a means for the prompt identification of those problems that could impact the safety of ETOPS operations in order that they may be resolved in a timely manner.

(2) The system must contain the process for the timely notification to the responsible FAA office of all relevant problems encountered, and corrective actions deemed necessary, in a manner that allows for appropriate FAA review of all planned corrective actions.

(3) The system must be in effect during the phases of airplane development that will be used to assess early ETOPS eligibility, and for at least the first 250,000 engine-hours of fleet operating experience after the airplane enters revenue service. For the revenue service period, this system must define the sources and content of in-service data that will be made available to the manufacturers in support of the problem tracking system. The content of the data provided must include, as a minimum, the data necessary to evaluate the specific cause of all service incidents reportable under § 21.3(c) of part 21, in addition to any other failure or malfunction that could prevent safe flight and landing of the airplane, or affect the ability of the crew to cope with adverse operating conditions.

(4) Corrective actions for all problems discovered during the development and certification test program that could affect the safety of ETOPS operations, or the intended function of systems whose use is relied upon to accomplish the ETOPS mission, must be identified and implemented in accordance with paragraph (g)(2). If, during the certification program, it is discovered that a fault has developed that requires significant rework of manufacturing, maintenance, and/or operational procedures, the FAA will review the ETOPS suitability of the affected system and interfacing hardware and identify any additional actions to be accomplished to substantiate the corrective actions.

(5) For each engine type to be certified with the airplane, the system must include provisions for an accelerated engine cyclic endurance test program that will accumulate cycles on one representative production-equivalent propulsion system in advance of the high cycle revenue fleet engine. This test program will assist the applicant and the FAA in identifying and correcting problems before they occur in revenue service. This program must be in place for, at a minimum, the first 250,000 engine-hours of fleet operating experience after the airplane enters revenue service. The representative production-equivalent propulsion system may, at the manufacturer's discretion, be used for other fleet support activities.

(g) *Reliability Assessment Board.* (1) An FAA Reliability Assessment Board will be formed to evaluate the suitability of the airplane for ETOPS approval and make a recommendation to the Manager, Transport Airplane Directorate, regarding the adequacy of the type design for 180-minute ETOPS operation. The purpose of this board will be:

(i) To periodically review the development and certification flight test program accomplishments from both type design and operational perspectives;

(ii) To ensure that all specific problems, as well as their implications on the effectiveness of the Early ETOPS process, are resolved; and

(iii) To assess the design suitability for ETOPS. The board will consider design, maintenance, manufacturing, and operational aspects of the type design when finding suitability for ETOPS approval.

(2) The FAA Reliability Assessment Board will review and evaluate the data from the Problem Tracking and Resolution System to establish compliance with the requirements of paragraph (h). The board will evaluate the overall type design for ETOPS suitability as demonstrated in flight test, and the 1000 cycle ETOPS test, considering all resolutions of problems. The following suitability criteria will be applied:

(i) No unresolved source of engine shutdown/thrust loss, engine anomalies, or airplane system problems that have a potential significant adverse effect on in-service safety is evident.

(ii) Resolutions are identified for all items in paragraph (i) with analysis and/or testing to show all resolutions are effective. These resolutions may be accomplished through one or more of the following categories:

Design change
Operating procedure revision
Maintenance procedure revision
Manufacturing change

(iii) The resolutions of paragraphs (i) and (ii) will be incorporated prior to entry into service.

(iv) The engine shutdown history of the test program indicates that the engine reliability of the configuration is suitable for the ETOPS approval being considered.

(v) Where interim resolutions having operational impact are defined, the cumulative effect must be determined to be acceptable.

(vi) System or component failures experienced during the program are consistent with the assumptions made in the failure analyses.

(h) *Reliability Demonstration Acceptance Criteria.*

(1) For the engine and airplane systems, the type and frequency of failures that occur during the airplane flight test program and the 1000 flight cycle ETOPS test must be consistent with the type and frequency of failures or malfunctions that would be expected to occur on presently certified 180-minute ETOPS airplanes. The failures to be considered are those associated with system components that conform to the type design requested for certification. The Reliability Assessment Board will determine compliance with this requirement based on an evaluation of the problem reporting system data, considering system redundancies, failure significance, problem resolution, and engineering judgement.

(2) If the corrective action for any of the following classes of problems occurring during the testing identified in paragraph (h)(1) requires a major system redesign, this would be cause for delayed ETOPS type design approval, or approval for reduced single engine diversion time, unless corrective action has been substantiated to, and accepted by, the FAA Reliability Assessment Board:

(i) Any source of unplanned inflight shutdown or loss of thrust.

(ii) Any problem that jeopardizes the safety of an airplane diversion.

(3) The FAA Reliability Assessment Board must determine that the suitability criteria of paragraph (g)(2) have been met.

(i) *Demonstration of Compliance.* In order to be eligible for 180-minute ETOPS type design approval, the following conditions apply:

(1) The engine assessment has been completed and eligibility for ETOPS operation has been approved by the FAA Engine Certification Office.

(2) All design, manufacturing, maintenance, operational, and other features necessary to meet the ETOPS requirements of paragraph (c)(1), and to resolve the problems identified in paragraph (c)(2), have been successfully implemented.

(3) The identified test and analysis features in paragraphs (c)(4) and (c)(5) have been shown to be effective in validating the successful implementation of the features in paragraph (i)(2).

(4) The additional analysis requirements of paragraph (d) have been completed and the results have been approved.

(5) The additional test requirements of paragraph (e) have been successfully completed.

(6) All significant problems identified in accordance with paragraph (f) have been resolved, and fixes substantiated to be effective have been implemented.

(7) Compliance with the reliability demonstration acceptance criteria of paragraph (h) has been found by the Reliability Assessment Board.

Issued in Renton, Washington, on April 27, 1993.

Darrell M. Pederson,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

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FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures of Energy Consumption and Water Use Information About Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking (Plumbing Products).

SUMMARY: The Federal Trade Commission ("Commission") seeks comments on a proposal to add showerheads, faucets, water closets and urinals to the Commission's Appliance Labeling Rule. This action is being taken because the Energy Policy Act of 1992 ("EPA 92") has directed the Commission to prescribe, by October 24, 1993, rules requiring such products to be marked and labeled with certain disclosures about their water use.

DATES: Written comments must be submitted on or before June 21, 1993. Persons desiring a public hearing on the proposed amendments should advise the Secretary of the Commission by no later than May 26, 1993. If hearings are scheduled, the date and time of the hearings, as well as the date for submission of prepared witness statements and exhibits, will be announced in a subsequent Notice.

ADDRESSES: Written comments and requests for public hearings should be submitted to Secretary, Federal Trade Commission, Washington, DC 20580, 202-326-2514. Comments and requests for public hearings should be identified as "16 CFR part 305—Comment—Plumbing Products" or "16 CFR part 305—Request for Public Hearing—Plumbing Products," respectively. If possible, submit comments both in writing and on a personal computer diskette in Word Perfect or other word processing format (to assist in processing, please identify the format used). Written comments should be submitted, when feasible and not burdensome, in five copies.

FOR FURTHER INFORMATION CONTACT: Terrence J. Boyle, Attorney, 202-326-3016, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Introduction

EPA 92[1] was enacted on October 24, 1992. One subchapter of EPA 92 amends in several respects the Energy Policy and Conservation Act of 1975 ("EPCA").[2] This statute directed the Commission to issue the Appliance Labeling Rule,[3] which requires, for certain products covered by EPCA, labeling that discloses information about the products' energy consumption and efficiency.

EPA 92 adds four categories of plumbing products, showerheads, faucets, water closets (i.e., toilets) and urinals, to EPCA's list of covered products.[4] 106 Stat. 2821 (to be codified at 42 U.S.C. 6292(a)(15)-(18)). It establishes for each of these four plumbing products maximum permissible water usage rates (*e.g.*, all urinals manufactured after January 1, 1994, will be allowed to use just 1.0 gallons per flush), 106 Stat. 2826-27 (to be codified at 42 U.S.C. 6295(j)(1)-(2) and (k)(1)-(2)), and establishes as national standards certain American Society of Mechanical Engineers ("ASME") testing protocols for measuring the products' water usage rates, 106 Stat. 2821 (to be codified at 42 U.S.C. 6293(b)(7)(A) and (8)(A)). EPA 92 directs the Commission, within one year, to prescribe rules requiring the plumbing products themselves (except faucets) to be permanently marked with legible disclosures of their water usage rates, 106 Stat. 2822-23 (to be codified at 42 U.S.C. 6294(a)(2)(D)(i) and (E)(i)), and requiring their labeling to bear certain disclosures presently specified in ASME standards, *Id.* EPA 92 leaves unchanged the Commission's authority under section 324(c)(4) and 326(a) of EPCA, 42 U.S.C. 6294(c)(4) and 6296(a), to require disclosures in point-of-sale promotional materials and catalog advertising. EPA 92 also directs the Commission to include in the rules the requirement that manufacturers of these products submit annually to the Commission relevant data about their products. 106 Stat. 2829 (to be codified at 42 U.S.C. 6296(b)(4)). Lastly, EPA 92 directs the Commission to prescribe a format and manner of display for labels containing statements of annual operating costs for these plumbing products if a manufacturer should elect to make such claims. 106 Stat. 2823-24 (to be codified at 42 U.S.C. 6294(c)(8)).

II. Background

A. EPCA and the Existing Appliance Labeling Rule

EPCA established energy consumption standards for certain categories of major home appliances and directed the Department of Energy ("DOE") to devise similar standards for certain other categories of such products. 42 U.S.C. 6295. EPCA also directed the Commission to prescribe rules or, for some categories of products, to consider prescribing rules requiring these appliances to be labeled with disclosures of estimated annual energy cost or another useful measure of energy usage. 42 U.S.C. 6294. Small appliances such as toasters and blenders, which use insignificant amounts of energy, were not included in EPCA's coverage. EPCA also allowed the Commission, in considering rules, to exempt some categories of covered products from labeling requirements if the Commission determined such labeling would not be technologically or economically feasible or not likely to help consumers in making purchasing decisions. 42 U.S.C. 6294(a)(1)-(2).

The Commission, pursuant to EPCA's directives, issued the Appliance Labeling Rule ("Rule") on November 19, 1979.[5] For most of EPCA's original list of covered products, the Commission's Rule now requires EnergyGuides. The Commission has twice amended the Rule to add new covered products.[6] The

[1] Pub. L. 102-486, 106 Stat. 2776, 2817-2832 (1992) (to be codified at 42 U.S.C. 6201, 6291-6307). This act is not yet codified in U.S.C. or U.S.C.A. Hence, reference herein will be to the session law pages.

[2] 42 U.S.C. 6291 *et seq.* EPCA has also been amended by the National Energy Conservation Policy Act of 1978, Public Law 95-619, 92 Stat. 3258 (1978); the National Appliance Energy Conservation Act of 1987 ("NAECA 87"); Pub. L. 100-12, 101 Stat. 103 (1987); and the National Appliance Energy Conservation Amendments of 1988 ("NAECA 88"); Public Law 100-357, 102 Stat. 671 (1988).

[3] 16 CFR part 305.

[4] Besides these four plumbing products, EPA 92 adds fluorescent and incandescent lamps to EPCA. 106 Stat. 2821 (to be codified at 42 U.S.C. 6292(a)(14)). These products will be addressed in a subsequent rulemaking proceeding.

[5] 44 FR 66466.

[6] 52 FR 46888 (Dec. 10, 1987), adding a new product category—central air conditioners and heat pumps—and two additional subcategories of furnaces to the furnace category—pulse combustion

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Rule now requires EnergyGuide labeling for all residential furnaces, refrigerators, refrigerator-freezers, freezers, water heaters, clothes washers, dishwashers, room air conditioners, central air conditioners and heat pumps sold in the United States. 16 CFR 305.11(a)–(c). Following the 1988 EPCA amendment, the Rule now also requires fluorescent lamp ballasts to be labeled or marked with a symbol denoting that the ballast meets a DOE energy efficiency standard. The required symbol is simply a capital letter E enclosed in a circle. 16 CFR 305.11(d).

The EnergyGuides required by the Rule are 5⁹⁄₁₆" by 7⅜" labels with black type on a yellow background. 16 CFR 305.11(a)(1)–(3). Although alike in appearance, they vary somewhat by product in the "primary energy usage disclosure" that they must contain. Some have data on estimated annual operating costs; others have energy efficiency ratings. 16 CFR 305.11(a)(5)(i)(E) and 305.11(a)(5)(iii)(C). Both types disclose the product's energy consumption rate within a range of the rates known for other, similar-sized models of the product. 16 CFR 305.11(a)(5)(i)(F) and 305.11(a)(5)(iii) (D)–(E). Consumers may then choose among competing brands of more or less energy usage. For most of these products, the Rule also requires the EnergyGuides to give a "secondary energy usage disclosure," intended to help consumers estimate their own operating costs based on local utility rates. 16 CFR 305.11(a)(5)(i)(H). Except for fluorescent lamp ballasts, the Rule also requires point-of-sale promotional materials and catalog advertising for covered products to contain disclosures of required energy consumption and efficiency information. 16 CFR 305.13 and 305.14. Further, the Rule also requires, for furnaces, disclosure of energy usage information on fact sheets, 16 CFR 305.11(b), and, for central air conditioners and heat pumps, on fact sheets or in industry directories, 16 CFR 305.11(c).

EPCA authorizes the Commission to assess administratively monetary civil penalties for violations of the Rule. 42 U.S.C. 6303 (a) and (d). Manufacturers or private labelers who knowingly distribute covered products not properly labeled are subject to a penalty of not more than $100 for each unit. 16 CFR 305.4(a)(1). Manufacturers, distributors, or retailers who knowingly remove or make illegible a required label are subject to a penalty of not more than $100 for each unit. 16 CFR 305.4(a)(2). Manufacturers or private labelers who fail to include required disclosures in their catalog advertising are subject to a penalty of not more than $100 per day. 16 CFR 305(b)(5). Manufacturers or private labelers who fail to keep records or provide reports or product samples as specified by the Rule are also subject to a penalty of not more than $100 per day. 16 CFR 305.4(b) (2) and (4). EPCA also grants to the United States District Courts authority to issue injunctions against such violations. 42 U.S.C. 6304.

furnaces and condensing furnaces; and, 54 FR 28031 (July 5, 1989), adding a new product category—fluorescent lamp ballasts.

B. EPA 92's Provisions Concerning Plumbing Products

EPA 92 establishes maximum permissible water use rates for all urinals, water closets (*i.e.*, toilets), showerheads and faucets sold in this country. 106 Stat. 2826–27 (to be codified at 42 U.S.C. 6295(j)(1)–(2) and (k)(1)–(2)). For all urinals and for most toilets, EPA 92 establishes maximum water use standards of 1.0 and 1.6 gallons per flush respectively. 106 Stat. 2827 (to be codified at 42 U.S.C. 6295(k)(1)–(2)). (Blowout toilets, the one exception, are allowed 3.5 gallons per flush. 106 Stat. 2827 (to be codified at 42 U.S.C. 6295(k)(1)(A)). These are products for commercial use only that are designed to be able to discharge virtually anything.) For all showerheads and faucets other than metering faucets (including aerators [7] sold separately but meant to be inserted in faucets), EPA 92 establishes a maximum water use standard of 2.5 gallons per minute at 80 pounds of water pressure per square inch. 106 Stat. 2826 (to be codified at 42 U.S.C. 6295(j)(1)–(2)). Metering faucets are limited to .25 gallons per cycle. 106 Stat. 2826 (to be codified at 42 U.S.C. 6295(j)(2)). These are devices that over a few seconds gradually turn themselves off. After January 1, 1994, no non-conforming product may be sold in this country.[8] 106 Stat. 2826–27 (to be codified at 42 U.S.C. 6295(j)(1)–(2) and(k)(1)–(2)).

EPA 92 adopts two ASME standards for determining a covered product's water usage rate. 106 Stat. 2821 (to be codified at 42 U.S.C. 6293(b)(7)(A) and (8)(A)). These standards ("ASME A112.18.1M–1989. Plumbing Fixture Fittings" and "ASME A112.19.2M–1990. Vitreous China Plumbing Fixtures") have already been recognized by all government jurisdictions with plumbing codes and govern the construction and performance of these fixtures and fittings throughout the United States. EPA 92 leaves unchanged DOE's authority to enforce EPCA's energy conservation standards, 42 U.S.C. 6302(a)(5) and 6303(a), which, since the enactment of EPA 92, include the water use standards for these plumbing products. EPA 92 authorizes DOE to modify the standards for these plumbing products, where appropriate, if ASME revises its flow rate measuring test protocol standards. 106 Stat. 2821–22 (to be codified at 42 U.S.C. 6293(b)(7)(B) and (8)(B)).

EPA 92 assigns to the Commission the responsibility to prescribe and enforce rules requiring certain disclosures of the products' water use rates according to those standards. 106 Stat. 2822–23 (to be codified at 42 U.S.C. 6294(a)(2)(D)(i) and (E)(i)). Congress has directed the Commission to require certain disclosures on the products themselves (except for faucets [9]), *Id.*, and other disclosures in their labeling. *Id.* Congress has left unchanged the Commission's authority to require in point-of-sale promotional materials and catalog advertising the same disclosures as are required in the labeling. 42 U.S.C. 6294(c)(4) and 6296(a).

In requiring disclosures in the products' labeling, EPA 92 incorporated by reference the existing labeling provisions of the two ASME standards. 106 Stat. 2822–23 (to be codified at 42 U.S.C. 6294(a)(2)(D)(i) and (E)(i)). If ASME should ever change the standards, and DOE approves of the changes, the Commission would then have to consider amending its Rule. 106 Stat. 2822–23 (to be codified at 42 U.S.C. 6294(a)(2)(D)(ii) and (E)(ii)). The ASME standards presently require every plumbing product itself to be permanently marked with a legible disclosure of the manufacturer's identity "located where it can be seen after installation" (ASME A112.18.1M–1989, para. 8.1(a)) or "located so as to be visible after the fixture is installed, except for a fixture built into or for a counter or cabinet" (ASME A112.19.2M–1990, para. 8.1.1). These standards also require every product either to be itself marked with a disclosure of the product's water use rate and the identity of the pertinent ASME standard or else to have its labeling bear the same information.[10] ASME A112.18.1M–1989, para. 8.1, and ASME A112.19.2M–1990, para. 8.1. EPA 92 goes beyond the standards to require that the products themselves, except faucets, be permanently marked with legible disclosures of their water usage rates. 106 Stat. 2822–23 (to be codified at 42 U.S.C. 6294(a)(2)(D)(i) and (E)(i)).

EPA 92 also directs the Commission to include in the rules for these plumbing products a requirement that the manufacturers annually submit to the Commission relevant data about their products' water usage rates. 106 Stat. 2829 (to be codified at 42 U.S.C. 6296(b)(4)). The term "relevant data" was not defined; but, inasmuch as section 305.8 of the Rule, 16 CFR 305.8, requires manufacturers of all covered products to put in their annual reports information needed to identify the firms and their products, it appears at this time reasonable to conclude that Congress expects the same for plumbing product reports.

Lastly, EPA 92 also directs the Commission to prescribe the format and manner of display for labels containing statements of estimated annual operating costs, if a manufacturer elects to make such claims. 106 Stat. 2823–24 (to be codified at 42 U.S.C. 6294(c)(8)). EPA 92 does not define the terms "format" and "manner of display" and the statute does not specify how the Commission is to prescribe them.

[7] Aerators are flow restricting or controlling spout end devices used to create a water flow with a consistent spray. They improve the taste of water by mixing in air and act to slow the faucet's water flow.

[8] An exception to this deadline is made for 2 piece gravity tank-type toilets marked "For Commercial Use Only" and using 3.5 gallons per flush, which may be sold until January 1, 1997. 106 Stat. 2827 (to be codified at 42 U.S.C. 6295(k)(1)(B)). These toilets are different from the blowout toilets that indefinitely will be allowed 3.5 gallons per flush. 106 Stat. 2827 (to be codified at 42 U.S.C. 6295(k)(1)(A)).

[9] Faucets were exempted from the marking requirement so as not to mar the appearance of designer models.

[10] In the terminology of the ASME standards, labeling includes the product's "package," the "label on the product" and/or a "tag attached to the product." ASME A112.18.1M–1989, para. 8.1, and ASME A112.19.2M–1990, para. 8.1.1.

III. Proposed Amendments to the Appliance Labeling Rule

EPA 92 adds four new products to EPCA's list of "covered products." 106 Stat. 2821 (to be codified at 42 U.S.C. 6292(a)(15)–(18)). Because these four products, unlike all the other products covered by EPCA and the Commission's Appliance Labeling Rule, use water instead of directly consuming energy, Congress has revised several sections of EPCA to alter expressions like "energy efficiency" to say instead "energy efficiency or * * * water use." See, for example, 106 Stat. 2822 (to be codified at 42 U.S.C. 6293). And, because EPCA, as amended by EPA 92, requires only these four product categories to be permanently marked, Congress has revised several provisions of EPCA to add the word "marking" where heretofore EPCA has said "label." 106 Stat. 2822–23 (to be codified at 42 U.S.C. 6294(a)(2)(D)–(E)). The Commission proposes amending the Rule to reflect these changes.

Each proposed Rule amendment is addressed below. The substantive revisions are discussed in detail. Minor, self-explanatory Rule changes are merely noted. (The texts of the proposed amendments are in Section E of this Notice. These texts include the revisions of sections 305.5, .8, .13, .14, and .15 of the Rule, 16 CFR 305.5, .8, .13, .14, and .15, that the Commission proposed on March 4, 1993, 58 FR 12818.)

A. Section 305.1 Scope

This section of the Rule summarizes the coverage of the Rule. The Commission proposes amending three of its four subsections to include water usage.

B. Section 305.2 Definitions

This section of the Rule contains definitions of seventeen terms used by EPCA and the Rule. The Commission proposes amending it to add (as five new subsections) definitions for five terms that EPA 92 uses for the various plumbing fixtures and fittings that EPA 92 has added to EPCA (*e.g.*, "water use," "ASME," "flushometer valve").

C. Section 305.3 Description of Covered Products To Which This Part Applies

This section of the Rule lists the ten categories of appliances now covered by EPCA and the Rule. The Commission proposes amending it to add (as four new subsections) the four categories of plumbing fixtures and fittings that EPA 92 has added to EPCA.

D. Section 305.4 Prohibited Acts

This section of the Rule makes it unlawful to distribute in commerce any covered product not labeled and advertised as prescribed by the Rule. Failing to maintain and make available certain records and product samples as prescribed by the Rule is also prohibited. Amendments to four subsections of this section of the Rule are being proposed.

The Commission proposes minor amendments to subsections (a) and (b) of this section to reflect that EPA 92 requires disclosures on the labels of covered plumbing products, in certain catalog advertising, and on the products themselves. The Rule at present does not require any covered product itself to be permanently marked. Therefore, in three instances in this section where the expressions "label" or "labeled" are used (*i.e.*, subsections (a)(1); (a)(2); and (b)(4)) the Commission proposes amendments to say "marking and/or label" or "marked and/or labeled." Other language in the Rule makes clear which products are to be both marked and labeled and which just labeled.

Subsection (d) of this section states that it is an unfair or deceptive act or practice in violation of section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1), to represent the energy consumption of, or the cost of energy consumed by, a covered product unless the representation fairly discloses the results of tests conducted on the product in accordance with the applicable DOE test procedure. The Commission proposes amending subsection (d) to include these plumbing products and to make clear that for them it is representations of water usage, or of the cost of water used, that are subject to this subsection. This subsection also needs to be revised to make clear that for these plumbing products the relevant test procedures are statutorily established and not DOE prescribed. The proposed amendments split subsection (d) into two paragraphs that are worded almost exactly the same as section 323(c) of EPCA, 42 U.S.C. 6293(c), as it has been amended by NAECA 87 and EPA 92.

Finally, for subsection (e) of this section, which identifies the Rule's effective date for each category of covered product, the Commission proposes adding a sentence and a phrase stating when the amendments for these plumbing fixtures take effect. Congress directed the Commission to prescribe by October 24, 1993, rules for covered plumbing fixtures and fittings. The rules are to become effective twelve months after their publication in final form.

E. Section 305.5 Determinations of Estimated Annual Energy Cost and Energy Efficiency Rating and of Water Use Rate

This section of the Rule specifies the test procedures to be used for measuring the energy consumption and efficiency of the various categories of products covered by the Rule. The Commission proposes amending it by adding a subsection specifying the ASME standards that EPA 92 establishes for measuring the water use rates of these plumbing products.

F. Section 305.8 Submission of Data

This section of the Rule requires all manufacturers of covered products to submit annually to the Commission certain data concerning their products' energy consumption and efficiency. EPA 92 has amended section 326(b)(4) of EPCA, 42 U.S.C. 6296(b)(4), to direct the Commission to require plumbing products manufacturers also to submit

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annually to the Commission, at times to be specified by the Commission, relevant data reflecting their products' water usage. 106 Stat. 2829 (to be codified at 42 U.S.C. 6296(b)(4)). Congress did not, however, specify what it meant by "relevant data." The Commission therefore proposes amending section 305.8 of the Rule, 16 CFR 305.8, to require that plumbing products manufacturers submit to the Commission by March 1, 1995, and annually thereafter, reports disclosing each company's name and address and the trade names, model numbers, and water usage rates of its covered products. This amendment would require plumbing products manufacturers to submit the same type of information manufacturers of other products covered by the Rule submit.

G. Section 305.11 Labeling For Covered Products

This section of the Rule contains specific labeling requirements for the Rule's covered products. The section presently has four subsections: The first applies to all the covered products heretofore included in the Rule except fluorescent lamp ballasts; the second concerns only furnaces and central air conditioners; the third only central air conditioners; and the fourth only fluorescent lamp ballasts.

The Commission proposes adding a fifth subsection to address the labeling and marking requirements that EPA 92 directs for these four plumbing products. This subsection (e) specifies that covered plumbing fixtures and fittings must be marked and labeled consistent with the marking and labeling requirements of the two ASME standards presently in effect that EPA 92 adopts. These standards already require every covered plumbing product itself to be permanently marked with a legible disclosure of the manufacturer's identity "located where it can be seen after installation" (ASME A112.18.1M–1989, para. 8.1(a)) or "located so as to be visible after the fixture is installed, except for a fixture built into or for a counter or cabinet" (ASME A112.19.2M–1990, para. 8.1.1). In addition, the standards presently require every product to bear a disclosure identifying the ASME standard applicable to it. For showerheads and faucets, this disclosure may be by means of either a permanent mark on the product, a label on the product, or a tag attached to the product. ASME A112.18.1M–1989, para. 8.1(b). For water closets and urinals, although this disclosure must be marked on the product, the mark need not be permanent, but shall be visible after installation. ASME A112.19.2M–1990, para. 8.1.2. The standards also require disclosures about the products' water consumption. For showerheads and faucets, this disclosure must be on the packaging or on any label attached to the packaging and must state the actual or maximum allowed water flow rate. ASME A112.18.1M–1989, para. 8.2(b). For water closets and urinals, the disclosure the standards presently require must appear on both the products and their packaging in a sentence stating the products' water consumption classification and maximum allowable water consumption rate. ASME A112.19.2M–1990, paras. 8.3.3 and 8.4.3.

Pursuant to EPA 92's directive, the new subsection (e) would specify the particular labeling requirements of the ASME standards regarding disclosures of water flow rates, manufacturer's identity, and standard designation henceforth required to be made under the Rule. This subsection would also, pursuant to EPA 92's directive, require all these products (except for faucets) to be permanently and legibly marked with the products' water use rates.

With respect to the requirement that the marking be legible, the Commission has identified the following issues to consider: the intelligibility of the statement; the type style and size used; the color contrast of the words of the statement with their background; and the placement of the statement.

For plumbing products EPA 92 mandates the wording of the flow rate marking disclosure. Accordingly, the intelligibility of the required disclosure is not at issue. Placement of the disclosures, however, is an important factor for several reasons. First, "legibility" is only meaningful if the purchaser can readily find the disclosure. Second, this labeling is more than a mere technical requirement to allow code officials and other professionals to determine a product's water use rate. Consumers' ability to comparison-shop for efficient plumbing products at retail is enhanced by readily discernible disclosures. There may also be other considerations. For example, in certain circumstances consumers may need to be able to ascertain whether their plumbing fixtures and fittings comply with the EPA 92 water use standards. Some states such as California are considering legislation to require homeowners offering their homes for sale to certify that their plumbing meets these standards.

Manufacturers of the plumbing products to be covered by this Rule are already required by state plumbing and building codes and by the ASME standards to mark permanently their products with the manufacturer's identity. The Commission's staff has examined dozens of different brands of covered plumbing products on display in local retail outlets. The Commission believes that at present manufacturers routinely choose to put their identifying marks in the optimum locations (*i.e.*, in places readily findable after installation). Therefore, if manufacturers should place the Rule's required disclosures near their own identifying markings, consumers should have little difficulty locating the required water use disclosures.

The Commission's proposed Rule therefore states that disclosing the water use rate in a location near the manufacturers' identifying mark will suffice for purposes of legibility. The Rule would not require any particular location. The Commission used a similar "safe harbor" approach in setting the size specifications for the required disclosure for lamp ballasts when it last amended the Rule. The Commission, however, seeks comments on whether this approach is also appropriate for plumbing products.

The Commission does not believe the remaining two aspects of legibility, type size/style and color contrast, need to be specified. The overriding requirement of legibility should suffice. The wide variety of plumbing fixtures and fittings, from nozzles to urinals, comprises so many shapes, sizes, colors and surface conditions that the Commission believes it would be impractical to specify any particular format or even a safe harbor for all the covered products. The Commission solicits comments on this approach.

Similarly, the Commission does not believe the requirement that markings be permanent needs any amplification. Presumably, numerous techniques (dyeing, etching, carving, etc.) can produce permanent markings. The number of available techniques and the great variety of products covered by this Rule provision make it impractical to impose any uniform definition of what manufacturing processes would constitute permanent marking. The state codes that require permanent marking of the manufacturer's identity, and the ASME standards that those codes are based upon, also do not specify how the marking is to be done, instead leaving it to the manufacturer to decide. The Commission, therefore, proposes this same course of action for these disclosures. The Commission solicits comments about this approach.

Finally, the Commission proposes that all disclosures be made in terms of gallons per flush, minute or cycle, and in liters, except where the size of the product would make it impractical. (See discussion of metrication in Part VIII of the Notice.) The Commission also solicits comments on this proposal.

H. Section 305.13 Promotional Material Displayed or Distributed at Point of Sale

This section of the Rule presently requires that all promotional materials for covered products that are displayed at the point of sale bear the following specific statement: "Before purchasing this appliance, read important energy cost and efficiency information available from your retailer." EPA 92 has left unchanged the Commission's authority under section 324(c)(4) of EPCA, to require that point-of-sale promotional materials for covered products contain the same disclosures as the Rule would require on the products' labels. 42 U.S.C. 6294(c)(4). The Commission proposes requiring plumbing product point-of-sale materials to bear disclosure statements. But, because the disclosure statement now required by this subsection for covered products is not one the Commission is authorized to require on plumbing product labels, the Commission proposes adding to this section a new clause requiring disclosure of these products' water usage rates.

I. Section 305.14 Catalogs

This section of the Rule presently requires advertising for covered products in catalogs, from which purchasers may order the items being offered for sale, to disclose information about those products' energy consumption and efficiency. EPA 92 has left unchanged the Commission's authority under section 326(a) of EPCA to require such catalog advertising for covered plumbing products also to make such disclosures. 42 U.S.C. 6296(a). The Commission therefore proposes amending the Rule to make clear that manufacturers of covered plumbing fixtures and fittings are to disclose their products' water usage rates, rather than energy cost and efficiency information. The Commission also proposes deleting, in existing 305.14(a), the reference to payment by cash, charge account or credit terms, as this limitation in payment method is not required by the statute and may not encompass all methods of purchase that could occur in the future.

J. Section 305.15 Test Data Records

This section of the Rule requires energy consumption and efficiency test data to be maintained and made available to the Commission. The Commission proposes amending subsection (b) to include water usage test data.

IV. Format and Manner of Display for Voluntary Disclosures of Estimated Annual Operating Cost Claims on Labels of Covered Plumbing Products

EPA 92 did not amend EPCA to require plumbing products manufacturers to make estimated annual operating cost disclosures. It does, however, envision that in the future some manufacturers might voluntarily make such claims. Specifically, EPA 92 has amended section 324(c) of EPCA to provide that:

> If a manufacturer of a covered product specified in paragraph (15) or (17) of section 322(a) elects to provide a label for such covered product conveying the estimated annual operating cost of such product or the range of estimated annual operating costs for the type or class of such product—
>
> (A) such estimated cost or range of costs shall be determined in accordance with test procedures prescribed under section 323;
>
> (B) the format of such label shall be in accordance with a format prescribed by the Commission; and
>
> (C) such label shall be displayed in a manner, prescribed by the Commission, to be likely to assist consumers in making purchasing decisions and appropriate to carry out the purposes of this Act. 106 Stat. 2823–24 (to be codified at 42 U.S.C. 6294(c)(8)).

The Commission's staff has consulted with industry representatives and interested consumer and environmental groups, who have told the staff they know of no manufacturer that presently makes estimated annual operating costs claims or intends to do so. Moreover, unlike other appliances covered by the Rule (*e.g.*, refrigerators), for which EPCA has directed DOE to devise estimated annual cost of operation energy consumption data, DOE does not now have such data available for plumbing products. There are many ways annual operating cost claims could be made. Claims could be in terms of dollars and cents spent for water or in terms of amounts of water used. The claims could speak of typical household use (*e.g.*, X number of showers a day by family of Y number of people) or could just speak of a typical shower taking X minutes and using Y amount of water. Differently phrased claims would raise distinct questions regarding the statistical bases on which the claims rest (*e.g.*, claims for showerheads and faucets, where hot water is involved, might involve energy consumption as well as water use costs).

Because EPA 92 does not specify any time frame by which the Commission has to prescribe formats and manners of display for labels bearing such claims, the Commission proposes postponing doing so until informed that manufacturers are electing to make covered claims.[11] At that time the Commission will evaluate the types of claims manufacturers propose using and will prescribe format and manner of display requirements accordingly. In the meantime, cost claims that are made will be regulated by section 305.4(d) of the Rule, 16 CFR 305.4(d), which states that it is a violation of section 5(a)(1) of the FTC Act to make unsubstantiated cost claims. 15 U.S.C. 45(a)(1). The Commission solicits comments on its proposal to defer prescribing a format, and on whether, in fact, any firm is now making or intends to make such claims.

EPA 92 does not specify how the Commission is to prescribe such formats and manners of display. Wherever else in the statute Congress directed the Commission to "prescribe" requirements it directed the Commission to "prescribe by rule." For these voluntary disclosures, however, Congress only directed that the Commission "shall prescribe" the format and manner of display. Therefore, the Commission is considering whether to prescribe formats and manners of display by rule or by an enforcement policy statement. The Commission solicits comments on this issue. If the Commission prescribes by rule, manufacturers who voluntarily disclose operating cost information would be liable for civil penalties if they did not follow the prescribed format and manner of display. An enforcement policy statement would not be enforceable through civil penalties (although a section 5(b) administrative proceeding, 15 U.S.C. 45(b), or a section 13(b) court injunctive proceeding, 15 U.S.C. 53(b), are remedies that the Commission could pursue). An enforcement policy statement, however, could be adopted more quickly and with greater ease then a rule. A policy statement also would be easier to amend, if necessary, as manufacturers identified different proposed claims or as other circumstances changed.

V. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, requires government agencies, before promulgating rules or other regulations that require "collection of information" (*i.e.*, recordkeeping or reporting

[11] When manufacturers of covered plumbing fixtures and fittings elect to make claims about the estimated annual operating costs of their products, they should submit the proposed claim(s) to the Commission.

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requirements), to obtain approval from the Office of Management and Budget ("OMB"). Sections 305.8 and 305.15 of the current and proposed Rule include requirements that data be reported annually by manufacturers to the Commission and that certain records be retained.

These requirements are "collections of information" as defined by 5 CFR 1320.7(c), the regulations implementing the Paperwork Reduction Act. They have therefore been submitted to OMB for review under the Paperwork Reduction Act. These provisions, described more fully below in the Notice of Application to OMB Under the Paperwork Reduction Act, implement the requirements of the Energy Policy and Conservation Act that manufacturers retain test records and submit energy usage data to the Commission annually. The burden estimate for these requirements is approximately 1,000 hours.

VI. Regulatory Flexibility Act

This Notice does not contain a regulatory analysis under the Regulatory Flexibility Act, 5 U.S.C. 603–604, because the Commission believes that the amendments, if promulgated, would not have "a significant economic impact on a substantial number of small entities." 5 U.S.C. 605. The Commission has reached this conclusion because the amendments, if enacted, would have a minimal effect on all business entities within the affected industries, regardless of their size. The Commission's staff has been informed by industry representatives that approximately 100 to 120 American companies manufacture the covered plumbing products. Of those that do, most are not "small entities" as that term is defined in section 601 of the Regulatory Flexibility Act and in the regulations of the Small Business Administration, found in 13 CFR part 121 (1992).

While there are some "small entities" among these companies, the impact on these small entities would be minimal. The proposed amendments require: (1) manufacturers to make annual reports to the Commission that they are already required, by state plumbing and building codes, to submit to state authorities, and (2) labeling, catalog advertising, and point-of-sale promotional materials for these products to bear water usage disclosures that are already required to be disclosed on product labels. Thus, the impact of requiring the manufacturers to send a duplicate copy to the Commission would be de minimis and not, therefore, significant. Further, any economic costs imposed on small entities are primarily statutorily imposed, and the proposed regulations, will impose few, if any independent additional costs.

In light of the above, the Commission certifies, pursuant to section 605 of the Regulatory Flexibility Act, that the proposed amendments would not, if promulgated, have a significant impact on a substantial number of small entities. However, to ensure that no substantial economic impact is being overlooked, the Commission requests comments on this issue. After reviewing any comments received, the Commission will determine whether the preparation of a final regulatory flexibility analysis is necessary.

VII. Regulatory Review

The Commission has implemented a program for regulatory review of all the Commission's current and proposed rules and guides. One of the purposes of the review is to minimize the economic impact of new regulatory actions. As part of that review, the Commission requests comments on the impact of the proposed amendments to the Appliance Labeling Rule to include certain plumbing products. At this time, the Commission seeks comments about the costs and benefits only of these proposed amendments. The Commission is not now requesting comments about the costs and benefits of the requirements of the Appliance Labeling Rule for products other than the plumbing products that are the subject of this rulemaking proceeding. The Commission will seek comments on the requirements of the Appliance Labeling Rule for other products separately.

The proposed amendments closely follow the mandates in the Energy Policy Act of 1992. In order to maximize benefits and minimize costs imposed by the proposed rule, the Commission solicits comments on the following questions:

(1) What would be the economic impact and regulatory impact of the proposed amendments?

(2) What paperwork requirements would the proposed amendments impose?

(3) What possible regulatory alternatives are there that would reduce the economic impact of the proposed amendments, yet fully implement the regulatory mandate of the Energy Policy Act of 1992?

VIII. Metric Conversion Act

Section 205b of the Metric Conversion Act, 15 U.S.C. 205b, states that the metric measurement system is the preferred system of weights and measures in the United States. It also requires federal agencies to use the metric system of measurement in all procurements, grants and other business-related activities (including rulemakings), except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms. These requirements are also expressed in Executive Order 12770 of July 25, 1991.[12]

EPA 92 specifies that the required disclosures for covered plumbing fixtures and fittings be in terms of gallons. Nothing in EPA 92 or its legislative history suggests that Congress intended to override the Metric Conversion Act for these plumbing products. The Commission, therefore, is proposing that the Rule require disclosures both in gallons and liters unless the size of the product makes dual disclosure impractical (in which case only gallons would have to be disclosed).

The Commission solicits comments on the dual disclosure approach. Specifically, comments are requested on whether dual disclosures would be burdensome; whether consumers are knowledgeable enough about metric measurement to necessitate dual disclosures; and whether the use of dual disclosures would serve an educational function by increasing consumers' knowledge of the metric system. Comments are also solicited as to whether the sizes and shapes of the covered plumbing products are such that it would be impractical to lengthen the disclosures by even a few words to achieve dual disclosures.

IX. Information for Interested Persons

Section A—Invitation To Comment

Interested persons are hereby notified that they may comment on any issue of fact, law or policy that may have bearing upon the proposed rules. Although the Commission welcomes comments on any aspect of the proposed rules, the Commission is particularly interested in comments on the questions and issues discussed in this Notice. All comments and testimony should be referenced specifically to either the question or issue raised by the Commission or the relevant proposed amendment to the Appliance Labeling Rule.

The specific requests for comments made in the preceding sections of this Notice are as follows:

1. EPA 92 requires that the water use rates of the covered plumbing products be disclosed legibly and permanently.

[12] 56 FR 35801 (July 29, 1991).

A. *Placement*—The Commission proposes that for placement purposes the water use rate would be considered disclosed in a legible fashion if it is located near a manufacturer's identifying mark. What are the advantages and disadvantages of this approach? Will this approach enable consumers to obtain readily information about the water use rates of covered plumbing products? Is there some other location that would be preferred to that being proposed? If so, explain.

B. *Format*—The Commission does not propose requiring that for legibility any particular format for the type size/style and color contrast be used in markings and/or labels identifying the manufacturer and the water use rates of the covered products. What are the advantages and disadvantages of this approach? Will this approach enable consumers to obtain readily information about the water use rates of the covered plumbing products? Should the Commission instead prescribe a specific format? If so, what format, and why?

C. *Permanence*—The Commission does not believe this requirement needs any further amplification. Thus, manufacturers may make their own decision about how to comply. What are the advantages and disadvantages of this approach? Will this approach enable consumers to obtain readily information about the water use rates of the covered plumbing products? Should the Commission instead prescribe the method(s) for permanent marking? If so, what methods should the Commission specify, and why?

2. The Commission proposes that all water use disclosures be made in terms of gallons and liters per flush, minute or cycle, except where the size of the product would make it impractical to include the metric measure. What are the advantages and disadvantages of requiring disclosures in both non-metric and metric measures, as proposed? To what extent is dual disclosure burdensome? Are covered plumbing products sold in such sizes and shapes that it would be impractical to lengthen the required water use rate disclosures to achieve dual disclosures? Are consumers knowledgeable enough about metric measures to warrant dual disclosures? Does dual disclosure enhance consumers' knowledge of the metric system?

3. The Commission believes that presently no manufacturers make annual operating cost claims for any of the covered plumbing products. EPA 92 requires that if such claims are made in the future they must be in "accordance with a format prescribed by the Commission." The Commission has decided to postpone the design of a cost disclosure format until such time as a manufacturer makes such a claim. In the interim any unsubstantiated claims would be subject to enforcement under section 5(1)(a) of the FTC Act. Is the Commission correct in its belief that annual operating cost claims are not presently being made? Is it likely that such claims will be made in the future? How might such claims be made, if any? Should the Commission postpone prescribing a format and manner of display until such time as manufacturers elect to make such claims? If not, what format and manner of display should the Commission specify now, and why? Should the Commission prescribe such format and manner of display by an enforcement policy statement rather than by rule? What are the advantages and disadvantages of the approach proposed by the Commission?

4. The proposed amendments require a manufacturer to report annually to the Commission the manufacturer's name and address and the trade names, model numbers, and water use rates of its covered plumbing products. What costs (e.g., dollars and/or work hours) beyond those already incurred by manufacturers in the ordinary course of business will be imposed upon manufacturers in complying with this proposed reporting requirement?

5. What are the economic impact and the regulatory impact of the proposed amendments, especially upon small business entities? In responding to this question, the Commission particularly would welcome any statistical data concerning the number and size of manufacturers of the covered products, the expected additional costs of compliance by size of firm, and the economic impact of any such cost increase.

6. What paperwork requirements would the proposed amendments impose?

7. Are there other possible regulatory alternatives that would reduce the economic impact of the proposed amendments, yet fully provide consumers with information about the water use rates of the covered plumbing products and implement the regulatory mandate of the Energy Policy Act of 1992?

8. Overall, what are the benefits and costs of the proposed amendments?

The Commission requests that commenters provide representative factual data. Individual firms' experiences are relevant to the extent they typify industry experience in general or the experience of similar-sized firms. Comments opposing the proposed rules or specific provisions thereof should, if possible, suggest a specific alternative. Proposals for alternative regulations should include reasons and data that indicate why the alternatives would better serve the purposes of the proposed rules. Comments should be supported by a full discussion of all the relevant facts and/or be based directly on firsthand knowledge, personal experience or general understanding of the particular issues addressed by the proposed rules.

Before adopting these proposed rules as final rules, consideration will be given to any written comments timely submitted to the Secretary of the Commission or made on the record of any hearing that may be held. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and Commission Regulations, on normal business days between the hours of 8:30 a.m. to 5:00 p.m. at the Public Reference Room 130, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, DC 20580.

Section B—Public Hearings

Persons desiring a public hearing on the proposed amendments should notify the Secretary of the Commission no later than May 26, 1993. If there is a hearing, it will take place in Room 532 of the Federal Trade Commission, Pennsylvania Avenue at Sixth Street, NW., Washington, DC, at a time and date that will be announced in a subsequent notice. If a hearing is held, persons desiring to testify will be required to submit to the Secretary of the Commission a complete statement in advance. This will be entered into the record in full. As a general rule, oral statements should not exceed ten minutes. There will be no opportunity for interested persons to cross-examine witnesses. Further instructions to witnesses will be contained in the notice announcing the hearing.

Section C—Motions or Petitions

Any motions or petitions in connection with this proceeding must be filed with the Secretary of the Commission for transmission to a Presiding Officer who will be responsible for the orderly conduct of the proceeding and who shall have all powers necessary to that end, including the authority to rule on all motions or petitions filed.

Applications for review of rulings by a Presiding Officer will not be entertained by the Commission prior to its review of the record unless the Presiding Officer certifies in writing to

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the Commission that a ruling involves a controlling question of law or policy as to which there is substantial ground for difference of opinion and that an intermediate review of the ruling may materially advance the ultimate termination of the proceeding or that subsequent review will be an inadequate remedy.

Section D—Communications by Outside Parties to Commissioners or Their Advisors

Pursuant to Rule 1.26(b)(5) of the Commission's Rules of Practice, 16 CFR 1.26(b)(5), communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner advisor during the course of this rulemaking shall be subject to the following treatment. Written communications, including written communications from members of Congress, shall be forwarded promptly to the Secretary for placement on the public record. Oral communications, not including oral communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized at the discretion of the Commissioner or Commissioner advisor to whom such oral communications are made and are promptly placed on the public record, together with any written communications and summaries of any oral communications relating to such oral communications. Oral communications from members of Congress shall be transcribed or summarized at the discretion of the Commissioner or Commissioner advisor to whom such oral communications are made and promptly placed on the public record, together with any written communications and summaries of any oral communications relating to such oral communications.

List of Subjects in 16 CFR Part 305

Advertising, Water conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Proposed Amendments

Accordingly, it is proposed that 16 CFR part 305 be amended as set forth below.

PART 305—RULE CONCERNING DISCLOSURES OF ENERGY CONSUMPTION AND WATER USE INFORMATION ABOUT CERTAIN HOME APPLIANCES AND OTHER PRODUCTS REQUIRED UNDER THE ENERGY POLICY AND CONSERVATION ACT

1. The heading of part 305 is proposed to be revised as set forth above.

2. The authority citation for part 305 is proposed to be revised to read as follows:

Authority: 42 U.S.C. 6294.

3. Further, it is proposed that § 305.1 be amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 305.1 Scope.

* * * * *

(a) Labeling and/or marking the products with information disclosing their water use rates and related information required by this part or their estimated annual energy costs or energy efficiency ratings, and related information or their compliance with applicable standards under section 325 of the Energy Policy and Conservation Act, 42 U.S.C. 6295;

(b) Including in printed matter displayed or distributed at the point of sale of such products, or including in any catalog from which the products may be purchased, information concerning their water use or their energy consumption;

* * * * *

(d) Making representations, in writing or in broadcast advertising, respecting the water use, energy consumption, or energy efficiency of the products, or the cost of water used or energy consumed by the products.

4. Further, it is proposed that § 305.2 be amended by adding new paragraphs (r) through (v), to read as follows:

§ 305.2 Definitions.

* * * * *

(r) *Water use* means the quantity of water flowing through a showerhead, faucet, water closet, or urinal at point of use, determined in accordance with test procedures under section 323 of the Act, 42 U.S.C. 6293.

(s) *ASME* means the American Society of Mechanical Engineers and, as used herein, is the prefix for standards adopted by the Society, including ASME A112.16.1M–1989 and ASME A112.19.2M–1990.

(t) *ANSI* means the American National Standards Institute and, as used herein, is the prefix for standards adopted by the Institute.

(u) *Flushometer valve* means a valve attached to a pressured water supply pipe and so designed that, when actuated, it opens the line for direct flow into the fixture at a rate and quantity to operate properly the fixture, and then gradually closes to provide trap reseal in the fixture in order to avoid water hammer. The pipe to which this device is connected is in itself of sufficient size that, when opened, will allow the device to deliver water at a sufficient rate of flow for flushing purposes.

(v) *Flow restricting or controlling spout end device* means an aerator used in a faucet.

5. Further, it is proposed that § 305.3 be amended by adding new paragraphs (k) through (n), to read as follows:

§ 305.3 Description of covered products to which this part applies.

* * * * *

(k) *Showerhead* means any showerhead (including a handheld showerhead), except a safety shower showerhead.

(l) *Faucet* means a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator for a lavatory or kitchen faucet.

(m) *Water closet* means a plumbing fixture having a water-containing receptor which receives liquid and solid body waste and, upon actuation, conveys the waste through an exposed integral trap seal into a gravity drainage system, except such term does not include fixtures designed for installation in prisons.

(n) *Urinal* means a plumbing fixture which receives only liquid body waste and, on demand, conveys the waste through a trap seal into a gravity drainage system, except such term does not include fixtures designed for installation in prisons.

6. Further, it is proposed that § 305.4 be amended by revising paragraphs (a)(1), (a)(2), (b)(4), (d), (e) introductory text, (e)(2), and (e)(3), to read as follows:

§ 305.4 Prohibited acts.

(a) * * *

(1) For any manufacturer or private labeler knowingly to distribute in commerce any new covered product unless such covered product is marked and/or labeled in accordance with § 305.11 with a marking, label, flap tag, hang tag, or energy fact sheet which conforms to the provisions of the Act and this part.

(2) For any manufacturer, distributor, retailer, or private labeler knowingly to remove or render illegible any marking or label required to be provided with such product by this part.

* * * * *

(b) * * *

(4) Refuse, when requested by the Commission or its designated representative, to supply at the manufacturer's expense, no more than two of each model of each covered product to any laboratory designated by the Commission for the purpose of ascertaining whether the information in catalogs or set out on the label or marked on the product as required by this part is accurate. This action will be taken only after review of a manufacturer's testing records and an opportunity to revalidate test data has been extended to the manufacturer.

* * * * *

(d)(1) It shall be an unfair or deceptive act or practice in violation of section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1), for any manufacturer, distributor, retailer or private labeler to make any representation in or affecting commerce, in writing (including a representation on a label) or in any broadcast advertisement, with respect to the energy use or efficiency or, in the case of showerheads, faucets, water closets, and urinals, water use, of a covered product to which a test procedure is applicable under section 323 of the Act, 42 U.S.C. 6293, or the cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

(2) Effective 180 days after an amended or new test procedure applicable to a covered product is prescribed or established under section 323(b) of the Act, 42 U.S.C. 6293(b), it shall be an unfair or deceptive act or practice in violation of section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1), for any manufacturer, distributor, retailer or private labeler to make any representation in or affecting commerce, in writing (including a representation on a label) or in any broadcast advertisement, with respect to the energy use or efficiency or, in the case of showerheads, faucets, water closets and urinals, water use of such product, or cost of energy consumed by such product, unless the product has been tested in accordance with such amended or new test procedures and such representation fairly discloses the results of such testing. This requirement is not limited to consumer appliance products covered by the labeling requirements of this Part.

(3) Any manufacturer, distributor, retailer, or private labeler may file a petition with the Commission not later than sixty (60) days before the expiration of the period involved for an extension of the 180 day period. If the Commission finds that the requirements would impose an undue hardship on the petitioner, the Commission may extend the 180 day period with respect to the petitioner up to an additional 180 days.

(e) This part shall not apply to:

* * * * *

(2) Any covered product, except central air conditioners, pulse combustion and condensing furnaces, and fluorescent lamp ballasts, if the manufacture of the product was completed prior to May 19, 1980. Any central air conditioner, pulse combustion furnace or condensing furnace if its manufacture was completed prior to June 7, 1988. Any fluorescent lamp ballast if its manufacture was completed prior to January 1, 1990. Any showerhead, faucet, water closet or urinal if its manufacture was completed prior to October 24, 1994.

(3) Any catalog or point-of-sale printed matter pertaining to covered products other than central air conditioners and pulse combustion and condensing furnaces distributed prior to May 19, 1980, or showerheads, faucets, water closets and urinals distributed prior to October 24, 1994, and any catalog or point-of-sale printed matter pertaining to central air conditioners and pulse combustion and condensing furnaces distributed prior to June 7, 1988, and any catalog or point-of-sale printed matter pertaining to showerheads, faucets, water closets and urinals distributed prior to October 24, 1994, except that if representations respecting the energy consumption or energy efficiency or water use of any covered product or other consumer appliance product or cost of energy consumed or water used by such product are included, they are subject to the requirements of paragraph (d) of this section.

* * * * *

7. Further, it is proposed that § 305.5 be revised to read as follows:

§ 305.5 Determinations of estimated annual energy cost and energy efficiency rating and of water use rate.

(a) Procedures for determining the estimated annual energy costs, the kilowatt-hour uses per year, the energy factors, the energy efficiency ratings and the power and efficacy factors of covered products are those found in 10 CFR part 430, subpart B, in the following sections:

(1) Refrigerators and refrigerator-freezers—§ 430.22(a).

(2) Freezers—§ 430.22(b).

(3) Dishwashers—§ 430.22(c).

(4) Water heaters—§ 430.22(e).

(5) Room air conditioners—§ 430.22(f).

(6) Clothes washers—§ 430.22(j).

(7) Furnaces—§ 430.22(n).

(8) Central air conditioners and heat pumps—§ 430.22(m).

(9) Fluorescent lamp ballasts—§ 430.22(q).

(b) Procedures for determining the water use rates of covered products are those found in the following standards:

(1) Showerheads and faucets—ASME A112.18.1M–1989.

(2) Water closets and urinals—ASME A112.19.2M–1990.

8. Further, it is proposed that § 305.8(a) and (b) be revised to read as follows:

§ 305.8 Submission of data.

(a)(1) Each manufacturer of a covered product, except manufacturers of fluorescent lamp ballasts, showerheads, faucets, water closets or urinals, shall submit annually to the Commission a report listing the kilowatt-hour use per year (for refrigerators, refrigerator-freezers and freezers), the energy factor (for clothes washers, dishwashers and water heaters) or the energy efficiency rating (for room air conditioners, central air conditioners, heat pumps and furnaces) for each basic model in current production, determined according to § 305.5 and statistically verified according to § 305.6. The report must also list, for each basic model in current production: the model number; the total energy consumption, determined in accordance with § 305.5, used to calculate the kilowatt-hour per year, energy factor, or energy efficiency rating; the number of tests performed; and its capacity, determined in accordance with § 305.7. For those models that use more than one energy source or more than one cycle, each separate amount of energy consumption, or energy cost, measured in accordance with § 305.5, shall be listed in the report. Appendix J of this part illustrates a suggested reporting format. Starting serial numbers or other numbers identifying the date of manufacture of covered products shall be submitted whenever a new basic model is introduced in the market.

(2) Each manufacturer of a covered fluorescent lamp ballast shall submit annually to the Commission a report for each basic model of fluorescent lamp ballast in current production. The report shall contain the following information:

(i) Name and address of manufacturer;

(ii) All trade names under which the fluorescent lamp ballast is marketed;

(iii) Model number;

(iv) Starting serial number, date code or other means of identifying the date of

§ 305.13 Promotional material displayed at

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manufacture (date of manufacture information must be included with only the first submission for each basic model);

(v) Nominal input voltage and frequency;

(vi) Ballast efficacy factor; and

(vii) Type (F40T12, F96T12 or F96T12HO) and number of lamp or lamps with which the fluorescent lamp ballast is designed to be used.

(3) Each manufacturer of a covered showerhead, faucet, water closet or urinal shall submit annually to the Commission a report for each basic model of such products in current production. The report shall contain the following information:

(i) Name and address of manufacturer;

(ii) All trade names under which the product is marketed;

(iii) Model number;

(iv) Starting serial number, date code or other means of identifying the date of manufacture (date of manufacture information must be included with only the first submission for each basic model);

(v) The product's water use, expressed in gallons and liters per flush (gpf/Lpf) or gallons and liters per minute (gpm/Lpm) or per cycle (gpc/Lpc) as determined in accordance with § 305.5.

(b) All data required by § 305.8(a) except serial numbers, shall be submitted to the Commission annually, on or before the following dates:

Products	Deadline for data submission
Refrigerators	Aug. 1.
Refrigerator-freezers	Aug. 1.
Freezers	Aug. 1.
Central air conditioners	July 1.
Heat pumps	July 1.
Dishwashers	June 1.
Water heaters	May 1.
Room air conditioners	May 1.
Furnaces	May 1.
Clothes washers	Mar. 1.
Fluorescent lamp ballasts	Mar. 1.
Showerheads	Mar. 1.
Faucets	Mar. 1.
Water closets	Mar. 1.
Urinals	Mar. 1.

All revisions to such data (both additions to and deletions from the preceding data) shall be submitted to the Commission as part of the next annual report period. Serial number reports for new covered products are due sixty days after the annual effective mandatory labeling date for each product.

* * * * *

9. Further, it is proposed that § 305.11 be amended by revising the heading of paragraph (a) and by adding a new paragraph (e), to read as follows:

§ 305.11 Labeling for covered products.

(a) *Labels for covered products other than fluorescent lamp ballasts, showerheads, faucets, water closets and urinals*—(1) *Layout.* * * *

* * * * *

(e) *Plumbing Fixtures*—(1) *Showerheads and Faucets.* Showerheads and faucets shall be marked and labeled as follows:

(i) Each showerhead and flow restricting or controlling spout end device shall bear a permanent legible marking indicating the flow rate, expressed in gallons per minute (gpm) or gallons per cycle (gpc), and the flow rate value shall be the actual flow rate or the maximum flow rate specified by the standards established in subsection (j) of section 325 of the Act, 42 U.S.C. 6295(j). Except where impractical due to the size of the fitting, each flow rate disclosure shall also be given in liters per minute (Lpm) or liters per cycle (Lpc). For purposes of this section, the marking indicating the flow rate will be deemed "legible," in terms of placement, if it is located in close proximity to the manufacturer's identification marking.

(ii) Each showerhead and faucet shall bear a permanent legible marking to identify the manufacturer. This marking shall be the trade name, trademark, or other mark known to identify the manufacturer. Such marking shall be located where it can be seen after installation.

(iii) Each showerhead and faucet shall be marked "A112.18.1M" to demonstrate compliance with the applicable ASME standard. The marking shall be by means of either a permanent mark on the product, a label on the product, or a tag attached to the product.

(iv) The package for each showerhead and faucet shall disclose the manufacturer's name and the model number.

(v) The package or any label attached to the package for each showerhead or faucet shall contain at least the following: "A112.18.1M" and the flow rate expressed in gallons per minute (gpm) or gallons per cycle (gpc), and the flow rate value shall be the actual flow rate or the maximum flow rate specified by the standards established in subsection (j) of section 325 of the Act, 42 U.S.C. 6295(j). Each flow rate disclosure shall also be given in liters per minute (Lpm) or liters per cycle (Lpc).

(2) *Water closets and Urinals.* Water closets and urinals shall be marked and labeled as follows:

(i) Each such fixture (and flushometer valve associated with such fixture) shall bear a permanent legible marking indicating the flow rate, expressed in gallons per flush (gpf), and the water use value shall be the actual water use or the maximum water use specified by the standards established in subsection (k) of section 325 of the Act, 42 U.S.C. 6295(k). Except where impractical due to the size of the fixture, each flow rate disclosure shall also be given in liters per flush (Lpf). For purposes of this section, the marking indicating the flow rate will be deemed "legible," in terms of placement, if it is located in close proximity to the manufacturer's identification marking.

(ii) Each water closet (and each component of the water closet if the fixture is comprised of two or more components) and urinal shall be marked with the manufacturer's name or trademark or, in the case of private labeling, the name or registered trademark of the customer for whom the unit was manufactured. This mark shall be legible, readily identified, and applied so as to be permanent. The mark shall be located so as to be visible after the fixture is installed, except for fixtures built into or for a counter or cabinet.

(iii) Each water closet (and each component of the water closet if the fixture is comprised of two or more components) and urinal shall be marked at a location determined by the manufacturer with the designation "ASME A112.19.2M" to signify compliance with the applicable standard. This mark need not be permanent, but shall be visible after installation.

(iv) The package, and any labeling attached to the package, for each water closet and urinal shall disclose the flow rate, expressed in gallons per flush (gpf), and the water use value shall be the actual water use or the maximum water use specified by the standards established in subsection (k) of section 325 of the Act, 42 U.S.C. 6295(k). Each flow rate disclosure shall also be given in liters per flush (Lpf).

(v) With respect to any gravity tank-type white 2-piece toilet offered for sale or sold before January 1, 1997, which has a water use greater than 1.6 gallons per flush (gpf), any printed matter distributed or displayed in connection with such product (including packaging and point of sale material, catalog material, and print advertising) shall include, in a conspicuous manner, the words "For Commercial Use Only."

10. Further, it is proposed that § 305.13 be amended by revising paragraph (a) to read as follows:

§ 305.13 Promotional material displayed or distributed at point of sale.

(a)(1) Any manufacturer, distributor, retailer, or private labeler who prepares printed material for display or distribution at point of sale concerning a covered product (except fluorescent lamp ballasts, showerheads, faucets, water closets, and urinals) shall clearly and conspicuously include in such printed material the following required disclosure:

Before purchasing this appliance, read important energy cost and efficiency information available from your retailer.

(2) Any manufacturer, distributor, retailer, or private labeler who prepares printed material for display or distribution at point-of-sale concerning a covered showerhead, faucet, water closet, or urinal shall clearly and conspicuously include in such printed material the product's water use, expressed in gallons and liters per minute (gpm/Lpm) or per cycle (gpc/Lpc) or gallons and liters per flush (gpf/Lpf) as specified in § 305.11(e).

* * * * *

11. Further, it is proposed that § 305.14 be amended by revising paragraph (a) introductory text and by adding a new paragraph (d), to read as follows:

§ 305.14 Catalogs.

(a) Any manufacturer, distributor, retailer, or private labeler who advertises a covered product (except fluorescent lamp ballasts, showerheads, faucets, water closets or urinals) in a catalog, from which it may be purchased, shall include in such catalog, on each page that lists the covered product, the following information required to be disclosed on the label:

* * * * *

(d) Any manufacturer, distributor, retailer, or private labeler who advertises a covered showerhead, faucet, water closet or urinal in a catalog, from which it may be purchased, shall include in such catalog, on each page that lists the covered product, the product's water use, expressed in gallons and liters per minute (gpm/Lpm) or per cycle (gpc/Lpc) or gallons and liters per flush (gpf/Lpf) as specified in § 305.11(e).

12. Further, it is proposed that § 305.15 be amended by revising paragraph (b) to read as follows:

§ 305.15. Test data records.

* * * * *

(b) Upon notification by the Commission or its designated representative, a manufacturer or private labeler shall provide, within 30 days of the date of such request, the underlying test data from which the water use or energy consumption rate, the energy efficiency rating, or the estimated annual cost of using each basic model was derived.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93–10558 Filed 5–4–93; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 185

[PP 0F3865, PP 2F4081, FAP 2H5635/P559; FRL 4583–3]
RIN 2070–AC18

Pesticide Tolerances for Glyphosate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes tolerances and food additive regulations for residues of the herbicide glyphosate [(*N*-phosphonometyhyl)glycine). The specific proposals are as follows: an amended tolerance in or on the raw agricultural commodities (RACs) wheat at 5.0 parts per million (ppm), wheat straw at 85 ppm, the tree nut crop group at 1.0 ppm, almond hulls at 25 ppm, and a food additive regulation for wheat milling fractions (except flour) at 20 ppm. Monsanto Co. submitted petitions requesting EPA to establish the maximum permissible residues of the herbicide in or on these RACs and the processed human food.

DATES: Written comments, identified by the document control number, [PP 0F3865, PP 2F4081, FAP 2H5635/P559), must be received on or before June 4, 1993.

ADDRESSES: By mail, submit comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail, Robert J. Taylor, Product Manager, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)-305-6800.

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of July 18, 1990 (55 FR 29267), announcing that the Monsanto Co., 700 14th St., NW., Washington, DC 20005, had submitted a petition (PP 0F3865) proposing to amend 40 CFR 180.364 by establishing a regulation under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a), to permit combined residues of the herbicide glyphosate, [*N*-(phosphonomethyl)glycine] and its metabolite aminomethylphosphonic acid resulting from the application of the isopropylamine salt in or on the RACs wheat grain at 4 parts per million (ppm) and wheat straw at 85 ppm. In the **Federal Register** of June 10, 1992 (57 FR 24645), the Agency issued notices which announced that Monsanto Co. had submitted PP No. 2F4081 proposing to amend 40 CFR 180.364 under sec. 408 of FFDCA by establishing a regulation to permit the residues of glyphosate and its metabolite resulting from the application of isopropylamine salt of glyphosate and/or the monoammonium salt of glyphosate in or on almond bulls at 25 ppm and tree nut crops at 1.0 ppm and FAP No. 2H5635 proposing to amend 40 CFR 185.3500 under sec. 409 of FFDCA (21 U.S.C. 348) by establishing a food additive regulation to permit the combined residues of glyphosate and its metabolite on wheat milling fractions (excluding flour) at 12 ppm.

There were no comments or requests for referral to an advisory committee received in response to these notices of filing.

Subsequently, the petitioner amended PP 0F3865, FAP 2H5635, and PP 2F4081 by submitting revised section Fs deleting the metabolite from the expressions, increasing the proposed tolerances on wheat grain to 5 ppm and

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wheat milling fractions (excluding flour) to 20 ppm, and adding the monoammonium salt of glyphosate to the wheat grain (5 ppm) and wheat straw (85 ppm) expression. Because the increased tolerances for wheat grain at 5 ppm and wheat milling fractions (excluding flour) to 20 ppm have not been previously proposed, this document is being published as a proposed rule to allow a period of 30 days for public comment.

The data submitted in the petitions and other relevant material have been evaluated. The glyphosate toxicological data listed below were considered in support of these tolerances.

1. Several acute toxicology studies placing technical-grade glyphosate in Toxicity Category III and Toxicity Category IV.

2. A 1-year feeding study with dogs fed dosage levels of 0, 20, 100, and 500 milligrams/kilogram/day (mg/kg/day) with a no-observable-effect level (NOEL) of 500 mg/kg/day.

3. A 2-year carcinogenicity study in mice fed dosage levels of 0, 150, 750, and 4,500 mg/kg/day with no carcinogenic effect at the highest dose tested (HDT) of 4,500 mg/kg/day.

4. A chronic feeding/carcinogenicity study in rats fed dosage levels of 0, 3, 10, and 31 mg/kg/day with no carcinogenic effects observed under the conditions of the study at dose levels up to and including 31 mg/kg/day (HDT) and a systemic NOEL of 31 mg/kg/day (HDT). Because a maximum tolerated dose (MTD) was not reached, this study was classified as supplemental for carcinogenicity.

5. A chronic feeding/carcinogenicity study in rats fed dosage levels of 0, 100, 400, and 1,000 mg/kg/day with no carcinogenic effects noted under the conditions of the study at dose levels up to and including 1,000 mg/kg/day (HDT) and a systemic NOEL of 400 mg/kg/day based on decreased body weight and body weight gain in females, cataracts in males, decreased urinary pH in males, increased relative liver weight (to body) at 12 months, increased absolute and relative liver weight (to brain) at 24 months at 1,000 mg/kg/day (HDT).

6. A developmental toxicity study in rats given doses of 0, 300, 1,000, and 3,500 mg/kg/day with a developmental NOEL of 1,000 mg/kg/day based on an increase in number of litters and fetuses with unossified sternubrae, and decrease in fetal body weight at 3,500 mg/kg/day, and a maternal NOEL of 1,000 mg/kg/day based on decrease in body weight gain, diarrhea, soft stools, breathing rattles, inactivity, red matter in the region of nose, mouth, forelimbs, or dorsal head, and deaths at 3,500 mg/kg/day (HDT).

7. A developmental toxicity study in rabbits given doses of 0, 75, 175, and 350 mg/kg/day (HDT); a maternal NOEL of 175 mg/kg/day based on increased incidences of soft stool, diarrhea, nasal discharge, and deaths at 350 mg/kg/day (HDT).

8. A multigeneration reproduction study with rats fed dosage levels of 0, 3, 10, and 30 mg/kg/day with a developmental NOEL of 10 mg/kg/day based on increased incidence of focal tubular dilation of the kidney (both unilateral and bilateral combined) of male F_1b pups.

9. A two generation reproduction study with rats fed dosage levels of 0, 100, 500, and 1,500 mg/kg/day with a developmental NOEL of 500 mg/kg/day based on decreased pup body weight and body weight gain on lactation days 14 and 21 at 1,500 mg/kg/day (HDT).

10. Mutagenicity data included chromosomal aberration *in vitro* (no aberrations in Chinese hamster ovary cells were caused with and without S9 activation); DNA repair in rat hepatocytes; *in vivo* bone marrow cytogenic test in rats; rec-assay with *B. subtilis*; reverse mutation test with *S. typhimurium*; Ames test with *S. typhimurium*; and dominant-lethal mutagenicity test in mice (all negative).

The reference dose (RfD) based on a developmental study with rabbits (NOEL of 175 mg/kg/ bwt/day) and using a hundred-fold safety factor is calculated to be 2.0 mg/kg body weight/day. The theoretical maximum residue contribution (TMRC) for published tolerances and food and feed additive regulations is 0.011362 mg/kg bwt/day or 0.6 percent of the RfD for the overall U.S. population. The current actions on tree nut crop group and wheat grain and wheat milling fractions will contribute 0.000012 mg/kg/ bwt/day and 0.009217 mg/kg bwt/day, respectively, to the TMRC. These tolerances and the food additive regulation will utilize a total of 0.462 percent of the RfD for the overall U.S. population.

For U.S. subgroup populations, nonnursing infants and children 1 to 6 years of age, the current action and previously established tolerances and the food additive regulation utilize, respectively, a total of 2.38 and 2.17 percent of the RfD, assuming that residue levels are at the established tolerance levels and that 100 percent of the crop is treated.

There are no desirable data lacking for this pesticide. There are currently no actions pending against the continued registration of this pesticide. No detectable residues of *N*-nitrosoglyphosate, a contaminant of glyphosate, are expected to be present in the commodities for which tolerances are established. The carcinogenic potential of glyphosate was first considered by a panel, then called the Toxicology Branch AD Hoc Committee, in 1985. The Committee, in a consensus review dated March 4, 1985, classified glyphosate as a Group C carcinogen based on an increased incidence of renal tumors in male mice. The Committee also concluded that dose levels tested in the 26-month rat study were not adequate for assessment of glyphosate's carcinogenic potential in this species. These findings, along with additional information, including a reexamination of the kidney slides from the long-term mouse study, were referred to the FIFRA Scientific Advisory Panel (SAP). In its report dated February 24, 1986, SAP classified glyphosate as a Group D Carcinogen (inadequate animal evidence of carcinogenic potential). SAP concluded that, after adjusting for the greater survival in the high-dose mice compared to concurrent controls, that no statistically significant pairwise differences existed, although the trend was significant.

SAP determined that the carcinogenic potential of glyphosate could not be determined from existing data and proposed that the rat and/or mouse studies be repeated in order to classify these equivocal findings. On reexamination of all information, the Agency classfified glyphosate as a Group D Carcinogen and requested that the rat study be repeated and that a decision on the need for a repeat mouse study would be made upon completion of review of the rat study.

Upon receipt and review of the second rat chronic feeding/ carcinogenicity study, all toxicological findings for glyphosate were referred to the Health Effects Division Carcinogenicity Peer Review Committee on June 26, 1991, for discussion and evaluation of the weight of evidence on glyphosate with particular emphasis on its carcinogenic potential. The Peer Review Committee classified glyphosate as a Group E (evidence of noncarcinogenicity for humans), based upon lack of convincing carcinogenicity evidence in adequate studies in two animal species. This classification is based on the following findings: (1) None of the types of tumors observed in the studies (pancreatic islet cell adenomas in male rat, thyroid c-cell adenomas and/or carcinomas in male and female rats, hepatocellular adenomas and carcinomas in male rats, and renal tubular neoplasms in male mice) were determined to be compound related; (2) glyphosate was tested up to the limit dose on the rat and up to levels higher than the limit dose in mice; and (3) there is no evidence of genotoxicity for glyphosate. Accordingly, EPA concludes that glyphosate has not been "found to induce cancer when ingested by man or animal." 21 U.S.C. 348(c)(3).

The nature of the residue in plants is adequately understood, adequate methodology (HPLC) is available for enforcement purposes, and the methodology has been published in the Pesticide Analytical Manual (PAM), Vol. II. Any secondary residues occurring in liver and kidney of cattle, goats, horses, poultry, and sheep will be covered by existing tolerances. The pesticide is considered useful for the purpose for which the regulation is sought and is capable of achieving the intended physical or technical effect.

Based on the information cited above, the Agency has determined that the establishment of tolerances by amending 40 CFR part 180 will protect the public health, and the establishment of a food additive regulation by amending 40 CFR part 185 will be safe. It is proposed, therefore, that the tolerances and food additive regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulations. Comments must bear a notation indicating the document control number, [PP 0F3865, PP 2F4081, FAP 2H5635/P559]. All written comments filed in response to this petition will be available in the Public Information Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 22, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, it is proposed that chapter I of title 40 of the Code of Federal Regulations be amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. In § 180.364, by amending paragraph (a) in the table therein by revising the entry "grain crops" and by adding new paragraph (d), to read as follows:

§ 180.364 Glyphosate; tolerance for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Grain crops (except wheat)	0.1 (N)
* * * * *	

* * * * *

(d) Tolerances are established for the residues of glyphosate [*N*-(phosphonomethyl)glycine) resulting from the application of the isopropylamine salt of glyphosate and/ or the monoammonium salt of glyphosate in or on the following raw agricultural commodities:

Commodity	Parts per million
Almond hulls	25.0
Tree nut crop group	1.0
Wheat, grain	5.0
Wheat, straw	85.0

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

b. In § 185.3500, by adding new paragraph (a)(3), to read as follows:

§ 185.3500 Glyphosate.

(a) * * *

* * * * * *

(3) Glyphosate [*N*-(phosphonomethyl)glycine] resulting from the application of the isopropylamine salt of glyphosate and or the monoammonium salt of glyphosate for herbicidal purposes.

Food	Parts per million
Wheat milling fractions (excluding flour)	20.0

* * * * * *

[FR Doc. 93-10577 Filed 5-4-93; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 721

[OPPTS-50575C; FRL-4171-4]

Adipic Acid; Polymer with 1,4-Cyclohexanedimethanol, Dipropylene Glycol, Alkanepolyol, Substituted Alkanolamines, and Carbomonocyclic Dicarboxylic Acid; Proposed Revocation of a Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for a chemical substance based on receipt of new data. The data indicate that the substance will not present an unreasonable risk to health.

DATES: Written comments must be submitted to EPA by June 4, 1993.

ADDRESSES: Since some comments may contain confidential business information (CBI), all comments must be sent in triplicate to: TSCA Document Receipt Office (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Comments should include the docket control number. The docket control number for the chemical substance covered in this SNUR is OPPTS-50575C-266. Nonconfidential versions of comments on this proposed rule will be placed in the rulemaking record and will be available for public inspection. Unit IV. of this preamble contains additional information on submitting comments containing CBI.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-

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799). Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543A, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 28, 1990 (55 FR 39892), EPA issued a SNUR establishing significant new uses for adipic acid; polymer with 1,4-cyclohexanedimethanol, dipropylene glycol, alkanepolyol, substituted alkanolamines, and carbomonocyclic dicarboxylic acid. Because of additional data EPA has received for this substance, EPA is proposing to revoke this SNUR.

I. Rulemaking Record

The record for the rule which EPA is proposing to revoke was established at OPPTS-50575 (P-89-653). This record includes information considered by the Agency in developing this rule and includes the test data to which the Agency has responded with this proposal.

II. Background

EPA is proposing to revoke the significant new use and recordkeeping requirements for the following chemical substance under 40 CFR part 721 subpart E. In this unit, EPA provides a brief description for the substance, including its PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if assigned), basis for the revocation of the section 5(e) consent order for the substance, and the CFR citation removed in the regulatory text section of this rule. Further background information for the substance is contained in the rulemaking record referenced above in Unit II.

PMN Number P-89-653

Chemical name: (generic) Adipic acid; polymer with 1,4-cyclohexanedimethanol, dipropylene glycol, alkanepolyol, substituted alkanolamines, and carbomonocyclic dicarboxylic acid.
CAS number: Not available.
Effective date of revocation of section 5(e) consent order: April 30, 1992.
Basis for revocation of section 5(e) consent order: The order was revoked based on test data submitted under the terms of the consent order. Based on the Agency's analysis of the submitted data, EPA found for purposes of TSCA section 5 that this substance will not present an unreasonable risk of injury to human health or the environment and concludes that further regulation under section 5(e) is not warranted at this time.
Toxicity testing results: An in vivo mouse micronucleus study by intraperitoneal (IP) route showed that the chemical substance is not a chromosome mutagen. An Ames study showed that the chemical substance is nonmutagenic in bacteria. An acute oral toxicity study in rats showed an LD50 of >5 gm/kg. A 28-day repeated dose oral study in rats showed a no-adverse-effect-level (NOEL) of 300 mg/kg/day based on increased absolute and relative liver weights and an increased neutrophil count at 1 gm/kg/day, the highest dose tested.
CFR citation: 40 CFR 721.266.

III. Objectives and Rationale of Proposing Revocation of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this proposed revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the environmental effects of the substance, and EPA identified the tests considered necessary to evaluate the risks of the substance. The basis for such findings is referenced in Unit II. of this preamble. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated. EPA reviewed testing conducted by the PMN submitter for the substance and determined that the information available was sufficient to make a reasoned evaluation of the environmental effects of the substance. EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk and subsequently revoked the section 5(e) consent order. The proposed revocation of SNUR provisions for this substance designated herein is consistent with the revocation of the section 5(e) order. In light of the above EPA is proposing a revocation of SNUR provisions for this chemical substance. When this revocation becomes final EPA will no longer require notice of any company's intent to manufacture, import, or process this substance.

IV. Comments Containing Confidential Business Information

Any person who submits comments claimed as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any party submitting comments claimed to be confidential must prepare and submit a public version of the comments that EPA can place in the public file.

V. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, once the SNUR is revoked EPA will receive no SNUR notices for the substance. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: February 26, 1993.

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 will continue to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ 721.266 [Removed]

2. By removing § 721.266.

[FR Doc. 93-10579 Filed 5-4-93; 8:45 am]
BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MM Docket No. 93-106, FCC 93-183]

Experimental, Auxiliary, and Special Broadcast and Other Program Distribution Services; Instructional Television Fixed Service, Purpose and Permissible Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Section 74.931(a) of the Commission's Rules provides that every authorized channel must be used to transmit formal educational programming offered for credit to enrolled students of accredited schools. Section 74.931(e)(2) requires that an Instructional Television Fixed Service (ITFS) licensee leasing its excess capacity to a wireless cable operator provide at least 20 hours per channel per week of ITFS programming and reserve an additional 20 hours per channel per week. This Notice of Proposed Rule Making proposes to modify these rules so that ITFS licensees with a group of channels may "channel load" their minimum ITFS programming on only one or two of their channels. The Notice responds to requests for waiver of the minimum programming rules, filed in February 1992 by four ITFS permittees. On July 23, 1992, the Commission issued a Public Notice seeking comment on those requests, urging commenters and opponents specifically to address the question of whether the four requests would best be addressed in a waiver proceeding or in a rule making proceeding. Having examined the comments, the Commission determined that the proper avenue for addressing the concerns in the waiver requests is a rule making proceeding, initiated by this Notice.

DATES: Comments are due by June 14, 1993, and reply comments are due by July 29, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Anne Lucey, Mass Media Bureau, Video Services Division, Distribution Services Branch, (202) 632-6357.

SUPPLEMENTARY INFORMATION: This is the Commission's Notice of Proposed Rule Making in MM Docket No. 93-106, adopted on April 6, 1993 and released on April 26, 1993.

The complete text of this Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center, room 239, at the Federal Communications Commission, 1919 M Street, NW., Washington, DC, 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Notice of Proposed Rule Making

1. On July 23, 1992, the Commission issued a Public Notice seeking comment on four petitions requesting waiver of our rules regarding the provision of formal educational and other Instructional Television Fixed Service (ITFS) programming on every licensed ITFS channel. The Public Notice urged commenters and opponents specifically to address the question of whether the four requests would best be addressed in a waiver proceeding or in a rule making proceeding. Having examined the comments [1] and the issue, we find, for reasons set forth below, that the proper avenue for addressing the fundamental regulatory concerns expressed in the waiver requests is a rule making proceeding. Accordingly, we initiate this Notice of Proposed Rule Making to solicit further comment on our minimum ITFS programming requirements.

Background

2. Since its inception in 1963, ITFS has had as its primary purpose the transmission of instructional material to accredited public and private schools, colleges and universities for the formal education of students. Educational Television, 39 F.C.C. 846, 852-53 (1963), recon. denied, 39 F.C.C. 873 (1964). We have not, in the nearly 30 years since the inauguration of the ITFS service, deviated from that primary purpose in fashioning ITFS rules, and amendments to those rules. What we have calibrated, however, is the point of equilibrium in attempting to balance the fixed educational purpose of ITFS with fluid factors, such as the ability of educators to finance the construction and operation of ITFS facilities, the utilization of the spectrum, and the growth of "wireless cable" [2] as a competitive spur to conventional cable operators. Indeed, upon initiation of ITFS in 1963, we were urged by manufacturers to expand eligibility so as to encourage a great many users to enter the service, thereby increasing the demand for equipment and lowering costs to educators. *Id.* at 854. Instead, we limited those who could apply for ITFS, noting that "[i]t would not be in the public interest to create a demand far in excess of the capacity of the band." *Id.* The service, however, was founded on the principle that most ITFS systems "will require more than one channel so that teaching material in several subjects may be transmitted simultaneously." *Id.* at 846.

3. Twenty years later, we acknowledged that there was far less demand for ITFS spectrum than originally anticipated: although the 28 ITFS channels were heavily utilized in several large metropolitan areas, other large metropolitan areas had no licensed ITFS stations. Instructional TV Fixed Service—Report and Order in Gen. Docket No. 80-112 (Report and Order), 94 F.C.C. 2d 1203, 1214 (1933) 48 FR 33873, July 26, 1983, *recon. denied*, 98 F.C.C. 2d 129 (1984) 49 FR 27147, July 2, 1984. In addition, there was little ITFS spectrum in use outside the large metropolitan areas. *Id.* But even as we conceded the underutilization of ITFS spectrum during the first 20 years, we foresaw an increase in demand for channels by institutions of higher education for the delivery of graduate level training to the workplaces of engineers, scientists, and other professionals. *Id.* at 1220. Conversely, the prognostication for ITFS use by elementary, junior high and high school systems, as well as for delivery of health services information, was less optimistic. *Id.* Thus, while reaffirming our belief in the concept of spectrum reserved for educational service, we reallocated eight of the 28 ITFS channels, the E- and F-channel groups, to the burgeoning wireless cable sector. *Id.* at 1247. At the same time, in concert with our principle of balancing the educational purpose of ITFS, we attempted to bolster ITFS licensees by permitting them to use their excess capacity for non-ITFS purposes in order to generate revenues for their facilities. *Id.* at 1250. Although we initially rejected specific time limitations on non-ITFS use of licensee excess channel capacity, we expected licensees to "utilize each of their ITFS main channels substantially for legitimate ITFS use." *Id.* at 1251.

4. In adopting the present quantitative minimum of weekly educational programming on each ITFS channel for those ITFS licensees leasing excess capacity, we emphasized that this time limitation was an "elementary necessity to guarantee the intended use of ITFS channels in the face of the revenue-generating uses which will also be permitted." Instructional TV Fixed Service—Second Report and Order in MM Docket No. 83-523 (Second Report and Order), 101 F.C.C. 2d 49, 85 (1985) 50 FR 26736, June 26, 1985. In lieu of a strict reservation scheme, we established a minimum actual use of 20 hours of educational programming per channel per week, with an equal, readily recapturable amount to be

[1] a list of the parties filing comments and replies is provided below, with abbreviated descriptions of associations and joint parties.

[2] "Wireless cable" is a term used to describe Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS), which utilize over-the-air microwave radio channels rather than coaxial or fiber optic cable to deliver video material to subscribers. There are 12 or 13 channels available to wireless cable for full-time use: 11 MMDS channels, E1-E4, F1-F4, and H1-H3; two single-channel MDS channels available in 50 cities; and one single-channel MDS channel in the rest of the country. In addition, wireless cable has access to the 20 ITFS channels, A1-A4, B1-B4, C1-C4, D1-D4, and G1-G4, on a leased, part-time basis. We do not intend to suggest by our use of the term "wireless cable" that it constitutes "cable" service for statutory or regulatory purposes.

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"preserved" for use at a later time. This recapture element harmonized the primary purpose of ITFS, presentation of educational programming for instructional use, with the needs of new ITFS entities, unable to commence operations with a 40-hour schedule, and the needs of wireless cable lessees, able to provide service where there would otherwise be an "unnecessary waste of valuable airtime." *Id.* However, we specifically rejected the practice of day loading, the shifting of all requisite programming to one day of the week, and channel loading, the shifting of all requisite programming to one channel. Instead, we required that a minimum of 20 hours of actual use per channel per week of ITFS programming be scheduled at least three hours each weekday, between 8 a.m. and 10 p.m., and five additional hours, Monday through Saturday, between 8 a.m. and 10 p.m. An additional 20 hours of ready recapture time was to be scheduled on each channel with the same scheduling restrictions. Finally, we noted that prospective licensees which could not meet the established standards but wished to lease should consider the feasibility of merging or sharing facilities with others whose needs were similarly slight. *Id.* at 88.

5. We ratified our commitment to minimum programming requirements for ITFS licensees leasing excess capacity in Report and Order (Wireless Cable Order), 5 F.C.C. Rcd 6410, 6416 (1990) 55 FR 46006, October 31, 1990, underscoring that excess capacity usage is "ancillary" and that the ITFS spectrum was allotted for transmission of educational materials, not as a source of financial support for educational institutions. Yet, we relaxed our minimum actual use requirement to 12 hours per channel per week for the first two years of an ITFS station operation in hopes of stimulating ITFS expansion and facilitating the initiation of new wireless cable systems. *Id.* at 6416.

6. Upon reconsideration of our leasing restrictions, we agreed that Section 74.932, which limits eligibility to accredited local educators, and Section 74.931(e), which requires 20 hours per channel per week of actual educational programming for those licensees leasing excess capacity, were sufficient to insure that ITFS licenses were not secured merely to realize financial gain from wireless cable operators. Wireless Cable Order Recon., 6 F.C.C. Rcd 6764, 6773–74 (1991) 56 FR 57596, November 13, 1991.[3] Consequently, we revised the rules once again to strike "the appropriate balance between our interest in promoting alternative uses of excess ITFS spectrum, on the one hand, and our interest in ensuring that ITFS entities retain the right to fully exploit their ITFS channels for legitimate educational purposes, on the other." *Id.* at 6774. With regard to the 20 hours per channel per week of actual use and 20 hours per channel per week of recapture time, we removed the time-of-day and hours-per-day restrictions permitting ITFS licensees to fulfill the per channel minimum required programming at any time of the day and on any day of the week. We also rendered the recapturability by the ITFS licensee subject to one year's written notice to the wireless cable lessee. Moreover, we acknowledged the permissibility of using channel mapping technology, which, we believed, could meet both our leasing restrictions and the lessee's programming need for apparent full-time use of the same channels. Channel mapping technology allows an ITFS licensee with a staggered schedule to transmit ITFS programming over each of the four channels and a student-viewer to receive that programming on what appears to be uninterrupted service on as few as one channel. Wireless cable lessees are also able to channel map their commercial programming over the channels so that their subscribers receive what appears to be uninterrupted service on as many as three channels. In sanctioning the utilization of channel mapping, we described an arrangement in which "[t]he leasing is scheduled on different channels in a staggered pattern," so that "[t]he subscriber's channel selection is unchanged and the subscriber is unaware that the channel is automatically switched." *Id.* We did not sanction, however, the diversion of all ITFS programming to one channel only, nor did we endorse any specific amount of channel time that could be mapped to another channel. Moreover, we cautioned ITFS applicants that they "should not request more frequencies than necessary for their educational needs." *Id.* at 6774 n.48.

7. Most recently, in order to create a "shared and symbiotic use of spectrum," we permitted wireless cable entities to be licensed on a maximum of eight of the remaining 20 ITFS channels in communities where at least eight other ITFS channels remain available in that area for future ITFS use.[4] Second Report and Order in Gen. Docket 90–54, 6 F.C.C. Rcd 6792, 6802 (1991) 56 FR 57808, November 14, 1991. We provided ITFS entities with the right to demand access to those wireless cable facilities licensed on the ITFS frequencies. Indeed, we allowed ITFS operation on all ITFS frequencies, if the demand for ITFS warranted the use of all channels,[5] while limiting access to a maximum of 40 hours per channel per week, with the ITFS operator entitled to 20 of those hours during specific periods of the day.[6] This access limitation, we noted, rendered "the outer limits of a wireless cable operator's exposure to liability measurable, so that it can make a reasonable judgment as to whether a wireless cable system dependent on ITFS channels would be viable." *Id.* at 6803.

8. In February 1992, four ITFS permittees, North American Catholic Educational Programming Foundation, Inc., Spokane Community College, Spokane Falls Community College, and Gonzaga University Telecommunications Association (the permittees), each submitted a revised programming schedule and concomitant request for waiver of §§ 74.931 (a) and (e)(2) of the Commission's Rules. Section 74.931(a) provides that every authorized channel "must be used to transmit formal educational programming offered for credit to enrolled students of accredited schools." Section 74.931(e)(2) requires that an ITFS licensee leasing its excess capacity to a wireless cable operator provide at least 20 hours per channel per week of ITFS programming and reserve an additional 20 hours per channel per week, subject to one year's advance written notification, for such programming. The four permittees, each authorized to operate four channels in Spokane, Washington,[7] seek waiver of these rules so that each may transmit a

[3] But we cautioned that we would strictly enforce the existing eligibility rules and, if the need arises, would consider restricting ITFS eligibility. *Id.* at 6774 n.47.

[4] For the various restrictions governing the wireless cable entities' use of ITFS frequencies, see Second Report and Order, 6 F.C.C. Rcd at Appendix C.

[5] While no minimum amount of programming is required of an ITFS entity seeking access to channels licensed to a wireless cable operator, the ITFS entity must utilize at least 20 hours per week on each channel before requesting another. Second Report and Order, 6 F.C.C. Rcd at 6904.

[6] An ITFS entity has an unqualified right to transmit its programming for 15 of those 20 hours between 8 a.m. and 10 p.m. Monday through Friday, excluding holidays and school vacations, and the remaining five hours between 8 a.m. and 10 p.m. Monday through Saturday. *Id.*

[7] The permittees' authorizations are as follows: Gonzaga University Telecommunications Association, B-group channels on WLX–816; North American Catholic Educational Programming Foundation, Inc., C-group channels on WLX–276; Spokane Community College, D-group channels on WLX–813; and Spokane Falls Community College, G-group channels on WLX–514.

minimum of 80 hours of educational programming on only one of its channels. This schedule would allow the permittees to "channel load" their minimum ITFS program requirements of 20 hours per channel per week onto one channel so that each could lease its remaining three channels on a 24-hour basis to Skyline Entertainment Network (Spokane) Limited Partnership, a wireless cable operator and the permittees' excess capacity lessee. As for the demonstration of need for four channels, a prerequisite for an ITFS license provided in Section 74.902(d), the permittees assert that such a need is "self-evident": without four channels, a wireless cable operator would be unwilling to construct the ITFS facility.

9. As we have noted in the past, the function of a request for waiver is not to change the general standard, a matter in which the opportunity for general comment is a prerequisite under Section 553(a) of the Administrative Procedure Act, but to justify an *ad hoc* exception to that standard on the ground that it works against the public interest in the particular case. *VHF Drop-In Proceeding*, 90 F.C.C. 2d 160, 166 (1982), *aff'd sub nom. Springfield Television of Utah, Inc.* v. *FCC*, 710 F.2d 620 (10th Cir. 1983). However, a general rule, deemed valid because its overall objectives are in the public interest, may not be in the public interest if extended to an applicant which proposes a new service that will not undermine the policy served by the rule. *WAIT Radio* v. *FCC*, 418 F.2d 1153, 1157 (1969). Here, we find that the permittees, authorized to operate ITFS stations and intending to lease their excess capacity to a wireless cable operator, features possessed by most ITFS licensees, have failed to demonstrate the "special circumstances" generally required to trigger the "safety valve" of a waiver proceeding. *Id.* Nevertheless, we are persuaded that review of our underlying rules is warranted. To that end, we initiate this rule making, on an expedited basis, in order to address the issues raised by the permittees in their waiver requests.

Proposed Rules Changes

Comments

10. Although the scope of the Public Notice was limited to the question of whether the issue of channel loading should be addressed in a waiver or rule making proceeding, most of the commenters, in anticipation of a Notice, argued the advantages and disadvantages of modifying Sections 74.931 (a) and (e)(2). We include some of the comments here in order to lay the foundation for an informed debate regarding our proposed rules changes.[8]

11. Those favoring the use of channel loading argue, as did the four permittees in their waiver requests, that our approval of the use of channel mapping technology makes our approval of channel loading the "next logical step." They contend that since the licensee of a four-channel ITFS station can stagger its schedule to implement channel mapping so that only one of its channels is employed at a given time to transmit ITFS programming, and where only one of its channels is ever employed for receipt of that programming, the Commission should "remove the fiction of channel mapping" and simply allow licensees to transmit all required programming on one channel for receipt on that channel. This would enable wireless cable operators to lease three channels on a full-time basis, necessary for its commercial programming, without the expenses affiliated with channel mapping. The cost of the channel mapping switch alone, according to WCA, is $115,000, in addition to $100,000 for time-base correction equipment, $700 per month for increased space, power and environmental controls associated with the switching equipment, and $150 for each set-top converter to be installed on every subscriber's television set.[9] A system with 10,000 subscribers, WCA estimates, could spend at least $1 million to implement channel mapping alone, funds that could be better spent, several wireless cable operators note, developing additional systems, increasing the support for educational activities, and funding the addition of new subscribers. While several wireless cable operators endorse retention of the licensee's right to simultaneously program all of its licensed channels as a "safeguard" designed to ensure that an educators' future needs are accommodated in a channel loading scheme, WCA rejects such a proposal if it is mandated by the Commission. Although WCA supports ready recapture rights to all channels if negotiated for by the ITFS licensee and the wireless cable operator, it asserts that required preservation of all channels would continue to necessitate the use of channel mapping technology, in the event the licensee were to exercise its rights.

12. Even those educators opposed to channel mapping agree that the technology is beneficial because it isolates educational from commercial programming, thereby avoiding situations where students accidentally view adult commercial programming before or after a scheduled educational program. However, the major disadvantage to channel mapping, NIA notes, is that it precludes the simultaneous use of ITFS channels for instructional use, "often relegating the educational programs to one or two channels." And, channel loading, according to NIA, will ultimately lead to the proposal that three of the four ITFS channels in each of the five channel groups be directly licensed to wireless cable operators. This, in turn, would effectively terminate the "healthy and robust partnership" which derives from balancing the protection of traditional ITFS use and the growth of the wireless cable industry. In contrast, a group of commenters, the ITFS Parties, contends that although they are not "comfortable" with the Commission's approval of the use of channel mapping, they "see no virtue in requiring the reality of the use of ITFS channels to be different than the appearance of that use." However, the ITFS Parties caution, channel loading must be counterbalanced with safeguards in order to prevent the *de facto* reallocation of three channels of every ITFS channel group. One such safeguard suggested by the ITFS Parties is Commission review of any ITFS lease permitting channel loading to ensure ready recapture on each of the three remaining channels. Second, the ITFS Parties urge the Commission to require a heightened demonstration of "*bona fide* educational intent" to ensure that the ITFS licensee will actually provide an educational service that "will be used by local institutions and that its future use of the channels will be dictated by educational goals, not an intent to maximize lease revenues."

13. The panacea to the Commission's difficulties in allotting ITFS spectrum, according to many commenters, educators as well as wireless cable operators, is digital compression. Implementation of this technology may soon make it possible for the licensee of a four-channel ITFS station to simultaneously transmit 40 or more compressed video programs over the station's 24 MHz of spectrum. But WCA and NIA diverge as to how to modify §§ 74.931(a) and (e)(2) to address digital compression. WCA suggests imposing

[8] Comments submitted by parties in response to the *Public Notice* will be maintained as part of the record in this proceeding.

[9] In addition to the substantial costs associated with channel mapping, there are, according to WCA, several other drawbacks to the technology: It is impossible for viewers to view one channel while recording another on a video cassette recorder, to automatically tape consecutive programs on separate channels, or to utilize the "picture-in-picture" features of newer television and video cassette recorders without the aid of additional expensive equipment.

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minimum formal educational programming and other ITFS programming requirements on a "per station" rather than on a "per channel" basis, thereby encompassing the current technology of channel mapping, the implementation of channel loading, as well as that of digital compression, which may yield as many as 10 program paths per channel, and of digital advanced television, which may yield only one or two very high quality advanced signals.[10] NIA, conversely, views digital compression as a guarantor of the availability of 20 program paths, or four channels in five channel groups, to be utilized substantially for ITFS programming.

Discussion

14. At the outset, we must address the confusion that our recognition of channel mapping technology apparently has engendered. We did not, in sanctioning the use of channel mapping, intend to revise or eliminate the requirements of our ITFS rules governing minimum instructional use, § 74.931, or the demonstration of need for the number of channels requested, § 74.902. Rather, we believed that channel mapping might permit a less disruptive scheduling of instructional and commercial uses of ITFS channels to the benefit of both educational institutions and wireless cable operators. We did not envision that channel mapping technology would be utilized to an extreme by diverting all instructional programming to only one channel. However, we now believe that a relaxation of the per channel minimum use requirements may be appropriate in order to permit a more flexible leasing scheme that will benefit and nurture ITFS operations during the transition to an era of channel compression technology.

15. Specifically, we propose to permit ITFS applicants to seek up to four channels where they propose a minimum average of 20 hours of use per channel per week, regardless of the distribution of that use via channel mapping. Thus, an ITFS applicant could request four channels so long as it proposes a minimum of 80 hours of instructional use, even if all 80 hours are diverted to only one of the channels. Under such a proposal, there is no reason to prohibit channel loading, as opposed to channel mapping, as the means for freeing up channels for leasing to wireless cable operators. Indeed, if we allow the diversion of all instructional programming to one channel by the use of channel mapping technology, it is senseless to prohibit the same result by the use of less costly channel loading. The policy debate at issue here is not the mechanism by which ITFS channel time is made available to wireless cable operators, but how we can preserve the primary purpose of ITFS in light of our proposals here. We seek comment on these proposals, including the benefits and detriments which they may bring. We recognize that the relaxation we offer here carries certain risks and we expressly invite comment on those dangers. We are particularly interested in comments addressing the issue of whether and in what manner this proposal might constitute a *de facto* reallocation of the ITFS spectrum, as some commenters fear. At least preliminarily, we believe that the current needs of ITFS licensees for funding, of wireless cable operators for channel capacity, and of the cable subscribing public for viable multichannel alternatives all favor the proposal we have outlined. We also believe, however, that the period in which this approach may best serve these needs is limited in duration and that the proper balance of licensing criteria in the ITFS service will be deeply affected by the arrival of digital compression technology.

16. Accordingly, we propose to authorize the more flexible ITFS licensing described above on a temporary basis, for between three and five years, until digital compression technology is a viable alternative, technologically and economically. We believe this length of time is appropriate in view of a report cited by WCA, which heralds the imminent arrival of digital compression: Within two years wireless cable operators will be able to purchase digital video compression decoders and to install these within subscribers' households.[11] Indeed, in July 1992, we granted for the first time experimental licenses to two wireless cable operations, authorizing the use of the 2.5 GHz band for the testing of digital transmissions.[12] We seek comment regarding the duration of the temporary period, emphasizing that the terminus should be the anticipated data when digital compression can be practically implemented. At the expiration of the temporary period, we shall examine the state of digital technology. If use of digital compression is not yet feasible, we may extend that period, but if so, we shall at that time adapt our purpose and permissible rules in light of that technology.[13]

17. In proposing this interim measure, we attempt to meet the wireless cable operators' asserted demand for additional spectrum without reallocating the ITFS spectrum. We acknowledge the role the wireless cable industry has played in reinvigorating the ITFS service, [14] and we believe that channel loading will provide the incentive for wireless cable operators which may have been reluctant to invest in a "partnership" with an educator yielding no full-time access to ITFS channels. At the same time, we stress that this interim measure is permissive only, and not mandatory. Thus, those educators desiring to transmit instructional programming simultaneously on every channel may continue to do so, leasing their excess capacity pursuant to the modified minimum programming requirements. And, mindful of our long-standing commitment to the primary purpose of ITFS, we take note of the potential for abuse were we to permit channel loading without any offsetting restrictions upon its use. Therefore, we seek comment on whether and what additional means of safeguarding the primary purpose of ITFS in the event we permit the use of channel loading.

18. First, should the use of channel loading be limited so as to free up less than three full-time channels for commercial programming? Second, should a specified number of the required programming hours be scheduled during specified times of the day, such as between the hours of 8 a.m. and 10 p.m., Monday through Saturday? Third, should the ready recapture of all four channels be required so that an ITFS licensee may simultaneously transmit its programming on all channels if the need arises? Or ready recapture of only three channels? Or two? Or one? Fourth, should a comparative advantage in mutually exclusive cases be awarded to those applicants refraining from the use of channel loading or channel mapping? If so, what number of merit points should such an applicant be entitled to? Finally, we seek comment on whether there should be, as suggested by the ITFS Parties, a heightened demonstration of *bona fide* educational intent in order to discourage applicants seeking a financial bonanza. If so, what should this "heightened demonstration" consist of? As to technical safeguards, we inquire whether those licensees utilizing channel loading should be given ITFS protection for their receive sites only with regard to the channel or channels being utilized for ITFS programming while protection for the remaining channels would be limited to the 15-mile protection of § 21.902(d). Commenters are urged to suggest additional changes which would promote our objectives.

19. Finally, in the event we modify § 74.931 (a) and (e)(2), we may have to reconcile § 74.902(d) with that action. That section provides that a licensee "is limited to the assignment of no more than four channels for use in a single area of operation" and that the number of channels authorized to an applicant "will be based on the demonstration of need for the number of channels requested." Several commenters favoring channel loading, suggest that because § 74.902(d) was not undermined by channel mapping, it is, therefore, not undermined by channel loading. As for demonstration of need for the channels requested, the permittees seeking waiver of our rules assert, as noted above, that the need for four channels is "self-evident." They insist that an authorization of fewer than four channels renders an ITFS licensee undesirable to wireless cable operator willing to finance the construction and operation of a station in exchange for an excess capacity lease agreement. Moreover, these commenters contend, the educator-licensee's ready recapture rights of the remaining channels for simultaneous transmission of ITFS programming comports with the required demonstration of need of § 74.902(d). We seek additional comments on these issues.

Procedural Matters

20. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 14, 1993, and reply comments on or before July 29, 1993. All relevant and timely comments will be considered by the Commission before taking further action in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original and nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

21. For further information concerning this Notice of Proposed Rule Making, contact Anne Lucey (202–632–6357), Mass Media Bureau, Video Services Division, Distribution Services Branch, Federal Communications Commission, Washington, DC 20554.

List of Commenters

Initial Comments

1. Maureen Smith, Executive Director of Telicare
2. North American Catholic Educational Programming Foundation, Inc.
3. Community Telecommunications Network
4. Joint Comments of ITFS Parties: Association for Higher Education of North Texas; Arizona Board of Regents for Benefit of the University of Arizona, Iowa Public Broadcasting Board; Regents of the University of New Mexico and Board of Education of the City of Albuquerque, New Mexico; South Carolina Educational Television Commission; State of Wisconsin—Educational Communications Board, and the University of Maine System (ITFS Parties)
5. WJB–TV Ft. Pierce Limited Partnership and WJB–TV Melbourne Limited Partnership
6. Twenty-One Wireless Cable Licensees and Operators
7. Clarendon Foundation
8. Cross Country Telecommunications, Inc.
9. Ruralvision South and Ruralvision Central
10. Wireless Cable Association International, Inc. (WCA)
11. Skyline Entertainment Network (Spokane) Limited Partnership, Spokane Community College, Spokane Falls Community College, and Gonzaga University Telecommunications Association
12. Specchio Developers Investment Corp.
13. American Wireless Systems, Inc.
14. The Consortium of Concerned Wireless Cable Operators
15. National ITFS Association (NIA)
16. Vermont Wireless Consortium
17. Trans Video Communications, Inc.

Reply Comments

1. National ITFS Association (NIA)
2. Wireless Cable Association International, Inc. (WCA)

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–10511 Filed 5–4–93; 8:45 am]

BILLING CODE 6712–01–M

[10] The comments of the four permittees which originally sought waiver of our purpose and permissible service rules propose that we amend Section 74.931(e) to prescribe "an average" of 20 hours per channel per week, similar to that required in § 74.913(b)(4). That section provides for the awarding of one comparative point to applicants proposing a "weekly schedule of 21 or more average hours per channel per week," and two points for "41 or more average hours per channel per week of formal educational programming." As to § 74.931(a), the permittees seem to suggest that the provisions of Section 74.931(e) would be exceptions to the requisite formal programming on each channel.

[11] Vivian Associates, Inc., Wireless Cable and Compressed Video at 4 (July 21, 1992).

[12] Cross Country Telecommunications, Inc., FCC File No. 3233–EX–PL–92, and People's Choice TV of Tucson, FCC File No. 3234–EX–PL–92, were granted those authorizations.

[13] We decline, therefore, to now modify §§ 74.931(a) and (e) in anticipation of digital compression technology, as WCA would have us do. Moreover, at the expiration of the temporary period, we may also be better able to address the impact of high definition television, or HDTV, on the ITFS service.

[14] As we noted in a recent Notice of Proposed Rule Making, in Amendment of part 74 of the Commission's Rule with Regard to the Instructional Television Fixed Service in MM Docket No. 93–24, 8 F.C.C. Rcd 1275 (1993) 58 FR 12011, March 2, 1993, new or major change ITFS applications were filed in fiscal year 1991 alone. The following year, the number of applications doubled, with more than 90 percent of them containing excess capacity lease agreements with wireless cable operators which supply funding for the construction and operation of the ITFS facilities.

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Notices

Federal Register
Vol. 58, No. 85
Wednesday, May 5, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 30, 1993.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection;
(2) Title of the information collection;
(3) Form number(s), if applicable;
(4) How often the information is requested;
(5) Who will be required or asked to report;
(6) An estimate of the number of responses;
(7) An estimate of the total number of hours needed to provide the information;
(8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

- *Agricultural Stabilization and Conservation Service*

7 CFR Parts 1413, 1477, and 1478—Disaster Payments and Disaster Assistance Programs.
CCC–441, 441A, 441W, 441 Income, 440; ASCS–574, 574–1, 658.
On occasion.
Farms; 19,217,530 responses; 4,279,383 hours.

Diane Sharp (202) 720–4667.

Larry K. Roberson,
Deputy Department Clearance Officer.
[FR Doc. 93–10593 Filed 5–4–93; 8:45 am]
BILLING CODE 3410–01–M

Agricultural Marketing Service

Meeting for National Organic Standards Board (NOSB)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, the Agricultural Marketing Service (AMS) announces a forthcoming meeting of the NOSB.

DATES AND TIME: May 16–21, 1993, 8 a.m. to 7 p.m.

ADDRESSES: Rodale Research Institute, 611 Siegfriedale Road, Kutztown, Pennsylvania. All meetings of the NOSB for the week will be held at that address.

FOR FURTHER INFORMATION CONTACT: Dr. Harold S. Ricker, Staff Director, NOSB, room 4006 South Building, USDA, AMS, Transportation and Marketing Division, P.O. Box 96456, Washington, DC 20090–6456. Phone 202/720–2704.

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518), of the Food, Agriculture, Conservation, and Trade Act of 1990 (FACT Act), as amended (7 U.S.C. 6501 *et seq.*), requires establishment of a NOSB. The purpose of the Board is to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of Title XXI of the Fact Act. The NOSB met for the first time in Washington, DC, in March 1992 and formed six committees to work on various aspects of the program. The committees are: Crops Standards; Processing, Labeling and Packaging; Livestock Standards; Accreditation; National Materials List; and International Issues.

Purpose and Agenda

The Sunday morning meeting of NOSB will be a full board meeting. The Sunday afternoon session will be given over to public comment. The Board will hold plenary sessions all day on Monday, May 17, 1993, and Tuesday, May 18, 1993, to hear and discuss reports from the six working committees. Wednesday and Thursday mornings, (May 19–20, 1993) will be devoted to Committee meetings. The full board will reconvene Thursday afternoon and Friday morning, with adjournment scheduled for noon on Friday.

Topics to be covered include position papers on product ingredients and labeling developed by the Processing Committee; organic farm plan, residue testing, irrigation water quality, planting stock policies, and requirements for split operations developed by the Crops Committee; a comprehensive livestock production practices position paper including health care standards, husbandry, transportation, and recordkeeping and audit trail developed by the Livestock Committee; and discussion of materials being developed by the various committees for consideration for the National List. In addition, the Board will develop plans for its operations in light of budgetary limitations.

A final agenda is available. Persons requesting copies should contact Ms. Faith Ashton at the above address or phone number.

Type of Meeting

All meetings will be open to the public. Individuals and organizations wishing to provide written comments on these issues or to express public comment on any organic issues should forward the request to Dr. Harold S. Ricker at the above address or FAXED to 202/690–0338 by May 12, 1993, in order to be scheduled. The NOSB has scheduled time for public input on Sunday, May 16, 1993, beginning at 1 p.m. and continuing until 5 p.m. While people may sign up to speak at the door, advance scheduling assures an opportunity in the time allowed and helps the NOSB plan its activities. Each individual or organization will be allocated 10 minutes for presenting orally the key issues of concern, and should provide copies of written material elaborating on those issues for the Committees.

During Committee presentations to the Board on Monday, May 17, 1993, and Tuesday, May 18, 1993, discussion will be limited to Board and Staff members only, but time has been allocated immediately after each session for receiving public comments on the

issues relevant to the previous discussion.

Dated: April 29, 1993.

L.P. Massaro,
Acting Administrator.
[FR Doc. 93–10597 Filed 5–4–93; 8:45 am]
BILLING CODE 3410–02–P

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for Pacific Northwest Region, OR and WA

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Pacific Northwest Region to publish legal notice of all decisions subject to appeal under 36 CFR part 217. This action is necessary to implement the Secretary of Agriculture's final rule amending the Forest Service administrative appeal procedures, which was signed on December 5, 1990 and was published in the **Federal Register** on February 6, 1991 (56 FR 4914). The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after April 30, 1993. The list of newspapers will remain in effect until October 1993 when another notice will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: James L. Schuler, Regional Appeals Coordinator, Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208–3628, phone: (503) 326–2322.

SUPPLEMENTARY INFORMATION: On December 5, 1990 the Deputy Secretary of Agriculture signed a final rule amending the administrative appeal procedures 36 CFR part 217 of the Forest Service to require publication of legal notice in a newspaper of general circulation of all decisions subject to appeal. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify: the decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins is the day following publication of the notice.

In addition to the principal newspaper listed for each unit, some forest supervisors and district rangers have listed newspapers providing additional notice of their decisions. The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

Pacific Northwest Regional Office

Pacific Northwest Regional Forester decisions on Oregon National Forests:
The Oregonian, Portland, Oregon
Pacific Northwest regional Forester decisions on Washington National Forests:
The Seattle Post-Intelligencer, Seattle, Washington
Columbia Gorge National Scenic Area Manager decisions:
The Oregonian, Portland, Oregon
Newspapers providing additional notice for Area Manager decisions:
Hood River News, Hood River, Oregon
The Dallas Chronicle, Dallas, Oregon
Columbian, Vancouver, Washington

Oregon National Forests

Deschutes National Forest

Deschutes Forest Supervisors decisions:
The Bulletin, Bend Oregon
Bend District Ranger decisions:
The Bulletin, Bend, Oregon
Crescent District Ranger decisions:
The Bulletin, Bend, Oregon
Fort Rock District Ranger decisions:
The Bulletin, Bend, Oregon
Sister District Ranger decisions:
Sisters Nugget, Sisters, Oregon
Bend Pine Nursery Managers decisions:
The Bulletin, Bend, Oregon
Redmond Air Center Managers decisions:
The Bulletin, Bend, Oregon

Fremont National Forest

Fremont Forest Supervisor decisions:
Herald and News, Klamath Falls, Oregon
Newspapers providing additional notice for Fremont Forest Supervisor decisions:
Lake County Examiner, Lakeview, Oregon
The Bulletin, Bend, Oregon
Bly District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Lakeview District Ranger decisions:
Lake County Examiner, Lakeview, Oregon
Paisley District Ranger decisions:
Lake County Examiner, Lakeview, Oregon
Silver Lake District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Newspaper providing additional notice of Silver Lake decisions:
The Bulletin, Bend, Oregon

Malheur National Forest

Malheur Forest Supervisor decisions:
Blue Mountain Eagle, John Day, Oregon
Bear Valley District Ranger decisions:
Blue Mountain Eagle, John Day, Oregon
Burns District Ranger decisions:
Burns Times Herald, Burns, Oregon
Long Creek District Ranger decisions:
Blue Mountain Eagle, John Day, Oregon
Prairie City District Ranger decisions:
Blue Mountain Eagle, John Day, Oregon

Mt Hood National Forest

Mt Hood Forest Supervisor decisions:
The Oregonian, Portland, Oregon
Barlow District Ranger decisions:
The Oregonian, Portland, Oregon
Bear Springs District Ranger decisions:
The Oregonian, Portland, Oregon
Clackamas District Ranger decisions:
The Oregonian, Portland, Oregon
Columbia Gorge District Ranger decisions:
The Oregonian, Portland, Oregon
Estacada District Ranger decisions:
The Oregonian, Portland, Oregon
Hood River District Ranger decisions:
The Oregonian, Portland, Oregon
Zigzag District Ranger decisions:
The Oregonian, Portland, Oregon

Ochoco National Forest

Ochoco Forest Supervisor decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Ochoco Forest Supervisor decisions:
Burns Times/Herald, Burns, Oregon
Central Oregonian, Prineville, Oregon
Big Summit District Ranger decisions:
The Bulletin, Bend, Oregon
Crooked River National Grassland District Ranger decisions:
The Bulletin, Bend, Oregon
Newpapers providing additional notice of Grassland decisions:
Madras Pioneer, Madras, Oregon

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Paulina District Ranger decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Paulina decisions:
Blue Mountain Eagle, John Day, Oregon
Prineville District Ranger decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Prineville decisions:
Central Oregonian, Prineville, Oregon
Snow Mountain District Ranger decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Snow Mountain decisions:
Burns Times/Herald, Burns, Oregon

Rogue River National Forest

Rogue River Forest Supervisor decisions:
Mail Tribune, Medford, Oregon
Applegate District Ranger decisions:
Mail Tribune, Medford, Oregon
Ashland District Ranger decisions:
Mail Tribune, Medford, Oregon
Butte Falls District Ranger decisions:
Mail Tribune, Medford, Oregon
J. Herbert Stone Nursery Managers decisions:
Mail Tribune, Medford, Oregon
Prospect District Ranger decisions:
Mail Tribune, Medford, Oregon

Siskiyou National Forest

Sisikiyou Forest Supervisor decisions:
Grants Pass Courier, Grants Pass, Oregon
Chetco District Ranger decisions:
Curry Coastal Pilot, Brookings, Oregon
Galice District Ranger decisions:
Grants Pass Courier, Grants Pass, Oregon
Gold Beach District Ranger decisions:
Curry County Reporter, Gold Beach, Oregon
Illinois Valley District Ranger decisions:
Grants Pass Courier, Grants Pass, Oregon
Powers District Ranger decisions:
The World, Coos Bay, Oregon
Newspaper providing additional notice of Powers decisions:
Curry County Reporter, Gold Beach, Oregon

Siuslaw National Forest

Siuslaw Forest Supervisor decisions:
Corvallis Gazette-Times, Corvallis, Oregon
Alsea District Ranger decisions:
Corvallis Gazette-Times, Corvallis, Oregon
Hebo District Ranger decisions:
Headlight Herald, Tillamook, Oregon
Mapleton District Ranger decisions:
Siuslaw News, Florence, Oregon
Oregon Dunes National Recreational Area Manager decisions:
The World, Coos Bay, Oregon
Waldport District Ranger decisions:
Newport News Times, Newport, Oregon

Umatilla National Forest

Umatilla Forest Supervisor decisions:
East Oregonian, Pendleton, Oregon
Heppner District Ranger decisions:
East Oregonian, Pendleton, Oregon
North Fork John Day District Ranger decisions:
East Oregonian, Pendleton, Oregon
Pomeroy District Ranger decisions:
East Oregonian, Pendleton, Oregon
Walla Walla District Ranger decisions:
East Oregonian, Pendleton, Oregon

Umpqua National Forest

Umpqua Forest Supervisor decisions:
The News-Review, Roseburg, Oregon
Cottage Grove District Ranger decisions:
The News-Review, Roseburg, Oregon
Diamond Lake District Ranger decisions:
The News-Review, Roseburg, Oregon
North Umpqua District Ranger decisions:
The News-Review, Roseburg, Oregon
Tiller District Ranger decisions:
The News-Review, Roseburg, Oregon
Dorena Tree Improvement Center Manager decisions:
The News-Review, Roseburg, Oregon

Wallowa-Whitman National Forest

Wallowa-Whitman Forest Supervisor decisions:
Baker City Herald, Baker City, Oregon
Baker District Ranger decisions:
Baker City Herald, Baker City, Oregon
Eagle Cap District Ranger decisions:
Wallowa County Chieftain, Enterprise, Oregon
Hells Canyon National Recreation Area Ranger decisions:
Occurring in Oregon—
Wallowa County Chieftain, Enterprise, Oregon
Occurring in Idaho—
Lewiston Morning Tribune, Lewiston, ID
La Grande District Ranger decision:
The Observer, La Grande, Oregon
Pine District Ranger decisions:
Baker City Herald, Baker City, Oregon
Unity District Ranger decisions:
Baker City Herald, Baker City, Oregon
Wallowa Valley District Ranger decisions:
Wallowa County Chieftain, Enterprise, Oregon

Willamette National Forest

Willamette Forest Supervisor decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Willamette Forest Supervisor decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Blue River District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Blue River decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Detroit District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Detroit decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Lowell District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Lowell decisions:
Salem Statesman-Journal, Salem, Oregon
Alban Democrat Herald, Albany, Oregon
McKenzie District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of McKenzie decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Oakridge District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Oakridge decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Rigdon District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Rigdon decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Sweet Home District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Sweet Home decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon

Winema National Forest

Winema Forest Supervisor decisions:
Herald and News, Klamath Falls, Oregon
Chemult District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Chiloquin District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Klamath District Ranger decisions:
Herald and News, Klamath Falls, Oregon

Washington National Forests

Colville National Forest

Colville Forest Supervisor decisions:
Statesman-Examiner, Colville, WA
Colville District Ranger decisions:
Statesman-Examiner, Colville, WA
Kettle Falls District Ranger decisions:
Statesman-Examiner, Colville, WA
Newport District Ranger decisions:
Newport Miner, Newport, WA
Republic District Ranger decisions:
Republic News Miner, Republic, WA
Sullivan Lake District Ranger decisions:
Newport Miner, Newport, WA

Gifford Pinchot National Forest

Gifford Pinchot Forest Supervisor decisions:
Columbian, Vancouver, Washington
Mt Saint Helens National Monument Manager decisions:
Columbian, Vancouver, Washington
Mt. Adams District Ranger decisions:
Enterprise, White Salmon, Washington
Packwood District Ranger decisions:
Chronicle, Chehalis, Washington
Randle District Ranger decisions:
Columbian, Vancouver, Washington
Wind River District Ranger decisions:
Columbian, Vancouver, Washington

Mt. Baker-Snoqualmie National Forest

Mt. Baker-Snoqualmie Forest Supervisor decisions:
Seattle Post-Intelligencer, Seattle, Washington
Darrington District Ranger decisions:
Everett Herald, Everett, Washington
Mt. Baker District Ranger decisions:
Skagit Valley Herald, Mt. Vernon, Washington
North Bend District Ranger decisions:
Valley Record, North Bend, Washington
Skykomish District Ranger decisions:
Everett Herald, Everett, Washington
White River District Ranger decisions:
Enumclaw Courier Herald, Enumclaw, Washington

Okanagon National Forest

Okanagon Forest Supervisor decisions:
Omak Chronicle, Omak, Washington
Tonasket District Ranger decisions:
The Gazette-Tribune, Oroville, Washington
Twisp District Ranger decisions:
Methow Valley News, Twisp, Washington
Winthrop District Ranger decisions:
Methow Valley News, Twisp, Washington

Olympic National Forest

Olympic Forest Supervisor decisions:
The Olympian, Olympia, Washington
Newspaper providing additional notice for Olympic Forest Supervisor decisions:
Mason County Journal, Shelton Washington
Daily World, Aberdeen, Washington
Pennisula Daily News, Port Angeles, Washington
Bremerton Sun, Bremerton, Washington
Hood Canal District Ranger decisions:
Mason County Journal, Shelton, Washington
Quilicene District Ranger decisions:
Pennisula Daily News, Port Angeles, Washington
Newspaper providing additional notice for Quilicene decisions:
Bremerton Sun, Bremerton, Washington
Quinault District Ranger decisions:
The Daily World, Aberdeen, Washington
Soleduck District Ranger decisions:
The Forks Forum, Forks, Washington

Wenatchee National Forest

Wenatchee Forest Supervisor decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice for Wenatchee Forest Supervisor decisions:
The Yakima Herald-Republic, Yakima, Washington
Chelan District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice for Chelan decisions:
The Yakima Herald-Republic, Yakima, Washington
Cle Elum District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice for Cle Elum decisions:
The Yakima Herald-Republic, Yakima, Washington
Entiat District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspapers providing additional notice for Entiat decisions:
The Yakima Herald-Republic, Yakima, Washington
Lake Wenatchee District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice for Lake Wenatchee decisions:
The Yakima Herald-Republic, Yakima, Washington
Leavenworth District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice for Leavenworth decisions:
The Yakima Herald-Republic, Yakima, Washington
Naches District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice for Naches decisions:
The Yakima Herald-Republic, Yakima, Washington

Dated: April 29, 1993.

Robert T. Jacobs,

Deputy Regional Forester.

[FR Doc. 93–10530 Filed 5–4–93; 8:45 am]

BILLING CODE 3410–11–M

Exempt Decision for Indianberry Salvage From Appeal, Umatilla National Forest, OR

AGENCY: Forest Service, USDA.

ACTION: Notice to Exempt decision from administrative appeal.

SUMMARY: This is a notification that the decision to implement the Indianberry Salvage, located on the North Fork John Day Ranger District, Umatilla National Forest is exempted from appeal. This is in conformance with provisions of 36 CFR 217.4(a)(11) as published in the **Federal Register** on January 23, 1989 (54 FR 3342).

EFFECTIVE DATE: May 5, 1993.

FOR FURTHER INFORMATION CONTACT: Jeff Blackwood, Forest Supervisor, Umatilla National Forest, 2517 SW Hailey Avenue, Pendleton, Oregon 97801; or Craig Smith-Dixon, District Ranger, North Fork John Day Ranger District, P.O. Box 158, Ukiah, Oregon 97880, phone (503) 276–3811.

SUPPLEMENTARY INFORMATION: In the fall of 1990 the Indianberry Planning Area was identified for analysis due to the western spruce budworm and bark beetle infestations which were resulting in tree and stand mortality and reduced big game cover. Fuel loadings have also increased due to tree mortality. This has created a hazardous situation that could result in moderate to high intensity wildfires. In the summer of 1991, a district interdisciplinary team (IDT) surveyed the Indianberry Planning Area to assess what could be salvaged, and the effects of that on wildlife habitat, riparian, and in stream habitat.

The IDT identified the need to salvage dead trees while they were still merchantable. The IDT also identified the desirability to complete the salvage quickly so that establishment of new forest stands could take place promptly.

Public scoping began early in 1992, with individuals, groups, state and Federal agencies, and the Confederated Tribes of the Umatilla and Warm

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Springs Indian Reservations. The analysis of the proposed action continued throughout the year. It was determined that this project was not a major federal action, and would not significantly affect the quality of the human environment. Therefore, an environmental impact statement was not required.

The proposed action will salvage harvest 6.3 million board feet on approximately 867 acres. Only dead or dying trees will be harvested. No specified road construction would be required. There will be temporary road construction of approximately 4.0 miles and reconstruction of approximately 9.8 miles of existing system road. The harvest method will be tractor and skyline based. Reforestation with seral species will occur where post harvest surveys indicate. All main skid trails, temporary roads, and landings will be "sub-soiled" to alleviate impacts to future growth and productivity.

The proposed action is not consistent with the Umatilla Land and Resource Management Plan Standards and Guidelines for elk habitat effectiveness and big game cover in Big Game Winter Range (C3) and Wildlife Habitat (C4) management areas. The proposed action is not consistent due to the large scale western spruce budworm defoliation and past harvest activities. The Forest Supervisor has decided to issue a site-specific, non-significant Forest Plan amendment for the Indianberry Salvage Project which will not alter the desired future condition in these management areas. In addition the Forest Plan will be amended to drop the existing Dedicated Old Growth management area (C1) and incorporate a new area into the dedicated old growth system. The existing Dedicated Old Growth area does not meet the Forest Plan requirements because it contains old harvest units over most of the area and lacks sufficient habitat for species dependent on mature and old growth characteristics.

Biological evaluations have been completed for all plant, wildlife, and fish Proposed, Endangered, Threatened and Sensitive (PETS) species within the project area. There will be no direct effect on any PETS species or their critical habitat. There will be moderate risk of cumulative effects on wolverine habitat as a result of this project. Cultural resource surveys indicate that this project will have no effect on native American religious sites, archeological sites, or historic properties or areas.

The Indianberry Salvage and accompanying work are designed to accomplish the objectives as quickly as possible and minimize the amount of salvage volume lost and resource damage. Based upon the environmental analysis and the need to expedite this salvage, I have determined that good cause exist to exempt this decision from administrative appeal (36 CFR part 217). Under this regulation, the following are exempt from appeal:

Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such as wildfires * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

After publication of this notice in the **Federal Register**, the Decision Notice/Finding of No Significant Impact for the Indianberry Salvage may be signed by the Umatilla National Forest Supervisor. This project will not be subject to review under 36 CFR part 217.

Dated: April 29, 1993.

Robert T. Jacobs,

Deputy Regional Forester.

[FR Doc. 93-10529 Filed 5-4-93; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Public Meeting on Final Management Plan for the Delaware National Estuarine Research Reserve

AGENCY: Sanctuaries and Reserve Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Public meeting notice.

SUMMARY: Notice is hereby given that the Delaware Department of Natural Resources and Environmental Control will hold a public meeting to present and discuss the proposed final management plan for the Delaware National Estuarine Research Reserve. The purpose of the meeting is to receive the views of interested parties on the final management plan.

As part of the procedures leading to the designation of the reserve, the State of Delaware must submit the proposed final management plan to NOAA for its review and approval. Copies of the plan will be made available for review before the meeting by Monday, May 10, 1993 at the following libraries; Dover Public Library in Dover, DE; Milford Public Library in Milford, DE; Smyrna Public Library in Smyrna, DE; Appoquinimick Public Library in Middletown, DE; Corbit-Calloway Public Library in Odessa, DE; and the New Castle Public Library in New Castle, DE.

The public meeting will take place at 7 p.m. on Monday, May 24, 1993 at the Fraternal Order of Police Kitts Hummock Lodge on Kitts Hummock Road, County Road 68, 1¼ miles east of Route 9 and located on the south side of County Road 68, in Dover, Delaware.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Graham, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235 (202) 606-4122.

(Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Estuarine Sanctuaries)

Dated: April 28, 1993.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 93-10590 Filed 5-4-93; 8:45 am]

BILLING CODE 3510-08-M

Meetings; Florida Keys National Marine Sanctuary Advisory Council

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Florida Keys National Marine Sanctuary Advisory Council notice of open meeting.

SUMMARY: The Council was established in December 1991 to advise and assist the Secretary of Commerce in the development and implementation of the comprehensive management plan for the Florida Keys National Marine Sanctuary.

TIME AND PLACE: May 17, 1993 from 9 a.m. until adjournment. The meeting location will be at the Holiday Inn Beachside, North Roosevelt Boulevard, Key West, Florida.

AGENDA: 1. Discussion of Florida Bay water quality problem.

PUBLIC PARTICIPATION: The meeting will be open to public participation and the last thirty minutes will be set aside for oral comments and questions. Seats will be set aside for the public and the media. Seats will be available on a first-come first-served basis.

FOR FURTHER INFORMATION CONTACT: Pamala James at (305) 743-2437 or Ben Haskell at (202) 606-4016.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: April 28, 1993.

Frank W. Maloney,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 93-10433 Filed 5-4-93; 8:45 am]

BILLING CODE 3510-08-M

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of an application for modification to Scientific Research Permit No. 777 (P496).

Notice is hereby given that the U.S. Army Corps of Engineers, Waterways Experiment Station, Coastal Ecology Group has applied in due form for a Modification to a Scientific Research Permit to take listed species as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR part 217-222).

Permit No. 777 was issued on April 17, 1992 (57 FR 15286) as authorized by the ESA. It authorized the Permit Holder to take listed loggerhead (*Caretta caretta*); green (*Chelonia mydas*), Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill sea turtles (*Eretmochelys imbricata*) for measurements, photographs, blood sampling, tagging, and release through April 16, 1993.

A Modification to Permit No. 777 was issued on April 22, 1993 (58 FR 25811) as authorized by the ESA. It authorized the continuation of previous research and an increased direct take of loggerhead and Kemp's ridley sea turtles to be fitted with satellite transmitters to monitor seasonal movements into and out of U.S. East coast channels. Also, additional loggerhead and Kemp's ridely sea turtles were authorized to be taken by trawler, equipped with radio and depth sensitive sonic tags, and monitored. This Modification also extended the duration of the Permit through April 21, 1994.

The permittee is requesting to add two locations to those already authorized in the Permit, including York Spit Channel and Cape Henry Channel within the Chesapeake Bay, Virginia. The additional take would include up to 25 loggerhead, eight Kemp's ridley, and five green turtles for measurements, photographs, blood sampling, tagging, and release during May through September 1993. The objectives of adding these two channels are: (1) To establish baseline relative abundance data of sea turtles in the channels; and (2) to use the information gathered to determine months with the least potential for sea turtle impingement by the hopper dredge.

Written data or views, or requests for a public hearing on this modification application should be submitted to the Director, Office of Protected Resources, NMFS, 1335 East-West Highway, room 8268, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification application would be appropriate. The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this Modification application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Documents submitted in connection with the above modification application are available for review by interested persons in the following offices:

Office of Protected Resources, NOAA, NMFS, 1335 East-West Highway, room 8268, Silver Spring, Maryland 20910, (301/713-2289); and

Director, Southeast Region, NOAA, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Dated: April 29, 1993.

Patricia A. Montanio,

Acting Director, Office of Protected Resources.

[FR Doc. 93-10531 Filed 5-4-93; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

National Security Telecommunications Advisory Committee

AGENCY: National Communications System, DoD.

ACTION: Notice of meeting.

A meeting of the National Security Telecommunications Advisory Committee will be held on Thursday, May 27, 1993. The business session of the meeting will be held at the Department of State. An executive session of the meeting will be held at the Old Executive Office Building. The agenda is as follows:

Business Session

—Call to Order
—Task Force Briefings (Energy, NSSC)
—IES Report
—Manager's Report
—Adjournment

Executive Session

—Call to Order
—Remarks by National Security Advisor
—Remarks by Executive Agent
—Adjournment

Due to the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (703) 692-9274 or write the Manager, National Communications System, 701 S. Court House Road, Arlington, VA 22204-2198.

Dated: April 29, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-10540 Filed 5-4-93; 8:45 am]

BILLING CODE 5000-04-M

Strategic Environmental Research and Development Program, Scientific Advisory Board

AGENCY: Office of the Secretary, DOD.

ACTION: Notice.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub.L. 92-463), announcement is made of the following Committee meeting:

Date of Meeting: Tuesday, May 18, 1993 and Wednesday, May 19, 1993. 0800 to approximately 1700.

Place: Main Auditorium, National Guard Building, One Massachusetts Avenue, NW., Washington, DC.

Matters to be Considered: The Scientific Advisory Board will hold management sessions, review the balance of Phase III proposals that are equal to or in excess of $1M, and reevaluate proposals that the Board directed to be modified.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board. For Further Information Contact: Mr. Chuck Miller, CERD-M, room 6213, 20 Massachusetts Avenue, NW., Washington, DC 20314-1000, (202) 272-1840.

Dated: April 30, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-10541 Filed 5-4-93; 8:45 am]

BILLING CODE 5000-04-M

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DEPARTMENT OF ENERGY

Office of Nuclear Energy

Recommendations and Government Programs to Promote the Export of Domestic Uranium

AGENCY: Office of Nuclear Energy, U.S. Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy, in compliance with the Energy Policy Act, announces the availability of a report on recommendations and Government programs to promote the export of domestic uranium.

ADDRESSES: Copies of the report can be obtained by contacting the Office of Plans & Evaluation (NE–12), Office of Nuclear Energy, U.S. Department of Energy, Washington, DC 20585; telephone (202) 586–8728.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Gutteridge, (202) 586–6457.

SUPPLEMENTARY INFORMATION: Section 1014(b) of the Energy Policy Act of 1992 (Pub. L. 102–486) requires the Department of Energy, with the cooperation of the Department of Commerce, the United States Trade Representative, and other organizations, to encourage the export of domestic uranium. In response to this request, the Department is submitting to the Congress a report detailing recommendations and an implementation strategy for Government actions to promote the export of domestic uranium. The report cites four key issues as significantly impacting U.S. uranium export activities. They are: (1) The lack of appropriate Government facilitation of uranium export activities; (2) regulatory and policy impediments; (3) excess supply; and (4) the dismantlement of foreign nuclear weapons. The report recommends several programmatic activities needed to respond to these issues. These activities are relatively low-cost and can be implemented in the near-term. The report also proposes institutional responsibilities and schedules for implementation of the recommendations.

J.D. Dulton,

Acting Assistant Secretary for Nuclear Energy.

[FR Doc. 93–10586 Filed 5–4–93; 8:45 am]

BILLING CODE 6450–01–M

Pittsburgh Energy Technology Center; Noncompetitive Financial Assistance Award

AGENCY: Pittsburgh Energy Technology Center, Department of Energy.

ACTION: Notice of a noncompetitive financial assistance grant award with the Engineering Foundation.

SUMMARY: The Department of Energy (DOE), Pittsburgh Energy Technology announces that pursuant to 10 CFR 600.7(b)(2)(i)(B), it intends to award a grant to the Engineering Foundation for an international conference. The grant is entitled "Engineering Foundation Conference on the Impact of Ash Deposition on Coal Conversion Plants." The Conference will be organized and conducted by the grantee using its own funds or funds donated by third parties. DOE support of the Conference would enhance the public benefits to be derived, and DOE knows of no other entity that is conducting or planning to conduct such an activity.

ADDRESSES: Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236.

FOR FURTHER INFORMATION CONTACT:

Jo Ann C. Zysk, Contract Specialist (412) 892–6200.

SUPPLEMENTARY INFORMATION:

Grant Number: DE–FG22–93PC93678

Title of the Conference Effort:
"International Conference on the Impact of Ash Deposition on Coal Conversion Plants"

Awardee: Engineering Foundation

Term of Assistance Effort: Five (5) days

Grant Estimated Total Value: $150,000.00 (DOE: $10,000.00; Cost-Sharing: $140,000.00)

Objective: The immediate objective of this project is to provide an opportunity, on an international scale, for the researchers working on ash deposition in combustion systems and the industrial sector to exchange information and ideas in order to identify means to predict and mitigate ash related problems in combustion systems.

Justification: Implementation of the proposed grant is based upon the authority of 10 CFR 600.7(b)(2)(i)(B). This is a five-day international conference with an estimated value of $150,000.00 (DOE: $10,000.00; Total Cost-Sharing: $140,000.00).

Dale A. Siciliano,

Contracting Officer.

[FR Doc. 93–10584 Filed 5–4–93; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Record of Decision; Resource Programs Final Environmental Impact Statement

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Record of Decision (ROD) on the Resource Programs Final Environmental Impact Statement (EIS).

SUMMARY: BPA needs to acquire sufficient new resources to meet electricity deficits caused by growing customer loads.

The purposes of this action are to:

- Ensure that BPA can meet its contractual obligations to supply cost-effective electric power as requested by its customers—taking into account potential environmental consequences when making any decisions to acquire resources to meet those loads;
- Assure consistency with BPA's statutory responsibilities, including the Pacific Northwest Electric Power Planning and Conservation Act, taking into consideration the Northwest Power Planning Council's Conservation and Electric Power Plan and its Fish and Wildlife Program; and
- Restore and enhance environmental quality and avoid or minimize possible adverse environmental effects.

BPA's Resource Programs EIS examines the environmental trade-offs among the resource types available to meet this need and potential mitigation for environmental impacts. The EIS also examines 12 alternative ways to meet projected loads, as well as No Action. Each alternative includes a combination of resources. BPA's preferred alternative is the Emphasize Conservation Alternative. The environmentally preferred alternative is the Emphasize High Conservation Alternative.

BPA has decided to take the following actions in pursuit of its long-term conservation and generation resource acquisition objectives.

BPA's Preferred Alternative

BPA's resource acquisitions (through its Resource Programs) will be guided by the Emphasize Conservation Alternative of the Resource Programs Final EIS; that is, all cost-effective conservation and efficiency improvements will be acquired, supplemented by a mix of renewable and thermal resources, such as cogeneration and combustion turbine generation.

In order to analyze maximum environmental impacts and to insure against the loss of existing resources, the amount of each resource type in the Emphasize Conservation Alternative was based on an assumption of the need to meet high load growth. High load growth is unlikely; therefore, BPA would probably not acquire the full amount of each resource type identified in the EIS for this alternative.

Environmentally Preferred Alternative

BPA's emphasis on conservation is consistent with BPA's Conservation Implementation Plan, which since late 1991 has guided BPA on an "accelerated path" to the acquisition of all cost-effective conservation. BPA will actively investigate the additional conservation resources described in the Emphasize High Conservation Alternative, and to the extent that their supply, cost-effectiveness, and reliability can be validated, BPA will seek to acquire them. This activity is also consistent with Objective 3 of the Northwest Power Planning Council's 1991 Plan: To "determine cost and availability of resources" (both conservation and renewables). The Resource Supply Expansion Program (RSEP) will be BPA's primary mechanism for confirming the supply, cost, and reliability of the additional conservation and renewable energy supplies that distinguish the Emphasize High Conservation Alternative from the Emphasize Conservation Alternative.

Resource Programs

BPA will determine the specific amounts of conservation and generation resources it proposes to acquire through its Resource Programs, which will periodically clarify and update the decisions made in this Record of Decision. Each Resource Program will update load projections and resource data, and will use information from the Resource Programs EIS regarding resource characteristics and environmental impacts to set targets for acquisition of resources of various types. Each Resource Program will include opportunities for public review and input to the BPA Administrator's resource decisions.

Resources may be acquired through a variety of resource acquisition processes, including competitive bidding, billing credits, and targeted acquisitions. Unsolicited proposals may be considered, and resource options (such as those being considered under BPA's Resource Contingency Plan) may be acquired.

Site-specific NEPA documentation (tiered to the programmatic Resource Programs EIS) will be prepared for generation projects the BPA Administrator proposes to acquire. Because conservation programs involve region-wide rather than site-specific measures, conservation programs may be implemented based on the environmental analysis of conservation measures documented in the Resource Programs EIS.

Mitigation

The BPA Administrator proposes to adopt a number of mitigations to minimize the environmental impacts associated with acquiring and operating conservation and generation resources. These mitigations are described in the attached Mitigation Action Plan.

1. For generation projects, the Mitigation Action Plan specifies mitigation measures to be built into the resource acquisition process.

2. In addition, BPA may prepare Mitigation Action Plans on a site-specific basis for individual generating resource acquisitions. These Mitigation Plans would be prepared in conjunction with National Environmental Policy Act (NEPA) decision documents for those acquisitions.

3. For conservation projects, the Mitigation Action Plan identifies specific mitigation actions for programs in each conservation sector.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Alton, Environmental Coordinator for the Office of Energy Resources—RAE, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208, telephone (503) 230–5878. Copies of the Resource Programs Final EIS (DOE/EIS–0162), February 1993, and the Record of Decision are available from BPA's Public Involvement Office, P.O. Box 12999, Portland, Oregon 97212. Copies of the documents may also be obtained by using BPA's nationwide toll-free document request line, (800) 622–4520. Information may also be obtained from:

Mr. George Bell, Lower Columbia Area Manager, Suite 243, 1500 N.E. Irving Street, Portland, Oregon 97232, 503–230–4558.

Mr. Robert N. Laffel, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–465–6958.

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, 920 West Riverside Avenue, Spokane, Washington 99201, 509–353–2515.

Ms. Carol Fleischmann, Spokane District Manager, Room 112, 920 West Riverside Avenue, Spokane, Washington 99201, 509–353–3279.

Mr. George E. Eskridge, Montana District Manager, Room 307, 800 Kensington, Missoula, Montana 59801, 406–329–3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, Room 307, 301 Yakima Street, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Terence G. Esvelt, Puget Sound Area Manager, Suite 400, 201 Queen Anne Avenue North, Seattle, Washington 98109–1030, 206–553–4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, 1520 Kelley Place, Walla Walla, Washington 99362, 509–522–6225.

Ms. Jerry Leone, Idaho Falls District Manager, 1527 Hollipark Drive, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. James Normandeau, Boise District Manager, Room 450, 304 North Eighth Street, Boise, Idaho 83702, 208–334–9137.

SUPPLEMENTARY INFORMATION:

1. Background

On April 2, 1990, BPA published Notice of Intent to Prepare an EIS in the **Federal Register**. The official comment period on the scope of the Resource Programs EIS was from April 2 through May 15, 1990. However, comments were accepted through October. A scoping meeting was held in Portland on May 1, 1990. In all, 209 comment letters were received on the scope of the EIS.

Persons involved in BPA's Resource Program, as well as fishery agencies and Tribes, environmental groups, and other special interest groups were invited to participate in a Technical Review Panel (TRP) to assist in the development of the EIS. Those who were interested came to an initial meeting on August 13, 1990, and participated at various levels thereafter as they chose. Because of the size of the TRP and the variety of interests, three work groups—Environmental Effects, Environmental Costs, and Modeling and Analysis—were formed.

On May 15, 1992, the Draft Resource Programs EIS was released for public review (through July 6, 1992). On June 16, 1992, BPA held an open house and public hearing on the Draft EIS. Fifty-two people commented at the hearing or by letter. Comments on the Draft EIS were addressed in the Final EIS, issued in February 1993. The comments and responses as well as the complete text of the comment letters are included in Volume 3 of the Final EIS.

2. BPA's Resource Program

2.1 The Process

Every 2 years, BPA prepares a Resource Program, which identifies projected loads and the amounts and types of resources that BPA will acquire to meet the power requirement of its

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customers. In developing the Resource Program, BPA prepares load forecasts in cooperation with the Northwest Power Planning Council (Council). A range of forecasts (currently: low, medium-low, medium, medium-high, and high) is prepared to reflect uncertainties about future load growth. A corresponding range of load/resource balances is prepared by comparing the energy capability of Federal system resources to the range of projected Federal system energy loads over the next 20 years. In a parallel process, BPA and the Council develop new resource supply forecasts.

According to the 1991 joint forecast, if medium load growth were to occur, the Federal system would be 400 to 500 aMW in deficit in the near term, and would require 800 aMW by the year 2000. If demand grows faster than the medium loads case or if resources do not perform as expected, BPA could face a larger deficit. Under high load growth, BPA would have almost 5,000 aMW of additional load to meet by the end of its 20-year planning period. The uncertainty surrounding load growth and supply is part of the reason BPA must use the Resource Programs to update and clarify the resource decisions described in this Record of Decision.

In addition to this projected energy load growth, changes in the operation of the hydroelectric system to increase fish survival may reduce the capacity of the Federal system. As a result, the capacity characteristics of conservation and generation resources may become an increasingly important goal of BPA's future Resource Programs.

2.2 The 1992 Resource Program

The 1992 Resource Program was developed through a collaborative process involving a technical review panel that included representatives from customer utilities and many other interests. In addition, working groups dealt with specific technical issues, such as modeling and analysis, conservation implementation, generating resource implementation, fuel choice, environmental costs, and Local Conservation Plan development. The priorities of the 1992 Resource Program were based on the Northwest Power Planning Council's 1991 Northwest Power Plan, the 1991 Joint Load Forecast, the most current information on resource supplies, and information about environmental impacts of conservation and generation resources from the Resource Programs Draft EIS.

The 1992 Resource Program proposes that BPA set budgets for the 1994–95 period that would allow it to acquire all cost-effective conservation (targeting 660 aMW) and 120 aMW of efficiency improvements through 2003. The 1992 Resource Program also proposes that BPA acquire an additional 400 aMW of generating resources or interregional power purchases or exchanges in addition to 350 aMW of resources previously committed to through the billing credits program and a competitive bid. The 1992 Resource Program also recommends a total of 1,450 aMW of options and contingency resources.

3. Alternatives Examined in the Resource Programs EIS

The Resource Programs EIS examines both resource types (e.g., conservation, geothermal, combustion turbines) and resource alternatives (combinations of resources to meet long-term need, each of which emphasizes a particular resource type).

3.1 Resource Types

For most resource types, information is provided on technical characteristics, operating characteristics, contribution to system capacity, cost (both direct and environmental), environmental effects and possible mitigations, and supply. The following resource types are examined in the Resource Programs EIS:

- Conservation (commercial, residential, industrial, irrigation, and agricultural sectors).
- Renewable resources (hydropower, geothermal, wind, and solar).
- Cogeneration.
- Combusion turbines.
- Nuclear (the completion of WNP–1 and WNP–3).
- Coal (both conventional pulverized coal and clean coal technologies).
- Fuel switching.
- Energy imports.
- Efficiency improvements.

Figure 1 compares principal resource types in terms of their environmental impacts (relative to each other).

Information is also provided on load management and emerging technologies (fuel cells, hydrogen, and new nuclear fission technology). If these resources become more cost-effective and commercially viable, they could replace one or more of the resources in the resource stacks analyzed in this EIS. The Resource Programs will help identify and evaluate how emerging technologies become viable and how they could replace other resources.

3.2 Alternatives

The Resource Programs EIS examines 13 alternatives, which represent the range of actions BPA could take to meet its load obligations. In the No Action Alternative, the underlying need for energy to meet the growing loads of BPA customers would not be satisfied. Neither BPA nor the region would acquire new resources to meet these loads.

Each of the alternatives other than the No Action Alternative comprises a combination of the resource types listed above, as seen in Tables 1 and 2. The Status Quo Alternative is based on minimizing total system costs, with no dollar quantification of environmental costs (as was done in the 1990 Resource Program). The Base Case Alternative is also a least-cost resource mix, but the costs considered in ordering the resource mix include quantified environmental costs. The environment costs used to rank resources in the resource stack did not include CO_2 because of the uncertain evidence supporting CO_2 impacts costs. However, CO_2 was included in the analysis of environmental effects of resource types and alternatives illustrated in Figures 1, 2, and 3.

Each of the other alternatives analyzed in the EIS emphasizes a particular resource type, and is evaluated in comparison to the Base Case. The resource stacks for these remaining alternatives were developed by placing the available supply of the emphasized resource at the top of the Base Case stack (without regard to cost) after non-discretionary conservation. These alternatives were developed in the recognition that the supplies of most resource types are insufficient to serve all the resource need (if high load growth occurs), and in order to look at potential interactions and cumulative impacts of emphasizing particular resource types. The following alternatives were compared to the Base Case:

- Emphasize Conservation Alternative.
- Emphasize High Conservation Alternative.
- Emphasize Renewables Alternative.
- Emphasize Cogeneration Alternative.
- Emphasize Combustion Turbines Alternative.
- Emphasize Nuclear Alternative.
- Emphasize Coal Alternative.
- Emphasize Clean Coal Alternative.
- Emphasize Fuel Switching Alternative.
- Emphasize Imports Alternative.

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Figure 1

Selected Environmental Impacts of Conservation and Generation Resource Operations

Resource	SOx (tons/aMW)	NOx (tons/aMW)	TSP (tons/aMW)	CO (tons/aMW	CO2 (tons/aMW)	Water Consumption (acre-FT/aMW)	Thermal Discharge (mmBTU/aMW)	Land Use (acres/MW)	Direct Cost (mills/kWh)	Environmental Costs (millskWh)	Hydro System Operations Impact	Capacity Impact [2]
Conservation												[3]
Eff. Imps												
Hydro												
Geothermal												
Wind												
Solar												
Cogeneration [1]												
CTs												
Nuclear												
Coal												
Clean Coal												

Note: Fuel Switching not shown because comparable data are not available, but generally has low impact in all areas.

Much Less | Less | More | Much More

1/ Natural gas fired cogeneration assumed

2/ "More" means a more negative impact to capacity

3/ Capacity value of conservation varies considerably among conservation measures, from positive to negative

BILLING CODE 6450-01-C

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TABLE 1.—NEW RESOURCE OPERATIONS—2000

Resource types (in aMW):	Alternatives											
	Status quo	Base case	Conservation	High conservation	Renewables	Cogeneration	CT's	Nuclear	Coal	Clean coal	Fuel switching	Imports
Conservation	477	477	477	815	477	458	477	404	441	452	477	197
Effic Imp	134	134	134	134	134	134	134	114	134	134	134	134
Renewables	60	105	105	60	716	49	105	46	49	60	105	0
Cogen	140	260	260	260	140	1380	260	10	170	140	260	0
CT's	185	140	140	277	185	70	141	35	109	176	283	0
Nuclear	813	813	813	0	0	0	813	1619	0	0	0	0
Coal	0	0	0	0	0	0	0	0	958	0	0	0
Clean Coal	0	0	0	0	0	0	0	0	0	697	0	0
Fuel Switching	0	0	0	0	0	0	0	0	0	0	241	0
Imports	0	0	0	0	0	0	0	0	0	0	0	681

TABLE 2.—NEW RESOURCE OPERATIONS—2010

Resource types (in aMW):	Alternatives											
	Status quo	Base case	Conservation	High conservation	Renewables	Cogeneration	CT's	Nuclear	Coal	Clean coal	Fuel switching	Imports
Conservation	1033	1033	1033	1881	1033	1029	1033	1011	1029	1033	1033	858
Effic Imp	134	134	134	134	134	134	134	134	134	134	134	134
Renewables	367	480	480	349	967	405	480	412	314	213	367	60
Cogen	390	840	840	400	490	1380	840	930	340	280	430	120
CT's	315	316	316	253	290	198	316	315	200	198	305	613
Nuclear	1619	1619	1619	1619	1619	1619	1619	1619	1619	1619	1619	0
Coal	534	0	0	0	0	0	0	0	1032	0	0	0
Clean Coal	0	0	0	0	0	0	0	0	0	1176	0	0
Fuel Switching	0	0	0	0	0	0	0	0	0	0	556	0
Imports	0	0	0	0	0	0	0	0	0	0	0	1235

Figures 2 and 3 compare the environmental impacts and costs of these alternatives to the Base Case.

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Figure 2

Selected Environmental Impacts of Operations of Resource Alternatives Compared to the Base Case Alternative - 2000

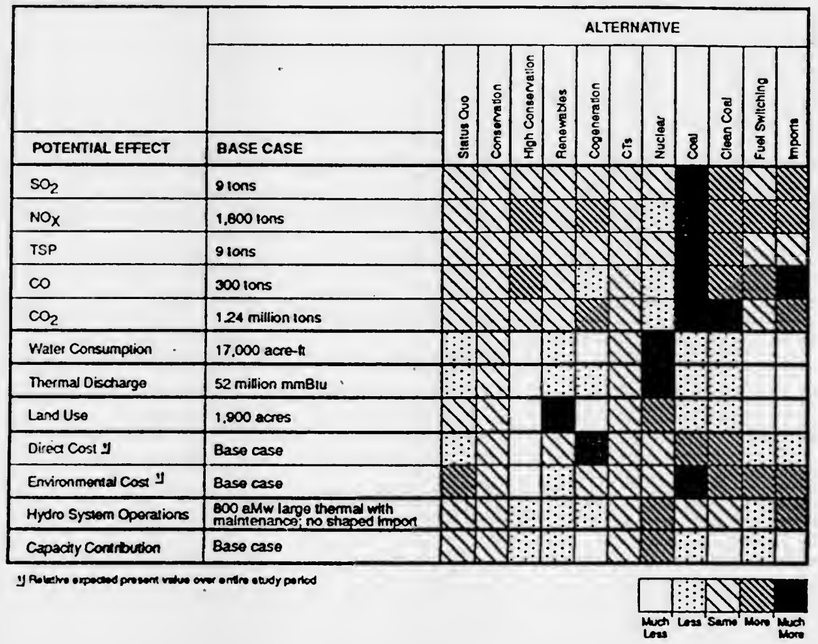

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Figure-3

Selected Environmental Impacts of Operations of Resource Alternatives Compared to the Base Case Alternative - 2010

		ALTERNATIVE									
POTENTIAL EFFECT	BASE CASE	Status Quo	Conservation	High Conservation	Renewables	Cogeneration	CTs	Nuclear	Coal	Clean Coal	Fuel Switching	Imports
SO_2	26 tons											
NO_X	5,100 tons											
TSP	26 tons											
CO	700 tons											
CO_2	3.7 million tons											
Water Consumption	48,000 acre-ft											
Thermal Discharge	151 million mmBtu											
Land Use	3,900 acres											
Direct Cost [1]	Base case											
Environmental Cost [1]	Base case											
Hydro System Operations	1600 aMw large thermal with maintenance; no shaped import											
Capacity Contribution	Base case											

[1] Relative expected present value over entire study period

Much Less | Less | Same | More | Much More

4. Decision Factors and Issues

The alternatives examined in the Resource Programs EIS were evaluated against the purpose of and need for the action (see the Summary of this ROD).

Meeting BPA's Contractual Obligations: All of the alternatives except No Action were designed to meet the needs of assuring that BPA can cost-effectively fulfill its contractual obligation to meet the electrical loads of its customers. The alternatives with the lowest total system costs (i.e., direct plus environmental costs) were the Emphasize High Conservation and Emphasize Fuel Switching Alternatives, followed by the Emphasize Conservation Alternative.

Consistency With BPA's Statutory Responsibilities: All of the alternatives were designed to be consistent with BPA's statutory obligations, including the Northwest Power Act (which requires consideration of the Council's Plan and its Fish and Wildlife Program). Specifically, load assumptions were developed jointly with the Council. The environmental costs used in the EIS were developed using the Council's methodology and data. The hydropower supply curves used in the EIS excluded projects located in the Council's Protected Areas (see paragraph 6, Mitigation). The Northwest Power Act specifies that cost-effective resources are to be acquired according to the following priorities: (1) Conservation, (2) renewables, (3) high-efficiency resources such as cogeneration, and (4) other resources. The conservation emphasis of the preferred alternative is consistent with these resource priorities.

Environmental Quality: The EIS examines the potential environmental impacts of resource types and combinations of resource types. It evaluates a range of environmental impacts, including air quality, water consumption, thermal discharges, and land use. It also compares the quantified environmental costs of each alternative, looks at potential impacts on hydroelectric operations, and evaluates the potential contribution of each alternative to the overall capacity of the Federal system.

The EIS shows that the alternative with the lowest environmental impacts overall, as well as the lowest environmental costs and total system costs, is the Emphasize High Conservation Alternative. The Emphasize High Conservation Alternative is not the BPA Administrator's preferred alternative, although it is the environmentally preferred alternative, because the cost-effectiveness, reliability, and commercial availability of the additional conservation resources that distinguish the Emphasize High Conservation Alternative from the Emphasize Conservation Alternative have not been confirmed. Although BPA has established the goal of acquiring all cost-effective conservation, it is not clear that all of the conservation resources that make up the Emphasize High Conservation Alternative can be acquired reliably or cost-effectively. Through RSEP, the supply of reliable, cost-effective conservation will be expanded. Therefore, BPA will establish conservation acquisition targets near the level represented by the Emphasize High Conservation Alternative in order to try to reach a higher level of conservation acquisition.

After the Emphasize High Conservation Alternative, the Emphasize Conservation Alternative has the next lowest environmental impacts overall. This alternative would lead to the same or fewer emissions of sulfur dioxide, nitrous oxides, particulates, carbon monoxide, and carbon dioxide than all other alternatives except High Conservation and Renewables. It would discharge the same or less waste heat and would use the same or less water than all alternatives except High Conservation and Renewables, and would use the same or less land than all alternatives except High Conservation.

The Emphasize Fuel Switching Alternative has lower system costs and lower total costs than the Emphasize Conservation Alternative, but its environmental costs are predicted to be slightly higher than the Emphasize Conservation Alternative.

5. BPA Decision Regarding the Preferred Alternative

The BPA Administrator's preferred alternative is the Emphasize Conservation Alternative. This alternative is cost-effective and environmentally responsible: direct and environmental costs are low, and environmental impacts low. In addition, the supply and availability of the resources included are reliable.

BPA's resource acquisitions (through its Resource Programs) will be guided by the Emphasize Conservation Alternative; that is, all cost-effective conservation and efficiency improvements will be acquired, as well as a mix of renewable and thermal resources, such as cogeneration and combustion turbines. In order to reduce the environmental impacts associated with the acquisition of conservation and generation resources, BPA will review the information about environmental impacts of resource types and combinations of resource types contained in this EIS when it makes future resource acquisition decisions. BPA will consider the environmental impacts associated with generating resources operations that are evaluated in the Resource Programs EIS when considering the acquisition of existing resources.

New coal resources are not likely to be acquired because of their cost and environmental impacts. Unless load growth is unexpectedly high, there is little probability that BPA would acquire the nuclear resources identified in this alternative (WNP–1 or–3) because of the large size of the two plants and their costs, which are higher than some other available resources.

In addition to acquiring the conservation resources that are part of the Emphasize Conservation Alternative, BPA will also strive to confirm the supply and cost of the additional conservation resources that make up the Emphasize High Conservation Alternative and acquire all additional cost-effective conservation. Likewise, BPA will strive to expand the supply of renewable resources.

With the objective of appropriately reflecting the total costs of new resources, BPA will include quantified environmental costs in the costs used to establish resource supply and cost curves in its Resource Programs.

6. Mitigation Action Plan

BPA proposes to adopt several mitigation measures. These measures, in conjunction with the project-specific mitigation measures that will be prepared for generation projects, will assure that all practicable means are taken to avoid or minimize environmental harm.

It should be noted that mitigation for conservation is described in more detail than mitigation for generating resources because generating resources will be the subject of additional project-specific NEPA review, as described below.

6.1 Generating Resources

Project-specific environmental review: In order to reduce the environmental impacts associated with the acquisition of new generating resources, BPA will prepare a project-specific NEPA review tiered from this EIS before it acquires the output of any generating resource.

Protected Areas: BPA will not acquire the output of any hydroelectric resource located within any Council-designated Protected Area inside or outside the Columbia River Basin.

Environmental Review Criteria: BPA will include clear environmental review criteria in all resource acquisition processes in order to reduce the likelihood of acquiring resources with significant unmitigable environmental impacts. These review criteria will apply to all new and existing resources proposed for BPA acquisition.

6.2 Conservation

6.2.1 Residential Sector

BPA's residential sector energy conservation programs currently operate according to the New Energy-Efficient Homes Programs ROD, dated February 23, 1989, and the ROD for the Expanded Residential Weatherization Program (for existing homes), dated October 18, 1984. The requirements from both of these RODs will continue to apply to the respective programs, except for the specific changes noted in this Resource Programs ROD.

The New Energy-Efficient Homes Programs ROD recognized the need not only to maintain indoor air quality (IAQ), but also to enhance it to ensure that new energy-efficient homes cause fewer health risks than those potentially occurring in homes built using 1983 standard building practices. Energy-efficient performance standards known as the Model Conservation Standards (MCS) were adopted in 1983, and BPA chose to maintain the ventilation rates at levels generally found in homes built prior to their adoption. A mitigation package formed an integral part of the new energy-efficient homes programs. The environmental requirements included exhaust fans for kitchen and bathrooms, designated outside air supplies for combustion appliances, occupant information on indoor air quality, HUD product standards for formaldehyde emissions from structural building materials, and the offer of a radon package for radon monitoring and radon source control.

The existing environmental requirements for new homes remain intact, except for changes to the radon package. The Resource Programs EIS explains in section 3.1.2 that is now known that radon entry into homes is predominantly caused by natural forces such as pressure gradients, wind, and air temperature, rather than by house-tightening techniques. In addition, the Environmental Protection Agency (EPA) plans to implement a campaign to test all homes in the U.S. for radon levels The EPA has also developed certification standards and procedures

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for radon mitigators, which will help homeowners to select qualified individuals or firms to mitigate for radon in their homes. Therefore, BPA has determined that it is no longer necessary to require builders to provide specific foundation treatments or offer radon monitoring and mitigation to homeowners.

The ROD for the Expanded Residential Weatherization Program required the adoption of mitigation strategies to lessen the risk of adverse human health effects that might result from the installation of "house tightening" measures (storm windows, other window treatments for conserving energy, wall insulation, weatherstripping, caulking, and door treatments such as thermal pane replacements). The mitigation strategies included:

a. Giving program participants information on indoor air pollutant sources and practical steps for reducing concentrations,

b. Giving program participants options for having their homes monitored for radon concentrations, and

c. Partially subsidizing the installation of a proven mitigation device if radon concentrations exceeding 5 picocuries per liter.

BPA will continue to provide information on indoor air pollutant sources for the benefit of Residential Weatherization Program participants when appropriate. As stated above, studies have revealed that there is no direct correlation between house tightening and radon levels. Moreover, the EPA plans to initiate radon testing for all homes in the U.S. and has developed certification standards and procedures for radon mitigators. For these reasons, BPA has determined that it is no longer necessary to offer radon monitoring and mitigation as part of its residential weatherization programs.

BPA recently decided to include manufactured homes in its residential weatherization programs. Retrofitting insulation into existing manufactured homes provides greater house tightening than the same measures retrofitted into site-built homes. This is because many existing mobile homes have enclosed ceiling and floor cavities containing air spaces that allow air movement and ventilated walls that were designed to let air flow through the wall cavities. Insulating the ceiling floor, or wall cavities in mobile homes has a greater effect on air leakage because doing so can virtually block any ventilation. Therefore, BPA will require that existing manufactured homes receiving insulation treatment also receive ventilation treatment equivalent to that required in the New Energy Efficient Homes programs.

6.2.2 Commerical Sector

Two Environmental Assessments (EA), titled Energy Conservation Opportunities in Commercial-Sector Facilities in the Pacific Northwest (August 1982), and BPA's Alternative Approaches for Acquiring Energy Savings in Commercial Sector Buildings (September 1991), have been prepared by BPA to analyze the effects of energy conservation measures (ECMs) in commercial sector buildings. The 1991 EA incorporated the analysis from the 1982 EA with subsequent environmental review documents that were prepared for commercial sector conservation activities. BPA developed specific environmental requirements for proven ECMs in a document entitled Commercial Environmental Requirements (CERs), which is referenced in the 1991 EA.

All of BPA's commercial conservation programs must comply with the CERs prevailing at the time of installation. The CERs are periodically updated to incorporate new information relevant to the potential environmental impacts of ECMs and to allow for modifications or additions to the list of proven ECMs.

The requirements developed for the September 1991 EA remain intact, except for the following:

a. When ECMs reducing the amount of ventilation air during occupied periods are installed in commercial buildings, the latest American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard 62 or equivalent, rather than ASHRAE Standard 62–89, will be required ventilation standard. This will allow for updating of the standard for IAQ, just as ASHRAE 62–81 was updated to 62–89.

b. Naturally ventilated buildings must comply with state and local building codes and, at a minimum, must meet the Uniform Building Code (UBC) ventilation requirements.

c. As stated in section 3.1.1 of the Resource Programs Final EIS, studies indicate that there is no direct correlation between the tightening of a building envelope and radon levels. Therefore, BPA may choose to discontinue the offer of radon monitoring when ECMs that reduce air infiltration are installed in apartment buildings. This will be consistent with the modified radon monitoring requirements of the Residential Weatherization Program.

d. Programs involving HVAC and refrigeration measures will require the recovery and recycle of chlorofluorocarbons (CFCs) in accordance with the Clean Air Act Amendments of 1990. This requirement will apply, when appropriate, to programs in all conservation sectors.

e. BPA routinely provides building owners with information developed by EPA regarding disposal of pre-1978 light ballasts potentially containing PCBs. Program participants are required to follow all Federal, state, and local regulations governing disposal and are encouraged to comply with the disposal guidelines and policies developed by EPA Region 10. However, the small PCB capacitors contained in light ballasts, along with spent fluorescent light tubes, continue to be disposed of in municipal landfills, risking ground and water contamination. Therefore, BPA will work closely with Federal and state agencies and BPA customers to develop an acceptable PCB light ballast and lamp disposal plan for its service territory. The disposal plan will apply to conservation programs in all sectors

6.2.3 Industrial Sector

BPA has developed a list of proven ECMs for the industrial sector that were categorically excluded from NEPA review and are described in section 3.1.3 of the Resource Programs Final EIS. The ECMs were previously evaluated and were determined not to affect environmentally sensitive areas when they are applied to current mechanical processes or are placed within existing commercial or industrial facilities. As stated in section 3.1.3 of the Resource Programs Final EIS, the highly regulated nature of the industrial sector is a safeguard against potential significant adverse environmental impacts. In order to ensure this safeguard, ECMs that are not listed or those that involve new mechanical processes or the development of facilities will receive environmental review by BPA prior to their inclusion in any sponsored programs.

6.2.4. Agricultural Sector

BPA's existing irrigated agriculture energy conservation program was categorically excluded from NEPA review on January 8, 1985. Specific mitigation strategies were developed to minimize potential erosion caused by increased runoff that could result from increased droplet size. The mitigation strategies are:

a. A signed statement is required from the equipment installer stating runoff control was considered in the system design.

b. A brochure explaining runoff problems and detailing methods of control is to be delivered to each of the program participants.

c. Proper training of BPA-certified irrigation system inspectors to evaluate potential runoff problems is required.

d. A technical assessment must be prepared in cooperation with the local Soil Conservation Service office to identify potential runoff problems and develop specific mitigation strategies.

e. A follow-up analysis of representative farms is to be conducted to determine if irrigators are, in fact, adopting runoff control strategies. If not, the mitigation plan will be revised appropriately.

These mitigation strategies will continue to apply to all irrigated agriculture energy conservation programs and pilot programs to ensure that increased water droplet size does not cause a significant increase in runoff and erosion.

6.2.5 Customer System Efficiency Improvements (CSEI)

BPA utility customer distribution and transmission system efficiency improvements include transformer replacements, conductor replacement, and insulator additions and replacements and other activities. Many of these CSEI projects occur within previously developed facility areas and are categorically excluded from NEPA review. Transformers containing PCBs and removed from service will be disposed of in accordance with the requirements of the Resource Conservation and Recovery Act (RCRA) and the Toxic Substances Control Act (TSCA).

Issued in Portland, Oregon, on April 22, 1993.

Randall Hardy,

Administrator, Bonneville Power Administration.

[FR Doc. 93–10583 Filed 5–4–93; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Proposed Extension of the Form EIA–28, "Financial Reporting System," and Solicitation of Comments

AGENCY: Energy Information Administration, Department of Energy.

SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Pub. L. No. 96–511, 44 U.S.C. 3501 et seq.), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, EIA is soliciting comments concerning the proposed extension to Form EIA–28, "Financial Reporting System." Also, a question has been added to the standard list of questions for potential data users to solicit comments on preferences as to whether EIA should publish data measured in metric units.

DATES: Written comments must be submitted on or before June 4, 1993. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Gregory P. Filas, Office of Energy Markets and End Use, EI–622, Forrestal Building, U.S. Department of Energy, Washington, DC 20585, telephone number (202) 586–1347.

FOR FURTHER INFORMATION OR TO OBTAIN COPIES OF THE PROPOSED FORM AND INSTRUCTIONS:

Requests for additional information or copies of the form and instructions should be directed to Gregory P. Filas at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No. 93–275) and the Department of Energy Organization Act (Pub. L. No. 95–91), the Energy Information Administration is obliged to carry out a central, comprehensive, and unified energy data and information program. As part of this program, EIA collects, evaluates, assembles, analyzes, and disseminates data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The EIA, through its Form EIA–28, collects financial information and other measures of energy-related business efforts and results for major energy companies. Since the FRS data are collected on a uniform, segmented basis, the comparability of information across energy lines of business is unique to this reporting system. For example, petroleum activities can be compared to activities in other energy lines of business or nonenergy areas, and domestic activities can be compared to foreign activities. The data are used to evaluate the competitive environment within which energy products are supplied and developed and to analyze the nature of institutional arrangements as they relate to energy resource development, supply, and distribution. The FRS report, entitled Performance Profiles of Major Energy Producers (Profiles), has been published for each of the reporting years 1977 through 1991. The Profiles report for 1992 will be published in December 1993.

II. Current Actions

This is an extension with revisions to an existing collection. The proposed extension is to December 31, 1966. The revisions to the form will include a new geographic reporting area for petroleum exploration, development, production and reserves information on Schedules 5211, 5241, and 5246 of Form EIA–28. The new reporting area is comprised of the East European countries that were part of the former Soviet Bloc, and the Commonwealth of Independent States (formerly the Soviet Union). If legislation is enacted to collect energy taxes, a revision to the form will be proposed to collect this data. The public will be notified, and comments will be solicited.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following general guidelines are provided to assist in the preparation of responses.

As a potential respondent:

A. Are the instructions and definitions clear and sufficient? If not, which instructions require classification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can data be submitted in accordance with the response time specified in the instructions?

D. Public reporting burden for this collection is estimated to average 700 hours per response. How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form?

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E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the means of collection.

As a potential user:

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use the data? Be specific.

C. How could the form be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

E. For the most part, information is published by EIA in U.S. customary units, e.g., cubic feet of natural gas, short tons of coal, and barrels of oil. Would you prefer to see EIA publish more information in metric units, e.g., cubic meters, metric tons, and kilograms? If yes, please specify what information (e.g., coal production, natural gas consumption, and crude oil imports), the metric unit(s) of measurement preferred, and in which EIA publication(s) you would like to see such information.

EIA is also interested in receiving comments from persons regarding their views on the need for the information contained in the Financial Reporting System.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form; they also will become a matter of public record.

Statutory Authority: Section 2(a) of the Paperwork Reduction Act of 1980, (Pub. L. No. 96–511), which amended chapter 35 of title 44 of the United States Code (See 44 U.S.C. 3506(a) and (c)(1)).

Issued in Washington, DC, April 27, 1993.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 93–10585 Filed 5–4–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ES93–33–000, et al.]

The Detroit Edison Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 29, 1993.

Take notice that the following filings have been made with the Commission:

1. The Detroit Edison Co.

[Docket No. ES93–33–000]

Take notice that on April 23, 1993, The Detroit Edison Company (Detroit Edison) filed an application under Section 204 of the Federal Power Act requesting authorization to issue from time to time, on or before May 31, 1996, not more than $1.0 billion of debt securities and promissory notes bearing final maturities not to exceed two years. Also, Detroit Edison requests exemption from the Commission's competitive bidding regulations.

Comment date: May 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Alabama Power Co.

[Docket No. ER93–191–000]

Take notice that on April 23, 1993, Alabama Power Company (APCo) submitted additional documentation and information pertaining to certain reimbursements by Alabama Electric Cooperative, Inc. for modifications to APCo's transmission facilities resulting from requests by that customer pursuant to the terms and conditions of the Agreement for Transmission Service to Distribution Cooperative Members of Alabama Electric Cooperative, Inc. This additional documentation and information was submitted in response to a verbal request to that effect by the Staff.

Comment date: May 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. PacifiCorp

[Docket No. ER93–583–000]

Take notice that PacifiCorp on April 23, 1993, tendered for filing in accordance with 18 CFR part 35 of the Commission's Rules and Regulations, an unexecuted Joint Use and Interconnection Agreement (Agreement) between PacifiCorp and Dixie Escalante Rural Electric Association, Inc. (Dixie Escalante).

The Agreement provides for the installation, interconnection and joint use of transmission facilities to serve PacifiCorp's and Dixie Escalante's loads in Iron and Washington Counties, Utah.

PacifiCorp requests an effective date not later than sixty days from the date the filing is received by the Commission as the installed facilities are anticipated to be in service in June 1993.

Copies of this filing were supplied to Dixie Escalante, the Public Utility Commission of Oregon and the Utah Public Service Commission.

Comment date: May 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Puget Sound Power & Light Co.

[Docket No. ER93–582–000]

Take notice that on April 22, 1993, Puget Sound Power & Light Company (Puget) tendered for filing information relating to the extension of the period of Puget's provision of standby transmission service to Public Utility District No. 1 of Snohomish County (Snohomish) under Puget's Supplement No. 2 to Rate Schedule FERC No. 88. A copy of the filing was served upon Snohomish.

Comment date: May 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Walter M. Vannoy

[Docket No. ID–2784–000]

Take notice that on April 22, 1993, Walter M. Vannoy (Applicant) tendered for filing a supplemental application under section 305(b) of the Federal Power Act to hold the following positions:

Director—Illinois Power Company

Director—Chempower, Inc.

Comment date: May 14, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Pacific Gas and Electric Co.

[Docket No. ER93–581–000]

Take notice that on April 22, 1993, Pacific Gas and Electric Company (PG&E) tendered for filing an revised appendix A (Contract Capacity) to the Power Sale Agreement (PSA) between PG&E and the Sacramento Municipal Utility District (SMUD). This appendix has been revised to reflect the reduction in capacity purchased by SMUD under the PSA from 550 MW to 500 MW as of November 1, 1993, pursuant to SMUD's written notice to PG&E.

Copies of this filing have been served upon SMUD and California Public Utilities Commission.

Comment date: May 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Appalachian Power Co.

[Docket No. ER93–587–000]

Take notice that Appalachian Power Company (APCo), on April 26, 1993, tendered for filing with the Commission a March 29, 1993 Addendum to the existing Electric Service Agreement between APCo and the City of Radford, Virginia (Radford), which increases APCo's maximum capacity commitment to Radford from 50,000 kW to 65,000 kW.

APCo proposes an effective date of June 28, 1993, and states that a copy of its filing was served on the affected customer.

Comment date: May 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Central Vermont Public Service Corp.

[Docket No. ER93–386–000]

Take notice that on April 26, 1993, Central Vermont Public Service Corporation tendered for filing an amendment containing supplemental financial information to its February 22, 1993 filing in this docket.

To the extent necessary to allow for the sale of power pursuant to the Service Agreement commencing April 19, 1993, Central Vermont requests that the Commission waive its notice requirements. In support of its requests Central Vermont states that allowing the Service Agreement to become effective as provided will enable the Company and its customers to achieve mutual benefits.

Comment date: May 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Power and Light Co.

[Docket No. ER93–407–000]

Take notice that on April 26, 1993, Wisconsin Power and Light Company (WPL) tendered for filing an amendment providing supplemental information dated April 14, 1993, between the Wisconsin Public Service Corporation and WPL. WPL states that this amendment supplements the previous agreement for sharing a spare transformer between the two parties which was dated December 7, 1992, and on file in Docket No. ER93–407–000 by the Commission.

The purpose of this amendment is to clarify the terms of service and to show the method of calculations for the fees for service.

WPL requests that an effective date concurrent with the amendment filing date of April 14, 1993 be assigned. WPL states that copies of the agreement and the filing have been provided to the Wisconsin Public Service Corporation and the Wisconsin Public Service Commission.

Comment date: May 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Carolina Power & Light Co.

[Docket No. ER93–584–000]

Take notice that on April 26, 1993, Carolina Power & Light Company (CP&L) tendered for filing with the Commission the change outlined below to its agreement with Wake EMC.

1. *Wake EMC-Oxford POD*—Increase in metered voltage from 12 kV to 23 kV.

The Company requests that this supplement be made effective June 1, 1993.

A copy of this filing has been sent to the affected party, the North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Comment date: May 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10545 Filed 5–4–93; 8:45 am]

BILLING CODE 6717–01–M

Briefing by U.S. Fish and Wildlife Service, Wisconsin Department of Natural Resources, Michigan Department of Natural Resources With FERC Staff

April 29, 1993.

a. *Date and Time of Meeting:* May 21, 1993, 8:30 a.m.

b. *Place:* 810 1st Street NE., Washington DC, 8th floor Hearing Room No. 1.

c. *FERC Contact:* Ed Lee (202) 219–2809.

d. *Purpose of the Meeting:* U.S. Fish and Wildlife Service, Wisconsin Department of Natural Resources (DNR), Michigan Department of Natural Resources will brief the Federal Energy Regulatory Commission staff on the issues concerning fish entrainment and mortality at existing hydropower projects in Wisconsin and Michigan.

e. *Proposed Agenda:*

(1) Agency fisheries guidelines for hydroelectric projects.

(2) Wisconsin DNR fisheries entrainment and mortality mitigation guidance.

(3) Fisheries entrainment and mortality issues on the Wisconsin River projects.

(4) Fisheries entrainment and mortality issues at Thornapple.

(5) Fisheries entrainment and mortality issues on the Menominee River projects.

(6) The differences between netting and hydroacoustics for entrainment studies.

(7) The statewide implications of fisheries entrainment and mortality.

(8) Critique of the 1992 EPRI report on "Fish Entrainment and Turbine Mortality Review and Guidelines."

f. The licensees for applications for new license that have been filed with the Commission, as described on the list attached to this notice, are herein notified and invited to attend this briefing. All intervenors and interested parties are also invited to attend this briefing. If you have any questions, please contact Ed Lee at the number listed above.

Lois D. Cashell,

Secretary.

Project No., state, filing date	Applicant	Contact
P–2347–001, WI, 12/23/91	Wisconsin Power and Light Company, P.O. Box 192, 222 W. Washington Ave., Madison, WI 53701.	Norman E. Boys, P.O. Box 192, Madison, WI 53701, (608) 252–3086.
P–2348–001, WI, 12/17/91	Wisconsin Power and Light Company, P.O. Box 192, 222 W. Washington Ave., Madison, WI 53701.	Norman E. Boys, P.O. Box 192, 222 W. Washington Ave., Madison, WI 53701, (608) 252–3086.

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Project No., state, filing date	Applicant	Contact
P-2390-003 WI, 12/16/91	Northern States Power Company, 100 N. Barstow St., P.O. Box 8, Eau Claire, WI 54702.	Anthony G. Schuster, P.O. Box 8, Eau Claire, WI 54702, (715) 839-2401.
P-2395-003, WI, 12/31/91	Flambeau Paper Corporation, 200 N. First Ave., Park Falls, WI 54552.	James M. McGinnity, 200 N. First Ave., Park Falls, WI 54552, (715) 762-3231.
P-2402-003, MI, 12/23/91	Upper Peninsula Power Corporation, 600 Lakeshore Drive, Houghton, MI.	Clarence Fisher, P.O. Box 130, 600 Lakeshore Drive, Houghton, MI, (906) 487-5000.
P-2404-017, MI, 12/30/91	Thunder Bay Power Company, 10850 Traverse Hwy., Suite 1101, Traverse, MI 49684.	Roger Steed, 10850 Traverse Hwy., Suite 1101, Traverse, MI 49684, (616) 941-5255.
P-2417-001, WI, 12/23/91	Northern States Power Company, 100 N. Barstow St., P.O. Box 8, Eau Claire, WI 54702.	Anthony Schuster, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI 54702, (715) 839-2401.
P-2419-007, MI, 12/30/91	Thunder Bay Power Company, 10850 Traverse Hwy., Suite 1101, Traverse, MI 49684.	Roger Steed, 10850 Traverse Hwy., Suite 1101, Traverse, MI 49684, (616) 941-5255.
P-2421-003, WI, 12/31/91	Flambeau Paper Corporation, 200 N. First Ave., Park Falls, WI 54552.	James McGinnity, 200 North First Avenue, Park Falls, WI 54552, (715) 762-3231.
P-2431-008, MI, 12/2/91	Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201.	David K. Porter, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201.
P-2433-004, MI, 12/17/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, 700 North Adams Street, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2436-007, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2440-002, WI, 12/18/91	Northern States Power Company, 100 N. Barstow St. P.O. Box 8, Eau Claire, WI 54702.	Anthony G. Schuster, P.O. Box 8, Eau Claire, WI 54702, (715) 839-2401.
P-2444-002, WI, 12/30/91	Northern States Power Company, 100 N. Barstow St., P.O. Box 8, Eau Claire, WI 54702.	Anthony Schuster, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI 54702, (715) 839-2401.
P-2447-008, MI, 12/29/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2448-011, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2449-007, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2450-005, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2451-004, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2452-007, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2453-003, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2468-003, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2473-002, WI, 12/31/91	Flambeau Paper Corporation, 200 N. First Ave., Park Falls, WI 54552.	James McGinnity, 200 North First Avenue, Park Falls, WI 54552, (715) 762-3231.
P-2475-006, WI, 12/18/91	Northern States Power Company, 100 N. Barstow St., P.O. Box 8, Eau Claire, WI 54702.	Anthony G. Schuster, P.O Box 8, Eau Claire, WI 54702, (715) 839-2401.
P-2476-001, WI, 12/19/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, 700 North Adam Street, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2486-002, WI, 12/23/91	Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee WI 53201.	David K. Porter, 231 W. Michigan Street, P.O. Box 2046, Milwaukee, WI 53201, (414) 221-2500.
P-2506-002, MI, 12/23/91	Mead Corporation, County Road 426, Escanaba, MI 49829.	Gary L. Bulryn, County Road 426, P.O. Box 757, Escanaba MI 49829, (906) 786-1660.
P-2522-002, WI, 12/18/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2525-004, WI, 12/17/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, 700 North Adams Street, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2546-001, WI, 12/19/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2551-004, MI, 12/11/91	Indiana Michigan Power, One Summitt Square, Fort Wayne, IN 46801, (219) 425-2111.	B.H. Bennett, American Electric Power Corporation, 1 Riverside Plaza, Columbus, OH 43215, (614) 223-2930.
P-2560-001, WI, 12/19/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2580-015, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2581-002, WI, 12/19/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, P.O. Box 19002, Green Bay, WI 54307 (414) 433-1268.
P-2587-002, WI/MI, 12/18/91	Northern States Power Company, 100 N. Barstow St., P.O. Box 8, Eau Claire, WI 54702.	Anthony Schuster, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI 54702, (715) 839-2401.
P-2595-005, WI, 12/18/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2599-005, MI, 12/18/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.

Project No., state, filing date	Applicant	Contact
P-2640-010, WI, 12/27/91	Flambeau Paper Corporation, 200 N. First Ave., Park Falls, WI 54552.	James M. McGinnity, 200 N. First Ave., Park Falls, WI 54552, (715) 762-3231.
P-2689-001, WI, 12/27/91	Scott Paper Company, 106 E. Central Avenue, Oconto Falls, WI 54154.	Thomas Cosgrove, 106 E. Central Avenue, Oconto Falls, WI 54154, (414) 846-3411 ext. 3272.

[FR Doc. 93-10512 Filed 5-4-93; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP89-471-007, et al.]

Gateway Pipeline Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Gateway Pipeline Co.

[Docket No. CP89-471-007]

April 19, 1993.

Take notice that on April 14, 1993, Gateway Pipeline Company (Gateway), 600 Travis, P.O. Box 1478, Houston, TX 77251-1478, filed pursuant to section 7 of the Natural Gas Act, in Docket No. CP89-471-007 to amend the certificate authority issued on June 25, 1991, in Docket No. CP89-471-000, et at., requesting authorization to increase the operating pressure of Gateway's facilities located in Mobile County, Alabama, all as more fully set forth in the amendment, which is on file with the Commission and open to public inspection.

Gateway states that it proposes to increase the operating pressure from 800 psig to 1,010 psig in order to insure that Gateway can operate at its designed capacity. Gateway states that the proposed increase in pressure would not require the construction of any additional facilities.

Comment date: May 10, 1993, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Co.

[Docket No. CP93-297-000]

April 19, 1993.

Take notice that on April 15, 1993, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP93-297-000 a request pursuant to § 157.205 of the Commission's Regulations to operate six existing delivery point facilities initially constructed under section 311(a) of the Natural Gas Policy Act of 1978 (NGPA) under Tennessee's blanket certificate issued in Docket No. CP82-413-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes to operate (1) the Cabell County, W. Va. Sales No. 2 delivery point in Cabell County, West Virginia; (2) the Cat Springs Sales delivery point in Austin County, Texas; (3) the Cranberry Sales delivery point in Kanawha County, West Virginia; (4) the Aberdeen delivery point in Monroe County, Mississippi; (5) the New Hope delivery point in Lownes County, Mississippi; and (6) the Neches-TGP delivery point in Montgomery County, Texas, to provide for all transportation services, whether jurisdictional or non-jurisdictional pursuant to section 311 of the NGPA, for the benefit of all customers on Tennessee's system. Tennessee states that each of these existing delivery points were constructed under section 311(a) of the NGPA to provide section 311(a) transportation services. Tennessee states that the delivery of volumes through the existing delivery points would not impact Tennessee's peak day and annual deliveries and that the proposed activity is not prohibited by its existing tariff. Tennessee has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to Tennessee's other customers, it is stated.

Comment date: June 3, 1993, in accordance with Standard Paragraph G at the end of this notice.

3. CNG Transmission Corp.

[Docket No. CP80-223-002 and CP84-306-002]

April 19, 1993.

Take notice that on April 2, 1993, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket Nos. CP80-223-002 and CP84-306-002, a petition to amend the orders issued on June 16, 1980 and October 3, 1984, in Docket Nos. CP80-223 and CP84-306-000, respectively, pursuant to section 7(c) of the Natural Gas Act for authorization to amend its currently effective certificates of public convenience and necessity to allow CNG to render storage services directly to certain customers of Texas Eastern Transmission Corporation (Texas Eastern) and Algonquin Gas Transmission Company (Algonquin) which CNG now provides directly to Texas Eastern, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

CNG states that this application concerns two storage service agreements between CNG and Texas Eastern dated December 18, 1979, and March 20, 1984. CNG further states that the agreements provide for a combined storage capacity of 51 MMdt. CNG says it was granted authority to render these services to Texas Eastern under section 7(c) of the Natural Gas Act in *Texas Eastern Transmission Corporation, et al.*, 11 FERC ¶61,284 (1980) and *Consolidated Gas Transmission Corporation, et al.*, 29 FERC ¶61,032 (1984). It is stated that Texas Eastern resells the storage services it receives under the two storage service agreements to its customers, including Algonquin, under its Rate Schedules SS-2 and SS-3. CNG indicates that Texas Eastern received its certificate authority to resell CNG's storage service to its SS-2 and SS-3 customers in the same orders that CNG received the authorization to render the underlying Rate Schedule GSS service. Algonquin resells the SS-2 storage services that it receives from Texas Eastern to its customers under its Rate Schedule STB under the authorization granted in Texas Eastern Transmission Corporation, et al., 11 FERC ¶61,284 (1980), it is stated. CNG indicates that Algonquin resells Texas Eastern's SS-3 storage services to its customers taking service under its Rate Schedule SS-III [1] in accordance with a certificate originally granted in *Algonquin Gas Transmission Company*, 29 FERC ¶61,305 (1984) and amended in *Algonquin Gas Transmission Company*, 35 FERC ¶61,271 (1986).

CNG states that it requests that the certificates originally issued in Docket Nos. CP80-223 and CP84-306-000 be amended in two ways: (1) To substitute the assignees for Texas Eastern as the "buyer" of the service, and (2) to apportion the originally certificated contract quantities among the assignees. CNG further states that each assignee's beginning inventory balance would be

[1] Customers under Texas Eastern Rate Schedules SS-2 and SS-3 and Algonquin's Rate Schedules STB and SS-III are referred to herein as "the assignees".

established by CNG based upon written Gas Act for authorization to abandon accommodate natural gas deliveries to

the request which is on file with the

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established by CNG based upon written notification received by Texas Eastern and Algonquin. It is stated that the term of the amended authorization for the Texas Eastern assignees would become effective on the latter of: (1) The date that the Commission issues an order granting the requested amendment or (2) the date Texas Eastern Implements restructured services in accordance with the Commission's orders in Docket No. RS92–11–000. CNG says that the amended authorization would become effective for the Algonquin assignees on the latter of: (1) The date that the Commission issues an order granting the requested amendment or (2) the date Algonquin implements restructured services in accordance with the Commission's orders in Docket No. RS92–28–000.

Comment date: May 10, 1993, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

4. Northern Natural Gas Co.

[Docket No. CP93–294–000]

April 19, 1993.

Take notice that on April 14, 1993, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP93–294–000, a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act and pursuant to Northern's blanket certificate issued in Docket No. CP82–401–000, for authority to install and operate three (3) new delivery points and to upgrade two (2) existing delivery points to accommodate natural gas deliveries to Iowa Electric Light and Power Company (Iowa Electric), all as more fully set forth in the application which is on file and open to public inspection.

Northern states that Iowa Electric has requested additional service to accommodate the growth of residential and commercial markets it serves. Northern estimates an increase of 3,319 Mcf per day and 137,920 Mcf per annual of natural gas deliveries to be delivered to Iowa Electric.

Comment date: June 3, 1993, in accordance with Standard Paragraph G at the end of this notice.

5. Transcontinental Gas Pipe Line Corp.

[Docket No. CP93–303–000]

April 20, 1993.

Take notice that on April 16, 1993, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP93–303–000 an application pursuant to section 7(b) of the Natural Gas Act for authorization to abandon one 3,500 horsepower compressor located on a production platform owned by Arco Oil and Gas Company (Arco) in High Island Area Block A–467, Offshore Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that, due to Arco's declining gas production in this area, the current configuration of compressors is no longer operationally efficient. It is stated that there are no longer sufficient natural gas reserves from the High Island Block A–466 and A–467 fields to operate compressors located on platforms in each block. It is indicated that, as a result, Transco proposes to move a 1,000 horsepower compressor unit from the production platform located on High Island Block A–466 to the platform located in Block A–467 under § 157.208 of the Commission's Regulations as a miscellaneous rearrangement of facilities. Transco states that, because Arco's High Island A–467 platform cannot support both compressors, it must first obtain Commission authorization to abandon the 3,500 horsepower unit currently located on the platform. Transco also states that the 3,500 horsepower compressor unit would ultimately be sold or utilized elsewhere on the Transco system.

Transco states that the requested abandonment would have no impact on the daily design capacity or operating conditions on Transco's system. Transco also states that no service to any other customers would be impacted by the proposed abandonment.

Transco requests abandonment approval on an expedited basis. Transco states that it has been advised by Arco that a failure to reconfigure the facilities on a timely basis in response to the declining natural gas production could result in a potentially substantial loss of Arco's reserves in this offshore area.

Comment date: May 11, 1993, in accordance with Standard Paragraph F at the end of this notice.

6. Northern Natural Gas Co.

[Docket No. CP93–309–000]

April 22, 1993.

Take notice that on April 21, 1993, Northern Natural Gas Company (Northern), P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP93–309–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate a delivery point to accommodate natural gas deliveries to Wisconsin Power and Light Company (WP&L), under the blanket certificate issued in Docket No. CP82–401–000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that it requests authority to install a delivery point (Dodgeville TBS #1A town border station) located in Iowa County, Wisconsin to accommodate natural gas deliveries to WP&L under Northern's currently effective service agreement. It is indicated that WP&L has requested service due to the expansion into markets not previously served by WP&L Northern indicates that the volumes proposed to be delivered at the new town border station would result in an estimated increase in Northern's peak day and annual deliveries of 1,476 Mcf and 180,945 Mcf, respectively. Northern indicates that the end use of the deliveries at the new town border station would be residential, commercial and industrial. Northern estimates that the facilities would cost $55,000, with WP&L making a contribution in aid of construction of the total cost of facilities.

Northern advises that the total volumes to be delivered to the customer after the request do not exceed the total volumes authorized prior to the request. Also, it is indicated that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to Northern's other customers.

Comment date: June 7, 1993, in accordance with Standard Paragraph G at the end of this notice.

7. Williston Basin Interstate Pipeline Co.

[Docket No. CP93–302–000]

April 22, 1993.

Take notice that on April 16, 1993, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP93–302–000 as a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to reassign currently effective Maximum Daily Quantities (MDQ) among various delivery points for sales to Montana-Dakota Utilities Co. (Montana-Dakota), under Williston Basin's blanket certificate issued in Docket No. CP83–1–000 *et al.*, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that Williston Basin makes firm sales of natural gas to Montana-Dakota pursuant to Williston Basin's Rate Schedule G–1. It is asserted that the service agreement for the sale, dated June 23, 1988, has been amended, as of April 15, 1993. It is explained that the volumes to be delivered following the reassignment proposed herein are within Montana-Dakota's authorized entitlement from Williston Basin. It is asserted that Williston Basin's tariff does not prohibit the reassignment of individual delivery point MDQ's. It is further asserted that Williston Basin has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers. It is explained that no new facilities are proposed to be constructed herein.

Comment date: June 7, 1993, in accordance with Standard Paragraph G at the end of this notice.

8. K N Energy, Inc.

[Docket No. CP93–305–000]

April 22, 1993.

Take notice that on April 20, 1993, K N Energy, Inc. (K N), P.O. Box 281304, Lakewood, Colorado, 80228, filed in Docket No. CP93–305–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate sales taps for the delivery of gas to end users under K N's blanket certificate issued in Docket Nos. CP83–140–000, CP83–140–001, and CP83–140–002 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

K N requests authorization to construct and operate sales taps to various end users located along its jurisdictional pipelines. K N states that the proposed sales taps are not prohibited by any of its existing tariffs and that the additional taps will have no significant impact on its peak day and annual deliveries.

Comment date: June 7, 1993, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10544 Filed 5–4–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP93–318–000, et al.]

Williams Natural Gas Company, et al.; Natural Gas Certificate Filings

April 29, 1993.

Take notice that the following filings have been made with the Commission:

1. Williams Natural Gas Co.

[Docket No. CP93–318–000]

Take notice that on April 27, 1993, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93–318–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to use for other purposes facilities originally installed for the delivery of gas to Greeley Gas Company (Greeley) under Section 311 of the Natural Gas Policy Act of 1978 (NGPA), under the blanket certificate issued in Docket No. CP82–479–000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Williams states that it installed a tap, measuring and appurtenant facilities on its line XQ–1 located in Johnson County, Kansas for the delivery of NGPA Section 311 transportation gas to Greeley for system supply. Williams in this request proposes to use the NGPA section 311 facilities to deliver transportation gas to Greeley for any purpose. It is indicated that the $23,460 cost of the facilities was reimbursed by Greeley. Williams states that it anticipates delivering an average of 500 dt equivalent of natural gas per day to Greeley and that the deliveries would have no impact on Williams' peak day or annual deliveries.

Williams indicates that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to Williams' other customers.

Comment date: June 14, 1993, in accordance with Standard paragraph G at the end of this notice.

2. National Fuel Gas Supply Corp.

[Docket No. CP93–313–000]

Take notice that on April 26, 1993, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP93–313–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the National Gas Act (18 CFR 157.205,

157.211) for authorization to construct

Tennessee further states that the

Commission's regulations and section

waiver of the Commission's reporting

said requests for waiver should file a

be taken, but will not serve

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157.211) for authorization to construct and operate sales tap facilities under National's blanket certificate issued in Docket No. CP83–4–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

National proposes to install three sales tap connections to enable its existing customer, National Fuel Gas Distribution Corporation (Distribution), to serve the residential end-users shown below. National states that the service to Distribution would be performed under the terms of its Rate Schedule RQ. National further states that, following the restructuring of its services pursuant to the proceeding instituted in Docket No. RS92–21–000, the service would be performed under its Rate Schedule EFT.

End-user	Line	Location	Annual Mcf
Norman J. Keeley.	N–M47	Mercer County, PA.	150
Wayne R. Brest.	N–M47	Mercer County, PA.	150
John Burford.	T–3	Clarion County, PA.	150

Comment date: June 14, 1993, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Co.

[Docket No. CP93–315–000]

Take notice that on April 26, 1993, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP93–315–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a delivery tap to Capital Gas Distribution Company, Inc. (Capital) under Tennessee's blanket certificate issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee states that it has entered into an amendment to a gas transportation agreement with Tenngasco Corporation (Tenngasco), a marketer of natural gas, to transport, on an interruptible basis, up to 300 dekatherms of natural gas per day for delivery to Capital in Montgomery County, Texas. Tennessee avers that Tenngasco has requested this delivery point and that it will reimburse Tennessee for the cost of the facilities.

Tennessee further states that the delivery will have no impact on Tennessee's peak day and annual deliveries; that the proposed delivery point is not prohibited by its traffic; and that Tennessee has sufficient capacity to accommodate this delivery without detriment or disadvantage to Tennessee's other customers.

Comment date: June 14, 1993, in accordance with Standard Paragraph G at the end of this notice.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10542 Filed 5–4–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ST93–2803–000, et al.]

Delhi Gas Pipeline Corp., et al.; Self-Implementing Transactions

April 29, 1993.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA), section 7 of the NGA and section 5 of the Outer Continental Shelf Lands Act.[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction.

A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipleine pursuant to § 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G–I" indicates transportation by an intrastate pipeline company pursuant to a blanket certificate issued under § 284.227 of the Commission's regulations.

A "G–S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G–LT" or "G–LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "G–HT" or "G–HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's regulations.

A "K–S" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of shippers other than interstate pipelines pursuant to § 284.303 of the Commission's regulations.

Certain companies as indicated in the attached table have requested partial

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

waiver of the Commission's reporting requirements contained in § 284.126 of the Commission's Regulations to allow the filing of reports listing self-implementing transactions with multiple interstate pipeline companies as the "on behalf of" parties, similar to the waiver granted by the Commission in *Transok, Inc.*, Docket No. ST90–267–000, 61 FERC ¶61,347 (1992). Any person desiring to be heard or to protest said requests for waiver should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93–2803 .	Delhi Gas Pipeline Corp.	Northern Natural Gas Co., et al.	03–01–93	C	3150	N	I	02–02–93	Indef.
ST93–2804 .	Transok, Inc ...	ANR Pipeline Co., et al..	03–01–93	C	42,000	N	I	02–01–93	Indef.
ST93–2805 .	Transok, Inc. ..	ANR Pipeline Co., et al.	03–01–93	C	50,000	N	I	01–01–93	Indef.
ST93–2806 .	Transok, Inc ...	ANR Pipeline Co., et al.	03–01–93	C	25,000	N	I	02–03–93	Indef.
ST93–2807 .	Williston Basin Inter. P/L Co.	Hiland Partners .	03–01–93	G–S	86,550	A	I	02–04–93	05–31–93
ST93–2808 .	Valero Transmission, L.P.	Tennessee Gas Pipeline Co.	03–01–93	C	35,000	N	I	02–01–93	Indef.
ST93–2809 .	Transtexas Pipeline.	El Paso Natural Gas Co.	03–01–93	C	30,000	N	I	02–01–93	Indef.
ST93–2810 .	Overland Trail Transmission Co.	Kern River Gas Transmission.	03–01–93	C	75,000	N	I	02–01–93	Indef.
ST93–2811 .	Algonquin Gas Transmission Co.	Panhandle Trading Co.	03–01–93	G–S	100,000	N	I	02–17–93	Indef.
ST93–2812 .	Northern Natural Gas Co.	Adope Gas Marketing Co.	03–01–93	G–S	200,000	N	F/I	02–01–93	Indef.
ST93–2813 .	Northern Natural Gas Co.	KN Energy, Inc .	03–01–93	G–S	40,000	N	F/I	02–01–93	02–02–98
ST93–2814 .	Northern Natural Gas Co.	Western Resources, Inc.	03–01–93	G–S	3,845	N	F/I	02–01–93	02–02–98
ST93–2815 .	Northern Natural Gas Co.	Apache Corp	03–01–93	G–S	50,000	N	F/I	02–01–93	05–15–95
ST93–2816 .	Northern Natural Gas Co.	Northern States Power Co.	03–01–93	G–S	19,612	N	F/I	02–18–93	02–28–93
ST93–2817 .	Northern Natural Gas Co.	Western Gas Marketing, Inc.	03–01–93	G–S	100,000	N	F/I	01–27–93	01–26–94
ST93–2818 .	Northern Border Pipeline Co.	NGC Transporation, Inc.	03–01–93	G–S	100,000	Y	I	02–19–93	02–28–94
ST93–2819 .	Tennessee Gas Pipeline Co.	Meridian Marketing & Trans. Corp.	03–01–93	G–S	730,000	N	I	02–01–93	Indef.
ST93–2820 .	Tennessee Gas Pipeline Co.	Entrade Corp	03–01–93	G–S	1,310,000	N	I	02–02–93	Indef.
ST93–2821 .	Tennessee Gas Pipeline Co.	Gaslantic Corp ..	03–01–93	G–S	3,771	N	F	02–01–93	03–31–93
ST93–2822 .	South Georgia Natural Gas Co.	Packaging Corp. of America.	03–01–93	G–S	5,000	N	I	08–26–93	Indef.
ST93–2823 .	Iroquois Gas Trans. System, L.P.	Panhandle Trading Co.	03–01–93	G–S	576,000	N	I	02–19–93	Indef.
ST93–2824 .	Iroquois Gas Trans. System, L.P..	Entrade Corp	03–01–93	G–S	300,000	Y	I	02–02–93	Indef.
ST93–2825 .	Iroquois Gas Trans. System, L.P.	Continental Energy Marketing, Inc.	03–01–93	G–S	20,000	N	F	02–01–93	03–01–93

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Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-2826 .	Alabama-Tennessee Nat. Gas Co.	Occidental Chemical Corp.	03-01-93	G-S	7,000	N	I	02-01-93	05-30-93
ST93-2827 .	Alabama-Tennessee Nat. Gas Co.	Limestone Correctional Facility.	03-01-93	G-S	1,000	N	I	02-01-93	05-30-93
ST93-2828 .	Williston Basin Inter. P/L Co.	Prairielands Energy Marketing, Inc.	03-02-93	G-S	174,000	A	I	02-19-93	09-30-94
ST93-2829 .	Kern River Gas Transmission Co.	Canadian Hydrocarbons Marketing.	03-02-93	G-S	20,000	N	F	02-01-93	Indef.
ST93-2830 .	Tennessee Gas Pipeline Co.	NGC Transportation, Inc.	03-02-93	G-S	600,000	N	I	02-01-93	Indef.
ST93-2831 .	Channel Industries Gas Co.	Tennessee Gas Pipeline Co.	03-02-93	C	100,000	N	I	02-01-93	Indef.
ST93-2832 .	Natural Gas P/ L Co. of America.	Valero Gas Marketing, L.P.	03-02-93	G-S	10,000	N	F	02-01-93	02-28-93
ST93-2833 .	Natural Gas P/ L Co. of America.	Cargill, Corn Millin.	03-02-93	G-S	4,000	N	F	02-01-93	11-30-93
ST93-2834 .	Transcontinental Gas P/L Corp.	Direct Gas Supply Corp.	03-02-93	G-S	100,000	N	I	02-01-93	Indef.
ST93-2835 .	Arkla Energy Resources Co.	NJR Energy Corporation.	03-02-93	G-S	100,000	N	I	12-01-92	Indef.
ST93-2836 .	Colorado Interstate Gas Co.	Snyder Gas Marketing.	03-03-93	G-S	5,000	N	I	02-01-93	Indef.
ST93-2837 .	Colorado Interstate Gas Co.	Associated Intrastate Pipeline Co.	03-03-93	G-S	40,000	N	I	02-05-93	Indef.
ST93-2838 .	Colorado Interstate Gas Co.	Windsor Gardens Association.	03-03-93	G-S	2,000	N	I	02-18-93	Indef.
ST93-2839 .	Colorado Interstate Gas Co.	Coastal Gas Marketing Co.	03-03-93	G-S	100,000	A	I	02-11-93	Indef.
ST93-2840 .	ANR Pipeline Co.	Northern Illinois Gas Co.	03-03-93	B	50,000	N	I	02-12-93	Indef.
ST93-2841 .	ANR Pipeline Co.	Northern Illinois Gas Co.	03-03-93	B	50,000	N	I	02-04-93	Indef.
ST93-2842 .	Tennessee Gas Pipeline Co.	Western Gas Marketing USA Limited.	03-03-93	G-S	450,000	N	I	02-01-93	Indef.
ST93-2843 .	Tennessee Gas Pipeline Co.	American Central Gas Marketing Co.	03-03-93	G-S	200,000	N	I	02-01-93	Indef.
ST93-2844 .	Viking Gas Transmission Co.	ANR Pipeline Co	03-03-93	G	50,350	N	F	02-01-93	10-31-00
ST93-2845 .	Trunkline Gas Co.	PPG Industries, Inc.	03-03-93	G-S	10,000	N	I	02-17-93	Indef.
ST93-2846 .	Trunkline Gas Co.	Amerada Hess Corporation.	03-03-93	G-S	100,000	N	I	02-18-93	Indef.
ST93-2847 .	Trunkline Gas Co.	O&R Energy, Inc..	03-03-93	G-S	50,000	N	I	02-20-93	Indef.
ST93-2848 .	Trunkline Gas Co.	Triumph Natural Gas, Inc.	03-03-93	G-S	20,000	N	I	02-20-93	Indef.
ST93-2849 .	Valero Transmission, L.P.	El Paso Natural Gas Pipeline Co.	03-03-93	C	5,000	N	I	02-01-93	Indef.
ST93-2850 .	Trunkline Gas Co.	Union Oil Co. of California.	03-03-93	G-S	10,000	N	I	02-16-93	Indef.
ST93-2851 .	Valero Transmission, L.P.	Natural Gas P/L Co. of America.	03-03-93	C	50,000	N	I	02-01-93	Indef.
ST93-2852 .	Natural Gas P/ L Co. of America.	Excel Gas Marketing, Inc.	03-03-93	G-S	50,000	N	I	02-20-93	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-2853 .	Natural Gas P/ L Co. of America.	Brooklyn Inter. Natural Gas Corp.	03-03-93	G-S	100,000	N	I	02-05-93	Indef.
ST93-2854 .	Arkla Energy Resources Co.	Cross Oil & Refining Co.	03-03-93	G-S	3,000	N	F	03-01-93	Indef.
ST93-2855 .	Arkla Energy Resources Co.	Oklahoma Natural Gas Co.	03-03-93	B	5,000	N	I	03-01-93	Indef.
ST93-2856 .	Transcontinental Gas P/L Corp.	CMS Gas Marketing Co.	03-03-93	G-S	3,040,000	N	I	02-08-93	Indef.
ST93-2857 .	Transcontinental Gas P/L Corp.	Columbia Gas Transmission Corp.	03-03-93	G	10,000	N	I	02-11-93	Indef.
ST93-2858 .	Transcontinental Gas P/L Corp.	Atlanta Gas Light Co.	03-03-93	B	353,100	N	I	02-10-93	Indef.
ST93-2859 .	U-T Offshore System.	Tejas Hydrocarbons Co.	03-03-93	K-S	100,000	N	I	04-04-92	Indef.
ST93-2860 .	U-T Offshore System.	CMS Gas Marketing Co.	03-03-93	K-S	80,000	N	I	06-11-92	Indef.
ST93-2861 .	Northern Natural Gas Co.	North Canadian Marketing Corp.	03-04-93	G-S	100,000	N	F/I	12-04-92	Indef.
ST93-2862 .	Tennessee Gas Pipeline Co.	Woodward Marketing, Inc.	03-04-93	G-S	200,000	N	I	02-02-93	Indef.
ST93-2863 .	Tennessee Gas Pipeline Co.	ANR Gathering Co.	03-04-93	G-S	300,000	N	I	02-02-93	Indef.
ST93-2864 .	ONG Transmission Co.	Caprock Pipeline	03-04-93	C	50,000	N	I	12-15-92	Indef.
ST93-2865 .	ONG Transmission Co.	Panhandle Eastern Pipe Line Co.	03-04-93	C	30,000	N	I	11-01-92	Indef.
ST93-2866 .	ONG Transmission Co.	Williams Natural Gas Co.	03-04-93	C	50,000	N	I	12-25-92	Indef.
ST93-2867 .	Channel Industries Gas Co.	THC Pipeline Co	03-04-93	C	75,000	N	I	02-02-93	Indef.
ST93-2868 .	Colorado Interstate Gas Co.	Oxy, USA, Inc ...	03-04-93	G-S	50,000	N	I	02-24-93	Indef.
ST93-2869 .	Colorado Interstate Gas Co.	Universal Resources Corp.	03-04-93	G-S	25,000	N	I	02-20-93	Indef.
ST93-2870 .	Colorado Interstate Gas Co.	Montana Power Co.	03-04-93	B	30,000	N	I	02-19-93	Indef.
ST93-2871 .	Colorado Interstate Gas Co.	Interenergy Transmission Partners.	03-04-93	G-S	20,000	N	I	02-20-93	Indef.
ST93-2872 .	Colorado Interstate Gas Co.	Interenergy Transmission Partners.	03-04-93	G-S	20,000	N	I	02-20-93	Indef.
ST93-2873 .	Transok, Inc ...	ANR Pipeline Co., et al.	03-05-93	C	20,000	N	I	07-31-92	Indef.
ST93-2874 .	Transok, Inc ...	ANR Pipeline Co., et al.	03-05-93	C	20,000	N	I	01-23-93	Indef.
ST93-2875 .	Transok, Inc ...	ANR Pipeline Co., et al.	03-05-93	C	50,000	N	I	12-01-92	Indef.
ST93-2876 .	Transok, Inc ...	ANR Pipeline Co., et al.	03-05-93	C	25,000	N	I	07-27-92	Indef.
ST93-2877 .	Arkla Energy Resources Co.	Seagull Mid-South Inc.	03-05-93	G-S	150,000	N	I	02-01-93	Indef.
ST93-2878 .	Transwestern Pipeline Co.	Interstate Power Co.	03-05-93	G-S	7,425	N	F	10-30-92	Indef.
ST93-2879 .	Kern River Gas Transmission Co.	Yuma Gas Corp	03-05-93	G-S	25,000	N	I	02-06-93	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-2880 .	Natural Gas P/ L Co. of America.	Excel Gas Marketing, Inc.	03-05-93	G-S	50,000	N	I	02-20-93	Indef.
ST93-2881 .	Natural Gas P/ L Co. of America.	Valero Gas Marketing, L.P.	03-05-93	G-S	10,000	N	F	02-01-93	02-28-93
ST93-2882 .	Natural Gas P/ L Co. of America.	Cargill, Corn Millin.	03-05-93	G-S	4,000	N	F	02-01-93	11-30-93
ST93-2883 .	Natural Gas P/ L Co. of America.	Direct Gas Supply Corp.	03-05-93	G-S	100,000	N	I	02-01-93	Indef.
ST93-2884 .	Natural Gas P/ L Co. of America.	NJR Energy Corporation.	03-05-93	G-S	100,000	N	I	12-01-92	Indef.
ST93-2885 .	Natural Gas P/ L Co. of America.	Snyder Gas Marketing.	03-05-93	G-S	5,000	N	I	02-01-93	Indef.
ST93-2886 .	Natural Gas P/ L Co. of America.	Associated Intrastate Pipeline Co.	03-05-93	G-S	40,000	N	I	02-05-93	Indef.
ST93-2887 .	Natural Gas P/ L Co. of America.	Windsor Gardens Association.	03-05-93	G-S	2,000	N	I	02-18-93	Indef.
ST93-2888 .	Natural Gas P/ L Co. of America.	Coastal Gas Marketing Co.	03-05-93	G-S	100,000	A	I	02-11-93	Indef.
ST93-2889 .	Natural Gas P/ L Co. of America.	Northern Illinois Gas Co.	03-05-93	B	50,000	N	I	02-12-93	Indef.
ST93-2890 .	Natural Gas P/ L Co. of America.	Northern Illinois Gas Co.	03-05-93	B	50,000	N	I	02-04-93	Indef.
ST93-2891 .	Natural Gas P/ L Co. of America.	Western Gas Marketing USA Limited.	03-05-93	G-S	450,000	N	I	02-01-93	Indef.
ST93-2892 .	Natural Gas P/ L Co. of America.	American Central Gas Marketing Co.	03-05-93	G-S	200,000	N	I	02-01-93	Indef.
ST93-2893 .	Natural Gas P/ L Co. of America.	ANR Pipeline Co	03-05-93	G	50,350	N	F	02-01-93	10-31-00
ST93-2894 .	Natural Gas P/ L Co. of America.	PPG Industries, Inc.	03-05-93	G-S	10,000	N	I	02-17-93	Indef.
ST93-2895 .	Natural Gas P/ L Co. of America.	Amerada Hess Corporation.	03-05-93	G-S	100,000	N	I	02-18-93	Indef.
ST93-2896 .	Natural Gas P/ L Co. of America.	O&R Energy, Inc..	03-05-93	G-S	50,000	N	I	02-20-93	Indef.
ST93-2897 .	Natural Gas P/ L Co. of America.	Triumph Natural Gas, Inc.	03-05-93	G-S	20,000	N	I	02-20-93	Indef.
ST93-2898 .	Natural Gas P/ L Co. of America.	El Paso Natural Gas Pipeline Co.	03-05-93	C	5,000	N	I	02-01-93	Indef.
ST93-2899 .	Natural Gas P/ L Co. of America.	Union Oil Co. of California.	03-05-93	G-S	10,000	N	I	02-16-93	Indef.
ST93-2900 .	Natural Gas P/ L Co. of America.	Natural Gas P/L Co. of America.	03-05-93	C	50,000	N	I	02-01-93	Indef.
ST93-2901 .	Natural Gas P/ L Co. of America.	Excel Gas Marketing, Inc.	03-05-93	G-S	50,000	N	I	02-20-93	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-2902 .	Natural Gas P/ L Co. of America.	Valero Gas Marketing, L.P.	03-05-93	G-S	10,000	N	F	02-01-93	02-28-93
ST93-2903 .	Natural Gas P/ L Co. of America.	Cargill, Corn Millin.	03-05-93	G-S	4,000	N	F	02-01-93	11-30-93
ST93-2904 .	Natural Gas P/ L Co. of America.	Direct Gas Supply Corp.	03-05-93	G-S	100,000	N	I	02-01-93	Indef.
ST93-2905 .	Natural Gas P/ L Co. of America.	NJR Energy Corporation.	03-05-93	G-S	100,000	N	I	12-01-92	Indef.
ST93-2906 .	Natural Gas P/ L Co. of America.	Snyder Gas Marketing.	03-05-93	G-S	5,000	N	I	02-01-93	Indef.
ST93-2907 .	Natural Gas P/ L Co. of America.	Associated Intrastate Pipeline Co.	03-05-93	G-S	40,000	N	I	02-05-93	Indef.
ST93-2908 .	Natural Gas P/ L Co. of America.	Windsor Gardens Association.	03-05-93	G-S	2,000	N	I	02-18-93	Indef.
ST93-2909 .	Natural Gas P/ L Co. of America.	Coastal Gas Marketing Co.	03-05-93	G-S	100,000	A	I	02-11-93	Indef.
ST93-2910 .	Natural Gas P/ L Co. of America.	Northern Illinois Gas Co.	03-05-93	B	50,000	N	I	02-12-93	Indef.
ST93-2911 .	Natural Gas P/ L Co. of America.	Northern Illinois Gas Co.	03-05-93	B	50,000	N	I	02-04-93	Indef.
ST93-2912 .	Natural Gas P/ L Co. of America.	Western Gas Marketing USA Limited.	03-05-93	G-S	450,000	N	I	02-01-93	Indef.
ST93-2913 .	Natural Gas P/ L Co. of America.	American Central Gas Marketing Co.	03-05-93	G-S	200,000	N	I	02-01-93	Indef.
ST93-2914 .	Natural Gas P/ L Co. of America.	ANR Pipeline Co	03-05-93	G	50,350	N	F	02-01-93	10-31-00
ST93-2915 .	Natural Gas P/ L Co. of America.	PPG Industries, Inc.	03-05-93	G-S	10,000	N	I	02-17-93	Indef.
ST93-2916 .	Natural Gas P/ L Co. of America.	Amerada Hess Corporation.	03-05-93	G-S	100,000	N	I	02-18-93	Indef.
ST93-2917 .	Natural Gas P/ L Co. of America.	O&R Energy, Inc..	03-05-93	G-S	50,000	N	I	02-20-93	Indef.
ST93-2918 .	Natural Gas P/ L Co. of America.	Triumph Natural Gas, Inc.	03-05-93	G-S	20,000	N	I	02-20-93	Indef.
ST93-2919 .	Natural Gas P/ L Co. of America.	El Paso Natural Gas Pipeline Co.	03-05-93	C	5,000	N	I	02-01-93	Indef.
ST93-2920 .	Natural Gas P/ L Co. of America.	Union Oil Co. of California.	03-05-93	G-S	10,000	N	I	02-16-93	Indef.
ST93-2921 .	Natural Gas P/ L Co. of America.	Natural Gas P/L Co. of America.	03-05-93	C	50,000	N	I	02-01-93	Indef.
ST93-2922 .	Natural Gas P/ L Co. of America.	Excel Gas Marketing, Inc.	03-05-93	G-S	50,000	N	I	02-20-93	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-2923 .	Natural Gas P/ L Co. of America.	Valero Gas Marketing, L.P.	03-05-93	G-S	10,000	N	F	02-01-93	02-28-93
ST93-2924 .	Natural Gas P/ L Co. of America.	Cargill, Corn Millin.	03-05-93	G-S	4,000	N	F	02-01-93	11-30-93
ST93-2925 .	Natural Gas P/ L Co. of America.	Direct Gas Supply Corp.	03-05-93	G-S	100,000	N	I	02-01-93	Indef.
ST93-2926 .	Natural Gas P/ L Co. of America.	NJR Energy Corporation.	03-05-93	G-S	100,000	N	I	12-01-92	Indef.
ST93-2927 .	Natural Gas P/ L Co. of America.	Snyder Gas Marketing.	03-05-93	G-S	5,000	N	I	02-01-93	Indef.
ST93-2928 .	Natural Gas P/ L Co. of America.	Associated Intrastate Pipeline Co.	03-05-93	G-S	40,000	N	I	02-05-93	Indef.
ST93-2929 .	Natural Gas P/ L Co. of America.	Windsor Gardens Association.	03-05-93	G-S	2,000	N	I	02-18-93	Indef.
ST93-2930 .	Natural Gas P/ L Co. of America.	Coastal Gas Marketing Co.	03-05-93	G-S	100,000	A	I	02-11-93	Indef.
ST93-2931 .	Natural Gas P/ L Co. of America.	Northern Illinois Gas Co.	03-05-93	B	50,000	N	I	02-12-93	Indef.
ST93-2932 .	Natural Gas P/ L Co. of America.	Northern Illinois Gas Co.	03-05-93	B	50,000	N	I	02-04-93	Indef.
ST93-2933 .	Natural Gas P/ L Co. of America.	Western Gas Marketing USA Limited.	03-05-93	G-S	450,000	N	I	02-01-93	Indef.
ST93-2934 .	Natural Gas P/ L Co. of America.	American Central Gas Marketing Co.	03-05-93	G-S	200,000	N	I	02-01-93	Indef.
ST93-2935 .	Natural Gas P/ L Co. of America.	ANR Pipeline Co	03-05-93	G	50,350	N	F	02-01-93	10-31-00
ST93-2936 .	Natural Gas P/ L Co. of America.	PPG Industries, Inc.	03-05-93	G-S	10,000	N	I	02-17-93	Indef.
ST93-2937 .	Natural Gas P/ L Co. of America.	Amerada Hess Corporation.	03-05-93	G-S	100,000	N	I	02-18-93	Indef.
ST93-2938 .	Natural Gas P/ L Co. of America.	O&R Energy, Inc..	03-05-93	G-S	50,000	N	I	02-20-93	Indef.
ST93-2939 .	Natural Gas P/ L Co. of America.	Triumph Natural Gas, Inc.	03-05-93	G-S	20,000	N	I	02-20-93	Indef.
ST93-2940 .	Natural Gas P/ L Co. of America.	El Paso Natural Gas Pipeline Co.	03-05-93	C	5,000	N	I	02-01-93	Indef.
ST93-2941 .	Natural Gas P/ L Co. of America.	Union Oil Co. of California.	03-05-93	G-S	10,000	N	I	02-16-93	Indef.
ST93-2942 .	Natural Gas P/ L Co. of America.	Natural Gas P/L Co. of America.	03-05-93	C	50,000	N	I	02-01-93	Indef.
ST93-2943 .	Natural Gas P/ L Co. of America.	Excel Gas Marketing, Inc.	03-05-93	G-S	50,000	N	I	02-20-93	Indef.

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Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST93-2880	Natural Gas P/L Co. of America.	Miccon Gas Services Corp.	03-05-93	G-S	3,000	Y	F	01-01-93	02-28-93
ST93-2881	Exxon Gas System, Inc.	Texaco Gas Marketing, Inc.	03-05-93	C	7,000	N	I	02-01-93	Indef.
ST93-2882	Valero Transmission, L.P.	United Gas Pipeline.	03-08-93	C	7,000	N	I	02-10-93	Indef.
ST93-2883	Acadian Gas Pipeline System.	Nat. Gas P/L Co. of America, et al.	03-08-93	C	50,000	N	I	01-14-93	Indef.
ST93-2884	Arkla Energy Resources Co.	Mustang Fuel Corp.	03-08-93	G-S	5,000	N	I	01-20-93	Indef.
ST93-2885	Transcontinental Gas P/L Corp.	MG Natural Gas Corp.	03-08-93	G-S	900,000	N	I	02-22-93	Indef.
ST93-2886	Florida Gas Transmission Co.	Amoco Gas Co	03-08-93	B	200,000	N	I	02-06-93	Indef.
ST93-2887	Williston Basis Inter. P/L Co.	Wyoming Gas Co.	03-08-93	B	4,620	N	I	02-08-93	09-30-93
ST93-2888	United Gas Pipe Line Co.	Nerco Oil & Gas, Inc.	03-08-93	G-S	50,000	N	I	02-23-93	06-23-93
ST93-2889	United Gas Pipe Line Co.	Canadian Occidental of Calif., Inc.	03-08-93	G-S	524,000	N	I	02-23-93	06-22-93
ST93-2890	United Gas Pipe Line Co.	Brooklyn Interstate Nat. Gas Corp.	03-08-93	G-S	104,000	N	I	02-22-93	06-22-93
ST93-2891	United Gas Pipe Line Co.	Enron Gas Marketing, Inc.	03-08-93	G-S	524,000	N	I	02-22-93	06-22-93
ST93-2892	United Gas Pipe Line Co.	Conoco Inc	03-08-93	G-S	60,000	N	I	02-25-93	06-25-93
ST93-2893	United Gas Pipe Line Co.	Amerada Hess Corp.	03-08-93	G-S	60,000	N	I	02-25-93	06-25-93
ST93-2894	United Gas Pipe Line Co.	Mississippi River Trans. Corp.	03-08-93	G-S	50,000	N	I	02-19-93	06-19-93
ST93-2895	United Gas Pipe Line Co.	Louisiana Municipal Nat. Gas Purch.	03-08-93	B	52,000	N	I	02-25-93	Indef.
ST93-2896	United Gas Pipe Line Co.	Pennzoil Gas Marketing Co.	03-08-93	G-S	209,600	N	I	02-22-93	06-22-93
ST93-2897	United Gas Pipe Line Co.	Torch Gas, L.C	03-08-93	G-S	100,000	N	I	02-12-93	06-12-93
ST93-2898	ANR Pipeline Co.	Tenaska Marketing Ventures.	03-09-93	G-S	100,000	N	I	02-27-93	Indef.
ST93-2899	ANR Pipeline Co.	Conoco, Inc	03-09-93	G-S	50,000	N	I	02-27-93	Indef.
ST93-2900	ANR Pipeline Co.	NGC Transportation, Inc.	03-09-93	G-S	100,000	N	I	02-27-93	Indef.
ST93-2901	ANR Pipeline Co.	Coastal Gas Marketing Co.	03-09-93	B	900,000	N	I	02-20-93	Indef.
ST93-2902	Tennessee Gas Pipeline Co.	NGO Development Corp.	03-09-93	G-S	5,000	N	I	03-01-93	Indef.
ST93-2903	Midwestern Gas Transmission Co.	Brooklyn Interstate Nat. Gas Corp.	03-09-93	G-S	100,000	N	I	03-01-93	Indef.
ST93-2904	Viking Gas Transmission Co.	Northern Minnesota Utilities.	03-09-93	G-S	1,500	N	F	02-15-93	03-31-93
ST93-2905	Texas Gas Transmission Corp.	CNG Producing Co.	03-09-93	G-S	25,000	N	I	03-01-93	Indef
ST93-2906	Texas Gas Transmission Corp.	Kentucky Apparel & Laundry, Inc.	03-09-93	G-S	2,000	N	I	03-01-93	Indef.
ST93-2907	Texas Gas Transmission Corp.	Stellar Gas Co	03-09-93	G-S	20,000	N	I	03-01-93	Indef.

Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST93-2908	Texas Gas Transmission Corp.	Brownsville Utility Dept.	03-09-93	G-S	3,747	N	F	03-04-93	Indef.
ST93-2909	Texas Gas Transmission Corp.	Coastal Gas Marketing Co.	03-09-93	G-S	125,000	N	I	02-23-93	Indef.
ST93-2910	Texas Gas Transmission Corp.	City of Clay	03-09-93	G-S	1,250	N	I	03-01-93	Indef.
ST93-2911	Arkla Energy Resources Co.	Kogas, Inc	03-09-93	G-S	250,000	N	I	03-05-93	Indef.
ST93-2912	Arkla Energy Resources Co.	Excel Gas Marketing Inc.	03-09-93	B	50,000	N	I	03-05-93	Indef.
ST93-2913	Southern Natural Gas Co.	Riverwood International Corp.	03-09-93	G-S	4,000	N	I	03-01-93	Indef.
ST93-2914	Southern Natural Gas Co.	City of Andersonville.	03-09-93	G-S	5,000	N	I	02-17-93	Indef.
ST93-2915	Sea Ribin Pipeline Co.	Sonat Marketing Co.	03-09-93	G-S	5,819	N	F	03-01-93	03-31-93
ST93-2916	United Gas Pipe Line Co.	Highland Energy Co.	03-10-93	G-S	27,815	N	I	02-26-93	06-26-93
ST93-2917	United Gas Pipe Line Co.	Union Pacific Fuels, Inc.	03-10-93	G-S	60,000	N	I	03-02-93	06-30-93
ST93-2918	United Gas Pipe Line Co.	Endevco Oil & Gas Co.	03-10-93	G-S	26,200	N	I	03-02-93	06-30-93
ST93-2919	United Gas Pipe Line Co.	Prior Intrastate Corp.	03-10-93	G-S	524,000	N	I	02-26-93	06-26-93
ST93-2920	United Gas Pipe Line Co.	Excel Gas Marketing, Inc.	03-10-93	G-S	102,704	N	I	02-26-93	06-26-93
ST93-2921	Panhandle Eastern Pipe Line Co.	Anadarko Trading Co.	03-10-93	G-S	10,000	N	I	02-11-93	Indef.
ST93-2922	Tennessee Gas Pipeline Co.	Continental Energy Marketing, Inc.	03-10-93	G-S	975	N	F	03-01-93	Indef.
ST93-2923	Tennessee Gas Pipeline Co.	Tenngasco Corp	03-10-93	G-S	2,000,000	A	I	10-01-92	Indef.
ST93-2924	Nothem Border Pipeline Co.	Louis Dreyfus Energy Corp.	03-10-93	G-S	150,000	Y	I	02-27-93	09-14-93
ST93-2925	Transcontinental Gas P/L Corp.	Channel Industries Gas Co.	03-10-93	B	750,000	N	I	02-16-93	Indef.
ST93-2926	Natural Gas P/L Co of America.	Nichols Homeshield.	03-10-93	G-S	2,000	N	I	03-01-93	Indef.
ST93-2927	Natural Gas P/L Co of America.	Valero Gas Marketing, L.P.	03-10-93	G-S	30,000	N	F	03-01-93	08-31-93
ST93-2928	Natural Gas P/L Co of America.	CNG Producing Co.	03-10-93	G-S	100,000	N	I	02-13-93	Indef.
ST93-2929	Natural Gas P/L Co of America.	Aquila Energy Marketing Corp.	03-10-93	G-S	50,000	N	F	02-10-93	01-31-94
ST93-2930	Tennessee Gas Pipeline Co.	Somerset Gas Service.	03-11-93	G-S	10,000	N	I	02-12-93	Indef.
ST93-2931	ANR Pipeline Co.	Murphy Oil USA, Inc.	03-11-93	G-S	100,000	N	I	03-01-93	Indef.
ST93-2932	ANR Pipeline Co.	Kerr-McGee Corp.	03-11-93	G-S	100,000	N	I	03-01-93	Indef.
ST93-2933	ANR Pipeline Co.	Providence Gas Co.	03-11-93	B	100,000	N	I	02-16-93	Indef.
ST93-2934	ANR Pipeline Co.	Northern Illinois Gas Co.	03-11-93	B	100,000	N	I	03-01-93	Indef.
ST93-2935	Algonquin Gas Transmission Co.	Consolidated Edison Co.	03-11-93	G-S	2,000,000	N	I	02-25-93	Indef.

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Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-2936	Algonquin Gas Transmission Co.	NGC Transportation, Inc.	03-11-93	G-S	300,000	N	I	02-19-93	Indef.
ST93-2937	Algonquin Gas Transmission Co.	Enron Gas Marketing, Inc.	03-11-93	G-S	450,000	N	I	02-19-93	Indef.
ST93-2938	Algonquin Gas Transmission Co.	Direct Gas Supply Corp.	03-11-93	G-S	120,000	N	I	02-24-93	Indef.
ST93-2939	Westar Transmission Co.	Williams Natural Gas Co.	03-11-93	C	25,000	N	I	01-21-93	Indef.
ST93-2940	Westar Transmission Co.	Oktex Pipeline Co.	03-11-93	C	10,000	N	I	02-01-93	Indef.
ST93-2941	Red River Pipeline Co.	Oktex Pipeline Co.	03-11-93	C	40,000	N	I	02-01-93	Indef.
ST93-2942	Texas Eastern Transmission Corp.	Delmarva Power & Light Co.	03-11-93	G-S	100,000	N	I	02-10-93	Indef.
ST93-2943	Northern Natural Gas Co.	O&R Energy, Inc	03-11-93	G-S	20,000	N	F/I	01-20-93	Indef.
ST93-2944	Natural Gas P/L Co. of America.	Torch Gas, L.C	03-11-93	G-S	100,000	N	I	03-01-93	Indef.
ST93-2945	Natural Gas P/L Co. of America.	Utrade Gas Co	03-11-93	G-S	30,000	Y	I	03-16-92	Indef.
ST93-2946	Natural Gas P/L Co. of America.	Utrade Gas Co	03-11-93	G-S	300,000	Y	I	03-16-92	Indef.
ST93-2947	Natural Gas P/L Co. of America.	Utrade Gas Co	03-11-93	G-S	200,000	Y	I	03-16-92	Indef.
ST93-2948	Natural Gas P/L Co. of America.	Texaco Gas Marketing, Inc.	03-11-93	G-S	100,000	N	I	03-02-93	Indef.
ST93-2949	Northwest Pipeline Corp.	Cuesta Production Co.	03-11-93	G-S	8,752	N	I	03-01-93	Indef.
ST93-2950	Northwest Pipeline Corp.	William G. Webb	03-11-93	G-S	1,248	N	I	03-01-93	Indef.
ST93-2951	Columbia Gulf Transmission Co.	N/W Mutual Life Insurance Co.	03-11-93	G-S	5,000	N	I	02-19-93	Indef.
ST93-2952	Algonquin Gas Transmission Co.	Milford Power, L.P.	03-12-93	G-S	30,200	N	F	02-16-93	08-27-07
ST93-2953	Channel Industries Gas Co.	Florida Gas Transmission Co.	03-12-93	C	150,000	N	I	02-13-93	Indef.
ST93-2954	Kern River Gas Transmission Co.	Washington Natural Gas Co.	03-12-93	G-S	100,000	N	I	02-19-93	Indef.
ST93-2955	Northern Border Pipeline Co.	Kimball Energy Corp.	03-12-93	G-S	100,000	N	I	04-25-90	04-30-94
ST93-2956	Northern Border Pipeline Co.	American Natural Gas Corp.	03-12-93	G-S	215,300	N	I	04-19-90	04-30-94
ST93-2957	Northern Border Pipeline Co.	Suncor Inc	03-12-93	G-S	100,000	N	I	01-01-88	11-30-93
ST93-2958	Northern Border Pipeline Co.	Texarkoma Transportation Co.	03-12-93	G-S	10,000	N	I	04-01-90	04-30-94
ST93-2959	Northern Border Pipeline Co.	Bonus Gas Processors, Inc.	03-12-93	G-S	300,000	N	I	01-05-88	12-31-93
ST93-2960	Northern Border Pipeline Co.	Candian Oxy Marketing Inc.	03-12-93	G-S	100,000	N	I	02-01-88	11-30-93

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-2961	Northern Border Pipeline Co.	U.S. Gypsum Co	03-12-93	G-S	15,500	N	I	09-30-89	11-30-93
ST93-2962	Texas Eastern Transmission Corp.	Consumers Gas Co.	03-12-93	B	50,000	N	I	02-27-93	Indef.
ST93-2963	Texas Eastern Transmission Corp.	Rochester Gas & Electric Corp.	03-12-93	B	21,500	N	I	02-22-93	Indef.
ST93-2964	Texas Eastern Transmission Corp.	Yuma Gas Corp	03-12-93	G-S	25,000	N	I	02-18-93	Indef.
ST93-2965	Texas Eastern Transmission Corp.	Continental Energy Marketing, Inc.	03-12-93	G-S	100,000	N	I	02-19-93	Indef.
ST93-2966	Trunkline Gas Co.	Chevron USA Production Co.	03-12-93	G-S	50,000	N	I	03-01-93	Indef.
ST93-2967	Trunkline Gas Co.	Midcon Marketing Corp.	03-12-93	G-S	100,000	N	I	03-01-93	Indef.
ST93-2968	Trunkline Gas Co.	Aquila Energy Marketing Corp.	03-12-93	G-S	50,000	N	I	03-01-93	Indef.
ST93-2969	Trunkline Gas Co.	Eastex Hydrocarbons, Inc.	03-12-93	G-S	100,000	N	I	03-01-93	Indef.
ST93-2970	Northern Natural Gas Co.	NGC Transportation, Inc.	03-12-93	G-S	100,000	N	F/I	02-15-93	Indef.
ST93-2971	Northern Natural Gas Co.	Bearpaw Gathering Systems, Inc.	03-12-93	G-S	15,000	N	F/I	02-24-93	Indef.
ST93-2972	Northern Natural Gas Co	Bearpaw Gathering Systems, Inc.	03-12-93	G-S	10,000	N	F/I	12-30-92	Indef.
ST93-2973	Montana Power Co	Williston Basin Inter Pipeline Co.	03-15-93	C	20,000	N	I	12-17-92	12-31-93
ST93-2974	Montana Power Co.	Colorado Interstate Gas Co.	03-15-93	C	10,000	N	I	02-01-93	10-31-02
ST93-2975	Montana Power Co	Colorado Interstate Gas Co	03-15-93	C	10,000	N	I	02-01-92	10-31-02
ST93-2976	Montana Power Co	Colorado Interstate Gas Co.	03-15-93	C	32,000	N	I	11-01-92	10-31-02
ST93-2977	Montana Power Co.	Williston Basin Inter. Pipeline Co.	03-15-93	C	13,000	N	I	12-23-92	12-31-93
ST93-2978	Montana Power Co.	Colorado Interstate Gas Co	03-15-93	C	10,000	N	I	11-01-92	10-31-97
ST93-2979	Montana Power Co.	Colorado Interstate Gas Co.	03-15-93	C	32,000	N	I	12-23-92	10-31-02
ST93-2980	ONG Transmission Co.	Northern Natural Gas Co.	03-15-93	C	50,000	N	I	02-16-93	Indef.
ST93-2981	Llano, Inc	El Paso Natural Gas Co., et al.	03-15-93	C	3,150	N	I	03-01-93	Indef.
ST93-2982	Columbia Gas Transmission Corp.	Schuller International, Inc.	03-15-93	G-S	1,200	N	F	03-01-03	Indef.
ST93-2983	Columbia Gas Transmission Corp.	Triangle Resource Group.	03-15-93	G-S	500	Y	I	03-01-93	Indef.
ST93-2984	Columbia Gas Transmission Corp.	Northeast Ohio Gas Marketing, Inc.	03-15-93	G-S	200	N	I	02-23-93	Indef.
ST93-2985	Delhi Gas Pipeline Corp	Texas Eastern Transmission Co.	03-15-93	C	100	N	I	02-19-93	Indef.
ST93-2986	Lone Star Gas Co.	Northern Natural Gas Co., et al.	03-16-93	C	30,000	N	I	02-17-93	Indef.
ST93-2987	Stingray Pipeline Co.	Entrade Corporation.	03-16-93	K-S	50,000	N	I	03-01-93	Indef.
ST93-2988	Arkla Energy Resources Co.	Tristar Gas Marketing Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-2989	Northern Natural Gas Co.	Bearpaw Gathering Systems, Inc.	03-16-93	G-S	10,000	N	F/I	12-30-92	Indef.
ST93-2990	Northern Natural Gas Co.	Bearpaw Gathering Systems, Inc.	03-16-93	G-S	15,000	N	F/I	02-24-93	Indef.
ST93-2991	Northern Natural Gas Co.	NGC Transportation, Inc.	03-16-93	G-S	100,000	N	F/I	02-15-93	Indef.
ST93-2992	Trunkline Gas Co.	Eastex Hydrocarbons, Inc.	03-16-93	G-S	100,000	N	I	03-01-93	Indef.
ST93-2993	Trunkline Gas Co.	Aquila Energy Marketing Corp.	03-16-93	G-S	50,000	N	I	03-01-93	Indef.
ST93-2994	Trunkline Gas Co.	Midcon Marketing Corp.	03-16-93	G-S	100,000	N	I	03-01-93	Indef.
ST93-2995	Trunkline Gas Co.	Chevron USA Production Co.	03-16-93	G-S	50,000	N	I	03-01-93	Indef.
ST93-2996	Texas Eastern Transmission Corp.	Yuma Gas Corp	03-16-93	G-S	25,000	N	I	02-18-93	Indef.
ST93-2997	Texas Eastern Transmission Corp.	Rochester Gas & Electric Corp.	03-16-93	B	21,500	N	I	02-22-93	Indef.
ST93-2998	Texas Eastern Transmission Corp.	Consumers Gas Co.	03-16-93	B	50,000	N	I	02-27-93	Indef.
ST93-2999	Texas Eastern Transmission Corp.	Continental Energy Marketing, Inc.	03-16-93	G-S	100,000	N	I	02-19-93	Indef.
ST93-3000	Texas Eastern Transmission Corp.	U.S. Gypsum Co	03-16-93	G-S	15,500	N	I	09-30-89	11-30-93
ST93-3001	Texas Eastern Transmission Corp.	Schuller International, Inc.	03-16-93	G-S	1,200	N	F	03-01-03	Indef.
ST93-3002	Texas Eastern Transmission Corp.	Triangle Resource Group.	03-16-93	G-S	500	Y	I	03-01-93	Indef.
ST93-3003	Texas Eastern Transmission Corp.	Northeast Ohio Gas Marketing, Inc.	03-16-93	G-S	200	N	I	02-23-93	Indef.
ST93-3004	Texas Eastern Transmission Corp.	Texas Eastern Transmission Co.	03-16-93	C	100	N	I	02-19-93	Indef.
ST93-3005	Texas Eastern Transmission Corp.	Northern Natural Gas Co., et al.	03-16-93	C	30,000	N	I	02-17-93	Indef.
ST93-3006	Texas Eastern Transmission Corp.	Entrade Corporation.	03-16-93	K-S	50,000	N	I	03-01-93	Indef.
ST93-3007	Texas Eastern Transmission Corp.	Tristar Gas Marketing Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-3008	Texas Eastern Transmission Corp.	Arkla Energy Resources Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3009	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3010	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3011	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3012	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3013	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3014	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3015	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3016	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3017	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3018	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3019	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3020	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3021	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3022	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3023	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3024	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3025	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3026	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3027	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3028	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3029	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3030	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3031	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3032	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3033	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3034	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3035	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3036	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3037	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3038	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3039	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3040	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3041	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3042	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3043	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3044	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3045	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3046	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3047	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3048	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3049	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3050	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3051	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3052	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3053	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3054	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3055	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3056	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3057	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3058	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3059	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.
ST93-3060	Texas Eastern Transmission Corp.	Lone Star Gas Co.	03-16-93	G-S	50,000	N	I	02-01-93	Indef.

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Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-2989 .	Arkla Energy Resources Co.	Tuscaloosa Pipeline.	03-16-93	B	250,000	N	I	03-01-93	Indef.
ST93-2990 .	Arkla Energy Resources Co.	Tuscaloosa Pipeline.	03-16-93	B	50,000	N	I	03-01-93	Indef.
ST93-2991 .	Northern Natural Gas Co.	Cibola Corp	03-16-93	G-S	300,000	N	F/I	03-01-93	Indef.
ST93-2992 .	Northern Natural Gas Co.	Maxus Gas Marketing Co.	03-16-93	G-S	100,000	N	F/I	03-01-93	Indef.
ST93-2993 .	Transcontinental Gas P/L Corp.	BP Gas Transmission Co.	03-16-93	B	920,000	N	I	10-10-90	Indef.
ST93-2994 .	Enogex Inc	Northern Natural Gas Co.	03-16-93	C	100,000	N	I	02-18-93	Indef.
ST93-2995 .	Enogex Inc	Williams Natural Gas Co.	03-16-93	C	20,000	N	I	03-01-93	Indef.
ST93-2996 .	Enogex Inc	Arkla Energy Resources.	03-16-93	C	50,000	N	I	03-10-93	Indef.
ST93-2997 .	Enogex Inc	Phillips Gas Pipeline Co.	03-16-93	C	50,000	N	I	03-01-93	Indef.
ST93-2998 .	Columbia Gulf Transmission Co.	Olympic Fuels Co.	03-16-93	G-S	10,000	N	I	02-27-93	Indef.
ST93-2999 .	Columbia Gulf Transmission Co.	Marathon Oil Co	03-16-93	G-S	1,500	N	I	03-01-93	Indef.
ST93-3000 .	Columbia Gulf Transmission Co.	Enmark Gas Corporation.	03-16-93	G-S	50,000	N	I	02-23-93	Indef.
ST93-3001 .	Columbia Gulf Transmission Co.	Associated Natural Gas, Inc.	03-16-93	G-S	50,000	N	I	02-23-993	Indef.
ST93-3002 .	Columbia Gulf Transmission Co.	Access Energy Corporation.	03-16-93	G-S	100,000	N	I	02-28-93	Indef.
ST93-3003 .	ANR Pipeline Co.	Conoco Inc	03-17-93	G-S	50,000	N	F	02-16-93	03-01-93
ST93-3004 .	ANR Pipeline Co.	J.I. Case Co	03-17-93	G-S	2,650	N	I	02-17-93	03-01-93
ST93-3005 .	ANR Pipeline Co.	Brooklyn Interstate Nat. Gas Corp.	03-17-93	G-S	50,000	Y	F	02-19-93	03-01-93
ST93-3006 .	ANR Pipeline Co.	Coast Energy Group.	03-17-93	G-S	50,000	N	I	02-22-93	03-01-93
ST93-3007 .	ANR Pipeline Co.	Orbit Gas Co.	03-17-93	B	50,000	N	I	02-22-93	03-01-93
ST93-3008 .	ANR Pipeline Co.	Conoco Inc	03-17-93	G-S	50,000	N	F	02-16-93	03-01-93
ST93-3009 .	ANR Pipeline Co.	CNG Producing Co.	03-17-93	G-S	30,000	N	I	02-11-93	03-01-93
ST93-3010 .	ANR Pipeline Co.	Mobil Natural Gas Inc.	03-17-93	G-S	100,000	N	I	02-20-92	03-01-92
ST93-3011 .	ANR Pipeline Co.	Western Gas Marketing, Inc.	03-17-93	G-S	100,000	N	I	01-08-93	03-01-93
ST93-3012 .	Williston Basin Inter. P/L Co.	KN Gas Marketing, Inc.	03-17-93	G-S	120,000	N	I	02-18-93	12-31-93
ST93-3013 .	Questar Pipeline Co.	Kimball Energy Corp.	03-17-93	G-S	20,000	N	I	02-15-93	Indef.
ST93-3014 .	ONG Transmission Co.	Natural Gas Pipeline Co. of America.	03-17-93	C	25,000	N	I	02-26-93	Indef.
ST93-3015 .	ONG Transmission Co.	Panhandle Eastern Pipe Line Co.	03-17-93	C	20,000	N	I	03-03-93	Indef.
ST93-3016 .	ONG Transmission Co.	Northern Natural Gas Co.	03-17-93	C	50,000	N	I	10-01-92	Indef.
ST93-3017 .	ONG Transmission Co.	Northern Natural Gas Co.	03-17-93	C	150,000	N	I	03-01-93	Indef.
ST93-3018 .	ONG Transmission Co.	Arkla Energy Resources.	03-17-93	C	50,000	N	I	2-22-93	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-3019 .	Tennessee Gas Pipeline Co.	Gaslantic Corp ..	03-17-93	G-S	10,000	N	I	02-15-93	Indef.
ST93-3020	Houston Pipe Line Co.	United Gas Pipe Line Co.	03-17-93	C	20,000	N	I	02-01-93	Indef.
ST93-3021 .	Houston Pipe Line Co.	Natural Gas Pipeline Co of America.	03-17-93	C	50,000	N	I	02-20-93	Indef.
ST93-3022 .	Houston Pipe Line Co.	Tennessee Gas Pipeline Co.	03-17-93	C	20,000	N	I	02-19-93	Indef.
ST93-3023 .	Houston Pipe Line Co.	Sabine Pipeline Co.	03-17-93	C	15,000	N	I	02-20-93	Indef.
ST93-3024 .	Houston Pipe Line Co.	Texas Eastern Transmission Corp.	03-17-93	C	100,000	N	I	03-01-93	Indef.
ST93-3025 .	Stingray Pipeline Co.	Citizens Gas Corp.	03-17-93	K-S	500,000	N	I	11-01-92	Indef.
ST93-3026 .	National Fuel Gas Supply Corp.	National Fuel Gas Distribution Corp.	03-17-93	G-S	50	N	I	02-01-91	06-01-91
ST93-3027 .	National Fuel Gas Supply Corp.	National Fuel Gas Distribution Corp.	03-17-93	B	165	N	I	01-31-91	06-01-91
ST93-3028 .	National Fuel Gas Supply Corp.	National Fuel Gas Distribution Corp.	03-17-93	G-S	56	N	I	02-06-91	06-06-91
ST93-3029	National Fuel Gas Supply Corp.	National Fuel Gas Distribution Corp.	03-17-93	G-S	703	N	I	02-05-91	06-05-91
ST93-3030 .	National Fuel Gas Supply Corp.	Gaslantic Corp ..	03-17-93	G-S	50,000	N	I	02-15-93	01-31-13
ST93-3031 .	National Fuel Gas Supply Corp.	Capital Oil & Gas, Inc.	03-17-93	G-S	10,000	N	I	02-27-93	02-19-13
ST93-3032	National Fuel Gas Supply Corp.	Delmarva Power & Light Co.	03-17-93	G-S	10,000	N	I	03-05-93	02-28-13
ST93-3033 .	National Fuel Gas Supply Corp.	Heritage Management Associates.	03-17-93	G-S	35	N	I	02-13-93	06-13-91
ST93-3034	Questar Pipeline Co.	Marathon Oil Co	03-18-93	G-S	500	N	I	03-01-93	Indef.
ST93-3035 .	Gulf Energy Pipeline Co.	Trunkline Gas Co.	03-18-93	C	5,000	N	I	02-01-93	Indef.
ST93-3036	Tennessee Gas Pipeline Co.	AGIP Petroleum Co., Inc.	03-18-93	G-S	100,000	N	I	02-20-93	Indef.
ST93-3037 .	Tennessee Gas Pipeline Co.	United States Gypsum Co.	03-18-93	G-S	1,200	N	F	02-24-93	04-01-93
ST93-3038 .	Tennessee Gas Pipeline Co.	Ocean State Power.	03-18-93	G-S	110,000	N	I	02-20-93	Indef.
ST93-3039 .	Natural Gas P/L Co. of America.	Aquila Energy Marketing Corp.	03-18-93	G-S	100,000	N	I	03-01-92	Indef.
ST93-3040 .	Natural Gas P/L Co. of America.	Aquila Energy Marketing Corp.	03-18-93	G-S	250,000	N	I	03-01-92	Indef.
ST93-3041 .	Natural Gas P/L Co. of America.	Aquila Energy Marketing Corp.	03-18-93	G-S	100,000	N	I	03-01-92	Indef.
ST93-3042 .	Natural Gas P/L Co. of America.	Aquila Energy Marketing Corp.	03-18-93	G-S	100,000	N	I	03-01-92	Indef.
ST93-3043 .	Transcontinental Gas P/L Corp.	Washington Gas Light Co., et al.	03-18-93	B	330,000	N	I	03-02-93	Indef.

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ST93–3044 .	Trans-continental Gas P/L Corp.	City of Richmond, et al.	03–18–93	B	300,000	N	I	03–02–93	Indef.
ST93–3045 .	Trans-continental Gas P/L Corp.	Virginia Natural Gas, Inc., et al.	03–18–93	B	660,000	A	I	03–02–93	Indef.
ST93–3046 .	Transok Gas Transmission Co.	ANR Pipeline Co., et al.	03–18–93	C	50,000	N	I	03–01–92	Indef.
ST93–3047 .	Transok, Inc ...	ANR Pipeline Co., et al.	03–19–93	C	60,000	N	I	02–24–93	Indef.
ST93–3048 .	Valero Transmission, L.P.	Natural Gas Pipeline Co. of America.	03–19–93	C	25,000	N	I	03–01–93	Indef.
ST93–3049 .	U–T Offshore System.	Energy Development Corp.	03–19–93	K–S	300,000	N	I	03–01–93	Indef.
ST93–3050 .	Tennessee Gas Pipeline Co.	Unified Natural Gas Group, L.P.	03–19–93	G–S	5,200	N	I	03–01–93	Indef.
ST93–3051 .	Tennessee Gas Pipeline Co.	Eastern Marketing Corp.	03–19–93	G–S	50,000	N	I	03–01–93	Indef.
ST93–3052 .	Tennessee Gas Pipeline Co.	KCS Energy Marketing, Inc.	03–19–93	G–S	200,000	N	I	03–01–93	Indef.
ST93–3053 .	El Paso Natural Gas Co.	Yuma Gas Corp	03–19–93	G–S	20,000	N	I	02–21–93	Indef.
ST93–3054 .	Paiute Pipeline Co.	Newmont Gold Co.	03–19–93	G–S	7,035	N	I	02–11–93	Indef.
ST93–3055 .	Northwest Pipeline Corp.	TM Star Fuel Co	03–19–93	G–S	20,000	N	I	03–10–93	Indef.
ST93–3056 .	Transwestern Pipeline Co.	Texas-Ohio West, Inc.	03–19–93	G–S	25,000	N	I	02–07–93	Indef.
ST93–3057 .	Transwestern Pipeline Co.	Enron Gas Marketing, Inc.	03–19–93	G–S	500,000	A	I	03–04–93	Indef.
ST93–3058 .	Transwestern Pipeline Co.	Cimarron Gas Cos., Inc.	03–19–93	G–S	100,000	N	I	03–01–93	Indef.
ST93–3059 .	Transwestern Pipeline Co.	Watson Cogeneration Co.	03–19–93	G–S	110,000	N	I	03–01–93	Indef.
ST93–3060 .	Transwestern Pipeline Co.	National Gas Resources, L.P.	03–19–93	G–S	100,000	N	I	03–01–93	Indef.
ST93–3061 .	Transwestern Pipeline Co.	Bridgegas USA, Inc.	03–19–93	G–S	500,000	N	I	02–28–93	Indef.
ST93–3062 .	Trunkline Gas Co.	Mega Natural Gas Co.	03–19–93	G–S	50,000	N	I	03–03–93	Indef.
ST93–3063 .	Trunkline Gas Co.	Mobil Natural Gas, Inc.	03–19–93	G–S	10,000	N	I	03–01–93	Indef.
ST93–3064 .	Trunkline Gas Co.	Midcon Gas Services Corp.	03–19–93	G–S	100,000	N	I	03–01–93	Indef.
ST93–3065 .	Trunkline Gas Co.	Aquila Energy Marketing Corp.	03–19–93	G–S	50,000	N	I	03–03–93	Indef.
ST93–3066 .	Channel Industries Gas Co.	Natural Gas Pipeline Co. of America.	03–22–93	C	50,000	N	1	02–20–93	Indef.
ST93–3067 .	CNG Transmission Corp.	KCS Energy Marketing.	03–22–93	G–S	30,000	N	I	02–26–93	Indef.
ST93–3068 .	CNG Transmission Corp.	CNG Gas Services.	03–22–93	G–S	300,000	Y	I	03–01–93	Indef.
ST93–3069 .	CNG Transmission Corp.	City of Richmond.	03–22–93	G–S	10,000	N	I	02–22–93	Indef.
ST93–3070 .	United Gas Pipe Line Co.	Entex	03–22–93	G–S	6,000	N	F	03–01–93	06–29–93
ST93–3071 .	United Gas Pipe Line Co.	NGC Transportation, Inc.	03–22–93	G–S	50,000	N	I	03–11–93	07–09–93
ST93–3072 .	United Gas Pipe Line Co.	Kogas, Inc	03–22–93	G–S	30,000	Y	I	02–26–93	06–26–93
ST93–3073 .	United Gas Pipe Line Co.	Midcon Gas Services Corp.	03–22–93	G–S	*74,198	N	F	03–11–93	07–09–93

Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST93–3074 .	United Gas Pipe Line Co.	Coastal Gas Marketing Co.	03–22–93	G–S	262,000	N	I	03–11–93	07–09–93
ST93–3075 .	United Gas Pipe Line Co.	Enmark Gas Corp.	03–22–93	G–S	47,160	N	I	03–11–93	06–29–93
ST93–3076 .	United Gas Pipe Line Co.	Brooklyn Inter. Natural Gas Corp.	03–22–93	G–S	104,800	N	I	03–11–93	07–09–93
ST93–3077 .	United Gas Pipe Line Co.	Arkla Energy Marketing Co.	03–22–93	G–S	209,600	N	I	03–11–93	07–09–93
ST93–3078 .	United Gas Pipe Line Co.	Polaris Pipeline Corp.	03–22–93	G–S	20,960	N	I	03–11–93	07–09–93
ST93–3079 .	United Gas Pipe Line Co.	Shell Gas Trading Co.	03–22–93	G–S	209,600	N	I	03–11–93	07–09–93
ST93–3080	United Gas Pipe Line Co.	United Gas Services Co.	03–22–93	G–S	628,800	A	I	03–11–93	07–09–93
ST93–3081 .	Trans-continental Gas P/L Corp.	Stellar Gas Co ..	03–22–93	G–S	1,900,000	N	I	03–11–93	INDEF.
ST93–3082	Trans-continental Gas P/L Corp.	American Central Gas Cos., Inc.	03–22–93	G–S	10,365,000	N	I	03–11–93	INDEF.
ST93–3083	Trans-continental Gas P/L Corp.	City of Lexington	03–22–93	B	129,600	N	I	03–14–93	INDEF
ST93–3084	Trans-continental Gas P/L Corp.	City of Laurens	03–22–93	B	111,000	N	I	03–14–93	INDEF.
ST93–3085 .	Trans-continental Gas P/L Corp.	MG Natural Gas Corp.	03–22–93	G–S	900,000	N	I	03–11–93	INDEF.
ST93–3086 .	Texas Gas Transmission Corp.	Interstate Gas Marketing, Inc.	03–22–93	G–S	10,000	N	I	03–05–93	INDEF
ST93–3087 .	Texas Gas Transmission Corp.	Logan Aluminum, Inc.	03–22–93	G–S	10,200	N	I	03–16–93	INDEF.
ST93–3088 .	Texas Gas Transmission Corp.	Arkla Energy Marketing Co.	03–22–93	G–S	100,000	N	I	03–08–93	INDEF.
ST93–3089 .	Overland Trail Transmission Co.	Kern River Gas Transmission.	03–23–93	C	100,000	N	I	03–6–93	INDEF.
ST93–3090 .	Westar Transmission Co.	El Paso Natural Gas Co.	03–23–93	C	25,000	N	I	02–19–93	INDEF.
ST93–3091 .	Westar Transmission Co.	Williams Natural Gas Co.	03–23–93	C	50,000	N	I	02–01–93	INDEF.
ST93–3092 .	Westar Transmission Co.	Williams Natural Gas Co.	03–23–93	C	10,000	N	I	02–01–93	INDEF.
ST93–3093	Enogex Inc	Natural Gas Pipeline Co.	03–23–93	C	10,000	N	I	03–16–93	INDEF.
ST93–3094	Kern River Gas Transmission Co.	Eastex Hydrocarbons, Inc.	03–23–93	G–S	75,000	N	I	02–26–93	INDEF.
ST93–3095 .	Truckline Gas Co.	MG Natural Gas Corp.	03–23–93	G–S	25,000	N	I	03–01–93	INDEF.
ST93–3096 .	Truckline Gas Co.	Triumph Natural Gas, Inc.	03–23–93	G–S	22,000	N	I	03–01–93	INDEF.
ST93–3097 .	Truckline Gas Co.	Midcon Gas Services Corp.	03–23–93	G–S	100,000	N	I	03–11–93	INDEF
ST93–3098 .	Columbia Gas Transmission Corp.	Waco Oil & Gas Co., Inc.	03–23–93	G–S	700	N	I	03–01–93	INDEF.
ST93–3099	Trans-continental Gas P/L Corp.	Corpus Christi Indus. P/L, et al.	03–23–93	B	200,000	A	F/I	03–02–93	INDEF.
ST93–3100 .	Sabine Pipe Line Co.	Transok Gas Co	03–24–93	G–S	100,000	N	I	03–05–93	INDEF

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Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-3101 .	Sabine Pipe Line Co.	Marathon Oil Co	03-24-93	G-S	50,000	N	I	03-01-93	INDEF.
ST93-3102 .	Sabine Pipe Line Co.	Citrus Marketing, Inc.	03-24-93	G-S	100,000	N	I	03-01-93	INDEF.
ST93-3103 .	Algonquin Gas Transmission Co.	Direct Gas Supply Corp.	03-24-93	G-S	120,000	N	I	03-01-93	INDEF.
ST93-3104 .	Algonquin Gas Transmission Co.	Brooklyn Interstate Nat. Gas Corp.	03-24-93	G-S	900,000	N	I	02-27-93	INDEF.
ST93-3105 .	Algonquin Gas Transmission Co.	Coastal Gas Marketing Co.	03-24-93	G-S	8,101,370	N	I	03-01-93	INDEF.
ST93-3106 .	Panhandle Eastern Pipe Line Co.	Bridgegas U.S.A. Inc.	03-24-93	G-S	200,000	N	I	03-01-93	INDEF.
ST93-3107 .	Panhandle Eastern Pipe Line Co.	Eastex Hydrocarbon, Inc.	03-24-93	G-S	100,000	N	I	03-01-93	INDEF.
ST93-3108 .	Panhandle Eastern Pipe Line Co.	State of Michigan.	03-24-93	G-S	2,000	N	I	03-01-93	INDEF.
ST93-3109 .	Panhandle Eastern Pipe Line Co.	Anthem Energy Co.	03-24-93	G-S	50,000	N	I	03-01-93	INDEF.
ST93-3110 .	Panhandle Eastern Pipe Line Co.	Gerrity Oil & Gas Corp.	03-24-93	G-S	18,250,000	N	I	03-01-93	INDEF.
ST93-3111 .	Delhi Gas Pipeline Corp.	Arkla Energy Resources, et al.	03-24-93	C	20,000	N	I	03-01-93	INDEF.
ST93-3112 .	Delhi Gas Pipeline Corp.	KN Energy, Inc., et al.	03-24-93	C	4,000	N	I	02-24-93	INDEF.
ST93-3113 .	Delhi Gas Pipeline Corp.	ANR Pipeline Co., et al.	03-24-93	C	5,000	N	I	02-24-93	INDEF.
ST93-3114 .	Gulf States Pipeline Corp.	Southern Natural Gas Co., et al.	03-24-93	C	5,000	N	I	04-01-92	INDEF.
ST93-3115 .	Gulf States Pipeline Corp.	Southern Natural Gas Co., et al.	03-24-93	C	40,000	N	I	12-01-92	INDEF.
ST93-3116 .	Northern Border Pipeline Co.	Norcen Marketing, Inc.	03-24-93	G-S	30,000	Y	I	03-12-93	05-14-93
ST93-3117 .	Phillips Gas Pipeline Co.	Phillips Texas Border Pipeline Co.	03-24-93	B	75,000	A	I	02-13-93	05-14-93
ST93-3118 .	Transcontinental Gas P/L Corp.	City of Union	03-24-93	B	130,000	N	I	03-16-93	INDEF
ST93-3119 .	Transcontinental Gas P/L Corp.	City of Greer	03-24-93	B	61,866	N	I	03-14-93	INDEF.
ST93-3120 .	Transcontinental Gas P/L Corp.	City of Shelby ...	03-24-93	B	150,800	N	I	03-16-93	INDEF.
ST93-3121 .	Transcontinental Gas P/L Corp.	City of Danville ..	03-24-93	B	298,000	N	I	03-14-93	INDEF.
ST93-3122 .	ANR Pipeline Co.	Iowa-Illinois Gas & Elect. Co.	03-24-93	B	100,000	N	I	03-31-93	INDEF.
ST93-3123 .	ANR Pipeline Co.	Murphy Oil USA, Inc.	03-24-93	G-S	100,000	N	I	03-04-93	INDEF
ST93-3124 .	ANR Pipeline Co.	Polaris Pipeline Co.	03-24-93	G-S	100,000	N	I	03-04-93	INDEF.
ST93-3125 .	ANR Pipeline Co.	Coastal Gas Marketing Co.	03-24-93	G-S	100,000	A	I	03-05-93	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-3126 .	ANR Pipeline Co.	Tenngasco Corp	03-24-93	G-S	25,000	N	I	03-05-93	Indef.
ST93-3127 .	ANR Pipeline Co.	Penrzoil Gas Marketing Co.	03-24-93	G-S	15,000	N	I	03-11-93	Indef.
ST93-3128 .	ANR Pipeline Co.	Michigan Consolidated Gas Co.	03-24-93	B	50,000	N	I	03-12-93	Indef.
ST93-3129 .	Tennessee Gas Pipeline Co.	Distrigas of Massachusetts Corp.	03-25-93	G	110,000	N	I	02-25-93	Indef
ST93-3130 .	Tennessee Gas Pipeline Co.	Direct Gas Supply Corp.	03-25-93	G-S	51,550	N	I	02-23-93	Indef
ST93-3131 .	Delhi Gas Pipeline Corp.	Natural Gas Pipeline Co. of America.	03-25-93	C	5,500	N	I	03-01-93	Indef.
ST93-3132 .	Delhi Gas Pipeline Corp.	Arkla Energy Resources.	03-25-93	C	41,000	N	I	03-01-93	Indef.
ST93-3133 .	Transcontinental Gas P/L Corp.	Woodward Marketing, Inc.	03-25-93	G-S	50,000	N	I	03-16-93	Indef.
ST93-3134 .	Natural Gas P/L Co. of America.	Mobil Natural Gas, Inc.	03-25-93	G-S	100,000	N	I	10-01-90	Indef.
ST93-3135 .	Natural Gas P/L Co. of America.	Enron Gas Marketing, Inc.	03-25-93	G-S	100,000	N	I	03-01-92	Indef.
ST93-3136 .	Natural Gas P/L Co. of America.	Enron Gas Marketing, Inc.	03-25-93	G-S	150,000	N	I	03-01-92	Indef.
ST93-3137 .	Natural Gas P/L Co. of America.	Enron Gas Marketing, Inc.	03-25-93	G-S	150,000	N	I	03-01-92	Indef.
ST93-3138 .	Pacific Gas Transmission Co.	American Hunter Exploration Ltd.	03-26-93	G-S	50,000	N	I	01-28-93	Indef.
ST93-3139 .	Great Lake Gas Trans., L.P.	Northern States Power Co.	03-26-93	G-S	35,000	N	I	03-10-93	Indef.
ST93-3140 .	Great Lake Gas Trans., L.P.	National Steel Corp.	03-26-93	G-S	9,000	N	I	03-12-93	Indef.
ST93-3141 .	Great Lake Gas Trans., L.P.	Direct Energy Marketing Ltd.	03-26-93	G-S	20,000	N	I	03-09-93	Indef.
ST93-3142 .	Great Lake Gas Trans., L.P.	Kaztex Energy Management, Inc.	03-26-93	G-S	25,000	N	I	03-09-93	Indef.
ST93-3143 .	Kern River Gas Transmission Co.	Shell Western E & P Inc.	03-26-93	G-S	100,000	N	F	02-27-93	Indef.
ST93-3144 .	Tennessee Gas Pipeline Co.	City of Holyoke Gas & Electric Dpt.	03-26-93	B	2,000	N	F	01-21-93	Indef.
ST93-3145 .	Texas Eastern Transmission Corp.	NGO Development Corp.	03-26-93	G-S	5,000	N	I	03-11-93	Indef.
ST93-3146 .	Texas Eastern Transmission Corp.	Union Oil Co. of California.	03-26-93	G-S	200	N	I	03-01-93	Indef.
ST93-3147 .	Texas Eastern Transmission Corp.	Amoco Energy Trading Corp.	03-26-93	G-S	1,000,000	N	I	03-01-93	Indef.
ST93-3148 .	Texas Eastern Transmission Corp.	Winnie Pipeline Co.	03-26-93	B	200,000	N	I	03-01-93	Indef.
ST93-3149 .	Texas Eastern Transmission Corp.	Global Petroleum Corp.	03-26-93	G-S	75,000	N	I	03-02-93	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-3150 .	Texas Eastern Transmission Corp.	Tenngasco Corp	03-26-93	G-S	25,000	N	I	03-05-93	Indef.
ST93-3151 .	Texas Eastern Transmission Corp.	Penrzoil Gas Marketing Co.	03-26-93	G-S	15,000	N	I	03-11-93	Indef.
ST93-3152 .	Texas Eastern Transmission Corp.	Michigan Consolidated Gas Co.	03-26-93	B	50,000	N	I	03-12-93	Indef.
ST93-3153 .	Texas Eastern Transmission Corp.	Distrigas of Massachusetts Corp.	03-26-93	G	110,000	N	I	02-25-93	Indef
ST93-3154 .	Texas Eastern Transmission Corp.	Direct Gas Supply Corp.	03-26-93	G-S	51,550	N	I	02-23-93	Indef
ST93-3155 .	Texas Eastern Transmission Corp.	Natural Gas Pipeline Co. of America.	03-26-93	C	5,500	N	I	03-01-93	Indef.
ST93-3156 .	Texas Eastern Transmission Corp.	Arkla Energy Resources.	03-26-93	C	41,000	N	I	03-01-93	Indef.
ST93-3157 .	Texas Eastern Transmission Corp.	Woodward Marketing, Inc.	03-26-93	G-S	50,000	N	I	03-16-93	Indef.
ST93-3158 .	Texas Eastern Transmission Corp.	Mobil Natural Gas, Inc.	03-26-93	G-S	100,000	N	I	10-01-90	Indef.
ST93-3159 .	Texas Eastern Transmission Corp.	Enron Gas Marketing, Inc.	03-26-93	G-S	100,000	N	I	03-01-92	Indef.
ST93-3160 .	Texas Eastern Transmission Corp.	Enron Gas Marketing, Inc.	03-26-93	G-S	150,000	N	I	03-01-92	Indef.
ST93-3161 .	Texas Eastern Transmission Corp.	Enron Gas Marketing, Inc.	03-26-93	G-S	150,000	N	I	03-01-92	Indef.
ST93-3162 .	Texas Eastern Transmission Corp.	American Hunter Exploration Ltd.	03-26-93	G-S	50,000	N	I	01-28-93	Indef.
ST93-3163 .	Texas Eastern Transmission Corp.	Northern States Power Co.	03-26-93	G-S	35,000	N	I	03-10-93	Indef.
ST93-3164 .	Texas Eastern Transmission Corp.	National Steel Corp.	03-26-93	G-S	9,000	N	I	03-12-93	Indef.
ST93-3165 .	Texas Eastern Transmission Corp.	Direct Energy Marketing Ltd.	03-26-93	G-S	20,000	N	I	03-09-93	Indef.
ST93-3166 .	Texas Eastern Transmission Corp.	Kaztex Energy Management, Inc.	03-26-93	G-S	25,000	N	I	03-09-93	Indef.
ST93-3167 .	Texas Eastern Transmission Corp.	Shell Western E & P Inc.	03-26-93	G-S	100,000	N	F	02-27-93	Indef.
ST93-3168 .	Texas Eastern Transmission Corp.	City of Holyoke Gas & Electric Dpt.	03-26-93	B	2,000	N	F	01-21-93	Indef.
ST93-3169 .	Texas Eastern Transmission Corp.	NGO Development Corp.	03-26-93	G-S	5,000	N	I	03-11-93	Indef.
ST93-3170 .	Texas Eastern Transmission Corp.	Union Oil Co. of California.	03-26-93	G-S	200	N	I	03-01-93	Indef.
ST93-3171 .	Texas Eastern Transmission Corp.	Amoco Energy Trading Corp.	03-26-93	G-S	1,000,000	N	I	03-01-93	Indef.
ST93-3172 .	Texas Eastern Transmission Corp.	Winnie Pipeline Co.	03-26-93	B	200,000	N	I	03-01-93	Indef.
ST93-3173 .	Texas Eastern Transmission Corp.	Global Petroleum Corp.	03-26-93	G-S	75,000	N	I	03-02-93	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-3174 .	Texas Eastern Transmission Corp.	Tenngasco Corp	03-26-93	G-S	25,000	N	I	03-05-93	Indef.
ST93-3175 .	Texas Eastern Transmission Corp.	Penrzoil Gas Marketing Co.	03-26-93	G-S	15,000	N	I	03-11-93	Indef.
ST93-3176 .	Texas Eastern Transmission Corp.	Michigan Consolidated Gas Co.	03-26-93	B	50,000	N	I	03-12-93	Indef.
ST93-3177 .	Texas Eastern Transmission Corp.	Distrigas of Massachusetts Corp.	03-26-93	G	110,000	N	I	02-25-93	Indef
ST93-3178 .	Texas Eastern Transmission Corp.	Direct Gas Supply Corp.	03-26-93	G-S	51,550	N	I	02-23-93	Indef
ST93-3179 .	Texas Eastern Transmission Corp.	Natural Gas Pipeline Co. of America.	03-26-93	C	5,500	N	I	03-01-93	Indef.
ST93-3180 .	Texas Eastern Transmission Corp.	Arkla Energy Resources.	03-26-93	C	41,000	N	I	03-01-93	Indef.
ST93-3181 .	Texas Eastern Transmission Corp.	Woodward Marketing, Inc.	03-26-93	G-S	50,000	N	I	03-16-93	Indef.
ST93-3182 .	Texas Eastern Transmission Corp.	Mobil Natural Gas, Inc.	03-26-93	G-S	100,000	N	I	10-01-90	Indef.
ST93-3183 .	Texas Eastern Transmission Corp.	Enron Gas Marketing, Inc.	03-26-93	G-S	100,000	N	I	03-01-92	Indef.
ST93-3184 .	Texas Eastern Transmission Corp.	Enron Gas Marketing, Inc.	03-26-93	G-S	150,000	N	I	03-01-92	Indef.
ST93-3185 .	Texas Eastern Transmission Corp.	Enron Gas Marketing, Inc.	03-26-93	G-S	150,000	N	I	03-01-92	Indef.
ST93-3186 .	Texas Eastern Transmission Corp.	American Hunter Exploration Ltd.	03-26-93	G-S	50,000	N	I	01-28-93	Indef.
ST93-3187 .	Texas Eastern Transmission Corp.	Northern States Power Co.	03-26-93	G-S	35,000	N	I	03-10-93	Indef.
ST93-3188 .	Texas Eastern Transmission Corp.	National Steel Corp.	03-26-93	G-S	9,000	N	I	03-12-93	Indef.
ST93-3189 .	Texas Eastern Transmission Corp.	Direct Energy Marketing Ltd.	03-26-93	G-S	20,000	N	I	03-09-93	Indef.
ST93-3190 .	Texas Eastern Transmission Corp.	Kaztex Energy Management, Inc.	03-26-93	G-S	25,000	N	I	03-09-93	Indef.
ST93-3191 .	Texas Eastern Transmission Corp.	Shell Western E & P Inc.	03-26-93	G-S	100,000	N	F	02-27-93	Indef.
ST93-3192 .	Texas Eastern Transmission Corp.	City of Holyoke Gas & Electric Dpt.	03-26-93	B	2,000	N	F	01-21-93	Indef.
ST93-3193 .	Texas Eastern Transmission Corp.	NGO Development Corp.	03-26-93	G-S	5,000	N	I	03-11-93	Indef.
ST93-3194 .	Texas Eastern Transmission Corp.	Union Oil Co. of California.	03-26-93	G-S	200	N	I	03-01-93	Indef.
ST93-3195 .	Texas Eastern Transmission Corp.	Amoco Energy Trading Corp.	03-26-93	G-S	1,000,000	N	I	03-01-93	Indef.
ST93-3196 .	Texas Eastern Transmission Corp.	Winnie Pipeline Co.	03-26-93	B	200,000	N	I	03-01-93	Indef.
ST93-3197 .	Texas Eastern Transmission Corp.	Global Petroleum Corp.	03-26-93	G-S	75,000	N	I	03-02-93	Indef.

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ST93-3150	Texas Eastern Transmission Corp.	Arkla Energy Marketing Co.	03-26-93	G-S	700,000	N	I	03-12-93	Indef.
ST93-3151	Transwestern Pipeline Co.	Enron Industrial Natural Gas Co.	03-26-93	B	140,000	A	I	02-27-93	Indef.
ST93-3152	United Gas Pipe Line Co.	Transok Gas Co	03-26-93	G-S	26,200	N	I	03-17-93	07-15-93
ST93-3153	Natural Gas P/L Co. of America.	Prior Intrastate Corp.	03-26-93	G-S	20,000	N	I	03-16-93	Indef.
ST93-3154	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	03-26-93	G-S	18,900	N	F	03-01-93	12-01-95
ST93-3155	Mississippi River Trans. Corp.	Apex Oil Co., Inc	03-26-93	G-S	50,000	N	I	03-01-93	Indef.
ST93-3156	El Paso Natural Gas Co.	Texas-Ohio West, Inc.	03-26-93	G-S	5,000	N	I	03-01-93	Indef.
ST93-3157	El Paso Natural Gas Co.	Tristar Gas Co	03-26-93	G-S	2,600	N	I	03-14-93	Indef.
ST93-3158	Transcontinental Gas P/L Corp.	MG Natural Gas Corp.	03-26-93	G-S	900,060	N	I	03-19-93	Indef.
ST93-3159	Tennessee Gas Pipeline Co.	Enron Gas Marketing, Inc.	03-29-93	G-S	703,297	N	I	03-01-93	Indef.
ST93-3160	Colorado Interstate Gas Co.	Gerrity Oil & Corp.	03-29-93	G-S	40,000	N	I	03-01-93	Indef.
ST93-3161	Colorado Interstate Gas Co.	Associated Interstate Pipeline Co.	03-29-93	G-S	20,000	N	I	03-01-93	Indef.
ST93-3162	Northern Natural Gas Co.	Northern Illinois Gas Co.	03-29-93	G-S	7,000	N	F/I	03-01-93	Indef.
ST93-3163	Northern Natural Gas Co.	Chevron U.S.A., Inc.	03-29-93	G-S	30,000	N	F/I	03-01-93	Indef.
ST93-3164	Natural Gas P/L Co. of America.	Midcon Gas Services Corp.	03-29-93	G-S	100,000	A	I	03-01-93	Indef.
ST93-3165	Natural Gas P/L Co. of America.	Citizen Gas Supply Corp.	03-29-93	G-S	50,000	N	I	10-01-90	Indef.
ST93-3166	Natural Gas P/L Co. of America.	Parker & Parsley Development Co.	03-29-93	G-S	10,000	N	I	03-02-93	Indef.
ST93-3167	Midcon Texas Pipeline Corp.	Natural Gas Pipeline Co. of America.	03-29-93	C	10,000	Y	I	12-23-92	Indef.
ST93-3168	Gulf Energy Pipeline Co.	Natural Pipeline Co. of America.	03-29-93	C	5,000	N	I	03-01-93	Indef.
ST93-3169	Columbia Gulf Transmission Co.	Bridgeline Gas Distribution Co.	03-29-93	B	10,000	N	I	03-01-93	Indef.
ST93-3170	Columbia Gulf Transmission Co.	Citizens Gas Supply Corp.	03-29-93	G-S	40,000	N	I	03-22-93	Indef.
ST93-3171	Iroquois Gas Trans. System, L.P.	New Jersey Natural Gas Co.	03-30-93	B	50,000	N	I	03-04-93	Indef.
ST93-3172	Trailblazer Pipeline Co.	Union Pacific Fuels, Inc.	03-30-93	G-S	100,000	N	I	06-30-91	Indef.
ST93-3173	Transok, Inc	ANR Pipeline Co., et al.	03-30-93	C	2,054	N	I	03-01-93	Indef.
ST93-3174	Transok, Inc	ANR Pipeline Co., et al.	03-30-93	C	100,000	N	I	12-01-91	Indef.
ST93-3175	Channel Industries Gas Co.	Natural Gas P/L Co. of Amer., et al.	03-30-93	C	50,000	N	I	03-01-93	Indef.
ST93-3176	Trunkline Gas Co.	Mega Natural Gas Co.	03-30-93	G-S	50,000	N	I	03-20-93	Indef.

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Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST93-3177	Iroquois Gas Trans. System, L.P.	Continental Energy Marketing Inc.	03-30-93	G-S	35,000	N	I	03-01-93	04-01-93
ST93-3178	Iroquois Gas Trans. System, L.P.	Energy Marketing Exchange, Inc.	03-30-93	G-S	500,000	N	I	02-26-93	Indef.
ST93-3179	Iroquois Gas Trans. System, L.P.	CNG Transmission Corp.	03-30-93	G-S	200,000	N	I	03-14-93	Indef.
ST93-3180	Phillips Texas Border P/L Co.	Phillips Gas Pipeline Co.	03-30-93	G-HT	10,000	N	I	11-30-91	Indef.
ST93-3181	Phillips Texas Border P/L Co.	Phillips Gas Pipeline Co.	03-30-93	G-HT	20,000	N	I	02-01-92	Indef.
ST93-3182	Florida Gas Transmission Co.	Indiantown Gas Co., Inc.	03-30-93	G-S	1,215	N	F	03-01-93	Indef.
ST93-3183	Noark Pipeline System, L.P.	Texas Eastern Trans. Corp., et al.	03-30-93	C	141,000	N	I	02-18-93	09-30-94
ST93-3184	Noark Pipeline System, L.P.	Texas Eastern Trans. Corp., et al.	03-30-93	C	141,000	N	I	02-01-93	08-31-93
ST93-3185	Southern Natural Gas Co.	Stone Savannah River.	03-30-93	G-S	7,000	N	F	03-13-93	13-31-93
ST93-3186	Southern Natural Gas Co.	Union Pacific Fuels, Inc.	03-30-93	G-S	100,000	N	1	03-19-93	Indef.
ST93-3187	Transcontinental Gas P/L Corp.	Equitable Resources Marketing Co.	03-30-93	G-S	160,000	N	1	03-22-94	Indef.
ST93-3188	ANR Pipeline Co.	Michigan Consolidated Gas Co.	03-30-93	G-S	400,000	N	F	03-01-93	Indef.
ST93-3189	United Gas Pipe Line Co.	Champion Natural Gas Co.	03-31-93	G-S	10,000	N	I	03-24-93	07-22-93
ST93-3190	Oktex Pipeline Co.	ONG Western, Inc.	03-31-93	G-S	40,000	Y	I	02-01-93	Indef.
ST93-3191	Williams Natural Gas Co.	B & B Resources.	03-31-93	G-S	100	N	I	03-30-93	Indef.
ST93-3192	Williams Natural Gas Co.	Industrial Gas Services, Inc.	03-31-93	G-S	1,500	N	I	03-05-93	Indef.
ST93-3193	United Gas Pipe Line Co.	Kogas, Inc	03-31-93	G-S	30,000	A	1	03-11-93	07-09-93
ST93-3194	Tennessee Gas Pipeline Co.	USS/Kobe Steel Co.	03-31-93	G-S	50,000	N	I	03-01-93	Indef.
ST93-3195	Tennessee Gas Pipeline Co.	Meridian Marketing & Trans. Corp.	03-31-93	G-S	3,410	N	I	03-01-93	Indef.
ST93-3196	Midwestern Gas Transmission Co.	Northern Illinois Gas Co.	03-31-93	B	7,800	N	F	03-02-93	Indef.
ST93-3197	Tennessee Gas Pipeline Co.	Endevco Oil & Gas Co.	03-31-93	G-S	220,000	N	I	03-16-93	Indef.

The following dockets contain requests for partial waiver of the reporting requirements contained in section 284.126 of the commission's regulations to permit the filing of initial reports "on behalf of" multiple interstate pipeline companies pursuant to the commission's order granting waiver in Docket No. ST90-267-000. 61 FERC ¶61.347 (1992):

Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST90-1471	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	01-17-90	C	25,000	N	I	01-01-90	Indef.
ST90-2669	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	04-25-90	C	10,000	N	I	04-01-90	Indef.
ST90-2904	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	05-04-90	C	10,000	N	I	04-12-90	Indef
ST90-2905	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	05-04-90	C	10,000	N	I	04-01-90	Indef

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Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST90-3420 .	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	06-18-90	C	40,000	N	I	06-01-90	Indef.
ST91-4375 .	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	11-29-90	C	10,000	N	I	11-08-90	Indef.
ST91-4376 .	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	11-29-90	C	15,000	N	I	11-14-90	Indef.
ST91-6232 .	Tex/Con Gas Pipeline Co.	Texas Eastern rans. Corp., et al.	01-04-91	C	10,000	N	I	12-01-90	Indef.
ST91-6434 .	Tex/Con Gas Pipeline Co.	Texas Eastern Trans. Corp., et al.	01-16-91	C	25,000	N	I	12-22-90	Indef.
ST91-6448 .	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	01-17-91	C	40,000	N	I	01-01-91	Indef.
ST91-7812 .	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	03-22-91	C	20,000	N	I	02-03-91	Indef.
ST91-8315 .	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	04-22-91	C	5,000	N	I	04-01-91	Indef.
ST91-8620 .	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	05-09-91	C	20,000	N	I	06-23-90	Indef.
ST91-8968 .	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	06-06-91	C	10,000	N	I	05-24-91	Indef.
ST91-9216 .	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	06-27-91	C	10,000	N	I	06-04-91	Indef.
ST91-9217 .	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	06-27-91	C	8,000	N	I	06-01-91	Indef.
ST91-9710	Tex/Con Gas Pipeline Co.	Arkla Energy, Inc., et al.	07-25-91	C	1,000	N	I	07-01-91	Indef.
ST91-9711	Tex/Con Gas Pipeline Co.	Miss. River Trans. Corp., et al.	07-25-91	C	7,500	N	I	07-01-91	Indef.
ST92-0052	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	10-02-91	C	15,000	N	I	09-01-91	Indef.
ST92-0387	Tex/Con Gas Pipeline Co.	ANR Pipeline Company, et al.	10-30-91	C	2,000	N	I	09-01-91	Indef.
ST92-3241	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	04-03-92	C	30,000	N	I	02-08-92	Indef.
ST92-3597 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	04-29-92	C	25,000	N	I	03-01-92	Indef.
ST92-3598	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	04-29-92	C	50,000	N	I	04-01-92	Indef.
ST92-3599 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	04-29-92	C	2,000	N	I	04-01-92	Indef.
ST92-3600 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	04-29-92	C	2,000	N	I	04-09-92	Indef.
ST92-3877 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	05-11-92	C	12,000	N	I	04-01-92	Indef.
ST92-3878 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	05-11-92	C	12,000	N	I	04-16-92	Indef.
ST92-3879 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	05-11-92	C	100,000	N	I	05-01-92	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST92-3880 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	05-11-92	C	20,000	N	I	05-01-92	Indef.
ST92-3881 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	05-11-92	C	12,000	N	I	05-01-92	Indef.
ST92-4821 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	07-17-92	C	100,000	N	I	06-01-92	Indef.
ST92-5295 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	08-21-92	C	20,000	N	I	07-02-92	Indef.
ST92-5296 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	08-21-92	C	100,000	N	I	07-01-92	Indef.
ST92-5297 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	08-21-92	C	25,000	N	I	08-01-92	Indef.
ST92-5355 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	08-25-92	C	40,000	N	I	08-01-92	Indef.
ST92-5629 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	09-17-92	C	10,000	N	I	09-01-92	Indef.
ST92-5663 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	09-18-92	C	100,000	N	I	09-01-92	Indef.
ST93-0178 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	10-14-92	C	100,000	N	I	10-01-92	Indef
ST93-0179 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	10-14-92	C	50,000	N	I	10-01-92	Indef.
ST93-0180 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	10-14-92	C	25,000	N	I	10-01-92	Indef.
ST93-0563 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	11-05-92	C	50,000	N	I	10-27-92	Indef.
ST93-0568 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	11-05-92	C	100,000	N	I	10-29-92	Indef.
ST93-0569 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	11-05-92	C	25,000	N	I	10-13-92	Indef.
ST93-0652 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	11-10-92	C	10,000	N	I	11-02-92	Indef.
ST93-0654 .	Transok Gas Transmission Co.	Arkla Energy, Inc., et al.	11-10-92	C	25,000	N	I	11-01-92	Indef.
ST93-1627 .	Transok Gas Transmission Co.	ANR Pipeline Company, et al.	12-10-92	C	50,000	N	I	12-01-92	Indef.
ST92-1060 .	Texas Gas Gathering.	Miss. River Trans. Corp., et al.	12-02-91	C	9,500	N	I	12-01-92	Indef.
ST92-5664	Texas Gas Gathering.	Miss. River Trans. Corp., et al.	09-18-92	C	6,194	N	I	07-01-92	Indef.
ST92-5665 .	Texas Gas Gathering.	Miss. River Trans. Corp., et al.	09-21-92	C	13,000	N	I	11-01-90	Indef.
ST92-5666 .	Texas Gas Gathering.	Miss. River Trans. Corp., et al.	09-21-92	C	9,452	N	I	07-01-92	Indef.
ST93-0792	Lone Star Gas Company.	Arkla Energy Resources, et al.	11-16-92	C	100,000	N	I	10-13-92	Indef
ST93-0896 .	Lone Star Gas Company.	Northern Natural Gas Co., et al.	11-19-92	C	15,000	N	I	10-23-92	Indef
ST93-0897 .	Lone Star Gas Company.	Northern Natural Gas Co., et al.	11-19-92	C	30,000	N	I	10-24-92	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date

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Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST93-0289	Noark Pipeline System, L.P.	Texas Eastern Trans. Corp., et al.	10-21-92	C	141,000	N	I	09-21-92	Indef.
ST93-1433	Noark Pipeline System, L.P.	Miss. River Trans. Corp., et al.	12-01-92	C	60,000	N	I	10-29-92	Indef.
ST93-1434	Noark Pipeline System, L.P.	Miss. River Trans. Corp., et al.	12-01-92	C	141,000	N	I	11-01-92	Indef.
ST93-1435	Noark Pipeline System, L.P.	Miss. River Trans. Corp., et al.	12-01-92	C	30,000	N	I	10-06-92	Indef.
ST93-1436	Noark Pipeline System, L.P.	Texas Eastern Trans. Corp., et al.	12-01-92	C	140,000	N	I	10-26-92	Indef.
ST93-1437	Noark Pipeline System, L.P.	Texas Eastern Trans. Corp., et al.	12-01-92	C	141,000	N	I	11-04-92	Indef.
ST93-1984	Transamerican Natural Gas Corp.	Tennessee Gas Co., et al.	12-30-92	C	50,000	N	I	12-01-92	Indef.

*Notice of transactions does not constitute a determination that filings comply with commission regulations in accordance with order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/10/85).
**Estimated maximum daily volumes includes volumes reported by the filing company in mmbtu, mcf and dt.
***Affiliation of reporting company to entities involved in the transaction. A "Y" indicates affiliation, an "A" indicates marketing affiliation, and a "N" indicates no affiliation.

[FR Doc. 93-10513 Filed 5-4-93; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP93-311-000]

Transcontinental Gas Pipe Line Corp.; Application

April 29, 1993.

Take notice that on April 23, 1993, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP93-311-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon transportation services for Amoco Production Company (Amoco), a producer of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco proposes to abandon three transportation services rendered for Amoco, as detailed below:

Rate schedule	Quality of service	Quantity	Location	Proposed effective date
X-163	Firm	28,400 Mcf/d	LA, Offshore LA	2/5/93
X-212	Firm	12,000 Mcf/d	LA, Offshore LA	5/1/92
X-218	Interruptible	12,000 dt equivalent per day	MS, LA	10/22/92

Transco asserts that it has notified Amoco of its intent to terminate the service agreements for the three transportation services. It is further asserted that Amoco consents to the abandonments and did not request replacement services. Transco states that the proposed abandonments would not affect service to any other customers.

No facilities are proposed to be abandoned.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10543 Filed 5-4-93; 8:45 am]
BILLING CODE 6717-01-M

Office of Hearing and Appeals

Cases Filed During the Week of April 9 Through April 16, 1993

During the Week of April 9 through April 16, 1993, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: April 29, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Apr. 9 through Apr. 16, 1993]

Date	Name and location of applicant	Case no.	Type of submission
Apr. 9, 1993	ARCO/Anton's Arco Service Station, Atlantic Beach, FL.	RR304-60	Request for modification/rescission in the Arco refund proceeding. If granted: The 3/17/93 Dismissal Letter (Case No. RF304-12803) issued to Anton's Arco Service Station would be modified regarding the firm's application for refund submitted in the Arco refund proceeding.
Do	Gulf/Villa Maria Gulf, Cordova, TN	RR300-251	Request for modification/rescission in the Gulf refund proceeding. If granted: The August 29, 1991 Decision and Order (Case RF300-12091) issued to Villa Maria Gulf would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
Apr. 12, 1993	David DeKok, Harrisburg, Pennsylvania	LFA-0282	Appeal of an information request denial. If granted: The March 22, 1993 Freedom of Information Request Denial issued by the Idaho Field Office would be rescinded, and David DeKok would receive access to documents pertaining to the clean-up of the 1979 Three Mile Island nuclear power plant accident.
Do	Seehuus Associates, Prosser, Washington.	LFA-0283	Appeal of an information request denial. If granted: The Freedom of Information Request Denial issued by the Oak Ridge Field Office would be rescinded, and Seehuus Associates would receive access to information regarding procurement actions made by the Oak Ridge M & O contractor.
Do	Energy Products, Inc., Sacramento, California.	LFA-0281	Appeal of an information request denial. If granted: The March 29, 1993 Freedom of Information Request Denial issued by the Oak Ridge Field Office would be rescinded, and Energy Products, Inc. would receive access to the name of the company or manufacturer for Product "S" from the "Preliminary Evaluation of Radiation Control Coatings for Energy Conservation in Buildings" report.
Do	Nabisco Brands, Inc., Parsippany, NJ	RR272-103	Request for modification/rescission in the crude oil refund proceeding. If granted: The March 13, 1993 Decision and Order (Case No. RC272-170) issued to Nabisco Brands, Inc. would be modified regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding.
Apr 14, 1993	Cal Brekke, San Jose, CA	LFA-0284	Appeal of an information request denial. If granted: Cal Brekke would receive access to DOE Information.
Do	Texaco/Borg Warner Chemicals, Inc., Kernesville, NC.	RR321-127	Request for modification/rescission in the Texaco refund proceeding. If granted: The 1/4/93 Dismissal Ltr. (Case No. RF321-18545) issued to Borg Warner Chemicals, Inc. would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Apr 16, 1993	Power City Electric, Inc., Spokane, WA	LFA-0285	Appeal of an information request denial. If granted: The March 8, 1993 Freedom of Information Request Denial issued by the Office of Freedom of Information would be rescinded, and Power City Electric, Inc. would receive access to DOE information.

REFUND APPLICATIONS RECEIVED

Support Office (the ASO) of a Request

regulatory requirements in violation of

pass through increased petroleum costs

purchasing gasoline from E.D.G. Rocky

No. RF321-1599) In the Decision, the

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REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/Name of refund application	Case No.
4/9/93 thru 4/16/93.	Crude oil refund, applications received.	RF272–94633 thru RF272–94664.
4/9/93 thru 4/16/93.	Atlantic Richfield applications received.	RF304–13809 thru RF304–13831.
4/8/93	E.I. duPont de Nemour & Co.	RC272–191.
4/9/93	Inland Lime and Stone.	RC272–192.
4/12/93	Chesney Bros. Farm.	RF321–19694.
4/12/93	General Delivery and Service.	RF321–19695.
4/12/93	Snowy Range Texaco.	RF321–19696.
4/12/93	Central Texas Energy Supplies.	RF340–180.
4/12/93	Al's Texaco	RF321–19692.
4/12/93	Steel's Texaco	RF321–19693.
4/13/93	Hopkins Street Canal.	RF346–50.
4/13/93	Opelousas Canal Service.	RF346–51.
4/13/93	Med Center Texaco.	RF321–19697.
4/13/93	Upshaw Texaco.	RF321–19698.
4/14/93	Henson's Inc	RF340–181.
4/15/93	Walker Texaco.	RF321–19699.
4/16/93	New Miami Local School.	RF272–54.

[FR Doc. 93–10589 Filed 5–4–93; 8:45 am]
BILLING CODE 6450–01–P–M

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of March 8 Through March 12, 1993

During the week of March 8 through March 12, 1993, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Eugene Maples, 3/12/93, LFA–0271

Eugene Maples filed an Appeal from a partial denial by the DOE's Atlanta Support Office (the ASO) of a Request for Information which he had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the search for responsive documents conducted by the ASO was inadequate and remanded the case to the ASO for a new search for responsive documents. DOE's determination was based on the fact that documents that were released in response to Maples' request showed that other responsive documents existed in the ASO's files, but were not identified as responsive in the ASO's determination letter.

Robertson, Phillips & Knight, 3/11/93, LFA–0202

Robertson, Phillips & Knight (RPK) filed an Appeal from a determination issued by the Bonneville Power Administration (BPA) of the Department of Energy (DOE). The determination denied, in part, a Request for Information which RPK submitted under the Freedom of Information Act (FOIA). RPK requested documents relating to soil conditions and soil condition testing at the site of a BPA construction project. The BPA withheld a memorandum pursuant to Exemption 5 of the FOIA. In considering the Appeal, the DOE found that the BPA had failed to provide in its determination letter a specific justification for withholding the memorandum under Exemption 5. Accordingly, the DOE granted RPK's Appeal and remanded the matter to the BPA to either release the memorandum or issue a new determination supporting the withholding of the memorandum.

Remedial Order

Kenneth H.N. Taves, K.T. Trading Corporation, James M. Betz, 3/9/93 LRO–0001

Kenneth H.N. Taves (Taves), together with K.T. Trading Corporation (K.T. Trading), and James M. Betz (Betz) filed respective Statements of Objections to a Proposed Remedial Order (PRO) issued by the Economic Regulatory Administration (ERA) jointly to Taves, K.T. Trading, Betz d/b/a Betz Oil and Trading Company, Robert J. Martin (Martin) and Gordon S. Gregson (Gregson) (collectively, "the Recipients"). In the PRO, the ERA charged that during the period January through December 1980, the Recipients participated in certain certification swap schemes involving artificial crude oil purchase, sale, exchange and processing agreements to defraud the DOE Entitlements Program, 10 CFR 211.66, 211.67, thereby resulting in the circumvention and contravention of regulatory requirements in violation of 10 CFR 205.202 and 210.62(f). In considering the Statements of Objections, the DOE rejected claims by Taves/K. T. Trading and Betz, *inter alia*, that: (i) The action was barred by the statute of limitations and the equitable doctrine of laches; (ii) the PRO failed to establish a prima facie case and denied due process; (iii) their actions did not constitute a violation of the Entitlements Program or anti-circumvention regulations; (iv) Taves and Betz should not be held liable on the basis of "central figure" liability; and (v) the ERA and miscalculated the amount of the violation. The DOE further determined that: (i) in view of a Consent Order entered into by Martin with the ERA pursuant to 10 CFR 205.199J, Martin should be dismissed from the proceeding and the PRO amended to reduce the liability of remaining Recipients, and (ii) the PRO should be issued as a final Remedial Order to Gregson since he failed to file any objection in the proceeding. Accordingly, the PRO was issued as a final Remedial Order to Taves, K. T. Trading, Betz and Gregson as follows: Gregson and Betz jointly and severally liable for the full amount of the violation during the period January through December 1980, $22,584,485, plus interest, and Taves/K. T. Trading jointly and severally liable for the violation occurring during the period May through December 1980, $10,214,839, plus interest.

Refund Applications

Baltimore City Department of Education, 3/9/93, RF272–83777

The DOE issued a Decision and Order denying an Application for Refund filed in the crude oil special refund proceeding on behalf of the Baltimore City Department of Education (BCDE). BCDE was found to be an affiliate of Baltimore City and, therefore, bound by the waiver the City signed when it elected to participate in one of the Stripper Well refund proceedings. It was determined, therefore, that BCDE was ineligible for a Subpart V crude oil refund. Accordingly, BCDE's Application for Refund was denied.

Cummins Engine Company, Inc., 3/9/93, RF272–25980, RD272–25980

The DOE issued a Decision and Order granting an Application for Refund filed by Cummins Engine Company, Inc., a manufacturer of heavy-duty diesel engines and engine components, in the Subpart V crude oil refund proceeding. A group of States and Territories (States) objected to the application on the grounds that the applicant was able to pass through increased petroleum costs to its customers. In support of their objection, the States cited a portion of Cummins' 1979 annual report predicting that increases in fuel costs would lead to wider use of the diesel fuel engine. Thus, the States argued that Cummins, as a manufacturer of diesel engines, benefitted from increased fuel prices. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicant should receive a refund. The DOE also denied the States' Motion for Discovery, finding that discovery was not warranted where the States had not presented evidence sufficient to rebut the applicant's presumption of injury. The refund granted to the applicant in this Decision was $42,422.

E.D.G./Rocky Home Dairy, Inc., 3/12/93, RR311–1

The DOE issued a Decision and Order denying a Motion for Reconsideration filed by Rocky Home Dairy in the E.D.G. special refund proceeding. In a prior Decision and Order, the DOE had granted Rocky Home Dairy a refund based on the reseller-retailer small-claim presumption of injury. Rocky Home Dairy filed this Motion for Reconsideration to obtain a larger refund based on the end-user presumption of injury. While purchasing gasoline from E.D.G., Rocky Home Dairy had operated both a retail gasoline station and a fleet of delivery trucks. Rocky Home Dairy contended that it was entitled to the end-user presumption of injury because it consumed a greater volume of gasoline in its delivery fleet than it resold through the gasoline station. The DOE found that the business records submitted by Rocky Home Dairy did not support this contention, but showed instead that the firm sold considerably more gasoline than it consumed. The DOE further found that Rocky Home Dairy, as a regulated firm in the petroleum industry that had been required to keep records of its cost and price increases, was not eligible for consideration under the end-user presumption of injury. Finally, the DOE rejected Rocky Home Dairy's claim that the prior Decision and Order had denied it of a property right under the Fifth Amendment to the Constitution of the United States.

Texaco Inc./Ed Yarbrough Texaco Service Center, 3/9/93, RF321–19609

The Office of Hearings and Appeals (OHA) of the Department of Energy issued a Decision and Order concerning an Application for Refund that was filed in the Texaco refund proceeding by Ed Yarbrough Texaco Service Center (Case No. RF321–1599). In the Decision, the OHA modified a prior Decision approving that application and rescinded in part the refund that was granted to Mr. Yarbrough. That refund was based upon Mr. Yarbrough's statement that he owned and operated his service station during the entire period from August 1974 through January 1981. Subsequently, the OHA learned that another applicant claimed that he operated the same station until October 21, 1974. Mr. Yarbrough admitted that he purchased the station effective on that date. The Decision, therefore, determined that Mr. Yarbrough had been granted an excessive refund, and required him to remit $289 to the DOE.

Texaco Inc./Harris & E Texaco et al., 3/9/93, RF321–13707 et al.

The DOE issued a Decision and Order concerning 34 Applications for Refund filed in the Texaco Inc. special refund proceeding. Each of the Applicants was either a reseller whose allocable share is less than $10,000 or an end-user of Texaco products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted was $93,609 (69,335 principal plus $24,274 interest).

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Altus School District et al	RF272–82456	03/12/93
Atlantic Richfield Company/Shane's Arco et al	RF304–13164	03/09/93
Atlantic Richfield Company/Westinghouse Electric Co. et al	RF304–13369	03/12/93
Atlantic Richfield Company/Wilshire-Glenoaks Car Wash et al	RF304–6399	03/09/93
Bituminous Meterials Co., Inc	RF272–15459	03/08/93
Bituminous Materials Co., Inc	RD–272–15459	
Candle Corporation of America	RF272–54182	03/10/93
Candle Corporation of America	RD272–54182	
Carl J. Austad & Son, Inc	RF272–58124	03/08/93
Central and Southern Truck Lines	RC272–168	03/09/93
City of Springboro et al	RF272–84307	03/11/93
City of Talladega et al	RF272–83005	03/11/93
Gene S. Bula	RC272–169	03/11/93
Greene County School District et al	RF272–79265	03/09/93
Gulf Oil Corporation/Johany's Gulf et al	RF300–18158	03/08/93
Gulf Oil Corporation/Joseph Briski et al	RF300–11396	03/08/93
Gulf Oil Corporation/Lester Gillcoatt Farms, Inc. et al	RF300–13306	03/09/93
Gulf Oil Corporation/Martin County Coal et al	RF300–17255	03/12/93
Gulf Oil Corporation/McCaa's Gulf	RF300–17566	03/10/93
Don's I–10 Gulf	RF300–21314	
Gulf Oil Corporation/Podner Gulf #1 et al	RF300–14204	03/08/93
Gulf Oil Corporation/Thomas Butane Company	RF300–15701	03/10/93
Thomas Butane Company	RF300–20081	
Thomas Butane Company	RF300–20619	
Gulf Oil Corporation/Triangle Gulf Service et al	RF300–12329	03/10/93
Maine School Administrative District No. 9	RF272–80769	03/11/93
Nabisco Brands, Inc	RC272–170	03/12/93

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Narragansett Improvement Co	RC272–172	03/12/93
New Holstein School Dist. et al	RF272–80702	03/09/93
San Jose Mercury-News	RC272–171	03/12/93
Sugarcreek Local School Dist. et al	RF272–81950	03/12/93
Texaco Inc./Charlie's Texaco et al	RF321–16631	03/12/93
Texaco Inc./Claud's Outboard Service et al	RF321–16478	03/10/93
Texaco Inc./Cline's Texaco et al	RF321–10627	03/08/93
Texaco Inc./Earl's Texaco Service et al	RF321–1595	03/12/93
Texaco Inc./Morningside Texaco et al	RF321–16866	03/12/93
Texaco Inc./Sally Jane Wilkinson	RF321–16732	03/11/93
Houdialle Duval Wright Co	RF321–18446	
Ware Petroleum, Inc	RF321–18470	
Town of Westerly et al	RF272–82812	03/11/93
Whitley County Consolidated Schools et al	RF272–87514	03/08/93

Dismissals

The following submissions were dismissed:

Name	Case No.
Atkinson Elementary School	RF272–82322
Bill's Arco at the Circle	RF304–13440
Buckley Powder Company	RF321–16322
Carroll County	RF272–87904
Cash's Texaco Service	RF321–16554
City of Bloomfield	RF272–83732
City of Gardiner	RF272–83400
City of Hallowell	RF272–83836
City of Hayden	RF272–83619
City of Los Alamitos	RF272–83726
City of Tuscola	RF272–87950
City of Two Rivers	RF272–87947
City of Van Buren	RF272–87940
City of Venice	RF272–87938
Collisieum Arco	RF304–11672
Deep River-Millersburg Comm. School.	RF272–83649
Dick's Service	RF304–13445
Dresser Industries, Inc	RF272–93284
Dresser Industries, Inc	RF225–11096
E. James Connors Service Station.	RF304–13223
Harmony ISD	RF272–83681
Hubert Minniti	RF300–20819
Interstate Brands Corporation	RF304–8178
Joseph Cerino	RF300–17786
Kambiz Arco	RF304–9303
Klickitat County	RF272–87902
L.R. Haase Oil Co	RF300–15749
L.R. Haase Oil Co	RF300–15741
Little America Refining Company.	RR195–3
Lowell School District	RF272–82336
Madison County School District.	RF272–83652
New Dixie Oil Corporation	LEE–0033
Orth Oil Company	R304–3639
Phillip Nocita	R315–311
Reed's Shell	R315–954
San Gabriel Elementary	RF272–81961
Santos Melendez Gulf	RF300–16961
Shrewsbury School District	RF272–82391
Star Inn Truck Stop	RF321–16407
Township of West Nornton	RF272–87930
Walton County School District.	RF272–87925
Warren County School District.	RF272–87923
Waterloo School District	RF272–83753
Westminister Elementary	RF272–87917

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: April 29, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 93–10587 Filed 5–4–93; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Decisions and Orders During the Week of April 5 Through April 9, 1993

During the week of April 5 through April 9, 1993 the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Refund Applications

Gulf Oil Corporation/Dixie Brewing Co., 4/8/93, RF300–21728

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding by Dixie Brewing Co. The Application for Refund was dismissed because it was filed after the March 1, 1993 deadline established as the final filing date for the Gulf proceeding.

Gulf Oil Corporation/Durable Fuel Oil, Inc., 4/9/93, RF300–21733

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding by Durable Fuel Oil, Inc. The Application for Refund was dismissed because it was filed after the March 1, 1993 deadline established as the final filing date for the Gulf proceeding.

Gulf Oil Corporation/Timmers Petroleum Inc., 4/8/93, RF300–21724

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding by Timmers Petroleum, Inc. The Application for Refund was dismissed because it was filed after the March 1, 1993 deadline established as the final filing date for the Gulf proceeding.

Murphy Oil Corporation/Aldridge & Love Service Station, 4/9/93, RF309–1206

This Decision and Order considered the Application for Refund filed by James Love on behalf of Aldridge and Love Service Station (ALSS), an indirect purchaser of Murphy petroleum products. During the refund period, the station was operated under a partnership between Mr. Love and his parents-in-law, Odell and Marjorie W. Aldridge. After the refund period ended, Mr. and Mrs. Aldridge sold their interest in the station to Mr. Love. The March 7, 1986 Contract and Bill of Sale indicated Mr. and Mrs. Aldridge's intent to transfer all assets to Mr. Love, including intangible assets such as refunds: "* * * all property and assets of said partnership business of every kind and nature whatsoever, both tangible and intangible." Thus, Mr. Love acquired the right to the refund for ALSS' purchases of Murphy petroleum products. Accordingly, Mr. Love was granted a refund of $783 ($524 in principal and $259 in interest).

Texaco Inc./Donald E. Riggle, 4/5/93, RF321–19680

On October 11, 1991, the DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning an Application for Refund filed by Donald E. Riggle, a Texaco consignee. That refund was based upon a printout prepared by Texaco of the firm's consignments of Texaco gasoline for the period from March 1973 to 1980. Subsequently, another applicant filed an application for refund for the same consigneeship for the period from March through June 1973. Mr. Riggle agreed that he did not begin operating the business until June 1973. Accordingly, the DOE found that Mr. Riggle had received a refund that was larger than that to which he was entitled, and the DOE directed that Mr. Riggle repay, with interest, that portion of his refund attributable to consignments made prior to June 1973.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/ARCO Mini Mart	RF304–12127	04/05/93
Swede's ARCO	RF304–12130	
Atlantic Richfield Company/Calabrese ARCO et al	RF304–13571	04/06/93
Atlantic Richfield Company/Don's ARCO et al	RF304–4135	04/05/93
Atlantic Richfield Company/Gratiot & Florence ARCO	RF304–11296	04/08/93
Olsan's Service Center, Inc	RF304–12645	
Atlantic Richfield Company/J & J ARCO	RF304–13762	04/06/93
Atlantic Richfield Company/Maverick ARCO et al	RF304–13610	04/06/93
Atlantic Richfield Company/Mayes ARCO Service	RF304–13754	04/09/93
Atlantic Richfield Company/McKinley Motor Service, Inc	RF304–9741	04/05/93
McKinley Motor Service, Inc	RF304–9742	
Atlantic Richfield Company/Norris Fuel	RF304–4174	04/05/93
Steve Schenker	RF304–12912	
City of West Palm Beach	RF272–69070	04/08/93
Crete Carrier Corp	RC272–183	04/06/93
Edmund Bickett	RR272–102	04/08/93
Edward D. Cejka et al	RF272–90500	04/06/93
Gulf Oil Corporation/Altman's Gulf	RF300–21720	04/09/93
Gulf Oil Corporation/Gateway Gulf et al	RF300–14432	04/05/93
Gulf Oil Corporation/Hattiesburg Aviation Company	RF300–17579	04/06/93
Gulf Oil Corporation/McKesson Corporation	RF300–13352	04/08/93
Gulf Oil Corporation/Ray's Corner Grocery et al	RF300–19300	04/05/93
Gulf Oil Corporation/Republic Airlines	RF300–13358	04/07/93
Gulf Oil Corporation/Rohm and Haas Company	RF300–17240	04/05/93
Frank Martinez Gulf #1	RF300–17359	
Bob Station Service	RF300–17376	
Holy Family Church et al	RF272–90906	04/09/93
Irving Goldman	RF272–29774	04/09/93
Irving Goldman	RD272–29774	04/09/93
J.W. Bishop Co., Inc	RF272–55135	04/09/93
Jefferson Local School Dist. et al	RF272–80201	04/05/93
John R. Adams/Salt River Proj. Agricultural Improvement & Power Dist	RF338–4	04/06/93
Lorraine Sinnickson et al	RF272–90300	04/06/93
Lowville Central School et al	RF272–82468	04/07/93
Milpitas Unified School Dist. et al	RF272–81296	04/05/93
New England Motor Freight, Inc	RF272–182	04/06/93
Oak Grove Elementary et al	RF272–79201	04/06/93
Pool Company	RF272–15809	04/09/93
Pool Company	RF272–15809	
CNG Producing Company	RF272–41318	
CNG Producing Company	RF272–41318	
Ports of Call, Inc	RF272–62661	04/09/93
Security Van Lines	RF272–181	04/05/93
Shell Oil Company/M&M Oil Service	RR315–7	04/07/93
Strasburger Enterprises, Inc./Dallas Distributions, Inc	RF343–11	04/05/93
Corner Cash & Carry	RF343–12	
Texaco Inc./Bill's Texaco	RF321–3582	04/06/93
Texaco Inc./Gene's Texaco Service	RF321–1852	04/07/93
Texaco Inc./Holland Texaco et al	RF321–6056	04/05/93
Texaco Inc./Okie Carter's Texaco et al	RF321–12666	04/05/93
Town of Winnsboro, SC et al	RF272–88014	04/06/93
Walter Wronski	RC272–184	04/05/93
Winchester School District et al	RF272–81108	04/07/93
Woodland Joint Unified et al	RF272–83847	04/09/93

Dismissals

The following submissions were dismissed:

Name	Case No.	Name	Case No.
Blodgett Brothers	RF321–14661	City of Kingston	RF272–87827
Borough of Wyomissing	RF272–87661	City of Palm Springs	RF272–87834

of 8,000 pounds of the herbicide

Dated: April 22, 1993.

from 8 a.m. to 4 p.m. Monday through

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Name	Case No.
County of Barry	RF272–87879
County of Bates	RF272–87880
County of Cass	RF272–87750
County of Christian	RF272–87756
County of Collingsworth	RF272–87740
County of Craig	RF272–87736
County of Iron	RF272–87865
County of La Salle	RF272–87801
County of Limestone	RF272–87794
County of Pacific	RF272–87705
County of Palo Pinto	RF272–87704
County of Polk	RF272–87700
County of Presidio	RF272–87699
County of Stone	RF272–87728
County of Wise	RF272–87891
Discount Texaco	RF321–13901
East Athens Service Station	RF300–15705
Edgemont Gulf	RF300–15974
Enron Corporation	RF315–6632
John J. Palmer	RF304–13647
Lamb's Texaco	RF321–11041
Leger's Cash Store	RF300–15910
Lew & Ben's Arco	RF304–13732
Loht & Hutchinson Gulf	RF300–15984
Main & Country Club	RF300–15787
Mrs. Baird's Bakeries	RF321–119
Power City Electric, Inc	LFA–0277
Ron's Arco on Nickerson	RF304–11892
Tiemann Gulf	RF300–15922
Universal Sheet Metal	RF300–18071
Village of Breckenridge Hills	RF272–87829
Wayne Lockard & Sons, Inc	RF300–13301
Williams Real Estate Co., Inc	RD272–56288
Williams Real Estate Co., Inc	RF272–56288

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: April 29, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 93–10588 Filed 5–4–93; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4651–4]

Availability of FY 92 Grant Performance Reports for Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7) require that the Agency notify the public of the availability of the reports of such evaluations. EPA recently performed end-of-year evaluations of eight state air pollution control programs (Alabama Department of Environmental Management, Florida Department of Environmental Regulation, Georgia Environmental Protection Division, Kentucky Department for Environmental Protection, Mississippi Bureau of Pollution Control, North Carolina Department of Environment, Health, and Natural Resources, South Carolina Department of Health and Environmental Control and Tennessee Department of Conservation and Environment), and 16 local programs (Knox County Department of Air Pollution Control, Chattanooga-Hamilton County Air Pollution Control Bureau, Memphis-Shelby County Health Department, Nashville-Davidson County Metropolitan Health Department, Jefferson County Air Pollution Control District, Western North Carolina Regional Air Pollution Control Agency, Mecklenburg County Department of Environmental Protection, Forsyth County Environmental Affairs Department, Palm Beach County Public Health Unit, Hillsborough County Environmental Protection Commission, Dade County Environmental Resources Management, Jacksonville Air Quality Division, Broward County Environmental Quality Control Board, Pinellas County Department of Environmental Management, City of Huntsville Department of Natural Resources, Jefferson County Department of Health). These audits were conducted to assess the agencies' performance under the grants made to them by EPA pursuant to section 105 of the Clean Air Act. EPA Region IV, has prepared reports for the twenty-four agencies identified above and these 105 reports are now available for public inspection.

ADDRESSES: The reports may be examined at the EPA's Region IV office, 345 Courtland Street, NE., Atlanta, Georgia 30365, in the Air, Pesticides, and Toxics Management Division.

FOR FURTHER INFORMATION CONTACT: Linda Thomas, at the above Region IV address, for information concerning States of Alabama, Florida, Mississippi, and Georgia. Vera Bowers, at the above Region IV address, for information concerning the States of Kentucky, North Carolina, South Carolina, and Tennessee.

Dated: April 6, 1993.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 93–10506 Filed 5–4–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–50737; FRL–4184–9]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

56336–EUP–2. Extension. Consep Membranes, Inc., 213 SW Columbia St., Bend, Oregon 97702–1013. This experimental use permit allows the use of 765 pounds of the pheromone (*E,E*)-8,10-dodecadien-1-o1 on 11,950 acres of apples, pears, and walnuts to evaluate the control of codling moth. The program is authorized in the States of Arizona, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusettts, Michigan, Minnesota, New Hampshire, New Jersey, New York, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from November 19, 1992 to December 30, 1993. A temporary exemption from the requirement of a tolerance on all agricultural commodities has been extended until December 30, 1993. (Phil Hutton, PM 18, Rm. 213, CM #2, (703–305–7690)).

524–EUP–56. Renewal. Monsanto Company, 700 14th St., NW., Suite 1100, Washington, DC 20005. This experimental use permit allows the use of 8,000 pounds of the herbicide acetochlor on 4,000 acres of field corn to evaluate the control of various weeds. The program is authorized only in the States of Illinois, Indiana, Iowa, Kentucky, Minnesota, Nebraska, North Dakato, Ohio, South Dakota, and Wisconsin. The experimental use permit is effective from May 1, 1993 to May 1, 1995. A temporary tolerance for residues of the active ingredient in or on field corn (fodder and forage) and grain has been established. (Robert Taylor, PM 25, Rm. 247, CM #2, (703–305–6800))

63098–EUP–2. Mitsui Petrochemicals (America), Ltd., 250 Park Ave., Suite 950, New York, NY 10177. This experimental use permit allows the use of 49.95 pounds of the herbicide 1-methoxy-1-methyl-3-(4-(3,4-dihydro-2-methoxy-2,4,4-trimethyl-7-benzopyranyloxy)phenyl)urea on 450 acres of field corn grain forage, fodder, and silage to evaluate the control of various broadleaf weeds. The program is authorized only in the States of Colorado, Illinois, Indiana, Iowa, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin. The experimental use permit is effective from December 22, 1992 to December 22, 1993. A temporary tolerance for residues of the active ingredient in or on field corn has been established. (Joanne Miller, PM 23, Rm. 237, CM #2, (703–305–7830))

707–EUP–125. Issuance. Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105. This experimental use permit allows the use of 200 pounds of the fungicide α-(2-[4-chlorophenyl)-ethyl]-α-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile on 200 acres of pecans to evaluate its performance and to define optium use rates. The program is authorized only in the States of Alabama, Georgia, Louisiana, Mississippi, Oklahoma, and Texas. The experimental use permit is effective from January 4, 1993 to December 31, 1993. A temporary tolerance for residues of the active ingredient in or on pecans has been established (Cynthia Giles-Parker, PM 22, Rm. 229, CM 2, (703–305–5540)).

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquires concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

Dated: April 22, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–10582 Filed 5–4–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180892; FRL 4584–6]

Receipt of Application for Emergency Exemption to Use Lindane; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Washington Department of Agriculture (hereafter referred to as the "Applicant") to use the pesticide lindane (CAS 58–89–9) to treat up to 4,500 acres of peas to control the pea leaf weevil (PLW). The Applicant proposes the use of an active ingredient which has been the subject of a Special Review, and is intended for a use that could pose a risk similar to the risk posed by any use of a pesticide which is or has been the subject of a Special Review; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before May 20, 1993.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180892," should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (H7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Room 52, 6th Floor, Crystal Station 1, 2800 Jefferson Davis Highway, Arlington, VA, (703–308–8326).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of Gamma-Mean 400 Insecticide (lindane) on peas to control the PLW. Information in accordance with 40 CFR part 166 was submitted as part of this request.

The pea leaf weevil is not a new insect in the pea growing areas of western Washington; however, it has never been an economic pest until the last few years. Although researchers are not sure of the reason for the significant increase in damage from the pea leaf weevil, they suspect that it may be tied to the loss of dinoseb. It appears that dinoseb provided some control of the pest. Since dinoseb use ended, the damage from the pea leaf weevil has increased dramatically. In 1992 yields were reduced by as much as 72 percent on many fields. In some instances, fields were not harvested due to severe yield loss. The Applicant estimates that without lindane, the loss in net revenue on the affected acres could be nearly $1 million.

The Applicant proposes to make a single application of Gamma-Mean 400 at a rate of 2 pints product (1 pound active ingredient) per acre on up to 4,500 acres of peas. This amounts to 1125 gallons of product, or 4,500 pounds of active ingredient. This is the first year that the Applicant has applied for this use.

Lindane was referred to Special Review in February of 1977, because risk criteria had been met or exceeded in three areas: (1) Acute toxicity to aquatic organisms [40 CFR 162.11(a)(3)(i)(B)(3)]; (2) oncogenic effects in test animals [40 CFR 162.11(a)(3)(ii)(A)], and (3) chronic and/or delayed toxicity causing reproductive or fetotoxic effects in test animals [40 CFR 162.11(a)(3)(ii)(B)]. In addition to these criteria, the RPAR Notice listed

four other possible adverse effects of

itself. The regulations governing section

The University of Texas Southwestern

this director is closed effective March

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four other possible adverse effects of lindane for which insufficient evidence existed to initiate a rebuttable presumption. The Agency requested registrants and other interested parties to submit data on the following effects: (1) Mutagenicity, (2) blood dyscrasias, (3) acute hazards to humans and domestic animals, and (4) population reduction in non-target avian species. Information was solicited also on the issue of the possible isomerization of lindane (gamma—BHC) to the alpha and beta isomers of BHC which have been shown to be oncogenic in rodents published in the **Federal Register** of July 21, 1978 (42 FR 31432). The Special Review process was completed and Notice published on October 19, 1983 (48 FR 48512), with the Agency announcing the Administrator's intent to cancel the registrations of lindane for two uses; to continue the registration of all other uses subject to certain label requirements and use practice prohibitions; and to deny applications for registration of lindane products not in accordance with the terms of that Notice.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing the use of an active ingredient which has been the subject of a Special Review, and is intended for a use that could pose a risk similar to the risk posed by any use of a pesticide which is or has been the subject of a Special Review. Such notice provides for opportunity for public comment on the application.

Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above. The Agency will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Washington Department of Agriculture.

Dated: April 20, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–10079 Filed 5–4–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180890; FRL 4584–1]

Receipt of Application for Emergency Exemption to Use Mancozeb; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Wisconsin Department of Agriculture, Trade and Consumer Protection (hereafter referred to as the "Applicant") for use of the fungicide mancozeb (trade name Dithane DF) (CAS 8018–01–7) to control foliar infection caused by *Phytophthora coctorum* and leaf and stem blight caused by *Alternaria panax* on up to 4,167 acres of ginseng in Wisconsin. The Applicant proposes the use of a pesticide which contains an active ingredient which has been the subject of a Special Review and is intended for a use that could pose a risk similar to the risk posed by any use of a pesticide which is or has been the subject of a Special Review; in addition, specific exemptions for this use have been granted for the past 6 years, and a complete application for registration of this use and/or a petition for tolerance for residues of mancozeb in or on ginseng has not been submitted to the Agency; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before May 20, 1993.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180890," should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (H7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Room 52, 6th Floor, Crystal Mall Station 1, 2800 Jefferson Davis Highway, Arlington, VA, (703–308–8326).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of the fungicide, mancozeb, available as Dithane DF, EPA Reg. No. 707–180. Information in accordance with 40 CFR part 166 was submitted as part of this request. The Applicant has been granted emergency exemptions for use of mancozeb on ginseng to control Phytophthora and Alternaria since 1987. According to the Applicant, without effective control, ginseng growers could experience an 80 to 100 percent crop loss due to Phytophthora and Alternaria blights which are not effectively managed. Dithane DF will be applied at weekly intervals by ground application equipment at a rate of 1.5 pounds active ingredient (2 pounds product) per acre. A maximum of 12 applications will be made. A 14-day pre-harvest interval will be observed.

A Final Determination Action for the ethylene bisdithiocarbamate fungicides (EBDC's), which includes mancozeb, was issued February 13, 1992. The Agency took this action based on an assessment of the risks from exposure to ethylenethiourea (ETU) present in, or formed as a result of metabolic conversion from pesticide products containing the active ingredient mancozeb. ETU, a potential human carcinogen, teratogen, and thyroid toxicant, is present as a contaminant, degradation product, and metabolite of all the EBDC pesticides. The Agency concluded that the estimated cumulative risk of 10–5 from all current 55 food uses is unacceptable and, therefore, cancelled the following food uses of mancozeb: apricots, carrots, celery, collards, mustard greens, nectarines, peaches, rhubarb, spinach, succulent beans, and turnips. These cancellations reduce estimated lifetime dietary risk to 1.6 x 10–6 which the Agency has determined does not outweigh the benefits of the 45 retained uses.

This notice does not constitute a decision by EPA on the application

itself. The regulations governing section 18 require publication of a notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption proposing the use of a pesticide which contains an active ingredient which has been the subject of a Special Review and is intended for a use that could pose a risk similar to the risk posed by any use of a pesticide which is or has been the subject of a Special Review; as well as, specific exemptions for which use has been granted for the past 3 years, and a complete application for registration of this use and/or a petition for tolerance for residues of the pesticide resulting from this use has not been submitted to the Agency. Such notice provides for opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Wisconsin Department of Agriculture, Trade and Consumer Protection.

Dated: April 19, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–10080 Filed 5–4–93; 8:45 am]

BILLING CODE 6560–50–F

Proposed Administrative Settlement

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), notice is hereby given that the Environmental Protection Agency (EPA) has agreed to settle claims for past response costs at the Sunbelt Site in Dallas, Texas, and Houston, Texas, with the following parties:

Asbestos Remediation Services, Inc.
Asbestos Technical Management Services, Inc.
DWW Abatement, Inc.
National Abatement Services, Inc.
PICO, Inc.
Quality Air Controllers, Inc.
Gulf Services Contracting, Inc.
Hackney & Associates, Inc.
U.S. Environmental Services, Inc.
Total Abatement Systems, Inc.
Clark-Tech Environmental Systems, Inc.
Tejas Resources, Inc.
The University of Texas Southwestern Medical Center at Dallas
W.K. Technologies
Bank One, Texas, N.A.
Baylor University
Bell Helicopter Textron, Inc.
Birdville Independent School District
Bonnet Resources Corporation
Children's Medical Center of Dallas
Cityplace Company
City of Dallas
EPIC Healthcare Group
First Nationwide Bank, A Federal Savings Bank
First United Methodist Church
Grant S. Morrow
La Quinta Motor Inns, Inc.
Plano Independent School District
Richardson Independent School District
Southwestern Bell Telephone Co.
The Dallas County Community College District

EPA will accept public comments on the proposed settlement for 30 days from the date of publication of this notice. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate that the proposed settlement is inappropriate, improper, or inadequate. A copy of the proposed settlement is available from, and comments on the proposed settlement should be addressed to: Mr. Geert Aerts, Cost Recovery Section (6H-EC), U.S. EPA, Region 6, 1445 Ross Avenue, Dallas, Texas, 75202–2733.

Dated: April 15, 1993.

W.B. Hathaway,

Acting Regional Administrator, Region 6.

[FR Doc. 93–10507 Filed 5–4–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–979–DR]

California; Amendment to Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA–979–DR), dated February 3, 1993, and related determinations.

EFFECTIVE DATE: March 22, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective March 20, 1993.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–10548 Filed 5–4–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–3097–EM]

Georgia; Amendment to Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of Georgia (FEMA–3097–EM), dated March 15, 1993, and related discriminations.

EFFECTIVE DATE: April 28, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency., Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the State of Georgia dated March 15, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared an emergency by the President in his declaration of March 15, 1993:

Assistance for required emergency measures for a period of five (5) days beginning on March 13 for opening critical emergency access on collector roads and streets, minor and principal arterial roads for emergency vehicles. In addition, assistance is authorized for debris removal and emergency protective measures in the counties of: Ben Hill, Berrien, Bleckley, Brantley, Brooks, Bryan, Charlton, Cook, Crawford, Effingham, Emanuel, Evans, Grady, Lanier, Laurens, McDuffie, McIntosh, Monroe, Montgomery, Pike, Tattnall, Telfair, Tift, Toombs, and Washington.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–10547 Filed 5–4–93; 8:45 am]

BILLING CODE 6718–02–M

Open Meeting, Board of Visitors for the Emergency Management Institute

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory

Committee Act, 5 U.S.C. app. 2, FEMA

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Committee Act, 5 U.S.C. app. 2, FEMA announces the following committee meeting:

Name: Board of Visitors for the Emergency Management Institute.

Dates of Meeting: May 13–14, 1993.

Place: Federal Emergency Management Agency, National Emergency Training Center, Emergency Management Institute, Conference Room, Building N, Emmitsburg, MD 21727.

Time: May 13, 1993, 8:30 a.m.—5 p.m., May 14, 1993, 8:30 a.m.—3 p.m.

Proposed Agenda: May 13: The board will welcome 4 newly appointed members, discuss its recently submitted 1992 Annual Report with the EMI Superintendent and obtain feedback as necessary, and receive briefings on the status of various EMI/FEMA programs.

May 14: The board will receive a campus tour including EMI's Computer Lab and develop its 1993 Workplan.

Supplementary Information: The meeting will be open to the public with approximately 10 seats available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, Emergency Management Institute, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1251, on or before May 5, 1993.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the Superintendent, Emergency Management Institute, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, MD 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: April 29, 1992.

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–10546 Filed 5–4–93; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; USA–East Africa Discussion Agreement, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011233–005.

Title: USA–East Africa Discussion Agreement.

Parties:

U.S. East Africa Conference
A.P. Moller-Maersk Line
The Bank Line Limited
CMB Transport N.V.
Compagnie Generale Maritime
Empresa de Navegacao Internacional
Lykes Bros. Steamship Co., Inc.
Mediterranean Shipping Company SA
P&O Containers Ltd.
Safbank Line, Ltd.

Synopsis: The proposed amendment (1) adds Southern Africa to the geographic scope; (2) changes the name of the Agreement to the USA/Southern and Eastern Africa Discussion Agreement; (3) adds Nedlloyd Lines and Wilhelmsen Lines AS as parties to the Agreement; (4) makes other technical and clarifying changes to the officials of the Agreement and the voting guidelines; and (5) restates the Agreement.

Dated: April 29, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–10521 Filed 5–4–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

James Aubrey "Jack" Cardwell, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 25, 1993.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. James Aubrey "Jack" Cardwell, El Paso, Texas; to retain 10.70 percent, and to acquire 3.31 percent of the voting shares of The Bank of El Paso, El Paso, Texas.

2. James Paul Kimble, El Paso, Texas; to acquire an additional 10.01 percent of the voting shares of The Bank of El Paso, El Paso, Texas, for a total of 21.61 percent.

3. Conrad Newton, Jr., Dawson, Texas; to acquire an additional 30.71 percent of the voting shares of Dawson Bancshares, Inc., Dawson, Texas, for a total of 47.4 percent, and thereby indirectly acquire First Bank & Trust Company, Dawson, Texas.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. John B. Joseph, Orange, California; to acquire an additional 2.12 percent of the voting shares of West Coast Bancorp, Orange, California, for a total of 11.92 percent, and thereby indirectly acquire Sunwest Bank, Tustin, California; Heritage Thrift and Loan Association, Brea, California; and Sacramento First National Bank, Sacramento, California.

Board of Governors of the Federal Reserve System, April 29, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10522 Filed 5-4-93; 8:45 am]

BILLING CODE 6210-01-F

Dresdner Bank AG, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than May 28, 1993.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Dresdner Bank AG, Frankfurt am Main, Germany; to acquire Oechsle International Advisors, L.P., and thereby engage in acquiring 80 percent limited partnership interest in OSV Currency Advisors, L.P., a company engaged in investment advisory activities pursuant to § 225.25(b)(4) of the Board's Regulation Y.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Cordinal Bancshares, Inc., Lexington, Kentucky; to acquire Mutual Federal Savings Bank, Somerset, Kentucky, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 29, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10525 Filed 5-4-93; 8:45 am]

BILLING CODE 6210-01-F

Keystone Financial, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 25, 1993.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Keystone Financial, Inc., Harrisburg, Pennsylvania; to engage *de novo* through its subsidiary, Keystone Financial Mortgage Corporation, Lancaster, Pennsylvania, in making, acquiring, and servicing loans for its account and the account of others, including Applicant's subsidiaries, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Comerica Incorporated, Detroit, Michigan; to engage *de novo* in making an equity investment in a community investment project pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 29, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10523 Filed 5-4-93; 8:45 am]

BILLING CODE 6210-01-F

Republic New York Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 28, 1993.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Republic New York Corporation, New York, New York; Saban S.A., City of Gibraltar, and RNYC Holdings Limited, City of Gibraltar; to acquire 100 percent of the voting sheres of SafraCorp, Los Angeles, California, and thereby indirectly acquire SafraBank, Los Angeles, California.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Banc One Corporation, Columbus, Ohio, and Banc One Colorado Corporation, Denver, Colorado; to merge with Colorado Western Bancorp, Inc., Montrose, Colorado, and thereby indirectly acquire The First National Bank of Montrose, Montrose, Colorado.

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C. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Union Bancorp, Inc., Bowling Green, Virginia; to merge with Northern Neck Bankshares Corporation, Warsaw, Virginia, and thereby indirectly acquire Northern Neck State Bank, Warsaw, Virginia.

D. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Birthright, Inc., Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of First Tuskegee Bank, Tuskegee, Alabama.

E. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First Community Financial Corporation, Elgin, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First Community Bank, Elgin, Illinois, a *de novo* bank.

F. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Southwest Bancshares, Inc., Jonesboro, Arkansas; to acquire 100 percent of the voting shares of Cherry Valley Bancshares, Inc., Wynne, Arkansas, and thereby indirectly acquire First Arkansas Bank, Wynne, Arkansas.

G. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to merge with M & D Holding Company, Spring Lake Park, Minnesota, and thereby indirectly acquire First State Bank of Spring Lake Park, Spring Lake Park, Minnesota.

H. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Lansing Financial Corporation, Lansing, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of The First State Bank of Lansing, Lansing, Kansas.

2. Pinnacle Bancorp, Inc., Central City, Nebraska (currently operating under the name of Green Top, Inc.), to merge with Windsor Bancorporation, Inc., Windsor, Colorado, and thereby indirectly acquire Bank of Windsor, Windsor, Colorado.

I. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. First Bancorp of Louisiana, Inc., Employee Stock Ownership Plan Trust and First Bancorp of Louisiana, Inc., West Monroe, Louisiana; to acquire 100 percent of the voting shares of Southern National Bank at Tallulah, Tallulah, Louisiana.

Board of Governors of the Federal Reserve System, April 29, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10524 Filed 5-4-93; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Appliance Labeling Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of application to OMB under the Paperwork Reduction Act (44 U.S.C. 3501–3518) for information collection requirements contained in proposed amendments to the Commission's Appliance Labeling Rule, 16 CFR part 305.

SUMMARY: The FTC is seeking OMB clearance for information collection requirements contained in proposed amendments to the Commission's Appliance Labeling Rule.

The Energy Policy Act of 1992 ("EPA"), Public Law 102–486, amends the Energy Policy and Conservation Act of 1975, which directed the Commission to issue the Appliance Labeling Rule. The Appliance Labeling Rule establishes standard procedures for energy conservation relating to eight appliance categories:

(1) Refrigerators, refrigerator-freezers and freezers;
(2) Dishwashers;
(3) Clothes washers;
(4) Water heaters;
(5) Room air conditioners;
(6) Furnaces;
(7) Central air conditioners and heat pumps; and
(8) Fluorescent lamp ballasts.

EPA 92 adds four new categories of plumbing products (showerheads, faucets, water closets, and urinals) to EPCA's list of covered products. It establishes maximum permissible water usage rates for each of these four plumbing products and specifies certain American Society of Mechanical Engineers ("ASME") test procedures as protocols for use in measuring the actual water usage rates of such products. The proposed amendments would require manufacturers to retain and submit to the Commission annually, the trade names, model numbers, and water usage rates of covered products.

Estimate of Information Collection Burden

On the basis of current industry figures, staff estimates that approximately 100–120 plumbing products manufacturers could be affected by the proposed recordkeeping and reporting requirements.

Staff estimates that it will take each of the manufacturers less than an additional half hour per year to comply with the proposed requirements, resulting in a total of less than 60 hours of paperwork burden. This estimate is small because manufacturers are already required by state plumbing and/or building codes to include in their reports to state authorities the same information as the records at issue (the manufacturer's name and address and the trade names, model numbers, and water usage rates of its covered products). Submitting an extra copy of these reports to the Commission should take each of the affected manufacturers less than an additional half hour per year. Further, records that are likely to be retained by industry members during the normal course of business are excluded from the "burden" for OMB purposes. See 5 CFR 1320.7(b)(1).

Commission staff believes that approximately 100 industry members currently are covered by the bookkeeping and reporting requirements of the Rule for the eight covered product categories. Unlike manufacturers of plumbing products, the manufacturers of the eight covered product categories are not required to submit this type of information to state authorities. However, for approximately 85% of the manufacturers of covered products, the reporting burden has been reduced to zero because these manufacturers submit product information for publication in trade association directories in the normal course of their business activities. Therefore, staff estimates that the maximum current total yearly burden of the Rule is 150 hours (10 hours per year times 15 industry members).

The Commission also has underway a proceeding to amend the existing Rule. The Department of Energy recently promulgated test procedures for pool heaters, instantaneous water heaters and heat pump water heaters, triggering the obligation under the Energy Policy and Conservation Act for the Commission to consider labeling requirements. See section 324(b)(1)(B) of EPCA (42 U.S.C. 6924(b)(1)(B). The Commission is therefore currently seeking comments on a proposal to cover such heaters under the Rule. 58 FR 7852 (Feb. 9, 1993). If the proposed amendments are implemented, Commission staff estimates that no more than 50 companies would be affected and that each company would expend less than 10 hours to comply. Of those 50 companies that might be affected, some may also produce other covered products. At this time, staff is seeking comments, particularly qualitative estimates, about the amount of time it would take to comply with these reporting requirements. While these comments may result in a change of the burden hours, under no scenario would the proposed amendment to add pool heaters increase the "information collection burden" by more than 500 hours.

Based on these figures, staff estimates that the current total yearly burden of the rule is 150 hours (10 hours per year times 15 industry members). The water heater amendment would add 10 hours per year times 50 industry members. Staff further estimates that the total additional yearly burden imposed by the proposed amendment to add plumbing products would be 60 hours (30 minutes per year times 120 industry members) for a new burden total of approximately 710 hours, which has been rounded up to 1,000 hours.

DATES: Comments on this application must be submitted on or before June 4, 1993.

ADDRESSES: Send comments both to Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3228, Washington, DC 20503, ATN: Desk Officer for the Federal Trade Commission and to the Office of the General Counsel, Federal Trade Commission, Washington, DC 20580. Copies of the submission to OMB, including the application, may be obtained from the Public Reference Section, room 130, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Elaine W. Crockett, Attorney, Office of the General Counsel, Federal Trade Commission, Washington, DC 20580 (202) 326–2453.

Donald S. Clark,

Secretary.

[FR Doc. 93–10559 Filed 5–4–93; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3425]

B&J School Bus Service, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, three school bus transportation companies (B&J, Ryder, and Mayflower) that provide bus service in the Kansas City Missouri School District from entering into agreements with each other or with any other school bus transportation provider or potential provider—with respect to school bus transportation services in the Kansas City area—to submit jointly determined bids; to refrain from bidding; to allocate or divide jobs, markets, customers, contracts, or territories; or to set prices or other terms and conditions. In addition, the order prohibits the companies, for three years, from communicating to each other or to past, present or likely future providers of school bus transportation service in the Kansas City area their plans to bid, or not to bid, for those services.

DATES: Complaint and Order issued April 22, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Thomas Russell or Catherine Fuller, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., suite 1437, Chicago, IL 60603. (312) 353–8156.

SUPPLEMENTARY INFORMATION: On Tuesday, February 2, 1993, there was published in the **Federal Register**, 58 FR 6792, a proposed consent agreement with analysis In the Matter of B&J School Bus Service, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 93–10552 Filed 5–4–93; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint, the Decision and Order, and Commissioner Azcuenaga's statement are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[Dkt. C–3423]

CDB Infotek, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a California corporation and one of its officers to cease and desist from furnishing any consumer report to any person that they have reason to believe intends to use the information for any insurance-related purpose other than the underwriting of insurance involving the consumer on whom the report is furnished; or from furnishing any consumer report under any other circumstances not permitted by section 604 of the Fair Credit Reporting Act. In addition, respondents are required to notify the consumer whenever a consumer report is furnished for employment purposes and contains information that may adversely affect the consumer's ability to obtain employment.

DATES: Complaint and Order issued April 14, 1993.[1]

FOR FURTHER INFORMATION CONTACT: David Medine, FTC/S–4429, Washington, DC 20580, (202) 326–3224.

SUPPLEMENTARY INFORMATION: On Thursday, August 27, 1992, there was published in the **Federal Register**, 57 FR 38834, a proposed consent agreement with analysis In the Matter of CDB Infotek, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

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(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 84 Stat. 1128–36; 15 U.S.C. 1681–1681(f))

Donald S. Clark,

Secretary.

[FR Doc. 93–10557 Filed 5–4–93; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3424]

Inter-Fact, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, an Ohio corporation and two of its officers to cease and desist from furnishing any consumer report to any person that they have reason to believe intends to use the information for any insurance-related purpose other than the underwriting of insurance involving the consumer on whom the report is furnished; or from furnishing any consumer report under any other circumstances not permitted by section 604 of the Fair Credit Reporting Act. In addition, respondents are required to notify the consumer whenever a consumer report is furnished for employment purposes and contains information that may adversely affect the consumer's ability to obtain employment.

DATES: Complaint and Order issued April 14, 1993.[1]

FOR FURTHER INFORMATION CONTACT: David Medine, FTC/S–4429, Washington, DC 20580. (202) 326–3224.

SUPPLEMENTARY INFORMATION: On Wednesday, August 26, 1992, there was published in the **Federal Register**, 57 FR 38684, a proposed consent agreement with analysis In the Matter of Inter-Fact, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 84 Stat. 1128–36; 15 U.S.C. 1681–1681(f))

Donald S. Clark,

Secretary.

[FR Doc. 93–10555 Filed 5–4–93; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3422]

I.R.S.C., Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a California corporation and one of its officers to cease and desist from furnishing any consumer report to any person that they have reason to believe intends to use the information for any insurance-related purpose other than the underwriting of insurance involving the consumer on whom the report is furnished; or from furnishing any consumer report under any other circumstances not permitted by section 604 of the Fair Credit Reporting Act. In addition, respondents are required to notify the consumer whenever a consumer report is furnished for employment purposes and contains information that may adversely affect the consumer's ability to obtain employment.

DATES: Complaint and Order issued April 14, 1993.[1]

FOR FURTHER INFORMATION CONTACT: David Medine, FTC/S–4429, Washington, DC 20580. (202) 326–3224.

SUPPLEMENTARY INFORMATION: On Wednesday, August 26, 1992, there was published in the **Federal Register**, 57 FR 38689, a proposed consent agreement with analysis In the Matter of I.R.S.C., Inc., et al., d/b/a Information Resource Service Company, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 84 Stat. 1128–36; 15 U.S.C. 1681–1681(f))

Donald S. Clark,

Secretary

[FR Doc. 93–1055 Filed 5–4–93; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. 9205]

Occidental Petroleum Corp. et al.; Prohibited Trade Practices and Affirmative Corrective Actions

In the matter of Occidental Petroleum Corp., a corporation; Occidental Chemical Corp., a corporation; Tenneco, Inc., a corporation; and Tenneco Polymers, Inc., a corporation.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This final order upholds the ruling of the administrative law judge, which requires Occidental, a California-based corporation, to divest certain Tenneco PVC plants to a Commission-approved acquirer within one year. The order prohibits Occidental, for 10 years, from acquiring all or any part of the stock or assets of, or any interest in, any producer of PVC located in the United States, without prior Commission approval.

DATES: Complaint issued April 11, 1986. Final order issued December 22, 1992.[1]

FOR FURTHER INFORMATION CONTACT: Rhett Krulla, FTC/S–3302, Washington, DC 20580. (202) 326–2608.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Commissioners: Janet D. Steiger, Chairman, Mary L. Azcuenaga, Deborah K. Owen, Roscoe B. Starek, III, Dennis A. Yao.

Final Order

This matter having been heard on the appeal of the respondents from the initial decision and on briefs and oral argument in support of and in opposition to the appeal, for the reasons stated in the attached opinion, the Commission has determined to deny the appeal. Accordingly,

It is ordered That the following order be and the same hereby is entered:

[1] Copies of the Complaint and the Decision and Orders are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[1] Copies of the Complaint, Initial Decision, Opinion of the Commission, and Statement of Commissioner Owen are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

I

It is Ordered That the following definitions apply:

A. "Occidental" means Occidental Petroleum Corporation and Occidental Chemical Corporation, two corporations organized under the laws of California with their principal places of business in Los Angeles, California, and their directors, officers, agents and employees and their subsidiaries, divisions, affiliates, successors and assigns;

B. "Tenneco" means Tenneco, Inc., and Tenneco Polymers Inc., two corporations organized under the laws of Delaware with their principal places of business in Houston, Texas, and their directors, officers, agents and employees and their subsidiaries, divisions, affiliates, successors and assigns;

C. "Acquired PVC assets" means the suspension PVC homopolymer manufacturing facility located at Pasadena, Texas, the suspension PVC and dispersion PVC manufacturing facility located at Burlington, New Jersey, and all assets, titles, properties, interests, rights and privileges, tangible and intangible, related to the PVC business that were acquired by Occidental from Tenneco on or about April 30, 1986, together with all improvements thereto;

D. "PVC" means any vinyl chloride homopolymer with the repeating unit $CH_2=CHCl$ and any copolymer of vinyl chloride with varying amounts of other chemicals, including vinyl acetate, ethylene, propylene, vinylidene chloride or acrylates;

E. "Mass PVC" means PVC produced from vinyl chloride by the mass (also referred to as "bulk") process;

F. "Suspension PVC homopolymer" means PVC homopolymer produced from vinyl chloride by the suspension process;

G. "Suspension PVC copolymer" means any copolymer of vinyl chloride and vinyl acetate produced by the suspension process and containing more than 50 percent by weight of vinyl chloride;

H. "Dispersion PVC" means PVC produced by the emulsion or dispersion process.

II

It is ordered That within twelve (12) months from the date this Order becomes final, Occidental shall divest, absolutely and in good faith, at no minimum price, the acquired PVC assets. The purpose of the divestiture is to establish the acquired PVC assets, either singly or separately, as a viable competitor in PVC, by ensuring the continuation of the assets as ongoing, viable enterprises in the PVC industry, and to remedy the lessening of competition resulting from the acquisition of the acquired PVC assets by Occidental. The divestiture(s) shall be made only to an acquirer or acquirers and only in a manner that receives the prior approval of the Federal Trade Commission.

Pending divestiture, Occidental shall take all measures necessary to maintain the acquired PVC assets in their present condition and to prevent any deterioration, except for normal wear and tear, of any part of the acquired PVC assets, so as not to impair the present operating viability and market value of the acquired PVC assets.

It is further ordered That at the time of the divestiture required by this Order, Occidental shall provide to the acquirer or acquirers of the acquired PVC assets, on a nonexclusive basis, all PVC technology (including patent licenses and know-how) used by Occidental or developed by Occidental for use in connection with the acquired PVC assets; and

For a period of one (1) year following the divestiture required by this Order, Occidental shall provide the acquirer or acquirers of the acquired PVC assets, if the acquirer(s) so requests, such additional know-how as may reasonably be required to enable the acquirer(s) to manufacture and sell PVC. Occidental shall charge the acquirer(s) no more than its own costs for providing such additional know-how.

IV

It is further ordered That at the time of the divestiture required by this Order, Occidental shall assign to the acquirer(s) of the acquired PVC assets, all supply agreements for VCM and other feedstocks for the manufacture of PVC, all PVC sales, toll or exchange agreements, and all PVC customer records and files relating to PVC produced in (or supplied by Occidental at any time since May 1, 1986, from) the acquired PVC assets.

V

It is further ordered That if Occidental has not divested the acquired PVC assets within the twelve-month period provided in Paragraph II of this Order, the Federal Trade Commission may appoint a trustee to effect the divestiture. The trustee shall be a person with experience and expertise in acquisitions and divestitures. Neither the appointment of a trustee nor a Commission decision not to appoint a trustee under this Paragraph V of the Order shall preclude the Commission from seeking civil penalties and other relief available to it, including a court-appointed trustee, for any failure by Occidental to comply with this Order.

Any trustee appointed by the Commission pursuant to this Paragraph V shall have the following powers, authority, duties and responsibilities:

A. The trustee shall have the exclusive power and authority, subject to the prior approval of the Commission, to divest the acquired PVC assets. The trustee shall have twelve (12) months from the date of appointment to accomplish the divestiture. If, however, at the end of the twelve month period, the trustee has submitted a plan of divestiture or believes that divestiture can be accomplished within a reasonable time, the divestiture period may be extended by the Commission.

B. The trustee shall have full and complete access to the personnel, books, records and facilities of the acquired PVC assets, and Occidental shall develop such financial or other information relevant to the acquired PVC assets as the trustee may reasonably request. Occidental shall cooperate with the trustee and shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Occidental shall extend the time for divestiture under this Paragraph V in an amount equal to the delay, as determined by the Commission.

C. The power and authority of the trustee to divest shall be at the most favorable price and terms available consistent with this Order's absolute and unconditional obligation to divest at no minimum price and with the purposes of the divestiture, as stated in Paragraph II of this Order, subject to the prior approval of the Commission.

D. The trustee shall serve without bond or other security and at the cost and expense of Occidental on such reasonable and customary terms and conditions as the Commission may set. The trustee shall have authority to retain, at the cost and expense of Occidental, such consultants, attorneys, investment bankers, business brokers, accountants, appraisers and other representatives and assistants as are reasonably necessary to assist in the divestiture. The trustee shall account for all monies derived from the divestiture and for all expenses incurred. After approval by the Commission of the account of the trustee, including fees for the trustee's services, all remaining monies shall be paid to Occidental, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on

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the trustee divesting the acquired PCV assets.

E. Occidental shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages or liabilities arising in any manner out of or in connection with the trustee's duties under this Order, unless the Commission determines that such losses, claims, damages or liabilities arose out of the misfeasance, gross negligence or the willful or wanton acts or bad faith of the trustee.

F. Promptly upon appointment of the trustee and subject to the approval of the Commission, Occidental shall, subject to the Federal Trade Commission's prior approval and consistent with the provisions of this Order, transfer to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this Order.

G. If the trustee ceases to act or fails to act diligently, the Commission may appoint a substitute trustee.

H. The Commission may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.

I. The trustee shall have no obligation or authority to operate or maintain the acquired PVC assets.

J. The trustee shall report in writing to Occidental and to the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

VI

It is further ordered That for a period of ten (10) years from the date this Order becomes final, Occidental shall not directly or indirectly acquire—other than the acquisition of manufactured product in the ordinary course of business—all or any part of the stock or assets of, or any interest in, any producer of PVC located in the United States without the prior approval of the Federal Trade Commission.

VII

It is further ordered That Occidental shall, within sixty (60) days after the date this Order becomes final and every sixty (60) days thereafter until it has fully complied with Paragraph II of this Order, submit in writing to the Commission a report setting forth in detail the manner and form in which it intends to comply, is complying or has complied with that paragraph. Such compliance reports shall include, among other things that may be required from time to time, a full description of all contacts and negotiations relating to the divestiture of the acquired PVC assets, including the name and address of all persons contacted, copies of all written communications to and from such persons and all internal memoranda, reports and recommendations concerning divestiture; and

Occidental shall submit such further written reports of its compliance as the staff of the Commission may from time to time request in writing.

VIII

It is further ordered That Occidental, upon written request and on reasonable notice, for the purpose of securing compliance with this Order, and subject to any legally recognized privilege, shall permit duly authorized representatives of the Commission:

A. Reasonable access during the office hours of Occidental, which may have counsel present, to inspect and copy books, ledgers, accounts, correspondence, memoranda, reports and other records and documents in the possession or control of Occidental that relate to any matter contained in this Order; and

B. Subject to the reasonable convenience of Occidental, an opportunity to interview officers or employees of Occidental, who may have counsel present, regarding such matters.

IX

It is further ordered That Occidental shall notify the Commission at least thirty (30) days prior to any proposed corporate change, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance with the obligations arising out of this Order.

By the Commission, Commissioner Owen dissenting,[2] and Commissioner Starek and Commissioner Yao not participating.

Donald S. Clark,

Secretary.

[FR Doc. 93-10554 Filed 5-4-93; 8:45 am]

BILLING CODE 6750-01-M

[2] Commissioner Owen concurs with the result reached in the Opinion of the Commission with respect to the markets for suspension PVC copolymer and dispersion PVC and with the relief ordered with respect to those two markets, including the divestiture of the Burlington, New Jersey plant.

OFFICE OF GOVERNMENT ETHICS

Proposed Revision to Information Collection Form Concerning Access to Public Financial Disclosure Reports of Executive Branch Officials

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice of proposed revision to information collection form.

SUMMARY: The Office of Government Ethics has submitted to the Office of Management and Budget (OMB) for approval, in accordance with the Paperwork Reduction Act, a proposed revised version of an OGE form to be entitled (as revised) "Request to Inspect or Receive Copies of SF 278, Executive Branch Personnel Public Financial Disclosure Report," which collects information from the public.

DATES: Comments on this proposal should be received by June 4, 1993.

ADDRESSES: Comments should be sent to Joseph F. Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3002, Washington, DC 20503, telephone (202/FTS) 395-7316.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, telephone (202/FTS) 523-5757, FAX (202/FTS) 523-6325. A copy of OGE's request for approval from OMB, including the proposed form, may be obtained by contacting Mr. Gressman.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics is the supervising ethics office for the executive branch of the Federal Government, as defined under section 109(18)(D) of the Ethics in Government Act of 1978 as amended, 5 U.S.C. app. 109(18)(D). Section 105 (b) and (c) of the Ethics Act, 5 U.S.C. app. 105 (b) and (c), and 5 CFR 2634.603 (c) and (f) of OGE's implementing executive branch-wide regulation set forth certain requirements that must be met by a person requesting to inspect or obtain copies of Standard Form 278 Executive Branch Personnel Public Financial Disclosure Reports filed by high-level executive branch officials. These requirements relate to information identifying the requester and notification of prohibited uses of such reports under the law. For years, OGE has disseminated a locally reproducible uniform form (now OGE Form 201, which is not a standard form) to serve as the statutorily required written application to inspect or receive copies of SF 278 financial disclosure reports. Executive departments and agencies need not utilize the OGE form as long as they collect the information required under the Ethics Act and OGE's implementing regulation before granting access to the SF 278 reports they have on file, but they are invited to do so (alternatively, they can use their own agency forms). The access forms are publicly available themselves upon the proper filing of an access form.

This proposed revision to the OGE Form 201, "Request to Inspect or Receive Copies of SF 278, Executive Branch Personnel Public Financial Disclosure Report," will slightly revise the form title (as just indicated), add an optional business telephone information block to assist in contacting the requester regarding the processing of his or her request, amend the Privacy Act statement primarily to summarize the routine uses, change the public burden estimate and make a few other minor changes to the form. The Office of Government Ethics is seeking an additional three-year approval for the revised form from the OMB under the Paperwork Reduction Act, 44 U.S.C. chapter 35. Various members of the public use the access form, including the news media, public interest groups and private individuals.

In light of OGE experience over the past three years (1990–1992), the estimate of the total number of access forms expected to be filed annually at OGE has been adjusted down to 250 (from a prior estimate of 360). However, also in light of its experience as well as the additional time needed to review the expanded Privacy Act notice, OGE is increasing the average amount of time it is estimated to take to complete the form from three minutes to ten minutes. The overall estimated annual public burden for the OGE Form 201 for forms filed at OGE will thus increase from the current OMB paperwork inventory listing of 18 hours (360 forms × 3 minutes/form) to 42 hours (250 forms × 10 minutes/form). Finally, the Office of Government Ethics estimates that 1,000 access request forms will be filed each year at the other executive branch departments and agencies.

Approved: April 27, 1993.

Stephen D. Potts,

Director, Office of Government Ethics.

[FR Doc. 93-10592 Filed 5-4-93; 8:45 am]

BILLING CODE 6345-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Amended Program Announcement and Final Funding Priority and Special Consideration for Grants for Residency Training and Advanced Education in the General Practice of Dentistry

The Health Resources and Services Administration (HRSA) announces the final funding priority and special consideration for fiscal year (FY) 1993 Grants for Residency Training and Advanced Education in the General Practice of Dentistry are being accepted under the authority of title VII, section 749 of the Public Health Service Act (the Act), as amended by the Health Professions Education Extension Amendments of 1992, Public Law 102-408.

This program was announced in the **Federal Register** at 57 FR 36102 on August 12, 1992. The announcement included a proposed funding priority and a proposed special consideration. A comment period of 30 days was established to allow public comment concerning the proposed funding priority and proposed special consideration. No comments were received. This notice includes the final funding priority and special consideration.

In addition, since this program was announced on August 12, 1992, the Health Professions Education Extension Amendments of 1992, Public Law 102-408, was enacted. These amendments resulted in changes in this program. (1) The section number has been changed from 785 to 749. (2) A program purpose has been added. (3) A statutory funding preference has been added. (4) Certain information is required to be submitted with the application. This notice will describe these changes.

Approximately $3,275,046 will be available in FY 1993 for this program. Total continuation support recommended is $869,572. It is anticipated that $2,405,474 will be available to support 17 competing awards averaging $140,000.

Purpose

Public Law 102-408 amends this program to include a purpose to fund innovative, nontraditional models for the provision of postdoctoral general dentistry training. Section 749 of the PHS Act authorizes the Secretary to make grants to any public or nonprofit private school of dentistry or accredited postgraduate dental training institution (e.g., hospitals and medical centers) (1) to plan, develop, and operate an approved residency program in the general practice of dentistry or an approved advanced educational program in the general practice of dentistry; (2) to provide financial assistance (in the form of traineeships and fellowships) to participants in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry; and (3) to fund innovative, nontraditional models for the provision of postdoctoral general dentistry training.

To receive support, programs must meet the requirements of final regulations at 42 CFR part 57, subpart L. The period of Federal support should not exceed 3 years.

Information Requirements Provision

Under section 791(b) of the Act, the Secretary may make an award under the Grants for Residency Training and Advanced Education in the General Practice of Dentistry program only if the applicant for the award submits to the Secretary information regarding the programs of the applicant. These requirements will be provided in the application materials.

Statutory Funding Preference

Public Law 102-408 has amended this program to include a statutory funding preference which is new. As provided in section 791(a) of the PHS Act, preference will be given to qualified applicants that (a) have a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (2) have achieved, during the 2-year period preceding the fiscal year for which an award is sought, a significant increase in the rate of placing graduates in such settings. This preference will only be applied to applications that rank above the 20th percentile of proposals recommended for approval by the peer review group. Additional information concerning the implementation of this preference has been published in the **Federal Register** at 58 FR 9570, dated February 22, 1993.

Final Funding Priority

In determining the order of funding of approved applications, a funding priority will be given to applicants which demonstrate either substantial progress over the last three years or a significant experience of ten or more years in enrolling and graduating trainees from those minority or low-income populations identified as at risk of poor health outcomes. This priority is

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consistent with a HRSA strategy to increase the number of health professionals from minority and other at risk populations, to assure equal access to health professions education for all population groups, and ultimately, to provide a greater volume of health care in underserved areas.

Final Special Consideration

Special consideration will be given to the extent to which applicants enroll and graduate trainees from underserved areas. This special consideration is intended to recognize programs that enroll and graduate trainees from underserved areas because health professionals who come from underserved areas are more likely to return there upon completion of training to provide needed health services.

If additional programmatic information is needed, please contact: Dr. Richard Weaver, Chief, Dental Health Branch, Division of Associated, Dental, and Public Health Professions, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 8C–15, Rockville, Maryland 20857, Telephone: (301) 443–6837.

Grants for Residency Training and Advanced Education in the General Practice of Dentistry is listed at 93.897 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: April 28, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–10504 Filed 5–4–93; 8:45 am]

BILLING CODE 4160–15–P

Amended Program Announcement for Public Health Traineeships to Schools of Public Health and Other Public and Nonprofit Private Institutions for Fiscal Year 1993

The Health Resources and Services Administration (HRSA) announced in the **Federal Register** on April 13, 1993 (58 FR 19272) that applications will be accepted for fiscal year (FY) 1993 Grants for Public Health Traineeships to Schools of Public Health and other Public and Nonprofit Private Institutions under the authority of section 761, title VII of the Public Health Service Act as amended by the Health Professions Education Extension Amendments of 1992, Public Law 102–408, dated October 13, 1992. This notice is published to clarify purpose and eligibility issues.

Purpose

Section 761 of the Public Health Service Act authorizes the Secretary to award Public Health Traineeship grants to accredited schools of Public Health and to other public or nonprofit private institutions accredited for the purpose of providing traineeships to individuals who are pursuing a course of study in a health professions field in which there is a severe shortage of health professionals. Section 761 identifies some health professions fields in which there is a severe shortage including epidemiology, environmental health, biostatistics, toxicology and public health nutrition.

In fiscal year 1993, for new public health trainees, support will be for students pursuing a graduate degree in:

1. Educational fields cited in section 761(b)(3) of the PHS Act as having a severe shortage of health professionals, including epidemiology, environmental health, toxicology, nutrition and biostatistics; or
2. Other educational fields/professions for which the applicant can (a) justify a severe shortage in the geographic/service area of the applicant to the satisfaction of peer reviewers, and (b) justify that such severe shortage would be lessened by having a trainee in the cited educational field/profession.

Ongoing traineeship commitments, i.e., reappointments, will be continued.

Eligible Applicants

Eligible applicants include (1) Schools of Public Health that have been accredited by the Council on Education for Public Health and (2) other public or nonprofit private institutions accredited by a body recognized for this purpose by the Secretary of the Department of Education. The recognized accrediting body for this grant program is the Council on Education for Public Health (CEPH). The accredited school or program must be located in a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be directed to: Grants Management Branch (A03), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857 FAX: (301) 443–6343.

Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact: Public Health Branch, Division of Associated, Dental and Public Health Professions, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8C–09, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6757, FAX: (301) 443–1164.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915–0060.

To allow sufficient time for preparation of applications following the publication of this clarification notice, the deadline date for receipt of applications has been extended to May 21, 1993. Applications will be considered to be "on time" if they are either:

(1) Received on or before the established deadline date, or

(2) Sent on or before the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

This program, Grants for Public Health Traineeships, is listed at 93.964 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: April 28, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–10503 Filed 5–4–93; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

Meetings; Bionutrition Group

Notice is hereby given of the meeting of an ad hoc Bionutrition Group of the National Institutes of Health (NIH) on May 12, 1993. The meeting will be held from 9 a.m. to 5 p.m. in Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. The meeting is open to the public subject to space availability.

The purpose of this meeting is to announce the NIH Bionutrition Initiative, one of several initiatives advanced in the NIH Strategic Plan. Bionutrition, as the integrated discipline that links molecular and genetic techniques to modern nutrition science for the betterment of health, offers tremendous potential for optimizing individual health and well-being, preventing diet-related chronic diseases, and treating a broad range of diseases and disorders. The ad hoc Bionutrition Group is being convened to address the steps necessary to implement the NIH Bionutrition Initiative, including the activities of the planned NIH Bionutrition Advisory Council.

Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other special accommodations, should contact the person named below in advance of the meeting.

For logistical information, contact Debra Steward, TRI, 301–770–3153. For programmatic information, contact Darla Danford, M.P.H., D.Sc., Director, Division of Nutrition Research Coordination, National Institutes of Health, Building 31, Room 4B63, 9000 Rockville Pike, Bethesda, Maryland 20892, 301–496–9281, 301–496–9942 (FAX).

Dated: April 30, 1993.

Susan K. Feldman,

NIH Committee Management Officer.

[FR Doc. 93–10609 Filed 5–4–93; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage In Urine Drug Testing for Federal Agencies and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS (Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11979, 11986). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

FOR FURTHER INFORMATION CONTACT: Denise L. Goss, Program Assistant, Division of Workplace Programs, room 9–A–54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443–6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in an every-other-month performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Road, suite 21, Nashville, TN 37211, 615–331–5300.

Alabama Reference Laboratories, Inc., 543 South Hull Street, Montgomery, AL 36103, 800–541–4931/205–263–5745.

Allied Clinical Laboratories, 201 Plaza Boulevard, Hurst, TX 76053, 817–282–2257.

American Medical Laboratories, Inc., 14225 Newbrook Drive, Chantilly, VA 22021, 703–802–6900.

Associated Pathologists Laboratories, Inc., 4230 South Burnham Avenue, suite 250, Las Vegas, NV 89119–5412, 702–733–7866.

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787.

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–227–2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Bayshore Clinical Laboratory, 4555 W. Schroeder Drive, Brown Deer, WI 53223, 414–355–4444/800–877–7016.

Bioran Medical Laboratory, 415 Massachusetts Avenue, Cambridge, MA 02139, 617–547–8900.

California Toxicology Services, 1925 East Dakota Avenue, suite 206, Fresno, CA 93726, 209–221–5655/800–448–7600.

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Avenue, Miami, FL 33136, 305–325–5810.

Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310–215–6020.

Clinical Pathology Facility, Inc., 711 Bingham Street, Pittsburgh, PA 15203, 412–488–7500.

Clinical Reference Lab, 11850 West 85th Street, Lenexa, KS 66214, 800–445–6917.

CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263/800–833–3984.

CompuChem Laboratories, Special Division, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263.

Cox Medical Centers, Department of Toxicology, 1423 North Jefferson Avenue, Springfield, MO 65802, 800–876–3652/417–836–3093.

CPF MetPath Laboratories, 21007 Southgate Park Boulevard, Cleveland, OH 44137–3054, 800–338–0166 (outside OH)/800–362–8913 (inside OH) (name changed: formerly Southgate Medical Laboratory; Southgate Medical Services, Inc.).

Damon Clinical Laboratories, 140 East Ryan Road, Oak Creek, WI 53154, 800–638–1100 (name changed: formerly Chem-Bio Corporation; CBC Clinilab).

Damon Clinical Laboratories, 8300 Esters Blvd., suite 900, Irving, TX 75063, 214–929–0535.

Dept. of the Navy, Navy Drug Screening Laboratory, Norfolk, VA, 1321 Gilbert Street, Norfolk, VA 23511–2597, 804–444–8089 ext. 317.

Doctors & Physicians Laboratory, 801 East Dixie Avenue, Leesburg, FL 32748, 904–787–9006.

Drug Labs of Texas, 15201 I–10 East, suite 125, Channelview, TX 77530, 713–457–3784.

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310.

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ElSohly Laboratories, Inc., 1215½ Jackson Ave., Oxford, MS 38655, 601–236–2609.
Employee Health Assurance Group, 405 Alderson Street, Schofield, WI 54476, 800–627–8200 (name change: formerly Alpha Medical Laboratory, Inc.).
General Medical Laboratories, 36 South Brooks Street, Madison, WI 53715, 608–267–6267.
Harrison & Associates Forensic Laboratories, 606 N. Weatherford, P.O. Box 2788, Midland, TX 79702, 800–725–3784/915–687–6877.
HealthCare/Preferred Laboratories, 24451 Telegraph Road, Southfield, MI 48034, 800–328–4142 (inside MI)/800–225–9414 (outside MI).
Hermann Hospital Toxicology Laboratory, Hermann Professional Building, 6410 Fannin, suite 354, Houston, TX 77030, 713–793–6080.
IHC Laboratory Services Forensic Toxicology, 930 North 500 West, suite E, Provo, UT 84604, 800–967–9766.
Jewish Hospital of Cincinnati, Inc., 3200 Burnet Avenue, Cincinnati, Ohio 45229, 513–569–2051.
Laboratory of Pathology of Seattle, Inc., 1229 Madison St., suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672.
Laboratory Specialists, Inc., 113 Jarrell Drive, Belle Chasse, LA 70037, 504–392–7961.
Marshfield Laboratories, 1000 North Oak Avenue, Marshfield, WI 54449, 715–389–3734/800–222–5835.
Mayo Medical Laboratories, 200 S.W. First Street, Rochester, MN 55905, 507–284–3631.
Med-Chek Laboratories, Inc., 4900 Perry Highway, Pittsburgh, PA 15229, 412–931–7200.
MedExpress/National Laboratory Center, 4022 Willow Lake Boulevard, Memphis, TN 38175, 901–795–1515.
Medical Science Laboratories, 11020 W. Plank Court, Wauwatosa, WI 53226, 414–476–3400.
MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc., 6160 Variel Avenue, Woodland Hills, CA 91367, 818–226–4373 (name changed: formerly Laboratory Specialists, Inc.; Abused Drug Laboratories; moved 12/21/92).
MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc., 2356 North Lincoln Avenue, Chicago, IL 60614, 312–880–6900 (name changed: formerly Bio-Analytical Technologies).
MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 800–832–3244/612–636–7466.
Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Boulevard, Indianapolis, IN 46202, 317–929–3587.
Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Avenue, Peoria, IL 61636, 800–752–1835/309–671–5199.
MetPath, Inc., 1355 Mittel Boulevard, Wood Dale, IL 60191, 708–595–3888.
MetPath, Inc., One Malcolm Avenue, Teterboro, NJ 07608, 201–393–5000.
MetWest-BPL Toxicology Laboratory, 18700 Oxnard Street, Tarzana, CA 91356, 800–492–0800/818–343–8191.
National Center for Forensic Science, 1901 Sulphur Spring Road, Baltimore, MD 21227, 410–536–1485 (name changed: formerly Maryland Medical Laboratory, Inc.).
National Drug Assessment Corporation, 5419 South Western, Oklahoma City, OK 73109, 800–749–3784 (name changed: formerly Med Arts Lab).
National Health Laboratories Incorporated, 2540 Empire Drive, Winston-Salem, NC 27103–6710, 919–760–4620/800–334–8627 (outside NC)/800–642–0894 (inside NC).
National Health Laboratories Incorporated, 75 Rod Smith Place, Cranford, NJ 07016–2843, 908–272–2511.
National Health Laboratories Incorporated, d.b.a. National Reference Laboratory, Substance Abuse Division, 1400 Donelson Pike, suite A–15, Nashville, TN 37217, 615–360–3992/800–800–4522.
National Health Laboratories Incorporated, 13900 Park Center Road, Herndon, VA 22071, 703–742–3100.
National Psychopharmacology Laboratory, Inc., 9320 Park W. Boulevard, Knoxville, TN 37923, 800–251–9492.
National Toxicology Laboratories, Inc., 1100 California Avenue, Bakersfield, CA 93304, 805–322–4250.
Nichols Institute Substance Abuse Testing (NISAT), 7470–A Mission Valley Road, San Diego, CA 92108–4406, 800–446–4728/619–686–3200 (name changed: formerly Nichols Institute).
Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361.
Occupational Toxicology Laboratories, Inc., 2002 20th Street, suite 204A, Kenner, LA 70062, 504–465–0751.
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Avenue, Eugene, OR 97440–0972, 503–687–2134.
Parke DeWatt Laboratories, Division of Comprehensive Medical Systems, Inc., 1810 Frontage Rd., Northbrook, IL 60062, 708–480–4680.
Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400.
PDLA, Inc. (Princeton), 100 Corporate Court, So. Plainfield, NJ 07080, 908–769–8500/800–237–7352.
PharmChem Laboratories, Inc., 1505–A O'Brien Drive, Menlo Park, CA 94025, 415–328–6200/800–446–5177.
PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Drive, Fort Worth, TX 76118, 817–595–0294 (Formerly: Harris Medical Laboratory).
Physicians Reference Laboratory, 7800 West 110th Street, Overland Park, KS 66210, 913–338–4070/800–821–3627 (Formerly: Physicians Reference Laboratory Toxicology Laboratory).
Poisonlab, Inc., 7272 Clairemont Mesa Road, San Diego, CA 92111, 619–279–2600/800–882–7272.
Precision Analytical Laboratories, Inc., 13300 Blanco Road, Suite #150, San Antonio, TX 78216, 512–493–3211.
Puckett Laboratory, 4200 Mamie Street, Hattiesburg, MS 39402, 601–264–3856/800–844–8378.
Regional Toxicology Services, 15305 NE. 40th Street, Redmond, WA 98052, 206–882–3400.
Resource One, Inc., Seven Pointe Circle, Greenville, SC 29615, 803–233–5639.
Roche Biomedical Laboratories, 1801 First Avenue South, Birmingham, AL 35233, 205–581–4170.
Roche Biomedical Laboratories, 1957 Lakeside Parkway, Suite 542, Tucker, GA 30084, 404–939–4811.
Roche Biomedical Laboratories, Inc., 1120 Stateline Road, Southaven, MS 38671, 601–342–1286.
Roche Biomedical Laboratories, Inc., 69 First Avenue, Raritan, NJ 08869, 800–437–4986.
Scott & White Drug Testing Laboratory, 600 S. 25th Street, Temple, TX 76504, 800–749–3788.
S.E.D. Medical Laboratories, 500 Walter NE., suite 500, Albuquerque, NM 87102, 505–848–8800.
Sierra Nevada Laboratories, Inc., 888 Willow Street, Reno, NV 89502, 800–648–5472.
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Avenue, Van Nuys, CA 91045, 818–376–2520.
SmithKline Beecham Clinical Laboratories, 3175 Presidential Drive, Atlanta, GA 30340, 404–934–9205 (name changed: formerly SmithKline Bio-Science Laboratories).
SmithKline Beecham Clinical Laboratories, 506 E. State Parkway Schaumburg, IL 60173, 708–885–2010 (name changed: formerly International Toxicology Laboratories).
SmithKline Beecham Clinical Laboratories, 11636 Administration Drive, St. Louis, MO 63146, 314–567–3905.
SmithKline Beecham Clinical Laboratories, 400 Egypt Road, Norristown, PA 19403, 800–523–5447 (name changed: formerly SmithKline Bio-Science Laboratories).
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301 (name changed: formerly SmithKline Bio-Science Laboratories).
South Bend Medical Foundation, Inc., 530 N. Lafayette Boulevard, South Bend, IN 46601, 219–234–4176.
Southwest Laboratories, 2727 W. Baseline Road, suite 6, Tempe, AZ 85283, 602–438–8507.
St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee Street, Oklahoma City, OK 73102, 405–272–7052.
St. Louis University Forensic Toxicology Laboratory, 1205 Carr Lane, St. Louis, MO 63104, 314–577–8628.
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, suite 208, Columbia, MO 65203, 314–882–1273.
Toxicology Testing Service, Inc., 5426 NW. 79th Avenue, Miami, FL 33166, 305–593–2260.

The following laboratory voluntarily withdrew from the National Laborator Certification Program, effective March 31, 1993:

AccuTox Analytical Laboratories, 427 Fifth Avenue, NW., P.O. Box 770, Attalla, AL 35954–0770, 205–538–0012/800–247–3893.

Richard Kopanda,

Acting Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 93–10575 Filed 5–4–93; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–778487

Applicant: Zoological Society of San Diego, San Diego, CA

Applicant requests a permit to import a male and female giant panda (*Ailuropoda melanoleuca*). The giant pandas were born in the wild and are presently held in captivity at Wolong Nature Reserve and Chengdu Zoo in Sichuan, China. In March 1992, they were rescued from the wild because of injuries and medical problems. The import is for enhancement of propagation and enhancement of survival through conservation education.

PRT–778186

Applicant: Wildlife Encounters, Kirkland, WA

The applicant requests a permit to purchase in interstate commerce one male captive-born orangutan (*Pongo pygmaeus*) from Mr. Bernie Levine of Miami, Florida, for enhancement of survival.

PRT–775311

Applicant: Center of Conservation Biology, Stanford, CA

The applicant requests a permit to take (capture, mark, release) Myrtle's silverspot butterflies (*speyeria zerene myrtleae*) and sacrifice no more than 40 post-reproductive specimens (no more than 5% from eight locations) for genetic analyses in Point Reyes National Seashore and coastal regions of Marin and Sonoma counties California, for the purpose of scientific research.

PRT–775427

Applicant: Michael Konecny, Enumclaw, WA

The applicant requests a permit to take (capture mark, radio collar, release) ocelot (*Felis pardalis*) and jagaurundi (*Felis yagouaroundi cacomitli*) in Texas, for enhancement of survival through biological surveys.

PRT–778184

Applicant: Birmingham Zoo, Birmingham, AL

The applicant requests a permit to purchase in interstate commerce one male and one female captive-hatched eastern indigo snakes (*Dyrmarchon corias couperi*) from Mr. Eric Skov, Wells, Nevada, for enhancement of propagation.

PRT–775321

Applicant: Denver Zoological Gardens, Denver, CO

The applicant requests a permit to import one pair of captive-born golden-lion tamarins from the Primate Center, Rio de Janeiro, Brazil, for enhancement of propagation.

PRT–778468

Applicant: Joseph Gerasolo, Goshen, NY

The applicant requests a permit to import a sport-hunted trophy of a male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. Luke Kock, Richmond, South Africa, for the purpose of enhancement of survival of the species.

PRT–778471

Applicant: Armando J. Garcia-Segovia, Victoria, TX

The applicant requests a permit to import a sport-hunted trophy of a male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. V. Z. Lubbe, Philippolis, South Africa, for the purpose of enhancement of survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: April 30, 1993

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 93–10534 Filed 5–4–93; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[AA–260–4210–01]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1004–0010), Washington, DC 20503, telephone 202–395–7340.

Title: Conveyances Affecting Color or Claim of title 43 CFR part 2540
OMB Approval Number: 1004–0010
Abstract: Respondents supply identifying information to be used by the agency to process applications to determine validity of a color-of-title claim and aid in the documentation of title conveyance information in support of the color-of-title applications to public lands.
Bureau Form Number: 2540–2
Frequency: Once
Description of Respondents: Individuals applying for a color-or-title claim to public lands
Estimated Completion Time: 1 hour
Annual Responses: 37
Annual Burden Hours: 37
Bureau Clearonce Officer (Alternate): Marsha Harley 202–653–6105

Dated: February 18, 1993.

Kemp Bonn,

Deputy Assistant Director for Land and Renewable Resources.

[FR Doc. 93–10517 Filed 5–4–93; 8:45 am]

BILLING CODE 4310–84–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–622 (Final)]

Dry Film Photoresist From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

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Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Japan of dry film photoresist, provided for in subheadings 3702.39.00, 3702.42.00, 3702.43.00, 3702.44.00, 3702.95.00, 3707.10.00, and/or 3707.90.30 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective December 30, 1992, following a preliminary determination by the Department of Commerce that imports of dry film photoresist from Japan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 14, 1993 (56 FR 4443). The hearing was held in Washington, DC, on March 11, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 28, 1993. The views of the Commission are contained in USITC Publication 2630 (April 1993), entitled "Dry Film Photoresist from Japan: Determination of the Commission in Investigation No. 731–TA–622 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: April 29, 1993.

By order of the Commission

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–10564 Filed 5–4–93; 8:45 am]

BILLING CODE 7020–02–P

[Investigation 337–TA–348]

Certain In-Line Roller Skates With Ventilated Boots and In-Line Roller Skates With Axle Aperture Plugs and Component Parts Thereof; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above captioned investigation terminating the following respondents on the basis of a settlement agreement: California Pro U.S.A. Corporation and Playmaker Company, Ltd.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on April 30, 1993.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

Issued: April 30, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary

[FR Doc. 93–10563 Filed 5–4–93; 8:45 am]

BILLING CODE 7020–02–P

[Inv. No. 603–TA–11]

Certain Recombinantly Produced Human Growth Hormones; Preliminary Investigation

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary investigation under section 603(a) of the Trade Act of 1974 (19 U.S.C. 2482(a)) and deferral of a determination on whether to institute an investigation under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337).

SUMMARY: Notice is hereby given that on April 26, 1993, the U.S. International Trade Commission voted to institute a preliminary investigation under section 603(a) of the Trade Act of 1974, 19 U.S.C. 2482(a), to investigate the alleged existence of unfair methods of competition and unfair acts in the importation into the United States, sale for importation into the United States, and sale within the United States after importation of certain recombinantly produced human growth hormones. At the same time, the Commission voted to defer institution of a section 337 investigation concerning recombinantly produced human growth hormones pursuant to 19 CFR 210.12 on the basis of exceptional circumstances. The request for a section 337 investigation was made by Genentech, Inc. of South San Francisco, California, in a complaint filed with the Commission (Docket No. 1750).

Authority: This preliminary investigation is being instituted pursuant to section 603(a) of the Trade Act of 1974 (19 U.S.C. 2482(a)) and section 201.7 of the Commission's Rules of Practice and Procedure (19 CFR 201.7). The authority for deferring a determination on whether to institute a section 337 (19 U.S.C. 1337) investigation is found in 19 CFR 210.12.

FOR FURTHER INFORMATION CONTACT: Kent R. Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., suite 401, Washington, DC 20436, telephone (202) 205–2579.

SUPPLEMENTARY INFORMATION: A complaint was filed with the U.S. International Trade Commission on March 16, 1993, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Genentech, Inc., 460 Point San Bruno Boulevard, South San Francisco, California 94080. Letters supplementing the complaint were filed on March 30, March 31, April 5, April 6, April 9, April 12, and April 22, 1993. The complaint alleges violations of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of recombinantly produced human growth hormones alleged to be manufactured abroad by methods covered by certain claims of United States Patent Nos. 4,366,246, 4,342,832, and 4,601,980. Named as proposed respondents are Novo-Nordisk A/S, Novo-Nordisk of North America, Inc., Novo-Nordisk Pharmaceuticals, Inc., Zymogenetics, Inc., Bio-Technology General Corp., and Bio-Technology (Israel) Ltd.

The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337 or that an industry is in the process of being established. The complaint requests that the Commission institute an investigation and, after an investigation, issue a permanent exclusion order and permanent cease and desist orders.

Under section 603(a) of the Trade Act of 1974, 19 U.S.C. 2482(a), the Commission has authority to conduct preliminary investigations. The Commission has decided to conduct a preliminary investigation prior to making a determination on whether to institute a section 337 investigation.

Scope of the Section 603 Investigation

The alleged unfair methods of competition and unfair acts to be investigated are the proposed respondents' importation, sales, and use of recombinantly produced human growth hormones that are alleged in Genentech's complaint, as supplemented, to be produced abroad by means of processes covered by United States Patent Nos. 4,366,246, 4,342,832, or 4,601,980.

Deadline

The Commission's Office of Unfair Import Investigations is directed to submit its report and recommendation to the Commission no later than ninety days following publication of this notice in the **Federal Register**.

Issued: April 30, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–10562 Filed 5–4–93; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–350]

Certain Sputtered Carbon Coated Computer Disks and Products Containing Same, Including Disk Drives; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 26, 1993, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Harry E. Aine, 570 J.D. Broome Road, Sumrall, Mississippi 39482. Two letters supplementing the complaint were filed on April 16, 1993, and two additional supplemental letters were filed on April 20, 1993. The complaint, as supplemented, alleges violations of subsections (a)(1)(B)(i) and (ii) of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain sputtered carbon coated computer disks and products containing the same, including disk drives, by reason of alleged infringement of claims 23, 24, 25, 26, and 29 of U.S. Letters Patent Re. 32,464, and that there exists an industry in the United States as required by subsection (a)(2) of section 337. The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., room 112, Washington, DC 20436, telephone 202–205–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

FOR FURTHER INFORMATION CONTACT: John M. Whealan, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2574.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.12 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.12.

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on April 26, 1993, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain sputtered carbon coated computer disks or products containing same, including disk drives, by reason of infringement of claims 23, 24, 25, 26, or 29 of U.S. Letters Patent Re. 32,464, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Harry E. Aine, 570 J.D. Broome Road, Sumrall, Mississippi 39482.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Akashic Memories Corp., 305 West Tasman Drive, San Jose, California 95134
Asahi Komag Co., Ltd., 2–1–2 Marunouchi Chiyoda-Ku, Tokyo, Japan 0106
Conner Peripherals, Inc., 3081 Zanker Road, San Jose, California 95134
Denki Kagaku Kogyo, K.K., Saushin Bldg. 4–1, 4–1 Yuraku-cho 1-chome, Chiyoda-ku, Tokyo, Japan 0100
Digital Equipment Corp., 146 Main Street, Maynard, Massachusetts 01754
HMT Technology Corp., 1055 Page Avenue, Fremont, California 94538
Hoya Electronics Corp., 960 Rincon Circle, San Jose, California 95131
Komag, Inc., 275 South Hillview Drive, Milpitas, California 95035
Maxtor Corp., 150 River Oaks Parkway, San Jose, California 95134
Micropolis Corp., 21123 Nordhoff Street, Chatsworth, California 91311
Mitsubishi Kasei Corp. 5–2 Marunouchi, Chiyoda-ku, Tokyo, Japan 0100
Nashua Corp., 44 Franklin Street, Nashua, New Hampshire 03061
Nippon Sheet Glass Co., Ltd., Shimbashi Sumitomo Bldg., 11–3, 5–Chome, Shimbashi, Minato-ku, Tokyo, 105 Japan
Quantum Corp., 1804 McCarthy Boulevard, Milpitas, California 95035
Seagate Technology, Inc., 920 Disc Drive, Scotts Valley, California 95066
Toshiba Corp., 1–1–1 Shibaura, Minato-ku, Tokyo 105

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Tosoh Corp., 7-7 Akasaka 1-chome, Minato-Ku, Tokyo, Japan 107
Trace Storage Technology Corp., #8 R&D First Road, Sci-based Ind. Park, Hsinchu, Taiwan
Western Digital Corp., 2445 McCabe Way, Irvine, California 92714
Yamaha Corp., Basic Research & Development Lab, 203 Matsunokijima, Toyooka, Mura, Iwatogun, Shizuokaken, 438-01 Japan.

(c) John M. Whealan, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., room 401P, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.21 of the Commission's Interim Rules of Practice and Procedure, 19 CFR § 210.21. Pursuant to §§ 201.16(d) and 210.21(a) of the Commission's Rules, 19 CFR 201.16(d) and 210.21(a), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Issued: April 26, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93-10565 Filed 5-4-93; 8:45 am]

BILLING CODE 7020-02-P

[Investigation No. 731-TA-539-E (Final)]

Uranium From Ukraine

AGENCY: International Trade Commission.

ACTION: Continuation and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the continuation of final antidumping investigation No. 731-TA-539-E (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Ukraine of uranium, provided for in subheadings 2612.10.00, 2844.10.10, 2844.10.20, 2844.10.50, and 2844.20.00 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: April 19, 1993.

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202-205-3181), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being continued as a result of notification by the Department of Commerce that the Government of Ukraine has terminated the suspension agreement on uranium from Ukraine and that Commerce has resumed its antidumping investigation (58 FR 21144, April 19, 1993). Consequently, the Commission is continuing its investigation.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on June 18, 1993, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on July 1, 1993, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 17, 1993. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 23, 1993, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is June 25, 1993. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is July 12, 1993; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 12, 1993. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

Issued: April 26, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93-10566 Filed 5-4-93; 8:45 am]

BILLING CODE 7020-02-P

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Johnnie Davis or Ms. Tawanna Glover-Sanders, Interstate Commerce Commission, Section of Energy and Environment, room 3219, Washington, DC 20423, (202) 927-5750 or (202) 927-6245.

Comments on the following assessment are due 15 days after the date of availability:

AB-167 (Sub. No. 1114X), Consolidated Rail Corporation—Abandonment Exemption—Between London and South Charleston, Ohio. EA available 4/26/93.

Comments on the following assessment are due 30 days after the date of availability:

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-10603 Filed 5-4-93; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32285]

Chicago Central & Pacific Railroad Co.; Trackage Rights Exemption; Illinois Central Railroad Co.

Illinois Central Rail Company (IC) and Chicago Central & Pacific Railroad Company (CCP) have agreed to amend their existing trackage rights agreement.[1] The first amendment provides for IC to grant CCP additional local trackage rights between Hawthorne and Plaines, in Will and Cook Counties, IL, and the second amendment will allow CCP to use a short IC connector track at LeMoyne Junction. The trackage rights were to become effective on April 23, 1993.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Myles L. Tobin, 455 North Cityfront Plaza Drive, Chicago, IL 60611-5504.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Decided: April 28, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-10602 Filed 5-4-93; 8:45 am]

BILLING CODE 7035-01-M

[1] The existing trackage rights were acquired by CCP under an exemption granted in Finance Docket No. 30663, Chicago, Central & Pacific Railroad Company—Purchase (Portion), Trackage Rights, and Securities Exemption (not printed), served December 24, 1985, notice published December 30, 1985 (50 FR 53206).

[Finance Docket No. 32281]

Southern Electric Railroad Co.; Corporate Family Transaction Exemption; Southern Electric Generating Co.

Southern Electric Railroad Company (SERC) and Southern Electric Generating Company (SEGCO) have filed a verified notice to exempt a transaction whereby (1) SEGCO will convey to SERC all of its rights, title, and interest in certain properties, including the approximately 7.5-mile Gaston line between CSX Transportation Inc.'s main line near Westover, and the Ernest C. Gaston Electric Generating Plant near Wilsonville, in Shelby County, AL, and (2) SERC will convey said properties back to SEGCO, retaining an exclusive easement interest therein for purposes of rail carrier operations and rail line maintenance. The parties intend to consummate the transaction on or after the April 19, 1993, effective date of the exemption.

SERC, Alabama Power Company (APC), Georgia Power Company (GPC), and Savannah Electric and Power Company (SE&PC) are subsidiaries of The Southern Company (Southern), a public utility holding company. APC and GPC each owns 50 percent of the stock of SEGCO.

SERC and SEGCO were granted exemptions to construct lines of railroad, in Finance Docket No. 31972, Southern Electric Railroad Company—Construction Exemption—Jefferson County, AL (not printed), served March 17, 1992, Finance Docket No. 32195, Southern Electric Railroad Company—Construction Exemption—Effingham County, GA (not printed), served January 12, 1993, and Finance Docket No. 31498, Southern Electric Generating Co.—Petition for Exemption—Construction of a Rail Line in Shelby County, AL (not printed), served September 19, 1989. SERC and SEGCO are, therefore, carriers subject to Commission jurisdiction. Since Southern, a noncarrier, controls at least two carriers, the involved transaction requires Commission approval under 49 U.S.C. 11343(a)(4) or exemption under 49 U.S.C. 10505.

This is a transaction within a corporate family under 49 CFR 1180.2(d)(3) that will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption, any employees adversely affected by the transaction will be

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protected by the conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979). Imposition of labor protective conditions is mandatory for transactions under 49 U.S.C. 11343.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the exemption's effectiveness. Pleadings must be filed with the Commission and served on: John R. Molm, suite 5200, 600 Peachtree St., NE., Atlanta, GA 30308–2216.

Decided: April 29, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–10601 Filed 5–4–93; 8:45 am]

BILLING CODE 7035–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93–034]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee, Solar System Exploration Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, the National Aeronautics and Space Administration announces a forthcoming meeting of the NAC, Space Science and Applications Advisory Committee, Solar System Exploration Subcommittee.

DATES: May 19, 1993, 9 a.m. to 5:45 p.m.; and May 20, 1993, 8:30 a.m. to noon.

ADDRESSES: National Aeronautics and Space Administration, room MIC–3, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Carl B. Pilcher, Code SL, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0290.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Reorganization Status
—Strategic Element Issues
—Mission Operations and Data Analysis Discussion

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: April 29, 1993.

Daniele Green,

Chief, Management Controls Office, National Aeronautics and Space Administration.

[FR Doc. 93–10535 Filed 5–4–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) notice is hereby given of a public meeting to be held in Baltimore, Maryland, on Thursday and Friday at the Radisson Plaza Lord Baltimore, 20 West Baltimore Street, in the Royal Conference Room.

DATES: Thursday, May 20, 1993, 9 a.m.-12 noon Friday, May 21, 1993, 9 a.m.-12 noon.

STATUS: The meeting is to be open to the public.

MATTERS TO BE DISCUSSED: The purpose of this public meeting is to enable the Commission members to discuss progress on the research agenda, future research, and budget and administrative matters.

FOR FURTHER INFORMATION CONTACT: Barbara C. McQuown, Director, National Commission for Employment Policy, 1522 K Street, NW., suite 300, Washington, DC 20005. (202) 724–1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established pursuant to title IV–F of the Job Training Partnership Act (Pub. L. 97–300). The Act charges the Commission with the broad responsibility of advising the President, and the Congress on national employment issues.

The meeting will be open to the public. Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made.

Anyone wishing to submit comments prior to the meeting, should do so by C.O.B. May 17, and they will be included in the record. Minutes of the meeting will be available for public inspection at the Commission's headquarters, 1522 K Street, NW., suite 300, Washington, DC 20005.

Signed at Washington, DC, this 29th day of April 1993.

Barbara C. McQuown,

Director, National Commission for Employment Policy.

[FR Doc. 93–10533 Filed 5–4–93; 8:45 am]

BILLING CODE 4510–23–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) a request for clearance of the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted by June 4, 1993.

ADDRESSES: Send comments to Mr. Steve Semenuk, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503; (202–395–7316). In addition, copies of such comments may be sent to Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401).

FOR FURTHER INFORMATION CONTACT: Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401).

SUPPLEMENTARY INFORMATION: The Endowment requests the review of a revision of a currently approved collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form;

(2) How often the required information must be reported;

(3) Who will be required or asked to report;

(4) What the form will be used for;

(5) An estimate of the number of responses;

(6) The average burden hours per response;

(7) An estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: FY 94 Support Through State Arts Agencies to Local Arts Agencies Serving Underserved Areas and Communities Application Guidelines.

Frequency of Collection: Annually.

Respondents: State and regional arts agencies.

Use: Guideline instructions and applications elicit relevant information from state and regional arts agencies that apply for funding in the Local Arts Agencies Program. This information is necessary for the accurate, fair and thorough consideration of competing proposal in the review process.

Estimated Number of Respondents: 35.

Average Burden Hours Per Response: 20.

Total Estimated Burden: 700.

Judith E. O'Brien,

Management Analyst, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 93–10591 Filed 5–4–93; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Computer and Information Science and Engineering; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation ann ·nces the following meeting:

Name: Advisory Committee for Computer and Information Science and Engineering.

Dates and Times: May 20, 1993; 8:30 a.m. to 5 p.m. May 21, 1993; 8:30 a.m. to 2:30 p.m.

Place: 1800 G Street, NW., Washington, DC 20550, May 20, 1993—Room 540; May 21, 1993—Room 543.

Type of Meeting: Open.

Contact Person: Odessa Dyson, Administrative Officer, Office of the Assistant Director, Directorate for Computer and Information Science and Engineering, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357–7936.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise NSF on the impact of its policies, programs and activities on the CISE community; to provide advice to the Assistant Director/CISE on issues related to long range planning, and to form ad hoc subcommittees to carry out needed studies and tasks.

Agenda: (1) Discuss HPCC (High Performance and Computing) and NII (National Information Infrastructure) program activities.

(2) Review status of the Blue Ribbon Panel on High Performance Computing.

Dated: April 30, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–10537 Filed 5–4–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Final Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and the State of Arizona

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: This notice is to advise the public of the issuance of a final Memorandum of Understanding (MOU) between the U.S. Nuclear Regulatory Commission (NRC) and the State of Arizona. The MOU provides the basis for mutually agreeable procedures whereby the State of Arizona may utilize the NRC Emergency Response Data System (ERDS) to receive data during an emergency at a commercial nuclear power plant in Arizona. Public comments were addressed in conjunction with the MOU with the State of Michigan published in the **Federal Register** Vol. 57, No. 28, February 11, 1992.

EFFECTIVE DATE: This MOU is effective April 9, 1993.

ADDRESSES: Copies of all NRC documents are available for pubic inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: John R. Jolicoeur or Eric Weinstein, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492–4155 or (301) 492–7836.

This attached MOU is intended to formalize and define the manner in which the NRC will cooperate with the State of Arizona to provide data related to plant conditions during emergencies at commercial nuclear power plants in Arizona.

Dated at Rockville, Maryland, this 23rd day of April, 1993.

For the U.S. Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

Agreement Pertaining to the Emergency Response Data System Between the State of Arizona and the U.S. Nuclear Regulatory Commission

I. Authority

The U.S. Nuclear Regulatory Commission (NRC) and the State of Arizona enter into this Agreement under the authority of section 274i of the Atomic Energy Act of 1954, as amended.

Arizona recognizes the Federal Government, primarily the NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities, except for certain authority over air emissions granted to States by the Clean Air Act.

II. Bockground

A. The Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, authorize the Nuclear Regulatory Commission (NRC) to license and regulate, among other activities, the manufacture, construction, and operation of utilization facilities (nuclear power plants) in order to assure common defense and security and to protect the public health and safety. Under these statutes, the NRC is the responsible agency regulating nuclear power plant safety.

B. NRC believes that its mission to protect the public health and safety can be served by a policy of cooperation with State governments and has formally adopted a policy statement on "Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities" (54 FR 7530, February 22, 1989). The policy statement provides that NRC will consider State proposals to enter into instruments of cooperation for certain programs when these programs have provisions to ensure close cooperation with NRC. This agreement is intended to be consistent with, and implement the provisions of the NRC's policy statement.

C. NRC fulfills its statutory mandate to regulate nuclear power plant safety by, among other things, responding to emergencies at licensee's facilities, monitoring the status and adequacy of the licensee's responses to emergency situations.

D. Arizona fulfills its statutory mandate to provide for preparedness, response, mitigation, and recovery in the event of an accident at a nuclear power plant through the State of Arizona/Maricopa County Fixed Nuclear Facility Emergency Response Off-Site Plan.

III. Scope

A. This Agreement defines the way in which NRC and Arizona will cooperate in planning and maintaining the capability to transfer reactor plant data via the Emergency Response Data System during emergencies at nuclear power plants, in the State of Arizona.

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B. It is understood by the NRC and the State of Arizona that ERDS data will only be transmitted by a licensee during emergencies classified at the Alert level or above, during scheduled tests, or during exercises when available.

C. Nothing in this Agreement is intended to restrict or expand the statutory authority of NRC, the State of Arizona, or to affect or otherwise alter the terms of any agreement in effect under the authority of section 274b of the Atomic Energy Act of 1954, as amended; nor is anything in this Agreement intended to restrict or expand the authority of the State of Arizona on matters not within the scope of this Agreement.

D. Nothing in this Agreement confers upon the State of Arizona authority to (1) interpret or modify NRC regulations and NRC requirements imposed on the licensee; (2) take enforcement actions; (3) issue confirmatory letters; (4) amend, modify, or revoke a license issued by NRC; or (5) direct or recommend nuclear power plant employees to take or not to take any action. Authority for all such actions is reserved exclusively to the NRC.

IV. NRC's General Responsibilities

Under this agreement, NRC is responsible for maintaining the Emergency Response Data System (ERDS). ERDS is a system designed to receive, store, and retransmit data from in-plant data systems at nuclear power plants during emergencies. The NRC will provide user access to ERDS data to one user terminal for the State of Arizona during emergencies at nuclear power plants which have implemented an ERDS interface and for which any portion of the plant's 10 mile Emergency Planning Zone (EPZ) lies within the State of Arizona. The NRC agrees to provide unique software already available to NRC (not commercially available) that was developed under NRC contract for configuring the ERDS workstation.

V. State of Arizona General Responsibilities

A. Arizona will, in cooperation with the NRC, establish a capability to receive ERDS data. To this end, Arizona will provide the necessary computer hardware and commercially licensed software required for ERDS data transfer to users.

B. Arizona agrees not to use ERDS to access data from nuclear power plants for which a portion of the 10 mile Emergency Planning Zone does not fall within its State Boundary.

C. For the purpose of minimizing the impact on plant operators, clarification of ERDS data will be pursued through the NRC.

VI. Implementation

Arizona and the NRC agree to work in concert to assure that the following communications and information exchange protocol regarding the NRC ERDS are followed.

A. Arizona and the NRC agree in good faith to make available to each other information within the intent and scope of this Agreement.

B. NRC and Arizona agree to meet as necessary to exchange information on matters of common concern pertinent to this Agreement. Unless otherwise agreed, such meetings will be held in the NRC Operations Center. The affected utilities will be kept informed of pertinent information covered by this Agreement.

C. To preclude the premature public release of sensitive information, NRC and Arizona will protect sensitive information to the extent permitted by the Federal Freedom of Information Act, the State Freedom of Information Act, 10 CFR 2.790, and other applicable authority.

D. NRC will conduct periodic tests of licensee ERDS data links. A copy of the test schedule will be provided to Arizona by the NRC. Arizona may test its ability to access ERDS data during these scheduled tests, or may schedule independent tests of the State link with the NRC.

E. NRC will provide access to ERDS for emergency exercises with reactor units capable of transmitting exercise data to ERDS. For exercises in which the NRC is not participating, Arizona will coordinate with NRC in advance to ensure ERDS availability. NRC reserves the right to preempt ERDS use for any exercise in progress in the event of an actual event at any licensed nuclear power plant.

VII. Contacts

A. The principal senior management contacts for this Agreement will be the Director, Division of Operational Assessment, Office for Analysis and Evaluation of Operational Data, and the Director, Arizona Radiation Regulatory Agency. These individuals may designate appropriate staff representatives for the purpose of administering this Agreement.

B. Identification of these contacts is not intended to restrict communication between NRC and Arizona Radiation Regulatory Agency staff members on technical and other day-to-day activities.

VIII. Resolution of Disagreements

A. If disagreements arise about matters within the scope of this Agreement, NRC and Arizona will work together to resolve these differences.

B. Resolution of differences between the State and NRC staff over issues arising out of this Agreement will be the initial responsibility of the NRC Division of Operational Assessment management.

C. Differences which cannot be resolved in accordance with Sections VIII.A and VIII.B will be reviewed and resolved by the Director, Office for Analysis and Evaluation of Operational Data.

D. The NRC's General Counsel has the final authority to provide legal interpretation of the Commissions regulations.

IX. Effective Date

This Agreement will take effect after it has been signed by both parties.

X. Duration

A formal review, not less than 1 year after the effective date, will be performed by the NRC to evaluate implementation of the Agreement and resolve any problems identified. This Agreement will be subject to periodic reviews and may be amended or modified upon written agreement by both parties, and may be terminated upon 30 days written notice by either party.

XI. Separability

If any provision(s) of this Agreement, or the application of any provision(s) to any person or circumstances is held invalid, the remainder of this Agreement and the application of such provisions to other persons or circumstances will not be affected.

Dated: January 6, 1993.

For The U.S. Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

Dated: April 9, 1993.

For The State of Arizona.

Aubrey V. Godwin,

Director, Arizona Radiation Regulatory Agency.

[FR Doc. 93-10343 Filed 5-4-93; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Sherry Turpenoff, (202) 606-0950.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on April 12, 1993 (58 FR 19145). Individual authorities established or revoked under Schedules A and B and established under Schedule C between March 1 and March 31, 1993, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30, 1993, will also be published.

Schedule A

The following exceptions were established:

Department of Health and Human Services

Not to exceed 200 staff positions, GS-15 and below, in the Office of Refugee Health, Public Health Service, for an emergency staff to provide health related services to Haitian entrants. Effective March 8, 1993.

Department of Defense

Not to exceed 400 positions in the Central Imagery Office, Office of the Secretary of Defense. Effective March 29, 1993.

Schedule B

No Schedule B authorities were established or revoked during March 1993.

Schedule C

Action

Special Assistant for Congressional Liaison to the Director of ACTION. Effective March 15, 1993.

Arms Control and Disarmament Agency

Special Assistant to the Director. Effective March 22, 1993.

Special Assistant to the Director of Public Affairs. Effective March 22, 1993.

Commission on Civil Rights

Special Assistant to the Commissioner. Effective March 29, 1993.

Special Assistant to the Commissioner. Effective March 29, 1993.

Commission on National and Community Service

Staff Assistant to the Executive Director. Effective March 4, 1993.

Staff Assistant to the Executive Director. Effective March 4, 1993.

Staff Assistant to the Executive Director. Effective March 4, 1993.

Department of Agriculture

Speech Writer to the Director, Office of Public Affairs. Effective March 3, 1993.

Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective March 11, 1993.

Confidential Assistant to the Director, Public Liaison. Effective March 11, 1993.

Confidential Assistant to the Deputy Director, Office of the Executive Secretariat. Effective March 18, 1993.

Staff Assistant to the Assistant Secretary for Congressional Relations. Effective March 23, 1993.

Confidential Assistant to the Deputy Director, Office of Public Affairs. Effective March 23, 1993.

Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective March 23, 1993.

Staff Assistant to the Secretary of Agriculture. Effective March 23, 1993.

Confidential Assistant to the Assistant Secretary for Administration. Effective March 29, 1993.

Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective March 29, 1993.

Confidential Assistant to the Director, Office of Public Affairs. Effective March 29, 1993.

Department of Commerce

Confidential Assistant to the Director of Public Affairs. Effective March 1, 1993.

Director of Scheduling to the Counselor to the Secretary and Chief of Staff. Effective March 1, 1993.

Executive Assistant to the Secretary. Effective March 1, 1993.

Private Chauffeur to the Secretary. Effective March 1, 1993.

Special Assistant to the Deputy Assistant Secretary for White House Liaison. Effective March 9, 1993.

Confidential Assistant to the Deputy Assistant Secretary for White House Liaison. Effective March 9, 1993.

Confidential Assistant to the Director, Office of Business Liaison. Effective March 11, 1993.

Speechwriter to the Director of Public Affairs. Effective March 15, 1993.

Special Assistant and Chief of Protocol to the Chief of Staff. Effective March 15, 1993.

Special Assistant to the Director of Public Affairs. Effective March 29, 1993.

Special Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs. Effective March 31, 1993.

Department of Education

Special Assistant to the Secretary of Education. Effective March 16, 1993.

Special Assistant to the Secretary of Education. Effective March 16, 1993.

Confidential Assistant to the Assistant Secretary for Intergovernmental and Interagency Affairs. Effective March 29, 1993.

Special Assistant to the Assistant Secretary for Intergovernmental and Interagency Affairs. Effective March 29, 1993.

Confidential Assistant to the Assistant Secretary for Intergovernmental and Interagency Affairs. Effective March 29, 1993.

Department of Energy

Staff Assistant to the Chief of Staff. Effective March 31, 1993.

Staff Assistant to the Director, Office of Public Affairs. Effective March 31, 1993.

Special Assistant to the Chief of Staff. Effective March 31, 1993.

Director, Office of Scheduling and Logistics to the Secretary of Energy. Effective March 31, 1993.

Department of the Interior

Deputy Director to the Director of Communications. Effective March 29, 1993.

Special Assistant to the Assistant to the Secretary. Effective March 29, 1993.

Special Assistant to the Assistant to the Secretary. Effective March 29, 1993.

Special Assistant to the Assistant Secretary for Policy, Management and Budget. Effective March 29, 1993.

Deputy Scheduler to the Assistant to the Secretary. Effective March 29, 1993.

Deputy Director for Senate Liaison to the Assistant to the Secretary, Office of Congressional and Legislative Affairs. Effective March 30, 1993.

Deputy Director for House Liaison to the Assistant to the Secretary, Office of Congressional and Legislative Affairs. Effective March 31, 1993.

Department of Justice

Attorney Advisor to the Assistant Attorney General. Effective March 1, 1993.

Department of Labor

Special Assistant to the Chief Economist. Effective March 29, 1993.

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Special Assistant to the Chief of Staff. Effective March 29, 1993.

Department of Transportation

Special Assistant to the Secretary of Transportation. Effective March 22, 1993.

Department of Treasury

Special Assistant to the Deputy Secretary of the Treasury. Effective March 1, 1993.

Confidential Assistant to the Deputy Secretary of the Treasury. Effective March 1, 1993.

Staff Assistant to the Director, Office of Public Affairs. Effective March 8, 1993.

Public Affairs Specialist to the Assistant Secretary for Public Affairs and Public Liaison. Effective March 8, 1993.

Director, Office of Business Liaison to the Deputy Assistant Secretary (Public Liaison). Effective March 8, 1993.

Executive Assistant to the Secretary of the Treasury. Effective March 18, 1993.

Confidential Assistant to the Secretary of the Treasury. Effective March 18, 1993.

Review Officer to the Executive Secretary. Effective March 22, 1993.

Public Affairs Specialist to the Assistant Secretary (Public Affairs and Public Liaison). Effective March 22, 1993.

Director, Scheduling and Advance to the Counselor to the Secretary and Chief of Staff. Effective March 23, 1993.

Special Assistant (Personnel) to the Counselor to the Secretary and Chief of Staff. Effective March 23, 1993.

Special Assistant to the Assistant Secretary for Legislative Affairs. Effective March 29, 1993.

Department of Veterans Affairs

Special Assistant to the Secretary of Veterans Affairs. Effective March 3, 1993.

Special Assistant to the Assistant Secretary for Congressional Affairs. Effective March 18, 1993.

Environmental Protection Agency

Special Assistant to the Administrator. Effective March 29, 1993.

Special Assistant to the Administrator. Effective March 29, 1993.

Office of Science and Technology Policy

Confidential Assistant to the Director. Effective March 31, 1993.

United States Information Agency

Staff Assistant to the Chief of Staff to the Director. Effective March 30, 1993.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218

Office of Personnel Management.

Patricia W. Lattimore,

Acting Deputy Director.

[FR Doc. 93–10516 Filed 5–4–93; 8:45 am]

BILLING CODE 6325–01–M

Hispanic Federal Employment Advisory Group; Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of open meeting.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that the second meeting of the Hispanic Federal Employment Advisory Group will be held at the time and place shown below:

Date: May 25, 1993, 1:30 p.m.

Place: Tarantella Ballroom, Holiday Inn—Riverwalk, 217 N. St. Mary's Street, San Antonio, Texas

Agenda: The focus of the May 25th meeting will be the discussion of recommendations made by the three subcommittees and presentation of proposals by National Image, Inc.

FOR FURTHER INFORMATION CONTACT:

Fran Lopes, Assistant Director for Affirmative Recruiting and Employment, Office of Personnel Management, room 6355, 1900 E Street, NW., Washington, DC 20415.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. If time permits, an opportunity will be provided for members of the public in attendance at the meeting to provide their views. Persons wishing to address the Advisory Group orally at the meeting should submit a written request no later than the close of business on May 10, 1993.

The request must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intended presentation, and the amount of time desired.

Office of Personnel Management.

Patricia W. Lattimore,

Acting Deputy Director.

[FR Doc. 93–10515 Filed 5–4–93; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32218; File No. SR–CSE–93–04)

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Cincinnati Stock Exchange, Inc., Relating to the Odd-Lot Transaction Fee Imposed on Exchange Members

April 26, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 30, 1993, as amended on April 20, 1993, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CSE proposes to amend the Exchange's odd-lot fee Rule 11.10 (j), by providing members with credits for round-lot transactions which could lower their odd-lot fee to the minimum charge of $0.10 per odd-lot trade.

The following is the text of the proposed fee changes (new material italicized):

Rule 11.10 National Securities Trading System Fees

(a)–(c) No Change.

(j) The charge for any odd-lot trade shall be $0.50.[1]

A credit of $0.50 shall be earned against the odd-lot charge for every four round-lot transactions executed on the Exchange and printed by the CSE on the Consolidated Tape. Notwithstanding the foregoing credit, there shall be a minimum charge of $0.10 per odd-lot trade.

(k) through (l) No Change.

II. Self Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included

[1] The original CSE filing erroneously cited (j) as "The odd-lot charge shall be $0.50 per trade". This was corrected by way of telephone conversation between Robert P. Ackermann, Vice President Regulatory Services, CSE and Cheryl Evans-Dunfee, Attorney, Exchange Branch, Division of Market Regulation, Commission, April 20, 1993.

statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Board of Directors ("Board") determined that the imposition of the fee of $0.50 per odd-lot transaction implemented in August 1992 [2] was not in the best interests of the Exchange and that the fee should be modified to reflect the overall business each firm transacts on the Exchange. Therefore, the Board determined that a system of credits should be awarded to members based upon the amount of round-lot transactions they execute on the CSE. As a result of the credit system, for every four round-lot CSE CT [3] transactions that a member executes, the member will receive a credit of $0.50 that will be applied against the member's total odd-lot charge for that month. However, the minimum odd-lot charge for each month shall never be lower that $.10 per odd-lot transaction.

For example, assume the member executed 1,000 round-lot orders that were CSE CT transactions and also executed 300 odd-lot orders on the CSE during the month. Taking the 1,000 transactions divided by 4 equals 250 which is the number of $0.50 odd-lot credits applied to the member's total odd-lot charge. Therefore, the member has earned a credit of $125.00 for the month. The total odd-lot charge, pre-credits, is 300 trades times $0.50 or $150.00 for the month. After applying the credits, the members odd-lot charge would be $25.00, however, applying the minimum odd-lot charge of $0.10 per odd-lot makes the member's actual monthly charge $30.00 (300 odd-lot trades at $0.10 per odd lot).

The credits only apply for trades that month and do not accumulate. Credits will also be earned for any mixed-lot transactions.

(2) Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it complies with the Exchange's ability to equitably allocate reasonable dues, fees and other charges among its members and other persons using its services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR–CSE–93–04 and should be submitted by May 26, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Johnathan G. Katz,

Secretary.

[FR Doc. 93–10598 Filed 5–4–93; 8:45 am]

BILLING CODE 8010–01–M

[2] See Securities Exchange Act Release No. 31351 (October 23, 1992), 57 FR 49201 (October 30, 1992) (notice of filing and immediate effectiveness of File No. SR–CSE–92–9).

[3] The "CT"—Consolidated Tape, operated by the Consolidated Tape Association ("CTA"), compiles current last sale reports in certain listed securities from all exchanges and market makers trading such securities and disseminates these reports to vendors on a consolidated basis. The CTA is comprised of the New York, American, Boston, Cincinnati, Midwest, Pacific, and Philadelphia Stock Exchanges, as well as the Chicago Board Options Exchange and the National Association of Securities Dealers, Inc. See Securities Exchange Act Release No. 21583 (December 18, 1984), 50 FR 730 (January 7, 1985).

[4] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–32235; File No. SR–NASD–93–18]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Autoquote Policy for the Nasdaq Market

April 29, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 19, 1993,[1] the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Association is extending a policy banning the automated update of quotations by market makers in the Nasdaq system. This policy prohibits systems known as "autoquote" systems from effecting automated quote updates or tracking of inside quotations in the Nasdaq system, with two exceptions. Automated updating of quotations is permitted when the update is in response to an execution in the security by that firm (such as execution of an

[1] The NASD originally filed the proposed rule change on March 25, 1993. On April 19, the NASD filed Amendment No. 1 to the proposal, which states that the Association's Policy Statement on autoquoting will be included in the NASD Manual at Schedule D to the ByLaws, Part VI, (CCH) ¶1816 and Part VII, (CCH) ¶1828.

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order that partially fills a market maker's quotation size) or when it requires a physical entry (such as a manual entry to the market maker's internal system which then automatically forwards the update to the Nasdaq system). This ban is necessary to offset the negative impact on the capacity and operation of the Nasdaq system of certain autoquote techniques that track changes to the inside quotation in Nasdaq and automatically react by generating another quote to keep the market maker's quote away from the best market.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1990, the Commission approved a policy banning autoquoting in the Nasdaq system for a period of one year, and subsequently extended the policy for another six months.[2] The policy prohibited systems known as "autoquote" systems from effecting automated quotation updates or tracking of inside quotations in the Nasdaq market with two exceptions: automated update of quotations has been permitted when the update is in response to an execution in the security by that firm; and automated update has been permitted when it requires a physical entry to the market maker's internal system which then automatically forwards the update to the Nasdaq system.

In effect this policy prohibits autoquote systems from effecting automated quote updates or the tracking away from the inside quotations in the Nasdaq system. There currently are a variety of autoquote systems employed in the securities industry and the NASD's policy seeks to curb the processing impact of such systems that track changes to the inside quotation on Nasdaq and automatically react to keep a market maker's quote away from the best market. The NASD proposes this policy because of the potential impact of additional quotation traffic on the capacity of the Nasdaq system.

Autoquote systems add to the number of quotations that Nasdaq must process because they automatically update quotes in reaction to any change to the inside quote, regardless of whether the change would necessitate an individual update to avoid executions. For example, if an autoquote system were set to keep the market maker's quote ½ point away from the inside, and the inside market of 40–40½ points changed throughout the day at intervals of ⅛, ¼, or ⅜ points, the excess quotes generated by the autoquote system would generate extraneous increased processing volume, because the quote at ½ point away would still not be the best price for the security. With these systems in place, quotation volatility and traffic would increase and the velocity with which quote updates would be generated in response to a change to the Nasdaq inside quote may have a deleterious impact on the operation of Nasdaq. The NASD proposal permits two exceptions to the interim ban on autoquoting—quote updates that require a physical entry of quotations and automated quote updates in response to an execution by that firm. For example, an automated quote update would be permissible if a market maker had executed an order that partially filled its published quote size, and the automated update reflected a different size.[3]

The NASD continues to be concerned about the serious negative impact on capacity of the network in the present environment if autoquoting were permitted, and since December 1991, when the formal policy expired, has asked members to comply voluntarily with the policy on autoquoting. The NASD conducted a study in 1991 on the impact of autoquoting upon the network and that study raised serious questions of network and system capacity and determined that it was not feasible to permit autoquoting within the current network architecture and band width. The NASD would need to substantially increase transmission speed and Workstation capacity to accommodate traffic levels that have been forecast for an autoquote environment. The addition of autoquote would be particularly problematic from a network capacity perspective during the planned transition to a new network architecture which will take approximately two years to phase in for all subscribers. The study also revealed that all members surveyed indicated strong objections to any kind of capability that would allow Nasdaq market makers to automatically track away from the Nasdaq inside quotation or another market maker's quotation. In the members' view, allowing automatic tracking could create a "fair-weather" market making environment that would not contribute to the depth or liquidity for trading the security. The NASD believes, however, that automation in the securities markets should be encouraged, and is therefore proposing to reevaluate the question of eventually allowing autoquoting in certain additional prescribed circumstances. For example, several members believe that an autoquoting capability that would keep a market maker's quotation at the inside Nasdaq quote, thus reducing the need for manual quote updates and ensuring depth and liquidity in the securities traded should be permitted as soon as the system is capable of processing the additional traffic. The current ban on autoquoting will provide the opportunity for additional consideration of autoquote functions that will facilitate member trading at the best market and for study of the technology required to process the additional traffic generated. The NASD has undertaken a major redesign of the technology that supports the Nasdaq system which will lead to significant long-term improvement to the infrastructure of that system. These improvements, when implemented, are believed capable of providing enhanced flexibility in the accommodation of automated quotation changes. During this interim period, however, allowing the potentially higher traffic rates as a result of autoquoting is believed to be imprudent and inconsistent with the NASD's obligation to assure the continuing integrity of the Nasdaq system. Accordingly, the NASD has determined to extend the autoquote policy until the migration effort to the new Nasdaq platforms has been completed, scheduled for fourth quarter 1995, at which time the application of autoquote technology can be reevaluated.

[2] See Securities Exchange Act Rel. No. 28338 (August 13, 1990), 55 FR 34636, approving File No. SR-NASD-90-5; and Securities Exchange Act Rel. No. 29304 (June 13, 1991), 56 FR 28207, notice of effectiveness of File No. SR-NASD-91-25.

[3] The Commission is presently reviewing a proposed rule change by the NASD that, in part, would allow a market maker to elect to have Nasdaq automatically "refresh" its quotation once its exposure limit has been exhausted on the Small Order Execution System ("SOES"). See Securities Exchange Act Rel. No. 32143 (April 14, 1993), 58 FR 21484 (April 21, 1993), providing notice of File No. SR-NASD-93-16. The NASD has represented that its computer network has the capacity to handle the increased volume of information necessary to process this new feature.

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest. A ban or autoquoting except in certain prescribed instances is necessary to control the negative effect of autoquoting on the capacity of the network and is a reasonable means to ensure the continued viability of the Nasdaq network and related systems.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by May 26, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10599 Filed 5–4–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2640]

Pennsylvania; Declaration of Disaster Loan Area

Wyoming County and the contiguous counties of Bradford, Lackawanna, Luzerne, Sullivan and Susquehanna in Pennsylvania constitute a disaster area as a result of damages caused by flooding which occurred on April 9 through 11, 1993. Applications for loans for physical damage may be filed until the close of business on June 25, 1993 and for economic injury until the close of business on January 26, 1994 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, suite 300, Atlanta, GA 30308, or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credits available elsewhere	7.625
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 264006. For economic injury the number is 789100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 26, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–10550 Filed 5–4–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Economic Injury Disaster Loan Area #7850]

Washington, Amendment #1; Declaration of Disaster Loan Area

The above numbered Economic Injury Declaration is hereby amended, to include Snohomish County and the contiguous Counties of Chelan, Island, Kitsap, and King in the State of Washington as a result of damages due to the effects of the warm water currents known as El Nino on the 1992 salmon harvest.

All other information remains the same, i.e., the termination date for filing applications for economic injury assistance is until the close of business on November 12, 1993 at the aforementioned location.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: April 26, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–10549 Filed 5–4–93; 8:45 am]

BILLING CODE 8025–01–M

[License No. 09/09–0337]

Valley National Investors, Inc.; License Surrender

Notice is hereby given that Valley National Investors, Inc., Valley Bank Center, 11th Floor, 201 North Central, A–835, Phoenix, Arizona 85001 has surrendered its license to operate as a Small Business Investment Company under section 301(c) of the Small Business Investment Act of 1958, as amended (the Act). Valley National Investors, Inc. was licensed by the Small Business Administration on April 4, 1984.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on April 13, 1993 and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

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Dated: April 28, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–10551 Filed 5–4–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice No. 1800]

Secretary of State's Panel on El Salvador; Establishment of Panel

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), the Department of State announces the formation of the Secretary of State's Panel on El Salvador. The purpose and objective of the Panel as stated in its charter are as follows:

Under the authority of the Secretary of State, this charter establishes the Panel on El Salvador (hereinafter called the "Panel"). The Panel will examine the conduct of the Department of State in dealing with the issues raised by the Truth Commission.* The Panel's review will include an examination of the Department's and embassy's human rights reporting, the degree to which full and objective inquiries into abuses by both sides in the conflict in El Salvador were conducted, and public inquiries on these issues. The Panel will take appropriate steps to deal with classified information and to protect personal privacy.

The Panel will report to the Secretary of State and make recommendations on appropriate steps by the Department to ensure that it functions in a manner consistent with the highest professional and ethical standards and with our nation's values.

* The full name of the Truth Commission is the United Nations Truth Commission.

The Panel will terminate not later than 120 days from the date of its first meeting, but the Secretary of State may extend the life of the Panel as he deems necessary. The number and frequency of meetings that will be required have not yet been established.

The Office of Management and Budget and the General Services Administration have approved the Panel's Charter. Copies of this Charter are being filed with the Committee on Foreign Relations in the Senate, the Committee on Foreign Affairs in the House of Representatives and the Library of Congress as provided by law.

Requests for further information on the Panel and its meetings should be directed to Mr. Edward C. Pope, Office of the Secretary of State's Panel on El Salvador, room 1208A, Department of State, Washington, DC 20520–7818. Mr. Pope can be reached by telephone at (202) 736–4525.

Dated: April 20, 1993.

B. Lynn Pascoe,

Executive Director, Secretary of State's Panel on El Salvador.

[FR Doc. 93–10532 Filed 5–4–93; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Flight Standards District Office at Long Beach, CA; Relocation

Notice is hereby given that on or about April 19, 1993, the Flight Standards District Office at 2815 E. Spring Street, Long Beach, California 90805–2485 will be relocating to 5001 Airport Plaza Drive, suite 100, Long Beach, California 90815. Services to the general public will continue to be provided by this office without interruption. This information will be reflected in the FAA organization Statement the next time it is reissued. (Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Hawthorne, CA, on April 12, 1993.

Alex Hammond,

Regional Administrator, Western-Pacific Region.

[FR Doc. 93–10573 Filed 5–4–93; 8:45 am]

BILLING CODE 4910–13–M

[AC No. 120–XX]

Proposed Advisory Circular on Crewmember Training on In-Flight Radiation Exposure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on proposed Advisory Circular (AC) for Crewmember Training on In-Flight Radiation Exposure.

SUMMARY: The proposed AC was developed by the Aviation Rulemaking Advisory Committee which is a formal industry committee developed to advise the FAA on assigned issues. The AC is intended to provide information regarding subjects that should be covered in air carrier programs designed to: (1) Inform crewmembers about radiation exposure and known associated health risks; and (2) assist crewmembers in making informed decisions with regard to their work on commercial air carriers.

DATES: Comments must be received on or before August 3, 1993.

ADDRESSES: Send all comments and requests for copies of the proposed AC to: Federal Aviation Administration, Air Transportation Division (attention: AFS–203), 800 Independence Avenue, SW., Washington, DC 20591).

FOR FURTHER INFORMATION CONTACT: Donell Pollard, AFS–203, at the above address; telephone: (202) 267–3735 (7 a.m. to 3:30 p.m. e.d.t.).

SUPPLEMENTARY INFORMATION: The guidance material in this AC provides information about the kind of information which could be useful to crewmembers regarding radiation.

Issued in Washington, DC, on April 22, 1993.

Thomas C. Accadi,

Director, Flight Standards Service.

[FR Doc. 93–10570 Filed 5–4–93; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–93–20]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition of its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 25, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A),

800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick M. Haynes, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3939.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on April 28, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 26989.
Petitioner: Basin Electric Power Cooperative.
Sections of the FAR Affected: 14 CFR 65.101.
Description of Relief Sought: To grant Basin Electric Power Cooperative's Chief Pilot, Mr. Fred Adams, airframe and powerplant privileges for one specific Citation 550, which he pilots and maintains, though he does not hold an A&P certificate.

Docket No.: 27207.
Petitioner: Universal West Indies, S.A.R.L.
Sections of the FAR Affected: 14 CFR 91.9.
Description of Relief Sought: To allow Universal West Indies, S.R.A.L. to operate its own DC–6A cargo airplane, N4163Q, ser. no. 43681, at increased zero fuel weights and landing weights.

Docket No.: 27221.
Petitioner: Aircraft Fuel Tanks, Incorporated.
Sections of the FAR Affected: 14 CFR 145.37(b).
Description of Relief Sought: To allow Aircraft Fuel Tanks, Inc. to inspect and repair integral fuel tanks at its customer's facilities instead of the facilities of Aircraft Fuel Tanks, Inc.

Dispositions of Petitions

Docket No.: 24446.
Petitioner: Air Transport Association of America.
Sections of the FAR Affected: 14 CFR 121.485(b).
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 4317 to allow members of Air Transport Association of America to conduct flights of less than 12 hours duration, with an airplane having a crew of three or more pilots and an additional flight crewmember, without requiring the rest period following that flight to be twice the hours flown, since the last rest period at his/her home base.
Grant, April 15, 1993, Exemption No. 4317D

Docket No.: 26372.
Petitioner: The Goodyear Tire & Rubber Company.
Sections of the FAR Affected: 14 CFR 21.325(b)(3).
Description of Relief Sought/ Disposition: To allow the issuance of United States Export airworthiness approvals for Class II and Class III products manufactured and located in Bangkok, Thailand at a facility operated by the petitioner in connection with its U.S. Technical Standard Order (TSO) authorization.
Denial, April 21, 1993, Exemption No. 5644

Docket No.: 26575.
Petitioner: Design Ideas, Inc.
Sections of the FAR Affected: 14 CFR 141.65.
Description of Relief Sought/ Disposition: To allow purchasers of Design Idea's AvTEST Written Examination System of computerized testing to exercise their self examining authority for flight instructor (CFI) and airline transport pilot (ATP) written tests.
Denial, April 19, 1993, Exemption No. 5643

Docket No.: 26877.
Petitioner: General Motors Air Transport Section.
Sections of the FAR Affected: 14 CFR 61.55(b).
Description of Relief Sought/ Disposition: To permit General Motors Air Transport Section pilots, who serve as second in command (SIC), to meet SIC qualifications requirements every 24 months instead of every 12 months.
Grant, April 23, 1993, Exemption No. 5647

Docket No.: 27161.
Petitioner: Southern Air Transport.
Sections of the FAR Affected: 14 CFR 121.358(b) and (c).
Description of Relief Sought/ Disposition: To permit Southern Air Transport to operate Boeing 707–300C (B–707 cargo only aircraft and McDonnell Douglas DC8–70F (DC–8) cargo only aircraft after December 30, 1993, without being equipped with an approved airborne windshear warning system.
Denial, April 20, 1993, Exemption No. 5642

Docket No.: 27180.
Petitioner: Eva Airways Corporation.
Sections of the FAR Affected: 14 CFR 61.77(a) and (b) and 63.23(a) and (b).
Description of Relief Sought: To permit the issuance of U.S. special purpose pilot and flight engineer certificates to Eva' airmen, without meeting the requirement that they hold a current foreign certificate or license issued by a foreign contracting State to the Convention on International Civil Aviation (ICAO).
Grant, April 26, 1993, Exemption No. 5646

Docket No.: 27196.
Petitioner: Tower Air, Inc.
Sections of the FAR Affected: 14 CFR 121.434(e).
Description of Relief Sought: To permit Tower Air, Inc. (Tower), on certain flights, to use flight attendants, who have not completed operating experience (OE), under part 121 of the FAR.
Grant, March 30, 1993, Exemption No. 5628

Docket No.: 27263.
Petitioner: Southern Air Transport.
Sections of the FAR Affected: 14 CFR part 121, Appendix H.
Description of Relief Sought: To allow CAE, Inc. (CAE) to train Southern Air Transport's (SAT) initial cadre of B–747 pilots and flight engineers (FE) in initial, transition, upgrade, differences and recurrent training in an approved simulator, using an approved advanced simulator training program (ASTP), for a six month period, without CAE instructors meeting the employment requirements of Part 121, Appendix H.
Partial Grant, April 23, 1993, Exemption No. 5645

[FR Doc. 93–10567 Filed 5–4–93; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Air Carrier Operations

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss air carrier operations issues.

DATES: The meeting will be held on May 20, 1993, at 9 a.m.

ADDRESSES: The meeting will be held at Air Transport Association, 11th Floor Conference Room C, 1301 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Marlene Vermillion, Flight Standards Service, Air Transportation

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Division (AFS–200), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on May 20, 1993, at Air Transport Association, 11th Floor Conference Room C, Pennsylvania Avenue, NW., Washington, DC. The agenda for this meeting will include progress reports from the Fuel Requirements Working Group, Autopilot Engagement Working Group, and Flight Crewmember Flight/Duty/Rest Requirements Working Group. Each working group Chair will report on the progress of the working group. Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

Issued in Washington, DC, on April 26, 1993.

Gary E. Davis,

Acting Assistant Executive Director for Air Carrier Operations, Aviation Rulemaking Advisory Committee.

[FR Doc. 93–10574 Filed 5–4–93; 8:45 am]

BILLING CODE 4910–13–M

Existence of Proposed Microlite Class Design Standards for Acceptance Under the Primary Category Rule

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments.

SUMMARY: This notice announces the existence of and request for comments on proposed microlite class design standards for acceptance under the primary category rule. The proposed design standards are identical to Transport Canada TP101–41 Ultralight design standards. The applicability is two-place maximum and 1,200 pound maximum weight. The 1,200 pound maximum weight and the 39 knot maximum stall speed are applicable to both one- and two-place configurations.

DATES: Comments must be received on or before June 7, 1993.

ADDRESSES: Send all comments to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jim Griswold, Aerospace Engineer, Standards Staff (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration; telephone number (816) 426–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this information by contracting the person named above under **FOR FURTHER INFORMATION CONTACT.**

Comments Invited

Interested parties are invited to submit comments on the proposed design standards. Commenters must identify the design standards (microlite class) and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before issuing the final acceptance. The proposed design standards and comments received may be inspected at the Standards Office (ACE–110), suite 900, 1201 Walnut, Kansas City, Missouri, between the hours of 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

Background

Sport aviation, essentially a fly-for-fun activity, is dependent upon simple, low performance, low cost aircraft. The FAA recognized this in the creation of primary category, which establishes simpler processes for certification, production control, and establishment of design standards. This Notice proposes design standards for sport airplanes with 1,200 pounds maximum weight or less to be accepted under primary category as the microlite class.

The value of this class of airplane is demonstrated by the number of part 103 Ultralight and amateur-built designs currently active. However, a review of the type certificate records reveals that virtually no airplanes under 1,200 pound maximum weight have been certified in the United States since the 1930's. This is indicative that part 23 of the FAR and its Civil Air Regulations predecessors have been at the service of higher performance transportation airplanes. Accordingly, the FAA is proposing and requesting comments on these design standards intended specifically for the simple, low performance sport airplane.

Issued in Kansas City, Missouri, April 28, 1993.

Gerald W. Pierce,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–10571 Filed 5–4–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1992—Rev., Supp. No. 20]

Surety Companies Acceptable on Federal Bonds Termination of Authority: Michigan Mutual Insurance Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to Michigan Mutual Insurance Company, of Southfield, Michigan, under the United States Code, title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 57 FR 29381, July 1, 1992.

With respect to any bonds currently in force with Michigan Mutual Insurance Company, bond-approving officers may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, Washington, DC 20227, telephone (202/FTS) 874–6696.

Dated: April 29, 1993.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 93–10508 Filed 5–4–93; 8:45 am]

BILLING CODE 4810–35–M

UNITED STATES INFORMATION AGENCY

Convention on Cultural Property Implementation Act (Pub. L. 97–446); Import Restriction on Ethnological Material (Antique Textiles) From Bolivia

AGENCY: United States Information Agency.

ACTION: Determination to extend emergency import restriction on antique ceremonial textiles of Coroma, Bolivia.

Pursuant to the authority vested in me under Executive Order 12555 and Delegation Order No. 86–3 of March 18, 1986 (51 FR 10137),

I hereby find:

Pursuant to the requirements of section 304(c)(3) of the Act, 19 U.S.C. 2603(c)(3), with respect to the extension of an emergency import ban on the Aymara antique ceremonial textiles of Coroma, Bolivia, and pursuant to the emergency provision under section 304(a)(3), 19 U.S.C. 2603(a)(3),—

(1) That the material is ethnological and represents part of the remains of the Aymara Indians of the Andean village of Coroma, Bolivia, and is central to the historic traditions as well as to the continuing religious, social and economic life of the Coromans;

(2) That the record of the Aymara Indian of Coroma continues to be in jeopardy from the pillage and dispersal of its antique ceremonial textiles; that an ambience conducive to further pillage continues to exist relative to these textiles, thereby posing a continuing threat of crisis proportions to the Aymara clans of Coroma who have absolute reliance on these textiles for religious, social and economic purposes;

(3) That the emergency import restriction would continue, on a temporary basis, in whole or in part, to reduce the incentive for pillage for it has been established that the emergency import restriction that has been in effect since 1989 has resulted in an apparent stop, for the time being, to the systematic pillage of the textiles.

Determination

Now, therefore, in accordance with the aforementioned authority vested in me, and pursuant to section 304(c)(3) of the Act, 19 U.S.C. 2603(c)(3), I hereby determine:

(1) That the emergency condition continues to apply with respect to the antique ceremonial textiles of Coroma, Bolivia;

(2) That the emergency import restriction that went into effect on March 7, 1989, is extended for a period of three more years effective May 6, 1993.

Dated: April 27, 1993.

John Condayan,

Acting Director, United States Information Agency.

[FR Doc. 93–10224 Filed 5–4–93; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

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Sunshine Act Meetings

Federal Register
Vol. 58, No. 85
Wednesday, May 5, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, May 19, 1993.

PLACE: 2033 K St. NW., Washington, DC, Lower Lobby Hearing Room

STATUS: Open.

MATTERS TO BE CONSIDERED:

—Application of the Chicago Mercantile Exchange for contract designation in Rolling Spot Canadian Dollar futures and options on that futures contract
—Application of the Chicago Mercantile Exchange for contract designation in Rolling Spot Deutsche Mark Futures and options on that futures contract
—Application of the Chicago Mercantile Exchange for contract designation in Rolling Spot Japanese Yen futures and options on that futures contract
—Application of the Chicago Mercantile Exchange for contract designation in Rolling Spot Swiss Franc futures and options on that futures contract
—Application of the Coffee, Sugar and Cocoa Exchange for contract designation in Cheddar Cheese futures and options on that futures contract
—Application of the Coffee, Sugar and Cocoa Exchange for contract designation in Nonfat Dry Milk futures and options on that futures contract
—Discussion of upcoming items of Commission business

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–10702 Filed 5–3–93; 12:10 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, May 25, 1993.

PLACE: 2033 K St. NW., Lower Lobby Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

—Registration of Broker Associations, final regulations
—Contemporaneous Written Records of Orders Placed with Contract Market Members by Other Members Present on the Floor, final amendment to regulation 1.35
—Discussion of upcoming items of Commission business

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–10703 Filed 5–3–93; 12:10 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:45 a.m., Friday, May 21, 1993.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission

[FR Doc. 93–10704 Filed 5–3–93; 12:09 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., Friday, May 21, 1993.

PLACE: 2033 K St. NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission

[FR Doc. 93–10705 Filed 5–3–93; 12:09 pm]

BILLING CODE 6351–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, April 29, 1993.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: In addition to the matter previously announced, the Commission will consider and act upon the following:

2. *Peabody Coal Company,* Docket No. KENT 91–179, etc. (Issues include Peabody's petition for reconsideration and for stay of Commission's decision issued in this matter on March 25, 1993.)

No earlier announcement of the addition of this matter to the previously scheduled meeting was possible. It was determined by a unanimous vote of the Commissioners that this matter be discussed in closed session.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Dated: April 29, 1993.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 93–10688 Filed 5–3–93; 12:07 pm]

BILLING CODE 6735–01–M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Employee Thrift Advisory Council; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following committee meeting:

TIME: 10:00 a.m.

DATE: May 19, 1993.

PLACE: 4th Floor, Conference Room, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: Approval of the minutes of the November 5, 1992, meeting; report of the Executive Director on the status of the Thrift Savings Plan, Thrift Savings Plan open season activities, implementation of Public Law 102–318; legislation; and new business.

Any interested person may attend, appear before, or file statements with the Council. For further information contact John J. O'Meara, Committee Management Officer, on (202) 942–1662

Dated: April 30, 1993.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 93–10635 Filed 4–30–93; 4:33 pm]

BILLING CODE 6760–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, May 11, 1993.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The first item is open to the public. The last four items are closed to the public under Exemption 10 of Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

5842A—Hazardous Materials Accident Report: Derailment of a BN Freight Train and Release of Hazardous Materials, Superior, Wisconsin, June 30, 1992.
5955—Opinion and Order: Administrator v. Kekoa, Docket SE–11328; disposition of respondent's appeal.
5970—Opinion and Order: Administrator v. Nyren, Docket SE–11150; disposition of Administrator's appeal.
5983—Opinion and Order: Administrator v. Stern, Docket SE–11365; disposition of respondent's appeal.
6019A—Opinion and Order: Administrator v. Krachun, Docket SE–10975; disposition of respondent's appeal.

NEWS MEDIA CONTACT: Telephone (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty; (202) 382–6525.

Dated: May 3, 1993.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 93–10768 Filed 5–3–93; 3:45 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of May 3, 10, 17, and 24, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 3

Wednesday, May 5

4:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Amendments to 10 CFR Parts 26, 70, and 73 to Establish Fitness-for-Duty Requirements for Licensees Authorized to Possess, Use, or Transport Formula Quantities of Strategic Special Nuclear Material (Tentative) (Postponed from 4/30) (Contact: Stanley Turel, 301–492–3739)

Week of May 10—Tentative

Friday, May 14

9:00 a.m.
Briefing on Options for Addressing Shutdown and Low Power Risk Issues (Public Meeting)
(Contact: Gary Holahan, 301–504–3226)
10:30 a.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
(Contact: John Larkins, 301–492–8049)
2:30 p.m.
Briefing on Evolutionary and Advanced Light-Water Reactor Design Issues (Public Meeting)
(Contact: Richard Borchardt, 301–504–1193)
4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 17—Tentative

Tuesday, May 18

9:00 a.m.
Briefing on Status of Action Plan for Fuel Cycle Facilities (Public Meeting)
(Contact: Ted Sherr, 301–504–3371)
10:30 a.m.
Briefing by the Executive Branch (Closed—Ex. 1)
1:30 p.m.
Briefing on Turkey Point Lessons Learned (Public Meeting) (Contact: Fred Hebdon, 301–504–2024)
3:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 24—Tentative

Wednesday, May 26

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)
2:00 p.m.
Briefing on Status of Efforts for Risk Harmonization (Public Meeting)
(Contact: Richard Bangart, 301–504–3340)

Thursday, May 27

9:00 a.m.
Briefing on Investigative Matters (Closed—Ex. 5 and 7)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the Status of Meeting Call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 504–1661.

Dated: April 30, 1993.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–10680 Filed 5–3–93; 10:35 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [58 FR 26184 April 30, 1993].

STATUS: Open meeting.

PLACE: 450 Fifth Street NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Tuesday, April 27, 1993.

CHANGE IN THE MEETING: Additional item.

The following item will be considered at an open meeting scheduled for Tuesday, May 4, 1993, at 2:30 p.m., in Room 6059.

Consideration of whether to adopt Rule 15b7–1 under the Securities and Exchange Act of 1934, which was proposed for comment on March 19, 1993. The release would adopt a rule that would prohibit registered broker-dealers from effecting any securities transaction unless the associated person effecting such transaction is in compliance with the qualification requirements established under the rules of any self-regulatory organization of which the broker-dealer is a member or to which it is subject. For further information, please contact Andrew S. Margolin at (202) 504–2418.

Commissioner Schapiro, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Steve Luparello at (202) 272–2100.

Dated: April 20, 1993.

Jonathan G. Katz,

Deputy Secretary

[FR Doc. 93–10636 Filed 4–30–93; 4:02 pm]

BILLING CODE 8010–01–M

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Corrections

Federal Register
Vol. 58, No. 85
Wednesday, May 5, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0424]

Mohammed Azeem; Debarment Order

Correction

In notice document 93-9582 beginning on page 21982 in the issue of Monday, April 26, 1993, make the following correction:

On page 21983, in the first column, in the 2d full paragraph, in the 11th line, "355a(c)(1)(B)" should read "335a(c)(1)(B)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-930-4210-04; WYW 113713]

Notice of Conveyance; Wyoming

Correction

In notice document 93-9442 beginning on page 21591 in the issue of Thursday, April 22, 1993, make the following corrections:

1. On page 21591, in the third column, under T. 54 N., R. 65 W., in Sec. 8, "11," should read "11;".
2. On the same page, in the same column, under T. 32 N., R. 99 W., in Sec. 17, "NE¼SE¼." should read "NW¼SE¼."
3. On the same page, in the same column, under T. 33 N., R. 100 W., in Sec. 30, "SE¼NE¼." should read "SE¼NW¼."
4. On the same page, in the same column, under T. 41 N., R. 105 W., in Sec. 19, "NE¼NE¼." should read "NW¼NE¼."
5. On the same page, in the same column, under T. 40 N., R. 105 W., where it appears immediately underneath **Sixth Principal Meridian, Wyoming,** in Sec. 20, "N½W¼;" should read "N½NW¼;".

BILLING CODE 1505-01-D

federal register

Wednesday
May 5, 1993

Part II

Department of Housing and Urban Development

Office of Assistant Secretary for Housing; Federal Housing Commissioner

24 CFR Part 890

Supportive Housing for Persons With Disabilities; Interim Final Rule and Notice of Fund Availability

employed at any time in the

not reject an application based on

government agencies, or geographic

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 890

[Docket No. R-93-1651; FR-3406-I-01]

RIN 2502-AF97

Supportive Housing for Persons With Disabilities

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule amends the Supportive Housing for Persons With Disabilities Program (24 CFR part 890) by adding amendments made by sections 603 and 913 of the Housing and Community Development Act of 1992 and by simplifying the application and selection process. These revisions are necessary in order to permit the funding of supportive housing for persons with disabilities in FY1993 and effectuate the purposes of the HCD Act of 1992. A companion Notice of Funding Availability (NOFA) is also published today elsewhere in this issue.

DATES: Effective date: June 4, 1993.

Comments due date: July 6, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of the General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours (weekdays 7:30 a.m. to 5:30 p.m.) at the above address.

Hearing or speech impaired individuals may call the Rules Docket Clerks's TDD number (202) 708–3259.

FOR FURTHER INFORMATION CONTACT: Robert Wilden, Director, Housing for Elderly and Handicapped People Division, Department of Housing and Urban Development, 451 Seventh Street SW., room 6116, Washington, DC 20410, telephone (202) 708–2730. (This is not a toll free number).

Hearing or speech impaired individuals may call HUD's TDD number (202) 708–4594. (This is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Paperwork Burden

The information collection requirements contained in this interim rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), and assigned OMB control number 2502–0462.

II. Background

A. Part 890

The new Supportive Housing for Persons With Disabilities Program has been the subject of interim rules, published on June 12, 1991 at 56 FR 27070, and published on August 12, 1992 at 57 FR 36330. The June 12, 1991 interim rule enabled supportive housing for persons with disabilities to be funded for FY1991, added a new part 890 to establish the new Supportive Housing for Persons With Disabilities Program and covered application procedures and program requirements, selection of applications and duration of fund reservation requirements. The August 12, 1992 interim rule provided for the development related requirements (closing of capital advances and requirements related to project rental assistance contracts) of the Supportive Housing for Persons With Disabilities Program. The Supportive Housing for Persons With Disabilities Program is authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act (the NAHA Act) and by the Housing and Community Development Act of 1992, Public Law 102–550, 106 Stat. 3672, enacted October 28, 1992, (HCD Act of 1992) and is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that is designed to accommodate the special needs of disabled persons and provides supportive services that address the individual health, mental health, and other needs of disabled persons.

Under part 890, assistance will be provided to nonprofit organizations to expand the supply of supportive housing for persons with disabilities. Such assistance will be provided as (1) capital advances and (2) project rental assistance contracts. Capital advances may be used to finance the construction, rehabilitation, or acquisition with or without rehabilitation, including acquisition from the Resolution Trust Corporation (RTC), of structures to be developed into a variety of housing options ranging from group homes and independent living facilities, to dwelling units in multifamily housing developments, condominium housing and cooperative housing. Acquisition without rehabilitation is permitted only for group homes or properties acquired from the RTC. This assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for persons with disabilities.

An overview and section-by-section summary of part 890 (subparts A, B, C, D and G) were included in the preamble to the June 12, 1991 interim rule. The August 12, 1992 interim rule amended subpart D and added subpart E which was previously reserved in part 890.

B. Revisions to Part 890

Section 603 of the Housing and Community Development Act of 1992 (HCD Act of 1992) amended section 811 of the NAHA by expanding the definition of private nonprofit organization in section 811(k)(6) of NAHA to include public and unincorporated institutions or foundations. It also requires such private nonprofit organizations to have received, or have temporary clearance to receive, tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986. The Section 811 Program was not previously limited to non-profits with section 501(c)(3) tax-exempt status. It is the Department's understanding that the Internal Revenue Code and regulations do not provide for temporary clearance under section 501(c)(3).

Section 913 of the HCD Act of 1992 amended section 811's labor standards. The labor standards, as amended, require all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under section 811 (the previous labor standard applied to 811 housing designed for dwelling use by 12 or more persons with disabilities) to be paid wages at rates not less than those prevailing in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. A group home will not be covered by the labor standards because a group home is considered to be one unit. Section 913 also provides for an exemption for any individual who (a) performs services for which the individual volunteered; (b) (1) does not receive compensation for such services; or (2) is paid expenses, reasonable benefits, or a nominal fee for such services; and (c) is not otherwise

employed at any time in the construction work. This interim rule implements the labor standards amendment at § 890.260(d).

Minor editorial changes have been made to the definitions. The definition of Owner is clarified by the requirement that no "Board" member of the Owner may benefit from the net earnings of the corporation. An identical amendment is made to § 890.235, Prohibited relationships. The restriction also applies so long as the individual is serving on the Board and for a period of three years following resignation or final closing, whichever occurs later.

The notice of fund availability requirements (§ 890.205) is amended by eliminating the former requirement to publish Invitations for Applications (§ 890.205(a)(2) and (b)). The NOFA will serve as the invitation and the Field Office shall notify media for persons with disabilities and minority media, all persons and organizations on their mailing lists and minority and other organizations involved in housing and community development within their jurisdiction, and groups with a special interest in housing for persons with disabilities, of the NOFA.

The Virgin Islands are added as a high construction cost area in § 890.245, Development cost limits.

Additional changes have been made to application content, the selection process and selection criteria to simplify the process and reduce paperwork. For example, a new form HUD–92016–CA, simplifies, standardizes and condenses the information formerly required by 890.270(b). The CHAS certification has been revised to reflect recent changes to the CHAS regulation. Standard certifications have been grouped together and authorities cited have been updated (*e.g.*, addition of Americans with Disabilities Act).

The selection process has been simplified to include only initial screening and technical process. Applications will be initially reviewed to determine if all parts of the application are included. HUD will not review the content of the application as part of initial screening. Deficiency letters will be sent informing Sponsors of any missing parts of the application. Sponsors must correct such deficiencies within 14 calendar days from the date of the deficiency letter. All applications will be placed in technical processing upon receipt of the response to the deficiency letter or at the end of the 14-day period. All applications will undergo a complete analysis. All applications will be either rated or technically rejected at the end of technical processing. The Secretary will not reject an application based on technical processing without giving notice of that rejection will all rejection reasons, and affording the applicant an opportunity to appeal. Technical processing will also include civil rights compliance.

The selection criteria have been regrouped to follow the statutory selection criteria and no longer include the financial capacity of the Sponsor. HUD will review financial capacity at the time of conditional or firm commitment (where project proceeds directly to firm commitment).

The Department plans to issue this fiscal year a final rule for the Supportive Housing for Persons with Disabilities Program which will incorporate public comment received to date on the part 890 interim rules, including this interim rule.

The interim rule furthers the legislative mandate of the HCD Act of 1992 and allows the program to continue operation in FY 1993. The Department is publishing this rule as interim because it will increase efficiency, reduce unnecessary requirements, combine or simplify current requirements, and provide new flexibility for HUD and program applicants. Many of the changes are of a technical/clarifying nature. The major changes made by this interim rule are statutorily required by the HCD Act of 1992, but do not affect the types of projects funded. These changes involve minor interpretation of the HCD Act of 1992. Publishing this rule as interim also ensures a timely and simplified funding round for FY 1993.

III. Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 implementing section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410–0500.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued on February 17, 1989. Analysis of the rule indicates that it does not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(3) Have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b), (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule would provide capital advances to nonprofit organizations to expand the supply of supportive housing for persons with disabilities. Although small entities will participate in the program, the rule would not have a significant impact on them.

On February 26, 1990, the Department published an interim rule (24 CFR part 87) advising recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans of a new prohibition recently mandated by Congress. Section 319 of the Department of the Interior Appropriations Act (Pub. L. 101–121, approved October 23, 1989) generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant, or loan. The interim rule generally prohibits the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. In addition, the recipient must also file a disclosure if it has made or has agreed to make any payment with nonappropriated funds that would be prohibited, if paid with appropriated funds.

Family Impact

The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that the provisions of this rule will not have a significant impact on family formation, maintenance or well being.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12611—Federalism, has determined that this rule does not involve the preemption of State law by Federal statute or regulation and does not have federalism impacts.

This interim rule was listed as item 1483 in the Department's Semiannual Agenda of Regulations published on April 26, 1993 (58 FR 24382, 24418)

under Executive Order 12291 and the

of the community in which such

be permitted to serve as directors of the

(d) *Identity of interest.* A person or an

(i) Articles of Incorporation

if required, to the State agency [illegible]

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under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program title and number is 14.181, Supportive Housing for Persons with Disabilities.

List of Subjects in 24 CFR Part 890

Civil rights, Capital advance programs, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mental health programs, Reporting and recordkeeping requirements.

Accordingly, the Department amends 24 CFR part 890, as set forth below.

1. The authority citation for part 890 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 8013.

2. In § 890.100, paragraph (b) is revised to read as follows:

§ 890.100 Purpose and policy.

* * * * *

(b) *General policy.* A capital advance made under this part shall be used to finance the construction, rehabilitation or acquisition with or without rehabilitation, including acquisition from the Resolution Trust Corporation (RTC) of structures to be used as supportive housing for persons with disabilities and may include real property acquisition, site improvement, conversion, demolition, relocation, and other expenses of supportive housing for persons with disabilities. Acquisition without rehabilitation is permitted only for group homes or RTC properties.

3. In § 890.105, the definitions for "Owner" and "Sponsor" are revised to read as follows:

§ 890.105 Definitions.

* * * * *

Owner means a single-purpose nonprofit organization established by the Sponsor and which will receive a capital advance and project rental assistance payments to develop and operate, as its legal owner, supportive housing for persons with disabilities under this part. Nonprofit organization means any institution or foundation:

(1) That has tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986;

(2) No part of the net earnings of which inures to the benefit of any Board member, founder, contributor, or individual;

(3) Which has a governing board

(i) The membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located (including persons with disabilities), and

(ii) Which is responsible for the operation of the housing assisted under this part; and

(4) Which is approved by the Secretary as to financial responsibility.

The purposes of the Owner must include the promotion of the welfare of persons with disabilities. The Owner may not be controlled by or under the direction of persons or firms seeking to derive profit or gain therefrom. Because of the nonprofit nature of the section 811 program, no officer or director, or trustee, Board member, stockholder or authorized representative of the Owner is permitted to have any financial interest in any contract in connection with the rendition of services, the provision of goods or supplies, project management, procurement of furnishings and equipment, construction of the project, procurement of the site or other matters whatsoever.

* * * * *

Sponsor means any nonprofit entity:

(1) That has tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986;

(2) No part of the net earnings of which inures to the benefit of any private shareholder, member, founder, contributor or individual;

(3) Which entity is not controlled by, or under the direction of persons or firms seeking to derive profit or gain therefrom;

(4) Which has a governing board the membership of which is selected in a manner to assure that there is significant representation of the views of persons with disabilities; and

(5) Which is approved by the Secretary as to administrative and financial capacity and responsibility. Because of the nonprofit nature of the section 811 program, no officer or director of the Sponsor is permitted to have any financial interest in any contract with the Owner in connection with the rendition of services, the provision of goods or supplies, project management, procurement of furnishings or equipment, construction of the project, procurement of the site or other matters whatsoever. The prohibition in the preceding sentence does not apply to any management contracts (including the management fees associated therewith) entered into by the Owner with the Sponsor or its nonprofit affiliate. In the case of a Sponsor or its nonprofit affiliate managing the project where persons are in a paid capacity with either the Sponsor or nonprofit affiliate, only two such persons would be permitted to serve as directors of the nonprofit organization (Owner) and only in a non-voting capacity.

* * * * *

4. Section 890.205 is revised to read as follows:

§ 890.205 Notice of fund availability.

(a) *Announcement of fund availability.* Following an allocation of authority under § 890.200, HUD shall publish a Notice of Fund Availability (NOFA) in the **Federal Register** indicating:

(1) The amount of capital advance authority (and approximate number of units) being made available for housing for disabled households within each allocation area;

(2) The deadline date for receipt of applications; and

(3) Other appropriate guidance to prospective Sponsors.

(b) *Other notifications.* Immediately after the NOFA is published, the Field Office shall notify minority media and media for persons with disabilities, all persons and organizations on their mailing lists and minority and other organizations involved in housing and community development within their jurisdiction, and groups with a special interest in housing for persons with disabilities, including the applicable state single point of contact (Executive Order 12372).

5. Section 890.235 is amended by revising paragraphs (a) and (d) to read as follows:

§ 890.235 Prohibited relationships.

(a) *Conflicts of interest.* Officers, directors, trustees, Board members, stockholders and authorized representatives of the Sponsor, and officers and directors of the Owner may not have any financial interest in any contract in connection with the rendition of services, the provision of goods or supplies, project management, procurement of furnishings or equipment, construction of the project, procurement of the site or other matters related to the development and operation of the project. This restriction applies so long as the individual is serving on the Board and for a period of three years following resignation or final closing, whichever occurs later. Management contracts (including associated management fees) entered into by the Owner with the Sponsor or the Sponsor's nonprofit affiliate will not constitute a conflict of interest if no more than two persons salaried by the Sponsor or management affiliate serve as nonvoting directors on the Owner's board of directors.

* * * * *

(d) *Identity of interest.* A person or an entity (including an affiliated entity) may not provide technical services to a project in more than one of the following capacities: Attorney, architect, contractor, housing consultant, management agent, or seller of the site for the project, except that the same person or entity may serve a project as management agent and housing consultant. The prohibition of an identity on interest between development team members applies until two years after final closing.

§ 890.245 [Amended]

6. Section 890.245(d) is amended by redesignating paragraphs (d)(i) and (ii) as (d) (1) and (2), and in paragraph (d)(2) by adding "Virgin Islands," after "Guam".

7. Section 890.260(d) is revised to read as follows:

§ 890.260 Other Federal requirements.

* * * * *

(d) *Labor standards.*

(1) All laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) employed by contractors and subcontractors in the construction (including rehabilitation) of housing with 12 or more units assisted under this part shall be paid wages at rates not less than those prevailing in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a–276a–5). A group home is not covered by the labor standards.

(2) Contracts involving employment of laborers and mechanics shall be subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333).

(3) Sponsors, Owners, contractors and subcontractors must comply with all related rules, regulations and requirements.

* * * * *

8. Section 890.265 is revised to read as follows:

§ 890.265 Application contents.

(a) *Application.* Each application shall include all of the information, materials, forms, and exhibits listed in paragraph (b) of this section. The Field Office will base its determination of the eligibility of the Sponsor for a reservation of section 811 capital advance funds on the information provided in the application.

(b) *General application requirements.* Each application shall include:

(1) Application for Section 811 Supportive Housing Capital Advance.

(2) Evidence of each Sponsor's legal status as a nonprofit organization, including the following:

(i) Articles of Incorporation, constitution, or other organizational documents;

(ii) By-laws;

(iii) IRS section 501(c)(3) tax exemption ruling (this must be submitted by all Sponsors, including churches). A nonprofit organization organized in the Commonwealth of Puerto Rico and exempt from income taxation under Puerto Rico law, has never been liable for payment of Federal income taxes, and does not pay patronage dividends may be exempt from the requirement set out in the previous sentence if they are not eligible for tax exemption; and

(iv) Resolution of the board, duly certified by an officer, that no officer or director of the Sponsor or Owner has or will have any financial interest in any contract with the Owner or in any firm or corporation which has or will have a contract with the Owner and which includes a current listing of all duly qualified and sitting officers and directors by title and the beginning and ending date of each person's term.

(3) The Sponsor must submit a certification by the jurisdiction in which the proposed project will be located that the Sponsor's application is consistent with the jurisdiction's HUD-approved CHAS. The certification must be made by the unit of general local government or the State, pursuant to the CHAS regulations at 24 CFR 91.1(b)(1)(ii), and as may be further described in the NOFA. The CHAS certification is not required where the proposed project will be located in the Insular Area of Guam, the U.S. Virgin Islands, American Samoa or the Northern Mariana Islands. Unless otherwise set forth in the NOFA, the required certification must be submitted by the application submission deadline announced in the NOFA. The jurisdiction required to make the certification must therefore get its CHAS approved by HUD in time for the certification to be submitted by the applicable deadline, *i.e.*, the application deadline announced in the NOFA or if the NOFA permits a later submission date for the certification, the later date. (HUD has 60 days to approve a CHAS.) However, in no event will an application be considered for funding if the required CHAS has not been submitted for HUD approval by the application deadline. All certifications must be signed by the public official responsible for submitting the CHAS to HUD, and must meet the requirements of the CHAS regulations at 24 CFR 91.80 (a) or (b), "Consistency certifications."

(4) A certification that the Sponsor has submitted a copy of its application, if required, to the State agency (single point of contact) for State review in accordance with Executive Order 12372.

(5) A certification from the appropriate State or local agency identified in the application package that the provision of supportive services is well designed to serve the special needs of persons with disabilities and the proposed facility is consistent with State or local plans and policies governing the development operation of such facilities.

(6) A certification on Application for Federal Assistance form that the Sponsor(s) is not delinquent on the repayment of any Federal debt.

(7) Anti-lobbying Certification for Contracts, Grants, Loans and Cooperative Agreements for grants exceeding $100,000. Disclosure of Lobbying Activities if other than federally appropriated funds will be or have been used to lobby the Executive or Legislative branches of the Federal Government regarding specific contracts, grants, loans or cooperative agreements. The applicant determines if the submission is warranted.

(8) A statement that:

(i) Identifies all persons (families, individuals, businesses and nonprofit organizations (identified by race/minority group, and status as owners or tenants) occupying the property on the date of submission of the application for a capital advance (or date of initial site control, if later);

(ii) Indicates the estimated cost of relocation payments and other services; and

(iii) Identifies the staff organization that will carry out the relocation activities.

[Note: If any of the relocation costs will be funded from sources other than the section 811 Capital Advance, the sponsor must provide evidence of a firm commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (i.e., cost of site acquisition, relocation, construction and other project costs).]

(9)(i) A certification of the Sponsor(s)' intent to comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations at 24 CFR Part 8; the Fair Housing Act (42 U.S.C. 3600–3619) and the implementing regulations at 24 CFR part 100, 108, 109, and 110; Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the implementing regulations at 24 CFR part 1; section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135; the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and the implementing regulations at 24 CFR part

146; Executive Order 11246 (as

to serve the project, minority support

of such services as evidenced by data

[Note: A proposed project site may not be

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146; Executive Order 11246 (as amended) and the implementing regulations at 41 CFR chapter 60; the regulations implementing Executive Order 11063 (Equal Opportunity in Housing) at 24 CFR part 107; the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) to the extent applicable; the Affirmative fair housing marketing requirements at 24 CFR part 200, subpart M; and other applicable Federal, State and local laws prohibiting discrimination and promoting equal opportunity.

(ii) A certification that the Sponsor(s) will comply with the requirements of the Drug-Free Workplace Act.

(iii) A certification that the project will comply with HUD's design and cost standards, the Uniform Federal Accessibility Standards and HUD's implementing regulations at 24 CFR part 40, Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, and for new construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100.

(iv) A certification by the Sponsor(s) that it will comply (or has complied) with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), implemented by regulations at 49 CFR part 24, and 24 CFR 890.260(e).

(v) A certification by the Sponsor(s) that it will form an Owner (as defined in § 890.105) after the issuance of the capital advance, will cause the Owner to file a request for determination of eligibility and a request for capital advance under § 890.300, and will provide sufficient resources to the Owner to insure the development and long-term operation of the project.

(vi) A certification that the Sponsor will comply with the requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR part 35 (except as superseded in § 890.260(f)(2)). In the case of a structure built or rehabilitated prior to 1978 that is proposed to be developed as an independent living facility, a statement from the Sponsor indicating that it has inspected the structure for defective paint surfaces.

(10) A description of Sponsor's purposes and activities, ties to the community (including local disability community), any statements of support for the proposed project from non-governmental organizations familiar with the needs of the population it would serve, any sources of local funds to serve the project, minority support and how long it has been in existence (include any additional related information).

(11) A description of any other rental housing projects and/or medical facilities, sponsored, owned and operated by the Sponsor including a description of experience in providing housing and/or medical facilities to persons with disabilities and minorities.

(12) A description of the Sponsor's past or current involvement in any programs other than housing (including its provision of services) that demonstrates the Sponsor's management capabilities and experience, including a description of the Sponsor's experience in serving persons with disabilities and minorities.

(13) A description of the Sponsor's experience in contracting with minority and women-owned businesses, including amounts awarded.

(14) A certified Board Resolution, acknowledging responsibilities of sponsorship, long-term support of the project(s), willingness of Sponsor to assist the Owner to develop, own, manage and provide appropriate services in connection with the proposed project, and that it reflects the will of its membership. Also, evidence, in the form of a certified Board Resolution, of the Sponsor's willingness to fund the Minimum Capital Investment (one-half of one-percent of the HUD-approved capital advance, not to exceed $10,000) (see § 890.250).

(15) A list of the applications, if any, the Sponsor has submitted or is planning to submit to any other Field Office in response to current NOFAs under 24 CFR part 889 or part 890. Indicate by Field Office, the proposed location by city and State, and the number of units requested for each application. A list of all prior year projects to which the Sponsor(s) is a party, identified by project number and Field Office, which have not been finally closed.

(16) Applicant/Recipient Disclosure/ Update Report, including Social Security Numbers and Employee Identification Numbers.

(17) An identification of the proposed population and evidence demonstrating sustained effective demand for the housing for the proposed population in the area to be served; such as a description of market conditions in existing Federally assisted housing for persons with disabilities (occupancy, waiting lists, etc.), state or local needs assessments of persons with disabilities in the area, the types of supportive services arrangements currently available in the area, and the utilization of such services as evidenced by data from local social service agencies.

(18) Evidence of control of an approvable site, or identification of a site for which the Sponsor provides reasonable assurances that it will obtain control within 6 months from the date of fund reservation (if Sponsor is approved for funding):

(i) If the Sponsor has control of the site, it must submit the following information:

(A) Evidence that the Sponsor has entered into a legally binding option agreement to purchase or lease the proposed site; or has a copy of the contract of sale for the site, a deed, long-term leasehold, a request with all supporting documentation, submitted either prior to or with the Application for Capital Advance, for a partial release of a site covered by a mortgage under a HUD program or other evidence of legal ownership of the site (including properties to be acquired from the RTC). The option agreement period should extend through the end of the current fiscal year and contain a renewal provision so that the option can be renewed for at least an additional six months. The Sponsor must also identify any restrictive covenants, including reverter clauses. In the case of a site to be acquired from a public body, evidence that the public body possesses clear title to the site, and has entered into a legally binding agreement to lease or convey the site to the Sponsor after it receives and accepts a notice of section 811 Capital Advance and identification of any restrictive covenants, including reverter clauses. However, in localities where HUD determines that the time constraints of the funding round will not permit all of the required official actions (*e.g.*, approval of Community Planning Boards) which are necessary to convey publicly-owned sites, a letter in the application from the Mayor or Director of the appropriate local agency indicating their approval of conveyance of the site contingent upon the necessary approval action is acceptable and may be approved by the Field Office if it has satisfactory experience with timely conveyance of sites from that public body. In such cases, documentation shall also include a copy of the public body's evidence of ownership and identification of any restrictive covenants, including reverter clauses. For properties to be acquired from the RTC, include a copy of the RTC prepared Transaction Screen Checklist or Phase I Environmental Site Assessment, and applicable documentation, per the RTC Environmental Guidelines.

[Note: A proposed project site may not be acquired or optioned from a general contractor (or its affiliate) which will construct the section 811 project or from any other development team member.]

(B) Evidence that the project as proposed is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action required to make the proposed project permissible and the basis for the belief that the proposed action will be completed successfully before the submission of the commitment application (*e.g.*, a summary of the results of any recent requests for rezoning on land in similar zoning classifications and the time required for such rezoning, preliminary indications of acceptability from zoning bodies, *etc.*).

(C) Narrative description of site and area surrounding the site, characteristics of neighborhood, how the site will promote greater housing opportunities for minorities, and any other information that impacts on the suitability of the site for persons with disabilities and including:

(*1*) Photographs of the site;

(*2*) If acquisition, evidence that the structure has been constructed or occupied for at least three years (other than RTC properties);

(*3*) A statement that the Sponsor is willing to seek a different site if the preferred site is unapprovable and site control will be obtained within six months of notification of fund reservation; and

(*4*) A map showing the location of the site and the racial composition of the neighborhood, with the area of racial concentration delineated.

(ii) If the Sponsor has identified a site, but does not have it under control, it must submit the following information:

(A) A description of the location of the site, including its address, neighborhood/community characteristics (to include racial and ethnic data), amenities, adjacent housing and/or facilities, how the site will promote greater housing opportunities for minorities, and any other information that impacts on the suitability of the site for persons with disabilities;

(B) A description of the activities undertaken to identify the site as well as what actions must be taken and the estimated time necessary to obtain control of the site, if approved for funding;

(C) An indication as to whether the site is properly zoned. If it is not, an indication of the actions/time necessary for proper zoning;

(D) A status of the sale of the site; and

(E) An indication as to whether the site would involve relocation.

(19) Supportive Service plan that includes:

(i) A detailed description of whether the housing is intended to serve persons with physical, mental or emotional impairments, developmental disabilities, or chronic mental illness. Include how and from where persons will be referred and admitted to the project. The Sponsor may, with the approval of the Secretary, limit occupancy within housing developed under this part to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

(ii) A detailed description of the service needs of the proposed population.

(iii) A detailed description of the supportive services proposed to be provided to the anticipated occupancy, including:

(A) The name(s) of the agency(s) which will be responsible for providing supportive services and evidence of the service provider's capability and experience in providing such supportive services;

(B) The manner in which such services will be provided (i.e., how, when and how often, where (on/off-site), including assurances that the proposed residents will receive supportive services based on their individual needs).

(C) The staffing plan, including a description of the qualifications of residential staff, if any, and other staff necessary to provide the proposed services.

(iv) Identification of the extent of state and local funds available to assist in the provision of supportive services.

(v) Letters of intent from service providers or funding sources, indicating commitments to fund or provide the supportive services or that a particular service will be available to project residents.

(vi) If the Sponsor will be the sole service provider using its own funds, a letter indicating its capability and commitment to either provide the supportive services or ensure their provision for the life of the project.

(vii) If any state or local government funds will be provided, a description of the state/local agency's philosophy/ policy concerning residential facilities for the population to be served as well as a demonstration by the Sponsor that the application is consistent with state or local plans and policies governing the development and operation of facilities for the same disabled population.

(viii) Identify all supportive services, if any, to be provided to the persons occupying such housing.

(20) A written description of the design of the proposed housing, including:

(i) The development method;

(ii) Identification of the number and type of structure(s), and for an independent living facility, the number of units by bedroom type and the number of residents with disabilities, and for a group home, the number of bedrooms and number of residents with disabilities;

(iii) An identification of all community spaces, amenities or features planned for the housing. A description of how the spaces, amenities, or features will be utilized and of the extent to which they are necessary to accommodate any special needs of the proposed residents and the provision of any on-site supportive services also must be included. If these community spaces, amenities, or features would not comply with the design and cost standards of § 890.220, the Sponsor must demonstrate its ability and willingness to contribute both the incremental development cost and continuing operating cost associated with the community spaces, amenities or features;

(iv) Describe if and how the project will promote energy efficiency and if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction; and

(v) If proposing a group home that exceeds eight persons with disabilities or an independent living facility that exceeds 24 residents the following must be demonstrated:

(A) The increased number of people is necessary for the economic feasibility of the project;

(B) The project is compatible with residential development and population density of the area;

(C) The project can be integrated into the neighborhood and community; and

(D) The project is marketable.

(21) For group homes to be licensed as intermediate care facilities (in which funding for the intermediate care is provided under Title XIX of the Social Security Act) that serve persons with developmental disabilities, the following must be submitted:

(i) evidence demonstrating that the proposed project will primarily provide housing rather than medical facilities, and is or will be licensed by appropriate State agencies;

(ii) description of the medical training of the staff of the proposed facility and

any nursing services that will be

assessment of the Sponsor's application

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any nursing services that will be required by the residents on-site;

(iii) description of the services that will be funded by Medicaid for residents of the proposed project, including their nature, frequency and where the services are to be provided;

(iv) description of any special design features proposed for the group home that are not common to other section 811 group homes for the proposed population and the Sponsor's rationale for including them; and,

(v) written evidence that the State Medicaid Office recognizes the need for a tenant contribution to rent and has agreed to pay the cost of the tenant contribution in the Medicaid payment to the Owner.

(Approved by the Office of Management and Budget under control number 2502–0462).

9. Section 890.300 is revised to read as follows:

§ 890.300 Review of applications for capital advance.

(a) *Initial screening.* Applications for section 811 Capital Advances for housing for persons with disabilities that are received by HUD at the appropriate address within the time period specified in the NOFA will be reviewed to determine if all parts of the application are included. HUD will not review the content of the application as part of initial screening.

(b) *Deficiency letters.* Deficiency letters will be sent informing Sponsors of any missing parts of the application. Sponsors must correct such deficiencies within 14 calendar days from the date of the deficiency letter. All applications will be placed in technical processing upon receipt of the response to the deficiency letter or at the end of the 14-day period.

(c) *Technical processing.*

(1) *General.* All applications will undergo a complete analysis. All applications will be either rated or technically rejected at the end of technical processing. The Secretary will not reject an application based on technical processing without giving notice of that rejection with all rejection reasons, and affording the applicant an opportunity to appeal. An applicant will be afforded 14 calendar days from the date of HUD's written notice to appeal a technical rejection The Field Office. the Field Office must respond within 5 working days to the Sponsor. The Field Office shall make a determination on an appeal prior to making its selection recommendations.

(2) *Civil rights compliance.* Technical processing will also assure that if the Sponsor has been found by a court or by a Federal, State, or local agency, in noncompliance with any of the statutes, regulations, or other requirements listed in the civil rights certification (§ 890.265(b)(9)(i)), HUD will obtain from the Sponsor a statement of the actions taken to correct that noncompliance. There must be no pending civil rights suits against the Sponsor instituted by the Department of Justice and no pending administrative actions for civil rights violations instituted by HUD (including a charge of discrimination under the Fair Housing Act). Moreover, there must not be a deferral of the processing of applications from the Sponsor imposed by HUD under Title VI of the Civil Rights Act of 1964, the Department's implementing regulations (24 CFR 1.8), procedures (HUD Handbook 8040.1), and the Attorney General's Guidelines (28 CFR 50.3); or under section 504 of the Rehabilitation Act of 1973 and the Department's implementing regulations (24 CFR 8.57).

(3) The need for supportive housing for persons with disabilities in the area to be served;

(4) Based on the factors set forth in paragraph (c) of this section, the field office will determine the applications which, in its judgment, are approvable. Selection will be made in accordance with paragraph (e) of the section.

(d) *Selection criteria.* The selection criteria for assistance include:

(1) The Sponsor's ability to develop and operate the proposed housing on a long-term basis, considering the following:

(i) The scope, extent and quality of the Sponsor's experience in providing housing or related services to those proposed to be served by the project and the scope of the proposed project (*i.e.*, number of units, services, relocation costs, development, and operation) in relationship to the Sponsor's demonstrated development and management capacity;

(ii) The scope, extent and quality of the Sponsor's experience in providing housing or related services to minority persons or families;

(iii) The scope, extent and quality of the Sponsor's experience in providing opportunities for minority and women-owned business enterprises participation; and

(iv) The extent of local community support for the Sponsor's activities, including previous experience in serving the area where the project is to be located, and Sponsor's demonstrated ability to enlist volunteers and local funds;

(2) The need for supportive housing for persons with disabilities in the area to be served, the extent to which the Sponsor has site control, and the suitability of the site, considering:

(i) The extent of the need for the project in the area based on a determination by the Field Office. This determination will be made by taking into consideration the Sponsor's evidence of need in the area based on the guidelines in § 890.265(b)(18), as well as other economic, demographic and housing market data available to the Field Office. The data could include the availability of existing Federal assisted housing (HUD and FmHA) for persons with disabilities and current occupancy in such facilities, Federally assisted housing for persons with disabilities under construction or for which fund reservations have been issued and, in accordance with an agreement between HUD and FmHA, comments from the FmHA on the demand for additional assisted housing and the possible harm to existing projects in the same housing market area;

(ii) The proximity or accessibility of the site to shopping, medical facilities, transportation, places of worship, recreational facilities, and other necessary services to the intended occupants, adequacy of utilities and streets (site control projects only), and freedom of the site from adverse environmental conditions, and compliance with site and neighborhood standards (site control projects only);

(iii) Suitability of the site from the standpoint of promoting a greater choice of housing opportunities for minority persons with disabilities; and

(iv) Likelihood that Sponsor will have site control (if not already in control of an approvable site) within six months of fund reservation;

(3) The adequacy of the provision of supportive services and of the proposed facility considering:

(i) The extent to which the Sponsor demonstrated that the identified supportive services will be provided on a consistent, long-term basis (considering any limitations imposed by State or local governments)—strength of commitments to fund or providing the supportive services, or indications of the availability of supportive services to project residents;

(ii) The quality of the services implementation plan; and

(iii) The extent to which the proposed design will meet any special needs of persons with disabilities the housing is intended to serve and will accommodate the provision of any necessary on-site supportive services for the proposed residents.

(e) The Field Office shall rate each application on the basis of its assessment of the Sponsor's application using the selection criteria. The Field Office shall also calculate the capital advance and the PRAC amounts to be reserved for each project. The Regional Office shall identify for selection the highest ranking applications in descending order which most reasonably approximate the estimated maximum number of units which can be funded within two categories. Category A shall consist of all approvable applications that contain evidence of control of an approvable site(s). Category B shall consist of all other approvable applications in which a site(s) has been identified but is not under control. An approvable application containing evidence of site control in which the site or the evidence is found not approvable shall be ranked in Category B, provided the Sponsor has indicated in the application a willingness to seek a different site and an assurance that site control will be obtained within six months of fund reservation, if approved.

(f) *Selection.* (1) Based on the ranking under paragraphs (d) and (e) of this section, HUD first shall select applications in the descending order of funding priority from Category A that most closely approximate the capital advance authority allocated to the Region.

(2) If capital advance authority remains after selecting all approvable applications from Category A, HUD shall then select applications in the descending order of funding priority from Category B that most closely approximate the capital advance authority remaining for each Field Office.

(3) If, after completing paragraph (f)(1) of this section and, if necessary, paragraph (f)(2) of this section, the amount of capital advance authority allocated to a Field Office exceeds the amount necessary to fund all approvable applications in that area, the Department shall transfer the unused capital advance authority from the area to another area or areas in which there is insufficient capital advance authority for all approvable applications.

§§ 890.305 and 890.310 [Amended]

10. Sections 890.305 and 890.310 are amended by removing the term "fund reservation" wherever it appears in the sections, and by adding in its place the term "capital advance".

Dated: April 2, 1993.

James E. Schoenberger,

Associate General Deputy, Assistant Secretary.

[FR Doc. 93–10447 Filed 5–4–93; 8:45 am]

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DEPARTMENT OF HOUSING AND

NAHA) authorized a new supportive

services for which the individual

Based on this formula, the Department has allocated the available capital advance funds as shown on the following chart:

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-93-3560; FR-3409-N-01]

Fund Availability (NOFA) for Supportive Housing for Persons with Disabilities

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of fund availability for FY 93.

SUMMARY: This NOFA announces HUD's funding for supportive housing for persons with disabilities. In the body of this document is information concerning the following: (a) The purpose of the NOFA and information regarding eligibility, submission requirements, available amounts, and selection criteria and (b) application processing, including how to apply and how selections will be made. A checklist of steps and exhibits involved in the application process will be included in the application package which can be obtained from the appropriate Field Office identified in appendix A.

DATES: The deadline date for receipt of applications in response to this NOFA is 4 p.m. local time on July 8, 1993.

ADDRESSES: Applications must be delivered to the Director of the Housing Development Division in the HUD Field Office for your jurisdiction. A listing of HUD Field Offices, their addressed and telephone numbers (including TDD telephone numbers) are attached as appendix A to this NOFA. HUD will date and time stamp incoming applications to evidence timely receipt, and upon request, provide the applicant with an acknowledgement of receipt. Applications submitted by facsimile are not acceptable.

FOR FURTHER INFORMATION CONTACT: The HUD Field Office for your jurisdiction.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–220), the information collection requirements have been assigned OMB Control Number 2502–0462.

I. Purpose and Substantive Description

A. Authority

Section 811 of the Cranston-Gonzalez National Affordable Housing Act (the NAHA) authorized a new supportive housing program for persons with disabilities and replaced assistance for persons with disabilities previously covered by section 202 of the Housing Act of 1959 (section 202 continues, as amended by section 801 of the NAHA, and the Housing and Community Development Act of 1992 (HCD Act of 1992) to authorize supportive housing for the elderly). The assistance is provided as capital advances and contracts for project rental assistance in accordance with 24 CFR part 890. Capital advances may be used to finance the construction, rehabilitation, or acquisition with or without rehabilitation, including acquisition from the Resolution Trust Corporation (RTC), of structures to be developed into a variety of housing options ranging from group homes and independent living facilities, to dwelling units in multifamily housing developments, condominium housing and cooperative housing. Acquisition without rehabilitation is permitted only for group homes or properties acquired from the RTC. This assistance may also cover the cost of real property acquisitions, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for persons with disabilities.

Sections 601, 603 and 913 of the HCD Act of 1992 amended section 811 of the NAHA. These amendments and simplification of the application and selection process are the subject of an interim rule published today elsewhere in this issue. These amendments are reflected in this NOFA. Of special interest are the amendment to the definition of private nonprofit organization (no longer required to be incorporated or private) and the amendment relating to labor wage rates. The amended labor standards require all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under section 811 (the previous labor standard applied to section 811 housing designed for dwelling use by 13 or more persons with disabilities) to be paid wages at rates not less than those prevailing in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. A group home is not covered by the labor standards because a group home is considered to be one unit. Section 913 and the 811 interim rule published today elsewhere in this issue provide for an exemption for any individual who (a) performs services for which the individual volunteered; (b) (1) does not receive compensation for such services; or (2) is paid expenses, reasonable benefits, or a nominal fee for such services; and (c) is not otherwise employed at any time in the construction work.

For supportive housing for persons with disabilities, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (Pub. L. 102–389, enacted October 6, 1992, (Fiscal Year 1993 Appropriations Act) provides $193,754,000 for capital advances, for supportive housing for persons with disabilities, as authorized by section 811 of the NAHA, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the NAHA. It should be noted that although section 623 of the HCD Act of 1992 authorizes tenant-based assistance for persons with disabilities, appropriations have not been provided.

In accordance with an agreement between HUD and the Farmers Home Administration (FmHA) which facilitates the coordination between the two agencies in administering their respective rental assistance programs, HUD is required to notify FmHA of applications for housing assistance it receives. The purpose of this notification is to give FmHA the opportunity to comment if it has concern about the demand for additional assisted housing and possible harm to existing projects in the same housing market area. HUD will consider the FmHA comments in its review and project selection process.

B. Allocation Amounts

In accordance with 24 CFR part 791, the Assistant Secretary will allocate the amounts available for capital advances for supportive housing for persons with disabilities. The Department reserves project rental assistance funds sufficient for 20-year project rental assistance contracts in support of the units selected for capital advances, consistent with current operating cost standards.

The allocation formula for section 811 funds consists of the following two data elements:

1. A measure of the number of persons identified as having a public transportation disability; and

2. A measure of the number of persons identified as having a work disability.

Based on this formula, the Department has allocated the available capital advance funds as shown on the following chart:

FISCAL YEAR 1993 ALLOCATIONS FOR SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

Region	Units	Capital advance	PRAC required	Per unit cost
1	121	8,756,828	9,978,432	72,141
2	267	20,257,582	22,139,731	75,680
3	273	16,354,643	18,837,272	59,873
4	514	25,917,193	28,213,351	50,454
5	400	24,175,882	26,309,706	60,361
6	233	11,118,141	12,926,664	47,671
7	84	4,353,977	5,114,699	52,113
8	51	2,537,260	2,975,250	49,587
9	328	22,870,247	24,209,913	69,675
10	55	3,298,293	3,514,618	59,977
Total	2,326	139,640,050	154,219,636	60,023

C. Eligibility

The only eligible applicants under this program are nonprofit organizations. A single Sponsor shall not request more units in a given Region than permitted for that Region in the Invitation.

D. Initial Screening, Technical Processing and Selection Criteria

1. Initial Screening

Applications for section 811 capital advances that are received by HUD at the appropriate address by 4 p.m. local time on July 8, 1993 will be reviewed to determine if all parts of the application are included. HUD will not review the content of the application as part of initial screening. Deficiency letters will be sent informing Sponsors of any missing parts of the application. Sponsors must correct such deficiencies within 14 calendar days from the date of the deficiency letter.

2. Technical Processing

All applications will be placed in technical processing upon receipt of the response to the deficiency letter or at the end of the 14-day period. All applications will undergo a complete analysis. As part of this analysis, HUD will conduct its environmental review in accordance with 24 CFR part 50. Examples of reasons for technical processing rejection include an ineligible Sponsor, ineligible population to be served, lack of legal capacity and insufficient commitments or indications that supportive services will be available. The Secretary will not reject an application based on technical processing without giving notice of that rejection with all rejection reasons, and affording the applicant an opportunity to appeal. An applicant will be afforded 14 calendar days from the date of HUD's written notice to appeal a technical rejection to the Field Office. The Field Office must respond within 5 working days to the Sponsor. The Field Office shall make a determination on an appeal prior to making its selection recommendations. All applications will be either rated or technically rejected at the end of technical processing.

Technical processing will also assure that if the Sponsor has been found by a court or by a Federal, State, or local agency, in noncompliance with any of the statutes, regulations, or other requirements listed in the civil rights certification (§ 890.265(b)(9)(i)), HUD will obtain from the Sponsor a statement of the actions taken to correct that noncompliance. There must be no pending civil rights suits against the Sponsor instituted by the Department of Justice and no pending administrative actions for civil rights violations instituted by HUD (including a charge of discrimination under the Fair Housing Act). Moreover, there must not be a deferral of the processing of applications from the Sponsor imposed by HUD under Title VI of the Civil Rights Act of 1964, the Department's implementing regulations (24 CFR 1.8), procedures (HUD Handbook 8040.1), and the Attorney General's Guidelines (28 CFR 50.3); or under section 504 of the Rehabilitation Act of 1973 and the Department's implementing regulations (24 CFR 8.57).

Under completion of technical processing, all acceptable applications will be rated according to the selection criteria in § 890.300(d) (also below in I.D.3). Applications which have a total score of 50 points or more will be eligible for selection and will be placed in rank order.

3. Selection Criteria

Applications for section 811 capital advances that successfully complete technical processing will be rated using the following selection criteria:

(a) The Sponsor's ability to develop and operate the proposed housing on a long-term basis, considering the following (50 points maximum):

(1) The scope, extent and quality of the Sponsor's experience in providing housing or related services to those proposed to be served by the project and the scope of the proposed project (*i.e.*, number of units, services, relocation costs, development, and operation) in relationship to the Sponsor's demonstrated development and management capacity. (32 points);

(2) The scope, extent and quality of the Sponsor's experience in providing housing or related services to minority persons or families (5 points);

(3) The scope, extent and quality of the Sponsor's experience in providing opportunities for minority and women-owned business enterprises participation (3 points); and

(4) The extent of local community support for the Sponsor's activities, including previous experience in serving the area where the project is to be located, and Sponsor's demonstrated ability to enlist volunteers and local funds (10 points);

(b) The need for supportive housing for persons with disabilities in the area to be served, the extent to which the Sponsor has site control, and the suitability of the site, considering (25 points):

(1) The extent of the need for the project in the area based on a determination by the Field Office. This determination will be made by taking into consideration the Sponsor's evidence of need in the area based on the guidelines in § 890.265(b)(18), as

well as other economic, demographic published in the **Federal Register**.

In preparing applications, applicants

submitting the CHAS to HUD. All CHAS funds will be or have been used to lobby

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well as other economic, demographic and housing market data available to the Field Office. The data could include the availability of existing Federally assisted housing (HUD and FmHA) for persons with disabilities and current occupancy in such facilities, Federally assisted housing for persons with disabilities under construction or for which fund reservations have been issued and, in accordance with an agreement between HUD and FmHA, comments from the FmHA on the demand for additional assisted housing and the possible harm to existing projects in the same housing market area (8 points);

(2) The proximity or accessibility of the site to shopping, medical facilities, transportation, places of worship, recreational facilities, and other necessary services to the intended occupants, adequacy of utilities and streets, freedom of the site from adverse environmental conditions, and compliance with the site and neighborhood standards (10 points);

(3) Suitability of the site from the standpoint of promotion a greater choice of housing opportunities for minority persons with disabilities (7 points); and

(4) Likelihood that Sponsor will have site control (if not already in control of an approvable site) within six months of fund reservation (yes or no);

(c) The adequacy of the provision of supportive services and of the proposed facility considering (25 points maximum):

(1) The extent to which the Sponsor demonstrated that the identified supportive services will be provided on a consistent long-term basis (considering any limitations imposed by State or local governments)—strength of commitments to fund or providing the supportive services, or indications of the availability of supportive services to project residents (10 points);

(2) The quality of the services implementation plan (10 points);

(3) The extent to which the proposed design will meet any special needs of persons with disabilities the housing is intended to serve and will accommodate the provision of any necessary on-site supportive services for the proposed residents (5 points).

II. Application Process

All applications for Section 811 capital advances submitted by eligible Sponsors must be filed with the appropriate HUD Field Office receiving an allocation and must meet the requirements of this Notice. No application will be accepted after 4 p.m. local time on July 8, 1993, unless that date and time is extended by a Notice published in the **Federal Register**. Applications received after that date and time will not be accepted, even if postmarked by the deadline date. Applications submitted by facsimiles are not acceptable.

Immediately upon publication of this NOFA, Field Offices shall notify minority media and media for persons with disabilities, all persons and organizations on their mailing lists and minority and other organizations within their jurisdiction involved in housing and community development and groups with special interest in housing for disabled households.

Organizations interested in applying for a section 811 capital advance should provide the appropriate Field Office with their names, addresses and telephone numbers, and advise the Field Office whether they wish to attend the workshop described below. HUD encourages minority organizations to participate in this program as Sponsors. Field Offices will advise all organizations on their mailing list of the date, time and place of workshops at which the Section 811 Program will be explained.

HUD strongly recommends that prospective applicants attend the local Field Office workshop. Interested persons with disabilities should contact the Field Office to assure that any necessary arrangements can be made for them to enable their attendance and participation in the workshop. While strongly urged to do so, if Sponsors cannot attend a workshop, Application Packages and handbooks can also be obtained from the Field Offices. Contact the appropriate Field Office with any questions regarding the submission of applications.

At the workshops, Application Packages will be distributed, application procedures and requirements will be explained. Also, concerns such as local market conditions, building codes, historic preservation, floodplain management, displacement and relocation, zoning, housing costs and service plan requirements will be addressed.

III. Application Submission Requirements

A. Application

Each application shall include all of the information, materials, forms, and exhibits listed in section III. B. below and must be indexed and tabbed. The Field Office will base its determination of the eligibility of the Sponsor for a reservation of section 811 capital advance funds on the information provided in the application.

In preparing applications, applicants will be able to utilize information and exhibits previously prepared for prior applications under section 811, section 202 or other funding programs. Examples of exhibits that may be readily adapted or amended to decrease the burden of application preparation include, among others, those on previous participation in the section 202 or section 811 programs; applicant experience in the provision of housing and services; supportive services plan; community ties, and experience serving minorities.

B. General Application Requirements

1. Form HUD–92016–CA, Application for Section 811 Supportive Housing Capital Advance.

2. Evidence of each Sponsor's legal status as a nonprofit organization, including the following:

(a) Articles of Incorporation, constitution, or other organizational documents;

(b) By-laws;

(c) IRS section 501(c)(3) tax exemption ruling (this must be submitted by all Sponsors, including churches). A nonprofit organization organized in the Commonwealth of Puerto Rico and exempt from income taxation under Puerto Rico law, has never been liable for payment of Federal income taxes, and does not pay patronage dividends may be exempt from the requirement set out in the previous sentence if they are not eligible for tax exemption; and

(d) Resolution of the board, duly certified by an officer, that no officer or director of the Sponsor or Owner has or will have any financial interest in any contract with the Owner or in any firm or corporation which has or will have a contract with the Owner and which includes a current listing of all duly qualified and sitting officers and directors by title and the ending date of each person's term.

3. CHAS certification. The Sponsor must submit a certification by the jurisdiction in which the proposed project will be located that the Sponsor's application is consistent with the jurisdiction's HUD-approved CHAS for FY 1993. The certification must be made by the unit of general local government if it is required to have, or has, a complete CHAS. Otherwise the certification may be made by the State, or if the project will be located in a unit of general local government authorized to use an abbreviated CHAS, by the unit of general local government if it is willing to prepare such a CHAS.

All CHAS certifications must be made by the public official responsible for

submitting the CHAS to HUD. All CHAS certifications must be submitted as part of the application by the application submission deadline set forth in this NOFA, except as provided in the next parsgraph. The required CHAS must therefore have been submitted more than 60 days before the application submission deadline, since HUD has 60 days to review and approve the CHAS. Where the certification of consistency is permitted to be submitted after the Application submission deadline, as described in the next paragraph, the CHAS must be submitted for approval in time for the certification to be made by the later date. In no event will an application be considered if the CHAS has not been submitted for approval by the application submission deadline.

If the required certification will be made by a unit of general local government with respect to an abbreviated CHAS, and such CHAS has been submitted by the application submission deadline but has not yet been approved by HUD, the deadline will not be applied to the certification for consistency. Instead, the application must include a written statement from the public official responsible for submitting the CHAS that the jurisdiction has submitted an abbreviated CHAS for FY 1993 for HUD approval and that the application is consistent with the CHAS. If HUD approved the CHAS, the required certification that the application is consistent with a HUD-approved CHAS for FY 1993 must be submitted before August 31, 1993. An application will not be selected for funding unless the CHAS is approved and the required certification is made by August 31, 1993. The CHAS regulations are published in 24 CFR part 91.

4. E.O. 12372. A certification that the Sponsor has submitted a copy of its application, if required, to the State agency (single point of contact) for State review in accordance with Executive Order 12372.

5. Supportive Services certification. A certification from the appropriate State or local agency identified in the application package that the provision of supportive services is well designed to serve the special needs of persons with disabilities.

6. SF–424. A certification on SF–424, Application for Federal Assistance, that the Sponsor(s) is not delinquent on the repayment of any Federal debt.

7. Anti-lobbying Certification for Contracts, Grants, Loans and Cooperative Agreements for grants exceeding $100,000. Disclosure of Lobbying Activities (Standard Form–LLL) if other than federally appropriated funds will be or have been used to lobby the Executive or Legislative branches of the Federal Government regarding specific contracts, grants, loans or cooperative agreements. The applicant determines if the submission of the SF–LLL is warranted.

8. A statement that (a) identifies all persons (families, individuals, businesses and nonprofit organizations (identified by race/minority group, and status as owners or tenants) occupying the property on the date of submission of the application for a capital advance (or date of initial site control, if later); (b) indicates the estimated cost of relocation payments and other services, and (c) identifies the staff organization that will carry out the relocation activities.

Note: If any of the relocation costs will be funded from sources other than the section 811 capital advance, the sponsor must provide evidence of a firm commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (i.e., cost of site acquisition, relocation, construction and other project costs).

9. Additional Certifications.

(a) A certification of the Sponsor(s)' intent to comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3600–3619) and the implementing regulations at 24 CFR part 100, 108, 109, and 110; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the implementing regulations at 24 CFR part 1; section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135; the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and the implementing regulations at 24 CFR part 146; Executive Order 11246 (as amended) and the implementing regulations at 41 CFR chapter 60; the regulations implementing Executive Order 11063 (Equal Opportunity in Housing) at 24 CFR part 107; the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) to the extent applicable; the affirmative fair housing marketing requirements at 24 CFR part 200, subpart M; and other applicable Federal, State and local laws prohibiting discrimination and promoting equal opportunity.

(b) A certification that the Sponsor(s) will comply with the requirements of the Drug-Free Workplace Act.

(c) A certification that the project will comply with HUD's design and cost standards, the Uniform Federal Accessibility Standards and HUD's implementing regulations at 24 CFR part 40, Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, and for new construction of covered multifamily dwellings, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100.

(d) A certification by the Sponsor(s) that it will comply (or has complied) with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), implemented by regulations at 40 CFR part 24, and 24 CFR § 890.260(e).

(e) A certification by the Sponsor(s) that it will form an Owner (as defined in § 890.105) after the issuance of the capital advance, will cause the Owner to file a request for determination of eligibility and a request for capital advance under § 890.300, and will provide sufficient resources to the Owner to insure the development and long-term operation of the project.

(f) A certification that the Sponsor will comply with the requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR part 35 (except as superseded in § 890.260(f)(2)). In the case of a structure built or rehabilitated prior to 1978 that is proposed to be developed as an independent living facility, a statement from the Sponsor indicating that it has inspected the structure for defective paint surfaces.

10. A description of Sponsor's purposes and activities, ties to the community (including local disability community), any statements of support for the proposed project from non-governmental organizations familiar with the needs of the population it would serve, any sources of local funds to serve the project, minority support and how long it has been in existence (include any additional related information).

11. A description of any other rental housing projects and/or medical facilities, sponsored, owned and operated by the Sponsor including a description of experience in providing housing and/or medical facilities to persons with disabilities and minorities.

12. A description of the Sponsor's past or current involvement in any programs other than housing (including its provision of services) that demonstrates the Sponsor's management capabilities and experience, include a description of the Sponsor's experience in serving persons with disabilities and minorities.

13. A description of the Sponsor's experience in contracting with minority

and women-owned businesses.

14. Certification of consistency with the approved Consolidated Plan. A certification by the unit of general local government that the proposed project is consistent with the approved Consolidated Plan.

15. Site Information. Information about the proposed site, including:

(a) Evidence of site control, such as a copy of the option to purchase, sales contract, deed, or lease;

(b) Zoning status of the site and, if the proposed project will require rezoning, evidence that the process has been initiated and a statement of the timetable for completion of the rezoning;

(c) Information about the availability of sewer, water, streets, and other infrastructure;

(d) Environmental information about the impact of the project on the site and vice versa, including information about compliance with applicable requirements set forth at 24 CFR part 50;

(e) Information about the suitability of the site for housing for persons with disabilities, including its proximity to services and facilities for persons with disabilities and to public transportation;

(f) Information about the topography, soil and subsoil conditions sufficient to indicate the absence of problems that would significantly increase the cost of development or maintenance of the project; and

(g) Information about the presence of floodplains, wetlands, or other natural features.

16. Neighborhood Information. Information about the neighborhood, including:

(a) Information about the availability of public facilities and services, such as water and sewer service, schools, public transportation, parks and recreational facilities, fire protection services, and libraries;

(b) Information about the availability of shopping facilities, services, employment opportunities, and housing for persons with disabilities;

(c) Information about the suitability of the neighborhood for housing for persons with disabilities, including its proximity to services and facilities for persons with disabilities and to public transportation;

(d) Information about the topography, soil and subsoil conditions sufficient to indicate the absence of problems that would significantly increase the cost of development or maintenance of the project; and

(e) Information about the presence of floodplains, wetlands, or other natural features.

17. Market Information. Information about the housing market, including:

(a) Current occupancy level for apartments in the area;

(b) Number of comparable housing units in the area and the availability of assisted housing generally;

(c) Extent to which unique physical characteristics in the housing market area (such as historic districts and buildings, views, or proximity to services) will be reflected in the housing;

(d) Description of the neighborhood, including the location of the site, its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(e) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(f) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(g) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(h) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(i) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(j) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(k) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(l) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(m) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(n) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(o) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(p) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(q) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(r) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(s) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(t) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(u) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(v) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(w) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(x) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(y) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

(z) Description of the site, including its proximity to existing housing, and the impact the proposed housing will have on existing housing in the neighborhood;

services in a supportive housing

bedrooms and number of residents with

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and women-owned businesses, including amounts awarded.

14. A certified Board Resolution, acknowledging responsibilities of sponsorship, long-term support of the project(s), willingness of Sponsor to assist the Owner to develop, own, manage and provide appropriate services in connection with the proposed project, and that it reflects the will of its membership. Also, evidence, in the form of a certified Board Resolution, of the Sponsor's willingness to fund the Minimum Capital Investment (one-half of one-percent of the HUD-approved capital advance, not to exceed $10,000) (see 890.250).

15. A list of the applications, if any, the Sponsor has submitted or is planning to submit to any other Field Office in response to this NOFA or the NOFA for Supportive Housing for the Elderly (published elsewhere in today's **Federal Register**). Indicate by Field Office, the number of units requested, the proposed location by city and State for each application. A list of all FY 1992 and prior year projects to which the Sponsor(s) is a party, identified by project number and Field Office, which have not been finally closed.

16. HUD–2880, Applicant/Recipient Disclosure/Update Report including Social Security Numbers and Employee Identification Numbers.

17. Evidence of need for supportive housing. An identification of the proposed population and evidence demonstrating sustained effective demand for the housing for the proposed population in the area to be served, such as a description of market conditions in existing Federally assisted housing for persons with disabilities (occupancy, waiting lists, etc.), state or local needs assessments of persons with disabilities in the area, the types of supportive services arrangements currently available in the area, and the utilization of such services as evidenced by data from local social service agencies.

18. Evidence of control of an approvable site, or identification of a site for which the Sponsor provides reasonable assurances that it will obtain control within 6 months from the date of fund reservation (if Sponsor is approved for funding):

(1) If the Sponsor has control of the site, it must submit the following information:

(a) Evidence that the Sponsor has entered into a legally binding option agreement to purchase or lease the proposed site; or has a copy of the contract of sale for the site, a deed, long-term leasehold, a request with all supporting documentation, submitted either prior to or with the Application for Capital Advance, for a partial release of a site covered by a mortgage under a HUD program or other evidence of legal ownership of the site (including properties to be acquired from the RTC). The option agreement period must extend through the end of the current fiscal year and contain a renewable provision so that the option can be renewed for at least an additional six months. The Sponsor must also identify any restrictive covenants, including reverter clauses. In the case of a site to be acquired from a public body, evidence that the public body possesses clear title to the site, and has entered into a legally binding agreement to lease or convey the site to the Sponsor after it receives and accepts a notice of section 811 capital advance and identification of any restrictive covenants, including reverter clauses. However, in localities where HUD determines that the time constraints of the funding round will not permit all of the required official actions (*e.g.*, approval of Community Planning Boards) which are necessary to convey publicly-owned sites, a letter in the application from the Mayor or Director of the appropriate local agency indicating their approval of conveyance of the site contingent upon the necessary approval action is acceptable and may be approved by the Field Office if it has satisfactory experience with timely conveyance of sites from that public body. In such cases, documentation shall also include a copy of the public body's evidence of ownership and identification of any restrictive covenants, including reverter clauses. For properties to be acquired from the RTC, include a copy of the RTC prepared Transaction Screen Checklist or Phase I Environmental Site Assessment, and applicable documentation, per the RTC Environmental Guidelines.

Note: A proposed project site may not be acquired or optioned from a general contractor (or its affiliate) which will construct the Section 811 project or from any other development team member.

(b) Evidence that the project as proposed is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action required to make the proposed project permissible and the basis for the belief that the proposed action will be completed successfully before the submission of the commitment application (*e.g.*, a summary of the results of any recent requests for rezoning on land in similar zoning classifications and the time required for such rezoning, preliminary indications of acceptability from zoning bodies, *etc.*).

(c) Narrative description of site and area surrounding the site, characteristics of neighborhood, how the site will promote greater housing opportunities for minorities, and any other information that impacts on the suitability of the site for persons with disabilities and including:

(1) Photographs of the site (four directional views);

(2) If acquisition, evidence that the structure has been constructed or occupied for at least three years (other than RTC properties);

(3) A statement that the Sponsor is willing to seek a different site if the preferred site is unapprovable and site control will be obtained within six months of notification of fund reservation; and

(4) A map showing the location of the site and the racial composition of the neighborhood, with the area of racial concentration delineated.

(2) If the Sponsor has identified a site, but does not have it under control, it must submit the following information:

(a) A description of the location of the site, including its address, neighborhood/community characteristics (to include racial and ethnic data), amenities, adjacent housing and/or facilities, how the site will promote greater housing opportunities for minorities, and any other information that impacts on the suitability of the site for persons with disabilities;

(b) A description of the activities undertaken to identify the site as well as what actions must be taken and the estimated time necessary to obtain control of the site, if approved for funding;

(c) An indication as to whether the site is properly zoned. If it is not, an indication of the actions/time necessary for proper zoning;

(d) A status of the sale of the site; and

(e) An indication as to whether the site would involve relocation.

19. Supportive Service plan that includes:

(a) A detailed description of whether the housing is intended to serve persons with physical, mental or emotional impairments, developmental disabilities, or chronic mental illness. Include how and from where persons will be referred and admitted to the project. The Sponsor may, with the approval of the Secretary, limit occupancy within housing developed under this part to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

(b) A detailed description of the service needs of the proposed population.

(c) A detailed description of the supportive services proposed to be provided to the anticipated occupancy, including:

(1) The name(s) of the agency(s) which will be responsible for providing supportive services and evidence of the service provider's capability and experience in providing such supportive services;

(2) The manner in which such services will be provided (i.e., how, when and how often, where (on/off-site), including assurances that the proposed residents will receive supportive services based on their individual needs.

(3) The staffing plan, including a description of the qualifications of residential staff, if any, and other staff necessary to provide the proposed services.

(d) Identification of the extent of state and local funds available to assist in the provision of supportive services.

(e) Letters of intent from service providers or funding sources, indicating commitments to fund or provide the supportive services or that a particular service will be available to project residents.

(f) If the Sponsor will be the sole service provider using its own funds, a letter indicating its capability and commitment to either provide the supportive services or ensure their provision for the life of the project.

(g) If any state or local government funds will be provided, a description of the state/local agency's philosophy/policy concerning residential facilities for the population to be served as well as a demonstration by the Sponsor that the application is consistent with state or local plans and policies governing the development and operation of facilities for the same disabled population.

(h) Form HUD 92013E, Supplemental Application Processing Form—Housing for Persons with Disabilities. Identify all supportive services, if any, to be provided to the persons occupying such housing.

20. A written description of the design of the proposed housing, including:

(a) The development method;

(b) Identification of the number and type of structure(s), and for an independent living facility, the number of units by bedroom type and the number of residents with disabilities, and for a group home, the number of bedrooms and number of residents with disabilities;

(c) An identification of all community spaces, amenities or features planned for the housing. A description of how the spaces, amenities or features will be utilized and of the extent to which they are necessary to accommodate any special needs of the proposed residents and the provision of any on-site supportive services also must be included. If these community spaces, amenities, or features would not comply with the design and cost standards of § 890.220, the Sponsor must demonstrate its ability and willingness to contribute both the incremental development cost and continuing operating cost associated with the community spaces, amenities or features; and

(d) Describe if and how the project will promote energy efficiency and if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction.

21. For group homes to be licensed as intermediate care facilities (in which funding for the intermediate care is provided under Title XIX of the Social Security Act) that serve persons with developmental disabilities, the following must be submitted:

(a) Evidence demonstrating that the proposed project will primarily provide housing rather than medical facilities, and is or will be licensed by appropriate State agencies;

(b) Description of the medical training of the staff of the proposed facility and any nursing services that will be required by the residents on-site;

(c) Description of the services that will be funded by Medicaid for residents of the proposed project, including their nature, frequency and where the services are to be provided;

(d) Description of any special design features proposed for the group home that are not common to other section 811 group homes for the proposed population and the Sponsor's rationale for including them;

(e) Written evidence that the State Medicaid Office recognizes the need for a tenant contribution to rent and has agreed to pay the cost of the tenant contribution in the Medicaid payment to the Owner; and

(f) Statement certifying that the Individual Program Plan for each resident will include participation in an out-of-the-home activity program for at least 6 hours each workday.

IV. Additional Information

A. Sites

The National Affordable Housing Act requires Sponsors submitting applications for section 811 fund reservations to provide either (a) evidence of site control, or (b) reasonable assurances that it will have control of a site within 6 months of notification of fund reservation. Accordingly, if a Sponsor has control of a site at the time it submits its application, it must include evidence of such as described in § 890.265. If it does not have site control, it must provide the information required in § 890.265 as a reasonable assurance that site control will be obtained within 6 months of fund reservation notification.

Sponsors may select a site different from the one(s) submitted in their original applications if the original site is not approvable. Selection of a different site will require HUD performance of an environmental review on the new site, which could result in rejection of that site. However, if a Sponsor does not have site control for any reason 12 months after notification of fund reservation, the assistance will be recaptured and reallocated.

Sponsors submitting satisfactory evidence of an approvable site (*i.e.*, site control) will compete against each other in Category A. Sponsors submitting proper identification of a site will compete against each other in Category B. HUD first shall select applications in the descending order of funding priority from Category A that most closely approximates the capital advance authority provided to the allocation area. If capital advance authority remains after selecting all approvable applications from Category A, HUD shall then select applications in the descending order of funding priority from Category B that most closely approximates the capital advance authority remaining in the allocation area.

Applications containing evidence of site control where either the evidence or the site is not approvable will *not* be rejected provided the application indicates the Sponsor's willingness to select another site and an assurance that site control will be obtained within 6 months of fund reservation notification. Such applications will compete for selection in Category B. However, only those applications where the evidence of site control was not approvable will be eligible to receive any of the possible 17 points under selection criteria (b)(2) and (3) (see I.D.3.(b)(2) and (3) above). Applications where the site was rejected

Jurisdiction: Connecticut, Maine	Buffalo, NY Office (A)	HUD—Washington, DC (B)
Massachusetts, New Hampshire, Rhode Island, Vermont	New York, NY Office (A)	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia
Newark, NJ Office (A)	Philadelphia, PA Office (A)	Chicago, IL Office (B)
New Jersey	Pittsburgh, PA Office (A)	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
Boston, MA Office (A)	Delaware, Pennsylvania, West Virginia	Fort Worth, TX Office (B)
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Buffalo, NY Office (B)	Arkansas, Louisiana, New Mexico, Oklahoma, Texas
Newark, NJ Office (B)	New York, NY Office (B)	Kansas City, MO Office (B)
New Jersey	Philadelphia, PA Office (B)	Iowa, Kansas, Missouri, Nebraska
Boston, MA Office (B)	Pittsburgh, PA Office (B)	Denver, CO Office (B)
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Delaware, Pennsylvania, West Virginia	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
Newark, NJ Office (B)	HUD—Washington, DC (A)	San Francisco, CA Office (B)
New Jersey	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia	Arizona, California, Hawaii, Nevada
Buffalo, NY Office (A)	Chicago, IL Office (A)	Seattle, WA Office (B)
New York, NY Office (A)	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin	Alaska, Idaho, Oregon, Washington
Philadelphia, PA Office (A)	Fort Worth, TX Office (A)	
Pittsburgh, PA Office (A)	Arkansas, Louisiana, New Mexico, Oklahoma, Texas	
Delaware, Pennsylvania, West Virginia	Kansas City, MO Office (A)	
Buffalo, NY Office (B)	Iowa, Kansas, Missouri, Nebraska	
New York, NY Office (B)	Denver, CO Office (A)	
Philadelphia, PA Office (B)	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming	
Pittsburgh, PA Office (B)	San Francisco, CA Office (A)	
Delaware, Pennsylvania, West Virginia	Arizona, California, Hawaii, Nevada	
HUD—Washington, DC (A)	Seattle, WA Office (A)	
Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia	Alaska, Idaho, Oregon, Washington	
Chicago, IL Office (A)		
Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin		
Fort Worth, TX Office (A)		
Arkansas, Louisiana, New Mexico, Oklahoma, Texas		
Kansas City, MO Office (A)		
Iowa, Kansas, Missouri, Nebraska		
Denver, CO Office (A)		
Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming		
San Francisco, CA Office (A)		
Arizona, California, Hawaii, Nevada		
Seattle, WA Office (A)		
Alaska, Idaho, Oregon, Washington		

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will receive 0 points under selection criteria (b)(2) and (3).

V. Other Matters

A. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations that implement section 101(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410.

B. Federalism Executive Order

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12612, Federalism, has determined that this NOFA does not have substantial direct effects on States or their political subdivisions, or on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This NOFA merely notifies the public of the availability of capital advances for supportive housing for persons with disabilities.

C. Family Executive Order

The General Counsel, as the Designated Official under Executive Order No. 12606, The Family, has determined that this NOFA does not significantly affect family formation, maintenance, or general well-being, and, thus, is not subject to review under the order.

D. Documentation and Public Access Requirements: HUD Reform Act

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

E. HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815 (TDD/Voice). (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

F. Lobbying

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule.

Any questions regarding the rule should be directed to the Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–3815 TDD/Voice). (This is not a toll-free number.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

G. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of Section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

H. Catalog of Federal Domestic Assistance Program

The Catalog of Federal Domestic Assistance Program title and number is 14.181, Supportive Housing for Persons with Disabilities.

Authority: Section 811, National Affordable Housing Act, as amended (42 U.S.C. 8013), section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: April 2, 1993.

James E. Schoenberger,

Associate General Deputy, Assistant Secretary.

Appendix A—HUD Field Offices

Regional Field Offices

April 6, 1993.

HUD Field Offices

Region I

Jurisdiction: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Boston, MA Regional Office

Harold G. Thompson
Acting Regional Administrator, Regional Housing Commissioner
HUD—Boston Regional Office
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, room 375
Boston, MA 02222–1092
(617) 565–5234

Bangor, ME Office (D)

Richard Young
Supervisory Appraiser
HUD—Bangor Office
Professional Building
Casco Northern Bank Building
23 Main Street
Bangor, ME 04401
(207) 945–0467

Burlington, VT Office (D)

William Peters
Chief
HUD—Burlington Office
Room 244, U.S. Federal Building
11 Elmwood Avenue, P.O. Box 879
Burlington, VT 05402–0879
(802) 951–6290

Hartford, CT Office (A)

William Hernandez, Jr.
Manager
HUD—Hartford Office
330 Maine Street
Hartford, CT 06106–1860
(203) 240–4523

Manchester, NH Office (B)

David B. Harrity
Manager
HUD—Manchester Office
Norris Cotton Federal Building
275 Chestnut Street
Manchester, NH 03103–2487
(603) 666–7681

Providence, RI Office (B)

Casimir J. Kolaski, Jr.
Manager
HUD—Providence Office
330 John O. Pastore Federal Building and U.S. Post Office—Kennedy Plaza
Providence, RI 02903
(401) 528–5351

Region II

Jurisdiction: New York, New Jersey

New York Regional Office

Burton Bloomberg
Acting Regional Administrator, Regional Housing Commissioner
HUD—New York Regional Office
26 Federal Plaza
New York, NY 10278–0068
(212) 264–8068

Albany, NY Office (C)

John Petricco
Manager
HUD—Albany Office
52 Corporate Circle
Albany, NY 12203
(518) 464–4200

Buffalo, NY Office (A)

Joseph Lynch
Manager
HUD—Buffalo Office
Lafayette Court, 5th floor
465 Main Street
Buffalo, NY 14203
(716) 846–5733

Camden, NJ Office (C)

Elmer Roy
Manager
HUD—Camden Office
519 Federal Street
Camden, NJ 08103–9998
(609) 757–5081

Newark, NJ Office (A)

(Vacant)
Manager
HUD—Newark Office
Military Park Building
60 Park Place
Newark, NJ 07102–5504
(201) 877–1808

Region III

Jurisdiction: Pennsylvania, Washington DC, Maryland, Delaware, Virginia, West Virginia

Philadelphia Regional Office

Harry W. Staller
Acting Regional Administrator, Regional Housing Commissioner
HUD—Philadelphia Regional Office
Liberty Square Building
105 South 7th Street
Philadelphia, PA 19106–3392
(215) 597–2560

Baltimore, MD Office (A)

Maxine Saunders
Manager
HUD—Baltimore Office
10 North Calvert Street, 3rd floor
Baltimore, MD 21202–1865
(410) 962–2520

Charleston, WV Office (B)

Ron Rash
Manager
HUD—Charleston Office
405 Capitol Street, suite 708
Charleston, WV 25301–1795
(304) 347–7000

Pittsburgh, PA Office (A)

Choice Edwards
Manager
HUD—Pittsburgh Office
Old Post Office Courthouse Building
7th Avenue & Grant
Pittsburgh, PA 15219
(412) 644–6428

Richmond, VA Office (A)

Mary Ann Wilson
Manager
HUD—Richmond Office
The 3600 Centre
3600 West Broad Street
P.O. Box 90331
Richmond, VA 23230–0331
(804) 278–4507

Washington, DC Office (A)

I. Toni Thomas
Manager
HUD—Washington, DC Office
Union Center Plaza, Phase II
820 First Street, NE, suite 300
Washington, DC 20002–4205
(202) 275–9200

Wilmington, DE Office (D)

David Sharbaugh
Chief
HUD—Wilmington Office, suite 850
824 Market Street
Wilmington, DE 19801–3016
(302) 573–6300

Region IV

Jurisdiction: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Caribbean, Virgin Islands

Atlanta, GA Regional Office

Raymond A. Harris
Regional Administrator, Regional Housing Commissioner
Richard B. Russell Federal Building
75 Spring Street, S.W.
Atlanta, GA 30303–3388
(404) 331–5136

Birmingham, AL Office (A)

Robert E. Lunsford
Manager
HUD—Birmingham Office
600 Beacon Parkway West, suite 300
Birmingham, AL 35209–3144
(205) 290–7617

Caribbean Office (A)

Rosa Villalonga
Manager
HUD—Caribbean Office
New San Juan Office Building
159 Carlos E. Chardon Avenue
San Juan, PR 00918–1804
(809) 766-6121

Columbia, SC Office (A)

Ted B. Freeman
Manager
HUD—Columbia Office
Strom Thurmond Federal Building
1835 Assembly Street
Columbia, SC 29201–2480
(803) 765–5592

Coral Gables, FL Office (A)

Orlando L. Lorie
Manager
HUD—Carol Gables Office
Gables One Tower
1320 South Dixie Highway
Carol Gables, FL 33146–2911
(305) 662–4510

Greensboro, NC (A)

Larry J. Parker
Manager
HUD—Greensboro Office
Koger Building
2306 West Meadowview Road
Greensboro, NC 27407
(919) 547–4000

Jackson, MS Office (A)

Sandra Freeman
Manager
HUD—Jackson Office
Dr. A.H. McCoy Federal Building
100 West Capitol Street, room 910

Jackson, MS 39269–1008

Manager

509 West Capitol, suite 206

San Antonio, TX Office (A)

Casper, WY Office (D)

Honolulu, HI Office (A)

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Jackson, MS 39269–1098
(601) 965–5308

Jacksonville, FL Office (A)

James T. Chaplin
Manager
HUD—Jacksonville Office
301 West Bay Street, suite 2200
Jacksonville, FL 32202–5121
(904) 232–2626

Knoxville, TN Office (A)

Richard B. Barnwell
Manager
HUD—Knoxville Office
John J. Duncan Federal Building
710 Locust Street, S.W.
Knoxville, TN 37902–2526
(615) 549–4384

Louisville, KY Office (A)

Verna V. Van Ness
Manager
HUD—Louisville Office
601 West Broadway
P.O. Box 1044
Louisville, KY 40201–1044
(502) 582–52251

Memphis, TN Office (C)

Bob Atkins
Manager
HUD—Memphis Office
One Memphis Place
200 Jefferson Avenue, suite 1200
Memphis, TN 38103–2335
(901) 544–3367)

Nashville, TN Office (B)

John H. Fisher
Manager
HUD—Nashville Office
251 Cumberland Bend Drive, suite 200
Nashville, TN 37228–1803
(615) 736–5213

Orlando, FL Office (C)

M. Jeanett Porter
Manager
HUD—Orlando Office
Langley Building
3751 Maguire Boulevard, suite 270
Orlando, FL 32803–3032
(407) 648–6441

Tampa, FL Office (C)

George A. Milburn, Jr.
Manager
HUD—Tampa Office, suite 700
Timberlake Federal Building Annex
501 East Polk Street
Tampa, FL 33602–3945
(813) 228–2501

Region V

Jurisdiction: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Chicago, IL Regional Office

Joseph P. Garaffa
Acting Regional Administrator, Regional Housing Commissioner
HUD—Chicago Regional Office
Ralph Metcalfe Federal Building
77 West Jackson Boulevard
Chicago, IL 60604
(312) 353–5680

Cincinnati, OH Office (B)

William Harris
Manager
HUD—Cincinnati Office
Federal Office Building, room 9002
550 Main Street
Cincinnati, OH 45202–3253
(513) 684–2884

Cleveland, OH Office (B)

George L. Engel
Manager
HUD—Cleveland Office
One Playhouse Square
1375 Euclid Avenue, room 420
Cleveland, OH 44114–1670
(216) 522–4065

Columbus, OH Office (A)

Robert W. Dolin
Manager
HUD—Columbus Office
200 North High Street
Columbus, OH 43215–2499
(614) 469–5737

Detroit, MI Office (A)

Harry I. Sharrott
Manager
HUD—Detroit Office
Patrick V. McNamara Federal Building
477 Michigan Avenue
Detroit, MI 48226–2592
(313) 226–7900

Flint, MI Office (C)

Gary T. LeVine
Manager
HUD—Flint Office
The Federal Building
605 North Saginaw Street, suite 200
Flint, MI 48502
(313) 766–5109

Grand Rapids, MI Office (B)

Ronald Weston
Manager
HUD—Grand Rapids Office
2922 Fuller Avenue, NE
Grand Rapids, MI 49505–3499
(616) 456–2100

Indianapolis, IN Office (A)

J. Nicholas Shelley
Manager
HUD—Indianapolis Office
151 North Delaware Street
Indianapolis, IN 46204–2526
(317) 226–6303

Milwaukee, WI Office (A)

Delbert F. Reynolds
Manager
HUD—Milwaukee Office
Henry S. Reuss Federal Plaza
310 West Wisconsin Avenue, suite 1380
Milwaukee, WI 53203–2289
(414) 297–3214

Minneapolis-St. Paul, MN (A)

Thomas Feeney
Manager
HUD—Minneapolis-St. Paul Office
220 Second Street, South
Minneapolis, MN 55401–2195
(612) 370–3000

Springfield, IL Office (D)

Lawrence Morgan
Chief
HUD—Springfield, Office
509 West Capitol, suite 206
Springfield, IL 62704–1906
(217) 492–4085

Region VI

Jurisdiction: Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Forth Worth, TX Regional Office

Walter G. Sevier
Acting Regional Administrator, Regional Housing Commissioner
HUD—Fort Worth Regional Office
1600 Throckmorton
P.O. Box 2905
Fort Worth, TX 76113–2905
(817) 885–5401

Albuquerque, NM (C)

Michael R. Griego
Manager
HUD—Albuquerque Office
625 Truman Street, NW
Albuquerque, NM 87110
(505) 262–6463

Dallas, TX Office (C)

Donald Babers
Manager
HUD—Dallas Office
525 Griffin Street, room 860
Dallas, TX 75202–5007
(214) 767–8359

Houston, TX Office (B)

William Robertson, Jr.
Manager
HUD—Houston Office
Norfolk Tower
2211 Norfolk, suite 200
Houston, TX 77098–4096
(713) 653–3274

Little Rock, AR Office (A)

John T. Suski
Manager
HUD—Little Rock Office
Lafayette Building
523 Louisiana, suite 200
Little Rock, AR 72201
(501) 324–5931

Lubbock, TX Office (C)

Henry E. Whitney
Manager
HUD—Lubbock Office
Federal Office Building
1205 Texas Avenue
Lubbock, TX 79401–4093
(806) 743–7265

New Orleans, LA Office (A)

Robert Vasquez
Manager
HUD—New Orleans Office
Fisk Federal Building
1661 Canal Street, suite 3100
New Orleans, LA 70112
(504) 589–7200

Oklahoma City, OK Office (A)

Edwin I. Gardner
Manager
HUD—Oklahoma City Office
Alfred P. Murrah Federal Building
200 N.W. 5th Street
Oklahoma City, OK 73102–3202
(405) 231–4181

San Antonio, TX Office (A)

A. Cynthia Leon
Manager
HUD—San Antonio Office
Washington Square Building
800 Dolorosa Street
San Antonio, TX 78207–4563
(512) 229–6800

Shreveport, LA Office (C)

David E. Gleason
Manager
HUD—Shreveport Office
Joe D. Waggoner Federal Building
500 Fannin Street, #6B04
Shreveport, LA 71101–3077
(318) 676–3385

Tulsa, OK Office (C)

(Vacant)
Manager
HUD—Tulsa Office
1516 South Boston Avenue, suite 110
Tulsa, OK 74119–4032
(918) 581–7434

Region VII

Jurisdiction: Iowa, Kansas, Missouri, Nebraska

Kansas City, KS Regional Office

Elmer C. Binford
Acting Regional Adminsitrator, Regional Housing Commissioner
HUD—Kansas City Office
Gateway Tower II
400 State Avenue
Kansas City, KS 66101–2406
(913) 236–2162

Des Moines, IA Office (B)

William McNarney
Manager
HUD—Des Moines Office
Federal Building
210 Walnut Street, room 239
Des Moines, IA 50309–2155
(515) 284–4512

Omaha, NE Office (A)

Roger M. Massey
Manager
HUD—Omaha Office
10909 Mill Valley Road
Omaha, NE 68154–3955
(402) 492–3100

St. Louis, MO Office (A)

Kenneth G. Lange
Manager
HUD—St. Louis Office
1222 Spruce Street, room 3207
St. Louis, MO 63103–2836
(314) 539–6583

Region VIII

Jurisdiction: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Denver, CO Regional Office

Donald J. Dirksen
Acting Regional Administrator, Regional Housing Commissioner
HUD—Denver Regional Office
Executive Tower Building
1405 Curtis Street
Denver, CO 80202–2349
(303) 844–4513

Casper, WY Office (D)

William Garrett
Chief
HUD—Casper Office
4225 Federal Office Building
100 East B Street
P.O. Box 120
Casper, WY 82602–1918
(307) 261–5252

Fargo, ND Office (D)

Keith Elliott
Chief
HUD—Fargo Office
Federal Building
P.O. Box 2483
657 2nd Avenue North
Fargo, ND 58108–2483
(701) 239–5136

Helena, MT Office (C)

Christian Kafentzis
Manager
HUD—Helena Office
Federal Office Building, Drawer 10095
302 South Park, room 340
Helena, MT 59626–0095
(406) 449–5205

Salt Lake City, UT Office (C)

Richard Bell
Manager
HUD—Salt Lake City Office
257 E. 200 South, suite 550
257 Tower Building
Salt Lake City, UT 84111–2048
(801) 524–5379

Sioux Falls, SD Office (D)

Don Olson
Chief
HUD—Sioux Falls Office
300 Building
300 North Dakota Street, suite 116
Sioux Falls, SD 57102–0311

Region IX

Jurisdiction: Arizona, California, Hawaii, Nevada, Guam, American Samoa

San Francisco, CA Regional Office

John E. Wilson
Acting Regional Administrator, Regional Housing Commissioner
HUD—San Francisco Regional Office
Philip Burton Federal Building & U.S. Courthouse
450 Golden Gate Avenue
P.O. Box 36003
San Francisco, CA 94102–3448
(415) 556–4752

Indian Programs Office

C. Raphael Mecham
Director
HUD—Indian Programs Office
Two Arizona Center
400 North 5th Street, suite 1650
Phoenix, AZ 85004–2361
(602) 379–4156

Fresno, CA Office (C)

Lily Lee
Manager
HUD—Fresno Office
1630 East Shaw Avenue, suite 138
Fresno, CA 93710–8193
(209) 487–5033

Honolulu, HI Office (A)

Gordon Y. Furutani
Manager
HUD—Honolulu Office
7 Waterfront Plaza
500 Ala Moana Blvd., suite 500
Honolulu, HI 96813–4918
(808) 541–1323

Los Angeles, CA Office (A)

Charles Ming
Manager
HUD—Los Angeles Office
1615 West Olympic Boulevard
Los Angeles, CA 90015–3801
(213) 251–7122

Las Vegas, NV Office (C)

Andrew Robertson
Manager
HUD—Las Vegas Office
1500 East Tropicana Avenue, 2nd floor
Las Vegas, NV 89119–6516
(702) 388–6500

Phoenix, AZ Office (B)

Dwight A. Peterson
Manager
HUD—Phoenix Office
Two Arizona Center
400 North 5th Street, suite 600
Phoenix, AZ 85004
(602) 379–4434

Reno, NV Office (C)

Andrew D. Whitten, Jr.
Manager
HUD—Reno Office
1575 DeLucchi Lane, suite 114
P.O. Box 30050
Reno, NV 89502–6581
(702) 784–5356

Sacramento, CA Office (B)

Paul Pradia
Acting Manager
HUD—Sacramento Office
777 12th Street, suite 200
Sacramento, CA 95814–1977
(916) 551–1351

San Diego, CA Office (C)

Charles J. Wilson
Manager
HUD—San Diego Office
Mission City Corporate Center
2365 Northside Drive, suite 300
San Diego, CA 92108–2712
(619) 557–5310

Santa Ana, CA Office (C)

Earl Fields
Manager
HUD—Santa Ana Office
34 Civic Center Plaza
P.O. Box 12850
Santa Ana, CA 92712–2850
(714) 836–2451

Tucson, AZ Office (C)

Jeane Staley
Manager
HUD—Tucson Office
33 North Stone Avenue, suite 700
Tucson, AZ 85701
(602) 670–6237

Region X

222 West 8th Avenue #64

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Region X

Jurisdiction: Alaska, Idaho, Oregon, Washington

Seattle, WA Regional Office

Lynn G. Stowell
Acting Regional Administrator, Regional Housing Commissioner
Seattle Federal Office Building
909 First Avenue, suite 200
Seattle, WA 98104–1000
(206) 220–5108

Anchorage AK Office (A)

Arlene Patton
Manager
HUD—Anchorage Office
222 West 8th Avenue #64
Anchorage, Alaska 99513–7537
(907) 271–4170

Boise, ID Office (C)

Gary Gillespie
Manager
HUD—Boise Office suite 220, Park IV
800 Park Boulevard
Boise, ID 83712
(208) 334–1990

Portland, OR Office (A)

Richard C. Brinck
Manager
HUD—Portland Office
520 S.W. 6th Avenue
Portland, OR 97204–1596
(503) 326–2561

Spokane, WA Office (C)

Keith R. Green
Manager
HUD—Spokane Office
Farm Credit Bank Building
8th floor East
West 601 1st Avenue
Spokane, WA 99204–0317
(509) 353–2510

[FR Doc. 93–10450 Filed 5–4–93; 8:45 am]
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Federal Register

Wednesday
May 5, 1993

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing; Federal Housing Commissioner

24 CFR Part 889

Supportive Housing for the Elderly; Interim Rule and Notice

few months, a NOFA with guidelines for letters will be sent informing Sponsors

This rule does not constitute a "major

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing; Federal Housing Commissioner

24 CFR Part 889

[Docket No. R-93-1652; FR-3407-I-01]

RIN 2502-AF98

Supportive Housing for the Elderly

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule amends the Supportive Housing for the Elderly Program (24 CFR part 889) by adding amendments made by sections 602 (b), (c), (d), (f) and (g) and 913 of the Housing and Community Development Act of 1992 and by simplifying the application and selection process. These revisions are necessary in order to permit the funding of supportive housing for the elderly in FY1993 and effectuate the purposes of the HCD Act of 1992. A companion Notice of Funding Availability (NOFA) is also published today elsewhere in this issue.

DATES: *Effective date:* June 4, 1993.

Comments due date: July 6, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of the General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours (weekdays 7:30 a.m. to 5:30 p.m.) at the above address.

Hearing or speech impaired individuals may call the Rules Docket Clerk's TDD number (202) 708–3259.

The telephone numbers listed are not toll-free.

FOR FURTHER INFORMATION CONTACT: Robert Wilden, Director, Housing for Elderly and Handicapped People Division, Department of Housing and Urban Development, 451 Seventh Street SW., room 6116, Washington, DC 20410, telephone (202) 708–2730. (This is not a toll free number).

Hearing or speech impaired individuals may call HUD's TDD number (202) 708–4594. (This is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Paperwork Burden

The information collection requirements contained in this interim rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), and assigned OMB control number 2502–0267).

II. Background

A. Part 889

The new Supportive Housing for the Elderly Program has been the subject of interim rules, published on June 12, 1991 at 56 FR 27104, and published on August 12, 1992 at 57 FR 36338. The June 12, 1991 interim rule enabled supportive housing for the elderly to be funded for FY 1991, added a new part 889 to establish the new Supportive Housing for the Elderly Program and covered application procedures and program requirements, selection of applications and duration of fund reservation requirements. The August 12, 1992 interim rule provided for the development related requirements (closing of capital advances and requirements related to project rental assistance contracts) of the Supportive Housing for the Elderly Program.

The Supportive Housing for the Elderly Program is authorized by section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (the NAHA Act) and by the Housing and Community Development Act of 1992, Public Law 102–550, 106 Stat. 3672, enacted October 28, 1992 (HCD Act of 1992) and is to enable elderly persons to live with dignity and independence by expanding the supply of supportive housing that is designed to accommodate the special needs of elderly persons and provides a range of services that are tailored to the needs of elderly persons occupying such housing.

Under part 889, assistance is provided to private nonprofit organizations and nonprofit consumer cooperatives to expand the supply of supportive housing for the elderly. Such assistance will be provided as (1) capital advances and (2) project rental assistance contracts. Capital advances may be used to finance the construction or rehabilitation of a structure, or acquisition of a structure from the Resolution Trust Corporation (RTC), to be used as supportive housing for the elderly. This assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for the elderly.

An overview and section by section summary of part 889 (subparts A, B, C, D, and G) were included in the preamble to the June 12, 1991 interim rule. An overview and section by section summary of part 889 (subparts D (revised) and E) were included in the preamble to the August 12, 1992 interim rule.

B. Revisions to Part 889

Sections 601, 602 and 913 of the Housing and Community Development Act of 1992 (HCD Act of 1992) amended section 202 of the Housing Act of 1959. This interim rule incorporates amendments made by section 602 (b), (c), (d), (f) and (g) and 913 of the HCD Act of 1992 and revises Part 889 by simplifying the application and selection process.

Of special interest is the repeal of the requirement for State and local certification of services (former section 202(e)(5) of the Housing Act of 1959, and former § 889.270(c)(20)), the additional consideration in the selection criteria of the availability of public housing for the elderly and vacancy rates in such facilities (see revised § 889.300(d)(2)(i) which considers the availability and vacancy rates of public housing within the selection criteria of the availability of Federally assisted housing, HUD and FmHA, for the elderly and the occupancy and vacancy situation in such facilities), the reduction in the owner deposit in the case of nonprofit applicant that is not affiliated with a national sponsor (see revised § 889.250(b)), and the reduction to the nonmetropolitan allocation (reduced from 20 percent to 15 percent (see revised § 889.300(e)).

Pursuant to section 602(d) of the HCD Act of 1992, a new Subpart H—Elder Cottage Housing Demonstration Program is added to part 889 and provides that the Secretary shall carry out a program to determine the feasibility of including, as an eligible development cost under section 202 of the Housing Act of 1959, the cost of purchasing and installing elder cottage housing opportunity units that are small, free-standing, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings. In conducting the demonstration the Secretary shall determine whether the durability of such units is appropriate for making such units generally eligible for assistance under the Supportive Housing for the Elderly Program. The Secretary will publish within the next few months, a NOFA with guidelines for this demonstration program.

Section 913 of the HCD Act of 1992 amended section 202's labor standards. The labor standards, as amended, require all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under section 202 to be paid wages at rates not less than those prevailing in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

Minor editorial changes have been made to the definitions. The definition of Owner is clarified by describing the nonprofit as a "single purpose private nonprofit organization" and clarifying the requirement that no "Board" member of the Owner may benefit from the net earnings of the corporation. The definition of Sponsor is amended by excluding supportive services contracts from the conflict of interest prohibition. Identical amendments are made to § 889.235, Prohibited relationships.

The notice of fund availability requirements (§ 889.205) is amended by eliminating the former requirement to publish Invitations for Applications (§ 889.205 (a)(2) and (b)). The NOFA will serve as the invitation and the Field Office shall notify elderly and minority media, all persons and organizations on their mailing lists and minority and other organizations involved in housing and community development within their jurisdiction, end groups with a special interest in housing for the elderly, including the State and area agencies on aging and the applicable state single point of contact, of the NOFA.

The Virgin Islands are added as a high construction cost area in § 889.245, Development cost limits.

Additional changes have been made to application content, the selection process and selection criteria to simplify the process and reduce paperwork. For example, a new form HUD–92015–CA, simplifies, standardizes and condenses the information formerly required by § 889.270(b). The CHAS certification has been revised to reflect recent changes to the CHAS regulation. Standard certifications have been grouped together and authorities cited have been updated (e.g., addition of Americans with Disabilities Act).

The selection process has been simplified to include only initial screening and technical process. Applications will be initially reviewed to determine if all parts of the application are included. HUD will not review the content of the application as part of initial screening. Deficiency letters will be sent informing Sponsors of any missing parts of the application. Sponsors must correct such deficiencies within 14 calendar days from the date of the deficiency letter. All applications will be placed in technical processing upon receipt of the response to the deficiency letter or at the end of the 14-day period. All applications will undergo a complete analysis. All applications will be either rated or technically rejected at the end of technical processing. The Secretary will not reject an application based on technical processing without giving notice of that rejection with all rejection reasons, and affording the applicant an opportunity to appeal. Technical processing will also include civil rights compliance.

The selection criteria have been regrouped to follow the statutory selection criteria and no longer include the financial capacity of the Sponsor. HUD will review financial capacity at the time of conditional or firm commitment (where project proceeds directly to firm commitment.)

The Department plans to issue this fiscal year a final rule for the Supportive Housing for the Elderly Program which will incorporate public comment received to date on the part 889 interim rules, including this interim rule.

This interim rule furthers the legislative mandate of the HCD Act of 1992 and allows the program to continue operation in FY 1993. The Department is publishing this rule as interim because it will increase efficiency, reduce unnecessary requirements, combine or simplify current requirements, and provide new flexibility for HUD and program applicants. Many of the changes are of a technical/clarifying nature. The major changes made by this interim rule are statutorily required by the HCD Act of 1992, but do not affect the types of projects funded. These changes involve minor interpretation of the HCD Act of 1992. Publishing this rule as interim also ensures a timely and simplified funding round for FY 1993.

III. Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 implementing section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410–0500.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued on February 17, 1989. Analysis of the rule indicates that it does not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(3) Have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b), (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule would provide capital advances to private nonprofit organizations and nonprofit consumer cooperatives to expand the supply of supportive housing for the elderly. Although small entities will participate in the program, the rule would not have a significant impact on them.

On February 26, 1990, the Department published an interim rule (24 CFR part 87) advising recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans of a new prohibition recently mandated by Congress. Section 319 of the Department of the Interior Appropriations Act (Pub. L. 101–121, approved October 23, 1989) generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant, or loan. The interim rule generally prohibits the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. In addition, the recipient must also file a disclosure if it has made or has agreed to make any payment with nonappropriated funds that would be prohibited, if paid with appropriated funds.

Family Impact

The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that the provisions of this rule will not have a significant impact on family formation, maintenance or well being.

Federalism Impact

(i) The membership of which is

nonprofit affiliate, only two such

affiliate serve as nonvoting directors on

materials, forms, and exhibits listed in

deadline announced in the NOFA or if

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Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12611—Federalism, has determined that the rule does not involve the preemption of State law by Federal statute or regulation and does not have federalism impacts.

This interim rule was listed as item 1481 in the Department's Semiannual Agenda of Regulations published on April 26, 1993 (58 FR 24382, 24418) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program title and number is 14.157, Housing for the Elderly or Handicapped.

List of Subjects in 24 CFR Part 889

Aged, Capital advance programs, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, the Department amends 24 CFR part 889 as set forth below:

PART 889—[AMENDED]

1. The authority citation for part 889 continues to read as follows:

Authority: 12 U.S.C. 1701q, 42 U.S.C. 3535(d).

2. Section 889.105 is amended by adding a new definition for "National sponsor" in alphabetical order; and by revising the definitions for "Owner" and "Sponsor", to read as follows:

§ 889.105 Definitions.

* * * * *

National sponsor means a Sponsor which has one or more section 202 (24 CFR part 885 or 889) or one or more section 811 (24 CFR part 890) project(s) under reservation, construction or management in two or more different HUD Regions.

* * * * *

Owner means a single purpose private nonprofit organization which may be established by the Sponsor and which will receive a capital advance and project rental assistance payments to develop and operate supportive housing for the elderly as its legal owner. Private nonprofit organization means any incorporated private institution or foundation:

(1) No part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(2) Which has a governing board.

(i) The membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located, and

(ii) Which is responsible for the operation of the housing assisted under this part; and

(3) Which is approved by the Secretary as to administrative and financial responsibility.

Owner does not mean a public body or the instrumentality of any public body. The purpose of the Owner must include the promotion of the welfare of the elderly. The Owner may not be controlled by or under the direction of persons or firms seeking to derive profit or gain therefrom. Because of the nonprofit nature of the section 202 program, no office or director, or trustee, Board member, stockholder or authorized representative of the Owner is permitted to have any financial interest in any contract in connection with the rendition of services, the provision of goods or supplies, project management, procurement of furnishings and equipment, construction of the project, procurement of the site or other matters whatsoever.

* * * * *

Sponsor means any private nonprofit entity:

(1) No part of the net earnings of which inures to the benefit of any private shareholder, member, founder, contributor or individual;

(2) Which entity is not controlled by, or under the direction of persons or firms seeking to derive profit or gain therefrom; and

(3) Which is approved by the Secretary as to administrative and financial capacity and responsibility.

"Sponsor" does not mean a public body or the instrumentality of a public body. Because of the nonprofit nature of the section 202 program, no officer or director of the Sponsor is permitted to have any financial interest in any contract with the Owner in connection with the rendition of services, the provision of goods or supplies, procurement of furnishings and equipment, construction of the project, procurement of the site or other matters whatsoever. The prohibition in the preceding sentence does not apply to any management contracts and/or supportive services contracts (including the management fees associated therewith) entered into by the Owner with the Sponsor or its nonprofit affiliate. In the case of a Sponsor or its nonprofit affiliate managing or servicing the project where persons are in a paid capacity with either the Sponsor or nonprofit affiliate, only two such persons would be permitted to serve as directors of the nonprofit organization (Owner) and only in a non-voting capacity.

* * * * *

3. Section 889.205 is revised to read as follows:

§ 889.205 Notice of fund availability.

(a) *Announcement of fund availability.* Following an allocation of authority under § 889.200, HUD shall publish a Notice of Fund Availability (NOFA) in the **Federal Register** indicating:

(1) The amount of capital advance authority (and approximate number of units) being made available for housing for elderly households within the Field Office;

(2) The deadline date for receipt of applications; and

(3) Other appropriate guidance to prospective Sponsors.

(b) *Other notifications.* Immediately after the NOFA is published, the Field Office shall notify elderly and minority media, all persons and organizations on their mailing lists and minority and other organizations involved in housing and community development within their jurisdiction, and groups with a special interest in housing for the elderly, including the State and area agencies on aging and the applicable state single point of contact (Executive Order 12372).

4. Section 889.235 is amended by revising paragraphs (a) and (d) to read as follows:

§ 889.235 Prohibited relationships.

(a) *Conflicts of interest.* Officers, directors, trustees, Board members, stockholders and authorized representatives of the Sponsor, and officers and directors of the Owner may not have any financial interest in any contract in connection with the rendition of services, the provision of goods or supplies, project management, procurement of furnishings or equipment, construction of the project, procurement of the site or other matters related to the development and operation of the project. This restriction applies so long as the individual is serving on the Board and for a period of three years following resignation or final closing, whichever occurs later. Management contracts and/or supportive services contracts (including associated management or service fees) entered into by the Owner with the Sponsor or the Sponsor's nonprofit affiliate will not constitute a conflict of interest if no more than two persons salaries by the Sponsor or management

affiliate serve as nonvoting directors on the Owner's board of directors.

* * * * *

(d) *Identity of interest.* A person or an entity may not provide services to a project in more than one of the following capacities: attorney, architect, contractor, housing consultant, management agent service provider, or seller of the site for the project, except that the same person or entity may serve a project as management agent and housing consultant. The prohibition of an identity of interest between development team members applies until two years after final closing.

§ 889.245 [Amended]

5. Section 889.245(a)(3)(ii) is amended by adding "Virgin Islands" after "Guam".

6. Section 889.250 is amended by designating the existing text as paragraph (a) and adding a heading and a new paragraph (b) to read as follows:

§ 889.250 Owner deposit (Minimum Capital Investment).

(a) *General.* * * *

(b) *Reduction in owner deposit.* If an Owner does not have a National Sponsor or does not have a National Sponsor as a co-Sponsor, the Minimum Capital Investment shall be one-half of one percent (0.5%) of the HUD-approved capital advance, but not to exceed $10,000.

7. Section 889.265(d) is revised to read as follows:

§ 889.255 Other Federal requirements.

* * * * *

(d) *Labor standards.*

(1) All laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under this part shall be paid wages at rates not less than those prevailing in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a–276a–5).

(2) Contracts involving employment of laborers and mechanics shall be subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333).

(3) Sponsors, Owners, contractors and subcontractors must comply with all related rules, regulations and requirements.

8. Section 889.270 is revised to read as follows:

§ 889.270 Application contents.

(a) *Application.* Each application shall include all of the information, materials, forms, and exhibits listed in paragraph (b) of this section. The Field Office will base it determination of the eligibility of the Sponsor for a reservation of section 202 capital advance funds on the information provided in the application.

(b) *General application requirements.* Each application shall include:

(1) Application for Section 202 Supportive Housing Capital Advance.

(2) Evidence of *each* Sponsor's legal status as a private, nonprofit organization or nonprofit consumer cooperative, including the following:

(i) Articles of Incorporation, constitution, or other organizational documents;

(ii) By-laws;

(iii) IRS tax exemption ruling (this must be submitted by all Sponsors, including churches). A nonprofit organization organized in the Commonwealth of Puerto Rico and exempt from income taxation under Puerto Rico law, or a consumer cooperative that is tax exempt under State law, has never been liable for payment of Federal income taxes, and does not pay patronage dividends may be exempt from the requirement set out in the previous sentence if they are not eligible for tax exemption; and

(iv) Resolution of the board, duly certified by an officer, that no officer or director of the Sponsor or Owner has or will have any financial interest in any contract with the Owner or in any firm or corporation which has or will have a contract with the Owner and which includes a current listing of all duly qualified and sitting officers and directors by title and the beginning and ending date of each person's term.

(3) The Sponsor must submit a certification by the jurisdiction in which the proposed project will be located that the Sponsor's application is consistent with the jurisdiction's HUD-approved CHAS. The certification must be made by the unit of general local government or the State, pursuant to the CHAS regulations at 24 CFR 91.1(b)(1)(ii), and as may be further described in the NOFA. The CHAS certification is not required where the proposed project will be located in the Insular Area of Guam, the U.S. Virgin Islands, American Samoa or the Northern Mariana Islands. Unless otherwise set forth in the NOFA, the required certification must be submitted by the application submission deadline announced in the NOFA. The jurisdiction required to make the certification must therefore get its CHAS approved by HUD in time for the certification to be submitted by the applicable deadline, i.e., the application deadline announced in the NOFA or if the NOFA permits a later submission date for the certification, the later date. (HUD has 60 days to approve a CHAS.) However, in no event will an application be considered for funding if the required CHAS has not been submitted for HUD approval by the application deadline. All certifications must be signed by the public official responsible for submitting the CHAS to HUD, and must meet the requirements of the CHAS regulations at 24 CFR 9.180 (a) or (b), "Consistency certifications."

(4) A certification that the Sponsor has submitted a copy of its application, if required, to the State agency (single point of contact) for State review in accordance with Executive Order 12372.

(5) A certification on the Application for Federal Assistance form that the Sponsor(s) is not delinquent on the repayment of any Federal debt.

(6) Anti-lobbying Certification for Contracts, Grants, Loans and Cooperative Agreements for grants exceeding $100,000. Disclosure of Lobbying Activities if other than federally appropriated funds will be or have been used to lobby the Executive or Legislative branches of the Federal Government regarding specific contracts, grants, loans or cooperative agreements. The applicant determines if the submission is warranted.

(7) A statement that:

(i) Identifies all persons (families, individuals, businesses and nonprofit organizations) (identified by race/minority group, and status as owners or tenants) occupying the property on the date of submission of the application for capital advance;

(ii) Indicates the estimated cost of relocation payments and other services; and

(iii) Identifies the staff organization that will carry out the relocation activities.

[**Note:** If any of the relocation costs will be funded from sources other than the Section 202 Capital Advance, the Sponsor must provide evidence of firm commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (*i.e.*, cost of site acquisition, relocation, construction and other project costs).]

(8)(i) A certification of the Sponsor(s)' intent to comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3600–3619) and the implementing regulations at 24 CFR parts 100, 108, 109, and 110; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the implementing regulations at 24 CFR part 1; section 3 of the Housing and Urban Development

Act of 1968 (12 U.S.C. 1701u) and the

(11) A description of the Sponsor's

the contract of sale for the site, a deed,

rezoning on land in similar zoning

of any missing parts of the application

(FEMA) as having special flood hazards

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Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135; the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and the implementing regulations at 24 CFR part 146; Executive Order 11246 (as amended) and the implementing regulations at 41 CFR chapter 60; the regulations implementing Executive Order 11063 (Equal Opportunity in Housing) at 24 CFR part 107; the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) to the extent applicable; the affirmative fair housing marketing requirements at 24 CFR part 200, subpart M; and other applicable Federal, State and local laws prohibiting discrimination and promoting equal opportunity.

(ii) A certification that the Sponsor(s) will comply with the requirements of the Drug-Free Workplace Act.

(iii) A certification that the project will comply with HUD's design and cost standards, the Uniform Federal Accessibility Standards and HUD's implementing regulations at 24 CFR part 40, section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, and for covered multifamily dwellings for first occupancy after March 31, 1991, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100.

(iv) A certification by the Sponsor(s) that it will comply (or has complied) with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), implemented by regulations at 49 CFR part 24, and 24 CFR 889.265(e).

(v) A certification by the Sponsor(s) that it will form an Owner (as defined in § 889.105) after the issuance of the capital advance, will cause the Owner to file a request for determination of eligibility and a request for capital advance under § 889.300, and will provide sufficient resources to the Owner to ensure the development and long-term operation of the project.

(9) A description of Sponsor's purposes and activities, ties to the community and minority support and how long it has been in existence (include any additional related information).

(10) A description of any other rental housing projects and/or medical facilities, sponsored, owned and operated by the Sponsor including a description of experience in providing housing and/or medical facilities to the elderly and/or families and minorities.

(11) A description of the Sponsor's past or current involvement in any programs other than housing (including its provision of services) that demonstrates the Sponsor's management capabilities and experience, including a description of the Sponsor's experience in serving the elderly and/or families and minorities.

(12) A description of the Sponsor's experience in contracting with minority and women-owned businesses, including amounts awarded.

(13) A certified Board Resolution, acknowledging responsibilities of sponsorship, long-term support of the project(s), willingness of Sponsor to assist the Owner to develop, own, manage and provide appropriate services in connection with the proposed project, and that it reflects the will of its membership. Also, evidence, in the form of a certified Board Resolution, of the Sponsor's willingness to fund the Minimum Capital Investment.

(14) A list of the applications, if any, the Sponsor has submitted or is planning to submit to any other Field Office in response to current NOFAs under part 889 or 24 CFR part 890. Indicate by Field Office, the number of units requested for each application. A list of all prior year projects to which the Sponsor(s) is a party, identified by project number and Field Office, which has not been finally closed.

(15) Applicant/Recipient Disclosure/Update Report, including Social Security Numbers or Employee Identification Numbers.

(16) A description of the category or categories of elderly persons the housing is intended to serve and evidence demonstrating sustained effective demand for supportive housing for that population in the market area to be served; taking into consideration the occupancy and vacancy conditions in existing Federally assisted housing for the elderly (HUD and FmHA) (e.g., public housing), state or local data on the limitations in activities of daily living among the elderly in the area, aging in place in existing assisted rentals, trends in demographic changes in elderly population and households, the numbers of income eligible elderly households by size, tenure and housing condition, and the types of supportive services arrangements currently available in the area and the utilization of such services as evidenced by data from local social service agencies or agencies on aging.

(17) Include evidence that the Sponsor has entered into a legally binding option agreement to buy or lease the proposed site; or has a copy of the contract of sale for the site, a deed, long-term leasehold, a request with all supporting documentation, submitted either prior to or with the Application for Capital Advance, for a partial release of a site covered by a mortgage under a HUD program or other evidence of legal ownership of the site (including properties to be acquired from the RTC). The option agreement period must extend through the end of the current fiscal year and contain a renewal provision so that the option can be renewed for at least an additional six months. The Sponsor must also identify any restrictive covenants, including reverter clauses. In the case of a site to be acquired from a public body, evidence that the public body possesses clear title to the site, and has entered into a legally binding agreement to lease or convey the site to the Sponsor after it receives and accepts a notice of section 202 capital advance and identification of any restrictive covenants, including reverter clauses. However, in localities where HUD determines the time constraints of the funding round will not permit all of the required official actions (e.g., approval of Community Planning Boards) which are necessary to convey publicly-owned sites, a letter in the application from the Mayor or Director of the appropriate local agency indicating approval of conveyance of the site contingent upon the necessary approval action is acceptable and may be approved by the Field Office if it has had satisfactory experience with timely conveyance of sites from that public body. In such cases, documentation shall also include a copy of the public body's evidence of ownership and identification of any restrictive covenants, including reverter clauses. For properties to be acquired from the RTC, include a copy of the RTC prepared Transaction Screen Checklist or Phase I Environmental Site Assessment, and applicable documentation, per the RTC Environmental Guidelines.

Note: A proposed project site may not be acquired or optioned from a general contractor (or its affiliate) which will construct the section 202 project or from any other development team member.

Include evidence that the project as proposed is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action required to make the proposed project permissible and the basis for belief that the proposed action will be completed successfully before the submission of the commitment application (e.g., a summary of the results of any recent requests for

rezoning on land in similar zoning classifications and the time required for such rezoning, preliminary indications of acceptability from zoning bodies).

(18) Narrative description of site and area surrounding the site, characteristics of neighborhood, how the site will promote greater housing opportunities for minorities, and any other information that impacts on the suitability of the site for the elderly.

(19) A map showing the location of the site and the racial composition of the neighborhood, with the area of racial concentration delineated.

(20) Provision of supportive services and proposed facility.

(i) A detailed description of the supportive services proposed to be provided to the anticipated occupancy.

(ii) Supplemental Application Processing Form—Housing for the Elderly. Identify all supportive services, if any, to be provided to the persons occupying such housing.

(iii) A description of public or private sources of assistance that reasonably could be expected to fund the proposed services.

(iv) The manner in which such services will be provided to such persons (i.e., on- or off-site), including, whether a service coordinator will facilitate the adequate provision of such services, and how the services will meet the identified needs of the residents.

(v) Narrative description of the building design including a description of any special design features and community space, and how this design will facilitate the delivery of services in an economical fashion and accommodate the changing needs of the residents over the next 10–20 years.

(vi) Describe if and how the project will promote energy efficiency and if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction.

(Approved by the Office of Management and Budget under control number 2502–0267).

9. Section 889.300 is revised to read as follows:

§ 889.300 Review of applications for capital advance.

(a) *Initial Screening.* Applications for section 202 Capital Advances for housing for the elderly that are received by HUD at the appropriate address within the time period specified in the NOFA will be reviewed to determine if all parts of the application are included. HUD will not review the content of the application as part of initial screening.

(b) *Deficiency letters.* Deficiency letters will be sent informing Sponsors of any missing parts of the application. Sponsors must correct such deficiencies within 14 calendar days from the date of the deficiency letter. All applications will be placed in technical processing upon receipt of the response to the deficiency letter or at the end of the 14-day period.

(c) *Technical processing.*

(1) All applications will undergo a complete analysis. All applications will be either rated or technically rejected at the end of technical processing. The Secretary will not reject an application based on technical processing without giving notice of that rejection with all rejection reasons, and affording the applicant an opportunity to appeal. An applicant will be afforded 14 calendar days from the date of HUD's written notice to appeal a technical rejection to the Field Office. The Field Office must respond within 5 working days to the Sponsor. The Field Office shall make a determination on an appeal prior to making its selection recommendations.

(2) Technical processing will also assure that if the Sponsor has been found by a court or by a Federal, State, or local agency, in noncompliance with any of the statutes, regulations, or other requirements listed in the civil rights certification (§ 889.270(b)(8)(i)), HUD will obtain from the Sponsor a statement of the actions taken to correct that noncompliance. There must be no pending civil rights suits against the Sponsor instituted by the Department of Justice and no pending administrative actions for civil rights violations instituted by HUD (including a charge of discrimination under the Fair Housing Act). Moreover, there must not be a deferral of the processing of applications from the Sponsor imposed by HUD under Title VI of the Civil Rights Act of 1964, the Department's implementing regulations (24 CFR 1.8), procedures (HUD Handbook 8040.1), and the Attorney General's Guidelines (28 CFR 50.3); or under section 504 of the Rehabilitation Act of 1973 and the Department's implementing regulations (24 CFR 8.57).

(3)(i) Before project selection, the Field Office shall complete an environmental review in compliance with the National Environmental Policy Act of 1969 and the related authorities in 24 CFR part 50.

(ii) No financial assistance shall be approved for construction or rehabilitation of a structure or portion of a structure or acquisition from the Resolution Trust Corporation of a structure located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless:

(A)(*1*) The community in which the area is situated is participating in the National Flood Insurance Program in accordance with the regulations thereunder (44 CFR parts 59 through 79); or

(*2*) Less than a year has passed since FEMA notification regarding such hazards, and

(B) Flood insurance on the structure is obtained in compliance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001).

(iii) Pursuant to the Coastal Barrier Resources Act (16 U.S.C. 3601), HUD will not approve Applications for properties in the Coastal Barrier Resources System.

(4) Based on the factors set forth in this paragraph (c), the field office shall determine the Applications which, in its judgment, are approvable. Selections then shall be made in accordance with paragraph (e) of this section.

(d) *Selection criteria.* The selection criteria for assistance include:

(1) The Sponsor's ability to develop and operate the proposed housing on a long-term basis, considering the following:

(i) The scope, extent and quality of the Sponsor's experience in providing housing or related services to those proposed to be served by the project, and the scope of the proposed project (i.e., number of units, services, relocation costs, development, and operation) in relationship to the Sponsor's demonstrated development and management capacity;

(ii) The scope, extent and quality of the Sponsor's experience in providing housing or related services to minority persons or families;

(iii) The Scope, extent and quality of the Sponsor's experience in providing opportunities for minority and women-owned business enterprises participation; and

(iv) The extent of local community support for the Sponsor's activities, including previous experience in serving the area where the project is to be located, and Sponsor's demonstrated ability to enlist volunteers and local funds;

(2) The need for supportive housing for the elderly in the area to be served and the suitability of the site, considering:

(i) The extent of the need for the project in the area based on a determination by the Field Office, taking into consideration the Sponsor's evidence of need in the area based on the guidelines in § 889.270(b)(17), as well as other economic, demographic

and housing market data available, to

(iv) The extent to which the proposed

amended by removing the terms "Fund

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and housing market data available, to the Field Office including, the availability of existing Federally assisted housing (HUD and FmHA) (e.g., considering the availability and vacancy rates of public housing) for the elderly and current occupancy in such facilities, Federally assisted housing for the elderly under construction or for which fund reservations have been issued, and in accordance with an agreement between HUD and the FmHA, comments from the FmHA on the demand for additional assisted housing and the possible harm to existing projects in the same housing market area;

(ii) The proximity or accessibility of the site to shopping, medical facilities, transportation, places of worship, recreational facilities, and other necessary services to the intended occupants, adequacy of utilities and streets, freedom of the site from adverse environmental conditions, compliance with site and neighborhood standards; and

(iii) Suitability of the site from the standpoint of promoting a greater choice of housing opportunities for minority elderly persons/families;

(3) The adequacy of the provision of supportive services and of the proposed facility considering:

(i) The extent to which the proposed design will meet the special physical needs of elderly persons;

(ii) The extent to which the proposed size and unit mix of the housing will enable the Sponsor to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion;

(iii) The extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, initially and over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve;

(iv) The extent to which the proposed supportive services meet the identified needs of the residents; and

(v) The extent to which the Sponsor demonstrated that the identified supportive services will be provided on a consistent long-term basis.

(e) The Field Office shall rate each Application on the basis of its assessment of the Sponsor's Application using the selection criteria set forth on the FOFA. The Field Office shall also calculate the capital advance and PRAC amounts to be reserved for each project. The Regional Office shall identify for selection the highest ranking Applications in descending order which most reasonably approximate the estimated maximum number of units which can be funded in each Field Office by metropolitan/nonmetropolitan jurisdictions, under the allocation of fund authority. Not less than 15 percent of the funds made available shall be allocated on a national basis for nonmetropolitan areas.

(f) Unused funds within a competitive area, if available fund authority exceeds selections, may be reallocated by combining metropolitan and nonmetropolitan funds in order to fund another project in either category. If there are excess funds which are not allocable to any application within the original competitive area, the funds may be reallocated from one competitive area to another within the same State. If there are excess funds which are not allocable in the above methods, the funds may be reallocated from one competitive area to another within the Region. When the Regional Office aggregates residual funds from the competitive areas, the original metro/nonmetro breakdown must be retained initially to determine whether there are any approvable applications in either category prior to making any transfers of funds. Remaining unused funds must be returned to Headquarters.

§ 889.305 [Amended]

10. In § 889.305, paragraphs (a) introductory text, (a)(1), and (d) are amended by removing the terms "Fund Reservation" or "fund reservation" wherever it appears, and by adding in its place "capital advance".

§ 889.310 [Amended]

10a. In § 889.310, paragraphs (a) introductory text, (a)(1), (a)(2), (a)(3), (b)(1), (b)(1)(ii), (b)(2), (b)(3)(i), and (b)(3)(ii) are amended by removing the term "fund reservation" whenever it appears, and by adding in its place "capital advance".

11. A new subpart H, consisting of §§ 889.800 and 889.805, is added to part 889, to read as follows:

Subpart H—Elder Cottage Housing Demonstration Program

889.800 Purpose and policy.
889.805 Implementation.

Subpart H—Elder Cottage Housing Demonstration Program

§ 889.800 Purpose and policy.

The Secretary shall carry out a program to determine the feasibility of including, as an eligible development cost under section 202 of the Housing Act of 1959, the cost of purchasing and installing elder cottage housing opportunity units that are small, free-standing, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings. In conducting the demonstration, the Secretary shall determine whether the durability of such units is appropriate for making such units generally eligible for assistance under the Supportive Housing for the Elderly Program.

§ 889.805 Implementation.

The Secretary shall publish a NOFA with guidelines for this demonstration program.

Dated: April 2, 1993.

James E. Schoenberger,

Associate General Deputy Assistant Secretary.

[FR Doc. 93-10452 Filed 5-4-93; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing; Federal Housing Commissioner

[Docket No. N-93-3591, FR-3408-N-01]

Fund Availability (NOFA) for Supportive Housing for the Elderly

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of fund availability for FY 93.

SUMMARY: This NOFA announces HUD's funding for supportive housing for the elderly. In the body of this document is information concerning the following: (a) The purpose of the NOFA and information regarding eligibility, submission requirements, available amounts, and selection criteria and (b) application processing, including how to apply and how selections will be made. A checklist of steps and exhibits involved in the application process will be included in the application package which can be obtained from the appropriate Field Office identified in appendix A.

DATES: The deadline date for receipt of applications in response to this NOFA is 4 p.m. local time on July 8, 1993.

ADDRESSES: Applications must be delivered to the Director of the Housing Development Division in the HUD Field Office for your jurisdiction. A listing of HUD Field Offices, their addresses and telephone numbers (including TDD telephone numbers) are attached as appendix A to this NOFA. HUD will date and time stamp incoming applications to evidence timely receipt, and upon request, provide the applicant with an acknowledgement of receipt. Applications submitted by facsimile are not acceptable.

FOR FURTHER INFORMATION CONTACT: The HUD Field Office for your jurisdiction.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–220), the information collection requirements have been assigned OMB Control Number 2502–0267.

I. Purpose and Substantive Description

A. Authority

Section 801 of the Cranston-Gonzalez National Affordable Housing Act (NAHA) amended section 202 of the Housing Act of 1959. It authorized the Secretary to provide assistance to private nonprofit organizations and nonprofit consumer cooperatives to expand the supply of supportive housing for the elderly. The assistance is provided as capital advances and contracts for project rental assistance in accordance with 24 CFR part 889. This assistance may be used to finance the construction or rehabilitation of a structure, or acquisition of a structure from the Resolution Trust Corporation (RTC), to be used as supportive housing for the elderly in accordance with part 889.

Sections 601, 602 and 913 of the Housing and Community Development Act of 1992 (HCD Act of 1992) amended section 202 of the Housing Act of 1959. These amendments and simplification of the application and selection process are the subject of an interim rule published today elsewhere in this issue. These amendments are reflected in this NOFA. Of special interest are the repeal of the requirement for State and local certification of services (former section 202(e)(5)), the additional consideration in the selection criteria of the availability of public housing for the elderly and vacancy rates in such facilities (included within the revised selection criteria of the availability of Federally assisted housing (HUD and FmHA) for the elderly and the occupancy and vacancy situation in such facilities, § 889.300(d)(2)(i)), the reduction in the owner deposit in the case of a nonprofit applicant that is not affiliated with a national sponsor, the reduction to the nonmetropolitan allocation (reduced from 20 percent to 15 percent), and the amendment relating to labor wage rates.

The amended labor standards require all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under section 202 to be paid wages at rates not less than those prevailing in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

For supportive housing for the elderly, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, (Pub. L. 102–389), enacted October 6, 1992, (Fiscal Year 1993 Appropriations Act) provides $1,116,099,000 for capital advances, including amendments to capital advance contracts (not procurement contracts), for housing for the elderly as authorized by section 202 of the Housing Act of 1959, (as amended by section 801 of the NAHA and sections 601 and 602 of the HCD Act of 1992), and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959, as amended. Any unreserved balances provided in prior years for such purposes are to be merged with amounts provided in the Fiscal Year 1993 Appropriations Act.

In accordance with an agreement between HUD and the Farmers Home Administration (FmHA) which facilitates the coordination between the two agencies in administering their respective rental assistance programs, HUD is required to notify FmHA of applications for housing assistance it receives. The purpose of this notification is to give FmHA the opportunity to comment if it has concern about the demand for additional assisted housing and possible harm to existing projects in the same housing market area. HUD will consider the FmHA comments in its review and project selection process.

B. Allocation Amounts

In accordance with 24 CFR part 791, the Assistant Secretary will allocate the amounts available for capital advances for supportive housing for the elderly. The Department reserves project rental assistance funds sufficient for 20-year project rental assistance contracts in support of the units selected for capital advances, consistent with current operating cost standards.

The allocation formula for section 202 funds consists of the following two data elements:

1. A measure of the total number of elderly renter households.

2. A measure of number of one- and two-person elderly renter households with incomes at or below the very low income standard with housing deficiencies, consisting primarily of households paying more than 30 percent of their incomes for rent.

As a result of a computer error in the Boston Regional Office, the application of The First Baptist Church, Beverly, Massachusetts, was not selected and funded under the Fiscal Year 1992 Supportive Housing for the Elderly Program. Since this was a HUD error, this application will be funded from the Fiscal Year 1993 allocation to the Boston Regional Office.

Based on this formula, the Department has allocated the available capital advance funds as shown on the following chart:

FISCAL YEAR 1993 ALLOCATIONS FOR SUPPORTIVE HOUSING FOR THE ELDERLY—Continued

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FISCAL YEAR 1993 ALLOCATIONS FOR SUPPORTIVE HOUSING FOR THE ELDERLY

[Fiscal year 1993 section 202 allocations]

Field offices	Metropolitan		Nonmetropolitan		Totals	
	Capital advance authority	Units	Capital advance authority	Units	Capital advance authority	Units
Region I:						
Boston*	$25,904,925	337	$2,985,185	40	$28,890,110	377
Hartford	8,054,839	104	3,005,750	40	11,060,589	144
Manchester	4,114,196	70	2,289,002	40	6,403,198	110
Providence	3,985,927	53	0	0	3,985,927	53
Total I	42,059,887	564	8,279,937	120	50,339,824	684
Region II:						
Buffalo	11,141,194	174	2,476,674	40	13,617,868	214
New York	69,049,604	851	3,145,669	41	72,195,273	892
Newark	30,261,611	394	0	0	30,261,611	394
Total II	110,452,409	1,419	5,622,343	81	116,074,752	1,500
Region III:						
Baltimore	5,084,374	84	2,407,453	40	7,491,827	124
Charleston	2,974,444	55	0	0	2,974,444	55
Philadelphia	19,790,963	293	2,641,660	40	22,432,623	333
Pittsburgh	8,782,706	151	2,286,455	40	11,069,161	191
Richmond	4,379,141	84	2,041,201	40	6,420,342	124
D.C.	8,257,583	127	0	0	8,257,583	127
Total III	49,269,211	794	9,376,769	160	58,645,980	954
Region IV:						
Atlanta	6,117,381	125	3,846,007	80	9,963,388	205
Birmingham	4,080,217	83	2,194,403	46	6,274,620	129
Caribbean	3,771,629	67	0	0	3,771,629	67
Columbia	3,159,712	62	2,017,707	41	5,177,419	103
Greensboro	4,905,976	87	4,474,524	80	9,380,500	167
Jackson	3,883,064	82	0	0	3,883,064	82
Jacksonville	25,563,815	483	2,051,941	40	27,615,756	523
Louisville	3,254,459	62	2,940,157	57	6,194,616	119
Knoxville	2,631,569	55	0	0	2,631,569	55
Nashville	2,627,989	55	1,866,537	40	4,494,526	95
Total IV:	59,995,811	1,161	19,391,276	384	79,387,087	1,545
Region V:						
Chicago	30,358,759	442	3,823,061	59	34,181,820	501
Cincinnati	5,063,127	92	0	0	5,063,127	92
Cleveland	8,905,049	146	2,421,268	40	11,326,317	186
Columbus	4,760,253	87	0	0	4,760,253	87
Detroit	11,180,595	181	0	0	11,180,595	181
Grand Rapids	3,580,191	68	0	0	3,580,191	68
Indianapolis	5,912,066	106	2,202,652	41	8,114,718	147
Milwaukee	7,461,605	125	2,361,775	40	9,823,380	165
Minn-St. Paul	5,314,627	84	2,440,071	40	7,754,698	124
Total V	82,536,272	1,331	13,248,827	220	95,785,099	1,551
Region VI:						
Fort Worth (NM)	7,431,824	148	2,571,566	52	10,003,390	200
Houston	5,160,275	102	0	0	5,160,275	102
Little Rock	2,501,928	56	1,755,442	41	4,257,370	97
New Orleans	3,205,218	66	1,920,770	40	5,125,988	106
Oklahoma	1,899,528	40	1,860,672	40	3,760,200	80
San Antonio	2,774,291	57	1,911,673	41	4,685,964	98
Total VI	22,973,064	469	10,020,123	214	32,993,187	683
Region VII:						
Des Moines	2,680,987	53	1,959,260	40	4,640,247	93
Kansas City	4,624,642	89	1,987,138	40	6,611,780	129
Omaha	2,365,840	48	0	0	2,365,840	48
St. Louis	4,383,629	75	2,325,300	40	6,708,929	115
Total VII	14,055,098	265	6,271,698	120	20,326,796	385
Region VIII:						
Denver	6,393,395	126	3,878,581	80	10,271,976	206
Total VIII	6,393,395	126	3,878,581	80	10,271,976	206
Region IX:						
Honolulu (Guam)	4,495,952	40	4,401,664	40	8,897,616	80
Los Angeles	47,163,429	654	2,819,232	40	49,982,661	694
Phoenix	3,337,631	68	1,919,792	40	5,257,423	108
Sacramento	5,088,842	79	0	0	5,088,842	79
San Francisco	22,484,928	289	3,002,143	40	25,487,071	329
Total IX	82,570,782	1,130	12,142,831	160	94,713,613	1,290
Region X:						
Portland	3,078,788	56	2,104,345	40	5,183,133	96
Seattle	5,218,385	81	2,519,170	40	7,737,555	121
Total X	8,297,173	137	4,623,515	80	12,920,688	217
National total	478,603,102	7,396	92,855,900	1,619	571,459,002	9,015

FISCAL YEAR 1993 ALLOCATIONS FOR SUPPORTIVE HOUSING FOR THE ELDERLY—Continued

[Fiscal year 1993 section 202 allocations]

*This amount includes Capital Advance Authority of $5,259,500 to fund The Baptist Church, Beverly Massachusetts. Since this project was not selected in Fiscal Year 1992 by HUD error, this application will be funded from the Fiscal Year 1993 Allocation to the Boston Regional Office.

C. Eligibility

The only eligible applicants under this program are private, nonprofit organizations and nonprofit consumer cooperatives. Neither a public body nor an instrumentality of a public body is eligible to participate in the program. No organization shall participate as Sponsor or Co-sponsor in the filing of application(s) for a capital advance in a single region in this fiscal year in excess of that necessary to finance the construction, rehabilitation or acquisition (acquisition permitted only with RTC properties) of 300 units of housing and related facilities for the elderly. This limit shall apply to organizations that participate as Co-sponsors regardless of whether the Co-sponsors are affiliated or non-affiliated entities. In addition, the national limit for any one applicant is 10 percent of the total units allocated in all Regions. Affiliated entities which submit separate applications shall be deemed to be a single entity for the purposes of these limits. No single application may propose more than the number of units permitted by a Field Office or 125 units, whichever is less. Reservations for projects in metropolitan areas will not be approved for less than 40 units.

D. Initial Screening, Technical Processing and Selection Criteria

1. Initial Screening

Applications for section 202 capital advances that are received by HUD at the appropriate address by 4 p.m. local time on July 8, 1993 will be reviewed to determine if all parts of the application are included. HUD will not review the content of the application as part of initial screening. Deficiency letters will be sent informing Sponsors of any missing parts of the application. Sponsors must correct such deficiencies within 14 calendar days from the date of the deficiency letter.

2. Technical Processing

All applications will be placed in technical processing upon receipt of the response to the deficiency letter or at the end of the 14-day period. All applications will undergo a complete analysis. As part of this analysis, HUD will conduct its environmental review in accordance with 24 CFR part 50. Examples of reasons for technical processing rejection include an ineligible Sponsor, ineligible population to be served, lack of legal capacity, lack of site control and unacceptable site based upon a site visit. The Secretary will not reject an application based on technical processing without giving notice of that rejection with all rejection reasons, and affording the applicant an opportunity to appeal. An applicant will be afforded 14 calendar days from the date of HUD's written notice to appeal a technical rejection to the Field Office. The Field Office must respond within 5 working days to the Sponsor. The Field Office shall make a determination on an appeal prior to making its selection recommendations. All applications will be either rated or technically rejected at the end of technical processing.

Technical processing will also assure that if the Sponsor has been found by a court or by a Federal, State, or local agency, in noncompliance with any of the statutes, regulations, or other requirements listed in the civil rights certification (§ 889.270(b)(8)(i)), HUD will obtain from the Sponsor a statement of the actions taken to correct that noncompliance. There must be no pending civil rights suits against the Sponsor instituted by the Department of Justice and no pending administrative actions for civil rights violations instituted by HUD (including a charge of discrimination under the Fair Housing Act). Moreover, there must not be a deferral of the processing of applications from the Sponsor imposed by HUD under title VI of the Civil Rights Act of 1964, the Department's implementing regulations (24 CFR 1.8), procedures (HUD Handbook 8040.1), and the Attorney General's Guidelines (28 CFR 50.3); or under section 504 of the Rehabilitation Act of 1973 and the Department's implementing regulations (24 CFR 8.57).

Upon completion of technical processing, all acceptable applications will be rated according to the selection criteria in § 889.300(d) (also below in I.D.3). Applications which have a total score of 50 points or more will be eligible for selection and will be placed in rank order.

3. Selection Criteria

Applications for section 202 capital advances that successfully complete technical processing will be rated using the following selection criteria:

(a) In determining the Sponsor's ability to develop and operate the proposed housing on a long-term basis, consider the following (50 points maximum):

(1) The scope, extent and quality of the Sponsor's experience in providing housing or related services to those proposed to be served by the project and the scope of the proposed project (i.e., number of units, services, relocation costs, development, and operation) in relationship to the Sponsor's demonstrated development and management capacity. (32 points);

(2) The scope, extent and quality of the Sponsor's experience in providing housing or related services to minority persons or families (5 points);

(3) The scope, extent and quality of the Sponsor's experience in providing

opportunities for minority and women-owned business enterprises

the provision of supportive services that

At the workshops, Application

contract with the Owner or in any firm

1993. The CHAS regulations are

Americans with Disabilities Act (42

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opportunities for minority and women-owned business enterprises participation (3 points); and

(4) The extent of local community support for the Sponsor's activities, including previous experience in serving the area where the project is to be located, and Sponsor's demonstrated ability to enlist volunteers and local funds (10 points);

(b) In determining the need for supportive housing for the elderly in the area to be served and the suitability of the site, consider (25 points maximum):

(1) The extent of the need for the project in the area based on a determination by the Field Office. This determination will be made taking into consideration the Sponsor's evidence of need in the area based on the guidelines in § 889.270(b)(17), as well as other economic, demographic and housing market data available, to the Field Office. The data could include the availability of existing Federally assisted housing (HUD and FmHA) (e.g., considering availability and vacancy rates of public housing) for the elderly and current occupancy in such facilities, Federally assisted housing for the elderly under construction or for which fund reservations have been issued, and in accordance with an agreement between HUD and the FmHA, comments from the FmHA on the demand for additional assisted housing and the possible harm to existing projects in the same housing market area (8 points).

(2) The proximity or accessibility of the site to shopping, medical facilities, transportation, places of worship, recreational facilities, and other necessary services to the intended occupants, adequacy of utilities and streets, freedom of the site from adverse environmental conditions, compliance with site and neighborhood standards (10 points); and

(3) Suitability of the site from the standpoint of promoting a greater choice of housing opportunities for minority elderly persons/families (7 points);

(c) In determining adequacy of the provision of supportive services and of the proposed facility consider (25 points maximum):

(1) The extent to which the proposed design will meet the special physical needs of elderly persons (4 points);

(2) The extent to which the proposed size and unit mix of the housing will enable the Sponsor to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion (4 points);

(3) The extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, initially and over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve (2 points);

(4) The extent to which the proposed supportive services meet the identified needs of the residents (8 points); and

(5) The extent to which the Sponsor demonstrated that the identified supportive services will be provided on a consistent long-term basis (7 points).

II. Application Process

All applications for section 202 capital advances submitted by eligible Sponsors must be filed with the appropriate HUD Field Office receiving an allocation and must meet the requirements of this Notice. No application will be accepted after 4 p.m. local time on July 8, 1993, unless that date and time is extended by a Notice published in the Federal Register. Applications received after that date and time will not be accepted, even if postmarked by the deadline date. Applications submitted by facsimile are not acceptable.

Immediately upon publication of this NOFA, Field Offices shall notify elderly and minority media, all persons and organizations on their mailing lists and minority and other organizations within their jurisdiction involved in housing and community development and groups with special interest in housing for elderly households.

Organizations interested in applying for a section 202 capital advance should provide the appropriate Field Office with their names, addresses and telephone numbers, and advise the Field Office whether they wish to attend the workshop described below. HUD encourages minority organizations to participate in this program as Sponsors. Field Offices will advise all organizations on their mailing list of the date, time and place of workshops at which the Section 202 Program will be explained.

HUD strongly recommends that prospective applicants attend the local Field Office workshop. Interested persons with disabilities should contact the Field Office to assure that any necessary arrangements can be made for them to enable their attendance and participation in the workshop. While strongly urged to do so, if Sponsors cannot attend a workshop, Application Packages and handbooks can also be obtained from the Field Offices. Contact the appropriate Field Office with any questions regarding the submission of applications.

At the workshops, Application Packages will be distributed, and application procedures and requirements will be explained. Also, concerns such as local market conditions, building codes, historic preservation, floodplain management, displacement and relocation, zoning and housing costs will be addressed.

III. Application Submission Requirements

A. Application

Each application shall include all of the information, materials, forms, and exhibits listed in section III. B. below and must be indexed and tabbed. The Field Office will base its determination of the eligibility of the Sponsor for a reservation of section 202 capital advance funds on the information provided in the application.

In preparing applications, applicants will be able to utilize information and exhibits previously prepared for prior applications under section 202, section 811 or other funding programs. Examples of exhibits that may be readily adapted or amended to decrease the burden of application preparation include, among others, those on previous participation in the section 202 or section 811 programs; applicant experience in provision of housing and services; supportive services plan; community ties, and experience serving minorities.

B. General Application Requirements

1. Form HUD–92015–CA, Application for Section 202 Supportive Housing Capital Advance.

2. Evidence of each Sponsor's legal status as a private, nonprofit organization or nonprofit consumer cooperative, including the following:

(a) Articles of Incorporation, constitution, or other organizational documents;

(b) By-laws;

(c) IRS tax exemption ruling (this must be submitted by all Sponsors, including churches). A nonprofit organization organized in the Commonwealth of Puerto Rico and exempt from income taxation under Puerto Rico law, or a consumer cooperative that is tax exempt under State law, has never been liable for payment of Federal income taxes, and does not pay patronage dividends may be exempt from the requirement set out in the previous sentence if they are not eligible for tax exemption; and

(d) Resolution of the board, duly certified by an officer, that no officer or director of the Sponsor or Owner has or will have any financial interest in any

contract with the Owner or in any firm or corporation which has or will have a contract with the Owner and which includes a current listing of all duly qualified and sitting officers and directors by title and the beginning and ending date of each person's term.

3. CHAS certification. The Sponsor must submit a certification by the jurisdiction in which the proposed project will be located that the Sponsor's application is consistent with the jurisdiction's HUD-approved CHAS for FY 1993. The certification must be made by the unit of general local government if it is required to have, or has, a complete CHAS. Otherwise the certification may be made by the State, or if the project will be located in a unit of general local government authorized to use an abbreviated CHAS, by the unit of general local government if it is willing to prepare such a CHAS.

All CHAS certifications must be made by the public official responsible for submitting the CHAS to HUD. All CHAS certifications must be submitted as part of the application by the application submission deadline set forth in this NOFA, except as provided in the next paragraph. The required CHAS must therefore have been submitted more than 60 days before the application submission deadline, since HUD has 60 days to review and approve the CHAS. Where the certification of consistency is permitted to be submitted after the application submission deadline, as described in the next paragraph, the CHAS must be submitted for approval in time for the certification to be made by the later date. In no event will an application be considered if the CHAS has not been submitted for approval by the application submission deadline.

If the required certification will be made by a unit of general local government with respect to an abbreviated CHAS, and such CHAS has been submitted by the application submission deadline but has not yet been approved by HUD, the deadline will not be applied to the certification for consistency. Instead, the application must include a written statement from the public official responsible for submitting the CHAS that the jurisdiction has submitted an abbreviated CHAS for FY 1993 for HUD approval and that the application is consistent with the CHAS. If HUD approved the CHAS, the required certification that the application is consistent with a HUD-approved CHAS for FY 1993 must be submitted before August 31, 1993. An application will not be selected for funding unless the CHAS is approved and the required certification is made by August 31, 1993. The CHAS regulations are published in 24 CFR part 91.

4. Executive Order 12372. A certification that the Sponsor has submitted a copy of its applications, if required, to the State agency (single point of contact) for State review in accordance with Executive Order 12372.

5. SF–424. A certification on SF–424, Application for Federal Assistance, that the Sponsor(s) is not delinquent on the repayment of any Federal debt.

6. Anti-lobbying Certification for Contracts, Grants, Loans and Cooperative Agreements for grants exceeding $100,000. Disclosure of Lobbying Activities (Standard Form–LLL) if other than federally appropriated funds will be or have been used to lobby the Executive or Legislative branches of the Federal Government regarding specific contracts, grants, loans or cooperative agreements. The applicant determines if the submission of the SF–LLL is warranted.

7. A statement that (a) identifies all persons (families, individuals, businesses and nonprofit organizations (identified by race/minority group, and status as owners or tenants) occupying the property on the date of submission of the application for a capital advance; (b) indicates the estimated cost of relocation payments and other services, and (c) identifies the staff organization that will carry out the relocation activities.

[Note: If any of the relocation costs will be funded from sources other than the section 202 Capital Advance, the sponsor must provide evidence of a firm commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (*i.e.*, cost of site acquisition, relocation, construction and other project costs).]

8. Additional Certifications.

(a) A certification of the Sponsor(s)' intent to comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3600–3619) and the implementing regulations at 24 CFR parts 100, 108, 109, and 110; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the implementing regulations at 24 CFR part 1; section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135; the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and the implementing regulations at 24 CFR part 146; Executive Order 11246 (as amended) and the implementing regulations at 41 CFR chapter 60; the regulations implementing Executive Order 11063 (Equal Opportunity in Housing) at 24 CFR part 107; the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) to the extent applicable; the affirmative fair housing marketing requirements at 24 CFR part 200, subpart M; and other applicable Federal, State and local laws prohibiting discrimination and promoting equal opportunity.

(b) A certification that the Sponsor(s) will comply with the requirements of the Drug-Free Workplace Act.

(c) A certification that the project will comply with HUD's design and cost standards, the Uniform Federal Accessibility Standards and HUD's implementing regulations at 24 CFR part 40, section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, and for new construction of covered multifamily dwellings, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100.

(d) A certification by the Sponsor(s) that it will comply (or has complied) with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), implemented by regulations at 49 CFR part 24, and 24 CFR 889.265(e).

(e) A certification by the Sponsor(s) that it will form an Owner (as defined in § 889.105) after the issuance of the capital advance, will cause the Owner to file a request for determination of eligibility and a request for capital advance under § 889.300, and will provide sufficient resources to the Owner to insure the development and long-term operation of the project.

9. A description of Sponsor's purposes and activities, ties to the community and minority support and how long it has been in existence (include any additional related information).

10. A description of any other rental housing projects and/or medical facilities, sponsored, owned and operated by the Sponsor including a description of experience in providing housing and/or medical facilities to the elderly and/or families and minorities.

11. A description of the Sponsor's past or current involvement in any programs other than housing (including its provision of services) that demonstrates the Sponsor's management capabilities and experience, including a description of the Sponsor's experience in serving the elderly and/or families and minorities.

12. A description of Sponsor's experience in contracting with minority and women-owned businesses, including amounts awarded.

13. A certified Board Resolution, acknowledging responsibilities of

for the site, a deed, long-term leasehold,

rezoning on land in similar zoning

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13. A certified Board Resolution, acknowledging responsibilities of sponsorship, long-term support of the project(s), willingness of Sponsor to assist the Owner to develop, own, manage and provide appropriate services in connection with the proposed project, and that it reflects the will of its membership. Also, evidence, in the form of a certified Board Resolution, of the Sponsor's willingness to fund the Minimum Capital Investment (one-half of one percent of the HUD-approved capital advance, not to exceed $10,000, if non-affiliated with National Sponsor; one-half of one percent of the HUD-approved capital advance, not to exceed $25,000, for all other Sponsors; see 889.250).

14. A list of the applications, if any, the Sponsor has submitted or is planning to submit to any other Field Office in response to this NOFA or the NOFA for Supportive Housing for Persons with Disabilities (published elsewhere in today's **Federal Register**). Indicate by Field Office, the proposed location by city and State, the number of units requested for each application. A list of all FY 1992 and prior year projects to which the Sponsor(s) is a party, identified by project number and Field Office, which have not been finally closed.

15. HUD–2880, Applicant/Recipient Disclosure/Update Report, including Social Security Numbers and Employee Identification Numbers.

16. Evidence of need for supportive housing. A description of the category or categories of elderly persons the housing is intended to serve and evidence demonstrating sustained effective demand for supportive housing for that population in the market area to be served, taking into consideration the occupancy and vacancy conditions in existing Federally assisted housing for the elderly (HUD and FmHA) (e.g., public housing), state or local data on the limitations in activities of daily living among the elderly in the area, aging in place in existing assisted rentals; trends in demographic changes in elderly population and households; the numbers of income eligible elderly households by size, tenure and housing condition, and the types of supportive services arrangements currently available in the area and the utilization of such services as evidenced by data from local social service agencies or agencies on aging.

17. Evidence of site control and permissive zoning.

(a) Evidence that the Sponsor has entered into a legally binding option agreement to buy or lease the proposed site; or has a copy of the contract of sale for the site, a deed, long-term leasehold, a request with all supporting documentation, submitted either prior to or with the Application for Capital Advance, or a partial release of a site covered by a mortgage under a HUD program or other evidence of legal ownership of the site (including properties to be acquired from the Resolution Trust Corporation). The option agreement period must extend through the end of the current fiscal year and contain a renewal provision so that the option can renewed for at least an additional six months. The Sponsor must also identify any restrictive covenants, including reverter clauses. In the case of a site to be acquired from a public body, evidence that the public body possesses clear title to the site, and has entered into a legally binding agreement to lease or convey the site to the Sponsor after it receives and accepts a notice of Section 202 capital advance and identification of any restrictive covenants, including reverter clauses. However, in localities where HUD determines the time constraints of the funding round will not permit all of the required official actions (e.g., approval of Community Planning Boards) which are necessary to convey publicly-owned sites, a letter in the application from the Mayor or Director of the appropriate local agency indicating approval of conveyance of the site contingent upon the necessary approval action is acceptable and may be approved by the Field Office if it has satisfactory experience with timely conveyance of sites from that public body. In such cases, documentation shall also include a copy of the public body's evidence of ownership and identification of any restrictive covenants, including reverter clauses. For properties to be acquired from the RTC, include a copy of the RTC prepared Transaction Screen Checklist or Phase I Environmental Site Assessment, and applicable documentation, per the RTC Environmental Guidelines.

Note: A proposed project site may not be acquired or optioned from a general contractor (or its affiliate) which will construct the section 202 project or from any other development team member.

(b) Evidence that the project as proposed is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action required to make the proposed project permissible and the basis for belief that the proposed action will be completed successfully before the submission of the commitment application (e.g., a summary of the results of any recent requests for rezoning on land in similar zoning classifications and the time required for such rezoning, preliminary indications of acceptability from zoning bodies, *etc.*).

18. Narrative description of site and area surrounding the site, characteristics of neighborhood, how the site will promote greater housing opportunities for minorities, and any other information that impacts on the suitability of the site for the elderly.

19. A map showing the location of the site and the racial composition of the neighborhood, with the area of racial concentration delineated.

20. Provision of supportive services and proposed facility.

(a) A detailed description of the supportive services proposed to be provided to the anticipated occupancy.

(b) Form HUD 92013E, Supplemental Application Processing Form—Housing for the Elderly. Identify all supportive services, if any, to be provided to the persons occupying such housing.

(c) A description of public or private sources of assistance that reasonably could be expected to fund the proposed services.

(d) The manner in which such services will be provided to such persons (i.e., on or off-site), including, whether a service coordinator will facilitate the adequate provision of such services, and how the services will meet the identified needs of the residents.

(e) Narrative description of the building design including a description of any special design features and community space, and how this design will facilitate the delivery of services in an economical fashion and accommodate the changing needs of the residents over the next 10–20 years.

(f) Describe if and how the project will promote energy efficiency and if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction.

IV. Other Matters

A. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations that implement section 101(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

B. Federalism Executive Order

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12612, Federalism, has determined that this NOFA does not have substantial direct effects on States or their political subdivisions, or on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This NOFA merely notifies the public of the availability of capital advances and project rental assistance for supportive housing for the elderly.

C. Family Executive Order

The General Counsel, as the Designated Official under Executive Order No. 12606, The Family, has determined that this NOFA does not significantly affect family formation, maintenance, or general well-being, and, thus, is not subject to review under the order.

D. Documentation and Public Access Requirements: HUD Reform Act

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

E. HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815 (TDD/Voice). (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

F. Lobbying

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule.

Any questions regarding the rule should be directed to the Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–3815 (TDD/Voice). (This is not a toll-free number.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

G. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

H. Catalog of Federal Domestic Assistance Program

The Catalog of Federal Domestic Assistance Program title and number is 14.181, Housing for the Elderly or Handicapped.

Authority: Section 202, Housing Act of 1959, as amended (12 U.S.C. 1701q), Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: April 2, 1993.

James E. Schoenberger,

Associate General Deputy, Assistant Secretary.

Appendix A—HUD Field Offices

Regional Field Offices

HUD Field Offices

Region I

Jurisdiction: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Boston, Massachusetts Regional Office

Harold G. Thompson
Acting Regional Administrator Regional Housing Commission
HUD—Boston Regional Office
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Room 375
Boston, Massachusetts 0222–1092
(617) 565–5234

Bangor, Maine Office (D)

Richard Young
Supervisory Appraiser
HUD—Bangor Office
Professional Building
Casco Northern Bank Building
23 Main Street
Bangor, Maine 04401
(207) 945–0467

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Burlington, Vermont Office (D)

William Peters
Chief
HUD—Burlington Office
Room 244, U.S. Federal Building
11 Elmwood Avenue, P.O. Box 879
Burlington, Vermont 05402–0879
(802) 951–6290

Hartford, Connecticut Office (A)

William Hernandez, Jr.
Manager
HUD—Hartford Office
330 Main Street
Hartford, Connecticut 06106–1860
(203) 240–4523

Manchester, New Hampshire Office (B)

David B. Harrity
Manager
HUD—Manchester Office
Norris Cotton Federal Building
275 Chestnut Street
Manchester, New Hampshire 03103–2487
(603) 661–7681

Providence, Rhode Island Office (B)

Casimir J. Kolaski, Jr.
Manager
HUD—Providence Office
330 John O. Pastore Federal Building and U.S. Post Office—Kennedy Plaza
Providence, Rhode Island 02903
(401) 528–5351

Region II

Jurisdiction: New York, New Jersey

New York Regional Office

Burton Bloomberg
Acting Regional Administrator Regional Housing Commissioner
HUD—New York Regional Office
26 Federal Plaza
New York, New York 10278–0068
(212) 264–8068

Albany, New York Office (C)

John Petricco
Manager
HUD—Albany Office
52 Corporate Circle
Albany, New York 12203
(518) 464–4200

Buffalo, New York Office (A)

Joseph Lynch
Manager
HUD—Buffalo Office
Lafayette Court, 5th Floor
465 Main Street
Buffalo, New York 14203
(716) 846–5733

Camden, New Jersey Office (C)

Elmer Roy
Manager
HUD—Camden Office
519 Federal Street
Camden, New Jersey 08103–9998
(609) 757–5081

Newark, New Jersey Office (A)

(Vacant)
Manager
HUD—Newark Office
Military Park Building
60 Park Place
Newark, New Jersey 07102–5504
(201) 877–1808

Region III

Jurisdiction: Pennsylvania, Washington DC, Maryland, Delaware, Virginia, West Virginia

Philadelphia Regional Office

Harry W. Staller
Acting Regional Administrator Regional Housing Commissioner
HUD—Philadelphia Regional Office
Liberty Square Building
105 South 7th Street
Philadelphia, Pennsylvania 19106–3392
(215) 597–2560

Baltimore, Maryland Office (A)

Maxine Saunders
Manager
HUD—Baltimore Office
10 North Calvert Street, 3rd Floor
Baltimore, Maryland 21202–1865
(301) 962–2520

Charleston, West Virginia Office (B)

Ron Rash
Manager
HUD—Charleston Office
405 Capitol Street
Suite 708
Charleston, West Virginia 25301–1795
(304) 347–7000

Pittsburgh, Pennsylvania Office (A)

Choice Edwards
Manager
HUD—Pittsburgh Office
Old Post Office Courthouse Building
7th Avenue & Grant
Pittsburgh, Pennsylvania 15219
(412) 644–6428

Richmond, Virginia Office (A)

Mary Ann Wilson
Manager
HUD—Richmond Office
The 3600 Centre
3600 West Broad Street
P.O. Box 90331
Richmond, Virginia 23230–0331
(804) 278–4507

Washington, DC Office (A)

I. Toni Thomas
Manager
HUD—Washington, DC Office
Union Center Plaza, Phase II
820 First Street, NE
Suite 300
Washington, DC 20002–4205
(202) 275–9200

Wilmington, Delaware Office (D)

David Sharbaugh
Chief
HUD—Wilmington Office
Suite 850
824 Market Street
Wilmington, Delaware 19801–3016
(302) 573–6300

Region IV

Jurisdiction: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Caribbean, Virgin Islands

Atlanta, Georgia Regional Office

Raymond A. Harris
Regional Administrator Regional Housing Commissioner
Richard B. Russell Federal Building
75 Spring Street, S.W.
Atlanta, Georgia 30303–3388
(404) 331–5136

Birmingham, Alabama Office (A)

Robert E. Lunsford
Manager
HUD—Birmingham Office
600 Beacon Parkway West
Suite 300
Birmingham, Alabama 35209–3144
(205) 290–7617

Caribbean Office (A)

Rosa Villalonga
Manager
HUD—Caribbean Office
New San Juan Office Building
159 Carlos E. Chardon Avenue
San Juan, Puerto Rico 00918–1804
(809) 766–6121

Columbia, South Carolina Office (A)

Ted B. Freeman
Manager
HUD—Columbia Office
Strom Thurmond Federal Building
1835 Assembly Street
Columbia, South Carolina 29201–2480
(803) 765–5592

Coral Gables, Florida Office (A)

Orlando L. Lorie
Manager
HUD—Coral Gables Office
Gables One Tower
1320 South Dixie Highway
Coral Gables, Florida 33146–2911
(305) 662–4510

Greensboro, North Carolina (A)

Larry J. Parker
Manager
HUD—Greensboro Office
Koger Building
2306 West Meadowview Road
Greensboro, North Carolina 27407
(919) 547–4000

Jackson, Mississippi Office (A)

Sandra Freeman
Manager
HUD—Jackson Office
Dr. A.H. McCoy Federal Building
100 West Capitol Street, Room 910
Jackson, Mississippi 39269–1096
(601) 965–5308

Jacksonville, Florida Office (A)

James T. Chaplin
Manager
HUD—Jacksonville Office
301 West Bay Street
Suite 2200
Jacksonville, Florida 32202–5121
(904) 232–2626

Knoxville, Tennessee Office (A)

Richard B. Barnwell
Manager
HUD—Knoxville Office
John J. Duncan Federal Building
710 Locust Street, S.W.
Knoxville, Tennessee 37902–2526
(615) 549–4384

Louisville, Kentucky Office (A)

Verna V. Van Ness
Manager
HUD—Louisville Office
601 West Broadway
P.O. box 1044
Louisville, Kentucky 40201–1044
(502) 582–52251

Memphis, Tennessee Office (C)

Bob Atkins
Manager
HUD—Memphis Office
One Memphis Place
200 Jefferson Avenue
Suite 1200
Memphis, Tennessee 38103–2335
(901) 544–3367

Nashville, Tennessee Office (B)

John H. Fisher
Manager
HUD—Nashville Office
251 Cumberland Bend Drive
Suite 200
Nashville, Tennessee 37228–1803
(615) 736–5213

Orlando, Florida Office (C)

M. Jeanett Porter
Manager
HUD—Orlando Office
Langley Building
3751 Maguire Boulevard
Suite 270
Orlando, Florida 32803–3032
(407) 648–6441

Tampa, Florida Office (C)

George A. Milburn, Jr.
Manager
HUD—Tampa Office
Suite 700
Timberlake Federal Building Annex
501 East Polk Street
Tampa, Florida 33602–3945
(813) 228–2501

Region V

Jurisdiction: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Chicago, Illinois Regional Office

Joseph P. Garaffe
Acting Regional Administrator Regional Housing Commissioner
HUD—Chicago Regional Office
Ralph Metcalfe Federal Building
77 West Jackson Boulevard
Chicago Illinois 60604
(312) 353–5680

Cincinnati, Ohio Office (B)

William Harris
Manager
HUD—Cincinnati Office
Federal Office Building
Room 9002
550 Main Street
Cincinnati, Ohio 45202–3253
(513) 684–2884

Cleveland, Ohio Office (B)

George L. Engel
Manager
HUD—Cleveland Office
One Playhouse Square
1375 Euclid Avenue
Room 420
Cleveland, Ohio 44114–1670
(216) 522–4065

Columbus, Ohio Office (A)

Robert W. Dolin
Manager
HUD—Columbus Office
200 North High Street
Columbus, Ohio 43215–2499
(614) 469–5737

Detroit, Michigan Office (A)

Harry I. Sharrott
Manager
HUD—Detroit Office
Patrick V. McNamara Federal Building
477 Michigan Avenue
Detroit, Michigan 48226–2592
(313) 226–7900

Flint, Michigan Office (C)

Gary T. LeVine
Manager
HUD—Flint Office
The Federal Building
605 North Saginaw Street
Suite 200
Flint, Michigan 48502
(313) 766–5109

Grand Rapids, Michigan Office (B)

Ronald Weston
Manager
HUD—Grand Rapids Office
2922 Fuller Avenue, NE.
Grand Rapids, Michigan 49505–3499
(616) 456–2100

Indianapolis, Indiana Office (A)

J. Nicholas Shelley
Manager
HUD—Indianapolis Office
151 North Delaware Street
Indianapolis, Indiana 46204–2526
(317) 226–6303

Milwaukee, Wisconsin Office (A)

Delbert F. Reynolds
Manager
HUD—Milwaukee Office
Henry S. Reuss Federal Plaza
310 West Wisconsin Avenue
Suite 1380
Milwaukee, Wisconsin 53203–2289 (414) 297–3214

Minneapolis-St. Paul, Minnesota (A)

Thomas Feeney
Manager
HUD—Minneapolis-St. Paul Office
220 Second Street, South
Minneapolis, Minnesota 55401–2195
(612) 370–3000

Springfield, Illinois Office (D)

Lawrence Morgan
Chief
HUD—Springfield Office
509 West Capitol
Suite 206
Springfield, Illinois 62704–1906
(217) 492–4085

Regional VI

Jurisdiction: Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Fort Worth, Texas Regional Office

Walter G. Sevier
Acting Regional Administrator Regional Housing Commissioner
HUD—Fort Worth Regional Office
1600 Throckmorton
P.O. Box 2905
Fort Worth, Texas 76113–2905
(817) 885–5401

Albuquerque, New Mexico (C)

Michael R. Griego
Manager
HUD—Albuquerque Office
625 Truman Street, NW.
Albuquerque, New Mexico 87110
(505) 262–6463

Dallas, Texas Office (C)

Donald Babers
Manager
HUD—Dallas Office
525 Griffin Street
Room 860
Dallas, Texas 75202–5007
(214) 767–8359

Houston, Texas Office (B)

William Robertson, Jr.
Manager
HUD—Houston Office
Norfolk Tower
2211 Norfolk
Suite 200
Houston, Texas 77098–4096
(713) 653–3274

Little Rock, Arkansas Office (A)

John T. Suski
Manaer
HUD—Little Rock Office
Lafayette Building
523 Louisiana
Suite 200
Little Rock, Arkansas 72201
(501) 324–5931

Lubbock, Texas Office (C)

Henry E. Whitney
Manager
HUD—Lubbock Office
Federal Office Building
1205 Texas Avenue
Lubbock, Texas 79401–4093
(806) 743–7265

New Orleans, Louisiana Office (A)

Robert Vasquez
Manager
HUD—New Orleans Office
Fisk Federal Building
1661 Canal Street
Suite 3100
New Orleans, Louisiana 70112
(504) 589–7200

Oklahoma City, Oklahoma Office (A)

Edwin I. Gardner
Manager
HUD—Oklahoma City Office
Alfred P. Murrah Federal Building
200 NW. 5th Street
Oklahoma City, Oklahoma 73102–3202
(405) 231–4181

San Antonio, Texas Office (A)

A. Cynthia Leon
Manager
HUD—San Antonio Office
Washington Square Building
800 Dolorosa Street

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San Antonio, Texas 78207–4563
(512) 229–6800

Shreveport, Louisiana Office (C)

David E. Gleason
Manager
HUD—Shreveport Office
Joe D. Waggoner Federal Building
500 Fannin Street, #6B04
Shreveport, Louisiana 71101–3077
(318) 676–3385

Tulsa, Oklahoma Office (C)

(Vacant)
Manager
HUD—Tulsa Office
1516 South Boston Avenue
Suite 110
Tulsa, Oklahoma 74119–4032
(918) 581–7434

Region VII

Jurisdiction: Iowa, Kansas, Missouri, Nebraska

Kansas City, Kansas Regional Office

Elmer C. Binford
Acting Regional Administrator Regional Housing Commissioner
HUD—Kansas City Office
Gateway Tower II
400 State Avenue
Kansas City, Kansas 66101–2406
(913) 236–2162

Des Moines, Iowa Office (B)

William McNarney
Manager
HUD—Des Moines Office
Federal Building
210 Walnut Street
Room 239
Des Moines, Iowa 50309–2155
(515) 284–4512

Omaha, Nebraska Office (A)

Roger M. Massey
Manager
HUD—Omaha Office
10909 Mill Valley Road
Omaha, Nebraska 68154–3955
(402) 492–3100

St. Louis, Missouri Office (A)

Kenneth G. Lange
Manger
HUD—St. Louis Office
1222 Spruce Street
Room 3207
St. Louis, Missouri 63103–2836
(314) 539–6583

Region VIII

Jurisdiction: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Denver, Colorado Regional Office

Donald J. Dirksen
Acting Regional Administrator, Regional Housing Commissioner
HUD—Denver Regional Office
Executive Tower Building
1405 Curtis Street
Denver, Colorado 80202–2349
(303) 844–4513

Casper, Wyoming Office (D)

William Garrett
Chief
HUD—Casper Office
4225 Federal Office Building
100 East B Street
P.O. Box 120
Casper, Wyoming 82602–1918
(307) 261–5252

Fargo, North Dakota Office (D)

Keith Elliott
Chief
HUD—Fargo Office
Federal Building
P.O. Box 2483
657 2nd Avenue North
Fargo, North Dakota 58108–2483
(701) 239–5136

Helena, Montana Office (C)

Christian Kafentzis
Manager
HUD—Helena Office
Federal Office Building, Drawer 10095
302 South Park
Room 340
Helena, Montana 59626–0095
(406) 449–5205

Salt Lake City, Utah Office (C)

Richard Bell
Manager
HUD—Salt Lake City Office
257 E. 200 South
Suite 550
257 Tower Building
Salt Lake City, Utah 84111–2048
(801) 524–5379

Sioux Falls, South Dakota Office (D)

Don Olson
Chief
HUD—Sioux Falls Office
300 Building
300 North Dakota Street
Suite 116
Sioux Falls, South Dakota 57102–0311

Region IX

Jurisdiction: Arizona, California, Hawaii, Nevada, Guam, American Samoa

San Francisco, California Regional Office

John E. Wilson
Acting Regional Administrator, Regional Housing Commissioner
HUD—San Francisco Regional Office
Philip Burton Federal Building & U.S. Courthouse
450 Golden Gate Avenue
P.O. Box 36003
San Francisco, California 94102–3448
(415) 556–4752

Indian Programs Office

C. Raphael Mecham
Director
HUD—Indian Programs Office
Two Arizona Center
400 North 5th Street
Suite 1650
Phoenix, Arizona 85004–2361
(602) 379–4156

Fresno, California Office (C)

Lily Lee
Manager
HUD—Fresno Office
1630 East Shaw Avenue
Suite 138
Fresno, California 93710–8193
(209) 487–5033

Honolulu, Hawaii Office (A)

Gordon Y. Furutani
Manager
HUD—Honolulu Office
7 Waterfront Plaza
500 Ala Moana Blvd.
Suite 500
Honolulu, Hawaii 96813–4918
(808) 541–1323

Los Angeles, California Office (A)

Charles Ming
Manager
HUD—Los Angeles Office
1615 West Olympic Boulevard
Los Angeles, California 90015–3801
(213) 251–7122

Las Vegas, Nevada Office (C)

Andrew Robertson
Manager
HUD—Las Vegas Office
1500 East Tropicana Avenue, 2nd Floor
Las Vegas, Nevada 89119–6516
(702) 388–6500

Phoenix, Arizona Office (B)

Dwight A. Peterson
Manager
HUD—Phoenix Office
Two Arizona Center
400 North 5th Street
Suite 600
Phoenix, Arizona 85004
(602) 379–4434

Reno, Nevada Office (C)

Andrew D. Whitten, Jr.
Manager
HUD—Reno Office
1575 DeLucchi Lane
Suite 114
P.O. Box 30050
Reno, Nevada 89502–6581
(702) 784–5356

Sacramento, California Office (B)

Paul Pradia
Acting Manager
HUD—Sacramento Office
777 12th Street
Suite 200
Sacramento, California 95814–1977
(916) 551–1351

San Diego, California Office (C)

Charles J. Wilson
Manager
HUD—San Diego Office
Mission City Corporate Center
2365 Northside Drive
Suite 300
San Diego, California 92108–2712
(619) 557–5310

Santa Ana, California Office (C)

Earl Fields
Manager
HUD—Santa Ana Office
34 Civic Center Plaza
P.O. Box 12850
Santa Ana, California 92712–2850
(714) 836–2451

Tucson, Arizona Office (C)

Jeane Staley
Manager
HUD—Tucson Office
33 North Stone Avenue
Suite 700
Tucson, Arizona 85701
(602) 670–6237

Region X

Jurisdiction: Alaska, Idaho, Oregon, Washington

Seattle, Washington Regional Office

Lynn G. Stowell
Acting Regional Administrator, Regional Housing Commissioner
Seattle Federal Office Building
909 First Avenue
Suite 200
Seattle, Washington 98104–1000
(206) 220–5108

Anchorage, Alaska Office (A)

Arlene Patton
Manager
HUD—Anchorage Office
222 West 8th Avenue #64
Anchorage, Alaska 99513–7537
(907) 271–4170

Boise, Idaho Office (C)

Gary Gillespie
Manager
HUD—Boise Office
Suite 220, Park IV
800 Park Boulevard
Boise, Idaho 83712
(208) 334–1990

Portland, Oregon Office (A)

Richard C. Brinck
Manager
HUD—Portland Office
520 S.W. 6th Avenue
Portland, Oregon 97204–1596
(503) 326–2561

Spokane, Washington Office (C)

Keith R. Green
Manager
HUD—Spokane Office
Farm Credit Bank Building
8th Floor East
West 601 1st Avenue
Spokane, Washington 99204–0317
(509) 353–2510

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Part IV

Environmental Protection Agency

40 CFR Part 165
Pesticide Management and Disposal; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 165

[OPP–190000; FRL–3847–1]

RIN No. 2070–AB95

Pesticide Management and Disposal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes procedures for mandatory and voluntary recall actions taken under section 19(b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., and would establish criteria for acceptable storage and disposal plans which registrants may submit to the Agency to become eligible for reimbursement of storage costs under section 19(c) of FIFRA. In addition, this proposal would establish procedures for the indemnification of owners of suspended and canceled pesticides as authorized by section 15 of FIFRA. Finally, this document proposes to amend current regulations which address the Agency's responsibility for accepting for disposal suspended and canceled pesticides, to reflect changes made by the 1988 amendments to FIFRA.

DATES: Comments must be submitted on or before July 6, 1993.

ADDRESSES: Submit written comments, bearing the document identification number OPP-190000, by mail to: Public Docket and Freedom of Information Section, Field Operations Division (H-7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person deliver comments to: Rm. 1128, CM #2, 11921 Jefferson Davis Hwy., Arlington, VA.

Information submitted in any comment concerning the proposal may be claimed as confidential by marking any or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Comments will be available for public inspection in Room 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: David Stangel, Office of Compliance Monitoring (EN-342W), U. S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703)-308-8295.

SUPPLEMENTARY INFORMATION:

Electronic Availability: This document is available as an electronic file on *The Federal Bulletin Board* at 9 a.m. the day of publication in the **Federal Register**. By modem dial 202-512-1387 or call 202-512-1530 for disks or paper copies. This file is available in Postscript, Wordperfect 5.1, and ASCII.

The preamble to this proposed rule is organized into four units. Unit I provides the authority and background of this proposed rule. Unit II discusses the proposed changes to the current Acceptance Regulations found at 40 CFR part 165, subpart B. Unit III discusses the proposed approach for the recall regulations. Unit IV discusses the proposed criteria which would have to be met by registrants seeking reimbursement for storage costs incurred as a result of recall of a suspended and canceled pesticide. Unit V discusses the proposed procedures that would have to followed by owners of suspended and canceled pesticides in order to be indemnified for losses suffered as a result of suspension and cancellation.

I. Authority and Background

These proposed rules are issued pursuant to the authority given the Administrator of EPA in sections 8, 19 and 25 of FIFRA, 7 U.S.C. 136f, 136q and 136w.

Section 6 of FIFRA authorizes EPA to take certain actions to prohibit sale, distribution and use of pesticides that cause unreasonable adverse effects on the environment. An "unreasonable adverse effect" determination involves the weighing of the risks of using the pesticide against the benefits of that use. If a pesticide poses a risk that outweighs the benefits of continued use, the pesticide's registration may be canceled. A pesticide's registration is canceled by operation of law 30 days after the date the registrant receives a notice of the intent to cancel or the date of its publication in the **Federal Register**, whichever is later, unless by that date an adversely affected person requests a hearing. If action is necessary to prevent an imminent hazard to human health or the environment during the time required for cancellation, EPA may suspend a pesticide registration under FIFRA section 6(c), and at the same time issue a Notice of Intent to Cancel the registration. A suspension order may immediately prohibit all use, sale, and distribution of the pesticide.

Prior to amendment of FIFRA in 1988, section 19 of FIFRA authorized EPA to establish procedures and regulations for the disposal or storage of packages and containers of pesticides and for disposal or storage of excess amounts of such pesticides. Section 19 also required the Agency to accept pesticides suspended and canceled under section 6(c) for safe disposal if requested by the owner of the pesticide. Recommended procedures for storage and disposal, and acceptance regulations were promulgated in 1974 and are codified at 40 CFR part 165.

The 1988 amendments to FIFRA amended section 19 of the Act to give the Agency clearer and broader authority to regulate the storage, disposal, and transportation of registered pesticides as well as the storage, disposal, transportation, and recall of suspended and canceled pesticides. The amendments also eliminated the Agency's responsibility to conduct disposal activities, and limited payments of indemnification.

The rules being proposed today are the first segment of rules EPA is considering in implementing the 1988 amendment to section 19. At a later date, EPA intends to propose rules adding data requirements to part 158 regarding storage and disposal, and amending part 165 to add regulations on container design and residue removal. EPA is also considering rulemaking under section 19 on the storage and transportation of pesticides, and management of excess pesticides. Section 19 also grants EPA the authority to require registrants to show proof of their financial ability to carry out a recall. EPA, however, has decided not to propose financial responsibility requirements at this time. EPA does not have sufficient information to establish a workable financial responsibility scheme. After EPA has gained experience with the new provisions of section 19 concerning recall, EPA may consider proposing rules on demonstration of financial responsibility.

II. Acceptance

Prior to its amendment in 1988, FIFRA section 19 required EPA to accept suspended and subsequently canceled pesticides for safe disposal, upon request by the owner. For the past several years, EPA has been in the process of carrying out this statutory responsibility for ethylene dibromide (EDB), dinoseb, 2,4,5-T and silvex. The Agency has recently completed the disposal of EDB stock accepted under the previous section 19 and is no longer

accepting stocks of EDB for disposal. EPA is currently accepting for disposal those suspended and canceled pesticides containing the chemicals dinoseb, 2,4,5-T and silvex. The Agency has published notices in the **Federal Register** requesting holders of dinoseb, 2,4,5-T and silvex to identify themselves to the Agency and present any requests for disposal, so that orderly disposal of these pesticides may be completed.

The 1988 amendments to section 19 relieved EPA of its responsibility to accept suspended and subsequently canceled pesticides for safe disposal, instead leaving this responsibility with owners and registrants who hold such pesticides. The proposed regulations amend the language describing this responsibility. The principal revision would clarify that the Agency's obligation to accept pesticides for disposal is limited to the three pesticides suspended and canceled prior to 1988 for which it is completing its disposal obligations, namely dinoseb, 2,4,5-T and silvex. EPA's intent is to amend the Acceptance regulations only to the extent necessary to clarify EPA's remaining legal obligations under pre-1988 section 19. EPA is not soliciting comments on other aspects of the Acceptance regulations.

The Agency proposes to redesignate the current 40 CFR part 165 as subpart A with the intention of removing sections as new regulations are promulgated which would supersede the current requirements. After all identified stocks of dinoseb, 2,4,5-T and silvex have all been accepted for disposal, the Agency intends to delete this section from 40 CFR part 165.

III. Recalls

A. Overview

For the purposes of section 19, a recall is the process of moving stocks of a suspended and canceled pesticide, other than those owned by the registrant, from the owner of the pesticide back to the custody or control of the registrant of the pesticide and all the activities necessary to accomplish this in a safe and effective manner. A registrant would not be recalling his own inventory of a suspended and canceled pesticide because the registrant already has custody or control over these pesticides.

In addition to establishing requirements for recalling pesticides, this proposal would establish reporting and recordkeeping requirements for suspended and canceled pesticides owned by the registrant. This will assure that EPA can oversee the movement of suspended and canceled pesticides, including those that are outside the scope of the recall because they are owned by the registrant and also provide information that would assist EPA in evaluating claims for reimbursement of storage costs and indemnification.

B. Statutory provisions

Section 19(b) of FIFRA authorizes EPA to require, by order or by regulation, the recall of pesticides suspended and canceled under section 6 of the Act. If EPA finds that a recall of a pesticide is necessary to protect health or the environment, EPA shall order a recall of the pesticide. Section 19(b)(2) requires EPA to request a registrant to submit a voluntary recall plan for suspended and canceled pesticides if the Administrator finds that a voluntary recall may be as safe and effective as a mandatory recall. The registrant of the affected pesticide has 60 days from the date of the request to submit a voluntary recall plan. If EPA approves the plan, EPA would then order the registrant to conduct the recall in accordance with the plan unless the Administrator determines, after an informal hearing, that the plan is inadequate to protect health or the environment.

Under section 19(b)(3) of FIFRA, if EPA does not request a voluntary recall or finds a voluntary recall plan to be inadequate, EPA must issue a regulation that prescribes a plan for the mandatory recall of the pesticide. The regulation may apply to any person who is or was a registrant, distributor, or seller of the pesticide prior to its suspension and cancellation, or any successor in interest to such a person. Section 19(a)(2) and (a)(3) authorize EPA, by order or regulation, to issue requirements and procedures to be followed by any person who stores, transports, or disposes of stocks of a suspended and canceled pesticide, or containers or other materials containing the pesticide.

C. Approach

EPA considered several options for conducting recalls under section 19 and is proposing this rule taking into consideration the statutory mandate and the needs of both EPA and the regulated community.

EPA considered two options for voluntary recalls. The first option would be to prescribe the elements of a voluntary recall plan each time EPA requests a registrant to conduct one. This option would allow the Agency to be very specific about how the recall is to be conducted and tailor the terms of the recall to the pesticides being recalled. This option would leave registrants uncertain of their obligations when conducting any recalls, until the last minute.

The second option is to propose a rule prescribing the elements of a voluntary recall plan. This option would allow the registrant to know with greater certainty what is required of him when conducting a recall and would allow him to plan ahead so that he could meet the 60 day time limit for submission of a recall plan. This option would also benefit EPA by speeding up the voluntary recall process.

EPA is proposing the second option because it allows the registrant to know what would be required of him in the event of a voluntary recall, while still addressing all the elements the Agency considers necessary to conduct a safe and effective recall. This option would enable EPA to implement voluntary recalls more efficiently since EPA would not have to create program elements for the voluntary recall action each time one is requested. EPA may request that the registrant include special conditions for storage or handling of the recalled pesticide in the plan, as required by the physical or chemical properties of the pesticide, e.g., if the pesticide were corrosive or the pesticide containers were deteriorating.

The Agency considered two options for mandatory recalls. The first option would be to conduct rulemaking prescribing a plan for recall each time EPA determined that a mandatory recall was necessary. This option would save Agency resources until rulemaking was necessary to issue a regulation ordering a mandatory recall. The chief disadvantage of this option is that rulemaking would probably not be carried out in a timely manner when the necessity of a prompt recall of a suspended and canceled pesticide is taken into account. Further, EPA believes that registrants would want to know the terms of a mandatory recall to plan for one if it were to occur. The second option would be to propose generic regulations for mandatory recalls which would be applicable to all mandatory recalls. If a mandatory recall should be necessary, EPA would issue a rule that incorporates the generic provisions, and any special provisions of that particular mandatory recall. The Agency would allow an abbreviated comment period on the specific recall rule, since the major provisions of the recall would have already undergone notice and comment rulemaking. The primary advantage of this option is that it would afford the registrant the opportunity to develop in advance procedures to conduct a mandatory

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recall should one be necessary. Also, having generic provisions would provide the Agency with a framework for issuing recall regulations and so enable EPA to proceed more quickly with rules on a particular recall. The disadvantage is that this option may require a greater expenditure of EPA's resources and would be the most time consuming. Not only would EPA be issuing the generic provisions in the rules proposed today, but each time EPA determined a mandatory recall is necessary, EPA would be involved in an additional rulemaking process.

EPA has chosen to propose the second option for mandatory recalls. This would allow the registrant to establish procedures for conducting mandatory recalls with a degree of certainty that the requirements will not change, while speeding up the rulemaking process by allowing a shorter comment period on the proposed rule for a particular recall.

1. *Voluntary Recall*

As proposed, § 165.167 describes the elements that would have to be addressed in a voluntary recall plan for the plan to be protective of human health and the environment. When EPA requests submission of a voluntary recall plan, registrants would have to address all the elements found in § 165.167 in the recall plan they submit to EPA. EPA would then evaluate the adequacy of the plan in accordance with the criteria found in § 165.170 and, if approved, order the registrant to conduct the recall in accordance with the plan. In evaluating the plan EPA would determine if, among other things, the plan assures that a registrant would be able to:

a. Identify all holders of the suspended and canceled pesticide and obtain the necessary information concerning the holder's pesticides.

b. Provide holders of the registrant's pesticide with information on the recall.

c. Encourage holders to participate in the recall.

d. Recall the pesticide from the holders in a safe and timely manner.

e. Provide for proper transportation of the pesticide to the storage facility.

f. Provide storage for the recalled pesticides.

The Agency's primary objective in developing the elements of a recall plan was to develop a program for the safe and effective recall of suspended and canceled pesticides and allow for the oversight necessary to ensure that recalls are carried out according to the plans submitted. The Agency drew on its recent experience with registrants conducting recalls for the pesticides EDB, 2,4,5-T, silvex, and dinoseb. Based on this experience, EPA has determined that to be adequate, a plan should address a number of objectives. The plan should identify contacts within the registrant's company (§ 165.167(a)); identify holders of suspended and canceled pesticides (§ 165.167(b)); locate and inventory stocks of the suspended and canceled pesticides (§ 165.167(c)); provide information to holders on how to store and transport the pesticides in accordance with applicable law (§ 165.167(d)); transport and store recalled pesticides safely (§ 165.167(e), (f), (g)); and maintain and submit records necessary for the oversight of any recall action (§§ 165.172 and 165.174). In addition, § 165.167(h) would require registrants to evaluate management options for the recalled pesticides.

Under § 165.167(j), EPA would allow the registrant the opportunity to apply innovative strategies for conducting a voluntary recall. Where the circumstances of a particular voluntary recall action would not fit all the elements in § 165.167, a registrant may propose an alternative in the recall plan. However, the recall plan must demonstrate that it accomplishes the same objectives as the elements in § 165.167(a) through (i).

Registrants may wish to join together to develop and submit a joint recall plan for approval. EPA would encourage registrants to do this wherever possible. Once approved by EPA, the recall plan is binding for all the parties involved.

Section 19(b)(2) states that the Administrator shall approve a voluntary recall plan unless the Administrator determines, after an informal hearing, that the plan is inadequate to protect health or the environment. Neither the statute nor the legislative history indicate the specific congressional intent regarding procedures for the informal hearing. Generally, the informal procedures necessary to satisfy due process vary according to the circumstances of the case and the interest to be protected. In the absence of congressional guidance, EPA has discretion to determine what procedures are appropriate. Here, EPA considers procedures which provide registrants notice and an opportunity to present their views as adequate to satisfy due process. Accordingly, before EPA determines that a voluntary recall plan is inadequate to protect health or the environment, § 165.170(c) provides that the registrant will be notified of the plan's inadequacies and the basis for the inadequacies. Registrants will then have 15 days after receipt of the notification to present comments or arguments either orally or in writing to the Agency official responsible for making the final determination. If, after this informal hearing, EPA makes a final determination that the plan does not adequately protect health or the environment, it will notify the registrant by certified mail.

EPA intends to determine the adequacy of the plan by reviewing the plan submitted by the registrant and judging whether a recall conducted according to the plan is likely to be safe and effective in recalling suspended and canceled pesticides in a timely manner. The only issue for an informal hearing would be whether the plan is adequate to protect public health or the environment. EPA believes that providing a registrant the opportunity to present its views to the Agency before the Agency makes a final determination on the matter provides a satisfactory informal procedure.

In addition, EPA may, at any time, decide to reevaluate the adequacy of the plan to protect health or the environment. One example of circumstances that could lead to EPA reevaluating a plan would be the situation of a significant number of holders of the suspended and canceled pesticides failing to return their stocks to the registrant. Section 19(b) does not explicitly address the situation where a registrant cannot successfully carry out the recall according to its plan. However, section 19(b) does not preclude the Agency from reevaluating the adequacy of the plan, after approval of the plan. Based on quarterly and final reports, EPA expects to monitor the continued effectiveness and adequacy of the recall. Accordingly, as provided in § 165.170(d), upon such reevaluation, if EPA determines that the plan is inadequate to protect health or the environment, EPA may require a mandatory recall. Prior to finding the plan inadequate to protect health or the environment, EPA will follow the informal procedures as set forth at § 165.170(b) and (c). EPA believes that it is a reasonable interpretation of section 19(b)(2) that the Agency has authority to reevaluate plans if such action is necessary to achieve a safe and effective recall.

2. *Mandatory Recall*

As set forth in § 165.186, if EPA finds that a mandatory recall is appropriate, he would require the recall by issuance of a proposed rule in the **Federal Register**. Such a proposed rule would provide that the recall be carried out in accordance with requirements of § 165.190, the level in the distribution chain to which the recall is to extend, and any special terms of the recall that

EPA finds necessary for safe and effective recall of the pesticide, in addition to the generic requirements in § 165.190. The proposed rule would allow a brief comment period before EPA published a final regulation applicable to the particular suspended and canceled pesticide.

The final recall regulation would establish a date for initiation of the recall. Section 19(d)(2) of FIFRA waives the 60-day congressional review period under section 25(a)(4) for the final recall regulation. EPA may decide to delay the date for initiation of the mandatory recall until after the date for cessation of sales of existing stocks of the suspended and canceled pesticide. If the pesticide has already been suspended and canceled, the Administrator would issue a proposed rule requiring a recall for the pesticide in accordance with the published regulations. The proposed rule would allow a comment period before EPA published a final regulation applicable to the particular suspended and canceled pesticide.

Section 165.190 prescribes the steps which would have to be carried out in a mandatory recall and provides persons responsible for conducting these recalls the opportunity to create an infrastructure within their company for conducting a recall should one become necessary. Section 165.190 and the other generic regulations being proposed also provide a degree of certainty for registrants and others regarding the requirements for conducting a recall. The generic regulations also allow EPA to streamline the process for requiring a mandatory recall and assure that suspended and canceled pesticides are removed from the sale, distribution, and use chain in a timely manner.

EPA plans to make information collected under section 6(g) of FIFRA available to registrants to help them locate holders of their pesticides. Section 6(g) of FIFRA requires any producer or exporter of pesticides, registrant of a pesticide, applicant for registration of a pesticide, applicant for or holder of an experimental use permit, commercial applicator, or any person who distributes or sells a pesticide which is suspended or canceled under section 6 to report the amount of the pesticide they hold and the location of the pesticide. EPA has proposed a policy which will:

(1) Clarify the responsibilities of persons required to submit information under FIFRA section 6(g);

(2) Establish procedures that must be followed in order to comply with FIFRA section 6(g); and

(3) Clarify when FIFRA section 6(g) information must be submitted. EPA anticipates receiving this information prior to issuing a recall order or final recall regulation. In addition to section 6(g) information, registrants could also use the information they are required to maintain under section 8 of FIFRA to locate holders of their pesticides.

D. Recall Procedures

1. *General*

As previously discussed, voluntary recall plans cover the same elements as mandatory recall plans; however, two major differences between voluntary and mandatory recalls are who is responsible for conducting the recall and the deadlines for completing the mandatory recall. In voluntary recalls, EPA will request the registrant of a suspended and canceled pesticide to submit a voluntary recall plan and then order the registrant to conduct the recall in accordance with the approved plan. The registrant sets his own timetable for completion of the recall action, subject to EPA approval. For mandatory recalls, registrants must still develop a recall plan, but after EPA issues the regulation requiring implementation of the recall, any person who is or was a registrant, distributor or seller of the suspended or canceled pesticide prior to suspension and cancellation, or any successor in interest to such a person, could be required to conduct or participate in a mandatory recall action. EPA would specify the level in the chain of distribution to which the recall would extend, either at the time of the voluntary recall request or in the **Federal Register** notice proposing a mandatory recall of a suspended and canceled pesticide. In addition, the mandatory recall must be completed within 6 months of initiation.

EPA would normally request a voluntary recall plan or propose to require a mandatory recall in the Notice of Intent to Cancel a pesticide. There may be instances, however, where EPA would request a voluntary recall or require a mandatory recall of a pesticide which has been suspended and canceled for some time, or which has been the subject of an earlier voluntary recall. For instance, EPA may have allowed, at the time the pesticide was canceled, sales and use of existing stocks of the canceled pesticide for a specific period of time, anticipating that the existing stocks would be sold and used by a certain date based upon information known at the time. If EPA later learns or has information indicating that there may be large amounts of the pesticide still left in the distribution/use chain due to diminished use after the time period has expired, EPA may require a recall of the pesticide.

The Agency expects that registrants would begin developing procedures for recalling suspended and canceled pesticides well in advance of an actual recall request. This would allow the registrant to evaluate its ability to conduct both a voluntary and a mandatory recall and make any changes necessary in its operations enabling it to conduct a recall in the most efficient manner possible.

2. *Conducting a Recall*

In the voluntary recall plan, under § 165.167(a), the registrant can designate persons who will act as its agents (i.e., distributors, dealers, or retailers) in contacting persons who may be holders of the suspended and canceled pesticide. However, the registrant remains ultimately responsible for the actions of its agents and compliance with the terms of the recall.

Pursuant to §§ 165.167(b)(2) and 165.190(e), registrants would have an obligation to accept their own suspended and canceled pesticides from persons other than those identified in the recall plan.

A recall conducted under subpart I or J of part 165 would be considered complete when the registrant has recalled all its pesticides from those persons who have offered the pesticide for recall and the pesticides have either been placed in storage or a management option chosen for the pesticide has been completed.

EPA recognizes the possibility that some quantities of suspended and canceled pesticides may not be discovered until after a recall is completed, particularly in the case of mandatory recalls which must be completed in 6 months. EPA's experience with its disposal program has been that these late discoveries are typically by end users holding small quantities of the material. These holders either failed to hear about EPA's disposal operations or discovered additional material previously overlooked. The recall regulations being proposed today put the burden on registrants and, in the case of mandatory recalls, on distributors and retailers to identify and contact their customers. This should help assure that everyone who is involved in the recall is notified. Nevertheless, despite best efforts, someone may for legitimate reasons not hear about the recall until it is over. EPA solicits comments on whether the regulations should provide for

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extending the recall for a period of time upon receipt of information showing that some holders may not be aware of the recall or have not participated in the recall in a timely manner despite the registrant's best efforts.

As proposed, registrants, distributors and dealers who sold and distributed the suspended and canceled pesticide prior to its suspension and cancellation, and any successors in interest to such persons, could be subject to a regulation requiring a mandatory recall. EPA has determined that because of the nature of the mandatory recall and the circumstances under which the Agency anticipates a mandatory recall would be required, (i.e., registrants unwilling or unable to conduct a voluntary recall, an inadequate voluntary recall plan is submitted, or compelling reasons for requiring a mandatory recall without first affording registrants the opportunity to submit a voluntary recall plan), requiring registrants, distributors and dealers to participate is generally the most effective means of conducting a mandatory recall.

As set forth in § 165.190, registrants would be responsible for contacting their customers within 20 days of the effective date of the recall, advising them of the terms of the recall, providing them with the name, address and telephone number of the person responsible for conducting the recall, providing them with a copy of the recall plan and determining whether their customers are holding stocks of the recalled pesticide. By customers, EPA means persons to whom a registrant's pesticide was sold or distributed. If the registrant's customer is holding stocks of the recalled pesticide, the registrant would have to determine the types, amount and location of the pesticide being held and provide his customer with the information listed in § 165.190(d).

The registrant's customer (if he is a distributor or seller and not an end-user) in turn would be responsible, as a recaller himself, for contacting his customers and determining whether they are holding stocks of the pesticide to be recalled. If they are, the registrant's customer would determine the types, amount and location of the pesticide being held, and provide the holder with the information listed in § 165.190(f). Additionally, the registrant's customer would either offer to assist in collecting and storing the holder's recalled pesticide himself, or after determining the types, amount and location of the recalled pesticide being held, refer the holder to the registrant with the information collected and have the registrant provide for transportation to the registrant's designated storage facility as specified in the registrant's plan. If his customer is a distributor or seller, the registrant's customer would be required to provide the distributor or seller with a copy of the registrant's recall plan. This process would continue down the chain of distribution and sale to the level required by the rule. Each person in the chain would be responsible for contacting all his customers who may be holding the recalled pesticide. Distributors and dealers would be responsible for providing the registrant with all the recordkeeping information necessary for the registrant to submit interim and final reports as required.

The proposed regulations under § 165.190 require that certain deadlines be met in the conduct of the mandatory recall. Section 165.190(c) requires registrants to develop a written plan for conducting a recall within 10 days of the effective date for initiation of the recall and to distribute the plan to their customers within 20 days of the effective date for the recall. In addition, § 165.190(d)(1), requires all persons responsible for conducting a recall provide EPA with their name, address and telephone number within 10 days after receipt of the recall plan. Section 165.190(j) requires that the registrant have recalled all pesticides offered for recall within 6 months after the effective date for initiation of the recall. EPA is very concerned that mandatory recalls be completed in a timely manner. Because the pesticides have been suspended and canceled for risk reasons, the length of time to conclude the cancellation and rulemaking for a mandatory recall makes it necessary to conduct the recall as swiftly as possible in order to consolidate and safely store the stocks of the pesticide. The notice given the affected community through the rulemaking process allows those persons responsible for conducting the recall sufficient time to plan their recall activities; thus six months after the regulation is effective is a reasonable time for conducting the recall. However, with the ample notice given the affected community through the rulemaking process in regard to their responsibilities in the event of a mandatory recall, persons responsible for conducting a recall should be able to comply with these deadlines.

3. *Transportation and Storage of Recalled Pesticides*

Under section 19(b)(4)(C) of the Act, EPA may require that any person subject to a recall regulation must "provide for proper transportation of the pesticide to a storage facility," if transportation is requested by the holder. EPA interprets "provide for proper transportation" to include paying the cost of transportation.

Section 165.167(e) requires the registrant to include in the recall plan a description of how the registrant intends to provide for transportation. The description must inform EPA of the method of transportation, who is bearing the cost of transportation, and, if someone other than the registrant is paying transportation costs, why. EPA will review this portion of the plan to assure that registrants are meeting the requirement for providing transportation upon request. Failure to meet this requirement could result in EPA finding that the plan is inadequate to protect health or the environment.

For mandatory recalls, EPA is proposing in § 165.190(e) that registrants must provide for transportation, if requested by a holder of the registrant's pesticide. EPA considered proposing that all persons subject to the recall regulation must provide for transportation, but decided that having the registrant alone responsible for providing for transportation should result in more efficient transfer of the pesticides to the registrant, and avoid unnecessary movement of the materials. In those instances where persons subject to the recall regulation other than the registrant provide transportation for a holder, as specified in the registrant's recall plan, such persons may seek reimbursement of transportation costs from the registrant.

EPA considers it reasonable to interpret section 19(b)(4)(C) of the Act as requiring the registrant to pay transportation costs because such requirement will help promote safe and effective recalls. It has been EPA's past experience with its disposal operations that the cost of transportation has been a disincentive to participation by holders. For example, some holders of the suspended and canceled pesticide chose to continue to store the pesticide rather than ship it to the EPA for disposal. To assist holders that were unable or unwilling to transport their stocks of suspended and canceled pesticides to EPA, several states spent considerable money, time and manpower to set up programs for collection and transport of the material to EPA. The Maine Board of Pesticides Control collected, packed and shipped over 2,200 gallons of dinoseb. Texas, New York and Wisconsin have collected and shipped 2,4,5-T and silvex. Washington developed a program to collect dinoseb. State officials feel strongly that the cost of transportation is a disincentive to participation in EPA's disposal program, especially in the case of small holders. Collection by the recaller or local and State governments increases participation.

Requiring registrants to provide for transportation at no cost to holders (when requested to provide transportation) should make the recall more effective in achieving return of all stocks. Also, transferring technical and financial responsibility for handling the material to the pesticide registrant who knows best how to manage the material safely should aid in achieving a safe recall.

The legislative history on section 19 of the Act supports the interpretation that "providing for" transportation includes payment for transportation and that registrants should bear transportation costs, if requested. According to the Report from the Senate Committee on Agriculture, Nutrition, and Forestry, Congress amended section 19 of the Act so as to shift the burden for transporting, storing, and disposing of suspended and canceled pesticides to the pesticide registrant. S. Rept. 100-346, 100 Cong. 2nd Sess. 8 (May 13, 1988). "The registrants have the greatest knowledge of how to handle the chemical safely and possess the technical expertise and the funds to deal with the products under agency oversight." Id.

The requirement in § 165.190(a) for a registrant to provide for transportation upon request of any holder of his pesticide is subject to section 19(d)(1) of the Act, which provides that sellers and buyers may make any agreement regarding the ultimate allocation of the costs of transportation. Registrants could show in comments on a proposed rule for a particular recall that they have such agreements, or could provide other evidence showing that payment of transportation would not be necessary for a safe and effective recall. Section 165.190(a)(5) would require the registrant to inform, in writing, any end-user who has declined to participate in the recall because of transportation costs, that the registrant will pay for transportation if requested to do so. End-users may not be aware that they can ask the recaller to provide transportation and its been EPA's experience that endusers are the holders most seriously at risk of not participating due to the cost of transportation.

EPA believes that requiring registrants to pay transportation costs, if requested, will also help promote safe and effective voluntary recalls. However, EPA intends that registrants will have greater flexibility in carrying out voluntary recalls than mandatory recalls. Also, EPA recognizes that allowing flexibility for working out provisions for transportation may be desirable, since registrants are only required to provide transportation if requested and registrants may enter into voluntary agreements concerning the ultimate allocation of costs. Section 165.167(e) provides the registrant such flexibility. However, EPA is concerned about end-users refusing to participate in a recall because of transportation costs. Therefore, in determining the adequacy of a plan under § 165.16, EPA will scrutinize the plan to determine what steps the registrant will take to address this problem.

Proposed § 165.167(d) would require the recall plan to describe the information to be furnished to the holder on the provision for transportation, and such information must include a description of the registrant's responsibilities and planned activities with respect to transportation of the pesticide. Among other things, registrants may inform holders that they will provide for transportation, that holders may furnish their own transportation and seek reimbursement from the registrant, or that transportation costs are negotiable and provide steps the holders can take to negotiate such costs.

Transportation and storage of the recalled pesticide under both voluntary and mandatory recalls must be in accordance with applicable DOT regulations, and all other applicable Federal regulations, and State or local hazardous and solid waste regulations. Under the Resource Conservation and Recovery Act (RCRA) regulations, commercial chemical products such as pesticides become "solid wastes" (and thus, potentially, hazardous wastes) at the point where the pesticide's holder (i.e., end-user, dealer, distributor, or registrant) decides to discard them. If a suspended and canceled pesticide is listed in 40 CFR 261.31 or 261.33, or exhibits a hazardous waste characteristic identified in 40 CFR 261.21 through 261.24, it becomes a hazardous waste at the point when its holder decides to discard it.

Section 19(b)(4) of the Act also provides that EPA may require any person subject to a recall regulation to "accept and store" the recalled pesticides. EPA interprets this language to include the responsibility for payment of storage costs. For similar reasons discussed above concerning transportation costs, EPA is proposing that the registrant be responsible for the costs of storage, subject, of course, to section 19(d)(1) of the Act concerning voluntary agreements between buyers and sellers. EPA believes that interpreting "accept and store" to include responsibility for storage costs accords with the congressional intent of placing the burden on registrants because they have the technical expertise and the funds to handle the pesticides. Section 165.190(b) of the CFR provides that any recaller in the distribution chain that assists the registrant in making storage facilities available and storing pesticides, if specified in the recall plan or requested by the registrant, may seek reimbursement of storage costs for the recalled pesticides from the registrant. EPA's interpretation of section 19(b)(4) of the Act in requiring the registrant to pay all storage costs incurred as a result of the recall also fits the congressional scheme in section 19 of the Act because Congress, in section 19(c) of the Act, provided for only registrants and no one else to be reimbursed for a portion of the storage costs incurred as a result of a recall under section 19(b) of the Act.

EPA is considering requiring that registrants include in the recall plan for both voluntary and mandatory recalls, a statement as to whether the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. 11002, applies to the storage of the suspended and canceled pesticide. A recent report completed by the EPA Office of Inspector General cited as a problem that few of the storage facilities used for storage of EDB and dinoseb had notified their local emergency planning committee (LEPC) that suspended and canceled pesticides which were hazardous wastes were being stored in the facility. Persons storing the pesticide may have been unaware of EPCRA's requirements. A suspended and canceled pesticide must be reported to an LEPC by a storage facility only when the material has been declared a waste and the pesticide is either a listed or characteristic waste under RCRA. Sections 165.167(f) and 165.190(h) of the CFR would require that the registrant include a statement in the recall plan on the applicability of EPCRA and a description of the notification requirement. The Agency solicits comment on this proposed requirement of the regulations or any alternatives to this requirement which could help inform persons storing the pesticide about EPCRA's applicability.

4. *Management Options.*

The holder who makes the decision to discard controls the point at which the pesticide becomes a solid waste; if the pesticide is a hazardous waste, RCRA regulations govern its transportation and

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storage from that point on. Thus, if an enduser decides to dispose of the suspended and canceled pesticides in his possession instead of returning them to the registrant through a recall program, the pesticide would be considered a solid waste subject to RCRA. The end-user may decide to participate in the recall program relying on the registrant's selection of management options for determining the status of the recalled pesticide. When registrants initially notify holders about the recall, registrants must also provide information to holders on the management options being considered. Then, after the registrant takes possession of the recalled pesticides, the proposed regulations at §§ 165.167 and 165.190 require the registrant to evaluate the options for management of the recalled pesticide and to provide such information on the options being pursued in an update of the recall plan. EPA recognizes that in certain cases the registrant may elect to have the pesticide picked up from the end-user and taken directly to a disposal facility instead of collecting such material at one or more central storage areas. In those situations where the end-user agrees to participate in a recall and the material is to go directly to a disposal site, the recalled pesticide, if it is a hazardous waste, would be subject to RCRA regulations.

Ultimately, EPA expects that more pesticides will be collected during the recall if the registrant makes the decision about whether to discard the material at some point after taking possession of the pesticide from the holder. If an end-user becomes subject to RCRA regulations prior to the recall because of a registrant's decision as to the waste status of the recalled pesticide, EPA is concerned that less material will be collected during the recall and that pesticides subject to the recall may be disposed of improperly. However, EPA would like comments on whether determinations that suspended and canceled pesticides are hazardous wastes in fact cause end-users to improperly dispose of them, rather than participating in the recall. EPA also requests commenters to provide information on instances where they believe improper disposal has occurred under these circumstances. EPA has recently proposed (58 FR 8102; Feb. 11, 1993) a set "special collection system" regulations under RCRA subtitle C that would apply to suspended and canceled pesticides that are recalled under FIFRA section 19(b), where the pesticides are hazardous wastes. These regulations, in combination with the forthcoming technical standards for section 19(b) recalled pesticides, would ensure the safe handling of such pesticides as they are returned up the distribution chain. Once they reach a RCRA-permitted or interim status facility, their management is fully controlled under the current RCRA regulations.

Pesticides owned by the registrant, as well as those recalled by the registrant must be stored in accordance with the terms of the cancellation notice, and all applicable State, Federal, and local laws and regulations. The registrant's obligation to manage its suspended and canceled pesticides in accordance with all applicable requirements does not end when the recall is completed, but rather for as long as the pesticides are in the registrant's control.

If the pesticides are hazardous wastes under the RCRA, a permit is required for storage. Under the Land Disposal Restrictions program, restricted hazardous wastes may be stored solely for the purpose of accumulating sufficient quantities of waste to facilitate proper treatment, recovery or disposal (see 40 CFR 268.50). For storage of less than 1 year, the burden of proof that storage is solely for the purpose stated above lies with EPA. After 1 year the burden of proof shifts to the facility owner or operator.

Under both § 165.167(h) (voluntary recalls) and § 165.190(i) (mandatory recalls), registrants would be responsible for evaluating the management options to be implemented for their suspended and canceled pesticides after the pesticides are recalled and in their custody and would be required to report to EPA on the options being considered (§§ 165.174(b)(4) and 165.194(e)(4)). EPA intends registrants to evaluate available management options. Distributors and dealers in a mandatory recall action would not be responsible for evaluating management options.

The "management options" EPA expects registrants to consider encompass activities to manage the pesticide after it has been recalled, including, but not limited to, legal pesticide or nonpesticide use, recycling (e.g., recovery), treatment (e.g., neutralization, deactivation of the active ingredient, degradation), burning for energy or materials recovery, as well as disposal. EPA invites comment on the definition of the term "management options" in §§ 165.163 and 165.183.

The purpose of requiring consideration of a range of management options is to encourage the development and consideration of alternatives to disposal. Use, reuse and other forms of recycling may be beneficial because they are more likely to result in resource conservation and pollution prevention compared to treatment and disposal. Registrants may be able to minimize the amount of pesticides requiring disposal by recycling or selling the material for nonpesticidal use. If a registrant wishes to export a suspended and canceled pesticide, he should be advised that any export must be in compliance with section 17 of FIFRA, the Agency's export policy and the terms and conditions of the cancellation notice. Such exporters will be closely scrutinized by the Agency.

5. *Recordkeeping*

The recordkeeping requirements proposed in § 165.172 is similar to that requested by EPA in the past when it requested registrants to conduct recalls of 2,4,5-T, silvex, EDB, and dinoseb and EPA has determined that the recordkeeping is necessary for the registrant to be able to verify the effectiveness of the recall as required by section 19(b)(5)(B) of the Act. The recordkeeping would also provide the Agency with the information it needs to be able to track the suspended and canceled pesticide (both recalled pesticides and pesticides owned by the registrant) throughout the recall process to disposal or other management options. The proposed rule would not require the records to be kept or reported in a specified format. EPA solicits comments on whether a suggested format or reporting form should be used to report this information. The information would have to be available and readily accessible in the event of an inspection by EPA or its designated representative and presented in a clear and legible format when reported to EPA.

EPA anticipates providing information regarding the conduct and outcome of the recall to the States so that the States may be able to monitor not only the recall, if they have a cooperative enforcement agreement with EPA, but also any storage and disposal activities taking place in their State.

Section 19(b)(5)(B) of the Act requires that the registrant be able to verify the effectiveness of the recall. The recordkeeping proposed in §§ 165.172 and 165.192 is necessary for the registrant to verify the effectiveness of the recall. EPA expects that the registrant could analyze the information set forth in these provisions to determine, among other things, how many persons identified by the registrant were contacted, how many persons outside those identified by the registrant offered their pesticide for

recall, how many persons who held suspended and canceled pesticides refused recall, and any problems encountered during the recall.

The reporting proposed by §§ 165.174 and 165.194 is necessary for EPA to carry out its mandate to assure the safe and effective recall of suspended and canceled pesticides. Review of the progress reports of the recall will allow the Agency to monitor the recall and identify any problems that may arise during the course of the recall, such as lack of participation in the recall by holders or problems arranging for transportation which make it likely that a registrant may not be able to complete the recall as scheduled. Reporting on the outcome of a recall is the final step in the recall procedure and assures EPA that the recall has been carried out according to plan and that pesticides are being stored and managed safely.

IV. Storage and Disposal Plans

A. Background

In 1988, Congress amended FIFRA section 19 to eliminate EPA's responsibility for disposal of suspended and canceled pesticides, and shifted the responsibility to registrants. When EPA takes action under section 6 of FIFRA to suspend registrations of a pesticide, and such registrations are subsequently canceled, EPA may determine under section 19(b) that a recall of the pesticides is necessary to protect health or the environment. If the Agency determines that a recall is necessary, section 19(c) requires the Agency to share in a portion of the costs of storing the pesticides recalled under section 19(b). The Agency will reimburse the registrant for part of the storage costs incurred for the recalled pesticide in accordance with the statutory allocation of FIFRA section 19(c)(2). Only registrants are eligible for cost sharing under section 19(c); other persons who are required to recall pesticides under a mandatory recall or who participate in a recall are not eligible for cost sharing.

Registrants who wish to become eligible for reimbursement of storage costs must submit a storage and disposal plan to EPA that meets criteria established in this regulation. Only registrants with an approved storage and disposal plan will be eligible for reimbursement. EPA is proposing to establish criteria which storage and disposal plans must meet and set out procedures for registrants to follow in submitting claims for reimbursement of storage costs. Registrants who recall a pesticide under section 19(b) of FIFRA but do not elect to claim reimbursement do not have to submit a storage and disposal plan.

B. Cost-Sharing Schedule

Section 19(c)(2) establishes a schedule for sharing storage costs with the intent of providing incentives to both manufacturers and EPA to expedite the safe disposal of the materials. The Agency must reimburse the registrant, on request, as follows:

1. None of the costs incurred by the registrant before the date of submission of the plan to the Agency.
2. All of the costs (100%) incurred by the registrant after the date of submission of the plan to the Agency or the date of cancellation of the registration of the pesticide, whichever is later, but before the approval of the plan by the Administrator.
3. Half of the costs (50%) incurred by the registrant during the 1-year period beginning on the date of the approval of the plan by the Agency or the date of cancellation of the registration of the pesticide, whichever is later.
4. None of the costs incurred by the registrant during the 3-year period beginning on the 366th day following approval of the plan by the Agency or the date of cancellation of the registration of the pesticide, whichever is later.
5. One quarter of the costs (25%) incurred by the registrant during the period beginning on the first day of the 5th year following the date of approval of the plan by the Agency or the date of cancellation of the registration of the pesticide, whichever is later, and ending on the date that a disposal permit for the pesticide is issued by a State or EPA region, or an alternative plan for disposal of the pesticide in accordance with applicable law has been developed.

C. Storage and Disposal Plans

Section 19(c)(1) states that under certain circumstances registrants may be reimbursed for a portion of the storage costs incurred as a result of a recall; it does not provide for reimbursement of storage costs for dealers, distributors or end users.

The statute also makes clear that only recalls carried out under section 19(b) will qualify the registrant for reimbursement. Recalls initiated by the registrant other than pursuant to section 19(b) will not entitle the registrant to reimbursement of storage costs.

Registrants would also not be reimbursed for storage costs incurred for their own inventory of suspended and canceled pesticides. Only costs incurred for storing pesticides received from others by the registrant through the recall process are reimbursable. Pesticides which are owned by the registrant at the time of initiation of the recall, even if the pesticide is in the possession of someone other than the registrant, are not eligible for reimbursement claims.

Under section 19(c) of the Act, registrants must submit a storage and disposal plan for recalled pesticides "as soon as practicable after the suspension." In § 165.205(c), EPA is proposing that registrants submit a storage and disposal plan no later than either the date the voluntary recall plan is requested to be submitted; or 60 days after publication in the **Federal Register** of a proposed rule prescribing a mandatory recall. EPA decided that it is more appropriate to link submission of a storage and disposal plan to a recall than to specify a time period after the suspension because pesticides suspended under section 6(c) of FIFRA may be canceled at varying times, depending in part on whether a registrant challenges the cancellation. Requiring registrants to submit a storage and disposal plan before the registrant actually begins recalling pesticides will help assure that the registrant has planned in advance for the storage and management of the pesticides to be recalled. Also, the registrant should have more specific information to submit in a storage and management plan as a result of beginning to plan for a recall.

If EPA allows sale and distribution of existing stocks after cancellation, and EPA delays ordering a recall until after cessation of the existing stocks period, registrants will also be able to delay submission of a storage and disposal plan. In such situations, registrants would submit a plan no later than the two dates mentioned above.

D. Criteria for Storage and Disposal Plans

Congress directed EPA to establish minimum criteria for storage and disposal plans in order to judge the adequacy of the plan. The criteria must be designed so that EPA can reject a plan that clearly does not provide a scheme for safe storage and safe, practicable disposal of the recalled pesticides that is reasonable in its general approach. (Sen. Rept. 100-346, 100th Cong. 2d Sess. 76 (May 9, 1988); H. Rept. 100-339, 100th Cong. 2d Sess. 53 (Sept. 16, 1988)).

Based on its own experience with arranging for safe disposal of pesticides, EPA has developed minimum criteria against which the registrant's plan will be judged. As a general matter, the plan must provide a framework for

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accomplishing safe storage and disposal of the pesticides. Section 165.207 lists the criteria for evaluating whether a storage and disposal plan provides this framework.

First, the plan must show that storage will be in accordance with applicable laws and regulations. EPA may set out specific requirements for storage in the cancellation order. State law that applies to storage of the pesticides will vary, and the Federal law that applies will depend on the circumstances and the material to be stored. Section 165.207(a) requires a registrant to indicate what Federal and State laws apply to the registrant's storage of the materials and the steps the registrant would take to meet those requirements. If the suspension or cancellation order prescribes additional conditions for storage, these must also be addressed by the registrant in the plan. EPA expects a fairly detailed discussion concerning the registrant's plans for storage and will examine the sections of the plan addressing the elements in § 165.208(a), (d), (e), and (f) for this discussion.

Second, § 165.207(b) requires that the plan must also show that the registrant will consider available management options for handling the recalled pesticides. As discussed in the preamble to subpart I (Unit III. C. of this preamble), management options encompass activities to manage the pesticide after it has been recalled, including, but not limited to, legal pesticide or non-pesticide use, recycling (e.g., recovery), treatment (e.g., neutralization, deactivation of the active ingredient, degradation), burning for energy or materials recovery, and disposal. Requiring registrants to consider all management options in a disposal plan is supported by the legislative history. See 134 Cong. Rec. S13454 (Sept. 28, 1988) (statement by Sen. Leahy). The purpose of requiring consideration of a range of management options is to encourage the development and consideration of alternatives to disposal. Use, reuse and other forms of recycling may be beneficial because they generally result in resource conservation and reduced pollution compared to treatment and disposal. Registrants may be able to minimize the amount of pesticides requiring disposal by recycling or selling the material for nonpesticidal use.

The third criteria requires that the plan adequately address each required element of a storage and disposal plan as described in § 165.208. (§ 165.208 is discussed more fully in the next unit, E.) A plan "adequately" addresses each element if the registrant has made a good faith effort to discuss each element. A response that the registrant "has no information" on a particular element would not be a good faith effort in preparing a storage and disposal plan. Another example of a plan inadequately addressing all elements would be where the information provided in addressing one element contradicts other information in the plan. In such cases, EPA would reject the plan and request that the registrant resubmit a corrected plan.

Finally, § 165.207(d) would require that a plan must be signed by the registrant or an authorized representative.

E. Storage and Disposal Plan Contents

Essential elements of planning for storage and disposal include the determination of conditions necessary to ensure safe storage of the recalled material, assignment of persons responsible for storage and disposal, identification of recalled pesticides (amount, formulation, container size and type), location of suitable and available storage facilities, and identification of management options for the material.

Section 165.208(a) requires that the plan must include a general discussion of the registrant's scheme for accomplishing safe storage of the pesticide. In addition to a discussion of the requirements of applicable law and how the registrant will meet these requirements, registrants must provide information they have on the particular storage needs for the recalled material. The registrant is in the best position to know how the materials can be safely stored. If the pesticides and their containers require particular precautions with regard to storage, the plan must address the precautions that must be taken.

The plan must include the names of the person employed by the registrant who will be responsible for overseeing the storage of the pesticide and the disposal of the pesticide (§ 165.208(c)). This person would be the contact for questions the Agency has concerning the pesticides or the plan. The registrant is responsible for keeping the Agency informed of any changes in the contact person.

Section 165.208(d) requires that the plan describe the registrant's own inventory of suspended and canceled pesticides as well as recalled stocks. EPA considers information on the registrant's own inventory necessary for later evaluation of storage reimbursement claims.

In identifying recalled stocks the registrant anticipates collecting, EPA would allow the registrant to estimate the quantities for each formulation and container type if the plan is submitted before the recall is complete. Until the recall is complete, registrants may not have exact information. If registrants have completed a recall before submitting a storage and disposal plan, then the registrant must provide the exact information, rather than estimates.

EPA requires storage and disposal plans to identify each storage facility and their locations, and to provide the storage capacity for each listed facility (§ 165.208(e)). The storage capacity estimates are to be in units of gallons or pounds. This standardization of units of measure will facilitate quick review of the plans. These units of measure were chosen based on the Agency's past experience with solicitation of contracts for storage and disposal of pesticides. Registrants must indicate whether they believe that the stated storage capacity will be sufficient to handle the amount of pesticides to be recalled. If the storage capacity is less than needed to accommodate the recalled pesticides, then the plan must set out the steps the registrant will take to either locate additional storage capacity or manage the recalled pesticides so that storage capacity will not be exceeded. If the registrant plans to store recalled stocks alongside the registrant's own inventory, the registrant should provide this information.

Additionally, § 165.208(e) asks for information on anticipated storage costs. This information will be used by the Agency in evaluating claims for reimbursement of storage costs as well as preparing requests for reimbursement funds from Congress. EPA realizes that the plan will only provide cost estimates, but in order to have meaningful estimates, the Agency asks the registrant to provide the basis for calculating the estimated storage costs.

Section 165.208(f) requires the registrant to describe the available management options or the steps being taken to determine the options for handling the recalled pesticides. As described elsewhere in this preamble, the registrants are required to update the plans. With each update of the storage and disposal plan, the registrant must describe the progress made in the management or disposal of the recalled pesticide. Pesticides which will be disposed of as waste may be subject to applicable RCRA regulations relating to storage, transportation and disposal.

Section 165.208(g) requires that the plan list the location where records will be stored. This will facilitate the inspection of records by the Agency. To the extent the registrant has already provided any of the above information

to EPA in a recall plan, the registrant may refer to appropriate sections of the recall plan instead of resubmitting information.

F. Approval, Notification, and Updating Plans

Storage and disposal plans submitted by the registrant will have to meet the criteria listed in this regulation in order to be approved by EPA and make the registrant eligible for reimbursement of storage costs. Congress intended that EPA be able to reject a plan that does not provide a scheme for safe storage and disposal or that has not been submitted in good faith. (See Sen. Rept. 100-346, 100th Cong. 2d Sess. 76 (May 9, 1988); H. Rept. 100-339, 100th Cong. 2d Sess. 53 (Sept. 16, 1988)).

The Agency will approve plans that meet the minimum criteria and notify registrants of the date of approval. The Agency's approval of a storage and disposal plan establishes the end of the period for reimbursement of storage costs at the 100% level.

The Agency anticipates that there will be cases where the contents of a plan indicate that the plan was submitted in good faith, but that corrections need to be made. In such cases, instead of rejecting a plan, the Agency would conditionally approve a plan and require that the registrant submit a corrected plan within 30 days. If the plan is corrected and resubmitted in 30 days, the date of conditional approval would be the date that establishes the end of the 100% reimbursement period.

If the registrant fails to correct and resubmit the plan within 30 days, or the plan is unacceptable for another reason, the plan would be rejected and the registrant would not be entitled to reimbursement of storage costs for this period. In such situations, the date the registrant submits a corrected plan would establish the beginning of the 100% reimbursement period. In other words, until the registrant submits a corrected plan, the Agency's liability for the 100% reimbursement period does not begin.

The registrant must update or modify the plan as the information submitted in the plan changes, particularly for significant changes such as completion of the recall (so that estimates can be replaced with exact amounts) or changes in the contact persons or storage sites. An updated plan would be required with each claim for reimbursement of storage costs. Additionally, after reviewing and approving the plans, the Agency may ask for modifications. These modifications must be reflected in the updated plan submitted with a claim for reimbursement of storage costs. Failure to modify the plan may result in a denial of the reimbursement claim.

G. Reimbursement of Storage Costs

Section 165.212 provides that the Agency would only reimburse storage costs which are reasonable and necessary, and consistent with the approved storage and disposal plan. The claims would be reviewed by the Agency and any unreasonable costs would be rejected. The Agency requests comments describing the storage costs a registrant might incur. Costs not considered reimbursable include: cost incurred for the acquisition of permits, transportation of recalled pesticides to a storage facility, transportation from one storage facility to another, repackaging costs, the cleanup of spills, structural expansion, or remediation of site contamination.

H. Procedures for Submission of Storage Reimbursement Claims

Section 165.214 sets forth the proposed procedures for submitting a storage cost reimbursement claim to the Agency and describes the documentation that must accompany a claim. Section 165.214(d) would require proof of quantities of recalled pesticides. Registrants must present documentation showing that they recalled and stored the pesticides for which they seek storage costs. For the 50% reimbursement period, the registrant would submit evidence showing the exact quantity being stored during the first year. For example, the registrant could submit routine business records kept on the storage facilities which itemize quantities being stored. If, during the first year, some quantity of the pesticides has been recycled, exported, used for some lawful use, or disposed of, the registrant must submit documentation showing the quantities which left the storage facilities, the date of its departure, and the disposition of the recalled pesticides. Such evidence could include waste manifests, bills of sale, or contracts.

Section 165.214(e) would require the registrant to provide evidence supporting all claimed storage costs. The costs must be itemized so that the Agency can evaluate the reasonableness and necessity of costs. The registrant could consolidate the supporting information required to accompany the claim form and verify the contents of the claim by submitting an independent auditor's or accountant's report or schedule. If a registrant chooses to submit an independent audit, the auditor must review and independently determine the validity of each element of the claim covered by the audit. The Agency retains the right to request submission of the information that formed the basis for the audits or reports in order to verify the validity of the information submitted.

The registrant would submit a separate claim for storage costs incurred for each reimbursement period. Section 165.214(i) directs that claims be submitted after expiration of the appropriate period; i.e., 100% reimbursement, 50% reimbursement, and 25% reimbursement period. Annual claims may be submitted during the 25% reimbursement period.

Section 165.214(g) would require claimants to substantiate any claims of confidentiality asserted for information submitted with the claim at the time the confidentiality claim is made. EPA will determine whether the information is entitled to confidentiality under 40 CFR part 2, subpart B. Since suspended and canceled pesticides can no longer be distributed and sold as pesticides in the United States, EPA anticipates that most information submitted with claims for reimbursement of storage costs would not be entitled to confidential treatment. Section 165.214(g) includes procedures for substantiating claims of confidentiality. Failure to assert a claim of confidentiality at the time the claim is submitted would result in a waiver of any confidentiality claim for the information submitted. If a confidentiality claim is made, but no supporting documentation is received, the claim would be considered incomplete and returned to the submitter.

Each claim submitted must be certified by the registrant that, among other things, all statements and information provided are true and correct to the best of the registrant's knowledge. Registrants may be liable for civil and criminal penalties for any false statements in the reimbursement claim as provided in 31 U.S.C. 3729, and 18 U.S.C. 287 and 1001.

The Agency encourages registrants to join together to arrange for storage and/or disposal of suspended and canceled pesticides. Thus, the Agency solicits comments on whether registrants find that the procedures as proposed in § 165.214 present any obstacles for registrants considering such arrangements.

I. Additional Requirements for Claims Submitted After the 5th Year

Section 165.216 would require registrants to submit additional information with their reimbursement claim for storage during the 25% reimbursement period. The Agency

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expects that the registrant, in most instances, would have disposed of the pesticides by the fifth year. Congress established a storage cost reimbursement scheme to encourage this by making registrants completely responsible for storage costs in years 2, 3, and 4. The lack of commercial treatment or disposal technology could be a reason that the registrant is still storing recalled pesticides in the fifth year,. For example, in the case of 2,4,5-T and silvex pesticides, EPA suspended many uses of 2,4,5-T and silvex pesticides in 1979 and registrations of these pesticides were canceled over a period of several years. EPA has a statutory responsibility for safe disposal of these materials under FIFRA prior to amendment in 1988. However, currently there is no commercial disposal capacity available for 2,4,5-T and silvex. Congress may have been mindful of this situation when it provided for the Agency to again share in the storage costs, if the registrant is still storing the recalled pesticides after the fifth year.

At the point the registrant determines that there are no facilities with appropriate permits to dispose the recalled pesticides, and that there is no facility in the process of obtaining a disposal permit from a State or EPA Regional Administrator, the registrant should begin developing an alternative plan for disposal of the recalled pesticides. Registrants may consult with the Agency in developing an alternative disposal plan.

If there are facilities with appropriate permits to dispose of the recalled pesticides, registrants will not be eligible for reimbursement of storage costs. EPA's responsibility for 25% reimbursement of storage costs ends on the date that a disposal permit for the pesticide is issued, section 19(c)(2)(E). Therefore, in addition to the information required in § 165.216 and the claim form, registrants, as part of their reimbursement claim for the 25% period, must provide evidence that there is no facility permitted for disposal of the recalled pesticides and there are no alternatives to disposal. Such evidence could include documentation of registrants' search for facilities capable of disposing of the pesticide, such as copies of advertisements for disposal bids and all responses to the advertisements, and correspondence with state agencies concerning facilities permitted to dispose of the pesticide, or similar documents. The registrant must also list the various alternatives to disposal considered and explain why these alternatives were found unsuitable. This information and documentation should be included as part of an updated storage and disposal plan

If the registrant is storing recalled pesticides for some reason other than lack of commercially available treatment or disposal capacity, the registrant must justify the continued need for storage in order to be eligible for reimbursement.

If the pesticides are hazardous wastes under the Resource Conservation and Recovery Act, a permit is required for storage. Under the Land Disposal Restrictions program, restricted hazardous wastes may be stored solely for the purpose of accumulating sufficient quantities of waste to facilitate proper treatment, recovery or disposal (see 40 CFR 268.50). For storage of less than 1 year, the burden of proof that storage is solely for the purpose stated above lies with EPA. After 1 year the burden of proof shifts to the facility.

V. Indemnification

A. Background

Prior to 1988, if the registration of a pesticide was suspended and subsequently canceled under FIFRA section 6, the Agency was required to indemnify owners of the pesticide for losses suffered, not to exceed the cost of the pesticide. Any person who owned a pesticide on the date of suspension and suffered losses by reason of the suspension and cancellation was eligible for indemnification.

Due to past suspension and cancellation actions, the Agency has handled indemnification claims for four pesticides: ethylene dibromide (EDB), 2,4,5-T, silvex, and dinoseb. Prior to 1988, claims were paid from Agency funds, or from the Judgment Fund when a claimant obtained a judgment from the U. S. Court of Claims. To prevent indemnification payments from draining the Agency's budget, Congress ordered in the 1988 Continuing Appropriations Act, Public Law 100-202, Dec. 22, 1987, that indemnification claims be referred to the Department of Justice for settlement under 28 U.S.C. 2414 and payment be made from the Judgment Fund, 31 U.S.C. 1304. Congress directed that this payment arrangement be continued until all the Government's obligations under section 15 of FIFRA, prior to amendment in 1988, are satisfied.

In 1988, the FIFRA amendments revised section 15 to restrict who could get paid indemnification from the Judgment Fund in the event of future suspension and cancellation actions. Under section 15 as amended, most owners of pesticides suspended and canceled will only get indemnified if Congress specifically appropriates funds for that purpose. More specifically, section 15 provides as follows:

1. Eligible owners of suspended and canceled pesticides suffering losses will receive indemnification only if Congress provides a line item appropriation for indemnification.

2. Registrants, wholesalers, dealers, and distributors (i.e., sellers) must reimburse purchasers, other than end users, for any quantity of pesticide remaining unused or unsold as a result of the suspension or cancellation of the pesticide, unless the seller provided a written notice at the time of distribution or sale that the pesticide is not subject to reimbursement. Section 15(b)(2)(A).

3. As an exception to the requirement for a line item appropriation, end users, and certain dealers and distributors who could not get reimbursed due to their seller's bankruptcy or insolvency, may be indemnified from the Judgment fund.

In the past, EPA has provided guidance on submitting indemnification claims in Federal Register Notices addressing the particular suspended and canceled pesticide. The 1988 FIFRA amendments did not change the eligibility requirements for indemnification so that many of the procedures for submitting claims are still applicable and have been incorporated into this proposed rule.

B. The Proposed Rule

1. *Definitions—Special Status Seller*

Section 15 of FIFRA requires sellers to reimburse those to whom they have distributed or sold the pesticide, unless the seller provided a written notification at the time of sale or distribution that it would not reimburse purchaser. Those dealers or distributors who did not receive advance notification of nonreimbursement and who are unable to get reimbursement due to their seller's bankruptcy or insolvency are referred to in the proposed rule as special status sellers.

2. *Eligibility Requirements for Indemnification*

a. *Eligible pesticides.* Section 15 of FIFRA is straightforward in providing that only pesticides suspended and subsequently canceled under FIFRA section 6 are eligible for indemnification. Section 165.225(a) would simply restate this eligibility requirement. FIFRA section 24(c) registrations are deemed to be Federal registrations and thus subject to FIFRA provisions on suspension and cancellation. Accordingly, suspension and cancellation of section 24(c) registrations make the pesticides eligible for indemnification.

Section 15 of FIFRA provides for indemnification for losses suffered "by reason of suspension and cancellation of the registration." This phrase has not changed from prior law. EPA has consistently interpreted this language as limiting indemnification to registered pesticide products. Pesticides which are not packaged, labeled and released for shipment as of the date of suspension are not eligible for indemnification. Release for shipment is the point at which the registered pesticide is ready for distribution or sale. Prior to this point, samples taken by the producer could show that a batch was off-specification and therefore not suitable for sale or distribution. Additionally, it is at this point that EPA has authority to inspect the labeling and composition of the pesticide.

b. *Eligibility of persons.* FIFRA section 15 states that the person who owned the pesticide at the time of suspension may seek indemnification. Section 165.225(b) tracks section 15 of the Act in setting forth the criteria for persons who are eligible for indemnity. Under the statute it is clear that anyone who acquires the pesticide after the suspension is not eligible for indemnification. An example of a lawful acquisition after suspension and cancellation that would not entitle the holder to indemnification would be acquisition for use under an existing stocks provision of a final cancellation order. Any person acquiring the pesticide for such use from the person owning it at the time of suspension, would not be eligible for indemnification for any leftover pesticide. However, the purchaser could try to return it to the person who owned it at the time of suspension and who would be eligible for indemnification.

Additionally, a claim may be filed by a person holding a power of attorney for the owner. A seller who has received an assignment from the person who owned the pesticide at the time of suspension will not be eligible for indemnification unless the Government waives the Anti-Assignment of Claims Act, 31 U.S.C. 3727(b). The Act prohibits assignment of a claim against the Government before the "claim is allowed, the amount of the claim is decided, and a warrant for payment of the claim has been issued." Thus, unless the Government expressly waives its prohibition against early assignment, the Act would bar payment of indemnification claims acquired from an eligible individual by assignment and submitted to the government for payment. The Act was intended to protect the government from:

(i) The buying by influential persons of numerous claims against the federal government and the improper urging of them upon governmental officers;

(ii) Possible multiple payment of claims, the necessity of investigating the validity of assignments, and the inability to deal with the original claimant; and

(iii) The loss to the government of defenses to an assignor's claim not applicable to an assignee.

Although in the past, to encourage recall of suspended and canceled pesticides, the Government has waived the prohibition against early assignment provided certain conditions were met, with the 1988 amendment of FIFRA sections 15 and 19, waiver may be less appropriate. Section 15 of the Act requires sellers to reimburse their purchasers. Those purchasers who are reimbursed have not suffered losses by reason of the suspension and cancellation and therefore have no right to claim indemnification under section 15 of the Act. The sellers will bear the loss for reimbursement paid. If sellers provide advance written notification of no reimbursement, then the purchasers may have suffered losses for which they could file for indemnification under section 15(A) of the Act. Of course, claims filed under section 15(a) of the Act would not be paid unless Congress appropriates funds. However, if, in such a situation, the purchaser were to assign his right to indemnification to the seller, the seller would, in effect, be avoiding the intent of section 15 that sellers absorb the loss for reimbursements paid to their purchasers. Secondly, EPA now has the authority under section 19 to require recall of suspended and canceled pesticides, therefore, EPA does not need to take extraordinary steps, such as waiver of the prohibition against early assignment, to encourage registrants to recall their pesticides.

For future suspension and cancellation actions, if EPA determines that a recall is necessary under section 19(b) of the Act, the Government will consider whether circumstances warrant waiver of the Act's prohibition against early assignment and whether it is in the Government's interest. If EPA notifies registrants and other potential claimants that the Government may waive the prohibition against early assignment, such waiver would be subject to limitations. Namely, only assignments to the person from whom the pesticide was purchased in the chain of distribution would be acceptable. Secondly, all assignments would have to include a statement that any defenses the Government has against the assignor (including set-off) would be applicable to the assignee. Section 165.234(j)(9) requires registrants submitting assigned claims to certify that the United States may assert against the assignee any defenses, or right of set-off or counterclaim applicable against the person who assigned the claim.

3. *Limitation on Amount of Indemnification*

Section 15(c) of the Act limits the amount of indemnification to the cost of the pesticide (other than the cost of transportation) at the time of suspension, not to exceed fair market value. EPA has consistently interpreted this statutory limitation to cost of the pesticide to mean that manufacturers and registrants can recover for their own inventory of suspended and canceled pesticides only production costs, which include properly allocated overhead. Others can recover only the purchase price, less any sales tax or transportation. Any discounts received must be subtracted from the purchase price. Section 165.227 incorporates this interpretation of section 15(c).

Section 165.227(b) refers to a duty to mitigate losses. FIFRA section 15 directs that owners of pesticides can recover only for losses. If, after suspension or cancellation, an owner is able to lawfully sell or use the pesticide, then the owner has the responsibility to make a reasonable effort to do so before seeking indemnification from the government.

4. *Payment of Indemnification*

Section 165.230 describes the groups of pesticide owners that may receive indemnity from the Judgment Fund: (a) Qualified end users; and (b) special status sellers. Persons who are sellers of pesticides (i.e., dealers) who also apply pesticides will be treated as sellers only. Persons who are applicators who only sell the service of applying registered pesticides without delivering any unapplied pesticide to any person so served will be treated as an end-user. The legislative history of the 1988 amendment to section 15 of the Act indicates that Congress intended to restrict the end-users that could be paid from the Judgment Fund in such a manner. In discussing subsection 15(b), the Senate Committee on Agriculture, Nutrition, and Forestry stated that "The Committee intends to authorize indemnification for a person who owned the pesticide only for the purpose of applying or using it, and does not intend to authorize indemnification for a person who owned the pesticide for the purpose of selling or applying it***. The

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Committee intends to exclude persons who sell the service of applying pesticides from indemnification under this subsection." S. Rept. 100-346, 100th Cong. 2d Sess. 67 (May 13, 1988). Such persons, if they are eligible under section 15(a), would receive payment only if Congress makes a specific line item appropriation of funds, just as eligible registrants, distributors, and dealers. Owners of suspended and canceled pesticides could fall in the category of both those who are entitled to payment from the Judgment Fund, and those who will only get indemnified if Congress provides a line item appropriation. For example, dealers and distributors may get indemnified because of their status as a purchaser owed, but not paid, reimbursement by an insolvent or bankrupt seller (i.e., special status sellers). The same dealers and distributors may have inventory on hand for which they received advance written notice of no reimbursement and be seeking to recover indemnification for these pesticides.

5. *Seller's Requirement to Reimburse Purchasers*

In the event of suspension and cancellation, section 15(b) of FIFRA requires registrants, wholesalers, dealers, and distributors, referred to as "sellers," to reimburse purchasers other than end users "for any quantity of the pesticide that such person cannot use or resell as a result of the suspension or cancellation***." Section 15(b) provides two options—sellers must provide advance written notification that they are not going to reimburse or they must reimburse their purchasers. If a seller does not wish to reimburse purchasers, he must provide the written notification at the time of purchase. Section 165.232 incorporates the statutory requirement for reimbursement by sellers.

In the event of suspension and cancellation, sellers should notify purchasers on how to present their claims for reimbursement. Such notification could also aid the sellers in securing a thorough and prompt recall in accordance with section 19 of FIFRA.

Section 15(b)(2)(A) of FIFRA does not specifically address whether people who receive advance notice of non-reimbursement are themselves eligible for indemnification from the government. However, section 15(a) provides that any owner of pesticides suffering losses by reason of the Agency's suspension and cancellation action may seek indemnification. Purchasers who suffered losses by reason of the suspension and cancellation, and who were not reimbursed by their seller because of the advance written notice, would seem to fall within the scope of section 15(a). EPA therefore considers that such purchasers can file indemnification claims and, if eligible, may be indemnified through a line item appropriation.

6. *Procedures for Submission of Claims*

Section 165.234 of the proposed rule sets forth a list of items which must be supplied by claimants, including a completed claim form, proof of ownership and cost, and certification of the claim.

a. *Proof of cost.* Claimants must submit documentary evidence, such as purchase receipts or invoices, supporting the claimed cost of the pesticide. Manufacturers, registrants, distributors, and any other claimants that normally maintain business records are permitted to verify the contents of the claim by submitting an independent auditor's or accountant's report or schedule. Each element of the claim, such as cost per unit of pesticide or quantity of pesticide owned at the time of suspension, must be reviewed and independently determined by the auditor or accountant to be valid if verification for the complete contents of the claim is being provided through the report or statement. If the independent review is being conducted for only one element of the claim, such as a manufacturer's cost of production per unit of pesticide, supporting documentation must be submitted for all other elements of the claim. EPA retains the right to request submission of the information that formed the basis for the audits or reports in order to verify the validity of the information submitted.

Often the evidence submitted on proof of cost will also serve to verify ownership on date of suspension.

b. *Proof of status.* Under § 165.234(f), a person who qualifies both as (i) an end user, or a special status seller, and (ii) a seller or applicator, must separate the quantities of pesticides according to the appropriate category, and file claims for the end user or special status seller and the seller or applicator category separately. End users and special status sellers must certify to their eligibility for payment from the Judgment Fund.

Under section 15(b)(2)(B), dealers or distributors are entitled to indemnification from the Judgment Fund if they are unable to obtain reimbursement due to the bankruptcy or insolvency of their seller. Further, section 15(b)(2)(B)(iv) provides that payment from the Judgment Fund is appropriate where a bankrupt or insolvent seller "is and will continue to be unable to provide reimbursement." EPA considered what evidence would be necessary for a claimant to be able to show that its bankrupt or insolvent seller continues "to be unable to provide reimbursement." EPA concluded that dealers or distributors must provide evidence of their attempt to recover through bankruptcy or insolvency proceedings before they are entitled to payment from the Judgment Fund.

If a seller is bankrupt, the dealer or distributor can seek to recover through the bankruptcy proceedings as a creditor. If the dealer or distributor cannot recover cost completely, then it may have a claim for indemnification. Since bankruptcy proceedings may continue several years before resolution, the dealer or distributor can file a claim with EPA while pursuing relief through bankruptcy proceedings. Accordingly, § 165.234(f)(2)(iii) requires that the claimant provide evidence of participation in bankruptcy proceedings, such as a copy of the proof of claim, and, at termination of the proceedings, evidence of the distribution.

Insolvency usually means that the aggregate of the debtor's property, at a fair market value, is not sufficient to pay debts. (See, e.g., the Bankruptcy Act, 11 U.S.C. 101). However, because the definition varies from state to state, the rule does not set out a particular definition for insolvency. Note that a person could be in bankruptcy proceedings, but not be insolvent. A person may file an indemnification claim with EPA while seeking relief through insolvency proceedings.

Section 165.234(f)(2)(ii) requires the claimant seeking indemnification due to the seller's insolvency to submit evidence of the seller's insolvency such as a court order declaring the seller insolvent, a judgment against the seller and evidence that the claimant has been unable to recover, or some other documentation showing the seller's insolvency. EPA considered allowing claimants to prove their seller's insolvency by providing copies of the seller's financial records that establish the insolvency. EPA decided not to propose this alternative, however, because the Agency does not have the resources to make insolvency determinations and because the burden of proving insolvency should be on the claimant. EPA solicits comments on what other evidence could be submitted to demonstrate the seller's insolvency.

If a dealer or distributor cannot provide sufficient proof of his seller's bankruptcy or insolvency, the indemnification claim could be processed under section 15(a) instead of for payment from the Judgment Fund under section 15(b).

c. *Confidential business information (CBI).* In § 165.234(i) the Agency is proposing that claimants be required to substantiate any claims of confidentiality asserted for information submitted through the claim form at the time they assert the CBI claim. Section 165.234(i) sets out the procedures for substantiating confidentiality claims. EPA may need to disclose this information to contractors, and must be able to provide information in the claim to the other Federal agencies involved in processing indemnification claims, including the Department of Justice and the General Accounting Office (GAO). In processing claims for payment from the Judgment Fund, EPA reviews the claim to determine whether claimant meets the statutory eligibility requirements and has provided adequate documentation for the amount claimed; then EPA certifies the claim to the Department of Justice. The Department of Justice reviews the claim, then certifies the claim to the GAO for payment from the Judgment Fund. Processing claims with CBI is administratively cumbersome and time consuming. So that claims can be handled as expeditiously as possible, EPA will need to know at the time the claim is submitted what information, if any, may be subject to claims for confidential treatment.

d. *Certification of claim form.* In submitting a claim to the government for money, claimants must certify that all statements made and information provided are true and correct. Additionally, in signing the claim, among other things, a claimant attests that it has received no other payment for the cost of the pesticides for which indemnification is sought, that acceptance by the claimant of any payment made by the Federal government constitutes full satisfaction and final settlement of the claim, and that a claimant filing as an end user or special status seller meets the criteria for those categories. Claimants may be liable for civil and criminal penalties for any false statements in the claim as provided in 31 U.S.C. 3729 and 18 U.S.C. 287, 1001.

VI. Economic Analysis

EPA has evaluated the potential costs to registrants, distributors and dealers of suspended and canceled pesticides resulting from the recall of the pesticide. EPA's complete economic analysis is available in the public docket for this proposed rule (OPP-190000).

VII. Rulemaking Record

EPA has established a docket of this rulemaking (Docket control number OPP-190000). This record presently contains the following information:

1. Current rule
2. Proposed rule.
3. The economic analysis of this proposed rule.
4. A compilation of documents concerning participation of holders in EPA's disposal program.

As comments are received on this proposed rule they will be added to this record. In addition, upon publication, the final rule will be added to this record. A public version of this record is available for review and copying from 8 a.m. to 4 p.m., Monday through Friday, except holidays, in the Public Docket and Freedom of Information Section, Rm. 246, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

VIII. Statutory Review

A. U.S. Department of Agriculture

As required by FIFRA section 25(a), a copy of this proposed rule was provided to the Secretary of Agriculture. On February 21, 1992, Nancy N. Ragsdale, Director, National Agricultural Pesticide Impact Assessment Program, provided written comments on behalf of the Secretary. Following is a summary of the comments, together with the Agency's response.

Comment 1: If the recall plan does not work, through no fault of the registrant, EPA should take direct action on those who do comply rather than reevaluate the plan.

Response: Under section 19 of FIFRA, only registrants can be compelled to comply with a voluntary recall. Other persons (dealers and distributors) may be required to participate in a recall only if the Agency requires a mandatory recall by regulation. There is no requirement that holders who are endusers participate in a recall. EPA expects that, given a reasonable opportunity to return a canceled and suspended pesticide to the registrant, most holders would be anxious to participate in a recall rather than bear the costs of disposing of the pesticide themselves. The fact that a voluntary recall is not working is reason enough for EPA to review the recall plan to see if modifications are necessary or if a mandatory recall is necessary.

Comment 2: The following statement is unclear. USDA recommends that it be rephrased.

The statutory requirement for rulemaking for a mandatory recall action may make it difficult for a mandatory recall to be conducted within a reasonable timeframe, there are other factors that mitigate this effect.

Response: EPA agree with USDA's comment. EPA proposes that the last two sentences of the paragraph in question be deleted and the following language be inserted.

Because the pesticides have been suspended and canceled for risk reasons, the length of time to conclude the cancellation and rulemaking for a mandatory recall makes it necessary to conduct the recall as swiftly as possible in order to consolidate and safely store the stocks of the pesticide. The notice given the affected community through the rulemaking process allows those persons responsible for conducting the recall sufficient time to plan their recall 1activities; thus six months after the regulation is effective is a reasonable time for conducting the recall.

Comment 3: USDA proposed that the following sentence in the preamble reading: "In those instances where persons subject to the recall regulation other than the registrant provide transportation for a holder, such persons may seek reimbursement of transportation costs from the registrant.", be clarified to conform with § 165.188(b)(5) to indicate the circumstances under which a holder subject to recall may expect reimbursement by the registrant. The registrant should not be held responsible for the cost of transportation performed by a third party unless such transportation has been authorized by the registrant.

Response: EPA agrees with the comment and will revise the sentence to read:

In those instances where persons subject to the recall regulation other than the registrant provide transportation for a holder, as specified in the registrant's recall plan, such persons may seek reimbursement of transportation costs from the registrant.

Comment 4: Please clarify the following sentence in the preamble to indicate whether "(upon request)" refers to a request for payment or a request for the provision of transportation: "Requiring registrants to pay for transportation (upon request) should make the recall more effective...".

Response: The sentence in question has been amended to read: "Requiring registrants to provide for transportation at no cost to holders (when requested to provide transportation) should make the recall more effective in achieving return of all stocks."

Comment 5: With regard to applicability of EPCRA, 42 U.S.C. 11002, the Agency should bear in mind the chemicals are no more hazardous after being canceled/suspended than they were prior to this action.

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Response: EPA agree with USDA's statement regarding the relative hazard of a pesticide. This section is intended to address a finding that facilities were sometimes unaware of their responsibilities under EPCRA. Whether a pesticide is suspended and canceled has no bearing on a facility's responsibility to report. EPA have revised the preamble to clarify this.

Comment 6: USDA questions whether it is appropriate for an agency to "strongly discourage" a legal use such as export of a suspended and canceled pesticide, especially when the statute makes explicit the circumstances under which such exports are permitted. The statement appears to be intimidating and thus diminishes the ability of a registrant to mitigate the cost of the recall.

Response: The statement in question reflects the Agency's policy regarding the export of suspended and canceled pesticides to foreign countries. EPA has encountered situations where suspended and canceled pesticides were being exported without the foreign government's knowledge and in some cases in violation of that country's laws. In addition, if a pesticide was not produced solely for export, it may be illegal to export the product. We are not telling registrants they cannot export suspended and canceled pesticides, just that there are alternatives and that all exports will be closely scrutinized. We have deleted this sentence and revised the preamble to read: "If a registrant wishes to export a suspended and canceled pesticide, he should be advised that any export must be in compliance with section 17 of FIFRA, the Agency's export policy and the terms and conditions of the cancellation notice. Such exporters will be closely scrutinized by the Agency."

Comment 7: A suggested format could help registrants provide EPA the needed information in a form that is consistent and easy to follow. However, this format should not be a requirement.

Response: The Agency did not require a specified reporting format in order to allow the registrant some latitude in devising an accountability system which best suited their needs. We can see the utility of a suggested reporting format. A suggested reporting format would certainly make it easier for the Agency to manipulate and utilize the information. The preamble will be revised to ask for comment on the advisability of a suggested reporting format.

Comment 8: It should be made clear what the responsibility of the registrant is, if asked to modify a plan which has been previously approved by the Agency.

Response: Modifications in a storage and disposal plan requested by EPA must be reflected in the updated plan submitted with a reimbursement claim. Failure to modify the plan may result in a denial of the reimbursement claim. The preamble will be amended by adding the following:

These modifications must be reflected in the updated plan submitted with a claim for reimbursement of storage costs. Failure to modify the plan may result in a denial of the reimbursement claim.

Comment 9: USDA recommends that the following sentence, "If there are facilities with appropriate permits to dispose of the recalled pesticides, registrants would not be eligible for storage costs.", in the preamble be revised to read: "If there are facilities within reasonable distance with appropriate capacity and permits to immediately dispose of the recalled pesticides, registrants would not be eligible for storage costs."

Response: The preamble will be amended to reflect the issue of adequate capacity at a disposal facility. The Agency always intended for lack of capacity at a permitted facility to be a valid reason for continued storage. EPA is, however, unwilling to add a provision that a disposal facility be within reasonable distance to a storage facility. Registrants, if so inclined, could claim that any facility is not within a reasonable distance. Additionally, there may be only one facility in the country permitted to dispose of a given chemical. Provided the facility has sufficient capacity, the registrant should dispose of the product since he has no other options for disposition of the pesticide.

Comment 10: USDA recommends that the following statement in the preamble and § 165.230(a)(2) be clarified to indicate that applicators who sell the pesticides they apply but do not deliver unapplied pesticides to any person so served will be treated as an end-user.

EPA is proposing that applicators who sell the pesticide in addition to the service of applying the pesticide are not end-users that may receive indemnification from the Judgement Fund.

Response: The second sentence under Payment of Indemnification will be deleted and the following text will be inserted:

Persons who are sellers of pesticides (i.e., dealers) who also apply pesticides will be treated as sellers only. Persons who are applicators who only sell the service of applying registered pesticides without delivering any unapplied pesticide to any person so served will be treated as an end-user. The legislative history of the***.

Comment 11: In § 165.234(h), the requirement that an independent auditor or certified accountant verify claims is an unnecessary burden on the company or organization. Since the reimbursement of storage costs section does not include such a stipulation, it should not be included in the indemnification section.

Response: The intent of the regulation is to allow an independent auditor or certified accountant to verify claims in lieu of the claimant submitting all documentation to the Agency. This option is intended to lessen the burden on the registrant and speed processing of the claims by EPA. The first sentence under § 165.234(h) will be amended to read: "In lieu of submitting all documentation to EPA, a person who normally maintains business records may consolidate the supporting information***." EPA does not feel it is necessary for the storage cost reimbursement section to be consistent with the indemnification section in this particular case.

Comment 12: What would EPA's course of action be if a holder did not hear about the recall and had material after the recall period had ended?

Response: The proposed rule requires the registrant and others conducting a recall to take steps to try to reach every holder. Based on EPA's experience in conducting disposal programs, it is likely that there will be holders who do not hear about the recall until the recall is completed. The holder then has two options in this situation: (1) Contact the registrant and see if the registrant would take the product off their hands, or (2) dispose of the product himself.

Comment 13: A timeframe of 20 days is an unreasonably short time for a registrant to contact customers and determine if stocks are held. A timeframe of 45-60 days is more reasonable. A timeframe of 10 days is unreasonable. The purpose of the recall is to eliminate the material from use and to have it under control. The process does not have to be completed in a short timeframe.

Response: EPA agrees that the timeframes are very tight. However, the timeframes were purposely kept tight for a number of reasons. The timeframes for conducting a mandatory recall create an incentive for the registrant to conduct a voluntary recall. The Agency fully anticipates using voluntary recall provisions for most situations and requiring mandatory recalls only as necessary. In addition, a mandatory recall doesn't occur until after cancellation proceedings are complete. By the time mandatory recalls occur, the Agency believes there is a need for

completing the recall given the length of time such products have been in storage. The Agency is very concerned that the suspended and canceled pesticide get into the hands of the persons who have the technical knowledge and capability to safely handle and store the pesticide as soon as possible. Finally, the registrants have ample notice of the Agency's intentions to conduct a mandatory recall for a particular pesticide, since the Agency must go through notice and comment rulemaking to conduct a mandatory recall and therefore have sufficient opportunity to prepare for a recall.

Comment 14: USDA was unable to find in the summary of the RIA any allocation for the cost of the seller's reimbursement to purchasers of the cost of recalled pesticides; nonindemnifiable sales taxes and delivery costs; unreimburseable cost of storage of the registrant's inventory; costs incurred in the acquisition of transportation and storage permits; transportation of recalled pesticides to storage and/or disposal facilities; repackaging costs; the cleanup of spills; remediation of site contamination; the shortfall under 50 percent and 25 percent reimbursement schedules; disposal costs; registrant's loss of revenue; and increased agricultural production costs.

Response: The cost of a seller's reimbursement to purchasers of the cost of recalled pesticides is required by FIFRA section 15(b)(2) and therefore not attributable to the rule. The cost of nonindemnifiable sales taxes may be subject to consideration in the RIA; however delivery costs are excluded by statute from indemnification. The statute only provides for recalled pesticides, stocks that are under the registrant's control are not defined as recalled pesticides and not subject to reimbursement. The rule does not require that recalled pesticides be handled as hazardous wastes, and therefore does not require the acquisition of transportation and storage permits, except when the holder (or registrant) decides that it is a waste; then the RCRA RIA would cover this. The costs of transportation to a storage facility have always been paid by the registrant and are not new or extra costs. There is no requirement that disposal be undertaken and therefore costs of transportation to a disposal facility are not attributable to the rule. Repackaging costs at the user level are incurred only when the container is leaking or damaged, are part of the costs of shipping in accordance with DOT specifications and therefore should be considered as a cost under the DOT regulations: The costs of cleanup of spills and remediation of site contamination are not requirements of this rule, and therefore not attributable to this rule. The cost of the shortfall under 50 percent and 25 percent reimbursement schedules are statutory, and therefore not subject to consideration under the RIA. The costs associated with the registrant's loss of revenue and increased agricultural production costs are part of the costs associated with suspension and cancellation of a pesticide and not a subject of this rule.

B. Congressional Committees

As required by FIFRA section 25(a), a copy of this proposed rule was provided to the Committee on Agriculture, Nutrition and Forestry of the U.S. Senate and the Committee on Agriculture of the U.S. House of Representatives. No comments were received.

C. Scientific Advisory Panel

Pursuant to FIFRA section 25(d), a copy of the proposed rule was provided to the Scientific Advisory Panel (SAP). The SAP waived formal review of the proposed rule.

IX. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "major" rule because it will not have an effect on the economy of $100 million or more, and will not have a significant effect on competition, costs, or prices.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act [5 U.S.C. 605(b)], EPA has determined that this proposed rule will not have a significant impact on a substantial number of small businesses. In the instances where a small business may hold a registration for a suspended and canceled pesticide, the distribution of the pesticide is usually limited and the costs of recalling the pesticide are less. In most cases, small businesses are distributors of pesticides produced by larger companies and may therefore pass the recalled pesticide to the registrant for storage and management.

C. Paperwork Reduction Act

This proposed rule and associated information collection request (ICR) amend a previously approved ICR (OMB Clearance No. 2070-0110) and imposes additional burden hours as a result. The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget(OMB) under the Paperwork Reduction Act, 40 U.S.C. 3501 et seq. An Information Collection Request document has been prepared by EPA (ICR No. 1520.01) and a copy may be obtained from Chief, Information Policy Branch, PM-223, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Public reporting burden for collection of information under this proposed rule is estimated to average 287 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

List of Subjects in 40 CFR Part 165

Environmental protection, Pesticides, Pesticide management, Indemnification, Reimbursement, Reporting and recordkeeping requirements.

Dated: April 21, 1993.

Carol M. Browner,

Administrator.

Therefore it is proposed that 40 CFR chapter I, subchapter E, part 165 be amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 7 U.S.C. 136q and 136w.

2. The table of contents for part 165 is revised, to read as follows:

PART 165—REGULATIONS FOR THE ACCEPTANCE OF CERTAIN PESTICIDES AND RECOMMENDED PROCEDURES FOR THE DISPOSAL AND STORAGE OF PESTICIDES AND PESTICIDES CONTAINERS

Subpart A—General

Sec.
165.1 Authorization and scope.
165.3 Definitions.
165.5 Acceptable pesticides.
165.7 Request for acceptance
165.8 Delivery.
165.10 Disposal
165.11 Recommended procedures for the disposal of pesticides.
165.12 Procedures not recommended.
165.14 Recommended procedures for the disposal of pesticide containers and residues.

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Sec.
165.16 Recommended procedures and criteria for storage of pesticides and pesticide containers.
165.18 Procedures for disposal and storage of pesticide-related wastes.

Subparts B—H [Reserved]

Subpart I—Voluntary Recall Plans

165.160 Scope.
165.161 Applicability.
165.163 Definitions.
165.165 Submission procedures.
165.167 Contents of voluntary recall plan.
165.170 Approval of the recall plan.
165.172 Recorkeeping.
165.174 Reporting.
165.176 Enforcement.

Subpart J—Mandatory Recalls

165.180 Scope.
165.181 Applicability.
165.183 Definitions
165.186 When a mandatory recall will be required.
165.188 Initiation of the recall.
165.190 Requirements of the recall.
165.192 Recordkeeping.
165.194 Reporting.
165.196 Enforcement.
165.198 Pesticides subject to mandatory recall. [Reserved]

Subpart K—Storage And Disposal Plans; Reimbursement Of Storage Costs

165.200 Scope and applicability.
165.203 Definitions.
165.205 Submission of storage and disposal plan.
165.207 Criteria for the evaluation of storage and isposal plans.
165.208 Contents of storage and disposal plans.
165.210 Agency action.
165.212 Reimbursement of storage costs.
165.214 Procedures for submission of storage reimbursement claims.
165.216 Additional requirements for 25-percent reimbursement claims.
165.217 Final Agency decision.
165.218 Recordkeeping.

Subpart L—Indemnification

165.220 General.
165.223 Definitions.
165.225 Eligibility criteria.
165.227 Limitations on amount of indemnification.
165.230 Payment of indemnification.
165.232 Seller's requirement to reimburse.
165.234 Procedures for submission of claims.
165.236 Agency review of claim.

Subpart A—General

3. Part 165 is amended by redesignating existing §§ 165.1 through 165.11 (subparts A through D) as subpart A and by renumbering those sections as follows:

Old section	New section
165.1	165.3
165.2	165.1
165.3	165.5
165.4	165.7
165.5	165.8
165.6	165.10
165.7	165.12
165.8	165.11
165.9	165.14
165.10	165.16
165.11	165.18

Subparts B—H [Reserved]

4. By reserving subparts B through D and by adding and reserving subparts E through H.

§ 165.1 [Amended]

5. In newly designated § 165.1, paragraph (a), by changing the reference "§ 165.8(a)(6)" to read "paragraph (a)(6) of this section" and in paragraph (d) by changing the reference "§ 165.10(a)" to read "§ 165.16(a)."

§ 165.3 [Amended]

6. In newly designated § 165.3, paragraph (d), by changing the reference "§ 165.10" to read "§ 165.16."

7. By revising newly designated § 165.5, to read as follows:

§ 165.5 Acceptable pesticides.

(a) This subpart applies only to those pesticides that were suspended and subsequently canceled under section 6(c) of the Act before December 24, 1988.

(b) The Administrator will accept for safe disposal only those pesticides identified in paragraph (a) of this section, the registrations of which have been canceled, after first having been suspended to prevent an imminent hazard during the time required for cancellation proceedings as specified in section 6(c) of the Act. No other pesticides will be accepted pursuant to section 19(a) of the Act (prior to amendment in 1988), and nothing herein shall obligate the Federal Government to own or operate any disposal facility.

§ 165.10 [Amended]

8. In newly designated § 165.10 by revising the phrase "in subparts A and C of this part" to read " in subpart A of this part."

§ 165.11 [Amended]

9. In newly designated § 165.11 by amending paragraphs (a)(5), (b)(5), and (c)(3) by changing the references to "§ 165.10" to read "§ 165.16" and in paragraphs (b)(6) and (c)(1) by changing the references to to "§ 165.8(a)(6)" and "§ 165.8(a)(4)", respectively, to read "§ 165.11(a)(6)" and "§ 165.11(a)(4)," respectively.

§ 165.14 [Amended]

10. In newly designated § 165.14, paragraphs (a) and (d), by changing the reference "§ 165.8(a)" and "§ 165.8", respectively, to "§ 165.11(a)" and "§ 165.11" respectively.

§ 165.18 [Amended]

11. In newly designated § 165.18, paragraph (a), by revising the phrase "§ 165.7 and § 165.8" to read "§§ 165.11 and 165.12" and by amending paragraph (b) by changing the reference "§ 165.10" to read "§ 165.16."

12. By adding new subparts I, J, K, and L, to read as follows:

Subpart I — Voluntary Recall Plans

§ 165.160 Scope.

This subpart describes the procedures EPA will use in requesting and approving a voluntary recall plan under section 19(b)(2) of the Act for pesticides that have been suspended and subsequently canceled under section 6. The subpart sets out the elements of a voluntary recall plan that must be addressed for EPA to determine whether the plan is adequate to protect health and the environment, the consequences of failure to submit a plan and the consequences of failure to adhere to the plan after the Administrator orders the plan carried out.

§ 165.161 Applicability.

This subpart applies to each registrant of a suspended and canceled pesticide if the Administrator finds that a voluntary recall by the registrant and others in the chain of distribution of the suspended and canceled pesticide may be as safe and effective as a mandatory recall. Where specified, this subpart applies to the registrant's own inventory of suspended and canceled pesticides as well as to the recalled pesticides.

§ 165.163 Definitions.

Terms used in this subpart shall have the meanings set forth in the Act. In addition, the following terms are defined for the purposes of this subpart.

End user. Means any person who holds any quantity of a suspended and canceled pesticide which was obtained for purposes of applying or using the pesticide, rather than for purposes of distributing or selling it or further processing it for distribution or sale.

Holder. For purposes of this subpart means the owner of a pesticide at the time of cancellation of a pesticide that has previously been suspended under FIFRA section 6(c) or the owner of a pesticide at the end of the period designated for sales of existing stocks of the pesticide.

Management options. Means the methods to manege the pesticide after it has been recalled, including, but not limited to, legal pesticide and non-pesticide use, recycling (e.g., recovery), treatment (e.g., neutralization, deactivation of the active ingredient, degradation), burning for energy or materials recovery, and disposal.

Recall. Means the process of transferring stocks of a suspended and canceled pesticide, other than those stocks owned by the registrant, from the holder of the pesticide back to the custody and control of the registrant who produced the pesticide and all activities necessary to accomplish this.

§ 165.165 Submission procedures.

(a) *Who must submit a plan.* EPA will request the registrant of a suspended and canceled pesticide to submit a recall plan if the Administrator determines that a voluntary recall is appropriate pursuant to § 165.161. The request will specify the level of the distribution chain to be included in the recall plan.

(b) *Notification to registrant.* EPA will request the registrant, either through a written request by certified mail or through a notice in the **Federal Register**, to develop and submit a recall plan. Within 15 days after receipt of EPA's request or within the time specified by the Notice, the registrant must respond, in writing, indicating whether he will submit the plan. The voluntary recall plan must be submitted within 60 days after receipt of EPA's initial request or publication in the **Federal Register**.

(c) *Failure to respond or submit.* EPA will invoke the mandatory recall procedures of subpart J of this part by promulgation of a rule in the **Federal Register** if:

(1) The registrant fails to respond within 15 days indicating that he intends to submit a plan.

(2) The registrant fails to submit such a plan within 60 days after receipt of EPA's request for a recall plan, or publication of a notice in the **Federal Register** requesting the registrant to submit a recall plan.

§ 165.167 Contents of a voluntary recall plan.

Each voluntary recall plan shall the information requested in paragraphs (a) through (i) of this section:

(a) *Identification of persons responsible for the recall.* The recall plan must identify the primary contact person within the registrant's company who is responsible for conducting the recall together with his business address and telephone number. In addition, the plan must identify any other persons, within the company or in the distribution chain of the pesticide, who will be responsible for assuring that specific elements of the recall are carried out, and shall describe their responsibilities.

(b) *Identification of potential holders of the pesticide.* (1) The recall plan must define the level of recall (wholesaler, distributor, retailer, user) that the registrant will undertake, and include a description of the steps the registrant will take to contact potential holders at each level of recall. The plan must specifically address the steps that the registrant will take with regard to supplemental registrants to ensure that holders of the supplemental registrant's products are notified.

(2) The plan must provide that holders of the registrant's suspended and canceled pesticide not specifically identified by the recall plan shall, upon request to the registrant, be afforded the same opportunity for recall as those covered by the recall plan.

(c) *Information to be obtained from holders.* The plan must list the information that will be obtained from each potential holder contacted by the registrant. At a minimum, the plan shall prescribe the following items of information to be collected from each person contacted:

(1) Name, address, (both street and, if applicable, P.O. Box, city, state and zip code) and telephone number of the person.

(2) Whether the potential holder possesses any stocks of the suspended and canceled pesticide and if the potential holder does possess the pesticide in question, the following information about each pesticide:

(i) Brand name(s) and EPA Registration Number(s) of the pesticide(s).

(ii) Size (volume or weight) and type(s) of containers in his possession.

(iii) Number of units of each size container full and the number of containers partially full.

(iv) Total amount (volume or weight) of the suspended and canceled pesticide held.

(3) The physical location of the stocks of pesticides, if not at the address of the holder.

(d) *Information to be provided to holders of the pesticide.* The plan shall describe the information on the recall that will be furnished to each holder of a suspended and canceled pesticide subject to recall. If information is not known at the time of initial notification of holders, the plan must include followup notification by the registrant when the information is available. At a minimum, the following topics must be included:

(1) Notification that the material is suspended and canceled and must not be sold or distributed and, if applicable, used.

(2) A description of the registrant's responsibilities and planned activities in conducting the recall, with respect to:

(i) Interim storage of the pesticide in the holder's possession.

(ii) Preparation of the pesticide for transport.

(iii) Transportation of the pesticide.

(3) A description of the responsibilities of the holder if he chooses to participate in the recall, with respect to:

(i) Interim storage of the pesticide, i.e., safe storage of the pesticide by the holder until the registrant takes custody.

(ii) Preparation of the pesticide for transport. The registrant must provide necessary information on proper packing, consolidation of stocks, or separation of pesticide products, including any applicable laws and regulations that must be complied with.

(iii) Transportation of the pesticide. The registrant must provide sufficient information to the holder to ensure the safe transportation of the pesticide, including any information on applicable laws and regulations that must be complied with.

(4) A date or schedule for taking the pesticide into the registrant's custody, whether or not the pesticide will be physically removed from the holders location at that time.

(5) Notification that if a Stop Sale, Use or Removal Order (SSURO) has been issued, it must be vacated by the official who issued the SSURO prior to anyone moving the pesticide, and information on the steps for requesting the vacation of a Federal and/or State SSURO if one has been issued.

(6) Management options available for the pesticide, including, but not limited to, a discussion of:

(i) The management options being considered by the registrant.

(ii) The management options available to the holder if he chooses not to participate in the recall.

(iii) If any of the holder's management options include discarding the pesticide as a solid waste (as defined under the Resource Conservation and Recovery Act regulations 40 CFR part 240.101(y)), then the registrant must provide the holder with any information the registrant has which could help the holder to determine whether the pesticide meets any of the listing descriptions in 40 CFR part 261, subpart D, or exhibits any of the hazardous

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waste characteristics identified in 40 CFR part 261, subpart C.

(7) Information on reimbursement of the purchase price of the pesticide in accordance with § 165.232, if applicable.

(8) The name, address and telephone number of a contact person or authorized representative of the registrant for further information or questions.

(e) *Transportation of recalled pesticides.* (1) The recall plan must describe the means by which the pesticide will be transported from each holder to a storage facility or to a facility carrying out a chosen management option.

(2) The plan must describe how the registrant intends to provide for transportation. Such description must include a discussion of any arrangements that are or will be made by the registrant, and who will pay for costs of transportation. The registrant must provide transportation at no cost to a holder, if the holder requests the registrant to provide transportation, unless the parties have agreed to an alternative cost allocation as provided by section 19(d)(1) of the Act. In no case shall necessary transportation be delayed pending agreement on such allocation of costs.

(3) The plan must state that, regardless of possible cost allocation between the registrant and the holder, the registrant will ensure that any necessary transportation arranged by the registrant is accomplished safely, and in accordance with applicable laws and regulations.

(4) The plan must state that, upon taking custody of the pesticide, the registrant will provide the holder with a receipt, which will include the following information:

(i) The name, address (both street and P.O. Box, if applicable, city, state and zip code;) and telephone number of the holder.

(ii) The EPA Registration Number of the pesticide(s).

(iii) The number of units of each size (volume or weight) container.

(iv) The total amount (volume or weight) of pesticide received from the holder.

(v) The date the registrant or his agent took custody of the pesticide.

(f) *Storage of recalled pesticides.* The plan must list the address (both street and P.O. Box, if applicable, city, state and zip code) of each storage facility where recalled pesticides will be stored. The plan must specify that storage of recalled pesticides will be in accordance with all applicable laws and regulations governing storage.

(g) *Transfer or movement of recalled pesticides from the storage area.* The recall plan must specify that prior to moving the recalled pesticide from one storage facility to another storage facility, or utilizing additional storage facilities, the registrant will notify EPA at the address listed in § 165.174(c), 15 days prior to the change.

(h) *Management options.* The recall plan must list the available options for management of the recalled pesticide known by the registrant.

(1) If the registrant chooses to hold the recalled pesticide in storage, then after receipt of the pesticide from the holder, the registrant must evaluate the management options and provide information on the options being considered to EPA in an update to the recall plan. Such updates may be made at the time the registrant submits his quarterly reports.

(2) If the registrant chooses to pursue one or more of the management options besides storage, the registrant must update the recall plan. Such updates may be made at the time the registrant submits his quarterly reports as specified in § 165.174(a).

(i) *Recall schedule.* The recall plan must provide a schedule for conducting the recall, identifying interim milestones such as completing identification of holders, completing contact with holders, beginning transport, and completion of the recall. A recall is considered complete when all stocks offered for recall by all holders have been turned over to the custody of the registrant and are either in storage or the registrant is pursuing one of the management options identified. The registrant must adhere to the recall schedule unless an extension or modification of the schedule is approved in writing by EPA. The recall plan must specify that requests for modifications or extensions of the schedule will be submitted in writing to the EPA Office of Compliance Monitoring at the address given in § 165.174(c) at least 10 working days prior to the date of the milestone deadline.

(j) *Alternatives to elements of the plan.* Where any of the elements in paragraphs (a) through (i) of this section are not appropriate for the circumstances of a particular voluntary recall, the recall plan may provide an alternative to one or more of the elements. The plan must explain why the particular element is not appropriate and demonstrate that the plan accomplishes the same objectives as the elements in paragraphs (a) through (i) of this section.

(k) *Special conditions.* In addition to paragraphs (a) through (i) of this section, if the physical or chemical properties of the pesticide warrant special storage or handling, in the request for submission of a recall plan, EPA may require that registrants include these special conditions in the plan.

§ 165.170 Approval of the recall plan.

(a) The recall plan must be submitted to the address listed in § 165.174(c). If EPA approves the plan, it will notify the registrant and order the recall either by notice in the **Federal Register** or by certified mail to the registrant or both. Generally, EPA will approve the plan if it determines that:

(1) The plan is complete; and

(i) the plan includes each element listed in § 165.167(a) through (i); or

(ii) If the plan contains alternatives to one or more of the elements as provided in § 165.167(j), that the plan adequately accomplishes the same objectives as the elements in § 165.167(a) through (i).

(2) The registrant has proposed a recall to the level in the distribution chain specified in the recall request.

(3) If conducted according to the plan, the recall is likely to be effective in recalling stocks of suspended and canceled pesticides to the level of distribution the registrant has proposed, in a timely manner.

(4) If conducted according to the plan, the recall is likely to be adequate to protect health and the environment.

(b) If EPA determines that the recall plan is not adequate to protect health or the environment, EPA may, at its discretion, afford the registrant the opportunity to modify the plan, or notify the registrant of its intent to reject the plan. The notification of intent to reject will explain the plan's inadequacies and the basis for the inadequacies. Registrants will then have 15 days after receipt of the notification to present comments or arguments either orally or in writing to the Agency official who is responsible for a final determination on the adequacy of the plan. The only issue for such informal hearing is whether the plan is adequate to protect public health or the environment.

(c) If, after an informal hearing as described in paragraph (b) of this section, EPA makes a final determination that the plan does not adequately protect health and the environment, it will notify the registrant by certified mail, and require by regulation that the mandatory recall procedures of subpart J of this part be instituted.

(d) EPA will evaluate the effectiveness of the recall based on the reports

required by § 165.174. At any time during or after the recall, EPA may reevaluate its determination of adequacy of the plan to protect health and the environment and, after an opportunity for an informal hearing as described in paragraph (b) of this section, may determine that the plan is inadequate. EPA will notify registrants by certified mail of a final determination of inadequacy, and require by regulation that the mandatory recall procedures of subpart J of this part be instituted.

§ 165.172 Recordkeeping.

Registrants shall keep the records listed below for pesticides recalled under the recall plan and records required by paragraphs (c), (f), (g), and (h) of this section for suspended and canceled pesticides owned by the registrant. The registrant conducting the voluntary recall must keep records concerning the recall for a period of 3 years following the completion of the recall. The registrant shall make the records available to EPA or its designated representative for inspection and copying, or shall provide them to EPA upon request. The following records shall be maintained:

(a) A copy of the recall plan approved by EPA with any approved modifications.

(b) The names, addresses and telephone numbers of all persons identified by the registrant as potential holders of the suspended and canceled pesticide, and other persons who identified themselves to the registrant as holders of the registrant's pesticide seeking to have it recalled.

(c) Records of the information required by § 165.167(c) concerning the identity and quantity of the suspended and canceled pesticide in the hands of holders. These records must be updated to show any changes in the amount of the suspended and canceled pesticide being held by each holder, until such time as the registrant takes custody of the pesticide.

(d) For each holder, the date when the pesticide was transferred from the custody of the holder to the custody of the registrant and a copy of receipt of the pesticide, or notation of the fact that the holder declined to participate in the recall and the reason for the refusal.

(e) A copy of the written information provided to the holders regarding interim storage and transportation.

(f) If the pesticide was transported by the registrant, documentation to show that the pesticide was transported in accordance with the recall plan.

(g) Records verifying that the pesticide is or was being stored in a facility meeting storage requirements specified in an order issued under section 6 and any other applicable law and regulations.

(h) Records of receipt of the recalled pesticide at the storage facility. These records shall be maintained at the storage facility.

§ 165.174 Reporting.

(a) If EPA orders that the voluntary recall be conducted, the registrant must report, in writing, at least quarterly during the recall period to EPA. Each report must contain the following information:

(1) The number of persons identified to date as potential holders of the suspended and canceled pesticide.

(2) The number of potential holders contacted to date.

(3) The number of persons who were identified as holders of the pesticide.

(4) For each holder, the information required by § 165.167(c).

(5) The total amount of pesticide subject to recall.

(6) The amount of suspended and canceled pesticide transferred from the custody of the holder to the registrant's storage facility.

(7) The amount of pesticide owned by the registrant and the physical location where it is being stored.

(b) Within 45 days after completion of the recall (see § 165.167(i)) the registrant must submit a final report to EPA, in writing, on the outcome of the recall action. The final report will consist of:

(1) For each person from whom the registrant accepted suspended and canceled pesticides, the information required by § 165.167(c) and when the pesticide was transferred to the custody of the registrant.

(2) If the holder has declined to participate in the recall, the reason for the refusal, if known.

(3) The location of each storage facility where the suspended and canceled pesticide was or is being held.

(4) The management options being considered by the registrant for the recalled material or, if the registrant is pursuing a management option for the recalled material, the option chosen.

(c) Reports to the EPA shall be sent to the following address unless otherwise directed by EPA: Director, Compliance Division, Office of Compliance Monitoring (EN-342), U. S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

§ 165.176 Enforcement.

Failure by a registrant to comply with an order to conduct a voluntary recall according to the plan approved by the Administrator under section 19(b) may be a violation of FIFRA sections 12(a)(2)(B), 12(a)(2)(M), or 12(a)(2)(N) depending on the offense. Additionally, the Administrator may take action against persons subject to a voluntary recall order who have failed substantially to comply with the terms of such an order under FIFRA sections 13 and 14, including seeking civil penalties of up to $5,000 per offense, and criminal penalties of up to $50,000 and/or 1 year imprisonment per offense, under section 14 of FIFRA, or seek injunctive relief under section 16(c) of FIFRA.

Subpart J—Mandatory Recalls

§ 165.180 Scope.

This subpart describes the minimum requirements for a mandatory recall of suspended and canceled pesticides. While the requirements in this subpart must be adhered to in all mandatory recalls, nothing in this subpart is intended to limit the scope of the recall. Persons required to conduct a recall may augment these procedures or conduct a broader recall program than is required by this subpart.

§ 165.181 Applicability.

The requirements of this subpart apply to any person who is or was a registrant, distributor or seller of the pesticide subject to recall, or any successor in interest to such a person, and who is identified by regulation as being responsible for conducting the recall. Where specified, this subpart applies to the registrant's own inventory of suspended and canceled pesticides as well as to the recalled pesticides.

§ 165.183 Definitions.

Terms used in this subpart shall have the meanings set forth in the Act. In addition, the following terms are defined for the purposes of this subpart.

Holder. For the purposes of this subpart means the owner of a pesticide at the time of cancellation of a pesticide that has previously been suspended under section 6(c) of the Act or the owner of a pesticide at the end of the period designated for sales of existing stocks of the pesticide.

Management options. Means the methods to manage the pesticide after it has been recalled, including (but not limited to) legal pesticide and non-pesticide use, recycling (e.g., recovery), treatment (e.g., neutralization, deactivation of the active ingredient, degradation), burning for energy or materials recovery, and disposal.

Recall. Means the process of transferring stocks of a suspended and canceled pesticide, other than those stocks owned by the registrant, from the

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holder of the pesticide back to the custody and control of the registrant who produced the pesticide and all activities necessary to accomplish this.

§ 165.186 When a mandatory recall will be required.

A mandatory recall will be required when:

(a) The Administrator determines that a recall is necessary to protect human health and the environment but does not request submission of a voluntary recall plan from the registrant under subpart I of this part.

(b) The Administrator determines that a voluntary recall plan, submitted by a registrant after EPA solicitation, is inadequate to protect human health or the environment.

(c) A voluntary recall plan is not submitted by a person requested to do so under § 165.165.

(d) The Administrator determines, during or after the recall, in accordance with § 165.170(d) that the voluntary recall plan was not adequate to protect health and the environment.

§ 165.188 Initiation of the recall.

(a) *Proposed rule for mandatory recall.* EPA will notify persons required to conduct a mandatory recall (the recallers) by proposing a regulation requiring a recall of a suspended and canceled pesticide.

(1) Proposed mandatory recalls will be published either concurrent with the Notice of Intent to Cancel in the **Federal Register**, or through a notice published in the **Federal Register** after the Notice of Intent to Cancel has been published.

(2) The proposal will incorporate appropriate requirements of this subpart and specify the level of recall in the chain of distribution required.

(3) The proposal may include special terms for the conduct of the recall not addressed in these regulations (e.g., special storage or handling conditions).

(4) An appropriate period for public comment will be provided.

(b) *Final rule for mandatory recall.* EPA will publish a final rule in the **Federal Register** for the mandatory recall, specifying the effective date for initiation of the recall.

§ 165.190 Requirements of the recall.

A mandatory recall must be conducted as described in this section.

(a) *Responsibilities of registrants.* Each registrant is responsible for:

(1) Developing a recall plan.

(2) Coordinating the recall.

(3) Ensuring that all persons to whom the registrant sold or distributed the pesticide have received a copy of the recall plan.

(4) Providing for storage of recalled pesticides at no cost to holders, subject to any alternative cost allocation as provided by section 19(d)(1) of the Act. This includes reimbursement of storage costs incurred by recallers under the terms of the recall plan.

(5) At the request of any holder of the registrant's pesticide, providing for transportation of the pesticide to a storage facility or to a facility carrying out a chosen management option, at no cost to the holder. This includes reimbursement of transportation costs incurred by recallers under the terms of the recall plan. If an end-user declines to participate in a recall because of transportation costs, then the registrant must inform the end-user in writing that the registrant will provide transportation at no cost, upon request.

(6) Collecting and reporting information on the conduct of the recall from all participants in the recall.

(b) *Responsibilities of other recallers.* Each recaller who is not a registrant (supplemental registrant, distributor, seller, or any successor in interest to such a person), and who is subject to the recall regulation must conduct a recall by:

(1) Notifying his customers of the recall.

(2) Obtaining registrant's recall plan, which may include responsibilities for recording information as specified in paragraph (e) of this section and providing certain information to holders as specified in paragraph (f) of this section.

(3) If he has a storage facility, making it available for storage of pesticide recalled from his customers, if specified by the registrant's recall plan.

(4) If requested by a holder who obtained the pesticide from him, providing for proper transportation of the recalled pesticide to his storage facility, unless the registrant's recall plan specifies otherwise. If the registrant's recall plan specifies transportation to a facility other than the recaller's, the registrant must provide for transportation to such facility.

(5) Transporting all pesticides under his custody, as well as pesticides recalled from his customers, to the person recalling it or directly to the registrant, as specified in the registrant's recall plan.

(6) Maintaining the records required by § 165.192, and furnishing these records to the registrant.

(7) Reporting to the registrant the information required by § 165.194.

(c) *Recall plan.* (1) Within 10 days after the effective date for initiation of the recall, the registrant shall develop a written plan for conducting a recall in accordance with this subpart. Registrants may form consortia to develop a single recall plan, however, all members of the consortia are legally responsible for conducting the recall according to the plan, subject to the limitation in section 19(d)(3) of the Act. No person other than the registrant is required to develop a recall plan.

(2) The plan must be specific to the particular mandatory recall action and must be distributed, within 20 days after the effective date for initiation of the recall, to all persons, including supplemental registrants, to whom the registrant sold or distributed the pesticide that is subject to recall.

(3) The recall plan must include the name, address and telephone number of the person who is responsible for coordinating the recall and any other persons, within the company, who will be responsible for specific elements of the recall, (e.g., transportation arrangements from the holder to the registrant's storage facility, receipt of records from recallers) and their responsibilities.

(d) *Identification of primary contact.* (1) Each registrant must, within 10 days after the effective date for initiation of the recall, provide EPA with the name, address and telephone number of the person responsible for coordinating the recall. This information must be mailed to the address listed in § 165.194(g).

(2) All other persons responsible for conducting the recall (distributors, dealers, sellers, supplemental registrants, etc.) must, within 10 days after receipt of the recall plan, provide EPA with the name, address and telephone number of the person responsible for coordinating the recall. This information must be mailed to the address listed in § 165.194(g).

(e) *Identification and contact of holders.* Persons responsible for conducting a recall must take all reasonable steps to identify and contact all persons to whom he sold or distributed the suspended and canceled pesticide that is subject to recall. Holders of the registrant's suspended and canceled pesticide not specifically covered by the recall plan must, upon request to the recaller who sold them the pesticide, be afforded the same opportunity for recall as those covered by the recall plan. Upon contact of persons who may be holders of the suspended and canceled pesticide, the recaller or his representative will:

(1) Record the name, address (both street and P.O. Box, if applicable; city, state and zip code) and telephone number of the potential holder.

(2) Determine and record if the potential holder does possess any stocks of the suspended and canceled pesticide; and if the potential holder does possess the pesticide(s) in question, record the:

(i) Brand name(s) and EPA Registration Number(s) of the suspended and canceled pesticide(s).

(ii) Size (volume or weight) and type(s) of the containers in his/her possession as well as the condition of the containers (intact, rusting, leaking, etc.).

(iii) Number of units of each size container full and the number of containers partially full.

(iv) Total amount (volume or weight) of the pesticide held.

(3) Record the physical location of the stocks of the pesticide, if not at the address of the holder.

(f) *Information to be provided to the holder of the pesticide.* Each recaller shall provide the holders of suspended and canceled pesticides identified under paragraph (e) of this section, orally, immediately after verification that the person is a holder, and in writing within 10 days, the following information:

(1) Notification that the material is suspended and canceled and may not be sold or distributed.

(2) Information concerning interim storage of the pesticide by the holder until such time as the recaller takes custody of the pesticide.

(3) Information on proper transportation of the pesticide, and, if requested, how the registrant will provide for transportation of the pesticide to a specified storage facility or to a facility carrying out a chosen management option.

(4) A means for a holder who is an end-user (e.g., a response form, card or telephone number for the end-user's use) to inform the recaller whether he wishes to participate in the recall, and of his reasons for not participating.

(5) Schedule for taking the pesticide into the registrant's custody.

(6) Notification that if a Stop Sale, Use or Removal Order (SSURO) has been issued, it must be vacated by the official who issued the SSURO prior to anyone moving the pesticide and the steps for requesting the vacation of a Federal and/or State SSURO if one has been issued.

(7) Information on reimbursement for the purchase price of the pesticide, if applicable, in accordance with § 165.232.

(8) Management options available for the pesticide, including, but not limited to, a discussion of:

(i) The management options being considered by the registrant.

(ii) The management options available to the holder if he chooses not to participate in the recall.

(iii) If any of the holder's management options include discarding the pesticide as a solid waste (as defined under the Resource Conservation and Recovery Act regulations), then the registrant must provide the holder with any information the registrant has which could help the holder to determine whether the pesticide meets any of the listing descriptions in 40 CFR part 261, subpart D, or exhibits any of the hazardous waste characteristics identified in 40 CFR part 261, subpart C.

(g) *Transportation of recalled pesticides.* (1) No person may transport recalled pesticides except in accordance with all applicable Federal and State laws and regulations.

(2) Each recaller shall provide the holder with information on the proper transportation of the pesticide to a storage facility or to a facility carrying out a chosen management option.

(3) At the request of any holder of the registrant's pesticide, the registrant shall provide for transportation of the suspended and canceled pesticide at no cost to the holder, unless the registrant and the holder agree to an alternative cost allocation as provided by section 19(d)(1) of the Act. Necessary transportation shall not be delayed pending agreement on the allocation of costs.

(4) Each recaller who takes custody of a recalled pesticide must provide the holder with a receipt for the material taken into custody. The receipt shall have:

(i) The name, address (both street and P.O. Box, if applicable, city, state and zip code) and telephone number of the holder.

(ii) The EPA Registration Number of the pesticide(s).

(iii) The number of units of each size container both full and partially full.

(iv) The total amount (volume or weight) of pesticide received from the holder.

(v) The date the registrant took custody of the recalled pesticide.

(h) *Storage of recalled pesticides.* Recallers who store recalled pesticides must notify EPA in writing of the address of each storage facility where the recalled pesticide will be stored. This information must be reported to EPA as specified in § 165.194(b)(2). If that person wishes to move the recalled pesticide to a storage facility not previously listed or utilize additional storage facilities, he must notify EPA at the address listed in § 165.194(f) and provide the address of the new facility 15 days prior to the change, unless movement of the recalled pesticide is to the registrant's storage facility. Storage of recalled pesticides must be in accordance with all applicable laws and regulations governing storage.

(i) *Management options.* The recall plan must list a range of available options for management of the recalled pesticide.

(1) If the registrant chooses to hold the recalled pesticides in storage, then after receipt of the pesticide from the holder, the registrant must evaluate the management options and provide information on the options being considered to EPA in an update to the recall plan. Such updates may be made at the time the registrant submits his interim or final reports.

(2) If the registrant chooses to pursue one or more of the management options besides storage, the registrant must update the recall plan. Such updates may be made at the time the registrant submits his interim report.

(j) *Completion of the recall.* (1) The recall shall be concluded within 6 months of the date of initiation. A recall action is considered complete when all stocks offered for recall by the holder have been turned over to the custody of the registrant and are either in storage or the registrant is pursuing one of the management options identified and a final report has been filed with EPA. The responsibilities of recallers other than the registrant have been completed when all stocks identified by the recaller have been transferred to the custody and control of the registrant and all required reporting has been completed.

(2) If a recaller needs more time to complete the recall, he may submit a written request for an extension stating the reason for the requested extension to the EPA Office of Compliance Monitoring at the address listed in § 165.194(g) at least 10 working days prior to the end of the 6 month period. The Office of Compliance Monitoring will review the request and either approve or deny the request. If the request is denied, the original completion date applies.

§ 165.192 Recordkeeping.

(a) Each recaller must develop and maintain the following records:

(1) A copy of the recall plan developed by the registrant.

(2) Lists of all persons other than those identified and contacted by the recaller as potential holders of the registrant's suspended and canceled pesticide(s), i.e., persons who identified themselves to the recaller as holders of the suspended and canceled pesticide seeking recall.

(3) Records of the information required by § 165.190(e) concerning the

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identity and quantity of the suspended and canceled pesticide in the hands of holders. These records must be kept current so as to accurately show any changes in the amount of the suspended and canceled pesticide being held until the registrant takes custody of the pesticide.

(4) For each holder, the date when the pesticide was transferred from the custody of the holder to the custody of the person conducting the recall or the registrant and a copy of the receipt of the pesticide, or notation of the fact that the pesticide was not offered for recall and the reason why it was not offered.

(5) A written copy of the information provided to the holders regarding interim storage and transportation.

(6) Documentation of how the recalled pesticide was transported to a storage facility, if applicable.

(7) Documentation showing that the recalled pesticide is being stored in a storage facility meeting all applicable storage requirements. If additional storage facilities were used or the recalled pesticide was moved from one storage facility to another, the names and addresses of the additional storage facilities must be maintained, if applicable.

(8) Records of receipt of the recalled pesticide at the storage facility, if applicable. These records shall be maintained at the storage facility.

(b) Registrants are required to keep the following records for their own inventory of suspended and canceled pesticides.

(1) The total amount of suspended and canceled pesticide owned by the registrant.

(2) Documentation that the pesticides were properly transported to a storage facility.

(3) Documentation showing that the pesticide is being stored in a storage facility meeting all applicable storage requirements. If additional storage facilities were used or the pesticide was moved from one storage facility to another, the names and addresses of the additional storage facilities must be maintained.

(4) Records of receipt of the pesticide at the storage facility. These records shall be maintained at the storage facility.

(c) A copy of the records listed in paragraphs (a)(2) through (a)(8) of this section must be forwarded by the recaller to the registrant whose suspended and canceled pesticide was recalled, after the recaller has fulfilled his responsibilities under the mandatory recall rule and the recall plan. The registrant is responsible for collating and maintaining these records.

(d) The registrant shall maintain records at a central location for a period of 3 years following completion of the recall and make the records available for inspection or submission to EPA or its designated representative upon request.

§ 165.194 Reporting.

(a) Within 10 days after the effective date for initiation of the recall, registrants must report to EPA, in writing:

(1) The name, address and telephone number of the person responsible for conducting the recall.

(2) Where records will be stored.

(3) Where recalled pesticides will be stored as well as suspended and canceled pesticides owned by the registrant.

(b) Within 10 days after receipt of the recall plan, all other recallers must report to EPA:

(1) The name, address and telephone number of the person responsible for conducting the recall.

(2) Where recalled pesticides will be stored, if the recaller chooses to store the recalled pesticides himself.

(c) Persons responsible for conducting the recall must report to the registrant, in writing, no later than 3 months after the effective date for initiation of the recall:

(1) The total number of potential holders of the suspended and canceled pesticide.

(2) The number of potential holders contacted to date.

(3) The number of persons who are known to be holders of the pesticide.

(4) For each holder, the information required by § 165.190(e).

(5) The total amount of pesticide identified as subject to recall.

(6) The total amount of pesticide transferred to date to a designated storage facility.

(d) The registrant must report to EPA, in writing, the information received pursuant to paragraph (c) of this section within 15 working days of the 3 month deadline. The registrant must also report the total amount of the suspended and canceled pesticide owned by him.

(e) Within 10 days of transferring custody to the registrant of all suspended and canceled pesticides identified and recalled by the recaller, the recaller will provide a copy of the records described in § 165.192(a)(2) through (a)(8) to the registrant.

(f) Within 30 days of completion of the recall, i.e., transfer of all identified stocks of the suspended and canceled pesticide to the custody of the registrant or final disposal of all identified stocks; the registrant must submit a final report to EPA, in writing, on the outcome of the recall action. The final report will consist of:

(1) For each former holder, the information required by § 165.190(e)(1) and (2), and when the pesticide was transferred to the recaller's custody.

(2) If the holder has not offered the pesticide for recall, documentation of the refusal.

(3) The location of the storage facility where the pesticide was or is being held.

(4) The management options chosen by the registrant for the recalled material or, if the recalled material has been disposed of, the method of disposal, if known.

(g) Reports must be submitted to the following address unless otherwise directed by EPA in the final mandatory recall rule: Director, Compliance Division, Office of Compliance Monitoring (EN-342), U. S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

§ 165.196 Enforcement.

The Administrator may take action, under FIFRA sections 13 and 14, including seeking civil penalties of up to $5,000 per offense, and criminal penalties of up to $50,000 and/or 1 year imprisonment per offense, or seek injunctive relief under section 16(c) of FIFRA, against any registrant, distributor, or seller of a pesticide subject to a mandatory recall, or any successor in interest to such a person, who has failed substantially to comply with the terms of a mandatory recall as required by this subpart and any rule issued under § 165.188. Additionally, failure to comply with the terms of a rule issued under § 165.188 may be a violation of FIFRA sections 12(a)(2)(B), 12(a)(2)(M), 12(a)(2)(N) or 12(a)(2)(S) depending on the offense and subject to the penalties noted above.

§ 165.198 Pesticides subject to mandatory recall. [Reserved]

Subpart K—Storage And Disposal Plans; Reimbursement Of Storage Costs

§ 165.200 Scope and applicability.

(a) *Scope.* This subpart describes the criteria that the Agency will use in evaluating a storage and disposal plan submitted under FIFRA section 19(c)(1). Such a plan must be submitted by a registrant who seeks reimbursement of storage costs for a pesticide that has been recalled under FIFRA section 19(b). In addition, this subpart sets out the procedures for submitting claims for reimbursement of storage costs incurred as a result of a recall.

(b) *Applicability.* This subpart applies only to registrants seeking reimbursement of storage costs for pesticides recalled under section 19(b) of FIFRA. This subpart does not apply to any registrant who conducts a recall of a pesticide not ordered or required by the Administrator under section 19(b), regardless of whether the registration has been suspended or not. No registrant is required to submit a storage and disposal plan under this subpart. However, if a registrant wishes to be reimbursed for storage costs incurred as a result of the recall under section 19(b), the registrant must submit a storage and disposal plan, and comply with the provisions of this subpart in so doing.

§ 165.203 Definitions.

Terms used in this subpart shall have the meanings set forth in the Act. In addition, the following terms are defined for the purposes of this subpart.

Fifty percent reimbursement period. Means a 1-year period beginning on the later of:

(1) The date of approval of a storage and disposal plan by the Agency; or

(2) The date of cancellation of the pesticide.

Management options. Means the methods to manage the pesticide after it has been recalled, including (but not limited to) legal pesticide and non-pesticide use, recycling (e.g., recovery), treatment (e.g., neutralization, deactivation of the active ingredient, degradation), burning for energy or materials recovery, and disposal.

One hundred percent reimbursement period. Means that period of time beginning on the later of:

(1) The date of submission of an acceptable storage and disposal plan; or

(2) The date of cancellation of the pesticide, if it occurs before approval of the plan. In either case, the 100% period ends on the date of approval or conditional approval, if appropriate, of the plan by the Agency. The term does not include any period of time culminating in the disapproval of a storage and disposal plan by the Agency.

Twenty-five percent reimbursement period. Means the period of time beginning on the first day of the fourth year after the end of the 50-percent reimbursement period, and ending on the date that a disposal permit is issued by any State, or an alternative plan for disposal has been developed.

§ 165.205 Submission of storage and disposal plan.

(a) *Who must submit a plan.* Registrants who wish to be eligible for reimbursement of storage costs incurred as a result of a recall must submit a storage and disposal plan to the Agency that meets the criteria set forth in these regulations.

(b) *Where to submit the plan.* In order to be eligible for reimbursement, the registrant must submit the storage and disposal plan to: Office of Pesticide Programs (H7507C), Attention: Storage and Disposal Plans, U. S. Environmental Protection Agency, 401 M St., SW., Washington DC 20460.

(c) *When to submit a storage and disposal plan.* A storage and disposal plan must be submitted no later than:

(1) The date the voluntary recall plan is required to be submitted as set forth in § 166.165; or

(2) If EPA does not require submission of a voluntary recall plan under section 19(b)(2) of FIFRA or if the registrant fails to submit a recall plan that is approved under § 165.170, 60 days after publication in the **Federal Register** of a proposed rule prescribing mandatory recall.

§ 165.207 Criteria for the evaluation of storage and disposal plans.

The following criteria will be used to evaluate whether a storage and disposal plan is acceptable:

(a) *Storage in compliance with applicable law.* The plan must provide sufficient information for the Agency to be able to determine that the registrant is taking steps to assure that storage will be in compliance with applicable law.

(b) *Adequate discussion of management options.* The plan must show that the registrant is taking or will take appropriate steps for managing the recalled pesticides. The plan shall discuss all available management options and evaluate their feasibility, costs, and risks and benefits.

(c) *Completeness of the plan.* The plan must adequately address each item in § 165.208. For example, if the information provided in addressing one item contradicts other information in the plan, the plan would not have adequately addressed each item.

(d) *Signature.* The plan must be signed by the registrant or his authorized representative.

§ 165.208 Contents of storage and disposal plans.

The Storage and Disposal Plan must include each of the following elements:

(a) *Storage.* The plan must describe the steps the registrant will take to assure that the recalled pesticides will be stored in accordance with applicable law. Additionally, if the pesticides have particular characteristics that require specific storage conditions, the discussion must include such information.

(b) *Recall.* The plan must include a statement describing the current status of the recall, for example, whether the registrant has started recall procedures, and, if so, how much has been accomplished to date.

(c) *Identification of persons responsible for storage and disposal.* The storage and disposal plan must identify the primary contact person(s) within the registrant's company who will be responsible for carrying out the storage and disposal plan. The registrant must inform the Agency within 10 days, at the address listed in § 165.205(b), of any contact person(s) changes.

(d) *Description of pesticides to be stored.* The storage and disposal plan must describe the stocks of the suspended and canceled pesticides as follows:

(1) *For registrant's own inventory.* Provide the formulation types, container types and sizes, and the quantities of each being stored.

(2) *For the pesticides recalled from others.* Provide estimates of the formulation types, container sizes and types, and the quantities of each expected to be recalled. Estimates will not be acceptable if the registrant has completed the recall; the storage and disposal plan must then provide the actual information.

(e) *Storage facilities.* The storage and disposal plan must include:

(1) The location of the facility(ies) where the registrant's own inventory of suspended and canceled pesticides is being stored, and the name of the owner of the storage facility.

(2) For each storage facility to be used or anticipated to be used for storage of recalled pesticides, the following information must be included.

(i) The location of the storage facility and the name of the owner of the storage facility;

(ii) The available storage capacity either in pounds, and/or gallons. The registrant must indicate whether the total capacity is sufficient to handle the amount of pesticide that the registrant expects to recall. If the storage capacity available to the registrant at the time of submission of the plan is insufficient for the amount of recalled pesticides estimated, the registrant must describe the steps being undertaken or that will be undertaken to locate additional adequate storage.

(3) An estimated annual storage cost for the recalled pesticides and the basis for calculating such costs.

(4) If the storage facility(ies) is owned or leased by the registrant, the actions the registrant will take to assure effective supervision of the storage of recalled pesticides.

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(5) If the storage facility(ies) for recalled pesticides are owned or leased by someone other than the registrant, the steps the registrant will take to assure effective control and supervision of the storage operation by that other person.

(f) *Management options.* The storage and disposal plan shall contain a full and complete discussion of management options of the recalled pesticide and the containers. The plan must discuss all available options (i.e., recycling, reclamation, lawful use of the recalled pesticides, as well as disposal) and evaluate their feasibility, cost, and risks and benefits. The plan must also estimate the quantities of pesticides which will be managed by each option and a timeframe for completing the option. If the options for management of the suspended and canceled pesticides are not known, the plan must describe a timeframe and the steps the registrant will take to identify management options.

(g) *Records retention.* The storage and disposal plan must list the location where records required by § 165.218 will be stored. Records must be retained by the registrant at the same central location for both the registrant's own inventory and recalled pesticides.

§ 165.210 Agency action.

(a) *Notification of receipt of the plan.* EPA will acknowledge the date of receipt of a storage and disposal plan by sending a notification to the registrant. Except as provided by paragraph (c) of this section, the 100 percent reimbursement period of storage costs begins on the date of receipt of the storage and disposal plan by the Agency.

(b) *Approval of storage and disposal plans.* The Agency will evaluate the storage and disposal plan according to the criteria in § 165.207. If the Agency determines that the plan is acceptable, it will approve the plan. The Agency will notify the registrant of the date of approval of the plan, and such date establishes the end of the 100-percent reimbursement period. The Agency may send to the registrant the acknowledgement of the date of receipt of the plan and the notification of approval at the same time.

(c) *Rejection of storage and disposal plans.* (1) A plan will be rejected as unacceptable if:

(i) The plan does not provide a scheme for safe storage and safe, practicable management of the recalled pesticides. For example, if the contents of the plan indicate the registrant would not be storing pesticides in compliance with applicable law.

(ii) The plan does not adequately address each element of the contents of a storage and disposal plan, as set forth in § 165.208.

(iii) The plan has not been signed by the registrant or by the registrant's authorized representative.

(iv) The plan is not submitted within the timeframes provided in § 165.205(c), unless the registrant can show extenuating circumstances that caused untimely submission of the plan.

(2) If EPA rejects a plan, EPA will return the plan to the registrant within 45 days of receipt of the plan, along with an explanation of why the plan is not acceptable. Such notification will describe the steps that must be taken for the plan to be approved. The 100-percent reimbursement period will not begin until the Agency receives a revised plan which is acceptable and subsequently approved.

(3) If EPA fails to reject a plan within 45 days of receipt of the plan, and upon review finds the plan unacceptable under paragraph (c)(1) of this section, then EPA will notify the registrant that the plan will be considered conditionally approved pending timely revision of the plan. Such notification will include the date of conditional approval and explain the steps that must be taken for the plan to be finally approved.

(4) If EPA finds at any time that a registrant submitted materially false or misleading information in the plan the Agency will reject the plan and take any other appropriate action.

(d) *Conditional approval.* (1) The Agency may conditionally approve a plan with minor errors. If this is the case, the Agency will notify the registrant of the conditional approval and the minor errors in the plan, and require that the errors be corrected and the plan be resubmitted. The following are examples of errors that could result in conditional approval:

(i) Typographical errors that cause the information submitted to be misleading or unclear.

(ii) Minor technical errors, such as misstatement of the name of the formulation.

(iii) Ambiguous information such that the meaning of a statement is not clear.

(2) The notification will include the date of conditional approval subject to resubmission and subsequent approval of the corrected plan.

(3) If the registrant fails to submit a corrected plan within 30 days of receipt of the notification, the Agency will consider the plan unacceptable and notify the registrant that the conditional approval has been rescinded and that the plan is rejected. In such situations, the 100-percent reimbursement period will not begin until EPA receives a corrected plan.

(4) If the registrant submits a corrected plan within 30 days of the notification, the date of conditional approval establishes the end of the 100-percent reimbursement period.

(e) *Modifications.* Upon written request by EPA, the registrant must modify the plan or submit additional information.

§ 165.212 Reimbursement of storage costs.

The Agency will reimburse only those costs which are reasonable and necessary and consistent with the approved storage and disposal plan. For purposes of this section, reasonable and necessary storage costs are those costs directly attributable to storage of the pesticides recalled under section 19(b) of the Act. Storage costs do not include indirect costs such as costs for acquiring permits, transportation of pesticides to or between storage facilities, transportation costs incurred as part of the recall, repackaging costs, cleanup of spills, structural expansion, or remediation of site contamination. The claimant has the burden to establish and support the reasonableness and necessity of all costs claimed. Storage costs for registrant's inventory of suspended and canceled pesticides are not reimbursable as they are not recalled pesticides under section 19 of the Act.

§ 165.214 Procedures for submission of storage cost reimbursement claims.

(a) *General.* Any registrant who seeks reimbursement of costs incurred in accordance with an approved storage and disposal plan, must file a claim with the Agency. Only the registrant may seek reimbursement. Claims from other persons will not be accepted. Reasonable and necessary storage costs, which are consistent with the approved plan, will be allowed.

(b) *Claim form.* The registrant must submit the claim on a claim form provided by the Agency.

(c) *Current storage and disposal plan.* The registrant must submit an updated storage and disposal plan and any modifications requested by the Agency under § 165.210 to accompany its reimbursement claim. This updated plan must provide current information on all the elements of a plan listed in § 165.208. All estimates must be replaced with exact information. Under management options (§ 165.208(f)), the registrant must provide information on types and amounts of recalled pesticides that have been lawfully sold, disposed of, or handled by other management

options. If the registrant has not disposed of any of the recalled pesticides, the registrant must describe the progress it has made in developing options for management. A reimbursement claim without an updated plan containing all the foregoing information will be rejected.

(d) *Proof of quantities of recalled pesticides.* The registrant must submit evidence showing that quantities claimed in storage were received and stored at the storage facility and the period of time for which they were stored. At a minimum, such documentation must include copies of manifests or other business records showing date of receipt, number of containers, and amount of recalled pesticides at each facility. If the documentation covers both recalled pesticides and the registrant's own inventory at the same facility, the registrant must clearly establish which portion of the total amount is recalled pesticides and which is the registrant's own inventory. The Agency will only reimburse the registrant for the storage costs of recalled pesticides.

(e) *Proof of storage costs.* The registrant must fully document the reasonableness and necessity of the claimed storage costs. Copies of lease or rental payments must be included and must be itemized so that all charges included in the payment are shown. If there is no lease or rental payment, business records must be provided which itemize costs. If the recalled pesticides only occupy a part of the total capacity of the storage facility, the costs submitted in the claim must be prorated to reflect the actual costs of storing the recalled pesticides.

(f) *Right to inspect.* The Agency retains the right to inspect all records and data supporting the claimed storage costs. To the extent that the registrant contracts with a third party for storage, the registrant must ensure that the government has complete access to all records and data maintained by the third party which supports the claimed storage costs.

(g) *Confidential business information.* (1) A registrant may assert a claim of confidential business information for information submitted through the claim form, in the manner described in 40 CFR 2.203. Claimants must substantiate all claims of confidentiality at the time they assert the confidentiality claim (i.e., when the reimbursement claim is filed). Claimants substantiate confidentiality claims by providing comments on the following:

(i) The period of time for which confidential treatment is desired.

(ii) Whether disclosure of the information is likely to result in substantial harmful effects to the competitive position of the business and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

(iii) Measures taken by the business to guard against undesired disclosure of information to others.

(iv) The extent to which the information has been disclosed to others, and the precautions taken in connection therewith.

(v) Pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of such determination, if available.

(vi) Whether claimant asserts that the information is voluntarily submitted information under 40 CFR 2.201(i), and if so, whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.

(2) The information covered by the claim of confidentiality will be disclosed by the Agency only to the extent allowed by section 10 of the Act, and by means of the procedures set forth in 40 CFR part 2. If no claim of confidentiality is made at the time the reimbursement claim is submitted to the Agency, the information in the claim for reimbursement may be made available to the public by the Agency without further notice to the registrant (See 40 CFR 2.203(a)(2)). If a confidentiality claim is made but no supporting documentation received, the reimbursement claim will be considered incomplete and returned to the submitter.

(h) *Certification of claim.* At the time of submission of a claim, the registrant or his authorized representative must sign the claim form, certifying that:

(1) All statements made and information provided in the claim are true and correct to the best of registrant's knowledge.

(2) Acceptance by the registrant of any payment made by the Federal Government constitutes full satisfaction and final settlement of the claim.

(3) By submission of the claim, the registrant grants permission to authorized agents/designated representatives of the Federal Government to enter premises where records or pesticides are stored and to conduct inspections, audits, and/or examinations determined by the Government to be necessary to verify contents of the claim.

(4) For any recalled pesticide stored or being stored, the registrant has complied with the requirements of all applicable laws and regulations governing such storage.

(i) *When claims may be filed.* (1) The registrant must submit a separate claim for storage costs incurred for each reimbursement period.

(2) Each separate claim for storage costs incurred may be submitted only after the expiration of the appropriate period. For example, a claim for costs incurred during the 50-percent reimbursement period may be submitted only after the end of the 1-year period that circumscribes the 50-percent reimbursement period.

(3) If the registrant continues to store the pesticide into the 25-percent reimbursement period, he may submit an initial claim for reimbursement no earlier than 1 year after the beginning of the 25-percent reimbursement period. Thereafter, he may submit subsequent claims for 25-percent reimbursement annually until the reimbursement period ends.

(4) At the end of the 25-percent reimbursement period, the registrant may submit a final claim.

(j) *Where to file.* The registrant must submit the reimbursement claim to: Office of Pesticide Programs (H7507C), Attention: Storage and Disposal Plans, U. S. Environmental Protection Agency, 401 M St., SW., Washington DC 20460.

§ 165.216 Additional requirements for 25-percent reimbursement claims.

(a) A registrant who continues to store recalled pesticides into the 25- percent reimbursement period must provide the Agency, within 30 days after the beginning of the 25-percent reimbursement period, the following information:

(1) A description of the steps the registrant has taken to manage the recalled pesticide during the zero percent reimbursement period, documenting the management options considered, and the reasons why such options were not feasible. Acceptable reasons for continued storage might include, but are not limited to, the following:

(i) That the quantities of recalled pesticide temporarily exceed the capacity of the lawful use demand or disposal. The registrant must provide evidence showing that steps are being taken to rectify the situation, including information on the rate of lawful use or disposal, and give an estimate of the time needed.

(ii) If the pesticide would be disposed of as a hazardous waste, evidence that the registrant cannot lawfully dispose of the pesticide and that management options other than disposal are not

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reasonably available, or that there are no legal management options.

(2) The quantities of pesticide that have been managed during the zero percent reimbursement period, and the method(s) of management that have been used.

(3) A schedule for managing the remaining pesticides.

(b) Failure to submit the information requested in paragraph (a) of this section within 30 days after the beginning of a 25-percent reimbursement period will result in rejection of a 25-percent reimbursement period claim submitted later.

(c) The Agency presumes that the registrant holding recalled pesticide is able to identify and avail himself of one or more management options during the zero percent reimbursement period. The burden is upon the registrant seeking reimbursement to document and justify the need for continued storage into the 25-percent reimbursement period. If the registrant cannot adequately justify his continued need, the Agency will reject a 25-percent reimbursement claim.

§ 165.217 Final Agency decision.

(a) EPA's determination regarding the amount of storage costs reimbursable will be sent in writing to the registrant. A denial of a storage costs reimbursement claim will also be sent in writing to the registrant and will include a statement of the reason(s) for the denial. In either case, the administrative determination will be final, unless EPA reconsiders its decision as set forth in paragraph (b) of this section.

(b) Upon a timely filing of a request for reconsideration, EPA may reconsider a decision if the registrant establishes that an error was made in the computation of the award, or that evidence or material facts were unavailable to the registrant at the time of filing the claim and that failure to provide the information was not a result of the registrant's lack of care. A registrant seeking reconsideration must file a request within 30 days from the date of EPA's final determination of the claim.

§ 165.218 Recordkeeping.

Any registrant that receives reimbursement must maintain records and data supporting the claim or ensure that records and data are maintained by a third party for 3 years following payment of the claim or final disposition of the pesticides, whichever is later.

Subpart L—Indemnification

§ 165.220 General.

(a) This subpart describes a pesticide owner's entitlement to indemnification for losses suffered by reason of suspension and subsequent cancellation of a pesticide, and establishes procedures for submitting indemnification claims to the Agency.

(b) All claims must be submitted in accordance with the requirements of this subpart and with any additional requirements issued by the Agency at the time of suspension and cancellation of specific pesticides.

§ 165.223 Definitions.

Terms used in this subpart shall have the meanings set forth in the Act. In addition, the following term is defined for the purposes of this subpart.

Special status seller. Means any dealer or distributor who did not receive advance notification of nonreimbursement and who is unable to get reimbursement due to his seller's bankruptcy or insolvency.

§ 165.225 Eligibility criteria.

(a) *Eligible pesticides.* In general, indemnification may be claimed for a pesticide whose registration has been suspended under FIFRA section 6(c) and subsequently canceled under FIFRA sections 6(b), 6(d), or 6(f). Lists of pesticides by registration numbers which are eligible for indemnification will be provided in a separate Notice issued by the Agency and published in the **Federal Register** after suspension and cancellation.

(b) *Eligibility of persons.* (1) A person is eligible to submit a claim for indemnification if:

(i) The person owned any quantity of a pesticide immediately before the date of its suspension under section 6.

(ii) The person suffered losses by reason of suspension and subsequent cancellation of the pesticide's registration under sections 6(b), 6(d) or 6(f).

(2) The right to receive indemnification belongs to the owner of the pesticide at the time of suspension.

(c) *Persons not eligible.* (1) A person is not eligible for indemnification if the Administrator finds that the person had knowledge of facts that, in themselves, would have shown that the pesticide did not meet the requirements for registration, and continued thereafter to produce the pesticide without giving timely notice of such facts to the Administrator.

(2) A person is not eligible for indemnification for stocks of a suspended and canceled pesticide acquired after the pesticide is suspended under section 6(c) even if the pesticides are acquired in a lawful manner for a lawful sale, distribution or use.

(3) A seller who reimburses purchasers as set forth in section 15(b)(2) of the Act cannot seek indemnification for the reimbursement.

(4) A seller who has been assigned a claim for indemnification will not be eligible for payment of the indemnification unless the Government waives the prohibition against early assignment in the Anti-Assignment of Claims Act, 31 U.S.C. 3727(b). EPA will consider waiving the prohibition against early assignment only if circumstances warrant such action and it is in the Government's interest to do so.

§ 165.227 Limitations on amount of indemnification.

(a) An owner can be indemnified only for losses suffered by reason of suspension and subsequent cancellation of a pesticide. The amount of loss which can be indemnified is limited to the cost of the pesticide owned by the person immediately before suspension, but cannot exceed the pesticide's fair market value at that time. The cost of the pesticide does not include incidental items such as transport, tax, storage costs, or repackaging.

(b) Owners have the responsibility to make a reasonable effort to mitigate their loss by converting the pesticide to other lawful uses such as reprocessing, recycling, or sale and distribution in accordance with the terms of applicable suspension and cancellation orders. The total amount of loss sustained by the owner for a given amount of a pesticide must be reduced by the amount of any sale, distribution or use of that pesticide. A claimant is not entitled to an indemnity payment for any amount of suspended and canceled pesticide for which losses were recovered through sale or use. Owners are not entitled to be indemnified for pesticides that are recycled or reprocessed, except to the extent that losses resulting from the suspension and cancellation have not been offset.

§ 165.230 Payment of indemnification.

(a) Two groups of eligible pesticide owners may receive payment from the Judgment Fund:

(1) End-users.

(2) Special status sellers. Persons who are sellers of pesticides who also apply pesticides will be treated as sellers only. Persons who are applicators who only sell the service of applying pesticides without delivering any unapplied pesticides to any person so served will be treated as an end-user.

(b) All other persons who are eligible for indemnification may receive payment only if Congress makes a specific line item appropriation of funds for the payment.

§ 165.232 Seller's requirement to reimburse.

(a) Each seller shall reimburse its purchasers (other than end users) who suffered a loss by reason of the suspension or cancellation of the pesticide unless the purchaser has been notified, in writing, at the time of sale, that the pesticide is not subject to reimbursement by the seller.

(b) After suspension and cancellation of the registration of a pesticide, the seller should notify all his purchasers (other than end-users) that the purchasers can obtain reimbursement.

(c) Reimbursement shall be provided for the quantity of the pesticide that cannot be used or resold as a result of suspension or cancellation.

§ 165.234 Procedures for submission of claims.

(a) *General.* Any person who files a claim for indemnification for a suspended and canceled pesticide must submit the items of information identified in this section. It is the responsibility of the person submitting an indemnification claim to submit the required documentation to support the claim. The Agency reserves the right to require additional information on a case by case basis.

(b) *Claim form.* The Agency will provide a specific claim form and instruction sheet for each suspended and canceled pesticide. The claim form will have boxes to identify the filing status of claimant. The instructions will indicate what supporting documentation is required for each element of the claim. The claim form must be completed and submitted to the agency in accordance with the instructions.

(c) *Filing status.* Each person submitting a claim for indemnification must identify his status as either:

(1) *An end user or special status seller.*

(2) *Seller.* A separate claim must be submitted for each status category.

(d) *Proof of ownership.* (1) An owner must supply proof that he/she owned the pesticide at the time of suspension. Such proof may be production records or purchase invoices.

(2) If the person filing the claim was not the owner on the date of suspension, the claimant must submit documentation of authority to file the claim, such as a power of attorney or assignment. The documentation must identify the owner of the pesticide at the time of suspension, and the owner's address and telephone number. A claimant with an assignment must supply proof that the assignor owned the pesticide at the time of suspension.

(e) *Proof of cost.* Proof of the cost of the pesticide can be substantiated by records of production costs, purchase receipts, and/or purchase invoices.

(f) *Proof of status.* A claimant applying as an end user or special status seller must check the appropriate box on the claim form and must certify that he qualifies for such status.

(1) A claimant applying as an end-user must certify that he/she is in fact an end user.

(2) A claimant applying as a special status seller must provide the following documentation:

(i) If the claimant seeks indemnification due to the seller's bankruptcy, the claimant must furnish a copy of a proof of claim filed with the Bankruptcy Court or other document showing that the claimant is included on the list of creditors, and a copy of documentation showing the amount of distribution received through the bankruptcy proceedings, such as the disclosure statement with a court-approved reorganization plan.

(ii) If the claimant seeks indemnification due to the seller's insolvency, the claimant must furnish evidence of the seller's insolvency such as a copy of a court order declaring the seller insolvent, a judgment that claimant has obtained against the seller and evidence that claimant has been unable to recover on the judgment, or some other documentation showing that the claimant attempted to recover from the seller but was unable to recover due to the seller's insolvency.

(iii) A dealer or distributor seeking indemnification under paragraph (f)(2) of this section may file a claim contingent upon the outcome of bankruptcy or insolvency proceedings. However, payment will not be authorized until bankruptcy proceedings have been completed and the amount of distribution, if any, has been verified.

(g) *Composite claim lists.* A seller who has several claims may submit composite lists for separate elements of the claim form identifying the pesticide, pesticide owner, quantities and units of pesticide, and other pertinent information indicated on the claim form.

(h) *Business records verification.* In lieu of submitting all documentation to EPA, a person who normally maintains business records may consolidate the supporting information required to accompany the claim form and verify the contents of the claim by submitting an independent auditor's or certified accountant's report. Each element of the claim, such as cost per unit of pesticide or quantity of pesticide owned at the time of suspension, must be reviewed and independently determined by the auditor or accountant to be valid if verification for the complete contents of the claim are provided through the report or statement. If the independent review is conducted for only one element of the claim, such as a manufacturer's cost of production per unit of pesticide, supporting documentation must be submitted for all other elements of the claim. The Agency may require submission of the information that formed the basis for the audits or reports to verify the validity of the information submitted.

(i) *Confidential Business Information.* (1) A claimant may assert a claim of confidentiel business information for the information submitted through the claim form in the manner described in 40 CFR 2.203. Claimants must substantiate all claims of confidentiality at the time they assert the confidentiality claim (i.e., when the indemnification claim is filed). Claimants substantiate confidentiality claims by providing comments on the following:

(i) The period of time for which confidential treatment is desired.

(ii) Whether disclosure of the information is likely to result in substantial harmful effects to the competitive position of the business and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

(iii) Measures taken by the business to guard against undesired disclosure of information to others.

(iv) The extent to which the information has been disclosed to others, and the precautions taken in connection therewith.

(v) Pertinent confidentiality determinations, if any, by EPA or other Federal agencies, and a copy of such determination, if available.

(vi) Whether claimant asserts that the information is voluntarily submitted information under 40 CFR 2.201(i), and if so, whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.

(2) The information covered by the claim of confidentiality will be disclosed by the Agency only to the

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extent allowed by section 10 of the Act, and by means of the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the information when it is received by the Agency, the information in the claim for indemnification may be made available to the public by the Agency without further notice to the claimant. If a confidentiality claim is made but no supporting documentation received, the indemnification claim will be considered incomplete and returned to the submitter.

(j) *Certification of claim.* At the time of submission of a claim, the claimant or authorized representative must sign the claim form, attesting to the following:

(1) That all statements made and information provided in the claim are true and correct to the best of the claimant's knowledge, and that the amount of the claim is an accurate statement of the cost of the pesticide.

(2) That the claimant had no knowledge of facts which, in themselves, showed that the pesticide did not meet registration requirements at the time of suspension.

(3) That acceptance by the claimant of any payment made by the Federal government constitutes full satisfaction and final settlement of the claim.

(4) That by submission of the claim, the claimant grants permission to authorized agents of the Federal government to enter premises where records or pesticides are retained to conduct whatever inspections, audits, or examinations are necessary to verify the contents of the claim, including any facts supporting a payment from the Judgment Fund, as set forth in § 165.234(f).

(5) That by submission of the claim, the claimant waives any claim of confidentiality for the following types of information: composition, quantity of pesticide, the unit size of containers, and the pesticide's location.

(6) That the claimant has received no other payment, including reimbursement by the seller, for the cost of the pesticides for which indemnification is claimed and that should claimant receive such other payment, claimant agrees to promptly repay the Federal government, in such amount up to and including the full amount of the indemnification payment made under section 15 of FIFRA.

(7) That ownership of and responsibility for pesticides for which indemnification payments are made remain with the claimant.

(8) That payment of indemnification under section 15 of FIFRA does not in any way constitute a finding or warranty by the United States with respect to the proper or safe storage, packaging, handling, transport, or disposal of such pesticides by the owners or holders of the pesticides or by agents, employees, or other persons acting in their behalf.

(9) That if the claim is filed by an assignee, the United States may assert against the assignee any defenses, or right of set-off or counterclaim, applicable against the person who assigned the claim.

(10) That if the claimant is applying as an end user or special status seller, the claimant meets the applicable criteria for this category.

(k) *When to file.* After suspension and cancellation of a pesticide registration, the Agency will issue guidance in a notice published in the Federal Register, providing specific information and requirements for the particular pesticide, and establishing a time frame for submission of indemnification claims.

(l) *Where to file.* The address to which claims should be submitted will be provided on the claim form and in the **Federal Register** notice which provides details of the indemnification program for a specific suspended and canceled pesticide.

§ 165.236 Agency review of claim.

(a) Upon receipt of a claim, the Agency will assign it a claim number and all correspondence regarding the claim will reference that number. Each claimant will be notified of any additional information or verification required for consideration of the claim. If a claimant is unable to provide the documentation required for consideration of his/her claim within a prescribed time period, the claim will be denied.

(b) A claim may be amended at any time before final action by EPA. All amendments must be submitted in writing and signed by the claimant or his/her authorized agent or legal representative.

(c) A claimant may withdraw a claim at any time by written notice to the Agency. A claim that has been withdrawn may be resubmitted only within the response period established by the Agency in the **Federal Register** notice referred to in § 165.234(k).

(d) The Agency's determinations regarding eligibility of claims and amounts of indemnity payable shall be final.

(e) EPA, at its discretion, may reconsider a decision if the claimant establishes that an error was made in the computation of the amount of indemnification, or that evidence or material facts were unavailable to the claimant at the time of filing the claim and that failure to provide the information was not the result of claimant's lack of care.

(1) A claimant seeking reconsideration of denial must submit a written request within 30 days of the date of the decision. The request for reconsideration must specify, if applicable, the evidence or material facts not previously considered and the reasons why the evidence or facts were not previously available.

(2) Requests for reconsideration should be submitted to the Agency Indemnification Claims officer at the following address: Office of Pesticide Programs (H7507C), Attention: Indemnification Claims Officer, U. S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

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May 5, 1993

Part V

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 357

Orally Administered Drug Products for Relief of Symptoms Associated With Overindulgence in Food and Drink for Over-the-Counter Human Use; Proposed Amendment to the Tentative Final Monograph; Proposed Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 357

[Docket No. 82N–0166]

RIN 0905–AA08

Orally Administered Drug Products for Relief of Symptoms Associated With Overindulgence in Food and Drink for Over-the-Counter Human Use; Proposed Amendment to the Tentative Final Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the tentative final monograph for over-the-counter (OTC) orally administered drug products for relief of symptoms associated with overindulgence in food and drink to include a Reye syndrome warning for OTC drug products containing bismuth subsalicylate. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments or objections by July 6, 1993; written comments on the agency's economic impact determination by July 6, 1993.

ADDRESSES: Written comments or objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 1, 1982 (47 FR 43540), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC orally administered drug products for relief of symptoms associated with overindulgence in alcohol and food, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in these drug products. Interested persons were invited to submit comments by December 30, 1982. Reply comments in response to comments filed in the initial comment period could have been submitted by January 31, 1983.

The agency's proposed regulation, in the form of a tentative final monograph, for OTC orally administered drug products for relief of symptoms associated with overindulgence in food and drink was published in the **Federal Register** of December 24, 1991 (56 FR 66742). Interested persons were invited to file by April 22, 1992, written comments, objections, or requests for oral hearing on the proposed regulation before the Commissioner of Food and Drugs. Interested persons were also invited to submit new data by December 24, 1992, and to submit comments on the new data by February 24, 1993.

Final agency action on this class of drugs will occur with the publication at a future date of a final rule for orally administered drug products for relief of symptoms associated with overindulgence in food and drink. The proposal included in this notice will be addressed in that final rule.

Since publication of the tentative final monograph for OTC drug products for relief of symptoms associated with overindulgence in food and drink, FDA has considered the need for a Reye syndrome warning for OTC drug products that contain bismuth subsalicylate. FDA is aware that a manufacturer of a major OTC drug product that contains bismuth subsalicylate has voluntarily included a Reye syndrome warning on its labeling (Ref. 1).

FDA promulgated the existing Reye syndrome warning for OTC drug products containing aspirin in § 201.314(h) (21 CFR 201.314(h)) at a time when scientific research was focused primarily on the association of Reye syndrome and aspirin rather than the broader category of drug products containing nonaspirin salicylates; thus, the warning was limited to aspirin. The warning in § 201.314(h)(1), currently required for all oral and rectal OTC drug products containing aspirin, states: "WARNING: Children and teenagers should not use this medicine for chicken pox or flu symptoms before a doctor is consulted about Reye syndrome, a rare but serious illness reported to be associated with aspirin."

While cases of Reye syndrome are rare, the agency is aware of one fatality from Reye syndrome reported to be associated with the use of bismuth subsalicylate (Ref. 2). The death, which occurred in January 1989, involved a 6-year-old child who reportedly developed Reye syndrome following the administration of the label-recommended dosage of an OTC bismuth subsalicylate product for the treatment of flu-like symptoms, diarrhea, and nausea.

Aspirin is de-acetylated in the gut, blood, and liver to salicylic acid and the major plasma component after ingestion of aspirin is salicylate, the ionized form of salicylic acid (Ref. 3). Similarly, bismuth subsalicylate is chemically transformed throughout the gastrointestinal tract and nearly all of the resultant salicylate is systemically available (Refs. 4 and 5). Because higher serum salicylate levels in children with Reye syndrome than in the general population have been found during outbreaks of this disease (Ref. 6) and the mechanism of toxicity is unknown, the agency believes the aspirin association with Reye syndrome may be applicable to other salicylate products as well. The agency's decision on this matter will be discussed in a future issue of the **Federal Register**. However, irrespective of this final determination on the Reye syndrome warning for all drug products containing nonaspirin salicylates, the agency is proposing a Reye syndrome warning for OTC drug monograph products that contain bismuth subsalicylate.

Therefore, the agency is proposing to amend § 357.950 (21 CFR 357.950) by redesignating paragraphs (c)(1) through (c)(4) as paragraphs (c)(2) through (c)(5) and by adding new paragraph (c)(1) to include a Reye syndrome warning for all OTC overindulgence drug products that contain bismuth subsalicylate. Proposed § 357.950(c)(1)(i) and (c)(1)(ii) read as follows:

(i) "Children and teenagers who have or are recovering from chicken pox, flu symptoms, or flu should NOT use this product. If nausea, vomiting, or fever occur, consult a doctor because these symptoms could be an early sign of Reye syndrome, a rare but serious illness."

(ii) This warning statement shall appear on the immediate container labeling. In cases where the immediate container is not the retail package, the retail package also must bear the warning statement. In addition, the warning statement shall appear on any labeling that contains warnings and, in such cases, the warning statement shall be the first warning statement under the heading "Warnings".

The proposed Reye syndrome warning for products containing bismuth subsalicylate differs from the existing warning in § 201.314(h)(1) for oral and rectal drug products containing aspirin. The first sentence of this proposed warning states that "Children and teenagers who have or are recovering from chicken pox, flu symptoms, or flu should NOT use this product," whereas the warning for aspirin states that "Children and teenagers should not use this medicine for chicken pox or flu symptoms before a doctor * * *." Reye syndrome most commonly occurs following influenza, chicken pox, and several other common viral infections. As symptoms of the initial viral illness begin to diminish or clear, the dramatic symptoms of Reye syndrome, i.e., intractable vomiting, lethargy, or delirium, begin (Ref. 7). Thus, the agency believes that it is important that aspirin and bismuth subsalicylate not be given to children and teenagers when flu symptoms are present as well as when symptoms are absent and the child seems to be recovering from the illness. Therefore, the agency believes that the wording used in this proposal, i.e., "who have or are recovering from chicken pox, flu symptoms, or flu," is more informative than the wording currently used in the aspirin warning.

The proposed Reye syndrome warning also differs from the existing warning because it contains a second sentence that includes the terms "nausea, vomiting, or fever." On July 26, 1991, the Gastrointestinal Drugs Advisory Committee reviewed data on the use of bismuth subsalicylate for the relief of acute diarrhea and travelers' diarrhea. The Committee reviewed a Reye syndrome warning currently voluntarily included on a major OTC drug product containing bismuth subsalicylate. That warning stated: "WARNING: Children and teenagers who have or are recovering from chicken pox or flu should not use this medicine to treat nausea or vomiting. If nausea or vomiting is present, consult a doctor because this could be an early sign of Reye Syndrome, a rare but serious illness." The Committee felt that bismuth subsalicylate containing products should have a stronger warning regarding Reye syndrome because of concern that with approval of the drug as a treatment for diarrhea, there could be wider use of the product in children who might have a viral illness. A Reye syndrome warning for bismuth subsalicylate used as an antidiarrheal will be discussed in the rulemaking for OTC antidiarrheal drug products in a future issue of the **Federal Register**.

The agency has evaluated the warning and the Committee's recommendations and determined that the first sentence of the warning could be shortened and achieve the same effect. The agency also concludes that an additional sentence stating the early recognizable symptoms of Reye syndrome, i.e., nausea, vomiting, and fever, is important information that should be included as part of the warning. Therefore, the agency is proposing that the second sentence of the Reye syndrome warning reads as follows: "If nausea, vomiting, or fever occur, consult a doctor because these symptoms could be an early sign of Reye syndrome, a rare but serious illness." The agency is inviting comment on the Reye syndrome warning proposed for bismuth subsalicylate containing drug products for relief of overindulgence in food and drink. The agency is also considering the appropriateness of revising the current Reye Syndrome warning for oral and rectal OTC drug products containing aspirin in § 201.314(h)(1) to be similar to the language being proposed in this document. Based on the comments received, in a future issue of the **Federal Register**, the agency may propose to revise the current Reye syndrome warning in § 201.314(h)(1).

References

(1) Copy of Labeling for Pepto-Bismol, in OTC Vol. 17LAM, Docket No. 82N–0166, Dockets Management Branch.

(2) Adverse Drug Reaction Report, in OTC Vol. 17LAM, Docket No. 82N–0166, Dockets Management Branch.

(3) Shearn, M. A., "Nonsteroidal Anti-inflammatory Agents; Nonoplate Analgesics; Drugs Used in Gout," in "Basic and Clinical Pharmacology," 2nd ed., edited by B. G. Katzung, Lange Medical Publications, Los Altos, CA, pp. 400–403, 1984.

(4) DuPont, H. L., "Bismuth Subsalicylate in the Treatment and Prevention of Diarrheal Disease," *Drug Intelligence and Clinical Pharmacy*, 21:687–693, 1987.

(5) Pickering, L. K., et al., "Absorption of Salicylate and Bismuth from a Bismuth Subsalicylate-Containing Compound (Pepto-Bismol)," *The Journal of Pediatrics*, 99:654–656, 1981.

(6) Isselbacher, K. J., and D. K. Podolsky, "Infiltrative and Metabolic Diseases Affecting the Liver" in "Harrison's Principles of Internal Medicine," 12th Ed., edited by J. D. Wilson, et al., McGraw-Hill, Inc., New York, p. 1353, 1991.

(7) Wolinsky, J. S., "Reye Syndrome," in "Cecil Textbook of Medicine," 19th Ed., edited by J. B. Wyngaarden, et al., W. B. Saunders Co., Philadelphia, pp. 2194–2195, 1992.

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this proposed rule for OTC overindulgence drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96–354). That assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC overindulgence drug products is not expected to pose such an impact on small businesses. The final rule will require some relabeling for all OTC overindulgence drug products containing bismuth subsalicylate; however, such relabeling should be a one time nominal cost. Manufacturers will have 1 year after publication of the final rule to implement this relabeling, and the cost to do so per product label is considered minimal. Therefore, the agency certifies that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

Because the tentative final monograph did not include a Reye syndrome warning, the agency is providing a 60-day period for comments. The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC overindulgence drug products. Types of impact may include, but are not limited to, costs associated with relabeling or repackaging. Comments regarding the impact of this rulemaking on OTC orally administered drug products for relief of symptoms associated with overindulgence in food and drink should be accompanied by appropriate documentation. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Interested persons may, on or before July 6, 1993, submit written comments or objections on the proposed regulation to the Dockets Management Branch (address above). Written comments on the agency's economic impact determination may be submitted on or before July 6, 1993. Three copies of all comments or objections are to be submitted, except that individuals may

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submit one copy. Comments and objections are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 357

Labeling, Over-the-counter drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 357 (as proposed in the Federal Register of December 24, 1991 (56 FR 66742)), be amended as follows:

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 357 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

2. Section 357.950 is amended by redesignating paragraphs (c)(1) through (c)(4) as paragraphs (c)(2) through (c)(5) and by adding new paragraph (c)(1) to read as follows:

§ 357.950 Labeling of drug products for the relief of symptoms of upset stomach due to overindulgence in food and drink.

* * * * *

(c) * * *

(1)(i) "Children and teenagers who have or are recovering from chicken pox, flu symptoms, or flu should NOT use this product. If nausea, vomiting, or fever occur, consult a doctor because these symptoms could be an early sign of Reye syndrome, a rare but serious illness."

(ii) This warning statement shall appear on the immediate container labeling. In cases where the immediate container is not the retail package, the retail package also must bear the warning statement. In addition, the warning statement shall appear on any labeling that contains warnings and, in such cases, the warning statement shall be the first warning statement under the heading "Warnings".

* * * * *

Dated: February 3, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

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Part VI

Department of Education

34 CFR Part 381
Protection and Advocacy of Individual Rights; Proposed Rule

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DEPARTMENT OF EDUCATION

34 CFR Part 381

RIN 1820-AB17

Protection and Advocacy of Individual Rights

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes regulations governing the Protection and Advocacy of Individual Rights (PAIR) program to implement requirements added to the Rehabilitation Act of 1973 (Act), as amended by the Rehabilitation Act Amendments of 1992 (1992 Amendments), Public Law 102-569. The 1992 Amendments moved the PAIR program from title VII, part D, of the Act to title V by adding a new section 509 of the Act. The new section establishes the purpose of the PAIR program, eligibility for services, funding requirements, application procedures and assurances, eligibility for assistance, and reporting requirements for new awards for the PAIR program. The proposed regulations would implement the requirements in section 509 and establish application requirements for the PAIR program. The Secretary also publishes this notice to propose selection criteria to be used in making new awards under the PAIR program.

DATES: Comments must be received on or before June 4, 1993.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Mark Shoob, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3028, Switzer Building, Washington, DC 20202-2575.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Deborah Havens, U.S. Department of Education, 400 Maryland Avenue, SW., room 3220, Switzer Building, Washington, DC 20202-2741. Telephone: (202) 205-8733. Deaf and hearing impaired individuals may call the Federal Information Relay Service at 1-800-877-8339 between 8 a.m. and 7 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The PAIR program is now authorized by new section 509 of the Act (29 U.S.C. 794e). Previously, the PAIR program was authorized by old section 731 of the Act. No program regulations existed for the old PAIR program. The newly authorized PAIR program differs substantially from the old program. Therefore, this notice of proposed rulemaking will not discuss any similarities or differences between the old and new PAIR programs. All references to the PAIR program will be to the newly authorized PAIR program.

The program is an important part of the National Education Goals. The program addresses Goal 5, that every adult American—including individuals with disabilities—will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The PAIR program provides support to eligible systems within States to protect the legal and human rights of (a) individuals with disabilities who are ineligible for (1) client assistance programs (CAP) under section 112 of the Act; (2) protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (DDA), 42 U.S.C. 6041-6043; and (3) protection and advocacy programs under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (PAMI), 42 U.S.C. 10801-10851; or (b) individuals with disabilities who need protection and advocacy services that are beyond the scope of the services provided by CAP. An individual with a disability may be eligible for services under the CAP but may be seeking services that a CAP may not have authority to provide. For example, an individual with a disability has a complaint of discrimination in the provision of housing on the basis of disability against the individual's landlord. In addition, the individual's housing is not related in any way to any services the individual is receiving or sought under the Act. Although the individual is eligible for services under the CAP, the CAP does not have the authority to assist the individual with the housing discrimination complaint. Therefore, the individual is eligible to receive assistance under the PAIR program.

These proposed regulations would implement section 509 of the Act, as recently added by the 1992 Amendments, and incorporate certain provisions of the Education Department General Administrative Regulations (EDGAR).

A summary of the proposed regulations follows:

Proposed § 381.2 describes who is eligible to apply for an award. In any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, protection and advocacy systems from Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau may not apply for grants under the PAIR program. In any fiscal year in which the amount appropriated to carry out this section is equal to or greater than $5,500,000, an eligible system from any State and from any of the previously named jurisdictions may receive the amount allotted pursuant to section 509 (c) through (e) of the Act, except that the Republic of Palau may receive an allotment under section 509 of the Act only until the Compact of Free Association with Palau takes effect.

Proposed § 381.3 lists activities that eligible systems must carry out with funds made available under this part. Proposed § 381.3(a)(5) would require an eligible system to use funds made available under this part to develop a plan for achieving the annual objectives and priorities that an eligible system develops.

Under proposed § 381.4(a)(1), the regulations in Part 74 would apply to an eligible system if the eligible system is a nonprofit organization (NPO). Under proposed § 381.4(a)(2), the regulations in 34 CFR part 75 would apply to grants under the PAIR program if the amount appropriated for the PAIR program is less than $5,500,000. Under proposed § 381.4.(a)(3), the regulations in 34 CFR part 76 would apply to assistance awarded under the PAIR program if the amount appropriated for the PAIR program is equal to or greater than $5,500,000. Under proposed § 381.4(a)(6), the regulations in 34 CFR part 80 would apply to an eligible system if the eligible system is a State or local agency.

Proposed § 381.5 would provide definitions that apply to the PAIR program. In addition to incorporating certain EDGAR definitions, proposed § 381.5 would provide definitions of "Act," "Advocacy," "Eligible system," "Eligible individual with disabilities," "Mediation," and "State." The proposed regulations do not include a definition of "protection." The Department believes that the general dictionary definition of the word "protection" is adequate and does not require any added explanation.

Proposed § 381.10 describes the application requirements that an applicant must meet to receive assistance under this part. Proposed § 381.10(e) would require an eligible system to include in its application an assurance to develop a plan for achieving the annual objectives and priorities that an eligible system develops.

Proposed § 381.20 describes how the Secretary would evaluate an application for assistance under the PAIR program in any fiscal year in which the amount appropriated for the PAIR program is less than $5,500,000.

Proposed § 381.21 describes the selection criteria that the Secretary would use in evaluating an application for assistance under this program in any fiscal year in which the amount appropriated for the PAIR program is less than $5,500,000.

The proposed selection criterion in § 381.21(g)(2) would target individuals with disabilities who may have limited knowledge about the PAIR program, such as persons with mental retardation, persons with sensory or communications impairments, persons in isolated rural areas, or persons who are new to the vocational rehabilitation system. The Secretary believes this is necessary because the PAIR program has been funded only during the past three years and its existence is not as widely known as other programs, such as the CAP.

Proposed § 381.22 describes how the Secretary allocates funds under this program in any fiscal year in which the amount appropriated for the PAIR program is equal to or greater than $5,500,000. Under proposed § 381.22, the Secretary would first reserve 1.8 to 2.2 percent of the funds appropriated for the PAIR program in any fiscal year in which the amount appropriated for the PAIR program is equal to or greater than $5,500,000, and then allocate the remaining funds in accordance with section 509(c)(2) through (e) of the Act.

Proposed § 381.22(b) would implement section 509(g)(1) of the Act requiring that the amount of the allotment of a State under section 509 of the Act be paid directly to the eligible system that complies with the requirements of section 509 of the Act, unless the State provides otherwise.

Proposed § 381.30 would prohibit an eligible system from awarding subgrants or entering into contracts with another entity to carry out the PAIR program. Pursuant to section 509 of the Act, only a State protection and advocacy system that is established under part C of the DDA is eligible to receive a grant award under this program. In addition, section 509 of the Act does not authorize eligible systems to make subgrants. Therefore, only an eligible system may receive assistance (whether in the form of grants or contracts) to carry out the PAIR program. This prohibition would not prevent an eligible system from contracting with another entity or individual for specific services (e.g., contracting with a law firm to provide legal representation to a client or class of clients of the eligible system) after the eligible system has determined that the services are needed by its clients or class of clients and that contracting for the specific services is a more appropriate and cost-effective method of meeting the needs of its client or class of clients.

Proposed § 381.31 would require an eligible system to keep personal information about individuals served under the PAIR program strictly confidential and would allow an eligible system to release personal information only under very limited conditions. Proposed § 381.31 also would implement the restriction on the Department's authority to demand personally identifiable information added by new section 509(h) of the Act.

Proposed § 381.32 would require each eligible system to submit to the Secretary an annual report on the operation of its PAIR program during the previous year. The proposed regulations would enable the Secretary to comply with the requirement added by the 1992 Amendments that the Secretary submit to the Congress an annual report that includes the following information: (a) The types of services and activities undertaken by the eligible system and how these services and activities addressed the objectives and priorities developed pursuant to § 381.10(e). (b) The total number of individuals who requested services from the eligible system and the total number of individuals who were served by the eligible system. (c) The types of disabilities represented by individuals served by the eligible system. (d) The types of issues being addressed on behalf of individuals served by the eligible system. (e) Any other information that the Secretary may require.

Proposed § 381.33(a) would implement section 509(f)(7) of the Act requiring an eligible system to use funds made available under this part to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided. Proposed § 381.33(b) would implement section 509(j) of the Act limiting to five percent the amount of PAIR program funds that an eligible system may use for the costs of administration of the PAIR program. Proposed § 381.33(c) would implement section 509(g)(2) of the Act allowing funds appropriated for a fiscal year that are not expended or obligated during that year to be carried over to the next fiscal year. Proposed § 381.33(d) would inform eligible systems of the provisions in EDGAR that govern when an obligation may be made for various kinds of property and services.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are protection and advocacy agencies (P&As) receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the P&As affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 381.10, 381.21, and 381.32 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h)).

Protection and advocacy systems are eligible to apply for grants under these regulations. The Department needs and uses the information to make grants. Annual public reporting burden for this collection of information is estimated to average 20 hours per response for 57 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations on 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and to strengthen

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federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and action for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 3038, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 381

Education, Grant programs—education, Grant programs—social programs, Reporting and recordkeeping requirements, Vocational rehabilitation.

(Catalog of Federal Domestic Assistance Number: 84.240 Protection and Advocacy of Individual Rights)

Dated: April 30, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary proposes to amend title 34 of the Code of Federal Regulations by adding a new part 381 to read as follows:

PART 381—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

Subpart A—General

Sec.

381.1 What is the Protection and Advocacy of Individual Rights program?
381.2 Who is eligible for an award?
381.3 What activities may the Secretary fund?
381.4 What regulations apply?
381.5 What definitions apply?

Subpart B—How Does One Apply for an Award?

381.10 What are the application requirements?

Subpart C—How Does the Secretary Make an Award?

381.20 How does the Secretary evaluate an application?
381.21 What selection criteria does the Secretary use?
381.22 How does the Secretary allocate funds under this program?

Subpart D—What Conditions Must Be Met After an Award?

381.30 How are services to be administered?
381.31 What are the requirements pertaining to the protection, use, and release of personal information?
381.32 What are the reporting requirements?
381.33 What are the requirements related to the use of funds provided under this part?

Authority: 29 U.S.C. 794e.

Subpart A—General

§ 381.1 What is the Protection and Advocacy of Individual Rights program?

This program is designed to support a system in each State to protect the legal and human rights of eligible individuals with disabilities.

(**Authority:** Sec. 509(a) of the Act; 29 U.S.C. 794e(a))

§ 381.2 Who is eligible for an award?

(a) A State protection and advocacy system that is established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act (DDA), 42 U.S.C. 6041–6043, and that meets the requirements of § 381.10 is eligible to receive a grant award under this program.

(b) In any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, protection and advocacy systems from Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau may not apply for grants under the Protection and Advocacy of Individual Rights (PAIR) program.

(c) In any fiscal year in which the amount appropriated to carry out this section is equal to or greater than $5,500,000, an eligible system from any State and from any of the jurisdictions named in paragraph (b) of this section may receive the amount allotted pursuant to section 509(c)-(e) of the Act, except that the Republic of Palau may receive an allotment under section 509 of the Act only until the Compact of Free Association with Palau takes effect.

(**Authority:** Sec. 509(b)-(e) of the Act; 29 U.S.C. 794e(b)-(e))

§ 381.3 What activities may the Secretary fund?

(a) Funds made available under this part must be used for activities consistent with the purposes of this program, including the following activities:

(1) Establishing a system to protect, and advocate for, the rights of individuals with disabilities.

(2) Pursuing legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of eligible individuals with disabilities within the State.

(3) Providing information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State, including individuals with disabilities who are exiting from public school programs.

(4) Coordinating the programs provided through an eligible system with the advocacy programs of the Client Assistance Program (CAP) under section 112 of the Act, the State long-term care ombudsman program under the Older Americans Act of 1965, Part C of the DDA, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (PAMI), 42 U.S.C. 10801–10851.

(5) Developing a statement of objectives and priorities on an annual basis and a plan for achieving these objectives and priorities.

(6) Providing to the public, including individuals with disabilities and, as appropriate, their representatives, an opportunity to comment on the objectives and priorities described in 381.10(f).

(7) Establishing a grievance procedure for clients or prospective clients of the eligible system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the eligible system.

(b) Funds made available under this part also may be used to carry out any other activities consistent with the purpose of this part and the activities listed in paragraph (a) of this section.

(**Authority:** Secs. 12 and 509(f) of the Act; 29 U.S.C. 711 and 794e(f))

§ 381.4 What regulations apply?

The following regulations apply to the Protection and Advocacy of Individual Rights program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations), if the eligible system is a private, nonprofit organization and is not a State or local government agency or Indian tribal organization.

(2) 34 CFR part 75 (Direct Grant Programs), if the appropriation for the PAIR program is less than $5,500,000.

(3) 34 CFR part 76 (State-Administered Programs), if the appropriation for the PAIR program is equal to or greater than $5,500,000 and the eligible system is a State or local government agency, except for—

(i) Section 76.103;

(ii) Sections 76.125 through 76.137;

(iii) Sections 76.300 through 76.401;

(iv) Section 76.704;

(v) Section 76.734; and

(vi) Section 76.740.

(4) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(5) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(6) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), if the eligible system is a State or local government agency.

(7) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(8) 34 CFR part 82 (New Restrictions on Lobbying).

(9) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(10) 34 CFR part 86 (Drug Free Schools and Campuses).

(b) The regulations in this part 381.

(c) The regulations in 34 CFR 369.43, 369.46 and 369.48 relating to certain conditions that must be met by grantees.

(**Authority:** Secs. 12 and 509 of the Act; 29 U.S.C. 711 and 794e)

§ 381.5 What definitions apply?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Award
EDGAR
Fiscal year
Nonprofit
Private
Public
Secretary

(b) *Other definitions.* The following definitions also apply to this part:

Act means the Rehabilitation Act of 1973, as amended.

Advocacy means pleading an individual's cause or speaking or writing in support of an individual. Advocacy may be formal, as in the case of a lawyer representing an individual in a court of law or in formal administrative proceedings before government agencies (whether State, local or Federal). Advocacy also may be informal, as in the case of a lawyer or non-lawyer representing an individual in negotiations, mediation, or informal administrative proceedings before government agencies (whether State, local or Federal), or as in the case of a lawyer or nonlawyer representing an individual's cause before private entities, organizations or government agencies (whether State, local or Federal). Advocacy may be on behalf of—

(1) A single individual, in which case it is *individual advocacy;*

(2) More than one individual or a group or class of individuals, in which case it is *systems* (or *systemic*) *advocacy; or*

(3) Oneself, in which case it is *self advocacy.*

Eligible individual with disabilities means those individuals—

(1) Who are ineligible for—

(i) The CAP under section 112 of the Act;

(ii) Protection and advocacy programs under Part C of the DDA; and

(iii) Protection and advocacy programs under the PAMI; or

(2) Who need protection and advocacy services that are beyond the scope of the services provided by CAP.

Eligible system means a protection and advocacy system that is established under part C of the DDA, 42 U.S.C. 6041–6043, and that meets the requirements of § 381.10 of this part.

Mediation means the act or process of using a third party to act as an intermediary or conciliator to settle differences or disputes between persons or parties. Mediation may involve the use of professional mediators or any other third party mutually agreed to by the parties to the dispute.

State means, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association takes effect), except for purposes of the allotments under sections 509(b)–(e) of the Act, in which case State does not mean or include Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

(**Authority:** Secs. 12 and 509 of the Act; 29 U.S.C. 711 and 794e)

Subpart B—How Does One Apply for an Award?

§ 381.10 What are the application requirements?

Each application must be submitted to the Secretary at the time and in the form and manner determined by the Secretary and must contain all information that the Secretary determines necessary, including assurances that the eligible system will—

(a) Have in effect a system to protect, and advocate for, the rights of eligible individuals with disabilities;

(b) Have the same general authorities, including access to records and program income, as in Part C of the DDA;

(c) Have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of eligible individuals with disabilities within the State;

(d) Provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State, including individuals with disabilities who are exiting from public school programs;

(e) Develop a statement of objectives and priorities on an annual basis and a plan for achieving these objectives and priorities;

(f) Provide to the public, including individuals with disabilities and, as appropriate, their representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the eligible system including—

(1) The objectives and priorities for the activities of the eligible system for each year and the rationale for the establishment of those objectives and priorities; and

(2) The coordination of programs provided through eligible systems with the advocacy programs of the CAP under section 112, the State long-term care ombudsman program established under the Older Americans Act of 1965, part C of the DDA, and the PAMI;

(g) Establish a grievance procedure for clients or prospective clients of the eligible system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the eligible system;

(h) Use funds made available under this part to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided; and

(i) Implement procedures designed to ensure that, to the maximum extent possible, mediation (and other

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alternative dispute resolution) procedures, which include good faith negotiation, are used before resorting to formal administrative or legal remedies.

(Authority: Secs. 12 and 509(f) of the Act; 29 U.S.C. 711 and 794e(f))

Subpart C—How Does the Secretary Make an Award?

§ 381.20 How does the Secretary evaluate an application?

In any fiscal year in which the amount appropriated for the PAIR program is less than $5,500,000—

(a) The Secretary evaluates each application on the basis of the criteria in § 381.21;

(b) The Secretary awards up to 100 points for these criteria; and

(c) The maximum possible score for each criterion is indicated in parentheses after each criterion.

(Authority: Secs. 12 and 509 (b) and (f) of the Act; 29 U.S.C. 711 and 794e (b) and (f))

§ 381.21 What selection criteria does the Secretary use?

In any fiscal year in which the amount appropriated for the PAIR program is less than $5,500,000, the Secretary uses the following criteria to evaluate an application:

(a) Extent of need for the project. (20 points)

(1) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the statute that authorizes the PAIR program, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(2) The Secretary reviews each application to determine the extent that the need for protection and advocacy services for eligible individuals with disabilities is justified in terms of complementing or expanding, but not duplicating, existing protection and advocacy or client assistance services.

(b) *Plan of operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the project includes specific intended outcomes that—

(i) Will accomplish the purposes of the PAIR program;

(ii) Are attainable within the project period, given the project's budget and other resources;

(iii) Are objective and measurable; and

(iv) For a multi-year project, include specific objectives to be met, during each budget period, that can be used to determine the progress of the project toward meeting its intended outcomes;

(3) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(4) The extent to which the project involves individuals with disabilities in the development of the objectives and priorities of the project and will continue to involve individuals with disabilities in the implementation of the project;

(5) The quality of the applicant's plan to use its resources and personnel to achieve each objective and intended outcome during the period of Federal funding; and

(6) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disabling condition.

(c) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (c)(1) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disabling condition.

(2) To determine personnel qualifications under paragraphs (c)(1) (i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the scope of the project; and

(ii) Any other qualifications that pertain to the objectives of the project.

(d) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(e) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project;

(2) Will determine how successful the project is in meeting its intended outcomes; and

(3) Are objective and produce data that are quantifiable.

(Cross-reference: 34 CFR 75.590, Evaluation by the grantee.)

(f) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including accessibility of facilities, equipment, and supplies.

(g) *Service comprehensiveness.* (20 points) The Secretary reviews each application for information that shows—

(1) The comprehensiveness of the protection and advocacy services to be provided by the eligible system, including evidence that the eligible system will use all available authority and alternatives (including the right to pursue legal, administrative, and other available remedies) to provide for the protection and advocacy of the rights of eligible individuals with disabilities within the State; and

(2) Evidence that the eligible system will provide protection and advocacy services to individuals with a broad range of disabilities, including individuals with disabilities who may have limited knowledge about the PAIR program.

(h) *Coordination with other programs and systems.* (10 points)

(1) The Secretary reviews each application to determine that the agency designated to operate the PAIR program has demonstrated knowledge of the eligibility requirements and the range of services provided by the following programs and will coordinate, as appropriate, with the advocacy programs of—

(i) The CAP under section 112 of the Act;

(ii) The State long-term care ombudsman program established under the Older Americans Act of 1965;

(iii) The DDA; and

(iv) The PAMI.

(2) The Secretary reviews each application to determine the extent of planned cooperative activities with relevant public and private agencies and organizations in the community, including local educational agencies, to address barriers that prevent eligible individuals with disabilities from obtaining services from those public and private agencies and organizations in the community.

(Authority: Secs. 12 and 509 (b) and (f) of the Act; 29 U.S.C. 711 and 794e (b) and (f))

§ 381.22 How does the Secretary allocate funds under this program?

(a) In any fiscal year in which the amount appropriated for this program is equal to or greater than $5,500,000—

(1) The Secretary sets aside not less than 1.8 percent but not more than 2.2 percent of the amount appropriated to provide training and technical assistance to eligible systems established under this program.

(2) After the reservation required by paragraph (a)(1) of this section, the Secretary makes allotments from the remainder of the amount appropriated in accordance with section 509(c)(2)-(e) of the Act.

(b) Notwithstanding any other provision of law, the Secretary pays directly to an eligible system that meets the requirements of this part the amount of the allotment to the State pursuant to section 509 of the Act, unless the State provides otherwise.

(Authority: Sec. 509(c)-(e) of the Act; 29 U.S.C. 794e(c)-(e))

Subpart D—What Conditions Must Be Met After an Award?

§ 381.30 How are services to be administered?

(a) Each eligible system shall carry out the protection and advocacy program authorized under this part.

(b) An eligible system may not subgrant or contract with another entity to carry out the protection and advocacy program authorized under this part. However, an eligible system may contract with another entity or individual for specific services in a particular case (e.g., contracting with a law firm to provide legal representation in a particular case to a client or class of clients of the eligible system) if the eligible system determines that the services in that particular case are needed by its clients or class of clients and that contracting for the specific services in that particular case is a more appropriate and cost-effective method of meeting the needs of its client or class of clients.

(Authority: Secs. 12 and 509(i) of the Act; 29 U.S.C. 711 and 794e(i)).

§ 381.31 What are the requirements pertaining to the protection, use, and release of personal information?

(a) All personal information about individuals served by any eligible system under this part, including lists of names, addresses, photographs, and records of evaluation, must be held confidential.

(b) The eligible system's use of information and records concerning individuals must be limited only to purposes directly connected with the protection and advocacy program, including program evaluation activities. Except as provided in paragraph (d) of this section, this information may not be disclosed, directly or indirectly, other than in the administration of the protection and advocacy program unless the consent of the agency providing the information and the individual to whom the information applies, or his or her representative, have been obtained in writing. An eligible system may not produce any report, evaluation, or study that reveals any personally identifying information without the written consent of the individual or his or her representative.

(c) Except as limited in paragraph (d) of this section, the Secretary or other Federal or State officials responsible for enforcing legal requirements must be given complete access to all—

(1) Records of the eligible system receiving funds under this program; and

(2) All individual case records of clients served under this part without the consent of the client.

(d) The privilege of a person or eligible system not to produce documents or provide information pursuant to paragraph (c) of this section is governed by the principles of common law as interpreted by the courts of the United States except that, for purposes of any audit, report, monitoring review, State plan assurance review, or evaluation of the performance of the protection and advocacy program established under this part, the Secretary does not require the eligible system to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under the program.

(Authority: Secs. 12 and 509(h) of the Act; 29 U.S.C. 711 and 794e(h))

§ 381.32 What are the reporting requirements?

Each eligible system shall provide to the Secretary, no later than 90 days after the end of each fiscal year, an annual report that includes information on the following:

(a) The types of services and activities undertaken by the eligible system and how these services and activities addressed the objectives and priorities developed pursuant to § 381.10(e).

(b) The total number of individuals who requested services from the eligible system and the total number of individuals who were served by the eligible system.

(c) The types of disabilities represented by individuals served by the eligible system.

(d) The types of issues being addressed on behalf of individuals served by the eligible system.

(e) Any other information that the Secretary may require.

(Authority: Sec. 509(l) of the Act; 29 U.S.C. 794e(l))

§ 381.33 What are the requirements related to the use of funds provided under this part?

(a) Funds made available under this part must be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided under this part.

(b) The eligible system may not use more than five percent of any allotment for the costs of administration of the system supported under this part. For purposes of this paragraph, "costs of administration" include, but are not limited to, administrative salaries (including salaries for clerical and support staff), supplies, depreciation or use allowances, the cost of operating and maintaining facilities, equipment, and grounds (e.g., rental of office space or equipment, telephone, postage, maintenance agreements), and other similar types of costs that would be incurred by the eligible system even if the eligible system did not carry out the PAIR program.

(c) Funds paid to a State or an eligible system within a State for a fiscal year to carry out this program that are not expended or obligated prior to the end of that fiscal year remain available to the State or an eligible system within a State for obligation during the succeeding fiscal year in accordance with 34 CFR 76.705–76.707.

(d) For determining when an eligible system makes an obligation for various kinds of property or services, 34 CFR 75.707 and 76.707, as appropriate, apply to this program. If the appropriation for the PAIR program is less than $5,500,000, § 75.707 applies. If the appropriation for the PAIR program is equal to or greater than $5,500,000, § 76.707 applies. An eligible system is considered a State for purposes of § 76.707. For determining when an eligible system makes an obligation for various kinds of property or services, 34 CFR 76.707 applies to this program.

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(Authority: Secs. 12 and 500 (f), (g), and (j) of the Act; 29 U.S.C. 711 and 794e (f), (g), and (j))

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Wednesday
May 5, 1993

Part VII

Environmental Protection Agency

Thirty-First Report of the TSCA Interagency Testing Committee to the Administrator; Receipt of Report, Request for Comments, Opportunity to Initiate Negotiations for TSCA Section 4 Testing Consent Agreements; Notice

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ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–41036; FRL–4583–4]

Thirty-First Report of the TSCA Interagency Testing Committee to the Administrator; Receipt of Report, Request for Comments, Opportunity to Initiate Negotiations for TSCA Section 4 Testing Consent Agreements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The TSCA Interagency Testing Committee (ITC), established under section 4(e) of the Toxic Substances Control Act (TSCA), transmitted its Thirty-First Report to the Administrator of EPA on January 28, 1993. This report is included with this notice. As noted in this Report, the ITC revised the *Priority Testing List* by adding one group of 24 chemicals to the list for priority consideration by the EPA Administrator for promulgation of test rules under section 4(a) of the Act. These chemicals are designated for response within 12 months. Therefore, in response to the ITC's designation, EPA will either initiate rulemaking under section 4(a) of TSCA, enter into a testing consent agreement, or publish a **Federal Register** notice explaining the reasons for not initiating such rulemaking within 12 months. The ITC is also revising the recommendations for two chemical groups that were recommended in the ITC's Twenty-Eighth Report. The propylene glycol ethers and esters group is revised by the addition of 2 chemicals and the removal of 29. The methyl ethylene glycol ethers and esters group is modified by the removal of eight chemicals. The ITC's reasons for revising these chemical groups are stated in the Thirty-First Report. There are no recommended with intent-to-designate chemicals or chemical groups in the Thirty-First Report. EPA invites interested persons to submit written comments on the Report.

In addition, EPA is soliciting interested parties for participation in or monitoring of a consent agreement process for the chemicals that were designated for dermal absorption testing. EPA is also inviting manufacturers and/or processors of chemical substances who wish to participate in testing negotiations for the chemicals designated for dermal absorption testing to develop and submit testing consent agreement proposals to EPA.

DATES: Written comments on the Thirty-First ITC Report must be received by June 4, 1993. Written testing proposals must be received by July 6, 1993. Written notice of interest in being designated an "interested party" to the development or monitoring of a consent agreement for the chemicals designated for dermal absorption testing must be received by July 6, 1993. Those submitting written testing proposals will be considered "interested parties" and do not have to submit separate written notice. EPA will contact all "interested parties" and advise them of meeting dates.

ADDRESSES: Send six copies of written submissions to: TSCA Docket Receipts (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. ET G–102, 401 M St., SW., Washington, DC 20460. Submissions should bear the document control number (OPPTS–41038; FRL–4583–4). The public record supporting this action, including comments, is available for public inspection in Rm. ET G–102 at the address noted above from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M Street, SW., Rm. E–543B, Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION:

Electronic Availability: This document, along with a complete list of Chemical Abstract Service numbers, and chemical names of chemicals and chemicals in groups on the TSCA section 4(e) *Priority Testing List*, is available as an electronic file on *The Federal Bulletin Board* at 9 a.m. on the date of publication in the **Federal Register**. By modem dial 202–512–1387 or call 202–512–1530 for disks or paper copies. This file is also available in Postscript, Wordperfect and ASCII. The list of chemical abstract Service numbers, and chemical names of chemicals and chemicals in groups on the TSCA section 4(e) *Priority Testing List*, is available in Wordperfect and ASCII.

I. Background

TSCA (15 U.S.C. 2601 et seq.) authorizes the Administrator of EPA to promulgate regulations under section 4(a) requiring testing of chemical substances and mixtures ("chemicals") in order to develop data relevant to determining whether such chemicals may present unreasonable risks to health or the environment. Section 4(e) of TSCA established the Interagency Testing Committee (ITC) to recommend chemicals and chemical groups to the Administrator of EPA for priority testing consideration. Section 4(e) directs the ITC to revise the TSCA section 4(e) *Priority Testing List* at least every 6 months. The most recent revisions to this List are included in the ITC's Thirty-First Report. The Report was received by the Administrator on January 28, 1993, and is included with this notice. The Report adds 1 group of 24 chemicals to the TSCA section 4(e) *Priority Testing List* and revises the recommendations for 2 chemical groups that were recommended in the ITC's Twenty-Eighth Report.

II. Written and Oral Comments on Recommendations

EPA invites interested persons to submit detailed comments on the ITC's new recommendations. The Agency is interested in receiving information concerning additional or ongoing health and safety studies on the subject chemicals as well as information relating to the human and environmental exposure to these chemicals.

A notice will be published at a later date in the **Federal Register** adding the substances recommended in the ITC's Thirty-First Report to the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR part 716), which requires the reporting of unpublished health and safety studies on the listed chemicals. That notice will also add the chemicals to the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR part 712). The section 8(a) rule requires the reporting of production volume, use, exposure, and release information on the listed chemicals.

III. Status of List

The ITC's Thirty-First Report notes the addition of one chemical group to the *Priority Testing List* and the revision of the recommendations for two chemical groups in the Twenty-Eighth Report. The current TSCA section 4(e) *Priority Testing List* contains 24 chemicals and 24 chemical groups; 1 chemical group and 11 chemicals are designated for priority testing consideration.

IV. Testing Consent Agreements

1. *Solicitation of Interested Parties.* EPA's procedures for requiring the testing of chemical substances under section 4 of TSCA at 40 CFR 790.22, includes the adoption of enforceable consent agreements and the promulgation of test rules. EPA has on numerous occasions been approached by chemical companies interested in negotiating consent agreements for testing ITC chemicals or chemical groups. As a result of these requests, EPA is now inviting persons interested in participating in or monitoring negotiations on the chemicals designated in the Thirty-First ITC Report to notify EPA in writing. Those who respond to this solicitation by the deadline established in this notice will have the status of "interested parties" and will be afforded opportunities to participate in the negotiation process. These "interested parties" will not incur any obligations by being designated "interested parties."

2. *Solicitation of testing proposals for consent agreement negotiations.* EPA is also now soliciting testing proposals for a consent agreement to perform dermal absorption testing on the 24 chemical substances designated in the Thirty-First Report. Following publication of this notice, manufacturers and/or processors have 60 days to develop and submit testing proposals for any of the chemical substances designated in the Thirty-First Report that they wish EPA to consider as candidates for consent agreement negotiations.

Federal scientists from a number of the ITC's statutory and liaison organizations including the Consumer Product Safety Commission, Environmental Protection Agency, Food and Drug Administration, National Institute for Occupational Safety and Health, and Occupational Safety and Health Administration, have developed a proposed federally-harmonized test protocol that will provide data needed by several U. S. Government Organizations represented on the ITC. This proposed protocol is entitled "Protocol for *in vitro* Percutaneous Absorption Studies" and is available to the public through the TSCA Docket Receipts and the Environmental Assistance Division listed above. This document should be reviewed before submitting any testing proposals in response to this notice.

For additional technical information on this testing protocol contact Dr. John D. Walker, Executive Director, TSCA Interagency Testing Committee, (202) 260–1820.

All testing proposals submitted should describe the testing to be performed and explain any deviations from the federally harmonized test protocol that are necessary to assure the development of reliable percutaneous absorption data.

EPA will review the submissions and select the most promising submissions as candidates for negotiation. Submissions that fully address the ITC's concerns will have a higher chance of success than those that do not fully address all data needs.

3. *Negotiation of testing program and development of a testing consent agreement.* EPA will follow the negotiation procedures under 40 CFR 790.22, and to the extent feasible, the timetable outlined in 40 CFR part 790, Appendix A to subpart B.

In the case of the 24 substances designated for priority testing consideration in the Thirty-First ITC Report, EPA believes that obtaining testing through the development of consent agreements would be most feasible if interested manufacturers organized a testing consortium. Because of the straightforward and relatively inexpensive nature of the recommended tests for each of the substances (i.e., dermal absorption tests), and the costs to EPA and industry that would be incurred should many consent agreements be pursued, EPA believes that negotiating with an organized group of manufacturers may be the most efficient means to obtain the needed testing.

For additional information about process or negotiations contact Frank Kover, Chief, Chemical Testing and Information Branch, (202) 260–8130.

Authority: 15 U.S.C. 2603.

Dated: April 23, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Thirty-First Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency

Summary. The Interagency Testing Committee (ITC) was created under Section 4(e) of the Toxic Substances Control Act (TSCA) as an independent advisory committee to the Administrator of the U.S. Environmental Protection Agency (EPA) on setting priorities for the testing of chemicals. The Committee maintains the TSCA section 4(e) *Priority Testing List* and transmits revisions of the List as a Report to the EPA Administrator at least every 6 months for action and publication in the **Federal Register**. This Report presents the ITC's revisions to the *Priority Testing List* resulting from its deliberations during the reporting period May through November 1992.

This revision designates a group of 24 chemicals of regulatory interest to the Occupational Safety and Health Administration (OSHA) for dermal absorption testing. Also, two groups of chemicals previously recommended are revised. The propylene glycol ethers and esters group is revised by adding 2 chemicals and removing 29. The methyl ethylene glycol ethers and esters group is modified by removing eight chemicals.

TABLE 1.—REVISIONS TO THE TSCA SECTION 4(E) PRIORITY TESTING LIST

Group	Action	Date	Concern
OSHA Chemicals with no dermal absorption data (listed in Table 2)	Designated	1/93	Dermal absorption testing
Propylene glycol ethers and esters (revised)	Recommended	1/93	Information solicited
Methyl ethylene glycol ethers and esters (revised)	Recommended	1/93	Information solicited

Chapter 1—Introduction

1.1 *Background.* Since its creation in 1976 under Section 4(e) of the Toxic Substances Control Act (Public Law 94–469, 90 Stat. 2003 et seq., 15 U.S.C. 2601 et seq.), the TSCA Interagency Testing Committee (ITC) has sent 30 semi-annual Reports to the Administrator of the U.S. Environmental Protection Agency (EPA) to advise on setting priorities for the testing of chemicals. These Reports have been published in the **Federal Register** and are also available from the Committee. In this, its Thirty-First Report, the Committee revises its *Priority Testing List* with the addition of one group and the revision of two groups already on the *List*. A short version of the *Priority Testing List* appears at the end of this Report. The complete *Priority Testing List* with all individual chemicals in each group is available upon request from the Committee (address and phone number given below) or, electronically available on *The Federal Bulletin Board* (see preamble for the phone number).

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The Committee meets monthly and produces its Reports with the help of staff and technical contract support provided by EPA. Committee membership and support personnel are listed at the end of this Report.

Upon receipt of the ITC's Reports, the EPA's Office of Pollution Prevention and Toxics issues information gathering rules under Sections 8(a) and 8(d) of TSCA. These rules require that manufacturers and producers submit (1) production and exposure data and (2) health and safety studies, respectively, within 2 months of the rule's effective date. These submissions are indexed and stored in data bases by EPA and are then available for review by the ITC and others.

1.2 *ITC's activities during this reporting period.* For the period May 28, 1992 to November 5, 1992, the ITC had six meetings. Chemical groups previously recommended after nomination by the National Institute of Occupational Safety and Health (NIOSH) were reviewed. The individual chemicals comprising these groups are here modified. The ITC also accepted the request of the Occupational Safety and Health Administration (OSHA) to determine testing needs for industrial chemicals which may cause harm to exposed workers by absorption through the skin.

1.3. *Revision of Previously Recommended Groups.* In the ITC's Twenty-Eighth Report, groups of propylene glycol ethers and esters and methyl ethylene glycol ethers and esters were added to the TSCA section 4(e) *Priority Testing List* for reproductive effects and developmental toxicity testing based on concerns raised by NIOSH (58 FR 41212, August 19, 1991). NIOSH is concerned with glycol ethers and their esters that are metabolized in humans to known reproductive toxicants. The original groups of glycol ethers and esters were selected from industrial chemicals to which workers are exposed, and the groups were expanded by adding structurally similar compounds through a substructure search of the ITC's Substructure-based Computerized Chemical Selection Expert System (SuCCSES).

During this reporting period, NIOSH commented that not all of these chemicals are of concern because of their possible metabolism to reproductive toxicants. The ITC reconsidered the individual members of the groups. Upon review of available metabolism data and consideration of possible structure/activity relationships, the ITC decided to remove some chemicals from both groups. A chemical was removed if: (1) it is expected to be metabolized to tricarboxylic acid cycle intermediates and therefore of lower concern; (2) it is not expected to be metabolized to reproductive toxicants; (3) there are fewer than 1,000 workers exposed, according to the National Occupational Exposure Survey; or (4) other human exposure (mostly through consumer uses) is not considered likely. The Consumer Product Safety Commission (CPSC) expressed an interest in retaining some of the propylene and methyl ethylene glycol ethers and esters on the *Priority Testing List* and adding two chemicals in order to obtain information submitted under TSCA Sections 8(a) and 8(d). The ITC has a concern that some of these chemicals are likely to be used in consumer products as replacements for ethylene glycol ethers and has no metabolism data available. As a result, the ITC retains some members of both groups on the *List* and adds two chemicals.

Chapter 2—Actions taken by the ITC in this Report

2.1 *Designated chemicals.* OSHA-nominated chemicals for which no dermal toxicity data are available.

I. Rationale for the Designation

OSHA has established Permissible Exposure Limits (PELs) to protect workers from industrial chemicals. In general, PELs are based on inhalation of airborne dusts and vapors. In those cases where skin absorption could be harmful, the chemicals with PELs are assigned "skin designations." OSHA requested that the ITC help identify chemicals which lack sufficient data for OSHA to determine the need for skin designations and to use their authority to recommend chemicals for priority testing consideration by EPA to obtain these data. To assign a skin designation, OSHA requires acute dermal studies and sufficient dermal absorption data to determine the total exposure of workers. The ITC identified 24 chemicals for which no dermal toxicity or absorption data could be located and which are potentially testable under TSCA. These chemicals are listed in the following Table 2:

TABLE 2.—OSHA CHEMICALS DESIGNATED FOR DERMAL ABSORPTION TESTING

CAS No.	Chemical Name
60-29-7	Ethyl ether
75-65-0	tert-Butyl alcohol
76-22-2	Camphor
78-92-2	sec-Butyl alcohol
79-20-9	Methyl acetate
97-77-8	Disulfiram
100-25-4 ...	*p*-Dinitrobenzene
105-46-4 ...	sec-Butyl acetate
106-42-3 ...	*p*-Xylene
107-31-3 ...	Methyl formate
107-66-4 ...	Dibutyl phosphate
108-03-2 ...	1-Nitropropane
108-87-2 ...	Methylcyclohexane
109-66-0 ...	Pentane
110-83-8 ...	Cyclohexene
111-84-2 ...	Nonane
123-92-2 ...	Isoamyl acetate
142-82-5 ...	*n*-Heptane
287-92-3 ...	Cyclopentane
532-27-4 ...	*a*-Chloroacetophenone
540-88-5 ...	tert-Butyl acetate
628-63-7 ...	*n*-Amyl acetate
7631-90-5 .	Sodium bisulfite
7681-57-4 .	Sodium metabisulfite

II. Recommended Tests

The group of chemicals listed in Table 2 above are designated for dermal absorption testing.

III. Supporting Information

In its January 19, 1989 Air Contaminants Rule (54 FR 2332), OSHA stated that:

> The purpose of having the skin designation is to prevent the same toxic effects that the chemical causes through inhalation. The inhalation limit is based on keeping exposure below the limit which will create a significant risk of material impairment of health. If skin absorption is possible, an employee might be below the inhalation limit; however, the additional body burden through skin absorption may create the material impairment which the limit attempts to reduce.

In September 1991, OSHA presented a list of 658 chemical substances and mixtures (its Z-1-A Table in 54 FR 2332-2983) to the ITC to assess the availability of dermal absorption data and the need for testing that could be recommended under TSCA. The ITC reviewed the list and determined that 145 polymers, pesticides, complex mixtures, and chlorofluorocarbons (CFCs) are not suitable candidates for consideration because they are not suitable for testing, they are regulated under other Federal authorities, or they are not regulable under TSCA. The remaining chemicals were divided into two groups based on production volume: greater or less than 1 million pounds, based on the 1989 production figures from the EPA Inventory. Chemicals that are vapors at ambient temperature, are highly reactive, have low toxicity, are members of chemical groups, or have dermal LD50 values reported in the Registry of Toxic Effects of Chemical Substances were identified in each of the production groups and are deferred for future ITC review. A group of 16 high and 8 low production chemicals were identified as having no dermal toxicity data and are here designated for dermal absorption testing. The following Figure 1 diagrams the selection process.

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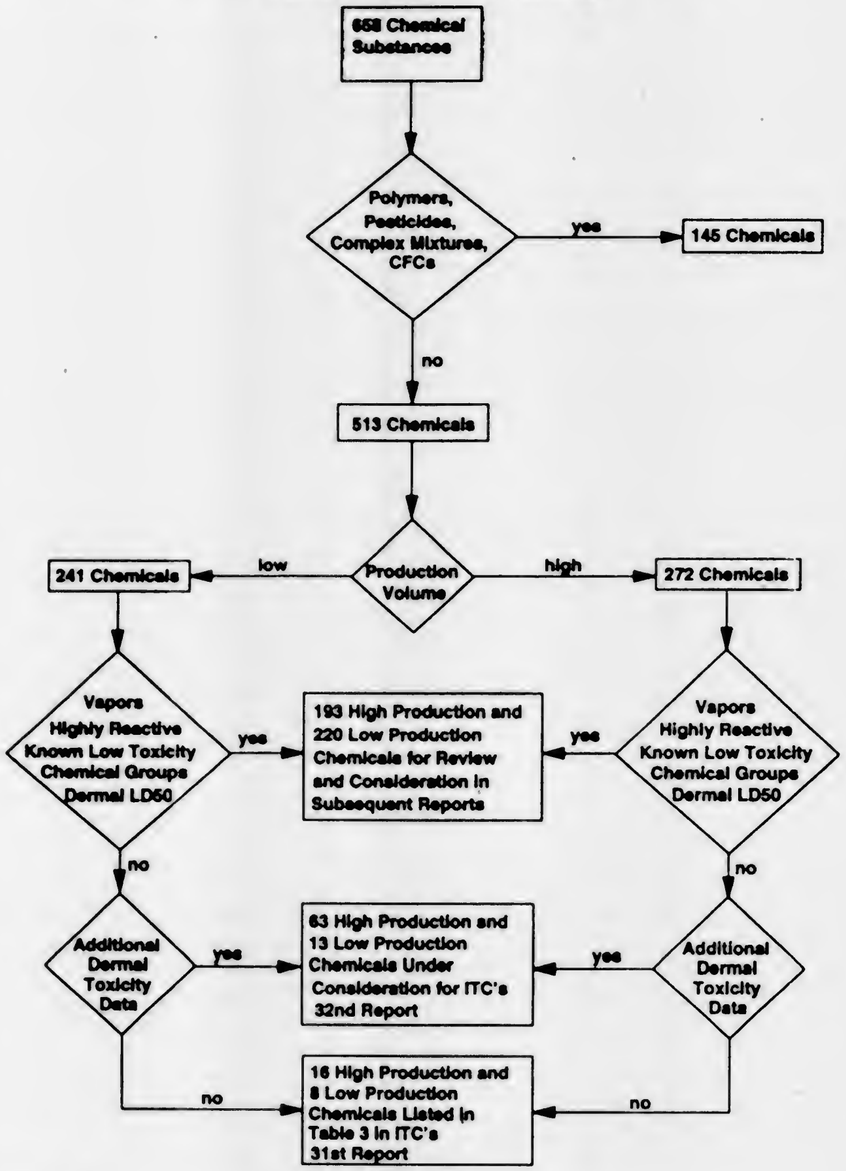
Figure 1. Process to Select OSHA Chemicals for Dermal Absorption Testing



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2.2 Revisions of Previously Recommended Chemical Groups

2.2.a. Propylene glycol ethers and esters

I. Rationale for Recommendation

The ITC has reason to believe that propylene glycol ethers and esters are substantially used in a variety of consumer products. There is concern about the potential metabolism in humans of these compounds to reproductive toxicants. Occupational and consumer exposures to these chemicals are unknown to the ITC but are considered to be potentially significant. Therefore, TSCA Section 8(a) and 8(d) information is deemed necessary.

TABLE 3.—REVISED GROUP OF PROPYLENE GLYCOL ETHERS AND ESTERS ON THE TSCA SECTION 4(E) PRIORITY TESTING LIST

CAS No.	Chemical Name
108–65–6	Propylene glycol monomethyl ether acetate
110–98–5	Dipropylene glycol
770–35–4	1-Phenoxy-2-propanol
20324–32–7 ...	1-(2-Methoxy-1-methylethoxy)-2-propanol
20324–33–8 ...	Tripropylene glycol methyl ether[1]
28677–93–2 ...	Mathoxy-1-propanol
29387–86–8 ...	Propylene glycol monobutyl ether[1]
29911–28–2 ...	Dipropylene glycol butyl ether
42978–66–5 ...	Tripropylene glycol diacrylate
57018–52–7 ...	Propylene glycol mono-tert-butyl ether

TABLE 3.—REVISED GROUP OF PROPYLENE GLYCOL ETHERS AND ESTERS ON THE TSCA SECTION 4(E) PRIORITY TESTING LIST—Continued

CAS No.	Chemical Name
88917–22–0 ...	Dipropylene glycol monomethyl ether acetate

[1] Added in this the Thirty-First Report. All others are retained from the Twenty-Eighth Report.

II. Recommendation

Nine selected propylene glycol ethers and ethers are retained and two are added to the *Priority Testing List* to obtain information under TSCA Sections 8(a) and 8(d).

III. Supporting Information

Based on the recommendations of CPSC, Food and Drug Administration (FDA) and NIOSH and discussion at ITC meetings, the ITC revises the TSCA section 4(e) *Priority Testing List* to remove 29 of the 38 propylene glycol ethers and esters recommended in the Twenty-Eighth Report and to add 2 chemicals: tripropylene glycol methyl ether and propylene glycol monobutyl ether.

CPSC requested that these chemicals be recommended so that TSCA Section 8(a) and 8(d) information can be obtained. CPSC is interested in learning about the types and quantities of propylene glycol ethers and esters used in consumer products, and possible exposures to propylene glycol ethers and esters that may result from consumer use of these products. In the event of substantial exposure, metabolism studies may be requested in the future. FDA is interested in the available data on dipropylene glycol methyl ether as it is used in cosmetics.

2.2.b. Methyl ethylene glycol ethers and esters

I. Rationale for Recommendation

The ITC has reason to believe that ethylene glycol monomethyl ether acrylate (CAS number 3121–61–7) and tetraethylene glycol monomethyl ether (CAS number 23783–42–8) are used in consumer products. These compounds may be metabolized to reproductive toxicants. Consequently, it is recommended that TSCA Section 8(a) and 8(d) information be solicited. If these chemicals are used in consumer products or have substantial worker exposure, metabolism studies may be needed.

II. Recommendation

Ethylene glycol monomethyl ether acrylate and tetraethylene glycol monomethyl ether remain on the *Priority Testing List* to obtain TSCA Section 8(a) and 8(d) information.

III. Supporting Information

In the ITC's Twenty-Eighth Report, 10 methyl ethylene glycol ethers and esters were added to the TSCA section 4(e) *Priority Testing List* based on concerns of NIOSH about potential reproductive and developmental effects (56 FR 41212, August 19, 1991). The ITC reconsidered these glycol ethers and esters and here removes 8 of them from the *Priority Testing List* on the recommendation of NIOSH. These 8 chemicals have no known industrial or consumer exposures according to the National Occupational Exposure Survey and publicly-available information on chemicals in consumer products. The ITC determined that ethylene glycol monomethyl ether acrylate and tetraethylene glycol monomethyl ether should remain on the *Priority Testing List* because they are likely to have consumer exposures of interest to CPSC.

THE TSCA SECTION 4(E) PRIORITY TESTING LIST

Report	Date	Chemical/Group	Action
22	May 1988	Ethoxylated quaternary ammonium compounds	Recommended
22	May 1988	Imidazolium quaternary ammonium compounds	Recommended
23	November 1988	Tetrakis(2-chloroethyl)ethylene di-phosphate	Recommended with intent-to-designate
23	November 1988	Tris(1,3-dichloro-2-propyl) phosphate	Recommended with intent-to-designate
23	November 1988	Tris(1-chloro-2-propyl) phosphate	Recommended with intent-to-designate
23	November 1988	Tris(2-chloro-1-propyl) phosphate	Recommended with intent-to-designate
23	November 1988	Tris(2-chloroethyl)- phosphate	Recommended with intent-to-designate
23	November 1988	Butyraldehyde	Recommended
25	November 1989	Brominated flame retardants	Recommended
26	May 1990	Isocyanates	Recommended with intent-to-designate

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THE TSCA SECTION 4(E) PRIORITY TESTING LIST—Continued

Report	Date	Chemical/Group	Action
26	May 1990	Brominated flame retardants	Recommended
26	May 1990	Alkyl phosphates	Recommended
27	November 1990	Acetophenone	Designated
27	November 1990	Phenol	Designated
27	November 1990	*N,N*-Dimethylaniline	Designated
27	November 1990	Ethylacetate	Designated
27	November 1990	2,6-Dimethylphenol	Designated
27	November 1990	Aldehydes	Recommended with intent-to-designate
27	November 1990	2,4-Dinitrophenol	Recommended
27	November 1990	3,4-Dimethylphenol	Recommended
27	November 1990	*N*-phenyl-1-naphthylamine	Recommended
27	November 1990	Sulfones	Recommended
27	November 1990	Substantially produced chemicals in need of sub-chronic toxicity testing	Recommended
28	May 1991	Acetone	Designated
28	May 1991	*n*-Butanol	Designated
28	May 1991	Isobutanol	Designated
28	May 1991	Di-(2-ethylhexyl)adipate	Designated
28	May 1991	Dimethyl terephthalate	Designated
28	May 1991	Thiophenol	Designated
28	May 1991	*m*-Dinitrobenzene	Recommended
28	May 1991	Allyl alcohol	Recommended
28	May 1991	2,4-Dichlorophenol	Recommended
28	May 1991	Alkynes	Recommended
28	May 1991	Nitroalcohols	Recommended
28	May 1991	Phosphonium compounds	Recommended
28	May 1991	Hydrazines	Recommended
28	May 1991	Oximes	Recommended
28	May 1991	Alkoxysilanes	Recommended
28	May 1991	Aldehyde hydrates	Recommended
28	May 1991	Isothiocyanates	Recommended
28	May 1991	Cyanoacrylates	Recommended
29	November 1991	White phosphorus	Recommended
29	November 1991	Allyl-, bromo-, chloro-, hydroxymethyl diaryl ethers	Recommended
30	May 1992	Siloxanes	Recommended
30	May 1992	Chloroalkyl phosphates	Recommended
31	January 1993	OSHA chemicals with no dermal absorption data	Designated
31	January 1993	Propylene glycol ethers and esters (revised)	Recommended
31	January 1993	Methyl ethylene glycol ethers and esters (revised)	Recommended

TSCA INTERAGENCY TESTING COMMITTEE

Statutory Organizations and Their Representatives.

Council on Environmental Quality	Charles Herrick, Member
Department of Commerce	Willie E. May, Member Edward White, Alternate
Environmental Protection Agency	James B. Willis, Member John S. Leitzke, Alternate
National Cancer Institute	Thomas P. Cameron, Member Richard Adamson, Alternate
National Institute of Environmental Health Sciences	Errol Zeiger, Member James K. Selkirk, Alternate

TSCA INTERAGENCY TESTING COMMITTEE—Continued

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National Science Foundation	Carter Kimsey, Member, Chair Jarvis L. Moyers, Alternate
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National Toxicology Program	Victor A. Fung, Member
U.S. International Trade Commission	James Raftery, Member Edward Matusik, Alternate
Counsel	Mary Ellen Levine, Office of the General Counsel, EPA
Technical Support Contractor Syracuse Research Corporation. Committee Staff	John D. Walker, Ph.D., M.P.H., Executive Director (202) 260-1820 Norma S.L. Williams, Executive Assistant (202) 260–1825. TSCA Interagency Testing Committee U.S. EPA/OPPT (TS–792) 401 M St., SW., Washington, D.C. 20460.

[FR Doc. 93–10576 Filed 5–4–93; 8:45 am]
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Wednesday
May 5, 1993

Federal Register

Part VIII

The President

Proclamation 6557—Asian/Pacific American Heritage Month, 1993

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Federal Register
Vol. 58, No. 85
Wednesday, May 5, 1993

Presidential Documents

Title 3—

The President

Proclamation 6557 of May 3, 1993

Asian/Pacific American Heritage Month, 1993

By the President of the United States of America

A Proclamation

This month we honor the heritage and history of Asian and Pacific Americans and the contributions they have made to our country: to its economic development, its cultural wealth, its scientific and medical achievements, its institutes of education, and its government. As we celebrate the diversity of our people and their heritage, we remember that we are one Nation, united in a common quest for freedom and dignity.

Traders from the Asia-Pacific region reached North America as early as the 16th century, but the first significant wave of immigration began during the late 1800s. From China, Japan, Korea, the Philippines, and the Indian subcontinent they came and found work in America: as miners, railroad workers, farmers, and merchants. These settlers and their children preserved the rich legacy of their homelands while also learning the history of our Nation and embracing the traditions that define it.

While they found many opportunities in America, immigrants from the Asia-Pacific region also were victims of discrimination. Some were denied the right to buy land or become naturalized citizens solely because of their ethnic origin. Such prejudice often led to segregated community structures. Once thought of as ghettos, these neighborhoods are now vibrant cultural assets and magnets for tourism and trade in the cities of which they are a part.

America has made great progress in advancing civil rights since the days when Asian workers were exploited and labored under crushing hardship. A second significant wave of immigration brought doctors, nurses, engineers, musicians, scientists, and other professionals. Now-familiar names like Yo Yo Ma, Midori, Seiji Ozawa, Amy Tan, Michael Chang, and Kristi Yamaguchi today symbolize the rich heritage that Asian and Pacific Americans have added to our culture.

Today Asian and Pacific Americans represent a large portion of our population. The region from which they migrated is now one of the world's most dynamic areas of economic growth. America's trade with Asian and Pacific countries totals more than $300 billion, a greater amount than any other region in the world. The United States maintains alliances with countries from the Pacific such as Japan, Korea, the Philippines, and Thailand. We will continue to promote economic cooperation and the expansion of free markets there. The security of our allies and the advancement of human rights in Asia and the Pacific benefit both our country and the countries of that region.

America is an ongoing experiment, an unfinished work. It is important that we continually strive to fulfill the ideals that attracted the Asian/Pacific peoples and other immigrants to our shores. The next century will present many challenges, but the ethnic diversity that binds us as a Nation will provide us with the energy and hope we need to build a more peaceful and more prosperous world. To honor the achievements of Asian/Pacific Americans and to recognize their contributions to our Nation, the Congress, by Public Law 102–450, has designated the month of May of each year as "Asian/Pacific American Heritage Month."

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NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the month of May 1993 as Asian/Pacific American Heritage Month. I call upon the people of the United States to observe this occasion with appropriate programs, ceremonies, and activities. I also call upon all Americans to rededicate themselves to the principles of inclusion, mutual respect, and social justice.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93-10810
Filed 5-4-93; 10:41 am]
Billing code 3195-01-P

Editorial note: For the President's remarks on signing this proclamation, see the *Weekly Compilation of Presidential Documents* (vol. 29, issue 18).

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

RIN 0581–AA89

[DA–91–017–B]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service (General Specifications) by incorporating provisions to specify the sampling, testing, and recordkeeping requirements relating to an expanded drug residue monitoring program in USDA-approved dairy plants. This action was initiated at the request of the National Association of State Departments of Agriculture (NASDA) and was developed in cooperation with NASDA, the Food and Drug Administration (FDA), dairy trade associations and producer groups.

EFFECTIVE DATE: June 7, 1993.

FOR FURTHER INFORMATION CONTACT: Duane R. Spomer, Chief, Dairy Standardization Branch, USDA/AMS/Dairy Division, room 2750–S, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–7473.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as a "non-major" rule under the criteria contained therein.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule does not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The final rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Administrator, Agricultural Marketing Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities because participation in the USDA-approved plant program is voluntary and the amendments will not increase the costs to those utilizing the program.

In accordance with the Paperwork Reduction Act of 1980, the information collection requirements that are included in this action have been approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0110. These amendments increase the frequency of tests for drug residues that must be conducted by USDA-approved dairy plants of loads of producer milk. There are approximately 600 approved dairy plants. The current frequency is at least four tests in 6 months for each producer's milk or commingled sample. This final rule provides that each load of producer milk delivered to a USDA-approved facility must be tested. The current General Specifications require testing of milk for antibiotics. This action amends the General Specifications to require testing for beta lactum drug residues. Records of drug residue tests and records of notifications to State regulatory agencies concerning positive test results and disposition of positive-testing milk are to be retained for a period of 12 months. In addition, current requirements do not stipulate the minimum retention time for somatic cell test results. The amendments specify that somatic cell count records be retained for a period of 12 months.

An occurrence of drug residue in milk or milk products may be a health concern to consumers. USDA has therefore developed a model drug residue monitoring program for manufacturing grade milk. FDA has developed the program for Grade A milk.

In order to establish an expanded drug residue monitoring program concerning milk and milk products originating in USDA-approved dairy plants, USDA is amending the general specifications for dairy plants in part 58, subpart B, of the grading and inspection regulations concerning dairy products, as follows:

1. Provide That All Milk Received in USDA-Approved Plants Be Sampled and Tested for the Presence of Beta Lactam Drugs

Previously, the General Specifications provided for the testing of milk for antibiotics at a minimum frequency of four times in 6 months. These amendments specify that all milk which is received for processing in USDA-approved plants be sampled and tested for beta lactam drugs.

2. Provide That the Testing of Milk Be Completed Prior to Processing

Previously, the General Specifications did not contain requirements for the timely completion and reporting of the antibiotic tests. These amendments specify that testing be completed prior to processing the load of milk.

3. Specify Plant Responsibilities in the Expanded Drug Residue Monitoring Program

The amendments require USDA-approved plants to notify the appropriate State regulatory agency of (a) each occurrence of a load sample testing positive for drug residue; (b) the identity of any producer whose milk causes a load sample to test positive for drug residue; and (c) the intended and final disposition of the load of milk represented in a sample testing positive for drug residue. Milk testing positive for beta lactams is to be disposed of in a manner that removes it from the human and animal food chain, unless reconditioned under FDA guidelines.

4. Make Other Revisions and Editorial Changes in the General Specifications To Reflect the Expansion of the Drug Residue Monitoring Program

The amendments require dairy plants to: (a) Test the milk of new and transfer producers for the presence of drug residues prior to acceptance of the milk at the plant; (b) retain drug residue test results for a minimum of 12 months; (c)

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include in a producer's records the results of drug residue tests for the preceding 12 months; and (d) provide field service assistance to farmers regarding drug residue issues.

5. Provide Revisions To Update and Clarify Somatic Cell Testing Requirements

Changes include correcting the action level at which the Wisconsin Mastitis Test must be confirmed.

USDA grade standards are voluntary standards that are developed to facilitate the orderly marketing process. Dairy plants are free to choose whether or not to use the standards. When manufactured or processed dairy products are graded, the USDA regulations governing the grading of dairy products are used. Included in these regulations are the requirements that all graded dairy products be produced in a USDA-approved plant and that charges be assessed for grading and inspection services provided by USDA.

The National Conference on Interstate Milk Shipments is developing a database intended to compile information concerning drug residue test results which are reflective of the milk supply. The Department encourages participation in this voluntary program.

Public Comments

On July 27, 1992, the Department published a proposed rule (57 FR 33130) to amend the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service. The public comment period closed August 26, 1992. Comments were received from six commenters: Two representing State regulatory agencies, one representing dairy producers, one representing dairy processors, one representing veterinarians, and one representing a dairy cooperative.

Discussion of Comments

1. One commenter was concerned that the proposal duplicated State drug residue monitoring programs and was not consistent with existing State laws.

The Department advocates nationally uniform regulations for monitoring drug residue in the milk supply and has worked closely with the Dairy Division of NASDA to promote uniformity. During the development of the proposal for monitoring drug residue in USDA-approved dairy plants, the Department consulted with NASDA representatives to provide requirements consistent with currently existing State laws. The Department believes the expanded drug residue monitoring program accomplishes this.

2. Two commenters requested that the minimum record retention time be reduced from 12 months to 6 months. These commenters felt the change would provide consistency with the Grade A milk program and reduce recordkeeping requirements.

Since 1975, USDA-approved dairy plants have maintained sediment and bacterial test records for a minimum of 12 months. This action expands the requirement to include drug residue and somatic cell results.

The Department believes that accurate records detailing a 12-month history of drug residue test results is necessary for the USDA-approved dairy plant program. Further, under state programs, three occurrences of positive drug residue tests within a 12-month period will require that State administrative procedures be initiated to suspend the producer's milk shipping privileges. Also, the Department believes that somatic cell test results are equally as important as sediment and bacterial results in evaluating quality histories.

Provisions in the Grade A milk program require State regulatory agencies to maintain a history of milk quality and drug residue test results. The USDA-approved plant program does not impose record retention requirements on State regulatory agencies.

3. One commenter requested the deletion of the requirement that milk buyers obtain quality and drug residue test history for producers transferring milk shipments from another plant.

Since 1975, USDA requirements have specified the transfer of producer quality records when a milk producer changes milk buyers. This action expands the requirements to include a history of drug residue test results.

The Department recognizes the difficulties which occur when a new buyer requests quality records for a transfer producer. However, a producer's quality and drug residue test history is essential in establishing test frequency and determining sanctions.

4. There were several comments recommending changes outside the scope of the proposal. These comments suggested: Changing the requirements for rejecting milk due to bacterial estimate, modifying the list of acceptable somatic cell tests, lowering the maximum allowable bacterial estimate, lowering the maximum allowable somatic cell limit, and using sani-guide discs to determine sediment in milk.

Since the proposal did not request public comment concerning these topics, these comments may be considered as future changes are proposed.

List of Subjects in 7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and record keeping requirements.

For the reasons set forth in the preamble, 7 CFR part 58, subpart B, is amended as follows:

PART 58—[AMENDED]

1. The authority citation for 7 CFR part 58, continues to read as follows:

Authority: Agricultural Marketing Act of 1946, Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627, unless otherwise noted.

2. Section 58.132 is revised as follows:

§ 58.132 Basis for classification.

The quality classification of raw milk for manufacturing purposes from each producer shall be based on an organoleptic examination for appearance and odor, a drug residue test, and quality control tests for sediment content, bacterial estimate and somatic cell count. All milk received from producers shall not exceed the Food and Drug Administration's established limits for pesticide, herbicide and drug residues. Producers shall be promptly notified of any shipment or portion thereof of their milk that fails to meet any of these quality specifications.

3. In § 58.133, paragraphs (b)(1), (b)(2), (b)(6), and (c) are revised to read as follows:

§ 58.133 Methods for quality and wholesomeness determination.

* * * * *

(b) *Somatic cell count.* (1) A laboratory examination to determine the level of somatic cells shall be made at least four times in each 6-month period at irregular intervals on milk received from each patron.

(2) A confirmatory test for somatic cells shall be done when a herd sample exceeds either of the following screening test results:

(i) California Mastitis Test—Weak Positive (CMT 1).

(ii) Wisconsin Mastitis Test—WMT value of 18 mm.

* * * * *

(6) An additional sample shall be taken after a lapse of 3 days but within 21 days of the notice required in paragraph (b)(5)(ii) of this section. If this sample also exceeds 1,000,000 per ml., subsequent milkings shall not be accepted for market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the producer by the appropriate State regulatory agency when an additional sample of herd milk is tested and found satisfactory. The producer may be assigned a full reinstatement status when three out of four consecutive somatic cell count tests do not exceed 1,000,000 per ml. The samples shall be taken at a rate of not more than two per week on separate days within a 3-week period.

(c) *Drug residue level.* (1) USDA-approved plants shall not accept for processing any milk testing positive for drug residue. All milk received at USDA-approved plants shall be sampled and tested, prior to processing, for beta lactam drug residue. When directed by the regulatory agency, additional testing for other drug residues shall be performed. Samples shall be analyzed for beta lactams and other drug residues by methods evaluated by the Association of Official Analytical Chemists (AOAC) and accepted by the Food and Drug Administration (FDA) as effective in determining compliance with "safe levels" or established tolerances. "Safe levels" and tolerances for particular drugs are established by the FDA. Other test methods evaluated by the Virginia Polytechnic Institute and State University, or by other institutions using equivalent evaluation procedures, and determined to demonstrate accurate compliance results, may be employed on a temporary basis until they are evaluated by the AOAC and accepted or rejected by the FDA.

(2) Individual producer milk samples for beta lactam drug residue testing shall be obtained from each milk shipment as follows:

(i) *Milk in farm bulk tanks.* A sample shall be taken at each farm and shall include milk from each farm bulk tank.

(ii) *Milk in cans.* A sample shall be formed separately at the receiving plant for each can milk producer included in a delivery, and shall be representative of all milk received from the producer.

(3) Load milk samples for beta lactam drug residue testing shall be obtained from each milk shipment as follows:

(i) *Milk in bulk milk pickup tankers.* A sample shall be taken from the bulk milk pickup tanker after its arrival at the plant and prior to further commingling.

(ii) *Milk in cans.* A sample representing all of the milk received on a shipment shall be formed at the plant, using a sampling procedure that includes milk from every can on the vehicle.

(4) *Follow-up to positive-testing samples.* (i) When a load sample tests positive for drug residue, the appropriate State regulatory agency shall be notified immediately of the positive test result and of the intended disposition of the shipment of milk containing the drug residue.

(ii) Each individual producer sample represented in the positive-testing load sample shall be singly tested to determine the producer of the milk sample testing positive for drug residue. Identification of the producer responsible for producing the milk testing positive for drug residue, and details of the final disposition of the shipment of milk containing the drug residue, shall be reported immediately to the appropriate agency.

(iii) Milk shipment from the producer identified as the source of milk testing positive for drug residue shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for drug residue.

4. Sections 58.136 through 56.140 are revised to read as follows:

§ 58.136 Rejected milk.

A plant shall reject specific milk from a producer if the milk fails to meet the requirements for appearance and odor (§ 58.133(a)), if it is classified No. 4 for sediment content (§ 58.134), or if it tests positive for drug residue (§ 58.133(c)).

§ 58.137 Excluded milk.

A plant shall not accept milk from a producer if:

(a) The milk has been in a probational (No. 3) sediment content classification for more than 10 calendar days (§ 58.134);

(b) The milk has been classified "Undergrade" for bacterial estimate for more than 4 successive weeks (§ 58.135);

(c) Three of the last five milk samples have exceeded the maximum somatic cell count level of 1,000,000 per ml. (§ 58.133(b)(6)); or

(d) The producer's milk shipments to either the Grade A or the manufacturing grade milk market currently are not permitted due to a positive drug residue test (§ 58.133(c)(4)).

§ 58.138 Quality testing of milk from new producers.

A quality examination and tests shall be made on the first shipment of milk from a producer shipping milk to a plant for the first time or resuming shipment to a plant after a period of non-shipment. The milk shall meet the requirements for acceptable milk, somatic cell count and drug residue level (§§ 58.133, 58.134 and 58.135). The buyer shall also confirm that the producer's milk is currently not excluded from the market (§ 58.137). Thereafter, the milk shall be tested in accordance with the provisions in §§ 58.133, 58.134 and 58.135.

§ 58.139 Record of tests.

Accurate records listing the results of quality and drug residue tests for each producer shall be kept on file at the plant. Additionally, the plant shall obtain the quality and drug residue test records (§ 58.148(a), (e) and (g)) for any producer transferring milk shipment from another plant. These records shall be available for examination by the inspector.

§ 58.140 Field service.

A representative of the plant shall arrange to promptly visit the farm of each producer whose milk tests positive for drug residue, exceeds the maximum somatic cell count level, or does not meet the requirements for acceptable milk. The purpose of the visit shall be to inspect the milking equipment and facilities and to offer assistance to improve the quality of the producer's milk and eliminate any potential causes of drug residues. A representative of the plant should routinely visit each producer as often as necessary to assist and encourage the production of high quality milk.

5. In § 58.148, paragraphs (e), (f) and (g) are added to read as follows:

§ 58.148 Plant records.

* * * * *

(e) Load and Individual drug residue test results. Retain for 12 months.

(f) Notifications to appropriate State regulatory agencies of positive drug residue tests and intended and final dispositions of milk testing positive for drug residue. Retain for 12 months.

(g) Somatic cell count test results on raw milk from each producer. Retain for 12 months.

* * * * *

Dated: April 30, 1993.

L.P. Massaro,

Acting Administrator.

[FR Doc. 93–10717 Filed 5–5–93; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–49–AD; Amendment 39–8567; AD 93–08–19]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

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ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all British Aerospace Model ATP series airplanes. This action requires measuring the electrical bonding resistance between certain components in engine nacelle module 3 and the airframe earth on the left and right engine nacelles, and modifying the electrical bonding, if necessary. This amendment is prompted by a recent report of loss of engine power on a Model ATP series airplane due to malfunctioning of the de-ice system and subsequent ingestion of ice into the engine, which has been attributed to insufficient electrical bonding. The actions specified in this AD are intended to prevent multiple engine power loss during flight in freezing precipitation.

DATES: Effective May 6, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 6, 1993.

Comments for inclusion in the Rules Docket must be received on or before July 6, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–49–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace Model ATP series airplanes. The CAA advises that there has been a recent report of loss of engine power on a Model ATP series airplane due to ingestion of ice into the engine. The engine ingested an excessive amount of ice due to malfunctioning of the de-ice system, caused by an interruption of the engine de-ice timer operation; the interruption has been attributed to insufficient electrical bonding between the Thorstrand material in engine nacelle module 3 and the airframe earth. (Thorstrand is glass-fiber aluminum impregnated matting, which is located just below the surface of the composite material makeup of engine nacelle module 3.) This condition, if not corrected, could result in multiple engine power loss during flight in freezing precipitation.

Jetstream Aircraft, Ltd., has issued Service Bulletin ATP–24–55, Revision 1; dated April 24, 1993, that describes procedures for measuring the electrical bonding resistance between certain components in engine nacelle module 3 and the airframe earth on the left and right engine nacelles, and modifying the electrical bonding, if necessary. The modification involves machining the outer surface of engine nacelle module 3 to obtain improved electrical conductivity between the Thorstrand material and the throttle stepper motor controller (referred to in the Aircraft Maintenance Manual as a stepper motor drive unit). Depending on the results of electrical bonding measurements, the modification may also entail installing an additional electrical bonding lead between the main body casing of the throttle stepper motor controller and the airframe earth. Installation of the modification will eliminate static discharging between engine nacelle module 3 and the throttle stepper motor controller. Static discharging in this area can cause malfunction of the engine air intake de-ice system. The CAA classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent multiple engine power loss during flight in freezing precipitation. This AD requires measuring the electrical bonding resistance between certain components in engine nacelle module 3 and the airframe earth on the left and right engine nacelles, and modifying the electrical bonding, if necessary. The actions are required to be accomplished in accordance with the service bulletin described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–49–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93–08–19 British Aerospace: Amendment 39–8567. Docket 93–NM–49–AD.

Applicability: All Model ATP series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent multiple engine power loss during flight in freezing precipitation, accomplish the following:

(a) Within 16 days after the effective date of this AD, measure the electrical resistance of the electrical bonding between certain components in engine nacelle module 3 and the airframe earth on the left and right engine nacelles in accordance with Jetstream Aircraft, Ltd., Service Bulletin ATP–24–55, Revision 1, dated April 24, 1993.

(1) If the electrical resistance measures less than 3 ohms, prior to further flight, reassemble the throttle stepper motor controller installation, overseal all bolts, and perform an operational test of the standby power lever controls in accordance with the service bulletin.

(2) If the electrical resistance measures 3 or more ohms, prior to further flight, accomplish the actions described in paragraphs 2.A.4) through 2.A.14) of the Accomplishment Instructions of the service bulletin, as applicable.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The measurement, modification, oversealing, and operational test shall be done in accordance with Jetstream Aircraft, Ltd., Service Bulletin ATP–24–55, Revision 1, dated April 24, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 6, 1993.

Issued in Renton, Washington, on April 27, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–10730 Filed 5–5–93; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 260

[Docket No. RM93–16–000]

FERC Form No. 15, Interstate Pipeline's Annual Report of Gas Supply, and FERC Form No. 16, Report on Gas Supply and Requirements; Order Extending Time for Compliance

Issued: April 27, 1993.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order extending time for compliance.

SUMMARY: The Commission is considering whether natural gas pipeline companies should continue to be required to file FERC Form No. 15, Interstate Pipeline's Annual Report of Gas Supply, and FERC Form No. 16, Report of Gas Supply and Requirements, in light of the ongoing general industry restructuring. Pending the completion of its review, this order extends the time specified in the Commission's regulations for the filing of the two forms until July 31, 1993.

EFFECTIVE DATE: This order will become effective on the date of issuance, April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Gordon Wagner, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 219–0122.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this rule will be available on CIPS for 30 days from the date of issuance. The complete text of diskette in Wordperfect format may also be

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purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Order Extending Time for Compliance

The Commission is considering whether natural gas pipeline companies should continue to be required to file Form No. 15 and Form No. 16 in light of the general industry restructuring which is ongoing as a result of Order No. 636.[1] Pending the completion of its review, the time specified in the Commission's regulations for the filing of Form No. 15, Interstate Pipeline's Annual Report of Gas Supply, 18 CFR 260.7, and Form No. 16, Report of Gas Supply and Requirements, 18 CFR 260.12, is hereby extended to July 31, 1993.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10637 Filed 5-5-93; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-4652-2]

National Emission Standards for Hazardous Air Pollutants; Compliance Extensions for Early Reductions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of complete enforceable commitments received.

SUMMARY: This notice provides a list of companies that have submitted "complete" enforceable commitments to the EPA under the Early Reductions Provisions [section 112(i)(5)] of the Clean Air Act (CAA) as amended in 1990. The list covers commitments determined by the EPA to be complete through April 6, 1993 and includes the name of each participating company, the associated emissions source location, and the EPA Regional Office which is the point of contact for further information. This is one of a series of notices of this type. The most recent notice listed sixteen sources which have had commitments deemed complete by the EPA. The EPA will publish additional lists of complete submittals on a monthly basis, as needed.

FOR FURTHER INFORMATION CONTACT: David Beck (telephone: 919-541-5421), Rick Colyer (telephone: 919-541-5262), or Mark Morris (telephone: 919-541-5416), Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Caroline 27711 for general information on the Early Reductions Program. For further information on specific submittals received under the Early Reductions Program contact the appropriate EPA Regional Office representative listed below.

Region I	Janet Beloin	(617) 565-2734
Region II	Umesh Dholakia or Hansh Patel	(212) 264-6676
Region III	Alice Chow	(215) 597-6550
Region IV	Anthony Toney	(404) 347-2864
Region V	Aurelio Alvarez	(312) 353-8657
Region VI	Tom Driscoll	(214) 655-7549
Region VII	Carmen Torres-Ortega	(913) 551-7873
Region VIII	Cory Potash	(303) 293-1886
Region IX	Ed Pike	(415) 744-1248
Region X	Chris Hall	(206) 553-1949

SUPPLEMENTARY INFORMATION: Under section 112(i)(5) of the Clean Air Act (CAA) as amended in 1990, an existing source of hazardous air pollutant emissions may obtain a 6-year extension of compliance with an emission standard promulgated under section 112(d) of the CAA, if the source achieves sufficient reductions of hazardous air pollutant emissions prior to certain dates. On October 29, 1992, the EPA Administrator signed a final rule to implement this "Early Reductions" provision. The final rule was published in the **Federal Register** on December 29, 1992, (57 FR 61970).

Sources choosing to participate in the Early Reductions Program must document base year emissions and post-reduction emissions to show that sufficient emission reductions have been achieved to qualify for a compliance extension. As a first step toward this demonstration, some sources may be required to submit an enforceable commitment containing base year emission information, or if not required, may voluntarily submit such emission information to the EPA for approval. As stated in the proposed Early Reductions rule, the EPA will review these submittals to verify emission information, and also will provide the opportunity for public review and comment. Following the review and comment process and after sources have had the chance to revise submittals (if necessary), the EPA will approve or disapprove the base year emissions.

To facilitate the public review process for program submittals, the proposed rule contains a commitment by the EPA to give monthly public notice of submittals received which have been determined to be complete and which are about to undergo technical review within the EPA. Members of the public wishing to obtain more information on a specific submittal then may contact the appropriate EPA Regional Office representative listed above.

Eighty-seven enforceable commitments have been received by the EPA, and nineteen have been determined to be complete to date. Some of the early reductions submittals received actually contain multiple enforceable commitments; that is, some companies have decided to divide their particular plant sites into more than one early reductions source. Each of these sources must achieve the required

[1] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 57 FR 13267 (April 16, 1992), III FERC Stats. & Regs. Preambles ¶ 30,939 (April 8, 1992); *order on reh'g*, Order No. 636-A, 57 FR 36128 (August 12, 1992), III FERC Stats. & Regs. Preambles ¶ 30,950 (August 3, 1992); *order on reh'g*, Order No. 636-B, 57 FR 57911 (December 8, 1992), 61 FERC ¶ 61,272 (November 27, 1992). The final rule requires significant alterations in the structure of interstate natural gas pipeline services and provides a schedule for implementing that restructuring. The rule applies to all pipelines that provide open-access transportation service.

emissions reductions individually to qualify for a compliance extension. The purpose of today's notice is to add commitments from Monsanto, Polyken, and Occidental Chemical to the previously published list of commitments that have been determined to be complete by EPA under the Early Reductions Program. Since the last notice, EPA has deemed complete one commitment from Monsanto for a source in Springfield, Massachusetts, one from Polyken in Franklin, Kentucky, and one from Occidental Chemical in Belle, West Virginia. As the remaining submittals are determined to be complete, they will appear in subsequent monthly notices.

At a later time (most likely within one to three months of today's date), the EPA Regional Offices will provide a formal opportunity for the public to comment on the submittals added to the list by today's notice. To do this, the Regional Office will publish a notice in the source's general area announcing that a copy of the source's submittal is available for public inspection and that comments will be received for a 30 day period.

The table below lists those companies that have made complete enforceable commitments or base year emission submittals under the Early Reductions Program through April 6, 1993. These submittals are undergoing technical review within the EPA at this time.

TABLE 1

(Complete Enforceable Commitments as of April 6, 1993)

Company	Location	EPA region
1. Kalama Chemical, Inc	Kalama, WA	X
2. Amoco Chemical Co. (first source)	Texas City, TX	VI
3. Amoco Chemical Co. (second source)	Texas City, TX	VI
4. Johnson & Johnson Medical, Inc	Sherman, TX	VI
5. PPG Industries	Lake Charles, LA	VI
6. Allied-Signal (first source)	Baton Rouge, LA	VI
7. Allied-Signal (second source)	Baton Rouge, LA	VI
8. Allied-Signal (third source)	Baton Rouge, LA	VI
9. Allied-Signal (first source)	Ironton, OH	V
10. Allied-Signal (second source)	Ironton, OH	V
11. Monsanto	Sauget, IL	V
12. Dow Corning	Midland, MI	V
13. Allied-Signal	Philadelphia, PA	III
14. Texaco-Neches	Port Neches, TX	VI
15. Wyeth Ayerst	Rouses Point, NY	II
16. Marathon Oil	Garyville, LA	VI
17. Monsanto	Springfield, MA	I
18. Polyken	Franklin, KY	IV
19. Occidental Chemical	Belle, WV	III

Dated: April 30, 1993.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93-10712 Filed 5-5-93; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6969

[NM-920-4210-06; NMNM 034478]

Revocation of Public Land Order No. 5245; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in its entirety a public land order which withdrew 13,277.03 acres of public lands for use by the Bureau of Indian Affairs in connection with the Navajo Indian Irrigation Project. The lands are presently held in trust for the Navajo Tribe of Indians by the United States under Public Land Order No. 5624. The locatable minerals are controlled by the Navajo Tribe of Indians and are not available for mining. The lands have been and will remain open to mineral leasing. This is a record-clearing action only.

EFFECTIVE DATE: May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Georgiana E. Armijo, BLM New Mexico State Office, PO Box 27115, Santa Fe, New Mexico, 87502, 505-438-7594.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 5245, which withdrew the following described lands for the Navajo Indian Irrigation Project, is hereby revoked in its entirety:

New Mexico Principal Meridian

T. 28 N., R. 11 W.,
- Sec. 30, lots 2, 3, and 4, NE¼, SE¼NW¼, E½SW¼, N½SE¼, and SW¼SE¼.

T. 26 N., R. 12 W.,
- Sec. 2, lots 1 and 2, S½NE¼, and E½SE¼.

T. 27 N., R. 12 W.,
- Sec. 1, lots 3 and 4, S½NW¼, NW¼SW¼, and S½SW¼;
- Sec. 2;
- Sec. 3, lots 1 to 4, inclusive, S½N½, N½SW¼, SE¼SW¼, and SE¼;
- Sec. 5, lots 1 and 2, S½NE¼, NE¼SE¼, and S½SE¼;
- Sec. 8, E½ and E½W½;
- Sec. 11;
- Sec. 17, NE¼, E½NW¼, and E½SE¼;
- Sec. 21, E½;
- Sec. 22;
- Sec. 26, S½;
- Sec. 27, N½, E½SW¼, and SE¼;
- Sec. 28, N½NE¼;
- Sec. 34, NE¼NE¼ and NE¼SE¼;
- Sec. 35, W½.

T. 28 N., R. 12 W.,
- Sec. 13, SW¼SW¼;
- Sec. 14, NE¼SW¼, NW¼SE¼, and S½S½;
- Sec. 21, S½NW¼ and SE¼;
- Sec. 22, NW¼SW¼, S½SW¼, and SW¼SE¼;
- Sec. 23, E½, N½NW¼, SE¼NW¼, and S½SW¼;
- Sec. 24, W½NW¼, SW¼, and SW¼SE¼;
- Sec. 25 to 28, inclusive;
- Sec. 29, SE¼NE¼ and E½SE¼;
- Sec. 32, NE¼NE¼, S½NE¼, and SE¼;
- Secs. 33, 34, and 35;
- Sec. 36, N½, SW¼, N½SE¼, and SW¼SE¼.

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The areas described aggregate 13,277.03 acres in San Juan County.

2. The lands remain held in trust, in accordance with Public Land Order No. 5624, for the Navajo Tribe of Indians in connection with the Navajo Indian Irrigation Project and will not be restored to the operation of the public land laws, including the mining laws.

Dated: April 19, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93-10615 Filed 5-5-93; 8:45 am]

BILLING CODE 4310-FB-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1301

RIN 0970-AB03

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF) Administration for Children and Families (ACF).

ACTION: Final rule.

SUMMARY: The Administration on Children, Youth and Families is amending 45 CFR 1301.32 to add the Office of Management and Budget (OMB) approval number for information collection requirements in the Head Start Grants Administration rule.

DATES: This amendment is effective May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph A. Mottola, Acting Commissioner, Administration on Children, Youth and Families, P.O. Box 1182, Washington, DC 20013, (202) 205-8347.

SUPPLEMENTARY INFORMATION:

Background

The Administration on Children, Youth and Families published a final rule on September 14, 1992 ((57 FR 41881), which revises and clarifies for Head Start grantees the requirements implementing the statutory provision that limits development and administrative costs to 15 percent of total costs. The final rule also clarifies that training and technical assistance funds awarded to grantees must be included in total approved program costs, and are therefore subject to the 20 percent non-Federal matching requirement.

Purpose of Amendment to Section 1301.32

Paragraphs (f)(2) and (3) of 45 CFR 1301.32, in the September final rule, contain information collection requirements for which an OMB approval number is required. In addition, OMB requires the approval number to be displayed in the rule. OMB approved and assigned a number to the information collection requirements in § 1301.32 on January 26, 1993. This amendment adds that number at the end of the section.

Waiver of Notice and Comment Procedures

The Administrative Procedure Act (5 U.S.C. 553(b)) requires that a notice of proposed rulemaking be published unless the Department finds, for good cause, that such notice and opportunity for public comment is impracticable, unnecessary, or contrary to the public interest. In this instance, the rule in question effects only a technical change by including the OMB Control Number at the end of the section that contains information collection requirements. Accordingly, the Department has determined that it would be unnecessary to use notice and comment procedures in issuing this amendment to display an OMB Control Number.

Impact Analyses

As the only purpose of this rule is to display the OMB control number at the end of 45 CFR 1301.32, no impact analyses is required.

List of Subjects in 45 CFR Part 1301

Development and administrative costs, Dual benefit costs, Head Start, Indirect costs, Program costs, Total approved costs.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: April 22, 1993.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

For the reasons set forth in the preamble, 45 CFR part 1301 is amended as follows:

1. The authority citation for part 1301 continues to read as follows:

Authority: 42 U.S.C. 9831 et seq.

2. Section 1301.32 is amended by adding the OMB Control Number at the end of the section.

§ 1301.32 Limitation on costs of development and administration of a Head Start program.

* * * * *

(Information collection requirements contained in paragraphs (f) (2) and (3) of this section were approved on January 26, 1993, by the Office of Management and Budget under Control Number 0980-1043).

[FR Doc. 93-10329 Filed 5-5-93; 8:45am]

BILLING CODE 4130-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-214; RM-7101; RM-7226]

Radio Broadcasting Services; Homerville, Lakeland and Statenville, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a petition for reconsideration filed by Lakeland Broadcasters, Inc. of the Report and Order in this proceeding. See 56 FR 51844, October 16, 1991. This Memorandum Opinion and Order substitutes Channel 290C3 for Channel 290A and modifies the license of Station WHFE(FM), Lakeland, Georgia, to reflect the new channel; substitutes Channel 254A for Channel 288A and modifies the license of Station WBTY (FM), Homerville, Georgia, to reflect operation on the new channel; and allots Channel 248A in lieu of Channel 254A and instructs the permittee, La Taurus Productions, Inc., to amend its construction permit for Statenville, Georgia. This document further specifies that Station WXMK(FM), Dock Junction, Georgia and Station WQHL (FM), Live Oak, Florida must amend their pending applications to adhere to the minimum distance separation requirements of § 73.211 of the Commission's rules. See supplemental information, *infra*. With this action, the proceeding is terminated.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Elizabeth Beaty, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 90-214, adopted April 14, 1993, and released April 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, ITS, Inc., (202) 857-3800, 1919 M Street, NW., room 246, Washington, DC 20036 or 2100 M Street, NW., Washington, DC 20037.

The coordinates for Channel 290C3 at Lakeland, Georgia, are North Latitude 31-02-25 and West Longitude 83-05-00, with a site restriction 1.3 kilometers (.08 miles) west of the community. The coordinates for Channel 254A at Homerville, Georgia, are those of its license site, North Latitude 31-02-04 and West Longitude 82-51-50. The coordinates for Channel 248A at Statenville, Georgia, are North Latitude 30-45-40 and West Longitude 82-52-45, with a site restriction 15.5 kilometers (9.6 miles) northeast of the community.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 254A and adding Channel 248A at Statenville, by removing Channel 288A and adding Channel 254A at Homerville, and by removing Channel 290A and adding Channel 290C3 at Lakeland.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10619 Filed 5-5-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-544; RM-7527 and RM-7615]

Radio Broadcasting Services; Thief River Falls and Walker, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a Petition for Reconsideration filed by Olmstead Broadcasting, Inc., thereby substituting Channel 257C3 for Channel 257A at Thief River Falls, Minnesota, and modifying the license for Station KKDQ-FM accordingly. See 57 FR 10428, March 26, 1992. The coordinates for Channel 257C3 are 48-04-52 and 96-20-05. Canadian concurrence has been obtained for this allotment. The Petition for Reconsideration filed by De La Hunt Broadcasting Corporation is dismissed. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, MM Docket No. 90-544, adopted April 12, 1993, and released April 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 257A and adding Channel 257C3 at Thief River Falls.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10623 Filed 5-5-93; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 509

[APD 2800.12A, CHGE 45]

General Services Administration Acquisition Regulation; Administrative Records for Debarment and Suspension

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), chapter 5 (APD 2800.12A), is amended by adding a new paragraph to provide for furnishing parties a copy of the administrative record in a debarment proceeding, and to redesignate other paragraphs; to add a new paragraph to provide for furnishing parties a copy of the administrative record in a suspension proceeding, and to redesignate other paragraphs. The intended effect is to simplify the process for releasing documents in the administrative record to parties proposed for debarment or suspension.

EFFECTIVE DATE: May 21, 1993.

FOR FURTHER INFORMATION CONTACT: Les Davison, Office of GSA Acquisition Policy (202) 501-1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

A notice of proposed rulemaking was published in the **Federal Register** on March 16, 1992 (57 FR 10454). Favorable comments were received from the Coalition for Government Procurement. The Coalition indicated it believed the change would simplify the release of documents to parties proposed for debarment or suspension and help ensure that Government suspension and debarment proceedings are conducted in an open and fair manner.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

C. Regulatory Flexibility Act

GSA certifies that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule will make it easier for parties proposed for debarment or suspension, including small entities, to obtain the administrative record which formed the basis for the decision to propose debarment or suspension. Accordingly, the rule will have a beneficial impact on small entities.

D. Paperwork Reduction Act

This rule does not contain information collection requirements that require the approval of OMB under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Part 509

Government procurement.

1. The authority citation for 48 CFR part 509 continues to read as follows:

Authority: 40 U.S.C. 486(c).

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PART 509—CONTRACTOR QUALIFICATIONS

2. Section 509.406–3 is amended by redesignating paragraphs (b)(6) through (9) as (b)(7) through (10) and republishing them as set forth below and adding a new paragraph (b)(6) to read as follows:

§ 509.406–3 Procedures.

* * * * *

(b) * * *

(6) Upon request, the affected party will be furnished a copy of the administrative record which formed the basis for the decision to propose debarment. If there is a reason to withhold from the party any portion of the record, the party will be notified that a portion of the record is being withheld and will be informed of the reasons for the withholding.

(7) In actions not based on a conviction or judgment, the party may request a fact-finding hearing to resolve a genuine dispute of material fact. The party shall identify the material facts in dispute and the basis for disputing the facts. If the debarring official determines that there is a genuine dispute of material fact, the debarring official shall refer the matter to the fact-finding official. The fact-finding official will schedule a hearing within 20 calendar days of receipt of the debarring official's request. Extensions may be granted for good cause upon the request of the party or the agency.

(8) The purpose of a fact-finding hearing is to:

(i) Afford the affected party the opportunity to dispute material facts relating to the proposed debarment through the submission of oral and written evidence;

(ii) Resolve facts in dispute and provide the debarring official with written findings of fact based on a preponderance of evidence; and

(iii) Provide the debarring official with a determination as to whether a cause for debarment exists, based on facts as found.

(9) Hearings will be conducted by the fact-finding official in accordance with rules consistent with FAR 9.406–3(b)(2) promulgated by that official.

(10) The fact-finding official will notify the affected parties of the schedule for the hearing. The fact-finding official shall deliver written findings of fact to the debarring official (together with a transcription of the proceeding, if made) within 20 calendar days after the hearing record closes.

3. Section 509.407–3 is amended by redesignating paragraph (b) (5) and (6) as (b) (6) and (7) and revising them as set forth below and adding a new paragraph (b)(5) to read as follows:

§ 509.407–3 Procedures.

* * * * *

(b) * * *

(5) Upon request, a copy of the administrative record will be furnished to the affected party under the guidelines set forth at 509.406–3(b)(6).

(6) Fact-finding hearings will not be conducted in actions based on indictments, or in cases in which the suspending official determines pursuant to FAR 9.407–3(b)(2) not to refer a matter to the fact-finding official. A party may request a fact-finding hearing to resolve genuine disputes of material fact in other cases. The party shall identify the material facts in dispute and the basis for disputing the facts. If the suspending official determines that there is a genuine dispute of material fact, the suspending official shall refer the matter to the fact-finding official. The fact-finding official will schedule a hearing within 20 calendar days of receipt of the suspending official's request. Extensions may be requested by the party or the agency.

(7) The purpose of a fact-finding hearing is to:

(i) Afford the affected party the opportunity to dispute facts relating to the suspension action through the submission of oral and written evidence;

(ii) Determine whether, in light of the evidence presented, there is adequate evidence to suspect that the material allegations in the notice are true; and

(iii) Provide the suspending official with a determination as to whether the evidence is adequate to support a cause of suspension. Hearings will be conducted as outlined in 509.406–3(b)(9).

Dated: March 19, 1993.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 93–10689 Filed 5–5–93; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 921077–3081]

Endangered and Threatened Species; Saimaa Seal

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NMFS is listing the Saimaa seal (*Phoca hispida saimensis*) as endangered under the endangered Species Act of 1973 (ESA). NMFS used the best available scientific and commercial information to make this determination. The Saimaa seal is a subspecies of the ringed seal (*Phoca hispida*) that has adapted to a freshwater environment. Scientists estimate the population at about 160–180. The seals are limited in range to Lake Saimaa in eastern Finland.

EFFECTIVE DATE: June 7, 1993.

FOR FURTHER INFORMATION CONTACT: Dean Wilkinson, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Background

The ESA is administered jointly by the U.S. fish and Wildlife Service (USFWS), the Department of the Interior, and NMFS. NMFS has jurisdiction over pinniped species (except walrus) and makes determinations under section 4(a) of the ESA as to whether such species should be listed as endangered or threatened. The USFWS maintains and publishes the List of Endangered and Threatened Wildlife in 50 CFR part 17 for all species determined by NMFS or USFWS to be endangered or threatened. A list of threatened and endangered species under the jurisdiction of NMFS is also contained in 50 CFR 227.4 and 223.23(a), respectively.

The ESA defines "species" to include any subspecies of fish, wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife that interbreeds when mature.

Section 4(a)(1) of the ESA and NMFS listing regulations set forth procedures for listing species. Based on the best available scientific and commercial information, the Secretary of Commerce must determine, through the regulatory process, if a species is endangered or threatened based upon one or a combination of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, recreational, scientific, or educational purposes;

(3) Disease or predation;

(4) Inadequacy of existing regulatory mechanisms;

(5) Other natural or man-made factors affecting its continued existence.

NMFS conducted a status review of the Saimaa seal and concluded that the species is endangered based on listing factors (1), (4), and (5). NMFS then published a proposed rule (57 FR 60162, December 18, 1992) with a 60-day comment period. The proposed rule contained a background discussion of specific information leading to this rule. Background information previously presented will not be repeated here.

Comments and Responses

Four written comments were received in response to the proposed rule from: The American Society of Mammalogists; the American Association of Zoological Parks and Aquariums; the Marine Mammal Center in Sausalito, California; and a scientist who has conducted research on the species. All supported the proposed listing.

Two of the commenters noted that the Seal Specialists Group of the International Union for the Conservation of Nature and Natural Resources has determined that the Saimaa seal should be listed as endangered. The commenters stated that an endangered listing would be appropriate because it would be consist with the international classification.

One commenter pointed out that the Ministry of the Environment in Finland has developed a plan to protect two other areas as natural parks in Lake Saimaa during the next 10 years. When these parks are in place, the core parts of the four breeding areas will be protected. The commenter pointed out, however, that only terrestrial areas are included in the parks, but that the Government of Finland is considering a law making it possible to incorporate aquatic areas into the parks. In order to do this, it will be necessary to purchase the aquatic areas from private holders.

This comment reinforces two of the points contained in the proposed rule. First, habitat alterations have contributed to the decline of the population, and not all of the breeding areas are currently protected. In addition, although the Government of Finland has taken protective measures, additional regulatory action would help preserve the species. The contemplated actions would be likely to reduce mortality in juvenile seals and could make a significant contribution to the recovery of the species.

Determination

Based on the best available scientific and commercial data, NMFS has determined that the Saimaa seal should be classified as endangered. NMFS has determined that this condition is caused by a combination of the factors specified under section 4(a)(1) of the ESA.

Recommended Critical Habitat

Regulations regarding listing of species and designation of critical habitat (50 CFR 424.12(h)), specify that critical habitat cannot be designated in foreign countries or other areas outside U.S. jurisdiction. Because the range of the Saimaa seal is solely outside of U.S. jurisdiction, no critical habitat will be designated.

Classification

The 1982 amendments of the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 675 F. 2d 829 (6th cir., 1981), NMFS has categorically excluded all endangered species listings from environmental assessment requirements of the National Environmental Policy Act (48 FR 4413; February 6, 1984).

As noted in the conference report on the 1982 amendments to the ESA, economic considerations have no relevance to determinations regarding the status of species. Therefore, the economic analysis requirements of Executive Order 12291 and the Regulatory Flexibility Act are not applicable to the listing process. Similarly, listing actions are not subject to the requirements of Executive Order 12612.

This rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: April 28, 1993.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

For the reasons set forth in the preamble, 50 CFR part 222 is amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation for Part 222 continues to read as follows:

Authority: 16 U.S.C. 1531–1543.

§ 222.23 [Amended]

2. In § 222.23, paragraph (a) is amended by adding the phrase "Saimaa seal (*Phoca hispida saimensis*);" immediately after the phrase "Mediterranean monk seal (*Monachus monachus*);" in the second sentence.

[FR Doc. 93–10692 Filed 5–5–93; 8:45 am]

BILLING CODE 3510–22–M

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50 CFR Part 285

[Docket No. 920407–2519]

Atlantic Tuna Fisheries; Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure of the southern longline component of the Incidental Catch category.

SUMMARY: NMFS issues this notice to close the fishery for Atlantic bluefin tuna conducted by longline vessels permitted in the Incidental Catch category and operating in the Regulatory Area south of 36°00′ N latitude. Closure of this fishery is necessary because the total annual quota of 54 mt of Atlantic bluefin tuna allocated for this subcategory has been attained. The intent of this action is to prevent overharvest of the quota established for this fishery.

EFFECTIVE DATES: The closure is effective 0001 hours local time May 4, 1993 through December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Aaron E. King, 301–713–2347 or Kevin B. Foster, 508–281–9260.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Section 285.22(e)(2) of the regulations provides for an 1993 annual quota of 85 mt of Atlantic bluefin tuna to be harvested from the Regulatory Area by longline vessels permitted in the Incidental Catch category. Of the 85 mt quota for longline vessels, no more than 67 mt can be harvested in the area south of 36°00′ N latitude.

If a quota in any category, or as appropriate, subcategory, has been exceeded or has not been reached, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is required under § 285.22(h) to subtract the overharvest from, or add the underharvest to, that quota for 1993; provided that the total of the 1992 harvest plus the 1993 adjusted quotas and the reserve does not exceed 2,497 mt.

The longline component of the Incidental Catch category fishery for Atlantic bluefin tuna operating south of

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36°00′ N. latitude in the Regulatory Area, exceeded its quota for 1992 by 13.2 mt. This overharvest was dealt with in a separate action, and is further explained in **Federal Register** notice 57 FR 59310, published December 15, 1992, resulting in an adjusted 1993 maximum harvest for the southern longline Incidental Catch subcategory of 54 mt.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator is further authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by those fishing in the category subject to the quota when the catch of tuna equals the quota established under § 285.22. The Assistant Administrator has determined, based on the reported catch, that the annual quota of Atlantic bluefin tuna for longline vessels fishing in the Regulatory Area will be attained by May 4, 1993. Fishing for, and retention of, Atlantic bluefin tuna south of 36°00′ N. latitude harvested under § 285.22(e)(2) must cease at 0001 local time on May 4, 1993. During the closure of the fishery south of 36°00′ N. latitude, it is prohibited to catch with longline gear, or possess Atlantic bluefin tuna taken with longline gear, south of 36°00′ N. latitude, including possession to land (i.e., offload) the fish shoreside. Fishing for Atlantic bluefin tuna by longline vessels possessing an Incidental catch permit, may continue north of 36°00′ N. latitude, until the quota is reached and closure occurs. Landing (i.e., offloading), or entering port with the intent to offload, of fish caught north of 36°00′ N. latitude, however, is restricted to ports north of 36°00′ N. latitude.

Classification

This action is required by 50 CFR 285.20(b)(1) and complies with E.O. 12291.

Authority: 16 U.S.C. 971 *et seq.*

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: April 30, 1993.

Joe P. Clem,

Chief, Plans and Regulations Division.

[FR Doc. 93-10634 Filed 4-30-93; 4:54 pm]

BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 930402-3102]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule for 1993 fishery management measures; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) issues an emergency interim rule to establish fishery management measures for the ocean salmon fisheries off Washington, Oregon, and California from May 1 through May 31, 1993. Specific fishery management measures vary by fishery and area. Together they establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the exclusive economic zone (3–200 nautical miles) off Washington, Oregon, and California. Based on concerns regarding Klamath River fall chinook salmon, the Secretary has disapproved the proposed 1993 salmon seasons recommended by the Pacific Fishery Management Council (Council). The management measures implemented by this emergency rule will allow the ocean salmon fisheries to begin while the Council develops revised season proposals that meet the Secretary's concerns. Following development of revised management measures, the Secretary will implement salmon seasons for the remainder of the year. This action is necessary to begin the salmon fishery on May 1, as recommended by the Council, in order to allow commercial and recreational fishermen to access many other harvestable salmon stocks that might not be available if the season opening were delayed. It is intended to prevent overfishing and to be consistent with the allocation objectives and spawning goals of the Fishery Management Plan for the Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California (FMP), except for changes described below that increase spawning escapement of Klamath River fall chinook. The Council recommendations upon which this rule is based are discussed and fully analyzed in the Council's Preseason Report III Analysis of Council-Adopted Management Measures for 1993 Ocean Salmon Fisheries.

DATES: Effective from 0001 hours P.D.T., May 1, 1993, until 2400 hours P.D.T. May 31, 1993. Comments will be accepted through May 17, 1993.

ADDRESSES: Comments may be sent to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070; or Gary Matlock, Acting Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Rodney R. McInnis at 310–980–4030.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries off Washington, Oregon, and California are managed under a "framework" fishery management plan. The framework FMP was approved in 1984 and has been amended four times (52 FR 4146, February 10, 1987; 53 FR 30285, August 11, 1988; 54 FR 19185, May 4, 1989; 56 FR 26774, June 11, 1991). Regulations at 50 CFR part 661 provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the FMP, by notice in the **Federal Register**. Under the FMP, the Council makes recommendations to the Secretary on a management regime for the salmon fishery. If the Secretary approves the recommendations, he implements the management measures.

Klamath River fall-run chinook are the primary management concern off southern Oregon and northern California. In 1993, the abundance of Klamath fall-run chinook is expected to be 178,000 age-3 and age-4 fish at the beginning of the fishing season. Although this forecast is above last year's record low abundance, it is 48 percent below the 1985–1992 average ocean population forecast. Ocean escapement to the Klamath River (inriver run size) in 1992 totaled 25,900 adult fish, the lowest inriver run size since comprehensive inriver monitoring began in 1978.

The spawning escapement goal for the Klamath River system is 33–34 percent of the potential adult salmon with a minimum of 35,000 natural spawners (fish that spawn outside of the hatcheries). In 1992, the Klamath River fall chinook escapement fell below the minimum spawning escapement floor for the third consecutive year; a review work group has been appointed to review this stock in accordance with FMP guidelines. It is estimated that an ocean season in 1993 similar to that adopted preseason in 1992 would result in an escapement above the minimum spawning escapement floor.

In recent years, several Federal and regional actions have been undertaken to improve the habitat conditions within the Klamath River Basin for the purpose of increasing the production of anadromous fish populations, including the fall chinook salmon. Multi-agency task forces, including Federal, state and local governments, have been working for several years under the lead of the Department of the Interior, with the cooperation of the Department of Commerce, to restore salmon habitat in the Klamath River and its major tributary, the Trinity River. The Trinity River has been adversely impacted by the diversion of much of its natural flow into the Sacramento River Basin through the Central Valley Project. The Secretary of the Interior, in 1991, agreed to increase the minimum amount of water that would be released down the Trinity River from 240,000 acre-feet to 340,000 acre-feet. This action was taken to improve the habitat for salmon. On October 30, 1992, the Central Valley Project Improvement Act (Pub. L. 102–575) was signed. That Act included the 340,000 acre-feet minimum flow and provided for studies that may lead to an increased minimum flow after 1996.

During the preseason ocean salmon fishery management process, the Council was advised by the Department of the Interior that it should manage the Ocean fishery so that the Indian tribes on the Klamath River could take 50 percent of the harvestable Klamath River salmon. The Council considered a range of harvest rates for the ocean fisheries ranging from 12 to 28 percent of the Klamath River fall chinook.

At the Council's April 6–9 meeting, it recommended to the Secretary management measures that would result in an ocean harvest rate of 22 percent on Klamath River fall chinook salmon stocks and achieve the spawning escapement floor if the Klamath River tribes were to limit their harvest to one-half (17,400 fish) of the non-Indian harvest (ocean harvest plus inriver recreational catch of 2,600 fish) of Klamath fall chinook. However, a 22-percent ocean harvest rate combined with a tribal harvest equal to the non-Indian harvest of Klamath River fall chinook would return approximately 21,000 natural spawners, 61 percent of the natural spawning escapement floor, to the Klamath River. Were this to happen, the Klamath River escapement floor of 35,000 natural spawners would be breached for a fourth consecutive year.

Subsequent to the Council's April meeting, the Departments of Commerce and the Interior had extensive discussions regarding the spawning escapement, commercial and recreational ocean harvest, and tribal inriver harvest of Klamath River fall chinook. These discussions also considered conservation issues resulting from the severe and prolonged California drought and the failure to achieve the Klamath River fall chinook natural spawning escapement floor for the previous 3 years. The Departments of Commerce and the Interior have concluded that 1993 offers a unique opportunity, because of the end of the drought, to begin to address conservation concerns for Klamath River fall chinook, and to begin to rebuild the stock to levels that will support healthy and sustained harvests by both tribal and non-tribal fisheries.

In view of the fact that the Council's ocean fishery regulations have failed to achieve the spawning escapement floor of 35,000 natural Klamath River fall chinook spawners for the past 3 years (15,500, 11,500 11,000 adult natural spawners, respectively), and the fact that the long-term drought in California has ended and the region is enjoying the best water conditions in recent years, the Department of Commerce believes that it is in the best long-term interest of the Klamath River fall chinook resource, the fishing industry, and the tribal fisheries, to achieve as large a spawning escapement as reasonably possible in 1993. This provides the best opportunity to increase production of Klamath River fall chinook significantly beginning in 3 to 4 years when the production from the 1993 brood will return. Thus, the Secretary has determined that the Klamath River fall chinook natural spawning escapement in 1993 should be greater than the 35,000 fish spawning escapement floor.

In light of concerns about the need to increase conservation while meeting minimum tribal ceremonial and subsistence needs, the Department of the Interior has agreed that, for 1993, the Klamath tribal catch will be restricted to 18,500 chinook, in order to provide for greater spawning escapement.

Based on the Departments of Commerce and the Interiors' conservation concerns and the expected tribal inriver catch, the Secretary has determined that the Council's recommended 22-percent harvest rate on Klamath River fall chinook will not achieve the expected tribal harvest and a spawning escapement in excess of the 35,000 spawning escapement floor. Consequently, the Secretary has disapproved the Council's recommendation. The Secretary is requesting that the Council reconsider its proposals for the 1993 season and resubmit for consideration a proposed ocean fishery that will return sufficient fall chinook to the Klamath River to provide for a tribal inriver harvest of 18,500 fall chinook, and a spawning escapement of at least 38,000 natural spawners. The Secretary has balanced the conservation need for additional spawners against the economic impacts on the ocean fishery in this year, and has determined that a spawning escapement of 38,000 natural spawners is a reasonable accommodation of the competing needs. The Secretary believes that the short-term sacrifices made by both tribal and non-tribal fishermen to achieve a modest increase of at least 3,000 natural spawners above the FMP's spawning escapement goal, combined with better environmental conditions and the Department of the Interior's commitment to provide more water for fish production in the Trinity River, a major tributary of the Klamath River, will substantially improve the probability that the Klamath River fall chinook run will rebuild to a level that can sustain healthy fisheries.

In order to allow fisheries to begin on May 1, pending revisions to be made by the Council, the Secretary issues this emergency rule. This rule incorporates all of the Council-recommended management measures for fisheries that occur through May 31, except that the May 1 to May 6 troll fishery between Horse Mountain and Point Arena is excluded and the chinook quota for the recreational fishery beginning May 5 between Humbug and Horse Mountains (the Klamath Management Zone) is reduced from 12,000 to 8,000 chinook. These two changes are being made to reduce ocean impacts on Klamath fall chinook immediately in order to preserve flexibility for the Council to shape management measures later in the season. This emergency rule effectively amends the FMP to modify temporarily the spawning escapement goal for Klamath River chinook salmon.

After receiving revised season recommendations that meet the Secretary's spawning escapement objective and the expected level of tribal inriver harvest, the Secretary will publish a subsequent rule to implement the remainder of the seasons.

Management Measures for May 1993

The Secretary is establishing the following allowable ocean harvest levels and management measures for the fisheries that will occur from May 1 through May 31, which are designed to apportion the burden of protecting weak stocks equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs.

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These management measures are intended to establish May fisheries while preserving flexibility for the Council to reconfigure the remaining ocean salmon fisheries.

A. South of Cape Falcon

In the area south of Cape Falcon, the management measures in this rule are based primarily on concerns for Klamath River fall chinook and Sacramento River winter chinook. The greatest constraint on the ocean management measures was the low abundance of Klamath River fall chinook as described above.

Winter-run chinook from the Sacramento River are listed under the federal Endangered Species Act as a threatened species. In 1991, NMFS concluded a formal consultation with the Council regarding the impacts of the ocean salmon fishing regulations on the winter run. The biological opinion issued from that consultation determined that the 1990 level of impacts from the ocean fisheries would not jeopardize the continued existence of the winter run. NMFS also recommended shortening the recreational fishing season off central California and closure of an area at the mouth of San Francisco Bay during the time when the winter run is entering the Bay. These recommended conservation measures were implemented in 1991 and remain a part of the salmon management measures for 1993. The overall impact of the 1993 salmon management program on the winter run is expected to be significantly less than in 1990, the base year for the biological opinion. This expectation is based on the harvest rate model for the Central Valley Index stocks of fall chinook, which will experience a harvest rate of 71 percent in 1993 as compared to 79 percent in 1990. These rates are only indicators of the relative impact on the winter run because these fish are less vulnerable to the ocean fisheries than fall-run chinook due to the timing of the seasons, as well as their growth and migration patterns.

Commercial Troll Fisheries

Chinook quotas are again being implemented in some areas to insure that the ocean impacts on threatened Sacramento River winter-run chinook, threatened Snake River fall chinook, and Sacramento and Klamath River fall chinook do not exceed those that have been modeled. Specifically, the commercial troll fishery will be limited to a quota of 38,000 chinook through May 31 in the area between Florence South Jetty and Humbug Mountain, Oregon. That quota represents a portion of the total 71,000 chinook quota recommended by the Council for this area through August 31. Other chinook quotas are anticipated to be in effect after May 31 and are not within the scope of this rule.

Due to the need to limit harvest impacts on Oregon coastal natural coho, there will be no retention of coho by the commercial troll fisheries south of Cape Falcon.

From Point Reyes, California, to the U.S.-Mexico border, the commercial fishery for all salmon except coho will open May 1 and remain open while this rule is in effect.

In the area between Point Arena and Point Reyes, California, the commercial fishery for all salmon except coho will open May 1 and close May 31, while this rule is in effect.

The area between Humbug Mountain, Oregon, and Point Arena, California, will be closed to commercial salmon fishing during the effective period of this rule.

From Cape Arago to Humbug Mountain, Oregon, the all-salmon-except-coho season will open May 1 through May 31 under the 38,000 chinook quota for the area between Florence South Jetty and Humbug Mountain. Gear will be restricted to no more than four spreads per line in this area.

From Florence South Jetty to Cape Arago, Oregon, an all-salmon-except-coho season will open May 1 and remain open during the effective period of this rule, subject to closure upon attainment of the overall catch quota of 38,000 chinook for the area between Florence South Jetty and Humbug Mountain. Gear will be restricted to no more than four spreads per line.

From Cape Falcon to Florence South Jetty, Oregon, the all-salmon-except-coho season will open May 1 and remain open during the effective period of this rule, with gear restricted to no more than four spreads per line.

Recreational Fisheries

The recreational fishery for all salmon between Point Arena and the U.S.-Mexico border opened on the nearest Saturday to March 1 and remains open while this rule is in effect. The daily bag limit is two fish.

The Horse Mountain to Point Arena, the recreational fishery for all salmon opened on the nearest Saturday to February 15 and remains open during the effective period of this rule with a two-fish daily bag limit.

The recreational fishery between Humbug Mountain and Horse Mountain will open for all salmon May 5 and remain open during the effective period of this rule, subject to closure upon attainment of the catch quota of 8,000 chinook. This season will be open Wednesday through Saturday only, with a one-fish daily bag limit.

From Cape Falcon to Humbug Mountain, the recreational fishery for all salmon will open May 1 and remain open during the effective period of this rule, 7 days a week, shoreward of a lien generally representing the 27 fathom curve. This season will have a two-fish daily bag limit, with no more than two fish in seven consecutive days, and no more than 10 fish per year.

B. North of Cape Falcon

From the U.S.-Canada border to Cape Falcon, ocean fisheries are managed to protect depressed upper Columbia River spring and summer chinook, lower Columbia River hatchery fall chinook, and natural coho stocks of the Quillayute, Hoh, Queets, and Skagit Rivers. Ocean treaty and non-treaty harvests and management measures were based in part on negotiations between Washington State fishery managers, user groups, and the Washington coastal, Puget Sound, and Columbia River treaty Indian tribes as authorized by the U.S. District Court in *U.S.* v. *Washington*, *U.S.* v. *Oregon*, and *Hoh Indian Tribe et al.* v. *Baldrige*.

The total allowable chinook catch in the ocean north of Cape Falcon was established to ensure that the impacts on Snake River spring/summer and fall chinook stocks, which are listed as threatened species under the Endangered Species Act, did not exceed recent years' level of impacts. For Snake River wild spring chinook, the available information indicates that it is highly unlikely these fish are impacted in Council area fisheries. For Snake River wild summer chinook, these fish comprise only a very small proportion of total chinook abundance in the Council management area, and it is unlikely these fish are significantly impacted in Council area fisheries. For Snake River wild fall chinook, which are caught in Council area fisheries, the Council estimated a reduction of 10 percent in the ocean exploitation rate under the Council's recommended 1993 ocean measures compared to the 1986–1990 average by using the Lyons Ferry Hatchery stock to represent Snake River wild fall chinook.

Commercial Troll Fisheries

The commercial fishery between the U.S.-Canada border and Cape Falcon will open on May 1 for all salmon except coho and remain open during the effective period of this rule, subject to closure upon the attainment of the

30,400 chinook harvest guideline. The control zone at the mouth of the Columbia River will be closed.

Recreational Fisheries

During the effective period for this rule, the only recreational fishery north of Cape Falcon is an all-salmon-except-coho fishery in Washington State waters east of the Bonilla-Tatoosh Line only, from May 1 through the earlier of May 31 or 1,000 chinook quota, with a two-fish daily bag limit.

Treaty Indian Fisheries

Treaty Indian troll fisheries north of Cape Falcon are governed by a quota of 33,000 chinook salmon. Treaty troll seasons, minimum length restrictions, and gear restrictions were developed by the tribes and agreed to by the Council. The all-salmon-except-coho seasons will open May 1 and remain open during the effective period of this rule, if the chinook quota is not reached. The minimum length restriction for all treaty ocean fisheries, excluding ceremonial and subsistence harvest, is 24 inches (61 cm) for chinook.

The following tables and text are the management measures being implemented by this emergency rule from May 1 through May 31, 1993. Additional seasons which begin on or after June 1 will be addressed in a subsequent rule after a determination can be made regarding the reconfiguration of the remaining ocean salmon fisheries. These early season management measures are responsive to the goals of the FMP, the requirements of the resource, and the socio-economic factors affecting resource users. They are consistent with requirements of the Magnuson Act and other applicable law, including U.S. obligations to Indian tribes with treaty-secured fishing rights.

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Table 1. Commercial management measures for 1993 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, D, and E which must be followed for lawful participation in the fishery.)

A. SEASONS, SUBAREA QUOTAS, AND SPECIES
(Shaded areas represent closures.)

MAY

U.S.-CANADA BORDER — U.S.-CANADA BORDER

5/1 thru earlier of expiration of emergency rule or guideline of 30,400 chinook (E.1.). All salmon except coho. Control Zone 1 (C.3.), Columbia River mouth, is closed. See D.1.

CAPE FALCON — CAPE FALCON

5/1 thru expiration of emergency rule. All salmon except coho. No more than 4 spreads per line.

FLORENCE SOUTH JETTY — FLORENCE SOUTH JETTY

5/1 thru earlier of expiration of emergency rule or chinook quota (E.2.). All salmon except coho. No more than 4 spreads per line.

CAPE ARAGO — CAPE ARAGO

5/1 thru earlier of 5/31 or chinook quota (E.2.). All salmon except coho. No more than 4 spreads per line.

HUMBUG MOUNTAIN — HUMBUG MOUNTAIN

HORSE MOUNTAIN — HORSE MOUNTAIN

POINT ARENA — POINT ARENA

5/1 thru 5/31. All salmon except coho.

POINT REYES — POINT REYES

5/1 thru expiration of emergency rule. All salmon except coho.

U.S.-MEXICO BORDER — U.S.-MEXICO BORDER

B. MINIMUM SIZE LIMITS (Inches)

	Chinook		Coho		
	Total Length	Head-off	Total Length	Head-off	Pink
North of Cape Falcon	28.0	21.5	16.0	12.0	None
Cape Falcon to Humbug Mountain	26.0	19.5	16.0	12.0	None
South of Humbug Mountain	26.0	19.5	22.0	16.5	None

Chinook not less than 26 inches (19.5 inches head-off) taken in open seasons south of Cape Falcon may be landed north of Cape Falcon only when the season is closed north of Cape Falcon.

C. GENERAL REQUIREMENTS, RESTRICTIONS, AND EXCEPTIONS

C.1. Hooks - Single point, single shank barbless hooks are required.

C.2. Line Restriction - Off California, no more than 6 lines per boat are allowed.

C.3. Control Zone 1 - The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° True to 46°11'06" N. latitude and 124°11'00" W. longitude (Columbia River Buoy), then northeast along Red Buoy Line (continuing to Buoy #2, then to Buoy #4, then to Buoy #2SJ, then continuing on) to the tip of the south jetty, is closed.

C.4. Transit Through Closed Areas with Salmon on Board - It is unlawful for a vessel, which has been issued an ocean salmon permit by any state, to have troll gear in the water while transiting any area closed to salmon fishing while possessing salmon.

C.5. Landing Salmon in Closed Areas - Legally caught salmon may be landed in closed areas unless otherwise prohibited by these regulations.

D. POSSESSION, LANDING, AND SPECIAL RESTRICTIONS BY MANAGEMENT AREA

If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the U.S. Coast Guard and receive acknowledgement of such notification prior to leaving the area. This notification shall include the name of the vessel, port where delivery will be made, approximate amount of salmon (by species) on board, and the estimated time of arrival.

D.1. U.S.-Canada Border to Cape Falcon, May/June All-Salmon-Except-Coho Season - The State of Oregon may require vessels landing fish from this fishery to the area south of Cape Falcon to notify the Newport office of the Oregon Department of Fish and Wildlife between 8 a.m. and 5 p.m. on the day of landing or the following weekday if such landing occurs on a weekend or outside office hours. The notification shall include the name of the vessel, port where delivery will be made, and the number of chinook landed. Following any closure of this fishery, vessels must land and deliver the fish within 48 hours of the closure.

E. QUOTAS

E.1. Chinook Guideline North of Cape Falcon - The troll fishery will be managed to keep chinook catch within a guideline of 30,400 chinook.

E.2. Chinook Quota Between Florence South Jetty and Humbug Mountain - The troll fishery will be limited by a catch quota of 38,000 chinook.

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Table 2. Recreational management measures for 1993 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, and D which must be followed for lawful participation in the fishery.)

A. SEASONS, SUBAREA QUOTAS, SPECIES AND BAG LIMITS
(Shaded areas represent closures.)

MAY

U.S.-CANADA BORDER — U.S.-CANADA BORDER

Open east of Bonilla-Tatoosh Line only. 5/1 thru earlier of 5/31 or 1,000 chinook quota (D.1.). Open 7 days per week. All salmon except coho. 2 fish per day.

CAPE ALAVA — CAPE ALAVA

QUEETS RIVER — QUEETS RIVER

LEADBETTER POINT — LEADBETTER POINT

CAPE FALCON — CAPE FALCON

5/1 thru expiration of emergency rule. Open 7 days per week. All salmon. 2 fish per day. No more than 2 fish in 7 consecutive days and no more than 10 fish per year (C.3.). Open only within the 27 fathom curve (C.2.).

HUMBUG MOUNTAIN — HUMBUG MOUNTAIN

5/5 thru earlier of expiration of emergency rule or 8,000 chinook quota (D.2.). Open Wed. thru Sat. only. All salmon. 1 fish per day.

HORSE MOUNTAIN — HORSE MOUNTAIN

Continuing (opened on nearest Sat. to 2/15) thru expiration of emergency rule. All salmon. 2 fish per day.

POINT ARENA — POINT ARENA

Continuing (opened on nearest Sat. to 3/1) thru expiration of emergency rule. All salmon. 2 fish per day.

U.S.-MEXICO BORDER — U.S.-MEXICO BORDER

B. MINIMUM SIZE LIMITS (Total length in inches)

	Chinook	Coho	Pink
North of Cape Falcon	24.0	16.0	None
Cape Falcon to Humbug Mountain	20.0	16.0	None
South of Humbug Mountain	20.0	20.0	None, except 20.0 off California

C. SPECIAL REQUIREMENTS, RESTRICTIONS AND EXCEPTIONS

C.1. Hooks - Single point, single shank barbless hooks are required north of Point Conception, California

C.2. Area Within the 27 Fathom Curve - The ocean area that is bounded by a line from Cape Falcon to 45°46'00" N., 124°01'20" W. (approximately 1.6 nautical miles west of Cape Falcon) to 45°04'15" N., 124°04'00" W. (approximately 2.2 nautical miles northwest of Cascade Head) to 44°40'40" N., 124°09'15" W. (approximately 3 nautical miles west of Yaquina Head) to 44°08'30" N., 124°12'00" W. (approximately 3 nautical miles west of Heceta Head) to 43°40'15" N., 124°14'30" W. (approximately 0.5 nautical miles west of the Umpqua Whistle Buoy) to 43°31'30" N., 124°17'00" W. (approximately 1.7 nautical miles west of the beach) to 43°15'15" N., 124°28'00" W. (approximately 3 nautical miles west of the beach) to 43°01'30" N., 124°29'05" W. (approximately 2 nautical miles west of Four Mile Creek) to 42°56'00" N., 124°33'10" W. (approximately 2.4 nautical miles west of the mouth of Floras Creek) to 42°50'20" N., 124°38'30" W. (approximately 3.4 nautical miles west of Cape Blanco) to 42°40'30" N., 124°28'45" W. (approximately 1.1 nautical mile west of Humbug Mountain) to Humbug Mountain.

C.3. Annual Possession Restriction Between Cape Falcon and Humbug Mountain - No more than 10 salmon of any species may be retained per year from the ocean area between Cape Falcon, Oregon and Humbug Mountain, Oregon.

C.4. For the purposes of California Fish and Game Code, section 8232.5, the definition of the Klamath management zone for the ocean salmon season shall be that area from Humbug Mountain, Oregon, to Horse Mountain, California.

D. QUOTAS

D.1. Chinook Quota North of Cape Alava - The recreational fishery will be limited by a harvest quota of 1,000 chinook.

D.2. Chinook Quota Between Humbug Mountain and Horse Mountain - The recreational fishery will be limited by a harvest quota of 8,000 chinook.

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Table 3. Treaty Indian management measures for 1993 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, and C which must be followed for lawful participation in the fishery.)

A. SEASONS, SPECIES, MINIMUM SIZE LIMITS, AND GEAR RESTRICTIONS

Tribe and Area Boundaries	Open Seasons	Salmon Species	Minimum Size Limit (inches) Chinook	Coho	Special Restrictions by Area
Makah — That portion of the Fishery Management Area (FMA) north of 48°02'15" N. latitude (Norwegian Memorial) and east of 125°44'00" W. longitude	May 1 thru earlier of expiration of emergency rule or chinook quota	All except coho	24	–	Barbless hooks. No more than 8 fixed lines per boat, or no more than 4 hand-held lines per person.
Quileute — That portion of the FMA between 48°07'36" N. latitude (Sand Point) and 47°31'42" N latitude (Queets River) east of 125°44'00" W. longitude	May 1 thru earlier of expiration of emergency rule or chinook quota	All except coho	24	–	Barbless hooks. No more than 8 fixed lines per boat.
Hoh — That portion of the FMA between 47°54'18" N. latitude (Quillayute River) and 47°21'00" N. latitude (Quinault River) east of 125°44'00" W. longitude	May 1 thru earlier of expiration of emergency rule or chinook quota	All except coho	24	–	Barbless hooks. No more than 8 fixed lines per boat.
Quinault — That portion of the FMA between 47°40'06" N. latitude (Destruction Island) and 46°53'18" N. latitude (Point Chehalis) east of 125°44'00" W. longitude	May 1 thru earlier of expiration of emergency rule or chinook quota	All except coho	24	–	Barbless hooks. No more than 8 fixed lines per boat.

B. SPECIAL REQUIREMENTS, RESTRICTIONS, AND EXCEPTIONS

B.1. All boundaries may be changed to include such other areas as may hereafter be authorized by a federal court for that tribe's treaty fishery.

B.2. Applicable lengths, in inches, for dressed, head-off salmon, are 18 inches for chinook and 12 inches for coho. Minimum size and retention limits for ceremonial and subsistence harvest are as follows:
Makah Tribe — None.
Quileute, Hoh, and Quinault tribes — Not more than 2 chinook longer than 24 inches in total length may be retained per day. Chinook less than 24 inches total length may be retained.

B.3. The areas within a 6-mile radius of the mouths of the Queets River (47°31'42" N. latitude) and the Hoh River (47°45'12" N. latitude) will be closed to commercial fishing. A closure within 2 miles of the mouth of the Quinault River (47°21'00" N. latitude) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.

C. QUOTAS

C.1. The overall treaty troll ocean quota is 33,000 chinook salmon. This quota includes troll catches by the Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through May 31.

BILLING CODE 3510-22-C

Gear Definitions and Restrictions

In addition to gear restrictions shown in Tables 1, 2, and 3 of this preamble, the following gear definitions and restrictions will be in effect.

Troll Fishing Gear. Troll fishing gear for the Fishery Management Area (FMA) is defined as one or more lines that drag hooks behind a moving fishing vessel.

In that portion of the FMA off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.

Recreational Fishing Gear. Recreational fishing gear for the FMA is defined as angling tackle consisting of a line with not more than one artificial lure or natural bait attached.

In that portion of the FMA off Oregon and Washington, the line must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington.

In that portion of the FMA off California, the line must be attached to a rod and reel held by hand or closely attended. Weights directly attached to a line may not exceed 4 (1.8 kg) pounds.

Fishing includes any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

Geographical Landmarks

Wherever the words "nautical miles of shore" are used in this rule, the distance is measured from the baseline from which the territorial sea is measured.

Geographical landmarks referenced in this notice are at the following locations:

Bonilla-Tatoosh Line	A straight line drawn from Bonilla Point on Vancouver Island, British Columbia, to the light on Tatoosh Island, Washington, then to the most westerly point on Cape Flattery.
Cape Alava	48°10'00" N. lat.
Carroll Island	48°00'18" N. lat.
Queets River	47°31'42" N. lat.
Leadbetter Point	46°38'10" N. lat.
North Head	46°18'00" N. lat.
Red Buoy Line	Seaward along the south jetty of the Columbia River to the visible tip of the jetty and then to Buoy #2SJ, then southwesterly to Buoy #4, continuing southwesterly to Buoy #2, and then to the Columbia River Buoy, then due west along 46°11'06" N. latitude.
Cape Falcon	45°46'00" N. lat.
Florence South Jetty	44°01'00" N. lat.
Cape Arago	43°18'20" N. lat.
Humbug Mountain	42°40'30" N. lat.
Sisters Rocks	42°35'45" N. lat.
Mack Arch	42°13'40" N. lat.
Horse Mountain	40°05'00" N. lat.
Point Arena	38°57'30" N. lat.
Point Reyes	37°59'44" N. lat.
Point Conception	34°27'00" N. lat.

Inseason Notice Procedures

Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, 206–526–6667 or 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF–FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Inseason actions will also be filed with the **Federal Register** as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or Coast Guard broadcasts for current information for the area in which they are fishing.

The management measures described above are based on the most recent data available. The aggregate data upon which the measures are based are available for public inspection at the offices of the Regional Directors (see **ADDRESSES**) during business hours until the end of the comment period.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that the measures described in this preamble are necessary to respond to emergency situations and are consistent with the Magnuson Act and other applicable law. The Secretary has determined that, absent this emergency rule, the ocean salmon fishery will be unnecessarily closed pending submission of revised 1993 season proposals by the Council and the Secretary's final decision on the entire 1993 ocean salmon season. Delay in the start of the fishing season would deny ocean fishermen access to harvestable salmon stocks which, if taken later in the year, would produce unacceptable impacts on other salmon stocks. Implementation of this emergency rule meets the goals and objectives of the FMP and preserves the Secretary's flexibility for implementing management measures later in the season. It prevents the economic harm that otherwise would occur to the ocean salmon fishermen and coastal communities if the season were to remain closed on May 1. Therefore, it is necessary to implement ocean salmon fishing regulations by emergency action pursuant to 16 U.S.C. 1855(c).

The Assistant Administrator finds that the reasons justifying the promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days the effective date of these emergency regulations, under the provisions of sections 553 (b) and (d) of the Administrative Procedure Act. Any delay in implementing this rule would cause unnecessary economic harm to users of the resource. The public had opportunities to comment on the management measures being implemented during meetings of the Council and its advisory committees in March and April 1993. The public will also have an opportunity to comment on the emergency measures during the comment period provided by this rule.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Washington, Oregon, and California, and the San Francisco Bay Conservation and Development Commission. This determination has been submitted for review by the responsible agencies under section 307 of the Coastal Zone Management Act.

This emergency rule is exempt from the normal review procedures of E.O. 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the director of the Office of Management and Budget, with an explanation of why it is not possible to follow the regular procedures of that order.

The Council prepared an environmental assessment (EA), the scope of which included this action, and the Assistant Administrator concluded that there will be no significant impact on the human environment. A copy of the EA is available from the Regional Directors (see **ADDRESSES**).

This emergency rule does not contain a collection of information for purposes of the Paperwork Reduction Act.

The Regulatory Flexibility Act does not apply to this rule because, as an emergency rule, it was not required to be promulgated as a proposed rule and the rule is issued without opportunity for prior public comment. Since notice and opportunity for comment are not required to be given under section 553 of the Administrative Procedure Act, and since no other law requires that notice and opportunity for comment be given for this rule, under sections 603(a)

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and 604(a) of the Regulatory Flexibility Act, no initial or final regulatory flexibility analysis needs to be prepared.

This emergency rule does not contain policies with known federalism implications sufficient to warrant preparation of the federalism assessment under E.O. 12612. Washington, Oregon, and California are expected to implement State regulations compatible with this Federal rule.

On March 31, 1991, NMFS issued a biological opinion that considered the effects of the FMP on Sacramento River winter-run chinook salmon. The opinion concluded that implementation of the FMP is not likely to jeopardize the continued existence of the species. The 1993 season falls within the scope of the 1991 opinion, and the seasons and management measures comply with the recommendations and incidental take conditions contained in the biological opinion. Therefore, it was not necessary to reinitiate consultation on Sacramento River winter-run chinook salmon.

NMFS has prepared a biological opinion that considered the effects of the 1993 salmon management measures on wild sockeye salmon, wild spring/summer chinook salmon, and wild fall chinook salmon from the Snake River that concluded the fishery as proposed by the Council for May 1993 fishing under the FMP is not likely to jeopardize the continued existence of the listed stocks. These management measures are within the scope of that opinion.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

Dated: April 30, 1993.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 661 is amended as follows:

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

1. The authority citation for part 661 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Effective from May 1 through May 31, 1993, the appendix to part 661 is amended in the table in IV.A., by suspending the existing entry for Klamath Fall Chinook, and its footnote number 3, and adding a new entry for Klamath Fall Chinook to read as follows:

Appendix

* * * * *

IV. * * *

A. * * *

SUMMARY OF SPECIFIC MANAGEMENT GOALS FOR STOCKS IN THE SALMON MANAGEMENT UNIT

System	Spawning [1] escapement goal
* * * * *	
Klamath Fall Chinook (temporary).	Between 33 and 34 percent of the potential adults from each brood of natural spawners, but no fewer than 38,000 naturally spawning adults in 1993.
* * * * *	

[1] Represents adult natural spawning escapement goal for viable natural stocks or adult hatchery return goal for stocks managed for artificial production.

* * * * *

[FR Doc. 93-10626 Filed 4-30-93; 4:58 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 58, No. 86
Thursday, May 6, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1220

[No. LS-92-006]

RIN 0581-AA77

Soybean Promotion and Research Program; Procedures for Conduct of Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Soybean Promotion and Research Order was implemented July 9, 1991, as authorized by the Soybean Promotion, Research, and Consumer Information Act. The Act requires that the Secretary conduct a referendum among eligible soybean producers not earlier than 18 months and not later than 36 months after the issuance of an Order to determine whether the Order should be continued. Accordingly, a referendum must be held on or after January 9, 1993, but not later than July 9, 1994. This proposed rule sets forth the procedures for conducting the required continuance referendum. The proposed rule would also be applicable to any subsequent referenda which may be conducted pursuant to the Act.

DATES: Written comments must be received by June 7, 1993.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service (AMS), USDA, room 2624-S; PO Box 96456; Washington, DC 20090-6456. Comments will be available for public inspection during regular business hours at the above office in room 2624 South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC. Comments on the information collection requirements contained in this proposed rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Agricultural Marketing Service, USDA.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch 202/720-1115.

SUPPLEMENTARY INFORMATION:

Regulatory Impact

This proposed rule has been reviewed by the United States Department of Agriculture in accordance with Departmental Regulation No. 1512-1 and the criteria contained in Executive Order No. 12291 and has been determined to be a non-major rule because it does not meet the criteria for a major rule as stated in the Order.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1971 of the Act, a person subject to the Soybean Promotion and Research Order may file with the Secretary a petition stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not in accordance with law and requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The statute provides that the district court of the United States in any district in which the person who is a petitioner resides or carries on business has jurisdiction to review a ruling on the petition if a complaint for the purpose is filed not later than 20 days after the date of the entry of the ruling.

Further, section 1974 of the Act provides, with certain exceptions, that nothing in the Act may be construed to preempt or supersede any other program relating to soybean promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State. One exemption in the Act concerns assessments collected by Qualified State Soybean Boards. The exception provides that to ensure adequate funding of the operations of Qualified State Soybean Boards under the Act, no State law or regulation may limit or have the effect of limiting the full amount of assessments that a Qualified State Soybean Board in that State may collect, and which is authorized to be credited under the Act. Another exception concerns certain referenda conducted during specified periods by a State relating to the continuation or termination of a Qualified State Soybean Board or State soybean assessment.

This action has also been reviewed under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed rule would establish procedures for the conduct of referenda. It permits all eligible soybean producers to register and to vote. Participation in referenda is voluntary. The Administrator of the Agricultural Marketing Service (AMS) has determined that this rule will not have a significant economic impact on a substantial number of small business entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, the information collection requirements contained in this proposed rule have been approved by the Office of Management and Budget. They have been assigned OMB control number 0581-0093. The information collection requirements in this proposed rule include the following:

(a) For in-person voting: (1) Each producer of soybeans voting in a referendum must complete a Ballot (Form LS-49) at the County Cooperative Extension Service office. The producer must fill out the ballot and insert in the Ballot Envelope (Form LS-49-1).

(2) Each producer must fill out a Certification and Registration Form which is printed on the Referendum Envelope (LS-49-2). The Ballot Envelope containing the ballot is then inserted in the Referendum Envelope (LS-49-2). The estimated average time burden for completing the forms for in-person voting is 6 minutes per voter.

(b) For absentee voting: Each producer of soybeans requesting absentee voting in a referendum must complete a Combined Registration and Absentee Ballot (Form LS-44). The producer must fill out the form and insert the ballot portion in a Ballot Envelope (LS-44-2) and then insert the sealed Ballot Envelope and the registration portion in the Referendum Envelope (LS-44-1) and place in the mail. The estimated average time burden for completing this procedure is 6 minutes per voter.

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(c) The proposed rule contains a requirement that the producer sign the voter registration list (Form LS–49–3). The State Cooperative Extension Service (CES) agent shall enter on the Absentee Voter Request List (Form LS–44–3) the names and addresses of each person or entity requesting an absentee ballot and the date the forms were mailed. This information is necessary for the Department to list the identities of each voter in the referendum and to allow voters and interested parties to see the identity of each voter in the referendum. This information can be used to validate ballots and to challenge potentially ineligible voters. Each CES agent will fill out one or more of Form LS–44–3 per referendum. The estimated average reporting burden will vary depending on the number of absentee ballots requested.

The estimated number of producers who will vote in the referendum is 100,000, each voting once.

Comments concerning the information collection requirements contained in this proposed rule may be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Agricultural Marketing Service, USDA.

Background

The Soybean Promotion, Research, and Consumer Information Act (Act) (7 U.S.C. 6301–6311) provides for the establishment of a coordinated program of promotion and research designed to strengthen the soybean industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for soybeans and soybean products. The program is financed by an assessment of 0.5 of one percent of the net market price of soybeans sold by producers. Pursuant to the Act, an Order was made effective July 9, 1991, and the collection of assessments began September 1, 1991.

The Act requires that a referendum be conducted not earlier than 18 months and not later than 36 months after the issuance of the Order to determine whether the Order should be continued. The initial referendum is to be conducted among persons who were producers of soybeans during a representative period specified by the Secretary for the purpose of determining whether the initial Order should be continued. The Order shall be continued only if it is approved by a majority of persons voting in the referendum. If continuation of the Order is not approved by a majority of those persons voting in the referendum, the Secretary shall terminate collection of assessments under the Order within 6 months after the referendum. The Secretary shall terminate the Order in an orderly manner as soon as practicable.

If continuation of the Order is approved, the Act requires that no later than 18 months after approval, the Secretary conduct a poll of soybean producers to determine if producers support the conduct of a referendum on the continuance of the payment of refunds under the Order. If the Secretary determines, based on the poll, that the conduct of a refund referendum is supported by at least 20 percent of the producers (not in excess of one-fifth of which may be producers in any one State), a referendum will be conducted not later than 1 year after the Secretary's decision.

The Act also requires the Secretary to hold additional referenda if requested by 10 percent or more of the producers who during a representative period were engaged in the production of soybeans. No more than one-fifth may be producers in any one State, as determined by the Secretary.

The Act specifies that a referendum shall be conducted for a reasonable period of time not to exceed 3 days as determined by the Secretary and that eligible persons are to certify that they were engaged in the production of soybeans during the representative period and vote, at the same time. The Act also provides that referenda shall be conducted at county offices of the State Cooperative Extension Service (CES) and that provision shall be made for absentee mail ballots to be provided on request. The Extension Service of the United States Department of Agriculture will coordinate the State and County Cooperative Extension Service roles in conducting the referendum.

The proposed rule sets forth procedures to be followed in conducting referenda under the Act. The proposed rule includes provisions concerning definitions, supervision of the referenda, registration, voting procedures, reporting referenda results, and disposition of the ballots and records. It is proposed that the Agricultural Stabilization and Conservation Service (ASCS) of the Department, will assist in the conduct of referenda by (1) counting ballots; (2) determining the eligibility of challenged voters; and (3) reporting referenda results.

List of Subjects in 7 CFR Part 1220

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Soybeans and soybean products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that title 7 of the CFR part 1220 be amended as follows:

PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for part 1220 continues to read as follows:

Authority: Title XIX, Pub. L. 101–624, 104 Stat. 3359, 3881 (7 U.S.C. 6301–6311).

2. Subpart E is added to read as follows:

Subpart E— Procedure for the Conduct of Referenda

Sec

Definitions

1220.501 Act.
1220.502 Administrator.
1220.503 Agricultural Stabilization and Conservation County Committee.
1220.504 Agricultural Stabilization and Conservation Service.
1220.505 Agricultural Stabilization and Conservation Service County Executive Director.
1220.506 Cooperative Extension Service.
1220.507 Cooperative Extension Service Agent.
1220.508 Department.
1220.509 Deputy Administrator.
1220.510 Extension Service of the U.S. Department of Agriculture.
1220.511 Order.
1220.512 Person.
1220.513 Producer.
1220.514 Public notice.
1220.515 Referenda.
1220.516 Registration period.
1220.517 Representative period.
1220.518 Secretary.
1220.519 Soybeans.
1220.520 State and United States.
1220.521 Voting period.

Referendum

1220.522 General.
1220.523 Supervision of referenda.
1220.524 Eligibility.
1220.525 Time and place of registration and voting.
1220.526 Facilities for registering and voting.
1220.527 Registration form and ballot.
1220.528 Registration and voting procedure.
1220.529 List of registered producers.
1220.530 Challenge of eligibility.
1220.531 Receiving ballots.
1220.532 Canvassing ballots.
1220.533 ASCS county office report.
1220.534 ASCS State office report.
1220.535 Results of the referendum.
1260.536 Disposition of ballots and records
1220.537 Instructions and forms

Subpart E—Procedure for the Conduct of Referenda

Definitions

§ 1220.501 Act.

The term *Act* means the Soybean Promotion, Research, and Consumer Information Act set forth in title XIX, subtitle E of the Food, Agriculture, Conservation and Trade Act of 1990 (Pub. L. 101–624) and any amendments thereto.

§ 1220.502 Administrator.

The term *Administrator* means the Administrator of the Agricultural Marketing Service, or any officer or employee of the Department to whom there has heretofore been delegated or may hereafter be delegated the authority to act in the Administrator's stead.

§ 1220.503 Agricultural Stabilization and Conservation County Committee.

The term *Agricultural Stabilization and Conservation County Committee*, also referred to as "ASC County Committee," means the group of persons within a county elected to act as the County Agricultural Stabilization and Conservation Committee.

§ 1220.504 Agricultural Stabilization and Conservation Service.

The term *Agricultural Stabilization and Conservation Service*, also referred to as "ASCS," means the Agricultural Stabilization and Conservation Service of the Department.

§ 1220.505 Agricultural Stabilization and Conservation Service County Executive Director.

The term *Agricultural Stabilization and Conservation Service County Executive Director*, also referred to as "ASCS Executive Director," means the person employed by the ASC County Committee to execute the policies of the ASC county committee and be responsible for the day-to-day operation of the ASCS county office, or the person acting in such capacity.

§ 1220.506 Cooperative Extension Service.

The term *Cooperative Extension Service*, also referred to as "CES," means the State partner in the Cooperative Extension system.

§ 1220.507 Cooperative Extension Service Agent.

The term *Cooperative Extension Service Agent* also referred to as "CES Agent," means an employee of the Cooperative Extension Service.

§ 1220.508 Department.

The term *Department* means the United States Department of Agriculture.

§ 1260.509 Deputy Administrator.

The term *Deputy Administrator* means the Deputy or Acting Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

§ 1220.510 Extension Service of the U.S. Department of Agriculture.

The term *Extension Service* of the U.S. Department of Agriculture also referred to as "ES" means the Federal partner of the Cooperative Extension System.

§ 1220.511 Order.

The term *Order* means the Soybean Promotion and Research Order.

§ 1220.512 Person.

The term *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1220.513 Producer.

The term *Producer* means any person engaged in the growing of soybeans in the United States, who owns, or shares the ownership and risk of loss of such soybeans.

§ 1220.514 Public notice.

The term *Public notice* means information regarding a referendum which shall be provided by the Secretary, without advertising expenses, through press releases and by State and county CES offices and county ASCS offices, by means of newspapers, electronic media, county newsletters, and the like. Such notice shall contain the referendum date and location, registration and voting requirements, rules regarding absentee voting, and other pertinent information.

§ 1220.515 Referenda.

The term *Referenda* means any referenda to be conducted by the Secretary pursuant to the Act whereby producers shall be given the opportunity to vote.

§ 1220.516 Registration period.

The term *Registration period* means a 1-day period to be announced by the Secretary for registration of producers desiring to vote in a referendum. The registration period shall be the same day as the voting period.

§ 1220.517 Representative period.

The term *Representative period* means the period designated by the Secretary pursuant to section 1970 of the Act.

§ 1220.518 Secretary.

The term *Secretary* means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom there has been delegated or to whom authority may hereafter be delegated the authority to act in the Secretary's stead.

§ 1220.519 Soybeans.

The term *Soybeans* means all varieties of Glycine max or Glycine soja.

§ 1220.520 State and United States.

The terms *State* and *United States* include the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 1220.521 Voting period.

The term *voting period* means a 1-day period to be announced by the Secretary for voting in a referendum.

Referendum

§ 1220.522 General.

(a) A referendum to determine whether eligible producers favor the continuance of the Order and other referenda provided for under the Act shall be conducted in accordance with this subpart.

(b) Referendum results will be based on the Secretary's determination of approval or disapproval by a majority of the producers casting valid ballots in a referendum.

(c) Referenda shall be conducted at the county offices of the Cooperative Extension Service.

(d) The Agricultural Stabilization and Conservation Service of the Department shall assist in the conduct of referenda.

§ 1220.523 Supervision of referenda.

The Administrator, AMS, shall be responsible for conducting referenda in accordance with this subpart.

§ 1220.524 Eligibility.

(a) *Eligible producers.* Each person who was a producer during the representative period is entitled to register and vote in the referendum. Each producer entity shall be entitled to cast only one ballot in the referendum.

(b) *Proxy registration and voting.* Proxy registration and voting is not authorized except that an officer or employee of a corporate producer, or any guardian, administrator, executor, or trustee of a producer's estate, or an authorized representative of any eligible producer entity (other than an individual producer), such as a corporation or partnership, may register

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and cast a ballot on behalf of such entity. Any individual registering to vote in the referendum on behalf of any producer entity shall certify that he or she is authorized by such entity to take such action.

(c) *Joint and group interest.* A group of individuals, such as members of a family, joint tenants, tenants in common, a partnership, owners of community property, or a corporation engaged in the production of soybeans as a producer entity shall be entitled to only one vote; provided, however, that any member of a group may register to vote as a producer if he or she is an eligible producer separate from the group.

§ 1220.525 Time and place of registration and voting.

A referendum shall be held for 1 day on a date to be determined by the Secretary. Eligible persons shall register and vote following the procedures in § 1220.528. Except for absentee ballots, the registration and voting shall take place during business hours of each county CES office.

§ 1220.526 Facilities for registering and voting.

Each county CES office shall provide adequate facilities and space to permit producers to register and to mark their ballots in secret and a sealed box or other suitable receptacle for registration forms and ballots which shall be kept under observation during office hours and secured at all times. Copies of the Order and a summary of the Order shall be available for review.

§ 1220.527 Registration form and ballot.

A ballot (LS–49) and certification and registration form (LS–49–2) shall be used for voting in person. The information required includes name, address, and telephone number and also contains a certification statement, referenced in § 1220.528(a)(1). The ballot requires producers to check a "yes" or "no." A combined registration and voting form (Form LS–44–2) shall be used for absentee voting.

§ 1220.528 Registration and voting procedure.

(a) *Registering and voting in person.* (1) Each producer desiring to vote in a referendum shall register on the day of voting at the county CES office in which the producer's residence is located or at the county CES office serving the county in which the producer's residence is located. Producer entities other than individuals shall register at the county CES office in the county in which their headquarters office or business is located or at the county CES office serving the county in which the entities' headquarters office or business is located. Producers will be required to list their names on the voter registration list (Form LS–49–3) prior to receiving a registration form and ballot. To register, each producer shall complete the registration form (LS–49–2)and certify that (i) they or the entity they represent were producers during the specified representative period, and (ii) if voting on behalf of an entity referred to in § 1220.524 they are authorized to do so.

(2) Each eligible producer who has not voted by means of an absentee ballot may cast a ballot in person at the location and time set forth in § 1220.525 and on a date to be announced by the Secretary. Eligible persons who enter their names on the voter registration list (Form LS–49–3) will receive a registration form/envelope (Form LS–49–2) and a ballot (Form LS–49). Voting shall be by secret ballot under the supervision of the local county CES agent or his designee. The ballot shall be marked by the voter to indicate "yes" or "no." Voters shall place their marked ballots in an envelope marked "SOYBEAN BALLOT," seal it and place it in the completed and signed registration form/envelope marked "SOYBEAN REFERENDUM," seal that envelope and personally place it in a box marked "Ballot Box" or other suitable receptacle.

(b) *Absentee voting.* (1) Eligible producers and entities unable to vote in person may request and obtain a combined absentee registration and voting form (Form LS–44) and two envelopes—one marked "SOYBEAN BALLOT" (Form LS–44–2) and the other marked "SOYBEAN REFERENDUM" (Form LS–44–1) by mail from the State CES office of the State in which they reside if individuals, or where their main office is located, if a corporation or other entity. Only one absentee registration form and absentee ballot will be provided to each eligible producer. The forms must be requested in writing during a specified time period which will be announced by the Secretary. The State CES office shall enter on the absentee voter request list (Form LS–44–3) the name and address of each person or entity requesting an absentee ballot and the date the forms were mailed. A copy of the applicable absentee voter request list (Form LS–44–3) prepared by the State CES office shall be provided to each ASCS county office for absentee voter verification.

(2) To register, eligible producers must complete and sign the registration (Form LS–44), and certify that:

(i) They or the entity they represent were producers during the specified representative period; and

(ii) If voting on behalf of an entity referred to in subsection § 1220 524. they are authorized to do so

(3) A producer, after completing the registration form and marking the ballot, shall remove the ballot portion of Form LS–44 and seal the completed ballot in a separate envelope marked "SOYBEAN BALLOT" (Form LS–44–2) and place it in a second envelope marked "SOYBEAN REFERENDUM" (Form LS–44–1) along with the signed registration form. Producers shall print and sign their names on the envelope marked "SOYBEAN REFERENDUM" (Form LS–44–1) and mail it to the local county CES office of the county in which they reside or the county CES office serving the county in which they reside. In the case of a partnership, corporation, estate, or other entity, the registration form and ballot must be mailed to the county CES office in the county in which its main office is located or the county CES office in the county serving the county in which its main office is located.

(4) Absentee ballots must be received in the county CES office by the close of business, 5 business days before the date of the referendum. Absentee ballots received after that date shall be counted as invalid ballots. Upon receiving the "SOYBEAN REFERENDUM" envelope containing the registration form and ballot, the county CES agent or his designee shall place it, unopened in a secure ballot box. The county CES agent or his designee shall enter the names of absentee voters on the voter registration list (Form LS–44–3).

(5) A person casting an absentee ballot which is not recorded as being received or which is received after the deadline specified in this section may vote in person at the appropriate CES office on the day of the referendum.

§ 1220.529 List of registered producers.

The voter registration lists (Form LS–49–3 and LS–44–3) shall be available for inspection on the day of the referendum at the county CES office and subsequently at the ASCS county office. They shall be posted during regular office hours in a conspicuous public location at the ASCS county office on the second business day following the date of the referendum.

§ 1220.530 Challenge of eligibility.

(a) *Challenge period.* On the day of the referendum, the names of challenged voters may be reported to the CES county agent who will refer them to the ASCS county office. After that, the names of the challenged voters shall be referred directly to the ASCS county office. A challenge of a person's eligibility to vote may be made no later than the close of business the second business day after the date of the referendum.

(b) *Who may challenge.* A person's eligibility to vote may be challenged by any person.

(c) *Determination of challenges.* The ASC county committee or its representative shall make a determination concerning the eligibility of a producer who has been challenged and notify challenged producers as soon as practicable, but no later than 5 business days after the date of the referendum. If the ASC county committee or its representative is unable to determine whether a person was a producer during the representative period, it may require the person to submit records such as tax returns, sales documents, or other similar documents to prove that the person was a producer during the representative period.

(d) *Challenged ballot.* The registration form/envelope (Form LS–49–2) containing the ballots cast by producers voting in person whose eligibility is challenged shall be removed from the ballot box and placed in a separate box until the challenge has been resolved. Envelopes containing absentee voter registration forms and absentee ballots (Form LS–44) of challenged absentee voters also shall be removed from the ballot box and placed in the box containing ballots of challenged producers. A challenged ballot shall be determined to have been resolved if the determination of the ASC county committee or its representative is not appealed within the time allowed for appeal or there has been a determination by the ASC county committee after an appeal.

(e) *Appeal.* A person declared to be ineligible to register and vote by the ASC county committee or its representative may file an appeal at the ASCS county office within 3 business days after notification of such decision. Such person may be required to provide documentation such as tax returns, sales documents, or similar documents in order to demonstrate his or her eligibility. An appeal shall be determined by the ASC county committee as soon as practicable, but in all cases not later than the 9th business day after the date of the referendum. The ASCS county committee's determination on an appeal is final.

§ 1220.531 Receiving ballots.

A ballot shall be considered to have been received during the voting period if (a) it was cast in the county CES office prior to the close of business on the day of the referendum; or (b) an absentee ballot was received in the county CES office not later than close of business 5 business days before the date of the referendum.

§ 1220.532 Canvassing ballots.

(a) *Counting the ballots.* The county CES agent or designee shall deliver the sealed ballot box, the voter registration list (Form LS–49–3) and the absentee voter request list (Form LS–44–3) to the ASCS county office by the close of business on the first business day following the date of the referendum. ASCS county employees and the county CES agent or designee shall check the registration forms of all voters against the voter registration list (Form LS–49–3) and the absentee voter request list (Form LS–44–3) to determine properly registered voters. The ballots of producers voting in person whose names are not on the voter registration list (LS–49–3) shall be declared invalid. Likewise, the ballots of producers voting absentee, whose names are not on the absentee voter request list (Form LS–44–3) shall be declared invalid. Ballots declared invalid and all ballots of challenged voters declared ineligible shall be kept separate from the other ballots and the envelopes containing these ballots shall not be opened. The valid ballots shall be counted on the 10th business day after the referendum date. ASCS county office employees shall remove the sealed "Soybean Ballot" envelope from the registration form/envelopes or absentee ballot envelopes of all eligible voters and all challenged voters determined to be eligible. When removing the "Soybean Ballot" envelopes, steps shall be taken to ensure that the voter's name cannot be identified. After removing all "Soybean Ballot" envelopes, ASCS county employees shall open them and count the ballots. The ballots shall be tabulated as follows: (1) Number of eligible producers casting valid ballots; (2) number of producers favoring the Order; (3) number of producers not favoring the Order; (4) number of challenged ballots; (5) number of challenged ballots deemed ineligible; (6) number of invalid ballots; and (7) number of spoiled ballots.

(b) *Invalid ballots.* Ballots shall be declared invalid if a producer voting in person has failed to sign the voter registration list (Form LS–49–3), or an absentee voter's name is not on the absentee voter request list (Form LS–44–3), or the registration form or ballot was incomplete or incorrectly completed.

(c) *Spoiled ballots.* Ballots shall be considered as spoiled ballots when they are mutilated or marked in such a way that it cannot be determined whether it is a "yes" or "no" vote. Spoiled ballots shall not be considered as approving or disapproving the Order, or as a ballot cast in the referendum.

(d) *Confidentiality.* All ballots shall be confidential and the contents of the ballots shall not be divulged except as the Secretary may direct. The public may witness the opening of the ballot box and tabulation of the votes but may not interfere with the process.

§ 1220.533 ASCS county office report.

The ASCS county office shall notify the ASCS State office of the results of the referendum. Each ASCS county office shall transmit the results of the referendum in its county to the ASCS State office. Such report shall include the information listed in § 1220.532(a). The results of the referendum in each county may be made available to the public. A copy of the report of results shall be posted for 30 days in the ASCS county office in a conspicuous place accessible to the public, and a copy shall be kept on file in the ASCS county office for a period of at least 12 months.

§ 1220.534 ASCS State office report.

Each ASCS State office shall transmit to the Deputy Administrator, ASCS, a written summary of the results of the referendum received from all the ASCS county offices within the State. The summary shall include the information on the referendum results contained in the reports from all county offices within each State and be certified by the ASCS State executive director. The ASCS State office shall maintain a copy of the summary where it shall be available for public inspection for a period of not less than 12 months.

§ 1220.535 Results of the referendum.

(a) The Deputy Administrator, ASCS, shall submit to the Administrator, AMS, the results of the referendum. The Administrator, AMS, shall prepare and submit to the Secretary a report of the results of the referendum. The results of any referendum shall be issued by the Department in an official press release and published in the **Federal Register**. State reports, and related papers shall be available for public inspection in the office of the Marketing Programs Branch, Livestock and Seed Division, Agricultural Marketing Service, USDA, room 2624 South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC.

(b) If the Secretary deems it necessary, the report of any State or county shall

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be re-examined and checked by such persons that may be designated by the Deputy Administrator, ASCS, or the Secretary.

§ 1220.536 Disposition of ballots and records.

Each ASCS county executive director shall place in sealed containers marked with the identification of the referendum the voter registration list, absentee voter request list, voted ballots, challenged registration forms/envelopes, challenged absentee voter registration forms, challenged ballots found to be ineligible, invalid ballots, spoiled ballots, and county summaries. Such records shall be placed under lock in a safe place under the custody of the ASCS county executive director for a period of not less than 12 months after the referendum. If no notice to the contrary is received from the Deputy Administrator, ASCS, by the end of such time, the records shall be destroyed.

§ 1220.537 Instructions and forms.

The Administrator is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions of this subpart to govern the conduct of the referendum.

Done at Washington, DC, on: April 30, 1993.

L.P. Massaro,

Acting Administrator.

[FR Doc. 93–10716 Filed 5–5–93; 8:45 am]

BILLING CODE 3410–05–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30 and 35

RIN 3150–AE58

Authorization To Prepare Radiopharmaceutical Reagent Kits and Elute Radiopharmaceutical Generators; Use of Radiopharmaceuticals for Therapy; Extension of Expiration Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; extension of expiration date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to extend the expiration date of the interim final rule related to the preparation and therapeutic use of radiopharmaceuticals from August 23, 1993, to December 31, 1994. The proposed extension would allow licensees to continue to use byproduct material under the provisions of the interim final rule until the NRC completes a related rulemaking to address broader issues for the medical use of byproduct material (including those issues addressed by the interim final rule). The NRC expects that this broader rule would be completed and issued as a final rule before the end of 1994. This proposed extension of the expiration date is necessary to maintain the relief provided by the interim final rule.

DATES: The comment period expires June 7, 1993. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

Copies of any public comments received on the proposed rule may be examined at: the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Anthony N. Tse, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3797.

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1989, the American College of Nuclear Physicians (ACNP) and the Society of Nuclear Medicine (SNM) submitted a petition for rulemaking (PRM–35–9), requesting the Commission to amend its regulations to permit licensed nuclear pharmacists and physicians greater flexibility in the preparation and use of radiopharmaceuticals. After reviewing the petition and consulting with the U.S. Food and Drug Administration (FDA), the NRC determined that some issues raised in the petition needed to be resolved expeditiously.

Subsequently, on August 23, 1990, the Commission published an interim final rule in the **Federal Register** (55 FR 34513) to allow medical use licensees, under certain conditions and limitations, to use therapeutic radiopharmaceuticals for indications and methods of administration not listed in the FDA-approved package inserts. In addition, the interim final rule allows medical use licensees and commercial nuclear pharmacies to depart from the manufacturer's instructions for preparing diagnostic radiopharmaceuticals using radionuclide generators and reagent kits, provided that the licensees follow the directions of a physician authorized user. The NRC amended the interim final rule to eliminate certain recordkeeping requirements related to the preparation and use of radiopharmaceuticals (57 FR 45566, October 2, 1992). The interim final rule will expire on August 23, 1993 unless it is extended.

Currently, the NRC is working on a broader proposed rule in response to PRM–35–9 that would resolve the issues raised in the petition, including the issues addressed by the interim final rule. The Commission intends to replace the provisions of the interim final rule with the provisions of this broader rule. The NRC expects that this broader rule will be promulgated and effective before the end of 1994. Therefore, the NRC is proposing to extend the expiration date of the interim final rule from August 23, 1993, to December 31, 1994. The proposed extension would allow licensees to continue to use byproduct material under the provisions of the interim final rule until the broader rule is completed and effective. This proposed extension is necessary to maintain the relief from restrictions provided by the interim final rule.

Discussion

Section 30.34 Terms and Conditions of Licenses

The NRC is proposing to extend the expiration date in paragraph (i)(1) of this section from August 23, 1993, to December 31, 1994. This extension is proposed to allow commercial nuclear pharmacies to continue to prepare byproduct material under the provisions of the interim final rule until the broader rule is effective.

Section 35.200 Use of Radiopharmaceuticals, Generators, and Reagent Kits for Imaging and Localization Studies.

The NRC is proposing to extend the expiration date in paragraph (c)(1) of this section from August 23, 1993, to December 31, 1994. This extension is proposed to allow medical use licensees to continue to use byproduct material under the provisions of the interim final rule until the broader rule is effective.

Section 35.300 Use of Radiopharmaceuticals for Therapy

The NRC is proposing to extend the expiration date in paragraph (b)(1) of this section from August 23, 1993, to December 31, 1994. This extension is proposed to allow medical use licensees to continue to use byproduct material under the provisions of the interim final rule until the broader rule is effective.

Also, the NRC is proposing to replace the word "method" with the word "methods" in paragraph (b)(1) of this section to correct a typographical error.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget under approval numbers 3150–0010 and 3150–0017.

Regulatory Analysis

In August 1990, the NRC implemented an interim final rule allowing licensees to depart from (a) the manufacturer's instructions for preparing diagnostic radiopharmaceuticals, and (b) the package insert instructions regarding use of radiopharmaceuticals for therapy. The effective period for the rule is from August 23, 1990, to August 23, 1993.

The NRC is proposing to extend the expiration date from August 23, 1993, to December 31, 1994. The proposed extension would allow licensees to continue to use byproduct material under the provisions of the interim final rule until there is an effective final rule in a related rulemaking in response to the ACNP–SNM petition to address broader issues for the medical use of byproduct material (including those issues addressed by the interim final rule). The NRC expects that this broader rule would be completed and effective before the end of 1994. This proposed extension of the expiration date is necessary to continue the relief from restrictions provided by the interim final rule until the effective date of the broader rule.

The alternative to this proposed extension is to maintain the existing expiration date. Under this alternative, the provisions in the interim final rule would expire on August 23, 1993, as would the relief from restrictions provided by the interim final rule.

The NRC concludes that this proposed extension is justified to continue to allow licensees to use byproduct material under the provisions of the interim final rule until the broader rule is effective.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that, if adopted, this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect medical use licensees including some private practice physicians. Some of these licensees would be considered small entities under the NRC's size standards published in the **Federal Register** on November 6, 1991 (56 FR 56672). The proposed amendments would extend the expiration date of the interim final rule from August 23, 1993, to December 31, 1994. The proposed extension would allow licensees to continue to use byproduct material under the provisions of the interim final rule until the NRC completes a related rulemaking to address broader issues for the medical use of byproduct material (including those issues addressed by the interim final rule). Therefore, for the reasons provided above, this amendment would not have a significant economic impact on a substantial number of small entities.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed amendment because this amendment does not impose requirements on existing nuclear power reactor licensees. Therefore, a backfit analysis was not prepared for this proposed amendment.

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Incorporation by reference, Medical devices, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 30 and 35.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 30.34, paragraph (i)(1) is revised to read as follows:

§ 30.34 Terms and conditions of licenses.

* * * * *

(i)(1) From August 23, 1990, to December 31, 1994, each licensee eluting generators and processing radioactive material with diagnostic reagent kits for which the Food and Drug Administration (FDA) has approved a "New Drug Application" (NDA), may depart from the manufacturer's elution and preparation instructions (for radiopharmaceuticals authorized for use pursuant to 10 CFR 35.200), provided that the licensee follows the directions of an authorized user physician.

* * * * *

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

3. The authority citation for part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

4. In § 35.200, paragraph (c)(1) is revised to read as follows:

§ 35.200 Use of radiopharmaceuticals, generators, and reagent kits for imaging and localization studies.

* * * * *

(c)(1) From August 23, 1990, to December 31, 1994, a licensee may depart from the manufacturer's instructions for eluting generators and preparing reagent kits for which the Food and Drug Administration (FDA) has approved a "New Drug Application" (NDA), by following the

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directions of an authorized user physician.

* * * * *

5. In § 35.300, paragraph (b)(1) is revised to read as follows:

§ 35.300 Use of radiopharmaceuticals for therapy.

* * * * *

(b)(1) From August 23, 1990, to December 31, 1994, a licensee may depart from the package insert instructions regarding indications or methods of administration for a radiopharmaceutical for which the Food and Drug Administration (FDA) has approved a "New Drug Application" (NDA), provided that the authorized user physician has prepared a written directive as required by § 35.32(a).

* * * * *

Dated at Rockville, Maryland, this 23rd day of April, 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 93-10686 Filed 5-5-93; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 251 and 261

Land Uses and Prohibitions; Noncommercial Group Uses

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the existing rules governing noncommercial group events and noncommercial distribution of printed material within the National Forest System. These revisions would ensure that the authorization procedures for these activities comply with First Amendment requirements of free speech and assembly.

DATES: Comments must be received in writing by August 4, 1993.

ADDRESSES: Send written comments to Recreation, Cultural Resources, and Wilderness Management Staff (2340), Forest Service, USDA, PO Box 96090, Washington, DC 20090-6090.

FOR FURTHER INFORMATION CONTACT: William T. Svensen, Recreation, Cultural Resources, and Wilderness Management Staff, (202) 205-1407, or Ellen R. Hornstein, Office of the General Counsel, Natural Resources Division, (202) 720-9616.

SUPPLEMENTARY INFORMATION:

Background

The First Amendment of the United States Constitution provides in part that the government may not abridge the freedom of speech or the right to assemble peaceably. U.S. Const., amend. I. Freedom of speech means the right to disseminate ideas freely, both orally or in writing.

It is well established that the government may enforce reasonable time, place, and manner restrictions on First Amendment activities. Such restrictions are appropriate where they are justified without regard to the content of the regulated speech, where they are narrowly tailored to further a significant governmental interest, and where they leave open ample alternative channels for communication of information. *Clark* v. *Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984). Permits have been recognized as constitutional restrictions of time, place, and manner when specific and objective standards guide the licensing authority. *Shuttlesworth* v. *City of Birmingham*, 394 U.S. 147, 150-51, 153 (1969).

The Forest Service regulates activity on National Forest System lands through the issuance of special use authorizations. Issuing special use authorizations allows the Forest Service to protect resources and improvements on National Forest System lands and to prevent conflicts among potential or existing uses and activities. The rules at 36 CFR part 251, subpart B, govern the issuance of special use authorizations for all uses of National Forest System lands, improvements, and resources, except the disposal of timber (part 223) and minerals (part 228) and the grazing of livestock (part 222).

On June 21, 1984, the Secretary of Agriculture promulgated a revision to 36 CFR part 251, subpart B. That rule required a permit for two types of noncommercial group events, recreation events and special events, both of which involved ten or more participants or spectators. As defined, recreation events entailed competition, entertainment, or training, and special events included a meeting, assembly, demonstration, parade, or other activity involving the expression of views. Noncommercial groups that did not fall into either of these categories did not have to have a permit. Moreover, the rule contained different standards for denying a special use authorization for each type of group event (49 FR 25449).

Subsequently, a federal district court held that it is unconstitutional to require a group to obtain a special use authorization simply because they gather to exercise their constitutional right of free speech. The court explained that the Forest Service has the right to regulate large group activities on government land, but only if the regulation is content-neutral and applies to all large groups. *United States* v. *Israel*, No. CR-86-027-TUC-RMB (D. Ariz. May 10, 1986).

On May 10, 1988, the Forest Service published an interim rule amending 36 CFR 251.50 through 251.54 to comport with First Amendment rights of assembly and free speech within the National Forest System (53 FR 16548). Upon challenge of this rule, a federal district court held that the Forest Service had failed to show good cause for adopting the interim rule without prior notice as required by the Administrative Procedure Act, 5 U.S.C. 553. *United States* v. *Rainbow Family*, 695 F. Supp. 294, 302-06 (E.D. Tex. 1988). In addition, the court invalidated the classification established by the 1984 rule, which on its face singled out expressive conduct and required that it be treated differently from other activity. The court held that the 1984 rule lacked clear and objective standards for determining when a group activity is a "recreation event" and when it is a "special event" involving the exercise of free speech. *Rainbow Family*, 695 F. Supp. at 309, 312. The court further held that the standards for evaluating an application for an authorization for expressive conduct were unconstitutionally vague as they vested too much discretion in the authorized officer. *Id.* at 309-12. The court ruled that the 1984 regulations were invalid for failure to impose a timeframe for filing and acting on an application, and that the absence of any requirement in the 1984 regulations that a reason be stated for denial of a special use authorization made it impossible to discern the grounds for an authorized officer's decision. *Id.* at 311-12. Finally, the court held that the 1984 rule was invalid for failure to provide for judicial review of the administrative determination. *Id.* at 311.

As a result of these court rulings, the Forest Service is proposing revisions of the rules governing special uses at 36 CFR part 251. The purpose of this proposed rule is to regulate noncommercial group events and noncommercial distribution of printed material on National Forest System lands in compliance with First Amendment rights of assembly and free speech. To achieve this goal, the proposed rule contains specific, content-neutral criteria for evaluating applications for noncommercial group events and noncommercial distribution of printed material and requires that the same criteria be applied to those activities, regardless of whether they involve First Amendment rights. In addition, the proposed rule requires an authorized officer to notify an applicant in writing of the reasons for denial of a special use authorization and provides for immediate judicial review of a decision denying an authorization.

Section-by-Section Analysis

Amendments to Part 251

Section 251.50—Scope

Paragraph (a) would be revised for clarity and to make explicit that an application is required for authorization of a special use. Paragraph (c) would be revised to clarify that a special use authorization is required for noncommercial group events involving 25 or more people and noncommercial distribution of printed material.

The agency has an interest in regulating group activities. Group activities tend to have a greater impact on forest resources and facilities than activities involving individuals or smaller parties. The agency also has an interest in regulating when noncommercial distribution of printed material occurs. Such distribution can occur by posting, affixing or erecting the material, which could damage natural resources if not regulated. In addition, as distribution generally occurs in crowded areas, it can obstruct traffic and create unsafe traffic conditions, for example, where a single-lane road provides the only access to a popular national forest attraction or where a national forest is near an urban center.

Section 251.51—Definitions

Section 251.51 contains definitions used in part 251, subpart B. The proposed rule would revise the definition for "group event" and add new terms and definitions for "commercial use or activity," "noncommercial use or activity," "printed material," and "distribution of printed material."

The term "group event" would cover any activity that involves and/or attracts 25 or more people, regardless of the purpose of the gathering. Thus, this term would embrace all groups that were included in the "special event" and "recreation event" categories of the 1984 rule, as well as those that were excluded. The Forest Service is proposing a cutoff of 25 people based on a review of the potential impact on resources and facilities. The agency believes that activities involving 25 or more people tend to have a greater impact on resources and facilities and thus require evaluation by an authorized officer. If the agency required an authorization for smaller group activities, the agency would be inundated with applications, which would create an unnecessary administrative burden and cost in light of the generally low impact of these activities. Public comment is especially invited on this group number threshold.

The terms and definitions for "commercial use of activity" and "noncommercial use or activity" would be added to clarify which activities would be subject to the authorization requirement in § 251.50(c)(3). The terms and definitions for "printed material" and "distribution of printed material" would be added to clarify one of the types of activities subject to the authorization requirement in § 251.50(c)(3).

Section 251.54—Special Use Applications

Section 251.54 of the existing rule prescribes procedures and requirements for processing applications for special use authorizations. Section 251.54(a) encourages all proponents to contact an authorized officer as early as possible so that potential constraints may be identified, the proposal can be considered in land management plans if necessary, and processing of an application can be tentatively scheduled. The proposed rule would amend § 251.54(a) to provide that the proponent will be given guidance and information about the items listed in paragraphs (a)(1) through (a)(8) only to the extent applicable to the proposed use and occupancy. For example, fees and bonding requirements listed in paragraph (a)(4) would not apply to applications for noncommercial group uses and noncommercial distribution of printed material and would not be discussed with proponents of those activities.

Section 251.54(e) specifies the information that must be contained in an application for a special use authorization. The proposed rule would amend paragraph(e)(1) to specify applicant identification requirements applicable to all special uses. Specifically, paragraph (e)(1) would require any applicant to provide his or her name and mailing address, or if the applicant is not an individual, the name and address of the applicant's agent who is authorized to receive notice of actions pertaining to the application.

Additionally, the proposed rule would amend this paragraph by adding a new paragraph (e)(2) to specify separate information requirements for noncommercial group uses and noncommercial distribution of printed material. Paragraph (e)(2) would require applicants for noncommercial group uses and noncommercial distribution of printed material to provide the following:

(1) A description of the proposed activity;

(2) A description of the National Forest System land and any facilities the applicant would like to use;

(3) The estimated number of participants and spectators;

(4) The date and time of the proposed activity; and

(5) The name of the person or persons 21 years of age or older who will sign a special use authorization on behalf of the applicant.

This is the minimum information needed by the authorized officer to apply the evaluation criteria in the proposed rule. Application information requirements for all other special uses would remain as provided in the existing rule, with one exception. The provision currently in paragraph (e)(1) concerning the deference to be given to findings of another agency would be moved to a new paragraph (f)(4), since this provision relates to the processing of applications rather than to their content.

The *Rainbow* court identified the need for a specific timeframe for granting or denying an application for a noncommercial group event or noncommercial distribution of printed material. 695 F. Supp. at 311. This decisionmaking process, however, may trigger extensive statutory and regulatory requirements, including those imposed by the National Environmental Policy Act of 1969 (NEPA), 42 USC 4331 *et seq.*, the Endangered Species Act (ESA), 16 USC 531 *et seq.*, the National Historic Preservation Act, 16 USC 470 *et seq.*, and other laws. The time needed to comply with these requirements varies greatly depending on the particular circumstances of each application. Committing to a specific timeframe could put the agency in the position of having to choose between violating either its own regulations or one or more of these statutory mandates.

Consequently, the agency has determined that it would be infeasible and arbitrary to specify a time period in which final agency decision would be made.

In recognition of these competing concerns, the proposed rule would add a new paragraph (f)(5) providing that the agency would grant or deny an application for noncommercial group events or noncommercial distribution of

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printed material without unreasonable delay. A determination of whether the agency acted with sufficient speed would require an analysis of what is reasonable under the circumstances, in view of the applicable statutory and regulatory obligations. Applicants are encouraged to contact the agency as early as possible to discuss the amount of time that could be required to make a decision, and to apply sufficiently in advance of their proposed activities to allow the agency to comply with applicable statutory and regulatory requirements.

Section 251.54(h) of the 1984 rule enumerated grounds for denying an application for a special use other than a special event. Section 251.54(i) listed separate grounds for denying an application for a special event, which involved the expression of views. Thus, the 1984 rule applied different criteria for activities with First Amendment implications than for all other activities, including other types of group events. Moreover, the criteria for First Amendment activities were not specific enough to reduce the potential for application of disparate standards in reviewing applications for an authorization.

The proposed rule would presume that any noncommercial group event and noncommercial distribution of printed material would be authorized, upon a determination that seven evaluation criteria were met. These criteria would merely regulate time, place, and manner with respect to a proposed activity. The proposed rule would dictate that these same criteria be applied to all types of noncommercial group events and noncommercial distribution of printed material. Thus, these criteria are intended to be content-neutral, are narrowly tailored to advance significant governmental interests, and leave open ample alternative channels for communication of the information.

Specifically, § 251.54(h)(1) of the proposed rule would provide that an authorized officer shall grant an application for a special use authorization for any noncommercial group event or for noncommercial distribution of printed material, upon a determination that:

(1) *The proposed activity is not prohibited by the rules at 36 CFR part 261, subpart A, or by an order issued pursuant to 36 CFR part 261, subpart B, or by federal, state, or local law unrelated to the content of expressive activity.* This criterion would allow the agency to deny an application for an activity that would violate federal, state, or local law. This criterion would also allow the Forest Service to regulate where a proposed activity would be conducted. The Forest Service must comply with applicable federal law and regulations in managing the National Forest System. For example, the Wilderness Act requires the Forest Service to protect and manage wilderness areas so as to preserve their natural condition and to ensure that the imprint of human activity remains substantially unnoticeable. 16 U.S.C. 1131(c). The ESA prohibits a taking of an endangered species. A "taking" as defined by the ESA includes the loss of a listed species habitat. Thus, an authorized officer might deny an application if the activity would be conducted in a wilderness area or would risk a taking of a threatened or endangered species such as the spotted owl or grizzly bear. In addition, an authorized officer would have to deny an application if the activity would be conducted in an area that is closed or restricted pursuant to an order issued under 36 CFR part 261. Under a 261 order, the Forest Service might close a trial in the event of extreme fire danger or inclement weather.

(2) *The proposed activity is consistent or can be made consistent with the applicable approved land and resource management plan.* The National Forest Management Act requires that "(r)esource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans." 16 U.S.C. 1604(i). An activity is consistent with a forest plan if it adheres to a plan's standards and guidelines that are forest-wide or that are included in management prescriptions for specific management areas. Standards and guidelines describe any activities that are not permitted to occur in a specified area or prescribe how activities must be implemented for environmental protection or other purposes. Forest plans are developed in accordance with the rules at 36 CFR part 219 and adopted with extensive public participation and comment.

(3) *The proposed activity would not delay, halt, or prevent administrative use of an area by the Forest Service or other scheduled or existing uses or activities on National Forest System land, including but not limited to uses and activities authorized pursuant to parts 222, 223, 228, and 251 of this chapter.* Under this criterion, an authorized officer might require a large group to alter arrival and departure times or to use an alternative access route to avoid congestion. An officer might suggest an alternate site on the opening day of fishing season for the same reason. This criterion would also allow the Forest Service to ensure that a group of Boy Scouts is not given a site that is already being used as pastureland under a grazing permit or that is currently being logged under a timber sale contract.

The 1984 rule provided that an application for a special event could be denied if the event conflicted with a previously approved use or if it would be of such nature or duration that it could not reasonably be accommodated in the place and time requested (49 FR 25449). The federal district court in *Rainbow Family* held that denying a permit because it "conflicts" with another use or because it "cannot reasonably be accommodated" in the time and place requested allows for too much discretion on the part of the authorized officer. 695 F. Supp. at 312.

This proposed rule would address the court's concern by providing specific examples of how an activity covered by this paragraph could delay, halt, or prevent existing or scheduled activities and what those activities might include. Similarly, the proposed rule would remove the unconstitutionally vague criterion which allows an authorized officer to deny an application for an activity covered by this proposed rule on the ground that it cannot reasonably be accommodated in the time and place requested.

(4) *The proposed activity would not pose a substantial danger to public health. Considerations of public health shall be limited to the following with respect to the proposed site:*

(a) *The sufficiency of sanitation facilities;*

(b) *The adequacy of waste disposal facilities;*

(c) *The availability of sufficient potable drinking water, in view of the expected number of users and duration of use;*

(d) *The risk of disease from the physical characteristics of the proposed site or natural conditions associated with the proposed site;*

(e) *The risk of contamination of the water supply; and*

(f) *The sufficiency of a plan for safe handling of food.*

(5) *The proposed activity would not pose a substantial danger to public safety. Considerations of public safety shall not include concerns about possible reaction to the users' identity or beliefs from non-members of the group seeking an authorization and shall be limited to the following:*

(a) *The potential for physical injury to other forest users from the proposed activity;*

(b) *The potential for physical injury to users from the physical characteristics of the proposed site or natural conditions associated with the proposed site;*

(c) *The potential for physical injury to users from scheduled or existing uses or activities on National Forest System land; and*

(d) *The adequacy of ingress and egress in case of an emergency.*

The 1984 rule allowed an authorized officer to deny an application for a special event if it presented a clear and present danger to the public health or safety (49 FR 25449). The *Rainbow* court struck down this language because it was too vague and allowed for too much discretion on the part of the authorized officer. 695 F. Supp. at 311. The proposed rule would overcome this deficiency. In regulating where the activity would occur, the criterion in the proposed rule would restrict the authorized officer's discretion by enumerating concrete, content-neutral considerations of public health and safety.

(6) *The proposed activity does not involve military or paramilitary training or exercises by private organizations or individuals, unless such training or exercises are federally funded.* This activity does not implicate the First Amendment and is currently prohibited by Forest Service policy as inconsistent with National Forest System purposes.

(7) *A person or persons 21 years of age or older has been designated to sign and does sign a special use authorization on behalf of the applicant.* The agency must have someone to contact for purposes of special use administration. The authorized officer may have questions about the application or may need to notify the applicant in the event of an emergency. If the application does not identify a contact person, the agency cannot make the appropriate notifications. In addition, someone on behalf of the applicant must accept the responsibilities associated with use of National Forest System land.

Public comment is especially invited on the seven evaluation criteria.

If, at the conclusion of the application process, the application does not meet the seven criteria, an administrative officer could deny the application. Under proposed § 251.54(h)(2), however, an authorized officer would have to notify an applicant in writing of the reasons for denial of an application for a special use authorization. The proposed rule would make explicit that a denial of an application under § 251.54(h)(1) would constitute final agency action and would be immediately subject to judicial review.

Section 251.56—Terms and Conditions

The proposed rule would amend § 251.56(e) on bonding to provide that an authorized officer could not require bonding for holders of authorizations for noncommercial group events or noncommercial distribution of printed material. This amendment would clarify the agency's intent to ensure that no undue burdens are imposed on the exercise of First Amendment rights.

Section 251.57—Fees

The proposed rule revises § 251.57 on fees for special use authorizations to provide that no fee will be charged when the authorization is for a noncommercial group event or for the noncommercial distribution of printed material. This revision would clarify the agency's intent to ensure that no undue burdens are imposed on the exercise of First Amendment rights.

Section 251.60—Termination, Revocation, and Suspension

Section 251.60 provides several grounds for terminating, revoking, or suspending a special use authorization, one of which is for reasons in the public interest. The proposed rule would amend this broad basis for termination, revocation, or suspension to exclude authorizations for noncommercial group events or noncommercial distribution of printed material. This amendment would clarify the agency's intent to ensure that the authorized officer does not have unbridled discretion with respect to administration of noncommercial First Amendment activities in the National Forest System. Under § 251.60(a), an authorized officer could still terminate, revoke, or suspend an authorization for these activities for noncompliance with applicable statutes, regulations, or terms and conditions of the authorization; for failure of the holder to exercise the rights and privileges granted; with the consent of the holder; or when, by its terms, a fixed or agreed upon condition, event, or time occurs.

Amendment to Part 261

In addition to the changes at 36 CFR part 251, subpart B, the proposed rule would make corollary amendments to the rules at 36 CFR part 261, subpart A, which contain general prohibitions in effect for the National Forest System.

The proposed rule would amend the authority citation for part 261 to consolidate the references. The proposed rule would also amend the definitions and prohibitions governing occupancy and use to make them consistent with the requirement in part 251 that a special use authorization is required for noncommercial distribution of printed material.

Section 261.2—Definitions

In the definitions section, the term "placing" would be replaced by the word "affixing." "Placing" could be construed to prohibit leaving printed material under windshield wipers or on dashboards of vehicles, neither of which would result in injury to public or private property. Use of the word "affixing" would narrow the prohibition to address damage to forest resources and facilities.

Section 261.10—Occupancy and Use

With respect to distribution of printed material, the proposed rule would prohibit delaying, halting, or preventing administrative use of an area by the Forest Service or other scheduled or existing uses or activities on National Forest System land; misrepresenting the purposes or affiliations of those distributing the material; or misrepresenting the availability of the material without cost or donation. Consistent with the third evaluation criterion proposed for part 251, this language would regulate time, place, and manner for the distribution of printed material. This prohibition would also protect the public from fraud by prohibiting specific types of misrepresentation in the context of such distribution.

Section 261.14—Developed Recreation Sites

The proposed rule would remove from this section the prohibition on distribution of printed material without a special use authorization. This prohibition is subsumed in the prohibition contained in § 261.10(g), which applies throughout the National Forest System.

Summary

With the changes in definitions and establishment of very limited circumstances under which an authorized officer could deny a special use authorization for noncommercial group events and noncommercial distribution of printed material, the proposed rule would preserve the fundamental constitutional rights of free speech and assembly, while providing reasonable administrative mechanisms to control or prevent adverse impacts on resources and public health and safety.

Public comment is invited and will be considered in adoption of the final rule. It will aid analysis of comments if

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reviewers key them to specific sections of the proposed rule. Respondents should also note that in conducting this analysis, the agency will give more weight to substantive comments than to simple "yes," "no," or "check-off" responses to form letters or questionnaires.

A separate proposed rule revising the existing regulations at 36 CFR part 251 governing application procedures for all other special uses was published in the **Federal Register** at 57 FR 36618 on August 14, 1992. Upon adoption, that final rule will be integrated with this rulemaking to ensure consistency in substance and format.

Regulatory Impact

This proposed rule has been revised under USDA procedures and Executive Order 12291 on Federal Regulations. It has been determined that this would not be a major rule. The proposed rule would not have an effect of $100 million or more on the economy, substantially increase prices or costs for consumers, industry, or state or local governments, or adversely affect competition, employment, investment, productivity, innovation, or the ability of domestic companies to compete in foreign markets. In short, this proposed rule would have little or no impact on the national economy. The proposed rule would consist primarily of technical and administrative changes for authorization of occupancy and use of National Forest System lands.

Moreover, this proposed rule has been considered in light of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This action would not have a significant economic impact on a substantial number of small entities because it would not impose recordkeeping requirements on them; it would not affect their competitive position in relation to large entities; and it would not affect their cash flow, liquidity, or ability to remain in the market.

This proposed rule has been reviewed for its impact on private property rights under Executive Order 12630 of March 15, 1988, as implemented by the United States Attorney General's Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings. Executive Order 12630 would not apply to this proposed rule because it would consist primarily of technical and administrative changes governing application procedures for authorization of occupancy and use of National Forest System lands. Application for a special use authorization does not grant any right, title, or interest in or to lands or resources held by the United States.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule were adopted, (1) all state and local laws and regulations that are in conflict with this proposed rule or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed rule; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

The information an applicant must provide the Forest Service to obtain an authorization for a noncommercial group event or noncommercial distribution of printed material (proposed § 251.54(e)(2)(i) (A)–(E)) constitutes an information requirement as defined by the Paperwork Reduction Act and the Office of Management and Budget implementing rules at 5 CFR part 1320 and thus would require OMB approval before adoption of the final rule. The Forest Service is requesting OMB approval of the information required for these applications. The agency estimates that each applicant would spend an average of one to four hours preparing an application, depending on the scope and complexity of the proposed activity. Comments on this information requirement should be submitted to the office listed in this proposed rule under **ADDRESSES**, as well as to the: Forest Service Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Environmental Impact

This proposed rule consists primarily of technical and administrative changes related to authorization of occupancy and use of National Forest System lands. No extraordinary circumstances have been identified that might cause this proposed action to have a significant effect on the human environment. Therefore, the agency's preliminary determination is that this proposed rule is categorically excluded from documentation in an Environmental Impact Statement or an Environmental Assessment (40 CFR 1508.4; Forest Service Handbook 1909.15, Environmental Policy and Procedures, section 31.1b(2), 57 FR 43208, September 18, 1992). A final determination will be made at the time of publication of the final rule.

List of Subjects

36 CFR Part 251

Electric power, Mineral resources, National forests, Rights-of-way, Water resources.

36 CFR Part 261

Law enforcement, National forests.

Therefore, for the reasons set forth in the preamble, it is proposed to amend part 251, subpart B, and part 261, subpart A, of chapter II of title 36 of the Code of Federal Regulations as follows:

PART 251—LAND USES

Subpart B—Special Uses

1. The authority citation for subpart B continues to read:

Authority: 16 U.S.C. 472, 551, 1134, 3210; 30 U.S.C. 185; 43 U.S.C. 1740, 1761–1771.

2. Amend § 251.50 by revising the heading and paragraphs (a), (c), introductory text, and (c)(3) to read as follows:

§ 251.50 Scope.

(a) All uses of National Forest System lands, improvements, and resources, except those provided for in the regulations governing the disposal of timber (part 223) and minerals (part 228) and the grazing of livestock (part 222), are designated "special uses." Before engaging in a special use, persons or entities must submit an application to an authorized officer and must obtain a special use authorization from the authorized officer, unless that requirement is waived by paragraph (c) of this section.

* * * * *

(c) A special use authorization is not required for noncommercial recreational activities such as camping, picnicking, hiking, fishing, hunting, horseback riding, and boating, as well as noncommercial activities involving the expression of views such as assemblies, meetings, demonstrations, and parades, except for:

* * * * *

(3) Noncommercial group events or noncommercial distribution of printed material as defined in § 251.51 of this subpart.

* * * * *

3. Amend § 251.51 by removing the terms and definitions for *Distributing noncommercial printed material* and *Noncommercial printed material*, revising the definition for *"Group event,"* and adding the following new terms and definitions in alphabetical order to read as follows:

§ 251.51 Definitions.

* * * * *

Commercial use or activity—any use or activity on National Forest System lands involving the charge of an entry or participation fee, or the purchase, sale, or exchange of a product or service, regardless of whether the use or activity is intended to produce a profit.

Distribution of printed material—disseminating, posting, affixing, or erecting printed material as defined in this section or soliciting information, views, or signatures in conjunction with the distribution of printed material.

Group event—an activity conducted on National Forest System lands that involves and/or attracts 25 or more people.

Noncommercial use or activity—any use or activity that does not involve a commercial use or activity as defined in this section.

Printed material—any written and/or graphic material including but not limited to pamphlets, periodicals, leaflets, brochures, photographs or graphics, handbills, signs, petitions, posters, bumper stickers, and booklets.

* * * * *

4. Amend § 251.54 by revising paragraphs (a), introductory text, (e)(1), (e)(2)(i) and the introductory text of (e)(2)(ii), redesignating paragraphs (f)(1) and (f)(2) as (f)(2) and (f)(3) and redesignating the first sentence of paragraph (f) as paragraph (f)(1), and adding new paragraphs (f)(4) and (f)(5) and revising paragraph (h) to read as follows:

§ 251.54 Special use applications.

(a) *Preapplication activity.* When occupancy or use of National Forest System land is desired, a proponent is encouraged to contact the Forest Service office(s) responsible for management of the affected land as early as possible so that potential constraints may be identified, the proposal can be considered in land management plans if necessary, and processing of an application can be tentatively scheduled. To the extent applicable to the proposed use and occupancy, the proponent will be given guidance and information about:

* * * * *

(e) *Application content*—(1) *Applicant identification.* Any applicant for a special use authorization shall provide the applicant's name and mailing address, or if the applicant is not an individual, the name and address of the applicant's agent who is authorized to receive notice of actions pertaining to the application.

(2) *Minimum information.*—(i) *Noncommercial group events and noncommercial distribution of printed material.* An applicant for noncommercial group events and noncommercial distribution of printed material shall provide the following:

(A) A description of the proposed activity;

(B) A description of the National Forest System land and any facilities the applicant would like to use;

(C) The estimated number of participants and spectators;

(D) The date and time of the proposed activity; and

(E) The name of the person or persons 21 years of age or older who will sign a special use authorization on behalf of the applicant.

(ii) *All other special uses.* If requested by an authorized officer, an applicant in one of the following categories shall furnish the information specified for that catetory:

(A) A State and local government agency: a copy of the authorization under which the application is made;

(B) A public corporation: the statute or other authority under which it was organized;

(C) A Federal government agency: the title of the agency official delegated the authority to file the application:

(D) A private corporation: (*1*) Evidence of Incorporation and its current good standing; (*2*) if reasonably obtainable by the applicant, the name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; (*3*) the name and address of each affiliate of the entity; (*4*) in the case of an affiliate which is controlled by the entity, the number of shares and the percentage of any class of voting stock of the affiliate that the entity owns either directly or indirectly; or (*5*) in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, either directly or indirectly by the affiliate; or

(E) A partnership, association or other unincorporated entity: a certified copy of the partnership agreement or other similar document, if any, creating the entity, or a certificate of good standing under the laws of the State.

* * * * *

(f) *Processing applications.* (1) * * *

(4) The authorized officer shall give due deference to the findings of another agency such as the Public Utility Commission, the Federal Energy Regulatory Commission, or the Interstate Commerce Commission in lieu of another detailed finding. If this information is already on file with the Forest Service, it need not be refiled if reference is made to the previous filing date, place, and case number.

(5) A decision to grant or deny an application for a noncommercial group event or noncommercial distribution of printed material shall be made without unreasonable delay.

* * * * *

(h) *Response to applicctions for noncommercial group events or for the noncommercial distribution of printed material.* (1) An authorized officer shall grant an application for a special use authorization for a noncommercial group event or for noncommercial distribution of printed material, upon a determination that:

(i) The proposed activity is not prohibited by the rules at 36 CFR part 261, subpart A, or by orders issued pursuant to 36 CFR part 261, subpart B, or by Federal, State, or local law;

(ii) The proposed activity is consistent or can be made consistent with the applicable approved land and resource management plan required pursuant to 36 CFR part 219;

(iii) The proposed activity will not delay, halt, or prevent administrative use of an area by the Forest Service or other scheduled or existing uses or activities on National Forest System land, including but not limited to uses and activities authorized pursuant to parts 222, 223, 228, and 251 of this chapter;

(iv) The proposed activity will not pose a substantial danger to public health. Considerations of public health shall be limited to the following with respect to the proposed site:

(A) The sufficiency of sanitation facilities;

(B) The adequacy of waste disposal facilities;

(C) The availability of sufficient potable drinking water, in view of the expected number of users and duration of use;

(D) The risk of disease from the physical characteristics of the proposed site or natural conditions associated with the proposed site;

(E) The risk of contamination of the water supply;

(F) The sufficiency of a plan for safe handling of food.

(v) The proposed activity will not pose a substantial danger to public safety. Considerations of public safety shall not include concerns about possible reaction to the users' identity or beliefs from non-members of the group seeking an authorization and shall be limited to the following:

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(A) The potential for physical injury to other forest users from the proposed activity;

(B) The potential for physical injury to users from the physical characteristics of the proposed site or natural conditions associated with the proposed site;

(C) The potential for physical injury to users from scheduled or existing uses or activities on National Forest System land; and

(D) The adequacy of ingress and egress in case of an emergency;

(vi) The proposed activity does not involve military or paramilitary training or exercises by private organizations or individuals, unless such training or exercises are federally funded; and

(vii) A person or persons 21 years of age or older has been designated to sign and does sign a special use authorization on behalf of the applicant.

(2) If an authorized officer denies an application because it does not meet the criteria in paragraphs (h)(1)(i) through (vii) of this section, the authorized officer shall notify the applicant in writing of the reasons for the denial. A denial of an application under paragraph (h)(1)(i) through (vii) of this section constitutes final agency action and is immediately subject to judicial review.

5. Amend § 251.56 by revising paragraph (e) to read as follows:

§ 251.56 Terms and conditions.

* * * * *

(e) *Bonding.* An authorized officer may require the holder of a special use authorization for other than noncommercial group events and noncommercial distribution of printed material to furnish a bond or other security to secure all or any of the obligations imposed by the terms of the authorization or by any applicable law, regulation or order.

* * * * *

6. Amend § 251.57 by redesignating paragraphs (d) through (g) as (e) through (h) and adding a new paragraph (d) to read as follows:

§ 251.57 Rental fees.

* * * * *

(d) No fee shall be charged when the authorization is for a noncommercial group event or for the noncommercial distribution of printed material as defined in § 251.51 of this subpart.

* * * * *

7. Revise § 251.60(b) to read as follows:

§ 251.60 Termination, revocation, and suspension.

* * * * *

(b) A special use authorization may be suspended, revoked or terminated, in the discretion of the authorized officer, for reasons in the public interest, except that this provision shall not apply to special use authorizations for noncommercial group events or noncommercial distribution of printed material.

* * * * *

PART 261—PROHIBITIONS

8. Revise the authority citation for part 261 to read as follows:

Authority: 7 U.S.C. 1011(f); 16 U.S.C. 472, 551, 1133(c)–(d)(1), 1246(i).

Subpart A—General Prohibitions

9. Amend § 261.2 by adding the following new terms and definitions in alphabetical order to read as follows:

§ 261.2 Definitions.

* * * * *

Distribution of printed material. Disseminating, posting, affixing, or erecting printed material as defined in this section or soliciting information, views, or signatures in conjunction with the distribution of printed material.

Printed material. Any written and/or graphic material including but not limited to pamphlets, leaflets, brochures, photographs or graphics, handbills, signs, petitions, posters, bumper stickers, and booklets.

* * * * *

10. Amend § 261.10 by redesignating paragraphs (h) through (m) as paragraphs (i) through (n), revising paragraph (g), and adding a new paragraph (h) to read as follows:

§ 261.10 Occupancy and use.

* * * * *

(g) Distributing any printed material without a special use authorization.

(h) When distributing printed material, delaying, halting, or preventing administrative use of an area by the Forest Service or other scheduled or existing uses or activities on National Forest System land; misrepresenting the purposes or affiliations of those selling or distributing the material; or misrepresenting the availability of the material without cost or donation.

* * * * *

§ 261.14 [Amended]

11. Amend § 261.14 by removing paragraph (p) and redesignating paragraph (q) as paragraph (p).

Dated: March 25, 1993.

George M. Leonard,

Associate Chief.

[FR Doc. 93–10625 Filed 5–5–93; 8:45 am]

BILLING CODE 3410–11–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL–4652–3]

Public Meeting on the Rulemaking for the Pulp, Paper, and Paperboard Industry

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meetings.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing two public meetings regarding regulations that will apply to the pulp, paper, and paperboard industry. The regulations are scheduled to be proposed in October 1993. EPA is sponsoring these meetings to report on the status of regulatory development and to gather information and ideas from interested parties.

DATES: The dates for the public meetings are Wednesday, May 19, 1993, 9 a.m. to 5 p.m. and Wednesday, June 9, 1993, 9 a.m. to 5 p.m.

ADDRESSES: The May 19 meeting will be held at the Virginia Center for Innovative Technology, which is located near Dulles Airport at 2214 Rock Hill Road, Herndon, Virginia 22070, telephone number 703–689–3000. The June 9 meeting will be held at the Omni Durham Hotel, 210 Foster St., Durham, North Carolina 27701. A block of rooms is being held for meeting participants. Please call the hotel directly at 919–683–OMNI for reservations.

FOR FURTHER INFORMATION CONTACT: Wendy Smith at the U.S. Environmental Protection Agency—by mail at WH–552, Office of Science and Technology, 401 M. Street SW, Washington, DC 20460; by telephone at (202) 260–7184.

SUPPLEMENTARY INFORMATION: EPA is developing effluent limitations guidelines and standards under authority of the Clean Water Act and maximum achievable control technology standards under authority of the Clean Air Act. The Agency is scheduled to propose these water and air regulations in October 1993.

At the public meeting on May 19, 1993, EPA plans to report the technology basis selected for the proposed regulations. Other agenda items may include implementation issues and presentations by interested parties. At the June 9, 1993 meeting, implementation issues will be discussed.

Inspection of Documents: Meeting materials, including a preliminary agenda, will be mailed approximately one week prior to the meeting or distributed at the meeting. The mailing list has been compiled from previous public meeting attendees and by requests. Anyone wishing to be added to the mailing list for meeting materials may contact Wendy Smith at the address or phone number above.

Dated: April 29, 1993.

James Hanlon,

Acting Director, Office of Science and Technology.

[FR Doc. 93–10711 Filed 5–5–93; 8:45 am]

BILLING CODE 6560–60–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–118, RM–8219]

Radio Broadcasting Services; Trenton, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Robert D. Fogel, the personal representative of the estate of William H. Burckhalter, licensee of Station WEWB (FM), Channel 269A, Trenton, Florida, requesting the substitution of Channel 269C2 for Channel 269A at Trenton, Florida, and the modification of Station WCWB(FM)'s license to specify operation on the higher class channel. The coordinates for Channel 269C2 at Trenton are North Latitude 29–35–00 and West Longitude 83–05–50.

DATES: Comments must be filed on or before June 21, 1993, and reply comments on or before July 6, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert D. Fogel, Legare, Hare, & Smith P.O. Box 578, 63 Broad Street, Charleston, SC 29402 (Counsel for Estate of William H. Burckhalter).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–118, adopted April 13, 1993, and released April 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M. Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800 1919 M Street, NW, room 246, or 2100 M Street, NW, suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is not longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–10620 Filed 5–5–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–117, RM–8214]

Radio Broadcasting Services; Kahalu'u, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Brewer Broadcasting Corp., requesting the substitution of Channel 291C for Channel 291A at Kahalu'u, Hawaii, and the modification of Station KLEO(FM)'s license to specify operation on the higher class channel. The coordinates for Channel 291C at Kahalu'u are North Latitude 19–44–30 and West Longitude 155–57–23.

DATES: Comments must be filed on or before June 21, 1993, and reply comments on or before July 6, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dan J. Alpert, 1250 Connecticut Avenue, NW., #700, Washington, DC 20036 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–117, adopted April 13, 1993, and released April 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., room 246, or 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–10621 Filed 5–5–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–119, Rm–8215]

Radio Broadcasting Services; Hali'imaile, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by RC Broadcasting, Inc. requesting the substitution of Channel 288C for

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Channel 286A at Hali'imaile, Hawaii, as that community's first wide coverage area FM service. The proposed coordinates are North Latitude 20–49–24 and West Longitude 156–27–27.

DATES: Comments must be filed on or before June 21, 1993, and reply comments on or before July 6, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant as follows: Dan J. Alpert, 1250 Connecticut Avenue, NW., #700, Washington, DC 20036 (Attorney for Petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–119, adopted April 13, 1993, and released April 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230) 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., room 246, or 2100 M Street, NW suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting

Federal Communications Commission

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau

[FR Doc. 93–10622 Filed 5–5–93; 8:45 am]

BILLING CODE 6712–01–M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 509

General Services Administration Acquisition Regulation, Debarment and Suspension Factfinding

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Proposed rule.

SUMMARY: This document invites comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) that would amend regulations on debarment and suspension factfinding. The changes conform the GSAR to the existing requirements of the FAR. As provided in the FAR, the proposed change preserves the role of the factfinder in resolving material facts in dispute and makes it clear that the suspending and debarring official determines whether cause for suspension or debarment exists based on the facts as found. In addition, the revision would add a sentence stating that suspension hearings on material facts in dispute will be conducted as outlined in 509.406–3 (b)(8) and (b)(9).

DATES: Comments are due in writing on or before June 7, 1993.

ADDRESSES: Comments should be addressed to Marjorie Ashby, Office of GSA Acquisition Policy, 18th & F Streets, NW., room 4006, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, Office of GSA Acquisition Policy (2020 501–1224.

A. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

B. Regulatory Flexibility Act

An Initial Regulatory Flexibility Analysis has not been prepared because the proposed rule does not appear to have a significant economic impact on a substantial number of small entities because it simply changes which GSA official, the suspension or the debarment official rather than the factfinding official, makes the determination regarding whether there is a cause for suspension or debarment. However, comments from small entities concerning the proposed rule will be considered in accordance with 5 U.S.C 601 *et seq.*

C. Paperwork Reduction Act

This proposed rule does not contain information collection requirements the require the approval of OMB under 44 U.S.C. 3501 *et seq.*

List of Subject in 48 CFR Part 509

Government procurement.

Accordingly, it is proposed to amend 48 CFR part 509 as follows:

1. The authority citation for 48 CFR part 509 continues to read as follows:

Authority: 40 U.S.C. 486(c)

PART 509—CONTRACTOR QUALIFICATIONS

2. Section 509.406–3 is amended by revising paragraph b(8) to read as follows:

509.406–3 Procedures.

* * * * *

(b) * * *

* * * * * *

(8) The purpose of a fact-finding hearing is to:

(i) Afford the affected party the opportunity to dispute material facts relating to the proposed debarment through the submission of oral and written evidence; and

(ii) Resolve facts in dispute and provide the debarring official with written findings of fact based on a preponderance of evidence.

* * * * *

3. Section 509.407–3 is amended by adding a sentence at the end of paragraph (b)(6) to read as follows:

509.407–3 Procedures.

* * * * *

(b) * * *

* * * * * *

(6) Hearing will be conducted as outlined in 509.406–3 (b)(8) and (b)(9).

4. Section 509.407–3(b)(7) is revised to read as follows:

(7) The purpose of a fact-finding hearing is to:

(i) Afford the affected party the opportunity to dispute material facts relating to the suspension action through the submission of oral and written evidence; and

(ii) Determine whether, in light of the evidence presented, there is adequate evidence to suspect that the material allegations in the notice are true.

Dated: March 19, 1993.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 93–10690 Filed 5–5–93; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Public Hearing on Proposed Establishment of a Nonessential Experimental Population of Black-footed Ferrets in North-Central Montana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public hearing.

SUMMARY: The U.S. Fish and Wildlife Service gives notice that a public hearing will be held on the proposed reintroduction of black-footed ferrets (*Mustela nigripes*) into the 11,061 km² (4,237 mi²) North-Central Montana Black-footed Ferret Experimental Population Area in North-Central Montana. This reintroduction is proposed to implement a primary recovery action for this federally listed endangered species and to evaluate release techniques.

DATES: The comment period extends from April 13, 1993 through June 14, 1993. A public hearing will be held from 7 p.m. to 10 p.m. on May 24, 1993.

ADDRESSES: The public hearing will be held in the second floor meeting room, Malta City Hall, 39 South 2d East, Malta, Montana. Written comments and materials concerning the proposal for a nonessential experimental population of black-footed ferrets in North-Central Montana should be sent to the Billings Suboffice Coordinator, U.S. Fish and Wildlife Service, Ecological Services, 1501 14th Street West, Suite 230, Billings, Montana 59102. Comments and materials received will be available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dennis M. Christopherson (see **ADDRESSES** above) at telephone (406) 657–6750.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Fish and Wildlife Service (Service) in cooperation with the Montana Department of Fish, Wildlife and Parks has proposed to reintroduce black-footed ferrets (*Mustela nigripes*) into the 11,061 km² (4,237 mi²) of the UL Bend National Wildlife Refuge in South Phillips County, Montana. This reintroduction is proposed to implement a primary recovery action for this federally listed endangered species and to evaluate release techniques. As part of the reintroduction effort, the black-footed ferret population in the experimental population area is proposed to be designated as "nonessential experimental" under the authority of section 10(j) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). This special designation would increase the Service's flexibility in managing the newly released population of black-footed ferrets. Additional information on this proposed rulemaking was published in the **Federal Register** (58 *FR* 19221) on April 13, 1993.

A public hearing will be held on May 24, 1993, to provide interested parties an opportunity to make their views known on the proposed rulemaking. During the public comment period, any member of the public may send in comments, which must be received by June 14, 1993. Those parties wishing to make statements for the record should have available a copy of their statements to be presented to the Service at the start of the hearing. Oral statements may be limited to 5 or 10 minutes, if necessary, to allow all parties time to speak. There are no limits to the length of written comments that are provided to the Service, either at this hearing or by mail.

Authority for this action is the Endangered Species Act of 1973.

Author

The author of this notice is Dennis Christopherson, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT** above).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: April 30, 1993.

John L. Spinks, Jr.,

Deputy Regional Director.

[FR Doc. 93–10665 Filed 5–5–93; 8:45 am]

BILLING CODE 4310–55–M

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Notices

Federal Register
Vol. 58, No. 86
Thursday, May 6, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[DA-91-017-A]

Milk for Manufacturing Purposes and its Production and Processing; Requirements Recommended for Adoption by State Regulatory Agencies

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: This document changes the recommended manufacturing milk requirements (Recommended Requirements) by incorporating provisions for an expanded drug residue monitoring program. The changes provide State regulatory agencies and the dairy industry with guidance in carrying out sampling, testing and monitoring activities relating to drug residues in manufacturing grade milk. The changes include a provision for a State-sanctioned penalty to be imposed on a manufacturing grade milk producer who ships milk testing positive for drug residue. In addition, the changes provide guidelines for the storage and proper labeling of drugs used on the dairy farm.

The action to expand the drug residue monitoring program was initiated at the request of the National Association of State Departments of Agriculture (NASDA) and was developed in cooperation with NASDA, the Food and Drug Administration (FDA), dairy trade associations and producer groups.

EFFECTIVE DATE: May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Duane R. Spomer, Chief, Dairy Standardization Branch, USDA/AMS/Dairy Division, Room 2750–S, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–7473.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "non-major" under the criteria contained therein.

Under the authority of the Agricultural Marketing Act of 1946, the U.S. Department of Agriculture maintains a set of model regulations or requirements relating to quality and sanitation in the production and processing of manufacturing grade milk. These recommended requirements are available for adoption by the various States. The purpose of the model requirements is to promote, through State adoption and enforcement, uniformity in State dairy laws and regulations relating to manufacturing grade milk.

In July 1991, the Dairy Division of NASDA passed a resolution recommending that the manufacturing grade milk drug residue monitoring program be revised using the Grade A drug residue monitoring program as a prototype. The Grade A program is based on the requirement that the milk on every bulk milk pickup tanker be sampled and tested, prior to processing, for the presence of beta lactam drugs. In addition, the Grade A program provides for the temporary suspension of a producer's Grade A permit, or an equivalent penalty, in the case of a producer who ships milk testing positive for beta lactam drugs.

In order to establish an expanded manufacturing grade milk drug residue monitoring program, as requested by NASDA, this document makes the following changes to the Recommended Requirements:

1. Provide That all Marketed Manufacturing Grade Milk be Sampled and Tested for the Presence of Beta Lactam Drugs

Previously, the Recommended Requirements provided for the testing of milk for antiblotics at a minimum frequency of four times in 6 months. This change specifies that all manufacturing grade milk intended for processing be sampled by the defined methods and tested for beta lactam drugs.

2. Provide That the Testing of all Marketed Manufacturing Grade Milk be Completed Prior to Processing

Previously, the Recommended Requirements did not provide guidelines for the timely completion and reporting of antibiotic tests. This change specifies that testing be completed prior to processing the load of milk.

3. Define State Regulatory Agency and Industry Responsibilities for the Implementation of the Expanded Drug Residue Monitoring Program.

The successful implementation of any regulatory program requires cooperation between State officials and industry personnel. In order for the State regulatory agency to adequately supervise and enforce the drug residue monitoring program, the dairy industry must maintain accurate records and follow uniform procedures. The revised model regulations define the responsibilities of each party in the execution of this program.

The adopted changes require the industry to notify the appropriate State regulatory agency of (a) each occurrence of a load sample testing positive for drug residue; (b) the identity of any producer whose milk causes a load sample to test positive for drug residue; and (c) the intended and final disposition of the load of milk represented in a sample testing positive for drug residue. Milk testing positive for beta lactams is to be disposed of in a manner that removes it from the human and animal food chain, unless reconditioned under FDA guidelines.

The changes also provide for the State regulatory agency to: (a) monitor the industry's sampling and testing methods for accuracy, consistency, and thoroughness; (b) perform comparison milk sample testing to evaluate the plant's recorded results; (c) review the industry's records of response to a positive drug residue test; and (d) sanction penalties on producers who have shipped milk testing positive for drug residue.

4. Provide for a State-sanctioned Penalty To Be Imposed on a Manufacturing Grade Milk Producer Who Ships Milk Testing Positive for Drug Residue

In order to emphasize the importance of utilizing milk production methods that prevent drug residues in milk, this change requires that there be a State-sanctioned penalty imposed on a producer for each occurrence of shipping milk testing positive for drug residue.

Additionally, following a third violation of shipping milk testing positive for drug residue within a 12-month period, the appropriate State agency will initiate administrative procedures to suspend the producer's milk shipping privileges, according to that State's policy.

5. Require a Producer Who Ships Milk Testing Positive To Participate in a Milk-quality Improvement Educational Program

After each occurrence of shipping milk testing positive for drug residue, a producer is required under this change to meet with a licensed veterinarian within 30 days to review the "Milk and Dairy Beef Quality Assurance Program." The "Quality Assurance Program" was developed by the Joint Liaison Committee of the American Veterinary Medical Association and the National Milk Producers Federation, with the cooperation and support of USDA, FDA, industry, and academia to help milk producers identify and eliminate the causes of drug residues in milk.

6. Provide Detailed Guidelines for the Labeling and Storage of Farm Chemicals and Animal Drugs

A central element of the "Milk and Dairy Beef Quality Assurance Program" is the proper labeling and storage of drugs located in the milk production areas. This change specifies that the labeling of animal drugs used on manufacturing grade farms shall conform to federal regulations and that the drugs be stored according to intended use.

7. Make Other Revisions and Editorial Changes in the Recommended Requirements To Reflect the Expansion of the Current Drug Residue Monitoring Program

These changes require dairy plants to: (a) test the milk of new and transfer producers for the presence of drug residues prior to acceptance of the milk at the plant; (b) retain drug residue test results for a minimum of 12 months; (c) include in a producer's records the results of drug residue tests for the preceding 12 months; and (d) provide field service assistance to farmers regarding drug residue issues.

8. Make Revisions in the Recommended Requirements to Update and Clarify Somatic Cell Testing Requirements

This change corrects the action level at which the Wisconsin Mastitis Test must be confirmed.

State regulatory agencies that are responsible for overseeing the sanitation requirements relating to the production and processing of farm-separated cream are strongly encouraged to include such cream in a drug residue monitoring program to sample and test for illegal levels of drug residue which could contaminate products made from this source of cream. The National Conference on Interstate Milk Shipments is developing a database intended to compile information concerning drug residue test results which are reflective of the national milk supply. The Department encourages participation in this voluntary program.

Public Comments

On July 27, 1992, the Department published a notice of intent to revise the Recommended Requirements [57 FR 33168]. The public comment period closed August 26, 1992. Comments were received from six commenters: two representing State regulatory agencies, one representing dairy producers, one representing dairy processors, one representing veterinarians, and one representing a dairy cooperative.

Discussion of Comments

1. One commenter was concerned that the proposal duplicated State drug residue monitoring programs and that it is not consistent with existing State requirements.

The Department advocates nationally uniform regulations for monitoring drug residue in the milk supply and has worked closely with the Dairy Division of NASDA to promote uniformity. During the development of the drug residue monitoring program, the Department consulted with NASDA representatives to provide a model program consistent with existing State laws. The Department believes the expanded drug residue monitoring program accomplishes this.

2. Two commenters requested that the minimum record retention time be reduced from 12 months to 6 months. These commenters felt the change would provide consistency with the Grade A milk program and reduce recordkeeping requirements.

The Department believes that accurate records detailing a 12-month history of drug residue test results are necessary since three occurrences of positive drug residue tests within a 12-month period will require that administrative procedures be initiated to suspend the producer's milk shipping privileges.

Provisions in the Grade A milk program require State regulatory agencies to maintain a history of drug residue test results. Similarly, the USDA recommended program has provided for many years that the dairy plant maintain these records and have them available for regulatory review.

3. One commenter suggested that State regulatory agencies not be required to monitor the industry's drug residue testing and sampling procedures nor collect samples for comparison drug residue testing. The commenter was concerned that these requirements were costly, time-consuming and created an unofficial certification.

The Department believes that compliance with the provisions of the drug residue monitoring program can best be established through active participation by the State regulatory agency. The Department believes the requirements are necessary to ensure that proper procedures are being followed and that accurate drug residue test results are being obtained.

4. One commenter recommended immediate suspension of a producer's license or permit each time a violative level of drug residue is confirmed.

The Department believes that the revised provisions of the Recommended Requirements will preclude the further marketing of milk from producers who have violated the drug residue requirements until that producer's milk is individually sampled and found not to contain violative levels of drug residues. Individual States have the ability to develop more stringent requirements if they so choose.

5. Two commenters recommended an increase in the number of days allowed for a producer to review the "Milk and Dairy Beef Quality Assurance Program" with a licensed veterinarian.

During the development of the expanded drug residue monitoring program, the Department provided as much consistency with the Grade A milk program as possible. When the notice of intent to amend the Recommended Requirements was published, 21 days was considered to be the timeframe allowed by the Grade A milk program. Since then, the Grade A program has established 30 days as the allowable timeframe. The Department concurs with this and has modified the Recommended Requirements accordingly.

6. There were several comments recommending changes outside the scope of the proposal. These comments suggested: changing the requirements for rejecting milk due to bacterial estimate, modifying the list of acceptable somatic cell tests, lowering the maximum allowable bacterial estimate, lowering the maximum allowable somatic cell limit, and using sani-guide discs to evaluate sediment content in milk.

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Since the proposal did not request public comment concerning these topics, the Department elects not to make the requested changes at this time. These comments will be considered as future changes are proposed.

7. One commenter suggested limiting barn storage of drugs to those approved for dairy animals or those prescribed by a licensed veterinarian.

The adopted model regulations permit barn storage of drugs labeled for use in non-dairy animals only when these drugs are located in an area of the barn which is separate from the milking area. The Recommended Requirements disallow the storage of drugs labelled for use in non-dairy animals in the same storage unit used to store drugs approved for use in dairy animals. The Department believes that sufficient guidance is provided to safeguard against accidental contamination due to inadvertent use of improper drugs.

8. One commenter requested the deletion of the requirement that milk buyers obtain quality and drug residue test records for producers transferring milk shipments from another plant.

Since 1972, the USDA Recommended Requirements have specified the transfer of producer quality records when a milk producer changes milk buyers. This action expands the requirement to include a history of drug residue test results.

The Department recognizes the difficulties which occur when a new buyer requests quality records for a transfer producer. However, a producer's quality and drug residue test history is essential in establishing test frequency and determining sanctions.

9. One commenter suggested modifying the proposal to clarify actions required of plants. The commenter cited instances where manufacturing operations or plants may not be purchasing milk directly from the producer and therefore are not able to fulfill certain provisions of the Recommended Requirements.

The buyer who purchases milk from the producer is usually responsible for ensuring that quality and drug residue tests are being conducted, records are being maintained, and follow-up actions have taken place. In many instances, this is the responsibility of the dairy plant to which the producer ships milk. In other instances, processing operations or plants may purchase milk and have little or no responsibility to the milk producer. The intent of the Recommended Requirements is that when a plant is used to indicate the party responsible for testing milk, maintaining quality and drug residue test records, and providing mandated follow-up actions with the milk producer, the responsible party may or may not be the manufacturing operation processing the milk. To clarify this, modifications in the proposal have been made accordingly.

For the reasons set forth in the preamble, the Recommended Requirements as published in the **Federal Register** on April 7, 1972 [37 FR 7046] and revised August 27, 1985 [50 FR 34726] are revised as follows:

1. In sec. B2., paragraphs (i), (j) and (p) are revised to read as follows:

Sec. B2. Terms Defined

* * * * *

(i) *Producer.* The person or persons who exercise control over the production of the milk delivered to a plant, and who receives payment for this product. A "new producer" is one who is initiating the shipment of milk from a farm. A "transfer producer" is one whose shipment of milk from a farm is shifted from one plant to another plant. A "producer/processor" is one who manufactures dairy products on the dairy farm entirely from his own milk, or from his own milk combined with milk from one or more other producers.

(j) *Dairy farm or farm.* A place or premise where one or more milking cows or goats are kept, and from which all or a portion of the milk produced thereon is delivered, sold, or offered for sale to a manufacturing plant.

* * * * *

(p) *Rejected milk.* Milk rejected from the market according to the provisions of sec. C5.

* * * * *

2. Sec. C1. is revised to read as follows:

Sec. C1. Basis

The quality classification of raw milk for manufacturing purposes from each producer shall be based on an organoleptic examination for appearance and odor, a drug residue test and quality control tests for sediment content, bacterial estimate and somatic cell count.

3. Sec. C5. is revised to read as follows:

Sec. C5. Rejected Milk

A plant shall reject specific milk from a producer if the milk fails to meet the requirements for appearance and odor (sec. C2.), if it is classified No. 4 for sediment content (sec. C3.), or if it tests positive for drug residue (sec. C12.).

4. Secs. C7. through C10. are revised to read as follows:

Sec. C7. Excluded Milk

A plant shall not accept milk from a producer if:

(a) The producer's initial milk shipment to a plant does not meet the requirements for acceptable milk (secs. C3. and C4.);

(b) The milk has been in a probational (No. 3) sediment content classification for more than 10 calendar days (sec. C3.);

(c) The milk has been classified "Undergrade" for bacterial estimate for more than 4 successive weeks (sec. C4.);

(d) Three of the last five milk samples have exceeded the maximum somatic cell count level of 1,000,000 per ml. (sec. C11.);

(e) The producer's milk shipments to either the Grade A or the manufacturing grade milk market currently are not permitted due to a positive drug residue test (sec. C12.); or

(f) The producer is delinquent in completing a review of the "Milk and Dairy Beef Quality Assurance Program" with a licensed veterinarian following an occurrence of shipping milk testing positive for drug residue (sec. C12.).

Sec. C8. Quality Testing of Milk From Producers.

(a) *New producers.*

(1) An examination and tests shall be made on the first shipment of milk from a new producer or from a producer resuming shipment after a period of non-shipment. The milk shall meet the requirements for:

(i) "Acceptable milk" (secs. C2., C3., and C4.);

(ii) Somatic cell count (sec. C11.); and

(iii) Drug residue level (sec. C12.).

(2) Thereafter, each milk shipment shall meet the requirements of sec. C2., and shall be tested in accordance with the provisions of secs. C3., C4., C11., and C12.

(b) *Transfer producers.*

(1) An examination and test shall be made by the new buyer on the first shipment of milk from a transfer producer. The milk shall meet the requirements for:

(i) "Acceptable milk" (secs. C2., C3., and C4.);

(ii) Somatic cell count (sec. C11.); and

(iii) Drug residue level (sec. C12.).

(2) Thereafter, each milk shipment shall meet the requirements of sec. C2., and shall be tested in accordance with the provisions of secs. C3., C4., C11., and C12.

(3) In addition, the new buyer shall determine from the producer's records that:

(i) The milk is currently classified "acceptable" for bacteria and sediment;

(ii) Three of the last five consecutive milk samples do not exceed the maximum somatic cell count level requirements;

(iii) The last shipment of milk received from the producer by the former plant did not test positive for drug residue; and

(iv) Milk shipments currently are not excluded from the market due to a positive drug residue test.

(4) When a producer discontinues milk delivery at one plant and begins delivery at another plant for any reason, the new buyer shall not accept the first milk delivery until he has requested from the previous buyer a copy of the record of:

(i) The producer's milk quality tests covering the preceding 90 days;

(ii) The producer's drug residue test results for the preceding 12-month period; and

(iii) A statement of the farm certification status and date of certification, if so provided under State regulations.

(5) The previous buyer shall furnish the new buyer with such information within 24 hours after receipt of the request. A new buyer may accept a transfer producer's milk after making the request for records, but before receiving them, if he first confirms the producer's records verbally from the previous buyer. If verbal communication is used to ascertain the status of quality records, the new buyer shall send to the previous buyer, as soon as possible, a written confirmation of the conversation.

(6) If the new buyer fails to receive the quality records from the previous buyer, he shall report this fact to the appropriate State regulatory agency. The new buyer may then, alternatively, obtain from the producer a copy of the test results for sediment content, bacterial estimate, and somatic cell count for the preceding 90-day period and a copy of the drug residue test results for the preceding 12-month period. A farm inspection shall then be made to confirm or establish certification of the transfer producer's farm.

Sec. C9. Record of Tests

Accurate records of the results of the milk quality and drug residue tests for each producer shall be kept on file for a period of not less than 12 months. The records shall be available for examination by the regulatory agency.

Sec. C10. Field Service

A representative of the plant shall arrange to promptly visit the farm of each producer whose milk tests positive for drug residue, exceeds the maximum somatic cell count level, or does not meet the requirements for acceptable milk. The purpose of the visit shall be to inspect the milking equipment and facilities and to offer assistance to improve the quality of the producer's milk and eliminate any potential causes of drug residues. A representative of the plant should routinely visit each producer as often as necessary to assist and encourage the production of high quality milk.

5. Sec. C11. is revised to read as follows:

Sec. C11. Somatic Cell Count

(a) A laboratory examination to determine the level of somatic cells shall be made on each producer's milk at least four times in each 6-month period at irregular intervals. Samples shall be analyzed at a laboratory approved by the State regulatory agency.

(b) A confirmatory test for somatic cells shall be done when a herd sample exceeds either of the following screening test results:

(1) California Mastitis Test - Weak Positive (CMT 1).

(2) Wisconsin Mastitis Test - WMT value of 18 mm.

(c) The confirmatory test for somatic cells shall be performed by using one of the following procedures:

(1) Direct Microscopic Somatic Cell Count (Single Strip Procedure). Pyronin Y-methyl green stain shall be used for goat milk.

(2) Electronic Somatic Cell Count.

(3) Optical Somatic Cell Count.

(d) The results of the confirmatory test for somatic cells shall be the official result.

(e) Whenever the confirmatory somatic cell count indicates the presence of more than 1,000,000 somatic cells per ml., the following procedures shall be applied:

(1) The producer shall be notified with a warning of the excessive somatic cell count.

(2) Whenever two of the last four consecutive somatic cell counts exceed 1,000,000 per ml., the appropriate regulatory authority shall be notified and a written warning notice given to the producer. The notice shall be in effect so long as two of the last four consecutive samples exceed 1,000,000 per ml.

(f) An additional sample shall be taken after a lapse of 3 days but within 21 days of the notice required in paragraph (e)(2) of this section. If this sample also exceeds 1,000,000 per ml., subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the producer by the appropriate State regulatory agency when an additional sample of herd milk is tested and found satisfactory. The producer shall be assigned a full reinstatement status when three out of four consecutive somatic cell count tests do not exceed 1,000,000 per ml. The samples shall be taken at a rate of not more than two per week on separate days within a 3-week period.

6. New secs. C12., C13., C14., and C15. are added to read as follows:

Sec. C12. Drug Residue Level

(a) *Industry responsibilities.*

(1) *Sampling and testing program.*

(i) All milk shipped for processing or intended to be processed on the farm where it was produced shall be sampled and tested, prior to processing, for beta lactam drug residue. Collection, handling and testing of samples shall be done according to procedures established by the appropriate State regulatory agency.

(ii) When so specified by the U.S. Food and Drug Administration (FDA), all milk shipped for processing, or intended to be processed on the farm where it was produced, shall be sampled and tested, prior to processing, for other drug residues under a random drug sampling program. The random drug sampling program shall include at least four samples collected in at least 4 separate months during any 6-month period.

(iii) When the Commissioner of the FDA determines that a potential problem exists with an animal drug residue or other contaminant in the milk supply, a sampling and testing program shall be conducted, as determined by the FDA. The testing shall continue until such time that the Commissioner of the FDA determines with reasonable assurance that the potential problem has been remedied.

(iv) The dairy industry shall analyze samples for beta lactams and other drug residues by methods evaluated by the Association of Official Analytical Chemists (AOAC) and accepted by the FDA as effective in determining compliance with established "safe levels" or tolerances. "Safe levels" and tolerances for particular drugs are established and amended by the FDA. The industry may employ on a temporary basis other test methods evaluated by the Virginia Polytechnic Institute and State University, or by other institutions using equivalent evaluation procedures, and determined to demonstrate accurate compliance results. These test methods may be used

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until they are evaluated by the AOAC and accepted or rejected by the FDA.

(2) *Individual producer sampling.*

(i) *Bulk milk.*

A milk sample for beta lactam drug residue testing shall be taken at each farm and shall include milk from each farm bulk tank.

(ii) *Can milk.*

A milk sample for beta lactam drug residue testing shall be formed separately at the receiving plant for each can milk producer included in a delivery, and shall be representative of all milk received from the producer.

(iii) *Producer/processor.*

A milk sample for beta lactam drug residue testing shall be formed separately according to paragraphs (a)(2)(i) and (ii) of this section for milk produced or received by a producer/processor.

(3) *Load sampling and testing.*

(i) *Bulk milk.*

A load sample shall be taken from the bulk milk pickup tanker after its arrival at the plant and prior to further commingling.

(ii) *Can milk.*

A load sample representing all of the milk received on a shipment shall be formed at the plant, using a sampling procedure that includes milk from every can on the vehicle.

(iii) *Producer/processor.*

A load sample shall be formed at the plant using a sampling procedure that includes all milk produced and received.

(4) *Sample and record retention.*

A load sample that tests positive for drug residue shall be retained according to guidelines established by the appropriate State regulatory agency. The records of all sample test results shall be retained for a period of not less than 12 months.

(5) *Industry follow-up.*

(i) When a load sample tests positive for drug residue, industry personnel shall notify the appropriate State regulatory agency immediately, according to State policy, of the positive test result and of the intended disposition of the shipment of milk containing the drug residue. All milk testing positive for drug residue shall be disposed of in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines.

(ii) Each individual producer sample represented in the positive-testing load sample shall be singly tested as directed by the appropriate State regulatory agency to determine the producer of the milk sample testing positive for drug residue. Identification of the producer responsible for producing the milk testing positive for drug residue, and details of the final disposition of the shipment of milk containing the drug residue, shall be reported immediately to the appropriate agency, according to State policy.

(iii) Milk shipment from the producer identified as the source of milk testing positive for drug residue shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for drug residue.

(b) *Regulatory agency responsibilities.*

(1) *Monitoring and surveillance.*

The appropriate State regulatory agency shall monitor the milk industry's drug residue program by conducting unannounced on-site inspections to observe testing and sampling procedures and to collect samples for comparison drug residue testing. In addition, the regulatory agency shall review industry records for compliance with State policy. The review shall seek to determine that:

(i) Each producer is included in a routine, effective drug residue milk monitoring program utilizing AOAC-evaluated and FDA-approved methods to test samples for the presence of drug residue;

(ii) The regulatory agency receives prompt notification from industry personnel of each occurrence of a sample testing positive for drug residue, and of the identity of each producer identified as a source of milk testing positive for drug residue;

(iii) The regulatory agency receives prompt notification from industry personnel of the intended and final disposition of milk testing positive for drug residue, and that disposal of the load is conducted in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines; and

(iv) Milk shipment from a producer identified as a source of milk testing positive for drug residue completely and immediately ceases until a milk sample taken from the dairy herd does not test positive for drug residue.

(2) Enforcement.

(i) A penalty sanctioned by the State regulatory agency shall be imposed on the producer for each occurrence of shipping milk testing positive for drug residue.

(ii) The producer shall review the "Milk and Dairy Beef Quality Assurance Program" with a licensed veterinarian within 30 days after each occurrence of shipping milk testing positive for drug residue. A certificate confirming that the "Quality Assurance Program" has been reviewed shall be signed by the responsible producer and a licensed veterinarian. The appropriate State regulatory agency shall be notified after the program has been reviewed.

(iii) If a producer ships milk testing positive for drug residue three times within a 12-month period, the appropriate State agency shall initiate administrative procedures to suspend the producer's milk shipping privileges, according to State policy.

Sec. C13. Radionuclides

Composite milk samples from selected areas in each State should be tested for biologically significant radionuclides at a frequency which the regulatory agency determines to be adequate to protect the consumer.

Sec. C14. Pesticides and Herbicides

Composite milk samples should be tested for pesticides and herbicides at a frequency which the regulatory agency determines is adequate to protect the consumer. The test results from the samples shall not exceed established FDA limits.

Sec. C15. Added Water

Milk samples from each producer should be tested for added water at a frequency which the regulatory agency determines is adequate to prevent the addition of water to the milk.

7. Sec. D5.(e) is revised and D5.(f) is added to read as follows:

Sec. D5. Milkhouse or Milkroom

* * * * *

(e) The milkhouse or milkroom shall be kept clean and free of trash. Animals and fowl shall not be allowed access to the milkhouse or milkroom at any time.

(f) *Farm chemicals and animal drugs.*

(1) Animal biologics and other drugs intended for treatment of animals, and insecticides approved for use in dairy operations, shall be clearly labeled and used in accordance with label instructions, and shall be stored in a manner which will prevent accidental contact with milk and milk contact surfaces.

(2) Only drugs that are approved by the FDA or biologics approved by the USDA for use in dairy animals that are properly labeled according to FDA or USDA regulations shall be administered to such animals.

(3) When drug storage is located in the milkroom, milkhouse, or milking area, the drugs shall be stored in a closed, tight-fitting storage unit. Such drugs shall further be segregated in such a way so that drugs labeled for use in lactating dairy animals are separated from drugs labeled for use in non-lactating dairy animals.

(4) Drugs labeled for use in non-dairy animals shall not be stored with drugs labeled for use in dairy animals. When drugs labeled for use in non-dairy animals are stored in the barn, the drugs shall be located in an area of the barn separate from the milking area.

(5) Herbicides, fertilizers, pesticides, and insecticides that are not approved for use in dairy operations shall not be stored in the milkhouse, milkroom, or milking area.

(Agricultural Marketing Act of 1946, Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627, unless otherwise noted)

Dated: April 30, 1993.

L.P. Massaro,

Acting Administrator.

[FR Doc. 93–10725 Filed 5–5–93; 8:45 am]

BILLING CODE 3410–02–P

Forest Service

Exemption of Larry's Salvage Blowdown From Appeal

AGENCY: Forest Service, Northern Region, USDA.

ACTION: Notification that a timber salvage and rehabilitation project designed to recover blown down timber is exempt from provisions of 36 CFR part 217.

SUMMARY: In October 1991, unusually strong winds in localized areas across the Rexford Ranger District produced areas of wind-thrown timber. The Rexford District Ranger proposed a salvage timber sale to recover damaged sawtimber in the affected area.

The District Ranger has determined, through a Decision Memo and environmental analysis in the supporting project file, that there is good cause to expedite these actions in order to rehabilitate National Forest System lands and recover damaged resources. Salvage of commercial sawtimber within the area affected must be accomplished quickly to avoid further deterioration of sawtimber and reduce the risk of wildfire.

EFFECTIVE DATE: Effective May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Drew Bellon; Rexford District Ranger; Kootenai National Forest; 1299 Highway 93 North; Eureka, MT 59917; 406–296–2536.

SUPPLEMENTARY INFORMATION: Severe windstorms on October 16, 1991, damaged approximately 25 acres of timber in the Lawrence Mountain area approximately 30 miles southwest of Eureka, Montana. The wind-thrown timber is located within lands designated as suitable for timber management and assigned to Management Area 12 (Kootenai Forest Plan, August 1987). In the winter of 1991, the Rexford District Ranger, Kootenai National Forest, proposed to salvage wind-damaged timber in the Lawrence Mountain area. This proposal is designed to meet the following needs: (1) Recover dead and dying timber before it loses its commercial value, (2) rehabilitate the affected timber stands, and (3) reduce the potential for wildfire by reducing fuel loading. An interdisciplinary team was convened, and scoping began in 1992. Two alternatives were analyzed; no treatment (no action) and a salvage and rehabilitation proposal (proposed action).

The selected alternative will salvage approximately 168 MBF of dead and damaged timber from approximately 25 acres. All salvage areas are accessible from existing roads; no road construction or reconstruction will occur.

The sale and accompanying work is designed to accomplish the objectives as quickly as possible to reduce the fuel accumulations and to recover merchantable sawtimber before it deteriorates and removal becomes infeasible. To expedite implementation of this decision, procedures outlined in 36 CFR part 2179(a)(11) are being followed. Under this Regulation the following may be exempt from appeal:

"Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such as * * * severe wind * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part."

Based upon the information presented in the Larry's Blowdown Salvage Decision Memo, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project will not be subject to review under 36 CFR part 217.

Dated: April 26, 1993.

Larry O. Gadt,

Acting Deputy Regional Forester, Northern Region.

[FR Doc. 93–10153 Filed 5–5–93; 8:45 am]

BILLING CODE 3410–11–M

Exemption From Appeal for Steen Creek Salvage Project, Payette National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal.

SUMMARY: This is notification that timber salvage harvest and reforestation activities to recover and rehabilitate natural resources from recent wildfire on the Steen Creek Timber Salvage project, Council Ranger District, Payette National Forest, are exempt from appeal in accordance with 36 CFR 217.4(a)(11).

DATES: Effective on May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Tracy Beck, Environmental Coordinator, Council Ranger District, Payette National Forest, P.O. Box 567, Council, ID 83612, telephone: 208–253–4215.

SUPPLEMENTARY INFORMATION: Several years of drought in southwest Idaho have reduced soil moisture, weakened conifer trees, and increased the fire danger. In August of 1992, a lightning-ignited fire burned 17,500 acres of National Forest between Hells Canyon and the community of Cuprum, about 26 miles northwest of the town of Council in southwest Idaho.

As part of the effort to recover and rehabilitate natural resources damaged by the wildfire, Council Ranger District personnel have developed a proposal to harvest burned timber and reforest damaged acres. The Forest Service has completed the Final Environmental Impact Statement (EIS) for the Steen Creek Timber Salvage project.

The analysis area for the Steen Creek Timber Salvage EIS is located 24 miles northwest of Council, Idaho. The Forest will salvage burned trees throughout the 6,650-acre project area and recover approximately 12.5 million board feet (MMBF) of timber. The Steen Creek Salvage Project will harvest only dead and dying trees using helicopter, tractor and skyline logging systems. Cutting areas average 16 acres in size and will not exceed 81 acres. Regional Forester approval has been given to the Payette National Forest to exceed the Forest Plan cutting unit size limit due to the catastrophic condition of the timber stands.

Cutover areas greater than 5 acres will be replanted, and smaller areas may be replanted depending on accessibility. Approximately 1334 acres damaged by fire would be replanted with conifer seedlings. There is 10.3 miles of road construction and 12.6 miles of road reconstruction proposed for the salvage operations.

Management direction for the project area is established in the Payette National Forest Land and Resource Management Plan (Forest Plan) of 1988. The Forest Plan provides for the removal of salvage timber from lands

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within the project area. In addition, the Forest Plan prescribes standards to protect soil, water, wildlife, visual quality, and other affected resources. The proposed action for Steen Creek Salvage is consistent with standards and guidelines, objectives, and direction contained in the Forest Plan.

An interdisciplinary team of Forest Service rehabilitation specialists has studied the burned area and prescribed watershed stabilization measures. Payette Forest and Council District foresters have analyzed the burned area and have found that a salvage timber sale to be an economical and practical means to rehabilitate the burned area. The salvage project will: (1) Recover valuable timber that would otherwise deteriorate, (2) clean up burned trees that would otherwise become flammable fuels in the future, and (3) reforest those areas that have been left with little or no tree cover as a result of the fire. It is extremely important to remove the dead and dying timber before it deteriorates and loses its economic value. Through the timber salvage operations, Knutson-Vandenburg (K–V) funds can be generated for use to restore forest resources that have been damaged by the wildfire.

The Forest Supervisor has determined through preliminary scoping and environmental analysis that there is justification to expedite these projects.

The decision for the Steen Creek Salvage project may be implemented after publication of this notice in the **Federal Register** and after the decision document has been signed by the responsible official. If the project is delayed because of appeal, it is possible that the salvage harvest could not be implemented during the 1993 normal operating season. This would result in a loss of volume and value of the timber due to deterioration. The total estimated value of the merchantable dead and dying timber is $3,750,000. Of this, approximately $937,500 [that's 25%] would be returned to counties from 25 percent fund receipts. Delays resulting from appeals could cause the loss of up to two-thirds of this value and potentially make the salvage sale unattractive to timber purchasers. This would jeopardize the objectives of the recovery and rehabilitation project.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt Steen Creek Salvage Project, Council Ranger Districts, Payette National Forest, from appeal. The Final EIS addresses the effects and issues associated with the Steen Creek Salvage Project.

Dated: April 30, 1993.

Robert C. Joslin

Deputy Regional Forester, Intermountain Region, USDA Forest Service.

[FR Doc. 93–10662 Filed 5–5–93; 8:45 am]

BILLING CODE 3410–11–M

Exemption of the Horsefly Fire Salvage Project, Salmon National Forest, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal.

SUMMARY: This is notification that timber salvage harvest and reforestation activities to recover and rehabilitate natural resources from the effects of catastrophic fire on the Horsefly Fire Salvage project area on the North Fork Ranger District, Salmon National Forest, are exempted from appeal in accordance with 36 CFR 217.4(a)(11).

DATES: Effective on May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Rogers Thomas, District Ranger, North Fork Ranger District, Salmon National Forest, P.O. Box 180, North Fork, Idaho 83466. Telephone: 208–865–2383.

SUPPLEMENTARY INFORMATION: In early August 1992, the Horsefly Wildfire burned approximately 3,500 acres in the Boulder Creek, Spring Creek and McKay Creek drainages. Several years of drought in central Idaho contributed to extreme and rarely observed fire behavior. Immediately after the fire, an Interdisciplinary Team (IDT) of resource specialists, surveyed much of the burn area to identify emergency and long-term rehabilitation needs. From this preliminary analysis, it was found that in many places, the Horsefly fire burned hot enough to cause severe damage to forest and watershed resources. Damage to soils is of greatest concern because this damage will affect the length of time necessary to achieve revegetation, as well as the quantity and quality of water runoff from the area.

As part of the effort to recover and rehabilitate natural resources damaged by catastrophic fire, Forest personnel have developed a proposal to harvest fire-killed timber, and reforest suitable timberlands. Forest Service personnel have completed the Horsefly Fire Salvage Environmental Assessment (EA), identified issues, developed alternatives, and analyzed the affects of implementing timber salvage and other rehabilitation activities.

The analysis area for the Horsefly Fire Salvage EA is located approximately seventeen (17) miles west of North Fork, Idaho, and one (1) mile north of Shoup. The Forest will harvest burned, dead and dying timber over an 800 acre project area and recover approximately 3 MMBF.

Of the 800 acres that would be harvested, roughly 532 acres are located within the Sheepeater Roadless Area. Impacts to this roadless area entail, harvesting dead and dying trees using helicopter and cable logging systems. There is no road construction or reconstruction proposed for the salvage operations. Four existing helicopter landing and one service landing from previous logging activity would be used. One additional landing is proposed within the Roadless Area. Lands suited for timber management would be replanted, where natural regeneration is not expected to be successful.

Management direction for the analysis area is established in the Salmon National Forest Land and Resource Management Plan (Forest Plan). The Forest Plan describes standards which must be observed when harvesting timber to protect soil, water, wildlife, visuals, and other on site resources. The proposed action for the Horsefly Fire Salvage project is consistent with standards, objectives, and direction contained in the Forest Plan.

Emergency rehabilitation measures initiated during fall 1992 included: grass seeding for soil stabilization and silt fence construction above anadromous fisheries. These actions were needed immediately to mitigate fire effects and reduce potential for soil movement. This proposal would further contribute to area recovery by: (1) Capturing the economic value of fire-killed timber that would otherwise deteriorate, (2) reforesting suitable timberlands to restore sites to timber production prior to disadvantageous brush competition, and (3) rehabilitating fire damaged watersheds to protect water quality and long-term soil productivity.

It is important to remove the salvageable timber prior to deterioration and subsequent value losses. Delays in implementing the activities necessary to restore these damaged lands will result in unacceptable degradation of the physical and biological resources of National Forest System land. Through timber salvage operation, commercial product value of the fire-killed trees can be recovered, and a portion of the receipts from this sale will provide funding for other restoration activities through collection of Knutsen-Vanderburg (K–V) and Salvage Sale Funds.

The Forest Supervisor has determined through preliminary scoping and environmental analysis that there is good cause to expedite this project.

The decision for the Horsefly Fire Salvage project may be implemented after publication of this notice in the **Federal Register** and after the decision document has been signed by the responsible official. If the project is delayed because of an appeal (delays up to 150 days are possible), it is likely the salvage harvest could not be implemented until early summer 1993. This would result in a loss of volume and value due to deterioration. The total estimated value of the merchantable dead and dying timber is $500,000. Of this, approximately $125,000 would be returned to counties from 25 percent fund receipts. Delays resulting from appeals could cause the loss of up to half of this value and potentially make the salvage sale unattractive to timber purchasers. This would jeopardize the objectives of the recovery and rehabilitation project.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt the Horsefly Fire Salvage Project, North Fork Ranger District, Salmon National Forest, from appeal. The environmental assessment disclosed the affects of the proposed actions on the environment and addresses the issues resulting from the proposal.

Dated: April 30, 1993.

Robert C. Joslin,

Deputy Regional Forester, Intermountain Region, USDA Forest Service.

[FR Doc. 93–10663 Filed 5–5–93; 8:45 am]

BILLING CODE 3410–11–M

Exemption from Appeal for Fir Fly Salvage Timber Sale, Salmon National Forest, ID

AGENCY: Forest Service, USDA.

ACITON: Notice of exemption from appeal.

SUMMARY: This is notification that timber salvage harvest, pheromone baiting/trapping, and reforestation activities to recover and rehabilitate natural resources from the effects of an ongoing district wide insect infestation in the Fir Fly Salvage project area on the Cobalt Ranger District, Salmon National Forest, are exempted from appeal in accordance with 36 CFR 217.4(a)(11).

EFFECTIVE DATE: May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Clinton Groll, District Ranger, Cobalt Ranger District, Salmon National Forest, P.O. Box 729, Salmon, Idaho, 83467, Telephone: 208–756–2240.

SUPPLEMENTARY INFORMATION: The Cobalt Ranger District of the Salmon National Forest has been under a district wide Douglas-fir and mountain pine beetle infestation for the last 3 years. The insect populations are presently at endemic levels in most areas but are approaching epidemic levels in some drainages. An interdisciplinary Team (IDT) of resource specialists surveyed the proposed analysis area to identify emergency and long-term rehabilitation needs. From this preliminary analysis, it was found that prompt salvage and rehabilitation efforts could protect resources from catastrophic damage.

As part of the effort to recover and rehabilitate natural resources damaged by insect infestations, Forest personnel have developed a proposal to harvest insect-killed timber and reforest suitable timberlands. Forest Service personnel have completed the Fir Fly Salvage Environmental Assessment (EA), identified issues, developed alternatives, and analyzed the effects of implementing timber salvage and other rehabilitation activities.

The 26,780 analysis area for the Fir Fly Salvage EA is located approximately thirty four (34) miles southwest of Salmon, Idaho. The forest will harvest dead and dying timber over an 1,120 acre project area and recover approximately 3–5 MMBF.

The 26,780 analysis area is comprised of portions of four roadless areas. 10,240 acres is roadless with 287 of these acres being impacted by the proposed salvage project or approximately 25% of the harvest occurring in roadless areas. Impacts to these roadless areas include harvesting dead and dying trees using a helicopter system and construction of approximately 12.5 acres of temporary landings. There is no road construction or reconstruction proposed for the salvage operation. Lands suited for timber management would be replanted where natural regeneration is not expected to be successful. A pheromone baiting/trapping program would be implemented in high risk areas to prevent endemic populations from reaching epidemic proportions.

Management direction for the analysis area is established in the Salmon National Forest Land and Resource Management Plan (Forest Plan). The Forest Plan describes standards which must be observed when harvesting timber to protect soil, water, wildlife, visuals, and other on site resources. The proposed action for the Fir Fly Salvage project is consistent with standards, objectives, and direction contained in the Forest Plan.

This proposal would further contribute to area recovery by:

(1) Capturing the economic value of insect-killed timber that would otherwise deteriorate,

(2) Revegetating suitable timberlands to restore sites to timber production prior to brush competition, and

(3) Preventing the spread of current insect populations in areas presently unaffected.

It is important to remove the salvageable timber prior to deterioration and subsequent value losses. Delays in implementing the activities necessary to restore these damaged lands will result in unacceptable degradation of the physical and biological resources of National Forest System land. Through timber salvage operation, commercial product value of the insect-killed trees can be recovered, and a portion of the receipts from this sale will provide funding for other restoration activities through collection of Knutsen-Vanderburg (K-V) and Salvage Sale Funds.

The Forest Supervisor has determined through preliminary scoping and environmental analysis that there is good cause to expedite this project.

The decision for the Fir Fly Salvage project will be implemented after publication of this notice in the **Federal Register**. If the project is delayed because of an appeal (delays up to 150 days are possible), it is likely the salvage harvest could not be implemented until early spring of 1994. This would result in a need to remark the sale so as to harvest new trees infested during the 1993 flight of the insect. It would also result in the loss of volume from dead trees that are currently merchantable but will lose their value by remaining on the stump for another year. Delays resulting from appeals could cause the loss of up to half of the value and potentially make the salvage sale unattractive to timber purchases. This would jeopardize the objectives of the recovery and rehabilitation project.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt the Fir Fly Salvage Project, Cobalt Ranger District, Salmon National Forest, from appeal. The environmental assessment disclosed the effects of the proposed actions on the environment and addresses the issues resulting from the proposal.

Dated: April 30, 1993.

Robert C. Joslin,

Deputy Regional Forester, Intermountain Region, USDA Forest Service.

[FR Doc. 93–10664 Filed 5–5–93; 8:45 am]

BILLING CODE 3410–11–M

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COMMISSION ON CIVIL RIGHTS

Hearing on Racial and Ethnic Tensions in American Communities, Poverty, Inequality, and Discrimination—Los Angeles

Notice is hereby given pursuant to the provisions of the United States Commission on Civil Rights Act of 1983, Public Law 98–183, 97 Stat. 1301, as amended, that a three-day public hearing will commence on June 15, 1993, beginning at 8 a.m. at the Sheraton Grande Hotel, 333 S. Figuera Street, Los Angeles, California 90071.

The purpose of the hearing will be to collect information within the jurisdiction of the Commission, in order to examine the underlying causes of racial and ethnic tensions in the United States.

The Commission is an independent, bipartisan factfinding agency authorized to study, collect, and disseminate information and to appraise the laws and policies of the Federal Government, and to study and collect information concerning legal developments, with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice.

Hearing impaired persons who will attend the hearing and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division (202) 376–8105, (TDD 202–376–8116), at least five (5) working days before the scheduled date of the meeting.

Dated at Washington, DC, May 3, 1993.

Arthur A. Fletcher,

Chairman.

[FR Doc. 93–10765 Filed 5–5–93; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Case No. 88–67]

Action Affecting Export Privileges; Applied Medical Systems, Inc.

Order

The Office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce ("Department"), having determined to initiate administrative proceedings pursuant to section 11(c) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401–2420 (1991, supp. 1992, and Pub. L. 103–10, March 27, 1993)) (The "Act"), and part 788 of the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1992)) (the "Regulations"), against Applied Medical Systems, Inc. ("AMS"), resident in the United States, based on allegations set forth in the Proposed Charging Letter, dated March 9, 1993, incorporated herein by this reference, that between April 1987 and December 1987, AMS violated part 769 of the Regulations, promulgated to implement the Act, in that AMS, a United States person as defined in the Regulations, with respect to its activities in the interstate or foreign commerce of the United States, with intent to comply with, further or support an unsanctioned foreign boycott: (1) In one instance, knowingly agreed to refuse to do business with or in a boycotted country; (2) knowingly agreed to refuse to do business with six persons known or believed to be restricted from having any business relationship with or in a boycotting country pursuant to a requirement of, or a request from, or on behalf of, a boycotting country; (3) furnished one item of information about its business relationships with or in a boycotted country; and (4) furnished six items of information about its business relationship with persons known or believed to be restricted from having any business relationships with or in a boycotting country, activities prohibited by §§ 769.2(a) and 769.2(d) of the Regulations, and not excepted; and

The Department and AMS having entered into a Consent Agreement whereby AMS has agreed to settle this matter by the imposition by the Department of a civil penalty in the amount of $70,000 and by accepting a one year denial of its export privileges to Kuwait, Saudi Arabia, Bahrain, Iraq, Jordan, Lebanon, Oman, Qatar, the United Arab Emirates, Syria, the Yemen Arab Republic and the People's Democratic Republic of Yemen; and

The Assistant Secretary for Export Enforcement having approved the terms of the Consent Agreement;

It is therefore ordered that, First, a civil penalty in the amount of $70,000 is assessed against AMS.

Second, AMS shall pay the Department the sum $10,000 within 20 business days of its receipt of this Order. The remaining $60,000 of the civil penalty imposed shall be suspended for a period of two years from the date of the signing of this Order. The Department will waive payment of the remaining $60,000 civil penalty at the end of the two year period provided that AMS is in compliance with the Regulations and this Order. Payment shall be made in the manner specified in the attached instructions. Failure to pay the civil penalty in a timely manner constitutes a violation of this Order;

Third, all outstanding individual validated licenses to the countries referred to above in which AMS appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of AMS' privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to distribution licenses, to the countries referred to above are hereby revoked.

Fourth, for a period ending one year from the date of the entry of this Order, AMS is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving commodities or technical data exported or to be exported from the United States, in whole or part, and subject to the Regulations, to the countries referred to above. Without limiting the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation, directly or indirectly in any manner or capacity:

(a) As a party of representative of a party to any export license application submitted to the Department;

(b) In the preparation of filing with the Department of any export license application or request for reexport authorization, or of any document to be submitted therewith;

(c) In obtaining from the Department of using any validated or general export license, reexport authorization or other export control document;

(d) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, to be exported from the United States and subject to the Regulations; and

(e) In the financing, forwarding, transporting, or other servicing of such commodities or technical data;

Fifth, for reasons of human health and safety, such denial shall not apply to, and have no effect whatsoever on, the export of replacement parts and consumable materials for medical systems sold and installed prior to the date of this Order, nor shall this Order apply to, or have any effect on, the conduct of service or maintenance of medical systems sold and installed prior to the date of this Order;

Sixth, as provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) in any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

Seventh, the Proposed Charging Latter, the Consent Agreement and this Order shall be made available to the public.

Eighth, a copy of this Order shall be served on AMS. This order shall be published in the Federal Register.

Entered this 15th day of April, 1993.

This Order is effective immediately.

Judy R. Reinke,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 93–10695 Filed 5–5–93; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Docket 15–93]

Foreign-Trade Zone 89—Clark County, NV; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Nevada Development Authority (NDA), grantee of FTZ 89, requesting authority to expand its zone in Clark County, Nevada, within the Las Vegas Customs Port of Entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 20, 1993.

FTZ 89 was approved on November 7, 1983 (Board Order 227, 48 FR 51665; 11/10/83), and expanded on December 4, 1989 (Board Order 452, 54 FR 50787; 12/11/89). It currently consists of six sites in Clark County, Nevada: Site 1 (23 acres)—Las Vegas Convention Center, Clark County; Site 2 (100,000 sq. ft.)—Cashman Field Convention Center, Las Vegas; Site 3 two parcels (317 acres and 120,000 sq. ft.)—within the Hughes Airport Center industrial park, adjacent to McCarron International Airport; Site 4 (37 acres)—North Las Vegas Business Center, North Las Vegas; Site 5 (526 acres)—AMPAC Development Company Business Park, Clark County; and Site 6 (10 acres)—within the 160-acre Las Vegas International Air Cargo Center (LVIACC) at McCarran International Airport, Clark County (A–40–91, 1/13/92).

NDA is now requesting authority to expand its general-purpose zone Site 6 to include the entire 160-acre LVIACC. The center is owned by the county and the Nevada International Trade Corporation is the designated zone operator at this site. The proposal also includes a request to restore zone status to a parcel (10 acres) that was deleted from the AMPAC site (Site 5) in 1992.

No manufacturing requests are being made at this time. Such approvals would be requested from the Board on a case-by-case basis.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 6, 1993. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 20, 1993).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, International Arrivals Building, P.O. Box 11049, Las Vegas, Nevada 89111

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: April 21, 1993.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 93–10742 Filed 5–6–93; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 16–93]

Foreign-Trade Zone 41—Milwaukee, WI; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign-Trade Zone of Wisconsin, Ltd., grantee of FTZ 41, requesting authority to expand its zone in the Milwaukee, Wisconsin, area, within the Milwaukee Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 22, 1993.

FTZ 41 was approved in 1978 (Board Order 136, 43 FR 46887; 10/11/78), and expanded in 1981 (Board Order 178, 46 FR 40718; 8/11/81) and in 1985 (Board Order 315, 50 FR 43749, 10/29/85). The zone project currently consists of 4 sites (200 acres): Site 1 (78,000 sq. ft.)—within the Ace World Wide Industrial Park, Milwaukee; Site 2 (120 acres)—West Allis Industrial Center, West Allis; Site 3 (50 acres)—Northwestern Industrial Park, Milwaukee; and, Site 4 (30 acres)—at Milwaukee's Mitchell International Airport. An application is currently pending with the Board requesting authority to delete Sites 3 and 4, to relocate Site 1 to a warehouse facility (210,500 sq. ft.) located at 1925 East Kelly Lane, Cudahy, Wisconsin, and to add a site (300 acres) at the Port of Milwaukee (FTZ Doc. 69–91, 56 FR 5751, 57 FR 45606, 58 FR 4147).

The applicant is now requesting authority to further expand the general-purpose zone to include an additional site (proposed new Site 4)—Milwaukee County Research Park (166 acres). The park is located at U.S. Highway 45 and Watertown Plank Road, Wauwatosa (Milwaukee County), Wisconsin, some 10 miles west of downtown Milwaukee. The park is owned by Milwaukee County and operated by the Milwaukee County Research Park Corporation, a non-profit corporation affiliated with the County.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties.

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Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 6, 1993. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 20, 1993.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 517 East Wisconsin Avenue, Room 606, Milwaukee, Wisconsin 53202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: April 21, 1993.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 93-10741 Filed 5-5-93; 8:45 am]

BILLING CODE 3510-DS-P

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings and suspension agreements with March anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 482-2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with §§ 353.22(a) and 355.22(a) of the Department's regulations, from interested parties as defined in §§ 353.2(k) and 355.2(i) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements, with March anniversary dates.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspension agreements. We intend to issue the final results of these reviews not later than March 31, 1994.

Antidumping duty proceedings and firms	Period to be reviewed
Bangladesh:	
Shop Towels:	
A-538-802	
Sonar Cotton Mills (Bangladesh) Ltd., Eagle Star Mills Ltd., Greylab (Bangladesh) Ltd., Khaled Textile Mills Ltd., Shabnam Textiles, Hashem Int	9/12/91-2/28/93
Germany:	
Brass Sheet and Strip:	
A-428-602	
Wieland-Werke AG	3/1/92-2/28/93
Japan:	
Stainless Steel Butt Weld Pipe Fittings:	
A-588-702	
Benkan Corporation	3/1/92-2/28/93
Thailand:	
Circular Welded Pipes and Tubes:	
A-549-502	
Saha Thai Steel Pipe Co.	3/1/92-2/28/93
Canada:	
Iron Construction Castings:	
A-122-503	
LaPerle Foundry, Inc., Penticton Foundry Ltd., Titan Foundry Ltd., Associated Foundry, Bibby Foundry, Ltd., Bibby Ste-Croix, Trojan Industries Inc., Wotherspoon Foundry Ltd., Titan Supply Ltd., Dobney Foundry Ltd., McCoy Foundry Co	3/1/92-2/28/93

Countervailing duty proceedings	Period to be reviewed
Brazil:	
Certain Castor Oil Products C-351-029	1/1/92-12/31/92
Cotton Yarn C-351-037	1/1/92-12/31/92
Mexico:	
Certain Textile Mill Products C-201-405	1/1/92-12/31/92
Netherlands:	
Standard Chrysanthemums C-421-601	1/1/92-12/31/92
Pakistan:	
Cotton Shop Towels C-535-001	1/1/92-12/31/92
South Africa:	
Ferrochrome C-791-001	1/1/92-12/31/92

Interested parties must submit applications for administrative protective orders in accordance with §§ 353.34(b) and 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 353.22(c)(1) and 355.22(c)(1) (1992).

Dated: April 26, 1993.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93-10739 Filed 5-5-93; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-820]

Preliminary Determination of Critical Circumstances: Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Kate Johnson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone: (202) 482-4929.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that critical circumstances exist in the investigation of certain compact ductile iron waterworks (CDIW) fittings and accessories thereof from the People's Republic of China (PRC) sold in the United States, as provided in section 733(e) of the Tariff Act of 1930, as amended (the Act).

Case History

Since our affirmative preliminary determination of sales at less than fair value, on February 3, 1993, (58 FR 8930, February 18, 1993), the following events have occurred. On February 24, 1993, the U.S. Waterworks Fittings Producer's Council and its individual members (Clow Water Systems, Tyler Pipe Industries, Inc., and Union Foundry Company), petitioners, requested a public hearing. On February 23, 1993 the Department extended the deadline for the final determination in this investigation until June 18, 1993 (58 FR 12220, March 3, 1993).

On March 3, 1993, the Department presented China National Metals Products Import and Export Corporation (CMP), a Chinese exporter which accounted for a significant portion of exports from the PRC to the United States, with a verification outline and scheduled the following verifications: (1) From April 6 through April 8, 1993, CMP's exporter's sales price (ESP) responses at the offices of CMP's related importer, Sigma Corporation, in Cream Ridge, New Jersey, and (2) from April 22 through May 3, 1993, in Beijing, PRC of CMP's factors of production and separate rates responses.

On March 19, 1993, petitioners submitted scope clarification comments to the Department concerning gaskets and T-head bolts. On March 30, 1993, CMP submitted supplemental information on the Chinese CDIW industry and a list of Chinese CDIW exporters and quantities exported annually with regard to the issue of separate rates.

On March 31, 1993, petitioners alleged that critical circumstances exist with regard to CMP's exports. On April 2, 1993, the Department requested information on CMP's exports with regard to petitioners' allegation of critical circumstances. On April 14, 1993, CMP submitted a revised Section C computer tape to the Department correcting errors in its reporting of cash discounts. On April 16, 1993, CMP submitted its response to our request for monthly export data to evaluate petitioners' critical circumstances complaint.

Scope of Investigation

The products covered by this investigation are (1) certain compact ductile iron waterworks fittings of 3 to 16 inches nominal diameter regardless of shape, including bends, tees, crosses, wyes, reducers, adapters, and other shapes, whether or not cement line, and whether or not covered with bitumen or similar substance, conforming to AWWA/ANSI specification C153/A21.53, and rated for water working pressure of 350 PSI; and (2) certain CDIW fittings accessories which typically consist of a standard ductile iron gland, a styrene butadiene rubber (SBR) gasket, the requisite number of Cor-Ten steel or ductile iron T-head bolts, and hexagonal nuts, for fittings in sizes 3 to 16 inches, conforming to American Water Works Association/American National Standards Institute (AWWA/ANSI) specification C111/A21.11, and rated for water working pressure of 350 PSI. Gaskets, bolts and nuts are only included if they are imported as an accessory pack with a gland. However, glands imported separately are included in the scope of investigation.

The types of CDIW fittings covered by this investigation are compact ductile iron mechanical joint waterworks fittings and compact ductile iron push-on joint waterworks fittings, both of which are used for the same applications. CDIW fittings are used to join water main pressure pipes, valves, or hydrants in straight lines, and change, divert, divide, or direct the flow of raw and/or treated water in piping systems. CDIW fittings attach to the pipe, valve, or hydrant at a joint and are used principally for municipal water distribution systems.

CDIW fittings accessories are used to join mechanical joint CDIW fittings to pipes. The accessories ensure the completeness of the seal between the CDIW fitting and pipe. Mechanical joint fittings must be used with CDIW accessories. Push-on fittings do not require CDIW accessories other than a SBR gasket.

CDIW fittings with nominal diameters greater than 16 inches, and the accessories used with CDIW fittings with nominal diameters greater than 16 inches, are specifically excluded from the scope of the investigation. Nonmalleable cast iron fittings (also called gray iron fittings) and full-bodied ductile fittings are also specifically excluded from the scope of this investigation. Nonmalleable cast iron fittings have little ductility and are generally rated only 150 to 250 PSI. Full-bodied ductile fittings have a longer body design than a compact fitting because in the compact design the straight section of the body is omitted to provide a more compact and less heavy fitting without reducing strength or flow characteristics. In addition, the full-bodied ductile fittings are thicker walled than the compact fittings. Full-bodied fittings are made of either gray iron or ductile iron, in sizes of 3 to 48 inches, conform to AWWA/ANSI specification C110/C21.10, and are rated to a maximum of only 250 PSI. In addition, compact ductile iron flanged fittings are excluded from the scope of this investigation, as they have significantly different characteristics and uses than CDIW fittings.

CDIW fittings are classifiable under subheading 7307.19.30.00, of the Harmonized Tariff Schedule of the United States (HTSUS). Standard ductile iron glands are classifiable under HTSUS subheading 7325.99.10.00, styrene butadiene rubber gaskets are classifiable under HTSUS subheading 4016.93.00.90, T-Head bolts of steel or ductile iron are classifiable under HTSUS subheading 7318.15.20.90, and hexagonal nuts are classifiable under HTSUS subheading 7318.16.00.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Critical Circumstances

On March 31, 1993, petitioners alleged that "critical circumstances" exist with respect to imports of the subject merchandise from the PRC. Section 733(e)(1) of the Act provides that the Department will determine whether there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported know or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and,

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Regarding requisite (A)(i) above, we normally consider whether there has been an antidumping order in the United States or elsewhere on the subject merchandise in determining whether there is a history of dumping. Regarding requisite (A)(ii) above, we normally consider margins of 25 percent or more for purchase price comparisons and 15 percent or more for exporter's sales price comparisons as sufficient to impute knowledge of dumping. Since the preliminary estimated dumping margin for all exporters of CDIW fittings and accessories from the PRC is in excess of 25 percent, we can impute

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knowledge of dumping under section 733(e) (1)(A)(ii) of the Act.

For purposes of determining whether there have been massive imports over a relatively short period of time, the Department did not consider the company specific data submitted by CMP on April 16, 1993, because CMP has not demonstrated that it qualifies for a separate rate (58 FR 8930, February 18, 1993). The Department lacked monthly, country-wide shipment data, due to the PRC government's failure to provide an adequate consolidated questionnaire response on behalf of all PRC producers and exporters. As a result, the Department was forced to assume, as best information available (BIA), that there have been massive imports over a relatively short period of time. Accordingly, we preliminarily find that critical circumstances do exist in this investigation.

We will announce the final determination of critical circumstances along with the final antidumping determination in this investigation on June 18, 1993.

Suspension of Liquidation

In accordance with sections 733(d)(1) and 733(e)(2) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of CDIW fittings and accessories thereof from the PRC, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after November 20, 1992, the date which is 90 days prior to date of publication of the affirmative preliminary determination in this proceeding.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination.

Public Comment

In accordance with 19 CFR 353.38, written comments regarding this preliminary critical circumstances determination, if any, should be included in the case briefs, which must be submitted to the Assistant Secretary for Import Administration no later than June 1, 1993, and rebuttal briefs which are due no later than June 8, 1993. In addition, five copies of a public version of case or rebuttal briefs should be submitted by the appropriate date if the submission contains business proprietary information. In accordance with 19 CFR 353.38(b), we will hold a public hearing, which has been requested by interested parties to afford an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held at 9:30 a.m. on June 10, 1993, at the U.S. Department of Commerce, room 1412, 14th Street and Constitution Avenue NW., Washington DC, 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)) and 19 CFR 353.16(b).

Dated: April 28, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–10740 Filed 5–5–93; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in China

April 30, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 30, 1993.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6703. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 611 and 835 are being increased for shift, reducing the limit for Categories 317/326 to account for the increases.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23 1992). Also see 57 FR 62304, published on December 30, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 30, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 23, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on April 30, 1993, you are directed to amend further the directive dated December 23, 1993 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the People's Republic of China:

Category	Adjusted twelve-month limit [1]
Levels not in a group	
317/326	18,162,532 square meters of which not more than 3,560,468 square meters shall be in Category 326.
611	5,190,606 square meters.
835	118,599 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–10618 Filed 5–6–93; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Hearing Schedule; Defense Base Closure and Realignment Commission

AGENCY: Defense Base Closure and Realignment Commission.

ACTION: Notice.

SUMMARY: Pursuant to Public Law 101–510, as amended, the Defense Base Closure and Realignment Commission publicly announces additions to the public hearing schedule.

The Commission will hold open, public hearings on Friday, May 21 and Saturday, May 22 to deliberate and vote on possible additional bases for consideration for closure and realignment. These hearings will be held in the Washington, DC area at a location and time to be determined. The May 22 hearing will be held only if all deliberations and votes could not be accomplished on May 21st.

The Commission may also deliberate and/or vote on one or more additional bases for consideration at any of the previously announced upcoming regional hearings at which there is a quorum.

FOR FURTHER INFORMATION: Mr. Tom Houston, Director of Communications at (703) 696–0504. Please contact the Commission to confirm any last-minute changes in dates, times and locations of all upcoming hearings.

Dated: May 3, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison, Department of Defense.

[FR Doc. 93–10678 Filed 5–5–93; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Tactical Aircraft Review

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Tactical Aircraft Review will meet in closed session on May 19, 1993 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Director, Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review and critique outputs generated by the USD(A) Bottoms-Up Tactical Aircraft Review, and provide advice, on an as-needed basis, to the USD(A) in the conduct of the overall Bottoms-Up Review.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. app. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: May 3, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–10675 Filed 5–5–93; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Joint Precision Interdiction (JPI)

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Joint Precision Interdiction (JPI) will meet in closed session on May 20, 1993 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Director, Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review acquisition strategies needed for an optimum family of surveillance, reconnaissance, and target acquisition systems, C3I systems and weapon systems required to perform the JPI mission.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: May 3, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–10676 Filed 5–5–93; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Defense Acquisition Reform (Phase I)

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Defense Acquisition Reform (Phase I) will meet in closed session on May 5, May 10, May 24–25, June 2, June 15–16, and June 29–30, 1993 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Director, Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will define the scope and method for proceeding with a comprehensive modification to the process by which the Department of Defense acquires goods and services.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. app. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1986), and that accordingly this meeting will be closed to the public.

Dated: May 3, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–10677 Filed 5–5–93; 8:45 am]

BILLING CODE 5000–04–M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, June 1, 1993; Tuesday, June 8, 1993; Tuesday, June 15, 1993; Tuesday, June 22, 1993; and Tuesday, June 29, 1993, at 2 p.m. in room 800, Hoffman Building #1, Alexandria, Virginia.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of

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an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, room 3D264, The Pentagon, Washington, DC 20310.

Dated: May 3, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-10673 Filed 5-5-93; 8:45 am]

BILLING CODE 5000-04-M

Per Diem, Travel and Transportation Allowance Committee; Changes in Per Diem Rates

AGENCY: Per Diem Rates, Per Diem, Travel and Transportation Allowance Committee, DOD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 168. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. Bulletin Number 168 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: 1 May 1993.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued effective 1 June 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

Locality	Maximum lodging amount (A)	+	M&IE rate (B)	=	Maximum per diem rate (C)	Effective date
Alaska:						
Adak [5]	$10		$34		$44	10-01-91
Anaktuvuk Pass	83		57		140	12-01-90
Anchorage:						
05-15—09-15	174		71		245	05-15-93
09-16—05-14	81		66		147	12-01-92
Aniak	73		36		109	07-01-91
Atqasuk	129		86		215	12-01-90
Barrow	86		73		159	06-01-91
Bethel	82		64		146	01-01-93
Bettles	65		45		110	12-01-90
Cold Bay	71		54		125	12-01-90
Coldfoot	95		59		154	10-01-92
Cordova	66		77		143	12-01-92
Craig	67		35		102	07-01-91
Dillingham	76		38		114	12-01-90
Dutch Harbor-Unalaska	113		67		180	05-05-92
Eielson AFB:						
05-15—09-15	100		66		166	05-15-93
09-16—05-14	65		67		132	12-01-92
Elmendorf AFB:						
05-15—09-15	174		71		245	05-15-93
09-16—05-14	81		66		147	12-01-92
Fairbanks:						
05-15—09-15	100		66		166	05-15-93
09-16—05-14	65		67		132	12-01-92
False Pass	80		37		117	06-01-91
Ft. Richardson:						
05-15—09-15	174		71		245	05-15-93
09-16—05-14	81		66		147	12-01-92
Ft. Wainwright:						
05-15—09-15	100		66		166	05-15-93
09-16—05-14	65		67		132	12-01-92
Homer:						
05-01—09-30	71		60		131	05-01-93
10-01—04-30	53		62		115	12-01-92
Juneau:						
05-01—10-01	88		74		162	05-01-92

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

Locality	Maximum lodging amount (A)	+	M&IE rate (B)	=	Maximum per diem rate (C)	Effective date
10-02—04-30	75		73		148	01-01-92
Katmai National Park	89		59		148	12-01-90
Kenai-Soldotna:						
04-02—09-30	94		68		162	04-02-93
10-01—04-01	57		66		123	12-01-92
Ketchikan:						
05-14—10-14	77		61		138	05-14-93
10-15—05-13	68		71		139	12-01-92
King Salmon [3]	75		59		134	12-01-90
Klawock	75		36		111	07-01-91
Kodiak	71		61		132	01-01-92
Kotzebue	133		87		220	05-01-93
Kuparuk Oilfield	75		52		127	12-01-90
Metlakatla	79		44		123	07-01-91
Murphy Dome:						
05-15—09-15	100		66		166	05-15-93
09-16—05-14	65		67		132	12-01-92
Nelson Lagoon	102		39		141	06-01-91
Noatak	133		87		220	05-01-93
Nome	71		58		129	01-01-93
Noorvik	133		87		220	05-01-93
Petersburg	72		64		136	05-01-92
Point Hope	99		61		160	12-01-90
Point Lay [6]	106		73		179	12-01-90
Prudhoe Bay-Deadhorse	64		57		121	12-01-90
Sand Point	75		36		111	07-01-91
Seward:						
05-01—09-30	107		53		160	05-01-92
10-01—04-30	61		48		109	01-01-92
Shungnak	133		87		220	05-01-93
Sitka-Mt. Edgecombe	72		69		141	01-01-92
Skagway:						
05-14—10-14	77		61		138	05-14-93
10-15—05-13	68		71		139	12-01-92
Spruce Cape	71		61		132	01-01-92
St. George	100		39		139	06-01-91
St. Paul Island	81		34		115	12-01-90
Tanana	71		58		129	01-01-93
Tok	48		55		103	12-01-92
Umiat	97		63		160	12-01-90
Valdez:						
05-01—09-01	98		53		151	05-01-93
09-02—04-30	82		70		152	12-01-92
Wainwright	90		75		165	12-01-90
Walker Lake	82		54		136	12-01-90
Wrangell:						
05-14—10-14	77		61		138	05-14-93
10-15—05-13	68		71		139	12-01-92
Yakutat	70		40		110	12-01-90
Other [3 4 6]	63		48		111	01-01-93
American Samoa	85		47		132	12-01-91
Guam	155		75		230	05-01-93
Hawaii:						
Island of Hawaii: Hilo	65		61		126	06-01-92
Island of Hawaii: Other	80		61		141	06-01-92
Island of Kauai	99		55		154	06-01-92
Island of Kure [1]	.....		13		13	12-01-90
Island of Maui	79		64		143	06-01-92
Island of Oahu	105		55		160	06-01-92
Other	59		47		106	12-01-90
Johnston Atoll [2]	20		20		40	10-01-92
Midway Islands [1]	.....		13		13	12-01-90
Northern Mariana Islands:						
Rota	68		55		123	01-01-93
Saipan	100		69		169	01-01-93
Tinian	50		55		105	01-01-93
Other	20		13		33	12-01-90

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MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

Locality	Maximum lodging amount (A)	+	M&IE rate (B)	=	Maximum per diem rate (C)	Effective date
Puerto Rico:						
Bayamon:						
04–16—12–14	93		67		160	08–01–92
12–15—04–15	116		69		185	12–15–92
Carolina:						
04–16—12–14	93		67		160	08–01–92
12–15—04–15	116		69		185	12–15–92
Fajardo (including Luquillo):						
04–16—12–14	90		57		147	08–01–92
12–15—04–15	134		61		195	12–15–92
Ft. Buchanan (including GSA Service Center, Guaynabo):						
04–16—12–14	93		67		160	08–01–92
12–15—04–15	116		69		185	12–15–92
Mayaguez	85		65		150	08–01–92
Ponce	106		65		171	08–01–92
Roosevelt Roads:						
04–16—12–14	90		57		147	08–01–92
12–15—04–15	134		61		195	12–15–92
Sabana Seca:						
04–16—12–14	93		67		160	08–01–92
12–15—04–15	116		69		185	12–15–92
San Juan (including San Juan Coast Guard units):						
04–16—12–14	93		67		160	08–01–92
12–15—04–15	116		69		185	12–15–92
Other	63		52		115	08–01–92
Virgin Islands of the U.S.:						
05–02—12–15	100		68		168	08–01–92
12–16—05–01	144		73		217	12–16–92
Wake Island [2]	4		17		21	12–01–90
All other localities	20		13		33	12–01–90

Footnotes:
[1] Commercial facilities are not available. The meal and incidental expense rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.
[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.
[3] On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $19.65 is prescribed to cover meals and incidental expenses at Shemya AFB, Clear AFS, Galena APT and King Salmon APT. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.
[4] On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $34 is prescribed to cover meals and incidental expenses at Amchitka Island, Alaska. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $10 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.
[5] On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $25 is prescribed instead of the rate prescribed in the table. This rate will be increased by the amount paid for U.S. Government or contractor quarters.
[6] The meal rates listed below are prescribed for the following locations in Alaska: Cape Lisburne RRL, Cape Newenham RRL, Cape Romanzof APT, Fort Yukon RRL, Indian Mtn RRL, Sparrevohn RRL, Tatalina RRL, Tin City RRL, Barter Island AFS, Point Barrow AFS, Point Lay AFS and Oliktok AFS. The amount to be added to the cost of government quarters in determining the per diem will be $3.50 plus the following amount:

	Daily rate
DOD Personnel	$13
Non-DOD Personnel	30

Dated: May 3, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–10674 Filed 5–5–93; 8:45 am]

BILLING CODE 5000–04–M

Government-Owned Invention; Availability for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice of availability of invention for licensing.

SUMMARY: An undivided interest in the invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is made available for licensing by the Department of the Navy.

Request for copies of the patent application should be directed to the Office of Naval Research (Code OOCCIP), Ballston Tower 1, 800 North Quincy Street, Arlington, Virginia 22217–5660 and must include the application serial number.

DATES: May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research (Code OOCCIP), 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Patent Application Serial No. 08/018,394 entitled Titanium Alloy For Plate Applications, filed February 17, 1993.

Dated: April 28, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–10613 Filed 5–5–93; 8:45 am]

BILLING CODE 3810–AE–M

Department of the Navy

CNO Executive Panel; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Domestic Issues Task Force, will meet May 20-21, 1993, from 9 a.m. to 5 p.m., at Headquarters of U.S. Pacific Fleet Training Command, Point Loma, California, and the Navy Training Center/Recruit Training Command, San Diego, California.

The purpose of this meeting is to continue efforts to examine trends for future training of naval personnel, particularly in terms of managing the diversity of the future naval force. The agenda of the meeting will consist of visits to training centers in San Diego and discussions with key personnel in the training chain of command.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, VA 22302-0268, Telephone (703) 756-1205.

Dated: April 28, 1993.

Michael P. Rummel

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-10617; Filed 5-5-93; 8:45 am]

BILLING CODE 3810-AE-F

CNO Executive Panel; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel National Security Task Force, will meet May 25-26, 1993, from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia.

The purpose of this meeting is to provide framework for the place of Naval Forces in U.S. national security in the future. The entire agenda for the meeting will consist of discussion of key issues regarding the future threat assessment.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the Executive Panel; 4401 Ford Avenue, suite 601, Alexandria, VA 22302-0268, Telephone (703) 756-1205.

Dated: April 28, 1993.

Michael P. Rummel

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-10614 Filed 5-5-93; 8:45 am]

BILLING CODE 3810-AE-F

Naval Research Advisory Committee; Partially Closed Meeting

Notice was published April 20, 1993, at 58 FR 21297 that the Naval Research Advisory Committee on Defense Conversion will meet on May 6-7, 1993, at the Office of Naval Research, 800 North Quincy Street, Arlington, Virginia. The meeting has been canceled.

Dated: May 3, 1993.

Saundra K. Melancon,

Alternate Federal Register Liaison Officer.

[FR Doc. 93–10842 Filed 5–5–93; 8:45 am]

BILLING CODE 3810–AE–F

DEPARTMENT OF ENERGY

Federal Assistance Award to Air Products and Chemicals, Inc.

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7, is announcing its intention to add additional effort to cooperative agreement DE–FC07–89ID12779 currently in place with Air Products and Chemicals Inc. (AP) for development of an active transport membrane device for separation of industrial gasses.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, Colorado 80401, Attention: M.A. Barron, Contract Specialist. The Contracting Officer is Dr. Paul K. Kearns.

SUPPLEMENTARY INFORMATION: DOE provided financial assistance to AP to develop active transport membranes for separation of specific industrial gasses. During the first phase, several active transport membranes were developed and tested at the coupon scale and in spiral wound configurations. DOE intends to provide assistance to AP to develop active transport membranes in the hollow fiber configuration. DOE intends to restrict eligibility to AP for this research through development of hollow fiber configurations.

DOE funding for the proposed activity is estimated to be $765,000 and AP's share is estimated to be $235,000 for a total of $1,000,000 over a one year project period.

Issued in Chicago, Illinois, on April 19, 1993.

Johnnie D. Greenwood,

Director, Contracts Division.

[FR Doc. 93–10737 Filed 5–5–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Assistance Award to Bariess Associates

AGENCY: Department of Energy.

ACTION: Notice of financial assistance award in response to an unsolicited financial assistance application.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14, is announcing its intention to enter into a cooperative agreement with Bariess Associates for transfer of newly developed sensor technologies to the paper industry.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, Colorado 80401, Attention: M. A. Barron, Contract Specialist. The Contracting Officer is Paul K. Kearns.

SUPPLEMENTARY INFORMATION: Over the past 12 years DOE's Office of Industrial Processes (OIP) and the Small Business Innovative Research (SBIR) programs have funded sensor and control development projects specific to the pulp and paper industry. Unfortunately, many are not being utilized or are underutilized by the paper industry. In most cases the principal reason for underutilization is that mill operators are unaware of potential improvements offered by the sensors. A demonstration program led by a recognized authority on sensors in the paper industry will gain the attention of the potential users.

The participant will select sensors, seek out users willing and able to undertake demonstration projects at their plant, monitor the demonstrations, note and correct any problems encountered in achieving meaningful evaluations, assist in documenting the demonstrations, and make results known to the broader user community.

The total project is estimated to cost $1,000,000 of which $150,000 will be provided by DOE and $850,000 will be provided by sensor manufacturers, pulp and paper companies, and suppliers of equipment to the paper industry.

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Issued in Chicago, Illinois, on April 19, 1993.

Johnnie D. Greenwood,

Director, Contracts Division.

[FR Doc. 93-10731 Filed 5-5-93; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award Intent To Award A Noncompetitive Grant to Benedict College

AGENCY: Savannah River Operations Office, DOE.

ACTION: Notice.

SUMMARY: The DOE announces that it plans to accept an unsolicited proposal and award a grant to Benedict College, Harden and Blanding Streets, Columbia, South Carolina. The grant "Summer Mathematics and Science Enrichment Program," will be awarded for a six-month period with DOE support of $72,643, and cost sharing by Benedict $10,138. Pursuant to 10 CFR 600.7(b) and 600.14, eligibility for this award has been limited to Benedict College as a result of acceptance of their unsolicited proposal, and DOE has determined that award of a grant is appropriate.

FOR FURTHER INFORMATION CONTACT: Elizabeth T. Martin, Prime Contracts and Financial Assistance Branch, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802, Telephone: (803) 725-2191.

SUPPLEMENTARY INFORMATION:

Procurement Request Number: 09-93SR18323.000

Project Scope: The objective of this program is to identify, motivate, and begin preparation of students for science-based careers. The proposed program will offer a six-week communication-based science and mathematics enrichment program for 60 youths in grades 4 through 8 during the summer 1993. The participants in this program will be among those underrepresented in science-based careers (minorities and females). This program will provide to participants and their parents assistance in acquiring basic communication, computation and reasoning skills, as well as exposure to a variety of science-based careers through field trips and the use of role models.

Benedict College is a Historically Black College or University (HBCU) and falls within the meaning and intent of Executive Orders 12320 and 12677 pertaining to Government assistance to HBCUs. The participation of HBCUs in federally supported programs is relatively limited. In order to overcome some of these limitations, the Executive Orders directed federal agencies to increase the participation of HBCUs in federally-funded programs and to strengthen their capabilities to provide quality education. This award represents an effort to strengthen the HBCU community. The program proposed in the application is considered meritorious, and the activities to be carried out under this award would not be eligible for financial assistance under any recent, current, or planned solicitation. Based on documentation presented and appropriate evaluation, it is determined to be in the best interest of DOE to award a grant to Benedict College.

Issued in Aiken, South Carolina, on April 27, 1993.

Robert E. Lynch,

DOE Savannah River Operations Office, Head of Contracting Activity.

[FR Doc. 93-10735 Filed 5-5-93; 8:45 am]

BILLING CODE 6450-01-M

Federal Assistance Award to University of Florida

AGENCY: Department of Energy.

ACTION: Notice of financial assistance award in response to an unsolicited financial assistance application.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14, is announcing its intention to enter into a cooperative agreement with the University of Florida for development of on-line viscometers for kraft black liquor in paper mills.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, Colorado 80401, Attention: M. A. Barron, Contract Specialist. The Contracting Officer is Paul K. Kearns.

SUPPLEMENTARY INFORMATION: The project is aimed at improving the efficiency of recovery boilers which burn black liquor from the kraft pulping process in paper making.

The boilers recover chemicals and produce process steam or power for use in the plant. The University of Florida will be working with viscometer manufacturers, equipment manufacturers, and the paper industry to develop on-line viscometers and associated controls. The goal is to sufficiently increase system accuracy and reliability to allow recovery boiler operators to increase solids concentrations in the black liquor without danger of fouling the concentrator, evaporator, and boiler equipment. Success in the endeavor will allow an increase in the flow of black liquor through the recovery system and allow the boiler to deliver more heat and/or power to the mill.

The total project is estimated to cost $1,165,000 of which $315,000 will be provided by the participant and the paper industry, and $85,000 will be provided by DOE.

Issued in Chicago, Illinois, on April 19, 1993.

Johnnie D. Greenwood,

Director, Contracts Division.

[FR Doc. 93-10733 Filed 5-5-93; 8:45 am]

BILLING CODE 6450-01-M

Acceptance of an Unsolicited Application From the University of Maryland

AGENCY: Department of Energy.

ACTION: Notice of acceptance of an unsolicited application.

SUMMARY: The Department of Energy (DOE), DOE Chicago Operations Office, announces that pursuant to the DOE Financial Assistance Rule, 10 CFR 600.14(f), it intends to award a grant based on the acceptance of an unsolicited application to the University of Maryland at College Park. The objective of the work provided by this grant is to quantify the potential Electrohydrodynamic (EHD) technique for heat transfer enhancement of in-tube condensation and in-tube evaporation processes of selected ozone-safe refrigerants and refrigerant mixtures.

FOR FURTHER INFORMATION CONTACT: Esher R. Kweller, CE-422, Department of Energy, Office of Building Technologies, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586-9136.

SUPPLEMENTARY INFORMATION: The University of Maryland at College Park has the necessary personnel, facilities, and other resources to fully perform the work set forth in the grant. Currently, this university is the only known group that has ongoing research specially in the EHD augmentation of heat transfers in heat exchanger. Within the last six years the university has maintained a comprehensive computer search of EHD-enhancement technology world-wide an the state-of-the-art equipment for use in EHD and Chlorofluorocarbons (CFC) substitute research. This University also developed a unique and innovative theoretical computer models to analyze the effects of new EHD configuration and effects. This application is meritorious based on the general evaluation that it will support a DOE mission for the research and development of highly efficient alternatives to, and substitutes for, environmentally harmful CFC and CFC-dependent equipment used in refrigeration application and that it is relevant to the general public purpose of support in the areas of reducing the effects of stratospheric ozone depletion. This application represents unique and innovative idea, method and approach which would not be eligible for financial assistance under a recent, current, or planned solicitation, and, DOE has determined that, a competitive solicitation would be inappropriate. The project period for this grant is a one year period expected to begin May 1, 1993. DOE plans to provide funding in the amount of $115,000.00 for this project period.

Issued in Chicago, Illinois on April 20, 1993.

Johnnie D. Greenwood,

Director, Contracts Division.

[FR Doc. 93-10734 Filed 5-5-93; 8:45 am]

BILLING CODE 6450-01-M

Weatherization Assistance Program (WAP), Region VII Technical Working Group (TWG) Project; Availability of Funding

AGENCY: Department of Energy.

ACTION: Notice of availability of funding.

SUMMARY: This document announces the issuance of a Program Solicitation No. DE-FG47-93R701312 by the Department of Energy, Kansas City Support Office (KCSO). The solicitation invites grant application from State WAP grantees located in Federal Region VII (Iowa, Kansas, Missouri & Nebraska) for funding of a project in support of the WAP.

ADDRESSES: Department of Energy, Kansas City Support Office, 911 Walnut, 14th Floor, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Cynthia A. King, Grants Management Division, (816) 426-3815; Patrick G. Lana, Grants Management Division, (816) 426-3815.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Department of Energy—Kansas City Support Office (KCSO) is making funds available as part of its Weatherization Assistance Program (WAT) Training and Technical Assistance (T&TA) Program.

The area for which the KCSO is seeking a grant proposal is the Region VII Technical Working Group project.

II. Eligible Grantees

Eligible grantee are the WAP state grantees located in the area serviced by the DOE-KCSO (Iowa, Kansas, Missouri & Nebraska).

III. Eligible Activities

The grant issued pursuant to this Notice is limited to the Technical Working Group Project.

Application Procedures

The Program Solicitation and Grant Applications have been provided to each state WAP grantee in the KCSO area and must be received no later than May 15, 1993. Application content and evaluation criteria are set forth in the Program Solicitation.

It is anticipated that the grant award will be issued by July 1, 1993.

Issued in Chicago, IL on April 26, 1993.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 93-10732 Filed 5-5-93; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 2113-022, 2212-001, 2239-004, 2255-003, 2256-001, 2291-001, 2292-001, 2476-001, 2590-001 WI/MI]

Wisconsin Valley Improvement Co., et al.; Intent to Prepare an Environmental Impact Statement

April 30, 1993.

In the matter of: Wisconsin Valley Improvement Co., Weyerhaeuser Paper Co., Tomahawk Power & Pulp Co., Nekoosa Papers, Inc., Consolidated Water Power Co., Wisconsin Public Service Corp.

The Federal Energy Regulatory Commission (FERC) has received applications for new license for the Wisconsin Valley Project No. 2113, Rothschild Project No. 2212, Kings Dam Project No. 2239, Centralia Project No. 2255, Wisconsin Rapids Project No. 2256, Port Edwards Project No. 2291, Nekoosa Project No. 2292, Jersey Project No. 2476, and Wisconsin River Division Project No. 2590 located on the Wisconsin River and its tributaries in Vilas, Wood, Oneida, Forest, Portage, Marathon, and Lincoln Counties, Wisconsin, and Gogebic County, Michigan.

The FERC staff has determined that issuing new licenses for these projects would constitute a major federal action significantly affecting the quality of the human environment. Therefore, the staff intends to prepare an environmental impact statement (EIS) on the hydroelectric projects in accordance with the National Environmental Policy Act. The staff's EIS will objectively consider both site specific and cumulative environmental effects of the projects and reasonable alternatives, and will include an economic, financial and engineering analysis.

A draft EIS will be issued and circulated for review by all interested parties. All comments filed on the draft EIS will be analyzed by the staff and considered in a final EIS. The staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decisions. Pubic and agency scoping meetings will be held at a future date to be announced.

For further information, please contact Michael Dees at (202) 219-2807.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10639 Filed 5-5-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-45-004]

ANR Pipeline Co.; Report of Refunds

April 30, 1993.

Take notice that on April 7, 1993, ANR Pipeline Company (ANR) tendered for filing with the Federal Energy Regulatory Commission (Commission) its report of refunds made in compliance with Section 1. of the Offer of Settlement dated July 28, 1992, and approved by the Commission's October 26, 1992 Order issued in Docket No. RP92-45-001. ANR states that the report summarizes repayment amounts ANR made on March 9, 1993, to High Island Offshore System (HIOS).

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on the file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10652 Filed 5-5-93; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. TM93-5-48-000]

ANR Pipeline Co.; Compliance Filing

April 30, 1993.

Take notice that on April 27, 1993, ANR Pipeline Company ("ANR") tendered for filing the following revised tariff sheets, to be effective April 1, 1993, to ANR's FERC Gas Tariff, First Revised Volume No. 1:

Second Revised Sheet No. 7
Second Revised Sheet No. 8
Second Revised Sheet No. 9
Second Revised Sheet No. 10
Second Revised Sheet No. 11
Second Revised Sheet No. 12
Second Revised Sheet No. 13
Second Revised Sheet No. 14
Second Revised Sheet No. 15

ANR states that the above-referenced tariff sheets are being submitted in compliance with the Commission's order on September 30, 1992, to show the monthly billing applicable to each eligible customer's allocable percentages of total effective transportation and sales entitlements, resulting from the Dakota Gasification Company capacity costs from ANR firm transportation and sales customers. ANR states that the revised tariff sheets reflect the percentages based on such entitlements in effect as of April 1, 1993.

ANR states that copies of the filing have been served to all parties in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10640 Filed 5-5-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP93-316-000]

Arkla Energy Resources, a Division of Arkla, Inc.; Request Under Blanket Authorization

April 30, 1993.

Take notice that on April 26, 1993, Arkla Energy Resources (AER), a division of Arkla, Inc. (Arkla), Post Office Box 21734, Shreveport, Louisiana 71151, filed a prior notice request with the Commission in Docket No. CP93-316-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate two sales taps and related facilities for the delivery of natural gas to Arkansas Louisiana Gas Company (ALG), under AER's blanket certificates issued in Docket Nos. CP82-384-000 and CP82-384-001, all as more fully set forth in the application which is open to public inspection.

AER proposes to construct and operate a two-inch sales tap in Logan County, Arkansas, and a one-inch sales tap in Pope County, Arkansas, for initial service to six ALG domestic customers. AER would delivery up to 6 Mcf of natural gas per peak day and 505 Mcf annually for ALG's account via these taps. ALG would reimburse AER for the taps' estimated $5,700 construction costs.

AER states that it has adequate system gas supplies to provide the proposed service for ALG.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the date after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10649 Filed 5-5-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP93-306-000]

Caprock Pipeline Co.; Application

April 30, 1993.

Take notice that on April 20, 1993, Caprock Pipeline Company (Caprock), 333 Clay Street, suite 2000, Houston, Texas 77002-9817, filed in Docket No. CP93-306-000, an application requesting permission and approval to abandon certain facilities and services necessary to effectuate ultimate delivery of gas to Pioneer Natural Gas Company (Pioneer) and El Paso Natural Gas Company (El Paso), to construct and operate certain facilities necessary for the delivery of gas to Pioneer and El Paso, and to operate various NGPA section 311 facilities as NGA section 7(c) facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Caprock proposes to abandon certain facilities, including 4.2 miles of 3 and 4-inch pipeline and a compressor station, and specific transportation services in the Texas counties of Terry, Carson, Moore, Gaines, and Yoakum. Caprock indicates that the services have either ceased or the facilities used for the services are no longer required as the reason for abandoning these facilities and services.

Caprock also requests authorization to construct and operate approximately 240 feet of 10-inch pipeline and to install a tap and meter station on the western end of its system that connects with the facilities of El Paso. Caprock indicates that this construction is necessary to permit the reverse flow of gas from El Paso to the American Gas Storage, L.P. storage field.

Caprock also requests authorization to operate the Beckham-Wheeler pipeline facility originally constructed under section 311 (a)(1) of the NGPA in order to offer future services under Order No. 636.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate, and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Caprock to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10644 Filed 5-5-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ93-7-63-000, TM93-7-63-000]

Carnegie Natural Gas Co; Proposed Changes in FERC Gas Tariff

April 30, 1993.

Take notice that on April 28, 1993, Carnegie Natural Gas Company (Carnegie) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, with a proposed effective date of May 1, 1993:

Forty-Third Revised Sheet No. 8
Forty-Third Revised Sheet No. 9

Carnegie states that pursuant to § 154.308 of the Commission's regulations and sections 23 and 26 of the General Terms and Conditions of its FERC Gas Tariff, it is filing a combined Out-of-Cycle Purchased Gas Adjustment ("PGA") and Transportation Cost Adjustment ("TCA") to reflect updated projections affecting the average commodity cost of purchased gas to be incurred by Carnegie for May 1993. Carnegie states that this filing was necessitated by a substantial and unanticipated increase in the price of spot gas supplies available during May 1993, as compared to the projected cost of purchased gas reflected in Carnegie's most recent PGA filed in Docket No. TQ93-6-63-000 on March 30, 1993.

Carnegie states that the above revised tariff sheets reflect a commodity rate increase of $0.5102 per Dth under Rate Schedules CDS, LVWS, and SEGSS, as compared to the rates filed in Carnegie's last fully-supported PGA in Docket No. TQ93-6-3-000, in March 30, 1993, reflecting an increase in Carnegie's average commodity cost of purchased gas from $2.2303 per Dth to $2.7405 per Dth. The revised tariff sheets also reflect a decrease in the TCA charge of $0.0421 per Dth, from $0.2033 per Dth to $0.1612 per Dth, as measured against Carnegie's last TCA in Docket No. TM93-6-63-000, filed on March 30, 1993.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10646 Filed 5-5-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ93-7-23-000]

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 30, 1993.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on April 28, 1993 certain revised tariff sheets included in Appendix A attached to the filing. Such sheets are proposed to be effective May 1, 1993.

ESNG states that the tariff sheets are being filed pursuant to § 154.308 of the Commission's regulations and sections 21.2 and 21.4 of the General Terms and Conditions of ESNG's FERC Gas Tariff to reflect changes in ESNG's jurisdictional rates. The increased gas costs in this instant filing are a result of higher prices being paid to producers/suppliers under ESNG's market-responsive gas supply contracts.

The sales rates set forth in the above referenced tariff sheets reflect an increase of $.7413 per dt in the commodity rate.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR § 385.211 and § 385.214). All such motions or protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10647 Filed 5-5-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-105-000]

National Fuel Gas Supply Corp.; Petition for Waiver of Certain Part 260 Reporting Requirements

April 30, 1993.

Take notice that on April 28, 1993, National Fuel Gas Supply Corporation ("National") filed a Petition For Waiver of Certain part 260 Reporting Requirements. National seeks a waiver of the requirement to file Forms 15 and 16 on an annual basis. National submits that, following the unbundling of pipeline services pursuant to Order No. 636, the information required by these forms will no longer be necessary.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on

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file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10638 Filed 5–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–53–009]

Panhandle Eastern Pipe Line Co.; Report of Refunds

April 30, 1993.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on April 14, 1993, tendered for filing with the Federal Energy Regulatory Commission (Commission) a refund report in compliance with a Settlement Agreement (Settlement) dated July 10, 1991, which was approved by Commission orders dated August 2, 1991 and September 25, 1991.

Panhandle states that a Commission letter order dated June 11, 1992, permitted it to delay paying a refund due Columbia Gas Transmission Corporation (Columbia), until the effectiveness of the Settlement with respect to Columbia was confirmed by the Bankruptcy Court overseeing Columbia's Chapter 11 reorganization. Panhandle notes that on January 6, 1993, the Bankruptcy Court issued an order which established a Restricted Investment Account for refunds related to pre-petition periods.

Panhandle states that on April 14, 1993, it paid Columbia $17,194,033.68, which represents the amount which was not paid to Columbia on December 16, 1991 of $15,742,272.82 plus interest through April 14, 1993 calculated in accordance with § 154.67 of the Commission's regulations.

Panhandle states that copies of the letter has been sent to Columbia.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's rules of Practice and Procedure 18 CFR 385.211. All such protest should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10653 Filed 5–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP85–203–015]

Panhandle Eastern Pipe Line Co.; Refund Report

April 30, 1993.

Take notice that on April 14, 1993, Panhandle Eastern Pipe Line Company (Panhandle) filed a report of a refund paid to Columbia Gas Transmission Corporation (Columbia) in compliance with Commission order issued February 11, 1993, which approved a settlement dated February 6, 1992.

Panhandle states that on April 14, 1993, it paid Columbia $11,852,277, inclusive of principal and interest, representing the final resolution of any remaining disputed production-related costs applicable to Columbia under Commission Order Nos. 94 and 473.

Panhandle states that copies of the letter has been sent to Columbia.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10643 Filed 5–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–204–000]

South Georgia Natural Gas Co.; Technical Conference

April 30, 1993.

In the Commission's letter order issued on August 14, 1992, in the above-captioned proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened. The conference to address the issues has been scheduled for Tuesday, May 18, 1993, at 11 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

The matters to be addressed at this conference include the following:

1. Explanation of the mechanics of the monthly tracking mechanism for fuel proposed by South Georgia.

2. Any proposed alternatives, such as a tracker, for changes in fuel/line loss reimbursement.

3. Discussion of the relationship between the tariffs of South Georgia and Southern Natural Gas Company related to penalties and fuel use.

4. Any considerations of a balancing agreement between South Georgia and Southern Natural to ameliorate potential for penalties.

All interested persons and Staff are permitted to attend. Any questions concerning this matter should be addressed to Harris Wood, (202) 208–0696.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10650 Filed 5–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–164–007]

Tarpon Transmission Co.; Compliance Tariff Filing

April 30, 1993.

Take notice that on April 7, 1993, Tarpon Transmission Company ("Tarpon") tendered for filing with the Commission as part of its FERC Gas Tariff, Original Volume No. 1, Tenth Revised Sheet No. 2A and Original Sheet No. 2E, proposed to be effective on November 1, 1992.

Tarpon states that these tariff sheets are filed in compliance with the Commission's order of February 4, 1993 (*Tarpon Transmission Co.*, 62 FERC ¶ 61,114 (1993)), approving an uncontested Offer of Settlement filed by Tarpon on November 3, 1992. Tenth Revised Sheet No. 2A sets forth the settlement rates for Tarpon's Part 284 "open access" interruptible transportation service and Original Sheet No. 2E sets forth the settlement rates for Tarpon's Part 284 "open access" firm transportation service.

Tarpon has requested that the Commission waive its Regulations to the extent necessary to permit this compliance tariff filing to be come effective on November 1, 1992.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10642 Filed 5–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–164–006]

Tarpon Transmission Co.; Report of Refunds

April 30, 1993.

Take notice that on April 7, 1993, Tarpon Transmission Company (Tarpon) filed a refund report with the Federal Energy Regulatory Commission (Commission) in accordance with Section 2.5 of the Stipulation and Agreement (settlement) approved by the Commission's February 4, 1993 order, *Tarpon Transmission Co.*, 62 FERC ¶ 61,114 (1993).

Tarpon states that it has made refunds (with interest) to its customers of the difference between Tarpon's filed rate of 14.81 cents per Mcf and the settlement rate of 11.84 cents per Mcf, (both exclusive of the ACA charge) as approved by the Commission in the above-referenced order for the period from November 1, 1992 through December 31, 1992.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10654 Filed 5–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–319–000]

Tennessee Gas Pipeline Co.; Application

April 30, 1993.

Take notice that on April 28, 1993, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP93–319–000 an application pursuant to section 7(b) of the Natural Gas Act for Authorization to abandon a certificated transportation service for Columbia Gas Transmission Company (Columbia Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee seeks authorization to abandon a certificated transportation service for Columbia Gas currently on file as Tennessee's Rate Schedule T–71. Tennessee states that the service was authorized by order issued August 3, 1978, in Docket No. CP78–197 and provided that Tennessee transport gas attributable to Columbia Gas for redelivery to the system of Columbia Gulf Transmission Company at an existing point of interconnect with Tennessee's system near Chalkley, Cameron Parish, Louisiana. Tennessee indicates that Columbia Gas has requested that the service under Rate Schedule T–71 be terminated. No abandonment of facilities is proposed.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10645 Filed 5–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–104–000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 30, 1993.

Take notice that Texas Gas Transmission Corporation (Texas Gas), on April 27, 1993, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 2–A:

First Revised Sheet No. 104
Original Sheet No. 104–A

Texas Gas states that these proposed revised tariff sheets provide its Customers with an additional option, both during the term of a transportation agreement and at the termination of a transportation agreement, to eliminate transportation imbalances by electing to "trade" imbalances with another Customer. Such imbalance "trades" would be negotiated between Customers and would allow Customers having positive imbalances to trade their imbalances with a Customer having a negative imbalance.

Texas Gas submits that this additional option for alleviating imbalances will assist Texas Gas and its Customers in eliminating current transportation imbalances before the initiation of restructured services on its system under Order No. 636. Texas Gas requests a proposed effective date of June 1, 1993.

Texas Gas states that copies of the filing are being mailed to all Texas Gas's jurisdictional sales and transportation customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests or motions should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

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inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10641 Filed 5–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP91–126–000, CP91–1669–000, CP91–1670–000, CP91–1671–000, CP91–1672–000, and CP91–1673–000]

United Gas Pipe Line Co.; Technical Conference

April 30, 1993.

On October 22, 1991, the Commission issued an order approving with modifications United Gas Pipe Line's proposed settlement in this proceeding. The Settlement provides that United shall meet with the Commission staff and any other interested persons at a series of four conferences to evaluate United's experimental Market Responsive Storage and Delivery Service (MRSDS) in Docket No. CP91–1671–000.

Take notice that the fourth technical conference will be held on Thursday, May 13, 1993, at 10 a.m. to discuss United's MRSDS. The conference will be held in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10651 Filed 5–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–183–047]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 30, 1993.

Take notice that Williams Natural Gas Company (WNG) on April 27, 1993, tendered for filing Seventeenth Revised Sheet No. 9 to its FERC Gas Tariff, First Revised Volume No. 1.

WNG states that it filed a Stipulation and Agreement (Stipulation) on November 24, 1992 in Docket Nos. RP89–183–045, et al. Article I, Section 4, of the Stipulation requires WNG to file Revised Tariff Sheets within fifteen days after issuance of the Final Commission Order approving the Stipulation. Article I, Section 4 states that such Revised Tariff Sheets shall become effective on the first day of the billing month beginning after the date that the Commission's Order making the Stipulation effective becomes a Final Commission Order. A Commission Order was issued in this docket on March 12, 1993, and became final on April 12, 1993. The Revised Tariff Sheets to be effective May 1, 1993 are being filed in compliance with the Stipulation. WNG respectfully requests waiver of the Commission's regulations to permit such May 1 effective date.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20428, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10648 Filed 5–5–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 93–38–NG]

Pan-Alberta Gas (U.S.) Inc.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Pan-Alberta Gas (U.S.) Inc. (PAG-US) blanket authorization to import up to 730 Bcf per day of natural gas over a two-year term beginning on the date of first delivery after July 3, 1993.

The order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 30, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–10736 Filed 5–5–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4652–4]

Clean Air Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with 40 CFR 2.301(h)(2) EPA has determined that IOCAD Engineering Services requires access, on a need-to-know basis, to CBI materials submitted to EPA under title II, section 208, of the Clean Air Act (CAA). This access is necessary to this contractor's performance under EPA Contract Number 3A–0226–YASA.

DATES: The transfer of data to this EPA contractor will occur no sooner than May 12, 1993.

FOR FURTHER INFORMATION CONTACT: Clifford D. Tyree, Project Manager/ Freedom of Information Act Officer, Certification Division, Ann Arbor, MI, 48105, telephone (313) 668–4310.

SUPPLEMENTARY INFORMATION: Title II of the Clean Air Act (CAA) requires that manufacturers of light-duty vehicles, light-duty truck, heavy-duty engines, and motorcycles meet applicable exhaust emission standards. Section 208 of the CAA requires these manufacturers to provide such information as the Administrator may reasonably require. Because this information is collected under Section 208 of the Act, EPA possesses the authority to disclose said information to its authorized representatives. EPA provides a recommended application format identifying the information needed to support their assertions their vehicles/ engines comply with the applicable emission standards. Each manufacturer is required to submit an application for certification for a certificate of conformity to the applicable regulations. These data include vehicle descriptions, engine/vehicle descriptions, emission control system descriptions and calibrations, and sales information. EPA is required to provide information to sources both internally and externally by means of memoranda and letters.

Under Contract Number 3A–0226–YASA, IOCAD Engineering Services will provide word processing services for the Certification Division. This service includes mail handling, distribution of incoming mail, and typing letters in response to materials received. Much of the information and data will be classified as confidential by the submitters. Therefore, in order to perform the required clerical responsibilities of this contract, the contractor will have access to CBI. This contractor's responsibility is to maintain confidentiality of all CBI. The contractor's address is: IOCAD Engineering Services, 20123 West Eight Mile Road, Detroit, MI 48219.

The contract with IOCAD Engineering Services will prohibit the use of the information for any purpose not specified in the contract; will prohibit the disclosure, in any form, to a third party; and will require that each official and employee of the contractor sign an agreement to protect the information from unauthorized release or access.

Dated: April 30, 1993.

Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93–10713 Filed 5–5–93; 8:45 am]

BILLING CODE 6560–50–P

[OPP–66175; FRL–4583–5]

Arsenic Acid; Receipt of Request to Cancel; Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This Notice, issued pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces EPA's receipt of voluntary requests from Elf Atochem North America, Inc. (Atochem) and Voluntary Purchasing Groups, Inc. (VPG) to cancel their registrations for products containing arsenic acid for use on cotton and to provide for existing stocks. EPA grants this voluntary cancellation effective May 6, 1993. Existing stocks will be permitted to be sold until October 31, 1993. Growers will be permitted to use existing stocks until December 31, 1993. Registrants will buy back from customers stocks remaining after the 1993 use season.

DATE: The cancellation order shall become effective May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Regarding voluntary cancellation: Ann Sibold, Special Review and Reregistration Division (H7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Special Review Branch, 3rd floor, 2800 Crystal Drive, Arlington, VA 22202 (703) 308–8033. Regarding recovered and converted product, notification of possession of canceled products, and compliance issues: David Stangel, Office of Compliance Monitoring (EN–342W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Office of Compliance Monitoring, 5th floor 2800 Crystal Drive Arlington, VA 22202 (703) 308–8295.

SUPPLEMENTARY INFORMATION: This Notice announces the receipt of a request for cancellation of arsenic acid used on cotton and the Agency's decision.

I. Request for Voluntary Cancellation

Arsenic acid is used as a desiccant on cotton in certain areas of Texas and Oklahoma to facilitate harvest by mechanical cotton strippers. EPA initiated a Rebuttable Presumption against Reregistration ((RPAR), now called a Special Review) on this chemical and other inorganic arsenicals on October 18, 1978 (43 FR 48267). That Notice was based on a determination that use of the inorganic arsenicals met or exceeded the risk criteria for carcinogenicity, teratogenicity, and mutagenicity under 40 CFR 162.11 (now 40 CFR 154.7). EPA issued a Notice of Preliminary Determination to Cancel Registration (PD 2/3) on October 7, 1991 (56 FR 50576), for arsenic acid registered for use as a desiccant on cotton. In the PD 2/3 EPA proposed to cancel all uses of arsenic acid with no provisions for the distribution, sale or use of existing arsenic acid stocks since arsenic acid is classified as a known human (Group A) carcinogen, and the cancer risks to workers outweighed the localized benefits. The comment period was extended until June 6, 1992, at the request of several grower groups and the registrants (57 FR 3755).

After the close of the comment period, the registrants initiated discussions with EPA regarding regulatory options for arsenic acid, including a voluntary cancellation conditioned upon provision for existing stocks through the 1993 use season. During the course of this discussion, the textile industry expressed concern about the costs incurred by the industry to dispose of arsenic acid contaminated waste. For this reason, the textile industry opposed permitting use of existing stocks for one more year. EPA considered these comments, determined that the textile industry's estimates of costs were not consistent with the relatively small percentage of the cotton crop treated with arsenic acid, and decided to continue the discussions with the registrants regarding voluntary cancellation. Copies of documents relating to the discussions with the registrants and the textile industry may be found in the public docket.

Atochem, in a letter dated January 8, 1993, and VPG, in letters dated February 19 and February 25, 1993, requested voluntary cancellation with the following conditions:

1. Existing stocks may be sold until October 31, 1993, and growers may use existing stocks until December 31, 1993.

2. "Existing stocks" include stocks already in the U.S., packaged, labeled, and released for shipment as of August 26, 1992, (Atochem) and October 31, 1992 (VPG).

3. Stocks remaining after the 1993 use season may be sold to the wood preservative industry for reformulation or repackaging into registered wood preservative products, or lawfully disposed.

4. Both registrants waived the 90–day comment period allowed by FIFRA Section 6(f). In addition to these conditions, each registrant described its buy back program. Atochem will buy back leftover product until March 31, 1994. VPG will notify customers by February 1, 1994, that they can return leftover product to VPG within 45 days for a refund. Both registrants agreed that repurchased stocks will be sold to the wood preservative industry for reformulation or repackaging into registered wood preservative products, or lawfully disposed.

II. Existing Stocks Determination

For purposes of this order, existing stocks are defined as those stocks of a previously existing arsenic acid cotton desiccant product which were in the U.S. and were packaged, labeled, and released for shipment prior to October 31, 1992. EPA determined that the date of October 31, 1992, would accommodate the dates specified by both registrants.

EPA grants Atochem's and VPG's requests to distribute and sell their existing stocks of arsenic acid for use on cotton through October 31, 1993. Retailers and distributors also may sell and distribute the product until October 31, 1993. After October 31, 1993, all sale and distribution of existing stocks will be prohibited unless such stocks are being sold or distributed as part of the registrants' buy back program for purposes of disposal or relabeling for wood preservative use. Existing stocks may be used on cotton until December 31, 1993, provided they are used in accordance with the products' existing EPA-approved labeling.

The registrants will buy back any stocks remaining after the 1993 use season in accordance with the plans they have filed with the Agency and which are described above. By April 30, 1994, the registrants will report to the contact listed in unit IV.D.1 how much recovered product was retrieved and the

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amount converted to the wood preservative use. Due to the limited region where arsenic acid is used, EPA will not require the registrants to add stickers to remaining stocks, but will allow the National Cotton Council to work with Atochem to inform affected users of the existing stocks provisions.

III. EPA's Decision on Request for Voluntary Cancellation and Cancellation Order

EPA hereby grants Atochem and VPG's requests that the registration of their products Desiccant L-10 (EPA #4581–231) and Arsenic Acid, (EPA #7401–184, 7401–195, and 7401–200), respectively, all of which contain the active ingredient arsenic acid, be voluntarily canceled. Concurrently, EPA issues a Cancellation Order for arsenic acid registered for use as a desiccant on cotton.

Under section 6(f)(1) of FIFRA, a registrant may request at any time that EPA cancel any of its pesticide registrations. EPA must publish in the **Federal Register** a notice of receipt of the request and allow public comment before granting the request unless either the registrant requests a waiver of the comment period or the Administrator determines that the continued use of the pesticide would pose an unreasonable adverse effect on the environment. Both Atochem and VPG requested waiver of the comment period in their letters requesting voluntary cancellation. For this reason, this Cancellation order shall become effective on May 6, 1993. Accordingly, as of May 6, 1993, no person may distribute or sell arsenic acid for use as a pesticide, except existing stocks of the product as permitted in the Existing Stocks provision of this Order. Any distribution, sale or use of existing stocks of the product that is not consistent with the terms of the Existing Stocks Provision of this Order will be considered a violation of FIFRA section 12(a)(2)(K) and if distribution or sale, section 12(a)(1)(A).

EPA notes that the voluntary cancellation will affect the reregistration of arsenic acid that was underway when the registrants initiated discussions of voluntary cancellation of arsenic acid. As a result of this cancellation order, arsenic acid will be removed from List A in the Reregistration process. Once an active ingredient is removed from List A, any person wishing to bring the pesticide back on the market must apply to EPA for a "new chemical" registration. However, it is unlikely such registration would be approved because of the chemical's carcinogenic potential.

IV. Required Notification of Possession of Canceled Products

Pursuant to FIFRA section 6(g), any producer or exporter, registrant, applicant for a registration, applicant or holder of an experimental use permit, commercial applicator, or any person who distributes or sells any pesticide, who possesses any stocks of the pesticide products identified above (hereafter referred to as "affected persons", which includes affected individuals, partnerships, associations, corporations, or any organized group of person whether incorporated or not), must notify the EPA and appropriate State and local officials of (1) Such possession; (2) the quantity of canceled arsenic acid pesticide product possessed; and (3) the place at which the canceled arsenic acid pesticide product is stored. Notification by affected persons to EPA and designated State and local officials pursuant to FIFRA section 6(g) shall be in accordance with the procedures, timeframes, and requirements set out in this Unit. End-users, except commercial applicators, are not required to report their stocks of canceled arsenic acid products.

A. Pesticides Required to be Reported

Affected persons must report, pursuant to FIFRA section 6(g), the information described below for canceled arsenic acid pesticide products which are in the physical possession of that person in locations that the person owns, leases, or operates in the United States, regardless of the ownership of that canceled arsenic acid pesticide product. Canceled arsenic acid product which is owned by one affected person, but in the physical possession of another affected person, who is subject to section 6(g) reporting is to be reported by the person in physical possession of the pesticide.

Registrants and other affected persons are not to include in the FIFRA section 6(g) report the quantity of stocks already reported to the Agency.

The Office of Management and Budget (OMB) has given interim approval for the collection of information under FIFRA section 6(g) and has assigned the OMB control number 2070–0109.

B. Information Which Must be Included in the Submission

To be in compliance with FIFRA section 6(g), affected persons must submit to the designated EPA and State and local officials the following information certified by a responsible company official as true and correct:

1. The identity and address of the affected person (company).
2. Name and phone number of a contact person (in the company).
3. Indication that the FIFRA section 6(g) information is being submitted for canceled pesticide products containing arsenic acid.
4. The relationship of the affected person (company) to the canceled arsenic acid pesticide products being reported under FIFRA section 6(g) (i.e., exporter, producer, registrants, applicant for registration, applicant for, or holder of an experimental use permit, commercial applicator, distributor, retailer, etc.).
5. The street address of each location owned/leased or operated in the United States by the submitter where the canceled arsenic acid pesticide product is held.
6. For each location listed, the total quantity (pounds, gallons, or other appropriate measure) of canceled arsenic acid pesticide product, and the quantity of canceled arsenic acid pesticide product listed by the number of units of each size container (pounds, gallons, or other appropriate measure) and by EPA registration number (e.g., x units of 5 gallon containers of EPA registration number _____-_____).

C. When to Report

Affected persons are required to submit FIFRA section 6(g) information according to the following schedule:

1. Registrants of canceled arsenic acid must report by June 7, 1993.
2. Producers, exporters, applicants for a registration, applicants or holder of an experimental use permit, dealers, distributors, and retailers must report by June 21, 1993.
3. Commercial applicators must report by July 6, 1993.
4. Other end-users are not required to report their possession of canceled products containing arsenic acid.

D. Where to Submit Section 6(g) Information

The FIFRA section 6(g) information is to be sent to each of the following three locations:

1. EPA. Director, Compliance Division, Office of Compliance Monitoring (EN–342), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Envelopes must be marked: "Attention: FIFRA Section 6(g) Information."
2. State. Chief Pesticide Regulatory Official, of the agency in the State government which enforces the State pesticide lawns where the canceled arsenic acid pesticide product is stored. Envelopes must be marked "Attention FIFRA Section 6(g) Information."

Information on the appropriate officials to receive the FIFRA section 6(g) information in Texas and Oklahoma follows:

Oklahoma Department of Agriculture, Plant Industry Division, 2800 N. Lincoln Boulevard, Oklahoma City, OK 73105.

Texas Department of Agriculture, Pesticide Regulation Division, P.O. Box 12847, Austin, TX 78711.

Information for other States is available from the information contact listed at the beginning of this notice.

3. Local. Chair of the Local Emergency Planning Committee (LEPC), for the location where the canceled arsenic acid pesticide is stored. Envelopes should be marked, "Attention: Notification of Possession of Canceled Pesticides." To identify the name and address of the chair of the LEPC contact the State Emergency Response Commission or call the Emergency Planning and Community Right-to-Know (EPCRA) Information Hotline at 1–800–535–0202.

E. Confidentiality of FIFRA Section 6(g) Information

EPA does not consider FIFRA section 6(g) information to be confidential business information (CBI) under the provisions of FIFRA section 10. Such information may be made available by EPA to the public without further notice.

F. Enforcement

Failure to submit complete and accurate FIFRA section 6(g) information, and/or failure to submit accurate section 6(g) information in the required timeframes is a violation of FIFRA section 12(a)(2)(K) and violators may be subject to civil penalties up to $5,000 per offense. Affected persons who possess canceled pesticide in multiple locations may be fined up to $5,000 per offense for each location for which the FIFRA section 6(g) information is not submitted, or is submitted late, incomplete, or inaccurate. Persons who knowingly submit false section 6(g) reports are in violation of FIFRA section 12(a)(2)(M) and may also be subject to civil penalties up to $5,000 per offense. Knowing violations of the requirements of FIFRA section 6(g) may also result in criminal penalties under section 14(b) of FIFRA, or 18 U.S.C. 1001.

V. Availability of the Public Docket

Copies of documents referred to in this Notice are available in the Public Docket, located in CM #2, Rm. 1128, 1921 Jefferson Davis Highway, Arlington, VA 22202. Hours are from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Dated: April 28, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93–10714 Filed 5–5–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4652–5]

Public Water System Supervision Program Revision for the State of Illinois

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Public notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq., and 40 CFR part 142, subpart B, the National Primary Drinking Water Regulations (NPDWR), that the State of Illinois is revising its Public Water System Supervision (PWSS) primacy program. The Illinois Environmental Protection Agency (IEPA), has adopted: (1) Drinking water regulations for public notification that correspond to the NPDWR for public notification promulgated by the U. S. Environmental Protection Agency (U.S. EPA) on October 28, 1987, (52 FR 41534–41550), (2) drinking water regulations for total coliform that correspond to the NPDWR for total coliform promulgated by the U. S. EPA on June 29, 1989, (54 FR 27544–27568) and (3) drinking water regulations for the treatment of surface water that correspond to the NPDWR for surface water treatment promulgated by the U.S. EPA on June 29, 1989, (54 FR 27486–27541). The U.S. EPA has completed its review of Illinois' PWSS primacy program revision.

The U.S. EPA has determined that the Illinois Public Notification, Total Coliform and Surface Water Treatment rule revisions meet the requirements of the Federal rule. Therefore, the U.S. EPA is proposing to approve the Public Notification, Total Coliform and Surface Water Treatment rule revisions.

All interested parties are invited to submit written comments on these proposed determinations, and may request a public hearing on or before June 7, 1993. If a public hearing is requested and granted, the corresponding determination shall not become effective until such time, following the hearing, at which the Regional Administrator issues an order affirming or rescinding this action.

Requests for a public hearing should be addressed to: Rosemarie Karas (WD–17J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

If no timely and appropriate request for a hearing is received, and the Regional Administrator does not elect to hold a hearing on his own motion, these determinations shall become effective June 7, 1993.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Regional Administrator's determinations and of information that the requesting person intends to submit at such hearing. (3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the **Federal Register** and in newspapers of general circulation in the State of Illinois. A notice will also be sent to the person(s) requesting the hearing as well as to the State of Illinois. The hearing notice will include a statement of purpose, information regarding the time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and the Regional Administrator does not elect to hold a hearing on his own motion, these determinations shall become effective on June 7, 1993.

Please bring this notice to the attention of any persons known by you to have an interest in these determinations.

All documents relating to these determinations are available for inspection between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Illinois Environmental Protection Agency, Division of Public Water Supplies, 2200 Churchill Road, Springfield, Illinois 62706, (217) 785–0561.

Safe Drinking Water Branch, Drinking Water Section, U.S. Environmental Protection Agency, Region 5, 77 West

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Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Rosemarie Karas, Region 5, Drinking Water Section at the Chicago address given above, telephone 312/353–8652.

(Sec. 1413 of the Safe Drinking Water Act, as amended (1986), and 40 CFR 142.10 of the National Primary Drinking Water Regulations)

Signed this 23 day of April, 1993.

Valdas V. Adamkus,

Regional Administrator, U.S. EPA, Region 5

[FR Doc. 93–10715 Filed 5–5–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[PP Docket No. 92–234; FCC 93–175]

Encryption Technology for Satellite Cable Programming

AGENCY: Federal Communications Commission.

ACTION: Notice; Report.

SUMMARY: This report presents the findings of the Commission's inquiry into encryption technology for satellite cable programming. The Report examines the attempt of Titan Corporation to enter the market for decoders used in C-band home satellite dish systems and finds that programmers have failed to accept its product. Moreover, General Instrument Corporation (GIC), the primary patent holder and manufacturer of such decoders, has raised some legitimate questions about the difficulties of coexistence between its system and that of Titan. The Report finds that competition to the GIC encryption system might come from separate systems such as the DBS services scheduled for launch in early 1994. Additionally, the Report finds that access to the GIC Direct Broadcast Satellite (DBS) Center for authorization of decoders from a rival manufacturer is not an insurmountable barrier to entry.

With respect to other technological issues, the Report notes that, while most of the industry supports the concept of a standard decoder interface, there is little support for a mandatory standard. The Report also finds that the transition from analog to digital transmissions is likely to be gradual.

FOR FURTHER INFORMATION CONTACT: Jonathan D. Levy, Office of Plans and Policy, (202) 653–5940.

SUPPLEMENTARY INFORMATION: The Commission initiated this examination of encryption technology in response to a Congressional request to: (1) Review efforts to develop an alternative source for decoder modules compatible with the industry standard for C-band use and (2) examine the feasibility of authorizing legal and compatible modules, regardless of manufacturer, through the GIC DBS Center. The inquiry also addressed related technological issues, such as the feasibility and utility of a standard decoder interface that would permit a single integrated receiver descrambler or IRD (a satellite receiver with a built-in decoder) to function with multiple encryption systems and the implications for encryption technology of the apparent trend toward digital transmission of video.

This inquiry is the Commission's third examination of encryption technology for satellite cable programming. Satellite cable programming is defined in the Communications Act as "video programming which is transmitted via satellite and which is primarily intended for direct receipt by cable operators for their retransmission to cable subscribers." The Commission's earlier encryption technology findings are in Report in General Docket No. 86–336, 2 FCC Rcd. 1669 (1987) 52 FR 10136, March 30, 1987, Second Report in Gen. Docket No. 86–336, 3 FCC Rcd. 1202 (1988) 53 FR 9701, March 24, 1988, and Report in General Docket No. 89–78, 5 FCC Rcd. 2710 (1990) 55 FR 18388, May 2, 1990.

With respect to competition in producing compatible decoders, the Report notes that GIC owns patents on the industry standard Videocipher technology and has developed several generations of decoder. The original was known as Videocipher II and the latest is known as Videocipher Renewable Security. Titan Corporation, the potential rival source, has rights to the basic Videocipher II patents.

The Report finds that programmers, who in the first instance are the consumers of encryption technology, have failed to accept the Titan product. GIC and Titan disagree about the Titan system's security, cost, and ability to coexist smoothly with the GIC system. The Report concludes that GIC raised legitimate questions concerning the impact of "sharing" with Titan on GIC's ability to respond to security breaches and to maintain the reliability and integrity of scrambling equipment at programmer uplink sites. The Report notes that Titan recently suspended its efforts to enter the consumer market. The complexity of the technical considerations involved prevented the Commission from coming to any definitive general conclusion about the prospects for competition in producing compatible Videocipher modules. Although GIC asserted that the presence of Channel Master as a second source of Videocipher modules means that there is competition in module supply, the Report finds that any such competition is limited by the requirement that Channel Master Purchase key proprietary chips from GIC.

The Report notes that competition to the GIC Videocipher encryption system might come from completely separate systems such as the DBS services scheduled for launch in early 1994. Recent agreements for DBS carriage of Home Box Office and Showtime and other Viacom services lend credibility to the idea that delivery systems other than C-band will have comparable cable programming and hence that, for example, DBS, could exert competitive pressure on C-band equipment costs.

The Report finds that lack of access to the GIC DBS Center for authorizing Titan modules is not an insurmountable barrier to entry. Others have built or plan to build their own authorization centers for various other encryption systems. Moreover, Titan has constructed its own center and has concluded that business considerations make it undesirable to utilize an authorization center operated by a competitor. The Report also notes GIC's uncontested legal analysis suggesting that mandatory access to its DBS Center could not be required because the Center is not an essential facility.

With respect to other technological issues, most commenters supports the concept of a standard decoder interface, but generally agree that it should not be mandated by the government. The transition from analog to digital transmissions is expected to be gradual, with simulcasting of digital signals and C-band analog signals for the next nine to 12 years and the development of "hybrid" decoders having both analog and digital capacity.

The complete text of this Report is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., at 1919 M Street, NW., room 246, Washington, DC 20554 (telephone: (202) 857–3800).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–10679 Filed 5–5–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Club Med Sales, Inc., Services et Transports Cruise Lines and United Distillers Group, 40 West 57th Street, New York, NY 10019.

Club Med Sales, Inc., Services et Transports Cruise Lines and Prudential Securities, Inc. 40 West 57th Street, New York, NY 10019.

Vessel: Club Med 1.

Dated: May 3, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–10708 Filed 5–5–93; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Club Med Sales, Inc., Services et Transports Cruise Lines, Banque Nationale de Paris, Credit Lyonnais and Societe Generale, 40 West 57th Street, New York, NY 10019.

Vessel: Club Med 1.

Dated: May 3, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–10707 Filed 5–5–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Delegation of Authority Concerning Margins on Stock Index Futures and Options on Stock Index Futures

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board has delegated its authority under the Futures Trading Practices Act of 1992 concerning margins on stock index futures and options thereon to the Commodity Futures Trading Commission.

FOR FURTHER INFORMATION CONTACT: Oliver Ireland, Associate General Counsel (202/452-3625), Legal Division; or Patrick Parkinson, Assistant Director (202/452-3526), Division of Research and Statistics, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Street, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: By letter dated March 22, 1993, the Board has delegated its authority under Section 2(a)(1)(B)(vi)(I) and (II) of the Commodity Exchange Act concerning margins on stock index futures and options thereon to the Commodity Futures Trading Commission. The following is the text of the Board's letter delegating its authority and the Commission's letter of response.

March 22, 1993

Mr. William P. Albrecht
Acting Chairman
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, D.C. 20581

Dear Mr. Chairman:

Section 501 of the Futures Trading Practices Act of 1992 ("FTPA") amended section 2(a)(1)(B) of the Commodity Exchange Act to require any contract market in a stock index future contract (or option thereon) to file with the Board of Governors of the Federal Reserve System any rule establishing or changing the levels of margin (initial and maintenance) for these futures contracts or options. The Board may at any time request any contract market to set margin levels on these futures contracts or options at such levels as the Board, in its judgment, determines are appropriate to preserve the financial integrity of the contract market or its clearing system or to prevent systemic risk. If the contract market fails to do so within the time specified by the Board in its request, the Board may direct the contract market to alter or supplement the rules of the contract market as specified in the request. Subject to such conditions as the Board may determine, the Board may delegate any or all of its authority under this provision to the Commission.

The Board believes that levels of initial and maintenance margin set by contract markets generally are but one component of sophisticated risk control systems that may include frequent marking-to-market of customer and clearing member positions, participant criteria, standby liquidity arrangements, participant audits, market surveillance and active risk management, including the ability to raise levels of margins on short notice and to call for increased margin from specific customers or participants. Further, with the relatively rapid growth of stock index futures options at some contract markets, the determination of margins on such contracts has become an increasingly important issue.

The procedures for determining levels of margins on portfolios of stock index contracts are complex. The Board believes, furthermore, that the appropriateness of particular levels of initial and maintenance margin for meeting the criteria established by section 501 of the FTPA of preserving the financial integrity of contract markets or their clearing systems or preventing systemic risk can be evaluated only in the context of other credit and liquidity safeguards that are integral components of the overall risk control systems for these contract markets. Under section 5a of the Commodity Exchange Act, contract markets must submit rules, other than those relating to levels of margins, to the Commission for approval. Consequently, the Commission is both most familiar with the overall risk control systems of these contract markets and has the most comprehensive authority over these systems. This leads the Board to conclude that the Commission is the most appropriate entity to exercise the functions assigned to the Board under Section 501 of the FTPA.

Accordingly, under Section 2(a)(1)(B)(vi)(III) of the Commodity Exchange Act as added by Section 501 of the FTPA, the Board is hereby delegating its authority under Section 2(a)(1)(B)(vi)(I) and (II) of the Commodity Exchange Act to the Commodity Futures Trading Commission until further notice from the Board.

The Board would expect that, in reviewing such rules establishing or changing levels of margins (initial and maintenance) for stock index futures contracts (or options thereon), the Commission would consider the appropriateness of the margin levels in the context of the overall risk control system employed by the relevant exchange and its clearing system. Particular attention should be paid to the procedures used for determining margin levels on portfolios including futures options, and the ability of the exchange and its clearing system to cover any losses and meet financial obligations in a timely manner in the event of a default by a large participant. The Board expects the Commission to report to the Board annually on its experience in reviewing rules establishing or changing levels of initial and maintenance margins.

Very truly yours,
William W. Wiles
Secretary of the Board

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April 14, 1993

Mr. William W. Wiles
Secretary of the Board
Board of Governors of the
Federal Reserve System
Washington, D.C. 20551

Dear Mr. Wiles:

The Commodity Futures Trading Commission hereby acknowledges the delegation by the Board of Governors of the Federal Reserve System to the Commission of the Board's authorities under Section 2(a)(1)(B)(vi)(II) and (III) of the Commodity Exchange Act, as amended by Section 501 of the Futures Trading Practices Act of 1992. The Commission understands that this delegation of authority to review margin levels on stock index futures, and options thereon, is effective beginning March 22, 1993, and that it remains in effect until further notice from the Board.

The Commission has notified all exchanges with stock index futures or option contracts of this delegation of authority. Copies of those notifications are attached.

In its review of the appropriateness of margin levels (initial and maintenance) for stock index futures, or options thereon, the Commission will take into consideration the overall risk control system employed by the relevant exchange and its clearing system as well as the historic and prospective price volatility of the particular stock indices. The Commission also will consider the portfolio margining procedures used by some exchanges.

The Commission will report to the Board annually each April on its experience in exercising this delegated authority. The Commission's staff will also maintain more frequent contact with the Board's staff as appropriate, to keep them advised of stock index margin developments. The Commission and our staff will welcome any counsel that the Board may wish to provide as we develop our policies and procedures for reviewing stock index margin levels.

Sincerely,
William P. Albrecht

Board of Governors of the Federal Reserve System, April 30, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10670 Filed 5-5-93; 8:45 am]

BILLING CODE 6210-01-F

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office

ACTION: May meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that the monthly meeting the Federal Accounting Standards Advisory Board will be held on Monday, May 24, 1993 from 9 a.m. to 4 p.m. in room 7313 of the General Accounting Office, 441 G St., NW., Washington, DC.

The agenda for the meeting includes discussions of issues in the Exposure Drafts on Financial Reporting Objectives and Accounting for Direct Loans and Loan Guarantees, and the project on Accounting for Liabilities and Future Claims.

Other items may be added to the agenda; interested parties should contact the Staff Director for more specific information and to confirm the date of the meeting.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, Staff Director, 750 First Street NE., suite 1001, Washington, DC 20002, or call (202) 512–7350.

Authority: Federal Advisory Committee Act Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) [current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: April 30, 1993

Jimmie D. Brown,

Deputy Director.

[FR Doc. 93–10726 Filed 5–5–93; 8:45 am]

BILLING CODE 1610–01–M

GENERAL SERVICES ADMINISTRATION

Performance Review Boards for Small Client Agencies Serviced by the General Services Administration, Names of Members

Section 4314(c) (1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards. The board shall review and evaluate the initial appraisal by the supervisor of a senior executive's performance, along with any recommendations to the appointing authority relative to the performance of the senior executive. The Performance Review Board also shall make recommendations as to whether the career executive should be, conditionally recertified, or not recertified. As provided under section 601 of the Economy Act of 1932, amended 31 U.S.C. 1525, the General Services Administration through its External Services Staff, Personnel Division, provides various personnel management services to a number of diverse Presidential commissions, committees, boards, and other agencies through reimbursable administrative support agreements. This notice is processed on behalf of the client agencies, and it supersedes all other notices in the **Federal Register** on this subject.

Because of their small size, a Performance Review Board register has been established in which SES members from the client agencies participate. The Board is composed of SES members from various agencies. From this register of names, the head of each client agency will appoint executives to a specific board to serve a particular client agency.

The members whose names appear on the Performance Review Board standing roster to serve client agencies are:

Administrative Conference of the U.S.

William J. Olmstead, Executive Director
Gary J. Edles, General Counsel
Jeffrey S. Lubbers, Research Director

Arctic Research Commission

Philip L. Johnson, Executive Director

Barry M. Goldwater Scholarship and Excellence in Education Foundation

Gerald J. Smith, Executive Secretary

Board for International Broadcasting

Mark G. Pomar, Executive Director
Bruce D. Porter, Deputy Executive Director
John A. Lindburg, General Counsel
Patricia H. Schlueter, Director of Financial and Congressional Affairs

Committee for Purchase From People Who Are Blind or Severely Disabled

Beverly L. Milkman, Executive Director

Defense Nuclear Facilities Safety Board

Kenneth M. Pusateri, General Manager
Joseph R. Neubeiser, Deputy General Manager
Robert M. Andersen, General Counsel
Richard A. Azzaro, Deputy General Counsel for Policy and Litigation
George W. Cunningham, General Engineer
Joyce P. Davis, Chief, Health Physics Branch

Harry S. Truman Scholarship Foundation

Louis H. Blair, Executive Secretary

Japan-United States Friendship Commission

Eric J. Gangloff, Executive Director

Office of Navajo and Hopi Indian Relocation

Christopher J. Bavasi, Executive Director
Michael J. McAlister, Deputy Executive Director.

For further information contact: Robert A. Miller, Chief, External Services Staff, (202–708–5370); General Services Administration, National Capital Region (WCPX), Washington, DC, 20407.

Dated: April 20, 1993.

Lenor Reese,

Acting Regional Personnel Officer.

[FR Doc. 93–10691 Filed 5–5–93; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

U.S. Advisory Board on Child Abuse and Neglect; Meeting

AGENCY: U.S. Advisory Board on Child Abuse and Neglect, Administration for Children and Families, ACF, Department of Health and Human Services, DHHS.

ACTION: Notice of the fourteenth meeting of the U.S. Advisory Board on Child Abuse and Neglect in McLean, Virginia from 9 a.m., May 25, 1993 to 3:30 p.m., May 27, 1993.

SUMMARY: The U.S. Advisory Board on Child Abuse and Neglect will hold a meeting in McLean, Virginia from 9 a.m., May 25, 1993 through 3:30 p.m., May 27, 1993. This meeting is open to the public.

ADDRESSES: The meeting will be held at: Ritz Carlton Hotel, 1700 Tyson Boulevard, McLean, Virginia 22102.

FOR FURTHER INFORMATION CONTACT: Joan M. Williams, Special Projects Specialist, U.S. Advisory Board on Child Abuse and Neglect, Room 303D, Humphrey Building, Washington, DC 20201, (202) 690–8178.

SUPPLEMENTARY INFORMATION: During this meeting, the Advisory Board will: Receive a presentation on confidentiality; receive an update on developments relevant to the Board within the National Center on Child Abuse and Neglect; and hold a mini hearing on religious exemption.

Dated: April 23, 1993.

Preston N. Bruce,

Acting Executive Director, U.S. Advisory Board on Child Abuse and Neglect.

[FR Doc. 93–10639 Filed 5–5–93; 8:45 am]

BILLING CODE 4184–01–M

Agency for Health Care Policy and Research

Meetings

In accordance with section 10(a) of the Federal Advisory Committee Act (title 5, U.S.C., appendix 2) announcement is made of the following advisory committees scheduled to meet during the month of June 1993:

Name: Health Services Developmental Grants Review Subcommittee.

Date and Time: June 9–11, 1993, 8 a.m.

Place: Hyatt Regency—Bethesda, One Metro Center, Conference Room TBA, Bethesda, Maryland 20814.

Open June 10, 1 p.m. to 2 p.m.
Closed for remainder of meeting.

Purpose

The Subcommittee is charged with the initial review of grant applications proposing experimental, analytical and theoretical research on costs, quality, access, effectiveness, and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research (AHCPR).

Agenda

The open session of the meeting on June 10 from 1 p.m. to 2 p.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed session, the Subcommittee will be reviewing research and demonstration grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S.C., appendix 2 and title 5, U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Gerald E. Calderone, Ph.D., Agency for Health Care Policy and Research, suite 602, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 227–8449.

Name: Health Care Technology Study Section.

Date and Time: June 14–16, 1993, 8:30 a.m.

Place: Marriott Residence Inn, 7335 Wisconsin Avenue, Montgomery II Room, Bethesda, Maryland 20814.

Open June 14, 8:30 a.m. to 9:30 a.m.
Closed for remainder of meeting.

Purpose

The Study Section is charged with conducting the initial review of health services research grant applications addressing the utilization and effects of health care technologies and procedures as well as applications in the area of information and decision sciences relating to health care delivery.

Agenda

The open session of the June 14 from 8:30 a.m. to 9:30 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Deputy Administrator, AHCPR. The closed sessions of the meeting will be devoted to a review of health services research grant applications emphasizing medical care technologies and procedures, and relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S.C., appendix 2 and title 5, U.S.C. 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Alan E. Mayers, Ph.D., Agency for Health Care Policy and Research, Suite 602, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 227–8449.

Name: Health Services Research Review Subcommittee.

Date and Time: June 17–18, 1993, 8:30 a.m.

Place: Embassy Suites Hotel, 4300 Military Road, NW., Tenley Town I, Washington, DC 20015.

Open June 17, 8:30 a.m. to 9:15 a.m.
Closed for remainder of meeting.

Purpose

The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by AHCPR.

Agenda

The open session of the meeting on June 17 from 8:30 a.m. to 9:15 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed sessions, the Subcommittee will be reviewing analytical and theoretical research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S.C., appendix 2 and title 5, U.S.C. 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Patricia G. Thompson, Ph.D.,

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Agency for Health Care Policy and Research, suite 602, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 227–8449.

Name: Health Services Research Dissemination Study Section.

Date and Time: June 24–25, 1993, 8:30 a.m.

Place: Marriott Residence Inn, 7335 Wisconsin Avenue, Calvert Room, Bethesda, Maryland 20814.

Open June 24, 8:30–9:15 a.m.

Closed for remainder of meeting

Purpose

The Study Section is charged with the review of and making recommendations on grant applications for Federal support of conferences, workshops, meetings, or projects related to dissemination and utilization of research findings, and AHCPR liaison with health care policy makers, providers, and consumers.

Agenda

The open session of the meeting on June 24 from 8:30 a.m. to 9:15 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Deputy Administrator, AHCPR. During the closed portions of the meeting, the Study Section will be reviewing grant applications relating to the dissemination of research on the organization, costs, and efficiency of health care. In accordance with the Federal Advisory Committee Act, title 5, U.S.C., appendix 2 and title 5, U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Mrs. Linda Blankenbaker, Agency for Health Care Policy and Research, suite 602, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 227–8449.

Agenda items for all meetings are subject to change as priorities dictate.

Dated: April 27, 1993.

J. Jarrett Clinton,

Administrator.

[FR Doc. 93–10607 Filed 5–5–93; 8:45 am]

BILLING CODE 4160–90–M

Centers for Disease Control and Prevention

CDC Advisory Committee on the Prevention of HIV Infection (CDC ACPHI): Subcommittee on Developing Partnerships for HIV Prevention; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee meeting.

Name: CDC ACPHI Subcommittee on Developing Partnerships for HIV Prevention.

Time and Date: 8 a.m.–5 p.m., May 21, 1993.

Place: Marriott City Center, 30 South Seventh Street, Minneapolis, Minnesota 55402.

Status: Open to the public, limited only by the space available.

Purpose: The purpose of this meeting is for the subcommittee to review the type, extent, and quality of partnerships between CDC and nongovernmental organizations in the planning and implementation of a comprehensive HIV prevention program.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Connie Granoff, Committee Assistant, Office of the Associate Director for HIV/AIDS, CDC, 1600 Clifton Road, NE., Mailstop E–40, Atlanta, Georgia 30333, telephone 404/639–2918.

Dated: May 3, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–10806 Filed 5–5–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 93N–0046]

Westmar Oceanside, Inc.; Opportunity for Hearing on Proposal to Revoke U.S. License No. 828

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for a hearing on a proposal to revoke the establishment license (U.S License No. 828) and the product license issued to Westmar Oceanside, Inc., for the manufacture of Source Plasma. The proposed revocation is based on significant noncompliance with certain provisions of the biologics regulations specified in this document.

DATES: The firm may submit a written request for a hearing to the Dockets Management Branch by June 7, 1993, and any information justifying a hearing by July 6, 1993. Other interested persons may submit written comments on the proposed revocation by July 6, 1993.

ADDRESSES: Submit a written request for a hearing, any information justifying a hearing, and any written comments on the proposed revocation to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Stephen Ripley, Center for Biologics Evaluation and Research (HFM–635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–295–9074.

SUPPLEMENTARY INFORMATION: FDA is proposing to revoke the establishment license (U.S. License No. 828) and the product license issued to Westmar Oceanside, Inc., 1024 South Hill St., Oceanside, CA 92504, for the manufacture of Source Plasma.

FDA has determined that Westmar Oceanside, Inc., has failed to conform to the biologics regulations applicable to the manufacture of Source Plasma in 21 CFR parts 600 through 640 and the applicable standards in its license. This failure indicates serious noncompliance with those standards designed to assure the safety, purity, identity, and quality of Source Plasma, as well as the standards for donor protection, which are intended to assure a continuous and healthy donor population.

FDA conducted an inspection of Westmar Oceanside, Inc., from August 14 through September 20, 1991. This inspection and a concurrent investigation documented serious deviations from the Federal regulations. Deviations identified during the inspection included, but were not limited to, the following: (1) Failure to assure the phlebotomy site was prepared by a method that gave maximum assurance of sterility; (2) failure to provide donors with all required information regarding the plasmapheresis process, in that the hazards of the procedure were not explained to donors; and (3) failure to adequately explain acquired immunodeficiency educational materials to donors. In addition, FDA's investigation documented that deviations routinely occurred in areas of the plasmapheresis operation, such as determination of donor suitability and maintenance of Whole Blood weight logs. It was determined that on several occasions employees of the firm had: (1) Abbreviated or omitted donor screening procedures, such as questioning of donors regarding their medical history; (2) abbreviated or omitted predonation examinations, such as blood pressure and pulse; and (3) completed donor records with fabricated data when required screening procedures were not conducted to give the appearance that proper screening had been conducted. Also, evidence obtained in our investigation suggested that during busy

times, blood bags were not weighed and fictitious weights were written into the Whole Blood weight log. Based on the deviations noted, FDA concluded that personnel employed at the firm were inadequately trained and/or supervised to effectively and properly perform their assigned duties.

FDA determined that these deviations from Federal regulations constituted a danger to public health. In a letter to Westmar Oceanside, Inc., dated October 7, 1991, FDA suspended the firm's licenses pursuant to 21 CFR 601.6(a). In a letter to FDA dated October 16, 1991, the firm requested that revocation be held in abeyance pending resolution of the matter involved.

In a letter to FDA dated October 22, 1991, Westmar Oceanside, Inc., addressed the inspection and investigation findings outlined in FDA's October 7, 1991, letter. In a letter to the firm dated December 11, 1991, FDA denied the firm's request that license revocation be held in abeyance based on FDA's findings of the seriousness and willfulness of the deviations outlined above and the firm's inadequate response to those findings. In the same letter, FDA issued the firm notice of FDA's intent to revoke U.S. License No. 828 and announced its intent to offer an opportunity for a hearing pursuant to 21 CFR 601.5(b). In a letter to the legal representative of the firm dated September 25, 1992, FDA indicated that the firm had not responded to the December 11, 1991, letter, and the revocation process was still pending. In conversations with the legal representative of the firm on December 13, 1991, and October 20, 1992, no official response was given regarding the firm's intended action on this matter.

Accordingly, FDA is issuing a notice of an opportunity for a hearing pursuant to 21 CFR 12.21(b) on a proposal to revoke the licenses for Westmar Oceanside, Inc.

FDA has placed copies of documents supporting the proposed license revocation on file with the Dockets Management Branch (address above) under the docket number found in brackets in the heading of this notice. These documents include the following: The List of Observations (Form FDA–483) from the inspection of August 14 through September 20, 1991; FDA letters of October 7 and December 11, 1991, and September 25, 1992; the firm's letters of October 16 and October 22, 1991; and the conversation records of December 13, 1991, and October 20, 1992. These documents are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Westmar Oceanside, Inc., may submit a written request for a hearing to the Dockets Management Branch by June 7, 1993, and any data justifying a hearing must be submitted by July 6, 1993. Other interested persons may submit comments on the proposed license revocation to the Dockets Management Branch by July 6, 1993. The failure of a licensee to file a timely written request for a hearing constitutes an election by the licensee not to avail itself of the opportunity for a hearing concerning the proposed license revocation.

FDA procedures and requirements governing a notice of opportunity for a hearing, notice of appearance and request for a hearing, grant or denial of a hearing, and submission of data and information to justify a hearing on a proposed revocation of a license are contained in 21 CFR parts 12 and 601. A request for a hearing may not rest upon mere allegations or denials but must set forth a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the information and factual analyses submitted in support of the request for a hearing that there is no genuine and substantial issue of fact for resolution at a hearing, or if a request for a hearing is not made with required format or required analyses within the specified time, the Commissioner of Food and Drugs will deny the hearing request, making available the findings and conclusions that justify the denial.

Two copies of any submissions are to be provided to FDA, except that individuals may submit one copy. Submissions are to be identified with the docket number found in brackets in the heading of this document. Such submissions, except for information prohibited from public disclosure under 21 CFR 10.20(j)(2)(i), 21 U.S.C. 331(j), or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act (sec. 351 (42 U.S.C. 262)) and the Federal Food, Drug, and Cosmetic Act (secs. 201, 501, 502, 505, 701 (21 U.S.C. 321, 351, 352, 355, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.67).

Dated: April 19, 1993.

Kathryn C. Zoon,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 93–10608 Filed 5–5–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0163]

Drug Export; Botulinum Toxin Type A (BOTOX®)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Allergan, Inc., has filed an application requesting approval for the export of the biological product Botulinum Toxin Type A (BOTOX®) to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Frederick W. Blumenschein, Center for Biologics Evaluation and Research (HFM–660), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–295–9070.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99–660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public

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participation in its review of the application. To meet this requirement, the agency is providing notice that Allergan, Inc., 2525 Dupont Dr., Irvine, CA 92715, has filed an application requesting approval for the export of the biological product, Botulinum Toxin Type A (BOTOX®), to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. The Botulinum Toxin Type A (BOTOX®) is indicated for the treatment of strabismus and blepharospasm associated with dystonia, including benign essential blepharospasm or VII nerve disorders and spasmodic torticollis in patients 12 years of age and above. The application was received and filed in the Center for Biologics Evaluation and Research on March 23, 1993, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by May 17, 1993, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: April 21, 1993.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 93–10671 Filed 5–5–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Fair Housing and Equal Opportunity

[Docket No. N–93–3558; FR–3428–N–05]

Task Force on Occupancy Standards in Public and Assisted Housing

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of location of subcommittee meetings.

SUMMARY: The Task Force on Occupancy Standards in Public and Assisted Housing was established on December 31, 1992 in accordance with the provisions of section 643 of the Housing and Community development Act of 1992 (Pub. L. 102–550) and the Federal Advisory Committee Act (FACA) (5 U.S.C. app 2). The Task Force's charter was published in the **Federal Register** on January 7, 1993 at 58 FR 3039. The Task Force was created to review all rules, policy statements, handbooks, and technical assistance memoranda issued by the Department on the standards and obligations governing residency in public and assisted housing and to make recommendations to the Secretary for the establishment of reasonable criteria for occupancy. The Task Force has established an Executive Committee and three additional subcommittees—Admissions, Occupancy and Evictions. This is a notice announcing the location of meetings for the subcommittees of the Task Force.

FOR FURTHER INFORMATION CONTACT: Laurence D. Pearl, Office of Fair Housing and Equal Opportunity, room 5226, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–3727, (TDD) (202) 708–0113 (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Notice of Task Force Subcommittee meetings on May 12–14, 1993 was published in the **Federal Register** on February 25, 1993 at 58 FR 11415. These meetings will take place as follows:

Wednesday, May 12, 9 a.m. to 5 p.m., Occupancy.

Thursday, May 13, 9 a.m. to 5 p.m., Admissions.

Friday, May 14, 9 a.m. to 12 noon, Evictions.

Friday, May 14, 1 p.m. to 5 p.m., Executive.

These meetings will be held at the Georgetown University Law Center, 600 New Jersey Avenue, NW., Washington, DC, room 140 (Wednesday and Thursday) and room 106 (Friday). Please note that the starting time for Wednesday's meeting has been changed to 9 a.m. and that the Occupancy and Admissions Subcommittees will reverse meeting dates from those originally announced.

Agenda: The Admissions, Occupancy and Evictions Subcommittee meetings will consider drafts prepared by their members regarding the Department's occupancy standards in public and assisted housing, and develop proposals to be considered by the full Task Force, circulated to the public and considered at public hearings. The Executive Committee will recommend the time, place and logistics for the public hearings and make such other recommendations to the full Task Force as may be appropriate.

Public Participation: These are open meetings. The public is also invited to submit written comments on any aspect of the Task Force's mandate or activities to Ms. Bonnie Milstein, the Chair of the Task Force, at 1101 Fifteenth Street, NW., suite 1212, Washington, DC 20005–2765.

Dated: April 29, 1993.

Bonnie Milstein,

Chair, Task Force on Occupancy Standards in Public and Assisted Housing.

Leonora L. Guarraia,

General Deputy Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 93–10610 Filed 5–5–93; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–065–03–4191–03]

Notice of Intent; Proposed Rand Project, Kern County, CA; Extension of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of extension of comment period.

SUMMARY: Notice is hereby given that the Bureau of Land Management is extending the period for the notice of intent published on April 6, 1993 (58 FR 17905) to receive written comments until May 17, 1993. Written comments should be sent to the address below.

FOR FURTHER INFORMATION CONTACT: Dave Taylor, Project Manager, Bureau of Land Management, 300 S. Richmond Rd., Ridgecrest, CA 93555, 619–375–7125.

Russell D. Miles,

Area Manager.

[FR Doc. 93–10666 Filed 5–5–93; 8:45 am]

BILLING CODE 4310–40–M

[ID–942–03–4730–02]

Idaho: Filing of Plats of Survey

The supplemental plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., April 27, 1993.

The supplemental plat prepared to correct certain lots in the SW¼ of section 33, Township 29 North, Range 8 East, Boise Meridian, Idaho, was accepted April 20, 1993.

The supplemental plat was prepared to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the above-described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: April 27, 1993.

Duane E. Olsen,

Chief, Cadastral Surveyor for Idaho.

[FR Doc. 93–10612 Filed 5–5–93; 8:45 am]

BILLING CODE 4310–GG–M

National Park Service

Proposed Construction and Operation of a Stadium in Washington, DC; Supplemental Notice of Intent To Prepare an Environmental Impact Statement

In a Notice of Intent published in the **Federal Register** on March 15, 1993 (58 FR 13796), the National Park Service and the District of Columbia advised that they were conducting an Environmental Assessment for the proposed construction and operation of a new stadium in Anacostia Park in Washington, DC. The Notice stated that if it became apparent, either through the scoping process or during the analysis and documentation of environmental impacts, that an Environmental Impact Statement was the appropriate environmental document, a Supplemental Notice would be issued. As a result of public scoping meetings held on April 12 and April 16, 1993, as well as written comments received on the scoping issues, and pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality (40 CFR parts 1500–1508), and the District of Columbia Environmental Policy Act of 1989, the National Park Service and the District of Columbia Government now announce their intent to prepare an Environmental Impact Statement.

As indicated in the March 15, 1993 Notice, all comments and responses on the scope of alternatives and potential impacts received in response to that Notice as well as those received during the scoping process and by letters postmarked no later than April 19, 1993, will be considered in the EIS. The public is encouraged to provide additional comments once the Draft EIS is released.

A public meeting to present the significant issues related to the project and to solicit public comment on the findings of the Draft EIS will be held on Monday, June 14, 1993, at 6 p.m. at the D.C. Armory, 2001 East Capitol Street, Washington, DC 20003. Adequate signs will be posted to direct meeting participants. A short formal presentation will precede the request for public comments. National Park Service and District of Columbia representatives will be available to receive comments and questions from the public regarding issues of concern. It is important that Federal, regional and local agencies, and interested individuals and groups take this opportunity to comment on the environmental analysis contained in the Draft EIS. In the interest of available time, each speaker will be asked to limit oral comments to five minutes.

As indicated in the original Notice (and unchanged now), the proposed stadium would seat approximately 78,600 persons and would be located north of Robert F. Kennedy Stadium within an area currently designated as parking lot 6. Existing vehicular parking spaces would be reconfigured within the limits of the approximately 190-acre site area. Although previous proposals for a new stadium in this area sought to utilize portions of Langston Golf Course and Children's Island for parking, these properties are not included within the site of the current proposal. The proposed stadium is scheduled to be completed in time for the 1995 football season.

The site area can be generally defined by Oklahoma Avenue and Benning Road to the north; 21st Street, Constitution Avenue, and 19th Street on the west; the D.C. Armory, Independence Avenue, D.C. General Hospital, and the approximate extension of E Street, SE., to the south, and by Kingman Lake and the Anacostia River to the east.

The EIS will analyze impacts and mitigation options. In addition, the EIS will consider alternative actions. At present, those alternatives may include: (1) Construction of a new stadium substantially in parking lot 6; (2) the renovation and expansion of RFK Stadium; and (3) a No Action alternative, which would result in no new construction and would involve the continued use of RFK Stadium in its current configuration and capacity. Topics for environmental analysis may include short-term construction-related impacts; long-term changes in traffic, parking, socio-economic impacts, land use, and physical/biological conditions within the project area; historic and natural resource protection; and site operations and maintenance.

The responsible officials are: Mr. Robert Stanton, Regional Director, National Capital Region, National Park Service and Mr. George Brown, Assistant City Administrator for Economic Development.

Dated: April 30, 1993.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 93–10729 Filed 5–5–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32248]

Hanson Natural Resources Co.—Non-Common Carrier Status—Petition for a Declaratory Order

Decided: April 30, 1993.

By decision served March 1, 1993 (58 FR 12052, March 2, 1993), the Commission sought public comment by March 22, 1993, on a petition for declaratory order filed by Hanson Natural Resources Company (HNRC) that HNRC will not, upon consummation of certain anticipated transactions, become a common carrier by railroad. By subsequent decisions, the latest served April 23, 1993 (58 FR 25848, April 28, 1993), the Commission extended the comment due date to April 30, 1993.

By motion filed April 29, 1993, HNRC requests the proceeding be held in abeyance pending further developments in discussions among interested persons concerning the certain nonrail-related effects of the proposed transaction. HNRC also requests the Commission condition approval of the abeyance request on allowing interested persons to comment if and when the proposed transaction is ready to go forward. The requests will be granted.

It is ordered:

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1. The proceeding is held in abeyance pending further order of the Commission.

2. HNRC shall notify the Commission immediately when it determines whether it wishes to go forward with or withdraw its Petition for Declaratory Order.

3. If a further procedural schedule is established, interested persons will have an opportunity to comment.

4. This decision is effective on April 30, 1993.

By the Commission, Sidney L. Strickland, Jr., Secretary.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-10706 Filed 5-5-93; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jefferson B. Hill on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Don Wolfrey, on (202) 514-4115 or facsimile: (202) 514-1534. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/850 WCTR, Department of Justice, Washington, DC 20530.

New Collection

(1) Guidelines on producing master exhibits for asylum applications.

(2) Immigrations and Naturalization Service.

(3) As Requested.

(4) Non-profit institutions. The Immigration and Naturalization Service will use master exhibits as one means by which credible information on country conditions related to asylum applications are made available to Asylum and Immigration Officers for use in adjudicating cases.

(5) 20 annual responses at 80 hours per response.

(6) 1,700 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: April 30, 1993.

Don Wolfrey,

Department Clearance Officer, Department of Justice.

[FR Doc. 93-10605 Filed 5-5-93; 8:45 am]

BILLING CODE 4410-10-M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Leith, Inc., d/b/a/ Leith Jeep-Eagle, Inc.*, Civil Action No. 92-314-CIV-5-BR, was lodged on April 26, 1993 with the United States District Court for the Eastern District of North Carolina (Raleigh Division).

The Consent Decree resolves the United States' civil claims against Leith, Inc., for violations of the Clean Air Act's automobile tampering provisions, 42 U.S.C. 7522(a)(3)(A), committed by its dealership, Leith Jeep-Eagle, located in Raleigh, North Carolina. The proposed consent decree requires that Leith pay the United States $15,000 in civil penalties for tampering with the emissions control equipment of three motor vehicles. The proposed consent decree also provides for injunctive relief by requiring Leith to recall and, if necessary, repair certain vehicles that it previously serviced.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Leith, Inc., d/b/a/ Leith Jeep-Eagle, Inc.*, DOJ Ref. #90-5-2-1-1658.

The proposed consent decree may be examined at the office of the United States Attorney, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27601-1461 and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $6.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93-10697 Filed 5-5-93; 8:45 am]

BILLING CODE 4410-01-M

Consent Decree In Action Under the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA")

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, and Section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622(d)(2), notice is hereby given that a Consent Decree in *United States* v. *Purolator Products Company*, Civil Action No. 93-CV6184T, was lodged with the United States District Court for the Western District of New York on April 26, 1993. The Consent Decree addresses the hazardous waste contamination at the Facet Enterprises, Inc. Superfund Site located in the Town of Horseheads, Chemung County, New York ("the Facet Site"). The Consent Decree requires the defendant to implement the remedial action selected and cleanup standards set forth in the Record of Decision and Scope of Work for the Facet Site. Additionally, the defendant is required to reimburse the United States for $625,174.09, plus interest, for the past costs which the United Environmental Protection Agency ("EPA") has incurred at the Facet Site.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Purolator Products Company*, D.O.J. Ref. No. 90-11-2-862.

The Consent Decree may be examined at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York; the Office of the United States Attorney, Federal Building, room 620, 100 State Street, Rochester, New York; and at the Consent Decree Library, 1120 G Street NW., 4th floor, Washington, DC 20005, (202) 642-0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $26.50 (25 cents per page reproduction charge) payable to the Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environment and Naturol Resources Division.

[FR Doc. 93-10696 Filed 5-5-93; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

Meeting

AGENCY: The National Commission on American Indian, Alaska Native, and Native Hawaiian Housing.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing announces the forthcoming meeting of the Commission.

DATES: May 19-21, 1993, 9 a.m. to 5 p.m.

ADDRESS: OMNI Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008, (202) 234-0770.

FOR FURTHER INFORMATION CONTACT: Lois V. Toliver, Administrative Officer, (202) 275-0045.

SUPPLEMENTARY INFORMATION

TYPE OF MEETING: Open.

AGENDA: Call to Order.
Roll Call.
Chairman's Message.
Update of Commission Activities.
Committee Reports.
Commission Strategy Session on:
1. Native American Finance Authority.
2. Discussion on Programmatic Changes to Indian Housing Programs.
3. Report on the Assessment of American Indian Housing Needs and Programs by the Urban Institute.

Lois V. Toliver,

Administrative Officer.

[FR Doc. 93-10701 Filed 5-5-93; 8:45 am]

BILLING CODE 6820-07-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.
2. *The title of the information collection:* 10 CFR part 31—General Domestic Licenses for Byproduct Material.
3. *The form number if applicable:* Not applicable.
4. *How often the collection is required:* Reports are submitted as events occur. Registration certificates may be submitted at any time. Changes to the information on the Registration Certificate are submitted as they occur.
5. *Who will be required or asked to report:* Persons desiring to own byproduct material and persons desiring to possess and use byproduct material in certain items.
6. *An estimate of the number of annual responses:* 276.
7. *An estimate of the total number of hours needed annually to complete the requirement or request:* 3,159. (An average of 0.58 hours per response and 0.25 hours per recordkeeper).
8. *An indication of whether section 3504(h), Public Law 96-511 applies:* Not applicable.
9. *Abstract:* 10 CFR part 31 establishes general licenses for the possession and use of byproduct material in certain items and a general license for ownership of byproduct material. General licenses are required to keep records and submit reports identified in part 31 in order to permit NRC to determine with reasonable assurance that devices are operated safely and without radiological hazard to users or the public. The revision reflects an increase in burden primarily because of an increase in the number of general licensees.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW. (lower level), Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150-0016), NEOB-3019, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395-3084.

The NRC Clearance officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 28th day of April 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official.

[FR Doc. 93-10683 Filed 5-5-93; 8:45 am]

BILLING CODE 7590-01-M

Correction to Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration

On April 28, 1993 (58 FR 25851), the Federal Register published the Biweekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations. On page 25872, bottom of column 3, the notice entitled "Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania," and ending in the middle of column 2, page 25873 "at the local public document rooms for the particular facilities involved" should be moved to the bottom of column 2 of page 25867.

Dated at Rockville, Maryland, this 29th day of April 1993.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93-10681 Filed 5-5-93; 8:45 am]

BILLING CODE 7590-01-M

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[Docket No. 50-298]

Cooper Nuclear Station; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: General notice; correction.

SUMMARY: This document corrects a general notice appearing in the Federal Register on April 30, 1993 (58 FR 26174), which considers issuance of an amendment to Facility Operating License No. DPR-46, issued to the Nebraska Public Power District, for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. This action is necessary to correct an erroneous date.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-7758.

On page 26176, in the first sentence of the third full paragraph in the first column, the date "June 1, 1993" should be changed to read "May 17, 1993".

Dated at Bethesda, Maryland, this 3rd day of May 1993.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publication Services, Office of Administration.

[FR Doc. 93-10682 Filed 5-5-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-423]

Northeast Nuclear Energy Co.; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-49, issued to Northeast Nuclear Energy Company (the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 3 located in New London, Connecticut.

The licensee has requested that technical specifications be changed to extend the interval for surveillance testing of 42 instrumentation and control items presently required to be tested by June 13, 1993, or later, until the next refueling outage, but no later than September 30, 1993.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The [surveillance test interval] STI increases, in theory, do cause a small increase in the unavailability of the [engineered safety feature actuation system] ESFAS, [reactor trip system] RTS, or other systems associated with the instruments and thereby a resultant small increase in the core damage frequency (CDF). Where quantifications were made, the maximum increase in CDF was found to be of the order of 10^{-7}/yr or less, which is below the level of concern. Furthermore, the small increase is a one-time change and not a permanent increase. Where qualitative assessments were made, a combination of one or more factors, such as: (a) Diverse signals; (b) redundant paths; (c) proven low failure rates based on plant-specific data; (d) relatively low risk significance of the function in core damage prevention/mitigation; and (e) other more frequent tests, were used to justify de minimus low risk increases. In addition, daily channel checks and analog channel operational tests will continue to be performed at the frequencies required by technical specifications. These surveillances will continue to assure that the instrument reliability assumed in the basis of technical specifications is maintained.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

There are no physical design changes in plant operating procedures. Therefore, there can be no impact on plant response to the point where a different accident is created.

3. Involve a significant reduction in a margin of safety

The proposed changes do not involve a change in the safety limits, setpoints, or design margins. Also, the proposed changes do not significantly affect the consequences of an accident or any of the protective boundaries. Therefore, the proposed changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 7, 1993, the licensee may file a request for a hearing with respect to

issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the local public document room located at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700. The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mr. John F. Stolz: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103-3499, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 30, 1993, as supplemented April 20 and April 27, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut.

Dated at Rockville, Maryland, this 29th day of April 1993.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Senior Project Manager, Project Directorate I-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93-10684 Filed 5-5-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-62; Facility Operating License No. R-66; Amendment No. 20]

University of Virginia (University of Virginia Pool Reactor); Order Modifying License

I

The University of Virginia (the licensee or UVA) is the holder of Facility Operating License R-66 issued on June 24, 1960, and subsequently renewed on November 4, 1971, by the

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U.S. Atomic Energy Commission and by the U.S. Nuclear Regulatory Commission (the Commission or NRC) on September 30, 1982. The license authorizes operation of the UVA pool reactor at a power level up to 2 megawatts thermal (MWt). The research reactor is located at the UVA Nuclear Reactor Facility, which is about 700 meters west of the city limits of Charlottesville, Virginia. The mailing address is Nuclear Reactor Facility, Department of Mechanical, Aerospace, and Nuclear Engineering, University of Virginia, Charlottesville, Virginia 22903–2442.

II

On February 25, 1986, the Commission promulgated a final rule in § 50.64 of title 10 of the Code of Federal Regulations (10 CFR 50.64) limiting the use of high-enriched uranium (HEU) fuel in domestic research and test reactors (non-power reactors) (see 51 FR 6514). The rule, which became effective on March 27, 1986, requires that each licensee of a non-power reactor replace HEU fuel at its facility with low-enriched uranium (LEU) fuel acceptable to the Commission. This conversion, which is contingent on Federal Government funding for conversion-related costs, is required unless the Commission has determined that the reactor has a unique purpose. The rule is intended to promote the common defense and security by reducing the risk of theft and diversion of HEU fuel used in non-power reactors and the adverse consequences to public health and safety and the environment from such theft or diversion.

Sections 50.64(b)(2) (i) and (ii) require that a licensee of a non-power reactor (1) not initiate acquisition of additional HEU fuel, if LEU fuel that is acceptable to the Commission for that reactor is available when the licensee proposes that acquisition, and (2) replace all HEU fuel in its possession with available LEU fuel acceptable to the Commission for that reactor in accordance with a schedule determined pursuant to 10 CFR 50.64(c)(2).

Section 50.64(c)(2)(i) of the rule, among other things, requires each licensee of a non-power reactor, authorized to possess and to use HEU fuel, to develop and to submit to the Director of the Office of Nuclear Reactor Regulation (Director) by March 27, 1987, and at 12-month intervals thereafter, a written proposal (proposal) for meeting the rule requirements.

Section 50.64(c)(2)(i) also requires the licensee to include the following in its proposal: (1) A certification that Federal Government funding for conversion is available through the U.S. Department of Energy (DOE) or other appropriate Federal agency and (2) a schedule for conversion, based on availability of replacement fuel acceptable to the Commission for that reactor and upon consideration of other factors such as the availability of shipping casks, implementation of arrangements for the available financial support, and reactor usage.

Section 50.64(c)(2)(iii) requires the licensee to include in its proposal, to the extent required to effect conversion, all necessary changes to the license, to the facility, and to licensee procedures (all three types of changes hereafter called modifications). This paragraph also requires the licensee to submit supporting safety analyses so as to meet the schedule established for conversion.

Section 50.64(c)(2)(iii) also requires the Director to review the licensee proposal, confirm the status of Federal Government funding, and determine a final schedule if the licensee has submitted a schedule for conversion.

Section 50.64(c)(3) requires the Director to review the supporting safety analyses and issue an appropriate Enforcement Order directing both the conversion and any necessary modifications to the extent consistent with protection of the public health and safety. In the **Federal Register** notice of the final rule, the Commission explained that in most cases, if not all, the Enforcement Order would be an Order to modify the license.

Section 2.202, the current authority for issuing Orders of all types including Orders to modify licenses, provides, among other things, that the Commission may modify a license by serving an Order on the licensee. The licensee may demand a hearing concerning any part or all of the Order Modifying License within 20 days from the date of the notice or such longer period as the notice may provide. The Order will become effective on the expiration of this 20-day or longer period, unless the licensee requests a hearing during this period, in which case the Order will become effective on the date specified in an Order made after the hearing.

Section 2.714 gives the requirements for a person whose interest may be affected by any proceeding to initiate a hearing or to participate as a party.

III

On November 9, 1989, as supplemented on February 12, 1991, and December 14, 1992, the NRC staff received the licensee proposal, including its proposed modifications, supporting safety analyses, and schedule for conversion. The conversion consists of replacing high-enriched with low-enriched uranium fuel elements. The fuel elements contain materials testing reactor (MTR)-type fuel plates, with the fuel meat consisting of uranium silicide dispersed in an aluminum matrix. These plates contain an enrichment of less than 20 percent with the uranium-235 isotope. The attachments to this Order include (1) the changes to the licensing conditions and technical specifications that are needed to amend the facility license and (2) the outline of the startup report that is required to be submitted within six months following completion of LEU fuel loading. The NRC staff has reviewed the licensee submittals and the requirements of 10 CFR 50.64 and determined that the public health and safety and the common defense and security require the licensee to convert the facility from the use of HEU to LEU fuel, pursuant to the changes to the license and requirements for a startup report stated in the attachments to this Order, in accordance with the schedule included herein.

IV

Accordingly, pursuant to sections 51, 53, 57, 101, 104, 161b., 161i., and 161o. of the Atomic Energy Act of 1954, as amended, and to Commission regulations in 10 CFR 2.202 and § 50.64, *It is hereby ordered that:* On the later date of either receipt of the replacement core of LEU fuel elements by the licensee or 30 days following the date of publication of this Order in the **Federal Register**, Facility Operating License R–66 is modified by amending the license conditions and technical specifications as stated in the "Attachment to Order Modifying Facility Operator License R–66." The licensee shall submit the startup report as stated in the "Attachment to Order of the Outline of Reactor Startup Report" within six months following completion of LEU fuel loading.

V

Pursuant to the Atomic Energy Act of 1954, as amended, the licensee or any other person adversely affected by this Order may request a hearing within 30 days of the date of this Order. Any request for a hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the Assistant General Counsel for Hearings and Enforcement at the same address. If a person other than the licensee requests a hearing, that person shall set forth with particularity in accordance with 10 CFR 2.714 the manner in which their interest is adversely affected by this Order.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission shall issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing is whether this Order should be sustained.

This Order shall become effective on the later date of either the receipt of the replacement core of the LEU fuel elements by the licensee or 30 days following the date of publication of this Order in the **Federal Register** or, if a hearing is requested, on the date specified in an Order after further proceedings on this Order.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 29th day of April 1993.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 93–10685 Filed 5–5–93; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Identification of Priority Foreign Countries

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of identification of Brazil, India, and Thailand as priority foreign countries pursuant to section 182(a) of the Trade Act of 1974, as amended (Trade Act).

SUMMARY: Pursuant to section 182(a) of the Trade Act (19 U.S.C. 2242), the USTR has identified Brazil, India and Thailand as priority foreign countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to persons relying on intellectual property protection. The USTR must decide no later than May 30, 1993, whether to initiate an investigation, pursuant to section 302(b)(2)(A) of the Trade Act, of the acts, policies and practices that led to the identification of these countries.

EFFECTIVE DATE: The USTR's identification was made on April 30, 1993.

FOR FURTHER INFORMATION CONTACT: Jon Huenemann, Director for Southern Cone Affairs (Brazil) (202) 395–5190, Nancy Adams, Deputy Assistant USTR for Asia and the Pacific (India) (202) 395–4755, Robert Godec, Director for Southeast Asian Affairs (Thailand) (202) 395–6813, Gilbert Donahue, Director for Intellectual Property (202) 395–6864, or Catherine Field, Associate General Counsel (202) 395–3432.

SUPPLEMENTARY INFORMATION: Section 182(a) of the Trade Act requires the USTR to identify foreign countries that deny adequate and effective protection or enforcement of intellectual property rights or that deny fair and equitable market access for persons that rely on intellectual property protection. The USTR must then identify as priority foreign countries, Those trading partners that have the most onerous or egregious acts, policies and practices, that have the greatest adverse impact (actual or potential) on relevant U.S. products Countries are not to be identified as priority foreign countries if they are engaged in good faith negotiations, or making significant progress in multilateral or bilateral negotiations to provide adequate and effective protection or enforcement of intellectual property rights. The USTR has identified Brazil, India and Thailand as priority foreign countries.

The Brazilian patent law is deficient in several areas including the scope of patentable subject matter, inclusion of overly broad compulsory licensing provisions and working requirements, and a short term of protection. Brazil is one of only a few countries that does not provide either product or process patent protection for chemical compounds, foodstuffs, or chemical/pharmaceutical substances. Product patent protection is not available for metal alloys or for new uses of products, including species of microorganisms. Brazil requires a patent owner to "work" (i.e., locally produce) the patented invention in that country. A third party may request a compulsory license if a patent owner has failed to work the patent within three years of issuance, or if exploitation has been discontinued for more than one year, unless working is prevented by *force majeure*. The patent term is only 15 years from the date of filing an application.

With respect to copyright protection, computer software is not protected as a literary work, the term of protection for software it too short (only 25 years) and penalties for copyright infringement are insufficient to deter piracy.

Brazil does not provide adequate protection for trade secrets and provides no protection for semi-conductor mask works. Finally, there are high levels of copyright piracy and trademark counterfeiting which require improved enforcement efforts.

India also has a patent law with numerous deficiencies, including the failure to provide product patent protection for a wide range of products, an inadequate term of protection, and overly broad involuntary licensing provisions. India's Patent Act prohibits grant of patents for any invention claiming substances intended for use or capable of being used as a food, medicine or drug or relating to substances prepared or produced by chemical processes.

Processes for making such substances are patentable subject matter but the patent term for these processes is limited to the shorter of five years from patent grant or seven years from patent application filing. This is usually less than the time needed to obtain regulatory approval to market the product. Where available, product patents expire 14 years from the date of patent filing. Stringent compulsory licensing provisions have the potential to render patent protection virtually meaningless. There are broad "licenses of right" that automatically apply to patents for food and drugs.

Copyright enforcement, which is the responsibility of the state governments, is ineffective. Piracy of copyrighted materials (particularly popular fiction works and certain textbooks) is a significant problem for U.S. and Indian producers. Video, record and tape piracy are also widespread.

In Thailand, serious problems exist with respect to enforcement of copyrights. Although the Thai Government has recently conducted raids and taken other steps that have had a dramatic effect on the availability of pirated goods on the market, prosecution of pirates of U.S. works in the Thai courts has not yet been successful. Although cases have been filed, some of those cases have been pending for nearly 2 years with little result. Evidentiary requirements, limits on raids and other problems make enforcement difficult.

The Thai copyright law does not provide adequate and effective protection. Computer software is not expressly protected and problems exist with respect to unauthorized public performances, limitations on the translation right, inadequate penalties and other areas.

Although Thailand passed a Patent law in February 1992, that law contains extremely broad authority to issue compulsory licenses and the law establishes a Pharmaceutical Patent Board with unique and extraordinarily broad authority to require owners of pharmaceutical patents to provide sensitive cost and pricing information and draconian fines for failure to provide such information. In addition,

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the law does not allow importation to satisfy the "working" requirement, and does not provide any pipeline protection for pharmaceuticals.

Ira S. Shapiro,
General Counsel.
[FR Doc. 93-10727 Filed 5-93; 8:45 am]
BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-32237; File No. SR-Amex-92-30]

Self-Regulatory Organizations; American Stock Exchange, Inc.

April 29, 1993.

In the matter of Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to a Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Listing of Options on the Amex Retail Index and Long-Term Options on a Reduced-Value Retail Index.

I. Introduction

On August 27, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to provide for the listing and trading of Index options on the Amex Retail Index ("Retail Index" or "Index"). This order approves the Exchange's proposal.

The proposed rule change was published for comment in Securities Exchange Act Release No. 31255, 57 FR 46205 (October 7, 1992).[3] No comment letters were received on the proposed rule change.

II. Description of Proposal

A. General

The Amex proposes to trade options on the retail Index, a new stock Index developed by the Amex based on retail industry stocks or American Depositary receipts thereon ("ADRs") which are traded on the Amex, the New York Stock Exchange, Inc. ("NYSE"), or are national market system securities traded through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ-NMS"). The Amex also proposes to list either long-term options on the full-value Index or long-term options on a reduced-value Index that will be computed at one-tenth of the value of the Retail Index ["Retail LEAPS" or "Index LEAPS").[4] Retail LEAPS will trade independent of and in addition to regular Retail Index options traded on the Exchange.

B. Composition of the Index

The Index contains securities of highly-capitalized companies in the retail industry. The retail industry includes companies whose primary business involves merchandising. The Index will include companies which own and/or operate department stores, apparel retail outlets, specialty stores (e.g., toy stores, electronic stores, retail building supply stores, etc.), general merchandise chain, drugstores, and discount retail outlets. The Exchange will use an "equal" dollar-weighted method to calculate the Index.[5] As of July 31, 1992, the Index was at 210.95.

As of July 31, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $64.29 billion to a low of $1.43 million, with the mean and median being $11.11 billion and $7.39 million, respectively. The market capitalization of all the stocks in the Index was $166.5 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 1.15 billion shares to a low of 69.82 million shares. The average price per share of the stocks in the Index, for a six-month period between February and July 1992, ranged from a high of $65.86 to a low of $17.78. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 1.26 million shares per day to a low of 147,800 shares per day, with the mean and median being 603,100 and 410,500 shares, respectively. Lastly, no one stock comprised more than 6.99% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 34.38% of the Index's value. The percentage weighting of the lowest weighted stock was 6.19% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 32.24% of the Index's value.

C. Maintenance

The Index will be maintained by the Amex. The Amex may change the composition of the Index at any time to reflect the conditions in the retail sector and to ensure that the component securities continue to represent the retail industry. At any time when it is necessary to replace a stock or stocks in the Index, the Exchange represents that it will make every effort to add new stocks that are representative of the retail sector and will take into account a stock's capitalization, liquidity, volatility and name recognition. Further, stocks may be replaced in the event of certain corporate events, such as takeovers or mergers, that change the nature of the security. If, however, the Exchange determines to increase the number of Index component stocks to greater than twenty or reduce the number of component stocks to fewer than ten, the Amex will submit a rule filing with the Commission pursuant to section 19(b) of the Act.

D. Eligibility Standards for the Inclusion of Component Stocks in the Index

Exchange Rule 901C specifies criteria for the inclusion of stocks in an index on which options will be traded on the Exchange. Specifically, Rule 901C states that an index must have a minimum of five stocks, and any index with less than 25 component stocks may not include stocks traded on the Amex.[6] In addition, the Exchange will require, as reflected in amended Commentary .01 to Exchange Rule 901C, that at least 90% of the Index's numerical value, after the Index's quarterly rebalancing, be accounted for by stocks that meet the Exchange's options listing standards.

In choosing among retail industry stocks that meet the minimum criteria set forth in Rule 901C, the Exchange will focus only on stocks that are traded on either the NYSE, Amex (subject to the limitations of Rule 901C) or traded through NASDAQ-NMS. In addition, the proposal requires that the stocks included in the Index have an average monthly trading volume of not less than 500,000 (or ADRs) in the U.S. market over the previous six-month period. Further, the Exchange intends, as an additional listing criteria standard, to focus on stocks that have a minimum market value (in U.S. dollars) of at least $75 million.[7] Although the stocks currently selected for inclusion in the Index meet or surpass the above additional listing criteria standard, the Exchange intends for this standard to be used as a guideline only and reserves the right to include stocks in the Index that may not meet this guideline, but, nevertheless, meet the minimum requirements set forth in Amex Rule 901C.[8]

E. Calculation of the Index

The Index will be calculated using an "equal-dollar weighting" methodology designed to ensure that each of the component securities are represented in approximately "equal" dollar amounts in the Index. The Exchange believes that this method of calculation is important since even among the largest companies in the retail industry there is a great disparity in size. For example, although the stocks included in the Index represent many of the most highly capitalized companies in the retail industry, Wal-Mark Stores, Inc. currently represent over 35% of the aggregate market value of the Index. In addition, while currently there is not as much disparity in the prices of the stocks included in the Index, using a price-weighted method to calculate the Index's value is not the Exchange's preferred method since the prices of such stocks can fluctuate significantly as a result of a corporate action (*e.g.*, a stock split or distribution), rather than as a result of stock performance, causing the relative weightings of the stocks within the Index to fluctuate significantly.

In calculating the "equal dollar weighting" of component stocks, the Amex, using closing prices on July 17, 1992, calculated the number of shares that would represent an investment of $10,000 in each of the stocks contained in the Index (to the nearest whole share). The value of the Index equals the current market value (i.e., based on U.S. primary market prices) of the assigned number of shares of each of the stocks in the Index portfolio divided by the current Index divisor. The Index divisor was initially calculated to yield a benchmark value of $200.00 at the close of trading on July 17, 1992. Each quarter thereafter, following the close of trading on the third Friday of January, April, July and October, the Index portfolio is adjusted by changing the number of shares of each component stock so that each company is again represented in $10,000 "equal" dollar amounts. If necessary, a divisor adjustment is made to ensure continuity of the Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the quarterly adjustment.

The number of shares of each component stock in the Index portfolio will remain fixed between quarterly reviews except in the event of certain types of corporate actions, such as the payment of a dividend, other than an ordinary cash dividend, stock distributions, stock splits, reverse stock splits, rights offerings, or a distribution, reorganization, recapitalization, or some such similar event with respect to an Index component stock. The number of share will also be adjusted in the event of a merger, consolidation, dissolution or liquidation of an issuer of a component stock. When the Index is adjusted between quarterly reviews, the number of shares of the relevant security in the portfolio will be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a stock replacement, the average dollar value of the remaining portfolio components will be calculated and that amount invested in the new component stock to the nearest whole share. In both cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated on a real-time basis to market information vendors via the Options Price Reporting Authority.

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded through the NASDAQ-NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (i.e., Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the Amex will wait until the end of the trading day on expiration Friday.[9]

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.[10] Standard options trading hours (9:30 a.m. to 4:10 p.m. New York time) will apply to the contracts. Under Amex Rule 903C, the Exchange intends to list up to three near-term calendar months and two additional calendar months in three month intervals in the January cycle. The Exchange also intends to list long-term options series, having up to thirty-six months to expiration, on either the full-value Retail Index or on a reduced-value Retail Index. Strike price interval, bid/ask differential and price continuity rules will not apply to the trading of Retail LEAPS until their time to expiration is less than twelve months.[11]

The options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Since options on the Index will settle based upon the opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full Value or Reduced Value Retail Index

The proposal provides that the Exchange may list long-term index options that expire from 12 to 36

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240 19b-4 (1992).

[3] The Amex submitted a letter to the staff clarifying that if the Exchange determines to increase the number of Retail Index component stocks to greater than twenty or reduce the number to fewer than ten the Exchange will give prior written notice to the Commission in the form of a filing pursuant to Rule 19b-4 of the Act. *See* letter from Claire P. McGrath, Senior Counsel, Legal & Regulatory Policy Division, Amex, to Thomas Gira, Branch Chief, Options Regulation, Division of Market Regulation, dated September 30, 1992. The Amex also filed a letter amendment on December 15, 1992 amending the filing to require that no stock will be included in the Index unless it has an average trading volume in the U.S. markets over the prior six month period of at least 500,000 shares. The original filing contained a standard, but not requirement, of trading volume of at least 1,000,000 shares over the prior six month period. The Amex also amended a standard relating to the minimum market value (in U.S. dollars) of Index stocks, changing the minimum amount from $100 million to $75 million. *See* letter from Ellen T. Kander, Special Counsel, Derivative Securities, Amex, to Thomas Gira, Branch Chief, Options Regulation, SEC, dated December 14, 1992 ("Amendment No 1").

[4] LEAPS is an acronym for Long-Term Equity Anticipation Securities.

[5] *See infra* Section E entitled "Calculation of the Index" for a description of this calculation method

[6] Accordingly, the Retail Index as currently constituted does not include Amex-traded stocks. The Amex, however, has submitted a proposal, that, among other things, revises Amex Rule 901C to remove the limitation on the number of Amex stocks that can be included in an index which underlies a stock index option traded on the Exchange. Specifically, the proposal would allow, among other things, Amex-listed stocks to be included in Amex-traded index options that are comprised of less than 25 stocks. See Securities Exchange Act Release No. 30356 (February 10, 1992), 57 FR 5497.

[7] See Amendment No. 1, *supra* note 3

[8] *Id.*

[9] For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, the Amex will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

[10] A European-style option can be exercised only during a specified period before the option expires.

[11] *See* Securities Exchange Act Release No. 25041 (October 16, 1987), 52 FR 40008 (October 26, 1987) (order approving SR-Amex-87-22)

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months from listing on the full-value Retail Index or a reduced-value Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for reduced-value Retail LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, an Index value of 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced-value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced value Index LEAPS will be no less than $2.50 instead of $5.00.

In addition, the proposal provides that full-value or reduced-value Retail LEAPS will be issued at no less than six month intervals and that new strike prices will either be near or bracketing the current Index value.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is a Stock Index Option under Amex Rule 901C(a) and a Stock Index Industry Group under Rule 900C(b)(1), the proposal provides that Exchange rules that are applicable to the trading of narrow-based index options will apply to the trading of options on the Index. Specifically, Exchange rules governing margin requirements,[12] position and exercise limits,[13] and trading halt procedures [14] that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that positions in full-value and reduced-value Index options will be aggregated for position and exercise limit purposes. Specifically, under the proposal, ten reduced-value contracts will equal one full-value contract.

[12] Pursuant to Amex Rule 462(d)(2)(D)(iv), the margin requirements for the Index options will be: (1) For each short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value, and(2) for long options positions, 100% of the options premium paid

[13] Pursuant to Amex Rules 904C and 905C, respectively, the position and exercise limits for the Index options will be 8,000 contracts, unless the Exchange determines, pursuant to Rules 904C and 905C, that a lower limit is warranted.

[14] Pursuant to Amex Rule 918C, the trading of Index options will be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in full value and reduced value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[15]

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[16] Specifically, the Commission finds that the trading Retail Index options, including full value and reduced value Retail LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the retail industry.[17]

[15] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

[16] 15 U.S.C. 78f(b)(5) (1988).

[17] Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Retail Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks comprising the retail industry in the U.S. stock markets. The Commission also believes that these Index options will provide investors with a means by which to make investment decisions in the retail industry sector of the U.S. stock markets, allowing them to establish positions or increase existing positions in such markets in a cost effective manner. The Commission also believes that the trading of the Index options and Index LEAPS will allow investors holding positions in some or all of the underlaying securities in the Index to hedge the risks associated with their portfolios more efficiently and effectively. Moreover, the Commission believes that the reduced-value Index LEAPS, that will be traded on an Index computed at one-tenth the value of the Retail Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a reduced cost.

The trading of options on the Retail Index and on a reduced-value Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the Amex adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Retail Index and reduced-value Retail Index are narrow-based indices. The Retail Index is comprised of only fifteen stocks, all of which are within one industry—the retail industry. In addition, the basic character of the reduced-value Retail, which is comprised of the same component securities as the Retail Index and calculated by dividing the Retail Index value by ten, is essentially identical to the Retail Index.[18] Accordingly, the Commission believes it is appropriate for the Amex to apply its rules governing narrow-based index options to trading in the Index options.[19]

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 603,100 and 410,500 shares, respectively.[20] Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $64.29 billion to a low of $1.43 million as of July 31, 1992, with the mean and median being $11.11 billion and $7.39 million, respectively. Third, although the Index is only comprised of fifteen stocks, no one particular stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 6.99% of the Index's total value and the percentage weighting of the three largest issues in the Index accounts for 20.64% of the Index's value.[21] Fourth, all of the component

[18] See generally Securities Exchange Act Release No. 29994, 56 FR 63536 (December 4, 1991) (order designating the PSE Technology Index as a broad-based index rather than a narrow-based index)

[19] See *supra* notes 12 through 14, and accompanying text.

[20] In addition, for the six-month period between February and July 1992, all of companies within the Index had an average daily trading volume greater than 147,800 shares per day.

[21] For an index with a significantly greater number of stocks than fifteen issues, the Commission might come to a different conclusion

stocks in the Index currently are eligible for options trading.[22] Fifth, the Amex, prior to increasing the number of component stocks to more than twenty or decreasing that number to less than ten, will be required to seek Commission approval pursuant to section 19(b)(2) of the Act before effecting such change. This will help protect against material changes in the composition and design of the Index that might adversely effect the Amex's obligations to protect investors and to maintain fair and orderly markets in Retail Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Retail Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

In addition, the Commission does not believe that the fact that the Index is equal dollar-weighted instead of market-weighted or price-weighted results in the Index being readily susceptible to manipulation. Because the use of an equal dollar-weighting method could give securities with relatively small floats or prices a greater weight in the Index than if the Index were capitalization weighted or price weighted, the Commission is concerned that this calculation method could make the Index more readily susceptible to manipulation. The Amex, however, has developed several composition and maintenance criteria for the Index that the Commission believes will minimize the possibility that the Index could be manipulated through trading in less actively traded securities or securities with smaller prices or floats. First, after each quarterly rebalancing, the Amex proposal requires that 90% of the weighting of the Index be accounted for by stocks that are eligible for standardized options trading. The Commission believes that this requirement will ensure that the Index will be almost entirely made up of stocks with large public floats that are actively traded, thus reducing the likelihood that the Index could be manipulated by abusive trading in the smaller stocks contained in the Index. Second, the proposal provides that only stocks with an average monthly trading volume of not less than 500,000 shares over the previous six months will be eligible for inclusion in the Index. This trading volume requirement is considerably higher than the requirement contained in the options listing standards for individual equity options. Third, the Commission believes that the quarterly rebalancing of the Index will further serve to reduce the susceptibility of the Index to manipulation. Through the quarterly rebalancing, any "overweight" stock [23] will be brought back into line with the other stocks, thus ensuring that less capitalized stocks do not become excessively weighted. Fourth, because the Index is narrow-based, the applicable position and exercise limits and margin requirements will further reduce the susceptibility of the Index to manipulation. Lastly, the Amex represents that it will make every effort to add new stocks to the Index that are representative of the retail sector and will take into account a stock's capitalization, liquidity, and volatility.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Retail Index options including full-value and reduced-value Retail LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the Amex, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Retail Index options and Index LEAPS.

The Commission also has some concern that the quarterly rebalancing of the Index could result in investor confusion because the number of stocks of each issuer in the Index could fluctuate each quarter. Such fluctuation, among other things, could make it difficult for investors to maintain any corresponding cash positions in the stocks underlying the Index. The Commission does not believe that the quarterly rebalancing will result in dramatic changes in the weightings of the component securities. Moreover, the Commission believes the benefits to be derived from using a quarterly rebalancing will more than offset the potential confusion for investors. Specifically, the Commission believes that quarterly rebalancing will ensure that no stock or group of stocks will have a disproportionate impact on the Index.

Finally, the Amex has developed procedures to ensure that investors are adequately notified of any changes due to the quarterly rebalancing of the Index. In particular, the Amex represents that it will send informational circulars to its members notifying them of any changes to the Index as a result of the quarterly rebalancing. In addition, the Amex has stated that it will include a description of the equal dollar weighting methodology in all its promotional and marketing materials for the Index. The Commission believes these procedures should help to avoid any investor confusion, while providing important information about the special characteristics of the Index.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[24] In this regard, the NYSE, which currently is the primary market for all of the Index's component stocks, is a member of the Intermarket Surveillance Group ("ISG"), which

if only three stocks accounted for more than 55% of the index's weighting. Further, if an index contained only a few stocks, the Commission might question whether it can be traded as an index product.

[22] The Amex's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See Amex Rule 915.

[23] A stock would be "overweight" if its weight in the Index were greater than the average weight of all of the stocks in the Index. This would occur, for example, if the price of a component stock significantly increased relative to the other stocks in the Index during a particular quarter and prior to the rebalancing.

[24] See Securities Exchange Act Release No. 31243, 57 FR 45849 (October 5, 1992).

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provides for the exchange of all necessary surveillance information.[25]

D. Market Impact

The Commission believes that the listing and trading of Retail Index options, including full value and reduced value Index LEAPS on the Amex will not adversely impact the underlying securities markets. First, as described above, due to the "equal-dollar" weighting method, no one stock or group of stocks dominates the Index. Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Third, the 8,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Retail Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is reasonable and consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.[26]

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1 provides for a requirement to the proposal that stocks comprising the Index must have an average trading volume in the U.S. markets over the prior six month period of at least 500,000 shares. Amendment No. 1 also reduces the minimum market value (in U.S. dollars) requirement for stocks comprising the Index from $100 million to $75 million. The Commission believes that the new trading volume requirement strengthen the integrity of the Index and does not raise new issues. Although Amendment No. 1 reduced the necessary market capitalization for stocks comprising the Index from the originally proposed level, the $75 million requirement is an adequately high level to protect investor and market concerns. Moreover, the Commission finds that both modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 1 to the Amex's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[27] that the proposed rule change (SR–Amex–92–30), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10722 Filed 5–5–93; 8:45 am]

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[25] See *supra* note 15. Although the Index currently does not contain ADRs, the proposal provides that the Index could contain ADRs representing retail industry stocks. If the Amex were to change the composition of the Index so that greater than 20% of the Index was represented by ADRs whose underlying securities were not subject to an effective surveillance sharing arrangement with the Amex, then it would be difficult for the Commission to reach the conclusions reached in this order and the Commission would have to determine whether it would be suitable to continue to trade options on the Index.

[26] Securities Exchange Act Release No. 30944, 57 FR 33378 (July 28, 1992).

[27] 15 U.S.C. 78s(b)(2) (1988).

[28] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–32243; File No. SR–CBOE–92–29]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.

April 29, 1993.

In the matter of Self-Regulatory Organizations; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on the CBOE Environmental Index and Long-Term Options on a Reduced-Value Environmental Index.

I. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on the CBOE Environmental Index ("Environmental Index" or "Index").

Notice of the proposal, as amended through November 9, 1992,[3] appeared in the **Federal Register** on December 23, 1992.[4] No comment letters were received on the proposed rule change. Thereafter, the CBOE amended the proposal to clarify, among other things, the proposed maintenance listing standards.[5] This order approves the proposal as amended.

II. Description of Proposal

A. General

Pursuant to Exchange Rule 24.2, the CBOE proposes to list and trade cash-settled, European-style[6] stock index options on an industry index, the Environmental Index. The CBOE also proposes to amend Exchange Rule 24.9 to provide for the listing of long-term, reduced-value index options that will be computed at one-tenth of the value of the Environmental Index ("Environment LEAPS").[7] Environment LEAPS will trade independent of and in addition to regular Environmental Index options traded on the Exchange.[8]

B. Composition of the Index

The Index is based on 15 stocks in the environmental industry sector that trade on the American Stock Exchange, Inc. ("Amex") or the New York Stock Exchange, Inc. ("NYSE"), or through the facilities of the National Association of Securities Dealers Automated Quotation System and are reported national market system securities ("NASDAQ/NMS").[9] Currently, eleven of the stocks are listed on the NYSE, three trade on the NASDAQ/NMS and the remaining one is listed on the Amex. The Index is price-weighted [10] and will be calculated real time using last sales prices. As of August 31, 1992, the Index was at 160.99.

As of September 16, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $17.6 billion to a low of $89 million, with the mean and median being $2.3 billion and $663 million, respectively. The market capitalization of all the stocks in the Index was $34.8 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 495.5 million shares to a low of 7.9 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $37.12 to a low of $6.31. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 1.1 million shares per day to a low of 22,000 shares per day, with the mean and median being 219.067 and 107,000 shares, respectively. Lastly, no one stock comprised more than 13.73% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 53.13% of the Index's value. The percentage weighting of the lowest weighted stock was 2.12% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 16.38% of the Index's value.[11]

C. Maintenance

The Index will be maintained by the CBOE. The CBOE may change the composition of the Index at any time to reflect the conditions in the environmental industry. If it becomes necessary to replace a stock in the Index, the Exchange represents that it will make every effort to add new stocks that are representative of the environmental industry and will take into account a stock's capitalization, liquidity, volatility, and name recognition. Further, stocks may be replaced in the event of certain corporate events, such as takeovers or mergers, that change the nature of the security. If, however, the Exchange determines to increase the number of Index component stocks to greater than twenty or reduce the number of component stocks to fewer than ten, the proposal provides that the CBOE will submit a rule filing with the Commission pursuant to section 19(b) of the Act.[12] In addition, in choosing replacement stocks for the Index, the CBOE will be required to ensure that at least 90% of the weight of the Index continues to be made up of stocks that are eligible for standardized options trading.[13]

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this order, the rules in chapter XXIV of the CBOE Rules will be applicable to Environmental Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for narrow based index options.

In addition, the CBOE is amending Rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100, the FT–SE (U.K.) 100, and the FT–SE Eurotrack 200 indexes, also is a "broad-based index" within the meaning of the rules in chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index options. The amendment to Rule 24.1 further provides that the terms "narrow-based index" and the previously defined "industry index" both mean an index designed to be representative of a particular industry or a group of related industries. An industry index contract such as the Environmental Index option will, therefore, be deemed to be "narrow-based" for purposes of the position limit requirements of Rule 24.4A.

E. Calculation of the Index

The Index will be calculated continuously and disseminated to the Options Price Reporting Authority ("OPRA") every 15 seconds by the CBOE or a designated agent of the CBOE, based on the last-sale prices of the component stocks. OPRA, in turn, will disseminate the Index value to other financial vendors such as Reuters, Telerate, and Quotron.[14]

The Index is price-weighted and reflects changes in the prices of the component stocks relative to the base date. Specifically, the Index value is calculated by adding the prices of the component stocks and then dividing this summation by a divisor that is equal to the number of stocks in the Index to get the average price. To maintain the continuity of the Index, the divisor will be adjusted to reflect non-market changes in the prices of the component securities as well as changes in the composition of the Index. Changes which may result in divisor adjustments include, but are not limited to, stock splits and dividends, spin-offs,

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] On September 28, 1992, the CBOE amended the proposal to amend Exchange Rule 24.9 to provide that Environmental Index options will be A.M.-settled options ("Amendment No. 1"). See File No. SR–CBOE–92–29, Amendment No. 1. On November 9, 1992, the CBOE submitted an amendment to the proposal that made clarifying, non-substantive changes to conform the proposal to existing Exchange rules ("Amendment No. 2"). See File No. SR–CBOE–92–29, Amendment No. 2.

[4] See Securities Exchange Act Release No. 31618 (December 17, 1992), 57 FR 61133 (December 23, 1992).

[5] More specifically, on April 7, 1993, the proposal was amended to require that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards enumerated in CBOE Rule 5.3 and that the CBOE submit a rule filing pursuant to section 19(b) of the Act if the number of component securities in the Index changes to either less than 10 or more than 20. This amendment also provided for the listing of long-term, reduced-value Index options that will be computed at one-tenth the value of the Environmental Index.

[6] A European-style option can be exercised only during a specified period before the option expires.

[7] LEAPS is an acronym for Long-Term Equity Anticipation Securities.

[8] Although the CBOE, at this time, intends to list Environmental Index LEAPS only on a reduced value Index ("Environmental LEAPS"), CBOE Rule 24.9 would permit the listing of full value Environmental Index LEAPS.

[9] Real-time last sale reporting recently has been extended to all securities traded over NASDAQ, however, NASDAQ/NMS securities, among other things, are subject to higher listing standards.

[10] The calculation of a price-weighted index involves taking the summation of the prices of the stocks in the index. In contrast, the calculation of a capitalization-weighted index involves taking the summation of the product of the price of each stock in the index and the shares outstanding for each issue.

[11] The six highest weighted securities in the Index, as of September 16, 1992, were: Waste Management, Inc.; Whelabrator Technologies, Inc.; Safety-Kleen Corp.; Browning-Ferris Industries, Inc.; Mid-American Waste Systems, Inc.; and Groundwater Technology, Inc. (the last two companies each represent 6.65% of the value of the Index). The five least weighted securities in the Index were: Allwaste, Inc.; Chambers Development Co., Inc.; Clean Harbors, Inc.; Laidlaw Inc.; and Rollins Environmental Services, Inc.

[12] See Amendment No. 3, *supra* note 5.

[13] See Amendment No. 3, *supra* note 5. The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The Public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See CBOE Rule 5.3.

[14] For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, the CBOE will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

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certain rights issuances, and mergers and acquisitions.

The Index value for the purpose of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration.[15] In the case of securities traded through the NASDAQ–NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the settlement value for the options. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for the purpose of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.[16]

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options. Standard index options trading hours (8:30 a.m. to 3:15 p.m. Central Time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.[17] In addition, pursuant to CBOE Rule 24.9, there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several additional reduced-value long-term options series with up to three years to expiration ("LEAPS").

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to last business day before expiration (normally a Thursday).

G. Listing of Options on a Reduced-Value Environmental Index

The proposal further provides for the listing of long-term Index options that expire from 12 to 36 months from listing, on a reduced-value Environmental Index that will be computed at one-tenth the value of the Index. The current and closing index value for reduced-value Environment LEAPS will be computed by dividing the Index value by ten and rounding the resulting figure to the nearest one-hundredth. For example, an Environmental Index value of 185.46 would be 18.55 for the reduced-value LEAPS and 185.43 would become 18.54. Other than the reduced value, all other specifications and calculations for reduced-value Environment LEAPS will remain the same.[18] Pursuant to Exchange Rule 24.3, the reduced-value Index will be continuously calculated and disseminated.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value Standard & Poor's 100 and 500 Indexes ("OEX" and "SPX," respectively) [19] will be applicable to the trading of reduced-value Environment LEAPS. For example, Environment LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Specifically, the proposal provides that reduced-value Environment LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential, and continuity rules will not apply to the trading of reduced-value Environment LEAPS (or long-term, full-value Index options) until their time to expiration is less than 12 months. The strike price interval for reduced-value Environment LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional long-term options series may be added when the value to the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value DEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Environmental Index options and Environment LEAPS. Specifically, Exchange rules governing margin requirements,[20] position and exercise limits,[21] and trading halt procedures [22] that are applicable to the trading of narrow-based Index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a given position in Environment LEAPS complies with applicable position and exercise limits, positions in reduced-value Environment LEAPS will be aggregated with positions in the Index options. Under the proposal, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will be used to monitor trading in options on the Index. These procedures include complete access to trading activity in the underlying securities. In addition, the Intermarket Surveillance Group Agreement ("ISG Agreement"), dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[23]

[15] The last trading day prior to expiration is the third Friday of the expiration month. For a more detailed discussion of the trading days for the Index options, see *infra* section II, F.

[16] See *supra* note 14.

[17] For a description of the strike price intervals for reduced-value Index options and long-term Index options, see *infra* section II, G.

[18] See discussion below, at section II, for position and exercise limit adjustments for reduced-value Environment Leaps.

[19] See Securities Exchange Act Release No. 28686, 55 FR 51517 (December 14, 1990).

[20] Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) For each short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long options positions, 100% of the options premium paid.

[21] Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 6,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.

[22] Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

[23] ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[24] Specifically, the Commission finds that the trading of Environmental Index options, including full-value and reduced-value LEAPS options,[25] will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the Environmental industry.[26] The trading of options on the Environmental Index and LEAPS on a reduced-value Environmental Index, however, raises several concerns, namely issues related to index design, customer production, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Index and the reduced-value Index are narrow-based because the Environmental Index is only comprised of 15 stocks, all of which are within one industry—the Environmental industry.[27] Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options and reduced-value Environment LEAPS.[28]

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 621,867 and 471,000 shares respectively.[29] Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $21.7 billion to a low of $122 million, with the mean and median being $2.7 billion and $754 million, respectively. Third, no particular stock dominates the Index, in that no one stock comprises more than 18.02% of the Index's total value. Although the percentage weighting of the three largest issues in the Index accounts for 37% of the Index's value, this is not unreasonable given the nature of the environmental industry, the limited number of stocks in the Index, and the large capitalization active trading markets of the three stocks.[30] Fourth, fourteen of the fifteen component stocks in the Index currently are eligible for options trading.[31]

Fifth, if the CBOE increases the number of component stocks to more than twenty or decreases that number to less than ten, the CBOE will be required to seek Commission approval, pursuant to section 19(b)(2) of the Act, before listing new strike price or expiration month series of the Environmental Index. This will help protect against material changes in the composition and design of the Index that might adversely effect the CBOE's obligations to protect investors and to maintain fair and orderly markets in Environmental Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Environmental Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

In addition, the Commission does not believe that the fact that the Index is price-weighted instead of market-weighted results in the Index being readily susceptible to manipulation. Because the use of price-weighting could give securities with relatively small floats or prices a greater weight in the Index than if the Index were capitalization weighted, the Commission is concerned that this calculation method could make the Index more readily susceptible to manipulation. The CBOE, however, has developed several composition and maintenance criteria for the Index that the Commission believes will minimize the possibility that the Index could be manipulated through trading in less actively traded securities or securities with smaller prices or smaller floats. First, the CBOE proposal requires that 90% of the weighting of the Index be comprised of stocks that are eligible for standardized options trading. The Commission believes that this requirement will ensure that the Index will be almost entirely made up of stocks with large public floats that are actively traded, thus reducing the likelihood that the Index could be manipulated by abusive trading in the smaller stocks contained in the Index. Second, because the Index is narrow-based, the applicable position and exercise limits and margin requirements will further reduce the susceptibility of the Index to manipulation. Lastly, the CBOE represents that it will make every effort to add new stocks to the Index that are representative of the environmental industry sector and will take into account a stock's capitalization, liquidity, and volatility.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Environmental Index options and Environment LEAPS, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only

[24] 15 U.S.C. 78f(b)(5) (1988).

[25] See *supra* note 8.

[26] Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Environmental Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks comprising the environmental industry in the U.S stock markets. The Commission also believes that these Index options will provide investors with a means by which to make investment decisions in the environmental industry sector of the U.S. stock markets, allowing them to establish positions or increase existing positions in such markets in a cost effective manner. The Commission also believes that the trading of Environmental Index options and Environment LEAPS will allow investors holding positions in some or all of the underlying securities in the Index to hedge the risks associated with their portfolios more efficiently and effectively. Moreover, the Commission believes that Environment LEAPS, which will be traded on an index computed at one-tenth the value of the Environmental Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a reduced cost.

[27] See Securities Exchange Act Release No. 29994 (November 26, 1991), 56 FR 63536 (December 4, 1991) (order designating the PSE Technology Index as a broad-based index, rather than a narrow-based index).

[28] See *supra* notes 20 through 22 and accompanying text.

[29] In addition, for the six-month period between March and August 1992, all of the companies within the Index had an average daily trading volume greater than 22,000 shares per day.

[30] For an index with a significantly greater number of stocks than 15 issues, the Commission might come to a different conclusion if only three stocks accounted for more than 55% of the index's weighting. Further, if an index contained only a few stocks, the Commission might question whether it can be traded as an index product.

[31] For a description of the options listing standards, see *supra* note 13.

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investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Environment LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Environmental Index options and Environment LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities market.[32] Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. In this regard, the CBOE, the NYSE, and the NASD are members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.[33]

D. Market Impact

The Commission believes that the listing and trading of Environmental Index options and Environment LEAPS on the CBOE will not adversely impact the underlying securities markets.[34] First, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Second, existing CBOE stock index options rules and surveillance procedures will apply to the Index options and Environment Leaps. Third, the 6,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contraparty non-performance will be minimized because the Index options and Environment LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Environmental Index options and reduced-value Environment LEAPS based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.[35]

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 3 provides for the listing of reduced-value Environment LEAPS. Because the index underlying Environment LEAPS is identical to the Index and Environment LEAPS will be subject to the same rules that apply to other index LEAPS traded on the Exchange, the Commission believes the CBOE's Environment LEAPS proposal raises no new regulatory issues. Amendment No. 3 also requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to section 19(b) of the Act if the number of component securities in the Index changes to either less than 10 or more than 20. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[36] that the proposed rule change (SR–92–29), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[37]

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10632 Filed 5–5–93; 8:45 am]

BILLING CODE 8010–01–M

[32] See eg. Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (October 5, 1992).

[33] See *supra* note 23.

[34] In addition, the CBOE has represented that the CBOE and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and reduced-value Environment LEAPS. See Letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated March 22, 1992 and memorandum from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated March 19, 1993.

[35] See Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

[36] 15 U.S.C. 78s(b)(2) (1988).

[37] 17 CFR 200.30–3 (a)(12) (1992)

(Release No. 34–32242; File No. SR–CBOE–92–30)

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.

April 29, 1993.

In the matter of Self-Regulatory Organizations; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options on the CBOE Computer Software Index and Long-Term Options on a Reduced-Value Computer Software Index.

I. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on the CBOE

[1] 15 U.S.C. 78s(b)(1) (1990).

[2] 17 CFR 240.19b–4 (1992).

Computer Software Index ("Computer Software Index" or "Index").

Notice of the proposal, as amended through November 9, 1992,[3] appeared in the **Federal Register** on December 23, 1992.[4] No comment letters were received on the proposed rule change. Thereafter, the CBOE amended the proposal to clarify, among other things, the proposed maintenance listing standards.[5] This order approves the proposal as amended.

II. Descripton of Proposal

A. General

Pursuant to Exchange Rule 24.2, the CBOE proposes to list and trade cash-settled, European-style[6] stock index options on an industry index, the Computer Software Index. The CBOE also proposes to amend Exchange Rule 24.9 to provide for the listing of long-term, reduced-value index options that will be computed at one-tenth of the value of the Computer Software Index ("Computer LEAPS").[7] Computer LEAPS will trade independent of and in addition to regular Computer Software Index options traded on the Exchange.[8]

B. Composition of the Index

The Index is based on 15 stocks in the computer software sector that trade on the New York Stock Exchange, Inc. ("NYSE") or through the facilities of the National Association of Securities Dealers Automated Quotation System and are reported national market system securities ("NASDAQ/NMS").[9] Currently, fourteen of the stocks trade on NASDAQ/NMS and the remaining stock is listed on the NYSE. The Index is price-weighted [10] and will be calculated real time using last sales prices. As of August 31, 1992, the Index was at 143.80.

As of September 16, 1992, the market capitalizations of the individuals stocks in the Index ranged from a high of $21.7 billion to a low of $122 million, with the mean and median being $2.8 billion and $754 million, respectively. The market capitalization of all the stocks in the Index was $41.5 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 269.5 million shares to a low of 9.3 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $51.64 to a low of $13.85. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 1.5 million shares per day to a low of 160,000 shares per day, with the mean and median being 621,867 and 471,000 shares, respectively. Lastly, no one stock comprised more than 18.02% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 61.61% of the Index's value. The percentage weighting of the lowest weighted stock was 2.18% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 13.24% of the Index's value.[11]

C. Maintenance

The Index will be maintained by the CBOE. The CBOE may change the composition of the Index at any time to reflect the conditions in the computer software industry. If it becomes necessary to replace a stock in the Index the Exchange represents that it will make every effort to add new stocks that are representative of the computer software industry and will take into account a stock's capitalization, liquidity, volatility and name recognition. Further, stocks may be replaced in the event of certain corporate events, such as takeovers or mergers, that change the nature of the security. If, however, the Exchange determines to increase the number of Index component stocks to greater than twenty or reduce the number of component stocks to fewer than ten, the proposal provides that the CBOE will submit a rule filing with the Commission pursuant to section 19(b) of the Act.[12] In addition, in choosing replacement stocks for the Index, the CBOE will be required to ensure that at least 90% of the weight of the Index continues to be made up of stocks that are eligible for standardized options trading.[13]

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this order, the rules in chapter XXIV of the CBOE Rules will be applicable to Computer Software Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow based index options.

The CBOE is amending Rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100, the FT-SE (U.K.) 100, and the FT-SE Eurotrack 200 indexes, also is a "broad-based index" within the meaning of the rules in chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index options. The amendment to Rule 24.1 further provides that the terms "narrow-based index" and the previously defined "industry index" both mean an index designed to be representative of a particular industry or a group of related industries. An industry index contract such as the Computer Software Index option will, therefore, be deemed to be "narrow-based" for purposes of the position limit requirements of Rule 24.4A.

[3] On September 28, 1992, the CBOE amended the proposal to amend Exchange Rule 24.9 to provide that Computer Software Index options will be A.M.-settled options ("Amendment No. 1"). See File No. SR–CBOE–92–30, Amendment No. 1. On November 9, 1992, the CBOE submitted an amendment to the proposal that made clarifying, non-substantive changes to conform the proposal to existing Exchange rules ("Amendment No. 2"). See File No. SR–CBOE–92–30, Amendment No. 2.

[4] See Securities Exchange Act Release No. 31617 (December 17, 1992), 57 FR 61135 (December 23, 1992).

[5] More specifically, on April 7, 1993, the proposal was amended to require that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards enumerated in CBOE Rule 5.3 and that the CBOE submit a rule filing pursuant to Section 19(b) of the Act if the number of component securities in the Index changes to either less than 10 or more than 20. This amendment also provided for the listing of long-term, reduced-value Index options that will be computed at one-tenth the value of the Computer Software Index.

[6] A European-style option only can be exercised during a limited period of time before the option expires.

[7] LEAPS is an acronym for Long-Term Equity Anticipation Securities.

[8] Although the CBOE, at this time, intends to list Computer Software Index LEAPS only on a reduced value Index ("Computer LEAPS"), CBOE Rule 24.9 permit the listing of full value Computer Software Index LEAPS.

[9] Real-time last sale reporting recently has been extended to all securities traded over NASDAQ, however, NASDAQ/NMS securities, among other things, are subject to higher listing standards.

[10] The calculation of a price-weighted index involves taking the summation of the prices of the stocks in the index. In contrast, the calculation of a capitalization-weighted index involves taking the summation of the product of the price of each stock in the index and the shares outstanding for each issue.

[11] The five highest weighted securities in the Index, as of September 16, 1992, were: Microsoft Corporation; BMC-Software, Inc.; Novell, Inc.; Borland International, Inc.; and Adobe Systems, Inc. The five least weighted securities in the Index were: American Software, Inc.; Software Publishing Corp.; Symantec; Aldus Corporation; and Computer Associates International, Inc.

[12] See Amendment No. 3, *supra* note 5.

[13] See Amendment No. 3, *supra* note 5. The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See CBOE Rule 5.3.

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E. Calculation of the Index

The Index will be calculated continuously and disseminated to the Options Price Reporting Authority ("OPRA") every 15 seconds by the CBOE or a designated agent of the CBOE, based on the last-sale prices of the component stocks. OPRA, in turn, will disseminate the Index value to other financial vendors such as Reuters, Telerate, and Quotron.[14]

The Index is price-weighted and reflects changes in the prices of the component stocks relative to the base date. Specifically, the Index value is calculated by adding the prices of the component stocks and then dividing this summation by a divisor that is equal to the number of stocks in the Index to get the average price. To maintain the continuity of the Index, the divisor will be adjusted to reflect non-market changes in the prices of the component securities as well as changes in the composition of the Index. Changes which may result in divisor changes include, but are not limited to, stock splits and dividends, spin-offs, certain rights issuances, and mergers and acquisitions.

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration.[15] In the case of securities traded through the NASDAQ–NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the settlement value for the options. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for the purpose of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.[16]

[14] For purpose of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, the CBOE will use the closing value of that stock on the prior trading days when calculating the value of the Index, until the stock opens for trading.

[15] The last trading day prior to expiration is the third Friday of the expiration month. For a more detailed discussion of the trading days for the Index options, see *infra* section II, F.

[16] See *supra* note 14.

F. Contract Specifications

The proposed options on the Index will be cashed-settled, European-style options. Standard index options trading hours (8:30 a.m. to 3:15 p.m. Central Time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.[17] In addition, pursuant to CBOE Rule 24.9, there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several additional reduced-value long-term options series with up to three years to expiration ("LEAPS").

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Options on a Reduced-Value Computer Software Index

The proposal further provides for the listing of long-term index options that expire from 12 to 36 months from listing, on a reduced-value Computer Software Index that will be computed at one-tenth the value of the Index. The current and closing index value for reduced-value Computer LEAPS will be computed by dividing the Index value by ten and rounding the resulting figure to the nearest one-hundredth. For example, a Computer Software Index value of 185.46 would be 18.55 for the reduced-value LEAPS and 185.43 would become 18.54. Other than the reduced-value, all other specifications and calculations for reduced-value Computer LEAPS will remain the same.[18] Pursuant to Exchange Rule 24.3, the reduced-value Index will be continuously calculated and disseminated.

[17] For a description of the strike price intervals for reduced-value Index options and long-term Index options, see *infra* section II, G.

[18] See discussion below, at Section H, for position and exercise limit adjustments for reduced-value Computer Leaps.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value Standard & Poor's 100 and 500 Indexes ("OEX" and "SPX," respectively)[19] will be applicable to the trading of reduced-value Computer LEAPS. For example, Computer LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Specifically, the proposal provides that reduced-value Computer LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential and continuity rules will not apply to the trading of reduced-value Computer LEAPS (or long-term, full-value Index options) until their time to expiration is less than 12 months. The strike price interval for reduced-value Computer LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional long-term options series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-values OEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Computer Software Index options and Computer LEAPS. Specifically, Exchange rules governing margin requirements,[20] position and exercise limits,[21] and trading halt procedures[22] that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for the purpose of determining whether a given position in Computer LEAPS complies

[19] See Securities Exchange Act Release No. 28686, 55 FR 51517 (December 14, 1990).

[20] Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) For each short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long options positions, 100% of the options premium paid.

[21] Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 6,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.

[22] Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

with applicable position and exercise limits, positions in reduced-value Computer LEAPS will be aggregated with positions in the Index options. Under the proposal, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Index. These procedures include complete access to trading activity in the underlying securities. In addition, the Intermarket Surveillance Group Agreement ("ISG Agreement"), dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[23]

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[24] Specifically, the Commission finds that the trading of Computer Software Index options, including full-value and reduced-value LEAPS on the Index,[25] will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the computer software industry.[26] The trading of options on the Computer Software Index and LEAPS on a reduced-value Computer Software Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Index and the reduced-value Index are narrow-based because the Computer Software Index is only comprised of 15 stocks, all of which are within one industry—the computer software industry.[27] Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based Index options to trading in the Index options and reduced-value Computer LEAPS.[28]

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 621,867 and 471,000 shares, respectively.[29] Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $21.7 billion to a low of $122 million, with the mean and median being $2.7 billion and $754 million, respectively. Third, no particular stock dominates the Index, in that no one stock comprises more than 18.02% of the Index's total value. Although the percentage weighting of the three largest issues in the Index accounts for 43% of the Index value, this is not unreasonable given the nature of the computer software industry, the limited number of stocks in the Index, and the large capitalization and active trading markets of the three stocks.[30] Fourth, fourteen of the fifteen component stocks in the Index currently are eligible for options trading.[31] Fifth, if the CBOE increases the number of component stocks to more than twenty or decreases that number to less than ten, the CBOE will be required to seek Commission approval, pursuant to section 19(b)(2) of the Act, before listing new strike prior or expiration month series of the Computer Software Index. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in Computer Software Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Computer Software Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

In addition, the Commission does not believe that the fact that the Index is price-weighted instead of market-weighted results in the Index being readily susceptible to manipulation. Because the use of price-weighting could give securities with relatively small floats or prices a greater weight in the Index than if the Index were capitalization weighted, the Commission is concerned that this calculation method could make the Index more readily susceptible to manipulation. The CBOE, however, has developed several composition and maintenance criteria for the Index that the Commission believes will minimize the possibility that the Index could be manipulated through trading in less actively traded securities or securities with smaller prices or smaller floats. First, the CBOE proposal requires that 90% of the weighting of the Index be comprised of stocks that are eligible for standardized options trading. The Commission believes that this requirement will ensure that the Index will be almost entirely made up of stocks with large public floats that are

[23] ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

[24] 15 U.S.C. 78f(b)(5) (1988).

[25] See supra note 8.

[26] Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Computer Software Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks comprising the computer software industry in the U.S. stock markets. The Commission also believes that these Index options will provide investors with a means by which to make investment decisions in the computer software industry sector of the U.S. stock markets, allowing them to establish positions or increase existing positions in such markets in a cost effective manner. The Commission also believes that the trading of Computer Software Index options and Computer LEAPS will allow investors holding positions in some or all of the underlying securities in the Index to hedge the risks associated with their portfolios more efficiently and effectively. Moreover, the Commission believes the Computer LEAPS, which will be traded on an index computed at one-tenth the value of the Computer Software Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a reduced cost.

[27] See Securities Exchange Act Release No. 29994 (November 26, 1991), 56 FR 63536 (December 4, 1991) (order designating the PSE Technology Index as a broad-based index, as opposed to narrow).

[28] See *supra* notes 20 through 22 and accompanying text.

[29] In addition, for the six-month period between March and August 1992, all of the companies within the Index had an average daily trading volume greater than 160,000 shares per day.

[30] For an index with a significantly greater number of stocks than 15 issues, the Commission might come to a different conclusion if only three stocks accounted for more than 55% of the index's weighting. Further, if an Index contained only a few stocks, the Commission might question whether it can be traded as an index product.

[31] For a description of the options listing standards, see *supra* note 13.

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actively traded, thus reducing the likelihood that the Index could be manipulated by abusive trading in the smaller stocks contained in the Index. Second, because the Index is narrow-based, the applicable position and exercise limits and margin requirements will further reduce the susceptibility of the Index to manipulation. Lastly, the CBOE represents that it will make every effort to add new stocks to the Index that are representative of the computer software sector and will take into account a stock's capitalization, liquidity, and volatility.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Computer Software Index options and Computer LEAPS, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Computer LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Computer Software Index options and Computer LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities market.[32] Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. In this regard, the CBOE, the NYSE, and the NASD are members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance informations.[33]

D. Market Impact

The Commission believes that the listing and trading of Computer Software Index options and Computer LEAPS on the CBOE will not adversely impact the underlying securities markets.[34] First, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-trade, highly-capitalized stocks. Second, existing CBOE stock index options rules and surveillance procedures will apply to the Index options and Computer Leaps. Third, the 6,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contraparty non-performance will be minimized because the Index options and Computer LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that setting expiring Computer Software Index options and reduced-value Computer LEAPS based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.[35]

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 3 provides for the listing of reduced-value Computer LEAPS. Because the index underlying Computer LEAPS is identical to the Index and Computer LEAPS will be subject to the same rules that apply to other Index LEAPS traded on the Exchange, the Commission believes the CBOE's Computer LEAPS proposal raises no new regulatory issues. Amendment No. 3 also requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to section 19(b) of the Act if the number of component securities in the Index changes to either less than 10 or more than 20. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore, ordered, pursuant to Section 19(b)(2) of the Act[36], that the proposed rule change (SR-CBOE-92-30), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[37]

[32] See eg. Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (October 5, 1992).

[33] See *supra* note 23.

[34] In addition, the CBOE has represented that the CBOE and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and reduced-value Computer LEAPS. See Letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated March 22, 1992 and memorandum from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated March 19, 1993.

[35] See Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

[36] 15 U.S.C. 78s(b)(2)(1988).

[37] 17 U.S.C. 200.30-3(a)(12)(1992)

Jonathan G. Katz,
Secretary.
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[Release No. 34-32244; File No. SR-CBOE-92-27]

Self-Regulatory Organizations; Chicago Board Options Exchange

April 29, 1993.

In the Matter of Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on the S&P Chemicals Index and Long-Term Options on a Reduced-Value Chemicals Index.

I. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on the Standard & Poor's Corporation ("S&P") Chemicals Index ("Chemicals Index" or "Index"). Notice of the proposal, as amended through November 9, 1992,[3] appeared in the **Federal Register** on November 20, 1992.[4] No comment letters were received on the proposed rule change.

Thereafter, the CBOE amended the proposal to clarify, among other things, several proposal listing and maintenance standards.[5] This order approves the Exchange's proposal, as amended.

II. Description of Proposal

A. General

The CBOE proposes to list and trade options on the Chemicals Index, an index developed by S&P. The CBOE also proposes to list either long-term options on the full-value Index or long-term options on a reduced-value Index that will be computed at one-tenth of the value of the Chemicals Index ("Chemicals LEAPS" or "Index LEAPS").[6] Chemicals LEAPS will trade independent of and in addition to regular Chemicals Index options traded on the Exchange.[7]

B. Composition of the Index

The Index is based on twenty-two diversified and specialty chemical industry stocks that are included in the S&P 500 Index. All twenty-two of those stocks currently trade on the New York Stock Exchange ("NYSE"). The Index is capitalization-weighted, meaning that the price of each stock is multiplied by that company's shares outstanding in order to calculate the current Index level. The Index will be calculated on a real-time basis using last sale prices.

As of August 31, 1992, the Index was at 207. As of August 31, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $33.14 billion to a low of $169.71 million, with the mean and median being $4.61 billion and $2.5 billion, respectively. The market capitalization of all the stocks in the Index was $101.409 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 672.242 million shares to a low of 19.676 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $61.66 to a low of $8.04. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 750,546 shares per day to a low of 22,848 shares per day, with the mean and median being 226,411 and 154,558 shares, respectively. Lastly, no one stock comprised more than 32.68% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 65.06% of the Index's value. The percentage weighting of the lowest weighted stock was .17% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 3.57% of the Index's value.

C. Maintenance

The Index will be maintained by S&P and the CBOE has represented that it will not influence any S&P decisions concerning maintenance of the Index. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor adjustments include, but are not limited to, spin-offs, certain rights issuances, mergers, and acquisitions involving component securities.

If it becomes necessary for S&P to remove a Chemicals Index component stock from the S&P 500 Index (generally due to a takeover or merger), the stock will also be removed from the Chemicals Index. Because the S&P is not required to replace the stock chosen as a replacement for the S&P 500 Index with another chemicals industry, the replacement stock may or may not be in the chemicals industry. As a result, the number of stocks in the S&P Chemicals Index may increase or decrease due to changes in the composition of the S&P 500.[8]

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this rule filing, the rules in Chapter XXIV of the CBOE Rules will be applicable to S&P Chemicals Index options. Those rules address, among other things, the

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1992).

[3] On September 28, 1992 the CBOE amended the proposal to clarify and confirm that S&P Chemicals Index options will be A.M. settled options subject to the provisions of CBOE Rule 24.9(e) ("Amendment No. 1"). *See* File No. SR-CBOE-92-27, Amendment No. 1. On November 9, 1992, the proposal was amended to reflect changes to the CBOE rules made by the effectiveness of SR-CBOE-91-51 (CBOE Biotech Index, approved September 28, 1992) and SR-CBOE-92-32 (non-substantive amendments to Chapter XXIV of the CBOE rules, effective upon filing) ("Amendment No. 2"). *See* File No. SR-CBOE-92-27, Amendment No. 2. *See infra* note 5.

[4] *See* Securities Exchange Act Release No. 31448, 57 FR 54867 (November 20, 1992).

[5] More specifically, on April 20, 1993 the proposal was amended to: (1) Require as a maintenance standard that, if the Index increases to more than twenty-nine stocks or decreases to less than fifteen stocks, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to Section 19(b) of the Act reflecting such change; (2) require as a maintenance standard that, if less than 90% of the Index's weighting becomes comprised of stocks that are not eligible for standardized options trading on the CBOE pursuant to CBOE Rule 5.3, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to Section 19(b) of the Act reflecting such change; and (3) clarify that the current and closing Index value for reduced-value long-term options based on the Index will be computed by dividing the value of the full-value Index by ten and rounding the resulting figure to the nearest one-hundredth ("Amendment No. 3"). See File No. SR-CBOE-92-27, Amendment No. 3.

[6] LEAPS is an acronym for Long-Term Equity Anticipation Securities. LEAPS are long term index option series that expire from twelve to thirty-six months from their date of issuance. See CBOE Rule 24.9(b)(1).

[7] According to the CBOE, the S&P Chemicals Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets and, as such, the CBOE concludes, should offer investors a low-cost means to achieve diversification of their portfolios toward or awey from the chemicals industry. The CBOE believes that Index will provide retail and institutional investors with a means to benefit from their forecasts of that industry's market performance. Options on the Index also can be utilized by portfolio managers and investors to provide a performance measure and evaluation guide for passively or actively managed chemicals industry funds, as well as a means of hedging the risks of investing in the chemicals industry.

[8] *See supra* note 5. If the Index increases to more than twenty-nine stocks or decreases to less than fifteen stocks, no new series of Index options will be listed for trading unless and until the Commission approves a rule filing pursuant to Section 19(b) of the Act reflecting such change.

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applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow based index options.

The CBOE is amending Rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100, the FT–SE (U.K.) 100, and the FT–SE Eurotrack 200 indexes, also is a "broad-based index" within the meaning of the rules in Chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index options. The amendment to Rule 24.1 further provides that the terms "narrow-based index" and the previously defined "industry index" both mean an index designed to be representative of a particular industry or a group of related industries. An industry index contract such as the S&P Chemicals Index option will, therefore, be deemed to be "narrow-based" for purposes of the position limit requirements of Rule 24.4A.

E. Calculation of the Index

Similar to the broad-based S&P 500 Stock Index, the S&P Chemicals Index is capitalization-weighted and reflects changes in the total capitalization of the component stocks relative to the capitalization of the Index on the base date. The Index is calculated by taking the summation of capitalizations of the component stocks (share price multiplied by the number of shares outstanding) and dividing the result by the divisor.

The Index will be calculated continuously by S&P or its designee and will be disseminated to the Options Price Reporting Authority ("OPRA") every fifteen seconds by the CBOE. If a component stock is not currently being traded, the most recently traded price will be used in the Index calculation.[9]

The Index value for purposes of setting outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.[10]

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.[11] Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.[12] In addition, pursuant to CBOE Rule 24.9 there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAP series that expire from twelve to thirty-six months from the date of issuance.

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full-Value or Reduced-Value Chemicals Index

The proposal provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing on the full-value Chemicals Index or a reduced-value Chemicals Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for reduced-value Chemicals LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, a Index value of 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value S&P 100 and 500 Indexes ("OEX" and "SPX," respectively)[13] will be applicable to the trading of reduced-value Index LEAPS. For example, Index LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Moreover, the proposal provides that either full-value or reduced-value Index LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential and continuity rules will not apply to the trading of the full-value or reduced-value Index LEAPS until their time to expiration is less than 12 months. The strike price interval for reduced-value Index LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional LEAPS series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value OEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Chemicals Index options and reduced-value Chemicals Index options. Specifically, Exchange rules governing margin requirements,[14] position and exercise limits,[15] and trading halt

[9] For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, S&P will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

[10] See *supra* note 9.

[11] A European-style option can be exercised only during a specified period before the option expires.

[12] For a description of the strike price intervals for reduced-value index options and long-term Index options, See Section G, *infra*.

[13] See Securities Exchange Act Release No. 28686, 55 FR 51517 (December 14, 1990).

[14] Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) for short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long term options positions, 100% of the options premium paid.

[15] Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the

procedures[16] that are applicable to the trading of narrow-based index options will apply to options on the Index. The proposal further provides that, for purposes of determining whether a given position in reduced-value Index options complies with applicable position and exercise limits, positions in reduced-value Index options will be aggregated with positions in the full-value Index options. For these purposes, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in full-value and reduced-value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[17]

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[18] Specifically, the Commission finds that the trading of Chemicals Index options, including full-value and reduced-value Chemicals LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the chemicals industry.[19]

The trading of options on the Chemicals Index, including full-value and reduced-value LEAPS on the Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Chemicals Index and reduced-value Chemicals Index are narrow-based indices. The Chemicals Index is comprised of only twenty-two stocks, all of which are within one industry—the chemicals industry. In addition, the basic character of the reduced-value Chemicals Index, which is comprised of the same component securities as the Chemicals Index and calculated by dividing the Chemicals Index value by ten, is essentially identical to the Chemicals Index.[20] Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options.[21]

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 226,411 and 154,558 shares, respectively.[22] Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $33.14 billion to a low of $169.71 million as of August 31, 1992, with the mean and median being $4.61 billion and $2.5 billion, respectively. Third, although the Index is only comprised of twenty-two stocks, for the most part, no one particular stock or group of stocks dominates the Index. Although one stock in the Index comprises approximately 32.68% of the Index's total value, the Index is comprised of a total of twenty-two stocks with the percentage weighting of the three largest issues in the Index accounting for 54.05% of the Index's value.[23] Fourth, all of the component stocks in the Index currently are eligible for options trading.[24] The proposed CBOE maintenance requirement that 90% of the weighting of the Index be comprised of stocks that are eligible for options trading will ensure that the Index is almost completely comprised of options eligible stocks. Fifth if S&P increases the number of component stocks to more than twenty-nine or decreases that number to less than fifteen the CBOE will be required to seek Commission approval pursuant to Section 19(b)(2) of the Act before listing new strike price or expiration month series of Chemicals Index options. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in Chemicals Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Chemicals Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Chemicals Index options (including full-value and reduced-value Chemicals LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) the special risks of options are disclosed to public customers; (2) only investors capable of

Index options will be 4,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.

[16] Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

[17] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

[18] 15 U.S.C. 78f(b)(5) (1988).

[19] The Commission also believes that the trading of the Index options and Index LEAPS will allow investors holding positions in some or all of the underlying securities in the Index to hedge the risks associated with their portfolios more efficiently and effectively. Moreover, the Commission believes that the reduced-value Index LEAPS, that will be traded on an Index computed at one-tenth the value of the Chemicals Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a reduced cost.

[20] *See generally* Securities Exchange Act Release No. 29994, 56 FR 63536 (December 4, 1991).

[21] *See supra* notes 14 through 16, and accompanying text.

[22] In addition, for the six-month period between March and August 1992, all of the companies comprising the Index had an average daily trading volume greater than 22,848 shares per day.

[23] For an index with a significantly greater number of stocks than fifteen issues, the Commission might come to a different conclusion if only three stocks accounted for more than 55% of the Index's weighting. Further, if an index contained only a few stocks, the Commission might question whether it can be traded as an index product.

[24] The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. *See* CBOE Rule 5.3.

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evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Chemicals Index options and Chemicals Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[25] In this regard, both the CBOE and NYSE are members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.[26]

D. Market Impact

The Commission believes that the listing and trading of Chemicals Index options, including full-value and reduced-value Index LEAPS on the CBOE will not adversely impact the underlying securities markets.[27] First, as described above, for the most part, no one stock or group of stocks dominates the Index.[28] Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Third, the 4,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Chemicals Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.[29]

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 3 provides for the rounding of the current and closing Index value for purposes of Index LEAPS trading to the nearest one-hundredth. Amendment No. 3 also requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to Section 19(b)(2) of the Act if the number of component securities in the Index changes to either greater than twenty-nine or fewer than fifteen. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[30] that the proposed rule change (SR–CBOE–92–27), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Jonathan G. Katz,

Secretary

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[25] *See* Securities Exchange Act Release No. 31243, 57 FR 45849 (October 5, 1992).

[26] *See supra* note 17. Although the Index currently does not contain ADRs, the proposal provides that the Index could contain ADRs representing the chemicals industry stocks. If the composition of the Index would change so that greater than 20% of the Index was represented by ADRs whose underlying securities were not subject to a comprehensive surveillance sharing arrangement, then it would be difficult for the Commission to reach the conclusions reached in this order and the Commission would have to determine whether it would be suitable to continue to trade options on the Index. The CBOE should, accordingly, notify the Commission immediately if more than twenty percent of the numerical value of the Index is represented by ADRs whose underlying securities are not subject to a comprehensive surveillance sharing agreement, so that the Commission can decide whether trading on the Index should be ceased or phased out.

[27] In addition, the CBOE has represented that the CBOE and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and Index LEAPS. *See* Letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated March 22, 1993 and memorandum from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated March 19, 1993.

[28] As noted above, one stock in the Index represents approximately 32.68% of the Index value. The Index, however, is comprised of twenty-two highly capitalized and actively traded stocks.

[29] *See* Securities Exchange Act Release No. 30944, 57 FR 33378 (July 28, 1992).

[30] 15 U.S.C. 78s(b)(2) (1988).

[31] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–32236; File No. SR–CBOE–92–22]

Self-Regulatory Organizations; Chicago Board Options Exchange

April 29, 1993.

In the matter of Self-Regulatory Organizations; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on the S&P Transportation Index and Long-Term Options on a Reduced-Value Transportation Index.

I. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on the Standard & Poor's Corporation ("S&P") Transportation Index ("Transportation Index" or "Index"). Notice of the proposal, as amended through November 9, 1992,[3] appeared in the **Federal Register** on November 20, 1992.[4] No comment letters were received on the proposed rule change. Thereafter, the CBOE amended the proposal to clarify, among other things, several proposed listing and maintenance standards.[5] This order approves the Exchange's proposal, as amended.

II. Description of Proposal

A. General

The CBOE proposes to list and trade options on the Transportation Index, an index developed by S&P. The CBOE also proposes to list either long-term options on the full-value Index or long-term, options on a reduced-value Index that will be computed at one-tenth of the value of the Transportation Index ("Transportation LEAPS" or "Index LEAPS").[6] Transportation LEAPS will trade independent of and in addition to regular Transportation Index options traded on the Exchange.[7]

B. Composition of the Index

The Index is based on fifteen airline, railroad, trucking, and miscellaneous transportation industry stocks that are included in the S&P 500 Index. Thirteen of those stocks currently trade on the New York Stock Exchange ("NYSE") and two are national market system ("NMS") securities that currently trade through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ–NMS"). The Index is capitalization-weighted, meaning that the price of each stock is multiplied by that company's shares outstanding in order to calculate the current Index level. The Index will be calculated on a real-time basis using last sale prices.

As of August 31, 1992, the Index was at 313.21. As of August 31, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $10.5 billion to a low of $447 million, with the mean and median being $3.3 billion and $2.5 billion, respectively. The market capitalization of all the stocks in the Index was $49.743 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 202.844 million shares to a low of 23.758 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $122.90 to a low of $12.11. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 581,527 shares per day to a low of 75,148 shares per day, with the mean and median being 242,727 and 180,521 shares, respectively. Lastly, no one stock comprised more than 21.1% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 63.84% of the Index's value. The percentage weighting of the lowest weighted stock was .9% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 11.11% of the Index's value.

C. Maintenance

The Index will be maintained by S&P and the CBOE has represented that it will not influence any S&P decisions concerning maintenance of the Index. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor adjustments include, but are not limited to, spin-offs, certain rights issuances, mergers, and acquisitions involving component securities.

If it becomes necessary for S&P to remove a Transportation Index component stock from the S&P 500 Index (generally due to a takeover or merger), the stock will also be removed form the Transportation Index. Because the S&P is not required to replace the stock chosen as a replacement for the S&P 500 Index with another transportation industry, the replacement stock may or may not be in the transportation industry. As a result, the number of stocks in the S&P Transportation Index may increase or decrease due to changes in the composition of the S&P 500.[8]

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this rule filing, the rules in chapter XXIV of the CBOE Rules will be applicable to S&P Transportation Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow based index options.

The CBOE is amending Rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100, the FT–SE (U.K) 100, and the FT–SE Eurotrack 200 indexes, also is a "broad-based index" within the meaning of the rules in Chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index options. The amendment to Rule 24.1 further provides that the terms "narrow-based index" and the previously defined "industry index" both mean an index designed to be representative of a particular industry or a group of related

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] On September 28, 1992 the CBOE amended the proposal to clarify and confirm that S&P Transportation Index options will be A.M. settled options subject to the provisions of CBOE Rule 24.9(e) ("Amendment No. 1"). See File No. SR–CBOE–92–22, Amendment No. 1. On November 9, 1992, the proposal was amended to reflect changes to the CBOE rules made by the effectiveness of SR–CBOE–91–51 (CBOE Biotech Index, approved September 28, 1992) and SR–CBOE–92–32 (nonsubstantive amendments to Chapter XXIV of the CBOE rules, effective upon filing) ("Amendment No. 2"). See File No. SR–CBOE–92–22, Amendment No. 2. See *infra* note 5.

[4] *See* Securities Exchange Act Release No. 31443, 57 FR 54867 (November 20, 1992).

[5] More specifically, on April 20, 1993 the proposal was amended to: (1) Require as a maintenance standard that, if the Index increases to more than twenty stocks or decreases to less than ten stocks, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change; (2) require as a maintenance standard that, if less than 90% of the Index's weighting becomes comprised of stocks that are not eligible for standardized options trading on the CBOE pursuant to CBOE Rule 5.3, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change; and (3) clarify that the current and closing Index value for reduced-value long-term options based on the Index will be computed by dividing the value of the full-value Index by ten and rounding the resulting figure to the nearest one-hundredth ("Amendment No. 3"). See File No. SR–CBOE–92–22, Amendment No. 3.

[6] LEAPS is an acronym for Long-Term Equity Anticipation Securities. LEAPS are long term index option series that expire from twelve to thirty-six months from their date of issuance. See CBOE Rule 24.9(b)(1).

[7] According to the CBOE, the S&P Transportation Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets and, as such, the CBOE concludes, should offer investors a low-cost means to achieve diversification of their portfolios toward or away from the transportation industry. The CBOE believes the Index will provide retail and institutional investors with a means to benefit from their forecasts of that industry's market performance. Options on the Index also can be utilized by portfolio managers and investors to provide a performance measure and evaluation guide for passively or actively managed transportation industry funds, as well as a means of hedging the risks of investing in the transportation industry.

[8] *See supra* note 5. If the Index increases to more than twenty stocks or decreases to less than ten stocks, no new series of Index options will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change.

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industries. An industry index contract such as the S&P Transportation Index option will, therefore, be deemed to be "narrow-based" for purposes of the position limit requirements of Rule 24.4A.

E. Calculation of the Index

Similar to the broad-based S&P 500 Stock Index, the S&P Transportation Index is capitalization-weighted and reflects changes in the total capitalization of the component stocks relative to the capitalization of the Index on the base date. The Index is calculated by taking the summation of capitalizations of the component stocks (share price multiplied by the number of shares outstanding) and dividing the result by the divisor.

The Index will be calculated continuously by S&P or its designee and will be disseminated to the Options Price Reporting Authority ("OPRA") every fifteen seconds by the CBOE. If a component stock is not currently being traded, the most recently traded price will be used in the Index calculation.[9]

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded through the NASDAQ–NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (i.e., Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.[10]

F Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.[11] Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.[12] In addition, pursuant to CBOE Rule 24.9, there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAP series that expire from twelve to thirty-six months from the date of issuance.

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full-Value or Reduced-Value Transportation Index

The proposal provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing on the full-value Transportation Index or a reduced-value Transportation Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for reduced-value Transportation LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, an Index value of 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced-value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value S&P 100 and 500 Indexes ("OEX" and "SPX," respectively)[13] will be applicable to the trading of reduced-value Index LEAPS. For example, Index LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Moreover, the proposal provides that either full-value or reduced-value Index LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential, and continuity rules will not apply to the trading of the full-value or reduced-value Index LEAPS until their time to expiration is less than 12 months. The strike price interval for reduced-value Index Leaps will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional LEAPS series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value OEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Transportation Index options and reduced-value Transportation Index options. Specifically, Exchange rules governing margin requirements,[14] position and exercise limits,[15] and trading halt procedures[16] that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a given position in reduced-value Index

[9] For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, S&P will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

[10] *See supra* note 9.

[11] A European-style option can be exercised only during a specified period before the option expires.

[12] For a description of the strike price intervals for reduced-value Index options and long-term Index options, See Section G, *infra*.

[13] See Securities Exchange Act Release No. 28686, 55 FR 51517 (December 14, 1990.

[14] Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) For short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value, and (2) for long term options positions, 100% of the options premium paid.

[15] Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 6,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that lower limit is warranted.

[16] Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

options complies with applicable position and exercise limits, positions in reduced-value Index options will be aggregated with positions in the full-value Index options. For these purposes, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in full-value and reduced-value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[17]

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[18] Specifically, the Commission finds that the trading of Transportation Index options, including full-value and reduced-value Transportation LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the transportation industry.[19] The trading of options on the Transportation Index, including full-value and reduced-value LEAPS on the Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Transportation Index and reduced-value Transportation Index are narrow-based indices. The Transportation Index is comprised of only fifteen stocks, all of which are within one industry—the transportation industry. In addition, the basic character of the reduced-value Transportation Index, which is comprised of the same component securities as the Transportation Index and calculated by dividing the Transportation Index value by ten, is essentially identical to the Transportation Index.[20] Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options.[21]

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 242,727 and 180,521 shares, respectively.[22] Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $10.5 billion to a low of $447 million as of August 31, 1992, with the mean and median being $3.3 billion and $2.5 billion, respectively. Third, although the Index is only comprised of fifteen stocks, no one particular stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 21.1% of the Index's total value and the percentage weighting of the three largest issues in the Index accounting for 49.05% of the Index's value.[23] Fourth, all of the component stocks in the Index currently are eligible for options trading.[24] The proposed CBOE maintenance requirement that 90% of the weighting of the Index be comprised of stocks that are eligible for options trading will ensure that the Index is almost completely comprised of options eligible stocks. Fifth, if S&P increases the number of component stocks to more than twenty or decreases that number to less than ten, the CBOE will be required to seek Commission approval pursuant to section 19(b)(2) of the Act before listing new strike price or expiration month series of Transportation Index options. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in Transportation Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Transportation Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Transportation Index options (including full-value and reduced-value Transportation LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is

[17] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

[18] 15 U.S.C. 78f(b)(5) (1986).

[19] Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Transportation Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks comprising the transportation industry in the U.S. stock markets. The Commission also believes that these Index options will provide investors with a means by which to make investment decisions in the transportation industry sector of the U.S. stock markets, allowing them to establish positions or increase existing positions in such markets in a cost effective manner. Moreover, the Commission believes that the reduced-value Index LEAPS, that will be traded on an index computed at one-tenth the value of the Transportation Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a reduced cost.

[20] See generally Securities Exchange Act Release No. 29994, 56 FR 63536 (December 4, 1991) (order designating the PSE Technology Index as a broad-based index rather than a narrow-based index).

[21] See *supra* notes 14 through 18, and accompanying text.

[22] In addition, for the six-month period between March and August 1992, all of the companies comprising the Index had an average daily trading volume greater than 75,148 shares per day.

[23] For an index with a significantly greater number of stocks than fifteen issues, the Commission might come to a different conclusion if only three stocks accounted for more than 55% of the index's weighting. Further, if an index contained only a few stocks, the Commission might question whether it can be traded as an index product.

[24] The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. *See* CBOE Rule 5.3.

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designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Transportation Index options and Transportation Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[25] In this regard, the CBOE, NYSE, and NASD are all members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.[26]

D. Market Impact

The Commission believes that the listing and trading of Transportation Index options, including full-value and reduced-value Index LEAPS on the CBOE will not adversely impact the underlying securities markets.[27] First, as described above, no one stock or group of stocks dominates the Index. Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Third, the 6,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Transportation Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.[28]

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 3 provides for the rounding of the current and closing Index value for purposes of Index LEAPS trading to the nearest one-hundredth. Amendment No. 3 also requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to Section 19(b) of the Act if the number of component securities in the Index changes to either greater than twenty or fewer than ten. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[29] that the proposed rule change (SR–CBOE–92–22), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10718 Filed 5–5–93; 8:45 am]

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[25] See Securities Exchange Act Release No. 31243, 57 FR 45849 (October 5, 1992).

[26] See *supra* note 17. Although the Index currently does not contain ADRs, the proposal provides that the Index could contain ADRs representing transportation industry stocks. If the composition of the Index would change so that greater than 20% of the Index was represented by ADRs whose underlying securities were not subject to a comprehensive surveillance sharing arrangement, then it would be difficult for the Commission to reach the conclusions reached in this order and the Commission would have to determine whether it would be suitable to continue to trade options on the Index. The CBOE should, accordingly, notify the Commission immediately if more than twenty percent of the numerical value of the Index is represented by ADRs whose underlying securities are not subject to a comprehensive surveillance sharing agreement, so that the Commission can decide whether trading on the Index should be ceased or phased out.

[27] In addition, the CBOE has represented that the CBOE and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and Index LEAPS. See Letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated March 22, 1993 and memorandum from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated March 19, 1993.

[28] See Securities Exchange Act Release No. 30944, 57 FR 33376 (July 28, 1992).

[29] 15 U.S.C. 78s(b)(2) (1988).

[30] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–32241; File No. SR–CBOE–92–24]

Self-Regulatory Organizations; Chicago Board Options Exchange

April 29, 1993.

In the matter of Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on the S&P Health Care Index and Long-Term Options on a Reduced-Value Health Care Index.

I. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on the Standard & Poor's Corporation ("S&P") Health Care Index ("Health Care Index" or "Index"). Notice of the proposal, as amended through November 9, 1992,[3] appeared in the **Federal Register** on November 20, 1992.[4] No comment letters were received on the proposed rule change. Thereafter, the CBOE amended the proposal to clarify, among other things, several proposed listing and maintenance standards.[5] This order approves the Exchange's proposal, as amended.

II. Description of Proposal

A. General

The CBOE proposes to list and trade options on the Health Care Index, an index developed by S&P. The CBOE also proposes to list either long-term options on the full-value Index or long-term options on a reduced-value Index that will be computed at one-tenth of the value of the Health Care Index ("Health Care LEAPS" or "Index LEAPS").[6] Health Care LEAPS will trade independent of and in addition to regular Health Care Index options traded on the Exchange.[7]

B. Composition of the Index

The Index is based on twenty-eight management, drug, medical product, diversified, and miscellaneous health care industry stocks that are included in the S&P 500 Index. Twenty-five of those stocks currently trade on the New York Stock Exchange, Inc. ("NYSE") and three are national market system ("NMS") securities that currently trade through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ–NMS"). The Index is capitalization-weighted, meaning that the price of each stock is multiplied by that company's shares outstanding in order to calculate the current Index level. The Index will be calculated on a real-time basis using last sale prices.

As of August 31, 1992, the Index was at 229.76. As of August 31, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $56.38 billion to a low of $438.81 million, with the mean and median being $10.98 billion and $5 billion, respectively. The market capitalization of all the stocks in the Index was $307.49 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 1.159 billion shares to a low of 46.19 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $100.08 to a low of $8.40. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 1,210,116 shares per day to a low of 77,346 shares per day, with the mean and median being 446,487 and 419,146 shares, respectively. Lastly, no one stock comprised more than 18.34% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 56.97% of the Index's value. The percentage weighting of the lowest weighted stock was .14% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 1.76% of the Index's value.

C. Maintenance

The Index will be maintained by S&P and the CBOE has represented that it will not influence any S&P decisions concerning maintenance of the Index. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor adjustments include, but are not limited to, spin-offs, certain rights issuances, mergers, and acquisitions involving component securities.

If it becomes necessary for S&P to remove a Health Care Index component stock from the S&P 500 Index (generally due to a takeover or merger), the stock will also be removed from the Health Care Index. Because the S&P is not required to replace the stock chosen as a replacement for the S&P 500 Index with another health care industry, the replacement stock may or may not be in the health care industry. As a result, the number of stocks in the S&P Health Care Index may increase or decrease due to changes in the composition of the S&P 500.[8]

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this rule filing, the rules in Chapter XXIV of the CBOE Rules will be applicable to S&P Health Care Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow based index options.

The CBOE is amending rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100, the FT–SE (U.K.) 100, and the FT–SE Eurotrack 200 indexes, also is a "broad-based index" within the meaning of the rules in Chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index options. The amendment to Rule 24.1 further provides that the terms "narrow-based index" and the previously defined "industry index" both mean an index designed to be representative of a

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] On September 28, 1992 the CBOE amended the proposal to clarify and confirm that S&P Health Care Index options will be A.M. settled options subject to the provisions of CBOE Rule 24.9(e) ("Amendment No. 1"). See File No. SR–CBOE–92–24, Amendment No. 1. On November 9, 1992, the proposal was amended to reflect changes to the CBOE rules made by the effectiveness of SR–CBOE–91–51 (CBOE Biotech Index, approved September 28, 1992) and SR–CBOE–92–32 (non-substantive amendments to Chapter XXIV of the CBOE rules, effective upon filing) ("Amendment No. 2"). See File No. SR–CBOE–92–24, Amendment No. 2. See *infra* note 5.

[4] See Securities Exchange Act Release No. 31445, 57 FR 54871 (November 20, 1992).

[5] More specifically, on April 20, 1993 the proposal was amended to: (1) Require as a maintenance standard that, if the Index increases to more than thirty-seven stocks or decreases to less than nineteen stocks, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change; (2) require as a maintenance standard that, if less than 90% of the Index's weighting becomes comprised of stocks that are not eligible for standardized options trading on the CBOE pursuant to CBOE Rule 5.3, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to Section 19(b) of the Act reflecting such change; and (3) clarify that the current and closing Index value for reduced-value long-term options based on the Index will be computed by dividing the value of the full-value Index by ten and rounding the resulting figure to the nearest one-hundredth ("Amendment No. 3"). See File No. SR–CBOE–92–24, Amendment No. 3.

[6] LEAPS is an acronym for Long-Term Equity Anticipation Securities. LEAPS are long term index option series that expire from twelve to thirty-six months from their date of issuance. See CBOE Rule 24.9(b)(1).

[7] According to the CBOE, the S&P Health Care Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets and, as such, the CBOE concludes, should offer investors a low-cost means to achieve diversification of their porfolios toward or away from the health care industry. The CBOE believes the Index will provide retail and institutional investors with a means to benefit from their forecasts of that industry's market performance. Options on the Index also can be utilized by portfolio managers and investors to provide a performance measure and evaluation guide for passively or actively managed health care industry funds, as well as a means of hedging the risks of investing in the health care industry.

[8] See *supra* note 5. If the Index increases to more than thirty-seven stocks or decreases to less than nineteen stocks, no new series of Index options will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change.

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particular industry or a group of related industries. An industry index contract such as the S&P Health Care Index option will, therefore, be deemed to be "narrow-based" for purposes of the position limit requirements of Rule 24.4A.

E. Calculation of the Index

Similar to the broad-based S&P 500 Stock Index, the S&P Health Care Index is capitalization-weighted and reflects changes in the total capitalization of the component stocks relative to the capitalization of the Index on the base date. The Index is calculated by taking the summation of capitalizations of the component stocks (share price multiplied by the number of shares outstanding) and dividing the result by the divisor.

The Index will be calculated continuously by S&P or its designee and will be disseminated to the Options Price Reporting Authority ("OPRA") every fifteen seconds by the CBOE. If a component stock is not currently being traded, the most recently traded price will be used in the Index calculation [9]

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded through the NASDAQ–NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.[10]

F. Contract Specifications

The proposed options on the Index will be cashed-settled, European-style options.[11] Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.[12] In addition, pursuant to CBOE Rule 24.9, there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAP series that expire from twelve to thirty-six months from the date of issuance.

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full-Value or Reduced-Volue Health Care Index

The proposal provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing on the full-value Health Care Index or a reduced-value Health Care Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for reduced-value Health Care LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, a Index value of 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced-value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's Index options, including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value S&P 100 and 500 Indexes ("OEX" and "SPX," respectively) [13] will be applicable to the trading of reduced-value Index LEAPS. For example, Index LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Moreover, the proposal provides that either full-value or reduced-value Index LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential and continuity rules will not apply to the trading of the full-value or reduced-value Index LEAPS until their time to expiration is less than 12 months. The strike price interval for reduced-value Index LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional LEAPS series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value OEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Health Care Index options and reduced-value Health Care Index options. Specifically, Exchange rules governing margin requirements,[14] position and exercise limits,[15] and trading halt procedures [16] that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a given position in reduced-value Index options complies with

[9] For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, S&P will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

[10] See *supra* note 9.

[11] A European-style option can be exercised only during a specified period before the option expires.

[12] For a description of the strike price intervals for reduced-value Index options and long-term Index options, See Section G, *infra*

[13] See Securities Exchange Act Release No. 28686, 55 FR 51517 (December 14, 1990).

[14] Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) For short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying index value; and (2) for long term options positions, 100% of the options premium paid.

[15] Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 6,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.

[16] Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

applicable position and exercise limits, positions in reduced-value Index options will be aggregated with positions in the full-value Index options. For these purposes, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in full-value and reduced-value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[17]

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[18] Specifically, the Commission finds that the trading of Health Care Index options, including full-value and reduced-value Health Care LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the health care industry.[19]

The trading of options on the Health Care Index, including full-value and reduced-value LEAPS on the Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Health Care Index and reduced-value Health Care Index are narrow-based indices. The Health Care Index is comprised of only twenty-eight stocks, all of which are within one industry—the health care industry. In addition, the basic character of the reduced-value Health Care Index, which is comprised of the same component securities as the Health Care Index and calculated by dividing the Health Care Index value by ten, is essentially identical to the Health Care Index.[20] Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options.[21]

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 446,487 and 419,146 shares, respectively.[22] Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $56.38 billion to a low of $438.81 million as of August 31, 1992, with the mean and median being $10.98 billion and $5 billion, respectively. Third, although the Index is only comprised of twenty-eight stocks, no one particular stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 18.34% of the Index's total value and the percentage weighting of the three largest issues in the Index account for 40.25% of the Index's value.[23] Fourth, all of the component stocks in the Index currently are eligible for options trading. The proposed CBOE maintenance requirement that 90% of the weighting of the Index be comprised of stocks that are eligible for options trading will ensure that the Index is almost completely comprised of options eligible stocks.[24] Fifth, if S&P increases the number of component stocks to more than thirty-seven or decreases that number to less than nineteen, the CBOE will be required to seek Commission approval pursuant to section 19(b)(2) of the Act before listing new strike price or expiration month series of Health Care Index options. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in Health Care Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Health Care Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Health Care Index options (including full-value and reduced-value Health Care LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-

[17] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

[18] 15 U.S.C. 78f(b)(5) (1988).

[19] Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Health Care Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks comprising the health care industry in the U.S. stock markets. The Commission also believes that these Index options will provide investors with a means by which to make investment decisions in the health care industry sector of the U.S. stock markets, allowing them to establish positions or increase existing positions in such markets in a cost effective manner. The Commission also believes that the trading of the Index options and Index LEAPS will allow investors holding positions in some or all of the underlying securities in the Index to hedge the risks associated with their portfolios more efficiently and effectively. Moreover, the Commission believes that the reduce-value Index LEAPS, that will be traded on an index computed at one-tenth the value of the Health Care Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios form long-term market moves at a reduced cost.

[20] See generally Securities Exchange Act Release No. 29994, 56 FR 63536 (December 4, 1991) (order designating the PSE Technology Index as a broad-based index rather than a narrow-based index).

[21] See supra notes 14 through 16, and accompanying text.

[22] In addition, for the six-month period between March and August 1992, all of the companies comprising the Index had an average daily trading volume greater than 77,346 shares per day.

[23] For an Index with a significantly greater number of stocks than fifteen issues, the Commission might come to a different conclusion if only three stocks accounted for more than 55% of the index's weighting. Further, if an index contained only a few stocks, the Commission might question whether it can be traded as an index product.

[24] The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See CBOE Rule 5.3.

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traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Health Care Index options and Health Care Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[25] In this regard, the CBOE, NYSE, and NASD are all members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.[26]

D. Market Impact

The Commission believes that the listing and trading of Health Care Index options, including full-value and reduced value Index LEAPS on the CBOE will not adversely impact the underlying securities markets.[27] First, as described above, no one stock or group of stocks dominates the Index. Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Third, the 6,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contraparty non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Health Care Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.[28]

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 3 provides for the rounding of the current and closing Index value, for purposes of Index LEAPS trading, to the nearest one-hundredth. Amendment No. 3 also requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to section 19(b)(2) of the Act if the number of component securities in the Index changes to either greater than thirty-seven or fewer than nineteen. The Commission believes that these modifications strengthen the integrity of the Index and do not rise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities an Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[29] that the proposed rule change (SR–CBOE–92–24), as amended, is approved.

For the Commission, by the Division of market Regulation, pursuant to delegated authority.[30]

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10719 Filed 5–5–93; 8:45 am]

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[25] Securities Exchange Act Release No. 31243, 57 FR 45849 (October 5, 1992).

[26] See *Supra* note 17. Although the Index currently does not contain ADRs, the proposal provides that the Index could contain ADRs representing health care industry stocks. If the composition of the Index would change so that greater than 20% of the index was represented by ADRs whose underlying securities were not subject to a comprehensive surveillance sharing arrangement, then it would be difficult for the Commission to reach the conclusions reached in this order and the commission would have to determine whether it would be suitable to continue to trade options on the Index. The CBOE should accordingly, notify the Commission immediately if more than twenty percent of the numerical value of the Index is represented by ADRs whose underlying securities are not subject to a comprehensive surveillance sharing agreement, so to that the Commission can decide whether trading on the Index should be ceased or phased out.

[27] In addition, the CBOE has represented that the CBOE and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and Index LEAPS. See Letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated March 22, 1993 and memorandum from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated March 19, 1993.

[28] See Securities Exchange Act Release No. 30944, 57 FR 33378 (July 28, 1992).

[29] 15 U.S.C. 78s(b)(2) (1988)

[30] 17 CFR 200.30–3(a)(12) (1993)

[Release No. 34–32240; File No. SR–CBOE–92–23]

Self-Regulatory Organizations; Chicago Board Options Exchange

April 29, 1993.

In the Matter of Self-Regulatory Organizations; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on the S&P Retail Index and Long-Term Options on a Reduced-Value Retail Index.

I. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE"

on "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on the Standard & Poor's Corporation ("S&P") Retail Index ("Retail Index" or "Index"). Notice of the proposal, as amended through November 9, 1992,[3] appeared in the **Federal Register** on November 20, 1992.[4] No comment letters were received on the proposed rule change. Thereafter, the CBOE amended the proposal to clarify, among other things, several proposed listing and maintenance standards.[5] This order approves the Exchange's proposal, as amended.

II. Description of Proposal

A. General

The CBOE proposes to list and trade options of the Retail Index, an index developed by S&P. The CBOE also proposes to list either long-term options on the full-value Index or long-term options on a reduced-value Index that will be computed at one-tenth of the value of the Retail Index ("Retail LEAPS" or "Index LEAPS").[6] Retail LEAPS will trade independent of and in addition to regular Retail Index options traded on the Exchange.[7]

B. Composition of the Index

The Index is based on thirty-three department, drug and food store, general merchandise, specialty, and specialty apparel industry stocks that are included in the S&P 500 Index. Twenty-eight of those stocks currently trade on the New York Stock Exchange, Inc. ("NYSE"), one trades on the American Stock Exchange, Inc. ("Amex") and four are national market system ("NMS") securities that currently trade through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ–NMS"). The Index is capitalization-weighted, meaning that the price of each stock is multiplied by that company's shares outstanding in order to calculate the current Index level. The Index will be calculated on a real-time basis using last sale prices.

As of August 31, 1992, the Index was at 589.85.[8] As of August 31, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $65.501 billion to a low of $728.21 million, with the mean and median being $6.14 billion and $2.55 billion, respectively. The market capitalization of all the stocks in the Index was $202.776 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 1.149 billion shares to a low of 20.441 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $82.52 to a low of $13.53. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 1,077,222 shares per day to a low of 28,025 shares per day, with the mean and median being 324,119 and 216,643 shares, respectively. Lastly, no one stock comprised more than 32.3% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 57.74% of the Index's value. The percentage weighting of the lowest weighted stock was .36% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 2.52% of the Index's value.

C. Maintenance

The Index will be maintained by S&P and the CBOE has represented that it will not influence any S&P decisions concerning maintenance of the Index. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor adjustments include, but are not limited to, spin-offs, certain rights issuances, mergers, and acquisitions involving component securities.

If it becomes necessary for S&P to remove a Retail index component stock from the S&P 500 Index (generally due to a takeover or merger), the stock will also be removed from the Retail Index. Because the S&P is not required to replace the stock chosen as a replacement for the S&P 500 Index with another retail industry, the replacement stock may or may not be in the retail industry. As a result, the number of stocks in the S&P Retail Index may increase or decrease due to changes in the composition of the S&P 500.[9]

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this rule filing, the rules in Chapter XXIV of the CBOE Rules will be applicable to S&P Retail Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow based index options.

The CBOE is amending Rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100, the FT–SE (U.K.) 100, and the FT–SE Eurotrack 200 indexes, also is a "broad-based index" within the meaning of the rules in Chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] On September 28, 1992 the CBOE amended the proposal to clarify and confirm that S&P Retail Index options will be A.M. settled options subject to the provisions of CBOE Rule 24.9(e) ("Amendment No. 1"). See File No. SR–CBOE–92–23, Amendment No. 1. On November 9, 1992, the proposal was amended to reflect changes to the CBOE rules made by the effectiveness of SR–CBOE–91–51 (CBOE Biotech Index, approved September 28, 1992) and SR–CBOE–92–32 (non-substantive amendments to Chapter XXIV of the CBOE rules, effective upon filing) ("Amendment No. 2"). See File No. SR–CBOE–92–23, Amendment No. 2. See *infra* note 5.

[4] See Securities Exchange Act Release No. 31444, 57 FR 54869 (November 20, 1992).

[5] More specifically, on April 20, 1993 the proposal was amended to: (1) Require as a maintenance standard that, if the Index increases to more than forty-four stocks or decreases to less than twenty-two stocks, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change; (2) require as a maintenance standard that, if less than 90% of the Index's weighting becomes comprised of stocks that are not eligible for standardized options trading on the CBOE pursuant to CBOE Rule 5.3, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to Section 19(b) of the Act reflecting such change; and (3) clarify that the current and closing Index value for reduced-value long-term options based on the Index will be computed by dividing the value of the full-value Index by ten and rounding the resulting figure to the nearest one-hundredth ("Amendment No. 3"). See File No. SR–CBOE–92–23, Amendment No. 3.

[6] LEAPS is an acronym for Long-Term Equity Anticipation Securities. LEAPS are long term index option series that expire from twelve to thirty-six months from their date of issuance. See CBOE Rule 24.9(b)(1).

[7] According to the CBOE, the S&P Retail Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets and, as such, the CBOE concludes, should offer investors a low-cost means to achieve diversification of their portfolios toward or away from the retail industry. The CBOE believes the Index will provide retail and institutional investors with a means to benefit from their forecasts of that industry's market performance. Options on the Index also can be utilized by portfolio managers and investors to provide a performance measure and evaluation guide for passively or actively managed retail industry funds, as well as a means of hedging the risks of investing in the retail industry.

[8] The CBOE believes that a lower Index level is necessary for successful trading of Retail Index options. Therefore, the CBOE intends to base trading on Retail Index options at one-half the value calculated by S&P or its designee. Thus, for purposes of trading Retail Index options, as of August 31, 1992, the Index level was 294.93.

[9] See *supra* note 5. If the Index increases to more than forty-four stocks or decreases to less than twenty-two stocks, no new series of Index options will be listed for trading unless and until the Commission approves a rule filing pursuant to Section 19(b) of the Act reflecting such change

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options. The amendment to Rule 24.1 further provides that the terms "narrow-based index" and the previously defined "industry index" both mean an index designed to be representative of a particular industry or a group of related industries. An industry index contract such as the S&P Retail Index option will, therefore, be deemed to be "narrow-based" for purposes of the position limit requirements of Rule 24.4A.

E. Calculation of the Index

Similar to the broad-based S&P 500 Stock Index, the S&P Retail Index is capitalization-weighted and reflects changes in the total capitalization of the component stocks relative to the capitalization of the Index on the base date. The Index is calculated by taking the summation of capitalizations of the component stocks (share price multiplied by the number of shares outstanding) and dividing the result by the divisor.

The Index will be calculated continuously by S&P or its designee and will be disseminated to the Options Price Reporting Authority ("OPRA") every fifteen seconds by the CBOE. If a component stock is not currently being traded, the most recently traded price will be used in the Index calculation.[10]

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded through the NASDAQ–NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.[11]

[10] For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, S&P will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

[11] See supra note 10.

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.[12] Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.[13] In addition, pursuant to CBOE Rule 24.9, there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAP series that expire from twelve to thirty-six months from the date of issuance.

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full-Value or Reduced-Value Retail Index

The proposal provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing on the full-value Retail Index or a reduced-value Retail Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for reduced-value Retail LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, a Index value of 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced-value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value S&P 100 and 500 Indexes ("OEX" and "SPX," respectively)[14] will be applicable to the trading of reduced-value Index LEAPS. For example, Index LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Moreover, the proposal provides that either full-value or reduced-value Index LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential, and continuity rules will not apply to the trading of the full-value or reduced-value Index LEAPS until their time to expiration is less than 12 months. The strike price interval for reduced-value Index LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional LEAPS series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value OEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Retail Index options and reduced-value Retail Index options. Specifically, Exchange rules governing margin requirements,[15] position and exercise limits,[16] and trading halt procedures[17] that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a

[12] A European-style option can be exercised only during a specified period before the option expires.

[13] For a description of the strike price intervals for reduced-value Index options and long-term Index options, See Section G, *infra*.

[14] See Securities Exchange Act Release No. 28686, 55 FR 51517 (December 14, 1990).

[15] Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) for short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long-term options positions, 100% of the options premium paid.

[16] Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 4,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.

[17] Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

given position in reduced-value Index options complies with applicable position and exercise limits, positions in reduced-value Index options will be aggregated with positions in the full-value Index options. For these purposes, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the exchange's other index options will also be used to monitor trading in full-value and reduced-value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[18]

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5)[19] Specifically, the Commission finds that the trading of Retail Index options, including full-value and reduced-value Retail LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the retail industry.[20] The trading of options on the Retail Index, including full-value and reduced-value LEAPS on the Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Retail Index and reduced-value Retail Index are narrow-based indices. The Retail Index is comprised of only thirty-three stocks, all of which are within one industry—the retail industry. In addition, the basic character of the reduced-value Retail Index, which is comprised of the same component securities as the Retail Index and calculated by dividing the Retail Index value by ten, is essentially identical to the Retail Index.[21] Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options.[22]

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 324,119 and 216,643 shares, respectively.[23] Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $65.501 billion to a low of $728.21 million as of August 31, 1992, with the mean and median being $6.14 billion and $2.55 billion, respectively. Third, although the Index is only comprised of thirty-three stocks, for the most part, no none particular stock or group of stocks dominates the Index. Although one stock in the Index comprises approximately 32.3% of the Index's total value, the Index is comprised of a total of thirty-three stocks with the percentage weighting of the three largest issues in the Index accounting for 47.63% of the Index's value.[24] Fourth, thirty-one of the thirty-three stocks in the Index (representing 99.1% of the weighting of the Index) currently are eligible for options trading.[25] The proposed CBOE maintenance requirement that 90% of the weighting of the Index be comprised of stocks that are eligible for options trading will ensure that the Index is almost completely comprised of options eligible stocks. Fifth, if S&P increases the number of component stocks to more than forth-four or decreases that number to less than twenty-two, the CBOE will be required to seek Commission approval pursuant to Section 19(b)(2) of the Act before listing new strike price or expiration month series of Retail Index options. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in Retail Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Retail Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Retail Index options (including full-value and reduced-value Retail LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an

[18] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stork and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

[19] 15 U.S.C. 78f(b)(5) (1988).

[20] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Retail Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks comprising the retail industry in the U.S. stock markets. The Commission also believes that these Index options will provide investors with a means by which to make investment decisions in the retail industry sector of the U.S. stock markets, allowing them to establish positions or increase existing positions in such markets in a cost effective manner. Moreover, the Commission believes that the reduced-value Index LEAPS, that will be traded on an index computed at one-tenth the value of the Retail Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a reduced cost.

[21] See generally Securities Exchange Act Release No. 29994, 56 FR 63536 (December 4, 1991) (order designating the PSE Technology Index as a broad-based index rather than a narrow-based index).

[22] See *supra* notes 15 through 17, and accompanying text.

[23] In addition, for the six-month period between March and August 1992, all of the companies comprising the Index had an average daily trading volume greater than 28,025 shares per day.

[24] For an index with a significantly greater number of stocks than fifteen issues, the Commission might come to a different conclusion if only three stocks accounted for more than 55% of the index's weighting. Further, if an index contained only a few stocks, the Commission might question whether it can be traded as an index product.

[25] The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) the public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See CBOE Rule 5.3.

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environment that is designed to ensure, among other things, that: (1) the special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Retail Index options and Retail Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[26] In this regard, the CBOE, NYSE, Amex, and NASD are all members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.[27]

D. Market Impact

The Commission believes that the listing and trading of Retail Index options, including full-value and reduced-value Index LEAPS on the CBOE will not adversely impact the underlying securities markets.[28] First, as described above, for the most part, no one stock or group of stocks dominates the Index.[29] Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks.[30] Third, the 4,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party nonperformance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Retail Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.[31]

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 3 provides for the rounding of the current and closing Index value for purposes of Index LEAPS trading to the nearest one-hundredth. Amendment No. 3 also requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to Section 19(b) of the Act if the number of component securities in the Index changes to either greater than forty-four or fewer than twenty-two. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with Section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[32] that the proposed rule change (SR–CBOE–92–23), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[33]

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10720 Filed 5–5–93; 8:45 am]

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[26] Securities Exchange Act Release No. 31243, 57 FR 45849 (October 5, 1992).

[27] *See supra* note 18. Although the Index currently does not contain ADRs, the proposal provides that the Index could contain ADRs representing retail industry stocks. If the composition of the Index would change so that greater than 20% of the Index was represented by ADRs whose underlying securities were not subject to a comprehensive surveillance sharing arrangement, then it would be difficult for the Commission to reach the conclusions reached in this order and the Commission would have to determine whether it would be suitable to continue to trade options on the Index. The CBOE should, accordingly, notify the Commission immediately if more than twenty percent of the numerical value of the Index is represented by ADRs whose underlying securities are not subject to a comprehensive surveillance sharing agreement, so that the Commission can decide whether trading on the Index should be ceased or phased out.

[28] In addition, the CBOE has represented that the CBOE and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and Index LEAPS. *See* Letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated March 22, 1993 and memorandum from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated March 19, 1993.

[29] As noted above, one stock in the Index represents approximately 32.3% of the Index value. The Index is, however, comprised of thirty-three highly capitalized and actively traded stocks.

[30] The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. *See* CBOE Rule 5.3.

[31] *See* Securities Exchange Act Release No. 30944, 57 FR 33376 (July 28, 1992).

[32] 15 U.S.C. 78s(b)(2) (1988).

[33] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–32238; File No. SR–CBOE–92–25]

Self-Regulatory Organizations; Chicago Board Options Exchange

April 29, 1993.

In the matter of Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on the S&P Banking Index and Long-Term Options on a Reduced-Value Banking Index.

I. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on the Standard & Poor's Corporation ("S&P") Banking Index ("Banking Index" or "Index"). Notice of the proposal, as amended through November 9, 1992,[3] appeared in the **Federal Register** on November 20, 1992.[4] No comment letters were received on the proposed rule change. Thereafter, the CBOE amended the proposal to clarify, amount other things, several proposed listing and maintenance standards.[5] This order approves the Exchange's proposal, as amended.

II. Description of Proposal

A. General

The CBOE proposes to list and trade options on the Banking Index, an index developed by S&P. The CBOE also proposes to list either long-term options on the full-value Index or long-term options on a reduced-value Index that will be computed at one-tenth of the value of the Banking Index ("Banking LEAPS" or "Index LEAPS").[6] Banking LEAPS will trade independent of and in addition to regular Banking Index options traded on the Exchange.[7]

B. Composition of the Index

The Index is based on twenty-five money center, major regional, and other major banking industry stocks that are included in the S&P 500 Index. Twenty-two of those stocks currently trade on the New York Stock Exchange ("NYSE") and three are national market system ("NMS") securities that currently trade through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ–NMS"). The Index is capitalization-weighted, meaning that the price of each stock is multiplied by that company's shares outstanding in order to calculate the current Index level. The Index will be calculated on a real-time basis using last sale prices.

As of August 31, 1992, the Index was at 187.20. As of August 31, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $14.75 billion to a low of $1.25 billion, with the mean and median being $4.79 billion and $3.55 billion respectively. The market capitalization of all the stocks in the Index was $119.841 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 346.25 million shares to a low of 40.261 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $72.53 to a low of $15.91. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 1,228,379 shares per day to a low of 104,390 shares per day, with the mean and median being 371,314 and 339,521 shares, respectively. lastly, no one stock comprised more than 12.31% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 44.18% of the Index's value. The percentage weighing of the lowest weighted stock was 1.05% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 7.77% of the Index's value.

C. Maintenance

The Index will be maintained by S&P and the CBOE has represented that it will not influence any S&P decisions concerning maintenance of the Index. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor adjustments include, but are not limited to, spin-offs, certain rights issuances, mergers, and acquisitions involving component securities.

If it becomes necessary for S&P to remove a Banking Index component stock from the S&P 500 Index (generally due to a takeover or merger), the stock will also be removed from the Banking Index. Because the S&P is not required to replace the stock chosen as a replacement for the S&P 500 Index with another banking industry, the replacement stock may or may not be in the banking industry. As a result, the number of stocks in the S&P Banking Index may increase or decrease due to changes in the composition of the S&P 500.[8]

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this rule filing, the rules in chapter XXIV of the CBOE Rules will be applicable to S&P Banking Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow based index options.

The CBOE is amending Rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100,

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] On September 28, 1992 the CBOE amended the proposal to clarify and confirm that S&P Banking Index options will be A.M. settled options subject to the provisions of CBOE Rule 24.9(e) ("Amendment No. 1"). See File No. SR–CBOE–92–25, Amendment No. 1. On November 9, 1992, the proposal was amended to reflect changes to the CBOE rules made by the effectiveness of SR–CBOE–91–51 (CBOE Biotech Index, approved September 28, 1992) and SR–CBOE–92–32 (non-substantive amendments to Chapter XXIV of the CBOE rules, effective upon filing) ("Amendment No. 2"). See File No. SR–CBOE–92–25, Amendment No. 2. See *infra* note 5.

[4] See Securities Exchange Act Release No. 31446, 57 FR 54872 (November 20, 1992).

[5] More specifically, on April 20, 1993 the proposal was amended to: (1) Require as a maintenance standard that, if the Index increases to more than thirty-three stocks or decreases to less than seventeen stocks, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change; (2) require as a maintenance standard that, if less than 90% of the Index's weighting becomes comprised of stocks that are not eligible for standardized options trading on the CBOE pursuant to CBOE Rule 5.3, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to Section 19(b) of the Act reflecting such change; and (3) clarify that the current and closing index value for reduced-value long-term options based on the Index will be computed by dividing the value of the full-value Index by ten and rounding the resulting figure to the nearest one-hundredth ("Amendment No. 3"). See File No. SR–CBOE–92–25, Amendment No. 3.

[6] LEAPS is an acronym for Long-Term Equity Anticipation Securities. LEAPS are long term index option series that expire from twelve to thirty-six months from their date of issuance. See CBOE Rule 24.9(b)(1).

[7] According to the CBOE the S&P Banking Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets and, as such, the CBOE concludes, should offer investors a low-cost means to achieve diversification of their portfolios toward or awey from the banking industry. The CBOE believes the Index will provide retail and institutional investors with a means to benefit from their forecasts of that industry's market performance. Options on the Index also can be utilized by portfolio managers and investors to provide a performance measure and evaluation guide for passively or actively managed banking industry funds, as well as a means of hedging the risks of investing in the banking industry.

[8] *See supra* note 5. If the Index increases to more than thirty-three stocks or decreases to less than seventeen stocks, no new series of Index options will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change.

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the FT–SE (U.K.) 100, and the FT–SE Eurotrack 200 indexes, also is a "broad-based index" within the meaning of the rules in Chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index options. The amendment to Rule 24.1 further provides that the terms "narrow-based index" and the previously defined "industry index" both mean an index designed to be representative of a particular industry or a group of related industries. An industry index contract such as the S&P Banking Index option will, therefore, be deemed to be "narrow-based" for purposes of the position limit requirements of Rule 24.4A.

E. Calculation of the Index

Similar to the broad-based S&P 500 Stock Index, the S&P Banking Index is capitalization-weighted and reflects changes in the total capitalization of the component stocks relative to the capitalization of the Index on the base date. The Index is calculated by taking the summation of capitalizations of the component stocks (share price multiplied by the number of shares outstanding) and dividing the result by the divisor.

The Index will be calculated continuously by S&P or its designee and will be disseminated to the Options Price Reporting Authority ("OPRA") every fifteen seconds by the CBOE. If a component stock is not currently being traded, the most recently traded price will be used in the index calculation.[9]

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded through the NASDAQ–NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (i.e., Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.[10]

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.[11] Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.[12] In addition, pursuant to CBOE Rule 24.9, there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several index LEAP series that expire from twelve to thirty-six months from the date of issuance.

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full-Value or Reduced-Value Banking Index

The proposal provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing on the full-value Banking Index or a reduced-value Banking Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for reduced-value Banking LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, an Index value of 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced-value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value S&P 100 and 500 Indexes ("OEX" and "SPX," respectively) [13] will be applicable to the trading of reduced-value Index LEAPS. For example, Index LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Moreover, the proposal provides that either full-value or reduced-value Index LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential and continuity rules will not apply to the trading of the full-value or reduced-value Index LEAPS until their time to expiration is less than 12 months. The strike price interval for reduced-value Index LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional LEAPS series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value OEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Banking Index options and reduced-value Banking Index options. Specifically, Exchange rules governing margin requirements,[14] position and exercise limits,[15] and trading halt

[9] For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, S&P will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

[10] See *supra* note 9.

[11] A European-style option can be exercised only during a specified period before the option expires.

[12] For a description of the strike price intervals for reduced value Index options and long-term Index options, see section G, *infra*.

[13] See Securities Exchange Act Release No. 28686, 55 FR 51517 (December 14, 1990).

[14] Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) For short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value, and (2) for long term options positions, 100% of the options premium paid.

[15] Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 8,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5, that a lower limit is warranted.

procedures [16] that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a given position in reduced-value Index options complies with applicable position and exercise limits, positions in reduced-value Index options will be aggregated with positions in the full-value Index options. For these purposes, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in full-value and reduced-value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[17]

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[18] Specifically, the Commission finds that the trading of Banking Index options, including full-value and reduced-value Banking LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the banking industry.[19] The trading of options on the Banking Index, including full-value and reduced-value LEAPS on the Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Banking Index and reduced-value Banking Index are narrow-based indices. The Banking Index is comprised of only twenty-five stocks, all of which are within one industry—the banking industry. In addition, the basic character of the reduced-value Banking Index, which is comprised of the same component securities as the Banking Index and calculated by dividing the Banking Index value by ten, is essentially identical to the Banking Index.[20] Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options.[21]

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 371,314 and 339,521 shares, respectively.[22] Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $14.75 billion to a low of $1.25 billion as of August 31, 1992, with the mean and median being $4.79 billion and $3.55 billion, respectively. Third, although the Index is only comprised of twenty-five stocks, no one particular stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 12.31% of the Index's total value and the percentage weighting of the three largest issues in the Index account for 30.41% of the Index's value.[23] Fourth, all of the component stocks in the Index currently are eligible for options trading.[24] The proposed CBOE maintenance requirement that 90% of the weighting of the Index be comprised of stocks that are eligible for options trading will ensure that the Index is almost completely comprised of options eligible stocks. Fifth, if S&P increases the number of component stocks to more than thirty-three or decreases that number to less than seventeen, the CBOE will be required to seek Commission approval pursuant to section 19(b)(2) of the Act before listing new strike price or expiration month series of Banking Index options. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in Banking Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Banking Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Banking Index options (including full-value and reduced-value Banking LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of

[16] Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

[17] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

[18] 15 U.S.C. 78f(b)(5) (1988).

[19] The Commission also believes that the trading of the Index options and Index LEAPS will allow investors holding positions in some or all of the underlying securities in the Index to hedge the risks associated with their portfolios more efficiently and effectively. Moreover, the Commission believes that the reduced-value Index LEAPS, that will be traded on an Index computed at one-tenth the value of the Banking Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a reduced cost.

[20] See generally Securities Exchange Act Release No. 29994, 56 FR 63536 (December 4, 1991) (order designating the PSE Technology Index as a broad-based index rather than a narrow-based index).

[21] See *supra* notes 14 through 16, and accompanying text.

[22] In addition, for the six-month period between March and August 1992, all of the companies comprising the Index had an average daily trading volume greater than 104,390 shares per day.

[23] For an index with a significantly greater number of stocks than fifteen issues, the Commission might come to a different conclusion if only three stocks accounted for more than 55% of the Index's weighting. Further, if an index contained only a few stocks, the Commission might question whether it can be traded as an index product.

[24] The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See CBOE Rule 5.3.

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options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Banking Index options and Banking Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[25] In this regard, the CBOE, NYSE, and NASD are all members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.[26]

D. Market Impact

The Commission believes that the listing and trading of Banking Index options, including full-value and reduced-value Index LEAPS on the CBOE will not adversely impact the underlying securities markets.[27] First, as described above, no one stock or group of stocks dominates the Index. Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Third, the 8,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Banking Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.[28]

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 3 provides for the rounding of the current and closing Index value for purposes of Index LEAPS trading to the nearest one-hundredth. Amendment No. 3 also requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to section 19(b)(2) of the Act if the number of component securities in the Index changes to either greater than thirty-three or fewer than seventeen. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[29] that the proposed rule change (SR–CBOE–92–25), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10721 Filed 5–5–93; 8:45 am]

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[25] See Securities Exchange Act Release No. 31243, 57 FR 45849 (October 5, 1992).

[26] See *supra* note 17. Although the Index currently does not contain ADRs, the proposal provides that the Index could contain ADRs representing banking industry stocks. If the composition of the Index would change so that greater than 20% of the Index was represented by ADRs whose underlying securities were not subject to a comprehensive surveillance sharing arrangement, then it would be difficult for the Commission to reach the conclusions reached in this order and the Commission would have to determine whether it would be suitable to continue to trade options on the Index. The CBOE should, accordingly, notify the Commission immediately if more than twenty percent of the numerical value of the Index is represented by ADRs whose underlying securities are not subject to a comprehensive surveillance sharing agreement, so that the Commission can decide whether trading on the Index should be ceased or phased out.

[27] In addition, the CBOE has represented that the CBOE and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and Index LEAPS. See Letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated March 22, 1993 and memorandum from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated March 19, 1993.

[28] See Securities Exchange Act Release No. 30944, 57 FR 33376 (July 28, 1992).

[29] 15 U.S.C. 78s(b)(2) (1988).

[30] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–32239; File No. SR–CBOE–92–28]

Self-Regulatory Organizations; Chicago Board Options Exchange

April 29, 1993.

In the Matter of Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on the S&P Insurance Index and Long-Term Options on a Reduced-Value Insurance Index.

I. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on the Standard & Poor's Corporation ("S&P") Insurance Index ("Insurance Index" or "Index"). Notice of the proposal, as amended through November 9, 1992,[3] appeared in the **Federal Register** on November 20, 1992.[4] No comment letters were received on the proposed rule change. Thereafter, the CBOE amended the proposal to clarify, among other things, several proposed listing and maintenance standards.[5] This order approves the Exchange's proposal, as amended.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] On September 28, 1992 the CBOE amended the proposal to clarify and confirm that S&P Insurance Index options will be A.M. settled options subject to the provisions of CBOE Rule 24.9(e) ("Amendment No. 1"). See File No. SR–CBOE–92–28, Amendment No. 1. On November 9, 1992, the proposal was amended to reflect changes to the CBOE rules made by the effectiveness of SR–CBOE–91–51 (CBOE Biotech Index, approved September 28, 1992) and SR–CBOE–92–32 (non-substantive amendments to Chapter XXIV of the CBOE rules, effective upon filing) ("Amendment No. 2"). See File No. SR–CBOE–92–28, Amendment No. 2. See *infra* note 5.

[4] See Securities Exchange Act Release No. 31449, 57 FR 54877 (November 20, 1992).

[5] More specifically, on April 20, 1993 the proposal was amended to: (1) Require as a maintenance standard that, if the Index increases to more than twenty-one stocks or decreases to less than eleven stocks, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change, (2) require as a maintenance standard that, if less than 90% of the Index's weighting becomes comprised of stocks that are not eligible for standardized options trading on the CBOE pursuant to CBOE Rule 5.3, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change, and (3) clarify that the current and closing Index value for reduced-value long-term options based on the Index will be computed by dividing the value of the full-value Index by ten and rounding the resulting figure to the nearest one-hundredth ("Amendment No. 3"). See File No. SR–CBOE–92–28, Amendment No. 3.

[6] LEAPS in an acronym for Long-Term Equity Anticipation Securities. LEAPS are long term index option series that expire from twelve to thirty-six months from their date of issuance. See CBOE Rule 24.9(b)(1).

II. Description of Proposal

A. General

The CBOE proposes to list and trade options on the Insurance Index, an index developed by S&P. The CBOE also proposes to list either long-term options on the full-value Index or long-term options on a reduced-value Index that will be computed at one-tenth of the value of the Insurance Index ("Insurance LEAPS" or "Index LEAPS").[6] Insurance LEAPS will trade independent of and in addition to regular Insurance Index options traded on the Exchange.[7]

B. Composition of the Index

The Index is based on sixteen life, property and casualty, and multiline insurance industry stocks that are included in the S&P 500 Index. Fifteen of those stocks currently trade on the New York Stock Exchange ("NYSE") and one is a national market system ("NMS") security that currently trades through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ–NMS"). The Index is capitalization-weighted, meaning that the price of each stock is multiplied by that company's shares outstanding in order to calculate the current Index level. The Index will be calculated on a real-time basis using last sale prices.

As of August 31, 1992, the Index was at 197.43. As of August 31, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $20.43 billion to a low of $715 million, with the mean and median being $4.45 billion and $3.26 billion, respectively. the market capitalization of all the stocks in the Index was $71.166 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 212.270 million shares to a low of 15.025 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $88.59 to a low of $11.56. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 287,928 shares per day to a low of 15,388 shares per day, with the mean and median being 140,159 and 177,613 shares, respectively. Lastly, no one stock comprised more than 28.71% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 62.8% of the Index's value. The percentage weighting of the lowest weighted stock was 1.01% of the Index and the percentage weighing of the five smallest issues in the Index accounted for 10.58% of the Index's value.

C. Maintenance

The Index will be maintained by S&P and the CBOE has represented that it will not influence any S&P decisions concerning maintenance of the Index. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor adjustments include, but are not limited to, spin-offs, certain rights issuances, mergers, and acquisitions involving component securities.

If it becomes necessary for S&P to remove a Insurance Index component stock from the S&P 500 Index (generally due to a takeover or merger), the stock will also be removed from the Insurance Index. Because the S&P is not required to replace the stock chosen as a replacement for the S&P 500 Index with another insurance industry, the replacement stock may or may not be in the insurance industry. As a result, the number of stocks in the S&P Insurance Index may increase or decrease due to changes in the composition of the S&P 500.[8]

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this rule filing, the rules in chapter XXIV of the CBOE Rules will be applicable to S&P Insurance Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow based index options.

The CBOE is amending Rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100, the FT–SE (U.K.) 100, and the FT–SE Eurotrack 200 indexes, also is a "broad-based index" within the meaning of the rules in Chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index options. The amendment to Rule 24.1 further provides that the terms "narrow-based index" and the previously defined "industry index" both mean an index designed to be representative of a particular industry or a group of related industries. An industry index contract such as the S&P Insurance Index option will, therefore, be deemed to be "narrow-based" for purposes of the

[7] According to the CBOE, the S&P Insurance Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets and, as such, the CBOE concludes, should offer investors a low-cost means to achieve diversification of their portfolios toward or away from the insurance industry. The CBOE believes the Index will provide retail and institutional investors with a means to benefit from their forecasts of that industry's market performance. Options on the Index also can be utilized by portfolio managers and investors to provide a performance measure and evaluation guide for passively or actively managed insurance industry funds, as well as a means of hedging the risks of investing in the insurance industry.

[8] See *supra* note 5. If the Index increases to more than twenty-one stocks or decreases to less than eleven stocks, no new series of Index options will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change.

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position limit requirements of Rule 24.4A.

E. Calculation of the Index

Similar to the broad-based S&P 500 Stock Index, the S&P Insurance Index is capitalization-weighted and reflects changes in the total capitalization of the component stocks relative to the capitalization of the Index on the base date. The Index is calculated by taking the summation of capitalizations of the component stocks (share price multiplied by the number of shares outstanding) and dividing the result by the divisor.

The Index will be calculated continuously by S&P or its designee and will be disseminated to the Options Price Reporting Authority ("OPRA") every fifteen seconds by the CBOE. If a component stock is not currently being traded, the most recently traded price will be used in the Index calculation.[9]

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded through the NASDAQ–NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.[10]

F. Contract Specifications

The proposed options on the Index will be cashed-settled, European-style options.[11] Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.[12] In addition, pursuant to CBOE Rule 24.9, there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAP series that expire from twelve to thirty-six months from the date of issuance.

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full-Value or Reduced-Value Insurance Index

The proposal provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing on the full-value Insurance Index or a reduced-value Insurance Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for reduced-value Insurance LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, an Index value of 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced-value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value S&P 100 and 500 Indexes ("OEX" and "SPX," respectively)[13] will be applicable to the trading of reduced-value Index LEAPS. For example, Index LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Moreover, the proposal provides that either full-value or reduced-value Index LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential and continuity rules will not apply to the trading of the full-value or reduced-value Index LEAPS until their time to expiration is less than 12 months. The strike price interval for reduced-value Index LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional LEAPS series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value OEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Insurance Index options and reduced-value Insurance Index options. Specifically, Exchange rules governing margin requirements,[14] position and exercise limits,[15] and trading halt procedures[16] that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a given position in reduced-value Index options complies with applicable position and exercise limits, positions in reduced-value Index options will be aggregated with positions in the full-value Index options. For these purposes, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in full-value and reduced-value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[17]

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[18] Specifically, the Commission finds that the trading of Insurance Index options, including full-value and reduced-value Insurance LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the insurance industry.[19] The trading of options on the Insurance Index, including full-value and reduced-value LEAPS on the Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Insurance Index and reduced-value Insurance Index are narrow-based indices. The Insurance Index is comprised of only sixteen stocks, all of which are within one industry—the insurance industry. In addition, the basic character of the reduced-value Insurance Index, which is comprised of the same component securities as the Insurance Index and calculated by dividing the Insurance Index value by ten, is essentially identical to the Insurance Index.[20] Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options.[21]

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index: First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 140,159 and 177,613 shares, respectively.[22] Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $20.43 billion to a low of $715 million as of August 31, 1992, with the mean and median being $4.45 billion and $3.26 billion, respectively. Third, although the Index is only comprised of sixteen stocks, no one particular stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 28.71% of the Index's total value and the percentage weighting of the three largest issues in the Index account for 49.16% of the Index's value.[23] Fourth, fifteen of the sixteen stocks in the Index (representing 99% of the weighting of the Index) currently are eligible for options trading.[24] The proposed CBOE maintenance requirement that 90% of the weighting of the Index be comprised of stocks that are eligible for options trading will ensure that the Index is almost completely comprised of options eligible stocks. Fifth, if S&P increases the number of component stocks to more than twenty-one or decreases that number to less than eleven, the CBOE will be required to seek Commission approval pursuant to section 19(b)(2) of the Act before listing new strike price or expiration month series of Insurance Index options. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in Insurance Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Insurance Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Insurance Index options (including full-value and reduced-value Insurance LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of

[9] For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, S&P will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

[10] See *supra* note 9.

[11] A European-style option can be exercised only during a specified period before the option expires.

[12] For a description of the strike price intervals for reduced-value Index options and long-term Index options, See Section G, *infra*.

[13] See Securities Exchange Act Release No. 28686, 55 FR 51517 (December 14, 1990).

[14] Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) For short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long term options positions, 100% of the options premium paid.

[15] Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 6,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.

[16] Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

[17] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

[18] 15 U.S.C. 78f(b)(5) (1988).

[19] Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Insurance Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks comprising the insurance industry in the U.S. stock markets. The Commission also believes that these Index options will provide investors with a means by which to make investment decisions in the insurance industry sector of the U.S. stock markets, allowing them to establish positions or increase existing positions in such markets in a cost effective manner. The Commission also believes that the trading of the Index options and Index LEAPS will allow investors holding positions in some or all of the underlying securities in the Index to hedge the risks associated with their portfolios more efficiently and effectively. Moreover, the Commission believes that the reduced-value Index LEAPS, that will be traded on an index computed at one-tenth the value of the Insurance Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a reduced cost.

[20] See generally Securities Exchange Act Release No. 29994, 56 FR 63536 (December 4, 1991) (order designating the PSE Technology Index as a broad-based index rather than a narrow-based index).

[21] See *supra* notes 14 through 16, and accompanying text.

[22] In addition, for the six-month period between March and August 1992, all of the companies comprising the Index had an average daily trading volume greater than 15,388 shares per day.

[23] For an index with a significantly greater number of stocks than fifteen issues, the Commission might come to a different conclusion if only three stocks accounted for more than 55% of the index's weighting. Further, if an index contained only a few stocks, the Commission might question whether it can be traded as an index product.

[24] The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See CBOE Rule 5.3.

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options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Insurance Index options and Insurance Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[25] In this regard, the CBOE, NYSE, and NASD are all members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.[26]

D. Market Impact

The Commission believes that the listing and trading of Insurance Index options, including full-value and reduced-value Index LEAPS on the CBOE will not adversely impact the underlying securities markets.[27] First, as described above, no one stock or group of stocks dominates the Index. Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Third, the 6,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Insurance Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.[28]

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 3 provides for the rounding of the current and closing Index value, for purposes of Index LEAPS trading, to the nearest one-hundredth. Amendment No. 3 also requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to section 19(b)(2) of the Act if the number of component securities in the Index changes to either greater than twenty-one or fewer than eleven. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[29] that the proposed rule change (SR–CBOE–92–28), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10723 Filed 5–5–93; 8:45 am]

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[25] See Securities Exchange Act Release No. 31243, 57 FR 45849 (October 5, 1992).

[26] See supra note 17. Although the Index currently does not contain ADRs, the proposal provides that the Index could contain ADRs representing insurance industry stocks. If the composition of the Index would change so that greater than 20% of the Index was represented by ADRs whose underlying securities were not subject to a comprehensive surveillance sharing arrangement, then it would be difficult for the Commission to reach the conclusions reached in this order and the Commission would have to determine whether it would be suitable to continue to trade options on the Index. The CBOE should, accordingly, notify the Commission immediately if more than twenty percent of the numerical value of the Index is represented by ADRs whose underlying securities are not subject to a comprehensive surveillance sharing agreement, so that the Commission can decide whether trading on the Index should be ceased or phased out.

[27] In addition, the CBOE has represented that the CBOE and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and Index LEAPS. See Letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated March 22, 1993 and memorandum from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated March 19, 1993.

[28] See Securities Exchange Act Release No. 30944, 57 FR 33378 (July 28, 1992).

[29] 15 U.S.C. 78s(b)(2) (1988).

[30] 17 CFR 200.30–3(a)(12) (1993).

[1] 15 U.S.C. 78s(b)(1).

[Release No. 34–32230; File No. SR–PHILADEP–92–04]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Proposed Rule Change Relating to Definition of Signature Guarantee

April 27, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 22, 1992, the Philadelphia Depository Trust Company ("PHILADEP") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by PHILADEP. PHILADEP amended the filing to correct citations contained in the original filing, to revise the language of its Rule 1 describing an acceptable signature guarantee, and to provide additional information regarding the purpose of certain amendments.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PHILADEP proposes to amend PHILADEP Rule 1 to define "signature guarantee" as a medallion or stamp of a "signature guarantee program" as defined in Rule 17Ad–15 under the Act.[3] The rule change also would clarify the language in PHILADEP Rule 1 regarding the warranties provided by a signature guarantee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PHILADEP included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PHILADEP has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend the definition of "signature guarantee" so that a medallion imprint or stamp evidencing participation or membership in a "signature guarantee program" as defined by Rule 17Ad–15 will constitute a signature guarantee acceptable to PHILADEP. Such programs are being offered by entities unaffiliated with PHILADEP or its parent corporation, the Philadelphia Stock Exchange, Inc. ("PHLX").

In addition, the proposed rule change adds language, based on the Uniform Commercial Code Section 8–312, stating that a signature guarantee is a warranty of the genuineness of the signature, the appropriateness of the endorser, and the legal capacity of the endorser. This addition is made in an effort to create a more uniform standard in the securities industry.[4]

Philadep believes the proposed rule change is consistent with the Act, in general, and with section 17A(b)(3)(F) of the Act, in particular, because it is designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, and to remove impediments and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

The proposed rule change also is consistent with the requirements of section 17A(a)(1) of the Act because it should foster the prompt and accurate clearance and settlement of securities transactions by facilitating the signature guarantee process and related activities. In addition, the proposal is consistent with section 17A(d)(5) of the Act, which requires transfer agents to comply with Commission rules regarding the acceptance or rejection of signature guarantees and Rule 17Ad–15 thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHILADEP does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such date if it finds such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period is appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-PHILADEP-92–04 and should be submitted by May 27, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10628 Filed 5–5–93; 8:45 am]

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[2] Letter from Murray Ross, Secretary, PHILADEP, to Christine Sibille, Attorney, Commission (January 26, 1993); and Letter from Murray Ross, Secretary, PHILADEP, to Christine Sibille, Attorney, Commission (February 9, 1993).

[3] 17 CFR 240.17Ad–15(g)(3).

[4] The New York Stock Exchange has adopted similar language in its Rule 210. The Midwest Stock Exchange is considering adding a corresponding provision to its rules. Conversation between Murray Ross, Secretary, PHILADEP, and Christine Sibille, Staff Attorney, Division of Market Regulation, Commission (January 12, 1993).

[Release No. 34–32228; File No. SR–PHLX–92–39]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Proposed Rule Change Relating to Requirement that Members Become Participants in a "Signature Guarantee Program"

April 27, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 21, 1992, the Philadelphia Stock Exchange, Inc. ("PHLX") filed with the Securities and Exchange Commission ("Commission") a proposed rule change that requires members to participate in a "signature guarantee program" and defined in Rule 17Ad–15(g)(3) under the Act [2] and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.17Ad–15(g)(3).

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eliminates PHLX's existing signature guarantee program. Subsequently, PHLX amended the filing to eliminate two additional sections deemed obsolete, to correct citations contained in the original filing, to provide a description of the existing signature guarantee program and to provide additional information regarding the purpose of certain amendments.[3] The proposed rule change, as amended, is described in Items I, II, and III below, which Items have been prepared primarily by PHLX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PHLX proposes to amend PHLX Rules 325 through 331 and 338 through 340 in order to comply with the requirements of Rule 17Ad–15 adopted under the Act pertaining to signature guarantees. The proposed rule change also deletes as obsolete or unnecessary PHLX Rules 334 through 336 and corollary forms 9 and 10.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PHLX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PHLX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to eliminate PHLX's signature guarantee program and to enable PHLX to convert its Rules respecting signatures effecting assignments, powers of substitutions, signature guarantees, and other certifications and guarantees incident to the transfer, payment, exchange, purchase or delivery of certificates representing securities (including, but not limited to, erasure guarantees, one-and-the-same guarantees and situs certifications) to require members and member organizations to use a medallion imprint or stamp which signifies their participation in a "signature guarantee program" as defined by Rule 17Ad–15 (a "Rule 17Ad–15 Signature Guarantee Program"). Such programs are being offered and administered by entities unaffiliated with PHLX.

In order to facilitate compliance with transfer agents' requirements for verification of signatures on guarantees made by member organizations, PHLX and its subsidiary, the Stock Clearing Corporation of Philadelphia ("SCCP"), jointly administered a signature guarantee program for their members. PHLX and SCCP members could subscribe to the joint PHLX/SCCP signature guarantee program, in an arrangement under which PHLX and SCCP provided sample signatures to transfer agents of certain authorized officers and/or employees under powers of attorney filed with PHLX and SCCP under PHLX Rules 327 and 340 and guaranteed the signature to any assignment or power of substitution executed by such authorized persons. The Offices of the Secretary of PHLX and SCCP required each member of the program to execute and submit an Agreement regarding Signature Guarantees, a power of attorney providing the name and sample signature of each authorized signatory, and certified resolutions of the Board of Directors appointing its authorized signatory. Under the Agreement regarding Signature Guarantees, the participant agrees to indemnify and hold harmless PHLX and SCCP for any loss resulting from its guarantee. The power of attorney remained in effect until written notice of revocation was received by SCCP. SCCP maintained an extensive file of sample authorized signatures provided by participating organizations and made these samples available to transfer agents. The SCCP transfer department notified issuers and transfer agents of changes in authorized signatories on behalf of member organizations. This program enabled members to send listed or over the counter securities directly to transfer agents without having each certificate individually guaranteed by a New York Stock Exchange member organization, a national bank, or the SCCP transfer department. PHLX's signature guarantee program had been approved by the Stock Transfer Association. Additional insurance coverage was maintained by PHLX under a separate binder to its blanket bond coverage for SCCP for signature guarantee purposes in the amount of 25 million dollars for a single loss and 50 million dollars aggregate to cover certificates on which the signature (or authorized power of attorney) was guaranteed by a participating member of the signature guarantee program.

Pursuant to Rule 17Ad–15, recently adopted under the Act, transfer agents were empowered to establish guidelines for acceptable signature guarantee programs as contemplated by that Rule. Non-participants in such a signature guarantee program risk rejection of transfers. PHLX does not desire to administer a Rule 17Ad–15 Signature Guarantee Program and has determined that its signature guarantee program would not qualify under Rule 17Ad–15. PHLX has notified all members and participants in its signature guarantee program that as of October 26, 1992, the PHLX administered program would no longer be in compliance with Rule 17Ad–15 and PHLX was therefore discontinuing the program. It should be noted that PHLX's signature guarantee program was not documented in PHLX's rules. The references to the former signature guarantee program were contained in Rule 1 of the SCCP's Rules and Rule 1 of the Philadelphia Depository Trust Company's ("Philadep") Rules. Each of these organizations have filed with the Commission proposals to amend their respective Rule 1.

Incidental to the foregoing, the rule change also reflects the restatement of certain PHLX rules relating to guarantees, transfers and deliveries of securities. Specifically, PHLX Rules 327, 338 and 339 have been amended to require members to use a medallion or stamp of a Rule 17Ad–15 Signature Guarantee Program to guarantee signatures, and to define a signature guarantee acceptable to PHLX as a medallion or stamp of a Rule 17Ad–15 Signature Guarantee Program. PHLX Rules 325, 328, 329, 330 and 331 have been amended to add cross references to the PHLX rules defining an acceptable signature guarantee or to substitute language regarding the use of a medallion or stamp of a Rule 17Ad–15 Signature Guarantee Program. In addition, the proposal eliminates certain unnecessary or obsolete rules[4] and, where necessary in the interests of uniformity in the industry, amends certain PHLX rules in this area to conform to the corresponding rules of

[3] Letter from Murray Ross, Secretary, Philadelphia Stock Exchange, to Christine Sibille, Attorney, Commission (January 26, 1993); Letter from Murray Ross, Secretary, Philadelphia Stock Exchange, to Christine Sibille, Attorney, Commission (February 9, 1993).

[4] PHLX Rules 334 through 336 and corollary forms 9 and 10, which are designed to require a married woman to obtain the consent of her husband to the transfer of her property, are being deleted as obsolete.

the New York Stock Exchange ("NYSE").[5]

The proposed rule change is consistent with the Act, in general, and in furtherance of section 6(b)(5), in particular, in that it generally is designed to prevent fraudulent and manipulative acts and practices, to foster coordination among persons engaged in regulating, clearing, settling, and processing information with respect to transactions in securities, and to remove impediments and perfect the mechanism of a free and open market.

The proposed rule change also is consistent with the requirements of section 17A of the Act in that it fosters the prompt and accurate clearance and settlement of securities transactions by facilitating the signature guarantee process and related activities. In addition, the proposal is consistent with section 17A(d)(5) of the Act and rule 17Ad–15 thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHLX doe not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period: (i) as the Commission may designate up to ninety days of such date if it finds such longer period is appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

[5] PHLX Rule 328 is being amended, consistent with NYSE Rule 201, to permit an assignment or power of substitution to be executed by a domestic executor, trustee or guardian, without additional documentation. PHLX Rule 340 is being amended, consistent with NYSE Rule 210 and the Uniform Commercial Code Section 8–312, to define the warranties provided by a signature guarantee.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those than may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–PHLX–92–39 and should be submitted by May 27, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10630 Filed 5–5–93; 8:45 am]

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[Release No. 34–32229; File No. SR–SCCP–92–03]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Proposed Rule Change Relating to Definition of Signature Guarantee

April 27, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 28, 1992, the Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by SCCP. SCCP amended the filing to correct citations contained in the original filing, to provide a description of its current signature guarantee program and to provide additional information regarding the purpose of certain amendments.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

SCCP proposes to amend SCCP Rule 1 to define a "signature guarantee" as a medallion or stamp of a "signature guarantee program" under Rule 17Ad–15 adopted under the Act.[3] The rule change also would clarify the language in SCCP Rule 1 regarding the warranties provided by a signature guarantee and would eliminate SCCP's existing signature guarantee program.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, SCCP included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. SCCP has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to eliminate SCCP's existing signature guarantee program and amend the definition of "signature guarantee" so that a medallion imprint or stamp evidencing participation in a "signature guarantee program" as defined by Rule 17Ad–15 will constitute a signature guarantee acceptable to SCCP. Such programs are being offered by entities unaffiliated with SCCP or its parent corporation, the Philadelphia Stock Exchange, Inc. ("PHLX").

In order to facilitate compliance with transfer agents' requirements for verification of signatures on guarantees made by member organizations, SCCP and PHLX jointly administered a signature guarantee program for their members. PHLX and SCCP members could subscribe to the joint PHLX/SCCP signature guarantee program, in an arrangement under which PHLX and SCCP provided sample signatures to

[1] 15 U.S.C. 78s(b)(1).

[2] Letter from Murray Ross, Secretary, SCCP, to Christine Sibille, Attorney, Commission (January 26, 1993); Letter from Murray Ross, Secretary, SCCP, to Christine Sibille, Attorney, Commission (February 9, 1993).

[3] 17 CFR 240.17Ad–15(g)(3)

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transfer agents of certain authorized officers and/or employees under powers of attorney filed with PHLX and SCCP under PHLX Rules 327 and 340 and guaranteed the signature to any assignment or power of substitution executed by such authorized persons. The Offices of the Secretary of PHLX and SCCP required each member of the program to execute and submit an Agreement regarding Signature Guarantees, a power of attorney providing the name and sample signature of each authorized signatory, and certified resolutions of the Board of Directors appointing its authorized signatory. Under the Agreement regarding Signature Guarantees, the participant agrees to indemnify and hold harmless PHLX and SCCP for any loss resulting from its guarantee. The power of attorney remained in effect until written notice of revocation was received by SCCP. SCCP maintained an extensive file of sample authorized signatures provided by participating organizations and made these samples available to transfer agents. The SCCP transfer department notified issuers and transfer agents of changes in authorized signatories on behalf of member organizations. This program enabled members to send listed or over the counter securities directly to transfer agents without having each certificate individually guaranteed by a New York Stock Exchange member organization, a national bank, or the SCCP transfer department. SCCP's signature guarantee program had been approved by the Stock Transfer Association. Additional insurance coverage was maintained by PHLX under a separate binder to its blanket bond coverage for SCCP for signature guarantee purposes in the amount of 25 million dollars for a single loss and 50 million dollars aggregate to cover certificates on which the signature (or authorized power of attorney) was guaranteed by a participating member of the signature guarantee program.

Pursuant to Rule 17Ad–15, transfer agents were empowered to establish guidelines for acceptable "signature guarantee programs" as contemplated by Rule 17Ad–15. Non-participants in such a "signature guarantee program" risk rejection of transfers. SCCP does not desire to administer a "signature guarantee program" as contemplated by Rule 17Ad–15 on SCCP's own or PHLX's behalf. Instead, SCCP proposes to eliminate its existing signature guarantee program, and accept guarantees from a guarantor institution that is in a signature guarantee program as defined in Rule 17Ad–15 and has attached a medallion or stamp evidencing participation in such a signature guarantee program on the certificate or other documentation.

In addition, the proposed rule change adds language, based on the Uniform Commercial Code Section 8–312, stating that a signature guarantee is a warranty of the genuineness of the signature, the appropriateness of the endorser, and the legal capacity of the endorser. This addition is made in an effort to create a more uniform standard in the securities industry.[4]

The proposed rule change is consistent with the Act, in general, and in furtherance of section 17A(b)(3)(F) of the Act, in particular, in that it generally is designed to foster cooperation and coordination with persons engaged in clearance and settlement of securities transactions, and to remove impediments and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

The proposed rule change also is consistent with the requirements of section 17A(a)(1) of the Act in that it fosters the prompt and accurate clearance and settlement of securities transactions by facilitating the signature guarantee process and related activities. In addition, the proposal is consistent with section 17A(d)(5) of the Act and Rule 17Ad–15 thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period is appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–SCCP–92–03 and should be submitted by May 27, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10629 Filed 5–5–93; 8:45 am]

BILLING CODE 8010–01–M

[4] The New York Stock Exchange has adopted similar language in its Rule 210. The Midwest Stock Exchange is considering adding a corresponding provision to its rules. Conversation between Murray Ross, Secretary, SCCP, and Christine Sibille, Staff Attorney, Division of Market Regulation, Commission (January 12, 1993).

[Rel. No. IC–19443; File No. 812–8336]

ITT Life Insurance Corp., et al.; Applications

April 29, 1993.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: ITT Life Insurance Corporation ("ITT Life"), ITT Life Insurance Corporation Separate Account Two (the "Separate Account") and Hartford Equity Sales Company, Inc.

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) for exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account under a flexible premium deferred variable annuity contract (the "Contract").

FILING DATE: The application was filed on April 1, 1993 and amended on April 23, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 24, 1993, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Kathleen McGah, Esq., Hartford Life Insurance Companies, 200 Hopmeadow Street, Simsbury, CT 06070.

FOR FURTHER INFORMATION CONTACT: Thomas Bisset, Senior Attorney, at (202) 272–2058, or Wendell Faria, Deputy Chief, at (202) 272–2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

APPLICANTS' REPRESENTATIONS

1. ITT Life is a stock life insurance company engaged in the business of writing individual and group life insurance and annuities in the District of Columbia and all states except New York.

2. The Separate Account was established by ITT Life and has filed a registration statement under the 1940 Act as a unit investment trust. It will issue only flexible premium deferred variable annuity contracts (the "Contracts"). The Separate Account will initially be the variable option for certain contract owners who previously purchased fixed annuity contracts from Fidelity Bankers Life Insurance Company ("FBL Contract Owners"). On May 13, 1991, a receiver was appointed for Fidelity Bankers Life Insurance Company, an insurer domiciled in Virginia. The receiver selected Hartford Life Insurance Company, an affiliated insurer of ITT Life, to assume and reinsure certain FBL contracts. FBL Contract Owners may select a fixed annuity option sponsored by the Hartford Life Insurance Company. On or after May 15, 1993, the FBL Contract Owners may transfer into the Separate Account.

The Separate Account invests in the following Putnam Capital Manager ("PCM") Funds: PCM Voyager Fund, PCM Growth and Income Fund, PCM High Yield Fund, PCM Money Market Fund, PCM U.S. Government and High Quality Bond Fund, PCM Multi-Strategy Fund, PCM Global Growth Fund and PCM Utilities Growth and Income Fund.

3. Hartford Equity Sales Company, Inc., the principal underwriter for the Contracts, is a broker-dealer registered under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

4. There is no deduction for sales expenses from purchase payments when made, but a contingent deferred sales charge ("CDSC") may be assessed when a Contract is surrendered. CDSCs are assessed first from purchase payments in the order received and then from other Contract values. The CDSC is a percentage of the amount withdrawn (not to exceed the aggregate amount of the purchase payments made), as follows:

Charge	Number of years from purchase payment
7 percent	1
6 percent	2
5 percent	3
4 percent	4
3 percent	5
2 percent	6
1 percent	7
0 percent	8 or more

5. An annual maintenance fee of $25 is deducted from Contract values each Contract year. ITT Life also assesses a daily charge at the rate of .15% per annum against all Contracts held in the Separate Account during both the accumulation and annuity phases of the Contracts. ITT Life guarantees that it will not increase the annual maintenance fee of $25.00 and the administrative fee of .15% per annum. In addition, Applicants represent that the annual maintenance fee and the daily administrative charge will not be more than the actual cost of the administrative services provided.

6. For assuming mortality and expense risks under the Contracts, ITT Life will make a daily charge at the annual rate of 1.25% against all Contract values held in the Separate Account. Approximately 0.90% of that charge is for assuming mortality risks and 0.35% is for assuming expense risks. The rate of the mortality and expense risk charge cannot be increased. ITT Life assumes mortality risks by undertaking to make annuity payments under the Contract option selected by the Contract owner regardless of how long an annuitant may live, and regardless of how long all annuitants as a group may live. ITT Life also assumes mortality risks by undertaking payment of a minimum death benefit under the Contract. ITT Life assumes the expense risk that administrative fees may be insufficient to cover the actual expenses. If the mortality and expense risk charge is insufficient to cover the actual cost of the expense risk undertaking, ITT Life will bear the loss. Conversely, if the charge proves more than sufficient, the excess will be surplus to ITT Life and will be available for any proper corporate purpose. ITT Life expects a reasonable profit from the mortality and expense risk charge.

Applicants' Legal Analysis and Conditions

1. Section 6(c) of the 1940 Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any persons, securities, or transactions from any provision of the 1940 Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicants request an order under section 6(c) for exemptions from sections 26(a)(2)(C) and 27(c)(2) to deduct a mortality and expense risk charge from the assets of the Separate Account. Section 27(c)(2) of the 1940 Act prohibits the sale of periodic payment plan certificates unless the proceeds of all payments (except such amounts as are deducted for sales load) are held under an indenture or agreement containing in substance the provisions required by sections 26(a) (2) and (3). Section 26(a)(2)(C) provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust shall be allowed the trustee or custodian as an expense

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(except that provision may be made for the payment to any such person of a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping or other administrative services).

3. Applicants represent that the mortality and expense risk charge of 1.25% is within the range of industry practice for comparable annuity contracts as determined by a survey of comparable contracts issued by other insurance companies. Applicants' Contract is comparable to the Contracts of other insurance companies in that (i) current charge levels are approximately the same; (ii) all provide minimum death benefit guarantees the same or lower than Applicants' Contracts; (iii) all have guaranteed annuity purchase rates; (iv) all have the same special accounting system for separate account unit value administration; and (v) all are offered in the same market. ITT Life undertakes to maintain at its home office, available to the Commission upon request, a memorandum setting forth in detail the methodology underlying this representation and the contracts analyzed.

4. Applicants state that there is a likelihood that the proceeds from explicit sales loads will be insufficient to cover the expected costs of distributing the Contracts. Any shortfall will be covered from the assets of ITT Life's general account, which may include profit from the mortality and expense risk charge. Therefore, Applicants have concluded that there is a reasonable likelihood that the Separate Account's distribution financing arrangement will benefit the Separate Account and Contract owners. ITT Life undertakes to maintain at its home office, and make available to the Commission upon request a memorandum setting forth the basis of this representation.

5. Applicants represent that the Separate Account will invest only in open-end management investment companies that have undertaken to have a board of directors, a majority of whom are not interested persons of the company, formulate and approve any plan to finance distribution expenses pursuant to Rule 12b–1 under the 1940 Act.

Conclusion

Applicants assert that, for the reasons and upon the facts set forth above, the requested exemption from sections 26(a)(2)(C) and 27(c)(2) of the 1840 Act to deduct the mortality and expense risk charge from the assets of the Separate Account under the Contract meets the standards in section 6(c) of the 1940 Act. Applicants assert that the exemption requested is necessary and appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10631 Filed 5–5–93; 8:45am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 1778]

Participation of Private-sector Representatives on U.S. Delegations

As announced in Public Notice No. 655 (44 FR 17846), March 23, 1979, the Department is submitting its January 14, 1992–January 26, 1993 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article III (c) of the guidelines published in the **Federal Register** on March 23, 1979.

Dated: March 9, 1993.

Frank R. Provyn,

Managing Director, Office of International Conferences.

United States Delegation to the 3rd Meeting of the Aeronautical Fixed Service Systems Planning for Data Interchange Panel International Civil Aviation Organization (ICAO) Montreal, January 14–January 30, 1992

Representative

Cindy J.H. Peak, Manager, Communications Systems Engineering Division, Federal Aviation Administration, Department of Transportation

Alternate Representative

Terence B. Wendel, General Engineer, Communications Systems Engineering Division, Federal Aviation Administration, Department of Transportation

Private Sector Advisers

Forrest W. Colliver, Jr., Lead Engineer, Aeronautical Telecommunications, MITRE Corp, McLean, Virginia
Donald L. Trombley, Director, Communications and Meteorology, Air Transport Association, Washington, DC
Valgene E. White, Telecommunications Consultant, Network Management Service Inc, Annapolis Maryland

United States Delegation to the Group of Rapporteurs and Pollution and Energy, Twenty-Third Session, Economic Commission for Europe (ECE) Geneva, January 20–22, 1992

Representative

Thomas Baines, Senior Project Director, Office of Mobile Sources, Environmental Protection Agency, Ann Arbor, Michigan

Private Sector Advisers

Louis Broering, Cummings Engine Company, Columbus, Indiana
Marcel Halberstadt, Motor Vehicle Manufacturers Association, Detroit, Michigan

United States Delegation to the Working Party on Gas, Second Session, Economic Commission for Europe (ECE) Geneva, January 20–22, 1992

Representative

Jeffrey P. Hardy, Office of International Affairs, Department of Energy

Alternate Representative

Ralph Anske, Office of Global Energy, Bureau of Economic and Business Affairs, Department of State

Private Sector Adviser

Stewart B. Kean, President, Utility Propane, Elizabeth, New Jersey

United States Delegation to the Meeting of Study Group III and Working Party 4 of the International Telegraph and Telephone Consultative Committee, International Telecommunication Union, Geneva, Switzerland, January 21–23, 1992

Representative

Earl S. Barbely, Director, Telecommunications and Information Standards, Department of State

Advisers

William Kirsch, Deputy Assistant Bureau Chief/International, Federal Communications Commission
Suzanne Settle, Program Manager, National Telecommunications and Information Administration, Department of Commerce

Private Sector Advisers

Beverly Andrews, COMSAT, WSD, Washington, DC
Donald P. Casey, Director Regulatory, Western Union Corporation, Upper Saddle River, New Jersey
Kenneth Leeson, Telecommunications Advisor, International Business Machines, Purchase, New York
Robert Madden, Manager, American Telephone & Telegraph Co., Morristown, New Jersey

Mark Niebert, COMSAT, Washington, DC
Philip Onstad, Consultant, International Communications Association, Washington, DC
Marcel E. Scheidegger, MCI International, Rye Brook, New York
Richard W. Stone, Cable and Wireless Communications, Ltd., Vienna, Virginia
Carmine Taglialatela, Jr., Advisory Engineer, MCI Telecommunications, Inc., Washington, DC

United States Delegation to the Technical Subgroup on Controls (January 25–26), Technical Subgroup on Indicator Prices (January 27–29), International Coffee Organization Council and Negotiating Session (February 1–5), International Coffee Organization (ICO), London, January 25–February 5, 1992

Technical Subgroup on Controls (January 25–26)

Representative

Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative

Michael Glover, Economic Officer, United States Embassy, London

Technical Subgroup on Indicator Prices (January 27–29)

Representative

Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative

Thomas L. Robinson, Director, Office of Food Policy Programs, Bureau of Economic and Business Affairs, Department of State

Adviser

Michael Glover, Economic Officer, United States Embassy, London

International Coffee Organization Council and Negotiating Session (February 1–5)

Representative

Myles R. R. Frechette, Assistant United States Trade Representative, Latin America, Caribbean, and Africa, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative

Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President

Advisers

Michael Glover, Economic Officer, United States Embassy, London
Thomas L. Robinson, Director, Office of Food Policy Programs, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers

George E. Boecklin, President, National Coffee Association, U.S.A., New York, New York
David A. Brown, Maxwell House Coffee Company, White Plains, New York
Richard Emanuelle, Tardivat International Coffee Corporation, New York, New York
Stephen H. Gluck, Cargill Coffee PLC, Surrey, United Kingdom
James P. McCree, Louis Dreyfus Coffee Company, Wilton, Connecticut
Howard C. Katz, J. Aron and Company, New York, New York
John Sutherland, Continental Coffee Products, Chicago, Illinois
Richard L. Thompson, Nestle Beverages, San Francisco, California
Gregory W. White, Folger Coffee Company, Chicago, Illinois

United States Delegation to the 43rd Session of the Subcommittee on the Carriage of Dangerous Goods (CDG), International Maritime Organization (IMO), London, January 27–31, 1992

Representative

Kevin J. Eldridge, Commander, Chief, Hazardous Materials Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Alternate Representative

P.C. Olenik, Lieutenant Commander, Packaged Cargo Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Advisers

E.P. Pfersich, Chief, Packaged Cargo Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation
F. Wybenga, International Standards Coordinator, Office of Hazardous Materials Safety, Research and Special Programs Administration, Department of Transportation,
S.C. Hunt, Lieutenant, Packaged Cargo Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Private Sector Adviser

R.F. Bohn, Hazardous Materials Coordinator, National Cargo Bureau, Inc., New York, NY

United States Delegation to the Forty-Eighth Session of the Human Rights Commission, United Nations Economic and Social Council (ECOSOC), Geneva, January 27–March 6, 1992

Representative

The Honorable J. Kenneth Blackwell, Ambassador, United States Representative to the United Nations Human Rights Commission

Alternate Representatives

The Honorable Morris B. Abram, Ambassador, Permanent Representative to the European Office of the United Nations, Geneva
The Honorable John R. Bolton, Assistant Secretary, Bureau of International Organization Affairs, Department of State
The Honorable Otto J. Reich, Washington, DC
The Honorable Richard Schifter, Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs, Department of State

Senior Advisers

Nancy Ely-Raphel, Deputy Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs, Department of State
The Honorable Juliette Clagett McLennan, Ambassador, United States Representative to the United Nations Commission on the Status of Women, Washington, DC
H. Clarke Rodgers, Deputy Chief of Mission, United States Mission, Geneva
The Honorable Shirin R. Tahir-Kheli, United States Alternate Representative for Special Political Affairs, New York
Jackie Wolcott, Deputy Assistant Secretary, Bureau of International Organization Affairs, Department of State

Advisers

John G. Cook, United States Mission, Geneva
John R. Crook, United States Mission, Geneva
Ramona Dunn, United States Mission, Geneva

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Peter Eicher, United States Mission, Geneva
Elizabeth Kimber, United States Mission, Geneva
Michele I. Klein-Solomon, Office of the Legal Adviser, Department of State
John Knox, Office of the Legal Adviser, Department of State
Karen E. Krueger, Deputy Director, Office of Multilateral Affairs, Bureau of Human Rights and Humanitarian Affairs, Department of State
Gail Dennise Mathieu, United States Observer Mission to the United Nations Educational, Scientific and Cultural Organization, Paris
Marc E. Northern, United States Embassy, Copenhagen
David Pitts, Press Service/Europe, Bureau of Policy and Programs, United States Information Agency
Charlotte M. Ponticelli, Director, Office of Human Rights and Women's Affairs, Bureau of International Organization Affairs, Department of State
Nancy Styles, United States Mission, Geneva
Robert I. Weisberg, United States Mission, Geneva

Private Sector Advisers

John F. Burgess, Associate Vice-President for Alumni Relations, Georgetown University, Washington, DC
Michael L. Davis, President, Metropolitan Immigration Centers of America, Inc., Los Angeles, California
Orly Janssen, University of Cincinnati Law School, Cincinnati, Ohio
Kerstin G. Le Maire, University of Cincinnati Law School, Cincinnati, Ohio
Clyde Collins Snow, Norman, Oklahoma

United States Delegation to the World Administrative Radio Conference (WARC) 1992 of the International Radio Consultative Committee (CCIR) of the International Telecommunication Union (ITU), Torremolinas, Spain, February 3–March 3, 1992

Representative

The Honorable Jan Witold Baran, Ambassador, Chairman, United States Delegation

Alternate Representatives

Michael Fitch, Department of State, Vice Chairman and Executive Director, United States Delegation
The Honorable Gerald B. Helman, Ambassador, Vice Chairman, United States Delegation
Walda Roseman, Federal Communications Commission, Vice Chairman, United States Delegation
Charles Rush, Department of Commerce, Vice Chairman, United States Delegation
The Honorable Harrison Schmitt, Vice Chairman, United States Delegation
Francis S. Urbany, Bell South, Vice Chairman, United States Delegation

Congressional Staff Advisers

David C. Leach, Congressional Staff Member, Committee on Energy and Commerce, United States House of Representatives
Gerry Waldren, Counsel, Subcommittee on Telecommunications and Finance, United States House of Representatives
Michael Regan, Minority Counsel, Committee on Energy and Commerce, United States House of Representatives

Advisers

Dexter A. Anderson, Voice of America, United States Information Agency
William Cook, Admiral, Chief of Naval Operations, United States Navy, Department of Defense
Victor Foose, Manager, Frequency Engineering Branch, Federal Aviation Administration
Tomas E. Gergely, Division of Astronomical Sciences, National Science Foundation
John Gilsenan, International Communications and Information Policy, Department of State
William Hatch, National Telecommunications and Information Agency, Department of Commerce
Ann O. Heyward, Office of Commercial Programs, National Aeronautics and Space Administration
Karyl Irion, National Aeronautics and Space Administration
Edward Jacobs, Deputy Chief, Land, Mobile and Microwave Division, Private Radio Bureau, Federal Communications Commission
Harold Kimball, International Regulation and Technology, Division Director, National Telecommunications and Information Administration, Department of Commerce
William Luther, International Adviser, Field Operations Bureau, Federal Communications Commission
Niels Marquardt, First Secretary, American Embassy, Paris
Robert May, HQAF SMA/CA, United States Air Force, Department of Defense
Robert McIntyre, Private Radio Bureau, Federal Communications Commission
H. Donald Messer, Voice of America, United States Information Agency
Larry Olson, Chief, International Branch Negotiations, Federal Communications Commission
Lawrence Palmer, National Telecommunications and Information Agency, Department of Commerce
Steve R. Ratner, Economic, Business and Communications Affairs, Office of the Legal Adviser, Department of State
Warren Richards, International Communication and Information Policy, Department of State
Alan Rinker, National Aeronautics and Space Administration
Reynold L. Rose, OASD, Department of Defense
Robert M. Taylor, Office of Space Operations, National Aeronautics and Space Administration
Tom Tycz, Deputy Chief, Domestic Facilities Division, Federal Communications Commission
James Vorhies, National Telecommunications and Information Administration, Department of Commerce
Tom Walsh, International Engineer, Office of International Communications, Federal Communications Commission
Frank Williams, Chief, Treaty Branch, Spectrum Engineering Division, Office of Engineering and Technology, Federal Communications Commission

Private Sector Advisers

Edward J. Bailey, Vice President and Chief Operating Officer, World Christian Broadcasting, Franklin, Tennessee
Jeffrey Binckes, COMSAT Mobile Communications, Communications Satellite Corporation, Washington, DC
William M. Borman, Motorola, Inc., Washington, DC
James Carroll, SFA, Landover, Maryland
Ben C. Fisher, Fisher, Wayland, Cooper & Leader, Washington, DC
Paul F. Glaser, VITA, Arlington, Virginia
Kris Hutchison, Director, Frequency Management, ARINC, Incorporated, Annapolis, Maryland
Donald Jansky, Jansky/Barmat Telecommunications, Washington, DC
Stanley Leinwoll, RE/RL, Incorporated, New York Programming Center, New York, New York
Ronald Lepkowski, Alexandria, Virginia
Lon Levin, American Mobile Satellite Corporation, Washington, DC
John Miller, Systems Engineering Division, Stanford Telecom, Seabrook, Maryland
Walter Pappas, Falls Church, Virginia
Leonard R. Raish, Fletcher, Heald & Hildreth, Washington, DC
Eugene Rappoport, AT&T, Bedminster, New Jersey
Edward E. Reinhart, McLean, Virginia
Paul Rinaldo, Manager, Technical Development, American Radio Relay League, Incorporated, Newington, Connecticut
Paul R. Rodriguez, Leventhal, Senter & Lerman, Washington, DC
Leslie A. Taylor, President, Leslie Taylor Associates, Bethesda, Maryland
Roman Zaputowycz, Bell Atlantic, Bedminster, New Jersey

United States Delegation to the International Coffee Organization (ICO), London, February 4–7, 1992

Representative

Myles Frechette, Assistant United States Trade Representative for Latin America, Africa and the Caribbean, Executive Office of the President

Alternate Representative

Dan Cruz-DePaula, Deputy Director for Commodities, Office of the United States Trade Representative, Executive Office of the President

Advisers

William Weingarten, Director, Office of Food Policy Programs, Bureau of Economic and Business Affairs, Department of State
Robert Windsor, Resources Officer, United States Mission, London

Private Sector Advisers

David Brown, Division of Kraft General Foods, Maxwell House Coffee Co., White Plains, NY
Steven Gluck, Vice President, Cargill Coffee, Cargill Inc., Liberty Corner, NJ

United States Delegation to the Meeting of Study Group II (Network Operations and ISDN), International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, February 4–14, 1992

Representative

Kathryn Martin, Engineer, Bureau of International Communications and Information Policy, Department of State

Private Sector Advisers

Stephen Engelman, Senior Staff, MCI, Richardson, Texas
Alfred Gaechter, Technical Staff, North American Numbering Plan Administration, Bellcore, Livingston, New Jersey
Robert Keevers, District Manager, Special Switching Requirements, Bellcore, Red Bank, New Jersey
Ivor Knight, Vice President, Business Technology and Standards, COMSAT, Washington, DC
Ben Levitan, Principal Engineer, ARINC, Annapolis, Maryland
James Longua, Ameritech Services, Hoffman Estates, Illinois
Robert W. Madden, Manager, American Telephone and Telegraph Company, Morristown, New Jersey
Gayle Murdock, Manager, U.S. West Communications, Seattle, Washington

United States Delegation to the 6th Negotiating Session of the Biological Diversity Convention, United Nations Environmental Program (UNEP), Nairobi, February 6–15, 1992

Representative

Eleanor W. Savage, Director, Office of Ecology, Health and Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Alternate Representative

John D. Buffington, Director of Research and Development, Fish and Wildlife Service, Department of Interior

Advisers

John K. Atchley, Permanent Representative to UNEP, United States Embassy, Nairobi
Melinda Chandler, Office of the Legal Advisor, Department of State
Luther V. Giddings, Staff Geneticist, Animal and Plant Health Inspection Service, Department of Agriculture
Peter Jutro, Envirnonmental Protection Agency
Robert Szaro Forest Service Research, Department of Agriculture

Private Sector Adviser

Don Maclauchlen, International Association of Fish and Wildlife Agencies, Annapolis, Maryland

United States Delegation to the North American Forestry Commission, 16th Session, Food and Agriculture Organization (FAO), Cancun, Mexico, February 10–14, 1992

Representative

F. Dale Robertson, Chief, Forest Service, Department of Agriculture

Alternate Representative

Allan J. West, Deputy Chief, Forest Service, Department of Agriculture

Advisers

Forest Carpenter, Deputy Regional Forester, Southwestern Region, Forest Service, Department of Agriculture, Albuquerque, NM
Ed Shepard, Acting Director, Division of Forestry, Bureau of Land Management, Department of the Interior

Private Sector Advisers

David Bray, Executive Director, Inter-American Foundation, Arlington, VA
Olin D. White, Jr., President, National Association of State Foresters, Washington, DC

United States Delegation to the Accident Investigation Divisional Meeting, International Civil Aviation Organization (ICAO), Montreal, February 11–28, 1992

Representative

James Kolstad, Chairman, National Transportation Safety Board

Alternate Representative

Ronald Schleede, Chief, Major Investigations Division, Office of Aviation Safety, National Transportation Safety Board

Advisers

James Danaher, Chief, Operational Factors and Human Performance Division, Office of Aviation Safety, National Transportation Safety Board
Charles Fluet, Federal Aviation Administration
William Hendricks, Director, Office of Accident Investigation, Federal Aviation Administration
Bernard Loeb, Director, Office of Research and Engineering, National Transportation Safety Board
Monty Montgomery, Advisor on Flight Recorder Issues, Chief, Engineering Services Division, Office of Research and Engineering, National Transportation Safety Board
John Rawson, Manager, Accident Investigation Division, Office of Accident Investigation, Federal Aviation Administration
Frank Rock, Avionics Engineer, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration
Stan Smith, Advisor on ADREP Issues, Chief, Data and Analysis Division, Office of Research and Engineering, National Transportation Safety Board
James P. Witeck, International Programs Officer, Programs and Plans Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration

Public Sector Advisers

Kenneth C. Ensslin, Air Transport Association (ATA) Representative, Senior Manager, Flight Safety, Flight Operations, Federal Express, Memphis, Tennessee
Frank Harris, Manager, Product Safety and Engineering Services, Cessna Aircraft, Wichita, Kansas
John W. Purvis, Aerospace Industries Association (AIA) Representative.

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Director, Air Safety Investigation, Flight Operations, Boeing Commercial Airplane Group, Seattle, Washington 98124–2207

Paul McCarthy, Participation in Aircraft Accident Investigations, Air Line Pilots Association (ALPA) Representative, Marblehead, Massachusetts

United States Delegation to the 23rd Session of the Subcommittee on Standards of Training and Watchkeeping, International Maritime Organization (IMO), London, February 24–28, 1992

Representative

Christopher M. Young, Merchant Vessel Personnel Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Alternate Representative

Myles S. Boothe, Commander, Chief, Vessel Manning Branch, Merchant Vessel Personnel Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Advisers

Bruce J. Carlton, Director, Office of Maritime Labor and Training, Maritime Administration, Department of Transportation

Stephen T. Ciccalone, Lieutenant Commander, Traveling Inspector, Traveling Inspection and Evaluation Staff, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Michael DeCesare, Commander, Assistant Chief, Merchant Vessel Personnel Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Private Sector Advisers

Edward V. Kelly, Vice President, Marine Engineers Beneficial Association, Washington, DC

Russell Levin, Director, Inland and Deep Sea Transport Program, Seafarers International Union, Camp Springs, Maryland

United States Delegation to the Meeting of Study Group III and Working Group for Question 33/III of the International Telegraph and Telephone Consultative Committee, International Telecommunication Union, Geneva, Switzerland, February 28–29 and March 2–6, 1992

Representative

Earl S. Barbely, Director, Telecommunications and Information Standards, Bureau of International Communications and Information Policy, Department of State

Advisers

Jack Cole, Program Manager, National Telecommunications and Information Administration, Department of Commerce

William Kirsch, Deputy Assistant Bureau Chief/International, Federal Communications Commission

Private Sector Advisers

Beverly Andrews, COMSAT, WSD, Washington, DC

Donald P. Casey, Director Regulatory, Western Union Corporation, Upper Saddle River, New Jersey

Kenneth Leeson, Telecommunications Advisor, International Business Machines, Purchase, New York

Robert Madden, Manager, American Telephone and Telegraph Company, Morristown, New Jersey

Mark Niebert, Manager, COMSAT, Washington, DC

Philip Onstad, Consultant, International Communications Association, Washington, DC

Marcel E. Scheidegger, MCI International, Rye Brook, New York

Richard W. Stone, Cable and Wireless Communications, Ltd., Vienna, Virginia

Carmine Tagliatela, Jr., Advisory Engineer, MCI Telecommunications, Inc., Washington, DC

United States Delegation to the 32nd Session of the Marine Environment Protection Committee, International Maritime Organization (IMO), London, March 2–6, 1992

Representative

Rear Admiral Arthur E. Henn, Chief, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Alternate Representatives

Joseph Angelo, Chief, Merchant Vessel Inspection and Documentation Division, United States Coast Guard, Department of Transportation

Rear Admiral Sidney A. Wellace, USCG (retired), Chairman of the Marine Environment Protection Committee

Advisers

Brian Berringer, Merchant Vessel Inspection and Documentation Division, United States Coast Guard, Department of Transportation

Robert Blumberg, Deputy Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environment and Scientific Affairs, Department of State

William St. J. Chubb, Commander, Chief, Environmental Coordination Branch, United States Coast Guard, Department of Transportation

William F. Holt, Captain, Chief, Marine Environmental Protection Division, United States Coast Guard, Department of Transportation

Margo Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, Department of Commerce

Marion Mlay, Director, Oceans and Coastal Protection Division, Environmental Protection Agency

Steven Shapiro, Merchant Vessel Inspection and Documentation Division, United States Coast Guard, Department of Transportation

Thomas E. Thompson, Captain, Chief, Marine Technical and Hazardous Materials Division, United States Coast Guard, Department of Transportation

Private Sector Advisers

Joseph Cox, American Institute of Merchant Shipping, Washington, DC

Sally Ann Lentz, Oceanic Society, Washington, DC

Donald Liu, Executive Vice President, American Bureau of Shipping, New York, NY

Robert A. Ternus, Vice President & General Manager of Engineering, Chevron Shipping Co., San Francisco, CA

John Tucker, Vice President of Engineering, National Steel and Shipbuilding Co., San Diego, CA

David Usher, President, Spill Control Association of America, Detroit, MI

United States Delegation to the 1st Meeting of the Joint Global Investigation of Pollution in the Marine Environment, Intergovernmental Oceanographic Commission (IOC), United Nations Environmental Program (UNEP), Paris, March 4–7, 1992

Representative

Neil Andersen, Director, Chemical Oceanography Program, National Science Foundation

Adviser

Dorothy E. Bergamaschi, Office of Oceans Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Private Sector Adviser

Herbert L. Windom, Marine Geochemist, Skidaway Institute of Oceanography, Savannah, Georgia

United States Delegation to the Study Group XI Switching and Signalling Meeting of the International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, March 9–20, 1992

Representative

Otto J. Guselle, Executive Director, Exchange Carrier Standards Association, Washington, DC

Alternate Representative

Kathryn A. Martin, Engineer, Trade/Standards/International Organizations, Bureau of International Communications and Information Policy, Department of State

Advisers

Don Choi, Electronics Engineer, Defense Information Systems Agency

Leslie A. Collica, Computer Scientist, National Institute of Standards Technology, Department of Commerce

Private Sector Advisers

Edward Chien, Executive Director, Personal Communications Systems, Teknekron, Berkeley, California

Diwakar Gan, Senior Member Technical Staff, Computer Sciences Corporation, Falls Church, Virginia

Elmer R. Hapeman, Switching Engineer, Bellcore, Red Bank, New Jersey

Harry Hetz, Standards Manager, Bell Atlantic, Arlington, Virginia

Jay R. Hilton, GTE Telephone Operations, Irving, Texas

Doris Lebovits, AT&T, Bedminster, New Jersey

Anthony Toubassi, MCI, Richardson, Texas

Roger Wilmot, Computer Sciences Corporation, Falls Church, Virginia

United States Delegation to the Study Group XI Switching and Signalling Meeting of the International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, March 9–20, 1992

Representative

Otto J. Gusella, Executive Director, Exchange Carrier Standards Association, Washington, DC

Advisers

Don Choi, Electronics Engineer, Defense Information Systems Agency

Leslie A. Collica, Computer Scientist, National Institute of Standards Technology, Department of Commerce

Wendell Harris, Assistant Bureau Chief/International, Common Carrier Bureau, Federal Communications Commission

Private Sector Advisers

Diwakar Gan, Senior Member Technical Staff, Computer Sciences Corporation, Falls Church, Virginia

Elmer R. Hapeman, Switching Engineer, Bellcore, Red Bank, New Jersey

Harry Hetz, Standards Manager, Bell Atlantic, Arlington Virginia

Jay R. Hilton, GTE Telephone Operations, Irving, Texas

Doris Lebovits, AT&T, Bedminster, New Jersey

Anthony Toubassi, MCI, Richardson, Texas

Roger Wilmot, Computer Sciences Corporation, Falls Church, Virginia

United States Delegation to the Thirty-Sixth Session of the Commission on the Status of Women, United Nations Economic and Social Council (ECOSOC), Vienna, March 11–20, 1992

Representative

The Honorable Juliette Clagett McLennan, Ambassador, United States Representative to the United Nations Commission on the Status of Women

Alternate Representatives

The Honorable Jane E. Becker, Ambassador, United States Representative to International Organizations, Vienna

Gwendolyn Marie Boeke, Crescow, Iowa

Patricia S. Harrison, Arlington, Virginia

Gwendolyn S. King, Commissioner for Social Security, Social Security Administration, Department of Health and Human Services

Elsie Vartanian, Director, Women's Bureau, Department of Labor

Senior Advisers

The Honorable Shirin R. Tahir-Kheli, Ambassador, Alternate United States Representative to the United Nations for Special Political Affairs, New York

Jackie Wolcott, Deputy Assistant Secretary for International Humanitarian and Social Affairs, Bureau of International Organization Affairs, Department of State

Advisers

Robert T. Anthony, United States Mission to the United Nations, New York

John A. Buche, Deputy United States Representative to International Organizations, Vienna

Barbara Ferris, Coordinator for Women in Development, Office of Training and Programs, Peace Corps

Mary Fran Freedman, Director, Office of Women in Development, Agency for International Development

Richard W. Hoover, United States Mission, Vienna

Sura R. Johnson, United States Mission, Vienna

John Knox, Office of United Nations Legal Affairs, Office of the Legal Adviser, Department of State

Sharon Kotok, Office of Human Rights and Women's Affairs, Bureau of International Organization Affairs, Department of State

Gregory B. Sprow, United States Mission, Vienna

Public Member

Esther Coopersmith, Potomac, Maryland

United States Delegation to the 66th Session of the Legal Committee, International Maritime Organization (IMO), London, March 16–20, 1992

Representative

Jonathan Collom, Captain, Chief, Maritime & International Law Division, Office of Chief Counsel, United States Coast Guard, Department of Transportation

Alternate Representatives

Mark J. Yost, Lieutenant Commander, Staff Attorney, Maritime & International Law Division, Office of Chief Counsel, United States Coast Guard, Department of Transportation

Melinda Chandler, Attorney, Office of the Legal Adviser, Bureau for Oceans and International Environmental and Scientific Affairs, Department of State

Advisers

Michael D. Morrissette, Chief, Hazard Evaluation Section, Hazardous Materials Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security & Environmental Protection, United States Coast Guard, Department of Transportation

Paul S. Tobin, Deputy Program Manager, Office of Toxic Substances, Environmental Protection Agency

Private Sector Advisers

Ernest J. Corrado, President, American Institute of Merchant Shipping, Washington, DC

Neil D. Hobson, Milling, Benson, Woodward, Hillyer, Pierson & Miller, New Orleans, Louisiana

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Michael P. Wells, Assistant General Counsel, Chemical Manufacturers Association, Washington, DC

United States Delegation to the Working Party on the Facilitation of International Trade Procedures, 35th Session, and its Subgroups (ECE), Geneva, March 16–20, 1992

Representative

Clifford W. Woodard, Jr., International Transportation Specialist, Trade, Facilitation and Technical Issues Division, Office of International Transportation and Trade, Department of Transportation

Advisers

William H. Kenworthey, Jr., Data Systems Manager, Office of the Deputy Assistant Secretary of Defense for Management Systems, Department of Defense
Vicki Hodziewich, Customs Attaché, United States Mission to the European Communities, Brussels

Private Sector Advisers

Thomas P. Colberg, Principal, Price Waterhouse, Washington, DC
Robert Howell, PAEB Vice Chairman, IBM Corp., Owego, New York
Robert Hurd, Pan American EDIFACT, Board (PAEB) Administrator, Data Interchange Standards Association, Alexandria, Virginia
Carrie L. Spencer, PAEB Database, Publications and Maintenance Administrator, Edifact Technical Assessment, Group Secretary/ Secretariat, Alexandria, Virginia
Jeffrey Sturrock, Chairman, ASCX12, Ernst & Young, Irving, Texas
Jeffrey B. Ritter, Legal Adviser and Co-rapporteur on Legal Questions, Vorys, Sater, Seymour and Pease, Columbus, Ohio
Nicole Willenz, Senior Manager, Price Waterhouse, Washington, DC

United States Delegation to the 35th Session of the Subcommittee on Ship Design and Equipment, International Maritime Organization (IMO), London, March 23–27, 1992

Representotive

Thomas E. Thompson, Captain, Chief, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Alternate Representative

George F. Wright, Commander, Chief, Ship Design Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Advisers

Michael L. Blair, Lieutenant Commander, Engineering Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation
Ashis K. Chatterjee, Ship Design Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation
Roger M. Dent, Lieutenant Commander, Assistant Chief, Ship Design Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Private Sector Adviser

Gregory Shark, American Bureau of Shipping, New York, NY

United States Delegation to the Final Meeting of the Plenary Period of Study Group I (Services) of the International Telegraph and Telephone Consultative Committee, International Telecommunication Union (ITU), Geneva, Switzerland, March 24–April 3, 1992

Representative

Douglas V. Davis, Attorney Advisor, Common Carrier Bureau, Federal Communications Commission

Advisers

Granger Kelly, Electrical Engineer, Interoperability and Standards Office, Defense Communication Agency
Victor Muller, Department Assistant, Defense Information Systems Agency

Private Sector Advisers

Sandra J. Burns, District Manager, Bellcore, Morristown, New Jersey
Anita F. Kaufman, Senior Staff Specialist, MCI International, Rye Brook, New York
Thanos Kiprios, Senior Standards Engineer, COMSAT, Washington, DC
Ben C. Levitan, Engineer, Aeronautical Radio, Inc., Annapolis, Maryland
Robert Madden, Manager, AT&T, Morristown, New Jersey
Herman R. Silbiger, Communications Consultant, Applicom, Tinton Falls, New Jersey
Blake Wattenbarger Engineering Supervisor, AT&T Bell Laboratories, Holmdel, New Jersey

United States Delegation to the Committee on Commodity Problems, Intergovernmental Group on Wine and Vine Products, 5th Session, Siena, Italy, March 30–April 3, 1992

Representative

Katherine Nishiura, Agricultural Economist, Horticultural and Tropical Products Division, Foreign Agricultural Service, Department of Agriculture

Alternate Representative

J. Dawson Ahalt, United States Mission to the United Nations Agencies for Food and Agricultural Affairs, Rome

Private Sector Adviser

Kirby Mouton, Economist, University of California at Berkeley, Berkeley, CA.

United States Delegation to the 3rd Meeting of the Special Committee for the Monitoring and Coordination of the Development of Transition Planning for the Future Air Navigation Systems (FANS), International Civil Aviation Organization (ICAO), Montreal, March 30–April 14, 1992

Representative

Martin T. Pozesky, Associate Administrator, System Engineering and Development, Federal Aviation Administration

Alternote Representative

Norman Solat, Research and Development Service, Federal Aviation Administration

Advisers

Frank Colson, Director, Transportation and Federal Aviation, Office of the Secretary, United States Air Force, Department of Defense
Dennis B. Cooper, Manager, International Research Programs Office, Federal Aviation Administration
David DeCarme, Manager, International Organizations Branch, Office of International Aviation, Federal Aviation Administration
Joseph Dorfler, Manager, Satellite Navigation and Communication Program, Federal Aviation Administration
Joseph 0. Pitts, Manager, NAS Programs and Future Systems Branch, Advanced Systems and Facilities Division, Federal Aviation Administration

Private Sector Advisers

Larry Chesto, Director, Telecommunications Systems, Aeronautical Radio, Inc. (ARINC), Annapolis, Maryland

Roger Fleming, Air Transport Association of America, Washington, DC
Raymond J. Hilton,Director, Air Traffic Management, Air Transport Association of America, Washington, DC

United States Delegation to the Americas Regional Telecommunications Development Conference of the International Telecommunication Union (ITU), Acapulco, Mexico, March 31–April 4, 1992

Representative

The Honorable Bradley P. Holmes, United States Coordinator and Director, Bureau of International Communications and Information Policy, Department of State

Alternate Representative

Thomas Sugrue, Acting Assistant Secretary for Communications and Information, National Telecommunications and Information Administration, Department of Commerce

Advisers

Rudolfo Baca, Senior Attorney, Office of International Communications, Federal Communications Commission
Kenneth W. Bleakley, Deputy United States Coordinator and Director, Bureau of International Communications and Information Policy, Department of State
Doreen Bogdan, Telecommunications Policy Specialist, Office of International Affairs, National Telecommunications and Information Administration, Department of Commerce
Daniel Goodspeed, Counselor, Bureau of International Communications and Information Policy, Department of State
Nedra Huggins-Williams, Senior Advisor for Telecommunications Development, Bureau of International Communications and Information Policy, Department of State
William Moran, Telecommunications Policy Specialist, Office of International Affairs, National Telecommunications and Information Administration, Department of Commerce
Jean Prewitt, Associate Administrator, Office of International Affairs, National Telecommunications and Information Administration, Department of Commerce
Walda Roseman, Director, Office of International Communications, Federal Communications Commission

Private Sector Advisers

Robert Bruce, Attorney, Debevoise & Plimpton, Washington, DC
Rhonda Crane, Director, Federal Government Affairs, AT&T, Washington, DC
Ray Crowell, Director, Industry/ Government Planning, COMSAT, Washington, DC
David Fine, Assistant Vice President, Government and International Relations, Southwestern Bell Corporation, Washington, DC
Douglas Goldschmidt, Vice President, Business Development, Alpha Lyracom/PanAmSat, Greenwich, Connecticut
Ann LaFrance, Partner, Squire, Sanders and Dempsey, Washington, DC
Travis Marshall, Vice President, Motorola Corporation, Washington, DC
Judith O'Neill, Attorney, Steptoe & Johnson, Washington, DC
Aileen Pisciotta, International Communications Counsel, Latham & Watkins, Washington, DC

United States Delegation to the International Coffee Organization (ICO) Working Group (April 2–3) and International Coffee Organization Council Meeting (April 6–10), London, April 2–10, 1992

Representative

Myles Frechette, Assistant United States Trade Representative for Latin America, Africa and the Caribbean, Executive Office of the President

Alternate Representative

Dan Cruz-DePaula, Deputy Director for Commodities, Office of the United States Trade Representative, Executive Office of the President

Advisers

William Weingarten, Director, Office of Food Policy Programs, Bureau of Economic and Business Affairs, Department of State
Robert Windsor, First Secretary, United States Embassy

Private Sector Advisers

David Brown, Division of Kraft General Foods, Maxwell House Coffee Co., White Plains, NY
Steven Gluck, Vice President, Cargill Coffee, Cargill Inc., Liberty Corner, NJ
John T. Hays, Founder/Director, Coffees of Hawaii, Inc., Honolulu, Hawaii
John Sutherland, Division of Quaker Oats Corp., Continental Coffee, Chicago, Il.
Richard L. Thompson, Vice President Commodities, Nestle Beverage Co., San Francisco, Ca.
Gregory W. White, Folgers Coffee, Cincinati, Ohio

United States Delegation to the 60th Session of the Maritime Safety Committee (MSC), International Maritime Organization (IMO), London, April 6–10, 1992

Representative

A.E. Henn, Rear Admiral, Chief, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Alternate Representative

Joseph J. Angelo, Chief, Merchant Vessel Inspection and Documentation Division, United States Coast Guard, Department of Transportation

Advisers

H. Paul Cojeen, Chief, Naval Architecture Branch, Marine Technical and Hazardous Materials Division, United States Coast Guard, Department of Transportation
Charles Guldenschuh, Captain, Chief, Marine Investigation Division, United States Coast Guard, Department of Transportation
Gene Hammel, International Affairs Staff, United States Coast Guard, Department of Transportation
Edward J. LaRue, Chief, Navigation Rules and Information Branch, United States Coast Guard, Department of Transportation
Robert Markle, Chief, Survival Systems Branch, Merchant Vessel Inspection and Documentation Division, United States Coast Guard, Department of Transportation
Robert C. McIntyre, Chief, International Staff, Private Radio Bureau, Federal Communications Commission
Marjorie Murtagh, Chief, Fire Protection Section, Marine Technical and Hazardous Materials Division, United States Coast Guard, Department of Transportation
Marvin J. Pontiff, Lieutenant Commander, Chief, Compliance and Enforcement Branch, United States Coast Guard, Department of Transportation
S. A. Wallace, Rear Admiral USCG (Ret.), Reston, Virginia

Private Sector Advisers

Jim Dolan, Senior Vice President, American Bureau of Shipping, New York, NY
Joseph J. Cox, Vice President, Americen Institute of Merchant Shipping, Washington, DC

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United States Delegation to the Fifth Meeting of Study Group VII (Data Networks) of the International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, April 6–16, 1992

Representative

Gary M. Fereno, Senior Telecommunications Policy Specialist, Bureau of International Communications and Information Policy, Department of State

Advisers

Victor Muller, Department Assistant, Defense Information Systems Agency
Steven Perschau, Senior Engineer, National Communications System
Neil Seitz, Deputy Director, Systems and Network Development, National Telecommunications and Information Administration, Department of Commerce

Private Sector Advisers

Mack W. Bishop, Programmer, IBM Corporation, Roanoke, Texas
Edmond Blouston, Managing Director, Electronic Data Systems, Corto de Caza, California
Fred M. Burg, Supervisor, Standards, AT&T Bell Laboratories, Holmdel, New Jersey
Richard Jesmajian, Senior Engineer, AT&T Bell Laboratories, Holmdel, New Jersey
Ben C. Levitan, Engineer, ARINC, Annapolis, Maryland
James R. M[illegible]ulton, President, Open Networ[illegible]lutions, Inc., Sterling, Virginia
Mark Neil[illegible] Manager, International Digital [illegible] Protocol Standards, COMSA[illegible] Washington, DC
Joel M. Sr[illegible]r, Consultant, Tucson, Arizona

United Sta[illegible] Delegation to the Meeting of Study G[illegible] 7 (Science Services) of the Interna[illegible]al Radio Consultative Committee [illegible]CIR), International Telecommu[illegible]cation Union (ITU), Geneva, Sw[illegible]erland, April 7–9, 1992

Representat[illegible]

Robert M. T[illegible]r, Spectrum Managem[illegible] Specialist, NASA Spectrum Management Program, National Aeronautics & Space Administration

Advisers

Roger E. Beehler, Manager, NBS Broadcast Services, National Institute of Standards and Technology, Department of Commerce
Harold G. Kimball, Chairman CCIR Study Group 7, Deputy Associate Administrator, National Telecommunications and Information Administration, Department of Commerce

Private Sector Advisers

Roger Andrews, Atlantic Research Corporation, Professional Services Group, Sterling, Virginia
Alan Rinker, Atlantic Research Corporation, Professional Services Group, Sterling, Virginia

United States Delegation to the 30th Session of the Administrative and Legal Committee, International Union for the Protection of New Varieties of Plants (UPOV), Geneva, April 8–9, 1992

Representative

Lee J. Schroeder, United States Alternate Representative to the UPOV Council, Patent and Trademark Office, Department of Commerce

Adviser

Alan Atchly, Examiner, Plant Variety Protection Office, Department of Agriculture

Private Sector Adviser

Michael Roth, Chief Patent Counsel, Pioneer Hi Bred International, Inc., Des Moines, Iowa

United States Delegation to the Working Group/Technical Sessions and the Steel Committee, 40th Meeting, Organization for Economic Cooperation and Development (OECD), Paris, April 9–10, 1992

Representative to the Working Group Technical Sessions and Alternate Representative to the Policy Sessions

Robert Reiley, Director, Office of Metals, Minerals, and Commodities, Department of Commerce

Advisers

Margaret Jones, Office of Special Trade Activities, Bureau of Economic and Business Affairs, Department of State
Jane Richards, International Economist, Office of International Labor, Department of Labor
Arthur N. Stern, Acting Program Manager for Europe, Office of Agreements Compliance, Department of Commerce
Appropriate USOECD, Mission Officer, Paris

Private Sector Advisers

Frank Fenton, Vice President, American Iron and Steel Institute, Washington, DC
Peter Mulloney, Vice President, United States Steel Corporation
John Sheehan, Director of Legislative Affairs, United Steel Workers of America, Washington, DC

United States Delegation to the Working Group of the Maritime Transport Committee, Organization for Economic Cooperation and Development (OECD), Paris, April 9–10, 1992

Representative

Stephen M. Miller, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State

Alternate Representative

Ralph Edwards, Office of International Affairs, Maritime Administration, Department of Transportation

Adviser

Appropriate USOECD, Mission Officer, Paris

Private Sector Advisers

Philip J. Loree, Chairman, Federation of American Controlled Shipping, New York, NY
Donald L. O'Hare, Sea-Land Corporation, Iselin, NJ
Peter Prowitt, American President Corporation, Washington, DC

United States Delegation to the Study Group VIII Terminals for Telematic Services Meeting of the International Telegraph and Telephone Consultative Committee (CCCITT), International Telecommunication Union (ITU), Geneva, Switzerland, April 22–30, 1992

Representative

Dennis Bodson, Deputy Director, National Communications Systems

Alternate Representative

Gary Fereno, Director of CITEL and CCITT, Standards and Policy, Bureau of International Communications and Information Policy, Department of State

Adviser

Steven Perschau, Senior Engineer, National Communications Systems

Private Sector Advisers

Bruce J. DeGrasse, Consultant, B.J. Communications, Dallas, Texas
Michael C. Nier, Senior Engineer, Eastman Kodak Company, Rochester, New York
Herman R. Silbiger, Communications Consultant, APPLICOM, Tinton Falls, New Jersey
Cornelius J. Starkey, Vice President, Data Beam Corporation, Lexington, Kentucky
Charles Touchton, Standards Engineer, IBM Corporation, Tampa, Florida

Steven Urban, Senior Engineer, Delta Information Systems, Horsham, Pennsylvania

United States Delegation to the 45th World Health Assembly, World Health Organization (WHO), Geneva, May 4–16, 1992

Delegates

James O. Mason, M.D. (Chief Delegate), Assistant Secretary for Health, United States Public Health Service, Department of Health and Human Services
Antonia C. Novello, M.D., Surgeon General, United States Public Health Service, Department of Health and Human Services

Alternate Delegates

The Honorable Morris B. Abram, Ambassador, United States Permanent Representative to the European Office of the United Nations, Geneva
Neil A. Boyer, Director, Health and Transportaton Programs, Bureau of International Organization Affairs, Department of State
James Sarn, M.D., Deputy Assistant Secretary for International Health, United States Public Health Service, Department of Health and Human Services

Advisers

Kenneth Bernard, M.D., Associate Director for Medical and Scientific Affairs, Office of International Health, United States Public Health Service, Department of Health and Human Services
John R. Crook, Counselor for Legal Affairs, United States Mission, Geneva
Joe H. Davis, M.D., Assistant Director for International Health, Centers for Disease Control, United States Public Health Service, Department of Health and Human Services
Peter D. Eicher, Counselor for Political Affairs, United States Mission, Geneva
Elizabeth A. Kimber, United States Mission, Geneva
Melinda L. Kimble, Deputy Assistant Secretary for International Development and Technical Specialized Agency Affairs, Bureau of International Organization Affairs, Department of State
Stuart Nightingale, M.D., Associate Commissioner for Health Affairs, Food and Drug Administration, United States Public Health Service, Department of Health and Human Services
Thomas E. Park, Deputy Director, Office of Health, Bureau for Research and Development, Agency for International Development
Vivian W. Pinn, M.D., Director, Office of Research on Women's Health, National Institutes of Health, United States Public Health Service, Department of Health and Human Services
Donald L. Pressley, Development Attache, United States Mission, Geneva
H. Clarke Rodgers, Deputy Chief of Mission, United States Mission, Geneva
Clayton F. Rubensaal, Jr., United States Mission, Geneva
Harold P. Thompson, International Health Attache, United States Mission, Geneva—

Private Sector Advisers

Tenley Albright, M.D., Chairman of the Board, Institute for Clinical Applications, Inc., Boston, Massachusetts
Alma Rose George, M.D., President, National Medical Association, Washington, DC
Eric Munoz, M.D., Medical Director, University Hospital, Associate Dean for Clinical Affairs and Associate Professor of Surgery, New Jersey Medical School, Newark, New Jersey
Margaretta Madden Styles, American Nurses Association, Livingston Professor of Nursing, University of California at San Francisco, San Francisco, California
William Walsh, M.D., Director, Project Hope, Washington, DC

United States Delegation to the Chemicals Group and Management Committee, 18th Joint Meeting, Organization for Economic Cooperation and Development (OECD) Paris, May 11–14, 1992

Representative

Linda J. Fisher, Assistant Administrator, Office of Pesticides and Toxic Substances, Environmental Protection Agency

Advisers

Charles Auer, Director, Existing Chemicals Assessment Division, Environmental Protection Agency
Mark A. Greenwood, Director, Office of Toxic Substances, Environmental Protection Agency
Breck Milroy, Office of Environmental Protection, Bureau of Oceans and International Environmental and Scientific Affairs, State Department
David A. Ogden, Office of International Activities, Environmental Protection Agency

Private Sector Advisers

Kenneth Murray, Exxon Corporation, East Brunswick, New Jersey
Polly Hopkin Thomas, World Wildlife Fund, Washington DC

United States Delegation to the Study Group II (Broadcasting Services—Television), International Radio Consultative Committee (CCIR), International Telecommunication Union (ITU), Geneva, Switzerland, May 11–14, 1992

Representative

Warren G. Richards, Standards and International Organizations, Bureau of International Communications and Information Policy, Department of State

Adviser

John Reiser, Electronics Engineer, Mass Media Bureau, Federal Communications Commission

Private Sector Adviser,

Edward E. Reinhart, Consultant, McLean, Virginia

United States Delegation to the CMTT Joint Study Group for Television and Sound Transmission, International Radio Consultative Committee, International Telegraph and Telephone Consultative Committee (CCIR/CCITT), International Telecommunication Union (ITU), Geneva, Switzwerland, May 11–14, 1992

Representative

John McGrath, GE Americom Inc., Princeton, New Jersey

Private Sector Adviser

Bruce Gravens, ABL Engineering, Mentor, Ohio
William P. Kinsella, GTE-Spacenet Corp., Engineering Department, McLean, Virginia

United States Delegation to the XXIV Meeting of the Permanent Executive Committee (COM/CITEL), Inter-American Telecommunications Conference (CITEL), Organization of American States (OAS), Santiago, Chile, May 11–15, 1992

Representative

Gary M. Fereno, Director for CITEL AND CCITT Policy, Bureau of International Communications and Information Policy, Department of State

Advisers

Douglas V. Davis, Attorney-Advisor, Common Carrier Bureau, Federal Communications Commission
William F. Moran, Program Director, National Telecommunication and

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Information Administration, Department of Commerce

Private Sector Advisers

Raymond Crowell, Director, Strategic Planning, COMSAT Corporation, Washington, DC
Cecil Crump, Director, International Organizations and Standards, AT&T, Morristown, New Jersey
Thomas Plevyak, Manager, International Standards, Bell Atlantic Corporation, Arlington, Virginia

United States Delegation to the XXIV Meeting of the Permanent Executive Committee (COMCITEL), Inter-American Telecommunications Conference (CITEL), Organization of American States (OAS), Santiago, Chile, May 11–15, 1992

Representative

Gary M. Fereno, Director for CITEL AND CCITT Policy, Bureau of International Communications and Information Policy, Department of State

Advisers

Douglas V. Davis, Attorney-Advisor, Common Carrier Bureau, Federal Communications Commission
William F. Moran, Program Director, National Telecommunication and Information Administration, Department of Commerce

Private Sector Advisers

Raymond Crowell, Director, Strategic Planning, COMSAT Corporation, Washington, DC
Cecil Crump, Director, International Organizations and Standards, AT&T, Morristown, New Jersey
Thomas Plevyak, Manager, International Standards, Bell Atlantic Corporation, Arlington, Virginia

United States Delegation to the 7th Negotiating Session of the Biological Diversity Convention, United Nations Environmental Program (UNEP), Nairobi, May 11–21, 1992

Representative

Eleanor W. Savage, Director, Office of Ecology, Health and Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Alternate Representative

John D. Buffington, Director of Research and Development, Fish and Wildlife Service, Department of Interior

Advisers

Melinda Chandler, Office of the Legal Advisor, Department of State
Luther V. Giddings, Staff Geneticist, Animal and Plant Health Inspection Service, Department of Agriculture
Henry Shands, National Program Leader for Plant Germ Plasm, Agricultural Research Service, Department of Agriculture
Merrit Sprague, Deputy Director, Office of Program Analysis, Department of Interior
Robert Szaro, Forest Service Research, Department of Agriculture
Bob Ward, Attorney, Office of the General Counsel, International Activities Division, Environmental Protection Agency

Private Sector Adviser

Don Maclauchlen, International Association of Fish and Wildlife Agencies, Annapolis, Maryland

United States Delegation to the 37th Session of the Subcommittee on Fire Protection, International Maritime Organization (IMO), London, May 18–22, 1992

Representative

Marjorie Murtaugh, Chief, Fire Protection Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety and Environmental Protection, United States Coast Guard, Department of Transportation

Alternate Representative

Joseph Westwood-Booth, Fire Protection Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Advisers

Roy A. Nash, Lieutenant Commander, Fire Protection Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation
Stephen J. Ohnstad, Lieutenant, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation
Klaus Wahle, Survival Systems Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Private Sector Advisors

Rupert Chandler, Hopeman Brothers Inc., Waynesboro, Virginia
Charles J. Dorchak, Jr., Head, SOLAS/IMO Group, Ship Engineering Department, American Bureau of Shipping, Houston, Texas
Russell P. Fleming, Vice President, National Fire Sprinkler Association, Paterson, New York
John Kimble, Chevron Shipping Co., San Francisco, California
William L. Testa, General Manager, Grinnell Corporation, Providence, Rhode Island

United States Delegation to the Office of International Epizootics, 60th General Session Paris, May 18–22, 1992

Representative

James W. Glosser, Special Assistant to the Administrator, Animal and Plant Health Inspection Service (APHIS), Department of Agriculture

Alternate Representative

Lonnie J. King, Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service (APHIS), Department of Agriculture

Advisers

Mark Dulin, Animal and Plant Health Inspection Service (APHIS), Department of Agriculture
James Smith, Animal and Plant Health Inspection Service (APHIS), Department of Agriculture
Alex B. Thiermann, Deputy Administrator, International Services, Department of Agriculture

Private Sector Adviser

James Steel, Professor Emeritus, University of Texas School of Medicine, Houston, Texas

United States Delegation to the ITU/CCIR Study Group 8 (Mobile, Radiodetermination, Amateur and Related Satellite Services), International Radio Consultative Committee (CCIR), International Telecommunication Union (ITU), Geneva, Switzerland, May 18–22, 1992

Representative and Chairman

Robert C. McIntyre, International Advisor, Private Radio Bureau, Federal Communications Commission

Advisers

Frank Rose, Private Radio Bureau, Federal Communications Commission
Richard L. Swanson, International Advisor, Private Radio Bureau, Federal Communications Commission
James T. Vorhees, National Telecommunications and Information Administration, Department of Commerce

Private Sector Advisers

William M. Borman Vice President, Government Relations, Motorola Inc., Washington, D. C.
Paul Rinaldo, American Radio Relay League, Newington, Connecticut

United States Delegation to the 28th Meeting of North Atlantic Systems Planning Group, International Civil Aviation Organization (ICAO), Paris, May 18–29, 1992

Representative

Gerald L. Richard, International Procedures Branch, Federal Aviation Administration, Department of Transportation

Advisers

Jeri K. Carson, International Operations Specialist, Federal Aviation Administration, Department of Transportation
Drazen T. Gardilcic, International Procedures Specialist, Federal Aviation Administration, Department of Transportation
Roy Grimes, Aviation Safety Inspector, Federal Aviation Administration, Department of Transportation
Dale Livingston, Technical Program Manager, Atlantic City Airport Technical Center, Federal Aviation Administration, Department of Transportation
Michael Pumphrey, Assistant Manager, Federal Aviation Administration, Department of Transportation

Private Sector Advisers

Richard Covell, Manager, Air Ground Operations Aeronautical Radio Inc., Annapolis, Maryland
William Russell, Director, Flight Technology, Air Transport Association of America, Washington, DC

United States Delegation to the Council of the International Natural Rubber Organization (INRO), Kuala Lumpur, Malaysia, May 19–27, 1992

Representative

Daniel Cruz-DePaula, Deputy Director for Commodity, Policy and North South Affairs, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representative

David Giesler, Economic Officer, United States Embassy, Kuala Lumpur

Private Sector Advisers

Mark Blitstein, Goodyear Tire and Rubber Company, Akron, Ohio
Harold Ross Miller, Managing Director, Goodrich Co. Pvt. Ltd, Singapore
Stanley Malcom Schultz, The Firestone Tire and Rubber Company, Akron, Ohio
Richard Alan Stauffer, Director, Cargill, Inc., Minnetonka, Minnesota
Peter W. C. Tan, Managing Director, Goodyear Orient Private Ltd., Singapore

United States Delegation to the First Meeting of Study Group 12, International Radio Consultative Committee (CCIR), International Telecommunication Union (ITU), Geneva, Switzerland, May 25–27, 1992

Representative and Chairman

William T. Hatch, National Telecommunications and Information Administration, Department of Commerce

Advisers

Robert Hinkle, National Telecommunications and Information Administration, Department of Commerce
William A. Luther, Field Operations Bureau, Federal Communications Commission

Private Sector Adviser and Vice Chairman

Hans J. Weiss, Vice President, Technical Policy, COMSAT Laboratories, Clarksburg, Maryland

Private Sector Adviser

William Rummler, AT&T Bell Laboratories, Crawfords Corner Road, Holmdel, New Jersey

United States Observer Delegation to the Commodities: International Olive Oil Council, 65th Session, Madrid, May 25–29, 1992

Principal Observer

Richard T. McDonnell, Agricultural Counselor, American Embassy, Madrid

Observer

Donald J. Mergen, Agricultural Attache, American Embassy, Madrid

Private Sector Adviser

David Daniels, Manager, California Olive Committee, Fresno, California

United States Delegation to the Maritime Transport Committee (MTC), June 1 and 3–4 and Informal Meeting Between Members of the Maritime Transport Committee and Representatives of the Central and Eastern European Countries (June 1–3), Organization for Economic Cooperation and Development (OECD), Paris, June 1–4, 1992

Representative

Geoffrey Ogden, Director, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of the State

Alternate Representative

Ralph Edwards, Office of International Affairs, Martitime Administration, Department of Transportation

Adviser

Appropriate USOECD, Mission Officer, Paris

Private Sector Advisers

Philip J. Loree, Chairman, Federation of American Controlled Shipping, New York, New York
Donald L. O'Hare, Sea-Land Corporation, Iselin, New Jersey
Peter Prowitt, American President Corporation, Washington, DC

United States Delegation to the Antarctic Treaty Consultative Meeting, Buenos Aires, June 1–4, 1992

Representative

Raymond Arnaudo, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of the State

Advisers

John Bengtson, Chief, Marine Mammal Division, National Marine Fisheries Service, Department of Commerce
Sidney Draggan, Division of Polar Programs, National Science Foundation
Robert Hofman, Scientific Program Director, Marine Mammal Commission
Thomas Laughlin, National Oceanic and Atmospheric Administration, Department of Commerce
Carol Roberts, Deputy Director, Division of Polar Programs, National Science Foundation

Private Sector Adviser

Bruce Wiersma, Dean, College of Resources, University of Maine, Bangor, Maine

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United States Delegation to the 49th Session of the Joint Working Group of the Committee on Capital Movements and Invisible Transactions (CMIT) and the Insurance Committee Organization for Economic Cooperation and Development (OECD), Paris, June 1–5, 1992

Representative

Bruce McAdam, Office of Service Industries, International Trade Administration, Department of Commerce

Adviser

James Heg, United States Mission to the Organization for Economic Cooperation and Development, Paris

Private Sector Advisers

Janet Belkin, Chairperson, International Committee, American Council of Life Insurance, Merrick, New York
Kevin T. Cronin, Washington Counsel, National Association of Insurance Commissioners, Washington, DC
Hans Miller, Hartford International Insurance Company, SA–NV, Brussels, Belgium
David Walsh, Director, Insurance Division, Department of Commerce, State of Alaska, Anchorage, Alaska

United States Delegation to the Ninth Annual Meeting of the North Atlantic Salmon Conservation Organization (NASCO), Washington, DC, June 8–12, 1992

Commissioners

Allen E. Peterson, Jr., Head of the United States Delegation to NASCO, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
David F Egan, United States Commissioner to NASCO, Guilford, Connecticut
Clinton B. Townsend, United States Commissioner to NASCO, Skowhegan, Maine

Advisers

Vaughn C. Anthony, Fishery Biologist, Northeast Fisheries Center, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
Jennifer L. Bailey, Office of International Affairs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
Kevin Friedland, Fishery Biologist, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
Arthur William Neill, Fishery Biologist, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
Richard G. Seamans, Jr., Fishing Conservation and Management Division, Northeast Region, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
Larry Snead, Director, Office of Fisheries Affairs, Bureau of Oceans and International Environment and Scientific Affairs, Department of State
H. Stetson Tinkham, Office of Fisheries Affairs, Bureau of Oceans and International Environment and Scientific Affairs, Department of State
James Weaver, Fishery Biologist, Fish and Wildlife Service, Department of the Interior

Private Sector Advisers

Edward T. Baum, Fishery Scientist, State of Maine, Atlantic Sea Run Salmon Commission, Bangor, Maine
Jane M. Cleaves, New England Regional Coordinator, Atlantic Salmon Federation, Bowdoinham, Maine
Robert A. Jones, Director, DEP, Bureau of Fisheries, Hartford, Connecticut
Henry Lyman, Publisher Emeritus, Salt Water Sportsman, Inc., Boston, Massachusetts
John C. Phillips, Commissioner, Massachusetts Department of Fisheries, Wildlife Environmental and Law Enforcement, Boston, Massachusetts
Gilbert C. Radonski, President, Sport Fishing Institute, Washington, DC
Andrew V. Stout, Executive Director, New England Atlantic Salmon Association, Newburyport, Massachusetts

United States Delegation to the Study Group XVII Working Parties (Data Transmission Over the Public Telephone Network), International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, June 8–12, 1992

Representative

Gary M. Fereno, Director, CITEL and CCITT Standards Policy, Bureau of International Communications and Information Policy, Department of State

Adviser

Robert Fenischel, Electronics Engineer, National Communication System

Private Sector Adviser

Richard Brandt, President, D.B. Consultants, Annandale, New Jersey

United States Delegation to the Permanent Technical Committee-1 (PTC–1) and Working Groups and Ad Hoc Groups of the Organization of American States (OAS), Inter-American Telecommunication Conference (CITEL), San Pedro Sula, Honduras, June 8–16, 1992

Representative

Earl S. Barbely, Director for Telecommunications and Information Standards, Bureau of International Communications and Information Policy, Department of State

Advisers

Douglas V. Davis, Senior Attorney/Advisor, Federal Communications Commission
David Long, Director, Telecom Trade Policy, Office of the United States Trade Representative, Executive Office of the President
William Moran, Program Manager, Office of International Affairs, National Telecommunications and Information Administration, Department of Commerce

Private Sector Advisers

William Borman, Vice President and Director of Global Spectrum, Motorola, Inc., Washington, DC
Raymond B. Crowell, Director, Strategic Planning, COMSAT, Washington, DC
Cecil Crump, District Director, International Organization and Standards, AT&T, Morristown, New Jersey

United States Delegation to the Committee for Information, Computer and Communications Policy (ICCP), Working Party on Telecommunications and Information Services Policies (TISP), Organization for Economic Cooperation and Development (OECD), 9th Session, Paris, June 9–10, 1992

Representative

Helen A. Shaw, Director, Division of International Communications, Office of International Affairs, National Telecommunications and Information Administration, Department of Commerce

Alternate Representative

Amy Winton, Economist, Office of Trade, Bureau of Economic and Business Affairs, Department of State

Adviser

Mary Inoussa, Office of Service Industries, International Trade Administration, Department of Commerce

Private Sector Advisers

David N. Porter, AT&T, Basking Ridge, New Jersey
Leland W. Schmidt, GTE Telephone Operations, Irving, Texas

United States Delegation to the Study Group XVIII and its Working Parties Meeting, International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, June 9–19, 1992

Representative

William F. Utlaut, Director, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce

Alternate Representative

Gary M. Fereno, Director for CITEL and CCITT Standards Policy, Bureau of International Communications and Information Policy, Department of State

Advisers

Wendell R. Harris, Assistant Bureau Chief, Common Carrier Bureau, Federal Communications Commission
Richard O. Savoye, Defense Information System Agency
Neil Seitz, Deputy Director, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce

Private Sector Advisers

William J. Buckley, Vice President, Technical Development, Verilink, San Jose, California
William L. Edwards, Standards Engineer, Sprint, Overland Park, Kansas
Gary Fishman, Technical Industry Standards, AT&T, Bedminster, New Jersey
Demosthenes Kostas, Manager, Standards Development, GTE Telephone Operations, Irving, Texas
Thomas L. Lyon, Computer Engineer, Sun Microsystems, Inc., Mountain View, California
Amitabha Sen, Technical Staff, Motorola, Inc., Washington, DC
Randall Spusta, Standards Engineer, BELLCORE, Red Bank, New Jersey
John A. Strand III, Director, Sprint, Overland Park, Kansas
Anthony Toubassi, Advisory Engineer, MCI, Richardson, Texas
Melvin Woinsky, Manager, Technology Planning, Northern Telecom, Inc., Morristown, New Jersey

United States Delegation to the First Session of the Committee of Experts on a Model Law on the Protection of the Intellectual Property Rights of Producers of Sound Recordings, World Intellectual Property Organization (WIPO), Geneva, Switzerland, June 15–19, 1992

Representative

Larry A. Nelsen, Director, Office of Intellectual Property and Competition, Bureau of Economic and Business Affairs, Department of State

Alternate Representative

Lewis Flacks, Policy Planning Advisor, Copyright Office, Library of Congress

Private Sector Advisers

Jason Berman, President, Recording Industry Association of America, Washington, DC
Reed Farrell, President, American Federation of Television and Radio Artists
John Golodnar, President, American Federation of Musicians, Chevy Chase, Maryland
Bruce York, National Executive Director, American Federation of Television and Radio Artists

United States Delegation to the Executive Board Meeting of the United Nations Children's Fund (UNICEF), New York, June 15–26, 1992

Representative

Mary Ann Stewart [Mrs. Potter Stewart], United States Alternate Representative to the United Nations Children's Fund, Washington, DC

Alternate Reresentative

The Honorable Jonthan Moore, Ambassador, United States Representative to the Economic and Social Council of the United Nations, New York

Advisers

Thomas G. Beck, Office of International Donor Programs, Policy Directorate, Agency for International Development
Stanley J. Bennett, United States Mission to the United Nations, New York
Kimberly J. DeBlauw, Office of International Development Assistance, Bureau of International Organization Affairs, Department of State,
Russell F. Graham, United States Mission to the United Nations, New York
Teresa D. Hobgood, Office of United Nations System Budgets, Bureau of International Organization Affairs, Department of State
Dr. Audrey P. Manley, Deputy Assistant Secretary for Health, Department of Health and Human Services
The Honorable Edward Marks, Minister-Counselor, Deputy United States Representative to the Economic and Social Council of the United Nations
Thomas E. Park, Deputy Director, Office of Health, Research and Development Bureau, Agency for International Development
Margaret J. Pollack, Chief, Economic and Humanitarian Assistance, Office of International Development Assistance, Bureau of International Organization Affairs, Department of State
Susan Shearouse, United States Mission to the United Nations, New York
Linda Vogel, Office of International Health, Department of Health and Human Services

Private Sector Adviser

Lawrence E. Bruce, Jr., President, United States Committee for the United Nations Children's Fund, New York

United States Delegation to the Commodities: International Wheat Council (IWC); 117th Session, London, June 22–24, 1992

Representative

Donald J. Novotny, Director, Grain and Feed Division, Foreign Agricultural Service, Department of Agriculture

Alternate Representative

Thomas L. Robinson, Director-Designate, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State

Advisers

Leslie Berger, Agricultural Attache, American Embassy, London
Tim Power, Grain and Food Division, Foreign Agricultural Service, Department of Agriculture
Jim Rudbeck, Agricultural Counselor, American Embassy, London, England

Private Sector Adviser

Winston Wilson, President, U.S. Wheat Association, Washington, DC

United States Delegation to the Study Group III (Charging and Accounting Principles), Working Party 4 for Telephone Accounting Principles of the International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, June 22–25, 1992

Representative

Earl S. Barbely, Director, Telecommunications and

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Informational Standards, Bureau of International Communications and Information Policy, Department of State

Advisers

William Kirsch, Deputy Assistant Bureau Chief/International, Federal Communications Commission
Suzanne Settle, Program Manager, National Telecommunications and Information Administration, Department of Commerce

Private Sector Advisers

Donald P. Casey, Director, Regulatory, Western Union Corporation, Upper Saddle River, New Jersey
Robert Madden, Manager, American Telephone & Telegraph, Morristown, New Jersey
Mark Niebert, Manager, COMSAT, Washington, DC
Philip Onstad, Consultant, International Communications Association, Washington, DC
Marcel E. Scheidegger, MCI International, Rye Brook, New York
Richard W. Stone, Cable and Wireless Communications, Ltd., Vienna, Virginia
Carmine Taglialatela, Jr., Advisory Engineer, MCI Telecommunications, Inc., Washington, DC

United States Delegation to the Negotiating Group for a New International Coffee Agreement, International Coffee Organization (ICO) London, June 22–26, 1992

Representative

Myles R.R. Frechette, Assistant United States Trade Representative, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative

William A. Weingarten, Director, Office of Food Policy Programs, Bureau of Economic and Business Affairs, Department of State

Advisers

Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President
Robert Windsor, United States Embassy, London

Private Sector Advisers

David A. Brown Maxwell House Coffee Company, Division of Kraft General Foods, White Plains, New York
Richard Emanuele, Tardivat International Coffee Corporation, New York, New York
Stephen H. Gluck, Vice President, Cargill Coffee PLC, Surrey, United Kingdom
James P. McCrea, Louis Dreyfus Coffee Company, Wilton, Connecticut
John Sutherland, Continental Coffee, Division of Quaker Oats Corporation, Chicago, Illinois
Richard L. Thompson, Vice President, Commodities, Nestle Beverage Company, San Francisco, California
Gregory W. White, Folgers Coffee Company, Cincinnati, Ohio

United States Delegation to the International Copper Study Group (ICSG), United Nations Conference on Trade and Development (UNCTAD), Geneva, June 22–26, 1992

Representative

Robert Reiley, Director, Office of Metals, Chemicals and Commodities, Department of Commerce

Alternate Representative

Robert MacSwain, Office of International Commodities, Bureau of Economic and Business Affairs, Department of State

Advisers

Brian Duggan, Copper Industry Specialist, Office of Metals, Chemicals and Commodities, Department of Commerce
Janice Jolly, Copper Commodity Specialist, Bureau of Mines, Department of Interior

Private Sector Advisers

David Litvin, Director, Government Affairs, Kennecot Corporation, Washington, DC
W. Stuart Lyman, Senior Vice President, Copper Development Association, Greenwich, Connecticut
Arthur Meile, Vice President, Marketing, Phelps Dodge Corporation, Phoenix, Arizona
Robert Payne, President, Copper Development Association, Greenwich, Connecticut

United States Delegation to the 2nd Meeting of the Automatic Dependent Surveillance Panel (ADSP), International Civil Aviation Organization (ICAO), Montreal, June 22–July 10, 1992

Representative

W. Frank Price, Manager, International Procedures Branch, Federal Aviation Administration, Department of Transportation

Alternate Representative

Peter Massoglia, Research and Development Service, Federal Aviation Administration, Department of Transportation

Advisers

Brian Colamosca, Operations, Research and Analysis Branch, Federal Aviation Administration, Department of Transportation
Steve Creamer, International Procedures Specialist, ATP–145, Federal Aviation Administration, Department of Transportation
Bennett Flax, Operations, Research and Analysis Branch, Federal Aviation Administration, Department of Transportation
Elbert Henry, NAS Plans and Future Systems Branch, Federal Aviation Administration, Department of Transportation
Frank Lorge, Electronics Engineer, Federal Aviation Administration, Department of Transportation
Hal Ludwig, NAS System Engineering Service, Federal Aviation Administration, Department of Transportation
Jeffrey Williams, International Procedures Specialist, Federal Aviation Administration, Department of Transportation

Private Sector Advisers

Lonnie H. Bowlin, Aerospace Engineering and Research Association, Inc., Landover, Maryland
Faye Francy, Aerospace Engineering and Research Association, Inc., Landover, Maryland
Jane Hamelink, MITRE Corporation, McLean, Virgina
Ray Hilton, Director, Air Traffic Management, Air Transport Association of America, Washington, DC
Beth Van Houtte, Aeronautical Radio, Inc., Annapolis, Maryland

United States Delegation to the 44th Annual Meeting of the International Whaling Commission (IWC), Glasgow, Scotland, June 23–July 3, 1992

Representative

John Knauss, United States Commissioner, Under Secretary of Commerce for Oceans and Atmosphere, Department of Commerce

Alternate Representative

Sylvia Earle, United States Deputy Commissioner, Chief Scientist, National Oceanic and Atmospheric Administration, Department of Commerce

Congressional Staff Advisers

Jill Brady, Staff Member, Committee on the Merchant Marine and Fisheries, United States House of Representatives
Earl W. Comstock, Staff Member, Committee on Science, Commerce and Transportation, United States House of Representatives

Advisers

David Balton, Office of the Legal Adviser, Department of State
James Brennan, Deputy General Counsel, National Oceanic and Atmospheric Administration, Department of Commerce
Robert Brownell, Office of Oceans Affairs, Bureau of Oceans and International Environment and Scientific Affairs, Department of State
Kevin Chu, Office of Oceans Affairs, Bureau of Oceans and International Environment and Scientific Affairs, Department of State
Anne Crichton, Office of the Solicitor, Department of Interior
Becky Rootes, Office of International Affairs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
Eileen Sobeck, Land and Natural Resources Division, Department of Justice
Michael Tillman, Deputy Assistant Administrator, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

Private Sector Advisers

Nancy Azzam, Windstar Foundation, Golden Valley, Minnesota
Nancy Daves, Animal Protection Institute of America, Washington, DC
William Evans, President, Texas Institute of Oceanography, Texas A&M University, Galveston, Texas
John Prescott, American Association of Zoological Parks and Aquariums, Boston, Massachusetts
Burton Rexford, Chairman, Alaskan Eskimo Whaling Commission

United States Delegation to the Study Group II (Network Operation) of the International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, June 26, 1992

Representative

Earl S. Barbely, Director, Telecommunications and Informational Standards, Bureau of International Communications and Information Policy, Department of State

Private Sector Advisers

Ivor Knight, Vice President, Business Technology and Standards, COMSAT, Washington, DC
Robert Madden, Manager, American Telephone & Telegraph, Morristown, New Jersey

United States Delegation to the Working Group on Controls (July 27–28), Negotiating Group for a New Agreement (July 29–31), International Coffee Organization (ICO), London, July 27–31, 1992

Working Group on Controls (July 27–28)

Representative

Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President

Private Sector Advisers

David A. Brown, Maxwell House Coffee Company, White Plains, New York
Stephen H. Gluck, Vice President, Cargill Coffee PLC, Surrey, United Kingdom
James P. McCrea, Louis Dreyfus Coffee Company, Wilton, Connecticut
John Sutherland, Continental Coffee Products, Division of Quaker Oats Corporation, Chicago, Illinois
Richard L. Thompson, Vice President, Commodities, Nestle Beverages, San Francisco, California
Gregory W. White, Folgers Coffee Company, Chicago, Illinois

Negotiating Group for a New Agreement (July 29–31)

Representative

Myles R. R. Frechette, Assistant United States Trade Representative, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative

Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President

Adviser

Thomas L. Robinson, Director, Office of Food Policy Programs, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers

David A. Brown, Maxwell House Coffee Company, White Plains, New York
Stephen H. Gluck, Vice President, Cargill Coffee PLC, Surrey, United Kingdom
James P. McCrea, Louis Dreyfus Coffee Company, Wilton, Connecticut
John Sutherland, Continental Coffee Products, Division of Quaker Oats Corporation, Chicago, Illinois
Richard L. Thompson, Vice President, Commodities, Nestle Beverages, San Francisco, California
Gregory W. White, Folgers Coffee Company, Chicago, Illinois

United States Delegation to the Fourth Asian and Pacific Population Conference, Economic and Social Commission for Asia and the Pacific (ESCAP), Bali, Indonesia, August 19–27, 1992

Representative

The Honorable Robert L. Barry, United States Ambassador, Jakarta

Alternate Representative

Nancy O'Carter, Coordinator for Population Affairs, Bureau of Oceans and International, Environmental and Scientific Affairs, Department of State

Advisers

Richard Bash, Economic Counselor, United States Embassy, Jakarta
Richard Cornelius, Deputy Chief, Policy and Evaluation Division, Office of Population, Agency for International Development
Frank Hobbs, Chief, Population Studies Branch, Center for International Research, Bureau of the Census, Department of Commerce
John Rogosh, Director, Office of Human and Institutional Resources and Development, Agency for International Development, United States Embassy, Jakarta
Charles Weden, Director, Agency for International Development Mission, United States Embassy, Jakarta

Private Sector Adviser

Adienne Allison, Vice President, Center for Development and Population Activities (CEDPA), Washington, DC

United States Delegation to the 22nd Session of the Subcommittee on Bulk Chemicals, International Maritime Organization (IMO), London, September 7–11, 1992

Representative

Kevin J. Eldridge, Commander, Chief, Hazardous Materials Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Alternate Representative

Michael C. Parnarouskis, Chief, Bulk Cargo Section, Marine Technical and Hazardous Materials Division, Office

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of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Advisors

Wayne Lundy, Marine Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Michael D. Morrissette, Chief, Hazard Evaluation Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Private Sector Adviser

Robert J. Lakey, Robert J. Lakey & Associates Inc., Houston, Texas

United States Delegation to the Third Session of the Regional Committee for the Northern and Central Western Indian Ocean (IOCINCWIO), Intergovernmental Oceanographic Commission (IOC), Port Louis, Mauritius, September 14–18, 1992

Head of Delegation

William Erb, Director, Marine Science and Technology Division, Office of Ocean Affairs, Bureau of Oceans and International Environmental Scientific Affairs, Department of State

Private Sector Adviser

Eric Jon Lindstrom, World Ocean Circulation Experiment, Washington, DC

United States Delegation to Council Working Party Six on Shipbuilding, Subgroup on Supply and Demand, Organization for Economic Cooperation and Development (OECD), Paris, September 21–22, 1992

Representatives

Geoffrey Ogden, Director, Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State

David Morrissy, Director, Capital Goods Trade Policy, Office of the United States Trade Representative, Executive Office of the President

Private Sector Adviser

John J. Stocker, President, Shipbuilders Council of America, Arlington, Virginia

United States Delegation to the International Coffee Council 59th Session and Working Committee of the Negotiating Group for a New International Coffee Agreement, London, September 21–30, 1992

Representative

Myles R. R. Frechette, Assistant United States Trade Representative, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative

Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President

Advisers

Thomas Robinson, Director, Office of Food Policy Programs, Bureau of Economic and Business Affairs, Department of State

Duane Sams, Deputy Director for Commodity Policy, Office of the United States Trade Representative, Executive Office of the President

Robert Windsor, United States Embassy, London

Private Sector Advisers

George E. Boecklin, President, National Coffee Association, New York, New York

David A. Brown, Maxwell House Coffee Company, White Plains, New York

Richard Emanuele, Tardivat International Coffee Corporation, New York, New York

Stephen H. Gluck, Vice President, Cargill Coffee PLC, Surrey, United Kingdom

John T. Hays, Founder/Director, Coffees of Hawaii, Incorporated, Honolulu, Hawaii

Howard C. Katz, J. Aron and Company, New York, New York

James P. McCrea, Louis Dreyfus Coffee Company, Wilton, Connecticut

John Sutherland, Continental Coffee, Chicago, Illinois

Richard L. Thompson, Vice President, Commodities, Nestle Beverage Company, San Francisco, California

Gregory W. White, Folger Coffee Company, Cincinnati, Ohio

United States Delegation to the 80th Meeting of the International Council for the Exploration of the Sea (ICES), Rostock, Germany, September 23–October 2, 1992

Representative

Michael P. Sissenwine, Senior Scientist, Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce

Alternate Representative

John H. Steele, President Emeritus, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts

Advisers

Stephen Clark, Deputy Chief, Conservation and Utilization Division, Northeast Fisheries Center, National Marine Fisheries Service, Department of Commerce

Michael Fogarty, National Marine Fisheries Service, Department of Commerce

Kevin Friedland, Principal Investigator, Atlantic Salmon Program, Northeast Fisheries Science Center, National Marine Fisheries Service, Department of Commerce

James L. Ludke, Director, National Fisheries Research Center Leetown, Fish and Wildlife Service, Department of Interior

Robert V. Miller, Deputy Director, National Marine Mammal Laboratory, National Marine Fisheries Service, Department of Commerce

Steven A. Murawski, Supervisory Fishery Biologist, Northeast Fisheries Center, National Marine Fisheries Service, Department of Commerce

Michael Reeve, Ocean Science Division, National Science Foundation

Frederick M. Serchuk, Supervisory Fishery Biologist, Northeast Fisheries Center, National Marine Fisheries Service, Department of Commerce

Kenneth Sherman, Chief, Fisheries Ecology Division, Northeast Fisheries Center, National Marine Fisheries Service, Department of Commerce

Tim Smith, Chief, Marine Mammals Investigations, Woods Hole Laboratory, National Marine Fisheries Service, Department of Commerce

James J. Traynor, Alaska Fisheries Science Center, National Marine Fisheries Service, Department of Commerce

Private Sector Advisers

Vance Holliday, Tracor Inc., San Diego, California

Edward D. Houde, Chesapeake Biological Laboratory, University of Maryland, Solomons, Maryland

Thomas Osborne, The John Hopkins University, Baltimore, Maryland

Charles H. Peterson, Institute Of Marine Sciences, University of North Carolina, Chapel Hill, Morehead City, North Carolina

Brian J. Rothschild, Chesapeake Biological Laboratory, University of Maryland, Solomons, Maryland

Herbert L. Windom, Skidaway Institute of Oceanography, Savannah, Georgia

United States Delegation to the International Cotton Advisory Committee (ICAC), 51st Plenary Meeting, Liverpool, September 28–October 2, 1992

Representative

Dean Ethridge, Deputy Administrator for Program Planning and Development, Agricultural Stabilization and Conservation Service, Department of Agriculture

Alternate Representative

Kenneth E. Howland, Director, Tobacco, Cotton and Seeds Division, Foreign Agricultural Service, Department of Agriculture

Advisers

Lana Bennett, Marketing Specialist, Tobacco, Cotton and Seeds Division, Foreign Agricultural Service, Department of Agriculture

Carol J. Skelly, Agricultural Economist, Fiber and Rice Analysis Division, Agricultural Stabilization and Conservation Service, Department of Agriculture

Carolyn L. Whitton, Section Leader, Commodity and Trade Analysis Branch, Economic Research Service, Department of Agriculture

Private Sector Advisors

Jesse S. Barr, Assistant Director of Economic Services, National Cotton Council, Memphis, Tennessee

James E. Echols, President, American Cotton Shippers Association, Memphis, Tennessee

Neal P. Gillen, Executive Vice President and General Counsel, American Cotton Shippers Association Washington, DC

John K. Henley, Director, Cotlook Ltd., Memphis, Tennessee

William E. May, Vice President for Foreign Operations and Administration, American Cotton Shippers Association, Memphis, Tennessee

Joseph J. O'Neill, President, New York Cotton Exchange, New York, New York

United States Delegation to the 67th Session of the Legal Committee, International Maritime Organization (IMO), London, September 28–October 2, 1992

Representative

David J. Kantor, Captain, Chief, Maritime & International Law Division, Office of Chief Counsel, United States Coast Guard, Department of Transportation

Alternate Representative

Mark J. Yost, Lieutenant Commander, Maritime & International Law Division, Office of Chief Counsel, United States Coast Guard, Department of Transportation

Advisers

Melinda Chandler, Attorney, Office of the Legal Adviser, Department of State

Bruce B. Davidson, Commander, Deputy Director, International Law Division, United States Navy, Department of Defense

Michael D. Morrissette, Chief, Hazard Evaluation Section, Hazardous Materials Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security & Environmental Protection, United States Coast Guard, Department of Transportation

Kim G. Santos, Branch Chief, Office of Automated Commercial Systems, Customs Service, Treasury Department

Private Sector Advisers

Ernest J. Corrado, President, American Institute of Merchant Shipping, Washington, DC

Neil D. Hobson, Chairman, Maritime Law Association Committee on Transportation of Hazardous Substances, Milling, Benson, Woodward, Hillyer, Pierson & Miller, New Orleans, Louisiana

Michael P. Walls, Assistant General Counsel, Chemical Manufacturers Association, Washington, DC

United States Delegation to the First Annual Meeting of the North Pacific Marine Science Organization (PICES), Victoria British Columbia, Canada, October 12–17, 1992

Representative

William Aron, Director, Alaska Fisheries Science Center, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce

Alternate Representative

Vera Alexander, Dean, School of Fisheries and Ocean Sciences, University of Alaska, Fairbanks, Alaska

Advisers

William A. Erb, Office of Ocean Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Glenn A. Flittner, Director, Office of Research and Environmental Information, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce

John Hunter, Chief, Coastal Fisheries Resource Division, Southwest Fisheries Science Center, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce

Linda Jones, Deputy Director, Northwest Fisheries Science Center, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce

James E. Overland, Leader, Coastal and Arctic Research Division, Oceanic and Atmospheric Research, Pacific Marine Environmental Laboratory, National Oceanic and Atmospheric Administration, Department of Commerce

Gary Stauffer, Director, Resource Assessment and Conservation Engineering Division, Alaska Fisheries Science Center, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce

Sidney D. Stillwaugh, National Oceanographic Data Center Liaison Office, National Oceanic and Atmospheric Administration, National Environmental Satellite, Data, and Information Service, Department of Commerce

William L. Sullivan, Jr., Office of Ocean Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Robin L. Tuttle, Office of International Affairs, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce

Usha Varanasi, Director, Environmental Conservation Division, Northwest Fisheries Science Center, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce

C. Michael Watson, Regional Toxicologist, Health and Environmental Assessment Section, Environmental Protection Agency

Private Sector Advisers

Douglas M. Eggers, Chief Fisheries Scientist, Division of Commercial Fisheries, Alaska Department of Fish and Game

Michael M. Mullin, Marine Life Research Program, Scripps Institution of Oceanography, University of California, La Jolla, California

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David L. Musgrave, Institute of Marine Science, University of Alaska, Fairbanks, Alaska
William S. Reeburgh, Institute of Marine Science, University of Alaska, Fairbanks, Alaska
Stephen C. Riser, School of Oceanography, University of Washington, Seattle, Washington
Albert Tyler, Associate Dean, School of Fisheries and Ocean Sciences, University of Alaska, Fairbanks, Alaska

United States Delegation to the 44th Session of the Subcommittee on the Carriage of Dangerous Goods, International Maritime Organization (IMO), London, October 19–23, 1992

Representative

Kevin J. Eldridge, Commander, Chief, Hazardous Materials Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Alternate Representative

Phillip C. Olenik, Lieutenant Commander, Packaged Cargo Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Advisers

Emmanuel P. Pfersich, Chief, Packaged Cargo Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation
Frits Wybenga, International Standards Coordinator, Office of Hazardous Materials Safety, Research and Special Programs Administration, Department of Transportation
Steven C. Hunt, Lieutenant, Packaged Cargo Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Private Sector Adviser

Ronald F. Bohn, Hazardous Materials Coordinator, National Cargo Bureau, Inc., New York, New York

United States Delegation to the General Working Party, First Session, Maritime Transport Committee, Organization for Economic Cooperation and Development (OECD), Paris, October 23–24, 1992

Representative

Stephen M. Miller, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers

Philip J. Loree, Chairman, Federation of American Controlled Shipping, New York, New York
Donald L. O'Hare, Sea-Land Corporation, Iselin, New Jersey

United States Delegation to the 33rd Session of the Marine Environment Protection Committee (MEPC), International Maritime Organization (IMO), London, October 26–30, 1992

Representative

Robert T. Nelson, Vice Admiral, Vice Commandant, United States Coast Guard, Department of Transportation

Alternate

Arthur E. Henn, Rear Admiral, Chief, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Advisers

Joseph J. Angulo, Chief, Merchant Vessel Inspection and Documentation Division, United States Coast Guard, Department of Transportation
Brian Berringer, Merchant Vessel Inspection and Documentation Division, United States Coast Guard, Department of Transportation
Robert Blumberg, Office of Marine Law and Policy, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
William Chubb, Commander, Assistant Chief, Marine Environmental Protection Division, United States Coast Guard, Department of Transportation
Michael J. Donohoe, Captain, Chief, Marine Environmental Protection Division, United States Coast Guard, Department of Transportation
John Holmes, Lieutenant Commander, Merchant Vessel Inspection and Documentation Division, United States Coast Guard, Department of Transportation
Margo Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, Department of Commerce
Marion Mlay, Director, Oceans and Coastal Protection Division, Environmental Protection Agency
Peter Popko, Commander, Merchant Vessel Inspection and Documentation Division, United States Coast Guard, Department of Transportation
Sidney A. Wallace, Rear Admiral (retired), Chairman, Marine Environment Protection Committee, United States Coast Guard, Department of Transportation

Private Sector Advisers

Joseph Cox, American Institute of Merchant Shipping, Washington, DC
James Dolan, Executive Vice President, American Bureau of Shipping, New York, New York
Sally Ann Lentz, Ocean's Advocates, Washington, DC
R. Keith Michel, President, Herbert Engineering Corp., San Francisco, California
Richard Thorpe, Vice President, Exports and Technical Research, Shipbuilders Council of America, Fairfax, Virginia

United States Delegation to the 31st Session of the Administrative and Legal Committee, October 26–27, 45th Session of the Consultative Committee, October 28, 26th Session of the Council, October 29, 6th International Union for the Protection of New Varieties of Plants With International Organizations, October 30, Geneva, October 26–October 30, 1992

Representative

H. Dieter Hoinkes, International Intellectual Specialist, Patent and Trademark Office, Department of Commerce

Alternative Representative

Kenneth Evans, Commissioner, Plant Variety Protection Office, Department of Agriculture

Private Sector Advisers

Michael Roth, Patent Counsel, Pioneer Hi-Bred International, Inc., Des Moines, Iowa
Edward Robinson, Chairman, Intellectual Property Rights Committee, American Seed Trade Association, Waterloo, Nebraska

United States Delegation to the Meeting of the Financial and Administrative Committee, International North Pacific Fisheries Commission (INPFC), Vancouver, Canada, November 2–3, 1992

Commissioners

The Honorable Richard B. Lauber (Head of Delegation), United States Commissioner, International North Pacific Fisheries Commission, Juneau, Alaska
The Honorable Steven Pennoyer, United States Commissioner, International North Pacific Fisheries Commission, Regional Director, National Marine Fisheries Service, Department of Commerce

Adviser

A. George Herrfurth, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
James C. Lewis, Budget Officer, Office of the Executive Director, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Private Sector Adviser

David Benton, Director, External and International Fisheries Affairs, Office of the Commissioner, Alaska Department of Fish and Game, Juneau, Alaska

United States Delegation to the International Tropical Timber Council (ITTC), 13th Session, November 16–21, 1992, and Preparatory Committee for the Renegotiation of the International Tropical Timber Agreement (ITTA), First Session, November 11–13 and November 23–24, International Tropical Timber Organization (ITTO), Yokohama, November 13–24, 1992

Representative

Milton Drucker, Deputy Director, Office of International Commodities, Bureau of Economic and Business Affairs, Department of State

Alternate Representative

Duane Sams, Director, Commodity Policy, Office of the United States Trade Representative, Executive Office of the President

Advisers

Stephanie Caswell, Office of the Environment, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Robert Mowbray, Senior Natural Resources Management Specialist, United States Agency for International Development
David Harcharik, United States Forest Service, Department of Agriculture
Michael Martin, United States Forest Service, Department of Agriculture
Franklyn Moore, Environmental Protection Agency
Michael Hicks, Foreign Agricultural Service, Department of Agriculture
Kathy McNamara, Office of Materials, Machinery, and Chemicals, Department of Commerce

Private Sector Advisers

Mark Dillenbeck, World Conservation Union, Washington, DC
Robert Johnson, Herman Miller, Inc., Zeeland, Michigan

United States Delegation to the International Coffee Organization Council and Working Committee for a New International Coffee Agreement (ICA), International Coffee Organization (ICO), London, November 23–December 1, 1992

Representative

Myles R.R. Frechette, Assistant United States Trade Representative, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative

Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President

Advisers

Michael Glover, Economics Officer, United States Embassy, London
Thomas Robinson, Director, Office of Food Policy Programs, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers

George E. Boecklin, President, National Coffee Association, U.S.A., New York, New York
Howard C. Katz, J. Aron and Company, New York, New York
John Sutherland, Continental Coffee Products, Chicago, Illinois

United States Delegation to the Negotiations Working Group (November 23–24), and Council and Committees (November 25–December 2), International Natural Rubber Organization (INRO), Kuala Lumpur, November 23–December 2, 1992

Representative

Duane Sams, Director, Commodity Policy, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative

Daniel L. Holtzman, International Economist, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers

Mark R. Blitstein, Director, Goodyear Tire and Rubber Company, Akron, Ohio
Patricia A. Bovino, Cargill, Inc., New York, New York
Harold Ross Miller, Manager, Uniroyal-Goodrich Tire Company, Akron, Ohio
Stanley M. Schultz, Operations Director, Bridgestone/Firestone Inc., Singapore
Richard A. Stauffer, Manager, World Rubber Operations, Cargill, Inc., Singapore
Peter Tan, Purchasing Director, Goodyear Orient Company, Singapore

United States Delegation to the Intergovernmental Group of Experts on Tungsten, First Session, Standing Committee on Commodities, Trade and Development Board, United Nations Conference on Trade and Development (UNCTAD), Geneva, December 7–11, 1992

Representative

David Cammarota, Acting Chief, Metals Branch, Department of Commerce

Private Sector Adviser

Peter K. Johnson, Vice President, Refractory Metals Association, Princeton, New Jersey

United States Delegation to the Ad Hoc Group Under Resolution No. 18, International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, January 19–26, 1993

Representative

Earl S. Barbely, Director, Telecommunications and Information Standards, Bureau of International Communications and Information Policy, Department of State

Adviser

Douglas V. Davis, Attorney-Advisor, Common Carrier Bureau, Federal Communications Commission

Private Sector Advisers

Herbert Bertine, Department Head, AT&T Bell Laboratories, Holmdel, New Jersey
Gary Fishman, Technical Standards Director, AT&T, Bedminster, New Jersey
Otto J. Gusella, Executive Director, ECSA, Washinton, DC
George Helder, Consultant, Moraga, California
Richard Holleman, Director, Standards Practices, IBM Corporation, Purchase, New York
Ivor Knight, Vice President, Business Technology and Standards, Washington, DC
Henry Marchese, Consultant, Bedminster, New Jersey
Robert J. Smith, Director, Science and Technology, NYNEX Corporation, Cambridge, Massachusetts
Martin Sullivan, Director, BELLCORE, Red Bank, New Jersey

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Mel Woinsky, Senior Manager, Technical Industry Standards, Northern Telecom, Inc., Morristown, New Jersey

United States Delegation to the Study Group XVIII, ISDN Experts Meeting, International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, January 19–29, 1993

Representative

William F. Utlaut, Director, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce

Advisers

Frank McLeland, Senior Engineer, National Communication Systems
Neil Seitz, Deputy Director, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce

Private Sector Advisers

William J. Buckley, Vice President, Technology, Vanlink, San Jose, California
Donald Chisl[illegible] Product Manager, Telecom Sol[illegible]ns, San Jose, California
William L. Edwards, Engineer, Sprint Communicati[illegible]s, Overland Park, Kansas
Gary Fishman, Engineer, AT&T, Bedminster, New Jersey
Paul Redman, Senior Scientist, COMSAT Lab[illegible] Clarksburg, Maryland
Anthony Toubass[illegible], Advisory Engineer, MCI, Richards[illegible], Texas
Stephan Walters, Bellcore, Morristown, New Jersey
Melvin Woinsky, Manager, Technology Planning, Nor[illegible]n Telecom, Inc., Morristown, New Jersey

United States Delegation to the XXVI Com/Citel Meeting and the II Extraordinary Meeting of Citel Permanent Executive Committee (Com/Citel), Inter-American Telecommunications Conference (Citel), Organization of American States (OAS), Santiago, Chile, January 25–29, 1993

Representative

Gary M. Fereno, Director or CITEL and CCITT Standards Policy, Bureau of International Communications and Information Policy, Department of State

**Alternate Representative*

William F. Moran, Policy Specialist, National Telecommunication and Information Administration, Department of Commerce

Advisers

Rudolfo M. Baca, Attorney/Adviser, Federal Communications Commission
Doreen Bogdan, Telecommunications Policy Specialist, National Telecommunication and Information Administration, Department of Commerce

Private Sector Advisers

Raymond Crowell, Director, Strategic Planning, COMSAT Corporation, Washington, DC
Cecil Crump, Manager, International Development, AT&T, Morristown, New Jersey
David Fine, Manager, Standards & Development, Southwest Bell Corporation, Washington, DC
Thomas J. Plevyak, Manager, International Standards, Bell Atlantic Corporation, Arlington, Virginia

[FR Doc. 93–10560 Filed 5–5–93; 8:45 am]
BILLING CODE 4710–19–M

[Public Notice No. 1802]

United States Organization for the International Telegraph & Telephone Consultative Committee Study Group D; Meetings

The U.S. Department of State announces that the US Organization for the International Telegraph Telephone Consultative Committee Study Group D will meet on June 7, and on August 16, 1993, at 9:30 a.m., in room 1205 at the Department of State, 2201 C Street NW., Washington, DC 20520.

The agenda of the June 7 meeting will include the review of U.S. contributions for the meetings of Study Group 7 and 14, and discussion of the results of the April meeting of Study Group 8, and to consider any other business within the scope of Study Group D. The meeting of August 16 will consider contributions to the September meeting of Study Group 14.

In the case of each meeting, other matters within the jurisdiction of Study Group D, including reviews and discussions of the results of past meetings, may be considered.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Persons who plan to attend should so advise the Office of Gary Fereno, Department of State, (202) 647–0201, FAX (202) 647–7407. The above includes government and non-government attendees. Public visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a photo ID with them to the meeting in order to be admitted. All attendees must use the C Street entrance.

Dated: April 20, 1993.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman U.S. CCITT National Committee.

[FR Doc. 93–10700 Filed 5–5–93; 8:45 am]
BILLING CODE 4710–45–M

[Public Notice 1804]

Secretary of State's Panel on El Salvador; Closed Meeting

The Department of State announces a meeting of the Secretary of State's Panel on El Salvador on Tuesday, May 18, at 1:30 p.m. in room 1406, Department of State, Washington, DC. Pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1), it has been determined the meeting will be closed to the public. The agenda calls for a review of the materials gathered from document searches and interviews and a discussion of those materials as they relate to the report to be prepared by the Panel. A substantial portion of this material consists of classified national security information.

Due to the exceptional circumstances created by the short duration of the Panel and the members' scheduling conflicts, the Panel's first meeting will occur before 15 days have elapsed from the date of this notice. For more information, contact Edward Pope, Secretary's Panel on El Salvador, Department of State, Washington, DC 20520, phone: 202/736–4517.

Dated: May 4, 1993.

B. Lynn Pascoe,

Executive Director, Secretary's Panel on El Salvador.

[FR Doc. 93–10799 Filed 5–5–93; 8:45 am]
BILLING CODE 4710–10–M

[Public Notice 1797]

Shipping Coordinating Committee, Subcommittee for the Prevention of Marine Pollution; Meeting

The Subcommittee for the Prevention of Marine Pollution (SPMP), a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting on June 30, 1993, at 9:30 a.m. in room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of this meeting will be to review the agenda items to be considered at the thirty-fourth session of the Marine Environment Protection Committee (MEPC 34) of the International Maritime Organization (IMO). MEPC 34 will be held from July 5–9, 1993. Proposed U.S. positions on the agenda items for MEPC 34 will be discussed.

The major items for discussion will be the following:

1. Prevention of oil pollution. Work will continue on guidelines for implementation of Regulations 13F and 13G to Annex I of The International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). This will include guidelines for structural and operational requirements for existing ships, equivalences for double-hulls for new ships, and guidelines for enhanced inspections.

2. Implementation of the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990 (OPRC). The working group will be addressing a variety of topics including practical application of OPRC to hazardous and noxious substances, development of model pollution response courses, promotion of research and development under OPRC, and industry cooperation in OPRC implementation.

3. Comprehensive Manual on Reception Facilities. The MEPC hopes to complete work on revision of the MARPOL 73/78 reception facility guidance that began at MEPC 32.

4. Revision of the Prevention section of the IMO Anti-Pollution Manual.

5. Follow-up action to the United States Conference on Environment and Development (UNCED) of June 1992. IMO is examining its role in implementation of Chapter 17 of Agenda 21 of UNCED.

6. Harmful marine organisms in ballast water. This subject covers control measures against the introduction of exotic species into coastal and internal waters through discharge of ballast water.

7. Enforcement of Pollution Conventions. This group will continue work on the new reporting format for MARPOL 73/78 enforcement actions.

8. The future work program of the MEPC.

Members of the public may attend these meetings up to the seating capacity of the room.

For further information or documentation pertaining to the SPMP meeting, contact Lieutenant Commander M. L. McEwen, U.S. Coast Guard Headquarters (G–MEP–3), 2100 Second Street, SW., Washington, DC 20593–0001, Telephone: (202) 267–0419.

Dated: April 16, 1993.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 93–10699 Filed 5–5–93; 8:45 am]
BILLING CODE 4710–07–M

[Public Notice No. 1801]

Shipping Coordinating Committee Council and Associated Bodies; Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Thursday, June 3, 1993, in room 2415, at US Coast Guard Headquarters, 2100 Second Street SW., Washington, DC to finalize preparations for the 70th Session of Council and 38th Session of the Technical Cooperation Committee of the International Maritime Organization (IMO) which are scheduled for June 14–18, 1993, at IMO Headquarters in London. The purpose of the meeting is to discuss the papers received and the draft US positions. Among other things, the items of particular interest are:

a. Reports of the IMO committees and training institutions

b. Review of the IMO technical cooperation activities

c. Report on the International Conference on the Revision of the 1969 Civil Liability Convention and the 1971 Fund Convention

d. Report on the International Conference on Safety of Fishing Vessels

e. Report on the UN/IMO Conference of Plenipotentiaries on a Convention on Maritime Liens and Mortgages

f. Report on the outcome of the Fifteenth Consultative Meeting of Contracting Parties to the 1972 London Dumping Convention

g. Relations with the United Nations and other organizations

h. Preparations for the 18th Assembly including the provisional agenda and report of the Council to the Assembly

i. Administrative and financial matters

Members of the public may attend these meetings up to the seating capacity of the room. Interested persons may seek information by writing: Gene F. Hammel, US Coast Guard (G-CI), room 2114, 2100 Second Street SW., Washington, DC 20593–0001 or by calling: (202) 267–2548/2280.

Dated: April 26, 1993.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committe.

[FR Doc. 93–10611 Filed 5–5–93; 8:45 am]
BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 93–4–50; Docket 48780]

Application of Friendship Airlines, Inc. For Certificate Authority

AGENCY: Department of Transportation

ACTION: Notice of Order Instituting the Friendship Airlines, Inc., Fitness Investigation.

SUMMARY: The Department of Transportation is instituting an investigation into the fitness of Friendship Airlines, Inc., to conduct interstate and oversees air transportation operations and is setting the matter for hearing before an administrative law judge of the Department.

DATES: Petitions for leave to intervene shall be filed by May 6, 1993. Answers to those petitions shall be filed by May 13, 1993.

ADDRESSES: Petitions and answers to petitions should be filed in Docket 48780 and addressed to the Documentary Services Division (C–55, room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in the order.

FOR FURTHER INFORMATION CONTACT: Patricia T. Szrom, Chief, Air Carrier Fitness Division (P–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: April 29, 1993.

Patrick V. Murphy,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 93–10710 Filed 5–5–93; 8:45 am]
BILLING CODE 4910–62–M

Federal Highway Administration

Environmental Impact Statement: Prince of Wales Island, AK

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be

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prepared for a proposed highway construction project on the Prince of Wales Island in Alaska.

FOR FURTHER INFORMATION CONTACT: Allan Stockman, Environmental Engineer, or Jody Thomas, Staff Environmental Engineer, Federal Highway Administration/Western Federal Lands Division, 610 East Fifth Street, Vancouver, Washington 98661. Telephone: (206) 696–7751.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the U.S. Forest Service and the Alaska Department of Transportation and Public Facilities, will prepare an Environmental Impact Statement (EIS) on a proposal to construct the North Prince of Wales highway in the Tongass National Forest from the Coffman Cove junction to Twin Island junction near the town of Whale Pass. The proposed improvements would provide year-round state highway access to these remote communities on Prince of Wales Island. This could involve new road construction, as well as reconstruction of portions of existing Forest Development Roads (FDR) that run north and south on the east side of Prince of Wales Island. Total distance of construction is estimated to be 28.5 to 31.0 miles.

The highway improvement is considered necessary to provide the north island communities with year-round access with a state (public) highway. This would also permanently connect the communities to the other towns and activity centers on Prince of Wales Island. The existing roads on the north end of the island are currently under Forest Service (FS) jurisdiction, and were primarily built to serve timber haul. The roads are narrow and sometimes dangerous, and they are not always accessible or safe for public travel as a primary access route. Also, the FS does not have the money or authority to plow snow on their roads. Therefore snow plowing only occurs when some resource activity has need for access such as a timber sale. This can result in unreliable and inconsistent year-round access.

Alternatives under consideration are the following: (1) Taking no action in which island access and the existing roads remain status quo, (2) upgrading existing FDR 20 on the west side of Prince of Wales Island to a state highway, and (3) constructing/reconstructing a road on new alignment along the east side of the island utilizing portions of FDR 23 and 30. Under alternatives 2 and 3, ownership and maintenance of the road would be transferred to the Alaska Department of Transportation and Public Facilities who has the authority to snow plow roads for year-round public access. Incorporated and analyzed with the build alternatives will be design variations of grade and alignment.

Announcements describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies. These will also be sent to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public scoping meetings will be held during the week of May 24, 1993 in the communities of Coffman Cove and Craig on the Prince of Wales Island. A public meeting is also being planned in Ketchikan, Alaska. Public notices will be given of the times and places of all these meetings.

It is important that the full range of issues related to this proposed action be addressed and that all significant issues be identified. To ensure this, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address and phone number provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: April 27, 1993.

James N. Hall,

Division Engineer, Vancouver, Washington.

[FR Doc. 93–10698 Filed 5–5–93, 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Customs Service

Electronic Data Interchange for Global Trade

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of conference.

SUMMARY: This document advises the public that the Customs Service is presenting a conference entitled "EDIFACT: Technology for Global Trade" to be held in Dallas, Texas. The primary focus of the conference will be on present and future electronic data interchange applications in the area of international trade. Attendance at the conference is open to the general public.

DATES: The conference will take place on June 2–3, 1993, in the Loews Anatole Hotel, Dallas Texas. Registration requests for the conference should be received before May 20, 1993.

FOR FURTHER INFORMATION CONTACT: The EDIFACT Conference Hotline (703–440–6587), for information regarding the conference and registration procedures; the Loews Anatole Hotel (214–748–1200), for hotel reservations.

SUPPLEMENTARY INFORMATION: The rapid expansion of international trade in recent decades, coupled with the concurrent growth in electronic data processing and transmission capabilities, has given rise to the development of electronic data interchange (EDI) as a means for cutting through the jungle of paperwork and thus facilitating the unhindered flow of information which is vital to international trade transactions. EDI, which is defined internationally as "the transfer of structured data by commonly agreed message standards, from computer to computer, by electronic means", enables parties in a national or international commercial transaction to transmit all their documents (for example, invoices, purchase orders, contractual information, and shipping and payment instructions) instantly and directly to the desired location, thereby removing barriers of time and distance and resulting in significant cost savings and increased efficiency. Thus, the ultimate goal of EDI is to facilitate trade by creation of a paperless environment.

In order to realize the long-term objectives of EDI, it has been recognized that common international EDI standards must be developed with regard to data elements, syntax rules and message content. To this end, government and commercial representatives, operating under the auspices of the United Nations, have studied different existing EDI standards with a view to converging them into a single international standard. As a result of these efforts, international agreement has been reached on a converged standard called EDI for Administration, Commerce and Transport (EDIFACT) which has been published by the International Standards Organization as ISO 9735.

The U.S. Customs Service has long been committed to the principle and practice of paperless commercial entry and for this reason has recognized the importance of EDIFACT to global trade in a paperless environment. In furtherance of its pioneering role in the use of EDIFACT, Customs is presenting a conference entitled "EDIFACT: Technology for Global Trade" to be held at the Loews Anatole Hotel in Dallas, Texas, on June 2–3, 1993. The conference is intended to foster an exchange of views and ideas on a variety of complex issues involving international trade, with an emphasis on communications and EDIFACT. Speakers and panelists from industry and various government agencies who are versed in the use of EDIFACT will be featured, as well as individuals who will provide useful information regarding the North American Free Trade Agreement and the Customs Modernization Act.

Attendance at the conference is open to members of the general public at a registration fee of $550 per person, and exhibitors desiring to demonstrate their products or services may do so at a cost of $700 per booth. Since space at the conference may be limited and only a limited number of hotels room at a reduced conference rate are available, persons wishing to attend the conference are encouraged to register and obtain their hotel reservations at an early date.

Dated: April 30, 1993.

Michael H. Lane,

Acting Commissioner of Customs.

[FR Doc. 93–10604 Filed 5–5–93; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special-Disabilities Programs; Availability of Annual Report

Under section 10(d) of Public Law 92–463 (Federal Advisory Committee Act) notice is hereby given that the Annual Report of the Department of Veterans Affairs' Advisory Committee on Prosthetics and Special-Disabilities Programs for Fiscal Year 1992 has been issued. The Report summarizes activities of the Committee on matters relative to special disability programs, prosthetic rehabilitation technology, accomplishments which have been made, and the identification of areas where further study and improvements are required. It is available for public inspection at two locations:

Federal Documents Section, Exchange and Gift Division, LM 632, Library of Congress, Washington, DC 20540.

and

Department of Veterans Affairs, Prosthetic and Sensory Aids Service, Techworld Room 542, 801 I Street, NW., Washington, DC 20001.

Dated: April 27, 1993.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 93–10724 Filed 5–5–93; 8:45 am]

BILLING CODE 8230–01–M

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Sunshine Act Meetings

Federal Register
Vol. 58, No. 86
Thursday, May 6, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

Correction

FR Doc. 93–10197 was published beginning on page 26181 in the issue of Friday, April 30, 1993. This document was a notice of Sunshine Act meetings to be held on May 6, and May 7, 1993. It was published in the Notices section of the **Federal Register**. It should have appeared in the Sunshine Act Meetings section.

BILLING CODE 1505–01–D

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, May 11, 1993, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Matters relating to the Corporation's contracting activities.

Memorandum and resolution re: Study of savings bank life insurance which makes a finding whether savings bank life insurance activities of insured banks pose or may pose any significant risk to the insurance fund of which such banks are members.

Discussion Agenda

Memorandum and resolution re: Proposed amendments to Part 325 of the Corporation's rules and regulations, entitled "Capital Maintenance," which would implement the portions of Section 305 of the Federal Deposit Insurance Corporation Improvement Act of 1991 that require the Federal banking agencies to revise their risk-based capital standards for insured depository institutions to ensure that those standards take adequate account of concentration of credit risk and the risks of nontraditional activities.

Memorandum and resolution re: Final amendments to Part 330 of the Corporation's rules and regulations, entitled "Deposit Insurance Coverage," which amendments govern the extent of insurance coverage provided by the Corporation for deposits in Corporation-insured depository institutions.

Memorandum and resolution re: Final amendments to the Corporation's rules and regulations in the form of a new Part 363 regarding independent annual audits and reporting requirements.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 898–6745 (Voice); (202) 898–3509 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Deputy Executive Secretary of the Corporation, at (202) 898–6757.

Dated: May 4, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–10925 Filed 5–4–93; 4:00 pm]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Tuesday, May 11, 1993, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Reports of the Office of Inspector General.

Matters relating to the Corporation's corporate and supervisory activities.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured depository institutions or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof.

Names of persons and names and locations of depository institutions authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note: Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Matters relating to the Corporation's delegations of authority.

Discussion Agenda

Matters relating to the possible closing of certain insured depository institutions:

Names and locations of depository institutions authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Deputy Executive Secretary of the Corporation, at (202) 898–6757.

Dated: May 4, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–10927 Filed 5–4–93; 4:00 pm]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:43 a.m. on Tuesday, May 4, 1993, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of a certain insured bank.

Recommendation concerning an administrative enforcement proceeding.

Matters relating to an assistance agreement with an insured bank.

In calling the meeting, the Board determined, on motion of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), seconded by Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: May 4, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–10928 Filed 5–4–93; 4:00 pm]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 11, 1993 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, May 13, 1993 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Report from FEC Public Disclosure Division.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 93–10910 Filed 5–4–93; 3:47 pm]

BILLING CODE 6715–01–M

FEDERAL HOUSING FINANCE BOARD

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 21331, April 20, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:00 a.m., Monday, April 26, 1993.

CHANGES IN THE MEETING: The following changes were made to the closed portion of the meeting. Items deleted from the Summary Agenda portion of the meeting and placed in the discussion portion.

1. FHLBank of Pittsburgh AHP
2. Dividend rate swap issue disclosed in the San Francisco examination, and approval of EROD/OL&EA analysis and approach to its resolution
3. Approval of the March Board Minutes

The following item was added to the closed portion of the meeting.

- Federal Home Loan Bank Presidents' 1992 Incentive Compensation Awards

The above matters are exempt under one or more of sections 552b(c), (6), (8), and (9) (A) and (B) of title 5 of the United States Code.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408–2837.

Philip L. Conover,

Managing Director.

[FR Doc. 93–10810 Filed 5–4–93; 9:54 am]

BILLING CODE 6725–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–93–14]

Emergency Notice

TIME AND DATE: May 11, 1993 at 9:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda
2. Minutes
3. Ratification List
4. Inv. No. 731–TA–645 (Certain Calcium Aluminate Cement and Cement Clinker from France)—briefing and vote.
5. Outstanding action jacket requests
   1. EC–93–006, East Asia Integration.
6. Any items left over from previous agenda

In conformity with 19 CFR § 201.37(b), Commissioners Nuzum, Crawford, Brunsdale, Rohr, Watson, and Newquist determined that Commission business required a meeting of May 11, 1993, and affirmed that no earlier announcement of the meeting was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Paul R. Bardos, Acting Secretary, (202) 205–2000.

Issued: May 4, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–10869 Filed 5–4–93; 3:26 pm]

BILLING CODE 7020–02–P

Corrections

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Corrections

Federal Register
Vol. 58, No. 86
Thursday, May 6, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER93-429-000]

South Carolina Electric & Gas Co.; Filing

Correction

In notice document 93-9912 appearing on page 25829 in the issue of Wednesday, April 28, 1993, the docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6964

[AK-932-4210-06; AA-5961]

Partial Revocation of Executive Order Dated January 4, 1901, for Selection of Land by the State of Alaska; Alaska

Correction

In rule document 93-8561 beginning on page 19212 in the issue of Tuesday, April 13, 1993, in the second column, the public land order should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 26344; Amendment No. 23-43]
RIN 2120-AD30

Small Airplane Airworthiness Review Program Amendment No. 3

Correction

In rule document 93-7737 beginning on page 18958 in the issue of Friday, April 9, 1993, make the following corrections:

1. On page 18958, in the third column, in the fourth paragraph, in the sixth line, "Once" should read "One".

2. On page 18960, in the first column, in the first full paragraph, in the ninth line, "than" should read "then".

3. On the same page, in the 2d column, in the 2d full paragraph, in the 13th line, "disagrees" should read "agrees".

4. On the same page, in the same column, in the third full paragraph, in the third line, "change" should read "changes".

5. On page 18961, in the 1st column, in the 13th line, "replace" should read "replaced".

6. On page 18966, in the first column, in the fifth full paragraph, in the seventh line, delete "and".

7. On page 18967, in the third column, in the fifth full paragraph, in the fourth line, "FAA" should read "JAA".

8. On page 18968, in the second column, in the second full paragraph, in the first line, "had" should read "has".

9. On page 18969, in the second column, in the last paragraph, in the seventh line, "If" should read "It".

§ 23.961 [Corrected]

10. On page 18972, in the second column, in § 23.961, in the eighth line, "100 °F," should read "110 °F,".

§ 23.971 [Corrected]

11. On the same page, in the third column, in § 23.971(a), in the third line, insert a comma after "capacity".

§ 23.1091 [Corrected]

12. On page 18973, in the third column, in the section heading, "§ 23.109" should read "§ 23.1091", and in § 23.1091(c)(2), in the sixth line, "with" should read "unit".

§ 23.1191 [Corrected]

13. On page 18975, in the first column, in amendatory instruction 50., in the tenth line, " "2000 ± 50° F" " should read " "2000 ± 150° F" ".

§ 23.1305 [Corrected]

14. On page 18976, in the first column, in § 23.1305(d)(1), in the third line, "than" should read "that".

BILLING CODE 1505-01-D

Federal Register

Thursday
May 6, 1993

Part II

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 888
Proposed Fair Market Rents

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 888

[Docket No. N-93-3616; FR-3510-N-01]

Section 8 Housing Assistance Payments Program—Fair Market Rent Schedules for Use in the Rental Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Rental Voucher Program

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed Fair Market Rents.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish Fair Market Rents (FMRs) periodically, but not less frequently than annually, to be effective October 1 of each year. The Department's regulations at 24 CFR part 888 provide a notice and comment process for developing FMRs. Today's document proposes the FMRs for Fiscal Year 1994 (FY 1994). The proposal would amend FMR schedules for the section 8 Rental Certificate program (part 882, subparts A and B), including space rentals by owners of manufactured homes under the section 8 Rental Certificate program (part 882, subpart F); the section 8 Moderate Rehabilitation program (part 882, subparts D and E); and housing assisted under the Loan Management and Property Disposition programs (part 886, subparts A and C). In addition, FMRs are used to determine payment standard schedules in the Rental Voucher program.

DATES: Comments are due July 6, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. To expedite processing, each commenter is requested to simultaneously submit a copy of its comments to the Economic and Market Analysis Staff in the appropriate HUD Field Office. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.–5:30 p.m. Eastern Time) at the above address.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Rental Assistance Division, Office of Public and Indian Housing (202) 708–0477 (TDD: (202) 708–0850), for questions relating to the Section 8 Voucher, Certificate, and Moderate Rehabilitation programs; James Tahash, Program Planning Division, Office of Multifamily Housing Management (202) 708–3944 (TDD: (202) 708–4594), for questions relating to all other Section 8 programs; for technical information regarding the development of the schedules for specific areas or the method used for calculating the FMRs, Michael R. Allard, Economic and Market Analysis Division, Office of Policy Development and Research (202) 708–0577 (TDD: (202) 708–0770). Mailing address for above persons: Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. (Telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

Section 8 of the U.S. Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes a housing assistance program to aid low-income families in renting decent, safe, and sanitary housing. Assistance payments are limited by Fair Market Rents (FMRs) (or payment standards, established by local housing authorities, based on FMRs in the Rental Voucher program) established by HUD for different areas. In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

The FMRs proposed in this Notice govern the following Section 8 Housing Assistance Payments programs: the Section 8 Rental Certificate program under part 882 (subparts A and B), including space rentals by owners of manufactured homes (subpart F), the Moderate Rehabilitation program under part 882 (subparts D and E), housing assistance for projects with HUD-insured or HUD-held mortgages under part 886 (subpart A), as well as the Property Disposition program under part 886 (subpart C). In addition, FMRs are used to establish payment standards for the Rental Voucher program (part 887).

II. Procedures for the Development of FMRs

Section 8(c) of the Act requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. The Department's regulations provide that HUD will develop FMRs by publishing proposed FMRs for public comment, analyzing the public comment, and publishing final FMRs. (See 24 CFR 888.115.) Final FY–1994 FMRs will be published on or before October 1, 1993, as required by section 8(c)(1) of the Act.

III. Fair Market Rent Schedules

This notice proposes revised FMRs for FY 1994. For the first time, 1990 Census data on rental housing were used to revise the FMRs. This revision process, which the Department refers to as "re-benchmarking," occurs once every ten years and involves replacing the base-year rent FMR estimates with those developed from the new Census data and updating the new base-year estimates from the date of the Census to the mid-point of the program year the FMRs will be in effect. All FMR areas in the country have now been re-benchmarked, either with Census data or with American Housing Surveys or Random Digit Dialing surveys conducted after the date of the 1990 Census. Because of the re-benchmarking, many areas have proposed FMRs that differ from those that would have resulted from the normal updating of last year's FMRs.

Schedules at the end of this document list the FMR levels for rental housing (Schedule B) and for manufactured home spaces in the Section 8 Certificate program (Schedule D). FMRs for the Moderate Rehabilitation program are 120 percent of the Schedule B Fair Market Rents (see 24 CFR 882.408(a) and 888.113(e)(1)). The FMR for a Single Room Occupancy (SRO) unit in the Rental Certificate program is 75 percent of the efficiency (EFF) unit FMR listed in Schedule B. The FMR for an SRO unit in the Moderate Rehabilitation program is 75 percent of the Moderate Rehabilitation FMR for the EFF unit. The payment standard amount for an SRO Unit in the Rental Voucher program is 75 percent of the EFF FMR listed in Schedule B.

IV. Metropolitan Area Definitions

With several exceptions discussed in the following paragraphs, the proposed FMRs incorporate the recent changes in the definitions of metropolitan areas made by the Office of Management and Budget contained in the OMB Bulletin No. 93–05, released on December 28, 1992. HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions because of the close correspondence that typically exists between these definitions and housing market area definitions. FMRs are intended to be housing market-wide rent estimates that provide housing opportunities throughout the geographic

area in which rental housing units are in direct competition.

The exceptions have been made for a number of large metropolitan areas whose revised OMB definitions encompass areas that have been determined to be larger than HUD's definitions of the housing market areas. For the Boston and New York-Northern New Jersey metropolitan areas, the proposed FMRs continue to use the OMB definitions of the MSA/PMSAs that were in effect prior to the December 28, 1992, OMB Bulletin. The affected areas are as follows:

For the Boston area—the Boston, MA; Lawrence-Haverhill, MA–NH; Lowell, MA–NH; and Salem-Gloucester, MA PMSAs and the Fitchburg-Leominster, MA; Manchester, NH; New Bedford, MA; Portsmouth-Dover-Rochester, NH–ME; and Worcester, MA MSAs.

For the New York-Northern New Jersey area—the New York, NY; Nassau-Suffolk, NY; Bergen-Passaic, NJ; Jersey City, NJ; Middlesex-Somerset-Hunterdon, NJ; Monmouth-Ocean, NJ; and Newark, NJ PMSAs.

The metropolitan area definitions for both the Boston and New York areas are still under review by OMB. HUD will evaluate changes that result from this review and may change the FMR areas shown in this publication as a result of OMB's final decision expected in June of this year. If HUD changes the FMR area definitions after the proposed publication of this year's FMRs, there will be an additional comment period for the affected areas.

In addition, the FMR area definitions for the following areas have been modified by deleting counties that were added to the revised OMB definitions. The decision to delete these counties was based on an evaluation conducted by HUD headquarters and field staff which determined that the revised metropolitan area definitions are larger than the current housing market areas. The counties deleted from the FMR areas are those that are the most remote from the central cities/counties of the metropolitan area and have the lowest rents, in most cases significantly below the FMR area rent averages. The proposed FMRs for the counties deleted from the OMB definitions have been calculated separately based on the Census data for each individual county. They are shown in Schedule B within their respective States under the "Metropolitan FMR Areas" listing.

FMR area	Changes in previous FMR area
Atlanta, GA.	Deleted Carroll, Pickens, Spalding, and Walton Counties.
Chicago, IL.	Deleted DeKalb, Grundy and Kendall Counties.
Cincinnati-Hamilton, OH-KY-IN.	Deleted Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana.
Dallas, TX	Deleted Henderson County.
Lafayette, LA.	Deleted St. Landry and Arcadia Parishes.
New Orleans, LA.	Deleted St. James Parish.
Washington, DC.	Deleted Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren Counties in Virginia.

The FMRs for the following FMR areas in Virginia were calculated by combining the 1990 Census data for the counties with the independent cities located within the borders of the counties. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan County. The full definitions of these FMR areas including the independent cities are as follows:

FMR area (county)	Independent cities included
Allegheny	Clifton Forge and Covington.
Augusta	Staunton and Waynesboro.
Carroll	Galax.
Frederick	Winchester.
Greensville	Emporia.
Halifax	South Boston.
Henry	Martinsville.
Montgomery	Radford.
Rockbridge	Buena Vista and Lexington.
Rockingham	Harrisonburg.
Wise	Norton.

V. Method Used to Develop FMRs

FMR Standard: FMRs are gross rent estimates; they include shelter rent and the cost of utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many families as possible. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units. The current definition used is the 45th percentile rent, the dollar amount below which 45 percent of the standard quality rental housing units rent. The 45th percentile rent is drawn from the distribution of rents of units which are occupied by recent movers (renter households who moved into their unit within the past 15 months). Public housing units and newly built units less than two years old are excluded.

Data Sources: HUD uses the most accurate and current data available to develop the FMR estimates. Three sources of survey data have been used as the basis for making base-year estimates of the FMRs. They are: (1) The 1990 Census; (2) the Random Digit Dialing (RDD) telephone surveys conducted since the Census; and (3) the post-1990 Census American Housing Surveys available up to the time the FMR estimates were prepared. The base-year FMRs have been updated using Consumer Price Index (CPI) data for rents and utilities or the HUD Regional rent change factors developed from RDD surveys. Annual average CPI data are available individually for 95 metropolitan FMR areas. RDD Regional rent change factors are developed annually for the metropolitan and nonmetropolitan parts of each of the 10 HUD Regions (a total of 20 separate factors). The RDD factors are used to update the base year estimates for all FMR areas that do not have their own local CPI survey.

The decennial Census provides statistically reliable rent data for use in establishing base-year FMRs. AHS's are conducted by the Bureau of the Census for HUD and have comparable accuracy to the decennial Census. These surveys enable HUD to develop between-census revisions for 44 of the largest metropolitan areas on revolving schedule of 11 areas annually. The RDD telephone survey technique is based on a sampling procedure that uses computers to select statistically random samples of rental housing, dial and keep track of the telephone numbers and tabulate the responses. HUD uses a contractor to conduct RDD surveys. RDD surveys are conducted for two purposes: (1) For developing the FMR estimates for selected individual FMR areas; and (2) for developing the HUD Regional gross rent change factors. The HUD Regional surveys are conducted annually. Approximately 60 individual FMR areas are revised each year on the basis of RDD surveys.

Areas With FMRs Based on 1990 Census Data

1. For FMR areas where the base-year estimates were developed from the 1990 Census, the 45th percentile gross rent of standard quality units occupied by recent movers was calculated separately for each bedroom size. HUD's use of the full Census for the first time resulted in improved accuracy over FMR estimates previously developed using the 1980 Census Public Use Sample. Census data on rent levels are now available for all

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counties and for minor civil divisions, which are the component parts of metropolitan areas in the New England states. This level of geographic detail enabled direct calculation of FMR estimates for all MSA/PMSA, metropolitan county and nonmetropolitan county FMR areas. The 1980 Public Use Sample was not large enough to permit calculation of the local bedroom-size rent differentials, and it was aggregated into county groupings for counties with less than 100,000 population.

For lightly populated nonmetropolitan counties, exceptions were made to the above procedure to protect against unrealistically low FMRs being set as the result of insufficient sample sizes. The first type of exception involved areas with less than 100 two-bedroom cases that had a 45th percentile rent below the state-wide minimum comparable rent of areas with 100 or more cases. The base-year FMR estimates for these areas were set at the lower of the state-wide minimum or the upper end of the confidence interval of the census-based rent for the area. The second exception was for areas with local bedroom-size intervals below the normal range. For these areas, the bedroom intervals selected were the minimums determined after excluding outlyers from the bedroom ratio distributions of all metropolitan areas. The selected minimums were: efficiency units can be no lower than 55 percent of the two-bedroom FMR; one-bedroom units no lower than 75 percent; three-bedroom units no lower than 125 percent; and four-bedroom units no lower than 140 percent. The ratios for the large-size units (those with three or more bedrooms) continue to reflect HUD's policy to use higher ratios than would be the result of using normal market relationships. The large-size unit adjustment, which adds about eight percent to the FMRs for large size units, is made to increase the likelihood that the largest, most difficult to place families will be successful in finding program-eligible units.

2. The base-year rent estimates were next increased by an adjustment factor which was developed from national AHS data to account for the additional housing quality measures available in the AHS and for the public housing units that are included in the Census counts. The housing quality adjustment factor is calculated separately for each FMR area. While it varies from area to area, the FMRs, on average, have been increased by about two percent as a result. This adjustment applies only to FMR areas without a local AHS. The rental housing samples for AHS areas are adjusted individually to delete both substandard and public housing units.

3. The final step was to update the base-year rent estimates to April 1, 1994, the mid-point of FY 1994 when the FMRs will be in effect.

For areas with local CPI surveys, the CPI data on rents and utilities was used to update the Census rent estimates from April 1990 through 1992, the most recent data available when the estimates were prepared. An annual rent increase of 3.0 percent was used as a projection factor for the 15-month period from January 1993 to April 1994. In previous years, an annual rent increase factor of 4.8 percent was used.

For areas without local CPI surveys, a 3.0 percent factor based on the national CPI was used to update from April 1990 through December 1990. RDD rent survey data became available in 1991, and these data for the respective HUD Region metropolitan or nonmetropolitan area in which the FMR area is located were used to update the estimates for 1991 and 1992. The 3.0 percent annual projection factor used for CPI areas was also used for non-CPI areas for the 15 months from January 1993 to April 1994.

4. The use of the full Census and other changes in the calculation procedures have resulted in significant revisions for a large number of FMR areas this year. For example, where all nonmetropolitan counties in a county group previously had the same FMRs, each county now has a separate FMR. At least half, and often more, of these counties have proposed decreases in their FMRs. The availability of data samples that are large enough to calculate the bedroom-size rent differentials on the basis of local rather than national data also has had a major impact on the one-bedroom FMRs. Because a majority of FMR areas have one-bedroom to two-bedroom ratios that are less than the national average of 85 percent, many have proposed reductions in their one-bedroom FMRs. Finally, the rent inflation factors developed from recent years' CPI and RDD surveys are much lower than those for previous years. This has resulted in smaller rent increases since the 1990 Census and led to the decision to use the 3.0 percent annual rent change projection factor in place of the 4.8 percent factor previously used.

Areas With FMRs Based on Local RDD Survey Data

1. HUD uses the RDD surveys to obtain statistically reliable FMR estimates for selected areas. The RDD technique involves drawing large, random samples of one- and two-bedroom renter units occupied by recent movers. Both one- and two-bedroom units are used because there are consistent relationships between the 45th percentile one- and two-bedroom rents in local housing markets and a more accurate two-bedroom FMR estimate can be obtained by expanding the sample base to include information on one-bedroom rents. The one-bedroom rents are adjusted by the average two-bedroom to one-bedroom ratio for the area being surveyed in order to convert the one-bedroom survey rents into two-bedroom equivalent rents.

2. RDD surveys exclude public housing units, newly built units and non-cash rental units. They do not exclude substandard units because there is no practical way to determine housing quality from telephone interviews. A HUD analysis conducted specifically to address this issue, however, has shown that the slightly downward RDD survey bias caused by including some rental units that are in substandard condition is almost exactly offset by the slightly upward bias that results from surveying only units with telephones. The small net bias results in FMRs which are slightly higher than they should be.

3. On average, about 8,000 telephone numbers need to be contacted to achieve the target survey sample level of at least 400 eligible responses. The RDD surveys have a high degree of statistical accuracy. There is a 95 percent likelihood that the 45th percentile recent mover rent estimates developed using this approach are within 3 to 4 percent of the actual 45th percentile rent value. Virtually all of the estimates will be within five percent of the actual 45th percentile value.

4. The RDD base-year 45th percentile rent estimates obtained from the surveys conducted in preparation for the FY 1994 proposed FMRs were trended to the mid-point of FY 1994 using essentially the same procedure as described in step 3 of the preceding section on Census-based FMR calculations. Either CPI or RDD data are used (depending on whether a local CPI survey is available) to update the estimates through 1992. The 15-month rent change projection factor is added to being the FMR estimates to April 1994.

5. The proposed FMRs include RDD surveys completed this year for nine FMR areas.

Three areas—the Dubuque, IA and Manchester, NH MSAs and Marshall County, a nonmetropolitan FMR area in Iowa—have proposed decreases in their FMRs for all unit sizes.

The Orlando, FL MSA has a larger than normal increase proposed for all unit sizes.

Five areas have a mixture of proposed increases and decreases for the various bedroom-size categories. The Denver, CO PMSA has decreases in the efficiency and one-bedroom unit sizes and increases in the remaining unit sizes. The Richland-Kennewick-Pasco, WA MSA and the San Antonio, TX MSA have increases for all unit sizes except for the one-bedroom units. The Yuma, AZ MSA has decreases for all unit sizes except for the three bedroom size. Cherokee County, NC has proposed decreases in the one-, two- and three-bedroom categories and increases in the efficiency end four-bedroom units.

Areas With FMRs Based on Metropolitan Area AHS Data

1. American Housing Surveys cover 44 of the largest metropolitan areas, which contain half of the nation's rental housing stock. The surveys are conducted on a four-year cycle, 11 areas each year. HUD used the AHS data to calculate the 45th percentile rent from the distribution of two-bedroom units occupied by recent movers. The bedroom size differentials for other size units were based on the decennial Census intervals for the area. Public housing units, newly constructed units and units that fail a housing quality test were excluded from the distribution before the calculation. The resulting estimate became the base-year rent for the area. The FY 1994 FMRs incorporated the results of the 1991 AHSs. The 1990 AHSs were included in last year's FMRs. All of the pre-1990 Census AHSs were revised with the Census.

2. The areas with base-year rent estimates based on AHS data were trended to the mid-point of Fiscal Year 1994 using either CPI or RDD survey data on rent changes through 1992 and the 15-month rent change projection factor to bring them to April 1994.

3. The proposed FMRs include AHSs for 10 FMR areas.

Atlanta, GA and the Houston, TX PMSA have increases proposed for all unit sizes.

The St. Louis, MO–IL MSA and the Chicago, IL PMSA have decreases proposed for all unit sizes.

Seven areas have a mixture of proposed increases and decreases for the various bedroom size categories. The Baltimore, MD, Columbus, OH, Seattle, WA and Tacoma, WA FMR areas have decreases in the efficiency and one-bedroom categories and increases in the two-, three- and four-bedroom categories. The San Diego, CA MSA has decreases in the efficiency, one- and two-bedroom categories and increases in the three- and four-bedroom unit categories. The Brazoria, TX PMSA has a decrease in the one-bedroom unit size, but increases in all other bedroom sizes.

The following is a list of the HUD regions showing the states included in each:

RDD rent change factors			
HUD region	Metro part (percent)	Nonmetro part (percent)	States included
I	1.0	1.0	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
II	2.1	1.6	New Jersey, New York
III	.5	.6	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.
IV	2.1	2.1	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, Virgin islands.
V	2.3	.9	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
VI	2.1	1.9	Arkansas, Louisiana, Oklahoma, New Mexico, Texas.
VII	1.4	2.3	Iowa, Kansas, Missouri, Nebraska.
VIII	4.0	2.9	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
IX	1.1	1.5	Arizona, California, Hawaii, Nevada, Pacific Islands.
X	2.7	.3	Alaska, Idaho, Oregon, Washington.

The proposed FMRs for the Pacific Islands and the Virgin Islands have been adjusted using the respective nonmetropolitan RDD rent change factors indicated in the table above. For FMR purposes, the Pacific Islands include Guam, the Mariana Islands, and the Trust Territories. Based on a prior consultation with the Caribbean office of HUD, the FMRs in Puerto Rico will remain at the current levels.

Manufactured Home Space Rents

The proposed FMRs for Manufactured Home Spaces have been updated for one more year to April 1, 1994, using the respective HUD Regional RDD adjustment factors, which were adjusted to exclude the major part of the cost of utilities contained in these estimates. The FMRs have not been re-benchmarked because no data are available in the 1990 Census on manufactured home space rentals, and no other source of reliable data has been found that can be used for this purpose.

The Manufactured Home Owners Assistance program was established in 1978 to provide assistance to families who owned a manufactured home but were unable to meet the rising costs of space rentals. Originally, the Manufactured Home Space FMRs were established based on AHS data for the nonmetropolitan parts of states and HUD field office surveys of the metropolitan areas. Over the years, the FMRs for many of these areas were revised and those for additional individual areas were established on the basis of local surveys submitted as public comments. Because the very small amount of program activity does not justify the expected costs to obtain survey data, HUD is considering alternatives to establishing FMRs for this program. One alternative being considered is to replace the FMRs with a rent reasonableness test that assures that the Manufactured Home Space rental does not exceed that required to rent a space in a modest, nonluxury park. Modest rent would be defined within the context of the local FMR area in which the park is located. Implementation of this proposal would require a legislative change, since the current law requires that FMRs, including those for Manufactured Home Spaces, be established and published in the Federal Register. HUD invites comments on this proposal and other suggestions on whether Manufactured Home Space FMRs are needed and how they might be established.

V. Request for Comments

The Department seeks public comment on FMR levels for specific areas. Comments on FMR levels must include sufficient information (including local data and a full description of the methodology used) to

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justify any proposed changes. Changes may be proposed in all or any of the bedroom-size categories on the schedule. Recommendations and supporting data must reflect the rent levels that exist within the entire FMR area.

PHAs that plan to use the RDD survey technique may obtain a copy of the "PHA Guide to Conducting a Fair Market Rent (FMR) Telephone Survey" by calling HUD USER on 1–800–245–2691. This package contains information on: (1) How to decide whether to conduct a rent survey; (2) selecting a contractor; and (3) monitoring the contract. In addition, there are example copies of a request for bids letter and a contract package, the survey questionnaire and interviewer training manual, and a detailed explanation of the methodology. After a contract is awarded, these surveys can normally be completed within two to three months. The hardware and the timing of staff utilization require that these surveys be conducted by contractors staffed with professional statisticians experienced in this field.

Well-constructed RDD surveys are the preferred method; however, they are not mandated where not cost effective or where alternative surveys with comparable reliability are available and have been determined to be representative of prevailing rent levels in the FMR area. The survey samples must be representative of rental housing stock of the entire FMR area. Preferably, samples should be randomly drawn. If this is not a feasible alternative, care should be taken to ensure that the selected sample is not biased toward units of a particular type, age or geographic location. The decennial Census should be used as a starting point guide and as a means of verification for determining whether non-randomly drawn samples are representative of the FMR area rental housing stock.

Local rental housing surveys must show the 45th percentile gross rent (rent including the cost of utilities) and the actual distribution (or distributions if more than one bedroom size is surveyed) of the surveyed units rank ordered by gross rent. An explanation of how contract rents were converted to gross rents needs to be included. The surveys must exclude units built within two years prior to the survey date and samples must not be drawn solely from vacant units. Since the FMR standard data base uses only standard quality units and units occupied by recent movers, both of which are difficult to identify and survey, the Department will accept surveys of all units and apply an appropriate adjustment.

Commenters must specify the date the rent data were collected so that the Department can apply a trending factor to update the estimate to April 1, 1994. Survey data that are trended to the April 1, 1994 "as of date" of the FMRs must include information on the date the survey was conducted, the amount of the trending factor and the source of the trending data. The Department will evaluate all information provided with the comments before making a final decision on the trending adjustment.

Rent surveys that cover only two-bedroom units are acceptable if rent proposals for other size units are consistent with the HUD differentials established on the basis of the 1990 Census data for the area. When three- and four-bedroom units are surveyed, the following procedure must be used to determine appropriate FMR proposals:

(1) Determine the 45th percentile rents for the three- and four-bedroom units surveyed, (2) multiply the 45th percentile three-bedroom rent by 1.087 to determine the three-bedroom FMR, and (3) multiply the four-bedroom rent by 1.077 to determine the four-bedroom FMR. The use of these factors will produce the same upward adjustments in the rent differentials by bedroom size as those applied to the rent differentials for three- and four-bedroom units in the HUD methodology.

VI. Other Matters

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the statutorily required establishment and review of fair market rents is categorically excluded from the Department's regulations implementing the National Environment Policy Act at 24 CFR 50.20(l).

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this document before publication and by approving it certifies that the Notice does not have a significant economic impact on a substantial number of small entities, because FMRs reflect the rents for similar quality units in the area. Therefore, FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 program.

The General Counsel, as the Designated Official under Executive Order No. 12606, The Family, has determined that this proposal would not have a significant impact on family formation, maintenance, or well-being. The proposal would amend Fair Market Rent schedules for various Section 8 assisted housing programs, and does not affect the amount of rent a family receiving rental assistance pays, which is based on a percentage of the family's income.

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12611, Federalism, has determined that this proposal would not involve the preemption of State law by Federal Statue or regulation and would not have Federalism implications. The Fair Market Rent schedules do not have any substantial direct impact on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (section 8).

Accordingly, the Fair Market Rent Schedules, which will not be codified in the Code of Federal Regulations, are proposed to be amended as follows:

Dated: April 28, 1993.

Henry G. Cisneros,

Secretary.

Section 8 Fair Market Rent Schedules, for Use in the Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program, and Housing Voucher Program Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. FMRs for the Section 8 Certificate program (Schedule B) are established, for Metropolitan Statistical Areas (MSAs), Primary Metropolitan Statistical Areas (PMSAs), other HUD-designated metropolitan FMR areas, for nonmetropolitan counties and county equivalents in the United States, Puerto Rico, the Virgin Islands and the Pacific Islands. FMRs also are established for nonmetropolitan parts of counties in the New England states.

b. FMRs for the areas in Virginia shown in the table below are established by combining the 1990 Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan County. The full definitions of these areas including the independent cities are as follows:

Virginia nonmetropolitan county FMR area	Virginia independent cities included with county
Allegheny	Clifton Forge and Covington.
Augusta	Staunton and Waynesboro.
Carroll	Galax.
Frederick	Winchester.
Greensville	Emporia.
Halifax	South Boston.
Henry	Martinsville.
Montgomery	Radford.
Rockbridge	Buena Vista and Lexington.
Rockingham	Harrisonburg.
Wise	Norton.

d. FMRs for Manufactured Home spaces in the Section 8 Certificate program (Schedule D) are established for MSAs, PMSAs, HUD-designated metropolitan counties, and for selected nonmetropolitan counties and the residual nonmetropolitan part of each State.

2. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedules B and D are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each State.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

e. The FMRs are listed by dollar amount on the first line beginning with the FMR area name.

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A L A B A M A

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston, AL MSA	208	279	352	490	555	Calhoun
Birmingham, AL MSA	335	378	440	595	661	Blount, Jefferson, St. Clair, Shelby
Columbus, GA-AL MSA	324	362	431	565	613	Russell
Decatur, AL MSA	312	315	398	514	614	Lawrence, Morgan
Dothan, AL MSA	292	299	370	510	518	Dale, Houston
Florence, AL MSA	270	281	375	491	525	Colbert, Lauderdale
Gadsden, AL MSA	232	294	330	430	542	Etowah
Huntsville, AL MSA	327	384	474	630	749	Limestone, Madison
Mobile, AL MSA	303	334	388	521	611	Baldwin, Mobile
Montgomery, AL MSA	361	387	456	621	748	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA	309	331	441	605	640	Tuscaloosa

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Barbour	159	227	290	402	475
Bullock	173	188	218	273	358
Chambers	167	268	304	387	499
Chilton	246	249	320	400	448
Clarke	223	225	296	391	486
Cleburne	163	224	299	400	419
Conecuh	146	199	265	332	372
Covington	215	242	272	378	446
Cullman	230	272	324	437	531
Dekalb	163	223	297	373	489
Fayette	213	236	289	371	404
Geneva	209	211	265	369	435
Hale	146	236	265	332	372
Jackson	259	273	329	411	540
Lee	248	346	444	577	729
Macon	259	291	388	485	543
Marion	146	199	265	369	372
Monroe	161	220	293	408	410
Pickens	228	231	307	385	431
Randolph	207	210	281	351	460
Talladega	217	243	315	438	442
Walker	189	272	344	445	566
Wilcox	153	199	265	369	372

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Bibb	182	248	331	454	543
Butler	177	218	291	376	407
Cherokee	160	244	291	399	448
Choctaw	164	225	265	337	372
Clay	192	195	259	336	426
Coffee	235	330	428	595	669
Coosa	162	223	296	400	415
Crenshaw	199	201	265	332	372
Dallas	231	244	326	436	456
Escambia	224	233	284	395	398
Franklin	217	220	293	367	410
Greene	164	185	208	290	294
Henry	229	232	308	386	433
Lamar	146	199	265	369	372
Lowndes	144	203	228	317	374
Marengo	209	236	265	369	425
Marshall	271	278	342	476	562
Perry	173	236	265	369	390
Pike	243	265	324	404	507
Sumter	222	224	295	369	414
Tallapoosa	239	254	314	394	440
Washington	146	236	265	369	372
Winston	171	233	311	389	436

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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A L A S K A

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK MSA	439	516	687	953	1126	Anchorage

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Aleutian East	482	543	611	763	1001
Bethel	621	778	984	1232	1379
Dillingham	601	610	812	1016	1138
Haines	448	555	632	859	885
Kenai Peninsula	352	449	541	752	887
Kodiak Island	647	711	923	1154	1496
Matanuska-Susitna	346	398	516	718	847
North Slope	718	737	910	1265	1474
Pr.Wales-Outer Ketchikan	337	533	613	851	901
Skagway-Yakutat-Angoon	412	418	542	678	760
Valdez-Cordova	503	589	662	874	1040
Wrangell-Petersburg	366	534	600	835	840

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Aleutian West	408	459	516	646	723
Bristol Bay	498	575	648	900	978
Fairbanks North Star	376	496	661	919	1085
Juneau	569	628	837	1114	1197
Ketchikan Gateway	479	597	785	1092	1147
Lake & Peninsula	384	622	699	874	979
Nome	633	783	879	1223	1380
Northwest Arctic	760	856	961	1337	1577
Sitka	529	629	706	981	1158
Southeast Fairbanks	422	443	534	668	749
Wade Hampton	359	542	610	762	854
Yukon-Koyukuk	480	541	609	761	882

A R I Z O N A

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Las Vegas, NV-AZ MSA	438	519	618	858	1014	Mohave
Phoenix-Mesa, AZ MSA	331	400	502	697	822	Maricopa, Pinal
Tucson, AZ MSA	301	365	486	676	798	Pima
Yuma, AZ MSA	334	397	529	737	742	Yuma

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Apache	247	278	312	425	512
Coconino	397	430	558	749	899
Graham	264	292	360	501	552
La Paz	295	333	374	520	613
Santa Cruz	323	385	475	594	717
Cochise	316	350	433	595	710
Gila	250	324	431	540	707
Greenlee	186	255	339	427	502
Navajo	256	302	360	501	534
Yavapai	361	377	502	699	770

A R K A N S A S

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR MSA	255	318	419	566	586	Benton, Washington
Fort Smith, AR-OK MSA	275	279	367	491	514	Crawford, Sebastian
Little Rock-North Little Rock, AR MSA	343	380	452	624	728	Faulkner, Lonoke, Pulaski, Saline
Memphis, TN-AR-MS MSA	337	392	462	642	674	Crittenden
Pine Bluff, AR MSA	261	311	409	515	670	Jefferson
Texarkana, TX-Texarkana, AR MSA	282	344	420	555	588	Miller

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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ARKANSAS continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Arkansas	251	254	339	473	495
Baxter	217	296	393	504	614
Bradley	210	222	297	413	487
Carroll	266	292	337	439	546
Clark	250	253	337	431	553
Cleburne	258	261	326	453	519
Columbia	189	258	343	434	481
Craighead	291	307	369	514	543
Dallas	170	232	310	412	434
Drew	171	234	312	430	437
Fulton	235	238	302	377	492
Grant	236	281	315	438	517
Hempstead	182	249	332	441	491
Howard	186	254	339	425	476
Izard	169	226	302	401	423
Johnson	224	227	303	422	445
Lawrence	171	233	311	388	511
Lincoln	246	263	351	470	491
Logan	238	251	302	377	423
Marion	171	234	312	434	512
Monroe	231	234	312	390	512
Nevada	211	256	340	474	477
Ouachita	264	268	342	477	562
Phillips	195	231	309	411	476
Poinsett	184	251	335	419	469
Pope	213	297	375	521	600
Randolph	166	260	302	386	489
Scott	166	263	302	380	495
Sevier	249	252	336	420	471
Stone	213	217	288	401	474
Van Buren	189	258	343	443	565
Woodruff	218	226	302	377	423

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Ashley	184	248	330	427	542
Boone	263	268	356	495	584
Calhoun	166	269	302	419	495
Chicot	168	228	305	388	427
Clay	206	235	302	377	495
Cleveland	163	223	298	372	488
Conway	206	281	375	469	526
Cross	236	287	334	465	547
Desha	196	245	326	453	457
Franklin	238	265	302	384	489
Garland	213	290	388	540	637
Greene	239	243	315	413	474
Hot Spring	189	258	343	430	481
Independence	239	277	312	434	512
Jackson	235	238	318	430	445
Lafayette	238	269	302	419	438
Lee	252	256	340	426	477
Little River	193	262	350	486	573
Madison	260	263	351	438	491
Mississippi	259	281	375	494	555
Montgomery	166	226	302	419	495
Newton	166	269	302	377	423
Perry	166	226	302	377	495
Pike	166	226	302	377	495
Polk	199	226	302	417	429
Prairie	163	223	298	414	440
St. Francis	184	275	336	468	549
Searcy	162	224	296	411	414
Sharp	173	236	315	435	441
Union	288	303	365	489	598
White	190	256	340	474	477
Yell	236	268	334	418	468

CALIFORNIA

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bakersfield, CA MSA	363	409	511	710	787	Kern
Chico-Paradise, CA MSA	309	394	525	720	862	Butte
Fresno, CA MSA	379	425	507	704	811	Fresno, Madera

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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CALIFORNIA continued

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Los Angeles-Long Beach, CA PMSA	570	683	864	1167	1391	Los Angeles
Merced, CA MSA	368	409	499	693	818	Merced
Modesto, CA MSA	424	457	557	776	914	Stanislaus
Oakland, CA PMSA	538	651	815	1117	1337	Alameda, Contra Costa
Orange County, CA PMSA	653	714	882	1227	1367	Orange
Redding, CA MSA	348	386	483	672	792	Shasta
Riverside-San Bernardino, CA PMSA	467	518	632	879	1038	Riverside, San Bernardino
Sacramento, CA PMSA	440	496	620	862	1016	El Dorado, Placer, Sacramento
Salinas, CA MSA	542	633	764	1061	1114	Monterey
San Diego, CA MSA	486	556	695	966	1139	San Diego
San Francisco, CA PMSA	613	794	1004	1376	1458	Marin, San Francisco, San Mateo
San Jose, CA PMSA	678	773	954	1308	1469	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA PMSA	478	540	684	950	1121	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA	592	658	834	1160	1310	Santa Barbara
Santa Cruz-Watsonville, CA PMSA	589	701	936	1301	1525	Santa Cruz
Santa Rosa, CA PMSA	538	610	791	1100	1299	Sonoma
Stockton-Lodi, CA MSA	393	445	569	791	934	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	507	577	704	978	1155	Napa, Solano
Ventura, CA PMSA	626	717	909	1209	1409	Ventura
Visalia-Tulare-Porterville, CA MSA	344	367	477	664	759	Tulare
Yolo, CA PMSA	443	506	624	868	1024	Yolo
Yuba City, CA MSA	307	352	452	629	633	Sutter, Yuba

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alpine	271	437	492	685	689
Calaveras	359	415	554	770	908
Del Norte	298	408	543	755	891
Humboldt	277	383	503	700	827
Inyo	302	407	522	684	731
Lake	332	421	562	708	921
Mariposa	314	377	484	673	793
Modoc	317	322	429	536	601
Nevada	376	513	685	952	1103
San Benito	437	514	643	895	1049
Siskiyou	306	334	444	577	729
Trinity	327	331	430	551	705

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Amador	402	443	590	821	916
Colusa	317	322	429	586	704
Glenn	289	355	438	562	614
Imperial	326	407	501	697	703
Kings	334	387	484	673	793
Lassen	356	360	469	629	676
Mendocino	414	486	608	846	852
Mono	445	532	708	984	1162
Plumas	321	344	458	628	641
Sierra	265	389	480	668	787
Tehama	304	322	429	597	704
Tuolumne	326	444	592	823	971

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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COLORADO

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder-Longmont, CO PMSA	366	439	563	782	923	Boulder
Colorado Springs, CO MSA	307	353	472	657	776	El Paso
Denver, CO PMSA	332	408	544	755	891	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA	311	383	472	657	776	Larimer
Greeley, CO PMSA	269	327	420	583	689	Weld
Pueblo, CO MSA	242	304	404	522	639	Pueblo

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alamosa	251	329	371	478	607
Baca	224	227	303	422	497
Chaffee	287	291	388	532	587
Clear Creek	345	411	466	649	765
Costilla	205	331	373	519	563
Custer	205	328	373	514	611
Dolores	202	326	365	457	512
Elbert	390	434	493	617	810
Garfield	385	412	521	651	854
Grand	423	428	542	678	820
Hinsdale	331	374	419	584	587
Jackson	205	279	373	466	522
Kit Carson	213	290	387	485	542
La Plata	331	365	481	669	790
Lincoln	276	279	373	466	611
Mesa	216	299	373	519	611
Moffat	192	302	351	488	575
Montrose	255	297	376	523	617
Otero	235	279	373	466	560
Park	279	391	509	707	804
Pitkin	530	724	965	1274	1447
Rio Blanco	276	279	373	519	570
Routt	331	427	563	783	923
San Juan	214	345	388	540	556
Sedgwick	164	224	299	374	471
Teller	307	418	558	775	781
Yuma	198	270	360	500	503

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Archuleta	272	384	432	601	709
Bent	205	280	374	476	523
Cheyenne	205	280	374	467	614
Conejos	172	278	312	391	485
Crowley	172	269	312	415	512
Delta	276	279	373	499	522
Eagle	491	534	712	991	1169
Fremont	229	301	401	558	658
Gilpin	328	470	596	786	871
Gunnison	317	334	428	596	703
Huerfano	219	279	373	481	611
Kiowa	192	312	351	446	501
Lake	328	332	444	554	692
Las Animas	256	318	365	509	600
Logan	205	279	373	499	522
Mineral	258	290	327	413	537
Montezuma	235	302	373	519	570
Morgan	272	276	369	500	604
Ouray	254	348	463	588	750
Phillips	229	233	310	413	453
Prowers	248	251	337	457	552
Rio Grande	205	279	373	496	522
Saguache	201	295	364	456	529
San Miguel	463	559	735	919	1184
Summit	414	496	636	885	1044
Washington	260	306	373	466	611

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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CONNECTICUT

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT PMSA	533	692	833	1042	1300	Fairfield county towns of Bridgeport, Easton, Fairfield Monroe, Shelton, Stratford, Trumbull New Haven county towns of Ansonia, Beacon Falls, Derby Milford, Oxford, Seymour
Danbury, CT PMSA	631	754	942	1244	1433	Fairfield county towns of Bethel, Brookfield, Danbury New Fairfield, Newtown, Redding, Ridgefield, Sherman Litchfield county towns of Bridgewater, New Milford Washington New Haven county towns of Southbury
Hartford, CT PMSA	446	554	709	887	1078	Hartford county towns of Avon, Berlin, Bloomfield Bristol, Burlington, Canton, East Granby, East Hartford East Windsor, Enfield, Farmington, Glastonbury, Granby Hartford, Manchester, Marlborough, New Britain Newington, Plainville, Rocky Hill, Simsbury, Southington South Windsor, Suffield, West Hartford, Wethersfield Windsor, Windsor Locks Litchfield county towns of Barkhamsted, Harwinton New Hartford, Plymouth, Winchester Middlesex county towns of Cromwell, Durham, East Haddam East Hampton, Haddam, Middlefield, Middletown, Portland New London county towns of Colchester, Lebanon Tolland county towns of Andover, Bolton, Columbia Coventry, Ellington, Hebron, Mansfield, Somers, Stafford Tolland, Vernon, Willington Windham county towns of Ashford, Chaplin, Windham
New Haven-Meriden, CT PMSA	518	636	786	1007	1165	Middlesex county towns of Clinton, Killingworth New Haven county towns of Bethany, Branford, Cheshire East Haven, Guilford, Hamden, Madison, Meriden New Haven, North Branford, North Haven, Orange Wallingford, West Haven, Woodbridge
New London-Norwich, CT-RI MSA	476	575	700	876	1001	New Haven county towns of New London county towns of Bozrah, East Lyme, Franklin Griswold, Groton, Ledyard, Lisbon, Montville, New London North Stonington, Norwich, Old Lyme, Preston, Salem Sprague, Stonington, Waterford Windham county towns of Canterbury, Plainfield
Stamford-Norwalk, CT PMSA	784	918	1119	1500	1657	Fairfield county towns of Darien, Greenwich, New Canaan Norwalk, Stamford, Weston, Westport, Wilton
Waterbury, CT MSA	401	540	668	834	934	Litchfield county towns of Bethlehem, Thomaston Watertown, Woodbury New Haven county towns of Middlebury, Naugatuck, Prospect Waterbury, Wolcott

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C O N N E C T I C U T continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Hartford	343	555	625	868	1024	Hartland
Litchfield	398	542	723	904	1028	Canaan, Colebrook, Cornwall, Goshen, Kent, Litchfield Morris, Norfolk, North Canaan, Roxbury, Salisbury Sharon, Torrington, Warren
Middlesex	589	668	892	1240	1463	Chester, Deep River, Essex, Westbrook
New London	500	612	695	897	1139	Lyme, Voluntown
Tolland	343	555	625	868	874	Union
Windham	394	482	625	782	981	Brooklyn, Eastford, Hampton, Killingly, Pomfret, Putnam Scotland, Sterling, Woodstock, Thompson

D E L A W A R E

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA	398	444	503	669	760	Kent
Wilmington-Newark, DE-MD PMSA	407	538	626	851	1026	New Castle

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Sussex	357	361	483	643	676

D I S T . O F C O L U M B I A

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Washington, DC-MD-VA	633	719	844	1149	1385	District of Columbia

F L O R I D A

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Daytona Beach, FL MSA	347	430	551	732	777	Flagler, Volusia
Fort Lauderdale, FL PMSA	475	559	690	960	1132	Broward
Fort Myers-Cape Coral, FL MSA	411	474	571	795	830	Lee
Fort Pierce-Port Lucie, FL MSA	420	462	600	779	840	Martin, St. Lucie
Fort Walton Beach, FL MSA	351	391	444	618	729	Okaloosa
Gainesville, FL MSA	314	371	481	670	790	Alachua
Jacksonville, FL MSA	369	413	498	658	731	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA	329	370	452	578	663	Polk
Melbourne-Titusville-Palm Bay, FL MSA	350	438	548	734	855	Brevard
Miami, FL PMSA	471	590	737	1011	1173	Dade
Naples, FL MSA	394	555	668	928	1036	Collier
Ocala, FL MSA	313	354	433	599	703	Marion
Orlando, FL MSA	447	509	606	795	971	Lake, Orange, Osceola, Seminole

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F L O R I D A continued

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Panama City, FL MSA	318	343	419	582	624	Bay
Pensacola, FL MSA	330	372	418	580	685	Escambia, Santa Rosa
Punta Gorda, FL MSA	345	417	556	772	911	Charlotte
Sarasota-Bradenton, FL MSA	370	470	596	768	835	Manatee, Sarasota
Tallahassee, FL MSA	378	417	549	719	867	Gadsden, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	369	439	543	722	874	Hernando, Hillsborough, Pasco, Pinellas
West Palm Beach-Boca Raton, FL MSA	487	572	707	940	1160	Palm Beach

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Baker	209	339	382	478	565	Bradford	196	314	356	482	532
Calhoun	159	217	290	400	475	Citrus	301	324	431	546	602
Columbia	260	288	330	458	541	Desoto	310	314	414	542	579
Dixie	232	260	293	408	481	Franklin	217	348	396	550	554
Gilchrist	195	270	355	445	583	Glades	340	384	431	539	602
Gulf	205	280	374	468	523	Hamilton	208	217	290	362	475
Hardee	235	382	428	535	600	Hendry	311	400	471	589	660
Highlands	304	337	448	562	628	Holmes	213	217	290	402	475
Indian River	343	461	592	741	829	Jackson	159	257	290	386	475
Jefferson	184	246	328	449	538	Lafayette	239	242	323	402	529
Levy	260	264	330	412	535	Liberty	169	276	308	386	433
Madison	229	257	290	402	449	Monroe	528	595	765	1055	1254
Okeechobee	244	395	444	555	622	Putnam	271	304	342	461	525
Sumter	296	324	376	470	527	Suwannee	273	277	346	433	484
Taylor	228	291	388	485	617	Union	247	251	335	438	469
Wakulla	185	280	337	469	552	Walton	183	295	332	438	545
Washington	161	256	294	368	412						

G E O R G I A

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA	272	288	383	532	536	Dougherty, Lee
Athens, GA MSA	340	364	473	643	775	Clarke, Madison, Oconee
Atlanta, GA	454	506	589	784	949	Barrow, Bartow, Cherokee, Clayton, Cobb, Coweta, Dekalb Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry Newton, Paulding, Rockdale
Augusta-Aiken, GA-SC MSA	325	389	458	623	738	Columbia, Richmond
Carroll County, GA	303	307	410	570	673	Carroll
Chattanooga, TN-GA MSA	316	370	444	573	654	Catoosa, Dade, Walker
Columbus, GA-AL MSA	324	362	431	565	613	Chattahoochee, Harris, Muscogee
Macon, GA MSA	336	375	435	602	618	Bibb, Houston, Jones, Peach, Twiggs

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GEORGIA continued

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Pickens County, GA	211	287	384	533	538	Pickens
Savannah, GA MSA	338	421	489	657	685	Bryan, Chatham, Effingham
Spalding County, GA	329	333	445	560	623	Spalding
Walton County, GA	317	342	440	612	721	Walton

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Appling	174	259	317	422	444
Bacon	174	269	317	396	444
Baldwin	228	339	414	530	579
Ben Hill	177	247	317	396	520
Bleckley	174	237	317	408	485
Brooks	234	237	317	408	520
Burke	210	213	285	397	399
Calhoun	162	177	216	271	303
Candler	249	282	317	440	444
Chattooga	184	275	335	419	529
Clinch	167	228	303	422	425
Colquitt	234	237	317	408	444
Crawford	264	268	335	425	469
Dawson	255	348	484	980	716
Dodge	234	237	317	440	483
Early	234	237	317	415	466
Elbert	245	277	311	389	510
Evans	249	283	317	427	444
Floyd	259	307	399	526	558
Gilmer	253	256	342	428	480
Glynn	379	422	480	642	787
Grady	249	269	317	411	520
Habersham	291	320	388	512	592
Hancock	199	293	362	493	930
Hart	192	303	349	436	489
Irwin	174	237	317	396	444
Jasper	220	300	399	543	558
Jefferson	216	243	273	360	448
Johnson	177	237	317	396	444
Lanier	174	282	317	440	444
Liberty	333	373	423	988	992
Long	215	348	391	490	547
Lumpkin	223	361	406	544	666
McIntosh	176	285	321	401	449

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Atkinson	216	243	273	363	383
Baker	175	215	265	369	379
Banks	183	293	333	464	546
Berrien	174	237	317	440	444
Brantley	188	257	343	430	481
Bulloch	330	335	430	554	704
Butts	248	340	453	606	634
Camden	372	420	471	654	772
Charlton	254	257	343	430	512
Clay	153	209	279	366	390
Coffee	174	253	317	402	520
Cook	174	282	317	440	520
Crisp	249	282	317	440	520
Decatur	174	282	317	402	444
Dooly	175	206	275	382	384
Echols	249	282	317	440	444
Emanuel	244	276	308	426	433
Fannin	177	237	317	440	444
Franklin	192	248	331	431	543
Glascock	148	201	289	336	440
Gordon	321	326	407	526	669
Greene	216	294	392	491	950
Hall	281	427	502	628	702
Haralson	256	259	347	475	503
Heard	257	260	348	435	487
Jackson	284	289	385	481	631
Jeff Davis	174	282	317	440	520
Jenkins	174	282	317	440	520
Lamar	212	319	367	467	602
Laurens	275	303	352	440	578
Lincoln	174	282	317	440	444
Lowndes	276	332	404	564	624
Mcduffie	246	249	333	447	546
Macon	252	258	319	399	446

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GEORGIA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Marion	171	233	311	389	510
Miller	174	282	317	440	444
Monroe	198	288	360	501	504
Morgan	212	291	388	485	543
Oglethorpe	218	282	317	440	491
Pike	300	325	410	571	575
Pulaski	239	269	302	421	495
Quitman	163	266	299	416	419
Randolph	223	227	301	419	494
Screven	210	268	335	419	469
Stephens	264	268	356	493	502
Sumter	203	302	368	464	516
Taliaferro	145	234	263	329	432
Taylor	222	249	281	390	394
Terrell	175	268	319	411	523
Tift	218	263	337	451	526
Towns	177	242	323	448	529
Troup	244	369	415	519	581
Union	228	310	412	517	578
Ware	262	294	331	414	543
Washington	249	282	317	415	520
Webster	249	282	317	440	520
White	199	323	362	504	594
Wilcox	160	258	291	367	478
Wilkinson	178	288	324	404	515

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Meriwether	185	287	337	428	472
Mitchell	217	221	294	409	483
Montgomery	232	235	313	391	438
Murray	207	310	378	476	530
Pierce	234	256	317	411	444
Polk	210	291	384	533	538
Putnam	215	270	359	499	589
Rabun	189	303	344	431	544
Schley	174	237	317	440	444
Seminole	174	263	317	440	444
Stewart	174	237	317	440	520
Talbot	173	236	314	437	516
Tattnall	234	237	317	440	444
Telfair	211	279	317	396	444
Thomas	195	315	354	457	496
Toombs	240	243	324	404	531
Treutlen	139	189	253	341	415
Turner	186	254	339	431	475
Upson	265	269	358	447	501
Warren	249	282	317	396	444
Wayne	245	277	311	433	510
Wheeler	207	280	314	394	453
Whitfield	243	347	419	535	631
Wilkes	174	282	317	408	494
Worth	197	273	359	449	503

HAWAII

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Honolulu, HI MSA	760	909	1069	1445	1563	Honolulu

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Hawaii	460	598	687	914	1126
Maui	733	910	1110	1433	1622

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Kauai	580	866	1056	1395	1510

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I D A H O

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City, ID MSA	317	351	440	612	722	Ada, Canyon

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	162	262	295	383	412
Bear Lake	174	239	318	442	522
Bingham	254	270	321	447	527
Boise	207	335	376	470	526
Bonneville	239	308	411	554	675
Butte	162	221	295	410	412
Caribou	157	216	288	400	471
Clark	167	268	305	423	427
Custer	180	247	328	443	538
Franklin	167	247	309	420	499
Gem	222	224	299	394	472
Idaho	239	258	310	387	494
Jerome	164	240	300	418	493
Latah	219	285	370	503	607
Lewis	222	225	300	375	480
Madison	254	258	339	471	513
Nez Perce	266	277	368	486	516
Owyhee	226	252	287	384	441
Power	178	281	335	403	451
Teton	282	286	378	523	618
Valley	270	274	365	507	540

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Bannock	198	259	345	479	585
Benewah	162	258	296	382	414
Blaine	399	440	586	816	962
Bonner	238	299	365	507	584
Boundary	195	282	344	430	481
Camas	162	239	295	368	412
Cassia	173	221	295	394	462
Clearwater	221	244	295	406	427
Elmore	241	244	309	430	507
Fremont	167	263	296	387	485
Gooding	190	225	297	398	487
Jefferson	286	299	330	407	587
Kootenai	262	302	403	560	661
Lemhi	168	231	307	384	503
Lincoln	182	224	299	374	476
Minidoka	229	231	300	418	493
Oneida	259	262	349	440	552
Payette	222	224	299	415	490
Shoshone	187	221	295	388	482
Twin Falls	222	272	358	472	902
Washington	231	260	292	392	409

I L L I N O I S

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	292	358	478	684	702	Mclean
Champaign-Urbana, IL MSA	315	385	499	684	819	Champaign
Chicago, IL	461	553	658	823	938	Cook, Dupage, Kane, Lake, Mchenry, Will
Davenport-Moline-Rock Island, IA-IL MSA	246	306	405	543	570	Henry, Rock Island
Decatur, IL MSA	247	320	411	584	578	Macon
De Kalb County, IL	376	438	554	770	892	Dekalb
Grundy County, IL	328	379	505	667	708	Grundy
Kankakee, IL PMSA	295	352	469	609	657	Kankakee
Kendall County, IL	453	516	622	865	871	Kendall
Peoria-Pekin, IL MSA	286	319	426	566	596	Peoria, Tazewell, Woodford
Rockford, IL MSA	295	358	454	580	676	Boone, Ogle, Winnebago

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I L L I N O I S continued

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
St Louis, MO-IL MSA	295	361	468	609	674	Clinton, Jersey, Madison, Monroe, St. Clair
Springfield, IL MSA	286	352	470	624	710	Menard, Sangamon

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	196	267	356	446	585
Bond	244	248	330	413	462
Bureau	237	314	369	466	517
Carroll	171	241	314	401	439
Christian	263	266	355	465	498
Clay	236	238	314	398	514
Crawford	177	248	321	447	450
De Witt	254	257	343	477	487
Edgar	185	249	319	399	447
Effingham	215	289	357	451	529
Ford	177	246	320	446	449
Fulton	181	246	329	428	510
Greene	226	251	314	401	514
Hancock	232	236	315	393	441
Henderson	171	236	314	392	442
Jackson	258	292	375	521	615
Jefferson	250	294	367	500	514
Johnson	219	231	308	429	505
La Salle	215	292	390	527	590
Lee	279	287	382	478	537
Logan	277	294	391	489	614
Macoupin	217	274	351	450	491
Marshall	192	257	326	408	456
Massac	245	276	311	431	435
Montgomery	193	245	327	418	457
Moultrie	207	263	351	485	491
Piatt	217	304	394	538	553
Pope	143	196	261	327	428
Putnam	190	281	317	441	444
Richland	239	242	311	388	435
Schuyler	184	281	317	416	466
Shelby	188	255	340	426	489
Stephenson	263	302	381	477	535
Vermilion	226	306	382	486	537
Warren	263	266	355	448	504
Wayne	163	231	296	379	486

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alexander	171	236	314	392	514
Brown	177	241	321	401	527
Calhoun	151	244	275	382	385
Cass	251	255	340	426	476
Clark	171	236	314	430	439
Coles	260	310	413	549	648
Cumberland	182	254	314	437	471
Douglas	266	273	337	468	472
Edwards	232	236	314	392	514
Fayette	207	254	314	437	439
Franklin	179	248	326	434	456
Gallatin	161	240	292	406	425
Hamilton	171	279	314	392	439
Hardin	171	236	314	408	439
Iroquois	215	265	331	431	464
Jasper	167	272	306	426	489
Jo Daviess	277	299	351	442	491
Knox	189	257	343	450	543
Lawrence	158	234	289	397	405
Livingston	221	302	402	518	564
Mcdonough	221	286	345	450	567
Marion	255	272	332	455	465
Mason	180	245	328	447	538
Mercer	190	258	345	432	504
Morgan	241	312	416	553	583
Perry	233	253	295	401	466
Pike	205	211	280	370	406
Pulaski	161	219	292	366	434
Randolph	236	269	337	462	472
Saline	231	241	321	418	450
Scott	182	248	330	413	462
Stark	171	234	313	435	438
Union	178	229	302	419	423
Wabash	188	266	341	454	560
Washington	219	299	398	498	646
White	171	256	302	392	423

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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ILLINOIS continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Whiteside	258	294	391	489	549
Williamson	202	275	366	509	516

INDIANA

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington, IN MSA	299	387	516	716	845	Monroe
Cincinnati, OH-KY-IN	282	364	485	651	703	Dearborn
Elkhart-Goshen, IN MSA	342	391	495	634	728	Elkhart
Evansville-Henderson, IN-KY MSA	265	324	421	527	589	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	294	377	466	601	653	Adams, Allen, De Kalb, Huntington, Wells, Whitley
Gary, IN PMSA	313	411	513	642	718	Lake, Porter
Indianapolis, IN MSA	336	416	502	632	703	Boone, Hamilton, Hancock, Hendricks, Johnson, Madison Marion, Morgan, Shelby
Kokomo, IN MSA	273	323	420	542	588	Howard, Tipton
Lafayette, IN MSA	294	373	497	692	816	Clinton, Tippecanoe
Louisville, KY-IN MSA	269	345	420	583	614	Clark, Floyd, Harrison, Scott
Muncie, IN MSA	265	319	390	542	640	Delaware
Ohio County, IN	188	272	341	473	491	Ohio
South Bend, IN MSA	295	392	517	645	723	St. Joseph
Terre Haute, IN MSA	236	292	388	485	542	Clay, Vermillion, Vigo

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Bartholomew	374	403	486	608	798
Blackford	218	298	396	495	554
Carroll	240	262	349	471	488
Crawford	178	242	323	403	503
Decatur	218	299	397	516	556
Fayette	212	288	385	481	582
Franklin	204	278	370	464	608
Gibson	203	263	333	450	467
Greene	243	246	325	405	454
Jackson	307	311	388	524	563
Jay	254	261	323	449	452
Jennings	279	283	368	493	515
Kosciusko	250	352	425	552	595
La Porte	274	332	443	567	621
Marshall	318	323	430	542	602
Miami	216	255	332	416	491
Newton	279	282	377	472	529
Orange	248	251	323	426	457

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Benton	185	296	337	454	472
Brown	255	353	465	647	671
Cass	221	273	345	453	543
Daviess	219	275	366	459	513
Dubois	238	282	372	487	559
Fountain	255	258	332	416	465
Fulton	294	308	372	516	521
Grant	285	289	386	502	541
Henry	224	270	335	465	468
Jasper	214	323	362	492	506
Jefferson	266	298	338	469	473
Knox	277	299	397	497	556
Lagrange	272	312	399	518	603
Lawrence	238	282	377	498	529
Martin	181	244	323	449	477
Montgomery	311	327	408	517	572
Noble	305	310	386	498	549
Owen	256	260	347	448	568

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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INDIANA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Parke	192	262	350	462	567
Pike	178	264	323	426	452
Putnam	279	327	399	555	560
Ripley	239	272	362	503	568
Spencer	180	255	328	456	504
Steuben	326	369	440	550	615
Switzerland	181	273	329	457	477
Wabash	219	291	343	477	522
Washington	191	261	348	463	490
White	266	285	365	456	599

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Perry	178	244	323	449	506
Pulaski	214	295	339	424	475
Randolph	236	257	323	442	452
Rush	275	278	349	485	568
Starke	233	292	370	464	518
Sullivan	192	262	350	438	525
Union	178	248	323	449	455
Warren	177	279	321	447	527
Wayne	245	287	373	466	541

IOWA

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cedar Rapids, IA MSA	249	352	451	628	673	Linn
Davenport-Moline-Rock Island, IA-IL MSA	246	306	405	543	570	Scott
Des Moines, IA MSA	338	400	513	683	718	Dallas, Polk, Warren
Dubuque, IA MSA	257	305	406	517	631	Dubuque
Iowa City, IA MSA	301	385	494	687	811	Johnson
Omaha, NE-IA MSA	284	388	491	643	721	Pottawattamie
Sioux City, IA-NE MSA	237	301	402	532	615	Woodbury
Waterloo-Cedar Falls, IA MSA	227	303	379	528	620	Black Hawk

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adair	195	262	349	443	489
Allamakee	198	249	307	426	503
Audubon	170	257	309	387	454
Boone	250	284	378	496	588
Buchanan	264	267	348	435	493
Butler	257	260	324	431	454
Carroll	192	262	349	481	505
Cedar	195	313	355	444	497
Cherokee	210	213	284	395	398
Clarke	258	262	349	484	516
Clayton	224	249	315	406	517
Crawford	232	249	327	426	458
Decatur	199	227	303	420	424
Des Moines	220	296	393	500	562
Emmet	197	228	304	407	499
Floyd	272	275	349	437	505

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	189	289	346	460	483
Appanoose	246	250	333	456	546
Benton	258	262	349	437	492
Bremer	206	262	349	440	572
Buena Vista	265	276	368	461	516
Calhoun	232	235	314	409	440
Cass	186	269	340	425	476
Cerro Gordo	219	292	391	540	547
Chickasaw	165	225	301	412	420
Clay	192	262	350	448	490
Clinton	228	274	365	461	512
Davis	192	262	349	437	489
Delaware	192	278	349	437	495
Dickinson	193	263	351	439	491
Fayette	185	253	337	452	474
Franklin	258	262	349	437	489

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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I O W A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Fremont	275	278	349	443	572
Grundy	226	235	314	435	515
Hamilton	285	288	386	482	540
Hardin	206	269	349	446	492
Henry	202	284	369	474	570
Humboldt	180	262	327	423	458
Iowa	200	300	365	467	512
Jasper	205	278	371	464	520
Jones	238	241	318	420	450
Kossuth	201	275	367	460	514
Louisa	192	278	349	484	489
Lyon	165	225	301	410	420
Mahaska	223	262	349	484	489
Marshall	252	272	345	436	483
Mitchell	163	235	298	372	416
Monroe	198	265	349	437	572
Muscatine	241	308	410	545	574
Osceola	186	256	340	425	476
Palo Alto	162	240	289	394	452
Pocahontas	228	232	309	399	432
Ringgold	163	223	298	390	443
Shelby	189	270	346	452	483
Story	325	395	465	648	739
Taylor	182	249	332	439	544
Van Buren	197	246	324	451	454
Washington	216	269	349	446	572
Webster	196	269	358	468	533
Winneshiek	192	262	349	437	489
Wright	192	262	349	437	489

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Greene	182	249	332	462	465
Guthrie	187	270	342	465	560
Hancock	222	261	348	465	487
Harrison	196	267	356	445	513
Howard	189	259	346	432	567
Ida	258	262	349	437	489
Jackson	190	270	303	420	497
Jefferson	231	315	420	547	691
Keokuk	170	232	310	397	435
Lee	199	273	364	455	509
Lucas	198	262	336	467	522
Madison	222	302	403	516	565
Marion	223	305	406	512	569
Mills	237	321	377	491	529
Monona	192	262	349	437	489
Montgomery	275	297	349	484	489
O'Brien	167	247	302	377	423
Page	209	226	302	419	456
Plymouth	205	278	372	465	521
Poweshiek	265	292	391	489	547
Sac	198	225	291	406	446
Sioux	228	249	332	439	489
Tama	235	281	374	467	525
Union	198	262	349	467	572
Wapello	230	265	353	455	494
Wayne	167	226	302	411	432
Winnebago	182	296	332	415	465
Worth	195	262	349	437	551

K A N S A S

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kansas City, MO-KS MSA	316	398	478	661	732	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA	321	384	493	686	789	Douglas
Topeka, KS MSA	305	351	455	615	694	Shawnee
Wichita, KS MSA	298	360	481	649	702	Butler, Harvey, Sedgwick

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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K A N S A S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allen	215	219	276	385	453
Atchison	190	261	348	438	570
Barton	180	251	326	431	469
Brown	177	241	322	403	529
Chautauqua	177	286	322	448	529
Cheyenne	210	213	273	376	381
Clay	177	241	322	403	451
Coffey	264	277	339	423	555
Cowley	272	275	367	489	526
Decatur	177	241	322	403	451
Doniphan	179	244	325	406	455
Elk	153	225	277	377	431
Ellsworth	232	235	314	437	440
Ford	273	322	402	506	571
Geary	310	326	407	526	571
Graham	194	214	246	343	404
Gray	177	258	322	403	451
Greenwood	177	241	322	448	451
Harper	173	243	315	439	489
Hodgeman	177	241	322	403	451
Jefferson	208	283	377	499	529
Kearny	283	286	381	512	562
Kiowa	238	241	322	441	529
Lane	157	257	287	400	403
Linn	207	241	322	448	451
Lyon	213	272	362	475	572
Marion	241	244	322	403	451
Meade	237	240	321	430	527
Montgomery	208	256	340	462	509
Morton	190	261	348	435	487
Neosho	177	276	322	444	454
Norton	177	276	322	403	451
Osborne	130	185	235	327	387
Pawnee	177	241	322	448	529
Pottawatomie	182	272	332	418	544
Rawlins	164	243	283	354	407
Republic	149	205	272	340	443
Riley	312	344	458	573	693
Rush	153	209	277	359	403
Saline	279	283	377	526	529

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Anderson	177	241	322	448	451
Barber	169	231	308	427	431
Bourbon	212	241	322	444	487
Chase	177	286	322	415	451
Cherokee	175	253	320	418	448
Clark	192	276	350	438	490
Cloud	223	252	283	354	397
Comanche	148	219	270	348	377
Crawford	214	286	381	478	535
Dickinson	237	256	340	425	476
Edwards	177	241	322	448	490
Ellis	238	241	322	448	529
Finney	311	333	426	554	700
Franklin	276	281	374	467	584
Gove	168	272	305	424	427
Grant	234	300	365	507	552
Greeley	177	286	322	448	451
Hamilton	177	241	322	403	529
Haskell	186	295	339	433	488
Jackson	177	283	322	438	451
Jewell	142	193	258	322	368
Kingman	180	254	326	435	457
Labette	237	256	340	425	476
Lincoln	153	209	277	348	389
Logan	218	245	275	366	432
Mcpherson	258	262	349	478	489
Marshall	188	232	310	403	508
Mitchell	168	228	304	380	436
Morris	177	241	322	405	451
Nemaha	169	239	308	385	431
Ness	238	241	322	448	451
Osage	238	241	322	429	451
Ottawa	193	269	316	395	443
Phillips	177	254	322	403	529
Pratt	202	276	368	487	516
Reno	196	267	356	481	584
Rice	236	254	299	415	420
Rooks	148	202	271	358	444
Russell	184	270	328	456	460
Scott	207	262	350	487	559

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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KANSAS continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Seward	286	312	415	520	582
Sherman	177	244	322	432	451
Stafford	167	226	302	387	423
Stevens	183	289	333	463	546
Thomas	177	241	322	441	529
Wabaunsee	238	241	322	448	451
Washington	150	206	274	380	385
Wilson	174	243	316	440	519
Sheridan	141	220	256	355	418
Smith	156	213	284	387	398
Stanton	177	259	323	449	491
Sumner	197	269	359	499	502
Trego	177	241	322	448	451
Wallace	170	274	309	429	506
Wichita	210	286	381	478	592
Woodson	189	241	322	403	451

KENTUCKY

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cincinnati, OH-KY-IN	282	364	485	651	703	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA	303	335	398	542	558	Christian
Evansville-Henderson, IN-KY MSA	265	324	421	527	589	Henderson
Gallatin County, KY	212	217	387	484	634	Gallatin
Grant County, KY	207	284	377	525	620	Grant
Huntington-Ashland, WV-KY-OH MSA	240	283	359	478	510	Boyd, Greenup
Lexington, KY MSA	304	369	455	631	714	Bourbon, Clark, Fayette, Jessamine, Madison, Scott Woodford
Louisville, KY-IN MSA	269	345	420	583	614	Bullitt, Jefferson, Oldham
Owensboro, KY MSA	265	271	362	485	507	Daviess
Pendleton County, KY	239	276	368	461	516	Pendleton

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adair	160	244	291	404	407
Anderson	265	272	358	447	501
Barren	242	245	327	408	457
Bell	180	244	326	407	456
Bracken	162	222	295	410	414
Breckinridge	157	213	285	356	414
Caldwell	146	199	265	366	427
Carlisle	230	233	294	368	445
Carter	176	272	320	400	474
Clay	151	215	276	344	386
Crittenden	145	197	263	366	368
Edmonson	145	198	264	333	371
Estill	177	242	323	402	451
Floyd	228	277	311	433	497
Fulton	240	253	338	423	493
Graves	183	249	332	416	472
Allen	168	260	306	399	430
Ballard	145	198	264	367	401
Bath	157	215	287	358	401
Boyle	284	288	384	480	538
Breathitt	148	207	270	338	443
Butler	145	197	263	329	368
Calloway	185	252	336	467	470
Carroll	236	266	299	374	491
Casey	145	197	263	329	368
Clinton	148	201	269	336	376
Cumberland	155	197	263	366	382
Elliott	195	197	263	329	432
Fleming	164	225	300	375	421
Franklin	232	342	423	550	694
Garrard	223	251	282	392	463
Grayson	151	209	276	369	438

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

KENTUCKY continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Green	178	243	325	406	454
Hardin	301	308	386	518	614
Harrison	185	252	336	430	551
Henry	217	221	294	409	483
Hopkins	209	249	307	388	505
Johnson	178	243	324	427	453
Knox	185	240	320	400	499
Laurel	243	249	315	438	442
Lee	145	198	264	330	371
Letcher	216	218	284	355	398
Lincoln	175	239	318	403	445
Logan	191	259	347	458	485
Mccracken	269	279	362	464	594
Mclean	145	197	263	366	376
Marion	148	239	269	374	440
Martin	163	223	297	396	489
Meade	249	310	356	471	586
Mercer	182	275	330	458	461
Monroe	204	230	258	329	380
Morgan	159	221	290	362	406
Nelson	259	263	351	439	492
Ohio	233	236	314	409	503
Owsley	152	208	278	347	389
Pike	259	263	351	446	531
Pulaski	243	246	328	439	463
Rockcastle	200	203	271	374	379
Russell	158	216	288	360	402
Simpson	194	303	352	450	493
Taylor	241	272	305	425	483
Trigg	161	260	293	408	481
Union	236	240	319	444	446
Washington	211	285	321	401	449
Webster	230	233	311	389	436
Wolfe	145	227	263	366	368
Hancock	171	233	310	428	508
Harlan	145	234	263	366	432
Hart	157	246	287	358	401
Hickman	144	196	260	362	428
Jackson	151	207	277	346	387
Knott	145	234	263	366	416
Larue	153	209	279	349	390
Lawrence	200	241	283	394	397
Leslie	195	197	263	329	368
Lewis	146	199	265	353	435
Livingston	278	281	375	521	525
Lyon	175	239	318	397	445
Mccreary	139	196	254	353	355
Magoffin	145	218	263	329	432
Marshall	181	246	329	419	540
Mason	230	265	328	449	459
Menifee	145	197	263	366	368
Metcalfe	145	227	263	329	368
Montgomery	241	244	326	424	456
Muhlenberg	215	242	272	378	446
Nicholas	186	254	339	424	482
Owen	174	236	315	438	518
Perry	269	272	362	453	507
Powell	160	220	292	380	442
Robertson	145	197	263	348	368
Rowan	237	247	321	440	527
Shelby	243	318	356	496	499
Spencer	187	287	341	444	478
Todd	159	217	290	402	475
Trimble	155	249	281	390	394
Warren	229	306	408	510	600
Wayne	153	209	280	373	391
Whitley	171	268	311	433	436

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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LOUISIANA

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Alexandria, LA MSA	257	319	403	558	566	Rapides
Acadia Parishes, LA	206	209	279	369	452	Acadia
Baton Rouge, LA MSA	275	342	423	588	694	East Baton Rouge, Livingston, West Baton Rouge
Houma, LA MSA	242	296	379	527	622	Lafourche, Terrebonne
Lafayette, LA MSA	266	301	364	505	597	Lafayette, St. Martin
Lake Charles, LA MSA	285	331	420	550	688	Calcasieu
Monroe, LA MSA	277	311	414	559	580	Ouachita
New Orleans, LA	322	368	460	626	756	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles St. John the Baptist, St. Tammany
St. James Parish, LA	213	290	387	483	541	St. James
St. Landry Parish, LA	170	240	307	385	467	St. Landry
Shreveport-Bossier City, LA MSA	293	334	419	561	687	Bossier, Caddo, Webster

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allen	225	227	304	423	438
Assumption	278	297	353	441	494
Beauregard	309	336	400	521	573
Caldwell	167	271	304	423	426
Catahoula	173	227	304	423	426
Concordia	234	237	317	397	444
East Carroll	116	173	211	292	302
Evangeline	203	248	278	348	404
Grant	227	231	304	423	466
Iberville	246	254	311	398	511
Jefferson Davis	244	256	308	385	504
Lincoln	297	300	375	514	615
Morehouse	223	250	333	416	466
Pointe Coupee	200	247	328	411	539
Richland	167	227	304	398	499
St. Helena	160	260	291	393	410
Tangipahoa	272	283	363	476	507
Union	225	227	304	380	499
Vernon	288	322	366	473	559
West Carroll	168	228	305	381	427
Winn	167	227	304	423	426

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Ascension	302	309	381	481	534
Avoyelles	199	201	269	374	441
Bienville	239	244	324	450	532
Cameron	167	271	304	423	426
Claiborne	174	237	317	397	444
De Soto	167	268	304	423	499
East Feliciana	181	248	329	413	462
Franklin	179	271	304	423	499
Iberia	270	273	341	427	479
Jackson	167	227	303	379	425
La Salle	167	237	304	423	499
Madison	159	257	288	401	407
Natchitoches	271	278	358	496	500
Red River	167	227	304	423	499
Sabine	174	283	318	442	522
St. Mary	253	257	333	463	482
Tensas	200	203	271	377	379
Vermilion	239	247	304	398	426
Washington	156	212	283	393	396
West Feliciana	243	330	441	552	619

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME MSA	340	415	531	692	744	Penobscot county towns of Bangor, Brewer, Eddington Glenburn, Hampden, Hermon, Holden, Kenduskeag, Old Town Orono, Orrington, Penobscot Indian I, Veazie, Milford Waldo county towns of Winterport
Lewiston-Auburn, ME MSA	267	378	485	606	679	Androscoggin county towns of Auburn, Greene, Lewiston Lisbon, Mechanic Falls, Poland, Sabattus, Turner, Wales
Portland, ME MSA	398	514	676	845	947	Cumberland county towns of Cape Elizabeth, Casco Cumberland, Falmouth, Freeport, Gorham, Gray North Yarmouth, Portland, Raymond, Scarborough South Portland, Standish, Westbrook, Windham, Yarmouth York county towns of Buxton, Hollis, Limington Old Orchard Beach
Portsmouth-Dover-Rochester, NH-ME MSA	439	527	676	866	1062	York county towns of North Berwick, Wells, Berwick, Eliot Kittery, Ogunquit Town, South Berwick, York

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Androscoggin	292	378	503	629	705	
Aroostook	267	317	423	529	593	Durham, Leeds, Livermore, Livermore Falls, Minot
Cumberland	450	457	609	829	951	Baldwin, Bridgton, Brunswick, Harpswell, Harrison Naples, New Gloucester, Pownal, Sebago
Franklin	314	357	436	581	612	
Hancock	330	406	501	631	702	
Kennebec	320	398	479	600	671	
Knox	282	395	513	683	719	
Lincoln	399	445	505	703	829	
Oxford	254	356	446	558	625	
Penobscot	290	334	446	562	625	Alton, Argyle, Bradford, Bradley, Burlington, Carmel Carroll, Charleston, Chester, Clifton, Corinna, Corinth Dexter, Dixmont, Drew, East Central Penob East Millinocket, Edinburg, Enfield, Etna, Exeter Garland, Grand Falls, Greenbush, Greenfield, Howland Hudson, Kingman, Lagrange, Lakeville, Lee, Levant Lincoln, Lowell, Mattawamkeag, Maxfield, Medway Millinocket, Mount Chase, Newburgh, Newport North Penobscot, Passadumkeag, Patten, Plymouth Prentiss, Seboeis, Springfield, Stacyville, Stetson Summit, Twombly, Webster, Whitney, Winn, Woodville
Piscataquis	236	352	430	537	602	
Sagadahoc	432	494	609	811	999	
Somerset	322	366	435	544	693	
Waldo	250	359	455	569	646	Belfast, Belmont, Brooks, Burnham, Frankfort, Freedom Islesboro, Jackson, Knox, Liberty, Lincolnville, Monroe Montville, Morrill, Northport, Palermo, Prospect Searsmont, Searsport, Stockton Springs, Swanville Thorndike, Troy, Unity, Waldo

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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M A I N E continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Washington	242	331	442	552	619	
York	378	435	581	726	813	Acton, Alfred, Arundel, Biddeford, Cornish, Dayton Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman Newfield, Parsonsfield, Saco, Sanford, Shapleigh Waterboro

M A R Y L A N D

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baltimore, MD	404	494	603	796	911	Anne Arundel, Baltimore, Carroll, Harford, Howard Queen Anne's, Baltimore city
Columbia, MD	523	703	818	1081	1350	Columbia
Cumberland, MD-WV MSA	228	287	374	493	541	Allegany
Hagerstown, MD PMSA	260	359	473	591	700	Washington
Washington, DC-MD-VA	633	719	844	1149	1385	Calvert, Charles, Frederick, Montgomery, Prince George's
Wilmington-Newark, DE-MD PMSA	407	538	626	851	1026	Cecil

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Caroline	322	339	435	570	610
Garrett	229	286	353	442	579
St. Mary's	439	534	600	835	955
Talbot	408	431	576	720	944
Worcester	258	375	470	653	657
Dorchester	292	391	456	570	638
Kent	312	384	512	640	772
Somerset	337	380	427	593	700
Wicomico	346	402	517	657	723

M A S S A C H U S E T T S

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Barnstable-Yarmouth, MA MSA	450	603	805	1007	1127	Barnstable county towns of Barnstable, Brewster, Chatham Dennis, Eastham, Harwich, Mashpee, Orleans, Sandwich Yarmouth
Boston, MA PMSA	565	637	796	995	1169	Bristol county towns of Mansfield, Norton Essex county towns of Lynn, Lynnfield, Nahant, Saugus Middlesex county towns of Acton, Arlington, Ashland, Ayer Bedford, Belmont, Boxborough, Burlington, Cambridge Carlisle, Concord, Everett, Framingham, Groton Holliston, Hopkinton, Hudson, Lexington, Lincoln Littleton, Malden, Marlborough, Maynard, Medford Melrose, Natick, Newton, North Reading, Reading Sherborn, Shirley, Somerville, Stoneham, Stow, Sudbury Townsend, Wakefield, Waltham, Watertown, Wayland, Weston Wilmington, Winchester, Woburn Norfolk county towns of Bellingham, Braintree, Brookline Canton, Cohasset, Dedham, Dover, Foxborough, Franklin Holbrook, Medfield, Medway, Millis, Milton, Needham

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Norfolk, Norwood, Plainville, Quincy, Randolph, Sharon Stoughton, Walpole, Wellesley, Westwood, Weymouth Wrentham
						Plymouth county towns of Carver, Duxbury, Hanover Hingham, Hull, Kingston, Marshfield, Norwell, Pembroke Plympton, Rockland, Scituate
						Suffolk county towns of Boston, Chelsea, Revere, Winthrop
						Worcester county towns of Berlin, Blackstone, Bolton Harvard, Hopedale, Lancaster, Mendon, Milford, Millville Southborough, Upton
Brockton, MA PMSA	408	520	658	821	935	Bristol county towns of Easton, Raynham Norfolk county towns of Avon Plymouth county towns of Abington, Bridgewater, Brockton East Bridgewater, Halifax, Hanson, Lakeville Middleborough, Plymouth, West Bridgewater, Whitman
Fitchburg-Leominster, MA MSA	372	522	677	874	948	Middlesex county towns of Ashby Worcester county towns of Ashburnham, Fitchburg Leominster, Lunenburg, Westminster
Lawrence-Haverhill, MA-NH PMSA	419	488	635	794	978	Essex county towns of Amesbury, Andover, Boxford Georgetown, Groveland, Haverhill, Lawrence, Merrimac Methuen, Newbury, Newburyport, North Andover, Salisbury West Newbury
Lowell, MA-NH PMSA	428	535	668	836	937	Middlesex county towns of Billerica, Chelmsford, Dracut Dunstable, Lowell, Pepperell, Tewksbury, Tyngsborough Westford
New Bedford, MA MSA	400	489	555	694	778	Bristol county towns of Acushnet, Dartmouth, Fairhaven Freetown, New Bedford Plymouth county towns of Marion, Mattapoisett, Rochester
Pittsfield, MA MSA	330	469	579	724	898	Berkshire county towns of Adams, Cheshire, Dalton Hinsdale, Lanesborough, Lee, Lenox, Pittsfield, Richmond Stockbridge
Providence-Fall River-Warwick, RI-MA PMSA	396	539	649	813	1001	Bristol county towns of Attleboro, Fall River North Attleborough, Rehoboth, Seekonk, Somerset, Swansea Westport Norfolk county towns of Worcester county towns of
Salem-Gloucester, MA PMSA	455	558	734	919	1197	Essex county towns of Beverly, Danvers, Essex, Gloucester Hamilton, Ipswich, Manchester, Marblehead, Middleton Peabody, Rockport, Rowley, Salem, Swampscott, Topsfield Wenham
Springfield, MA MSA	375	451	586	732	897	Essex county towns of Beverly, Danvers, Essex, Gloucester Hamilton, Ipswich, Manchester, Marblehead, Middleton Peabody, Rockport, Rowley, Salem, Swampscott, Topsfield Wenham Franklin county towns of Sunderland Hampden county towns of Agawam, Chicopee, East Longmeadow Hampden, Holyoke, Longmeadow, Ludlow, Monson, Montgomery

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M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Palmer, Russell, Southwick, Springfield, Westfield West Springfield, Wilbraham
						Hampshire county towns of Amherst, Belchertown Easthampton, Granby, Hadley, Hatfield, Huntington Northampton, Southampton, South Hadley, Ware Williamsburg
Worcester, MA MSA	461	558	697	871	976	Worcester county towns of Auburn, Barre, Boylston Brookfield, Charlton, Clinton, Douglas, Dudley East Brookfield, Grafton, Holden, Leicester, Millbury Northborough, Northbridge, North Brookfield, Oxford Paxton, Princeton, Rutland, Shrewsbury, Spencer Sterling, Sutton, Uxbridge, Webster, Westborough West Boylsten, Worcester

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Barnstable	437	598	797	996	1115	Bourne, Falmouth, Provincetown, Truro, Wellfleet
Berkshire	360	438	516	708	847	Alford, Becket, Clarksburg, Egremont, Florida Great Barrington, Hancock, Monterey, Mount Washington New Ashford, New Marlborough, North Adams, Otis, Peru Sandisfield, Savoy, Sheffield, Tyringham, Washington West Stockbridge, Williamstown, Windsor
Bristol	487	572	696	870	1086	Berkley, Dighton, Taunton
Dukes	578	587	782	977	1095	
Franklin	388	481	616	770	930	Ashfield, Bernardston, Buckland, Charlemont, Colrain Conway, Deerfield, Erving, Gill, Greenfield, Hawley Heath, Leverett, Leyden, Monroe, Montague, New Salem Northfield, Orange, Rowe, Shelburne, Shutesbury, Warwick Wendell, Whately
Hampden	392	534	712	948	1169	Blandford, Brimfield, Chester, Granville, Tolland, Wales Holland
Hampshire	549	556	743	929	1041	Chesterfield, Cummington, Goshen, Middlefield, Pelham Plainfield, Westhampton, Worthington
Nantucket	694	929	1239	1549	1735	
Worcester	437	455	607	759	850	Athol, Hardwick, Hubbardston, New Braintree, Petersham Phillipston, Royalston, Sturbridge, Warren, Gardner Oakham, Southbridge, Templeton, West Brookfield Winchendon

M I C H I G A N

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI PMSA	431	522	644	845	947	Lenawee, Livingston, Washtenaw
Benton Harbor, MI MSA	347	352	462	578	648	Berrien
Detroit, MI PMSA	342	466	562	703	787	Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne

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M I C H I G A N continued

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Flint, MI PMSA	326	372	465	595	651	Genesee
Grand Rapids-Muskegon-Holland, MI MSA	354	409	505	632	707	Allegan, Kent, Muskegon, Ottawa
Jackson, MI MSA	254	365	462	578	648	Jackson
Kalamazoo-Battle Creek, MI MSA	321	386	487	610	682	Calhoun, Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	342	403	518	678	783	Clinton, Eaton, Ingham
Saginaw-Bay City-Midland, MI MSA	315	347	462	578	648	Bay, Midland, Saginaw

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alcona	263	286	381	508	535
Alpena	199	307	361	459	592
Arenac	252	298	366	459	539
Barry	270	339	452	565	633
Branch	318	326	402	548	564
Charlevoix	333	338	428	582	603
Chippewa	237	299	382	478	586
Crawford	302	305	406	554	578
Dickinson	229	338	417	521	584
Gladwin	273	277	369	484	540
Grand Traverse	364	390	520	651	728
Hillsdale	209	300	374	498	523
Huron	190	303	344	448	483
Iosco	260	308	376	500	617
Isabella	311	332	443	598	727
Keweenaw	185	258	337	431	472
Leelanau	373	405	472	617	774
Mackinac	261	294	363	454	508
Marquette	267	303	388	501	587
Mecosta	264	313	400	556	658
Missaukee	290	305	367	466	514
Montmorency	211	287	382	478	560
Oceana	294	313	372	473	521
Ontonagon	217	254	311	431	453
Oscoda	260	305	342	441	538
Presque Isle	266	273	341	440	477
St. Joseph	245	320	396	518	554
Schoolcraft	245	252	337	448	472
Tuscola	296	323	430	538	602

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alger	276	279	373	466	522
Antrim	214	333	375	506	555
Baraga	169	248	310	387	457
Benzie	288	291	384	535	538
Cass	276	305	405	552	568
Cheboygan	287	303	364	502	597
Clare	286	294	363	468	515
Delta	236	295	347	481	520
Emmet	308	369	435	570	608
Gogebic	245	262	337	422	481
Gratiot	291	296	389	487	546
Houghton	212	282	337	422	552
Ionia	337	341	427	534	598
Iron	185	252	337	428	472
Kalkaska	263	304	399	518	655
Lake	279	282	367	511	525
Luce	276	279	373	466	522
Manistee	190	278	344	444	483
Mason	237	286	353	442	579
Menominee	263	266	351	488	491
Montcalm	283	304	389	487	546
Newaygo	316	339	399	499	560
Ogemaw	287	314	364	505	510
Osceola	206	291	374	478	523
Otsego	280	337	426	591	686
Roscommon	305	308	390	488	547
Sanilac	219	323	384	518	576
Shiawassee	274	345	416	578	620
Wexford	274	320	416	545	644

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M I N N E S O T A

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth-Superior, MN-WI MSA	222	298	382	508	593	St. Louis
Fargo-Moorhead, ND-MN MSA	260	329	432	601	644	Clay
Grand Forks, ND-MN MSA	277	330	434	598	668	Polk
La Crosse, WI-MN MSA	242	318	419	566	687	Houston
Minneapolis-St. Paul, MN-WI MSA	370	466	597	819	926	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey Scott, Sherburne, Washington, Wright
Rochester, MN MSA	287	401	522	725	813	Olmsted
St. Cloud, MN MSA	308	367	459	593	753	Benton, Stearns

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Aitkin	196	253	338	423	473
Beltrami	243	320	427	560	598
Blue Earth	307	362	459	591	752
Carlton	245	295	378	473	530
Chippewa	166	228	304	416	429
Cook	299	303	403	549	570
Crow Wing	223	304	404	505	644
Douglas	227	262	344	478	548
Fillmore	173	236	315	435	441
Goodhue	246	319	426	553	596
Hubbard	258	287	364	466	510
Jackson	218	257	304	406	426
Kandiyohi	240	313	380	476	593
Kopchiching	306	311	414	516	678
Lake	179	269	325	405	533
Le Sueur	202	275	367	481	602
Lyon	223	269	360	475	590
Mahnomen	166	228	304	419	438
Martin	183	249	332	416	546
Mille Lacs	269	294	391	545	641
Mower	217	276	350	452	490
Nicollet	316	338	451	596	631
Norman	166	228	304	379	426
Pennington	190	258	344	478	483
Pipestone	169	231	308	416	505
Red Lake	192	244	326	406	456
Renville	236	239	318	398	446
Rock	166	228	304	379	474
Sibley	228	231	296	412	427
Stevens	283	320	360	450	590
Todd	185	228	304	414	426

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Becker	200	267	356	446	499
Big Stone	166	228	304	379	468
Brown	189	274	342	428	479
Cass	207	281	376	471	526
Clearwater	184	251	335	418	468
Cottonwood	181	246	329	412	461
Dodge	236	283	327	425	534
Faribault	179	252	308	400	435
Freeborn	231	303	403	529	565
Grant	170	232	311	388	435
Itasca	277	280	365	481	511
Kanabec	226	317	412	514	576
Kittson	170	233	312	434	437
Lac qui Parle	170	232	311	388	435
Lake of the Woods	191	260	347	434	485
Lincoln	140	192	255	319	419
Mcleod	223	304	404	517	603
Marshall	173	228	304	379	426
Meeker	261	264	352	440	492
Morrison	263	266	355	444	498
Murray	168	230	307	408	430
Nobles	207	276	363	454	508
Otter Tail	202	275	367	460	514
Pine	280	283	369	491	551
Pope	166	228	304	379	426
Redwood	182	231	308	385	431
Rice	264	361	481	602	675
Roseau	306	311	408	526	572
Steele	273	315	420	525	588
Swift	225	228	304	391	426
Traverse	166	228	304	379	426

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M I N N E S O T A continued

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NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Wabasha	195	266	355	479	498
Waseca	280	285	379	475	531
Wilkin	167	229	306	386	429
Yellow Medicine	166	228	304	389	426
Wadena	209	245	304	398	453
Watonwan	166	252	304	423	438
Winona	253	332	416	578	583

M I S S I S S I P P I

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Biloxi-Gulfport-Pascagpula, MS MSA	284	334	384	534	630	Hancock, Harrison, Jackson
Jackson, MS MSA	353	404	491	654	689	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA	337	392	462	642	674	Desoto

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	212	277	354	454	578
Amite	203	273	306	396	503
Benton	168	273	306	426	430
Calhoun	168	248	306	384	430
Chickasaw	209	212	283	394	397
Claiborne	178	276	324	404	453
Clay	194	266	313	403	515
Copiah	191	271	335	419	469
Forrest	234	287	350	486	575
George	186	260	339	424	498
Grenada	191	266	347	482	509
Humphreys	171	224	299	395	419
Itawamba	233	236	306	424	430
Jefferson	168	273	306	426	463
Jones	228	230	306	426	430
Lafayette	247	337	449	563	629
Lauderdale	228	293	386	505	540
Leake	168	240	306	426	454
Leflore	236	253	329	450	540
Lowndes	300	303	379	474	542
Marshall	233	236	315	438	518
Montgomery	168	230	306	384	503
Newton	193	196	260	362	366
Oktibbeha	295	307	375	521	615
Pearl River	253	256	338	456	473
Pike	245	277	311	430	510
Prentiss	231	259	292	380	453

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alcorn	173	235	313	436	438
Attala	231	234	296	412	469
Bolivar	275	278	371	463	530
Carroll	160	218	291	363	428
Choctaw	176	240	320	400	448
Clarke	168	242	306	396	503
Coahoma	279	283	377	472	528
Covington	168	273	306	408	430
Franklin	242	273	306	426	430
Greene	168	230	306	411	430
Holmes	168	230	306	384	430
Issaquena	253	346	460	576	645
Jasper	159	217	290	402	438
Jefferson Davis	205	230	306	384	463
Kemper	242	273	306	426	438
Lamar	207	336	377	472	528
Lawrence	168	264	306	421	494
Lee	305	318	387	492	542
Lincoln	168	273	306	426	430
Marion	221	233	306	418	503
Monroe	168	273	306	408	430
Neshoba	212	220	292	391	409
Noxubee	195	220	246	332	403
Panola	248	254	314	437	440
Perry	168	257	306	426	503
Pontotoc	196	248	306	426	430
Quitman	168	230	306	426	454

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Scott	168	273	306	387	430
Simpson	242	252	306	426	467
Stone	168	273	306	384	503
Tallahatchie	201	205	273	341	426
Tippah	171	262	294	368	413
Tunica	168	230	306	426	460
Walthall	184	252	306	426	430
Washington	257	306	408	527	580
Webster	230	249	291	378	407
Winston	227	230	305	425	501
Yazoo	245	248	331	414	484

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Sharkey	205	231	259	330	426
Smith	228	230	306	384	503
Sunflower	265	289	336	423	541
Tate	206	324	376	470	617
Tishomingo	139	191	254	353	355
Union	168	273	306	384	430
Warren	217	306	388	540	637
Wayne	224	230	306	384	430
Wilkinson	228	230	306	392	503
Yalobusha	233	240	295	369	414

MISSOURI

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Columbia, MO MSA	240	336	437	608	717	Boone
Joplin, MO MSA	234	270	359	472	507	Jasper, Newton
Kansas City, MO-KS MSA	316	398	478	661	732	Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA	205	274	366	462	513	Andrew, Buchanan
St. Louis, MO-IL MSA	295	361	468	609	674	Crawford, Franklin, Jefferson, Lincoln, St. Charles St. Louis, Warren, St. Louis city
Springfield, MO MSA	246	305	398	553	577	Christian, Greene, Webster

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adair	220	284	378	474	569
Andrain	243	246	328	466	527
Barton	167	215	286	359	469
Benton	258	261	348	435	487
Butler	184	238	318	407	446
Callaway	269	272	363	461	595
Cape Girardeau	232	285	379	506	619
Carter	211	237	267	372	374
Charlton	195	200	267	369	406
Cole	211	288	385	534	557
Dade	147	200	267	356	439
Daviess	162	222	296	411	484
Dent	216	219	291	403	479
Dunklin	182	202	267	366	393
Gentry	150	207	275	361	386
Harrison	201	206	273	342	381

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Atchison	209	239	278	358	390
Barry	180	247	328	417	457
Bates	172	234	312	398	512
Bollinger	154	222	281	351	393
Caldwell	187	256	341	426	478
Camden	296	300	400	555	652
Carroll	149	205	272	378	446
Cedar	181	215	287	400	471
Clark	150	206	274	343	403
Cooper	170	234	309	429	476
Dallas	213	225	288	361	474
Dekalb	236	239	320	444	448
Douglas	221	223	286	399	401
Gascenade	179	244	325	437	455
Grundy	210	235	313	423	489
Henry	261	265	353	442	580

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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MISSOURI continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Hickory	172	235	313	392	439
Howard	209	231	308	394	504
Iron	165	236	285	397	456
Knox	149	206	273	379	381
Lawrence	241	245	314	437	440
Linn	167	227	303	420	497
Mcdonald	218	220	282	392	414
Madison	182	232	309	387	444
Marion	193	233	311	432	469
Miller	251	283	317	442	521
Moniteau	208	220	292	399	413
Montgomery	180	245	327	413	458
New Madrid	216	235	314	393	440
Oregon	201	223	257	336	359
Ozark	147	200	267	372	374
Perry	265	269	359	478	502
Phelps	234	265	354	486	539
Polk	176	240	321	426	527
Putnam	150	206	274	343	385
Randolph	180	252	327	410	489
Ripley	153	209	278	351	457
Ste. Genevieve	188	261	343	446	564
Saline	189	259	346	439	501
Scotland	161	219	291	406	417
Shannon	147	200	267	351	374
Stoddard	206	218	289	382	455
Sullivan	197	200	267	351	374
Texas	179	213	284	366	398
Washington	267	321	361	451	505
Worth	142	209	258	358	422

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Holt	147	201	269	373	376
Howell	212	215	286	387	401
Johnson	273	291	379	528	623
Laclede	193	247	317	442	444
Lewis	208	227	281	360	450
Livingston	211	236	315	439	463
Macon	184	251	334	417	467
Maries	153	209	277	369	389
Mercer	197	200	267	372	439
Mississippi	156	214	285	397	400
Monroe	162	222	296	411	413
Morgan	193	256	312	435	465
Nodaway	238	249	330	450	543
Osage	156	214	285	397	400
Pemiscot	214	218	278	388	390
Pettis	247	289	387	487	583
Pike	210	241	322	403	529
Pulaski	220	301	337	469	523
Ralls	161	233	291	406	409
Reynolds	198	201	269	363	441
St. Clair	156	213	284	369	398
St. Francois	238	300	379	476	623
Schuyler	207	212	283	393	411
Scott	273	276	368	497	572
Shelby	148	201	270	375	386
Stone	265	269	349	446	489
Taney	254	265	353	491	580
Vernon	195	244	325	449	459
Wayne	206	209	277	359	459
Wright	179	202	271	376	444

MONTANA

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA	250	307	410	549	667	Yellowstone
Great Falls, MT MSA	217	295	394	504	615	Cascade

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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M O N T A N A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Beaverhead	243	275	352	486	579
Blaine	219	275	365	457	512
Carbon	230	306	359	470	502
Chouteau	204	278	371	486	549
Daniels	205	332	374	492	614
Deer Lodge	183	250	334	424	503
Fergus	201	274	364	456	598
Gallatin	250	313	418	539	687
Glacier	216	295	393	491	551
Granite	195	279	353	443	495
Jefferson	288	292	390	514	546
Lake	267	280	338	468	506
Liberty	177	241	322	448	529
Mccone	187	304	342	476	479
Meagher	205	332	374	520	523
Missoula	266	311	415	535	680
Park	219	289	385	482	632
Phillips	209	280	374	467	614
Powder River	191	295	348	434	493
Prairie	162	226	293	409	424
Richland	173	257	314	437	440
Rosebud	266	288	374	467	614
Sheridan	233	235	313	414	514
Stillwater	277	280	374	520	614
Teton	190	264	346	482	486
Treasure	205	299	374	520	523
Wheatland	154	214	282	379	395

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Big Horn	199	272	363	455	596
Broadwater	226	309	412	527	675
Carter	165	268	301	418	493
Custer	202	258	337	434	470
Dawson	195	266	354	464	553
Fallon	163	222	296	406	475
Flathead	237	286	382	531	626
Garfield	189	258	344	431	564
Golden Valley	180	291	328	411	459
Hill	280	284	374	517	531
Judith Basin	205	332	374	467	523
Lewis and Clark	255	300	398	555	655
Lincoln	295	310	374	512	523
Madison	277	280	374	493	523
Mineral	216	296	394	493	646
Musselshell	251	255	340	427	476
Petroleum	197	269	359	449	502
Pondera	189	307	344	479	564
Powell	261	266	354	444	582
Ravalli	205	280	374	520	580
Roosevelt	269	272	354	482	496
Sanders	205	280	374	467	523
Silver Bow	205	280	374	470	523
Sweet Grass	244	256	312	434	456
Toole	277	280	374	520	523
Valley	170	258	308	427	431
Wibaux	246	332	374	520	614

N E B R A S K A

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE MSA	268	341	453	600	699	Lancaster
Omaha, NE-IA MSA	284	388	491	643	721	Cass, Douglas, Sarpy, Washington
Sioux City, IA-NE MSA	237	301	402	532	615	Dakota

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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N E B R A S K A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	202	276	368	468	604
Arthur	202	276	368	461	516
Blaine	106	145	194	243	272
Box Butte	238	241	322	448	529
Brown	170	238	310	388	508
Burt	167	227	303	394	466
Cedar	167	201	269	352	376
Cherry	183	297	333	463	546
Clay	179	243	324	435	454
Cuming	174	283	317	416	444
Dawes	232	249	330	460	543
Deuel	159	216	288	395	442
Dodge	198	272	362	500	506
Fillmore	196	256	340	429	476
Frontier	216	219	291	386	409
Gage	188	252	336	427	470
Garfield	144	197	263	365	424
Grant	186	256	340	425	476
Hall	215	278	371	464	520
Harlan	186	262	340	471	476
Hitchcock	180	245	326	409	457
Hooker	186	302	340	471	476
Jefferson	184	251	334	417	467
Kearney	186	282	340	452	557
Keya Paha	186	256	340	425	476
Knox	141	225	257	323	381
Logan	161	220	292	366	481
Mcpherson	186	256	340	471	476
Merrick	165	225	300	414	453
Nance	154	215	279	350	392
Nuckolls	163	223	298	372	416
Pawnee	157	241	287	400	403
Phelps	251	256	340	471	557
Platte	207	277	369	514	529
Red Willow	188	258	343	469	545
Rock	151	246	276	385	412
Saunders	190	261	348	452	522
Seward	278	282	376	470	528
Sherman	153	236	277	348	455
Stanton	186	256	340	445	476

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Antelope	136	221	249	346	349
Banner	186	256	340	471	476
Boone	163	222	297	371	487
Boyd	148	240	271	339	379
Buffalo	214	291	390	506	624
Butler	185	252	336	420	470
Chase	167	270	303	378	497
Cheyenne	251	256	340	449	476
Colfax	213	261	297	409	415
Custer	230	233	311	389	509
Dawson	247	285	340	442	476
Dixon	241	245	327	416	514
Dundy	186	256	340	425	476
Franklin	190	212	275	384	386
Furnas	164	193	258	329	422
Garden	137	220	250	348	410
Gosper	182	249	330	460	543
Greeley	151	232	276	351	453
Hamilton	180	261	326	454	457
Hayes	145	236	265	368	436
Holt	195	247	325	430	462
Howard	181	246	328	411	460
Johnson	186	291	340	425	476
Keith	180	245	326	448	535
Kimball	186	278	340	471	557
Lincoln	228	257	342	444	516
Loup	122	167	222	277	364
Madison	228	285	380	506	625
Morrill	188	263	310	415	508
Nemaha	186	256	340	425	493
Otoe	209	276	342	444	560
Perkins	207	254	339	448	519
Pierce	174	238	317	403	444
Polk	173	238	314	393	458
Richardson	176	240	321	401	450
Saline	224	302	340	471	476
Scotts Bluff	186	256	340	468	557
Sheridan	184	251	334	417	526
Sioux	186	256	340	452	557
Thayer	182	262	295	367	412

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NEBRASKA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Thomas	186	259	340	425	476
Valley	186	256	340	425	476
Webster	156	213	284	355	426
York	206	281	374	467	525
Thurston	155	231	282	353	443
Wayne	247	251	326	451	535
Wheeler	186	256	340	471	476

NEVADA

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Las Vegas, NV-AZ MSA	438	519	618	858	1014	Clark, Nye
Reno, NV MSA	394	458	587	817	965	Washoe

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Churchill	414	419	560	773	918
Elko	377	429	572	756	939
Eureka	301	487	548	685	766
Lander	240	372	436	546	716
Lyon	299	358	459	638	754
Pershing	423	429	572	716	818
White Pine	304	416	554	748	786
Douglas	376	548	685	951	1060
Esmeralda	342	428	481	602	674
Humboldt	448	470	566	742	794
Lincoln	212	317	386	483	541
Mineral	309	422	562	737	922
Storey	429	435	572	796	939
Carson City	322	440	587	816	964

NEW HAMPSHIRE

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Lawrence-Haverhill, MA-NH PMSA	419	488	635	794	978	Rockingham county towns of Atkinson, Brentwood, Danville Derry, East Kingston, Hampstead, Kingston, Newton Plaistow, Salem, Sandown, Seabrook, Windham
Lowell, MA-NH PMSA	428	535	668	836	937	Hillsborough county towns of Pelham
Manchester, NH MSA	347	494	617	772	864	Hillsborough county towns of Bedford, Goffstown Manchester Merrimack county towns of Allenstown, Hooksett Rockingham county towns of Auburn, Candia
Nashua, NH PMSA	408	549	704	958	1140	Hillsborough county towns of Amherst, Brookline Greenville, Hollis, Hudson, Litchfield, Mason, Merrimack Milford, Mont Vernon, Nashua, New Ipswich, Wilton Rockingham county towns of
Portsmouth-Dover-Rochester, NH-ME MSA	439	527	676	866	1062	Rockingham county towns of Exeter, Greenland, Hampton New Castle, Newfields, Newington, Newmarket North Hampton, Portsmouth, Rye, Stratham Strafford county towns of Barrington, Dover, Durham Farmington, Lee, Madbury, Milton, Rochester, Rollinsford Somersworth

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NEW HAMPSHIRE continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Belknap	413	476	626	845	1027	
Carroll	345	472	629	787	982	
Cheshire	427	507	649	844	999	
Coos	271	353	410	558	673	
Grafton	378	457	609	787	994	
Hillsborough	405	505	674	890	1071	Antrim, Bennington, Deering, Francestown, Greenfield Hancock, Hillsborough, Lyndeborough, New Boston Peterborough, Sharon, Temple, Windsor, Weare
Merrimack	425	508	634	812	907	Andover, Boscawen, Bow, Bradford, Canterbury, Chichester Concord, Danbury, Dunbarton, Epsom, Franklin, Henniker Hill, Hopkinton, Loudon, Newbury, New London, Northfield Pembroke, Pittsfield, Salisbury, Sutton, Warner, Webster Wilmot
Rockingham	442	517	691	959	1106	Deerfield, Northwood, Nottingham, Chester, Epping Fremont, Hampton Falls, Kensington, Raymond South Hampton
Strafford	390	530	708	886	992	Middleton, New Durham, Strafford
Sullivan	412	418	542	711	759	

NEW JERSEY

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic-Cape May, NJ PMSA	510	579	772	965	1104	Atlantic, Cape May
Bergen-Passaic, NJ PMSA	631	767	902	1200	1481	Bergen, Passaic
Jersey City, NJ PMSA	583	687	800	1015	1119	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	684	749	936	1272	1469	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ PMSA	569	680	862	1146	1345	Monmouth, Ocean
Newark, NJ PMSA	546	697	840	1059	1336	Essex, Morris, Sussex, Union
Philadelphia, PA-NJ PMSA	453	558	688	861	1080	Burlington, Camden, Gloucester, Salem
Trenton, NJ PMSA	455	634	773	1045	1261	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	439	535	645	806	904	Cumberland
Warren County, NJ	519	585	722	1004	1184	Warren

NEW MEXICO

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albuquerque, NM MSA	336	396	495	688	812	Bernalillo, Sandoval, Valencia
Las Cruces, NM MSA	279	344	411	571	673	Dona Ana
Santa Fe, NM MSA	358	502	627	841	954	Los Alamos, Santa Fe

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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N E W M E X I C O continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Catron	189	299	342	477	562
Cibola	235	257	299	415	490
Curry	230	290	383	482	536
Eddy	262	265	354	475	581
Guadalupe	190	260	346	432	568
Hidalgo	189	264	342	429	480
Lincoln	291	297	394	518	647
Mckinley	253	323	409	511	572
Otero	221	284	369	514	518
Rio Arriba	299	307	378	474	530
San Juan	287	308	384	533	630
Sierra	212	258	342	477	480
Taos	351	356	475	593	780
Union	189	258	342	436	562

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Chaves	251	292	386	529	541
Colfax	215	269	309	429	506
Debaca	189	258	342	477	480
Grant	236	268	353	463	557
Harding	156	213	284	392	398
Lea	236	258	342	477	536
Luna	264	268	342	477	562
Mora	183	251	334	418	468
Quay	253	258	342	477	562
Roosevelt	240	254	322	447	528
San Miguel	285	288	385	481	539
Socorro	194	289	353	490	579
Torrance	282	304	358	447	529

N E W Y O R K

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	382	468	578	723	809	Albany, Montgomery, Rensselaer, Saratoga, Schenectady Schoharie
Binghamton, NY MSA	296	373	478	608	670	Broome, Tioga
Buffalo-Niagara Falls, NY PMSA	326	405	487	609	682	Erie, Niagara
Dutchess County, NY PMSA	498	632	780	1014	1186	Dutchess
Elmira, NY MSA	279	356	450	568	680	Chemung
Glens Falls, NY MSA	327	440	536	671	752	Warren, Washington
Jamestown, NY MSA	226	298	397	513	557	Chautauqua
Nassau-Suffolk, NY PMSA	684	824	1005	1397	1497	Nassau, Suffolk
New York, NY PMSA	647	721	819	1025	1147	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester County, NY	615	801	976	1269	1513	Westchester
Orange County, NY PMSA	495	645	787	999	1141	Orange
Rochester, NY MSA	364	473	577	738	807	Genesee, Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	349	422	521	667	739	Cayuga, Madison, Onondaga, Oswego
Utica-Rome, NY MSA	323	363	453	567	635	Herkimer, Oneida

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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N E W Y O R K continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allegany	239	295	363	457	508
Chenango	335	339	424	543	601
Columbia	420	442	567	743	794
Delaware	321	370	435	575	714
Franklin	283	345	415	524	587
Greene	326	431	518	669	815
Jefferson	362	427	503	629	704
Otsego	312	394	453	585	744
Schuyler	318	338	402	560	660
Steuben	316	351	400	540	608
Tompkins	439	474	608	846	998
Wyoming	248	347	408	510	571

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Cattaraugus	239	293	380	475	586
Clinton	280	370	494	618	692
Cortland	274	398	498	623	737
Essex	262	380	475	595	665
Fulton	244	350	444	556	622
Hamilton	307	346	389	487	544
Lewis	285	364	439	549	614
St. Lawrence	252	322	420	524	603
Seneca	356	383	462	596	647
Sullivan	445	499	609	841	853
Ulster	413	574	691	898	1133
Yates	325	346	433	540	606

N O R T H C A R O L I N A

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Asheville, NC MSA	277	342	445	579	624	Buncombe, Madison
Charlotte-Gastonia-Rock Hill, NC-SC MSA	400	452	508	670	802	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA	343	387	435	602	715	Cumberland
Goldsboro, NC MSA	199	300	362	503	594	Wayne
Greensboro--Winston-Salem--High Point, NC MSA	341	387	462	637	647	Alamance, Davidson, Davie, Forsyth, Guilford, Randolph Stokes, Yadkin
Greenville, NC MSA	338	342	444	596	729	Pitt
Hickory-Morganton, NC MSA	317	332	400	502	597	Alexander, Burke, Caldwell, Catawba
Jacksonville, NC MSA	321	376	423	588	695	Onslow
Norfolk-Virginia Beach-Newport News, VA-NC MSA	409	458	545	758	890	Currituck
Raleigh-Durham-Chapel Hill, NC MSA	381	462	543	728	858	Chatham, Durham, Franklin, Johnston, Orange, Wake
Rocky Mount, NC MSA	301	314	382	523	577	Edgecombe, Nash
Wilmington, NC MSA	362	400	488	669	797	New Hanover

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alleghany	227	230	305	397	501
Ashe	162	231	295	399	485
Beaufort	232	281	331	424	464
Bladen	218	222	295	369	414
Camden	265	361	482	602	675
Caswell	176	241	321	401	449
Chowan	193	311	350	486	491
Cleveland	217	324	395	537	565
Craven	231	340	421	558	589
Duplin	233	263	295	392	414

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Anson	200	326	366	494	512
Avery	262	288	331	414	464
Bertie	189	254	295	369	420
Brunswick	319	359	403	533	663
Carteret	317	347	423	588	654
Cherokee	233	263	295	369	476
Clay	162	263	295	410	414
Columbus	239	269	302	396	423
Dare	291	460	530	726	742
Gates	162	222	295	410	414

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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NORTH CAROLINA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Graham	148	211	269	352	440
Greene	178	289	325	406	478
Harnett	278	282	376	507	556
Henderson	329	338	418	558	642
Hoke	198	300	361	467	506
Iredell	340	344	459	575	644
Jones	176	284	320	400	448
Lenoir	183	258	332	416	466
Macon	266	319	378	485	527
Mitchell	191	305	347	482	503
Moore	287	348	415	569	681
Pamlico	188	304	342	442	480
Pender	242	342	385	481	624
Person	233	323	424	555	648
Richmond	245	280	373	467	522
Rockingham	272	294	383	479	535
Sampson	252	255	336	420	470
Stanly	239	297	397	537	555
Swain	233	257	295	392	423
Tyrrell	173	236	314	394	440
Warren	175	240	319	399	446
Watauga	310	372	470	639	770
Wilson	296	301	401	502	563

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Granville	299	321	378	526	593
Halifax	271	305	343	430	481
Haywood	277	281	369	514	517
Hertford	259	263	351	439	492
Hyde	195	291	354	444	496
Jackson	245	248	331	414	543
Lee	227	312	411	543	577
Mcdowell	176	262	320	445	526
Martin	183	252	332	416	466
Montgomery	283	287	368	460	516
Northampton	156	253	284	395	398
Pasquotank	327	348	435	604	610
Perquimans	192	303	349	485	489
Polk	273	358	402	503	564
Robeson	243	279	328	416	459
Rutherford	279	283	362	453	507
Scotland	204	307	372	497	520
Surry	242	290	337	466	508
Transylvania	314	319	403	562	601
Vance	297	336	377	475	528
Washington	241	244	326	449	458
Wilkes	263	296	333	464	520
Yancey	165	269	302	421	495

NORTH DAKOTA

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA	271	304	404	562	663	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA	280	329	432	601	644	Cass
Grand Forks, ND-MN MSA	277	330	434	598	668	Grand Forks

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	162	234	295	390	485
Benson	240	244	324	406	500
Bottineau	167	229	306	425	427
Burke	229	258	290	372	477
Dickey	229	249	290	386	407
Dunn	161	259	291	364	408
Emmons	127	205	230	320	377
Golden Valley	198	270	360	450	503

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Barnes	182	248	331	460	503
Billings	229	258	290	404	407
Bowman	160	241	290	404	424
Cavalier	198	271	361	451	556
Divide	189	221	295	390	414
Eddy	161	260	292	407	422
Foster	166	226	302	377	465
Grant	138	205	250	349	361

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NORTH DAKOTA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Griggs	160	241	290	363	477
Kidder	160	217	290	370	407
Logan	146	201	268	373	434
Mcintosh	160	217	290	363	407
Mclean	223	233	290	392	477
Mountrail	234	251	296	409	465
Oliver	160	226	290	363	475
Pierce	180	246	328	456	502
Ransom	214	239	319	398	447
Richland	226	266	354	444	524
Sargent	161	219	292	372	411
Sioux	124	201	225	282	316
Stark	170	232	309	429	506
Stutsman	251	255	341	475	559
Traill	221	281	330	419	466
Ward	209	286	382	516	615
Williams	190	233	302	419	496

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Hettinger	165	217	290	379	470
Lamoure	229	258	290	363	407
Mchenry	160	217	290	404	454
Mckenzie	142	211	259	361	411
Mercer	171	239	311	432	511
Nelson	160	217	290	363	477
Pembina	184	257	335	449	535
Ramsey	216	289	386	483	630
Renville	244	246	320	446	526
Rolette	189	241	290	363	477
Sheridan	160	258	290	372	477
Slope	160	258	290	384	407
Steele	154	211	281	383	448
Towner	241	270	360	450	591
Walsh	280	285	360	465	503
Wells	224	227	300	375	491

OHIO

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH PMSA	324	395	507	634	711	Portage, Summit
Brown County, OH	262	279	363	498	508	Brown
Canton-Massillon, OH MSA	235	321	428	536	599	Carroll, Stark
Cincinnati, OH-KY-IN	282	364	485	651	703	Clermont, Hamilton, Warren
Cleveland-Lorain-Elyria, OH PMSA	322	407	503	640	720	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH MSA	315	374	479	608	699	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway
Dayton-Springfield, OH MSA	347	388	496	640	719	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA	282	394	511	644	716	Butler
Huntington-Ashland, WV-KY-OH MSA	240	283	359	478	510	Lawrence
Lima, OH MSA	251	313	412	524	577	Allen, Auglaize
Mansfield, OH MSA	218	313	398	497	556	Crawford, Richland
Parkersburg-Marietta, WV-OH MSA	240	294	364	494	509	Washington
Steubenville-Weirton, OH-WV MSA	195	208	357	450	501	Jefferson
Toledo, OH MSA	327	380	481	625	673	Fulton, Lucas, Wood
Wheeling, WV-OH MSA	271	288	356	452	498	Belmont
Youngstown-Warren, OH MSA	274	323	404	509	578	Columbiana, Mahoning, Trumbull

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	182	239	319	399	456
Athens	315	357	420	551	677
Clinton	225	339	408	567	572
Darke	291	296	394	493	553
Erie	239	348	435	587	712
Gallia	189	257	343	429	480
Hancock	335	339	429	549	600
Harrison	173	236	315	438	500
Highland	260	263	351	453	491
Holmes	232	280	342	428	489
Jackson	184	274	335	442	468
Logan	310	313	396	547	554
Meigs	189	239	300	389	491
Monroe	175	239	319	405	447
Morrow	206	301	375	469	529
Noble	230	258	344	431	565
Paulding	250	256	325	429	533
Pike	183	286	321	447	469
Putnam	275	278	372	468	521
Sandusky	239	339	435	548	608
Seneca	263	281	361	498	505
Tuscarawas	207	286	377	472	529
Van Wert	209	317	381	477	535
Wayne	250	335	424	547	592
Wyandot	241	270	361	451	505

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Ashland	234	310	413	515	577
Champaign	228	319	415	518	580
Coshocton	256	263	325	405	454
Defiance	277	311	414	521	579
Fayette	288	300	365	489	511
Guernsey	177	240	320	426	474
Hardin	182	294	330	436	462
Henry	286	289	366	509	579
Hocking	261	275	353	469	579
Huron	307	332	416	549	583
Knox	276	279	373	503	556
Marion	237	308	376	489	546
Mercer	206	281	375	499	574
Morgan	175	283	319	399	466
Muskingum	256	286	362	453	506
Ottawa	248	391	450	612	653
Perry	236	239	319	443	495
Preble	281	285	361	487	552
Ross	304	316	385	481	539
Scioto	185	274	330	419	462
Shelby	241	329	439	549	614
Union	262	363	477	597	692
Vinton	217	277	319	418	447
Williams	285	296	361	487	505

O K L A H O M A

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Enid, OK MSA	271	275	366	509	581	Garfield
Fort Smith, AR-OK MSA	275	279	367	491	514	Sequoyah
Lawton, OK MSA	332	335	425	591	647	Comanche
Oklahoma City, OK MSA	305	331	430	598	670	Canadian, Cleveland, Logan, Mcclain, Oklahoma, Pottawatomie
Tulsa, OK MSA	253	306	397	553	652	Creek, Osage, Rogers, Tulsa, Wagoner

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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O K L A H O M A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adair	215	218	290	405	419
Atoka	160	249	290	384	448
Beckham	239	247	328	411	461
Bryan	231	253	316	440	487
Carter	198	273	341	476	517
Choctaw	152	213	277	386	388
Coal	223	234	283	393	465
Craig	181	248	329	458	541
Delaware	222	237	317	441	521
Ellis	175	262	320	399	448
Grady	257	261	347	473	570
Greer	183	263	307	383	469
Harper	160	259	290	384	407
Hughes	215	218	290	364	407
Jefferson	157	203	271	338	436
Kay	265	281	369	514	602
Kiowa	160	218	290	384	407
Le Flore	215	231	309	429	432
Love	186	254	339	425	476
Mcintosh	170	232	310	387	471
Marshall	181	248	330	417	464
Murray	160	218	290	364	407
Noble	228	232	310	430	434
Okfuskee	215	218	290	364	407
Ottawa	224	235	290	392	437
Payne	271	315	405	564	632
Pontotoc	185	261	326	409	487
Roger Mills	158	215	287	399	403
Stephens	239	265	329	438	532
Tillman	217	245	274	381	450
Washita	230	238	290	405	477
Woodward	171	269	312	434	437

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alfalfa	160	218	290	364	419
Beaver	169	273	308	427	504
Blaine	160	218	290	405	477
Caddo	166	235	302	384	423
Cherokee	247	278	316	409	519
Cimarron	138	224	252	335	414
Cotton	224	227	303	422	464
Custer	224	254	339	473	546
Dewey	145	235	264	367	371
Garvin	172	235	314	409	516
Grant	160	259	290	405	477
Harmon	168	228	305	381	427
Haskell	230	232	290	398	477
Jackson	203	304	371	486	549
Johnston	156	253	284	394	466
Kingfisher	189	277	342	449	480
Latimer	167	227	303	403	496
Lincoln	252	261	318	437	488
Mccurtain	230	235	290	405	477
Major	184	282	335	466	469
Mayes	202	275	367	463	515
Muskogee	257	289	337	469	473
Nowata	170	232	310	387	474
Okmulgee	244	247	328	411	461
Pawnee	206	270	351	452	491
Pittsburg	218	236	315	438	517
Pushmataha	212	234	312	390	437
Seminole	215	224	290	405	442
Texas	197	279	322	447	450
Washington	218	325	396	524	614
Woods	222	225	301	403	422

O R E G O N

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Eugene-Springfield, OR MSA	292	392	521	726	841	Lane
Medford-Ashland, OR MSA	287	378	504	701	781	Jackson
Portland-Vancouver, OR-WA PMSA	349	429	529	736	800	Clackamas, Columbia, Multnomah, Washington, Yamhill

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O R E G O N continued

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Salem, OR PMSA	323	372	483	672	705	Marion, Polk

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Baker	225	252	336	467	470
Clatsop	262	334	444	605	685
Crook	220	300	400	499	560
Deschutes	328	378	504	702	812
Gilliam	233	364	423	529	592
Harney	181	260	329	458	510
Jefferson	236	323	430	576	646
Klamath	258	301	402	554	660
Lincoln	326	330	440	612	665
Malheur	225	269	336	433	487
Sherman	184	299	336	467	470
Umatilla	258	268	353	490	518
Wallowa	192	291	327	455	494
Wheeler	168	231	307	384	430

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Benton	276	357	452	630	743
Coos	224	290	386	537	541
Curry	253	345	459	588	722
Douglas	277	301	401	557	618
Grant	193	264	352	440	555
Hood River	318	342	455	632	746
Josephine	248	346	449	607	711
Lake	220	300	337	451	553
Linn	255	324	425	579	630
Morrow	220	288	359	496	528
Tillamook	223	324	404	554	603
Union	257	261	347	482	569
Wasco	266	290	363	504	562

P E N N S Y L V A N I A

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA MSA	355	481	573	745	837	Carbon, Lehigh, Northampton
Altoona, PA MSA	198	284	360	468	551	Blair
Erie, PA MSA	233	318	389	506	544	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	321	411	527	664	738	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA	225	264	331	415	463	Cambria, Somerset
Lancaster, PA MSA	348	428	534	695	748	Lancaster
Philadelphia, PA-NJ PMSA	453	558	688	861	1080	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pike County, PA	377	563	663	921	928	Pike
Pittsburgh, PA PMSA	310	380	458	574	641	Allegheny, Beaver, Butler, Fayette, Washington Westmoreland
Reading, PA MSA	290	428	528	661	745	Berks
Scranton--Wilkes-Barre--Hazleton, PA MSA	250	368	438	547	662	Columbia, Lackawanna, Luzerne, Wyoming
Sharon, PA MSA	290	316	368	460	537	Mercer
State College, PA MSA	381	467	577	756	809	Centre
Williamsport, PA MSA	227	342	411	514	576	Lycoming
York, PA MSA	292	401	496	621	694	York

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	259	355	473	611	775
Bedford	177	283	322	418	464
Cameron	238	278	326	408	457
Clearfield	201	265	348	448	495
Crawford	238	287	350	487	491
Forest	198	258	336	420	471
Fulton	225	247	322	411	451
Huntingdon	182	279	332	414	465
Jefferson	183	252	333	416	473
Lawrence	196	282	357	472	500
Mifflin	262	287	338	471	474
Montour	313	322	422	588	694
Potter	213	268	343	428	518
Snyder	297	312	376	523	527
Susquehanna	317	329	401	503	623
Union	261	325	433	551	608
Warren	243	292	369	462	517

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Armstrong	224	294	334	423	548
Bradford	214	291	382	498	536
Clarion	256	293	337	421	509
Clinton	193	284	338	471	474
Elk	194	265	353	449	540
Franklin	229	332	409	561	573
Greene	204	259	292	406	455
Indiana	304	338	385	482	539
Juniata	198	284	342	427	478
Mc Kean	194	301	354	443	496
Monroe	422	504	622	851	951
Northumberland	231	292	356	474	527
Schuylkill	205	294	373	466	521
Sullivan	201	275	367	460	514
Tioga	176	281	315	439	447
Venango	224	296	344	444	482
Wayne	267	411	484	615	790

R H O D E I S L A N D

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
New London-Norwich, CT-RI MSA	476	575	700	876	1001	Washington county towns of Hopkinton, Westerly
Providence-Fall River-Warwick, RI-MA PMSA	396	539	649	813	1001	Bristol county towns of Barrington, Bristol, Warren Kent county towns of Coventry, East Greenwich, Warwick West Greenwich, West Warwick Newport county towns of Jamestown, Little Compton Tiverton Providence county towns of Burrillville, Central Falls Cranston, Cumberland, East Providence, Foster, Glocester Johnston, Lincoln, North Providense, North Smithfield Pawtucket, Providence, Scituate, Smithfield, Woonsocket Washington county towns of Charlestown, Exeter Narragansett, North Kingstown, Richmond, South Kingstown

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Newport	534	621	797	996	1115	Middletown, Newport, Portsmouth
Washington	593	668	750	968	1066	New Shoreham

Note The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1 15 times the 4BR FMR, and the FMR for a 6 BR unit is 1 30 times the 4 BR FMR 042893

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SOUTH CAROLINA

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Augusta-Aiken, GA-SC MSA	325	389	458	623	738	Aiken, Edgefield
Charleston-North Charleston, SC MSA	365	423	486	647	754	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA	400	452	508	670	802	York
Columbia, SC MSA	392	431	496	656	754	Lexington, Richland
Florence, SC MSA	299	334	433	542	607	Florence
Greenville-Spartanburg-Anderson, SC MSA	311	374	424	535	628	Anderson, Cherokee, Greenville, Pickens, Spartanburg
Myrtle Beach, SC MSA	385	391	501	626	702	Horry
Sumter, SC MSA	313	348	395	542	641	Sumter

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Abbeville	180	244	326	433	534
Bamberg	173	235	313	391	438
Beaufort	397	487	561	700	784
Chester	188	256	342	428	486
Clarendon	188	256	342	428	480
Darlington	203	277	368	460	516
Fairfield	233	373	424	530	593
Greenwood	279	283	377	472	528
Jasper	254	257	343	430	564
Lancaster	292	326	371	485	558
Lee	253	256	342	428	562
Marion	243	246	329	457	540
Newberry	188	304	342	428	480
Orangeburg	223	297	342	428	534
Union	185	295	336	443	470

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allendale	171	277	311	389	436
Barnwell	293	296	396	495	554
Calhoun	207	243	325	450	454
Chesterfield	188	271	342	451	562
Colleton	192	310	348	436	487
Dillon	246	278	312	409	437
Georgetown	218	353	397	496	603
Hampton	188	304	342	428	499
Kershaw	206	281	375	469	525
Laurens	196	296	356	485	499
Mccormick	206	282	376	470	617
Marlboro	254	295	348	435	487
Oconee	270	301	346	481	484
Saluda	197	248	285	397	469
Williamsburg	253	256	342	428	499

SOUTH DAKOTA

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Rapid City, SD MSA	285	339	452	614	742	Pennington
Sioux Falls, SD MSA	271	364	468	599	687	Lincoln, Minnehaha

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Aurora	148	237	267	371	402
Bennett	212	307	360	500	544
Brookings	218	278	365	509	600
Brule	186	281	340	455	558
Butte	198	270	360	500	591
Charles Mix	185	248	285	356	398
Clay	215	293	392	493	643

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Beadle	230	277	360	493	591
Bon Homme	238	241	322	448	529
Brown	204	279	372	490	565
Buffalo	204	278	371	463	607
Campbell	184	251	337	434	514
Clark	164	223	297	372	447
Codington	199	272	362	497	507

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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SOUTH DAKOTA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Corson	159	215	287	369	402
Davison	226	270	360	482	522
Deuel	184	251	337	421	470
Douglas	225	229	306	418	427
Fall River	267	270	360	454	591
Grant	198	270	360	493	503
Haakon	198	320	360	500	591
Hand	171	225	301	396	424
Harding	198	320	360	450	503
Hutchinson	164	233	287	364	470
Jackson	180	291	328	426	474
Jones	191	260	348	469	487
Lake	206	278	312	434	481
Lyman	186	255	341	426	478
Mcpherson	185	221	295	411	414
Meade	255	277	360	500	591
Miner	149	243	272	364	433
Perkins	172	235	312	434	512
Roberts	161	245	291	364	408
Shannon	171	276	310	431	434
Stanley	198	320	360	500	522
Todd	260	266	353	443	495
Turner	167	244	304	398	426
Walworth	234	317	360	497	591
Ziebach	198	270	360	450	591

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Custer	199	272	363	505	596
Day	239	243	323	450	505
Dewey	198	277	360	450	519
Edmunds	198	270	360	500	503
Faulk	226	310	413	517	579
Gregory	218	248	327	409	458
Hamlin	166	226	302	377	426
Hanson	240	328	437	548	614
Hughes	261	293	392	545	643
Hyde	182	295	331	437	534
Jerauld	145	235	265	366	433
Kingsbury	218	243	300	375	461
Lawrence	209	286	381	529	597
Mccook	153	218	280	390	459
Marshall	222	239	285	364	405
Mellette	255	287	322	423	451
Moody	194	254	318	423	522
Potter	194	265	352	476	493
Sanborn	198	288	360	450	503
Spink	216	250	334	417	467
Sully	172	264	313	405	439
Tripp	190	259	346	444	486
Union	241	258	345	432	483
Yankton	198	310	360	490	591

TENNESSEE

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	316	370	444	573	654	Hamilton
Clarksville-Hopkinsville, TN-KY MSA	303	335	398	542	558	Montgomery
Johnson City-Kingsport-Bristol, TN-VA MSA	246	286	363	472	537	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA	267	330	423	576	691	Anderson, Blount, Knox, Loudon, Sevier, Union
Memphis, TN-AR-MS MSA	337	392	462	642	674	Fayette, Shelby, Tipton
Nashville, TN MSA	348	415	512	697	784	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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T E N N E S S E E continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Bedford	199	297	362	457	507
Bledsoe	163	223	297	373	418
Campbell	233	236	299	416	419
Carroll	163	266	299	391	419
Claiborne	176	258	297	414	489
Cocke	173	239	297	399	489
Crockett	163	249	297	373	444
Decatur	210	227	301	377	494
Dyer	288	292	389	486	606
Franklin	242	263	337	469	552
Giles	199	294	363	455	508
Greene	185	265	336	420	470
Hamblen	209	270	355	473	498
Hardeman	184	234	312	422	437
Haywood	243	281	375	469	525
Henry	182	231	303	422	492
Houston	221	223	297	382	418
Jackson	163	223	297	373	418
Johnson	157	213	285	386	420
Lauderdale	188	257	343	433	481
Lewis	161	262	294	409	412
Mcminn	207	253	325	450	454
Macon	171	254	310	388	434
Marion	246	256	342	428	480
Maury	331	337	448	562	628
Monroe	163	223	297	401	418
Morgan	169	264	307	385	431
Overton	163	241	297	373	469
Pickett	102	148	183	254	300
Putnam	280	283	363	498	538
Roane	248	253	337	458	552
Sequatchie	163	265	297	382	418
Stewart	221	223	297	380	489
Van Buren	150	205	273	375	383
Wayne	182	264	296	388	415
White	235	265	297	404	489

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Benton	248	280	314	428	466
Bradley	212	291	388	525	637
Cannon	165	227	301	377	422
Chester	163	249	297	373	489
Clay	235	258	297	373	489
Coffee	198	321	361	502	571
Cumberland	244	265	353	492	495
Dekalb	181	246	329	411	494
Fentress	217	221	294	409	412
Gibson	175	248	319	408	446
Grainger	235	265	297	382	489
Grundy	147	239	268	373	412
Hancock	144	213	260	362	428
Hardin	163	265	297	401	435
Henderson	169	240	307	385	431
Hickman	271	275	366	483	512
Humphreys	215	281	331	414	464
Jefferson	252	255	340	432	557
Lake	227	241	297	414	426
Lawrence	222	225	300	375	421
Lincoln	189	258	344	431	483
Mcnairy	183	207	277	385	418
Madison	239	314	420	583	587
Marshall	270	296	386	486	540
Meigs	166	227	301	419	494
Moore	230	233	311	433	436
Obion	266	270	346	459	484
Perry	167	271	304	418	499
Polk	184	261	335	419	469
Rhea	180	288	327	454	460
Scott	163	223	297	373	418
Smith	176	246	320	400	448
Trousdale	207	283	377	472	618
Warren	257	260	348	435	487
Weakley	249	258	320	438	468

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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T E X A S

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA	255	275	366	493	600	Taylor
Amarillo, TX MSA	254	323	403	561	662	Potter, Randall
Austin-San Marcos, TX MSA	316	381	509	707	835	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	289	350	426	564	598	Hardin, Jefferson, Orange
Brazoria, TX PMSA	397	442	553	770	907	Brazoria
Brownsville-Harlingen-San Benito, TX MSA	276	308	412	515	676	Cameron
Bryan-College Station, TX MSA	330	384	486	676	797	Brazos
Corpus Christi, TX MSA	295	353	454	631	745	Nueces, San Patricio
Dallas, TX	386	443	567	788	931	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	352	386	465	646	763	El Paso
Fort Worth-Arlington, TX PMSA	370	402	522	726	857	Hood, Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA	403	414	518	720	849	Galveston
Henderson County, TX	275	327	398	545	653	Henderson
Houston, TX PMSA	381	426	553	769	907	Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA	293	298	387	538	591	Bell, Coryell
Laredo, TX MSA	294	339	445	557	624	Webb
Longview-Marshall, TX MSA	291	320	395	549	601	Gregg, Harrison, Upshur
Lubbock, TX MSA	276	349	454	631	699	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	251	306	387	484	542	Hidalgo
Odessa-Midland, TX MSA	261	301	402	560	649	Ector, Midland
San Angelo, TX MSA	225	310	388	539	636	Tom Green
San Antonio, TX MSA	338	389	504	701	827	Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	249	350	422	540	648	Grayson
Texarkana, TX-Texarkana, AR MSA	282	344	420	555	588	Bowie
Tyler, TX MSA	320	354	432	601	635	Smith
Victoria, TX MSA	319	323	409	568	641	Victoria
Waco, TX MSA	279	342	450	599	630	Mclennan
Wichita Falls, TX MSA	308	329	396	552	650	Archer, Wichita

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Anderson	316	356	400	556	561
Angelina	288	334	375	521	615
Armstrong	219	299	398	498	557
Austin	210	271	362	503	561
Bandera	283	304	359	498	502
Bee	205	268	353	490	546
Borden	169	274	309	429	432
Brewster	257	271	362	495	593
Brooks	156	205	230	320	322
Burleson	201	282	366	494	601

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Andrews	225	300	336	468	552
Aransas	237	324	432	601	605
Atascosa	180	247	328	457	539
Bailey	169	274	309	429	432
Baylor	169	262	309	386	432
Blanco	214	291	389	541	569
Bosque	199	292	362	470	543
Briscoe	192	261	348	461	488
Brown	247	276	368	493	604
Burnet	206	281	374	520	609

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T E X A S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Calhoun	282	300	366	508	601
Camp	356	361	450	564	631
Cass	227	231	309	429	506
Cherokee	294	305	373	488	522
Clay	192	310	348	485	572
Coke	173	237	316	396	519
Collingsworth	172	235	314	392	468
Comanche	227	231	309	411	450
Cooke	286	290	387	524	581
Crane	206	271	362	452	506
Crosby	244	274	309	419	506
Dallam	192	261	348	457	488
Deaf Smith	232	284	347	482	570
Dewitt	239	250	316	396	442
Dimmit	212	258	300	417	419
Duval	244	259	309	429	466
Edwards	176	278	321	401	449
Falls	215	237	317	397	444
Fayette	251	254	339	428	556
Floyd	236	239	320	399	474
Franklin	199	271	362	503	506
Frio	227	231	309	429	496
Garza	161	245	294	368	412
Glasscock	169	274	309	386	432
Gonzales	222	231	309	391	493
Grimes	196	268	356	495	584
Hall	148	201	269	374	441
Hansford	263	281	351	488	576
Hartley	173	237	316	440	442
Hemphill	209	338	380	529	533
Hockley	268	314	358	496	546
Houston	182	265	332	462	465
Hudspeth	317	358	401	502	658
Irion	210	302	339	425	476
Jackson	250	292	329	458	541
Jeff Davis	198	296	361	451	504
Jim Wells	190	281	346	481	568
Karnes	195	249	300	417	491
Kenedy	169	274	309	386	432
Kerr	251	340	426	592	698

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Callahan	238	243	318	439	445
Carson	197	298	359	448	502
Castro	264	288	335	455	550
Childress	245	275	310	387	507
Cochran	202	230	259	360	425
Coleman	160	203	271	377	444
Colorado	203	231	309	429	506
Concho	176	240	322	447	450
Cottle	159	218	289	403	476
Crockett	244	257	309	429	432
Culberson	172	274	309	407	432
Dawson	169	274	309	429	506
Delta	169	274	309	429	432
Dickens	173	218	289	383	476
Donley	186	256	340	474	477
Eastland	244	274	309	386	506
Erath	272	309	400	517	561
Fannin	266	276	355	493	561
Fisher	226	256	287	399	403
Foard	171	264	311	388	435
Freestone	210	247	328	457	490
Gaines	268	274	342	460	480
Gillespie	258	332	430	590	603
Goliad	179	271	326	418	536
Gray	289	294	391	490	580
Hale	238	271	358	486	500
Hamilton	244	274	309	429	503
Hardeman	169	231	309	429	506
Haskell	162	254	296	411	414
Hill	240	265	354	471	495
Hopkins	304	327	385	536	575
Howard	281	285	356	495	499
Hutchinson	235	301	380	529	624
Jack	167	227	304	423	499
Jasper	258	296	374	498	613
Jim Hogg	169	231	309	417	506
Jones	172	235	314	396	440
Kendall	237	385	432	601	709
Kent	145	234	263	366	414
Kimble	220	301	400	501	561

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

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T E X A S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
King	189	258	343	430	481
Kleberg	320	332	405	564	664
Lamar	256	324	381	531	627
Lampasas	197	283	359	498	588
Lavaca	164	224	299	410	453
Leon	194	275	353	448	579
Lipscomb	180	246	327	454	458
Llano	248	338	451	565	741
Lynn	169	253	309	426	506
Mcmullen	169	274	309	386	432
Marion	195	283	354	467	581
Mason	162	221	296	369	485
Maverick	246	263	351	438	491
Menard	227	231	309	429	432
Mills	172	231	309	386	493
Montague	227	231	309	429	506
Morris	180	230	327	416	465
Nacogdoches	278	335	435	543	640
Newton	181	248	330	424	542
Ochiltree	174	283	318	442	522
Palo Pinto	198	276	360	478	583
Parmer	185	271	338	443	474
Polk	294	321	373	503	611
Rains	225	340	411	571	575
Real	169	252	308	427	430
Reeves	169	274	309	417	432
Roberts	189	307	343	430	481
Runnels	244	253	309	429	491
Sabine	232	235	314	392	508
San Jacinto	276	311	350	476	573
Schleicher	169	272	309	429	432
Shackelford	169	231	309	429	506
Sherman	249	281	315	438	441
Starr	232	272	305	381	427
Sterling	174	238	318	417	445
Sutton	173	282	316	440	442
Terrell	169	274	309	407	506
Throckmorton	224	266	300	417	419
Trinity	273	309	346	481	557
Upton	227	231	309	386	506

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Kinney	169	231	309	429	503
Knox	163	245	298	398	417
Lamb	244	262	309	414	469
La Salle	166	244	301	418	493
Lee	298	335	377	525	589
Limestone	251	298	334	465	468
Live Oak	169	274	309	429	503
Loving	169	231	309	386	432
Mcculloch	253	257	341	427	479
Madison	185	301	338	470	555
Martin	169	274	309	429	432
Matagorda	304	333	411	571	575
Medina	239	284	334	448	547
Milam	183	253	333	463	546
Mitchell	169	274	309	429	506
Moore	225	309	347	482	570
Motley	169	274	309	419	506
Navarro	315	332	399	506	558
Nolan	270	274	365	464	544
Oldham	219	299	398	498	582
Panola	236	310	348	470	527
Pecos	203	268	356	495	584
Presidio	226	256	286	359	401
Reagan	335	340	453	568	744
Red River	169	231	309	391	506
Refugio	243	274	323	429	530
Robertson	213	266	355	443	496
Rusk	274	277	347	482	528
San Augustine	183	251	334	418	468
San Saba	132	214	240	335	396
Scurry	210	286	381	531	627
Shelby	243	273	307	383	429
Somervell	301	338	380	521	533
Stephens	179	254	326	453	536
Stonewall	169	234	309	429	506
Swisher	169	274	309	429	506
Terry	180	290	327	454	498
Titus	277	343	390	539	546
Tyler	215	294	392	491	644
Uvalde	183	282	317	441	444

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T E X A S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Val Verde	250	348	410	513	606
Walker	355	378	462	614	646
Washington	328	334	444	556	730
Wheeler	244	274	309	429	441
Willacy	160	219	291	406	410
Wise	203	307	369	514	536
Yoakum	234	345	426	532	698
Zapata	169	257	309	386	506
Van Zandt	282	286	381	519	627
Ward	244	274	309	429	506
Wharton	250	301	363	490	507
Wilbarger	261	264	353	490	579
Winkler	228	232	310	403	507
Wood	244	285	380	529	624
Young	257	260	346	481	568
Zavala	163	214	286	398	470

U T A H

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Provo-Orem, UT MSA	297	314	388	539	636	Utah
Salt Lake City-Ogden, UT MSA	297	345	438	608	713	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Beaver	184	251	337	421	552
Cache	265	293	377	524	607
Daggett	297	406	541	677	759
Emery	261	300	337	454	538
Grand	216	295	355	448	584
Juab	233	236	314	437	517
Millard	248	251	335	419	550
Piute	170	275	309	386	506
San Juan	266	300	337	421	552
Sevier	277	280	359	449	502
Tooele	248	330	388	513	637
Wasatch	215	348	391	544	642
Wayne	209	286	381	477	533
Box Elder	293	297	382	531	596
Carbon	277	280	350	487	573
Duchesne	183	250	334	464	549
Garfield	245	267	355	445	498
Iron	239	304	406	507	596
Kane	215	292	391	489	548
Morgan	214	291	388	540	637
Rich	184	251	337	431	470
Sanpete	184	292	337	440	507
Summit	405	498	623	840	1021
Uintah	174	244	317	440	520
Washington	288	354	471	628	770

V E R M O N T

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington, VT MSA	393	483	644	877	1057	Chittenden county towns of Burlington, Charlotte Colchester, Essex, Hinesburg, Jericho, Milton, Richmond St. George, Shelburne, South Burlington, Williston Winooski Franklin county towns of Fairfax, Georgia, St. Albans St. Albans, Swanton Grand Isle county towns of Grand Isle, South Hero

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V E R M O N T continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Addison	374	453	527	733	823	
Bennington	349	439	564	717	836	
Caledonia	313	377	423	541	593	
Chittenden	323	524	589	819	965	Bolton, Buels, Huntington, Underhill, Westford
Essex	309	314	419	524	587	
Franklin	332	375	421	586	674	Bakersfield, Berkshire, Enosburg, Fairfield, Fletcher Franklin, Highgate, Montgomery, Richford, Sheldon
Grand Isle	234	319	425	531	617	Alburg, Isle La Motte, North Hero
Lamoille	310	423	510	704	806	
Orange	274	407	497	660	740	
Orleans	206	293	377	471	617	
Rutland	348	453	553	693	775	
Washington	332	409	546	683	770	
Windham	373	430	574	728	803	
Windsor	401	452	565	724	860	

V I R G I N I A

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Charlottesville, VA MSA	350	415	531	706	793	Albemarle, Fluvanna, Greene, Charlottesville city
Clarke County, VA	285	401	520	713	728	Clarke
Culpeper County, VA	351	512	595	785	941	Culpeper
Danville, VA MSA	263	273	343	428	479	Pittsylvania, Danville city
Johnsen City-Kingsport-Bristol, TN-VA MSA	246	286	363	472	537	Scott, Washington, Bristol city
King George County, VA	348	462	519	722	727	King George
Lynchburg, VA MSA	306	325	388	512	594	Amherst, Bedford, Campbell, Bedford city, Lynchburg city
Norfolk-Virginia Beach-Newport News, VA-NC MSA	409	458	545	758	890	Gloucester, Isle of Wight, James City, Mathews, York Chesapeake city, Hampton city, Newport News city Norfolk city, Poquoson city, Portsmouth city Suffolk city, Virginia Beach city, Williamsburg city
Richmond-Petersburg, VA MSA	403	455	529	736	869	Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights city, Hopewell city, Petersburg city Richmond city
Roanoke, VA MSA	272	333	439	563	703	Botetourt, Roanoke, Roanoke city, Salem city
Warren County, VA	284	388	518	679	849	Warren
Washington, DC-MD-VA	633	719	844	1149	1385	Arlington, Fairfax, Loudoun, Prince William, Spotsylvania Stafford, Alexandria city, Fairfax city Falls Church city, Fauquier, Fredericksburg city Manassas city, Manassas Park city

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom For example, the FMR for a 5 BR unit is 1 15 times the 4BR FMR, and the FMR for a 6 BR unit is 1 30 times the 4 BR FMR 042893

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V I R G I N I A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Accomack	322	346	407	509	570
Amelia	182	295	332	462	520
Augusta	237	325	416	561	683
Bland	169	274	308	386	431
Buchanan	203	283	317	398	444
Caroline	384	389	519	690	727
Charlotte	239	270	303	420	497
Cumberland	237	371	431	539	604
Essex	247	382	451	626	739
Franklin	263	276	333	416	466
Giles	215	258	336	420	471
Greensville	216	350	393	513	646
Henry	261	290	367	460	566
King and Queen	240	389	438	547	630
Lancaster	339	381	429	571	696
Louisa	239	353	435	604	610
Madison	273	405	455	569	746
Middlesex	265	343	385	535	539
Nelson	209	338	380	476	625
Northumberland	193	313	352	489	493
Orange	301	410	547	760	892
Patrick	214	216	274	343	384
Pulaski	196	282	356	481	498
Richmond	222	361	406	516	666
Rockingham	257	360	468	652	768
Shenandoah	357	366	452	624	709
Southampton	187	273	317	431	444
Sussex	196	286	357	447	586
Westmoreland	269	366	488	611	792
Wythe	284	295	359	450	504
Clifton Forge city	232	272	305	381	427
Emporia city	216	350	393	513	646
Galax city	238	264	318	417	446
Lexington city	211	305	386	637	540
Norton city	251	282	376	471	601
South Boston city	214	292	388	498	604
Waynesboro city	237	325	416	561	683

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alleghany	283	318	358	487	502
Appomattox	261	264	334	438	467
Bath	209	338	380	491	533
Brunswick	209	283	318	443	446
Buckingham	259	286	328	410	460
Carroll	238	264	318	417	446
Craig	174	238	317	442	520
Dickenson	174	283	317	442	520
Floyd	231	235	314	436	487
Frederick	367	423	510	699	837
Grayson	182	283	285	386	484
Halifax	187	273	317	431	444
Highland	174	283	317	419	444
King William	229	371	417	521	643
Lee	238	240	317	397	520
Lunenburg	173	281	316	393	485
Mecklenburg	211	269	353	442	526
Montgomery	280	366	430	508	706
Northampton	195	267	355	455	487
Nottoway	271	274	366	446	498
Page	315	355	389	499	674
Prince Edward	304	343	386	536	539
Rappahannock	275	445	499	695	819
Rockbridge	211	305	386	537	540
Russell	177	241	323	449	529
Smyth	230	232	292	406	478
Surry	282	317	356	445	498
Tazewell	252	284	320	444	524
Wise	251	282	376	471	601
Buena Vista city	211	305	386	537	540
Covington city	232	272	305	381	427
Franklin city	229	314	418	527	586
Harrisonburg city	257	360	468	652	768
Martinsville city	261	290	367	460	566
Radford city	280	368	430	598	706
Staunton city	237	325	416	561	683
Winchester city	367	423	510	699	837

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

W A S H I N G T O N

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA	313	405	540	746	886	Whatcom
Bremerton, WA PMSA	376	432	561	757	921	Kitsap
Olympia, WA PMSA	361	437	547	760	896	Thurston
Portland-Vancouver, OR-WA PMSA	349	429	529	736	800	Clark
Richland-Kennewick-Pasco, WA MSA	367	388	503	699	821	Benton, Franklin
Seattle-Bellevue-Everett, WA PMSA	424	516	653	908	1072	Island, King, Snohomish
Spokane, WA MSA	260	323	432	587	657	Spokane
Tacoma, WA PMSA	350	417	555	773	872	Pierce
Yakima, WA MSA	275	321	418	560	586	Yakima

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	254	274	338	440	490
Chelan	226	311	404	537	565
Columbia	176	287	323	448	451
Douglas	342	355	432	562	649
Garfield	176	242	323	403	451
Grays Harbor	240	286	381	510	593
Kittitas	209	285	378	518	614
Lewis	261	310	408	537	594
Mason	276	313	417	550	591
Pacific	233	287	382	512	534
San Juan	361	493	657	867	1031
Skamania	268	302	339	471	556
Wahkiakum	211	293	357	447	543
Whitman	286	325	433	603	712

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Asotin	214	268	356	495	573
Clallam	297	356	457	604	659
Cowlitz	291	320	422	585	590
Ferry	199	308	362	452	506
Grant	249	252	323	439	528
Jefferson	249	362	452	630	634
Klickitat	239	293	362	459	521
Lincoln	183	242	323	432	513
Okanogan	204	260	329	455	461
Pend Oreille	199	279	362	477	593
Skagit	334	390	513	708	718
Stevens	196	269	358	466	502
Walla Walla	236	286	381	529	626

W E S T V I R G I N I A

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Berkeley County, WV	353	375	447	559	626	Berkeley
Charleston, WV MSA	224	322	408	560	613	Kanawha, Putnam
Cumberland, MD-WV MSA	228	287	374	493	541	Mineral
Huntington-Ashland, WV-KY-OH MSA	240	283	359	478	510	Cabell, Wayne
Jefferson County, WV	349	386	478	620	703	Jefferson
Parkersburg-Marietta, WV-OH MSA	240	294	364	494	509	Wood
Steubenville-Weirton, OH-WV MSA	195	288	357	450	501	Brooke, Hancock
Wheeling, WV-OH MSA	271	288	356	452	498	Marshall, Ohio

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WEST VIRGINIA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Barbour	178	242	324	405	454
Braxton	156	241	284	386	466
Clay	232	263	295	369	438
Fayette	181	259	292	406	439
Grant	174	252	316	395	443
Hampshire	188	257	343	453	481
Harrison	243	265	344	441	534
Lewis	163	221	296	408	414
Logan	245	271	318	443	523
Marion	211	269	353	459	579
Mercer	195	250	331	413	509
Monongalia	300	332	405	562	665
Morgan	296	334	375	470	525
Pendleton	162	229	295	380	412
Pocahontas	185	252	301	376	420
Raleigh	248	280	314	430	515
Ritchie	224	252	284	358	397
Summers	209	213	284	395	466
Tucker	156	213	284	395	429
Upshur	238	240	305	423	427
Wetzel	263	267	355	444	582
Wyoming	210	229	306	382	428

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Boone	215	243	317	397	444
Calhoun	156	213	284	355	397
Doddridge	246	265	312	389	436
Gilmer	265	279	335	419	470
Greenbrier	224	258	344	430	482
Hardy	174	259	316	395	443
Jackson	185	300	336	467	481
Lincoln	198	213	284	395	406
Mcdowell	160	207	276	345	387
Mason	176	263	321	400	526
Mingo	173	239	315	428	517
Monroe	162	220	294	367	453
Nicholas	208	248	331	413	463
Pleasants	236	239	320	406	524
Preston	237	268	301	376	430
Randolph	183	275	327	419	459
Roane	209	213	284	395	397
Taylor	254	278	323	403	452
Tyler	197	270	359	450	504
Webster	199	239	285	356	399
Wirt	167	228	305	423	427

WISCONSIN

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton-Oshkosh-Neenah, WI MSA	288	356	451	569	655	Calumet, Outagamie, Winnebago
Duluth-Superior, MN-WI MSA	222	298	382	508	593	Douglas
Eau Claire, WI MSA	283	308	405	519	584	Chippewa, Eau Claire
Green Bay, WI MSA	316	347	445	619	623	Brown
Janesville-Beloit, WI MSA	294	345	459	575	643	Rock
Kenosha, WI PMSA	331	397	502	692	778	Kenosha
La Crosse, WI-MN MSA	242	318	419	566	687	La Crosse
Madison, WI MSA	366	460	554	771	910	Dane
Milwaukee-Waukesha, WI PMSA	336	439	551	689	770	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul, MN-WI MSA	370	466	597	819	926	Pierce, St. Croix
Racine, WI PMSA	295	366	483	623	681	Racine
Sheboygan, WI MSA	276	355	433	541	670	Sheboygan
Wausau, WI MSA	336	350	437	594	660	Marathon

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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WISCONSIN continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	189	285	343	477	556
Barron	202	275	366	465	524
Buffalo	206	258	344	431	483
Clark	186	239	303	409	466
Crawford	207	256	329	415	481
Door	234	324	404	517	627
Florence	240	261	348	484	487
Forest	175	241	318	398	446
Green	267	301	376	523	526
Iowa	272	287	378	511	530
Jackson	206	257	323	419	452
Juneau	268	278	340	452	476
Lafayette	266	270	361	455	505
Lincoln	242	258	345	480	550
Marinette	206	257	343	460	480
Menominee	229	232	310	387	434
Oconto	175	261	318	430	477
Pepin	173	237	316	434	517
Portage	318	336	436	545	675
Richland	246	260	338	456	473
Sauk	307	316	422	526	590
Shawano	267	275	366	459	513
Trempealeau	211	260	333	420	520
Vilas	244	292	370	464	535
Washburn	258	262	350	444	490
Waushara	209	291	343	432	480

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Ashland	286	316	372	465	521
Bayfield	184	265	336	427	469
Burnett	253	301	362	453	506
Columbia	245	311	409	537	601
Dodge	331	336	442	553	619
Dunn	261	302	401	535	659
Fond du Lac	264	344	420	576	588
Grant	265	268	349	437	488
Green Lake	226	290	359	460	516
Iron	169	236	303	412	497
Jefferson	261	347	451	582	836
Kewaunee	178	242	324	404	453
Langlade	248	252	336	460	497
Manitowoc	264	287	335	425	512
Marquette	184	280	335	465	529
Monroe	261	300	378	518	530
Oneida	214	307	388	501	598
Polk	241	298	396	495	554
Price	187	267	339	427	550
Rusk	178	244	323	436	452
Sawyer	258	290	350	438	490
Taylor	233	273	333	437	467
Vernon	193	240	312	434	437
Walworth	274	384	499	650	728
Waupaca	209	286	381	496	588
Wood	285	313	401	502	562

WYOMING

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Casper, WY MSA	195	266	342	476	562	Natrona
Cheyenne, WY MSA	271	339	452	578	701	Laramie

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W Y O M I N G continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Albany	248	310	414	575	678
Campbell	291	296	380	528	623
Converse	180	271	327	455	537
Fremont	190	258	345	459	560
Hot Springs	238	271	361	502	593
Lincoln	238	299	379	519	530
Park	205	279	373	519	611
Sheridan	246	279	373	499	611
Sweetwater	280	285	380	528	623
Uinta	282	290	387	527	636
Weston	254	257	343	443	546
Big Horn	180	246	328	453	459
Carbon	217	255	340	471	558
Crook	268	302	340	425	486
Goshen	232	285	340	471	558
Johnson	251	255	340	471	520
Niobrara	185	253	338	422	544
Platte	186	257	340	425	476
Sublette	299	337	379	488	530
Teton	359	457	608	816	889
Washakie	199	272	362	454	595

G U A M

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Pacific Islands	648	779	922	1155	1299

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR

P U E R T O R I C O

METROPOLITAN FMR AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla, PR MSA	225	275	325	405	455	Aguada, Aguadilla, Moca
Arecibo, PR PMSA	330	400	470	590	660	Arecibo, Camuy, Hatillo
Caguas, PR PMSA	275	330	390	490	545	Caguas, Cayey, Cidra, Gurabo, San Lorenzo
Mayaguez, PR MSA	225	275	325	405	455	Anasco, Cabo Rojo, Hormigueros, Mayaguez, Sabana Grand San German
Ponce, PR MSA	320	390	460	575	645	Guayanilla, Juana Diaz, Penuelas, Ponce, Villalba, Yauco
San Juan-Bayamon, PR PMSA	320	390	460	575	645	Aguas Buenas, Barceloneta, Bayamon, Canovanas, Carolina Catano, Ceiba, Comerio, Corozal, Dorado, Fajardo, Florida Guaynabo, Humacao, Juncos, Las Piedras, Loiza, Luquillo Manati, Morovis, Naguabo, Naranjito, San Juan, Toa Alta Toa Baja, Trujillo Alt, Vega Alta, Vega Baja, Yabucoa

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adjuntas	215	265	310	390	435
Arroyo	215	265	310	390	435
Ciales	215	265	310	390	435
Culebra	215	265	310	390	435
Guayama	215	265	310	390	435
Jayuya	215	265	310	390	435
Lares	215	265	310	390	435
Maricao	215	265	310	390	435
Aibonito	215	265	310	390	435
Barranquitas	215	265	310	390	435
Coamo	215	265	310	390	435
Guanica	215	265	310	390	435
Isabela	225	275	325	405	455
Lajas	215	265	310	390	435
Las Marias	215	265	310	390	435
Maunabo	215	265	310	390	435

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 54

P U E R T O R I C O continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Orocovis	215	265	310	390	435
Quebradillas	330	400	470	590	660
Rio Grande	320	390	460	575	645
San Sebastia	215	265	310	390	435
Utuado	215	265	310	390	435
Patillas	215	265	310	390	435
Rincon	215	265	310	390	435
Salinas	215	265	310	390	435
Santa Isabel	215	265	310	390	435
Vieques	215	265	310	390	435

V I R G I N I S L A N D S

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Virgin Isl	439	533	629	785	880

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR

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SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 55

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: ALABAMA	73	
MSA: Anniston, AL	76	86
MSA: Birmingham, AL	110	121
MSA: Columbus, GA-AL	100	110
MSA: Decatur, AL	73	85
MSA: Dothan, AL	71	81
MSA: Florence, AL	86	93
MSA: Gadsden, AL	76	86
MSA: Huntsville, AL	110	121
MSA: Mobile, AL	87	94
MSA: Montgomery, AL	87	93
MSA: Tuscaloosa, AL	103	117
EXCEPTION COUNTY: LIMESTONE	81	89
EXCEPTION COUNTY: MARSHALL	81	89
NON METRO STATE: ALASKA	173	
MSA: Anchorage, AK	204	204
EXCEPTION COUNTY: KETCHIKAN	173	182
NON METRO STATE: ARIZONA	109	
MSA: Phoenix-Mesa, AZ	153	183
MSA: Tucson, AZ	109	153
MSA: Yuma, AZ	109	140
NON METRO STATE: ARKANSAS	39	
MSA: Fayetteville-Springdale-Rogers, AR	68	73
MSA: Fort Smith, AR-OK	37	40
MSA: Little Rock-North Little Rock, AR	58	60
MSA: Memphis, TN-AR-MS	102	102
MSA: Pine Bluff, AR	28	31
MSA: Texarkana, TX-Texarkana, AR	120	135
EXCEPTION COUNTY: BENTON	53	55
EXCEPTION COUNTY: LITTLE RIVER	88	99
NON METRO STATE: CALIFORNIA	173	
MSA: Bakersfield, CA	161	247
MSA: Chico-Paradise, CA	172	226
MSA: Fresno, CA	247	280
PMSA: Los Angeles-Long Beach, CA	204	344
MSA: Merced, CA	172	226
MSA: Modesto, CA	258	280

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 56

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: Oakland, CA	286	376
PMSA: Orange County, CA	422	422
MSA: Redding, CA	172	226
PMSA: Riverside-San Bernardino, CA	173	284
PMSA: Sacramento, CA	199	237
MSA: Salinas, CA	247	312
MSA: San Diego, CA	317	346
PMSA: San Francisco, CA	307	400
PMSA: San Jose, CA	365	426
PMSA: San Luis Obispo-Atascadero-Paso Robles, CA	172	226
MSA: Santa Barbara-Santa Maria-Lompoc, CA	203	312
PMSA: Santa Cruz-Watsonville, CA	267	334
PMSA: Santa Rosa, CA	267	320
MSA: Stockton-Lodi, CA	258	280
PMSA: Vallejo-Fairfield-Napa, CA	278	317
MSA: Visalia-Tulare-Porterville, CA	172	226
PMSA: Yolo, CA	172	226
MSA: Yuba City, CA	172	226
EXCEPTION COUNTY: SAN LUIS OBI	238	282
NON METRO STATE: COLORADO	N/A	N/A
PMSA: Boulder-Longmont, CO	231	252
MSA: Colorado Springs, CO	169	190
PMSA: Denver, CO	263	284
MSA: Fort Collins-Loveland, CO	159	179
PMSA: Greeley, CO	159	179
MSA: Pueblo, CO	159	179
EXCEPTION COUNTY: ALAMOSA	132	159
EXCEPTION COUNTY: ARCHULETA	159	177
EXCEPTION COUNTY: BACA	132	159
EXCEPTION COUNTY: BENT	132	159
EXCEPTION COUNTY: CHAFFEE	159	177
EXCEPTION COUNTY: CHEYENNE	132	159
EXCEPTION COUNTY: CLEAR CREEK	159	177
EXCEPTION COUNTY: CONEJOS	132	159
EXCEPTION COUNTY: COSTILLA	132	159
EXCEPTION COUNTY: CROWLEY	132	159
EXCEPTION COUNTY: CUSTER	159	177
EXCEPTION COUNTY: DELTA	159	177
EXCEPTION COUNTY: DELORES	159	177
EXCEPTION COUNTY: EAGLE	257	289
EXCEPTION COUNTY: ELBERT	132	159
EXCEPTION COUNTY: FREMONT	159	177
EXCEPTION COUNTY: GARFIELD	257	289
EXCEPTION COUNTY: GILPIN	164	189

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: GRAND	159	177
EXCEPTION COUNTY: GUNNISON	159	177
EXCEPTION COUNTY: HINSDALE	159	177
EXCEPTION COUNTY: HUERFANO	132	159
EXCEPTION COUNTY: JACKSON	159	177
EXCEPTION COUNTY: KIOWA	132	159
EXCEPTION COUNTY: KIT CARSON	132	159
EXCEPTION COUNTY: LAKE	159	177
EXCEPTION COUNTY: LA PLATA	159	177
EXCEPTION COUNTY: LAS ANIMAS	132	159
EXCEPTION COUNTY: LINCOLN	132	159
EXCEPTION COUNTY: LOGAN	132	159
EXCEPTION COUNTY: MESA	159	177
EXCEPTION COUNTY: MINERAL	132	159
EXCEPTION COUNTY: MOFFAT	257	289
EXCEPTION COUNTY: MONTEZUMA	159	177
EXCEPTION COUNTY: MONTROSE	159	177
EXCEPTION COUNTY: MORGAN	132	159
EXCEPTION COUNTY: OTERO	132	159
EXCEPTION COUNTY: OURAY	159	177
EXCEPTION COUNTY: PARK	159	177
EXCEPTION COUNTY: PHILLIPS	132	159
EXCEPTION COUNTY: PITKIN	257	289
EXCEPTION COUNTY: PROWERS	132	159
EXCEPTION COUNTY: RIO BLANCO	257	289
EXCEPTION COUNTY: RIO GRANDE	132	159
EXCEPTION COUNTY: ROUTT	257	289
EXCEPTION COUNTY: SAGUACHE	132	159
EXCEPTION COUNTY: SAN JUAN	159	177
EXCEPTION COUNTY: SAN MIGUEL	159	177
EXCEPTION COUNTY: SEDGWICK	132	159
EXCEPTION COUNTY: SUMMIT	257	289
EXCEPTION COUNTY: TELLER	132	159
EXCEPTION COUNTY: WASHINGTON	132	159
EXCEPTION COUNTY: YUMA	132	159
NON METRO STATE: CONNECTICUT	168	
PMSA: Bridgeport, CT	225	225
PMSA: Danbury, CT	172	172
PMSA: Hartford, CT	185	185
PMSA: New Britain, CT	185	185
PMSA: New Haven-Meriden, CT	167	167
MSA: New London-Norwich, CT-RI	158	158
PMSA: Stamford-Norwalk, CT	211	211
MSA: Waterbury, CT	171	171

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: DELAWARE	74	
MSA: Dover, DE	160	160
PMSA: Wilmington-Newark, DE-MD	153	153
EXCEPTION COUNTY: DE SUSSEX	115	115
NON METRO STATE: DIST. OF COLUMBIA	N/A	N/A
PMSA: Washington, DC-MD-VA-WV	209	209
NON METRO STATE: FLORIDA	92	
MSA: Daytona Beach, FL	120	120
PMSA: Fort Lauderdale, FL	196	196
MSA: Fort Myers-Cape Coral, FL	126	126
MSA: Fort Pierce-Port Lucie, FL	90	90
MSA: Fort Walton Beach, FL	93	93
MSA: Gainesville, FL	93	93
MSA: Jacksonville, FL	86	102
MSA: Lakeland-Winter Haven, FL	93	93
MSA: Melbourne-Titusville-Palm Bay, FL	110	110
PMSA: Miami, FL	154	154
MSA: Naples, FL	93	93
MSA: Ocala, FL	93	93
MSA: Orlando, FL	110	110
MSA: Panama City, FL	93	93
MSA: Pensacola, FL	93	93
MSA: Punta Gorda, FL	92	92
MSA: Sarasota-Bradenton, FL	126	126
MSA: Tallahassee, FL	86	86
MSA: Tampa-St. Petersburg-Clearwater, FL	126	126
MSA: West Palm Beach-Boca Raton, FL	161	161
EXCEPTION COUNTY: BAKER	83	99
EXCEPTION COUNTY: COLUMBIA	92	92
EXCEPTION COUNTY: WAKULLA	83	99
NON METRO STATE: GEORGIA	67	
MSA: Albany, GA	59	63
MSA: Athens, GA	67	67
MSA: Atlanta, GA	106	114
MSA: Augusta-Aiken, GA-SC	90	93
MSA: Chattanooga, TN-GA	59	86
MSA: Columbus, GA-AL	100	110
MSA: Macon, GA	60	66
MSA: Savannah, GA	74	86

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: BRYAN	67	67
EXCEPTION COUNTY: CARROLL	67	67
EXCEPTION COUNTY: PICKENS	67	67
EXCEPTION COUNTY: SPALDING	105	114
EXCEPTION COUNTY: TWIGGS	59	65
EXCEPTION COUNTY: WALTON	106	114
NON METRO STATE: HAWAII	N/A	N/A
MSA: Honolulu, HI	N/A	N/A
NON METRO STATE: IDAHO	129	
MSA: Boise City, ID	143	167
NON METRO STATE: ILLINOIS	119	
MSA: Bloomington-Normal, IL	137	137
MSA: Champaign-Urbana, IL	111	111
PMSA: Chicago, IL	268	287
MSA: Davenport-Moline-Rock Island, IA-IL	150	158
MSA: Decatur, IL	150	150
PMSA: Kankakee, IL	108	108
MSA: Peoria-Pekin, IL	205	224
MSA: Rockford, IL	202	214
MSA: St. Louis, MO-IL	109	126
MSA: Springfield, IL	131	140
EXCEPTION COUNTY: DE KALB	119	128
EXCEPTION COUNTY: GRUNDY	268	287
EXCEPTION COUNTY: KENDALL	268	287
NON METRO STATE: INDIANA	65	
MSA: Bloomington, IN	69	69
PMSA: Cincinnati, OH-KY-IN	132	139
MSA: Elkhart-Goshen, IN	96	96
MSA: Evansville-Henderson, IN-KY	88	94
MSA: Fort Wayne, IN	81	111
PMSA: Gary, IN	129	149
MSA: Indianapolis, IN	104	120
MSA: Kokomo, IN	96	109
MSA: Lafayette, IN	89	132
MSA: Louisville, KY-IN	94	103
MSA: Muncie, IN	70	79
MSA: South Bend, IN	109	115
MSA: Terre Haute, IN	69	86

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: ADAMS	65	84
EXCEPTION COUNTY: BLACKFORD	73	84
EXCEPTION COUNTY: GIBSON	65	84
EXCEPTION COUNTY: GRANT	73	84
EXCEPTION COUNTY: HENRY	73	84
EXCEPTION COUNTY: JAY	73	84
EXCEPTION COUNTY: MARSHALL	74	84
EXCEPTION COUNTY: OHIO	65	84
EXCEPTION COUNTY: RANDOLPH	73	84
EXCEPTION COUNTY: SULLIVAN	66	78
EXCEPTION COUNTY: VERMILLION	66	78
EXCEPTION COUNTY: WAYNE	73	84
EXCEPTION COUNTY: WELLS	65	84
NON METRO STATE: IOWA	103	
MSA: Cedar Rapids, IA	120	139
MSA: Davenport-Moline-Rock Island, IA-IL	151	158
MSA: Des Moines, IA	128	136
MSA: Dubuque, IA	120	150
MSA: Iowa City, IA	120	136
MSA: Omaha, NE-IA	112	131
MSA: Sioux City, IA-NE	116	116
MSA: Waterloo-Cedar Falls, IA	120	139
NON METRO STATE: KANSAS	91	
MSA: Kansas City, MO-KS	104	127
MSA: Lawrence, KS	94	107
MSA: Topeka, KS	92	104
MSA: Wichita, KS	107	118
EXCEPTION COUNTY: JEFFERSON	87	100
EXCEPTION COUNTY: OSAGE	87	100
NON METRO STATE: KENTUCKY	80	
PMSA: Cincinnati, OH-KY-IN	132	138
MSA: Clarksville-Hopkinsville, TN-KY	86	93
MSA: Evansville-Henderson, IN-KY	87	93
MSA: Huntington-Ashland, WV-KY-OH	99	99
MSA: Lexington, KY	103	118
MSA: Louisville, KY-IN	93	102
MSA: Owensboro, KY	94	113
EXCEPTION COUNTY: GALLATIN	80	88
EXCEPTION COUNTY: GRANT	80	88
EXCEPTION COUNTY: PENDLETON	80	88

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: LOUISIANA	86	
MSA: Alexandria, LA	86	102
MSA: Baton Rouge, LA	102	120
MSA: Houma, LA	85	100
MSA: Lafayette, LA	93	111
MSA: Lake Charles, LA	100	118
MSA: Monroe, LA	86	102
MSA: New Orleans, LA	108	124
MSA: Shreveport-Bossier City, LA	93	111
EXCEPTION COUNTY: ACADIA	86	101
EXCEPTION COUNTY: GRANT	82	97
EXCEPTION COUNTY: ST JAMES	86	101
EXCEPTION COUNTY: ST LANDRY	86	101
EXCEPTION COUNTY: WEBSTER	86	101
NON METRO STATE: MAINE	149	
MSA: Bangor, ME	150	174
MSA: Lewiston-Auburn, ME	114	114
MSA: Portland, ME	188	215
MSA: Portsmouth-Dover-Rochester, NH-ME	150	174
NON METRO STATE: MARYLAND	135	
PMSA: Baltimore, MD	219	219
MSA: Cumberland, MD-WV	136	136
PMSA: Hagerstown, MD	208	208
PMSA: Washington, DC-MD-VA-WV	209	209
PMSA: Wilmington-Newark, DE-MD	153	153
EXCEPTION COUNTY: ST MARYS	248	248
NON METRO STATE: MASSACHUSETTS	183	
MSA: Barnstable-Yarmouth, MA	184	184
PMSA: BOSTON, MA	177	191
PMSA: Brockton, MA	177	177
PMSA: Fall River, MA-RI	114	114
MSA: Fitchburg-Leominster, MA	136	136
PMSA: Lawrence-Haverhill, MA-NH	168	179
PMSA: Lowell, MA-NH	168	179
MSA: New Bedford, MA	158	158
MSA: Pittsfield, MA	172	172
PMSA: Salem-Gloucester, MA	177	191
MSA: Springfield, MA	134	134
MSA: Worcester, MA	117	117

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: MICHIGAN	128	
PMSA: Ann Arbor, MI	191	206
MSA: Benton Harbor, MI	131	146
PMSA: Detroit, MI	185	200
PMSA: Flint, MI	160	160
MSA: Grand Rapids-Muskegon-Holland, MI	120	129
MSA: Jackson, MI	131	131
MSA: Kalamazoo-Battle Creek, MI	138	142
MSA: Lansing-East Lansing, MI	154	179
MSA: Saginaw-Bay City-Midland, MI	140	140
EXCEPTION COUNTY: BARRY	104	122
EXCEPTION COUNTY: IONIA	128	142
EXCEPTION COUNTY: OCEANA	111	113
EXCEPTION COUNTY: SHIAWASSEE	149	149
EXCEPTION COUNTY: VAN BUREN	128	132
NON METRO STATE: MINNESOTA	91	
MSA: Duluth-Superior, MN-WI	96	108
MSA: Fargo-Moorhead, ND-MN	149	168
MSA: Minneapolis-St. Paul, MN-WI	223	238
MSA: Rochester, MN	135	135
MSA: St. Cloud, MN	119	119
EXCEPTION COUNTY: POLK	140	158
NON METRO STATE: MISSISSIPPI	86	
MSA: Biloxi-Gulfport-Pascagoula, MS	102	120
MSA: Jackson, MS	110	135
MSA: Memphis, TN-AR-MS	102	102
EXCEPTION COUNTY: STONE	86	103
NON METRO STATE: MISSOURI	72	
MSA: Columbia, MO	104	112
MSA: Joplin, MO	73	80
MSA: Kansas City, MO-KS	104	127
MSA: St. Joseph, MO	107	116
MSA: St. Louis, MO-IL	109	126
MSA: Springfield, MO	75	81
EXCEPTION COUNTY: ANDREW	101	108
NON METRO STATE: MONTANA	N/A	N/A
MSA: Billings, MT	200	223

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Great Falls, MT	169	190
EXCEPTION COUNTY: BEAVERHEAD	159	177
EXCEPTION COUNTY: BIG HORN	159	177
EXCEPTION COUNTY: BLAINE	112	132
EXCEPTION COUNTY: BROADWATER	159	177
EXCEPTION COUNTY: CARBON	159	177
EXCEPTION COUNTY: CARTER	112	132
EXCEPTION COUNTY: CHOUTEAU	112	132
EXCEPTION COUNTY: CUSTER	159	177
EXCEPTION COUNTY: DANIELS	112	132
EXCEPTION COUNTY: DAWSON	159	177
EXCEPTION COUNTY: DEER LODGE	159	177
EXCEPTION COUNTY: FALLON	112	132
EXCEPTION COUNTY: FERGUS	112	132
EXCEPTION COUNTY: FLATHEAD	159	177
EXCEPTION COUNTY: GALLATIN	159	177
EXCEPTION COUNTY: GARFIELD	112	132
EXCEPTION COUNTY: GLACIER	112	132
EXCEPTION COUNTY: GOLDEN VALLE	112	132
EXCEPTION COUNTY: GRANITE	159	177
EXCEPTION COUNTY: HILL	112	132
EXCEPTION COUNTY: JEFFERSON	159	177
EXCEPTION COUNTY: JUDITH BASIN	112	132
EXCEPTION COUNTY: LAKE	159	177
EXCEPTION COUNTY: LEWIS+ CLARK	159	177
EXCEPTION COUNTY: LIBERTY	112	132
EXCEPTION COUNTY: LINCOLN	159	177
EXCEPTION COUNTY: MCCONE	112	132
EXCEPTION COUNTY: MADISON	159	177
EXCEPTION COUNTY: MEAGHER	159	177
EXCEPTION COUNTY: MINERAL	159	177
EXCEPTION COUNTY: MISSOULA	159	177
EXCEPTION COUNTY: MUSSELSHELL	159	177
EXCEPTION COUNTY: PARK	159	177
EXCEPTION COUNTY: PETROLEUM	112	132
EXCEPTION COUNTY: PHILLIPS	112	132
EXCEPTION COUNTY: PONDERA	112	132
EXCEPTION COUNTY: POWDER RIVER	159	177
EXCEPTION COUNTY: POWELL	159	177
EXCEPTION COUNTY: PRAIRIE	112	132
EXCEPTION COUNTY: RAVALLI	159	177
EXCEPTION COUNTY: RICHLAND	112	132
EXCEPTION COUNTY: ROOSEVELT	112	132
EXCEPTION COUNTY: ROSEBUD	159	177
EXCEPTION COUNTY: SANDERS	159	177
EXCEPTION COUNTY: SHERIDAN	112	132

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: SILVER BOW	159	177
EXCEPTION COUNTY: STILLWATER	112	132
EXCEPTION COUNTY: SWEET GRASS	112	132
EXCEPTION COUNTY: TETON	112	132
EXCEPTION COUNTY: TOOLE	112	132
EXCEPTION COUNTY: TREASURE	159	177
EXCEPTION COUNTY: VALLEY	112	132
EXCEPTION COUNTY: WHEATLAND	112	132
EXCEPTION COUNTY: WIBAUX	112	132
EXCEPTION COUNTY: YL-ST-NT-PK	159	177
NON METRO STATE: NEBRASKA	94	
MSA: Lincoln, NE	129	136
MSA: Omaha, NE-IA	112	131
MSA: Sioux City, IA-NE	116	116
NON METRO STATE: NEVADA	122	
MSA: Las Vegas, NV-AZ	258	288
MSA: Reno, NV	258	288
NON METRO STATE: NEW HAMPSHIRE	134	
PMSA: Lawrence-Haverhill, MA-NH	168	179
PMSA: Lowell, MA-NH	168	179
MSA: Manchester, NH	154	171
PMSA: Nashua, NH	191	191
MSA: Portsmouth-Dover-Rochester, NH-ME	150	174
NON METRO STATE: NEW JERSEY	143	
MSA: Allentown-Bethlehem-Easton, PA	139	139
PMSA: Atlantic-Cape May, NJ	219	219
PMSA: Bergen-Passaic, NJ	302	304
PMSA: Jersey City, NJ	293	293
PMSA: Middlesex-Somerset-Hunterdon, NJ	344	344
PMSA: Monmouth-Ocean, NJ	263	319
PMSA: Newark, NJ	283	293
PMSA: Philadelphia, PA-NJ	243	243
PMSA: Trenton, NJ	213	213
PMSA: Vineland-Millville-Bridgeton, NJ	188	188
PMSA: Wilmington-Newark, DE-MD	153	153
NON METRO STATE: NEW MEXICO	112	

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Las Cruces, NM	115	133
MSA: Albuquerque, NM	129	151
MSA: Santa Fe, NM	115	133
EXCEPTION COUNTY: SANDOVAL	121	137
NON METRO STATE: NEW YORK	167	
MSA: Albany-Schenectady-Troy, NY	207	207
MSA: Binghamton, NY	124	124
PMSA: Buffalo-Niagara Falls, NY	150	150
PMSA: Dutchess County, NY	316	316
MSA: Elmira, NY	132	132
MSA: Glens Falls, NY	166	166
MSA: Jamestown, NY	167	167
PMSA: Nassau-Suffolk, NY	230	298
PMSA: NEW YORK, NY	239	239
PMSA: Orange County, NY	165	165
MSA: Rochester, NY	189	189
MSA: Syracuse, NY	152	152
MSA: Utica-Rome, NY	154	154
EXCEPTION COUNTY: WESTCHESTER	281	281
NON METRO STATE: NORTH CAROLINA	60	
MSA: Asheville, NC	86	102
MSA: Charlotte-Gastonia-Rock Hill, NC-SC	86	102
MSA: Fayetteville, NC	86	102
MSA: Goldsboro, NC	60	74
MSA: Greensboro--Winston-Salem--High Point, NC	86	102
MSA: Greenville, NC	60	74
MSA: Hickory-Morganton, NC	60	74
MSA: Jacksonville, NC	60	74
MSA: Raleigh-Durham-Chapel Hill, NC	86	102
MSA: Rocky Mount, NC	60	74
MSA: Wilmington, NC	86	102
EXCEPTION COUNTY: BRUNSWICK	64	76
EXCEPTION COUNTY: CURRITUCK	101	101
EXCEPTION COUNTY: HAYWOOD	77	77
EXCEPTION COUNTY: MADISON	64	76
NON METRO STATE: NORTH DAKOTA	120	
MSA: Bismarck, ND	174	192
MSA: Fargo-Moorhead, ND-MN	153	173
MSA: Grand Forks, ND-MN	132	164
NON METRO STATE: OHIO	83	

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: Akron, OH	126	126
MSA: Canton-Massillon, OH	92	92
PMSA: Cincinnati, OH-KY-IN	132	139
PMSA: Cleveland-Lorain-Elyria, OH	134	134
MSA: Columbus, OH	120	140
MSA: Dayton-Springfield, OH	92	92
PMSA: Hamilton-Middletown, OH	107	110
MSA: Huntington-Ashland, WV-KY-OH	100	100
MSA: Lima, OH	120	120
MSA: Mansfield, OH	112	112
MSA: Parkersburg-Marietta, WV-OH	100	100
MSA: Steubenville-Weirton, OH-WV	89	89
MSA: Toledo, OH	151	205
MSA: Wheeling, WV-OH	92	92
MSA: Youngstown-Warren, OH	112	112
EXCEPTION COUNTY: BROWN	83	83
EXCEPTION COUNTY: CHAMPAIGN	83	83
EXCEPTION COUNTY: OTTAWA	100	134
EXCEPTION COUNTY: PREBLE	83	83
EXCEPTION COUNTY: PUTNAM	83	83
EXCEPTION COUNTY: VAN WERT	83	83
NON METRO STATE: OKLAHOMA	82	
MSA: Enid, OK	84	90
MSA: Fort Smith, AR-OK	37	40
MSA: Lawton, OK	85	93
MSA: Oklahoma City, OK	87	96
MSA: Tulsa, OK	93	102
EXCEPTION COUNTY: LE FLORE	35	38
EXCEPTION COUNTY: MAYES	82	89
NON METRO STATE: OREGON	165	
MSA: Eugene-Springfield, OR	199	206
MSA: Medford-Ashland, OR	169	179
PMSA: Portland-Vancouver, OR-WA	228	252
PMSA: Salem, OR	199	206
NON METRO STATE: PENNSYLVANIA	98	
MSA: Allentown-Bethlehem-Easton, PA	139	139
MSA: Altoona, PA	128	128
MSA: Erie, PA	128	128
MSA: Harrisburg-Lebanon-Carlisle, PA	146	146
MSA: Johnstown, PA	128	128

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Lancaster, PA	132	132
PMSA: Philadelphia, PA-NJ	241	241
PMSA: Pittsburgh, PA	102	102
MSA: Reading, PA	132	132
MSA: Scranton--Wilkes-Barre--Hazleton, PA	117	117
MSA: Sharon, PA	98	98
MSA: State College, PA	98	98
MSA: Williamsport, PA	98	98
MSA: York, PA	132	132
EXCEPTION COUNTY: MONROE	117	117
EXCEPTION COUNTY: PIKE	98	98
EXCEPTION COUNTY: SUSQUEHANNA	98	98
NON METRO STATE: RHODE ISLAND	149	
PMSA: Fall River, MA-RI	114	114
MSA: New London-Norwich, CT-RI	158	158
PMSA: Providence-Fall River-Warwick, RI-MA	158	158
NON METRO STATE: SOUTH CAROLINA	67	
MSA: Augusta-Aiken, GA-SC	90	93
MSA: Charleston-North Charleston, SC	86	86
MSA: Charlotte-Gastonia-Rock Hill, NC-SC	86	102
MSA: Columbia, SC	74	86
MSA: Florence, SC	67	67
MSA: Greenville-Spartanburg-Anderson, SC	74	74
MSA: Myrtle Beach, SC	67	67
MSA: Sumter, SC	67	67
NON METRO STATE: SOUTH DAKOTA	103	
MSA: Rapid City, SD	104	122
MSA: Sioux Falls, SD	147	165
NON METRO STATE: TENNESSEE	67	
MSA: Chattanooga, TN-GA	59	86
MSA: Clarksville-Hopkinsville, TN-KY	86	93
MSA: Johnson City-Kingsport-Bristol, TN-VA	93	93
MSA: Knoxville, TN	74	74
MSA: Memphis, TN-AR-MS	102	102
MSA: Nashville, TN	102	120
NON METRO STATE: TEXAS	71	

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: TEXAS	71	
MSA: Abilene, TX	63	70
MSA: Amarillo, TX	118	124
MSA: Austin-San Marcos, TX	108	126
MSA: Beaumont-Port Arthur, TX	111	126
PMSA: Brazoria, TX	118	137
MSA: Brownsville-Harlingen-San Benito, TX	86	102
MSA: Bryan-College Station, TX	108	120
MSA: Corpus Christi, TX	90	120
PMSA: Dallas, TX	84	109
MSA: El Paso, TX	122	138
PMSA: Fort Worth-Arlington, TX	84	109
PMSA: Galveston-Texas City, TX	114	127
PMSA: Houston, TX	121	141
MSA: Killeen-Temple, TX	111	120
MSA: Laredo, TX	75	93
MSA: Longview-Marshall, TX	102	117
MSA: Lubbock, TX	117	120
MSA: Mc Allen-Edinburg-Mission, TX	100	120
MSA: Odessa-Midland, TX	120	126
MSA: San Angelo, TX	102	111
MSA: San Antonio, TX	86	102
MSA: Sherman-Denison, TX	93	111
MSA: Texarkana, TX-Texarkana, AR	120	135
MSA: Tyler, TX	93	99
MSA: Victoria, TX	73	90
MSA: Waco, TX	96	111
MSA: Wichita Falls, TX	67	75
EXCEPTION COUNTY: CALLAHAN	61	67
EXCEPTION COUNTY: CLAY	65	71
EXCEPTION COUNTY: HENDERSON	70	89
EXCEPTION COUNTY: HOOD	71	89
EXCEPTION COUNTY: JONES	61	67
EXCEPTION COUNTY: WISE	71	89
NON METRO STATE: UTAH	N/A	N/A
MSA: Provo-Orem, UT	159	179
MSA: Salt Lake City-Ogden, UT	179	200
EXCEPTION COUNTY: BEAVER	112	132
EXCEPTION COUNTY: BOX ELDER	112	132
EXCEPTION COUNTY: CACHE	112	132
EXCEPTION COUNTY: CARBON	159	177
EXCEPTION COUNTY: DAGGETT	112	132
EXCEPTION COUNTY: DUCHESNE	112	132

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: EMERY	159	177
EXCEPTION COUNTY: GARFIELD	112	132
EXCEPTION COUNTY: GRAND	159	177
EXCEPTION COUNTY: IRON	112	132
EXCEPTION COUNTY: JUAB	112	132
EXCEPTION COUNTY: KANE	112	132
EXCEPTION COUNTY: MILLARD	112	132
EXCEPTION COUNTY: MORGAN	112	132
EXCEPTION COUNTY: PIUTE	112	132
EXCEPTION COUNTY: RICH	112	132
EXCEPTION COUNTY: SAN JUAN	112	132
EXCEPTION COUNTY: SANPETE	112	132
EXCEPTION COUNTY: SEVIER	112	132
EXCEPTION COUNTY: SUMMIT	112	132
EXCEPTION COUNTY: TOOELE	108	120
EXCEPTION COUNTY: UINTAH	159	177
EXCEPTION COUNTY: WASATCH	112	132
EXCEPTION COUNTY: WASHINGTON	112	132
EXCEPTION COUNTY: WAYNE	112	132
NON METRO STATE: VERMONT	139	
MSA: Burlington, VT	171	195
EXCEPTION COUNTY: CHITTENDEN	169	197
EXCEPTION COUNTY: FRANKLIN	144	166
EXCEPTION COUNTY: GRAND ISLE	158	181
EXCEPTION COUNTY: ORANGE	156	180
EXCEPTION COUNTY: WASHINGTON	172	200
EXCEPTION COUNTY: WINDHAM	208	240
EXCEPTION COUNTY: WINDSOR	224	256
NON METRO STATE: VIRGINIA	96	
MSA: Charlottesville, VA	96	96
MSA: Danville, VA	96	96
MSA: Johnson City-Kingsport-Bristol, TN-VA	93	93
MSA: Lynchburg, VA	86	86
MSA: Norfolk-Virginia Beach-Newport News, VA-NC	137	137
MSA: Richmond-Petersburg, VA	135	135
MSA: Roanoke, VA	93	93
PMSA: Washington, DC-MD-VA-WV	209	209
EXCEPTION COUNTY: APPOMATTOX	83	83
EXCEPTION COUNTY: CLARKE	96	96
EXCEPTION COUNTY: CRAIG	90	90
EXCEPTION COUNTY: CULPEPER	96	96
EXCEPTION COUNTY: KING GEORGE	96	96

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 70

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: WARREN	96	96
NON METRO STATE: WASHINGTON	142	
MSA: Bellingham, WA	145	189
PMSA: Bremerton, WA	145	189
PMSA: Olympia, WA	145	189
PMSA: Portland-Vancouver, OR-WA	228	252
MSA: Richland-Kennewick-Pasco, WA	199	199
PMSA: Seattle-Bellevue-Everett, WA	193	273
MSA: Spokane, WA	160	179
PMSA: Tacoma, WA	172	204
MSA: Yakima, WA	160	168
NON METRO STATE: WEST VIRGINIA	93	
MSA: Charleston, WV	101	101
MSA: Cumberland, MD-WV	136	136
MSA: Huntington-Ashland, WV-KY-OH	98	98
MSA: Parkersburg-Marietta, WV-OH	98	98
MSA: Steubenville-Weirton, OH-WV	88	88
MSA: Wheeling, WV-OH	90	90
EXCEPTION COUNTY: BERKELEY	133	133
EXCEPTION COUNTY: JEFFERSON	133	133
EXCEPTION COUNTY: MORGAN	133	133
EXCEPTION COUNTY: WIRT	90	90
NON METRO STATE: WISCONSIN	101	
MSA: Appleton-Oshkosh-Neenah, WI	131	140
MSA: Duluth-Superior, MN-WI	96	108
MSA: Eau Claire, WI	122	132
MSA: Green Bay, WI	128	137
MSA: Janesville-Beloit, WI	128	137
PMSA: Kenosha, WI	146	158
MSA: La Crosse, WI-MN	115	126
MSA: Madison, WI	193	204
PMSA: Milwaukee-Waukesha, WI	152	163
MSA: Minneapolis-St. Paul, MN-WI	223	238
PMSA: Racine, WI	144	151
MSA: Sheboygan, WI	104	112
MSA: Wausau, WI	104	112
NON METRO STATE: WYOMING	N/A	N/A
MSA: Casper, WY	269	291

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 71

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Cheyenne, WY	159	192
EXCEPTION COUNTY: ALBANY	159	191
EXCEPTION COUNTY: BIG HORN	159	191
EXCEPTION COUNTY: CAMPBELL	266	289
EXCEPTION COUNTY: CARBON	266	289
EXCEPTION COUNTY: CONVERSE	266	289
EXCEPTION COUNTY: CROOK	159	191
EXCEPTION COUNTY: FREMONT	266	289
EXCEPTION COUNTY: GOSHEN	159	191
EXCEPTION COUNTY: HOT SPRINGS	159	191
EXCEPTION COUNTY: JOHNSON	159	191
EXCEPTION COUNTY: LARAMIE	159	191
EXCEPTION COUNTY: LINCOLN	159	191
EXCEPTION COUNTY: PARK	159	191
EXCEPTION COUNTY: PLATTE	159	191
EXCEPTION COUNTY: SHERIDAN	266	289
EXCEPTION COUNTY: SUBLETTE	159	191
EXCEPTION COUNTY: SWEETWATER	266	289
EXCEPTION COUNTY: TETON	159	191
EXCEPTION COUNTY: UINTA	159	191
EXCEPTION COUNTY: WASHAKIE	159	191
EXCEPTION COUNTY: WESTON	159	191

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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[FR Doc. 93-10536 Filed 5-5-93; 8:45 am]
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Thursday
May 6, 1993

Part III

Department of Education

34 CFR Part 612

Prevention Programs in Higher Education; Final Rule

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DEPARTMENT OF EDUCATION

34 CFR Part 612

RIN: 1840–AB11

Drug Prevention Programs in Higher Education

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Drug Prevention Programs in Higher Education. These final regulations permit an eligible applicant to receive more than one current grant for an Analysis project. This is accomplished by removing a reporting requirement as an element of eligibility. The Secretary makes this change to increase the number of applications for Analysis projects.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Donald Fischer, Drug Prevention Programs in Higher Education, Fund for the Improvement of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (ROB–3, room 3100), Washington, DC. 20202–5175. Telephone: (202) 708–5771. Individuals who are hearing impaired may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Drug Prevention Programs in Higher Education provide assistance to institutions of higher education (IHEs) and consortia of IHEs for projects designed to develop, implement, operate, and improve educational programs in drug abuse prevention (including rehabilitation referral) for students enrolled in IHEs. The programs support National Education Goal 6 that specifically calls for every school in America to be free of drugs and violence and to offer a disciplined environment conducive to learning.

Under Analysis and Dissemination competitions, the Secretary funds projects to analyze and disseminate successful project designs, policies, and results of projects funded under Institution-Wide Program competitions and Special Focus Program competitions. More specifically, Analysis projects have been funded to analyze overall results of Institution-Wide projects and cross-cutting features of Institution-Wide projects. Institution-Wide projects are comprehensive in scope. They are designed to prevent or eliminate the use of illegal drugs and alcohol by students in institutions of higher education. To that end, they provide training in drug abuse education and prevention to students, faculty, and staff. Special Focus projects address one or more specific approaches or problem areas related to drug abuse education and prevention for students enrolled in institutions of higher education.

The Secretary makes revisions to existing regulations because of the low number of applications received under three previous competitions for Analysis awards, and the desirability of increasing the number of applications submitted by knowledgeable applicants with previous experience in conducting Institution-Wide or Special Focus projects.

Under the previous § 612.2(c), an applicant that had received an award in a competition for Analysis projects was not eligible to receive a subsequent award in that competition until the applicant had submitted every report required under the prior project. These final regulations remove the reporting requirement as an element of eligibility for subsequent Analysis projects.

Note, however, that under 34 CFR 75.217(d)(3) the Secretary determines the order in which applications are selected for grants by considering, among other factors, information concerning the applicant's use of funds under a previous award under this program. In applying this provision, the Secretary intends to ensure that an applicant that has an award for an existing Analysis project does not receive a new award for an identical Analysis project. However, in the case of an applicant conducting an Analysis project in which, for example, the final reports of a cohort of Institution-Wide projects are being analyzed, the Secretary's application of this provision will not prohibit the applicant from receiving a new award to analyze the final reports of a different cohort of Institution-Wide projects. The difference in cohorts will render these projects separate and distinct and, therefore, allowable.

On September 25, 1992, the Secretary published a notice of proposed rulemaking for this program in the Federal Register (57 FR 44350).

There are no differences between the NPRM and these final regulations.

Public Comment

In the NPRM the Secretary invited comments on the proposed regulations; however, no comments were received. The Secretary has made no changes in these regulations since publication of the NPRM.

Executive Order 12291

These final regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 612

Colleges and universities, Drug abuse, Grant programs—education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number: Drug Prevention Programs in Higher Education, 84.183)

Dated: April 29, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary amends part 612 of chapter VI of title 34 of the Code of Federal Regulations as follows:

PART 612—DRUG PREVENTION PROGRAMS IN HIGHER EDUCATION

1. The authority citation for part 612 continues to read as follows:

Authority: 20 U.S.C. 3211, unless otherwise noted.

2. Section 612.2 is amended by revising paragraph (c) to read as follows:

§ 612.2 Who is eligible to receive an award?

* * * * *

(c) If an applicant has received an award in a competition, the applicant may not receive a new award in that competition in a subsequent year until—

(1) The Secretary determines that the applicant will satisfactorily complete the project previously supported; and

(2) Except for Analysis projects as described in § 612.21(d), the applicant has submitted every report that it must submit in connection with the prior project.

* * * * *

[FR Doc. 93–10657 Filed 5–5–93; 8:45 am]

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Part IV

Department of Education

34 CFR Part 630
Fund for the Improvement of Postsecondary Education; Final Rule

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DEPARTMENT OF EDUCATION

34 CFR Part 630

RIN: 1840–AB75

Fund for the Improvement of Postsecondary Education

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Fund for the Improvement of Postsecondary Education. These amendments are needed to implement provisions of the Higher Education Amendments of 1992. These amendments conform the existing regulations to the new statutory requirements and make minor technical changes.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: John E. Donahue, U.S. Department of Education, 400 Maryland Avenue, SW., room 3100, ROB–3, Washington, DC 20202–5175. Telephone: (202) 708–5750. Deaf and hearing impaired individuals may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: These regulations implement the Higher Education Amendments of 1992 (Pub. L. 102–325), enacted July 23, 1992. The amendments revise the Innovative Projects for Community Service Program by removing the focus on student financial assistance and emphasizing creative ways to involve college students in community service. The authorization for the program was moved from title X to title XI, part B, subpart 1. The amendments also authorize planning grants to develop and test innovative techniques in postsecondary education as well as a program of special projects in areas of national need, including international exchanges, campus climate and culture, and evaluation and dissemination. In describing eligible parties, the amendments change the term "institutions of postsecondary education" to "institutions of higher education."

Planning grants are available only to institutions of higher education. Eligible parties for the other programs include institutions of higher education, combinations of those institutions, and other public and private nonprofit institutions and agencies.

Two of the three exceptions to the Education Department General Administrative Regulations (EDGAR) listed in § 630.4 have been deleted because they are no longer applicable.

This program supports the National Education Goals through awards for teacher education, curriculum reform, lifelong learning, and student volunteerism. It particularly addresses Goal 2 (High School Completion), Goal 3 (Student Achievement and Citizenship), Goal 4 (Science and Mathematics), and Goal 5 (Adult Literacy and Lifelong Learning).

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. These amendments, however, merely incorporate required statutory changes into the existing regulations and make minor technical changes. They do not establish substantive policy. Therefore, the Secretary has determined, pursuant to 5 U.S.C. 553(b)(B), that public comment on the regulations is unnecessary and contrary to the public interest.

Executive Order 12291

These final regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act

The Secretary certifies that these regulations would not have significant economic impact on a substantial number of small entities. The small entities that would be affected by these regulations are small nonprofit institutions of higher education and other small public and private nonprofit institutions and agencies. The regulations will impose only the minimal requirements necessary to ensure the proper expenditure of program funds. The regulations will not impose excessive regulatory burden and will not have a significant economic impact on the small entities affected.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

Based on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 630

Colleges and universities, Education, Grant programs—education.

(Catalog of Federal Domestic Assistance Number 84.116 Fund for the Improvement of Postsecondary Education)

Dated: April 29, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary amends part 630 of title 34 of the Code of Federal Regulations as follows:

PART 630—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

1. The authority citation for part 630 is revised to read as follows:

Authority: 20 U.S.C. 1135–1135a–2, 1135a–11, 1137–1137a, unless otherwise noted.

2. Section 630.2 is revised to read as follows:

§ 630.2 Eligible parties.

Institutions of higher education, combinations of institutions of higher education, and other public and private nonprofit institutions and agencies are eligible to receive an award, except planning grants. Only institutions of higher education may receive a planning grant award.

(Authority: 20 U.S.C. 1135–1135a–2, 1135a–11, 1137–1137a)

3. Section 630.4 is revised to read as follows:

§ 630.4 Regulations that apply to this program.

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs), except for § 75.201(a) (Unweighted Selection Criteria).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 630.

(Authority: 20 U.S.C. 1135–1135a–2, 1135a–11, 1137–1137a, 3474; 41 U.S.C. 505)

4. Section 630.5 is amended by revising the definitions of "Combination of institutions of postsecondary education" and "Community service" in paragraph (b) and the authority citation to read as follows:

§ 630.5 Definitions that apply to this program.

* * * * *

(b) * * *

Combination of institutions of higher education means a group of institutions of higher education that have entered into a joint agreement for the purpose of carrying out a common objective, or a public or nonprofit private agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

Community service means planned, supervised services designed to improve the quality of life for community residents, particularly community residents with low income, or to assist in the solutions of particular problems related to the needs of those residents. This term does not include partisan or non-partisan political activity, lobbying, direct solicitation of donations, religious proselytizing, conduct of religious services or instruction, pro-union or anti-union activity, or activities that result in the displacement of employed workers or impair existing contracts for service.

* * * * *

(Authority: 20 U.S.C. 1135–1135a–2, 1135a–11, 1137–1137a, 1141)

5. Section 630.11 is amended by revising paragraph (c), adding new paragraphs (d) and (e), and revising the authority citation to read as follows:

§ 630.11 Types of competitions.

* * * * *

(c) *Innovative Projects for Community Service competition.* In this competition the Secretary supports innovative projects to encourage student participation in community service projects, including literacy projects.

(d) *Planning Grants competition.* In this competition the Secretary supports projects to develop and test innovative techniques in postsecondary education. No grant may exceed $20,000.

(e) *Special Projects competition.* In this competition the Director of the Fund supports innovative projects concerning one or more areas of particular national need identified by the Director.

(Authority: 20 U.S.C. 1135–1135a–2, 1135a–11, 1137–1137a)

[FR Doc. 93–10656 Filed 5–5–93; 8:45 am]

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Part V

United States Sentencing Commission

Amendments to the Sentencing Guidelines for United States Courts; Notice

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UNITED STATES SENTENCING COMMISSION

Amendments to the Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of submission to Congress of amendments to the sentencing guidelines.

SUMMARY: Pursuant to its authority under section 994(p) of title 28, United States Code, the Commission on April 29, 1993, submitted to the Congress for review a report containing amendments to the sentencing guidelines, policy statements, and official commentary together with reasons for the amendments.

DATES: Pursuant to 28 U.S.C. 994(p), as amended by section 7109 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690, Nov. 18, 1988), the Commission has specified an effective date of November 1, 1993, for these amendments. Comments regarding amendments that the Commission should specify for retroactive application to previously sentenced defendants should be received no later than July 31, 1993.

ADDRESSES: Comments should be sent to: United States Sentencing Commission, One Columbus Circle NE., suite 2–500, South Lobby, Washington, DC 20002–8002, Attn: Public Information.

FOR FURTHER INFORMATION CONTACT: Mike Courlander, Public Information Specialist, telephone: (202) 273–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission, an independent agency in the judicial branch of the U.S. Government, is empowered by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal sentencing courts. The statute further directs the Commission to review periodically and revise guidelines previously promulgated and authorizes it to submit guideline amendments to the Congress no later than the first day of May each year. See 28 U.S.C. 994(o), (p). Absent action of Congress to the contrary, the amendments become effective on the date specified by the Commission (i.e., November 1, 1993) by operation of law.

Notice of the amendments submitted to the Congress on April 29, 1993, was published in the **Federal Register** of December 31, 1992 (57 FR 62832). A public hearing on the proposed amendments was held in Washington, DC, on March 22, 1993. After review of the hearing testimony and additional public comment, the Commission promulgated the amendments, each having been approved by at least four voting Commissioners.

In connection with its ongoing process of guideline review, the Commission welcomes comment on any aspect of the sentencing guidelines, policy statements, and official commentary. Specifically, the Commission solicits comment on which, if any, of the amendments submitted to the Congress that may result in a lower guideline range should be made retroactive to previously sentenced defendants under Policy Statement 1B1.10.

Authority: 28 U.S.C. 994 (a), (o), (p); sec. 7109 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690).

William W. Wilkins, Jr.,

Chairman.

Amendments to the Sentencing Guidelines

Pursuant to section 994(p) of title 28, United States Code, as amended by section 7109 of the Anti-Drug Abuse Act of 1988 [Pub. L. 100–690, Nov. 18, 1988], the United States Sentencing Commission reports to the Congress the following amendments to the sentencing guidelines, and the reasons therefor. As authorized by this section, the Commission specifies an effective date of November 1, 1993, for these amendments.

Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary

1. Amendment: Section 1B1.11(b) is amended by inserting the following additional subdivision:

"(3) If the defendant is convicted of two offenses, the first committed before, and the second after, a revised edition of the Guidelines Manual became effective, the revised edition of the Guidelines Manual is to be applied to both offenses.".

The Commentary to section 1B1.11 captioned "Application Note" is amended by inserting the following additional note:

"2. Under subsection (b)(1), the last date of the offense of conviction is the controlling date for ex post facto purposes. For example, if the offense of conviction (i.e., the conduct charged in the count of the indictment or information of which the defendant was convicted) was determined by the court to have been committed between October 15, 1991 and October 28, 1991, the date of October 28, 1991 is the controlling date for ex post facto purposes. This is true even if the defendant's conduct relevant to the determination of the guideline range under § 1B1.3 (Relevant Conduct) included an act that occurred on November 2, 1991 (after a revised Guideline Manual took effect).";

and in the caption by deleting "Note" and inserting in lieu thereof "Notes".

The Commentary to § 1B1.11 captioned "Background" is amended by inserting the following additional sentence as the first sentence of the first paragraph:

"Subsections (a) and (b)(1) provide that the court should apply the Guidelines Manual in effect on the date the defendant is sentenced unless the court determines that doing so would violate the ex post facto clause in Article I, section 9 of the United States Constitution.";

and by inserting the following additional paragraphs at the end:

"Subsection (b)(2) provides that the Guidelines Manual in effect on a particular date shall be applied in its entirety.

Subsection (b)(3) provides that where the defendant is convicted of two offenses, the first committed before, and the second after, a revised edition of the Guidelines Manual became effective, the revised edition of the Guidelines Manual is to be applied to both offenses, even if the revised edition results in an increased penalty for the first offense. Because the defendant completed the second offense after the amendment to the guidelines took effect, the ex post facto clause does not prevent determining the sentence for that count based on the amended guidelines. For example, if a defendant pleads guilty to a single count of embezzlement that occurred after the most recent edition of the Guidelines Manual became effective, the guideline range applicable in sentencing will encompass any relevant conduct (e.g., related embezzlement offenses that may have occurred prior to the effective date of the guideline amendments) for the offense of conviction. The same would be true for a defendant convicted of two counts of embezzlement, one committed before the amendments were enacted, and the second after. In this example, the ex post facto clause would not bar application of the amended guideline to the first conviction; a contrary conclusion would mean that such defendant was subject to a lower guideline range than if convicted only of the second offense. Decisions from several appellate courts addressing the analogous situation of the constitutionality of counting pre-guidelines criminal activity as relevant conduct for a guidelines sentence support this approach. See United States v. Ykema, 887 F.2d 697 (6th Cir. 1989) (upholding inclusion of pre-November 1, 1987, drug quantities as relevant conduct for the count of conviction, noting that habitual offender statutes routinely augment punishment for an offense of conviction based on acts committed before a law is passed), cert. denied, 493 U.S 1062 (1990); United States v. Allen, 886 F.2d 143 (8th Cir. 1989) (similar); see also United States v. Cusack, 901 F.2d 29 (4th Cir. 1990) (similar).

Moreover, the approach set forth in subsection (b)(3) should be followed regardless of whether the offenses of conviction are the type in which the conduct is grouped under § 3D1.2(d). The ex post facto clause does not distinguish between groupable and nongroupable offenses, and unless that clause would be violated, Congress' directive to apply the sentencing guidelines in effect at the time of sentencing must be followed. Under the guideline sentencing system, a single sentencing range is determined based on the defendant's overall conduct, even if there are multiple counts of conviction (see §§ 3D1.1–3D1.5, 5G1.2). Thus, if a defendant is sentenced in January 1992 for a bank robbery committed in October 1988 and one committed in November 1991, the November 1991 Guidelines Manual should be used to determine a combined guideline range for both counts. See generally United States v. Stephenson, 921 F.2d 438 (2d Cir. 1990) (holding that the Sentencing Commission and Congress intended that the applicable version of the guidelines be applied as a "cohesive and integrated whole" rather than in a piecemeal fashion).

Consequently, even in a complex case involving multiple counts that occurred under several different versions of the Guidelines Manual, it will not be necessary to compare more than two manuals to determine the applicable guideline range—the manual in effect at the time the last offense of conviction was completed and the one in effect at the time of sentencing.".

Reason for Amendment: This amendment expands policy statement § 1B1.11 (Use of Guidelines Manual in Effect on Date of Sentencing) to address what has become a frequently asked hotline question and troublesome application issue—the application of amended guidelines to multiple count cases in which the effective date of guideline revision(s) occur between offenses of conviction. The issue has also produced litigation before several appellate courts. See *United States* v. *Castro*, 972 F.2d 1107 (9th Cir. 1992), cert. denied, 113 S. Ct. 1350 (1993); *United States* v. *Seligsohn*, 981 F.2d 1418 (3d Cir. 1992), reh'g denied (1993); *United States* v. *Hartzog*, 983 F.2d 604 (4th Cir. 1993). This amendment extends the Commission's "one book" rule to multiple count cases and provides a basic rationale for the policy.

2. Amendment: Chapter One, part B, is amended by inserting at the end:

"§ 1B1.12. Persons Sentenced Under the Federal Juvenile Delinquency Act (Policy Statement)

The sentencing guidelines do not apply to a defendant sentenced under the Federal Juvenile Delinquency Act (18 U.S.C. 5031–5042). However, the sentence imposed upon a juvenile delinquent may not exceed the maximum of the guideline range applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor sufficient to warrant an upward departure from that guideline range. *United States* v. *R.L.C.*, 112 S. Ct. 1329 (1992). Therefore, a necessary step in ascertaining the maximum sentence that may be imposed upon a juvenile delinquent is the determination of the guideline range that would be applicable to a similarly situated adult defendant.".

Section 5H1.1 is amended by deleting the last paragraph as follows:

"The guidelines are not applicable to a person sentenced as a juvenile delinquent under the provisions of 18 U.S.C. 5037.".

Reason for Amendment: This amendment adds a policy statement to Chapter One, Part B (Application Instructions) addressing the determination of the maximum imposable sentence in the case of a juvenile delinquent. The United States Supreme Court's decision in *United States* v. *R.L.C.*, 112 S. Ct. 1329 (1992), requires calculation of the guideline range in order to determine the maximum sentence imposable on a juvenile delinquent.

3. Amendment: The Commentary to § 2A1.1 captioned Background is deleted as follows:

"Background: The maximum penalty authorized by 18 U.S.C. 1111 for first degree murder is death or life imprisonment. Whether a mandatory minimum term of life imprisonment is applicable to every defendant convicted of first degree murder under 18 U.S.C. 1111 is a matter of statutory interpretation for the courts. The discussion in application Note 1, supra, regarding circumstances in which a downward departure may be warranted is relevant in the event the penalty provisions of 18 U.S.C. 1111 are construed to permit a sentence less than life imprisonment, or in the event the defendant is convicted under a statute that expressly authorizes a sentence of less than life imprisonment (e.g., 18 U.S.C. 2113(e), 2118(c)(2), 21 U.S.C. 848(e)).

The maximum penalty authorized under 21 U.S.C. 848(e) is death or life imprisonment. If a term of imprisonment is imposed, the statutorily required minimum term is twenty years.".

Reason for Amendment: This amendment deletes commentary that highlighted the question of whether 18 U.S.C. 1111 provides a mandatory minimum term of life imprisonment. Since this commentary was written, appellate courts uniformly have held that 18 U.S.C. 1111 does provide a mandatory minimum term of life imprisonment. See *United States* v. *Sands*, 968 F.2d 1058 (10th Cir. 1992), cert. denied, 113 S. Ct. 987 (1993); *United States* v. *LaFleur*, 952 F.2d 1537 (9th Cir. 1991); *United States* v. *Gonzalez*, 922 F.2d 1044 (2d Cir.), cert. denied, 112 S. Ct. 860 (1991); *United States* v. *Donley*, 878 F.2d 735 (3d Cir. 1989), cert. denied, 494 U.S. 1058 (1990). In addition, this amendment deletes, as unnecessary, several sentences of commentary that merely recite statutory penalties.

4. Amendment: Section 2A3.1 is amended by redesignating subsection (c) as subsection (d); and by inserting the following additional subsection:

"(c) Cross Reference

(1) If a victim was killed under circumstances that would constitute murder under 18 U.S.C. 1111 had such killing taken place within the territorial or maritime jurisdiction of the United States, apply section 2A1.1 (First Degree Murder).".

Section 2A3.1(b)(2) is amended by deleting "otherwise, (B) if the victim was under the age of sixteen" and inserting in lieu thereof "or (B) if the victim had attained the age of twelve years but had not attained the age of sixteen years".

Section 2A4.2 is amended by inserting the following additional subsection:

"(b) Cross Reference

(1) If the defendant was a participant in the kidnapping offense, apply § 2A4.1 (Kidnapping; Abduction; Unlawful Restraint).".

The Commentary to § 2A4.2 is amended by inserting the following immediately before "Background".

"Application Note:

1. A 'participant' is a person who is criminally responsible for the commission of the offense, but need not have been convicted.".

Section 2B3.1 is amended by inserting the following additional subsection:

"(c) Cross Reference

(1) If a victim was killed under circumstances that would constitute murder under 18 U.S.C. 1111 had such killing taken place within the territorial or maritime jurisdiction of the United States, apply section 2A1.1 (First Degree Murder).".

The Commentary to section 2B3.1 captioned "Application Notes" is amended by deleting Note 8 as follows:

"6. If the defendant was convicted under 18 U.S.C. 2113(e) and in committing the offense or attempting to flee or escape, a participant killed any person, apply section 2A1.1 (First Degree Murder). Otherwise, if death results, see Chapter Five, Part K (Departures).";

and by renumbering the remaining notes accordingly.

Section 2B3.2(c) is amended by deleting "Reference" and inserting in lieu thereof "References"; by renumbering subdivision (1) as subdivision (2); and by inserting the following additional subdivision:

"(1) If a victim was killed under circumstances that would constitute murder under 18 U.S.C. 1111 had such killing taken place within the territorial or maritime jurisdiction of the United States, apply section 2A1.1 (First Degree Murder).".

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Section 2B3.3 is amended by inserting the following additional subsection:

"(c) Cross References

(1) If the offense involved extortion under color of official right, apply section 2C1.1 (Offering, Giving, Soliciting, or Receiving a Bribe; Extortion Under Color of Official Right).

(2) If the offense involved extortion by force or threat of injury or serious damage, apply section 2B3.2 (Extortion by Force or Threat of Injury or Serious Damage).".

Section 2D1.1 is amended by inserting the following additional subsection:

"(c) Cross Reference

(1) If a victim was killed under circumstances that would constitute murder under 18 U.S.C. 1111 had such killing taken place within the territorial or maritime jurisdiction of the United States, apply section 2A1.1 (First Degree Murder).".

Section 2E2.1 is amended by inserting the following additional subsection:

"(c) Cross Reference

(1) If a victim was killed under circumstances that would constitute murder under 18 U.S.C. 1111 had such killing taken place within the territorial or maritime jurisdiction of the United States, apply section 2A1.1 (First Degree Murder).".

Reason for Amendment: This amendment adds cross references to sections 2A3.1, 2B3.1, 2B3.2, 2D1.1, and 2E2.1 to address the circumstance in which a victim is murdered during the offense. In addition, an editorial change in section 2A3.1(b)(2) is made to conform the phraseology used in this subsection to that used elsewhere in the guidelines. Furthermore, a cross reference is added to section 2A4.2 to address the circumstance in which the defendant was a participant in the underlying kidnapping offense. Finally, cross references are added to section 2B3.3 to ensure the selection of the appropriate guideline for the offenses covered by the statutes referenced to this section.

5. Amendment: The Commentary to section 2A3.1 captioned "Application Notes" is amended by inserting the following additional note:

"5. If the defendant was convicted (A) of more than one act of criminal sexual abuse and the counts are grouped under section 3D1.2 (Groups of Closely-Related Counts), or (B) of only one such act but the court determines that the offense involved multiple acts of criminal sexual abuse of the same victim or different victims, an upward departure would be warranted.".

Reason for Amendment: This amendment authorizes an upward departure where the offense involved multiple acts of criminal sexual abuse that do not result in an increase in offense level under the multiple count rules in Chapter Three, Part D (Multiple Counts).

6. Amendment: The Commentary to section 2A4.1 captioned "Background" is amended in the third paragraph by deleting:

"or to facilitate the commission of another offense. Should the application of this guideline result in a penalty less than the result achieved by applying the guideline for the underlying offense, apply the guideline for the underlying offense (e.g., § 2A3.1, Criminal Sexual Abuse).",

and inserting in lieu thereof:

"(subsection (b)(1)) or involves another federal, state, or local offense that results in a greater offense level (subsections (b)(7) and (c)(1)).".

The Commentary to Section 2K1.3 captioned "Application Notes" is amended in Note 4 by inserting "(federal, state, or local)" immediately following "offense".

The Commentary to Section 2K1.3 captioned "Application Notes" is amended in Note 8 by inserting "(which may be a federal, state, or local offense)" immediately before "is".

The Commentary to Section 2K2.1 captioned "Application Notes" is amended in Note 7 by inserting "(federal, state, or local)" immediately following "offense".

The Commentary to Section 2K2.1 captioned "Application Notes" is amended in Note 14 by inserting "(which may be a federal, state, or local offense)" immediately before "is".

The Commentary to Section 2K2.1 captioned "Application Notes" is amended by inserting the following additional note:

"19. The enhancement under subsection (b)(4) for a stolen firearm or a firearm with an altered or obliterated serial number applies whether or not the defendant knew or had reason to believe that the firearm was stolen or had an altered or obliterated serial number.".

Reason for Amendment: This amendment clarifies that the references to "other offense" and "another offense" in Section 2A4.1 (b)(7), and to "felony offense," "another offense," and "other offense" in Sections 2K1.3 and 2K2.1, refer to federal, state, or local offenses. In addition, this amendment clarifies that the enhancement in Section 2K2.1 (b)(4) applies whether or not the defendant knew or had reason to believe the firearm was stolen or had an altered or obliterated serial number.

7. Amendment: Section 2A5.2(a)(1) is amended by deleting "defendant intentionally endangered" and inserting in lieu thereof "offense involved intentionally endangering".

Section 2A5.2(a)(2) is amended by deleting "defendant recklessly endangered" and inserting in lieu thereof "offense involved recklessly endangering".

Section 2A6.1(b)(1) is amended by deleting "defendant engaged in" and inserting in lieu thereof "offense involved".

Section 2A6.1(b)(2) is amended by deleting "defendant's conduct" and inserting in lieu thereof "offense".

Reason for Amendment: This amendment deletes language that could be construed as a limitation on the scope of conduct for which a defendant is accountable under Section1B1.3 (Relevant Conduct) and replaces it with terminology consistent with that used in other offense guidelines.

8. Amendment: Section 2B1.1 is amended in the title by inserting "; Receiving, Transporting, Transferring, Transmitting, or Possessing Stolen Property" at the end thereof.

Section 2B1.1(b)(2) is amended by inserting "(A)" immediately following "If"; and by inserting "or the taking of such item was an object of the offense; or (B) the stolen property received, transported, transferred, transmitted, or possessed was a firearm, destructive device, or controlled substance," immediately following "taken,".

Section 2B1.1(b)(4) is amended by inserting "(A)" immediately following "If"; and by inserting "or the taking of such item was an object of the offense; or (B) the stolen property received, transported, transferred, transmitted, or possessed was undelivered United States mail," immediately following "taken,".

Section 2B1.1(b)(5) is amended by inserting "(A)" immediately before "If"; and by inserting "; or (B) If the offense involved receiving stolen property, and the defendant was a person in the business of receiving and selling stolen property, increase by 4 levels;" immediately following "levels".

The Commentary to Section 2B1.1 captioned "Statutory Provisions" is amended by inserting "553(a)(1)," immediately following "225,"; by inserting "662, 664," immediately before "1702"; and by deleting ", 2317" and inserting in lieu thereof "–2317; 29 U.S.C. 501(c)".

The Commentary to Section 2B1.1 captioned "Application Notes" is amended by inserting the following additional note:

"14. If the offense involved theft or embezzlement from an employee pension or welfare benefit plan (a violation of 18 U.S.C. 664) and the defendant was a fiduciary of the benefit plan, an adjustment under Section 3B1.3 (Abuse of Position of Trust or Use of Special Skill) will apply. "Fiduciary of the benefit plan" is defined in 29 U.S.C. 1002(21)(A) to mean a person who exercises any discretionary authority or control in respect to the management of such plan or exercises authority or control in respect to management or disposition of its assets, or who renders investment advice for a fee or other direct or indirect compensation with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or who has any discretionary authority or responsibili*v in the administration of such plan.

If the offense involved theft or embezzlement from a labor union (a violation of 29 U.S.C. 501(c)) and the defendant was a union officer or occupied a position of trust in the union as set forth in 29 U.S.C. 501(a), an adjustment under 3B1.3 (Abuse of Position of Trust or Use of Special Skill) will apply.".

Section 2B2.1 is amended in the title by inserting "or a Structure Other than a Residence" at the end thereof.

Section 2B2.1(a) is amended by deleting "17" and inserting in lieu thereof "(1) 17, if a residence; or (2) 12, if a structure other than a residence.".

The Commentary to Section 2B2.1 captioned "Statutory Provision" is amended by deleting "Provision: 18 U.S.C. 1153" and inserting in lieu thereof "Provisions: 18 U.S.C. 1153, 2113(a), 2115, 2117, 2118(b). For additional statutory provision(s), see appendix A (Statutory Index)".

Section 2B5.3 is amended in the title by inserting "or Trademark" at the end thereof.

The Commentary to Section 2B5.3 captioned "Statutory Provisions" is amended by deleting "2319" and inserting in lieu thereof "2318–2320".

The Commentary to Section 2B5.3 captioned "Background" is amended by inserting "and trademark" immediately following "copyright".

Section 2D3.2 is amended in the title by deleting "Manufacture of Controlled Substances in Excess of or Unauthorized by Registration Quota; Attempt or Conspiracy" and inserting in lieu thereof "Regulatory Offenses Involving Controlled Substances; Attempt or Conspiracy".

The Commentary to Section 2D3.2 captioned "Statutory Provisions" is amended by deleting "842(b), 843(a)(3)" and inserting in lieu thereof "842(a)(2), (a)(9), (a)(10), (b), 843(a)(3), 954, 961".

The Commentary to Section 2D3.2 captioned "Background" is amended by deleting "This offense is a misdemeanor" and inserting in lieu thereof "These offenses are misdemeanors".

Section 2E3.1 is amended in the title by deleting "Engaging in a Gambling Business" and inserting in lieu thereof "Gambling Offenses".

Section 2E3.1(a) is amended by deleting "12" and inserting in lieu thereof:

"(1) 12, if the offense was (A) engaging in a gambling business; (B) transmission of wagering information; or (C) committed as part of, or to facilitate, a commercial gambling operation; or

(2) 6, otherwise.".

The Commentary to section 2E3.1 captioned "Statutory Provision" is amended by deleting "Provision: 18 U.S.C. 1955" and inserting in lieu thereof "Provisions: 15 U.S.C. 1172–1175; 18 U.S.C. 1082, 1301–1304, 1306, 1511, 1953, 1955. For additional statutory provision(s), see appendix A (Statutory Index)".

Section 2E5.1 is amended in the title by inserting "; Prohibited Payments or Lending of Money by Employer or Agent to Employees, Representatives, or Labor Organizations" at the end thereof.

Section 2E5.1(b)(1) is amended by inserting "or labor organization" immediately following "plan".

The Commentary to section 2E5.1 captioned "Statutory Provision" is amended by deleting "Provision: 18 U.S.C. 1954" and inserting in lieu thereof "Provisions: 18 U.S.C. 1954; 29 U.S.C. 186".

The Commentary to section 2E5.1 captioned "Background" is amended by inserting ", or labor organizations" immediately following "plans"; and by deleting the last sentence as follows:

"A more severe penalty is warranted in a bribery where the payment is the primary motivation for an action to be taken, as opposed to graft, where the prohibited payment is given because of a person's actions, duties, or decisions without a prior understanding that the recipient's performance will be directly influenced by the gift.".

Section 2E5.3 is amended in the title by inserting "; Failure to Maintain and Falsification of Records Required by the Labor Management Reporting and Disclosure Act" at the end thereof.

Section 2E5.3(a)(2) is amended by deleting "relating to the operation of an employee benefit plan, apply section 2E5.2" and inserting in lieu thereof "apply 2B1.1".

The Commentary to section 2E5.3 captioned "Statutory Provision" is amended by deleting "Provision: 18 U.S.C. 1027" and inserting in lieu thereof "Provisions: 18 U.S.C. 1027; 29 U.S.C. 439, 461, 1131. For additional statutory provision(s), see appendix A (Statutory Index).".

The Commentary to section 2E5.3 captioned "Background" is amended by inserting the following additional sentence as the second sentence:

"It also covers failure to maintain proper documents required by the LMRDA or falsification of such documents.".

Section 2F1.1 is amended in the title by inserting "; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligations of the United States" at the end thereof.

The Commentary to section 2F1.1 captioned "Statutory Provisions" is amended by inserting "471–473, 500, 510," immediately following "289,"; and by inserting ", 2314, 2315" immediately following "1344".

Section 2J1.3 is amended in the title by inserting "; Bribery of Witness" at the end thereof.

Section 2J1.3(b)(2) is amended by deleting "perjury or subornation of perjury" and inserting in lieu thereof "perjury, subornation of perjury, or witness bribery".

Section 2J1.3(c)(1) is amended by deleting "perjury or subornation of perjury" and inserting in lieu thereof "perjury, subornation of perjury, or witness bribery".

The Commentary to section 2J1.3 captioned "Statutory Provisions" is amended by inserting "201 (b)(3), (4)," immediately before "1621".

The Commentary to section 2J1.3 captioned "Application Notes" is amended in Note 3 by inserting ", subornation of perjury, or witness bribery" immediately following "perjury".

The Commentary to section 2J1.3 captioned "Background" is amended by deleting "perjury and subornation of perjury" and inserting in lieu thereof "perjury, subornation of perjury, and witness bribery".

Section 2K1.1 is amended in the title by inserting "; Improper Storage of Explosive Materials" at the end thereof.

The Commentary to section 2K1.1 captioned "Statutory Provisions" is amended by deleting "842(k), 844(b)" and inserting in lieu thereof "842(j), (k), 844(b). For additional statutory provision(s), see appendix A (Statutory Index)".

Section 2K2.4 is amended in the title by deleting "Firearms or" and inserting "Firearm," in lieu thereof; and by inserting ", or Explosive" immediately following "Ammunition".

Section 2K2.4(a) is amended by inserting "section 844(h)," immediately before "section 924(c)"; and by inserting a comma immediately following "section 924(c)".

The Commentary to section 2K2.4 captioned "Statutory Provisions" is

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amended by inserting "844(h)," immediately before "924(c)".

The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 2 in the first paragraph by deleting "a firearm" and inserting in lieu thereof "an explosive or firearm".

The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 4 by deleting "section 924(c)" wherever it occurs and inserting in lieu thereof in each instance "section 844(h), section 924(c),".

The Commentary to section 2K2.4 captioned "Background" is amended by deleting "924(c)" and inserting in lieu thereof "844(h), 924(c),"; and by inserting "explosive or" immediately before "firearm".

Section 2L2.1 is amended in the title by deleting "Documents" and inserting in lieu thereof "a Document"; and by inserting ", or a United States Passport" immediately following "Status".

Section 2L2.1(b)(2) is amended by inserting "or passports" immediately following "documents" and by inserting "/Passports" immediately following "Documents".

The Commentary to section 2L2.1 captioned "Statutory Provisions" is amended by inserting "1542, 1544," immediately following "1427,".

The Commentary to section 2L2.1 captioned "Application Notes" is amended by deleting "set as one document" and inserting in lieu thereof "documents as one set".

Section 2L2.2 is amended in the title by inserting "; Fraudulently Acquiring or Improperly Using a United States Passport" at the end thereof.

The Commentary to section 2L2.2 captioned "Statutory Provisions" is amended by deleting "1546" and inserting in lieu thereof "1543, 1544, 1546. For additional statutory provision(s), see appendix A (Statutory Index)".

Section 2M2.1 is amended in the title by inserting "or Production" immediately following "Destruction".

The Commentary to section 2M2.1 captioned "Statutory Provisions" is amended by inserting ", 2154" immediately following "2153".

Section 2M2.3 is amended in the title by inserting "or Production" immediately following "Destruction".

The Commentary to section 2M2.3 captioned "Statutory Provisions" is amended by inserting ", 2156" immediately following "2155".

Section 2M3.3 is amended in the title by inserting "; Disclosure of Classified Cryptographic Information; Unauthorized Disclosure to a Foreign Government or a Communist Organization of Classified Information by Government Employee; Unauthorized Receipt of Classified Information" at the end thereof.

The Commentary to section 2M3.3 captioned "Statutory Provisions" is amended by inserting "783(b), (c)," immediately before 793(d)"; and by inserting ", 798" immediately following "(g)".

The Commentary to section 2M3.3 captioned "Background" is amended by inserting the following additional paragraph at the end:

"This section also covers statutes that proscribe the disclosure of classified information concerning cryptographic or communication intelligence to the detriment of the United States or for the benefit of a foreign government, the unauthorized disclosure to a foreign government or a communist organization of classified information by a government employee, and the unauthorized receipt of classified information.".

Section 2Q1.2 is amended in the title by inserting "; Unlawfully Transporting Hazardous Materials in Commerce" at the end thereof.

The Commentary to section 2Q1.2 captioned "Statutory Provisions" is amended by inserting "; 49 U.S.C. 1809(b)" immediately following "1822(b)".

The Commentary to section 2X1.1 captioned "Application Notes" is amended in Note 1 in the second paragraph by deleting "(Manufacture of Controlled Substance in Excess of or Unauthorized by Registration Quota; Attempt or Conspiracy); § 2D3.3 (Illegal Use of Registration Number to Distribute or Dispense a Controlled Substance to Another Registrant or Authorized Person; Attempt or Conspiracy); section 2D3.4 (Illegal Transfer or Transshipment of a Controlled Substance; Attempt or Conspiracy); and section 2D3.5 (Violation of Recordkeeping or Reporting Requirements for Listed Chemicals and Certain Machines; Attempt or Conspiracy)" and inserting in lieu thereof "(Regulatory Offenses Involving Controlled Substances; Attempt or Conspiracy)".

The Commentary to section 2X1.1 captioned "Application Notes" is amended in Note 1 in the third paragraph by deleting "(Manufacture of Controlled Substance in Excess of or Unauthorized by Registration Quota; Attempt or Conspiracy); section 2D3.3 (Illegal Use of Registration Number to Distribute or Dispense a Controlled Substance to Another Registrant or Authorized Person; Attempt or Conspiracy); section 2D3.4 (Illegal Transfer or Transshipment of a Controlled Substance; Attempt or Conspiracy); and section 2D3.5 (Violation of Recordkeeping or Reporting Requirements for Listed Chemicals and Certain Machines; Attempt or Conspiracy)" and inserting in lieu thereof "(Regulatory Offenses Involving Controlled Substances; Attempt or Conspiracy)".

Section 3D1.2 is amended in the second paragraph by deleting "2B1.2,", "2B5.2,", "2B5.4,", "2E5.2, 2E5.4, 2E5.6", and ", 2L2.3"; and in the third paragraph by deleting "2B2.2,", "2E1.5,", "2L2.4,", and "2M3.6, 2M3.7, 2M3.8,".

Appendix A (Statutory Index) is amended in the lines referenced to 15 U.S.C. 1172, 1173, 1174, 1175, and 1176 by deleting "2E3.3" and inserting in lieu thereof "2E3.1";
in the lines referenced to 18 U.S.C. 201(b)(3) and 201(b)(4) by deleting "2J1.8" and inserting in lieu thereof "2J1.3";
in the lines referenced to 18 U.S.C. 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 488, 493, 494, 497, 498, 499, 500, 502, 503, 505, 506, 507, 508, 509, 510, and 513 by deleting "2B5.2" and inserting in lieu thereof "2F1.1";
in the lines referenced to 18 U.S.C. 18 U.S.C. 553(a)(1) and 553(a)(2) by deleting "2B1.2" and inserting in lieu thereof "2B1.1";
in the line referenced to 18 U.S.C. 641 by deleting ", 2B1.2";
in the line referenced to 18 U.S.C. 642 by deleting "2B5.2" and inserting in lieu thereof "2F1.1";
in the line referenced to 18 U.S.C. 659 by deleting ", 2B1.2";
in the line referenced to 18 U.S.C. 662 by deleting "2B1.2" and inserting in lieu thereof "2B1.1";
in the line referenced to 18 U.S.C. 664 by deleting "2E5.2" and inserting in lieu thereof "2B1.1";
in the line referenced to 18 U.S.C. 667 by deleting ", 2B1.2";
in the line referenced to 18 U.S.C. 798 by deleting ", 2M3.6";
in the line referenced to 18 U.S.C. 842(j) by deleting "2K1.2" and inserting in lieu thereof "2K1.1";
in the line referenced to 18 U.S.C. 844(h) by deleting "2K1.7" and inserting in lieu thereof "2K2.4";
in the lines referenced to 18 U.S.C. 1003 and 1010" by deleting "2B5.2,";
in the line referenced to 18 U.S.C. 1024 by deleting "2B1.2" and inserting in lieu thereof "2B1.1";
in the line referenced to 18 U.S.C. 1028 by deleting ", 2L2.3, 2L2.4";
in the line referenced to 18 U.S.C. 1082 by deleting "2E3.3" and inserting in lieu thereof "2E3.1";
in the line referenced to 18 U.S.C. 1084 by deleting "2E3.2" and inserting in lieu thereof "2E3.1";

in the line referenced to 18 U.S.C. 1153 by deleting "2B2.2,";
in the line referenced to 18 U.S.C. 1163 by deleting ", 2B1.2";
in the lines referenced to 18 U.S.C. 1301, 1302, 1303, 1304, 1306, and 1511 by deleting "2E3.3" and inserting in lieu thereof "2E3.1";
in the line referenced to 18 U.S.C. 2154 by deleting "2M2.2" and inserting in lieu thereof "2M2.1";
in the line referenced to 18 U.S.C. 2156 by deleting "2M2.4" and inserting in lieu thereof "2M2.3";
in the line referenced to 18 U.S.C. 2197 by deleting "2B5.2,";
in the line referenced to 18 U.S.C. 2276 by deleting "2B2.2" and inserting in lieu thereof "2B2.1";
in the lines referenced to 18 U.S.C. 2312 and 2313 by deleting ", 2B1.2";
in the lines referenced to 18 U.S.C. 2314 and 2315 by deleting "2B1.2, 2B5.2,";
in the lines referenced to 18 U.S.C. 2316 and 2317 by deleting ", 2B1.2";
in the lines referenced to 18 U.S.C. 2318 and 2320 by deleting "2B5.4" and inserting in lieu thereof "2B5.3";
in the line referenced to 18 U.S.C. 1541 by deleting "2L2.3" and inserting in lieu thereof "2L2.1";
in the lines referenced to 18 U.S.C. 1542, 1543, and 1544 by deleting "2L2.3, 2L2.4" and inserting in lieu thereof "2L2.1, 2L2.2";
in the line referenced to 18 U.S.C. 1704 by deleting "2B5.2,";
in the line referenced to 18 U.S.C. 1708 by deleting ", 2B1.2";
in the line referenced to 18 U.S.C. 1716C by deleting "2B5.2" and inserting in lieu thereof "2F1.1";
in the lines referenced to 18 U.S.C. 1852 and 1854 by deleting ", 2B1.2";
in the line referenced to 18 U.S.C. 1951 by deleting "2E1.5" and inserting in lieu thereof "2B3.1, 2B3.2, 2B3.3, 2C1.1";
in the line referenced to 18 U.S.C. 1953 by deleting "2E3.3" and inserting in lieu thereof "2E3.1";
in the line referenced to 18 U.S.C. 2113(a) by deleting "2B2.2" and inserting in lieu thereof "2B2.1";
in the line referenced to 18 U.S.C. 2113(c) by deleting ", 2B1.2";
in the lines referenced to 18 U.S.C. 2115, 2116, 2117, and 2118(b) by deleting "2B2.2" and inserting in lieu thereof "2B2.1";
in the line referenced to 20 U.S.C. 1097(a) by deleting "2B5.2,";
by deleting:

"21 U.S.C. § 842(a)(2)	2D3.3
21 U.S.C. § 842(a)(9), (10)	2D3.5",

and inserting in lieu thereof:

21 U.S.C. § 842(a)(2), (9), (10),	2D3.2;

in the line referenced to 21 U.S.C. 846 by deleting ", 2D3.3, 2D3.4, 2D3.5";
in the lines referenced to 21 U.S.C. 954 and 961 by deleting "2D3.4" and inserting in lieu thereof "2D3.2";
in the line referenced to 21 U.S.C. 963 by deleting ", 2D3.3, 2D3.4, 2D3.5";
in the line referenced to 22 U.S.C. 4221 by deleting "2B5.2" and inserting in lieu thereof "2F1.1";
in the line referenced to 29 U.S.C. 186 by deleting "2E5.6" and inserting in lieu thereof "2E5.1";
in the lines referenced to 29 U.S.C. 431, 432, 433, 439, and 461 by deleting "2E5.5" and inserting in lieu thereof "2E5.3";
in the line referenced to 29 U.S.C. 501(c) by deleting "2E5.4" and inserting in lieu thereof "2B1.1";
by inserting at the appropriate place by title and section:

"29 U.S.C. 530	2B3.2
29 U.S.C. 1131	2E5.3";

in the lines referenced to 49 U.S.C. 3718(b), 1472(h)(2), and 1809(b) by deleting "2K3.1" and inserting in lieu thereof "2Q1.2";

and by deleting:

"50 U.S.C. 783(b)	2M3.7
"50 U.S.C. 783(c)	2M3.8",

and inserting in lieu thereof:

"50 U.S.C. 783(b), (c)	2M3.3".

Sections 2B1.2, 2B2.2, 2B5.2, 2B5.4, 2D3.3, 2D3.4, 2D3.5, 2E1.5, 2E3.2, 2E3.3, 2E5.2, 2E5.4, 2E5.5, 2E5.6, 2J1.8, 2K1.2, 2K1.7, 2K3.1, 2L2.3, 2L2.4, 2M2.2, 2M2.4, 2M3.6, 2M3.7, and 2M3.8, including accompanying commentary, are deleted in their entirety.

Reason for Amendment: This amendment deletes 25 offense guidelines by consolidating them with other offense guidelines that cover similar offense conduct and have either identical or very similar characteristics. Consolidation of offense guidelines in this manner has a number of practical advantages: it shortens and simplifies the Guidelines Manual; it reduces the likelihood of inconsistency in phraseology and definitions from section to section; it reduces possible confusion and litigation as to which guideline applies to particular conduct; it reduces the number of conforming amendments required whenever similar sections are amended; and it will aid the development of case law because cases involving similar or identical concepts and definitions can be referenced under one guideline rather than different guidelines.

9. Amendment: The Commentary to Section 2B1.1 captioned "Application Notes" is amended in Note 2 by inserting the following additional sentence as the fourth sentence of the first paragraph:

"Loss does not include the interest that could have been earned had the funds not been stolen.";

and by inserting the following additional paragraphs as the second and third paragraphs:

"Where the offense involved making a fraudulent loan or credit card application, or other unlawful conduct involving a loan or credit card, the loss is to be determined under the principles set forth in the Commentary to Section 2F1.1 (Fraud and Deceit).

In certain cases, an offense may involve a series of transactions without a corresponding increase in loss. For example, a defendant may embezzle $5,000 from a bank and conceal this embezzlement by shifting this amount from one account to another in a series of nine transactions over a six-month period. In this example, the loss is $5,000 (the amount taken), not $45,000 (the sum of the nine transactions), because the additional transactions did not increase the actual or potential loss.".

The Commentary to Section 2B1.1 captioned "Application Notes" is amended by deleting Note 3 as follows:

"3. The loss need not be determined with precision, and may be inferred from any reasonably reliable information available, including the scope of the operation.",

and inserting in lieu thereof:

"3. For the purposes of subsection (b)(1), the loss need not be determined with precision. The court need only make a reasonable estimate of the loss, given the available information. This estimate, for example, may be based upon the approximate number of victims and the average loss to each victim, or on more general factors such as the scope and duration of the offense.".

The Commentary to Section 2B5.3 is amended by inserting the following immediately before "Background":

"Application Note:

1. 'Infringing items' means the items that violate the copyright or trademark laws (not the legitimate items that are infringed upon).".

The Commentary to § 2B6.1 captioned "Application Note" is amended in the caption by deleting "Note" and inserting in lieu thereof "Notes"; and by inserting the following additional Note:

"2. The 'corresponding number of levels from the table in § 2F1.1 (Fraud and Deceit),' as used in subsection (b)(1), refers to the number of levels corresponding to the retail value of the motor vehicles or parts involved.".

Section 2F1.1(b)(3) is amended by inserting "not addressed elsewhere in

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the guidelines" immediately following "process".

The Commentary to Section 2F1.1 captioned "Application Notes" is amended in Note 5 by inserting the following additional sentence at the end:

"This subsection does not apply to conduct addressed elsewhere in the guidelines; e.g., a violation of a condition of release (addressed in Section 2J1.7 (Offense Committed While on Release)) or a violation of probation (addressed in § 4A1.1 (Criminal History Category)).".

The Commentary to Section 2F1.1 captioned "Application Notes" is amended in Note 7(b) in the second paragraph by inserting the following additional sentence at the end:

"Where the loss determined above significantly understates or overstates the seriousness of the defendant's conduct, an upward or downward departure may be warranted.".

The Commentary to Section 2F1.1 captioned "Application Notes" is amended in Note 10 by deleting "the" immediately before "primary" and inserting in lieu thereof "a"; by inserting "; or the fraud caused or risked reasonably foreseeable, substantial non-monetary harm" immediately following "non-monetary"; by deleting "physical or psychological harm" and inserting in lieu thereof "reasonably foreseeable, physical or psychological harm or severe emotional trauma"; by deleting the period immediately following "institution" and inserting in lieu thereof a semicolon; by inserting a new subdivision, immediately following subdivision (e), as follows:

"(f) the offense involved the knowing endangerment of the solvency of one or more victims.";

and by inserting the following at the end of the last paragraph:

"In such cases, a downward departure may be warranted.".

The Commentary to section 2F1.1 captioned "Application Notes" is amended in Note 11 by deleting the last two sentences as follows:

"The statutes provide for increased maximum terms of imprisonment for the use or possession of device-making equipment and the production or transfer of more than five identification documents or fifteen access devices. The court may find it appropriate to enhance the sentence for violations of these statutes in a manner similar to the treatment of analogous counterfeiting offenses under Part B of this Chapter.",

and inserting in lieu thereof:

"Where the primary purpose of the offense involved the unlawful production, transfer, possession, or use of identification documents for the purpose of violating, or assisting another to violate, the laws relating to naturalization, citizenship, or legal resident status, apply section 2L2.1 or section 2L2.2, as appropriate, rather than section 2F1.1. In the case of an offense involving false identification documents or access devices, an upward departure may be warranted where the actual loss does not adequately reflect the seriousness of the conduct.".

Reason for Amendment: This amendment makes the definition of loss in sections 2B1.1 (Larceny, Embezzlement, and Other Forms of Theft) and 2F1.1 (Fraud and Deceit) more consistent. Although the term "reasonably reliable information" is deleted from section 2B1.1 (there is no corresponding term in section 2F1.1), no substantive change results because the reliability of the information considered in respect to all cases is already addressed in section 6A1.3 (Resolution of Disputed Factors).

In addition, this amendment provides additional guidance for the determination of loss for cases that are referenced to section 2B1.1 but have loss characteristics closely resembling offenses referenced to section 2F1.1 and for cases in which simply adding the amounts from a series of transactions does not reflect the amount taken or put at risk.

This amendment also clarifies the meaning of the term "infringing items" in section 2B5.3; and expressly provides that the reference in section 2B6.1 to the table in section 2F1.1 is to be applied using the retail value of the stolen parts.

In addition, this amendment clarifies the operation of section 2F1.1(b)(3), which currently can be read to authorize counting conduct that is also addressed by other guideline sections. This amendment addresses this issue in a manner consistent with the Commission's general principle on double counting.

Finally, this amendment revises the Commentary to section 2F1.1 by expanding Application Note 10 to provide guidance in cases in which the monetary loss does not adequately reflect the seriousness of the offense; and by clarifying Application Note 11 and conforming the phraseology of this note to that used elsewhere in the guidelines.

10. Amendment: Section 2B3.1(b)(1) is amended by inserting "(A)" immediately following "If"; and by inserting "or (B) the offense involved carjacking," immediately before "increase".

The Commentary to section 2B3.1 captioned "Statutory Provisions" is amended by inserting ", 2119" immediately following "2118(a)".

The Commentary to § 2B3.1 captioned "Application Notes" is amended in Note 1 by inserting the following additional paragraph at the end:

" 'Carjacking' means the taking or attempted taking of a motor vehicle from the person or presence of another by force and violence or by intimidation.".

Appendix A (Statutory Index) is amended by inserting, at the appropriate place, the following:

"18 U.S.C. 2119 2B3.1".

Reason for Amendment: This amendment references offenses prosecuted under 18 U.S.C. 2119 (carjacking) to the robbery guideline at section 2B3.1 and provides a specific offense characteristic for carjacking. It is to be noted that any defendant convicted under 18 U.S.C. 2119 will receive a minimum additional 5-level increase for possession of a firearm. Such defendants also are subject to prosecution under 18 U.S.C. 924(c) for possession of a firearm during and in relation to a crime of violence, an offense that carries a mandatory consecutive sentence of at least five years' imprisonment.

11. Amendment: The Commentary to section 2D1.1 captioned "Application Notes" is amended by inserting the following additional note:

"16. Where (A) the amount of the controlled substance for which the defendant is accountable under 1B1.3 (Relevant Conduct) results in a base offense level greater than 36, (B) the court finds that this offense level overrepresents the defendant's culpability in the criminal activity, and (C) the defendant qualifies for a mitigating role adjustment under 3B1.2 (Mitigating Role), a downward departure may be warranted. The court may depart to a sentence no lower than the guideline range that would have resulted if the defendant's Chapter Two offense level had been offense level 36. Provided, that a defendant is not eligible for a downward departure under this provision if the defendant:

(a) Has one or more prior felony convictions for a crime of violence or a controlled substance offense as defined in section 4B1.2;

(b) Qualifies for an adjustment under § 3B1.3 (Abuse of Position of Trust or Use of Special Skill);

(c) Possessed or induced another participant to use or possess a firearm in the offense;

(d) Had decision-making authority;

(e) Owned the drugs or financed any part of the offense; or

(f) Sold the controlled substance or played a substantial part in negotiating the terms of the sale.".

Reason for Amendment: In a case in which a defendant's base offense level is greater than level 36 and the defendant had a minimal or minor role in the offense (and meets certain other qualifications), the quantity of the controlled substance for which the defendant is held accountable under § 1B1.3 (Relevant Conduct) may overrepresent the defendant's culpability in the criminal activity. To address this issue, this amendment adds an application note that authorizes a downward departure in the specific circumstances described and sets forth the authorized extent of any departure on this basis.

12. Amendment: The Commentary to Section 2D1.1 captioned "Application Notes" is amended in Note 1 by deleting the period at the end of the first sentence and inserting in lieu thereof:

", except as expressly provided. Mixture or substance does not include materials that must be separated from the controlled substance before the controlled substance can be used. Examples of such materials include the fiberglass in a cocaine/fiberglass bonded suitcase, beeswax in a cocaine/beeswax statue, and waste water from an illicit laboratory used to manufacture a controlled substance. If such material cannot readily be separated from the mixture or substance that appropriately is counted in the Drug Quantity Table, the court may use any reasonable method to approximate the weight of the mixture or substance to be counted.

An upward departure nonetheless may be warranted when the mixture or substance counted in the Drug Quantity Table is combined with other, non-countable material in an unusually sophisticated manner in order to avoid detection.".

Reason for Amendment: This amendment is designed to resolve an inter-circuit conflict regarding the meaning of the term "mixture or substance," as used in Section 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking; Attempt or Conspiracy) by expressly providing that this term does not include portions of a drug mixture that have to be separated from the controlled substance before the controlled substance can be used. This issue has arisen, subsequent to the United States Supreme Court decision in *Chapman* v. *United States*, 111 S. Ct. 1919 (1991), in two types of cases. The first type of case involves a controlled substance bonded to, or suspended in, another substance (e.g., cocaine mixed with beeswax); however, the controlled substance is not usable until it is separated from the other substance. See, e.g., *United States* v. *Mahecha-Onofre*, 936 F.2d 823 (1st Cir.), cert. denied, 112 S. Ct. 648 (1991); *United States* v. *Restrepo-Contreras*, 942 F.2d 96 (1st Cir. 1991), cert. denied, 112 S. Ct. 955 (1992). The second type of case involves the waste produced from an illicit laboratory used to manufacture a controlled substance, or chemicals confiscated before the chemical processing of the controlled substance is completed. The waste product is typically water or chemicals used to either remove impurities or form a precipitate (the precipitate, in some cases, being the controlled substance). Typically, a small amount of controlled substance remains in the waste weter; often this amount is too small to quantify and is listed as a trace amount (no weight given) in DEA reports. In these types of cases, the waste product is not consumable. The chemicals seized before the end of processing are also not usable in that form because further processing must take place before they can be used. See, e.g., *United States* v. *Sherrod*, 964 F.2d 1501 (5th Cir.), cert. denied sub nom. *Cooper* v. *United States*, 113 S. Ct. 832 (1992) (White and Blackmun, JJ., dissenting from denial of cert.), and cert. denied sub nom. *United States* v. *Sewell*, 113 S. Ct. 1367 (1993) (White and Blackmun, JJ., opinion dissenting from denial of cert.).

13. Amendment: The Commentary to Section 2D1.1 captioned "Application Notes" is amended by inserting the following additional note:

"17. If, in a reverse sting (an operation in which a government agent sells or negotiates to sell a controlled substance to a defendant), the court finds that the government agent set a price for the controlled substance that was substantially below the market value of the controlled substance, thereby leading to the defendant's purchase of a significantly greater quantity of the controlled substance than his available resources would have allowed him to purchase except for the artificially low price set by the government agent, a downward departure may be warranted.".

Reason for Amendment: This amendment adds an application note to the commentary of this section authorizing a downward departure if, in a reverse sting operation, the court finds that the government agent set a price for the controlled substance that was substantially below market value and thereby significantly inflated the quantity of controlled substance purchased by the defendant beyond the amount the defendant otherwise could have afforded.

14. Section 2D1.1(c) is amended in the notes following the Drug Quantity Table by inserting the following additional paragraph at the end:

"In the case of LSD on a carrier medium (e.g., a sheet of blotter paper), do not use the weight of the LSD/carrier medium. Instead, treat each dose of LSD on the carrier medium as equal to 0.4 mg of LSD for the purposes of the Drug Quantity Table.".

The Commentary to Section 2D1.1 captioned "Application Notes" is amended by inserting the following additional note:

"18. LSD on a blotter paper carrier medium typically is marked so that the number of doses ("hits") per sheet readily can be determined. When this is not the case, it is to be presumed that each 1/4 inch by 1/4 inch section of the blotter paper is equal to one dose.

In the case of liquid LSD (LSD that has not been placed onto a carrier medium), using the weight of the LSD alone to calculate the offense level may not adequately reflect the seriousness of the offense. In such a case, an upward departure may be warranted.".

The Commentary to section 2D1.1 captioned "Background" is amended by inserting the following paragraphs at the end:

"Because the weights of LSD carrier media vary widely and typically far exceed the weight of the controlled substance itself, the Commission has determined that basing offense levels on the entire weight of the LSD and carrier medium would produce unwarranted disparity among offenses involving the same quantity of actual LSD (but different carrier weights), as well as sentences disproportionate to those for other, more dangerous controlled substances, such as PCP. Consequently, in cases involving LSD contained in a carrier medium, the Commission has established a weight per dose of 0.4 milligram for purposes of determining the base offense level.

The dosage weight of LSD selected exceeds the Drug Enforcement Administration's standard dosage unit for LSD of 0.05 milligram (i.e., the quantity of actual LSD per dose) in order to assign some weight to the carrier medium. Because LSD typically is marketed and consumed orally on a carrier medium, the inclusion of some weight attributable to the carrier medium recognizes (A) that offense levels for most other controlled substances are based upon the weight of the mixture containing the controlled substance without regard to purity, and (B) the decision in *Chapman* v. *United States*, 111 S. Ct. 1919 (1991) (holding that the term "mixture or substance" in 21 U.S.C. 841(b)(1) includes the carrier medium in which LSD is absorbed). At the same time, the weight per dose selected is less than the weight per dose that would equate the offense level for LSD on a carrier medium with that for the same number of doses of PCP, a controlled substance that comparative assessments indicate is more likely to induce violent acts and ancillary crime than is LSD.

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(Treating LSD on a carrier medium as weighing 0.5 milligram per dose would produce offense levels equivalent to those for PCP.) Thus, the approach decided upon by the Commission will harmonize offense levels for LSD offenses with those for other controlled substances and avoid an undue influence of varied carrier weight on the applicable offense level. Nonetheless, this approach does not override the applicability of "mixture or substance" for the purpose of applying any mandatory minimum sentence (see Chapman; section 5G1.1(b)).".

Reason for Amendment: The Commission has found that the weights of LSD carrier media vary widely and typically far exceed the weight of the controlled substance itself (e.g., LSD is typically placed on blotter paper which generally weighs from 5 to 10 milligrams per dose; the weight of the LSD itself per dose is generally from 0.02 to 0.08 milligram; the Drug Enforcement Administration describes a standard dose of LSD as containing 0.05 milligram of LSD). As a result, basing the offense level on the entire weight of the LSD and carrier medium produces unwarranted disparity among offenses involving the same quantity of actual LSD but different carrier weights, as well as sentences that are disproportionate to those for other, more dangerous controlled substances, such as PCP, heroin, and cocaine. Under the guidelines prior to the amendment, for example, 100 grams of heroin or 500 grams of cocaine (weights that correspond to several thousand doses, the number depending upon the purity) result in the same offense level as 125 doses of LSD on blotter paper (which has an average weight of 8 milligrams per dose) or 1 dose of LSD on a sugar cube (2000 milligrams per dose).

Consequently, in cases involving LSD contained in a carrier medium, this amendment establishes a weight per dose of 0.4 milligram to be used for purposes of determining the base offense level. The dosage weight of LSD selected by the Commission exceeds the Drug Enforcement Administration's standard dosage unit for LSD of 0.05 milligram (i.e., the quantity of actual LSD per dose) in order to assign some weight to the carrier medium. Because LSD typically is marketed and consumed orally on a carrier medium, the inclusion of some weight attributable to the carrier medium recognizes (A) that offense levels for most other controlled substances are based upon the weight of the mixture containing the controlled substance without regard to purity, and (B) the decision in *Chapman* v. *United States*, 111 S. Ct. 1919 (1991) (holding that the term "mixture or substance" in 21 U.S.C. 841(b)(1) includes the carrier medium in which LSD is absorbed). At the same time, the weight per dose selected is less than the weight per dose that would equate the offense level for LSD on a carrier medium with that for the same number of doses of PCP, a controlled substance that comparative assessments indicate is more likely to induce violent acts and ancillary crime than is LSD. Treating LSD on a carrier medium as weighing 0.5 milligram per dose would produce offense levels equivalent to those for PCP (for example, 2000 doses of LSD at 0.5 milligram per dose equals 1 gram of LSD—corresponding to the lower limit of offense level 26; similarly, 2000 doses of PCP at 5 milligrams per dose, the standard amount of actual PCP in a dose, equals 10 grams of actual PCP—corresponding to the lower limit of offense level 26). Thus, the approach decided upon by the Commission will harmonize offense levels for LSD offenses with those for other controlled substances and avoid an undue influence of varied carrier weight on the applicable offense level. Nonetheless, this approach does not override the definition of mixture or substance for purposes of applying any mandatory minimum sentence (see Chapman; Section 5G1.1(b)).

15. Amendment: Section 2D1.1(c) is amended in the notes following the Drug Quantity Table by inserting the following additional paragraph at the end:

" 'Cocaine base,' for the purposes of this guideline, means 'crack.' 'Crack' is the street name for a form of cocaine base, usually prepared by processing cocaine hydrochloride and sodium bicarbonate, and usually appearing in a lumpy, rocklike form.".

Reason for Amendment: This amendment provides that, for purposes of the guidelines, 'cocaine base' means 'crack.' The amendment addresses an inter-circuit conflict. Compare, e.g., *United States* v. *Shaw*, 936 F. 2d 412 (9th Cir. 1991) (cocaine base means crack) with *United States* v. *Jackson*, 936 F.2d 158 (2d Cir), cert. denied, 113 S. Ct. 664 (1992) (cocaine base has a scientific, chemical definition that is more inclusive than crack). Under this amendment, forms of cocaine base other than crack (e.g., coca paste, an intermediate step in the processing of coca leaves into cocaine hydrochloride scientifically is a base form of cocaine, but it is not crack) will be treated as cocaine.

16. Amendment: The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 2 by deleting:

"Provided, that where the maximum of the guideline range from Chapter Five, Part A (Sentencing Table) determined by an offense level adjusted under the procedure described in the preceding paragraph, plus the term of imprisonment required under 18 U.S.C. 924(c) or 929(a), is less than the maximum of the guideline range that would apply to the underlying offense absent such adjustment, the procedure described in the preceding paragraph does not apply. Instead, the guideline range applicable to the underlying offense absent such adjustment is to be used after subtracting the term of imprisonment imposed under 18 U.S.C. 924(c) or 929(a) from both the minimum and maximum of such range.

Example: A defendant, is to be sentenced under the robbery guideline; his unadjusted offense level from section 2B3.1 is 30, including a 7-level enhancement for discharging a firearm; no Chapter Three adjustments are applicable; and his criminal history category is Category IV. His unadjusted guideline range from Chapter Five, Part A (Sentencing Table) is 135–168 months. This defendant has also been convicted under 18 U.S.C. 924(c) arising from the possession of a weapon during the robbery, and therefore must be sentenced to an additional consecutive five-year term of imprisonment. The defendant's adjusted guideline range, which takes into account the conviction under 18 U.S.C. 924(c) by eliminating the 7-level weapon enhancement, is 70–87 months. Because the maximum of the defendant's adjusted guideline range plus the five year consecutive sentence (87 months+60 months=147 months) is less than the maximum of the defendant's unadjusted guideline range (168 months), the defendant is to be sentenced using the unadjusted guideline range after subtracting the 60 month sentence to be imposed under 18 U.S.C. 924(c) from both the minimum and maximum of the unadjusted range (e.g., 135 months – 60 months=75 months; 168 months – 60 months=108 months). A sentence imposed for the underlying offense using the guideline range determined in this manner (75–108 months) when combined with the consecutive sentence imposed under 18 U.S.C. 924(c) or 929(a), will produce the appropriate total term of imprisonment.",

and inserting in lieu thereof:

"In a few cases, the offense level for the underlying offense determined under the preceding paragraph may result in a guideline range that, when combined with the mandatory consecutive sentence under 18 U.S.C. 844(h), 924(c), or 929(a), produces a total maximum penalty that is less than the maximum of the guideline range that would have resulted had there not been a count of conviction under 18 U.S.C. 844(h), 924(c), or 929(a) (i.e., the guideline range that would have resulted if the enhancements for possession, use, or discharge of a firearm had been applied). In such a case, an upward departure may be warranted so that the conviction under 18 U.S.C. 844(h), 924(c), or 929(a) does not result in a decrease in the total punishment. An upward departure under this paragraph shall not exceed the maximum of the guideline range that would have resulted had there not been a count of conviction under 18 U.S.C. 844(h), 924(c), or 929(a).".

Reason for Amendment: This amendment simplifies the operation of this section in order to reduce erroneous application by deleting the proviso in Application Note 2 and, in lieu thereof, authorizing an upward departure in the unusual case in which the combined sentence for an underlying offense and a firearms or explosives offense (under 18 U.S.C. 844(h), 924(c), or 929(a)) is less than the maximum of the guideline range that would have resulted if there had been no additional conviction for the firearms or explosives offense.

17. Amendment: Sections 2S1.3 and 2S1.4, and accompanying commentary, are deleted in their entirety and the following new section is inserted in lieu thereof:

"Section 2S1.3. Structuring Transactions to Evade Reporting Requirements; Failure to Report Cash or Monetary Transactions; Failure to File Currency and Monetary Instrument Report; Knowingly Filing False Reports

(a) Base Offense Level:

6 plus the number of offense levels from the table in section 2F1.1 (Fraud or Deceit) corresponding to the value of the funds.

(b) Specific Offense Characteristics:

(1) If the defendant knew or believed that the funds were proceeds of unlawful activity, or were intended to promote unlawful activity, increase by 2 levels.

(2) If (A) subsection (b)(1) does not apply; (B) the defendant did not act with reckless disregard of the source of the funds; (C) the funds were the proceeds of lawful activity; and (D) the funds were to be used for a lawful purpose, decrease the offense level to level 6.

(c) Cross Reference

(1) If the offense was committed for the purposes of violating the Internal Revenue laws, apply the most appropriate guideline from Chapter Two, Part T (Offenses Involving Taxation) if the resulting offense level is greater than that determined above.

Commentary

Statutory Provisions: 26 U.S.C. 7203 (if a violation based upon 26 U.S.C. 6050I), 7206 (if a violation based upon 26 U.S.C. 6050I); 31 U.S.C. § 5313, 5314, 5316, 5324. For additional statutory provision(s), see Appendix A (Statutory Index).

Application Note:

1. For purposes of this guideline, "value of the funds" means the amount of the funds involved in the structuring or reporting conduct. The relevant statutes require monetary reporting without regard to whether the funds were lawfully or unlawfully obtained.

Background: The offenses covered by this guideline relate to records and reports of certain transactions involving currency and monetary instruments. These reports include Currency Transaction Reports, Currency and Monetary Instrument Reports, Reports of Foreign Bank and Financial Accounts, and Reports of Cash Payments Over $10,000 Received in a Trade or Business.".

Appendix A (Statutory Index) is amended in the line beginning "31 U.S.C. 5316" by deleting "2S1.4" and inserting in lieu thereof "2S1.3", and in the line beginning "31 U.S.C. § 5322" by deleting ", 2S1.4.

Reason for Amendment: This amendment consolidates existing sections 2S1.3 and 2S1.4 and modifies these guidelines to assure greater consistency of punishment for similar offenses and greater sensitivity to indicia of offense seriousness. The amendment links base offense levels for the reporting violations covered by these guidelines to the defendant's state of mind with respect to the source of the funds, and, in instances where the defendant knew, believed or acted with reckless disregard of the fact that the funds were the proceeds of unlawful activity, to the value of the funds involved.

18. Amendment: Chapter Two, Part T, Subpart 1 is amended in the title by inserting ", Employment Taxes, Estate Taxes, Gift Taxes, and Excise Taxes (Other Than Alcohol, Tobacco, and Customs Taxes)" at the end thereof.

Section 2T1.1 is amended in the title by inserting "; Willful Failure to File Return, Supply Information, or Pay Tax; Fraudulent or False Returns, Statements, or Other Documents" at the end thereof.

Section 2T1.1(a) is amended by deleting:

"Base Offense Level: Level from Section 2T4.1 (Tax Table) corresponding to the tax loss.

For purposes of this guideline, the "tax loss" is the greater of: (A) The total amount of tax that the taxpayer evaded or attempted to evade; and (B) the "tax loss" defined in section 2T1.3.",

and inserting in lieu thereof:

"(a) Base Offense Level:

(1) Level from § 2T4.1 (Tax Table) corresponding to the tax loss; or

(2) 6, if there is no tax loss.".

Section 2T1.1(b)(2) is amended by deleting "nature" and inserting in lieu there of "existence".

Section 2T1.1 is amended by inserting the following additional subsection:

(c) Special Instructions

For the purposes of this guideline—

(1) If the offense involved tax evasion or a fraudulent or false return, statement, or other document, the tax loss is the total amount of loss that was the object of the offense (i.e., the loss that would have resulted had the offense been successfully completed).

Notes

(A) If the offense involved filing a tax return in which gross income was underreported, the tax loss shall be treated as equal to 28% of the unreported gross income (34% if the taxpayer is a corporation) plus 100% of any false credits claimed against tax, unless a more accurate determination of the tax loss can be made.

(B) If the offense involved improperly claiming a deduction or an exemption, the tax loss shall be treated as equal to 28% of the amount of the improperly claimed deduction or exemption (34% if the taxpayer is a corporation) plus 100% of any false credits claimed against tax, unless a more accurate determination of the tax loss can be made.

(C) If the offense involved improperly claiming a deduction to provide a basis for tax evasion in the future, the tax loss shall be treated as equal to 28% of the amount of the improperly claimed deduction (34% if the taxpayer is a corporation) plus 100% of any false credits claimed against tax, unless a more accurate determination of the tax loss can be made.

(2) If the offense involved failure to file a tax return, the tax loss is the amount of tax that the taxpayer owed and did not pay.

Note: If the offense involved failure to file a tax return, the tax loss shall be treated as equal to 20% of the gross income (25% if the taxpayer is a corporation) less any tax withheld or otherwise paid, unless a more accurate determination of the tax loss can be made.

(3) If the offense involved willful failure to pay tax, the tax loss is the amount of tax that the taxpayer owed and did not pay.

(4) If the offense involved improperly claiming a refund to which the claimant was not entitled, the tax loss is the amount of the claimed refund to which the claimant was not entitled.

(5) The tax loss is not reduced by any payment of the tax subsequent to the commission of the offense. '.

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The Commentary to section 2T1.1 captioned "Statutory Provision" is amended by deleting "Provision: 26 U.S.C. 7201" and inserting in lieu thereof "Provisions: 26 U.S.C. 7201, 7203 (other than a violation based upon 26 U.S.C. 6050I), 7206 (other than a violation based upon 26 U.S.C. 6050I or 7206(2)), and 7207".

The Commentary to section 2T1.1 captioned "Application Notes" is amended by deleting Notes 1 and 4; and by renumbering the remaining notes accordingly.

The Commentary to section 2T1.1 captioned "Application Notes" is amended in Note 1 (formerly Note 2) by deleting "For purposes of the guideline, the tax loss is the amount of tax that the taxpayer evaded or attempted to evade" and inserting in lieu thereof "'Tax loss' is defined in subsection (c)"; by deleting "deficiency" and inserting in lieu thereof "figures"; and by inserting the following additional paragraphs at the end:

"Notes under subsections (c)(1) and (c)(2) address certain situations in income tax cases in which the tax loss may not be reasonably ascertainable. In these situations, the "presumptions" set forth are to be used unless the government or defense provides sufficient information for a more accurate assessment of the tax loss (as defined in subsection (c)). In cases involving other types of taxes, the presumptions in the notes under subsections (c)(1) and (c)(2) do not apply.

Example 1: A defendant files a tax return reporting income of $40,000 when his income was actually $90,000. Under Note (A) to subsection (c)(1), the tax loss is treated as $14,000 ($90,000 of actual gross income minus $40,000 of reported gross income = $50,000×28%) unless sufficient information is available to make a more accurate assessment of the tax loss (as defined in subsection (c)).

Example 2: A defendant files a tax return reporting income of $60,000 when his income was actually $130,000. In addition, the defendant claims $10,000 in false tax credits. Under Note (A) to subsection (c)(1), the tax loss is treated as $29,600 ($130,000 of actual gross income minus $60,000 of reported gross income = $70,000×28% = $19,600, plus $10,000 of false tax credits) unless sufficient information is available to make a more accurate assessment of the tax loss (as defined in subsection (c)).

Example 3: A defendant fails to file a tax return for a year in which his salary was $24,000, and $2,600 in income tax was withheld by his employer. Under the note to subsection (c)(2), the tax loss is treated as $2,200 ($24,000 of gross income × 20%=$4,800, minus $2,600 of tax withheld) unless sufficient information is available to make a more accurate assessment of the tax loss (as defined in subsection (c)).

In determining the tax loss attributable to the offense, the court should use as many methods set forth in subsection (c) and this commentary as are necessary given the circumstances of the particular case. If none of the methods of determining the tax loss set forth fit the circumstances of the particular case, the court should use any method of determining the tax loss that appears appropriate to reasonably calculate the loss that would have resulted had the offense been successfully completed.".

The Commentary to section 2T1.1 captioned "Application Notes" is amended in Note 3 (formerly Note 5) by deleting "or local" and inserting in lieu thereof "local, or foreign".

The Commentary to section 2T1.1 captioned "Application Notes" is amended in Note 4 (formerly Note 6) by deleting "section 2T1.1" and inserting in lieu thereof "subsection"; by deleting "applied" and inserting in lieu thereof "applied,"; and by inserting "or fictitious entities" immediately following "shells".

The Commentary to section 2T1.1 captioned "Application Notes" is amended by inserting the following additional notes:

"5. A 'credit claimed against tax' is an item that reduces the amount of tax directly, in contrast to a 'deduction' that reduces the amount of taxable income.

6. 'Gross income,' for the purposes of this section, has the same meaning as it has in 26 U.S.C. 61 and 26 CFR 1.61.

7. If the offense involves both individual and corporate tax returns, the tax loss is the aggregate tax loss from the offenses taken together.".

The Commentary to section 2T1.1 captioned "Background" is amended in the first paragraph by deleting "tax evaded because the chief interest protected by the statute is the collection of taxes. A greater evasion" and by inserting in lieu thereof "loss that was the object of the offense. Tax offenses, in and of themselves, are serious offenses; however a greater tax loss"; and by deleting "tax evasion" and inserting in lieu thereof "the offense".

The Commentary to section 2T1.1 captioned "Background" is amended by deleting the second paragraph.

The Commentary to § 2T1.1 captioned "Background" is amended in the second (formerly third) paragraph by deleting "evasion" wherever it appears and inserting in lieu thereof in each instance "offenses".

The Commentary to section 2T1.1 captioned "Background" is amended in the third (formerly fourth) paragraph by deleting the first two sentences.

The Commentary to section 2T1.1 captioned "Background" is amended in the fourth (formerly fifth) paragraph by deleting the last sentence.

The Commentary to section 2T1.1 captioned "Background" is amended in the fifth (formerly sixth) paragraph by deleting "tax evasion" and inserting in lieu thereof "tax offenses"; by deleting "the evasion" and inserting in lieu thereof "the offense"; and by deleting the last sentence.

Sections 2T1.2, 2T1.3, and 2T1.5, including accompanying commentary, are deleted in their entirety.

Section 2T1.4(a)(1) is amended by deleting "resulting tax loss, if any" and inserting in lieu thereof "tax loss".

Section 2T1.4(a)(2) is amended by deleting "otherwise" and inserting in lieu thereof "if there is no tax loss".

Section 2T1.4(a) is amended by deleting "section 2T1.3" and inserting in lieu thereof "section 2T1.1".

Section 2T1.4(b)(1) is amended by inserting "(A)" immediately following "If"; and by inserting "; or (B) the defendant was in the business of preparing or assisting in the preparation of tax returns" immediately before ", increase".

Section 2T1.4(b)(2) is amended by deleting "nature" and inserting in lieu thereof "existence".

Section 2T1.4(b) is amended by deleting:

"(3) If the defendant was in the business of preparing or assisting in the preparation of tax returns, increase by 2 levels.".

The Commentary to section 2T1.4 captioned "Statutory Provision" is amended by inserting "(other than a violation based upon 26 U.S.C. 6050I)" immediately following "7206(2)".

The Commentary to Section 2T1.4 captioned "Application Notes" is amended by deleting Notes 3 and 4; by renumbering Notes 1 and 2 as Notes 2 and 3, respectively; and by inserting the following as Note 1:

"1. For the general principles underlying the determination of tax loss, see Section 2T1.1(c) and Application Note 1 of the Commentary to Section 2T1.1 (Tax Evasion; Willful Failure to File Return, Supply Information, or Pay Tax; Fraudulent or False Returns, Statements, or Other Documents). In certain instances, such as promotion of a tax shelter scheme, the defendant may advise other persons to violate their tax obligations through

filing returns that find no support in the tax laws. If this type of conduct can be shown to have resulted in the filing of false returns (regardless of whether the principals were aware of their falsity), the misstatements in all such returns will contribute to one aggregate 'tax loss.'".

The Commentary to Section 2T1.4 captioned "Application Notes" is amended in Note 2 (formerly Note 1) by deleting:

"1. Subsection (b)(1) applies to persons who derive a substantial portion of their income through the promotion of tax fraud or tax evasion, e.g., through promoting fraudulent tax shelters.", and inserting in lieu thereof:

"2. Subsection (b)(1) has two prongs. The first prong applies to persons who derive a substantial portion of their income through the promotion of tax schemes, e.g., through promoting fraudulent tax shelters. The second prong applies to persons who regularly prepare or assist in the preparation of tax returns for profit. If an enhancement from this subsection applies, do not apply Section 3B1.3 (Abuse of Position of Trust or Use of Special Skill).".

The Commentary to Section 2T1.4 captioned "Application Notes" is amended in Note 3 (formerly Note 2) by inserting "or fictitious entities" immediately following "corporate shells".

The Commentary to Section 2T1.4 captioned "Background" is amended by deleting "tax preparers and advisers" and inserting in lieu thereof "those in the business of preparing or assisting in the preparation of tax returns and those who make a business of promoting tax fraud"; and by deleting "§ 2T1.3" and inserting in lieu thereof "2T1.1".

Section 2T1.9 is amended in the title by deleting "Impair, Impede" and inserting in lieu thereof "Impede, Impair, Obstruct,".

Section 2T1.9(a)(1) is amended by deleting "Section 2T1.3, as applicable" and inserting in lieu thereof "Section 2T1.4, as appropriate".

Section 2T1.9(b)(1) is amended by inserting "to impede, impair, obstruct, or defeat the ascertainment, computation, assessment, or collection of revenue" immediately following "violence".

Section 2T1.9(b)(2) is amended by deleting "impede or impair the Internal Revenue Service in the assessment and" and inserting in lieu thereof "impede, impair, obstruct, or defeat the ascertainment, computation, assessment, or"; and by inserting the following additional sentence at the end:

"Do not, however, apply this adjustment if an adjustment from Section 2T1.4(b)(1) is applied.".

The Commentary to Section 2T1.9 captioned "Application Notes" is amended in Note 2 by deleting "Section 2T1.3 (whichever is applicable to the underlying conduct)" and inserting in lieu thereof "Section 2T1.4 (whichever guideline most closely addresses the harm that would have resulted had the conspirators succeeded in impeding, impairing, obstructing or defeating the Internal Revenue Service)".

The Commentary to Section 2T1.9 captioned "Application Notes" is amended by inserting the following additional note:

"4. Subsection (b)(2) provides an enhancement where the conduct was intended to encourage persons, other than the participants directly involved in the offense, to violate the tax laws (e.g., an offense involving a "tax protest" group that encourages persons to violate the tax laws, or an offense involving the marketing of fraudulent tax shelters or schemes).".

Section 2T4.1 is amended by deleting:

"Tax loss (apply the greatest)	Offense level
(A) $2,000 or less	6
(B) More than $2,000	7
(C) More than $5,000	8
(D) More than $10,000	9
(E) More than $20,000	10
(F) More than $40,000	11
(G) More than $70,000	12
(H) More than $120,000	13
(I) More than $200,000	14
(J) More than $350,000	15
(K) More than $500,000	16
(L) More than $800,000	17
(M) More than $1,500,000	18
(N) More than $2,500,000	19
(O) More than $5,000,000	20
(P) More than $10,000,000	21
(Q) More than $20,000,000	22
(R) More than $40,000,000	23
(S) More than $80,000,000	24.".

and inserting in lieu thereof:

(A) $1,700 or less	6
(B) More than $1,700	7
(C) More than $3,000	8
(D) More than $5,000	9
(E) More than $8,000	10
(F) More than $13,500	11
(G) More than $23,500	12
(H) More than $40,000	13
(I) More than $70,000	14
(J) More than $120,000	15
(K) More than $200,000	16
(L) More than $325,000	17
(M) More than $550,000	18
(N) More than $950,000	19
(O) More than $1,500,000	20
(P) More than $2,500,000	21
(Q) More than $5,000,000	22
(R) More than $10,000,000	23
(S) More than $20,000,000	24
(T) More than $40,000,000	25
(U) More than $80,000,000	26.".

The Commentary to section 2X1.1 captioned "Application Notes" is amended in Note 1 in the third paragraph by deleting "Impair, Impede" and inserting in lieu thereof "Impede, Impair, Obstruct,".

Section 3D1.2(d) is amended in the second paragraph by deleting "2T1.2, 2T1.3," immediately following "sections 2T1.1,".

Appendix A (Statutory Index) is amended in the line beginning "26 U.S.C. 7203" by deleting "2T1.2" and inserting in lieu thereof "2T1.1"; in the line beginning "26 U.S.C. 7206(1), (3), (4), (5)" by deleting "2T1.3" and inserting in lieu thereof "2S1.3, 2T1.1"; in the line beginning "26 U.S.C. 7206(2)" by inserting "2S1.3," immediately before "2T1.4"; and in the line beginning "26 U.S.C. 7207" by deleting "2T1.5" and inserting in lieu thereof "2T1.1".

Appendix A (Statutory Index) is amended by inserting, at the appropriate place by title and section, the following:

"26 U.S.C. 7208	2F1.1";
"26 U.S.C. 7212(a) (omnibus clause)	2J1.2";
"26 U.S.C. 7232	2F1.1".

Reason for Amendment: This amendment consolidates sections 2T1.1, 2T1.2, 2T1.3, and 2T1.5, thereby eliminating the confusion that has arisen in some cases regarding which guideline applies. In addition, by adopting a uniform definition of tax loss, this amendment eliminates the anomaly of using actual tax loss in some cases and an amount that differs from actual tax loss in others. Furthermore, this amendment consolidates sections 2T1.4(b)(1) and (b)(3) to reflect the substantial overlap between these subsections. Finally, this amendment adopts a revised "tax loss" table to provide increased deterrence for tax offenses.

19. Amendment: The Commentary to sections 3B1.3 captioned "Application Notes" is amended by deleting Note 1 as follows:

, "1. The position of trust must have contributed in some substantial way to facilitating the crime and not merely have provided an opportunity that could as easily have been afforded to other persons. This adjustment, for example, would not apply to an embezzlement by an ordinary bank teller.",

and inserting in lieu thereof:

"1. 'Public or private trust' refers to a position of public or private trust characterized by professional or managerial discretion (i.e., substantial discretionary judgment that is ordinarily given considerable deference). Persons holding such positions ordinarily are subject to significantly less supervision than employees

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whose responsibilities are primarily non-discretionary in nature. For this enhancement to apply, the position of trust must have contributed in some significant way to facilitating the commission or concealment of the offense (e.g., by making the detection of the offense or the defendant's responsibility for the offense more difficult). This adjustment, for example, would apply in the case of an embezzlement of a client's funds by an attorney serving as a guardian, a bank executive's fraudulent loan scheme, or the criminal sexual abuse of a patient by a physician under the guise of an examination. This adjustment would not apply in the case of an embezzlement or theft by an ordinary bank teller or hotel clerk because such positions are not characterized by the above-described factors.

Notwithstanding the preceding paragraph, because of the special nature of the United States mail an adjustment for an abuse of a position of trust will apply to any employee of the U.S. Postal Service who engages in the theft or destruction of undelivered United States mail.".

Reason for Amendment: This amendment reformulates the definition of an abuse of position of trust to better distinguish cases warranting this enhancement.

20. Amendment: The Commentary to section 4A1.2 captioned "Application Notes" is amended in Note 1 by inserting the following additional sentence at the end:

"Conduct that is part of the instant offense means conduct that is relevant to the instant offense under the provisions of section 1B1.3 (Relevant Conduct).".

The Commentary to section 4A1.2 captioned "Application Notes" is amended in Note 6 in the first sentence of the first paragraph by inserting "(A)" immediately before "have been reversed"; by deleting the comma following "law"; and by inserting "or (B) have been ruled constitutionally invalid in a prior case" immediately before "are not to be counted";

The Commentary to section 4A1.2 captioned "Application Notes" is amended in Note 6 by deleting the second sentence of the first paragraph as follows:

"Also, sentences resulting from convictions that a defendant shows to have been previously ruled constitutionally invalid are not to be counted.";

and by inserting the following additional paragraph as the second paragraph:

"With respect to the current sentencing proceeding, this guideline or commentary does not confer upon the defendant any right to attack collaterally a prior conviction or sentence beyond any such rights otherwise recognized in law (e.g., 21 U.S.C. 851 expressly provides that a defendant may collaterally attack certain prior convictions).".

The Commentary to section 4A1.2 captioned "Background" is amended by deleting the second paragraph as follows:

"The Commission leaves for court determination the issue of whether a defendant may collaterally attack at sentencing a prior conviction.".

Reason for Amendment: This amendment expressly provides that the term "part of the instant offense" in subsection (a)(1) of section 4A1.2 means "relevant conduct" as defined in section 1B1.3 (Relevant Conduct) to avoid double counting and ensure consistency with other guideline provisions.

This amendment also clarifies the Commission's intent with respect to whether section 4A1.2 (Definitions and Instructions for Computing Criminal History) confers on defendants a right to attack prior convictions collaterally at sentencing, an issue on which the appellate courts have differed. Compare, e.g., *United States* v. *Canales*, 960 F.2d 1311, 1316 (5th Cir. 1992) (Section 4A1.2 commentary indicates Commission intended to grant sentencing courts discretion to entertain initial defendant challenges to prior convictions); *United States* v. *Jacobetz*, 955 F.2d 786, 805 (2d Cir.) (similar), cert. denied, 113 S. Ct. 104 (1992); *United States* v. *Cornog*, 945 F.2d 1504, 1511 (11th Cir. 1991) (similar) with *United States* v. *Hewitt*, 942 F.2d 1270, 1278 (8th Cir. 1991) (commentary indicates defendants may only challenge use of prior convictions at sentencing by showing such conviction previously ruled invalid). This amendment addresses this inter-circuit conflict in interpreting the commentary by stating more clearly that the Commission does not intend to enlarge a defendant's right to attack collaterally a prior conviction at the current sentencing proceeding beyond any right otherwise recognized in law.

21. Amendment: The Commentary to section 5G1.3 captioned "Application Notes" is amended by inserting the following additional note:

"4. If the defendant was on federal or state probation, parole, or supervised release at the time of the instant offense, and has had such probation, parole, or supervised release revoked, the sentence for the instant offense should be imposed to be served consecutively to the term imposed for the violation of probation, parole, or supervised release in order to provide an incremental penalty for the violation of probation, parole, or supervised release (in accord with the policy expressed in sections 7B1.3 and 7B1.4).".

Reason for Amendment: This amendment adds an application note to the commentary of this section to provide guidance in the case of a defendant who was on federal or state probation, parole, or supervised release at the time of the instant federal offense and has had such term of supervision revoked prior to sentencing on the instant federal offense.

22. Amendment: The Commentary to section 6B1.2 is amended by inserting the following additional paragraph at the end:

"The Commission encourages the prosecuting attorney prior to the entry of a guilty plea or nolo contendere plea under Rule 11 of the Federal Rules of Criminal Procedure to disclose to the defendant the facts and circumstances of the offense and offender characteristics, then known to the prosecuting attorney, that are relevant to the application of the sentencing guidelines. This recommendation, however, shall not be construed to confer upon the defendant any right not otherwise recognized in law.".

Reason for Amendment: This amendment adds commentary to this policy statement recommending that the prosecuting attorney disclose to the defendant the facts and circumstances of the offense and offender characteristics then known to the prosecuting attorney that are relevant to the application of the guidelines in order to encourage plea negotiations that realistically reflect probable outcomes.

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Part VI

Department of the Interior

Bureau of Indian Affairs

Proposed Finding for Federal Acknowledgment of the Snoqualmie Indian Tribe; Notice of Proposed Finding

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding for Federal Acknowledgment of the Snoqualmie Indian Tribe

April 26, 1993.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed finding.

SUMMARY: Pursuant to 25 CFR 83.9(f), notice is hereby given that the Assistant Secretary proposes to acknowledge that the Snoqualmie Indian Tribe, c/o Mr. Ronald Lauzon, 18525 Novelty Hill Road, Redmond, Washington 98052, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the tribe meets the seven mandatory criteria set forth in 25 CFR 83.7. Therefore, the Snoqualmie Indian Tribe meets the requirements necessary for a government-to-government relationship with the United States.

DATES: As provided by 25 CFR 83.9(g), any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted within 120 calendar days from the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Holly Reckord, (202) 208–3592.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Snoqualmie Indian Tribe is based in King County, Washington, on or near land that was traditionally and aboriginally Snoqualmie. The tribe's first sustained contact with Euro-Americans began in 1833. Extensive settlement by non-Indians in the Puget Sound area began in the late 1840's, leading to the 1855 Treaty of Point Elliott between the Snoqualmie and other neighboring tribes and the United States. From that time until the present, the petitioner has been identified repeatedly as being American Indian by Federal authorities, State and local governments, civil, religious, and recreational organizations, scholars and other writers, newspapers and books, federally recognized Indian tribes, and national and regional Indian organizations. The petitioner has also been viewed historically as being distinct from other Indian tribes in western Washington, as well as from other populations in that area.

The Snoqualmie are classified culturally and linguistically as Southern Coast Salish, a subdivision of the Coast Salish of the Puget Sound region. At the time of the treaty, and for several decades before, the Snoqualmie consisted of at least 18 winter villages located along the Snoqualmie River. These villages were centered on one or several multi-family longhouses.

The Snoqualmie tribe was a single, distinct social unit, united by kinship and other ties. The tribe shared a common name and territory and was somewhat distinct from neighboring Coast Salish tribes in culture and language. Until the mid-1840's the Snoqualmie may not have been a single political unit in the sense of having an overall leader. Within the tribe, a distinction was made between the Upper Snoqualmie in the villages on the prairie above Snoqualmie Falls, and the Lower Snoqualmie in the villages below the Falls.

Marriage outside the village and tribe was the norm for the Snoqualmie and other Coast Salish. Puget Sound tribes traditionally were cohesive groupings within a broader network of kinship, social, and economic relationships.The social organization of these tribes has retained much of this character up to the present. The acknowledgment criteria regarding community and political influence have in this case been evaluated in terms of this particular Coast Salish social organization and culture.

After traditional settlements were disrupted by white settlers in the 1860's, the Snoqualmie reestablished three distinct settlement areas: on the Upper Snoqualmie prairie, including a settlement called Meadowbrook; in the Lower Snoqualmie area near the aboriginal villages at Tolt and Fall City; and at Lake Sammamish, outside but adjacent to traditional Snoqualmie territory. Community longhouses were maintained in each of these areas and much of the traditional culture was retained, including language, religion, and social organization and marriage patterns. There were few marriages with non-Indians.

Some Snoqualmie moved to the Tulalip Reservation after 1860, but most did not because of its limited land and the fact that it was outside of Snoqualmie territory. Those tribal members who moved to the reservation maintained social and political ties with those in the off-reservation settlements and the Snoqualmie remained a distinct social community.

By 1914, when the tribe began a political reorganization under Jerry Kanim, the distinct tribal settlement areas had largely dispersed and more tribal members and moved to reservations. After the turn of the century the geographically distinct Snoqualmie settlements began to break up. Dispersion of the Snoqualmie continued over the next 50 years (1914–1956), although most members remained within or adjacent to traditional Snoqualmie territory. The membership narrowed in the 1940's and 1950's as many reservation residents affiliated with the Snoqualmie shifted allegiance to the reservations, which were becoming distinct social and political units. There continued to be an off-reservation centered social and political body of Snoqualmie.

Although they no longer had separate settlements, there is strong evidence that the tribe maintained a distinct social community during this period. This evidence includes continued intermarriage with Snoqualmie or other Puget Sound Indians, closeness of kinship ties linking major family groupings, maintenance of a distinct culture, including language and religion, and the existence of strong internal political processes under the leadership of Jerry Kanim. Additional evidence of long-term social relationships and interaction is the regular tribal social gatherings held at certain holidays. Supporting evidence is the observations of knowledgeable contemporary observers, such as Charles Roblin and other Indian agents, that the Snoqualmie were a distinct social community.

There is less detailed and extensive evidence for social community for the period between 1956 and 1981 than there is for the time periods before and after. However, the available evidence is sufficient to demonstrate that a significant level of social community was maintained. The Snoqualmie did not become more widely dispersed geographically during this period, remaining within an area close enough to allow maintenance of community social relations.

There continued to be a considerable degree of close kinship ties within the tribe and kin and social linkages with other Puget Sound Indians, since marriage within the Snoqualmie was common until the 1920's and within Puget Sound Indian society until the 1950's. However, the degree of social interaction and social ties was somewhat diminished from previous eras. A significant, though diminishing amount of distinct culture was also maintained. The clearest evidence of this was Snoqualmie participation in the Indian Shaker Church, the Indian Smokehouse religion, and some

continued traditional religious beliefs among the older generation. Membership in the tribe required demonstration of ⅛ or more Snoqualmie blood degree, and the average blood degree in practice was higher. This demonstrates that the Snoqualmie were more than merely a group of distantly related descendants of Indians.

There was more evidence for continuing political processes for the period between 1956 and 1981 than there was concerning social community. This evidence establishes that significant, noncoercive political processes continued. These provide evidence for community because they required and were based on the existence of social ties and communication in order to operate. The evidence for community from political processes was less strong between 1956 and 1970, in part because this was a low point in political activity following the death of Chief Jerry Kanim in 1956.

Considerably more detailed evidence was found for the modern Snoqualmie community, defined for the purpose of this evaluation as being from approximately 1981 to the present. There is strong evidence that significant social relationships have been maintained in the modern community. The geographical distribution of the tribe has not changed substantially from that of previous decades. About 70 percent of the membership lives within a 50-mile radius, which is close enough to allow significant social interaction. The continued existence of cultural differences among a substantial minority of the membership provides evidence that there is more than a minimal distinction between the Snoqualmie and non-Indians. The tribe has maintained a clear membership boundary, socially distinguishing it from non-members, reinforcing evidence from other sources that this is more than a formal organization of Snoqualmie descendants. There is limited direct evidence that informal, though not necessarily intense, social contact is maintained broadly among the membership. Snoqualmie kinship relationships are still close enough to provide supporting evidence that significant social relations exist. Family line groupings are socially defined and there is a significant degree of social knowledge and involvement among Snoqualmie members. This is partly expressed in their awareness of the history, character, and actions of the major family lines, which is evidence of continuing social ties as well as social contact. The available data regarding family groups and their social significance is particularly strong concerning how they manifest themselves in political contexts. Conflicts between family groups are considered a prominent political element.

The evidence of Snoqualmie political processes in the modern community, which is more clearly and extensively documented than is direct evidence of social community, demonstrates that significant social relationships and a significant degree of social contact exist.

At the time of first sustained contact with Euro-Americans in the 1830's, leadership and other political processes within the Snoqualmie were exercised at the village level and/or within nonlocalized kinship groups. The Snoqualmie tribe probably did not constitute a single political unit in the sense of having an overall leader until the early or mid-1940's, when Pat Kanim became chief of the entire tribe. Kanim's authority was recognized by non-Indian governmental authorities and by the Snoqualmie themselves. Kanim was second signer of the 1855 Treaty of Point Elliott, a reflection of his importance.

After Pat Kanim's death in 1858 until 1914, the Snoqualmie were led by a variety of local leaders. Most prominent of these was Sanawa, chief of the Upper Snoqualmie under Pat Kanim. Sanawa's authority was recognized by the Federal government. He lived until 1875 and was succeeded by his son John Sanaa. Political influence was also exercised through informal leaders, community meetings and the cooperative effort necessary to construct and maintain community longhouses and communal religious ceremonies. The existence and maintenance of culturally and territorially distinct communities throughout this period is further evidence that political influence through either formal or informal leaders and group decision-making processes was maintained throughout the latter part of the 19th century and the first decade of the 20th century.

Between 1914 and 1916, a political reorganization of the political system of the Snoqualmie took place. A strong chief of the entire tribe, named Jerry Kanim, was put into office and under his leadership a council and general council of the entire membership were instituted to help govern the Snoqualmie. The process by which the political reorganization took place is itself strong evidence of the exercise of political influence because it resulted from the mobilization of community opinion, involving influentiel informal leaders, over an extended period of time, and reflected shared community values concerning leadership.

Kanim was a strongly influential figure within the Snoqualmie throughout his tenure from 1914 until his death in 1956. He was a strong speaker, enjoyed high prestige throughout the group, and was known for his ability to influence community opinion on political and social issues.

Two critical issues that Kanim addressed throughout his tenure were seeking land for the Snoqualmie to settle upon and maintenance of fishing and hunting rights under the treaties. Land was of critical importance for the Snoqualmie because they had lost their lands during the first decade of the 20th century, and there was insufficient reservation land to allot to them. Hunting and fishing rights were of great importance because the Snoqualmie hunted and fished extensively for subsistence purposes but access to traditional hunting and fishing grounds was becoming limited because of competition with non-Indians and increasingly restrictive game and fish laws. Kanim pursued these issues with Federal, state, and local authorities throughout his tenure. Political influence is thus demonstrated because he and the Snoqualmie councils dealt with issues which were clearly of significance and concern to the Snoqualmie as a whole.

Additional strong evidence of political influence among the Snoqualmie between 1914 and 1956 is that knowledgeable governmental authorities external to the group consistently recognized Jerry Kanim's political influence and dealt with him as a leader who represented the interests and concern of the Snoqualmie.

The level of exercise of political influence during Jerry Kanim's tenure very substantially exceeds the minimal requirements of the Acknowledgment regulations.

Although Jerry Kanim was not replaced as chief in the decades after his death in 1956, there continued to be leaders among the Snoqualmie who had been active during Kanim's tenure. The tribal chairman, an existing position, became the main leader of the Snoqualmie, and the tribal council and general council took a more important role. Although a Snoqualmie chief was appointed in 1986, it was not demonstrated that this individual has a significant political role.

There is clear evidence that community opinion on a variety of matters has existed and been expressed through various political processes throughout the period from 1956 up until and including the present. There is

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good evidence, consistent over a long period of time (1960's to the present), that opinion and concern over the actions of the Snoqualmie leadership and the form of that leadership have existed at large among the membership. This has been evidenced from time to time by generational differences concerning the Snoqualmie leadership and the form of government. Major family lines function within the political system to a limited degree, playing a role in formation of opinion and being one dimension along which conflicts take place. A strong example of internal political influence occurred in 1980 when community opinion was mobilized to oust the tribal chairman, whose behavior in this role violated community norms. These processes illustrate the existence of the flow of political opinion within the Snoqualmie and between leaders and members, and thus a bilateral political relationship, a requirement of criterion (c).

Political influence and a bilateral political relationship is also demonstrated by the major role played by the general council, a meeting of the general membership which is the final arbiter of political issues and conflicts within the Snoqualmie. The general council is a decisionmaking body which connects the tribal council and chairman to the Snoqualmie members, by electing these officers and by reviewing actions and issues which are considered critical or controversial.

Hunting and fishing rights have continued to be a concern addressed by the Snoqualmie council and leadership, throughout the period from 1956 to the present. It is likely that fishing remained an important part of Snoqualmie subsistence until World War II, and for some time later for some Snoqualmie. There is good evidence that fishing rights is a political issue of substantial significance and concern among a wide portion of the Snoqualmie because the effective loss of access to these rights is recent and there is continued widespread interest among the members.

There exists substantial evidence between 1956 and 1968 and strong evidence from 1968 through the present that political influence has been exercised within the Snoqualmie, that the leaders and council have a significant political connection with the membership, i.e., a bilateral political relationship, and that political issues of significance to a broad portion of the membership have been addressed.

The petitioner's governing document describes how membership is determined and how the tribe governs its affairs and its members. Present members of this organization are predominantly lineal descendants of the Snoqualmie Indians whose ancestors have inhabited Western Washington since first sustained contact with Euro-Americans. Ninety-six percent of the petitioner's 313 members have established or can be expected to establish descent from an ancestor identified as Snoqualmie in historical records. The remaining 4 percent of the membership consists of 11 members who have not satisfactorily established Snoqualmie descent, and 3 members who are non-Indians adopted by the tribe. Eighty-two percent of the members possess the one-eighth or more Snoqualmie blood required by the petitioner's membership criteria. Members who possess less than one-eighth Indian blood have been adopted by the petitioner.

Twenty percent of the membership (63 members) is currently enrolled in a federally recognized tribe, leaving a substantial majority (80 percent) of the membership who are not enrolled in a federally recognized tribe. Because concurrent membership in more than one tribe or group is prohibited by the petitioner's governing documents, these members technically do not meet the criteria for membership in the Snoqualmie Indian Tribe. The membership of the 20 percent who are enrolled in a federally recognized tribe is dispersed among seven tribes serviced by the BIA's Puget Sound Agency, and the majority are based primarily on the member's descent in another line from a non-Snoqualmie Indian ancestor who was affiliated with the tribe. There is no evidence that suggests that these 63 individuals represent a faction or factions who are attempting to break away from their tribes in order to establish another tribe.

No evidence was found to show that the Snoqualmie Indian Tribe has been the subject Federal legislation which has expressly terminated or forbidden a Federal relationship with the United States Government.

Based on this preliminary factual determination, we conclude that the Snoqualmie Indian Tribe meets all the criteria in 25 CFR 83.7. We therefore conclude that the tribe should be granted Federal acknowledgment under 25 CFR part 83.

As provided by 25 CFR 83.9(f), a report summarizing the evidence for the proposed decision will be provided to the petitioner and other interested parties, and is available to other parties upon written request. Comments on the proposed finding and/or requests for a copy of the report of evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 2611–MIB.

After consideration of the written arguments and evidence rebutting the proposed finding and within 60 days after the expiration of the 120-day response period described above, the Assistant Secretary—Indian Affairs will publish the final determination of the petitioner's status in the **Federal Register** as provided in 25 CFR 83.9(h).

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 93–10694 Filed 5–5–93; 8:45 am]

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May 6, 1993

Part VII

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Notice of the FY 1993 Competitive Discretionary Assistance Program and the Availability of the FY 1993 Discretionary Program Announcement Application Kit

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DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Fiscal Year 1993 Competitive Discretionary Assistance Programs and the Availability of the Fiscal Year 1993 Discretionary Program Announcement Application Kit

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Department of Justice.

ACTION: Public announcement of the Office of Juvenile Justice and Delinquency Prevention's Fiscal Year 1993 Competitive Discretionary Assistance Programs and the availability of the Fiscal Year 1993 Discretionary Program Announcement Application Kit (hereinafter OJJDP Application Kit) for Title II, Juvenile Justice and Delinquency Prevention, and Title IV, Missing Children's Assistance Act, of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) publishes this Notice of Competitive Discretionary Assistance Programs and announces the availability of the Juvenile Justice and Delinquency Prevention and Missing Children's Assistance Act Discretionary Program Announcement Application Kit for Fiscal Year 1993 (a separate publication available from the OJJDP's Juvenile Justice Clearinghouse).

The OJJDP Application Kit contains the discretionary program announcements, general application and administrative requirements, an application form (Standard Form 424), the OJJDP Peer Review Guideline, OJJDP Competition and Peer Review Procedures, and other supplemental information relevant to the application process. To order an OJJDP Application Kit, please call the Juvenile Justice Clearinghouse, toll-free, 24 hours a day, (800) 638–8736.

DATES: Applicants are requested to submit the original, signed application (Standard Form 424) and four copies to OJJDP. Application forms and supplementary information will be provided upon request in the OJJDP Application Kit. Potential applicants should review the OJJDP Peer Review Guideline and the OJJDP Competition and Peer Review Procedures. These documents are provided in the OJJDP Application Kit. Applications must be received by mail or delivered to OJJDP by 5 p.m. e.d.t., on or before the date indicated in the program announcement. Those applications sent by mail should be addressed to the specific OJJDP grant manager for the program to which the applicant is applying. Applications may be hand delivered between the hours of 8 a.m. and 5 p.m., except Saturdays, Sundays, and Federal holidays. A receipt will be provided for hand-delivered applications.

ADDRESSES: Applications must be postmarked or hand delivered by 5 p.m. prior to or on the due date specified for the particular program. Applications may be mailed or hand delivered to: Office of Juvenile Justice and Delinquency Prevention, room 742, 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Program inquiries are to be addressed to the attention of the OJJDP staff contact person identified in each specific program announcement. For general information, contact Marilyn Silver, Management Analyst, Information Dissemination Unit, (202) 307–0751. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In accordance with section 204(b)(5)(A) of Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP Act), as amended, 42 U.S.C. 5614(b)(5)(A), OJJDP issued a Final Comprehensive Plan describing the Juvenile Justice and Delinquency Prevention Programs which OJJDP intends to fund during Fiscal Year 1993. Published January 22, 1993, at 58 FR 5860, the final plan includes activities authorized in parts C and D of title II of the JJDP Act (42 U.S.C. 5651–5665b).

The 1984 Amendments to the JJDP Act established Title IV, the Missing Children's Assistance Act. In accordance with Section 406(a) of Title IV of the JJDP Act, 42 U.S.C. 5776(a), OJJDP announced Final Program Priorities for grants and contracts under section 405, 42 U.S.C. 5775, of the Missing Children's Assistance Act on March 1, 1993, at 58 FR 11944. The competitive programs identified among the Fiscal Year 1993 Final Program Priorities for section 405 are included in this Notice and in the OJJDP Application Kit.

In order to increase competition and participation in section 405 programs, the National Center for Missing and Exploited Children (NCMEC) and other direct assistance recipients under section 404, 42 U.S.C. 5773, of the JJDP Act will not be eligible to compete for section 405 funds.

Application Requirements

All applications must be submitted in accordance with the requirements set forth in the OJJDP Application Kit. Two program announcements, Innovative Approaches in Law-Related Education and Missing Children Field-Initiated Program, require the submission of concept papers. See these Announcements for details.

Eligibility Requirements

Applications are invited from eligible public and private agencies, organizations, educational institutions, individuals, or combinations thereof. Eligibility differs from program to program. Please consult individual program announcements for specific eligibility requirements. Where eligible for an assistance award, private for-profit organizations must agree to waive any profit or fee. Joint applications by two or more eligible applicants are welcome, as long as one organization is designated as the primary applicant and the other(s) as co-applicant(s). Applicants must demonstrate that they have experience in the design and implementation of the type of program or program activity for which they are an applicant.

Selection Criteria

All applicants will be evaluated and rated by a peer review panel according to general selection criteria. Peer review will be conducted in accordance with the OJJDP Competition and Peer Review Policy, 28 CFR part 34, subpart B. Selection criteria for each competitive program will determine applicants' responsiveness to minimum program application requirements, organizational capability, and thoroughness and innovativeness in responding to strategic issues related to project implementation. Each competitive program announcement will indicate additional program-specific review criteria and/or changes in points assigned to criteria used in the peer review for that particular program.

Peer reviews will use the following criteria to rate applications unless the program announcement contains separate, program-specific selection criteria:

1. *Statement of the problem.* (20 points) The applicant includes a clear, concise statement of the problem addressed in this program.

2. *Definition of Objectives.* (20 points) The goals and objectives are clearly defined and the objectives are clear, measurable, and attainable.

3. *Project Design.* (20 points) The project design is sound and constitutes an effective approach to meet the goals and objectives of this program.

The design provides a detailed implementation plan with a timeline which indicates significant milestones in the project, due dates for products, and the nature of the products to be submitted. The design contains program elements directly linked to the achievement of the project.

4. *Management Structure.* (15 points) The project's management structure and staffing is adequate to successfully implement and complete the project. The management structure for the project is consistent with the project goals and tasks described in the application.

Applicant explains how the management structure and staffing assignments are consistent with the needs of the program.

5. *Organizational Capability.* (15 points) The applicant organization's potential to conduct the project successfully must be documented.

Applicant demonstrates knowledge of and experience in the juvenile justice field, particularly in the area of study the project addresses.

Applicant demonstrates that staff members have sufficient substantive expertise and technical experience. The applications will be judged on the appropriateness of the position descriptions, required qualifications, and staff selection criteria.

6. *Reasonableness of Costs.* (10 points) Budgeted costs are reasonable, allowable, and cost effective for the activities proposed, and are directly related to the achievement of the program objectives. All costs are justified in a budget narrative that explains how costs are determined.

OJJDP has made the following changes to the Final Comprehensive Program Plan and the Missing and Exploited Children's Program for Fiscal Year 1993.

Prevention of Delinquency Through Child-Centered Community-Based Policing

The OJJDP Final Comprehensive Plan for Fiscal Year 1993 indicated that OJJDP proposed to support a competitive program to prepare training and technical assistance materials to replicate the Yale/New Haven Child-Centered Community-Based Policing Program. Fiscal Year 1993 funding was projected at $50,000.

However, OJJDP has concluded that competition at this stage of the program's development is not practical. The Child-Centered Community-Based Policing model must be documented before possible replication. This initial documentation will be completed by the Yale Child Development Center and the New Haven Police Department on a noncompetitive basis because the staff of these two entities, as the creators and sole practitioners of this program, are uniquely qualified to perform this task at this funding level.

Please direct any questions regarding this program to Peter Freivalds, Training and Technical Assistance Division, (202) 307–5940.

Second National Incidence Studies of Missing, Abducted, Runaway and Thrownaway Children (NISMART II)

A competitive program announcement for the Second National Incidence Studies of Missing, Abducted, Runaway and Thrownaway Children (NISMART II) will be postponed until the latter part of Fiscal Year 1993. OJJDP is currently funding two other programs that are directly related to NISMART II.

A 16-month planning grant was awarded to the Research Triangle Institute in August 1992 for the purposes of conducting a thorough assessment of NISMART I, determining information needs and priorities for NISMART II, exploring additional data sources and methodologies that may improve NISMART I, and making recommendations for the design of NISMART II. Draft reports are due in August 1993 and a final report is due in November 1993.

A second program operating concurrently with the planning grant is entitled Additional Analysis and Dissemination of NISMART. Two cooperative agreements were awarded in July and September 1992 to the National Network of Runaway and Youth Services and the Family Research Laboratory of the University of New Hampshire, respectively, for the purpose of conducting additional analyses of NISMART I data files regarding runaways, thrownaways, abductions, and otherwise missing or displaced children. Draft reports are due in July and September 1993. A final report, inclusive of findings from both cooperative agreements, is due in November 1993.

The findings and recommendations from these two programs are essential to developing the detailed solicitation for NISMART II applications. A separate Competitive Program Announcement for NISMART II will be published in the **Federal Register** later in Fiscal Year 1993.

Multi-Jurisdictional, Interagency Model for Investigating and Prosecuting Cases of Child Sexual Exploitation

The Office for Victims of Crime (OVC) is implementing the Multi-Jurisdictional, Interagency Model for Investigating and Prosecuting Cases of Child Sexual Exploitation Program as stated in the Final Comprehensive Plan for Fiscal Year 1993. This is a joint program between OJJDP and OVC. The purpose of this project is to develop a multi-jurisdictional task force model to combat child pornography and juvenile prostitution. The task force will implement centrally coordinated and managed investigations involving Federal, State, and local investigative agencies. OVC is currently requiring applications to be received prior to their March 23, 1993, deadline.

Announcements for OJJDP's Title II and Title IV competitive assistance programs are provided below.

FISCAL YEAR 1993 COMPETITIVE PROGRAM LISTING

Title II Programs:	
Serious, Violent, and Chronic Offender Program Development	$300,000
Accountability-Based Community (ABC) Intervention Program	300,000
Law-Related Education in Juvenile Justice Settings	440,000
Innovative Approaches in Law-Related Education	200,000
Hate Crime Study	100,000
Prevention of Hate Crimes	50,000
Due Process Advocacy Program Development	100,000
Title IV Programs:	
Investigative Case Management for Missing Children Homicides	150,000
A Study of the Effectiveness of Private Investigators in Locating and Recovering Parentally Abducted Children	100,000
Issues in Resolving Cases of International Parental Abductions of Children	200,000
Criminal Justice Response to Parental Child Abduction Cases	450,000
Missing Children's Field-Initiated Program	300,000

Serious, Violent, and Chronic Offender Program Development

Purpose

To develop a comprehensive program model design that can be implemented in State and local jurisdictions to address the problem of Serious, Violent, and Chronic Juvenile Offenders (SVCJOs).

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Background

The violent crime rate among juveniles has increased sharply in the past few years. Juveniles account for an increasing share of all violent crimes in the United States. A small portion of juvenile offenders account for the bulk of all serious and violent juvenile crime. At the same time, the number of juveniles taken into custody has increased, as has the number of juveniles waived or transferred to the criminal justice system. Admissions to juvenile facilities reached an all-time high in 1990 (Howell, 1992).

The juvenile justice system does not have adequate programmatic resources to identify SVCJOs and to intervene effectively with them. Targeting this group of juvenile offenders will require a comprehensively systematic approach that includes family strengthening and support, community involvement, and delinquency prevention focused on at-risk juveniles. Rehabilitative approaches for delinquent juveniles must use a system of graduated sanctions that combine accountability for delinquent behavior with intensive treatment services.

Research has documented primary causes of juvenile delinquency: (1) Individual characteristics, (2) family influences, (3) school experiences, (4) peer group influences, and (5) neighborhood and community characteristics (Weis and Hawkins, 1981). Effective delinquency prevention efforts must be comprehensive, cover all five factors, and correspond to the social development process (Hawkins and Catalano, 1992). Other research has shown that more structured treatments that use behavioral techniques and teaching skills result in the largest delinquency reductions (Lipsey, 1992). In addition, there is growing evidence that small, secure facilities are more effective than training schools, cost less, and are a more humane approach to controlling and rehabilitating the SVCJO (Krisberg, 1992).

OJJDP has made it a priority to identify and provide effective programmatic responses to juveniles at risk of delinquency. OJJDP has considered a variety of approaches to prevent the development of and intervene with SVCJOs. The OJJDP-funded study, "Program of Research on the Causes and Correlates of Delinquency," (Huizinga, Loeber, and Thornberry, 1992) has identified developmental pathways to delinquency. This information, coupled with risk and needs assessments, will provide the juvenile justice system with valuable, but currently missing data on juveniles who are moving toward serious, violent, or chronic offending.

OJJDP has also developed several effective approaches to this target group. In the early 1980's, OJJDP's Violent Juvenile Offender Program developed and tested a comprehensive approach to violent juvenile crime that emphasized treatment and reintegration of violent offenders (Fagan, 1990). The Intensive Supervision Program (ISP) is a program model that is being implemented in several sites as an alternative to incarceration for serious juvenile offenders (Krisberg, et al., 1989, 1990). OJJDP has also developed the Intensive Aftercare Program (IAP) for high-risk juvenile parolees (Altschuler and Armstrong, 1992).

These programs were instrumental in developing the framework for OJJDP's "Comprehensive System Approach to Serious, Violent and Chronic Offenders" (Wilson, 1992). While the framework has been established for a comprehensive program model design, many specific aspects need to be assessed and refined.

The project will research and examine other relevant data and studies, program development efforts, and existing effective programs. Two major components provide the framework for this project: (1) Family strengthening and support, community involvement, and delinquency prevention; and (2) graduated sanctions for delinquent offenders. The first component will be designed to address: (1) Individual characteristics; (2) family influences; (3) school experiences; (4) peer group influences; and (5) neighborhood and community characteristics.

The graduated sanctions component will integrate sanctions with treatment programs. Each major graduated sanction will consist of sub-levels, or gradations, that take the characteristics and influences of the first component into account, while providing a continuum of care through a network of community services. At each level in the continuum, the family will be involved in treatment and rehabilitation efforts. Programs will need to use risk and needs assessment instruments that incorporate such factors as age, severity of offense, and offender history. Aftercare will be included for all residential placements, and actively involve the family and the community in supporting the juvenile and reintegrating him/her into the family and community.

A system of graduated sanctions requires a broad continuum of options. The types of programs to be identified include: (1) Immediate interventions for first-time non-serious offenders and non-serious repeat offenders; (2) intermediate sanctions for first-time serious and violent offenders and reoffenders; and (3) secure confinement for those who are likely to be amenable to treatment, but require a secure setting, including juveniles who constitute an ongoing threat to community safety.

Goal

To develop a comprehensive program model design that addresses the problem of SVCJOs by supporting family-strengthening community involvement and prevention programs for juveniles identified at risk of becoming serious, violent, and chronic juvenile offenders and by offering the option of graduated sanctions for juveniles who have committed delinquent acts.

Objectives

- To provide a review of the literature for inclusion in the comprehensive program model design on effective, promising, and/or innovative prevention and intervention programs for SVCJOs and those at risk of becoming SVCJOs;
- To provide a compendium of programs based on the literature review;
- To review and modify risk and needs assessment instruments appropriate for each level of intervention; and
- To develop a comprehensive program model design for SVCJOs and those at risk of becoming SVCJOs based on what works and is consistent with underlying theoretical constructs.

Program Strategy

The grantee will thoroughly review the literature and synthesize from it the most effective, promising, and/or innovative prevention and intervention programs and strategies for SVCJOs and those juveniles at risk of becoming SVCJOs. The following programs will be included in the comprehensive program design: (1) Support and assistance to families and core community institutions; (2) delinquency prevention programs and services for at-risk juveniles; (3) immediate interventions; (4) intermediate sanctions; (5) community-based correctional facilities; (6) and training schools and other correctional institutions. The grantee will review ongoing OJJDP and other Federal agency projects related to these areas.

A compendium of programs will be developed from the literature review on prevention and intervention programs that have been demonstrably effective at each stage of prevention and intervention for SVCJOs and those at risk of becoming SVCJOs. Within the compendium, the program summaries will describe the programs' clientele, the program components the theoretical models on which they are based, and the type of evaluation done, etc. The grantee will further analyze these programs to determine the common components that are critical for success. In addition, this compendium will identify promising and/or innovative programs that need more research and evaluation to determine their effectiveness.

The grantee will review risk and needs assessment instruments for different intervention levels and assess their applicability to prevention programs. These instruments will need to be developmentally targeted and culturally sensitive.

From the above analysis of effective, promising, and/or innovative programs, the grantee will develop a comprehensive program design that covers all the prevention and intervention strategies and underlying theory of social development and that can be implemented in any local jurisdiction. For each of the prevention and intervention strategies, the design will include a target group, descriptive program elements, components that are key to effectiveness, and examples of existing programs on which the models were based. Also, the design should include strategies to obtain input from juveniles and families who have been or will be affected by these programs.

The grantee will establish and convene an advisory board for this project. This board should consist of juvenile court judges, juvenile justice practitioners, social service practitioners, researchers, officials from relevant State agencies, representing relevant foundations and other funding sources, and others who can contribute to the overall quality of the project. The board will (1) review the overall project design; (2) further define the types of prevention and intervention strategies to be studied; (3) help identify effective, promising, and/or innovative programs at each level of prevention and intervention; and (4) review drafts of the grantee's various products.

Products

- A comprehensive review of the literature that synthesizes the effective (evaluated), promising, and/or innovative programs for each stage of prevention and intervention for SVCJOs and those at risk of becoming SVCJOs.
- A compendium of programs, based on the above literature review, that documents programs demonstrated to be effective at each stage of prevention and intervention, including their clientele, the program's components, theoretical models on which they are based, and the type of evaluation done. In addition, this compendium will identify promising and innovative programs and strategies that need more research and evaluation to determine their effectiveness.
- The risk and needs assessment instruments for each juvenile justice system decision, e.g., court intake, adjudication, etc. Also, an accompanying narrative should discuss the most appropriate individual(s) to make the intervention assessment, e.g., parent, teacher, counselor, judge, parole officer, police, social worker, etc.
- A comprehensive program model design for each of the prevention and intervention strategies for SVCJOs and those at-risk of becoming SVCJOs that contains key components from effective, promising and/or innovative programs. The design should also include strategies to obtain input into the development of such programs from youths and families who will be affected by these programs.
- A comprehensive final report will include all of the above items. A separate executive summary should also be provided.

References

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- Fagan, Jeffrey, "Social and Legal Policy Dimensions of Violent Juvenile Crime," Criminal Justice and Behavior, January 1990.
- Hawkins, J. David and Richard F. Catalano, Communities That Care: Action for Drug-Abuse Prevention, San Francisco: Jossey-Bass Publishers, 1992.
- Howell, James C., "Program Implications of Research on Chronic Juvenile Delinquency," paper presented at the annual meeting of the American Society of Criminology, New Orleans, November 6, 1992.
- Huizinga, David, Rolf Loeber and Terence Thornberry, "New Findings on Delinquency and Substance Use in Urban Areas," Congressional Briefing, Washington, DC, May 15, 1992.
- Krisberg, Barry, et al., "Demonstration of Post-Adjudication Non-Residential Intensive Supervision Program Assessment Report," OJJDP Grant 87–JS–CX–K101, November 1989.
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- Krisberg, Barry, et al., "Juvenile Intensive Supervision Program Model, Operations Manual and Guide," OJJDP Grant 87–JS–CX–K101, July 1991.
- Lipsey, Mark W., "Juvenile Delinquency Treatment: A Meta-Analytic Inquiry Into the Variability of Effects," T.D. Cook, et al. (eds.), Meta-Analysis for Explanation: A Case Book (New York: Russell Sage Foundation, 1992).*
- Weis, Joseph G. and David J. Hawkins, "Preventing Delinquency," Washington DC, OJJDP, Washington DC, 1981.
- Wilson, John J., "OJJDP's Comprehensive System Approach for Serious, Violent and Chronic Juvenile Offenders," paper presented at the annual meeting of the American Society of Criminology, New Orleans, November 6, 1992.

Eligibility Requirements

This work will build upon existing research, evaluation, and program development efforts in both prevention and intervention strategies with at-risk youths and SVCJOs. OJJDP invites applications from public or private nonprofit agencies or institutions that have had prior research and program development experience with these types of strategies for at-risk youths and serious, violent and chronic offenders. In addition, eligible applicants must meet the requirements stipulated in the **SUPPLEMENTARY INFORMATION** section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the **SUPPLEMENTARY INFORMATION** section of this Notice.

Award Period

The project period will be 12 months.

Award Amount

Up to $300,000 has been allocated for this project.

Due Date

Applications must be received by mail or delivered to OJJDP by June 21, 1993.

Contact

For further information contact Jonathan Budd, Research and Program Development Division, (202) 307–5929.

* References will be available through the Juvenile Justice Clearinghouse, (800) 638–8736.

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Accountability-Based Community (ABC) Intervention Program

Purpose

To develop a plan for a systemwide strategy of intervention, treatment, and rehabilitation for juvenile offenders that combines accountability and sanctions with increasingly intensive community-based intervention, treatment, and rehabilitation services as the juvenile's level of offending increases.

Background

This program implements section 261(a)(1) of the JJDP Act of 1974, as amended, 42 U.S.C. 5665(a)(1).

An effective juvenile justice system strategy for turning delinquent juveniles around combines accountability and sanctions with increasingly intensive intervention, treatment, and rehabilitation services. These sanctions, emphasizing discipline and responsibility, must include a spectrum of intervention from community-based day treatment to secure corrections components.

An effective system for supervising juvenile offenders incorporates the following:

- Community protection and public safety;
- Recognition of victims' rights;
- Accountability;
- Competency development;
- Individualized intervention, treatment, and rehabilitation plans;
- Integral involvement of the family in intervention, treatment, and rehabilitation efforts;
- Incorporation of private, nonprofit community-based organization resources, including the community's social institutions, as essential strategy elements;
- Use of risk and needs assessments that combine such factors as age, severity of offense, and offender history to determine the appropriate sanction for each offender, the potential risk for reoffending, and the requirements of a comprehensive intervention and treatment strategy; and
- A broad continuum of options, integrating community-based resources with sanctions.

A system of sanctions would require a design that incorporates the following:

- A day treatment or other correctional service program(s);
- A residential placement program(s);
- A residential assignment program(s) that provides a small, secure community-based treatment facility;
- An aftercare program(s); and
- An implementation plan that integrates public resources with a core of private, nonprofit community-based organizations into the entire spectrum of intervention, treatment, and rehabilitation services for juvenile offenders.

OJJDP proposes to provide funding for strategy planning to a maximum of three selected jurisdictions that are developing and/or strengthening a comprehensive, integrated juvenile justice system strategy that combines accountability and sanctions with a full spectrum of intensive community-based, public, and private services.

Goal

To plan an effective juvenile justice system strategy for intervention, treatment, and rehabilitation of delinquent juveniles that combines accountability and sanctions with increasingly intensive community-based, public and private intervention, treatment, and rehabilitation services.

Objectives

- To assess the existing continuum of intervention, treatment, and rehabilitation services in the applicant's jurisdiction;
- To define the juvenile offender population;
- To develop a program strategy and implementation plan;
- To develop an evaluation design and implementation plan;
- To integrate private nonprofit community-based organizations into the intervention, treatment, and rehabilitation services for juvenile offenders;
- To develop an aftercare program that is a formal component of all residential placements;
- To develop a resource plan to enlist the financial and/or technical support of other Federal, State, and local agencies, private foundations, or other funding sources; and
- To develop a victim assistance component and integrate it with local victim assistance organizations.

Program Strategy

This solicitation invites applications from jurisdictions that are developing and/or strengthening a comprehensive juvenile justice system strategy that combines accountability and sanctions with a wide spectrum of intensive community-based, public, and private services.

OJJDP recommends that the plan reflect a two-year time frame for implementing the strategy.

Applicants are asked to develop comprehensive strategies that feature public and private collaboration and reflect recent research on the effectiveness of juvenile corrections programs. Applicants must provide concrete evidence that they are developing and/or strengthening a juvenile justice system strategy that incorporates the strategies described in this solicitation.

Each successful applicant will be required to include the following tasks in their plan:

- Assessment of the applicant's existing continuum of intervention, treatment, and rehabilitation services. The applicant will be required to complete a draft and final assessment report that:

(1) Describes the juvenile offender population;

(2) Describes gaps, weaknesses, or needs in the existing jurisdiction's program;

(3) Recommends developing and implementing program components and services that will expand the capability of the existing program; and

(4) Recommends an evaluation design.

- Identification of the population of juvenile offenders who require intervention, treatment, and rehabilitation. The applicant will be required to:

(1) Present the risk and needs assessment tool(s) utilized; and

(2) Present a plan specifying how the assessments have been or will be conducted.

- Development of a program strategy. The applicant will be required to:

(1) Produce a report that identifies training and technical assistance needs for developing and implementing the program. The report must include an estimate of training costs.

(2) Produce a final program design that:

—Identifies the target population;
—Describes the process and risk assessment to be used to assign juvenile offenders to the appropriate service(s);
—Identifies and assesses existing services that enable the juvenile justice system to identify gaps in services and develop a process for incorporating services where needed;
—Describes the process for developing public and private partnerships that will garner resources from private nonprofit community-based organizations and integrate them into the process;
—Incorporates a plan for involving families in the continuum of services;
—Incorporates a plan for implementing an after-care program as a formal component of all residential placements;
—Incorporate a plan that ensures that victim impact statements are prepared and presented at each stage when sanctions are determined;
—Incorporates a plan for notifying victims of all important decisions or changes in the status of cases;
—Describes specific sanctions and services for enhancing offender accountability, such as restitution, education about the impact of crime; and
—Incorporates a plan for evaluating the program.

(3) Produce a draft and final program operation manual.

(4) Produce a draft and final plan for implementing the program and supporting the evaluation.

Applicants must be specific about the tasks they can accomplish within 12 months with a $100,000 budget. The applicant must list and explain activities and products completed in the first year and provide an overview of the tasks to be accomplished and the products to be developed for years two and three.

Eligibility Requirements

Applications are invited from public agencies (such as local courts, probation, parole, or corrections) currently involved in planning a community-based juvenile justice system strategy of intervention, treatment, and rehabilitation for juvenile offenders. Applicant organizations may submit joint proposals with another eligible organization as long as one organization is designated as the primary applicant.

The applicant must be involved in a juvenile justice system that is located in and serves: (1) A Metropolitan Statistical Area (MSA) of 350,000 to 500,000 population; (2) counties of 350,000 to 500,000; or (3) states certifying a county or MSA with a population of 350,000 to 500,000. The jurisdiction must have documented risk factors.

The applicant must have a data collection system capable of accommodating components of the initiative and document a functioning coordination infrastructure (such as a task force) that incorporates public and private sector involvement for the project. In addition, eligible applicants must meet the requirements stipulated in the **SUPPLEMENTARY INFORMATION** section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

Award Period

The budget period will be 12 months.

Award Amount

Up to $300,000 has been allocated for this program; a maximum of $100,000 each for up to three urban communities with subsequent funding to be determined by OJJDP based on the availability of funds and OJJDP's priorities.

Due Date

Applications must be received by mail or delivered to OJJDP by June 21, 1993.

Contact

For further information contact Douglas C. Dodge, Special Emphasis Division, (202) 307–5914.

Law-Related Education in Juvenile Justice Settings

Purpose

To promote the use of law-related education in juvenile justice settings.

Background

Law-related education (LRE), as a specific curricula for elementary and secondary schools, has been found in schools throughout the country since 1975. OJJDP funded LRE since 1984 in response to congressional "earmarks." LRE teaches students about the foundations of our democracy and their responsibilities and rights as citizens. Through LRE, students develop social responsibility, an understanding of the fundamental values of right and wrong, and a commitment to good citizenship. LRE has helped students develop the knowledge, skills, and attitudes necessary to function effectively in our pluralistic, democratic society based upon the rule of law.

LRE is particularly successful as a teaching tool when non-traditional, interactive approaches to learning are used. It encourages students to deal with issues for which there may be no right or wrong answers through discussion, exploration, reflection, role playing or participation in mock trials or courts. Additionally, resource persons from the community are invited into the classroom to share their experiences in the law and to demonstrate how issues can be resolved. These individuals serve as positive role models for students.

In 1990, OJJDP began experimenting with LRE for at-risk youths in a variety of juvenile justice settings through the consortium of grantees implementing the national LRE program in schools. LRE was used in diversion, detention, community-based correctional programs, training schools, and group homes. Interim assessments of this effort suggest positive effects on youths.

Timothy Buzzell, Ph.D., of the Center for Law-Related Education at Drake University, has reported on the findings of his 1991 study of LRE at the Iowa State Training School at El Dora, a secure facility for males between 12 and 18 years of age who have been adjudicated as delinquent. The study examined the effect LRE had on residents of the facility after a period of time. The residents showed an increased attachment to staff, improved attitudes toward pro-social behavior, improved self-concept, improved attitudes towards the law, and greater tolerance of others.

Similarly, a 1991 report conducted by James Giese, Ph.D., of the Social Science Education Consortium of Boulder, Colorado, also found overwhelming evidence of positive contributions of LRE on youths subject to the jurisdiction of the juvenile court. Some of the strong indicators included fewer discipline problems; greater understanding of the rationale for laws; greater empathy; improved attitudes about the legal system; and the ability to see police officers, judges, court workers, and attorneys as "real people." In general, juvenile court judges, administrators, and staff of facilities and programs using LRE with this target population have been extremely supportive of the effort.

Goals: To increase the capability of the juvenile justice system to implement LRE programs for their clientele.

Objectives

- To make the juvenile justice community aware of LRE;
- To develop, adapt, and disseminate LRE curricula and lesson plans specifically designed for youths under the supervision of the juvenile court or juvenile correctional authorities;
- To develop and address "crime victim rights and the impact of crime on individual crime victims and the community;
- To establish one or more demonstration sites using LRE with the target population and to conduct an assessment of its use;
- To provide training and technical assistance to teachers and others in the juvenile justice system on LRE techniques and curricula; and
- To develop an implementation model that can be adapted to the future evaluation of the effect of LRE on targeted youths that is transferable to States or local sites.

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Program Strategy

OJJDP is soliciting innovative proposals for this competitive program. It is OJJDP's intention to fund up to two projects that complement one another and that together address the objectives noted above. A mandated program strategy is therefore not stated. However, certain elements of the proposal's project design are necessary to meet the objectives of this solicitation. These mandatory elements are listed below:

- The inclusion of one or more traditional juvenile justice agencies which can be used as a demonstration site or to field-test curricula;
- The inclusion of teaching methods and practices that research has shown to be necessary to a successful LRE program;
- The development and/or inclusion of written curricula that take into account the various reading levels of youths held in juvenile correctional facilities;
- A written statement to cooperatively work with other successful LRE grantees in this program including the OJJDP grantees that comprise the National Training and Dissemination Program; and
- An agreement to work with other successful grantees to design and conduct a conference for interested juvenile justice agencies on the results of this effort near the end of the first project period.

Products

Depending upon which objectives the grantee pursues, written products will include the following:

- LRE curricula developed for or adapted from other curricula and focused on clients of the juvenile justice system;
- Assessment reports of demonstration sites;
- Training, technical assistance, and marketing materials developed during the course of the project period and used for the LRE Conference;
- A detailed description of an implementation model of LRE for juvenile justice settings that can be adapted to formally evaluate LRE with these targeted youths; and
- Quarterly progress reports regarding project activities.

Reference

A manual, Law-Related Education for Juvenile Justice Settings, funded by OJJDP and developed under the National Training and Dissemination Program for Law-Related Education, is available to applicants upon request.

Eligibility Requirements

Applications are invited from public agencies and private organizations that can demonstrate experience in juvenile justice and law-related education and the capability to undertake activities related to at least three of the above objectives. Private-for-profit organizations must agree to waive any profit or fees to be eligible. Pursuant to section 299(e) of the Juvenile Justice and Delinquency Prevention Act Amendments of 1992, the five grantees currently awarded OJJDP funds for LRE are ineligible for these funds.

Selection Criteria

Applications will be rated by a peer review panel on the extent to which they meet the following criteria:

1. The Problem to Be Addressed. (15 Points)

The application clearly identifies the nature and scope of the intervention proposed in this announcement, including skill levels of the target population and the characteristics commonly associated with effective LRE programs.

2. Goals and Objectives. (15 Points)

The applicant provides succinct statements demonstrating an understanding of the objectives and tasks associated with the program. Applicants must address, in detail, a minimum of three of the objectives noted above.

3. Project Design. (25 Points)

The project design is sound and meets the goals and objectives of this program. The design includes a detailed workplan with timelines for each significant project goal.

4. Project Management. (10 Points)

The project's management structure and staffing is adequate to implement and complete the project successfully. The management plan describes a system to handle logistical activities efficiently and economically. Relationships with juvenile justice agencies are formally established in writing.

5. Organizational Capability. (20 Points)

The applicant organization's potential to conduct the project successfully is documented. Organization experience with youths in the juvenile justice system and LRE is highly recommended. Key project staff has significant experience in the subject areas addressed in this announcement.

6. Budget. (15 Points)

The proposed budget is reasonable, allowable, and cost-effective vis-à-vis the activities undertaken.

Award Period

The grantees selected for award will be funded for 12 months.

Award Amount

A total of $420,000 is available for an anticipated two projects to be selected from this solicitation. Individual applications should not exceed $210,000. Additional funding at the end of the award period is dependent upon performance of the grantee, availability of funds, and OJJDP priorities.

Due Date

Applications must be received by mail or delivered to OJJDP by July 8, 1993.

Contact

For further information contact Frank M. Porpotage II, Assistant Director, Training and Technical Assistance Division, (202) 307–5940.

Innovative Approaches in Law-Related Education

Purpose

To develop promising, innovative ideas for the delivery of law-related education.

Background

Law-related education (LRE) was originally designed as a specific curriculum for elementary and secondary schools and has been found throughout the country's schools in various forms since 1975. It has been funded by OJJDP since 1984 in response to congressional "earmarks." LRE teaches students about the foundations of our democracy and their responsibilities and rights as citizens. Through LRE, students develop insights which promote social responsibility, reaffirm the fundamental values of right and wrong, and inspire a commitment to good citizenship. LRE has helped students develop the knowledge, skills, understanding, and attitudes necessary to function effectively in our pluralistic, democratic society based upon the rule of law.

Although substantial federal assistance to LRE has been provided by OJJDP and the U.S. Department of Education, many imaginative and innovative approaches of researchers and practitioners are not always known to OJJDP. Through this program, OJJDP welcomes innovative proposals which address such approaches for efforts that specifically address delinquency prevention.

Goal

To support applications that will advance the practices of law-related education and which support the prevention of delinquency within or outside the classroom.

Objectives

- To promote and support innovative research, development, demonstration or training programs in the field of law-related education;
- To encourage new methods of directing LRE into delinquency prevention either within or outside the traditional classroom setting; and
- To develop knowledge that will lead to new techniques, approaches, or methods to deliver LRE for purposes of preventing delinquency.

Program Strategy

OJJDP is soliciting concept papers addressing the goals and objectives of this competitive program. OJJDP will select the most promising concept papers submitted and invite full applications of ideas relevant to the delivery of LRE in support of delinquency prevention practices. It is OJJDP's intention to fund one or two projects. A mandated program strategy is not stated. However, certain elements of the proposal's project design are necessary to meet the objectives of this solicitation. These mandatory elements are listed below:

- The inclusion of teaching methods and practices that research has shown are necessary to a successful LRE program:

(1) Extensive interaction among students;

(2) Realistic content that includes balanced treatment of case studies and issues;

(3) Use of outside resource persons;

(4) Strong support from educators;

(5) The inclusion or development of curricula that take into account the comprehension levels of the youths involved, including a range of innovative teaching aids; for example, the curriculum may be presented entirely in video format or may use computer technology; and

- A written statement that the grantee will work cooperatively with other LRE grantees in this program including the OJJDP grantees that comprise the National Training and Dissemination Program.

Products

Grantees will be required to submit written products of their activity to OJJDP. Depending upon the project activity, these products could include:

- LRE curricula developed under this project;
- Research findings or assessment reports of demonstrations;
- Training, technical assistance, and marketing materials developed during the course of the project; and
- Quarterly progress reports regarding project activities.

Concept Papers

Interested, eligible parties in this solicitation should submit a concept paper of no more than five double-spaced, type-written pages. The concept paper must address the goals and objectives of this program. OJJDP will select the most promising ideas submitted and invite full applications. Concept papers will be judged by the relevancy of the proposed approach to delinquency prevention practices; a determination of its uniqueness, i.e., an approach differing from those used by current or planned OJJDP projects; and the proposed project design. Those parties not selected will be notified in writing.

Eligibility Requirements

Concept papers are invited from public and private nonprofit agencies, organizations, institutions, and individuals that can demonstrate experience in LRE and the capability to undertake activities related to this solicitation. Private for-profit organizations must waive their profit or fees to be eligible. Pursuant to section 299(e) of the JJDP Act, the five grantees currently awarded OJJDP funds for LRE are ineligible for these funds.

Selection Criteria for Applications

As noted above, OJJDP will invite full applications from the most promising concept papers submitted. Full applications will be rated by a peer review panel on the extent to which they meet the following criteria:

1. Conceptualization of the problem. (15 Points)

The problem addressed by the project is clearly stated and is based upon issues that are relevant to current LRE practices and OJJDP priorities in delinquency prevention.

2. Goals and Objectives. (15 Points)

The applicant provides succinct statements that demonstrate an understanding of the objectives and tasks associated with the project. Objectives are clear and measurable.

3. Project Design. (25 Points)

The project design is sound and constitutes an effective approach to meet the goals and objectives of this program. The design includes a detailed workplan with timelines for each significant goal. The design contains program elements directly linked to the achievement of the project.

4. Project Management. (10 Points)

The project's management structure and staffing is adequate to successfully implement and complete the project. The management plan describes a system whereby logistical activities are handled efficiently and economically. Relationships with cooperating organizations are formally established in writing.

5. Organizational Capability. (20 Points)

The applicant organization's potential to conduct the project successfully is documented. Organizational experience with LRE is highly recommended. Key project staff has significant experience in the subject areas in their proposal.

6. Budget. (15 Points)

The proposed budget is reasonable, allowable, and cost-effective vis-a-vis the activities undertaken.

Award Period

The grantees selected for award will be funded for 12 months.

Award Amount

A total of $200,000 is available for an anticipated two projects selected from this solicitation. Individual applications should not exceed $100,000. Additional funding at the end of the award period is dependent upon performance of the grantee, availability of funds, and OJJDP priorities.

Due Date

Concept papers must be received by mail or delivered to OJJDP by June 7, 1993. OJJDP will review these concept papers and invite selected applicants to submit full applications for competition. OJJDP will notify applicants within fifteen (15) days after the concept paper submission closing date in the **Federal Register**. Full applications must be received by mail or delivered to OJJDP by July 20, 1993.

Contact

For further information contact Frank M. Porpotage II, Assistant Director, Training and Technical Assistance Division, (202) 307–5940.

Hate Crime Study

Purpose

To further knowledge of juvenile hate crimes, including the characteristics of juveniles who commit hate crimes, the characteristics of hate crimes committed by juveniles, and the characteristics of the victims of juvenile hate crimes.

Background

In the United States of America all people, regardless of their race, religion, gender, ethnicity or sexual preference, share equal rights and equal protection

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of the law. The number of hate crimes—defined as offenses committed against a person or people because of their ethnicity, gender, race, religion, or sexual orientation with the intention of demeaning, degrading, terrorizing, hurting, or even killing the individual(s)—appear to have increased over the past several years.

The Civil Rights Act of 1964 created the Community Relations Service (CRS) agency within the Department of Justice. CRS provides "assistance to communities and persons therein resolving disputes, disagreements, or difficulties related to discriminatory practices based on race, color, or national origin." From 1989 to 1990, CRS reported that the number of interracial conflict alerts rose from 400 to 546, an increase of 37 percent, while community disorder alerts increased by 17 percent.

Other sources indicate an increase in hate crimes. The National Institute Against Prejudice and Violence in Baltimore, Maryland, reported that ethno-violence on college and university campuses increased each year from 1987 to 1989. In 1987, 42 campuses reported incidents of ethno-violence. That number went up dramatically in 1989 to 103, and to 113 in 1989. The National Gay and Lesbian Task Force Policy Institute has also reported an increase in anti-gay incidents between 1990 to 1992. In Chicago, reports were up six percent; in San Francisco, 11 percent; in New York, 17 percent; in Boston, 42 percent; and in Minneapolis-St. Paul, 202 percent.

In response to growing concern over hate crimes, Congress enacted the Hate Crime Statistics Act, Public Law 101–275, 104 Stat. 140 (28 U.S.C. 534), in 1990. Through this Act, the Department of Justice was directed to "establish guidelines for the collection of such data" relating to hate crimes. In 1991 the Federal Bureau of Investigation began collecting hate crime arrest data as part of the Uniform Crime Reports. This 1991 data reported a total of 4,558 hate crime incidents that involved 4,755 offenses. Of the incidents reported, intimidation accounted for one of three offenses reported. Twelve murders were attributed to hate motivation.

Congress required OJJDP in the 1992 Amendments to the JJDP Act, section 248(b)(7), to conduct a Hate Crime Study and submit a report of the results to the Chairman of the House Committee on Education and Labor and the Chairman of the Senate Committee on the Judiciary concerning the involvement of children and youths in hate crimes

Goal

The long-term goal of this project is to better understand hate crimes in order to develop education aimed at preventing or reducing these offenses. The immediate goals of this research are (1) to assess information currently available regarding juveniles who commit hate crimes, the nature of the crimes they commit, and the nature of their victims; and (2) to assist OJJDP in developing a research strategy to collect efficiently information required by the JJDP Act that is not currently available.

Objectives

Some of the information required by the 1992 Amendments to the JJDP Act is not currently available. From the information that is available, a detailed report will be prepared which will address the characteristics of juveniles who commit hate crimes, the characteristics of hate crimes committed by juveniles, and the characteristics of the victims of hate crimes committed by juveniles.

To produce the remainder of the required information, OJJDP has established the following objectives:

- To identify and analyze the existing Federal, State and independent data sets and research projects that provide information regarding juveniles involved in hate crimes.
- To develop a research design, including the design of a survey instrument(s), to collect the data respond required by Congress.
- To make recommendations to OJJDP on how best to implement the developed research design and data collection strategy.

Program Strategy

OJJDP will select an organization to conduct an assessment of the current knowledge of the criminal justice and juvenile justice fields concerning hate crimes involving juveniles. The grantee must accomplish four major tasks to complete this project:

- TASK I—Definition. Completion of this task will require the development of a working definition of hate crimes and related incidents. This definition should reflect the legislative definitions being developed as well as previous research definitions. These definitions will be known as "operational definitions" for this project. The definition should clarify differences between criminal acts motivated by hate and noncriminal incidents that are intimidating or threatening. The definitions developed should be suitable for designing the following data collection strategies. For other variables regarding perpetrators and victims, standard or common definitions can be used or modified.
- TASK II—Review of the Literature. This will include a review of the current literature available on hate crimes and related incidents. The project should also include a review of all pertinent data and statistics. Sources covered should, at a minimum, include all State and Federal data sources. In addition to these data sources, private organization's databases should be reviewed and critiqued. In analyzing the literature, data, and statistics gathered, the selected organization should answer as many of the following questions concerning juveniles' involvement with hate crimes as possible:

(1) What are the characteristics of juveniles who commit hate crimes? This should include a profile of such juveniles based on their motives for committing hate crimes.

(2) What is the age, sex, race, ethnicity, education level, locality, and family income of such juveniles?

(3) Are juveniles who commit hate crimes familiar with organized groups, or their publications, that encourage the commission of hate crimes, i.e., the Knights of the Klu Klux Klan, Skinheads, etc.?

(4) What are the characteristics of the hate crimes committed by juveniles? Responses to this question should include the following:

(a) The types of hate crimes committed. Are the crimes typically property crimes (vandalism, destruction of property, theft, arson), nonviolent crimes (harassment, telephone misuse, cross burnings), or violent crimes (robbery, assault, murder, or rape)?

(b) The frequency with which institutions and natural persons, separately determined, are the targets of hate crimes;

(c) The number of persons who participated with juveniles in committing such crimes, including both adults and other juveniles;

(d) The types of law enforcement investigations conducted with respect to hate crimes that were committed by or against juveniles;

(e) The law enforcement proceedings commenced against juveniles for committing hate crimes; and

(f) The penalties imposed on juveniles as a result of these proceedings;

(g) What are the characteristics of the victims of hate crimes committed by juveniles? This should include, but not be limited to, common characteristics such as age, sex, race, ethnicity, locality of the victims, and their familiarity with the offender.

(h) What, if any, was the underlying motivation behind the attack? Was the attack planned or spontaneous? Was it a spur-of-the-moment crime done for "thrills"? Gang-related activities should also be included.

(i) To what extent are hate crimes gang-related?

- TASK III—Research Design and Data Collection Strategy. After completing the review of the literature, the grantee should prepare a report on the state of hate crime research. The report should review the current state of data collection projects and the overall quality of the data collected through these efforts. Additionally, the current research should be assessed to determine its goals and objectives and whether it addresses the above questions. A thorough assessment should include a critique of existing or recently completed projects. The methodology and research design of the projects should be reviewed, identifying strengths and weaknesses.
- TASK IV—Research Design and Data Collection Strategy for other Issues. The grantee should make recommendations on how to best obtain the statutorily-required answers to the questions not addressed in current research or in the data and statistics previously gathered. These recommendations should include a research design and data collection strategy. The project's research design and strategy must be developed to address the remaining issues noted above. The design effort must develop an approach that efficiently utilizes existing data collection systems and the strengths and weaknesses of previous projects. Recommendations must address the potential use of the Federal Bureau of Investigation's Hate Crime Statistics and National Incidence Based Reporting System (NIBRS). These data collection systems presently exist without juvenile-specific data on hate crimes. The research design and strategy should use the operational definitions of hate crimes.

The grantee should assemble an advisory board with experts in survey methodology, juvenile justice information systems, hate crime data collection and statistics. These experts should have knowledge regarding database users and suppliers. The advisory board should be integrally involved in each of the project's tasks.

Products

The project will produce two reports:

- An interim report which includes preliminary findings and a literature review. This interim report will provide the findings of the database and data source assessments. The operational definitions developed for the project should be included here as well.
- A final report should be prepared after the completion of the project. This report will incorporate the first and provide the basis for OJJDP's required report to Congress. This report should address the goals and objectives of the project, and the Congressional issues presented in the background section of this solicitation. A detailed response should be given for each objective and question. Furthermore, the results of TASK III (The Research Design and Data Collection Strategy) should be provided in complete detail. The final report should be accompanied by a separate executive summary.

Eligibility Requirements

Applications are invited from public and private nonprofit agencies, organizations, educational institutions, or combinations thereof. In order to expand the pool of eligible candidates, applications will be accepted from for-profit organizations, provided they agree to waive any profit or fee and accept only allowable costs. Applicants must demonstrate knowledge of the civil, criminal, and juvenile justice issues relating to hate crimes and related incidents, as well as knowledge and experience in research methods, design, data collection, and implementation of this type of project. In addition, eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

Award Period

The budget period will be 12 months.

Award Amount

Up to $100,000 has been allocated for this award. One grant will be awarded competitively with a budget period of twelve (12) months for the completion of this project.

Due Date

Applications must be received by mail or delivered to OJJDP by June 21, 1993.

Contact

Jeffrey Slowikowski, Research and Program Development Division, (202) 307–0586.

Hate Crime Prevention: A Juvenile Justice Approach

Purpose

To support programs and efforts to prevent and reduce the incidence of hate crimes by juveniles.

Background

According to a 1992 report by the National Institute Against Prejudice and Violence (NIAPV), attacks against people because of their religion, sexual orientation, race, or ethnicity leave deep fractures in the fragile surface of our social structure. Violence and intimidation debilitates the lives of its victims and disrupts the stability of communities. Physical assaults and murder are the most brutal of crimes which include vandalism, arson, verbal harassment, and other aggressive acts.

Alarmingly, studies find the spread of ethno-violence or hate crimes is epidemic. In 1992, it was estimated that over one million college students suffered hate crime attacks. NIAPV estimates that at least ten percent of the U.S. population, or more than 25 million people, are annually victimized by some form of ethno-violence.

A 1987 report by the National Criminal Justice Association also reported that the number of crimes committed each year is unknown because many incidents go unreported, and many others are misclassified. What is obvious, however, is that at least half the people arrested for hate crimes are juveniles or young adults between the ages of 16 and 25. For example, arrest records indicate that 70 percent of hate crimes in New York City during a seven-year period have been charged to youths under 20 years of age.

Verbal intimidation, assault, and vandalism are the most commonly reported forms of hate violence. The data indicate that victims of reported offenses most often are blacks, Hispanics, Southeast Asians, gays and lesbians, and Jews.

A study by NIAPV reported that youth problems are often magnified by the fact that we live in a violent society. Violence as a response to stress, fear, insult, or even the need for recreation seems to become more acceptable with each generation. Educators, social services, and correction workers agree that there is a need to provide education and basic conflict mediation skills for youths as a way of prevention and treatment for offenders. Surveys suggest that criminal justice agencies have not recognized the seriousness of hate crimes among juveniles. Some say that these incidents are seen as juvenile pranks, harmless vandalism, or private

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matters between the involved parties. In some instances, criminal justice personnel ignore the hate component of an incident because they feel that a crime is a crime, regardless of motivation.

OJJDP recognizes the need to provide assistance in addressing the prevention and treatment of hate crimes committed by juveniles. This effort will seek to document current educational and treatment efforts and to make this information available to the field in the form of a curriculum that can be used by practitioners.

Goals

- To assist the field in the implementation of programs to prevent hate crimes; and
- To assist the field in the development of effective treatment sanctions as an alternative to incarceration for perpetrators of hate crimes.

Objectives

- To identify and assess existing training and educational curriculum materials;
- To develop a multipurpose curriculum that is appropriate for general educational, institutional, or other placement settings; and
- To develop sentencing options as alternatives to incarceration for perpetrators of juvenile hate crimes.

Program Strategy

OJJDP solicits proposals from applicants to assist in the development of an educational curriculum designed to prevent and offer guidance to youths who commit hate crimes. Applicants should be creative in their implementation approach. The project will cover a one-year budget period. However, the program could expand and develop into a demonstration initiative. OJJDP will base their decision to expand on the results of the "Hate Crime Study" funded under a separate OJJDP initiative. Up to $50,000 is available for this award.

Applicants are to develop their own strategy and budget for achieving the objectives identified in this initiative. The strategy and implementation plan must not exceed one year and must include at a minimum the following tasks:

- The successful applicant will perform a survey to identify and assess the educational programs and curriculum used in the field to educate youths about the events of bias related crimes;
- The successful applicant must prepare a detailed report on the survey and assessment with specific reference to program models which may offer dispositional alternatives for judges who adjudicate juveniles who commit hate crimes; and
- The successful applicant will produce a multipurpose curriculum that is appropriate for educational, institutional, or other placement settings.

OJJDP encourages applicants to identify any other tasks that they can perform which will improve the overall effort and that can be performed during the allowed timeframe with the available funds. The applicant must list and explain activities and the products that will be produced during this initiative.

Eligibility Requirements

Eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

Products

- The report on the survey and assessment; and
- The multipurpose curriculum.

Eligibility Requirements

Eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

Award Period

The program period for this cooperative agreement is one year.

Award Amount

A grant of up to $50,000 will be allocated to the successful applicant.

Due Date

All applications must be received by mail or delivered to OJJDP by June 21, 1993.

Contact

For further information contact Ms. Travis Cain, Program Manager, Special Emphasis Division, (202) 307–5914.

Due Process Advocacy Program Development

Purpose

To develop approaches for improving due process and the quality of representation for juvenile delinquents in the juvenile justice system.

Background

Section 261(a)(3) of the JJDP Act, as amended, states that the Administrator shall make grants for "establishing or supporting advocacy programs and services that encourage the improvement of due process available to juveniles in the juvenile justice system and the quality of legal representation for such juveniles." For several years, OJJDP has supported a successful program to provide court-appointed special advocates for abused and neglected children. However, OJJDP has not funded a program designed to ensure due process and improve the quality of legal representation to alleged or adjudicated noncriminal or criminal-type offenders.

Although the Supreme Court's decisions of In Re Gault, 387 U.S. 1 (1967), and other cases, have established a series of due process rights guaranteed to juvenile offenders, including the right to counsel, these rights are not always made available. For example, studies show that in a majority of cases, juveniles are not represented by counsel at the adjudicatory hearing (Feld, 1988 and 1991). "Moreover, many juveniles who receive out-of-home placement and even secure confinement were adjudicated delinquent and sentenced without the assistance of counsel" (Feld, 1988). In sum, there are major problems with access to and availability of counsel, and even when juveniles are represented, substantial questions are raised about the quality of that representation.

While studies indicate that represented youths fare worse in the system when the ultimate outcome of a case is considered (Feld 1988), these studies do not examine in any detail the quality of the representation received or such factors as the qualifications of the lawyers or whether the lawyers are trained to represent these youths in the juvenile court.

OJJDP believes that strategies to increase access and availability of counsel, the development of effective training for juvenile advocacy, increased emphasis on juvenile law and advocacy courses in law schools, and other strategies will make a difference in the due process protections that juvenile offenders receive. These developments would positively affect the ultimate

dispositions for juvenile offenders that are involved in juvenile misbehavior or criminal activity.

This effort will establish a base for a multiyear program that will improve juvenile offenders' access to legal services and will improve the quality of those services at the preadjudication and adjudicatory points in juvenile justice system proceedings.

OJJDP, through this request for applications, seeks an organization or agency to cooperate with OJJDP to develop a strategy to meet the goals and objectives of this effort. OJJDP will make $100,000 available for the first year and at least that sum for each of two additional years. The task of the applicant(s) is to develop the most cost-effective and comprehensive plan to increase access to legal services and improve the quality of legal services for juvenile offenders. The applicant must detail how it would implement this program, what resources would be used, key staff responsible for the development, and the timeframes for accomplishing the key tasks.

Goals

- To increase juvenile offenders' access to legal services; and
- To improve the quality of preadjudicated, adjudicated, and dispositional advocacy for juvenile offenders.

Objectives

- To develop strategies for a program that can be made available to State and local bar associations and other relevant organizations so they can develop approaches to increase availability of defense counsel;
- To develop comprehensive training materials and a training program that can be delivered through State or local bar associations and other relevant organizations to train lawyers, judges, and others who may assist defense lawyers;
- To test this program in several States and make appropriate adjustments in the materials and training program;
- To develop a marketing or distribution process so that the program can be transferred to State and local bar associations and other relevant organizations; and
- To finalize the training materials and training program and distribute it to State and local bar associations and other relevant organizations.

Program Strategy

OJJDP expects that the program period will be up to three years with initial funding of $100,000 for the first year.

Applicants must provide a comprehensive discussion of the first year's activities that are designed to achieve the goals and objectives of this program and then outline a plan for the succeeding year(s).

Applicants should address how they will develop strategies for increasing availability of defense counsel. Applicants must also discuss how they will creatively address enhancing the quality of representation for juveniles in States and localities.

Applicants must be specific about the tasks they can accomplish in the first year with the available funds. The applicant must list and explain the activities to be accomplished and products to be produced in the first year and provide an overview of the tasks to be accomplished and the products developed for the subsequent year(s).

Applicants must establish an advisory committee which will provide comments and recommendations regarding the strategies, activities, and products for this program.

Products

Applicants should describe what they believe are the most appropriate products to be developed under this initiative to achieve the goals and objectives. Applicants should describe the nature of the products and how they will be used to transfer knowledge to State and local levels and other relevant organizations.

References

- Feld, Barry, "In Re Gualt Revisited: A Cross State Comparison of the Right to Counsel in Juvenile Court," Crime and Delinquency, Vol. 34 No. 4, 1988, pp. 393–424.
- Feld, Barry, "Justice by Geography: Urban, Suburban, and Rural Variations in Juvenile Justice Administration," The Journal of Criminal Law and Criminology, Vol. 82, No. 1, Spring 1991, pp. 156–210.

Eligibility Requirements

Applications are invited from public and private non-profit organizations that can demonstrate knowledge of and experience with survey research, training and technical assistance and legal services for juvenile offenders in this country. Joint proposals by two applicants are welcome, provided one organization is designated as the primary applicant and the other as co-applicant. The primary applicant must serve as the fiscal agent for the grant. In addition, eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

Award Period

The program period for the Due Process Advocacy Development program is three years. One cooperative agreement will be awarded with an initial 12-month budget period.

Award Amount

Up to $100,000 has been allocated for the initial award budget period. Support for the remaining two project budget periods will be determined by the performance of the grantee, the program development needs as determined be OJJDP, and the availability of funds.

Due Date

Applications must be received by mail or delivered to OJJDP by July 6, 1993.

Contact

For further information contact Douglas C. Dodge, Special Emphasis Division, (202) 307–1150.

Investigative Case Management for Missing Children Homicides

Purpose

The purpose of this project is to improve the investigative procedures in cases of homicides of abducted children.

Background

Approximately 150 murders of abducted, missing children are investigated in the U.S. each year. The investigative procedures for missing child homicides are unique because these children are special, vulnerable, and often targeted victims who have been abducted and killed by unusually dangerous and frequently repeated rapists or killers. The case of a missing child causes the community to put uncommon pressure on law enforcement for a quick, sure solution—especially if the missing incident has suspicious overtones, or the child's body is found. These circumstances, coupled with family and community pressure, can often lead to the use of hasty, unproductive investigative procedures that may hamper, delay, and possibly prevent a successful investigation to find the child or to apprehend the abductor or killer.

Over the past two years the National Center for Missing and Exploited Children (NCMEC), Case Management and Information Analysis Unit, has

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received more than 200 child homicide case summaries from local law enforcement agencies on investigations in which missing children have been murdered and a subsequent arrest and conviction has resulted. These 200 cases span ten years, and in most of these cases, NCMEC assisted local authorities and parents to locate the missing child. Local law enforcement authorities have also offered NCMEC information on the investigative techniques of other cases that have not been analyzed. It is anticipated that these two groups of cases will be the ones that are initially analyzed in this effort. There is a recognized need in the field for a tested instructional guide for the investigation of missing children homicides.

The product of this investigative analysis of missing child homicides will be a useful additional tool to the NCMEC's "Investigator's Guide to Missing Child Cases."

Goal

To improve investigative procedures in the murders of abducted children to manage, conduct, and solve individual and serial child murder investigations more effectively and quickly and thereby increase the probability of apprehending the abductor and/or murderer.

Objectives

- To identify and assess the organization of investigative resources, the gathering and examination of evidence, and the use of helpful forensic techniques that will aid the productive investigative procedures of local law enforcement officials;
- To develop an investigative process to determine if two or more children were murdered by the same person(s) in order to enhance the coordination of murder investigations among law enforcement agencies;
- To create a resource management guide for missing child homicide investigations;
- To assist the OJJDP training activities through the National Law Enforcement Training Program (NCMEC) and the Missing and Exploited Children Comprehensive Action Program (M/CAP) to implement a training and technical assistance program for missing child homicide investigations for State and local law enforcement; and
- To develop a national volunteer technical assistance program for local investigations through the NCMEC's Project ALERT (America's Law Enforcement Retiree Team). This program will provide the on-site technical assistance of volunteer veterans to local jurisdictions in child murder investigations. Project ALERT is comprised of a retired veteran law enforcement investigators. NCMEC provides specialized training, travel, and subsistence allowances for these investigators, where their assistance has been requested, to furnish on-site investigative technical assistance in missing children cases, especially where foul play and a homicide may be involved.

Program Strategy

The applicant's initial work task priority over the three-year project period will be to seek out and work with law enforcement and criminal justice organizations throughout the United States to secure their cooperation and investigative case file information on successful abducted and missing child murder investigations.

(1) The first year's activity will be to gather the relevant cases; assemble the case file information into formats for survey and analysis; and, where possible, interview the investigators of the selected cases.

(2) The second major work task will be to analyze the collected information and investigator interviews of approximately 400 case files of successful murder investigations of missing children. The applicant will examine the characteristics of these single or serial child murder investigations that may have contributed to a notable conclusion to the investigative process and determine if two or more murders were committed by the same person(s). These data and their analyses will provide the first rigorous investigative field examination to determine the critical factors that help solve singular and/or serial child or mixed age murder cases and have led to the apprehension, prosecution, and conviction of missing child abductor murderers. The second task (during the second year of the project) will be to develop an investigative information base for subsequent modeling of the investigative techniques. This will be translated into a working draft of the investigative guide.

(3) The third and fourth tasks of the project will start and take place during the latter part of the second year of the project and continue into the third year of the project. These tasks are:

(a) To field test the draft investigative guide through monitoring of selected abduction homicide cases;

(b) With the assistance of OJJDP, through the National Law Enforcement Training Program, NCMEC, M/CAP, and Project ALERT personnel, to replicate the training and use of the investigative techniques developed by the project at a national level.

Products

1. A missing child homicide investigation guide that will include information on how an investigator organizes the vital first steps of an investigation, including the following:

a. An investigator ascertains what information sources should be employed, contacted, requested to assist, when, and in what order;

b. An investigator eliminates clues and evidence that have little chance of providing fruitful investigative results;

c. An investigator best uses and deploys resources assigned to the investigation; and

d. An investigator identifies the most relevant evidence that case experience has shown to be most useful in solving crime.

2. The applicant, after analyzing the cases involved in this investigative analysis project, will develop and provide documented instructional material that will be reviewed, edited, and published by OJJDP through NCMEC for national training and technical assistance purposes.

3. The investigative manual will enable trainers to train Federal, State, and local law enforcement on improved technique for the investigation of missing children homicides.

Eligibility Requirements

Eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

Award Period

The program period for the cooperative agreement supporting the Investigative Case Management for Missing Children Homicides program is three (3) years. One cooperative agreement will be awarded with an initial budget period of 12 months.

Award Amount

Up to $150,000 has been allocated for the first budget period of twelve months. Commensurate financial support for the remaining two project budget periods will be determined by the performance of the grantee and program development needs as determined by the Administrator of OJJDP and/or the availability of funds.

Due Date

Applications must be received by mail or delivered to OJJDP by July 6, 1993.

Contact

For further information contact Robert O. Heck, Special Emphasis Division, (202) 307–5914.

A Study of the Effectiveness of Private Investigators in Locating and Recovering Parentally Abducted Children

Purpose

To study the factors related to employing a private investigator by the searching parent in cases of parentally abducted children.

Background

According to the recent study, "Obstacles to the Recovery and Return of Parentally Abducted Children," sponsored by the OJJDP, a private investigator was employed in less than 30 percent of parental abduction cases. In most cases, a combination of factors motivated the parent to hire a private investigator. First, the parent overwhelmingly desired to do everything possible to recover the missing child. Second, the parent felt dissatisfaction with the local law enforcement efforts. For the searching parent who used a private investigator, the level of satisfaction with this decision varied.

The majority of parents who hired private investigators reported little or no satisfaction with the efforts of the investigators. However, one-third of the parents reported being very satisfied with the investigator's efforts. The study did not reveal the factors that distinguished those satisfied from those not satisfied. Also, the factors that led parents to select one private investigator over another were unclear. Previous research did not report on particular case factors that would have influenced parental decisions to employ a private investigator.

Goals

To provide information on cases of parental abduction in which the searching parent seeks the assistance of a private investigator in locating the missing child.

Objectives

- To identify from a random sample of parental abductions those cases where parents had employed a private investigator to search for the missing child or children;
- To survey missing children clearinghouses, agencies, and related organizations to determine their policies, guidelines, and/or views on the use of private investigators;
- To list the factors parents use in selecting private investigators;
- To identify the characteristics of the parents who have employed private investigators and compare them to those searching parents who have not;
- To identify the circumstances around abduction cases in which a private investigator was employed and those in which one was not; and
- To describe the factors that led the parents to feel satisfaction or dissatisfaction with the performance of private investigators.

Program Strategy

- TASK I. The grantee should review pertinent literature concerning the issue of missing children who were parentally abducted. The grantee should identify missing children agencies or organizations, both private and public at State and Federal levels, that provide services or information in the search for missing children. The literature and advice they provide searching parents should be reviewed to identify recommendations, if any, concerning the use of private investigators. When no such statement exists regarding the use of private investigators, further inquiries should be made to the specific organization to ascertain why.
- TASK II. Task II will require the grantee to draw a sample of missing children cases that involved parental abductions. The sample should be large enough to allow for the study of cases that used private investigators. The demographic information should concentrate on the searching parents. Case information should detail particular events, evidence, and leads in the search for the missing child as well as pertinent characteristics of the abducting parent. Also, parents' data should be collected on the factors that lead to their satisfaction or dissatisfaction with their decision to employ a private investigator.

Products

- An interim report for OJJDP to determine the quality and volume of information available on this issue.
- A final report at the project's end detailing the findings of the project. The final report should include the following:

(1) The review of literature from Task I, including material concerning private investigators that the various missing children agencies distribute;

(2) The factors that influence the use of private investigators and satisfaction or dissatisfaction with them as required in Task II;

(3) The factors, presented in a hierarchy from least to most important with an accompanying narrative explanation, that affect parental satisfaction or dissatisfaction in the employment of private investigators;

(4) The conclusions and recommendations based on the data collected and ensuing analysis concerning the use of private investigators in cases of parentally abducted children;

(5) Other pertinent information not anticipated; and

(6) A separate executive summary.

Reference

- Girdner, L. and Hoff, P. (eds.), "Obstacles to the Recovery and Return of Parentally Abducted Children," draft final report, OJJDP Grant 90–MC–CX–K001, 1992.

Eligibility Requirements

Eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

Award Period

The budget period will be 12 months.

Award Amount

Up to $100,000 will be awarded for the completion of the project in the 12-month budget period.

Due Date

Applications must be received by mail or delivered to OJJDP by June 21, 1993.

Contact

Jeffrey Slowikowski, Research and Program Development Division, (202) 307–0586.

Issues in Resolving Cases of International Parental Abductions of Children

Purpose

To examine the issues and processes, institutional and cultural, encountered by searching parents in international parental child abductions.

Background

Our society has become more mobile and the number of Americans married to people born in other countries has increased in recent years. The problems

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encountered by searching parents whose children have been abducted by the children's other parent are compounded by the difficulties of dealing with the multiple legal systems and cultural issues when the abduction is extended to a foreign country. As of this date, 28 countries have adopted the treaty, The Hague Convention on the Civil Aspects of International Child Abduction (Hague Convention), a treaty designed to deter these abductions by assisting with the return of the children and the securing of visitation rights. In 1992, the State Department's Child Custody Division, the United States' central authority under the Hague Convention, handled 664 cases of children taken from the United States to Hague Convention countries. Of these 664 cases, 40 percent resulted in a favorable resolution, i.e., either voluntary or court-ordered return or access; 34 percent remained in process; and 20 percent resulted in no action, either because the child could not be located, the application was withdrawn, or it was determined that the Convention did not apply. Only five percent of the cases resulted in a denial of the request for return or access. The Child Custody Division estimates that when abductions are to non-Convention countries, the success rate is from 20 to 25 percent.

Goal

To provide OJJDP and others with information on the problems encountered by parents residing in the U.S. who seek the recovery of children taken or retained by the other parent across an international border in breach of rights of custody or of access (visitation rights). This information will help OJJDP and others develop approaches and programs to overcome those problems.

Objectives

- To examine the issues and obstacles encountered in the recovery of children when the foreign country is party to the Hague Convention compared to those encountered when the country is not a party to the Convention;
- To assess the effectiveness of the Hague Convention in obtaining the return of parentally abducted children; and
- To assess the problems, the origins of which are not legal, that occur when children are parentally abducted across international borders.

Program Strategy

Through surveys and interviews with families who have had a child abducted to another country, the project will explore: (1) the nature of these cases, (2) the processes by which parents attempt to locate and recover their children, and (3) the difficulties of negotiating with the various systems in both the United States and the country to which the child has been taken. Although legal issues will be examined, the focus of this project will not be limited to legal issues. The study sample should involve a variety of cases, including cases resolved under the Hague Convention, and cases involving non-Hague Convention countries.

An advisory group should be established to provide expert advice on potentially productive lines of investigation and on methodological and practical problems which may be encountered in collecting and analyzing data. The advisory group should be kept small (approximately three) and should be composed of individuals who have demonstrated expertise in the area of international child abductions.

Products

This project will produce a final report which describes the research strategies and methods employed, presents issues and obstacles identified from the data collected, and makes recommendations to solve these problems. A separate executive summary should be included with the final report.

Eligibility Requirements

Eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

Award Period

The budget period will be 12 months.

Award Amount

Up to $200,000 has been allocated for the copy of this project in the 12-month budget period.

Due Date

Applications must be received by mail or delivered to OJJDP by June 21, 1993.

Contact

Eric Peterson, Research and Program Development Division, (202) 307–5929.

Criminal Justice Response to Parental Abduction Cases

Purpose

This study will assess parental abduction case processing and decision making in the justice system.

Background

Section 404(b)(3) of the JJDP Act, as amended, 42 U.S.C. 5773(b)(3), requires OJJDP to conduct periodic national incidence studies to determine for a given year the actual number of children who are victims of parental kidnapping. In response, the National Incidence Studies of Missing, Abducted, Runaway & Thrownaway Children (NISMART I) estimated that there were 354,100 family abduction cases in 1988 (Finklehor, Hotaling & Sedlak, 1990). Of these cases, 46 percent were serious in that they involved: (1) An attempt to conceal the child or to prevent contact with the child, (2) transportation of the child out of State, or (3) an attempt to keep the child indefinitely or to permanently alter custodial privileges. In one out of ten cases the child was removed from the State. In about one-third of the cases, there was an attempt to conceal the child's whereabouts. The researchers also found that in one-half of family abductions, the caretakers did know where the children were most of the time. Returning the child to proper custody was a greater problem than not knowing the whereabouts of the child.

A recent OJJDP study discusses the significant trauma and long-term distress experienced by the families, left-behind siblings, and children of parental abductions (Center for the Study of Trauma, Families of Missing Children: Psychological Consequences, 1992). Over 57.6 percent of the recovered children experienced symptoms of anxiety, 51.5 percent changes in eating habits, and 42.7 percent experienced nightmares. Another OJJDP study interviewed parents and/or caretakers and found 58 children who were victims of parental abductions, many of which appeared to be serious cases. In 55 percent of the cases, the abducting parent concealed the child; in 42 percent, threatened or demanded something of the complainant parent; and in 21 percent, took the child out of State (Research Triangle Institute, 1992). Interviews with caretakers also revealed that officers took a report nine out of ten times. Seventy-one percent (71%) of the caretakers rated the length of time it took for an officer's initial response as very good or excellent. Fifty-eight percent (58%) of the caretakers rated police efforts to recover their child as very good or excellent.

Parental abductions frequently happen in the context of custody disputes or visitation proceedings and are generally handled by civil courts. However, every State and the District of Columbia has implemented some form of criminal custodial interference statute. Many States have re-classified parental abduction crimes as felonies, and Federal laws mandate a role for law enforcement in the reporting of missing children, including parentally abducted children. Complicating factors, however, may prevent the pursuit of criminal parental abduction charges.

Prior OJJDP funded research identifies several obstacles to the recovery and return of parentally abducted children (Girdner & Hoff, 1992). First, many law enforcement officers are hesitant to "pick up" the child or to accompany a parent to recover a child without clear statutory authority or an order from a court of their State. Second, State laws vary as to whether parental kidnapping is considered a felony or a misdemeanor. In many States, parental abduction becomes a felony only after the child is transported across State lines. Third, in several States, it appears that law enforcement officers allocate a low priority to parental abduction investigations. Finally, training and experience in the location and recovery of parentally abducted children is limited.

The researchers also identify several obstacles to the prosecution of such cases. For instance, the prosecution of parental abduction cases received a low priority within the criminal justice system, and the lack of knowledge of applicable laws and lack of experience on the part of many attorneys and judges emerged as major obstacles.

Current OJJDP efforts regarding parental abduction cases are aimed at developing publications; disseminating informational and training materials to the criminal justice field; providing training for investigators and prosecutors; providing ongoing technical assistance to investigators and prosecutors on specific cases; and developing model sentencing guidelines to inform judges of potentially harmful factors in abduction cases, such as the motivation for the abduction, changing a child's name, keeping a child out of school, and telling a child that the other parent does not want them or is dead.

Even with these cumulative studies and research efforts, there appears to be a lack of knowledge regarding actual case processing and court dispositions. Are parental abductors being arrested? Which parental abduction cases get referred to the district attorney's office? Which cases get prosecuted? And what are the court dispositions of these cases?

This project will track parental abduction cases from their official point of entry into the justice system to disposition and will examine the variations in dispositions of parental abduction cases. Case studies will track cases and perpetrators through initial investigation to case disposition.

Goals

- To provide an examination and description of the justice system processing of parental abduction cases; and
- To identify promising approaches in dealing with parental abduction cases in the justice system.

Objectives

- To provide a synthesis of the most recent research relevant to parental abduction case processing in the justice system;
- To develop a detailed design for conducting a multi-site study of justice system case processing;
- To develop a data collection plan and field-tested instrument;
- To conduct a multi-site study of parental abduction case decision making and processing in the justice system, using the data collection instrument and conducting other data collection activities; and
- To prepare a comprehensive report including results, implications, and descriptions of policies and organizational approaches to handling parental abduction cases.

Program Strategy

Applicants should familiarize themselves with recent OJJDP studies and programs. The applicant should provide the design for the study and detailed criteria for site selection. Applicants must ensure adequate representation of parental abduction cases in their proposed study. The project should be conducted in more than one site and the size of the jurisdictions should vary. The detailed design and site selection will be among the first tasks of the project.

Applicants should provide a discussion of research questions which will serve as a basis for the data collection instrument. Issues to consider include a comparison of cases in the criminal justice system with cases handled in the civil justice system; the proportion and characteristics of cases referred to the district attorney's office; the proportion and characteristics of cases receiving sentences; the proportion of cases mediated and/or diverted from the justice system; and the proportion of cases involving physical and/or sexual abuse.

Parental abduction cases will be tracked during the 30-month project to gain an understanding of the processes, decisions, dispositions of cases, and the factors in cases that affect these decisions, including the length of the abduction, primary motivation for the abduction, and allegations of child abuse, and organizational structure and resources for handling these cases. Interviews will be conducted with justice system professionals to understand and describe each site's policies and programs.

The project should investigate the various stages of the process, including initial contact, police screening, referrals for prosecution, diversion, court proceedings, court dismissals, pleas, trials, acquittals, sentencing and final disposition. The project should address issues such as the relationship between local and Federal law enforcement, the amount of information lost in case processing, and the degree of agreement on a case between police and prosecutor. The project should emphasize both felony and misdemeanor parental abduction cases, and should also identify promising approaches to handling parental abduction cases.

The project also calls for a project advisory board comprised of at least three outside experts in the field of parental abductions. Members of the advisory board will provide both substantive and technical advice in the areas of parental abductions and research methodology. The selection of advisory board members will be coordinated with and approved by OJJDP.

Products

- Summary of recent research and literature. The grantee will provide a synthesis of the most recent research and literature relevant to parental abduction case processing in the justice system.
- Revised workplan. Initially, a detailed workplan should be submitted in the application, describing the project's methodology, activities, timetable for completion of tasks and activities, milestones, and products. As a product of the grant award, the grantee must submit a revised workplan which addresses all program objectives and activities and which reflects the input of OJJDP and the advisory board members. Included in the revised workplan should be a publication and dissemination strategy, outlining the

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products to be published and their respective audience.

• Data collection plan and instrument.

• Case studies. Case studies from each site will include an analysis of case processing and decision making, conclusions, and recommendations for processing parental abduction cases.

• Article for publication. The grantee will provide an article-length summary of the project's results, suitable for OJJDP publication, that informs policymakers, professionals, and researchers.

• Draft final report. The report will contain an the synthesis of literature, a detailed summary of the work undertaken during the course of the project, and a separate executive summary.

• Final report. In the final report, the grantee will incorporate modifications recommended by OJJDP and the project advisors, as appropriate.

References

• Center for the Study of Trauma, University of California, San Francisco, "Families of Missing Children: Psychological Consequences," draft final report, OJJDP Grant 87–MC–CX–0027, 1992.

• Center for the Study of Trauma, University of California, San Francisco, "Reunification of Missing Children," draft final report, OJJDP Grant 88–MC–CX–K002, 1992.

• Research Triangle Institute, Research Triangle Park, NC, "The Police and Missing Children: Findings From a National Survey," OJJDP Grant 86–MC–CX–K036, 1992.

• Finklehor, D., Hotaling, G., and Sedlak, A., "Missing, Abducted, Runaway & Thrownaway Children in America, First Report: Numbers & Characteristics, National Incidence Studies," OJJDP, Washington, DC, 1990.

• Girdner, L., and Hoff, P. (eds.), "Obstacles to the Recovery & Return of Parentally Abducted Children," draft final report, OJJDP Grant 90–MC–CX–K001, 1992.

• References will be available from the Juvenile Justice Clearinghouse, (800) 638–8736.

Eligibility Requirements

Eligible applicants must meet the requirements stipulated in the **SUPPLEMENTARY INFORMATION** section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the **SUPPLEMENTARY INFORMATION** section of this Notice.

Award Period

The project will be funded for a 24-month project period.

Award Amount

The award amount will not exceed $450,000 for the entire project period (24 months).

Due Date

Applications must be received by mail or delivered to OJJDP by June 21, 1993.

Contact

Pam Cammarata, Research and Program Development Division, (202) 307–5929.

Missing Children's Field-Initiated Program

Purpose

Through the Field-Initiated Program, OJJDP encourages eligible parties to develop promising, new ideas relevant to the mission of OJJDP's Missing and Exploited Children's Program. These ideas may include either a research, a demonstration, or training programs.

Background

Customarily, the Missing Children's Program has sponsored initiatives that were either mandated by Congress or by agency priorities. In both cases, applicants were limited to proposals which responded to specific requests by OJJDP. Thus, other imaginative and innovative approaches of researchers and practitioners were not presented to OJJDP. Through the Field-Initiated Program, OJJDP welcomes concept papers which address but are not limited to the Missing and Exploited Children's Program priority areas authorized in section 405(a) of the JJDP Act, as amended, 42 U.S.C. 5775(a). Eligible projects in these areas may include either a research, a demonstration, or a training program designed with the following goals:

• To determine what impact family violence has on custody decisions and noncustodial parental abductions;

• To address the needs of missing children taken into protective custody by social service agencies, including options for the successful resolution of these cases;

• To increase knowledge and develop effective intervention and investigation practices with respect to allegations of child abuse in parental abduction cases;

• To study the methodology and typology of parents who abduct their children as well as the family members and friends who assist them;

• To increase knowledge and develop public service announcements for media aimed at public education and awareness of the psychological and legal consequences of parental abduction;

• To support secondary analyses of existing missing children databases; and

• Any other issues within the scope of section 405(a) of the JJDP Act.

Goal

To seek innovative concept papers from researchers and practitioners relevant to, and not already required by, the current Missing and Exploited Children's Program plan.

Objectives

• To promote and support either a research, a demonstration, or a training program which address innovative approaches toward improving existing practices and policies related to activities identified in Section 405(a) of the Missing Children's Act;

• To encourage new methods for dealing with the current priority problems; and

• To develop knowledge that will lead to new techniques, approaches, and methods addressing the problems of missing and exploited children, and the prevention and deterrence of abduction and sexual exploitation.

Program Strategy

The Field-Initiated Program solicits innovative concept papers that define the needs and/or problems of missing children, and describe the objectives, strategy, and methodology to be employed. OJJDP will select the most promising concept papers submitted and invite full applications for competition.

Applicants should submit a concept paper of no more than ten (10) double-spaced, typed pages.

Products

The applicant must provide detailed information on the specific products which will result from the research, the demonstration, or the training program described in their concept paper.

Eligibility Requirements

Eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

Award Period

The grant period will be up to 18 months.

Award Amount

The total amount available is $300,000. Application budgets should not exceed $100,000. Award amounts will be subject to negotiation.

Due Date

Concept papers must be received by mail or delivered to OJJDP by June 7, 1993. OJJDP will notify selected applicants within fifteen (15) days of the receipt of the concept paper. OJJDP will invite only these selected applicants to submit full applications for competition. The full application must be received by mail or delivered to OJJDP by July 20 1993.

Contact

For further information contact Marilyn Landon, Research and Program Development Division, (202) 307–0586.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

I certify that the foregoing is a true and correct copy of the original document.

Olga R. Trujillo,

Acting General Counsel, Office of Justice Programs.

[FR Doc. 93–10728 Filed 5–5–93; 8:45 am]

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Part VIII

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Muckleshoot Indian Tribe; Notice

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming; Muckleshoot Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved tribal-state compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary-Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compact for Class III Gaming Between the Muckleshoot Indian Tribe and the State of Washington, enacted on February 19, 1993.

DATES: This action is effective upon date of publication.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: April 23, 1993.

Thomas Thompson,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 93–10693 Filed 5–5–93; 8:45 am]

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federal register

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Part IX

Department of Commerce

Economic Development Administration

Economic Adjustment Assistance Programs, Availability of Funds; Notice

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DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 930495-3095]

Economic Adjustment Assistance as Described in Public Law 102-484, Section 4305 of Division D—National Defense Authorization Act for Fiscal Year 1993; Availability of Funds

AGENCY: Economic Development Administration (EDA), Department of Commerce (DOC).

ACTION: Supplementary notice.

SUMMARY: The Economic Development Administration (EDA) announces the policies and application procedures for funds available beginning in FY 1993 to support economic adjustment assistance programs and projects designed to assist substantially and seriously affected communities to facilitate their orderly transition from economic reliance on Department of Defense (DOD) spending to economic reliance on other sources of business, employment and revenue.

FOR FURTHER INFORMATION CONTACT: The appropriate EDA Regional Office or the Director, Economic Adjustment Division, Economic Adjustment Division, Economic Development Administration, room 7327, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482-2659.

SUPPLEMENTARY INFORMATION:

Funding Availability

Funds in the amount of $80.0 million are available for this program and shall remain available until September 30, 1994.

Note: EDA announced in the **Federal Register** of March 10, 1992 (57 FR 8544), the availability of $50.0 million for defense adjustment, such funds to remain available until obligated and expended. The Application Procedures in this notice supersede the Special Application Procedures set forth in the Notice of March 10, 1992, and apply to the unobligated balance of those original funds as well as the additional $80.0 million covered herein.

Funding Instrument

Funds will be awarded through grants under the Sudden and Severe Economic Dislocation (SSED) program under title IX of the Public Works and Economic Development Act of 1965, as amended (Pub. L. 89-136). Application procedures, competitive selection criteria and post approval project implementation information for the SSED program are applicable to the awards of this supplemental defense adjustment assistance and are described in Part IV, of the **Federal Register** of January 11, 1993 (58 FR 3800), notice of Availability of Funds for FY 1993.

Eligible Applicants

Eligible applicants include a redevelopment area or economic development district established under title IV of the Public Works and Economic Development Act, 42 U.S.C. 3161; an Indian tribe, state, city or other political subdivision of a state or a consortium of such political subdivisions; a Community Development Corporation defined in the Community Economic Development Act, 42 U.S.C. 9801; a nonprofit organization determined by EDA to be the representative of a redevelopment area; the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Guam, Puerto Rico, the Republic of the Marshall Islands, and the Virgin Islands.

All applications for the defense adjustment funds described in this Supplemental Notice must respond to a defense-related economic dislocation satisfying the criteria of A or B as follows:

A. DOD Criteria

(1) In the case of a proposed or actual establishment, realignment, or closure of a military installation, where the Secretary of Defense determines that such action is likely to have a direct and significantly adverse consequence on the affected community.

(2) In the case of a publicly announced planned reduction in DOD spending, the cancellation or termination of a DOD contract, or the failure to proceed with a previously approved major defense acquisition program, assistance may be provided only if the reduction, cancellation, termination, or failure will have a direct and significant adverse impact on a community and will result in the loss of the lesser of:

(A) 2,500 or more employee positions, in the case of a Metropolitan Statistical Area (MSA) or similar area (as defined by the Director of the Office of Management and Budget);

(B) 1,000 or more employee positions, in the case of a labor market area outside of an MSA; or

(C) One percent of the total number of civilian jobs in that area.

B. EDA Sudden and Severe Economic Dislocation Criteria

The dislocation must satisfy one of the following criteria provided that in exceptional circumstances, the criteria may be partially waived by the Assistant Secretary for Economic Development:

1. For areas not in MSAs:

(a) If the unemployment rate of the Labor Market Area exceeds the national average, the dislocation must amount to the lesser of two (2.0) percent of the employed population, or 500 direct jobs.

(b) If the unemployment rate of the Labor Market Area is equal to or less than the national average, the dislocation must amount to the lesser of four (4.0) percent of the employed population, or 1,000 direct jobs.

2. For areas within MSAs:

(a) If the unemployment rate of the MSA exceeds the national average, the dislocation must amount to the lesser of one-half (0.5) percent of the employed population, or 4,000 direct jobs.

(b) If the unemployment rate of the MSA is equal to or less than the national average, the dislocation must amount to the lesser of one (1.0) percent of the employed population, or 8,000 direct jobs.

In addition, fifty (50) percent of the job loss threshold must result from the action of a single employer, or eighty (80) percent of the job loss threshold must occur in a single standard industry classification (i.e., two digit SIC code). Actual dislocations must have occurred within one year and threatened dislocations must be anticipated to occur within two years of the date EDA is contacted.

Selection Criteria

See Part IV of the January 11, 1993 **Federal Register** Notice of Availability of Funds (58 FR 3800, 3808).

Application Procedures

Proposals for economic adjustment assistance authorized under section 4103(b) of Division D of Public Law 101-510 ($50 million), or section 4305 of Division D of Public Law 102-484 ($80 million), will be submitted to EDA. Interested parties should contact the Economic Development Representative for the area or the appropriate EDA regional office [see Section X of Part IV, of the January 11, 1993, **Federal Register** notice, 58 FR 3800] for a proposal package. Following a review of project proposals, EDA will invite those projects selected for funding consideration to submit applications. It should be noted that an invitation to apply does not assure funding. All awards are subject to the availability of funds. The application will include an ED-540, as approved by the Office of Management and Budget Control No. 0610-0058.

Dated: April 30, 1993.

Craig M. Smith,

Acting Assistant Secretary for Economic Development.

[FR Doc. 93-10738 Filed 5-5-93; 8:45 am]

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Thursday
May 6, 1993

Part X

Office of Management and Budget

Budget Rescissions and Deferrals; Notice

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OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To The Congress of The United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one proposed rescission in budget authority, totaling $180.0 million, and one revised deferral of budget authority, totaling $7.3 million.

The proposed rescission affects the Board for International Broadcasting. The deferral affects the Department of Health and Human Services. The details of the proposed rescission and the revised deferral are contained in the attached reports.

William J. Clinton

The White House,
April 20, 1993.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

RESCISSION NO.	ITEM	BUDGET AUTHORITY
	Independent Agencies:	
	Board for International Broadcasting:	
R93-1	Israel relay station	180,000
	Total, rescission	180,000

DEFERRAL NO.	ITEM	BUDGET AUTHORITY
	Department of Health and Human Services:	
	Social Security Administration:	
	Limitation on administrative	
D93-6A	expenses	7,317
	Total, deferral	7,317

R93-1

Independent Agencies

Board for International Broadcasting

Israel Relay Station

Of the available funds under this heading, $180,000,000 are rescinded.

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Rescission Proposal No. R93-1

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Board for International Broadcasting	New budget authority..... $ _____
BUREAU:	Other budgetary resources.. $ 193,400,000
Appropriation title and symbol: Israel Relay Station 95X1146	Total budgetary resources... $ 193,400,000
	Amount proposed for rescission.....$ 180,000,000
OMB identification code: 95-1146-0-1-154	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multi-year: _____ (expiration date) ☒ No-Year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: Funds in this account were provided for the construction of a new radio relay station in Israel. This proposal reflects the cancellation of the joint Board for International Broadcasting and Voice of America transmitter project in Israel. Funding in FY 1993 for a less costly, substitute project in Kuwait is requested in the FY 1994 Budget. The amount proposed for rescission is net of estimated termination costs.

ESTIMATED PROGRAM EFFECT: None

OUTLAY EFFECT: (in thousands of dollars):

1993 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998
32,742	14,772	-17,970	-59,671	-58,667	-43,692	---	---

Deferral No. D93-6A

Supplemental Report
Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D93-6, which was transmitted to Congress on October 1, 1992.

This revision increases by $49,543 the previous deferral of $7,267,051 in the Department of Health and Human Services, resulting in a total deferral of $7,316,594. The increase reflects recoveries of prior year obligations.

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Deferral No. 93–6A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93–344

AGENCY: Department of Health and Human Services	New budget authority.....
BUREAU: Social Security Administration	Other budgetary resources..... *$ 16,265,761
Appropriation title and symbol: Limitation on administrative expenses 1/ 75X8704	Total budgetary resources..... *$ 16,265,761
	Amount to be deferred: Part of year.....
	Entire year..... *$ 7,316,594
OMB identification code: 20–8007–0–7–651	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual [ ] Multi–year: (expiration date) [X] No–Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

JUSTIFICATION: This account contains the no–year funds appropriated to the Social Security Administration (SSA) for construction and renovation of SSA facilities, and for Information Technology Systems (ITS). It has been determined that obligational authority for construction projects in the amount of this deferral is not currently needed. Should new requirements arise, subsequent apportionments will reduce this deferral. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1992 (D92–5).

* Revised from the previous report.

[FR Doc. 93–10616 Filed 5–5–93; 8:45 am]
BILLING CODE 3110–01–C

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To revise the boundaries of the George Washington Birthplace National Monument, and for other purposes. (May 3, 1993; 107 Stat. 68; 2 pages)

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To designate the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week". (May 3, 1993; 107 Stat. 72; 2 pages)

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 89G–0384]

Direct Food Substances Affirmed as Generally Recognized as Safe; Chymosin Enzyme Preparation Derived From Aspergillus Niger Van Tieghem Variety Awamori (Nakazawa) Al-Musallam

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to affirm that the use of chymosin preparation derived by fermentation from genetically modified *Aspergillus niger* van Tieghem variety *awamori* (Nakazawa) Al-Musallam (*A. niger* var. *awamori*) is generally recognized as safe (GRAS). This action is in response to a petition filed by Genencor, Inc., now Genencor International, Inc.

EFFECTIVE DATE: May 7, 1993.

FOR FURTHER INFORMATION CONTACT: Vincent E. Zenger, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9523.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the procedures described in § 170.35 (21 CFR 170.35), Genencor International, Inc. (Genencor), previously known as Genencor, Inc., 180 Kimball Way, South San Francisco, CA 94080, submitted a petition (GRASP 9G0352) requesting that its chymosin preparation (referred to as "chymosin" in the notice of filing of the Genencor petition that FDA published in the **Federal Register** of October 4, 1989 (54 FR 40910)) be affirmed as GRAS as a direct human food ingredient. Genencor's chymosin preparation is derived from the fermentation of genetically modified *A. niger* var. *awamori*. Chymosin is the principal enzyme in rennet, a GRAS food ingredient that is used for its milk-clotting activity and that is primarily responsible for that activity. Chymosin preparation is intended for use as a substitute for rennet.

To avoid confusion between chymosin, the enzyme, and the chymosin-containing enzyme preparation (in which chymosin is the principal active component, but which may also contain impurities), this document will henceforth use the terms "chymosin" to refer to the enzyme and "chymosin preparation" to refer to the fermentation-derived chymosin enzyme preparation.

In the October 4, 1989, notice of filing, FDA gave interested parties an opportunity to submit comments concerning the subject chymosin preparation to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. FDA received three comments in response to the notice of filing. One of the comments offered a general opinion on the regulation of biotechnology-derived food ingredients, and the second expressed support for approval of the petition. Neither of these comments contained information relevant to the safety, functionality, environmental impact, or GRAS status of the food use of the chymosin preparation. The third comment, however, raised two issues that concern the evaluation of the chymosin preparation: (1) Whether the petitioner has incorrectly identified the host organism *A. niger* var. *awamori*; and (2) whether, because 10 percent of Genencor's chymosin is glycosylated, the safety of the glycosylated material itself must be evaluated on its own merit. The agency's evaluation of these issues is discussed later in this document.

II. Standards For GRAS Affirmation

Pursuant to § 170.30 (21 CFR 170.30), general recognition of safety may be based only on the views of experts qualified by scientific training and experience to evaluate the safety of substances. The basis of such views may be either: (1) Scientific procedures; or (2) in the case of a substance used in food prior to January 1, 1958, experience based on common use in food. General recognition of safety based upon scientific procedures requires the same quantity and quality of scientific evidence as is required to obtain approval of a food additive regulation and ordinarily is to be based upon published studies, which may be corroborated by unpublished studies and other data and information (§ 170.30(b)). As shown below, FDA has evaluated Genencor's petition on the basis of scientific procedures to establish that the petitioned chymosin preparation is GRAS.

Rennet is an animal-derived enzyme preparation that is GRAS as specified in § 184.1685 (21 CFR 184.1685). Therefore, if published information shows that the principal active component of the chymosin preparation is the same as that of rennet, and that the other components (i.e., impurities) of the chymosin preparation, which may differ from the other components (i.e., impurities) of rennet, do not render the use of the substance unsafe, then the chymosin preparation derived from *A. niger* var. *awamori* would present no more safety concern than rennet. In such circumstances, FDA can affirm the chymosin preparation derived from *A. niger* var. *awamori* as GRAS for use as a replacement for rennet.

III. Safety

A. Introduction

Chymosin, also known as rennin, is the principal milk-clotting enzyme present in rennet (Ref. 1). Rennet is an enzyme preparation that will clot milk, forming it into curds and whey (Refs. 1 and 2). It is used to make cheese and other dairy products. Rennet has a long and extensive history of safe use in food and has been affirmed by FDA as GRAS in § 184.1685 (48 FR 51151, November 7, 1983).

Food-grade rennet is an enzyme preparation that is isolated from the fourth stomach of calves, kids, or lambs. Commercially, it is generally derived by aqueous extraction from the fourth stomach of unweaned calves. The aqueous extraction step is followed by purification steps and an acidification step to cleave prochymosin (the inactive

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precursor of chymosin) in rennet into chymosin (Ref. 1).

There are two predominant forms of calf chymosin, chymosin A and chymosin B (Ref. 1). Foltmann et al. have shown that chymosin A and chymosin B differ by a single amino acid (Ref. 3). In this document, the term "chymosin" refers to either, or both, chymosin A and chymosin B.

Techniques developed in the early 1970's (frequently termed "recombinant DNA technology" or "cloning techniques") enable scientists to locate and to obtain a segment of deoxyribonucleic acid (DNA) containing a gene of interest. Scientists are also able to move that DNA segment into a vector (a DNA molecule that is easy to manipulate) and then introduce that segment into a new host organism where the segment can be correctly expressed (that is, produce the protein that it would have produced in the original organism). These techniques are well-known to molecular biologists (Refs. 4 and 5).

B. The Chymosin Component

Using cloning techniques, scientists in a number of different laboratories have identified the gene in the calf from which the chymosin in rennet is produced, i.e., the prochymosin gene (Refs. 6 through 8). Scientists have moved the calf prochymosin gene into *A. niger* var. *awamori* (Refs. 9 through 12) as well as into other microorganisms (Refs. 6 through 8 and 13 through 17).

These scientists have used a variety of techniques to demonstrate that they have cloned full-length copies of the correct gene. Such techniques include: (1) DNA sequencing, whereby the cloned putative prochymosin gene was shown to have the nucleotide sequence that encodes the amino acid sequence of prochymosin (Refs. 6 through 8); (2) nucleic acid hybridization, whereby the cloned DNA fragments or the ribonucleic acid (RNA) molecules transcribed from the DNA fragments were shown to hybridize (i.e., specifically bind) with complementary DNA in the prochymosin gene (Refs. 7, 8, and 13 through 16); and (3) physical mapping, whereby the cloned DNA segments were shown to be large enough to contain the prochymosin gene and, when digested with appropriate DNA-cutting enzymes and the resulting DNA fragments separated by size, were shown to yield the pattern of DNA fragments expected for the prochymosin gene (Refs. 7, 8, and 13 through 17).

The published evidence establishes that the new host organisms are able to use the prochymosin gene to produce prochymosin that has the same molecular weight as prochymosin found in calf rennet (Refs. 11 through 15 and 17 through 19). This evidence also establishes that the prochymosin that is produced (cloned prochymosin) can be cleaved into chymosin (cloned chymosin) that has the same molecular weight and the same functional activity as chymosin found in calf rennet (Refs. 11, 13, 14, and 16 through 19).

A number of techniques have been used to demonstrate that the chymosin produced by *A. niger* var. *awamori* is equivalent to calf chymosin, including: (1) Reaction with antibodies to calf chymosin, (2) amino acid composition analysis, (3) amino acid sequencing, and (4) specific activity determination (Refs. 9 through 12). The molecular weight of chymosin was determined, using sodium dodecyl sulfate polyacrylamide gel electrophoresis and tricine-sodium dodecyl sulfate polyacrylamide gel electrophoresis, techniques that enable one to determine the comparative molecular weight of proteins, based on their rate of migration through the gels. Cloned chymosin was found to migrate through these gels at the same rate as the chymosin found in rennet (Refs. 9 and 11), except for a minor band representing 10 percent of the molecules that are glycosylated (see discussion below) and that have a slightly higher molecular weight.

The functional activity of chymosin that was measured was milk-clotting activity. Cloned chymosin was found to clot milk at the same rate as the chymosin in rennet under various temperatures, salt concentrations, and pH conditions (Refs. 11 and 13 through 21).

One of the comments FDA received in response to the **Federal Register** notice announcing the filing of the GRAS petition (54 FR 40910) questioned whether the fact that about 10 percent of chymosin produced by *A. niger* var. *awamori* is glycosylated presents any threat to human safety. The comment urged FDA to give careful consideration to the glycosylation issue. However, the comment did not present any information on the nature of any adverse effect that might result from the ingestion of a small amount of this glycosylated enzyme. In fact, a variety of proteins, including many glycosylated protein enzymes, are present in foods that have been safely consumed for many years (Ref. 22 through 24). For example, chymosin derived from lamb, which has been affirmed as GRAS (§ 184.1685), is a glycosylated enzyme (Ref. 25), as are other milk-clotting enzymes listed in FDA regulations (§ 173.150). Therefore, the agency finds that glycosylation of a small proportion of an enzyme does not per se raise any safety concerns. Such a conclusion is consistent with current scientific thinking that enzymes that are substantially similar to proteins known to be safely consumed (including minor variations in structure such as glycosylation) do not raise new safety concerns (see, for example, Ref. 26).

Based on the fact that published information demonstrates that chymosin produced from the cloned chymosin gene has the same molecular weight and the same functional activity as the chymosin derived from calves, FDA concludes that the chymosin enzyme in the chymosin preparation is equivalent to the chymosin enzyme in calf rennet. Therefore, FDA concludes that the chymosin enzyme in the chymosin preparation is as safe as the chymosin enzyme in rennet.

Moreover, corroborative evidence of the safety of the petitioned chymosin enzyme preparation, including glycosylated chymosin, is provided by the results of a feeding study conducted by the petitioner. In that study, described later in this document, no adverse effects attributable to consumption of the enzyme preparation were noted.

C. Sources of Impurities

Enzyme preparations used in food processing are usually not chemically pure, but contain extraneous source (cellular) and processing material. The nature and amounts of these materials in the finished enzyme preparation depend on the organism from which the enzyme is produced (i.e., the source or production organism), the fermentation materials and methods used to grow the production organism, and the materials and methods used to generate the finished enzyme preparation.

Both the source material and the manufacturing methods for producing the chymosin preparation differ from those used to produce animal rennet. Therefore, the impurities in the chymosin preparation will differ from those in rennet. The question thus is whether the source material or manufacturing methods for the chymosin preparation will introduce impurities that would raise concerns about the safety of the preparation.

1. Processing steps

Researchers in several laboratories have published papers containing descriptions of methods that they used for producing chymosin preparations from microorganisms containing the calf prochymosin gene (Refs. 13 through 19 and 27 through 30). The enzyme that is the subject of this petition is secreted

from the production organism during fermentation and, therefore, is an extracellular enzyme product. Thus, it is not necessary to disrupt the cells to recover the enzyme. Extracellular enzymes account for approximately three-fourths of the market for fermentation-derived enzymes, and the techniques for their production and processing are well-known (Refs. 31 and 32). The processing methods developed by Genencor and described in this petition and in the published literature (Refs. 29 and 30) do not differ in any significant way from the published methods generally used to produce extracellular enzymes. The key steps described by Genencor are summarized below.

A. niger.var. *awamori* is grown in liquid nutrient medium until the desired activity of chymosin is reached. The broth is then treated with acid to interrupt the fermentation and kill the cells of the production organism. The acid treatment step also degrades any DNA which may be present in the broth. The broth is filtered, which removes the cell material from the chymosin-containing filtrate. Chymosin is then recovered from the filtrate, using one of two methods. In one method, the filtrate is passed through a chromatography column. Chymosin binds to the chromatographic resin while impurities pass through the column. Chymosin is then eluted from the column with an appropriate solution. In another method, chymosin is extracted from the filtrate and purified by ion exchange chromatography. Chymosin recovered by either method is formulated to the desired strength and sterilized by filtration.

FDA finds that the manufacturing method described does not require the use of any processing materials that are not GRAS or are not approved food additives. Accordingly, the agency is specifying in the amended regulation that the substance being affirmed as GRAS is one that is produced using only processing materials that are GRAS substances or food additives approved for use in this type of process.

Therefore, the agency concludes that the manufacturing steps will not introduce impurities into the enzyme preparation that will adversely affect the safety of the preparation.

2. Production organism

The petitioner presented information that the source for the chymosin enzyme preparation that is the subject of this petition is the production organism "*Aspergillus niger* var. *awamori*." The full proper name of this organism is *Aspergillus niger* van Tieghem variety *awamori* (Nakazawa) Al-Musallam. To identify clearly the source organism that has been evaluated in this review, the agency will use the full proper name in the regulation set forth below. However, for simplicity, the organism is referred to as *A. niger* var. *awamori* in the preamble of this document. The agency notes that the organism is also referred to as *Aspergillus awamori* Nakazawa (*Aspergillus awamori*).

One of the comments received in response to the filing notice stated that the name *A. niger* var. *awamori* incorrectly identifies the production organism. The comment contended that characterizing the production organism as a variety of *A. niger* implies that the production organism has a history of safe use in producing enzymes for use in food, when in fact it should be characterized as a distinct species, *A. awamori*, which species has no such history.

FDA notes that it is relying on scientific procedures, and not on history of safe use, as a basis for affirming the general recognition of safety of Genencor's chymosin preparation. In reviewing the petition, FDA evaluated whether the production organism is adequately identified and whether the scientific information that supports safety pertains to the production organism. In its evaluation, FDA relied on information that refers to the production organism and did not rely on information regarding other members of the genus *Aspergillus*.

The taxonomic placement and name of an organism mey change as a result of scientific advances. This is especially true for organisms such as *A. niger* var. *awamori* whose taxonomic placement is based on highly variable characteristics such as colony color (Refs. 33 and 34). If internationally accepted rules of nomenclature are followed, changes in the taxonomic placement of an organism should not affect the ability to identify scientific references to the organism of interest, including scientific references to its toxigenicity, pathogenicity, or use in the production of food or enzymes.

The production organism for this enzyme preparation is a fungus. FDA notes that the proper naming of fungi should follow the internationally accepted rules of nomenclature used for plants (Ref. 36). Proper scientific reference to a fungal species is done with its Latin binomial, representing the genus in which the species has been placed and the specific epithet; the name the Latin binomial of the author who introduced the specific epithet should follow. If a species has been moved in its taxonomic placement, the Latin binomial may be followed by the name of the author who made the original type description in parenthesis, followed by the name of the author of the current combination of generic and specific epithet. Proper use of nomenclature allows references to a particular organism to be followed historically in the scientific literature.

The organism referred to by the petitioner as *A. niger* var. *awamori* was first described in 1907 and was named *Aspergillus awamori* Nakazawa. Since the original description, authoritative texts have continued to refer to *A. awamori* as a distinct species (Refs. 36 through 38). However, this organism, along with many others in the genus *Aspergillus*, has been reclassified. A monograph on the taxonomy of the black *Aspergilli* was published in 1980. In that monograph, based on an analysis of 28 taxonomic characteristics, Al-Musallam (Ref. 33) reclassified the production organism as *Aspergillus niger* van Tieghem variety *awamori* (Nakazawa) Al-Musallam. More recent molecular analytical approaches to taxonomy, including DNA restriction fragment length polymorphism analysis, have confirmed this taxonomic placement (Refs. 34 and 39). Genencor also submitted evidence that this taxonomic placement is recognized by experts in the field (Ref. 40).

In evaluating published information, FDA recognized that prior to 1980, the production organism was referred to as *A. awamori* and occasionally as *A. niger* type *awamori*, and that literature published prior to 1980 uses these names when referring to the production organism. Literature published after 1980 may refer to the production organism as *A. niger* var. *awamori* or one of its synonyms, for example, *A. awamori* Nakazawa. Based on an analysis of the data submitted, FDA finds sufficient evidence to support the identification of the petitioner's production organism as *Aspergillus niger* van Tieghem variety *awamori* (Nakazawa) Al-Musallam (synonym *Aspergillus awamori* Nakazawa), and further concludes that the references relied on by the agency pertain to the production organism.

The petitioner provided published information documenting that the production organism has been safely used in a variety of food and food enzyme applications. These data provide a context for FDA's safety evaluation, and are useful in determining what quantity of data are necessary to establish the safety of the organism. *A. niger* var. *awamori* (referred to in these references as *A. awamori*) has been identified and isolated from the starter cultures used to

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produce several types of fermented rice alcoholic products (Refs. 38 and 41 through 47) and has also been used in making other fermented food products. Reed (Ref. 48) reports its use in sorghum fermentations and in brewing. It is cited in patents for making Worcester sauce (Ref. 43) and making "mirin," which can be used as a seasoning or dark liquor (Ref. 44). It has also been referenced as the production organism for citric acid produced by fermentation (Refs. 49 and 50).

There are numerous references in the literature to the use of *A. niger* var. *awamori* as the source organism for production of a variety of enzymes, including glucoamylase (Ref. 51) and α-amylase (Ref. 48). For example, Raper and Fennell (Ref. 36) cite two uses of *A. niger* var. *awamori* for enzyme production; one of these was reported by Komaki in 1956 to 1957 as a source of amylase used for the production of glucose from starch, under the synonym *A. usamii*, and the other was reported by Feniksova and Shilova in 1960 as a source of enzymes for production of glucose syrup from starch. Hiram Walker's patent for production of distiller's yeast (Ref. 52) cites the use of glucoamylase from *A. niger* var. *awamori* in treating grain mash. Hiram Walker deposited this strain with the Agricultural Research Station Culture Collection, Northern Regional Research Laboratory (NRRL) where it was listed as *Aspergillus awamori* strain NRRL 3112. This strain is the source organism for a commercial glucoamylase sold since 1963 (Ref. 53). This same strain, NRRL 3112, is also the strain Genencor genetically manipulated to create the final production organism.

The petitioner provided several published animal studies supporting the organism's safety. Semeniuk et al., (Ref. 54) studied the toxigenicity of 392 strains of *Aspergillus* obtained from the Agricultural Research Station Culture Collection of NRRL. The strains studied included three different strains of *A. niger* var. *awamori*. The investigators fed each strain to chicks and mice for 4 weeks. While some of the 392 *Aspergillus* strains they tested were found to be toxic, all three of the *A. niger* var. *awamori* strains were found to be nontoxic. In addition, Bogoroditskaya and Dyubyuk (Ref. 55) reported that amyloprotease prepared from *A. niger* var. *awamori* was nontoxic when administered orally in acute doses of up to 5 grams per kilogram to mice and guinea pigs.

Species of the *A. niger* group are not considered to be of primary significance in the cause of disease (Refs. 56 through 59). During the period 1946 to 1965, however, reports appeared in which organisms identified as *A. niger* var. *awamori* were isolated from several infected postoperative wounds and ear lesions (Ref. 56). There is general agreement that reduced host resistance is required in order for the fungal infection to become established (Refs. 56 through 58), and in many cases there is doubt as to whether *A. niger* var. *awamori* was the causative agent of the infection (Ref. 58). None of the cases of infection was the result of ingestion of *A. niger* var. *awamori*. Moreover, the processing steps described above, including acid treatment and filtration, remove any viable cells of the production organism from the final product, which eliminates the possibility that ingestion of *A. niger* var. *awamori* would result in a fungal infection.

As corroborative evidence of the safety of chymosin preparation and of the host organism, Genencor submitted the results of several unpublished studies. These included several in vivo studies and one in vitro study on its chymosin enzyme preparation. An unpublished acute oral pathogenicity study conducted in mice using both the host organism and the actual production strain of the host organism demonstrated both were nonpathogenic. An in vitro study was done using several lots of the chymosin enzyme preparation to assess its potential to be clastogenic (i.e., cause chromosomal aberrations) in Chinese hamster ovary cells. The chymosin enzyme preparation was negative for in vitro clastogenicity in this study. In a 13-week in vivo feeding study, no significant adverse effects were observed in the rats fed the chymosin enzyme preparation.

The petitioner also provided two studies that were conducted to test the chymosin enzyme preparation as an irritant. An eye irritation study in rabbits was conducted with the chymosin enzyme preparation. The preparation was an apparent mild irritant; however, all ocular irritation of the treated eyes subsided by 24 hours after treatment. Such a result is not unexpected or relevant to ingestion of the chymosin enzyme preparation. A primary dermal irritation study conducted in rabbits demonstrated that the enzyme preparation was not an irritant. Except for being found to be a minimal irritant in the eye irritation study, the results of the two tests were negative.

In another study, the potential of the enzyme preparation to cause delayed contact hypersensitivity was tested in guinea pigs. In this 3-week study, the response of the test animals to the enzyme preparation was no greater than the response to the control material. The authors concluded that the chymosin enzyme preparation did not induce sensitization in guinea pigs under the conditions of the study.

One potential safety concern raised by cloning is whether extraneous DNA (particularly DNA flanking the gene of interest that could encode proteins of unknown safety) may be cloned along with the gene of interest (i.e., that producing prochymosin) and contaminate the enzyme preparation. As a matter of current good manufacturing practice, manufacturers using recombinant DNA technology should ensure that they have not inadvertently cloned extraneous protein-encoding DNA along with the prochymosin gene. Such assurance can come from reviewing the details of the cloning steps, such as the origin and sequence of the DNA fragments used in the cloning, and from full characterization of the final genetic constructs via techniques such as DNA sequencing. Genencor's petition contains information demonstrating that the company conducted these steps.

For example, the *A. niger* var. *awamori* strains that are used by Genencor (Refs. 9 through 11) to produce the chymosin preparation contain marker genes that encode resistance to a clinically useful antibiotic. The agency evaluated whether these genes could be transferred to other microorganisms with which the production strain or its DNA comes into contact, causing proliferation of antibiotic resistance. As previously described, the isolation of the enzyme includes an acid treatment step that results in the destruction of residual cells and the degradation of residual DNA, including marker genes (Ref. 60).

As corroborative evidence that the enzyme preparation does not contain gene-sized DNA fragments or transformable DNA (that is, DNA that a microorganism can take up from its surroundings and functionally incorporate into its own DNA), Genencor submitted data from several unpublished experiments, including a DNA extraction/Southern blot assay and a transformation assay. The results of the DNA extraction/Southern blot assay showed that no plasmid sequences, including the antibiotic resistance marker, were present in the product. In the transformation assay, bacterial cells were mixed with the enzyme preparation under optimized conditions and assayed to see if they had picked up DNA encoding antibiotic resistance. The cells did not become resistant to the antibiotic. Based on the facts discussed above, FDA concludes that chymosin preparation manufactured in conformity with § 184.1685(a)(3) will not contain DNA encoding resistance to antibiotics at levels that would produce any safety concern.

Moreover, the regulation stipulates that the substance being affirmed as GRAS is one that is produced using a production strain that is nontoxigenic (see § 184.1685(a)(4)). If the cloned DNA were to encode a harmful substance that could render the enzyme preparation unsafe, the production strain would be toxigenic; in such circumstances, the chymosin preparation would not be GRAS under § 184.1685(a)(4). Therefore, the agency finds that there is no basis for concern that the safety of the chymosin preparation will be compromised by contaminating proteins encoded by extraneous uncharacterized DNA cloned along with the prochymosin gene.

Having considered the evidence concerning the production organism and the processing steps to derive the chymosin preparation, FDA concludes that *A. niger* var. *awamori* is safe for use as a source of food-grade chymosin preparations, and that impurities resulting from its use in the production of chymosin preparation will not affect the safety of the chymosin preparation.

IV. Specifications

The agency finds that, because the principal active ingredient of the chymosin preparation and rennet are the same, and because the potential impurities in the chymosin preparation that may originate from the source organism or manufacturing process do not provide any basis for concern about the safe use of the preparation, the current requirements given for chymosin preparations in § 184.1685(b) are adequate for defining the minimum criteria for a food-grade chymosin preparation derived from *A. niger* var. *awamori*.

V. Conclusion

The agency has evaluated all available information and finds, based upon the published and corroborative evidence discussed above, that the principal active ingredient in the chymosin preparation is the same as that in rennet, and that when the preparation is manufactured in accordance with § 184.1685(a)(4), the source organism and manufacturing process will not introduce impurities into the preparation that may render the use of the preparation unsafe. Therefore, the agency concludes, based upon scientific procedures, that the chymosin preparation derived by fermentation from *A. niger* var. *awamori* and described in the regulation set out below is GRAS for use as a replacement for rennet.

VI. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VII. Economic Effects

FDA has examined the economic implications of the final rule affirming the GRAS status of chymosin enzyme preparation derived from *A. niger* var. *awamori* as a direct human ingredient, as required by Executive Order 12291 and 12612 and the Regulatory Flexibility Act (Pub. L. 96–54). Executive Order 12291 compels agencies to use cost-benefit analysis when making decisions and Executive Order 12612 requires Federal agencies to ensure that Federal solutions, rather than State or local solutions, are necessary. Pub. L. 96–54 requires regulatory relief for small businesses where feasible. The agency finds that this final rule is not a major rule as defined by Executive Order 12291. In accordance with Pub. L. 96–54, FDA has also determined that this final rule will not have a significant adverse impact on a substantial number of small business. Finally, because this regulation applies to food for interstate trade and individual State regulations would hinder interstate trade, FDA finds that there is no substantial federalism issue which would require an analysis under Executive Order 12612.

Because no current activity is prohibited by this final rule, it will not result in any compliance cost to firms. Also, because no increase in the health risks faced by consumers will result from this final rule, no compliance costs will result. Potential benefits include the wider use of this enzyme because of reduced uncertainty concerning its GRAS status and any resources saved by eliminating the need to prepare further petitions to affirm the GRAS status of this enzyme from this source organism.

VIII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

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List of Subjects in 21 CFR Part 184

Food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 184 is amended as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

1. The authority citation for 21 CFR part 184 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

2. Section 184.1685 is amended by adding new paragraph (a)(4) to read as follows:

§ 184.1685 Rennet (animal-derived) and chymosin preparation (fermentation-derived).

(a) * * *

(4) Chymosin preparation is a clear solution containing the active enzyme chymosin (E.C. 3.4.23.4). It is derived, via fermentation, from a nonpathogenic and nontoxigenic strain of *Aspergillus niger* van Tieghem variety *awamori* (Nakazawa) Al-Musallam (synonym *A. awamori* Nakazawa) containing the prochymosin gene. Chymosin is recovered from the fermentation broth after acid treatment. All materials used in the processing and formulating of chymosin preparation must be either generally recognized as safe (GRAS) or be food additives that have been approved by the Food and Drug Administration for this use.

* * * * *

Dated: April 29, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–10760 Filed 5–6–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 401

RIN 1028–AA03

State Water Research Institute Program

AGENCY: U.S. Geological Survey, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Geological Survey (USGS) is amending the procedures used to evaluate the State Water Research Institutes to implement the changes to the Water Resources Research Act of 1984. This action is intended to reduce costs associated with the evaluation process for both the USGS and the institutes. The USGS is also removing references to obsolete documents, revising and clarifying the requirements for new institutes, revising the requirements for expenditure of unobligated funds, and making other minor changes to bring the regulation in compliance with the amended Act.

EFFECTIVE DATE: June 7, 1993.

FOR FURTHER INFORMATION CONTACT: Allen Ford, Office of External Research, U.S. Geological Survey, Water Resources Division, 424 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092, (703) 648–6806.

SUPPLEMENTARY INFORMATION:

Background

The State Water Research Institutes authorized by the Water Resources Research Act of 1984 (Pub. L. 98–242, 98 Stat. 97) and reauthorized by Water Research Institutes Authorization Through Fiscal Year 1994 (Pub. L. 101–397, 104 Stat. 852) support research, education, and information transfer activities. The 54 institutes in the program are administered and periodically evaluated under the provisions of 30 CFR part 401, adopted in May 1985. The reauthorization amended several provisions of the Water Resources Research Act of 1984, and the USGS is accordingly making minor revisions to the rule guiding the administration and evaluation of the institutes.

The former rule guiding the evaluation of the institutes required that five person teams visit each of the 54 institutes at least once every 5 years. The USGS has made minor revisions to the rule pertaining to institute evaluations by amending subpart E of 30 CFR 401.26 which describes the procedures used to evaluate the State Water Research Institutes. The reauthorization amends section 104(e) of the Water Resources Research Act of 1984 to give the Secretary of the Interior more discretion in the evaluation process. This action revises the rule pertaining to institute evaluations such that: The size of the evaluation team is decreased and its composition changed; the evaluation team will visit only those institutes it considers, on the basis of submitted documentation, to be potential candidates for probation; the composition of the evaluation team is changed; the evaluation team will consider only those institute activities funded under section 104 of the Water Resources Research Act of 1984; evaluation criteria not directly related to performance of the institutes is eliminated; the evaluation team is allowed more time to submit a written report of its findings. The changes will: lower the cost of the evaluation process to both the granting agency and the institutes by minimizing the number of institute site visits; permit greater consistency in the evaluation process by using, to the extent possible, only one evaluation team for all institutes; and base the evaluation only on demonstrated performance in the use of section 104 grants.

Section 401.11(a) of the rule requires that, if the full amount of the available grant funds for any fiscal year has not been requested as of the closing date for receipt of applications, any remaining funds shall be made available to the institutes for amended applications. The USGS is revising this section to state that any such remaining funds be made available to support competitively selected research projects under the terms of section 104(g) of the Act, as required by the reauthorization.

The USGS is amending section 401.11(g) to state that Federal funds received by the institutes shall be matched on a basis of no less than two non-Federal dollars for each Federal dollar, as required by the reauthorization, unless the grant is exempt under the provisions of 48 U.S.C. 1469a(d) as amended.

The USGS is amending section 401.12(c) to remove references to obsolete documents and add references to new documents guiding the institutes' administration of the grants received under section 104 of the Act.

Response to Public Comment

Two comments were received in response to the proposed rule as published in the **Federal Register** (57 FR 59941) on December 17, 1992. A discussion of the comments follows:

Comment: The existing rule (30 CFR 401.3) defines "State" to include the Trust Territory of the Pacific Islands. Pub. L. 101–397 amended the Water Resources Research Act of 1984 by changing "Trust Territory of the Pacific Islands" to "Federated States of Micronesia," and the language of the rule should be changed accordingly.

Response: The language of section 401.3 has been modified to adopt the suggested change.

Comment: The proposed revision to section 401.11(g) states that the Federal funds are to be matched on a basis of no less than two non-Federal dollars for each Federal dollar. Guam, the Federated States of Micronesia, and the Virgin Islands are not required to match the Federal funds received under this grant.

Response: The language of section 401.11(g) has been modified to recognize that, under the provisions of 48 U.S.C. 1469a(d) as amended, the matching requirement may be waived for applicants from specified Insular Areas.

Required Analyses

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This action will promote efficiency and economy by reducing costs for both the Government and the institutes. Therefore, it will not adversely affect the economy of the Nation or any small entity.

Environmental Effects

This action will have no potential for significant environmental impact and is categorically excluded from the requirements for compliance with the

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National Environmental Policy Act of 1969, as amended (Pub. L. 91–190, 83 Stat. 852).

Paperwork Reduction Act

The information collection requirements in section 401.11 and 401.19 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1028–0044.

Executive Order No. 12778

The Department has certified to the Office of Management and Budget that this regulation meets the standards provided in sections 2(a) and 2(b) of Executive Order No. 12778.

Author

The principal author of this rule is Allen Ford, Water Resources Division, U.S. Geological Survey.

The Catalog of Federal Domestic Assistance program affected is No. 15.805, Assistance to State Water Research Institutes.

List of Subjects in 30 CFR Part 401

Colleges and universities, Grants programs-natural resources, Research, Water resources.

For the reasons set out in the preamble, 30 CFR chapter IV, part 401, is amended as follows:

PART 401—STATE WATER RESEARCH INSTITUTE PROGRAM

1. The authority citation for 30 CFR part 401 is revised to read as follows:

Authority: 42 U.S.C. 10303.

Subpart A—General

2. Section 401.3 is amended by revising the definition, "State" to read as follows:

§ 401.3 Definitions.

* * * * *

State means each of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, the District of Columbia, Guam, American Samoa, the Commonwealth of the Mariana Islands, and the Federated States of Micronesia.

3. Section 401.4 is revised to read as follows:

§ 401.4 Information collection.

(a) The information collection requirements contained in sections 401.11 and 401.19 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1028–0044. The information will be used to support water related research and provide performance reports on accomplishments achieved under Pub. L. 98–242, 98 Stat. 97 (42 U.S.C. 10303). This information allows the agency to determine compliance with the objectives and criteria of the grant programs. Response is mandatory in accordance with 30 CFR 401.11 and 401.19.

(b) Public reporting burden for the collection of information is estimated to average 84 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other suggestions for reducing the burden, to Paperwork Management Officer, U.S. Geological Survey, Paperwork Management Section MS 208, Reston, Virginia 22092 and the Office of Management and Budget, Paperwork Reduction Project (1028–0044), Washington, DC 20503.

Subpart B—Designation of Institutes; Institute Programs

4. Section 401.6 is amended by revising paragraph (c)(2) to read as follows:

§ 401.6 Designation of institutes.

* * * * *

(c) * * *

(2) A management plan for meeting the requirements of the evaluation mandated by § 401.26.

Subpart C—Application and Management Procedures

5. Section 401.11 is amended by revising paragraphs (a) and (g) to read as follows:

§ 401.11 Application for grants.

(a) Subject to the availability of appropriated funds, but not to exceed a total of $10 million, an equal amount of dollars will be available to each qualified institute in each fiscal year to assist it in carrying out the purposes of the Act. If the full amount of the appropriated funds is not obligated by the close of the fiscal year for which they were appropriated, the remaining funds shall be made available in the succeeding fiscal year to support competitively selected research projects under the terms of section 104(g) of the Act. Selection and approval of such projects shall be based on criteria to be determined by the Director. Announcement of such criteria shall be made by notice in the **Federal Register**. The granting agency may retain an amount up to 15 percent of the total appropriation for administrative costs.

* * * * *

(g) The application shall provide assurance that non-Federal dollars will be available to share the costs of the proposed program. The Federal funds are to be matched on a basis of no less than two non-Federal dollars for each Federal dollar, unless this matching requirement has been waived.

* * * * *

6. Section 401.12 is amended by revising paragraph (c) to read as follows:

§ 401.12 Program management.

* * * * *

(c)(1) Acceptance of the award document certifies the grantee's assurance that the grant will be administered in compliance with OMB regulations, policies, guidelines, and requirements as described in:

(i) Circular No. A–21, revised, Cost Principles of Educational Institutions;

(ii) Memorandum No. M–92–01, Coordination of Water Resources Information;

(iii) Circular No. A–88, revised, Indirect Cost Rates, Audit and Audit Follow-up at Educational Institutions;

(iv) Circular No. A–110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations; and

(v) Circular No. A–124, Patents—Small Business Firms and Nonprofit Organizations.

(2) Copies of the documents listed in paragraph (c)(1) of this section shall be available from the granting agency.

Subpart E—Evaluation

7. Section 401.26 is revised to read as follows:

§ 401.26 Evaluation of institutes.

(a) Within 2 years of the date of its certification according to the provisions of § 401.6, each institute will be evaluated for the purpose of determining whether the national interest warrants its continued support under the provisions of the Act. That determination shall be based on:

(1) The quality and relevance of its water resources research as funded under the Act;

(2) Its effectiveness as an institution for planning, conducting, or arranging for research;

(3) Its demonstrated performance in making research results available to users in the State and elsewhere; and

(4) Its demonstrated record in providing for the training of scientists through student involvement in its research program.

(b) An evaluation team, selected by the granting agency on the basis of the members' knowledge of water research and administration, shall evaluate each institute, and may with the concurrence of the granting agency, visit such institutes as it considers necessary. The team is to include at least one individual from each of the following categories:

(1) Employees of the Department of the Interior;

(2) University faculty or other professionals with relevant experience in the conduct of water resources research;

(3) Former directors of water research institutes; and

(4) University faculty or other professionals with relevant experience in information transfer.

(c) The granting agency may request recommendations for team selections from the National Research Council/National Academy of Sciences and from other organizations whose members include the types of individuals cited in paragraph (b) of this section.

(d) The granting agency shall, as an administrative cost, provide the funds for travel and per diem expense of the team members, within the maximum limits allowable under Federal travel regulations (41 CFR subtitle F).

(e) The granting agency has the right to select dates for evaluation visits, and notice of the team's visit shall be provided to the institute being evaluated at least 60 days in advance.

(f) It shall be the responsibility of each institute to provide such documentation of its activities and accomplishments as the granting agency and evaluation team may reasonably request. The request for this documentation shall be made at least 60 days prior to the due date of its receipt.

(g) The team shall, within 90 days after completion of its evaluation, submit a written report of its findings to the granting agency for transmittal to the institute. If an institute is found to have deficiencies in meeting the objectives of the Act, it shall be allowed 1 year to correct them and to report such action to the granting agency. The decision as to the institute's eligibility to receive further funding will rest with the granting agency.

(h) After the initial evaluation, each institute shall be reevaluated at least every 5 years.

Dated: April 2, 1993.

Donald R. Glaser,

Acting Assistant Secretary—Water and Science.

[FR Doc. 93–10759 Filed 5–6–93; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 50, 77, 80, 138, 177, 237, 244, 364, and 371

Removal of Parts

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: The Department of Defense hereby removes obsolete parts concerning Fulfilling the Military Service Obligation (DoD Directive 1304.25); Mortgage Insurance for Service Members to Aid in Construction or Purchase of Homes (DoD Directive 1338.4); Child Development Programs (CDPs)(DoD Instruction 6060.2); Birth registration overseas (DoD Instruction 6040.34); Emergency Requirements, Allocations, Priorities, and Permits for DoD Use of Domestic Civil Transportation (DoD Directive 3005.7); Community Relations (DoD Directive 5410.18); Honorary Awards to Private Citizens and Organizations (DoD Directive 1432.2); Assistant to Secretary of Defense (Atomic Energy) (DoD Directive 5148.2); and Organization of the Joint Chiefs of Staff and Relationships with the OSD (DoD Instruction 5158.1) from title 32 of the Code of Federal Regulations. These parts have served the purpose for which they were intended and are no longer valid.

EFFECTIVE DATE: May 7, 1993.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, Correspondence and Directives Directorate, 1155 Defense Pentagon, Washington, DC 20301–1155.

SUPPLEMENTARY INFORMATION: The parts listed above are removed from the Code of Federal Regulations, however, the DoD Directives and Instructions are still valid. The removal of the parts are only to ensure that obsolete information is not retained in the Code of Federal Regulations. An updated version of DoD Directive 1304.25 (previously part 50); DoD Directive 1338.4 (previously part 77); DoD Instruction 6060.2 (previously part 80); DoD Instruction 6040.34 (previously part 138); DoD Directive 3005.7 (previously part 177); DoD Directive 5410.18 (previously part 237); DoD Directive 1432.2 (previously part 244); DoD Directive 5148.2 (previously part 364); and DoD Instruction 5158.1 (previously part 371) is available from the National Technical Information, 5285 Port Royal Road, Springfield, VA 22161.

List of Subjects

32 CFR Part 50

Armed forces reserves, Military personnel, Selective Service System.

32 CFR Part 77

Military personnel, Mortgage insurance.

32 CFR Part 80

Day care, Federal buildings and facilities, Government employees, Infants and children.

32 CFR Part 138

Archives and records, Citizenship and naturalization, Infants and children.

32 CFR Part 177

Armed forces, Emergency powers, Transportation.

32 CFR Part 237

Armed forces, Federal buildings and facilities, Intergovernmental relations, Reporting and recordkeeping requirements.

32 CFR Part 244

Armed forces, Decorations, medals, awards.

32 CFR Part 364

Organization and functions (Government agencies).

32 CFR Part 371

Organization and functions (Government agencies).

PARTS 50, 77, 80, 138, 177, 237, 244, 364, and 371—[REMOVED]

Accordingly, by the authority of 10 U.S.C. 131, 32 CFR parts 50, 77, 80, 138, 177, 237, 244, 364, and 371 are removed.

Dated: May 4, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–10819 Filed 5–6–93; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50580D; FRL–4171–5]

Coconut Oil; Reaction Products with Tetrahydroxy Branched Alkane Esters of Trisubstituted Benzenepropanoic Acid; Revocation of a Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

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ACTION: Final rule.

SUMMARY: EPA is revoking a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for coconut oil; reaction products with tetrahydroxy branched alkane esters of trisubstituted benzenepropanoic acid based on receipt of new data. The data indicate that the substance will not present an unreasonable risk of injury to human health and further regulation under section 5 of TSCA is not warranted at this time.

EFFECTIVE DATE: The effective date of this rule is June 7, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543A, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 26, 1990 (55 FR 26092), EPA issued a SNUR establishing significant new uses for coconut oil reaction products with tetrahydroxy branched alkane esters of trisubstituted benzenepropanoic acid. Because of additional data EPA has received for this substance, EPA proposed to revoke this SNUR in the **Federal Register** of August 4, 1992 (57 FR 34282).

I. Rulemaking Record

The record for the rule which EPA is revoking was established at OPPTS–50580 (P–89–770). This record includes information considered by the Agency in developing this rule.

II. Background

The Agency proposed the revocation of the SNUR for this substance in the **Federal Register** of August 4, 1992 (57 FR 34282). The background and reasons for the revocation of the SNUR are set forth in the preamble to the proposed revocation. The Agency received no public comment concerning the proposed revocation. As a result EPA is revoking this SNUR.

III. Objectives and Rationale for Revocation of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects of the substance, and EPA identified the tests considered necessary to evaluate the risks of the substance. The basis for such findings is referenced in Unit II. of this preamble. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated.

EPA reviewed testing conducted by the PMN submitter for the substance and determined that the information available was sufficient to make a reasoned evaluation of the health effects of the substance. EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk and subsequently revoked the section 5(e) consent order. The revocation of SNUR provisions for this substance designated herein is consistent with the revocation of the section 5(e) order.

In light of the above EPA is revoking the SNUR provisions for this chemical substance. When this revocation becomes final EPA will no longer require notice of any company's intent to manufacture, import, or process this substance.

IV. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, once the SNUR is revoked EPA will receive no SNUR notices for the substance. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: April 30, 1993

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ 721.770 [Removed]

2. By removing § 721.770.

[FR Doc. 93–10854 Filed 5–6–93; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 721

[OPPTS–50592C; FRL–4171–8]

Heterocyclic Aldehyde Imine; Revocation of a Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for heterocyclic aldehyde imine based on receipt of new data. The data indicate that the substance will not present an unreasonable risk of injury to human health or the environment and further regulation under section 5 of TSCA is not warranted at this time.

EFFECTIVE DATE: The effective date of this rule is June 7, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543A, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 13, 1991 (56 FR 40204), EPA issued a SNUR establishing significant new uses for heterocyclic aldehyde imine. Because of additional data EPA has received for this substance, EPA proposed to revoke this SNUR in the **Federal Register** of August 4, 1992 (57 FR 34281).

I. Rulemaking Record

The record for the rule which EPA is revoking was established at OPPTS–50592 (P–90–1624). This record includes information considered by the Agency in developing this rule.

II. Background

The Agency proposed the revocation of the SNUR for this substance in the **Federal Register** of August 4, 1992 (57 FR 34281). The background and reasons for the revocation of the SNUR are set forth in the preamble to the proposed revocation. The Agency received no public comment concerning the proposed revocation. As a result EPA is revoking this SNUR.

III. Objectives and Rationale for Revocation of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health and environmental effects of the substance, and EPA identified the tests considered necessary to evaluate the risks of the substance. The basis for such findings is referenced in Unit II. of this preamble. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated.

EPA reviewed testing conducted by the PMN submitter for the substance and determined that the information available was sufficient to make a reasoned evaluation of the health and environmental effects of the substance. EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk and subsequently revoked the section 5(e) consent order. The revocation of SNUR provisions for this substance designated herein is consistent with the revocation of the section 5(e) order.

In light of the above EPA is revoking the SNUR provisions for this chemical substance. When this revocation becomes final EPA will no longer require notice of any company's intent to manufacture, import, or process this substance.

IV. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, once the SNUR is revoked EPA will receive no SNUR notices for the substance. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: April 30, 1993.

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ 721.1245 [Removed]

2. By removing § 721.1245.

[FR Doc. 93–10852 Filed 5–6–93; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 721

[OPPTS–50583D; FRL–4171–6]

Phenol, 4,4'-(9*H*-Fluoren-9-ylidene)bis-; Revocation of a Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for phenol, 4,4'-(9*H*-fluoren-9-ylidene)bis- based on receipt of new data. The data indicate that the substance will not present an unreasonable risk of injury to human health and further regulation under section 5 of TSCA is not warranted at this time.

EFFECTIVE DATE: The effective date of this rule is June 7, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543A, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 9, 1990 (55 FR 32406), EPA issued a SNUR establishing significant new uses for phenol, 4,4'-(9*H*-fluoren-9-ylidene)bis-. Because of additional data EPA has received for this substance, EPA proposed to revoke this SNUR in the **Federal Register** of August 4, 1992 (57 FR 34283).

I. Rulemaking Record

The record for the rule which EPA is revoking was established at OPPTS–50583 (P–88–831). This record includes information considered by the Agency in developing this rule.

II. Background

The Agency proposed the revocation of the SNUR for this substance in the **Federal Register** of August 4, 1992 (57 FR 34283). The background and reasons for the revocation of the SNUR are set forth in the preamble to the proposed revocation. The Agency received no public comment concerning the proposed revocation. As a result EPA is revoking this SNUR.

III. Objectives and Rationale for Revocation of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects of the substance, and EPA identified the tests considered necessary to evaluate the risks of the substance. The basis for such findings is referenced in Unit II. of this preamble. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated.

EPA reviewed testing conducted by the PMN submitter for the substance and determined that the information available was sufficient to make a reasoned evaluation of the health effects of the substance. EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk and subsequently revoked the section 5(e) consent order. The revocation of SNUR provisions for this substance designated herein is consistent with the revocation of the section 5(e) order.

In light of the above EPA is revoking the SNUR provisions for this chemical substance. When this revocation becomes final EPA will no longer require notice of any company's intent to manufacture, import, or process this substance.

IV. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, once the SNUR is revoked EPA will receive no SNUR notices for the substance. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: April 30, 1993

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

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PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ 721.1536 [Removed]

2. By removing § 721.1536.

[FR Doc. 93-10853 Filed 5-6-93; 8:45 am]
BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 505, 510 and 540

[Docket No. 93-02]

Miscellaneous Amendments to Rules of Practice and Procedure

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission ("Commission" or "FMC") is amending its rules of practice and procedure in numerous respects. Experience under these rules indicates that these several changes are desirable to remove ambiguities, to delete outdated or extraneous provisions, and to improve the efficient administration of proceedings.

EFFECTIVE DATE: May 7, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Secretary, Federal Maritime Commission, 202-523-5725.

SUPPLEMENTARY INFORMATION: The FMC's Rules of Practice and Procedure ("Rules"), 46 CFR part 502, govern procedures in proceedings before it. Experience under the Rules suggested that certain provisions are either outdated, unclear, conflicting or inadequate to achieve their desired purpose. Additionally, it appeared that certain provisions in parts 505 and 540 dealing with assessment and compromise of civil penalties would more appropriately be included in part 502. To remedy these deficiencies the Commission, by notice published on February 5, 1993 (58 FR 7199), proposed several amendments to its Rules.

Three comments were filed in response to the notice of proposed rulemaking. With one exception, each of these comments addressed only the proposal dealing with the requirements for filing of complaints alleging violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. app. 1709(a)(1). The exception is a comment regarding the proposed amendment for submission of sworn documents, 46 CFR 502.112, which was supportive of that change. In order to expedite the implementation of the portions of the proposal that received no objection, the Commission is proceeding to final rule and adopting the proposed changes on those matters while deferring decision on the section 10(a)(1) issue.

One additional amendment has been incorporated into this final rule. The copy requirement for filing of public versions of confidential filings, pursuant to 46 CFR 502.119, is clarified to reflect a reduction to an original and one copy. Because this represents a reduction in burden relating to a procedural requirement, opportunity for public comment on this amendment is not necessary.

A section by section explanation of the rule changes follows.

Federal Rules of Civil Procedure

The Commission has consistently endorsed the policy of following the Federal Rules of Civil Procedure ("FRCP") in situations not covered by a specific Commission rule and where there is no conflict with administrative law or another FMC rule. This policy is well established, see, e.g., *Brazilian National Steel Co.* v. *Lloyd Brasileiro*, 21 SRR 1505, 1507-1508 (ALJ 1983). A new § 502.12 is added which codifies this policy in the Rules.

Firms and Corporations

Section 502.28 currently bars "firms or corporations" from practicing before the Commission on behalf of others. This rule is confusing in its application and is frequently not followed. For example, tariff publishing firms or filing agent firms often represent carriers in special docket proceedings and rate auditors often represent shippers in overcharge claim proceedings. It is unclear whether the existing rule is intended to bar practice by such firms or corporations when their representative is one who is admitted to practice before the Commission. This prohibition appears to serve no purpose and it is, therefore, removed. Firms and corporations thereby are permitted to represent others, subject of course to the requirement in 46 CFR 502.27 that their representative is admitted to practice before the agency.

Counter-Complaints

The Commission currently has no rule permitting or governing the filing of counter-complaints in complaint proceedings, even though in practice they have been allowed. See *A/S Ivoran* v. *Lloyd Brasileiro*, 24 SRR 1029, 1032, n.7 (FMC 1988). The frequency with which such filings have been made has been increasing and often they fail to include a verification, which is required by statute for complaints before the Commission, 46 U.S.C. app. 1710. Section 502.64, therefore, is amended to provide for the filing of properly verified counter-complaints and providing for their service directly by the parties if authorized by the presiding officer.

Amendments to Pleadings

Section 502.113 provides that complaints and amendments to complaints will be served by the Secretary of the Commission. Section 502.70(b) states that amendments to pleadings allowed prior to hearing will be served in the same manner as the original pleading. These rules would seem to mandate that amended complaints be served only by the Secretary. In practice, when amended complaints are filed, the complainant simultaneously serves a copy on respondents. In such situations, there appears to be no need to have the complaint re-served by the Secretary, and the presiding administrative law judge ("ALJ") has sometimes, with agreement of the parties, waived application of the requirement. Sections 502.70(b) and 502.113 are amended, therefore, to authorize the presiding officer to allow service of amended complaints merely by having the filing party serve respondent or its counsel of record.

Bill of Particulars

Section 502.71 contains provisions for a bill of particulars. Under the FRCP, the bill of particulars has been replaced by motions for more definite statement, FRCP 12(e). To avoid confusion and to bring the Rules more in line with modern federal practice, § 502.71 is revised to include provisions modeled on present Rule 12(e) of the FRCP.

Satisfaction of Complaint

Section 502.93 contains provisions relating to satisfaction of complaints. This rule is outdated, applies to shipper complaints against carriers only, and refers to a non-existent form ("exhibit No. 1 to subpart D"). The rule would appear to be unnecessary, in any event, because any proceeding may be dismissed by the presiding officer upon a proper showing, and the requirement for seeking dismissal would be no different where the complaint has been satisfied than where any other settlement has been reached. The rule therefore, is being removed.

Subscription and Verification of Documents

Section 502.112(a) currently provides that the signature of the attorney or practitioner on a filing constitutes a certificate that the filer has read the filing and "that to the best of his or her knowledge, information, and belief there is good ground to support it." This rule is the counterpart to FRCP 11, which now imposes a requirement that a filer's signature on a pleading represents that the filer has made reasonable inquiry that the pleading is well grounded in fact and is warranted in existing law. The FRCP provision imposes a stricter standard on the filer and is designed to avoid the bringing of frivolous actions or the submission of frivolous pleadings. Section 502.112 is amended, therefore, to conform to FRCP 11. This change and the current provision in the Rules which subjects violators to disciplinary action, should serve to minimize the filing of inappropriate pleadings in Commission proceedings.

Section 502.112(b) currently requires that when filings are made by an officer or agent of a party not represented by someone admitted or qualified to practice before the Commission, the filing either must (in the case of a corporate party) be attested under seal of the corporation, or (in the case of a non-corporate party) be accompanied with a power of attorney. These requirements have not been uniformly applied and do not appear to be necessary inasmuch as such filings are otherwise required to be sworn, verified, or submitted under penalty of perjury. This requirement, therefore, is removed.

Modern practice in civil courts and in some administrative agencies permits the filing of unsworn declarations under penalty of perjury in lieu of requiring the submission of sworn or verified filings. This is embodied in the provisions of 28 U.S.C. 1746 which applies to any rule, regulation, order or requirement made pursuant to United States law. It is especially appropriate to permit such unsworn declarations where the filing is executed outside of the United States and filers are unfamiliar with United States verification requirements. A new paragraph, therefore, is added to § 502.112 which permits the use of unsworn declarations whenever the Rules otherwise require a sworn or verified filing.

Documents Containing Confidential Materials

Section 502.119 concerns the filing of documents containing confidential materials, and requires the filing of public and confidential copies. There is no reference to the number of copies required and therefore the provisions of § 502.118 require that parties file both an original and 15 confidential copies, and an original and 15 public copies. Only an original and one copy is needed for public versions of confidential filings. The rule is changed, therefore, to reflect this requirement.

Depositions Upon Oral Examination

Section 502.203 contains procedures for the taking of depositions upon oral examination. When this rule was reissued in 1984, a portion of the rule which required a notice of oral deposition to provide the name and address of each person to be examined or, if unknown, a general description sufficiently complete to identify the person, was inadvertently omitted. The omitted language is reinserted.

Exceptions/Appeals

Section 502.227 includes procedures for filing of exceptions to an ALJ's initial decisions and appeals of an ALJ's order of dismissal, and allows 22 days for their filing. The rule allows 22 days for filing of replies to exceptions, but allows only 15 days for filing of replies to appeals. In the interest of consistency and fairness, the rule is amended to allow 22 days for filing of replies to appeals.

Attorney's Fees

Section 502.254 governs proceedings to determine whether an award of attorney's fees is appropriate in particular reparation proceedings. Paragraph (f) of this section governs appeals to the Commission of a presiding officer's award of attorney's fees. The procedures for such appeals are significantly different than those contained in § 502.227 for exceptions and appeals of other presiding officer decisions. Additionally, no provision is included for review of such awards by the Commission on its own motion in the absence of appeal. The rule, therefore, is amended to include the same appeal and review procedures that apply under current Rule 227.

Petitions for Reconsideration and Replies

Section 502.261 governs the filing of petitions for reconsideration and stay. Under this rule, such petitions are limited to specific and narrow grounds. The rule provides that "[p]etitions which merely elaborate upon or repeat arguments made prior to the decision or order will not be received * * *." Despite these restrictions, unnecessarily lengthy petitions are often filed. The Federal Rules of Appellate Procedure limit petitions for rehearing of a circuit court decision to 15 pages. A page limitation similarly is being imposed on such petitions at the Commission. Since decisions and petitions for reconsideration of such decisions may involve questions of evidence, however, and such questions may require more space to discuss than would pure issues of law, the page limit is set at 25 pages.

Section 502.262 currently permits "any party" to file a reply to a petition for reconsideration. This rule is amended to clarify that only replies in opposition to petitions for reconsideration may be filed. The filing of replies in support of petitions usually evokes a request for the filing of a further reply to the reply. Additionally, it is reasonable to require parties who feel aggrieved by a Commission decision to timely file their own petitions for reconsideration rather than tagging onto someone else's petition. This rule is further amended to impose the same 25 page limitation on replies to petitions for reconsideration.

Civil Penalty Procedures

The rules on compromise and settlement of civil penalties currently are contained in part 505 of title 46 CFR Because these rules are essentially procedural in nature and in part pertain to proceedings conducted under part 502 of 46 CFR, they will be relocated and incorporated as a new subpart in part 502. Additionally, appendix A (model compromise agreement) is revised to better reflect current practice and appendix B (Example of Promissory Note) is deleted because installment payments are seldom permitted, and the presence of this appendix may leave the mistaken impression that the Commission welcomes them. References to the civil penalty provisions of section 19 of the Merchant Marine Act, 1920, 46 U.S.C. app. 875, also are added.

Subpart C of 46 CFR part 540, the passenger vessel certification rules, also contains provisions governing civil penalties, *viz.*, for violations of Public Law 89-777. Confusion has resulted, however, from those provisions being separated from, and sometimes conflicting with, part 505. Accordingly, subpart C of part 540 is removed and the new subpart of part 502 is amended to reflect that its procedures also govern civil penalties for violations of Public Law 89-777.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it nonetheless has reviewed the rule in terms of this Order and has determined that this rule is not a "major rule" as defined in Executive Order 12291 because it will not result in:

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(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(n), that because this rule deals only with agency practice and procedure, it will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions.

List of Subjects

46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 505

Administrative practice and procedure, Maritime carriers, Penalties.

46 CFR Part 510

Freight forwarders; Maritime carriers; Reporting and recordkeeping requirements; Surety bonds.

46 CFR Part 540

Insurance, Maritime carriers, Reporting and recordkeeping requirements, Surety bonds.

Therefore, 46 CFR parts 502, 505, 510 and 540 are amended as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 502 is revised to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 559; 12 U.S.C. 1141(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965 (30 FR 6499); 21 U.S.C. 853a; and Pub. L. 89–777 (46 U.S.C. app. 817d, 817e).

2. A new § 502.12 is added to subpart A reading as follows:

§ 502.12 Applicability of Federal Rules of Civil Procedure.

In proceedings under this part, for situations which are not covered by a specific Commission rule, the Federal Rules of Civil Procedure will be followed to the extent that they are consistent with sound administrative practice.

§ 502.28 [Removed]

3. Section 502.28 is removed.

4. Section 502.64 is amended to revise the section title and to add a new paragraph (d) reading as follows:

§ 502.64 Answer to complaint; counter-complaint.

* * * * *

(d) In addition to filing an answer to a complaint, respondent may file a counter-complaint alleging violations of the Shipping Acts within the jurisdiction of the Commission. The filing of counter-complaints and answers to counter-complaints is governed by the rules and requirements of § 502.62 (excluding fees) and of this section for the filing of complaints and answers. Counter-complaints may be served directly by the parties if authorized by the presiding officer.

5. Section 502.70 is amended by revising the last sentence of paragraph (b) to read as follows:

§ 502.70 Amendments or supplements to pleadings.

(a) * * *

(b) * * * Amendments or supplements allowed prior to hearing will be served in the same manner as the original pleading, except that the presiding officer may authorize the service of amended complaints directly by the parties rather than by the Secretary of the Commission.

* * * * *

6. Section 502.71 is revised to read as follows:

§ 502.71 Motions for more definite statement.

If a pleading (including a complaint or counter-complaint filed pursuant to §§ 502.62 or 502.64) to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, the party may move for a more definite statement before interposing a responsive pleading. The motion shall be filed within 15 days of the pleading and shall point out the defects complained of and the details desired. If the motion is granted and the order of the presiding officer is not obeyed within 10 days after service of the order or within such time as the presiding officer may fix, the presiding officer may strike the pleading to which the motion was directed or make such order as is deemed just. If the motion is disallowed, the time for responding to the pleading shall be extended to a date 10 days after service of the notice of disallowance.

§ 502.93 [Removed]

7. Section 502.93 is removed.

8. Section 502.112 is amended by revising the third sentence of paragraph (a) and by adding a new paragraph (c) to read as set forth below; and is further amended by removing the last sentence of paragraph (b).

§ 502.112 Subscription and verification of documents.

(a) * * * The signature of a person admitted or qualified to practice before the Commission constitutes a certificate by the signer that the signer has read the pleading, document or paper; that the signer is authorized to file it; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry the filing is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. * * *

* * * * *

(c) Wherever, under any rules of this part, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition under §§ 502.203 or 502.204), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by such person, as true under penalty of perjury, in substantially the following form.

(1) If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct."

(2) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct."

9. The first sentence of § 502.113 is revised to read as follows:

§ 502.113 Service by the Commission.

Complaints filed pursuant to § 502.62, amendments to complaints (unless otherwise authorized by the presiding officer pursuant to § 502.70(b)), and complainant's memoranda filed in shortened procedure cases will be

served by the Secretary of the Commission. * * *

10. The second sentence of § 502.119(b) is revised to read as follows:

§ 502.119 Documents containing confidential materials.

* * * * *

(a) * * *

(b) * * * The public copies shall exclude confidential materials, shall indicate on the cover page and on each affected page "confidential materials excluded," and shall be filed in an original and one copy. * * *

* * * * *

11. Section 502.203 is amended by revising the second sentence of paragraph (a)(1) to read as follows:

* * * * *

§ 502.203 Depositions upon oral examination.

(a) *Notice of examination.* (1) * * * The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and; if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. * * *

* * * * *

12. Section 502.227 is amended by revising paragraph (b)(2) to read as follows:

§ 502.227 Exceptions to decisions or orders of dismissal of administrative law judges; replies thereto; and review of decisions or orders of dismissal by Commission.

* * * * *

(b)(1) * * *

(2) Any adverse party may file and serve a reply to an appeal under this paragraph within twenty-two (22) days after the appeal is served.

* * * * *

13. Section 502.254 is amended by revising paragraph (f) to read as follows:

§ 502.254 Attorney's fees in reparation proceedings.

* * * * *

(f) In cases where the presiding officer issues an award order, appeal of that order and Commission review of that order in the absence of appeal shall be governed by the procedures of § 502.227 of this part. [Rule 254.]

14. Section 502.261 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 502.261 Petitions for reconsideration and stay.

(a) * * * Such petition shall be limited to 25 pages in length and shall be served in conformity with the requirements of subpart H of this part. * * *

* * * * *

15. Section 502.262 is revised to read as follows:

§ 502.262 Reply to petition for reconsideration or stay.

Any party may file a reply in opposition to a petition for reconsideration or stay within fifteen (15) days after the date of service of the petition in accordance with § 502.74. The reply shall be limited to 25 pages in length and shall be served in conformity with subpart H of this part. [Rule 262.]

16. Subpart W—Paperwork Reduction Act is redesignated as subpart X.

PART 505—COMPROMISE, ASSESSMENT, SETTLEMENT AND COLLECTION OF CIVIL PENALTIES

16a. The authority citation for Part 505 continues to read as follows:

Authority: 5 U.S.C. 552, 553, secs. 32 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 831 and 841a); secs. 10, 11, 13, and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1709, 1710, 1712, and 1716).

17. Part 505 of chapter IV, title 46 CFR, is redesignated as subpart W of Part 502, and is revised to read as follows:

Subpart W—Compromise, Assessment, Mitigation, Settlement, and Collection of Civil Penalties

Sec.

502.601 Purpose and scope.
502.602 Definitions.
502.603 Assessment of civil penalties: Procedure; criteria for determining amount; limitations; relation to compromise.
502.604 Compromise of penalties: Relation to assessment proceedings.
502.605 Payment of penalty: Method; default.

Appendix A—Example of Compromise Agreement To Be Used Under 46 CFR 502.604

Subpart W—Compromise, Assessment, Mitigation, Settlement, and Collection of Civil Penalties

§ 502.601 Purpose and scope.

The purpose of this subpart is to implement the statutory provisions of section 32 of the Shipping Act, 1916, section 19 of the Merchant Marine Act, 1920, section 13 of the Shipping Act of 1984, and sections 2(c) and 3(c) of Public Law 89–777 by establishing rules and regulations governing the compromise, assessment, settlement and collection of civil penalties arising under certain designated provisions of the Shipping Act, 1916, the Merchant Marine Act, 1920, the Intercoastal Shipping Act, 1933, the Shipping Act of 1984, Public Law 89–777, and/or any order, rule or regulation (except for procedural rules and regulations contained in this part) issued or made by the Commission in the exercise of its powers, duties and functions under those statutes.

§ 502.602 Definitions.

For the purposes of this subpart:

(a) *Assessment* means the imposition of a civil penalty by order of the Commission after a formal docketed proceeding.

(b) *Commission* means the Federal Maritime Commission.

(c) *Compromise* means the process whereby a civil penalty for a violation is agreed upon by the respondent and the Commission outside of a formal, docketed proceeding.

(d) *Mitigation* means the reduction, in whole or in part, of the amount of a civil penalty.

(e) *Person* includes individuals, corporations, partnerships, and associations existing under or authorized by the laws of the United States or of a foreign country.

(f) *Respondent* means any person charged with a violation.

(g) *Settlement* means the process whereby a civil penalty or other disposition of the case for a violation is agreed to in a formal, docketed proceeding instituted by order of the Commission.

(h) *Violation* includes any violation of sections 14 through 21 (except section 16 First and Third) of the Shipping Act, 1916; sections 19(6)(d), 19(7)(d) and 19(11) of the Merchant Marine Act, 1920; section 2 of the Intercoastal Shipping Act, 1933; any provision of the Shipping Act of 1984; sections 2 and 3 of Public Law 89–777; and/or any order, rule or regulation (except for procedural rules and regulations contained in this part) issued or made by the Commission in the exercise of its powers, duties and functions under the Shipping Act, 1916, the Merchant Marine Act, 1920, the Intercoastal Shipping Act, 1933, the Shipping Act of 1984, or Public Law 89–777.

(i) Words in the plural form shall include the singular and vice versa; and words importing the masculine gender shall include the feminine and vice versa. The terms "includes" and "including" do not exclude matters not listed but which are in the same general class. The word "and" includes "or", except where specifically stated or where the context requires otherwise.

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§ 502.603 Assessment of civil penalties: procedure; criteria for determining amount; limitations; relation to compromise.

(a) *Procedure for assessment of penalty.* The Commission may assess a civil penalty only after notice and opportunity for hearing. Civil penalty assessment proceedings, including settlement negotiations, shall be governed by the Commission's Rules of Practice and Procedure in this part. All settlements must be approved by the Presiding Officer. The full text of any settlement must be included in the final order of the Commission.

(b) *Criteria for determining amount of penalty.* In determining the amount of any penalties assessed, the Commission shall take into account the nature, circumstances, extent and gravity of the violation committed and the policies for deterrence and future compliance with the Commission's rules and regulations and the applicable statutes. The Commission shall also consider the respondent's degree of culpability, history of prior offenses, ability to pay and such other matters as justice requires.

(c) *Limitations; relation to compromise.* When the Commission, in its discretion, determines that policy, justice or other circumstances warrant, a civil penalty assessment proceeding may be instituted at any time for any violation which occurred within five years prior to the issuance of the order of investigation. Such proceeding may also be instituted at any time after the initiation of informal compromise procedures, except where a compromise agreement for the same violations under the compromise procedures has become effective under § 502.604(e).

§ 502.604 Compromise of penalties: relation to assessment proceedings.

(a) *Scope.* Except in pending civil penalty assessment proceedings provided for in § 502.603, the Commission, when it has reason to believe a violation has occurred, may invoke the informal compromise procedures of this section.

(b) *Notice.* When the Commission considers it appropriate to afford an opportunity for the compromise of a civil penalty, it will, except when otherwise authorized by the Commission, or where circumstances render it unnecessary, send a registered or certified Notice and Demand Letter ("NDL") to the respondent. The NDL will describe specific violation(s) on which the claim is based, including the particular facts, dates and other elements necessary for the respondent to identify the specific conduct constituting the alleged violation; the amount of the penalty demanded; and the names of Commission personnel with whom the demand may be discussed, if the person desires to compromise the penalty. The NDL also will state the deadlines for the institution and completion of compromise negotiations and the consequences of failure to compromise.

(c) *Request for compromise.* Any person receiving a NDL provided for in paragraph (b) of this section may, within the time specified, deny the violation, or submit matters explaining, mitigating or showing extenuating circumstances, as well as make voluntary disclosures of information and documents.

(d) *Criteria for compromise.* In addition to the factors set forth in § 502.603(b), in compromising a penalty claim, the Commission may consider litigative probabilities, the cost of collecting the claim and enforcement policy.

(e) *Disposition of claims in compromise procedures.* (1) When a penalty is compromised and the respondent agrees to settle for that amount, a compromise agreement shall be executed. (One example of such compromise agreement is set forth as appendix A to this subpart.) This agreement, after reciting the nature of the claim, will include a statement evidencing the respondent's agreement to the compromise of the Commission's penalty claim for the amount set forth in the agreement and will also embody an approval and acceptance provision which is to be signed by the appropriate Commission official. Upon compromise of the penalty in the agreed amount, a duplicate original of the executed agreement shall be furnished to the respondent.

(2) Upon completion of the compromise, the Commission may issue a public notice thereof, the terms and language of which are not subject to negotiation.

(f) *Relation to assessment proceedings.* Except by order of the Commission, no compromise procedure shall be initiated or continued after institution of a Commission assessment proceeding directed to the same violations. Any offer of compromise submitted by the respondent pursuant to this section shall be deemed to have been furnished by the respondent without prejudice and shall not be used against the respondent in any proceeding.

(g) *Delegation of compromise authority.* The compromise authority set forth in this subpart is delegated to the Director, Bureau of Hearing Counsel.

§ 502.605 Payment of penalty: method; default.

(a) *Method.* Payment of penalties by the respondent is to be made as follows:

(1) By bank cashier's check or other instrument acceptable to the Commission;

(2) Upon execution of a promissory note containing a confess-judgment agreement, by periodic regular installments, with interest where appropriate, by bank cashier's check or other instrument acceptable to the Commission; or

(3) By combination of the alternatives in paragraphs (a) (1) and (2) of this section.

(b) All checks or other instruments submitted in payment of claims shall be made payable to the Federal Maritime Commission.

(c) *Default in payment.* Where a respondent fails or refuses to pay a penalty properly assessed under § 502.603, or compromised and agreed to under § 502.604, appropriate collection efforts will be made by the Commission, including, but not limited to referral to the Department of Justice for collection. Where such defaulting respondent is a licensed freight forwarder, such default also may be grounds for revocation or suspension of the respondent's license, after notice and opportunity for hearing, unless such notice and hearing have been waived by the respondent in writing.

Appendix A to Subpart W—Example of Compromise Agreement

Compromise Agreement

FMC File No. _____

This Agreement is entered into between:

(1) the Federal Maritime Commission, hereinafter referred to as Commission, and

(2) _____, hereinafter referred to as Respondent.

Whereas, the Commission is considering the institution of an assessment proceeding against Respondent for the recovery of civil penalties provided under the [appropriate statute], for alleged violations of section _____;

Whereas, this course of action is the result of practices believed by the Commission to have been engaged in by Respondent, to wit:

[General description of practices and dates or time period involved]

Whereas, the Commission has authority under the Shipping Act of 1984 and the Shipping Act, 1916, to compromise and collect civil penalties; and,

Whereas, Respondent has terminated the practices which are the basis for the allegations of violation set forth herein, and has instituted and indicated its willingness to maintain measures designed to eliminate these practices by Respondent, its officers, directors or employees.

Now Therefore, in consideration of the premises herein, and in compromise of all civil penalties arising from the alleged violations, Respondent and the Commission hereby agree upon the following terms and conditions of compromise and settlement:

1. Respondent shall make a monetary payment to the Commission herewith, by bank cashier's check, in the total amount of $_____.

2. Upon acceptance in writing of this Agreement by the Director of the Bureau of Hearing Counsel of the Commission, this instrument shall forever bar the commencement or institution of any assessment proceeding or other claim for recovery of civil penalties from the Respondent arising from the alleged violations set forth above.

3. It is expressly understood and agreed that this Agreement is not, and is not to be construed as, an admission by Respondent to the alleged violations set forth above.

(Respondent's Name)
By: _____
Title: _____
Date: _____

Approval and Acceptance

The above terms, conditions and consideration are hereby approved and accepted:

By the Federal Maritime Commission:

Director, Bureau of Hearing Counsel
Date: _____

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–10841 Filed 5–6–93; 8:45 am]

BILLING CODE 6730–01–M

PART 510—LICENSING OF OCEAN FREIGHT FORWARDERS

17. The authority citation for part 510 continues to read as follows:

Authority: 5 U.S.C. 553, 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716 and 1718; 21 U.S.C. 853a.

§§ 510.15, 510.16 [Amended]

18. The references to "part 505" in §§ 510.15 and 510.16 (a)(5) and (b) are revised to read "subpart W of part 502."

PART 540—SECURITY FOR THE PROTECTION OF THE PUBLIC

19. The authority citation for part 540 continues to read as follows:

Authority: 5 U.S.C. 552, 553; secs. 2 and 3, Pub. L. 89–777, 80 Stat. 1356–1358 (46 U.S.C. app. 817e, 817d); sec. 43 of the Shipping Act, 1916 (46 U.S.C. app. 841a); sec. 17 of the Shipping Act of 1984 (46 U.S.C. app. 1716).

20. The heading of subpart C of part 540 is revised to read:

Subpart C—General

§§ 540.30–540.36, Appendices A and B [Removed]

21. Sections 540.30 through 540.36 and Appendices A and B are removed.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 90–6, FCC 92–472]

Cellular Radio Service

AGENCY: Federal Communications Commission.

ACTION: Correction to Summary of Report and Order.

SUMMARY: This document provides the Final Regulatory Analysis which was previously omitted from the Summary of the Third Report and Order and Memorandum Opinion and Order on Reconsideration in CC Docket No. 90–6 (FCC 92–472) (Third Report), which was published on Tuesday, November 10, 1992 (57 FR 53446). The Third Report improved licensing procedures for cellular radio in general and also clarified and modified rules concerning the filing and processing of applications for unserved areas in the cellular service.

EFFECTIVE DATE: January 11, 1993.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman or B.C. Jackson, Jr., Mobile Services Division, Common Carrier Bureau (202) 632–6400.

SUPPLEMENTARY INFORMATION:

Background

The Third Report which is the subject of this correction concluded a rulemaking proceeding which adopted new rules governing the licensing of cellular radio in general and revised existing rules concerning the filing and processing of cellular applications for unserved areas.

Need for Correction

The summary of the Third Report did not contain a reference to the Commission's compliance with the Regulatory Flexibility Act, as required by Section 604(b) of the Regulatory Flexibility Act, 5 U.S.C. section 604(b). Appendix C of the Third Report contains the Commission's Final Regulatory Analysis.

Correction of Publication

Accordingly, the publication on November 10, 1992, of the Third Report and the final rules [FCC 92–472], which were the subject of FR Doc. 92–27202, is corrected as follows:

Add new subheading and new paragraph 3 at the end of the summary of the Third Report in column 3 on page 53446:

Final Regulatory Analysis

3. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's Final Analysis is as follows:

I. Need and Purpose of This Action

In this document, the Federal Communications Commission adopts separate methods for calculating service in the Gulf of Mexico Metropolitan Statistical Area and over water in other markets. Further, the Commission limits the consideration that an applicant or a party filing a pleading may receive for agreeing to withdraw a mutually exclusive cellular radio application or a pleading, or for refraining from filing a pleading, against a cellular radio application. The Commission also adopts prohibitions against alienating ownership interests in applications for unserved areas. In addition, this document disposes of ten petitions for reconsideration of the Commission's First Report and Order and Memorandum Opinion and Order on Reconsideration, 6 FCC Rcd 6195 (1991), concerning the acceptance, processing, and selection of applications for unserved areas. This document also revises and clarifies rules previously adopted in this docket.

II. Summary of the Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis

The public comments in this proceeding did not address regulatory flexibility issues specifically.

III. Significant Alternatives Considered

The Commission considered variations of the method for determining the Cellular Geographic Service Area in the Gulf of Mexico and found the adopted method to be superior to the alternatives considered and appropriate for the purpose intended. Otherwise, the comments received in this proceeding generally support the actions taken herein. Modifications and clarifications of our proposed recently adopted rules which the commenters suggested were considered and some were adopted.

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–10757 Filed 5–6–93; 8:45 am]

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47 CFR Part 73

[MM Docket No. 92-293; RM-8128]

Radio Broadcasting Services; Stillwater, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Kenneth R. Greenwood, allots Channel 251A to Stillwater, Oklahoma, as the community's third local commercial FM channel. See 57 FR 60782, December 22, 1992. Channel 251A can be allotted to Stillwater in compliance with the Commission's minimum distance separation requirements with a site restriction of 9 kilometers (6 miles) northwest to avoid a short-spacing to Station KMOD-FM, Channel 248C, and KVOO-FM, Channel 253C, Tulsa, Oklahoma, at coordinates North Latitude 36-09-27 and West Longitude 97-09-20. With this action, this proceeding is terminated.

DATES: Effective June 14, 1993. The window period for filing applications will open on June 15, 1993, and close on July 15, 1993.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order MM Docket No. 92-293, adopted April 22, 1993, and released May 3, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Channel 251A at Stillwater.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10753 Filed 5-6-93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 930497-3097]

Summer Flounder Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule.

SUMMARY: The Secretary of Commerce (Secretary) amends the regulations implementing the Fishery Management Plan for the Summer Flounder Fishery (FMP). This emergency interim rule revises the percentage of the commercial quota allocated to the states and makes additional quota available to commercial vessels landing summer flounder in the State of Connecticut.

DATES: This emergency interim rule is effective from May 4, 1993, through August 5, 1993.

ADDRESSES: Copies of documents supporting this action may be obtained from: Richard B. Roe, Regional Director, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-3799.

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, Resource Policy Analyst, 508-281-9324.

SUPPLEMENTARY INFORMATION: The summer flounder fishery is managed under the FMP, which was developed jointly by the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England and South Atlantic Fishery Management Councils. The management unit for the FMP is summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the Canadian border. Implementing regulations are authorized under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and are found at 50 CFR part 625. The regulations were amended on December 4, 1992 (57 FR 57358), by the final rule to implement Amendment 2 to the FMP. These regulations imposed several management measures, including an annual commercial quota allocated to the states on a percentage basis.

Description of This Emergency Action

The Council and ASMFC have requested revision of the state shares of commercial quota specified in Amendment 2 to the FMP. The allocation of the state quota shares was based on historical landings data. This action is requested because, subsequent to approval and implementation of Amendment 2, ASMFC members states recognized that Connecticut's commercial landings were underreported from the early to mid-1980s. In response, they recommended that a proxy for underreported landings in the State of Connecticut should be used to revise the percentage of the 1993 commercial quota allocated to the states and make additional quota available to commercial vessels landing in the State. Specifically, the revision increases Connecticut's quota share by 1.30388 percent or 161,029 pounds (73,042 kg) in 1993. The remaining states share a corresponding decrease, with the decreases ranging from 0.00004 percent of the total or 5 lbs (2.3 kg) to 0.36967 percent of the total or 45,649 lbs (20,706 kg). The total quota for the management unit does not change, but is slightly redistributed. Any quota overages resulting from this redistribution will be deducted in 1994 as specified in § 625.20(d)(2). A separate notice of availability of commercial quota in Connecticut will be published concurrently with this emergency rule. A permanent revision of the state shares will be submitted shortly as Amendment 4 to the FMP.

TABLE 1.—REVISED STATE QUOTA SHARES

State	Percentage	Pounds	Kilograms
Maine	0.04756	5,874	2,664
New Hampshire	0.00046	57	26
Massachusetts	6.82046	842,327	382,077
Rhode Island	15.68298	1,936,851	878,550

TABLE 1.—REVISED STATE QUOTA SHARES—Continued

State	Percentage	Pounds	Kilograms
Connecticut	2.25708	278,749	126,440
New York	7.64699	944,405	428,379
New Jersey	16.72499	2,065,539	936,922
Delaware	0.01779	2,197	996
Maryland	2.03910	251,829	114,229
Virginia	21.31676	2,632,623	1,194,150
North Carolina	27.44584	3,389,565	1,537,497
Total	100.00000	12,350,018	5,601,930

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator finds for good cause that the reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for comment, or to delay for 30 days the effective date of these emergency regulations under the provisions of sections 553 (b) and (d) of the Administrative Procedure Act. Failure to implement emergency measures would prolong the fishery closures to vessels landing in the State of Connecticut and needlessly harm the fishing industry in that State.

This emergency rule is exempt from the normal review procedures of E.O. 12291 as provided in section 8(a)(1) of that order. The rule is being reported to the Director of the Office of Management and Budget (OMB), with an explanation of why it is not practicable to follow the regular procedures of that order.

This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment.

This rule does not involve a collection-of-information requirement subject to the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

NMFS prepared an environmental assessment (EA) for this action and concluded that there will be no significant impact on the human environment. A copy of the EA is available (see **ADDRESSES**).

This rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management programs of the affected Atlantic coastal states. This determination has been submitted for review by the appropriate State agencies of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, Pennsylvania, and North Carolina under section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: May 3, 1993.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 625 is amended as follows:

PART 625—SUMMER FLOUNDER FISHERY

1. The authority citation for part 625 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 625.20 is amended by temporarily suspending paragraph (d)(1) and temporarily adding paragraph (d)(3) from May 4, 1993, through August 5, 1993, to read as follows:

§ 625.20 Catch quotas and other restrictions.

* * * * *

(d) * * *

(3) The annual commercial quota will be distributed to the states based upon the following percentages:

State	Share (percent)
Maine	0.04756
New Hampshire	0.00046
Massachusetts	6.82046
Rhode Island	15.68298
Connecticut	2.25708
New York	7.64699
New Jersey	16.72499
Delaware	0.01779
Maryland	2.03910
Virginia	21.31676
North Carolina	27.44585

* * * * *

[FR Doc. 93-10797 Filed 5-4-93; 9:56 am]

BILLING CODE 3510-22-M

50 CFR Part 625

[Docket No. 920543-2293]

Summer Flounder Fishery

AGENCY: National Marine Fisheries Service, (NMFS), NOAA, Commerce.

ACTION: Notification of commercial quota availability.

SUMMARY: NMFS issues this notification to announce that additional commercial quota for the summer flounder fishery has been made available to the State of Connecticut. Vessels issued a Federal fisheries permit for the summer flounder fishery may land summer flounder in the State of Connecticut until further notification. Regulations governing the summer flounder fishery require publication of this notification to advise the State of Connecticut, and vessel and dealer permit holders, that a commercial quota is available for landing summer flounder in the State.

EFFECTIVE DATE: May 4, 1993.

FOR FURTHER INFORMATION CONTACT: Kathi Rodrigues, 508-281-9324.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 625, as amended on December 4, 1992 (57 FR 57358). The regulations require annual specification of a commercial quota that is apportioned among the states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 625.20. The commercial quota for summer flounder for the 1993 calendar year is set equal to 12.35 million pounds (5.6 million kg) (January 22, 1993, 58 FR 5658). At the time the commercial quota was set, the percent allocated to vessels landing summer flounder in Connecticut was 0.9532 percent or 117,720 pounds (53,397 kg). NMFS issued a notification, February

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18, 1993 (58 FR 8557), announcing that the available commercial quota was harvested for vessels landing in the State of Connecticut.

The percent allocated to vessels landing summer flounder in Connecticut has since been readjusted by an emergency interim rule published in this issue of the **Federal Register** (May , 1993, 58 FR) to 2.25708 percent or 278,749 pounds (126,440 kg). Therefore, the February 16, 1993, notification (58 FR 8557) is rescinded and vessels may again land summer flounder in Connecticut until the available quota is harvested and NMFS issues a notification announcing that no commercial quota is available for landing summer flounder in that State.

Classification

This action is required by 50 CFR part 625 and complies with E.O. 12291.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: May 3, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93-10798 Filed 5-4-93; 9:56 am]

BILLING CODE 3510-22-M

50 CFR Part 675

[Docket No. 921186-3021]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for aggregate rockfish species of the genera *Sebastes* and *Sebastolobus* by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 1993 second seasonal Pacific halibut bycatch mortality allowance for the trawl rockfish fishery category in the BSAI has been reached.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), May 4, 1993, through 12 noon, A.l.t., July 4, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The 1993 Pacific halibut bycatch mortality allowance for the trawl rockfish fishery category, which is defined at § 675.21(b)(1)(iii)(D), is 201 metric tons (mt); the second seasonal apportionment of that allowance is 81 mt for the period April 4, 1993, through July 3, 1993 (58 FR 14524, March 18, 1993).

The Director of the Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iv), that the second seasonal Pacific halibut bycatch mortality allowance for the trawl rockfish category has been reached. Therefore, NMFS is prohibiting directed fishing for aggregate rockfish species of the genera *Sebastes* and *Sebastolobus* by vessels using trawl gear in the BSAI, from 12 noon, A.l.t., May 4, 1993, through 12 noon, A.l.t., July 4, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.21 and complies with E.O. 12291.

List of Subjects in 50 CFR 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 3, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93-10748 Filed 5-3-93; 4:38 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 58, No. 87
Friday, May 7, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-65-AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, that would have required inspections of certain fuselage frames for cracks, and repair, if necessary; and a one-time visual inspection at certain body stations to detect open pilot holes, and repair, if necessary. That proposal was prompted by reports of open pilot holes found in the inboard flange and strap of certain frames. This action revises the proposed rule by removing the requirement to plug any open pilot hole that is found. This action would also add a requirement to inspect open pilot holes to detect cracks; and would add an alternative perform those inspections repetitively, provided no cracks are found. If cracks are found, installation of a preventive modification would be required. The actions specified by this proposed AD are intended to prevent frame failures and consequent rapid decompression of the cabin.

DATES: Comments must be received by June 14, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-65-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Phil Forde, Aerospace Engineer, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2771; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-65-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-65-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to add an airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on August 27, 1992 (57 FR 38785). That supplemental NPRM would have required inspections of certain fuselage frames for cracks, and repair, if necessary, and a one-time visual inspection at certain body stations to detect open pilot holes, and repair, if necessary. That supplemental NPRM was prompted by reports of open pilot holes found in the inboard flange and strap of certain frames. That condition, if not corrected, could result in frame failures and consequent rapid decompression of the cabin.

Two commenters request that the FAA revise the proposal to required that, if any open pilot hole is found, the pilot hole must be plugged (as specified in the existing supplemental NPRM) and a preventive modification must be installed. One of these commenters states that installing a preventive modification should be required because the location of the pilot holes cannot be controlled and the potential for "figure 8" holes exists, which would reduce the fatigue life of the frame.

The FAA concurs partially. The FAA has re-evaluated its proposed requirement that open pilot holes must be plugged with rivets, and finds that some pilot holes may be too close to an edge or upturned surface, in which case sufficient edge margin or head clearance for a rivet would not be provided. The FAA concludes that this proposed requirement must be removed from the proposal, since plugging the pilot holes may not be possible in all cases and would not provide an additional level of safety. Consequently, the FAA has removed this requirement from this proposal.

The FAA agrees with the commenter's remark that the location of open pilot holes cannot be controlled. The FAA has determined that the possibility exists for open pilot holes to be found in several layers of the built-up structure of the frame/fail-safe strap. The FAA also notes that since open pilot holes located in the underlying structure may not fully align, "figure 8"

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holes may be present in the built-up structure following oversizing the holes in order to plug the holes with rivets. In light of these considerations, the FAA concludes that installation of the preventive modification specified in Boeing Service Bulletin 727–53–0197, Revision 1, dated April 9, 1992, would increase the fatigue life of the frame by adding to its structure. (The preventive modification was described in detail in the existing supplemental NPRM.) Therefore, the FAA has added a requirement to paragraphs (d)(1)(ii) and (d)(1)(iii) of this proposal for installation of the applicable preventive modification specified in the service bulletin (if any open pilot hole is found inside the shaded area specified in the service bulletin) or installation of a preventive modification in accordance with a method approved by the FAA (if any open pilot hole is found outside that shaded area).

Three commenters request that paragraphs (a)(4)(i) and (a)(4)(ii) of the existing supplemental NPRM be revised to remove the requirement to plug open pilot holes if those holes are not cracked. The commenters state that there have been no reports of cracks in open pilot holes on airplanes with over ten years of service and that such service experience should be considered in determining whether the unplugged holes have a propensity for cracking. One commenter does not believe that open pilot holes would pose a threat to safety.

The FAA concurs partially. For reasons explained previously, the FAA agrees with the commenter's request to remove the requirement to plug open pilot holes, regardless of cracking. However, the FAA does not agree with the commenters' assertion that open pilot holes do not pose a threat to safety. Consequently, as discussed previously, the FAA has included in this supplemental NPRM a requirement for installation of the preventive modification in order to increase the load-carrying capability and to decrease the stress on the frame.

Two commenters request that operators be allowed to inspect repetitively if open pilot holes are found, but no crack exists. The commenters state that if this option were included in the AD, operators would be provided more time to schedule the repair while repetitive inspections would ensure the integrity of the fuselage frame in the interim. The FAA concurs. The FAA finds that an option to inspect repetitively to detect cracks in the open pilot holes could be included in this AD without compromising the structural integrity of the fuselage frame and without adversely affecting safety, provided that those inspections are accomplished at intervals not to exceed 6,000 flight cycles and no crack exists in any open pilot hole that is found. Paragraph (d)(1)(i) of this supplemental NPRM includes this alternative. Additionally, the FAA finds that installation of a preventive modification, as described previously, would constitute terminating action for those repetitive inspections.

Since these changes expand the scope of the existing supplemental NPRM, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

The format of this supplemental NPRM has been restructured for clarification purposes.

There are approximately 1,695 Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,172 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 53 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,416,380, or $2,915 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 91–NM–65–AD.

Applicability: All Model 727 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of fuselage frames and depressurization of the airplane, accomplish the following:

(a) For airplanes identified as Group 1 or 2 in Boeing Service Bulletin 727–53–0197, Revision 1, dated April 9, 1992: Prior to the accumulation of 12,000 flight cycles since manufacture, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, perform an eddy current inspection of the fastener holes and a close visual inspection of the frame flange and web to detect cracks at body stations (BS) 760.95, 783.95, 825.95, and 848.95 in accordance with Part I of the Accomplishment Instructions of the service bulletin.

(1) If any crack is found, prior to further flight, install the applicable preventive modification in accordance with Part III of the Accomplishment Instructions of the service bulletin. Once this modification is installed, no further eddy current inspections of the fastener holes or close visual inspections of the modified frame flange and web are required by this AD.

(2) If no crack is found, prior to further flight, accomplish one of the procedures identified in paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) of this AD, in accordance with Part I, paragraph E., of the Accomplishment Instructions of the service bulletin.

(i) Oversize the hole by 1/32 inch and install an oversized fastener. Prior to the accumulation of 12,000 flight cycles after oversizing the hole, and thereafter at intervals not to exceed 6,000 flight cycles, continue to accomplish the inspections required by paragraph (a) of this AD. If any crack is found, prior to further flight, install the applicable preventive modification in accordance with Part III of the Accomplishment Instructions of the service bulletin. Once this modification is installed, no further eddy current inspections of the fastener holes or close visual inspections of the frame flange and web are required by this AD.

(ii) Install the same size fastener that was removed. Thereafter at intervals not to exceed 6,000 flight cycles, continue to accomplish the inspections required by paragraph (a) of this AD. If cracks are found, prior to further flight, install the applicable preventive modification in accordance with Part III of the Accomplishment Instructions of the service bulletin. Once this modification is installed, no further eddy current inspections of the fastener holes or close visual inspections of the frame flange and web are required by this AD.

(iii) Install the applicable preventive modification in accordance with Part III of the Accomplishment Instructions of the service bulletin. Once this modification is installed, no further eddy current inspections of the fastener holes or close visual inspections of the frame flange and web are required by this AD.

(b) For airplanes identified as Group 3, 4, or 5 in Boeing Service Bulletin 727–53–0197, Revision 1, dated April 9, 1992: Prior to the accumulation of 12,000 flight cycles since manufacture, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, perform an eddy current inspection of the fastener holes and a close visual inspection of the frame flange and web to detect cracks at body stations (BS) 760.95 and 783.95 in accordance with Part II of the Accomplishment Instructions of the service bulletin.

(1) If any crack is found, prior to further flight, install the applicable preventive modification in accordance with Part IV of the Accomplishment Instructions of the service bulletin. Once this modification is installed, no further eddy current inspections of the fastener holes or close visual inspections of the frame flange and web are required by this AD.

(2) If no crack is found, prior to further flight, accomplish one of the procedures identified in paragraphs (b)(2)(i), (b)(2)(ii), and (b)(2)(iii) of this AD, in accordance with Part II, paragraph E. of the Accomplishment Instructions of the service bulletin:

(i) Oversize the hole by 1/32 inch and install an oversized fastener. Prior to the accumulation of 12,000 flight cycles after oversizing the hole, and thereafter at intervals not to exceed 6,000 flight cycles, continue to accomplish the inspections required by paragraph (b) of this AD. If cracks are found, prior to further flight, install the applicable preventive modification in accordance with Part IV of the Accomplishment Instructions of the service bulletin. Once this modification is installed, no further eddy current inspections of the fastener holes or close visual inspections of the frame flange and web are required by this AD.

(ii) Install the same size fastener that was removed. Thereafter at intervals not to exceed 6,000 flight cycles, continue to accomplish the inspections required by paragraph (b) of this AD. If cracks are found, prior to further flight, install the applicable preventive modification in accordance with Part IV of the Accomplishment Instructions of the service bulletin. Once this modification is installed, no further eddy current inspections of the fastener holes or close visual inspections of the frame flange and web are required by this AD.

(iii) Install the applicable preventive modification in accordance with Part IV of the Accomplishment Instructions of the service bulletin. Once this modification is installed, no further eddy current inspections of the fastener holes or close visual inspections of the frame flange and web are required by this AD.

(c) For airplanes identified as Group 1, 2, 3, or 4 in Boeing Service Bulletin 727–53–0197, Revision 1, dated April 9, 1992: Prior to the accumulation of 12,000 flight cycles since manufacture, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, perform a close visual inspection to detect cracks in the frame gussets at BS 825.95 in accordance with Part V (for Groups 1 and 2 airplanes) or Part VI (for Groups 3 and 4 airplanes) of the Accomplishment Instructions of the service bulletin. Repeat these inspections thereafter at intervals not to exceed 6,000 flight cycles.

(1) If any crack is found, prior to further flight, replace the gusset in accordance with Figure 10 (for Groups 1 and 2 airplanes) or Figure 11 (for Groups 3 and 4 airplanes) of the service bulletin.

(2) Replacement of the gusset in accordance with paragraph (c)(1) of this AD constitutes terminating action for the repetitive inspections required by paragraph (c) of this AD.

(d) For airplanes identified as Group 1, 2, 3, 4, or 5 in Boeing Service Bulletin 727–53–0197, Revision 1, dated April 9, 1992: Prior to the accumulation of 12,000 flight cycles since manufacture, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, perform a close visual inspection of the inner flange of the frames and the strap on the inner flange at BS 760.95 and 783.95 to detect open pilot holes in accordance with Part VII of the Accomplishment Instructions of Boeing Service Bulletin 727–53–0197, Revision 1, dated April 9, 1992.

(1) If no open pilot hole is found, no further action is required by this AD.

(2) If any open pilot hole is found, perform a close visual inspection to detect cracks in that open pilot hole in accordance with the inspection procedures described in Part VI of the Accomplishment Instructions of the service bulletin.

(i) If no crack is found in any open pilot hole, repeat the inspection required by paragraph (d)(1)(i) of this AD thereafter at intervals not to exceed 6,000 flight cycles until a preventive modification specified in paragraph (d)(1)(ii) or (d)(1)(iii) of this AD, as applicable, is installed.

(ii) If any crack is found in an open pilot hole that is located inside any of the shaded areas shown in Figures 3, 4, and 5 of the service bulletin, prior to further flight, repair the crack and install a preventive modification in accordance with Part III or IV of the Accomplishment Instructions of the service bulletin. Installation of a preventive modification constitutes terminating action for the repetitive inspections of the open pilot holes specified in paragraph (d)(1)(i) of this AD.

(iii) If any crack is found in an open pilot hole that is located outside any of the shaded areas shown in Figures 3, 4, and 5 of the service bulletin, prior to further flight, repair the crack in accordance with Part III or IV of the Accomplishment Instructions of the service bulletin, and install a preventive modification in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Installation of a preventive modification constitutes terminating action for the repetitive inspections of the open pilot holes specified in paragraph (d)(1)(i) of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 3, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–10808 Filed 5–6–93; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–14–81]

RIN 1545–AD81

Deductions and Reductions in Earnings and Profits (or Accumulated Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or by Foreign Branches of Domestic Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Withdrawal of previous proposed rules and notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the limitations on deductions and

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adjustments to earnings and profits (or accumulated profits) with respect to certain foreign deferred compensation plans. These new proposed regulations reflect changes to the applicable law made by the Act of December 28, 1980, as amended by the Technical Corrections Act of 1982, by the Tax Reform Act of 1986, and by the Technical and Miscellaneous Revenue Act of 1988. The new proposed regulations will affect employers (and shareholders of employers) that provide deferred compensation directly or indirectly to foreign employees and will provide the public and Internal Revenue Service personnel with the guidance needed to comply with section 404A of the Internal Revenue Code of 1986. These new proposed regulations supersede the prior proposed regulations published in the **Federal Register** on April 8, 1985 (50 FR 13821).

DATES: Written comments must be received by July 6, 1993. Requests to speak (with outlines of oral comments) at a public hearing scheduled for October 5, 1993, at 10:00 a.m., must be received by September 14, 1993. See notice of hearing published elsewhere in this issue of the **Federal Register**.

ADDRESSES: Send comments, requests to appear at the public hearing, and outlines of comments to be presented to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (EE–14–81), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Elizabeth A. Purcell, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations) at (202) 622–6080 (not a toll-free number). Concerning the hearing, Carol Savage, Regulations Unit, at (202) 622–8452 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Statutory Authority

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under sections 404A and 7805(a) of the Internal Revenue Code (Code).

Paperwork Reduction Act

The collection of information requirement contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attention: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

The collection of information requirement in these regulations is in §§ 1.404A–5, 1.404A–6 and 1.404A–7. This information is required by the Internal Revenue Service to determine accurately the correct deductions and reductions in earnings and profits for foreign deferred compensation. The likely respondents are businesses or other for-profit institutions.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances. The estimated total annual reporting burden is 633,200 hours. The estimated annual reporting burden per respondent varies from 5 hours to 1,000 hours, depending on individual circumstances, with an estimated average of 506 hours. The estimated number of respondents is 1,250. The estimated annual frequency: once.

Background

On April 8, 1985, the Internal Revenue Service published in the **Federal Register** proposed amendments to the Income Tax Regulations under section 404A of the Internal Revenue Code of 1954 (now 1986) (50 FR 13821). Comments were requested and received, and a public hearing was held on September 20, 1985. After consideration of the comments received, the Service has determined that, rather than promulgate final regulations, it is more appropriate to withdraw the original proposed regulations and propose new regulations. This determination is based on a number of factors, including the number of significant substantive changes made to the prior proposed rules, changes to the underlying statute and other relevant Code provisions, and a need to reorganize the regulations. For a general discussion of section 404A and description of the prior proposed regulations, see the preamble to the prior proposed regulations published in the **Federal Register** on April 8, 1985.

The significant differences (or, where appropriate, the significant similarities) between these new proposed regulations and the prior proposed regulations are discussed, section by section, in the remainder of this preamble. Prior proposed § 1.404A–1 remains new proposed § 1.404A–1. However, the rules found in § 1.404A–2 of the prior proposed regulations are now incorporated in new proposed §§ 1.404A–6 and 1.404A–7. Prior proposed §§ 1.404A–3, 1.404A–4, 1.404A–5 and 1.404A–6 are redesignated §§ 1.404A–2, 1.404A–3, 1.404A–4 and 1.404A–5, respectively.

Section 1.404A–1 General Rules Concerning Deductions and Adjustments to Earnings and Profits for Foreign Deferred Compensation Plans

90-Percent Test

As a condition to electing treatment as a qualified foreign plan, section 404A(e)(2) requires that 90 percent or more of the amounts taken into account for a taxable year under the plan be attributable to services performed by nonresident aliens, the compensation for which is not subject to United States federal income tax. Prior proposed § 1.404A–1(c) provided that, in determining whether the 90-percent test is satisfied, accrued benefits may be calculated under any reasonable method. It also provided that the rules for calculating the present value of accrued benefits at normal retirement age (except for the actuarial assumption safe harbor) under § 1.416–1 (concerning the determination whether a retirement plan is top-heavy) are presumed to be reasonable for this purpose.

Many commentators suggested that these rules for calculating accrued benefits for purposes of the 90-percent test are extremely burdensome and disproportionately expensive. They also suggested that the calculations require a degree of precision and accuracy that in many cases is unwarranted by the circumstances (i.e., where very few plan participants are United States citizens or residents and little compensation of the plan participants is subject to United States federal income tax). To give taxpayers in those cases a less burdensome and less expensive means of demonstrating compliance with the 90-percent requirement, a safe harbor provision has been provided in paragraph (c)(2) of new proposed § 1.404A–1. It provides that the 90-percent requirement of § 1.404A–1(a)(3) will be deemed satisfied with respect to a plan if the participants' benefits under the plan increase generally in proportion to their compensation taken into account under the plan, and the sum of (1) the compensation of United States citizens and residents taken into account under the plan, and (2) any other compensation subject to United States federal income tax taken into account under the plan, does not exceed

five percent of all compensation taken into account under the plan for the plan year. This safe harbor provision does not apply, however, if the Commissioner determines that a significant purpose of the plan is to provide benefits not otherwise eligible for tax benefits under the Internal Revenue Code for participants who are United States citizens or residents. An example is provided in new proposed § 1.404A–1(c)(4), to illustrate the application of this safe harbor provision.

Termination Indemnity Plans

Many commentators suggested that the regulations be revised to provide specifically that certain termination indemnity plans are considered deferred compensation plans for purposes of section 404A. The laws of many countries require employers to maintain termination indemnity plans to pay termination benefits. Some of these termination indemnities are payable solely upon involuntary discharge (other than by reason of mandatory retirement) and thus may be viewed as dismissal wage plans under United States tax principles. However, other termination indemnity plans are akin to deferred compensation plans. For example, one commentator noted that, in one European country, employers are required by law to provide severance benefits equal to one month's pay (final pay) for each year of service. These benefits are fully vested and payable upon all events of termination, including retirement.

Because the provisions of termination indemnity plans may vary widely, paragraph (iii) of the definition of deferred compensation in paragraph (e) of new proposed § 1.404A–1 provides guidelines for determining whether such a plan provides deferred compensation. A termination indemnity plan is considered to provide deferred compensation if: (1) a major purpose of the plan is to provide for the payment of retirement benefits, (2) it has a benefit formula providing for payment based at least in part upon length of service, (3) it provides for the payment of benefits to employees (or their beneficiaries) after the employee's retirement, death or other termination of employment, and (4) it meets such other requirements as may be prescribed by the Commissioner with respect to termination indemnity plans. An example is provided under the definition of deferred compensation in paragraph (e) of new proposed § 1.404A–1 to illustrate this provision. Any plan that meets these requirements is treated as providing deferred compensation, whether or not it is called a termination indemnity plan.

Equivalent of a Trust

Section 404A(b)(5)(A) provides that, in order for a contribution to be taken into account in the case of a qualified funded plan, it must be paid to a trust or the "equivalent of a trust". The reference to the equivalent of a trust recognizes that, in some foreign countries, the common law concept of a trust does not exist. Thus, in those countries, the arrangement used to fund deferred compensation benefits for purposes of section 404A(b)(5)(A) must be functionally equivalent to a trust. The essential function of a trust in the context of a United States deferred compensation plan is to provide an entity separate from an employer through which deferred compensation benefits may be secured and liabilities funded. The four elements necessary to accomplish this function are provided in the definition of "equivalent of a trust" in paragraph (e) of new proposed § 1.404A–1. These elements have been revised to allow an employer some latitude to insulate corpus and income from the claims of an employer's creditors, and to remove the concept of legal and beneficial ownership. Finally, the concept of fiduciary duty has been replaced with legally enforceable duty.

Some commentators urged the Service to endorse as the equivalent of a trust the so-called "Security Contract" or "Security Concept" developed in Germany. As explained by those commentators, the Security Contract combines a book reserve commitment by an employer with a pledge and guaranty. First, an employer establishes a book reserve for its pension liabilities for which it receives a tax deduction under German law. It then establishes a wholly-owned subsidiary to which it transfers assets to fund its pension liabilities. As such, the corpus and income of the subsidiary are separately identifiable from an employer's general assets. This arrangement, without more, would not satisfy the requirements of the equivalent of a trust because the assets held by the subsidiary are not protected from the claims of an employer's creditors in the event of bankruptcy or receivership. Under the Security Contract concept, however, the subsidiary also pledges its assets irrevocably to a custodian who then gives a guaranty to the employees to pay the benefits up to the assets pledged to the custodian in the event an employer declares bankruptcy or goes into receivership. The custodian's guaranty is intended to place a prior lien on the assets pledged and protect them from the claims of an employer's creditors in the event of bankruptcy or receivership.

As one commentator asserted, however, it is unclear under German law that the arrangement provides such protection. According to that commentator, in the event of bankruptcy or receivership, the German Pension Guaranty Corporation is required by law to settle an employer's book reserve commitment. The Pension Guaranty Corporation then becomes a non-privileged creditor in the bankruptcy process and exercises any rights the employees have under the plan. As a non-privileged creditor, the Pension Guaranty Corporation is not entitled to all the assets pledged to the custodian, but is limited to a percentage of employer assets that is consistent with its general bankruptcy quota. Thus, it appears that the subsidiary's assets may be subject to the claims of an employer's creditors before all claims of the Pension Guaranty Corporation, exercising the rights of the employees under the plan, are settled.

Until the Service is satisfied that the corpus and income of the subsidiary are to be used to satisfy the claims of the employees and their beneficiaries (or those exercising their rights under the plan) before those of an employer's creditors, the Service cannot endorse this arrangement as the equivalent of a trust.

Exclusive Means for Deduction or Reduction in Earnings and Profits

For foreign plans that fail to satisfy the requirements of section 404A, section 404 governs deductions for deferred compensation expense. For plans that are not qualified under section 401, section 404(a)(5) generally provides that the employer's deduction for contributions is delayed until amounts attributable to the employer's contribution are includible in the plan participant's gross income. In addition, under section 404 (a) (5), deductions are denied altogether unless separate accounts are maintained for each participant. The Service took this position with respect to a foreign plan in Private Letter Ruling 7904042 (Oct. 25, 1978), available in the Freedom of Information Reading Room, room 1569, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. This position is reflected, in part, in paragraph (a) of new proposed § 1.404A–1.

Prior proposed § 1.404A–1(e) provided that earnings and profits (or accumulated profits) may be reduced with respect to payments by an employer to a funded foreign deferred compensation plan that are not deductible under section 404(a) even where an election under section 404A

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has not been made. Upon reexamination of the Congressional intent underlying the enactment of section 404A, however, the Service now believes that the position reflected in the prior proposed regulations is inconsistent with the purposes of section 404A (and the limitations thereunder). Thus, in accordance with the Secretary's section 404A(h) authority to prescribe regulations necessary to carry out the purposes of section 404A, paragraph (a) of new proposed § 1.404A–1 provides that section 404A provides the exclusive means by which an employer may reduce earnings and profits for deferred compensation in situations other than those in which a reduction of earnings and profits is permitted under section 404. See also the discussion below of the relevance of sections 61, 671 through 679, and 1001 in this context.

Request for Comments Concerning Foreign Corporations That Are Not Controlled

The Service is considering whether simplified or alternative methods of determining allowable earnings and profits reductions under section 404A might be appropriate for foreign corporations that are not controlled. Suggestions are invited on this matter.

Section 1.404A–2 Rules for Qualified Funded Plans

Substantiality of Payments to Trust

A commentator suggested that the focus of the flush language of paragraph (b) of prior proposed § 1.404A–3 (requiring a trust to have "substantiality") should be on the substantiality of payments to a trust (or the equivalent of a trust) rather than on the substantiality of a trust (or the equivalent of a trust), because the determination with respect to the latter can be made under the standards set forth in prior proposed § 1.404A–1(g)(9). Accordingly, new proposed § 1.404A–2(b)(2)(i) provides that employer contributions must have substance. For example, contributions may not be made in the form of a promissory note. This also means that the contributions must be accumulated in the trust (or the equivalent of a trust) in order to be distributed as benefits under a deferred compensation plan. Whether contributions are being accumulated in the trust (or the equivalent of a trust) to be distributed as benefits will depend on the facts and circumstances. The example in paragraph (b)(5) of new proposed § 1.404A–2 reflects this change.

Exclusive Benefit Rule

Section 404A(b)(5)(A) provides that, in the case of a qualified funded plan, a contribution is taken into account only if it is paid to a trust (or the equivalent of a trust) that meets the requirements of section 401(a)(2). Section 401(a)(2) provides generally that it must be impossible, at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of the employees or their beneficiaries. Thus, in effect, section 404A(b)(5)(A) reemphasizes, with regard to qualified funded plans, the general rule found in section 404A(e) that any "qualified foreign plan" must be for the exclusive benefit of an employer's employees or their beneficiaries. (As stated in the Senate Finance Committee Report, "[f]irst, the plan must be for the exclusive benefit of an employer's employees or their beneficiaries." S. Rep. No. 1039, 96th Cong., 2d Sess. 13 (1980).)

To reflect this emphasis, new proposed § 1.404A–2(b)(2) provides that one important factor that is taken into account in determining whether a trust has or has not been operated in a manner consistent with the exclusive benefit rule is whether it has not or has been involved in a transaction that would be described in section 4975(c)(1) if the plan were the type of plan subject to those rules. For example, a loan from the trust to an employer, on any terms, ordinarily would be a circumstance that strongly suggests noncompliance with section 404A(b)(5)(A). Similarly, a sale, exchange, or lease of any property between the trust and an employer would generally violate this provision. These rules, as set forth in new proposed § 1.404A–2(b)(2), apply prospectively.

Contributions Deemed Made Before Payment

Paragraph (c) of new proposed § 1.404A–2 clarifies the circumstances under which a payment made after the last day of an employer's taxable year is deemed to have been made on that last day.

Frequency of Actuarial Valuations

The new proposed regulations generally continue the requirement in the prior proposed regulations that an actuarial valuation be made no less frequently than once every three years for a qualified funded plan. However, for interim years, they require a reasonable actuarial determination to be made of whether the full funding limit in § 1.404A–5(c)(2) applies to the plan, and provide that the Commissioner may require an actuarial valuation in interim years under appropriate circumstances. It is anticipated that the Commissioner will not exercise this authority except in situations similar to those described in § 1.412(c)(9)–1(d) of the proposed regulations.

Shareholder-Level Consequences

A sentence in paragraph (d)(1) of prior proposed § 1.404A–3 provided that, where a foreign corporation maintained a qualified funded plan, the deductible amount was taken into account for the shareholder's taxable year in which or with which an employer's taxable year ended. This sentence has been deleted because section 404A does not govern the time at which adjustments to earnings and profits of a foreign employer corporation for a particular year are taken into account at the shareholder level.

Section 1.404A–3 Rules for Qualified Reserve Plans

The new proposed regulations have modified in several ways the guidance on the calculation of the amount that may be taken into account under a qualified reserve plan. First, the presentation has been changed in order to parallel the components of net periodic pension cost used in Statement of Financial Accounting Standards No. 87 "Employer's Accounting for Pensions" (1985), available from the Financial Accounting Standards Board, 401 Merritt 7, Norwalk, CT 06856. Thus, the amount taken into account for a year is based on the sum of a type of "service cost", "interest cost" and the amortization of the increase or decrease in the reserve from other sources. As part of this change, the steps for determining the actuarial gain or loss have been made explicit. In addition, as discussed below, certain increases or decreases in the reserve that were subject to amortization under the old proposed regulations are now included in the reasonable addition to the reserve.

Ten-Year Amortization

Section 404A (c)(4) provides for the spreading over ten years of certain increases and decreases in reserves on account of various events including a catch-all category of "such other factors as may be prescribed by regulations". The Senate Finance Committee Report includes two suggestions of possible items that could be included in this category: "adjustments in the reserve resulting from changes in levels of

compensation on which benefits depend or the vesting in one year of a benefit which was accrued in a prior year." S. Rep. No. 1039, 96th Cong. 2d. Sess. 14 (1980).

Some commentators criticized the rule in paragraph (d) of prior proposed § 1.404A–4 providing for the amortization of changes in the reserve arising from these two sources. They suggested that the ten-year amortization requirement for increases or decreases to the reserve on account of changes in the level of compensation upon which plan benefits depend, and for vesting of benefits accrued in prior years, was unnecessary because those items are ongoing costs of the plan that are specifically contemplated by the plan and will arise periodically as each participant's circumstances dictate. Thus, those increases or decreases can be expected to occur regularly in the aggregate and will not create the "bunching" that section 404A (c)(4) was designed to avoid.

The new proposed regulations respond to commentators' concerns by incorporating certain increases in the reserve (as described below) into the definition of the reasonable addition to a reserve, subject to an anti-abuse rule. The effect of this change is to allow immediate recognition, rather than ten-year amortization, of these changes. Under normal circumstances this immediate recognition will not result in significant bunching of income or deductions. Further, to the extent bunching occurs, abuse potential is limited because the bunching is the result of a deferral of deductions rather than the recognition of these items. Finally, as discussed below, for taxable years beginning after December 31, 1986, the indirect foreign tax credit is determined using post-1986 earnings and profits (i.e., aggregated for all post-1986 years). Use of a multi-year earnings and profits pool diminishes the effect of bunching on the foreign tax credit.

The increases in reserve that are now included in the reasonable addition to the reserve are those increases that result from expected changes in compensation and from the increase in vesting for employees whose liabilities were included in the reserve as of the beginning of the year. Thus, for example, the reasonable addition to the reserve may reflect an expected increase in compensation of five percent and expected changes in the vesting percentage in the current year for all employees in the reserve as of the beginning of the year. By contrast, any increase in reserve that results from compensation changes that are greater than expected or from the inclusion of newly-vested employees who were not included in the prior year's reserve are categorized as actuarial losses subject to ten-year amortization.

Section 1.404A–4 United States and Foreign Law Limitations on Amounts Taken Into Account for Qualified Foreign Plans

Section 404A(d) Limitation—Pooling of Earnings and Profits

Section 404A(d)(3) provides that, in determining the earnings and profits (and accumulated profits) of any foreign corporation with respect to a qualified foreign plan, the amount determined under section 404A with respect to any plan for any taxable year must not exceed the amount allowed as a deduction under the appropriate foreign law for such taxable year. As the legislative history makes clear, this limitation was imposed in response to "the possibilities for distortion of a taxpayer's indirect foreign tax credit which are presented by the present annual system for determining the amount of the foreign taxes paid by a subsidiary which are attributable to dividends paid to U.S. shareholders." S. Rep. No. 1039, 96th Cong., 2d Sess. 15 (1980). The legislative history further makes clear that "[t]his potential for distortion might be eliminated if the indirect credit were computed with reference to the subsidiary's accumulated foreign taxes and undistributed accumulated profits for all years." *Id.*

Section 1202(a) of the Tax Reform Act of 1986 amended section 902 to provide for computation of the indirect foreign tax credit by pooling all post-1986 earnings and profits and all post-1986 creditable foreign taxes. These amendments to section 902 prevent the distortion at which section 404A(d)(3) was aimed. Section 1012(b)(4) of the Technical and Miscellaneous Revenue Act of 1988 added specific regulatory authority to section 404A(d)(3) (retroactive to enactment of the Tax Reform Act of 1986), to take this change in the law into account. Accordingly, pursuant to that grant of regulatory authority, new proposed § 1.404A–4 provides that, for taxable years beginning after December 31, 1986, the reduction of earnings and profits of a foreign corporation with respect to a qualified foreign plan is determined without regard to the tax deduction under foreign law for that year. This new rule allows any amount that is disallowed for a year (because the foreign tax deduction for that year is greater than the amount allowed under section 404A (b) or (c)) to be carried forward to a future year, in which it may increase the amount allowable under section 404A.

Section 404A(d) Limitation

Section 404A(d)(1) provides that the annual amount allowable under section 404A "shall equal" the lesser of the cumulative United States amount or the cumulative foreign amount, reduced by the aggregate amount. Prior proposed § 1.404A–5(a) provided that the annual amount allowable "shall not exceed" these cumulative amounts. The new proposed regulations adopt the language of the statute. See new proposed § 1.404A–4(b).

Foreign Currency Rules

One commentator requested guidance with respect to a number of foreign currency issues. Sections 985–989 were subsequently enacted by the Tax Reform Act of 1986. These sections, effective for taxable years beginning after December 31, 1986, address many of the problems identified by the commentator. Paragraph (d)(1) in new proposed § 1.404A–4 clarifies that, for taxable years beginning after December 31, 1986, income or loss of foreign branches and earnings and profits (or deficits in earnings and profits) of foreign corporations are determined in functional currency as defined in section 985. For taxable years beginning before January 1, 1987, paragraph (d)(2) in new proposed § 1.404A–4 provides that the rules in effect for those taxable years determine the amount of income or loss or earnings and profits (or deficit in earnings and profits) for the foreign branch or subsidiary. A new paragraph (d)(3) provides special rules for those circumstances where the net worth method of accounting is used.

Section 1.404A–5 Additional Limitations on Amounts Taken Into Account for Qualified Foreign Plans

New proposed § 1.404A–5 clarifies the evidentiary requirements and rules on actuarial assumptions. No significant changes are made to the rules in prior proposed § 1.404A–6, which are now contained in new proposed § 1.404A–5.

Section 1.404A–6 Elections Under Section 404A and Other Changes in Accounting Method

Time and Manner for Making Elections

Paragraph (b)(5) of prior proposed § 1.404A–2 provided that elections made under section 404A must be made no later than the time prescribed by law for filing the United States tax return for a United States taxpayer's taxable year. For a qualified foreign plan maintained by a foreign corporation, the regulations

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have been modified to conform the filing requirements to the general rules applicable to tax accounting elections on behalf of foreign corporations under section 964. For example, under the new proposed regulations, a section 404A election need not be made before the United States shareholder's tax liability is affected by the earnings and profits of the foreign corporation. Such an effect on the United States shareholder's tax liability may occur as the result of any of the following: a dividend distribution, an income inclusion under section 951(a), a section 1248 transaction, a section 864(e) basis adjustment by earnings and profits, or an inclusion in income of the earnings of a qualified electing fund under section 1293(a)(1).

The prior proposed regulations provided that, in order for "protective" or "Method (2)" elections to be effective, taxpayers who made those elections had to file amended returns no later than 90 days after the date on which the final regulations were published in the **Federal Register**. See Ann. 81–114, Ann. 81–148 and Ann. 82–128, reproduced as an appendix to this preamble. Otherwise, the elections would have no effect. Numerous commentators suggested that the 90-day period is inadequate for taxpayers to evaluate the final regulations, collect the required data, make the appropriate actuarial calculations, decide whether the election is beneficial, and file the required returns. Thus, the deadlines for perfecting retroactive elections and making or perfecting certain other elections in new proposed § 1.404A–7 have generally been extended to 365 days after the publication of final regulations.

Single Plan

As originally proposed, § 1.404A–2(b)(6)(i) provided that an election may be made with respect to each plan that qualifies as a "single plan". The term "single plan" has for this purpose the same definition as it has in § 1.414(l)–1(b). Commentators asked for an illustration of the application of this single plan rule to an existing deferred compensation plan that is split into two single plans for purposes of section 404A. Thus, a new example has been added in paragraph (a)(2) of new proposed § 1.404A–6.

Section 481(a) Adjustment

New proposed § 1.404A–6(a) addresses the adoption of methods of accounting and changes in methods of accounting with respect to a foreign deferred compensation plan for which an election under section 404A has been made. It clarifies, for example, that an initial election with respect to a pre-existing plan, termination of an election, revocation of an election, and a change in actuarial funding method, constitute changes in methods of accounting under section 446(e) and section 481(a). To compute the section 481(a) adjustment upon a change in method of accounting under section 404A, § 1.404A–6(f)(6) of the prior proposed regulations required a historical computation. Taxpayers were to compute contributions, deductions or reductions in earnings and profits from the establishment of the plan to the first day of the first year in which a section 404A election was made. Commentators argued that this historical approach was unduly burdensome.

The new proposed regulations respond to commentators' concerns by generally replacing the historical computation requirement with a "snapshot" approach to determining the amount of the section 481(a) adjustment for purposes of section 404A. As illustrated below, the snapshot approach is adopted in the proposed regulations in an effort to reduce substantially taxpayers' recordkeeping and compliance burdens.

The snapshot approach is generally intended to compare (i) the extent to which an employer has accelerated deductions (or reductions in earnings and profits) under its old method of accounting for deferred compensation with (ii) the acceleration (if any) that would have been allowed under its new method of accounting. In the interest of avoiding historical calculations and other complexities, the snapshot approach generally attempts to compare the old and new methods of accounting based, to the extent possible, on actual reserve or fund balances existing at the time of the change. These balances generally have been reduced for amounts actually paid to plan participants and beneficiaries. However, amounts actually paid to participants and beneficiaries would be the same under both an employer's old method and its new method of accounting. Therefore, deductions attributable to such payments can be eliminated from consideration in determining both the old and the new method amounts that are compared.

In other words, in the case of both the old method and the new method of accounting, the extent of acceleration is measured by reference to a common baseline: the amount actually paid to plan participants and beneficiaries (i.e., a pay-as-you-go method). Thus, the snapshot approach generally measures the extent to which an employer, under its old method of accounting, has claimed deductions (or reductions in earnings and profits) that exceed the amount actually paid to plan participants and beneficiaries as of the change in accounting method. This amount (generally referred to as the "Old Method Closing Amount") is then compared to the deductions (or reductions in earnings and profits) in excess of the amount actually paid to plan participants and beneficiaries that the employer would have claimed for the same period under its new method of accounting (generally referred to as the "New Method Opening Amount"). The section 481(a) adjustment is equal to the difference between the Old Method Closing Amount and the New Method Opening Amount. The comparison is based on the status of the plan as the beginning of the year of a change in accounting method.

To illustrate, if the employer has used a funded method of accounting for deferred compensation, the Old Method Closing Amount equals the amount of the fund balance as of the beginning of the year that the accounting method is changed. In determining the amount of the section 481(a) adjustment for purposes of section 404A, this fund balance is compared with a New Method Opening Amount. The New Method Opening Amount will depend on which new method of accounting the employer elects. If the employer makes a qualified funded plan election, the New Method Opening Amount generally will equal the amount of the fund balance, adjusted as appropriate to reflect the limitations in section 404A (b) and (d) on prior contributions to the fund that could have been taken into account under section 404A. If, however, the employer makes a qualified reserve plan election, the New Method Opening Amount generally will be the amount of the reserve under section 404A(c). Alternatively, if the new method of accounting is a non-section 404A method (i.e., a pay-as-you-go method), the New Method Opening Amount generally will be zero.

As the foregoing discussion indicates, the new method will not necessarily be a section 404A method (a qualified funded plan method or qualified reserve plan method), and the old method will not necessarily be a non-section 404A method. The section 481(a) adjustment and the proposed snapshot approach to computing the adjustment apply whether the employer is changing to or from a section 404A method or from one section 404A method to another. For example, assume that a foreign branch has a qualified funded plan with a trust fund balance of 15 of functional currency (as defined in section 985(b)). Assume that this fund balance resulted from FC10 of deductible contributions to the fund under section 404A, plus FC5 of net investment income earned within the fund. Under the snapshot approach, the Old Method Closing Amount upon a change to qualified reserve plan treatment is FC15. Assuming that the reserve under the qualified reserve plan method is FC20 as of the date of the method change, the New Method Opening Amount is FC20, and the amount of the section 481(a) adjustment under section 404A is a negative FC5.

By using the amount of the fund balance in determining both the Old Method Closing Amount and the New Method Opening Amount, the proposed regulations require consideration of both the deductions previously taken by the employer and the accumulated net income (or inside build-up) of a fund in calculating the amount of the section 481(a) adjustment for purposes of section 404A. The Service believes that, in addition to permitting the adoption of a simplified method for determining the section 481(a) adjustment, consideration of a fund's accumulated net income under the snapshot approach avoids additional complexities that might result from the application of sections 61 and 1001 at the time of an election under section 404A. For example, consider an employer that makes a qualified funded plan election after having used a funded method of accounting for a foreign deferred compensation plan that is not a qualified funded plan. Ordinarily, the value of the fund (which is used to satisfy the employer's plan liabilities) will exceed the employer's contributions to the fund (net of the fund's previous payments to plan participants and beneficiaries). If the snapshot method were not applied, arguably sections 61 and 1001 would result in a recognition of income (or increase in earnings and profits) by the employer at the time of the election equal to the excess of the value of the fund over the employer's basis in the fund. This result is consistent with the treatment of a change in method of accounting that consists of a qualified funded plan election as involving a change in the status of the fund from a grantor trust (defined and treated in accordance with sections 671 through 679) to a non-grantor trust (treated in a manner analogous to the treatment of a trust under a section 401(a) tax-qualified plan). The Service solicits comments from interested parties on this analysis and on the utility of the snapshot approach in reducing taxpayer burden.

Effect of Section 404A(d)(1) Limits on Section 481(a) Adjustment Computation

Since the limitations of section 404A(d)(1) are part of the section 404A method of accounting under the new proposed regulations, the snapshot section 481(a) adjustment calculation must take into account the cumulative foreign amount limitation in section 404A(d) and new proposed § 1.404A–4. This is a departure from § 1.404A–6(f)(9) in the prior proposed regulations. The snapshot approach includes a simplified method to make this adjustment in computing the section 481(a) adjustment. More specifically, paragraph (g) of new proposed § 1.404A–6 allows taxpayers to use the snapshot approach to compute the initial cumulative United States and foreign law limitations under section 404A(d) as of the beginning of a year of change in method of accounting. The rules to initialize the cumulative United States amount, cumulative foreign amount and the aggregate amount rely on the constant relationship between these three amounts (i.e., the aggregate amount always equals the lesser of the two cumulative amounts).

Section 481(a) Adjustment Period

As required by section 404A(g)(5), the period for taking into account the section 481(a) adjustment arising from an election or a re-election under section 404A is 15 years. Additionally, new proposed § 1.404A–6(e)(2)(iii) provides for a six-year section 481(a) adjustment period for a change in method of accounting arising from the termination or revocation of an election under section 404A, and for any other change in accounting method under section 404A. This new paragraph also requires netting of any section 481(a) adjustment remaining from a previous change in method in determining the amount to be taken into account during the six-year section 481(a) adjustment period. The example in new proposed § 1.404A–6(e)(4) illustrates this netting rule.

Examples in the new proposed regulations illustrate the principle under section 446(e) and its underlying administrative procedures that the District Director may modify a taxpayer's calculated section 481(a) adjustment under section 404A if the District Director (1) determines that the taxpayer used an erroneous method of accounting in an open year prior to the year in which the taxpayer's qualified funded plan or qualified reserve plan election is effective, and (2) requires the taxpayer to change its erroneous method of accounting in that earlier open year. For example, if a taxpayer erroneously deducted FC100 for amounts accrued under a reserve plan in an open year prior to the effective date of a qualified reserve plan election under section 404A, the District Director could require the taxpayer to change its method of accounting in that earlier open year and to take a positive FC100 section 481(a) adjustment into account entirely in that earlier open year (rather than permitting the positive FC100 amount to be netted against any New Method Opening Amount under the snapshot approach and spread prospectively over a 15-year section 481(a) adjustment period). See section 2.02 of Rev. Proc. 92–20, 1992–1 C.B. 685.

Section 1.404A–7 Effective Date and Retroactive Application

Prior proposed § 1.404A–2(c), relating to retroactive elections, has been moved to § 1.404A–7. This change was made because the rules relating to retroactive elections are relatively discrete and thus logically should be set apart from the general election rules. Because the importance of these rules will greatly diminish within a few years, their placement at the end of the regulations will improve the clarity of the remainder of the regulations for the future. Other specific changes to the retroactive election rules are discussed below.

All-Or-Nothing Rule

Many commentators criticized the rule in paragraph (c)(2)(ii) of prior proposed § 1.404A–2 as an improper interpretation of section 2(e)(2) of the Act of December 28, 1980 (Pub. L. 96–603). Prior proposed § 1.404A–2(c)(2)(i) provided that a taxpayer could elect, during its "open period", for section 404A to apply to a qualified foreign plan maintained by a foreign subsidiary. However, prior proposed § 1.404A–2(c)(2)(i) conditioned that election for any plan on a taxpayer electing to apply section 404A with respect to all written plans of every foreign subsidiary (whether or not wholly owned) that defer the receipt of compensation and that satisfy the requirements of section 404A(e) (1) and (2). Commentators argued that the "all-or-nothing rule" of section 2(e)(2) of the Act of December 28, 1980, simply provides that a taxpayer may elect to have section 404A apply for certain prior years, and that such an election must be made for all of a taxpayer's foreign subsidiaries. It does not, however, require that a taxpayer make an election under section 404A for any of its foreign subsidiaries' plans.

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According to this view, once the election is made to have section 404A apply to the foreign subsidiaries for prior years, the consequences of making or not making an election under section 404A will be determined as though section 404A had been in effect for those years.

After further consideration, the proposed regulations adopt the commentators' view of section 2(e)(2) of the Act of December 28, 1980. Thus, if a taxpayer makes an election to have section 404A apply retroactively to its foreign subsidiaries during its open period, the election to have section 404A apply must be made for all of a taxpayer's foreign subsidiaries (whether or not wholly owned) during a taxpayer's open period. Accordingly, if a taxpayer elects to have section 404A apply during a taxpayer's open period, it may not rely on any other law or rule of law to reduce earnings and profits (or accumulated profits) of any foreign subsidiary with respect to deferred compensation expenses, regardless of whether the taxpayer elects to apply section 404A to any specific deferred compensation plan. Paragraph (b) of new § 1.404A–7 reflects this view, and paragraph (c)(5) illustrates this rule with an example.

Making, Perfecting and Revoking Retroactive Elections

New proposed § 1.404A–7 provides rules for making, perfecting and revoking retroactive effective date elections as well as retroactive plan-by-plan elections for qualified foreign plans maintained by foreign subsidiaries and for qualified funded plans maintained by foreign branches. Taxpayers are afforded 365 days after publication of the final regulations to decide whether to perfect or revoke retroactive elections or to make, revoke or re-elect in intervals of six or more years, effective for taxable years in the open period (as defined in new proposed § 1.404A–7(g)(6)) and continuing after taxable years beginning after December 31, 1979. Taxpayers must file amended returns and attach statements in order to perfect a retroactive election and to conform all items to the treatment consistent with election or revocation. If the amended returns and statements are not timely filed, the retroactive elections will be deemed revoked.

Alternative to Contemporaneous Evidence Requirement

Many commentators criticized the rule in prior proposed § 1.404A–2(c)(4)(iii) prohibiting a retroactive election if a taxpayer was unable to calculate the requisite section 481(a) adjustment based upon actual data, because, in effect, it unduly restricted taxpayers' ability to make retroactive elections. The commentators were concerned that many taxpayers would lack "actual data", and thus be unable to make the election, and that, even if such data were technically available, its retrieval would be prohibitively burdensome. After further consideration, the Service has altered this requirement. Accordingly, new proposed § 1.404A–7(f) provides that the section 481(a) adjustment must be made based upon contemporaneous substantiation quality data. If contemporaneous substantiation quality data is not readily available, however, the adjustment may be based on data which are combinations of actual contemporaneous evidence and reasonable actuarial backward projections of substantiation quality data.

For the convenience of taxpayers, Ann. 81–114, 1981 I.R.B. 21, Ann. 81–148, 1981–39 I.R.B. 15, and Ann. 82–128, 1982–39 I.R.B. 103, concerning Method (1) and Method (2) elections, are reproduced below.

Appendix

Announcement 81–114, 1981–28 I.R.B. 21

This announcement provides guidance relating to section 404A of the Internal Revenue Code. Until proposed regulations are published, taxpayers may rely on the guidance provided below.

Section 404A, added by the Act of December 28, 1980 Pub. L. 96–603 (1981–5 I.R.B. 31), allows taxpayers to make certain elections concerning deductions for amounts paid or accrued by an employer under qualified foreign plans. The two types of qualified foreign plans are qualified funded plans and qualified reserve plans. A qualified foreign plan is any written plan which defers the receipt of compensation and which satisfies two requirements. First, the plan must be for the exclusive benefit of the employer's employees or their beneficiaries. Second, 90 percent or more of the amounts taken into account for the taxable year under the plan must be attributable to services performed by nonresident aliens, the compensation for which is not subject to federal income tax. In addition, the employer must properly elect to have section 404A apply to such plan. If an employer does not make such an election, deductions (or reductions in earnings and profits) are allowed only as provided under section 404 for plans and trusts meeting the requirements of that section.

The rules of section 404A are applicable for taxable years beginning after December 31, 1979, and for certain prior years to the extent the taxpayer elects to have the provisions of section 404A of the Code apply retroactively. Pending the issuance of regulations relating to such elections, the elections referred to in section 404A (e)(3) and (f)(2) of the Code may be made either by (1) claiming the permissible deduction or credit on the taxpayer's income tax return for the first taxable year ending on or after December 31, 1980, including extensions (or an amended return that is filed no later than the end of the extended time period prescribed in section 6081, whether or not such time is actually extended for filing the taxpayer's return), or (2) attaching a statement of election to the taxpayer's income tax return within the time period described in the first method. If the election is made by attaching a statement of election under method (2), the taxpayer's current return would not include deductions or in the case of foreign subsidiaries, take into account reductions in earnings and profits that relate to foreign deferred compensation plans. Deductions or credits consistent with the election would be included on an amended return, to be filed no later than the deadline (described below) for revoking the election. Under either method, the taxpayer must attach to the return a list of plans with respect to which the elections are made. Method (1) or method (2) may also be used for the elections described in section 2(e) of Pub. L. 96–603. When method (2) is used in connection with section 2(e) of Pub. L. 96–603, taxpayers need not amend past returns until regulations are issued.

A taxpayer must determine the amount deductible under section 404A (d) based, in part, on the cumulative foreign amount as defined in section 404A (d)(2)(B). No deduction is allowable under section 404A unless the cumulative foreign amount is established in one of the documents described in section 404A (g)(2)(A)(i), (ii) or (iii) of the Code. Section 404A (g)(2)(A)(iii) authorizes the Secretary to promulgate regulations that would accept certain unspecified statements or evidence as being sufficient to establish the amount of the deduction under foreign law. Until such time as regulations are promulgated under section 404A (g)(2)(A)(iii), the requirements of that section will be considered to be satisfied by a statement prepared at or before the time the return is filed, which lists separately for each plan the cumulative foreign amount and which states that such cumulative foreign amount has been determined pursuant to the requirements of the appropriate foreign tax law. The statement must be prepared by the U.S. taxpayer or a person authorized to practice before the Service. While a taxpayer need not attach any of these documents to its tax return, the taxpayer must furnish the documents for examination upon request of the Internal Revenue Service.

Taxpayers that have made the elections described in section 404A and/or section 2(e) of Pub. L. 96–603 under method (2) need not prepare the statement, described in the immediately preceding paragraph, until they amend their returns. In addition, taxpayers that have made the election described in section 404A for taxable years beginning after December 31, 1979, under Method (1), and have made the election described in section 2(e) of Pub. L. 96–603 under method (2) will satisfy section 404A (g)(2)(A)(iii) if the cumulative foreign amount in the statement reflects the aggregate foreign deductions allowed under foreign law for taxable years commencing after December 31, 1979.

Taxpayers that have already made an election, referred to in this announcement, that does not conform with the requirements stated herein may perfect that election on an amended return filed by the later of September 23, 1981 or by the due date of the taxpayer's income tax return for the first taxable year beginning after December 31, 1979, including extensions. These taxpayers may also satisfy section 404A (g)(2)(A)(iii), to the extent applicable as previously described in this announcement, by preparing the required statement within the same time limits for perfecting the elections under sections 404A (e)(3) and (f)(2).

The qualified reserve plan election, including any retroactive election described in section 2(e)(2) of Pub. L. 96–603, may be revoked on an amended return for the first taxable year ending on or after December 31, 1980, without the consent of the Commissioner until 90 days after the publication of final regulations regarding such elections. Similarly, the qualified foreign plan election and the retroactive election described in section 2(e)(3) may be revoked within the same period.

It is anticipated that the effective date of the final regulations generally will be for taxable years beginning after December 31, 1979, and such prior years as may be affected by an election under section 2 (e) of Pub. L. 96–603. Accordingly, taxpayers may be required to amend their tax returns to the extent that deductions or credits claimed are inconsistent with final regulations.

Announcement 81–148, 1981–39 I.R.B. 15

On June 24, 1981, the Internal Revenue Service issued Announcement 81–114, 1981–28 I.R.B. 21. The announcement was intended to provide pre-regulation guidance to taxpayers concerning recent legislation under section 404A. Taxpayers have expressed concern with respect to a statement in that announcement, with respect to reductions of earnings and profits if section 404A is not elected. Announcement 81–114 is clarified as follows:

The decision not to elect section 404A will not effect the computation of earnings and profits with respect to contributions to plans as allowed under prior law. In the case of an accrued liability to a reserve plan, however, such accrued liability reduces earnings and profits only as provided in section 404A with respect to the taxable years described in section 2(e) of Pub. L. 96–603, 1980–2 C.B. 684.

Announcement 82–128, 1982–39 I.R.B. 103

Taxpayers that are interested in making the elections referred to in section 404A (e)(3) and (f)(2) of the Internal Revenue Code may continue to use the "method (1)" or "method (2)" election described in Announcement 81–114, 1981–28 I.R.B. 21 for taxable years beginning after December 31, 1979, until further guidance is made available. Pending the issuance of regulations under section 404A, qualified foreign plans must comply with the reporting requirements and other rules contained in Announcement 81–114.

Effective Dates

The amendments are proposed generally to apply to taxable years beginning after December 31, 1979. The prohibited transaction rules in § 1.404A–2(a) are proposed to be effective May 7, 1993. If a taxpayer elected pursuant to section 2(e)(2) of the Act of December 28, 1980, the amendments are proposed to apply to certain prior taxable years beginning after December 31, 1970.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these proposed regulations and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests to Appear at the Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying in their entirety. Because the Treasury Department expects to issue final regulations on this matter as soon as possible, a public hearing will be held at 10 a.m. on October 5, 1993, in room 2615, Internal Revenue Building, 1111 Constitution Ave., NW., Washington, DC. Written comments must be received by July 6, 1993. Requests to speak (with outlines of oral comments) at the public hearing must be received by September 14, 1993. See notice of hearing published elsewhere in this issue of the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Elizabeth A. Purcell of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, personnel from other offices of the Service and Treasury Department participated in their development.

List of Subjects in 26 CFR 1.401–0 Through 1.419A–2T

Bonds, Employee benefit plans, Income taxes, Pensions, Reporting and recordkeeping requirements, Securities, Trusts and trustees.

Withdrawal of Proposed Amendments

The proposed amendments to 26 CFR part 1, relating to §§ 1.404A–0, 1.404A–1, 1.404A–2, 1.404A–3, 1.404A–4, 1.404A–5 and 1.404A–6, published in the **Federal Register** for April 8, 1985 (50 FR 13821), are withdrawn.

Proposed Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR part 1 are added to read as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 is amended by adding the following citations to read as follows:

Authority: 26 U.S.C. 7805 * * *

§§ 1.404A–1, 1.404A–2, 1.404A–3, 1.404A–4, 1.404A–5, 1.404A–6 and 1.404A–7 also issued under 26 U.S.C. 404A. * * *

Par. 2. Sections 1.404A–0 through 1.404A–7 are added as follows:

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This section 1.404A–0 lists the major headings that appear in §§ 1.404A–1 through 1.404A–7.

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§ 1.404A–1 General rules concerning deductions and adjustments to earnings and profits for foreign deferred compensation plans.

(a) *In general.* Section 404A provides the exclusive means by which an employer may take a deduction or reduce earnings and profits for deferred compensation in situations other than those in which a deduction or reduction of earnings and profits is permitted under section 404. A deduction or reduction of earnings and profits is permitted under section 404A for amounts paid or accrued by an employer under a foreign deferred compensation plan, in the taxable year in which the amounts are properly taken into account under §§ 1.404A–1 through 1.404A–7, if each of the following requirements is satisfied:

(1) The plan is a written plan maintained by the employer that provides deferred compensation.

(2) The plan is maintained for the exclusive benefit of the employer's employees or their beneficiaries.

(3) 90 percent or more of the amounts taken into account under the plan are attributable to services performed by nonresident aliens, the compensation for which is not subject to United States federal income tax.

(4) An election under § 1.404A–6 or 1.404A–7 is made to treat the plan as either a qualified funded plan or a qualified reserve plan and to select a plan year.

(b) *90-percent test*—(1) *Reserve plans.* Paragraph (a)(3) of this section is not satisfied by a reserve plan unless 90 percent or more of the actuarial present value of the total vested benefits (i.e., benefits not subject to substantial risk of forfeiture) accrued under the plan is attributable to services performed by nonresident aliens, the compensation for which is not subject to United States federal income tax.

(2) *Funded plans*—(i) *Individual account plans.* Paragraph (a) (3) of this section is not satisfied by a funded plan with individual accounts unless 90 percent or more of the amounts allocated to individual accounts (as described in section 414 (i)) under the plan are allocated to the accounts of nonresident aliens and are attributable to services the compensation for which is not subject to United States federal income tax.

(ii) *Plans without individual accounts.* Paragraph (a) (3) of this section is not satisfied by a funded plan not described in paragraph (b) (2) (i) of this section unless 90 percent or more of the actuarial present value of the total benefits accrued under the plan is attributable to services performed by nonresident aliens the compensation for which is not subject to United States federal income tax.

(c) *Calculation of 90 percent amounts*—(1) *In general.* In determining whether the tests described in paragraphs (b) (1) and (b) (2) (ii) of this section are satisfied, accrued benefits and the actuarial present values of accrued benefits may be calculated under any reasonable method. See § 1.404A–5 (a) for rules describing the calculation of accrued benefits attributable to services for which the compensation is subject to United States federal income tax.

(2) *Safe harbor.* The requirement of paragraph (a)(3) of this section will be deemed satisfied with respect to a plan if—

(i) The participants' benefits under the plan increase generally in proportion to their compensation taken into account under the plan; and

(ii) The sum of the following amounts does not exceed five percent of all compensation taken into account under the plan for the plan year—

(A) The compensation of United States citizens and residents taken into account under the plan; and

(B) Any other compensation subject to United States federal income tax taken into account under the plan.

(3) *Anti-abuse rule.* Notwithstanding paragraph (c)(2) of this section, the requirement of paragraph (a)(3) of this section will not be deemed satisfied under paragraph (c)(2) of this section if the Commissioner determines that a significant purpose of the plan is to secure benefits not otherwise eligible for tax benefits under the Internal Revenue Code to participants who are United States citizens or residents.

(4) *Example.* The principles of paragraphs (c)(2) and (c)(3) of this section are illustrated by the following example:

Example. A foreign branch of a domestic corporation maintains a deferred compensation plan under which benefits are based upon a participant's average compensation for the last five consecutive years of employment. The significant purposes of the plan do not include the provision of benefits otherwise unavailable under the Code to participants who are United States citizens or residents. The foreign branch maintains its books and records in its functional currency (FC). The taxpayer's taxable year and the plan year are coterminous with the calendar year. During the plan year in question, the compensation taken into account under the plan for all plan participants totals FC200 million. Of the FC200 million, FC6 million of the compensation taken into account under the plan is compensation for United States citizens and residents or otherwise subject to United States federal income tax. Because the FC6 million is less than five percent of all compensation taken into account under the plan for the plan year, the 90-percent requirement of paragraph (a)(3) of this section is deemed satisfied for this taxable year.

(d) *Deductions and reductions of earnings and profits.* Deductions and reductions of earnings and profits for amounts paid by an employer to a plan that provides deferred compensation that does not meet the requirements of paragraph (a) of this section are governed exclusively by section 404, without regard to whether the plan benefits foreign employees.

(e) *Definitions.* The following definitions apply for purposes of section 404A and §§ 1.404A–1 through 1.404A–7:

Actuarial present value. "Actuarial present value" is defined in § 1.401(a)(4)–12.

Aggregate amount. "Aggregate amount" is defined in § 1.404A–4(g)(4).

Appropriate foreign tax law. "Appropriate foreign tax law" is defined in § 1.404A–4(g)(3).

Authorized officer. "Authorized officer" is defined in § 1.404A–5(b)(7).

Carryover contributions. "Carryover contributions" are defined in § 1.404A–2(d)(4).

Change in method of accounting. "Change in method of accounting" is defined in § 1.404A–6(a).

Closing year. "Closing year" is defined in § 1.404A–6(f)(4)(ii).

Contributions accumulated to pay deferred compensation. "Contributions accumulated to pay deferred compensation" are defined in § 1 404A–2(b)(2).

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Contributions to a trust. "Contributions to a trust" are defined in § 1.404A–2(b)(1).

Controlled foreign corporation. "Controlled foreign corporation" means a controlled foreign corporation as defined in sections 953(c)(1)(B) and 957.

Cumulative foreign amount. "Cumulative foreign amount" is defined in § 1.404A–4(g)(2).

Cumulative limitation. "Cumulative limitation" is defined in § 1.404A–4(b).

Cumulative United States amount. "Cumulative United States amount" is defined in § 1.404A–4(g)(1).

Deductible limit. "Deductible limit" is defined in § 1.404A–2(d)(1)(i).

Deductions. "Deductions" are defined in § 1.404A–1(f)(1).

Deferred compensation—(i) *In general.* "Deferred compensation" means any item the deductibility of which is determined by reference to section 404, without regard to whether section 404 permits a deduction and without regard to whether elections are made under § 1.404A–6 or 1.404A–7. Deferred compensation, as described in the preceding sentence, does not include deferred benefits described in section 404(b)(2)(B).

(ii) *Social security.* A plan under which a foreign government (including a political subdivision, agency or instrumentality thereof) makes a contribution or a direct payment to a participant (or the participant's beneficiary) does not provide deferred compensation to the extent of such contributions or payments. Thus, for example, a foreign country's social security system generally will not be considered as providing deferred compensation. However, the fact that employers are required to maintain the plan by reason of foreign law, or the fact that the plan supplements social security benefits provided by a foreign country, or provides benefits in lieu of such social security benefits, does not prevent a plan from providing deferred compensation.

(iii) *Termination indemnity plans.* The determination of whether a plan (including a termination indemnity plan) provides deferred compensation must generally be made under paragraph (i) of this definition in light of all of the facts and circumstances. Benefits paid under a plan, including a plan denominated a termination indemnity plan will generally be treated as deferred compensation if—

(A) A major purpose of the plan is to provide for the payment of retirement benefits;

(B) The plan has a benefit formula providing for payment based at least in part upon length of service;

(C) The plan provides for the payment of benefits to employees (or their beneficiaries) after the employee's retirement, death or other termination of employment; and

(D) It meets such other requirements as may be prescribed by the Commissioner in guidance of general applicability with respect to termination indemnity plans.

(iv) *Example.* The definition of deferred compensation is illustrated by the following example:

Example. A domestic corporation maintains a branch operation in foreign country *F*. *F* requires that all employers doing business in its country provide benefits to employees under a termination indemnity plan insured by *F*'s government. The plan provides for payments to employees who terminate employment for any reason, including retirement, death, voluntary resignation and discharge for cause (other than for gross misconduct) and permits withdrawals for certain hardship conditions. Upon separation, the employee (or his or her beneficiary) receives an amount equal to the accumulation on the employer's books of one-thirteenth of his or her annual salary for each year of employment, with specified adjustments for interest and inflation. This termination indemnity plan provides deferred compensation as described in paragraph (e) of this section.

Earnings and profits. "Earnings and profits" means earnings and profits computed in accordance with sections 312 and 964(a) and, for taxable years beginning after December 31, 1986, section 986 and the regulations thereunder; and for purposes of section 902 in taxable years beginning before January 1, 1987, accumulated profits within the meaning of section 902(c) as in effect on the day before the enactment of the Tax Reform Act of 1986.

Employer. "Employer" means a person that maintains a plan for the payment of deferred compensation for services provided to it by its employees. "Employer" for purposes of the acceleration of the section 481(a) adjustment is defined in § 1.404A–6(e)(2)(iv).

Equivalent of a trust. "Equivalent of a trust" means a fund—

(i) The corpus and income of which is separately identifiable and segregated, through a separate legal entity, from the general assets of the employer;

(ii) The corpus and income of which is not subject, under the applicable foreign law, to the claims of the employer's creditors prior to the claims of employees and their beneficiaries under the plan;

(iii) The corpus and income of which, by law or by contract, cannot at any time prior to the satisfaction of all liabilities with respect to employees under the plan be used for, or diverted to, any purpose other than providing benefits under the plan; and

(iv) The corpus and income of which is held by a person who has a legally enforceable duty to operate the fund prudently.

Erroneous deduction. "Erroneous deduction" is defined in § 1.404A–7(d)(3)(ii).

Exclusive benefit. "Exclusive benefit" has the same meaning as in §§ 1.401–2 and 1.413–1(d).

Fixed or determinable benefits. "Fixed or determinable benefits" are defined in § 1.404A–2(d)(1)(i).

Full funding limitation. "Full funding limitation" is defined in § 1.404A–5(c)(2).

Functional currency. "Functional currency" (abbreviated as FC) means the functional currency of a taxpayer or a qualified business unit determined in accordance with section 985 (b) and the regulations thereunder, or, for taxable years beginning before January 1, 1987, the currency in which the employer's books and records were maintained for United States tax purposes.

Funded method. "Funded method" is defined in § 1.404A–6(f)(2)(iv).

Initial aggregate amount. "Initial aggregate amount" is defined in § 1.404A–6(g)(2)(iii).

Initial Cumulative foreign amount. "Initial Cumulative foreign amount" is defined in § 1.404A–6(g)(2)(ii).

Initial Cumulative United States amount. "Initial Cumulative United States amount" is defined in § 1.404A–6(g)(2)(i).

Initial section 404A(d) amounts. "Initial section 404A(d) amounts" are defined in § 1.404A–6(g).

Liability. "Liability" is defined in § 1.404A–1(f)(2).

Majority domestic corporate shareholders. "Majority domestic corporate shareholders" are defined in § 1.404A–6(c)(2)(ii)(C).

Method of accounting. "Method of accounting" is defined in § 1.404A–6(a)(1).

Method (1) election. "Method (1) election" is defined in § 1.404A–7(g)(1).

Method (2) election. "Method (2) election" is defined in § 1.404A–7(g)(2).

New Method Opening Amount. "New Method Opening Amount" is defined in § 1.404A–6(f)(3).

Noncontrolled foreign corporation. "Noncontrolled foreign corporation" means a foreign corporation other than a controlled foreign corporation.

Nonqualified individual. "Nonqualified individual" is defined in § 1.404A–5(a)(1).

Nonqualified plan. "Nonqualified plan" is defined in § 1.404A–6(f)(3)(iii).

Old Method Closing Amount. "Old Method Closing Amount" is defined in § 1.404A–6(f)(2).

Open period. "Open period" is defined in § 1.404A–7(g)(6).

Open years. "Open years" are defined in § 1.404A–7(g)(3).

Opening reserve. "Opening reserve" is defined in § 1.404A–6(f)(3)(i).

Opening year. "Opening year" is defined in § 1.404A–6(f)(4)(i).

Pay-as-you-go method. "Pay-as-you-go method" is defined in § 1.404A–6(f)(2)(iii).

Period of adjustment. "Period of adjustment" is defined in § 1.404A–6(e)(2).

Permitted plan year. "Permitted plan year" means the plan year of a plan providing deferred compensation ending with or within the employer's taxable year.

Plan year. "Plan year" means the annual accounting period of a plan providing deferred compensation.

Primary evidence. "Primary evidence" is defined in § 1.404A–5(b)(2).

Prior deduction. "Prior deduction" is defined in § 1.404A–7(d)(3)(i).

Protective election. "Protective election" is defined in § 1.404A–7(g)(2).

Qualified business unit. "Qualified business unit" is defined in section 989(a).

Qualified foreign plan. "Qualified foreign plan" means a plan that meets the requirements of paragraph (a) of this section.

Qualified funded plan. "Qualified funded plan" means a qualified foreign plan for which an election has been made under § 1.404A–6 or 1.404A–7 by the taxpayer to treat the plan as a qualified funded plan.

Qualified reserve plan. "Qualified reserve plan" means a qualified foreign plan for which an election has been made by the taxpayer under § 1.404A–6 or 1.404A–7 to treat the plan as a qualified reserve plan.

Reasonable actuarial assumptions. "Reasonable actuarial assumptions" are defined in § 1.404A–5(c).

Reductions in earnings and profits. "Reductions in earnings and profits" are defined in § 1.404A–1(f)(1).

Reserve method. "Reserve method" is defined in § 1.404A–6(f)(2)(ii).

Retirement annuity. "Retirement annuity" is defined in § 1.404A–2(b)(3).

Retroactive effective date election. "Retroactive effective date election" is defined in § 1.404A–7(b)(1).

Retroactive period. "Retroactive period" is defined in § 1.404A–7(g)(4).

Retroactive plan-by-plan election. "Retroactive plan-by-plan election" is defined in § 1.404A–7 (c)(1) and (d)(1).

Revocation of election. "Revocation of election" is defined in § 1.404A–6(d)(1).

Secondary evidence. "Secondary evidence" is defined in § 1.404A–5(b)(4).

Separate funding entity. "Separate funding entity" is defined in § 1.404A–6(f)(4)(iii).

Short taxable year. "Short taxable year" is defined in § 1.404A–7 (d)(2).

Single plan. "Single plan" is defined in § 1.404A–6(a)(2).

Substantial risk of forfeiture. "Substantial risk of forfeiture" is defined in § 1.404A–3(b)(2).

Substantiation quality data. "Substantiation quality data" means less than precise data that is nevertheless the best data available for the plan year at reasonable expense.

Taxable year of a controlled foreign corporation. "Taxable year of a controlled foreign corporation" means the taxable year as defined in sections 441(b) and 7701(a)(23), subject to section 898.

Taxable year of a noncontrolled foreign corporation. "Taxable year of a noncontrolled foreign corporation" means the taxable year as defined in sections 441(b) and 7701(a)(23).

Taxpayer. "Taxpayer" is defined in section 7701(a)(14).

Termination of election. "Termination of election" is defined in § 1.404A–6(c)(1).

Transition period. "Transition period" is defined in § 1.404A–7(g)(5).

Trust. "Trust" means a trust (as defined in § 301.7701–4(a) of this chapter) or the equivalent of a trust.

Unit credit method. "Unit credit method" is defined in § 1.404A–3(b)(2).

United States tax significance. "United States tax significance" is defined in § 1.404A–6(b)(2)(ii).

Written plan. "Written plan" means a plan that is defined by plan instruments or required under the law of a foreign country, or both. An insurance contract can constitute a written plan.

(f) *Application of other Code requirements*—(1) *Deductibility requirement*—(i) *In general.* In order to deduct amounts under section 404A, amounts contributed to a qualified funded plan or properly added to a reserve with respect to a qualified reserve plan must otherwise be deductible. The standards under section 404 are to be used in determining whether an amount would otherwise be deductible for this purpose. Thus, amounts may be taken into account under section 404A only to the extent that they are ordinary and necessary expenses during the taxable year in carrying on a trade or business and are compensation for personal services actually rendered before the end of the year. Similarly, in order to reduce earnings and profits under section 404A by amounts contributed to a qualified funded plan or properly added to a reserve with respect to a qualified reserve plan, earnings and profits must otherwise be able to be reduced by such amounts under the general principles of sections 312, 901, 902, 960, and 964.

(ii) *Capitalization requirements.* In determining if an amount would otherwise be deductible (or able to be used to reduce earnings and profits) for purposes of paragraph (g)(1)(i) of this section, the fact that the amount is required to be capitalized (e.g., under section 263A) is ignored. Additionally, while section 404A and §§ 1.404A–1 through 1.404A–7 refer generally to permissible deductions or reductions of earnings and profits for deferred compensation, those references are intended to refer both to situations under which amounts may be taken into account as deductions or reductions of earnings and profits and to situations under which amounts may be taken into account through inclusion in the basis of inventory or through capitalization.

(2) *Section 461 requirements.* In determining whether any amount of deferred compensation may be taken into account under section 404A by an accrual method taxpayer, the conditions for accrual under section 461 must be met with respect to the amount by the last day of the taxable year. For this purpose, an amount determined under §§ 1.404A–1 through 1.404A–7 establishes the fact of the liability and determines the amount of the liability with reasonable accuracy. See § 1.461–4(d)(2)(iii), which generally provides that the economic performance requirement of section 461(b) is satisfied to the extent that any amount is otherwise properly taken into account under §§ 1.404A–1 through 1.404A–7.

§ 1.404A–2 Rules for qualified funded plans.

(a) *In general.* Except as provided in this section and in §§ 1.404A–4 and 1.404A–5, the amount taken into account for a taxable year with respect to a qualified funded plan is the amount of the contributions paid by the employer to the trust in that year (regardless of whether the employer uses an accrual method of accounting). Accretions in a trust are not considered contributions to a plan.

(b) *Payment to a trust*—(1) *Contribution requirements.* Contributions paid under a qualified funded plan may not be taken into account unless they are—

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(i) Paid to a trust which is operated in accordance with the requirements of section 401 (a)(2);

(ii) Paid for a retirement annuity under which retirement benefits are provided and which is for the exclusive benefit of the employer's employees or their beneficiaries; or

(iii) Paid directly to a participant or beneficiary (rather than a trust).

(2) *Trust requirements*—(i) *General rule.* A contribution does not satisfy paragraph (b)(1)(i) of this section unless it is accumulated in the trust for the purpose of being distributed as deferred compensation. Whether a contribution is being accumulated in the trust for the purpose of being distributed as deferred compensation depends on the facts and circumstances. For purposes of paragraph (b)(1)(i) of this section, the fact that a trust has been (or has not been) involved in transactions that would be described in section 4975(c)(1) (and not exempted under section 4975(c)(2) or 4975(d)), e.g., contributions made in the form of a promissory note, if the plan were subject to section 4975(c)(1), is an important factor in determining whether the trust is not (or is) considered to be operated in accordance with the requirements of section 401(a)(2). In addition, a contribution to a trust does not satisfy paragraph (b)(1)(i) of this section unless it has substance.

(ii) *Effective date.* The section 4975(c)(1) factor in determining compliance with section 401(a)(2) provided in this paragraph (b)(2) is taken into account for all transactions entered into after May 7, 1993.

(3) *Retirement annuity.* A retirement annuity means a retirement annuity (as defined in section 404(a)(2)) except that the retirement annuity need not be part of a plan that meets the requirements of section 401(a) or 401(d). Notwithstanding the preceding sentence, the retirement annuity described therein need not be issued by an insurance company qualified to do business in a State in the United States if the taxpayer(s) and/or sponsoring employer(s) of the plan have shifted the risk of making payments under the plan to an entity that is qualified to do business in the country (or countries) where the plan is maintained.

(4) *Effect of reversion of overfunded contributions.* If any portion of a contribution to a trust may revert to the benefit of the employer before the satisfaction of all liabilities to employees or their beneficiaries covered by the trust, no amount of the contribution may be taken into account under this section.

(5) *Example.* The principles of paragraph (b) of this section are illustrated by the following example:

Example. A foreign subsidiary of a domestic corporation maintains a deferred compensation plan for its employees. The foreign subsidiary makes annual contributions under the plan to a trust. Each year after the contribution is made to the trust, the trustee lends the contribution back to the foreign subsidiary maintaining the plan. The foreign subsidiary executes promissory notes obligating it to repay the borrowed funds (at a reasonable rate of interest) to the trust and to pay any benefits due under the plan. Notwithstanding that the taxpayer may have designated the plan as a qualified funded plan, amounts may not be taken into account under section 404A with respect to contributions to the trust because the loans cause the trust to fail the requirements of section 401(a)(2). Even if the loans do not cause the trust to violate section 401(a)(2), the portion of any contribution that is loaned to the foreign subsidiary could not be taken into account because, to the extent of the loan (or loans), the contribution lacks substance and is not accumulated in the trust.

(c) *Contribution deemed made before payment*—(1) *Time of poyment to trust.* Regardless of whether an employer uses the cash or an accrual method of accounting, for purposes of this section, a contribution to a trust that is paid after the close of an employer's taxable year is deemed to have been paid on the last day of that taxable year if—

(i) The payment is made on account of the taxable year and is made not later than the 15th day of the ninth month after the close of the taxable year;

(ii) The payment is treated by the plan in the same manner that the plan would treat a payment actually received on the last day of the taxable year; and

(iii) Either—

(A) The employer notifies the plan administrator or trustee in writing that the payment to the plan is designated on account of the taxable year;

(B) The taxpayer claims the payment as a deduction on its tax return for the taxable year; or

(C) The employer reduces earnings and profits with respect to the payment.

(2) *Time of designation.* Any designation of a payment pursuant to paragraph (c)(1)(iii)(A) of this section must occur not later than the time described in paragraph (c)(1)(i) of this section.

(3) *Irrevocable designation.* After a payment has been designated or claimed on a return in the manner provided in paragraph (c) (1) (iii) (A) of this section as being on account of a taxable year, the designation or claim may not be retracted or changed.

(d) *Limitation for qualified funded plans*—(1) *Plans with fixed or determinable benefits*—(i) *Limit on amount taken into account.* Contributions made to a qualified funded plan under which the benefits are fixed or determinable are not taken into account under this section to the extent they exceed the amount that would be taken into account under section 404(a)(1)(A) (ii) and (iii) (determined without regard to the last sentence of paragraph (A) of section 404 (a)(1) and without regard to whether the trust is exempt under section 501(a)). Benefits are considered fixed or determinable for this purpose if either benefits under or contributions to the plan are definitely determinable within the meaning of § 1.401–1(b)(1)(i). The limit described in the first sentence of this paragraph (d)(1)(i) is determined on the basis of the permitted plan year of the qualified foreign plan. Thus, the limit for the employer's taxable year is the limit for the plan year ending with or within the employer's taxable year.

(ii) *Actuarial valuation requirements.* In determining the amount to be taken into account under this section, an actuarial valuation must be made not less frequently than once every three years. However, an actuarial valuation must be made for the first plan year of the plan for which an election under § 1.404A–6 is in effect. For interim years, a reasonable actuarial determination of whether the full funding limit in § 1.404A–5(c)(2) applies to the qualified funded plan must be made. The Commissioner may require a full actuarial valuation in an interim year under appropriate circumstances. See § 1.404A–6 for rules on changes in methods of accounting.

(2) *Plans without fixed or determinable benefits.* Contributions made to a qualified funded plan under which the benefits are not fixed or determinable may not be taken into account under this section to the extent they exceed the limitations of section 404(a)(3) (determined without regard to whether the payment is made to a trust that is exempt under section 501(a)).

(3) *Limitations where more than one type of plan is maintained.* Where payments are made for a taxable year to more than one type of qualified funded plan, the amounts that may be taken into account for the taxable year with respect to the payments are subject to the limitations of section 404(a)(7). The amount that is taken into account under this paragraph (d)(3) is determined without regard to whether the payment satisfies the minimum funding standard described in section 412.

(4) *Carryover contributions.* In the event that the aggregate amount of contributions paid during an employer's taxable year in which an election under section 404A is in effect (reduced by an amount described in section 404A(g)(1)) exceeds the amount that may be taken into account under section 404A(a) and this section (computed without regard to section 404A(d) and § 1.404A–4), the excess contributions are treated as an amount paid in the succeeding taxable year with respect to that qualified foreign plan. A carryover contribution is also taken into account in determining whether a carryover contribution exists for a succeeding taxable year.

(5) *Additional rules.* The Commissioner may prescribe additional rules for determining the amount that may be taken into account under this paragraph (d) in guidance of general applicability.

(e) Examples. The principles of this section are illustrated by the following examples:

Example 1. A qualified funded plan under which benefits are not fixed or determinable is maintained by a foreign branch of a domestic corporation. The foreign branch computes its income in units of local currency, the FC. The taxpayer's taxable year and the plan year are coterminous with the calendar year. The plan was established in 1985, and the taxpayer made an election to apply section 404A, a qualified funded plan election as described in § 1.404A–6. For the 1985 taxable year, the employer made a FC25,000 contribution under the plan, and FC15,000 of that contribution could be taken into account under paragraph (d) (2) of this section. The cumulative foreign amount for the 1985 taxable year was FC20,000. The amount of the excess contribution carried forward was FC10,000 (FC25,000 - FC15,000), because the amount of the carryover contribution is determined without regard to section 404A (d) and § 1.404A–4.

Example 2. Assume the same facts as in *Example 1*, except that the entire FC25,000 contribution made under the plan may be taken into account under paragraph (d)(2) of this section. The amount of the excess contribution carried forward was zero, even though the cumulative United States amount may have exceeded the cumulative foreign amount for the taxable year, because the amount of the excess contribution is determined without regard to section 404A(d) and § 1.404A–4.

Example 3. *P*, a domestic corporation, owns all of the one class of stock of foreign corporation *S*. The taxable year for P is the calendar year. The taxable year for *S* is the fiscal year beginning on June 1. *S* made a contribution to its qualified funded plan on February 15, 1983, and notified the plan's trustee in writing that *S* designated the contribution as a payment on account of *S*'s preceding taxable year (ending May 31, 1982). The contribution is taken into account in computing *S*'s earnings and profits for *S*'s taxable year ending May 31, 1982.

§ 1.404A–3 Rules for qualified reserve plans.

(a) *Amounts taken into account with respect to qualified reserve plans*—(1) *General rule.* Except as provided in §§ 1.404A–4 and 1.404A–5, the amount taken into account for a taxable year with respect to a qualified reserve plan equals the sum of—

(i) The reasonable addition during the permitted plan year to a reserve for liabilities under the plan as described in paragraph (b) of this section; and

(ii) The amortization of certain increases or decreases in the plan reserve over ten years, as described in paragraph (c) of this section.

(2) *Amounts less than zero.* If the amount to be taken into account under this section is less than zero, that amount must be treated as an increase in income and earnings and profits for the taxable year.

(3) *Exclusive rules for qualified reserve plans.* No amounts may be taken into account with respect to a qualified reserve plan except as provided for in this section. Thus, for example, no deduction is allowed for benefit payments from the reserve. Similarly, no amount may be taken into account for any payments made by the employer that are used either to reinsure the liabilities or benefits under a qualified reserve plan or to fund separately all or a portion of the benefits under a qualified reserve plan. These amounts may, however, be taken into account as contributions to a qualified funded plan to the extent the requirements of § 1.404A–2 are satisfied.

(b) *Reasonable addition to a reserve for liabilities*—(1) *General rule.* Except as provided in § 1.404A–7(f)(2), the reasonable addition to a reserve for a plan year equals the increase in the reserve, determined under the unit credit method as described in paragraph (b)(2) of this section, that arises from the passage of time and from additional service and expected changes in compensation in the current plan year for employees who were included in the reserve as of the end of the prior plan year. Thus, the reasonable addition to the reserve includes an element of interest on the reserve as of the beginning of the plan year (less the interest on the benefit payments during the plan year) and the actuarial present value of the expected increase in vested benefits accrued during the current plan year for employees who were included in the reserve as of the end of the prior plan year, determined without reference to any plan amendment during the plan year.

(2) *Unit credit method required.* The reserve for the employer's liability must be determined under the unit credit method. Thus, the reserve must be the actuarial present value of the employer's liability, taking into account service and compensation only through the valuation date. In determining the reserve under this section, benefits that are subject to a substantial risk of forfeiture may not be taken into account. The term "substantial risk of forfeiture" has the meaning stated in section 83, except that the term "property" in all events includes benefits accrued under a qualified reserve plan.

(3) *Timing of valuation.* The determination of the reserve and the reasonable addition to the reserve must be made as of the last day of the plan year.

(4) *Permissible actuarial assumptions*—(i) *Interest rates*—(A) *In general.* Notwithstanding any other provision of §§ 1.404A–1 through 1.404A–7, no amount may be taken into account under section 404A with respect to a qualified reserve plan unless the rate (or rates) of interest for the plan that are selected by the employer are within the permissible range. The interest rate selected by the employer for the plan under this paragraph must remain in effect for that plan until the first plan year for which that rate is no longer within the permissible range. At that time, a new rate of interest must be selected by the employer from within the permissible range applicable at that time.

(B) *Permissible range.* For purposes of this paragraph (b)(4), the term "permissible range" means a rate of interest that is not more than 1.2 and not less than the product of 0.8 multiplied by the average rate of interest for the highest quality long-term corporate bonds denominated in the functional currency of the qualified business unit of the employer whose books reflect the plan's liabilities for the 15-year period ending on the last day before the beginning of the employer's taxable year. If there is no market in long-term corporate bonds denominated in the relevant functional currency, or if the qualified business unit computes its income or earnings and profits in dollars under § 1.985–3, the employer must use a rate that can be demonstrated clearly to reflect income, based on all relevant facts and circumstances, including appropriate rates of inflation and commercial practices.

(ii) *Plan benefits.* Except as otherwise provided by the Commissioner, changes in plan benefits or applicable foreign law that become effective (whether or not retroactively) in a future plan year may not be taken into account until the

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plan year the change is effective. Notwithstanding the above, the reserve calculation may take into account cost-of-living adjustments that are part of the employee's vested accrued benefit, using assumptions regarding cost-of-living adjustments that are consistent with the interest rate assumptions described in paragraph (b)(4)(i) of this section and the terms of the plan. Thus, for example, a cost-of-living adjustment that does not require any future service on the part of the employee and is not subject to employer discretion may be taken into account.

(c) *Ten-year amortization for certain changes in reserves*—(1) *Actuarial valuation.* Each plan year an actuarial valuation must be made as of the end of the plan year, comparing the actual reserve with the expected value of the reserve. Any difference between the actual reserve determined as of the end of the plan year and the expected value of the reserve as of that date must be amortized in level amounts of principal over ten years, beginning in the plan year of the actuarial valuation. This amortization applies regardless of whether the difference is attributable to changes in employee population, changes in plan provisions, or changes in actuarial assumptions.

(2) *Expected value of reserve.* The expected value of the reserve as of the end of the plan year is equal to the sum of the reserve as of the end of the prior plan year plus the reasonable addition to the reserve for the plan year described in paragraph (b) of this section less the benefit payments during the plan year. Thus, the expected value of the reserve is generally determined on the basis of the plan in effect and the actuarial assumptions used as of the end of the prior plan year, but, because it includes the reasonable addition to the reserve, includes the effect of expected changes in compensation, service and vesting during the current plan year.

(3) *Special rule for certain cost of living adjustments.* Notwithstanding the general rule that the increase in liability from a plan amendment is amortized over ten years, if under foreign law a shorter period for amortization is required, that shorter period shall be substituted for ten years in this paragraph (c) if the amendment is a cost of living adjustment that either—

(i) Relates primarily to retirees; or

(ii) Is for employees of a foreign corporation in a taxable year beginning before August 5, 1993.

(4) *Anti-abuse rule.* The Commissioner may reclassify any item included by a taxpayor as a reasonable addition to a reserve as instead subject to amortization over ten years if the Commissioner determines that the taxpayer's classification of that item circumvents the intent of section 404A(c)(4). Thus, for example, if the Commissioner determines that the vesting provisions of the plan cause the increase in vested benefits to be unreasonably large in a single plan year, the reasonable addition under paragraph (b) of this section must be calculated without recognizing any changes in vesting for the plan year.

(d) *Examples.* The principles of this section are illustrated by the following examples:

Example 1. S, a foreign subsidiary of *P*, a domestic corporation, contributes funds to an irrevocable trust which is used to pay benefits provided under *S*'s reserve plan. The trust does not satisfy the requirements of section 401(a), 404(a)(4), or 404(a)(5). The funds are not used to provide benefits in addition to those provided by the reserve plan. In 1984, the year the plan was adopted, *S* elected to treat the plan as a qualified reserve plan. In 1984, *S* also contributed an amount to the irrevocable trust. The fact that *S* contributed an amount to the trust has no effect on the computation of the amount that *S* is entitled to take into account under this section in 1984 (or in any other year). Furthermore, no additional amount may be taken into account for the amount of the contribution to the trust beyond the amount permitted to be taken into account under this section.

Example 2. (a) Employer *Y* hired 10,000 employees in 1980, each of whom was age 40 at the beginning of the year and earned FC10,000. The employees immediately commenced participation in the plan. The plan provided that the accrued benefit at the end of X years equaled: (X multiplied by one percent) multiplied by the highest one year's compensation. The plan vesting was 20 percent per year starting after two years of service with the employer. Under the plan, once an employee was vested in a benefit, the benefit could not be forfeited for any reason other than the death of the employee. Employees who terminate employment for reasons other than death or retirement receive an immediate single sum distribution in an amount equal to the actuarial present value (calculated at eight percent interest) of the vested accrued benefit (where the actuarial present value and the vested accrued benefit are determined as of the end of the prior plan year). Reserves and expected increases in the reserve were determined using eight percent interest, five percent assumed compensation increases, the UP–84 mortality table and assuming no pre-retirement terminations other than death. However as set forth in the relevant data below, the actual experience differed from these assumptions (e.g., the actual compensation did not increase five percent each year and the mortality and termination experience were different than assumed).

Year	End of year age	No. of deaths	No. of terminations	No. of employees remaining
1980	41	16	5	9,979
1981	42	18	5	9,956
1982	43	20	5	9,931
1983	44	25	5	9,901
1984	45	30	25	9,846

Year	Compensation for each employee	End of year accrued benefit for each employee	End of year vested accrued benefit for each employee
1980	10,000	100	0
1981	10,000	200	0
1982	10,000	300	60
1983	12,000	480	192
1984	12,000	600	360

Year	Benefit payments	End of year actuarial factor	End of year reserve for vested benefits
1980	0	1.049706	0
1981	0	1.136328	0
1982	0	1.230380	733,134
1983	369	1.332564	2,533,194
1984	6,396	1.443638	5,117,062

(b) *Computation of amounts taken into account for 1980.* The amount taken into account for 1980 was zero because there was no reasonable addition to the reserve (i.e., no increase in the reserve on account of the passage of time, additional service or expected changes in compensation for employees who were included in the reserve at the end of the prior year) and there were no amounts that are subject to ten-year amortization under paragraph (c) of this section.

(c) *Computation of amounts taken into account for 1981.* There was no amount taken into account for 1981 for the same reason as in 1980.

(d) *Computation of amount taken into account for 1982.* The amount taken into account in 1982 was the sum of the reasonable addition to the reserve determined under paragraph (b) of this section and the amortization of certain increases in the plan reserve over ten years determined under paragraph (c) of this section. There was no reasonable addition to the reserve (i.e., no increase in the reserve on account of the passage of time, additional service or expected changes in compensation for employees who were included in the reserve at the end of the prior year) for the 1982 year because no employee was included in the reserve as of the end of 1981. There were no benefits paid during 1981. Thus, the expected value of the reserve at the end of 1982 was zero. However, the actual value of the reserve at the end of 1982 was FC733,134 (9,931 employees × 60 × 1.230380). The difference between the expected and actual values of the reserve was taken into account over ten years beginning in 1982. Thus, the total amount taken into account for 1982 was FC73,313.

(e) *Computation of amount taken into account for 1983.* Using the employee data as of the end of 1982 and the expected rate of compensation increase for 1983, each employee's accrued benefit was expected to be 420 (10,500 × 4 years × .01) as of the end of 1983. 40 percent of this accrued benefit, or 168, was expected to be vested. Thus, the expected increase in each employee's vested accrued benefit was 108 (the difference between 168 and the vested accrued benefit as of the end of the prior year (60) for those employees who were included in the reserve as of the end of the prior year). There were 9,931 employees included in the reserve as of the end of the prior year and 9,931 × p_{43} were expected to be in the reserve as of the end of 1983. The actuarial present value factor for a deferred annuity of FC1 commencing at age 65 payable monthly is 1.332564. Thus, the actuarial present value of the expected increase in vested accrued benefits as of the end of the year was FC1,425,212 (9,931 employees × p_{43} × 108 × 1.332564). The reasonable addition to the reserve also included an element of interest on the reserve as of the end of the prior year equal to FC58,651 (8 percent × 733,134) that is offset by the interest attributable to the actual benefits paid during the year (FC15, which is interest on the benefits paid during the year (FC369) from the date of payment through the end of the year). Thus, the reasonable addition to the reserve for 1983 was FC1,483,848 (1,425,212 + 58,651 − 15) and the expected reserve at the end of the year was FC2,216,613 (733,134 + 1,483,848 − 369). The actual reserve at the end of 1983 is FC2,533,194, so there was an actuarial loss of FC316,581 (2,533,194 − 2,216,613) which was amortized over 10 years beginning in 1983. Thus, the total amount taken into account in 1983 was FC1,588,819 (1,483,848+73,313+10 percent of 316,581).

(f) *Computation of amount taken into account for 1984.* Using the employee data as of the end of 1983 and the expected rate of compensation increase for 1984, each employee's accrued benefit was expected to be 630 (12,600×5 years×.01) as of the end of 1984. 60 percent of this accrued benefit, or 378, was expected to be vested. Thus, the expected increase in each employee's vested accrued benefit was 186 (the difference between 378 and the vested accrued benefit as of the end of the prior year (192) for those employees who were included in the reserve as of the end of the prior year). There were 9,901 employees included in the reserve as of the end of the prior year and 9,901×p_{44} were expected to be in the reserve as of the end of 1984. The actuarial present value factor for a deferred annuity of FC1 commencing at age 65 payable monthly is 1.443638. Thus, the actuarial present value of the expected increase in vested accrued benefits as of the end of the year was FC2,650,355 (9,901 employees×p_{44}×186×1.443638). The reasonable addition to the reserve also included an element of interest on the reserve as of the end of the prior year equal to FC202,656 (8 percent×2,533,194), offset by interest attributable to the actual benefits paid during the year (FC256, which is interest on the benefits paid during the year (FC6,396) from the date of payment through the end of the year). Thus, the reasonable addition to the reserve for 1984 was FC2,852,755 (2,650,355+202,656 − 256) and the expected reserve at the end of the year is FC5,379,553 (2,533,194+2,852,755 − 6,396). The actual reserve at the end of 1984 was FC5,117,062, so there was an actuarial gain of FC262,491 (5,379,553 − 5,117,062) which was amortized over 10 years beginning in 1984. Thus, the total amount taken into account in 1984 was FC2,931,477 (2,852,755+73,313+31,658 − 10 percent of 262,491).

(g) *Alternative computation method.* The amounts taken into account for 1982, 1983 and 1984 may also be illustrated as follows—

Worksheet for Calculating Amount Taken Into Account for Qualified Reserve Plans Under § 404A

1982:	
(1) Reserve at end of Prior Year	0
(2) Interest on (1) to end of Current Year	0
(3) Present Value of the Expected Increase in Vested Accrued Benefits for employees who were included in the reserve as of the end of the prior year.	0
(4) Benefit Payments during current year	0
(5) Interest on (4) from date of payment through end of Current year	0
(6) Reasonable addition to the reserve (2)+(3)−(5)	0
(7) Expected value of reserve (1)+(6)−(4)	0
(8) Actual value of reserve	733,134
(9) Amount to be amortized (8)−(7)	733,134

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Worksheet for Calculating Amount Taken Into Account for Qualified Reserve Plans Under § 404A—Continued

(10) Remaining 10 Percent Bases from Prior Years (original amounts) (Item 12 from Prior Year)	0
(11) 10 percent Bases whose 10 years ended last year	0
(12) (9)+(10)−(11)	733,134
(13) 10 percent of (12)	73,313
(14) Amount Taken Into Account for Current Year [(6)+(13)]	73,313
1983:	
(1) Reserve at end of Prior Year	733,134
(2) Interest on (1) to end of Current Year	58,651
(3) Present Value of the Expected Increase in Vested Accrued Benefits for employees who were included in the reserve as of the end of the prior year.	1,425,212
(4) Benefit Payments during current year	369
(5) Interest on (4) from date of payment through end of Current year	15
(6) Reasonable addition to the reserve (2)+(3)−(5)	1,483,848
(7) Expected value of reserve (1)+(6)−(4)	2,216,613
(8) Actual value of reserve	2,533,194
(9) Amount to be amortized (8)−(7)	316,581
(10) Remaining 10 Percent Bases from Prior Years (original amounts) (Item 12 from Prior Year)	733,134
(11) 10 percent Bases whose 10 years ended last year	0
(12) (9)+(10)−(11)	1,049,715
(13) 10 percent of (12)	104,971
(14) Amount Taken Into Account for Current Year [(6)+(13)]	1,588,819
1984:	
(1) Reserve at end of Prior Year	2,533,194
(2) Interest on (1) to end of Current Year	202,656
(3) Present Value of the Expected Increase in Vested Accrued Benefits for employees who were included in the reserve as of the end of the prior year.	2,850,355
(4) Benefit Payments during current year	6,396
(5) Interest on (4) from date of payment through end of Current Year	256
(6) Reasonable addition to the reserve (2)+(3)−(5)	2,852,755
(7) Expected value of reserve (1)+(6)−(4)	5,379,553
(8) Actual value of reserve	5,117,062

Worksheet for Calculating Amount Taken Into Account for Qualified Reserve Plans Under § 404A—Continued

(9) Amount to be amortized (8)−(7)	(262,491)
(10) Remaining 10 Percent Bases from Prior Years (original amounts) (Item 12 from Prior Year)	1,049,715
(11) 10 percent Bases whose 10 years ended last year	0
(12) (9)+(10)−(11)	787,224
(13) 10 percent of (12)	78,722
(14) Amount Taken Into Account for Current Year [(6)+(13)]	2,931,477

Example 3. (a) The facts are the same as in *Example 2*, except that the interest rate used to determine the reserve as of the end of 1984 has been decreased to 7%.

(b) The amount taken into account for 1984 under the alternative calculation method is determined as follows:

Worksheet for Calculating Amount Taken Into Account for Qualified Reserve Plans Under § 404A

1984:	
(1) Reserve at end of Prior Year	2,533,194
(2) Interest on (1) to end of Current Year	202,656
(3) Present Value of the Expected Increase in Vested Accrued Benefits for employees who were included in the reserve as of the end of the prior year.	3,402,637
(4) Benefit Payments during current year	6,396
(5) Interest on (4) from date of payment through end of Current year	256
(6) Reasonable addition to the reserve (2)+(3)−(5)	3,605,037
(7) Expected value of reserve (1)+(6)−(4)	6,131,835
(8) Actual value of reserve	6,569,498
(9) Amount to be amortized (8)−(7)	437,663
(10) Remaining 10 Percent Bases from Prior Years (original amounts) (Item 12 from Prior Year)	1,049,715
(11) 10 percent Bases whose 10 years ended last year	0
(12) (9)+(10)−(11)	1,487,378
(13) 10 percent of (12)	148,738
(14) Amount Taken Into Account for Current Year [(6)+(13)]	3,753,775

§ 1.404A–4 United States and foreign law limitations on amounts taken into account for qualified foreign plans.

(a) *In general.* Section 404A(d) and this section place two limits on the amount taken into account for a taxable year with respect to a qualified foreign plan under section 404A (b) and (c) and §§ 1.404A–2 and 1.404A–3. First, as set forth in paragraph (b) of this section, the cumulative amounts that are or have been taken into account under section 404A through the end of the current year may not exceed the cumulative amounts deductible under foreign law in that period. Because the foreign law deduction is cumulative, however, amounts previously disallowed under this rule are taken into account in later years as the amount deductible under foreign law increases. Second, for taxable years beginning before January 1, 1987, or such later year determined under section 902(c)(3)(A), the rule in paragraph (c) of this section further limits the amount taken into account during those taxable years. Because section 404A(d) and this section apply solely to amounts that would otherwise be taken into account under § 1.404A–2 or 1.404A–3, these limitations are applied without regard to amounts taken into account under section 481 (i.e., without regard to the portion of a section 481(a) adjustment that is taken into account during any taxable year within the section 481(a) adjustment period, as defined in § 1.404A–6(e)(2)). See § 1.404A–6, however, for rules applying the section 404A(d) limitations to the calculation of the section 481(a) adjustment.

(b) *Cumulative limitation.* The amount taken into account with respect to a qualified foreign plan for any taxable year equals—

(1) The lesser of—(i) The cumulative United States amount; or

(ii) The cumulative foreign amount;

(2) Reduced by the aggregate amount.

(c) *Special rule for foreign corporations in pre-pooling years.* For a taxable year of a foreign corporation beginning before January 1, 1987, or such later year determined under section 902(c)(3)(A), the reduction in earnings and profits determined under paragraph (b) of this section with respect to a qualified foreign plan may not exceed the amount allowed as a deduction under the appropriate foreign tax laws for such taxable year. See *Example 3* of paragraph (h) of this section for an illustration of this rule.

(d) *Rules relating to foreign currency*—(1) *Taxable years beginning after December 31, 1986.* For taxable years beginning after December 31, 1986, the cumulative United States amount, the cumulative foreign amount, and the aggregate amount must be computed in the employer's functional currency. See generally section 964 and sections 985 through 989 for rules applicable to determining and translating into dollars the amount of income or loss of foreign branches and earnings and profits (or deficits in earnings and profits) of foreign corporations.

(2) *Taxable years beginning before January 1, 1987.* For taxable years beginning before January 1, 1987, the cumulative United States amount, the cumulative foreign amount, and the aggregate amount must be computed in the currency in which the foreign branch or foreign subsidiary kept its books and records. See Rev. Rul. 75–106, 1975–1 C.B. 31 (see § 601.601(d)(2)(ii)(*b*) of this chapter), for rules for determining the amount of income or loss of foreign branches using a net worth method of accounting. See Rev. Rul. 75–107, 1975–1 C.B. 32 (see § 601.601(d)(2)(ii)(*b*) of this chapter), for rules for determining the amount of income or loss of foreign branches using a profit and loss method of accounting. See sections 312, 902, and 1248 and the regulations thereunder for rules for determining the earnings and profits of noncontrolled foreign corporations. See section 964 and the regulations thereunder for rules for determining the earnings and profits of foreign corporations for purposes of subpart F.

(3) *Special rules for the net worth method of accounting.* For purposes of § 1.964–1(e)(4), an amount of deduction that is accrued but not paid at the end of the employer's taxable year with respect to a qualified funded plan must be treated as a short-term liability. In the case of a qualified reserve plan, for purposes of § 1.964–1(e), the amount of the reserve taken into account as a liability on the balance sheet as of the beginning of the taxable year must be limited to the aggregate amount, and the amount of the reserve taken into account as a liability on the balance sheet as of the close of the taxable year must be limited to the sum of the aggregate amount and the amount taken into account for the taxable year. For purposes of § 1.964–1(e)(4), each annual increase in the aggregate amount must be treated as a long-term liability incurred on the last day of the employer's taxable year to which the increase relates. As of the close of each taxable year, a portion of the aggregate amount equal to the amount of benefits expected to be paid during the succeeding taxable year must be reclassified as a short-term liability. The reclassified amount must be allocated to the annual increases in the aggregate amount on a first-in-first-out basis. Similar rules apply for purposes of determining the amount of reserve taken into account by a foreign branch using the net worth method of accounting for taxable years beginning before January 1, 1987, and by a qualified business unit that uses the United States dollar approximate separate transactions method of accounting under § 1.985–3 in a taxable year beginning after December 31, 1986.

(e) *Maintenance of more than one type of qualified foreign plan by an employer.* In determining the deduction or reduction in earnings and profits when an employer maintains one plan for purposes of foreign law that is treated as two separate plans for purposes of § 1.404A–6(a)(2), the cumulative United States amount for each plan must be combined for purposes of paragraphs (a) and (b) of this section. See *Example 5* of paragraph (h) of this section for an illustration of this rule.

(f) *United States and foreign law limitations not applicable.* The limitations set forth in this section do not apply to the adjustments required by section 481, section 446(e) and section 2(e)(3)(A) of Public Law 96–603.

(g) *Definitions*—(1) *Cumulative United States amount.* The term "cumulative United States amount" means (with respect to a qualified foreign plan) the amount determined under section 404A (without regard to section 404A(d)) for the taxable year of the employer and for all consecutive prior taxable years for which an election under section 404A was in effect for the plan plus the "initial section 404A amount" within the meaning of § 1.404A–6(g)(2)(i).

(2) *Cumulative foreign amount.* The term "cumulative foreign amount" means (with respect to a qualified foreign plan) the cumulative amount allowed as a deduction under the appropriate foreign tax law for the taxable year of the employer and for all consecutive prior taxable years for which an election under section 404A was in effect for the plan plus the initial section 404A amount within the meaning of § 1.404A–6(g)(2)(ii).

(3) *Appropriate foreign tax law.* The appropriate foreign tax law is the income tax law of the country (other than the United States) that is the principal place of business of the qualified business unit of the employer whose books reflect the plan liabilities.

(4) *Aggregate amount.* The term "aggregate amount" means (with respect to a qualified foreign plan) amounts permitted to be taken into account under section 404A(d)(1) for all consecutive prior taxable years for which an election under section 404A was in effect for the plan plus the initial section 404A amount required by § 1.404A–6(g)(2)(iii).

(h) *Examples.* The principles of this section are illustrated by the following examples:

Example 1. X, a foreign subsidiary of a domestic corporation, maintains its main office in foreign country *A*, and a branch, *Y*, in foreign country *B*. The functional currency of *X* is the FC. *Y*'s functional currency is the local currency, LC. *X* maintains a qualified foreign plan for the benefit of *X*'s employees in *B*. In the year the plan was adopted, a section 404A election was made for the plan. The appropriate foreign tax law is the tax law of *B* because all the employees covered by the plan are in *B* and plan liabilities are accounted for on *Y*'s books. The tax law of *B* permits *X* to deduct contributions to the plan. The cumulative amount allowed as a deduction under the tax law of *B* is LC80. The cumulative United States amount with respect to the plan is LC100. Therefore, the cumulative limitation is LC80. The earnings and profits of *X* include the profit and loss for *Y* (reflecting a reduction for contributions to the plan, computed in LC and translated into FC under the principles of section 987).

Example 2. A qualified reserve plan is maintained by a foreign branch of a domestic corporation. The foreign branch computes its income under the profit and loss method of Rev. Rul. 75–107, 1975–1 C.B. 32 (see § 601.601(d)(2)(ii)(*b*) of this chapter), in units of the local currency, the FC. The foreign branch established the qualified reserve plan in 1985 and the taxpayer made the elections described in § 1.404A–6. The taxpayer's taxable year and the plan year is the calendar year. The assumed amounts taken into account under section 404A and appropriate foreign tax law for selected years and the computations under this section which follow from the amounts, in units of FC, are shown in the following table—

	1985	1986	1987	1988
(1) Amount determined with respect to the plan under section 404A for the taxable year without regard to section 404A (d)	800,000	900,000	300,000	1,000,000
(2) Cumulative United States amount	800,000	1,700,000	2,000,000	3,000,000
(3) Cumulative foreign amount	1,000,000	1,600,000	2,000,000	2,200,000
(4) Lesser of cumulative United States or cumulative foreign amount	800,000	1,600,000	2,000,000	2,200,000

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	1985	1986	1987	1988
(5) Reduced by aggregate amount (cumulative sum of (6) for prior years)	(0)	(800,000)	(1,600,000)	(2,000,000)
(6) Amount taken into account for the taxable year	800,000 800,000	800,000 800,000	400,000 400,000	200,000 200,000

Example 3. Assume the same facts as in *Example 2* for all taxable years, except that the qualified reserve plan is maintained by a foreign subsidiary of a domestic corporation. The foreign subsidiary computes its earnings and profits in units of the local currency, the FC. The foreign subsidiary's taxable year and the plan year are calendar years. The assumed amounts taken into account under section 404A and appropriate foreign law for selected years, and the computations under this section which follow from the amounts, in units of FC, are shown in the following table—

	1985	1986	1987	1988
(1) Amount determined with respect to the plan under section 404A for the taxable year without regard to section 404A (d)	800,000	900,000	300,000	1,000,000
(2) Amount allowed as a deduction under the appropriate foreign tax laws for the taxable year	1,000,000	600,000	400,000	200,000
(3) Cumulative United States amount	800,000	1,700,000	2,000,000	3,000,000
(4) Cumulative foreign amount	1,000,000	1,600,000	2,000,000	2,200,000
(5) Lesser of cumulative United States or cumulative foreign amount	800,000	1,600,000	2,000,000	2,200,000
(6) Reduced by aggregate amount (cumulative sum of (7) or (8), whichever is applicable, for prior years)	(0)	(800,000)	(1,400,000)	(2,000,000)
	800,000	800,000	600,000	200,000
(7) Amount taken into account for taxable years before 1987 (lesse r of (2) and (6))	800,000	600,000	n/a	n/a
(8) Amount taken into account for taxable years after 1986 (same as (6))	n/a	n/a	600,000	200,000

Example 4. *Z*, a domestic corporation, maintains a retirement plan for employees employed in its foreign branch office. The foreign branch computes its income under the profit and loss method Rev. Rul. 75–107, 1975–1 C.B. 32 (see § 601.601(d)(2)(ii)(*b*) of this chapter), in units of local currency, the FC. The plan is a combination book reserve and funded plan, but is considered a single plan under foreign law. The total retirement benefits that a participant is eligible to receive is the sum of the benefits provided by the qualified reserve plan and the qualified funded plan. Pursuant to § 1.404A–6, in the year the plan was adopted, *Z* made a separate qualified reserve plan and funded plan election with respect to each portion of the foreign plan. The assumed deductions under section 404A and appropriate foreign law for selected years, and the computations under this section which follow from the deductions, are shown in the following table—

	Qualified funded plan		Qualified reserve plan		Combined amount—qualified foreign plans	
	1984	1985	1984	1985	1984	1985
(1) Amount determined with respect to the qualified foreign plans under section 404A for the taxable year without regard to section 404A (d)	40,000	90,000	30,000	80,000		
(2) Amount allowed as a deduction under the appropriate foreign tax laws for the taxable year					60,000	185,000
(3) Cumulative United States amount	40,000	130,000	30,000	110,000		
(4) Combined cumulative United States amount (cumulative sum of (3))					70,000	240,000
(5) Cumulative foreign amount (cumulative sum of (2))					60,000	245,000
(6) Aggregate amount					0	60,000
(7) Lesser of combined cumulative United States amount or cumulative foreign amount ((4) or (5))					60,000	240,000
(9) Reduced by the aggregate amount for the qualified funded and reserve plan (cumulative sum of (10) for prior years)					(0)	(60,000)
(10) Amount taken into account for taxable year					60,000	180,000

Example 5. A qualified reserve plan is maintained by *M*, the foreign subsidiary of *N*, a domestic corporation. *M* computes its earnings and profits in units of the local currency, the FC. The taxable years of *M* and *N* and the plan year are the calendar year. *M* established the qualified reserve plan in 1984 and *N* made the elections described in § 1.404A–6. In that year, the reasonable addition to the plan reserve under § 1.404A–3 was FC750,000. However, the amount allowed as a deduction under the appropriate foreign tax laws for the taxable year was FC650,000. The difference between the amount taken into account under § 1.404A–3 and the deduction under the appropriate foreign tax laws, FC100,000, could not be taken into account for any succeeding taxable year under § 1.404A–3, but it may later reduce *M*'s earnings and profits pursuant to paragraph (a) of this section.

§ 1.404A–5 Additional limitations on amounts taken into account for qualified foreign plans.

(a) *Restrictions for nonqualified individuals*—(1) *General rule.* Notwithstanding any other provisions of §§ 1.404A–1 through 1.404A–7, no amount may be taken into account under section 404A for any contribution or amount accrued that is attributable to services performed either in the current or in a prior taxable year—

(i) By a citizen or resident of the United States who is a highly compensated employee (within the meaning of section 414 (q)) (or, for taxable years beginning before January 1, 1989, by a citizen or resident of the United States who is an officer, shareholder, or highly compensated (within the meaning of § 1.410(b)–1 (d)); or

(ii) In the United States, the compensation for which is subject to tax under chapter 1 of subtitle A of the Internal Revenue Code.

(2) *Determination of service attribution*—(i) *Not limited to actual service.* Service performed by individuals described in paragraph (a)(1)(i) of this section includes service credited to those individuals. Service performed in the United States includes service credited in relation (directly or indirectly) to any United States service.

(ii) *Amounts attributable to service performed in the United States.* The accrued benefit attributable to services described in this paragraph (a) is the excess, if any, of the total accrued benefit over the accrued benefit determined without credit for time spent performing services described in this paragraph (a) and without regard to the compensation levels for that time.

(b) *Records to be provided by taxpayer*—(1) *In general.* Notwithstanding any other provisions of §§ 1.404A–1 through 1.404A–7, no amount may be taken into account under section 404A for any contribution or amount accrued unless the taxpayer attaches a statement to its United States income tax return for any taxable year for which a qualified foreign plan maintained by an employer has United States tax significance. This statement must specify the name and type of qualified foreign plan; the cumulative United States amount, the cumulative foreign amount, and the aggregate amount with respect to the plan; the name and country of organization of the employer; and any other information the Commissioner may prescribe by forms and accompanying instructions or by revenue procedure.

(2) *Primary evidence.* The statement described in paragraph (b)(1) of this section and any required forms must be completed in good faith with all of the information called for and with the calculations referenced in paragraph (b)(1) of this section. Except as provided in paragraph (b)(4) of this section, one of the following documents must be attached to the United States income tax return—

(i) A statement from the foreign tax authorities specifying the amount of the deduction allowed in computing taxable income under the appropriate foreign tax law for the relevant year or years with respect to the qualified foreign plan; or

(ii) If the return under the appropriate foreign tax law shows the deduction for plan contributions or plan reserves as a separate identifiable item, a copy of the foreign tax return for the relevant year or years with respect to the qualified foreign plan.

(3) *Additional requirements.* The statement or return attached pursuant to paragraph (b)(2) of this section may be either the original, a duplicate original, a duly certified or authenticated copy, or a sworn copy. If only a sworn copy of a receipt or return is attached, there must be kept readily available for comparison on request the original, a duplicate original, or a duly certified or authenticated copy.

(4) *Secondary evidence.* Where the statement or return described in paragraph (b)(2)(i) or (b)(2)(ii) of this section is not available, all of the following information must be attached to the United States income tax return—

(i) A certified statement setting forth the cumulative foreign amount for each taxable year to which section 404A applies;

(ii) The excerpts from the employer's books and records showing either the change in the reserve or contributions made with respect to the plan for the taxable year to which section 404A applies; and

(iii) The computations of the foreign deduction relating to the plan to be established by data such as excerpts from the foreign law, assessment notices, or other documentary evidence.

(5) *Foreign language.* If the relevant returns, books, records or computations are not maintained in the English language, the taxpayer must furnish, upon request, a certified translation that is satisfactory to the District Director.

(6) *Additional information required by District Director.* If the taxpayer upon request of the District Director fails, without justification, to furnish any additional information that is significant, the provisions of section 982 will apply.

(7) *Authorized officer to complete documents.* The documents required by this section and by §§ 1.404A–6 and 1.404A–7 must be signed by an authorized officer of the taxpayer (as defined in section 6062 or 6063) who must verify under penalty of perjury that the statement and all other documents submitted are true and correct to his knowledge and belief.

(8) *Transitional rule—good faith effort.* For taxable years ending before August 5, 1993, a taxpayer will be treated as satisfying this paragraph (b) if it makes a good faith effort to provide reasonable documentation.

(c) *Actuarial requirements*—(1) *Reasonable actuarial assumptions.* Except as otherwise specifically provided in §§ 1.404A–2 and 1.404A–3 and this paragraph (c), in the case of a qualified reserve plan or a qualified funded plan under which benefits are fixed or determinable, no amount may be taken into account under section 404A unless costs, liabilities, rates of interest, and other factors under the plan are determined on the basis of actuarial assumptions and methods each of which is reasonable (taking into account the experience of the plan and reasonable expectations), or which, in the aggregate, result in an amount being taken into account that is equivalent to that which would be determined if each such assumption and method were reasonable, and that, in combination, offer the actuary's best estimate of anticipated experience under the plan. For plan years beginning before January 1, 1988, the preceding sentence is satisfied if costs, liabilities, rates of interest, and other factors under the plan are determined on the basis of actuarial assumptions and methods that are reasonable in the aggregate (taking into account the experience of the plan and reasonable expectations) and that, in combination, offer the actuary's best estimate of anticipated experience under the plan. Except to the extent required under that paragraph, the interest rate determined under § 1.404A–3(b)(4) may not be considered in determining whether other actuarial assumptions are reasonable in the aggregate for this purpose.

(2) *Full funding limitation.* Notwithstanding any other provisions of §§ 1.404A–1 through 1.404A–7, no amount may be taken into account under section 404A if the amount causes the assets in the trust (in the case of a qualified funded plan) or if taking into account the amount causes the amount of the reserve (in the case of a

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qualified reserve plan) to exceed the amount described in section 412(c)(7)(A)(i).

§ 1.404A–6 Elections under section 404A and changes in methods of accounting.

(a) *Elections, changes in accounting methods, and changes in plan years*—(1) *In general*—(i) *Methods of accounting.* An election under section 404A with respect to a qualified foreign plan constitutes the adoption of a method of accounting if the election is made in the taxable year in which the plan is adopted. Any election under section 404A with respect to a preexisting plan, however, constitutes a change in method of accounting requiring the Commissioner's consent under section 446(e) and an adjustment under section 481(a). Additionally, any other change in the method used to determine the amount taken into account under section 404A (a), as well as the revocation of any election under section 404A, constitutes a change in accounting method subject to the consent and adjustment requirements of sections 446(e) and 481(a). This section provides procedures for obtaining the Commissioner's consent to make certain changes in methods of accounting under section 404A. Additionally, § 1.404A–7 provides special procedural rules applicable (along with the rules under this section) for retroactive and transition-period elections under section 404A.

(ii) *Changes not involving accounting methods.* Any change in treatment, adjustment, or correction described in § 1.446–1(e)(2)(ii)(b) (e.g., correction of computational errors) is not a change in accounting method. While a retroactive qualified funded plan election under § 1.404A–7(c) constitutes a change in method of accounting, a mere election to apply the effective date of section 404A under § 1.404A–7(b) retroactively does not necessarily result in a change in accounting method. Additionally, a retroactive election for funded foreign branch plans under § 1.404A–7(d) will not be treated as a change in method of accounting, except to the extent that the taxpayer took erroneous deductions under its method of accounting prior to the beginning of its open period. Finally, a change of actuarial assumptions will not be treated as a change in method of accounting for purposes of this section.

(2) *Single plan*—(i) *General rule.* Except as otherwise provided, the rules of this section regarding elections, revocations, and re-elections, and the adoption or change of a plan year, apply separately (i.e., on a plan-by-plan basis) to each plan that qualifies as a single plan (as defined in § 1.414(l)–1(b)). For purposes of this definition, a separate reserve maintained by an employer exclusively for its liability under a plan is considered a plan asset that is available exclusively to pay benefits to employees who are covered by the plan and to their beneficiaries. Although a plan may be treated as a reserve plan under foreign law, this treatment is not binding for purposes of section 404A and this section.

(ii) *Example.* The principles of this paragraph (a)(2) are illustrated by the following example:

Example. S is a wholly-owned foreign subsidiary of *P*, a domestic corporation. *S* maintains a deferred compensation plan under local law to provide benefits to its employees upon retirement based upon years of service and the highest five-year average salary. *S* decided to account for 70 percent of its deferred compensation liabilities through an unfunded book reserve (Plan One), and to account for the remaining 30 percent through a trust equivalent (Plan Two). All of the assets of Plan One and Plan Two were available for payment of liabilities under their respective plans, and were only available for payment of liabilities under their respective plans. Thus, when deferred compensation was paid to *S*'s employees, within the meaning of this paragraph (a)(2), 70 percent of the amount was paid by check drawn against the general assets of *S* and 30 percent of the amount paid was paid by check drawn on the assets of the trust equivalent. Pursuant to this section, *P* made a qualified reserve plan election for Plan One, which it defined as a plan of deferred compensation with liability for 70 percent of the amount of deferred compensation owing to each employee under *S*'s deferred compensation plan. In addition, it made a qualified funded plan election for Plan Two, which it defined as a plan of deferred compensation with liability for the remaining 30 percent. Because *S*'s reserve for its liability was treated as a plan asset with respect to 70 percent of the liability and the assets of the trust, Plan One met the requirements of a "single plan" under § 1.414(l)–1(b), and Plan Two was a separate "single plan". Thus, *S* could take into account only 70 percent of its liability to each employee under its deferred compensation plan when calculating the reasonable additions to the reserve under section 404A(c) for Plan One. Similarly, the full funding limitation and other calculations with respect to Plan Two may only be made with respect to 30 percent of *S*'s liability to each employee under the foreign deferred compensation plan.

(b) *Initial elections under section 404A*—(1) *In general.* The Commissioner's consent to elect initially under section 404A to treat a single plan as a qualified funded plan or as a qualified reserve plan is granted automatically if the taxpayer complies with the requirements of this paragraph (b). Except as provided in § 1.404A–7, an initial election under this section with respect to any qualified foreign plan may be made only for a taxable year beginning after December 31, 1979.

(2) *Time for making election*—(i) *Foreign branch plans.* Except as provided in § 1.404A–7, the initial election for a qualified foreign plan maintained by a foreign branch must be made no later than the time prescribed by law for filing the United States return (including extensions) for the first taxable year for which the election is to be effective.

(ii) *Foreign corporation plans.* Except as provided in § 1.404A–7, the initial election for a qualified foreign plan maintained by a foreign corporation must be made no later than the time allowed for making elections under §§ 1.964–1 and 1.964–1T. Thus, the election under section 404A may be deferred until the earnings and profits of the foreign corporation have United States tax significance, as defined in §§ 1.964–1 and 1.964–1T. United States tax significance may occur in a number of ways, including, for example, a dividend distribution, an income inclusion under section 951(a), a section 1248 transaction, a step-up of basis by earnings and profits for purposes of valuing assets for interest allocation purposes under section 864(e), or an inclusion in income of the earnings of a qualified electing fund under section 1293(a)(1).

(3) *Manner in which election is to be made*—(i) *Foreign branch plans.* In the case of a qualified foreign plan maintained by a domestic corporation, the initial election must be made by the taxpayer by attaching a list of plans for which section 404A treatment is desired to a return filed within the time prescribed in paragraph (b)(2)(i) of this section.

(ii) *Controlled foreign corporation plans.* If a qualified foreign plan is maintained by a controlled foreign corporation, the initial election under this section must be made in the manner prescribed by §§ 1.964–1 and 1.964–1T and must include a list of all plans for which the election is made.

(iii) *Noncontrolled foreign corporation plans.* If a qualified foreign plan is maintained by a noncontrolled foreign corporation, the initial election under this section must be made in the manner prescribed by §§ 1.964–1 and 1.964–1T and must include a list of all plans for which the election is made, as if the noncontrolled foreign corporation were a controlled foreign corporation. In applying the rules of §§ 1.964–1 and 1.964–1T, the term "majority domestic corporate shareholders" is substituted for the term "controlling United States shareholders" wherever it appears in §§ 1.964–1 and 1.964–1T. The term "majority domestic corporate shareholders" has the meaning set forth in § 1.985–2(c)(3)(i).

(4) *Other requirements for election.* For each plan listed, pursuant to paragraph (b)(3) of this section, the taxpayer must designate whether it elects to treat the plan as a qualified funded plan or qualified reserve plan, and must designate a plan year. Additionally, for each plan listed, the taxpayer must disclose the amount of any section 481(a) adjustment, as well as the initial cumulative United States amount, the initial cumulative foreign amount, and the initial aggregate amount defined in paragraph (g) of this section. See § 1.404A–5(b) for rules on additional information required, signing and verifying required statements, and notices and forms necessary to elect under section 404A. Additionally, see § 1.404A–7(d)(1) for required agreement to assessment of tax for retroactive elections for funded foreign branch plans.

(c) *Termination of election when a plan ceases to be a qualified foreign plan*—(1) *In general.* An election under section 404A with respect to a foreign deferred compensation plan is terminated if at any time on or after the first day of the first taxable year for which the election is effective the plan ceases to be a qualified foreign plan by reason of a failure to satisfy the conditions of section 404A(e) (1) or (2). Thus, for example, the election is terminated (subject to the consent of the Commissioner) if more than 10 percent of the amounts taken into account under the plan are attributable to services performed by employees subject to United States federal income tax. As used in this section, the term "termination" refers only to situations under which a plan ceases to be a qualified foreign plan by reason of a failure to satisfy the conditions of section 404(e) (1) or (2). Thus, the term is distinguished from a voluntary revocation of an election (i.e., under paragraph (d)(1) of this section), which also causes a plan to cease to be a qualified foreign plan. Upon termination of an election under section 404A, a change in method of accounting is required. The conditional advance consent of the Commissioner is granted for this change in method of accounting. This conditional consent may be withdrawn, however, if the District Director determines that tax avoidance was a purpose of the termination or if the procedures in paragraph (c)(2) of this section are not satisfied.

(2) *Rules for changing method of accounting upon termination of election*—(i) *Time for making change*—(A) *Foreign branch plans.* Except as provided in § 1.404A–7, in the case of a plan of a foreign branch the change in method of accounting required upon termination of a section 404A election must be made no later than the time prescribed by law for filing the United States return (including extensions) for the taxable year in which the plan ceases to satisfy the requirements of section 404A(e) (1) or (2).

(B) *Foreign corporation plans.* Except as provided in § 1.404A–7, in the case of a plan of a foreign corporation the change in method of accounting required upon termination of a section 404A election shall be made no later than the first year after the termination in which the earnings and profits of the foreign corporation have United States tax significance, as defined in §§ 1.964–1 and 1.964–1T. See paragraph (b)(2)(ii) of this section for United States tax significance examples.

(ii) *Procedures for changing method of accounting upon termination of election*—(A) *Foreign branch plans.* The change in method of accounting required upon termination of a section 404A election with respect to a foreign branch plan must be made by attaching a statement to the return described in paragraph (c)(2)(i)(A) of this section disclosing the amount of any section 481(a) adjustment (required under paragraph (e) of this section and computed in accordance with paragraph (f) of this section) arising upon the change.

(B) *Controlled foreign corporation plans.* The change in method of accounting required upon termination of a section 404A election with respect to a controlled foreign corporation plan must be made in the manner prescribed by §§ 1.964–1 and 1.964–1T and must include disclosure of the amount of any section 481(a) adjustment (required under paragraph (e) of this section and computed in accordance with paragraph (f) of this section) arising upon the change.

(C) *Noncontrolled foreign corporation plans.* The change in method of accounting required upon termination of a section 404A election with respect to a noncontrolled foreign corporation plan must be made in the manner prescribed by §§ 1.964–1 and 1.964–1T and must include disclosure of the amount of any section 481(a) adjustment (required under paragraph (e) of this section and computed in accordance with paragraph (f) of this section) arising upon the change. In applying the rules of §§ 1.964–1 and 1.964–1T, the term "majority domestic corporate shareholders" is substituted for the term "controlling United States shareholders" wherever it appears in §§ 1.964–1 and 1.964–1T. The term "majority domestic corporate shareholders" has the meaning set forth in § 1.985–2 (c)(3)(i).

(d) *Other changes in methods of accounting and changes in plan year*—(1) *Application for consent.* Except as provided in paragraph (c) of this section or in § 1.404A–7, once an initial election under section 404A is effective with respect to a plan, the taxpayer must separately apply to obtain the express consent of the Commissioner prior to changing any method of accounting with respect to a foreign deferred compensation plan. Application for the consent of the Commissioner is required whether or not the method being changed is proper or permitted under the Internal Revenue Code and regulations thereunder. Any change in method of accounting not described in this paragraph (d)(1) must be made in accordance with the requirements of section 446(e) and the regulations thereunder. The procedures prescribed in this paragraph (d), however, are the exclusive procedures for making the following changes in method of accounting—

(i) Revocation of a section 404A election;

(ii) Re-election under section 404A following termination or revocation of a section 404A election;

(iii) Changing the treatment of a plan from a qualified funded plan to a qualified reserve plan (or the converse); or

(iv) Changing the actuarial funding method used to determine costs under a qualified funded plan.

(2) *Procedures for other changes in method of accounting*—(i) *Foreign branch plans.* To request consent to a change in method of accounting described in paragraph (d)(1) of this section, the taxpayer must file an application on Form 3115 with the Commissioner generally within 180 days after the beginning of the taxable year in which the change is requested to be effective. In the case of a revocation of an election under section 404A, however, the 180-day period in the preceding sentence is extended to the time prescribed by law for filing the United States return for the taxable year of the change.

(ii) *Foreign corporation plans.* For a controlled foreign corporation or a noncontrolled foreign corporation, a request for consent to revocation or to another change in method of accounting

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must be made in accordance with the rules of §§ 1.964–1 and 1.964–1T.

(3) *Plan year.* A taxpayer must secure the consent of the Commissioner to change the plan year of a qualified foreign plan. Termination or revocation of a section 404A election will not effect a change in the plan year of the plan.

(e) *Application of section 481*—(1) *In general.* A change in method described in this section constitutes a change in method of accounting to which section 481 applies. Except as otherwise provided in this paragraph and in paragraph (f) of this section, this adjustment must be made in accordance with section 481 and the regulations thereunder in those circumstances. For purposes of section 481(a)(2), any change in method described in this section is considered a change in method of accounting initiated by the taxpayer.

(2) *Period of adjustment*—(i) *In general.* The section 481 (a) adjustment period is determined under the rules of this paragraph (e)(2).

(ii) *Election or re-election.* In the case of an election or a re-election following termination or revocation, the section 481(a) adjustment required by paragraph (e)(1) of this section must be taken into account ratably over a 15-year period, beginning with the first taxable year for which the election or re-election is effective. This section 481(a) adjustment period also applies to a change from a qualified funded plan to a qualified reserve plan.

(iii) *Termination or revocation of election and all other changes in method.* The adjustment required by paragraph (e)(1) of this section for all changes in method (other than those described in paragraph (e)(2)(ii) of this section), including changes in election from a qualified reserve plan to a qualified funded plan, must be taken into account ratably over a six-year period, beginning with the first taxable year for which the change is effective. If an unamortized section 481(a) adjustment amount (e.g., from a previous change) remains at the end of a change in method of accounting to which this paragraph (e)(2)(iii) applies, the net amount of all of the section 481(a) adjustments must be taken into account ratably over this six-year section 481(a) adjustment period.

(iv) *Acceleration of section 481(a) adjustment.* If the employer ceases to engage in the relevant trade or business at any time prior to the expiration of the applicable section 481(a) adjustment period provided in paragraph (e)(2)(ii) or (e)(2)(iii) of this section, the employer must take into account, in the taxable year of cessation, the balance of any section 481(a) adjustment not previously taken into account in computing taxable income (in the case of a branch) or earnings and profits (in the case of a foreign corporation). For purposes of this paragraph (e)(2)(iv), whether or not an employer ceases to engage in the trade or business is to be determined under administrative procedures issued under § 1.446–1(e). In applying those procedures, "employer" is to be defined in the same manner as "taxpayer" is defined under those procedures.

(3) *Allocation and source.* The amount of any net negative section 481(a) adjustment determined under this section and taken into account for a taxable year must be allocated and apportioned under § 1.861–8 in the same manner as a deduction or reduction in earnings and profits under section 404A. Any net positive section 481(a) adjustment that is taken into account for a taxable year first must be reduced by directly allocating to such adjustment the employer's section 404A expense that is subject to apportionment (including any amount that otherwise would be capitalized); to the extent a net positive section 481(a) adjustment exceeds the amount of the employer's section 404A expense for the taxable year, such excess must be sourced or otherwise classified in the same manner as section 404A deductions or reductions in earnings and profits are allocated and apportioned.

(4) *Example.* The principles of this paragraph (e) are illustrated by the following example:

Example. X, a domestic corporation, made an initial election under section 404A to treat an existing deferred compensation plan maintained by its foreign branch as a qualified reserve plan, effective beginning in X's 1985 taxable year. X's foreign branch maintains its books and records in FC, the functional currency. Previously, X had consistently used a permissible method of accounting with respect to the plan. The section 481(a) adjustment arising from X's change in accounting method upon its section 404A election was a negative FC150,000. Beginning with its 1985 taxable year, X took into account a negative FC10,000 each year (FC150,000/15). Effective beginning in X's 1988 taxable year, X received the Commissioner's express consent to change from a qualified reserve plan to a qualified funded plan. The section 481(a) adjustment attributable solely to the 1988 change was a positive FC132,000. Beginning with its 1988 taxable year, and for each of the five succeeding taxable years, X took into account a positive FC2,000, as computed below.

Negative 1985 section 481(a) adjustment	(FC150,000)
Less: 1985, 1986 & 1987 amounts taken into account	30,000
Subtotal	(120,000)
Positive 1988 section 481(a) adjustment	132,000
Net positive section 481(a) adjustment	12,000
Section 481(a) adjustment period	÷ 6
Net amount taken into account annually during section 481(a) adjustment period	FC2,000

(f) *Computation of section 481(a) adjustment*—(1) *In general.* For purposes of section 404A, except as provided in § 1.404A–7(f)(1)(ii)(C), the amount of the section 481(a) adjustment required under paragraph (e)(1) of this section equals—

(i) The Old Method Closing Amount; less

(ii) The New Method Opening Amount.

(2) *Old Method Closing Amount*—(i) *In general.* Except as otherwise provided in paragraph (f)(2) (ii), (iii), or (iv) of this section (or as otherwise prescribed by the Commissioner), the Old Method Closing Amount equals—

(A) The total of all past deductions taken with respect to liabilities under the plan; plus

(B) The net income earned directly or indirectly by any separate funding entity (e.g., account or trust) with respect to the plan, but only to the extent that such net income has not previously been taken into account in determining taxable income (in the case of a foreign branch) or earnings and profits (in the case of a foreign corporation); minus

(C) The total of all past payments under the plan made to plan participants and beneficiaries by the employer, the trust, or the separate funding entity.

(ii) *Taxpayer formerly using a reserve method*—(A) *In general.* If a taxpayer has consistently taken amounts with respect to the plan into account under a reserve method, the Old Method Closing Amount equals the closing reserve balance at the end of the closing year calculated under the taxpayer's reserve method. For purposes of the preceding sentence, a reserve method means a method of accrual based on the actuarial present value of expected future plan benefits.

(B) *Former quolified reserve plan.* To request the Commissioner's consent in the case of a former qualified reserve plan, the closing reserve balance must be adjusted for any unamortized increases or decreases to the reserve described in § 1.404A–3(c) that have not yet been taken into account. For example, if the closing reserve balance is FC100,000, but FC10,000 of the closing reserve balance consists of an unamortized increase in the reserve that has not previously been taken into account due to the ten-year amortization requirements of § 1.404A–3(c), the Old Method Closing Amount is FC90,000.

(iii) *Taxpayer formerly using pay-as-you-go method.* If the taxpayer has consistently taken amounts into account with respect to the plan based only on actual payments of plan benefits to participants and beneficiaries, the Old Method Closing Amount equals zero.

(iv) *Taxpayer formerly using a funded method*—(A) *Payment to separate funding entity.* If the taxpayer has consistently taken amounts into account with respect to the plan based only on actual payments to a separate funding entity and on payments by the employer (but not by the funding entity) to plan participants or beneficiaries, the Old Method Closing Amount equals the balance in the separate funding entity at the end of the closing year, including amounts attributable, directly or indirectly, to net investment income that has not previously been taken into account in determining taxable income (in the case of a foreign branch) or earnings and profits (in the case of a foreign corporation).

(B) *Former qualified funded plan.* In the case of a former qualified funded plan, the Old Method Closing Amount generally equals the amount described in paragraph (f)(2)(iv)(A) of this section, adjusted, however, by—

(*1*) Reducing the amount properly to reflect any net limitations under section 404A (b) and (g) (e.g., the full funding limitation for a qualified funded plan) that were applied in determining amounts taken into account under the former section 404A method of accounting; and

(*2*) Increasing the amount properly to reflect any amounts that are not paid during the closing year but that are permitted to be taken into account in the closing year under section 404A(b)(2) (relating to payments made after the close of the taxable year).

(v) *Section 404A(d) limitation.* In computing the Old Method Closing Amount upon the termination or revocation of an election under section 404A, the limitations of section 404A(d) and § 1.404A–4 must be taken into account. Thus, if the Old Method Closing Amount is determined under paragraph (f)(2)(ii)(B) or (f)(2)(iv)(B) of this section, the amount otherwise determined under those paragraphs shall be reduced by applying the section 404A(d) and § 1.404A–4 limitations to the extent the cumulative United States amount under § 1.404A–4 exceeds the cumulative foreign amount under § 1.404A–4.

(3) *New Method Opening Amount*—(i) *Qualified reserve plan.* In the case of an election to treat a plan as a qualified reserve plan, the New Method Opening Amount equals the balance of the reserve as of the end of the last day of the closing year, calculated under the rules of section 404A(c) and § 1.404A–3 based on plan information and data as of that date. The New Method Opening Amount must be reduced (or increased) for any unamortized increases (or decreases) to the reserve described in section 404A(c)(4) and § 1.404A–3(c).

(ii) *Qualified funded plan.* In the case of an election to be treated as a qualified funded plan, the New Method Opening Amount equals the amount of funds in the trust as of the beginning of the first day of the opening year, adjusted as necessary to take into account the rules of section 404A (b) and (g). If the separate funding entity does not qualify as a trust under § 1.404A–1(e), the New Method Opening Amount in the case of a qualified funded plan is zero because there is no balance in a trust as defined in § 1.404A–1(e).

(iii) *Nonqualified plan.* In the case of any plan that ceases to be a qualified foreign plan (either by reason of the termination or revocation of a section 404A election), the New Method Opening Amount is zero.

(iv) *Section 404A(d) limitation.* In computing the New Method Opening Amount upon an election under section 404A, the limitation on deductions of section 404A(d) and § 1.404A–4 must be taken into account. Thus, if the New Method Opening Amount is determined under paragraph (f)(2)(i) or (f)(2)(ii) of this section, the amount otherwise determined must be reduced to the extent the cumulative United States amount computed under § 1.404A–4 exceeds the cumulative foreign amount computed under § 1.404A–4. See paragraph (g) of this section for initialization of amounts taken into account under section 404A(d).

(4) *Definitions and special rules*—(i) *Opening year.* For purposes of this section, the opening year is the first taxable year for which the new method of accounting is effective with respect to a plan. For example, in the case of an election to treat a foreign corporation plan as a qualified reserve plan beginning in 1989, the opening year is 1989, even though the election may not be made until 1994 pursuant to paragraph (b)(2)(ii) of this section.

(ii) *Closing year.* For purposes of this section, the closing year is the taxable year immediately preceding the opening year.

(iii) *Separate funding entity.* A separate funding entity described in paragraphs (f)(2)(i)(B) and (f)(2)(iv) of this section is any entity that satisfies the first requirement in the definition of the equivalent of a trust in § 1.404A–1(e) (segregation in a separate legal entity) and, in practice, also satisfies the third requirement in that definition (dedication to payment of plan benefits) with respect to benefits under the relevant plan.

(iv) *Special rules for certain foreign corporation plans.* In the case of a foreign corporation's plan for which no method has been used for some or all prior taxable years because no calculation of earnings and profits has been necessary for those years (see, e.g., paragraph (b)(2)(ii) of this section), the employer may assume that the old method has been consistent with any method actually used consistently in immediately prior years. If no calculation of earnings and profits has been made for prior years, in determining the Old Method Closing Amount, the taxpayer may assume the method used was a method described in paragraph (f)(2)(iii) of this section. This assumed method used in the calculation of the Old Method Closing Amount must actually be used by the taxpayer for all the prior taxable years to the extent reductions of earnings and profits for those years are ever determined with respect to the plan.

(v) *Reference to rules applicable in the case of failure to consider net investment income in computing section 481(a) adjustment.* The treatment of net investment income earned by a funding vehicle that has not previously taken into account by the taxpayer in determining taxable income (in the case of a foreign branch) or earnings and profits (in the case of a foreign corporation), and that is not properly considered (as required under paragraphs (f)(2)(i)(B) and (f)(2)(iv)(A) of this section) in determining the amount of the section 481(a) adjustment for purposes of section 404A, is determined under other applicable provisions, which may include sections 61, 671 through 679, and 1001.

(vi) *Certain section 481(a) adjustments treated as carryover contributions.* In the case of an election for a plan to be treated as a qualified funded plan, any net positive section 481(a) adjustment is treated as a carryover contribution (within the meaning of § 1.404A–2(d)(4)) to the extent that the adjustment is attributable to limits (that would be taken into account under § 1.404A–2(d)(4)) on the

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amounts previously contributed to the trust under the plan that could be taken into account under section 404A.

(5) *Examples.* The principles of paragraph (f) of this section are illustrated by the following examples:

Example 1. Nonqualified reserve plan to qualified reserve plan. A foreign subsidiary of a domestic corporation established an irrevocable balance sheet reserve for pension expenses in 1981. The subsidiary maintains its books and records in FC, the functional currency. From 1981 through 1987, the taxpayer reduced earnings and profits of the foreign subsidiary by FC150,000, the amount of the pension liability which had accrued under the plan. This method of accounting was never challenged or changed by the District Director prior to the expiration of the statute of limitations for the 1981 through 1987 taxable years. Through December 31, 1987, the last day of the closing year, actual pension payments totalled FC15,000. For the 1988 taxable year, the taxpayer made an election for the plan to be treated as a qualified reserve plan. The reserve calculated under section 404A as of the first day of the 1988 taxable year, the opening year, and based upon employee census data as of that date, was FC175,000. The Old Method Closing Amount was FC135,000 (FC150,000 less FC15,000). The New Method Opening Amount was FC175,000. The section 481(a) adjustment was a negative FC40,000 (FC135,000 less FC175,000). This adjustment is to be taken into account over the 15-year section 481(a) adjustment period prescribed in paragraph (e)(2)(ii) of this section.

Example 2. Nonqualified reserve plan to qualified reserve plan. Assume the same facts as in *Example 1*, except that the reserve calculated under section 404A as of the first day of the 1988 taxable year and based upon employee census data as of that date was FC75,000. The Old Method Closing Amount was FC135,000 (FC150,000 less FC15,000). The New Method Opening Amount was FC75,000. The section 481(a) adjustment was a positive FC60,000 (FC135,000 less FC75,000). This adjustment is to be taken into account over the 15-year section 481(a) adjustment period prescribed in paragraph (e)(2)(ii) of this section.

Example 3. Nonqualified funded plan to qualified reserve plan. *M*, a domestic corporation, wholly owns *N*, a foreign corporation. *N* maintains its books and records in FC, the local currency. From 1981 through 1988, *N* maintained a nonqualified funded plan. During this period, *N* contributed FC55,000 to the separate funding entity administering the plan and reduced earnings and profits by FC55,000. The separate funding entity realized net income of FC17,000 from investment of plan assets and paid nothing to participants. None of the FC17,000 net investment income earned in the separate funding entity was taken into account in computing *N*'s earnings and profits. As of the last day of *N*'s 1988 taxable year, the closing year, the plan's fund balance was FC72,000, comprised of FC55,000 (excess contributions) and FC17,000 (investment income). The reserve calculated under section 404A as of the first day of the 1989 taxable year, the opening year, was FC100,000. Effective for *M*'s 1989 taxable year, *M* elected under section 404A to treat *N*'s funded plan as a qualified reserve plan. The Old Method Closing Amount was FC72,000. The New Method Opening Amount was FC100,000; thus, if, in the future, *N* pays FC100,000 to plan participants or beneficiaries, that FC100,000 will not again reduce *N*'s earnings and profits. The section 481(a) adjustment was a negative FC28,000 (FC72,000 less FC100,000). However, if the District Director later challenges and requires *N* to change its method of accounting for foreign deferred compensation used in determining its 1981 through 1988 earnings and profits in a taxable year prior to the 1989 taxable year, the section 481(a) adjustment could be changed from a negative FC28,000 to a negative FC100,000. Pursuant to the administrative procedures under section 446(e), the District Director, upon challenging the treatment of foreign deferred compensation in years prior to 1989, could require any necessary positive section 481(a) adjustment to be taken into account in one taxable year.

Example 4. Nonqualified funded plan to qualified funded plan. *Y*, a domestic corporation, wholly owns *X*, a foreign corporation. *X* maintains its books and records in FC, the local currency. From 1981 through 1988, *X* maintained a nonqualified funded plan. During this period, *X* reduced earnings and profits by contributions of FC55,000 to the plan. The plan paid participants FC30,000. As of the last day of *Y*'s 1988 taxable year, the plan's fund balance was FC29,000, comprised of FC25,000 (net contributions) and FC4,000 (interest income that was never previously taken into account in determining earnings and profits). Effective for *Y*'s 1989 taxable year, *Y* elected under section 404A to treat *X*'s funded plan as a qualified funded plan. The Old Method Closing Amount was FC29,000. The New Method Opening Amount was FC29,000. The section 481(a) adjustment was zero (FC29,000 less FC29,000). See *Example 3*, however, for the effects on the section 481(a) adjustment of a successful challenge to *X*'s method of accounting for foreign deferred compensation in years prior to 1989 by the District Director.

Example 5. Z, the wholly owned foreign subsidiary of *Y*, a domestic corporation, has maintained a reserve plan for its employees, beginning in 1981. *Z* maintains its books and records in FC, the local currency. Effective for 1984, *Y* elected under section 404A to treat the plan as a qualified reserve plan. The only section 481(a) adjustment required was to take into account the limitation under section 404A(d). In 1981 through 1983, prior to the section 404A election, *Z*'s earnings and profits were reduced by additions to the reserve. This method of accounting was never challenged or changed by the District Director prior to the expiration of the statute of limitations for the 1981 through 1983 taxable years. Thus, the Old Method Closing Amount equaled the balance in the reserve, which was FC300. To compute the New Method Opening Amount, the opening reserve took into account the lesser of the cumulative United States amount (FC300) or the cumulative foreign amount (FC90) as of the first day of 1984, the opening year. Thus, the New Method Opening Amount was FC90. The section 481(a) adjustment was therefore a positive FC210 (FC300—FC90); 1/15 of this amount, FC14 (FC210/15), is being taken into account as an increase in earnings and profits each year over the 15-year section 481(a) adjustment period that began in 1984.

Example 6. Nonqualified reserve plan to qualified reserve plan. Assume the same facts as in *Example 5* for all taxable years and the annual United States reduction, foreign reduction, cumulative United States amount, cumulative foreign amount and the section 481(a) adjustment shown below. The total annual reduction (or increase) in *Z*'s earnings and profits was as follows—

	1984	1985	1986	1987	1988	1989	1990
Amount determined under U.S. law with respect to the plan under section 404A for the taxable year without regard to section 404A(d)	FC(40)	FC(50)	FC(60)	FC(70)	FC(80)	FC(90)	FC(100)
Amount allowed as a deduction for the taxable year under the appropriate foreign tax laws	(70)	(260)	(50)	(40)	(30)	(20)	(10)
Cumulative U.S. amount	(340)	(390)	(450)	(520)	(600)	(690)	(790)
Cumulative foreign amount	(160)	(420)	(470)	(510)	(540)	(560)	(570)
Lesser of cumulative U.S. or foreign amount	(160)	(390)	(450)	(510)	(540)	(560)	(570)
Reduced by the aggregate amount	90	160	390	440	510	540	560
	(70)	(230)	(60)	(70)	(30)	(20)	(10)

	1984	1985	1986	1987	1988	1989	1990
Amount taken into account for the taxable year[1]	(70)	(230)	(50)	(70)	(30)	(20)	(10)
Positive section 481 adjustment	14	14	14	14	14	14	14
Total increase (reduction) in earnings and profits taken into account for the taxable year	FC(56)	FC(216)	FC(36)	FC(56)	FC(16)	FC(6)	FC(4)

[1] The limitation in § 1.404A–4(c) applies to taxable years 1984, 1985 and 1986. In 1986, the amount deductible under the appropriate foreign tax law was less than the lower of (1) the cumulative U.S. amount, or, (2) the cumulative foreign amount (then reduced by the aggregate amount).

(g) Initial section 404A(d) amounts—(1) *In general.* By making an election under section 404A, a taxpayer adopts section 404A(d) as part of its method of accounting. Section 1.404A–4 provides rules to apply the limitations of section 404A(d) in taxable years when an election under section 404A is in effect. This paragraph (g) provides rules to compute initial amounts under section 404A(d) in the opening year. These rules are based on the rules to compute the New Method Opening Amount in paragraph (f)(3) of this section.

(2) *Computation of amounts.* As of the first day of the opening year, the initial section 404A(d) amounts are as follows:

(i) The initial cumulative United States amount equals the New Method Opening Amount without regard to any reduction under paragraph (f)(3)(iv) of this section.

(ii) The initial cumulative foreign amount equals the New Method Opening Amount computed as though the appropriate foreign tax law were the new method of accounting and without regard to paragraph (f)(3)(iv) of this section.

(iii) The initial aggregate amount equals the lesser of—

(A) The initial cumulative United States amount; and

(B) The initial cumulative foreign amount.

(3) *Example.* The principles of paragraph (g) of this section are illustrated by the following example:

Example. A foreign subsidiary of a domestic corporation maintains its books and records in FC, the local currency. The subsidiary established a funded deferred compensation plan in 1983 but reduced earnings and profits on a pay-as-you-go basis. The plan year and the taxable year of the domestic corporation and the subsidiary are the calendar year. For the 1990 taxable year, the domestic corporation elected to treat the plan as a qualified reserve plan. The balance in the separate funding entity as of January 1, 1990, the first day of the opening year, was FC90,000. The initial United States cumulative amount (the opening reserve) was FC150,000. The initial foreign cumulative amount (the balance in the separate funding entity) was FC90,000. The initial aggregate amount was FC90,000 (the lesser of FC90,000 or FC150,000). Since the subsidiary reduced earnings and profits on the pay-as-you-go method, the Old Method Closing Amount was zero. The section 481(a) adjustment was a negative FC90,000 (zero less FC90,000 (the lesser of FC150,000 or FC90,000)).

§ 1.404A–7 Effective date, retroactive elections, and transition rules.

(a) *In general*—(1) *Effective date.* Except as otherwise provided in this section, section 404A applies to taxable years beginning after December 31, 1979.

(2) *Overview of retroactive elections for taxable years beginning before January 1, 1980*—(i) *Plans of foreign subsidiaries.* Section 2(e)(2) of Public Law 96–603 permitted a taxpayer to make section 404A apply retroactively for all of its foreign subsidiaries. Paragraph (b) of this section describes and provides the time and manner to make, perfect, or revoke this retroactive effective date election. If a retroactive effective date election was made, the taxpayer was also eligible to make a qualified funded plan election or a qualified reserve plan election effective retroactively for any of its subsidiaries' plans that met the requirements of § 1.404A–1(a) (other than paragraph (4) thereof) for the relevant period. Paragraph (c) of this section describes and provides the time and manner to make, perfect, or revoke these retroactive plan-by-plan elections for foreign subsidiaries.

(ii) *Plans of foreign branches.* Section 2(e)(3) of Public Law 96–603 permitted a taxpayer to make a qualified funded plan election retroactively for any plans maintained by a foreign branch that met the requirements of § 1.404A–1(a) (other than paragraph (4) thereof) for the relevant period. Paragraph (d) of this section describes and provides the time and manner to make this retroactive plan-by-plan qualified funded plan election for plans maintained by foreign branches.

(3) *Overview of special transition rules for election, revocation, and re-election.* Paragraph (e) of this section provides the time and manner to make and revoke qualified funded plan and qualified reserve plan elections for a taxpayer's transition period.

(b) *Retroactive effective date elections for foreign subsidiaries*—(1) *In general.* Section 2(e)(2) of Public Law 96–603 permitted a taxpayer to make section 404A effective during the taxpayer's open period. If the election was made, the taxpayer accepted section 404A (including, for example, § 1.404A–1(d)) as the operative law for all foreign subsidiaries (whether or not controlled foreign corporations) during the taxpayer's entire open period. If the election was made, section 404A applies to all distributions from accumulated profits (or earnings and profits) earned after December 31, 1970 (unless the election is revoked pursuant to paragraph (b)(3) of this section, if applicable). If accumulated profits were earned prior to January 1, 1971, a change in method of accounting is required for the foreign subsidiary's taxable year that ends with or within the first taxable year in the taxpayer's open period. A section 481(a) adjustment is required for amounts taken into account prior to the beginning of the foreign subsidiary's year of change and must be computed applying the rules of § 1.404A–6(f).

(2) *Time and manner to make, perfect, or revoke election.* The retroactive effective date election described in paragraph (b)(1) of this section is not effective unless the election was actually made no later than the time prescribed by law for filing the United States return for the first taxable year ending on or after December 31, 1980, including extensions (whether or not the time was actually extended for filing the taxpayer's return), and unless the taxpayer perfects the election by filing a statement indicating the taxpayer's agreement to perfect the election with an amended return for the first taxable year ending on or after December 31, 1980, on or before May 9, 1994. In order to be effective, the perfection must be made in the manner provided in § 1.404A–6(b)(3) (ii) or (iii) An election that is not perfected is considered retroactively revoked.

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(3) *Requirement to amend returns*—(i) *In general.* In addition to the amended return required by paragraph (b)(2) of this section, the taxpayer must file any other amended United States returns that are necessary to conform the treatment of all items affected by the election or revocation to the treatment consistent with the election or revocation within the time period described in paragraph (b)(2) of this section. If no adjustments are necessary, the amended return required by paragraph (b)(2) of this section must contain a statement to that effect.

(ii) *Required statements.* All amended returns required by this paragraph (b)(3) must be accompanied by a statement containing—

(A) The open years, open period and retroactive period of the taxpayer;

(B) The taxable year for which the election is perfected or revoked;

(C) A statement that the election (or elections) are perfected or revoked pursuant to the authority contained in § 1.404A–7; and

(D) A signature and verification as provided in § 1.404A–5(b)(7).

(c) *Retroactive plan-by-plan elections for foreign subsidiaries*—(1) *In general.* Any taxpayer that makes a retroactive effective date election described in paragraph (a)(2)(i) of this section under the rules of paragraph (b) of this section may, at its option, also elect to treat any foreign plan of a subsidiary that met the requirements of § 1.404A–1(a) (other than paragraph (4) thereof) for the relevant period as a qualified funded plan or as a qualified reserve plan under section 404A, beginning in any taxable year of the foreign subsidiary that ends with or within the taxpayer's open period (or for any earlier taxable year beginning after December 31, 1971, for which earnings and profits of the subsidiary had no United States tax significance). Alternatively, the taxpayer may decide to make no such plan-by-plan election with respect to any particular plan or plans of any of its foreign subsidiaries. Rules similar to those contained in § 1.404A–6 (including, where applicable, the requirement to obtain the consent of the Commissioner) are used to effect such plan-by-plan elections. If the plan existed in a taxable year beginning prior to the first year for which the election was effective, a change in method of accounting is required for the year of the election. The year of change for purposes of computing the section 481 (a) adjustment is the first year that the election is effective.

(2) *Time and manner to make, perfect, or revoke election.* A taxpayer that is eligible to make a plan-by-plan election described in paragraph (c)(1) of this section may make or perfect such an election by attaching a statement to that effect on an amended return for the year that the election is to be effective on or before May 9, 1994. In order to be effective, the perfection of a plan-by-plan election must be made in the manner provided in § 1.404A–6(b)(3) (ii) or (iii). An election that is not perfected is considered retroactively revoked. Any election made or perfected under this paragraph (c) will continue in effect for taxable years beginning after the taxpayer's open period, unless revoked under paragraph (c)(4) or (e) of this section or § 1.404A–6.

(3) *Requirement to amend returns.* In addition to the amended return required by paragraph (c)(2) of this section, the taxpayer must file any other amended United States returns that are necessary to conform the treatment of all items affected by the election or revocation to the treatment consistent with the election or revocation. All amended returns must be accompanied by the statement described in paragraph (b)(3)(ii) of this section (substituting "made, perfected, or revoked" for "perfected or revoked" where applicable) and all of the information required by § 1.404A–6(b)(4) (and § 1.404A–6(c)(2)(ii), if applicable, in the case of a termination). If no adjustments are necessary, the amended return required by paragraph (c)(2) of this section must contain a statement to that effect.

(4) *Revocation after initial election and re-election permitted.* Any taxpayer that makes an initial election for any plan under paragraph (c)(2) of this section may, under the rules of that paragraph, revoke the election for any taxable year after the sixth consecutive taxable year for which the election is effective, and may re-elect for any taxable year after the sixth consecutive taxable year for which the election is not in effect (regardless of whether the election is not in effect due to revocation or termination of the election as defined in § 1.404A–6(c)(1)). The consecutive changes in method of accounting described in the first sentence of this paragraph (c)(3) must be made under the rules in § 1.404A–6 regarding the section 481(a) adjustment period. The Commissioner may approve a letter ruling request (see § 601.201 of this chapter) to shorten the six-year waiting period upon a showing of extraordinary circumstances.

(5) *Examples.* The principles of paragraphs (b) and (c) of this section are illustrated by the following examples:

Example 1. P, a domestic corporation, wholly owns two foreign subsidiaries, *S* and *T*. *S* and *T* maintain their books and records in FC, the local currency. Since 1978, *S* and *T* have maintained unfunded pension plans for their respective employees. *S* maintained two plans, Plan 1 and Plan 2, and *T* maintained one plan. The plan years and the taxable years of all three corporations are the calendar year.

(i) For 1978 and 1979, *P* reduced the earnings and profits of *S* and *T* by the amount of the pension liability that had accrued under the plans as follows—

Taxable year	S's plan 1	S's plan 2	T's plan
1978	FC30,000	FC5,000	FC70,000
1979	50,000	15,000	80,000
Total reduction in earnings and profits	FC80,000	FC20,000	FC150,000
Total reduction in earnings and profits:			
S	FC100,000		
T	FC150,000		

(ii) In 1981, *P* made a retroactive effective date election pursuant to section 2(e)(2) of Public Law 96–603 and paragraph (b) of this section for taxable years beginning after December 31, 1977, and ending before January 1, 1980, *P*'s open period. Thus, with respect to its open period, *P* has made section 404A the operative law for all distributions of earnings and profits (or accumulated profits) earned after December 31, 1970 for *S* and *T*. The consequences of making or not making the retroactive plan-by-plan election under section 404A for each foreign plan will be determined as though section 404A had been in effect for those years. Accordingly, earnings and profits of *S* and *T* may not be reduced with respect to amounts accrued under their respective plans unless the plans met the requirements of § 1.404A–1(a) for those years in the open period.

(iii) *P* made a retroactive plan-by-plan election to treat *S*'s Plan 1 as a qualified reserve plan for *P*'s retroactive period. The amount taken into account under § 1.404A–3 for *S*'s Plan 1 calculated under section 404A was FC25,000 for 1978 and FC35,000 for 1979. No election under section 404A was made for *S*'s Plan 2 or for *T*'s plan. Thus, no amount of the accrued but unpaid pension liability attributable to *S*'s Plan 2 or to *T*'s plan may reduce *S*'s or *T*'s respective 1978 and 1979 earnings and profits. *P* amended its tax returns for 1978 and 1979 to reflect the correct reduction of earnings and profits of FC25,000 and FC35,000 with respect to *S*'s Plan 1 and no reduction for those years with respect to *S*'s Plan 2 or *T*'s plan. Since *S*'s and *T*'s plans were established during the open period, no section 481(a) adjustment is required.

Example 2. Q, a domestic corporation, has wholly owned *R*, a foreign subsidiary, since *R*'s formation in 1968. *R* maintains its books and records in FC, the local currency. Since 1968, *R* maintained an unfunded pension plan for its employees. The plan year and the taxable year of both corporations is the calendar year. *R*, since 1968, used a method of accounting under which it reduced earnings and profits by its accrued pension liability.

(i) *R*'s earnings and profits were earned and distributed to *Q* as follows—

Taxable year	Earnings and profits	Distribution of earnings and profits
1968	FC10,000	
1969	20,000	
1970	20,000	
Subtotal	50,000	
1971	30,000	
1972	30,000	
1973	30,000	
1974	30,000	
1975	30,000	FC200,000
Subtotal	150,000	
1976	40,000	
1977	40,000	
1978	40,000	
1979	40,000	
1980	40,000	
1981	50,000	
Subtotal	250,000	
Total	FC450,000	

(ii) In 1981, *Q* made a retroactive effective date election pursuant to section 2(e)(2) of Public Law 96–603 and paragraph (b)(1) of this section for its open period. As of December 31, 1980, *Q*'s open period included the taxable years 1975 through 1979. Thus, with respect to those taxable years, *Q* has made section 404A the operative law for *R*. The consequences of making or not making the retroactive plan-by-plan election under section 404A for *R*'s foreign plan will be determined as though section 404A had been in effect for those taxable years. Thus, the earnings and profits of *R* may not be reduced with respect to amounts accrued under *R*'s plan, unless the plan met the requirements of § 1.404A–1(a) for those taxable years.

(iii) *Q* made a retroactive plan-by-plan election to treat *R*'s plan as a qualified reserve plan effective beginning in 1971. Of the distribution of FC200,000 to *Q* in 1975, section 404A applies to FC150,000, because these accumulated profits (or earnings and profits) were earned in taxable years beginning after December 31, 1970 and were also distributed in 1975, within *Q*'s open period. However, section 404A does not apply to the FC50,000 distribution made from accumulated profits earned before December 31, 1970. Since *R*'s plan was established before *Q*'s open period, a section 481 (a) adjustment is required. This section 481(a) adjustment must be taken into account in determining earnings and profits beginning with the 1971 year of change.

(d) *Retroactive plan-by-plan qualified funded plan elections for certain plans of foreign branches*—(1) *In general.* Section 2(e)(3) of Public Law 96–603 permitted a taxpayer to make a qualified funded plan election retroactively for any plans maintained by a foreign branch that met the requirements of § 1.404A–1(a) (other than paragraph (4) thereof) for the relevant period. As a condition of making this election, a taxpayer is required to agree to the assessment of all deficiencies (including interest thereon) arising during those taxable years within the open period (even those taxable years that are not open years as defined in paragraph (g)(4) of this section) to the extent that the deficiencies arise from erroneous deductions claimed by the taxpayer with respect to all of the taxpayer's foreign branches that maintained a deferred compensation plan. For a taxpayer that agrees to the assessment of tax in an election under this paragraph (d), a change in method of accounting is necessary (and a section 481(a) adjustment is required in accordance with the provisions of § 1.404A–6) with respect to any erroneous deductions claimed by the taxpayer under its method of accounting in taxable years ending prior to the beginning of the open period. For such a change in method of accounting, the year of change is the first taxable year in the open period, and the method of accounting to which the taxpayer is required to change is the method permitted during the open period under this paragraph (d).

(2) *Amounts allowed as a deduction.* If an election under section 2(e)(3) of Public Law 96–603 was made under the rules of this paragraph (d), the aggregate of the taxpayer's prior deductions is allowed as a deduction ratably over a 15-year period, beginning with the taxpayer's first taxable year beginning after December 31, 1979. A fractional part of a year which is a taxable year (as defined in sections 441(b) and 7701(a)(23)) is a taxable year for purposes of the 15-year period.

(3) *Definitions*—(i) *Prior deduction*—(A) *In general.* The term "prior deduction" means a deduction with respect to a qualified funded plan (i.e., a plan that met the requirements of § 1.404A–1(a) for the relevant period, and with respect to which a qualified funded plan election was made under the rules of this paragraph (d)) maintained by a foreign branch of a taxpayer for a taxable year beginning before January 1, 1980—

(*1*) That the taxpayer claimed;

(*2*) That was not allowable under the law in effect prior to the enactment of section 404A;

(*3*) With respect to which, on December 1, 1980, the assessment of a deficiency was not barred by any law or rule of law; and

(*4*) That would have been allowable if section 404A applied to taxable years beginning before January 1, 1980.

(B) *Application of section 404A(d).* Because the prior deductions are limited by the amounts that may be taken into account under section 404A, the computation of those prior deductions for the relevant taxable years is subject to the limitations described in section 404A(d) and § 1.404A–4. However, once the aggregate of prior deductions is calculated, the aggregate, or any portion thereof permitted to be taken into account over the 15-year period of paragraph (d)(2) of this section, is not

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subject to the limitations prescribed by section 404A(d) and § 1.404A–4.

(ii) *Erroneous deduction.* The term "erroneous deduction" means an amount that is not deductible under section 404(a) (including section 404(a)(5)), that was deducted on a taxpayer's income tax return with respect to a foreign deferred compensation plan.

(4) *Time and manner to make, perfect, or revoke election*—(i) *In general.* A plan-by-plan election described in paragraph (d)(1) of this section is not effective unless the election was actually made no later than the time prescribed by law for filing the United States return for the first taxable year ending on or after December 31, 1980, including extensions (whether or not the time was actually extended for filing the taxpayer's return), and unless the taxpayer perfects the election by filing a statement indicating the taxpayer's agreement to perfect the election with an amended return for the first taxable year ending on or after December 31, 1980, on or before May 9, 1994. In order to be effective, the perfection must be made in the manner provided in § 1.404A–6(b)(3) (ii) or (iii). An election that is not perfected is considered retroactively revoked. Any election under this paragraph (d) will continue in effect for taxable years beginning after the taxpayer's open period, unless revoked under paragraph (e) of this section or § 1.404A–6.

(ii) *Requirement to amend returns.* In addition to the amended return required by paragraph (d)(4)(i) of this section, the taxpayer must file any other amended United States returns that are necessary to conform the treatment of all items affected by the election or revocation to the treatment consistent with the election or revocation under this paragraph (d) within the time period described in paragraph (d)(4)(i) of this section. All amended returns must be accompanied by the statement described in paragraph (b)(3)(ii) of this section and all of the information required by § 1.404A–6(b)(4) (and § 1.404A–6(c)(2)(ii), if applicable, in the case of a termination). If no adjustments are necessary, the amended return required by paragraph (d)(4)(i) of this section must contain a statement to that effect.

(5) *Examples.* The principles of this paragraph (d) are illustrated by the following examples:

Example 1. (i) During its open taxable years 1977 through 1979, *X*, a domestic corporation, maintained a nonqualified funded plan for the employees of its foreign branch. In 1981, *X* made a retroactive effective date election and a retroactive plan-by-plan election to treat this plan as a qualified funded plan. The amounts deducted on *X*'s tax returns, the amount deductible under sections 404(a) and 404A (expressed in FC, the local currency) are as follows—

	1977	1978	1979	Total
Amount deducted on tax return	FC100	FC100	FC100	FC300
Amount deductible under section 404(a)	20	20	20	FC60
Amount deductible under section 404A	90	90	90	FC270

(ii) The assessment (including interest) for the open years 1977 through 1979 is based on adjustments to the erroneous deductions of FC240 (FC300 less FC60).

(iii) The amount of the prior deductions taken into account ratably over 15 years as provided in paragraph (d)(2) of this section, beginning in 1981, is a negative FC210 (FC60 less FC270).

(iv) No section 481(a) adjustment is required because *X* took no deductions with respect to the plan prior to the beginning of its open period.

Example 2. (i) *Z*, a domestic corporation, maintained a nonqualified funded foreign branch plan for its foreign employees, beginning in its 1965 (calendar) taxable year. In 1981, *Z* made a retroactive effective date election and a retroactive plan-by-plan election to treat this plan as a qualified funded plan. As of December 31, 1980, *Z*'s 1965 taxable year was closed, but its 1978 taxable year was open. The amounts deducted on *Z*'s tax returns, the amount deductible under sections 404(a) and 404A (expressed in FC, the local currency) are as follows—

	1965	1978	Total
Amount deducted on tax return.	FC20	FC80	FC100
Amount deductible under section 404(a).	5	6	FC11
Amount deductible under section 404A.	10	40	FC60

(ii) Under paragraph (d)(1) of this section, *Z* agreed to an assessment of deficiencies for its 1978 taxable year based on its FC74 (FC80–FC6) of erroneous deductions as defined in paragraph (d)(3)(ii) of this section.

(iii) The FC34 (FC40–FC6) of prior deductions is permitted to be taken into account as a deduction over the 15-year period beginning with its 1980 taxable year as provided in paragraph (d)(2) of this section.

(iv) Additionally, because *Z* took erroneous deductions under its method of accounting prior to the beginning of its open period, it is required to change to the method of accounting permitted during the open period, and must take a section 481(a) adjustment (determined under the snapshot method of § 1.404A–6(f)) into account over the 15-year section 481(a) adjustment period of § 1.404A–6(e)(2)(ii) beginning in its 1978 year of change. See paragraph (d)(1) of this section.

Example 3. A foreign branch which computes its income under the profit and loss method of Rev. Rul. 75–107, 1975–1 C.B. 32 (see § 601.601(d)(2)(ii)(b) of this chapter), in units of local currency, the FC, maintains a qualified funded plan. In 1980, the taxpayer was eligible to make the elections described in this section, and did so during the 1980 taxable year. The amount determined under paragraph (d)(3)(i) of this section after taking into account the limitations prescribed § 1.404A–4 (a) for the open period was FC1,500,000. For the 1980 taxable year, and as provided paragraph (d) of this section, FC100,000 of the prior deductions were deductible. The prior deductions allowed to be taken into account in the 1980 through 1994 taxable years are determined without regard to, and thus are not subject to, the limitations prescribed by § 1.404A–4 (a).

(e) *Special transition rules for election, revocation and re-election*—(1) *In general.* This paragraph (e) provides the time and manner for making and revoking qualified funded plan and qualified reserve plan elections for a taxpayer's transition period. A taxpayer may make an election, revoke an election, and re-elect to treat any plan that met the requirements of § 1.404A–1(a) (other than paragraph (4) thereof) for the relevant period as a qualified funded plan or a qualified reserve plan under this paragraph (e) for the transition period without regard to whether a retroactive election is made under paragraph (b), (c), or (d) of this section. However, an election made under paragraph (c) or (d) of this section is deemed to continue in effect for taxable years beginning after December 31, 1979, unless revoked under paragraph (c) (4) of this section or this paragraph (e) or terminated or revoked under § 1.404A–6(f). See paragraphs (c)(2) and (d)(4)(i) of this section.

(2) *Time and manner initially to elect and revoke*—(i) *In general.* Taxpayers that wish to make an election under this paragraph (e) may have, but were not required to have, made a Method (1) or Method (2) election for the taxable year for which an election is made under this paragraph. Those taxpayers that wish to make (or perfect) an election under this paragraph (e) must attach a statement to that effect on an amended return for the year the election is to be effective on or before May 9, 1994. An election previously made that is not perfected is considered retroactively revoked.

(ii) *Requirement to amend returns.* In addition to the amended return required by paragraph (e)(2)(i) of this section, the taxpayer must file any other amended United States returns that are necessary to conform the treatment of all items affected by the election or revocation to the treatment consistent with the election or revocation under this paragraph (e) within the time period described in paragraph (e)(2)(i) of this section. All amended returns must be accompanied by the statement described in paragraph (b)(3)(ii) of this section (substituting "made, perfected, or revoked" for "perfected or revoked" where applicable) and all of the information required by § 1.404A–6(b)(4) (and § 1.404A–6(c)(2)(ii), if applicable, in the case of a termination). If no adjustments are necessary, the amended return required by paragraph (e)(2)(i) of this section must contain a statement to that effect.

(3) *Revocation after initial election and re-election permitted.* Any taxpayer that makes an initial election for any plan under paragraph (e)(2) of this section may, under the rules of that paragraph, revoke the election for any taxable year after the sixth consecutive taxable year for which the election is effective, and may re-elect for any taxable year after the sixth consecutive taxable year for which the election is not in effect (whether the election is not in effect due to either revocation or termination of the election as defined in § 1.404A–6(c)(1)). The consecutive changes in method of accounting described in the first sentence of this paragraph (e)(3) must be made under the rules in § 1.404A–6 regarding the section 481(a) adjustment period. The Commissioner may approve a letter ruling request to shorten the six-year waiting period upon a showing of extraordinary circumstances.

(4) Example. The principles of paragraph (e)(3) of this section are illustrated by the following example:

Example. (i) *L*, a domestic corporation, has wholly owned foreign subsidiary *M*, since *M*'s formation in 1971. M maintained a funded plan for its employees from 1971 through 1991. The taxable year of *L* and *M* is the calendar year. In 1981, *L* made a Method (2) election. Within 365 days after the publication of the final regulations in the **Federal Register**, *L* perfected its retroactive effective date election for all its foreign subsidiaries. *L*'s election terminated in 1975 due to its plan's violation of the requirements of section 404A(e)(2). Additionally, *L* perfected, revoked and re-elected on a plan-by-plan basis its election for *M*'s plan, as follows—

Plan-by-plan election effective	Plan-by-plan election terminated or revoked
1971–1974	1975–1981
1982–1987	1988–1993

(ii) A section 481(a) adjustment is required for the years of change 1975, 1982 and 1988.

(f) *Special data rules for retroactive elections*—(1) *Retroactive calculation of section 481 (a) adjustments*—(i) *General rule.* Retroactive elections may be made only if the taxpayer calculates the section 481 (a) adjustment required by § 1.404A–6 based on substantiation quality data. Substantiation quality data generally must be current as of the date of the change in method of accounting. Nevertheless, if contemporaneous substantiation quality data is not readily available, the taxpayer may calculate the section 481 (a) adjustment based on backward projections to earlier years from the first taxable year beginning before January 1, 1980, for which sufficient contemporaneous substantiation quality data is readily available. However, such projections must satisfy the substantiation requirements in paragraph (f) (1) (ii) of this section, however. Furthermore, the taxpayer may not use any of the approaches provided for under this paragraph (f) if circumstances indicate that the overall result is a material distortion of the amounts allowable.

(ii) *Substantiation requirement for retroactive reserves*—(A) *In general.* Although reasonable actuarial estimates and projections may be used, the calculation of the opening balance of the reserve for the first year for which a qualified reserve plan election under paragraph (c) (1) of this section is effective must nonetheless be based on some actual contemporaneous evidence. Thus, the opening balance may be based on actual aggregate covered payroll, the actual number of covered employees, or a contemporaneous actuarial valuation that used reasonable actuarial methods. For example, if the taxpayer has contemporaneous records of the number of covered employees and the aggregate covered payroll, it may estimate other actuarial information, such as average age and marital status, based on reasonable actuarial methods (e.g., using substantiation quality data as of another date and adjusting for actual or expected changes for the interim years). The resulting combination of actual contemporaneous evidence and reasonably estimated data may be used to calculate the opening reserve. If a contemporaneous actuarial valuation is used as the basis of an opening reserve, the results of the valuation must be adjusted to reflect any difference between the actuarial method used in that actuarial valuation and the unit credit method, as required by section 404A (c) and § 1.404A–3 (b).

(B) *Interpolation.* In cases where an taxpayer can meet the substantiation requirement of paragraph (f)(1)(ii)(A) of this section for some years, but cannot meet that requirement in intervening years (including the year of the change in method of accounting), the taxpayer may interpolate a reserve balance for the intervening years based on reasonable actuarial methods. In the absence of evidence to the contrary, it is assumed that a pro rata allocation of amounts to those intervening years is a reasonable actuarial method. This paragraph (f)(1)(ii)(B) does not authorize any interpolation for years in which other evidence indicates that it would cause a material distortion (such as a year during which the work force was on strike and no deferred compensation benefits were accrued). In addition, this paragraph (f)(1)(ii)(B) does not authorize extrapolation of reserve balances to years that are not intervening years between years that meet the substantiation requirements of paragraph (f)(1)(ii)(A) of this section.

(C) *Extrapolation.* If the first year for which the taxpayer is able to meet the substantiation requirements of paragraph (f)(1)(ii)(A) of this section ("the substantiation year") is later than the year of the change in method of accounting, a taxpayer may use the approach described in this paragraph (f)(1)(ii)(C) to determine the section 481(a) adjustments described in § 1.404A–6(f) in years prior to the substantiation year. Under this approach, the taxpayer's closing balance under its prior method as of the date of the change in the method of accounting is compared with the opening balance

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in the substantiation year. If the closing balance exceeds the opening balance, the excess is the amount to be used in calculating the adjustment under section 481, as required by § 1.404A–6. However, if the closing balance of the taxpayer's reserve under its method used for years prior to the election under section 404A is less than the opening balance for the substantiation year, the opening balance as of the date of the change in method in accounting is assumed to be equal to the closing balance. Thus, if the closing balance is less than the opening balance for the substantiation year, there is no adjustment under section 481. In such a case, the difference between the opening balance as of the date of the change in method of accounting and the opening balance for the substantiation year is allocated to the years prior to the substantiation year based on reasonable actuarial methods using all available information.

(2) *Determination of reasonable addition to a reserve in interim years.* In the case of a qualified reserve plan that is using the interpolation option of paragraph (f)(1)(ii)(B) of this section or that is described in the last sentence in paragraph (f)(1)(ii)(C) of this section, none of the increase in the reserve in the intervening year is considered a reasonable addition to the reserve under § 1.404A–3(b). Thus, the entire amount of the increase must be considered an amount to be amortized over ten years under § 1.404A–3(c).

(3) *Protective elections.* For those taxpayers that relied on the prior position of the Internal Revenue Service by making a Method (1) election under which the section 481(a) adjustment was computed in a manner inconsistent with this section or by making a Method (2) election under which no section 481(a) adjustment was reflected in the original return, appropriate adjustments required by section 404A and its underlying regulations must be made on an amended return filed no later than May 9, 1994, for the first year the election is effective and for all subsequent affected years for which a return has been filed. If no adjustments are necessary, an amended return should be filed for the first year stating that no adjustments are necessary.

(g) *Definitions and special rules*—(1) *Method (1) election.* The term "Method (1) election" means an election that was made under Method (1) (as defined in Ann. 81–114, 1981–28 I.R.B. 21) (see § 601.601(d)(2)(ii)(*b*) of this chapter) by claiming the deduction or credit allowable under section 404A on the taxpayer's income tax return for the first taxable year ending on or after December 31, 1980, including extensions (or an amended return filed no later than the end of the extended time period prescribed in section 6081, whether or not such time was actually extended for filing the taxpayer's return).

(2) *Protective or Method (2) election.* The term "protective election" or "Method (2) election" means an election that was made under Method (2) (as defined in Ann. 81–114, 1981–28 I.R.B. 21) (see § 601.601(d)(2)(ii)(*b*) of this chapter) without claiming deductions attributable to a qualified foreign plan on the taxpayer's income tax return (or, in the case of foreign subsidiaries, without taking into account reductions of earnings and profits).

(3) *Open years of the taxpayer.* The term "open years of the taxpayer" means open taxable years beginning after December 31, 1971, and for which, on December 31, 1980, the making of a refund, or the assessment of a deficiency, was not barred by any law or rule of law.

(4) *Retroactive period.* The term "retroactive period" means a taxpayer's taxable years (whether or not the making of a refund, or the assessment of a deficiency, was barred by any law or rule of law for any taxable year) in the following range—

(i) Any taxable year selected by the taxpayer between taxable years beginning after December 31, 1970 and before January 1, 1980 (the beginning taxable year); and

(ii) The last taxable year beginning before January 1, 1980 (the ending taxable year).

(5) *Transition period.* The term "transition period" means taxable years beginning after December 31, 1979, and before May 7, 1993.

(6) *Open period.* For purposes of this section, the term "open period" means, with respect to any taxpayer, all taxable years beginning after December 31, 1971, and beginning before January 1, 1980, and for which, on December 31, 1980, the making of a refund, or the assessment of a deficiency, was not barred by any law or rule of law.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 93–10594 Filed 5–6–93; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Part 1

[EE–14–81]

RIN 1545–AD81

Deductions and Reductions in Earnings and Profits (or Accumulated Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or by Foreign Branches of Domestic Corporation; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document contains notice of a public hearing on proposed regulations relating to the limitations on deductions and adjustments to earnings and profits (or accumulated profits) with respect to certain foreign deferred compensation plans.

DATES: The public hearing will be held on Tuesday, October 5, 1993, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Tuesday, September 14, 1993.

ADDRESSES: The public hearing will be held in room 2615, Second Floor, 2600 Corridor, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (EE–14–81), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–8452 (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 404A of the Internal Revenue Code. The proposed regulations appear elsewhere in this issue of the **Federal Register**.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Tuesday, September 14, 1993, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Service Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–10743 Filed 5–6–93; 8:45 am]

BILLING CODE 4830–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 93–2]

Digital Recording Devices and Media; Auditing of, and Confidential Access to, Statements of Account

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document is issued to advise the public that the U.S. Copyright Office in the Library of Congress is proposing regulations to implement portions of the Audio Home Recording Act of 1992. Section 1003 of title 17 of the United States Code imposes an obligation to make royalty payments on persons who import and distribute in the United States, or manufacture and distribute in the United States, any digital audio recording device or digital audio recording medium. In addition to remitting the royalties to the Copyright Office, the importer or manufacturer must file Statements of Account with the Copyright Office. Section 1003 also provides that the Register of Copyrights shall issue regulations to provide for the verification and audit of such statements and to protect the confidentiality of information contained in such statements. The effect of this proposed regulation is to provide for the access to and confidentiality of such statements. The Copyright Office also solicits comments about the form and content of regulations governing verification and audit of Statements of Account.

DATES: Public comments on the proposed regulation should be received on or before July 6, 1993. Reply comments should be received on or before August 5, 1993.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail to: Library of Congress, Department 100, Washington, DC 20540. If delivered by hand, copies should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, room 407, First and Independence Avenue, SE., Washington, DC 20559.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office Library of Congress, Washington, DC 20540. Telephone (202) 707–8380.

SUPPLEMENTARY INFORMATION:

1. Background

Effective October 28, 1992, the Audio Home Recording Act (AHRA), Public Law 102–563, 106 Stat. 4237, created new statutory obligations in a new Chapter 10 of title 17 U.S.C. The AHRA provides solutions to the policy problems presented by consumer products that make nearly perfect copies of digital sound recordings. It (1) provides consumers an exemption for private noncommercial home recording of analog or digital sound recordings, (2) mandates that digital audio recorders restrict serial copying by technological means, and (3) requires that manufacturers and importers of digital audio recorders and media must file an initial notice of distribution, file statements of account, and pay royalties upon distribution in the United States of digital audio recording devices and media. The AHRA also directs the Register to issue regulations to provide for the verification and audit of such Statements of Account and to protect the confidentiality of the information contained in such statements and to provide for the disclosure, in confidence, of such statements to interested copyright parties.

In separate proceedings, the Copyright Office issued interim regulations governing the filing of notices of initial distribution (RM 92–6) 57 FR 55464 (November 25, 1992) and to establish requirements governing the filing dates, frequency of filing, and content of the Statements of Account that must be filed by persons exerciaing the statutory license (RM 92–8) 58 FR 9544 (February 22, 1993). In this proceeding the Office is taking a third step to implement the AHRA, by proposing rules for the disclosure and confidentiality of information contained in Statements of Account, and by soliciting public comment regarding the form and content of regulations governing verification and audit of Statements of Account.

Section 1003(c)(2) of the Audio Home Recording Act of 1992 provides in part, that the Register shall issue regulations to provide for the verification and audit of statements of account and to protect the confidentiality of the information contained in such statements. Such regulations shall provide for the disclosure, in confidence, of such statements to interested copyright parties.

Section 1001(7) defines an "interested copyright party" and creates four categories of persons or entities who may be given access to AHRA Statements of Account. The first category is the owner of the exclusive right under section 106(1) of title 17 to reproduce a sound recording of a musical work that has been embodied in a digital musical recording or analog musical recording lawfully made under title 17 that has been distributed.

The second category is the legal or beneficial owner of, or the person that controls, the right to reproduce in a digital musical recording or analog musical recording a musical work that has been embodied in a digital musical recording or analog musical recording lawfully made under title 17 that has been distributed.

The third category is a featured recording artist who performs on a sound recording that has been distributed.

The fourth category is any association or other organization which either represents persons specified in the first three categories, or is engaged in licensing rights in musical works to music users on behalf of writers and publishers.

2. Proposed Access Regulations

The general public is denied access to Copyright Office files of Statements of Account for Digital Audio Recording Products. Access will be granted to interested copyright parties and their duly authorized legal representatives in accordance with these regulations. Only those interested copyright parties named in section 1001(7) of title 17 U.S.C. shall have access to such information. They shall be required to sign a certification to limit the use of the information to verification functions under section 1003(c)(2) and any enforcement actions that may result from such verification procedures.

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Importers and manufacturers will have access to their own Statements of Accounts.

Employers of the Copyright Office and the Copyright Royalty Tribunal who require statement of account information in the performance of their duties will also have access to such information.

The Office will provide a DART Statement of Account Access Form, which must be used by interested copyright parties, importers, or manufacturers for access to the statements. The completed form will contain certification of the identity of the requestor and the prospective use of the information. The Office provides the forms free of charge.

The Office will charge a fee of $10 to make a coy of a statement plus the statutory fee of $8 if the copy is to be certified, and $0.50 for each page of any other material in the statement file.

3. Verification and Audit

Pursuant to section 1003(c)(2) of title 17 United States Code, the Register of Copyrights shall issue regulations to provide for the verification and audit of AHRA Statements of Account. Although the AHRA does not explicitly state who shall verify and audit, the Copyright Office assumes the interested copyright parties as defined in section 1001(7) are entitled to verify and audit the Statements of Account. Presumably, one or more interested copyrights parties will select an independent certified public accountant to conduct the audit and verify the accuracy of the information disclosed in the quarterly and annual Statements of Account filed by manufacturers and importers with the Copyright Office.

The Senate version of the bill (S. 1623, 102d Congress, First Session) later enacted as the Audio Home Recording Act of 1992 contained detailed provisions regarding verification and audit which were dropped from the bill as passed. The Copyright Office generally understands that the Congress eliminated these detailed provisions in the interest of shortening the bill and in order to provide regulatory flexibility. The Office assumes that Congress did not intend to disapprove of S. 1623's detailed verification and audit provisions. Accordingly, the Copyright Office is inclined to adopt the relevant provisions of S. 1623 and the accompanying explanation in Senate Report 102–294, 102d Congress, 2d Session 55–57 (1992) as the framework for the regulations governing verification and audit of AHRA Statements of Account.

The Copyright Office is not proposing the details of a verification and audit regulation at this time. By this Notice, however, we solicit public comments and detailed proposals for the form and content of a verification and audit regulation.

In addition to general comment and detailed proposals, the Office solicits public comment on the following specific questions.

1. Does the Copyright Office have authority to prescribe regulations authorizing the audit of business records held by manufacturers and importers? If yes, how should that authority be exercised? Should the Office simply require that the business records be maintained for a certain period of years and be made available as specified in regulations to interested copyright parties?

2. Should the Copyright Office specify that "generally accepted audit standards" shall mean the auditing standards applied by the American Institute of Certified Public Accountants?

3. What is the extent of the Register's duty to determine the independence of an auditor? How can the Register's responsibilities be carried out?

4. How long should the Copyright Office retain the results of a verification audit?

5. What is a reasonable period to notify manufacturers and importers of an impending audit? To whom should the notice be given? What is a reasonable period of time for conducting the audit?

6. What is the Copyright Office's role in case of disputes among the parties regarding the conduct of an audit? For example, if an audit discloses that additional royalties are owed, should the Office take affirmative action to collect the royalties due, or will the interested copyright party or parties alone bear that responsibility?

7. Should the Copyright Office require the filing of "working papers" along with the results of a verification audit?

8. Should the scope of the audit be limited? If so, what limitations would be appropriate.

9. Who should bear the cost of a verification audit? Should the regulations allocate the costs on the same basis as originally proposed in S. 1623? If not, why not; what alternate solution should be adopted?

10. Should the audit be conducted no more than once a calendar or fiscal year, in accordance with the manufacturing party's basis of filing? Should the audit be conducted less frequently than on an annual basis? If so, how frequently should audits be conducted?

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5, chapter 5 of the U.S. Code, subchapter II and chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since the Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.[1]

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined and hereby certifies that this regulation will have no significant impact on small businesses.

List of Subjects in 37 CFR Part 201

Copyright; Digital audio recording products.

Proposed Regulation

In consideration of the foregoing, the Copyright Office proposes to amend part 201 of 37 CFR chapter II in the manner set forth below.

PART 201—[AMENDED]

1. The authority citation of part 201 would be revised to read as follows:

Authority: Section 702, 90 Stat. 2541, 17 U.S.C. 702; 201.29 is also issued under Pub. L. 102–563.

2. Section 201.29 would be added to read as follows

§ 201.29 Access to, and Confidentiality of, Statements of Account for Digital Audio Recording Devices or Media.

(a) *General.* This section prescribes rules pertaining to access to Statements of Account filed pursuant to section 1003(c) of title 17 of the United States Code, as amended by Public Law 102–563. The form and content of Statements of Account are governed by § 201.28 of these regulations.

[1] The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (*i.e.*, "all actions taken by the Register of Copyrights under this title (17)," except with respect to the making of copies of copyright deposits). (17 U.S.C. 706(b)). The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA–POIA requirements.

(b) *Definitions*—(1) A *"DART Statement of Account Access Form"* is the form provided by the Copyright Office for access to a digital audio recording product statement of account filed pursuant to 17 U.S.C. 1003, or a photocopy of said access form.

(2) "*Access*" to a DART Statement of Account Form consists of examining the Statement of Account Form, making notes of information contained on the form, or obtaining a certified or uncertified copy of the form from the Copyright Office.

(3) *The phrase "interested copyright party"* has the same meaning as the statutory phrase in section 1001 of title 17 of the United States Code, as amended by Public Law 102–563.

(c) *Persons allowed access to Statements of Account.* Access to quarterly and annual DART Statements of Account deposited under section 1003(c) of title 17 U.S.C. is limited to:

(1) Interested copyright parties or their duly authorized legal representatives;

(2) The manufacturer or importer who deposited the particular Statement of Account or its duly authorized legal representative;

(3) Staff of the Copyright Office who require access in performance of their duties under title 17 U.S.C., and,

(4) Staff of the Copyright Royalty Tribunal who require access in performance of their duties under title 17 U.S.C.

(d) *Requests for access procedure.* Requests for access to Statements of Account from interested copyright parties, or manufactures or importers, must be accompanied by a fully completed and signed "DART Statement of Account Access Form." Requests for access submitted by mail should be addressed to: Licensing Division, Copyright Office, Library of Congress, Washington, DC 20557. Requests for access may be made in person, at the Licensing Division, room LM–457, Madison Memorial Building, First and Independence Avenue, between 8:30 a.m. and 5 p.m., Monday through Friday (except legal holidays).

(e) *Content of DART Statement of Account Access Form.* The DART Statement of Account Access Form shall include the following information:

(1) Identification by name of the Statement of Account to be accessed, including the quarter and year to be accessed.

(2) The name of the interested copyright party or manufacturer or importer on whose behalf the request is made. A full street address, not a post office box number, must be included.

(3) The name and address of the person making the request for access and his/her relationship to the party on whose behalf the request is made.

(4) The purpose for the request for access, whether it is for an actual or potential audit or verification of the statement, for inspection by the manufacturer or importer, or for some other reason.

(5) The actual signature of the attorney or authorized representative of the party requesting access.

(f) *Fees.* (1) DART Statement of Account Access forms are provided free of charge.

(2) The following fees must be paid:

(i) To obtain an uncertified copy of a DART Statement of Account, $10;

(ii) To obtain a certified copy of a DART Statement of Account, $18;

(iii) For each page of other file material, $0.50 per page.

(3) Payment of these fees may be in the form of a personal or company check, or of a certified check, cashier's check or money order, payable to the Register of Copyrights. No requests will be processed until the appropriate filing fees are received.

Dated: April 22, 1993.

Ralph Oman,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 93–10776 Filed 5–6–93; 8:45 am]

BILLING CODE 1410–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–45–1–5805; FRL–4652–9]

Conditional Approval of California's Substitute Program for the Clean-Fuel Fleet Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPR).

SUMMARY: EPA is proposing to conditionally approve the State of California's commitment to submit a substitute plan to "opt-out" of the Clean-Fuel Fleet program of the Clean Air Act (CAA or Act). The California Air Resources Board (CARB) requested EPA's conditional approval of its commitment to submit a substitute plan for the CAA Clean-Fuel Fleet program (fleet program) by the November 15, 1992 due date. The federal fleet program provisions, in section 182(c)(4) of the Act, require states, in order to opt-out of the fleet program, to submit a substitute program for all or a portion of the program[s] which achieve at least equal long-term emission reductions of ozone-producing and toxic air emissions. Provisions of the Act require certain states to revise their state implementation plans (SIPs) to create fleet programs. These fleet programs must require that, beginning with the 1998 model year, a specified percentage of new vehicles purchased by certain fleet owners (owners of 10 or more vehicles that are centrally fueled) be clean-fuel vehicles operated in states with the worst ozone or carbon monoxide nonattainment areas. The programs will promote clean-fuel vehicles, such as those using methanol, ethanol or compressed natural gas, reformulated fuel, or other vehicle/fuel combinations able to meet the tougher standards. EPA has determined that, in limited circumstances, it may accept committal SIPs to perform CAA requirements. See General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 [57 FR 13498 (April 16, 1992)] (General Preamble). In this Action, EPA proposes conditional approval under section 110(k)(4) of this commitment and thereby proposes to preserve the opportunity of California to opt-out of the Clean-Fuel Fleet program.

DATES: EPA will accept written comments on this NPR until June 7, 1993.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) for EPA consideration by addressing them to Public Docket No. CA–93–FT at the following address: U.S. EPA, Region 9, A–2–1, Attention: Docket No. CA–93–FT, 75 Hawthorne Street, San Francisco, CA 94105

FOR FURTHER INFORMATION CONTACT: Roxanne Johnson, Mobile Sources Section, A–2–1, Air & Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1227.

A copy of the committal SIP is available for inspection in this docket. The docket is available for public inspection from 8:30 until 4. EPA may charge a reasonable fee for copying docket materials.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this introduction is to describe the Clean Air Act fleet program in order to provide a context from which to view the opt-out committal SIP approval being proposed today.

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A. The Fleet Program

On November 15, 1990, Congress enacted amendments to the 1977 CAA. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The fleet program is contained under part C, entitled "Clean Fuel Vehicles", of title II of the 1990 CAA, as amended. Part C was added to the CAA to establish two programs: a clean-fueled vehicle pilot program in the State of California (the California Pilot Test Program) and a national clean-fueled vehicle fleets program. The fleet program is to introduce (in 22 nonattainment cities) lower pollution emitting vehicles into centrally fueled fleets of vehicles in areas with the worst air quality problems. Congress chose centrally fueled fleets because operators of these fleets have more control over obtaining fuel than the general public. Additionally, the control which operators must maintain over their fleets simplifies the issues of maintenance and refueling of these special vehicles. Finally, because fleet vehicles typically travel more miles on an annual basis than do non-fleet vehicles, they provide greater opportunity to improve air quality on a per vehicle basis.

The CAA fleet program applies to those vehicles which are in a class for which clean fuel vehicle standards apply, and which are in covered fleets that are centrally fueled or capable of being centrally fueled.

Section 246 of the Act directs certain states containing "covered areas," as defined in section 246(a), to revise their state implementation plans to require that "at least a specified percentage of all new covered fleet vehicles in model year 1998 and thereafter purchased by each covered fleet operated in each covered area shall be clean-fuel vehicles and shall use clean alternative fuels when operating in the covered area." Three vehicle classes are covered by the fleet program: light-duty vehicles and trucks (LDVs and LDTs) under 6000 lbs. gross vehicle weight rating (GVWR), LDTs between 6000 lbs and 8500 lbs GVWR and heavy-duty vehicles (HDVs) over 8500 lbs GVWR but under 26,000 lbs. Vehicles over 26,000 lbs. are not covered by the fleet program. Three types of clean fuel vehicles satisfy the purchase requirement: Low-emission vehicles (LEVs), ultra low-emission vehicles (ULEVs) and zero-emission vehicles (ZEVs)

The goal of the fleet program is to reduce emissions of non-methane organic gases (NMOG) (includes a reactivity adjustment) and oxides of nitrogen (NOx), and, to demonstrate the feasibility of using clean-fuel vehicles in centrally-fueled fleets.

II. EPA Evaluation and Proposed Action

Section 182(c)(4) of the Act allows states to opt-out of the Clean-Fuel Fleet Program by submitting for EPA approval a SIP revision consisting of a program[s] resulting in as much or greater long-term reductions in ozone-producing and toxic air emissions. EPA may approve such a revision "only if it consists exclusively of provisions other than those required under [this Act] for the area." Such SIP revisions were due by November 15, 1992. Section 182(c)(4) further provides that EPA is to approve or disapprove the revision by May 15, 1993, and that EPA is to publish the revision upon receipt, with such notice being deemed to be a notice of proposed rulemaking on whether or not to approve the revision.

EPA made the determination that states intending to opt-out of the fleet program should do so by committing by November 15, 1992, and should at that time submit a substitute plan. If EPA conditionally approves that commitment, the state will be required to submit a fully adopted SIP revision fulfilling that commitment by a date certain, but no later than May 15, 1994 (the deadline for submitting SIP revisions to implement the fleet program pursuant to section 246(a) of the Act). If the state fails to submit a SIP revision fulfilling its commitment, the conditional approval will be treated as a disapproval and the state will have an obligation to submit a fully-adopted SIP revision to implement the fleet program in accordance with section 246. EPA believes this approach is consistent with the provisions of the Act and will ensure that, by May 15, 1994, the deadline for the submission of the fleet program SIP revisions, a SIP revision either implementing the fleet program or a substitute achieving equivalent air quality benefits will have been submitted to EPA.

The State of California has submitted by the statutory deadline a commitment to adopt a substitute program to opt-out of the Clean-Fuel Fleet program. California currently contains six serious and above non-attainment areas for either one or both ozone and carbon monoxide and is therefore subject to the requirement. The nonattainment areas in California include: Los Angeles-South Coast Air Basin; Sacramento Metro; San Diego; San Joaquin Valley; Southeast Desert Modified AQMA; and Ventura County. California has proposed to revise its SIP to opt-out of the federal program by submitting California's low-emission vehicle (LEV) regulations as a substitute program. The SIP revision will commit California to achieve emission reductions equivalent to those predicted to occur with full implementation of the federal fleet program. A copy of California's commitment is available for public review at the address listed in the **ADDRESSES** section above. EPA is today proposing conditional approval of this commitment under section 110(k)(4) of the Act as part of the review process given to California's proposal to revise its SIP.

EPA will require much greater detail describing why and how the substitute program is sufficient to provide long-term reductions in ozone-producing and toxic air emissions equal to or greater than those provided by the federal fleet program in California's submittal to meet its commitment. A failure to submit the necessary detail in the SIP submittal would result in EPA disapproval. EPA expects that California will consider its reasonable further progress goals (as defined in section 171 of the CAA) in deciding whether to opt-out of the fleet program.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory regulatory requirements.

III. California's LEV Substitute Program

The California LEV regulations were adopted and approved in July 1991, by the Office of Administrative Law. The regulations apply statewide to passenger cars, light-duty trucks, and medium-duty vehicles. Beginning with model year 1994, each vehicle manufacturer will be required to meet an annual fleet average NMOG requirement for their light-duty vehicles that decreases with each succeeding model year. Beginning with the 1998 model year, LEV and ULEV emission levels will also be required for medium-duty vehicles. Tighter exhaust emission standards are established for transitional low-emission vehicles (TLEV), LEV, ULEV, and ZEV. Exhaust emission standards are identified for non-methane organic gases (NMOG), carbon monoxide (CO), NOx, particulate matter (PM), and formaldehyde (HCHO).

California estimates that, in total, its state regulations require more than "ten times as many LEVs than the federal program." California contends that its program will result in an additional four percent of new light-duty vehicles being

lower emitting ULEVs and ZEVs and that the introduction of LEVs prior to the 1998 model year will provide even greater emission benefits. The California program regulation does not have LEV standards for vehicles beyond 14,000 lbs., GVWR, while the federal program regulates HDVs through 26,000 lbs., GVWR. California contends that HDVs in this weight category in the South Coast Air Basin represent less than one percent of new vehicle purchases and that the net effect of emissions attributable to HDVs is more than offset by emissions reductions from other vehicle categories.

California has fulfilled SIP revision requirements for public notice through public hearings, workshops, and other administrative proceedings that have been held for the LEV program in accordance with the California Administrative Procedure Act.

IV. California Waiver Approval

On January 7, 1993, the Administrator of EPA granted California a waiver of federal preemption pursuant to section 209(b) to enforce motor vehicle emission standards and test procedures so that California may phase in more stringent LEV standards beginning with the 1994 model year. EPA's decision affects not only persons in California but also manufacturers outside the state who must comply with California's requirements in order to produce motor vehicles for sale in California. (For additional information, see 58 FR 4166, January 13, 1993.) This decision means the state can proceed phasing in and enforcing exhaust emission control standards for cars and trucks beginning with the 1994 model year that are more stringent than the Federal Tier I standards.

The California motor vehicle program (CMVP) was the first program in the United States to require a vehicle emission control program. In the Air Quality Act of 1967 (Pub. L. 90–148), Congress allowed California a waiver of the Air Quality Act's preemption section on motor vehicle emissions control. The 1977 amendments to the CAA expanded California's flexibility (H.R. Rep. No. 294, 95th Congr., 1st Sess. 301–2(1977)) so long as California's motor vehicle standards are "in the aggregate" at least as protecting of public health and welfare as applicable federal standards. Automakers have produced the "California Car" since the early 1960's. Subsequent passage of federal laws during that decade included the federal vehicle emission control program (FVECP) and prohibited the states, with the exception of California, from adopting standards different from the federal program unless they adopt California's standards in accordance with section 177 of the Clean Air Act. California has since sought and received waivers to set its own vehicle standards.

V. Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations less than 50,000.

Conditional approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, EPA certifies that this proposed rule would not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v *U.S. E.P.A.*, 427 U.S. 246, 256–266 (S.Ct. 1976); 42 U.S.C. Section 7410(a)(2).

This action has been classified as a Table 2 action by the Acting Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Administrative practice and procedure, Air pollution control for Hydrocarbons, Intergovernmental relations, Motor vehicles pollution, Nitrogen oxide, Reporting and recordkeeping requirements.

VI. Statutory Authority

42 U.S.C. 7401–7671q.

Dated: April 20, 1993.

John C. Wise,

Acting Regional Administrator.

[FR Doc. 93–10833 Filed 5–6–93; 8:45 am]

BILLING CODE 6560–60–P

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40 CFR Part 721

[OPPTS–50585D; FRL–4171–7]

Amide of Polyamine and Organic Acid; Proposed Revocation of a Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for a chemical substance based on receipt of new data. The data indicate that the substance will not present an unreasonable risk of injury to health.

DATES: Written comments must be submitted to EPA by June 7, 1993.

ADDRESSES: Since some comments may contain confidential business information (CBI), all comments must be sent in triplicate to: TSCA Document Receipt Office (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Comments should include the docket control number. The docket control number for the chemical substance covered in this SNUR is OPPTS–50585D–293. Nonconfidential versions of comments on this proposed rule will be placed in the rulemaking record and will be available for public inspection. Unit IV. of this preamble contains additional information on submitting comments containing CBI.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543A 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 28, 1990 (55 FR 39899), EPA issued a SNUR establishing significant new uses for amide of polyamine and organic acid. Because of additional data EPA has received for this substance, EPA is proposing to revoke this SNUR.

I. Rulemaking Record

The record for the rule which EPA is proposing to revoke was established at OPPTS–50585 (P–89–1062). This record

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includes information considered by the Agency in developing this rule and includes the test data to which the Agency has responded with this proposal.

II. Background

EPA is proposing to revoke the significant new use and recordkeeping requirements for the following chemical substance under 40 CFR part 721 subpart E. In this unit, EPA provides a brief description for the substance, including its PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if assigned), basis for the revocation of the section 5(e) consent order for the substance, and the CFR citation removed in the regulatory text section of this rule. Further background information for the substance is contained in the rulemaking record referenced above in Unit I.

PMN Number P-89-1062

Chemical name: (generic) Amide of polyamine and organic acid.
CAS number: Not available.
Effective date of revocation of section 5(e) consent order: April 30, 1992.
Basis for revocation of section 5(e) consent order: The consent order for the chemical substance designated as P-89-1062 was revoked based on the results of a bioconcentration study submitted pursuant to the terms of the order. Following the Agency's review and analysis of the study, EPA determined, for purposes of section 5 of TSCA, that the PMN substance will not present an unreasonable risk of injury to human health and will not result in significant or substantial human exposure from ingestion of fish. Therefore, further regulation under section 5 is not warranted at this time.
Toxicity testing results: The test results indicated that the bioconcentration factor (BCF) for the PMN substance is 60. A BCF of 60 indicates that the PMN substance would accumulate in fish only at low levels. Consequently, human exposure to the PMN substance via fish ingestion no longer presents a potential health risk.
CFR citation: 40 CFR 721.293.

III. Objectives and Rationale of Proposing Revocation of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this proposed revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects of the substance, and EPA identified the tests considered necessary to evaluate the risks of the substance. The basis for such findings is referenced in Unit II. of this preamble. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated.

EPA reviewed testing conducted by the PMN submitter for the substance and determined that the information available was sufficient to make a reasoned evaluation of the health effects of the substance. EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk and subsequently revoked the section 5(e) consent order. The proposed revocation of SNUR provisions for this substance designated herein is consistent with the revocation of the section 5(e) order.

In light of the above EPA is proposing a revocation of SNUR provisions for this chemical substance. When this revocation becomes final EPA will no longer require notice of any company's intent to manufacture, import, or process this substance.

IV. Comments Containing Confidential Business Information

Any person who submits comments claimed as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any party submitting comments claimed to be confidential must prepare and submit a public version of the comments that EPA can place in the public file.

V. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, once the SNUR is revoked EPA will receive no SNUR notices for the substance. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: April 30, 1993.

Victor J. Kimm,

Acting Assistont Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 will continue to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ 721.293 [Removed]

2. By removing § 721.293.

[FR Doc. 93-10851 Filed 5-6-93; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93-120, RM-8217]

Radio Broadcasting Services; New Boston, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Louis M. Basso, III proposing the allotment of Channel 236A to New Boston, Texas, as the community's second local FM service. Channel 236A can be allotted to New Boston in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 236A at New Boston are 33-27-36 and 94-25-18.

DATES: Comments must be filed on or before June 24, 1993, and reply comments on or before May 3, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Marjorie R. Esman, Esq., Hardy and Carey, 111 Veterans Boulevard, suite 255, Metairie, Louisiana 70005 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-120, adopted April 15, 1993, and released May 3, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10754 Filed 5-6-93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 174

[Docket No. HM-197; Notice No. 93-11]

RIN 2137-AC26

Hazardous Materials in COFC and TOFC Service

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to permit the use of certain portable tanks to transport hazardous materials that pose a relatively low or moderate degree of hazard in container-on-flatcar (COFC) service or trailer-on-flatcar (TOFC) service, without obtaining prior approval from the Associate Administrator for Safety, Federal Railroad Administration (FRA). This notice proposes to require persons holding approvals who are unable to meet the specified standards to submit a new application to the Associate Administrator for Safety, FRA.

The intended effect of this action is to facilitate domestic and international commerce and to reduce the need for obtaining written approvals for certain COFC and TOFC services.

DATES: Comments must be received on or before July 12, 1993.

ADDRESSES: Address comments to the Dockets Unit (DHM-30), Research and Special Programs Administration, Department of Transportation, Washington, DC 20590-0001. Comments should identify the docket and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard showing the docket number. The Dockets Unit is located in room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590-0001. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Edward W. Pritchard, Telephone (202) 366-9178, Chief, Hazardous Materials Division, RRS-12, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone (202) 366-0897 or Hattie L. Mitchell, Telephone (202) 366-4488, Chief, Exemptions and Regulations Termination, DHM-12, 400 Seventh Street, SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

I. Background

Under §§ 174.61 and 174.63 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171 through 180), a rail carrier may not transport a cargo tank, portable tank, IM portable tank or multi-unit tank car tank containing hazardous materials in container-on-flat car (COFC) service or trailer-on-flat-car (TOFC) service, except under conditions approved by the Associate Administrator for Safety, FRA. These approvals generally are issued on a case-by-case basis.

On April 30, 1985, RSPA published in the **Federal Register** an advance notice of proposed rulemaking (ANPRM) titled "Shippers; Use of Cargo Tanks, Portable Tanks, IM Portable Tanks, and Multi-Unit Tank Car Tanks in COFC and TOFC Service," under Docket No. HM-197, Notice No. 85-2 (50 FR 18278). In the ANPRM, RSPA solicited comments and information to assist in the identification and development of safety criteria for COFC and TOFC service of tanks transporting hazardous materials. RSPA stated in the ANPRM that the safety criteria would be used as the basis to guide the case-by-case approval process or to establish regulatory standards. Specific comments were requested on the adequacy of means used to secure a highway chassis (trailer) or a container to a flatcar, and the trailer's potential vulnerability in COFC/TOFC service. Comments were also requested on other safety issues involving the double stacking of containers, securement and cushioning of trailers and containers, liquid surge prevention, tank thermal protection, tank puncture resistance, and train placement. The ANPRM also announced a public hearing that was held on June 11, 1985.

RSPA received about 20 written comments in response to the ANPRM, and about ten persons made oral presentations at the public hearing. These comments and presentations were made by representatives of trade associations, rail carriers, motor carriers, shippers, a cargo tank manufacturers association, and state enforcement agencies.

Commenters to the ANPRM objected to cargo tanks being allowed to be transported in TOFC service. The reasons most often cited included: (1) Absence of an extended framework offering protection to the cargo tank; (2) large surge forces during "humping" operations; (3) adverse center of gravity; (4) outage concerns; and (5) increased likelihood of lading being released through the safety relief devices. The National Tank Truck Carriers, Inc. (NTTC) pointed out that the rail environment is very different from the highway environment. NTTC stated that the continuous "rock and roll" of a flat car, when translated into lateral surge in the cargo tank, and the relationship to "tie down" mechanisms for securing the cargo tank to the rail car must be studied carefully. NTTC further stated that the humping impacts of partially loaded cargo tanks create large surge forces on the front and rear tank heads, which would need to be of heavier construction to survive these impacts The Railway Progress Institute (RPI) expressed similar concerns and stated that cargo tanks in TOFC service are less stable and have different centers of gravity than tank cars. RPI and several other commenters recommended further study on the influence of outage on surging and on the release of lading through cargo tanks' pressure relief devices.

With regard to the transport of multi-unit tank car tanks (DOT specifications 106 and 110), FRA believes that less than ten units are being transported under FRA approval. In testimony presented at the June 11, 1985 public hearing, a representative of the

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Association of American Railroads (AAR) stated that AAR was not aware of any COFC/TOFC movement of these units except in dry vans or trailers, where existing blocking and bracing practices are sufficient.

The public hearing and written comments to the ANPRM offered diverse views on the suitability of transporting portable tanks containing hazardous materials in COFC and TOFC service. With regard to COFC service, commenters expressed no opposition to the use of portable tanks to transport hazardous materials with a low or moderate hazard potential. Commenters stated that IM portable tanks in COFC service offer the safest and most economical method of transporting hazardous materials by rail. However, there were diverse opinions on the suitability of using portable tanks to transport hazardous materials with high hazards in COFC service. The reason cited most often by commenters was the need for portable tanks to have insulation or thermal protection and safety relief devices similar to those required for tank cars carrying similar hazardous materials.

With regard to the use of portable tanks in TOFC service, commenters expressed concern because two interface systems are used—the system between the tank and the vehicle chassis and the system between the vehicle chassis and the rail car. Several commenters expressed support for using portable tanks in TOFC service, but several other commenters opposed using this configuration until existing securement practices and end-of-car cushioning devices have been more thoroughly field-tested. Concerns about the securement of portable tanks in TOFC service were also raised in an earlier rulemaking proceeding under Docket HM-177 ("Public Hearing and Request for Comments on Transportation of Hazardous Materials in TOFC," January 26, 1981, 46 FR 8055). The presentations at the public hearing and the written comments to Docket HM-177 failed to document any adverse shipping experience or safety-related problems when transporting hazardous materials in TOFC service. Commenters stated that their own shipping experience revealed no evidence of excessive railcar "rock and roll" or securement problems with the two interface securement systems used for portable tanks. In view of the favorable comments supporting portable tanks in TOFC service, Docket HM-177 was terminated.

II. The FRA Approval Process

Under procedures followed by FRA, an applicant submits a complete application containing detailed information on a tank, its securement system, and other necessary data to support the application. Upon receipt of an application, FRA staff members review the submitted data to determine the extent to which the requested method offers protection to the tank and the suitability of the securement system.

FRA has issued approvals for transporting portable tanks containing hazardous materials in COFC/TOFC service for approximately 10 years. Since 1984, FRA has issued approvals where the applicant demonstrated use of an authorized portable tank and a proven securement system. For TOFC service, the approvals require the use of portable tanks having equipment for secure mating to a container trailer chassis, and the trailer chassis having standard ISO twist-lock pins and corner castings. For COFC service, the approvals require the use of portable tanks having equipment for secure attachment to a railroad container car equipped with an ISO standard COFC basic pedestal system designed for container support and securement, and the railcars having a cushioning system meeting the requirements of AAR Specification M-952, titled "Intermodal Container Support and Securement Systems for Freight Cars".

III. Features of This NPRM

Based on the merits of written and oral comments received in response to the ANPRM and the safety record achieved in transporting more than 50,000 portable tanks in COFC and TOFC service, RSPA proposes in this NPRM to authorize the transport of portable tanks containing low-to-moderate hazard materials in COFC and TOFC service under conditions prescribed in the HMR, without the need for an approval. Only those low-to-moderate risk materials having a bulk packaging authorization of § 173.240, 173.241, 173.242, or 173.243 would be authorized for transport in portable tanks in COFC or TOFC service. RSPA and FRA agree with commenters that portable tanks containing higher risk materials in COFC or TOFC service may need to meet certain additional safety standards. Therefore, those portable tanks would remain subject to the approval process for evaluation on a case-by-case basis.

As recommended by commenters, RSPA is proposing in this NPRM that all portable tanks and flatcars used in COFC or TOFC service would have to meet the requirements contained in AAR 600, "Specifications for Acceptability of Tank Containers", Chapter 4, of the AAR Manual of Standards and Recommended Practices, Section C—Part III. AAR 600 contains requirements on: construction, certification of tank containers, approved materials, closures, safety relief devices, and marking. The trailer chassis used in TOFC service and the container support and securement systems used in COFC service would be subject to certain requirements contained in AAR specifications M-943 and M-952, of the AAR Manual of Standards and Recommended Practices, Section I. These performance specifications prescribe securement systems that permit standard ISO twist-locks. Therefore, RSPA and FRA believe that most configurations used in COFC or TOFC service under FRA approval would meet the requirements contained in these AAR standards, which are proposed to be incorporated into § 174.63. A new applicant or any person currently holding an FRA approval for the transport of a portable tank or an IM portable tank in COFC or TOFC service, who is unable to comply with the requirements prescribed in proposed § 174.63(a) and (b), would be required to submit a new request for approval to the Associate Administrator for Safety, FRA, stating the reason for the non-conformance.

Because of the strong concerns raised by commenters on the transport of cargo tank motor vehicles in TOFC service, cargo tanks would continue to be subject to the approval process. Cargo tanks are used on rare occasions in TOFC service. Also, because of the limited availability of experience data, the use of multi-unit tank car tanks in COFC and TOFC service would remain under FRA approval.

On February 28, 1991, FRA published a notice in the **Federal Register** (56 FR 8388), extending the expiration date of all existing approvals, granted under 49 CFR 174.61 and 174.63 for the movement of multimodal containers in TOFC and/or COFC service, until after issuance of a final rule under this docket. As proposed in this notice, all outstanding approvals issued under these sections will expire on the date stated in the approval letter or six months after the effective date of a final rule, whichever is later. Persons currently holding an FRA approval who are unable to comply with the requirements in proposed § 174.63 would have to re-apply for approval. Such persons would include those holding approvals for portable tanks and IM portable tanks containing hazardous

materials not authorized for packaging under §§ 173.240, 173.241, 173.242, and 173.243, and those holding approvals for cargo tanks or multi-unit tank car tanks transporting hazardous materials in COFC or TOFC service.

RSPA plans to address other issues raised in the ANPRM (e.g., pressure relief devices, identification/marking, thermal protection, puncture resistance, and special handling requirements) in future rulemaking actions.

IV. Section by Section Review

Section 171.7

In paragraph (a)(3), the table would be amended by removing the entry "AAR Specification for Tank Cars". The entry for "AAR Specification for Tank Cars, Specification M-1002, Section C" would be revised to show that this standard is contained in the AAR Manual of Standards of Recommended Practices and to include other applicable section references. A new entry would be added to incorporate by reference the AAR standard "Specially Equipped Freight Car and Intermodal Equipment," Section I, which is also contained in the AAR Manual of Standards and Recommended Practices.

Section 174.61

This section would be revised to contain requirements for transport vehicles and freight containers containing packages of hazardous materials. The section heading would be revised to read "Transport Vehicles and Freight Containers on Flatcars." Because the term "rupture" generally refers to failure of a packaging from internal pressure rather than the type of damage sustained from improper loading of packages within a transport vehicle or freight container, in paragraph (a), the words "rupture or" would be removed. The requirement currently in paragraph (c) that a cargo tank or multi-unit tank car tank containing hazardous materials may not be transported in COFC or TOFC service without prior approval would be redesignated as proposed § 174.63(d).

Section 174.63

This section would be revised to contain requirements for portable tanks, IM portable tanks, cargo tanks, and multi-unit tank car tanks transported by rail. In paragraph (a), certain minor editorial changes would be made to requirements that portable tanks and IM portable tanks must be designed and loaded so that they maintain their integrity during transportation. In addition, this paragraph would incorporate requirements for DOT 51, 52, 53, 56 and 57 portable tanks that are currently contained in paragraph (c). Proposed paragraph (b) would contain requirements for the transport of portable tanks and IM portable tanks in COFC or TOFC service. Paragraph (c), containing the proposed requirement that approval by the Associate Administrator for Safety, FRA, must be obtained for COFC or TOFC movements of portable tanks and IM portable tanks, would limit such approval to tanks not meeting the requirements specified in paragraph (a) or (b). Proposed paragraph (d) would retain the requirement currently contained in § 174.61(d) that cargo tanks and multi-unit tank cars tanks containing hazardous materials may only be transported in COFC or TOFC service after receiving approval of the Associate Administrator for Safety, FRA.

V. Regulatory Analyses and Notices

A. Executive Order 12291 and DOT Regulatory Policies

This proposed rule has been reviewed under the criteria specified in section 1(b) of Executive Order 12291 and (1) is determined not to be "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034); and (3) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). The rule proposed in this docket will impose no additional costs on the regulated industry and will bring benefit in the form of reduced information collection. A regulatory evaluation is available for review in the public docket.

B. Executive Order 12612

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism").

The Hazardous Materials Transportation Act (49 App. U.S.C. 1801–1819) contains express preemption provisions (49 App. U.S.C. 1811) that preempt a non-Federal requirement if (1) compliance with both the non-Federal and the Federal requirement is not possible; (2) the non-Federal requirement creates an obstacle to accomplishment of the Federal law or regulations; or (3) it is preempted under section 105(a)(4), concerning certain covered subjects, or section 105(b), concerning highway routing. Covered subjects include:

(i) The designation, description, and classification of hazardous materials;

(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(iii) The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents;

(iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; or

(v) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.

49 App. U.S.C. 1804(a)(4)(A) and (B).

This proposed rule concerns the handling of hazardous materials. If adopted as final, this rule would preempt any State, local, or Indian tribe requirements concerning this subject unless the non-Federal requirements are "substantively the same" (56 FR 20424, May 13, 1992) as the Federal requirements. Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

C. Regulatory Flexibility Act

The provisions of this proposed rule would impact shippers of hazardous materials by COFC/TOFC service and would have the net result of reducing costs to persons affected by a final rule. Based on available information, I certify that this rule would not have a significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act. The need to further evaluate economic consequences will be reviewed on the basis of comments submitted in response to this notice.

D. Poperwork Reduction Act

The requirements for information collection contained in current §§ 174.61 and 174.63 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-5111) under OMB Control number 2137-0558. The proposed revised information collection requirements are being submitted for approval to OMB. Comments on the collection of information should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Department of Transportation. All comments must reference the title for

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this notice "Hazardous Materials in COFC and TOFC Service."

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Railroad safety.

In consideration of the foregoing, 49 CFR parts 171 and 174 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 would continue to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1805, 1808, and 1818; 33 U.S.C. 1321; 49 CFR part 1.

§ 171.7 [Amended]

2. In § 171.7, in the table in paragraph (a)(3), the following changes would be made:

a. The entry "AAR Specification for Tank Cars, Specification M–1002, 1988" would be removed from Column 1 and, in Column 2, captioned "49 CFR reference," the entries "173.31; 179.100" would be removed.

b. The entry "AAR Specification for Tank Cars, Specification M–1002, Section C—Part III, September, 1988" in column 1 would be revised to read "AAR Manual of Standards and Recommended Practices, Section C—Part III, Specifications for Tank Cars, Specification M–1002, 1990", and the entry in column 2 would be revised to read: "173.31; 174.63; 179.6; 179.12; 179.100; 179.101; 179.102; 179.103; 179.105; 179.200; 179.201; 179.220; 179.300; 179.400."

c. The entry "AAR Manual of Standards and Recommended Practices, Section I, Specially Equipped Freight Car and Intermodal Equipment, (800 Series), 1990" would be added in column 1 and the entry "174.63" would be added in column 2.

PART 174—CARRIAGE BY RAIL

3. The authority citation for part 174 would continue to read as follows:

Authority: 49 U.S.C. App. 1803, 1804, 1808; 33 U.S.C. 1321; 49 CFR 1.53(e), 1.53, app. A to part 1.

4. In § 174.61, paragraph (c) would be removed and the section heading and the first sentence in paragraph (a) would be revised to read as follows:

§ 174.61 Transport vehicles and freight containers on flat cars.

(a) A transport vehicle or freight container containing a hazardous material must be designed and loaded so that it will not become seriously damaged under conditions normally incident to transportation. * * *

* * * * *

5. Section 174.63 would be revised to read as follows:

§ 174.63 Cargo tanks, multi-unit tank car tanks, portable tanks, and IM portable tanks.

(a) A Specification 51, 52, 53, 56, 57, IM 101, or IM 102 portable tank may be transported inside a transport vehicle or container body provided the tank is secured with a restraint system that will prevent the tank from changing position, sliding into other tanks, or contacting the side or end walls (including doors) under conditions normally incident to transportation.

(b) A portable tank or IM portable tank may be transported in COFC service or TOFC service subject to the following conditions:

(1) The tank contains a material authorized to be packaged in accordance with § 173.240, 173.241, 173.242, or 173.243;

(2) The tank and flatcar conform to requirements in "Specifications for Acceptability of Tank Containers", (AAR 600), Section C-Part III, Chapter 4, of the "Specifications for Tank Cars", AAR Manual of Standards and Recommended Practices;

(3) The tank may not be in a double-stack;

(4) For TOFC service, the trailer chassis conforms to requirements in paragraphs 3, 4, 5, and 6 of AAR Specification M–943 "Container Chassis For TOFC Service", and the AAR Specification M–952 "Intermodal Container Support and Securement Systems for Freight Cars", of the AAR specification for "Specially Equipped Freight Car and Intermodal Equipment";

(5) For COFC service, the container support and securement systems conform to requirements in Specification M–952 "Intermodal Container Support and Securement Systems for Freight Cars", of the AAR specification for "Specially Equipped Freight Car and Intermodal Equipment"; and

(6) All securement fittings are fully engaged and in the locked position.

(c) A carrier may not transport a portable tank or IM portable tank that does not conform to paragraph (a) or (b) of this section unless approved for transportation by the Associate Administrator for Safety, FRA.

Approvals in effect on February 28, 1991 for the transportation of portable tanks or IM portable tanks in TOFC or COFC service expire on the date stated in the approval letter or [6 MONTHS FROM THE DATE THE FINAL RULE IS ISSUED], whichever is later.

(d) A carrier may not transport a cargo tank or multi-unit tank car tank containing a hazardous material in TOFC or COFC service unless approved for transportation by the Associate Administrator for Safety, FRA.

Issued in Washington, DC on May 4, 1993, under authority delegated in 49 CFR part 106, appendix A.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93–10829 Filed 5–6–93; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Finding on Petition to List the Spotted Frog

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 12-month finding for a petition to amend the List of Endangered and Threatened Wildlife and Plants. The Service finds that listing of the spotted frog (*Rana pretiosa*) as threatened in some portions of its range is warranted but precluded by other higher priority listing actions.

DATES: The finding announced in this notice was approved on April 23, 1993. Comments and information may be submitted until further notice.

ADDRESSES: Questions, comments and additional information regarding this finding should be sent to Mr. Larry Shanks, Chief, Endangered Species and Environmental Contaminants, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. The petition, finding, and supporting data are available for public inspection, by appointment, during normal business hours at the Service's Denver Regional Office, 134 Union Boulevard, Lakewood, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: Patricia Worthing at the Denver Regional Office (see **ADDRESSES** above), telephone (303) 236–7398.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the Service make a 90-day finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. If the finding is positive, the Service is also required to promptly commence a status review of the species. Section 4(b)(3)(B) requires that the Service make a 12-month finding as to whether the petition presenting substantial information is (i) warranted, (ii) not warranted, or (iii) warranted but precluded by other efforts to revise the lists, and expeditious progress is being made in listing and delisting species.

A petition dated May 1, 1989, from the Board of Directors of the Utah Nature Study Society was received by the Service on May 4, 1989. The petitioners requested that the Service add the spotted frog (*Rana pretiosa*) to the List of Threatened and Endangered Species and to specifically consider the status of the Wasatch, Utah, population.

The Service published a notice of a 90-day finding in the **Federal Register** (54 FR 42529) on October 17, 1990, indicating that there was substantial information to indicate that the petitioned action may be warranted. Concurrent with publishing the notice, the Service initiated a status review. The period of the status review was prolonged because, throughout its wide range, there was a lack of quantitative information documenting the spotted frog's current distribution and status. Additionally, the discovery that spotted frog genetics research was being conducted raised questions regarding the appropriateness of the current taxonomic classification of the various populations of spotted frog.

The Service sponsored an interagency workshop in 1991 in order to clarify the distribution, taxonomy, and current status of the spotted frog. The subject 12-month petition finding utilized information and comments provided at this workshop plus available literature and information obtained from university and agency personnel familiar with the species and the habitat conditions in specific areas.

The petitioners stated that "the spotted frog's present range in the lower 48 states is greatly reduced from its historic range," and that "the current status (of the species) is greatly reduced from historic times." The petitioners further indicated that the "scientific importance of the spotted frog is that this species lives in many disjunct populations that reflect Pleistocene populations."

Threats identified by the petitioners include loss of habitat (caused by dam and reservoir construction, alteration of drainage patterns, urban and agricultural use of water, and highway and bridge construction); impacts as a result of introductions of exotic species; lack of inventories of native wetland animals and insufficient impact analyses conducted prior to development; inadequate mitigation activities; and Federal and State laws and regulations that do not protect wetlands and riparian areas.

The two subspecies identified by the petitioners, *R. p. pretiosa* and *R. p. luteiventris*, are no longer generally recognized by the scientific community (Green 1991, Nussbaum et al. 1983). Currently, the spotted frog is considered a monotypic species, *Rana pretiosa*, throughout its range (Nussbaum et al. 1983). However, genetic studies currently being conducted by Green (1991). However, genetic studies currently being conducted by green (1991) suggest that the species may actually consist of an additional one or more species and subspecies.

Adult frogs have large, dark spots on their backs and pigmentation on their abdomens ranging from yellow to red (Turner 1959). Spotted frogs in Utah are reported to have fewer and lighter colored spots (Colborn, U.S. Fish and Wildlife Service, pers. comm., 1992; Shirley, Utah Department of Wildlife Resource, pers. comm., 1992). The spotted frog is closely associated with water (Dumas 1966, Nussbaum et al. 1983). Habitat includes the marshy edges of ponds, lakes, and slow-moving cool water streams) Licht 1974, Nussbaum et al. 1983) and cold water springs (Morris and Tanner 1969, Hovingh 1987a. Stebbins 1985 in Toone 1991).

The historic range of the spotted frog includes portions of Alaska, California, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming, and Alberta and British Columbia, Canada (Turner and Dumcs 1972; Nussbaum et al. 1983; Hovingh 1986). The species' range is highly subdivided at its southern extant with various groups of frogs occurring in isolated habitats such as high elevation wetlands or in desert springs. This fragmented range indicates that there may be considerable, and previously undetected, genetic divergence among *R. pretiosa* populations, even to the extent that this taxon may actually represent a complex of similar species (Green 1991).

The present distribution of the spotted frog includes a main population in southeast Alaska, Alberta, British Columbia, eastern Washington, northeastern Oregon, northern and central Idaho, and western Montana and Wyoming. Additional disjunct populations occur in northeastern California, southern Idaho, Nevada, Utah, and western Washington and Oregon.

Based on geographic and climatic separation and supported by genetic separation as determined by Green (1991) and David Green (McGill University, pers. comm., 1992), the Service identifies the following distinct vertebrate populations of the spotted frog: (1) The main population (Alaska, British Columbia, Alberta, Wyoming, Montana, northern and central Idaho, eastern Washington, and northeastern Oregon), (2) Great Basin (southern Idaho and Nevada), (3) west coast (western Washington and Oregon and northeastern California), (4) Wasatch Front (Utah), and (5) West Desert (Utah). Green (1991) did not separate the two Utah groups. However, the Service identified the Wasatch Front and West Desert spotted frogs as two populations based primarily on geographic separation but supported by evidence of some genetic variation from Green (1991) and by other anecdotal evidence of possible morphological differences (Leon Colborn, pers. comm., 1992; David Green, pers. comm., 1992; Peter Hovingh, University of Utah, pers. comm., 1992). The southernmost populations (southern Idaho, Nevada, and Utah) are believed to be relict populations occurring in small patches of suitable habitat remaining since the last ice age. The extreme western population (western Washington and Oregon and northeastern California) is believed to be a separate ecologic form confined to the warmer, milder climatic conditions of the west coast. These population divisions may be modified due to redefinition of the taxonomy of the spotted frog based on final genetic results, or by additional scientific information.

The Service believes that each of the disjunct populations is isolated from each other and from the main population by large distances with intervening stretches of unsuitable habitat or by distinct climatic variations that form substantial geographic or ecological barriers. Each of these disjunct populations is thus separated from any other population throughout its entire life cycle and at all times of the year. These ecological and geographic barriers are believed to

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effectively prevent any interchange between any of the populations.

The main population of spotted frogs (in Alaska, Alberta, British Columbia, eastern Washington and Oregon, northern and central Idaho, and western Montana and Wyoming) occurs over a large area with a variety of habitat conditions and threats. While there are activities occurring within this region that potentially impact spotted frogs, and while some declines have been documented or are suspected, spotted frogs are believed to be still abundant in many areas. However, the disjunct populations in the southern and western part of the species' range are either severely declining or nearly extirpated or are faced with significant threats altering or eliminating the species' habitat. Reduction, elimination, or alteration of wetland habitats has been a primary factor in each of these populations.

In the west coast population (western Washington and Oregon and northeastern California), spotted frogs have been nearly extirpated west of the Cascades from the Williamette Valley and Puget Trough) and have disappeared from most locations in the Cascades and in northeastern California (Nussbaum et al. 1983; Marshall 1989; Storm 1966 in McAllister and Leonard 1990; McAllister and Leonard 1991; Marc Hayes, Portland State University, pers. comm. 1992). Modification of river hydrology from completion of a series of dams in the Williamette Valley and the Puget Trough has significantly reduced the amount of shallow overflow wetland habitat historically utilized by the spotted frog (Marc Hayes, pers. comm., 1992; Kelly McAllister, Washington Department of Wildlife, pers. comm., 1992). According to Hayes (pers. comm., 1992), impacts to spotted frogs in the Cascades have resulted from grazing and from the construction of reservoirs which have inundated large marsh complexes and fragmented remaining marshes, thereby reducing the survival of spotted frogs in these areas. In northeastern California, Mark Jennings (California Academy of Sciences, pers. comm., 1992) indicates that grazing coupled with degraded water quality caused by irrigation and other agricultural activities have impacted spotted frog populations. Next to loss of habitat, Hayes (pers. comm., 1992) believes the second major factor affecting the west coast spotted frog population is the introduction and naturalization of nonnative predacious fishes and other nonnative aquatic species that are believed to prey on tadpoles of spotted frogs and other native western *Rana* species.

Spotted frogs of the Great Basin population (Nevada and southern Idaho) have undergone significant declines (Turner 1962; Peter Hovingh, pers. comm., 1992). Extensive loss of habitat has occurred from conversion of wetland habitats to irrigated pasture and dewatering of river areas by irrigation practices; in addition, there has been extensive impact on riparian habitats primarily due to intensive livestock grazing (Peter Hovingh, pers. comm., 1992).

In the Wasatch Front population in Utah, spotted frogs have undergone significant decline (Hovingh 1988; Dennis Shirley, pers. comm., 1992). Habitat loss and modification from reservoir construction and from urban and agricultural developments, compounded with predation by nonnative species, are the primary causes of the decline (Dennis Shirley, pers. comm., 1992).

While less habitat loss has occurred with the West Desert population of Utah than with the other southern and western populations, habitat availability is limited. Degradation of spring habitats and water quality from cattle grazing and other agricultural activities in these limited habitats are potential threats to the spotted frogs of this population (Hovingh 1987b; Peter Hovingh, pers. comm., 1992; Dennis Shirley, pers. comm., 1992).

Finding

The Act requires that the Service make determinations regarding listing solely on the basis of the best scientific and commercial data available after conducting a review of the status of the species and after taking into account those efforts being made by States and others to protect the species. On the basis of the best available scientific and commercial information, the Service finds that the petitioned action to list the spotted frog throughout its entire range is not warranted.

The Service has the authority to list a distinct population segment of any vertebrate fish or wildlife species which interbreeds when mature. However, Congressional language indicates that the Service is "to use the ability to list populations sparingly and only when the biological evidence indicates that such action is warranted" (Senate Report No. 96–151, 96th Congress, 1st Session 7, 1979).

It is the opinion of the Service that, although the spotted frog appears to be common and abundant in its main population, it is known to be severely declining in the southern and western portions of its historic range. Based on the extensive loss of alteration of wetland habitat, compounded by the introduction of nonnative species, the Service finds that listing the west coast spotted frog population (western Washington and Oregon and northeastern California), the Great Basin population (Nevada and southern Idaho), and the Wasatch Front population (Utah) is warranted but precluded by work on other species having higher priority for listing. Based on the limited habitat and the potential for significant habitat destruction or alteration, the Service finds that the listing of the West Desert population (Utah) is also warranted but precluded.

In making this warranted-but-precluded finding for the four vertebrate populations identified above, the Service transfers these populations from Category 2 candidates to Category 1. The main populations of the spotted frog is retained in Category 2.

Section 4(b) of the Act states that the Service may make warranted-but-precluded findings only if it can demonstrate that (1) an immediate proposed rule is precluded by other pending proposals, and that (2) expeditious progress is being made on other listing actions. On September 21, 1983 (48 FR 43098), the Service published in the **Federal Register** its priority system for listing species under the Act. The system considers three factors in assigning species numerical listing priorities on a scale of 1 to 12. The three factors are magnitude of threat, immediacy of threat, and taxonomic distinctiveness.

As discussed above, the spotted frog faces threats primarily from habitat alteration and destruction, and predation and competition by nonnative species. The Service considers the magnitude of these threats in the west coast population, the Wasatch Front population and the Great Basin population to be high and imminent. As distinct population segments, the three populations of spotted frog have a lower listing priority then full species or monotypic genera under comparable threats. Therefore, the listing priority for these three populations is 3. The threats facing the West Desert population (Utah) are considered moderate to low. The listing priority for that population is 9. Service policy is to propose the highest priority species first. Priority 1 and 2 species currently warrant more immediate listing consideration than the spotted frog populations.

The Service believes that expeditious progress is being made on other listing actions. In fiscal year 1990 (October 1, 1989, to September 30, 1990), the Service proposed 106 species for listing and added 47 species to the lists of

endangered and threatened wildlife and plants. In fiscal year 1991 (October 1, 1990, to September 30, 1991), 87 species were proposed for listing and 52 species were added to the lists. In fiscal year 1992 (October 1, 1991, to September 30, 1992), 114 species were proposed for listing and 92 were added to the lists. As of March 31 in fiscal year 1993, the Service had proposed 79 species for listing and added 49 species to the lists. The Service attempts to increase listing efficiency through multi-species listing actions when appropriate.

Further investigation and biological research on the species status in all populations is encouraged. If data become available in the future indicating that the spotted frog in the main population may qualify for listing under the Act, or if further information becomes available to indicate a greater abundance of spotted frogs or a decrease in threats in any of the southern and western populations, the Service will reassess the status of these populations as necessary. More detailed information regarding the above decisions may be obtained from the Denver Office (see **ADDRESSES** above).

References Cited

A complete list of all references cited herein is availeble upon request from the Denver Office (see **ADDRESSES** above).

Author

This notice was prepared by Patricia Worthing (see **ADDRESSES** above).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: April 23, 1993.

John F. Turner,

Director, Fish and Wildlife Service.

[FR Doc. 93–10813 Filed 5–6–93; 8:45 am]

BILLING CODE 4310–55–M

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Notices

Federal Register
Vol. 58, No. 87
Friday, May 7, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Exemption of Stacel Rehabilitation and Salvage Timber Sale Project From Appeal

AGENCY: USDA, Forest Service, Northern Region.

ACTION: Notification that a timber salvage project designed to recover dead and dying timber and rehabilitate National Forest system lands is exempt from appeals under provisions of 36 CFR part 217.

SUMMARY: During forest surveys conducted in 1992, areas of insect and disease mortality of commercial sawtimber were identified in the Stacel Draw and Dry Gulch areas. In March 1993, the Fernan District Ranger, Idaho Panhandle National Forests, proposed salvage of the dead and dying timber and rehabilitation of several stands in the affected area.

The District Ranger has determined, through a Decision Memo and environmental analysis in the supporting project file, that there is good cause to expedite these actions in order to rehabilitate National Forest System lands and recover damaged resources. Salvage of commercial sawtimber within the affected area must be accomplished quickly to avoid further deterioration of sawtimber, to reduce the risk of catastrophic wildfire, and to rehabilitate the stands as quickly as possible for long term watershed stability.

EFFECTIVE DATE: Effective on May 7, 1993.

FOR FURTHER INFORMATION CONTACT: Donald J. Bright; District Ranger; Fernan Ranger District; Idaho Panhandle National Forests; 2502 East Sherman Avenue; Coeur d' Alene, ID 83814.

SUPPLEMENTARY INFORMATION: In the fall of 1992, field surveys identified areas where significant timber mortality occurred from root disease and bark beetles in the upper reaches of Stacel Draw and Dry Gulch drainages. The stands in need of rehabilitation are located within lands designated as suitable for timber management and assigned to Management Area 1 (Idaho Panhandle Forest Plan, August 1987).

In March 1993, the Fernan District Ranger, Idaho Panhandle National Forest, proposed the salvage harvest of dead and dying trees in the area and rehabilitation of these stands. This proposal was designed to meet the following needs: (1) Reduce the spread of the bark beetle infestation; (b) reduce wildfire hazard by reducing fuel loading; (c) rehabilitate timber stands that are understocked due to root disease, and restock the sites to species less susceptible to root disease; and (d) recover dead and dying timber products before their commercial value deteriorates.

An interdisciplinary team was convened and scoping began in March 1993. Environmental issues were identified and are the basis for the environmental analysis documented in the project file. Two alternatives were analyzed a No Action Alternative and the Proposed Action.

The selected alternative will salvage approximately 425 MBF of dead and dying timber and rehabilitate approximately 40 acres. All salvage areas are accessible from existing roads. No road construction or reconstruction will occur in conjunction with this project.

This rehabilitation project and salvage is designed to accomplish the objectives as quickly as possible to recover merchantable sawtimber before it deteriorates and removal becomes infeasible. To expedite implementation of this decision, procedures outlined in 36 CFR 217.4(a)(11) are being followed. Under this regulation the following may be exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of Forest Resources from natural disasters or other natural phenomena * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good causes exists to exempt such decisions from review under this part.

Based on the analysis documented in the Stacel Rehabilitation and Salvage Timber Sale project file and the District Ranger's Decision Memo, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project will not be subject to review under 36 CFR part 217.

Dated: April 30, 1993.

Larry O. Gadt,

Acting Deputy Regional Forester, Northern Region.

[FR Doc. 93–10812 Filed 5–6–93; 8:45 am]

BILLING CODE 3410–11–M

Southern Region; Exemption From Appeal of the Decision To Salvage Storm Damaged Timber on the Jefferson National Forest, Wythe Ranger District, VA

AGENCY: Forest Service, USDA.

ACTION: Notice; exemption of decision from administrative appeal.

SUMMARY: Pursuant to 36 CFR 217.4(a)(11), the Regional Forester for the Southern Region has determined that good cause exists, and notice is hereby given, to exempt from administrative appeal the decision to salvage wind thrown and damaged trees in the Stony Fork Creek area on the Wythe Ranger District of the Jefferson National Forest as a result of the severe snowstorm which occurred during the storm of March 13–14, 1993. Most of the affected timber is large white pine, many of which were either uprooted, broken off, rootsprung, or otherwise damaged (broken limbs or top). Warm weather is rapidly approaching which will create conditions conducive to the rapid spread of blue stain or infestation by wood borers. Either condition will soon render these trees unmerchantable for sawtimber if not salvaged quickly. Approximately 100 thousand board feet (MBF) of timber would be removed from about 37 acres of area which was severely damaged. Specifically, the salvaging of timber would take place in Compartment 6054, stands 1, 3, and 4, and Compartment 6055, stands 11 and 15.

EFFECTIVE DATE: May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Questions about this exemption should be directed to Jean P. Kruglewicz, Southern Region, Forest Service, USDA, 1720 Peachtree Road, NW., Atlanta GA 30367, phone (404) 347–4867.

SUPPLEMENTARY INFORMATION: On March 13 through March 14, a severe blizzard occurred in this area. High winds and heavy snows caused large white pine sawtimber trees to be severely damaged along State Route 717, a designated scenic byway (Big Walker Mountain Scenic Byway), on the Wythe Ranger District of the Jefferson National Forest. Most of the affected timber is lying on the ground. Along with the heavy damage to white pine, some pitch and Virginia pines were also affected, and some hardwood was hit and damaged by the falling pines. An estimated 100 MBF would be removed from 37 acres which were severely damaged. The primary objectives are to salvage and remove the damaged timber in these stands and to protect and rehabilitate the visual qualities of the scenic byway. Scenery viewing traffic along the scenic byway is typically higher during summer months. The Stony Fork Campground is also located along State Route 717 just to the west of the storm damaged area. Campground use and associated traffic will increase as warmer weather develops. All the stands to be salvaged are located in Management Area 7, which is suitable for timber production, per the Jefferson Land and Resource Management Plan, as amended.

In this area, white pine is usually harvested in the colder months to avoid blue stain fungal attack. White pine is commonly used in furniture and blue stain renders the wood unsuitable for this purpose. Stain can greatly devalue the wood or make it unsaleable. When warm weather arrives, wood borers readily attack down pines (particularly white pine) and can also render the wood unuseable. Any delay in removal of down and damaged pines will quickly result in their becoming unmerchantable for sawtimber.

An additional factor is the unsightliness of damaged and down timber, particularly the "browning up" of needles which follows. The prompt removal of this timber will help to preserve the scenic nature of this portion of the Big Walker Mountain Scenic Byway.

The District Ranger is the responsible official. The environmental analysis is currently being done and the environmental documentation is near completion. The decision will likely be documented in either a Decision Memo (per the Forest Service Environmental Policy and Procedures Handbook, Section 31.2) or Decision Notice. The environmental analysis will include methods of harvesting, mitigation measures, and any post salvage rehabilitation practices. Regeneration of the stand within the retention VQO area will take into consideration the scenic values. Maintenance of scenic values is the primary concern related to the timber salvage. The environmental documents and biological evaluation being prepared will disclose the effects of the proposed action on the environment, document public involvement, and address the issues raised by the public.

Given the condition of the damaged timber with the onset of warm weather, the need for action is critical. Delay will result in both the loss of value of the presently merchantable timber and an adverse effect on scenery as viewed by scenic byway travelers and other traffic.

Dated: April 30, 1993.

Ralph F. Mumme,

Acting Deputy Regional Forester.

[FR Doc. 93–10764 Filed 5–6–93; 8:45 am]

BILLING CODE 3410–11–M

Exempt Decision for VV Salvage Sale From Appeal, Malheur National Forest, OR

AGENCY: Forest Service, USDA.

ACTION: Notice to exempt decisions from administrative appeal.

SUMMARY: This is a notification that the decision to implement the VV Salvage Sale, located on the Long Creek Ranger District, Malheur National Forest is exempted from appeal. This is in conformance with provisions of 36 CFR 217.4(a)(11) as published in the **Federal Register** on January 23, 1989 (54 FR 3342).

EFFECTIVE DATE: May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Mark A. Boche, Forest Supervisor, Malheur National Forest, 139 N. Dayton Street, Phone (503) 575–1731; or Carol Cushing, Timber Management Planner, Long Creek Ranger District, 528 E. Main Street, John Day, Oregon 97845, phone (503) 575–2110.

SUPPLEMENTARY INFORMATION: Starting in 1991, western spruce budworm have infested a major portion of the Malheur National Forest. Much of the infestation is in stands of white fir and Douglas-fir. In the Summer of 1991, survey of the infested area was initiated to assess the damage to the resources. The survey identified about 1,554 acres needing treatment due to high insect damage and mortality.

Salvageable trees in the area averages 18 inches in diameter at breast height. Rapid drying of insect-killed trees has caused cracking or "checking," especially of the smaller diameter trees, which is expected to quickly reduce the opportunity to recovery merchantable sawlog material. Prompt salvage is needed to begin regeneration and restore desired stand health and wildlife habitat conditions.

The VV Salvage Sale, environmental analysis was started in June 1991. After public meetings, and contacts with individuals, State and Federal agencies, the following major issues were identified: Road management and forest health.

An interdisciplinary team of resource specialists developed three alternatives to analyze, including the No-Action Alternative. An environmental assessment has been prepared to disclose the effects of alternatives developed to meet the objectives of the proposed action and responds to the major issues. The proposed action would salvage about 1,293 acres of high insect-damaged stands to mitigate declines in big game wildlife cover and prevent future outbreaks of insects. This proposal will prevent the loss of approximately 9.8 million board feet of commercial timber resources.

Approximately 1.4 miles of new system roads would be constructed and closed following the project. A total of approximately 22 miles of existing open roads will be closed following the final implementation of the VV Access and Travel Management Plan. A majority of these road closures will be completed by 1996 by the Salvage Sale contractor.

This alternative protects and enhances riparian and aquatic habitat by establishing deferred entry buffers along streams. This alternative will also include a Forest Plan Amendment needed to keep open the existing 2010 road access to the top of Vinegar Hill which is located within the Vinegar Hill/Indian Rock Scenic Area.

Biological evaluations have been completed for all plant, wildlife and fish proposed, endangered, threatened and sensitive species within both project areas. The biological evaluation indicates that the project could proceed as planned.

The VV Salvage Sale and accompanying work are designed to accomplish Forest Plan objectives and provide restorative reforestation efforts as timely as possible. Based upon the environmental analysis and the need to expedite this salvage, I have determined that good cause exist to exempt the salvage sale portion of this decision from administrative appeal (36 CFR part 217). Under this Regulation the following is exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such

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as wildfires * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

After publication of this notice in the **Federal Register**, the Decision Notice/Finding of No Significant Impact for the VV Salvage Sale may be signed by the Malheur National Forest Supervisor. The salvage portion of project will not be subject to review under 36 CFR part 217.

Dated: April 30, 1993.

Nancy Graybeal,

Deputy Regional Forester.

[FR Doc. 93–10807 Filed 5–6–93; 8:45 am]

BILLING CODE 3410–11–M

Canyon Creek Recovery and Rehabilitation, Kootenai National Forest, Lincoln County, MT; Cancellation of Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Environmental impact statement cancellation notice.

Notice is hereby given that the Fisher River District, Kootenai National Forest is withdrawing its plan to prepare an Environmental Impact Statement for the Canyon Creek Recovery and Rehabilitation project.

The Notice of Intent, published in the **Federal Register** of October 27, 1992, is hereby rescinded (FR document is FR 92–25974 filed 10–26–92).

FOR FURTHER INFORMATION CONTACT: Mike Johnson, Interdisciplinary Team Leader, Kootenai National Forest, 12557 Hwy 37, Libby, MT 59923; telephone (406) 293–7773.

Dated: April 1, 1993.

Jeffrey J. Scussel,

Acting District Ranger, Fisher River Ranger District, Kootenai National Forest.

[FR Doc. 93–10777 Filed 5–6–93; 8:45 am]

BILLING CODE 3410–11–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on:

Date: Wednesday, May 26, 1993, 9:30 a.m.–12 noon.

Location: Dean Acheson Auditorium, U.S. Department of State, Washington, DC.

The meeting is free and open to the public. However, notification by Friday, May 21, 1993, through the Advisory Committee's office is required.

Persons wishing to attend the meeting must call Theresa Graham Oakley or Susan Saragi, (703) 351–0244, or FAX (703) 351–0212. Persons attending must include their name, organization, birth date and social security number for security purposes.

Dated: April 29, 1993.

Louis C. Stamberg,

Office of Director (Acting), Office of Private and Voluntary Cooperation, Bureau for Food and Humanitarian Assistance.

[FR Doc. 93–10767 Filed 5–6–93; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 93–034. *Applicant:* Michigan State University, Department of Biochemistry, East Lansing, MI 48824–1319. *Instrument:* Quench Flow Apparatus, Model QFM-5. *Manufacturer:* Bio-Logic, France. *Intended Use:* The instrument will be used for experiments which are an integral part of a multidisciplinary approach (genetic, biochemical, and biophysical) to study structure-function relationships and dynamics of proteins. In addition, the instrument will be used in the graduate education program in the Department of Biochemistry. *Application Received by Commissioner of Customs:* April 2, 1993.

Docket Number: 93–035. *Applicant:* Texas A&M Research Foundation, Box 3578, College Station, TX 77843. *Instrument:* Submersible Fluorimeter, Model 6000 AQUATRACKA MkIII. *Manufacturer:* Chelsea Instruments, Ltd., United Kingdom. *Intended Use:* The instrument will be used to measure the chlorophyll content of seawater on site for the purpose of graduate student training and research. *Application Received by Commissioner of Customs:* April 2, 1993.

Docket Number: 93–036. *Applicant:* Rutgers - The State University of New Jersey, Cook College, Department of Nutritional Sciences, Thompson Hall, Lipman Drive, P.O. Box 231, New Brunswick, NJ 08903–0231. *Instrument:* Microvolume Stopped-flow Spectrofluorimeter, Model SX.17MV with Spares Kit. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* The instrument will be used to follow the rate of transport of fats (fatty acids, cholesterol, monoglycerides) between membranes and between protein and membranes. *Application Received by Commissioner of Customs:* April 8, 1993.

Docket Number: 93–037. *Applicant:* Massachusetts Institute of Technology, Department of Earth, Atmospheric and Planetary Sciences, 77 Massachusetts Avenue, Cambridge, MA 02139. *Instrument:* Two Crystal Wavelength Dispersive Spectrometer, Model XM-86ADSXCE. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument is an accessory that will be used as part of an electron microprobe to perform non-destructive x-ray analysis of material surfaces by wavelength dispersive methods with spatial resolution of 1 to 2 microns. This microprobe will be used primarily by geologists to obtain quantitative analyses of crystalline and amorphous solids, and to determine element distributions in multiphase materials. In addition, the microprobe instrument will be used to determine the chemical composition of crystalline and glass products of experimental studies carried out at elevated temperatures and pressures on earth and planetary materials. The instrument will also be used for educational purposes in courses in which students will obtain hands-on practical experience as well as instruction in the theoretical aspects of quantitative chemical analysis by wavelength dispersive methods. *Application Received by Commissioner of Customs:* April 8, 1993.

Docket Number: 93–038. *Applicant:* Carnegie Mellon University, 5000 Forbes Avenue, Pittsburgh, PA 15213–3890. *Instrument:* Gas Concentration Analyzer, Model Epison II. *Manufacturer:* Thomas Swann Instruments, United Kingdom. *Intended Use:* The instrument will be used to measure the concentrations of the di-methylcadmium, di-ethyltellurium or di-ethylzinc in hydrogen gas streams in an effort to determine whether or not this EPISON is sufficiently accurate and stable to allow process control. The objective is to measure continuously the concentration of reactants flowing into the research reactor. *Application Received by Commissioner of Customs:* April 8, 1993.

Docket Number: 93–039. *Applicant:* Princeton University, Department of Geological and Geophysical Sciences, Guyot Hall, Princeton, NJ 08544. *Instrument:* Isotope Ratio Mass Spectrometer, Model OPTIMA. *Manufacturer:* VG Isotech, United Kingdom. *Intended Use:* The instrument will be used for analysis of CO_2, N_2 and O_2 which will be generated from diverse biological and geological materials in the following research projects: (1) vertebrate ecology and paleoecology; (2) terrestrial paleoclimatology and correlation; (3) paleoceanography; and (4) analysis of silicate, phosphate and oxide minerals for $^{18}O/^{16}O$. In addition, the instrument will be used for educational purposes in the courses: Environmental Isotope Geochemistry and Isotopic Paleoclimatology and Paleoecology. *Application Received by Commissioner of Customs:* April 8, 1993.

Docket Number: 93–040. *Applicant:* University of Rhode Island, Department of Ocean Engineering, Narragansett, RI 02882–1197. *Instrument:* Susceptibility Sensor and Electronics. *Manufacturer:* GEOTEK, United Kingdom. *Intended Use:* The instrument is an accessory to an existing core logging system that is used to analyze sediment core samples in a non-destructive fashion. In addition, the system is used extensively by undergraduates and graduate students in laboratory sections of various oceanology courses. *Application Received by Commissioner of Customs:* April 13, 1993.

Docket Number: 93–041. *Applicant:* Bowling Green State University, Bowling Green, OH 43403. *Instrument:* Photoelectron Microscope, Model PM-150. *Manufacturer:* Staib Instrumente GmbH, Germany. *Intended Use:* The instrument will be used in the Materials Science survey course 483, which teaches undergraduates some of the basic techniques of materials science. In addition, the instrument will be used in the thesis and dissertation work of graduate students, who need the instrument to do original research on thin film growth. *Application Received by Commissioner of Customs:* April 15, 1993.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93–10860 Filed 5–6–93; 8:45 am]

BILLING CODE 3510–DS–F

Department of Commerce, NOAA; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 92–101. *Applicant:* U.S. Department of Commerce, NOAA, Galveston, TX 77551–5997. *Instrument:* (7) Power Packs for Fish Measuring Boards, Model BAT-1. *Manufacturer:* Limnoterra Atlantic, Inc., Canada. *Intended Use:* See notice at 58 FR 4978, January 19, 1993.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer. The National Institutes of Health advises in its memorandum dated November 19, 1992 that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93–10861 Filed 5–6–93; 8:45 am]

BILLING CODE 3510–DS–F

U.S. Department of Commerce, NOAA, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 92–103. *Applicant:* U.S. Department of Commerce, NOAA, Galveston, TX 77551–5997. *Instrument:* (3) Electronic Digital Fish Measuring Boards, Model FMB IV. *Manufacturer:* Limnoterra Atlantic, Inc., Canada. *Intended Use:* See notice at 57 FR 39394, August 31, 1992. *Reasons:* The foreign instrument provides in situ logging of fish dimensions with concurrent entry of ancillary data which can be downloaded to a PC on return from the field. *Advice Received From:* National Institutes of Health, July 9, 1992.

Docket Number: 92–129. *Applicant:* North Carolina State University, Raleigh, NC 27695. *Instrument:* 2 Biological Nitrifying Filters for Aquaculture Use, Model 800. *Manufacturer:* Waterline, Canada. *Intended Use:* See notice at 57 FR 44360, September 25, 1992. *Reasons:* The foreign instrument provides a filtering reactor using small, grooved beads that are fluidized in a down-flow stream of water for comparing various nitrifying technologies. *Advice Received From:* U.S. Fish and Wildlife Service, January 13, 1993.

Docket Number: 92–115. *Applicant:* U.S. Department of Commerce, NOAA, Narragansett, RI 02882. *Instrument:* Data Acquisition and Logging System for Underwater Towed Body and Continuous Plankton Recorder System. *Manufacturer:* Chelsea Instruments Ltd., United Kingdom. *Intended Use:* See notice at 57 FR 44361, September 25, 1992. *Reasons:* The foreign instrument is designed for use with existing towed ocean vehicles used to monitor environmental conditions such as water temperature, conductivity, depth and chlorophyll concentration. *Advice Received From:* National Institutes of Health, January 13, 1993.

Docket Number: 92–118. *Applicant:* North Dakota State University, Fargo, ND 58105. *Instrument:* Spectrofluorimeter, Model DX.17MV. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* See notice at 57 FR 44361, September 25, 1992. *Reasons:* The foreign instrument provides dual mixing quench capability and submillisecond deadtime. *Advice Received From:* National Institutes of Health, January 13, 1993.

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Docket Number: 92–121. *Applicant:* The Alexandria Hospital, Alexandria, VA 22304. *Instrument:* Automatic Rapid Karyotyping System with Table, Model Cytoscan RK1. *Manufacturer:* Image Recognition Systems, United Kingdom. *Intended Use:* See notice at 57 FR 44362, September 25, 1992. *Reasons:* The foreign instrument provides a graphic display resolution of 768 x 575 pixels and a grey scale resolution of 64 levels. *Advice Received From:* National Institutes of Health, January 13, 1993.

Docket Number: 92–122. *Applicant:* County of Sacramento, Elk Grove, CA 95758. *Instrument:* Mass Spectrometer, Model API III. *Manufacturer:* PE Sciex, Canada. *Intended Use:* See notice at 57 FR 44362, September 25, 1992. *Reasons:* The foreign instrument provides: (1) best detectability and sensitivity with atmospheric ionization, (2) tandem MS/MS capability and (3) ppb detection limits. *Advice Received From:* National Institutes of Health, January 13, 1993.

Docket Number: 92–123. *Applicant:* The Graduate Hospital, Philadelphia, PA 19146. *Instrument:* Muscle Research System, Model OPT1S. *Manufacturer:* Guth Scientific Instruments, Germany. *Intended Use:* See notice at 57 FR 44360, September 25, 1992. *Reasons:* The foreign instrument provides: (1) capability to measure contractile force to less than 2.0 mg, (2) estimation of shortening velocity in the 300 µm/s range and (3) stiffness measurement. *Advice Received From:* National Institutes of Health, January 13, 1993.

Docket Number: 92–130. *Applicant:* University of Oklahoma Health Sciences Center, Oklahoma City, OK 73104. *Instrument:* Mass Spectrometer, Model API III. *Manufacturer:* Sciex, Canada. *Intended Use:* See notice at 57 FR 44360, September 25, 1992. *Reasons:* The foreign instrument provides: (1) best sensitivity for atmospheric pressure ionization, (2) LC/MS/MS capability and (3) flow rate to 200 µl/minute. *Advice Received From:* National Institutes of Health, January 13, 1993.

Docket Number: 92–137. *Applicant:* Vanderbilt University, Nashville, TN 37232–6600. *Instrument:* Hydraulic and Mechanical Microdrive System, Model MO-15M. *Manufacturer:* Narishige Scientific Instrument Laboratory, Japan. *Intended Use:* See notice at 57 FR 48599, October 27, 1992. *Reasons:* The foreign instrument provides ranges of movement along the x, y, and z axes of 53, 28 and 38 mm, respectively. *Advice Received From:* National Institutes of Health, January 13, 1993.

Docket Number: 92–141. *Applicant:* Environmental and Occupational Health Sciences Institute, Piscataway, NJ 08855–1179. *Instrument:* Inductively Coupled Plasma Mass Spectrometer, Model VG PlasmaQuad. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* See notice at 57 FR 54971, November 23 1992. *Reasons:* The foreign instrument provides simple spectra with detection limits of 10^{-6} (low mass) and 5.0×10^{-7} (high mass) and superior multi-element capability. *Advice Received From:* National Institutes of Health, February 9, 1993.

The National Institutes of Health and U.S Fish and Wildlife Service advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 93–10862 Filed 5–6–93; 8:45 am]

BILLING CODE 3510–DS–F

International Trade Administration, Commerce

Export Trade Certificate of Review

ACTION: Notice of issuance of an Export Trade Certificate of Review, Application No. 92–00015.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Refined Sugar Trading Institute, Inc. (RSTI) effective May 3, 1993. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 2023–483–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1991) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Products: Refined sugar in various package forms, including but not limited to fifty kilo jute bags; and two pound, five pound, and twenty-five pound kraft paper bags.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), Canada, and Mexico.

Export Trade Activities and Methods of Operation

1. In connection with the export of the Products, the Members may exchange and discuss the following:

(A) Information about sales and marketing efforts in the Export Market; activities and opportunities for sales of Products in the Export Markets; selling strategies in the Export Markets; pricing in the Export Markets; projected demand in the Export Markets; customary terms of sale in the Export Markets; prices of Products for sale in the Export Markets; availability of Products for sale by non-Members in the Export Markets; and specifications for Products by customers in the Export Markets;

(B) Information about the quality, quantity, and prices of Products for export; the willingness to supply Products in quantities sufficient to meet an export sales opportunity; and source and delivery dates of Products offered for export;

(C) Information about terms and conditions of contracts for sales in the Export Markets to be considered and/or bid on by the Members;

(D) Information about joint bidding and selling in the Export Markets and allocation of sales resulting from such arrangements among the Members

(E) Information about expenses specific to exporting to and within the Export Markets, including without limitation transportation, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales documentation, financing, customs, duties, and taxes;

(F) Information about U.S. and foreign legislation and regulations affecting sales in the Export Markets; and

(G) Information about the Members' export operations, including without limitation sales and distribution networks established by the Members' in the Export Markets, and prior export sales by the Members (including export price information).

2. The Members may jointly establish a selling price, or a "minimum margin" to be added to a world raw sugar price to arrive at a selling price, for the Products for sale in the Export Markets.

(A) Once determined, the selling price or minimum margin shall remain in effect until it is rescinded or superseded by all of the Members.

(B) Members may utilize the selling price or minimum margin in all of their sales of the Products in the Export Markets; provided, however, that no Member shall be obligated to utilize the selling price or minimum margin in such sales.

(C) If a Member makes a sale of the Products in the Export Markets at a price below the selling price, or does not use the minimum margin in a sale of the Products in the Export Markets, the Institute may require that such Member inform the other Members of such fact.

Members (Within the Meaning of Section 325.2(1) of the Regulations)

Domino Sugar Corporation, New York, NY

Savannah Foods and Industries, Inc., Savannah, GA

Terms and Conditions of Certificate

1. In engaging in Export Trade Activities and Methods of Operation, neither the Institute nor any Member shall intentionally disclose, directly or indirectly, to any other Member any information relating to its or any other Member's costs, production, capacity, inventories, domestic prices, domestic sales, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods, except (1) is such information is already generally available to the trade or public; or (2) on a transaction specific basis, a Member may purchase the Products from another member for export and discuss the price, quantity delivery, and all other terms of purchase as long as neither Member discloses, either directly or indirectly, the price, quantity, delivery, and other terms of sale of any other domestic transaction for the Products.

2. Any agreements, discussions, or exchanges of information under this Certificate relating to quantities of Products offered for sale in the Export Markets, product specifications or standards, export prices, product quality or other terms and conditions of export sales (other than export financing) shall only be in connection with actual or potential bona fide export transactions.

3. Participation by a Member in any Export Trade Activity or Method of Operation under this Certificate shall be entirely voluntary as to that Member. A Member may withdraw from coverage under this Certificate at any time by giving written notice to the Institute, a copy of which the Institute shall promptly transmit to the Secretary of Commerce and the Attorney General.

4. The Institute and the Members will comply with requests made by the Secretary of Commerce of behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade, Export Trade Activities or Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

5. The Institute shall notify the Secretary of Commerce of any legislative or regulatory action subsequent to the date of issuance of this Certificate that materially affects the operation of the U.S. Government sugar programs (i.e., the domestic price support, re-export, and "section 22" programs). In the event of any such material change, the Institute shall establish to the satisfaction of the Departments of Commerce and Justice that the Export Trade, Export Trade Activities, or Methods of Operation of a person certified herein continue to comply with the standards of section 303(a) of the Act.

Protection Provided by Certificate

This Certificate protects RSTI, the Members, and their directors, officers, and employees acting on their behalf from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified herein and carried out during the effective period of the Certificate in compliance with its terms and conditions.

Effective Period of Certificate

This Certificate continues in effect from the effective date indicated below until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

Other Conduct

Nothing in this Certificate prohibits RSTI or the Members from engaging in conduct not specified in this Certificate, but such conduct is subject to the normal application of the antitrust laws.

Disclaimer

The issuance of this Certificate of Review to RSTI by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion of the Secretary of Commerce or the Attorney General concerning either (a) the viability or quality of the business plans of RSTI or the Members or (b) the legality of such business plans under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

The application of this Certificate to conduct in export trade where the United States Government is the buyer or where the United States Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V.(D) of the "Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition)," 50 Fed. Reg. 1786 (January 11, 1985).

In accordance with the authority granted under the Act and Regulations, this Certificate of Review is hereby granted to RSTI.

Dated: May 3, 1993.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 93–10769 Filed 5–6–93; 8:45 am]

BILLING CODE 3510–DR–M

National Oceanic and Atmospheric Administration

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Issuance of modification to permit No. 723 (P77#45).

On March 18, 1993, notice was published in the **Federal Register** (58 FR 14560) that an application had been filed by the Southwest Fisheries Science Center, NMFS, P.O. Box 271, La Jolla, CA 92038, to modify scientific research Permit No. 723 to allow for freeze-branding of harbor seals (*Phoca vitulina*).

Notice is hereby given that on May 3, 1993, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, et seq.), the NMFS issued a Permit for the above taking,

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subject to certain conditions set forth therein.

The Permit is available for review by appointment in the following offices:

Office of Protected Resources, NMFS, 1335 East-West Highway, room 7330, Silver Spring, MD 20910 (301/713-2289); and

Southwest Region, NMFS, NOAA, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802 (310-980-4016).

Dated: May 3, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93-10800 Filed 5-6-93; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Issuance of Modification No. 3 to Permit No. 772 (P475).

On March 5,1993, notice was published in the **Federal Register** (58 FR 12579) that an application had been filed by Ms. Dena Matkin, P.O. Box 22, Gustavus, Alaska 99826, to modify scientific research Permit No. 772 to: Extend its duration for an additional four years; increase the number of killer whales that may be inadvertently harassed to 400 annually; and authorize the inadvertent harassment of up to 100 humpback whales (*Megaptera novaeangliae*) annually during photo-identification studies. The subject animals of both species may be approached up to five times annually.

Notice is hereby given that on April 30, 1993, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued a modification to Permit No. 772 authorizing the inadvertent harassment of the species/numbers of marine mammals described above, subject to certain conditions set forth therein.

The modified Permit is available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, room 7330, Silver Spring, MD 20910 (301/713-2289); and

Director, Alaska Region, National Marine Fisheries Service, Federal Annex, 9109 Mendenhall Mall Rd. Suite 6, Juneau, AK 99802 (907/586-7221).

Dated: April 30, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93-10801 Filed 5-6-93; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Issuance of Modification No. 2 to Permit No. 717 (P77#44).

SUMMARY: On March 16, 1993, notice was published in the **Federal Register** (58 FR 14203) that a request to modify Permit No. 717 had been submitted by Dr. Howard W. Braham, Alaska Fisheries Science Center, NMFS, NOAA, National Marine Mammal Laboratory, 7600 Sand Point Way, NE., Building 4, Seattle, WA 98115.

Notice is hereby given that on May 3, 1993, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, et seq.), and Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the NMFS issued the requested modification to Permit 717 subject to the Special Conditions set forth therein.

The modified Permit is available for review by interested persons in the following offices by appointment:

Office of Protected Resources, NMFS, 1335 East-West Highway, room 7330, Silver Spring, MD 20910 (301/713-2289);

Director, Northwest Region, NMFS, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, WA 98115 (206/526-6150); and

Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213 (310/980-4016).

Dated: May 3, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93-10802 Filed 5-6-93; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of receipt of application for a scientific research permit to take marine mammals (P278E).

Notice is hereby given that Dr. Brent S. Stewart, Hubbs-Sea World Research Institute, 1700 South Shores Road, San Diego, CA 92109, has applied in due form for a permit to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, et seq.), §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act (16 U.S.C. 1531-1543), and the regulations governing endangered fish and wildlife (50 CFR parts 217-222).

The applicant seeks authorization to study the effects of sonic booms on the hearing capabilities of pinnipeds (up to 10 elephant seals, *Miroungo angustirostris*; 10 California sea lions, *Zalophus californianus*; 10 harbor seals, *Phoca vitulina*; and 1 Guadalupe fur seal, *Arctocephalus townsendi*). These animals are rehabilitated beached/stranded animals currently held by Sea World.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, NMFS, U.S. Department of Commerce, 1335 East-West Highway, room 7234, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicants and do not necessarily reflect the views of the NMFS.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, NMFS, 1335 East-West Highway, Suite 7324, Silver Spring, MD 20910 (301/713-2289); and

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213 (310/980-4016).

Dated: May 3, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93-10803 Filed 5-6-93; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Wool and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

May 3, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 10, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6717. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 336/636, 351/651 and 369-S are being increased by application of swing, reducing the limits for Categories 219 and 445/446 to account for the increases being applied. Also, the limit for Category 447, within the wool subgroup in Group II, is being increased for swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23 1992). Also see 57 FR 24597, published on June 10, 1992; and 58 FR 17208, published on April 1, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 3, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directives issued to you on June 5, 1992 and March 26, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. Those directives concern imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in Indonesia and exported during the periods March 30, 1993 through June 30, 1993, in the case of Category 447; and July 1, 1992 through June 30, 1993, in the case of the remaining categories.

Effective on May 10, 1993, you are directed to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Indonesia:

Category	Adjusted limit [1]
Levels in Group I	
219	4,306,954 square meters.
336/636	492,000 dozen.
351/651	383,500 dozen.
369-S [2]	693,642 kilograms.
445/446	25,270 dozen.
Subgroup in Group II	
447	4,084 dozen.

[1] The limits have not been adjusted to account for any imports exported after March 29, 1993 (Category 447) and June 30, 1992 (the remaining categories).

[2] Category 369-S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93-10863 Filed 5-6-93; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase from People who are Blind or Severely Disabled.

ACTION: Additions to procurement list

SUMMARY: This action adds to the Procurement List services to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 7, 1993.

ADDRESSES: Committee for Purchase from People who are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603-7740.

SUPPLEMENTARY INFORMATION: On December 18, 1992, March 5, 12 and 26, 1993, the Committee for Purchase from People who are Blind or Severely Disabled published notice (57 FR 60176, 58 FR 12580, 13586 and 16402) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning the capability of a qualified nonprofit agency to provide the services, fair market price, and the impact of the addition on the current or most recent contractor, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.
2. The action will not have a severe economic impact on current contractors for the services.
3. The action will result in authorizing small entities to furnish the services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Grounds Maintenance
Bureau of Reclamation
Auburn Field Office
Auburn, California

Janitorial/Custodial
Naval Support Activity
(basewide except Commissary & Exchange facilities)

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New Orleans, Louisiana
Janitorial/Custodial
U.S. Army Cold Regions Research and Engineering Laboratory
72 Lyme Road
Hanover, New Hampshire
Parts Machining
Fleet and Industrial Supply Center
Jacksonville, Florida

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 93-10855 Filed 5-6-93; 8:45 am]

BILLING CODE 6820-33-P

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 7, 1993.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603-7740

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.
2. The action does not appear to have a severe adverse impact on the current contractors for the commodity and services.
3. The action will result in authorizing small entities to furnish the commodity and services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46 - 48c) in connection with the commodity and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodity and services to the Procurement List for production by the nonprofit agency listed:

Commodity

Bandage, Gauze
6510-00-582-7992
Nonprofit Agency: Elwyn, Inc., Elwyn, Pennsylvania

Services

Demilitarization of Military Hardware
Robins Air Force Base, Georgia
Nonprofit Agency: Family Support Alliance for the Mentally Ill, Inc., Warner Robins, Georgia
Janitorial/Custodial, Federal Building and U.S. Courthouse, 2 South Main Street, Akron, Ohio, Nonprofit Agency: Community Support Services, Inc. Akron, Ohio
Janitorial/Custodial, Poff Federal Building and Courthouse, 210 Franklin SW, Roanoke, Virginia, Nonprofit Agency: Goodwill Industries of Tinker Mountain , Inc. Troutville, Virginia.

Beverly L. Milkman,

Executive Director.

[FR Doc. 93-10856 Filed 5-6-93; 8:45 am]

BILLING CODE 6820-33-P

Procurement List Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 7, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity listed below from nonprofit agency employing persons who are blind or have other severe disabilities.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.
2. The action will result in authorizing small entities to furnish the commodity to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodity proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodity to the Procurement List for production by the nonprofit agency listed:

Filter Element
4130-01-099-9351
Nonprofit Agency: Sheltered Work Services of Rome, Inc., Rome, Georgia

Beverly L. Milkman,

Executive Director.

[FR Doc. 93-10857 Filed 5-6-93; 8:45 am]

BILLING CODE 6820-33-P

COMMODITY FUTURES TRADING COMMISSION

Regulatory Coordination Advisory Committee Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, section 10(a) and 41 CFR 101-6.1015(b), that the Commodity Futures Trading Commission's Regulatory Coordination Advisory Committee will conduct a public meeting in the Hearing Room on the B-1 level of the Commission's Washington, DC headquarters located at 2033 K Street NW., Washington, DC 20581, on Tuesday, May 25, 1993, beginning at 1:30 p.m. and lasting until 5 p.m. The egenda will consist of:

Agenda

1. Discussion of Capital Issues
   a. SEC Concept Release regarding Capital Treatment of Derivatives
   b. CFTC Rule 1.19
   c. Risk Based Capital;
2. Discussion of Exemptions for Institutional Markets under section 4(c) of the Commodity Exchange Act;
3. Discussion of SEC Markets 2000 Study;
4. Discussion of Proposed Amendments to CFTC Rule 1.35 concerning Identification of Customer Orders and Order Allocation;
5. Presentation of CFTC Survey on Differential Treatment of Customers;
6. Reports of Working Groups and Discussion of Creation of New Working Groups;
7. Staff Reports, including Reports on Final Amendments to CFTC Rule 1.31 (Optical Disk Recordkeeping) and Proposed Amendments to CFTC Rule 4.5 (Exclusion from Registration as a Commodity Pool Operator); and
8. Timing of Next Meeting; Other Committee Business.

The purpose of this meeting is to solicit the views of the Committee on the egenda matters listed above. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of advising the Commission on ways to improve coordination and to facilitate cross market transactions, including cross border transactions. The purposes and objectives of the Advisory Committee are more fully set forth in the April 15, 1992 Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Acting Chairman William P. Albrecht, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Regulatory Coordination Advisory Committee, c/o Ms. Nancy Yanofsky, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should inform Ms. Yanofsky in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC on May 4, 1993.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 93-10866 Filed 5-6-93; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Advisory Committee To Develop On-site Innovative Technologies For Environmental Restoration and Waste Management; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following Advisory Committee meeting:

Name: Federal Advisory Committee to Develop On-site Innovative Technologies for Environmental Restoration and Waste Management (DOIT Committee)

Date and Time: Tuesday, May 25, 1993; 1:30 p.m.-6 p.m.

Place: Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Virginia 22202.

Contact: Dr. Clyde Frank, Deputy Assistant Secretary, Technology Development, EM-50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6382.

Purpose of the Committee: The DOIT Committee will serve as the primary vehicle for recommending a program that can be adopted to implement a Memorandum of Understanding (MOU) regarding Environmental Restoration and Waste Management in western states. This memorandum of understanding was signed in July 1991 by representatives from the U.S. Departments of Defense, the Interior, and Energy, the U.S. Environmental Protection Agency and the Western Governors' Association (WGA) the latter representing twenty western states and territorial governors. The DOIT Committee will help to improve Federal environmental restoration and waste management efforts by identifying technology needs at Federal facilities in western states; identifying/assessing emerging technologies within the Federal and private sectors; identifying regulatory, institutional, or other governmental barriers to technology development; and identifying workforce planning/education requirements.

Tentative Agenda

1:30 p.m. Meeting opens—introductory remarks
Presentation and review of results from General Criteria working group meetings
Presentation and review of results from Mine Waste working group meetings
Presentation and review of results from Mixed Waste working group meetings
Presentation and review of results from Munitions Waste working group meeting
Presentation and review of results from Waste at Military Bases working group meetings
Short Break
Updates on Funding and Project Management
Discuss agenda for June 22 meeting
Open time for public comment
6 p.m. Meeting adjourns
A final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Dr. Clyde Frank's office at the address or telephone number listed above. Such statements will be subject to a 10 minute rule. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Committee Chairperson is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on May 3, 1993.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 93-10845 Filed 5-6-93; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 93-31-NG]

DEKALB Energy Co.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting DEKALB Energy Company (DEKALB)

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authorization to import up to 73 Bcf of natural gas from Canada over a two-year term, beginning on the date of first delivery after May 30, 1993, the date on which DEKALB's current blanket import authorization expires.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 29, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–10844 Filed 5–6–93; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 93–24–NG]

Western Gas Resources, Inc.; Order Granting Blanket Authorization To Import Natural Gas From and Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting blanket authority to Western Gas Resources, Inc. (Western) to import up to 73 Bcf of natural gas from Canada and to export up to 73 Bcf of natural gas to Canada over two years. The term of the authorization will commence on the date of the first import or export delivery after April 30, 1993, when Western's current blanket authorization expires.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on April 29, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–10843 Filed 5–6–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. JD93–07448T Oklahoma–35]

State of Oklahoma; NGPA Notice of Determination By Jurisdictional Agency Designating Tight Formation

May 3, 1993.

Take notice that on April 26, 1993, the Corporation Commission of the State of Oklahoma (Oklahoma) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Mississippi Lime (Meramec and Osage) Formation, underlying a portion of Woods County, Oklahoma, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The recommended area is described as Sections 1, 2, 11 and 12 of Township 27 North, Range 18 West and Sections 25, 35 and 36 of Township 28 North, Range 18 West.

The notice of determination also contains Oklahoma's findings that the referenced formation meets the requirements of the Commission's regulations set forth in 18 CFR Part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10781 Filed 5–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–07446T Oklahoma–33]

Oklahoma; NGPA Determination by Jurisdictional Agency Designating Tight Formation

May 3, 1993.

Take notice that on April 26, 1993, the Corporation Commission of the State of Oklahoma (Oklahoma) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Sycamore and Woodford Formations, underlying a portion of Stephens County, Oklahoma, qualify as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The recommended area is described as follows:

Township 1 North, Range 4 West
Section 27: SW/4
Section 28: S/2
Section 29: SE/4
Section 32: E/2
Section 33: All
Section 34: NW/4
Township 1 South, Range 4 West
Section 4: All
Section 5: E/2
Section 8: E/2
Section 15: All
Section 16: All
Section 17: E/2

The notice of determination also contains Oklahoma's findings that the referenced formations meet the requirements of the Commission's regulations set forth in 18 CFR part 271

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10782 Filed 5–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–07447T Oklahoma–34]

Oklahoma; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

May 3, 1993.

Take notice that on April 28, 1993, the Corporation Commission of the State of Oklahoma (Oklahoma) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that they Sycamore and Woodford Formations, underlying a portion of Carter County, Oklahoma, qualify as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The recommended area is described as follows:

Township 1 South, Range 3 West
Section 32: E/2
Township 2 South, Range 3 West
Section 4: W/2 and SE/4
Section 5: E/2
Section 9: N/2
Section 10: All
Section 11: W/2

The notice of determination also contains Oklahoma's findings that the referenced formations meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18

CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10783 Filed 5–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–07449T Texas–135]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

May 3, 1993.

Take notice that on April 26, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that a portion of the Wolfcamp Formation, underlying Terrell County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is in Railroad Commission District No. 7C and is described on the attached appendix.

The notice of determination also contains Texas' findings that the referenced portion of the Wolfcamp Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

Appendix

The recommended area includes all or portions of the following surveys:
T.C. R.R. Co. Survey Block Y
Sections 202, 214–220, and 228–230
T.C. R.R. Co. Survey Block R
Sections 1–3
D. & S.E. Survey
Section 1
M.H. Goode Survey
Section 3
J.M. Arocha Survey
Section 329
G.C. & S.P. R.R. Survey Block 161
Sections 23–29, 29½, 30–31 and 34½
G.C. & S.P. R.R. Survey
Section 5
T.W.N.G. R.R. Co. Survey
Sections 331–332
I. & G.N. R.R. Co. Survey Block 2
Sections 75–77 and 77½

[FR Doc. 93–10795 Filed 5–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–5–1–000]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

May 3, 1993.

Take Notice that on April 29, 1993, Alabama-Tennessee Natural Gas Company ("Alabama-Tennessee"), Post Office Box 918, Florence, Alabama 35631, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet with a proposed effective date of May 1, 1993:

42nd Revised Sheet No. 4

Alabama-Tennessee states that this filing is an out-of-cycle purchased gas adjustment ("PGA") filing, the purpose of which is to correlate more accurately Alabama-Tennessee's projected gas costs with the rates of its upstream pipeline supplier, Tennessee Gas Pipeline Company ("Tennessee"). Alabama-Tennessee states that current spot market prices indicate that Tennessee's Transition Gas Inventory Charge ("TGIC") sales commodity rates, which are based on a spot index, will increase unexpectedly and substantially from those projected by Alabama-Tennessee in its out-of-cycle PGA filing that it submitted on March 31, 1993 in Docket No. TQ93–4–1. In addition to the increase in Tennessee's TGIC commodity sales rates, Alabama-Tennessee states that its filing reflects its use of the revised demand cost allocation ratio for computing the rates for jurisdictional sales customers that was agreed upon in the Joint Settlement filed on December 29, 1992 by Alabama-Tennessee and the Tennessee Valley Municipal Gas Association in Docket Nos. TQ92–5–1, et al., which the Commission approved by Letter Order dated February 24, 1993.

In addition to a waiver of § 154.22 of the Commission's Regulations so that its revised tariff sheet can be made effective as of May 1, 1993, Alabama-Tennessee has requested any other waivers of the Commission's Regulations that may be necessary to permit the tariff sheet to become effective as proposed.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional sales and transportation customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 10, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10793 Filed 5–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–14–008]

Algonquin Gas Transmission Co.; Place Proposed Tariff Sheets into Effect

May 3, 1993.

Take notice that Algonquin Gas Transmission Company (Algonquin) on April 19, 1993, pursuant to section 4(e) of the Natural Gas Act, as amended, has moved to place into effect on May 1, 1993, revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, as listed in Appendix A to the filing.

Algonquin states that the tariff sheets listed in Appendix A to the filing are being filed in order to place effect on May 1, 1993, the end of the suspension period in this proceeding, the rates filed herein on October 30, 1992, as adjusted to reflect Purchased Gas Costs tracking filings and tariff filings subsequent to the October 30, 1992 filing in this docket.

Algonquin respectfully requests waiver of any and all other Commission regulations to the extent necessary to permit the revised tariff sheets to become effective May 1, 1993, subject to refund.

Algonquin notes that a copy of the filing is being served upon each affected party and interested state commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 395.211. All such protests should be filed on or before May 10, 1993. Protests

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will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10784 Filed 5–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ93–4–20–000 and TM93–12–20–000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

May 3, 1993.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on April 29, 1993, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed to be effective May 1, 1993

3 Rev 16 Rev Sheet No. 21
3 Rev 16 Rev Sheet No. 22
2 Rev 12 Rev Sheet No. 25
3 Rev 16 Rev Sheet No. 26
3 Rev 16 Rev Sheet No. 27
3 Rev 16 Rev Sheet No. 28
2 Rev 16 Rev Sheet No. 29

Allgonquin states that the revised tariff sheets are being filed as part of Algonquin's Out-of-Cycle Quarterly Purchased Gas Adjustment ("PGA") and Transportation Cost Adjustment pursuant to sections 17 and 39 of the General Terms and Conditions of Algonquin's FERC Gas Tariff. Algonquin also states that the purpose of the Out-of-Cycle filing is to reflect changes to Algonquin's suppliers' demand and commodity rates.

On October 30, 1992, Algonquin submitted a section 4 filing in Docket No RP93–14–000 in order to revise Algonquin's rates for jurisdictional services. the RP93–14–000 filing implemented the Commission decision in Docket Nos. RP86–41–000 et al., that Algonquin should return to an incremental rate design. The alternate tariff sheets submitted in Docket No. RP93–14–000 included a revised base cost of purchased gas. In addition, the PGA clause was modified to reflect incremental treatment of Algonquin's gas cost. In a Commission Order issued November 27, 1992 the alternate sales tariff sheets were accepted and suspended subject to refund, to be effective May 1, 1993.

Algonquin further states that the proposed purchase gas adjustments to Algonquin sales rate schedules reflect changes as of April 27, 1993 to Algonquin's suppliers' demand and commodity rates subsequent to the October 30, 1992 filing in Docket No. RP93–14–000.

Algonquin requests that the Commission approve the tariff sheets to become effective on May 1, 1993.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 10, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10792 Filed 5–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–3–000]

Arkla Energy Resources, a Division of Arkla, Inc.; Informal Settlement Conference

May 3, 1993.

Take notice that an informal settlement conference will be convened in this proceeding on May 11, 1993, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Arnold H. Meltz (202) 208–2161 or Russell B. Mamone at (202) 208–0744.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10775 Filed 5–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. OR93–3–000]

Canadian Association of Petroleum Producers and the Alberta Petroleum Marketing Commission v. Lakehead Pipe Line Co., Limited Partnership; Complaint

May 3, 1993.

Take notice that on April 19, 1993, pursuant to sections 13, 15, and 16 of the Interstate Commerce Act (ICA) (49 App. U.S.C. 13, 15, and 16) (1988)), and Rule 206 of the Commission's Rules of Practice and Procedure, (18 CFR 385.206, the Canadian Association of Petroleum Producers (CAPP) and the Alberta Petroleum Marketing Commission (APMC) filed a complaint against Lakehead Pipe Line Company, Limited Partnership (Lakehead). CAPP and APMC allege Lakehead's transportation rates for 1993 are unjust and unreasonable, contrary to sections 13 and 15 of the Interstate Commerce Act, because they are based on a forecast of expected 1992 throughput which significantly understates both the actual 1992 throughout experience and currently anticipated 1993 throughput on the Lakehead system. CAPP and APMC further allege that relief is unavailable in the ongoing rate case in Docket No. IS92–27–000 because the record in that proceeding is limited to volumes derived from base year and test year methodologies that do not reflect actual or future performance.

CAPP and APMC request that Lakehead be directed to develop and charge rates from and after January 1, 1993 on a design throughput of at least 1,270,600 bbl./d, in addition and subject to other adjustments that may be required by the outcome of Docket No. IS92–27–000, and pay reparations in addition to any refunds ordered in Docket No. IS92–27–000. CAPP and APMC further request that this proceeding be consolidated with Docket No. IS92–27–000.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, 385.214. All such motions or protests should be filed on or before May 24, 1993. Protests will be considered by the Commission in determining the action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection. Answers to this complaint shall be due on or before May 24, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10789 Filed 5–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ93–3–22–001 and TQ93–4–22–001]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 3, 1993.

Take notice that CNG Transmission Corporation ("CNG"), on April 29, 1993, filed the following tariff sheets for inclusion in its FERC Gas Tariff, First Revised Volume No. 1:

To be effective April 1, 1993:

Substitute Twenty-First Revised Sheet No. 32

To be effective May 1, 1993:

Substitute Twenty-Second Revised Sheet No. 32

CNG used the SFV rate methodology to develop the TF–GSS II rates in both the approved Twenty-First Revised Sheet No. 32 in Docket No. TQ93–3–22–000, and the pending Twenty-Second Revised Sheet No. 32 in Docket No. TQ93–4–22–000. By order issued March 31, 1993, in Docket No. RP93–80, the Commission rejected CNG's proposal regarding the application of the SFV rate design method to TF–GSS II rates. By the instant filing, CNG is reflecting the Commission's action in Docket No. RP93–80 by reinstating the TF–GSS II rates that were approved in Docket No. CP87–5 by order issued June 7, 1989.

CNG states that copies of this filing are being served upon CNG's customers as well as interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 10, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10791 Filed 5–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–6–24–000]

Equitrans, Inc.; Proposed Change in FERC Gas Tariff

May 3, 1993.

Take notice that Equitrans, Inc. (Equitrans) on April 29, 1993, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective June 1, 1993.

Fifth Revised Sub Forty-Second Revised Sheet No. 10
Sixth Revised Thirtieth Revised Sheet No. 34

Equitrans hereby submits its regularly scheduled Quarterly Purchased Gas Adjustment filing in accordance with §§ 154.308 and 154.304 of the Commission's Regulations and section 19 of Equitrans' FERC Gas Tariff, Original Volume No. 1.

The changes proposed in this filing to the purchased gas cost adjustment under Rate Schedule PLS is a decrease in the commodity cost of $0.4658 per Dth and no change in the demand cost. The purchased gas cost adjustment to Rate Schedule ISS is a decrease of $0.4724 per Dth.

Pursuant to § 154.51 of the Commission's Regulations, Equitrans requests that the Commission grant any waivers necessary to permit the tariff sheets contained herein to become effective on June 1, 1993.

Equitrans states that a copy of its filing has been served upon its purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure 918 CFR 385.211 and 385.214). All such motions or protests should be filed on or before May 10, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10787 Filed 5–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–5–24–000]

Equitrans, Inc.; Proposed Change in FERC Gas Tariff

May 3, 1993.

Take notice that Equitrans, Inc. (Equitrans) on April 29, 1993, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective May 1, 1993:

Fourth Revised Sub Forty-Second Revised Sheet No. 10
Fifth Revised Thirtieth Revised Sheet No. 34

This filing implements an Out-of-Cycle Purchased Gas Cost Adjustment (PGA) to reflect increases in the purchased gas costs of spot market purchases and Southwest supply purchases. The filing is necessary in order to have the rates charged to Equitrans' jurisdictional customers more closely reflect the experienced cost of gas being incurred by the Applicant.

The changes proposed in this filing to the purchased gas cost adjustment under Rate Schedule PLS is a decrease in the demand cost of $0.0905 per dekatherm (Dth) and an increase in the commodity cost of $0.8172 per Dth. The purchased gas cost adjustment to Rate Schedule ISS is an increase of $0.8154 per Dth.

Pursuant to § 154.51 of the Commission's Regulations, Equitrans requests that the Commission grant any waivers necessary to permit the tariff sheets contained herein to become effective on May 1, 1993.

Equitrans states that a copy of its filing has been served upon its purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on May 10, 1993. All such motions or protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–10773 Filed 5–6–93; 8:45 am]

BILLING CODE 6717–01–M

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[Docket No. TQ93-6-46-000]

Kentucky West Virginia Gas Co.; Proposed Change in FERC Gas Tariff

May 3, 1993.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on April 29, 1993, tendered for filing with the Federal Energy Regulatory Commission (Commission) an Out-of-Cycle PGA filing, which includes Forty-Ninth Revised Sheet No. 41 to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective May 1, 1993. The revised tariff sheet reflects a current increase of $0.4651 per Dth in the average cost of purchased gas resulting in a Weighted Average Cost of Gas of $2.6357 per Dth.

Kentucky West states that effective May 1, 1993, pursuant to its obligations under various gas purchase contracts, it has specified a total price of $2.6700 per Dth, inclusive of all taxes and any other production-related cost add-ons, that it would pay under these contracts.

Pursuant to § 154.51 of the Commission's regulations, Kentucky West requests waiver of the thirty day notice requirement to permit the tariff sheet attached hereto to become effective on May 1, 1993. In addition, Kentucky West requests waiver of § 154.304 of the Commission's regulations and any other provisions of the Commission's regulations necessary to permit the attached tariff sheet to become effective on May 1, 1993.

Kentucky West states that, by its filing, or any request or statement made therein, it does not waive any rights to collect amounts, nor the right to collect carrying charges applicable thereto, to which it is entitled pursuant to the mandate of the United States Court of Appeals for the Fifth Circuit issued on March 6, 1986, in *Kentucky West Virginia Gas Co.* v. *FERC*, 780 F.2d 1231 (5th Cir. 1986), or to which it is or becomes entitled pursuant to any other judicial and/or administrative decisions.

Kentucky West states that a copy of its filing has been served upon each of its jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before May 10, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10786 Filed 5-6-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP93-293-000]

Questar Pipeline Co.; Request Under Blanket Authorization

April 16, 1993.

Take notice that on April 14, 1993, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111 filed in Docket No. CP93-293-000, a request pursuant to 18 CFR 157.205 and 157.211 of the Commission's Regulations for authorization to construct and operate the Naughton Tap Line Facilities to provide natural gas transportation service to PacifiCorp's Utah Power & Light Naughton Power Plant near Kemmerer, Wyoming. Such request was made under the blanket certificate authorization issued in Questar's Docket No. CP82-491-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request, which is on file with the Commission and open to public inspection.

Questar explains that the proposed Naughton Tap Line Facilities will extend approximately 13 miles from the northern terminus of Questar's Jurisdictional Interconnect (J.I.) No. 90 (the Muddy Creek Interconnect) to a proposed delivery point approximately one mile east of PacifiCorp's Utah Power & Light Naughton Power Plant. Questar proposes to construct and operate one 10-inch tap, a 10¾-inch O.D. tap line and a new delivery point, comprising meter and regulatory station facilities, at an estimated cost of $2 million. Questar states the PacifiCorp has agreed to provide Questar with a $1.2 million contribution in aid of construction for the Naughton Tap Line Facilities. It is further explained that Questar proposes to provide a 3,500 MMBtu per day minimum level of firm transportation service, for a period of 12 years, to PacifiCorp and will provide supplemental firm and/or interruptible transportation service, up to 20,000 MMBtu per day, for PacifiCorp through the proposed Naughton Tap Line Facilities.

Questar states that the Naughton Tap Line Facilities will be constructed to transport natural gas to the Naughton Power Plant as a supplement to coal firing to maintain sulfur dioxide emissions within allowable clean Air Act limits during periods when high-sulfur coal is burned.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-10794 Filed 5-6-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP93-322-000]

Texas Gas Transmission Corp.; Request Under Blanket Authorization

May 3, 1993.

Take notice that on April 29, 1993, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP93-322-000 a request pursuant to § 157.205 of the Commission's Regulations to modify the use of an existing delivery point to add Western Kentucky Gas Company (Western), a local distribution company, to serve forty-two new residential customers under Texas Gas' blanket certificate issued in Docket No. CP82-407-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas proposes to add the Whitney Wood Road delivery point at the same location as the existing Tommy Coulter farm tap located on Texas Gas' Glasgow 6-inch line in Barren County, Kentucky. Texas Gas states that Western would install a second meter at the existing delivery point, which currently serves the existing right-of-way grantor, to serve forty-two new residential customer an estimated 35 MMBtu of natural gas per day, with an annual maximum quantity of 3,360 MMBtu of natural gas. Texas Gas states that the proposed delivery point would not require any new construction or alteration to existing facilities by Texas Gas. Western does not propose to increase either its currently effective D-1 or D-2 levels to serve these residential customers, it is indicated. Texas Gas states that the proposed additional delivery point would have no significant impact on Texas Gas' peak day and annual deliveries.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10785 Filed 5-6-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ93-5-18-000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 3, 1993.

Take notice that Texas Gas Transmission Corporation (Texas Gas), on April 29, 1993, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Seventy-third Revised Sheet No. 10
Seventy-second Revised Sheet No. 10A
Fifty-fourth Revised Sheet No. 11
Forty-fourth Revised Sheet No. 11A
Forty-third Revised Sheet No. 11B

Texas Gas states that these tariff sheets reflect changes in purchased gas costs pursuant to an Out-of-Cycle PGA Rate Adjustment and are proposed to be effective May 1, 1993. Texas Gas further states that the proposed tariff sheets reflect a commodity rate increase of $.5807 per MMBtu from the rates set forth in the Quarterly PGA filed March 31, 1993 (Docket No. TQ93-4-18). No changes in the demand or SGN Standby rates are proposed in the instant filing.

Texas Gas states that copies of the filing were served on Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests or motions should be filed on or before May 10, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10788 Filed 5-6-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-106-000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 3, 1993.

Take notice that on April 29, 1993, Texas Gas Transmission Corporation, (Texas Gas) tendered for filing changes to its FERC Gas Tariff, Original Volume No. 1, Original Volume No. 2, First Revised Volume No. 2-A. Texas Gas states that the changes are reflected in the primary tariff sheets listed on Appendix A to the filing.

Texas Gas requests an effective date for the proposed tariff sheets of November 1, 1993, or earlier to the extent the Commission implements restructured services on the Texas Gas system prior to that date.

Texas Gas states that the proposed changes would increase revenues from jurisdictional sales and services by approximately $79.6 million, based on the twelve-month period ended January 31, 1993, as adjusted, compared with the underlying rates. Texas Ges states that the underlying sales rates are the base tariff rates as set forth on Texas Gas's FERC Gas Tariff, Original Volume No. 1, Seventieth Revised Sheet No. 10 and Sixty-ninth Revised Sheet No. 10A, Fifty-first Revised Sheet No. 11, Forty-first Revised Sheet No. 11A, and Fortieth Revised Sheet No. 11B, effective April 1, 1993, plus the current purchased gas adjustment. Texas Gas further states that the underlying transport rates are the rates set forth on Texas Gas's FERC Gas Tariff, First Revised Volume No. 2-A, Second Revised Sheet Nos. 10 and Fifth Revised Sheet No. 11, effective February 1, 1993.

Texas Gas notes that it is also submitting alternate tariff sheets listed on Appendix B to the filing which reflect rates and provisions applicable to services that will be effective after Order No. 636 restructuring.

Texas Gas states that the adjustments in rates are attributable to:

(1) An increase in the utility rate base;
(2) Increase in operating expense;
(3) Increase in rate of return and related taxes; and
(4) Revised system rate design quantities.

Texas Gas further states that it has served copies of this filing upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 10, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-10790 Filed 5-6-93; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4652-1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before June 7, 1993.

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FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THIS ICR CONTACT: Sandy Farmer at EPA (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Prevention, Pesticides and Toxic Substances

Title: TSCA Section 4 Test Rules, Consent Orders and Test Rule Exemptions (EPA ICR No. 1139.04; OMB No. 2070–0033). This is a request for extension of the expiration date of a currently approved collection.

Abstract: Under section 4(c) of the Toxic Substances Control Act (TSCA), the EPA may require chemical manufacturers and processors to sponsor testing (e.g. for primary eye irritation, reproduction/fertility effects, dermal sensitization) of chemicals which may pose unreasonable health and environmental risks resulting from processing, distribution, use, or disposal. If a specific chemical requires testing, the Agency issues a test rule and consent order that describe testing procedures for the specific chemical. Respondents may apply for an exemption if other parties sponsor similar testing.

Prior to testing, respondents must notify the Agency and identify the testing organization as well as the testing plans. During and after testing, respondents must submit to the Agency reports of progress, testing procedures and testing results. In addition, respondents must keep records of testing procedures and testing results.

The EPA uses these data to assess the possible adverse effects of chemicals on human health and the environment.

Burden Statement: The annual public reporting burden for this collection of information is estimated to average 586 hours per response for test rules and consent orders and 2 hours per response for test rule exemptions. The recordkeeping burden is estimated to average 330 hours per recordkeeper annually. This estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Respondents: Chemical manufacturers and processors.

Estimated No. of Respondents: 48 for test rules, consent orders and recordkeeping and 115 for test rule exemptions.

Estimated No. of Responses Per Respondent: 4 for test rules and consent orders and 1 for test rule exemption.

Estimated Total Annual Burden on Respondents: 128,582 hours.

Frequency of Collection: Semi-annually and on occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW.,Washington, DC 20460.

and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW.,Washington, DC 20503.

Dated: May 3, 1993.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 93–10835 Filed 5–6–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4651–7]

Agency Information Collection Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before June 7, 1993.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THIS ICR CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Region V: Great Lakes National Program Office

Title: Beach Closing Survey Report on the Great Lakes (EPA No. 0994.05; OMB No. 2090–0003).

Abstract: This ICR is an extension of an existing information collection in support of the Great Lakes National Program. Under section 104 of the Clean Water Act, the EPA Regional Administrator (Region V) is charged with the responsibility of studies with respect to the quality of the waters of the Great Lakes. The Beach Closing Survey collects information on beach closings from the counties and cities that border the Great Lakes on the American side.

Following the closing of beaches each fall, the EPA distributes the survey by mail to county/city public health officials tasked with maintaining records on beach closings in the area. Recipients of this short, twelve question survey will be asked to provide information that includes: (1) Any changes from the previous year operations and practices, (2) frequency of beach closings and water quality criteria violations, (3) beach closing procedures and permanent beach closings, and (4) the point of contact and agency responsible for water quality monitoring. The information provided by county/city officials is compiled by EPA and incorporated into an annual report to the International Joint Commission and agencies responsible for monitoring the water quality of the Great Lakes.

Burden Statement: Public reporting burden for this collection of information is estimated to average 0.5 hour per response including time for reading instructions, gathering information, and preparing written responses to survey questions.

Respondents: County or city public health officials.

Estimated Number of Respondents: 104.

Estimated Number of Responses Per Respondent: 1.

Frequency of Collection: Annual.

Estimated Total Annual Burden on Respondents: 52 hours

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Matt Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: May 3, 1993.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 93–10836 Filed 5–6–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4651–9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before June 7, 1993.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THIS ICR CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: 1993 Waste Treatment Industry Phase II: Landfills Screener Survey and Incinerator Screener Survey (EPA ICR No. 1644.01).

Abstract: The EPA's Office of Water is planning to administer a screener survey for the waste treatment industry, specifically landfills and incinerators. The sampling plan for this survey involves a census of owners/operators of all landfills and incinerators. This is a new data collection effort in support of technology-based effluent limitations guidelines for this industry pursuant to the Clean Water Act. Under court order, effluent limitations for this industry must be proposed by 12/31/95. Responses to the survey will be mandatory pursuant to section 308 of the Clean Water Act.

Upon approval of this ICR, the screener survey will be sent by mail to owners/operators of landfill or incinerator operations. The survey will ask for information on: (1) The type of landfill or incinerator, (2) the quality and type of wastes accepted for treatment, (3) the size of the landfill or incinerator, (4) the ownership and some general economic questions concerning the operation of the landfill or incinerator, (5) wastewater sources–quality and quantity, and (6) current wastewater treatment operations and disposal options.

EPA will use the information collected to determine which facilities are within the scope of this regulation, to characterize this industry, and to subcategorize this industry properly. Additionally, the information will be used to select a limited number of facilities for further studies thereby greatly reducing the burden on the industry overall.

Burden Statement: Public reporting burden for this collection of information is estimated to average 1.5 hours per response including time for reviewing instructions, gathering and compiling the data needed, and completing and reviewing the screener surveys.

Respondents: Landfill and incinerator operators/owners.

Estimated Number of Respondents: 12,000 owners/operators.

Estimated Number of Responses Per Respondent: 1.

Frequency of Collection: One-time.

Estimated Total Annual Burden on Respondents: 18,300 hours.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden to:

Sandy Farmer, U.S.Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Matt Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: May 3, 1993.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 93–10837 Filed 5–6–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4651–8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before June 7, 1993.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THIS ICR CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Administration and Resource Management

Title: General Administrative Requirements for Assistance Program (ICR No. 938.05; OMB No. 2030–0020).

Abstract: This ICR is a reinstatement of an expired information collection that establishes the minimum management requirements for all recipients of EPA grants, fellowships, or cooperative agreements as required under 40 CFR parts 30, 31 and 33. These regulations implement OMB Circulars A–21, A–87, A–102, A–110, A–122, A–128, and A–133 and set forth the pre-award, post-award, and after-the-grant requirements for applicants. The information is used by EPA project officers, grant specialists, and finance officers to manage recipient programmatic and financial performance under all EPA assistance agreements.

Under this ICR, applicants/recipients must perform information collection activities that include: (1) Completing EPA assistance and related forms, and (2) providing other information, as required under 40 CFR parts 130, 131, and 133. In addition, recipients of awards must: (1) Establish an official record file of the award, (2) develop and submit interim and final progress reports, and (3) perform any additional recordkeeping as required under 40 CFR parts 130, 131, and 133.

Burden Statement: Public reporting burden for respondents subject to this collection of information is estimated to average 29 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the collection of information. Annual recordkeeping burden is estimated to average 3 hours per respondent.

Respondents: Individuals, State or local governments, Non-profit institutions, and small businesses that have received or are applying for EPA grants, fellowships, or cooperative agreements.

Estimated Number of Respondents: 5,071.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 163,871 hours.

Frequency of Collection: Quarterly, annually, and on specific occasions.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: May 3, 1993.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 93–10838 Filed 5–6–93; 8:45 am]

BILLING CODE 6560–50–F

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[ER-FRL-4620-2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5076 OR (202) 260-5075.

Weekly Receipt of Environmental Impact Statements Filed April 26, 1993 Through April 30, 1993 Pursuant to 40 CFR 1506.9.

EIS No. 930142, FINAL EIS, FHW, OK, I-44 Reconstruction, I-44 Arkansas River Bridge to I-44/Broken Arrow Expressway/OK-51 Interchange, Funding and COE Section 404 Permit, Tulsa County, OK, Due: June 7, 1993, Contact: Gary E. Larsen (405) 231-4724.

EIS No. 930143, FINAL EIS, AFS, MT, Bob Marshall and Great Bear Wilderness Areas Noxious Weed Management Projects, Implementation, Flathead National Forest, Spotted Bear and Hungry Horse Ranger Districts, Flathead, Powell, Missoula and Lewis and Clark Counties, MT, Due: June 7, 1993, Contact: Greg Warren (406) 387-5243.

EIS No. 930144, DRAFT EIS, AFS, CA, Lowell Hill Area, Nevada City Ranger District and near Brandy City, Downieville Ranger District, Long-Term Soil Productivity Study, Implementation, Tahoe National Forest, Nevada and Sierra Counties, CA, Due: June 21, 1993, Contact: Martha Twarkins (916) 265-4531.

EIS No. 930145, FINAL EIS, AFS, ID, Stanley Basin Cattle and Horse Allotment Management Plan, Implementation, Sawtooth and Challis National Forests, Custer County, ID, Due: June 7, 1993, Contact: Terry O. Clark (208) 726-7672.

EIS No. 930146, FINAL EIS, AFS, MT, Beartooth Mountains Oil and Gas Exploration and Development Plan, Approval and Leasing, Custer National Forest, Beartooth Ranger District, Carbon, Park, Sweetgrass and Stillwater Counties, MT, Due: June 7, 1993, Contact: Carl Fager (406) 657-6361.

EIS No. 930147, DRAFT EIS, FHW, WI, US 10 Corridor between Waupaca and Fremont Transportation Improvement, from Anderson Road west of the WI-TH-54/49 Interchange to Brown Road and west of the Village of Fremont, Funding and COE Section 404 Permit, Waupaca County, WI, Due: August 5, 1993, Contact: Thomas J. Fudaly (608) 264-5940.

EIS No. 930148, DRAFT SUPPLEMENT, AFS, CA, Mount Vida Planning Area Integrated Resource Management Plan, Additional Information concerning Allocation of Marten Habitat, Consideration of an Uneven-Aged Harvest Alternative and a Revised Biological Evaluation, Modoc National Forest, Warner Mountain Ranger District, Modoc County, CA, Due: June 28, 1993, Contact: Douglas D. Schultz (916) 279-6119.

EIS No. 930149, DRAFT EIS, (SFW/NPS/AFS), SD, Conata Basin/Badlands Area Black-Footed Ferret Reintroduction, Implementation, Badlands National Park and Buffalo Gap National Grassland, Conata Basin, several counties, SD, Due: June 21, 1993, Contact: Douglas A. Searls (605) 224-8693. The US Department of the Interior's Fish and Wildlife Service and National Park Service and the US Department of Agriculture's, Forest Service are Joint Lead Agencies on this project.

EIS No. 930150, DRAFT EIS, FTA, CA, Los Angeles Eastside Corridor Transportation Improvement, Los Angeles Central Business District to just east of Atlantic Boulevard, Funding, NPDES and COE Section 404 Permits, Los Angeles County, CA, Due: June 21, 1993, Contact: Bob Hom (415) 744-3133.

EIS No. 930151, FINAL EIS, AFS, OR, Bornite Underground Copper Mine Project, Construction and Operation, Approval of Plan of Operation, Special-Use-Permit, NPDES Permit and COE Section 404 Permit, Willamette National Forest, Detroit Ranger District, Marion County, OR, Due: June 7, 1993, Contact: Vincent Puleo (503) 854-3366.

Dated: May 4, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93-10849 Filed 5-6-93; 8:45 am]

BILLING CODE 6560-60-P

[ER-FRL-4620-3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 19, 1993 Through April 23, 1993 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 09, 1993 (58 FR 18392).

Draft EISs

ERP No. D-AFS-J65200-MT Rating EC2, Little Snowies Vegetative Management and Public Access and Fire and Timber Management Practices, Implementation, Lewis and Clark National Forest, Musselshell Ranger District City Harlowton, Fergus and Golden Valley Counties, MT.

Summary: EPA had environmental concerns regarding the proposed project. EPA was concerned that improvements to impacted riparian areas may be offset by cumulative water quality effects resulting from the proposed activities. The final EIS should discuss the existing conditions for riparian areas that may be affected by the proposed actions and mitigation efforts designed to protect those areas.

ERP No. D-AFS-J65201-CO Rating EO2, Fish Creek Reservoir Enlargement, Special Use Permit, Routt National Forest, Steamboat Springs, Routt County, CO.

Summary: EPA had environmental concerns with the selection of alternatives related to the need for water supply, and the lack of mitigation detail and commitment. EPA believed that an alternative should be included that would address the dam safety and operation issues, puppy dog lake drainage issues, supply the project proponents with the necessary water supply, and result in the least amount of environmental damage (an environmentally preferred alternative). Given the available information EPA does not believe that the proposed project is needed at this time.

ERP No. D-AFS-J65202-MT Rating EC2, Buck-Little Boulder Timber Sales, Timber Harvest and Implementation, Bitterroot River, Bitterroot National Forest, West Fork Ranger District, Ravalli County, MT.

Summary: EPA had environmental concerns regarding the proposed project related to monitoring, road impact, wetland impact analysis, cumulative effects analysis and air quality. Additional information on these issues was requested.

ERP No. D-BLM-J67016-MT Rating EC2, Royal East Joint Venture Mineral Exploration Project, Plan of Operation Approval and Implementation, East Butte, Sweet Grass Hills, Liberty County, MT.

Summary: EPA had environmental concerns regarding the proposed project based on incomplete analysis of the impacts.

ERP No. D-COE-F35041-OH Rating EC2, Cleveland Harbor Navigation Channels Maintenance, Confined Disposal Facility (Site 10B 15 Year) Construction and Use, Lake Erie, Cuyahoga River, Cuyahoga County, OH.

Summary: EPA expressed concerns regarding the possibility of contaminated sediment migration and resuspension, and the effects on recreation. EPA recommended that the US Army Corps of Engineers work with other agencies to reduce the volume of sediments reaching the navigation channel and consider the beneficial uses of uncontaminated sediments.

ERP No. D-FHW-F40331-WI Rating EC2, WI-TH-29 Improvement, from Chippewa Falls to Abbotoford and Marathon City in Martin Lane, Funding and Possible COE 404 Permit, Clark and Marathon Counties, WI.

Summary: EPA had environmental concerns regarding the actual acreage of wetlands to be impacted and what measures to minimize impacts to wetlands and terrestrial natural communities would be taken.

Final EISs

ERP No. F-AFS-J65190-WY Union Pass Road Relocation Project, Union Pass Road and Green River Lakes Road Connection, Approval and Implementation, Bridger-Teton National Forest, Pinedale Ranger District, Fremont, Sublette and Lincoln Counties, WY.

Summary: EPA had environmental concerns regarding monitoring and evaluation. The record of decision should address what methodology the forest service intends to employ to monitor the types of cumulative impacts documented in the FEIS.

ERP No. F-AFS-J65192-CO Trout Mountain Analysis Area Timber Harvest, Road Construction and Aspen Management Plan Projects, Implementation, Trout and Decker Creeks, Del Norte Ranger District, Rio Grande National Forest, Rio Grande and Mineral Counties, CO.

Summary: EPA had environmental concerns with the proposed project. It was requested that the Record of Decision be amended to include information regarding wetland resources. The ROD should also present a comprehensive analysis of monitoring plans to evaluate potential impacts associated with the proposed action.

ERP No. F-AFS-K65141-CA Last Chance Helicopter Timber Sale, Harvesting Timber and Road Construction/Reconstruction, Plumas National Forest, Greenville Ranger District, Plumas County, CA.

Summary: EPA expressed environmental concerns with the FEIS, in particular EPA strongly recommended that timber harvest proposals, in the degraded watershed should not proceed unless watershed restoration projects elsewhere in the watershed also proceed.

ERP No. F-BLM-J02023-WY Methel Hanna Basin Coalbed Methane Gas Production Project, Construction, Operation, Maintenance and Abandonment, Approval, Drilling Control, COE Section 404 and EPA RCRA Permits and Right-of-Way Grants, Carbon County, WY.

Summary: EPA had environmental concerns with the proposed project regarding the potential for produced water contaminating groundwater. In addition, surface water discharges should meet water quality standards for the stream that they enter.

ERP No. F-FHW-G40134-OK OK-82 Highway Construction, Red Oak to Lequire, Funding and Possible National Pollutant Discharge Elimination System Permit, Latimore and Haskell Counties, OK.

Summary: Review of the Final EIS was not deemed necessary. No formal letter was sent to the preparing agency.

ERP No. F-UAF-E11029-SC Myrtle Beach Air Force Base Disposal and Reuse, Implementation, Horry County, SC.

Summary: EPA believed that due to uncertainty associated with the ultimate uses of the Myrtle Beach Air Force Basin property, on-going interagency coordination and possibly further NEPA documentation may be required.

ERP No. F-USA-E11030-AL Redstone Arsenal Base Realignment, Transfer of Activities from US Army Armament, Munitions and Chemical Command, Rock Island, IL; Lexington-Bluegrass Army Depot, KY; Presido Army Base, San Francisco, CA and Harry Diamond Laboratories, Adelphi, MD to the Redstone Arsenal Base, Madison County, AL.

Summary: EPA continued to have environmental concerns regarding the potential traffic problems within and around the Redstone Arsenal resulting from the functional/ organizational changes.

Dated: May 4, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93-10850 Filed 5-6-93; 8:45 am]

BILLING CODE 6560-60-P

[AMS-FRL-4652-6]

Motor Vehicle-Related Air Toxics Study; Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of the Motor Vehicle-Related Air Toxics Study.

SUMMARY: This action provides notice of availability of the Motor Vehicle-Related Air Toxics Study. This study is required by section 202(l)(1) of the Clean Air Act, as amended in 1990. A public review draft of the study was released on January 13, 1993 to provide interested parties with an opportunity to review the document and provide EPA with comments. Public comments received have been summarized in the final study, as required by section 202(l)(1).

EFFECTIVE DATE: The study was completed April 30, 1993.

ADDRESSES: To obtain a copy of the Motor Vehicle-Related Air Toxics Study for a nominal charge, please contact the Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, telephone (703) 487-4650. A copy has also been placed in the public docket.

Written public comments on the study and other materials relevant to this study have been placed in Docket No. A-91-19 by EPA. The docket is located at the U.S. Environmental Protection Agency, Air Docket Section [LE-131], 401 M Street SW., Washington, DC 20460, in room M-1500, Waterside Mall (ground floor), and may be inspected from 8:30 to 12 noon and from 1:30 p.m. to 3:30 p.m., Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Penny M. Carey, U.S. EPA National Vehicle and Fuel Emissions Laboratory, EPSD-TSB, 2565 Plymouth Road, Ann Arbor, MI, 48105. Telephone: (313) 668-4355. Fax: (313) 668-4368.

SUPPLEMENTARY INFORMATION: Section 202(l)(1) of the Clean Air Act, as amended, directs EPA to complete a study by May 15, 1992, of the need for, and feasibility of, controlling emissions of toxic air pollutants that are unregulated under this Act and associated with motor vehicles and motor vehicle fuels. The Act provides that the study shall focus on those categories of emissions that pose the greatest risk to human health or about which significant uncertainties remain, including emissions of benzene, formaldehyde, and 1,3-butadiene. In accordance with section 202(l)(1), the proposed study was made available for public review and comment and includes a summary of all comments.

Section 202(1)(2) also directs that, by May 15, 1995, EPA shall, based on the

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study, promulgate (and from time to time revise) regulations containing reasonable requirements to control hazardous air pollutants from motor vehicles and motor vehicle fuels. The regulations shall, at a minimum, apply to emissions of benzene and formaldehyde.

This study satisfies the requirements of section 202(l)(1). Specific pollutants or pollutant categories which are discussed in this study include benzene, formaldehyde, 1,3-butadiene, acetaldehyde, diesel particulate matter, gasoline particulate matter, and gasoline vapors. Also discussed in a more limited fashion are certain of the metals and motor vehicle-related pollutants identified in title III of the Clean Air Act Amendments of 1990.

With respect to benzene, formaldehyde, 1,3-butadiene, acetaldehyde, diesel particulate matter, gasoline particulate matter, and gasoline vapors, the study discusses the chemical and physical properties of the pollutant, formation and control technology, emissions (including other emission sources), atmospheric reactivity and residence times, exposure estimation, EPA's carcinogenicity assessment, other views of carcinogenicity assessment, recent and ongoing research, carcinogenic risk, and non-carcinogenic effects form inhalation exposure. The study also describes the qualitative change in toxic pollutant levels with the use of alternative clean fuels, along with a summary of toxic emissions from nonroad mobile sources. The study also discusses the costs of various existing or future motor vehicle and/or fuel regulatory control programs and provides a qualitative discussion of the toxics benefits of these programs. Finally, the study discusses the major limitations and uncertainties that should be considered in reviewing the study.

This study attempts to summarize what is known about motor vehicle-related air toxics and to present all significant scientific opinion on each issue. This study provides an important foundation for further assessment and future regulatory decision making in this area, including decisions under section 202(l)(2) of the Act. While this study dies not resolve the various issues discussed herein and in the public comments, EPA will continue to explore and address these in the context of such future regulatory decision making.

The focus of the study is on carcinogenic risk. The discussion of non-carcinogenic effects of the toxics addressed in this study are less quantitative due to the lack of sufficient health data.

The study presents emission factors for motor vehicle pollutants that are classified by EPA as known or probable human carcinogens. Cancer risk estimates, based on exposure estimates and unit risk factors for each pollutant, are presented for the years 1990, 1995, 2000, and 2010. The study indicates that cancer risks tend to decrease from 1990 thru 2000 for the pollutants studied, but will begin to increase for 1,3-butadiene, acetaldehyde, from 2000 to 2010. For these pollutants, even though the per mile emission factors decrease from 2000 to 2010, the expected increase in vehicle miles traveled more than offsets this decrease. While this study characterizes these cancer risks and trends, it does not address the question of whether or how to regulate these motor vehicle related toxic emissions.

Comments on the public review draft of the study were received from the American Automobile Manufacturers Association (AAMA), American Petroleum Institute (API), Arco Chemical Company, California Air Resources Board (CARB), California Environmental Protection Agency (Cal-EPA), Chemical Manufacturers Association (CMA), Environ Corporation (prepared for the American Automobile Manufacturers Association, American Petroleum Institute, Engine Manufacturers Association, and the Association of International Automobile Manufacturers), Ford Motor Company, General Motors Corporation, Health Effects Institute (HEI), Konheim and Ketcham, Northeast States for Coordinated Air Use Management (NESCAUM), and Zephyr Consulting.

Public comments received are summarized in the final study. All of these public comments were considered by EPA and many of these comments were incorporated into the final version of the study. As stated previously, all comments will receive additional consideration by EPA during the subsequent regulatory decision making process.

Dated: April 30, 1993.

Jonathan Z. Cannon,

Acting Administrator.

[FR Doc. 93-10834 Filed 5-6-93; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50758A; FRL-4588-1]

Receipt of an Application for an Experimental Use Permit for a Transgenic Plant Pesticide; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In the **Federal Register** of March 31, 1993, EPA announced the receipt of an application from Ciba-Geigy Corporation, Seed Division for an EPA Experimental Use Permit (EUP) for a transgenic plant pesticide. The document also established a 30-day comment period. In order to give all interested parties adequate time to submit comments, the comment period has been reopened.

DATES: Comments should be received by May 21, 1993.

ADDRESSES: Comments, in triplicate, should bear the docket control number OPP-50759 and be submitted to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Room 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Crystal City, VA 22202.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Written comments will be available for public inspection in Room 1128 at the Virginia address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phillip O. Hutton, Product Manager (PM) 18, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Room 213, Crystal Mall #2, 1921 Jefferson Davis Highway, Crystal City, VA 22202, (703) 305-7690.

SUPPLEMENTARY INFORMATION: On January 19, 1993, EPA received an application for an EUP from Ciba-Geigy Corporation, Seed Division (Ciba Seeds), P.O. Box 12257, Research Triangle Park, North Carolina 27709-2257. That receipt was the third EUP application under the Federal Insecticide, Fungicide, and Rodenticide Act for testing with a pesticidal substance that is produced in a plant. The application was assigned EPA File Symbol 66736-EUP-R. Ciba Seeds proposes to test a truncated version of the cryIA(b) δ-endotoxin (derived from the soil microbe *Bocillus thuringiensis*) as expressed in maize plants originating from crosses of descendants of two separate transformation events (Event 171 & Event 176) of the proprietary inbred line CG00526.

In the **Federal Register** of March 31, 1993 (58 FR 16827), EPA announced a 30-day comment period on Ciba-Geigy's proposed program. The original comment period closed on April 30, 1993; the comment period has been reopened to May 21, 1993.

Dated: May 4, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93-10985 Filed 5-6-93; 8:45 am]

BILLING CODE 6560-50-F

FARM CREDIT SYSTEM INSURANCE CORPORATION

[BM-27-APR-93-02]

Policy Statement Concerning Financial Assistance to Operating Insured Banks

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Policy statement.

SUMMARY: The Farm Credit System Insurance Corporation (Corporation) by the Farm Credit System Insurance Corporation Board (Board) adopts a policy statement setting forth the circumstances under which financial assistance to operating insured institutions will be considered, and the terms and conditions that would likely be imposed in conjunction with the granting of assistance.

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Carl R. Pfitzinger, Asset Assurance Manager, Farm Credit System Insurance Corporation, P.O. Box 9826, McLean, Virginia 22102-0826, (703) 883-4385, TDD (703) 883-4455.

SUPPLEMENTARY INFORMATION: The text of the Board's policy statement concerning financial assistance to operating insured banks is set forth below in its entirety:

Effective Date: Upon adoption.

Effect on Previous Action: None.

Source of Authority: Section 5.61 of the Farm Credit Act of 1971, as Amended (the Act); 12 U.S.C. 2277a-10.

Whereas, under section 5.61 of the Act, the Farm Credit System Insurance Corporation (Corporation) may provide financial assistance to operating insured banks:[1] (1) To prevent the placing of the bank in receivership or to assist a bank in danger of being placed in receivership, or (2) when severe financial conditions exist that threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources, to lessen the risk to the Corporation posed by such insured System banks under such threat of instability.

Therefore, the Farm Credit System Insurance Corporation's Board of Directors (Board) adopts the following policy statement:

In order for the Farm Credit System Insurance Corporation (Corporation) to provide assistance to any operating insured bank, the Corporation's Board of Directors must determine that either: (1) The amount of assistance is less than the cost of liquidating the bank (including paying the insured obligations issued on behalf of the bank) or (2) the continued operation of the bank is essential to provide adequate agricultural credit services in the area of operations of the bank.

Assistance to operating insured banks may be provided directly to the bank in danger of being placed in receivership, or to another insured bank qualified to merge with or acquire the failing bank.

The Corporation believes that proposals for assistance to operating insured banks under section 5.61 of the Act should be reviewed by the Corporation utilizing the following criteria:

1. The cost to the Corporation must be clearly less than other available alternatives.

2. All alternative sources of assistance must be explored in good faith prior to the Corporation's granting assistance.

3. The proposal must reasonably anticipate the viability of the recipient, including provisions for the attainment of an adequate level of capitalization within a reasonable period of time.

4. The proposal should provide for the eventual repayment of the assistance.

5. The proposal must provide for adequate managerial resources, and the Corporation's approval of business plans. Continued service of any Director or Senior Officer serving the assisted institution in a policy-making role, as determined by the Corporation, will be subject to approval of the Corporation. In addition, compensation arrangements covering Directors and Senior Officers must be approved by the Corporation.

6. The Corporation will consider on a case-by-case basis the nature of the financial assistance requested. Generally, assistance proposals should not anticipate the acquisition and servicing of assets from the assisted institution by the Corporation.

7. Fee arrangements with attorneys, accountants, consultants, and other parties incident to requests for financial assistance must be disclosed to the Corporation. Excessive fees are unnecessary and must be avoided; fee arrangements will be considered in evaluating the cost of the assistance request.

8. The Corporation retains the option of evaluating the assistance proposal within the context of a competitive bidding process and will consider soliciting interest from qualified acquirors.

9. An institution seeking operating institution assistance must consent to unrestricted on-site due diligence review by any potential acquiror that is determined by the Corporation to be qualified after consultation with the Farm Credit Administration.

10. The proposal must contain quantifiable limits on all financial items in the request.

11. The Corporation will evaluate the potential financial effect of the proposal on shareholders, uninsured creditors and the financial markets.

Dated: May 3, 1993.

Dated This 27th day of April, 1993.

By order of the Board.

Curtis M. Anderson,

Secretary to the Board, Farm Credit System Insurance Corporation.

[FR Doc. 93-10831 Filed 5-6-93; 8:45 am]

BILLING CODE 6710-01-P

[1] As used in section 5.61, the terms "Insured System Bank" and "Bank" include each Production Credit Association and other Associations making direct loans under the authority provided under section 7.8 of the Farm Credit Act of 1971, as amended.

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 30, 1993.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., suite 140, Washington, DC 20337, (202) 857-3800. For further information on this

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submission contact Judy Boley, Federal Communications Commission, (202) 632–0276. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0168

Title: Section 43.43—Reports of Proposed Changes in Depreciation Rates

Action: Extension of a currently approved collection

Respondents: Businesses or other for-profit

Frequency of Response: On occasion reporting and triennially

Estimated Annual Burden: 12 responses; 10,000 hours average burden per response; 120,000 hours total annual burden

Needs and Uses: Section 43.43 of the Rules establishes the reporting requirements for depreciation represcription purposes. Communication common carriers with annual operating revenues of $100 million or more and found to be a dominant carrier as determined by the Commission must file information specified in § 43.43 before making any change in the depreciation rates applicable to their operated plant. The information filed is used by the Commission to establish the proper depreciation rates to be charged by the carriers. The information serves as the basis for depreciation studies and calculations made by the Depreciation Rates Branch, Common Carrier Bureau, in establishing the above mentioned rates. Without this information the validity of the carrier's depreciation policies could not be ascertained.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–10756 Filed 5–6–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Tampa Port Authority/Tampa Bay International et al.; Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200510–004.

Title: Tampa Port Authority/Tampa Bay International Terminals, Inc., Terminal Agreement.

Parties: Tampa Port Authority, Tampa Bay International Terminals, Inc.

Synopsis: The amendment extends the term of the Agreement through May 12, 1994.

Agreement No.: 224–200766.

Title: Tampa Port Authority/Tampa Bay International Terminals, Inc. Equipment Operating Agreement.

Parties: Tampa Port Authority ("Authority") Tampa Bay International Terminals, Inc. ("TBIT").

Synopsis: The Agreement provides for operation by TBIT of equipment owned by the Authority.

Agreement No.: 203–011411.

Title: Maersk/P & O/Sea-Land Discussion Agreement.

Parties: A.P. Moller-Maersk Line P & O Containers Limited Sea-Land Service, Inc.

Synopsis: The proposed Agreement permits the parties to discuss and exchange information on rates, charges, service items and other matters in the trade between U.S. Atlantic and Gulf coast ports and inland and coastal points in the United States via such ports and points on the Mediterranean Sea (excluding the West Coast of Italy, France and Spain), on the African coast of the Red Sea (including Djibouti), on the Black Sea, Asia (Japan/Myanmar range), all countries on the Indian Subcontinent, Somalia, Kenya, Tanzania, Portugal, Morocco, the Canary Islands; and inland and coastal points via such ports. Adherence to any agreement reached is strictly voluntary.

Dated: May 3, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–10778 Filed 5–6–93; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–63]

Criteria for Selecting Toxicological Profiles for Development

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice of interim criteria; availability of background document; request for comments.

SUMMARY: This notice describes the criteria used by ATSDR to prioritize the development of toxicological profiles. The criteria will be used to both select new substances to profile and to determine which profiles should be updated. A background document (Criteria for Selecting Toxicological Profiles for Development) which provides more information on this process is available upon request (see **ADDRESSES**). Comments on this notice and the background document are requested. The criteria outlined herein will be used on an interim basis, subject to change based on comments received and experience gained during implementation of these procedures.

DATES: ATSDR considers these criteria to be of significant importance to the continuing development of the toxicological profiles. Therefore, public comments concerning this **Federal Register** notice will continue to be accepted throughout the Agency's development of the toxicological profiles.

ADDRESSES: Requests for the background document, "Criteria for Selecting Toxicological Profiles for Development," and comments on this notice and background document should be addressed to: Toxicology Information Branch/ATSDR–63, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Comments on this notice and the background document will be available for public inspection at the Agency for Toxic Substances and Disease Registry, Building 4, Suite 2400, Executive Park Drive, Atlanta, Georgia (not a mailing address), from 8 a.m. until 4:30 p.m., Monday through Friday, except for Federal legal holidays.

FOR FURTHER INFORMATION CONTACT: Henry G. Abadin, Toxicology Information Branch, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–6304.

SUPPLEMENTARY INFORMATION: Section 104(i) [42 U.S.C. 9604(i)] of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) [Pub. L. 99–499], directs the Administrator of ATSDR and the Administrator of the Environmental Protection Agency (EPA) to prepare a list of hazardous substances most commonly found at facilities on the National Priority List (NPL) and which, in their sole discretion, are determined to pose the most significant potential threat to human health. ATSDR is then to prepare toxicological profiles on these substances and assure the initiation of a research program to fill identified data needs associated with the substances.

The toxicological profiles provide an examination, summary, and interpretation of available toxicological and epidemiological studies on hazardous substances in order to ascertain the levels of significant human exposure to a given substance and the associated acute, subacute, and chronic health effects. Additional toxicological testing needed for this assessment is identified in the profiles and prioritized through activities with the Research Implementation Branch. Information discussed in these documents include: toxicokinetics; biomarkers of exposure, effect, and susceptibility; interactions with other chemicals; environmental fate; levels in environmental media and biological tissues and fluids; physical and chemical properties; analytical methods; information regarding production, import, export, use, and disposal; and other subjects. Additional information needed in these areas is also identified. The intended audiences for the toxicological profiles are the general public, environmental and health professionals in the private and public sector, and interested private organizations and groups.

As directed by CERCLA, section 104(i)(3) [42 U.S.C. 9604(i)(3)], ATSDR reviews previously-released profiles no less often than once every three years to determine if revision and republication (updating) are warranted. ATSDR has developed criteria for evaluating whether there is a scientific basis for updating a profile. ATSDR considers certain factors important in making this determination. These factors include the frequency of occurrence at NPL sites, toxicity, and potential for human exposure, as determined by the substances rank on the list of priority hazardous substances, and the availability of new information.

ATSDR will prioritize both the update of previously profiled substances and the preparation of profiles on new substances using these factors. ATSDR believes that this approach best serves the interests of public health and the informational needs of ATSDR and its constituents.

Frequency of Occurrence at NPL Sites, Toxicity, Potential for Human Exposure

A notice of the availability of the Priority List of 275 Hazardous Substances was published by ATSDR on October 28, 1992 (57 FR 48801). This list is based on the most comprehensive information currently available and is revised on an annual basis as additional information is gathered. Substances are ranked in order of priority based on the individual scores for their frequency of occurrence at NPL sites, toxicity, and potential for human exposure. A support document outlining the listing activity is available (see 57 FR 48801, October 28, 1992 for more information). The score and subsequent rank of a substance reflects the potential of the substance to impact human health and is a measure of these three factors combined and weighted equally.

Availability of Information

Substances being considered for update are assigned an information score based on new information in the scientific literature which has become available since the release of the profile. Studies will be reviewed to determine if they fill data needs or in some other way contribute to the reliability of risk assessment; particular emphasis will be placed on information that directly supports qualitative and quantitative conclusions associated with the derivation of minimal risk levels. Detailed procedures are described in the background document. A high score for a previously-profiled substance indicates that new studies have been located since the release of the profile which provide information expected to enhance the risk assessment process.

In determining the information score for new substances, ATSDR considers that developing a profile on a substance which has not been previously profiled will provide a new source of information for health assessors which was not previously available. Therefore, these substances will be assigned a maximum information score.

Final Score

The information score is combined and weighted equally with the previously calculated scores for frequency of occurrence at NPL sites, toxicity, and potential for human exposure to derive a "Profile Need Score." The substances are then prioritized for profile development based on this total score.

The actual prioritization of profile development may, at the discretion of ATSDR, be revised as appropriate based on the public health and informational needs of ATSDR, and the input of interested parties.

Other Considerations

Input from the general public, environmental and health professionals in the private and public sector, and interested private organizations and groups is used to ensure that no critical information has been overlooked.

ATSDR welcomes comments regarding both new and update profiles. Data from studies not generally available to ATSDR through the published literature are essential to the profile development process. Individuals and groups are encouraged to provide ATSDR with these studies.

Alternative approaches to estimating risk, such as Quantitative Structure Activity Relationships (QSAR) and Physiologically Based Pharmacokinetic Modeling (PBPK) will be considered for inclusion in future profiles. ATSDR is particularly interested in comments regarding the utility of these tools in assessing public health risks.

Dated: May 3, 1993.

Walter R. Dowdle,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 93–10809 Filed 5–6–93; 8:45 am]

BILLING CODE 4160–70–P

Centers for Disease Control and Prevention (CDC)

Injury Research Grant Review Committee: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Injury Research Grant Review Committee (IRGRC).

Times and Dates: 6 p.m.–9 p.m., May 23, 1993; 8 a.m.–5 p.m., May 24, 1993; 8 a.m.–12 noon, May 25, 1993.

Place: Summerfield Suites Hotel, 505 Phart Road, Atlanta, Georgia 30305.

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Status: Open 6 p.m.–7 p.m., May 23, 1993; Closed 7 p.m., May 23, 1993, through 12 noon, May 25, 1993.

Purpose: This committee is charged with advising the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the scientific merit and technical feasibility of grant applications relating to the support of injury control research and demonstration projects and injury prevention research centers.

Matters To Be Discussed: Agenda items for the meeting will include announcements, discussion of review procedures, future meeting dates, and review of grant applications. Beginning at 7 p.m., May 23, through 12 noon, May 25, the committee will consider applications for Injury Control Research Centers (ICRCs), Research Program Project Grants, and supplements to existing ICRCs. This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), title 5 U.S.C., and the Determination of the Director, CDC, pursuant to Public Law 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Richard W. Sattin, M.D., Executive Secretary, IRGRC, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway, NE., Mailstop K58, Atlanta, Georgia 30341–3724, telephone 404/488–4265.

Dated: May 3, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–10805 Filed 5–6–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

Advisory Committees; Notice of Meetings; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of April 22, 1993 (58 FR 21584). The document announced forthcoming meetings of public advisory committees for the Antiviral Drugs, the Ranch Hand, the Ophthalmic Devices Panel, and the Fertility and Maternal Health Drugs Advisory Committees. The document inadvertently stated that the Fertility and Maternal Health Drugs Advisory Committee would discuss changes in oral contraceptive labeling to reflect the current practice of conducting physical exams after medication has been started. It should have stated that physical exams are conducted "at times" after medication has been started. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Robin Thomas Johnson, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 93–9401, appearing on page 21584 in the **Federal Register** of April 22, 1993, the following correction is made: On page 21585, in the 2d column, in the 4th full paragraph, in the 7th line, the words "at times" are added after the word "exams".

Dated: May 4, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–10814 Filed 5–6–93; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Amended Program Announcement for Allied Health Project Grants for Fiscal Year 1993

The Health Resources and Services Administration (HRSA), announced the fiscal year (FY) 1993 Allied Health Project Grants in the **Federal Register** on September 24, 1992 (57 FR 44190). Since this announcement the Allied Health Project Grants program has been reauthorized by the Health Professions Education Extension Amendments of 1992, Public Law 102–408, dated October 13, 1992. As a result of these amendments, changes have been made in (1) the section number, (2) the purpose, (3) funding preference, and (4) information requirement. These changes will be discussed in this notice.

Section Number

This program was previously authorized under section 796 of the Public Health Service (PHS) Act. This program is currently authorized under section 767 of the PHS Act.

Purposes

Section 767 authorizes the award of grants to assist in meeting the costs associated with expanding or establishing programs that will increase the number of individuals trained in allied health professions. Programs and activities funded under this section may include:

(1) Those that expand enrollments in allied health professions with the greatest shortages or whose services are most needed by the elderly;

(2) Those that provide rapid transition training programs in allied health fields to individuals who have baccalaureate degrees in health-related sciences;

(3) Those that establish community-based allied health training programs that link academic centers to rural clinical settings;

(4) Those that provide career advancement training for practicing allied health professionals;

(5) Those that expand or establish clinical training sites for allied health professionals in medically underserved or rural communities in order to increase the number of individuals trained;

(6) Those that develop curriculum that will emphasize knowledge and practice in the areas of prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics;

(7) Those that expand or establish interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly;

(8) Those that expand or establish demonstration centers to emphasize innovative models to link allied health clinical practice, education, and research; and

(9) Those that provide financial assistance (in the form of traineeships) to students who are participants in any such program; and

(A) Who plan to pursue a career in an allied health field that has a demonstrated personnel shortage; and

(B) Who agree upon completion of the training program to practice in a medically underserved community; that shall be utilized to assist in the payment of all or part of the costs associated with tuition, fees and such other stipends as the Secretary may consider necessary.

To maximize program benefit, programs that provide financial assistance in the form of traineeships to students will not be considered for funding in FY 1993.

Funding Preference

The statutory preference identified in section 767(b)(2) and the statutory preference identified in section 791(a) of the PHS Act have been combined in the following preference which will be applied to Allied Health Project Grants for fiscal year 1993: Preference shall be given to qualified applicants that—

(A) Expend and maintain first-year enrollment by not less than 10 percent over enrollments in base year 1992; OR

(B) Demonstrate that not less than 20 percent of the graduates of such training programs during the preceding 2-year period are working in medically underserved communities (high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities); OR

(C) During the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

Additional information concerning the implementation of the preference identified in section 791(a) of the PHS Act has been published in the **Federal Register** at 58 FR 9570, dated February 22, 1993. The burden for collection of information to request this preference is under review by the Office of Management and Budget in accordance with the Paperwork Reduction Act.

It is not required that applicants request consideration for this funding preference. Applications which do not request consideration for the funding preference will be reviewed and given full consideration for funding.

Information Requirements Provision

Under section 791(b) of the PHS Act, the Secretary may make an award under the Allied Health Project Grants Program only if the applicant for the award submits to the Secretary information regarding the programs of the applicant. These requirements will be provided in the application materials. The burden for collection of this information is under review by the Office of Management and Budget in accordance with the Paperwork Reduction Act.

Questions regarding programmatic information should be directed to: Dr. Norman Clark, Program Officer, Associated Health Professions Branch, Division of Associated, Dental and Public Health Professions, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–02, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6763.

The *Catalog of Federal Domestic Assistance* number for this program is 93.191. This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: April 30, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–10766 Filed 5–6–93; 8:45 am]

BILLING CODE 4160–15–P

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1993:

Name: Council on Graduate Medical Education.

Time: June 2–3, 1993, 8:30 a.m.

Place: Conference Room G&H, Parklawn Conference Center, 5600 Fishers Lane, Rockville, MD 20857.

Open for entire meeting.

Purpose: Provides advice and recommendations to the Secretary and to the Committees on Labor and Human Resources, and Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, with respect to (A) the supply and distribution of physicians in the United States; (B) current and future shortages of physicians in medical and surgical specialties and subspecialties; (C) issues relating to foreign medical graduates; (D) appropriate Federal policies regarding (A), (B), and (C) above; (E) appropriate efforts to be carried out by medical and osteopathic schools, public and private hospitals and accrediting bodies regarding matters in (A), (B), and (C) above; (F) deficiencies in the needs for improvements in, existing data bases concerning supply and distribution of, and training programs for physicians in the United States.

Agenda: There will be presentations and discussions regarding the need to refine the Third Report recommendations in view of the Administrations proposed health care reform initiative and other developments. Status reports will be given and discussions will be held on Council on Graduate Medical Education initiatives such as Managed Care, Women in Medicine, etc. Also a period of public comment on the Third Report and status reports of the Council will be provided.

Anyone requiring information regarding the subject Council should contact Marc L. Rivo, M.D., M.P.H., Executive Secretary, telephone (301) 443–6190; or F. Lawrence Clare, M.D., M.P.H., Deputy Executive Secretary, telephone (301) 443–6326, Council on Graduate Medical Education, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, room 4C–25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Agenda items are subject to change as priorities dictate.

Dated: May 3, 1993.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 93–10815 Filed 5–6–93; 8:45 am]

BILLING CODE 4160–15–P

Guidance Regarding Section 602 of the Veterans Health Care Act of 1992; Limitation on Prices of Drugs Purchased by Covered Entities

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Secretary of Health and Human Services provides the following guidance regarding section 602 of Public Law 102–585, the "Veterans Health Care Act of 1992" (the "Act"), which enacted section 340B of the Public Health Service (PHS) Act, "Limitation on Prices of Drugs Purchased by Covered Entities." Section 340B provides that a manufacturer who sells covered outpatient drugs to eligible entities must sign a pharmaceutical pricing agreement (the "Agreement") with the Secretary of Health and Human Services (the "Secretary") in which the manufacturer agrees to charge a price for covered outpatient drugs that will not exceed the average manufacturer price ("AMP") decreased by a rebate percentage. This notice advises manufacturers and covered entities of the terms of the Agreement, describes the criteria for the certification process required of certain entities, and alerts manufacturers who have not received an Agreement by mail of the manner in which to request one.

DATES: Section 340B was effective with respect to drug purchases on or after December 1, 1992. Agreements signed after that date are effective for purchases of covered outpatient drugs retroactive to December 1, 1992, for those entities included on the initial list of covered entities mailed to each manufacturer. For manufacturers that have not received an Agreement by mail, a written request for an Agreement should be submitted to the Drug Pricing Program within 30 days from the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Marsha Alvarez, R. Ph. Chief Pharmacy Officer, Attn: Drug Pricing Program, Health Resources and Services Administration, Bureau of Primary Health Care, Rm 7A–55 Parklawn Bldg., 5600 Fishers Lane, Rockville, Maryland 20857, Phone: (301) 443–0004–6.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Act was designed to establish price controls to limit the cost of drugs to Federal purchasers and to certain grantees of Federal agencies. In 1990, Congress identified a problem with increasing drug prices and enacted the Omnibus Budget Reconciliation Act of 1990. This attempt at drug price control focused only on the Medicaid program

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end established a best-price policy. Under the Medicaid drug rebate program, pharmaceutical manufacturers initially gave State Medicaid agencies the greater of a minimum 12.5 percent flat rebate of the average manufacturer price (AMP) or the difference between the AMP and the best price paid by the customer for single source or innovator multiple source drugs. To provide a phase-in period, the rebate amount was capped at a specific percentage of the AMP which increased from 1991 through 1993. Generic manufacturers gave States a ten percent of AMP flat rebate which will increase to 11 percent in 1994.

The Veterans Health Care Act is an attempt to provide Federal purchasers with a process whereby they will receive drug discounts or rebates. Section 601 of Public Law 102-585 amends the Medicaid rebate program, section 602 provides drug discounts primarily to certain grantees of the Public Health Service, and section 603 enacts a drug discounting process administered by the Department of Veterans Affairs for the benefit of several Federal agencies. This guidance addresses the program enacted by section 602.

II. Covered Entities

(a) Current Covered Entities

Section 602 of Public Law 102-585 enacted a new section 340B of the PHS Act. Pursuant to this new section, eligible entities are as follows (except as otherwise indicated, references are to sections of the Public Health Service Act):

1. Federally-qualified health centers (migrant, community and homeless health centers) as defined in section 1905(l)(2)(B) of the Social Security Act, 42 U.S.C. 1396d.

2. Health centers for residents of public housing funded under section 340A, 42 U.S.C. 256a.

3. Family planning projects receiving grants or contracts under section 1001, 42 U.S.C. 300.

4. An entity receiving a grant for outpatient early intervention services for HIV disease under subpart II of part C of title XXVI, 42 U.S.C. 300ff-51 *et seq.*

5. A State-operated AIDS drug purchasing assistance program receiving financial assistance under section 2616 of the Act, 42 U.S.C. 300ff-26.

6. A black lung clinic receiving funds under section 427(a) of the Black Lung Benefits Act, 30 U.S.C. 937(a).

7. A comprehensive hemophilia diagnostic treatment center receiving a grant under section 501(a)(2) of the Social Security Act, 42 U.S.C. 701(a)(2).

8. A Native Hawaiian Health Center receiving funds under the Native Hawaiian Health Care Act of 1988, 42 U.S.C. 11701 *et seq.*

9. An urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act, 25 U.S.C. 1651 *et seq.*

10. Any entity, certified by the Secretary, receiving assistance under title XXVI of the Act, 42 U.S.C. 300ff *et seq.*, (other than a State or unit of local government or an entity described in #4).

11. Any entity, certified by the Secretary, receiving funds relating to the treatment of sexually transmitted diseases under section 318, 42 U.S.C. 247c, or relating to the treatment of tuberculosis under section 317(j)(2), 42 U.S.C. 247b, through a State or unit of the local government.

12. A "disproportionate share" hospital as defined in section 1886(d)(1)(B) of the Social Security Act, which (for the most recent cost reporting period that ended before the calendar quarter involved) had a disproportionate share adjustment greater than 11.75 percent, and which is (1) owned or operated by a State or local government, (2) a public or private nonprofit corporation formally granted governmental powers by a State or local government, or (3) a private nonprofit hospital with a State or local government contract to provide health services to low income individuals who are not entitled to benefits under Medicare or eligible for assistance under the State plan. The discount need not be provided for drugs which the hospital obtains through a group purchasing arrangement.

In the case of a covered entity that is a distinct part of a hospital, the hospital shall not be considered a covered entity unless the hospital is otherwise a covered entity, i.e., it meets the requirements of a disproportionate share hospital as determined by the Secretary under section 340B(a)(4)(L).

(b) Certification

Certain covered entities must be certified by the Secretary before they become eligible for the discount drug prices, section 340B(a)(7) of the PHS Act. The entities requiring certification are those that—

(a) receive grant funds related to the treatment of sexually transmitted diseases through a state or local government under section 318 of the PHS Act, 42 U.S.C. 247c,

(b) receive grant funds related to the treatment of tuberculosis through a state or local government under section 317(j)(2) of the PHS Act, 42 U.S.C. 247b, and

(c) are receiving assistance under title XXVI of the PHS Act, 42 U.S.C. 300ff *et seq.*, other than a State or unit of local government or grantee for HIV outpatient early intervention services (subpart II of part C of title XXVI of the PHS Act).

The criteria for eligibility include State certification that the entity does receive Federal grant funds and is an entity described in (a), (b), or (c) above. Information concerning the amount each entity expended for outpatient drugs in the preceding fiscal year (October 1, 1991, to September 30, 1992) is also required. These amounts are necessary to assist the Secretary in evaluating the validity of subsequent purchases of outpatient drugs at the discounted prices.

The respective PHS program directors for these entities have been asked to compile a list of the covered entities in their programs and include for each entity the estimated amount of outpatient drug purchases in the preceding year. They are asked to send this list and a form certification letter to the respective State program directors so that the State may certify the accuracy of the list.

The States are asked to return the certification letters to the respective PHS program directors. These letters, along with the drug purchasing information, will be kept on file so that they can be used for audit purposes.

In addition, section 340B(a)(7)(E) of the PHS Act requires a recertification process of these same entities. The respective PHS program directors will compile, on an annual basis, a list of eligible entities for the above categories (a), (b), and (c), will estimate the amount of outpatient drug purchases for each listed entity during the preceding fiscal year, and will include a recertification letter and the newly compiled list of entities in the grant renewal package for each State program director to complete and return.

(c) Possible Future Covered Entities

Section 340B also requires the Secretary to conduct a study concerning entities that receive funds from a State for mental health and substance abuse treatment services under subparts I or II of part B of title XIX of the PHS Act or under title V of such Act; or receive funds from a State under title V of the Social Security Act for outpatient maternal and child health services. The Secretary is directed to determine the feasibility of awarding those entities eligibility status and to submit this report to Congress by November 4, 1993

Covered drugs are outpatient drugs as defined in section 1927(k) of the Social Security Act. Section 1927(k)(2) generally includes within this term (*a*) a drug which can only be dispensed upon prescription, and (1) which has been approved for safety and effectiveness under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act, or (2) which was used or sold commercially in the United States before the enactment of the Drug Amendments of 1962 (or identical, related, or similar to such a drug) and which has not been the subject of a final determination by the Secretary that it is a "new drug," or (3) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined that there is a compelling justification of its medical need and for which the Secretary has not issued a notice of opportunity for hearing on a proposed order to withdraw approval of an application for such a drug because the drug is less than effective for some or all of its labelled indications; (*b*) a prescribed biological product other than a vaccine, licensed under section 351 of the PHS Act, and produced at an establishment licensed under such section to produce such a product; (*c*) insulin, certified under section 506 of the Federal Food, Drug, and Cosmetic Act; and (d) an over-the-counter drug, if it is prescribed by a person authorized to prescribe such a drug under State law.

Pursuant to the limiting definition of section 1927(k)(3) of the Social Security Act, a covered outpatient drug does not include any drug, biological product, or insulin provided as part of, or incident to and in the same setting as, any of the following (and for which payment is made as part of payment for the following and not as direct reimbursement for the drug): (*a*) Inpatient hospital services; (*b*) hospice services; (*c*) dental services, except drugs for which the State Medicaid plan authorizes direct reimbursement to the dispensing dentist; (*d*) physicians' services; (*e*) outpatient hospital service emergency room visits; (*f*) nursing facility services; (*g*) other laboratory and x-ray services; and (*h*) renal dialysis. A covered outpatient drug does not include any such drug or product which is used when there is no medically accepted indication.

IV. Calculation of the Drug Price.

To determine the price for a covered outpatient drug, the manufacturer shall calculate the average manufacturer price (AMP) for the drug and reduce it by the rebate percentage. Average manufacturer price is the average price paid to the manufacturer for the drug in the United States by wholesalers for the drug distributed to the retail pharmacy class of trade in the calendar quarter. The rebate percentage is the total per unit Medicaid rebate amount, section 1927(c)(1) and (2) of the Social Security Act, for the particular drug divided by the AMP. The Medicaid rebate calculation utilizes Best Price information which considers the lowest price available at which the manufacturer sells the covered outpatient drug to any wholesaler, retailer, nonprofit entity, or governmental entity within the United States in any pricing structure (as defined in section I(b) of the Pharmaceutical Pricing Agreement).[1]

To calculate the price for an over-the-counter or generic drug, the rebate percentage will be determined as if the rebate required under 1927(c) of the Social Security Act is based upon the percentages provided in section 1927(c)(4) of the same Act (i.e., calendar quarters between January 1, 1991 and December 31, 1993=10% and calendar quarters beginning on or after January 1, 1994=11%).

V. Manufacturers' Information.

(a) Effective Date of Implementation

Because the effective date of section 340B of the PHS Act with respect to drug purchases is December 1, 1992, and all Agreements signed with entities included on the initial list of covered entities are effective retroactive to that date, manufacturers should incorporate these pricing limitations in dealings with covered entities as of that date. If the manufacturer finds that a price adjustment is required, the manufacturer shall calculate any rebate (or credit) necessary to account for sales between December 1, 1992, and the date of the Agreement and shall either remit the rebate to the entity (or provide for the credit). Additional eligible entities, later included in the updated lists, will be eligible for drug discounts only for purchases on and after the date of their inclusion on the list.

(b) Definition of Manufacturer

The term "Manufacturer" has the meaning as set forth in section 1927(k)(5) of the Social Security Act and includes all entities engaged in—

(*1*) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

(*2*) the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

A manufacturer must hold legal title to or possession of the NDC number for the covered outpatient drug. Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"Manufacturer" also includes an entity, described in (1) or (2) above, that sells outpatient drugs to covered entities, whether or not the manufacturer participates in the Medicaid rebate program. Furthermore, the Pharmaceutical Pricing Agreement provides that the term also includes any contractor who fulfills the responsibilities pursuant to the PHS drug pricing agreement.

The Department is aware that many covered entities purchase drugs from wholesalers, rather than directly from manufacturers. Manufacturers shall take the steps necessary to assure that the discounts required by this legislation are passed through the wholesalers to the covered entities.

(c) Pharmaceutical Pricing Agreement

A manufacturer must sign an Agreement with the Department agreeing not to charge a covered entity a price for a covered outpatient drug exceeding the AMP of the drug decreased by the rebate percentage. Signing the Agreement does not prohibit a manufacturer from charging a price for a covered outpatient drug that is lower than the maximum price that can be charged.

The Department mailed the Agreements December 15, 1992, priority mail, and requested, for participation in the discount program, a return of the signed agreement by January 6, 1993. If a manufacturer did not receive a copy of the Agreement, it must contact Ms. Alvarez at the address specified in the "Further Information" section of this notice within 30 days from the date of publication of this notice.

[1] For those drug manufacturers who are participating in the Medicaid Drug Rebate Program, calculation of the Medicaid unit rebate amount is based on the same formulas (per unit basic rebate amount and additional rebate amount for single source and innovator multiple source drugs or the per unit rebate amount for noninnovator multiple source or over-the-counter drugs) as used by Medicaid. Those drug manufacturers who are not participating in the Medicaid Drug Rebate Program should contact Ms. Marsha Alvarez at the address or telephone number listed in the "For Further Information Contact" section for information concerning rebate calculations. Sample calculations of a section 1927(c) rebate included in Enclosure C of the letter dated December 11, 1992, from the Administrator, Health Resources and Services Administration, should be disregarded.

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(d) List of Eligible Covered Entities

A list of eligible covered entities has been mailed to each manufacturer along with the Agreement, and this list will be updated at least annually. Timely notification of additions to and deletions from the list of eligible covered entities will also be provided. A list of eligible subgrantees will be made available at a later date. The requirement for retroactive adjustments to December 1, 1992, will not apply to covered entities not included on the initial list.

(e) Drug Pricing Information Access

Those manufacturers that do not have a reporting requirement under section 1927(b)(3) of the Social Security Act for covered outpatient drugs must agree to submit, upon request, to the Department a list of all covered outpatient drugs purchased by covered entities, the average manufacturer prices (AMP), baseline AMP, Best Price calculations (if relevant), and information concerning the prices of the covered outpatient drugs distributed through a wholesaler. The manufacturer must further maintain all records relevant to the generation of these reports for a period of three years from the date of their creation. The Department will have reasonable access to the records of all participating manufacturers relevant to the manufacturer's compliance with the terms of the Agreement. Upon request, the Health Care Financing Administration (HCFA) will share AMP and (if relevant) Best Price information submitted under the Medicaid Rebate Agreement on covered drugs with the Secretary or her designee for the purposes of carrying out the agreement.

(The reporting and record-keeping requirements of this section are subject to the Office of Management and Budget (OMB) clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520, and will not be implemented until such clearance has been obtained.)

(f) Drug Utilization Information Access

A manufacturer will be permitted to audit the records of covered entities that directly pertain to a prohibition on the resale of drugs to persons not patients of the entity and a prohibition on possible duplicate discounts (i.e., Medicaid rebates, coupled with discounts allowable under the Act). This audit must be in accordance with procedures established by the Department relating to number, duration, and scope of audits and will be at the manufacturer's expense.

(g) Penalty Provisions

Pursuant to section 1927(a)(5)(A) of the Social Security Act, a manufacturer who does not sign, and keep in effect, an Agreement will not have met the requirements of section 1927(a)(5)(A).

If the Department finds, after notice and a hearing, that a manufacturer has failed to comply with the pricing requirement of section II(a) of this Agreement, has refused to submit drug pricing information requested by the Department, or has submitted false information, the Agreement will be terminated. As applicable, other penalties will be imposed.

VI. Covered Entities' Information

(a) Effective Date of Implementation

Covered outpatient drugs purchased on or after December 1, 1992, by a covered entity included on the initial list must be discounted pursuant to the formula in section 340B(a)(1) and (2) of the PHS Act. Agreements with manufacturers signed after December 1, 1992, will be effective retroactive to that date for covered entities included on the initial list; therefore, the manufacturer *must calculate any price adjustments* necessary and remit a rebate directly to the covered entity (or provide for a credit).

(b) Eligibility

The Department has provided a list of eligible entities to each manufacturer along with a copy of the Agreement and is notifying each covered entity of its eligibility to purchase drugs at the discounted prices. Each covered entity is encouraged to begin discussing the pricing provisions of section 340B of the PHS Act with manufacturers so that potential problems can be identified early and resolved.

(c) Drug Price Negotiation

Although the Department signs the Agreement with each manufacturer, the entity itself may continue to negotiate individual drug pricing agreements with each manufacturer. Nothing in the statute precludes group purchasing agreements or other arrangements not inconsistent with the Agreement, except for disproportionate share hospitals.

(d) Penalty Provisions

A covered entity is prohibited from reselling or otherwise transferring a covered drug to a person who is not the patient of the entity (section 340B(a)(5)(B) of the PHS Act). The statute provides further the drug purchases will not be subject to both the discount under section 340B and the Medicaid rebate under section 1927 of the Social Security Act (section 340B(a)(5)(A) of the PHS Act). The Secretary has decided to establish a mechanism within 120 days after the effective date of the Agreement to assure that covered entities comply with the prohibition on duplicate discounts and rebates. If the Secretary does not establish a mechanism within 120 days, the Secretary will apply the provisions of section 1927(a)(5)(C) of the Social Security Act.[2] If the Secretary finds, after notice and hearing, that a covered entity has violated either of these prohibitions, the covered entity shall be liable to the manufacturer of the covered drug that is the subject of the violation in an amount equal to the reduction in the price of the drug as described in section 340B of the PHS Act.

(e) Audit Provision

Each covered entity will be required to retain records of purchases of covered outpatient drugs under the Agreement and of any claims for reimbursement submitted for such drugs under title XIX of the Social Security Act. When a covered entity is making purchases through a wholesaler, it will be required to provide the manufacturer with information necessary to arrange for such purchases consistent with the terms of the Agreement.

A covered entity shall permit the Secretary and the manufacturer of a covered outpatient drug that is the subject of an Agreement to audit, at the Secretary's or manufacturer's expense, the records of the entity that directly pertain to the entity's compliance with the resale or duplicate discount prohibition.

VII. Confidentiality Provisions

Information disclosed by the manufacturer in connection with a request by the Department is confidential and, except as otherwise required, will not be disclosed by the Department in a form that reveals the manufacturer, or the prices charged by the manufacturer, except as necessary by the Department to carry out the provisions of the Act or to permit review by the Comptroller General.

The manufacturer shall hold audit information obtained from the covered entities confidential.

The Department shall require, under a reasonable schedule of implementation, that covered entities not reveal confidential drug pricing information.

VIII. Nonrenewal and Termination Provisions

Unless otherwise terminated by either party, the Agreement will be effective for a period of one year and will be renewed automatically for additional successive terms of one year, unless the manufacturer gives written notice of intent not to renew. The manufacturer may terminate the Agreement for any reason, and the Secretary, after notice and hearing, may terminate the Agreement for good cause or a violation of the Agreement.

Dated: February 11, 1993.

Robert G. Harmon,

Administrator, Health Resources and Services Administration.

[FR Doc. 93–10816 Filed 5–6–93; 8:45 am]

BILLING CODE 4160–15–M

[2] Depending upon the type of mechanism developed, some covered entities may be required to refund a portion of the discount received from drug manufacturers prior to the establishment of the mechanism (e.g., discounts for covered outpatient drugs for which Medicaid reimbursement claims were submitted to State Medicaid agencies).

Notice Regarding Section 602 of the Veterans Health Care Act of 1992, Duplicate Discounts and Rebates on Drug Purchases

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: Section 602 of Public Law 102–585, the "Veterans Health Care Act of 1992" (the "Act"), enacted section 340B of the Public Health Service Act ("PHS Act"), "Limitation on Prices of Drugs Purchased by Covered Entities." Section 340B provides that a manufacturer who sells covered outpatient drugs to eligible entities must sign a pharmaceutical pricing agreement with the Secretary of Health and Human Services in which the manufacturer agrees to charge a price for covered outpatient drugs that will not exceed the amount determined under a statutory formula.

Section 340B(a)(5)(A) of the PHS Act provides that a drug purchase shall not be subject to both the discount under section 340B and a Medicaid rebate under section 1927 of the Social Security Act. The Department is directed to establish a mechanism to assure that covered entities comply with this prohibition. The purpose of this notice is to announce the mechanism that the Department is proposing and to invite public comment on the proposal.

DATES: The Health Resources and Services Administration is soliciting comments from the public on this proposed mechanism by June 7, 1993.

The Department will consider the comments and issue a final notice of the mechanism to be established. The Department presently intends that State Medicaid agencies will implement the procedures outlined below for outpatient drug claims paid by Medicaid beginning July 1, 1993, if PHS provides State Medicaid agencies with the Medicaid provider numbers for all covered entities by July 1, 1993.

With a July 1, 1993, effective date, all State Medicaid drug utilization data for the third calendar quarter due to manufacturers by November 30, 1993, would exclude rebates for discounted drugs sold to PHS covered entities. For claims paid by Medicaid prior to July 1, 1993, State agencies will bill manufacturers for rebates on all drugs paid by Medicaid.

ADDRESSES: Comments should be submitted to: Marsha Alvarez, R.Ph., Director, Drug Pricing Program, Bureau of Primary Health Care, Health Resources and Services Administration, Rm. 7A–55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, Phone: (301) 443–0004

FOR FURTHER INFORMATION CONTACT: For further information please contact Marsha Alvarez, as cited above.

SUPPLEMENTARY INFORMATION:

Section 1927 of the Social Security Act provides that in order to receive payment under the Medicaid program for covered outpatient drugs, drug manufacturers must enter into and comply with rebate agreements with the Secretary on behalf of States or with States directly. Section 1927 was enacted by the Omnibus Budget Reconciliation Act of 1990 and was amended by section 601 of the Act. Section 602 of the Act creates a program under which drug manufacturers must provide discounts to "covered entities," which consist primarily of certain grantees of the Public Health Service and "disproportionate share" hospitals.

Section 340B(a)(5)(A) of the PHS Act reflects Congress' recognition that there is a potential for drugs purchased by a covered entity with a discount to be subject to a Medicaid rebate, if the drug is reimbursed by the Medicaid program. Accordingly, this section directs the Department to establish a mechanism to avoid the combination of the discount and the Medicaid rebate for the same drug purchases.

The Public Health Service has consulted with the Health Care Financing Administration (HCFA), which is responsible for the Federal administration of the Medicaid program, and proposes the following as the mechanism to comply with section 340B(a)(5)(A).

I. All-Inclusive Rates Per Encounter or Visit

Under "all-inclusive rates" (either per encounter or visit), drug purchases are not billed as separate cost items, and, therefore, there is no opportunity for a Medicaid rebate to be sought for the drugs, even if purchased with a section 340B discount. (See, for example, the reimbursement methodology for Federally Qualified Health Centers, sections 1861(aa) and 1905(l)(2) of the Social Security Act.) Accordingly, to the extent that covered entities develop all-inclusive rates, there is no possibility that the duplicate discount and rebate can occur.

II. Drug Purchases Not Reimbursed Under All-Inclusive Rate

For those drug purchases which are not reimbursed by Medicaid under all-inclusive rates, the Department proposes the following mechanism to avoid the duplicate discount and rebate. PHS has provided manufacturers a list of covered entities eligible for the discounts. (This list will be updated periodically.) PHS will provide the list to State Medicaid agencies with the Medicaid provider numbers for each covered entity in the respective State. The covered entities will provide these numbers to the PHS.

When a covered entity submits a bill to the State Medicaid agency for a drug purchase by or on behalf of a Medicaid beneficiary, the amount billed shall not exceed the entity's actual acquisition cost for the drug, as charged by the manufacturer at a price consistent with the Veterans Health Care Act of 1992, plus a dispensing fee established by the State Medicaid agency. This will assure that the discount to the covered entity will be passed on to the State Medicaid agency.

Based on the Medicaid provider number information furnished by PHS, the State Medicaid agency will create a separate provider file for claims from covered entities which are billing on a cost basis for drug purchases. The State Medicaid agency will exclude data from these provider files when generating the rebate bills to the manufacturers under the section 1927 program. Thus, the payment of duplicate discounts and rebates by the drug manufacturer will be prevented.

This mechanism is consistent with the Veterans Health Care Act and the limitations established in the Medicaid regulations, 42 CFR sections 447.331–447.334, which limit the amount the Medicaid State agency may reimburse providers. These regulations are designed to give States a certain amount

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of flexibility in administering their drug payment programs, while encouraging prudent purchasing. A mechanism whereby the amount billed by covered entities for prescription drugs cannot exceed the actual acquisition cost plus a reasonable dispensing fee allows States to retain flexibility in their drug payment programs and to obtain the benefit of the cost savings established under the Act.

Dated: May 3, 1993.

Robert G. Harmon,

Administrator, Health Resources and Services Administration.

[FR Doc. 93–10817 Filed 5–6–93; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Center for Research Resources

AGENCY: National Center for Research Resources, NIH.

ACTION: Notice.

SUMMARY: The National Center for Research Resources (NCRR), NIH, is developing a strategic plan for critical research resources and technologies for biomedical and behavioral research supported by the NIH. As part of this effort, Dr. Judith L. Vaitukaitis, Director, NCRR, is requesting input from the broad scientific community to define the current state of research resources and technologies and to identify gaps and future needs.

DATES: Submit responses to Dr. Caroline Holloway (see below) on or before June 15, 1993.

FOR FURTHER INFORMATION CONTACT: Caroline Holloway, Ph.D., Director, Office of Science Policy, NCRR/NIH, 9000 Rockville Pike, Bldg. 12A, room 4047, Bethesda, MD 20892–1012, 301–496–2992, FAX 301–402–1775, E-Mail SPE@NIH.CU.GOV.

SUPPLEMENTARY INFORMATION: The NCRR's mission is to be a "catalyst for discovery" for NIH-supported investigators throughout the nation. To achieve advances that improve human health, these scientists require a broad range of technologies and other resources that enable research to thrive. Recognizing this need, the NCRR supports primary research to create and develop these critical technologies and resources, and provides them to researchers supported by other NIH components. The multidisciplinary nature of the NCRR's programs promotes collaborations within and across scientific disciplines, and provides quick, flexible approaches to new and emerging needs of both biomedical and behavioral investigators.

In its efforts to enhance the nation's research capacity, the NCRR addresses major research needs and issues including the following:

(1) Development of and access to cost-effective resources, sophisticated technologies, and state-of-the-art instrumentation, research facilities, devices, and materials that make possible major breakthroughs in basic and clinical research.

(2) Development of and access to well-defined experimental research models that include vertebrate and invertebrate animals, cellular systems, and nonanimal models such as mathematical models generated by high performance computers.

(3) Limits to the research capacity of the nation due to:

(a) The shortage of well-trained, independent clinical investigators;

(b) The underrepresentation of minority investigators and institutions in biomedical research, especially for research on diseases that disproportionately affect minority populations;

(c) The need for improvements in the public understanding of science and in the preparation of young students—especially minorities—to pursue careers in science; and

(d) The deterioration of research facilities and the demand for construction of new facilities to meet unusual or unique research needs.

In order to develop a strategic plan for critical resources and research technologies, the NCRR seeks answers to the following questions as they relate to the issues described above:

(A) Which research resources and technologies are most vital to your present research? How well do these meet your current needs?

(B) What are the most important basic and clinical research trends that will drive NCRR's future research portfolio? Which research technologies and resources will be critical? Why?

(C) Who would you recommend (including yourself) to serve as a panel member for NCRR's strategic planning process? Please list name, address, phone number, and specific area of expertise.

All interested parties are encouraged to respond. For comments prepared in writing, please limit the answers for each question to one single-spaced typed page. For questions A and B, use the following format:

- *Name, Affiliation, and Question Letter* (top of each page)
- *Abstract* (2–3 sentences)
- *Statement of the Issue*
- *Recommendations*
- *Rationale for Assigning High Priority*

Please send two copies of your response to Dr. Holloway (see address above). Pertinent information that supports your responses may be included as an appendix.

Dated: April 29, 1993.

Bernadine Healy,

Director, NIH.

[FR Doc. 93–10830 Filed 5–6–93; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–1917; FR–3350–N–30]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired, (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Dept. of Transportation: Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., room 10319, Washington, DC 20590; (202) 366–4246; U.S. Army: Robert Conte, Dept. of Army, Military Facilities, DAEN–ZCI–P; Rm. 1E671, Pentagon, Washington, DC 20310–2600; (703) 693–4583; HHS: Judy Breitman, Chief, Real Property Branch, Dept. of HHS, Div. of Health Facilities Planning, Rm. 17A10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265; (These are not toll-free numbers).

Dated: April 30, 1993.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 05/07/93

Suitable/Available Properties

Buildings (by State)

Alabama

Bldg. 9303, Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219310300
Status: Unutilized
Comment: 1250 sq. ft., 1-story wood structure, needs rehab, most recent use—storage, off-site use only.

Arizona

Bldg. 70216, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310287
Status: Excess
Comment: 3725 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only.
Bldg. 70215, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310288
Status: Excess
Comment: 3706 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only.
Bldg. 70214, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310289
Status: Excess
Comment: 3142 sq. ft., 1-story wood structure, presence of asbestos, most recent use—admin., off-site use only.
Bldg. 70212, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310290
Status: Excess
Comment: 3534 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only.
Bldg. 70220, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310291
Status: Excess
Comment: 1249 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only.
Bldg. 70218, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310292
Status: Excess
Comment: 3475 sq. ft., 1-story wood, presence of asbestos, most recent use—classroom, off-site use only.
Bldg. 70217, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310293
Status: Excess
Comment: 304 sq. ft., 1-story concrete block, presence of asbestos, most recent use—storage, off-site use only.
Bldg. 80010, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310294
Status: Excess
Comment: 2318 sq. ft., 1-story wood, presence of asbestos, most recent use—admin.
Bldg. 31211, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310295
Status: Excess
Comment: 4459 sq. ft., 1-story wood, presence of asbestos and lead paint, most recent use—admin.
Bldg. 84103, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310296
Status: Excess
Comment: 984 sq. ft., 1-story, presence of asbestos and lead paint, most recent use—admin.
Bldg. 67101, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310297
Status: Excess
Comment: 2216 sq. ft., 1-story wood, presence of asbestos and lead paint, most recent use—classroom.
Bldg. 30012, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310298
Status: Excess
Comment: 237 sq. ft., 1-story block, most recent use—storage.

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Bldg. 90328, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310299
Status: Excess
Comment: 144 sq. ft., 1-story wood, most recent use—storage.

Colorado

Bldg. T–803, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310269
Status: Excess
Comment: 1750 sq. ft., 1-story wood, possible asbestos, needs rehab, most recent use—admin., off-site use only.

Bldg. T–1641, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310270
Status: Excess
Comment: 3663 sq. ft., 1-story wood, possible asbestos, most recent use—admin., off-site use only.

Bldg. T–1818, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310271
Status: Excess
Comment: 5310 sq. ft., 2-story wood, possible asbestos, most recent use—admin., off-site use only.

Bldg. T–2241, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310272
Status: Excess
Comment: 4070 sq. ft., possible asbestos, most recent use—admin., off-site use only.

Bldg. T–2245, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310273
Status: Excess
Comment: 2508 sq. ft., possible asbestos, most recent use—admin., off-site use only.

Bldg. T–2340, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310274
Status: Excess
Comment: 3663 sq. ft. 1-story wood, possible asbestos, most recent use—admin., off-site use only.

Bldg. 2341, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310275
Status: Excess
Comment: 1750 sq. ft., 1-story wood, possible asbestos, most recent use—admin., off-site use only.

Bldg. 2342, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310276
Status: Excess
Comment: 2400 sq. ft., 1-story wood, possible asbestos, most recent use—admin., off-site use only.

Bldg. 2345, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310277
Status: Excess
Comment: 8044 sq. ft., 2-story wood, possible asbestos, most recent use—admin., off-site use only.

Bldg. T–2440, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310278
Status: Excess
Comment: 1750 sq. ft., 1-story wood, possible asbestos, most recent use—admin., off-site use only.

Bldg. T–2441, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310279
Status: Excess
Comment: 1150 sq. ft., 1-story wood, possible asbestos, most recent use—admin., off-site use only.

Bldg. T–2442, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310280
Status: Excess
Comment: 3404 sq. ft., 1-story wood, possible asbestos, most recent use—admin., off-site use only.

Bldg. T–848, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310281
Status: Excess
Comment: 5419 sq. ft. 1-story wood, possible asbestos, needs repair, most recent use—classrooms, off-site use only.

Bldg. T–1444, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310283
Status: Excess
Comment: 3302 sq. ft., 1-story wood, possible asbestos, most recent use—chapel, off-site use only.

Bldg. T–3549, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310284
Status: Excess
Comment: 3030 sq. ft., 1-story wood, possible asbestos, excellent condition, most recent use—chapel, off-site use only.

Bldg. S–6233, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310286
Status: Excess
Comment: 24800 sq. ft., 2-story concrete block, possible asbestos, needs repair, most recent use—storage, off-site use only.

Georgia

Bldg. 517, Fort Gillem
Forest Park Co: Clayton GA 30051–
Landholding Agency: Army
Property Number: 219310314
Status: Underutilized
Comment: 455 sq. ft., 1-story concrete frame, needs rehab, most recent use—dispatch office, off-site use only.

Bldg. 611, Fort Gillem
Forest Park Co: Clayton GA 30051–
Landholding Agency: Army
Property Number: 219310315
Status: Underutilized
Comment: 3200 sq. ft., 1-story concrete/metal frame, needs rehab, most recent use—motor repair shop, off-site use only.

Bldg. 629, Fort Gillem
Forest Park Co: Clayton GA 30051–
Landholding Agency: Army
Property Number: 219310316
Status: Underutilized
Comment: 60 sq. ft., 1-story concrete frame, needs rehab, most recent use—storage, off-site use only.

Bldg. 4114, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310407
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4117, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310408
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4118, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310410
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4125, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310410
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4126, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310411
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4129, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310412
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4130, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310413
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4137, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310414
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4138, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310415
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4140, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310416
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4002, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310417
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4004, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310418
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4008, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310419
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4009, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310420
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4010, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310421
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4012, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310422
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4015, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310423
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4020, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310424
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4106, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310425
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4115, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310426
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4116, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310427
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4127, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310428
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4128, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310429
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4139, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310430
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4149, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310431
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4150, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number 219310432
Status: Unutilized
Comment. 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4030, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310433
Status: Unutilized
Comment: 7688 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4029, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310434
Status: Unutilized
Comment: 7688 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4017, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310435
Status: Unutilized
Comment: 7700 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4112, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310436
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4119, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310437
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4124, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310438
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4141, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310439
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4136, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310440
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4131, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310441
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4108, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310442
Status: Unutilized

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Comment: 1171 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 1835, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310443
Status: Unutilized
Comment: 1712 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4013, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310444
Status: Unutilized
Comment: 1884 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4007, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310445
Status: Unutilized
Comment: 1884 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4107, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310446
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 3072, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310447
Status: Unutilized
Comment: 479 sq. ft., 1-story, needs rehab, most recent use—hdqtrs. bldg., off-site use only.

Bldg. 4001, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310448
Status: Unutilized
Comment: 1635 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4103, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310449
Status: Unutilized
Comment: 1635 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 3004, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310450
Status: Unutilized
Comment: 2794 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4019, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310451
Status: Unutilized
Comment: 3270 sq. ft., 2-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4018, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310452
Status: Unutilized
Comment: 3270 sq. ft., 2-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 3003, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310453
Status: Unutilized
Comment: 3270 sq. ft., 2-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 3002, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310454
Status: Unutilized
Comment: 3270 sq. ft., 2-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4109, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310455
Status: Unutilized
Comment: 2253 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4014, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310456
Status: Unutilized
Comment: 2794 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4006, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310457
Status: Unutilized
Comment: 3023 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4135, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310458
Status: Unutilized
Comment: 3755 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4123, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310459
Status: Unutilized
Comment: 3755 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4111, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310460
Status: Unutilized
Comment: 3755 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4023, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310461
Status: Unutilized
Comment: 2269 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only.

Bldg. 4024, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310462
Status: Unutilized
Comment: 3281 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only.

Bldg. 4040, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310463
Status: Unutilized
Comment: 1815 sq. ft., 1-story, needs rehab, most recent use—admin. off-site use only.

Bldg. 4026, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310464
Status: Unutilized
Comment: 2330 sq. ft., 1-story, needs rehab, most recent use—admin. off-site use only.

Bldg. 4067, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310465
Status: Unutilized
Comment: 4406 sq. ft., 1-story, needs rehab, most recent use—admin. off-site use only.

Bldg. 4025, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310466
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—admin. off-site use only.

Bldg. 4110, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310467
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.

Bldg. 4122, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310468
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.

Bldg. 4134, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310469
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.

Bldg. 4021, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310470
Status: Unutilized
Comment: 1416 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.

Bldg. 2501, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310471
Status: Unutilized
Comment: 4073 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.

Bldg. 4060, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310472
Status: Unutilized
Comment: 16900 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.

Bldg. 4113, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310473
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—storage off-site use only.

Bldg. 10439, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310474
Status: Unutilized
Comment: 1010 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.

Bldg. 10304, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310475
Status: Unutilized
Comment: 1040 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.

Bldg. 10847, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310476
Status: Unutilized
Comment: 1056 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.

Bldg. 10768, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310477
Status: Unutilized
Comment: 1230 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.

Bldg. 2683, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310478
Status: Unutilized Comment: 1816 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.

Bldg. 2504, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310479
Status: Unutilized Comment: 729 sq. ft., 1-story, needs rehab, most recent use—snack bar, off-site use only.

Bldg. 4035, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310480
Status: Unutilized Comment: 3375 sq. ft., 1-story, needs rehab, most recent use—recreation, off-site use only.

Bldg. 4027, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310480
Status: Unutilized Comment: 3750 sq. ft., 1-story, needs rehab, most recent use—recreation, off-site use only.

Bldg. 4066, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310482
Status: Unutilized Comment: 4388 sq. ft., 1-story, needs rehab, most recent use—recreation, off-site use only.

Bldg. 2422, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310484
Status: Unutilized Comment: 3328 sq. ft., 1-story, needs rehab, most recent use—fire station, off-site use only.

Bldg. 4205, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310485
Status: Unutilized Comment: 3378 sq. ft., 1-story, needs rehab, most recent use—fire station, off-site use only.

Bldg. 4031, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310486
Status: Unutilized Comment: 2381 sq. ft., 1-story, needs rehab, most recent use—exchange branch, off-site use only.

Bldg. 4121, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310487
Status: Unutilized Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.

Bldg. 4133, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310488
Status: Unutilized Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.

Bldg. 4143, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310489
Status: Unutilized Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.

Bldg. 4105, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310490
Status: Unutilized Comment: 1416 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.

Bldg. 4005, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310491
Status: Unutilized Comment: 1416 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.

Kansas

Bldg. T–2502, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310244
Status: Unutilized Comment: 3195 sq. ft., 1-story, wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. T–2520, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310245
Status: Unutilized Comment: 3059 sq. ft., 1-story, frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. T–2532, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310246
Status: Unutilized
Comment: 1327 sq. ft., 1-story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. T–2535, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310247
Status: Unutilized
Comment: 3843 sq. ft., 1-story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. T–2538, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310248
Status: Unutilized
Comment: 1327 sq. ft., 1-story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. T–2539, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310249
Status: Unutilized
Comment: 1327 sq. ft., 1-story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. T–2540, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310250
Status: Unutilized
Comment: 3186 sq. ft., 1-story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. T–2549, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310251
Status: Unutilized
Comment: 3082 sq. ft., 1-story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. T–2521, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310252
Status: Unutilized
Comment: 4826 sq. ft., 1-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.

Bldg. T–2522, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army

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Property Number: 219310253
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2523, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310254
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2524, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310255
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2525, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310256
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2526, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310257
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2527, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310258
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2528, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310259
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2533, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310260
Status: Unutilized
Comment: 1327 sq. ft., 1-story wood frame, needs rehab, presence of asbestos, most recent use—admin.
Bldg. T–2541, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310261
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2542, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310262
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2543, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310263
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2544, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310264
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2545, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310265
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2546, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310266
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2547, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310267
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.
Bldg. T–2548, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219310268
Status: Unutilized
Comment: 4826 sq. ft., 2-story wood frame, needs rehab, presence of asbestos, most recent use—barracks.

Maryland

Bldg. 584
Fort George G. Meade
Chamberlain Ave.
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219310241
Status: Unutilized
Comment: 2284 sq. ft., 1-story wood frame, needs rehab, most recent use—child support center.
Bldg. 594
Fort George G. Meade
9th Street
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219310242
Status: Unutilized
Comment: 1828 sq. ft., 1-story wood frame, needs rehab, most recent use—admin/child support.
Bldg. 2833
Fort George G. Meade
Earnie Pyle Street
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219310243
Status: Unutilized
Comment: 7670 sq. ft., 2-story wood frame, needs rehab, most recent use—administrative.

North Carolina

Dwelling 1
USCG Coinjock Housing
Coinjock Co: Currituck NC 27923–
Landholding Agency: DOT
Property Number: 879120083
Status: Unutilized
Comment: one story wood residence, periodic flooding in garage and utility room occurs in heavy rainfall.
Dwelling 2
USCG Coinjock Housing
Coinjock Co: Currituck NC 27923–
Landholding Agency: DOT
Property Number: 879120084
Status: Unutilized
Comment: one story wood residence, periodic flooding in garage and utility room occurs in heavy rainfall.
Dwelling 3
USCG Coinjock Housing
Coinjock Co: Currituck NC 27923–
Landholding Agency: DOT
Property Number: 879120085
Status: Unutilized
Comment: one story wood residence, periodic flooding in garage and utility room occurs in heavy rainfall.

Oklahoma

Bldg. P–653, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219310303
Status: Unutilized
Comment: 3680 sq. ft., 1-story wood frame, needs rehab, most recent use—garage, off-site use only.
Bldg. T–3633, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219310304
Status: Unutilized
Comment: 5324 sq. ft., 2-story wood frame, needs rehab, most recent use—barracks, off-site use only.
Bldg. T–3635, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219310305
Status: Unutilized
Comment: 5324 sq. ft., 2-story wood frame, needs rehab, most recent use—barracks, off-site use only.
Bldg. T–3636, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219310306
Status: Unutilized
Comment: 5324 sq. ft., 2-story wood frame, needs rehab, most recent use—barracks, off-site use only.
Bldg. T–3649, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219310307

Status: Unutilized
Comment: 5324 sq. ft., 2-story wood frame, needs rehab, most recent use—barracks, off-site use only.
Bldg. T–3650, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219310308
Status: Unutilized
Comment: 5324 sq. ft., 2-story wood frame, needs rehab, most recent use—barracks, off-site use only.
Bldg. T–3652, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219310309
Status: Unutilized
Comment: 5324 sq. ft., 2-story wood frame, needs rehab, most recent use—barracks, off-site use only.
Bldg. T–3653, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219310310
Status: Unutilized
Comment: 5324 sq. ft., 2-story wood frame, needs rehab, most recent use—barracks, off-site use only.

South Carolina

Bldg. M2625, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219310311
Status: Unutilized
Comment: 826 sq. ft., 1-story wood frame, needs rehab, most recent use—rental lodge, off-site use only.
Bldg. M2626, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219310312
Status: Unutilized
Comment: 826 sq. ft., 1-story wood frame, needs rehab, most recent use—rental lodge, off-site use only.
Bldg. M2627, Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219310313
Status: Unutilized
Comment: 826 sq. ft., 1-story wood frame, needs rehab, most recent use—rental lodge, off-site use only.

Texas

Bldg. 56301, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310355
Status: Unutilized
Comment: 6768 sq. ft., 1-story wood frame, needs rehab, most recent use—hdqts. bldg., off-site use only.
Bldg. 56304, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310356
Status: Unutilized
Comment: 5760 sq. ft., 1-story wood frame, needs rehab, most recent use—admin. bldg., off-site use only.
Bldg. 56314, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310357
Status: Unutilized
Comment: 2295 sq. ft., 1-story wood frame, needs rehab, most recent use—admin. bldg., off-site use only.
Bldg. 56502, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310358
Status: Unutilized
Comment: 4396 sq. ft., 1-story wood frame, needs rehab, most recent use—clinic, off-site use only.
Bldg. 56807, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310359
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56806, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310360
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56803, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310361
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56801, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310362
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56826, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310363
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56823, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310364
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56821, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310365
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56811, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310366
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56841, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310367
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56831, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310368
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56827, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310369
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56846, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310370
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56843, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310371
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56851, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310372
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 56847, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219310373
Status: Unutilized
Comment: 450 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 4569, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310374
Status: Unutilized
Comment: 2154 sq. ft., 1-story wood frame, needs rehab, most recent use—storage, off-site use only.
Bldg. 4576, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310375
Status: Unutilized
Comment: 1803 sq. ft., 1-story wood frame, needs rehab, most recent use—admin., off-site use only.

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Bldg. 4580, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310376
Status: Unutilized
Comment: 2859 sq. ft., 1-story wood frame, needs rehab, most recent use—instruction bldg., off-site use only.
Bldg. 4622, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310377
Status: Unutilized
Comment: 1832 sq. ft., 1-story wood frame, needs rehab, most recent use—storage, off-site use only.
Bldg. 5349, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310378
Status: Unutilized
Comment: 916 sq. ft., 1-story wood frame, needs rehab, most recent use—instruction bldg., off-site use only.
Bldg. 5353, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310379
Status: Unutilized
Comment: 914 sq. ft., 1-story wood frame, needs rehab, most recent use—instruction bldg., off-site use only.
Bldg. 5354, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310380
Status: Unutilized
Comment: 1070 sq. ft., 1-story wood frame, needs rehab, most recent use—instruction bldg., off-site use only.
Bldg. 5416, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310381
Status: Unutilized
Comment: 129 sq. ft., 1-story metal frame, needs rehab, most recent use—storage, off-site use only.
Bldg. 5418, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310382
Status: Unutilized
Comment: 1904 sq. ft., 1-story wood frame, needs rehab, most recent use—instruction bldg, off-site use only.
Bldg. 4625, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310383
Status: Unutilized
Comment: 1644 sq. ft., 1-story wood frame, needs rehab, most recent use—storage, off-site use only.
Bldg. 4637, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310384
Status: Unutilized
Comment: 1830 sq. ft., 1-story wood frame, needs rehab, most recent use—admin./storage, off-site use only.
Bldg. 4658, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310385
Status: Unutilized
Comment: 949 sq. ft., 1-story wood frame, needs rehab, most recent use—store, off-site use only.
Bldg. 4660, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310386
Status: Unutilized
Comment: 972 sq. ft., 1-story wood frame, needs rehab, most recent use—storage, off-site use only.
Bldg. 4661, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310387
Status: Unutilized
Comment: 963 sq. ft., 1-story wood frame, needs rehab, most recent use—storage, off-site use only.
Bldg. 4675, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310388
Status: Unutilized
Comment: 2200 sq. ft., 1-story wood frame, needs rehab, most recent use—admin., off-site use only.
Bldg. 4690, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310389
Status: Unutilized
Comment: 1104 sq. ft., 1-story wood frame, needs rehab, most recent use—instruction bldg., off-site use only.
Bldg. 4775, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310390
Status: Unutilized
Comment: 2202 sq. ft., 1-story wood frame, needs rehab, most recent use—instruction bldg., off-site use only.
Bldg. 703, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310391
Status: Unutilized
Comment: 5330 sq. ft., 1-story wood frame, needs rehab, most recent use—instruction bldg., off-site use only.
Bldg. 1033, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310392
Status: Unutilized
Comment: 1713 sq. ft., 1-story wood frame, needs rehab, most recent use—storage, off-site use only.
Bldg. 1034, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310393
Status: Unutilized
Comment: 2054 sq. ft., 1-story wood frame, needs rehab, most recent use—education facility, off-site use only.
Bldg. 7180, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310394
Status: Unutilized
Comment: 645 sq. ft., 1-story, needs rehab, most recent use—auto garage, off-site use only.
Bldg. 7193, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310395
Status: Unutilized
Comment: 645 sq. ft., 1-story, needs rehab, most recent use—auto garage, off-site use only.
Bldg. 7183, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310396
Status: Unutilized
Comment: 798 sq. ft., 1-story, needs rehab, most recent use—family housing, candidate for Nat. Reg. of Historic Places, off-site use only.
Bldg. 7184, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310397
Status: Unutilized
Comment: 798 sq. ft., 1-story, needs rehab, most recent use—family housing, off-site use only.
Bldg. 7185, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310398
Status: Unutilized
Comment: 798 sq. ft., 1-story, needs rehab, most recent use—family housing, off-site use only.
Bldg. 7186, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310399
Status: Unutilized
Comment: 798 sq. ft., 1-story, needs rehab, most recent use—family housing, off-site use only.
Bldg. 7187, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310400
Status: Unutilized
Comment: 798 sq. ft., 1-story, needs rehab, most recent use—family housing, off-site use only.
Bldg. 7188, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310401
Status: Unutilized
Comment: 798 sq. ft., 1-story, needs rehab, most recent use—family housing, off-site use only.
Bldg. 7189, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310402
Status: Unutilized
Comment: 798 sq. ft., 1-story, needs rehab, most recent use—family housing, off-site use only.
Bldg. 7190, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310403
Status: Unutilized

Comment: 798 sq. ft., 1-story, needs rehab, most recent use—family housing, off-site use only.
Bldg. T7191, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310404
Status: Unutilized
Comment: 798 sq. ft., 1-story needs rehab, most recent use—family housing, off-site use only.
Bldg. T7192, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310405
Status: Unutilized
Comment: 798 sq. ft., 1-story needs rehab, most recent use—family housing, off-site use only.
Bldg. 7194, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219310406
Status: Unutilized
Comment: 1593 sq. ft., 1-story needs rehab, most recent use—family housing, off-site use only.

Virginia

Bldg. T–229, Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219310301
Status: Underutilized
Comment: 4364 sq. ft., 1-story wood frame, needs rehab, most recent use—storage off-site use only.
Bldg. T–1069, Fort Monroe
Ft. Story Co: Princess Ann VA 23459–5000
Landholding Agency: Army
Property Number: 219310302
Status: Unutilized
Comment: 2095 sq. ft., 1-story wood frame, needs rehab, most recent use—storage off-site use only.

Housing
Rt. 637—Gwynnville Road
Gwynn Island Co: Mathews VA 23066–
Landholding Agency: DOT
Property Number: 879120082
Status: Unutilized
Comment: 929 sq. ft., one story residence.

Suitable/Unavailable Properties

Buildings (by State)

Colorado

Bldg. T–641, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310282
Status: Excess
Comment: 3030 sq. ft., 1-story wood, possible asbestos, need repair, most recent use—scout bldg., off-site use only.
Bldg. T–6016, Fort Carson
Colorado Springs Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219310285
Status: Excess
Comment: 2988 sq. ft., 1-story wood, possible asbestos, most recent use—family center, off-site use only.

Georgia

Bldg. 2500, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310483
Status: Unutilized
Comment: 50390 sq. ft., 1-story, need rehab, most recent use—laundry facility, off-site use only.

Guam

Bldg. 99, Loran Station—C
Barrigada GU 96913–
Landholding Agency: DOT
Property Number: 879220002
Status: Excess
Comment: 3960 sq. ft. concrete block transmitting station with tower.

Maine

Mount Desert Rock Light
U.S. Coast Guard
Southwest Harbor Co: Hancock ME 04679–
Landholding Agency: DOT
Property Number: 879240023
Status: Unutilized
Comment: 1600 sq. ft., 2-story wood frame dwelling, needs rehab, limited utilities, limited access, property is subject to severe storms.
Little River Light
U.S. Coast Guard
Cutler Co: Washington, ME
Landholding Agency: DOT
Property Number: 879240026
Status: Unutilized
Comment: 1100 sq. ft., 2-story wood frame dwelling, well is contaminated, limited utilities.
Burnt Island Light
U.S. Coast Guard
Southport Co: Lincoln ME 04576–
Landholding Agency: DOT
Property Number: 879240027
Status: Unutilized
Comment: 750 sq. ft., 2-story wood frame dwelling.

Massachusetts

Keepers Dwelling
Cape Ann Light, Thachers Island
U.S. Coast Guard
Rockport Co: Essex MA 01966–
Landholding Agency: DOT
Property Number: 879240024
Status: Unutilized
Comment: 1000 sq. ft., 2-story brick dwelling, large wave action with severe ocean storms.
Assistant Keepers Dwelling
Cape Ann Light, Thachers Island
U.S. Coast Guard
Rockport Co: Essex MA 01966–
Landholding Agency: DOT
Property Number: 879240025
Status: Unutilized
Comment: 1100 sq. ft., 2-story wood frame dwelling, large wave action with severe ocean storms.

Texas

Brownsville Urban System
(Grantee)
700 South Iowa Avenue
Brownsville Co: Cameron TX 78520–
Landholding Agency: DOT
Property Number: 879010003
Status: Unutilized
Comment: 3500 sq. ft., 1-story concrete block, (2nd floor of Admin. Bldg.) on 10750 sq. ft. land, contains underground diesel fuel tanks.

Virginia

Bldg. T3004, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310317
Status: Unutilized
Comment: 2350 sq. ft., 1-story wood frame, needs repair, most recent use—clinic.
Bldg. T3022, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310318
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.
Bldg. T3023, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310319
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.
Bldg. T3024, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310320
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.
Bldg. T3026, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310321
Status: Unutilized
Comment: 3550 sq. ft., 1-story wood frame, needs repair, most recent use—dining room.
Bldg. T3025, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310322
Status: Unutilized
Comment: 2950 sq. ft., 1-story wood frame, needs repair, most recent use—dining room.
Bldg. T3040, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310323
Status: Unutilized
Comment: 2950 sq. ft., 1-story wood frame, needs repair, most recent use—dining room.
Bldg. T3041, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310324
Status: Unutilized
Comment: 2950 sq. ft., 1-story wood frame, needs repair, most recent use—dining room.
Bldg. T3049, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310325
Status: Unutilized
Comment: 2950 sq. ft., 1-story wood frame, needs repair, most recent use—dining room.
Bldg. T3050, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army

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Property Number: 219310326
Status: Unutilized
Comment: 2950 sq. ft., 1-story wood frame, needs repair, most recent use—dining room.

Bldg. T3029, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310327
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3030, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310328
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3037, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310329
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3038, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310330
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3039, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310331
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3042, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310332
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3043, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310333
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3044, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310334
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3045, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310335
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3046, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310336
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3047, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310337
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3048, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310338
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3051, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310339
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3052, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310340
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3053, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310341
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3054, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310342
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3027, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310343
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3028, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310344
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3031, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310345
Status: Unutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.

Bldg. T3032, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310346
Status: Unutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.

Bldg. T3033, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310347
Status: Unutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.

Bldg. T3034, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310348
Status: Unutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.

Bldg. T3035, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310349
Status: Unutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.

Bldg. T3036, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310350
Status: Unutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.

Bldg. T3057, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310351
Status: Unutilized
Comment: 2987 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.

Bldg. T3055, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310352
Status: Unutilized
Comment: 2488 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.

Bldg. TT3001, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310353
Status: Unutilized
Comment: 3302 sq. ft., 1-story wood frame, most recent use—chapel.

Bldg. TA3002, Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 219310354
Status: Unutilized
Comment: 360 sq. ft., 1-story wood frame, most recent use—clinic.

Land (by State)

California

Remote Transmitter
Section 35
Red Bluff Co: Tehema CA 96080–
Landholding Agency: DOT
Property Number: 879010010
Status: Unutilized
Comment: 4 acres, paved road, current use—storage.

Florida

Parcel A & B
U.S. Coast Guard Light Station

Lots 1, 8 & 11, Section 31
Jupiter Inlet Co: Palm Beach FL 33420—
Location: Township 40 south, range 43 east.
Landholding Agency: DOT
Property Number: 879010009
Status: Unutilized
Comment: 56.61 acres, area is uncleared, vegetation growth is heavy, no utilities.

Suitable/To Be Excessed

Buildings (by Stote)

Massachusetts

Cuttyhunk Boathouse
South Shore of Cuttyhunk Pond
Gosnold Co: Dukes MA 02713–
Landholding Agency: DOT
Property Number: 879310001
Status: Unutilized
Comment: 2700 sq. ft., wood frame, one story, needs rehab, limited utilities, off-site use only.

South Carolina

Bldg. #1 U.S. Coast Guard
Folly Island Loran Station
Folly Island Co: Charleston SC 29401–
Landholding Agency: DOT
Property Number: 879120096
Status: Unutilized
Comment: 2340 sq. ft., 1 story concrete block, most recent use—communications station.

Bldg. #2 U.S. Coast Guard
Folly Island Loran Station
Folly Island Co: Charleston SC 29401–
Landholding Agency: DOT
Property Number: 879120097
Status: Unutilized
Comment: 2050 sq. ft., 1 story concrete block, most recent use—communications station.

Land (by State)

Michigan

U.S. Coast Guard—Air Station
Traverse City Co: Grand Traverse MI 49684–
Landholding Agency: DOT
Property Number: 879120099
Status: Unutilized
Comment: 21.7 acres, most recent use—helo landings.

New Mexico

Land, LPN Service Bldg.
1015 Indiana School Road
Albuquerque Co: Bernalillo NM 87102–
Landholding Agency: HHS
Property Number: 579220001
Status: Unutilized
Comment: 0.2732 acres, underground lawn sprinker, most recent use—maintenance yard, secured w/chain link fence.

South Carolina

Land—U.S. Coast Guard
Folly Island Loran Station
Folly Island Co: Charleston SC 29401–
Landholding Agency: DOT
Property Number: 879120098
Status: Unutilized
Comment: 55 acres (88 acres submerged) tidal marshland, potential utilities.

Unsuitable Properties

Buildings (by State)

Alabama

Dwelling A
USCG Mobile Pt. Station
Ft. Morgan
Gulfshores Co: Baldwin AL 36542–
Landholding Agency: DOT
Property Number: 879120001
Status: Excess
Reason: Floodway.

Dwelling B
USCG Mobile Pt. Station
Ft. Morgan
Gulfshores Co: Baldwin AL 36542–
Landholding Agency: DOT
Property Number: 879120002
Status: Excess
Reason: Floodway.

Oil House
USCG Mobile Pt. Station
Ft. Morgan
Gulfshores Co: Baldwin AL 36542–
Landholding Agency: DOT
Property Number: 879120003
Status: Excess
Reason: Floodway.

Garage
USCG Mobile Pt. Station
Ft. Morgan
Gulfshores Co: Baldwin AL 36542–
Landholding Agency: DOT
Property Number: 879120004
Status: Excess
Reason: Floodway.

Shop Building
USCG Mobile Pt. Station
Ft. Morgan
Gulfshores Co: Baldwin AL 36542–
Landholding Agency: DOT
Property Number: 879120005
Status: Excess
Reason: Floodway.

Alaska

Bldg. 28
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210126
Status: Excess
Reason: Within airport runway clear zone, secured area.

Bldg. 24
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210127
Status: Excess
Reason: Within airport runway clear zone, secured area, within 2000 Ft. of flammable or explosive material.

Bldg. 19
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210128
Status: Excess
Reason: Within airport runway clear zone, secured area, other.
Comment: Extensive deterioration.

Bldg. 94
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210129
Status: Excess
Reason: Secured area, other.
Comment: Extensive deterioration.

Bldg. 85
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210130
Status: Excess
Reason: Secured area, other.
Comment: Extensive deterioration.

Bldg. 18
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210132
Status: Excess
Reason: Secured area, within airport runway clear zone.
GSA Number: U–ALAS–655A.

Bldg. A512
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210133
Status: Excess
Reason: Secured area, within airport runway clear zone, within 2,000 Ft. of flammable or explosive material.

Bldg. R1, Holiday Beach
U.S. Coast Guard Support Center
Kodiak Co: Kodiak Island AK 99619–5014
Landholding Agency: DOT
Property Number: 879310014
Status: Unutilized
Reason: Secured area.

Bldg. S–3
U.S. Coast Guard Support Center
Kodiak Co: Kodiak Island AK 99619–5014
Landholding Agency: DOT
Property Number: 879310015
Status: Unutilized
Reason: Secured area.

Bldg. S–16
U.S. Coast Guard Support Center
Kodiak Co: Kodiak Island AK 99619–5014
Landholding Agency: DOT
Property Number: 879310016
Status: Unutilized
Reason: Secured area.

Bldg. 82
U.S. Coast Guard Support Center
Kodiak Co: Kodiak Island AK 99619–5014
Landholding Agency: DOT
Property Number: 879310017
Status: Unutilized
Reason: Secured area.

Bldg. 86
U.S. Coast Guard Support Center
Kodiak Co: Kodiak Island AK 99619–5014
Landholding Agency: DOT
Property Number: 879310018
Status: Unutilized
Reason: Secured area.

Bldg. 98
U.S. Coast Guard Support Center
Kodiak Co: Kodiak Island AK 99619–5014
Landholding Agency: DOT
Property Number: 879310019
Status: Unutilized
Reason: Secured area.

Bldg. 524A
U.S. Coast Guard Support Center
Kodiak Co: Kodiak Island AK 99619–5014
Landholding Agency: DOT
Property Number: 879310020
Status: Unutilized

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Reason: Within airport runway clear zone, secured area.

Bldg. 624
U.S. Coast Guard Support Center
Kodiak Co: Kodiak Island AK 99619–5014
Landholding Agency: DOT
Property Number: 879310021
Status: Unutilized
Reason: Within airport runway clear zone, secured area.

California

Bldg. 10, USCG Support Center
Coast Guard Island
Alameda Co: Alameda CA 94501–5100
Landholding Agency: DOT
Property Number: 879210134
Status: Excess
Reason: Secured area.

Colorado

Alemeda Facility
350 S. Santa Fe Drive
Denver Co: Denver CO 80223–
Landholding Agency: DOT
Property Number: 879010014
Status: Unutilized
Reason: Other environmental.
Comment: contamination.

Connecticut

Falkner Island Light
U.S. Coast Guard
Guilford Co: New Haven CT 06512–
Landholding Agency: DOT
Property Number: 879240031
Status: Unutilized
Reason: Floodway.

Florida

Bldg. #3, Recreation Cottage
USCG Station
Marathon Co: Monroe FL 33050–
Landholding Agency: DOT
Property Number: 879210008
Status: Unutilized
Reason: Secured area, floodway.

Bldg. 103, Trumbo Point
Key West Co: Monroe FL 33040–
Landholding Agency: DOT
Property Number: 879230001
Status: Unutilized
Reason: Floodway, secured area.

LORAN "A" Station
Radio Beacon Hobe Sound
Jupiter Island Co: Martin FL
Landholding Agency: DOT
Property Number: 879230003
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.

Fuel Facility, Coast Guard
Miami Air Station, OPA Locka Airport
OPA Locka Co: Dade FL 33054–2397
Landholding Agency: DOT
Property Number: 879240004
Status: Unutilized
Reason: Secured area

Pyro & Paint Locker Bldgs.
Key West Co: Monroe FL 33040–
Landholding Agency: DOT
Property Number: 879240017
Status: Unutilized
Reason: Floodway, secured area

Hawaii

Bathhouse—Wailupe Quarters
U.S. Coast Guard
Honolulu Co: Honolulu HI 96821–
Landholding Agency: DOT
Property Number: 879240033
Status: Unutilized
Reason: Other, secured area
Comment: Extensive deterioration.

Maint. Shop—Wailupe Quarters
U.S. Coast Guard
Honolulu Co: Honolulu HI 96821–
Landholding Agency: DOT
Property Number: 879240034
Status: Unutilized
Reason: Other, secured area
Comment: Extensive deterioration.

Illinois

Calumet Harbor Station
U.S. Coast Guard
Chicago Co: Cook IL
Landholding Agency: DOT
Property Number: 879310005
Status: Excess
Reason: Secured area

Maine

Supply Bldg., Coast Guard
Southwest Harbor
Southwest Harbor Co: Hancock ME 04679–5000
Landholding Agency: DOT
Property Number: 879240005
Status: Unutilized
Reason: Floodway.

Base Exchange, Coast Guard
Southwest Harbor
Southwest Harbor Co: Hancock ME 04679–5000
Landholding Agency: DOT
Property Number: 879240006
Status: Unutilized
Reason: Floodway.

Engineering Shop, Coast Guard
Southwest Harbor
Southwest Harbor Co: Hancock ME 04679–5000
Landholding Agency: DOT
Property Number: 879240007
Status: Unutilized
Reason: Floodway.

Storage Bldg., Coast Guard
Southwest Harbor
Southwest Harbor Co: Hancock ME 04679–5000
Landholding Agency: DOT
Property Number: 879240008
Status: Unutilized
Reason: Floodway.

Herron Neck Light
U.S. Coast Guard
Vinalhaven Co: Knox ME 04841–
Landholding Agency: DOT
Property Number: 879240028
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.

Burnt Coast Harbor Light
U.S. Coast Guard
Swans Island Co: Hancock ME 04685–
Landholding Agency: DOT
Property Number: 879240030
Status: Unutilized
Reason: Floodway.

Squirrel Point Light
U.S. Coast Guard
Phippsburg Co: Sayadahoc ME 04530–
Landholding Agency: DOT
Property Number: 879240032
Status: Unutilized
Reason: Floodway.

Keepers Dwelling
Heron Neck Light, U.S. Coast Guard
Vinalhaven Co: Knox ME 04841–
Landholding Agency: DOT
Property Number: 879240035
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.

Massachusetts

Bldg. 4, USCG Support Center
Commercial Street
Boston Co: Suffolk MA 02203–
Landholding Agency: DOT
Property Number: 879240001
Status: Underutilized
Reason: Secured Area.

Eastern Point Light
U.S. Coast Guard
Gloucester Co: Essex MA 01930–
Landholding Agency: DOT
Property Number: 879240029
Status: Unutilized
Reason: Floodway, secured area.

Michigan

Bldg. 402, U.S. Air Station
Traverse City Co: Grand Traverse MI 19684–3586
Landholding Agency: DOT
Property Number: 879220001
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.

Bldg. 2, Sardet Holland
Coast Guard
2388 Ottawa Beach Rd. SW
Holland Co: Ottawa MI 49424–
Landholding Agency: DOT
Property Number: 879240002
Status: Unutilized
Reason: Secured area.

Bldg. 1, Sardet Holland
Coast Guard
2388 Ottawa Beach Rd., SW
Ottawa MI 49424–
Landholding Agency: DOT
Property Number: 879240003
Status: Unutilized
Reason: Secured Area.

New Jersey

Piers and Wharf
Station Sandy Hook
Highlands Co: Monmouth NJ 07732–5000
Landholding Agency: DOT
Property Number: 879240009
Status: Unutilized
Reason: Other, secured area
Comment: Extensive deterioration.

New York

2 Buildings
Ant Saugerties
Saugerties Co: Ulster NY 12477–
Landholding Agency: DOT
Property Number: 879230005
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.

Bldg. 605, USCG Station
Fort Totten
New York Co: Queens NY 11359–
Landholding Agency: DOT
Property Number: 879240010
Status: Excess
Reason: Secured area.

Bldg. 606, USCG Station
Fort Totten
New York Co: Queens NY 11359–
Landholding Agency: DOT
Property Number: 879240011
Status: Excess
Reason: Secured area.

Bldg. 607, USCG Station
Fort Totten
New York Co: Queens NY 11359–
Landholding Agency: DOT
Property Number: 879240012
Status: Excess
Reason: Secured area.

Bldg. 606, Fort Totten
New York Co: Queens NY 11359–
Landholding Agency: DOT
Property Number: 879240020
Status: Unutilized
Reason: Secured area.

Bldg. 607, Fort Totten
New York Co: Queens NY 11359–
Landholding Agency: DOT
Property Number: 879240021
Status: Unutilized
Reason: Secured area, Other
Comment: Extensive deterioration.

Bldg. 605, Fort Totten
New York Co: Queens NY 11359–
Landholding Agency: DOT
Property Number: 879240022
Status: Unutilized
Reason: Secured area, Other
Comment: Extensive deterioration.

Eatons Neck Station
U.S. Coast Guard
Huntington Co: Suffolk NY 11743–
Landholding Agency: DOT
Property Number: 879310003
Status: Unutilized
Reason: Other secured area
Comment: Extensive deterioration.

North Carolina

Group Cape Hatteras
Boiler Plant
Buxton Co: Dare NC 27902–0604
Landholding Agency: DOT
Property Number: 879240018
Status: Unutilized
Reason: Secured area.

Group Cape Hatteras
Bowling Alley
Buxton Co: Dare NC 27902–0604
Landholding Agency: DOT
Property Number: 879240019
Status: Unutilized
Reason: Secured area.

Puerto Rico

NAFA Warehouse
U.S. Coast Guard Air Station Borinquen
Aquadilla PR 00604–
Landholding Agency: DOT
Property Number: 879310011
Status: Unutilized
Reason: Secured area.

Rhode Island

Station Point Judith Pier
Narranganset Co: Washington RI 02882–
Landholding Agency: DOT
Property Number: 879310002
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.

Texas

Old Exchange Bldg.
U.S. Coast Guard
Galveston Co: Galveston TX 77553–3001
Landholding Agency: DOT
Property Number: 879310012
Status: Unutilized
Reason: Secured area.

Paint Locker/Flammable Storage
U.S. Coast Guard
Galveston Co: Galveston TX 77553–3001
Landholding Agency: DOT
Property Number: 879310013
Status: Unutilized
Reason: Secured area.

Vermont

Depot Street
Downtown at the Waterfront
Burlington Co: Chittenden VT 05401–5226
Landholding Agency: DOT
Property Number: 879220003
Status: Excess
Reason: Floodway.

Virginia

Bldg. 052 & Tennis Court
USCG Reserve Training Center
Yorktown Co: York, VA 23690–
Landholding Agency: DOT
Property Number: 879230004
Status: Excess
Reason: Secured area.

Damage Control Bldg.
Coast Guard, Group Eastern Shores
Chincoteague Co: Accomack VA 23361–510
Landholding Agency: DOT
Property Number: 879240013
Status: Unutilized
Reason: Secured area.

Admin. Bldg.
Coast Guard, Group Eastern Shores
Chincoteague Co: Accomack VA 23361–510
Landholding Agency: DOT
Property Number: 879240014
Status: Unutilized
Reason: Secured area.

Storage Bldg.
Coast Guard, Group Eastern Shores
Chincoteague Co: Accomack VA 23361–510
Landholding Agency: DOT
Property Number: 879240015
Status: Unutilized
Reason: Secured area.

Little Creek Station
Navamphib Base, West Annex, U.S. Coast Guard
Norfolk Co: Princess Anne VA 23520–
Landholding Agency: DOT
Property Number: 879310004
Status: Unutilized
Reason: Secured area.

Land (by State)

Michigan

Middle Marker Facility
Ypsilanti Co: Washtenaw MI 48198–
Location: 549 ft. north of intersection of Coolidge and Bradley Ave. on East side of street
Landholding Agency: DOT
Property Number: 879120006
Status: Unutilized
Reason: Within airport runway clear zone.

[FR Doc. 93–10660 Filed 5–6–93; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Recovery Plans for the Sand Skink, Blue-Tailed Mole Skink, and the Lower Keys Marsh Rabbit for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of two draft recovery plans: the Sand Skink (*Neoseps reynoldsi*) and Blue-tailed Mole Skink (*Eumeces egregius lividus*) Recovery Plan and the Lower Keys marsh rabbit (*Sylvilagus palustris hefneri*) Recovery Plan. All three species are found only in Florida. The sand skink and blue-tailed mole skink are restricted to central Florida ridge scrub and associated habitats in Highlands, Polk, Lake, Marion, Osceola, and Orange counties. The Lower Keys marsh rabbit inhabits a few major keys (Boca Chica Key, Saddlebunch/Sugarloaf Key, and Big Pine Key) and small nearby islands in the Florida Keys. The Service solicits review and comment from the public on these draft plans.

DATES: Comments on the draft recovery plans must be received on or before July 6, 1993.

ADDRESSES: Persons wishing to review the draft recovery plans may obtain a copy by contacting the Field Supervisor, Jacksonville Field Office, U.S. Fish and Wildlife Service, 6620 South Point Dr., South, Suite 130, Jacksonville, Florida 32216 (Telephone: 904–232–2580) or Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia, 30303 (Telephone: 404–331–6343). Written comments and materials regarding the plans should be addressed to David J. Wesley, Florida Field Supervisor, at the above Jacksonville, Florida address. Comments and materials received are available upon request for public inspection, by appointment, and during normal business hours at the above Jacksonville, Florida address.

FOR FURTHER INFORMATION CONTACT: Linda Finger at the Jacksonville,

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Florida, address (Telephone: 904–232–2580).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery Plans describe actions necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice, and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will take these comments into account in the course of implementing approved recovery plans.

The sand skink and blue-tailed mole skink are federally listed as threatened. Modification and destruction of central Florida upland habitats are the major threats to these species' survival. By some estimates as much as 90% of the Florida scrub ecosystem is already lost to residential development and conversion to agriculture (primarily citrus groves). Remaining scrub on private lands is especially vulnerable to destruction.

The sand skink is restricted to Marion, Orange, Osceola, Lake, Polk and Highlands Counties. The blue-tailed mole skink is known only from Polk, Highlands and Osceola Counties. Typical upland habitat for the sand skink and the blue-tailed mole skink consists of sand pine-rosemary scrub or longleaf-pine-turkey oak vegetation. An important factor in the distribution of both species is soil moisture as it relates to thermoregulation, egg incubation, and availability of prey. Although blue-tailed mole skinks and sand skinks can occur on the same site, the two species occupy slightly different microhabitats. Sand skinks eat mostly fossorial invertebrates and blue-tailed mole skinks eat mostly surface dwelling invertebrates. Protection of the two skinks from further habitat loss and degradation is the most important means of ensuring their continued existence. Comprehensive land acquisition initiatives that would protect areas occupied by the skinks are some of the management measures outlined in the recovery plan. It is not certain whether existing protected areas are adequate for their survival because many life history and population characteristics relevant to long-term survival are unknown.

The Lower Keys marsh rabbit is federally listed as endangered. This subspecies inhabits the buttonwood transition zone in the Lower Keys of Florida. Habitat destruction is the primary threat to the rabbit's survival, however, habitat degradation and human influenced mortality are also important. Current population estimates fluctuate between 150 and 400 rabbits on three keys and the small islands off these keys. Half of the existing marsh rabbit habitat is privately owned and unmanaged, the other half is federally owned. Ongoing protection of existing populations, and implementation of a reintroduction study are some of the management actions outlined in the recovery plan.

Public Comments Solicited

The Service solicits written comments on the two recovery plans described. All comments received by the date specified will be considered prior to the approval of the plans.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

David J. Wesley,

Field Supervisor.

[FR Doc. 93–10749 Filed 5–6–93; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[ID–030–00–4320–12]

Idaho Falls District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of Idaho Falls District Grazing Advisory Board.

SUMMARY: The Idaho Falls District Grazing Advisory Board will meet Thursday, June 17, 1993. Notice of this meeting is in accordance with Public Law 92–463. The meeting will begin at 9 a.m. at the Pocatello Resource Area Office located at suite 172, Federal Building, 250 South 4th Avenue, Pocatello, Idaho 83101. The meeting will be field tour of public lands near Bancroft in Bannock County.

The agenda for this meeting includes an Examination of the King Creek and North Canyon allotments. The board will discuss how Coordinated Resource Management Plans among Federal agencies and private land owners work to enhance the resource.

The meeting is open to the public, however interested persons must provide their own transportation for the field tour. Anyone wishing to bring an item to the attention of the Board should mail written material to be received at the address shown above prior to 4:30 pm, June 1, 1993.

Detailed minutes of the meeting will be maintained in the Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401 and will be available for public review during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday) within 30 days following the meeting.

Dated: April 29, 1993.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 93–10750 Filed 5–6–93; 8:45 am]

BILLING CODE 4310–GG–M

[AZ–921–03–5440–10–ZAFA; AZA 23560]

Arizona, Conveyance of Mineral Interests Application; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correct legal description.

SUMMARY: On August 8, 1991, a notice of filing of conveyance of mineral interests applications was published in 56 FR 37717–8. On page 37718, under T. 8 S., R. 14 E., sec. 14 should be corrected to sec. 18, lot 1, NE¼, NE¼NW¼. This land is segregated from the public land laws, including the mining and mineral leasing laws until August 7, 1993 (one year from publication in 56 FR 37717–8).

FOR FURTHER INFORMATION CONTACT: Evelyn Stob, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 650–0518.

Dated: April 28, 1993.

Evelyn Stob,

Acting Chief, Branch of Lands Operations.

[FR Doc. 93–10752 Filed 5–6–93; 8:45 am]

BILLING CODE 4310–32–M

[CA–942–5700–10]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATES: Filing was effective at 10 a.m. on the date of submission to the Bureau of Land Management (BLM), California State Office, Public Room.

FOR FURTHER INFORMATION CONTACT: Clifford A. Robinson, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2800 Cottage Way, room E–2845, Sacramento, CA 95825, 916–978–4775.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office, Sacramento, CA.

Humboldt Meridian, California

T. 10 N., R. 8 E.—Dependent resurvey, metes-and-bounds survey, (Group 1107) accepted January 26, 1993, to meet certain administrative needs of the U.S. Forest Service, Klamath National Forest.

Mount Diablo Meridian, California

T. 15 N., R. 8 W. and T 16 N., R. 8 W.—Dependent resurvey and corrective dependent resurvey, (Group 1150) accepted January 5, 1993, to meet certain administrative needs of the U.S. Forest Service, Mendocino National Forest.

T. 44 N., R. 6 E.—Supplemental plat of the NW ¼ section 19, accepted January 6, 1993, to meet certain administrative needs of the BLM, Susanville District, Alturas Resource Area.

T. 16 N., R. 10 W.—Depeadent resurvey, (Group 1075) accepted January 19, 1993, to meet certain administrative needs of the U.S. Forest Service, Mendocino National Forest.

T. 8 N., R. 8 E.—Supplemental plat of the NE ¼ section 14, accepted February 10, 1993, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 15 N., R. 9 W.—Dependent resurvey and subdivision of sections 1, 12, and 13, (Group 1084) accepted February 22, 1993, to meet certain administrative needs of the U.S. Forest Service, Mendocino National Forest.

T. 16 N., R. 16 E.—Dependent resurvey, and metes-and-bounds survey of Tract 37, (Group 1114) accepted March 3, 1993, to meet certain administrative needs of the U.S. Forest Service, Tahoe National Forest.

Tps. 15 & 16 N., R. 16 E.—Dependent resurvey, and metes-and-bounds survey of Tract 41, (Group 1114) accepted March 3, 1993, to meet certain administrative needs of the U.S. Forest Service, Tahoe National Forest.

T. 16 N., R. 18 E.—Retracement, dependent resurvey, and subdivision, (California Group 1017 and Nevada Group 658) accepted March 9, 1993, to meet certain administrative needs of the U.S. Forest Service, Lake Tahoe Basin Management Unit.

San Bernardino Meridian, California

T. 8 N., R. 2 W.—Supplemental plat of sections 7, 8, and 18, accepted March 11, 1993, to meet certain administrative needs of the BLM, California Desert District, Barstow Resource Area.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: April 29, 1993.

Clifford A. Robinson,

Chief, Branch of Cadastral Survey.

[FR Doc. 93–10751 Filed 5–6–93; 8:45 am]

BILLING CODE 4310–40–M

National Park Service

Completion of Inventory of Native American Human Remains and Associated Funerary Objects From Washington County, RI, in the Possession of the Peabody Museum of Archaeology and Ethnology

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003(d), of the completion of an inventory of human remains and associated funerary objects in the possession of the Peabody Museum from one site in Washington County, Rhode Island. Representatives of culturally affiliated Indian tribes are advised that these human remains and associated funerary objects will be retained by the Peabody Museum until June 7, 1993 after which they may be repatriated to lineal descendant or the culturally affiliated group.

The detailed inventory and assessment of human remains and associated funerary objects from this one Washington County site has been made by the Collections Managers and Curatorial Associates at the Peabody Museum in consultation with representatives of the Narragansett Tribe of Rhode Island.

The collection was retrieved from two graves on the Ninigret Burial Hill, also called the Indian Burial Hill in Charlestown, Rhode Island. Between 1857 and 1861 persons unknown dug up the northernmost grave, and around 1863 Usher Parsons, M.D., dug into the adjacent grave. Some human remains and associated funerary objects resulting from these activities eventually found their way into the collections of Brown University, and from there in 1923 to the Peabody Museum, Harvard, when Brown decessed its collections.

From the first grave came an adult female human cranium (PM 236–10/60374/471), a silver chain in two pieces, 2 fragments of brass soles and one leather sole, fragments of kettle bales, the remnant of a knife, 2 circle pins, one oval shaped metal ring, a fragment of glass, a hollow glass stem containing liquid, a silver or pewter vessel with handles and a link chain, and a corroded brass container (PM 23–6–10/94193–94200). From the second grave came an adult male human femur (PM 23–6–10/60375). There are no associated funerary objects with the femur.

The artefacts at the Peabody and other artefacts reported by Usher Parsons give a date for the northernmost burial as around 1660. This evidence when taken in conjunction with the name of the burial plot, historical and other local information reported by Usher and others is strong evidence that the individuals represented are Ninigret I, Sachem of the Iliantics, and an unmarried daughter.

In the years since the burials were made, the Niantics have merged with the Narragansett. There are believed to be descendants of Ninigret resident in the area today.

This notice has been sent to officials of the Narragansett tribe. Representatives of any other Indian group which believes itself to be descended from the individuals described above should get in touch with David Pilbeam, Peabody Museum, 11 Divinity Avenue, Cambridge, MA 02138, telephone: (617) 495–2248.

Dated: April 21, 1993.

Francis P. McManamon,

Departmental Consulting Archeologist, Chief, Archeological Assistance Division.

[FR Doc. 93–10848 Filed 5–6–93; 8:45 am]

BILLING CODE 4310–70–M

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INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: May 4, 1993.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, non-exempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meeting each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) and (2) Flav-O-Rich, Inc., 10140 Linn Station Road, Louisville KY 40223
(3) Records are maintained in Atlanta, GA; Wilkesboro, NC; Bristol, VA; St. Petersburg, FL; Florence, SC; London, KY; Montgomery, AL; Greensboro, NC and Sylacauga, AL.
(4) Beverly L. Williams, 10140 Linn Station Road, Louisville, KY 40223.

Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 93–10859 Filed 5–6–93; 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 513]

Railroad Cost of Capital—1992

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: On May 7, 1993, the Commission served a decision to update its estimate of the railroad industry's cost of capital for 1992. The composite cost of capital rate for 1992 is found to be 11.4 percent, based on a current cost of debt of 7.7 percent, a cost of preferred equity capital of 4.8 percent, a cost of common equity capital of 13.0 percent, and a 27.8 percent debt/1.3 percent preferred equity/70.9 percent common equity capital structure mix. The cost of capital finding made in this proceeding will be used in a variety of Commission proceedings.

EFFECTIVE DATE: May 7, 1993.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr. (202) 927–6187 (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: This proceeding to determine the railroad industry's cost of capital rate for the year 1992 was instituted by a notice published in the **Federal Register** on December 1, 1992, at 57 FR 56930, requesting comments. Comments were filed only by the Association of American Railroads. This decision adopts a cost of capital rate for 1992.

The cost of capital finding in this decision should be used to evaluate the adequacy of railroad revenues for 1992 under the standards and procedures promulgated in Standards for Railroad Revenue Adequacy, 3 I.C.C.2d 261 (1986). This finding may also be used in other Commission proceedings such as the prescription of maximum reasonable rate levels and proposed abandonments of rail lines.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357. (Assistance for the hearing impaired is available through TDD services (202) 927–5721.)

Environmental and Energy Considerations

We conclude that this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 603(b), we conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. The purpose and effect of the action is merely to update the annual railroad industry cost of capital finding by the Commission. No new reporting or other regulatory requirements are imposed, directly or indirectly, on small entities.

Decided: April 28, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 93–10858 Filed 5–6–93; 8:45 am]
BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; Roche Diagnostic Systems, Inc.

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on March 31, 1993, Roche Diagnostic Systems, Inc., 1080 U.S. Highway 202, Branchburg, New Jersey 08876, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Phencyclidine (7471)	II
Methadone (9250)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Director, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 7, 1993.

Dated: April 23, 1993.

Gene R. Haislip,
Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–10847 Filed 5–6–93; 8:45 am]
BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Commission on the Future of Worker-Management Relations; Meeting

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of partially closed meeting.

SUMMARY: The Commission on the Future of Worker-Management Relations was established in accordance with the Federal Advisory Committee Act (FACA) (Pub. L. 92–463). A Notice of Establishment for the Commission is being published elsewhere in today's **Federal Register**. Pursuant to Section 10(a) of FACA, this is to announce the first meeting of the Commission which is to take place on May 24, 1993.

The purpose of the Commission is to investigate the current state of worker-management relations and labor law and make recommendations concerning changes that may be needed to improve productivity through increased worker-management cooperation and employee participation in the workplace.

Specifically, the Commission will be asked to address the following questions:

(1) What (if any) new methods or institutions should be encouraged, or required, to enhance workplace productivity through labor-management cooperation and employee participation?
(2) What (if any) changes should be made in the present legal framework and practices of collective bargaining to enhance the cooperative behavior, improve productivity, and reduce conflict and delay? and
(3) What (if anything) should be done to increase the extent to which workplace problems are directly resolved by the parties themselves, rather than through recourse to state and federal courts and government regulatory bodies?

TIME AND PLACE: The meeting will be held on Monday, May 24, 1993 from 10 a.m. to 4 p.m. in Conference Room N–3437 A–D in the Department of Labor, 200 Constitution Avenue, NW., Washington, DC

AGENDA: The agenda for the meeting is as follows:

(a) Introduction of Commission Members
(b) Legal Guidance from the Solicitor
(c) Presentation (statistical) by the Acting Commissioner of the Bureau of Labor Statistics on the make-up end nature of the current American workforce and worker-management relations, with projections to the year 2005
(d) Guidance to the Commission by the Secretary of Labor
(e) Discussion of Commission objectives, including to the extent practicable, delineation of specific tasks and projected time frames for achieving such objectives
(f) Ancillary items attendant to Commission activities

PUBLIC PARTICIPATION: The meeting will be open to the public from 10 a.m. to 12 noon and from 1:45 p.m. until 4 p.m. Seating will be available to the public on a first-come, first-serve basis.

Handicapped individuals wishing to attend should contact the Commission to obtain appropriate accommodations. Individuals or organizations wishing to submit written statements should send 11 copies to Mrs. June M. Robinson, Designated Federal Official, Commission on the Future of Worker-Management Relations, U.S. Department of Labor, 200 Constitution Avenue, NW., room C–2318, Washington, DC 20210.

CLOSED PORTION OF THE MEETING: From 12 noon until 1:45 p.m. the Commission will meet in closed session in order to discuss internal personnel rules and practices of the agency, as well as personal information. This closing of the meeting is authorized by section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(2) and (c)(6). Personnel matters and personal matters are protected from disclosure by exemptions 2 and 6, respectively, of section 552b(c) of Title 5 U.S.C.

FOR FURTHER INFORMATION CONTACT: Mrs. June M. Robinson, Designated Federal Official, Commission on the Future of Worker-Management Relations, U.S. Department of Labor, room C–2318 Washington, DC 20210, (202) 219–9148.

Signed at Washington, DC this 4th day of May, 1993.

Robert B. Reich,
Secretary of Labor.

[FR Doc. 93–10840 Filed 5–6–93; 8:45 am]
BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Office of the Secretary

DEPARTMENT OF COMMERCE

Office of the Secretary

Commission on the Future of Worker-Management Relations; Establishment

After consultation with the Committee Management Secretariat of the General Services Administration, the Secretary of Labor and the Secretary of Commerce have determined that the establishment of the Commission on the Future of Worker-Management Relations is in the public interest. The Commission will report to both the Secretary of Labor and the Secretary of Commerce. In accordance with Executive Order 12838, the Office of Management and Budget has determined that compelling reasons of national and economic security justify the establishment of this Commission.

The Commission will study and advise the respective Secretaries on, among other things, how to enhance workplace productivity through labor-management cooperation and employee participation. Specifically, the Commission will be asked to address the following questions:

(1) What (if any) new methods or institutions should be encouraged, or required, to enhance workplace productivity through labor-management cooperation and employee participation?
(2) What (if any) changes should be made in the present legal framework and practices of collective bargaining to enhance cooperative behavior, improve productivity, and reduce conflict and delay? and
(3) What (if anything) should be done to increase the extent to which workplace problems are directly resolved by the parties themselves, rather than through recourse to state and federal courts and government regulatory bodies?

The Commission will consist of approximately ten individuals. The members will be drawn from and reflect the viewpoints of the academic community, workers, management, and the general public. The Commission will require up to one year to carry out its assignment and present a written report of findings jointly to the Secretaries of Labor and Commerce.

The Commission will function solely as an advisory body and in compliance with the terms of the Federal Advisory Committee Act and its charter will be filed under the Act.

Interested parties are invited to submit written comments regarding the establishment of the Commission on the Future of Worker-Management Relations. Such comments should be submitted to the Commission's Designated Federal Official, June M. Robinson, U.S. Department of Labor, 200 Constitution Avenue, NW., room C–2318, Washington, DC 20210.

Signed at Washington, DC this 4th day of May, 1993.

Robert B. Reich,
Secretary of Labor.

Ronald H. Brown,
Secretary of Commerce.

[FR Doc. 93–10839 Filed 5–6–93; 8:45 am]
BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and

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are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 17, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 17, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 26th day of April, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Camco Products and Services (Co)	Houston, TX	04/26/93	04/16/93	28,583	Down hole oil tools & provide services.
Kobelco Stewart Bolting (ICWU)	Hudson, OH	04/26/93	04/17/93	28,584	Plastic rubber production machinery.
Campbell Tobacco Rehandling Co (Wkrs).	Mayfield, KY	04/26/93	04/13/93	28,585	Leaf tobacco.
Brinley Sportswear, Inc (ILGWU)	Medford, NY	04/26/93	04/15/93	28,586	Ladies' bathing suits.
Columbia Footwear Corp (UFCW)	Hazleton, PA	04/26/93	04/13/93	28,587	Casual footwear.
Carter Footwear, Inc (UFCW)	Wilkes-Barre, PA	04/26/93	04/13/93	28,588	Canvas & rubber footwear.
Country Cousins Shoes (UFCW)	Mocanaqua, PA	04/26/93	04/13/93	28,589	Casual shoes.
Columbia Aluminum (USWA)	Goldendale, WA	04/26/93	04/12/93	28,590	Aluminum.
Economy Industrial Corp (Wkrs)	Ambridge, PA	04/26/93	02/22/93	28,591	Casting machines.
Mida Corp (Wkrs)	Midland, TX	04/26/93	03/08/93	28,592	Computer sales and service.
Big Mac Welding, Inc (Co)	New Iberia, LA	04/26/93	04/09/93	28,593	Oil & gas production equipment.
ICI Seeds Research Group (Wkrs)	Kindred, ND	04/26/93	04/18/93	28,594	Seeds research.
Lineville Apparel Corp (Wkrs)	Atlanta, GA	04/26/93	04/15/93	28,595	Men's pants.
Lettsworth Oilfield Services (Co)	Baton Rouge, LA	04/26/93	04/19/93	28,596	Offshore services.
NERCO Oil & Gas, Inc (Co)	Houston, TX	04/26/93	04/02/93	28,597	Oil exploration, production & sales.
Occidental Chemical (Wkrs)	Jasper, FL	04/26/93	04/13/93	28,598	Phosphoric acid.
Specialty Industries & Sales (Co)	Big Spring, TX	04/26/93	04/15/93	28,599	Oilfield chemicals.
Homogeneous Metals, Inc (Wkrs)	Clayville, NY	04/26/93	03/30/93	28,600	Metal alloy for jet engine disc.
Industrial Steel Stamping (Wkrs)	Monroe, MI	04/26/93	02/11/93	28,601	Steel stampings.
Pennington Seismic Exchange, Inc (Co)	Tulsa, OK	04/26/93	04/14/93	28,602	Oil, gas exploration.
Pennington Seismic Exchange, Inc (Co)	Oklahoma City, OK	04/26/93	04/14/93	28,603	Oil and gas exploration.
Sallies Fashions (Wkrs)	Pittston, PA	04/26/93	03/29/93	28,604	Women's dresses.
Alcoa Electronic Packing (Wkrs)	Pittsburg, PA	04/26/93	04/12/93	28,605	R & D center.
Portland Unloading (USWA)	Portland, OR	04/26/93	04/12/93	28,606	Aluminum.
Occidental Chemical (Wkrs)	White Springs, FL	04/26/93	04/13/93	28,607	Phosphoric acid.

[FR Doc. 93-10824 Filed 5-6-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,316]

Callaway Safety Equipment Co. Inc., Levelland, TX; Affirmative Determination Regarding Application for Reconsideration

On April 16, 1993, a worker requested administrative reconsideration of the Department's Denial Notice for workers at the subject firm. The Department's Negative Determination was issued on March 4, 1993 and published in the **Federal Register** on March 22, 1993 (58 FR 15383).

The worker claims that Callaway's safety equipment for H2S gas which is installed at the drilling site is essential for the drilling of oil. The Texas Railroad Commission which governs drilling operations in Texas mandates that safety equipment for H2S gas must be installed at the drilling site on leases where H2S is known to be present or it will terminate the operation.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this April 27, 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 93-10827 Filed 5-6-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,200]

Oicffson Corp., Lansing, MI; Negative Determination Regarding Application for Reconsideration

By an application dated March 29, 1993, the company requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on March 15, 1993 and published in the **Federal Register** on March 26, 1993 (58 FR 16419).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The investigation findings show that the workers produce capital equipment—computer numerically controlled (CNC) machine tools.

The Department's denial is based on the fact that the decreased sales or production criterion of the Group Eligibility Requirements of the Trade Act was not met. Sales and production of CNC machine tools did not decrease in 1992 compared to 1991.

It's stated that there is a lengthy period before the effects of foreign competition and reduced orders is reflected in lower sales. The company states that 1993 sales will be substantially reduced from that in 1992.

In order for a worker group to be certified for trade adjustment assistance, all three of the Group Eligibility Requirements of the Trade Act must be met—(1) a significant decrease in employment, (2) an absolute decrease in sales or production and (3) an increase of imports of articles that are like or directly competitive with those of the workers' firm. A failure to meet any one of the three criteria would result in a denial of eligibility to apply for TAA.

The Department would entertain a new petition in six months when new sales and production data are available.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC., this April 27, 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93-10825 Filed 5-6-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27,892]

Reynolds Cable Plant, Longview WA; Negative Determination Regarding Application for Reconsideration

Local #369 of the Aluminum Brick and Glass Workers Union, after being granted a filing extension, requested administrative reconsideration of the Department's denial of trade adjustment assistance (TAA) benefits for workers of the subject firm producing 600 volt aluminum cable and medium voltage cable. Workers producing aluminum redraw rod and bare aluminum conductors were certified for TAA. The Department's notice of determinations was issued on January 6, 1993 and published in the **Federal Register** on February 2, 1993 (58 FR 6811).

The union claims that the entire facility at Longview should be certified for TAA because the loss of the rod mill to Canada affected everyone at the plant.

The investigation file shows that the workers are separately identifiable by departments. Workers producing 600 volt aluminum cable and medium voltage cable did not meet the increased import criterion of the Group Eligibility Requirements of the Trade Act.

U.S. imports of insulated electrical wire and cable without connectors declined absolutely in 1991 compared to 1990 and in the first nine months of 1992 compared to the same period in 1991.

The findings show that the aluminum redraw rod is used as a raw material component for the production of 600 volt aluminum cable and medium voltage cable. The certification of the redraw line, however, would not form a basis for the certification of workers producing insulated electrical wire and cable. Certification for workers producing components runs from the finished article, where workers are already certified for TAA, and where declines in sales or production of the finished article causes a reduced demand for the component, not the other way around from the component to the finished article.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this April 30, 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93-10826 Filed 5-6-93; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions for the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and

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supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State.

Volume II

Kansas
KS93-21 (Feb. 19, 1993)

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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Georgia
GA93-3 (Feb. 19, 1993)
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New Jersey
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Indiana
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Minnesota
MN93-3 (Feb. 19, 1993)
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OH93-14 (Feb. 19, 1993)
OH93-28 (Feb. 19, 1993)
OH93-29 (Feb. 19, 1993)
OH93-34 (Feb. 19, 1993)

Volume III

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AK93-1 (Feb. 19, 1993)
California
CA93-1 (Feb. 19, 1993)
CA93-2 (Feb. 19, 1993)
CA93-4 (Feb. 19, 1993)
Idaho
ID93-1 (Feb. 19, 1993)
South Dakota
SD93-6 (Feb. 19, 1993)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Act, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 30th day of April 1993.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 93-10596 Filed 5-6-93; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Electrical and Communications Systems.

Date and Time: May 24-25, 1993; 8:30 a.m. to 5 p.m.

Place: Room 1133, National Science Foundation (NSF), 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Lawrence Goldberg, Program Director, Division of Electrical and Communications Systems, NSF, 1800 G Street NW., room 1151, Washington, DC 20550. Telephone: (202) 357-9618.

Purpose: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Initiation and Research Equipment Proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552b. (c)(4) and (6) of the Government in the Sunshine Act.

Dated: May 4, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-10822 Filed 5-6-93; 8:45 am]

BILLING CODE 7555-M

Special Emphasis Panel in Mechanical and Structural Systems; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following two meetings.

Name: Special Emphasis Panels in Mechanical and Structural Systems.

Date and Time: May 25-26, 1993; 8:30 a.m. to 5 p.m.

Place: Room 1242, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Contact Person: Dr. John B. Scalzi, Program Director, Large Structural and Building Systems, Telephone: (202) 357-9542.

Date and Time: June 8, 1993; 8:30 a.m. to 5 p.m.

Place: Room 1242, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Contact Person: Dr. Jorn Larsen-Basse, Program Director, Surface Engineering and Tribology Program, Telephone: (202) 357-9542.

Types of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning unsolicited proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for various programs within the Division of Mechanical and Structural Systems as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 4, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-10823 Filed 5-6-93; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-6659]

Petrotomics Co.; Final Finding of No Significant Impact Regarding Revised Source Material License SUA-551, to Allow Construction of Additional Evaporation Ponds at the Shirley Basin Mill, Located in Carbon County, WY

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of final finding of no significant impact.

1. Proposed Action

The proposed administrative action is to issue a revised source and byproduct material license which will authorize Petrotomics Company to construct additional evaporation ponds at the Shirley Basin mill by revision of Source Material License SUA-551.

2. Reasons for Final Finding of No Significant Impact

The Shirley Basin mill, owned and operated by Petrotomics Company, is a decommissioned uranium mill site. Activities authorized under SUA-551 include site reclamation and ground-water corrective actions. As part of Petrotomics Company's proposal to modify the ground-water corrective action program, the licensee requested authorization to construct two additional evaporation ponds on the existing, partially reclaimed tailings impoundment. The NRC staff evaluated the proposed evaporation pond design to assess the potential environmental impacts which could result if the proposed pond construction were approved. Documents used to prepare the evaluation include licensee submittals entitled "Corrective Action Modifications, Upper Wind River Sand" dated January 1992, and "Supplement to Applicant's Environmental Report for Expanded Evaporation System-Corrective Action Plan" dated November 1992. Other submittals necessary for the evaluation of the licensee's proposal include the Environmental Report for the Shirley Basin mill dated April 1, 1981, the Environmental Assessment issued in 1984 by the NRC, and information forwarded to the NRC by letters dated May 7, 1992, and January 8 and 13, 1993. Upon review of these documents, the Commission has determined that no significant impacts will result from the proposed activity. However, because of the NRC's concerns related to the proposed placement of two additional evaporation ponds on the partially reclaimed tailings impoundment, an Environmental Assessment was prepared. This document is cataloged as a Memorandum to File dated February 23, 1993.

The public was informed of the availability of the Finding of No Significant Impact by way of a March 4, 1993, Federal Register publication. A subsequent 45-day comment period expired April 23, 1993. No public comments were received on the proposed action.

In accordance with 10 CFR Part 51.33(e), the Director, Uranium Recovery Field Office, made the determination to issue a final finding of no significant impact in the **Federal Register**. Concurrent with this finding, the staff will issue the revised Source Material License SUA-551 for the Shirley Basin mill, Carbon County, Wyoming.

This finding, together with documents setting forth the basis for the finding, is available for public inspection and copying at the Commission's Uranium Recovery Field Office located at 730 Simms Street, Suite 100, Golden, Colorado, and at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC.

Dated at Denver, Colorado, this 30th day of April 1993.

For the Nuclear Regulatory Commission.

Ramon E. Hall,

Director, Uranium Recovery Field Office.

[FR Doc. 93-10821 Filed 5-6-93; 8:45 am]

BILLING CODE 7590-01-M

PHYSICIAN PAYMENT REVIEW COMMISSION

Request for Proposals

AGENCY: Physician Payment Review Commission.

ACTION: Notice.

The Physician Payment Review Commission is soliciting proposals to conduct a telephone interview survey of physicians about the Medicare program and the Medicare Fee Schedule. This notice describes the application procedures, general policy considerations, and criteria to be used

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in reviewing applications for prospective grants and contracts submitted to the Commission.

Background on the Commission

The Physician Payment Review Commission was established in 1986 (Pub. L. 99–272) to advise the U.S. Congress on physician payment policy under Part B of the Medicare program. The 13-member Commission comprises physicians and other health professionals, health economists, health services research experts, and individuals representing the perspectives of Medicare beneficiaries, private payers, and others expert in the field of health policy. Supporting the Commission is a multidisciplinary staff with skills in research, policy analysis, and administration.

In 1990, the Commission's legislative mandate was substantially expanded to include topics beyond Medicare physician payment. Its responsibilities now include consideration of a broader set of interrelated policies affecting the financing, quality, and delivery of health services. The Commission submits an annual report to the Congress on March 31. It also submits a series of reports in May of each year concerning Medicare expenditures and fee updates, access to care, the financial liability of Medicare beneficiaries, and comments on the President's budget. At the same time, the Commission continues to monitor and make recommendations concerning the implementation and effects of the Medicare reforms enacted by the Congress in 1989.

Description of Proposal Topic

In 1992, the Medicare program underwent major changes stemming from the Commission's recommendations for physician payment reform that were enacted in the Omnibus Reconciliation Act of 1989. Three principal components of the reform were the development and implementation of a resource-based fee schedule, limits on balance billing of patients, and a system of Volume Performance Standards to control expenditures.

The resource-based Medicare Fee Schedule was first used in 1992 by the Health Care Financing Administration (HCFA) to pay physicians. The fee schedule is being phased in through 1995, so that in 1996 it will determine all Medicare physician payments. The change-over to the fee schedule entails numerous revisions in payment levels, billing codes, and related policies. Limits on balance billing of patients are intended to protect Medicare beneficiaries from bearing the burden of the shifts in payment levels occasioned by the fee schedule. These limits are now fully in place. The Volume Performance Standard system is intended to give physicians a collective incentive to reduce the rate of growth in the volume and intensity of services delivered per Medicare beneficiary. It affects the annual price update for Medicare physician fees by adding or subtracting from it the extent to which actual Medicare expenditure growth differed from the previously set target—the Volume Performance Standard—for that year. 1992 was the first year in which all three components of the payment reform legislation were in effect.

The Commission believes it important to monitor the effects of these changes on physicians, beneficiaries, and others. To accomplish this, the Commission conducts extensive primary and secondary data analyses and receives formal and informal testimony from interested parties. As part of its effort to gather information, the Commission contracted with Louis Harris and Associates in 1992 to conduct a telephone interview survey of physicians.

The survey instrument was developed jointly by Harris Associates and Commission staff. One thousand physicians were asked about the problems they experienced with different payers, including Medicare, changes in practice patterns and acceptance of new patients, their understanding of the Medicare Fee Schedule and Volume Performance Standards, problems with the fee schedule, coding and payment for visits and consultations, and demographic information. The telephone interviews were conducted during the summer of 1992. The results of the survey were reported in Chapters 5, 6, and 12 of the Commission's *Annual Report to Congress 1993*.

The 1992 survey of physicians was useful to the Commission and others in assessing the effects of changes in the Medicare program. The Commission intends to contract for a similar survey of physicians to be conducted beginning in the fall of 1993. The 1993 survey will include questions from the 1992 survey and additional questions to explore certain topics in greater detail. To assure comparability of the results to those of the 1992 survey, the methodology of the 1993 survey will be substantially the same as that used in 1992. The Louis Harris and Associates' report of their survey's methodology and findings can be obtained from the Commission. It is anticipated that the 1993 survey's interviews will last approximately 20 minutes each and that 1,000 interviews will be conducted.

The contractor will perform the following tasks:

1. Develop new questions for the survey in consultation with Commission staff and pilot test the full instrument.
2. Select a random sample of practicing nonfederal U.S. physicians.
3. Conduct the telephone interviews.
4. Deliver to the Commission a cleaned computer data file of the responses by December 1, 1993.
5. Deliver a draft report of the methodology and results of the survey to the Commission by December 31, 1993.
6. Deliver to the Commission the final written report of the survey's methodology and results by January 31, 1994.

The Commission plans to select a contractor by July 1993.

Formal Proposals

Proposals must conform to the requirements specified in the Commission's formal Request for Proposal, which can be obtained from the Commission. The following provides an outline of what will be expected to be submitted in a formal proposal:

1. Plans for developing and testing the survey instrument.
2. Plans for obtaining a random sample of physicians.
3. Methods to be used to obtain an adequate response rate, including consideration of payments to participating physicians.
4. Detailed description of how the interviews will be carried out, including the training of interviewers and methods to achieve reliable results.
5. Analysis plan.
6. Discussion of problems that may be encountered and strategies for resolving them.
7. Work plan including description of tasks, time schedule, and level of effort for key individuals and the number of days devoted to each task.
8. Description of organizational experience and resources, and the qualifications of key project staff.
9. Detailed budget providing justifications and explanations for amounts required for each task of the project.

It is anticipated that complete proposals must be received by the Commission by June 14, 1993 in order to be considered.

Review of Proposals

Proposals will be reviewed by a panel composed of at least three (3) individuals. Reviewers will score applications and make recommendations based on the criteria published in the Commission's Request for Proposals, Part IV, Section M, "Technical Evaluation and Criteria for Award."

General Information

Authority

The Commission's authority for making these awards is based on section 1845(c)(2)(B) of the Social Security Act (42 U.S.C. 1359w–1).

Regulations

General policies and procedures that govern the administration of contracts and grants are located in title 45 of the Code of Federal Regulations parts 74 and 92. Applicants are urged to review the requirements contained in these regulations.

Submission Address

Physician Payment Review Commission, 2120 L Street NW., suite 510, Washington, DC 20037.

Submission Deadline

It is anticipated that proposals must be received by the Commission by June 14, 1993.

Obligation

This solicitation in no way obligates the Commission to fund any applicant.

Contact: Paul B. Ginsburg, Ph.D., Director or Lauren LeRoy, Ph.D., Deputy Director, Physician Payment Review Commission, 2120 L Street NW., suite 510, Washington, DC 20037. (202) 653–7220.

Date: May 3, 1993.

Paul B. Ginsburg,

Executive Officer.

[FR Doc. 93–10780 Filed 5–6–93; 8.45 am]

BILLING CODE 6820–SE–M

Request for Proposals

AGENCY: Physician Payment Review Commission.

ACTION: Notice.

The Physician Payment Review Commission is soliciting requests for proposals (RFPs) from qualified organizations to provide programming services in support of the development, analysis, and documentation of large national data sets.

Background on the Commission

The Physician Payment Review Commission was established in 1986 (Pub. L. 99–272) to advise the Congress on physician payment policy under Part B of the Medicare program. The 13-member Commission is comprised of physicians, health economists, health services research experts, and individuals representing the perspectives of Medicare beneficiaries, private payers, nurses, and other experts in the field of health policy. Supporting the Commission is a multidisciplinary staff with expertise in research, policy analysis, and administration. They are responsible for conducting intramural empirical research expanding upon the Commission's recommendations to Congress on a variety of health policy issues.

Criteria for Proposals

Applicants are requested to submit proposals to provide computer programming and analysis in support of various projects on an as-required basis under the direction and supervision of a primary Project Officer and designated staff of the Commission. The following provides a basic outline of what should be included in a formal proposal:

1. Project title and objectives.
2. Applicant organization's background, qualifications, and available resources.
3. Detailed documentation on the ability of organization's staff in database development and programming, including techniques to be used and management capabilities.
4. A full description of the measures used to ensure security of proprietary data files.
5. A detailed analysis plan, including methods to be used, potential problems and resolution strategies.
6. Qualifications of key staff.
7. Organizational chart.
8. A detailed budget providing justifications for each category and amounts requested, including information on the contractor's administrative fees and indirect cost rate.

Applicants should have a demonstrated ability to provide programming support from their facility, and, on occasion, at the Commission's office. The Commission maintains a remote job entry unit (RJE) linked with the National Institutes of Health's mainframe computer support center. Applicants should have the in-house capability to (1) access NIH's mainframe support center, (2) provide back-up printer support when required, (3) receive and transmit facsimiles, and (4) provide pick-up and delivery services. All data analysis and programming tasks will support ongoing Commission activities. The subsequent RFP will include specific details on all tasks and subtasks to be accomplished by the selected contractor, which will include, but are not limited to, those outlined below.

Database Development

A critical component of this effort involves the applicant's ability to download and copy information from tape format to cartridges; create files; compare and reconcile file documentation with actual file structure; prepare descriptive statistical information on data variables; and provide various administrative and management tasks associated with such an effort. Applicants must demonstrate an ability to serve as a database archivist, capable of drawing and maintaining sample files from large national data sets; maintaining accurate logs and documentation on all files developed under the contract and to ensure the confidentiality of particular data sets when required. Principal databases will include the Health Care Financing Administration's (HCFA) Part B Medicare Annual Data files (BMAD I, II, III, and IV), and National Claims History (NCH) files. Additional data prepared by HCFA and other organizations will be included for analysis.

Data Analysis

Another major part of the overall effort is the ability of the applicant to create analysis or user files from source data bases. Such files will be compatible with statistical programming languages (e.g., SAS), as well as lower-level languages (e.g., PL/1 and FORTRAN). Applicants must be able to document analytic files, run verification checks, and develop programs to analyze various databases created during the period of the contract.

Submission of Proposals

Applicants will be given 30 days to submit a formal proposal. The deadline for proposals submitted under this notice is July 1, 1993.

Review of Proposals

Proposals will be reviewed by a panel composed of at least three (3) individuals. Reviewers will score applications, basing their scoring decisions and approval recommendations on the criteria published in the Commission's Request for Proposals, Part IV, Section M, "Technical Evaluation and Criteria for

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Award." In addition to the recommendation of the review panel, the Commission may consider other factors in selecting which applicants will be asked to submit a formal proposal.

General Information

Number and Size of Project

There will be one contract awarded in response to this Request for Proposals.

Authority

The Commission's authority for making this award is based on section 1845(c)(2)(B) of the Social Security Act (42 U.S.C. 139w-1).

Regulations

General policies and procedures that govern the administration of all contracts awarded by the Commission are located in title 45 of the Code of Federal Regulations, parts 74 and 92. Applicants are urged to review the requirements contained in those regulations.

Submission Deadline

It is anticipated that proposals must be received by the Commission by July 1, 1993.

Submission Address

Physician Payment Review Commission, 2120 L Street NW., suite 510, Washington, DC 20037.

Obligation

This solicitation in no way obligates the Commission to fund any applicant.

Contact: Paul B. Ginsburg, Ph.D., Director or Sally Trude, Ph.D., Senior Analyst, Physician Payment Review Commission, 2120 L Street NW., suite 510, Washington, DC 20037, (202) 653-7220.

Dated: May 3, 1993.

Paul B. Ginsburg,

Executive Director.

[FR Doc. 93-10779 Filed 5-6-93; 8:45 am]

BILLING CODE 6820-SE-M

RESOLUTION TRUST CORPORATION

Corrected List of Thrifts in RTC Conservatorship and Receivership

AGENCY: Resolution Trust Corporation.

ACTION: Notice of conservatorships and receiverships.

SUMMARY: The Resolution Trust Corporation (RTC) on April 8, 1993 [58 FR 18234] published a listing of certain thrift institutions in RTC conservatorship and receivership. That listing contained certain errors, and consequently the RTC is publishing a corrected list which supersedes the listing of April 8, 1993.

DATES: This publication includes all institutions under RTC supervision from August 10, 1989 through March 19, 1993.

FOR FURTHER INFORMATION CONTACT: Martin Blumenthal, Acting Contractor Ethics Program Manager, Office of Ethics, 202-416-2029; Andrew Fay, Ethics Specialist, Office of Ethics, 202-416-2132; and Carl Gold, Counsel, Division of Legal Services, 202-736-0728. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Resolution Trust Corporation on April 8, 1993 [58 FR 18234] published a listing of thrift institutions in RTC conservatorship and receivership. The list was compiled by the RTC and was provided only for purposes of compliance with the Statement of Policy on Contracting with Firms with Related Entity Defaults on Financial Obligations (July 23, 1992 [57 FR 32841], amended on November 19, 1992 [57 FR 54503]). The list was published as a means of informing firms which wish to do business with the RTC, but which may have related entities in default on obligations owed to thrifts in conservatorship or receivership to the RTC. The list was intended to be a compilation of those thrift institutions and only those thrift institutions.

The list contained the names of 35 thrifts which are not under RTC control and consequently should not have been included on the list. Defaults on obligations owed to those 35 institutions are not defaults coming within the above-referenced Policy and are not obligations considered to be owed to the RTC. The RTC regrets this error and any confusion resulting from it.

The list which follows represents a corrected version of the list published on April 8, 1993 and supersedes that list.

RTC THRIFTS

Bank No.	Name	City	St.
8236	ABQ Federal Savings Bank	Albuquerque	NM
7915	Abraham Lincoln FSA	Dresher	PA
8396	Acadia S&L Assoc., A FSA	Crowley	LA
7884	Action FSB	Somers Point	NJ
7948	Advanced FSB	Northridge	CA
8463	Alamo FSA of Texas	San Antonio	TX

RTC THRIFTS—Continued

Bank No.	Name	City	St.
7761	Alexander Hamilton FS&LA	Paterson	NJ
7939	Alpha Indian Rock FS&LA	Philadelphia	PA
8338	Alpine Savings, A FS&LA	Steamboat Springs.	CO
8230	Altus FSB	Mobile	AL
7832	Ambassador FS&LA	Tamarac	FL
8441	American Fed. S&L Assoc	Albuquerque	NM
8262	American Fed. Sav. Assoc. of Iowa	Des Moines	IA
8505	American Fed. Sav. Bank	Austin	TX
8664	American FSB	Sanford	ME
8641	American Home S&L Assoc., F.A	Edmond	OK
8565	American Interstate SA, FA	Los Angeles	CA
8886	American Pioneer FSB	Orlando	FL
8465	American S & LA of Brazoria	Lake Jackson	TX
8397	American S&L Assoc., FA	New Orleans	LA
7753	American SA of Mt. Carmel, FA	Mt. Carmel	IL
8525	American Sav. of Colo. A FS&LA	Colorado Springs.	CO
8514	American Savings, A FS&LA	Salt Lake City	UT
7895	American SB, FSB	Ada	OK
8368	American Security FS&LA	Chicago	IL
7816	Amerifederal SB, FSB	Lawrenceville	NJ
7722	Amerifirst FSB	Miami	FL
8572	Amerimac Sav. Bank, FS	Hillsboro	IL
8470	Ameriway Savings	Houston	TX
7814	Amigo FS&LA	Brownsville	TX
8376	Anchor Federal S&L Assoc	Kansas City	KS

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8293	Andrews S&LA, FA	Andrews	TX
7751	Arcanum FSA	Arcanum	OH
8833	Arkansas FSB, FA	Little Rock	AR
8281	Arlington Hghts Sav Assn, F.A	Arlington Heights.	IL
8328	Arrowhead Pacific Fed Sav Bank	San Bernardino	CA
8660	Aspen Savings Bank F.S.B	Aspen	CO
7806	Atascosa SA	Jourdanton	TX
8254	Atlanta FSA	Atlanta	TX
7840	Atlantic Financial FSB	San Francisco	CA
8661	Atlantic Financial Savings, FA	Bala Cynwyd	PA
8672	Atlantic Permanent FSB	Norfolk	VA
7752	Augusta FSA	Baltimore	MD
8585	Austin FS&LA	Austin	TX
8305	Baldwin County Fed Sav Bank	Robertsdale	AL
8411	Baltimore Fed Financial FSA	Baltimore	MD
8571	Banc Iowa Fed. Sav. Bank	Cedar Rapids	IA
8460	Bancplus FSA	Pasadena	TX
8888	Bank USA Savings Association	Silvis	IL
8478	Bankers S&L Assoc	Galveston	TX
8292	Bannerbanc FS&LA	Garland	TX
7909	Bay FSB	West Palm Beach.	FL
8504	Bayshore FSA	La Porte	TX
7387	Beach FSB	Huntington Beach.	CA
7736	Beacon FSA	Baldwin	NY
8475	Bedford Savings Assoc	Bedford	TX
7893	Bell FSB	Upper Darby	PA
8456	Benjamin Franklin FSA	Houston	TX
8549	Bexar Savings Assoc	San Antonio	TX
8208	Birmingham FSB	Birmingham	AL
8620	Black Hawk S&L Assoc. F.A	Rock Island	IL
8415	Blue Valley Fed S&L Assoc	Kansas City	MO

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8291	Boonslick S & LA	Boonville	MO
8353	Brickelltanc Sav. Assoc	Miami	FL
8454	Bright Banc Sav. Assoc	Dallas	TX
8542	Broadview Federal Sav Bank	Cleveland	OH
8260	Broken Arrow Savings Assoc., FA	Broken Arrow	OK
8803	Brookhaven FS&LA	Brookhaven	MS
8656	Brookside Federal S&L Assoc	Los Angeles	CA
7882	Burleson County FSA	Caldwell	TX
8553	Cabrillo Fed Savings Bank	San Jose	CA
8865	Caguas-Central Fed Sav Bank of PR	Caguas	PR
8622	Capital Fed. S&L Assoc	Little Rock	AR
8616	Capital City FSA	Austin	TX
7731	Capital Federal Bank for Savings	Chicago	IL
8207	Capitol FS&LA	Aurora	CO
8694	Capitol-Union FSA	Baton Rouge	LA
8598	Caprock Fed. S&L Assoc	Lubbock	TX
7949	Carrollton Hmstd Assn, FA	New Orleans	LA
8602	Carteret FSB	Newark	NJ
8420	Cass FS & LA of St Louis	Florissant	MO
8477	Centennial Fed S&L Assoc	Greenville	TX
7764	Center S&LA, FA	Clifton	NJ
8267	Central FSB	Long Beach	NY
8401	Central S&L Assoc, F.A	New Orleans	LA
8422	Central S&L Assoc	Jackson	MS
8469	Central Texas S&L Assoc	Waco	TX
7836	Centre SA, FA	Arlington	TX
8229	Centrust Federal Savings Bank	Miami	FL
8543	Century Fed. Sav. Bank	Trenton	TN
7772	Century FSB, FSB	Chicago	IL
8492	Century S&L Assoc	Baytown	TX
8637	Certified FSA	Georgetown	TX

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8889	Charter Fed. Sav. Assoc	Stamford	CT
8822	Charter Savings Bank, FSB	Newport Beach	CA
8870	Charter SB, FSB	Hattiesburg	MS
7924	Chase FS&LA	Philadelphia	PA
8566	Cherokee Valley FSA	Cleveland	TN
8369	Chillicothe Fed S&L Assn	Chillicothe	IL
8608	Chisholm FSA	Kingfisher	OK
8610	Cimarron FSA	Muskogee	OK
7967	Citadel FS&LA	Charleston	SC
7834	Citizens & Builders FS, FSB	Pensacola	FL
7860	Citizens FSA	Jacksonville	FL
8538	Citizens Homestead FSA	New Orleans	LA
8487	Citizens of Texas S&L Assoc	Baytown	TX
8621	Citizens S&LA of Springfield, F.A	Springfield	IL
7827	Citizens Security Bank, FA	Borger	TX
8303	City Fed. S&L Assoc	Birmingham	AL
8334	City Federal S&L Assoc	Oakland	CA
8527	City S&L Assoc	Westlake Villa	CA
7847	City S&LA	San Antonio	TX
8507	City Savings Assoc	League City	TX
7865	City Savings, F.S.B	Bedminster	NJ
8581	Civic FSB	Portsmouth	OH
8270	Clinton S&LA	Clinton	OK
8852	Clyde Federal Savings Association	North Riverside	IL
7907	Coastal FSB	New London	CT
7852	Cobb FSA	Marietta	GA
8298	Colonial Federal Savings Association	Prairie Village	KS
8659	Colonial FSA	Roselle Park	NJ
7890	Colonial FSB	Cranston	RI
8275	Colonial S&LA, F.A.	Cape Girardeau.	MO
8386	Colonial SA of America	Liberal	KS
8868	Colony FSB	Monaca	PA
8530	Colorado S&L Assoc.	Englewood	CO

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RTC THRIFTS—Continued

Bank No.	Name	City	St.
8567	Colorado Savings Bank, F.S.B.	Sterling	CO
7919	Columbia Banking FSA	Rochester	NY
8632	Columbia Fed. Homestead Assoc.	Metairie	LA
8341	Columbia Fed. Savings Bank	Westport	CT
8639	Columbia FS&LA	Webster	TX
7712	Columbia FSA of Hamilton	Hamilton	OH
7790	Columbia S&LA, FA	Beverly Hills	CA
7745	Comfed SB, FA	Lowell	MA
8461	Commerce FSA	San Antonio	TX
8595	Commercial S&L Assn., FA	Hammond	LA
8457	Commonwealth Fed Sav Assn	Houston	TX
8617	Commonwealth FS&LA	Fort Lauderdale	FL
8269	Commonwealth FSA	New Orleans	LA
7952	Commonwealth FSB	Manassas	VA
8317	Commonwealth S&L Assoc.	Osceola	AR
8517	Community Fed S&L Assn.	Newport News	VA
8356	Community Fed S&L Assoc	Tampa	FL
8628	Community Fed Sav. Assoc.	Bridgeport	CT
8294	Community Federal Savings Bank	East Moline	IL
8217	Community FS & LA	St Louis	MO
8519	Community S&L Assoc.	Fond Du Lac	WI
8449	Concord-Liberty Fed. S&L Assn.	Monroeville	PA
8361	Concordia Fed Bank for Savings	Lansing	IL
7879	Connecticut FS&LA	Hartford	CT
8800	Constitution Federal Savings Assoc.	Tustin	CA

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8445	Continental FS&LA, FA	Oklahoma City	OK
8544	Continental Savings, A FS&LA	Bellaire	TX
8257	Cooper River FSA	North Charleston.	SC
7776	Cooperative FSB	Westmont	IL
7817	Coral Coast FSB	Boynton Beach	FL
8850	Coral S&LA, FA	Coral Springs	FL
7807	Coreast FSB	Richmond	VA
8596	Cornerstone Fed Sav Assn.	Houston	TX
7818	County Bank, FSB	Santa Barbara	CA
8657	Crest Fed. S&L Association	Kankakee	IL
7974	Crestline FS&LA	Crestline	OH
8605	Cross Roads FS&LA, FA	Checotah	OK
7856	Danbury FS&LA	Danbury	CT
7899	Davy Crockett FS&LA	Crockett	TX
8495	Deep East Texas Sav Assn	Jasper	TX
8425	Delta Fed. S&L Assoc.	Drew	MS
7930	Delta FSB	Westminster	CA
8394	Delta S&L Asoc., F.A.	Kenner	LA
8627	Denton Federal S&L Assoc.	Denton	TX
8831	Deposit Trust Federal Savings Bank	Monroe	LA
8515	Deseret S&L Assoc., F.A.	Salt Lake City	UT
7723	Desoto FS&LA	Mansfield	LA
7713	Dryades S&LA, FA	New Orleans	LA
8520	Durand Fed. S&L Assoc.	Durand	WI
8653	Duval FSA	Jacksonville	FL
8589	East Texas S&L Assoc., F.A.	Tyler	TX
7746	Eastern FS&LA of Sayville	Sayville	NY
7733	Edison FSA	New York	NY
8895	El Paso FSA	El Paso	TX
8402	Elmwood Fed. S&L Assoc.	Harahan	LA
8436	Elysian Fed. Savings Bank	Hoboken	NJ

RTC THRIFTS—Continued

Bank No.	Name	City	St.
7866	Empire FS, FSB	Hammonton	NJ
8277	Empire of America FSB	Buffalo	NY
8836	Ensign FSB	New York	NY
8399	Enterprise Fed. S&L Assoc.	Marrero	LA
8839	Enterprise Federal, F.S.A.	Clearwater	FL
8805	Enterprise S&LA	Compton	CA
7743	Enterprise Savings Bank, FA	Chicago	IL
8432	Equitable Fed. Sav. Bank	Fremont	NE
8804	Equitable FS & LA	Columbus	NE
8340	Equity Fed. Savings Bank	Denver	CO
8405	Evangeline Fed S&L Assoc.	Lafayette	LA
7918	Evergreen FS&LA	Charleston	WV
8548	Excel Banc Sav. Assoc.	Laredo	TX
7849	Executive Banc SA, FA	New Braunfels	TX
7830	Executive SB, FSB	Marina Del Rey	CA
8698	Fairmont Federal Savings Association	Fairmont	MN
8539	Family Fed. S&L Assoc.	Shreveport	LA
8667	Family Federal Savings Association	Dallas	OR
7809	Family S&LA, FA	Seattle	WA
8446	Family Saving Bank, F.S.B.	Sapulpa	OK
8243	Far West FSB	Portland	OR
7711	Far West S&LA, FA	Newport Beach	CA
7961	Federal SA of Virginia	Falls Church	VA
8551	Fidelity Fed. Sav. Assoc.	Port Arthur	TX
8421	Fidelity Fed. Sav. Bank	Corinth	MS
8649	Fidelity Federal Sav. Assoc.	Galesburg	IL
7833	Fidelity FS&LA	Austin	TX

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8864	Fidelity Savings Bank, F.S.B.	Danville	IL
8418	Financial Fed. S&L Assoc.	Joplin	MO
8846	Financial FS & LA	Fresno	CA
7843	Financial Savings of Hartford, FSB	Hartford	CT
8347	Financial Security S&L Assn.	Delray Beach	FL
8844	First America FSB	Longmont	CO
8692	First America Savings Bank, F.S.B.	Fort Smith	AR
7905	First American FSB	Tucson	AZ
8259	First American FSB	Greensboro	NC
8866	First American FSB	Santa Fe	NM
8681	First Atlantic FSA	Plainfield	NJ
8285	First Bankers Trust & SA, F.A.	Midland	TX
8323	First California Sav. FSA	Orange	CA
8483	First Capital SA of Texas	Houston	TX
8808	First Citizens SLA, FA	Fort Pierce	FL
8407	First City Fed S&L Assoc.	Baton Rouge	LA
7812	First City FSB	Lucedale	MS
7903	First Commerce SB, FSB	Lowell	IN
8486	First Equity Savings Assoc., F.A.	Tomball	TX
8312	First Fed S&L Assoc.	Fayetteville	AR
8315	First Fed. S&L Assoc.	Malvern	AR
8344	First Fed. S&L Assoc.	Largo	FL
8357	First Fed. S&L Assoc.	Atlanta	GA
8359	First Fed. S&L Assoc.	Summerville	GA
8393	First Fed. S&L Assoc.	Shreveport	LA
8398	First Fed. S&L Assoc.	New Iberia	LA
8404	First Fed. S&L Assoc.	Baton Rouge	LA
8409	First Fed. S&L Assoc.	Eunice	LA
8568	First Fed. S&L Assoc.	Americus	GA

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8606	First Fed. S&L Assoc.	Bakersfield	CA
8635	First Fed. S&LA of Brenham	Brenham	TX
8532	First Fed. S&LA of Colorado Springs	Colorado Springs.	CO
8380	First Fed. S&LA of Hutchinson	Hutchinson	KS
8447	First Fed. S&LA of Seminole	Seminole	OK
8417	First Fed. S&LA of Southeast MO	Cape Girardeau.	MO
8345	First Fed. S&LA of the Florida Keys	Key West	FL
8673	First Fed. Sav. Assoc. of York	York	NE
8554	First Fed. Savings Bank	East Alton	IL
8301	First Federal Bank of Alaska SB	Anchorage	AK
8697	First Federal Sav. Assoc. of Bluefield	Bluefield	WV
8244	First Federal Savings Assoc	Las Vegas	NM
8299	First Federal Savings Association	Warner Robins	GA
8668	First Federal Savings Bank	Diamondville	WY
8869	First Federal Savings Bank and Trust	Kansas City	MO
8249	First Federal Savings, F.S.A	New Braunfels	TX
8827	First Federal SB, FSB	Ashburn	GA
8863	First FS & LA	San Antonio	TX
8382	First FS & LA of Coffeyville	Coffeyville	KS
8240	First FS & LA of Pittsburgh	Pittsburgh	PA
8251	First FS & LA of Wichita Falls	Wichita Falls	TX
7701	First FS&LA	Mt. Vernon	OH
7740	First FS&LA	Pontiac	MI
7741	First FS&LA	Temple	TX
7796	First FS&LA	Dallas	GA

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8893	First FS&LA	Beaumont	TX
8233	First FS&LA of Andalusia, FA	Andalusia	AL
8630	First FS&LA of Central Indiana	Anderson	IN
8223	First FS&LA of Creston, FA	Creston	IA
8534	First FS&LA of Estherville & Emmetsburg	Estherville	IA
7708	First FS&LA of Fargo, FA	Fargo	ND
7732	First FS&LA of Pittsburg, FA	Pittsburg	KS
7951	First FS&LA of Russell County, FA	Phenix City	AL
7744	First FS&LA of Seminole Co, FA	Sanford	FL
8231	First FS&LA of Thief River Falls	Thief River Falls.	MN
7888	First FS&LA of Toledo	Toledo	OH
7956	First FSA	Lewiston	ME
8234	First FSA	Winnfield	LA
8263	First FSA	Lubbock	TX
8634	First FSA	Borger	TX
8810	First FSA of Breaux Bridge	Breaux Bridge	LA
8210	First FSA of Chickasha	Chickasa	OK
8228	First FSA of Conroe	Conroe	TX
8218	First FSA of Nacogdoches	Nacogdoches	TX
8286	First FSA of Newton	Newton	KS
7756	First FSA of Raleigh	Raleigh	NC
8877	First FSA of Tuscola	Tuscola	IL
7748	First FSA of Waynesboro	Waynesboro	TN
7760	First FSA of Wewoka	Wewoka	OK
7785	First FSB	Huron	SD
8204	First FSB of Annapolis	Annapolis	MD
7934	First FSB of Georgia, FA	Winder	GA
8381	First FSB of Kansas	Wellington	KS
7702	First FSB of South Dakota	Rapid City	SD

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RTC THRIFTS—Continued

Bank No.	Name	City	St.
7892	First FSB of Zion	Zion	IL
8636	First Garland Fed. S&L Assn	Garland	TX
8821	First Guaranty FS & LA	Hattiesburg	MS
7927	First Home FSA	Pittsburg	PA
8812	First Jackson FSB	Jackson	MS
7707	First Jersey Savings, FA	Wyckoff	NJ
8395	First Louisiana Fed. Sav. Bank, F.A.	Lafayette	LA
8867	First Network Federal Savings Bank	Los Angeles	CA
7966	First Newport FSB	Newport Beach	CA
7891	First Northern Cooperative Bank	Keene	NH
8387	First of KS Savings, a FS & LA	Hays	KS
7938	First Ohio SB, FSB	St Bernard	OH
8590	First S&L Assoc., FA	Waco	TX
8203	First S&L Company, FA	Massillon	OH
7885	First SA, FA	Paragould	AR
8497	First Sav Assn of Southeast Texas	Silsbee	TX
8307	First Sav Bank of Alabama, FA	Hamilton	AL
8308	First Sav of Arkansas, FA	Little Rock	AR
8408	First Sav of Louisiana FSA	La Place	LA
8226	First Savings Association, F.A.	Bismarck	ND
8373	First Savings of America A FS & LA	Orland Park	IL
8640	First Savings of Laredo, F.A.	Laredo	TX
7862	First SB of Hempstead, FSB	Hempstead	TX
8820	First SB of New Orleans, FSB	Metairie	LA
8456	First South FSA	Port Neches	TX

RTC THRIFTS—Continued

Bank No.	Name	City	St.
7957	First South FSB	Columbia	SC
8819	First Southwest FS&LA	Tyler	TX
8279	First Standard Federal Savings Assoc.	Fairmont	WV
8467	First State Fed Sav Assn	San Antonio	TX
7869	First State SA	Sedalia	MO
8314	First State Sav. Bank FSB	Mountain Home	AR
8351	First Venice S & LA	Venice	FL
8271	Firstcentral Federal Savings Bank	Chariton	IA
7782	Flagler FS&LA	Miami	FL
8211	Florida FSB, FSB	St Petersburg	FL
8403	Fontainebleau Fed Sav Bank	Slidell	LA
8662	Fortune Financial Fed. S&L Assoc.	Copperas Cove	TX
8324	Founders Federal S&L Assn.	Los Angeles	CA
8856	Franklin FSA	Ottawa	KS
8342	Freedom S&L Assn, A FS&LA	Tampa	FL
8687	Freedom SA, FA	Columbus	OH
8392	French Market Homestead FSA	Metairie	LA
8682	Frontier Federal Savings Bank	Belleville	IL
8857	Frontier FSA	Walla Walla	WA
7792	Frontier SA	Las Vegas	NV
8502	FSA of the Southwest	Kilgore	TX
8215	Fulton FSA	Atlanta	GA
7703	Future FSB	Louisville	KY
8326	Gateway Fed Savings Bank	San Francisco	CA
8220	Gem City FS & LA	Quincy	IL
8629	General Federal Savings Bank	Miami	FL
8545	General Savings Assoc.	Henderson	TX
7886	George Washington FSA	Jonesboro	TN
7771	Germaniabank, A FSB	Alton	IL

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8540	Germantown Trust Sav Bank	Germantown	TN
8412	Gibraltar S&L Assoc, FA	Annapolis	MD
8558	Gibraltar Savings Bank F.S. B.	Seattle	WA
8557	Gibraltar Savings, F.A.	Simi Valley	CA
8459	Gill Savings Assoc.	San Antonio	TX
7837	Gold Coast FSB	Plantation	FL
7906	Gold River SB	Fair Oaks	CA
8510	Golden Circle SA, FSB	Corsicana	TX
8509	Golden Triangle S & LA	Bridge City	TX
7793	Goldome FSB	St Petersburg	FL
8825	Grand Prairie FS & LA	Stuttgart	AR
7705	Great American FSA	San Diego	CA
8862	Great American S & LA, F.A.	Corinth	MS
8224	Great American S&LA, FA	Oak Park	IL
8428	Great Atlantic Sav. Bank FSB	Manteo	NC
8885	Great Life F.S.A.	Sunrise	FL
8582	Great Plains Savings Assoc., F.A.	Weatherford	OK
8570	Great Southern Fed S&L Assn	Savannah	GA
8878	Great West, A FSB	Craig	CO
8289	Greenwood FS & LA	Greenwood	MS
8597	Guadalupe S&L Assn., F.A.	Kerrville	TX
8304	Guaranty Fed. S&L Assoc.	Birmingham	AL
7819	Guaranty FSA	Warner Robins	GA
8684	Guaranty Savings Bank, FSB	Fayetteville	NC
7928	Guardian FSA	Huntington Beach.	CA
8569	Habersham Fed. S&L Assoc.	Cornelia	GA
8600	Hallmark S&L Assoc., FA	Plano	TX
7788	Hansen FSA	Hammonton	NJ
7838	Hansen FSB	Palm Beach Gardens.	[illegible]

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8851	Haven S & LA, F.A.	Winter Haven	FL
8586	Hearne Building & Loan Assn., F.A.	Hearne	TX
8826	Heartland S&LA	La Mesa	CA
8689	Henderson Home S & LA, F.A.	Henderson	KY
8427	Heritage Fed. S&L Assoc.	Monroe	NC
7815	Heritage FSA	Lancaster	PA
8872	Heritage FSA	Lamar	CO
7805	Heritage FSB	Richmond	VA
8248	Heritage FSB of Omaha	Omaha	NE
8626	Heritage Savings Assn, FA	Jerseyville	IL
8552	Heritagebanc Sav. Assoc.	Duncanville	TX
7791	Hidalgo S&LA	Edinburg	TX
8541	Hill Financial Sav. Assn.	Red Hill	PA
7734	Hollywood FSB	Hollywood	FL
8665	Home F.S.B. of Worcester	Worcester	MA
8316	Home Fed. S&L Assoc.	Mountain Home	AR
8584	Home Fed. S&L Assoc.	Memphis	TN
8370	Home FS & LA of Centralia	Centralia	IL
7738	Home FS&LA of Harlan	Harlan	IA
7749	Home FS&LA, FA	Algona	IA
7963	Home FSB	Norfolk	VA
8296	Home FSB, FA	Waukegan	IL
8879	Home Owners Savings Bank F.S.B.	Boston	MA
8577	Home S&L Assoc., F.A.	New Orleans	LA
8232	Home SA of Kansas City	Kansas City	MO
8302	Home Savings Bank, FSB	Anchorage	AK
8363	Home Savings, A FS&LA	Joliet	IL
8883	Home SB, FSB	Salt Lake City	UT
7728	Home Unity FS&LA	Lafayette Hill	PA
7913	Homebank FSA	Gilford	NH
7933	Homefed Bank, FA	San Diego	CA
7926	Homestead FSA	Middletown	PA

RTC THRIFTS—Continued

Bank No.	Name	City	St.
7978	Homestead FSA	San Francisco	CA
8276	Hometown FSA	Winfield	IL
8887	Hometown Savings Bank, FSB	Delphi	IN
8390	Horizon Fed. S&L Assoc.	Metairie	LA
8583	Horizon Financial, FA	Southampton	PA
8227	Horizon Savings Bank, F.S.B.	Wilmette	IL
8494	Humble S&L Assoc.	Humble	TX
8829	Huntington FS & LA	Huntington Beach.	CA
8537	Illinois Savings Bank, FA	Peoria	IL
8206	Imperial Federal Savings Association	San Diego	CA
8310	Independence Fed S&L Assn.	Batesville	AR
8526	Independence S&L Assoc.	Vallejo	CA
7880	International FS&LA	North Miami Beach.	FL
8823	Investment FS & LA	Woodland Hills	CA
8860	Investor Savings Bank, FSB	Nashville	TN
8843	Investors Federal Savings Bank	Deerfield Beach.	FL
7917	Investors FSB	Richmond	VA
7954	Irving FB for savings, FSB	Chicago	IL
8272	Irving FS&LA	Paterson	NJ
7936	Irvington FSB	Baltimore	MD
7964	Jacksonville FSA	Jacksonville	FL
8473	Jasper Fed. S&L Assoc	Jasper	TX
7868	Jefferson FS&LA, FA	Birmingham	AL
8476	Jefferson S&L Assoc	Beaumont	TX
8237	Jennings FSA	Jennings	LA
7844	John Hanson SB	Beltsville	MD
8884	Jonesboro FSA	Jonesboro	LA
8638	Karnes County FS&LA	Karnes City	TX
8490	La Hacienda Savings Assn	San Antonio	TX

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8594	LaFayette S&L Assn., FA	Gretna	LA
8238	Lakeland Savings Bank, F.S.B	Detroit Lakes	MN
8311	Landmark Sav. Bank, FSB	Hot Springs	AR
7759	Larchmont FS&LA	Larchmont	NY
7935	Lemont FSA	Lemont	IL
8450	Liberty Bell Sav. Assoc	Beaver Falls	PA
8499	Liberty County FS&LA	Liberty	TX
8837	Liberty Federal Savings Bank	Huntington Park.	CA
8350	Liberty FS & LA	New Port Richey.	FL
7960	Liberty FSB	Warrenton	VA
8578	Liberty Savings Bank, FSB	Randallstown	MD
8683	Liberty SB, FSB	Marietta	OH
8367	Libertyville Fed S&L Assn	Libertyville	IL
7977	Life FSB	Baton Rouge	LA
8896	Life FSB	Clearwater	FL
8451	Lincoln Fed. S&L Assoc	Mt Carmel	TN
8531	Lincoln Federal S&LA	Miami	FL
8560	Lincoln S&L Assoc, FA	Irvine	CA
8677	Louisiana SA	Lake Charles	LA
8838	Louisiana SB, FSB	Kenner	LA
7898	Ludington FSB	Ludington	MI
8364	Madison County Fed S&L Assn	Granite City	IL
8313	Madison Guaranty S&L Assn	McCrory	AR
7762	Mainstay FS, FSB	Red Bank	NJ
7820	Malibu SB, FSB	Malibu	CA
7928	Marine View FSB	Middletown	NJ
8253	Marshall FS & LA	Marshall	TX
8806	Merabank Federal Savings Bank	Phoenix	AZ
7896	Mercantile FSB	Southaven	MS
7720	Mercer FSB	Trenton	NJ
8871	Merchants and Mechanics FS&LA	Springfield	OH

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RTC THRIFTS—Continued

Bank No.	Name	City	St.
8801	Mercury FS & LA	Huntington Beach.	CA
8488	Meridian Savings Assoc	Arlington	TX
8464	Meritbanc Savings Assoc	Houston	TX
8335	Mesa FS & LA of Colorado	Grand Junction	CO
8685	Metrobank FS&LA	Palisades Park	NJ
8438	Metropolitan Fed S&L Assn	Denville	NJ
8624	Metropolitan Financial FS & LA	Dallas	TX
8679	Metropolitan FS&LA, FA	Nashville	TN
8346	Miami Savings Bank	Miami	FL
8576	Mid Kansas S&L Assoc. F.A	Wichita	KS
8419	Mid Missouri S&L Assn, FA	Boonville	MO
8385	Mid-America Fed S&L Assoc	Parsons	KS
7726	Mid-America FS & LA	Columbus	OH
8444	Midland-Buckeye Sav., A FS&LA	Alliance	OH
8433	Midwest Fed. S&L Assoc	Nebraska City	NE
8690	Midwest Federal Savings Bank of Minot	Minot	ND
8365	Midwest Home FSB	Belleville	IL
8521	Midwest Sav. Assn., FA	Minneapolis	MN
8366	Midwestern Sav. Assoc	Macomb	IL
8480	Mission SA of Texas	San Antonio	TX
8880	Mississippi Savings Bank, F.S.B	Batesville	MS
8416	Missouri Sav. Assoc., FA	Clayton	MO
8337	Modern Fed. S&L Assoc.	Grand Junction	CO
7765	Monycor FSB	Barron	WI
8688	Moultrie Savings Bank, FSB	Moultrie	GA
8523	Mountainwest S&L Assn, A FS&LA	Ogden	UT
8458	Murray Fed. S&L Assoc.	Dallas	TX
8874	Mutual Aide S&LA	Manasquan	NJ

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8221	Mutual S&LA, FA	Weatherford	TX
8287	Nassau FS & LA	Princeton	NJ
8235	Nassau S & LA	Brooklyn	NY
8894	New Age FSA	St Louis	MO
8297	New Athens FS & LA	New Athens	IL
8599	New Braunfels S&L Assn, FA	New Braunfels	TX
7965	New England FSA	Wellesley	MA
8579	New Guaranty Fed S&L Assn.	Taylor	MI
7859	New Merabank Texas, FSB	El Paso	TX
8607	New Metropolitan FSB	Hialeah	FL
8580	New Mexico FSA	Albuquerque	NM
7797	Newton SB, FSB	Newton	NJ
8434	Nile Valley Fed S&L Assoc.	Scottsbluff	NE
8601	North American FSA	San Antonio	TX
8817	North Carolina S & LA, F.A.	Charlotte	NC
8435	North Jersey Federal Savings Assoc.	Passaic	NJ
8216	North Texas FSA	Wichita Falls	TX
8818	Nowlin FSA	North Richland Hills.	TX
8890	Nutley S&LA	Nutley	NJ
7804	Oak Tree FSB	New Orleans	LA
8430	Occidental Nebraska SB, FSB	Omaha	NE
8282	Old Borough FS&LA	Trenton	NJ
7941	Old Stone FSB	Providence	RI
8695	Olympic FSA	Berwyn	IL
8529	Otero S&L Assoc.	Colorado Springs.	CO
8830	Pacific Coast FSA of America	San Francisco	CA
8320	Pacific Savings Bank	Costa Mesa	CA
8511	Padre Federal Sav. U Loan	Corpus Christi	TX
7983	Palm Beach FSA	Palm Beach Gardens.	FL
8491	Palo Duro FS&LA	Amarillo	TX

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8841	Pan American FSB	San Mateo	CA
8593	Parish Fed. S&L Assoc.	Denham Springs.	LA
8496	Park Cities Savings Association	Dallas	TX
8258	Pelican Hmstd & SA	Metairie	LA
8824	Peninsula S & LA	South San Francisco.	CA
8651	People's Homestead SB, FSB	Monroe	LA
8410	Peoples FS & LA of Thibodaux	Thibodaux	LA
7889	Peoples FSA	Bay St. Louis	MS
7910	Peoples FSA	Ottumwa	IA
8274	Peoples FSA	Bartlesville	OK
7750	Peoples FSB	New Kensington.	PA
8575	Peoples Heritage Sav, A FS&LA	Salina	KS
8614	Peoples S&L Assoc, FA	Streator	IL
8384	Peoples S&L Assoc.	Parsons	KS
8591	Peoples S&L Assoc., F.A.	Hampton	VA
8414	Peoples Sav. Assoc., F.A.	St Joseph	MI
8513	Permian S&L Assoc.	Kermit	TX
8330	Perpetual Sav Assn, A FS&LA	Santa Ana	CA
7920	Perpetual SB	Mclean	VA
8306	Phenix Fed S&L Assn, F.A.	Phenix City	AL
7946	Piedmont FSA	Manassas	VA
8858	Pima FS&LA	Tucson	AZ
8288	Pioneer Federal Savings Bank	Clearwater	FL
7706	Pioneer FS & LA	Marietta	OH
8573	Pioneer Savings, F.A.	Plymouth	IN
8587	Plano S&L Association, F.A.	Plano	TX
8431	Platte Valley Sav., A FS&LA	Gering	NE
7911	Plymouth FSA	Plymouth	MA
7982	Polifly FS&LA	New Milford	NJ
7971	Potomac FSB	Silver Spring	MD
7841	Preferred SB, FSB	High Point	NC
7783	Professional FSB	Coral Gables	FL

RTC THRIFTS—Continued

Bank No.	Name	City	St.
7900	Progressive SB, FSB	Pasadena	CA
8246	Progressive SB, FSB	Natchitoches	LA
7775	Prospect Park FSB	West Paterson	NJ
8669	Provident SA, FA	Casper	WY
8881	Rancho Bernardo Fed. Savings Bank	San Diego	CA
8609	Red River FS&LA, FA	Lawton	OK
8631	Red River S&L Assoc	Coushatta	LA
8816	Remington Federal Savings Association	Elgin	TX
8423	Republic Bank for Sav., FA	Jackson	MS
7955	Republic FSB	Matteson	IL
7851	Republic SB, FSB	Rockville	MD
8462	Resource Savings Assoc	Denison	TX
8400	River City Fed Sav Bank	Baton Rouge	LA
7777	Riverside SB, SLA	Riverside	NJ
8339	Rocky Mountain S&L Assn	Woodland Park	CO
8212	Royal Oak FS & LA	Randallstown	MD
8332	Royal Oak S&L Assoc	Manteca	CA
8533	Royal Palm Fed S&L Assoc	West Palm Beach.	FL
8500	Rusk Fed S&L Assoc	Rusk	TX
8503	Sabine Valley S&L Assoc	Center	TX
8670	Salamanca Federal Savings Assoc	Salamanca	NY
8550	San Antonio Sav Assn, FA	San Antonio	TX
7932	San Clemente FSB	San Clemente	CA
7789	San Jacinto SA, FA	Bellaire	TX
8439	Sandia Fed. Sav. Assoc	Albuquerque	NM
8213	Santa Barbara FS&LA	Santa Barbara	CA
7704	Santa Paula S&LA	Santa Paula	CA
8618	Saratoga FS&LA	San Jose	CA

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8309	Savers SA, A FS&LA	Little Rock	AR
8489	Savings of Texas Assoc	Jacksonville	TX
8559	Seabank Fed. Savings Bank	Myrtle Beach	SC
8592	Seasons Federal Savings Bank	Richmond	VA
7980	Second National FSA	Salisbury	MD
8615	Security Fed. S&L Assoc	Peoria	IL
8468	Security Fed. Savings Assn	Texarkana	TX
8625	Security Fed. Savings Association	Garden Grove	CA
8284	Security Federal Savings Association	Richmond	VA
8807	Security Federal Savings Bank	Carlsbad	NM
8671	Security Federal Savings, FSB	Columbia	SC
8245	Security First FS&LA	Daytona Beach	FL
7937	Security FS&LA	Jackson	MS
8849	Security FS&LA	Waterbury	CT
8848	Security FS&LA of Albuquerque, FA	Albuquerque	NM
7875	Security FSA	Panama City	FL
7984	Security FSB	Vineland	NJ
8389	Security Homestead FSA	New Orleans	LA
8319	Security S&L Assoc	Scottsdale	AZ
8840	Sentinel FS & LA	Phoenix	AZ
7773	Sentry FSA	Norfolk	VA
7863	Sentry SB, FSB	Nyannis	MA
8378	Shawnee Fed. S&L Assoc	Topeka	KS
8899	Shenandoah FSA	Martinsburg	WV
8604	Sierra S&L Assoc., FA	Beverly Hills	CA
8633	Silver Savings Assoc., FA	Silver City	NM
8360	Sioux Valley S & LA	Cherokee	IA
8536	Skokie Fed S&L Assn., FA	Skokie	IL
8655	Sooner Federal Savings Assoc.	Tulsa	OK

RTC THRIFTS—Continued

Bank No.	Name	City	St.
8391	South S&L Assoc., F.A.	Slidell	LA
8508	Southeast Texas FSA	Woodville	TX
8876	southeastern Federal Savings Bank	Laurel	MS
7842	Southeastern FSB	Charlotte	NC
8501	Southeastern Sav. Assoc.	Dayton	TX
8348	Southern Floridabanc FS & LA	Boca Raton	FL
7710	Southern FS	New Orleans	LA
7962	Southern FSA of Georgia	Atlanta	GA
8891	Southern FSB	Gulfport	MS
8481	Southmost S&L Assoc.	Brownsville	TX
8498	Southside Fed S&L Assoc.	Austin	TX
8561	Southwest Fed. Savings Assoc.	Los Angeles	CA
8280	Southwest FSA	Dallas	TX
8522	Southwest S&LA, FA	Phoenix	AZ
8663	Southwestern Federal Savings Assoc.	El Paso	TX
7854	Sovereign SB, FSB	Palm Harbor	FL
8471	Spindletop Sav. Assn, F.A.	Beaumont	TX
8479	Spring Branch S&L Assoc.	Houston	TX
7902	Springfield FSA	Springfield	PA
8225	St Louis County Savings Association, F.A.	Ferguson	MO
8654	St. Charles FSA	St. Charles	IL
8892	Standard FS&LA	Columbia	SC
7979	Standard FSA	Gaithersburg	MD
8512	Standard FSA	Houston	TX
8202	State FSA	Tulsa	OK
8426	State Mutual Fed S&L Assn.	Jackson	MS
7894	State Savings, FSB	Jackson Heights.	NY

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RTC THRIFTS—Continued

Bank No.	Name	City	St.
7858	Statesman Federal Savings Bank	Waterloo	IA
8547	Suburban Savings Assoc.	San Antonio	TX
7735	Summit First S & LA, FA	Summit	IL
8443	Sun Country SB of New Mexico, FSB	Albuquerque	NM
8861	Sun Federal Savings Association	Fort Dodge	IA
8528	Sun S&L Assoc.	Parker	CO
8379	Sun Savings Asoc., F.A.	Kansas City	KS
8563	Sun State S&L Assn., FSA	Phoenix	AZ
8612	Sunbelt FS, FSB	Dallas	TX
7714	Superior FSA	Cleveland	OH
8290	Superior SB, FSB	Nacogdoches	TX
8650	Surety Federal Sav. Assoc.	El Paso	TX
7857	Surety FS&LA, FA	Morganton	NC
8256	Sweetwater FS & LA	Rock Springs	WY
8588	Taylorbanc FED S&L Assn.	Taylor	TX
8875	Tennessee FSB	Cookeville	TN
8406	Terrebonne S&L Assoc, FA	Houma	LA
8897	Texarkana FS&LA, FA	Texarkana	AR
7839	Texas Commercial SA	Sulphur Springs	TX
8873	Texas FSA	San Antonio	TX
8658	Texas Western Fed. Savings Association	Houston	TX
8814	Texasbanc FSB	Conroe	TX
8388	The Barber County S&L Assn.	Medicine Lodge	KS
8201	The Benj. Franklin FS & LA	Portland	OR
8546	The Duncan S&L Assoc.	Duncan	OK
8295	The Federal Savings Banc, FA	Arlington	TX
7781	The Federal SB, FSB	Atlanta	GA
7725	The First, FA	Orlando	FL
8876	The Garnett S&L Assoc.	Garnett	KS
8901	The Guardian Bank, A FSB	Boca Raton	FL
8564	The Guardian Fed S&L Assn.	Bakersfield	CA
8214	The Hiawatha Federal Sav. Assoc.	Hiawatha	KS
7780	The Overland Park FS&LA	Overland Park	KS
8493	Timberland FSA	Nacogdoches	TX
8815	Time FS&LA	San Francisco	CA
8383	Topeka Sav., A FS&LA	Topeka	KS
7950	Transohio FSB	Cleveland	OH
8678	Travis FS&LA	San Antonio	TX
7876	Trident FS&LA, FA	Newark	NJ
8482	Trinity Valley S&L Assoc.	Cleveland	TX
7808	Trustbank FSB	Tysons Corner	VA
7870	Tuskegee S&LA, FA	Tuskegee Institute	AL
7940	Ukrainian FS&LA	Philadelphia	PA
8331	Unified Savings, A FS&LA	Northridge	CA
8623	Unifirst Bank for Sav., A FS&LA	Jackson	MS
8318	Unipoint Fed Savings Bank	Trumann	AR
8809	United Federal Savings, F.A.	New Orleans	LA
8300	United FS&LA	Vidalia	LA
7867	United FS&LA, FA	Jonesboro	AR
8247	United FSA of Iowa	Des Moines	IA
7801	United FSB	Vienna	VA
7877	United FSB	Smyrna	GA
8696	United FSB	Prestonsburg	KY
8453	United Guaranty Fed Sav Bank	Tullahoma	TN
7742	United Home Federal	Toledo	OH
8853	United S&L of Trenton, F.A.	Trenton	NJ
7767	United Sav. of America, FA	Melbourne	FL
8241	United Savings Bank, FSB	Windom	MN
8691	United Savings of America	Chicago	IL
8882	United Savings, FSB	Patterson	NJ
7881	Unity FS&LA, FA	Beverly Hills	CA
8524	Universal S&LA, A FS&LA	Scottsdale	AZ
8474	Universal Sav. Assoc.	Houston	TX
8455	University Fed Sav. Assoc.	Houston	TX
8619	Uvalde FS&LA	Uvalde	TX
8336	Valley Federal S&L Assoc.	Grand Junction	CO
8652	Valley Federal Sav. Assoc.	McAllen	TX
7810	Valley FS&LA	Van Nuys	CA
8442	Valley Savings Bank, FSB	Roswell	NM
8377	Valley Savings, A FS&LA	Hutchinson	KS
8252	Vanguard SB, FSB	Vandergrift	PA
7803	Vermilion FSB	Abbeville	LA
8268	Vermont SA, FA	Timonium	MD
8556	Victoria SA, FSA	San Antonio	TX
8484	Village Savings FSB	Houston	TX
8485	Vision Banc Sav. Assoc.	Kingsville	TX
7945	Vista FSA	Reston	VA
7986	Vista FSA	Canoga Park	CA
8242	Volunteer FSA	Little Ferry	NJ
8327	Washington S&L Assoc.	Stockton	CA
8562	Westco Savings Bank, FSB	Wilmington	CA
8205	Westerleigh FS&LA	Staten Island	NY
8855	Western Empire FS&LA	Yorba Linda	CA
7931	Western FS&LA	Glenview	IL
8472	Western Gulf S&L Assoc.	Bay City	TX
8603	Western S&L Assoc., FA	Phoenix	AZ
8255	Westland FS&LA	Rawlins	WY
8859	Westport Federal Savings Bank	Hanford	CA
8321	Westwood S&L Assoc.	Los Angeles	CA
7914	White Horse FS&LA	Trenton	NJ
8273	Whitestone FS&LA	Whitestone	NY
8854	Williamsburg FS&LA	Salt Lake City	UT
8674	Wilshire FS&LA	Los Angeles	CA
8635	Windsor FSA	Austin	TX
8666	Yorkridge-Calvert FSA	Pikesville	MD
7864	Yorkville FS&LA	Bronx	NY
8278	Yorkwood FS&LA	Maplewood	NJ

By order of the Executive Committee.

Dated at Washington, DC, this 3rd day of May, 1993.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 93–10774 Filed 5–6–93; 8:45 am]

BILLING CODE 6714–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted within 30 days of this publication in the **Federal Register**. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416. Telephone: (202) 205–6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Management Training Report.

Form No.: SBA Form 888.

Frequency: On Occasion.

Description of Respondents: Attendees at SBA sponsored training.

Annual Responses: 16,000.

Annual Burden: 2,656.

Dated: May 3, 1993.

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 93–10820 Filed 5–6–93; 8:45 am]

BILLING CODE 8025–01–M

[License # 02/02–0408]

Interstate Capital Co., Inc.; License Surrender

Notice is hereby given that Interstate Capital Company Incorporated ("ICC"), 149 Madison Ave., Rm 805, New York City, New York, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended ("the Act"). ICC was licensed by the Small Business Administration on October 22, 1980/Reissued October 29, 1982.

Under the Authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on April 22, 1993, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 29, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–10762 Filed 5–6–93; 8:45 am]

BILLING CODE 8025–01–M

[License No. 04/04–0189]

Kitty Hawk Capital Limited Partnership; License Surrender

Notice is hereby given that Kitty Hawk Capital Limited Partnership ("Kitty Hawk"), 1640 Independence Center, Charlotte, NC, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended ("the Act"). Kitty Hawk was licensed by the Small Business Administration on July 23, 1980.

Under the Authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on April 28, 1993, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 28, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–10763 Filed 5–6–93; 8:45 am]

BILLING CODE 8025–01–M

Green Mountain Capital, L.P., Issuance of a Small Business Investment Company License

In the matter of Green Mountain Capital, L.P., Route 1, Box 1503, (corner of Blush Hill Rd. & Route 100), Waterbury, Vermont 05676 (License No. 01/01–0357).

On September 17, 1992, a notice was published in the **Federal Register**, stating that an application has been filed by Green Mountain Capital, L.P., with the U.S. Small Business Administration (SBA) pursuant to § 107.102 of the Regulations for a license to operate as a small business investment company.

Interested parties were given until close of business October 17, 1992 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 01/01–0357 on March 30, 1993 to Green Mountain Capital, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: April 28, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–10763 Filed 5–6–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 1805]

Secretary of State's Panel on El Salvador; Meeting

The Department of State announces an open meeting of the Secretary of State's Panel on El Salvador on May 26, 1993 from 1:30 p.m. to 4:30 p.m. in room 2925B, the East Auditorium, Department of State, 22201 C Street, NW., Washington, DC 20520.

The Panel is examining the conduct of the Department of State in light of the issues raised by the United Nations Truth Commission. The Panel's review

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will include an examination of the Department's and Embassy's human rights reporting, the degree to which full and objective inquiries into abuses by both sides in the conflict in El Salvador were conducted, and the approach taken by the Department to Congressional and public inquiries on these issues.

This meeting will provide a forum for all interested members of the public, as well as representatives of the executive and congressional branches of government to provide their views to the Panel. Discussion will focus on the period 1980–1991.

Members of the general public may attend the meeting and join in the discussion, subject to the direction of the Chairman. Admittance will be limited to the seating available (approximately 200). In that regard, entrance to the Department of State building is controlled and individual building passes are required for each attendee. Arrangements must be made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise Ms. Sherry Booth, or Ms. Eileen Kazanowski, Department of State, Washington, DC; telephone 202–736–4517, by providing their name, title, organization name, social security number and date of birth. All attendees must use the C Street entrance to the building and present a photo I.D. is required.

Dated: May 4, 1993.

B. Lynn Pascoe,

Executive Director, Secretary of State's Panel on El Salvador.

[FR Doc. 93–10804 Filed 5–6–93; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

For-Hire Motor Carriers of Passengers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of interpretation.

SUMMARY: This notice is intended to clarify the Federal Highway Administration's policy relating to for-hire transportation of passengers and to make subject carriers aware of the applicable regulations and potential penalties for non-compliance. Businesses operating passenger-carrying commercial motor vehicles in interstate commerce, and receiving direct or indirect compensation for their transportation services are for-hire motor carriers subject to the minimum financial responsibility requirements in 49 CFR part 387. If the passenger-carrying capacity of the vehicles operated by such motor carriers is 16 or more, including the driver, they are also subject to the remainder of the Federal Motor Carrier Safety Regulations. Non-business entities which are conducting for-hire operations are also subject to these regulations.

EFFECTIVE DATE: This policy is currently in effect.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Price, Office of Motor Carrier Standards, (202) 366–4009, or Mrs. Allison Smith, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Statutory Authority

Since 1935, the Federal government has been regulating, for safety purposes, interstate transportation performed by for-hire carriers of property and passengers, and private carriers of property.

In 1982, Congress passed the Bus Regulatory Reform Act (Pub. L. 97–261, 96 Stat. 1102, 49 U.S.C. 10927) which mandated that the Secretary of Transportation establish regulations to require minimum levels of financial responsibility applicable to for-hire motor carriers of passengers. In revising the statutes governing motor carriers of passengers, Congress recognized the benefits of a safe, sound, competitive and fuel-efficient motorcoach system to the nation's economy and national defense, as well as its vital contribution to the transportation needs of the elderly, handicapped and the poor.

In the Motor Carrier Safety Act of 1984 on October 30, 1984 (Pub. L. 98–554, 98 Stat. 2832, 49 U.S.C. App. 2501 et seq.), Congress defined the FHWA's jurisdiction on the basis of vehicles being operated in interstate commerce. The stated purposes of the 1984 Act were to (1) promote the safe operation of commercial motor vehicles; (2) minimize dangers to the health of operators of commercial motor vehicles; and (3) assure increased compliance with traffic laws and with the commercial motor vehicle safety rules. Congress expanded the definition of "commercial motor vehicle" (CMV) in section 204 of that Act (49 U.S.C. App. 2503) to include any self-propelled or towed vehicle used on highways in interstate commerce to transport passengers or property if (a) such vehicle has a gross vehicle weight rating of 10,001 or more pounds; (b) such vehicle is designed to transport 16 or more passengers, including the driver; or (c) such vehicle is used in the transportation of hazardous materials which require a placard. Consequently, any entity operating a commercial motor vehicle, as defined in that Act, in interstate commerce, unless exempt, would be subject to the FMCSRs. The FHWA, therefore, determined that private transportation of passengers in a "commercial motor vehicle" would, for the first time, be subject to the FMCSRs, and initiated a rulemaking to propose elimination of the exemption of such transportation from those regulations. (See 54 FR 7362, February 17, 1989.) This rulemaking has not been completed.

The purpose of this notice is to clarify existing policy to the effect that certain entities providing transportation services, which by their very nature are for-hire, are not private carriers of passengers. These entities have already been and continue to be subject to regulation by the FHWA under authority dating back to the Motor Carrier Act of 1935 and the Bus Regulatory Reform Act of 1982.

Current Regulations

The Federal Motor Carrier Safety Regulations (FMCSRs) are contained in Title 49, Code of Federal Regulations, parts 350 through 399. The regulations in parts 390–399 set minimum safety standards for motor carriers and drivers involved in interstate commerce in areas such as driver qualification, licensing, hours of service, inspection and maintenance, parts and accessories and operating rules.

The minimum levels of financial responsibility for for-hire motor carriers of passengers are found in part 387, subpart B. These levels are set at $5,000,000 for any vehicle with a seating capacity of 16 passengers or more, and $1,500,000 for any vehicle with a seating capacity of 15 passengers or less.

Private carriers of passengers, i.e., other than for-hire carriers, are presently exempt from all of the FMCSRs, except the Commercial Driver's License (CDL) requirements in part 383.

Pursuant to the CDL regulations, all drivers of commercial motor vehicles, as defined in the 1986 Act, must be tested and licensed according to the Federal standards.

Statement of Policy

The FHWA is issuing this Notice to clarify its policy regarding certain businesses, including hotels and car rental agencies operating shuttle bus services, and outdoor recreation operations such as whitewater rafters and scuba diving schools transporting patrons to or from a recreation site. These operations constitute for-hire motor carriage of passengers. "For-hire motor carrier," defined at 49 CFR § 390.5, means a person engaged in the transportation of goods or passengers for compensation. "Compensation," as used in the context of a business enterprise, includes both direct and indirect payment for the transportation service provided. It need not mean "for profit." Moreover, as for-hire motor carriers of passengers, these businesses are subject to the financial responsibility requirements of 49 CFR part 387. The FHWA believes this policy is consistent with its responsibilities for commercial motor vehicle safety inherited from the Interstate Commerce Commission in 1967, and also conforms with the stated purposes of the Motor Carrier Safety Act of 1984.

The FHWA is also reiterating its policy that certain non-business entities, even churches or other eleemosynary organizations, when operating as a for-hire carrier of passengers, have always been subject to the FMCSRs. This means that when a church offers charter bus operations to the general public, and charges a fee for such service, it is operating as a for-hire carrier and must comply with the FMCSRs, including the Financial Responsibility requirements in part 387.

Basis for Policy

Three factors are critical in determining if a motor carrier of passengers is for-hire, and therefore subject to the FMCSRs and the financial responsibility requirements. These factors are:

1. The motor carrier provides point-to-point interstate transportation of passengers in a commercial motor vehicle for a commercial purpose;
2. The motor carrier is compensated, either directly or indirectly, for the transportation service provided; and
3. The point-to-point transportation service is generally available to the public at large.

All three of the above factors must be present before a motor carrier of passengers will be considered for-hire.

The following hypothetical examples are offered as illustrations to help clarify the determining factors:

First Example

A scuba diving school in Virginia, whose primary business function is the certification of trained scuba divers, offers scuba classes to the general public. The school charges a fee of $2500.00 for a nine week course which includes instruction, equipment rental, certification fees, and transportation, via the school's motorcoach, to Florida for the final phase of the certification process. None of the $2500.00 fee is specifically earmarked for the transportation service provided, and the business bookkeeping does not reflect any portion of the $2500.00 fee reserved for transportation.

In this example all three of the determining factors can be answered in the affirmative: (1) The business provides point-to-point transportation between Virginia and Florida in a commercial motor vehicle in furtherance of a commercial venture; (2) the business is indirectly compensated for the transportation service which is included in the $2500.00 class fee; and (3) the scuba school's certification program, which includes transportation, is available to the general public. As a result, the school's transportation service constitutes for-hire motor carriage of passengers, subject to the FMCSRs and the financial responsibility requirements.

Second Example

A church in Tennessee advertises, e.g., in the local newspapers, radio, etc., that it is offering package bus tours to Disney World in Florida for a stated fee. The offering is open to the public, and the net proceeds will be used to offset the expenses for regular church activities (i.e., charitable purposes).

In this example, although the church would not ordinarily be considered a business, once it engages in the charter bus enterprise, it is operating as a business offering transportation services for-hire in interstates commerce. It receives direct compensation for the transportation services provided, and, even though the proceeds will go to another church purpose, which may be charitable, there is no question that the church intended to make money from the venture. If the church charged a fee only large enough to cover its expenses, it would not actually be receiving compensation for the transportation service provided, but would only be recovering the costs of a church sponsored activity. Finally, the church is offering these services to a large segment of the public-at-large through its advertisement in local newspapers and radio. If the church offered the excursion only to members of its congregation, then the element of holding out to the general public would be missing.

Educational Activities

The FHWA's primary method for providing educational and technical assistance is through on-site reviews. FHWA investigators examine various documents during these reviews, including, among others, documents establishing driver qualification, licensing, hours of service, and inspection, maintenance, and operating condition of vehicle safety equipment, and proof of financial responsibility.

Following an on-site review, a carrier is assigned one of three safety ratings: (1) Satisfactory; (2) Conditional; or (3) Unsatisfactory. The results of the review and the safety fitness rating help the FHWA determine if the carrier should be entered into a selective priority grouping for further reviews and audits.

Section 385.21 of the FMCSRs requires all unrated motor carriers to file a Motor Carrier Identification Report, Form MC–150, with the FHWA. The purpose of the report is to identify previously unidentified motor carriers and to assist the FHWA in prioritizing such carriers for reviews.

Those for-hire carriers identified in this policy notice, which have not filed an MC–150 may obtain that form from the FHWA's Office of Motor Carriers in their state of domicile, together with an Educational and Technical Assistance (ETA) package designed to assist carriers in complying with the FMCSR.

Once completed, the MC–150 should be sent to the FHWA's Office of Motor Carrier Information Management and Analysis, 400 Seventh Street, SW., Washington, DC 20590.

Enforcement

Any person who violates provisions of the Federal Motor Carrier Safety Regulations may be subject to the civil and criminal penalties found at 49 U.S.C. 521.

Any person, other than an employee who acts without knowledge, who knowingly violates the minimum levels of financial responsibility requirements of 49 CFR part 387 shall be subject to the civil penalties found in 49 U.S.C. 10927 (note). The specific penalty structure, set forth in the Bus Regulatory Reform Act of 1982, is restated at 49 CFR 387.41.

Current FHWA enforcement policies are such that initial reviews generally do not lead to enforcement actions. However, the Motor Carrier Safety Act of 1990 (Pub. L. 101–500, section 117, 104 Stat. 1218 (1990)) requires that an enforcement action be initiated any time certain violations are discovered and can be documented. The Motor Carrier Safety Act of 1990 also requires that all for-hire motor carriers of passengers who receive an "unsatisfactory" safety rating, on or after January 1991, take actions necessary to improve their safety rating to conditional or satisfactory within 45 days or cease transportation. The Act gives the carrier the opportunity to take corrective actions

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necessary to improve the "unsatisfactory" rating to a "conditional" or "satisfactory" within those 45 days.

(23 U.S.C. 315; 49 CFR 148; 49 CFR 387)

Issued on: May 3, 1993.

E. Dean Carlson,

Executive Director.

[FR Doc. 93-10846 Filed 5-6-93; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 29, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0049
Form Number: CF 7533
Type of Review: Extension
Title: Inward Cargo Manifest for Vessels Under Five Tons, Ferry, Train, Car, Vehicle, etc.
Description: Vessels under five tons and any vehicle carrying merchandise and arriving from a contiguous country must report their arrival in the United States and produce a manifest on CF 7533 listing the merchandise being conveyed.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 20,000
Estimated Burden Hours Per Respondent: 5 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 41,650 hours

OMB Number: 1515-0060
Form Number: CF 1300
Type of Review: Extension
Title: Master's Oath of Vessel in Foreign Trade
Description: Customs Form 1300 is used by the master of a vessel to attest the truthfulness of all other forms associated with the manifest. The form also serves to record information on tonnage tax to prevent overpayment of that tax.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 12,000
Estimated Burden Hours Per Respondent: 5 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 21,991 hours

OMB Number: 1515-0071
Form Number: CF 26
Type of Review: Extension
Title: Report of Diversion
Description: Customs Form 26 is used by vessel owners, masters or agents when requesting a diversion of a vessel or to petition for relief from penalties incurred as a result of unlawful diversion or both.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 1,400
Estimated Burden Hours Per Respondent: 5 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 233 hours

OMB Number: 1515-0116
Form Number: None
Type of Review: Extension
Title: Marking Serially Numbered Substantial Holders or Containers
Description: The marking is used to provide for duty-free entry of holders or containers which were manufactured in the United States and exported and returned without having been advanced in value or improved in condition by any process or manufacture. The regulation also provides for duty-free entry of holders or containers of foreign manufacture if duty has been paid before.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 12
Estimated Burden Hours Per Respondent: 10 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 90 hours

OMB Number: 1515-0151
Form Number: None
Type of Review: Extension
Title: Foreign Trade Zone Annual Reconciliation Certification and Recordkeeping Requirement
Description: Each Foreign Trade Zone operator will be responsible for maintaining its inventory control in compliance with statute and regulations. The operator will furnish Customs an annual certification of his compliance.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 171
Estimated Burden Hours Per Respondent: 20 minutes
Frequency of Response: Annually
Estimated Total Reporting Burden: 199 hours
Clearance Officer: Ralph Meyer (202) 927-1552 U.S. Customs Service Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW. Washington, DC 20229
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-10770 Filed 5-6-93; 8:45 am]

BILLING CODE 4820-02-M

Public Information Collection Requirements Submitted to OMB for Review

April 29, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0177
Form Number: IRS Form 4684
Type of Review: Extension
Title: Casualties and Thefts
Description: Form 4684 is used by all taxpayers to compute their gain or loss from casualties or thefts and to summarize such gains and losses. The data is used to verify that the correct gain or loss has been computed.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents/Recordkeepers: 300,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—1 hour, 12 minutes
Learning about the law or the form—10 minutes
Preparing the form—58 minutes

Copying, assembling, and sending the form to the IRS—35 minutes
Frequency of Response: Annually
Estimated Total Reporting Burden: 870,000 hours
Clearance Officer: Garrick Shear, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-10771 Filed 5-6-93; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

April 30, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0127
Form Number: IRS Form 1120-H
Type of Review: Revision
Title: United States Income Tax Return for Homeowners Associations
Description: Homeowners associations file Form 1120-H to report income, deductions, and credits. The form is also used to report the income, deductions, and credits have been correctly computed. The form is also used for statistical purposes.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents/Recordkeeper: 60,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—11 hours, 14 minutes
Learning about the law or the form—5 hours, 9 minutes
Preparing the form—12 hours, 59 minutes
Copying, assembling, and sending the form to the IRS—2 hours, 9 minutes
Frequency of Response: Annually
Estimated Total Reporting/Recordkeeping Burden: 1,890,000 hours
OMB Number: 1545-0796
Form Number: IRS Form 6524
Type of Review: Revision
Title: Office of Chief Counsel Application
Description: The Chief Counsel Application form provides data we deem critical for evaluating attorney applicant's qualifications such as LSAT score, bar admission status, type of work preference, law school, class standing. SF-171 does not provide this information.
Respondents: Individuals or households
Estimated Number of Respondents: 3,000
Estimated Burden Hours Per Respondent: 18 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 900 hours
OMB Number: 1545-0996
Regulation ID Number: EE-113-82 NPRM
Type of Review: Extension
Title: Required Distributions from Qualified Plans and Individual Retirement Plans
Description: The proposed regulations provide rules regarding the minimum distribution requirements applicable to section 403(b) contracts and accounts. Such minimum distribution rules do not apply to benefits accrued before January 1, 1987.
Respondents: State or local governments, Non-profit institutions
Estimated Number of Recordkeepers: 1
Estimated Burden Hours Per Recordkeeper: 1 hour
Frequency of Response: On occasion
Estimated Total Recordkeeping Burden: 1 hour
Clearance Officer: Garrick Shear, (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-10772 Filed 5-6-93; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

University Affiliations Program: Application Notice for Fiscal Year 1994

AGENCY: USIA.

ACTION: Notice—Request for proposals.

SUMMARY: The Bureau of Educational and Cultural Affairs of the United States Information Agency announces a program of support for institutional partnerships between U.S. and foreign universities and colleges with a demonstrated commitment to internationalization of their academic programs. The University Affiliations Program seeks to promote institutional relationships through grants for the exchange of faculty and staff for a period of not less than three years. The exchange visits to all partner institutions must be for one month or more. The only exception to the minimum length of stay is for planning visits. Three-month or one-semester visits are preferred, and proposals with longer lengths of stay will be more competitive. Exchange visits will involve at least one of the following activities: Teaching, lecturing, research, and faculty and curriculum development directly related to the purpose of the affiliation. The ideal and most competitive proposals will constitute a well-reasoned combination of all of these activities. USIA grant funds must not exceed $120,000. A modest amount of the grant total can be allocated for educational materials. Up to 20% of the total grant award can be applied to direct administrative costs.

Proposals will be accepted either to establish new affiliations or to allow for innovation and strengthening of existing partnerships not previously funded by the University Affiliations Program or similar linkage programs funded by other U.S. government agencies. Proposals for technical or development assistance projects and feasibility studies to plan affiliations will not be considered. Research proposals must include collaboration by researchers from both institutions and be linked to substantial participation in graduate-level seminars.

The competition, as described in separate geographic area programs, is limited to selected countries and academic disciplines which represent USIA's geographic and academic priorities for the University Affiliations Program. Subject to the availability of funds, approximately 20 grants will be awarded for Fiscal year 1994.

U.S. institutions are responsible for the submission of proposals and should collaborate with their foreign partners in planning and preparing proposals. Foreign institutions are encouraged to consult with the U.S. Information Service (USIS) office and/or Fulbright Commission in their countries about the proposed project.

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DATES: Deadline for proposals: Proposals must be received by 5 p.m. Washington, DC time on November 8, 1993. Proposals received by the Agency after this deadline will not be eligible for consideration. Faxed documents will not be accepted, nor will documents be accepted which are postmarked on November 8, 1993 but received at a later date. It is the responsibility of all grant applicants to ensure that their proposal is received by the above deadline. Grant activities should begin not later than September 1, 1994.

ADDRESSES: The original and 14 complete copies of the proposal should be submitted by the deadline to the address below. Note that this is a change in address for proposal submissions only. USIA University Affiliations Program, c/o AED, 1255 23rd Street, NW., Suite 100, Washington, DC 20037.

CONTACTS FOR FURTHER INFORMATION: For general information and requests for application packets, which include all necessary forms and guidelines for preparing budgets, interested institutions should contact Ms. Camille Barone or Ms. Deborah Trent at (202) 619–5289, or write to the address below. Note that this is a change in procedure. Proposals should not be mailed to this address: University Affiliations Program, Office of Academic Programs, U.S. Information Agency, 301 4th Street, SW., rm. 349, Washington, DC 20547.

SUPPLEMENTARY INFORMATION:

Overview

Authority for the University Affiliations Program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256 (Fulbright-Hays Act). The Fulbright Program seeks to increase mutual understanding between the people of the United States and people of other countries. USIA strives to accomplish this goal by promoting affiliations between U.S. and foreign institutions of higher education.

Pursuant to the Agency's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life.

Public reporting burden for this collection of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden estimate, to USIA Clearance Officer, M/ADD, room 624, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503.

(Information collection involved in this program has been cleared by OMB Approval Number 3116–0179, expiration date 12/31/95.)

Guidelines

Eligibility

In the U.S., participation in the program is open to accredited two-year and four-year colleges and universities, including graduate schools. Consortia of universities and/or community colleges, individually or as systems, are also eligible. Overseas, participation is limited to recognized degree-granting institutions of post-secondary education and internationally recognized and highly regarded independent research institutes. Proposals from a consortium may be submitted by a member institution with authority to represent the consortium. Participants (representing the U.S. institution) traveling under USIA grant support must be U.S. citizens; and (representing the foreign institution) citizens, nationals, or permanent residents of the country of the foreign partner, who are qualified to hold a valid passport. In the case of a partnership with an institution in one of the Newly Independent States, foreign participants with citizenship in any of the NIS will be eligible.

The Agency invites proposals from eligible Historically Black Colleges and Universities (HBCUs) and other institutions in the U.S. with significant minority student enrollment. Consortia of universities including such institutions are also encouraged to apply.

Proposed Budget

A comprehensive line item budget must be submitted with the proposal by the deadline. The budget must not exceed $120,000. Matching funds are not required, but cost sharing is encouraged. Specific guidelines for budget preparation are available in the application packet.

Note: Grants awarded to eligible institutions with fewer than four years' experience in conducting international exchange programs will be limited to $60,000. Budget submissions from these institutions must not exceed this amount.

Ineligibility

A proposal will be deemed technically ineligible if:

1. It does not fully adhere to the guidelines established herein and in the application packet, including budgetary requirements;
2. The proposal is not received by the deadline;
3. The length of the proposed program is not three years;
4. The proposal is not submitted by the U.S. partner;
5. One of the partner institutions is ineligible;
6. The foreign geographic location is ineligible;
7. The project involves a partnership with more than one country (with the exception of the North American trilateral component);
8. The field of study is ineligible;
9. A detailed narrative is not included;
10. A comprehensive line item budget is not included; or
11. The project budget for costs charged against grant funds exceeds $120,000.

Geographic Area Programs

The program invites proposals for two-way projects only (involving the U.S. and one foreign country) except for the trilateral (Canada-U.S.-Mexico) exchanges. Proposals can focus on one or more eligible academic disciplines.

Africa

—Eligibility is open to all sub-Saharan African countries. Eligible academic disciplines are limited to the social sciences, humanities, the arts, business administration, education/educational administration, and environmental studies. Proposals which focus on democratic institution building, including economic reform, and proposals which focus on conflict resolution are also encouraged.

American Republics

—Eligible countries and academic fields are limited to: Argentina (economics; education); Bolivia (business administration; economics; journalism); Brazil (environmental studies; humanities; social sciences); Colombia (American studies); El Salvador (American studies; business administration; humanities; social sciences); and Uruguay (business administration; economics; education (including educational reform)).

East Asia/Pacific

—Eligible countries are limited to: Australia, Hong Kong, Japan, Korea, Mongolia, New Zealand, Peoples Republic of China, Philippines, Singapore, and Western Samoa. Eligible academic disciplines are limited to the social sciences, humanities, the arts, education, and environmental studies. Proposals in *American studies are also encouraged.

Europe

Eastern/Central/Western Europe

—Eligible countries are limited to: Albania, Bulgaria, Estonia, Hungary (for Hungary note specified fields below), Latvia, Lithuania, Macedonia, Malta, and Romania.

For E/C/W Europe, eligible academic disciplines are limited to the social sciences, American studies/area and country studies, education, and environmental studies. Possible areas within those disciplines include but are not limited to communications/journalism, library science, sociology, and social work. Proposals which focus on conflict resolution are also encouraged. (Note: For Hungary, proposals will be accepted in American studies, communications/journalism, educational administration, and political science. Proposals dealing with American studies and political science should specifically target the development of a doctoral program at a Hungarian institution in these fields.)

Newly Independent States of the Former Soviet Union

—Eligibility is limited to the following NIS countries: Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia (limited to institutions outside Moscow and St. Petersburg), Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

For the Newly Independent States, eligible academic disciplines are limited to the social sciences, humanities, the arts, and environmental studies. Possible areas within those disciplines include but are not limited to communications/journalism, library science, sociology, and social work. Proposals in Islamic or *American studies or proposals which focus on conflict resolution are also encouraged.

North Africa/Near East/South Asia

—Eligible countries/regions are limited to: Algeria, Bahrain, Egypt, India, Jordan, Kuwait, Morocco, Nepal, Oman, Pakistan, Qatar, Saudi Arabia, Sri Lanka, Sudan, Syria, Tunisia, United Arab Emirates, West Bank, and Yemen. Eligible academic disciplines are limited to the social sciences, humanities, the arts, business administration, communications/journalism, education, and environmental studies. Proposals in Islamic or *American studies or proposals which focus on conflict resolution are also encouraged.

North American Trilateral Exchanges: Canada-U.S.-Mexico

The Agency also invites proposals for three-way projects linking an institution in the U.S. with institutions in Canada and Mexico. Eligible academic disciplines are: The arts, humanities, comparative education and culture, business and trade, economics, and environmental studies.

*American studies includes the fields of American history, civilization, literature, social sciences, and the arts.

Application Requirements

Proposals must be submitted within the deadline and conform to the selected countries and academic fields identified under the geographic area programs. The proposal package should include one original and 14 complete copies and all required documentation. Proposals should be presented as follows:

1. *A proposal cover sheet* (in addition to the Bureau cover sheet) with names of both institutions, name of foreign country, project directors including their addresses, telephone and fax numbers, and academic field(s) of proposal. A sample cover sheet format is included in the application packet.

2. *An executive summary* (abstract) of proposed project, not to exceed two double-spaced pages.

3. *A narrative,* not to exceed twenty double-spaced pages, including (a) brief, concise descriptions of institutions and participating academic departments or schools; (b) a detailed description of the proposed affiliation program, including names and qualifications of designated project directors; (c) a statement of need for the proposed program; (d) a detailed plan and chronology of exchange activities, including who will travel, when, where, and how activities will occur for each of the three years; (e) the program's anticipated benefits to participating institutions; (f) evidence of the institutions' commitment to the internationalization of their academic programs, e.g. through international partnerships, student exchanges, etc.; (g) a plan for institutional evaluation of the project; and (h) evidence that the partnership is likely to continue after the USIA grant expires.

4. *A comprehensive line item budget* for the three-year program, outlining specific expenditures and sources from which funds are anticipated. Detailed information concerning eligible and ineligible items and required budget format is available in the application packet.

5. *Documentation of institutional support* for the proposed linkage, including signed letters of endorsement from the U.S. and foreign institutions' presidents, chancellors, or directors, making specific reference to the 1994 University Affiliations Program and committing their participating institution(s) to maintaining their exchange participants on salary and benefits during the exchange. A general letter of support or an agreement between the two institutions without reference to the maintenance of salaries and benefits will not fulfill this requirement.

A grace period will be granted to applicants for the submission of the foreign letter of support only. One original and 14 copies of the letter must be received by 5 p.m. Washington, DC time on November 22, 1993. A sample letter of endorsement and commitment is included in the application packet.

6. *Brief academic resumes,* not to exceed two single-spaced pages each, of participating faculty/staff from both institutions, clearly indicating level of language skills, overseas experience, knowledge of prospective partner country, relevant scholarly and non-scholarly travel, publications, professional memberships, and research activities.

Note: *All pages in excess of the two-page limit will be discarded.*

7. *A list of post and present international institutional linkages* (for the U.S. partner). Include linkages supported by USIA and other U.S. government agencies. Also note any pending grant applications submitted to other USIA programs.

Review Process

The University Affiliations Program review process is conducted in three stages: Technical, academic, and Agency. Proposals will be deemed technically eligible only if they adhere to the guidelines established herein and in the application packet. Applicants will be notified of the status of their proposals following technical review. Technically eligible proposals will be forwarded for advisory review to ad hoc panels of academics with area and discipline expertise. All proposals recommended for funding will be reviewed in the Agency by the Office of Academic Programs, the appropriate geographic area office, and the budget and contracts offices. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with the USIA contracting officer.

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Review Criteria

Academic Review Criteria

Proposals are reviewed by independent academic peer panels with geographic and discipline expertise which make recommendations to the Agency based on the following criteria:

1. Soundness of proposal indicating academic quality, as reflected by a clear statement of program goals and means to accomplish the goals, and detailed description of project with statement on how the proposed project will be implemented.

2. If the proposal requests support for an established active linkage, evidence that the University Affiliations funding would result in innovation in the exchange relationship.

3. Promise of the production of new skills/knowledge and advancement of scholarship in fields covered by the program.

4. Evidence of strong mutual benefits to the institutions involved in the exchanges.

5. Feasibility of the program plan as it relates to the stated goals and selected topics and activities.

6. Academic quality of credentials/experience of participants in relation to the goals of the proposed exchange plan (including linguistic proficiency, where required).

7. Length of exchange visits in furtherance of project goals. Longer visits up to a full academic semester are generally preferred.

8. Evidence of strong institutional commitment by participating institutions.

9. Evidence of a strong commitment to internationalization of their academic programs by participating institutions.

10. Evidence of mutual advancement of cultural and political understanding of the countries or geographic areas represented in the partnership through development of individual and institutional ties.

11. For proposals focused on research as its primary activity: Inclusion of collaboration by researchers from both institutions, linked to substantial participation in graduate-level seminars.

12. Presentation of a detailed evaluation plan.

13. Evidence that the partnership is likely to continue after the expiration of the USIA grant.

Agency Review Criteria

USIA will consider for further review only those proposals recommended by academic review panels. Agency considerations will be based on:

1. Academic quality, reflected in academic review panel's comments and recommendations.

2. Feasibility of program plan.

3. Advancement of mutual cultural and political understanding between the countries or geographic areas represented in the partnership.

4. USIA overseas post assessments of need and feasibility.

5. Promise of long-term impact.

6. Cost-effectiveness.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about April 15, 1994. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: May 3, 1993.

Barry Fulton,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 93-10828 Filed 5-6-93; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 87
Friday, May 7, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m.—May 12, 1993.

PLACE: Main Hearing Room—800 North Capitol Street, NW., Washington, DC 20573-0001.

STATUS: Part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTER(S) TO BE CONSIDERED: Portion open to the public.

1. Petition No. P7-92—Motor Vehicle Manufacturers Association of the United States, Inc. and Wallenius Lines, N.A.—Joint Application for Exemption from Certain Requirements of the Shipping Act of 1984 for Certain Limited Shipments of Passenger Vehicles—Consideration of the Record.

Portion closed to the public:

2. Petition No. P8-92—The Shipbuilders Council of America—Petition for an Investigation of, and for Section 19 Relief from, Italian Subsidies for Carnival Cruise Line Passenger Vessels—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523-5725.

Joseph C. Polking,

Secretary.

[FR Doc. 93-10969 Filed 5-5-93; 12:38 pm]

BILLING CODE 6730-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 4:35 p.m., Tuesday, May 4, 1993.

The business of the Board required that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTER CONSIDERED: Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 5, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10970 Filed 5-5-93; 12:38 pm]

BILLING CODE 6210-01-P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 9:00 a.m. May 17, 1993.

PLACE: 4th Floor, Conference Room, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. National Finance Center recordkeeping and agency liaison.
2. Benefits administration.
3. Investments.
4. Participant communications.
5. Approval of the minutes of the last meeting.
6. Thrift Savings Plan activities report by the Executive Director.
7. Approval of the update of the FY 1993-FY 1994 budgets.
8. Investment policy review.
9. Review of additional Thrift Savings Plan funds.
10. Audit recommendations and reports.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 942-1640.

Date: May 5, 1993.

John J. O'Meara,

Secetary, Federal Retirement Thrift Investment Board.

[FR Doc. 93-11005 Filed 5-5-93; 2:30 pm]

BILLING CODE 6760-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Wednesday, May 12, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 4, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10949 Filed 5-5-93; 9:53 am]

BILLING CODE 6210-01-P

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a closed meeting on May 5, 1993 at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(A)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Beese, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, May 5, will be:

Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Kramer at (202) 272-2000.

Dated: May 5, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-10940 Filed 5-5-93; 4:26 pm]

BILLING CODE 8010-01-M

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Corrections

Federal Register
Vol. 58, No. 87
Friday, May 7, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 678

[Docket No. 920409-3047]
RIN 0648-AD12

Fishery Conservation and Management; Foreign Fishing; Atlantic Sharks

Correction

In rule document 93-9641 beginning on page 21931 in the issue of Monday, April 26, 1993, make the following correction:

§ 678.4 [Corrected]

On page 21946, in the second column, in § 678.4(j), in the second line, "valid" should read "invalid".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Brainerd-Crow Wing County Regional Airport/Walter F. Wieland, Field, Brainerd, MN

Correction

In notice document 93-9084 beginning on page 21209 in the issue of Monday, April 19, 1993, the subject heading is correctly set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 101 and 122

[T.D. 93-32]

Customs Service Field Organization; Vicksburg, MS

Correction

In rule document 93-9963 appearing on page 25933 in the issue of Thursday, April 29, 1993, make the following correction:

In the third column, at the bottom, the title for Michael H. Lane should read "Acting Commissioner of Customs" and the title for John P. Simpson should read "Deputy Assistant Secretary of the Treasury".

BILLING CODE 1505-01-D

federal register

Friday
May 7, 1993

Part II

Department of Justice

Antitrust Division

United States v. Airline Tariff Publishing Company, et al.; Public Comments and Response on Proposed Final Judgment; Notice

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DEPARTMENT OF JUSTICE

Antitrust Division

[Civil Action No. 92-2854 (GHR), D.D.C.]

United States v. Airline Tariff Publishing Company, et al.; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States publishes below the comments received on the proposed Final Judgment in *United States* v. *Airline Tariff Publishing Company, et al.*, Civil Action No. 92–2854 (GHR), United States District Court for the District of Columbia, together with the response of the United States to the comments.

Copies of the response and the public comments are available on request for inspection and copying in room 3233 of the Antitrust Division, U.S. Department of Justice, Tenth Street and Pennsylvania Avenue, NW., Washington, DC 20530, and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, NW., Washington, DC 20001.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

In the United States District Court for the District of Columbia

United States of America, Plaintiff, v. Airline Tariff Publishing Company; *et al.*, Defendants. Civil Action No. 92–2854 (GHR).

United States' Response to Public Comments

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Introduction

Pursuant to section 2(d) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(d) (the "APPA" or Tunney Act"), the United States responds to public comments on the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

This action began on December 21, 1992, when the United States filed a Compliant charging eight major domestic airlines [1] and the Airline Tariff Publishing Company ("ATP") with violations of the antitrust laws. The first count of the Complaint alleges that each of the airline defendants engaged in various combinations and conspiracies with other of the airline defendants and co-conspirators. These combinations and conspiracies consisted of agreements to fix prices by increasing fares, eliminating discounted fares, and setting fare restrictions. The Complaint alleges that these agreements were reached using the computerized fare dissemination services of ATP to exchange proposals, negotiate fare changes, and trade fare increases in one or more markets for fare increases in other markets (or to other fare types). As a result of these agreements, consumers paid higher fares for airline tickets.

The second court of the Complaint alleges that the airline defendants, ATP, and co-conspirators engaged in a combination and conspiracy consisting of an agreement to create, maintain, operate, and participate in the ATP fare dissemination system in a manner that unnecessarily facilitates the ability of the airline defendants and their co-conspirators to coordinate changes to their fares. As a result of this agreement, consumers have paid higher prices for airline tickets.

The Complaint seeks an injunction barring the defendants from entering into agreements with one another with respect to fares, and from disseminating the information concerning proposed changes to fares that has enabled them to increase prices collusively and illegally.

Simultaneously with the filing of the Complaint, the United States filed a proposed Final Judgment, a Competitive Impact Statement ("CIS"), and a stipulation signed by two of the defendants, United Air Lines, Inc. ("United") and USAir, Inc. ("USAir"), for entry of the proposed Final Judgment. The proposed Final Judgment embodies all of the relief sought in the Complaint.

As required by the APPA, on December 29 and 30, 1992, respectively, United and USAir filed with this Court a description of written and oral communications on their behalf within the reporting requirements of section 15(g) of the APPA. A summary of the terms of the proposed Final Judgment and CIS, and directions for the submission of written comments relating to the proposal were published in the Washington Post for seven days over a period of two weeks beginning January 3, 1993. The proposed Final Judgment and CIS were published in the **Federal Register** on January 12, 1993. 58 FR 3971–79 (1993).

The 60-day period for public comments commenced on January 13, 1993 and expired on March 15, 1993.[2] The United States received over 700 comments on the proposed Final Judgment, the overwhelming majority of which are letters from travel agents.[3] A number of travel industry trade associations, consumer groups, and several consumers also submitted comments.[4] Five of the non-settling defendants jointly submitted comments expressing their dissatisfaction with the government's decision to initiate this antitrust enforcement action and with the relief provided by the decree to which United and USAir have consented.[5] Finally, United and USAir submitted brief comments to clarify a description in the CIS of one of the provisions of the proposed Final

[1] American Airlines, Inc., Alaska Airlines, Inc., Continental Airlines, Inc., Delta Air Lines, Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and USAir, Inc.

[2] The United States has treated as timely all comments that it received up to the time of the filing of this response.

[3] Of these, almost 400 are form letters circulated by the Association of Retail Travel Agents ("ARTA") or travel agencies.

[4] Comments were received from the American Society of Travel Agents ("ASTA"), the National Business Travel Association ("NBTA"), Association of Corporate Travel Executives ("ACTE"), American Travel Affairs Council ("ATAC"), ARTA, The Independent Travel Technology Association, the National Consumers League, and Public Citizen.

[5] Comments of Airline Tariff Publishing Company, Alaska Airlines, American Airlines, Delta Airlines and Trans World Airlines. While Continental and Northwest did not join in these comments, for brevity these comments are hereinafter referred to as "Comments of the Litigating Defendants." We are skeptical of arguments by non-settling defendants that a decree consented to by their co-conspirators will be harmful to consumers. If it were true that the decree would deprive consumers of valuable information about United and USAir, the litigating defendants would benefit. The only way that entry of the decree will harm the interests of the litigating defendants is if it will effectively inhibit their ability to reach price fixing agreements with United and USAir. The Tunney Act was not intended to enable non-settling defendants to attempt to force co-conspirators who have withdrawn from a conspiracy to re-join it.

Judgment. Those comments are being filed with the Court along with this response.

I. Background

The filing of the complaint in this action was preceded by an extensive three year investigation of the airlines' pricing conduct. In the course of that investigation, the Department reviewed thousands of pages of internal airline documents, analyzed hundreds of actual and proposed fares exchanged by the defendants, interviewed and deposed dozens of current and former airline employees, interviewed travel agents, visited travel agencies, met extensively with representatives of the airlines and ATP and reviewed their written legal submissions, attended presentations and examined studies submitted by the defendants' economic consultants, and consulted with airline and economic experts in the government or retained by the government. In addition, the government drew on information it had obtained in connection with other airline investigations that it has conducted, including investigations of computer reservations systems ("CRSs") used by travel agents.

Based on the information collected, the government concluded that the airlines had used ATP to communicate among themselves to reach price fixing agreements and to coordinate fare increases. The airlines' primary means of communication are first and last ticket dates and footnote designators.[6]

By disseminating fares with first ticket dates (that is, fares that are not actually for sale), the airlines are able to exchange complex fare proposals, negotiate the precise details of fare increases, and delay the actual implementation of fare increases until all airlines have reached a consensus. Similarly, by placing last ticket dates on fares, the airlines can negotiate the withdrawal of fares. Footnote designators and ticketing dates facilitate the negotiation process by enabling the airlines to strike deals, trading increases to certain fares or in certain markets for increases to other fares or in other markets, or communicate to competitors that certain fares are responses to another airline's fares in another market.

Consumers pay a substantial price for the airlines' communication tools—higher fares than would otherwise prevail—and receive little countervailing benefit from them. Because ticket dates are used by the airlines to negotiate, not to notify consumers about fare changes, they are by their nature extremely unreliable and of minimal value to consumers. Footnote designators have no consumer value since they are never disseminated to travel agents or consumers through CRSs.

A key provision of the proposed Final Judgment, and the one that has received the most attention in the public comments, would prohibit United and USAir (the settling defendants) from "disseminating any first ticket dates, last ticket dates, or any other information concerning the defendant airline's planned or contemplated fares or changes to fares." This provision bars, with limited exceptions, the settling airlines' use of first and last ticket dates, and would prohibit the airlines from devising alternative means that would allow them to communicate their future pricing intentions.

The ban on the settling airlines' use of first ticket dates is absolute. The fares that the settling airlines' disseminate, whether in ATP, a CRS, or elsewhere, will be the actual price of tickets for consumers. The settling airlines may continue to use last ticket dates to advertise promotional fares, subject to certain restrictions described in section V(D) of the proposed Final Judgment. They will continue to be able to disseminate, via ATP or other means, any actual changes to their current fares.

The proposed Final Judgment also contains general prohibitions on agreements between airlines "to fix, establish, raise, stabilize, or maintain any fare." This provision prohibits the settling airlines from any further price fixing whether by the means alleged in the Complaint or by other means violative of the Sherman Act.

II. Legal Standards Governing the Court's Public Interest Determination

In passing the Tunney Act, Congress sought to prevent abuses of the consent decree process arising from the alleged judicial "rubber stamping" of proposed decrees said to favor economically powerful defendants. See, *e.g.*, S. Rep. No. 298, 93rd Cong., 1st Sess. 5 (1973) ("By definition, antitrust violators wield great influence and economic power. They can often bring significant pressure to bear on government, and even on the courts, in connection with handling of consent decrees.") By eliminating the perceived "excessive secrecy" of the consent decree process, Congress intended to ensure that antitrust violators do not use their economic power to obtain "back room deals" or to pressure the government or courts to accept inadequate decrees. Hearings on H.R. 9703, H.R. 9947, and S. 782, Consent Decree Bills Before the Subcomm. on Monopolies and Commercial Law of the House Judiciary Committee, 93d Cong. 1st. Sees. 40 (1977) (hereinafter "*Hearings*") (Statement of Senator Tunney). *See also United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. 131, 148 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983). In addition, the procedural requirements of the Tunney Act are intended to ensure that the Justice Department has access to information from the widest spectrum of persons with knowledge of the issues bearing on the consent decree, and to create a public record of the reasoning behind the government's consent to the decree. Hearings at 40 (Testimony of Senator Tunney).

The issue in a Tunney Act proceeding is whether the relief provided by the decree adequately protects the public interest, not whether the government could have proved the violation alleged in the complaint.[7] Thus, in conducting the public interest analysis under the Tunney Act, courts have consistently refused to consider "contentions going to the underlying claims and defenses." *United States* v. *Bechtel Corp.*, 648 F.2d at 666. See also *United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 n.2 (D. Mass. 1975) ("The decree is to be tested on the basis of the relief provided, on the assumption that the government would have won"); *United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. at 150 (the public interest determination under the Tunney Act is concerned solely with remedies).

"The 'public interest' test must take its meaning from the nation's antitrust laws." *United States* v. *Western Electric Co.*, 900 F.2d 283, 308 (D.C. Cir. 1990) (*per curiam*). See also *United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. at 149. In an antitrust case, a remedy serves the public interest only if it "effectively pr[ies] open to competition a market that has been closed by defendants' illegal restraints." *United States* v. *Dupont & Co.*, 366 U.S. 316, 323 (1961), *quoting International*

[6] First ticket dates indicate future dates at which fares are scheduled to become effective. The airlines often change the first ticket date to an earlier or later time than originally announced, or withdraw the fare altogether before the first ticket date arrives. Last ticket dates indicate future dates at which fares currently offered for sale may be withdrawn. The airlines often change the dates to an earlier or later time than originally announced, or withdraw the fare before its last ticket date. Ticketing dates are ordinarily found in footnotes that are appended to one or more fares, and the airlines often use the same footnote designator on different fares to show links or connections between fares or markets.

[7] As the Court stated in *United States* v. *Bechtel Corp.*, 648 F.2d 660, 663 (9th Cir. 1981), *cert. denied*, 454 U.S. 1083 (1981), "[w]e cannot decide whether the complaint stated a cause of action without violating the rule against reviewing the merits of consent decrees."

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Salt Co. v. *United States*, 332 U.S. 392, 401 (1947). Thus, the Court must determine first whether the decree remedies the antitrust violation by restoring competition and preventing future violations of the law.

An antitrust decree must "leave the defendant without the ability to resume the actions which constituted the antitrust violation in the first place." *United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. at 150. *See also United States* v. *DuPont*, 366 U.S. at 323. Courts are required "to decree relief effective to redress the violations, whatever the adverse effect of such a decree on private interests," *United States* v. *DuPont*, 366 U.S. at 326, and a court may consider factors other than a decree's effect on competition only in choosing among *effective* remedies. *United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. at 149–50 and n.81.[8]

Although the Tunney Act requires the Court to make an independent determination that a decree is in the public interest, the Court's role is considerably more limited than its role in formulating relief after trial. *United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. at 151. Congress intended to preserve the viability of the consent decree process by avoiding lengthy and protracted judicial proceedings that would essentially duplicate a trial on the merits, and therefore, "[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General." *United States* v. *Bechtel*, 648 F.2d at 666; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127 (C.D. Cal. 1978). The Court's role is to ensure that the government has not breached its duty to the public in consenting to the decree, and to determine whether the decree is "within the reaches of the public interest." *United States* v. *Bechtel*, 648 F.2d at 666. *See also United States* v. *Western Electric Co.*, 900 F.2d at 309; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127; *United States* v. *Gillette Co.*, 406 F. Supp. at 716.

III. Public Comments

A. Merits of the Complaint

A number of comments, most notably those of the litigating defendants, were critical of the United States' decision to file this lawsuit. As explained above, however, the focus of the public interest analysis under the Tunney Act is whether the relief provided by the proposed Final Judgment is adequate to remedy the antitrust violations alleged in the Complaint. Thus, comments challenging the merits of the Complaint raise neither factual nor policy arguments justifying a judicial refusal to enter the proposed Final Judgment.[9] Nevertheless, because some of these comments reveal (or may contribute to) public confusion about the allegations in the Complaint, we address them briefly.

A number of comments suggest that recent financial losses in the airline industry either prove that price fixing did not occur, or should constitute a defense to the allegations of the Complaint because they justify the defendants' behavior. This argument has no basis in law, logic, or economics. Financial losses are no more proof of the absence of price fixing than high profits would be proof of illegal conduct. (These comments make no mention of the airlines' record profits in 1988, a year also within the time period covered by the Complaint.)

Illegal price fixing occurs not only in a prosperous economy, but in a recessionary one as well. In good times, profits are higher, and in bad times, losses are lower, than if there were open competition. Business and leisure travelers, many of whom also have been hard hit by the recession, are entitled to the benefits of competition all of the time, whatever the state of the domestic economy.

Other comments suggest that the Complaint seeks to prevent the airlines from engaging in conduct that is common in many industries, and question why the airlines should be treated differently. For example, some comments contend that advance announcements of price increases occur in other industries, and that the airlines' practices are no different.[10] These commenters misapprehend the allegations in the Complaint. The Complaint does not allege that advance announcements of fare changes are illegal; rather it alleges that the airlines exchanged detailed information about their future pricing intentions in order to fix prices. It also alleges that the airlines' agreement to create and participate in a data dissemination system has enabled them to coordinate more frequently, successfully, and completely, leading to higher fares.

To prevent the settling airlines from continuing this illegal conduct, the proposed Final Judgment would prohibit advance announcement of fare changes for a period of ten years. It is well established that relief should include prohibitions on the means by which the violation was accomplished where necessary to prevent recurrence of the violation. Actions that are "entirely proper when viewed alone may be prohibited." *United States* v. *United States Gypsum Co.*, 340 U.S. 76, 90 (1978). *See also United States* v. *American Tel. and Tel. Co.*, 552 F.Supp. at 150 n.80 and cases cited therein.

The litigating defendants argue that the Complaint alleges nothing more than that the defendants engaged in "follow-the leader" or parallel pricing; in other words, observing each others prices and deciding that it is in their interest to charge the same price.[11] The Complaint, however, does not allege that the airlines violated the law by engaging in parallel pricing; it alleges that the airlines exchanged information about the prices each would like to charge in the future and that fare levels were determined by agreement. The airlines did not simply match increases previously announced by other airlines, or withdraw increases when competitors failed to match them. Rather, they used the fare information disseminated through ATP to engage in complex negotiations about fare changes, to trade increases in different markets in order to induce competitors to increase fares they otherwise would not have increased, and to threaten or punish competitors who did not agree to increase fares or deviated from coordinated fares.

To illustrate some of the types of negotiations and coordination that form the basis for the Complaint, and demonstrate how they differ from mere parallel pricing, we describe two fairly typical instances in which the airlines agreed to increase fares.

1. Agreement on Flight-Specific Discounts

In one example, an airline wanted to limit the availability of discounts used by business travelers in a particular heavily-traveled market to specific flights but was unable to obtain this result by reliance on mere "parallel, interdependent pricing." The airline offered the discounts, with no last ticket date, on only two flights. A competitor, however, decided to offer them on all its flights in the market, rather than matching the limited discounts. The soliciting airline then expanded its discounts to all flights in the market. To communicate its proposal that the availability of the discounts be restricted, the soliciting airline added a last ticket date to the discount fares a few days away and refiled the discounts restricted to two specific flights with a first ticket date of the following day. As an inducement for the competitor to agree to restrict the discounts, the soliciting airline filed similar discounts in a second heavily-traveled market that was important to the competitor, using the same footnote designator and same last ticket date for the fares in both markets to show the relationship between the fares.

The soliciting airline thus conveyed to its competitor (and other airlines not involved in the negotiations) its offer to withdraw the discounted fares in the competitor's market if the competitor restricted the availability of the discount fares in the first market to specific flights. The competitor accepted this proposal by immediately restricting the availability of the discounts to specific flights (with no advance notice to consumers), whereupon the soliciting airline immediately withdrew the discounts in the competitor's market, before the last ticket date it had placed on the fares arrived. As a result of this agreement, many travelers in the first market paid as much as $138 more for a roundtrip ticket than they otherwise would have paid.

2. Agreement on Discount Fares Used by Business Travelers ("Junk Fares")

In another incident involving numerous heavily-traveled routes, one airline proposed to eliminate certain discount fares used by business travelers, commonly referred to by the airlines as "junk fares."[12] Several airlines communicated their agreement to this proposal by also filing to eliminate the fares altogether, but one dissenting airline proposed instead to increase the junk fares by ten dollars each way. One of the airlines supporting the first proposal expressed its dissatisfaction with this counterproposal by briefly lowering the junk fares by ten dollars each way in markets very important to the dissenting airline, using a last ticket date only a few days away. However, when some other airlines began to match the counterproposal to increase fares by ten dollars (instead of eliminate them), the punishing airline withdrew the lower fares immediately (before the last ticket date on the fares) and also filed to increase fares by ten dollars. At that point, another airline proposed yet a third alternative—to increase the junk fares twenty dollars each way. Throughout the negotiation process, the airlines continuously altered the first ticket dates of the proposed increases, and kept scorecards on which airlines were supporting which proposal, with what first ticket date, until they had reached a consensus. Eventually, all the airlines agreed to the third proposal, and the twenty dollar increase went into effect. (One airline estimated that this increase would generate an additional $7 million/month for that airline alone.)

The foregoing are examples of the way the airlines use ATP to negotiate specific price fixing agreements with respect to specific fares. As indicated in the CIS, the evidence in this case is replete with examples where airlines have reached similar agreements with respect to fares. These agreements increased fares for both business and leisure travelers, often in major markets, and often for extended periods of time. In addition, the airlines' daily exchange of detailed price information facilitates coordination of fare changes by enabling the airlines to identify mutually beneficial fares, and to detect and punish deviations from those fares, leading to higher prices.

B. Effectiveness of the Relief Provided by the Proposed Final Judgment

The litigating defendants and a few other commenters contend that parallel, interdependent pricing will exist in the airline industry whether or not the airlines use first and last ticketing dates, and that therefore the consent decree is not in the public interest. The decree, however, does not seek to enjoin parallel pricing;[13] it seeks solely to enjoin the riskless negotiation of complex price-fixing agreements and the highly effective coordination of fare changes described above.

Without ticketing dates, it will be much more difficult for the airlines to engage in such negotiations, and the prevalence of anticompetitive coordination will decrease significantly. If an airline attempts to increase fares, it will be unable to obtain advance assurance that competitors will implement similar increases, and thus will be less likely to attempt to increase its fares without regard to its costs. In addition, an airline will not be able easily, and relatively costlessly, to indicate that increases it proposes to take in certain markets or on certain fares are conditioned on competitors taking increases in other markets or on other fares. It will become more risky and costly to punish a competitor for decreasing certain fares or refusing to increase other fares.

Consider, for example, how the decree would have affected the airlines' ability to reach the same agreements or achieve the same coordinated outcome in the incidents described above. In the incident involving flight-specific discounts, how would the airline that solicited the agreement have conveyed its proposal that its competitor limit the discounts to specific flights? How would the airline have induced its competitor to go along? If the airline

[8] The Act provides that in determining whether a proposed final judgment is to the public interest, the Court may consider:

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e).

[9] ASTA contends that because this case is "novel," the Court should refuse to enter the decree until after a trial on the merits. Comments of ASTA at 6–10. Unfortunately, there is nothing novel about competitors communicating and collaborating to limit competition. Neither is it surprising that the modes of communicating have kept pace with available technology, going from face-to-face exchanges to telephonic exchanges to computer exchanges. While it is true that no court has ever analyzed an information exchange of the scope, scale and sophistication of the airlines, there is nothing "novel" about inferring price fixing agreements from information exchanges, particularly those involving future prices, or determining that an information exchange has the purpose or effect of reducing competition. *See, e.g., United States* v. *United States Gypsum Co.*, 438 U.S. 422, 441 n.16, 457 (1978); *United States* v. *Container Corp.*, 393 U.S. 337 (1969); *In re Coordinated Pretrial Proceedings in Petroleum Products Antitrust Litigation*, 906 F.2d 432, 445–50 (9th Cir. 1990); *United States* v. *Foley*, 598 F.2d 1323 (4th Cir. 1979).

[10] Many of these comments refer to the practice of supermarkets or department stores of advertising the ending date of a special sale or promotion. These commenters appear unaware that this type of advertising is specifically permitted under the terms of the decree. *E.g.*, Comments of Travel Associates, El Cajon, CA; Comments of World Travel, Butte, MT; Comments of Kay Travel Service, Mokena, IL. Section V(C) of the proposed Final Judgment provides that the airlines would be permitted to advertise the last ticket date for promotional fares, subject only to restrictions intended to prevent them from devising "advertising" methods that enable them to engage in an ongoing dialogue about future fare changes. Moreover, these restrictions apply only when a defendant airline is advertising a last ticket date—the airlines remain free to advertise and market their services and fares in any other manner they choose, including advertising that a fare is available only for a limited period of time.

[11] Some comments draw an analogy between the airlines' conduct and one corner gas station lowering or raising prices and others following suit. *E.g.*, Comments of Heritage Travel, Fairborn, Ohio; Comments of Travel House, Inc., Cincinnati, Ohio. This analogy misses the point: gas stations display, and their competitors react to, current prices, not proposals for future prices.

[12] "Junk fares" are one-way fares that are discounts off of full coach and that have minimal restrictions, thus making them very attractive to business travelers.

[13] Section V(G) of the proposed Final Judgment makes it clear that in unilaterally determining its fares, an airline defendant may consider all publicly available information relating to the fares of other airlines.

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simply filed matching discounts in the market where it preferred flight specific fares, its competitor would not know that it wanted to limit the fares to specific flights. If the airline also filed the same discount in a second market, but with no last ticket date, the competitor might think that the airline simply decided that the discount was a good idea that should be extended beyond its original scope.

The incident that led to a twenty dollar increase to "junk fares" also illustrates how mere parallel pricing would not enable the airlines to achieve the same anticompetitive outcome. In this incident, first and last ticket dates and footnote designators enabled the airlines maintain their existing fare structure as they negotiated over three simultaneous proposals to increase fares: (1) To eliminate the discounts, (2) to increase them by ten dollars each way, and (3) to increase them by twenty dollars each way. In addition, ticketing dates enabled one airline to communicate its disapproval of another airline's lower, counterproposal (by filing low fares in that airline's important markets with a last ticket date a few days away), while simultaneously communicating to its competitors its continued support for the proposal to eliminate the fares altogether by maintaining last ticket dates on the original discounts.

Without ticketing dates, the only way for an airline to communicate through ATP its desire to eliminate the discounts would be for the airline to actually eliminate the fares. Because such a move would increase the lowest fare available to some business travelers in a large number of markets by as much as $100 or more each way, it is unlikely that any airline would do so without advance assurance that its competitors would implement the same increase.

Moreover, without ticketing dates, it would be extremely difficult for the airlines to communicate displeasure and attempt to induce or coerce a more reticent competitor to agree to a larger increase. Thus, if a dissenting airline increased its fares by only ten dollars, the risk of losing traffic to that airline would constrain other airlines to keep their fares at or near the same level. There would be no easy way for a competitor to coerce or encourage the dissenter to increase its fares an additional ten dollars. If the competitor increased fares by twenty dollars, the dissenting airline would have a fare advantage and thus would be under no pressure to raise fares; if the competitor refused to increase fares at all, there would be no way for the dissenting airline (and others) to know that the competitor wanted an even larger increase, rather than no increase at all; if it tried to threaten or punish the dissenting airline by lowering fares in other markets, the dissenting airline would have no way of knowing that the punishing airline wanted to raise fares, and other airlines might simply match the reductions and abandon their efforts to raise fares at all.

C. Value of First and Last Ticketing Dates to Consumers

Many commenters expressed concern that the proposed final judgment's prohibition of the dissemination of first and last ticket dates will make fare changes unpredictable to the detriment of consumers. They believe that the ticket dates provide consumers with valuable information for making travel plans. The premise underlying most of these comments is that the airlines' current exchange of first and last ticket dates enables consumers to purchase tickets before fares increase or to delay purchases until after fares decrease. These comments reflect fundamental misconceptions about the information airlines currently disseminate and the impact of the decree on the ability of airlines to provide price protection to consumers.

Ticketing dates have neither the purpose nor effect of protecting consumers from unanticipated fare changes. None of the defendants has a policy or consistent practice with respect to the number of days in advance of a fare change it puts a last ticket date (or corresponding first ticket date) on fares. Whether a defendant airline places a last ticket date on a fare two weeks in advance, one week in advance, one day in advance, does not use a last ticket date at all before increasing fares, or increases fares before the last ticket date arrives, depends not on the amount of time necessary to ensure that consumers are protected from unexpected increases, but on how much (or how little) time is necessary to reach agreement with its competitors.[14]

Contrary to the assertions of a number of the commenters,[15] the defendant airlines do not announce discount fares in advance of their effective date. Indeed, they often go to great lengths to ensure that no one outside of their pricing departments learns of a new promotion until the promotion is put into effect. Thus, consumers and travel agents currently cannot determine whether they should delay purchasing tickets because ticket prices are about to go down. The decree would not change the current situation with respect to advance notice of fare reductions.

Even when airlines use ticketing dates and consumers know about the ticketing dates associated with a fare (which is by no means assured), those dates may have little relevance to consumers' decisions about when to purchase their tickets. Because the airlines use "yield management programs" to constantly adjust the number of seats available at certain fares for particular flights,[16] the fares actually available to consumers change from moment to moment with no notice whatsoever. Thus, the fact that a consumer is told that the last ticket date for a discount fare is one or two weeks away does not mean that seats will be available at the fare when the consumer calls back to reserve seats, even if the last ticket date is accurate. To be assured of obtaining the fare, a consumer must make a reservation at the time he or she learns a seat is available at the fare.

When consumers have made a reservation for a seat at a specific fare, they must abide by any ticketing rules associated with the fare, regardless of last ticket dates. For most discount fares, this means that the ticket must be purchased within 24 hours of the reservation being made. Thus, the airlines' use of last ticket dates does not give consumers of most discount fares "breathing room between the day a reservation is made and the date of purchase."[17]

Finally, and most importantly, even when consumers have the ability to delay purchasing their tickets, they cannot rely on ticketing dates. Although most commenters appear not to realize it, ticketing dates are extremely inaccurate.[18] The degree of inaccuracy varies from airline to airline, from market to market, and from fare to

[14] When the airlines do use last ticket dates, they often place them on fares so close to the day that the fare is to expire that consumers have no real opportunity to learn about them. Tellingly, none of the airlines even attempts to call consumers who have booked directly with them to inform them about last ticket dates that have been added to fares.

[15] See, e.g., Comments of NBTA; Comments of Woodside Travel Trust, Alexandria, VA; Comments of Rex Travel, Chicago, IL.

[16] The ability of consumers to purchase tickets for a particular flight is always limited by the number of seats on the plane. Yield management systems, however, limit the availability of seats at different discount fares even when there are seats remaining on the flight.

[17] See Comments of Public Citizen at 6.

[18] Some commenters have the misconception that ticketing dates are guarantees. *E.g.*, Comments of Gillette, St. Paul, MN; Comments of ACTE, Summit, N.J. Others believe that they are accurate "most of the time," Comments of ASTA at 16, or tell consumers "approximately" when fares will increase. Comments of Argosy Travel, Portsmouth, N.H. *But see* Comments of All About Travel, Gardnerville, NV.

fare.[19] However, the evidence available to the Department shows that, depending on the airline and the market, ticket dates are inaccurate anywhere from 25 to 90 percent of the time. On average, ticketing dates are inaccurate approximately 50 percent of the time.[20] Moreover, when ticket dates are inaccurate, they tend to be very inaccurate. When last ticket dates are wrong, more than half of the time they are off by over two weeks, and more than one-third of the time they miss the mark by a month or more. Thus, ticketing dates do not tell consumers or travel agents even the approximate date that fares are going to increase.

A specific example of the information consumers see during the course of the airlines' negotiations is a useful illustration of how little value ticketing dates have to consumers. During the airlines' negotiations over "junk fares" described in Section III.A.2 above, a consumer who had a reservation to purchase a ticket at a discount fare on one of these airlines, and was informed of each change made to that fare, would have learned the following information on the following days:

August 10—You must purchase your discount ticket no later than August 15; after that, you must pay the full coach fare.
August 14—Now you must purchase your ticket no later than August 18.
August 17—Now you must purchase your ticket no later than August 22.
August 18—Hopefully, despite previous warnings, you have still not purchased your ticket, because you can now purchase your ticket for ten dollars less each way than the original price. You can purchase the ticket at this price as late as August 22; after that, you must pay the full coach fare.
August 22—Despite the representation that the lower fare would be available through today, you can no longer purchase your ticket at the lower fare. You can purchase your ticket at the original fare, and there is no lest ticket date associated with the fare.
August 23—Now you must purchase your ticket no later than August 29; after that, the fare will be ten dollars more each way.
August 24—You still must purchase your ticket no later than August 29, but now the fare is scheduled to increase by twenty dollars each way.
August 30—Now you must purchase your ticket no later than September 6.
September 7—If you did not purchase your ticket yesterday, you now may purchase your ticket as late as September 8.
September 9—Again, if you did not purchase your ticket yesterday, you now may purchase your ticket as late as September 11.
September 12—Your ticket now costs twenty dollars more each way.[21]

As is evident from the discussion above, the airlines continuously change the fares available to consumers, and ticket dates are of little value in assisting consumers in predicting when fares will increase or decrease. Travel agents or consumers who see a first or last ticket date on a fare are seeing only one piece of information from a complex and ongoing dialogue among airlines. Because they lack the computer programs, staffs of pricing analysts, and access to certain information the airlines share among themselves, neither travel agents nor consumers have any way of assessing whether any given last ticket date is an initial proposal by an airline to increase fares, an acceptance of another airline's proposal, a counterproposal, or a threat against, or punishment of, an airline that has failed to agree with a proposed increase.

Nor do they know whether the increase or withdrawal of the fare is contingent upon a competing airline (or airlines) taking some other action with respect to other fares in the same or different markets, or whether all relevant airlines have agreed to take that action. It is thus virtually impossible for a travel agent or consumer to evaluate the reliability of any particular ticketing date. The absence of a last ticket date on fares tells consumers little, and the presence of a last ticket date on an existing fare or a first ticket date on a future fare means only that an airline is probably involved in negotiations with its competitors to eliminate or increase the fare, and that may or may not happen sometime in the future. In other words, the most that a consumer can reasonably infer from a last ticket date is that a fare is "in play."

Because all of the defendant airlines have a policy that fares are subject to change without notice until the ticket is actually purchased, ticketing dates do not even give consumers "a window of opportunity within which to consummate a travel purchase at a lower existing price level." Comments of ASTA at 15. Although it is true, as ASTA observes, that ticket dates are extended more often than they are shortened (airlines often need additional time for negotiation to obtain agreement to increase or eliminate fares), the airlines do not hesitate to withdraw a fare prior to a posted last ticket date, or without any notice, in order to reach agreement or coordinate fare changes.

All of this is not to say that no consumer ever is able to use a last ticket date to avoid a fare increase. A consumer who learns about and relies upon a ticket date, and thereby avoids an agreed upon or coordinated fare increase may benefit, if the additional costs incurred from losing the flexibility to make changes in his or her itinerary are not greater than the increase.[22] But all consumers who do not learn about the last ticket date or who must purchase their tickets afterward are harmed. That some consumers benefit from advance warning of fare increases does not mitigate the harm to all other consumers who pay higher fares as a result of collusion and coordination by the airlines made possible by their use of ticketing dates. This is particularly true given that the airlines have it within their power to protect consumers from unanticipated fare increases through means that would not contribute to price fixing or facilitate anticompetitive coordination.

Under the decree, consumers' decisions about when to purchase their tickets from the settling airlines will not be based on unreliable and even misleading information. Consumers will know that fares can change at any time, and will weigh the benefits of protecting themselves against a fare increase by purchasing immediately against the benefits of retaining flexibility by delaying their purchases. Because the airlines will be less able to coordinate fare increases, fares overall will be lower, and increases to fares will be less likely to take place simultaneously on all airlines serving a market. Thus, when fares do increase, the increase is more likely to be cost based, and there is likely to be at least some period of time during which other airlines

[19] Determining exactly how inaccurate is a difficult and labor intensive process, because until several months ago historical records of these dates were found only in paper tariff pages.

[20] A study that the defendants submitted to the Department in the course of the investigation that analyzed a sample of ticketing dates also found that they were inaccurate fifty percent of the time. See also Comments of Omega Travel, Fairfax, VA, estimating that last ticket dates are wrong fifty percent of the time.

[21] This example follows the changes to the level and ticketing date of one fare, for one airline, in one market, during the airlines' negotiations. A consumer with a reservation on a different airline would have seen slightly different information, but it would have been no more valuable in predicting fare changes.

[22] Consumers who need to make changes to their itineraries after they have purchased their ticket usually must pay penalties. Often these penalties are greater than the increase in the fare. Travel agents also incur costs when consumers make decisions in reliance on inaccurate ticketing dates. See Comments of Omega Travel, Fairfax, VA.

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continue to have lower fares available for purchase.

Further, the proposed Final Judgment would not prohibit a settling airline from making a general statement to the effect that it intends to increase fares sometime soon, for whatever reason, thus providing travel agents and consumers with essentially the same information they get now. And if the airlines truly want to protect consumers from unanticipated fare increases, the airlines are free to guarantee for some period of time the price consumers are quoted when they make a reservation.[23]

D. Alternatives to the Proposed Final Judgment

A number of commenters expressed concern about price fixing by the airlines, but requested that the government devise some form of relief to prevent the airlines from colluding on fares that would not prohibit the use of first and last ticketing dates.[24] These commenters ask the government to do the impossible. Ticketing dates are the language that the airlines use to talk to one another about fares, and when consumers learn about last ticket dates, they are simply overhearing a snippet from the airlines' ongoing conversations. The only way to stop the airlines from discussing and agreeing upon fares is to stop these conversations. Once the conversation is stopped, there are no snippets for consumers to overhear; there is no way to allow the airlines to continue to talk about fares and nevertheless prevent them from reaching anticompetitive agreements with respect to those fares.

The only two alternatives suggested by commenters—that the decree regulate airline fares,[25] or that the decree require airlines to abide by their ticketing dates for a certain period of time[26]—would not serve the public interest. In addition to being entirely beyond the scope of this proceeding, reregulation would be contrary to the policies underlying both the Sherman Act and the Airline Deregulation Act of 1978 that competitive market forces should determine the price, quality, and array of services in the airline industry. Consumers have reaped substantial benefits as a result of airline deregulation. The objectives of this suit and the proposed Final Judgment are to ensure that consumers enjoy all of the benefits of competition.

The second alternative, requiring the airlines to actually implement announced fare changes, would be less effective in preventing collusive pricing than the proposed Final Judgment, would create inefficiencies in airline pricing, and would be difficult to enforce. First, this approach would not prevent the airlines from communicating connections between different fares or different markets. Moreover, the approach would be effective in preventing extended negotiations over fare changes only if the airlines were required to implement fare changes for a substantial period of time. This would mean that once an airline changed fares in a market, it would be prohibited from responding to actual changes in costs, demand or competitive conditions in the market for some period of time. Such restrictions on actual prices would interfere with the efficient functioning of the market, with adverse effects for consumers and airlines alike. For example, once an airline announced that a promotional fare would end, it would not be able to extend the fare even if it turned out to be more successful than anticipated, or even if a competitor decided to match the sale but for a longer period of time. Similarly, if an airline increased its fares and then found that demand for its flights dropped dramatically, it would be prohibited from reducing its fares.

In contrast, the proposed Final Judgment will not restrict in any way the airlines' ability to charge any fare at any time, or to change their fares as often as they wish, whether in response to changes in demand, costs, or the competitive environment in which they are operating. It in no way dictates or limits the fares that the airlines actually charge for their tickets. Thus, it does not require the government or the Court to engage in price regulation.

E. Comments on the Clarity of the Proposed Final Judgment

A few commenters found certain provisions of the decree ambiguous, and based on the perceived ambiguities, expressed concerns about the costs of enforcing the decree. Mr. Emord and Mr. McCombs asked whether the decree would prohibit airlines from announcing changes to be made in services such as meals or frequent flyer programs. The decree clearly would not prohibit such announcements. The relevant portions of the decree prohibit announcements of future changes in "fares," and "fare" is defined to mean "the price charged for domestic passenger transportation by any airline, and any rules, restrictions, terms, or conditions governing availability of such price* * *." Section II(H). Because meals and frequent flyer programs are neither the "price" nor "rules, restrictions, terms, or conditions governing the availability or use of such price," the decree would not prohibit airlines from disseminating information concerning planned changes to these amenities.

Public Citizen is concerned that in section V(C) of the proposed Final Judgment, the advertising exception to the prohibition on last ticket dates, terms such as "media of general circulation" and "mass mailings" are undefined. As a result of negotiations with the defendants, the language in this section of the decree intentionally was written to provide some flexibility, but the settling defendants should have no difficulty determining what conduct is prohibited by the decree.[27] Not every term in a consent decree, or statute for that matter, need be defined. For example, the Tunney Act itself requires the government to publish a summary of the consent decree and CIS in newspapers "of general circulation" in the District where the case has been filed, but does not define the term. 15 U.S.C. 16(c). The meaning of this phrase and others mentioned by Public Citizen can be determined by examining the decree in the context of the complaint and the contemporaneous understandings of the parties, which are reflected in part in the CIS.

This section of the proposed Final Judgment is a response to the airlines' contentions that the advertisement of a specific last-ticket date generates significantly more consumer demand than a general statement that fares are available for a limited time only, and that some discount fares would never be offered if the airlines were prohibited from generating this demand. The section gives the settling airlines the flexibility to engage in such advertising, using new types of promotions or new methods of advertising, while

[23] One major airline, America West, already guarantees the fare at which a reservation is made until the end of the following day.

[24] Public Citizen, for instance, has taken the position that injunctive relief is necessary to insure that the airlines do not continue their anticompetitive pricing practices. Objections of Public Citizen, Ralph Nader and Center for Responsive Law, In re: Domestic Air Transportation Antitrust Litigation, No. 1:90-CV-2485-MHS, (N.D. Ga.), but although it has filed comments opposing the proposed Final Judgment, it has proffered no alternatives.

[25] *E.g.*, Comments of Gulf Power Company, Pensacola, FL.

[26] Comments of Law Offices of Tanzman & Kaplan, Marina Del Rey, CA; Comments of Omega World Travel, Fairfax, VA.

[27] The restrictions on the dissemination of fare information apply to the defendant airlines, not to travel agents. A travel agent cannot violate the decree by disseminating any fare information, and need not attempt to determine whether a defendant airline's advertisements satisfy this section of the decree. Some of the comments suggest some confusion in this regard. *E.g.*, Comments of Public Citizen at 7.

preventing them from circumventing the decree and using advertised last ticket dates to engage in relatively costless negotiation. Thus, the advertising must be in media of general circulation or mass mailings and must be "designed to reach a meaningful number of potential consumers likely to purchase the promotional fare."[28]

F. Effect of the Proposed Final Judgment on Travel Dates

Some comments discussed the airlines' current practice of charging different fares during peak and off-peak travel periods, and expressed concern that they would no longer be able to schedule their travel during off-peak periods to take advantage of lower fares.[29] The proposed Final Judgment, however, does not prohibit the airlines from making different fares applicable to travel at different times, including travel beginning sometime in the future, provided the fares are currently available for sale. Indeed, section V(F) of the decree provides: "The dissemination of travel dates, in and of itself, does not constitute a violation of this Final Judgment." Thus, the proposed Final Judgment should not affect the settling airlines' current practices with respect to travel dates.[30]

G. Impact of the Proposed Final Judgment on the Travel Industry

A number of commenters expressed concern that the decree will create confusion, causing consumers to stop flying. This concern is misplaced. First, the fares available to consumers already change constantly with little or no notice—the elimination of computerized negotiation of fare increases among airlines is unlikely to appreciably add to any consumer confusion about changing fares. More importantly, as ASTA discusses in its comments, deregulation of the domestic airline industry has led to a proliferation of airlines, routings, fares, fare restrictions, and special services. The array of fares and services offered, although perhaps confusing, appears not to have suppressed travel. Rather, the lower prices brought about by deregulation have unleashed consumer demand for airline travel. In short, competition leads to lower airfares, and lower airfares lead to increased demand for airline travel. Because the decree will impede collusive increases to fares, the decree should lead to more consumers flying, not fewer.[31]

Many travel agents also expressed concern that if airlines do not use ticketing dates, consumers will no longer patronize travel agencies and instead will deal directly with the airlines. In part, this fear seems to stem from the mistaken belief that travel agents would not learn of the information disseminated by airlines through advertising until after the advertisements appeared, with the result that consumers would be calling travel agents with questions about fares that the agents would be unprepared to answer.[32]

Nothing in the decree would require airlines to disseminate ticketing dates through mass media prior to disseminating that information through ATP to computer reservations systems. The only section of the decree that relates to advertising is section V(C), which makes a limited exception to the blanket prohibition on last ticket dates when the ticketing date accompanies a promotional fare and is advertised. The language in the decree is intended to allow the airlines to disseminate ticketing date information on promotional fares through ATP and CRSs to coincide with the appearance of advertisements. The decree does not prevent the airlines from informing travel agents through ATP and computer reservation systems of any information that they are simultaneously conveying to consumers through advertisements.

Other travel agents expressed concern that consumers will lose confidence in them if they do not have ticketing dates and cannot tell consumers when discounts will end or fares will increase. Because the ticketing information travel agents have now is unreliable, and even misleading, it is unlikely that the lack of that information will cause consumers to lose confidence in travel agents. Many knowledgeable travel agents have always counseled their clients that fares are subject to change without notice and must be purchased immediately to guarantee the fare.

As ASTA points out in its comments, travel agents' share of domestic airline ticket sales has increased dramatically under deregulation. Consumers have found that travel agents provide a valuable service, and there is no reason to believe that will change. Travel agents will continue to offer consumers the ability to compare the fares of different airlines or for different destinations, learn about restrictions applicable to fares, schedules, and the availability of seats at particular fares, make reservations, and purchase tickets.

The decree will cause some changes in pricing practices—indeed, that is its objective. The prospect of these changes understandably creates concern among the travel agent community about their future. ASTA and many individual travel agents expressed similar concerns in 1977 during the CAB's Investigation into the Competitive Marketing of Air Transportation, CAB Docket 36595, which led to the deregulation of airline travel marketing. Those concerns proved to be unfounded. At that time there were approximately 18,000 travel agencies in the United States responsible for only 38 percent of airline ticket sales; today, fifteen years later, there are over 36,000 travel agencies responsible for over 70 percent of airline ticket sales.

H. First Amendment Objections

The litigating defendants and at least one other commenter[33] contend that the proposed Final Judgment violates the public's First Amendment right to receive information about USAir and United's future pricing intentions.[34] This argument is frivolous.

It is well established that a party may waive its constitutional rights, provided the waiver is made voluntarily with full understanding of its consequences. *D.H. Overmyer Co.* v. *Frick Co.*, 405 U.S. 174, 184–87 (1972). No one contends that USAir or United did not voluntarily and

[28] This provision would not be satisfied, for example, by "mass mailings" to all employees of the pricing departments of major airlines, or a practice of always advertising last ticket dates for all fares in the International Herald Tribune. Advertising a sale applicable on roundtrip travel originating at Washington Dulles Airport in the Washington Post would be permissible; advertising the same promotion in the Los Angeles Times would not.

[29] *E.g.*, Comments of Mary Margaret Watson, Metairie Louisiana; Comments of Penn Hills Resort, Analomink, PA.

[30] Section III(D) of the decree would prohibit airlines from using travel dates as a means of circumventing the decree's prohibitions on communicating with their competitors with respect to future fare changes. For example, if the airlines began posting currently available fares that applied to travel one year and two weeks from the date they were announced, engaged in successive rounds of negotiation until all airlines had the identical fares for travel beginning in one year, and then each changed the travel date to the current year, the Department would consider that use of travel dates a violation of Section III(D).

[31] National Consumers League and the litigating defendants fear that the decree's restrictions on last ticket dates will discourage discounting. Neither explains why, absent collusion among the airlines, fares will not be responsive to changes in cost, demand, or competition, resulting in fare increases at some times and fare discounts at others.

[32] *E.g.*, Comments of Travel Agent Services Inc., El Paso, Texas; Comments of Professional Travel, Dalton, Georgia; Comments of V.P. Sun Travel, El Paso, Texas.

[33] Comments of Jonathan W. Emord and Harold K. McCombs.

[34] The litigating defendants also appear to argue that the proposed final judgment violates USAir and United's First Amendment rights to disseminate ticketing dates. The airlines lack standing to raise this issue. See *United Stotes* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1139–40 (C.D. Cal. 1978).

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knowingly agree to the proposed Final Judgment.[35]

Because USAir and United have voluntarily consented to restrictions on their ability to disseminate their future pricing intentions, there is no "speech" for the public to hear on this matter. See *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council*, 425 U.S. 748, 756–57 (1976) ("Freedom of speech presupposes a willing speaker."). Clearly, the public has no First Amendment right to force USAir and United "to speak" when they have chosen not to speak,[36] and the litigating defendants have no First Amendment right to force USAir and United to communicate with them about their future pricing intentions.[37]

I. Potential Conflicts With DOT Regulations

The litigating defendants, ASTA, and ATAC contend that entry of the proposed Final Judgment could create a conflict between the proposed Final Judgment and the Department of Transportation's ("DOT") regulations governing computer reservations systems,[38] DOT's regulation of international fares,[39] or some other regulations that DOT might some day adopt pursuant to its authority under section 411 of the Federal Aviation Act.[40] These comments suggest that the Court solicit the views of DOT.

The Department of Justice has consulted with DOT, another executive agency, on this matter, as it often does in matters involving issues related to airline competition. It will continue to do so. There is no basis for requiring two different executive branch agencies to present the views of the United States in this matter.

Any imagined potential conflicts between the decree and DOT's rulemaking authority are not ripe for adjudication. As Judge Green observed in *United States* v. *American Tel. and Tel. Co.*:

> The Supreme Court has admonished the lower courts not to adjudicate potential conflicts between an antitrust decree and a federal regulatory statute until there is a concrete case or controversy in that respect. *Otter Tail Power Co.* v. *United States*, 410 U.S. 366, 377 (1973).

552 F. Supp. at 211. *See also United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1139 (C.D. Cal. 1978) (potential conflict with regulatory scheme does not bar a court from ordering appropriate antitrust relief).

J. United and USAir's Comments on the CIS

United and USAir both submitted comments relating to the government's description in the CIS of Section IV(D) of the proposed Final Judgment. Section IV(D) of the Final Judgment prescribes the dissemination of a "fare that is intended solely to communicate a defendant airline's planned or contemplated fare or contemplated changes to fares." In the CIS, the government described Section IV(D) as proscribing "fares that, although technically available currently for sale, will not, as a practical matter, be considered by consumers." Both United and USAir contend that this description is overly broad, and that the language of the decree does not prohibit them from disseminating fares unlikely to be purchased by consumers provided that there is a legitimate business purpose for those fares. We agree.

Section IV(D) is intended to prevent the settling airlines from publishing fares that, while technically available for sale, are intended to communicate an airlines' pricing intentions to its competitors without risk and virtually without cost to the airline. The decree would not prohibit the dissemination of fares that have some other, legitimate purpose, but nevertheless are unlikely to be purchased by consumers, for example, fares used solely for prorate purposes.

IV. Conclusion

The Department has carefully considered each of the comments it received. Nothing in the comments has altered the United States' conclusion that the proposed Final Judgment is in the public interest.

None of the comments suggest that the Department has succumbed to political pressure and consented to a decree that is inadequate to redress the harm caused by the defendents' illegal conduct. Nor has any commenter proposed alternative relief that would better serve the public interest. In addition, none of the comments presented facts or arguments that the government had not already considered in its initial decision to consent to the decree.

The proposed Final Judgment provides all of the relief requested in the Complaint against USAir and United without the substantial expense of a trial. The relief provided by the decree will leave United and USAir without the ability to resume the actions that constituted the antitrust violation. Thus, the government has not breached its duty to the public in consenting to the decree. Entry of the decree is in the public interest.

Respectfully submitted,

John W. Clark, *Acting Assisting Attorney General.*

Joseph H. Widmar, *Director of Operations.*

Mark C. Schechter
Roger W. Fones
Mary Jean Moltenbrey
Donna N. Kooperstein
Michael D. Billiel
D.C. Bar #394377
Jill A. Ptacek
Bradley S. Lui
D.C. Bar #425033
Attorneys, Transportation, Energy, and Agriculture Section, 555 Fourth Street, NW., Washington, D.C. 20001, (202) 307–6349

Dated: April 8, 1993.

[35] Indeed, there is precedent for entering consent decrees that restrict First Amendment rights. In 1985, in a civil antitrust suit against American Airlines and its chairman, Robert L. Crandall, arising out of Mr. Crandall's solicitation of a price fixing agreement with a competitor of American, the defendants consented to entry of a decree that prohibited certain communications concerning fares. *United States* v. *American Airlines, Inc.*, 1985–2 Trade Cas. (CCH) ¶ 66,866 (N.D. Tex. 1985).

[36] In cases where the Supreme Court has found that there is a protected right to receive commercial communications, there has been a source willing to provide such information. *E.g., Central Hudson Gas & Electric* v. *Public Service Commission*, 447 U.S. 557 (1980) (electric utility brought suit seeking lifting of ban on promotional advertising to its customers); *Bates* v. *State Bar of Arizona*, 433 U.S. 350 (1977) (attorneys sought lifting of ban on advertising of services and prices to potential clients); *Linmark Associates, Inc.* v. *Willingboro*, 431 U.S. 85 (1977) (real estate company brought action against township seeking repeal of restrictions on use of "For Sale" signs); *Carey* v. *Population Services International*, 431 U.S. 678 (1977) (mail order company sought lifting of ban on advertising for nonprescription contraceptives).

[37] Although the ability of a court to impose the challenged restrictions after a trial on the merits is not at issue in this proceeding, a court, in imposing remedies in antitrust actions that "avoid a recurrence of the violation and . . . eliminate its consequences," *National Society of Professional Engineers* v. *United States*, 435 U.S. 679, 697–98 (1978), may "impinge upon rights that would otherwise be constitutionally protected." *Id. See also Hartford Empire Co.* v. *United States*, 323 U.S. 386, 428 (1945) (ordering dissolution of trade association and prohibiting defendants from joining a trade association after association was used for anticompetitive purposes). The issue in the cases cited by commenters was not appropriate relief in an antitrust case, but whether regulatory restrictions on speech infringed First Amendment rights.

[38] The purpose of DOT's CRS regulations is to prevent CRS owners from using CRS market power to limit competition in airline markets. The CRS regulations prohibit discrimination in the way CRS's display flight and fare information for different airlines and in the prices they charge airlines, and prohibit certain agreements between CRS owners and travel agents. They have nothing whatsoever to do with the fares airlines charge, let alone the airlines' use of first and last ticketing dates.

[39] It is unclear how rules related to international tariffs, which can be agreed upon in a legal cartel, and which may be reviewed by foreign governments pursuant to bilateral agreements and by DOT pursuant to statute, could come into conflict with a decree relating to domestic airline fares.

[40] 49 U.S.C. 1381.

Certificate of Service

I hereby certify that I have caused a copy of the foregoing United States' Response to Public Comments to be served upon counsel in this matter in the manner set forth below:

By hand:

Michael Doyle,
Michael Kenny, Alston & Bird, 700 Thirteenth St., NW., Suite 350, Washington, DC 20005–3960 for defendant American Airlines, Inc.
Henry C. Thumann,
Debra A. Valentine, O'Melveny & Meyers, 555 Thirteenth Street, NW., Washington, DC 20004–1109, for defendant United Air Lines, Inc.
Charles F. Rule, Covington & Burling, 1201 Pennsylvania Avenue, NW., Washington, DC 20044 for defendant USAir, Inc.
Paul M. Rúden, American Society of Travel Agents, Inc., 1101 King Street, Alexandria, Virginia 22314, for American Society of Travel Agents, Inc.

By first class mail, postage pre-paid:

Mark Leddy,
Michael J. Byrnes, Cleary, Gottlieb, Steen & Hamilton, 1752 N Street, NW., Washington, DC 20036
Jonathan B. Hill, Dow, Lohnes & Albertson, 1255 Twenty-third Street, NW., Washington, DC 20037, for defendant Airline Tariff Publishing Company.
James V. Dick,
Marshall Sinick, Squire, Sanders & Dempsey, 1201 Pennsylvania Avenue, NW., Washington, DC 20044, for defendant Alaska Airlines, Inc.
Irving Scher, Weil Gotshal & Manges, 767 Fifth Avenue, New York, NY 10153
Peter D. Isakoff, Weil, Gotshal & Manges, 1615 L Street, NW., suite 700, Washington, DC 20036, for defendant American Airlines, Inc.
Donald L. Flexner, Crowell & Moring, 1001 Pennsylvania Avenue, NW., Washington, DC 20004–2595, for defendants Continental Airlines, Inc., and Northwest Airlines, Inc.
James R. Weiss, Preston Gates Ellis & Rouvelas Meeds, 1735 New York Ave., NW., suite 500, Washington, DC 20006.
Emmet J. Bondurant II,
Edward B. Krugman, Bondurant, Mixson & Elmore, 1201 West Peachtree Street, NW., 39th Floor, Atlanta, Georgia 30309, for defendant Delta Air Lines, Inc.
Thomas Demitrack, Jones, Day, Reavis & Pogue, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114
James E. Anklam, Jones, Day, Reavis & Pogue, 1450 G Street, NW., Washington, DC 20005–3939, for defendant Trans World Airlines, Inc.

Dated: April 8, 1993.

Bradley S. Lui,

DC Bar #425033, Attorney, Antitrust Division, U.S. Department of Justice, 555 Fourth St., NW., Washington, DC 20001, (202) 307–6396.

A. Porter Travel Service, South Branch 216/726–9066, Fax 216/726–7727, Suite 160, Southwoods Executive Centre, 7655 Market Street, P.O. Box 3639, Youngstown, Ohio 44512.
February 12, 1993.
Mark C. Schechter,
Department of Justice, Room 9104, 555 4th St., NW., Washington, DC 20001.
Re: Department of Justice Lawsuit Against the Airlines.

Dear Mr. Schechter: We at A. Porter Travel Service are very opposed to the above mentioned lawsuit. If the consent decrees are approved, we will not be able to be prepared or to notify our clients and give them the personalized service of providing them with the best possible fare.

In this already chaotic industry of ours, we feel these decrees would make it even worse. It would be impossible for agents to quote accurate fares, if the airlines wouldn't be able to advise us of an increase or end of a discount sale, in advance, how are we suppose to properly service our clients. Not to mention how angry they'd get when we quoted them a rate and 24 hours later it wouldn't be valid.

Please take the above concerns into consideration.

Sincerely,

Nancy Pietra,
A. Porter Travel Service.

AAmerican Travel, Inc., 402 Main Street, Bedford, IA 50833, 712–523–2464, Fax 712–523–3502.
February 25, 1993.
Mark C. Schechter,
Department of Justice, Room 9104, 555 4th St., NW., Washington, DC 20001.
Re: Airline litigation.

Dear Mr. Schechter: Should the consent decrees signed by major airlines be implemented, consumers and travel agencies would both be harmed.

Travel agencies would lack the basic information necessary to assist their consumers in making informed decisions.

Since the consent decrees have been signed, we have already had a number of instances in our office where a client was economically harmed by our inability to provide him with information regarding the ending date of airline fare specials. Should the consent decrees be enforced, we expect to see this trend escalate to the detriment of travel consumers.

Sincerely Yours,

Julia M. Travis,
President.

Acacia Travel Inc., 4250 Pacific Highway, San Diego, CA 92110 (619) 225–1233, Telex: 4950610, Fax: 619–226–4003.
February 15, 1993.
Mark C. Schechter,
Dept. Of Justice, Room 9104, 555 4th St. NW., Washington, DC 2001.

Dear Mr. Schechter, In Regard to the Lawsuit Against the Airlines.

This lawsuit, with its various ramifications, I believe is unfair and should not be continued.

I do not believe that the U.S. Government should interfere with private industry in this particular way, which could easily end up with the government in charge of airline fare price adjusting.

Fair competition should be allowed in order to keep prices down, and so far the airlines have been providing low fares to travelers. Such action proposed by the Dept. of Justice could end up with negative results to our industry, which is basically small business which the government has said they want to support.

Please cancel this proposed lawsuit.

Thank you,

Keith Tucker,
Co-owner.

ABC Travel
March 12, 1993.
Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Sir: I can't believe that the advance notice of fare increases or the date for the end of discount sales looms so big as price fixing that the traveling public is going to suffer one more time by government interference.

The travel agent's ability to counsel their clients about fares far outweighs the justice department deciding who is looking at whose fare when.

Please consider what your action will do to the traveling public.

Thank you,

Sincerely,

Merrywayne Elvig,
Manager.

Ace Travel Agency, Inc., 107 N. 4th Street, P.O. Box 866, Coeur d'Alene, Idaho 83814, Phone (208) 667–5451, Fax (208) 664–9280.
March 5, 1993.
Mark C. Schechter,
Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: In reference to the lawsuit against the airlines and fare quotes in CRS systems I would like to add my own two cents worth.

I manage a family owned travel agency which my parents opened in 1957. I have been actively involved with it for over 16 years. Over these years I have seen a lot of changes in the airline industry. I realize that government is trying to improve how it is being run for the benefit of U.S. travelers, but I believe that the proposed change in how air fares are published and how they are programed in CRS systems is wrong.

It's bad enough right now how travel agents across America (where the vast majority of travelers book and buy their airline tickets) must explain the various rules and restrictions of the plethora of fares to a sometimes disbelieving and confused traveler. Now the possibility arises that when Joe Public calls to inquire about a fare to see his Uncle Henry 2000 miles away that fare will be guaranteed about as long as his phone

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call. Joe calls Uncle Henry that night and finds out what dates would be best for a visit. The next day when Joe calls his travel agent back he is told, "Gee, sorry, Joe. That fare was replaced with a new, higher fare since yesterday."

Had Joe known (had his agent been able to advise him) that the fare quoted was going out the window that day, maybe he would have tried to reach Uncle Henry before days end. As it is now, agents can be relatively sure that a fare is going to last for x number of days. This gives Joe a break and lets him check when he can visit Uncle Henry without the possibility that he'll get hammered on a fare the next day.

The average (non frequent) traveler has a hard enough time figuring out airline fares and rules. Any legislation of this kind will only complicate matters. Leave well enough alone. Travel agents provide travelers with as much help as possible on fares and legislation such as this will not benefit the traveling public.

Sincerely,

David K. Walker,

Manager.

Action Technologies, P.O. Box 58668, Philadelphia, PA 19102–8668, Tel: (215) 988–0352, Fax: (215) 567–1681.

March 4, 1993.

U.S. v. Airline Tariff Publishing Co., Mark Schechter,

Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, room, 9104,

US Department of Justice, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schecter: I am writing to ask that you act to reverse the decision that has forced airlines to remove from airline reservations systems the information that determines when a fare is valid. This alteration forces my travel agent to quote a fare that is not guaranteed unless I purchase the ticket at the moment of reservation.

I schedule travel for the Chairman of my company; he travels over 100,000 miles a year on domestic flights. The net result of this decision is that I am unable to plan travel and travel costs intelligently.

Although I am sure you had the best interest of the public in mind in favoring this decision, it appears that the winner will be the airline at the cost of the traveler.

Please reverse this decision.

Sincerely,

Rachel Budd

Action Travel, 3200 Davie Boulevard, Twin Oaks Plaza, Ft. Lauderdale, FL 33312, (305) 584–0997.

February 17, 1993.

Mr. March C. Schechter,

Department of Justice, Rm 9104, 555 4th St NW., Washington, DC 20001.

Re: Department of Justice lawsuit against airlines.

Dear Mr. Schechter: To not provide the public with advance announcements of fare increases and/or decreases and how long a fare will be in effect is the worst thing the Justice Department could do.

Our clients are primarily low to middle class. They rely on these sales heavily. To not know the parameters of a sale means the difference on whether they will be able to travel or not travel because they need time to arrange their finances.

To not know how long a fare will be in effect, means we can't give commercial clients insight on when they would buy tickets to suit their scheduling and business appointments.

This ruling will only make our jobs more difficult which I didn't think possible.

Ultimately, it's the traveling public that is going to suffer.

If the Justice Department's travel account is managed as well as we help our commercial accounts manage theirs, then you are going to see large over runs on your travel budget if fare parameters are not published.

Government budgets along with everyone else's budgets are being cut or held as is to offset the new increases in taxes, but your proposal will eliminate the only possible way anyone can manage travel costs.

Does this make sense? I think not.

Sincerely,

Mary Ellen da Silva,

CTC, President.

Action Travel Center, Main Office: Benchmark Office Center II, 5900 Harper Road, Solon, OH 44139, (216) 248–8388 (Corporate Travel), (216) 248–4949 (Leisure Travel), 1–800–854–0601, Fax 216–248–4082.

February 16, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: Action Travel adamantly opposes the Department of Justice demand to stop providing customers and travel agents with announcements of fare increases.

The entire professional travel agent community will be impaired by this move. Having the US Government regulate the price of air tickets is like moving backwards in time. It didn't work before and it certainly won't work in the future! For the consumer and the travel agent not being able to advise clients when to purchase tickets before price increase is unreal and a horrible hardship for the consumer.

There has to be another way to stop airline price fixing. Don't make the consumer pay. You want more consumers to fly, not less!

Sincerely,

Arlene M. Goldberg,

President.

Action Travel Inc., P.O. Box 700, Minden, LA 71058–0700, (318) 377–4420.

February 22, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: This agency is protesting the consent decree agreed to by United Airlines and USAir.

Eliminating validity dates from airfare listings will increase the already existing confusion in the minds of the consumer.

This is not the solution to the problem.

Sincerely,

Pam Bloxom,

CTC, Owner-Manager.

Adams Travel Agency, 59 North Street, Auburn, NY 13021, (315) 253–4411, Fax (315) 253–6235.

February 15, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Airline Anti-Trust Suit and Current Consent Decrees.

Dear Sir or Madam: Please, please, please—reconsider what you are trying to do. Making the airlines withhold any announcement of fare decreases is stupid. They don't exactly announce them now! Making them withhold notice of when lower fares are going to end will not hurt anyone but the clients and the travel agents. The clients need time, once they hear about a lower fare, to consider their options and plan their trip(s). We, the travel agents, need time to contact all our clients, and do all the bookings that need to be done. All this—in addition to keeping up with regular business.

The ticket buying public is a very savvy group nowadays. They know that the airlines will need a quick surge in cash flow at various times. They know lower fares will come out, and they wait for them. Only the business traveller, who generally cannot afford to wait, is out of luck.

If you really want to hurt the airline industry and make them be more fair to the buying public. I would suggest ordering them to create fair and solid tariffs for each city fare—and making them stick to them. That way, people will learn that there won't be any "specials" coming out and will buy tickets as needed. The travel industry would become more reliable and solid.

Please think about the consequences, real—not perceived, That your actions will create. If you're not sure what would really happen—talk to the travel agents who have to deal with this nonsense everyday.

Thank you.

Sincerely:

Tami Renner,

Manager.

Adios Travel, 10440 Clairemont Mesa Boulevard, San Diego, California 92124–1320, 619–268–1088, 800–477–1068, Fax 619–268–1928.

17 February 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: As a travel agency owner I am very concerned about the lawsuit the Department of Justice has filed against most of the major airlines, alleging price fixing through advance notification of fare increases in our computers.

I can see the thought process of the D.O.J., but a telephone works just as well in this case. The value of our knowing the validity dates of the fares is that we can then advise our clients when they will expire and what they will go up/down to, every client asks these questions. Now we will have to rebook the whole ticket and get the new fare.

We hope you will consult with the American Society of Travel Agents (A.S.T.A.) and any other organization that actually deals in every day travel.

Thank you for your consideration.

Sincerely,

Meris E. Pittman,

Owner.

Ae'rea Travels, 9214 South Commercial Avenue, Chicago, Illinois 60617, Area Code (312) 221–5900.

February 17, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

Dear: Mr. Schechter: I am writing regarding the consent decrees that would prohibit travel agents from advance announcements of fare increases and discount sales.

If these consent decrees are approved, travel agents will be severely impaired from providing their clients with complete and professional travel counseling.

Please consider this letter, Our agency's formal opposition to the above-mentioned consent decrees and to the federal court becoming the price regulator for the Airline Industry.

Sincerely,

Debra M. Bolanos,

Management.

Afari Travel Centre, Complete Travel Arrangement, 617 Sudderth, Charleston Square, Ruidoso, New Mexico 88345.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Mr. Schechter: we, owners and agents of the above travel agency, wish to voice our opposition to the Department of Justice anti-trust suit regarding consent decrees. Without the knowledge of first and last ticket dates in the CRSs we would be in the dark as to how best to advise our customers regarding the best and cheapest method of air travel. Our customers would be perplexed regarding when and how to prepare for vacations, business meetings, etc. Figuring air travel and prices today are difficult enough without the handicap of trying to outguess the airlines in when a first date starts and when it will end. After all, the American air traveler is the final judge of our hectic industry.

Again, we wish to ask the court to reject the consent decrees.

Sincerely,

R.W. Eggers,

Owner.

Air and Sea Travel With Joline, P.O. Box 033459, 322 Fifth Avenue, Indialantic, Florida 32903–0459, (407) 724–2400.

February 15, 1993.

Mark C. Schechter,

Department of Justice, room 9104 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing you in regard to the Department of Justice consent decrees reletng to proposed restrictions on the airlines involving fare increases and publication of eligil ie dates on discounted airline fares.

The American Public deserves the right to secure the best possible fare for their travel. It is only fair that they be made aware of any fare increases so they can plan their trip accordingly.

With the economy in such dire shape the traveling public is entitled to know the "window" of dates for any special fares the airlines might offer for travel. It would be impossible to serve our clients satisfactorily if we cannot give them the beginning and ending dates for the fares between the cities of origin and destination for the travel dates required.

I have been in the travel agency business for 42 years. Granted the airlines have been fixing prices but passing these consent decrees will be detrimental to the passengers and hurt them, not the airlines.

Please advise the Judge that we adamantly oppose them.

Sincerely,

Joline Berg.

Air, Land & Sea Travel, Inc., 2850 Metro Drive, Suite 308, Bloomington, Minnesota 55425, Telephone (612) 854–5425.

February 15, 1993.

Mr. Mark C. Schechter,

Dept. of Justice, 555—4th St. NE, Rm., 9104, Washington, DC 20001

Dear Mr. Schechter: It has been brought to my attention that you are attempting to stop travel agents from providing our customers with advance notice of fare increases and discount sales. This is a service that is extremely important to us, and I strongly believe that is time for the government and the courts to stop interfering with our business. I believe a ruling for the airlines and travel agent is of the utmost importance.

Sincerely,

Thomas P. Gray,

President.

Air, Land, Sea, Travel & Tours Inc., 803 Plainfield Road, Joliet, Illinois 60435, (815) 727–5383.

February 16, 1993.

Department of Justice,

Room 9104, 555 4th Street, NW., Washington, DC 20001.

Attention: Mark C. Schneider. I would like to express my concern with the demands of the Department of Justice to require airlines to stop providing travel agents with advance announcements of fare increases and the end of discount sales.

Not only do I feel that this is a requirement which would be deleterious to thousands of independent Travel Agencies, leading to the necessity of massive ticket rewriting, greatly increasing time and expense, surely adversely impacting the opinion of clients as to the knowledge and helpfulness of travel agents, it certainly seems to me that my government, by this action, is intruding into private business in an unnecessary, harmful, unfair, and even improper manner and extent.

Sincerely,

Jane R. De Witt,

Owner, Air, Land & Sea Travel.

Air-Sea, The Travel Company, 3436 Tongass Avenue, Ketchikan, Alaska 99901 (307) 225–9491

March 2, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Re: Justice Department action against airlines—price fixing

Dear Mr. Schechter, Travel Agencies, such as mine, book and ticket the majority of airline tickets purchased in the United States. The Airlines have worked with the various Computer Reservation System operators and Travel Agents to develop an efficient and effective airline reservation and ticketing distribution network. The timely (same day) availability of new or updated fares is critical to the operation of our business. In order for airlines to make this information available to the distribution network at the time of fare publication and release, the computer coding and programming must be submitted prior to the change or introduction.

Any limitations placed on the airlines that may hinder their ability to release fares and rules regarding the fares at the same time the fare is published to the public would effectively cripple the airline industry and the distribution network (travel agencies) established to book and sell airline seats. Public confidence in the distribution network would be severally damaged should immediate access to newly released fares and their rules be lost or hindered in any way.

I urge yourself and the Justice Department to reconsider the recent actions taken against the airlines and to withdraw from any action. Further regulation of the industry can only be harmful, driving up costs and damaging public confidence in the nations airlines.

Sincerely,

Brian R. Cole,

Division Manager.

Comments of Airline Tariff Publishing Company, Alaska Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., and Trans World Airlines, Inc. on the Proposed Consent Decree Between the Department of Justice and United Airlines, Inc. and USAir, Inc.

United States of America, Plaintiff, v. Airline Tariff Publishing Company, et al., Defendants, Civil Action; No. 92–2854(GHR).

Pursuant to 15 U.S.C. 16, Airline Tariff Publishing Company ("ATPCO"), Alaska Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., and Trans World Airlines, Inc. submit their comments on the proposed Consent Decree between the Department of Justice ("DOJ") and United Airlines, Inc. and USAir, Inc. For the reasons set forth below, the proposed Consent Decree is not in the "public interest," as required by U.S.C. 16(e), and therefore should not be approved by the Court.[1]

[1] Pursuant to the Court's Scheduling Order dated March 4, 1993, the parties hereto reserve the right to file a reply memorendum to the DOJ's responses to public comments.

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I. Introduction

The DOJ's proposed Consent Decree will deprive retail[1] customers of air transportation services of valuable price information that the airlines have communicated to them for more than 50 years. The proposed Consent Decree will impose a blanket prohibition on the practice of giving customers advance notice of fare increases by specifying the "first ticket date" on which tickets will be sold at a higher price, as well as a blanket prohibition on the practice of communicating through ATPCO to customers the "last ticket date" that they will be able to purchase tickets at discounted prices. The restriction on last ticket dates will especially hamper the ability of the airlines to offer special promotional fares to their customers.

The crux of the proposed Consent Decree is contained in section IV.(B), which enjoins the airlines from:

> disseminating any first ticket dates, last ticket dates, or any other information concerning the defendant's planned or contemplated fares or changes to fares.

This broad ban on the communication of vital price information would effect a truly fundamental change in the airline industry.

Thus, in more than one respect, "this is not an ordinary antitrust case." *United States* v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982), *aff'd*, 460 U.S. 1001 (1983). Since the Supreme Court issued its opinion in *Sugar Institute* v. *United States*, 297 U.S. 553(1936), it has been lawful for firms to announce future price increases to their customers. Here, the essence of the proposed Consent Decree is the prohibition on the use of first and last ticket dates, which are simply the methods by which airlines communicate (i) future fare increases and (ii) the last dates of fare sales to their customers and to travel agents, upon whom the airlines depend for the sale of approximately 80% of all airline tickets. The DOJ's decision to challenge this practice is puzzling because the airlines have communicated this fare information to their customers for more than 50 years. Indeed, beginning in 1938, with the passage of the Civil Aeronautics Act, until January 1, 1983, the effective date of the tariff provisions of the Airline Deregulation Act, the airlines were required by law to give advance notice of fare increases. The Airline Deregulation Act did not purport in any way to make this practice illegal, but rather left each airline free to determine for itself whether to continue to use first and last ticket dates as a way to communicate future fare increases to customers. Because this practice benefits consumers and travel agents, each of the airlines has unilaterally continued this practice.

The airlines communicate advance notice of fare increases as well as other important fare information through computer reservations systems and ATPCO. As the DOJ admits, ATPCO and computer reservations systems are an efficient and cost effective way to communicate numerous daily fare changes made by the airlines. See United States' Objections and Responses to Defendants' First Set of Requests for Admissions, Nos. 24, 158 and 201 (the DOJ's Admissions referred to herein are attached as Exhibit "A"). ATPCO's programs provide, through computer reservations systems, fare information to more than 36,000 travel agents. *Id.* at No. 166.

> ATPCO currently distributes fare and related information through electronic and print media to approximately 271 air carriers and to approximately 1,700 non-carrier subscribers, including travel agencies, large corporations and government agencies . . .

Id. at No. 164. Finally, the DOJ admits that ATPCO's programs, services, and products are publicly available to anyone requesting and paying for them on a nondiscriminatory and entirely equal basis. *Id.* at No. 203. Simply put, ATPCO provides a tremendous service to consumers because it provides a central source for the public collection, organization, dissemination, and preservation of fare information for subscribers.

The airlines communicate first and last tickets to their customers through ATPCO. The DOJ admits that it does not even contend that each use of first and last ticket dates constitutes a violation of the Sherman Act. *Id.* at Nos. 81 and 84. The DOJ's overly broad proposed regulatory remedy, however, would prohibit the dissemination of all first and last ticket dates through ATPCO.

The DOJ, ostensibly under the guise of the "public interest," seeks to effect a fundamental change in the ways in which airline fares are communicated to consumers, yet it concedes that it has not undertaken any economic studies of the expected financial impact of the proposed Consent Decree on consumers. See Memorandum of the United States in Opposition to Motions of American Society of Travel Agents, Inc. for Leave to Intervene for Production of Studies, and for an Extension of Time for Public Comment, at 9.[2] The DOJ, apparently, has also failed to consult with the travel agency industry, consumer groups, airline industry groups, and the Department of Transportation in order to evaluate the impact of the proposed Consent Decree on air transportation services and related industries.

The "public interest," however, is not a legal abstraction. Here, the most directly affected segment of the "public" consists of travel agents and consumers of air transportation services. The "interest" involved concerns the so-called benefits they will receive by being deprived of their First Amendment right to learn when air fares will increase and the financial impact the proposed Consent Decree is expected to have on them.

The DOJ's failure to conduct an analysis of the financial impact of the proposed Consent Decree on consumers is especially troubling in light of its admission that real air fares have declined by as much as 31% since the airlines were deregulated in 1983 and are lower than at any time in history. See United States' Objections and Responses to Defendants' First Set of Requests for Admissions, No. 237.[3] The Assistant Attorney General in charge of the Antitrust Division, James Rill, stated on September 13, 1991, two years into the Division's investigation that:

> [A]irline deregulation has increased dramatically the competitiveness of that industry. The Department of Transportation now estimates fares to be about 31 percent below what they would have been had regulation continued, *a savings to airline passengers of more than $15 billion annually.* And service has improved. * * *

Id. at No. 237(c)(emphasis added). The DOJ admits that Mr. Rill's statements were authorized, were made within the scope of his authority, and were true when made. The DOJ also admits that the Defendant airlines offered thousands of discount fares during the time that they allegedly conspired to bilk their customers by maintaining fares at artificially high levels. *Id* at No. 102. The DOJ would nonetheless, in the absence of any empirical support, have this Court impose a regulatory pricing mechanism on an industry that is engaged in fierce price competition and losing billions of dollars annually while consumers are saving $15 billion annually—and would impose this brave new world in the name of the public interest.

[1] The DOJ, moreover, conceded in its Competitive Impact Statement, at 30, that it did not consider any "determinative" documents, as defined in 15 U.S.C. 16(b), in formulating the proposed Consent Decree.

[2] The DOJ also admits that the average price for all U.S. domestic air passenger transportation was below the average total cost of all of the airlines that provides such service during the alleged conspiracy period. See United States' Objections and Responses to Defendants' First Set of Requests for Admissions, No. 78.

But, the proposed Consent Decree is contrary to the public interest for three fundamental reasons.

1. The proposed Consent Decree assumes that there has been a violation of Section One of the Sherman Act, 15 U.S.C. 1. The DOJ, however, cannot cite a single case that has ever held that advance notice of retail price increases (a) will support an inference of conspiracy, or (b) is anticompetitive or illegal. Cutthroat competition, bankruptcies, and declining prices have been the recent hallmark of the airline industry, not price gouging and excessive profits.

2. The proposed Consent Decree is directly contrary to the financial interests of the "public" it purports to help. Consumers will now be deprived of any warning of fare increases with no offsetting benefits as a result of the restriction on their First Amendment rights.

3. The proposed Consent Decree violates the First Amendment because it is an overly broad prohibition of lawful conduct that prohibits the airlines from communicating vital price information to their customers. First and last ticket dates are merely the means by which advance notice of retail prices is communicated to consumers, and the DOJ does not even contend that each use of first and last ticket dates violates the Sherman Act. The proposed Consent Decree, therefore, is not a narrowly-tailored restriction on First Amendment speech.

II. Advance Notice of Future Fare Increases Does Not Violate the Sherman Act

Advance notice of retail price increases has been held to be a legitimate, pro-competitive business practice in an unbroken line of cases extending over a period of 50 years. These cases include controlling decisions of the Supreme Court. *See, e.g., United States* v. *Sugar Institute*, 217 U.S. 553, 602–03 (1936); *Catalano Inc.* v. *Target Sales, Inc.*, 446 U.S. 643 (1980)("[A]dvance price announcements are perfectly lawful."); *United States* v. *Citizens & Southern Nat'l Bank*, 422 U.S. 86, 113 (1975)("the dissemination of price information is not . . . a *per se* violation of the Sherman Act"). *See also Reserve Supply* v. *Owens-Corning Fiberglass*, 971 F.2d 37, 53–54 (7th Cir. 1992)(affirming summary judgment in favor of defendant); *In re Petroleum Products Antitrust Litig.*, 906 F.2d 432, 448 n. 14, 9th Cir. 1990); *E.I.du Pont de Nemours & Co.* v. *FTC, 792 F.2d 828* (2d Cir. 1984); *United States* v. *General Motors Corp.* 1971–2 Trade Cases ¶ 75,253 (E.D. Mich. 1974). In stark contrast, the DOJ can cite no case that has ever held that advance notice of retail price increases violates Section One of the Sherman Act.

The DOJ admits that "when the defendant airlines announced future fare increases during the alleged conspiracy period, those fares concerned retail prices." United States' Objections and Responses to Defendants' First Set of Requests for Admissions, No. 219. This admission is critical because no case has ever held that consciously parallel decisions on the part of competitors to give advance notice of their intention to raise retail prices on a specified date in the future will support an inference of conspiracy. See especially *In Re Petroleum Products Antitrust Litig.*, 906 F.2d at 448 n.14:

> Our conclusion would necessarily be different were the appellants' inference of a price-fixing conspiracy based on the dissemination or advertising of retail prices; permitting an inference of conspiracy from such evidence would make it more difficult for retail consumers to get the information they need to make efficient market decisions.

The DOJ's proposed Consent Decree also erroneously assumes that the use of first and last ticket dates causes parallel prices. That assumption is manifestly false. Parallel pricing, or interdependent pricing,[4] exists in the airline industry because it is a concentrated industry in which price information is nearly perfect and, because each competitor provides a commodity-like service, consumers are especially price sensitive. See *Cement Manufacturers Ass'n* v. *United States*, 268 U.S. 588, 605 (1925)("uniformity of price will inevitably result from active, free and unrestrained competition, . . . [particularly] in the case of standardized product * * *"). Indeed, the DOJ admits that, "[i]f an airline increases a fare on a city-pair route that is serviced by another airline with identical or similar service, and the other airlines do not increase their fare, the airline that increases its fare risks losing customers to the other airlines." United States' Objections and Responses to Defendants' First Set of Requests for Admission, No. 44. Simply put, in the absence of an alleged conspiracy or the use of first and last ticket dates, parallel pricing would still exist in the airline industry.

The abolition of first and last ticket dates, therefore, will not "cure" the problem of parallel pricing, nor will it make it appreciably more difficult to occur. See Reserve Supply Corp., 971 F.2d at 50 ("it is close to impossible to devise a judicially enforceable remedy for 'interdependent pricing'. How does one order a firm to set its prices without regard to the likely reaction of its competitors?" (quoting *Clamp-All Corp.* v. *Cast Iron Soil Pipe Inst.*, 851 F.2d 478, 484 (1st Cir. 1988) (citations omitted))). Experience in the airline industry demonstrates beyond cavil that parallel, interdependent pricing will exist whether or not the Court approves the proposed Consent Decree.

This fact should be critical to the Court's determination of whether the proposed Consent Decree is in the public interest. If parallel, interdependent pricing will exist even if the proposed Consent Decree is approved, what is the benefit to the public of depriving consumers of advance warning of future fare increases? What is the benefit to consumers of prohibiting airlines from telling their customers when sales of discount fares will end? In the total absence of any economic studies, why should the Court believe that cutting off the free flow of pricing information to consumers is in their financial interest? The Defendants respectfully submit that the DOJ has not—because it cannot—supply the Court with satisfactory answers to these questions, and thus cannot show that proposed Consent Decree is in the public interest.

III. The DOJ Has Failed To Demonstrate That Consumers or any Member of the "Public" Will Benefit by the Proposed Consent Decree

It is undisputed that the proposed Consent Decree will deprive consumers and travel agents of pricing information that they have relied on for more than 50 years. It is undisputed that real air fares have declined by as much as 31% since the airlines were deregulated in 1983. It is undisputed that the airlines have offered thousands of discount fares during the past few years. It is undisputed that consumers have saved $15 billion annually since deregulation. It is undisputed that the airlines have lost billions of dollars since the DOJ began its investigation into the pricing practices in the airline industry.

It is disputed whether the proposed Consent Decree will confer benefits on the most affected members of the public whose interests the DOJ would champion: travel agents and consumers. And it is the very "public" that disputes the wisdom of this Consent Decree. The American Society of Travel Agents, Inc. ("ASTA") challenges the proposed Consent Decree because it "will disrupt

[4] "Interdependent pricing" has most recently been defined as "the phenomenon of sequential competitive pricing decisions that are made (1) in response to the ones preceding it and (2) in the hope of expectation of the ones that follow it." Petroleum Products, 906 F.2d at 442 n.5. This pricing behavior is perfectly lawful because, as the Supreme Court has recognized, "the fact that competitors may see proper, in the exercise of their own judgment, to follow the prices of another manufacturer, does not establish any suppression of competition or show any sinister domination." *United States* v. *International Harvester Co.*, 274 U.S. 694, 708–09 (1927).

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the flow of valuable travel planning information to tens of millions of consumers." Comments of ASTA, at 4. Public Citizen, Inc., a nationwide consumer advocacy group, opposes the proposed Consent Decree because they question whether "the public will be better off if the Government wins." Comment of Cornish F. Hitchcock, aviation specialist for Public Citizen, quoted in the New York Times, Feb. 26, 1993, at c. 3. In fact, Mr. Hitchcock has opined that this "is a dopey lawsuit that should never have been brought." Chicago Sun-Times. March 1, 1993, at 41.

So what empirical support has the DOJ marshalled to meet these challenges to show the financial benefits that will flow from its proposed regulatory pricing regime? *Nothing.* The Competitive Impact Statement is absolutely silent as to the expected financial impact of the proposed Consent Decree, and the DOJ has recently conceded that it has not undertaken any economic studies on the expected impact of consumers. In light of the overwhelming evidence against the proposed Consent Decree, and in light of the opposition to the Decree by the public, the Court should conclude that it is not in the public interest.

IV. The Proposed Consent Decree Violates the First Amendment

The DOJ seeks a broad ban on the use of all first and last ticket dates because, it alleges, their use *sometimes* leads to unlawful price-fixing agreements. As noted earlier, the DOJ admits that not all uses of first and last ticket dates violate the Sherman Act. *See* United States' Objections and Responses to Defendants' First Set of Requests for Admission, Nos. 81 and 84. Instead of distinguishing the few incidents when the DOJ alleges that the suspect practices violate the Sherman Act from the numerous incidents when the DOJ concedes that they do not, and then tailoring the requested restrictions to fit only the alleged unlawful practices, the DOJ has opted instead for a much broader restriction on First Amendment speech rights.

To determine whether a governmental restriction on commercial speech is permissible under the First Amendment,[5] courts employ the four-pronged analysis initially articulated by the Supreme Court in *Central Hudson Gas & Electric Corp.* v. *Public Service Commission of New York*, 447 U.S. 557 (1980). This analysis includes

(i) [T]he speech "must concern lawful activity and cannot be misleading;"
(ii) "[T]he asserted governmental interest [must be] substantial;"
(iii) "[T]he regulation [must] directly advance [ ] the governmental interest asserted;" and
(iv) "[T]he regulation [must not be] more extensive that is necessary to serve that interest."

447 U.S. at 566. As the Supreme Court held in *Board of Trustees of the State University of New York* v. *Fox*, 492 U.S. 469, 480 (1989), the DOJ's proposed Consent Decree must be "narrowly tailored to achieve the desired [governmental] objective."

The proposed Consent Decree fails the first prong of the *Central Hudson* test because the advance announcement of fare increases is lawful. The proposed Consent Decree also fails to implicate a substantial governmental interest. Although the DOJ has a substantial interest in preventing price fixing, there is a major difference between that interest and the interest the DOJ attempts to advance here in prohibiting communications regarding fare increases. *Cf. Maple Flooring Mfg. Ass'n.* v. *United States*, 268 U.S. 563, 582 (1924) ("[i]t is the consensus of opinion of economists and of many of the most important agencies of government that the *public interest is served* by the gathering and dissemination, in the widest possible manner, of information with respect to the production and distribution, costs and prices in actual sales, * * *") (emphasis added). This is especially true considering that the DOJ attempts to impose an absolute ban on an entire category of speech that benefits the public the DOJ ostensibly seeks to protect.

Finally, the proposed Consent Decree is not "narrowly tailored" to achieve the DOJ's purported objective. In *Central Hudson*, the government sought to ban an electric utility from employing any advertising that promoted the use of electricity. The Supreme Court struck down the regulation, concluding that the absolute prohibition on promotional advertising was more extensive than necessary to achieve the stated governmental objectives of energy conservation and fairness and efficiencies in rates (although both interests were deemed to be substantial).

Here, the DOJ's proposed Consent Decree will ban the use of all first and last ticket dates, even though the DOJ admits that not all uses of first and last ticket dates violate the Sherman Act. The DOJ, simply put, has made no effort to tailor its proposed restriction to fit the conduct it believes is unlawful.[6] See In re R.M.J., 455 U.S. 191, 203 (1982) (restrictions on speech may not "place an absolute prohibition on * * * potentially misleading information * * * if the information also may be presented in a way that is not deceptive"). At a minimum, therefore, the DOJ should be made to distinguish between those uses of first and last ticket dates that it alleges are unlawful and those that are not, and then tailor its remedy to fit the alleged anticompetitive conduct.

Finally, consumers of air transportation service have a First Amendment "right to receive information and ideas." *Stanley* v. *Georgia*, 394 U.S. 557, 564 (1969). Here, information concerning future fare increases is clearly in the public interest, because consumers have the right to make informed purchasing decisions based upon information concerning when air fares will increase.

So long as we preserve a predominantly free enterprise economy, the allocation of our resources in large measure will be made through numerous private economic decisions. It is a matter of public interest that those decisions, in the aggregate, be intelligent and well informed. To this end, the free flow of commercial information is indispensable.

Virginia Pharmacy Board v. *Virginia Citizens Consumer Counsel*, 425 U.S. 748, 765 (1976). As the Supreme Court further noted in *Virginio State Board of Pharmacy*, 425 U.S. at 763, "[a]s to the particular consumer's interest in the free flow of commercial information, that interest may be as keen, if not keener by far, than his interest in the day's most urgent political debate."

Most recently, the Supreme Court recognized the causal relationship between the communication of air fare information and lower prices.

> [I]t is clear as an economic matter that state restrictions on fare advertising have the forbidden significant effect upon fares. Advertising "serves to inform the public of the * * * prices of products and services, and thus performs an indispensable role in the allocation of resources. * * * [w]here consumers have the benefit of price advertising, *retail prices often are dramatically lower than they would be without advertising.*"

Morales v. *Trans World Airlines, Inc.*, 112 S. Ct. 2031, 2039–40 (1992) (quoting *Bates* v. *State Bar of Arizona*, 433 U.S. 350, 364, 377 (1977)). The proposed Consent Decree's prohibition on the use of first and last ticketing dates strips consumers of their right to receive this critical retail price information.

V. The Proposed Consent Decree Conflicts With the Rule-Making Authority of the Department of Transportation

The restrictions imposed by the proposed Consent Decree would usurp the rulemaking and enforcement authority of the Department of Transportation ("DOT") to regulate the dissemination and display of fare information through computerized reservations systems and ATPCO. See *United Airlines, Inc.* v. *Civil Aeronautics Board*, 766 F.2d 1107, 1110 (7th Cir. 1985) (the DOT has broad power to issue rules to carry out policies set forth in the Federal Aviation Act, and the DOT's issuance of rules regarding the dissemination of fares and other information through computerized reservations systems "reserv[es] to the [DOT] the responsibility for preventing deception of airline passengers"). Pursuant to 49 U.S.C. App. 1381, the DOT is authorized to issue cease and desist orders in the public interest to enforce the prohibition against "unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof." Further, in the exercise of its powers and duties, the DOT must consider to be in the public interest, *inter alia*, the "availability of a variety of adequate, economic, efficient and low-price services by air carriers, * * * the prevention of unfair, deceptive, predatory or anticompetitive practices in air transportation, and the avoidance of * * * conditions that would tend to allow one or more air carriers * * * unreasonably to increase prices, reduce services, or exclude competition in air transportation." 49 U.S.C. App. 1302(a)(7).

Since its inception, the DOT has exercised its broad authority to regulate the dissemination of fare information. See *e.g.*, 14 CFR parts 255 and 256 (regulating the dissemination and display of fare information through computer reservation systems). As discussed above, prior to the effective date of the Airline Deregulation Act in 1983, the DOT required airlines to give advance notice of fare increases. Rather than prohibiting such notice after deregulation, the DOT gave the airlines the discretion to continue the practice. The DOT continues to require advance notice of fare changes in other contexts. For example, carriers operating in domestic air transportation are required to give consumers notice of certain contract of carriage terms. 14 CFR part 253. Section 253.7 requires, with respect to "any terms restricting refunds of the ticket price, imposing monetary penalties on passengers, or *permitting the carrier to raise the price*, * * * conspicuous written notice of the salient features of those terms on or with the ticket" (emphasis added).

The DOT also requires advance notice of fare changes for international tariffs. International fares must be filed at least 30 days in advance. 14 CFR 221.160(a)(1). The "expiration date shall be shown" on every tariff, 14 CFR 221.31(a)(10), and all changes in tariffs "shall be indicated" by "uniform amendment symbols" to denote increases, reductions or other changes, 14 CFR 221.114(a). There is no requirement of widespread advertising of international tariff changes before they can take effect .

The Federal Aviation Act, and the regulations promulgated thereunder, show that regulation of the dissemination of advance fare information is within the jurisdiction of the DOT. The requirements of advance notice of international fares, and of the use of codes and symbols similar to those currently used by the Defendants, moreover, is a clear indication that such practices further the policies of the DOT. Thus, there is every reason to believe that the DOT has rule-making and enforcement jurisdiction over the restrictions imposed by the proposed Consent Decree. Because of these complex conflicts issues, the Defendants submit that it would be prudent for the Court, pursuant to 15 U.S.C. 16(f)(2 , to solicit the views of the Department of Transportation on this issue.

Conclusion

For all of the foregoing reasons and on the authorities cited, the proposed Consent Decree does not satisfy the Tunney Act's requirement that it be in the public interest. See 15 U.S.C. 16(e). The Defendants therefore respectfully request that the Court not approve the proposed Consent Decree between the United States and United Airlines, Inc. and USAir, Inc.

Respectfully submitted, this 15th day of March, 1993.

Emmet J. Bondurant, II, Edward B. Krugman, Bondurant, Mixson & Elmore, 1201 W. Peachtree St., NW., Atlanta, GA 30309 (404) 881–4100, *Counsel for Defendant Delta Air Lines, Inc.*

Thomas Demitrack, Jones, Day, Reavis & Pogue, North Point, 901 Lakeside Ave., Cleveland, OH 44114 (216) 586–3939, *Counsel for Defendant Trans World Airlines, Inc.*

James Dick, Squire, Sanders & Dempsey, 1201 Pennsylvania Ave., NW., Suite 500, Washington, DC 20004 (202) 626–6600, *Counsel for Defendant Alaska Airlines, Inc.*

Michael A. Doyle, D.C. Bar No. 922856, Michael P. Kenny, Alston & Bird, One Atlantic Center, 1201 W. Peachtree St., Atlanta, GA 30309–3424 (404) 881–7000.

Irving Scher, Weil, Gotshal & Manges, 767 Fifth Ave., New York, NY 10153 (212) 310–8000.

Peter Isakoff, D.C. Bar No. 358419, Weil, Gotshal & Manges, 7th Floor, suite 700, 1615 L St., NW., Washington, DC 20036 (202) 682–7000, *Counsel for Defendant American Airlines, Inc.*

Mark Leddy, Cleary, Gottlieb, Steen & Hamilton, Rue De la Loi 23-BTE 5, 1040 Brussels, Belgium, 011–32–2–287–2000.

Jonathan B. Hill, Dow, Lohnes & Albertson, 1255 23rd St., NW., Suite 500, Washington, DC 20037 (202) 857–2500, *Counsel for Defendant Airline Tariff Publishing Company.*

United States' Objections and Responses to Defendants' First Set of Requests for Admissions

United States of America, Plaintiff, v. Airline Tariff Publishing Company, et al., Defendants. Civil Action No. 92–2854 (GHR).

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, plaintiff, United States of America ("Government"), based on information known to or readily obtainable by the Government at this stage of the litigation, response to Defendants' First Set of Requests for Admission as follows:

Request 1. There were over 50,000 city-pairs served by the Defendant airlines for U.S. domestic air passenger transportation during the period April 1988 to the present.

Response: Admits.

Request 2. There were thousands of city-pairs served by the Defendant

[5] Commercial speech is "expression related solely to the economic interests of the speaker and its audience." *Central Hudson Gas & Electric* v. *Public Service Commission of New York*, 447 U.S. 557, 561 (1980) (citing *Virginia Pharmacy Board* v. *Virginia Citizens Consumer Council*, 425 U.S. 748, 762 (1976)). Although the Defendants believe that the proposed Consent Decree constitutes a restriction on "pure" speech, for the purposes of these Comments only, the Defendants will assume that the proposed Consent Decree's prohibition on first and last ticket dates involves commercial speech.

The proposed Consent Decree is also a content-based restriction on speech—*i.e.*, it singles out a certain type of speech for regulation—and thus must serve a "compelling governmental interest" and must be narrowly tailored to further that purpose. See *Consolidated Edison Co.* v. *Public Serv. Comm'n*, 447 U.S. 530, 540 (1980) (applying strict scrutiny standard to rule that imposed only small incremental cost on speech of public utilities). The DOJ has no legitimate interest, much less a compelling interest, in completely banning lawful speech.

[6] First Amendment rights require the Court to tailor a remedy to fit the circumstances of the particular case, even if the Court believes an antitrust violation has occurred. See National Society of Professional Engineers v. United States, 435 U.S. 679, 697–98 (1978).

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airlines for U.S. domestic air passenger transportation during the period April 1988 to the present.

Response: Admits.

Request 24. ATPCO and computer reservation systems are an efficient method of informing consumers of the many daily fare changes made by the Defendant airlines for U.S. domestic air passenger transportation.

Response: The Government objects to this request on the grounds that it is vague, ambiguous, and misleading. The Government admits that ATPCO and computer reservation systems are an efficient method of informing consumers of the fares available for sale each day by the Defendant airlines for U.S. domestic air passenger transportation.

Request 44. If an airline increases a fare on a city-pair route that is serviced by another airline with identical or similar service, and the other airlines do not increase their fare, the airline that increases its fare risks losing customers to the other airlines.

Response: Admits.

Request 78. The average price of all U.S. domestic air passenger transportation was below the average total cost of all the airlines providing such transportation during the period April 1988 to the present.

Response: Admits.

Request 81. Plaintiff does not contend that the Defendant airlines violated Section One of the Sherman Act each time they used first ticket dates during the period April 1988 to the present.

Response: The Government objects to this request on the grounds that it is vague and ambiguous. The Government admits that it does not contend that each use of a first ticket date constituted a separate violation of Section One of the Sherman Act.

Request 84. Plaintiff does not contend that the Defendant airlines violated Section One of the Sherman Act each time they used last ticket dates during the period April 1988 to the present.

Response: The Government admits that it does not contend that each use of a last ticket date constituted a separate violation of Section One of the Sherman Act.

Request 102. There were thousands of discount fares offered by the Defendant airlines during the period April 1988 to the present.

Response: Admits.

Request 158. ATPCO's principal function is to collect and distribute, in a cost effective manner, domestic and international passenger and cargo rate information for approximately 271 carriers worldwide.

Response: Admits.

Request 164. ATPCO currently distributes fare and related information through electronic and print media to approximately 271 air carriers and to approximately 1,700 non-carrier subscribers, including travel agencies, large corporations and government agencies, including the General Services Administration, the Department of the Army, the U.S. Department of Transportation, the National Transportation Agency of Canada and the Civil Aviation Authority of the United Kingdom.

Response: Admits.

Request 166. ATPCO's programs provide through computer reservation systems fare information to more than 36,000 travel agencies.

Response: Admits.

Request 201. ATPCO services to carriers and subscribers are an efficient and cost effective means of distributing identical domestic fare information to purchasers of air carrier services throughout the world.

Response: Admits.

Request 203. ATPCO's programs, services, and products are publicly available to anyone requesting and paying for them on a nondiscriminatory and entirely equal basis.

Response: Admits.

Request 219. When the Defendant airlines announced future fare increases during the alleged conspiracy periods, those fare announcements concerned retail prices.

Response: Admits.

Request 237. That each of the following statements were made by the individual named below on the dates indicated within the scope of his official duties as an officer of the United States and was true at the time the particular statement was made:

Response: The Government objects to this request in its entirety on the grounds that it is compound and complex, and that it is irrelevant. The Government further objects to this request on the grounds that the statements are misleading because they are incomplete and taken out of context. Subject to and without waiving its objections, the Government responds separately to each subpart of this request.

(a) By Samuel K. Skinner, Secretary of Transportation, to the National Press Club, Washington, DC, January 23, 1991:

(i) "Every credible analysis of airline competition in the 1980s has declared deregulation a success * * *. [D]eregulation has provided major benefits for American travelers."

Response: The Government admits that this statement was made by Samuel K. Skinner within the scope of his duties as an officer of an agency of the United States government, and that the statement was true at the time it was made.

(ii) "First, airline travel is much less expensive * * *. [R]eal airline fares have declined by an average of 28 percent since 1981 * * *. [A]ir travel is now accessible to millions of low-and middle-income Americans."

Response: The Government admits that this statement was made by Samuel K. Skinner within the scope of his duties as an officer of an agency of the United States government. The Government admits that the statements that "airline travel is much less expensive" and "air travel is now accessible to millions of low- and middle-income Americans" were true at the time they were made. After reasonable inquiry, information known to or readily obtainable by the Government is insufficient to enable it to admit or deny that the statement "real airline fares have declined by an average of 28 percent since 1981" was true at the time that it was made.

(iii) "[L]ast month almost 92 percent of the new travelers flew on discounted fares.

Response: The Government admits that this statement was made by Samuel K. Skinner within the scope of his duties as an officer of an agency of the United States government. After reasonable inquiry, the information known to or readily obtainable by the Government is insufficient to enable the Government to admit or deny that this statement was true at the time that it was made.

(iv) "Three times as many passengers now travel in truly competitive markets—those served by three or more airlines—than did in 1978.

Response: The Government admits that this statement was made by Samuel K. Skinner within the scope of his duties as an officer of an agency of the United States government. The Government denies that this statement was true at the time that it was made insofar as it states that the fact that a market is served by three or more airlines makes such a market truly competitive. The Government admits that in January 1991, three times as many passengers traveled in markets served by three or more airlines than did in 1978.

(b) By Jefferson N. Shane, Assistant Secretary of Transportation for Policy and International Affairs, Remarks Before the Aviation Subcommittee of the Senate Committee on Commerce, Science, and Transportation Concerning U.S. Aviation Policy, September 11, 1991:

(i) "[T]he Department has studied carefully the competitiveness of the U.S. Airline Industry."

* * * * *

"We are convinced that * * * vigorous competition will continue to produce quality service at low prices * * *." Id. at 1–2.

Response: The Government admits that this statement was made by Jefferson N. Shane within the scope of his duties as an officer of an agency of the United States government. The Government admits that the statement "[T]he Department has studied carefully the competitiveness of the U.S. Airline Industry" was true at the time it was made. The Government admits that the statement "We are convinced that * * * vigorous competition will continue to produce quality service at low prices * * *," was an accurate statement of the Department of Transportation's belief at the time it was made.

(ii) "[T]he evidence continues to show that the industry structure continues to be very competitive." Id. at 4.

Response: The Government admits that this statement was made by Jefferson N. Shane within the scope of his duties as an officer of an agency of the United States government. The Government can neither admit nor deny that this statement was true at the time it was made because it does not know what evidence the statement refers to.

(iii) "[T]he domestic airline industry structure that has evolved during deregulation is fundamentally more competitive than at any time in the past * * *." Id. at 5.

Response: The Government admits that this statement was made by Jefferson N. Shane within the scope of his duties as an officer of an agency of the United States government. The Government can neither admit nor deny that the statement was true at the time it was made because the statement is vague and ambiguous. To the extent this statement means that the domestic airline industry is fundamentally more competitive currently than the industry was prior to deregulation, the Government admits that this statement was true at the time it was made.

(iv) "Our continuing analysis of fares confirms the fundamentally competitive nature of the domestic airline industry * * *. [as] reflected by the continued decline in domestic fares * * *. [A]verage air fares adjusted for inflation had declined by 26 percent by 1988 * * *. that real fare decline now totals 31 percent. As it stands now, inflation adjusted domestic air fares are lower than at any time in history." Id. at 5.

Response: The Government admits that this statement was made by Jefferson N. Shane within the scope of his duties as an officer of an agency of the United States government. The government admits that the statement "Our continuing analysis of fares confirms the fundamentally competitive nature of the domestic airline industry * * *. [as] reflected by the continued decline in domestic fares * * *." accurately reflected the analysis and conclusions of the Department of Transportation at the time it was made.

(c) By James Rill, Assistant Attorney General, Antitrust Division of Department of Justice, Before the Advisory Commission on Conferences, September 13, 1991:

"[A]irline deregulation has increased dramatically the competitiveness of that industry. The Department of Transportation now estimates fares to be about 31 percent below what they would have been had regulation continued, a savings to airline passengers of more than $15 billion annually. And service has improved * * *." Id. at 3.

Response: The Government admits that this statement was made by James Rill before the Advisory Commission on Conferences in Ocean Shipping within the scope of his duties as an officer of an agency of the United States government. The Government admits that the statement was true at the time that it was made.

Certificate of Service

I hereby certify that I have caused a copy of the foregoing Comments of Airline Tariff Publishing Company, Alaska Airlines, Inc., American Airlines, Inc., Continental Airlines, Inc., Delta Air Lines, Inc., Northwest Airlines, Inc., and Trans World Airlines, Inc. on the proposed consent decree between the Department of Justice and United Airlines, Inc. and USAIR, Inc. to be served upon counsel in this matter as follows:

Via Hand Delivery

Mark C. Schechter, Donna N. Kooperstein, Mary Jean Moltenbrey, U.S. Department of Justice, Antitrust Division, 555 4th St., NW., Room 9104, Washington, D.C. 20001.

Via First Class Mail

Emmet J. Bondurant, II, Edward B. Krugman, Bondurant, Mixson & Elmore, 1201 W. Peachtree St., NW., Atlanta, GA 30309, Counsel for Defendant Delta Air Lines, Inc.

Mark Leddy, Cleary, Gottlieb, Steen & Hamilton, Rue de la Loi 23–Bte 5, 1040 Brussels, Belgium.

Thomas Demitrack, Jones, Day, Reavis & Pogue, North Point, 901 Lakeside Ave., Cleveland, OH 44114, Counsel for Defendant, Trans World Airlines, Inc.

Donald L. Flexner, Crowell & Moring, 1001 Pennsylvania Ave., NW., Washington, D.C. 20004, Counsel for Defendants, Northwest Airlines, Inc., and Continental Airlines, Inc.

Henry C. Thumann, O'Melveny & Myers, Suite 1060, 400 South Hope St., Los Angeles, CA 90071–2899, Counsel for Defendant, United Air Lines, Inc.

Paul M. Ruden, American Society of Travel Agents, Inc., 1101 King St., Alexandria, VA 22314, Counsel for American Society of Travel Agents, Inc.

Jonathan B. Hill, Dow, Lohnes & Albertson, 1255 23rd St., NW., Suite 500, Washington, DC 20037, Counsel for Defendant, Airline Tariff Publishing Company.

James Dick, Squire, Sanders & Dempsey, 1201 Pennsylvania Ave., NW., Suite 500. Washington, D.C. 20004, Counsel for Defendant, Alaska Airlines, Inc.

Charles F. Rule, Covington & Burling, Suite 1009B, 1201 Pennsylvania Ave., NW., Washington, DC 20004, Counsel for Defendant, USAir, Inc.

This 15th day of March, 1993.

Michael P. Kenny

American Hotel & Motel Association, 1201 New York Avenue, NW., Washington, DC 20005–3931, Tel. 202/289–3120, Fax 202/289–3185

Educational Institute of AH&MA, 1407 So. Harrison Road, East Lansing, MI 48823, Tel. 517/353–5500, Fax 517/353–5527

March 15, 1993.

The Honorable George H. Revercomb,
U.S. District Court, room 4311, Third and Constitution Ave., NW., Washington, DC 20001.

Re: U.S. vs. Airline Tariff Publishing Co., et al.

Dear Judge Revercomb: As a part of the travel industry, we are very concerned about the terms of the consent decree in the case of *U.S. vs. Airline Tariff Publishing Co., et al.*

Under this decree, airlines would be prohibited, in most instances, from conveying the effective dates of fare changes to the traveling public and travel agents. While we understand that the issues and alleged practices being addressed by the Dept. of Justice are highly technical and complex, the proposed consent decree is far too proscriptive in our view. This monumental change in the air transport marketplace could only be justified by the most compelling of evidence under the most egregious of circumstances.

We don't feel that the many issues raised in this proceeding, and the implications for millions of consumers and the beleaguered airline industry, could be adequately addressed by today's deadline for public comment. Both the Administration and Congress are actively investigating possible modes of governmental intervention to help shore up the dire financial conditions of this country's major airlines. It would appear that the proposed consent decree could only impose greater financial hardships, and would be working at cross-purposes with these other branches of the federal government.

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There are a great many questions raised by this consent decree. We respectfully request that you extend the period for public comment so that members of the travel industry have the opportunity to give this matter the close inspection it deserves.

Thank you for your consideration.

Sincerely,

James E. Gaffigan,

Vice President, Governmental Affairs.

January 20, 1993.

Adriane G. Greene,

Chairman ARTA, Association of Retail Travel Agents, 1745 Jeff Davis Highway, Suite 300, Arlington, VA 22202-3402.

Dear Adriane: Thank you for your FAX. Unfortunately I have to disagree with the wording. It suggest that we travel agents now have advance warning of what the airlines are doing. I think we can agree that we do not have that.

What he have, occasionally, is the file "intentions" of the carriers. I think we can both agree that intentions do not cause actions.

I do agree that forcing the carriers to post their rates in the newspapers prior to filing in ATP is absurd. You are correct, the government has no idea of the ramifications of what they are doing.

Sincerely,

Randy Webster, Owner, Al About Travel, Gardnerville, NV 89410.

Practice random kindness and senseless acts of beauty.

All About Travel, Stratton Center, 1532 Hwy. 395, P.O. Box 428, Gardnerville, NV 89410, (702) 782-8122.

February 24, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street NW., room 9104, Washington, DC 20001.

Re: United States vs Airline Tariff Publishing Company Action No. 92 2854

Dear Mr. Schechter: The prohibitions the Department of Justice is placing on the airlines is harmful to consumers and travel agencies. For Travel Agents to properly serve our clients we must have every resource available, and this includes all fare information.

The Department of Justice feels the airlines must inform the media prior to any detailed fare information being loaded into computer reservations systems. Travel Agents sell an average of 85% of all airlines seats so Travel Agents need access to all price information first. Furthermore, as you are probably painfully aware, the media is notorious for providing incomplete and wrong information. Travel Agencies are in every community, accessible to all, and are able to answer questions about all airlines.

Travel Agents working in full service travel agencies are professionals who care and service a vast number of consumers. Much of our service is to offer options on fares. It is obvious that neither Travel Agents nor our clients will be well served if we cannot inform them to when a fare is scheduled to be increased. Likewise, Travel Agents need to know when discount fares are scheduled to end because Travel Agents are expected to have that information.

If the airlines have to inform the media first of any fare changes, as the Department of Justices proposes, it will further erode consumer confidence in the Travel Agency distribution system.

Please consider the inconvenience you are placing on the consumer and the negative impact of Travel Agencies. Full service travel agencies are being put at a marketing and service disadvantage. The proposed final judgment is not in the best interest of the traveling public.

Sincerely,

Randy Webster,

Owner

All Continents Travel Service, 826 St. Joe Street, P.O. Box 8081, Rapid City, South Dakota 57709, 1-800-334-0697, (605) 342-5863, FAX (605) 342-1136

Mark C. Schechter,

Dept. of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: This letter is in reference to the ongoing price fixing suit against major airlines. To us as travel Agents the absence of Effective, Expiration or ticketing dates hinders our ability to serve the consumer, and puts us in a bad situation. We could only basically tell clients that the prices is good today but may be higher tomorrow, we don't know. Many times clients do not make a decision right away and call us back, How happy do you think they would be if they call us right back a day later and prices have gone up? People on all categories will be affected, including those who are on a fixed income or limited budget. The consumer will be hurt, they will be mad, and we are in the middle of that bad situation, and we will have to say the Justice Dept. and Govt. made the airlines take out that information. I understand some of the problems involved in price fixing, from our point of view this information does help us, help the consumer. We urge you to drop this suit so that Airlines can give us this valuable information and we can continue to help the consumer, not leave them out in the cold without information.

Thank you for your time.

Sincerely,

Mike LaCroix,

All Continents Travel.

All Inclusive Travel, 975 Savannah Highway, St. Andrews Center, Charleston, South Carolina 29407, (803) 571-4930, Fax: (803) 571-4933.

March 1, 1993.

Mr. Mark Schechter,

U.S. Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Re: Airline Antitrust Suit

Dear Mr. Schechter: Please be advised that I am wholly against the Consent Decree being sought in the referenced matter. The dates which the airlines put in the computer are a necessary part of business and leisure travel plans, where one can purchase airline tickets before any price increase and save much money.

The last thing our economy needs is for consumers to have to pay higher ticket costs in this price volatile market simply because the DOJ makes planned increases a "secret."

Please reconsider this policy for the good of the US consumer and the ailing airline industry.

Very truly yours,

Pamela B. Subjek,

President.

All Travel, Inc., 7 East Northwest Highway, Palatine, Illinois 60067, Phone (312) 991-7200.

February 19, 1993.

Mark Schechter,

Chief, Transportation; Energy and Agriculture Section, Antitrust Division, Justice Department, 555 Fourth Street, NW., suite 9104, Washington, DC 20001.

Dear Mr. Schechter: I am the owner of All Travel, and as a small business owner, am finding it most difficult to maintain a profitable company in today's very difficult economic climate.

As a full-service travel agency, the primary benefit we have to offer our clients is service! We believe in going the extra mile for all our clients. It is by this method that we are able to attract new clientele and retain our existing ones.

The proposed consent agreement that the Justice Department would have with the major domestic carriers forcing them to abolish all first ticketing dates and most last ticketing dates is harmful to both my agency and especially our clients.

We would no longer be able to advise our clients of impending fare changes nor assist them with their travel planning by recommending when it would be financial advantageous to purchase tickets. This decree also negatively impacts on the well-being of my agency because it removes one of the best marketing incentives available to us to stimulate business.

Therefore, in the best interests of consumers and small business persons, I urge you to reconsider your decision and not require the carrier affected by the anti-trust litigation to withhold data on effective fare dates.

I appreciate your consideration of this request.

Yours truly,

Patricia C. Heise,

President.

All Travel Designs Inc., 2250 State Rd. 580, Clearwater, Florida 34623, (813) 797-6662, Fax (813) 716-8356, (800) 226-8005.

February 15, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear M. Schechter: We in this office would like to strongly voice our objections to the intrusion into our industry by the government by blocking the fare information normally sent through our computer reservation systems as to pricing restrictions and dates thereof.

Not only is this a deterrent to the airline industry in offering the best fares and service but blocks professional agents from offering the most complete and accurate travel counseling.

We would hope that as representatives of the people you will now listen to the voice of those of us who are interested in participating in this profession to the best of our abilities.

Most sincerely,

Louise Gould,

Agent/Owner.

All Ways Travel, 13601 N. 19th Ave., Suite #3, Phoenix, AZ 85029, (602) 866-WAYS, Fax (502) 866-0638

February 24, 1993

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter,

Please be advised that this agency is opposed to the consent decrees being approved by the federal judge.

Sincerely,

Karen Rose Roice.

Owner All-Ways Travel.

All World Travel Service, Inc., FAX: (513) 222-2765 USA; Main Office: 111 West First Street, Dayton, Ohio 45402, 513/222-1220

February 16, 1993

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street Northwest, Washington, DC 20001.

Dear Mr. Schechter: We just received information that the U.S. Department of Justice filed suit against 6 airlines for the way they file fares in their CRS Systems. We understand that no advance notice for new fares will be permitted, or last ticketing date or termination date of promotion fares will be given.

We wish to give our opinion as veteran travel agents whose only interest is that of our customers, the above ruling will only complicate our lives and hinder our capability to serve our clients.

We sincerely hope that the Justice Department will evaluate the effect of their ruling on the travel agent and the consumer before passing judgement.

Sincerely,

All World Travel Service, Inc.

Wes. S. Hamdan,

President & CEO.

Al's Travel Service, Complete Travel Service, 59 Court Street, Plattsburgh, N.Y. 12901-2888, Phone (518) 561-3320, Fax (518) 561-3328

February 16, 1993

Mark C. Schechter,

Dept. of Justice, room 9104, 555 45h St. NW., Washington, DC 20001.

Dear Sir: It has been called to my attention that consideration is being given to the prevention of ADVANCE NOTICE OF FARE CHANGES & CONDITIONS TO TRAVEL AGENTS.

We cannot serve the traveling public without offering this information.

Please do not take action against major airlines (and travel agents) which provide this information to the traveling public.

Thank you,

Albert Mazula,

Owner.

Ambassador Travel, Ltd.

Prangeway Center, 1094 S. Koeller Dr., Oshkosh, WI 54901, (414) 236-7777.

February 24, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

As owners of a small travel agency we would like to express our concern over the decrees that say that airlines cannot provide us with the information concerning fare increases or end of sales.

Do you have any idea at all what this does to us. We have already had this happen to us . . . . we quote a fare in the morning . . . the clients stop in after work to finalize their travel plans along with hotel, etc. and the fare has gone up $40.00. Well you know what happens . . . we EAT the $40.00 . . . now we have a $238.00 ticket which we only make in commissions about $13.00 . . . so in fact we loose that $13.00 as well as another $27.00 . . . . and when it is a family of 4 . . . it is 4 times that amount.

Maybe "big" corporate offices of government people do not care if their fare went up 10 or 20 or 50 dollars . . . the middle class traveler who SAVES AND PLANS HIS OR HER OR THEIR VACATION DOES CARE!!! Sometimes these fares go from $250.00 up to $420.00 . . . . . I kid you not!!!!!!! How can we sell!!!!!! Stores can advertise their product on sale for 2 weeks or 10 days or from this date to that date . . . why can't airlines????? I cannot seem to understand the difference or why on earth it is not the right thing to do????? Why is our business so different from any store selling a product . . . . even McDonalds can have 99¢ burgers for 12 days or so!!! WHY CAN'T OUR CUSTOMERS KNOW WHEN FARES ARE SUPPOSE TO GO UP OR HOW LONG A FARE WILL BE ON SALE???????

Please please write and explain this to me . . . . I cannot for the life of me try to explain it to any customers . . . . They think I am crazy and making this up!!!!!!!!!!!!!!!! Help us out!!!! Help us to survive!!!!!!!!! And please explain why on earth government is in all of this anyhow!!!!! Doesn't government have enough things to do in this country without messing with things that were okay!!! Let the Department of Justice handle real things that concern the United States of America . . . not airline sales!!!

Sincerely,

Nina and Rocky Leib,

Owners, Ambassador Travel Ltd.

Amerian Hotel & Motel Association

James E. Gaffigan,

Vice President, Governmental Affairs,

1201 New York Avenue NW., Washington, DC 20005-3931, Tel. 202/289-3120, Fax 202/289-3185

Educational Institute of AH&MA, 1407 So. Harrison Road, East Lansing, MI 48823, Tel. 517/353-5500, Fax 517/353-5527

Hand Delivery

March 15, 1993

The Honorable George H. Revercomb,

U.S. District Court, room 4311, Third and Constitution Avenue NW., Washington, DC 20001

Re: U.S. vs. Airline Tariff Publishing Co., et.al

Dear Judge Revercomb: As a part of the travel industry, we are very concerned about the terms of the consent decree in the case of *U.S. vs. Airline Tariff Publishing Co., et.al*

Under this decree, airlines would be prohibited, in most instances, from conveying the effective dates of fare changes to the traveling public and travel agents. While we understand that the issues and alleged practices being addressed by the Dept. of Justice are highly technical and complex, the proposed consent decree is far too proscriptive in our view. This monumental change in the air transport marketplace could only be justified by the most compelling of evidence under the most egregious of circumstances.

We don't feel that the many issues raised in this proceeding, and the implications for millions of consumers and the beleaguered airline industry, could be adequately addressed by today's deadline for public comment. Both the Administration and Congress are actively investigating possible modes of governmental intervention to help shore up the dire financial conditions of this country's major airlines. It would appear that the proposed consent decree could only impose greater financial hardships, and would be working at cross-purposes with these other branches of the federal government.

There are a great many questions raised by this consent decree. We respectfully request that you extend the period for public comment so that members of the travel industry have the opportunity to give this matter the close inspection it deserves.

Thank you for your consideration.

Sincerely,

James E. Gaffigan;

Vice President, Government Affairs.

cc: Aubrey King, Travel & Tourism Governmental Affairs Council

bcc: Mark C. Schechter, DOJ

Comments of the American Automobile Association, Inc.

In Re: United States of America v. Airline Tariff Publishing Company, *et al.* In the United States District Court for the District of Columbia, Civil Action #92-2854.

Communications with respect to this document should be sent to:

Allan F. Plank,

Managing Director.

Robert M. Housley,

Director, Travel Administration.

Charles S. Andrews,

Manager, Travel Agency Industry Programs.

AAA Travel Services, American Automobile Association, Inc., 1000 AAA Drive, Mail Stop 100, Heathrow, FL 32746-5063, TEL (407) 444-7876, FAX (407) 444-7823.

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Comments of the American Automobile Association, Inc.

In Re: United States of America v. Airline Tariff Publishing Company, *et al.* In the United States District Court for the District of Columbia, Civil Action #92-2854.

The American Automobile Association (AAA) appreciates the opportunity to submit comments concerning the proposed consent decree attached to the Justice Department's price-fixing suit against eight U.S. airlines.

AAA offers travel agency services to more than 30 million members and the general public through over 800 travel agency locations in the United States. In 1992, AAA travel agencies booked more than 2.7 million domestic air passengers which represented over $750 million in sales.

AAA believes the Justice Department's proposed consent decree would force major domestic airlines to eliminate first ticketing dates and, in some cases, last ticketing dates from travel agents' and air carriers' fare information in computer reservation systems. AAA therefore must state our opposition to the consent decree.

AAA is particularly concerned about the anti-consumer message the Justice Department is sending in proposing this consent decree. Airline customers usually want to know ahead of time when prices will rise, so they can plan their travel and buy their tickets before the increase takes effect.

Similarly, to take advantage of a sale, airline consumers want to know when it will take effect and expire. In a recent AAA travel agency focus group, one consumer explained that his family is able to take as many airline trips as they do because they ask their travel agency to watch for "good fare deals." Then they purchase an airline ticket when they know the fare will be the best value.

Under the Justice Department's proposal, travel agents and airline personnel will be unable to professionally counsel such consumers, and an airline passenger's ability to plan ahead will be stripped away. The consumer may pay a higher fare than he would have had to, regardless of what source he contacts. Or he may find the fare system so confusing and unpredictable that he will spend his discretionary dollars on other products than travel.

AAA is concerned that in attempting to "fix" the airline price signaling problem, the Justice Department has punished instead airline passengers by depriving them of the information they need and desire about when fare prices will rise and fall, or when an airfare sale starts and ends.

Consumers of other products—from groceries to automobiles—have easy access to advance price information on those products. To deprive air consumers of the same information when they purchase air travel is illogical and ultimately unfair to them. Rather than having complete information on air fares before making a purchase, consumers will be forced to purchase an already expensive product with no indication of whether its price will rise or go on sale the next day.

AAA believes this scheme will lead to confusion and controversy.

Air travel consumers prefer dealing with travel agencies in purchasing airline tickets (over 80 percent of all airline travel is booked by travel agents) for numerous reasons. They trust the agent to find the price, routing, time of flight that fits their needs and rely on their agent to help them plan other portions of the trip. When consumers ask an airline or travel agent "what will the fare be tomorrow?" under the Department's consent decree regime, and are told "I don't know," consumer confidence in the professionalism of the travel industry will be severely undermined.

The consent decree adversely affects corporate travel, as well. At a time when corporations are seeking to lower their expenses, the proposed change in "fare-list" rules will dramatically affect cost-control efforts. In a recent study of corporate travel managers (Teletec, Inc.) familiar with the Department's proposal, almost 70% said the pending rules would impede or make impossible efforts to find the best possible fares for their travelers.

Under the consent decree, fare changes can be announced in CRSs provided the fares have been advertised in the general media. This is of little use, because airlines are seeking to lower, not increase, advertising costs and expenses in general. Moreover, the delay between the time the fare is advertised and when it is loaded into the CRSs would result in a situation where the air travel consumer knows about the price change before airline & travel agents, creating even more confusion and controversy.

The Department of Transportation recently released data showing that consumer complaints to the government about overall airline service reached an all-time low in 1992. However, complaints about fares increase 6.4% over 1991. The DOT states that fare complaints represent the biggest change in any of DOT's complaint categories during the last three years, and likely reflects the roller coaster ride that fare levels and ticketing rules have experienced.

AAA firmly believes that the Justice Department's proposed consent decree will simply exacerbate the confusion, and therefore the complaints, about fares.

In short, AAA is convinced that the Justice Department's proposed consent decree will deny travelers the basic air fare information they need, and to which they are entitled, in order to make informed air travel purchases. The consent decree does not advance the interests of airline consumers or, the travel industry.

The proposed consent decree is, in AAA's opinion, worse than the problem it seeks to solve. While the system now in place may not work perfectly, it serves the public's needs better than the proposed consent decree.

AAA therefore urges the Justice Department to rescind its consent decree and give this issue further consideration. AAA recommends that the Department study closely whether the current system of price advertising and information truly provides a disservice and represents actual harm to air travel consumers. The Department needs to measure the potential harmful impact on air travel consumers of its proposed consent decree against the actual harm to consumers under the current system.

Wherefore, AAA respectfully requests the Department to consider its above comments.

Respectfully submitted,
Allan F. Plank,
Robert M. Housley,
Charles S. Andrews

American Society of Travel Agents

1101 King Street, Alexandria, VA 22314 USA, (703) 739-2782 • Telex 440203/760-7718 ASTA UC • FAX (703) 684-8319

March 16, 1993.

Mark C. Schechter,
Esquire Chief, Transportation, Energy & Agriculture Section, Antitrust Division, Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Re: United States v. Airline Tariff Publishing Company, et al., No. 92-2854 (GHR)—Tunney Act Proceeding

Dear Mr. Schechter: Enclosed for filing in the above matter are the Comments of the American Society of Travel Agents, Inc.

This document is being filed one day late with the approval of Ms. Kooperstein.

Respectfully submitted,
Paul M. Ruden,
Senior Vice President, Legal & Industry Affairs.

United States of America, Plaintiff, v. Airline Tariff Publishing Company, et al., Defendants. Civil Action No. 92-2854 (GHR).

Comments of the American Society of Travel Agents, Inc.

Pursuant to section 16(d) of the Antitrust Procedures and Penalties Act,[1] the American Society of Travel Agents, Inc. ("ASTA") submits these comments in opposition to the proposed consent decrees with United Airlines, Inc. and USAir, Inc. These comments are accompanied by the Affidavit of Richard C. Knodt, Executive Vice President and Chief Operating Officer of ASTA, attesting to the facts asserted herein.[2] Pursuant to the Court's order dated March 8, 1993, ASTA does wish to participate in any hearing held in this Tunney Act proceeding.

ASTA is by far the largest trade association of travel agents in the world. ASTA's domestic agency membership alone is about 10,000 domestic agency owners representing a majority of the agency locations in the United States. ASTA's agency members, along with non-member agencies, sell 80 percent of domestic air transportation and thus are the first line of contact between the airlines and most of their customers.

During 1992 alone, travel agents reported to the airlines the issuance of 155 million tickets and other traffic documents worth $47.5 billion in total fares, of which $35.6 billion were domestic fares.[3] Given travel agents' market share of 80 percent of domestic sales, total domestic air transportation sales for 1992 were $44.5 billion.[4] This is the general measure of the scope of impact of the consent decrees in this case, were the practices set forth there to become the rule for the entire domestic industry.

As Judge Greene observed in *United States* v. *American Tel. & Tel. Co.*, 552 F. Supp. 131 (D.C.D.C. 1982), *aff'd*, 460 U.S. 1001 (1983),[5] "this is not an ordinary antitrust case." *Id.* at 151. The outcome of these proceedings will directly impact the entire domestic air transportation system, including all major domestic airlines and all of the 32,000 travel agency locations that sell 80 percent of domestic air transportation. At stake are billions of pieces of information used by tens of millions of air travel consumers to plan their travel and to try to optimize the value of the air travel services they buy. The resolution of the consent decrees at issue here will affect the efficiency, among other things, of hundreds of millions of transactions during the ten-year life of the decrees. The restrictions of the consent decrees that deprive consumers of valuable travel planning information, must, if the laws of economics still apply, reduce the demand for air transportation at a time when federal policymakers are seeking ways to save the industry from total financial collapse.

There are also issues in this case of conflict between the restrictions imposed by the consent decrees and the federal policies underlying regulation by the Department of Transportation of airline computer reservations systems. There are issues involving the future role of the Court as a price regulator in an industry that has, by Congressional mandate, been freed from price regulation. Again referencing Judge Greene, "a subject of this importance should not be decided solely by an agreement between the Department of Justice and a single [two in this case] company." *Id.* at 152, n. 86.

The pricing practices challenged in these proceedings by the Department of Justice have been in regular use by the airlines for more than a decade with no hint of objection from anyone. Indeed, the government has indicated that these practices were expected to occur, were economically desirable and were entirely lawful.[6]

ASTA submits, therefore, that the Court should not complete its evaluation of the consent decrees until it has heard the proof of the Department of Justice that the underlying conduct alleged in this case is a violation of the antitrust laws. As discussed in detail below, there is no legal basis for the demands to revise industry pricing practices that led to these consent decrees in the first place. Yet the consent decrees will disrupt the flow of valuable travel planning information to tens of millions of consumers. Such a fundamental change in the way air travel is sold in the United States should not be judicially sanctioned until some substantial reason, beyond the willingness of two airlines to agree to it merely to avoid litigation, has been established.

If the Court decides nonetheless to continue the Tunney Act proceeding to closure, ASTA opposes approval of the consent decrees in their present form for the following reasons:

* The decrees will deprive the public of important information they need to plan their travel in a cost effective way and get the best value for their money.
* Withholding information is the economic equivalent to raising the price. By making it harder for consumers to make informed travel decisions, i.e., by raising consumer search costs, the government proposal will cause many consumers to forego the travel experience altogether.
* Many consumers who experience surprise increases in prices will be deterred from traveling.
* The public that has for years bought 80 percent of its domestic travel from travel agents wants and needs what travel agents have offered—complete, timely and accurate information about fares and services. The consent decrees would eliminate or severely curtail the "complete" and the "timely" components of this service.
* The Department of Transportation regulates the computer reservations systems that travel agents use. Those regulations are designed to ensure that travel agents, and the traveling public, have access to the most timely, complete and accurate information in making their purchasing decisions. The consent decrees go in the opposite direction by preventing complete and timely information from reaching the public. If the decrees are approved, we will have two government agencies working at cross purposes.
* The domestic airlines lost $8 billion over the past three years. Government resources should be devoted to moving the demand curve up, not to creating more obstacles for consumers who want to travel. The decrees will impose enormous advertising costs on an airline that tries to inform the public about ending dates for discount fares.
* The decrees will place a federal judge in the role of price regulator for the airline industry, in potential or actual conflict with the federal agency that has statutory responsibility for the airline industry.
* Under the decrees, future fare information will become "insider information," analogous to insider information in the securities business, and requiring the expenditure of much

[1] Hereafter generally called the "Tunney Act."

[2] Attached as Exhibit A.

[3] Airlines Reporting Corporation ("ARC") Statistical Information for 1992 Year End Statistics, issued January 19, 1993, by ARC.

[4] We have calculated the total for domestic sales because, to our knowledge, the figure for domestic air sales is not separately reported by the airlines in any public source.

[5] Hereafter referred to as the "AT & T case."

[6] See 46 FR 46787, 46789, September 22, 1961. As far as ASTA is aware, the DoJ never objected to the use of first and last ticket dates in any regulatory proceeding before either the Civil Aeronautics Board or the Department of Transportation, they being the agencies with statutory authority during all relevant prior periods to address the legal and economic appropriateness of such practices.

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government time and money to enforce when there are leaks, as there inevitably will be.

ASTA does not condone price fixing. The travel agency industry primarily consists of very small businesses, and travel agents do not support anti-competitive collective action by the largest producers of the services they sell. If the Department of Justice can prove that illegal price fixing has occurred in the airline industry, such conduct should be stopped. We have seen no evidence on which to address that issue. ASTA's comments here are directed at the remedy established by the consent decrees.

We are also handicapped in evaluating the decrees because DoJ has declined to disclose the data which it regards as "determinative" of the appropriateness of the remedies it has secured by agreement with two airlines. ASTA will file a reply to DoJ's response to these comments. Perhaps the "determinative" facts and other information will have been disclosed by then.

I. The Court Should Defer Ruling on the Consent Decrees Until it Has Heard the Evidence on the Legality of the Challenged Conduct Because There is no Legal Foundation for the Proposed Revisions in Industry Pricing Practices; the Consent Decrees Are Therefore Not in the Public Interest

Because of the benefits to consumers and travel agents of advance notice of retail fare changes, the Court should be extremely wary of approving the consent decrees until it is satisfied that the conduct challenged in the lawsuit is illegal. If the Court believes that deferral cannot be ordered because of considerations favoring prompt resolution of settlements, it should then condition its approval of the proposed decrees on the removal of the ban against the prior public announcement of future retail fare changes. That action can be taken without disadvantaging the airline signatories to the consent decrees. This approach would give the Court the opportunity to fully evaluate the legal issues before placing its imprimatur on a sweeping disruption of industry pricing practices that have been in place without challenge for more than a decade since deregulation of domestic airline pricing in 1978.

There is clear precedent for the Court to require that the proposed decree be modified as a condition of the Court's approval. In *United States* v. *American Telephone and Telegraph Co.*, 552 F. Supp. 131, 217 (D.D.C. 1982), *aff'd sub. nom. Maryland* v. *United States*, 460 U.S. 1001 (1983), Judge Greene conditioned his approval of the AT&T consent decree on the requirement that the proposed decree be modified to: (1) Permit the Bell Operating Companies to sell customer premises equipment (*Id.* at 224–25); (2) preclude AT&T from entering the field of electronic publishing (*Id.* at 224); (3) enable the court to approve the plan of reorganization of the Bell system (*Id.* at 217); and (4) confirm the court's authority to initiate enforcement proceedings *sua sponte* (*Id.* at 217).

In addition, the Court should consider existing case law on the issue of whether the relief requested by the government is in the public interest. In determining whether the relief proposed in an antitrust consent decree would be in the "public interest," the Court must determine whether the relief would "further antitrust policies" by having a positive effect on competition. *U.S.* v. *AT&T*, *supra*, 552 F. Supp. at 150.

Decisions of the Supreme Court and other federal courts recognize that the prior announcement of retail price changes promotes free competition (and, therefore, is in the public interest).

In *Sugar Institute* v. *United States*, 297 U.S. 553 (1936), the Supreme Court modified a district court decree so as to no longer prohibit the public announcement of future price changes by the sugar industry. The Court found a Section 1 violation where, unlike here, competitors entered into a price-fixing agreement by committing to adhere to publicly-announced prices. The Court upheld an injunction against further price-fixing, but refused to "throw the baby out with the bath water" by also prohibiting the announcement of future price changes. Recognizing that such announcements not only do not threaten the competitive process, but in fact *"may be helpful in promoting fair competition,"* the Court eliminated proposed provisions in the district court decree that would have restricted the dissemination of "current or future prices" and the [g]iving [of] any prior notice of any change or contemplated change in prices." *Id.* at 602–03 (emphasis added).

The Court emphasized that:

> In ending [the illegal price-fixing], *the beneficial and curative agency of publicity should not be unnecessarily hampered.*

Id. at 601 (emphasis added).

More recently, the Ninth Circuit acknowledged that to condemn (and thereby prohibit) "dissemination or advertising of retail prices" would be contrary to the interests of consumers because it would make it more difficult for retail consumers to get the information they need to make efficient market decisions. Re Coordinated Pretrial Proceedings in Petroleum Products Antitrust Litigation, 906 F.2d 432 (1990), *cert. denied*, _____U.S._____, 111 S. Ct. 2274 (1991).

The Seventh Circuit also has recognized recently that advance notice of retail price changes is important to protect consumers in an industry where, as in the domestic airline industry, consumers have economic reasons to plan their purchases "well in advance." *Reserve Supply Corp.* v. *Owens-Corning Fiberglass Corp.*, 971 F.2d 37 (7th Cir. 1992). In upholding the insulation industry practice of announcing price increases in advance, the court recognized that:

> *[T]hese announcements served an important purpose in the industry.* Many of Owens-Corning's and CertainTeed's *customers resold insulation* to other customers or bid on building contracts *well in advance* of starting construction, and, therefore, *required* sixty days' or more advance *notice of price increases* * * *.

Id. at 54 (emphasis added). Similarly, the airlines, public announcement of future fare changes "serves an important purpose in the industry" because, among other things, many consumers like to purchase their air travel "well in advance, in order to take advantage of the savings offered through fares requiring advance-purchase."

That the public announcement of price changes is in the public interest is also borne out by the historical practice of the Justice Department Antitrust Division to exclude from antitrust consent decrees any prohibition on the advance publication of prices. For example, the decree in *United States* v. *The Cleveland Builders Supply Co.*, 45 FR 50,997–98 (July 31, 1980), excepted from an injunction against communicating with competitors about the prices or terms of sale of ready-mixed concrete the "[a]dvertising to the public or trade generally present *or future prices.*"[7] Similarly, in *United States* v. *White Ready-Mix Concrete Co.*, 45 FR 56,947–48 (Aug. 26, 1980), the decree allowed defendants to "advertis[e] to the public or trade generally present of *future prices* at which, or terms or conditions upon which ready-mix concrete is being or will be sold or offered for sale."[8] *See also United States* v. *Hercules, Inc.*, 45 FR 85,840–41 (Dec. 30, 1980) (prohibition against the exchange of prices a producer "intends to charge or is considering" shall not apply to

[7] Emphasis added.
[8] Emphasis added.

information disseminated in the form of a press release or public announcement); *United States* v. *Container Corp. of America*, 1970 Trade Cases (CCH) para. 73,091, 88,267 (M.D.N.C. 1970) (decree prohibited the exchange of price lists "unless such has been made generally available to customers"); *United States* v. *Societe Nationals Des Poudres et Explosifs*, 46 FR 3,671, 3,672 (Jan. 15, 1981) (barring defendants from exchanging any information concerning future prices "unless such information has previously been disseminated to the trade at large in the form of a press release, price lists or other public announcement").

Thus, both the courts and the Antitrust Division have repeatedly recognized that the advance notification of planned retail price changes is procompetitive, and, therefore, very much in the public interest. The obverse is equally true: By seeking to ban the public announcement of future retail price changes, the Antitrust Division has proposed a form of relief that is contrary to the public interest.

II. The Consent Decree Will Significantly Diminish Consumer Welfare by Raising Search Costs, by Devaluing the Counseling Services on Which Most Consumers Rely, and by Defeating Consumer Expectations

The airline industry has been characterized by, indeed plagued by, unrelenting price competition since deregulation of the industry in 1978. Prices and terms of fares change on a daily basis. Discounts in the 30 to 50 percent range have been commonplace. "Sales" of one sort or another are a weekly, sometimes daily, occurrence, as airlines seek a competitive price advantage for the few extra passengers that will make the difference between profit or loss on a flight. The competition has been so intense that the domestic airlines have lost $8 billion during the 1990–1992 period, more money than the industry earned in its entire prior history.

Consumers have found themselves utterly bewildered by the complexity and rapid change of services and prices in this market. The price sensitive traveler, the leisure traveler with numerous options and planning requirements that must be coordinated, the business traveler trying to manage his travel costs, and the consumer who requires additional services, such as hotel accommodations and car rentals, require assistance that cannot routinely be obtained through airline-owned distribution outlets. At the same time consumers clearly prefer to obtain their travel information and all related travel services from a single source.

One of the major consequences of those facts is that consumers purchase only 20 percent of their air transportation directly from the airlines. The other 80 percent is, and has been for many years, purchased from independently owned retail travel agencies that meet the public's need for an expert, reliable, stable and convenient source of travel information and tickets.[9] These travel agencies sell tickets for all airlines, and provide their clients with information and advice, make reservations, write and deliver tickets, notify customers of schedule changes, issue boarding passes, sell travel-related insurance and other travel products.

As air travel options increase and change in today's competitive market, the services performed by the accredited travel agent have assumed even greater importance to the traveling public. The professional agent, who represents all carriers but is beholden to no single one, has the unique ability to give consumers the best travel value available in the marketplace. The consumer may take advantage of that expertise without paying extra for the privilege. This opportunity is more important to consumers than ever because the market has vastly increased air travel options while simultaneously creating pressure on each airline to restrict its own delivery of information and service to its own line. The professional agent, representing all major airlines, is the only source of travel services offering speed, convenience, objectivity and full service.

Travel agents are known in the trade as "travel counsellors," because the most important function that they perform is to evaluate travel options and to give advice to consumers about how to get the best value for their dollar. Even when price alone is judged to be the key factor in a consumer's purchase decision, in economic terms it is "value for the money spent" that drives the consumer's choices.

The travel agent's counselling role is generally regarded as the primary reason why, in the confusing marketplace unleashed by deregulation of the airlines, consumers have flocked to travel agencies as their preferred source of information and ticket distribution.[10] According to the latest survey, over half of all non-business travelers seek an agent's guidance on choice of destination and a larger share require consultation on choice of airline.[11] Even in the non-discretionary business travel segment, more than 40 percent of clients seek the agent's assistance on selection of airline and related services.[12]

Virtually all travel agencies today are equipped with computers that provide the agents with up-to-the-second information on fares and services.[13] As the role of automation for fast access to rapidly changing fare, schedule and accommodation information has increased,[14] so has the importance of the agent's role as travel counselor and information manager. The pricing diversity and constant change that now prevails in the market has increased the chances of a consumer's getting what he wants, but this can happen only if timely and complete information can be delivered to the traveler.

The retail travel agency distribution system has conferred many benefits on the airlines. It is low-cost, ubiquitous and efficient. Most importantly, by making it easy to obtain information and buy and receive tickets, the travel agency system increases the demand for air transportation. From a public policy standpoint, the agency system is competitively important because competition among producers of air transportation is more perfect as the

[9] The 80 percent figure is an estimate, generally accepted throughout the industry as reliable. The agencies' market share for domestic travel only in 1991 was actually 77 percent, but the agencies' share of international travel is generally believed to approach 90 percent. It is highly likely that travel agencies sell more than 80 percent of domestic *discounted* tickets. The industry's acceptance of the 80 percent overall share is, therefore, believed to be highly reliable.

[10] Travel agencies' market share for domestic sales was only 38 percent in 1977, the year before deregulation. Initial Decision of R. Yoder, served June 1, 1982, at Appendix C, Table 2, p. 1 (in Investigation into the Competitive Marketing of Air Transportation, Civil Aeronautics Board Docket 36595).

[11] Travel Agency Survey 1992, conducted bi-annually by Louis Harris & Associates, at 17 (hereafter referred to as the "Harris Survey"). The Harris Survey has been taken eleven times and was relied upon heavily by the Civil Aeronautics Board in its monumental investigation of the airline-travel agency-consumer relationship, entitled the Investigation into the Competitive Marketing of Air Transportation, CAB Docket 36595. The Survey is published each year as a special supplement to *Travel Weekly magazine* and is widely accepted as definitive within the industry.

[12] Travel agency sales of air transportation for the year 1992 totalled $47.5 billion. There are no scientific figures available for other travel segments, but it is generally believed that travel agents account for 95 percent of cruise sales, 30 percent of hotel room nights, 85 percent of packaged tours, and 55 percent of car rentals.

[13] Harris Survey at 17.

[14] In adopting the first CRS regulations, the Civil Aeronautics Board noted that there were "no real substitutes for CRS's from the travel agent's perspective because the systems are so much more efficient than other methods of exchanging information." Regulation ER–1365, served August 16, 1984, effective November 14, 1984, at 10, *aff'd, United Airlines, Inc.* v. *CAB*, 766 F.2d 1107 (7th Cir. 1985).

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accuracy and timeliness of information available to potential consumers is increased.

The primary benefit of this system is, however, conferred upon consumers who get ease of access, full inventory of services and the accumulated expertise of the 32,000 agency locations in the United States. Since the travel agency is paid by the travel industry supplier rather than by the consumer directly, dealing with this distribution system is particularly simple and valuable for the consumer.

One of the key information elements for consumers in this environment is the travel agent's knowledge of when prices will change. It is customary in the business that the airlines announce major price increases in advance. This is done by establishing through CRS services a "first ticket date," the first time when a sale of that fare may occur and be bound by issuance of a ticket. While not all of these announcements come to fruition, this information tells the travel agent and the price-sensitive consumer that one of the most important parts of his purchase criteria may change adversely on a certain date. Since future price increases are almost never advanced in time from the originally announced date, the consumer knows with some certainty that he has a window of opportunity within which to consummate a travel purchase at the lower existing price level.

Similarly, it is normal that when an airline establishes a discount fare, it will indicate in the CRS the date by which that price must be secured by issuance of the ticket. After that date, the consumer is at risk of a price increase resulting from termination of the discount. Once again, not every discount fare termination date remains as originally announced, but it is extremely unusual that a termination date is advanced to a point nearer in time from that originally posted. Consumers, therefore, can generally rely upon "last ticket dates" as substantially accurate indicators of the day on which prices may rise.

From the consumer's standpoint, the value of knowledge about first and last ticket dates does not require that every bit of the information be immutable. There are occasions when these dates are changed by the airlines in response to competitive conditions in the marketplace. Sometimes, even without the consent decrees, consumers get "caught" by an unexpected price change resulting from changes in the previously announced plans of the airlines. Most of the time, however, consumers can rely upon announced plans by the airlines either to raise fares or terminate existing discounts.

"Most of the time" in this context is crucial. The end result of the airlines' pricing actions is, in the travel agent segment alone, about 155 million transactions per year. A very large share of those transactions are affected in any given year by preannounced increases or terminations of discounts. Over the ten year life of the consent decrees, the number of consumers who would be able to rely successfully on airline pre-announcements, absent the consent decrees, is in the tens of millions on the two consenting airlines and in the hundreds of millions if the consent decrees become the rule for the entire industry.[15]

For those consumers who today can rely upon pre-announcements, the effect of the consent decrees is to place the airline ticket transaction into the category of a gamble. Take the case of a family of four planning a vacation. It is very common that the planning of such a trip will involve multiple calls to the travel agency over a period of a week or more. This occurs because the planning requires coordination of many elements and choices. Often one parent will be the primary contact with the travel agency. That person must discuss the agent's advice and information with the other parent who may in turn have to discuss options for departure and return dates with an employer. Those dates are crucial in many cases to the existence of, and amount of, available discounts. Sudden and unpredictable changes in the advice from the agent create doubts in the consumer's mind about the reliability of the agent and the integrity of the airline.

The number and variety of scenarios like this are legion. Many couples travel with other couples on vacations. Coordination among them takes time. There are the vast number of senior citizens and other limited income groups for whom budget considerations are paramount.

Consumers faced with such planning problems do not expect and often cannot tolerate adverse financial surprises. For most Americans the price of such a trip is a controlling factor, if not the controlling factor. The prospective travelers may have a range of prices that they can afford, but at some point price becomes prohibitive. Today almost all leisure travelers plan their trips well in advance of travel and are thus able to use a discount fare of some kind. If the price surges without warning, these travelers may elect not to travel at all or may decide to take a shorter trip. In a market in which discounts of 30 to 50 percent have become commonplace, the economic penalty facing our family of four could easily run into many hundreds of dollars and in some cases over a thousand dollars.

The "family of four" example is not the worst of the many scenarios in which sudden and unpredictable increases in fares can result in defeating the prospective travelers' price expectations with the result being cancellation of the entire travel plan. Group travel, for example, now represents a large share of the leisure travel market. Such groups are typically generated by churches, civic organizations and other affiliated groups. Group travel is particularly attractive to senior citizens.

At the inception of the effort the group may only be a few people who are working with a travel agent to explore arrangements that might be attractive to a larger group. The price for groups under about 40 persons is usually a published (in CRS) discount for group travel. After obtaining the initial quotes on price and travel program components, the group leaders then attempt to stimulate interest among others in their affiliated activity. Groups typically cannot be ticketed until the group is fully formed and the final group size is known. Under the consent decrees, while group formation is being completed, the entire group is exposed to the risk of price increases that can easily force cancellation of the entire group.

The consequences for the travel and tourism industry are clear. The inability to rely upon quoted prices and information about their continued availability will cost the industry huge revenues and damage the industry's credibility in the eyes of consumers. These losses will spread well beyond the travel agency and airline industries. The deterrent effect of the consent decrees on the demand for air transportation will ripple through the tourism sector, affecting revenue expectations of the hotel, car rental, cruise and all other industries involved in the chain of services delivered to the traveler.

While it can be argued that anecdotal "horror stories" about the effects of the consent decrees in particular cases do not make a nightmare, the basic principles of economics and marketing teach that the placement of obstacles in

[15] The pendency of the lawsuit behind these consent decrees has led at least three other airlines to adopt the consent decree procedures while they continue to litigate the case. The impact of the consent decrees is thus far wider in practice than just the pricing practices of the two airlines that have signed the decrees.

the path of the consumer considering a purchase are the functional equivalent of a price increase. It is also similar to the biasing of the display output of the computers that travel agents rely upon for fare information. The Civil Aeronautics Board, in adopting the anti-bias CRS regulations said that "bias causes substantial consumer injury in that it deprives consumers of the opportunity to take advantage of lower fares * * *." ER–1385, *supra*, at 17. The uncertainty created by the consent decrees is of a kind with these obstacles.

The anecdotal examples are typical of what will occur throughout the industry. On an industry-wide basis, over tens of millions of transactions during the ten year life of the consent decrees, these obstacles can only have the effect of depressing demand.

The impact of the consent decrees will not, however, be uniformly felt. Many of the largest corporations will be able to negotiate "private" fares with the airlines, thereby immunizing themselves from the risk of unexpected increases in travel costs and shifting the burden of paying the airlines' costs to those travelers who are unable to exchange volume commitments for special, "off tariff" discounts. It is also likely that influential travel agents and influential clients will sometimes be able to obtain retroactive relief from surprise fare increases by negotiating with the airlines. The frequent users of first class service on an airline, for example, are not likely to be refused special relief when they demand it.

The result of this process will be that the large user and the well connected user will be relieved from the economic burdens of the consent decrees while the infrequent user and those without the right level of influence will bear the load. This means that ultimately the latter groups will pay higher fares while other similarly situated will pay less.

Since deregulation occurred in 1978, the public has been subjected to a dazzling display of open market competition which may be unparalleled in any other industry. Much of this competition has been characterized as "cutthroat" and consumers appear to have benefitted in the sense that extraordinary "sales" of air travel have become routine. While most leisure travel is booked far in advance of planned travel, many consumers have learned to wait for sales to occur before making their final commitment and having the tickets issued against final payment.[16] They have come to expect that information about fare increases and discount terminations will be available to them and have learned to "play the market" in search of the best deals. This approach to buying depends upon the availability of complete and timely information that has been available primarily through the travel agency distribution system.

The consent decrees will plainly impair consumers' ability to obtain complete and timely information about fare changes in the future. Announcements of future fare increases are banned absolutely. Announcements of the end of discounts are banned unless certain advertising restrictions are met. It must be true, however, that the advertising rule will result in a major curtailment of the information flow to consumers. The airlines change fares and fare rules every day. Some nights the number of fare changes runs into the hundreds of thousends.

While major "sales" are likely to continue to be advertised, the airlines cannot possibly afford to advertise every change in discount terminations. The result will be less information for consumers. To the extent that airlines are able to increase the amount of advertising to permit the continued use of discount termination dates, industry costs will rise. These costs will have to be recovered through higher fares if the airlines are to stay in business.

III. The Consent Decrees Are Inconsistent With the Purposes of the Department of Transportation Regulations Governing Computerized Reservations Systems

In 1984 the Civil Aeronautics Board adopted a comprehensive set of regulations to govern the operation of CRS services. 14 CFR part 255. The purpose of the government's intervention into this otherwise unregulated segment of the industry was, in major part, to assure that information delivered to travel agents and thus to the traveling public, was timely, complete and accurate. The rules abolished the use of biased displays of fare information on the travel agents' computer screens because bias "deprives consumers of the opportunity to take advantage of lower fares" by denying them the "opportunity to select flights with full knowledge of fare and service offerings." Regulation ER–1385, served August 16, 1984, effective November 14, 1984, at 17, *off'd, United Airlines, Inc. v. CAB*, 766 F.2d 1107 (7th Cir. 1985).

In order to stop the delivery of information that distorted consumer choices, the CAB adopted a system of rules to control the neutrality of CRS displays. 14 CFR part 255. After reviewing the effects of those limited rules over a five-year period, the Department of Transportation, on December 7, 1992, adopted a vastly expanded regime of CRS regulations. This is not the place to review the details of the new regulations, but it is clear that the core structure and philosophy of this unusual government intervention in the marketplace was that consumers, and those from whom they obtain their information, should have access to data that is as timely, complete and accurate as possible. The regulations thus further prohibit bias of CRS displays, control the loading of airline information updates into CRS, and in general assure nondiscriminatory treatment of the airlines who use CRS to convey their information to travel agents.

We well recognize that the issues addressed by the CRS regulations are somewhat different than those raised by DoJ's suit against the defendant airlines. However, just as the Federal Aviation Act confers such price regulation authority as remains (after deregulation) upon the Department of Transportation, the DoT is the agency with responsibility for the information flow that makes more perfect airline competition possible. DoT's policy has been to assure that more and better information reaches consumers while the DoJ philosophy embodied in the consent decrees is to reduce the information reaching consumers. And the consent decrees do this in a context that is regulatable, if at all, by another federal agency.

ASTA believes that the approaches of DoJ and DoT are in fundamental conflict, and that it is not in the public interest to approve a consent decree regime that creates and fosters such conflicts. Thus, any additional control over industry information flows that DoJ wants to assert through enforcement actions under the consent decrees will have to be adjudicated by the Court. Similarly, the Court will likely be faced with claims by one airline that another has violated the decree in some way.

The Court will thus be placed in the position of pricing overseer of the airline industry. DoT will independently be enforcing its CRS regulations, with the continuing potential for conflict between DoT's pro-information approach and DoJ's anti-information approach.

[16] It was formerly possible for a traveler to make payment and have the tickets issued without risk, since the airlines were generally willing to permit tickets to be reissued without penalty at any lower fare adopted after initial ticketing. Now many discounted tickets can only be reissued or changed by paying a penalty or surcharge to the airline.

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Among the cases that may come before the Court are issues of improper disclosure of future pricing plans. These may take the form of inadvertent "leaks," or they may be cases in which DoJ believes that the information was deliberately disclosed to the public. In either case, the Court will become involved in the equivalent of "insider information" cases, analogous to the enforcement of the securities laws governing trading on inside information.

This prospect illustrates the pitfalls of restricting commercial speech through prior restraints. We are not saying that there are no circumstances under which such restraints can be imposed, but the Court should be very leery of becoming the equivalent of an administrative agency with on-going regulatory responsibilities for an industry's pricing practices. We foresee a period of prolonged conflict and uncertainty arising from the tension between creative and aggressive marketing and pricing practices occurring in the environment created by the consent decrees.

IV. Price Guarantees Based Upon Reservations, as Proposed by DOJ, are Unworkable and Will Not Avoid the Problems Created by the Consent Decrees

The Department of Justice stated in the Competitive Impact Statement that the consent decrees will not prevent the airlines from protecting passengers against unanticipated fare increases. DoJ's example of such protection is "guaranteeing fares at the time a reservation is made." 58 FR 3971, 3978.

ASTA does not believe that this suggestion, the only one DoJ made, is feasible. If consumers were told that fare protection could be had by simply making a booking, with no commitment to have that booking ticketed, consumers would surely do so. We have no doubt about that. The trouble is that many of those bookings would have to be changed and many would not be consummated through ticketing at all. In times of substantial fare change activity, actual or perceived, consumers would be especially prone to take such protection. Indeed, a consumer who was uncertain about his plans might be able, if he were creative enough, to make numerous reservations that he never expected to use but which, under DoJ's proposed rule, would serve as fare protection while he decided which reservation to use.

This approach to curing the anti-information component of the consent decrees would impose massive inefficiencies upon travel agents and upon the airlines. Many transactions would be "created" in the CRS systems that had no real purpose other than fare protection. Consumers with more definite plans would find that many seats were already reserved, when in reality those reservations were made solely for fare protection purposes.

In order for this approach to fare protection to work for consumers, the airlines would also have to abandon the "ticket within 24 hours of booking" rule that is now commonplace in their tariffs. Alternatively, consumers would call their travel agent every day to cancel one "fare protection reservation" and make another one that would be good for 23.9 hours.

It would be convenient to think that such a simple device as "protect on the reservation" would resolve the issues of consumer harm arising from the consent decrees, but the airline industry is too complex for such facile solutions. Inventory control has serious implications for the airline cost structure and for airline and travel agency marketing to consumers. Any system that increases the unreliability of blocking of inventory by consumers is inefficient and will simply force overall fares higher. It makes no sense and is not in the public interest.

V. Conclusion

The manifest burdens that the consent decrees will impose upon consumers and the major adverse economic impact they will lay upon the tourism industry raise compelling questions about the "public interest" in the consent decrees. ASTA well understands that the consenting airlines do not wish to become involved in the underlying litigation. That is, presumably, why they settled. Settlements should certainly be encouraged.

There is, however, an overriding concern here in that the consent decrees are de facto setting the standard for industry conduct. If the Court approves them, the effect will likely spread even faster, while the issue of the illegality of the challenged conduct will not be tried until next year. ASTA believes that an accommodation can be found between the desire of the settling carriers to escape the litigation and the need to assure that industry pricing practices do not harm the traveling public and the rest of the industry, and that the evaluation of the consent decrees should be suspended while DoJ is put to its proof against the other airlines. If that is not possible, the Court should order the modification of the consent decrees (to eliminate the prohibition on disclosure of first and last ticketing dates) or their outright disapproval.

Respectfully submitted:

Paul M. Ruden,

Senior Vice President, Legal & Industry Affairs (DC Bar No. 118158), Attorney for the American Society of Travel Agents, Inc., 1101 King Street, Alexandria, VA 22314, (703) 739-2782

United States of America, Plaintiff, v. Airline Tariff Publishing Company, et. al., Defendants. Civil Action No. 92-2854 (GHR).

Affidavit of Richard C. Knodt

Richard C. Knodt, having first been sworn, deposes and states as follows:

1. I am, and have been since July 1, 1992, the Executive Vice President and Chief Operating Officer of the American Society of Travel Agents, Inc. (ASTA). I previously held the same position between 1982 and 1984.

2. Prior to re-joining ASTA, I was president and founder of RHK, Inc., Travel Organization, a California travel company consisting of a five-office retail travel agency, a marketing firm focusing on special interest cruise groups, and a contract management and consulting division. I also founded the California Travel Academy which was later acquired by Ask Mr. Foster, a nationwide retail travel agency, as a prototype in the development of a network of travel schools. I have worked all of my professional life in the travel agency business and am familiar with the methods by which airline tickets are marketed and sold in the United States.

3. I am a graduate of the University of Wisconsin, Eau Claire, with a bachelor's degree in business administration and management, and I serve as Vice Chairman and a member of the Board of Trustees of the Institute of Certified Travel Agents, Inc.

4. The facts set forth in the attached Comments of the American Society of Travel Agents, Inc. are true and correct to the best of my knowledge, information and belief.

Subscribed and sworn to before me this 15th day of March, 1993.

Richard C. Knodt

Nancy L. Dobberman,

Notary Public

Certificate of Service

I hereby certify that I have caused a copy of the foregoing COMMENTS OF THE AMERICAN SOCIETY OF TRAVEL AGENTS, INC. to be served upon counsel of record in this matter this 16th day of March, 1993, by first class mail, as set forth on the attached list.

Paul M. Ruden

Service List

Mark C. Schechter

Donna N. Kooperstein
Mary Jean Moltenbrey
U.S. Department of Justice
Antitrust Division
555 4th Street, NW.
Room 9104
Washington, DC 20001

Emmet J. Bondurant, II
Edward B. Krugman
BONDURANT, MIXSON & ELMORE
1201 W. Peachtree Street, NW.
Atlanta, GA 30309

Counsel for Defendant
Delta Air Lines, Inc.

Thomas Demitrack
JONES, DAY, REAVIS & POGUE
North Point
901 Lakeside Avenue
Cleveland, OH 44114

Counsel for Defendant
Trans World Airlines, Inc.

Mark Leddy
CLEARY, GOTTLIEB, STEEN & HAMILTON
Rue de la Loi 23-Bte 5
1040 Brussels, Belgium

Jonathan B. Hill
DOW, LOHNES & ALBERTSON
1255 23rd Street, NW.
Suite 500
Washington, DC 20037

Counsel for Defendant
Airline Tariff Publishing Company, Inc.

Donald L. Flexner
CROWELL & MORING
1001 Pennsylvania Ave., NW.
Washington, DC 20004

Counsel for Defendants
Northwest Airlines, Inc. and Continental Airlines, Inc.

Michael A. Doyle
Michael P. Kenny
ALSTON & BIRD
1201 W. Peachtree Street
Atlanta, GA 30309-3424

Irving Scher
WEIL, GOTSHAL & MANGES
767 Fifth Avenue
New York, NY 10153

Peter Isakoff
WEIL, GOTSHAL & MANGES
7th Floor, Suite 700
1615 L Street, NW.
Washington, DC 20036

Counsel for Defendant
American Airlines, Inc.

Henry C. Thumann
O'MELVENY & MYERS
400 South Hope Street
Suite 1060
Los Angeles, CA 90071-2899

Debra Valentine
O'MELVENY & MYERS
555 13th Street, NW.
Washington, DC 20004

Counsel for Defendant
United Air Lines, Inc.

James Dick
SQUIRE, SANDERS & DEMPSEY
1201 Pennsylvania Ave., NW.
Suite 500
Washington, DC 20004

Counsel for Defendant
Alaska Airlines, Inc.

Charles F. Rule
COVINGTON & BURLING
Suite 1009B
1201 Pennsylvania Ave., NW.
Washington, DC 20004

Counsel for Defendant
USAir, Inc.

American Society of Travel Agents
Portland, OR 97223

February 15, 1993

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001

Dear Mr. Schechter: The Department of Justice has filed a lawsuit against U.S. airlines alleging price fixing through advance announcements of fare changes.

I request that the lawsuit be dropped. It must be obvious that, if airlines had been fixing prices, they wouldn't be in such terrible financial shape.

If airlines are unable to post fare change dates in our computer reservation systems, it will diminish the ability of travel agents to properly inform their customers.

Sincerely,

W.H. Gillison,

President, Oregon Chapter.

United States of America, Plaintiff, v. Airline Tariff Publishing Company, et al., Defendant. Civil Action No. 92-2854 (GHR).

Comments of American Travel Affairs Council

On January 12, 1993, the Department of Justice, Antitrust Division gave notice of a proposed Consent Decree in the above captioned case and invited public comment. The proposed Consent Decree would enjoin United Air Lines, Inc. and USAir, Inc. for a period of ten years from, *inter alia*, "disseminating any first ticket dates, last ticket dates, or any other information concerning the defendants' planned or contemplated fares or changes to fares." With the limited exception of promotional fares where an expiration date is published in the mass media at the time such fares are first offered for sale to the public, the proposed decree would prohibit the two named air carriers from announcing future price changes. For example, the Consent Decree would prohibit each of the two named carriers from publicly announcing that fares between named city-pairs will be changed for tickets issued after a particular date. All fare changes will become effective immediately upon being announced to the public.

The American Travel Affairs Council, Inc. (ATAC) is a non-profit association comprised of four large consortiums of retail travel agencies: Space & Leisure Time, Inc. (SPACE), Travel Industry Marketing Enterprises, Inc. (TIME), TRAVELSAVERS and GEM National Association of Travel Agencies. Each of these consortiums represents its subscribers in negotiations with suppliers, provides professional education and training, and develops marketing opportunities for its subscribing travel agencies. ATAC was formed for the purpose of providing a focus on common industry problems facing its members and their subscribers and to present the views of ATAC members and their subscribers to governmental authorities. The four members of the Council have a combined agency following of more than 7,440 retail travel sales locations with in excess of $23 billion in annual travel sales. ATAC opposes the proposed Consent Decree and urges the Court to defer action on the decree until there is a final decision applicable to all defendants. Now that a new Attorney General has been appointed and confirmed, ATAC requests that the Department of Justice undertake a further policy review of the proposed Consent Decree and its impact on consumers.

The proposed Consent Decree will have a major impact upon consumers and on travel agencies which issue in excess of 85% of the tickets for travel on the two named carriers. Travel agencies are also the principal source of information to consumers concerning air carrier prices, terms of carriage, schedules, seat availability and other matters of competitive significance. ATAC believes that the proposed Consent Decree will actually be harmful to competition and therefore contrary to the public interest. It appears that the proposed remedy is worse for consumers than the alleged violations.

The Department of Justice has alleged that the carriers have signaled proposed fare changes to one another in a manner that has resulted in de facto agreements among competing carriers affecting price. ATAC takes no position on the merits of the case. However, it should be noted that in many industries it is common for producers to announce price changes in advance. For example, automobile manufacturers sometimes announce price increases to take effect at the beginning of the next model year without any substantial change in the product. This kind of announcement can make it easier for consumers to shop and can stimulate demand: "Buy now before the price goes up." Sometimes competitors announce their own price changes. In some cases the first firm withdraws or changes the announced increase. Presumably, prices settle at a market level.

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Competition is enhanced when consumers have the maximum information to select from available alternatives. The proposed Consent Decree will deprive consumers and their travel agents of valuable information. Consumers often call their travel agents to obtain price quotes in advance of booking. Under the proposed settlement decree it would be more difficult for travel agents to assure customers that fares quoted today would be good for tickets issued tomorrow. Consumers would be limited in their ability to shop and to plan.

Business travelers often call travel agents for price quotes before setting meeting places or dates or for budgeting purposes. For example, a company might decide to hold a sales meeting and bring together sales personnel from a number of cities. Should the meeting be held in Cleveland, St. Louis or some other city? The corporation would request that its travel agency provide fare quotes between different city pairs before deciding on a meeting time and place or even whether to hold the meeting at all. Absent the Consent Decree, business travelers would usually have advance notice of fare increases. With the Consent Decree fares quoted one day might not be available the next, and planning will be chaotic. Many travel agencies have already had numerous customer complaints about fares quoted one day not being available the next.

The situation could be worse for individual travelers. They will often request fare quotes to different destinations before deciding on vacation plans. The ability of consumers to "shop" for air fare bargains will be impeded if the dissemination of price information is inhibited by the Consent Decree. Since the demand for air transportation service is elastic, difficulties in shopping will lead to a reduced consumer demand.

The proposed cure appears to be worse than the problem addressed by the Complaint. The Department of Justice alleges that the publication of price changes with future effective dates leads to de facto understandings among competing carriers as to price. As noted above, however, the publication of price changes with future effective dates provides valuable information to consumers and enhances competition. The proposed Consent Decree will inhibit demand and cause chaos in the market without really solving the alleged problem.

Competitors in every industry monitor one another's price and how the market responds to price changes. Under the proposed Consent Decree, price changes would become effective immediately upon their publication in computer reservation systems. Carriers will monitor price changes by competitors, and carriers publishing price changes will monitor whether competitors also change prices. Depending on competitive reaction, prices will change from day to day until a price satisfactory to all carriers is reached. Within a matter of days the public will have the same pricing as if there were no Consent Decree. In the meantime, however, consumers and travel agents will be faced with one uncertainty after another.

Despite partial deregulation, air carriers remain "common carriers" and occupy a special place in the economic fabric of the Country. The withholding of valuable information from consumers and the periodic pricing uncertainty will be more harmful to the public interest than the practices alleged in the Complaint. If the Court ultimately finds that the practices alleged in the Complaint are in violation of the Sherman Act, some other remedy that is less harmful to consumers should be devised.

In addition to depriving consumers of valuable information and possibly causing confusion in the market, the proposed Consent Decree will create an administrative burden for the Court. The proposed Consent Decree leaves open numerous questions. It would prohibit the dissemination of information concerning planned or contemplated fares or changes to fares. An airline ticket represents a bundle of services purchased by the consumer. Even though a fare remains unchanged, the value of the consumer's purchase will depend on numerous factors related to price. For example, will the Consent Decree prohibit the carriers from announcing that at a specified future date meals will no longer be provided on certain flights? That would be the equivalent of a ten dollar price increase for many consumers. What about an announcement that beginning at some future date purchasers of full "Y" class coach tickets will be seated in first class on a space available basis? That would be the equivalent of a price decrease for many consumers. And, what about frequent flyer and other bonus programs? Frequent flyer awards are a form of rebate, i.e., price adjustment. Would the Consent Decree prohibit announcements of increased miles or enhanced awards beginning on a specified future date. Would the Consent Decree prohibit any advance announcement that a frequent flyer program was being discontinued? That would be the same as a major price increase for many of the carriers' best customers! What about the price of on board amenities? Would the carriers be allowed to publish advance notice of a change in beverage or movie prices?

While the above items might seem petty, they are each important to some consumers and affect the total cost paid by consumers for air transportation. Moreover, the airlines have vigorously competed with one another over amenities to be included in the price of an airline ticket. The Court would be required to exercise ongoing supervision over the Consent Decree and would function much like a regulatory agency.

The Airline Deregulation Act of 1978 did not completely deregulate the nation's airlines. The Department of Transportation retains considerable regulatory authority, including the authority under section 411 of the Federal Aviation Act, 49 U.S.C. Appx. 1381, to take action in cases of "unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof." The proposed Consent Decree establishes a regulation concerning how air carrier price changes are to be published and disseminated to the public. That is a matter clearly within DOT's jurisdiction under Section 411.[1] The questions noted above concerning services included in the price of an airline ticket are also within DOT's area of expertise. While DOT's authority under Section 411 does not necessarily preclude the Department of Justice from initiating actions under the antitrust laws, the Court should withhold action on the proposed Consent Decree until DOT provides its view to the Court.

The proposed Consent Decree would be applicable to only two carriers. Other major carriers have declined to accept the Consent Decree preferring a decision on the merits. If the Court should ultimately find that the practices alleged in the Complaint do not violate the antitrust laws, the industry will be faced with a situation where two major carriers are restricted for ten years in how their price information may be presented to the public while other carriers are under no such restriction. This will be an unfortunate situation for travel agents and the public.

[1] Recently, in *Morales* v. *Trans World Airlines, Inc.*, _____U.S. _____, 119 L. Ed. 2d 157 (1992) the Supreme Court addressed the question whether the states could adopt consumer protection guidelines to prevent deceptive advertising of air carrier prices. The Court held that such guidelines were precluded by the preemption provision of 49 U.S.C. § 1305(a)(1) and specifically noted that DOT retains authority over such practices. It seems clear that the Court intends for DOT to exercise jurisdiction over the manner in which airline prices are presented to the public.

Competition is enhanced when all competitors are free to provide maximum information to the public.

For the foregoing reasons, ATAC believes that the public interest requires that the proposed Consent Decree not be approved. If it is ultimately determined that the practices alleged in the Complaint are violative of the antitrust laws, ATAC urges the Court to fashion remedies which do not inhibit consumers' ability to obtain information. At a minimum, the Court should withhold approval of the proposed Consent Decree until the underlying case is finally determined and the Department of Transportation has reviewed the matter and reported to the Court.

Dated: March 12, 1993.

Respectfully submitted,

Ronald A. Santana,

Chairman, American Travel Affairs Council, Inc., 25 S. Riverside Avenue Croton on Hudson, NY 10520 Tel. 914/271–9000

Barry Roberts,

(Bar #77990) Roberts & Hundertmark 35 Wisconsin Circle Suite 350 Chevy Chase, Maryland 20815 Tel. 301/656–3395.

American Travel, Inc., Corporate Offices, P.O. Box 12100, 7840 Washington Av., Kansas City, Kansas 66112, Fax: 788–3970, 913/788–7997, 800/827–7997

February 22, 1993.

Department of Justice:

Attention: Mark C. Schechter, Room 9104, 555 4th Street, NW., Washington, DC 20001.

I am writing in regard to lawsuit filed against most of the major airlines.

This action will strip the segement of the American public that uses the airlines for business and leisure travel of their ability to make informed decisions on the best fares available.

This is another attempt to break the airlines and destroy the travel agency industry.

Their efforts should be used to resolve the corruption in their own back yard, which would take the burden off not just a segement of the populace, but help everyone in the USA.

Please direct this letter to the judge who is reviewing the consent decrees.

Sincerely,

Carroll Christine,

Owner.

American Travel Pro, 2754 Compass Drive, Suite #370, Grand Junction, Colorado 81506, Telephone (303) 241–1119, Fax (303) 241–0400, Toll Free 1–800–344–7007

March 3, 1993.

Mark C. Schechter, Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: U.S. v. Airline Tariff Publishing Co., et al.

Dear Sir: It is, I believe, quite apparent to most reasonable people that some fare forecasting practices have violated at least the spirit of the laws against price fixing. However, overreacting to this may very well create other even more adverse conditions for consumers. I would like to suggest a balance that I feel would best serve the interests of all concerned.

RE: *Advertising fare reductions prior to their effective date.*

This practice should be done away with. However, I see no problem in advising consumers of when a discounted fare is scheduled to expire. This is very common in most industries.

RE: *Advertising fare increases prior to their effective date.*

This practice is healthy, productive and beneficial to the consumer. It encourages consumers to buy before a price increase. It also prevents the situation where a traveler reserves a ticket at one price and prepares to purchase it within 24 hours and then finds that the price has increased overnight without warning. This is unfair to the consumer. Every other business I can think of is able to warn their customers of anticipated price increases. This is very helpful to consumers in their decision process of whether or not to buy today.

I trust the Department of Justice and the presiding Judge can appreciate the fact that giving advance notice of fare *increases* is one of the most powerful tools travel agents have for best serving the interests and needs of their customers. I trust you will keep this in mind in your decision.

I sincerely appreciate you taking the time to consider my viewpoints and suggestions in this matter.

Yours truly,

Bradley G.M. Decker,

Owner.

Ames Travel Service, 604 Carew Tower, Cincinnati, Ohio 45202 (513) 651–1700, Telex: 4951341, FAX: (513) 651–5241

February 15, 1993.

Mark C. Schechter, Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Lawsuit Against the Airlines

Dear Mr. Schechter:

I am writing you to voice my serious concern about a consent decree that is being reviewed in regard to legislation which will greatly hinder the way in which I handle my travel agency and the way in which my agents and I service our clients.

If we are forced to stop providing our customers with advance announcements of fare increases and stop providing our customers with advance announcements of the end of discount sales, we will be doing them a great disservice. Is it possible that it may even be a crime for travel agents to provide this information to our clients?

As this consent decree is being reviewed, I urge you to study this and study the ramifications that will come if this decree is granted. I strongly object, along with other members of our industry, to this government intrusion into my business.

Thank you very much for your attention to this letter. All of us in the travel industry will be awaiting the decision to be made.

Sincerely,

Ames Travel Service

Nancy Heffner Donovan,

President.

March 11, 1993.

Mr. Mark C. Schechter, Department of Justice, Room 9104, 555 4th St, NW., Washington, DC 20001.

Dear Sir: We already have too much Government control in most industries. Let's not have any more slapped on the Airline industries, they are already struggling for survival as it is.

Very Sincerely,

Paul W. Anderson,

Noni F. Anderson,

655 Antelope Loop, Prescott, AZ 86301.

Anderson-Elerding Travel Service, Inc., Corporate Office: 309—1st Avenue North, P.O. Box 2185, Great Falls, MT 59403 (406) 761–0700, TOLL-FREE 1–800–452–0700 (Inside Montana).

March 1, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

ear Mr. Schechter: I would like to direct you attention to the lawsuit against most of the major airlines, alleging that they fixed prices by signaling each other of their pricing plans through advance announcements of fare increases and other fare changes.

I am concerned, as I believe if this consent degree is approved, my ability as a professionel travel agent to provide my clients with complete travel counseling will be impaired. I believe the customer needs some kind of advance announcement regarding discount sales.

Respectively,

Barbara L. Moe,

President, Anderson-Elerding Travel Services, Inc.

Antioch Travel Agency, 425 Lake Street, Antioch, IL 60002, (708) 395–0665, FAX (708) 395–0687.

February 12, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

ear Mr. Schechter, I am writing to stress my concern over the governments meddling in the airline industry. The consent decree that states that airlines must stop providing customers (and travel agents) with advance announcements of fare increases and the advance announcements of the end of discount sales, I find just horrifying. Stores put out flyers weekly telling us when their sale starts and ends. . . . Is this price fixing? If you were to deal with the traveling public daily as we do, you would know that the first question out of their mouth when there has been a fare decrease is why were we not advised of this change or they feel we are trying to pull something over on them because they just called yesterday and was given a lower fare. This does not just affect the airlines, it also affects my job as a travel consultant. I realize the industry needs some type of guidance, but I feel someone who knows the travel industry is better suited. The government is not in touch enough to

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make these decisions. I wish my job was sitting on capitol hill just making misguided decisions that had no effect on me, but I don't. I'm the little guy just trying to keep my head afloat and my business out of bankruptcy. Business is hard enough today . . . Our government that is supposed to stand for us does not need to make it any harder. I strongly oppose this consent decree and would greatly appreciate if you could relay my concerns.

Sincerely,

Kathy Zeman.

Anytime Anywhere Travel, Inc., 3816 South Bristol, Santa Ana, CA 92704, Phone (714) 957–1888, FAX (714) 957–0633.

Mark C. Schechter, Department of Justice Room 9104, 555 4th Street, SW., Washington, DC 20001.

Dear Mr. Schechter: We urge you to disapprove the consent decrees which would prevent travel agents from receiving advance notice of airline fare increases and discounts.

We need advance notice in order to provide our clients with the best service. We do not believe that the government should be the price regulator for the airline industry.

Sincerely,

Harriet Roop and Leah Franklin,

Owners, Anytime Anywhere Travel

Apollo Travel Inc., P.O. Box 1169, 15835 S.W., Boones Ferry Rd., Lake Grove, Oregon 97035 (503) 635–7766

February 16, 1993.

Mark C. Schecter, Department of Justice, Room 9104, 555—4th Street, NW., Washington, DC 20001.

Dear Mr. Schecter: We are concerned about the Justice Department action against the U.S. airline carriers in regard to the advance notice of fares, their originating date, and final ticketing date.

We feel this is an important feature for our clients who need to make plans in advance and want to have the latest information on lowest fares. We do not see this as any fixing of price but a tool for the public to use in their planning and for travel agencies to assist them in doing so.

It is the most efficient way in which information can be available to the traveling public. This would be a great disservice and probably create a climate of less travel by both leisure and business travel. We find our clients, commercial and vacation travelers all to be interested in the best available fares.

Please give this great consideration.

Very truly yours,

B. Joan Pearson,

Owner-Manager.

April One Film Company, P.O. Box 196, Calistoga, CA 94515.

March 23, 1993.

Dear Mr. Schechter: I applaude the Justice Department's recent rulings re: airline fare publishing practices.

The sleazy price fixing shenanigans, exorbitant fares in an era of stable or falling petroleum prices, and the poor, often negligent service of the airline industry is long overdue for review, overhauling, and perhaps re-regulation. Likewise, the crying game of the American Society of Travel Agents over the rulings is only the death rattle of a group that realizes it's 'special' relationship to the airlines is about to change—a relationship of complicity in the here-to-fore institutionalized rip-off of the consumer. I, for one, go out of my way to avoid any contact at all with a travel agent. As a group with tremendous influence, I hold travel agents responsible for a world wide trend of increased prices to travelers.

What the major carriers want is simple: they want no one to observe them as they drive all competition into the ground (at recent congressional hearings, the major carriers suggested changes to the bankruptcy laws that would prohibit Chapter 11 encumbered airlines from cutting fares as a measure to continue flying—thereby cutting into the profits of rivals * * *). They want bewildered, complacent consumers to call lazy, uncaring travel agents for the latest dictates of the airlines themselves. No questions asked; take it or leave it * * *

What these major carriers should offer to consumers is also simple: we want fast, efficient, safe, and courteous service at a fair, guaranteed price. I personally have no interest in attacking the free enterprise of a company to do business and make a profit, but 'flying the friendly skies' has become an expensive and unpleasant joke perpetrated by an industry out of control.

Sincerely,

Jon Axhelm

Aquarius Travel Management, Executive Offices, 209 Middlesex Turnpike, Burlington, MA. 01803 (617) 273–9074 FAX (617) 270–9859.

February 19, 1993.

Mr. Mark Schechter, Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: The changes in faring have clearly taken away our ability to anticipate price increases and decreases. As professional travel consultants, we book 80% of all airline tickets; our clients expect us to be knowledgeable and prescient, and they trust and have confidence that we are acting in their best interests. How can we maintain this relationship if all we can say to them is buy today or there is no guarantee that this price will continue to be available. We cannot tell our customers what prices will be in effect when they travel or when a fare would expire. This is depriving the consumer of the ability to make the most effective use of his or her financial resources. Again, the consumer is being shortchanged and victimized by another capricious DOJ ruling. They do not deserve that! Providing effective date information with ticket price information is a value-added service that the travel industry must be able to provide to their clients. As a professional travel consultant I oppose the ruling and am making my concerns known via this letter.

Sincerely,

Aquarius Travel Management,

Patricia A. Gagnon, Ph.D, CTC

Director of Client Services

Arcade Travel Service 118 South York, Elmhurst, Ill. 60126, 708–832–0700, Fax: 708–832–0304

February 12, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 335 4th Street, NW., Washington, DC 20001

Re: Department of Justice Lawsuit Against the Airlines

Dear Mr. Schechter: The pending consent decree requiring the airlines to stop providing its customers with advance notice of fare increases and notice of the end of discount fare will impair our ability to provide our client complete and professional travel counseling. The professional travel agent is the largest customer of the airlines; over 80% of all purchases of airline tickets are sold by travel agents. We require certain tools necessary for the professional counseling of our clients, the traveling public. Advance announcements of fare increases as well as advance notification of dates of special fares or promotions are some of the key tools in selling travel.

Our clients rely on the professional travel agent for the best possible expenditure of their travel dollars and leave it in our hands to take care of them. We are the professionals in selling travel and without the necessary tools, (notification of fare increases as well as advance notification of dates pertaining to special fare promotions, just to mention a few). We will not be in a position to serve the public nor protect our clients travel dollars.

The ability of the travel agent to have access to advance notification of dates of special fares or promotions is vital to the servicing of the consumer and saving the client valuable travel dollars.

Sincerely,

Dale A. Carlson,

President.

Argosy Travel, 125 Mirona Road, Portsmouth, NH 03801, (603) 436–1900, Fax (603) 436–9041

March 2, 1993.

Mark Schechter,

Department of Justice, Room 9140, 555 4th Street, NW., Washington, DC 20001

Dear Mr. Schechter, I am writing this letter to inform you I strongly disagree with taking out the expiration dates of airlines fares out of our computer system.

It is hard enough working with the airline fares in the first place, when they can charge higher prices, add promotions and delete schedules anytime they feel like it. At least when they have an expiration date in the system we can inform the public approximately when the increase will be. By airlines removing these dates it will cause us a lot more work. We will have to price each client and call individually.

If you need more information or if I can be of help, please feel free to contact me.

Sincerely,

Cindy Murphy,

Manager.

Argosy Travel, 32 Main Street, West Orange, New Jersey 07052, 201–736–1400, Fax: 201–736–5797

Mr. Schechter, I am writing in opposition to the recent consent decree being forced on the US airlines in regard to price fixing through the computers. Travel agents and their clients rely on the accuracy of the fare information contained in the computer reservation systems. By preventing the carriers from publishing first and last ticketing dates for fares, or setting parameters for sale fares, the Justice Department is punishing the consumer. How can we competently advise our clients as to when to purchase a ticket, when it could easily be pulled at any time. The traveling public is very confused by the present system already, this action further cloud some awfully muddy water.

What major retailer in this country doesn't advertise "Sale Monday Only" and let the public know well in advance. Supermarkets always put their news circulars out a week before to let the public know exactly when products are on sale. Maybe Macy's never told Gimbals, but I'm sure they read each others ads. Are we going to punish the public because airlines make this information available by computer? That's the message that this action gives.

This consent decree is blatantly anti consumer. I hope the Justice Department will review this action and truly serve the public interest. Thank you for your attention.

Sincerely,

Paul M. Kaplan,

Arrow Travel Center West, Inc., 5549 E. Grant Rd., Tucson, Arizona 85712, (602) 886–8121

March 1, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001

Dear Mr. Schechter: First, I apologize that this is not typewritten, but I find the only time I have is during the 10 pm news. I know you are busy—but more importantly, I am busy!! trying to keep my little business competitive and service oriented. If the airlines are forced to withhold that information, you will, in effect force most travel agencies to lose that service offering. Just think, when we're out driving our cars, we are never sure when the light will change—but at least we get the "yellow" light of notice.

Please consider/reconsider the decree—and don't force this upon all of us. It is a challenging and rewarding business—now—but I fear it may become regulated if these decrees are approved.

Thank you for your time.

Sincerely,

Christine Mane,

Co-Owner.

Arrow Travel Center West, Inc., 5549 E. Grant Rd., Tucson, Arizona 85712, (602) 886–8121

February 17, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001

Dear Mr. Schechter: It has been brought to our attention that the Department of Justice has filed a lawsuit against most of the major airlines, alleging that they fixed prices by signalling each other of their pricing plans through advance announcements of fare increases and other fare changes. We have been informed that two airlines have already felt compelled to sign consent decrees in order to avoid additional legal costs and risks even though they adamantly oppose what the Department of Justice is demanding.

We certainly cannot understand why the airlines should be treated any differently than any other business. All other businesses are allowed to advertise their sales with start and finish dates. It would be very difficult to explain to customer that we don't know when a sale is ending. No other business doesn't tell a customer when a sale will be over.

Our office is most definitely opposed to this type of ruling and would hope that second thoughts would be given to this matter.

Sincerely,

Harlan Reed,

Owner.

ACTE, Association of Corporate Travel Executives, 570 Springfield Avenue, Summit, NJ 07901, (800) ACTE NOW FAX 908–273–2343

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Chairman, Warner-Lambert Co.

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Robert C. Vaiden,
Ciba—Geigy Corp.

Thom R. Watson,
Bristol-Myers Squibb Co.

March 4, 1993.

Mr. Mark C. Shechter,

Department of Justice, 555 Fourth Street NW., Room 9104, Washington, DC 20001

Dear Mr. Shechter: The enclosed document is the position of the Association of Corporate Travel Executives (ACTE) concerning the action of the Department of Justice following the anti-trust suit against eight major U.S. airlines.

Please note that we request a 60 day extension of the period for public comment on this letter.

Thank you for your consideration and cooperation.

Sincerely,

David R. Murphy,

President.

Guy C. Thomas,

Chairman, Government Relations Committee.

cc: The Honorable George H. Revercomb, U.S. District Court, Service List.

Association of Corporate Travel Executives

ACTE position on the proposed Department of Justice Consent Decree against eight major U.S. Airlines

The Association of Corporate Travel Executives (ACTE) is a nonprofit Business Travel Industry Association whose members include Corporate Travel Managers from major U.S. and international companies, Executives from the Hotel, Rent a Car, Airline, Limousine and Cruise Lines Industries, Travel Agents, Travel Consultants, and University Instructors and affiliated organizations. ACTE wishes to go on record as opposing the position of the Department of Justice in seeking a consent decree against the major U.S. Airlines relating to advance announcements of pricing changes including eliminating all first ticketing dates and most last ticketing dates on domestic fares.

The position of ACTE is that the action by the Department of Justice is contrary to the best interest of the traveling public, specifically the individual traveler, corporate traveler and all consumers including travel agents and other businesses associated with the travel industry. Further, this action would place the airlines in a position to immediately react to an UP market by raising prices without notice as they would not be bound by previously announced pricing schedules. In no way will the proposed regulations solve any of the issues that were originally meant to be addressed by the Department of Justice lawsuit but would rather have a harmful effect on the economic viability of the business travel market.

ACTE also feels that an extension of the "public comment period" by 60 days would allow for a more comprehensive dialogue on the merits of issues involved in the above stated action.

For additional information please contact Guy C. Thomas, Chairman, Government Relations Committee, ACTE, 570 Springfield Avenue, Summit, NJ 07901.

Astral Travel Service
895 Bergen Avenue, Jersey City, New Jersey 07306 (201) 653–2600

March 31, 1993

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001

Dear Mr. Schechter: I cannot understand the logic the Department of Justice has applied in order to prevent the carriers from setting parameters for "Sale" fares. It seems to be contrary to the very purpose of the Justice Department rulings in general. Only the consumer suffers; the very person you

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should be trying to protect. Do you want to help the consumer get the lowest price or do you want them to pay the highest price, because of the lack of information?

Hopefully, the Justice Department will review this action and correct it accordingly to serve the public interest.

Sincerely,

Howard S. Pollock, CTC.,

Astrul Travel Service.

Astro Travel

1317 E. Katella Avenue, Orange, California 92667, (714) 771–0501, FAX (714) 771–4045.

16 February 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter; Re: Lawsuit against the airlines for alleged price-fixing.

The members of this agency strongly protest against the Department of Justice's decision prohibiting airlines from providing advance announcements of fare increases and with the end of discount sales.

This action would not only cripple the travel industry but would also be unfair to the end user (the consumer).

While it is true the airlines need to be controlled, this measure does more harm than good.

Sincerely yours,

Steven G. Hall,

President.

Dorothy Messnick,

Vice-President Group Sales.

Judy Fox,

Manager.

Astro Travel & Tours, 926 N. Monroe St., Tallahassee, Florida 32303, Telephone: (904) 222–2023, FAX: (904) 561–6088.

February 19, 1993.

Mr. Marc C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I have been made aware of the lawsuit that has been filed against most major airlines alleging they fixed prices, by signalling each other of their pricing plans through advance announcement of fare increases and other fare changes.

I am very concerned as a travel agent that my ability to provide my customer with needed information will be in jeopardy. Without this information, the travelling public will not be able to make informed decisions. If the airlines are prohibited from allowing the public to know about discounts or changes in fares in advance, the consumer will be greatly harmed.

I urge you to consider the damage to the consumer, and withdraw this action.

Sincerely,

Charlie W. Hunter, *CTC,*

Vice President/General Manager.

Atlas Travel Bureau, Inc.

134 N. La Salle St., Chicago, IL. 60602, (312) 332–6441.

February 18, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Re: Lawsuit Against the Airlines

Dear Sir: I am writing this letter to you to let you know that we adamantly oppose the decree that stops the airlines from giving travel agents and any airline employee advance notice of changing airfares!! How can you expect us to provide our customers with up to date information along with the service they are accustomed to. It causes more work in the long run for everyone when tickets have to be reissued and revisions need to be made. This is also an expense that we all bear. Please do not let this happen! We need to have some advance warning to be effective in our jobs!

I sincerely hope you take every letter and comment into consideration when you do make a decision.

Thank You.

Sincerely,

Marjorie Binder,

President.

Julie M Noesen,

Manager.

Auburn Travel Bureau, Inc., Metcalf Plaza, P.O. Box 369, Auburn, NY 13021, Telephone: (Office) 315 255–1726; (Residence) 315 685–5843; Fax: 315 253–9651

Expert Professional Travel Service for Business and Pleasure, Group and Ski Specialists, W. Dudley Livingston, Jr., President; Mrs. Nona L. Livingston, Vice President

February 16, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Your Honor: The airline industry, together with their partners, the travel agents, have been experiencing difficult times of late. One area of concern, the "consent decree", threatens all involved to operate in an atmosphere of doubt and apprehension.

If the industry is prevented from filing advance notice of fare increases/decreases and prevented from advising agents and the traveling public of the terms and conditions of travel, the airlines, travel agents, and the public are subject to doubt, unreliability, and suspect ethical business practices. This is not a viable atmosphere for the public or the industry to operate in.

We strongly urge to disapprove these "consent decrees" and permit the industry, and especially the traveling public, to operate with full disclosure of the product they are purchasing.

Very truly yours,

W. Dudley Livingston

The United States Justice Department, *Antitrust Division, 10th Street and Constitution Avenue, NW., Washington, DC 20530.*

Gentlemen: I have learned of new regulations proposed by the Department of Justice (DOD) that could have very damaging consequences for travel agents and the traveling public. It has to do with *U.S. v. Airline Tariff Publishing Co., et al.*

I am not writing to express a view on the merits of the Justice Department's lawsuit against the airlines, but to call to your attention the remedy proposed by the DOJ. It seems obvious that if the terms of this remedy are applied to the entire airline industry, that consumers would be prevented from having sufficient information to plan their travel and get the best deal for their dollar.

In today's economic climate, vacation travel plans are based on the best bargains available. Under the proposed DOJ regulations, airlines and travel agents would be prohibited from providing consumers with advance announcement of fare increases. Individuals might make reservations for a family vacation, for example, only to find when they called back a few days later to purchase the tickets that their fare had increased. The same scenario would apply to informing the consumer of the expiration date for discount fare promotions.

Should the DOJ proceed with this suit, increased costs would evolve due to inefficiencies and increased litigation costs, which would ultimately be passed on to you and me in the form of higher priced tickets. To me, the consumer becomes the targeted loser; something the DOJ sorely overlooked.

Sincerely,

Dawn M. Bigelow,

Office Manager, Avenues to Travel, 7352 N. Oracle Road, Tucson, Arizona 85704.

January 11, 1993.

Dear Sir: It is a source of deep concern for those of us who live in South Florida why Delta Airlines is permitted a nonstop monopoly between West Palm Beach and Atlanta. Their price fixing has forced many of us not to afford airline tickets "to and from".

As a government agency you should be aware that this airline is taking advantage of senior citizens and everyone else for that matter.

I am not signing my name as I think others who are more hale and hardy should come forward. Please look into this.

Distressed in Riviera Beach

Bellingham Travel

200 West Chestnut, 733–1270, 384–1252, P.O. Box 128, Bellingham, WA 98227

March 5, 1993.

Mark Schechter,

Department of Justice, room 9104, 555 Fourth Street NW., Washington, D.C. 20001.

Dear Mr. Schechter: I am writing in regards to the suit filed against most of the major airlines alleging price fixing via announcements of fare increases and other fare changes. We strongly resent the governments intrusion into this area and believe this suit should be dropped immediately.

If this continues and you are successful it will greatly affect our level of service to our clientele and our ability to provide our clients complete and professional travel counseling and accurate information.

Please be advised of our objections and see that they reach the proper channels.

Sincerely,

Frank Zurline,

President.

Bentley World-Wide Travel Agency

315 West Galena Boulevard, Aurora, Illinois 60506

March 11, 1993.

Mark Schechter,

Chief, Transportation, Energy and Agriculture Section—Antitrust Div., Justice Department, 555 Fourth Street NW., suite 9104, Washington, D.C. 20001.

Dear Mr. Schechter: (Scream!) Please don't do that to us! As a travel agent the proposed consent decree by the Justice Department that would require the major domestic airlines to no longer make available to travel agencies the first and most of the last effective dates in their fare filings would be terrible for us! But even more important, it would be a terrible disservice to our clients.

At present we have the dates readily at hand in the computer that fares must be ticketed by. So we can tell a client that the fare, for instance, from Chicago to New York is $330.00 but must be ticketed by March 31st. The client can then make his plans accordingly. But, if this were taken away, our clients could miss out on the cheaper fares if the airline decides to take it off the market over night.

On behalf of our clients please reconsider this measure. Thank you very much for your consideration in this matter.

Sincerely,

Doris Pittman,

Vocation Speciolist, Bentley Travel.

Bentley World-Wide Travel Agency

315 West Galena Boulevard, Aurora, Illinois 60506

March 11, 1993.

Mark Schechter,

Chief, Transportation, Energy and Agriculture Section—Antitrust Div., Justice Department, 555 Fourth Street, NW., suite 9104, Washington, DC 20001.

Dear Mr. Schechter: (Scream!) Please don't do that to us! As a travel agent the proposed consent decree by the Justice Department that would require the major domestic airlines to no longer make available to travel agencies the first and most of the last effective dates in their fare filings would be terrible for us! But even more important, it would be a terrible disservice to our clients.

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On behalf of our clients please reconsider this measure. Thank you very much for your consideration in this matter.

Sincerely,

Nancy A. Delaney

Bentley World-Wide Travel Agency

315 West Galena Boulevard, Aurora, Illinois 60506

March 11, 1993.

Mark Schechter,

Chief, Transportation, Energy and Agriculture Section—Antitrust Div., Justice Department, 555 Fourth Street, NW., suite 9104, Washington, DC 20001.

Dear Mr. Schechter: (Scream!) Please don't do that to us! As a travel agent the proposed consent decree by the Justice Department that would require the major domestic airlines to no longer make available to travel agencies the first and most of the last effective dates in their fare filings would be terrible for us! But even more important, it would be a terrible disservice to our clients.

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On behalf of our clients please reconsider this measure. Thank you very much for your consideration in this matter.

Sincerely,

Nancy Readey

Bentley World-Wide Travel Agency

315 West Galena Boulevard, Aurora, Illinois 60506

February 24, 1993.

Mark Schechter,

Chief, Transportation, Energy and Agriculture Section—Antitrust Div., Justice Department, 555 Fourth Street, NW., suite 9104, Washington, DC 20001.

Dear Mr. Schechter: It has recently come to my attention that the Justice Department has issued a proposed consent decree that would require the major domestic airlines to no longer make available to travel agencies the first and most of the last effective dates in their fare filings. This would be disastrous to my company!

As owner of Bentley Travel, I wish to go on record to protest in the strongest possible terms, this proposed resolution of the price-fixing lawsuit against those carriers. The effective dates of fares are vital pieces of information that my agents need to have access to if we are to have the ability to properly assist travelers with their planning.

Travel agencies do not have a tangible product to sell. What we have to offer our clients is service! To remove one of the prime pieces of information our clients require for them to be able to make efficient and economical travel plans, lessens our usefulness and impairs our efforts to provide timely data.

I urge that any fair reconciliation of this litigation not include provisions which would harm the public's ability to be selective in their travel planning. The settlement, as currently proposed, will injure both consumers and travel agencies.

Your consideration of this request is greatly appreciated.

Sincerely,

Linda C. Spinozil,

President.

Fax Transmittal

To: Adriane Greene, Chairman ARTA

From: Beyond the Bay, Eunice Perine

On Friday, January 22nd, a client came into our office to have us issue a ticket for a reservation she had booked directly with United Airlines the previous day. She was told by United that she must purchase her ticket no later than Friday, January 22nd or she would loose the fare of $583.00.

We entered the dates and flights she had booked into our computer and were unable to come up with the fare United had quoted her. We called United reservations, had them pull up the booking and were told that the fare had gone up overnight and even though the United reservation agent had told her she could purchase her ticket on Friday, they could no longer honor the fare. The new fare was $673.00. The client was very upset so we called our United sales agent and apprised her of the circumstances. She was sympathetic and said she would document the record so that the client could get the lower fare. She also informed us that we could not issue the ticket, that the client would have to go to the United ticket office down town San Francisco and have them issue the ticket. Of course this meant we would loose our commission.

Our client went to the United ticket office after work and was told that the record had not been documented and they could not issue the ticket at the lower fare. On Monday morning, taking time off her job, the client reappeared in our office. Again, we called our United sales agent who promised to document the record. The client had to go back to the United ticket office to purchase her ticket.

Secondly, we have many clients that are non-profit environmental associations. These

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associations have minimal budgets for travel and are always looking for the least expensive fares. Whenever the airlines lower their fares for a limited time, we immediately fax all of our clients with a "Fare Alert" (copy enclosed). This allows our clients to book future travel and take advantage of the airline "sales". You can see how the DOJ proposal would hurt these clients.

I have been in the travel business since 1964 and have seen politicians and civil servants do some pretty dumb things. I must say however, that this action by the Department of Justice is the most stupid of all. I'm sure that the person who concocted this rule must have an I.Q. of at least 60 if you stretch it 20 points.

Beyond the Bay, An Excellent "Full Service" Travel Agency, 726 Polk Street, San Francisco, CA 94109

Discover The Best Of All Worlds

5021 France Avenue South, Minneapolis, MN 55410, Tel (612) 927–9661, Fax (612) 927–9203

February 15, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing in reference to the recent lawsuit against most of the major airlines alleging that they fixed prices through price signalling.

Our travel agency, and many others that I have spoken to in the retail travel industry are extremely disappointed in this allegation and extremely opposed to the consent decrees.

In our business, since deregulation of the airlines, it has become increasingly difficult for us to act as professionals by providing our clients with complete and accurate information. This has occurred primarily because the airlines, if anything, attempt to make last minute announcements of airfares to avoid having their competition copy their fare structure.

If the Department of Justice is able to require that the airlines no longer provide us with advance announcements of fare increases and stop providing us with information regarding the end of discounts, we will be at a further disadvantage in providing our clients with professional advice regarding the purchase of their tickets.

It will also jeopardize our reputation if we provide a quotation, the customer calls back a day later, to find that an airfare has substantially increased, and we did not advise them, since we were not aware of this possibility.

Your consideration in making a decision that reflects the representation of the travel industry as a whole would be greatly appreciated. I will look forward to hearing about your final decision.

Sincerely,

Kathryn Raimer,

CTC Manager.

Bordiere Travel Service

294 Main Street, New Britain, CT 06051, New Britain 229–2001

March 1, 1993.

Mr. Mark Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001

Please be advised that Bordiere Travel Service, a member of The American Society of Travel Agents, is opposed to the federal court approval of consent decrees.

Our clients and agents will be deprived of useful planning information if this decree is enacted.

Very truly yours,

Patricia K. Bordiere,

CTC Pres., Bordiere Travel Service.

Borrelli Travel Service, Inc.

One Lincoln First Plaza, P.O. Box 40600, Rochester, New York 14604–4600, (716) 232–2110, FAX # (716) 232–5347

February 18, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Schechter: I felt it necessary to respond to the Department of Justice, in regards to the consent decree which the airlines are being coerced into signing. The consent decree prohibits the airlines from providing customers and travel agents with advance announcements of fare increases and the ending of discounted sales.

I am not only amazed but confused at this recent occurrence. This decree makes absolutely no sense! The airlines are actually being penalized for providing the public with information that may save them money? Why would the government be opposed to any advance notice to the customer and travel agent regarding the beginning and ending of lower fares?

If anything, in the past we have been faulted by our clients for not giving them warnings of fares going down, and for charging them higher prices. I feel at this point our clients are going to question our integrity and professionalism. Are they going to fully comprehend that it is due to the government prohibiting any advance notice of fare decreases to our agency that we are not able to inform them properly?

I would appreciate the Department of Justice to consider this matter more carefully before they come to a rash decision.

Thank you for the opportunity extended to our agency to respond to this recent development.

Sincerely,

Frank Borrelli,

CTC Vice President.

Boscov's Travelcenter

Reading Mall, 4500 Perkiomen Avenue, Reading Pennsylvania 19606, (215) 779–8640, FAX: 215–370–3737

February 19, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th St., NW., Washington, DC 20001.

Dear Mr. Schechter: If the Justice Department's price fixing lawsuit against the airlines were necessary the airlines would be enormously successful; in fact, they are not. Why is it desirable to harry an industry which is already operating on thin margins, and doesn't have an improved earnings picture in the foreseeable future.

All new fares should be required to show when these fares go into effect and when they terminate. No merchant can successfully retain customers' loyalty if he doesn't allow all customers to know when his sales begin and end. Failing to do so produces outcrys of favoritism, bait and switch, unfair business practices. Department stores and other fierce merchandising retailers have frequent sales; they always announce the duration of the sale. Wouldn't that be a sensible yardstick?

The attempt to impose restrictions on an industry, airline and retail travel agency, by a regulatory body not familiar with it is presumptuous and ill advised. I encourage the Justice Department to withdraw their attempt at market place restriction.

The traveling public wants to know how long it can contemplate on a trip and the airfare quoted. If we were to operate in the mode that this decree describes, the travelers would be akin to stock market traders. Travel is a leisure industry, and dealing with it should not produce the anxiety that participating in the stock market does.

Sincerely,

Ike Matza,

President.

Greater Boston Convention & Visitor Bureau, Inc.

P.O. Box 490, Prudential Tower, Suite 400, Boston, MA 02199, (617) 536–4100, Fax (617) 424–7664.

March 1, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Department of Justice, room 9104, 555 Fourth Street NW., Washington, DC 20001.

Dear Mr. Schechter: The Greater Boston Convention & Visitors Bureau is a nonprofit organization that represents more than 1,000 companies across New England that are involved in promoting tourism.

We are very much opposed to the proposed consent decree developed by the Department of Justice in U.S. v. Airline Tariff Publishing Co. case.

The impact of that decree in the real world will be catastrophic. Our travel and tourism industry is already impacted by user fees, taxes, and regulations that continue to constrain growth. We do not need another poorly conceived, illogical, and theoretical approach to dealing with the problems faced by our industry.

Government officials should be looking at ways to stimulate travel and tourism in order to reap the economic benefits our industry provides. This consent decree would do the exact opposite. The end result would be further confusion on the part of the traveling public, reduced demand, slower economic growth, and higher unemployment.

I would hope that the DOJ would put this proposed solution on hold and give the tourism industry more time to formulate alternative courses of action.

Thank you for your consideration.

Very truly yours,

Patrick B. Moscaritolo,

President and CEO.

Boyce Travel Service

216 Dayton Street, Ridgewood, NJ 07450, (201) 447–5511.

December 29, 1992.

Mr. Mark Schechter,

Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, Room 9104, U.S. Department of Justice, 555 4th St. NW., Washington, D.C. 20001.

Dear Mr. Schechter: If the airlines have been stupid enough to fix prices, they of course should pay any penalties the law allows. If they have only been responding to competition it is a totally different story.

However if the penalty applied to the airlines forces undue hardship on Travel Agencies and the travelling public the thrust of the Justice Department should be more of a penalty to the airlines without the ensuing damage to Travel Agencies and the Travelling Public. To wit: Eliminating expiration dates for fares would force agencies to insist on instant ticketing for all fares! This in turn would mean a traveler reserving a coach seat for 6 months or more down the road, perhaps hard strapped for credit or cash at the present time, would be forced to pay for the ticket at the time of reservation. I am surprised that consumer advocates have not voiced this in print yet.

A more equitable solution to alleged price fixing is to actually force airlines to fix fares, a suggestion I made to ATC when deregulation appeared. That is allow any airline to set any fare—but make the fare hold for a month or two or six (number of months is not a real factor). Thus if airline A lowered the fare from point A to Point B to $300.00 and had to hold that fare for 30 days, Airline B could lower their fare to $250.00 and have a 30 or 29 day advantage. The same is true for raising fares. In this case the price leaders would be taking a great risk that market conditions actually warranted the change in fares. This would be competition! And in a short time the fixing of prices would be based on real market factors, not predatory or fire sale tactics.

There may be, and probably are, other ways to fix this problem. But the airlines interpretation of what your Department wants suggests Chaos!

Cordially,

William J. Dillon,

Owner/Manager.

Brecksville Travel Service, Inc.

7700 Chippewa Road, Brecksville, Ohio 44141, (216) 526–8990, FAX (216) 526–7813.

February 12, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter, I would like to express my objection to the Lawsuit Against the Airlines. I do object to the government intrusion into my business.

How can I provide my clients complete and professional travel counseling if I cannot provide them with advance announcement of fare increases, or an announcement of when a discount sale will be ending.

If I were to shop in any RETAIL store, purchasing clothing, food, or whatever, I would know when a sale would be starting and ending, as this information is also placed in all the local media—NEWSPAPER—RADIO—TV. Don't you know also when men's clothing, and your favorite appliance, or Automobile is on sale, and take advantage of that purchase ???

Thank you for your understanding.

Sincerely,

Noreen A. Siezak-Butano,

President.

Brennan Travel, 433 Metairie Road, Suite 218, Metairie, Louisiana 70005, Telephone (504) 835–3200, Telex 4963032.

March 9th, 1993.

Department of Justice, Washington, DC.

Gentlemen: Brennan Travel truly believes that if the consent decrees are finalized and the Department of Justice wins the lawsuit, travel agents and consumers will be deprived of useful travel planning information. The Justice Department's position would place a federal judge in the role of price regulator for the airline industry. This whole concept is detrimental to the consumer.

Very truly yours,

(Mrs.) Brennan Bridgeman-Baumer,

President, Brennan Travel.

Brennan Travel

433 Metairie Road, Suite 218, Metairie, Louisiana 70005.

March 24th, 1993

Department of Justice, 555 Fourth Street, NW., room 9104, Washington, DC 20001.

Attention: Mark C. Schechter

Re: Price Fixing Lawsuit

Gentlemen: This most recent price fixing lawsuit against the airlines hurts the consumer more then the airlines. It seems that during the last anti-trust suit, the attorneys figured out an easy way to receive hard cash while the public must be happy receiving only paper coupons.

Despite this fact, the public is still being penalized by the possible new ruling. Previously, travel agents could advise their clients if there were a few days grace within which to ticket. Now, the fares can go up overnight without warning. While it is true that travel agents do make a percentage off of the total amount of the tickets, at Brennan Travel we strive to get the lowest possible fare for our clients in all matters.

I strongly urge you to reconsider your decision and take a hard look at really who is being hurt by this ruling.

Very truly yours,

(Mrs.) Brennan Bridgeman-Baumer,

President, Brennan Travel.

Brewer, Deaton & Bowman

Attorneys at Law, 107 West Market Street, Post Office Drawer B, Greenwood, Mississippi 38930.

February 26, 1993.

The United States Department of Justice, Anti-Trust Division, Washington, D.C. 20530.

Re: Airline Price Fixing Litigation

Gentlemen: As a member of the traveling public, it appears that the United States Department of Justice in its airline price fixing litigation has again arrived at results allowing the government to "win" at the expense of the traveling public. The restrictive terms of your orders limiting access to fare information to the day given is quite punitive to the traveling public and appears to only benefit the airlines. With guaranteed reservations and fare information, the traveling public had time to plan travel.

Individuals who are required to pay for their own travel as opposed to government lawyers whose travel is paid for by the taxpayers are quite concerned with having a reservation and guaranteed rate for more than twenty-four hours in order to coordinate plans. The only effect of the new procedures will be to discourage air travel which is hardly needed in today's depressed airline industry.

I request that this comment be forwarded to the United States District Court in Washington, DC, to be included in the public comments it receives prior to approving this punitive agreement.

Very truly yours,

Billy B. Bowman

29045 15th Place South, Federal Way, WA 98003

March 8, 1993.

Mr. Mark Schechter,

Room 9104, US Department of Justice, Antitrust Division, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: Filing a lawsuit against the airlines for conspiring to fix prices is really grasping at straws in the wind! Your actions will do nothing but cost the airlines and, ultimately, the consumers a bundle of money. As usual no one but the lawyers stand to gain anything.

Forcing the airlines to comply with your consent decree for imagined discretions will not only cost the airlines lost revenue but will greatly inconvenience the consumers. If the airlines have been conspiring to fix prices they have done a terrible job of it.

If you wish to do some good for the airline industry and airline passengers, put some teeth into the bankruptcy laws. Allowing perpetually benkrupt airlines to stay in business is destroying the entire industry end making a mockery of the intent of benkruptcy laws.

In closing, I feel that there are a lot more fertile grounds where lawyers can make their money rether than mining an already troubled industry. Try the oil companies!

Sincerely,

John J. Briggs

Browne's Travel

5315 East Broadway, suite 107, Tucson, Arizona 85711, (602) 745–1622, Fax (602) 745–9494

February 13, 1993.

Mr. Mark C. Schechter,

Department of Justice—Room 9104, 555—4th Street, NW., Washington, DC 20001.

Re: Department of Justice, Lawsuit against the airlines.

Dear Mr. Schechter: Our travel agency objects to the current lawsuit your department has filed against the airlines and which will affect the entire travel industry.

Starting-and-end fare dates need to be available to the agency community. This is a very helpful tool for us to be able to shop for the best fares for our clients.

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Under the consent decree, consumers would be the big losers. Our ability, as travel consultants, to provide our clients complete and professional travel counseling will be impaired.

Brown's Travel does object to the lawsuit your department has filed against the airlines.

Sincerely,

Ginny Shouse,

Owner.

Buena Park Travel
7918 la Palma Avenue, Buena Park, California 90602, (714) 827–5890, (714) 236–0268 fax.

February 15, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: As a working travel agent whose agency is actively involved in the sale of airline tickets, I cannot help being alarmed at the excessive diligence of the Justice Department in regard to alleged airline "price fixing". I am very much opposed to your prosecution of the airlines on this matter, since it directly bears on the information and advice I am able to offer my clients.

In recent years it has been a great blessing that improved computer reservation systems give us more information to aid our customers in making purchase decisions based on the available effective and expiration dates of various fares. While these have always been subject to capricious change by the airlines, we have been able to offer a guideline at the very least.

Perhaps you ought to look into regulating the cost of lettuce at our local supermarket; it seems equally appropriate. And please consider that eliminating this information from our systems will do nothing to affect airline pricing—their systems can instantly respond to other airline changes. And, if airlines are gouging the public, why are they losing billions and laying off thousands? In your attempt at price regulation (something we all thought the government had abandoned), the attorneys are the only winners. Airline prices were a lot higher when the CAB made the rules.

Sincerely,

Ellie Knight,

CTC President.

Burger Travel Service
517 Bank One Building, Youngstown, OH 44503–1584, (216) 744–5035.

February 15, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Lawsuit filed against airlines alleging fixing prices.

Dear Mr. Schechter: We are very concerned about the lawsuit filed against the airlines in regard to price fixing.

May we advise that this is definitely not price fixing—and what the Department of Justice is planning to do would be a major disservice to the travel agents and to the clients who use the airlines. The clients and the travel agent need the information in order to properly advise their clients.

After 60 years in the travel business, we feel that we must let you know that we object to this government intrusion into our business.

Sincerely yours,

Debra J. Burger,

CTC.

Burke Travel, Inc.
719 State Avenue, P.O. Box 1195, Kansas City, KS, 66117–0100.

February 17, 1993.

Mr. Mark Schechter,
Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter, I am writing to express my disapproval of the actions taken recently by the Justice Department against several major airlines, with respect to price signalling, and fixing. The decree offered to the airlines would make our jobs as travel advisors substantially more difficult than they are now, and would harm consumers by not allowing them to make fully informed decisions regarding their travel plans. No price would be valid past today, creating instant chaos in our industry.

The system as it is now seems to work well for the travelling public—they travel more often by air, and less expensively than at any time in history. One need only look at the average fare and amount of service within Europe to realize what a convenience and bargain our air travel system is. Price competition among U.S. airlines is indeed fierce; the recent losses sustained by the industry attest to that.

I am opposed to this decree as it would unnecessarily burden everyone involved, with no one, especially the consumer, gaining anything.

Sincerely yours,

Robert Burke,

CTC, Vice President, Burke Travel, Inc.

Caldwell Travel
Westlake Holiday Inn, 1100 Crocker Road, Westlake, Ohio 44145, (216) 899–9999.

Feb. 12, 1993.

Mr. Mark C. Schechter,
Dept. of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Mr. Mark C. Schechter: We are writing to express our opinion regarding a possible consent decree that would stop airlines from advance announcements of fare increases and end of discount sales.

It has been our experience that this would be a disservice to our clients. It would appear to be another intrusion of government in the travel business. We cannot see that it would serve the travel public.

Please consider our objection to the decree.

Sincerely,

Carolyn W. Caldwell

Cameron Park Travel, 3490 Palmer Drive, Suite J, Cameron Park, CA 95682.

March 4, 1993.

Mr. Mark C. Schechter,
Chief, Transportation, Energy and Agriculture Section Antitrust Division, Department of Justice, 555 4th Street NW, room 9104, Washington, DC 20001.

Re: United States vs Airline Traffic Publishing Company Action No. 92 2854

Dear Mr. Schechter: We are a small agency that employs four people in a rural community. It is difficult for us to make a profit in this business and keep our doors open. The reason travel agents are successful is that we offer a higher level of customer service than the airlines (800) reservation services can.

If your proposed actions go into place—we will be the last to know about fare changes. As it is, it is often the case that an advertisement comes out in the paper before the reservation systems have loaded the fares, and the rules.

I don't understand why you people feel that our industry should be judged by rules that don't apply to other retail business. How often do you see ads for merchandise that says "price effective from March 5 for three days only". If it's ok for Walmart it should be OK for United Airlines.

Please reconsider your actions—this is not in the best interest of the public.

Sincerely,

Judy Harvey,

Owner.

Cape Cod Travel of Hyannis & Orleans Inc. (A Separate and Independent Business Entity), 88 Falmouth Road, Route 28, P.O. Box 520, Hyannis, MA 02601, 485 Route 134, Harney's Plaza, P.O. Box 217, South Dennis, MA 02660, Route 6A, P.O. Box 267, North Truro, MA 02652.

March 5, 1993.

Mr. Mark Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: The changes in faring have clearly taken away our ability to anticipate price increases and decreases. As professional travel consultants, we book 80% of all airline tickets; our clients expect us to be knowledgeable and prescient, and they trust and have confidence that we are acting in their best interests. How can we maintain this relationship if all we can say to them is buy today or there is no guarantee that this price will continue to be available. We cannot tell our customers of the ability to make the most effective use of his or her financial resources. Again, the consumer is being shortchanged and victimized by another capricious DOJ ruling. They do not deserve that! Providing effective date information with ticket price information is a value-added service that the travel industry must be able to provide to their clients. As a professional travel consultant I oppose the ruling and making my concerns known via this letter.

Sincerely,

Kelley A. Sullivan,

Vice President.

Capraro N.E.W.S. Travels, 39225 Grand River, Farmington Hills, Michigan 48335–1532 (313) 474–6397.

February 24, 1993.

Mr. Mark C. Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street NW., room 9104, Washington, DC 20001.

Re: United States vs Airline Tariff Publishing Company; Action No. 92–2854.

Mr. Schechter: Another INJUSTICE to the travel agent community. When will the people who make decisions which affect our industry take the time to understand how our industry works before going to such extremes to force legislation which is detremental and unfair?

The prohibitions the Department of Justice is placing on our nation's ailing airlines is harmful to consumers and small business. How is it that we can be expected to fully perform the responsibilities of our position if we lack such pertinent information? And, why this type of proposal on our industry and NOT any other? When I see a department store sale on television and in the newspaper, they are allowed to advertise the ending date. Travel agents are professionals who care. We sell approximately 85% of all airline seats. We should be the first with access to all airline price information. it is obvious that neither travel agents nor our clients will be well served if we cannot inform them to when a fare is to be increased.

Please reconsider the inconvenience you are placing on the consumer and the negative impact on our business. We are being placed in a marketing and service disadvantage. The proposed final judgement is not in the best interest of the traveling public.

Sincerely,

Grace A. Capraro

Captain Jim's Travel, 5120 South Cicero Ave., Oak Forest, Illinois 60452, Telephone (708) 687–6800.

Feb. 15, 1993.

Mark C. Schechter,
Dept. of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: We understand that the Department of Justice is asking the airlines to stop providing the public with advance announcements of fare increases and advance announcements of the end of fare discount sales.

As active members of the travel industry we oppose the consent decrees you are considering.

The traveling public would be harmed rather than helped by the consent decrees. The airlines—based on public response—and not the federal court should be its own price regulator.

Please consider our objections. We have the interests of the traveling public and the travel industry foremost in mind.

Sincerely,

Jim Smat

Captain Jim's Trevel, 15120 South Cicero Ave., Oak Forest, Illinois 60452, Telephone (708) 687–6800.

February 13, 1993.

Mark C. Schechter,
Dept. of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001

Re: Dept of Justice Lawsuit Against the Airlines.

Dear Mr. Schechter: How can we save our customers' money if we cannot even tell them when a fare will expire?

Please do not legislate any more regulations. Travel agencies are dropping like flies by the wayside. Every year our rents, salaries and office expenses go up but we are not able to pass these costs on to the customer because we cannot raise our commissions and we are not allowed to charge more for the air tickets. The only thing we can try to do is to sell more tickets.

Please we are begging for assistance.

Sincerely,

Shirley Smat,

Manager.

FAX 708 687 6852

Caramar International Travel Corporation, 909 Willis Avenue, Albertson, New York 11507, 516–248–1677, Telex: 495–1623, Fax: 516–741–8359.

February 23, 1993.

Mr. Mark C. Schechter,
Department of Justice, Anti-Trust Division, 555 4th Street, N.W., Washington, D.C. 20001.

Re: US vs. Airline Tariff Publishing Co. Action #922854

Dear Sir: On behalf of our clients who are entitled to know about projected new fares, applicable dates of travel and ticketing under the new fares,—AS QUICKLY AS POSSIBLE—I ask the following of the Department of Justice:

Since travel agents sell about 85% of all airline seats

Since most travel agents are small business people

Since we must have access to all price information—before it is published in the media

Since we—the travel agency community—are located all over the United States, in small towns and cities where we are easily accessible to the traveling public and are able to and do respond to questions from the traveling public about all airlines/all fares

Since travel agencies service a vast number of consumers

Since travel agencies offer options to our clients on the multitude of fares available (printed in our CRTs)

That the Department of Justice *not do a disservice* to the traveling public by not allowing the travel agency community to have access to advanced fare information, its terms and conditions. The traveling public cannot—I repeat, cannot—read all of the rules/regulations/advanced ticketing, etc., for all airlines servicing the same city pairs. It is palpably impossible for them to do so since they *do not have access to all of the information*, even when they read it in the media.

The CRT systems in place in the majority of travel agencies around the country operate efficiently giving travel agents information on fare savings, etc. which they transmit to their clients. If you take that away from agencies you will have done a grave disservice to the consumers and to thousands of small businesses countrywide.

Thank you for your attention to the above and I trust that you will consider the effects on both the consumer and small business before moving on this Action.

Attached is a partial list of clients/agents who have signed a petition agreeing with my position set forth.

Sincerely yours,

Marilyn Radovsky,

President.

Caramar International Travel Corporation.

February 23, 1993

Petition to: Department of Justice, Anti Trust Division, Washington, DC

I am opposed to the Department of Justice preventing the airlines from informing travel agencies and consumers of applicable travel dates/valid ticketing dates for projected new fares. It will make it more difficult for the traveller to plan ahead in order to utilize the lowest and best possible fares. It is urgent that the fare and ticketing information remain available to travel agencies and therefore to the travelling public.

Name	Address
[Illegible]	205 3RD Ave., 14–C NYC 10003.
[Illegible]	287 Willets Rd., [Illegible] NY 11507.
Elizabeth [Illegible]	67 Prospect Ave., Hewlett, NY 11557.
Marisa Rossero	257A East 17th St., Hunt. Sta. NY 11746.
Joan Guerrieri	25 Cambridge St., Malverne, NY 11565.
Clare Robbins	1748 Aladdin Ave., New Hysle Park, NY 11040.

Caribbean Holidays, 612 Bellevue Way NE., Suite 220, Bellevue, Washington, 98004, (206) 451–1678, (800) 828–9204, Fax (206) 454–3467.

February 16, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555–4th Street NW., Washington DC, 20001

Dear Mr Schechter: Concerning the lawsuit against the airlines, alleging that they fixed prices by signalling each other of their pricing plans through advance announcements of effective dates, I have only one question • • •

What is the difference between, say, United Airlines saying that a certain fare will be effective only until a future date than say, SILO saying that a sale on a Sony TV is effective until a future date?

If department stores can have a sale with low prices until the 1st of March, why can't the airlines.

To be fair to the airlines you would have to stop all industries from stating effective dates on prices • • •

Please pass these comments on to the judge who is reviewing the consent decrees.

Thanking you in advance, I remain

Sincerely yours,

Peter F. Bishop, CTC

Carlson Travel Network, 62 West Plaza Square, Winona, MN 55987–3431, (507) 452–1990, FAX (507) 452–2877.

March 4, 1993

Mark C. Schechter
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001

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Dear Mr. Schechter: I am writing in strong opposition to the Department of Justice lawsuit against major airlines alleging price fixing through advance announcements of airfare changes.

The current injunction prohibiting airlines from advance announcement of fare increases and, with some exception, prohibiting the advance notice of the end of discount sales greatly impedes our ability in the travel agency community to render accurate and efficient service to our clients.

Airlines are constantly changing and revising their fares, and for those of us who serve the public fairly, we simply must be able to advise our clients with current, accurate information on travel costs. Not knowing when fares will be changed not only places us in the position of not being able to provide travelers with adequate service, but it also further serves to confuse increasing numbers of passengers. I believe airlines will continue to publish airfares based on competition. I urge consideration of allowing for advance announcement of fare increases and discount sales so that we at the distribution level can also remain competitive!

Sincerely,

J. Christopher Knecht,

President, CTN/Nelson Travel Service.

Carlson Travel Network•, Chippewa Valley Travel, Corporate Office, 345 Prenette Drive, Chippewa Falls, Wisconsin 54729, (715) 726–9782, Fax (715) 723–1205.

February 15, 1993

Mark C. Schechter

Department of Justice, Room 9104, 555 Fourth Street NW., Washington, DC 20001

Dear Mr. Schechter: We are very concerned with the Department of Justice's decision to restrict pricing information to travel agents.

It is appropriate to tell our customers when a special price (sale) will start and even more appropriate to inform them as to when the special will expire.

If information is restricted through your enforcement of a no advance announcement rule, the consumer will once again fall victim to your protection. How can we inform people of their choices if we are not privilege to information.

We ask your consideration in abandoning your ruling to restrict pricing information to travel agents.

Sincerely yours,

Dennis L. Heyde,

President.

Carlson Travel Network, Gulf Breeze Travel, Inc., 1100 Gulf Breeze Parkway, Gulf Breeze, FL 32561, Phone 904–932–9276, Fax 934–1089; 17 W. Garden St., Pensacola, FL 32501, 904–433–7268, Fax 432–5463.

Dear Sir: We do not agree with the decrees by the Federal Courts. We in the travel industry need this information to provide to our clients what is going on in the travel industry. If we don't keep it like it has been, then what do travel agents have to offer their clients in the services area. Only thing they would have would just be sale tickets and not have the extra services to offer. I do not think the courts could be able to tell the airlines and travel agents what they can and cannot do. Basically the government would be taking over our industry. What next, when cruise lines want to heve fare reduction?

[Illegible]

Carlson Travel Network, Vantage Travel, 1913 South Osprey Avenue, Sarasota, Florida 34239, (813) 365–2500, Fax (813) 951–2488.

February 15, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, N.W., Washington, DC 20001

Ref: Department of Justice Lawsuit against the airlines.

Dear Mr. Schechter: Please forward this letter to the judge who is reviewing the consent decree requiring that airlines must:

. . . stop providing customers with advance announcements of fare increases.

. . . stop providing customers with advance announcements of the end of discount sales.

As a small business whose primary business is selling airline travel domestically and internationally to individual clients and businessmen who need this service. Our clients are like most people who are looking for the best possible deal and best possible price for their airline transportation. They solicit our service so we can provide to them the current and anticipated airline fare increase or decrease in the marketplace.

In the age of FAX machines and computer reservation systems, we presently have this information at our fingertips and are able to disseminate this information in an unbiased manner. This type of service is really the Hallmark of the Travel Agency business. This is the reason a customer/client will come to a Travel Agency to do the shopping for them and advance information from the individual airlines is critical to the welfare of the Travel Agency profession.

I subscribe to the spirit of the deregulated airline environment and do object to more government intrusion and restrictions into the airline and travel agency business. If the consent decrees are approved by the Department of Justice this will have a very negative impact on the service levels as well as the ability to provide the best possible travel related information the public demands. This ruling will not benefit the traveling public or the travel agency profession. Please reconsider and withhold your ruling on the consent decrees.

Sincerely,

William Kaplinski,—

President.

Carlson Travel Network, Wickenburg Travel Agency, 2001 West Wickenburg Way, P.O. Box 21059, Wickenburg, Arizona 85358, (602) 684–7891, Phoenix (602) 271–4122, Fax (602) 684–7893.

Dear Mark C. Schechter, We feel that we need as much information as possible to correctly price the airline tickets we sell. The airlines have been deficient on the side of too little information rather than too much in our opinion. Please do not add to our burden by closing our information sources.

Sincerely yours,

Sue Tackelson

Cave Springs Travel, 4101 Mexico Road, St. Peters, Missouri 63376, 313–441–5400, 314–278–5222, 1–800–247–CAVE, FAX 314–441–7453.

February 18, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001

Dear Mr. Schechter: As an owner of a travel agency, I would like to state that I am against your lawsuit alleging that most of the major airlines have fixed prices and to make them stop providing advance announcements of fare increases and to stop providing the end of the discount sales.

Our business is 80 percent leisure traveler who will look for all of the bargins available. If your lawsuit is successful, the consumer will be greatly harmed and not travel if they can't make full informative decisions about air fares.

I urge you to reconsider the lawsuit.

Sincerely,

Melba O'Connell, *CTC DS*

Owner

Carrousel Travel Group, 6625 Lyndale Avenue S., Minneapolis, MN 55423, Fax (612) 866–9644.

February 15, 1993

Mr. Mark C. Schechter

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001

Re: Lawsuit Against the Airlines

We are extremely upset with the recent Justice Department decision to unnecessarily involve itself in our business. The allegation that airlines signal pricing intentions via advance announcements of fare increases and other fare changes lacks validity.

Actually this system benefits the consumer and provides them with the best information to obtain the lowest fare possible. Our responsibility is to provide our customers with information that allows them to make intelligent decisions regarding their air travel. Consumers and their travel agents will be the big losers if we are unable to notify them about dates of fare increases or deadlines for taking advantage of airfare savings. We hope that the court will see things through the eyes of travel agents and air travel consumers. Please do not limit our ability to help consumers! Leave the pricing and fare notification procedures alone!!

Sincerely,

Neal Kraemer,

Carrousel Travel Group.

Charlie B. Travels, 77 E. Main Street, Newark, Delaware 19711, phone 302/368–9151–2.

February 16, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001

Dear Mr. Schechter: This letter is in response to the Department of Justice's law suite against airlines for supposed price fixing.

As a travel agent for the past thirty years, I have watched as our transportation system has been practically obliterated by government meddling. Once again, a person or persons, in this case the Justice Department, totally ignorant of the workings of the industry or of its service to the traveling public, is meddling where it does not belong.

If you apply the same restrictions to all businesses, you will succeed in bringing America's productivity to a standstill. Please, you have done enough harm to a dying industry. If you feel you must act in the public interest, please become educated in the ways of the industry you are trying to regulate.

We consider ours to be a full service travel agency in the business of advising our clients of the very best fares available. You are taking that ability away from us.

I would like to offer an open door to anyone making decisions on your behalf to learn more about the industry first hand. Please come walk a week in my shoes and meet the people we are supposed to serve. If you would like to know more about us, please contact Senator Biden or Congressman Mike Castle, both of Delaware.

Please help us, don't hurt us! The restriction of advance announcements of fare increases/decreases is ill-advised and not in the public interest.

Looking forward to seeing someone from your office in our office.

Sincerely yours,

Charlie Friswell,

President.

Convention & Visitors Bureau of Greater Cleveland

3100 Terminal Tower, Cleveland, Ohio 44113, (216) 621–4110.

March 15, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Department of Justice, Room 9104, 555 Fourth Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing to bring to your attention an action that was taken during the end of the Bush Administration that, if implemented, could have significant economic consequences for our industry as well as for the traveling public.

The Department of Justice, on December 21, 1992, entered into a consent decree with USAir and United Airlines to settle charges of price fixing through the computerized codesharing network. The consent decree prohibits airlines from informing either travel agents or the public about the dates of fare increases and, in most cases forbids them from conveying information to agents or the public relating to the last date of discount sales. The remedy could have a severe impact on the travel and tourism industry, the country's third largest.

I strongly believe these prohibitions will deprive the traveling public of valuable travel planning information and could result in consumers having to pay higher fares and, therefore, travel less. This would also negatively impact the financial health of our industry, including the already struggling airlines.

Now is a time for the nation to rebuild the economy. Tourism is the key. Therefore, I urge the Department of Justice to consider the negative impact that this action will have on one of America's leading growth industries—tourism.

Sincerely,

Dale R. Finley,

President.

Decatur Alabama Old State Bank Museum 925 Bank Street, P.O. Box 2349, Decatur, Alabama 35602.

March 12, 1993.

Mr. Mark C. Schechter,

Chief Transportation, Energy & Agriculture Section, Department of Justice, Room 9104, 555 Fourth St. NW., Washington, DC 20001.

Re: U.S. vs Airline Tariff Publishing Co., et. al.

Dear Mr. Schechter: I would like to declare my opposition to the recent development by the Justice Department with regards to the decree that prohibits airlines and travel agents from providing ticket purchases with first and lest ticketing dates for fares.

This will force travelers to purchese their tickets immediately in order to get the fare quoted at that time. This will particularly put hardships on business executives, senior citizens who must depend on others to make their travel arrangements, as well as the general traveling public.

This new regulation will make traveling planning even more difficult and may make potential travelers decide to spend their discretionary income on other things besides travel.

As President of the Alabama Association of Convention & Visitors Bureaus, I have talked to many across the state in the travel industry and we are concerned that this decree will defiantly harm the tourist industry.

We would appreciate your help in this matter.

Kindest regards,

(Ms.) Jerry Paasch,

Executive Director

March 12, 1993.

Mr. Marc C. Schechter,

Chief Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street NW., room 9104, Washington, DC 20001.

Re: United States vs Tariff Publishing Company Action No. 92 2854

Dear Mr. Schechter: The prohibitions the Department of Justice is placing on the airlines is harmful to consumers and small businesses. For travel agents to properly serve our clients we must have every resource available, and this includes all fare information.

The Department of Justice feels the airlines must inform the media prior to any detailed fare information being loaded into our computer reservation systems. However, the DOJ does not clearly define general media, further confusing metters.

Travel agents sell an average of 85% of all airlines seats and need to have access to all price information. We are in every community, accessible to all and able to answer questions about all airlines. Can you imagine a customer entering Macys with a newspaper ad and telling the salesperson the price of the suit he wishes to buy.

Travel agents are professionals who care and service a vast number of consumers. Much of our service is to offer opinions and options on fares. An example of the hardship that will be placed on the consumer is exemplified by the following:

On Februery 8th our clients, Ms. Misselwitz and Ms. Sanders booked themselves with United Airlines (locater 66R6CX and 67E2T1) for travel to Kona on February 14th. They were quoted a rate of $359 each and told that tickets must be purchased by February 10th and the fares were not guaranteed until tickets were purchased. Our clients replied that they would purchase tickets through our agency. The next morning, in accordance with their wishes, we called United Airlines to claim the record for ticketing. We were told that the rate was now $1100, and that the fare they had booked had expired at midnight. In other words, they had only 4½ hours to purchase their tickets.

It is obvious that neither travel agents nor their clients will be well served if we cannot inform them as to when a fare is to be increased. We constantly need to be aware of all the travel scams and be vigilent against them. One of the tips we offer (ASTA) is to avoid high pressure sales offers that do not allow TIME FOR EVALUATION.

In my estimation this decision will encourage this type of high-pressure salesmanship and further endanger the already weak travel industry.

Please reconsider the inconvenience you are placing on the consumer and the negative impact on our small business. The proposed final judgment is not in the best interest of the traveling public.

Sincerely,

Sylvia Rodriguez,

President.

Charlotte Convention & Visitors Bureau, 122 East Stonewall St., Charlotte, NC 28202–1838, (704) 334–2282, 800–231–4636, Fax: (704) 342–3972.

March 11, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy, and Agriculture Section, Department of Justice, room 9104, 555 Fourth Street, NW., Washington, DC 20001.

Dear Mr. Schechter: The mission of the Charlotte Convention & Visitors Bureau is to maximize the economic impact of the travel and tourism industry on our community. Our ability to perform that mission will be significantly impaired if the proposed consent decree developed by the Department of Justice in the U.S. vs. Airline Tariff Publishing Company case is allowed to stand.

In the state of North Carolina the travel and tourism industry is worth $7.5 billion to our economy. For the Charlotte area that figure is $1.5 billion and we can account for nearly 33,500 jobs which support our local travel and tourism industry.

We feel very strongly that a rapidly-growing industry such as the travel and tourism industry should not be further burdened by stifling regulations. Instead, we

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feel that a more positive approach would allow us to continue to generate jobs and economic stimulus on a local, statewide, and national level.

I would ask, on behalf of the 450 businesses that we represent that the proposed consent decree not be implemented and that a more productive solution be sought. Thank you for your understanding and consideration of our position.

Sincerely,

Melvin Tennant,

President & CEO.

State of Colorado
Office of the District Attorney, Denver.

March 11, 1993.

Mark C. Schechter,
Chief, Transportation, Energy & Agriculture Section, Rm 9104, Antitrust Division, Dept. of Justice, 555 4th St., NW., Washington, DC 20001.

Dear Mr. Schechter: I am a consumer protection official who has some occasion to travel and always tries to get the best fare to save tax or non-profit dollars. I have noted recently that the basic ingredient of informed decision-making, information, is becoming scarcer when it relates to fares. A little research has led me to the outcomes of U.S. versus Airline Tariff Publishing Company, et al. and the consent decree signed with United Airlines, my usual choice of carrier. I note their is a public comment period open only until March 15. I'm guessing that if those in the consumer business are ignorant of the situation, its possible impacts and consequences, then the real consumers, the travelling public, are probably totally in the dark.

I would request an extension of the comment period for an additional 60 days so a full discussion of consequences, manifest and latent, can be aired. Thank you for your consideration.

Yours Sincrely,

Clair E. Villano,

Director, Consumer Fraud Division.

Convention & Visitors Bureau, Inc.
200 Civic Center Drove, Charleston, WV 25301.

March 11, 1993.

Mr. Mark C. Schechter,
Chief, Transportation, Energy and Agriculture Section, Department of Justice, room 9104, 555 Fourth Street, NW., Washington, DC 20001.

Re: U.S. vs Airline Tariff Publishing Co., et. al.

Dear Mr. Schechter: Tourism and travel is one of the major bright spots in the economy of West Virginia and the entire United States. In my opinion, should the consent decree proposed in this case become government policy, it will harm travel and tourism by causing the cost of travel to rise. The traveler will no longer have the capability of knowing about special fares, or the starting or ending dates of any special airline discount fares.

Even if, as was charged in the suit, the airlines were engaged in coordinating fares, this "solution" will not correct the problem. In a free market economy, as soon as a price becomes known, all competitors are aware of it and can adjust their prices accordingly. This proposed "solution" will not keep the airlines from adjusting fares to meet the competition, but will merely keep the consumer from being aware of price changes, up or down, and therefore being able to take advantage of this knowledge to reduce their cost of travel.

To protect the traveler and to allow those of us in the tourism industry to continue to promote travel and tourism and get more Americans to spend more money traveling, and to enable this industry to continue to be a major factor in the economic recovery, I strongly urge you to have this suit withdrawn and to allow United Airlines and USAir to withdrew their agreement to the consent decree.

Sincerely,

Bill Rogers,

President.

Claremont Travel Services
Goddard Emporium
54 Pleasant Street, Claremont, NH 03743.

March 10, 1993.

Mr. Mark Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: The recent changes in the airline faring structure have clearly removed our ability to anticipate price changes in the industry.

Professional travel agents are responsible for booking over 80% of all airline tickets. Our clients expect and demand that we be knowledgeable and able to give them the most reliable information regarding current air fare possibilities. The travel agency community has built the trust and confidence of the traveling public that we are acting in their best interests. How can the travel agent maintain this relationship if we cannot tell our customers what prices will be in effect when they travel, or when a particular fare will expire?

This arbitrary concern for airline signaling of price changes is depriving the customer of the ability to benefit from the real advantage of a deregulated airline environment. Consumers are the ones being victimized by this Department of Justice ruling, for they will no longer be able to determine the effective use of their own resources.

Providing effective date information with ticket price information is a value added service that the travel agent industry must be able to provide to their clients. As a professional travel consultant, I oppose the ruling and urge that it not be implemented.

Sincerely,

Walter L. Fawcett,

President.

This letter to the editor appeared in the *Prescott Courier* yesterday, March 10, 1993. My son and I consider this consent decree deplorable!

Eileen Dalzen,
HC61 Box 1796, Dewey, AZ 86327.

Travel counseling would be impaired by lawsuit.

Editor: The Department of Justice has filed a lawsuit against most of the major airlines, alleging that they fixed prices by signalling each other of their pricing plans through advance announcements of fare increases and other fare changes.

Two airlines have already felt compelled to sign consent decrees in order to avoid additional legal costs and risks even though they adamantly oppose what the Department of Justice is demanding. The consent decrees require that the airlines must:

- Stop providing customers and travel agents with advance announcements of fare increases.
- Stop providing customers and travel agents with advance announcements of the end of discount sales (with some exceptions).

If the consent decrees are approved by the federal judge who is reviewing the consent decrees, then the ability to provide complete and professional travel counseling will be impaired! It may even be a crime to provide this information to clients.

These rules are only the beginning. Under the consent decrees the federal court becomes the price regulator for the airlines industry.

The law requires the judge to withhold a ruling on the consent decrees until public comments have been received. The deadline for public comments is March 15, 1993. The American Society of Travel Agents (ASTA) will be filing a brief in opposition to the consent decrees, but the government should hear from you directly. Write the judge a few short lines expressing your objections to this government intrusion into business and the traveling public.

Letters should be directed to Mark C. Schechter, Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001. The Department is required to forward all comments to the judge reviewing the decrees.

Joyce Bunch CTC,

The Travel Connection.

Compass Travel, A World-Wide Travel Service
4201 North 16th Street, Suite 150, Phoenix, Arizona 85016, (602) 266–5390, FAX (602) 266–0013

March 4, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001

Dear Mr. Schechter: I am writing in opposition to the plan that the airlines not provide passengers with advance notice on fare increases and/or the end of discount ticket sales.

In my experience I find it is extremely important for customers to have such knowledge before making a decision to purchase their ticket.

Sincerely,

Betsy Fredrickson,

Owner/Monager.

Deluxe Travel Ltd.,
Downtown Office, 102 California Avenue, Reno, NV 89509, PH. (702) 323–4644, FAX (702) 323–3561

March 1, 1993

Mr. Mark Schechter,
Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001

Dear Mr. Schechter: I oppose the price fixing anti trust law suit brought against the major airlines.

I feel in the long run the law suit will hurt the consumers and the public.

I am in complete opposition of this class action law suit.

Yours truly,

José M. Brito.

Manager.

Destinations, a Travel Company
P.O. Box 705, 202 West King Street, East Berlin, PA 17316, (717) 259–8611, FAX (717) 259–9154

February 27, 1993

Mr. Mark Schechter,
Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001

Ref. Lawsuit against the airlines

If the airlines are to continue to operate they'll need to be able to price their product—(service) in a free competitive marketplace without the interference of the government. I don't know why so many of the airlines are failing to make a profit do you? It would seem to me that this would be the area in which government should become involved. Why not set up an agency to investigate the cause of such massive losses. Let's face it, without the services of our major airlines *and* raillines we are no longer a world leader.

The airline industry is out of control. However, it cannot be fixed by discontinuing advance announcements of fare increases and indeed it will be impossible for any agency to operate in any degree of efficiency or profitability without expiration date of discount sales.

Rather than a lawsuit against the airlines I think the government should be helping them!

Sincerely,

Yvonne S. Lau,

CTC, Owner/Manager Destinations.

Creative Travel Service Inc., 260 Morris Avenue, Springfield, New Jersey 07081, (800) 344–3383 (201) 467–3383 FAX (201) 467–4781

February 25, 1993

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street N.W., Washington, D.C. 20001

Mr. Schechter: I am writing in opposition to the recent decree being forced on the US airlines in regard to price fixing through the computers. Travel agents and their clients rely on the accuracy of the fare information contained in the computer reservation systems. By preventing the carriers from publishing first and last ticketing dates for fares, or setting parameters for sale fares, the Justice Department is punishing the consumer. How can we competently advise our clients as to when to purchase a ticket, when it could easily be pulled at any time. The traveling public is very confused by the present system already, this action further clouds some awfully muddy water.

What major retailer in this country *doesn't* advertise "Sale Monday Only" and let the public know well in advance. Supermarkets always put out their news circulars the week before to let the public know exactly when products are on sale. Maybe Macy's never told Gimbels', but I'm sure they read each others ads. Are we going to punish the public because airlines make this information available by computer? That's the message that this action gives.

This consent decree is blatantly anti-consumer. I hope the Justice Department will review this action and truly serve the public interest. Thank you for your attention.

Sincerely,

Iris Citron,

President

Mr. Mark C. Schechter,
Chief Transportation, Energy & Agriculture Section, Department of Justice, room 9104, 555 Fourth St. NW., Washington, DC 20001

Re: United States vs. Airline Tariff Publishing Company Action No. 92–2854

Dear Mr. Schechter: Travel agents are professionals who care and service a vast number of consumers. Much of our service is to offer opinions and options on fares. It is obvious that neither travel agents nor our clients will be well served if we cannot inform them to when a fare is to be increased. Likewise, we need to know when discount fares will end because we frequently call our clients if we know there is a special fare available for a limited time period. If the airlines have to inform the media first of any fares changes, as the Department of Justice proposes, it may well discourage sales.

Please consider the inconvenience you are placing on the consumer and the negative impact on our small business. We are being put at a marketing and service disadvantage. The proposed final judgment is not in the best interest of the traveling public.

Sincerely,

Brika Kochey,

Owner, Coan Travel of Morristown.

February 24, 1993.

Mr. Mark C. Schechter,
Fax #202–514–4371,
Chief Transportation, Energy & Agriculture Section, Department of Justice, room 9104, 555 Fourth St. NW., Washington, DC 20001.

IN RE: Action No. 92–2854

This "Action" has been given a great deal of time and attention by this agency.

Our conclusions are:

This action is unnecessary.
This action is without any merit—whatsoever.
This action is absolutely counter-productive.

This action will not accomplish any improvement gain in the travel industry. But it does add another needless measure to affect the traveler and the travel agencies.

We urgently request that this action be abolished and at once.

Cruise Director's Travel, Inc.
Correct Service, Inc., D.M. Lipscomb, Ph.D., P.O. Box 1680, 8715 271st NW—Suite 1, Stanwood, Washington 98292, Fax (206) 629–3755, Phone (206) 629–4865

February 22, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I have been apprised that your department is investigating whether the computer-based airline schedule/price quoting capability amounts to price-fixing.

As a very frequent business traveller, I rely upon my Travel Agent to provide the most up-to-date information upon which I plan my travel schedules and budget. To eliminate the current ability to provide me with a range of options would be to seriously impair the assistance I receive from my Travel Agent.

As a layman, the parameters as I understand them are temporal in nature. That is, knowledge of changes in price scheduling are available expeditiously through the computer system. The same information would be available through other means of information dissemination, albeit more slowly. The latter system has been in place since airline tickets have been sold and were never regarded to be price-fixing. Why, then, is it considered that the same process—only more speedy—is now labeled price-fixing?

In this time of fiscal austerity and trimming of governmental costs, I nominate the above-mentioned activity for elimination as being an unnecessary waste.

Sincerely,

David M. Lipscomb, Ph.D.,

Consulting Audiologist.

Chips Travel, Inc., 3950 Church Street, Evanston, IL 60203, 312/673–5660 or 312/539–0260

February 20, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Sir: I am opposed to the current lawsuit requiring airlines to stop providing customers (and travel agents) with advance announcement of fare increases or advance announcements of the end of discount sales.

This type of regulation is an intrusion into my business and has worked great hardship upon my self and my staff. We can never be certain of a fare, and it makes promotional work very difficult, decreasing business as a whole.

Yours truly,

Helen Binder,

CTC Owner and Manager.

Cooper Travel Service, Inc., 125 S. 8th Street, Columbia, Missouri 65201, (314) 443–3138

February 19, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th St., NW., Washington, DC 20001.

Dear Mr. Schechter: In regards to the price fixing lawsuit against the airlines, I ask, how different is airline pricing from any other retailers pricing strategy in this country? When Wal Mart lowers its price on floor mats, Target and K Mart follow suit. Gasoline prices in my area change together. So why are you trying to cause more problems to an industry that has lost $8 Billion the last 30 months. You think the airlines have been over charging?

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In most cases airlines are lowing air fares to match the competition. Using the CRS only allows the airlines to react immediately thus benefiting the consumer. With this immediate information travel agents contact clients that are waiting for specials. But they need to know for how long the fare is valid so they can plan. This encourages people to purchase airline tickets at the lowest possible cost. The lawsuit will result in less buying information for potential travellers. The net result is fewer travellers paying higher than necessary airfares.

Sincerely,

J. Daniel Stookey II,

CTC President

Creative Travel Agency, Inc., 2240 N Rock Rd Suite 104, Wichita, KS 67226

February 18, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: Although we understand your concern for avoiding price fixing by the airlines, and we concur that price fixing is detrimental to the best interests of the public, to stop allowing first and last sale-date ticketing in the computer systems would be more detrimental to the public than the current system.

Our system allows holding a reservation for 24 hours for a customer before it has to be ticketed. If you force the airlines to withdraw first and last days from the computer, we cannot serve our clients because we cannot properly advise them of a deadline to purchase.

If your interests are in protecting the public, perhaps requiring definite sale termination dates (rather than a system that allows over-night discontinuing of a sale or an arbitrary extension) would be of more benefit to the public. Making people play "Russian Roulette" in guessing whether they can purchase a ticket at a sale price (and remember that these are mostly excursion, non-refundable tickets) is not in the interests of the people you are trying to protect.

As travel agents, our job is to find the best price for our clients and to advise them of restrictions and deadlines. Travel agencies have access to all airlines' prices that are in the computers. Removing the information we need to advise our clients will benefit no one—unless it is the individual carriers who *will* know their last ticketing dates!

Sincerely,

Kathleen McNerney,

Owner.

Dee Whitley, *CTC,*

Manager.

Pat English,

Travel Consultant.

Loretta Engels,

Travel Consultant.

Angie Frey,

Travel Consultant.

Crossroads Travel, P.O. Box 278, Olathe, Kansas, U.S.A., 66051–0278, (913) 829–1555, Street Address: 2063 East Santa Fe, Olathe, Kansas, U.S.A. 66062–1608

February 17, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Re: Department of Justice Lawsuit against the airlines.

Please forward my comments to the judge in charge of the case.

It is my understanding that one of the points of the lawsuit is to stop the airlines from providing advance notice of fare increases and to stop providing the advance announcement of the end of discounted fare sales to the public and to the travel agency distribution network.

I believe that these types of restrictions would harm consumers and not allow an informed decision by withholding important buying information.

Now I'm not an antitrust expert but one usually equates price fixing with an industry that is making a fortune off an unprotected public, so where is the logic in this. Airfares have not been fixed at one everincreasing level, they change all the time in each direction. Deregulation back in 1977 was to make the marketplace more competitive, and this action will restrict the airlines from communicating the specific thing the government wanted, competitive changes, to the buying public and the travel agency distribution system.

Sincerely,

William Craig,

Partner, Travel Consultant, Crossroads Travel.

Columbus Tour & Travel

P.O. Box 176, 1559 23rd Avenue, Columbus, NE 68601, (402) 563–3606.

February 17, 1993.

To: Mark C. Schechter, Department of Justice

Re: Lawsuit Against the Airlines

Dear Mr. Schechter, As the owner and manager of Columbus Tour and Travel, I am concerned about the discussion the Department of Justice has been having concerning the information we as an agency and, our clients as consumers of airline travel products will have to work with. It is extremely important for us to be able to advise our clients when a fare is due to expire. It is extremely important for our clients to have time to make a decision concerning their travel plans.

As an example:

1. I call a valued client.

2. Inform him of a special fare available for travel to Florida.

3. He checks with his family and makes arrangements for their family vacation.

4. At this point he calls our agency and I have to tell him that fare expired while he was checking their calendars.

This puts both the agency and the consumer in a very awkward position. However, if I am able to inform him that there is a special fare available for purchase until a certain date, he would be able to make plans based on solid information.

Likewise, if there is going to be a price increase our clients need to know in order for them to make their travel arrangements and avoid additional charges.

It is important that we not lose track of the fact that we are providing a service to our clients and if we do not have the information available to direct him toward a fully informed decision, we are not able to do our job.

Please take into consideration the *needs* of the *consumer* when making your decisions. Without consumers we have no airline travel They need to be informed and the agencies are the supplier of this information.

Thank you for your attention to these comments.

Sincerely,

Karen Senften,

Owner/Manager, Columbus Tour and Travel.

Columbia Travel

84 Green Street, Hudson, New York 12534, (518) 828–1549, FAX 518–828–1549.

February 16, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW. Washington, DC, 20001.

Re: Oppose Government Intervention on Airline Fares and Ticketing Dates.

Gentlemen: We wish to express a strenuous objection to a US District Court decision that they restrict airlines from mentioning first and last ticketing dates on airline tickets.

We are a small travel business in a community where precise and factual travel information is passed on to our clients. They depend on us to provide them with sound advise, good service and economical fares. If advance information given to us by airlines were no longer allowed, how are we, as professional travel counselors, able to serve our clients with good, sound, money saving advice on air travel.

If the US District Court imposes a restriction on airline fares and ticketing dates, not only all our customers would lose out in these economically difficult times, but most small businesses like ours would be in jeopardy.

Sincerely,

H. Jon Collins (Mrs.)

Owner

Choose To Cruise

760 Main Street, Pennsburg, PA 18073.

February 16, 1993.

Mr. Mark C. Schechter,

Department of Justice, Rm 9104, 555 Fourth St. NW., Washington, DC 20001.

Dear Judge Schechter: I am writing to request your re-evaluation of your suit against the airlines which would in effect stop them from providing travel agents—and the public—with advance announcements of fare increases and termination dates.

This is unnecessary interference into our business and will do a dis-service to the traveling public. Please give this careful consideration.

Sincerely yours,

Sharon N. Sidler,

CTC, President.

City Plaza Travel

16051 Tampa Palms Blvd. W., Tampa, FL, 33647.

February 15, 1993.

Mark C. Schechter,

Dept. of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Sir, This is a letter of objection regarding the recent lawsuit against the airlines. I do not feel this is price fixing.

We as travel agents need to tell our clients when a fare is effective and when it will expire.

Please forward this letter to the judge reviewing the consent decree.

Sincerely,

Dick Toth,

President.

Chima Travel Bureau, Inc.,

1650 W. Market Street, Akron, Ohio 44313–7060, (216) 867–4770, Telex #49571332, Fax 216–867–4281.

February 15, 1993.

Mr. Mark C. Schechter,

Department of Justice, 555 4th Street, NW., room 9104, Washington, DC 20001.

Dear Mr. Schechter: As an owner/manager of Chima Travel, an Agency whose origin dates back to 1918, I felt that it was my duty to write you indicating my displeasure with the new Consent Decrees that are being considered by the Justice Department.

Before deregulation, when we had a great airline service and extremely reasonable rates, airlines were required to advise travel agents and the public thirty (30) days prior to any tariff changes—whether increases or decreases—and thirty (30) days advance notice for schedule changes.

The consent decrees the Department of Justice is proposing, such as:

—Stop providing customers (and travel agents) with advance announcements of fare increases.

—Stop providing customers (and travel agents) with advance announcements of the end of discount sales (with some limited exceptions).

This will create additional chaos in an already chaotic airline and travel industry.

These decrees will have absolutely *NO* benefit to the consumers (travelers) and will make it impossible for my employees and all other travel agents to properly do our jobs.

Very truly yours,

C.P. Chima,

CTC President

Chima Travel Bureau, Inc.,

118 W. Streetsboro Road, Suite 1, Hudson, Ohio 44236–0237; Hudson (216) 656–2500, Akron (216) 650–1429, Fax (216) 342–0017.

February 15, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter, I am writing to express my views concerning the consent decrees signed by two major airlines, in order for them to avoid additional legal costs and risks. I am adamantly opposed to the government intervention into my profession. This will greatly hamper my ability as a travel agent to provide my clients with the professional service my clients so greatly deserve, and which we have worked hard to attain.

I feel this lawsuit is ludicrous. Once again, I object to the government's intrusion into my business, by having the airlines sign the consent decrees. I ask for a stop to this immediately! Thank you.

Cordially yours,

Lance S. Chima,

CTC Manager.

Curtis Travel, 7030 S.E. Milwaukie Avenue, Portland, Oregon 97202, (503) 231–0244.

February 12, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schecter: The Department of Justice filing of a lawsuit against the U.S. airlines requiring them to withhold pertinent information on the time limitation on airfare is and has caused us to lose face with many of our clients.

This filing has made it impossible to plan business trips and vacations. You must purchase the ticket now to be sure the fare is not raised or gone altogether. We must be able to know a last ticketing date and last travel date. Most retail advertising has an effective date and a "valid until" date.

This filing causes the airlines to keep secret a very important part of our planning for our customers. By providing our customers with advance announcements of the end of discount sales, we can give them a short time to get organized with the information we are able to provide. By taking away the ability for the customer to plan, we will all suffer from the loss of tourism revenue and related spending.

Travel agents provide over eighty percent of travel purchased in the United States. None of us can afford the loss of not being able to plan ahead.

Sincerely,

Richard B. Curtis,

Curtis Travel.

7535 Bridle Pines Lane, Pensacola, FL 32526.

March 5, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I understand that the U.S. Dept. of Justice is trying to prevent the airlines from warning travel agents and consumers in advance of airline price increases. I am a secretary with a major corporation. My people do a lot of traveling and I make their arrangements, as well as track their costs and assure we are staying within our travel budget. Unfortunately, because my engineers must respond to problems in the field, travel arrangements cannot always be finalized until the last moment and frequently require changes. This new ruling will make it even more difficult for me to plan, much less budget for, most of our travel. I want and need to continue to receive information about future ticket fare changes from my travel agent.

Thank you.

(Mrs.) N.V. Dupuis

Eagle Travel Agency, 1177 College Blvd., Pensacola, FL 32504

March 3, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001

Dear Sir: We take pride in the exceptional service we give our clients. In fact our reputation is built on the quality of that service.

We strongly oppose any ruling limiting the information we receive from the airlines concerning fares.

Not only will this inhibit us from giving the service our clients expect but it will limit the choice of the consumer when purchasing airline tickets.

As we see it this is the first step to regulating the airlines. If that is the purpose then regulate the fares, not the information regarding the fares.

Sincerely,

Gail B. Williams,

Owner.

Sandra L. Laverty,

Monager.

Richard LeBlanc,

Jorja L. Pearson,

Stephanie Larrieu,

Eileen Boyd,

Shella McKinney,

Jennifer Mansfield,

Patricia Boehlert,

Alise Collins,

Employees.

Earth Travelers, Inc., 683 Dick Road, Cheektowaga, NY 14225, (716) 685–2900

February 16, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing about two major concerns that directly effect me as a small businessman (a retail travel agency).

1. The latest consent decrees awaiting approval by a federal judge to prevent the airlines from providing advance announcements of fare increases and advance announcements of the end of discount sales.

These two consent decrees against the airlines (if passed) will greatly impair my ability to provide both my corporate and leisure clients with complete professional travel counseling which is the main crux of my business.

2. I would like the A.R.C. (Airlines Reporting Corporation) to discontinue the selling of A.R.C. Sales Lists to every major airline in the industry. Each airline now knows every aspect of my business because they purchase a weekly/monthly report from the Airline Reporting Corporation which greatly effects my override commissions. About 3000 travel agents feel the same way. An airline should have the information on our sales with their airline *not* every airline we sell. They currently compare us with how many dollars we are giving their competition not how well we are selling their air seats. This should be considered an "invasion of privacy" and should be stopped immediately.

Your comments will be appreciated. Your action will help travel agents around the world.

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Sincerely yours,

Daniel J. Drojas,

President & C.E.O., Earth Travelers, Inc.

Edgewood Travel Agency, Inc., 969 Main Street, Walpole, MA 02081, 617/668–2236.

March 3, 1993.

Mr. Mark Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: The changes in faring have clearly taken away our ability to anticipate price increases and decreases. As professional travel consultants, we book 80% of all airline tickets; and our clients expect us to be knowledgeable and know before hand, and they trust and have confidence that we are acting in their best interests. How can we maintain this relationship if all we can say to them is to buy today or there is no guarantee that this price will continue to be available. We cannot tell our customers what prices will be in effect when they travel or when a fare would expire. This is depriving the customer of the ability to make the most effective use of his or her financial resources. Again, the consumer is being shortchanged and victimized by another capricious DOJ ruling. They do not deserve that! Providing effective date information with ticket price information is a *value-added* service that the travel industry must be able to provide their clients. As a professional travel consultant I oppose the ruling and am making my concerns known via this letter.

Very truly yours,

Betty A. Rignanese,

Co-Owner/Manager.

EG&G, Inc., 45 William Street, Wellesley, MA 02181–4078, Tel. (617) 237–5100.

March 4, 1993.

Mr. Mark Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Opposition to Justice Department Ruling on Expiration of Air Fares.

Dear Mr. Schechter: The recent ruling by the Justice Department to prohibit airlines from announcing fare adjustments/changes in advance through the travel agency automation systems—while well intended—is misguided, a disservice to consumers and to put it simply—a bad decision.

This prohibition deprives the purchaser from information it has become accustomed to and is necessary as part of their decision making process. It also puts the travel agent—who is today ticketing over 80% of all airline tickets issued—in a very untenable position, now being deprived of providing the consumer with information the consumer expects. The travel agent again is put in the middle.

I have a perspective as a former travel agency owner, as a consumer, and currently as a corporate travel manager. From each vantage point, this decision is ill-conceived. Yes, the airlines signal their intent on pricing but the benefit to consumers far outweighs any "anti-trust concept" especially when one recognizes that within 24 hours of any announced or unannounced pricing change, all major competitors have matched fares anyway. What's the point?

Please rethink this decision. Let us believe that there will finally be some understanding of the way the travel industry operates if not from DOT then perhaps from the DOJ.

Very truly,

Thomas F. McCabe,

Director of Travel Management, EG&G, Inc.

N.B. Your efforts and those of other relevant government departments would clearly be better spent devising a process which would preclude airlines operating in Chapter 11 from disrupting the marketplace with low-ball fares to generate cash. This is a problem—a real problem—not the imagined difficulty of providing the consumer too much information.

The El Paso Convention & Performing Arts Center, Greater El Paso Civic, Convention & Tourist Center, One Civic Center Plaza, El Paso, TX 79901, 915 534–0600, 800 351–6024, In Texas 800 592–6001 FAX 915 532–2963 TELEX 765–022 CVB–ELP.

March 18, 1993.

Mr. Mark C. Schechter,

Chief Transportation, Energy & Agriculture Section, Department of Justice—room 9104, 555 Fourth Street NW., Washington, DC, 20001.

Dear Mr. Schecter: On behalf of the Convention and Visitors Bureau of The City of El Paso, we wish to inform you of our disagreement with the Department of Justice consent decree that will prohibit airlines and travel agents from providing purchases with first and last ticketing dates for fares. This consent decree is a result of the lawsuit brought against eight airlines that were charged with price fixing through the computerized reservations network.

We feel that this decree would no longer protect the rate for an airfare. Example: Individuals could make reservations for a family vacation, only to find when they called back a few days later to purchase the tickets that their fare had increased.

Airlines and travel agents would be prohibited from informing consumers of the end date for discounts fare promotions. Regulatory confusion could result if the DOJ wins its suit. The government would become involved in an endless round of new rules and regulations. This is due to the fact that the airlines have so many ways to communicate pricing information. A Federal Judge would, in effect, become chief price regulator with additional regulations and rules. The cost would increase which would lead to higher ticket prices.

Mr. Schechter, our new president and his administration have said they wish to limit government and streamline the bureaucracy. This decree appears in all aspects to be counter to this new direction.

If you need additional information or assistance, place feel free to contact me.

Tom Caradonio,

Executive Director.

Before the Antitrust Division, Department of Justice

In re: *United States of America*, Plaintiff, v. *Airline Tariff Publishing Company, et al.*, Defendants. Civil Action, No. 92–2854 (GHR)

Comments in Opposition to the Proposed Final Judgment and Comparative Impact Statement

On January 12, 1993, the Department of Justice (DOJ), pursuant to 15 U.S.C. 16(b)–(h), invited public comments in the above-captioned proceeding on the merits of its Proposed Final Judgment (PFJ) entered into by consent of United Air Lines, Inc. and USAir, Inc. (Consenting Parties), 58 FR 3971 (January 12, 1993). The undersigned hereby submit these comments on their own behalf, as concerned citizens.

Under the terms of the PFJ, the Consenting Parties are prohibited from announcing prospective changes in fare amounts and the duration of those fare changes, PFJ at IV(B), V(D), except that announcements of the date on which a fare will cease to be effective is permitted but only through mass media, PFJ V(C).

This comment focuses exclusively on the restrictions set forth in PFJ Sections IV(B) and V (C), (D) as they effect consumers of ticket price information.[1]

For the foregoing reasons, the DOJ should either withdraw the PFJ or rescind Sections IV(B) and V (C), (D).

I. PFJ Sections IV(B) and V (C), (D) Deny Consumers Vital Airline Price Information

By prohibiting the Consenting Parties from announcing future fares and the duration of these fares, the PFJ denies consumers information essential to airline trip scheduling. Ease of access to airline fares prices is critical to consumers who must shop for the best ticket prices. This includes virtually everyone who flies, the prudent business traveler, budget conscious families, and especially the poor and people on fixed income who, although infrequent fliers, may only be able to afford airline transportation during periods when fares are reduced and may require foreknowledge of fare reductions to make preparations for their trips.

By effectively requiring the Consenting Parties to announce fare changes the moment they occur, the PFJ eliminates the primary purpose of travel agents and denies consumers who must shop for low fares freedom of choice. Under the PFJ, travel agents must present consumers with a "take it or leave it" proposition, because they lack

[1] This comment does not address the merits of DOJ's underlying civil antitrust suit against Alaska Airlines, American Airlines, Continental Airlines, Delta Air Lines, Northwest Airlines, Trans World Airlines, United Air Lines, USAir and the Airline Tariff Publishing Company pursuant to 15 USC 1.

information needed to counsel consumers about the prudence of buying promptly to avoid fare increases or of waiting for lower fares. Likewise, the PFJ forces consumers to make airline ticket purchases in ignorance, for they are denied information needed to assess possible fluctuations in pricing conditions that could redound to their benefit or detriment. In fact, under the PFJ, although a low fare booked today could be gone tomorrow when the ticket is sold, ticket buyers are kept ignorant of this fact until the actual time of sale.

The PFJ's lone exception does not ameliorate these harms to the public. The exception permits announcements through the mass media of dates when current prices will cease to be effective, but it leave consumers in a quandary, for they are not permitted to know what future fares will be or how long they will remain in effect.

II. PFJ Sections IV(B) and V (C), (D) Violate the First Amendment

In the absence of the underlying suit, the Consenting Parties were willing communicators of future ticket price information and, of course, the public willing recipients of it. The PFJ obstructs the free exchange of commercial price information between the Consenting Parties and the public to the distinct disadvantage not only of the airlines but, as these comments set forth in Section I, *supra*, of travel agents and ticket consumers.

Communicators and recipients alike have cognizable First Amendment rights. *See Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council*, 425 U.S. 748, 756 (1976) ("Freedom of speech presupposes a willing speaker. But where a speaker exists . . . the protection afforded is to the communication, to its source and to its recipient both."). Moreover, the Supreme Court understands the importance of consumer price information, reasoning that the consumer's interest in the free flow of commercial information may be "as keen, if not keener by far, than his interest in the day's most urgent political debate." *Id.* at 763. Truthful price advertising has thus been protected under the First Amendment against numerous attempts by the government to suppress its dissemination. *See, e.g., Shapero* v. *Kentucky Bar Ass'n*, 486 U.S. 466 (1988); *Bolger* v. *Youngs Drug Product Corp.*, 463 U.S. 60 (1983); *Bates* v. *State Bar of Arizona*, 433 U.S. 350 (1977); *Virginia State Board of Pharmacy*, 425 U.S. 748.

In recognition of the central role truthful commercial speech plays for consumers, the Court in *Central Hudson Gas & Electric Corp.* v. *Public Service Comm'n of New York*, 447 U.S. 557, 566 (1980), adopted a four-part test to evaluate government action against such speech. This test was modified thereafter in *Board of Trustees of State University of New York* v. *Fox*, 492 U.S. 469, 480 (1989).

Under the test, such government action will be held constitutional if it (1) regulates commercial speech; (2) promotes a substantial governmental interest; (3) directly advances that interest; and (4) is not more extensive in its regulation of speech than is necessary to serve that interest. *Central Hudson Gas & Electric Corp.*, 447 U.S. at 566. Concerning the fourth part of the test, the *Fox* Court held a regulation not more extensive than necessary when it is a "reasonable fit" between the ends advanced and the means chosen. *Fox*, 492 U.S. at 480.

In this case the speech, price information, is of a kind deemed "commercial" by the Court in several cases, including those cited *supra*. The government's interest in ending restraints of trade pursuant to the Sherman Act is of a kind found substantial (even in the face of weighty First Amendment concerns). *See Associated Press* v. *United States*, 326 U.S. 1 (1945). However, the prohibition on announcing future fares and the duration of those fares does not directly advance the government's interest in prohibiting restraints of competition in violation of section 1 of the Sherman Act. Indeed, such restraints could well take place through secret communications even if the Consenting Parties abide by the public strictures contained in the PFJ. While restriction of future fare announcements may encumber some efforts by the airlines to maintain a dialogue about future fares, it is neither a necessary nor a sufficient means to prevent a conspiracy to restrain competition. Hence, it cannot be said to *directly advance* the government's interest.

Likewise, the ban on future fare announcements lacks a reasonable fit with the government's interest in eliminating restraints of competition. The means chosen in the PFJ, suppression of all future price announcements, heavily burdens commercial speech in order to silence that subset of it (future prices communicated to aid in price collusion) which is a byproduct of the activity the government seeks to prevent (restraint of competition in violation of the Sherman Act). The Court has explained that it reviews "with special care regulations that entirely suppress commercial speech in order to pursue a non-speech related policy." *Central Hudson Gas & Electric Corp.*, 447 U.S. at 566 n.9. Because the commercial speech at issue has vital consumer benefits and because the government has at its disposal more direct means to prohibit collusive activities in restraint of competition (not least of which is the underlying suit), the PFJ's wholesale suppression of future fare information does not have a "reasonable fit" with DOJ's Sherman Act goals.

Accordingly, PFJ Sections IV(b) and V(C), (D) fail the four-part test used to evaluate regulations of commercial speech and should therefore be eliminated on First Amendment grounds.

III. Conclusion

In light of the adverse impact on consumers of airline price information and their First Amendment rights effectuated by PFJ Sections IV(B) and V(C), (D), the DOJ should either withdraw the PFJ or rescind the offending sections.

Respectfully submitted, this 15th day of March, 1993.

Jonathan W. Emord,

D.C. Bar No. 407414, Attorney at Law, 3969 Valley Ridge Drive, Fairfax, VA 22033.

Harold K. McCombs

D.C. Bar No. 911131, Attorney at Law, 1820 Jefferson Pl., NW., Washington, DC 20036.

Certificate of Service

I hereby certify that I have caused a copy of the foregoing Comments in Opposition to the Proposed Final Judgment and Comparative Impact Statement to be served upon counsel listed below on the date listed below:

Mark C. Schechter, Chief, Transportation, Energy, and Agriculture Section, U.S. Department of Justice, Antitrust Division, 555 Fourth Street, NW., room 9104, Washington, DC 20001

Served this 15th day of March, 1993.

Jonathan W. Emord.

Service List

Mark Leddy, Cleary, Gottlieb, Steen & Hamilton, 1752 N Street, NW., Washington, DC 20036

Jonathan B. Hill, Dow, Lohnes & Albertson, 1255 Twenty-third Street, NW., Washington, DC 20037

Marshall Sinick, Squire, Sanders & Dempsey, 1201 Pennsylvania Avenue, NW., Washington, DC 20044

Peter D. Isakoff, Weil, Gotshal & Manges, 1615 L Street, NW., suite 700, Washington, DC 20036

James R. Weiss, Preston Gates Ellis & Rouvelas Meeds, 1735 New York

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Avenue, NW., suite 500, Washington, DC 20006

Emmet J. Bondurant II, Bondurant, Mixson & Elmore, 1201 Peachtree Street, NW., 39th Floor, Atlanta, GA 30309

Thomas Demitrack, Jones, Day, Reavis & Pogue, North Point, 901 Lakeside Avenue, Cleveland, OH 44114

Michael J. Byrnes, Cleary, Gottlieb, Steen & Hamilton, 1752 N Street, NW., Washington, DC 20036

James V. Dick, Squire, Sanders & Dempsey, 1201 Pennsylvania Avenue, NW., Washington, DC 20044

Michael Doyle, Alston & Bird, 700 Thirteenth Street, NW., Suite 350, Washington, DC 20005

Donald L. Flexner, Crowell & Moring, 1001 Pennsylvania Avenue, NW., Washington, DC 20004–2595

James E. Anklam, Jones, Day, Reavis & Pogue, 1450 G Street, NW., Washington, DC 20005–3939

Edward B. Krugman, Bondurant, Mixson & Elmore, 1201 West Peachtree Street, NW., 39th Floor, Atlanta, GA 30309

Irving Scher, Weil Gotshal & Manges, 767 Fifth Avenue, New York, NY 10153

Henry C. Thumann, O'Melveny & Meyers, 400 South Hope Street, Los Angeles, CA 90071–2899

Paul Ruden, American Society of Travel Agents, Inc., 1101 King Street, Alexandria, VA 22314

Charles F. Rule, Covington & Burling, 1201 Pennsylvania Avenue, NW., Washington, DC 20044

"End Well" Travel Inc., 3212 Watson Blvd., Endwell, NY 13760, (607) 754–0550.

February 16, 1993.

Mark C. Schechter,

Dept. of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: We are writing in opposition to the stand that the Department of Justice has taken in regard to fixed pricing by the airlines.

If the consent decrees are approved by the federal judge who is reviewing the consent decree, our ability to provide our clients complete and professional travel counseling would be greatly impaired. This could even put us in a position of committing a crime.

We will be following this decision with great interest because of the seriousness of the effect on the travel industry. It could even force the closing of many agencies.

Sincerely,

Betty R. Rogers,

Owner.

Endres Travel Service Inc., Lafayette Court, 465 Main Street, Buffalo, NY 14203, phone 716/856–0191, Nationwide Toll-Free 1–800–852–6543, FAX 716/856–0779, TELEX 91239.

February 17, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: For over 40 years Endres Travel Service has served the needs of our clients in Buffalo and Rochester. Our clients depend upon us to advise them of airfare increases and discounts. We in turn have been in business all these years and continue to broaden our business base because we offer our customers the best values for their money.

We adamently oppose the proposed consent decrees that will drastically impair our ability to provide the counseling of our clients so vital in our business.

President Clinton has pledged to reduce government intrusion into business, the exact opposite of this effort of these current consent decrees.

Business, especially small business, represented by Endres Travel and thousands of others like us need all the support government can provide not under cutting our ability to service and expand our business which is what the consent decrees do!

Respectfully,

Herman John Endres Jr.,

President, Endres Travel Service Inc.

Especially 4 U Travel & Tours, 7440 E. Main Street, Ste. 2A, Mesa, AZ 85207, (602) 985–4200, Phoenix (602) 264–9712, FAX (602) 396–2849.

March 1, 1993.

Mark Schechter,

Department of Justice, Room 9104, 555 Fourth Street, NW., Washington, DC 20001.

Re: Department of Justice Lawsuit against the airlines.

Dear Mr. Schechter: I feel it would hurt our ability to advise our clients on what's the best purchase for them if we were blind to what was going to happen with the airlines. I feel it is not hurting us to be informed as to what an airline is going to do with their airfares.

Sincerely,

Sabrina Lozier-Gonzales.

Eugene-Springfield, Oregon, Convention & Visitors Bureau, Inc., 305 West 7th, P.O. Box 10286, Eugene, OR 97440, 503–481–5307.

March 12, 1993.

Mark C. Schechter, Chief,

Transportation, Energy, & Agriculture Section, Department of Justice, Room 9104, 555 Fourth St., NW., Washington, D.C. 20001.

Re: U.S. vs. Airline Tariff Publishing Co., et. al.

Dear Mr. Schechter: The consent decree proposed by the Department of Justice could do serious harm to the visitor industry. If airlines and travel agents are prohibited from providing ticket purchasers with first and last ticketing dates for fares, it could dramatically affect the travel plans for those purchasers.

We urge you to reconsider this issue.

Sincerely,

Linda A. Weston,

Executive Director.

Executive Service Travel, Inc., 3803–A State Rd. 26 East, Lafayette, IN 47905, 317–448–6566.

February 23, 1993.

To: Department of Justice, Mark C. Schechter, Room 9104, 555 4th St. NW., Washington, DC 20001.

From: Johnette Davidson/Owner-President, Executive Service Travel.

Re: Fare Filings Within CRS Systems Constitutes Price Fixing by Airlines.

As the owner of a travel agency who is hardpressed to get and keep customers, I find it unbelievable the Federal Government is now going to make it impossible for our travel agency industry to serve the traveling public by removing applicability dates, ticketing deadline dates, and expiration dates on fares! We already sound like double-talking commen when it comes to airfares. Just how do you propose we handle this situation to each and every traveler: "This airfare is only good if your purchase your ticket today . . . no I can't guarantee the fare even until this time tomorrow . . . you must buy it now or risk a possible fare increase."

You are creating an impossible situation for the travel agency industry which sells over 80% of all airline seats!!!

We cannot function in such an environment.

We must have functional dates on airfares in our CRS systems!

Sincerely,

Johnette Davidson,

President.

Exec-U-Travel, Inc., 1309 E. Montclair, Springfield, MO 65804, (417) 882–2011.

February 17, 1993.

Mr. Mark C. Schechter,

Department of Justice (Room 9104), 555 4th Street, NW., Washington, DC 20001.

Dear Sir: Let this letter serve as this agency's strong objections to approving the consent decrees in the current federal lawsuit against the airline industry concerning fixed pricing through CRS signaling.

As a representative of our clients travel needs, we feel that our customers will be harmed and without the ability to make an informed travel decision, might opt to reduce their travel or not travel at all. The industry does not need judicial price regulation which is an outcome of these consent decrees.

Sincerely,

A.W. Blume III,

President/Owner.

Fairview Travel Center, Inc., 21695 Lorain Road, Fairview Park, OH 44126, (216) 333–4660.

March 5, 1993.

Mark Schechter,

Dept. of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Being a Travel Agent, I feel strongly against the proposed ruling to prevent airlines from providing complete fare information and first and last ticketing deadlines.

I use this information to inform our clients that the rates are due to change and need to be ticketed in order to obtain a particular fare. The Client is grateful I can relay this information to them, and possibly prevent them from fare increases.

This is valuable information necessary to our sales, and I object to government interference in this matter.

Sincerely,

Nancy Larson,

Travel Consultant.

Fairview Travel Center, Inc., 21695 Lorain Road, Fairview Park, OH 44126, (216) 333–4660.

February 24, 1993.

Mark Schechter,

Dept. of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Mr. Schechter, As a travel agent for the past 17 years, manager for 10 years and soon to be owner, I strongly oppose government interference.

Proposed rulings to prevent airlines from providing complete fare information, advance announcements and ticketing deadlines to both consumer and agent is a great disservice. We use those ticketing deadlines to advise clients that rates are due to change. In most cases they do change, and the client is thankful that we were able to advise them, and save them fare increases. If rates drop at a later date, we also advise that tickets can be reissued and prices refunded. All airlines hold to this rule also.

Please let free enterprise work its course. Please allow the airlines and agents to increase and decrease prices as markets and circumstances dictate, not federal dictates.

Thank-you.

Bonnie Leitch.

Fair Winds Travel

March 1, 1993.

Mr. Mark Schechter,

Department of Justice, 555 4th Street NW., Room 9104, Washington, DC 20001.

Dear Mr. Schechter: I have learned of new regulations proposed by the Department of Justice that could have very damaging consequences for travel agents and for the traveling public. I have included a background document prepared by our professional association, the American Society of Travel Agents, in regard to *U.S. vs. Airline Tariff Publishing Co. Et.Al.*

I am not writing to express a view on the merits of the Justice Department's lawsuit against the airlines, but to call to your attention the remedy proposed by the Justice Department. It seems obvious that if the terms of this remedy are applied to the entire airline industry, that consumers would be prevented from having sufficient information to plan their travel and get the best deal for their dollar.

I believe that, at the very least, the Justice Department should extend the period of public comment for the consent decree described in the attachment, because I know that most travel agents and members of the general public are not yet even aware of the severe consequences of the decree. We need more time to study this issue. Any help you could provide us in making this happen would be very greatly appreciated.

Sincerely,

Jean K. Capouya,

President.

March 1, 1993.

Mr. Mark C. Schechter,

Chief Transportation, Energy & Agriculture Section, Department of Justice, Room 9104, 555 Fourth St. NW., Washington, DC 20001.

Dear Mr. Schechter: We are very strongly opposed to the consent decrees now in litigation by the Department of Justice.

This would put an unfair burden on the airlines, and, most particularly, their passengers and travel agents.

Please reconsider this action.

Sincerely,

Mary Jane Roberts,

Farwest International Travel, Inc.

Payway Travel, Inc., 13044 Bustleton Avenue, Philadelphia, PA 19116–1698, (215) 676–3525, Telex 495–72650, Fax (215) 667–7100.

February 17, 1993.

Mr. Mark Schechter,

Depart. of Justice, Room 9104, 555 4th St NW, Washington, DC 20001

Dear Mr. Schechter: I object to the consent decree which you are requiring the airlines to sign regarding announcement of fare increases. Airlines cannot be run like a K Mart. A degree of regulation is necessary to create order in this very complicated industry.

Unfortunately, laws are passed by legalists, not travel agents, who eventually bear the burdens of these laws passed by men not familiar with the intricacies of the industry.

Very truly yours,

Fay Malissa,

President, Fayway Travel.

Fielding Travel Inc., 771 East Lancaster Avenue, P.O. Box 295, Villanova, PA 19085, (215) 527–8450.

February 16, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: It has come to my attention that consent decrees have already been signed to date by two airlines which, if approved by a Federal judge, would prevent the airlines from providing advance notice of fare increases and termination of discount sales. While the Department of Justice alleges that the major airlines are engaged in price fixing, I don't think the consent decrees were well thought out.

It is rare indeed to have price fixing on the downside since promotional pricing structures are well kept secrets until introduced. Price fixing on the upside is usually the culprit since no business wants to lose customers to a competitor's lower pricing structure. It is difficult to believe the airlines can be accused of successful price fixing when we have already lost over 80% of our carriers to bankruptcy and/or buyouts.

For the retail travel agency these consent decrees must work against our industry and are again not well thought out. For example, we develop trips for clients nine months to a year in advance to their departure and air costs are an integral part of this planning. The consent decrees would bar us from being able to advise our client of their package costs and could possible make us liable, under the law, if we did advise them.

These consent decrees are not well thought out and their side effects on the entire travel community could be very detrimental. Doesn't the Department of Justice have somebody with some marketing expertise that could point out these errors of judgement before they become fact.

Sincerely,

Richard M. Fielding.

First World Travel of La Mesa, 7520 El Cajon Blvd., Suite 302, La Mesa, CA 91941, (619) 461–9111, Fax (619) 461–4721, 1–800–453–7780.

February 17, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Department of Justice, Lawsuit Against the Airlines.

Dear Mr. Schechter: The staff and myself adamantly oppose the federal courts proposal to remove first and last day ticketing from our computer systems. It is imperative we have this information available to us in order to effectively serve our clientel.

I feel this is an unwarranted intrusion of the government into the private sector and suggest the Department of Justice become more knowledgable of the intricacies of the travel business before they enact laws without considering all the consequences.

Sincerely,

Susan L. Hatch,

President.

Flying Dutchman, 519 So. 6th Street, P.O. Box 487, Sunnyside, WA 98944, (509) 837–6600.

February 16, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

I would like to voice my objection to the proposal of stopping advance notice of fare increases to agents and customers as well as providing us with the end of discount sale dates. This would create a lack of service to our customers and would make it impossible for us to correctly quote any type of air fare. Many times a person will ask for the difference in price if they purchase a ticket today versus next week or next month and without that information for us to accurately quote a rate would be virtually impossible.

I feel this proposal would inhibit my ability to serve my customers and is jeopardizing my business as a whole. Travel and tourism is the largest in this country and a proposal of this nature would cause irreparable damage. Please reconsider this proposal.

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Sincerely,

Debby Van Belle,

Owner.

Feoruary 12, 1993.

Department of Justice, room 9104, 555 Fourth St. NW., Washington, DC 20001.

Attention: Mark C. Schechter

Dear Judge Schechter: I am writing to you as a travel agency owner in regards to the consent decrees for the airlines.

It renders us impotent with our clients to have no knowledge of fare increases nor advance notices of discount sales from the airlines. Our clients look to us as their agents to keep abreast of these matters and relay the information to them, so that they can benefit from the best savings possible.

I am respectfully requesting that you consider this matter. I am writing you today on behalf of travel agents and on behalf of the consumer. It would be a disaster to have no foreknowledge. So much time would be wasted, nonproductively and cause such frustration for the airlines, the travel agency and the consumer.

I am asking you to consider this issue very carefully and not to approve the consent decree.

Respectfully submitted,

Jan Wickersham,

President/CEO, Foresight Travel Management Corporation.

February 15, 1993.

Mr. Mark C. Schechter,
Department of Justice, Rm. 9104, 555 Fourth St. NW., Washington, DC 20001.

Reference: Against Consent Decrees.

With *constructive* government policies travel & tourism can double by the year 2005.

We at Fort Orange Travel are adamantly opposed to the Dept. of Justices' consideration of consent decrees. This will undoubtedly have an adverse affect on our personal business and tourism in general by preventing us from providing complete and professional travel counselling to our valued clients. Please reconsider—No Consent Decrees.

Mary Ann (Illegible),

Owner-operator, Fort Orange Travel.

4 Seasons Travel, Inc., P.O. Box 851, 130 W. Clark St., Albert Lea, MN 56007, Telephone 507–373–2473, FAX 507–373–1850.

February 19, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: Please forward these lines of disatisfaction to the judge in charge of the consent of decrees for the latest price-fixing suit filed against major U.S. Airlines.

We feel it is a dis-service to the consumer to eliminate information regarding the implementation and dis-continuance of specific prices of airline tickets. Other types of retail establishments frequently advertise when sale prices for their products will be dis-continued, yet no action has been taken against them.

In a time when most major airlines are struggling for survival, it is amazing that the justice department would spend time, money, and energy attacking them for price fixing! Isn't price fixing something normally done by major corporations that use the practice to make money, not loose money?

Please use your better judgement and stop this damaging suit that would be detrimental to the airlines, travel agencies, and ultimately the consumer.

Thank you.

Sincerely,

Thomas L. Atwood,

Sales Manager.

4 Seasons Travel, Inc., 1133 19th Avenue, North, P.O. Box 2862, Fargo, N.D. 58108, Phone (701) 293–8113.

February 15, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Department of Justice Lawsuit Against the Airlines.

Dear Mr. Schechter: I do not feel it is necessary for the Department of Justice to rule in favor of consent decrees:

A. Stop providing customers (and travel agents) with advance announcements of fare increases.

B. Stop providing customers (and travel agents) with advance announcements of the end of discount sales (with some limited exceptions).

The airline industry has suffered major losses in the past few years and I feel that these decrees would only add to their losses as well as to the travel agent industry.

Very truly yours,

Norma Aggergaard,

Mgr., 4 Seasons Travel, Inc.

Four Star Travel, 4849 N. Scott, Suite 18, Schiller Park, IL 60176, (708) 678–2080.

February 15, 1993.

Mark C. Schechter,
Department of Justice, Room, 9104, 555 4th St. NW., Washington, DC 20001.

Re: Department of Justice Lawsuit against the Airlines.

Dear Sir, We strongly urge to stop the government from interfering with our ability to be professional travel advisors to our clients by opposing what the Department of Justice is demanding from Airlines, which is an intrusion into our business.

Very truly yours,

Edward H. Atchu,

President.

Frain Camins & Swartchild, 300 West Washington, Chicago, IL 60606, Telephone 812–444–9797, FAX 312–444–9398.

February 10, 1993.

U.S. Department of Justice,
Judiciary Center Building, Room 9104, 555 Fourth St., NW., Washington, DC 20001.

Attention: Mr. Mark C. Schechter, Chief, Transportation, Energy & Agriculture.

Re: Proposed pricing regulations—airline industry.

Gentlemen: As a frequent traveller, who flies in excess of 50,000 annually, I am extremely dependent upon my travel agent. As a business person, I do not have time to peruse newspapers or other media in search of the lowest fare, but rather depend upon the services of my qualified travel agent to keep me apprised of the latest goings on in the industry. I would expect that my real estate clients would depend upon me for that same level of service and information in their search for property.

Please let this letter go on record as my stance as being vehemently opposed to the requirement that changes in price for airline tickets be distributed in the media before any other means, including travel agent reservation systems. This would be a discredit to the travel agency industry and a disservice to those of us who travel frequently on business.

Thank you very much for your attention to this matter.

Sincerely,

Roger F. Ruttenberg,

Senior Vice President—Retail Group, Frain, Camins & Swartchild, Inc.

Franklin Travel Agency

February 12, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001

Re: Lawsuit against the airlines.

Dear Mr. Schechter: I am dismayed by the heavyhanded consent decrees disallowing airlines from announcing fare increases and sale ends. It is your opportunity to break away from Bush administration liberal regulations and resulting economic stagnancy. It is the economy, Mr. Clinton . . . if it does well because you bureaucrats loosen the shackles (and lower taxes), it will improve then you-all will get reelected. If typical counterproductive meddling continues, the economy will limp or collapse and you may not finish the term!

Your choice.

Very truly yours,

Bill Owen,

President.

Frontier Travel, 3601 C Street, Suite 234, Anchorage, AK 99503, (907) 562–2213.

February 25, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: As a travel agency owner and manager and important customer of the airlines, I am writing to let you know that I vehemently oppose the lawsuit the Department of Justice has filed against the airlines alleging that they are price fixing. The consent decree you are asking these already suffering airlines to sign is totally unfair to them and to us, the customers.

Our job as travel professionals is to provide complete and accurate travel information to our clients. We have made major investments into CRS systems to provide this information. To inhibit fare information would be an absolute crime to the traveling public. And the most concerning factor of this consent decree is that the federal court becomes the price regulator of the airline industry.

It is my opinion that if the Department of Justice truly wishes to serve the citizens of this country in a positive manner then they should take a look at the bankruptcy laws and the absolute misuse of them in regards to the travel industry. I am still trying to understand how an airline can operate in Chapter 11 and be allowed to bottom out the price in a market, all in the name of fair competition.

Please back off of your price fixing lawsuit against the airlines. You will destroy the integrity of the travel industry.

Sincerely,

Sally Huntley,

Vice President.

Fox Travel, 440 Carew Tower, 441 Vine Street, Cincinnati, OH 45202, (513) 621–6000, Fax: (513) 621–3802.

February 15, 1993.

Mr. Mark C. Schaechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schaechter: We would like to urge you not to prohibit the airlines from providing us with advance announcements of fare increases and the end of discount sales.

It is already very difficult for small independent travel agencies to keep clients and operate profitably. One of the services we provide is to let us customers know when fares are scheduled to increase and they often buy tickets when they know a fare increase is eminent. Our letting clients know when a discount sale is ending also motivates them make firm reservations and purchase tickets.

We hope that you will see fit to rule against this additional intrusion into our business.

Sincerely, Fox Travel Inc.

Susan M. Closson,

President,

Galley of Travel, Inc., 125 White Spruce Blvd., Southview Commons, Rochester, NY 14623, Tel: 427–0920, Fax: (716) 427–8166.

February 17, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: As a dedicated travel agent trying to make a living, I have to protest the consent decrees the Department of Justice is demanding.

I have been in business for 20 years and pride in the fact that I can provide my clients with quick and accurate information on all their travel needs, especially airfares. It is hard to understand how the advance announcement of fare increases and advance announcement of the end of discount sales will affect price fixing. It will only result in confusion and mistrust, as well as loss of credibility. Consumers will be greatly affected and the travel agent industry will be dealt one more blow.

Limited reregulation of the airline industry may seem to be one solution to the problems we have encountered in the past few years; however, the consent decree issue seems an irrelevant one in lieu of so many other important issues.

I urge you to reconsider this decision and strongly express my objection to this latest government intrusion into my business.

Sincerely,

Lila A. Ford,

President.

Gaslight Travel, Inc.

February 17, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing to express my opinion concerning the Department of Justice lawsuit against the airlines. We believe that the Consent Decrees signed by some airlines will harm the consumers, travel agencies and the airlines.

If airlines and Travel Agencies are required to stop providing customers with advance notices of fare increases or dates discount sales will end, then customers will be harmed if they can't make a fully informed decision. Even now when prices increase without notice consumers get angry and many do not travel at all. If they do not travel at all, airlines and travel agencies will be harmed.

On behalf of our customers, the airlines and ourselves we strongly disagree with the limitations currently being considered on advance price notifications.

Sincerely,

David S. Harris,

President.

The First Church of Christ, Scientist, 175 Huntington Avenue, Boston, MA 02115, Telephone (617) 450–2000.

March 12, 1993.

Mr. Mark Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing to protest the decision of the Department of Justice that prevents the airlines from announcing fare adjustments in advance of first ticketing dates. Many of our employees travel on business. It is a necessity that we budget for these trips. And it is of the greatest benefit to have advanced notice of reduced fares, so as to take advantage of them.

This decision will not only penalize businesses, but will hurt the airline industry, in that almost never can a business buy immediately on learning of a reduced fare. Free enterprise allows "sales" prices to be advertised ahead in all other arenas; citing the Sherman Act in this particular instance strikes me as discriminatory.

Thank you for your attention.

Sincerely,

Harley L. Gates,

Controller.

Gateway Travel Centre, 12225—28th Street North, St. Petersburg, FL 33716, (813) 572–7700, FAX (813) 572–7457.

Mark C. Schechter:
Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: Gateway Travel would like you to be aware of our opinion of the new consent decree the Justice Department would have the airlines sign.

Perhaps you do not understand what the consumer is currently faced with when purchasing an airline ticket.

(a.) The average consumer is purchasing the deeply discounted airfares which are "non-refundable".

(b.) As the rules are now written by the airlines, these "non-refundable" fares must be purchased 24 hours after reservations are made.

(c.) The average airline ticket price starts at $300.00 per person.

(d.) The average consumer (not including the business traveler with an expense account) purchases airline tickets to visit friends and/or relatives. Time is needed to co-ordinate schedules.

This new decree would force the average consumer to make a decision for a "non-refundable" high-ticket investment in less than 24 hours. The current 24-hour requirement is already hardship enough.

We would like the Justice Department to explain the consumer benefits provided, by prohibitions airlines from publishing information regarding increases and/or final sale dates for airfares. How can a situation, where airfare quotes can only be guaranteed until midnight that day, be considered fair to the consumer?

We feel the pricing structure used by the airlines is "competitive pricing", as each company is offering the same product: transportation. If the Justice Department views this pricing as "price fixing", we are most interested in your plans for curtailing such in other businesses, such as the oil industry for a start.

Regards,

Gateway Travel Centre, Inc.

Georgetown Travel, 20 West Main Street, Georgetown, MA 01833, Telephone (617) 352–2425.

March 9, 1993.

Mr. Mark Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: The changes in faring have clearly taken away our ability to anticipate price increases and decreases. As professional travel consultants, we book 80% of all airline tickets: our clients expect us to be knowledgeable and prescient, and they trust and have confidence that we are acting in their best interests. How can we maintain this relationship if all we can say to them is buy today or there is no guarantee that this price will continue to be available. We cannot tell our customers what prices will be in effect when they travel or when a fare would expire. This is depriving the consumer of the ability to make the most effective use of his or her financial resources. Again, the consumer is being shortchanged and victimized by another capricious DOJ ruling. They do not deserve that! Providing effective date information with ticket price information is a value-added service that the travel industry must be able to provide to their clients. As a professional travel consultant I oppose the ruling and am making my concerns known via this letter.

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Sincerely,

Earlene K. Chadwick,

Owner/manager of Client Services, Georgetown Travel Agency Inc.

Gillette

March 3, 1992.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Re: Department of Justice Lawsuit against Airlines.

Dear Mr. Schechter: It has come to my attention that a lawsuit has been filed against most major airlines to stop advance announcements of fare increases and discount sales endings. I do not agree with this decision.

Because this discount information is passed on to us by our travel agent, we are able to save money on short-term trips and wisely plan major business trips that are made by our employees. In 1992, our facility spent roughly $200,000.00 on travel in the U.S. The dollars that we saved from notification of airline rate changes was significant. It is beneficial to us to receive the guaranteed rates without having the ticket run at the time of reservation. This gives us flexibility to change flight dates if necessary to accommodate our needs.

On behalf of the St. Paul Manufacturing Center, please be notified that we are very much against this consent decree and do not feel the federal court should become the price regulator for the airline industry.

Sincerely,

Elida R. Olson,

Travel Coordinator.

McKinstry Cruise & Travel Division, Global Express Travel, 120 West Dayton, Edmonds, WA 98020, (206) 771–4466.

February 17, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: Will the "tampering" by the U.S. Government into the private business affairs of airlines ever cease? The latest example is the decree which you are requiring major U.S. airlines to sign regarding the method of showing fares in CRS systems. I do not understand how the listing of fares can constitute "price fixing". On the contrary, it would appear that the system which you require through the decree will lead to much greater confusion about prices • • • so far as the general public, as well as travel agents, is concerned.

It is hard enough for travel agents to cope with the constantly changing airfare picture. This simple fact should indicate that there is no "price fixing". Nothing stays constant for very long. It is not uncommon for there to be two or three price changes in a single market in a given *day*.

We cannot serve the general public effectively unless we know all of the rules and restrictions associated with airline ticket prices. How can we get along without being able to know readily through our computer what the last date to ticket a fare is. The public will be irate if they are not given a firm parameter regarding when tickets need to be issued before prices are changing. How does this differ for a sale in any retail store which is advertised to end on a given day? How would it be if the public wasn't told when prices were going to change after a sale. Wouldn't they be a bit more than upset to go to the store and find out that the sale ended last night ("without notice").

From my vantage point as a travel agent, I find the contents of the proposed CRS decree to be very obstructive to our ability to provide a proper level of service to our clientele. I would ask that this whole matter be reevaluated.

Sincerely yours,

Sam McKinstry,

President.

Globe International Travel, Meidinger Square, P.O. Box 1529, Jamestown, ND 58402–1529, (701) 252–5757.

February 15, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

Re: Airline price announcements Ending Dates of airline rates.

Attention: Judge • • • reviewing the consent decrees—Let us do what is best for the customer.

From my viewpoint, it would be impossible to give customers good information which they need to make a decision if the airlines were restricted from giving advance announcements of airfare changes. It would be difficult to give good service if we cannot tell a client when an air fare will be discontinued.

Put yourself in their place • • • because you too are the customer. Compare it to the many inserts in your Sunday paper • • • each perhaps advertising film, juice, toothpaste, filters for your furnace. Each one tells you when the sale is over. The prices may be the same but at least I know that if I want to take advantage of the sale, I have an allotted time to do so. Some of the brands might be different just as airline companies are different but I might like going to one store over another just as a client might choose one airline over another. The bottom line is service.

What is the difference if they advertise the same price? They all have different schedules • • • different attitudes • • • different perks • • • and it is most important that the customer be the beneficiary of good information.

Do not put the customer at a disadvantage. Give us, the travel agents, the tools to provide the best service for our customers by giving them the information they need to make a decision. The prices being the same matters not. Some airlines are creative in the fare structure. If the others copy • • • so what.

Jackie Tarpinian,

Owner/Manager.

Globe Travel, 58 Perinton Hills Mall, Fairport, NY 14450, 716–223–8330, 800–356–5855.

February 19, 1993.

Att. Mark C. Schechter,

Department of Justice, 555 4th St. NW., Washington, DC 20001.

To whom it may concern: The Department of Justice has filed a lawsuit against most major airlines, alleging that they fixed prices by signalling each other of their pricing plans through advance announcements of fare increases and other fare changes. The Justice Department alleges this is being done via the computer systems vital to travel agencies to conduct business.

Two major airline have felt compelled to sign consent decrees in order to avoid a costly legal battle. This consent decree requires that airlines must:

Stop providing customers (and travel agents) with advance announcements of fare increases.

Stop providing customers (and travel agents) with advance announcements of the end of discount sales with some limited exceptions.

If the consent decrees are approved by the federal judge who is reviewing the consent decrees, our ability to provide our clients complete and professional counseling will be impaired. It possibly could be a crime for travel agents to provide this information to clients. The decree if approved would leave the American public at a great disadvantage and in the long run make for more expensive air travel.

I feel this would be government intrusion and interference in an area of our business that is a detriment to our operation of our business. Rather than help the American public this would hurt them.

We should also take a look at the present financial status of all our airlines and we can conclude that if price fixing was in their plan it has not worked.

In your deliberations I ask you to keep the above in mind.

Sincrely yours,

Donald I. Wickham.

Golass World Travel, 542 South Dearborn Street, Chicago, IL 60605, Telephone: (312) 939–2904.

February 15, 1993.

Mr. Mark Schechter,

Department of Justice, 555—4th Street, NW., Washington, DC 20001.

Re: Department of Justice, Lawsuit Against the Airlines.

Dear Mr. Schechter: As a Travel Specialist, I cannot properly service my clients without advance announcements of fare increases and date for ending discounts. Our clients invariably want the cheapest airfares and discounts are a valuable sales tool.

As an illustration, about two weeks ago our computer showed a fare of $252.00 with no expiration date shown and that the ticket must be issued within 24 hours. The next morning when I issued the ticket, the fare came out in excess of $360.00. I called the airline who explained this particular fare expired at Midnight and that the fault was the Department of Justice and the federal court for forcing this on the airlines.

My client was furious at me. As a travel specialist, I was the innocent victim of a bad law.

As a practical matter, how can we do our job without advance warning of changes in air fares???

Sincerely,

Patricia Timm,

Mgr.

Greaves Travel Inc., 311 S. Wacker Drive, Suite 950, Chicago, IL 60606, Tel: (312) 726–3222, Fax (312) 408–8070.

February 16, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Lawsuit Against the Airlines.

Dear Sir: We are constrained to write to you in connection with the forthcoming ruling on the above matter.

We understand that the Department of Justice has filed a lawsuit against most of the major airlines, alleging that they fixed prices by signaling each other of their pricing plans through advance announcements of fare increases and other fare changes.

This is absurd and we must express our concern in this matter. Apart from the fact that the decrees required by the Department of Justice will prevent Travel Companies such as ourselves from providing our clients with professional service, these decrees will be detrimental to the general traveling public as a whole.

If the argument put forward is correct then surely no company, including retail stores, can advertise a sale or special offer, if that advertisement states the duration of such a sale, as by your departments definition, that store or retail outlet will be giving advance notice of pricing to its competitors.

In closing we would like you to consider the fact that true price fixing would normally allow the parties involved to make excessive profits. This is obviously not the case as the airline industry as a whole is unprofitable and making substantial losses. Any action to further restrict this industry will damage it severely and could well result in the bankruptcy of more airlines. This would lead to fewer competing airlines and ultimately higher fares, to the detriment of the traveling public, the exact opposite of the Department of Justices intentions.

We sincerely hope that common sense will prevail and this lawsuit will be dismissed.

Yours sincerely,

Shahrookh R Cambata,

President.

Green Bay Area Visitor & Convention Bureau, Inc., P.O. Box 10596, Green Bay, WI 54307–0596 (414) 494–9507, Fax (414) 494–6868.

March 15, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Department of Justice, Room 9104, 555 Fourth Street, NW., Washington, DC 20001.

After reviewing the Department of Justice consent decree that will prohibit airlines and travel agents from providing ticket purchasers with information on ticketing dates and fares, we have determined that this would be extremely detrimental to the tourism industry. We do not feel that such a procedure should be considered price fixing, rather a service. Such a system would be a disservice to our "tourism industry" customers who travel by air. For personal and corporate budgeting purposes fare effective and expiration dates are crucial to travel planning. Therefore, this information is very important to us in the travel industry to maintain our continued growth and economic viability.

Sincerely,

James A. Van Matre,

Director of Tourism.

February 23, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street, NW., Room 9104, Washington, DC 20001.

Dear Mr. Schechter: I am the owner of a travel agency, and wanted to express my strong disagreement with your action regarding the publishing of tariffs by the airlines. In order to adequately serve our clients, we need to know when the fares will be changing—so that we can help our clients save money. I can't see how you are helping the average consumer with this ill-conceived attack on the airlines and our industry. In the first place, if the airlines were actually involved in price-fixing, they would not be losing billions of dollars and going bankrupt. In the second place, your proposed "solution" to the "problem" will only hurt the customer and those of us who serve them. Think of us as you would an independent insurance agent. We need to have access to the various fares and expiration dates if we are to be able to look for the best deal for our clients.

In today's tough economic climate, it is extremely difficult to remain in business as a small independent travel agency. Please consider the impact that your actions will have on businesses like mine and the people that I employ. Far from being e price-fixing, price-gouging industry, air travel today is a real bargain in terms of prices seen only ten or fifteen years ago.

Those of us who operate full service, ARC appointed agencies generally pay very high prices for the computer reservation systems that we MUST have if we are going to be able to do business and properly serve our clients. Now you propose to remove one of the most vital pieces of information from the systems that we are paying hundreds of dollers a month for. Please leave this system alone and direct your energies into an area where the consumers are actually being injured—such as the rampant proliferation of travel scams operated by unscrupulous con artists.

Sincerely,

James E. Klug,

Greene Travel.

GSS Travel Tours & Tickets, P.O. Box 8923, Tacony Station, 6809 Torresdale Avenue, Philadelphia, PA 19135, Phone (215) 338–7575.

February 16, 1993.

Subject: The feds vs. the airlines.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 Fourth Street, NW., Washington, DC 20001.

Dear Mr. Schechter: The problem with these "letter-writing" campaigns is the fact that bureaucratic recipients too often consider them the pleas of the special interests, and in the new Clinton Administration, there is a implied tone that the special interests will have a difficult time moving inside that "Loop" everybody seems to be talking about so as to sound really "in" and "fed"-like.

The problem with these letter-writing campaigns is that the effort is to call off the dogs.

So, in a few words, call off the dogs.

Unfortunately, the feds are doing something just as "gross" as our wonderful Pennsylvania Attorney General Ernie Preate, who, in an alleged move to advance his candidacy for Governor and get alot of ink, put a bunch of deputies (presumably for big buckos in state funds) on the assignment of attempting to sandbag travel agents in Pennsylvania, and then "expose" them for erratic (but pre-conceived and allegedly devious) handling of airline fares.

On that occasion, I wrote a nine-page letter to good ole Ernie, telling him on page after page how he was nutty as a fruitcake, or words to that effect.

He and his staff simply started with an incorrect premise, and sought not only to "prove" it but expand upon it. In short, Ernie Preate was a fool. He didn't know what he was getting into. There was no "service" to the taxpaying public, the citizenry. At the same time, he fostered an erroneous assumption to the extent that he amplified the falsity. Subsequently, I received a response going on page after page with state documentation, and the only thing I can say, other than the Attorney General's report was completely off base, is that I never heard any more about the "investigation" by that great prober, Ernie Preate. I had told Ernie to stay the hell out of the travel agency business; he didn't have any idea what he was talking about.

As for your gig, federal government, get the hell out of the regulatory industry. There is entirely too much government as everybody knows, and we don't need Big Brother filing lawsuits against airlines alleging price fixing when the airlines, year after year, have difficulty making the numbers come out satisfactorily to stay in business.

Again, in this instance, the federal government is using implied muscle to eight-ball airlines, which already have too many problems to try to keep up with this court BS. It is unfortunate that two airlines already have signed consent decrees, just to save themselves legal fees. (Certainly, I applaud the (losing) Republicans in the last election for scoring the profligate legal profession. And as it turned out, more than half of the new Administration's key appointments are attorneys!)

Get real. What the Department of Justice has done is not unlike the action of Ernie Preate. The goddam sacrosanct federal anti-trust laws certainly are applicable in many areas of industry and society, but they should not be applied universally, every time a federal lewyer thinks so. This is where human beings come in.

And when you consider Harrisburg and Washington, the quest for human beings

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amidst the bureaucrats sometimes is a fruitless search. You have too many lawyers in your shop, and they have too much idle time and have to find new ways to "earn their pay".

What you Big Brothers want is to have the U.S. court regulate airline prices.

You want to stop what had been considered routine in the industry (advance announcement of fare increases, and advance word on the end of discount fire sales). This is a very basic tool for efficiency for the travel agent, the airlines and the traveling public. It is not a tool for manipulation, as it appears you allege. We, as travel agents, need to know what the hell is going on, and we need to sound/appear knowledgeable when we discuss travel with a client. We can't do this if the state, and now the feds, are trying to get into our offices, and tell us how to run things. Stay the hell out of my travel agency.

The job is tough enough, with so many changes amidst far more competition than you preceive. It is, without question, dog eat dog as it is. And you want to get back regulating fares? That's what part of this is about.

Before you go off half-cocked, you really ought to investigate (perhaps with a Bob Woodward type, not a bunch of fee-grabbing attorneys), just what it is you think is the problem.

In conclusion, travel agents and the people we serve need to know about upcoming fare increases, and dates when fare discounts are to be withdrawn. That's anti-trust? You guys went to too many law classes. You just don't know what the travel agent's job is, just as Ernie didn't, and presumably still doesn't, although apparently now he is not chasing travel agents but rather gubernatorial campaign funds.

Price fixing?

Go to hell.

Find out the facts.

And just maybe take a look at those anti-trust laws. Should they be that sacrosanct that you guys can come off as kingmakers and world-wide regulators?

What you really have to understand, and I'm going to say it s-l-o-w-l-y for you, is that you do not understand what you are trying to do. You have done an Ernie Preate. You have started with a falsity, and enlarged it bigtime.

Erie Preate, re-visited.

Sincerely yours,

John Pierron,

CTP.

P.S. You don't have to sneak out the side door of the U.S. courtroom. Just tell 'em Ernie Preate got a nine-pager, and your shortcomings were summed up in three.

Gulf Power Company, 500 Bayfront Parkway, Post Office Box 1151, Pensacola, FL 32520, Telephone 904 444–6111.

March 4, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: Our travel agency, according to existing contract must provide our employees the lowest cost airline fare possible within time frame allowed. To do this, they frequently must reissue tickets for pending travel due to upcoming fare reductions. On the other hand, we often purchase tickets in advance for pending travel to avoid an upcoming fare increase. It is vitally important to us to be able to take advantage of such changes.

We understand from a Gannett News release that your department has ruled that the airlines can no longer signal via centralized computer their intention to raise fares. This may constitute price fixing; however, we the customer is placed in a posture of not knowing what a trip is going to cost until it is too late to change plans. Unless the fare is advertised (and only a small percentage of fares are advertised), we could make a reservation one day and find out when ticket is issued a few days later that the fare has gone up—without warning. Many times the cost of the fare determines whether a trip can be made. Our travel budget for our various locations is referenced every time travel is considered. Your action plays havoc with our budget and our travel requirements.

If price fixing must be dealt with, please take action to regulate the airline fares, not the information on fares.

Your action not only inhibits our travel plans, but also the ability of our travel agency to live up to the terms of our contract.

Sincerely,

Joseph C. Gilstrap, C.P.M.,

Senior Buyer.

Gulliver's Travel, Inc., 1211 Golf Road, Rolling Meadows, IL 60008–4202, (708) 364–6990, Fax (708) 364–0583.

February 17, 1993.

Mark Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Justice Department, 555 Fourth Street, NW., Suite 9104, Washington, DC 20001.

Dear Mr. Schechter: I am the owner of Gulliver's Travel, and as such, one of the countless hundreds of thousands of small business persons in this country trying to maintain a profitable company in today's difficult economic climate.

As a full-service travel agency, the primary benefit we have to offer our clients is service! My company subscribes to the philosophy of going that extra mile for our clients. It is by achieving this goal that we are able to attract new clients while retaining existing ones.

The proposed consent agreement that the Justice Department would have with the major domestic carriers forcing them to abolish all first ticketing dates and most last ticketing dates is harmful to both my agency and just as importantly, our clients.

We would no longer be able to advise our clients of impending fare changes, nor assist them with their travel planning by recommending when it would be financially advantageous to purchase tickets. This decree also negatively impacts on the well-being of my agency because it removes one of the best marketing incentives available to us to stimulate business.

Therefore, in the best interests of consumers and small business persons, I respectfully request that you reconsider your decision and not require the carriers affected by the anti-trust litigation to withhold data on effective fare dates.

Your consideration of this request will be greatly appreciated.

Sincerely,

Thomas R. Schedler,

President.

Happy Traveler, El Toro Road Lake Forest, CA 92630, (714) 830–8817, (714) 830–8811, (714) 586–2737 FAX, 22481–C.

January 22, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 Fourth St. NW., Washington, DC 20001.

Re: Lawsuit Against the Airlines.

To Whom It May Concern: As a business owner I am writing to let the judge who is reviewing the lawsuit against the airlines know that I *oppose* the consent decrees required of the airlines. This action would definitely impair our ability as a travel agency to provide our clients with complete and professional counseling if we are unable to provide basic travel information to our clients. It's outrageous that start and end fare dates would not be available to the agency. Travel agents and their clients need to know this information to make intelligent and informed choices in air travel arrangements without the unannounced "surprises" of fare increases, etc. Clients look to us for our expertise and knowledge to guide them. This is the value-added service that we provide to our customers. I urge you—don't take this way from us!

Sincerely,

Danuta Alle,

Owner.

H.J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230–0057.

February 25, 1993.

Attorney General William P. Barr,
Department of Justice, 10th & Constitution Avenue, NW., Suite 5111, Washington, DC 20530.

Re: Airline Pricing Investigation: Civil Action 92–2854 U.S. District Court, District of Columbia.

Dear Attorney General Barr: In addition to the comments you received from the National Business Travel Association, I'd like to add some further information on the way it will affect the H.J. Heinz Company.

If the above civil action goes through, it will make us issue tickets at the time reservations are made versus at the time of travel thereby causing the company loss of cash flow.

When we receive information on pending price increases we check to see if we have any reservations falling into the price increase parameters. Tickets are issued at that time to save the pending fare increase. This will no longer be applicable so will increase our cost of travel.

We will also be subject to increased clerical workload as more tickets will be issued, reissued, voided and refunded. We will also be subject to the $25–50 change/refund fee that will have to be paid on many of the tickets to be changed or refunded. Based on the annual number of tickets issued

here, this could cost us at least an additional $9,675/year.

The majority of businesses in operation today (including ours) usually have some type of sale. These sales almost always include a starting date and an ending date. Why should airlines be any different?

Sincerely,

Lois Biondo,

Manager-Travel Services.

Heinz Kretschmer Travel Bureau, Inc., 1600 Sylvania Ave., Toledo, OH 43612, (419) 478–8212, Fax (419) 478–5514.

February 13, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW. Washington, DC, 20001.

Dear Sir: I am very disturbed by the recent lawsuits against the airlines by your department. I feel that the consent decrees being required by the justice department from the airlines will severely limit my ability to provide complete and professional travel counseling to my clients.

Sincerely,

Charmaine Cook,

President.

Helft World Travel, LTD.—Luray Travel Bureau

January 3, 1993.

FAX to: Mr. Mark C. Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, U.S. Dept. of Justice, Washington, DC, via FAX (202) 514–4371.

Re: US vs. Airline Tariff Publishing Company, Action No. 92–2854.

Dear Mr. Schechter: I have reviewed the proposed restrictions of information in fare displays of computerized reservation systems which travel agents subscribe to, which the Department feels have served as a means of signalling between carriers to determine when a impending fare change will be offset by a like change by a competitor for the same city pair.

The proposal is founded on the mistaken notion that travel agents can function in a vacuous environment in counseling a client on a variety of choices of airline tariffs and the public has neither the right to know when a fare is either in or out of force.

The travelling public in the end is to suffer, since the lack of this information which drive the thirst for it, merely elsewhere. I submit to you that there will be other means quickly found to fill the void you intend to artificially create.

These proposed rule changes you would impose on seller and buyer come from a childlike ignorance in the how the true world market functions and reduce the market place to impotence. Your undertaking also presupposes that travel agents are unimaginative automatons, mere scribes in the reservations-ticketing phase of travel.

I submit that a more knowledge based inquiry would quickly reveal how ill conceived this proposal is. It deprives the seller of a necessary parameter to conduct business in an impartial manner, since we are not a dealer based representative of any one carrier. It would quickly debilitate an otherwise well functioning small and mostly woman owner business and deny the travelling public business information it has a right to know of.

Very truly yours,

W. Helft,

Minst Lon, Managing Director.

This fax is unsigned on account that it was prepared using a PC text process and PC installed fax modem.

Hemisphere Travel, Inc., 694 Milwaukee Avenue, Palwaukee Plaza, Prospect Heights, IL 60070, (708) 541–7575 Suburban, (312) 631–1344 Chicago, 800–323–6439 Toll Free, Fax (708) 541–7602.

February 17, 1993.

Mr. Mark C. Schechter,
Dept. of Justice, Room 9104, 555 4th St., NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing in regard to the Justice Departments lawsuit against the airlines.

This intrusion by the government will adversely affect our ability to provide customers with complete and professional travel counseling. This not only will affect our business, but I feel the government has no right interfering in this at all. I heartily urge you to find against the Department of Justice in this matter.

Sincerely,

Jack H. Golen,

President, Hemisphere Travel, Inc.

Herald Travel Service, 79 West Monroe Street, Chicago, IL 60603, Phone (312) 236–4622, Fax (312) 236–5156.

February 17, 1993.

Mark Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Justice Department, 555 Fourth Street, NW., Suite 9104, Washington, DC 20001.

Dear Mr. Schechter: We are in the business of rendering service to our clients, the consumer; and these clients rely on us to give them advice and professional knowledge about purchasing airline tickets. The fact that over 80% of airline tickets sold in the United States are now handled by travel agents indicates the confidence we have earned over the years.

The proposed consent agreement that the Justice Department would have with the major domestic carriers, forcing them to abolish all first and last ticketing dates is harmful to our clients.

We would no longer be able to advise our clients of impending fare changes, nor assist them with their planning by letting them know when it is advantageous to purchase tickets. This makes us and our service much less effective and marketable.

In the best interest of consumers and small business persons, we ask that you reconsider your decision to require the affected carriers to withhold data on effective fare dates.

Sincerely,

Harold D. Crandus,

President, Herald Travel Service, Inc.

Roslyn C. Crandus,

Treasurer.

Heritage Travel, I.B. Davis, Inc., 327 North Broad Street, Fairborn, OH 45324 USA, 513–879–5444.

February 16, 1992.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

In Re: Lawsuit Against the Airlines.

Dear Mr. Schechter: I write this letter to you, pertinent to the above, with a request that my comments be forwarded to the judge who will be reviewing the attending consent decree.

I am aware of the facts surrounding the Department of Justices' lawsuit filed against the major airlines. The end result of the consent decree signed by two of the airlines (in order to avoid further court costs) does seem, on the surface, a way to stop any implied price fixing.

As travel agents we are obliged to keep our customers (both vacation and corporate) fully aware of impending rate increases and the end of special fare offers. The only way this is possible is through the timely information we receive through our computer systems. While we recognize that as the thousands of travel agencies are made aware of this information competitive airlines can and do receive this information, also. How this equates to price fixing is not obvious to the undersigned. I do note that as one corner gas station lowers (or raises) the price of gas the others follow suit; this is also true of grocery items (advertised or otherwise). And, we are convinced this "matching" of prices is true in most "open" businesses. (Car "rebates", Appliance stores and the like.)

Were the government to carry this consent decree to its logical conclusion all commercial businesses who react to competitive advertising could be accused of price fixing. The real problem with disallowing the use of airline computer systems to disseminate information to the potential customer through travel agencies is that while it may very well delay competitive pricing by a day, in the process it will hurt the traveler who can not get information on which to make timely judgements pertinent to his or her travel needs and/or costs.

While we heartily support the government's efforts to stop price fixing, what the consent decree does, (if indeed the airline were "price fixing") is only delay it by a few hours. I must admit that I agree with the president of one airline who said "if we are price fixing, we are doing a lousy job of it as we lost seven billion dollars".

We hope you will reconsider the decree's verbiage and allow our industry to do the job for its travelling customers by not cutting out our only timely source of information. It is apparent that the "cure" the government has decided on has enough "side effects" to "kill the patient".

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Very Truly yours,

Iris B. Davis,

President.

Higgins' Travel Service Ltd., P.O. Box 269, 310 S. Barstow St., Eau Claire, WI 54701, (715) 834-2686—FAX (715) 834-2160.

February 15, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing to express my concern regarding the lawsuit recently filed by the Department of Justice against most major airlines.

The lawsuit deals with airlines notifying the public via their CRS systems of the dates air fares take effect and expire. Such information is critical to the traveling public. Without the ability to know when the fares expire we cannot inform our clients. This puts us in the position of telling our customers they must drop what they are doing and purchase the ticket on the day the fare was quoted or run the risk of losing that particular rate.

This is not at all a workable or realistic solution. I urge the Department of Justice to discontinue the lawsuit and allow airlines to share this vital information with each other and the traveling public.

Sincerely,

Joel C. Higgins,

President.

Highland Travel, 158 Railroad Street, St. Johnsbury, VT, 05819, 802-748-8306.

March 8, 1993.

Mr. Mark Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: This letter is written to express dismay with the recent DOJ backed changes to the airlines fare filing system. With carriers now complying with your consent decree on airlines pricing, I agree with the Continental spokesman who said the consent decree is "not consumer friendly because it is confusing and withholds information from consumers". The DOJ has effectively made an end run around the consumer's right to receive the best fare. It would appear that your myopic obsession with airline price fixing has resulted in a tackle of the CONSUMER. Congratulations on a touchdown for DOJ, no, for the airlines, no, for the consumer, no, wait a minute, which goal post was the DOJ kicking for anyway?

Sincerely,

Ann R. Mills,

Vice President, Highland Travel, Inc.

Hill's, 1500 - 4th Street North, St. Petersburg, FL 33704, Telephone (813) 896-7461.

February 15, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: Hill's Travel Service wishes to go on record as strongly protesting the proposed consent decrees which would forbid airlines to provide advance announcement of fare increases or the discontinuance of fares.

Such practices would seriously interfere with our ability as travel agents to provide adequate information to our customers and would constitute a total unjustified intrusion by government into the conduct of our business.

It is essential that the Department of Transportation recognize in advance the serious harm that the consent decrees would cause the travel industry. We will very much appreciate any assistance that you are able to provide in preventing this harmful action.

Yours truly,

Jean Hill Franklin.

February 15, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: Just as America's airlines are the basic form of point-to-point public transportation today, so are the travel agencies the basic method for distribution of airline tickets.

With your recent suit against major airlines, alleging price fixing etc., you are virtually blackmailing the airlines to cave in and accept your allegation—as well as cutting off the travel agents from knowing what is going on!

Does it seem right for the airlines to keep their distribution network in the dark?

We have been through a "deregulation" period of taking the government out of the price setting for the airlines. The end results are questionable—has it helped our airline industry? But it is really questionable that you now have the courage to step up and tell the airlines they cannot tell their distribution system (travel agencies) what their marketing plans are!

The "market place" was to be the determinent in the success of a given airline. Now the airlines have an additional burden—that of defending themselves from your suits.

Your "airline management by lawsuit" seems unfair. Would you consider changing your mind about this? As a travel agent looking for ways to make the airlines more successful and helping them out of the sea of red ink, I would hope so.

Cordially,

James R. Ward,

Hinsdale Travel Service, Inc.

Holiday Inn, 13351 S.R. 535, P.O. Box 22362, Lake Buena Vista, FL 32830, (407) 239-4500, 1-800-FON-MAXX, FAX: (407) 239-7713.

March 5, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555—4th Street, NW., Washington, DC 20001.

Subject: Department of Justice Lawsuit Against the Airlines.

Dear Mr. Schechter: This letter is to state my objection to the government's intrusion into the hospitality industry. The Department of Justice's demand that airlines stop providing customers and travel agents with advance announcements of fare increases and end of discount sales can and will drastically damage the hotel business. These rulings will only be the beginning, soon the federal court will become the price regulator for the airline industry and from there, possibly the hotel industry.

I am most definitely *opposed* to the consent decree.

Regards,

Dawn L. Chesko,

Director of Sales.

Holiday Travel, 2112 West 25th Street, Holiday Plaza, Lawrence, KS 66047, 913-841-8100, 1-800-346-4387, FAX 913-841-0077.

February 22, 1993.

Dear Sir: By latest statistics, the travel agency community issues 85% of all airline tickets in the USA today. Consumers count on us for information regarding restrictions, fares and routing. We are the marketing network for the airlines.

To not have the knowledge of advance announcements of fare increases and last ticketing dates at our fingertips, will greatly cripple our ability to market our perishable product. It would be like trying to sell some type of machinery or computer product without directions for assembly included with the purchase. Our discerning and more knowledgeable clientele, demand answers and deserve information to make intelligent decisions for their travel itineraries.

We have lost too many airlines in the past few years. Surely the carriers will monitor themselves in the free market. The competition is so stiff. Please allow free enterprise to work. The competition itself will weed out the weak. We are the sales force . . . for us to be hampered without knowledge would be sheer folly. We train daily to advise the consumer, please don't take our tools away from us.

The federal court does not need to be the price regulator for the airline industry. Please do not allow this industry to be crippled further by taking away the ability of the travel agency community to be the informational and dependable advocate of the consumer. Knowledge and trust are our keys for survival. We differentiate by our creativity of this knowledge.

I urge you to deny the consent decrees that are before you.

Sincerely,

Ruth Hughes, CTC,

President, Holiday Travel, Inc.

Mr. Mark C. Schechter,
Chief, Transportation Section, Antitrust Division, Department of Justice, 555 Fourth Street NW., Room 9104, Washington, DC 20001.

Re: United States vs Airline Tariff Publishing Company Action No. 92 2854.

Dear Mr. Schechter: For travel agents to properly serve our clients we must have every resource available, and this includes all fare information. The prohibitions you are placing on the airlines is harmful to my client and my business.

We sell 85% of all airline seats . . . why would we not be the first informed of any detailed fare information. We are in every community, accessible to all and able to answer all questions. Don't tie my hands.

My business is service. Much of our service is to offer opinions and options on fares. I inform clients when increases are apparent or

when special fares occur. This allows them to benefit from special discount offerings. If the airlines have to inform the media first of any fare changes, you will discourge sales and cause considerable confusion.

Please consider the inconvenience you place on the consumer and the negative impact on my small business. The proposed final judgment is not in the best interest of the traveling public.

Sincerely yours,

Anita A. Johns,

President, Holiday Travel.

Holiday Travel International, 12239 U.S. Route 30, North Huntingdon, PA 15642, (412) 863-7500, FAX (412) 863-7590, USA (800) 775-7111.

Mr. Mark C. Schechter,
Chief, Transportation, Antitrust Division, Department of Justice, 555 Fourth St. NW., Room 9104, Washington, DC 20001.

Re: U.S. vs Airline Tariff Publishing Company Action No. 922854.

Dear Mr. Schechter: Contrary to most responses that I have seen including ASTA and ARTA, I believe that the actions that you are taking regarding the pricing of the airlines is a positive step. I believe that putting an expiration date on any airline fare is a signal to other carriers to follow the originator's guidelines, of when and how much. Eliminate these signals so that pricing would be determined by demand and not carrier collusion.

I do feel that travel agents should have advance information from the airlines for any new fares, so that we could be ready to service the public.

Sincerely yours,

Phil Petrulli,

President.

Homestead Travel Inc., 7 West Main Street, P.O. Box 304, Hummelstown, PA 17036-0304, (717) 566-9561, Group Sales 566-3763, Nationwide 1-800-635-8749, FAX (717) 566-2162.

March 3, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001

Re: Department of Justice Lawsuit Against the Airlines.

Dear Mr. Schechter: I want to express my agency's concern and disagreement with the fact the Department of Justice is considering approval to the airlines which will allow them to stop providing their customers and travel agents with advance announcements of fare increases.

We are equally concerned with airlines being authorized to discontinue announcements to their customers and travel agents of the end of discount sales, with some limited exceptions.

If the decision of the federal judge is to authorize consent to the airlines, Homestead Travel's ability to provide its clients with complete and professional travel counseling will be seriously impaired.

We are appealing to the Department of Justice and the federal judge hearing the case to weigh heavily the overwhelming hardship that will be placed upon the traveling public and the travel agency community if approval in the matter is extended to the airlines.

Thanking you in advance for consideration to our appeal I remain,

Respectfully yours,

Robert N. Kelley,

President.

Homewood Travel Service, Inc., 18118 Dixie Highway, P.O. Box 1699, Homewood, IL 60430, Phone: (708) 799-5218, FAX. (708) 799-9265.

March 3, 1993.

Mr. Mark Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Justice Department, 555 Fourth Street, NW., Suite 9104, Washington, DC.

Dear Mr. Schechter: I am the owner of two travel agencies, and as such, one of the countless hundreds of thousands of small business persons in this country trying to maintain a profitable company in today's difficult economic climate.

As a full service travel agency, the primary benefit we provide for our clients is service! We all believe that in today's business environment, if everyone is "the best", then being best is not good enough any longer. Thus, it is critically important that we have all of the ammunition available to us to service our customers needs. In this business, as in many others, we not only have to retain our old client base but we must augment it with new customers all of the time.

The proposed consent agreement that the Justice Department would have with the major domestic carriers forcing them to abolish all first ticketing dates and most last ticketing dates is harmful to both my agencies and equally so, to our valued customers.

We would no longer be able to advise our clients of impending fare changes, nor assist them with their travel planning by recommending when it would be financially advantageous to purchase tickets. This decree also negatively impacts on the well-being of my agencies because it removes one of the best marketing incentives yet available to us to help stimulate additional business.

Therefore, in the best interest of consumers and small business persons, I respectfully request that you reconsider your decision and act positively by not requiring the carriers affected by the anti-trust legislation to withhold data on effective fare dates.

Your consideration of this request will be greatly appreciated.

Sincerely yours,

Arthur Stark.

February 23, 1993.

Mr. Mark C. Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street NW., Room 9104, Washington, DC 20001.

Re: United States vs. Airline Tariff Publishing Company Action No. 92 2854.

I'm certain you are receiving faxes from all over the country regarding the Department of Justice action number referenced above; what I'm not certain of is your understanding of the perception of the travel agent as a professional.

The requirement being handed down by the Department of Justice in that the media must be informed prior to any detailed fare information being sent through the existing, computer reservations systems can only harm the travel community; a community made up of many small, family-owned businesses. The essential component of the industry is service, backed and supported by current, complete information from knowledgeable, professional agents. How can we maintain this status if the media passes along sketchy, incomplete fare information to an uneducated public, as opposed to the direct lines of communication to the airlines from which we agents now benefit? We cannot advise, compare, warn, suggest alternatives—all the functions of a good, competent travel consultant.

Mr. Schechter, we must be allowed to continue to function as we have in the past—the first line of communication and information in the travel industry for the public. We must have complete information on fares and rules as they change—increases, expiration dates, time limits, regulations; we must be allowed to be the professionals we fight so hard to be.

Thank you for your time and attention.

Sincerely,

Dawn E. Hurlburt,

President, Horizon Travel.

March 12, 1993.

Mr. Mark C. Schechter,
Chief, Transportation, Energy and Agriculture Section, Department of Justice, Room 9104, 555 Fourth Street, NW., Washington, DC 20001

Dear Mr. Schechter: The consent decree filed by your department, which will prohibit airlines and travel agents from providing ticket purchasers with first and last ticketing dates for fares will punish those who travel, as well as many cities for which travel and tourism is a major economic factor.

To enforce the decree will result in a reduction of travel due to an increase in the cost of travel. It will also require the creation of still another federal bureaucracy to enforce it.

If the Department desires to serve the traveling public, you must rescind the decree and allow the airlines and travel agents to provide the traveling public with all available information.

Cordially,

Don Raulie,

Executive Director, Hot Springs.

House of Travel, Inc., 1800 S. Glenstone, Empire Bank Bldg., Springfield, MO 65804, 417 883-5244, 1-800-627-6267

February 17, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001

Dear Mr. Schechter: I am concerned with the degree of involvement that the Department of Justice has assumed concerning airlines' "price-fixing"

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If providing dates as to when airline discount fares will end is price fixing, wouldn't that apply to any sale of any retail or service industry that has a specified time period for a sale?

It is becoming extremely difficult to do business and consumers are becoming disgruntled and negative about an industry that cannot be counted on. As travel agents, we cannot provide the quality of service that our customers should expect if we are prohibited from informing them of fare changes that would affect their travel decisions.

Sincerely,

Linda Simon,

President, House of Travel.

Hudson's Travel Service

February 22, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001

Dear Mr. Schechter: Don't throw the travel industry into further chaos and profit losses!! If we allow the consent decree regarding banning advance airline pricing announcements and end date of discount sales to be approved, that's exactly what will happen.

The general public will feel we are "hiding" rates from them to create more profit. More confusion will come to an industry that is already so complex and difficult for clients to understand. Taxes, taxes, taxes and now this! Please stop this insanity!

Sincerely,

A. Carlene Howe,

ASTA President Michigan Chapter

Hyatt Travel Service Inc., Sheridan Hopkins Professional Park, 7 Hopkins Road, Williamsville, NY 14221-3584.

February 16, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: It has come to my attention that the Department of Justice has filed suit against the major airlines alleging price fixing. Since the consent decrees that two of the airlines have already felt compelled to sign are now being reviewed, I am hoping that the Judge also considers these two points:

1. The decree inhibits my ability to provide my client complete and professional travel counseling.

2. Federal courts have no business being the price regulators for the travel industry.

Yours truly,

Patricia Ryan Hyatt,

President, Hyatt Travel Service, Inc.

Hyways and Byways Travel Service Inc., 18 South Eastbourne Avenue, Tucson, AZ 85716, (602) 326-4373.

February 12, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 Fourth Street, NW., Washington, DC 20001

Dear sir: Stop, Stop, Stop, the Federal Government interference with the airlines!!!!!!

We vehemently oppose the decree to stop providing customers and travel agents with the advance fare increases and the advance information pertaining to the ending dates of discount sales.

This action cripples the travel agent from providing good service and is extremely unfair to the public (our clients.)

Sincerely,

Sandra Thompson,

Owner/Manager.

Ideal Tours Inc., 9245 S.W. 157 Street, Suite 103, Miami, FL 33157-1975, Phone: (305) 253-7066, USA: 800-283-3066, Fax: (305) 253-8559.

February 26, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, 20001

Whereas the travel agent community encounters more and more obstacles to serve the general pubic is entitled to,

And considering that de-regulation has been proven to be a complete disaster for those active in this industry

We therefore would request your attention to the fact that we as Ideal Tours vehemently oppose Federal court approval of concent decrees as signed by United Airlines and USAIR or whichever other airline has or will initiate such case as the price-fixing case.

We have already enough problems.

Thank you very much for your prompt attention.

Siegfried Guth,

General Manager, Ideal Tours Inc.

Imperial Travel Service, Indiana's Complete Travel Company P.O. Box 6009, Lafayette, IN 47903, (317) 447-9321, FAX NO. 317/448-4981.

February 16, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I understand the Department of Justice has filed a law suit against most of the major airlines for alleged price fixing.

From the information that comes into my office only (one) airline is making money and this is Southwest.

If the airlines are fixing prices then why should we stop them when American lost 935 million last year—Delta (365) million.

It would seem to me that if these airlines are fixing prices then the price fixing isn't working as intended in the face of these losses, which has been a total opposite result that occurs with price fixing.

I don't believe that making the Federal Government the price regulator which would follow for the airline industry, would accomplish anything more than to establish another bureaucratic system which finally will never work and would end only in adding to the cost of air travel. We need to kill off bureaus rather than start new ones up.

I believe the system should remain as it now is, without further government intervention.

Very truly yours,

Robert Q. Calloway,

Board Chairman.

Independent Travel Technology Association, 3333 K Street, NW., Suite 110, Washington, DC 20007, (800) 452-ITTA.

March 15, 1993.

Mark C. Schechter,

Transportation, Energy and Agriculture Section, U.S. Department of Justice, Antitrust Division, 555 Fourth Street, NW., Room 9104, Washington, DC, 20001.

Re: United States vs. Airline Tariff Publishing Company *et al.*, Civil Action No. 92-2854, (D.D.C.) (Revercomb, J.)—Comments of The Independent Travel Technology Association on the Proposed Consent Decree Between The United States and USAir And United Air Lines.

Dear Mr. Schechter: Pursuant to section 16 of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, the Independent Travel Technology Association ("ITTA") submits these comments in opposition to the proposed Final Judgment between the United States Department of Justice ("DOJ") and USAir, Inc. and United Air Lines, Inc. (hereinafter "the "Consent Decree") entered in the United States District Court for the District of Columbia.

For the reasons set forth below, ITTA objects to that portion of the Consent Decree which prohibits the airlines from providing advance notice of fare changes through the use of first and last ticket dates. The elimination of the advance notice is not in the public interest and will deny valuable information to travel agents' consumers. In light of the anti-consumer impact, ITTA specifically requests that the DOJ either abandon the lawsuit pending in the United States District Court for the District of Columbia (*United States* v. *Airline Tariff Publishing Co.*,, Civ. No. 92-2854 (D.D.C.) (Revercomb, J.)) or, alternatively, modify the proposed Consent Decree so as to ensure that the travel industry and the consumer continue to enjoy the valuable information provided by the industry's use of first and last ticket dates.

ITTA

ITTA is a trade association founded in 1992 by 24 leading travel technology companies and travel agencies. ITTA's current membership includes travel technology companies, travel agencies, providers of travel services, (*e.g.*, airlines, hotels, car rental agencies), and individuals interested in travel technology. ITTA is dedicated to the advancement of travel technology and information systems.

Software Programs

Some of ITTA's members develop and market low fare search software, which assists travel agencies in finding the lowest available fare for a particular traveler's itinerary. Travel agents and corporate customers use these software programs to repeatedly scan all fares, rules and footnotes contained in the Computer Reservation System ("CRS") and other critical databases to ensure that the passenger pays the lowest

possible fare available prior to departure. Currently, more than 20 companies are developing and marketing these programs and hundreds of companies use these or similar programs to provide the travelling public with low cost airfare. ITTA estimates that the annual volume of airline tickets that are currently subject to low fare search procedures is over $5 billion.

The first and last ticket dates are an important factor in the ability of the program to locate the low fare for the traveler. In fact, they are essential items of a quality control program, which are aimed at providing consumers with low cost air fare. ITTA members developed these programs in response to the demonstrated demand of travel agencies and consumers to achieve the lowest fares. Consumers use agencies because of the efficiency of utilizing a central source of information about airline fares and services. However, before the development of low fare search software, agencies could not be certain, in the deregulated airline environment, that they had provided their clients the absolute lowest fare from the hundreds of fares that might be available in a single city-pair. However, by utilizing computer software marketed by ITTA's members, travel agencies routinely take advantage of the first and last ticket dates to provide their customers with the lowest possible fare.

How the Programs Work and Related Benefits

Generally, most passengers make a flight reservation some time prior to actually purchasing the ticket. Once the itinerary has been booked, many travel agents and corporate consumers use low fare search software to automatically scan the CRS and other critical data bases to determine whether, among the thousands of fares in the system, a lower fare has become available for the booked itinerary. The data bases are enormous, containing as many as 50 million fares at any one time and incorporating 100,000 daily changes that affect fare levels. The low fare search process is robust, reviewing numerous elements of the fare structure, including routings, rules, footnotes, legal connecting times, and flight availability. The first and last ticket dates are an integral part of this process.

When a lower fare is found, the passenger is either automatically rebooked at the lower fare, or his name—commonly referred to as passenger name record or PNR—is placed on a queue, *i.e.*, an electronic mailbox, for a reservation agent to call the passenger and rebook the travel. Some programs also identify less expensive alternative routings, *e.g.*, rerouting over a different hub, and place the PNR on a queue for the agent to call the passenger and ask if the new routing is acceptable. If a ticket has already been issued, the PNR is placed on a queue for reticketing.

Besides assisting consumers to achieve the lowest fare, other quality control programs find the first ticket date of a future fare increase which allows agents to forewarn customers of such an increase. Many travel agents use the low fare software to search the CRS for PNRs which fall within the parameters of the fare increase—for example, with respect to flights departing after the fare increase date in a city-pair to which the fare is applicable. These PNRs are placed in queues in the CRS, which are then distributed to individual agents, who call passengers and inquire whether they desire to have the tickets issued prior to the fare increase. During the period between the publication of a fare increase in the critical data bases and the first date of ticketing of the higher fare, travel agents will often issue thousands of tickets at the pre-existing fare, saving clients substantial amounts of money.

The availability of last ticket dates allows travel agents using computer software to postpone ticketing customers until the last day of the low fare, allowing the customer to postpone committing funds and minimizing credit card finance charges. On a daily basis, the agent will run the low fare computer programs to scan the CRS or other critical data bases to see what fares expire that day. This information will be placed in a queue for the travel agent to call the customer to inform him of the need to pay for the ticket or lose the quoted fare. Some quality control software also faxes this information directly to the consumer.

The efficiency of low fare search software has allowed major travel agencies to offer "low fare guarantees" to commercial clients. Such guarantees commit agencies to refund the difference, or some multiple thereof, between the fare offered and another low fare available in the market for the traveler's specific itinerary. Agencies with such policies typically run low fare searches on each itinerary several times before ticketing.

Thus, as explained above, first and last ticket dates have important consequences in the real world of travel. The airlines use of first and last ticket dates allows travel agents to save consumers millions of dollars by issuing tickets prior to the first ticket date of a fare increase and on or before the last ticketing date of a sale or discount fare. They also allow airlines to engage in sophisticated management of their fare inventories. Without this ability, carriers would not be able to offer the highly differentiated fare structure that provides such low fares for personal and leisure travel.

Implications of Eliminating Advance Price Announcements

The terms of the proposed Consent Decree, which prohibit the advance announcement of price changes, will adversely affect the value and usefulness of the low fare software development and marketed by ITTA members. Without first and last ticket dates, the computer software will be unable to make note of pending fare changes—either up or down,—thereby eliminating one of the major components of low fare searches. Without such knowledge, the travel agent will not be able to provide its customer with a guarantee of the lowest fare, eliminating a major benefit of our software. Moreover, the consumer will be required to commit his funds at an earlier date or risk losing their opportunity to purchase tickets at the quoted fare.

The terms of the Consent Decree will not only adversely effect the economic profitability of ITTA's members, but if approved, the Consent Decree would have a detrimental effect on ITTA's customers—the travel agencies and the traveling public. Currently, travel agents quote a fare for the requested itinerary and inform the customer how long the fare will be available. This provides the consumer with the opportunity to see if a lower fare becomes available, as well as, allowing the traveler to delay committing credit until a later date. Between the time the reservation is made and the ticket purchased, the agent is always looking for a less expensive fare, often using the software marketed by ITTA members. Moreover, travel agents continue to search for lower fares even up until the time of departure.

The ban on first and last ticket dates means that the travel agents—ITTA's customers—will not be able to tell consumers how long the fare will last or when a new fare promotion will begin. Thus, there will be no guarantee that the fare booked today will be the one available when the customer goes to purchase the ticket. This is likely to lead to situations where a family makes reservations for a vacation based on a quoted fare only to find that the promotion has ended when it goes to purchase the tickets a few days later, leading to distrust of the industry, hostile feelings toward the travel agents, and possibly reduced travel.

The net result will be that the consumer loses. He can either purchase the ticket immediately, securing the quoted fare, and run the risk of missing a later discount. In addition, by purchasing the ticket early, he loses the availability of credit or cash. Conversely, the consumer could opt to delay ticketing but without any guarantee that the quoted fare will be available when she goes to purchase the ticket. Thus, she runs the risk of paying higher fares.

For the travel agent, this process likely will result in greater inefficiencies and more costs, which means lower productivity and profits. It is quite likely that customers upon learning of a lower fare will request their travel agent to cancel the original ticket and reissue a new one at the lower fare, even if a small penalty is charged or assessed. These extraneous transactions will cost the agent both time and money, preventing the agent from focusing on its main objective—providing consumers with necessary travel arrangements. Moreover, travel agencies that rely on "low fare guarantees" to attract and retain customers will either have to a) reimburse customers or b) discontinue practice. Thus, the elimination of advance announcements will raise the marginal cost of selling tickets.

Conclusion

The requirement in the proposed Consent Decree prohibiting the use of first and last ticket dates is not in the public interest. Rather, it will hurt the very consumer the DOJ alleges to be protecting by the lawsuit and will undermine the economic value of the low fare search programs marketed by ITTA members. For these reasons, ITTA opposes the consent decree and respectfully requests that the Department of Justice either drop the suit against the industry or, alternatively, modify the proposed Consent Decree to allow the consumer to continue to

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benefit from the use of first and last ticket dates.

ITTA appreciates the opportunity to submit these comments, and believes it and its members should be part of future reviews of this rule or similar studies. If you have any questions, please do not hesitate to contact us.

Respectfully submitted,

Jeffrey D. Hoffman,

Chairman, Independent Travel Technology Association.

Instron Corp., 100 Royall Street, Canton, MA 02021, (617) 828–2500, Telex–924434, Facsimile (617) 575–5750.

March 8, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I notice in the media the recent ruling by the Department of Justice regarding airline pricing intentions which are allowed to be passed on to the traveler.

In the role of Travel Manager for my firm, I'm disenchanted with the ruling. It will increase paperwork substantially, not only for our travel agent, but for my accounting staff and all our traveling employees. Under the new rulings, we have to order tickets immediately after we book the flight since this is the only way we can be guaranteed the fare. Because changes are an every-day event in business, we get large numbers of tickets that have to be canceled and credits that have to be obtained and recorded.

I appreciate anything you can do to have this ruling reversed.

Very truly yours,

Annemarie Altman,

North America Controller Instrom Corp.,

International Leisure Resources, Inc., 1542 Barclay Blvd. Buffalo Grove, IL 60089, Phone: (708) 215–1385, Fax: (708) 215–1389.

February 16, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001

Re: Airline Consent Decrees.

Dear Mr. Schechter: I have just read a memorandum issued by A.S.T.A. regarding the lawsuit brought against most of the major airlines by the Department of Justice. Through this memorandum, I have only just realized the impact such "consent decrees" would have on my ability to provide the best counseling to my clients as to when they should consider buying their airline tickets.

Through this advanced information supplied by the airlines, either through their Computer Reservation Systems or through printed media, I am able to consider certain strategies as to the arranging of their itineraries. If this information is suppressed and/or made illegal for me to divulge to my clients, it would effect them through my inability of knowing when something better may be down the road. This effect could then be realized in higher fares and/or severe penalties for their itineraries.

I would appreciate your considering the effects on the general public with reference to the above mentioned issues, if these "consent decrees" were implemented.

Sincerely,

Keith M. Trombetta,

Vice President.

Irish Cruise & Travel, Inc., 6330 SW Beaverton-Hillsdale Hwy., Portland, OR 97221, 503–297–9363.

February 16, 1993.

To: Judge reviewing the consent decrees, Department of Justice Lawsuit Against the Airlines.

Dear Judge: I am writing to you in opposition, as to my understanding, of the decree under your review issued to the major airlines by the Department of Justice.

The fundamental changes instituted by the decree to fare filing in the CRS would cause inaccurate disclosure of fares and fare rules needed to effectively do my job as a travel consultant.

The manner in which airline companies set their airfares in the CRS does not constitute price fixing. In fact, it is no different than any other price setting in our free-market system. Other industries know in advance of new fares, special rates, the dates of their commencement and termination. Why should the travel industry be subjected to such regulation when it is critical to the way in which we do business?

I also understand that under the decree the federal court becomes the price regulator for the airline industry. I object to this government intrusion into our business, keep this industry in a free-market environment!!!

Please help resolve this lawsuit on behalf of travel agents, travelers and airlines.

Sincerely,

Bonnie Beth Reed,

Travel Agent.

Irish Cruise & Travel, Inc., 6330 SW Beaverton-Hillsdale Hwy., Portland, OR 97221, 503–297–9363.

February 12, 1993.

Mark C. Schechter
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Judge: We in the travel business have had enough problems for the past few years without you stopping the little bit of advance information we get and can pass on to our clients about lower fares. If you pass this you should set only one fare and not let any airlines have a sale or be competitive at all. We agree that something needs to be done with the fares but this is not the answer. Please review this with extreme caution. Thank You.

Sincerely,

Arlene D. Irish,

Manager, Irish Cruise & Travel.

Irish Cruise & Travel, Inc., 6330 SW Beaverton-Hillsdale Hwy., Portland, OR 97221, 503–297–9363.

February 15, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001

Re: Department of Justice, Lawsuit against the Airlines.

Dear Mr. Schechter: I am writing from the point of view of the travel agent. As a travel agent, I am opposed to the consent decrees for the airline pricing that the federal judge is considering approving. The travel business is in business to sell. Like all other businesses who sell product and service they know in advance how must their product will sell for and when the price will change. With the new consent decrees being considered we will not have the same selling privilege of all other businesses. This is totally unfair and is being monitored by the government and not by free enterprise.

Please reconsider carefully before being so rash as to limit our selling ability.

Sincerely,

Lynda D. McCord,

Travel Agent.

Iseri Travel Agency, Orient & Hawaii Tour Specialists, P.O. Box 100, Ontario, OR 97914, Phone (503) 889–6488.

February 12, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

Re: Price fixing lawsuit against airlines.

I would like to voice my opinion in opposition to the action taken against major airlines.

First, let me explain that we are paid on a commission basis by airlines, tour companies, car rental companies, hotels, etc. We charge nothing additional to our customers for using our expertise in arranging their travel. Our sole source of income is from the suppliers. As such, our competitive edge is knowing our suppliers and market and using this knowledge to best advantage for the benefit of our client.

Airlines depend on travel agencies for the majority of their bookings, so we, and our clients, have a great deal at stake when major changes in the industry take place. Your actions have seriously impaired my ability to properly advise my clients. When I'm asked "when is the fare going up?", "when is the fare going down?", "should I reserve now?", my only safe answer is "I DON'T KNOW". Travel agents are professionals and as such should have access to pertinent information so we don't have to offer such an unprofessional answer.

We not only sell what our suppliers provide, we sell a degree of service unobtainable from any other source. Our clients bring repeat business and referrals in our door because of this degree of service. Elimination of advance notifications will only hurt American consumers.

It also seems to me that price fixing in the U.S. airline industry is not the problem that some people make it out to be. I have found that consumers have a keen sense for what is reasonable and what isn't where air fares are concerned. When prices rise, we sell fewer tickets, airlines fill fewer seats. Consumers know how much is too much. When fares drop, sales increase, planes are more full. When prices are cut in half (May '92), consumers go wild; they know it's a "killer deal". I believe that the consumer has a lot of control on pricing that airlines only wish they could harness.

One further note on fare wars. When a fare war begins, we are flooded with calls. We take messages and return calls to the overflow. With your new rules, we'll be working until midnight every night since we won't know if the fare is expiring or not. Every day it will be a continual process of "I don't know" answers and keeping our entire staff on overtime until midnight every night (Saturdays and Sundays included) not knowing if a fare is ending. You'll no doubt see a lot of consumers suing travel agents and airlines because they missed out on a fare. We are all busy enough without facing this prospect. Furthermore, I can't afford the overtime.

After all this "deregulation" here we have consent decrees which place our airlines under price regulation by the federal court. "Regulation under deregulation" * * * not an efficient concept.

Thanks for your consideration and for taking the time to review my opinions.

Sincerely,

Mike Iseri.

I.T.I. Travel, 2700 West Broadway, Tucson, AZ 85745, (602) 882–6000.

February 25, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: There is no Justice in the lawsuit alleging that the airlines are fixing prices by signalling each other of their pricing plans.

It is important that we, as travel agents, be able to advise the consumers when new fares are going into effect and when they will be expiring. Our efforts to serve the consumers in a professional and helpful manner have been difficult enough since deregulation. This latest intrusion into our business will make it even more impossible for us to represent the interests of the very consumers the courts are trying to protect.

I am adamantly opposed to this ill advised consent decree requiring the airlines to stop providing advance announcements and discontinued dates on fares.

Sincerely,

Mary Gilliam, CTC,

President.

Jan Cave Travel, Newport Square, suite 103, 4625 East Bay Drive, Clearwater, FL 34624, Telephone (813) 531–7706, Fax (813) 531–5555.

February 15, 1993.

Department of Justice

Re: Consent decrees—in opposition—by U.S. Airlines.

Please direct this letter to Mark C. Schechter at the Department of Justice.

As a travel agency that will be affected by the consent decrees signed by two airlines thus far, that would require the airlines to: (1.) Stop providing customers with advance announcements of fare increases, and (2.) stop providing customers with advance announcements of the end of discount sales.

We oppose these decrees. This is complete Government regulation of our business. Please note our strong opposition and send this letter on to the judge who is reviewing the consent decrees.

Yours Truly,

Jan Cave,

Owner and President of JTC of Pinellas, Inc dba Jon Cave Travel, a corporation located in the state of Florida.

Jan Whistler Travel, Ltd., (708) 398–5660, FAX (708) 398–5681.

February 12, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I am most concerned that two major air carriers have felt compelled to sign the consent decrees of the Department of Justice Lawsuit Against the Airlines in order to avoid additional legal costs and risks!

I strongly object to the government intruding in my business. In today's austere climate, my clients are very attuned to obtaining the most for less. I and my staff must be able to keep our clients informed by providing the most professional information available. Without advance announcements of fare increases and advance knowledge of the end of discount sales, our clients will be left with the impression that we know very little about the product we are selling, and they will be right!

Every department store, car dealership, computer store, or any provider of consumer goods has sales where the end of the discount sales are announced. If the DOJ feels the airlines are signaling each other their pricing plans then the entire core of marketing in the United States would be affected!

We do not want a client calling us every day to see if the fare has gone up, we do not want to provide incomplete information to our clients and we do not want our clients to make uninformed decisions.

The travel industry does not need the federal court to become a price regulator for the airline industry. Please register our agency's strong opposition to this proposed action.

Sincerely,

Dorothy M. Kucera, CTC,

President

2491 Tee St., Las Vegas, NV 89122.

Dear Sir: I am writing to protest your action to force the airline industries to stop its current system of setting and announcing fares.

Your proposal would cut tourism drastically; and since Nevada is a "tourism state" our economy would suffer significantly; we are dependent on tourism—visitor dollars. Travel agents would be unable to inform the public when fares were to be increased.

Your action would lead to inefficiencies and increased litigation costs which would then be passed on to us—the consumers in the form of higher tickets.

Sincerely,

Nora T. Jansen.

March 15, 1993.

Ms. Earlene L. Causey,
President and CEO, ASTA—American Society of Travel Agents, 1101 King Street, Alexandria, VA 22314.

Re: Opposition to Consent Decree, U.S. vs. Airline Tariff Publishing Co.

Dear Earlene: As Publishers of JAXFAX Travel Marketing Magazine, a 20-year-old travel industry trade publication distributed to 26,000 U.S. travel agencies having a combined readership of over 125,000 American retail travel agents, I wish to go on record as opposing court approval of the consent decree resulting from the lawsuit filed by the U.S. Department of Justice against eight U.S. airlines and the Airline Tariff Publishing Company.

As a management employee of two major U.S. airlines for over 16 years and as a travel industry publisher for the past 20 years, I am convinced that the Federal Government, acting through Federal judges, should not be placed in the position of having to regulate the airline fares as to their "fair value" or for any other purpose.

The supposition that major airlines are in secret collusion to set airfare levels is not realistic and—in fact—simply not possible, given the hundreds of thousands of fares currently in effect between domestic U.S. cities and from/to U.S. and foreign cities.

I consider myself an 'expert' in such matters and believe very strongly that travel agents and consumers should have full access to advance dates of fare announcements and equally important, should be made aware of 'end dates' for discount fare promotions.

JAX FAX,

Travel Marketing Magazine.

Jeanne's Travel Inc., 9605 Anderson Lake Parkway, Eden Prairie, MN 55344, (612) 941–0590.

February 23, 1993.

Mr. Mark Schechter,
Department of Justice, Room 9104, 555 4th St NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing in response to the price fixing lawsuit filed against the airlines. I feel it necessary to advise you of the negative implications this will have for the traveling public.

In order for travel agents to provide the most timely information to our customers it is necessary to advise them of the impending changes in the fare market. Most people are unable to make immediate reservations and ticket purchases without making some type of planning with family, work, business associates etc. Without advance notice of fare many people will lose out on special fares that do not have expiration dates on them. We also will not be able to advise what the "new" fare will be after a fare change. This too is a disservice to our clients. In not being able to out clients of changes not only will the traveling public lose out, but also the travel agent is unable to provide the best service possible for our customers.

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Please reconsider the implication of this lawsuit. I believe it is in the long run not benefiting the public.

Sincerely,

Patty Dressen, CTC,

Manager.

TLC Travel Service, 760 Main Street, Pennsburg, PA 18073, (215) 679–4135, (215) 234–8057, (215) 432–7808.

February 16, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 Fourth St. NW., Washington, DC 20001.

Dear Judge Schechter: I am writing to stress to you how vehemently I object to the government's interference in my business by asking the airlines to stop providing travel agents—and the public—with advance announcements of fare increases and termination dates.

How do you expect us to provide our clients with complete and professional travel counseling without this information?

Please think again before filing suits against the airlines or asking them to sign consent decrees. This is unnecessary interference into our business and we hope you will reconsider your decision.

Sincerely,

Sharon N. Sidler, CTC,

President.

JMB Travel Agency/Cruise Center, 5620 North Kolb Road, Tucson, AZ 85715.

February 25, 1993.

Mr. Mark Schechter,

Department of Justice, Room 9104, 555 Fourth Street NW., Washington, DC 20001.

Dear Mr. Schechter: Regarding the DOJ lawsuit against the airlines, we strongly resent having our hands tied. We cannot offer the consumer the best and lowest fare and the consumer satisfaction that we promised if it becomes a crime to inform our clients of the starting and ending fares. Why is this any different from notifying the consumers when the Walgreen ad expires. We do not understand your reasoning.

Sincerely,

June M. Barry,

Mgr.

Judy Peil Travel Inc., 147 North Meramec Avenue, Saint Louis, MO 63105, 314–726–2577, FAX: 314–726–2128, TELEX: 216–662.

February 17, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 901, 555 Fourth Street NW., Washington, DC 20001.

Dear Mr. Schechter: It has come to my attention that the Consent Decrees under consideration by the judge in your Price-Fixing suit against the major airlines require that airlines stop providing advance announcements of fare increases and the expiration of discount fares. This will cause irreparable damage to our clients.

The ability to tell clients that they must purchase a ticket before a certain date in order to have the lowest quoted fare is probably the most important service that we can render. It is invaluable for them to be able to plan their large expenditures with certainty. Many people plan their vacations and other travel around these dates.

Please forward my comments to the judge presiding over this case.

Sincerely,

L.H. Hamilton, II,

Director of Marketing.

Kansas State Travel Service, 226 Poyntz, Manhattan, KS 66502–0102, Telex 988397, Fax 913–537–7104.

February 17, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 Fourth Street NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing in strong opposition to the consent decrees resulting from the Department of Justice lawsuit against the airlines.

If the consumer doesn't have access to the beginning and ending dates of airfare changes, they will be deprived of information needed to make the proper decisions with their travel plans. It would be unfair to withhold this information from the traveling public.

Sincerely,

Terry Pearson,

President.

Kay Travel Service, 19912 S. Wolf Road, Mokena, IL 60448, (708) 479–2494.

February 15, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: I have been a travel agent for the past sixteen years and have owned my own agency for the past ten years. My agency has grown from a staff of two to a staff of seven during the past ten years. I feel that this growth is due to professionalism, honesty, and concern for our client's well-being. As the airline industry has become more and more volatile, our jobs have become increasingly difficult. We daily update our information through our computer system, the newspapers, and the trade magazines to try to provide our customers with the best possible service.

I am very concerned that the consent decrees that the airlines are signing due to the price-fixing lawsuit will be very detrimental to travel agents and consumers alike. If we are not allowed to know the expiration date of sale airfares, we will be forced to put pressure on our clients to purchase their tickets when they make their reservation. I feel that this is very unfair to the customer, since many of these discount fares are totally nonrefundable. The customer should be allowed the courtesy to know when a fare expires, so they can make their plans accordingly. It is unfair to the travel agent, because it makes us appear incompetent and/or high pressure sales persons. We will be unable to perform our job professionally without being able to give the customers important information such as the expiration date of a fare.

Department and grocery stores are able to advertise their sales with expiration dates, so why can't the airlines do the same? I hope you will consider the effect of these consent decrees on the travel agents and the consumers when you make your final ruling. Thank you for your time and consideration.

Sincerely,

Sharon Varel.

Kelly N-I Travel, 6352 S.W. Capitol Highway, Portland, OR 97201, Phone 503–244–1158, FAX 503–244–6928.

February 15, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Sir: You are reviewing the consent decrees furnished by airlines in response to the Department of Justice suit inferring price fixing.

I wish you had insight into the workings of this industry, where we work as long and as hard for every dollar earned as any field in this free society. You would then understand the fragile nature of what we do. The number of failed agencies (and airlines) each year give witness to this.

To approve the decrees would damage us further, as well as the people we work for—the consumers.

I urge you not to approve the decrees in this form.

Sincerely,

Clayton K. Gross,

CTC.

Capt. Guy Kleess, 4015 West Lake Creek, #21, Jackson, WY 83001, (307) 733–8816.

Mr. Mark Schechter,

Chief of Transportation, Energy & Agricultural Section, Department of Justice, Room 9104, 555 Fourth St., NW., Washington, DC 20001.

Dear Mr. Schechter: As an independent businessman and a taxpayer I would like to comment on the federal government's airline anti-trust suit.

My work involves a great deal of flying at my own expense. Being able to know which airlines are offering discounted fares in advance has been a great deal of help in keeping my expenses at a reasonable level. Operating without advance notice of discounted fares would place a large economic burden on me.

As a taxpayer I resent the federal government spending my hard earned money on what I consider a frivolous suit. I was able to obtain tickets at reasonable rates last year. The airlines named in the suits lost money last year. How was I hurt by their actions last year? If they were acting as a cartel or a monopoly they certainly were not very effective. On the contrary the general public was well served by the airlines being able to operate in an unregulated free market system.

I would like to see the Justice Department drop the suit against the airlines. Your time and my money could be better spent on other matters.

Sincerely,

Capt. Guy Kleess.

March 15, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Department of Justice, Room 9104, 555 Fourth Street NW., Washington, DC 20001.

Dear Mr. Schechter: The Greater La Crosse Area Convention and Visitors Bureau is a nonprofit organization that represents companies across the Midwest that are involved in promoting tourism.

We are very much opposed to the proposed consent decree developed by the Department of Justice in the U.S. v. Airline Tariff Publishing Co. case.

The impact of that decree in the real world will be catastrophic. Our travel and tourism industry is already impacted by user fees, taxes, and regulations that continue to constrain growth. We do not need another poorly conceived, illogical, and theoretical approach to dealing with the problems faced by our industry.

Government officials should be looking at ways to simulate travel and tourism in order to reap the economic benefits our industry provides. This consent decree would do the exact opposite. The end result would be further confusion on the part of the traveling public, reduced demand, slower economic growth, and higher unemployment.

La Crosse Area Convention & Visitors Bureau.

LaCrosse Convention & Visitor Bureau.

I would hope that the DOJ would put this proposed solution on hold and give the tourism industry more time to formulate alternative courses of action.

Thank you for your consideration.

Very truly yours,

Doug Fox,

Executive Director.

Lake Bluff Travel Center, 30 E. Scranton Ave., Lake Bluff, IL 60044, (708) 295–1590, FAX (708) 295–1376.

March 1, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: The lawsuit filed by the U.S. Government against most major airlines for price fixing could represent an unwarranted intrusion on the business of not only the airlines but also on that of many independent U.S. travel agents, who sell as much as 80% of all airline tickets. If the Government prevails, we understand travel agents will be inhibited from properly serving their customers by advising of forthcoming fare increases or the end of discount ticket sales. Travel agents would, in effect, be in the awkward position of being unable to professionally advise their clients on a timely basis as to the best and most economical fares. The Federal Court, rather than the airlines themselves, would thereby become the price regulator for the industry. Particularly in view of the present financial performance of the airline industry, this suit is counter-productive in stimulating airline competition and in returning the industry to financial health.

Very truly yours,

Ilse Crager-Lambert,

Pres. Lake Bluff Travel Center.

Lakeland Travel Agency, 32 Main Street, P.O. Box 636, Netcong, NJ 07857, (201) 347–5577.

February 19, 1993.

Mark C. Schechter,

Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

Mr. Schechter: I am writing in opposition to the recent consent decree being forced on the US airlines in regard to price fixing through the computers. Travel agents and there clients rely on the accuracy of the fare information contained in the computer reservation systems. By preventing the carriers from publishing first and last ticketing dates for fares, or setting parameters for sale fares, the Justice Department is punishing the consumer. How can we competently advise our clients as to when to purchase a ticket, when it could easily be pulled at any time. The traveling public is very confused by the present system already, this action further cloud some awfully muddy water.

What major retailer in this country *doesn't* advertise "Sale Monday Only" and let the public know well in advance. Supermarkets always put out their news circulars the week before to let the public know exactly when products are on sale. Maybe Macy's never told Gimbals', but I'm sure they read each others ads. Are we going to punish the public because airlines make this information available by computer? That's the message that this action gives.

This consent decree is blatantly anti consumer. I hope the Justice Department will review this action and truly serve the public interest. Thank you for your attention.

I remain;

Sincerely,

Thomas J. Romano, CTC,

President.

LDI, Ltd., 251 North Illinois Street, Suite 1800, Indianapolis, IN 46204–1953.

March 4, 1993.

The Honorable Mark C. Schechter, Justice,

Department of Justice, 555 4th Street NW., Room 9104, Washington, DC 20001.

Dear Judge Schechter: As a corporate client, we depend heavily on our travel agent to be informed and current regarding airline fares and procedures. It is incumbent upon any business to fly as economically as possible, and without hassle.

I am protesting the recent lawsuit filed by the Department of Justice against the airlines which states: Stop providing customers and travel agents with advanced announcements of fare increases. Stop providing customers and travel agents with advanced announcements of the end of discount sales (with limited exceptions).

The effect of the proposed policies by the Justice Department will have a significant impact on the value of service provided by our travel agent. Simply stated, it deprives us, as a consumer, of useful travel planning information and will serve to depress consumer demand.

The proposed action places the Justice Department in the role of price regulator for an industry that is already depressed.

Beyond these issues, this action is in direct opposition to our national interest in restoring a healthy economy. Why propose policies that further restrict a business's ability to compete, and put limitations on established levels of service expected by customers?

As a company with locations throughout the United States, LDI, Ltd. appreciates the watchdog responsibilities of the Justice Department. However, it is necessary to strongly express our concern regarding the impact these proposed policy changes will have. Your cooperation in listening to these concerns is important to all corporate travelers.

Sincerely,

Andre B. Lacy,

Chairman, Chief Executive Officer and President.

9404 Shipboard Ct., Las Vegas, NV 89117.

March 12, 1993.

Mark C. Schechter,

Chief of Transportation, Energy and Agriculture Section, Department of Justice, Room 9104, 555 Fourth Street NW., Washington, DC 20001.

Dear Sir: I'm writing because I'm unalterably opposed to the contemplated new fare rule making it illegal for the airlines to give advance notice to travel agents and consumers of fare changes.

I'm a retired travel agent and can tell you from experience that advance notice was the only way to service your clients properly and also avoid unfairly gouging a client due to price changes daily. This process helped keep airline prices in line.

I also object strenuously to not allowing travel agents to write the new tickets using the vouchers the airlines will give those who paid for tickets and travelled during the time of the anti-trust suit period. All the judge will be doing is giving the airlines a new promotion making this judgment or settlement a farce. The vouchers should be good on any airline involved in the suit and ought to be handled through travel agents or the airline at the consumers option.

Please tell the judge it is a mistake to pass the rule as stated above and don't price the average consumer out of airline travel.

Jean Lentini,

9404 Shipboard Court, Las Vegas, NV 89117–0242.

Lewis Travel Service, P.O. Box 400, 700 S.E. Kane St., Roseburg, OR 97470, (503) 673–6621, Telex 5106009226.

February 15, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Department of Justice, Lawsuit against the major Airlines.

Dear Mr. Schechter: We are protesting the proposed action by the Justice Department to compel the airlines to hide effective dates of air fares.

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This proposed action limits our ability to provide the consumer with important information and works very much to the detriment of travel agents and in particular to the consumer by withholding this vital information.

We protest this unprecedented government intrusion into our business. It is inconceivable how the government under the guise of protecting the consumer from price fixing, attempts to keep the consumer ignorant of what and when to purchase.

This memo is to be forwarded to the Honorable Judge who will be ruling on the consent decrees by the Airlines. Thank you.

Hans Spross,

Owner, Lewis Travel Service.

Lincoln School of Commerce, 1821 K Street, Lincoln, NE 68508, (402) 474–5315 or (800) 742–7738.

February 23, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: As a travel educator, ASTA member and former travel agent, I am concerned about the lawsuit that alleges price-fixing by airlines through advance notices of fare changes and oppose the consent decrees that will require the airlines to stop providing consumers with this advance notice.

I don't understand how advance notification of fare increases and expiration dates can harm the consumer. The computer reservation systems are tools that travel agents use to secure reservations for these consumers, as well as revenue for the airlines and income for their agencies. Reliance on the CRS to provide up-to-date information, including specific date restrictions on fares, is critical to our industry.

The airfares are volatile enough. By eliminating advance notice of fare increases and expiration dates, travel agents will not be able to make recommendations, and travelers will not be able to make fully-informed decisions. Unfortunately, many travelers will elect to "wait-and-see" what happens to the airfares, possibly resulting in *not* traveling at all.

Please listen to the professionals in the travel industry, that tell you that these consent decrees are not in the best interest of the consumer.

Sincerely,

Leslie Huerta,

Department Head, Tour & Travel.

Lyndhurst Travel Consultants, Inc., 5148 Mayfield Road, Lyndhurst, OH 44124.

February 16, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing to you on behalf of the staff of Lyndhurst Travel Consultants, Inc.

This staff is in definite opposition to the consent decree.

The travel industry has done nothing but get worse since the deregulation years ago. It has made it almost impossible to be a profitable business. The paperwork involved with the reissues of airlines tickets when the airlines have their fare wars, is ridiculous.

Now that things are deregulated, it is important that we be able to have a knowledge of effective and expiration dates for the different fare levels and also for the last date of issue for those fares. It is the only means we have of providing a complete and professional travel counseling service.

If this decree is what you want the airlines to comply to, then you should have never deregulated it years ago.

Sincerely,

Esther E. Samuelson,

General Manager.

LilliMar Travel Inc., 768 Johnson Highway, Norristown, PA 19401, (215) 275–2111.

March 5, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: Hurrah for the Department of Justice. It is about time someone tried to take control of this mess we call the Airline Industry.

First, let me identify myself. My partner and I have been in business for 12 years and for 12 years we have tried to hold on by the tip of our teeth like pit bulls. We are and have been members of ASTA.

We want you to know that we are in favor of more control in order to bring some sanity into the airline industry. Besides the pricing, let me mention another few horrors.

1. Over crowding on airline flights. Most travel like the old steerage days. Few can afford business or first class. It is a horror for elderly people with aching bones. Tall people, fat people, sick people, paranoid people. No room to move for proper circulation. This is INHUMAN.

2. The planes are dirty.

3. Not enough restrooms for the amount of people they carry. Business and First Class is a different story. It is a case of STEARAGE again for the masses.

4. The food is unsanitary and tasteless. It used to be a part of a nice trip to have lunch or dinner on board. NO MORE.

I sincerely hope that you will be able to affect some change. It would seem to me that this great United States, should have an air industry worthy of the Great Country, it represents.

You have our agency's support,

Sincerely,

Lily Giuffrida,

President,

Marion Brandon,

Treasurer.

Magellan Travel, Inc., 4146 Crossgate Drive, P.O. Box 36300, Cincinnati, OH 45236, (513) 793–9500, FAX: 513–793–7632, Telex: 495–26–47.

February 15, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Lawsuit Against the Airlines.

Dear Mr. Schechter: I am writing you to voice my serious concern about a consent decree that is being reviewed in regard to legislation which will greatly hinder the way in which I handle my travel agency and the way in which my agents and I service our clients.

If we are forced to stop providing our customers with advance announcements of fare increases and stop providing our customers with advance announcements of the end of discount sales, we will be doing them a great disservice. Is it possible that it may even be a crime for travel agents to provide this information to our clients?

As this consent decree is being reviewed, I urge you to study this and study the ramifications that will come if this decree is granted. I strongly object, along with other members of our industry, to this government intrusion into my business.

Thank you very much for your attention to this letter. All of us in the travel industry will be awaiting the decision to be made.

Sincerely,

Jackqueline M. Mack, CTC,

President.

Maha Travel International, Inc., 2701 North Rocky Point Drive, Tampa, FL 33607, Telephone: (813) 289–2525, Fax: (813) 286–2137.

Mark C. Schechter,
Dept of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

February 15, 1993.

Dear Mark: I am a concerned travel agent who feels the law you are trying to pass is ridiculous. It should not be up to the courts to control airline fares and pricing. The travel industry already has enough problems, we do not need any more to add to the burden of our job. So, please, stay out of this!

Sincerely,

Patricia K. Caldevilla,

Manager.

Mainline Travel, 14525 Highway 7, Minnetonka, MN 55345, 612–933–5700 FAX 612–939–0569.

February 18, 1993.

To: Department of Justice,
From: Ivar Siqueland, CTC.

Re: Lawsuit against the airlines.

The recent lawsuit filed by the Department of Justice against the major U.S. airlines recently appears to be one of the most ridiculous suits in recent years. If this method of marketing and pricing (through the computer) is an example of anti-trust price fixing violation then why are all the carriers struggling. It would seem to me that if price fixing were a problem then the airlines would be profitable rather than bankrupt or on the verge thereof. Furthermore, if this in fact, is an example of price-fixing wouldn't every department store that announces their 3 day sales in the newspeper be in violation.

This suit, if successful would eliminate the opportunity for the travelling public to make informed and logical decisions regarding their travel plans. It is absurd and one more

way the government will regulate the citizens of this "free" nation.

Ivar Siqveland, CTC.

Mainline Travel, 300 Prairie Center Drive, Eden Prairie, MN 55344–5382, 612–941–5400 1–800–950–1952 FAX 612–941–6940.

February 15, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Sir: As a member of the great field of tourism, I personally feel that the airlines are having a most difficult time, as well as the retail agent, in keeping our collective heads above water.

It would seem to me that perhaps, the government should deal on more constructive issues and not try to strike another blow at the airline industry.

In other words, please reconsider the "consent decree that the airlines must stop providing their customers with advance announcements of fare increases and also, stop announcing the end to discount sales". Please realize that we do need advance information because service is our business.

Please refrain from government intrusion into my business.

Yours sincerely,

Ms. Marva Nelson, CTC, DS.

P.S. The letters stand for Certified Travel Consultant and Destination Specialist—both indicate advance study of 4 years.

Mainline Travel, 680 Pittsford-Victor Road, Pittsford, NY 14534, 716–248–2530, FAX 716–248–2709.

February 15, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th St., NW., Washington, DC 20001.

Dear Mr. Schechter: My agency is in the top 10 in Rochester, New York. We are a $5MM plus agency, and we are experiencing many complaints from business and leisure travellers relating to our inability to provide advance announcements of fare increases as well as notice about the end of such prices.

The Department of Justice should stay out of such areas!

The airlines would surely fight back, but several have already given in to avoid the high cost of litigation. They are financially strapped and can't afford an expensive battle.

I hope you receive many such letters from concerned companies.

Sincerely,

Buck Schottland,

President.

Majestic Travel Ltd., 6116 Mulford Village Drive, Rockford, IL 61107, (815) 226–8900, FAX (815) 226–0261.

February 18, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing this letter to express my *opposition* to the consent decrees limiting our knowledge of fares for the airlines. This is a direct intrusion into our business. We pride ourselves in our ability to provide our clients with the best service and cost control for their travel dollar. The pending lawsuit severely curtails our ability to give complete and professional travel counseling. Under no circumstances should the federal court become the price regulator for the airline industry, or any other industry, for that matter.

Sincerely,

Lisa L. Wilhelmsen,

President.

Maki Travel Center, Inc., 5202 Washington, Downers Grove, IL 60515, (708) 852–8803, Fax (708) 852–8904.

February 19, 1993.

Mark Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Justice Department, 555 Fourth Street, NW., Suite 9104, Washington, DC 20001.

Dear Mr. Schechter: As the owner of MAKI TRAVEL CENTER, I am one of countless hundreds of thousands of small business persons in this country trying to maintain a profitable company in today's difficult economic climate.

As a full-service travel agency, the primary benefit we have to offer our clients is service! My company subscribes to the philosophy of going that extra mile for our clients. It is by achieving this goal that we are able to attract new clients while retaining existing ones.

The proposed consent agreement that the Justice Department would have with the major domestic carriers, forcing them to abolish all first ticketing dates and most last ticketing dates is harmful to both my agency and, just as important, our clients.

We would no longer be able to advise our clients of impending fare changes nor assist them with their travel planning by recommending when it would be financially advantageous to purchase tickets. This decree also negatively impacts the well being of my agency because it removes one of the best marketing incentives available to us to stimulate business.

Therefore, in the best interests of consumers and small business, I respectfully request that you reconsider your decision and not require the carriers effected by the anti-trust litigation to withhold date on effective fare dates.

Your consideration of this request will be greatly appreciated.

Sincerely,

Connie A. Semaitis,

President.

February 21, 1993.

Mr. Mark C. Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street NW, Room 9104, Washington, DC 20001.

Re: United States vs. Airline Tariff Publishing Company Action Number 92 2854.

Dear Mr. Schechter: I was advised today by my travel agent of the above proposed legislation. As a consumer and frequent traveler I am not happy with the restrictions this will place on my travel agent. I fully rely on my travel agent for my travel needs and I do not wish the burden of being the one to inform my agent of what fares currently exist versus my agent being the first to know. What's the sense in this?

It is my understanding that travel agents issue over 85% of the airline tickets in this country, thus I am not alone in my dependence (voluntarily) on my travel consultant's expertise. It is my opinion that the proposed legislation will hamper my travel agent's ability to provide me with the information I require. As a consumer and businessperson I am against this legislation.

Sincerely,

John Maller,

Owner, Ross McArthur Salon.

The Mark Travel Corp., 8907 North Port Washington Road, Milwaukee, WI 53217, (414) 351–3553.

March 12, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Department of Justice Lawsuit Against the Major Carriers—Consent Decree.

Dear Mr. Schechter: The Mark Travel Corporation, headquartered in Milwaukee, Wisconsin, is the owner of a number of travel related divisions, including Funway Holidays Funjet, a domestic and international tour operator, and Vagabond Travel, a chain of five local travel agencies. Accordingly, we interact with the major carriers as both a wholesaler and retailer. Similarly, we conduct business as both a seller of air transportation and a tour operator partner with many of the major carriers. The Mark Travel Corporation appreciates the opportunity to submit its comments regarding the proposed consent decree between the Department of Justice ("DOJ") and the major carriers which would effectively prohibit advance announcements of fare increases and of start and end dates of sales promotions.

As a tour operator, our Funway Holidays Funjet division sells both charter air and scheduled commercial air packages to travel agents nationwide. The Department of Transportation ("DOT") governs charter air transportation and requires specific disclosure of sale terms and conditions, including promotional dates, for purposes of consumer protection. While the DOT has recently examined softening the charter air regulations involving escrowing of monies and contract provisions, it is still a paramount concern that the consumer is well apprised of the terms and conditions of the charter air package he or she is purchasing.

It appears from the consent decree requirements that the same consumer protection interest is lacking in the regulation of commercial air. While the DOJ may have concluded that the major carriers were engaging in price fixing by signaling fare changes to each other over their computer reservations systems, it has not considered the effect of not requiring the carriers to post and comply with specific start/end dates for sales promotions. We believe that while the supposed signaling may be curtailed, the ability to change start/end dates and essentially cut off sales promotions on a split second will be used by the major carriers to the detriment of travel agents and consumers.

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We understand that this requirement will not apply to media advertising. This exception may effectively deter the carriers from engaging in print advertising, especially since the costs are high and carriers are looking for areas to cut cost. The carriers will then have the maximum flexibility in promoting sales over their computer reservations systems and the travel agents and consumers will be in the dark as to how long a particular promotion will last and whether to book quickly.

Tour operators who operate scheduled commercial and charter air packages will also be at a disadvantage in reacting to the marketplace and maintaining their competitive status. If the major carriers do not engage in print advertising, then tour operators, as well, will have to speculate as to the pricing component and sales duration of these carriers' programs. Charter air operators certainly have to feel at a significant disadvantage since they have to comply with extensive disclosure requirements regarding their own sales promotions as mandated by DOT regulations.

The trade press has regularly reported that certain carriers are rather begrudgingly responding to fare changes, often times complaining that carriers protected by bankruptcy laws have been given too much life. Given the turbulent time that the aviation industry is currently weathering and the varying effects that the major carriers are experiencing, it is difficult to imagine collusive and pervasive price fixing on the part of the major carriers stemming from the signalling of fare changes in computer reservations systems. These airline pricing practices have been in place in one form or another since deregulation and are furthermore found in other industries as competitive and volatile as the airline industry.

While leisure travel has maintained its popularity, today's consumers remain cautious about spending. They are also knowledgeable about their rights. Furthermore, they are looking for the best deal. This is the profile of the people travel agents are servicing today. Travel agents are trying to accommodate them by searching out the best deal, but the agents still have to relay their options with a multitude of conditions, including restrictions regarding advance booking and refundability, deposit requirements, cancellation fees, and additional surcharges and taxes. The Department of Justice's proposed consent decree will now add to this list of conditions the fact that the travel agent has no idea how long a particular promotion will run and whether the carriers are proposing price changes. A reasonable consumer may begin to question the usefulness and service orientation of the travel agent.

The Mark Travel Corporation maintains that the effect of the consent decree's provisions will be of the greatest detriment to the consumers, who will be unable to plan their travel with the knowledge that they purchased their tickets at the most advantageous time. Since fare increases would occur without warning to consumers, a fare quoted or booked today may not be available when the ticket is bought tomorrow.

The Mark Travel Corporation appreciates your consideration of its comments.

Very truly yours,

Greg R. Takehara,

General Counsel, The Mark Travel Corporation.

Martin's Travel, 12821 Mountain Avenue, Chino, CA 91710, (714) 591–8491, 2764 Hamner Avenue, Norco, CA 91760, (714) 270–6180.

February 24, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, D.C., 20001.

Dear Sirs: We at Martin's Travel want to express our objection to this government intrusion in our business. By filing this lawsuit against most of the major airlines, alleging that they fixed prices by signalling each other of their pricing is ridiculous and effects all of this in the Travel Business. If this is approved we won't be able to provide our clients complete and professional travel counseling.

Sincerely,

Barbara Martin.

Office of Travel & Tourism, 100 Cambridge Street, Boston, MA 02202, (617) 727–3201, FAX: (617) 727–6525.

March 5, 1993.

Mr. Mark C. Schechter,
Chief, Transportation Energy, and Agriculture Section, Department of Justice, Room 9104, 555 Fourth Street, NW., Washington, D.C., 20001.

Dear Mr. Schechter, I am writing you today to express my concern about the proposed consent decree, resulting from the recent U.S. v Airline Tariff Publishing Company.

I am the Travel Trade Services Coordinator for the Massachusetts Office of Travel and Tourism, the state agency mandated with the promotion of the Commonwealth of Massachusetts as a tourist destination. The advent and implementation of such a policy would most certainly be detrimental to tourism throughout the United States.

The public must be given ample time to assess and comment on the DOJ action, as they are the ones who will be most directly affected. Although the ultimate objective of the action is to protect the public interest, as written it will only serve to confuse and complicate the fare issues, thus adversely affecting the entire industry.

It is not my intention to say that changes are unnecessary, simply that the decree, as written, will serve to damage the industry and anger the public.

The government should be looking for ways to stimulate the travel and tourism industry which has as much potential to provide economic benefit to all areas of the country as any other industry. I ask that time be given for the industry to seek alternative solutions to this problem which could have a less detrimental effect than the proposed DOJ action.

I thank you for your time and consideration.

Sincerely,

Fred Clifford,

Travel Trade Services Coordinator, Massachusetts Office of Travel and Tourism.

Office of Travel & Tourism, the Commonwealth of Massachusetts, 100 Cambridge Street, Boston, MA 02202, (617) 727–3201, FAX: (617) 727–6525.

March 24, 1993.

Mr. Mark C. Schechter,
Chief, Transportation, Energy and Agriculture Section, Department of Justice, Room 9104, 555 Fourth Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing in response to the proposed consent decree developed by the Department of Justice in the U.S. v. Airline Tariff Publishing Co. case.

As the Director of the Massachusetts Office of Travel and Tourism, the state's marketing office, we are very much opposed to this consent decree for several reasons. As it stands now, the travel and tourism industry is effected by rules and regulations on airfare, car rentals, accommodations and just about anything related to the business. Imposing more restrictions and constraints on the travel industry would severely limit the business and inhibit economic growth. More regulations would lead to increased costs and inefficiencies passed directly on to the consumer, thus, resulting in fewer travelers, decreased revenues and eventually unemployment.

Our goal in this business should be to make travel accessible, uncomplicated and attractive for the consumer. More confusion and higher costs imposed on an already highly regulated industry would be destructive. We urge the government to work with the industry, not only assisting the consumer, but serving as a catalyst, spurring increased travel.

We hope that the Department of Justice reviews this case with all the consequences in mind and will work with the travel and tourism industry professionals to formulate a solution that could benefit all.

Sincerely,

Sarah Graham Mann,

Director, Massachusetts Office of Travel and Tourism.

Mary Lohan McNellis, 560 Braemar, Naperville, IL 60563.

February 3, 1993.

Dear Mr. Schechter, On 2/28 I read an article in the Chicago Tribune regarding the suit filed by the Justice Department concerning airfare.

Yesterday I placed a 24 hour hold on 7 tickets for a family vacation. The ticket agent told me that the fare would probably expire at midnight tonight. The quoted fare sounds quite reasonable so I appreciated her warning. Because of that warning I was able to urge all members of my family to see if they can get vacation time. If I did not know about the possible expiration of the fare I might have felt less urgency in finalizing my plans.

Medfield Travel Service, Inc., 511 Main Street, P.O. Box 126, Medfield, MA 02052, Boston (617) 326–7295, Medfield (617) 359–7953.

March 3, 1993.

Mr. Mark Schechter,
Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: The changes in faring have clearly taken away our ability to anticipate price increases and decreases. As professional travel consultants, we book 80% of all airline tickets; our clients expect us to be knowledgeable and precient, and they trust and have confidence that we are acting in their best interests. How can we maintain this relationship if all we can say is buy today or there is no guarantee that this price will continue to be available. We cannot tell our customers what prices will be in effect when they travel or when a fare would expire. This is depriving the consumer of the ability to make the most effective use of his or her financial resources. Again, the consumer is being shortchanged and victimized by another capricious DOJ ruling. They do not deserve that! Providing effective date information with ticket price information is a value-added service that the travel industry must be able to provide to their clients. As a professional travel consultant I oppose the ruling and am making my concerns known via this letter.

Yours very truly,

Helen M. Reynolds,

Owner/Manager, Medfield Travel Service, Inc.

Mercury International Travel, Inc., 10 Rockefeller Plaza, New York, NY 10020, Phone 212–586–4081, FAX 212–265–5998, Telex 4955044 MERC UI.

February 23, 1993.

Mr. Mark C. Schechter,
Chief Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street NW., room 9104, Washington, DC 20001.

Dear Mr. Schechter: I attach a suggested letter from ARTA, an Association of Retail Travel Agents of which we are a member.

Suffice it to say, that if you as an individual were calling upon anyone in any industry to provide a "best service" you most certainly would wish them to have full background information at their disposal.

The fact is that the DOJ is simply not applying a professional mentality in their approach to this specific program. Oversight by government has some value but without proper judgment it is totally destructive and this is the situation in this instance.

Very truly yours,

William B. Parkinson,

CTC Chairman of the Board.

January 20, 1993.

FAX, 703 413 2225,
Association of Retail Travel Agents, Attn: Adriane D. Green.

In response to your Fax concerning the unwarranted position of the Department of Justice regarding airline price fixing, we agree with your comments 100% and were in fact wondering how best we could present our objections to the interception of our responsibilities towards our clients and indeed to the airlines.

Obviously the U.S. Department of Justice is trying to prevent the airlines from warning and advising travel agencies and consumers in advance of airline price increases or decreases. Obviously we must be totally against this because it will make it virtually impossible to plan and budget travel arrangements. It is imperative that we continue to receive the information as soon as it is determined by the airlines as to applicable fare changes and any other pertinent information which permits us to properly serve our clients.

We would add that if the Department of Transportation is "doing their job" they will communicate this information to the Department of Justice and ask them to discontinue interfering with their responsibilities as they are obviously working cross purposes.

Extremely concerned.

William B. Parkinson, CTC

Chairman of the Board, Mercy International Travel, Inc.

Middlebury Travel, 9 College Street, Middlebury, VT 05753, Telephone (802) 388–6768, In-State toll free 800–640–6768, FAX 802–388–2994.

March 22, 1993.

Mr. Mark Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: The changes in faring have clearly taken away our ability to anticipate price increases and decreases. As professional travel consultants, we book 80% of all airline tickets; our clients expect us to be knowledgeable and prescient, if all we can say to them is buy today or there is no guarantee that this price will continue to be available. We cannot tell our customers what prices will be in effect when they travel or when a fare would expire. This is depriving the consumer of the ability to make the most effective use of his or her financial resources. Again, the consumer is being shortened and victimized by another capricious DOJ ruling. They do not deserve that! Providing effective date information with ticket price information is a value-added service that the travel industry must be able to provide to their clients. As a professional travel consultant I oppose the ruling and am making my concerns known via this letter.

Sincerely,

Terry Parker,

Manager, Middlebury Travel Management.

February 21, 1993.

Mr. Mark C. Schechter,
Chief Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 4th Street NW., room 9104, Washington, DC 20001.

Re: United States v. Airline Tariff Publishing Company Action Number 92 2854.

Dear Mr. Schechter: I was advised yesterday by my travel agent of the above pending legislation. As a frequent traveler I must protest the restrictions that will be placed on my travel agent in providing me with fare information.

I rely on my travel agent to know the fares and all restrictions. I do not wish to have to open the newspaper and figure it out myself; that is why I employ the services of a travel agent. I understand that travel agents issue over 80% of the airline tickets in this country, thus I am not alone in my desire to rely on my travel consultant's expertise. It is my opinion that the proposed legislation will hamper my travel agent's ability to provide me with the information I require on a weekly basis. I want to go on the record as a consumer against this legislation.

Sincerely,

David Midlick,

President.

Monroe Travel, Monroe Plaza 19983, SR 2 Monroe, WA 98272, 206–794–7887, 800–527–7390.

February 19, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I object to government intrusion into my business in regards to airline regulation where they cannot

a. provide customers with advance announcements of fare increases or

b. provide customers with advance announcements of the end of discount sales.

With these new laws we cannot as travel agents provide our clients complete and professional travel counseling.

Please reconsider this new law.

Sincerely,

Deryn J. Fulton,

Owner, Monroe Travel.

Mooretours International Inc., 132 West 9th, P.O. Box 507, Hays, Kansas 67601, 913/625–7515, or 913/625–7600, Fax 913/625–7574.

February 18, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Hon. Mark C. Schechter: I am writing to express my concerns regarding the proposed restrictions to be placed on airlines regarding pricing. If these restrictions are imposed, our customers will be harmed and greatly limit their travel if we are not able to give them information to enable them to make fully informed decisions. We do not need more restrictions on an industry already so heavily burdened and struggling to survive in today's market.

Sincerely,

Georgia Moore,

President, MooreTours International Inc.

Mooretours International Inc., 132 West 9th, P.O. Box 507, Hays, Kansas 67601, 913/625–7515, or 913/625–7600, Fax 913/625–7574.

February 20, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Hon. Mark C. Schechter: I wish to express my concerns regarding the proposed restrictions to be placed on airlines regarding pricing, the advance notice of fare increases, decreases etc.

If these restrictions are imposed, our customers will be harmed and greatly limit their travel if we are unable to give them information to enable them to make informed

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decisions regarding their travel plans. We deal with individuals in our area who are concerned about the costs of services and will not travel if they are not given all information pertaining to the choices available to them.

Our industry is already heavily burdened with rules and regulations. We do not need more regulations in today's market.

Sincerely,

Kate Schmidtberger,

Office Manager.

Moore Travel, 530 First Street, Encinitas, CA 92024, (619) 436–1168.

March 2, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9102, 555 4th Street NW., Washington DC 20001.

Dear Mr. Schechter, This is to inform you that the agents at this agency object to the consent decrees which would allow airlines to stop providing customers and travel agents with advance announcements of fare increases and that also allows them to stop providing customers and travel agents with advance announcements of the end of discount sales.

We feel that these decrees are an intrusion upon our ability to provide our clients the most complete and professional service.

We would appreciate your taking these comments into consideration.

Sincerely,

Yoland Wallig,

Owner/Manager.

Jane Fischer,

Travel consultant.

Kaley Martinez,

Travel Consultant.

Brenda Scott,

Travel Consultant.

Carol LeBoef,

Travel Consultant.

Morris Travel, Corporate Headquarters, 240 East Morris Avenue, Salt Lake City, Utah 84115–3200; 801/487–9731; Fax 801/483–6677.

March 15, 1993.

Mr. Mark C. Schechter,
Chief, Transportation, Energy and Agriculture Section, Department of Justice, Room 9104, 555 Fourth Street, NW., Washington, DC 20001.

Re: *United States* v. *Airline Tariff Publishing Co., et al.*; Civil Action File No. 92–2854.

Dear Mr. Schechter: On behalf of Morris Travel, and as a consumer, I am writing to voice my strong opposition to the lawsuit filed by the Department of Justice against the airlines and the proposed Consent Decree that the government is seeking to impose on the industry. In our view, the Consent Decree would have a profound negative impact on consumers, our customers, and the travel industry. As you no doubt are aware, agencies such as ours are the main connection between the passenger and the airline, and not incidentally, we are the individuals who have to deal with the traveling public and we are held accountable by our customers. We respectfully request the decree not be approved by the court.

Morris Travel is a full-service travel agency headquartered in Salt Lake City, Utah. We currently operate 22 offices in Utah and Idaho, employing over 400 people and generating in excess of $140 million in annual sales.

We understand that the Consent Decree would prohibit the domestic carriers from giving advance notice of fare increases to passengers and travel agents. In addition, we understand that the Consent Decree would place severe restrictions on the ability of airlines to run short-term sales and notify consumers when they will end. These prohibitions, we believe based upon our experience, would have a devastating effect on consumers, the industry and our business, for several reasons.

First, neither airlines nor travel agents would be permitted to warn passengers and potential passengers of the date of a pending airfare increase. This prohibition will undoubtedly result in many persons who make reservations for a trip at a quoted price being forced to pay more for the ticket because prices went up, without notice, before purchasing the ticket. Any suggestion that travelers can protect themselves by simply purchasing the ticket at the time the reservation is made is not an acceptable solution. Many travelers change their reservations several times before actually purchasing the ticket, while many others simply do not have the money available to purchase the tickets at the time the reservation is made.

One of the services we regularly offer our customers is advice of pending fare increases. Through our newsletters and "blast faxes" we advise customers when an airline is planning an increase and suggest they buy now and save. This is of particular concern with the many small and family owned businesses in Utah and Idaho. There is a pioneer ethic here and the vast majority of our business travelers are from the small and family owned enterprises. Cash flow and cost savings are everything to these companies. By allowing a traveler the ability to hold off ticket purchase, we help their cash flow, and in many cases, reduce interest payments on their credit line.

I received a call today from a client expressing their frustration of their inability to plan their travel purchases effectively as they feel they must now buy everything on the spot. This company regularly changes reservations prior to departure. Morris Travel now must issue and deliver tickets with every change to prevent unknown fare increases. This is costly to our agency as we receive no additional compensation for our work, time, and expense.

Perhaps the most serious consequence of the proposed rule changes prohibiting advance notice of pending airfare increases is the inability of travel agents to advise clients savings for their companies.

Second, consumers would be denied any information about when a promotional or lower fare, would end—unless an airline advertised the same information in media of general circulation. Because of the high cost of advertising, airlines would be unable to publicize more than a fraction of promotional fares. We believe that many promotional fares may never be initiated by the carriers because of this additional cost. Moreover, if the advertising is meant to provide notice to the passenger or travel agencies such as ours, I can tell you that we sell tickets over a very wide section of the country and reviewing advertising, or attempting to keep track of advertisements, is not a realistic means of providing information to us or the traveling public. Certainly advertising in Salt Lake will not tell travelers in Los Angeles about a fare to Chicago that may be available, and neither will advertising in Salt Lake provide information to a passenger in Tokyo who is flying to Los Angeles. This requirement of the Consent Decree seems like a needless and thoughtless exercise.

Of particular concern to consumers and agents in the Mountain West is the distance many must travel to purchase airline tickets. Given the many credit card scams and the liability of agents who take credit card sales over the telephone, most agencies will only accept credit card sales when the actual plastic card is presented. Inasmuch as airlines will not be permitted to advertise effective dates for their discount promotions, many consumers are concerned they will miss unknown ticketing deadlines. They are afraid the promotion will end before their check can arrive in the mail or before they are able to drive to a travel agency. Although this is the exception and not the rule, some customers are forced to drive anywhere from 100–200 miles round-trip from rural areas.

Without knowing the effective ticketing dates, rural consumers are disadvantaged and sometimes reallistically prohibited from taking advantage of discount travel offers.

As travel agents we are placed in the uncomfortable position of not being able to really take care of our clients and advise them regarding fares. We can only say, "This is the price today and I have no idea when this offer will expire." Perhaps it is not a pressing concern for those in a metropolitan area, but for agents and consumers in geographically displaced areas, the proposed rules are a nightmare.

Third, consumers would be denied the ability to plan and budget their vacations. Many consumers that our agency deals with prefer to postpone purchasing airline tickets until the last moment in order to minimize their credit card finance charges. Under the new policy proposed by the government, consumers could do this only at the risk of being forced to pay a higher fare.

Fourth, we believe that the remedy sought by the Department of Justice would actually increase the cost of airline travel. As noted above, curtailing the discount promotional fares would directly cost consumers more. In addition, this re-regulation of the industry proposed by the Department of Justice would undoubtedly increase the airlines' cost of doing business, which would ultimately be passed on to consumers.

Our clients rely on our professional advice and assistance in helping them to secure their air travel at affordable prices. Prohibiting advance announcements will severely limit the information we can provide to our customers, who in turn will be unable to make informed decisions. As I indicated, we are the ones who hear directly from our customers about their complaints. Since some of the airlines have started not using first and last ticket dates we have experienced customer complaints implicating Morris Travel as the source of not providing ticketing date information. In particular, clients are unable to purchase their air tickets at times convenient to them but feel compelled to rush in that day. In some cases, we see people forgoing travel because of their inability to purchase tickets in a timely and convenient manner. This is particularly true in rural Utah and Idaho.

We therefore respectfully request that the Consent Decree not be approved, and that the airlines continue to be allowed to advise the public in advance before fares go up and before promotional fares are terminated. The information we presently receive, even though on occasion it may be changed, at least gives us and our customers information upon which we can advise them that a fare may end and a new fare may appear. The system you have proposed leaves us in the blind.

Sincerely,

Larry Gelwix,

Executive Vice President, Industry Relations.

MTA Travel, Inc., General Offices, P.O. Box 1079, Holland, Michigan 49422–1079, 616–396–1492.

February 15, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Judge Schechter: It has come to our attention that the Department of Justice is alleging that most of the major airlines are price fixing through signaling each other of pricing plans. We do not understand why the airline industry is being singled out for advising its clients and travel agents when the "sale is over", when other businesses do this routinely.

If the airlines were guilty of price fixing through collaboration, the prices would be set high enough to enable them to make a profit. *No other industry demonstrates such* foolhardy fairness to our clients as to reissue higher priced tickets at lower prices because fares have been lowered.

In order for us to service our clients we must and should know when sale prices will be terminated and fares increased. We object to this government intrusion into our business where it has no benefit to the public but puts an undue restraint on an already essential, struggling industry.

Respectfully,

Kenneth N. Zuverink,

Director of Marketing.

6318 Apple Lane, Freeland, WA 98249–9463.

08 March 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 – 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: It has come to my attention that the Department of Justice is preparing to file a suit against the major airlines, alleging price-fixing by them.

Although now retired and my frequent business travels are over, I still intend to do a lot of traveling by air, and depend on my travel agent to provide me with the latest information on best schedules and prices.

The planned suit by the Justice Department, as I understand it, will halt advance information to the travel agents, thereby negating timely and necessary information for them to be passed on to me, their client, for my benefit.

I submit the planned suit is unnecessary and contrary to the best interests of the consumer.

Sincerely yours,

Jan Denis Mulder.

Muscatine Travel, 104 W. Second Street, Muscatine, Iowa 52761; Phone (319) 263–9131, 1–800–543–9036.

February 23, 1993.

Mark Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Justice Department, 555 Fourth Street, NW., Suite 9104, Washington, DC 20001.

Dear Mr. Schechter: It has recently come to my attention that the Justice Department has issued a proposed consent decree that would require the major domestic airlines to no longer make available to travel agencies the first and most of the last effective dates in their fare filings. This would be disastrous for my company.

As the manager of Muscatine Travel, I wish to go on record to protest in the strongest possible terms, this proposed resolution of the price-fixing lawsuit against those carriers. The effective dates of fares are vital pieces of information that my agents need to have access to if we are to have the ability to properly assist travelers with their planning.

Travel agencies do not have a tangible product to sell. What we have to offer our clients is service! To remove one of the prime pieces of information our clients require for them to be able to make efficient and economical travel plans, lessens our usefulness and impairs our efforts to provide timely data.

I urge that any fair reconciliation of this litigation not include provisions which would harm the public's ability to be selective in their travel planning. The settlement, as currently proposed, will injure both consumers and travel agencies.

Your consideration of this request is greatly appreciated.

Sincerely,

Fran Johnston,

Manager.

Naperville Travel Bureau, Washington at Gartner, Naperville Plaza, Naperville, Illinois 60540; (708) 375–0400.

February 19, 1993.

Mark Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Justice Department, 555 Fourth Street, NW., Suite 9104, Washington, DC 20001.

Dear Mr. Schechter: It has recently come to my attention that the Justice Department has issued a proposed consent decree that would require the major domestic airlines to no longer make available to travel agencies the first and most of the last effective dates in their fare filings. This would be disastrous for my company!

As the owner of Naperville Travel, I wish to go on record to protest in the strongest possible terms, this proposed resolution of the price-fixing lawsuit against those carriers. The effective dates of fares are vital pieces of information that my agents need to have access to if we are to have the ability to properly assist travelers with their planning.

Travel agencies do not have a tangible product to sell. What we have to offer our clients is service! To remove one of the prime pieces of information our clients require for them to able to make efficient and economical travel plans, lessens our usefulness and impairs our efforts to provide timely data.

I urge that any fair reconciliation of this litigation not include provisions which would harm the public's ability to be selective in their travel planning. The settlement, as currently proposed, will injure both consumers and travel agencies.

Your consideration of this request is greatly appreciated.

Sincerely,

Robert H. Poole,

President, Naperville Travel Bureau.

National Business Travel Association, Inc., 1650 King Street, Suite 301, Alexandria, VA 22314; (703) 684–0836, FAX (703) 684–0263.

March 11, 1993.

Mr. Mark C. Schechter,
Chief, Transportation, Energy & Agriculture Section, Antitrust Division, Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: *U.S.* v. *Airline Tariff Publishing Co.*; Proposed Final Judgement and Competitive Impact Statement.

Dear Mr. Schechter: These comments are submitted by the National Business Travel Association (NBTA), regarding the Proposed Final Judgement and Competitive Impact Statement (CIS) referred to above which was published in the **Federal Register**, Vol. 58, No. 7 (Tuesday, January 12, 1993).

NBTA is the largest U.S. Association representing volume commercial purchasers of travel services in all 50 states as well as internationally. Major U.S. airlines estimate that business travelers account for 40% of all seats purchased, and nearly 60% of total revenues. Direct Members include 889 travel managers for corporations, other companies, associations, and partnerships, as well as non-profit, multinational, and other organizations. Affiliated members include nearly 6,400 business professionals and 41 regionally based organizations. By most recent estimates, NBTA members account for nearly $30 billion in total annual travel purchases, including airline transportation.

NBTA is a membership organization, and monitors public policy issues which are directly relevant to our members, including possible changes in regulations, such as the Department of Justice (DOJ) Proposed Final Judgement.

NBTA and its members support a vigorously competitive and financially viable air passenger transportation system. Competitive air passenger pricing is vital to assure that reasonable choices are available

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for business consumers and all other travelers. A healthy and vibrant air transportation industry is essential both U.S. and worldwide commerce.

NBTA has reviewed the Proposed Final Order and CIS from that perspective. NBTA has not had access to DOJ data, research, or studies underlying its allegations of anti-competitive behavior and cannot comment on the validity of the Department's allegations or conclusions.

NBTA is strongly opposed to collusive and/or other anti-competitive behavior which might result in higher fares for business travelers. However, as now structured, the proposed Final Judgement will have a substantial impact on NBTA members and all other travelers.

Unless Revised, the Decree Will Unfairly Increase Business Air Costs

When airlines announce fare increases, either system-wide or for specific city-pairs, agencies can scan all existing Passenger Name Records (PNRs) for records that involve that airline or city pair. When they identify PNRs which have not been ticketed [1] agencies can issue tickets to lock in the lower fare prior to the scheduled first ticketing date.

The converse practice is also possible. Agents can review all tickets scheduled to be ticketed before a fare decrease to determine whether a delay in ticketing might result in savings for their customer.[2] These practices help produce meaningful savings for our members and all business travelers.

For example, in the last "Fare War" last May and June, agencies specializing in commercial travel management (as well as many retail agencies) were required to work many long hours to accommodate requests, analyze PNRs, and re-issue tickets in order to produce savings for clients. Hundreds of thousands or millions of tickets were either delayed until the first ticketing dates ot announced discounts or canceled and re-issued to realize millions of dollars of savings.

Business travelers and their companies need advance information on fares in this era of repeated business fare increases and numerous restriction on ticketing. We need to know beforehand whether fares are or are not effective, especially in planning meetings and other scheduled business activities. Surprises in the form of unexpected fare increases would be highly disruptive and costly.

Accordingly, NBTA opposes the specific remedy proposed in the decree as impractical and contrary to the interests of business travelers and their companies. However, there may and should be alternative techniques and regulatory oversight to avoid the harmful effects alleged in this case.

NBTA appreciates the opportunity to submit these comments, and believes it and its members should be a part of future reviews of this rule and similar studies. If you have any questions, please do not hesitate to contact me in order to arrange a meeting with the NBTA.

Respectfully yours,

John H. Hintz
President, NBTA.

National Business Travel Association, Inc., 1650 King Street, Suite 304, Alexandria, VA 22314; (703) 684–0836.

January 8, 1993.

Mr. Bradley Lui,
Department of Justice, Antitrust Division, 555 Fourth Street, NW., Room 9104, Washington, DC 20001.

Re: Airline Pricing Investigation: Civil Action No. 92–2854, U.S. District Court, District of Columbia.

Dear Mr. Lui: On behalf of the National Business Travel Association (NBTA), I would like to thank the Department of Justice for its invitation to comment on the Department's airline pricing investigation and proposed Final Judgment in the above captioned action.[1]

NBTA is the nation's largest association of corporations, partnerships, non-profit organizations and other purchasers of commercial airline transportation. NBTA supports a vigorously competitive, safe and financially viable airline passenger system. We also support elimination of anticompetitive and/or collusive behavior which may result in artificially high fares charged to businesses or other consumers of airline transportation.

We believe it is important, however, that the Department recognize procompetitive aspects of the current system. Agencies specializing in business travel compete for commercial users by assisting in savings achievement. One important technique is to analyze announced fare changes and determine whether their clients can benefit from immediate ticketing, in the case of announced fare increases, or delated ticketing, in the case of announced fare decreases. This practice allows companies to "lock in" savings available through lower fares scheduled to expire, or avoid higher prices by issuing tickets before higher fares take effect. In both cases, the ability of competitive agencies to react to data published in the CRSs results in needed savings for our members. Advance notice in pricing changes, especially increases, is also important in selection of carrier.[2]

NBTA has not conducted independent studies or had access to the research, evidence and findings on which the Justice Department based its case. We cannot comment on the veracity of allegations in the Complaint and related documents. However, to the extent the activities described in the Complaint may have occurred, NBTA recognizes that proposing fare changes which are never offered for sale could be used to dissuade potential competitors from initiating or lowering fares, particularly in hubs dominated by a single carrier.

To the extent that anticompetitive pricing practices by the defendant airlines occur, NBTA supports restrictions to reduce the ability of carriers to engage in such conduct. We are concerned, however, that prohibition of all first and last ticketing dates may prevent our members from achieving important savings by responding to announced fare changes.

To the extent carriers formally (United, USAir) or informally (Northwest) agree to follow the rules in the proposed Final Judgment, it will be important for the Department to monitor continuously city-pair markets. The Department should gather date to see whether fares in hub markets tend to decrease in line with fares in other more competitive markets, and, more generally, whether consumers benefit overall through lower fares.

NBTA welcomes this opportunity to comment on the Department's pricing investigation and related civil action. We believe we have an important continuing role to assist the Department in review of the effectiveness of this Judgment on our members, as commercial purchasers of air transportation.

Should the Department be interested in meeting with me and members of our Association to discuss these matters further, we would be pleased to be available.

Sincerely,

John H. Hintz,
President.

In the United States District Court for the District of Columbia

Civil Action No. 92–2854(GHR)

Comments and Objections of National Consumers League to Proposed Consent Decree

United States of America, Plaintiff, versus Airline Tariff Publishing Company, et al., Defendants.

The National Consumers League hereby submits its Comments and Objections to the Proposed Consent Decree in the above-referenced action. The National Consumers League ("League") has represented consumer interests in the United States for 94 years. As discussed in our letter to the Court dated February 19, 1993, the League believes that the proposed Consent Decree between the Department of Justice and United Airlines, Inc. and USAir, Inc. ("Consent Decree") must be evaluated in light of its anticipated adverse financial impact on United States consumers of air travel.

The Consent Decree would eliminate the use of first-ticket dates. First-ticket dates are presently used by the airlines to communicate to consumers notice of future price increases. This price information is extremely beneficial to air travelers, because it allows them to determine when they need to reserve and purchase tickets to take advantage of the lower prices. Make no mistake: air travel is a substantial purchase, and consumers are able to achieve cost savings when they have advance notice of fare increases. For any other service or product, a consumer knows when sales and discounts begin and end and can make wise purchasing decisions based on this information.

If consumers are stripped of this price information, they will have no notice of increases in price and may be caught by surprise, to their detriment. For example, consumers may call their travel agents to make reservations for a family trip, only to learn when they call to purchase the tickets the next day that the price has increased.

The League has the same concern for consumers' welfare with respect to the Consent Decree's prohibition of the use of last-ticket dates. Last-ticket dates allow air travel consumers to know the last date by which they must purchase their ticket in order to receive the benefits of promotional fares. Without last-ticket dates, consumers may make airline reservations on one day, based on an existing promotional fare, only to learn when they call to purchase the tickets the next day that the promotional fare is no longer available.

We fear that the Consent Decree will substantially reduce or even eliminate the availability of discounted fares, because airlines can use a last-ticket date only if it is advertised in conjunction with the fare's first availability in media of general circulation or through mass mailings. The League anticipates that the inefficiency and added cost of the required mass media advertising will deter the airlines from offering the same quantity of promotional fares as they have in recent years. On one hand, sudden cancellations of promotional fares will anger consumers and ruin business relationships between travel agents and their customers. On the other hand, where the airlines choose to advertise last-ticket dates, the added cost will undoubtedly be passed on to consumers. Consumers lose either way.

In sum, the prohibition on the flow of information of advance notice to consumers of fare changes denies consumers the opportunity to seek the most competitive fares on the basis of a range of acceptable travel time for the consumer. With the knowledge of first and last ticket dates, consumers can adjust their travel dates and/or purchase dates in order to take advantage of the lowest fares. Without this information, consumers must "roll the dice" in deciding when to purchase their tickets. The Consent Decree clearly denies consumers the ability to make informed purchases of air travel.

The Consent Decree would also drastically limit consumers' First Amendment access to information that is vital to their purchasing decisions. For example, consumers will have *no* notice of fare increases and therefore no ability—as they currently have—to buy tickets before the prices of tickets go up. The Consent Decree's First Amendment restrictions would no doubt result in increased costs to the airlines which would inevitably be passed on to consumers. The League, therefore, submits that the Consent Decree will have a substantial negative financial impact on consumers.

For all of the above reasons, the National Consumers League hereby objects to the Consent Decree and respectfully requests that the Court deny approval of the Consent Decree.

This 15th day of March, 1993.

Respectfully submitted:

Linda F. Golodner,
President, National Consumers League, 815 – 15th Street, NW., Washington, DC 20005.

Certificate of Service

I hereby certify that a copy of the foregoing Comments and Objections of the National Consumers League to the proposed consent decree were served this 15th day of March, 1993 on all persons listed on the attached service list:

Linda F. Golodner.

Peter D. Isakoff; Weil, Gotshal & Manges, 1615 L Street, NW., suite 700, Washington, DC 20036; for defendant American Airlines, Inc.

Donald L. Flexner; Crowell & Moring, 1001 Pennsylvania Avenue, NW., Washington, DC 20004–2595; for defendants Continental Airlines, Inc. and Northwest Airlines, Inc.

James R. Weiss; Preston Gates Ellis & Rouvelas Meeds, 1735 New York Avenue, NW., suite 500, Washington, DC 20006; for Delta Air Lines, Inc.

James E. Anklam; Jones, Day, Reavis & Pogue, 1450 G Street, NW., Washington, DC 20005–3939; for defendant Trans World Airlines, Inc.

Emmet J. Bondurant II, Edward B. Krugman; Bondurant, Mixson & Elmore, 1201 West Peachtree Street, NW., 39th Floor, Atlanta, Georgia 30309; for defendant Delta Air Lines, Inc.

Thomas Demitrack; Jones, Day, Reavis & Pogue, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114; for defendant Trans World Airlines, Inc.

Irving Scher; Weil Gotshal & Manges, 767 Fifth Avenue, New York, New York 10153; for defendant American Airlines, Inc.

Henry C. Thumann; O'Melveny & Meyers, 400 South Hope Street, Los Angeles, California 90071–2899; for defendant United Air Lines, Inc.

Charles F. Rule; Covington & Burling, 1201 Pennsylvania Avenue, NW., Washington, DC 20044; for defendant USAir, Inc.

This 15th day of March, 1993.

Linda F. Golodner.

To: Mr. Mark C. Schechter.
From: Jorg Holzle.

Date: February 23, 1993.

Mr. Mark C. Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street NW., room 9104, Washington, DC 20001.

Subject: United States vs. Airline Tariff Publishing Company

Dear Mr. Schechter: The Department of Justice proposes to prohibit airlines from disclosing detailed fare information in their computer reservation systems prior to disclosing such information in print media.

We feel very strongly that such a prohibition is harmful and detrimental to the public at large and the travel agents on whom a vast majority of air travelers rely for accurate price information.

The argument that airlines misuse their computer reservation systems to signal price changes to competitors shows gross ignorance of the realities of the electronic market place in a deregulated air traffic environment. (Besides, why could an announcement in print media not send the same signal?)

No, Mr. Schechter, we as travel agents don't want the government to burden us with this handicap. We are operating in a market in a constant state of flux. Over 80% of airline tickets are sold through travel agents. The flying public relies on us for the most up-to-date fare information. We must know when a fare goes into effect, when it expires. And we must know this the moment it becomes effective. Otherwise we can be accused of misleading the public, we lose the confidence of our clients and consequently their business.

In light of these considerations, we urge you to re-think your position regarding Action No. 92 2854. The Department's proposal is definitely not in the interest of the public and the small business community.

Jorg Holzle,
President.

February 16, 1993.

Mark Schechter,
Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

We've been in this business of travel long enough to say—*WE object* to pending *Airline Lawsuit* * * * it is grossly unfair to the traveling public and will be a grand disservice to be unable to inform them of changing rates.

Riena Gilberts,
Owner, Choose to Cruise.

Omega deLuxe Travel Service, Inc.
February 19, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: As an active travel agency in our area, we strongly oppose the ruling against the airlines for price-fixing.

This would make complete and professional travel counseling impossible; consumers would be harmed and not travel if they cannot make fully informed decisions.

Sincerely,

Margaret Richardson,
Manager, Omega Deluxe Travel Service.

Nemet Travel International, Inc., suite 612, 500 North Michigan Avenue, Chicago, IL 60611.

February 16, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Sir: We strongly oppose the above decree, which would interfere with our professionalism in providing our clients with information and quality service.

Example: You call me today, to find a cheap fare for your college kid to come home for vacation.

The price is very reasonable, but it expires in 7 days. You ask me how long will this low fare be in effect? I would either have to lie to you and mislead you, or tell you the truth, and violate the law.

[1] Fares are "locked in" at time of actual ticketing.

[2] Agencies also can review tickets which have been issued but not used to determine whether it might be cost effective to contact travelers and ask them if they want to return their ticket and have it refunded and reissued at a lower price.

[1] This letter supplements our initial inquiry by my letter of December 15, 1992 to Attorney General Barr.

[2] While we rely on agencies to assist in flight and fare information, we control and select choice of supplier in most cases.

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This simple example should demonstrate how preposterous and unfair this proposal would be both for travel agents and for our clients.

Sincerely,

Catherine M. Nemet,

President, Nemet Travel International, Inc.

State of New Jersey, Department of Commerce and Economic Development, Division of Travel and Tourism, Mary G. Roebling Building, Trenton, NJ 08625–0826.

March 11, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy & Agriculture Section, Department of Justice, room 9104, 555 Fourth Street, NW., Washington, DC 20001.

Dear Mr. Schechter: The New Jersey Division of Travel & Tourism represents the travel and tourism industry in the State of New Jersey. The Division is responsible for promoting leisure and business travel to the State. I am very concerned about the proposed consent decree developed by the Department of Justice in the U.S. vs. Airline Tariff Publishing Co. case. Since destinations like New Jersey depend upon the leisure traveler, it is imperative that these consumers have complete and free access to information regarding flight costs. Leisure travelers are very price-sensitive and history has proven that high airline fares reduce leisure travel while low fares increase leisure travel. The premise of the consent decree is to prevent travel agents from passing on to their clients and customers advance pricing information regarding air fares; it will have a devastating impact upon the leisure travel market and number of long-haul-travelers that destinations can attract.

Leisure travelers use travel agents as advisors and counsellors regarding their vacation trip planning. To restrict the travel agent's ability to provide complete information to their customers would result in less consumers using trevel agents and airlines for pleasure travel, therefore contributing to the economic decline of both segments of the travel industry.

On behalf of the New Jersey travel and tourism industry, I request that Judge Revercomb extend the public comment time beyond March 15 so that a better understanding of the impact the consent decree will have upon the travel industry and the economy can be made.

During a time when consumers are the most price-conscious in recent history, it is neither logical nor good economic policy to restrict the flow of information to consumers regarding the pricing of services such as airline fares.

Sincerely,

Eugene Dilbeck,

Director.

New Ulm Travel, 314 North Minnesota Street, P.O. Box 775, New Ulm, MN 56073.

February 15, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: My name is Eric Dulka and I'm the owner and president of a travel agency located in New Ulm, Minnesota. I purchased this business on June 1, 1992 and consider myself to be a classic example of what entrepreneurial spirit combined with our free enterprise system can result in: Individual Business Ownership.

I am concerned about pending governmental interference with our free enterprise system. Particularly, recent consent decrees that are being imposed by the Department of Justice regarding:

1. That airlines must stop providing customers (travel agents) with advance announcements of fare increases;

2. That airlines must stop providing customers (travel agents) with advance announcements of the end of discount sales.

Obviously, such interference will inflict serious restrictions on my ability, as a travel agent, to provide my clients complete and professional advice regarding their air travel. The looming precedent of such consent decrees are also of great concern to me as a private business owner, with the implication of greater governmental intrusion and restrictions into the private enterprise sector. I strongly oppose such governmental intrusion!

Please share my concerns expressed in this letter with the appropriate justices reviewing these consent decrees.

Respectfully,

Eric Dulka,

President, New Ulm Travel/Travel Fun Tours.

North Country Travel, Inc., 1131 East 4th Street, Duluth, MN 55805.

March 5, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: With this letter I am voicing my opposition to the consent decree in regard to the alleged price fixing by airlines.

It impairs our ability to serve our customers properly and it certainly is a great disadvantage to the travelling public.

Your review and reversal in this matter would be in the best interest of all concerned.

Sincerely,

Margit C. Whiteside, DS,

Owner/Manager, North Country Travel.

North Star Travel Service, 114 North Cedar Street, Owatonna, MN 55060.

February 19, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: In reference to your recent lawsuit against the airlines and your consent decree which makes the airlines

1. Stop providing customers (and travel agents) with advance notice of fare increases.

2. Stop providing customers (and travel agents) with advance announcements of the end of discount sales.

We, as travel agents and agencies, are hit extremely hard by the inefficiency of the airlines. Because of their inefficiencies, we feel that we should not be punished as a group. We try to give our clients the best price on tickets and can do so only by knowing in advance as to what the airlines are doing. Many times we do not even know about an increase or decrease until the day it is announced in the paper. We are then left scrambling (i.e. rewriting already issued tickets and writing new tickets). In fact, everytime there is a price war, it actually costs us thousands of dollars because we have to re-issue tickets at a lower price, thereby losing our old commissions.

We ask that you consider a different way to solve this problem and not use the consent decrees put forth, as it will harm us, the innocent victims, and will not help us in any way.

Cordially,

Paul Daffinrud,

Owner.

Northwestern Business Travel, 7250 Metro Boulevard, Minneapolis, MN 55439–2138.

March 5, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: As the owner and Chairman of the thirteenth largest travel agency in the United States and as the Chairman and CEO of Woodside Travel Trust, representing $13 billion in annual air ticketing volume, I'm writing to express my feelings regarding the recent Department of Justice price fixing suit against several airlines.

Simply put . . . the suit is a bullying misuse of power. Specifically:

The domestic airline business is among the least healthy of all American industries. This action exacerbates that situation, threatening product availability for the American traveling public.

The proposed consent decree prevents airlines from taking pricing actions that are in the best interest of customers and which are common in other industries. It also prevents travelers from planning their purchases in a rational, cost effective manner.

A healthy air transportation system is an important part of the infrastructure of the United States. In attacking the industry, the DOJ is operating contrary to the best interests of the country.

Thank you for your consideration.

Sincerely,

John C. Noble

Chairman.

Nova Travel, 1117 S. Rock Road, suite 4, Wichita, KS 67207–3355.

February 19, 1993.

Mr. Mark C. Schechter,

Department of Justice, 555 4th Street NW., room 9104, Washington, DC 20001.

Dear Mr. Schechter: I have read recently where the Justice Department has filed a lawsuit against the airlines for alleged price fixing via the airline ticketing computers. I, as a travel agency owner, disagree with the consent decree.

We are in a highly competitive business. What we do have is service; customer service which depends heavily on the information and prices supplied by SABRE, Worldspan, Covia, etc. By restructuring what is supplied to travel agents by the various computer systems would be more harmful to the consumer than the agent. They would not be able to make fully informed decisions.

I ask that you forgo further actions. If the system is wrong, then find another way to cure it. Don't hurt the consumer.

Sincerely,

Larry Howe,

President.

Novak Travel Service, 105 South Main Street, Kewanee, IL 61443.

February 24, 1993.

Mr. Mark Schechter,

Chief, Transportation, Energy & Agriculture Section, Antitrust Division—Justice Department, 555 Fourth Street, NW., suite 9104, Washington, DC 20001.

Dear Mr. Schechter: I am the owner of Novak Travel Service, and as such, one of countless hundreds of thousands of small business persons in this country trying to maintain a profitable company in today's difficult economic climate.

My agency subscribes to the philosophy of going that extra mile for our clients. It is by achieving this goal that we are able to attract new clients while retaining existing ones.

I wish to go on record to protest in the strongest possible terms, this proposed resolution of the price-fixing lawsuit against the major domestic airlines. The effective dates of fares are vital pieces of information that my agents need to have access to if we are to have the ability to properly assist travelers with their travel plans.

Travel agencies do not have a tangible product to sell. As a full-service travel agency, the primary benefit we have to offer our clients is service! To remove one of the prime pieces of information our clients require for them to be able to make efficient and economical travel plans, lessens our usefulness and impairs our efforts to provide timely data.

I urge that any fair reconciliation of this litigation not include provisions which would harm the public's ability to be selective in their travel planning. The settlement, as currently proposed, will injure both consumers and travel agencies.

Your consideration of this request is greatly appreciated.

Sincerely,

Elizabeth D. Novak,

Owner.

Oaks North Travel, 11828 Rancho Bernardo Road, ste. 211, San Diego, CA 92128.

February 16, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: We are writing to express our concern regarding the Consent decrees pending approval in the lawsuit against the airlines.

We are opposed to the decrees because they will interfere with our ability to service our clients in a professional manner.

We oppose the government setting decrees which will greatly hamper our ability to provide the excellent customer service and satisfaction that we do today. We do not think the federal court should be the price regulator for the airline industry.

We hope that the decrees are not approved to prevent further chaos in the airline industry.

Sincerely,

Kathryn J. Shafer,

Office Manager, Oaks North Travel.

Ocean Club Travel Center, 3104 Pacific Avenue, Atlantic City, NJ 08401.

February 18, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: I am in objection to this government intrusion into my business, with this pending lawsuit against the airlines.

If I am not able to provide my customers with advance announcements of fare increases and end of discount sales that would definitely hurt my business.

Ocean Club Travel employs 5 people and they need their jobs desperately.

If business drops off there are many people industry wide who will lose their jobs due to lack of business.

The Travel Agency will be an unnecessary service if we are not allowed to serve our clients with this information.

Access to travel information is our skill, just like the law is yours.

Sincerely,

Suzanne A. Cooper,

President, Ocean Club Travel.

Olde World Travel Ltd., 4610 East State St., Rockford, IL 61108.

February 24, 1993.

Mark Schechter,

Chief, Transportion, Energy & Agriculture Section, Antitrust Division, Justice Department, 555 Fourth St. NW., suite 9104, Washington, DC 20001.

Dear Mr. Schechter: It has recently come to my attention that the Justice Dept. has issued a proposed consent decree that would require the major domestic airlines to no longer make available to travel agencies the first and most of the last effective dates in their fare filings. This would be disastrous for our company!

As the business manager of Olde World Travel, Ltd., I wish to go on record to protest in the strongest possible terms, this proposed resolution of the price-fixing lawsuit against those carriers. The effective dates of fares are vital pieces of information that our agents need to have access to if we are to have the ability to properly assist travelers with their planning.

Travel agencies do not have a tangible product to sell. What we have to offer our clients is service! To remove one of the prime pieces of information our clients require for them to be able to make efficient and economical travel plans, lessens our usefulness and impairs our efforts to provide timely data.

I urge that any fair reconciliation of this litigation not include provisions which would harm the public's ability to be selective in their travel planning. The settlement, as currently proposed, will injure both consumers and travel agencies.

Sincerely,

Nancy Byrne,

Business Manager.

Omega World Travel, 3102 Omega Office Park Drive, Fairfax, VA 22031.

March 11, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Antitrust Division, U.S. Department of Justice, 555 4th Street, NW., room 9104, Washington, DC 20001.

Dear Mr. Schechter: We wish to offer our comments on the proposed Final Judgment in your antitrust action against the major U.S. airlines.

By way of background, Omega World Travel is the ninth largest travel agency in the nation, with $350 million in sales, 750 employees, and over 200 locations in 20 states. We issue approximately one million airline tickets per year. I am Omega's founder, president, and majority owner.

It seems very clear that competition has not been effective under the current practices. Fares fail to reflect the desirability of nonstop and direct service over connecting service. Flights with departure and arrival times that are undesirable for business travelers (which provide the bulk of airline revenue) have the same price as conveniently scheduled flights. In short, fares fail to respond to traveler preferences. Prices are insensitive to customer demand because the current system of announcing tentative prices through first and last ticket dates ensures that pricing is achieved by industry consensus instead of strategic decision-making by individual carriers.

Many airlines have said recently that they would rather compete on the basis of service than on price alone, but have been unable to escape the current system of consensus pricing. This case should undo the mechanism which has stifled individual pricing and free the airlines to compete on the basis of service as well as price. We believe that the airlines may eventually view this case as the key that unlocked competition based on service.

Although other travel agencies and their trade association have complained about the loss of access to first ticket dates and last ticket dates under the Final Judgment, we believe that the complaints are unjustified. Based on our experience, we agree with the Competitive Impact Statement's assertion that first and last ticket dates are very unreliable. We would guess that they are not honored about 50% of the time. By reporting this unreliable information to our traveling clients, we only lose their confidence when the airlines choose not to honor it.

Our own reliance on first and last ticket dates has caused us to incur significant costs, as well. Because the first and last ticket dates generally are unreliable, we have incurred significant overtime costs in eleventh-hour ticketing to meet announced fare changes, only to discover the next morning that the last ticket date for expiring lower fares had been lifted.

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One such example has been American Airlines' repeated announcements of the end of so-called matching (or me-too) government discount fares. These fares match GSA's contract fares on other carriers. After American announced Value Pricing last April, it repeatedly announced future last ticketing dates for me-too fares. We repeatedly scurried to issue tickets at the last minute before the effective date of the end of the discount fares. Every time, American withdrew the fare change when not all major airlines matched it. Our overtime pay on this ticketing alone cost us in excess of $10,000.

Ideally, your Final Judgment should *require* airlines to keep their future fare changes in effect for a minimum period of time; e.g., 2 or 3 days. Such a requirement would help all travel agencies by making first and last ticketing dates reliable. It would also undo the signaling mechanism that is used for price fixing. Therefore, such a mandatory decree would achieve the required results without harming travel agencies or the traveling public.

If you cannot accept such a mandatory formula, we believe that your proposed prohibition will be better for competition than the *status quo*. While we would sometimes have no advance notice of fare changes, and while we would therefore be unable to advise our clients at all regarding when they should have their tickets issued, the benefits of true price competition outweigh the loss of advance information.

It is significant that we have incurred no difficulty in handling reservations and ticketing for United and USAir since they accepted the consent decree. If the other airlines accept the decree, we anticipate no difficulty in handling them without first and last ticket dates, either.

Sincerely,

Gloria S. Bohan,

President, Omega World Travel, Inc.

Daniel P. Bohan,

Chief Operating Officer, Omega World Travel, Inc.

On The Go Travel, 601 North Pottstown Pike, Exton, PA 19341.

March 10, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: As an owner of a small travel agency, I must convey to you my strong opposition to the Department of Justice lawsuit against the airlines for allegedly fixing prices. As a "woman on the street", I see no difference from the advertising that merchants do when they advertise time-limited sales via newspapers, radio or TV. Are these instances also infractions of the law?

Small travel businesses survive by providing the best possible service to their clients. If the airlines are forced by the DOJ to discontinue advertising dates fares change/expire, I do not look forward to explaining to our clients that *their governmnet* has now prohibited airlines from providing them with deadline dates for purchasing a quoted fare.

If the consent decree is approved, small businesses will suffer, and once again the consumer will be an uniformed buyer based on big government interference.

Sincerely yours,

Marjorie E. Hickey, CTC

President.

Orange Belt Travel, 1690 North Broadway, Bartow, FL 33830–3199.

March 10, 1993.

Mr. Mark C. Schechter,
Department of Justice, 555 4th St. NW., room 9104, Washington, DC 20001.

Dear Mr. Schechter: Please register my objection to the airlines being asked to drop the dates of fare validity in our computers.

If this occurs, it is obvious to me that the airline cannot service it's customers properly. There are very few people that can get all their travel arrangements together in one day. If a client comes in to my office the next day and the fare is higher, without warning, that is just unfair.

Many times even now, a fare is dropped or increased without warning. This creates such a hardship on a person trying to plan with relatives or people in another town for their trip.

Our business is tough enough with the airlines changing their fares. Please don't complicate things.

Sincerely,

Nancy T. Pennington,

Manager.

Orono Travel, 44 Main Street, Orono, ME 04473.

March 3, 1993.

Mr. Mark Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: The changes in faring have clearly taken away our ability to anticipate price increases and decreases. As professional travel consultants, we book 80% of all airline tickets; our clients expect us to be knowledgeable and prescient, and they trust and have confidence that we are acting in their best interests. How can we maintain this relationship if all we can say to them is buy today or there is no guarantee that this price will continue to be available? This is depriving the consumer of the ability to make the most effective use of his or her financial resources. Again, the consumer is being shortchanged and victimized by another capricious DOJ ruling. They do not deserve that! Providing effective date information with ticket price information is a value-added service that the travel industry must be able to provide their clients. As a professional travel consultant I oppose the ruling and am making my concerns known via this letter.

Sincerely,

John J. McDonough,

Owner.

Pace Travel Inc., Twin Towers, 1106 Clayton Lane, suite 102E, Austin, TX 78723.

February 26, 1993.

Judge Mark C. Schechter,
Department of Justice, 555 4th St., NW., rm. 9104, Washington, DC 20001.

Dear Judge Schechter: The United States government is doing more damage to the traveling consumer in America by the lawsuit it has filed for price signaling through computer pricing than by any airline pricing monopoly could possibly do.

Taking the beginning and ending dates out of the CRS display will create confusion, lack of confidence, and eliminate the general public's ability to plan their travel.

The travel agency business, which consists of 30,000 locations nationwide, with about 90% being small businesses, 70% women owned, and employing hundreds of thousands will also be hurt by this move.

Imaging the scenerio of a traveler calling for a fare quote to a destination, calling back the next day and the fare was $50 higher. They either think we, the travel agents are "ripping them off" or we don't know what we are doing. Further what about the business traveler who buys a ticket one day and the next day adds a business associate to the trip, and the ticket is $50 higher or even if it is lower. Once again we appear to not know what we are doing.

If any signaling were actually taking place through the reservations' systems, it would probably be to the advantage of the traveler because more frequently, than not, we see fare increases being withdrawn rather than implemented. Also, every fare decrease by any airline is immediately matched by others competing in the same market.

This is an unnecessary, burdensome, and useless expense and interference by the government in an already troubled industry needing no more problems.

Sincerely,

Rose Pace-Bogdanic, CTC,

President.

March 15, 1993.

Mr. Mark Schechter,
Department of Justice, room 9104, Washington, DC 20001.

Dear Mr. Schechter: Please help the travel industry! Help the American Consumer! Help Mr. Clinton's recovery programs and finally help the DOJ to succeed! Reregulated the airlines!

Reasons: Since the deregulation, the airline industry has been manipulated by a group of unscrupulous "executives" who have been seeking the opportunity to get rich at the expense of the travelling public, the travel agents and the shareholders of the airlines, i.e., Frank Lorenzo, Icahn, Fred Laker and others.

Since all these people do not understand the business, they are not able to know how much the cost of running an airlines is. They only know how to get involved with individuals in the media and advertising business to spend and waste money in a nonproductive marketing program that only produce kickbacks for them. At the same time, they produced a group of individuals whom they call consolidators who are marketing most of the airlines at low prices or bid discounts without any reason. Also the confusing fares they impose on the American public, create stress and harm the budget of the average traveller who faces penalties on restricted non-refundable fares.

I would suggest a cool off period of two years in order to start cleaning the mess, asking the airlines to submit feasible fares for only three kinds of Seasons of year (low, shoulder and high) to be approved by the government and freeze them for one year. If this policy proves to be successful, it can be extended for another year.

Something has to be done Mr. Schechter; and if both your department and the DOT are committed to help Mr. Clinton in the economic recovery of our country, is better to start now to solve the problems that were inherited from previous administrations.

If you need more details, I will be in Washington participating in the annual ASTA "March on Washington" April 1st. If you are interested in more input on the above, let me know.

Sincerely,

Luis A. Gaona,

Pacific Express Travel.

Pajarito Travel Agency Mibk Inc., 2610 Trinity Drive, Los Alamos, NM 87544.

March 1, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Sir: As a travel agency owner, I am registering my opposition to the consent decree regarding certain airlines. Thanks for considering this opinion.

Sincerely yours,

John G. Whitcomb,

President.

March 2, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Sir: I can not believe you are demanding the airlines stop putting the dates a fare will expire in the CRS! There is no way we can do a good job for the travelers without this information! We check for the lowest fare then tell the clients when the fare is valid.

Pleose, for the sake of the clients, reconsider!!!!

Sincerely,

Susie Heath,

Owner/Mgr., Pok N Go Travel.

Panhandle Travel
316 Northridge Circle, P.O. Box 447, Guymon, OK 73942.

March 4, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: Panhandle Travel Service would like to go on record as opposing the Department of Justice's price-fixing suits against the major airlines. If these suits are successful, it will cause great hardship on both the airlines and the travel agencies. As travel agents, we engage everyday in a guessing game with the airlines concerning fares, particularly sale fares. Should the airlines not be allowed to display any information concerning time limits in the CRS, it will become almost impossible for us to secure the best fare for our clients. It will require much more time which means less profit for our small agency.

We urge the Department of Justice to drop these suits.

Sincerely,
Panhandle Travel Service.

Sandra L. Powell,

Owner.

Barbara Heppard,

Manager.

Kim Bechdolt,

Travel Consultant.

Parkland Travel Ltd., 2901 S. Chicago Avenue, South Milwaukee, WI 53172.

February 26, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I feel compelled to write you about the Department of Justice's demand to disallow advance notice of airline price changes.

This is incredibly unfair to the traveling public! People in the United States of America deserve the right to purchase travel arrangements at the best price and at the best time for them. If the Department of Justice takes away this freedom they are undermining the whole idea of free enterprise.

As a travel agency, we could not give complete and professional travel information to our clients. Information we need to help them make sound travel decisions would be kept from us.

What other businesses will be next? Department stores? Computer manufactures? Automobile dealers? How can we have a free enterprise system if companies are not allowed to have "specials", "sales", "promotions". . . even "lost leaders" to stimulate sales for a specified period of time. Certainly as a consumer of goods and services yourself, you must see how difficult it would be to make an intelligent decision on a purchase if you could only be quoted "today's price".

The American people deserve better than this stifling regulation.

Sincerely,

Kay M. Voss,

Vice-President.

Park Ridge Travel Bureau, Inc., 707 Devon Avenue, Park Ridge, IL 60068.

February 15, 1993.

Justice Department.

Lawsuit Against the Airlines.

We feel the Justice Department is trying to hinder us as a travel agency from doing our best job for the consumer. By not letting us know when a fare is forthcoming or going to be withdrawn is causing undo havic in the travel industry. We will no longer be able to help the consumer get the best possible price for their hard earned dollars. This new rule will also make us look bad if a customer calls about a new fare we know nothing about does not put us in the best of lights for our customer. We are here to help people and the Government should not step in to confuse and enrage the consumers if they just miss a fare that could save them some money by one day. I think we all have enough stress in our lives without having this added on. I believe this type of regulation is wrong and should not be passed.

Thank you,

Gil Passarella.

Passages, 8501 Wilshire Boulevard, Beverly Hills, CA 90211.

December 29, 1992.

Mr. Mark Schechter,
Chief, Transportation, Energy & Agriculture Section, Antitrust Division, room 9104, U.S. Department of Justice, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I have read with great interest the articles regarding the United/U.S. Air Charges of Price Signaling articles and must say I do not clearly understand what this specific case is all about.

I do however want you to know that anyone who doubts that the airline industry is in collusion regarding fares is absolutely out of their mind. How it could be construed otherwise is no doubt subject to some sort of investigation but it would be almost impossible to find out the reason in the convoluted system that allows every airline in the United States to instantly charge the same price as all of the others within seconds of announcement.

It has gotten so very bad from our position that fares quoted in the morning have changed by amounts in excess of $200.00 in a matter of three hours from the time the passenger made the reservation—needless to say these are always increases and always apply to all carriers.

We understand that there was a time when the airlines sent all their fare changes to a clearing house and the tapes were all loaded into the various computers at the same time. We understand that this is no longer the case and the airlines simply plug into each others' "Main Frames" and change their prices at will—sometimes several times during the day! We are further told that sometimes the host computer systems don't bother loading fares in effect a week or less because it uses computer time without purpose.

We don't know if yours is the Department to handle this problem but, if so, I would strongly suggest that you enlist the help of the travel agent community in your pursuit of aiding the consumer with air transportation as it is clear to us that the airlines have no intention of playing by any rules. We do, after all, need airline transportation in this country.

Passages—A Travel Company,

Janet M. Szabo,

President.

Pegasus Travel, 1120 Connecticut Avenue, NW., Washington, DC 20036–3902.

March 2, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 Fourth Street, NW., Washington, DC 20001.

Dear Mr. Schechter: Having labored in the vineyards of travel for almost thirty years, first with airlines for twelve years and since on the agency side of the industry, I find the recent DOJ ruling re publication of the commencement and conclusion of certain air fares in our CRS systems to be truly incredible. Presently, travel agencies do almost eighty percent of domestic reservations. The vast majority of us do this

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in our computers. How can we possibly tell the travelling public, both those on business and those on leisure travel, we have discovered in our computers the best possible price for a certain destination if we cannot complete our information to the public by noting a bargain fare will no longer be available by a certain date; that, a ticket must be purchased by a certain time in order the public may avail itself of an affordable cost of a ticket.

It is my understanding such information as pertains to the start and end of air fares will no longer be permitted in our computer systems; *however*, such information may be published in the various media or given to the public via the public published airline phone numbers. If this is truly the case, it can only be considered the height of hypocrisy. Indeed, if this is so, agents have only to phone on the airlines' phone lines open to the public and learn the beginning and ending dates for whatever air fares are being wanted.

In addition, it is my understanding the airlines are being directed, after submitting to a consent decree, to cease advising agents via their computer systems of the dates included in air destination fares. As pointed out, Mr. Schechter, having been in this business for ever so many years, the airlines will continue to find ways to work for their own cohesiveness in air fares. It has always been so. In a sense, deregulation is a mockery. Airlines will follow one another like a bunch of lemmings as far as fares are concerned.

Having said this, I would appreciate knowing what course of reasoning was followed in this latest DOJ ruling. It may very well be I am not that conversant with the whole matter. On the strength of what I do understand at this point, I can only judge the matter to be a totally unfair, one-sided, issue.

Can it not be considered "restraint of trade" if travel agents are not permitted to have total air fare pictures in our computers and, yet, such information is admissible in other ways. I ask you, Mr. Schechter, what is the purpose of all this? Why is air fare information, COMPLETE information, not permitted to be programmed in our computer systems but yet is available elsewhere.

Please be so kind as to advise me of the reasoning pursued in arriving at this state of affairs.

Many thanks for your attention and cooperation in this matter.

Yours truly,

Jeanne Westrope, CTC,

President, Pegasus Travel.

Penn Hills Resort in the Poconos, Analomink, Pennsylvania 18320; 717–421–6464, 800–233–8240.

February 16, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Consent decrees for the airline industry.

Dear Mr. Schechter: Penn Hills is a resort in the Pocono Mountains of Pennsylvania and we are very concerned about the recent ruling regarding airline industry pricing.

This ruling is very distressful to the resort industry as well as travel agents and airlines. The resort industry uses special rates and extra values to entice travelers to our resorts during times we are not filled. If this right were taken away so we could not advertise dates that special packages would be in effect it would be an extreme hardship for our business and surely a disservice for our customers.

We feel very strongly that the airlines should have the same right to promote their savings packages for their customers and feel that taking that right away is jeopardizing the entire industry.

We feel that this ruling should be reconsidered due to the future effects this may have on all businesses.

Very truly yours,

Penn Hills Resort

Charles A. Poallillo,

President.

Pierre's World of Travel, 880 Winton Road South, Rochester, NY 14618; 716/461–5220, TTY 716/244–8880.

February 16, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Mr. Schechter: I am writing to express my concern regarding the Department of Justice action in regards to prohibiting airlines from announcing in advance fare expirations and impending increases. This is, in my humble opinion severe restraint of trade, unevenly applied singling out the travel industry, and affecting the consumer. Supermarkets, Department Store chains, automobile manufacturers have promotions with expiry dates repeatedly. What makes it allright for one industry, yet not for another? Admittedly, there is communication, indirectly, thru reservations systems, among the airlines, but there are much more important reasons than fare expirations to investigate. If this industry is deregulated, let it be deregulated, or revise the laws. My personal feeling on this matter is that there should be some limited reregulation, to give airlines some parameter within which they can make changes without prior approval, and to obtain approval for anything beyond these parameters. The fare wars initiated by the airlines have been disastrous for them as well as for the travel agency community. We have been burdened, unreasonably so, without proper compensation for the work load involved.

I would urge the Justice Department to re-examine the situation and reverse its ruling on the issue before it, regarding the restrictions of fare increase and expiration prohibition. I would think there would be far more important matters to address. This is a disservice to the traveling public. Thank you for your consideration of this very important issue.

Sincerely yours,

Pierre Fenster, CTC,

Owner.

Plan It Cruise & Travel.

February 25, 1993

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street NW., room 9104, Washington, DC 20001.

Re: United States vs Airline Tariff Publishing Company Action No. 92–2854.

Dear Mr. Schechter: To serve our clients properly, travel agents must have every resource available, including all fare information. The placing of prohibitions by the Department of Justice on the airlines is harmful to consumers and our small business.

The Department feels that airlines must inform the media prior to any detailed fare information being loaded into our computer reservation system. Travel agencies sell over 87% of all airlines seats, so we should have access to all price information first. Since we are in virtually every community we are accessible to most all consumers and are able to answer questions about all airlines.

We are professionals who care and service a vast number of consumers. Much of our service is offering options and opinions on airline fares. It is obvious to me that neither travel agents nor our customers will be well served if we cannot inform them as to when a fare is to be increased. Likewise, we need to know when discount fares will end because we frequently call our customers if we know there is a special fare available for a limited time. If airlines have to inform the media first of any fare changes, as your department proposes, it may well discourage sales. The airlines and this industry cannot stand any further eroding of sales.

Please consider the inconvenience you are placing on the consumer and the negative impact on our small business. We are being put at a marketing and service disadvantage. The proposed final judgment is not in the best interest of the traveling public.

Thank you for listening.

Sincerely,

Lad A. West,

Owner.

RD 1, Box 294, Bloomingburg, NY 12721; (914) 733–4979.

February 22, 1993.

Mark C. Schechter,

Chief, Transportation, Energy & Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street NW., room 9104, Washington, DC 20001.

Re: United States vs Airline Tariff Publishing Company Action No. 92–2854.

Dear Mr. Schechter: I recently tried to plan a trip to California. When I phoned my travel agent she told me that there was a sale on airline tickets and I could save $200 per ticket if I purchased the ticket no later than a certain date in early February. (I forget the date.) If Action No. 92–2854 had been put into effect, I would have waited until March, when I wanted to fly, to buy the tickets and my agent would not have been able to save me $400.

Last year, I went to Kansas City. When I phoned my agent for information, she told me there was going to be a fare increase in three or four days. So I bought my tickets that very day, avoiding a $40 increase. If Action No. 92–2854 had been in effect I would not have saved that $80 (two tickets).

Obviously, I believe Action No. 92–2854 is detrimental to consumers because they will not be able to take advantage of sale fares if travel agents do not have "end of sale date" information in their computers. It is also detrimental to consumers if they cannot be forewarned that an increase is imminent.

Thank you for your consideration. I look forward to the rejection of Action No. 92–2854.

Sincerely,

Barry Plaxen.

Pleasure Break, Inc., 3701 Algonquin Road, Suite 900, Rolling Meadows, Illinois 60008; (708) 670–6350, Fax (708) 670–7622.

February 26, 1993.

Mr. Mark Schechter,

Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Justice Department, 555 Fourth Street, NW., Suite 9104, Washington, DC 20001.

Dear Mr. Schechter: It has recently come to my attention that the Justice Department has issued a proposed consent decree that would require the major domestic airlines to no longer make available to travel agencies the first and most of the last effective dates in their fare filings. This would be disastrous for my company!

As the owner of Pleasure Break, Inc. I wish to go on record to protest in the strongest possible terms, this proposed resolution of the price-fixing lawsuit against those carriers. The effective dates of fares are vital pieces of information that my agents need to have access to if we are to have the ability to properly assist travelers with their planning.

Travel agencies do not have a tangible product to sell. What we have to offer our clients is service! To remove one of the prime pieces of information our clients require for them to be able to make efficient and economical travel plans, lessens our usefulness and impairs our efforts to provide timely data.

I urge that any fair reconciliation of this litigation not include provisions which would harm the public's ability to be selective in their travel planning. The settlement, as currently proposed, will injure both consumers and travel agencies.

Your consideration of this request is greatly appreciated.

Sincerely,

Engelbert Saile,

President.

Plum Grove Travel Center, Inc., 2201 Plum Grove Road, Suite A, Palatine, IL 60067; (708) 303–5040, Fax (708) 303–5046.

February 12, 1993.

Mr. Mark C. Schechter,

Department of Justice, Room 9104. 555 4th Street, NW., Washington, DC 20001.

Re: Lawsuit against the airlines.

Dear Mr. Schechter: As a professional travel adviser I object to the government interfering in the matters that directly affect my ability to advise and service my clients efficiently.

The consent decree that the airlines are being asked to sign is dangerous and frightening. How can we service our clients if we are not informed about fare increases and the end of discount sales.

Let's be fair to the travel industry . . . do not force the airlines to sign and obey this decree.

Thank you for your help.

Sincerely concerned,

Lee Anne Clark, CTC,

Owner/Manager.

Polynesian Cultural Center.

March 15, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Department of Justice, room 9104, 555 Fourth Street, NW., Washington, DC 20001.

Re: U.S. versus Airline Tariff Publishing Company.

Dear Mr. Schechter: I strongly protest your proposal to prevent airlines and travel agents from informing the consumer of airfares not yet in effect.

This would be a great disservice to the traveling public and is comparable to preventing major retail outlets from announcing their future sales.

I hope you can envision the huge detrimental effect this will have on our tour and travel industry and ask you to please withdraw this proposal.

Sincerely,

P. Alfred Grace,

Director of Westbound Sales.

Prestige Travel, 4551 N. Channel Ave., Portland, Oregon 97217, (503) 285–2522.

February 15, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Department of Justice Lawsuit Against the Airlines.

Dear Mr. Schechter: I would like to express my concerns regarding the recent lawsuit filed against the major airlines, alleging that they fixed prices by signalling each other of their pricing plans through advance announcements of fare increases and other fare changes.

It is depriving the industry if airlines are not able to advise travel agencies, and their clients, of advance notice and expiration dates of promotional airline pricing!

I find the government's intervention in this area to be anti-consumer, anti-travel agent and anti-airline! No one would be any better off with the proposed DOJ decree. It would only confuse all parties involved and most importantly, the consumer would have no valuable information to rely on when making buying decisions.

Sincerely,

Becky Rae Olson,

President.

Professional Travel, Inc., 302 South Thornton Avenue, P.O. Box 1623, Dalton, Georgia 30722–1623; (706) 278–1010, Wats: (800) 221–3915, Fax: (706) 226–5310, Telex: (810) 759–4406.

February 24, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 4th St. NW., room 9104, Washington, DC 20001.

Re: United States vs Airline Tariff Publishing Company Action No. 92–2854.

Dear Mr. Schechter: Professional Travel has been in existence for 16 years—from the days of hand-written tickets to today's total automation. Throughout our history, we have relied on every available resource in order to properly service our clientele. The Department of Justice is now considering limiting our access to a very valuable resource: fare information. We perceive this action to be harmful to both consumers and small businesses.

As the "local" agent for all major airlines, travel agencies are available to community members who have questions about the airlines. If the Department Of Justice succeeds in requiring the airlines to inform the media prior to loading detailed fare information into our computer reservations systems, we become the "last to know" and certainly will be unable to provide intelligent information to airline consumers. This hardly seems reasonable since travel agents sell approximately 85% of all airline seats.

In consideration of the fact that the large majority of U.S. travel agencies are, indeed, "small businesses," please consider the negative impact that the release of the fare information will have on thousands of agencies and millions of consumers. This judgement does not appear to be in the best interest of the traveling public.

Sincerely,

Sherry Cochran,

General Manager.

Public Citizen; Buyers Up, Congress Watch, Critical Mass, Health Research Group; Litigation Group, Ralph Nader, Founder; 2000 P Street NW., Washington, DC 20036; (202) 833–3000.

15 March 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, U.S. Department of Justice, 555 Fourth Street, NW., room 9104, Washington, DC 20001.

Re: United States v. Airline Tariff Publishing Co., Civil Action No. 92–2854 (GHR) D.D.C.)

Dear Mr. Schechter: Pursuant to the notice at 58 Fed. Reg. 3971 (12 January 1993), Public Citizen submits the following comments, as authorized by the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16.

Interest of Public Citizen and Summary of Position

Public Citizen is a consumer organization which was founded in 1971. It has 140,000 members, many of them are airline passengers directly affected by the proposed settlement. Public Citizen has long been active on aviation issues, having worked for passage of the Airline Deregulation Act of 1978 and appeared before federal agencies and Congress on many issues affecting

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competition in the airline industry. Public Citizen is also a party in the private class action antitrust lawsuit involving similar allegations, where the proposed settlement does not go as far as the Department of Justice has proposed. *In re Domestic Air Transportation Antitrust Litigation*, MDL No. 861 (N.D. Ga.).

In supporting abolition of the Civil Aeronautics Board and the end of traditional route-and-rate regulation in domestic aviation, Public Citizen expected, as did many other supporters of that reform, that vigorous antitrust regulation would replace CAB economic regulation. Consistent with that aim, Public Citizen voiced support for the Department of Justice's opposition to several anti-competitive mergers which the Department of Transportation approved in the mid-1980s (*e.g.*, Northwest-Republic, TWA-Ozark); Public Citizen also opposed on antitrust grounds, as did the Department, the proposed merger in 1989 of Delta's computer reservation system into the Sabre system developed by American.

We note this past support for the Department's antitrust initiatives because, on the present evidence, we are at best skeptical that the proposed settlement here will benefit the flying public. The Department is asking the Court to approve a consent decree with two defendants, United Airlines and U.S. Air (the "settling defendants"), under the APPA. That Act requires the Court to decide whether this proposed settlement is "in the public interest," and in making that assessment, the Court may consider such factors as the "anticipated effect of alternative remedies actually considered" and the impact that entry of a judgment would have on the public generally. 15 U.S.C. § 16(e).

In our view, the parties have not shown that the settlement would be in the public interest, and approval may threaten important conveniences and savings which consumers now enjoy. Indeed, based on the evidence now in the public domain, the cure proposed by the Department may be worse than the disease.

Discussion

The proposed consent decree (as well as the complaint aimed at the non-settling airlines) would bar distribution of information identifying the first date in the future that tickets will be available at a given price (the "first ticket date"). The Competitive Impact Statement describes the proposed ban on use of first ticket dates as "absolute"; thus, all of a settling defendant's fares, whether loaded into the central Airline Tariff Publishing Company ("ATPCO") computer system, individual airline computer reservation systems, or elsewhere, must be currently available for sale to consumers. 58 Fed. Reg. at 3976 (col. 2).

The consent decree also seeks to regulate airline statements about the last date that certain fares will be sold to the public (the "last ticket date"). It provides that settling airlines may advertise the last ticket dates of particular fare offerings when the fares in question are first offered for sale, provided that last ticket dates are advertised in "media of general circulation" or through "mass mailings," and in a manner "designed to directly reach a meaningful number of likely potential consumers." If their fare offerings are first communicated to the public in this fashion, the settling airlines may communicate last ticket dates electronically and may respond to fare offerings of their competitors without first taking out advertisements.

This proposal, if approved by the Court, could seriously limit the flexibility which consumers now enjoy when making reservations, and that is true regarding the proposed limitations as to both the first and last travel dates. To understand why this is so, it may be useful to review some basic facts about the way that air transportation is purchased.

Consumers often book reservations days, weeks or months before they actually travel. This is so because seats may be unavailable at any price during certain peak travel times; in addition, some of the lowest, deep discount fares are subject to restrictions as to the number of seats offered at those prices.

Because consumers book reservations so far in advance, the often prefer to defer payment for as long as possible, particularly if they plan to buy the ticket with a revolving credit card account which charges interest from the date the transaction is consummated. In recognition of this fact, airlines permit early reservations, but the fare paid is the one in effect on the date the ticket is actually purchased, a practice which began before economic deregulation.

The availability of advance information on when new fares (generally fare hikes) take effect—called the "first travel date" here—thus allows consumers to anticipate and avoid price hikes which may otherwise take effect between the time when a reservation is made and the time when the ticket is actually purchasd. Travel agents are aware of this consumer preference, which is why many of them will volunteer the details of impending fare hikes to passengers, for example, by saying, "You can make your reservation now, but you'll have to pay for the ticket by the 21st because prices are going up on the 22nd." Indeed, consumers rely heavily on travel agents for such information: Unlike discount fares, which airlines widely trumpet through their advertising, proposed increases in existing fares are rarely announced in airline advertising.

The Department's Competitive Impact Statement ignores the conveniences and savings under this regime, and it asks this Court to order an end to these practices. The result would likely be consumer confusion and higher costs. When a customer asks an agent, "How long will the fare be available at this price?", the agent will be forced to answer, "I don't know." Alternatively, since the proposed decree would allow airlines to talk about contemplated fare increases only in the most general of terms, the agent would have to say something such as "I can't guarantee how much longer that fare will be around, and the airlines are talking about how fares have to go up soon, so the only way you can be safe is to charge your ticket today."

The Department seems to concede (at 3978/1) that this may be the only way for consumers to protect themselves against surprise price increases, and it asks the Court to endorse that view. We disagree with this approach because the likely result would be consumer hostility and a feeling of being rushed to commit one's money today. And of course, if consumers do end up committing to the purchase sooner rather than later, that has the effect of raising the cost of travel, at least marginally.

For many of the same reasons, we question whether consumers would benefit from the severe restrictions that would be placed on disclosure of the last ticket date. Airlines may offer restricted deep-discount fares as a way to fill empty seats during slow travel periods, and an expiration date for these fares is seen as an essential way to stimulate travel without diverting high-fare (usually business) passengers to these lower fares.

Passengers, particularly those who are sensitive to price, find it very important to know how long a limited-time, low-fare offering will remain available. Because only a limited number of seats are available at the offered fare, consumers may want to reserve early, lest seats be sold out completely by the end of the sale period, yet they prefer to make their payment as late as possible. Indeed, limited-time promotions of deep discount fares can create a special need for some breathing room between the day a reservation is made and the date of purchase. That is so because deep discounts may generate a strong consumer response, with the effect that a passenger may learn from the travel agent that his or her preferred flights or dates are already sold out; the passenger may nonetheless deem it prudent to book reservations at a less preferred time and then consult with the passenger's spouse or employer to make sure that the alternative dates reserved with the travel agent are still convenient.

The flexibility passengers enjoy in this situation might be lost under the proposed regime. Some deep discount fares are non-refundable or carry significant penalties which would deter passengers from committing themselves to a particular flight schedule when they initially call their travel agent, which is the way that the Department thinks the world should work with respect to the first ticket date for particular fare offerings. Indeed, many people would simply stay home if the current levels of flexibility now in the system were to be removed.

Perhaps in recognition of these facts, the Department does not seek a flat ban on last ticket dates, but the loophole it tries to create raises a number of issues. The Department contemplates that a last ticket date can be communicated to consumers by travel agents, provided that the date in question has been identified when the airline first advertises a promotional fare in "media of general circulation" or "mass mailings," provided also that the advertisement is "designed to directly reach a meaningful number of potential consumers likely to purchase the promotional fare." Proposed Consent Decree ¶ V(C).

This supposed escape clause raises more questions than it answers. For example:

—What exactly are "media of general circulation"? In the metropolitan Washington area, for example, is it sufficient to advertise in *The Washington Post*, or must an airline advertise in the Maryland and Virginia suburban newspapers as well?

—What sort of "mass mailings" are contemplated? Is it sufficient, for example, if an airline advises all members of its frequent flier program about a new, limited-time-only fare?

—What is a "meaningful" number of potential consumers?

—What benchmark should be used to determine if these consumers are "likely to purchase" the promotional fare in question?

—How is one to measure if the advertisement or mass mailing is designed to reach these consumers "directly"?

—If an advertisement for a promotional fare mentions some cities, but not others, is a travel agent forbidden to communicate the last ticket date as to the unmentioned city? Suppose, for example, that USAir chose to advertise some promotional fares to specific cities and listed a $99 fare to Hartford, Connecticut, but not a $99 fare to New Haven: Why does it make sense to let travel agents tell passengers that the Hartford fare expires on the 31st of the month, but not be able to tell the same, truthful information about the New Haven fare? Or, put differently, why does the Department believe that passengers are better served if the agent says to a consumer asking about the fares and fare conditions for a flight to New Haven, "I can't tell you if the $99 New Haven fare which I just found will be available on the 31st, but if you fly 50 miles out of your way to Hartford, I can book you now, and you can pay as late as the 31st"?

The Competitive Impact Statement shows no awareness of these very real concerns, which are the practical consequences of the consent decree. Apart from the passing reference that consumers can (and presumably should) commit their money when they place their reservations, the only discussion of consumer impact is an assertion that first and late ticket date information "is of little benefit to consumers." *Id.* at 3977/3. The argument appears to be that consumers do not see many of the changes that are proposed in ticket date information at the time these data are loaded into the ATPCO computer, and even if they could, those dates could not be deemed to be reliable since they are subject to change during the "electronic dialogue" between the airlines over such issues. *Id.* at 3977/3–3978/1. This argument fails to perceive the true consumer interest here.

It may well be that many consumers do not have access to the ATPCO computer data base in which fair change data is circulated both within and outside of the industry. It may also be true that not all of the data circulated via the ATPCO network are ultimately made available to travel agents through the individual computer reservation systems which they use to book reservations for their customers. The fact remains, however, that fare information which the Department is trying to limit *is* helpful to consumers when it is communicated to them at the retail level, whether by travel agents or through advertising, and it *is* often used in making travel plans. The Competitive Impact Statement never comes to grips with this issue in its effort to regulate the "electronic dialogue" at its source.

Thus, the proposed consent decree does not address or respond to one of the factors identified in the statute, namely, the "anticipated effects of alternative remedies actually considered." 15 U.S.C. § 16(e). The Department does not indicate that any alternatives were considered which might alleviate the burden which the consent decree might place on consumers. Nor does it explain what exactly consumers would gain in return for being deprived of data which many people find useful. The APPA allows the Court to consider, as part of its "public interest" inquiry, the impact that entry of the proposed decree would have on the public generally. *Id.* Based on the present evidence, the public loss would be clear and the public gain unclear.

We appreciate the opportunity to submit these views and hope that they are helpful to the Department's review of these issues.

Very truly yours,

Cornish F. Hitchcock,

Attorney for Public Citizen.

QDAT, 6900 East Camelback Road, Suite 300, Scottsdale, AZ 85251; (602) 990–9498, FAX (602) 990–9502.

February 15, 1993.

Mr. Mark Schechter,

Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schecter: I am writing to indicate opposition to the dissent decree regarding the Department of Justice Lawsuit against the airlines. It would interfere and alter the structure of the current distribution channel.

Please review this matter as it will adversely impact an already unhealthy industry.

Sincerely,

Robert B. Danoff,

Vice President of Marketing.

Regal Travel, Inc., 677 W. DeKalb Pike, King of Prussia, PA 19406; (215) 354–0255, (215) 354–0259 FAX.

February 15, 1993.

Mr. Mark C. Schechter,

Department of Justice, rm. 9104, 555 4th St., NW., Washington, DC 20001.

Re: Department of Justice Lawsuit against Airlines.

Dear Sir: I feel I must take this opportunity to write to you personally to voice my opinion on the lawsuit regarding price fixing by the major airlines. The Consent Decree currently under consideration will seriously limit my abilities to provide professional travel counseling to my clients. Additionally, I certainly need no further governmental intrusion in my business.

Therefore I urge you to reconsider the Consent Decree presently under consideration with an eye toward the negative ramifications to Small Business. Punish the Airlines if they are guilty of wrongdoing, but don't negatively impact the thousands of travel agencies (small businesses) around the country.

Yours very truly,

H.J. McPartland,

Secretary/Treasurer.

Reserve Travel, 1820 Superior Building, 815 Superior Avenue East, Cleveland, OH 44114–2799.

February 12, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I understand that the justice department, in all their wisdom, has filed yet another action against the airlines for price fixing. The Federal Government must stop this pedantic string of intellectual exercises and do something positive to help the travel industry in the United States.

The final results of the Antitrust actions will soon be disclosed and will probably result in 40 million dollars of cash being used to pay legal fees and administrative charges to issue certificates of questionable value. The final press on this action will not reflect proudly on the judicial system in our country.

It is pretty clear to me that the Federal Government is close to running all the airlines out of business, especially with frivolous actions as the one you are currently addressing. It may also mean that some 40,000 travel agencies will be in jeopardy also.

I think one of our Federal Judges should stand back for a minute and address the issues of millions of Americans working in the travel industry. All of us should be able to try to work hard and make a profit from our endeavors. When you get down to matters, the airlines have not made a profit in years. * * * I guess your analysis of "price fixing" forgot to address the fact of who benefited from it.

If the airlines do not know how to make a profit, I have a hard time with the concept that they would be smart enough to "price fix". Does IBM look at what price other computer manufacturers are charging? Does Baseball have an exemption? What is really the big picture here?

You should send this letter over to President Clinton, I think he would know how to get to the heart of the problems in the travel industry.

In closing, I think we should learn from the scam called the "antitrust action 1988–1992". That little piece of intellectual handball has caused a lot of people to do alot of work for nothing. How about all people in the United States suing the airlines for excess noise levels, or better yet, everyone suing the Justice Department for interference.

Very truly yours,

Donald E. Carlson, CPA,

CEO.

Rex Travel Organization, Inc., 100 N. LaSalle St., Chicago, IL 60602.

February 16, 1993.

Judge Mark C. Schechter,

Department of Justice, 555 4th Street NW., Suite 9104, Washington, DC 20001.

Dear Judge: Let's pretend. * * * Let's pretend that you and your family want to fly to Colorado for a summer vacation, and, let's

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pretend, you're not using free government transportation * * * you're going to pay your own way.

You call your travel agent and he gives you a fare. However, unbeknown to the travel agent or the public, the airline you are booked on will be reducing its fares by 30% two days after you have planned to leave. * * *

You are going to be mad as hell, naturally, blame stupid travel agent who did not know, etc. etc.

Take a minute to sit back and think this over logically. Obviously the public (which includes the travel agent) have to know as far in advance as possible when airlines are planning to introduce their next round of gimmick fares.

Sincerely,

Rex Fritschi, CTC,

President.

March 9, 1993.

Mark C. Schechter, Esq.,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Sir: I have been told that the Department of Justice plans to sue the major airlines, on the basis that they are "price-fixing" by computer-based airline schedules/price quoting.

To many travellers like myself, the availability of receiving advance information on economic traveling by air is very important, and such planned legal action against the industry would preclude me getting this information from my travel agent, thereby substantially increasing the cost of my travels.

I urge you and your department to reconsider the necessity and—indeed—the merits of this matter.

Sincerely,

Cleveland Riley, Jr.,

6318 Apple Lane, Freeland, WA 98249–9463.

River City Travel, 19655 Detroit Rd., Rocky River, OH 44116.

February 24, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

I am expressing my opposition to the consent decrees now being considered in the lawsuit against the airlines.

It has been my experience that there has been no collusion between the airlines to "fix" fares. One airline may initiate a price reduction, and in order to stay competitive, the others reluctantly fall in line, many times with varying rules and regulations. In the other direction, one airline may test the waters with an increase, and if it doesn't go, bring it back down again. If it does, the other airlines are likely, in this day of increasing losses, to follow suit.

To forbid them to announce an increase in fare as well as the end of a sale would be to restrict their freedom of marketing and create an intolerable situation for all those of us who must advise both individual and corporate clients on their travel plans.

It is only that the computer systems allow the airlines to monitor each other's marketing innovations and respond more quickly than other businesses can monitor their competitors' activities.

Please do not allow this to become law.

Sincerely,

River City Travel.

Anne Kroehle, C.T.C.,

Owner.

River Falls Travel Service, 111 E. Elm St., River Falls, WI 54022.

February 18, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Stop providing customers advance notice. Stop providing customers with advance end of discount sales.

Dear Mr. Schechter: We are writing with concerns to the two above decrees. We feel that the Department of Justice should not interfere with the airlines on these two matters.

We as travel agents cannot provide a full professional service to our customers if we are not aware in advance of fares to come. This involves a lot of things other than just knowing fares. We have to staff and gear for sales to properly serve our customers, order extra ticket supply and more. We must know in advance of fares.

To address the second decree, it is not fair to the customers to not make them aware of sales that are going to expire. People need to arrange work and other parts of their lives and sometimes can only travel during sale fares. This is only a small list of reasons why the Department of Justice should not interfere and control the airlines. Please reconsider this seriously.

Sincerely,

Susan Y. Moen,

Owner.

Janelle Gregor,

Consultant.

Cheri Radunzel,

Consultant.

Riverside Travel Group, Inc., P.O. Box 20696, Portland, OR 97220.

February 12, 1993.

Mark C. Schechter,

Department of Justice, rm. 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: The Riverside Travel Group is a trade association of 45 travel agencies located in Oregon. We sell over $150 million annually to Oregonians who plan their trips with us.

The key word is plan.

We must all take time to plan, from the shortest vacation trip to the most extensive business itinerary. Part of the planning process is critical information regarding validity of fares.

The Justice action against the U.S. airlines that suggests they withhold this key, critical information from their published fare sources is ill-conceived. Since Riverside Agents write over 20% of the airlines tickets purchased by Oregonians, we object in the strongest terms to this concept.

Causing the airlines to keep secret one of the most important factors needed to plan a trip will do irreparable harm to the business community, as well as leisure/vacation travelers.

Virtually every consumer advertisement has effective and expiration dates: "Buy your Chevy before May 31". "This Safeway ad contains prices valid til June 30th." Or: "Valid while supplies last." How often do we see; "prices in effect from * * *"?

To eliminate the ability to plan will cause trips NOT to be taken. The result will be a loss of tourism revenues; business sales and related spending will decline. Truly, a bad plan in today's climate.

Since Travel Agents provide planning services for over 80% of the travel purchased in this country, don't deny us, or our clients access to planning information. We cannot afford the results.

Sincerely,

Riverside Travel Group Inc.

Jon R. Brobst,

Executive Director,

Robb's World of Travel, Ltd., 33125 North Highway 45, Wildwood, IL 60030.

February 12, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Lawsuit Against the Airlines.

Dear Mr. Schechter: We strongly object to government intrusion into the travel industry. It is hard enough in this highly competitive field to keep our agency afloat without adding the hardship of more restrictions on agent/client relationships.

Please give this matter your utmost consideration.

Sincerely yours,

Douglas Robb,

President, Robb's World of Travel, Ltd.

Roberts Travel of Starkville, Inc., Lagalerie Shopping Center, 500 Russell Street, Starkville, MS 39759.

March 1, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: Our travel agency is opposed to any law which will prohibit our agents from providing customers information on fare increases or deadlines on discount fares. To our knowledge US Air, American Airlines, and United Airlines are currently trying to pass this type of law.

Sincerely yours,

Kerry Lee Long.

Royal Ambassador Travel of Missouri, Inc., 1222 N. Belt Highway, P.O. Box 8611, St. Joseph, MO 64508.

February 17, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: This is to voice our objection to the pending suit and consent decrees requiring that airlines must (1) stop providing customers and travel agents with advance announcement fare increases and (2) stop providing customers and travel agents with advance announcements of the end of discount sales (with some limited exceptions).

I believe you will find these objections present with everyone in the retail travel business.

I trust that the views of this agency and others in this business will be taken into consideration.

Sincerely,

Lester L. Einbender,

President, Royal Ambassodor Travel.

Royal Travel and Tours, Inc., Corporate Headquarters, 122 North First Street, DeKalb, IL 60115.

February 18, 1993.

Mr. Mark C. Schechter,

Department of Justice, 555 4th Street NW., room 9104, Washington, DC 20001.

Dear Mr. Schechter: It is outrageous that the Justice Department wants to limit information our customers need to make intelligent decisions as it relates to there travel plans.

Without dates for airfare increases as well as the dates for discount sales ending, how can our customers plan?

This information must be provided to the traveling public.

Sincerely yours,

Larry Berke,

President, Corporate Headquarters.

March 31, 1993.

Dear Mr. Schechter: I agree with prevention airline price fixing, however preventing travel agents from having full information is counter productive (US v. Airline Tariff Publishing Co.). We need more information and more competing between airlines.

C. Rutledge,

3333 W. 231st St., N. Olmsted, OH 44070.

Sakonnet Travel Service, 3913-c Main Road, Tiverton, RI 02878.

February 25, 1993.

Mr. Mark C. Schechter,

U.S. Department of Justice, 555 Fourth Street, room 9104, Washington, DC 20001.

Dear Mr. Schechter: As a travel agency owner and a person who has been in the travel business for over thirty years, I would like to register my strong opposition to the pending court decision on price fixing and the consent decree the carriers are being asked to sign which will prohibit them from showing last ticketing dates in their computer reservation systems.

This will clearly cause great distress to the consumer who may need some time to make a decision between the time a price is quoted and the ticket purchase. No leisure travel consumer is likely to make an instantaneous decision at the time of quotation of price and since there will be no deadline for ticket purchase available to the consumer (or the travel agent), the consumer will in many cases feel they have been a victim of bait and switch tactics when they do commit and find that the quoted fare is not only no longer applicable but was in fact available "yesterday" unbeknownst to them.

This decision should be opposed by the Department of Justice.

Very truly yours,

Norman P. Lofsky,

President.

Sanders International Tours, Inc., suite 105, Robidoux Center, St. Joseph, MO 64501.

February 19, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: We have had some client inquiries in the last several days concerning a lawsuit against the major air carriers. The callers understand that the Dept. of Justice is against the traveling public being able, through the efforts of their travel agent, to obtain advance pricing information.

Some have expressed the opinion that those in Washington fly at tax-payer's expense don't seem to understand that those who do not fly at taxpayer's expense have to search for the lowest fares available. Though I do not believe this opinion to have that much merit, I am sure that many of our clients plan their travel dates to match the savings offered by some air carriers to balance their load factors.

I called the American Society of Travel Agents to get your name and address. Please keep the costs to the traveling public in mind when making decisions concerning availability of air-ticket pricing.

Sincerely,

Phil L. Sanders,

President, Sanders International Tours, Inc.

Santa Teresa Travel, 369 Shadow Mountain, El Paso, TX 79912.

February 23, 1993.

Mr. Mark C. Schechter,

Chief of Transportation, Energy & Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street NW., room 9104, Washington, DC 20001.

Re: United States vs Airline Tariff Publishing Company Action No. 92 2854.

Dear Mr. Schechter: I am writing on behalf of Travel Agents and their Agencies in response to the prohibitions the Department of Justice is seeking to impose on the Airlines.

Travel agents are professionals whose business is to research all available information for the consumer without a charge for this service. Because travel agents are responsible for over 85% of all airline reservetions it is extremely crucial for agents to have priority access to all pricing. If the Airlines are required to inform the public of changes in fares, the public will seek to by pass our services which will affect sales and elliminate the main purpose for travel agencies.

In El Paso alone, there are over 50 Travel Agencies which would be negatively impacted by this Action. We are being placed at a marketing and service disadvantage which is not in the best interest of the public or small businesses.

Please understand how this Action will effect the economy and the future of people involved in this industry. I hope that you will utilize this information before making any further decisions regarding this matter.

I have also enclosed two lists that contain the names and addresses of clients who support our request.

If you have any questions, please feel free to contact me at (915) 581–1191.

Sincerely,

Miriam Redman,

Vice President/Manager, Santa Teresa Travel.

The United States Department of Justice is trying to prevent the airlines from warning travel agents and consumers in advance of airline price increases. I am against this because it will make it much more difficult for me to plan and budget my travel arrangements. I want to continue receiving information about future ticket fare changes from my travel agent.

Lillian B. Vickers, 4718 Tislon, Hou TX 77041

William S. Sparks, P.O. Box 97, Sunland PerleNM 88063

Daniel Sandoval, 405 Fronters, El Paso, TX 79922

Nancy Pindar, 256 Northwind, El Paso, TX 79912

Suzanner Pinder, 256 Northwind, El Paso, TX 79912

Jan McNuh, 6192 Los Felines, El Paso, TX 79912

A. Lester, 7557B LeConte, El Paso, TX 79912

(ILLEGIBLE), 600 (Illegible) TX 79912

Bob Funk, 11580 Bob Mitchell, El Paso, TX 79936

R. Fox, 810 River Oaks Dr., El Paso, TX 79912

Bruce (Illegible), 829 View De La Pay, El Paso, TX 79912

Klye R. (Illegible), 6111 SunerVally, El Paso, TX 79912

Jane J. Rosen, 912 Cherry Hill Lane, El Paso, TX 79912

(Illegible), 912 Cherry Hill, El Paso, TX 79912

Paulette Newberger, 6902 Westwind Dr., El Paso, TX 79912

Martha Eisnberg, 840 Rosinante, El Paso, TX 79912

Barbara Poth, 4701 Rosinonte, El Paso, TX 79912

Louise (Illegible), 6209 Pino (Illegible), El Paso, TX

William DSpier, 5809 Buringin Tree, El Paso, TX

Gail Borgle, 6308 Monarch, EL Paso, TX 79912

Laung (Illegible), 5701 Nonneville, EL Paso, TX 79912

(Illegible), 4713 Rosinante, EL Paso TX 79912

Paul (Illegible), 446 El Carmius, EL Paso, TX 79912

Santa Teresa Travel.

Sargent Strong, Travel Services, 8201 Preston Road, suite 160, Dallas TX 75225.

February 22, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Sir: This is to inform you that if you prohibit the use of "first ticket dates" you will impede my professional ability to correctly advise my clients of fares because of the confusion it will create.

Please reconsider your decision on this suit. It is in the best interest of the consumer and certainly will make the distribution system (travel agents) of the airlines credible.

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Thank you for your attention to this matter.
Sincerely yours,

Nancy A. Strong, CTC,
President, ASTA National Aviation Committee.

Seddelmeyer-Osburn Travel Concepts, 221 North Main Street, suite 1A, P.O. Box 698, Lima, OH 45802.

February 18, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 Fourth Street NW., Washington, DC 20001.

Dear Mr. Schechter: Just how much "Big Brother" does the American Public need?

For years the American public has been served well by the airlines and the professional travel agency community. As with any business, there have been "peaks and valleys" experienced by all of us but, for the most part, the airlines and the travel agents that sell their products have provided a quality product at a fair price.

I fail to see where the U.S. government, through the infinite wisdom of its Department of Justice, can "protect" the public by imposing what obviously will be price regulation.

Please use your knowledge, experience, and expertise in other areas that desperately need it and leave the pricing and ultimately the ability to counsel travelers to those who do indeed know something about it. Consumers and travel agents need (and can put to good use) the advance announcement of airlines price changes.

Thank you for your consideration.

Christie A. Seddelmeyer.

Sincerely,

Charles E. Osburn.

Seven Continents Travel, 4351 W. Indian School Road, Phoenix, AZ 85031.

February 18, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: There is surely a misconception in the department of justice in the belief that there is price fixing among the airlines through our CRS systems.

The fact that the airlines indicate announcements of fare increases and fare changes is but a tool for agents to correctly advise the consumer.

We need to remain in a position where we can counsel the consumer in a professional manner and without this information we will not be able to do so in the future.

This is government intrusion into our business and against the foundation of our country for free enterprise. We strongly urge you not to proceed in this manner and thereby leave the agency community to go about it's business and give the consumer the best of service.

We appreciate the opportunity to express our views and the time it has taken you to consider our position.

Sincerely,

Rosemary Janicki,
General Manager.

Shell Travel Bureau, North Point Shopping Center, 304A East Rand Road, Arlington Heights, IL 60004.

February 12, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Sir: It is with sincere hope that you express my comments to the proper people in reference to the latest antitrust airline lawsuit.

The logic of not letting me, as a professional travel agent, the knowledge to tell the consumer when a fare expires, or if fare changes are scheduled, escapes me.

How can a policy such as this help consumers? All that this is creating is a situation where every one will play catch up, as once one announces a new fare, the others have the right to compete anyway, with the exception that the computers we pay for will not be current, and we will all be targeted for not being credible with the information we present to the client.

I suggest to you that this is no different than Ford offering a rebate on auto purchases, and General Motors following. This is not price fixing, this is competition in a free market place.

Perhaps more time and effort should be placed on the gross abuses allowed with our current bankruptcy laws (for those in reorganization for years), or for a way to protect the consumer when an airline shuts down completely.

From my uneducated legal viewpoint, I suggest that the lawyers who filed these lawsuits did so for financial gain, and perhaps the courts should look at their motives for bringing these cases, as there is, in this case, no value being generated for the general public * * * and in this case may be cause for sustaining some damage as they won't have valid information on which to base their decisions.

Thank you for any consideration you may give to my thoughts.

Vincent J. Cherry,
President, K-V Travel, Ltd., D/B/A Shell Travel Bureau.

February 23, 1993.

Mr. Mark C. Schechter,
Chief, Transportation, Energy and Agriculture Section, Department of Justice, room 9104, 555 Fourth Street, NW., Washington, DC 20001.

Dear Mr. Schechter: Short's Travel has the State of Iowa, the Iowa Dept. of Transportation, the University of Iowa, and the University of Northern Iowa accounts as well as countless commercial corporations. We hope you can see the harm to these accounts if fare information is denied them by elimination in (illegible) computers.

These government entities count on us to offer (illegible) and options on fares. It is obvious they will not be well served if we cannot inform them when a fare is likely to be increased. We also need to warn them when discount fares will cease so they can take advantage of the savings.

Iowa continues to strive to save every cent it can and this inconvenience is but another (illegible) by the Department of Justice for the state to (illegible) simple phone call by the airlines to their competitors, (illegible) desk will supply them any information they need anywhere so why place the burden and the disadvantage on the traveling public? Short's strongly requests your reconsideration of this proposed judgment.

Sincerely,

Camile S. Hogan,
Short's Travel Service, Inc.

Signal Travel & Tours, Inc., Corporate Office: 227 East Main Street, P.O. Box 940, Niles, MI 49120.

February 18, 1993.

Mr. Mark Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Justice Department, 555 Fourth Street, NW., suite 9104, Washington, DC 20001.

Dear Mr. Schechter: It has recently come to my attention that the Justice Department has issued a proposed consent decree that would require the major domestic airlines to no longer make available to travel agencies the first and most of the last effective dates in their fare fillings. This would be disastrous for my company!

As the owner of Signal Travel and Tours, I wish to go on record to protest in the strongest possible terms, this proposed resolution of the price-fixing lawsuit against those carriers. The effective dates of fares are vital pieces of information that my agents need to have access to if we are to have the ability to properly assist travelers with their planning.

Travel agencies do not have a tangible product to sell. What we have to offer our clients is service! To remove one of the prime pieces of information our clients require for them to be able to make efficient and economical travel plans, lessens our usefulness and impairs our efforts to provide timely data.

I urge that any fair reconciliation of this litigation not include provisions which would harm the public's ability to be selective in their travel planning. The settlement, as currently proposed, will injure both consumers and travel agencies.

Your consideration of this request is greatly appreciated.

Sincerely,

Michele L. Boyd, CTC,
President, Signal Travel and Tours, Inc.

Snohomish Travel, 323 Second St., Snohomish, WA 98290.

February 19, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I object to government intrusion into my business in regards to airline regulation where they cannot

a. provide customers with advance announcements of fare increases or

b. provide customers with advance announcements of the end of discount sales.

With these new laws we cannot as travel agents provide our clients complete and professional travel counseling.

Please reconsider this new law.
Sincerely,

Deryn J. Fulton,
Owner, Snohomish Travel.

St. Clair Travel Service, Inc., #2 Eagle Center, Suite 1, O'Fallon, IL 62269-0066.

February 23, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: As a concerned and active person in the travel industry, I wish to express my strong objections to the lawsuits filed against some of the major airlines and subsequent consent decrees alleging price fixing.

The well being and fairness to the consumer is at stake here as if we cannot provide information beyond a daily basis, the consumer will be unable to make fully informed decisions with regard to travel planning. Also, my office staff's ability to provide compiete and professional counseling would be seriously hampered.

The current status of the airline industry is chaotic and millions of dollars are being lost every day. This additional threatened restraint to best serve the consumers is totally unfair and uncalled for.

Yours truly,

Marlene J. Kowalsky, CTC,
President.

Stowe Travel Service, 51 Main Street, P.O. Box 249, Stowe, VT 05672.

February 26, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing to express my strong opposition to the proposed Airline Consent Decree.

You will be doing a dis-service to the travelling public not to mention the economy of the U.S.

How on earth do you expect Travel Agencies to quote fares, we will have to preface our quote by saying this is the "Fare DuJour" (fare of the day) this is sheer madness.

Our Founding Fathers would be shocked by your actions, this country was founded on fair play and rebellion against too much Government.

Sincerely,

Mrs. K. Ann Danforth,
Manager.

Suburban Travel Service, 358 Millburn Ave., Millburn, NJ 07041.

March 1, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Mr. Schechter: I am writing in opposition to the recent concent decree being forced on the US Airlines in regard to price fixing through the computers.

Travel Agents and their clients rely on the accuracy of the fare information contained in the computer reservation systems. The consumer is confused enough with the fare wars and the amount of fares to every location in the USA. We as agents have a rough enough time keeping fares and rules straight even with the help of the computers.

How can we advise our clients with confidence and accuracy as to when to purchase a ticket, when the fare could be eliminated that night. Every other industry in the US is allowed to publish their Pre-sale prices and say how long they are good for. Why is the government always down on the Travel Industry? We are the only industry that works on the smallest percentage of commissions and can only charge what the Airlines charge. We can never mark up or down.

This concent decree is totally anti consumer! I hope the Justice Department will review this action and truly serve the public interest.

Thank you for your attention.
Sincerely,

Barbara S. Leddy,
President.

Sun City Travel Service, 10777 Grand Avenue, Sun City, AZ 85351.

February 19, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th St., NW., Washington, DC 20001.

Dear Mr. Schechter: Please be advised that our ability to provide complete and professional travel counseling for our customers will be impaired if the consent decrees are approved. It will be impossible to project costs for our clients and give a reasonable estimate for their vacation or business plans.

Further, we will have a run on tickets one day and no business the next depending upon what fare was announced in the morning papers. We then will have many exchange tickets with refunds due to lower airfares. We lose money on these types of transactions.

Grocery stores, clothing stores, furniture stores, etc., all are allowed to plan and notify the public of sales and specials. Why not the airline industry?

Please check out all the details and reconsider this action.

Sincerely,

Elisabeth Braganza, CTC,
Manager.

Sun Travel & Travel Boutique, 3100 North Mesa, suite B, El Paso, TX 79902.

February 25, 1993.

Mr. Mark C. Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street NW., room 9104, Washington, DC 20001.

Dear Mr. Schechter: The DOJ is wrong in thinking the airlines must inform the media prior to any detailed fare information being loaded into computer reservation systems. Anyone who went through the "fare war" of last spring would know absolutely that this would make an impossible situation, instead of just chaos, for travel agents to serve their clients when this happens.

Travel agencies sell approximately 85% of all airline seats and, therefore, need access to all price information first. This enables us to SPECTRA our CRS to find which customers who are already ticketed would be effected and to get them reticketed before the deluge hits. Also, by being able to know ahead of the media when the fare will expire, we can help our clients better in their planning.

For travel agencies to properly service their clients, they must be able to know about the fare information ahead of the public. Most small agencies cannot handle the resulting deluge which happens when "sale" fare reductions are learned about through reading the newspaper or listening to the radio or TV. The handling of this situation the way the DOJ wants to places an undue burden on small travel agency businesses. It in fact would cause many of them to close in the event of tremendous fare bargains as have been encountered in the past.

The fact that fare changes go to the CRS prior to the media has absolutely nothing to do with collusion. In the pest, all fare-matching by the airlines has been done AFTER one airline has independently reduced its fare(s). Conversely, all fare increases have been made (or withdrawn) based on whether or not the competition follows along. This practice would hold true whether or not the media was informed ahead of time. There is no adverse affect to the traveling public. However, THERE ARE ADVERSE AFFECTS to the travel agencies whenever they cannot be advised of fare changes ahead of the news media.

Please consider this when discussing this Action No. The solution proposed by the DOJ IS NOT in the best interests of the traveling public nor the small travel agencies.

Very truly yours,

Duane P. Coleman,
Vice President.

Sunburst Travel, Inc., 180 N. Michigan Ave., suite 300, Chicago, IL 60601.

February 16, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: The consent decree proposed by the Justice Department will hurt the consumer most of all. Our job as travel agents is to get the best possible air fare for our customers. If we cannot inform them of price increases, they will not be able to take advantage of current (lower) fares for a trip scheduled for the future. This is true for both the business and the vacation traveler.

By eliminating the end date of discount sales you will be hurting the vacation customer most of all. When a customer knows the last day of a fare sale, he can plan better for his vacation. It is our experience that when a vacation traveler has to make "instant" decisions because he doesn't know when a sale is ending, he makes the wrong decisions more often. Under the current fare rules, this "instant" wrong decision results in the customer paying a higher fare.

In conclusion these consent decrees will hurt the consumer much more than the airlines and do little to prevent all airlines from having the same fares. We urge you not to approve these consent decrees but to consider the consumer in your decision.

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Thank you,

Michael S. Willens,

Manager.

Sundial Travel Service, 750 Marine Dr., suite 100, Astoria, OR 97103.

February 15, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: The Riverside Travel Group is a trade association of 45 travel agencies located in Oregon. We sell over $150 million annually to Oregonians who plan their trips with us.

The key word is plan.

We must all take time to plan, from the shortest vacation trip to the most extensive business itinerary. Part of the planning process is critical information regarding validity of fares.

The justice action against the U.S. airlines that suggests they withhold this key, critical information from their published fare sources is ill-conceived. Since Riverside Agents write over 20% of the airline tickets purchased by Oregonians, we object in the strongest terms to this concept.

Causing the airlines to keep secret one of the most important factors needed to plan a trip will do irreparable harm to the business community, as well as leisure/vacation travelers.

Virtually every consumer advertisement has effective and expiration dates: "Buy your Chevy before May 31." "This Safeway ad contains prices valid til June 30th." Or: "Valid while supplies last." How often do we see: "prices in effect from.....?"

To eliminate the ability to plan will cause trips NOT to be taken. The result will be a loss of tourism revenues, business sales and related spending will decline. Truly, a bad plan in today's climate.

Since Travel Agents provide planning services for over 80% of the travel purchased in this country, don't deny us, or our clients access to planning information. We cannot afford the results.

Sincerely,

Patricia R. Conner,

Owner, Sundial Travel.

Sunflower Travel Corporation, 1223 N. Rock Road, Bldg. G, suite 200, Box 780448, Wichita, KS 67278–0448.

February 17, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th St., NW., Washington, DC 20001.

The present Lawsuit Against the Airlines is a backward movement for US Carriers, consumers and the travel industry.

Deregulation should work as it was intended (no intervention by Government Departments) Free Enterprise!!

I'd like to point out that before deregulation carriers filed for airfare changes through the CAB (so consumers were alerted to the possibility of fare increases and changes).

We ask that you allow those of us in the travel industry to continue our ability to provide clients with complete and professional travel counseling by withdrawing this lawsuit against the Airlines.

Bobbi Hansen, CTC.

Sunniland Travel Bureau, Inc., 50 East Central Boulevard, Orlando, FL 32801.

February 19, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: As an active member of the American Society of Travel Agents and a busy, working travel agent, I have a major concern regarding the Department of Justice suit against the U.S. based air carriers. Your suit, which alledges price fixing, does a huge injustice not only to the airlines, but to the travelling public whom they, you and I serve.

We in the travel agency community serve that travelling public every day. We are most aware of all of the difficulties faced in the industry. We have concerns for the carriers and for the public. We must attempt to keep abreast of every change, every idiosyncrasy, every movement in the marketplace. We must advise our clients and to do so, we must have all information available to us at all times. If the airlines are prohibited from allowing the public to have *all* of the information available regarding discounted fares or fare increases, then, how will we, or the airlines, serve that public? If this suit continues, it will gravely harm the publics ability to plan. This should not be allowed to happen.

We urge you to protect the consumer from any further unnecessary harm. Please withdraw this action.

Sincerely,

Robert B. Ente,

President, Sunniland Travel Bureau, Inc

Swanson Travel, Inc., 201 S. Locust St., Centralia, IL 62801.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, Washington, DC 20001.

To Whom it May Concern: I am writing to express my extreme objection to the proposed consent decrees. If you give your approval to these decrees the travel industry would be placed under a great strain. We are expected to provide our clients with accurate, and up to the second fare information. Under the decrees that would be virtually impossible. The travel agency community was not involved in the alleged wrong doings, and we should not be punished for them.

Please consider other options in place of the proposed decrees. Thank you for your time, and consideration.

Sincerely,

Verle Besant,

President.

Table Mountain Travel Service Inc., 14062 Denver West Pkwy., Ste. 100, Golden, CO 80401.

March 1, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: This is to express our opposition to the consent decree as it relates to notice of changes in published airline fares.

We do not feel this would be in the best interest of travel agencies, and would probably cause more confusion and dissension in the minds of the general public.

Yours very truly,

Pamela A. Snow.

Law Offices of Tanzman & Kaplan, 330 Washington Street, Washington Square, suite 504, Marina Del Rey, CA 90202.

February 22, 1993.

Mr. Mark C. Schechter,

Department of Justice, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: As an active travel agent and an attorney, I am shocked and quite dismayed to see the approach that the Department of Justice wants to take with regard to the alleged price fixing through the Computer reservation systems.

Even considering for a moment that the Department's analysis of the problem is correct, it makes no logical sense to then punish the innocent consumer who must be the victim you are trying to protect. This is ludicrous. The consumer has the right to know when a sale starts and when it finishes. Why would you now want to put the consumer at risk of purchasing their tickets when they are at the highest price? I always believed that your interest was in allowing the traveling public all the options which facilitate a smart consumer who bases their decisions on pertinent facts. You have single-handedly thrown away the consumers right to know and to make wise decisions based on pricing which should be in the reservation system.

The one who is ultimately punished is the one you want to protect. It makes no sense to implement a plan which provides no benefit to the consumer.

I truly believe the Department of Justice needs to go back to the drawing board and resolve the problem if it exists, in a logical and well planned manner. It would seem that if you implemented just the opposite plan of what you have created, you might solve your problem. If you force the carriers who put a fare in the computers and it states it will last from Tuesday until Friday, then the fare cannot be taken out of the system until the date it is to end. This certainly makes more sense than your approach.

I am hopeful you will review your position and not create a disaster to an industry already in peril.

Sincerely,

Susan D. Tanzman,

Tanzman & Kaplan.

Taos Travel Ltd., P.O. Box 1927, 229 Camino De La Placita, Taos, NM 87571.

February 25, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I am very concerned to learn of the consent decree regarding the airline price fixing case. As a full time travel agent for more than 18 years, I feel strongly that the traveling public needs as much information as possible when making travel arrangements. Limiting any such information will be a true disservice to the consumer.

I strongly urge you to reconsider dropping your suit against the airlines.

Most sincerely,

Marcia B. Winter, CTC,

President.

Taunton Travel Bureau, Inc., 25 Main Street, Taunton, MA 02780.

March 4, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: The changes in faring have clearly taken away our ability to anticipate price increases and decreases. As professional travel consultants, we book 80% of all airline tickets; our clients expect us to be knowledgeable and prescient, and they trust and have confidence that we are acting in their best interests. How can we maintain this relationship if all we can say to them is buy today or there is no guarantee that this price will continue to be available. We cannot tell our customers what prices will be in effect when they travel or when a fare would expire. This is depriving the consumer of the ability to make the most effective use of his or her financial resources. Again, the consumer is being shortchanged and victimized by another capricious DOJ ruling. They do not deserve that! Providing effective date information with ticket price information is a value-added service that the travel industry must be able to provide to their clients. As a professional travel consultant I oppose the ruling and am making my concerns known via this letter.

Sincerely,

Barbara A. Yuill,

President, Taunton Travel Bureau.

Teplis Travel Service, 5885 Glenridge Drive N.E., suite 250, Atlanta, GA 30328–5573.

March 17, 1993.

Mr. Mark C. Schechter, Chief,

Transportation, Energy and Agriculture Section, Department of Justice, 555 Fourth Street, NW., Washington, DC 20001.

Dear Mr. Schechter: As General Manager of Teplis Travel Service, I am writing to express opposition to the actions currently being taken against the airlines by the Department of Justice. The pending lawsuit and the proposed Consent Decree are not in the public interest. Rather, the restrictions the government is seeking to impose on the travel industry will severely and adversely impact the traveling public. Accordingly, we strongly urge the Court not to approve the decree.

Teplis Travel is a full-service travel agency, which has operated in Atlanta, Georgia for more than 21 years. We currently have 45 employees, and sell more then $25 million in airline tickets annually. I personally have been in the travel industry for more than 15 years.

The restrictions the Consent Decree places on the airlines' ability to notify travelers of fare increases and the expiration of sale fares will be detrimental not only to the agency community, but also, and more importantly, to the consumer. By preventing the dissemination of information as to fare increases, we will no longer be able to warn passengers that tickets must be purchased by a date certain to avoid paying a higher fare. As a result, many passengers will undoubtedly pay more for a ticket than the fare quoted at the time the reservation was made. Similarly, our inability to advise passengers of the date a sale fare will expire will result in consumers paying a fare higher than that quoted.

As our customers are forced to pay higher fares, and as our clients are forced to make uninformed decisions, we will be forced to deal with their frustration on a daily basis. As the liaison between our customers and the service providers, we are the individuals who deal directly with the traveling public. Our clients rely on our advice in making their travel plans. As travel professionals, we serve our customers by assisting them in securing the most affordable service available. The prohibitions in the Decree will effectively prevent us from doing our jobs.

Not only will the Decree hamper the public's ability to plan effectively, but we believe, it will also increase the overall cost of air travel. The costs associated with the required advertising, as well as the general increase in operating costs resulting from the DOJ's proposed reregulation of the airline industry, will undoubtedly be passed on to the consumer. We fail to see how the Decree will benefit the public.

It is essential that our clients have access to enough information to allow them to make informed decisions regarding their travel plans. This is true even on those occasions when fare changes may be delayed or even canceled.

We would request that the Consent Decree not be approved, and that the airlines be allowed to continue to inform the public of impending fare increases and the expiration of sale fares. We believe the current use of first and last ticket dates best serves our needs and the needs of our clients.

Sincerely,

Van Henderson,

General Manager, Teplis Travel Service.

Travel Priorities Inc., 3905 W. Howard St., Skokie, IL 60076.

February 15, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: We strongly feel that the government should not interfere with private business practices, and dictate when and how sales can be conducted. Also, to focus on one industry on which to impose these regulations is unjust. Every other business is allowed to advertise sales. Singling out airlines and travel agents is totally irresponsible.

Furthermore, in this time of economic disaster, with so many airlines and travel agencies already in bankruptcy and out of business, the government should be doing everything possible to stimulate growth rather than strangle it.

In order to stay in business we must be able to provide our clients with professional, knowledgeable counseling. Your proposal to prevent us from advising our clients of their best price options will certainly deter many from traveling.

We urge you to reconsider your lawsuit against the airlines.

Sincerely,

Morris Stroz,

President.

Travel Professionals International, 7041 Grand National Drive, suite 212, Orlando, FL 32819.

February 15, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th St. NW., Washington, DC.

Dear Sir: The business of travel is one of the fastest growing in the world. It is also one of the fastest changing industries. Deregulation has played a major part in this. Automation has also borne a significant role in changing travel. But, the largest influence is—the traveler.

We want to express our concern about the lawsuit that is effecting the major carriers. We are very concerned about this matter. We rely highly on the airline carriers for the lowest fares and any changes going on in the industry.

Travel Professionals International, along with all other travel agencies wants to guarantee the lowest available airfare to our clients. If we cannot provide the best airfares, our business and reputation would suffer greatly. We hope this situation can be resolved. Thank you for your attention to this matter.

Sincerely,

Felipe Santos

President.

Travel Rite, Inc., Currier Plaza, 14 Post Office Square, Lynnfield, MA 01940; Walls of Decor Plaza, 515 Lowell St., Peabody, MA 01960.

March 8, 1992.

Mr. Mark Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC.

Dear Mr. Schechter: The changes in faring have clearly taken away our ability to anticipate price increases and decreases. As professional travel consultants, we book 80% of all airline tickets; our clients expect us to be knowledgeable and prescient, and they trust and have confident that we are acting in their best interests. How can we maintain this relationship if all we cen say to them is buy today or there is no guarantee that this price will continue to be available. We cannot tell our customers what prices will be in effect when they travel or when a fare would expire. This is depriving the consumer of the ability to make the most effective use of his or her financial resources. Again, the consumer is being shortchanged and victimized by another capricious DOJ Ruling They do not deserve that!

Providing effective date information with ticket price information is a value-added service that the travel industry must be able to provide to their clients. As a professional travel consultant, I oppose the ruling and am making my concerns known via this letter.

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Very truly yours,

Beverly Silber, CTC,

President, Travel Rite, Inc.

Shawnee Travel Shoppe, Inc., 102 E. Main Street, Shawnee, OK 74801.

March 4, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 5556 4th St. NW., Washington, DC 2001.

I am writing to you to express my concerns regarding the Department of Justice lawsuit. The results of this suit have placed undue burdens on Travel Agents throughout the country. It is difficult enough to keep up with the thousands of fare changes that occur daily without being kept in the dark regarding the validity dates of the fares.

By publishing these dates, at least we receive a little warning of a fare war and know when it will end.

I honestly feel that you suit is ludicrous. If anything the constant matching of fares by competing airlines had benefited the flying public. Fares are basically lower today than they were prior to deregulation.

Please consider the burden your suit is placing on both Travel Agents and Airlines with the current financial instabilities in the Airline Industry. Your suit could ruin many Carriers. The legal fees would be enormous. What benefit will the public reap from the bankruptcy of numerous Carriers due to litigation costs?

Please drop this suit and work with the Airlines rather than against them and the Travel Industry as a whole. Everyone would benefit!

Sincerely yours,

Nancy McGee,

Owner.

Travel Specialists Inc., 13032 North Dale Mabry, Tampa, FL 33618.

February 15, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing to express my concern with the pending airline consent decrees. The approval of the consent decrees would seriously encroach upon our ability to serve the travelling public. We must be provided with complete and accurate information in a timely manner to best serve our customers.

Sincerely,

Tanya Highnote,

CTC, Travel Specialists, Inc.

Travel Store, Inc., 105 Spring Street, Williamstown, MA 01267.

February 27, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Mark Schechter: This letter is to tell you that I am strongly against the lawsuit by the Dept. of Justice against the airlines regarding price fixing.

I feel that as a travel professional for over 18 years I would not be able to serve my customers as I have done in the past, and consumers in general would be hurt by the lack of advance notice of fare changes.

Sincerely,

Claudine R. Auge,

President.

February 23, 1993.

Mr. Mark C. Schechter, Chief,
Transportotion, Energy and Agriculture Section, Department of Justice, room 9104, 555 Fourth Street, NW., Washington, DC 20001.

Dear Mr. Schechter: The prohibitions that the Department of Justice is placing on airlines is harmful to consumers and to small businesses like the many travel agencies which service the American public.

As travel agencies like ours sell 85% of all airline seats we should have fare information loaded into our computer reservations systems before advertising these fares appears.

Without advance notice travel agents cannot provide the American public with information, and options on fares. Without knowing the start and end dates of special fare promotions, without knowing when fares are to be increased or decreased we are unable to serve our clients properly.

We feel the proposed judgment harms small business like ours, not helps them. The proposed judgment is not in the best interests of the traveling American public.

Sincerely,

Dagnar Q. Matthews,

President, Travel Systems Incorporoted.

Travel Travel, 146 East Main Street, Newark, DE 19711.

February 25, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I do not feel that the government should interfere with the airlines and Travel Agents ability to tell clients when there is a sale starting or ending on fares.

I feel this would make us very unprofessional, not being able to give our clients this information.

Sincerely,

Joan M. Simmons,

Owner.

February 19, 1993.

My agency opposes what the Department of Justice is demanding from the airlines in regards to announcements of fare increases. This does not allow us to properly serve our clients in providing low cost travel guidance.

Sincerely,

Lynne W, Washburn,

President, Travel Trends.

Travel/Unlimited.

March 1, 1993.

Mr. Mark Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: The policy that prohibits airlines from showing the effective dates of fares is hurting the public, corporate travelers and travel agents. Not being able to tell our clients when a fare increase becomes effective does a tremendous disservice to everyone concerned with travel.

Surely there is some way to resolve this sticky problem.

Sincerely,

Paul J. Kreeb, CTC,

Vice President.

George Simonds' Travel Unlimited, Inc., 12 South Poplar St., Oxford, OH 45056.

February 19, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Sir: I have delayed writing until I have had the opportunity to discuss the discontinuance of advance notice of air fare changes with several of our significant clients.

Denying advance change of air fare information to the traveling public is an unacceptable concept.

To deny such information is to deny the public the opportunity to most effectively plan the use of their relatively scarce dollars. With our clientele being 75% University students we know the importance of their being able to adjust plans to minimize costs and perhaps even more importantly the need to be able to avoid the financial impacts of unannounced fare increases.

It is important that we keep in mind the fact that not all travelers are business travelers. Students, families and seniors will all be severely injured by this proposal. Our jobs as travel agents will become even worse nightmares when as the person readily available to the public we will catch the blame, anger, rage and frustration of disgruntled air ticket purchasers.

Sincerely yours,

George M. Simonds, CTC.

Travel With Us, 919 North Michigan Avenue, Suite 3102, Chicago, IL 60611.

February 12, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th St., NW., Washington, DC 20001.

Dear Mr. Schechter: As the owner of a small travel agency I wanted to take a minute to tell you why I am opposed to the approval of the pending consent decrees between the airlines and the Department of Justice.

Most of our clients are non-corporate, leisure travelers. They save so they can afford a vacation once or twice a year. When they call us for advice we have to be able to give them an idea of the best time to purchase their airline tickets. Once we quote a price and make a booking, they usually have 1 day (24 hours) to buy the tickets. Most of the time they have to call relatives or discuss the dates with travelling partners that evening. If the decrees are approved, the situation could exist that the next morning the fare could be much higher than when they called the day before. How could we properly advise anyone?

By knowing in advance of fare increases, we constantly help the public save money. When consumers are given a price for something and the next day the same thing costs more, they feel cheated.

I urge you *not* to approve these consent decrees.

Thank you for your time.

Sincerely,

Michael Kauffman,

CTC, Owner/Manager.

Travel Wise, Ltd., 526 W. Dundee Road, Wheeling, IL 60090.

February 15, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I have learned that the Department of Justice has filed suit against most of the major airlines stating that they must stop providing customers (travel agents and the travelling public alike) with advance announcements of fare increases and/or announcements of the end of a sale.

This suit will severely limit the services we have provided our clientele with for close to 20 years. These customer look to their professional travel agent to counsel them with respect to their anticipated airline ticket purchase. A significant part of our day is spend researching fare increases and decreases and then relaying our findings to our customers. If this critical information is withheld I believe the travelling public will be forced to spend more money than necessary on higher fares.

I am writing to your offices to request that you abandon the current lawsuit the Department of Justice has against the airlines.

Sincerely,

Scott J. Kennedy,

Travel Wise, Ltd.

Travelworks, 1609 17th Street, Denver, CO 80202.

January 26, 1993.

Mark Schechter, Chief,
Transportation, Energy & Agriculture Section, Anti Trust Division, Justice Department, room 9104, 555 Fourth St. NW., Washington, DC 20001.

Dear Sir: With regard to enforcing the airline consent decree affecting the publishing of first and last ticketing dates, someone is not seeing the big picture. It may stop the airlines from "signaling" each other, however it drastically hurts the travel agent and consumer. Consider the scenarios below:

—In December '92 the airline fares increased about 15%. By knowing the increases were scheduled, we were able to contact clients and ticket early, before the increases became effective. For our business travelers, this early ticketing saved $100 plus!!

—A client calls for a fare quote, considering a trip. Once finding the airfare is affordable, the client needs to check other details, i.e. time off from work, finding a babysitter, checking if the person to be visited is available, checking with a traveling companion. Often the answers are not immediately available and take several days. Using the last date to purchase the ticket, a client knows if s/he has one day, 3 days, a week or more to get answers.

—Our business as a travel agency is built on repeat clients. Our clients expect us to advise them and help them—which we do. We must be able to give the client accurate info that is good for more than that day. We interrupt and advise clients on airfares all day—we must have all the conditions, rules, and ticketing dates available to us.

Travelworld, P.O. Box 450, South Main Plaza, Wilkes-Barre, PA 18701.

February 15, 1993.

Mr. Mark Schecter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schecter: I have never felt the need to write to the Department of Justice before, but I believe that recent actions force me to object to a decision which I feel is most detrimental to those of us in the Travel Agency marketplace.

As I understand the recent lawsuit against the major airlines, the Department of Justice has stated that it is unfair practice to signal price increases, or decreases, as has been done in the past.

I respectfully submit that, if allowed, the lawsuit will severely impact my ability to counsel my clients and place irreparable harm to my agency. We advise both our vacation and business clients with fare information provided to us through our reservation system. Without that information, we are going to be placed in a hit and miss situation that is simply untenable and without reason. I believe that the system in use should be regarded as the best possible method of getting information to the public and by taking it away you would be destroying my ability to properly serve my client.

There are, I believe, over 1,000,000 fares stored in our system at any given time. Without knowing when fares will increase or decrease will place an unfair burden both on those in my business and also those we serve. Please do not take away my professionalism. We have the tools to do a good job * * * the Department of Justice is attempting to take those tools from our hands.

Very truly yours,

Michael Salamon, CTC,

CEO, Travelworld.

Travelex International, Northwest Corporate Center, 2500 W. Higgins Road, suite 1100, Hoffman Estates, IL 60195.

February 15, 1993.

Mr. Mark C. Schechter,
Department of Justice, Rm. 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I would like to express my deep concern over the consent decrees recently signed by two major airlines. While I understand the Justice Department's desire to prevent price fixing, these consent decrees do not help consumers but rather hurt them. It is absolutely imperative for travel agencies to have some advance notice on fare increases or scheduled reductions.

Our clients rely on our professional advice and assistance in helping them secure the most advantageous prices. Without advance announcements, consumers are unable to make informed purchase decisions. Therefore, the proposed remedy adversely affects the consumer.

I strongly urge you to renounce the signed consent decrees and support the continued practice of advance announcements on fare changes.

Sincerely,

Tor Saile, President, Travelex International.

March 6, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Gentleman: As a Travel Agent in a small town, I am writing to encourage you to take a strong stand against the "Concern Decrees filed by United Airlines and US Air Lines."

Should this DOJ win this Lawsuit, the Travel agents and Consumers will be deprived of useful Travel planning information.

After Forty Years as Owner of this agency, I would hate to tell my faithful clients of the dilemma over such a ruling.

Trusting your taking a hard look at this matter and cast you vote and encourage others to do the same against this matter.

Yours truly,

Thelma Bacon,

Owner, Thrift Travel Service.

Thomas Travel Service, 123 South Main Street, P.O. Box 270, Doylestown, PA 18901.

February 15, 1993.

Mark G. Schechter,
Department of Justice, room 9104, 555 Fourth Street, NW., Washington, DC 20001.

Dear Mr. Schechter: This is a public comment related to the DOJ lawsuit against several airlines having to do with price fixing by placing advance notice of new fares in the computer reservations systems (CRS) used by almost all travel agents.

The proposed DOJ requirement is very anti consumer in nature because it will make the process of intelligently buying a low cost airline ticket almost impossible for the average traveler. With no ability to know how long a fare will last, the passenger cannot possibly plan her trip.

The proposed rule will introduce confusion in the marketplace. This will not benefit the public, airlines, or travel agents.

I strongly oppose the proposed rule.

Very truly yours,

Tom Thomas,

President.

The Total Traveler, Inc., 2800 Higgins Road, Hoffman Estates, IL 60195–2008.

February 16, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing to you in regard to the Department of Justice lawsuit against the airlines. I believe the traveling public will be unfairly harmed if the consent decrees are approved or any lawsuit against the airlines is allowed to proceed.

I also will not be able to do my job properly in counseling my clients about options available to them. I believe the Justice Department is misguided in thinking that advance announcements of fare increases or decreases is price-fixing. The purchase of travel is a big decision for most people and is often one of the biggest expenditures that someone might purchase in a given year. It is not some "K-Mart blue light

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special" or some flea market bargain that is too good to pass up. The public must be allowed time to make the right decisions and the right purchases with regard to travel arrangements and shouldn't be pressured into doing something that they later don't want or don't need.

Other industries are allowed to post their sale dates. What is different about airline tickets? I urge you to pass my comments on to the judge presiding over the concent decrees. Thank you very much.

Sincerely,

John Werner, CTC,

President.

Tower Tree Travel & Tours, 108 East 10th Street, P.O. Box 608, Greensburg, IN 47240.

February 12, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Sir: As a small business and a travel agency, we strongly oppose the lawsuit filed against the airlines. Not only is this against the airlines, it completely stonewalls the agencies!! We can no longer aid our clients in buying tickets or planning their vacations as far as letting them know certain tickets should be purchased before certain dates in order to receive the best fares.

Of course, I suppose "Congratulations" are in order, because once again it is going to be the middle-working class that is really being hit again through all this. They are the ones who must plan early and save for that long awaited vacation. Then, once they think they're on their way, they may have to forfeit simply because tickets went up at the last minute. Or, they may have cancelled their vacation, then fares dropped. But it is too late for them to make the necessary arrangements for a vacation.

It is imperative that agencies be informed so that they may keep their clients informed. It builds a trust and a bond. It is a large part of what makes an agency. If there is no trust, we cannot hope to build our agencies and continue to hire.

Overall, the whole country will be affected. For many places in our country, tourism is a staple. The people in these areas depend on tourism for a living.

Please reconsider and do not allow this lawsuit to jeopardize our economy.

Thank you.

Sincerely,

Jane Dragoo,

Manager.

Trans-Global Trave , Inc., 456 Fulton Street, suite 150, Peoria, IL 61602-1220.

February 28, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 Fourth Street, NW., Washington, DC 20001

Dear Mr. Schechter: It has come to our attention that the DOJ has filed a lawsuit against most of the major airlines alleging that they fixed prices by signalling each other of their pricing plans through advance announcements of fare increases and changes.

If this change is made, this will severely limit our agents from providing complete and professional travel information and advice. We are very opposed to this action. An analogy to providing this information would be the example of knowing when Sear's sale on refrigerators will end. Complete, deregulated consumer information is essential to maintaining the rights of purchasers.

Please forward these comments and concerns to the judge reviewing the consent decrees.

Regards,

Marcia Burdick, CTC,

Manager.

Travel Adventures Unlimited Inc., 15 Yacht Club Drive, Fort Walton Beach, FL 32548.

February 16, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing to vehemently oppose the consent decree preventing airlines from advising us of fare increases and other fare changes.

I know if no other business that can't be advised by their suppliers of price increases. This will severely impair our ability to be professionals.

The last thing we need is a federal court as our price regulator. Please, please stay out of our business!

Sincerely,

Peggy L. Wise,

President.

The Travel Agent, 11562 Westfield Blvd., Carmel, IN 46032.

February 16, 1993.

Mr. Justice Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Justice: It has come to my attention that the Department of Justice has filed a lawsuit against the major airlines, alleging that they must:

- Stop providing customers and travel agents with advanced announcements of fare increases.
- Stop providing customers and travel agents with advanced announcements of the end of discount sales (with limited exceptions).

If this becomes a reality, it is my firm belief that travel agents and consumers will be deprived of useful travel planning information. With travel and tourism already besieged by the recession and excessive taxation, it is contrary to the national interest in restoring a healthy economy to take action that will further depress consumer demand.

The Justice Department's position would place a federal judge in the role of price regulator for the airline industry. This, at a time when the focus should be on supporting the industry's growth so that new jobs are created and to revitalize our economy. After all, last year the travel and tourism industry paid out $47 billion in taxes collected by the government. This is nearly a 75% increase from the previous 5 years. Is this just the beginning of additional government intervention? The negative spiral that this could create at this time may further destroy this already depressed industry. In the long run it is the consumer that will suffer.

Sincerely,

Mark D. Moorhead,

V.P., General Manager.

Travel Agents International, 13140 Central Ave. NE, suite D, Albuquerque, NM 87123.

February 26, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: We strongly oppose the outcome of the referenced litigation if it requires the airlines to stop providing customers and travel agents of advance announcements of fare increased or the end of discount sales.

Giving advance notice of fare increases is one of the most powerful tools travel agents have for best serving the needs of their customers.

It will result in unexpected fare increases, no warnings of discount fare expirations, and ultimately rising ticket costs.

We hope that the Department of Justice and the presiding Judge consider the financial impact to the consumer if this advance notification is eliminated.

Sincerely,

Gerald L. Quintana,

President, Travel Agents Internationol.

February 17, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, Washington, DC 20001.

Dear Mr. Schechter: I have followed with interest the events concerning the consent decrees having to do with the announcement of fares increases and sales and dates by the airlines. Needless to say, this has extraordinary impact on my business and my ability to serve our clients.

My agency serves primarily senior citizens, leisure travel clientele which is extremely price-driven. It is difficult to even imagine that the Justice Department could contemplate making rules that would not allow us or our clients to know when new fares were due to be implemented or cancelled.

Every industry publishes dates for a sale—just pick up the newspaper or inserts! The grocery store, the department store, the tire store etc. etc. all indicate when the sale begins and when it ends. Why should the travel industry be different? Clients will be up in arms if we tell them the fare is only valid at the moment—that we have no idea when it will expire or change.

Again, every other business is allowed to publish the dates a sale begins and ends—to restrict the airlines from doing so goes against everything the consumer is accustomed to and indeed, expects. It would be a SEVERE blow to our business and our ability to serve the needs of our clients.

I would have to hope that reason and common sense will prevail and those charged with decision making will realize how unfair it would be to our industry, and most importantly to our customers, to not allow information regarding the beginning or end date for sale of fares to be available to us.

Respectfully,

Kate Basore, CTC,

President, Travel Associates.

Travel Assured Corp., 1531 14th Street, Rock Valley, IA 51247.

February 17, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mark: I want to express my concern about the traveller. If he is unable to make fully informed decisions about his travel he will be harmed. If the information is available it needs to be shared. How can one run a business and not know what is going on. We will not be able to provide our clients with the proper information. I strongly oppose the consent decrees.

Sincerely,

Nancy Lammers.

Travel Bureau of Westfield, Inc.

March 4, 1993.

Mr. Mark Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: The changes in faring have clearly taken away our ability to anticipate price increases and decreases. As professional travel consultants, we book 80% of all airline tickets; our clients expect us to be knowledgeable and prescient, and they trust and have confidence that we are acting in their best interests. How can we maintain this relationship if all we can say to them is buy today or there is no guarantee that this price will continue to be available. We cannot tell our customers what prices will be in effect when they travel or when a fare would expire. This is depriving the consumer of the ability to make the most effective use of his or her financial resources. Again the consumer is being shortchanged and victimized by another capricious DOJ ruling. They do not deserve that! Providing effective date information with ticket price information is a value-added service that the travel industry must be able to provide to their clients. As a professional travel consultant I oppose the ruling and am making my concerns known via this letter.

Sincerely,

Mary J. Boscher, CTC,

President, Travel Bureau of Westfield, Inc.

The Travel Center.
February 27, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 Fourth St. NW., Washington, DC 20001.

Dear Mr. Schechter: This letter is in opposition to the present law suit filed against major airlines contending that they are unable to provide customers and travel agents with advance announcements of fare increases, as well as the expiration date of fares.

Mr. Schechter, this seems to be a rule that is contrary to the public interest, as well as the entire travel agency industry. We have had many inquiries from our corporate, as well as leisure clients already pertaining to this situation.

With such a ruling, we as travel agents would be unable to provide our clients with any indication as to what an airfare is other than at the exact second we are quoting it from our CRS systems. This would definitely be a hardship on the travel agency industry and would be very adverse to the traveling public.

I would appreciate The Department of Justice reconsidering such a move and that you seek further advise from professionals from the industry that you are attempting to regulate.

Sincerely,

The Travel Center.

Larry D. Smith,

President.

The Travel Center, 5805 Fleur Drive, Des Moines, IA 50321.

February 18, 1993.

Mark C. Schechter,
Department of Justice, room 9140, 555 4th St., NW., Washington, DC 20001.

I object strongly to the Department of Justice limiting the ability of the Airlines (which in turn affects, the travel agent) to stop providing customers (and travel agents) with advance announcements of fare increases and to not provide airlines (and travel agents) to announce the end of discount fares.

This will impair our counseling and planning of groups etc.

Sincerely.

Elvira South,

President.

The Travel Center, Inc., 71 Keystone Ave., Reno, NV 89503.

February 26, 1993.

Mr. Mark C. Schechter,
Anti Trust Division, Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I have been in the business since 1971 and have seen more changes, good and bad, than most people in the industry as well as out of the industry.

The current prohibition placed by the Department of Justice is quite ridiculous in such a competitive business. More than anything else, I have built my reputation on providing the best dependable service in the area but this new ruling makes a mockery out of professionalism.

Last Friday, I quoted a fare of $388 from Reno to New York but the client could not book until Monday when the same fare was $553! Guess who the passenger was mad at? Not the airline. Not the Department of Justice. At me, the travel agent who had to stand behind what I had given him two day earlier. Incidentally, the commission on a $553 ticket is $50.27 and you can figure out the loss we had to sustain.

The problem was caused by the fact that we cannot have the all the information we need to make a transaction in particular, the expiration date of a fare. We, Travel Agents, sell 85% of the airline seats and HAVE to have all the information in order to transact business professionally and knowledgeably.

This final judgment has a negative impact on small business's like travel agencies and highly inconvenient on the client. The disadvantage we have now impects our marketing and servicing. We used to advertise heavily when a fare was announced but now cannot as the fare may not be in existence the next day! The airlines have also reduced their advertising to the public which hardly ever read the ads anyway due to the numerous fine prints that always exist with airfare sales. So they call the Travel Agent, who they assume has the information, as they did in the past.

Deregulation has already reduced the number of airlines that exist today, and this gives them even more control over what they want to sell. I am sorry but Government does not belong in private business because I do not think you know the realities that exist from your ivory towers.

Sincerely,

Suraj N. Zutshi, CTC,

President.

The Travel Center, Westside Plaza, 2120 W. Main, suite 2, Rapid City, SD 57702.

February 15, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Sir: We are writing with regard to the pending lawsuit against the airlines and in particular, to the demand that the airlines cease providing the customers and travel agents with advance announcements of fare increases and with announcements of the end of discount sales.

Since this type of regulatory control would impair our ability to provide the consumer with professional and complete information, we feel that it compromises our position as professional travel consultants. We respectfully submit that these decrees would establish the federal court as the price regulator in the airline industry and we feel this is an objectionable government intrusion into our business.

Thank you for your consideration.

Sincerely,

Cheryl A. Wierenga,

Co-Owner.

Mary M. Thomas,

Co-Owner.

The Travel Connection, 655 West Gurley Prescott, AZ 86301.

February 18, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: Please rule against the consent decrees in the lawsuit which the Department of Justice has filed against the airlines.

This decree will seriously affect the ability of travel agents and the general public in providing the best available service and value.

It is in the best interest of the traveling public to be able to avail themselves of the costs of travel at all times.

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Sincerely,
Joyce Bunch, CTC.

February 24, 1993.
Mr. Mark Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Sir: I have been working in the travel business since 1978. I now own my agency and work hard to keep it in the black. I don't spend my time flying all over the world, but sitting at my desk constantly searching for the best value for my traveling customers.

I'm not a crook, I don't play games with airfares, but I need all the help I can get to give the best service in an industry which is changing all the time. This change is not going to benefit the troubling public and will make my job so much more difficult to provide the best for less.

I'd suggest you stop in to a local travel agency and get some first hand experience as
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Travel Dynamics,
February 24, 1993.
Mr. Mark C. Schechter,
Chief, Transportation Energy & Agricultural Section, Anti-Trust Division, Department of Justice, 555 Fourth Street, NW., room 9104, Washington, DC 20001.

Re: United States vs. Airline Tariff Publishing Company Action No. 922854.

Dear Mr. Schechter: I am writing today concerning the prohibitions the Department of Justice is placing on the scheduled airlines. I am sure that you are aware, travel agents account for roughly eighty-five percent of the airline tickets that are issued today to the traveling public. We are concerned as the consumer counts on a travel agent to give objective and unbiased information. This enables the consumer not only to buy their airfares wisely, but to know when to buy them before airfares expire. We understand that the Department of Justice has a concern, perhaps a deserved concern is to the possibility of price fixing on behalf of the carriers. We do not feel that this is serving the public properly by keeping that information out of the airline reservation systems, which travel agents utilize for both flight information and airfares.

We feel very strongly that all airfare information should be put into the reservation systems which we utilize as soon as they are made available with all restrictions concerning the fares loaded in at the same time. We agree with what we believe the position of the Department of Justice to be, in that all information should be available simultaneously to the travel trade as well as to other airlines as well as being advertised in the newspaper. We hope that the Justice Department will take action to be sure that the reservations systems which we use have accurate up-to-date information so that we can properly advise the consumer as to their rights and maximize their travel dollar.

It is obvious that neither travel agents nor our clients will be well served if we cannot inform them as to when airfares are to be increased. Likewise we need to know when discounted airfares will end so when we call our clients we will know there is a special fare available for a limited time period. If the airlines have to inform the media first of any fare changes, as the Department of Justice proposes it, it may well discourage sales. Travel agents are professionals and we do care about our clients and service a vast number of consumers. Much of our service is to offer opinions and options on fares.

We have noticed since United Airlines and US Air as well as America West have signed a consent decree with the Department of Justice that the fare display for both Apollo and SABRE agents have had changing fare displays not only day to day, but from morning until afternoon. This creates a particularly strong hardship for the consumer. Many of our corporate business travelers book their reservations in the morning. We go through several quality control steps during the day before actually issuing their tickets and then more quality control steps before we actually package the tickets and deliver them to a client. If the fares are allowed to change without notice and without us being properly advised we are in the awkward position of not being able to give the correct information in the morning because it will be supplanted by mid-day or afternoon.

Please consider the inconvenience you are placing on the consumer, especially the business traveler, who is very important to our economy at this point. The negative impact on our small business is of course a concern to us as we feel that we are the select private sector that will be providing jobs that are most needed for our economy to grow and thrive. Needless to say we are being put at a marketing and service disadvantage. The proposed file judgement is certainly not in the best interest of the travel industry or the public at large.

Sincerely,
Walter S. Durso,
President.

Travel Exchange, 253 Post Road West, Westport, CT 06880.
February 25, 1993.
Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street Northwest, Washington, DC 20001.

Dear Mr. Schechter: I am writing to express my opposition and that of Travel Exchange to the "Consent Decree," as signed by U.S. air and United Airlines. This practice will seriously infringe upon the Travel Industry's right and ability to be of complete service to their clients.

I trust that a better solution, one which does not punish the travel agent and the traveller alike, can and will be devised.

Sincerely,
Lesley Kaplan,
Manager.

Travel 15 Ltd.,
February 26, 1993.
Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I am in opposition to the consent decree regarding airline price fixing.

Yours Sincerely,
Travel 15, Ltd.
Phyllis Meranus.

The Travel Gallery, Inc., 6645 N. Oliphant, Chicago, IL 60631.
February 16, 1993.
Mark C. Schechter,
Department of Justice, Room 9104, 555 4th St. NW, Washington, DC 20001.

I'm writing on behalf of The Travel Gallery to express my opposition to the consent decree which requires airlines to stop providing advance notice of fare increases and ticketing deadlines.

I believe it will be impossible to maintain our professionalism and efficiency without this information.

I urge you to reconsider!!

Sincerely,
The Travel Gallery, Inc.
Mary Laszczkowski,
Manager.

Travel House Travel Agency, 2718 Observatory Road, Hyde Park, Cincinnati, OH 45208.
February 15, 1993.
Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW, Washington, DC 20001.

Dear Mr. Schechter: I am writing this letter on behalf of airlines, travel agents and consumers throughout the country to ask the judge considering the Justice Department's lawsuit against the airlines not to approve the consent decrees filed.

While I obviously do not have all the facts that the Justice Department has, I cannot understand how matching a competitor's price can be considered price fixing in an industry where prices change constantly to adapt to supply and demand. When the corner gas station raises the price of gasoline 5¢ a gallon and the station owner across the street follows suit as soon as he sees his competitor change his sign, is that price fixing? When the local department store advertises an after-Christmas sale beginning December 26 and ending December 31 and includes items and prices, is that price fixing? When General Motors announces new prices for 1993 models three months ahead of time, is that price fixing? Airline seats are a commodity and this is one of the most competitive markets I have come across in a diverse business career.

Regardless of whether price fixing occurs, however, the Justice Department cure is worse than the disease. By forcing the airlines to terminate fares without notice, and not allowing them the provide us with a last date to ticket, these new rules create enormous confusion and ill-will for the travelling public. Imagine that you call your travel agent to book a vacation to Paris. The agent gives you a fare of $570 and shows plenty of seats available on the dates you want to travel. Rather than book a non-refundable ticket that instant, you ask the agent to obtain some hotel information for you. When the agent calls back the next day with hotel prices, you both discover that the airfare is no longer available because the promotional fare is no longer available. With thousands of different fares and millions of

passengers, this is just one simple example of the thousands of problems that these rules will cause.

With the economy struggling to achieve a decent level of growth and the airline industry laying off hundreds of workers cutting health benefits and losing millions of dollars, these rules seem ill-conceived and ill-timed to say the least.

Once again I urge you to rule against these consent decrees and, if possible, put a stop to this lawsuit.

Sincerely,
Travel House Inc.
Brian A. Collings,
Vice President.

Travel, Inc., 936 Fourth Avenue, P.O. Box 1779, Huntington, WV 25718.
March 1, 1993.
Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I would like to voice my opposition to the consent decree now under consideration by your office.

Sincerely,
Betty J. Given,
President.

Travel King of Dallas.
February 26, 1993.
Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: U.S. vs. Airline Tariff Publishing Co., et al.

Dear Mr. Schechter: This action is a serious disservice to the American consumer and accomplishes exactly the opposite of what it is was intended to do. Here's why this action discourages competitive pricing:

1. Because prices cannot be announced in advance—it prevents travel agents from advising the flying public of the most advantageous pricing.

2. Because the end of a price sale cannot be announced in advance—travel agents cannot advise the consumer of an upcoming price increase. The result will be *unexpected fare increases and no warning of discount fare expirations.*

3. It's unfair partiality to single out the airline industry. Why not "outlaw" Sears, or Wallmart, or J.C. Penney from advertising an upcoming weekend sale in their retail stores?—Because it would be detrimental to the consumer.

4. Approximately 85% of airline tickets are written through travel agents because we have the resources to find the best fares for the flying public from among all carriers and because we can advise flyers of the best dates to fly in a completely unbiased way. This will prevent travel agents from supplying this valuable counseling service to the American consumer.

This is government interfering in private business to the detriment of both the consumer and the business.

Sincerely,
Stephen H. Schott,
Donna J. Schott,
Owners.

Travel Link, 785–B Alpha Drive, Highland Heights, OH 44143.
February 12, 1993.
Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Re: Department of Justice-Lawsuit Against the Airlines.

Dear Mr. Schechter: Our Industry has been beaten and battered in many ways during the past few years and the above mentioned lawsuit will only add another problem in our dealings with our customers.

Our clients rely upon us to assist them in securing the lowest available fares for their travel needs. In the past we were able to create some degree of urgency by advising our clients when a fare would increase. If this degree of advice is removed from our abilities to counsel, we could be further impaired. We do not know how the lawsuit can be settled, however, we do know that the consent decrees would not be a benefit to our industry.

I am sure that you have been quoted statistics on the value of the Travel Agent Industry to the Economy and any interruption in that contribution would affect others as well as the Travel Industry.

Please look favorably upon our request.

Thank you.

Sincerely,
Frank A. Cirino Sr.,
Travel Link Co.

Travel Makers.
February 23, 1993.
Mr. Mark C. Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street NW., room 9104, Washington, DC 20001.

Re: United States vs. Airline Tariff Publishing Company, Action No 92–2854.

Dear Mr. Schechter: The settlement provisions imposed by the government concerning the alleged antitrust activities of our airlines is unfair and detrimental to the travel industry. As agents, we can no longer perform to the best of our abilities as we cannot provide complete fare information to our clients.

Our industry is already viewed with a degree of skepticism over the professionality of some agents. Those of us who want to project the proper image are hampered by lack of information. This appearance of inefficiency relegates us to the exact position we are trying to overcome.

Please reconsider the position we are now in as a direct result of your decisions. Small businesses have enough difficulties to overcome as it is. We need governmental support, rather than administrative restrictions. The proposed judgment is not in the best interest of the industry or the public.

Sincerely,
Susan Boyd,
President.

The Travel Mart, Ltd.
February 18, 1993.
Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW, Washington, DC 20001.

Dear Mr. Schechter: I would like to register my comments regarding the Department of Justice filing of a lawsuit against most of the major airlines alleging price fixing.

Your suit stipulates that carriers stop providing customers and travel agents with advance announcements of fare increases as well as the dates on which these fares terminate.

This is a gross disservice to the consumer and also to my work as a travel agent.

I find it difficult to understand that the Justice Department now feels that it should be the regulating body as far as airline fares are concerned and I strongly object to the current tactics that you employ. This is still a free enterprise country and in my opinion the constant interference of government in commercial affairs leads me to surmise that free trade is something of which the Justice Department does not approve.

Sincerely,
Lorrie Knorr,
Manager.

Travel Masters of Tempe, 5158 S. Rural Rd, ABCO Center, Tempe, AZ 85282.
February 14, 1993.
Mr. Mark Schechter,
Department of Justice, rm. 9104, 555 4th ST NW., Washington, DC 20001.

Dear Mr. Schechter: After reading some of the details of the lawsuit filed against the major airlines, I am compelled to write and voice my opinion on this matter.

To continue this suit would severely damage, the airlines and the travel agency community, in their effort to serve their clients.

If this decision goes against the airlines, you would have to regulate every business in the United States. Most companies or manufactors give their clients a deadline as too when a promotion will end or when there will be a price increase. This can be quite beneficial to the consumer.

I would therefore appreciate your voting for the airlines.

Sincerely,
Tony Le Fevre,
Owner.

Travel Now, Inc., One Franklin Plaza, Philadelphia, PA 19102.
February 16, 1993.
Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing to voice my opposition to the proposed airline consent decrees. This type of government intrusion into the travel business would hinder our ability to provide our customers with advance notice of fare increases and sale end dates.

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With the federal court as price regulator for the airline industry, professional travel counseling by travel agents would be greatly impaired.

Travel Now has been providing exceptional travel planning for many years. We would like to think of our business as an ongoing concern.

Sincerely yours,

Fran A. Engelbach,

President.

Travel Now, 107 North Commercial, P.O. Box 160, Clark, SD 57225.

February 15, 1993.

Mark C. Schechter
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Re: Department of Justice Lawsuit Against the Airlines.

I am writing you in regards to the above mentioned. If the consent decrees are approved my ability to provide my clients complete and professional travel counseling will be impaired.

I strongly object to this government intrusion into my business.

Sincerely,

Karen L. Arthur.

Travel Now, Inc.

February 23, 1993.

Mark Schechter,
Dept. of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Sir: I am writing to express my opposition to the lawsuit against most airlines regarding pricing fixing.

It would not only be very difficult for us to do an adequate job if we did not know the beginning & ending dates of fare promotions, but it would be unfair to our clients.

Your consideration would be appreciated.

Sincerely,

Jean Remington,

President.

Travel Partners, Inc., 7926 Old Seward Highway, Suite C4, Anchorage, Alaska 99518; Phone (907) 349–4778, FAX (907) 349–3668, Intrastate 1–800–478–4779 (Outside Anchorage).

February 17, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001

Dear Mr. Schechter: As a member of the Travel Agent community I must protest the actions being taken by the Justice Department on the airlines price fixing lawsuit. Travel agents are brokers of space, basically, we advise our clients the most advantageous time for them to purchase their airfares and vacations. If the Justice Department makes it an illegal act for the airlines to let the public and travel agents to know in advance when airfares will expire or go up, it will greatly affect the way business is done for all types of businesses. A stockbroker could not call his clients to tell them to buy or sell at whatever time is best for them. Grocery stores could not publish ads specifying sales on Brand name items as it would make an advantage over their competition as price fixing even though the first grocery store is a privately held concern. What normally happens when the airlines lower airfares the price comes out and every single travel agent I know will call the airlines involved in the same marketplace and ask them if they are going to match the airfares to save from charging their clients the higher prices to fly to the same destinations. If you write a supersaver ticket, which is an advance purchase restricted ticket, there is a penalty to rewrite the ticket to be able to refund any fare difference.

If you want to regulate the airline industry again please do it with some sense. If you want to do some good for the nation look inwards to Government Departments on State and Federal levels. Government should monitor their own travellers in that they are required to get the best fares (including supersavers) and show why they didn't. I have seen more Government waste on taxpayers money than should be deemed necessary. The American public needs to be informed more on what saves them money not how much more their taxes are going to cost because of Government spending.

Sincerely,

Twanna Hood,

Travel Consultant.

Travel Partners, Inc., 7926 Old Seward Highway, Suite C4, Anchorage Alaska 99518; Phone (907) 349–4778, FAX (907) 349–3668, Intrastate 1–800–478–4779 (Outside Anchorage).

February 17, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: As a member of the Travel Agent community I must protest the actions being taken by the Justice Department on the airlines price fixing lawsuit. Travel agents are brokers of space, basically, we advise our clients the most advantageous time for them to purchase their airfares and vacations. If the Justice Department makes it an illegal act for the airlines to let the public and travel agents to know in advance when airfares will expire or go up, it will greatly affect the way business is done for all types of businesses. A stockbroker could not call his clients to tell them to buy or sell at whatever time is best for them. Grocery stores could not publish ads specifying sales on Brand name items as it would make an advantage over their competition as price fixing even though the first grocery store is a privately held concern. What normally happens when the airlines lower airfares the price comes out and every single travel agent I know will call the airlines involved in the same marketplace and ask them if they are going to match the airfares to save from charging their clients the higher prices to fly to the same destinations. If you write a supersaver ticket, which is an advance purchase restricted ticket, there is a penalty to rewrite the ticket to be able to refund any fare difference.

If you want to regulate the airline industry again please do it with some sense. If you want to do some good for the nation look inwards to Government Departments on State and Federal levels. Government should monitor their own travellers in that they are required to get the best fares (including supersavers) and show why they didn't. I have seen more Government waste on taxpayers money than should be deemed necessary. The American public needs to be informed more on what saves them money not how much more their taxes are going to cost because of Government spending.

Sincerely,

Maria Williamson,

Travel Consultant.

I've seen this for over 20 plus years. Clean your own house up first!!

Travelyle.

February 26, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: As a member of ASTA, this note is to advise you that I am in opposition to the consent decree.

Sincerely,

Lyle Ann Glassmyer,

President.

Memo from Trevi Travel, 140 Erie Blvd., Schenectady, NY 12305, (518) 374–2756.

17 February 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing you concerning the Justice Department's consent decrees concerning advance announcement of fare increases, which we seldom receive now, and advance announcement of the end of discount sales.

We usually do not get advance warning of discount sales at the present time. The sales catch us totally off-guard, often happen over the weekend when we are not here and cause a myriad of problems. We are used to this.

What we are not used to is not knowing when a discount will end. During the January sale just past, we encountered such a thing when we asked USAir when the sale would end. The reply was that they were sorry but they could not tell us. Who ever heard of such a thing. I told this to my client and he thought that I was trying to pressure him into making a decision that he was not ready to make by saying he had to buy the fare then because I could not tell him when it would end. Who ever heard of having a sale on cars, stoves, dresses or anything else and not know when you had to get to the store by in order to take advantage of the sale. This is already a goofy business but having no announced end limits to ticket seles would make it sheer lunacy.

I have offered many times to those who affect our business without knowing much about it, including Elizabeth Dole, to come visit our agency or any other for a day before making decisions that affect us so adversely. I hope that the judge can do this.

Sincerely yours,

Susan C. Rosenthal, CTC,

Manager.

Trip & Travel, Country Fair, 4347 Tuscarawas St., W, Canton, Ohio 44706; Phone: (216) 477–3482.

February 15, 1993.

Mark C. Schechter
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Lawsuit Against Airlines

Trip & Travel is strongly opposed to the lawsuit filed by your department against most of the major airlines, alleging that they fixed prices by signalling each other of their pricing plans through advance announcements of fare increases & other fare notices.

Travel agencies are small businesses with steady employment for our agents. Our business is service as airline tickets & other travel services can be purchased direct for the same cost. How can we provide complete and professional travel counseling without the fare knowledge needed?

We need employment in our country. Without advance information of fare increases and expiration dates, travel agencies will suffer and cut back the number of agents. With this government intrusion you will take away our only business. ."service"! We need BOTH advance announcements of fare increases and advance announcements of the end of discount fares.

Thank you for your consideration of this important issue.

Sincerely,

(Mrs.) Mary Ann Kahumoku, CTP,

President.

Trips Unlimited, 4501 Maryland Avenue, St. Louis, MO 63108–1998.

February 27, 1992.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Re: Price fixing suit against airlines.

It is our opinion that your suit will in effect harm, not help consumers. It will:

1. stop providing customers and travel agents with advance announcements of fare increases.

2. also stop providing customers and their travel agents with advance announcements of the end of most discount sales.

If the consent decrees are approved by the federal judge who is reviewing them, our ability to provide our clients complete and professional travel counseling will be impaired.

The effect of your suit will prevent consumers and their travel agents from making fully informed decisions on travel purchases.

Sincerely,

Traude E. Wilson, CTC

President.

Tri-Seasons Travel, 7 W. Main Street, P.O. Box 480, Bensenville, IL 60106.

February 12, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Re: Lawsuit Against the Airlines.

I consider the proposed decrees to stop providing customers advance announcements of fare increases and the end of discount sales a great disservice to the travel agency community as a business and to the traveling public as a whole. Not only does this greatly jeopardize our ability to function as a professional travel advisor, but the traveling community at large stands to suffer serious financial losses and will greatly decrease their ability to travel and to trust both the travel agency and airline industry.

Please reconsider and don't hamper what already is one of the more difficult time periods in the travel industry history.

Sincerely,

Susan Paczosa,

President.

Tustin Travel, 2122 North Tustin Ave., Santa Ana, CA 92701.

February 24, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: We would like to voice our objection to the consent decree requiring that airlines withhold announcements of fare increases or last day of discount sales. It is important to the responsible conduct of business to be able to advise our clients of these dates. It is also difficult to promote or market a fare without such knowledge. This consent decree will do harm to consumers, agents, and airlines.

Sincerely,

Maile Clyde,

Manager.

Twentieth Century Travel.

March 8, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th St., NW., Washington, DC 20001.

Dear Mr. Schechter: I am adamantly opposed to the Department of Justice lawsuit against airlines.

If I am unable to provide beginning and expiration date information to the clients, the travelers will be unable to make an informed decision concerning their travel costs.

I utilize this information to provide the best possible service to the traveling public and believe this information should be available.

Sincerely,

Resly Ozar.

Twentieth Century Travel.

March 8, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th St., NW., Washington, DC 20001.

Dear Mr. Schechter: I am adamantly opposed to the Department of Justice lawsuit against airlines.

If I am unable to provide beginning and expiration date information to the clients, the travelers will be unable to make an informed decision concerning their travel costs.

I utilize this information to provide the best possible service to the traveling public and believe this information should be available.

Sincerely,

Barry Plasbey.

Twentieth Century Travel.

March 8, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th St., NW., Washington, D.C. 20001.

Dear Mr. Schechter: I am adamantly opposed to the Department of Justice lawsuit against airlines.

If I am unable to provide beginning and expiration date information to the clients, the travelers will be unable to make an informed decision concerning their travel costs.

I utilize this information to provide the best possible service to the traveling public and believe this information should be available.

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Sincerely,
Richard Rubenstein.

Twin City Travel, Inc., 324 First Avenue, Sterling, IL 61081.

March 17, 1993.

Mark Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Justice Department, 555 Fourth Street, NW., Suite 9104, Washington, DC 20001.

Dear Mr. Schechter: It has recently come to my attention that the Justice Department has issued a proposed consent decree that would require the major domestic airlines to no longer make available to travel agencies the first and most of the last effective dates in their fare filings. This would be disastrous for my company!!

As the owner of Twin City Travel, I wish to go on record to protest in the strongest possible terms, this proposed resolution of the price-fixing lawsuit against those carriers. The effective dates of fares are vital pieces of information that my agents need to have access to if we are to have the ability to properly assist travelers with their planning

Travel agencies do not have a tangible product to sell. What we have to offer our clients is service. To remove one of the prime pieces of information our clients require for them to be able to make efficient and economical travel plans, lessens our usefulness and impairs our efforts to provide timely data.

I urge that any fair reconciliation of this litigation not include provisions which would harm the public's ability to be selective in their travel planning. The settlement, as currently proposed, would injure both consumers and travel agencies.

Your consideration of this request is greatly appreciated.

Very truly yours,
Twin City Travel, Inc.
Maureen L. Brown,
Owner/President.

Uniglobe Active Travel.

February 22, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th St., NW., Washington, DC 20001.

Dear Mr. Schechter: For most American companies, travel and entertainment represents their third largest business expense. As the travel management partner for these companies, we need to have as much information as possible to perform our duties.

Please do not further restrict our trade. We want to have access to advance announcements of fare increases and expiration dates.

We strongly oppose the Department of Justice intrusion into our business. This industry does not need this regulation and our consumers do not need this regulation.

Thank you.
Sincerely,
Naji K. Haddad,
President.

Uniglobe, Brickell Executive Travel, 600 Brickell Avenue, Suite #104, Miami, FL 33131.

March 25, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: For most American companies, travel and entertainment represents their third largest business expense. As the travel management partner for these companies, we need to have as much information as possible to perform our duties.

Please do not further restrict our trade. We want to have access to advance announcements of fare increases and expiration dates.

We strongly oppose the Department of Justice intrusion into our business. This industry does not need this regulation and our consumers do not need this regulation.

Thank you.
Sincerely,
Horacio R. De Felice,
President.

Uniglobe, Distinctive Travel, Inc., 3507 Frontage Rd., Suite 120, Tampa, FL 33607.

February 15, 1993.

The Hon. Mark C. Schechter,
Department of Justice, room #9104, 555 4th Street NW., Washington, DC 20001.

Re: "price-fixing" lawsuit against major airlines.

Your Honor: This agency, like so many in the travel agency community, is very concerned about the lawsuit recently filed by the DOJ against most of the major airlines.

Our industry is a very tough and challenging one. We strive day after day to provide our customers with the best service at the best prices. One of our missions is to provide accurate information to trustful and loyal clients who rely on us for their travel needs.

We feel that the accuracy and reliability of that information is going to be severely undermined by the repercussions of the aforesaid lawsuit. The information we would be able to provide would no longer be reliable if discounted fares, promotions, etc. . . are allowed to be discontinued without notice.

It would almost be like taking your car to the garage for some repair, and be told . . . "Well, you need a new timing chain. That costs $250.00 today, but since we can't get to it until tomorrow, who knows? . . .".

With all due respect, we would like to suggest that the action taken by the DOJ will only make the matters worse in an industry that has already been hit very hard by the current recession, and that such action is likely to put the US carriers at a great disadvantage vis-a-vis the foreign competition.

We therefore welcome this opportunity to voice our objection to the action taken by the DOJ.

Respectfully,
Salvatore Alhadeff,
President.

Uniglobe Fantasy Travel, 3631 South Federal Highway, Boynton Beach, FL 33435.

February 24, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: For most American companies, travel and entertainment represents their third largest business expense. As the travel management partner for these companies, we need to have as much information as possible to perform our duties.

Please do not further restrict our trade. We must have access to advance announcements of fare increases and expiration dates. Our clients, the American public, deserve nothing less.

We strongly oppose the Department of Justice intrusion into our business. This industry does not need this regulation and our consumers do not need this regulation. The traveling public is already angry about the hassle and frustration they suffer because of existing restrictions. We do not need more of them.

Thank you for your attention to our plight.
Sincerely,
Janice M. Betler,
President.

Uniglobe, Lemon Bay Travel, 475 West Dearborn Street, Englewood, FL 34223.

February 24, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: For most American companies, travel and entertainment represent their third largest business expense. As the travel management partner for these companies, we need to have as much information as possible to perform our duties and thus serve the clients needs.

Please do not further restrict our trade. We want to have access to advance announcements of fare increases and expiration dates.

We strongly oppose the Department of Justice intrusion into our business. This

industry does not need this regulation and our consumers do not need this regulation.

Thank you.
Sincerely,
Jean K. West-Walker,
President.

Uniglobe, Martin Miller Travel, 800 West 2nd Street, P.O. Box 332, Hastings, NE 68902.

February 17, 1993.

Mark C. Schechter,
Department of Justice, Room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: I'm writing in regards to the Justice Departments lawsuits against many airlines. Alleging that they are fixing prices by notification of travel agents and the public of future price changes and discontinuation of discount sales.

I would like to strongly urge that these suits be stopped, and the matter dropped. To further burden an industry reeling from 10 years of chaos and recession is absurd. Not to mention the disservice to the traveling public if they have no advance warnings of fare increases and/or reductions. The elimination of advance notifications of sales and their discontinuation would cause virtual panic during sale periods. When American Airlines announced a half price sale, the only thing that prevented complete hysteria was the establishment of when the tickets had to be purchased by.

These announcements are not anticompetitive. Each carrier has a choice as to how to respond, and of late, if the matter is closely looked at, carriers are responding to each others announcements in varied ways. Depending on their own strengths, weaknesses, and effected markets.

I don't understand why, when the airline industry is supposed to be deregulated, the courts insist on trying to tell them how to run their business.

Again, I strongly urge the courts to back off, and let what little sanity remains in the U.S. airline industry rest in peace.

Thanks for your attention.
Sincerely,
Martin Miller.

Uniglobe, Ohio Valley Travel, 32 Tenth Street, Wheeling, WV 26003.

February 26, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Mr. Schechter: We are strongly opposed to the federal court approval of consent decrees signed by United and USAir. If these consent decrees are finalized we will not have available, useful travel planning information. This will also be a major setback to the consumer.

Keep the government out of our business. We have more regulations than we need.

Sincerely,
William R. Bryson Jr.,
Owner.

Uniglobe, Red Carpet Travel, Inc., 413 Branmar Plaza, Upper Level, Wilmington, DE 19810.

March 3, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th St., NW., Washington, DC 20001.

Dear Mr. Schechter: We wish to say that we oppose the consent decree with the airlines that is to be voted on.

This will be a terrible hardship on all travel agents and not a help to the public.

Sincerely,
Helen S. Whitson,
Owner.

Uniglobe, Select Travel, 32020 1st Avenue South, Suite 101, Federal Way, WA 98003.

Mr. Mark Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing to you because I believe that the lawsuit filed by the Department of Justice alleging price fixing by the airlines in an unfortunate and unnecessary intrusion into the transportation industry. The stipulations of the consent decree will negatively impact the travelling public. Why is the Justice Department working against the welfare of the people?

Surely with the airline industry losing $8 billion over the last three years, the Department is not concerned that the airlines are making unfair profits. What is the purpose of the suit? The American public is enjoying the lowest airfares in the world.

This proposed consent decree would inhibit our ability to serve the traveling public. Information is important to decision making and this consent decree would severely limit the information available to the traveling public.

I urge you to withdraw this frivolous lawsuit and allow the basic economic principles to determine the market place. Enterprise free of government interference is the American way.

Sincerely,
K.G. Feldt,
President.

Uniglobe Active Travel.

March 8, 1993.

Mr. Mark Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: For most American companies, travel and entertainment represents their third largest business expense. As the travel management partner for these companies, we need to have as much information as possible to perform our duties.

Please do not further restrict our trade. We want to have access to advance announcements of fare increases and expiration dates.

We strongly oppose the Department of Justice intrusion into our business. This industry does not need this regulation and our customers do not need this regulation.

Thank you.
Sincerely,
Evelyn H. Harrill,
President.

Uniglobe Travel Resources, P.O. Box 20639, 1049 Bethel Road, Columbus, OH 43220, (614) 459–5455, (800) 458–5455.

15 February 93.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: Would you please convey this to the judge ruling on the consent decree against the airlines alleging price fixing.

To prohibit the airlines from communicating the rules of the tariffs from the travel agency community will severely impair our ability to function in a professional manner for our clients.

Our clients rely on us to inform them of the restrictions on fares that will meet their travel plans. One of those parameters is when a given fare will no longer be available, recognizing that, even today, there is no assurance the fare will be here tomorrow.

As a small businessman, I implore you to let us continue to professionally serve our clients. We do not really need this government intrusion!

Sincerely,
R.R. Vermillion,
President.

Unique Travel Service, 170 North York Road, Elmhurst, Illinois 60126; (708) 833–8850.

February 12, 1993.

Mr. Mark C. Schechter,
Department of Justice, Room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: We wish to express our strong opposition to the consent decrees recently agreed to by two major U.S. Airlines, USAir and United. We fully support those remaining carriers and their desire to fight the court ruling.

Our customers are some of the smartest and most savvy consumers in the United States. For us to do our jobs correctly, we must be able to continue the practice of notifying our customers of fare effective dates, discontinuation dates and validity.

If the consent decrees are upheld by the Federal Courts, our jobs will become increasingly difficult to perform. We foresee the same customer calling us daily, since we will have to inform them that any airline fare we quote is valid only on the day at that time. We will no longer have the ability to notify that fares must be purchased by a certain date or that a new fare will become applicable on a given date.

We make little enough commission as it is and cannot afford the imposed burden it would place on us to sell the same airline seat dozens of times before it is actually ticketed.

Please advise the Court of our objection to the government intruding into our business in this matter.

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Respectfully,

Glennda Lockard,

Manager.

Virginia Harmon,

Owner.

Universal-Heritage Travel, 1700 North Main, Racine, WI 53402–4929; 414/631–5820.

February 22, 1993.

Mark C. Schechter,

Department of Justice, rm 9104, 555 4th Street NW., Washington, DC 20001.

Re: Government Lawsuit Alleging Price Fixing Through Airline CRSs.

Dear Sir: As a Travel Agent serving the public, I am disturbed at the Government's recent lawsuit claiming the carriers were guilty of price fixing through the computer reservation systems.

The remedy demanded of the carriers is anti-consumer, in that it will result in higher fares being paid by the travelers purchasing air tickets. We already have had cases whereby reservations were being finalized, but before the tickets could be issued, the fares increased without notice. These situations place the travel agent in an awkward position with customers when fares are increased unexpectedly.

The remedy does not allow travel agents to properly serve their customers and the required consent decree should be lifted immediately.

Sincerely,

Universal-Heritage Travel

W. Blake Smith, CTC,

President.

Universal Travel, 1072 N. Campbell Ave., Tucson, AZ 85719; Phone (602) 327–6271.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th St., NW., Washington, DC 20001.

Re: Lawsuit Against Airlines Price Fixing Case.

Dear Mr. Schechter: I am writing you with regard to the lawsuit by the Department of Justice, against the airlines in the price fixing case.

If the rules as proposed were to be put in place, it seems to me the Government would be interferring with our rights to open communication, such as any store which is announcing a sales in advance. If this is a Democracy, businesses, which are operated by citizens, must not have their right to communicate whether by computer, newspaper, or letter diminished.

I ask that you not approve the consent decrees which have been filed, and to not rule against the airlines, as it would add additional problems to our already overburdened businesses.

Thank you for your time necessary to read this.

Sincerely,

Mildred Wedel, CTC,

Owner.

U.S. International Travel & Tours, 117 S. Main St., Mishawaka, IN 46544; 2724 N. Lehmann Ct., Chicago, IL 60614; (219) 255–7272; (312) 404–0990.

February 25, 1993.

Mr. Mark C. Schechter, Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I have worked in the travel industry for the past 8 years. I have witness many changes in the ever challenging industry, but change is good in order for a large industry to grow and expand.

However, it is very imperative the United States Government not intervene in the travel industry by forcing to change and control the airlines pricing practices.

On behalf of the travel agent community, the airlines should notify us through our computer systems, the beginning and ending date of all fares, in order to better serve our corporate and leisure clients.

As the saying goes, "Don't fix what isn't broken."

Thank you for your consideration in this matter.

Sincerely Yours,

Mary Goodhew,

Manager.

USTRAVEL, 2903 E. Grant Road, Tucson, AZ 85716–2791; Tel: (602) 323–3161.

February 16, 1993.

Mark C. Schechter, Department of Justice, rm 9104, 555 4th St., NW., Washington, DC 20001.

Re: Department of Justice Lawsuit Against the Airlines.

Dear Mr. Schechter: The requirements of the consent decrees will, in our opinion, serve to destroy the trust and our clients' reliance on our professional handling of their travel needs. We have spend time and money to build a strong client base. Not having advance information will result in many changes which are beyond our control that our clients will not understand.

We do not need government intervention and regulations in areas that will hurt, rather than help, the client.

Sincerely,

Roland W. Browne,

Management Consultant.

USTRAVEL Affiliates, Travel One, Inc., One Appletree Square, Minneapolis, MN 55425; Tel: (612) 854–2551, Fax: 854–5038.

February 16, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I would like to comment on your pending ruling concerning the major airlines and the allegation that they conspired to fix prices.

As an owner of a travel agency, my job is to provide the highest degree of service to my traveling clients. If you restrict the airlines from advance announcements of fare increases and, more importantly, from advance announcements of the end of discount sales, you will dramatically lessen the service level I can provide my customers. Since the vast majority of airline tickets are issued via travel agents, by adopting the pending rulings, you are in effect doing a disservice to the traveling public.

Thank you for taking this point of view into consideration.

Sincerely,

Travel One/USTRAVEL

Robert P. Neuman,

Vice President.

USTRAVEL, 520 Pike Street, Suite 2800, Seattle, WA 98101–4000, Tel: (206) 682–5200, Fax: 224–7770; (800) 426–1491.

March 5, 1993.

Mr. Mark C. Schechter,

Department of Justice, 555 4th Street NW., room 9104, Washington, DC 20001.

Dear Mr. Schechter: Your consent decrees regarding price fixing through CRS systems has seriously impacted our ability to provide complete and professional travel counseling to our customers. The need to issue tickets immediately to protect a fare is not always in the best interest of the customer or the travel agent. The business traveler usually makes 2–3 changes to an itinerary after the initial booking. If we wait until the last minute to issue the ticket we risk losing the best fare, if we issue the ticket too early we create additional work without additional income. The end result will be travel agents will have to absorb the cost or find a way to pass it on to the customer. I would like to believe increased cost is not what was intended when these consent decrees were filed.

The system for posting applicable dates for fares in the CRS system has always been the best and most informative system for the customer. I would ask you to please review this filing and allow airlines to at least post "not valid after dates".

Sincerely,

Carl Jernquist,

Vice President & General Manager, Seattle Area.

USTRAVEL, 520 Pike Street, Suite 2800, Seattle, WA 98101–4000; Tel: (206) 682–5200 Fax: 224–7770; (800) 426–1491.

March 5, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: With more than 30 years experience in the transportation industry—both with the airlines and as a travel agent—I feel qualified to write to you with a request to consider the concerns of the people who are on the firing line of the air transportation industry: those who work with the traveling public issuing tickets and explaining the complicated system we find ourselves using today.

Our professional efforts to give a traveler proper direction and information are surely diminished if we cannot provide advanced information on increases or discount sales. Don't make our efforts any more impossible by impairing our efforts to do a good job for an already confused traveling public.

Sincerely,

William H. Hunt, CTC,

Executive Vice President.

February 21, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 4th St., NW., room 9104, Washington, DC 20001.

Re: United States vs. Airline Tariff Publishing Company, Action No. 92–2854.

Dear Mr. Schechter: As a travel professional I must protest the pending legislation restricting access to fare information. My clients depend on me to be able to provide accurate and current fare information on a daily basis. If I cannot do so then I lose my credibility and my clients.

Please work to keep airline fares available to travel agent personnel via our reservation systems. We need to know fare availability and expiration dates before the public, not the other way around.

Thank you.

Sincerely,

Venture Travel Center

Alfred Escano,

Travel Consultant.

February 21, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, room 9104, 555 4th St., NW., Washington, DC 20001.

Re: United States vs. Airline Tariff Publishing Company, Action Number 92 2854.

Dear Mr. Schechter: I am deeply disturbed by the news that above is still pending legislation. I would have hoped that the Justice Department would have done its homework and realized that this is not in the best interests of the consumer, nor of the travel business.

Travel agencies are responsible for over 85% of all ticketing and we cannot provide our clients with the best service if we do not have the information necessary to do so. The recent limitations we have already experienced have caused some unhappy clients, and travel agents, in this community.

Please do your best to make sure that the travel agency community is kept in the informational loop; at least equal to what is proposed for the public via the media (our media is our reservation system!).

Sincerely,

Venture Travel Center

Erin Branson,

Independent Travel Consultant.

February 21, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 4th St., NW., Washington, DC 20001.

Re: United States vs. Airline Tariff Publishing Company, Action Number 92 2854.

Dear Mr. Schechter: The above action which limits the availability of fare information to travel agents has negative impact on small travel businesses and the consumer.

We and our clients have always relied on being able to determine the expiration dates of fares to better serve our clients needs. The fact that the public, and not the travel agency community, is to be informed of fares is ridiculous! Travel agencies issue over 85% of all airline tickets in the United States and our clients depend on us to be able to supply up-to-date and accurate fare information. Since the recent limitations in fare information, we have encountered missed ticketing dates and very unhappy consumers who don't like being told "we don't know".

Our current newsletter will contain information about this legislation and I can guarantee a consumer response from this agency. Please reconsider as this is not in the best interests of travel agents or consumers.

Sincerely,

Venture Travel Center

Margaret Midlick,

Owner-Manager.

Mr. Mark C. Schechter,

Chief Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 4th St., NW., suite 9104, Washington, DC 20001.

Dear Mr. Schechter: As owner of a retail travel agency, I request that you reconsider your decision in regard to carriers affected by the anti-trust litigation.

Our business has, by the very nature of our airline relationship, a very narrow profit margin. Today's economic climate is not helping those of us who operate small businesses nor is it helping the consumer. We need all of the marketing tools available to operate even at a small profit. The consumer also needs all of the information available to make an intelligent purchasing decision.

As it stands now, expiration dates are available to the consumer and he can make his purchase decision based on his needs and financial situation. If advance and expiration dates are withheld from the consumer, you will open a real "can of worms". Tickets will be exchanged by the carriers for lower fares at the gate. (They do this with tickets now that they won't let the travel agency rewrite and then they take back our commission), causing double work for them and lost profits for the agency that sold the ticket in the first place. We don't need to add this to our list of problems or to the consumer's. They are confused enough as it is right now.

All retail businesses have beginning and ending dates for their sales and the travel business is no exception. We happen to be the only business I know of that refunds money because a price goes down several months late. You won't find a department store doing that. We need set dates and set rules across the board so that we can have a chance at making a profit in this economy. By the time a ticket is rewritten a few times, we have actually lost money. Think about it and please reconsider.

Sincerely,

Kay F. Penn, CTC

President—Village Travel.

Village Travel Agency, Inc., 4140 W. 71st, Ste. #111, Prairie Village, Kansas 66208; (913) 432–8200.

February 17, 1993.

Mr. Mark C. Schechter,

Dept. of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Sir: I am a member of the American Society of Travel Agents, writing in request of your help regarding the lawsuit against most of the major airlines, alleging their price fixing.

I would like to state that I oppose this action as it will be most harmful to the consumer and they will not want to travel if they cannot be given the full information on various fares to make a decision.

Your assistance on our behalf will be greatly appreciated.

Cordially,

(Mrs.) Helen L. Forte,

Owner.

1341 Fecis St., Metairie, LA 70005.

March 8, 1993.

Mr. Mark C. Schechter,

Chief, Transportation, Energy and Agriculture Section, Department of Justice, room 9104, 555 Fourth St., NW., Washington, DC 20001.

Dear Mr. Schechter: We strongly oppose the airfare suit which charges airlines with coordinating price increases and sales.

If it ain't broke don't fix it.

This suit is just another means for greedy lawyers to line their pockets while the consumer suffers.

Very truly yours,

Norma Martinez Vodanovich,

A member of United We Stand Americans.

Waimea Travel Center, Inc., Kamuela Office Center, Room 9–A, P.O. Box 927, Kamuela, HI 96743; Telephone 808/885–7341.

February 16, 1993.

Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Sir: May I express my opposition to the proposed price fixing ruling that you are considering. I understand that you feel the airlines are doing a disservice to the consumer by signaling price information to one another. I believe the consumer gets hurt by the lack of information such as sale periods and sale end dates. Tell a client that you know nothing about the sale and see how their reaction is to that statement. That is not what the consumer wants to hear. They want to know if they have a period of time to consider the fare and if the travel dates will work for them. It erodes our (the travel agent) ability to provide the best service to the consumer. We like to know all there is to know about the fares to pass that information on to the client to better serve them.

If you are looking for unfairness to the consumer then look at non-refundable fares and penalties for flights not taken for very

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valid reasons that are other than death. There is unfairness in the airline pricing area for the consumer but I believe it is not the sale information that they normally provide. The best service is when you can provide your client (the consumer) with as much information as possible to help them make the best travel decision possible.

Thank you for your time and attention to this matter.

Sincerely,

Bernadette Botelho,

Manager, Waimea Travel Center.

Walnut Valley Travel Service, 705–B Main, P.O. Box 537, Winfield, KS 67156.

February 25, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing this letter to express my frustration with the situation we are now experiencing in quoting air fares to consumers. As I am sure you are aware this is a highly volatile market with many changes in rates and rules. Without the ability to advise our clients of the cut off dates for various airfares, we are unable to provide them with the data they need to make an informed decision.

If we advise a client of an airfare and if the rule for that fare states that the ticket must be purchased within 24 hours, then overnight the fare is discontinued; how do you explain to that client when they come in money in hand the next day that that fare no longer exists and the fare is now higher than quoted yesterday? In this scenario we now have a frustrated agent, a mad consumer, and a lost sale.

It is vital that travel agents and consumers be given as much information as possible about the beginning and end dates of airfares. Only thru knowledge can any consumer be expected to make an informed decision to purchase and we are all hurt if he decides not to purchase.

Sincerely,

Walnut Valley Travel Service.

Barbara Mehuron, CTC,

Manager.

March 11, 1993.

Sir: The Federal Gov't should stay the heck out of private business affairs—get off the airlines' backs—they're in bad enough shape already without the help of Uncle Sam. Pls. rescind the consent decrees already *forced* on the two carriers.

Very truly yours,

Richard Wahold.

Mary Margaret Watson, 1161 Lake Avenue, #314, Metairie, LA 70005.

March 8, 1993.

Mark C. Schechter,
Chief of the Transportation, Energy and Agriculture Section, Department of Justice, room 9104, 555 4th Street NW, Washington, DC 20001.

Re: Lawsuit filed by U.S. Justice Department against Alaska Airlines, American, Continental, Delta, Northwest, TWA, USAir and United.

Dear Mr. Schechter: I read an article which was published in the Times Picayune (New Orleans) on Sunday, March 7, 1993 which stated that the above lawsuit had been filed and should the Department of Justice win its suit, airlines and travel agents would be prohibited from providing customers with advance announcement of fare increases. Also, travel agents would be prohibited from informing consumers of the end date for discount fare promotions and the government would begin a de facto de-regulation of the airline industry resulting in increased litigation costs and inefficiency which would then be passed on to the consumer in the form of increased ticket costs.

Mr. Schechter, I enjoy traveling via air to other parts of the world and to other parts of this nation. It's very educational and I think you would agree that it gives a person a better perspective on many issues if one is able to empathize with the people of a country after becoming familiar with a certain section of the world or another section of our own United States. As a secretary on a moderate income, I often plan my travel during "low season" so as to save part of the cost of the airfare, enabling me to remain in a certain area for a longer period of time. Should the Department of Justice be successful in the above litigation it would seriously curtail my ability to travel because I would be unable to get the information that I would need as to "low season" and special air fares. This would affect many other people as well. I sincerely hope that this does not happen and assure you that I will be watching with great interest the outcome of this suit. In my opinion withholding the above information from a society of "free" people is borderline unAmerican.

Sincerely,

Mary Margaret Watson.

Welcome Aboard.

February 12, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: The recent lawsuit filed by the Department of Justice against the airline industry will impair our agency the ability to provide our clients the professional travel counseling they deserve. These clients are confused enough with the changing state of our industry. And to stop providing customers with advance announcements of fare increases and the end of discount sales will continue to add to their confusion.

Furthermore, two airlines have already felt compelled to sign consent decrees in order to avoid additional legal costs and risks even though they adamantly oppose what the Department of Justice is demanding. One of those airlines is Phoenix based America West. We need this airline to survive as well as all the airlines that are now in financial distress.

Plase forward our opposition to this lawsuit to the judge assigned to this case.

Sincerely,

Mary Louise Seifert,

CTC, Vice President.

Westminster Travel, 28 N. Lansdowne Avenue, Lansdowne, PA 19050; (215) 284–4800.

February 22, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: The Department of Justice has filed a lawsuit against most of the major airlines, alleging that they fixed prices by signaling each other of their pricing plans through advance announcements of fare increases and other fare changes.

I oppose to this government intrusion into the travel business.

I do not want the federal court to become the price regulator for the airline industry.

Sincerely,

Bob Dowd.

Westport Travel Agency, 764 Main Road, Westport, MA 02790; 636–4048.

January 25, 1993.

Mark Schechter,
Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Justice Department, room 9104, 555 Fourth St., NW., Washington, DC 20001.

Dear Sir: I am the owner of a local Travel Agency, located in a small town and employ 6 persons plus myself. I have been operating this business for 20 years and am finding, since deregulation, that it is an extremely frustrating cause.

Our business is in a very small town in the country, however we service many people in the outlying towns and cities. Our reputation is based on SERVICE since there are many agencies in the other areas. Our SERVICE is done by calling our clients with good deals, advising them on airline fares, saving them money!!!!!!

A small business can not survive without the opportunity to be able to help their clients travel as inexpensively as possible. If I have to close down my business because we can not service our clients properly 6 families will be effected. WE WANT TO CONTINUE TO RECEIVE INFORMATION ABOUT FUTURE TICKET FARE CHANGES.

Restaurants, department stores, cruise lines etc can advise their clients about sales, why can't the airlines?

Please help us, the small business people to stay in business.

Sincerely,

Westport Travel Agency

Mary Silveira

President/Manager.

Whitaker Travel, Ltd., 2125 North 63rd Street, Overbrook, PA 19151.

February 18, 1993.

Mr. Mark C. Schechter,
Antitrust Division, room 9104, Department of Justice, 555 Fifth Street NW., Washington, DC 20001.

Gentlemen: As a small retail travel agency engaged in the sale of leisure travel, I am very upset by the restrictions the Department of Justice is attempting to place on the air fare information which is available to my agency.

The only thing which uniquely separates one travel agency from another is the type and amount of personalized service they give to their clients. Part of that service is the agency's ability to advise clients on the best air fares available and the best time to purchase tickets at special air fares. Leisure clients need this information in order to make vacation arrangements that will give them the best value of their available funds.

Since no airline passengers, or travel agents, have complained that they are being harmed by what you are calling 'electronic price setting' why is the government now coming in to create a problem for passengers and agents so they can complain? If it "ain't broke" why are you trying to break it? The only people who will benefit from your lawsuits will be the lawyers. They will make money while you are using *my tax dollars* to increase the burden on the already over burdened courts.

Will you next pick on the cruise lines, or car rentals or hotels, because they too have their fares in a common computer base? They too could be guilty of what you call 'electronic price fixing'. Of course the airlines are losing millions while they are busy 'price fixing' and the car companies and hotels are not making any money either. How do you explain that? When you are fixing prices aren't you supposed to be making lots of money while your clients suffer from the overpricing of the products?

I suggest you withdraw your suit which is harmful to both the traveling public and the travel industry.

Sincerely,

Dorothy E. Whitaker, CTC,

President.

Dorothy Ann Wiener, 766 Hope Street, P.O. Box 6845, Providence, RI 02940.

March 1, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: In reference to *U.S. Airline Tariaff Publishing Co. et al.*, I hope the Department of Justice and the presiding Judge understand that giving advance notice of fare *increases* is one of the most powerful tools travel agents have for best serving the needs of their customers.

Eliminating this tool could be very damaging to the industry and to the customers that we serve.

It will result in unexpected fare increases, no warnings of discount fare expirations, and ultimately rising ticket costs.

Please help us not to lose this tool.

Cordially,

Dorothy Ann Wiener,

President, Member of ASTA.

Wilcox Travel.

February 24, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing to express my opposition to the proposed consent decree currently under consideration for the airlines.

The imposition of such a decree would severely impede my ability to provide my clients with accurate information. The airline industry is chaotic enough without the imposition of more rules and regulations by the government.

Will you kindly forward this correspondence to the court.

Very truly yours,

Thomas O. Mehen, CTC,

Chief Executive Officer.

Windigo Travel Inc., Box 648, Manchester, VT 05254–0648.

March 1, 1993.

Mr. Mark Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Sir: We in this office of 5 heartily oppose the government attempt to restrict computer displays of special airline fares—particularly the validity dates. It is impossible to require clients to purchase a ticket at once—and often heartbreaking and/or infuriating to them to be told a recent good fare has expired without their being warned. We must give them the best information about fares that we can, and a great tool like the computer display system has in the past helped us to do this.

We feel this action is particularly anti-consumer, particularly in this rural area where the public doesn't have easy access to, for example, advertisements in the NY Times.

Sincerely,

Kendra,

Manager.

Windjammer Travel Service Inc., 9989 Manchester Road, Warson Village St. Louis, MO 63122–1992.

February 18, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

As owners of a local travel agency for 20 years, we are most concerned about the effects of the airline price fixing case now before the court. We believe requiring airlines to stop providing customers and travel agents with advance announcements of fare increases, and advance announcements of the end of discount sales with limited exceptions, would hurt the traveling public, and travel agencies.

In other competitive environments, this practice is common. My newspaper and mailbox are filled with announcements of special sales starting on a given date in the future, and ending on a given date. If a furniture store runs an ad for Washington birthday special starting next Thursday, the competition has the choice of running a similar ad, matching the sales price, or inventing their own promotional ad, or doing nothing. I see no difference with the airlines announcing advance sales, or price increases, and reacting to the competition.

From the traveling public's point of view, this information is much to their advantage. If a family is thinking about a trip, they need to know in advance if a price increase is planned, or when a discount may be discontinued.

If you were calling a travel agency for your reservations for a family of four, which scenario would you prefer? (1) Super-saver fares from St. Louis to Orlando have ranged from $178–$330 in the past year. As of now, there is a "special" non-refundable fare of $198 on XYZ Airline valid on your desired travel dates, good till next Friday, when fares are tentatively set to increase. Would you like to discuss this with your family, and let us issue the tickets prior to Friday to guarantee the fare? (2) Super-saver fares from St. Louis to Orlando have ranged for $17–$330 in the past year. As of today, there is a "special" non-refundable fare of $198 on XYZ Airline valid on your desired travel dates; by tomorrow, the fare may have gone up or down. If you want to take a chance, you can wait. If you know you want the ticket this minute, we will be happy to issue them—come in with a check or give me your credit card number.

We want to do a good job for our clients. It has helped us to stay in business for the past 20 years. Refusing to let us have advance notice of fare decisions hurts our ability to advise our clients and help them make an informed decision.

Claire R. Adams, CTC.

Windward Travel Inc, 201 Executive Commons, East, 29525 Chagrin Boulevard, Pepper Pike, OH 44122.

March 3, 1993.

Mr. Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: I am opposed to the airline consent decrees which will require airlines to stop providing customers with advance announcements of fare increases and the end of discount sales.

Every Sunday I read the newspaper ad inserts for my favorite stores. The ads indicate what merchandise is on sale, for how much, and the starting and ending dates of the sale. This information helps me decide when to buy something I need or whether to buy something I want but don't need.

The stores hope to entice you to buy from them with a lower sale price, and remind you to hurry before the sale is over. Everyone knows you buy a new car before September when the new models arrive and the prices increase. Flower catalogs usually indicate that prices increase after a certain date.

Why should the airlines be any different? It's just advertising and everyone's doing it. Price-fixing is an agreement between two or more companies; sales and price increase announcements are just advertising. Price competition is good for the consumer, but he has to be informed to benefit. It just doesn't make any sense to ban one particular industry from advertising its sales.

Sincerely,

Marilyn L. Rouge,

President, Windward Travel.

Woodside Travel Trust.

February 19, 1993.

Mr. Mark C. Schechter, Chief,
Transportation, Energy and Agriculture Section, Antitrust Division, U.S. Department of Justice, 555 4th Street, NW., room 9104, Washington, DC 20001.

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Dear Mr. Schechter: I am writing to present the comments of Woodside Travel Trust on the proposed Final Judgment accepted by United Air Lines, Inc. and USAir, Inc. to settle the above-referenced antitrust suit.

Woodside Travel Trust is a global travel management group of more than 150 major travel agencies throughout the world. Our partners have over $13 billion in sales at over 3,400 locations in 51 countries.

After reviewing the complaint and the competitive impact statement, we have concluded that the relief sought by the Justice Department is likely to do more harm than good. Therefore, we oppose your proposed remedial action.

Both counts of the complaint rest on the theory that first ticket dates and last ticket dates have been used by airlines to suppress price competition for air travel. From that premise, the Final Judgment has been crafted to prevent signatory airlines from announcing first and last ticket dates in the future. This action will deprive agencies and the travelers they serve of useful information.

Travel agencies refer to first ticket dates and last ticket dates when advising travelers whether to purchase airline tickets at current fares. A last ticket date stating that a discount fare will expire on a specific date is useful in advising travelers of a deadline for purchasing a specific fare. Similarly, a first ticket date can be used to advise travelers to wait for lower fares to come into effect before purchasing tickets.

Even if first and last tickets are not universally honored by the airlines, the dates provide relevant information used to advise travelers. The Final Judgment does not consider the impact of depriving both agencies and the traveling public of that information.

We question whether the complaint against the airlines is warranted at all. Significantly, the complaint never identifies a relevant geographic market in which the alleged price fixing took place. The competitive impact statement indicates that competition is supposed to take place between specific city pairs, but no city pair has been identified as a market in which prices have been maintained at an artificially high level. In the record available, there is no apparent market in which competition has been stifled.

It also seems unusual that the consent decree was offered to the airlines before the complaint had even been filed. Surely, if the complaint is justified, further discovery should be made before offering to settle the case by consent.

The absence of a defined market and the haste with which settlement has been offered cause us to wonder whether the complaint has any merit. Last October, in a class action based on similar (if not identical) allegations, Judge Marvin Shoob expressed doubt that the plaintiffs had any chance of winning on the merits. The airlines nevertheless have agreed to settle the class action through a discount coupon program.

As they did in the class action, the carriers named in the Justice Department's complaint certainly have every incentive to avoid the cost of defending protracted antitrust litigation. Continental and TWA are still trying to conclude their Chapter 11 reorganizations. Northwest and USAir each have sought additional cash in much-publicized investment deals. None of the carriers named as defendants posted an operating profit in the last year. In such circumstances, the desire to avoid protracted litigation is understandable.

However, the desire to avoid lengthy, costly and complex litigation is a poor reason to tarnish the reputation of the world's only truly market-driven airline industry with unproven allegations of price-fixing. Nor is it a good reason to deprive travelers and travel agencies of information concerning future price changes.

Market forces work best when full information is available to purchasers. Travelers turn to their agents as an unbiased and informed source regarding air travel options. The proposed Final Judgment will restrict the information available to travelers and the travel agencies on which they rely. We urge that this suppression of price information be avoided.

Thank you for the opportunity to submit our comments.

Sincerley,

Ivan Michael Schaeffer.

World Class Travel, 1 Route 37 East, Sherman, CT 06784, (203) 354-9360.

Mark Schechter, Chief,
Transporation, Energy and Agriculture Section, Antitrust Division, Justice Department, 555 Fourth St. NW., room 9104, Washington, DC 20001.

Dear Mr. Schechter: Again the government is in areas of our business they do not understand.

The Department of Justice is trying to stop all airlines from giving future fare changes or first and last ticket dates in fare quotes.

Please tell me how I can service my clients when you are taking the tools away from me?

For your information, Travel Agents are not as you have labeled us, "order takers." I am a professional and have been in this business for 19 years. I would not be a member of "Whos Who in the Business World" if I were not a professional.

I have something better to do with my time than to sit on the phone with each airline to find out when a fare expires and when to ticket my client.

I am against this because it will make it much more difficult for my clients to make their travel arrangements. I want to be able to tell them when the fare is going up and how long it is good so that they can make their plans accordingly.

Very truly yours,

N. Jimilee Knepper,

Manager.

World Class Travel, Inc., 2200 Sixth Ave., suite 404, Seattle, WA 98121.

March 8, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: Having just been through another "Fare War" I feel that I must comment on your lawsuit against the airlines, alleging that by putting a expiration date on fares in the computer they are "price fixing". You ended the regulation of airfares and airlines in order to "better serve the consumer". The consent decree, signed by the airlines, puts the consumer at a disadvantage and the travel agent in a state of shock. The latest "fare war" points this up. The fares, according to the newspapers and TV, were to expire on Friday, February 26th. On Monday they were still there and due to expire on March 3rd. Then on Thursday March 4th they were still there and due to expire today. ——Now they are due to expire on March 10th.

It is hard to appear to have credibility with my clients when I never know what is going on. I tell my clients that they have to purchase their tickets on the day they call or they may or may not be able to get the same fare the next day. The airlines all match the fares that appear in the newspaper so why is that any different than matching the fares that appear in my computer? It makes doing business harder for the travel agent and stressful for the customer.

Please do not rule in favor of the consent decree.

Thank you.

Sincerely,

Louise Gibbeson, CTC,

President, World Class Travel, Inc.

World Travel, 11 Airport Road, P.O. Box 3448, Butte, MT 59702.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Mr. Schechter: I am opposed to the Consent Decree.

Furniture stores run specials and have a time limit set. They tell when the sale starts and when the sale ends.

The grocery stores put out ads in the paper weekly, they run for a specific length of time.

Catalog sale flyers have expiration dates.

What makes it legal for these businesses to run dates and the travel industry not to?

I feel I will not be able to offer my client the best service if I do not know all of the facts.

Sincerely,

Deanna Phillips,

World Travel.

World Travel, 6 West Main Street, Middletown, DE 19709.

March 4, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 Fourth Street NW., Washington, DC 20001.

Dear Mr. Schechter: I am writing to you to express my strong opposition to the recent Justice Department consent decree designed to settle the price-fixing lawsuit.

This consent decree will increase ticket prices and discourage our customers from flying because of unexpected fare changes. It will deny Travel Agents and travellers basic fare information, and subsequently prevent us from doing our jobs of selling travel.

In these recessionary times, every effort should be made to encourage people to travel by keeping fares as low as possible and providing as much information as possible for them to make enlightened decisions. This consent decree will have the opposite effect.

We encourage you to take another look at the consent decree, and take the necessary steps to encourage travel rather than restricting it.

Sincerely,

Frank J. Stanitski.

World Travel & Tours, 1887 W. Front St., Lynden, WA 98264.

February 16, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th St. NW., Washington, DC 20001.

Dear Sir: I am writing to you in regards to the lawsuit the Dept. of Justice has filed against most major airlines, alleging that they fixed prices by signalling each other of their pricing plans. The consent decrees would require that the airlines must stop providing customers and TRAVEL AGENTS with advance notices of fare increases and advance notices of the end of discounted sales. If these decrees are approved by the federal judge who is reviewing the decrees, our ability to provide our clients with complete and professional travel counseling will be greatly impaired!!!!

I not only oppose the government from intruding into my business, I resent it!!!! These rules, if imposed, would only be the beginning of the end—the federal court then becomes the price regulator for the airline industry.

This lawsuit will most surely force most airlines that are already having financial problems and trying to keep their heads above the water and the wolf from the door, OUT OF BUSINESS!!!! Is this what the government wants—3 airlines left—which would mean NO COMPETITION between airlines and higher prices for the consumer.

I strongly urge you to reconsider your views on this lawsuit and cancel it at your earliest convenience.

The Travel Industry is having enough problems without the government compounding them!!!!

Thank you.

Grace E. Schneider,

Owner.

World Travel Mart, 5615 W. 95th St., Oak Lawn, IL 60453.

February 23, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: It is my understanding that two major airlines have signed consent decrees regarding the Justice Department Suit against the airlines alleging price fixing. The consent decrees, as I understand it, were signed to avoid additional legal and other expenses by both carriers.

I am writing to register my objection to approval of these decrees for the following reasons:

- Advance fare increase announcements and other fare changes are a significant planning aid for both the consumer and travel agencies. These announcements are for the consumers benefit, and to prohibit the airlines from publicly announcing such announcements is a disservice to consumers and another intrusion by the federal government in airline management.
- Approval of these decrees diminishes the scope of my employees ability to professionally advise our clients in developing their travel plans to their best economic advantage.
- No other travel agency owner that I know considers these announcements to be a price fixing scheme.

It is my firm opinion that the review judge should reject these decrees, and that the Justice Department should withdraw its suit.

Sincerely,

James A. Buschbach.

World Wide Travel, 2228 Cottondale Lane, P.O. Box 2701, Little Rock, AR 72203-2701.

February 26, 1993.

Mr. Mark Schechter,
Department of Justice, room 9104, 555 4th St., NW., Washington, DC 20001.

Dear Mr. Schechter: We must state that World Wide Travel Service, with 1992 sales exceeding $100 million and The Official Travel Agency of the Clinton/Gore Campaign, is opposed to the *Consent Degree* proposed by the Department of Justice against the Airline Reservation System companies. Your proposal will eliminate the ability of travel agencies to provide the consumer with accurate and advance, best fare information. We will be able to only provide the consumer with the current fares available at that precise moment.

Currently we have the ability to search for the best fares and provide an invaluable and unbiased service to the consumer. There will be no reason to use a travel agent under your proposed system of faring. This will have a negative impact on the travel agency community and create chaos in the marketplace. Do not make your proposed change in a system that has served the consumer so well.

Your logic fails us. If the airlines are purportedly inflating prices, then why are they suffering such a terrible financial crisis and continually reducing their work force? If there was collusion and price-fixing, then one would believe that their financial picture would be significantly better. It is not, and the Department of Justice is on the verge of worsening it.

Sincerely yours,

Betta Carney,

President & CEO.

Younkers Travel Service.

February 25, 1993.

Mark C. Schechter,
Department of Justice, 555 4th Street, NW., suite 9104, Washington, DC 20001.

Dear Mr. Schechter: It has recently come to my attention that the Justice Department has issued a proposed consent decree that would require the major domestic airlines to no longer make available to travel agencies the first and most of the last effective dates in their fare filings. This would be disastrous for the company I manage!

As the Director of Younkers Travel Service, I wish to go on record to protest in the strongest possible terms this proposed resolution of the price-fixing lawsuit against those carriers. The effective dates of fares are vital pieces of information that my agents need to have access to if we are to have the ability to properly assist travelers with their planning.

Travel agencies do not have a tangible product to sell. What we have to offer our clients is service! To remove one of the prime pieces of information our clients require for them to be able to make efficient and economical travel plans, lessens our usefulness and impairs our efforts to provide timely data.

I urge that any fair reconciliation of this litigation not include provisions which would harm the public's ability to be selective in their travel planning. The settlement, as currently proposed, will injure both consumers and travel agencies.

Your consideration of this request is greatly appreciated.

Jill Nizzi, CTC,

Director, Younkers Travel Service.

Your Travel Agent of Spartenburg, Inc., 321 North Pine Street, Spartanburg, SC 29302.

March 1, 1993.

Mark C. Schechter,
Department of Justice, room 9104, 555 4th Street NW., Washington, DC 20001.

Dear Mr. Schechter: As a travel agency owner I would like to state my objection to consent decrees signed by United Airlines and USAir in the price-fixing case initiated by the Department of Justice.

We and consumers need advance notice of pricing and hope that you can find another way to solve this problem of price-fixing.

Sincerely,

Jean S. Wood.

A Better Travel Agency, Inc., 7269 Bee Ridge Road, Sarasota, FL 34241.

February 23, 1993.

Mr. Mark C. Schechter, *Chief,*
Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street NW., room 9104, Washington, DC 20001.

Dear Mr. Schechter: The prohibitions that the Department of Justice is placing on the airlines is harmful not just to the consumer, but to the travel agent as well. For travel agents to serve our clients with the best service possible, we must have every resource available, and this includes all fare information.

The Department of Justice feels the airlines must inform the media prior to any detailed fare information being loaded into our computer reservation systems. Travel agents sell 85% of all airline seats so we should have, and need to have, access to all price information first. We are in every town, city and state, accessible to all and able to answer questions about all airlines.

Travel agents are professionals who care and service a vast number of consumers. Much of our service is to offer opinions on fares. It is obvious that neither travel agents nor our clients will be well served if we cannot inform them when a fare is to be changed. If the airlines have to inform the media first of any fare changes, as the Department of Justice proposes, we may not be able to accurately inform our clients.

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Please consider the inconvenience you are placing on the consumer and the negative impact on our small business. We are being put at a marketing and service disadvantage, the proposed final judgement is not in the best interest of the traveling public.

Sincerely,

Keith Ian Miller.

The Antitrust Division received approximately 207 letters from travel agencies that were substantially the same as the letter reproduced above.

The United States Justice Department, Antitrust Division, 10th and Constitution Avenue, NW., Washington, DC.

Gentlemen: I have learned of new regulations proposed by the Department of Justice (DOJ) that could have very damaging consequences for travel agents and the traveling public. It has to do with *U.S.* v. *Airline Tariff Publishing Co., et. al.*

I am not writing to express a view on the merits of the Justice Department's lawsuit against the airlines, but to call to your attention the remedy proposed by the DOJ. It seems obvious that if the terms of this remedy are applied to the entire airline industry, that consumers would be prevented from having sufficient information to plan their travel and get the best deal for their dollar.

In today's economic climate, vacation travel plans are based on the best bargains available. Under the proposed DOJ regulations, airlines and travel agents would be prohibited from providing consumers with advance announcement of fare increases. Individuals might make reservations for a family vacation, for example, only to find when they called back a few days later to purchase the tickets that their fare had increased. The same scenario would apply to informing the consumer of the expiration date for discount fare promotions.

Should the DOJ proceed with this suit, increased costs would evolve due to inefficiencies and increased litigation costs, which would ultimately be passed on to you and me in the form of higher priced tickets. To me, the consumer becomes the targeted loser; something the DOJ sorely overlooked.

Sincerely,

Michael Carey,

1892 W. Sage St., Tucson, AZ 85704.

The Antitrust Division received 91 copies of the form letter reproduced above from individuals in Arizona.

March 8, 1993.

Mr. Mark C. Schechter,

Department of Justice, room 9104, 555 4th Street, NW., Washington, DC 20001.

Dear Mr. Schechter: I am adamantly opposed to the Department of Justice lawsuit against the airlines.

If I am unable to provide beginning and expiration data information to the clients, the travelers will be unable to make an informed decision concerning their travel costs.

I utilize this information to provide the best possible service to the traveling public and believe this information should be available.

Sincerely,

Suzanne Campbell,

International Tours.

The Antitrust Division received copies of the form letter reproduced above from 70 employees of International Tours.

March 15, 1993.

Mark C. Schechter, Esq.,

U.S. Department of Justice, Antitrust Division, room 9104, Washington, DC 20001.

Dear Mr. Schechter: ARTA—the Association of Retail Travel Agents ("ARTA") is a trade association whose members consist of small and independent travel agents throughout the United States. Our membership currently is about 2,500, including both travel agencies and individuals who own, manage, or are employed by travel agencies.

ARTA and its members strongly feel that the Department of Justice's attempt to force the airlines to permanently discontinue the practice of using first and last ticket dates to notify travel agents and the public of fare changes fails to take into account the real world beneficial consequences of these advance price announcements.

ARTA would like DOJ to know that its members use first and last ticket dates to provide customers with the best possible information about air fares, so they can make the best choices for themselves. Consumers are entitled to receive information regarding future fare changes so they can make informed decisions and get the most value for their travel dollars. Without advance announcements of price increases, and of the last dates for fare sales, consumers will be deprived of important information they need to make travel arrangements in a cost-effective manner.

ARTA's members have told us their customers use advance price announcements to make loans for future travel, often to save themselves money. For example, an individual desiring to travel might frequently call a travel agent to inquire about air fares and to make reservations for specific flights. The travel agent can provide this customer with fare information for the proposed itinerary, and also tell the customer by what date the tickets must be purchased to obtain this fare. In the interim the travel agent can make reservations for the passenger. Before the last ticket date passes the passenger can either pay for the ticket or rebook the flight, probably at the different fare. Having the information about when fares will change thus assists the traveler.

Since learning of DOJ's intention of prohibiting the use of first and last ticket dates, many customers have informed ARTA's members of their opposition to the proposed ban. Customers have often stated that the absence of advance price announcements will make it much more difficult for them to plan and budget for their travel arrangements. To this end, more than 500 customers of ARTA member travel agencies have signed the enclosed petitions opposing the consent decree's prohibition on advance notice of fare changes and requesting the Department to allow them to continue to receive from their travel agents information about fare changes in advance of the actual change so they can better plan and budget for their travel.

ARTA has one additional reason for requesting DOJ to change its proposal. Travel agents take great pride in their professionalism, and make great efforts to be in a position to give their clients complete and accurate information with which to make decisions about their travel plans. Travel agents want to have as much information to give their clients as possible, including the dates of proposed fare changes and the dates when sales are scheduled to conclude. This enhances the value of travel agents to their clients, and the professionalism of travel agents. ARTA believes that the United States government should not interfere with travel agents' ability to provide the best possible services to our customers.

ARTA appreciates the opportunity to submit these comments, as well as the views of the customers of our member travel agencies. ARTA believes that it and its members should be a part of any future reviews of this rule or similar studies. If you have any questions, please do not hesitate to contact ARTA's Chairman, Adriane D. Green, at 516–585–7070, or ARTA's President, Paul M. Bessel, CTC, at 703–413–2222.

Respectfully submitted,

Paul M. Bessel,

President, ARTA—Association of Retail Travel Agents.

The United States Department of Justice is trying to prevent the airlines from warning travel agents and consumers in advance of airline price increases. I am against this because it will make it much more difficult for me to plan and budget my travel arrangements. I want to continue receiving information about future ticket fare changes from my travel agent.

Numerous Signatures

The Antitrust Division received petitions identical to the petition reproduced above from the Association of Retail Travel Agents and approximately 56 travel agencies.

[FR Doc. 93–10289 Filed 5–6–93; 8:45 am]

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federal register

Friday
May 7, 1993

Part III

Department of Education

34 CFR Part 318

Training Personnel for the Education of Individuals With Disabilities; Final Regulations

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DEPARTMENT OF EDUCATION

34 CFR Part 318

RIN 1820–AB03

Training Personnel for the Education of Individuals With Disabilities—Grants for Personnel Training

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends regulations for the Training Personnel for the Education of Individuals with Disabilities program. The amendments conform certain existing regulations published in the **Federal Register** on December 29, 1992 (57 FR 62094) to statutory provisions enacted by the Education of the Deaf Act Amendments of 1992 and the Rehabilitation Act Amendments of 1992. These two statutes modify section 631 of the Individuals with Disabilities Education Act (IDEA).

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Max Mueller, U.S. Department of Education, 400 Maryland Avenue, SW., room 3072, Switzer Building, Washington, DC 20202–2651. Telephone: (202) 205–9554. Deaf and hearing impaired individuals may call (202) 205–9999 for TDD services.

SUPPLEMENTARY INFORMATION: The major purpose of these regulations is to incorporate new program authorities established by the Education of the Deaf Act Amendments of 1992 (Pub. L. 102–421) and the Rehabilitation Act Amendments of 1992 (Pub. L. 102–569).

Section 202(a) of the Education of the Deaf Act Amendments of 1992 amended section 631(a) of the Individuals with Disabilities Education Act by adding a new section 8 that authorizes support for regional model demonstration training programs on deafness and secondary disabilities that provide preservice and inservice training to teachers, school administrators, leadership personnel, and related services personnel in the education of students with deafness and secondary disabilities. Although the law in section 631(a)(8)(B) does not expressly mention deaf students who also have secondary disabilities in the training programs, the Department includes them to be consistent with the purpose of the demonstration program stated in section 8(A). This authority has been incorporated in a new priority at 34 CFR 318.11(a)(20)—Regional Model Demonstration Training Programs on Deafness and Secondary Disabilities.

Section 202(b) of the Education of the Deaf Act Amendments of 1992 renumbered subsections of section 631 of the Individuals with Disabilities Education Act and inserted a new section (b).

This new subsection authorizes projects to establish or continue programs to train educational interpreters to meet effectively the various communication needs of elementary and secondary students who are deaf or deaf-blind. These programs may also support training or retraining on the role of educational interpreters (including short-term and inservice training) for regular education teachers who are not certified teachers of individuals who are deaf and other personnel who teach or work with them. This authority has been incorporated by amending a priority for the same purpose to reflect the new authorization. This priority is the Training Educational Interpreters priority at 34 CFR 318.11(a)(18).

Section 912(a) of the Rehabilitation Act Amendments of 1992 amended section 631(a) of the Individuals with Disabilities Education Act by adding an authorization to support projects to provide for the training or retraining of regular education teachers who are involved in providing instruction to individuals, to meet the communication needs of such individuals. This authority has been incorporated in a new priority at 34 CFR 318.11(a)(21)—Training Regular Educators who Serve Students with Deafness.

Other technical changes to the regulations reflect additional specific requirements associated with each of the new authorizations.

These regulations support the National Education Goals by seeking to enhance the quality and quantity of personnel available to serve children with disabilities. National Education Goal 1 calls for all children to start school ready to learn, and National Education goal 3 calls for all American students to demonstrate competency in challenging subject matter and learn to use their minds well.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, because these regulations merely incorporate statutory changes, public comment could have no effect. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these regulations are small nonprofit agencies receiving Federal funds under this program. However, the regulations would not have a significant economic impact on these organizations because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

The Secretary has determined that these final regulations would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 318

Education, Education of individuals with disabilities, Education—training, Grant programs—education, Student aid, Teachers, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.029—Training Personnel for the Education of Individuals with Disabilities)

Dated: February 12, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary amends title 34 of the Code of Federal Regulations by amending part 318 as follows:

PART 318—TRAINING PERSONNEL FOR THE EDUCATION OF INDIVIDUALS WITH DISABILITIES—GRANTS FOR PERSONNEL TRAINING

1. The authority citation for part 318 is revised to read as follows:

Authority: 20 U.S.C. 1431(a)–(d) and 1434, unless otherwise noted.

2. Section 318.2 is amended by revising paragraph (a) and by adding a new paragraph (d) to read as follows:

§ 318.2 Who is eligible for an award?

* * * * *

(a) Institutions of higher education and appropriate nonprofit agencies are eligible under § 318.10 (a)(1), (a)(2), (a)(7), and (a)(8).

* * * * *

(d) Institutions of higher education in partnership with local education agencies and center schools for students who are deaf are eligible under § 318.10(a)(6).

* * * * *

3. Section 318.10 is amended by revising paragraph (a) introductory text, and by adding new paragraphs (a)(6), (a)(7), and (a)(8) to read as follows:

§ 318.10 What activities may the Secretary fund?

(a) The Secretary supports training programs in the following eight areas:

* * * * *

(6) Regional model demonstration training programs on deafness and secondary disabilities.

(7) Training educational interpreters.

(8) Training regular educators who serve students with deafness.

* * * * *

4. Section 318.11(a) is amended by revising paragraph (a)(18), and adding new paragraphs (a)(20) and (a)(21) to read as follows:

§ 318.11 What priorities may the Secretary establish?

* * * * *

(18) *Training educational interpreters.* This priority supports projects for the establishment or continuation of educational interpreter training programs to train personnel to effectively meet the various communication needs of elementary and secondary students who are deaf or deaf-blind. These programs may also provide for the training or retraining (including short-term and inservice training) of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, and other personnel who work with such individuals, on the role of educational interpreters.

* * * * *

(20) *Regional model demonstration training programs on deafness and secondary disabilities.* This priority supports regional model demonstration training programs on deafness and secondary disabilities. These programs shall provide preservice and inservice training to teachers, school administrators, leadership personnel, and related services personnel in the education of students with deafness.

(21) *Training regular educators who serve students with deafness.* This priority supports projects to provide for the training or retraining of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, to meet the communication needs of such individuals.

* * * * *

5. Section 318.20 is amended by revising paragraphs (a), (b) introductory text, (d), and (f) and by adding a new paragraph (g) to read as follows:

§ 318.20 What are the requirements for applicants?

(a) An applicant under § 318.10 (a)(1), (a)(2), (a)(6), or (a)(8) shall demonstrate that the proposed project is consistent with the needs for personnel, including personnel to provide special education services to children with limited English proficiency, identified by the comprehensive systems of personnel development of the State or States typically employing program graduates.

(b) A project under § 318.10 (a)(1), (a)(2), (a)(6), or (a)(8) must include—

* * * * *

(d) An applicant under § 318.10 (a)(1), (a)(2), (a)(6), or (a)(8) shall present a detailed description of strategies for recruitment and training of members of minority groups and persons with disabilities.

* * * * *

(f) An applicant under § 318.10 ((a)(1), (a)(2), (a)(6), or (a)(8) shall demonstrate that it meets State and professionally recognized standards for the training of personnel, as evidenced by appropriate State and professional accreditation, unless the award is for the purpose of assisting the applicant to meet those standards.

(g) An applicant under § 318.10(a)(7) must provide an assurance that all interpreters receiving training under the grant will be provided training designed to develop skills necessary for facilitating effective communication for students who are deaf or deaf-blind.

* * * * *

6. Section 318.22 is amended by revising the section heading and introductory text to read as follows:

§ 318.22 What selection criteria does the Secretary use to evaluate applications for preservice training, leadership training, professional development programs, regional model demonstration training programs on deafness and secondary disabilities, training educational interpreters, and training regular educators to serve students with deafness?

The Secretary uses the following criteria to evaluate all applications for preservice training under § 318.10(a)(1), leadership training under § 318.10(a)(2), professional development projects under § 318.10(a)(4), regional model demonstration training programs on deafness and secondary disabilities under § 318.10(a)(6), training educational interpreters under § 318.10(a)(7), and training regular educators to serve students with deafness under § 318.10(a)(8).

* * * * *

7. Section 318.25 is revised to read as follows:

§ 318.25 What additional factors does the Secretary consider?

To the extent feasible, the Secretary ensures that projects for professional development partnerships under § 318.10(a)(4) and training educational interpreters under § 318.10(a)(7) are geographically dispersed throughout the Nation in urban and rural areas.

(Authority: 20 U.S.C. 1431(a)–(c))

[FR Doc. 93–10796 Filed 5–6–93; 8:45 am]

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against Alaska Airlines, American, Continental, Delta, Northwest, TWA, USAir and United.

distress.

Please forward our opposition to this lawsuit to the judge assigned to this case.

Gentlemen: As a small retail travel agency engaged in the sale of leisure travel, I am very upset by the restrictions the Department of

decree currently under consideration for the airlines.

to know in advance if a price increase is planned, or when a discount may be discontinued.

Section, Antitrust Division, U.S. Department of Justice, 555 4th Street, NW., room 9104, Washington, DC 20001.

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